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Congressional Record

PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, November 21, 1991*

The House met at 12 noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NATCHER) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 21, 1991.

I hereby designate the Honorable WILLIAM H. NATCHER to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us to pray, O God, not only in times of distress or despair when life is barely lived, but encourage us to offer daily words of thanksgiving and praise. You have blessed us, gracious God, with all the gifts of life and love, of foregiveness and reconciliation, of faith and hope. For all these gifts, for our very lives and all the opportunities we have for helping people, we offer this prayer of praise and thanksgiving. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Maryland [Mr. MCMILLEN] please come forward and lead the House in the Pledge of Allegiance.

Mr. MCMILLEN of Maryland led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2270. An act amending certain provisions of title 5, United States Code, relating to the Senior Executive Service; and

H.R. 3624. An act to amend the Tariff Act of 1930 to provide appropriate proedures for the appointment of the Chairman of the U.S. International Trade Commission.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2280. An act to amend title 38, United States Code, to extend and improve veterans' health care programs; and

H.R. 2629. An act to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) "An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. MOYNIHAN, and Mr. PACKWOOD, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2038) "An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes".

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 775. An act to improve the compensation of certain veterans for exposure to ionizing radiation, to improve the administration of veterans benefits programs, and for other purposes.

The message also announced that, the Chair, on behalf of the Republican leader, announces the appointment of Mr. MCCAIN, Vice Chairman; Mr. HATFIELD; Mr. GRAMM, Mr. GORTON, and Mr. GARN, as members of the official Senate delegation to attend the 50th Anniversary Commemoration of the Attack on Pearl Harbor.

THE FEDERAL PROGRAM IMPROVEMENT ACT OF 1991

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, at the start of the 102d Congress, Ways and Means Chairman ROSTENKOWSKI announced that the committee would undertake a major oversight initiative. The initiative would involve a commitment by the committee to improve the efficiency and effectiveness of health, trade, tax, income security, and other laws within the committee's jurisdiction. As chairman of the Committee's Oversight Subcommittee, I was pleased to join Chairman ROSTENKOWSKI in this initiative.

During the first session of this Congress, the Subcommittee on Oversight conducted numerous investigations, hearings, and site visits as part of, and in furtherance of, this major oversight initiative. Today, to advance the objectives of the major oversight initiative, Chairman ROSTENKOWSKI and I are joined by ranking minority committee member BILL ARCHER, ranking minority subcommittee member DICK SCHULZE, and the Oversight Subcommittee members in introducing legislation to improve the administration of programs within the jurisdiction of the Committee on Ways and Means. This legislation reflects the bi-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 137
PT 23
NO 21—25
1991
UMI

partisan reform recommendations unanimously agreed to by the Subcommittee on Oversight. As the legislation is considered by the full committee, I would expect that it could be further expanded based on the suggestions of the committee.

This legislation affects the manner in which the Federal Government manages resources, issues benefit payments, and serves the public. In the end, I believe that enactment of this bill will protect the integrity of many programs within the committee's jurisdiction and the pocketbook of the American taxpayer. I look forward to working with Chairman ROSTENKOWSKI, members of the Oversight Subcommittee, and the other subcommittee chairmen in the second session of this Congress to develop additional savings and good government administrative and legislative changes.

In particular, the legislation we are introducing today would improve Federal programs relating to: First, erroneous payments under the Medicare Secondary Payer Program; second, abusive marketing practices by durable medical equipment suppliers seeking reimbursement under the Medicare Program; third, abuse and mismanagement of inspector overtime pay by the U.S. Customs Service; fourth, incorrect payment of Federal benefits to deceased individuals; and, fifth, the Pension Benefit Guaranty Corporation's Program to identify, collect, and account for premium payments.

In summary, the Federal Program Improvement Act of 1991 provides changes with regard to the following:

First, to prevent erroneous Medicare payments and to enhance recovery efforts relating to the Medicare Secondary Payer Program:

Medicare beneficiaries would be screened regarding employer group health insurance coverage at the time of enrollment in the Medicare Program; and sanctions would be allowed against providers who routinely and willfully fail to screen beneficiaries for other insurance coverage.

Medicare contractors would be required to submit quarterly reports to the Health Care Financing Administration [HCFA] on their efforts to recover erroneous payments and would be evaluated on their recovery efforts; the payment recovery process would be streamlined; and, HCFA would be required to develop and submit to the Committee on Ways and Means proposals for an incentive program to encourage contractors to make additional recoveries of erroneous payments.

Second, to eliminate abuses regarding durable medical equipment [DME] under the Medicare Program, as well as to improve administration of the Medicare Program:

Medicare carriers would be required to deny Medicare provider numbers to DME suppliers who engage in telemarketing; that is, suppliers who initiate unsolicited telephone calls to beneficiaries to induce them to buy equipment.

HCFA would develop a questionnaire designed to alert Medicare carriers to potentially abusive DME sales practices.

Medicare carriers would deny the use of more than one provider number by DME suppliers.

HCFA would be required to submit a report on the Medicare Pre-Approval Program authorized in the Omnibus Budget Reconciliation Act of 1990, and decubitus care mattresses would be added to the list of items subject to the preapproval process.

Medicare carriers would be required to reimburse DME suppliers based on the fee schedule in effect for the residence or address of the beneficiary, rather than the fee schedule at the point of sale, in order to eliminate carrier shopping.

HCFA would be required to develop a standardized "Physician's Prescription for Durable Medical Equipment" to be used nationwide, containing information both from the supplier and the prescribing physician; and, Medicare carriers would be required to amend the explanation of medical benefits form so that beneficiaries can clearly understand exactly what equipment has been paid for by Medicare.

HCFA would be required to prepare a list of items of DME for which improved definitions or standards might be appropriate, together with recommendations regarding quality standards and definitional terms.

Medicare carriers would be authorized to use current price information, including current wholesale prices, in making determinations regarding the inherent reasonableness of DME fee-schedule allowances.

The GAO would be required to compare, for 150 items of DME, supplier costs with the range of Medicare fee-schedule allowances for these items, to analyze the appropriateness of a national fee schedule for DME, and to propose a timetable for implementation of a nationwide fee schedule.

HCFA would be required to review the items classified as "prosthetics and orthotics" to identify those iterms not requiring individualized, custom fitting and adjustment, and submit recommendations regarding the appropriate method for reimbursement of these items similar to other classes of DME.

Third, to improve Customs administration of inspectional overtime and to ensure that resources are better managed:

The Customs Service overtime pay laws—the 1911 act—would be modified to mirror the Federal Employees Pay Act [FEPA] rules which generally apply to Federal Government workers in order to: ensure that hours paid bear a more direct relationship to hours worked; provide for more reasonable overtime rates; provide pay rate differentials for Sunday and holiday work performed as part of an inspector's regular workweek schedule; and, provide for the payment of overtime benefits only after 40 hours of work is completed. These changes would be phased in over a 3-year period.

The definition of "inspectional services" would be clarified to limit 1911 act overtime benefits to employees performing actual inspectional activities.

The current COBRA user fee would be modified to reinstate congressional oversight of Customs' use of overtime funds.

The Office of Management and Budget would be given oversight authority for 1911 act overtime funds.

The General Accounting Office [GAO] would be required to report on costs of covering night and weekend workload with additional inspectors, rather than by covering such workload by use of inspector overtime.

Fourth, to minimize the payment of Federal benefits to deceased beneficiaries:

The Social Security Administration would be authorized to share with all Federal agencies death certificate information purchased from State agencies.

The Social Security Administration would conduct a study of ways in which death information can be gathered and reported more quickly.

Fifth, to improve accountability in the Pension Benefit Guaranty Corporation's [PBGC] program to identify, collect, and account for premium payments;

The PBGC would be required to provide two annual reports to the Congress, the first listing plans with underfunding in excess of $25 million and the amount of such underfunding, and the second listing plans with underfunding in excess of $5 million that have been granted a minimum-funding waiver according to publicly disclosable information.

THE TAXPAYER BILL OF RIGHTS ACT OF 1991, H.R. 3838

Mr. Speaker, one of the most important responsibilities of the Ways and Means Subcommittee on Oversight is the charge to continually review the operations of the Internal Revenue Service. We must be vigilant to make certain that the rights and interests of taxpayers are being protected. In a very real sense, we are the only congressional voice average taxpayers have to speak out for the common interests of every hard working, taxpaying American.

Over the years the members of the Subcommittee on Oversight have taken this charge very seriously, and have recommended many taxpayer safeguards which have been accepted by this House and enacted into law. For

the past year, as an integral part of the overall oversight initiative of the Committee on Ways and Means, we conducted an extensive investigation into the problems taxpayers have under the current Federal tax system. We held a series of hearings and site visits to review the operations, practices, and procedures of the IRS. We considered recommendations for improving the tax system made by individual taxpayers, tax professionals, IRS employees, and the administration. We held public hearings to receive testimony from the IRS Taxpayer Ombudsman, the IRS Commissioner, the Assistant Secretary of the Treasury for Tax Policy, and a variety of public witnesses.

Based on this extensive review we found that while the IRS is generally meeting its responsibilities, and in many respects should be commended, there are, nevertheless, some areas in which changes must be made in order to protect the legitimate interests of taxpayers. Specifically, the subcommittee has identified 33 areas in which taxpayers encounter significant difficulty in dealing with the IRS. As a result, the subcommittee has agreed, on a unanimous basis, to nearly 80 recommendations for reform. These recommendations are provided in the bill I am introducing today.

I would stress to my colleagues that this is a well balanced and responsible package of reforms. I understand that these reforms will impose some additional burdens on the IRS, and that in some cases they will make the already difficult task of collecting revenues a little more difficult. I intend to continue my discussions with the IRS and Treasury about how the bill can be fine tuned and improved, both from the taxpayers' perspective and that of the tax law administrator. I also accept that this package will not solve every difficulty that taxpayers encounter. The process of addressing the problems relating to the Internal Revenue Code must be continuous, and is, in all likelihood, unending. But, I believe this is a good package, and I urge you to join with me and my colleagues on the committee in supporting the taxpayer bill of rights of 1991.

In summary, the taxpayer bill of rights of 1991 would provide for the following major changes:

First, create an independent taxpayer advocate: The bill would establish a new taxpayer advocate with broader authorities to intervene and take action on behalf of taxpayers. Under the bill, the position of taxpayer advocate would be elevated to the same level as that of the IRS chief counsel and made subject to the Senate confirmation process. Further, the advocate would be required to make reports directly to Congress on problems encountered by taxpayers and to provide recommendations for improvement of the tax system.

Second, grant authority to withdraw IRS liens and levies: The bill would permit the IRS to withdraw liens and levies when it is in the best interests of the taxpayer and the Government. These provisions will allow the Government to correct its mistakes. For example, the IRS will be allowed to return moneys that were levied upon in a manner inconsistent with an existing installment agreement. Under current law, such action is legally impermissible.

Third, improve IRS handling of erroneous information returns: The bill would require the IRS to take reasonable steps to corroborate the accuracy of information returns, such as forms 1099 and W-2, when the returns are disputed by the taxpayer. This provision is designed to address situations where a taxpayer is forced to prove a negative, an unfair burden of proof. In addition, taxpayers would be allowed to bring suit against any person who willfully files a false or fraudulent information return. Finally, payors would be required to provide a telephone number on information returns to assist taxpayers in resolving disputes concerning these returns.

Fourth, expand the abatement of interest provision: The bill would expand the abatement of interest provision to make clear that the IRS has the authority to grant relief in cases where the IRS loss of tax records or personnel decisions result in delays of more than 6 months.

Fifth, problems regarding responsible officers: The bill would allow the IRS to excuse from the 100-percent penalty for certain responsible officers who notify the IRS of a failure of a business to pay over taxes. The bill would also make improvements in the area of notifying individuals, tax-exempt organizations, and businesses of their obligations and responsibilities for collecting and paying withheld taxes.

Sixth, equalize interest rates: The bill would require that the IRS and taxpayers pay the same interest rates on deficiencies and refunds.

Seventh, divorced or separated spouses: The bill would provide both spouses with notices of deficiences and allow the IRS to disclose the status of its collection activities with regard to the other joint filer.

Eighth, various pilot projects, reports, and studies: The bill would provide for a number of pilot projects, reports, and studies, by the IRS and General Accounting Office [GAO]. The IRS is required to conduct a pilot project to give taxpayers an administrative appeal in certain collection cases. The IRS is also required to conduct studies involving taxpayers with special needs, like the elderly; IRS employee misconduct; and, the taxpayer rights education program for revenue officers. The GAO will be required to study the effectiveness of IRS' efforts to notify taxpayers of tax deficiencies; the IRS' efforts to notify taxpayers of tax deficiencies; the accuracy and clarity of various IRS forms, notices, and publications; and, the various IRS employee suggestion programs.

TAXPAYER BILL OF RIGHTS ACT OF 1991

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am pleased to join with Chairman JAKE PICKLE in introducing the Taxpayer Bill of Rights Act of 1991.

The original taxpayer bill of rights was enacted in 1988. The 1988 legislation was a significant step in the direction of protecting taxpayer rights.

It codified many taxpayer protections which up until then were only administrative guidelines within the Internal Revenue Service. It also expanded taxpayer rights to recover damages from the IRS for improper liens and for improper collection efforts.

Despite thc excellent progress we made in 1988, there is more we should do to protect the taxpayers in their dealings with the IRS.

The untold story from 1988 is not what we put into the taxpayer bill of rights, but what we left out of it.

The new bill has many features which follow up on the good start we made in 1988. First, the bill codifies the decision of the U.S. Court of Appeals in *Portillo* v. *Commissioner*, 932 F. ad 1129 (5th Cir. 1991). The appeals court ruled that the IRS could not impose a valid determination of a tax deficiency based on an uncorroborated form 1099, when the accuracy of the form 1099 was disputed by the taxpayer.

Up until the Portillo case the taxpayer was guilty until proven innocent. The taxpayer—Portillo—had to convince the IRS that he did not receive the money. It is virtually impossible to prove a negative proposition, but that is what the tax law required. Accordingly, the U.S. Tax Court upheld the IRS' deficiency against Mr. Portillo because the IRS had the presumption of correctness and the taxpayer could not prove that he was innocent.

The U.S. Tax Court of Appeals overturned the decision of the U.S. Tax Court.

Under the bill, the IRS would have to take reasonable steps to corroborate the accuracy of a disputed information return. If it failed to take reasonable steps, then the consequence would be that its determination of a tax deficiency would be invalid. At last the taxpayer will be innocent until proven guilty when he disputes the accuracy of an information return filed by a third party.

Second, the bill would end the discrepancy in the interest rates which

VOL
137
PT
23
NO
21
—
25
1991
UMI

now apply to deficiencies and refunds. The interest rate paid by the IRS on refunds to taxpayers is 1 percent less than the rate paid by taxpayers on deficiences to the IRS. The bill would apply the higher interest rate on refunds paid to taxpayers by the IRS.

Third, the bill would modify the rules which apply to the award of attorney's fees to taxpayers who prevail over the IRS.

The bill would remove the current hurdle which requires that taxpayers who beat the IRS also have to prove that the Government was not substantially justified in pressing its case against the taxpayer.

The bill also allows the courts to award reasonable litigation costs to taxpayers who act on their own counsel and represent themselves before the IRS and the courts.

The current interpretation of the law disallows payments to such taxpayers when they prevail over the IRS.

Mr. Speaker, while I have focused my remarks on the three preceding provisions, there are numerous other provisions which improve the rights of taxpayers. The bill strengthens the rights of married couples to receive separate notice of IRS actions; it expands the authority of the IRS to abate interest charges; it increases the ability of taxpayers to pursue installment payment schedules and offers in compromise with the IRS; and it gives some protection to working level payroll personnel from being held as a responsible person for the nonpayment of payroll withholding to the IRS.

The taxpayer bill of rights of 1991 is not the final chapter in what needs to be done to fully protect taxpayer rights.

But it certainly will get us past the half-way point in our goal to achieve a level playing field between taxpayers and the IRS.

BANKING REFORM

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, today is round 3 of the banking legislation. I hope that with reference to that my colleagues saw a Wall Street Journal article on last Friday, an editorial by Lowell Bryan that made the point that Congress essentially, the main point of the banking reform is that we are not reforming the deposit insurance system. Instead we are adjusting the situation.

I could not agree more with Mr. Bryan's premise, as I have said time and time again. Reform is desperately needed in our deposit insurance system. Unfortunately, the bills we have been considering do not address the real problem, the pricing of deposit insurance.

Until banks pay for the real costs of their insurance, our Government policy will be heads the banks win, tails the taxpayers lose.

If we can infuse some market pressure into the system, then the whole question of firewalls, towers, and safeguards becomes much less important. We have a gun to our head and must pass this refinancing bill. But let us come back next year and truly reform our banking system.

I include for the RECORD a copy of the editorial to which I referred.

[From the Wall Street Journal, Nov. 15, 1991]

SAVING INTERSTATE BANKING

(By Lowell Bryan)

It appears that once again the U.S. is going to fail to reform and modernize its bankrupt approach to financial regulation. Last week, the House of Representatives failed to pass a—very flawed—package of financial regulation reforms. The Senate is now struggling with its own package of reforms, while the House is getting ready for a second vote on a revised version of its earlier proposal. The administration's original proposal in February and the bill that emerged from the House Banking Committee in June were imperfect, but were essentially right. Since that time, the effort to reform the financial system has faltered.

At the end of the day, the combination of special interests and the difficulty of getting U.S. government to work has led to the near collapse of the effort to reform fundamentally the regulation of banks. At this moment, the only real reform that still has a possibility of enactment is the proposal to permit national interstate branching. Even this reform is threatened by special interests trying to hold interstate branching reform hostage to a roll-back of existing securities and insurance powers of banks.

Indeed, it appears quite possible that the only banking law we will see this year will be a "narrow" law that is limited to increasing the supervision and regulation of banks and to recapitalizing the Federal Deposit Insurance Corp.

DISTORTING MARKET FORCES

The great loser from this political morass is the nation. The continuing weakness in the economy is clearly linked to weakness in the banking system. In turn, the weakness in the banking system is directly linked to a regulatory structure that has distorted market and economic forces.

Discussions of whether the country should rely on "regulation" or on "markets" miss the point. Hundreds of years of history demonstrate that unregulated financial markets self-destruct. On the other hand, in today's world, market, economic and competitive forces are too powerful to control. The current system is bankrupt precisely because it tries to use regulation to control market forces that are beyond its control and, in the process, has created destructive flaws in the marketplace.

Attempts to impose overly rigid, rulebased, "firewalls" between banks and their holding company activities take the regulatory system down the wrong path. The U.S. needs instead to adopt a fundamentally different approach: Rather than trying to control market, economic, and competitive forces, they must be made to work better. This means eliminating the flaws in today's system; in particular, it means real reform of the deposit insurance system.

Instead, Congress is heading in exactly the opposite direction. Rather than reforming the deposit insurance system, it is increasing the power of regulators and examiners to determine who will get credit and who will not. Indeed, by the time the full magnitude of the loan losses from commercial real estate have been realized, it is quite possible that 40% or more of the nation's deposits will be in the hands of banks and thrifts that will be undercapitalized under the capital zones defined by the new "narrow" law. And, once this law is passed, how these deposits will be lent will be as much or more under the control of regulators than under the control of management and shareholders.

Worse, instead of all market participants playing by the same rules, each participant will continue to work to find ways to exploit the particular rules that apply to them. For example, strong banks will continue to search for "loopholes" in the Glass-Steagall Act and to find friendly states willing to let them do things not permitted by national law. Simultaneously, non-bank financial firms will continue to sell bank-like products (i.e., money market mutual funds, credit cards, home equity loans, etc.) with a different set of rules. In other words, far from serving to make market, economic and competitive forces work better, a purely "narrow" reform will take the American financial system farther down the path of distorting those forces. Instead of gaining competitive advantage from the quality of their service, companies will gain advantage by exploiting the special set of rules that apply to them.

It is for this reason that it is futile for lawmakers to hope that the issue of financial reform will go away. Until the regulation of banks is improved, the law will continue to destroy their ability to perform their role in society. Without fundamental reform of the deposit insurance system and modernization of the regulatory system, the long-term health and profitability of the banking system will not be restored. And only by restoring health and profitability will the nation regain confidence in its banks and bankers regain confidence in themselves. Bankers need confidence in their own institutions and in the banking system as a whole, if they are to have the courage to finance economic recovery and long-term growth.

For this reason, it is important that interstate banking and branch reform be part of this year's law. The potential cost savings from consolidation of U.S. banks could amount to $10 billion or more in pre-tax savings—in an industry that earned only $24.5 billion before taxes in 1990, with a return on equity of less than 8%.

This economic consolidation is now already underway. To a large extent consolidation has been triggered by anticipation that meaningful interstate reform was coming. Banks have already announced projected cost savings, based on anticipated savings from consolidation and interstate branching, of more than $3.2 billion from just 10 large mergers.

Assuming that interstate branching reform is adopted to help achieve these savings, it will increase the ability of banks to raise the capital they need. The capital created from these savings over a 5-year period could conservatively support more than $600 billion in new lending. Indeed, without such improvements in earnings, it will be difficult to get the kind of bank lending needed to get the economy moving again.

From the taxpayer's perspective, it would be helpful to get genuine interstate banking

and branching reform as soon as possible. Any amendments that delay the effective date or make the process more cumbersome and irrational will only delay the realization of savings that will help to recapitalize the industry and restore its profitability. And restored profitability is the best defense against a taxpayer bailout of the deposit insurance fund.

TRUE REFORM

The administration and Congress should be seeking to eliminate overcapacity and weak banks from the system as rapidly as possible. True interstate banking and branching reform will help to jump-start this important process. Failure to encourage rapid cost rationalization in the banking industry will likely result in a higher cost, not only to the deposit insurance fund, but potentially to the American taxpayer as well. Simply passing a bill that increases supervision and that recapitalizes the FDIC, without meaningful reform of interstate banking laws, would be a disservice to well run banks, the economy and the public at large.

THANKSGIVING AND A REPUBLICAN CONGRESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, Thanksgiving is a time to celebrate with family and friends, to feast in the face of hardship, to count blessings, and to reflect on how things could be better.

Many Americans will face some hardship this Thanksgiving. Of course, the Democrats will blame the President, but nothing could be further from the truth.

Indeed, George Bush should be counted as one of this country's blessings. His successes on the international front are well known.

But, the President has battled an intractable Congress that refuses to implement his domestic programs.

The Democrats have their own special interest agenda that they want to foist on the Nation.

This special interest agenda is handicapping America's competitive standing, and slowly strangling our Nation's economy.

As Americans gather together this Thanksgiving, I hope they will think of how our country could do better. One way is to elect a Republican majority in the House.

A Republican Congress would work with the President, instead of undermining his program for political reasons. A Republican Congress would get this Nation moving again.

On this Thanksgiving, that is exactly what this country needs.

SLAUGHTER AT VUKOVAR

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, the front page of the New York Times brings us a picture of 50 corpses in the hospital yard of Vukovar—a picturesque Croatian town just a few months ago.

The Times reports that after 86 days of shelling, aerial bombardment, and house-to-house combat, Vukovar is a wasteland of gutted homes and churches, burning storefronts, and bloated, bullet-riddled bodies.

The leadership of Western Europe and our own administration have flunked dismally the first test of the new world order. European impotence and administration inaction have replaced the decisive leadership demonstrated during the Persian Gulf war.

Mr. Speaker, the neoisolationists have so intimidated this administration that it cannot now make an honest claim to the leadership of the civilized world or to the cause of human rights. Surely we can walk and chew gum at the same time. Surely we can address the long neglected domestic agenda without abdicating our international responsibilities.

□ 1210

TURKEY DAY AND THE ECONOMY

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. BALLENGER. Mr. Speaker, turkey day is a week away, but my friends across the aisle are talking bull.

They say the economy is the President's fault, when they are responsible for this recession.

They rejected the President's growth policies, including, yes, a capital gains tax cut. They put countless regulations on our small and large businesses. And now our private sector companies have lost their competitive edge.

Mr. Speaker, if Republicans were in control of this Congress, Government would work with business, not work to destroy it.

If Republicans were in the majority, progrowth policies would already be implemented, not hidden away.

And if this were a Republican Congress, people would be collecting paychecks, not unemployment checks.

Thanksgiving is a week away, and America has much to be thankful for. Our President has led this country well. International communism is dead. And the world looks to the United States for leadership.

But if Republicans were really in control of this economy, this holiday would be better for more people. Well, maybe next Thanksgiving.

SOVIET $64 MILLION MONUMENT TO CAPITALISM

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Soviets are getting another $1.5 billion from Uncle Sam, which brings the total now to $4 billion. This is the former evil empire. I am wondering if the needy in the Soviet Union are going to get the money. I say this because news reports say that old glasnost Gorbachev has just built a summer home worth $64 million, that is right, with 30 rooms, an indoor pool, and outdoor pool, tennis courts, and a movie theater.

Now, Mr. Gorbachev says he needs all this to do his perestroika. I say, Mr. Speaker, who in the world will accept rubles? I say the American taxpayers are now paying for a $64 million monument to capitalism in the Soviet Union. Beam me up. This is glasnost, all right, right between the eyes of the American taxpayers.

NOW IS THE TIME TO REVISE OUR EXPORT ADMINISTRATION ACT

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, in a few days we will be celebrating the 50th anniversary of the attack on Pearl Harbor. We were totally unprepared for the military conflict at that time, but today the conflict before us is economic conflict, and we are as equally unprepared for the economic conflict that is coming as we were at that time for the military conflict.

Let me give an example. Fiberoptics in the 1990's and the 21st century is what the railroads and highways were to the last century, and we do not allow the sale of fiberoptics to Eastern Europe. The Germans are now telling us that they are starting a huge sale of fiberoptics to Eastern Europe. If the Germans go through with this sale not only will the United States companies lose major contracts now and future contracts and Americans lose many jobs, but it puts America at the back of the pack in the race to dominate future trade in telecommunications, and this is an impending economic disaster for the United States of America.

Now is the time for us to revise our Export Administration Act. Now is the time for us to help open American eyes to the future if we are to remain an economic power.

THE PRESIDENT'S STATEMENT ON CIVIL RIGHTS

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, as one of the authors of the Civil Rights Act of 1991 I was invited to go to the White House today for the bill signing. I want to say, Mr.

VOL 137
PT 23
NO 21–25
1991
UMI

Speaker, that I have canceled my acceptance after reading of the announcement made by the President last night that states that preferences are no longer to be used in fair employment laws. This is a frontal assault on the fair employment laws of this country that have served us so well for decades. There are no preferences in civil rights employment laws. The President ought to read them and get that straight. Yes, there is affirmative action. Affirmative action is not a quota and is not a preference. It only means that employers, where the employment statistics are low in minority and female jobs, should seek qualified applicants for jobs. That is all, qualified applicants.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I am happy to yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, I want to announce to the body that the President has just changed his mind. CBS has just reported that the President will not rescind the Executive order. We have entered in on the Pavlovian Presidency.

IT'S TIME TO STOP VIOLENT CRIME

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, the front page of today's Washington Post reports that the suspected killer of Patricia Lexie was arrested yesterday.

The suspect was out on bail after being arraigned 4 days earlier on a prior charge of assault with intent to kill. According to a police source, the suspect was riding with friends on I–295 when he said, "I feel like killing someone."

The suspect then shot through the passenger window of the Lexie's car, striking Mrs. Lexie in the head. Her husband Freddie, who was driving the car, drove off the highway and flagged down the police. The Lexies were married for only 11 months.

Mr. Speaker, as Congress bickers over the crime bill, and how many conferees should be on the conference committee, senseless murders like this happen every day. We owe it to Freddie and Patricia Lexie and all Americans to pass a crime bill this year with stiffer penalties for violent crimes that ensure the most dangerous criminals never see the light of day.

Today, I am introducing the Three Time Loser Violence Reduction Act, which I offered as an amendment to the crime bill. This bill would reduce violent crimes by repeat offenders by imposing a mandatory life sentence without parole for a third conviction of a felony crime of violence. I urge my colleagues to sign on to this bill and to push for passage of a tough crime bill this year.

MY CIVIL RIGHTS NIGHTMARE

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, last night I had a dream that President Bush finally recognized his moral responsibility as the leader of our Nation. That by compromising on the civil rights bill after months of fighting it, the President was signaling a new willingness to unite, rather than divide, Americans. In my dream, the President repudiated the Reagan tradition of trying to turn back the clock on decades of progress in the area of civil rights.

But Mr. Speaker, as with many dreams, the cold light of the morning revealed a different reality. What I woke up to find was that the Bush administration was apparently planning to direct Federal agencies to repeal all affirmative action regulations—reversing policies that have been in force for more than 25 years. And I discovered that the President was planning to elevate cynicism to a new level by announcing this decision when he signed the civil rights bill.

Make no mistake, Mr. Speaker, about what transformed my dream into a nightmare: The President thought he had found a solution to the myriad of problems he faces. He reached back to his own experience in the 1988 election and decided to once again play the race card. Challenged by the right wing of his own party, the President was ready to offer his own version of the "Duke dividend" and the "Buchanan bonus." With the economy failing and white voters deserting him, the President was prepared to appeal to people's fears. With increasing criticism over the absence of a Bush domestic agenda, the President's new strategy was to divide and conquer.

Now we learn, Mr. Speaker, that the Bush administration has reversed itself. Could it be that the President and those around him recognized that no matter how clever the smokescreen or diversion, they could not hide from their responsibility to deal with America's problems? I hope so and I remain hopeful that my dream may come true some day.

THE PRESIDENT AND THANKSGIVING

(Mr. SHAW asked and was given permission to address the House for 1 minute.)

Mr. SHAW. Mr. Speaker, a week from today, this country will celebrate Thanksgiving, a holiday when Americans reflect on their many blessings.

Thanksgiving is a distinctly American tradition, stretching back to when the Pilgrims endured that first, difficult winter in the new world.

Like those first Pilgrims, we have much to be thankful for. The leadership of President Bush is one example.

George Bush has done an excellent job on both the international and domestic fronts as President.

His bold leadership in the Persian Gulf led the United States to victory over Saddam Hussein.

He fought for a civil rights bill that attained true justice, not more quotas.

And he worked to provide extended compensation to the unemployed without busting the budget agreement.

Mr. Speaker, the President has faced challenges from many opponents. The Democrats in the Congress haven't made his job any easier.

So while we reflect on our Nation's many blessings this Thanksgiving, let us think of the leadership of George Bush. He's doing a fine job as President of the United States, and he deserves our support.

WHERE IS OUR KINDER AND GENTLER AMERICA?

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I was, to say the least, a little shocked to read in the paper this morning that the administration is pondering the elimination of Federal affirmative action regulations when the President signs the Civil Rights Act today. I guess now that David Duke is out of his immediate focus, President Bush seemingly felt comfortable enough to take over the lead as the rightwing's leading purveyor of racially divisive politics.

The double speak coming out of the White House these last few days is enough to make your head spin. Just last week, we heard the President state his desire for lower credit card interest rates, yet when the Congress tries to accommodate his wishes, he blasts the idea. He claimed he is a defender of free speech, yet gags counselors in family planning clinics who provide services to poor women.

And now, on the same day when he is to the sign the Civil Rights Act, which he himself lauds as a great achievement for minorities and women, President Bush wants to eliminate 25 years of Federal affirmative action policy with the stroke of a pen. Important Federal hiring standards, standards which have become the accepted norm throughout private industry as well, might simply be thrown out the door.

Not only might millions of minorities and women once again have to fight an uphill battle for a chance to serve the public in the Federal Government, but important set-aside programs for disadvantaged businesses—programs written into law by this body—could be in jeopardy.

I guess the old adage still applies that he who giveth, can just as easily taketh away. If this is our new kinder and gentler America, Mr. Speaker, I don't recognize it.

☐ 1220

TRIBUTE TO MAYORS

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, recently while in my district, I had the privilege of attending a gathering where homage was paid to three men who had served their community with distinction as mayors of the city of Ansonia.

Mr. Speaker, James W. Martin, Sturgis Andrew Sobin, and William J. Menna will be remembered as true leaders. They were leaders who used their tenure in office to modernize local government, to fight for the rights of their taxpayers, and to provide economic opportunity for the people of Ansonia.

These men personify public service. At a time when confidence in our elected leaders is waning, the accomplishments of these three men were based on the premise that the interests of the taxpayers should always come first.

The city of Ansonia is a better place today partially due to their leadership.

And Mr. Speaker, I wish Mayor Martin, Mayor Sobin, and Mayor Menna continued good health and happiness.

TIME TO LOOK AMERICA'S TROUBLES STRAIGHT IN THE EYE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, it has been a curious thing to watch over the years as the economy grew in the 1980's to see Republicans come to the floor of the House and to say, "It's our economy. We're in charge. Credit us. We want the credit for economic growth."

Then the economy goes in the tank from a decade of dangerous fiscal policies, and the Republicans come to the floor of the House and say, "Well, it's not ours. We have not been here. It's you Democrats. You are at fault for all of this."

Well, Mr. Speaker, this is not a time any longer for the fainthearted to be finger pointing. It seems to me what the American people want is a little leadership.

Let me give you yesterday's page from the Washington Post—it tells the whole story:

> Bank and S&L bills bailing out in a declining market investors bet stocks slide. Economic worries spur new slide in stock prices. Giant Food's earnings fall 43 percent. U.S. trade deficit increases $6.79 billion. NBC says network in dire straits.

All of that on one page of the same newspaper. Is there anybody who still does not believe this country is in desperate trouble; and is there anybody who still does not believe leadership is required from the White House and from Congress to look this country's troubles straight in the eye and begin solving them?

CLOSE THE HOUSE BANK

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I rise today because yet again, I am frustrated and confused by this body's inability to control its excesses. According to Roll Call Monday, the 14 employees who work in the House bank make a total of $726,000 a year or $51,000 each.

Mr. Speaker, $51,000 a year? Tellers in my hometown bank do not make half that, but then they do not work for the U.S. House of Representatives, do they?

There are 14 tellers for 435 people? That is 1 bank employee for every 31 Members of this House. But maybe some Members of this body need that kind of special attention.

Even with that kind of special attention, Mr. Speaker, 135 Congressmen still bounced 8,000 checks.

Mr. Speaker, this is just another example of the flagrant disregard Congress has for the American taxpayers' money.

This may be a small example, the tip of the iceberg, but it is an example of the big problem, the problem of waste and inefficiency, Mr. Speaker, that we need to uncover and eliminate throughout Government.

Let us shut down the House bank as swiftly as possible, Mr. Speaker, and put that $726,000 where it belongs, toward reducing our budget deficit.

THE PLIGHT OF HAITIAN REFUGEES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there is an acute human tragedy unfolding in the waters off Florida, a tragedy that Congress, with the help of the White House or on its own, must deal with. That is the plight of the Haitian refugees rescued from the perilous sea by the U.S. Coast Guard and currently being held aboard cutters.

These are people, Mr. Speaker, who evaluated their situation in Haiti and found their economic condition so bad, the persecution so real, that a perilous voyage across the sea in rickety ships was preferable.

Mr. Speaker, efforts were made by the U.S. Government through the OAS to resettle these people in regional countries. When those efforts failed, the United States began returning these people to Haiti. This has been stayed by a Federal court order. These people, however, are in a watery limbo aboard these cutters.

A compassionate nation, Mr. Speaker, must do something to alleviate this human tragedy. Let us do so, and let us do so this weekend.

RTC BILL REQUIRES ECONOMIC GROWTH PACKAGE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the Speaker of the House has told us that we must pass the RTC bill before leaving for the year. Without a doubt, this is important legislation, but unless we pass an economic growth package we'll be digging American taxpayers deeper into a hole. Unless we can stimulate the economy, acquiring more assets from failed S&L's will only make the situation worse. The supply of excess real estate, commercial property, and countless other assets will continue to increase, but Congress will have done nothing to increase demand for these assets.

Wall Street has sent Congress a clear message in the last few days. We cannot ignore the marketplace. And why should we want to? If we can pass an economic growth package, the miracle of the American economy can return to work. And so will millions of Americans.

We need a capital gains cut, investment tax credits, passive loss income, and IRA's for first-time home buyers to spur the economy. We need to encourage entrepreneurship and for once get serious about cutting Federal spending. We must do something substantial to stimulate this economy and make Americans feel secure in their jobs.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will interrupt 1-minute requests to recognize the gentleman from Kentucky [Mr. NATCHER].

VOL 137
PT 23
NO 21–25
1991
UMI

MAKING IN ORDER ON FRIDAY, NOVEMBER 22, 1991, OR ANY DAY THEREAFTER CONSIDERATION OF H.R. 3839, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that it shall be in order on Friday, November 22, 1991, or any day thereafter to consider in the House the bill (H.R. 3839) making appropriations for the Departments of Labor, Health and Human Services, and Education and Related Agencies, for the fiscal year ending September 30, 1992, and for other purposes; that the bill be debatable for not to exceed 2 hours, to be equally divided and controlled by myself and the gentleman from Michigan [Mr. PURSELL]; that all points of order against the bill and against its consideration be waived; and that the previous question shall be considered as ordered on the bill to final passage without intervening motion, except one motion to commit.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. WALKER. Reserving the right to object, Mr. Speaker, this is an interesting unanimous consent request.

I am wondering, are Members, since we are taking up the bill again, are Members going to be permitted to offer amendments to the bill?

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, there will be no amendments permitted under this procedure.

Mr. WALKER. So by unanimous consent we are requesting a closed rule, and as I understand it, we are also asking for 2 hours of debate, is that correct?

Mr. NATCHER. The gentleman is correct, 1 hour to the gentleman from Michigan and 1 hour to this side.

Mr. WALKER. Is it not normal practice on these bills to have 1 hour of debate? As I recall, when the gentleman brought the bill to the floor for the first time, there was 1 hour of debate on the bill.

Mr. NATCHER. The gentleman is correct. At one time, as the gentleman will remember, we put this bill through in 1 hour and 53 minutes.

Mr. WALKER. I do remember that.

Further reserving the right to object, Mr. Speaker, I do remember that, and I am a little confused with this pressing toward trying to get adjourned, why all of a sudden we are expanding this to 2 hours of debate.

Mr. NATCHER. I would like to say to the gentleman, the reason for that is the numbers that will be presented in the new bill are all of the numbers which had been approved, as the gentleman knows, in the conference report on H.R. 2707. Many Members wish to speak on these appropriations or will on the various nonmoney provisions.

□ 1230

The bill will not be changed at all, with one exception, section 514, the so-called gag rule, the Porter amendment, will be stricken. That comes out of the bill.

The entire bill, with all of the numbers intact for the three departments and the related agencies, will be the same as we adopted the conference report.

Mr. WALKER. I thank the gentleman for that, but that still does not answer my question. In fact, it seems the reverse of my question because if there is only one issue to be discussed and we discussed that issue fully the other day on the floor as we brought the veto message before the House, it seems rather strange to me that we will now increase the amount of time to be debated on the bill for a bill that the gentleman says is precisely the same as previous bills except we are now going to extend the debate.

I do not understand why we cannot limit the debate to the single hour, which is typical of the debates of this kind, especially since there is only one topic to be discussed.

Mr. NATCHER. If the gentleman would yield further.

Mr. WALKER. Glad to yield to the gentleman.

Mr. NATCHER. This, as the gentleman knows, is the second largest appropriation bill that is presented each year before the House. We have 13 appropriation bills. The largest, as the gentleman, my friend from Pennsylvania, knows is the defense appropriations bill. This is the second largest appropriation bill.

A number of Members on both sides of the aisle have said to us they would like to talk about the bill; they would like to discuss it. That is the reason we are making the request for 2 hours.

I hope that the gentleman from Pennsylvania would not object and that he would give us a chance to have the bill discussed and, after that, pass the bill and send it down to the President. As the gentleman knows, the President has indicated that he will sign this bill.

Mr. WALKER. I thank the gentleman.

Further reserving the right to object, I would simply say that my suspicion is that the 2 hours is being granted for a highly partisan, politicized debate, and that what we are going to have is another Bush-bashing session on the House floor by the Democrats for an hour. But I guess I will wait and see whether or not that is the nature of the debate, and therefore I will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is their objection to the request of the gentleman from Kentucky?

Mrs. JOHNSON of Connecticut. Mr. Speaker, reserving the right to object, I do reserve the right to object, and I too will not press my reservation, but I think as an advocate for the gag rule, I mean an advocate of repeal, I personally am disappointed that the committee is bringing forward the bill that it is bringing forward.

But I do not feel that it is appropriate under the circumstances of this House to pursue what has become a very partisan debate over the course of 2 hours. I want it known that while I will not object in terms of delaying the process, I personally object strongly to this kind of procedure and believe that there needs to be a far better way of making these decisions in the future.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. MAZZOLI. Mr. Speaker, reserving the right to object, and I will not object, I want to take this moment to tell the gentleman from Kentucky how privileged I am to serve with him in our delegation and what great respect and honor he brings to our home State of Kentucky. And realizing the difficult nature of moving a bill like this through the legislative process, particularly, as the gentleman just said, the second largest bill in the whole panoply of appropriations bills, I just want to tell him that he constantly does great work and brings great respect to this Chamber and to our Commonwealth and to our delegation.

The SPEAKER. The gentleman from Kentucky [Mr. MAZZOLI] obviously will not object.

Is there objection to the request of the gentleman from Kentucky?

Mr. PURSELL. Mr. Speaker, reserving the right to object, I am not going to object on this side, but as the manager of the bill I would hope that the debate would be on substance only and not be politicized in terms of one party versus the other, the White House versus—I think, in finishing up our session this weekend, if we can minimize that, this is a very important issue.

There are a lot of people who did not have a chance to speak on the bill. So, 2 hours may or may not be appropriate. We will have to see the contents of those 2 hours in respect to the quality of the debate. But I hope it is at a very high level of character and that we do not politicize the debate, talk about the subject in a meaningful and substantive way.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

The Chair hears no objection.

The Chair would hope that characteristic would mark all debates of the House and on both sides of the aisle.

APPOINTMENT OF CONFEREES ON H.R. 355, RECLAMATION STATES DROUGHT ASSISTANCE ACT

The SPEAKER. Without objection, the Chair appoints the following conferees: From the Committee on Interior and Insular Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. MILLER of California, MARKEY, RAHALL, VENTO, DE LUGO, GEJDENSON, KOSTMAYER, LEHMAN of California, YOUNG of Alaska, and HANSEN, Mrs. VUCANOVICH, Mr. RHODES, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 102(d), 104(a), 203(a)(4), and 303(6) of the House bill, and sections 102(d), 203(a)(4), 203(c), and 302 of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, and DAVIS.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

WAR CONTINUES IN EL SALVADOR

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the killing goes on in El Salvador. Despite progress at the negotiating table, soldiers and citizens are still dying.

This dirty little civil war has taken a shocking toll. In a nation of only 5 million people, 70,000 have been killed, 8,000 disappeared, and 1½ million have been turned into refugees. The people of El Salvador want the war to stop. Yet the killing goes on.

We've propped up a brutal and corrupt regime in El Salvador to the tune of more than $4 billion. A huge share of our money goes to the Salvadoran military, whose corruption and brutality is as bad as it gets in the Western Hemisphere. Just this week, evidence came to light that implicates the current Minister of Defense in the ruthless execution of six unarmed Jesuit Priests. After the miscarriage of justice that marked the so-called trial in the Jesuits' case, only a fool could expect to see the architects of this brutal murder brought to justice.

This Congress has tried to staunch the flow of blood money to the Salvadoran military, and we've made some progress. Yet approximately $80 million in military aid from previous fiscal years is still in the pipeline.

That money was appropriated by this Congress in a world that had not seen the worldwide collapse of communism or the progress in Salvadoran peace negotiations. It is time to wipe the slate clean, and look at our real needs in El Salvador—and our needs here at home.

I am introducing legislation to close the spigot on the pipeline, to take back this unspent money from previous years. The $80 million just might do some good here at home; in the hands of Salvadoran generals, it will just keep the killing going.

BUSH ADMINISTRATION HEALTH POLICY

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, the prevailing wisdom, fickle like the prevailing wind, suggests that our President and his administration are in hot water with the American people.

The supposed lack of attention to growing problems like the runaway cost of health care is repeatedly cited.

But let us look at the record.

Sure, why hasn't the executive branch joined the debate with a small group market reform proposal? House Republicans have been out front in this area all year long and Democrats have gradually come on board.

But, in truth, this administration has been far from silent on health care.

The President's medical malpractice reform bill would save billions in health care resources, but Congress hasn't even held hearings on it.

Secretary Sullivan's emphasis on prevention—smoking cessation, injury prevention, physical fitness, and other prevention programs—is right on target.

Yet Congress has held no hearings to determine how we might more effectively require people to take responsibility for their own health-affecting decisions.

In addition, Doctor Sullivan's efforts to reduce paperwork and promote better health among minorities are good, concrete steps. The President and his men are taking action. Congress talks.

Democrats are not going to coast on the health care issue.

The truth is that our President and Republicans have been working, with serious Democrats, on health measures Congress could pass this year if the Democratic leadership wanted to.

□ 1240

SIGNED IN INVISIBLE INK

(Mr. DOOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY. Mr. Speaker, President Bush might as well use invisible ink when he signs the Civil Rights Act today.

At the same time that he is set to put his name on this landmark law, his administration has issued a mean-spirited directive that runs counter to its high promise.

This sweeping directive would terminate hiring guidelines established over many years to ensure that our Nation's great diversity is represented in the workplace.

It's a tragedy that on a day when all Americans should be celebrating their right to fairness and equal opportunity, behind the scenes those rights are being callously undermined.

The American people deserve better. They deserve the uniform fairness that is promised by the Civil Rights Act of 1991. And they deserve leadership that will live up to that promise.

OPPOSE ADJOURNMENT UNTIL WE EXTEND OUR NATION'S HOUSING PROGRAMS

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, as we approach adjournment, among other extenders the Mortgage Revenue Bond Program and the low-income housing tax credit will expire unless this Congress chooses to help our Nation's housing programs by extending them.

I have heard from both sides of the aisle eloquent speeches about homelessness in this country. I have seen it portrayed in magazines and in person, and there has been criticism of the administration for not taking a more aggressive approach in domestic issues. But we in this Congress, both Democrats and Republicans, have the chance, before we leave this distinguished body, to do something about housing by extending the Mortgage Revenue Bond Program and the low-income housing tax credit.

Mr. Speaker, I urge my colleagues to join me in opposing adjournment until these two programs, among other extenders, are at least extended.

H.R. 3768—THE ROBIN HOOD IN REVERSE PROPOSAL

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, today we will be asked to appropriate $70 billion for a potential bailout of the commercial banks. Within a few days we will be asked to appropriate another $80 billion for the S&L bailout—on top of the $80 billion which has already been appropriated for that purpose.

Mr. Speaker, the American people are angry and disgusted with politics as usual—with both the President of the United States and the Congress, with both the Republicans and the Democrats. The rich get richer, the poor get poorer—and the working people and the middle class are asked to bailout banks which were destroyed by the greed, irresponsibility, and the out-

VOL
137
PT
23
NO
21
—
25
1991
UMI

right dishonesty of many banking officials. Once again, it is the Robin Hood proposal in reverse. We take from the poor and give to the rich.

Mr. Speaker, we must protect our banking system and the bank depositors, but we can do it without increasing the deficit and without hitting up the ordinary people of this country. Let's show a little bit of courage in this body, and not increase the cynicism which the working people of this country already feel. Let's ask the people who caused this crisis, and who have the money to fund this bailout to do so, not the ordinary American.

SPRINTING TOWARD AN IMAGINARY FINISH LINE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, as the Congress sprints toward some imaginary finish line, we hurry through an obstacle course of massive pieces of complicated legislation. I understand we're trying to get home for Thanksgiving, but what we're in danger of doing is leaving the American people with a bunch of well-stuffed turkeys—but not the kind you eat over the holidays. It is in the air around here—adjournment fever—and it tends to make casualties of meaningful and responsible legislation. It was this time last year when a closed-door, middle of the night meeting left us with the so-called budget deal and such infamous foul ups as the recreational boat user fee. When we hurry through such important and complex issues—we're bound to make mistakes, mistakes the American people will get stuck paying for, mistakes like the catastrophic health bill.

Mr. Speaker, instead of rushing to shut down by Thanksgiving, why don't we just stay here until we have done some work we can be proud of? We should be able to make a real start in that direction before Christmas—and that would be the best present of all.

NOTHING HAS CHANGED—50 PERCENT OF OUR OIL STILL COMES FROM OVERSEAS

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, we just heard from one of my colleagues on the Republican side talking about how we should be thankful this Thanksgiving for the leadership the President gave in the Persian Gulf. Well, let us examine that leadership.

Mr. Speaker, a year ago we had 500,000 troops in Saudi Arabia, there to protect the oil reserves in Saudi Arabia. We were there for two reasons: First, to liberate Kuwait, and second, to protect those oil reserves because over 50 percent of our oil in this country comes from overseas.

A year has now passed. I had hoped that, after that war, the President would have come back and showed his leadership and pushed for a national energy policy that would have created jobs and moved away from that dependency, and, Mr. Speaker, today we are no better off in this country than what we were a year ago. Still today over 50 percent of the oil that we use comes from overseas.

ABORTION—THE KILLING OF INNOCENT HUMAN LIFE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, yesterday's Washington Post had a lead editorial ticking off all the vetoes that President Bush has exercised on the sanctity of human life, the issue of abortion, and they say this is not going to do well for him in the election next year.

Mr. Speaker, I disagree. With each advance of medical science, as President Reagan pointed out and as President Bush has reemphasized, the pro-life side wins.

Has America seen the headline of one of our papers where an abortion, a failed abortion 4 weeks ago, tore the arm off a little girl who was born the next day and is now healthy, 4 weeks old? Of course, her arm is gone from the shoulder. Guess what? In her life existence in the womb that was the same arm 4 months ago, 3 months ago, 2 months ago.

Abortion is simply the killing of innocent human life. That is not what this country should be all about, and all of these vetoes the President has exercised, he will not only be rewarded in heaven, my colleagues. He is going to be rewarded with a big election victory.

Stop killing innocent human life in this country.

THIS IS A BAD WEEK FOR WOMEN

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, this has been a very bad week for women.

I say to my colleagues, if you are poor, very poor and young, you probably have to use a community health care service center, and after this week you'll not get, probably, or might not get all the health care information you need. And if you're an old woman, it was a bad week because you always thought you could support family planning, whether as a volunteer or as a donator, and be a good community person and not be political. This is no longer true. It was also a very bad week for thoughtful women because all of a sudden you realized that your freedoms and your rights are under such attack that some are willing to use the first amendment against you, and now we find out that it could be a very bad week if you work for the Federal Government, want to work for the Federal Government or want to advance in the Federal Government because all cf a sudden you find out, because some have insisted on a civil rights bill, you are going to be under very deep scrutiny.

So, I can only say, Mr. Speaker, that this administration is sadly mistaken if they think the American public or Members of this body will tolerate for the American people the cavalier abandonment of basic principles of justice and fairness.

Mr. Speaker, this has been a bad week. Some of us will have to make it a better week.

U.N. SECURITY COUNCIL SHOULD DEPLOY PEACEKEEPERS IN CROATIA BEFORE ALL OUT HOSTILITIES RESUME

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, after months of relentless bombing and mortar fire, the Croat city of Vukovar has fallen to the Serbs. Reports of the dead and wounded grow by the hour. It's horrifying. TV footage of civilians, especially kids with intravenous tubes attached to their arms and blank stares on their faces, reflect some of the horror of the ordeal that they are living, and these, Mr. Speaker, are the lucky ones who have survived.

Mr. Speaker, the gentleman from Virginia [Mr. WOLF] and I were in Vukovar 2 months ago and saw the consequences of hate and war first-hand. It was heartbreaking. For months the city of Vukovar has been bombed by the Serb-dominated Yugoslav army. During our visit Mig fighters flew overhead as we walked the streets. We warned them, on the streets of Yukovar at an improptu press conference and numerous times since that things would get progressively worse and more people would die if effective international diplomacy was not forthcoming. A full court press for peace is desperately needed now in Crotia.

To date, Mr. Speaker, all that could and should have been done has not been done. The current lull in fighting, it seems to me, and the shock over the devastation of Vukovar, offers a short window of opportunity for aggressive diplomacy backed by U.N. peacekeepers to work.

Mr. Speaker, in a meeting with Secretary of State Jim Baker this morning, I asked the Secretary to press the U.N. Security Council to take up the Serbian war against Crotia and to immediately call for deployment of U.N. peacekeepers before hostilities resume at a fevered pace.

☐ 1250

THE MESSAGE OF DAVID DUKE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, David Duke has lost the election in Louisiana but his message has won the hearts and minds of the White House. By shoving aside women and minorities, as evidenced by a new White House directive on the Federal work place, President Bush starts his reelection campaign by welcoming back Willie Horton and using the race card once again.

David Duke does not need to run for President, preaching his gospel of dividing the races. His issues are already being advanced by the White House. The ultimate act is that the President today signs the civil rights amendment——

Mr. WALKER. Mr. Speaker, I demand that the words be taken down.

Mr. RICHARDSON. While telling women and minorities to go to the back of the bus in the Federal workplace.

Mr. WALKER. Mr. Speaker——

Mr. RICHARDSON. Mr. Speaker, again the President wants it both ways.

Mr. WALKER. Mr. Speaker, I demand that the words be taken down. He should have been interrupted immediately.

The SPEAKER pro tempore. (Mr. MAZZOLI). The gentleman will be seated, and the Clerk will report the words.

Mr. WALKER. Mr. Speaker, when are the words going to be reported?

I demand that the words be reported, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the words.

The Clerk read as follows:

> David Duke does not need to run for President, preaching his gospel of dividing the races. His issues are already being advanced by the White House. The ultimate act of hypocrisy is that the President today signs the civil rights amendment * * *.

The SPEAKER pro tempore. For what purpose does the gentleman from New Mexico [Mr. RICHARDSON] seek recognition?

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that the word "hypocrisy" be stricken from the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. So ordered. The gentleman from Pennsylvania's demand is withdrawn.

CONFLICTING PROPOSALS ON CAMPAIGN REFORM LEGISLATION

(Mr. NICHOLS asked and was given permission to address the House for 1 minute.)

Mr. NICHOLS. Mr. Speaker, since coming to Congress, I have worked hard to reduce spending and lighten the burden on taxpayers. Now, there is talk about taking taxpayers money for campaign contributions.

That is right, a plan proposed by the Democrats allows a candidate to raise a third of the money from PAC's, a third from large donors, and a third from taxpayer money.

This plan leaves one, very important unanswered question. Who pays for the Government subsidy to political candidates? The authors of the plan make some suggestions, but those suggestions are inadequate.

The Republican bill is simple, clear, clean reform. Make candidates raise a majority of funds from local voters. Reduce the amount of money PAC's can contribute to any one campaign. Require total disclosure and reporting of indirect campaign contributions that now go unreported.

Reform the campaign laws, but do not pass the buck to the taxpayer. Make the simple, clear, clean reforms needed to make elections more competitive and politicians more accountable.

A REPORT ON THE PAVLOVIAN PRESIDENCY

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, as I mentioned a moment ago, CBO reports that the President has changed his mind and will not rescind John F. Kennedy's Executive order for fair practices for our country. This is not the first time the administration has ended up on both sides of a given issue. In fact, it almost typifies the administration.

Some of us may recall the old Broadway tune that goes:

If you make a bold prediction,
Brand it merely fiction,
Scream to get the credit,
And then deny you said it,
You're a natural in politics.

Anyone who does not like George Bush does not know George Bush. He is a very likeable person. Nevertheless, with apologies to the gentlewoman from Colorado, I do believe that the Teflon Presidency has given way to the Pavlovian Presidency. The heat the White House received on the putative rescinding of this noble Executive order of John F. Kennedy, I would guess, mainly came from Republican Senators and Representatives, who themselves are essentially decent people.

REPUBLICANS PUSH ENACTMENT OF AN ECONOMIC GROWTH PACKAGE

(Mr. RIGGS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, if the Republicans ran the House, we would not even be thinking about going home next week for adjournment until we had enacted an economic growth package. If you have any doubt about that, I say to my colleagues, just look at the letter authored by the gentleman from Texas [Mr. DELAY] that 110 out of 165 Republicans have signed and sent to the Speaker asking the Speaker to keep us in session until we have enacted an economic growth package, because we realize on this side of the aisle that it is pure hypocrisy and very, very mean-spirited politics to extend unemployment insurance benefits without enacting an economic growth package that would create jobs for those folks when their extended unemployment insurance benefits expire. I wonder if my colleagues on the Democratic side of the aisle intend for those folks to remain permanently on welfare.

We further realize, in terms of the debate we will be having between now and next week, that it is pure foolishness and it is folly and reckless irresponsibility for the taxpayers' dollars to consider pumping billions—and I mean billions—into the Resolution Trust Corporation to resolve failing thrifts without enacting some kind of package that would stabilize and reverse the downward decline in real estate values. That is like pumping blood into a patient who is still hemorrhaging from an open wound.

THOSE DARNED T-SHIRT MAKERS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, last night in a fundraiser where the President raised way over $1 millon, he said that one of the problems he was having in Washington was with those darned T-shirt makers.

☐ 1300

I only wish it had been the Democrats who came up with it. The entrepreneurial people out on the streets selling T-shirts have totally sold out on the new rage in Washington. It is a T-shirt that I wish I could show my colleagues because I love visual aids, but I cannot even buy one because they are all gone.

The T-shirt says, "Friends don't let friends vote Republican."

I think there is a real message in that. I see why the President is upset.

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AMERICA'S FORGOTTEN PATRIOTS

(Mr. BLAZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAZ. Mr. Speaker, as thousands gather in Hawaii on December 7 to commemorate the 50th anniversary of America's entry in World War II, hundreds of journalists and photographers will memorialize the event and broadcast it to the entire world. A million words will be spoken by the President of the United States and other dignitaries to honor the memories of the hundreds of soldiers, sailors, marines, and civilians who were killed and wounded on that infamous day 50 years ago at Pearl Harbor.

As tragic and as devastating as that assault on Pearl Harbor was 50 years ago, we have learned that little note has been made and even less has been remembered about the attack on that other harbor—Apra Harbor, on Guam. This other attack bears striking similarities to the one at Pearl Harbor: same time, same enemy, same American blood, same shattering of a peaceful island community.

Yet, for all these similarities, there is at least one major difference worth noting: Whereas Hawaii was attacked, Guam was attacked, and invaded, and captured, and occupied. For almost 3 years, our people quietly suffered the burden of hostile occupation by enemy forces. No other American territory has suffered the same fate.

As excruciating and as harrowing as this occupation would later prove to be, our people did not surrender without a fight and did not stop fighting after the surrender. In the face of an overwhelmingly larger enemy force, a handful of U.S. sailors and U.S. marines stood their ground. Standing beside them, with equal valor and courage but with even greater pride and determination, were the members of the Navy Insular Force. For these men, native Chamorros all, the defense of Guam meant the defense of home, family, and honor. Although they wore the same U.S. Navy uniforms, their pay was exactly one-half that of their stateside comrades. Although they fought under the same U.S. flag, they were considered only half-brothers in the patronizing, colonial society on Guam at that time. Yet, when it came time to shed blood against foreign invaders, the Chamorros of the Navy Insular Force demonstrated their loyalty to the United States in the same way they demonstrated their love for the U.S. principles of freedom and democracy: not halfheartedly, but totally and wholeheartedly.

Regrettably, this chapter of American history appears to have slowly faded into the recesses of our Nation's collective subconsciousness. While our country may not remember the lives that were lost, the families that were torn asunder, and the homes that were destroyed on that tragic day 50 years ago, these sacrifices are no less real to us and will forever be burned into the psyches of our people.

As a 13-year-old boy who witnessed these events half a century ago, I am often asked by friends and acquaintances to share my memories of that momentous and pivotal period in our history. There are many horrible and appalling stories I could tell about the atrocities inflicted upon our people—about mysterious disappearances of friends, about discoveries of decapitated corpses tied to trees, about clearing jungles under the barrel of a gun, and about the hunger and deprivation of concentration camps. While the sting of remembering these events is very real to those who lived through them and should never be forgotten, I have decided over the years to remember also the brighter sides of that dark period.

There were long hours sitting on a log with our parents sharing their thoughts and experiences with us much like the generations before them had done.

There were the groups of neighboring farmers who pooled their strength to push back the jungle so we could plant.

There were men echoing each other's folksong at twilight as they cut tuba.

There were devout men who emerged among our group as natural leaders to lead us in prayer during our most trying and fearful moments as we labored to finish the airfield under incredible duress.

There was the young Japanese officer who taught me Japanese in exchange for my father's teaching him English and who, after getting to know us, innocently asked my father why we were at war.

There were the U.S. marines who, after hopping island to island, eventually liberated one of their own and seemed almost as glad as we were that they came back to Guam.

Under the adverse conditions of that time, I learned things that no school could ever teach me. I learned to give freely, even when there was nothing to share. I learned to be tolerant, even when conditions were intolerable. I learned to be strong, even though my body was weak. I learned to speak volumes in the silence of eye contact. And I learned the sweetness that can be found in the saltiness of sweat.

Looking around me now, 50 years later, I wonder if those of us who lived and died through those trying times were really ever forgotten—how can we be forgotten if we were never really remembered in the first place?

And those who claim to remember us now, do not really know us: Like the U.S. Postal Commission that just issued in 1991 a set of commemorative stamps for World War II that trivializes and dishonors Guam by labeling it a mere outpost. Like some of the leaders of our great Nation who will congregate at Pearl Harbor in memory of the brave men and women who died there, but whose continuing unawareness of the Guam chapter of this momentous period in our history prevents them from returning the salute extended by the brave men and women of Guam 50 years ago.

On this, the 50th anniversary of World War II, and for the fathers, mothers, brothers, sisters, sons, and daughters of Guam who lived and died through that period, I offer these humble words in proud salute and in eternal gratitude to those patriots whom America may have forgotten but whom Guam shall always remember.

WINGING IT

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the country's economy is in real trouble. What are they doing in the White House about it? They are winging it. The headline of the Washington Post today is "Winging It in Economic Turbulence," and in there is a detailed story about how the President called for lower interest rates on credit cards. It seems he and his advisers were on an airplane, and they decided they would just throw it into the speech. They did not check out its economic consequences. They did not decide how it would affect the country. They just decided to wing it.

With millions of Americans unemployed, tens of millions afraid of losing their jobs, the economy declining, with the Christmas season looking like it is going to be the worst in decades, what are they doing in the White House? They are winging it.

We cannot afford a President on these serious issues who wings it on the most serious issue facing America today, economic policy.

THE GATT TALKS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the rush of this week's schedule may have caused many Members to miss something very important now happening across the Atlantic, which will mean jobs lost or won for their constituents. I refer to the GATT talks now entering their final phase on a wide assortment of issues from agriculture to manufacturing.

Be alerted, around Thanksgiving, the final technical text is expected to be completed. Do you know whether your steel mill, semiconductor plant, or software firm will be secure under that document.

In just 2 years, the Midwest lost over 36,000 jobs, in the auto industry alone, to imports. Looking into the faces of these workers and their families quickly teaches us the importance of these faraway discussions.

Final acceptance of an overall treaty could come in December or early January. I would urge my colleagues to call either the Republican GATT task force at 53876 or its Democratic counterpart at 54961 to get more information on the negotiation's status.

At this moment, behind closed doors in Geneva, decisions are being made deciding the future of companies, and industries, throughout America.

THE GAG RULE

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, yesterday this House, by the narrowest of margins, failed to override the President's veto of the HHS legislation and left in place the gag rule.

Mr. Speaker, in my years in the Congress, despite strong views in support of pro-choice, a woman's right to make her own decision about abortion, I have never spoken of this issue, because I believe it is best left to people's consciences and make their own judgments. Speeches will not change minds.

But this vote yesterday was not about abortion. It is about the ability of a woman in a desperate moment in her own life to make an informed decision, to speak with her doctor, to make a real choice.

This House made a mistake, compounding a mistake of the President. The gag rule cannot stand.

It is an insult. It is an injury to every American woman. Before our business is concluded, that freedom of speech with a doctor must be restored to American women.

WHAT ABOUT DAVID DUKE?

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, in the course of the 1-minutes today we have heard the name of Willie Horton mentioned a couple of times. We need to remember one thing about the Willie Horton commercials run by President Bush.

They were not about race. They were about a criminal who killed a human being, an innocent human being, while out on parole. Recently a woman here in Washington was killed by a similar kind of criminal. The issue being addressed is still very much in place and not being addressed by this House.

There is also another interesting thing about Willie Horton. Willie Horton was never brought into the campaign by the Republican first. He was brought in by the Democrats. And I do not remember any of those Democrats who used the Willie Horton issue in the primaries in 1988, ever being criticized by any Member in this House.

David Duke has also been mentioned here. President Bush on several occasions condemned David Duke and told people to vote against him. When has any Democrat ever come to the floor of this House and condemned the racism within their own party?

In fact, the Democratic leadership has campaigned for some of the racists in their own party.

What about Mr. KERREY? The other day, the Presidential candidate who made inappropriate remarks? I have not heard any Democrat come to the House floor and condemn him for his inappropriate remarks.

The Democrat-Socialist coalition that controls this House will never clean up its own act. Coverup, rather than cleanup, is the order of the day in this House.

TAKE IT TO THE WHITE HOUSE

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I was interested to hear that our Republican colleagues have gotten together, 110 of them, and written a letter to the Speaker telling him it is time to do something about the economy. They addressed that letter to the wrong person.

We have a President in their party who refuses to admit there is even a recession. So why do they not rewrite that letter and send it to President Bush? We have a bill in conference that will provide jobs, that will build transit systems. that will repair highways. Let us get that bill and act on it. Let the word go out to local and State government. They can begin spending money, rebuilding America, and I have to tell my colleagues that I am really tired of the Republicans in this House looking at our Speaker for an economic growth package.

Let them go to the White House, get an appointment. Tell the President to stay home and let us get going on an economic package.

APPOINTMENT OF CONFEREES ON H.R. 1724, TERMINATION OF JACKSON-VANIK PROVISIONS OF TRADE ACT OF 1974, AND PERMANENT EXTENSION OF MOST-FAVORED-NATION TREATMENT TO HUNGARY AND CZECHOSLOVAKIA

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, with a House amendment to the Senate amendment thereto, insist on the House amendment to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. CRANE moves that the Managers on the part of the House, at the conference on the disagreeing vote of the two Houses on the bill H.R. 1724, be instructed to insist upon the position of the House in regard to that portion of the House Amendment designed to combat illegal drug imports by providing trade incentives to stimulate alternatives to drug exports for certain countries under the Andean Initiative contained in H.R. 661.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. CRANE] is recognized for 1 hour.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support my motion to instruct conferees on the trade provisions related to the Andean nations.

The Andean initiative is one of the most important and most visible efforts the United States can make at this time to demonstrate that we stand firmly united with those countries trying to eradicate drug trafficking. The scourge of drugs touches the lives of all of us today. Our society is reeling from the cost, both in economic and human terms, of the widespread availability of illegal drugs.

The dimension of the problem is [illegible]gnified for those small countries where the cultivation of drugs has become an escape from poverty. It is a tragedy that families have to grow or sell drugs in order to put food on the table.

With passage of the Andean initiative, we have the opportunity to help encourage alternative means, other than the drug trade, to earn a decent living in these small nations.

These provisions would give modest trade benefits to Bolivia, Colombia, Ecuador, and Peru—the nations of the Andean region where drug production is so prevalent—in order to encourage alternatives to drug exports. Goods that are sensitive in our own market would not be affected. The Andean initiative is important for our own country as well as for the Andean region where we can have such a great impact.

Patterned after the successful Caribbean Basin Initiative, the bill authorizes the President to grant duty-free treatment to imports of eligible articles from these four countries. Articles are eligible for duty-free treatment if they are imported directly from a beneficiary country and consist of at least 35-percent value-added in a beneficiary country. Articles which are import sen-

VOL 137 PT 23 NO 21—25 1991 UMI

sitive are exempt from duty-free treatment.

H.R. 661 is a very important part of the President's war on illicit drug production. It fulfills his commitment made to Bolivia, Colombia, Ecuador, and Peru to expand economic alternatives for countries that have been fighting to eliminate drug trafficking.

I urge my colleagues to support the motion to recommit on H.R. 1724.

Mr. LAGOMARSINO. Mr. Speaker, I rise to associate myself with the remarks of Congressman PHIL CRANE, the ranking minority member of the Ways and Means Subcommitee on Trade and in support of the motion.

The President's Andean trade initiative is a very important weapon to help fight the war on illegal drug trafficking. Because of the very poor economic situation in the Andean countries, many peasants are turning to producing illegal coca and opium crops for a living. Helping Andean countries economically help themselves coupled with strict enforcement of antidrug laws will help persuade many of these peasant farmers to return to growing legal, responsible crops.

Along with our colleagues BOB TORRICELLI, STEVE SOLARZ, and CHARLIE RANGEL, as the vice chairman of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, I recently traveled to Peru and Colombia, the primary producers of cocaine and its addictive derivatives, to review the implementation of United States antidrug programs there. I wanted to share my observations with my colleagues because I believe they will reinforce the need for enacting the President's Andean trade initiative.

The answers to the serious drug problems remain: First, reducing demand both here at home and in Europe and Japan where drug use is on the rise, and second, striking at supply through eradication and crop substitution programs. While these general answers may seem simple, there are many challenges to implementing them.

In Peru, the following problems must be addressed: First, eradication of coca growing has been tried, but it is not very effective. There are over 200,000 growers cultivating a similar number of hectares in Peru. The lure of quick profits attracts more growers clearing more land every day. Coca leaf is still legally used in Peru for traditional purposes; medicinal, tea. The Government is reluctant to use sanctions and forced eradication because of the social upheavals and human rights questions such actions raise. Second, while the Fujimori government is pursuing a voluntary eradication/crop substitution program, in order for it to work Peru needs new roads, communications, and markets for other crops. Peru's severe economic crisis—one of the worst in South America—makes providing these services and enticing campesinos to abandon coca growing very hard. Third, drug lords continue to subvert Government efforts through violence, corruption, and smuggling. Fourth, the ultra-Marxist Shining Path guerrillas continue to terrorize the country, often working in conjunction with drug traffickers. Their terror tactics are some of the worst I've ever seen, including use of the most gruesome torture.

There continue to be problems with interdiction operations. Corruption in the police and military forces continues, though not in the leadership which is taking actions to curb it. With the poor economic situation dictating low salaries to the rank and file in the security forces, it is difficult to offset the attractive bribes of narcotraffickers. Institutional friction and poor coordination between the police and military hampers effective interdiction. The lack of modern equipment needs to be addressed. The Peruvians need more helicopters, radar, and communications equipment. It is ironic that the Democratic majority in Congress, which has complained the loudest about this situation, is responsible for delaying aid to Peru. American aid is now under way.

On the brighter side in Peru, President Fujimori, with whom we personally met, is committed to fighting drugs. New civil government organizations are tackling the issues of growing and transporting coca. However, in an effort to protect Peruvian growers, these groups claim coca leaf growing isn't the problem, rather transporting and processing the leaf into a narcotic is. They want to grandfather current coca farmers, allowing them to continue growing. There are serious problems with this policy. The U.S. Drug Enforcement Agency has evidence that the growers themselves are processing the leaf into paste. We know that tons of leaves are not transported to drug labs, but kilos of paste. Because new coca farms appear every day, it is clear to me that as long as growing coca remains legal and profitable, it will attract an increasing number of farmers, making crop substitution even harder. Hopefully, the Peruvians will take action to address this contradiction.

The Peruvian Government is making strides in improving human rights, despite the pressures and absolute disregard for human rights by the Shining Path terrorists. For example, a public, national registry of any individual detained, including guerrillas and drug traffickers, has been established. The Red Cross has access to every detainee. While more needs to be done, the Peruvian Government still must contend with outrageous atrocities by the Shining Path.

In Colombia, the primary processing and transshipment area of cocaine, attention is focused is on eradicating the drug labs and curbing drug-related violence. For example, the entire judicial system is being reformed and strengthened. There are still problems, such as the easy treatment some convicted kingpins are receiving in jail and the repeal of the extradition law, which sent drug traffickers to the United States for trial and punishment. Recognizing that popular support for the Government and its antidrug policies is a key ingredient for success, steps are being taken to address the public's human rights concerns and incorporate the public as part of the war on drugs.

As in Peru, violent guerrilla movements are working with the drug lords terrorizing local populations into cooperation and making Government strikes against labs deep in the guerrilla territory dangerous. Like the Peruvians, the Colombians need more helicopters, firepower, secure airbases in guerrilla areas, radar, and communications equipment.

While not widely reported, eradication progress is being made. Colombia was formerly a top supplier of marijuana. Today, less than 4 percent of marijuana originates from Colombia due to the use of aerial spraying. Unfortunately, unjustified opposition to spraying coca and opium plants has led to an increase in cocaine and heroin. Yet, spraying opponents have remained silent on the drug traffickers' more extensive use of extremely harmful herbicides, like paraquat, and reckless slash-and-burn destruction of rain forests for coca and opium plantations.

During my discussions in Panama with the United States Southern Command Chief, General Joulwan, I emphasized my support for using American military assets like AWACS radar aircraft and Navy patrol vessels, when available, to assist in drug-busting in Colombia and off its coast. I was assured this important and effective help will continue.

While bilateral programs can help combat drug production, real success will come through international cooperation and improved regional strategies. As we crack down on drugs in Peru, Colombia, and Bolivia, traffickers are moving their operations to Venezuela and Ecuador. European countries need to share the burden with us in providing aid to South America, especially since an increasing amount of illegal drugs is destined for Europe. They can also do more to reduce demand at home and improve their own antitrafficking efforts. Other South American countries like Brazil and Argentina need to regulate the sale of precursor chemicals required to process paste into the drugs found on our streets.

My conclusion is that 2 years after President Bush's announcement of the Andean strategy—economic and security assistance to help fight the war on drugs in South America—much is being done. Our job isn't over. The poor economic and security situation in the Andean region needs to be improved. For example, we should restore the $10 million in security assistance cut by the majority in the U.S. Senate and help make licit crops profitable so that Andean campesinos will abandon coca cultivation. While my recent mission focused on the issue of supply, we continue to give even more attention to reducing demand. Action on both supply and demand remains necessary if we are to effectively fight the war on drugs. The President's Andean trade initiative is an important means to confront the problem of supply.

I urge my colleagues to support the motion.

Mr. GUARINI. Mr. Speaker, I rise in support of the motion offered by Mr. CRANE to instruct the conferees to insist that the Senate accept the Andean Trade Preference Act as part of any final conference agreement. I am pleased to be one of the original cosponsors of this most important piece of legislation, and it has been one of my top legislative priorities.

The Andean Trade Preference Act is targeted at four countries—Colombia, Bolivia, Peru, and Ecuador. These countries have been waging a life and death struggle against illegal drugs. They are also emerging democracies. This legislation will help promote their economic development. In so doing, these nations will be able to combat more effectively the narcotics problem and provide a standard of living for their people conductive to democratic development.

Nearly all the world's coca is produced in Peru and Bolivia. Colombia, as we all know, is the major processing point for cocaine. Although there is much that must be done in the United States to curb the demand for drugs, we cannot ignore the supply side of the equation. These countries, at great cost, have made considerable progress in dealing with the drug problem. Assassination and terrorism are scourges that they must live with.

President Bush, at the Cartagena summit, recognized the importance of increasing economic opportunities for these countries if they are to have any chance in their fight against illegal drugs. The President also recognized the mutual economic benefit to both Latin America and the United States of increased trading opportunities within our hemisphere.

This legislation will serve both purposes. The United States will have increased access to goods from the Andean region, as well as new export opportunities. This bill will improve economic prospects in the Andean region and create growth opportunities. It will lead to progress in eradicating the production, processing, and shipment of illegal drugs. Improved trade will also enable these countries to buy more of our goods.

I urge my colleagues to support this motion.

Mr. COUGHLIN. Mr. Speaker, I rise in strong support of the motion to instruct the conferees to support the Andean Trade Preferences Act. I also want to thank Congressman PHIL CRANE for his tenacious leadership on this critical issue.

As the ranking Republican on the House Select Narcotics Committee I am a strong supporter of the Andean Trade Preferences Act of 1991. The ATPA, as part of the administration's comprehensive enterprise for the Americans initiative, is important legislation and is worthy of swift passage.

Virtually all of the cocaine that enters the United States is grown, processed, and transshipped from the Andean region. This legislation is intended to address the narcotics issue by helping to strengthen the economies of the democracies in the region and to complement critical enforcement and interdiction efforts.

My service on the Narcotics Committee has afforded me the opportunity to visit producing and trafficking nations. I am convinced of the importance of a multifaceted approach to the drug problem abroad. The foreign leaders we have met always ask for help in the area of trade, for both practical economic reasons, and as a sign of international moral support for their politically difficult counternarcotics efforts. Trade incentives and other economic support is an important component of our Andean antidrug strategy.

Counternarcotics assistance to our allies in the Andes is a two-way street. If we help them develop their economies and provide some desperately needed resources and training, they in turn can make a serious effort to attack the trafficking organizations that are targeting the United States for cocaine transshipment.

Trade assistance to the Andean nations was promised by President Bush during the drug summit in Cartegena, Colombia. On October 5, 1990, the ATPA legislation was transmitted to Congress and subsequently introduced by Congressman CRANE. Let us not send President Bush to the second drug summit, scheduled for early next year, without this legislation to present to our Andean allies in the drug war.

I urge my colleagues to join me, and the sponsor of this motion, Congressman CRANE, in supporting this important legislation.

□ 1310

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CRANE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 18, as follows:

[Roll No. 412]

YEAS—416

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Boehner
Brooks
Early
Fish
Franks (CT)
Goodling
Gunderson
Hatcher
Hunter
Leach
Lewis (CA)
Molinari

VOL 137 PT 23 NO 21–25 1991 UMI

Mrazek
Oberstar
Sisisky
Skelton
Washington
Waxman

☐ 1335

Mr. SIKORSKI changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the Chair appoints the following conferees: Messrs. ROSTENKOWSKI, GIBBONS, and ARCHER.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I missed the vote on the motion to instruct conferees on H.R. 1724, rollcall vote 412. I was attending the signing ceremony at the White House, on civil rights legislation that passed in the House last month. Had I been present, I would have voted "yea" on rollcall 412.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3371. An act to control and prevent crime.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3371) "an act to control and prevent crime," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. LEAHY, Mr. DECONCINI, Mr. THURMOND, Mr. HATCH, and Mr. SIMPSON, to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. EDWARDS of California. Mr. Speaker, pursuant to clause 1, rule XX and by direction of the Committee on the Judiciary, I move to take from the Speaker's table the bill (H.R. 3371) to control of and prevent crimes with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS].

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. SENSENBRENNER moves that the managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill H.R. 3371, be instructed to accept the Senate position on certain firearms provisions in the Senate-passed crime bill, S. 1241, namely sections 207 and 1213 of that bill.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes, and the gentleman from California [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion to instruct before the House is to have the conferees on the part of the House instructed to agree to the Senate provisions of the crime bill that were offered by the Senator from New York, Mr. D'AMATO, and accepted by the other body. Similar amendments were offered on the House side by the two Congress people from New York, Mr. MANTON and Ms. MOLINARI, but were not made in order by the Committee on Rules before the House considered the crime bill.

☐ 1340

Mr. Speaker, a yes vote on the motion to instruct would direct the House conferees to accept the following mandatory prison terms for using or possessing a firearm during a State crime of violence or a State drug trafficking crime:

First, for knowingly possessing a firearm, an additional mandatory 10 years in jail; second, for discharging a firearm with intent to injure another person, an additional mandatory 20 years in jail; and, third, for knowingly possessing a firearm that is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, an additional mandatory 30 years in jail.

In the case of a second conviction, the person would be sentenced to not less than 20 years for possession, 30 years for discharge of a firearm, and life without release if the firearm is a machinegun, or a destructive device, or is equipped with the firearm silencer or firearm muffler.

In the case of a third or subsequent conviction, the person shall be sentenced to life imprisonment without release.

The real problem with guns and crime is that gun crime sentences are absurdly low. We need longer sentences and mandatory minimums to reduce the number of crimes committed by repeat offenders.

In a study of 108,850 State prisoners released in 1983 in 11 States, the Justice Department reports that within 3 years, 60 percent of violent offenders were rearrested for a felony or serious misdemeanor, and 42 percent were reconvicted.

Of the violent offenders, 30 percent were rearrested for a new violent crime.

These 108,850 prisoners accounted for over 1.6 million arrest charges for the period before they entered prison and for the 3 years after their release.

The 1.6 million arrests included 215,000 arrests for violent crimes before prison and another 50,000 violent crimes within 3 years after release, including: 14,467 homicides, 7,073 kidnapings, 23,174 rapes or sexual assaults, 101,226 robberies, and 107,130 assaults.

For those concerned about the rights of State and local prosecutors, let me stress: Federal prosecutions will never replace State prosecution.

This amendment, or this motion to instruct, allows for the availability or the alternative sanctions of the death penalty for certain homicides caused by the use of a firearm, homicides now appearing in the news daily and nightly and affecting our neighbors and our neighbors' children. These crimes specifically require the coordination of State and Federal efforts. Additionally, the Department of Justice has acknowledged that they absolutely will not supplant State prosecutorial efforts. The motion to instruct and the amendment, if it should be adopted by the conference, are merely meant as measures to be kept available, as measures to be used often enough and carefully enough to establish certainty of punishment and an additional level of deterrence for those who are considering committing a crime while armed with a firearm.

In 1988, there were only 2,200 convictions in Federal court for violent crimes, but there were 100,000 convictions for violent crimes in State courts.

Mr. Speaker, I think that it is very important that we have these mandatory additional penalties that are available, and the threat of Federal prosecution in Federal court available as a deterrent because, if a State jurisdiction has got a reputation for one reason or another of letting people out with relatively minor sentences, or even probation after the commission of a violent crime, the criminal will not know when the arm of the Feds will come down on them, and they will be facing a mandatory 20, or 30, or 35 years, or the rest of their life, in jail.

It is time to put some certainty into the sentencing process as a way of stopping violent crime. The real problem with crimes and guns is that gun crime sentences are absurdly low. Repeat offenders get let out, they run free, and they victimize again and again.

A 35-State sample reveals the following average sentences: 1.9 years for drug trafficking, less than 5 years for homicides, and less than 4 years for rape. This is according to Acting Attorney General William Barr in his statement of November 18, 1991.

In 1990 violent crimes soared by 10 percent, according to the preliminary data of the FBI uniform crime report. There were over 23,000 murders last year. Every 24 minutes someone is murdered in the United States. Every 6 minutes some woman is raped. And every 55 seconds someone is robbed. Every 33 seconds someone is assaulted.

According to the Bureau of Alcohol, Tobacco and Firearms, the most violent criminals commit about three crimes per week, per inmate, or 160 criminal acts per year, per inmate. Approximately 6 percent of the criminals arrested commit up to 70 percent of the serious crimes.

Mr. Speaker, these are the kinds of people that ought to be put in jail and ought to stay in jail so that our society becomes safer and people are able to walk the streets again.

The provisions in the Senate crime bill, addressed in the motion to instruct, provide for tough, mandatory, minimum sentences and the availability of the death penalty for these most violent elements of our society who choose to possess or use a firearm while committing a crime and while victimizing innocent people. The provisions specifically provide for the coordination for Federal and State efforts. Additionally, the Department of Justice has said, and I have to repeat this, that they will not supplant State prosecutorial efforts. This is an additional deterrent. This is an additional arrow in the quiver of law enforcement and for prosecutors.

Mr. Speaker, I would hope that the motion to instruct would be agreed to, and I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Wisconsin [Mr. SENSENBRENNER] is enthusiastic about his motion. He did not bring it up when the Committee on the Judiciary of the House considered the crime bill, and it is a tough crime bill. It is a crime bill that I would have a great deal of difficulty in supporting because of some of the provisions in it. But he did not bring it up, and now he brings it up at this late date.

All of our colleagues, Mr. Speaker, all 435, have received an urgent letter from the Chief Justice of the United States, Justice Rehnquist, and he refers to this amendment, this instruction offered by the gentleman from Wisconsin [Mr. SENSENBRENNER], because this is exactly the provision authored by the Senator from New York, Senator D'AMATO, that in a moment of whatever the Senate agreed to, to its dismay, and has regretted it ever since, I believe.

Now, if my colleagues want to make it impossible to handle anything in the Federal court system, any civil actions in the Federal court system, go ahead and agree because what the gentleman from Wisconsin [Mr. SENSENBRENNER] is proposing is to federalize all crimes committed with a gun, all crimes.

☐ 1350

In theory, you can do away with your local sheriff, with your local district attorney, and with your local police departments, and just increase the size of the FBI and the Drug Enforcement Administration to handle all crimes. Do you really want to have the enforcement of all street crimes taken away from your local communities, taken away from your States, and turned over to Uncle Sam?

We have, I believe, up to 50,000 prisoners in Federal penitentiaries now. Do you want to have to build 10 or 20 or 30 more Federal penitentiaries to handle the increased crime load or the increased felony load that the gentleman from Wisconsin [Mr. SENSENBRENNER] is proposing?

We should listen to Chief Justice Rehnquist. I ask my colleagues to go back and read his letter again where he said, "Please, Mr. Congressman," or "Congresswoman, don't burden the Federal courts with these additional responsibilities."

We will not be able to handle in the Federal courts the terribly important civil cases which we are having a great deal of difficulty in handling now, because they have to wait for 2 or 3 or 4 years to get into Federal court on a civil action because of speedy trial provisions, and so forth, in criminal actions and drug cases that have priority.

So, Mr. Speaker, I think it is interesting that the gentleman from Wisconsin [Mr. SENSENBRENNER] has offered this proposal, and I have confidence that we will turn it down. It is really a very bad idea.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish that the gentleman from California had listened to my argument in support of my motion to instruct. This motion, if the language is adopted by the conferees, will not take away the job that everybody's sheriff and local police department and local district attorney will have to do. It will help them because it does put the resources of the Federal Government available on a discretionary basis. If someone is picked up for a crime while armed with a firearm, the U.S. attorney and the local district attorney can decide who will prosecute and under what law the defendant will be prosecuted. Those kinds of arrangements happen all the time. The fact of the matter is that with tough mandatory sentences, we would be able to get after the repeat offenders who seem to get out of jail on a State and local basis and lock them up in the penitentiary and get them off the streets so they will then quit murdering, mugging, and raping our constituents.

I did bring my amendment up in subcommittee. It was voted down. I brought my amendment up in the Rules Committee. The Rules Committee did not allow me to offer it on the floor. Nonetheless, it was adopted by the other body.

It is a matter for the conference to decide, and it seems to me that this House ought to go on record as saying that if you shoot someone while armed with a firearm and kill them, you are going to be in jail for a long period of time, and if the State prosecutorial authorities and the State courts will not do it, then the Federal Government ought to take over that portion and make sure that the person is locked up.

The gentleman from California [Mr. EDWARDS] also says, "Well, the Chief Justice is opposed." The letter the Chief Justice sent called these cases routine cases. I disagree strongly, respectfully, with the Chief Justice of the United States. A murder is not a routine case, an aggravated battery is not a routine case, and a rape is not a routine case. The first obligation of any government is to provide for the safety and security of its citizens, and with crime going up day by day and night by night, with our streets not being safe to walk alone any more, not only in major cities but also in rural areas, penalties for those who are convicted by a jury of their peers is something that is long overdue. I wish the Judiciary Committee would recognize that the time has come to start throwing some of these people in jail, and this motion to instruct will put us along the way to pass a bill that will do that.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I just want to make this clear: that the intent of the gentleman's motion is to give local law enforcement the flexibility of being able to bring a case in Federal court with the cooperation of the local U.S. attorney's office?

Mr. SENSENBRENNER. That is absolutely correct, and it is not very much different than the Operation Trigger Lock proposal that has been on the books for the last year or year and a half, where there is cooperation and concurrent jurisdiction between State prosecutors and Federal prosecutors to make sure that people who are involved in gun-related crimes do serve a significant amount of jail time.

VOL 137 PT 23 NO 21—25 1991 UMI

Mr. RIGGS. So, Mr. Speaker, if the gentleman will yield further, the ultimate decision would be the process of consultation between local law enforcement, that is to say, the local district attorney, and the regional U.S. attorney's office as to whether or not the crime is of sufficient gravity to warrant prosecution in Federal court?

Mr. SENSENBRENNER. Reclaiming my time, Mr. Speaker, furthermore, whether the defendant has a sufficient background to warrant that prosecution in Federal court based upon a previous criminal record and conviction of previous crimes of violence.

Mr. RIGGS. Mr. Speaker, will the gentleman yield further?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. RIGGS. If after this process of consultation the matter is tried in Federal district court, if it does result in a successful prosecution and a conviction, then the mandatory minimum sentence the gentleman is recommending here would apply?

Mr. SENSENBRENNER. That is correct. There would be a mandatory minimum sentence after the conviction.

Mr. RIGGS. Mr. Speaker, I thank the gentleman.

Mr. SENSENBRENNER. Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under leave to include extraneous matter, I insert in the RECORD the letter from the Chief Justice of the United States appointed by President Nixon which says: "Please don't enact the Sensenbrenner provision."

I would suggest to all my colleagues that they go back to their offices and get the letter because it is very adamant. It just brings out the point that this would be a disastrous load and an unnecessary load on the Federal court system of the United States.

Mr. Speaker, the text of the letter is as follows:

SUPREME COURT OF THE
UNITED STATES,
Washington, DC, September 19, 1991.

Hon. MICHAEL J. KOPETSKI,
Committee on the Judiciary, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE KOPETSKI: I am writing in my capacity as Presiding Officer of the Judicial Conference of the United States to convey the opposition of the Judicial Conference to proposed legislation that would provide for federal jurisdiction over offenses traditionally reserved for state prosecution. I enclose a statement expressing the objection and the reasons therefor in more detail. I appreciate your serious consideration of these views.

Sincerely,

WILLIAM H. REHNQUIST.

Mr. Speaker, I yield three minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I think the Members ought to be clear about the implications of this for the whole notion of States' rights. That has been a common theme that has emerged in many of the deliberations of the Judiciary Committee.

Voting for this basically says that we believe the States are not competent to handle this type of crime. We talk about States' rights sometimes here only when it is convenient, but Members ought to understand that a vote for this really does destroy the philosophical underpinnings for any future States' rights arguments.

Members might want to argue consistently that they prefer some things to be done at the Federal level and some things to be done at the State level, depending on how they best like the outcome. That is a perfectly valid position. However, to vote for something like this would be essentially a vote that the States may not be trusted to do these sorts of crimes and, therefore, we must take the Federal Government.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I understand the philosophical arguments the gentleman is making, but I wonder if he will acknowledge that at present there are many, many situations in certain types of crimes where we do see joint cooperation between local law enforcement and the U.S. attorney.

Mr. FRANK of Massachusetts. I would be glad to acknowledge that. I would acknowledge that today is Thursday, and that this month is November. I am prepared to acknowledge a number of things. I would not like to do that under the premise that it would somehow add weight to that argument.

The gentleman is right, people can now cooperate. This goes beyond that, and the philosophical premise is that we cannot trust the States, that the Federal Government is going to have to step in from time to time.

If Members want to vote that there has to be a general right of supervision by the Federal Government, that when we think the States are failing to live up to what we think is adequate policy in areas that have been theirs for 200 years and we have the right to do that, that is probably going to break my way more often than not. But Members ought to understand that that is the precedent they are setting, and the next time Members are asked, "Would you vote for this?" and you say, "Oh, no, I am sorry, that might be a good result, but it would violate States' rights," the argument will not be there, because what we are saying here is that when we think we are getting a better outcome by a greater degree of Federal intervention or preemption, we will do it.

□ 1400

Mr. SENSENBRENNER. Mr. Speaker, am I correct that I have the right to close?

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Wisconsin does have the right to close.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my friend, the gentleman from Massachusetts [Mr. FRANK], has a very selective memory. The Congress has federalized both gun laws and drug laws because it has determined that gun laws and drug laws are something that have overwhelming national significance.

My proposal does not even go as far as that. My proposal establishes concurrent jurisdiction.

As the gentleman from California [Mr. RIGGS] has so eloquently stated, it would be up to the prosecutors and other law enforcement officials to get together to determine what is the proper forum to try a defendant who is accused of a crime.

All during the markups and the hearings on the crime bill in the Subcommittee on Crime and Criminal Justice we Republicans heard again and again the complaint that the Federal Government cannot legislate on street crime because only 3 percent of the criminal prosecutions in this country are done at the Federal level.

That argument does not hold water, because if we want to have a stronger Federal role in the prosecution of street crime, we can adopt a motion to instruct and ultimately accept the D'Amato amendment. I would hope that we would do that.

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I just hope that my colleagues take the time to understand fully what our colleague from Wisconsin [Mr. SENSENBRENNER] would want to do. In the first place, our colleague from Wisconsin opted not to offer this amendment in subcommittee or the full committee. There have been no hearings on the impact of this particular amendment in either body, the Senate or the House.

Let me tell Members what I think the impact will be. Mr. Speaker, as you know, I am privileged to chair the Subcommittee on Judicial Administration that handles prisons around the country. This legislation, as I understand the text of it, would federalize all gun offenses as long as they travel on interstate commerce.

I do not think it would be easy to determine how many gun offenses that would be. Gun offenses, like all street crime, are prosecuted at the State level. In fact, 95 percent of all street crime, as my colleagues know, is prosecuted at the State and local level.

This would federalize all gun offenses where they have traveled in interstate commerce. That, in essence, means all gun offenses, because most guns travel in interstate commerce.

We in the Federal Prison System today are at roughly 173 percent of capacity. That means that we have 73 percent overcrowding today. We cannot build Federal prisons fast enough.

I do not have to tell Members what a single Federal prison costs to construct today. Would you think $300 million to $400 million is a fair assessment?

You would have to begin building Federal prisons today and you would have to build Federal prisons every other month or so to house the prisoners that the gentleman from Wisconsin [Mr. SENSENBRENNER] would want to put in jail for State offenses.

Now, aside from the question that the gentleman from Massachusetts [Mr. FRANK] raised, which is the question do we think States are doing that bad a job that we should federalize offenses that are basically rightfully relegated to the States, that is another issue. I find it interesting that a conservative Republican would suggest that we spend tens of billions of dollars in Federal prison construction to cure the problem when they are stingily providing resources to the States to help themselves solve their problem.

Now, if we really want to do something about the overcrowding problem and send a clear signal to those that violate State laws, let us be better partners with the States to help them build the prison systems they need. But we do not do that.

The same folks that would advance this as a quick fix to deal with overcrowding would not only overwhelm the Federal system, but they basically would at the same time deny the States the ability to actually improve their own criminal justice system and build the systems they need.

As the gentleman from Wisconsin [Mr. SENSENBRENNER] knows very well, because he watches the dollars as closely as any Member of this Congress, we do not have the tens of billions of dollars, and he knows it, that would be required to implement the so-called D'Amato amendment. It is the most cockamamie idea that has come down the pike in a long time.

Mr. Speaker, it sounds great. We all want to be tough on crime. But, you know, we have got to develop reasonable and sensible initiatives to deal with the crime problem, and this falls short by any criteria one uses.

Mr. Speaker, the Chief Justice of the United States and others in the system are adamantly opposed to any federalizing of essentially State offenses. To suggest that the Feds are the only ones that have the expertise to prosecute street crime is absolutely ridiculous.

Where have Members on this side of the aisle strayed when they forget about the whole concept of federalism? Are we not interested in deciding basically what is rightfully in the province of the States and what really is in the province of the Federal Government?

So, not only would they bankrupt the budget by such a suggestion, but they also would decimate the whole concept of federalism.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER] briefly.

Mr. SENSENBRENNER. Mr. Speaker, is the gentleman aware of the study released May 1, 1991, by the Bureau of Alcohol, Tobacco and Firearms, that indicates or concludes that it is cost effective to incarcerate someone when you subtract the cost of incarceration from the cost to society?

Mr. HUGHES. Mr. Speaker, I reclaim my time.

Mr. Speaker, I am aware of that. I say to my colleague that that makes a great speech, but it has nothing to do with the motion before us. We are talking about the destruction of the concept of federalism and bankrupting the Federal system in the process, instead of basically sharing with the States the resources they need to build their systems.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, the argument that the gentleman from New Jersey [Mr. HUGHES] is we should not prosecute and lock people in society because we do not have the jail space. That is a bunch of bunk.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to support the motion by the gentleman from Wisconsin [Mr. SENSENBRENNER]. I support it because I believe there should be an increased presence and involvement in the prosecution of violent crime by the Federal Government.

In the first place, our constituents and constituents of State legislators are all one and the same. The public knows they are the victims of violent crime and they are threatened by still more violent crime. They expect action.

I think that the fact that the responsibility is also on State legislatures does not mean there is not a responsibility on the Congress to also act.

Second of all, I find the defense of federalism to ring hollow when it comes from individuals whom I have heard in this Congress advocate nationalizing almost everything else that we talk about, from health care to day care, including such subjects involving the crime bill as what kind of weapons people in individual States can own. So it seems to me the argument of States rights is raised only as a defense against an issue with which they do not agree.

Mr. Speaker, however, I must say as a former career prosecutor that although I believe there should be more Federal involvement in the fight against violent crime, and there usually is good cooperation between Federal and State agencies, that significantly greater action, whether it is in the prosecution of violent crime as proposed here or whether it is in crime prevention measures as are already authorized in the House version of the crime bill, must be matched by appropriations.

Crimes do not prosecute themselves. It requires police investigators, Federal investigators, prosecutors, courts, and, if need be, prisons. All of that costs money. Even the review of a case to decide whether to prosecute it or not prosecute it can involve many hours of investigative and prosecutorial time.

□ 1410

Therefore, I would say that if this Congress is going to become more involved in the fight against crime on both levels, and I hope it does, the prosecution of violent crime and the prevention of crime, it must back that with an appropriation or all of this will be a cruel hoax.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the subcommittee that I chair has jurisdiction over the FBI. The budget this year for next year is over $2 billion. I would estimate that we would have to be spending about twice that just to get the program that, this very generous, extravagant program that the gentleman from Wisconsin [Mr. SENSENBRENNER] has in mind, just in additional FBI agents and supporting personnel.

Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I thank the gentleman for yielding time to me. I rise in opposition to the motion to instruct.

This motion to instruct would do great violence to our system of federalism, which over hundreds of years of constitutional history has been worked out, delicate balances have been struck. And this would go right to the core of that in creating thousands and thousands of State crimes and changing them into Federal crimes.

Also it would impose severe restrictions on the resources that the Federal courts presently have in dealing with serious matters of Federal criminal activity.

I think the best evidence against this proposal has been submitted by the Judicial Conference of the United States. This is the conference of senior mem-

VOL 137 PT 23 NO 21—25 1991 UMI

bers of the court, the Supreme Court, the appellate courts, the district courts. It is chaired by the Supreme Court Chief Justice Rehnquist.

These are men and women who are dedicated, as we are, to suppressing crime in America, who are intimately knowledgeable of the details of criminal procedure, and who share our concern that violence in America is becoming a difficult burden for all us. Yet they categorically reject this proposal.

Let me quote:

> The Judicial Conference of the United States opposes legislation adopted by the Senate which would expand Federal criminal law jurisdiction to encompass homicides and other violent State felonies if firearms are involved. Such expansion of Federal jurisdiction would be inconsistent with long-accepted concepts of federalism and would ignore the boundaries between appropriate State and Federal action.

These are the experts. Their testimony is clear and compelling. It would upset federalism.

As I have suggested before, it would disrupt the resources they presently have available to deal with violent crime at the Federal level.

Let me quote from another report, which was offered by the Committee on Criminal Law and Probation Administration of the Judicial Conference and signed by Judge Broderick, the chairman.

I quote from his report: "The Federal courts are designed to handle complex criminal cases with nationwide impact that States lacked resources or juridiction to investigate and prosecute. The overall effect of this legislation," federalization of these crimes with firearms, "will in our judgment" and this is truly paradoxical, "result in less rather than more effective law enforcement. The pending legislation, if adopted, will dilute Federal court resources needed to try major crimes and to provide forums for the prosecution of national and international conspiracies."

> The admission to Federal jurisdiction of virtually any crime committed with a firearm that has crossed a State line will swamp the Federal courts with routine cases that States are better equipped to handle and will weaken the ability of these courts effectively to deal with the difficult criminal cases that present unique Federal issues.

Mr. Speaker, if we pay attention to the facts, to the expert opinion of these distinguished men and women, many of whom have been appointed by Republican Presidents, we will reject this motion.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding to me.

We have heard a lot of legalistic arguments here this afternoon, but I, like many this morning, when I came to work and opened the newspaper was moved like many were when we saw on the front page, and this happens just about every day, "Man Arrested in Slaying," the suspect had been free on $1,000 bond in a previous shooting case.

Now, if we sit here and say we cannot do anything because of what some judge said, are we not accomplices in crimes like this, too?

Yes, we here have it within our power to change the law and to stop some of these killings and murders that are really epidemic here and around the country. So I would ask the Members of this body to review their consciences and to ask themselves whether we are going to follow legalistic thinking or we are going to be concerned about people.

We have heard arguments here on the floor that our Federal prisons are filled to capacity of 173 percent. What do we do when we go back and see people? This woman's husband, her children, and there are thousands of people like this. What are we going to do? Tell them we will not imprison this person that killed their mother or killed their wife because we already have 173 percent capacity?

That is no answer. That is no solution.

Like my colleagues, I was moved when I read where—

> Bigby, pounding his heart with his fist, told a sobbing group of friends that he was not going to let his sister die.
>
> "I will never accept what has happened to her. I will never forgive the person who took her away. I will always remember her."

These people have to live with that. We are voting here for, yes, to protect the criminal. But I am asking my colleagues, does not the victim in our society have rights, too? Let us stand up and so something for the victim for a change.

Mr. EDWARDS of California. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, this amendment was offered, I am not supposed to mention the name of the Senator on the floor. He is the junior Senator from New York, and his name rhymes with tomato.

It is my judgment that what he tried, what he is trying to do in this amendment, which was not subject to any hearings in the Senate, any hearings in the House, is pulling the wool over the eyes of the American people in terms of law enforcement.

Let me tell my colleagues what he does. He federalizes essentially all gun offenses.

What does that mean? That means that local police and State police will no longer automatically be in charge of enforcing the law on gun offenses, gun crimes.

Is that good for law enforcement or bad for law enforcement?

It seems to me it is bad for law enforcement because what we will create, and there are hundreds of thousands of gun crimes committed a year, we will create a scenario where no one will know who is in charge or running the shop when it comes to gun crimes.

It is the local captain of narcotics or vice in the police department of the hometown? Is it the superintendent of State police or is it Mr. Sessions, head of the FBI? No one will know who is in charge of running these operations.

What does that mean? Well, as we have seen from a lot of operations of this country from the Government down to the private sector, when no one knows who is in charge, the operation does not go very well. So what I fear what this will do is this will hinder law enforcement. It will confuse law enforcement. It will make it so that criminals are not brought to justice as quickly as possible.

I understand it sounds good, the junior Senator from New York has this idea. Boy, if we make every gun crime a Federal crime, it will make people shudder in their seats. In fact, what it will do is confuse the local police so they will not go out and quickly and effectively, as they do right now, to make sure that the crooks are caught or tried and are put in the penitentiary.

We do not need more Federal crimes. What we need is more cops on the beat. We need more law enforcement people on the streets.

The base crime bill makes a good step in that direction, but if we vote for this motion to instruct, as well-intentioned as I think it is, I think what we will be doing is voting for less effective law enforcement and a less effective local police department.

If I am not mistaken, I do not believe that any of the local police organizations have formally endorsed this amendment. They do not want it. It takes power away from them.

Do not buy into this argument that making every crime a Federal crime is a way to better law enforcement. Vote against the motion to instruct.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. RIGGS].

☐ 1420

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think the argument we just heard from the gentleman from Kansas is about as much nonsense as we have heard on this floor for quite a while.

I am a former street cop and criminal investigator, and I can guarantee if the motion would become law, local law enforcement would have, as the gentleman from Wisconsin [Mr. SENSENBRENNER] said earlier, yet another tool in their arsenal, in their crime-fighting arsenal.

It would be discretionary whether local law enforcement wanted to work

with Federal prosecutors to bring the case in the U.S. district court. It just might be, gentlemen, that there are certain offenses that would warrant expedited prosecution in Federal court and would warrant the kind of minimum mandatory sentences contemplated here.

Also, again now we have this philosophical cross current blowing across the floor here. Suddenly everyone on this side of the aisle is a born-again Federalist. That is a rich irony. Suddenly we are hearing wonderful arguments about decentralized government, and States' rights, that are frankly missing from so many of the other debates that we have in this House.

There are even some people who have had the audacity to talk about the fiscal impacts of this, as if the gentlemen making those arguments could truly claim to be fiscal conservatives. This argument is about priorities and where we are going to establish priorities on the part of the Federal Government.

I am here today to say that what is proposed here is absolutely consistent, and I would like to direct this to the chairman of the subcommittee, because I know he has a law enforcement background, it is absolutely consistent with the proven effective law enforcement technique of selective law enforcement, where we target limited law enforcement resources to certain types of very serious crimes, toward certain types of offenses, normally repeat offenders who commit violent crimes and are still free in our society.

Law enforcement wants prosecutorial tools such as enhancements, minimum mandatory sentencing standards. I would point out now that we are watching an experiment here locally where local law enforcement, the metropolitan police in the District of Columbia, are working jointly with the FBI in the name of selective law enforcement, again trying to target certain types of offenses and certain types of offenders. This motion is absolutely consistent with that principle as well.

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, I would like to ask the gentleman, since he feels so strongly about this, how many new Federal courts are we going to have to create and how many new prosecutors are we going to need to hire if the Federal Government takes over enforcement authority from the States?

Mr. RIGGS. Again I say to the gentleman it may be over time we may have to add courts and prisons. I am not sure that that would be a bad idea.

Mr. BRYANT. Does the gentleman know the answer to my question?

Mr. RIGGS. I do not know.

I will reclaim my time and simply point out that again what we are talking about here is a discretionary tool for local law enforcement. The FBI is not going to come in and usurp the authority of local law enforcement. That is pure nonsense. That is the red herring argument, designed again to protect those who are philosophically inclined to side with the criminal and not the victims of crime.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. KOPETSKI], a valued member of the subcommittee.

Mr. KOPETSKI. Mr. Speaker, I rise in opposition to this motion. I serve on the Committee on the Judiciary and I understand the difference between our State court system and their roles and responsibilities in our criminal justice system and our Federal court system. In our State court system, I served on our appropriations committee back home in the State of Oregon, and I know these cost money, the courtroom cost money and the judges cost money and the bailiffs cost money, and I understand the jurisdiction of the Federal judges and the Federal court system as well.

I can tell the Members that this is a Federal budget buster. Where is the money? Where is the money to fund the cells to hold these criminals or alleged criminals while they await trial? Where are the Federal dollars for the courtrooms? Where are the Federal dollars for the bailiffs? Where are the Federal dollars for the additional court reporters? Where are the Federal dollars in this proposal for more prosecutors and more Federal judges, because we are going to immediately see the shift from the State court system to the Federal court system.

I urge my Members just, if for no other reason than that there is no money here, to oppose this motion.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think it is important to focus on the true nature of this proposal. I think it is grandstanding in its worst form at the late hours of this session of Congress, this year's session of Congress. If the Members would simply ask themselves this one question: If this half-baked idea had any merit, would not the Attorney General of the United States, would not the Director of the FBI, would not the heads of law enforcement in America have come to us a long time ago and said, "Make all of these offenses Federal offenses and take over the responsibility from us and let the Federal Government begin to enforce this law?" Would not they have done that at least once? Of course they would.

They have never done it one time, never once. The chairman of the subcommittee is in possession of a letter which says that the Chief Justice of the United States has specifically asked us not to do this because they do not have the capacity to accomplish it.

This proposal did come up in the subcommittee and the subcommittee rejected it. In fact, it was pulled down before it ever even had a vote on it because it was so patently and impossibly applicable to the situation before us. I strongly urge the Members to reject this amendment. If it has any merit, let us have hearings on it next year, but do not come up with it at the last minute and suggest it is an idea that has any strength or merit to this House of Representatives.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, like so many Members of this body, I too am a former prosecutor, a Federal prosecutor in criminal cases. I think the worst thing this body can do is to promise more than it can deliver, and when we are legislating in an area like this that is so easy to vote for because it sounds good, we ought to make doubly certain that we know exactly what we are doing.

Back when the crime bill was being debated the Federal judge from my area, a Republican, called me specifically concerned about this provision from the Senate side. Ho said to me, "If you people are going to make Federal crimes out of every gun crime, State crime, then you had better be willing and able to really increase our budget because we will have to set aside all of the drug cases that are not involved with guns and spend all of our time taking care of manslaughter cases, taking care of assault cases where a gun happens to be involved."

So while I know this is a well-intentioned instruction, we are absolutely doing a disaster to law enforcement in this country. The Federal courts have more than they can handle now.

If Members are ready to implement this, if they are ready to fund it, that is one thing. But if we are simply going to pass a motion to instruct the conferees so that we look good, because we are tough on crime, that is something else.

I urge this body in the late hours of this session not to federalize every State crime in the Nation.

Furthermore, we are going to have a State crime in Georgia, because it may be defined as a crime of violence apply whereas it may not apply in Nebraska or some other State. We are saying that whatever is a crime of violence in one State, then suddenly this Federal statute comes into being, and an offender can get 10 years or 20 years or more, but if they commit it in another State it is all right, they are okay because it is not a crime of violence. I think this is not a well-thought-out motion. I would urge my colleagues to reject it for what it is, something that

VOL 137 PT 23 NO 21—25 1991 UMI

is simply playing to the people out there as a well-sounding instrument against crime. It will not work.

☐ 1430

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. JENKINS. I am happy to yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, as a former prosecutor, would the gentleman stipulate that in fact today we have a crazy-quilt pattern of criminal sentences that vary from State to State in respect to these violent crimes?

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is interesting to note that every argument that has been lodged against this motion to instruct and the underlying Senate amendment that this motion supports is a real red herring.

Of course, the Federal judiciary is going to be opposed to increasing their caseload. They always have been opposed to increasing their caseload, and they have come to the Congress to ask for certain reductions in Federal jurisdiction, specifically reductions in adversity of citizenship jurisdiction in civil cases.

The fact is that the Constitution of the United States gives the Congress the power to determine the jurisdiction of the inferior courts, including the Federal district courts.

The gentleman from California [Mr. RIGGS] has it absolutely correct. This question is a question of priorities. Where do we want to send our law enforcement resources, where do we want to send our prosecutorial resources, and where do we wish to allocate our court-time resources?

The crisis in this country is a crisis of violent crime. I do not think the Federal district courts or any other courts, for that matter, should be sitting on their hands saying, "Oh, no, violent crime cases should be for some other judge to try."

We ought to be using the court time to try these cases and we ought to have a sentencing pattern that makes sure that those who are convicted of the most gruesome of crimes—murder, battery, rape, robbery, manslaughter—spent time in jail. Most of the real gruesome crimes in this country involve a firearm.

This amendment merely gives the Federal authorities the discretion, in conjunction with the State authorities, to prosecute people who should be facing a mandatory sentence, and that gets to the final point.

The final point is: Do we not have enough faith in our U.S. attorneys and in our local district attorneys to figure out who can prosecute which cases? Do we not have enough faith in the fact that they can sit down and say, "I will take this one and you take the other one"?

I have faith in these individuals. The U.S. attorneys were all appointed by the President and confirmed by the U.S. Senate. Most local district attorneys are elected by the people of their countries or by their judicial districts. It is their job to decide how to manage the flow of their offices.

I think this amendment, because it does provide for the cooperation rather than the preemption, as some people seem to think, increases federalism, increases cooperation, and makes the government in total, Federal, State, and local, better able to deal with street crime and crimes of violence.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], a valued member of the subcommittee.

Mr. CONYERS. Mr. Speaker, I am quite concerned about the growing trend to federalize what are essentially local crimes—crimes which have no inherent Federal interest. The Senate in its crime bill passed two provisions, which are the subject of the gentleman from Wisconsin, that make a Federal crime out of any State drug trafficking or violent crime in which a gun was used and provide steep mandatory minimum sentences or the death penalty. I should note that even Supreme Court Justice Rehnquist has urged this committee to reject similar amendments to this bill.

Let me explain why, as chairman of the Government Operations Committee, I am particularly concerned about these provisions:

The Government Operations Committee has been trying to address and resolve high risk Government programs, programs where the Government's vulnerability to further serious problems is especially severe. The Office of Management and Budget has identified the Federal Bureau of Prisons as a high risk Government program. The Bureau of Prisons was singled out by OMB because of both overcrowding and of the lack of adequate staff to supervise the prison facilities, creating potentially unsafe conditions for staff, inmates, and the community.

According to the most recent figures, BOP is currently 50 percent over its rated capacity. Numerous facilities are more than 100 percent overcrowded, and one facility in North Carolina is actually at 222 percent of rated capacity. To put this in perspective, BOP's target goal is to be down to 30 percent over capacity by 1995 throughout the system.

This is the existing situation. Under the Senate provisions, it would change dramatically. According to 1989 FBI figures, nearly 350,000 robberies and assaults and perhaps more than 1 million drug crimes could be covered by those provisions. If only a fraction are actually prosecuted at the Federal level, it would literally swamp the criminal justice system.

To meet the demands of the Senate provisions, the Bureau of Prisons estimates it would need 500,000 new beds over the next 10 years—at a cost of more than $30 billion for construction alone. Include another $18,000 a year to house, feed, and watch each of those additional inmates.

If the Bureau of Prisons is already at the high-risk stage, imagine what these numbers would do to the system.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, this would do such a terrible injustice to the people of Florida where the courts are so backed up that no civil cases are being heard in the Federal courts, only drug and criminal cases, it would be an enormous problem.

Second of all, if you want to know how good this will be, find out how the Bureau of Alcohol, Tobacco and Firearms, in this current situation, has not enough people to look for firearms, to track firearms, or to go out and inspect firearms dealers. They cannot even track what is out there, let alone have time to now investigate crimes of that nature.

Third of all, right now if the gentleman from Wisconsin is so sincere about preventing crime, let us do something about it, and I will tell you how.

Firearm crime? Right now on the books, convicted felons and convicted felons who are convicted in the use of a firearm can get their civil rights and a gun-carrying permit restored to them by the BATF and the Federal courts, and they are doing it.

Do you want to do something to stop crime and help victims? Get the guns off the streets and out of the hands of people. File an amendment to give people no rights to get a gun after they have been convicted of a felony.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding me this time.

I just want to rise in strong opposition to this motion to instruct.

Having been a judge for several years and a prosecutor before that and in close association with our people back in Alabama, and I have just checked with them, the best I can find out from the folks that are going to have to deal with this, this is going to be something that is entirely unworkable.

There are not enough personnel in their offices now with the Federal folks to handle what they have. They are going to end up handling every shooting that comes along and just federalizing any offense, as I can tell, that involves a firearm. This is not good policy. This is not good judgment, and this should be thoroughly rejected.

Mr. EDWARDS of California. Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. SCHUMER], the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. SCHUMER. Mr. Speaker, first I would like to thank the chairman for yielding me this time. I was going to engage in a colloquy with the gentleman from California, but I would just simply say that language such as the gentleman used on the floor, in my judgment, is uncalled for. People have differences of views. That does not make them procriminal.

I do not think the Attorney General is procriminal. He has refused to support this legislation. I do not think the Chief Justice of the United States is procriminal. They have refused to support this, and that kind of language is uncalled for in this body, in my opinion.

Let me say, Mr. Speaker, that Chief Justice Rehnquist, when he heard about this legislation—hardly known as one being soft on crime, one of the toughest members in the judiciary—wrote a letter, which will be available to all of you, and he said: "I express my opposition to the proposed legislation which would provide for Federal jurisdiction over offenses."

The Judicial Conference opposes the legislation. Why?

> It will weaken—weaken, not strengthen—weaken the ability of the Federal courts to effectively deal with criminal cases that present uniquely Federal issues.

The bottom line, Mr. Speaker, is yes, we need more Federal help. It takes dollars.

The one thing my dear friend, the gentleman from Wisconsin, failed to provide—and all those who want this legislation—is to provide money for a single prison cell, a single extra FBI agent, a single additional prosecutor, or a single additional judge.

☐ 1440

We all know the Federal courts are overloaded. We all know that people get off and get reduced sentences because they do not have the resources. And what do we do here? We say, "Here is some more jurisdiction." It is about time we stopped fooling the American people; it is about time we said to them, "When we give you jurisdiction, we will give you dollars."

I have heard many of my friends on that side of the aisle say, "Do not impose things on the States and on localities unless you are going to give them the money to do it." The same thing applies to this legislation.

If we do not provide the dollars, which this legislation does not, we will not put a single extra criminal in jail, we will not solve it. I would add parenthetically: When are we going to start preventing crime as opposed to simply punishing them after the crime is committed?

Most of my colleagues, my good friend from Wisconsin says he does not want to ban the most dangerous of the weapons on the streets, the assault weapons; that would prevent crime. But, no, we go through these elaborate procedures to beat our breasts, show how tough we are, and then not do a thing to prevent our citizens from being hit over the head and shot and mauled and maimed.

I ask this motion be defeated.

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from New York mentioned the name of the gentleman from California.

I yield 1 minute to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. I thank the gentleman from Wisconsin for yielding to me.

Mr. Speaker, I would simply respond to the gentleman from New York that I appreciate his lecture, as a new Member, on decorum. I am going to pattern myself after his decorum in the Banking Committee and on the floor from here on out.

But I wonder if—you know, he referred to the Chief Justice's letter. Reading between the lines there, the Chief Justice has a rightful concern about the availability of time in Federal court. I wonder if that could have anything to do with the endless appeals that are brought and heard in Federal court.

I would love to know how the gentleman from New York voted on the proposal for strict habeas corpus reform when the crime bill came up before, given his leadership on the Judiciary Committee.

Mr. SCHUMER. Mr. Speaker, will the gentleman——

Mr. RIGGS. I will not yield to the gentleman at this time.

I would also like to note——

Mr. SCHUMER. The gentleman asked a question.

Mr. RIGGS. I would also like to know if the gentleman would be willing, since he represents a high-crime State and we have heard from Representatives from Florida, Michigan, and other States with high-crime problems, if he would be willing to get back in touch with the local law enforcement back home and ask them whether or not they want as a tool of selective law enforcement the ability to bring the prosecution in Federal court for crimes committed with a firearm.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I believe——

Mr. SCHUMER. The gentleman——

Mr. SENSENBRENNER. Mr. Speaker, regular order, please.

Mr. Speaker, I yield myself the balance of my time.

I am glad the gentleman from New York [Mr. SCHUMER] brought the issue of funding law enforcement in this country because this Congress and the majority party that he represents reduced the request of the President of the United States for funds for law enforcement by $462 million between the time the President submitted his budget and the time the appropriation bills were passed by the Congress and sent to the President. That is $462 million that you people took out of law enforcement and put into various kinds of social spending programs.

Do not come up here and argue against the amendment in this motion to instruct by saying we do not have enough money. We would have had a good start on having that money, had you not taken it away in your budget.

No, I will not yield.

Mr. SCHUMER. I was just wondering if the gentleman put any money into the——

Mr. SENSENBRENNER. Regular order, Mr. Speaker. I believe I have the time.

The SPEAKER pro tempore. The regular order is that the gentleman from Wisconsin has the time.

Mr. SENSENBRENNER. Mr. Speaker, what the motion to instruct does is to ask the House conferees to agree to language adopted by the other body that will impose a mandatory jail term for people who are convicted of certain crimes while armed with a firearm. Under the FBI statistics, the 6 percent of the criminals that commit 70 percent of the crimes are those that are making our streets run in blood. And those people ought to be put in jail. If it requires Federal district court time and time for Federal prosecutors to present these cases, so be it.

The top priority in this country ought to be making our streets safe. And, frankly, people who are convicted of crimes of violence do not spend enough time in jail and get out too soon and continue their life of crime.

In 1988, more than 6 of 10 of New York City's murder victims were murdered with a gun. In 1989, of 1,905 homicides, 1,262 were committed with a gun. In 1990, gunfire was involved in three-quarters of the city's 2,250 homicides.

Yet, the New York City criminal justice system completely fails to stop gun violence.

Of 2,308 convicted of any criminal gun possession charge in New York City last year, only 4 in 10 went to jail and another 4 in 10 got probation.

This motion to instruct, this amendment, is going to put these people in jail.

Mr. Speaker, I urge a "aye" vote and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

VOL 137 PT 23 NO 21–25 1991 UMI

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 155, nays 271, not voting 8, as follows:

[Roll No. 413]

YEAS—155

Allard
Allen
Andrews (TX)
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bereuter
Bilbray
Bilirakis
Bliley
Boehner
Brewster
Bunning
Burton
Byron
Callahan
Campbell (CA)
Chandler
Chapman
Clinger
Coble
Combest
Costello
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Edwards (TX)
Emerson
English
Espy
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Goodling
Goss

Gradison
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Inhofe
Ireland
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Machtley
Manton
Marlenee
Martin
McCandless
McCrery
McEwen
McGrath
McMillan (NC)
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Packard
Paxon
Petri

Pickle
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Roberts
Rogers
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stenholm
Stump
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—271

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Blackwell
Boehlert
Bonior
Borski

Boucher
Boxer
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Camp
Campbell (CO)
Cardin
Carper
Carr
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin

Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart

Edwards (CA)
Engel
Erdreich
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gillmor
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Hutto
Hyde
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)

Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Long
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall

Rangel
Ray
Reed
Richardson
Ritter
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—8

Brooks
Dicks
Fawell

Mrazek
Nagle
Roe

Skelton
Waxman

□ 1508

Mr. MOODY changed his vote from "yea" to "nay."

Mrs. LLOYD and Messrs. BEREUTER, HANCOCK, EDWARDS of Texas, and TAYLOR of Mississippi changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except sections 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

Messrs. BROOKS, EDWARDS of California, CONYERS, SCHUMER, HUGHES, STAGGERS, HYDE, SENSENBRENNER, MCCOLLUM, and GEKAS. Provided that Mr. KOPETSKI and Mr. SCHIFF are appointed as additional conferees for consideration of sections 701 through 709 of the Senate amendment, and that Mr. FEIGHAN and Mr. SCHIFF are appointed as additional conferees for consideration of title XXIV of the House bill.

From the Committee on Ways and Means, for consideration of section 1719 of the House bill, and sections 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

Messrs. ROSTENKOWSKI, GIBBONS, RANGEL, ARCHER, and VANDER JAGT. Mr. ROSTENKOWSKI and Mr. ARCHER are appointed as additional conferees for consideration of section 702 of the Senate amendment.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1502 and 1831 of the House bill, and sections 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

Messrs. GONZALEZ, ANNUNZIO, NEAL of North Carolina, WYLIE, and LEACH.

As additional conferees from the Committee on Education and Labor, for consideration of sections 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except section 812(f)) and sections 1511, 1512, 3601 through 3606 and 4301 of the Senate amendment, and modifications committed to conference:

Messrs. FORD of Michigan, KILDEE, MARTINEZ, GOODLING and PETRI.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and sections 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

Messrs. DINGELL, WAXMAN, ROWLAND, LENT and BLILEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

Messrs. DINGELL, SWIFT, ECKART, LENT and RITTER.

As additional conferees from the Committee on Government Operations, for consideration of sections 801, 802,

1509, and 1751 through 1758 of the House bill, and sections 1701 and 1702 of the Senate amendment, and modifications committed to conference:

Messrs. CONYERS, WISE, TOWNS, HORTON, and MCCANDLESS.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 1716, 1719, and 1722(b) of the House bill, and sections 517, 4401, 4402, 4404, 4405 and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

Messrs. JONES of North Carolina, STUDDS, TAUZIN, DAVIS, and LENT. Provided that Mr. TAYLOR of Mississippi is appointed in place of Mr. TAUZIN for consideration of section 1722(b) of the House bill.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320 and 2328 of the House bill, and sections 502, 2901 and 4401 through 4403 of the Senate amendment, and modifications committed to conference:

Messrs. BROWN, VALENTINE, GLICKMAN, WALKER, and LEWIS, of Florida.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

□ 1510

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 289 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 289

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, which may contain instructions only if offered by Representative Michel of Illinois, or his designee, or without instructions.

The SPEAKER. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. All time yielded during debate on House Resolution 289 is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 289 is a closed rule providing for the consideration of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991. The Committee on Rules recommends this rule to the House because of the urgent nature of the legislation: It is absolutely necessary that the Congress pass legislation recapitalizing the bank insurance fund prior to our adjournment. As Members know, the House has on two previous occasions rejected legislation which contained the BIF recapitalization as well as other banking reform matters. The Committee on Banking on Tuesday reported H.R. 3768 which provides for the recapitalization of the bank insurance fund as well as several other provisions which reform the regulation of the FDIC. The major banking reform matters, specifically, securities and interstate banking and branching are not in this bill, nor are they made in order as amendments by this rule. The House is presented with a simple choice, whether or not ro recapitalize the bank insurance fund and whether or not to tighten federal banking regulatory requirements.

Mr. Speaker, House Resolution 289 waives all points of order against the consideration of H.R. 3768 and provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking. The rule further provides when the bill is considered for amendment under the 5-minute rule that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking now printed in the bill as an original bill for the purpose of amendment. The rule waives all points of order against the substitute, and provides that it shall be considered as having been read. No amendments will be in order to the substitute.

House Resolution 289 provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the committee to the bill or the committee amendment in the nature of a substitute. Finally, Mr. Speaker, the rule provides that the previous question shall be considered as ordered on the bill without intervening motion except one motion to recommit, which may contain instructions only if such a motion is offered by Mr. MICHEL of Illinois or his designee.

Mr. Speaker, the House is well aware of the urgent need to recapitalize the bank insurance fund. I urge adoption of the resolution and of the bill.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant support of H. Res. 289, which provides for consideration of H.R. 3768. That legislation will improve the regulation of insured depository institutions, and it will utilize the future profits of the banking industry—not taxpayer dollars—to recapitalize the bank insurance fund.

Obviously, Mr. Speaker, this is not an open rule. I always strive for open rules and I did so last night in the Rules Committee. But the reality is that we must pass H.R. 3768, and this body has made it clear on two previous occasions that it is not willing to accept amendments to reform the banking system, regardless of their merits.

I am as disappointed as anyone that we will not be able to address comprehensive structural reform as part of this legislation. We are doing nothing to strengthen the bank insurance fund by not permitting banks to engage in profitable banking-related activities in a safe and sound manner.

But opening up this rule will not make that happen. Instead, it will probably lead to the third straight defeat of a banking bill in as many weeks, and it will leave 110 million bank depositors unprotected and unsure of whether the Federal Government stands behind its promise to protect their hard-earned savings.

Let's not forget that H.R. 3768 contains all of the noncontroversial amendments that were adopted as part of the Gonzalez substitute to the previous banking bill, H.R. 2094.

Those provisions include the continued pass-through of insurance coverage to California's public employees who participate in section 457 deferred compensation plans.

They include increased powers to allow Federal regulators to detect and prevent future BCCI scandals from occurring.

VOL 137
PT 23
NO 21—25
1991
UMI

They include the FDIC affordable housing program, limitations on brokered deposits, and incentives for other financial institutions to purchase failed or failing thrifts, thus saving taxpayers millions of dollars.

Mr. Speaker, let me underscore: H.R. 3768 is not a bailout of the banks. No stockholders will be protected from loss, no management will be unjustly enriched, and no institution will be insulated from competition. Only the deposits of widows, pensioners and working Americans who have their life savings in an insured bank will be protected.

Mr. Speaker, H.R. 3768 is a very small step in the direction for what we are going to have to do next year to ensure that the banking industry can repay this borrowed money. I underscore again: no taxpayer dollars are being used.

Some of my colleagues argue that, ultimately, taxpayer dollars will be used. That may be true if we don't address the issue of structural reform in the near future. But we need to keep this process moving in that direction, Mr. Speaker. For this reason, I support the rule and urge adoption of the bill, and I reserve the balance of my time.

☐ 1520

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I rise in support of the rule of H.R. 3768. I want to take this opportunity to commend the Rules Committee for the way it has handled this very difficult legislation before us today. I particularly want to express my deep thanks to Chairman JOE MOAKLEY, the ranking Democrat, BUTLER DERRICK, the ranking Republican, JERRY SOLOMON, and the gentleman from Texas [Mr. FROST], who is handling the rule today.

The Rules Committee had a very difficult job, and given the restrictions under which it was placed, that committee has done an outstanding job. The fairness with which the Rules Committee treats every witness, and the courtesy extended to every Member who appears before the Rules Committee, I feel is one of the shining spots in this body.

I also want to take a moment to commend the chairman of the Banking Committee, HENRY GONZALEZ, and the ranking Republican, CHALMERS WYLIE from Ohio. I have served on the Banking Committee for some 27 years, and one thing I have learned is that there are no easy issues that come before the Banking Committee. That means that trying to craft legislation within the committee is a very difficult job.

I think Chairman GONZALEZ has done a remarkable job in trying to sort out all the divergent views on the committee and in crafting a bill that, while it may not please everyone, may well be the best product that can be produced.

And finally, I want to commend the Speaker and the other Members of the leadership team for their patience and understanding in dealing with a very emotional issue. They understand that banking issues are never going to be easy. And they have worked hard to set aside the appropriate amount of time to deal with these issues.

So today, let us talk. Let us debate, and sometimes probably we will shout. But let's pass this rule and let's recapitalize the bank insurance fund so that the American people will know that their funds, and in many cases, their life savings are safe.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the gentleman from Columbus, OH, Mr. WYLIE, the senior ranking member of the Committee on Banking, Finance and Urban Affairs, one who has been working for years to try to get us to this point.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from California for yielding time to me. I would acknowledge his good service on the Committee on Rules. He came from the Committee on Banking, Finance and Urban Affairs and is quite well acquainted with some of the issues which come before us. So his accolade is well-received by this Member.

We are here today, Mr. Speaker, for the third time on a banking bill, because we must provide some new capital for the bank insurance fund. This is the fund administered by the Federal Deposit Insurance Corporation, which insures the accounts of depositors in our commercial banks.

The fund has approximately $2 billion in it. By year's end, that fund will be zero. I think there could be very serious, very serious economic and political consequences if we ended this session without assuring the depositors in our banks, strong or weak, that their deposits would be available to them immediately upon request.

The bill before us provides for an increase in the Treasury line of credit from $5 billion to $30 billion. The bill sets up a repayment schedule, and this is very important, a repayment schedule, the money for which comes from the premiums on deposits in banks.

That premium is now 23 basis points or 23 cents on every $100 on deposit. That premium can be increased in case of an emergency to cover any costs of the $25 billion borrowing authority. There can be no taxpayer exposure.

I repeat, there is no taxpayer money involved here. The amount of the new capital which is sought by this bill is $25 billion.

The figure of $70 billion has been thrown around, and some in the news media have picked up on that as the amount being asked for to recapitalize the fund.

The line of credit for loss money will be increased, I repeat, from $5 billion to $30 billion. That means an additional $25 billion which will be made available for the bank insurance fund.

Authorization for providing up to $40 billion for working capital is provided, but this borrowing, if any, would be secured by assets acquired by the FDIC and does not involve a premium increase or any taxpayer money.

It would be available only to the extent the value of assets acquired by the FDIC are available from failed banks.

The administration now supports passage of H.R. 3768 and supports the provisions of the bill, which would recapitalize the bank insurance fund and provide for early intervention or action by regulators to resolve troubled bank cases.

There are improved examination and accounting reforms. There is a new regulation of foreign banks to prevent any more BCCI's. There is some deposit insurance reform in that there is a limitation on brokered deposits and pass through accounts.

The fact that we do not limit multiple accounts made it a little more difficult for me to vote for this bill today, but that is another battle for another day. We need to get back to the issue of bank powers, interstate branching, but these issues will have to wait for another day.

Recapitalizing the bank insurance fund cannot wait. The bottom line is that recapitalizing the bank insurance fund must be our No. 1 priority today to avoid the possibility of another savings and loan-like debacle.

I urge an "aye" vote on the rule and on the bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from Vermont [Mr. SANDERS.]

Mr. SANDERS. Mr. Speaker, I thank the gentleman very much for yielding time to me. I especially thank him because I have a feeling today that we are not going to see too much opposition to this piece of legislation, which I have some very deep concerns about.

Mr. Speaker, today we will be asked to put at risk some $70 billion of taxpayers' money for a potential bailout of commercial banks. Within a few days we will be asked to appropriate another $80 billion or real money, no ifs and buts about that one, in order to bail out the savings and loan industry on top of the $80 billion which was appropriated in the past.

☐ 1530

Mr. Speaker, the American people are angry and frustrated with politics as usual, and Mr. Speaker, what we are seeing today is politics as usual. The rich get richer, the poor get poorer, and the working people and the middle class are asked to bail out banks which were destroyed by the greed, irresponsibility, and the outright dishonesty of many banking officials, both within the S&L industry and the commercial bank area.

Once again, it is the Robin Hood proposal in reverse. We take from the poor and we give to the rich. Mr. Speaker, we must protect our banking system and the bank depositors. There is no argument about that. But we can do it without increasing the deficit and without hitting up the ordinary people of this country. Let us show a little bit of courage in this body and not increase the cynicism which working people of this country already feel. Let us ask the people who caused the crisis and who have the money to fund this bailout to do so and not the ordinary American.

Mr. Speaker, what all of this amounts to is, in fact, that some of what my friends and colleagues have said is not necessarily the case. Let me refer to my friends who have said, "Hey, do not worry, taxpayers, there is no bailout." Let me refer to the Washington Post, Sunday, October 27. This is an article by Jerry Knight:

> The banking industry is supposed to pay back the money—with interest—so that ordinary taxpayers never feel the bite. But congressional Democrats and many banking economists fear that U.S. banking is simply too weak to repay the money.
>
> The unprecedented loan from the U.S. Treasury is only one part of what Cleveland State University economist Edwin Hill believes will be a $200 billion investment needed to restore the health of the banking industry.

Let me continue. Robert Dugger, chief economist of the American Bankers Association, said, "Bankers are confident that with enough time they can replenish the deposit insurance fund and pay back the loan to the FDIC," quotes the Washington Post.

"But Democratic banking committee leaders in Congress are skeptical. House Banking Committee HENRY B. GONZALEZ flatly predicts the banks will not be able to repay the FDIC loan and the taxpayers will get stuck with that bill."

Mr. GONZALEZ and many economists all over this country are not the only people who feel that the taxpayers will eventually get stuck with the bill. Now, what is going on here? In fact, what this whole discussion amounts to is there is real concern that taxpayers will have to bail out the FDIC. We hope they will not. We all hope they will not, but they may.

I am deeply concerned that the rule before us today does not allow us to vote for amendments which would provide us with sufficient protection for the taxpayers so in the eventuality, in the eventuality that taxpayers may have to bail out the commercial banks, the taxpayers have good protection.

Mr. Speaker, let me make a few suggestions in my hope that this legislation is defeated. Let me offer a few ideas as to how we might proceed. No. 1, in terms of both bailouts, the S&L and the commercial banks, we should be honest and address them together. Ultimately, if the worst scenario comes true it is going to be the taxpayers who will have to bail it out, so let us look at it together. Let us understand that we are talking about, this week, $150 billion of possible taxpayer bailout.

As we contemplate the nature of this bailout we must pledge not to simply dump the money into the deficit as the President and the Congress have done so often in the past. We have to have the courage to do it on a pay-as-you-go basis, not dump the money into the deficit.

Third, as we discuss where the money is going to be coming from we have got to have the courage to say that the payback, neither for the S&L's nor the commercial banks, should lie on the backs of working people, middle-income people and the poor.

As everybody in this room knows, in the last 10 years the richest people in our country have become much richer and the middle class has seen a decline in their standard of living. The rich who have gotten richer are paying less in taxes and working people who have gotten poorer are paying more in taxes. We cannot dump this payback onto the backs of the working people.

Mr. Speaker, a number of proposals have arisen both in this body and in the other body that we address the bailout in a fair and progressive way, rather than on the backs of working people.

Senator JOHN KERRY of Massachusetts, for example, has proposed a Federal wire tax which is a clearance transaction fee on the exchange of money on the two systems which transfer funds between banks internally and abroad, the Federal wire system and the clearinghouse interbank system. The suggestion is that if we put a 2-cent tax fee on every $100 check, that would raise $80 billion a year, more than enough to cover all of the bailouts, and that would fall on those people who can afford to pay it, who are involved in the business.

The gentleman from Illinois [Mr. COX], and member of the Committee on Banking, Finance and Urban Affairs, has suggested an approach by which healthier banks could lend money to the FDIC which would create a situation in which the banks themselves would provide all of the needed money for the FDIC recapitalization. While the faith and credit of the U.S. Government is still involved, this clearly is a much safer approach than what we are proceeding with right now.

Mr. Speaker, let me conclude this. Do not let anybody kid you. What we are talking about here at a time when our people, 2 million people are sleeping out on the street, where our kids are hungry, where our people cannot afford health care, we are talking about, this week, a potential liability for the taxpayers of $150 billion before interest stretched out over a 30-year period. Let us have the guts to do the right thing, stand up for working people and middle-income people and make this into a progressive payback approach.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond to my friend from Vermont by saying that he is absolutely right, this potentially could become a taxpayer bailout measure. We had an opportunity to ensure that it would not at all if we had passed H.R. 6, and we will have an opportunity next year to strengthen the industry to make sure that it will not happen.

Mr. Speaker, I am happy to yield 2 minutes to my friend, the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Speaker, I appreciate the Committee on Rules coming out with this rule, the gentleman from Texas [Mr. FROST] and the gentleman from California [Mr. DRIER]. I think the gentlemen all did an excellent job in coming out with it, because obviously, regardless of what my colleague, the gentleman from Vermont [Mr. SANDERS], is saying we cannot raise taxes to cover this and do not need to. It is a loan, pure and simple, and will be paid back.

The gentleman from Texas [Mr. GONZALEZ] and the committee have worked very hard to bring out a bill that can be passed in this House. It has failed a couple of times already, and that is why we are trying to get this rule passed. It failed because we had too many special interests. We had big banks, little banks, insurance interests, real estate interests, and securities interests all pulling in different directions. It pulled this House apart. We have everybody at each other's throats, so we need a closed rule and we need to pass a bill that will resolve the issue before the fund runs out of money.

We did do some good in this thing in that foreign deposits have been protected so that we do not have to pay for any losses in foreign investments or banks. We do not have to worry about transfers, and we have asked them to do the least cost resolution in resolving any bank failures, so I believe that we have a good rule, gentleman.

I think the gentleman from Texas [Mr. GONZALEZ], the chairman, did a super job in getting this bill out in the order it is, and I recommend the Members vote for the rule and for the bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I hope the rule and the bill are both adopted. There has been one semantic confusion here over what we

VOL 137
PT 23
NO 21—25
1991
UMI

mean by bank reforms. By bank reform some people mean letting financial institutions engage in new activities. I tend to favor that. I think it is procompetitive. But let us be clear that that is not what is in the bill. But because we do not expand any powers in this bill or contract any powers does not mean there are not reforms. The gentleman from Texas just referred to one regarding foreign deposits. We have here a mandate of early intervention, to shut down banks before they bleed too much money. We have severe limits on brokered deposits. We end pass-through insurance on bank investment contracts.

We also have some socially valuable things in here. I worked very hard on an affordable housing piece, the low-end inventory of the FDIC, and in an amendment cosponsored by myself and the gentleman from Ohio, it will be made available for low- and moderate-income people.

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There will be seller financing with the secondary market being used: so it is an effort to do the best we can.

It does have an irreducible unpleasant core. We have depositors to whom we owe money and we have to pay it.

My friend, the gentleman from Vermont and others have come here and complained about it.

My friend, the gentleman from Vermont, has objected. In some ways he said it is an unfortunate transfer, but this House itself as been inconsistent on this subject. We had a vote during one version of this bill on an amendment sponsored by the gentleman from Texas and the gentleman from Ohio to limit deposit insurance. Right now it is $100,000, but I think in fact it is $100,000 to the letter of your name, unless you do not have a middle name, in which case you can use a telephone number, because the $100,000 per limit comes up to well over a million, and the gentleman from Ohio and the gentleman from Texas offered an amendment to limit the amount of deposit insurance that would be covered through any one individual, and a majority of the House voted them down, according to my friend, the gentleman from Vermont.

It seems to me inconsistent to refuse to put restrictions on deposit insurance and then denounce this as being an excessive transfer to the wealthy, because if you want to reduce the extent to which this becomes a transfer to wealthy people, you ought to limit deposit insurance.

To vote for no limits whatsoever on the amount of deposit insurance that is available to individuals and then complain that this is a transfer to the rich, it is a reverse of the old switch of killing your parents and claiming you are an orphan. This is murdering the kid's parents and then making fun of them for not having any, because you cannot consistently refuse to limit deposit insurance and then claim that this somehow is an excessive transfer to the wealthy. We tried to give the wealthy less protection, and we lost. That is a fact of life.

Then there is the question of taxation. I would like the tax system to be more progressive. I do not think I have the votes to do that right now.

I do not think it is fair, moral, economically sound, liberal, progressive or decent to say that depositors whose deposits were forfeited through no fault of their own, we will not pay them back, and that is all this does.

It is also not in our interest to hold up the funds, because the sooner they get the money, the quicker they can move on it.

Let me finally address the issue of, is this a loan, or is it taxpayers? The answer is yes, because it is not a case of either/or. Is it all going to be paid back or none of it is going to be paid back? That is not as sensible way to frame the issue. Most of it will be paid back.

Will it all be paid back? Nobody knows. We are clearly not talking about every dollar of this being at risk. The banks will pay back some of it. I do not know if they will be able to pay back all of it. I hope they will be.

People say, well, this should not go on the backs of the working people. Oh, but the Defense budget should, or Amtrak should? I do not understand the argument that says we have an argument for a progressive tax system for this money, and not for everything else.

I think we ought to be looking at the tax system as a whole, but not holding hostage the depositors until we do it.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise against the rule and against the bill.

It is not just the economists and a number of other people across the country who have been warning against this kind of bill, it is the Secretary of the Treasury. The Secretary of the Treasury earlier this week said, and I quote:

> Congress must pass banking reform this year that will more than just replenish the Bank Insurance Fund. We need legislation that addresses the underlying structural problems of the industry. Legislation that just simply pours money into the fund without fixing the industry so that it can pay for itself would leave the taxpayer exposed and contribute to the credit crunch.

There are the two problems. What we are about to do here in this bill is take issue to the point that the taxpayer ends up being exposed. I do not know whether the taxpayer will end up being exposed to the entire $25 billion, but we are going to end up with the taxpayer exposed to at least a portion of it, and that is more expense than we can afford at the present time, because we refuse to do banking reform.

The other problem is that we are going to contribute to the credit crunch. The very thing that is impacting communities across the country right now, the very thing which is causing problems for small business, is going to be impacted on by this bill.

So what we have here is a situation where Congress will not face up to its responsibility for total banking reform, and in fact is being asked to do something, a small and possibly doable thing.

Well, this is exactly where we were in the early 1980's on savings and loans. This is exactly what we were asked to do on savings and loans in the early 1980's and we messed it up royally.

The fact is that in the early 1990's, we are going to cast some of the same kinds of votes here that will come back to haunt Members not very far down the pike.

So if you did not like what happened in the early 1980's when Congress messed up on savings and loans, you better vote against this particular piece of legislation, because this particular legislation is taking us down exactly the same route on the banks. Vote no.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of the rule and also in support of the bill. I do so realizing that a lot of us did not get what we wanted in this legislation. I, for one, would like to have seen us adopt a core bank concept, but the votes were not here to do that.

I would like to have seen us also adopt some tougher firewalls between the banking industry and the securities industry, but the votes were not here to do that either.

I think it is now time for us to do what we must do in this democracy to keep it working, and that is to compromise on this legislation that we all know has to be passed, and that is legislation to recapitalize the bank insurance fund.

It has already been said, but I think it needs to be reiterated, and that is the point that we are not bailing out the banks. We are honoring an historic commitment that was made to the depositors of this country 50 years ago. We must make sure that we do not alarm depositors of this country at a time when our economy is as fragile as it is. We have to pass this legislation.

There is a lot of discussion about the risk to taxpayers in the future. As we sit here today, no one knows with certainty what kind of risk the taxpayers are going to face as a result of this legislation. Some will argue the risk is greater because we failed to empower the banks to get into the securities industry. Other will argue that we have reduced the taxpayers' exposure because we did not allow them to get into the securities industry.

I, for one, am glad we did not repeal the Glass-Steagall Act because as I have said before, a number of very conservative bankers in this country, not people in the securities industry, but conservative Republican bankers, say it is wrong for us to empower the banks to get into businesses that they do not understand.

My friend, the gentleman from California spoke earlier, and I would just share with him the comments of a mutual friend of ours in Kansas City, an outstanding banker in this country, Crosby Kemper. Bank Watch magazine has indicated that the runs one of the five best banks in the country. Do you know what he says? He says:

> For us to have passed the Bush bank reform proposal would have made the savings and loan mess look like tiddlywinks.

He is against it. He is a banker, a conservative Republican banker, saying we should not do it. We are not doing it with this legislation, and I am glad we are not doing it.

Now, beyond that, there are also some very important regulatory reforms that are good, and supported by a large majority of this body that should be enacted. Certainly the new provisions that will authorize the Federal Reserve to supervise and examine operations of all foreign banks in the United States, and require annual onsite examinations of all foreign banks and require the Fed to approve new foreign banks before they can start business in this country is all good. It is the kind of regulatory reform we need to address the BCCI's of the future.

In addition to that, this legislation will restrict the use of brokered deposits and it will prohibit the use of deposit insurance to cover foreign deposits, and that is something we should do more of in the days and years ahead.

It will also provide for risk-based deposit insurance premiums.

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Kansas has expired.

Mr. DREIER of California. Mr. Speaker, I yield an additional 30 seconds for the gentleman to conclude this very excellent statement.

Mr. SLATTERY. Mr. Speaker, I am grateful for the 30 seconds from my friend from Kansas City who wandered off to California, and I thank the gentleman very much.

Mr. Speaker, let me just conclude by observing that I think this legislation is needed. It honors an historic commitment made to depositors. It provides some very fundamental regulatory reform that we can all agree upon. It does not do some of the things that I am glad we did not do and others wish we had done, but we will live to debate that again in the days and months and years ahead. I hope by that time we will be able to have a more thoughtful and complete discussion of exactly what we want our financial institutions to look like in the 1990's.

So again I thank the gentleman for yielding time to me and I urge my colleagues to support the rule and to support the bill.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I intend to vote "no" on this and I do so somewhat reluctantly because I think this issue is vital to the welfare of the country and the economy, but one of the fundamental representations being made about this bill is that it eliminates the too-big-to-fail doctrine.

☐ 1550

I have looked into the bill and I would just like to read a paragraph or two because it seems to be that the too-big-to-fail provision remains: if you are really big you are going to be bailed out regardless. On page 108 starting at line 14:

> Notwithstanding any other provision of this section, any Federal Reserve bank may make advances to an undercapitalized depository institution under this section if the Secretary of the Treasury determines in writing, upon the recommendation of the Board, that the advances are necessary to prevent a severe adverse effect on a regional or the national economy.

In the next paragraph it goes on to point out that any of the costs "in excess of the cost of liquidating such institution * * * shall be an obligation of the United States" and not the deposit insurance fund.

Mr. Speaker, I would submit that if any of the large banks in this country were to fail—and frankly we have heard some rumors about some of the banks that are big and that may fail—I think the liability of the taxpayers of the United States could be virtually open-ended under this bill. I know we all want to believe that that is not going to happen, but who would have believed what would happen in the savings and loan industry.

For that reason I am going to vote "no" and hope that we might persuade our colleagues to take this section out so that we will have a clean bill that truly does eliminate too big to fail and best serves the taxpayers of the United States.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the gentleman for yielding this time to me.

Let me say first of all that I support the rule and I support the bill. As the distinguished chairman of the Committee on Banking, Finance and Urban Affairs said, if this particular simple bill was brought to the floor of the House in this form a number of years ago it would have been a very comprehensive reform bill. We definitely have reform in this bill. That reform is to protect the taxpayers of our country; it is to tighten up on loose practices as far as banks are concerned.

Some definite reform is in this bill.

I might just refer to the gentleman who spoke before that the passage he read from, believe it or not my friends, is correcting the problem that we have today. We have a real problem today about too big to fail. It is interesting enough that he brought this to your attention because that is identical reform. We are going to prevent the Federal Reserve from just willy-nilly making advances to weak banks because if they do it now they are going to have to pay for it. And that is not taxpayers' money.

So let me just say what is the main purpose of us being here? We tried to have reform. We tried to have this as a comprehensive bank reform bill. We wanted the bank insurance fund to be replenished and we tried valiantly to let that be the locomotive for comprehensive bank reform.

Well, my friends, that did not work. We had too many competing forces working against one another. And we tried several times. Give us credit for at least trying. Give the Committee on Rules the credit that they tried to put something together. It failed.

So now we are back to doing the thing that we need to do most, and that is to assure the American people that their money that is in the banks is going to be there, it is going to be there when they want it, it is going to be there when they need it. So consequently now is the time for us to replenish the bank insurance fund.

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Georgia has expired.

Mr. DREIER of California. Mr. Speaker, I yield an additional minute to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the gentleman for yielding.

Most important, most important, yes, we have heard some dynamic statements about this is a potential taxpayers' bailout. Well, my friends, it "ain't" a potential taxpayers' bailout until it is a taxpayers' bailout.

We have got in this particular bill the fact that the banks will be paying for the borrowings from the Treasury.

Let me say this: This is not 1982. The banking industry of this country still has over $200 billion in capital. The banking industry, of itself, is not broke. The banking industry is capable of paying this money back over the next 30 years.

So let us say this is the best attempt we can do; we need to pass this bill, we need to get on with reform at another

VOL 137
PT 23
NO 21 — 25
1991
UMI

time, at another date. But right now the most eminent thing to do is pass this bill.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Speaker, I just take this time to reiterate a very good point that the gentleman made. That is this too-big-to-fail question. It is important for Members to understand that under existing law it is really sort of obscure out there as to exactly how it is determined who is going to be able to take advantage of the too-big-to-fail doctrine. We do not know whether it is the Federal Reserve, the Treasury, the FDIC.

Mr. BARNARD. We do now.

Mr. SLATTERY. We do now under this legislation. This is an important reform, my friends, because what we are saying with this legislation is that the Secretary of the Treasury, the administration is going to have to weigh in and make a determination that indeed this bank is too big to fail. In my judgment this is going to make it much more difficult for banks in this country to hide under the too-big-to-fail doctrine.

This is something that is very important to the community banks around this country that have to compete with the big banks for deposits.

I just think it is very important that we make that point crystal clear and not let the earlier statement go unanswered because the earlier statement did not explain the situation accurately.

Mr. BARNARD. It is under control now under this bill and we will know where the responsibility really lies.

Mr. SLATTERY. Absolutely.

Mr. BARNARD. It has to be a very dynamic, a very dynamic economic need for this country before it goes on.

Mr. SLATTERY. It is not as tight as this gentleman would like to see it, but it is all we can do right now.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to a hard-working member of the Committee on Banking, Finance and Urban Affairs, the gentleman from California [Mr. RIGGS].

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to my ranking member, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to associate myself with the remarks of the gentleman from Kansas [Mr. SLATTERY], who made a vital point a little while ago. Under the present law, the too-big-to-fail doctrine, lending losses would not be secure as it is under present law. Under this bill those lending losses would not be secure. This is a very limited, very limited approach to a too-big-to-fail doctrine, but it has to be made on a determination by the Secretary, the Chairman of the Board of the Federal Reserve, and the Secretary of the Treasury, that very serious adverse economic impacts could be felt in a certain region. It is a very limited option, but it is spelled out so that the too-big-to-fail doctrine is of itself repealed.

Mr. RIGGS. If I might just ask my ranking member to comment further: Are there any circumstances that the gentleman can concede where we could close completely that too-big-to-fail loophole?

Mr. WYLIE. Well, this is an amendment offered by the distinguished chairman of the Committee on Banking, Finance and Urban Affairs. He said there might be a case way down the road, he did not have any in mind at the time, where you would not want to slam the door if the bank would be in a position maybe to work its way out of the situation, where a failure in that case might cost the taxpayers more money.

But a determination has to be made by two officials first before that could be done.

Mr. RIGGS. So it is only in those certain circumstances where really it might be an exceptional situation where the so-called too-big-to-fail doctrine might kick in. Other than that, the committee has made a good-faith effort to dramatically close the too-big-to-fail window.

Mr. Speaker and colleagues, I rise reluctantly in support of the rule. I say reluctantly because frankly I think the earlier reference would have produced a better banking policy, probably headed off the real likelihood that we will be revisiting this subject on the House floor next year.

But I wanted to rise and simply say with respect to the taxpayer bailout which we continued to hear, we heard it frequently in committee and frequently on the floor, to my colleagues what we are talking about here really is granting the borrowing authority to the FDIC to replenish the bank insurance fund. And that that loan will immediately begin to be repaid by higher premiums assessed on America's banks.

If we do not act on this bill, we do run in my view the very real risk of a taxpayer bailout, particularly if people such as Mr. Seidman are right about the rate of projected bank failures next year.

So I think the only responsible action before we go home and return to our districts and start meeting with our constituents is to pass this bill, replenish the bank insurance fund.

We have the opportunity next year I hope to revisit the whole subject of reforms, expanded powers, and within that context hopefully start talking about core banking, which I think is an intriguing concept.

☐ 1600

Hopefully, Mr. Speaker, we will also consider doing something about real estate values in this country because, let us face it, all of our financial institutions, America's banks, our remaining thrifts, our major insurance companies are heavily invested in real estate, and, unless we do something to reverse the decline in real estate values, there is a very real possibility of some sort of taxpayer bailout of the American banking industry.

We on our side of the aisle have a proposal that, I think, deserves merit, or deserves further consideration, would go a long way in our view toward reversing the decline in real estate values. It is known as the Real Estate Recovery Act of 1991, as authored by the gentleman from Wisconsin [Mr. GUNDERSON]. I tried to offer it yesterday as an amendment to the RTC bailout bill, and the distinguished chairman deemed it nongermane and ruled it out of order, and I respect that ruling, but we are going to try again here on the floor in the coming days.

But I really think it is important that we address this subject. The gentleman from Pennsylvania (Mr. KANJORSKI) came over a little while ago and indicated to me that he has a freestanding bill, Emergency Economic Revitalization and Recapitalization Act.

I think there is a dawning awareness that we have got to look at the bigger picture and that we really need to do something to stimulate the economy, reverse the decline in real estate values in order to protect against a long-term taxpayer bailout of America's banks.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, many years ago this Nation instituted a system of insurance to cover the savings of Americans. And the Government of the United States guaranteed these deposits, up to $100,000 per account under current law. This insurance system for bank, thrift, and credit union deposits was developed in response to the economic chaos caused by the Great Depression.

No one in this Chamber or this Nation wants to revisit the economic consequences of any potential default of this deposit insurance system, particularly in today's economic climate.

Working men and women, senior citizens, Americans of every walk of life have insured accounts. It is estimated that 3 out of 4 families have insured accounts, and the average insured account is $6,300.

This bill is no bailout of any bank, bank officer, or director. This bill allows the FDIC to make good on that guarantee to depositors, a guarantee

reaffirmed by this House as recently as May 5, 1987, by a vote of 402 to 6.

That deposit insurance guarantee must be honored, and this narrow bill accomplishes this without the use of taxpayer assistance.

This bill must be passed.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support of this rule, and I ask unanimous consent that the administration's policy statement which begins by saying, "The administration supports House passage of H.R. 3768 in order to move forward with the legislative process on banking legislation," be incorporated into the RECORD.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER of California. Mr. Speaker, the statement of administration policy referred to is as follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration supports House passage of H.R. 3768 in order to move forward with the legislative process on banking legislation. The Administration will continue to strongly support changes before enactment of this legislation, particularly the addition of provisions authorizing interstate branching, which would provide real banking reform. The Administration believes that Congress must in the end fix the problems of the banking industry by enacting real reforms, not just fund the problems by providing additional resources to the Bank Insurance Fund.

The Administration would oppose any amendment to H.R. 3768 that would add additional provisions regarding the insurance activities of banks since the legislation no longer includes interstate branching provisions.

The Administration particularly supports the provisions of H.R. 3768 that would:

Recapitalize the Bank Insurance Fund and set clear standards for prompt corrective action by regulators to resolve troubled banks.

Provide greater flexibility to bank regulators to avoid the premature shutdown of a weak bank that has clear prospects for recovery.

Improve regulation of foreign banks doing business in the U.S.

The Administration opposes and will seek changes in conference to the provisions of H.R. 3768 that would:

Impose onerous reporting requirements on organizations that branch interstate.

Require the Federal Deposit Insurance Corporation (FDIC) to begin a new housing subsidy program funded by banks.

Impair the FDIC's ability to sell failed banks by imposing health insurance obligations on buyers of such banks.

Increase the deficit and require "pay-as-you-go" offsets of over $1 billion over four years (see below).

SCORING FOR PURPOSES OF PAY-AS-YOU-GO

OMB's preliminary estimate of the pay-as-you-go effects of H.R. 3768 is presented in the table below. Final scoring of this legislation may deviate from this estimate. If H.R. 3768 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by the Omnibus Budget Reconciliation Act of 1990. The cumulative effects of all enacted legislation on direct spending and receipts will be issued in monthly reports transmitted to Congress.

Members have tried to address certain pay-as-you-go effects with language making the beginning of particular programs contingent upon the availability or funds. However, the particular language does not specify that funding for these new programs requires an additional congressional action (e.g., an appropriation).

The bill's "too big to fail" provisions would decrease outlays, but it is not possible to estimate the size of the decrease. Similarly, estimates of the pay-as-you-go impact of the bill's provisions on pass-through insurance are not available at this time.

A budget point of order applies in both the House and the Senate against any bill that is not fully offset under CBO scoring. If, contrary to the Administration's recommendation, the House waives any such point of order that applies against H.R. 3768, the effects of this legislation would be included in a look-back pay-as-you-go sequester report at the end of the congressional session.

ESTIMATES FOR PAY-AS-YOU-GO

[In millions of dollars]

	1992	1993	1994	1995	1992-95
Outlays:					
Rhode Island loan guarantee	+21				+21
FDIC affordable housing program	+10	+29			+39
Receipts:					
Credd for distressed communities lending and deposit gathering		−266	−319	−358	−943
Lifeline banking		−7	−9	−11	−27
Net deficit increase	+31	+302	+328	+369	+1,030

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I, too, have no other requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 289 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3768.

The Chair designates the gentleman from Michigan [Mr. CARR] as Chairman of the Committee of the Whole, and requests the gentleman from Ohio [Mr. PEASE] to assume the chair temporarily.

☐ 1604

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes, with Mr. PEASE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The Chairman pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a little more than a month from now, when we are in our home districts, the fund that insures the deposits at 12,300 banks across the nation will be insolvent—dead broke without a penny to pay off depositors.

H.R. 3768 may well be our last best chance to prevent what truly would be a monumental disaster. The House cannot afford to let this opportunity to refinance the bank insurance fund slip away.

Mr. Chairman, the intramural games between the industry groups have gone on long enough. We are not here today to reward banks, insurance companies, insurance agents, securities firms or any other scavengers seeking to hold the insurance funds hostage to their special interests. Today, we must focus on the overwhelming priority of refinancing the insurance fund and critically needed regulatory reforms.

Mr. Chairman, everyone in this Chamber knows that the economy is in terrible shape. The headlines each morning bring new evidence that the recession is cutting deep into all sectors of the Nation and all segments of the population. News of a bankrupt Federal Deposit Insurance Program would be a crushing addition to this litany of economic failures.

I realize that there are many who fear we are starting down the road to another bailout with this legislation. In reality, Mr. Chairman, this legislation is antibailout—it is the antidote to a taxpayer bailout of the banking industry.

The bill provides a $30 billion loan to the bank insurance fund—let me repeat, a loan. Who repays the loan—the banks, themselves, through premiums? And there must be a specific repayment schedule.

So, my colleagues, if we can make this money available in a timely fashion, we can prevent the crisis from slipping into what we fear the most—a taxpayer bailout. We are still in a position to prevent a bailout if we act. If we wait, if we fail to act, a bailout is a certainty. A vote for this bill today is a vote against a bailout. A "no" vote very likely will mean a bailout down the road. Rejection of this package would be a huge roll of the dice with the taxpayers' money.

Even more important than the loan money are the regulatory reforms in

VOL 137
PT 23
NO 21—25
1991
UMI

this bill which will convert the bank regulators from passive lap dogs into aggressive watchdogs for the taxpayers.

The noisy industry battles going on in the back rooms have obscured the fact that H.R. 3768 contains a major rewrite of regulatory powers—a rewrite aimed squarely at many of the practices that led us into the costly savings and loan mess.

Under the provisions of H.R. 3768, the regulators must move in, take action and demand remedies when the condition of a banking corporation slips below critical levels. This puts an end to the age-old game of wishful thinking by the regulators who all too often delay action until institutions become basket cases with all the losses charged off to the insurance funds. This "hand wringing-no action" style of regulation cost the Nation billions of dollars in the savings and loan disaster. H.R. 3768 makes certain it doesn't happen again.

Mr. Chairman, the bill also:

First, requires annual on-site examinations and annual audits.

Second, requires improved internal controls for banks.

Third, requires that the FDIC use the method least costly to the taxpayers in resolving failed institutions.

Fourth, establishes criteria for the use of the discount window of the Federal Reserve and a curb on the use of the window for secret bailouts of banks.

These and other reforms in H.R. 3768 will save the taxpayers billions of dollars. Let me quote from the letter from the Congressional Budget Office following its review of the legislation:

> Overall, CBO believes that enactment of H.R. 3768 could save the federal government significant amounts of money, perhaps billions of dollars, over the next decade, by reforming the deposit insurance system and the regulation of financial institutions.

Mr. Chairman, confidence in the banking system is at its lowest ebb since the Great Depression. We cannot allow it to slip further. And there is no doubt that failure to restore the insurance fund to solvency would shake not only the banks but the entire U.S. economic system.

We must act affirmatively on this legislation.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 20, 1991.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991, as ordered reported by the House Committee on Banking, Finance and Urban Affairs on November 19, 1991. This bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a result, the estimate required under clause 8 of House Rule XXI also is attached.

In the short time available, we have not been able to prepare a complete analysis of the bill. This letter, therefore, provides an assessment of the overall impact of H.R. 3768 and detailed information on five provisions that affect pay-as-you-go scoring.

OVERALL BUDGETARY IMPACT OF H.R. 3768

Overall, CBO believes that enactment of H.R. 3768 could save the federal government significant amounts of money, perhaps billions of dollars, over the next decade, by reforming the deposit insurance system and the regulation of financial institutions. The consequences of the legislation are, however, quite uncertain. They depend on how the regulatory agencies would implement the authorities the bill would give them. They also depend on broad economic conditions and their effects on the banking and thrift industries. Consequently, CBO cannot estimate with any precision the budgetary impact of H.R. 3768.

More specifically: CBO expects that the bill's reforms of the deposit insurance system and regulatory procedures would reduce the long-term risk to the government insurance funds by reducing the likelihood of future bank and thrift failures and by lowering the cost of resolving those institutions that do fail. The impact of these changes would depend greatly on how aggressively they are implemented by the regulatory agencies. It is likely that additional outlays would be necessary in the short term in order to achieve the long-run savings.

The provisions requiring prompt regulatory action could be particularly significant. The results are difficult to predict, however, because the regulators would determine the points at which each set of actions is triggered. We expect that prompt regulatory action could reduce losses by 10-20 percent, and possibly much more, depending on how aggressively the procedures are implemented. A reduction of 10-20 percent over the 1992-1996 period would reduce Bank Insurance Fund (BIF) losses by $2 billion to $5 billion over this period.

H.R. 3768 would increase the authority of the Federal Deposit Insurance Corporation (FDIC) to borrow from the Treasury on behalf of BIF by raising the existing Treasury line of credit from $5 billion to $30 billion. In addition, the FDIC would be authorized to borrow from the Federal Financing Bank (FFB) or from insured banks, but such borrowings could not exceed BIF's cash balance plus 90 percent of the estimated market value of its other assets. The additional borrowing authority for BIF would not result in additional costs to the government because the funding would fulfill an already-existing deposit insurance liability of the government. Furthermore, CBO expects that the borrowed funds would be repaid from bank assessments over the next several years. The interest costs on such borrowings would probably be higher if BIF borrows from banks than if it borrows only from the Treasury and the Federal Financing Bank.

The reforms mandated by H.R. 3768 would increase the likelihood that the funds loaned to BIF would be repaid from bank assessments and that ultimately the U.S. Treasury would not bear the costs of bank failures. Because insurance losses for savings and loan failures are being covered almost entirely by Treasury funds, reduced insurance losses on saving and loans would result in savings to the Treasury.

PAY-AS-YOU-GO SCORING FOR H.R. 3768

The Budget Enforcement Act of 1990 excludes from pay-as-you-go calculations direct spending and receipts resulting from "full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section." The conference report on that act indicates that the intent of this provision is that "the funding to meet deposit insurance liabilities that meet existing commitments be exempt from any pay-as-you-go sequestration."

In applying the Budget Enforcement Act to H.R. 3768, CBO has determined that the only provisions involving federal deposit insurance that should be included for pay-as-you-go purposes are those that change the existing deposit insurance guarantee commitment as defined in law. Thus, the exclusion of bank investment contracts from deposit insurance coverage would affect pay-as-you-go scoring. In contrast, all spending effects that would result from the additional BIF borrowing authority and the BIF recapitalization plan, all costs of implementing the new deposit insurance procedures mandated by the bill, and all changes in deposit insurance spending that would result from those procedures would not be counted for pay-as-you-go purposes.

CBO believes that five provisions of H.R. 3768, dealing with activities that either are not part of the government's deposit insurance commitment or would change that commitment, would have pay-as-you-go implications—those dealing with premium credits for lifeline accounts and for increased lending in distressed communities, insurance coverage for bank investment contracts, an FDIC affordable housing program, and a federal loan guarantee for Rhode Island. The budgetary impact of these provisions is summarized in the following table and discussed further below.

ESTIMATED PAY-AS-YOU-GO IMPACT OF H.R. 3768

[Outlays, by fiscal year, in millions of dollars]

	1992	1993	1994	1995
Assessment credits for lifeline accounts	0	5	6	6
Assessment credits for activities in distressed communities	0	7	16	20
FDIC affordable housing program	10	30	0	0
Loan guarantee for Rhode Island	0	0	0	0
Total	10	42	22	26

Lifeline Accounts (Section 232): Banks and savings and loans that offer basic transaction accounts for consumers, commonly known as "lifeline" accounts, would pay one-half the assessment rate normally charged for deposit insurance on those qualifying accounts. The FDIC and the Federal Reserve would establish minimum requirements for these accounts, addressing such issues as minimum balance requirements, income eligibility, fees or service charges, and the number of withdrawals permitted. Assuming enactment of this provision in 1991, and allowing time for implementation, we expect that BIF's receipts would be lower by $4 million in 1993 and $5 million in 1994 and in 1995, and that receipts to the Savings Association Insurance Fund (SAIF) would be lower by $1 million annually beginning in 1993.

Assessment Credits for Qualifying Activities Relating to Distressed Communities (Section 233): Banks and thrifts that make eligible loans in distressed communities would receive a credit against the premiums they pay to the deposit insurance funds equal to five percent of the increase in loan volume. The maximum allowable credit would be 20 percent of the assessment owed in any six-month period. Banks or thrifts providing financial assistance through community development organizations would be eligible

for a 15 percent credit against the premiums paid for deposit insurance, up to a maximum of 50 percent of assessments owed.

Section 233 lists the types of loans that might be considered eligible under the program. These would include loans guaranteed by the Veterans Administration, HUD, and the Small Business Administration, conventional mortgage loans to homeowners, and numerous types of assistance targeted for affordable housing or community development.

Allowing time for the Board to develop standards, the banks and thrifts to make loans, and then premium credits to be applied to insurance premiums owed, we expect that premium reductions to BIF and SAIF would occur beginning in the second half of 1993. We estimate that the premium credits, which result in outlay increases, would amount to about $7 million in 1993, $16 million in 1994, and $20 million in 1995.

The Board would have the authority to change the amount of the premium credit, which might be the case if the FDIC determined that BIF would need this premium income to maintain the solvency of the fund, or if SAIF needed the premium income to repay its debt to the Financing Corporation or for other purposes. We cannot predict what adjustment, if any, the Board would make to amount of the premium credit.

Pass-Through Insurance (Section 311): The FDIC extends full insurance coverage to some deposits greater than $100,000, such as those made by pension funds or money brokers on behalf of many individuals. The FDIC views these accounts as fully insured as if each pension participant or client had placed the funds individually. The bill would reduce the scope of "pass-through" insurance by eliminating coverage of certain types of pension fund deposits, known as bank investment contracts (BICs), that allow the depositor to withdraw funds without penalty. BICs defined as uninsured deposits would not be subject to Bank Insurance Fund premium assessments.

Eliminating insurance coverage of some types of BICs would tend to reduce future losses to the BIF to the extent that the overall volume of insured deposits is reduced in banks that are expected to fail. Such savings would be at least partially offset by a reduction in premium income because banks would no longer pay assessments on the affected BIC deposits. Moreover, it is unclear that significant savings would occur because banks would probably attempt to alter BICs to retain their coverage or increase other kinds of insured deposits. CBO cannot estimate the budgetary impact of this provision at this time.

FDIC Affordable Housing Program (Section 341): The bill would require the FDIC to establish a new program to market and sell, over the next three years, single and multifamily residential properties held in receivership. Qualifying single family homes would be sold to individuals or families with low incomes, or to nonprofit or other groups that would make the property available to those individuals. Purchasers of multifamily structures would be required to reserve for the useful life of the building from 35 percent to 40 percent of the units as affordable for low-income families, and at least 20 percent of the units as affordable for very low-income families. The FDIC could provide financing at market or below-market interest rates.

The bill would cap the losses associated with selling the properties under the affordable housing program at $30 million. Losses are defined as the discounts associated with selling the properties, relative to the price at which the properties otherwise would have been sold. In addition to the losses incurred from selling the properties at below-market rates, the program would incur administrative expenses, costs associated with holding the properties, and interest subsidies for loans made to acquirers to purchase the properties at below-market rates. We expect that the FDIC would sell affordable housing properties worth roughly $300 million or more in the next two years, and that the costs not covered by the $30 million specified in the bill would total about $10 million. The total costs, which would be subject to pay-as-you-go provisions, are estimated to be $10 million in 1992 and $30 million in 1993.

Treasury Loan Guarantee for Rhode Island Credit Union Failures (Section 451): The bill would require the Secretary of the Treasury to guarantee the repayment of up to $180 million in borrowing by the Depositors Economic Protection Corporation (DEPCO). The State of Rhode Island established DEPCO to borrow money to repay depositors of failed credit unions that lacked federal deposit insurance coverage.

The provision specifies a number of conditions that must be met before the Treasury may issue its guarantee. The borrowing would be secured by selected assets from failed credit unions, which include about $380 million in nonperforming loans and $523 million in performing loans. The borrowings would also be secured by revenue from a Rhode Island sales tax dedicated to DEPCO and not otherwise pledged to repay other securities.

The Treasury would collect a guarantee fee of one-half of one percent per year on the outstanding principal amount of any borrowing that has been guaranteed. The Treasury would be prohibited from issuing a guarantee unless a nationally recognized rating agency rates the issue with the highest investment grade or one less than the highest investment grade, or unless the Treasury determines that providing the guarantee would result in no cost to the federal government.

Under the Credit Reform Act of 1990, the federal budget records budget authority equal to the subsidy cost of federal loans and guarantees in the fiscal year in which the government commits to provide the assistance, and outlays in the years in which the assistance is provided. CBO estimates that the guarantee of debt issued by DEPCO under the conditions specified in the bill would have no subsidy cost. Thus, for purposes of pay-as-you-go scoring, we estimate the cost of this provision to be zero.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mary Maginniss, Andrew Morton, and Robert Sunshine, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE ESTIMATE[1]

The applicable cost estimate of this act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Change in outlays	10	42	22	26

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Change in receipts	(1)	(1)	(1)	(1)

1 Not applicable.

☐ 1610

Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3768.

Although this bill is not perfect, it is the best we can do under the circumstances, I submit to my colleagues. I personally would have liked to have had real financial and deposit insurance reforms in this bill, but those will have to wait until next year.

Right now we need to pass this recapitalization plan. First and foremost, the bank insurance fund must be recapitalized. I cannot emphasize that enough. As William Seidman said before he left office, the bank insurance fund desperately needs more funds. The FDIC needs to borrow money to shut down insolvent banks. The longer these banks stay open, the more money they will lose, and this will drain the fund even more.

Thus it is important that we recapitalize the bank insurance fund. Again may I assure the Members of this body that there are no taxpayer dollars involved in this bank insurance fund recapitalization. Additionally, title I of this bill does make a number of improvements to our regulatory system, which have been mentioned earlier, but I think they deserve further emphasis: For example, early intervention procedures for the regulators to shut down banks before they become completely insolvent. That is very, very important. Annual examinations of banks by the regulators; annual outside audits. We have not had that before, but we have it in this bill, and I think it is a very worthwhile addition. Then, market value disclosure of bank assets; and elimination of the too-big-to-fail policy after 1994. I know there has been some debate on this issue, but there is a very limited exception—and I repeat, a very limited exception—which the chairman was able to put in by an amendment to provide liquidity to a bank that might have—and these are words of art—might have serious adverse effects on a regional economy or the national economy. But before any such lending can be made, the Secretary of the Treasury must approve this in writing, and certify that it would have severe consequences.

Title II of the bill includes new reforms for foreign banks that will prevent future rogue banks like BCCI. They will now be subject to oversight by the Federal Reserve.

Title III of this bill will make a number of reforms to deposit insurance that will reduce the losses to banks and possibly to the taxpayer later on. I do not think it goes far enough. However, we do have a limit on brokered deposits to level 1 and level 2 banks, those that meet or exceed their capital levels, and we prevent under-capitalized institutions from soliciting deposits at high rates.

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[1] An estimate of H.R. 3768 as ordered reported by the House Committee on Banking, Finance, and Urban Affairs on November 19, 1991. This estimate was transmitted by the Congressional Budget Office on November 20, 1991.

Mr. Chairman, the Congress needs to pass this bill today. We need to live up to our promise to protect depositors. Twice we have failed to pass a bill. In 1986 the Congress failed to give FSLIC the money that it needed to close the failed savings and loans. The S&L problem mushroomed from a $15 billion to a $180 billion problem. We cannot afford to make that same mistake again.

As Santayana once said, "Those who do not learn from their mistakes of the past are doomed to repeat them."

If we adjourn without passing this bill—and we must not do that—but if we do that, we are telling bank depositors that Congress does not want to live up to the promise that was made in 1933 that our Government will stand squarely behind the Federal Deposit Insurance Corp.

Mr. Chairman, I am quite sure we do not want to send that kind of a message to the American people.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 3½ minutes to our distinguished ranking majority member and chairman of the Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I rise in strong support of H.R. 3768. Others will talk about the basic ingredients of this legislation, so I don't want to take up this body's time discussing what is in the bill, other than to say there are a number of provisions that I authored in the legislation that will correct many of the problems in the regulatory agency such as a requirement that every federally insured financial institution be examined at least once a year.

What I do want to talk about today is the need for recapitalizing the bank insurance fund. For some 2 years, I have argued that the bank insurance fund was on its way to insolvency and nothing was being done to correct the problem. I think there can be no doubt now that the bank insurance fund is now the bankrupt insurance fund.

Two days ago, I met for nearly an hour with the new Chairman of the Federal Deposit Insurance Corp., William Taylor. He made a strong and well-reasoned case for immediate passage of the recapitalization of the bank insurance fund. He told me that the bank insurance fund is in such critical shape that he cannot worry about anything that may or may not be in the bill with the exception of recapitalizing the bank insurance fund. That must be done immediately, he said.

Mr. Taylor is a frank and tough regulator, and I want to commend the President of the United States for selecting Bill Taylor for this important job. Mr. Taylor's no-nonsense approach, and his willingness to recognize and deal with the problem in a straightforward manner, is in stark contrast to his predecessor, who was more interested in polishing his image in the media and on TV talk shows than he was in protecting the deposits of our American citizens.

The reasons the bank insurance fund is broke are many. But one of the main reasons that we have been unable to correct the problem sooner was that the former chairman of the FDIC refused to recognize that there was a problem. Every time that I tried to point out that the bank insurance fund was heading for disaster, the former chairman criticized my comments, and said they were unfounded. I was so concerned that the former chairman was misleading the American people that I had the Subcommittee contract for a study on the health of the bank insurance fund by three of the Nation's leading economists. When those economists reported that the fund was in serious trouble and would need a massive infusion of money very shortly, the response from the former chairman was typical. He denounced the study.

Today, Mr. Chairman, I take no great sense of accomplishment in the fact that I have been right about the condition of the bank insurance fund and the former chairman of the FDIC has been wrong. I am more concerned about solving the problem and that is what we must do today.

Our Nation's economy is in a shambles. The recent violent fluctuations in the stock market indicate how fragile our economy is and how the American people perceive our economic future. We cannot delay any longer in recapitalizing the bank insurance fund. If one bank fails and we do not have money to pay off the depositors, it will set off an economic fire storm that will result in the biggest financial holocaust in our Nation. We are indeed playing with fire if we do not act, and act today.

☐ 1630

Mr. WYLIE. Mr. Chairman, I yield 3½ minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991.

I want to commend the chairman and ranking member of the Banking Committee for their perseverance and persistence in bringing this bank insurance fund recapitalization and banking reform bill back to the House for this third time.

Mr. Chairman, to my colleagues, I say that time is running out. If we are to avoid the mistakes we made with the savings and loan industry and its problems—as Mr. WYLIE has outlined—we must recapitalize the BIF and pass this banking reform.

If we fail to act, we not only increase the costs by delaying the closure of insolvent banks, but we cannot pay off depositors.

Despite the fact that this bill has been scaled back from the comprehensive reform originally advanced, it is nevertheless, a reform of existing capital standards and regulation.

These reforms are significant.

Now, how does H.R. 3768 meet our goals:

H.R. 3768 authorizes the FDIC to borrow up to $30 billion from the Treasury with this amount to be repaid by increases in deposit insurance premiums paid by the banks themselves. My colleagues must realize this is not a taxpayer bailout or a raid on the Treasury. Banks must repay these loans; establishes higher capital requirements for banks; rolls back the doctrine of too big to fail by prohibiting the payment of uninsured accounts over $100,000; authorizes risk-based premiums, limits brokered deposits and pass through pension accounts to only the highest capitalized banks; and prohibits the FDIC from covering foreign deposits after 1992.

This bill adopts several regulatory measures, including: Requiring annual on-site examinations and reforms auditing standards; mandating prompt corrective actions for problem banks; and requiring early intervention with failing banks.

So, given these reforms, the allegation that we are just handing over money to an unreformed system is plainly untrue.

Now, I regret deeply that such an important measure does not address the two important issues of interstate banking and securities powers. The failure to address the securities issues abdicates our responsibility to define the makeup of the financial services industry of the future and entrusts that authority to unelected regulators.

Interstate banking, more than any other provision, would have helped enhance competitiveness among our banks.

Under that provision, after 3 years, full nationwide banking and branching will go into effect.

Interstate banking and branching would help make banks safer through geographic diversification by allowing banks to diversify their loan portfolios and lessen their exposure to swings in regional economies.

Interstate branching will make banks more efficient through substantially reduced operating costs because it will be less costly to operate branches than to maintain separate banks.

This provision will also increase competition which will benefit consumers by providing more competitors in the marketplace, and thereby making more bank products available, and raising the probability that banking services will become less expensive.

I believe the importance of interstate banking and branching far outweighs the argument against it, as espoused by some interest groups who have put their own self-interest ahead of the national good.

I fought hard for interstate banking and I am disappointed that we will have to wait until next year and use that issue as the proverbial engine that will drive additional reform.

Now I know that the previous two attempts to pass meaningful and comprehensive banking reform left something for everyone to hate.

Nobody gets everything they want. Not the administration, not the bankers, not the securities industry, not insurance, and not this Member. But this is the best we can do at this time.

Now, there is among our Members, too much careless talk about not voting any money for the banks. This is a script for a replay of the savings and loan debacle. Congress refused to act expiditiously then and in the absence of responsible action to recap that FSLIC insurance fund, we accelerated the problem and increased the cost.

We must act on this recap and insure the Nation's depositors that their savings are guaranteed.

If we fail to act, we take the chance that nervous depositors will withdraw their savings and prompt runs on the banks.

I should think that the drop in the stock market last week in reaction to the credit card rate cap would have shocked the Congress into sober and serious evaluation of how we conduct the Nation's business.

This is not the time for petty political posturing.

SUMMARY

Overall, I believe H.R. 3768 represents the necessary recapitalization of the insurance fund and makes a strong effort to effect banking reform.

All of the positive reform initiatives contained in this bill are very much needed.

Mr. Chairman, my colleagues should realize that too much work went into this bill and too much is at stake with the future of the Nation's banking industry, to turn down this legislation again. The longer we delay the inevitable, the more costly the ultimate problem will become.

I urge passage of H.R. 3768.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, it is imperative that we pass this bill today. This is a bill that will recapitalize the BIF through assessments on the banks. It is not the RTC bill that will be paid off by taxpayer dollars. It is two separate bills, two separate concepts.

Mr. Chairman, this bill avoids the mistakes of the past. What were some of those mistakes? In 1986 we were asked to recapitalize FSLIC. This Congress did not act. We must act now when we are being asked to recapitalize the BIF.

In 1987, we were asked to give adequate recapitalization to FSLIC. Congress gave recapitalization, but woefully inadequate. Further, that 1987 legislation had forbearance language which really prevented the regulators from doing the job they were required to do.

This bill not only does not have forbearance language, it has early intervention language.

We almost made a serious mistake in this bill. The early intervention language almost called for early closure. That would have been repeating the mistake of the 1989 bill, FIRREA, which was much too strict, much too draconian.

Thankfully, an amendment I offered was accepted. It is interesting in the statement of administration policy dated yesterday they now say the administration particularly supports the provisions of H.R. 3768 that would, and they list three, the second one being, "Provide greater flexibility to bank regulators to avoid the premature shutdown of a weak bank that has clear prospects for recovery."

Mr. Chairman, this is one of the main reasons they are now supporting it. We almost made that mistake in this bill. Let us remember that when we consider the RTC bill.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the very distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding. I will try to be brief. I have no voice left anyway.

Mr. Chairman, let me say the chief reason I am reluctant to rise in opposition to this bill is because of the great admiration I have for the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, and certainly for the gentleman from Ohio [Mr. WYLIE], the ranking member.

But that is the only reason, because this bill in its present form is a nonreform bill, my colleagues. If there is a problem in the banking industry, this bill does nothing to solve that problem.

As the Washington Post said today, this bill provides tens of billions of dollars, taxpayer dollars, in the form of loans to recapitalize the FDIC.

Mr. Chairman, with no meaningful reform contained in this bill, the taxpayers will never be paid back, and this bill will become one of the biggest ripoffs ever perpetrated on the taxpayers of this Nation.

For instance, one of the major problems today is unlimited insured deposits. Unlimited.

Back in 1980, this Congress, including me, raised the limit on the insured deposits from $40,000 up to $100,000 and allowed an individual to have as many $100,000 insured accounts that they wanted to, up to $1,400,000 per family. If Members want to take a look at the chart, it is outlined right here.

Mr. Chairman, let me explain my own case. When I came to this Congress 14 years ago I was a stockbroker and an insurance broker. I sold all my stock and put my money into CD's because I did not want a conflict of interest, and I kept my money there.

Mr. Chairman, I did what the American people did, all of them. I called my wife and I said, "Those CD's are coming due. Find any insured bank in America and put my money in it so that we will get the highest possible interest rate."

Mr. Chairman, I did that regardless of whether those banks were conservative, longstanding, and well run, or whether those banks were poorly run, because I knew that my money was insured.

That is what is wrong here today with this bill. We are not dealing with the major problem that has caused the disasters we have in the banking industry. Poorly run banks have wasted the money of depositors because those banks have functioned with a cavalier, "I-don't-care" attitude. As long as the deposits are insured, we can waste that money and depositors will still get their money—courtesy of the Government, the taxpayers. That was the attitude of too many banks across the country.

Mr. Chairman, the other major problem is that this bill does nothing to keep bankers in the banking business and out of everybody else's business. There are no firewalls in this bill to prevent banks from dealing in and delving into real estate, insurance, securities, and other businesses. That is exactly what happened to the savings and loans companies and other banks who got into the mess they are in today.

I wanted to offer a motion to recommit to deal with these kinds of problems, but I am not a member of the Committee on Banking, Finance and Urban Affairs, so I am going to be denied that. Therefore, this bill will pass. The Senate will accept it, because they have thrown up their hands. They are not going to even try to amend it in conference.

This bill in its present form is going to the President for his signature, it will be signed, and the taxpayers will never be repaid their $70 billion. And they will not be repaid the $80 billion that we are going to vote on next Monday. That's called the RTC bailout.

VOL 137 PT 23 NO 21—25 1991 UMI

□ 1630

What is going on around here? When are we going to be fiscally responsible? Vote no on this bill.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization Improvement Act. I want my colleagues to know that the importance of this bill, I think, cannot be overstated.

Someone referred to it as a narrow bill. It is 339 pages long. And it is full of policy dealing with deposit insurance, with the too-big-to-fail limitation, with a whole host of different measures that tend to try and limit the exposure of the deposit insurance fund and the National Government's payments. And that means the taxpayer payment and savings if limited, Mr. Chairman.

I would hope that we would recognize that in the past weeks we have failed to pass interstate banking. We tried to pass the issues with regard to powers and firewalls and were not able to do so. Those combinations of ingredients resulted in failures in both instances.

Some of those are pleasant palliatives to the banks. Some are not. I suggest that next year we will be able to come to an acceptable compromise, chocolate coat the broccoli, and finally send it to the President and see such measure enacted. But for right now what we need to do today is to provide the dollars for recapitalization and the deposit insurance reforms. This bill has a lot of reforms and will provide new safeguards for the taxpayers' dollars.

While many have labeled this legislation as a narrow bill that refunds the bank insurance fund, I want to correct any misperceptions that my colleagues have by saying that this legislation is less ambitious than previous versions but is broad reaching, and is an important step in restoring the health of the insurance fund and our Nation's financial institutions. This measure is a 342-page measure with many important policy issues essential to the health of our banks and our economy.

Key to this bill is the recapitalization of the bank insurance fund. Clearly, the FDIC needs funds now to close those institutions that already are or are rapidly becoming insolvent. The failure to provide this essential funding will force the regulators to refrain from acting, thus keeping open brain-dead institutions and driving up the ultimate costs to the insurance fund. In addition, the failure to act will have traumatic effects in our already fragile economy. Recapitalization is and will be repeated often in this debate. There is a risk that banks will not be able to meet the repayment envisioned in this legislation but this is a risk we must accept because of the importance of banking in our economy.

In H.R. 3768, Congress is not just giving the Bush administration the funds necessary, the money, and then shutting up. This bill sets in place reforms, some of the reforms opposed by the administration and special interests, that are crucial to the health of the insurance fund. Those major provisions include steps to lower the exposure to the insurance fund by slowing down too big to fail, restricting the Federal Reserve's ability to use open thrift assistance to prop up failing banks, and requiring least-cost resolutions. These steps are important and, if fully implemented, can prevent significant losses to the insurance fund. The use of the essentiality test, too big to fail, has been misused dating back to the Continental Bank of Illinois.

Too big to fail is a policy built outside the expressed provisions of law that are written in law to limit deposit insurance to $100,000 for each account. The Reagan and Bush administrations developed, nurtured, and fostered this harmful policy and it is absolutely essential that it be brought under control. The legislation before us does so.

This legislation also addresses the problem of least-cost resolution, attempting to define and limit regulator misuse of such recourse when the regulator places a bank in conservatorship. This bill limits the deposit insurance coverage of foreign deposits which pay no insurance premium and the measure before the House provides the option for risk-based premiums and limits on broker deposits. There is a prohibition placed on direct bank underwriting of insurance and other risky, inappropriate activities.

Let us make certain we understand one thing. The real dollars in terms of loss to the bank insurance fund were decisions made in the 1980's. Those decisions have been made by the Reagan administration regulators at that time. Today we have a renewed sense of tough regulation. It comes late, but embedded in the portfolio of the financial institutions of this country, both banks and S&Ls, are the losses, the bad loans, the nonperforming loans and investments.

We do not have a magic wand to wave away these problems. We cannot pass legislation or regulate away such problems. They are with us. They are real. And there is risk in this bill.

We are loaning $70 billion to the bank insurance fund. We hope the banks become more profitable and successful enough and that the economy turns around so that indeed the banks can be assessed to pay back this $70 billion. But the banks may not be able to do so.

But what is the alternative? To put at risk every person's savings in this country? To remove a major pillar in our economy at a time when our Nation is in a serious recession? Surely, that would result in something worse than recession, Mr. Chairman.

Mr. Chairman, these steps and many of the other provisions of H.R. 3768 should be enacted into law. Clearly, this bill is not the end-all of banking reform and a 342-page bill is not such a narrow bill. Significant issues such as interstate branching and improvements of bank profitability must ultimately be resolved but the enactment of this measure would retain good work accomplished, in the first half of this session. While we have yet to reach a consensus on many additional matters, we have tried valiantly. H.R. 3768, is a crucial first step and should be adopted.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I rise with no enthusiasm and more than a little disappointment in support of this bill. First, the reasons for disappointment.

It is impossible not to be concerned with the refusal of the committee to take the only credible opportunity before it and institute responsible capital standards for federally insured institutions. With or without new Federal legislative authorization, a great deal of interstate banking consolidation is going to occur in the next decade and larger banks are going to enter the securities arena.

It is conjectural whether this is good or bad. It is not conjectural that conglomeration and new speculative powers should only be authorized if the conglomerating institutions have adequate capital.

Failure to deal with the capital issue is tragic, particularly because the impetus for concentration comes from institutions intent on over-leveraging capital.

As the larger but capital weak institutions take over the smaller but capital strong, total capital in the American banking system will be reduced and a too-big-to-fail syndrome could all too easily become a much-too-big-to-fail dilemma.

Regulators have simply not come to understand that the new standards they are putting their faith in—the Basle accord and risk-based standards which obviate reliance on prudential leveraging ratios—have the effect of jeopardizing the taxpayer, weakening American banking and slanting bank lending against traditional commercial entrepreneurship and toward bond buying and a single industry, housing.

I am also very concerned with certain mischief contained in this allegedly narrow bill. Hidden away, undiscussed by the committee of jurisdiction, is a provision contained in section 303 which allows the banks of certain States to invest up to 10 percent of their assets in the stock market. To the degree legislative history is set here today, it is the view of this Member that any regulator that allows any

bank to use $1 of insured deposits, or 1 cent of capital designed to protect such deposits, to play the stock market or invest in commercial enterprises or real estate should be put in a stock and pillory, a punishment made infamous in the State where this banking witchery is intended to be protected.

In this bill Congress has not only failed to take advantage of the opportunity to set prudential standards for American banking, it is weakening rather than strengthening those standards.

Nonetheless, of overwhelming significance at this late date in this session is the need to shore up the Deposit Insurance Fund. Last week the Senate toyed with capping credit cards, precipitating a 100-point drop in the stock market. This week if we fail to support the deposit insurance system, that drop will be a footnote event. For the sake of depositors as well as stability in the economy, we have no choice but to support this bill at this stage. And hopefully on another day, perhaps this weekend in conference, several of the issues I have commented upon can be readdressed.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE]

Mr. RIDGE. Mr. Chairman, I rise in opposition to this measure. I believe that we are treating symptoms and not causes.

Halloween may have come and gone for the communities across this country, but it seems to have hung over Washington for an extended period of time. While the economy stagnates and deficits run higher and higher, we in Congress hide behind masks and hand out treats that are only tricks.

First, some facts on the economy. Real growth in the last 3 years has run less than one-half of 1 percent, a notorious modern-day record. Meanwhile, deficits are running higher and higher even though the traditional Democratic scapegoat, defense spending, is now declining in real terms. The portion of the Federal budget devoted to interest payments is now over $18 billion annually, 15 percent of the budget, and it is climbing. And as more funds go to cover the deficit, we relinquish any countercyclical role in the short run and virtually guarantee in the long run that there will not be sufficient funds for investment.

And if the underlying deficit were not bad enough, now we have the Resolution Trust Corporation back for a third time for more thrift funds. We're now up to $160 billion, all of which is destined for addition to the deficit, increasing interest costs to our children and yes, our grandchildren. And the bank bill could potentially cost another $30 billion. Yet here we are, hiding behind masks of indifference and complacency, writing the bills to send forward in time to those who have not yet inherited the earth.

The worse part of the whole process is that we have not addressed the fundamentals of real estate and the economy. This is especially true in the sense that we have stripped away the value of real estate, which makes up a huge portion of assets for banks and thrifts. It is true we overstimulated demand for real estate in the early 1980's, but it is more apparent with every passing day that we ruined the real estate market, and perhaps the banking industry as well, by the reforms of 1986, when we told investors in real estate to dump their property.

There are some items we need right away. We need to restore passive loss rules to real estate. We need a capital gains cut for investment; if we can't have it broadly, we need it for real estate. We need more consumer-oriented incentives for savings and investment, such as IRA's. This will mean that in the short run consumers spend less; you cannot have it both ways. But we will be far stronger in the long run. We need the investment tax credit for industry. But wait—we can't have these items, because we hide behind the mask of the budget agreement.

So by hiding behind our masks, we cripple the economy, which causes slow growth and failing financial institutions, which causes higher payments to cover deposits, which adds to the deficit, which crowds out investment and prevents us from mitigating the effects of the recession.

But at least we had a treat to give the consumer. When things got bad in Rome, they added more holidays, but when they get bad in Washington, we add dubious treats. So Congress came up with a credit card cap. A price control from the powers of Washington. A treat for the consumer.

But wait. It was just a trick. A price cap of 14 percent would have hurt consumers. The working families would have paid higher up-front fees, or they would have seen their limit drop, or they would have just plain lost their cards. Some economists say over one-third of consumers would have lost their cards. Let me say it again: over one-third of consumers would have lost their cards. And I assure you the tennis set would not be among the one-third. It would be those people who work hard every day to pay the bills and need a little credit to buy Christmas gifts.

Imagine that right before Christmas. Merry Christmas from Congress, the holiday note would say. Please turn in your credit card.

And so consumer spending would have dropped further while your job at the retail store or at the bank or at the manufacturing outlet would have been cut. That's some trick.

My friends, lower consumer spending and fewer jobs is no treat.

In summary, we must end Halloween in Washington. We must put away the treats that are tricks and take off our masks. We must face the winter ahead by acknowledging we need real solutions for our problems. If we cannot put real value in real estate and provide real incentives for savings, investment, and jobs, then we will be back again and again for money to cover depositors, and we will be wringing our hands even more over deficits and interest payments. If we cannot end Halloween now, then our Thanksgiving tables shall be more sparse with every passing year. We need incentives for value and growth, and we need them now.

The bottom line is simply this: This bill and the RTC recapitalization to follow next the symptoms, not the causes of the economic malady that afflicts us at enormous, unnecessary, and avoidable expense. Most banks and thrifts today are struggling, not because of mismanagement, not because of fraud, but because of an economy that has endured and been forced to consume too many congressional treats. Adverse Tax Code changes particularly in the real estate area bring us to this vote today.

Banks and thrifts are troubled because the economy is stagnant, the real estate market is virtually nonexistent, and Congress refuses to address either. Reject exposing the taxpayer to even greater "bail out" liability. Demand that the Congress and administration address today the problems plaguing the economy. The best politics for 1992 for both the White House and Congress and for both parties is solving today's economic problem now, not next year.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Chairman, I feel like I am in triple overtime in the NBA, the National Bank Act. For too long we have dallied, for too long we have fallen under legislative paralysis.

Our financial markets cannot permit us to remain in legislative gridlock, and we try and find the perfect bill.

Our consumers cannot wait until we find the perfect bill. Our Nation is asking us to pass legislation which admittedly is not perfect, which admittedly is narrow, but which is needed for the financial stability and welfare of our country.

In my State of Rhode Island, we had the worst banking failure in the history, I believe, of the country. For 11 months the citizens have waited for their money. They have not asked why. They have only asked when.

I commend the chairman of the Committee on Banking, Finance and Urban Affairs and the Republican leader for their superlative effort in trying to help our State.

Tonight I wish to contact the members of our State to tell them that this Congress has acted responsibly, that we have risen to the challenge and that we have passed a banking bill which, while admittedly not perfect, has gone a long way to help keep the financial stability of this country and my State from collapsing.

I hope that we have learned something from this tragic triple overtime, and that is that we cannot succumb to the various special interest groups who hound this Congress. The legislative body must in fact be deliberate in looking at the issues which are important for this country. We must vote what is right, not what is expedient.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for his generous yielding of time to me. Let me say to my colleagues that the old maxim, if

VOL 137 PT 23 NO 21—25 1991 UMI

you do not succeed at first, try, try again, is very, very relevant today. Because after three times, we finally have gotten it right. We first tried an overwhelmingly Democratic bill. We got a lot of Democratic votes and no Republican votes, and it failed. Then we tried an overwhelmingly Republican bill. We got a lot of Republican votes, and not many Democratic votes, and it failed.

Now we have a nice down-the-middle bill. And it should, and I hope, will pass. Because first of all, indeed, we must make sure that the fund is replenished, all the problems that occurred in the banking industry have occurred already.

There is lots of blame to go around, but if we do not vote for this money, we are sticking the one blameless e depositors, with the bag. That is not fair, and we should not do it.

Second, the bill has some reforms in it, noncontroversial reforms, but reforms. More capital, early intervention, ending too-big-to-fail are all worthy changes that our system needs.

Do I have a regret? Of course, I do. And that is that we have not truly reformed the sick banking system. We are going to have to come back a year from now or 2 years from now and do that. The system still has its dependence on insured deposits and uses those deposits for new and risky activities, and as long as that continues to happen, the system will be sick and the taxpayers will be at risk.

□ 1640

But since we are not ready for broad reform now, as our gyrations over the last 2 weeks showed, this narrow bill, with reform, with the needed money, is the doctor's prescription for what is temporarily, although not permanently needed.

I urge support of the bill.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member rises in strong support of H.R. 3768, a bill to recapitalize the bank insurance fund. In addition to providing borrowing authority for the bank insurance fund—a significant portion of which the banking industry must repay through additional premium assessments—the bill also includes some regulatory reforms. These reforms were adopted by this body last week, as part of the Gonzalez en block amendment.

The measure on the floor today contains only the must-do items that were contained in the larger, more comprehensive, measure originally adopted by the Banking Committee last June. Since June, this body twice debated the bill, each time dropping key structural reforms from the bill.

While this Member intends to support today's pared-down banking bill, this Member laments the debate which occurred last week on the second version of the Banking Committee's bill.

Last week's floor action on the banking bill precluded the opportunity for significant reforms. This body was put in a no-win situation, by being forced to vote on an en-bloc amendment. The amendment contained one of the most important of the Banking Committee's structural reforms; namely, a format for interstate banking and branching—a reform which was perfected by the Vento-Bereuter amendment, and overwhelmingly supported by this body. Unfortunately, the interstate banking provisions were linked with other provisions that would have resulted in a cutback in banking powers for some banks.

While not possible today, this Member hopes that at some point, further consideration can be given to a wide range of necessary structural reforms.

Today, the responsible position for all Members is to vote on a banking bill that would at least recapitalize the bank insurance fund and provide for the following important elements in what might be referred to as the Gonzalez en bloc amendment:

Improved regulation of foreign banks;

Prohibition for any of the regulatory agencies from extending any deposit insurance or assistance for deposits in foreign branches of U.S. banks;

Inventives for banks to operate in distressed communities, Ridge/Flake Bank Enterprise Act;

Limitations on Federal deposit insurance for brokered deposits;

An affordable housing program for the FDIC similar to that of the RTC, Frank amendment; and

Restrictions on the activities of State-chartered banks to those allowed to federally chartered banks.

Mr. Chairman, recently, there has been much discussion over something called the October surprise; let us not become the November disappointment or the November fiasco by failing to adopt this straightforward recapitalization bill.

This Member urges adoption of the bill.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to first of all congratulate Chairman GONZALEZ and I wanted to congratulate the gentleman from Ohio [Mr. WYLIE], and others. They have been very, very patient. They have let the House work its will and they have come up with a bill that I think is a very fine bill.

Mr. Chairman, I rise in strong support of H.R. 3768, the FDIC Recapitalization and Improvement Act of 1991.

Mr. Chairman, this bill before us today is critical to protecting the millions of depositors throughout our banking system and it is needed to protect our economy. The only protection between depositors and the potential loss of their hard-earned money when a bank closes its doors is the FDIC's bank insurance fund, which is currently on the verge of insolvency. Make no mistake about it; a delay in recapitalizing the bank insurance fund will imperil the funds of depositors and our entire economy. It would not be responsible to vote against this bill and permit a return to the desperate economic times of our parents and grandparents.

In addition, Members should support the bill because it contains reform provisions which have not proven controversial during prior consideration of banking legislation. The bill contains title I of H.R. 6 which recapitalizes the bank insurance fund and provides regulatory reform. Further, the bill contains the so-called Gonzalez en bloc amendment which passed on the floor of the House by voice vote.

Mr. Chairman, as I have mentioned, not only should Members vote for today's bill because the bank insurance fund needs to be recapitalized, they should also vote for the bill because it contains many reforms needed to avoid future banking system problems. For example, title I of the bill contains GAO's recommendations regarding the trip-wire approach to banking regulation. This concept requires regulators to take increasingly aggressive actions if a bank's capital falls below specified minimum levels. This means that banks will be forced to curtail risky activities and rebuild their capital to proper levels. This is a commonsense idea that all Members should support.

In addition, title II of the bill contains important new authorities for regulators to use when supervising and regulating foreign banks. Title II represents the lessons the country should learn from the BCCI affair. Specifically, the title will require the Federal Reserve to conduct annual on-site examinations of foreign bank branches and agencies and coordinate regulatory efforts with other Federal regulators and State regulatory agencies. Again, this is thoughtful reform legislation which deserves the full support of the entire House.

Title III of the bill contains important changes to the deposit insurance system. For example, insurance for brokered deposits has been limited to banks which meet or exceed the minimum capital standards set in the bill. This means that banks with declining capital will not be able to offer high interest rates to attract more brokered deposits. In addition, this title contains an amendment I offered in committee which continues the 25-year-old FDIC practice of providing pass through deposit insurance on a pro-rata basis for pension plans, including so-called 457 retirement plans. This provision will protect the pensions of 33 million Americans and will act to prevent pension funds from making destabilizing moves from small banks to

larger banks which are deemed too big to fail. This, in turn, means that pension fund deposits can be kept in local banks which makes them available for lending for community purposes.

Title IV of the bill contains several miscellaneous provisions which add up to important reform. Among other provisions, the title contains a directive that all banks are to abide by the internationally accepted Basel accords which were signed in Basel, Switzerland by all of the major industrial nations. This important agreement specifies that all banks of signatory nations shall hold 8 percent total risk-based capital, of which one-half must be tier 1 capital. Tier 1 capital is composed of the bank's cash, common equity capital and other forms of tangible capital. Implementing the Basel accords is critical to the strengthening of our banking system since the accords place more of the bank's money at risk. Clearly, this is a good provision which has been supported by the entire Banking Committee and which should be supported by the whole House.

Finally, title V of H.R. 3768 contains the provisions of an amendment I offered at full committee. Simply stated, this title will permit any bank insurance fund [BIF] institution to combine its operations with any savings association insurance fund [SAIF] institution, and vice versa. I offered this legislation in order to encourage the injection of private sector funds into the banking and thrift systems. Title V of the bill will permit a bank to combine with a thrift—or vice versa—which permits them to combine their strengths and avoid the potential problem of being placed in conservatorship where the taxpayer's money must be used. This title expands upon a similar amendment I offered to the FIRREA legislation 2 years ago which has proven very popular. The Oakar I amendment infused $400 million in capital to the system.

In summary, I urge all Members to support today's bill. This legislation is responsible because it protects the deposits of millions of Americans and our entire economy from needless losses. If we delay the recapitalization of the bank insurance fund much longer, the economic consequences will become worse than we can imagine. For that reason alone the bill should be supported. However, Members should also vote for the bill because of the many fine reforms and improvements I have mentioned.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, the people of America are asking, "What is wrong with our banking system," while many others are just angry taxpayers and want to know, "What are you doing with our money?"

The Congress has finally decided it will take steps to try to answer these important questions and make sure taxpayers do not remain angry, or worse yet, scared to put their hard-earned money into a bank in this country. A lot has been said about the inappropriate practices of the past with all the high-flying wheeler-dealers in the financial marketplace who invested money without regard for the hard work that brought it to their institution.

This legislation, for the first time, gives us an opportunity to close a lot of bad loopholes, to eliminate those practices which cause banks to lose money, and, in fact, gives us an opportunity to make sure that future operators will operate in a safe and sound manner. Perhaps there should be further reform. I strongly supported broader bank powers, allowing banks to free enterprise dollars to flow into our system rather than having to rely on the banks to grow their way out of their current problem.

But let us just stop for a moment and consider what would happen if we did not adopt this legislation at this late hour. It is 30 days until the Christmas season. Retailers across the country are finding it difficult to get their hands on credit to buy the inventory to hope to make a profit in this Christmas season. Many are concerned that their credit card interest rates might be capped, and that little box on the top right-hand corner of your statement you get each month that all of us who have credit cards look at that says "available credit" might go to zero.

And what would happen if we continued to encourage the flight of capital from our banking industry, the M–2? One measure of our Nation's money supply continues to shrink. Why? Because interest rates are low, and people looking for rates of return take their money out of banks and put them into the stock market or in some other venture where they hope to have a greater rate of return.

But what happens to the banks when we say, "Hey, your deposit insurance is not worth anything anymore?" Do we think people will continue to put money, hard-earned, after-tax dollars in banks, with the risk that they might not be able to get it out when they need it? Think about an average family in America today. Husband and wife both work and both the kids are in school. They have to feed the dog, pay the car note. They get up just like everybody else and go to work and at the end of the week they take that hard-earned paycheck and take it to the bank.

Why are Americans angry? Because if they put their money in the bank they expect it to be there on Monday morning so they can pay their bills.

This is our last best chance. Vote for this legislation. It keeps the fund solvent, it keeps America working, and it gives our banks a chance to survive in a tough market. It is a good, safe, responsible vote.

Mr. GONZALEZ. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization and Improvement Act. I plan to vote for this bill, despite strong reservations. Originally, I had planned not to support this legislation. The savings and loan situation taught us many lessons. One of the most important things that banks need is sound regulation. I voted for the first FDIC recapitalization on November 4, because it had reform and regulation. I felt comfortable supporting that bill for that reason. I voted for the second FDIC recapitalization bill on November 14, although it had less reform and said that was as far as I could go. Now I'm being faced with a recapitalization bill that funds that FDIC but has very little reform and I really do not want to vote for it. However, I will because of recent Connecticut banking history and future Connecticut banking needs. We made a promise to the American people in the form of deposit insurance and we must keep that promise.

Mr. Chairman, I am going to support this bill because the FDIC was there when the Bank of New England-CBT failed; because the FDIC was there when Community National and Merchants Bank & Trust failed. The FDIC was there when Whitney Bank & Trust, Housatonic Bank & Trust, CityTrust, Mechanics & Farmers Savings, Enfield National Bank, and Suffield Bank failed. The FDIC was there when Harbor National Bank of Connecticut, Central Bank, Connecticut Valley Bank, and Connecticut Savings Bank failed.

All of these institutions failed in 1991. The fact that the FDIC was there meant that thousands of Connecticut residents did not lose their life savings. This bill will assure that the FDIC will continue to be there should additional banks fail. This is the very essence of our promise to the American people. It was my belief in the sanctity of this promise that led me to support both H.R. 6 and H.R. 2094, the two earlier versions of banking reform that failed to pass.

Although I am going to support this bill, I want to lay out for the record my concerns about the state of the industry and the steps we should take to prevent the BIF from going the way of FSLIC at the ultimate cost of billions of dollars to the American taxpayer.

The primary goal of bank reform should be to restore the health of the banking industry. One necessary reform is interstate banking. We might not have lost all those banks in Connecticut this year if their risk, particularly in real estate, was diversified as opposed to concentrated in New England.

Deposit insurance reform is also necessary. The existence of Federal deposit insurance has been consistently cited as one of the causes of the savings and loan crisis particularly to the extent that troubled institutions paid higher interest rates than sound institutions. These troubled institutions advertised higher rates nationwide to attract depositors. Many brokerage firms divided extremely large deposits into $100,000 blocks to take advantage of the higher interest rates and the protection

VOL 137 PT 23 NO 21–25 1991 UMI

of the Federal deposit insurance. In this way, the brokerage firms had no incentive to look at the underlying financial health of the financial institution offering the higher rates. We should ensure that banks do not make the same mistake.

I am concerned that Federal deposit insurance has been expanded far beyond its original intent and that all three versions of bank reform have failed to address this issue. The protections of Federal deposit insurance have been extended to each participant in certain types of pension plans. In this way, the pension fund trustees could pass their fiduciary responsibility onto the Federal Government.

While I certainly understand the arguments made by bankers that they have lost their most profitable business to Wall Street and money market funds and need to branch out to remain competitive and find new profit centers, I am not at all confident that we can adequately protect the taxpayers from losses in other lines of business. The key issues are what new powers, if any, we give which banks, under what conditions, and how we build effective firewalls around deposit insurance. Banks should not be given a competitive advantage over insurance companies, real estate, and securities firms in the form of implied or explicit Federal deposit insurance.

Banking reform should include strong consumer protections including lifeline banking services, an affordable housing initiative, and strengthened antiredlining provisions.

We need a commonsense approach to banking reform above all else. This means using generally accepted accounting principles [GAAP]. This means a reasoned approach to recapitalization, including an acknowledgment that there is a point at which ever-increasing deposit insurance premiums become counterproductive. Common sense should also mean addressing the problems that have come to light in the wake of the BCCI scandal and prohibiting insured depository institutions from engaging in highly leveraged transactions.

Unfortunately, this bill does not go far enough in making the necessary reforms. It is a start, but it is not enough. However, after three tries it appears that what constitutes reform is an issue on which reasonable people may disagree. I fear that passage of this bill will not be the end of this issue. I hope that I am wrong, but we have made a promise to the American people. We should live up to it. I would urge my colleagues support for this legislation.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, a week or so ago, I told the Committee on Banking, Finance, and Urban Affairs that I was reminded with this legislation about an old car I used to have. It was a clunker and it used a lot of oil. There are some who are going to suggest that simply by passing this bill we are buying maybe a case or two of oil in order to put in a clunker of a car that keeps running out of oil.

Maybe to an extent that is true. I think with the reforms that are added to this measure we are maybe replacing a few seals in the engine, I think we are tightening things up, but we are also buying some more oil. What we really need to do is to fix the engine in our clunker and maybe to buy a new car or at least a new engine.

There are some disappointments that I have in the context of this legislation. I believe that we have not done enough to narrow the scope of deposit insurance that is out there. We have added to some extent to the regulatory cost and to the insurance cost of our banks. There is always next year. Next year I think we need to come back and finish the job we have begun this year. We need to make sure our banks are able to compete in the 1990's.

□ 1650

We need to go forward with interstate insurance and we again need to permit our banks to compete.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, as with most of our Members, I am sorry that we could not have done more in terms of real reform of the system, but the bill before us is essential to the well-being and health of our economy. There are major reforms in the bill. I commend the chairman and our whole committee for working together to produce this product. I hope we get back to major reform soon. It is essential for the well-being of our Nation.

Mr. Chairman, although H.R. 3768 does little to promote long-term profitability and self-sufficiency in the banking industry, I rise in support of the bill because it's necessary. It recapitalizes the Bank Insurance Fund so our Government can fulfill the promises made to depositors and includes very important regulatory reforms.

Mr. Chairman, H.R. 3768 is not a taxpayer bailout—at least not yet. The bill provides a line of credit from the Treasury that must be paid back by the banking industry. The bill provides that the line of credit may not be used unless the FDIC and the Treasury establish a schedule showing how the money will be repaid.

The bill, Mr. Chairman, also includes numerous provisions to reduce the future risk of losses to the FDIC. The bill will curtail the practice of too-big-to-fail, restrict the use of brokered deposits to only the healthiest banks, and prohibit insurance coverage of foreign deposits. Furthermore, the bill establishes a system of risk-based premiums that would reward highly capitalized institutions. It also requires the FDIC to use the least-cost alternative in resolving failed banks, and it limits open bank assistance, a practice that has in the past prolonged the closure of insolvent institutions.

Mr. Chairman, this bill improves the supervision of banks by requiring Federal regulators to adopt uniform accounting standards for all banks and thrifts. It requires that banks and savings and loans be examined annually through an onsite examination. Moreover, those banks with assets of more than $150 million will be audited annually by an independent public accountant with the reports submitted to the FDIC for review. Mr. Chairman, the bill also gives the Federal Reserve the tools it needs to better regulate foreign banks operating in the United States and avoid a repeat of the BCCI scandal.

Mr. Chairman, H.R. 3768 calls for higher levels of private capital for banks and requires that Federal bank regulators move quickly whenever an institution falls below minimum capital levels. U.S. banks must retain private capital at least equal to the internationally agreed upon capital standards, a ratio that continues to rise.

My major regret, Mr. Chairman, is that H.R. 3768 does not modernize the banking industry to make it more profitable and competitive. The banking industry needs to be able to make a living to ensure that it will pay off the loans we are providing today. Just as importantly, we need a healthy banking system to provide credit for small business and other aspects of our economy, to provide jobs, housing, and a higher standard of living for our people—for savers.

Unfortunately, this bill does not include interstate branching which could save the banking industry up to $10 billion per year simply through efficiencies. That is $10 billion that could be added to the capital base of the banking industry. Interstate branching would also make banks more resistant to regional economic downturns like we have seen in Texas and New England.

I am also disappointed, Mr. Chairman, that H.R. 3768 does not diversify the products and services banks may offer. Diversity is an axiom of safety and solvency, yet this bill does nothing to provide new business opportunities for banks. If the banking industry is not safe, sound, and profitable, taxpayers will almost certainly have to bail it out.

Mr. Chairman, we have tried, and so far this House has rejected many proposals that would modernize the banking industry and improve its safety and soundness. Nevertheless, I hope we can pass this modest bill to fulfill our longstanding commitment to depositors without the use of taxpayer money, and improve the regulation and supervision of banks.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. chairman, there are two themes that have been woven in to the context of this debate. One, disappointment, and two, responsibility. We are all a bit dis-

appointed with the final product of 10 months of work, but the obvious responsibility we have here is to recapitalize that bank insurance fund.

We have heard from everybody during the last 10 months. Today we have an opportunity to act upon the most important substance of this legislation, and that is to stand up for the taxpayer and to stand up for the depositor.

We are going to hear a lot of demagoguery that somehow this legislation is for the bankers. This legislation is not for the bankers. This legislation is for the depositors. We should act in the affirmative and vote yes on this bill.

Mr. WYLIE. Mr. chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot of Members get up here and suggest that this is not he best legislation or best bill that we could come up with. I agree with that. I do not think there is anyone in this body who would want to play the drum in the parade for this bill today, but many of us, as I have suggested, think we could do better, but our views have not prevailed entirely. There are many, many different views on this legislation. It is very controversial. It is difficult to know exactly what to do, but we do not have the opportunity today to have our own views prevail in their entirety.

Of course, some of us will continue to support meaningful structural reforms, to provide more profitability and stability to the banking system, but these reforms will have to be considered next year.

The time to act to recapitalize the bank insurance fund is now. We must maintain confidence in our banking system. We must deliver on our commitment in this regard and stand behind our deposit insurance system.

Mr. Chairman, I can remember very well the Great Depression. I remember the bank failures in 1933. I remember how a lot of people lost their deposits in the banks at that time.

I am reminded of the fact that in 1933 the Deposit Insurance System was put in place. At that time it only called for insurance of up to $2,500. Now we have insurance up to $100,000, which actually is four times more than the cost of living adjustment, given the insurance that we had in 1933; but I, for one, do not want to see us go through a similar situation as we did in 1933. We must maintain and restore confidence in our banking system. We have to tell our depositors that the money is going to be there for them. As I said a little earlier, whether the bank is in trouble or whether it is a good bank, their money will be there when they go to the bank and want to withdraw it. That is what this bill is all about in its basic concept. We do have some meaningful reforms in it which I alluded to a little earlier, but I think it is very, very important that we pass this bill today.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. LUKEN].

Mr. LUKEN. Mr. Chairman, I have heard a lot of reluctance about this bill today, and there are reasons to be reluctant to vote for it, but there is a perception that some want to create that somehow we are giving a whole bunch of money to banks or to fat-cat bankers. There are 110 million depositors in commercial banks in this country. A lot of them are small guys. A lot of them are members of the middle class, and when we act today, we act to protect those depositors, those depositors who put their money into these institutions with certain assurances and with certain promises.

We do not exactly have the best of economic times to be doing this, but if you think the economy is bad now, if we fail to act, we are going to compound the economic problems of this country.

I congratulate the chairman of the committee and my friend, the gentleman from Ohio [Mr. WYLIE], and urge a positive vote on the bill.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED], a very hard-working and distinguished member.

Mr. REED. Mr. Chairman, I thank Chairman GONZALEZ and the gentleman from Ohio [Mr. WYLIE] for their great help to my State.

Now is the time to act. We must act for hundreds of thousands of depositors across the country, and particularly in my home State of Rhode Island. If you want to see the consequences of not acting, come to Rhode Island where, for 11 months, people have been without their deposits, and it is not the fat cats who are suffering, it is senior citizens who are living the worst nightmares of the depression. It is young people who cannot afford or worry about keeping their homes. It is students who cannot afford to go to college. That is the reality of not acting today.

We have run out of time. We have run out of alternatives. We have run out of excuses. We must act to help people restore faith in the banking system, in our ability to govern, and help them rebuild their lives, particularly for my constituents in Rhode Island.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. BARNARD], a very hard-working and expert member of the committee.

Mr. BARNARD. Mr. Chairman, I rise in strong support of H.R. 3768, which focuses our efforts on what everyone agrees are the essentials, namely recapitalization of the bank insurance fund, early intervention, foreign bank regulation, and the elimination of the too-big-to-fail doctrine.

Do not worry about H.R. 3768 being too easy on the banks or looking like a bailout. The $30 billion recapitalization of the bank insurance fund will be repaid not by taxpayers but by the healthy portion of the industry through greatly increased assessments on which there is no cap. Additionally, remember that the funds are not going to banks, but to depositors—otherwise known as constituents and taxpayers.

H.R. 3768 provides for annual on-site examinations—paid for by the banks. Institutions with over $150 million in assets would have to have outside audits and pay for them—larger institutions would also face audits of their internal controls.

Undercapitalized depository institutions would face limits on dividends, asset growth, and officer salaries. H.R. 3768 adds significant new trip wires pertaining to asset quality, earnings, and management practices that supplement the toughest capital standards—maybe too tough—in history.

The new capital standards set five levels of capital which determine what a bank can do and would require that institutions at a certain critical capital level be placed in conservatorship or receivership after 6 months—in other words, while they still have positive net worth.

H.R. 3768 also provides for least-cost resolution and seeks to effectively eliminate the too-big-to-fail doctrine after 1994. It also places significant limitations on discount window loans.

These are not insubstantial reforms, nor are they inexpensive ones for banks, especially since we do nothing that improves bank competitiveness.

Additionally, H.R. 3768 establishes a new, much needed regulatory structure for foreign banks doing business in the United States that will prevent a repetition of BCCI type scandals.

The bill also contains modest deposit insurance reforms limiting pass through deposit insurance as well as limitations on brokered deposits.

Many of us would like to do more. I would like to see some form of banking and commerce, some would like to see interstate branching, and others would like to roll back insurance powers. This has not proved possible to achieve on the floor this session and we should return to all of these issues, but it would be irresponsible not to recapitalize the BIF and make much-needed regulatory reforms. This is a responsible, defensible vote and I urge my colleagues to vote yes.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I rise to support this measure, H.R. 3768, in an effort to get this bill into conference. Now, I make no assurances of support, however, beyond that.

I just have to say for the record that it gets rather frustrating trying to be responsible around here. It almost al-

VOL 137 PT 23 NO 21 — 25 1991 UMI

ways happens on the tough issues, the tough votes, and we have had plenty lately on the banking bill.

I voted for the rule the very first time this bill was up because I was told by the majority that the amendment to title IV was going to lose. I went against my own membership because I thought it more important to defeat a key amendment that threatened the overall bill than to delay consideration of the bill. I had hoped that my vote was the right one, but the representations made to me about the outcome, obviously, were not very correct.

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When it was clear that the bill had sufficient baggage to be defeated on final passage, I offered the motion to rise and report the bill back, that the enacting clause be stricken, so that we could send the bill back to the committee and work out an agreement among all sides.

And that vote became a leadership vote for the majority, so my motion was defeated. Two days later, after fulminating all around rather uselessly, as I predicted, the banking bill was defeated, with only 89 votes for it and 324 opposed to it.

Now, the new bill was brought to the floor last week. I worked hard for the Wylie amendment. Even to the extent of getting several of our Members to switch their vote, and we passed it by the narrow margin of 210 to 208. And I worked hard for the bill on final passage.

We delivered our side of the aisle, but with only one-third of the Democrats supporting it, it was defeated 191 to 227.

Yesterday in the Committee on Rules, Democrats joked that the reason the previous two bills were defeated was that they did not have their whip organization ginned up. All joking aside, they were doggone right.

Now here we are with a bill which provides a barebones recap, but none of the reforms. It is, however, a vehicle to get us to conference, and that seems all this House is capable of accomplishing for the time being. But be that as it may, I would urge Members certainly to vote for this barebones bill so that we can at least have some degree of progress. And, yes, fate will ultimately lie, I suspect, in what the other body does and what we can finally agree to in conference. But for the moment at least let us agree to agree to do this much, and then we may very well be on the road to adjournment by next Tuesday.

This is absolutely essential. If it goes down, all bets are off. You have got to be here for everything else.

Of course, we hope beyond this we can get agreement on the highway bill and a few other things around here so that conceivably we could adjourn by next Tuesday night.

I urge the Members finally to support the bill this time around. You will all have an opportunity again on the conference report. And that happens any number of times.

I recall once on a very critical tax bill, a lousy bill as it passed the House and my only pitch in the end was, "Well, let us get something to move, and conceivably with the other body in agreement, we can get something to be adopted by every Member."

So I would urge Members to support the bill this afternoon and thank the gentleman for yielding.

Mr. WYLIE. Mr. Chairman, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I rise in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991.

Well, they say the third time is a charm. Let us hope it will be so in this case. Today we will see whether any lessons have been learned from the two fruitless trips we have made to the House floor in the last 2 weeks. What we have before us today, H.R. 3768, is the least controversial bill our House Banking Committee could approve. Indeed, conspicuously absent from this bill are extended powers for banks, nationwide interstate banking and branching and any cuts in individual deposit insurance. As we all know, these were the major stumbling blocks which tripped up the two banking reform bills that have so far failed on the House floor.

The most irresponsible action this Congress could take would be to recess without recapitalizing the bank insurance fund. Today we are called upon to keep our promise to American depositors. This is a duty we simply cannot shirk. I urge my colleagues, therefore, in the strongest terms to pass this truly important and vital legislation.

Mr. GONZALEZ. Mr. Chairman, I yield whatever time remains to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], for summation and closing.

Mr. GEPHARDT. Mr. Chairman and members of the committee, first I would like to congratulate the committee on their hard work. This bill is not only barebones, it is a reform bill as well, in many respects, with regard to the way the deposit insurance system will work.

This is the third time we have attempted to climb this mountain, and I hope and pray that today we will reach the summit. I voted for the last two bills, and I intend to vote for this bill because I think passing such legislation is important to our economy, it is important to our people, it is important to our competitiveness.

We may need to further reform the banking system, and we can come back at another time and do that. I hope we will.

But today, in November 1991, we need to pass this bill.

Mr. Chairman, I would like to remind Members that, like Social Security, like Medicare, like national defense, this is a Government program that we should be proud of. Many like to say today that Government does not work, does not do the things we want it to do.

I would simply urge Members today to understand this program has done what we wanted it to do. Before there was such a program, we had economic anarchy in this country, deprivation, and there was zero confidence in our banks and in our institutions of Government.

The book "F.D.R." describes the circumstances facing this country as the President-elect took his train ride from New York to Washington in March 1933.

Let me quote from the book:

> A newspaper headline said 30 banks now on holiday. Those that remained open were on a restricted-withdrawal basis, with soft-voiced tellers handing depositors their passbooks and saying everything is all right when it wasn't. People lost their faith in banks, and there were runs on the banks in Chicago and Detroit, with armored trucks feeding their branches cash.
>
> As deposits shrank, more banks closed. Real estate lost value and the equity in mortgages disappeared. The New Empire State Building could not rent its offices and cut off elevator service between the 42nd and 67th floors. Construction stagnated because builders could not get loans.
>
> Where were Work and Thrift and Sound Principles and the American way of life and Go West, Young Man? They had been replaced by "tighten your belt," bread lines, soup kitchens, grown men working as caddies, panhandling and riding blind baggage.

Some of these things would be happening today if it were not for the programs that Franklin Roosevelt and Congress put into place in the 1930's. This program is not a bailout for banks. This program is not a bailout for stockholders in banks. This program is not a bailout for the executives of banks.

This program stands behind our people and their deposits in banks. And if we fail to vote for it this afternoon, this program and the Government's full faith and credit behind it will be called into rightful question.

I beg the Members of this House, Republican and Democrat, moderate, conservative, liberal, to vote for this bill, to stand behind the full faith and credit and integrity of this Government and say to our economy and to out people, "This program works, your deposits are safe, and this banking and financial system in our country will be secure into the future."

Vote for this legislation.

Mr. COX of Illinois. Mr. Chairman, I rise today in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991. Although I regret that Congress was not able to reach a consensus on a more comprehensive bank reform bill, I believe the legislation before us has a great deal of merit.

H.R. 3768 provides the necessary money to replenish the deposit insurance fund and repay depositors of failed financial institutions. In addition, it contains a provision that I introduced when the Banking Committee considered this legislation, allowing banks to purchase bonds from the FDIC, and therefore participate in the recapitalization of their industry. I do not believe that we should discount the willingness of the banking industry to participate in the process before giving banks the opportunity to assist.

It was the banking industry that first presented this basic principle to Chairman Seidman with its proponents committing to participate. I have been given letters from both the Independent Bankers Association of America and the American Bankers Association expressing their support for this provision. In addition, both organizations state their commitment to working with banks throughout the country to encourage their investment in obligations issued to fund the bank insurance fund.

H.R. 3768 also contains provisions that will improve the way in which bank regulators and the FDIC deal with weakening institutions. The bill calls for early intervention by regulators into banks that have fallen below designated capital levels and improvement of examination and auditing requirements. It further moves toward a system of risk-based bank premiums, and the elimination of the too-big-to-fail policy.

Finally, the bill establishes a Bank Enterprise Program, providing incentives for banks to increase their investments in distressed communities with high rates of unemployment and poverty. I was an original cosponsor of the Bank Enterprise Act, and I am pleased to have the opportunity to build a stronger bridge between the banking industry and our Nation's neediest communities.

While I am hopeful that we have not completely put broader bank reform issues to rest, I support this measure to shore up the deposit insurance fund. I believe this measure will provide greatly needed mechanisms to instill safety and soundness to the banking industry.

Mr. TALLON. Mr. Chairman, the main objective of this latest version of the banking reform bill is to infuse $70 billion into the bank insurance fund to cover the costs of the banks that continue to fail.

Congress must pass banking reform legislation this year that will do more than just replenish the bank insurance fund. We need legislation that addresses the underlying structural problems of the industry. Legislation that simply pours money into the fund without fixing the underlying problems of the banking industry will leave the taxpayer exposed and contribute to the credit crunch.

I urge my colleagues to vote no on this legislation.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization and Improvement Act. In the past 2 weeks, the House has twice defeated bank reform legislation. I supported the first measure brought to the floor, H.R. 6, because, in my estimation, it balanced needed reform and diversification with essential regulatory and enforcement muscle. I opposed the second measure before the House, H.R. 2094, because it included an amendment which weighed down the bill with special interest giveaways. Congressional leaders realized that a majority of the Members in this Chamber were not prepared to approve a major reform bill, so we have before us today a stripped down measure which we expect to pass.

H.R. 3768 addresses the most pressing issue confronting the banking system, the recapitalization of the bank insurance fund [BIF]. It is estimated that BIF will have only $2.9 billion on balance in its coffers by the end of this year. When one considers FDIC predictions that 137 banks will have failed during 1991, and 200 more are expected to fail in 1992, the fund is effectively insolvent. If we abdicate our responsibility to recapitalize BIF, thousands of these institutions' depositors will lose their hard-earned savings and face devastating economic circumstances. Even more frightening is the havoc such action would wreak on the rest of the banking system. We must keep our Government's hallowed promise to back taxpayer deposits.

Although the adoption of a core bank provision would have provided the greatest protection to our taxpayers, H.R. 3768 does incorporate numerous provisions which reduces the risk of future losses to the FDIC fund and reduces taxpayer exposure to another bailout. These changes include the requirement of annual onsite examinations of federally insured institutions by regulators, annual independent audits of banks with assets over $150 million, the adoption of uniform accounting standards to improve oversight of institutions, restrictions on the ability of troubled institutions to get advances from the Federal Reserve's discount window, and creation of an early intervention system for troubled banks in order to minimize costs.

This is not a perfect bill. I, like many other Members, wish we could do much more. I also know that we will have to address the issue of true reform and more stringent controls at some point in the future. But today we must replenish the bank insurance fund and maintain consumer confidence in our banking system. I urge my colleagues to place the public's interest above the special interests by supporting this measure.

Mr. BLACKWELL. Mr. Chairman, I, like most Americans, firmly believe that we need total banking reform. But at this time I have little alternative but to vote against this bill. We cannot simply recapitalize the FDIC without the Members of this Congress coming together and formulating a sensible and comprehensive legislative package that will bring about total reform for the American banking industry. I was not elected to simply place a band-aid on a bleeding wound. Our banking industry is in crisis. Many Americans, many of them women and minorities, lack the same access to credit that other Americans have. They cannot get home mortgages. They cannot start new businesses. We can no longer continue to use a patchwork approach when the hard working taxpayers of the American public demand—and deserve to have total confidence in the American banking system.

Mr. MORAN. Mr. Chairman, in early March, President Bush presented to Congress comprehensive legislation overhauling this Nation's banking industry. The legislation reflected a concern the President expressed in his State of the Union Address last January:

> * * * to bring America's financial system into the 21st century so that our banks remain safe and secure and can continue to make job-creating loans for our factories, our businesses, and home buyers.

The driving force behind this legislation, however, is the immediate need to replenish the bank insurance fund [BIF] with a $30 billion line of credit from the U.S. Treasury. The debt would be repaid through a higher premium banks pay to the insurance fund.

For close to 2 months, the House Banking Committee, of which I am a member, weighed through the administration's proposal and considered more than 160 amendments. As we considered the various issues and proposed amendments, we sought to make sure that the legislation addressed the following three concerns: That the regulators be given the authority to intervene early and close down troubled banks before they become insolvent; that this legislation would promote prudently managed and well capitalized institutions; and to promote amendments that would benefit the average bank customer.

Haunted by the specter of the savings and loan debacle, committee members sought to make sure the Federal regulators have the authority to intervene early and close sick banks. During the 1980's, Federal regulators allowed too many insolvent savings and loans to remain open and accept deposits they were never able to pay back. For example, the Federal Savings and Loan Insurance Corporation [FSLIC] allowed two sick Virginia institutions that should have been closed to remain open more than a year, costing the Federal Government and the U.S. taxpayer more than $120 million. Had the FSLIC moved in early the cost to the insurance fund would have been less than $14 million.

One of the major goals before the committee was ending the too-big-to-fail policy by the Federal regulators. Under this policy, large institutions are too big to fail and small institutions are too small to save. People will be reluctant to keep their savings in smaller community banks. Even though these institutions are prudently managed and well capitalized, the deposit base that is necessary for the economic mainstay of many communities will disappear.

One case in point was the bailout of the Bank of New England for $2.3 billion. At approximately the same time, little Independence National Bank of Harlem was allowed to fail because the administration considered it too small to save. One of my favorite movies is "It's a Wonderful Life," with Jimmy Stewart as a community banker whose presence made such a critical difference in his neighbors' ability to realize their dreams. I don't want the big banks to get so powerful and concentrated that the decision of whether to lend to a person or business in need is made by someone many miles away who neither understands the character of the local community nor cares for its future.

Mr. Chairman, true reform has less to do with an overextension of deposit insurance and more to do with an absence of private market discipline within the banking industry. I therefore supported a number of amendments that would provide incentives for institutions to be well managed and well capitalized. These

VOL 137 PT 23 NO 21—25 1991 UMI

efforts included the successful full committee approval of amendments that will: Allow brokered deposits—C's sold by brokerage firms—and pass through deposits to only those institutions with level one and two—very high—capital ratings; and reward banks with an insurance premium credit for providing lifelong accounts and investing in distressed communities.

I also supported the idea that would restrict the activities banks could engage in with Government guaranteed deposits to just core banking activities. This proposal would have limited the interest rates banks could offer on guaranteed deposits and created a legal lending limit for institutions with assets of more than $100 million. Guaranteed deposits could only be used for those essential core banking activities such as consumer and small business loans and home mortgages that have made community banks successful enterprises.

The proposal would, however, force such high-risk activities as speculative underwriting, leveraged buyouts and global money market activities, as well as any new activities banks could engage in under the President's proposal, out from under the protection of deposit insurance and into the marketplace.

I firmly believe that this proposal would have instilled the banking industry with greater private market discipline. In the absence of private market discipline, a few imprudently managed banks will penalize the great majority of responsible bankers by forcing them to pay higher premiums and bear the costs of the mistakes of the few. Unfortunately, this proposal was defeated both in committee and again on the House floor.

Without adoption of the core bank provisions, I was reluctant to see banks engage in most of the new activities contained in the President's proposal. A majority of my colleagues were also reluctant to see banks engage in these new activities.

As a result, the House passed a narrow reform bill that: Recapitalizes the bank insurance fund with $30 billion; severely restricts the current too-big-to-fail policy; and requires the Federal regulators to intervene early once a bank fails to meet certain capital and soundness standards.

While I am disappointed that the bill did not include more substantive reforms such as the core bank proposal, I believe it is important to support the narrow bill. Without its passage, the Federal regulators would have been unable to close down failed institutions and pay off the depositors—something the Federal Government has a responsibility to do and the American taxpayer should have a right to expect.

Mr. STEARNS. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Improvement Act. I do so for several reasons.

One, the bank insurance fund is broke. The U.S. Government has put its full faith and credit on the line to protect depositors—large or small. It would be irresponsible to allow the insurance fund to remain in its current sorry state. This would expose depositors to enormous risk.

Second, the bill calls for improved examinations of deposit institutions. It also requires independent audits of the institution's financial management and assesses the institution's compliance with Federal law.

Third, this bill requires the FDIC to use the least cost method in resolving failed banks. This requires the FDIC to use the least expensive and most effective method when closing a failed institution. The bill also states that the FDIC will only cover insured deposits. This eliminates the too-big-too-fail doctrine which asserts there are some banks that are too big and too special to fail.

While I continue to be concerned that we have put off dealing meaningfully with deposit insurance reform, this bill is our best hope for now. However, we must continue to pursue avenues that will lead some reduction to the taxpayer's and depositor's exposure. With a weak insurance fund that is in constant need of replenishment and over $2.4 trillion in guarantees protected by this fund we would be irresponsible not to pursue such avenues.

I urge my colleagues to support this legislation, not only to preserve some confidence in our financial system but also to enact at least some reforms. It is imperative that, at a minimum, these reforms be implemented.

In closing, Mr. Chairman, I would also like to remind my colleagues that bills such as this provides only a temporary respite. A cure to a weakened financial system is a healthier economy. With the passage of this bill, it becomes more urgent than ever that Congress pass an economic recovery program. I urge the leadership on both sides to bring H.R. 3130, the Economic Growth Act, before the House. Economists estimate passage of this bill will create jobs; 1.1 million new jobs, some basic tax relief, and greater economic incentives for all Americans. This would stimulate our economy and lessen the need for the legislation we are considering today.

Mr. RINALDO. Mr. Chairman, this is the third in our weekly series of debates about banking legislation. I am certain that my colleagues join me in hoping it will be the last time we have to deal with this subject.

I will note for this legislation for one and only one reason. We promised many years ago to protect the savings of our constituents. This bill is the only way to keep that vow.

The GAO says that the bank insurance fund is effectively insolvent. We have no choice but to replenish it.

The savings of millions of people are at stake. Our banking system is based on trust. If that faith erodes, the result will be panic. Voting for this bill is our only responsible course of action.

If we pass this legislation, once again the savings of the people who sent us here will be protected by the full faith and credit of this country.

However, passing this bill will not resolve the fundamental problems with our financial system.

This Congress must modernize the laws regulating banks and other types of financial services. Unless we do, this House will sit here again and again debating banking bills.

Continued inaction will mean more failed banks, and additional billions to pay for them. Foreign banks will continue to out-compete our financial services industry.

Mr. Chairman, the cost of bank failures will be much higher due to the failure of this House to pass my amendment allowing corporations to buy failed and failing banks.

When future legislation on this subject is considered, I will again offer my amendment.

The question is simple: Who pays for bank failures? Is it going to be your constituents and neighbors? Or are we going to let corporations buy some of these banks, and prevent the burden from being passed on to the taxpayer?

The CHAIRMAN. All time has expired. Pursuant to the rule, the amendment in the nature of a substitute printed in the reported bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of H.R. 3768 is as follows:

H.R. 3768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

Sec. 101. Funding for the federal deposit insurance funds.
Sec. 102. Limitation on outstanding borrowing.
Sec. 103. Repayment schedule.
Sec. 104. Borrowing for BIF from BIF members.

Subtitle B—Supervisory Reforms

Sec. 111. Improved examinations.
Sec. 112. Independent annual audits of insured depository institutions.
Sec. 113. Assessments required to cover costs of examinations.
Sec. 114. Application to FDIC required for insurance.
Sec. 115. Regulatory requirements study.

Subtitle C—Accounting Reforms

Sec. 121. Accounting objectives, standards, and requirements.
Sec. 122. Small business loan data required in reports of condition.
Sec. 123. Reports of financial condition by large institutions engaged in interstate banking.

Subtitle D—Prompt Regulatory Action

Sec. 131. Prompt regulatory action.
Sec. 132. Appointment of conservator or receiver for insured state depository institutions.

Subtitle E—Least-Cost Resolution

Sec. 141. Least-cost resolution.
Sec. 142. Limitation on use of liquidity lending for deposit insurance fund purposes.
Sec. 143. No assistance to troubled institution without removing management and repudiating shareholders claims.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

Sec. 151. Short title.
Sec. 152. Federal deposit insurance required for state chartered banks, savings associations, and credit unions.

Subtitle G—Technical Corrections

Sec. 161. Technical corrections and clarifications.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

Sec. 201. Short title.

Sec. 202. Regulation of foreign bank operations.
Sec. 203. Conduct and coordination of examinations.
Sec. 204. Supervision of the representative offices of foreign banks.
Sec. 205. Reporting of stock loans.
Sec. 206. Cooperation with foreign supervisors.
Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
Sec. 208. Penalties.
Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 210. Clarification of managerial standards in bank holding company act of 1956.

Subtitle B—Customer and Consumer Provisions

Sec. 221. Paperwork reduction and improvements in administration of Community Reinvestment Act of 1977.
Sec. 222. Additional factor in assessing majority-owned institution's record of meeting community credit needs.
Sec. 223. Enforcement of Equal Credit Opportunity Act.
Sec. 224. Fair housing reporting.
Sec. 225. Regulatory burden study.
Sec. 226. Notice of safeguard exception.
Sec. 227. Prohibition on deceptive practices relating to electronic fund transfers from accounts.
Sec. 228. Deposits at nonproprietary automated teller machines.
Sec. 229. Notice of branch closure.

Subtitle C—Bank Enterprise Act

Sec. 231. Short title.
Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
Sec. 234. Community development organizations.

TITLE III—FEDERAL DEPOSIT INSURANCE REFORM

Subtitle A—Activities

Sec. 301. Limitations on brokered deposits and deposit solicitations.
Sec. 302. Risk-based assessments.
Sec. 303. Restrictions on insured state bank activities.
Sec. 304. Restrictions on real estate lending.
Sec. 305. Capital standards and interest rate risk.
Sec. 306. Transition rule.
Sec. 307. FDIC back-up enforcement authority.

Subtitle B—Coverage

Sec. 311. Deposit and pass-through insurance.
Sec. 312. Foreign deposits.
Sec. 313. Penalty for false assessment reports.

Subtitle C—Demonstration Project and Studies

Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.
Sec. 322. Private reinsurance study.

Subtitle D—Credit Unions

Sec. 331. Liquidations of federally insured state credit unions.

Subtitle E—FDIC Property Disposition

Sec. 341. FDIC affordable housing program.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

Sec. 401. Findings and purpose.
Sec. 402. Definitions.
Sec. 403. Bilateral netting.
Sec. 404. Clearing organization netting.
Sec. 405. Preemption.
Sec. 406. Relationship to other payments systems.

Subtitle B—Right to Financial Privacy Act of 1978

Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.

Subtitle C—Final Settlement Payment Procedure

Sec. 421. Final settlement payment procedure.

Subtitle D—Miscellaneous Committees, Studies, and Reports

Sec. 431. Commission on the Thrift Industry.
Sec. 432. Bank Insurance Fund Advisory Committee.
Sec. 433. Amendments relating to Federal Reserve Board reserve requirements.
Sec. 434. Depository Institutions Reform Advisory Committee.
Sec. 435. Report on government check cashing.
Sec. 436. Permanent authorization of Credit Standards Board.

Subtitle E—Utilization of Private Sector

Sec. 441. Utilization of private sector.
Sec. 442. Reporting.
Sec. 443. Requirement to minimize payments for legal services.

Subtitle F—Emergency Assistance for Rhode Island

Sec. 451. Emergency loan guarantee.

Subtitle G—Qualified Thrift Lender Test Improvements

Sec. 461. Short title.
Sec. 462. Adjustment of compliance periods for purposes of qualified thrift lender test.
Sec. 463. Increase in amount of liquid assets excludable from portfolio assets.
Sec. 464. Additional investments included in definition of qualified thrift assets.
Sec. 465. Prudent diversification of assets.
Sec. 466. Consumer lending by Federal savings associations.

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

Sec. 471. Prohibition on entering into secrecy agreements and protective orders.

Subtitle I—Establishment of Capital Standard Requirement

Sec. 481. Capital standards.

Subtitle J—Bank and Thrift Employee Provisions

Sec. 491. Continuation of health plan coverage in cases of failed financial institutions.

Subtitle K—Severability

Sec. 496. Severability.

Subtitle L—Sense of the House of Representatives on the Credit Crisis

Sec. 498. Credit crunch.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.
Sec. 502. Mergers, consolidations, and other acquisitions authorized.
Sec. 503. Acquisition of thrift institutions by certain companies which control banks and are not treated as holding companies.

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) IN GENERAL.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding at any time may not exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) OBLIGATION DEFINED.—For purposes of paragraph (5), the term 'obligation' includes—

"(A) any guarantee issued by the Corporation;

"(B) any amount borrowed pursuant to section 14; and

"(C) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.".

(b) GAO REPORTS.—

(1) QUARTERLY REPORTING.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) ANALYSES TO BE INCLUDED.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) IN GENERAL.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) REPAYMENT SCHEDULES REQUIRED FOR ANY BORROWING.—

"(1) IN GENERAL.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) CONSULTATION WITH AND REPORT TO CONGRESS.—The Secretary of the Treasury and the Corporation shall—

VOL 137 PT 23 NO 21–25 1991 UMI

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) EMERGENCY SPECIAL ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, and by inserting after paragraph (6) the following new paragraph:

"(7) EMERGENCY SPECIAL ASSESSMENTS.—In addition to the assessments imposed on insured depository institutions under other provisions of this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) BORROWING FOR BIF FROM BIF MEMBERS.—

"(1) BORROWING AUTHORITY.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) LIMITATIONS ON BORROWING.—

"(A) APPLICABILITY OF PUBLIC DEBT LIMIT.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) APPLICABILITY OF FDIC BORROWING LIMIT.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) INTEREST RATE LIMIT.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) OBLIGATIONS TO BE HELD ONLY BY BIF MEMBERS.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) LIABILITY OF BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) TERMS AND CONDITIONS.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(4) INVESTMENT BY BIF MEMBERS.—

"(A) AUTHORITY TO INVEST.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) INVESTMENT ONLY FROM CAPITAL AND RETAINED EARNINGS.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(5) ACCOUNTING TREATMENT.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) ANNUAL EXAMINATIONS.—

(1) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—Each insured depository institution (other than an institution for which a conservator or receiver has been appointed) shall be examined at least once during each 12-month period (beginning on the date on which the most recent examination of such institution ended) by the appropriate Federal banking agency in an on-site examination unless the institution has been examined by the Corporation during such period in an on-site examination.

"(2) ACCEPTANCE OF STATE ON-SITE EXAMINATIONS.—Notwithstanding paragraph (1), the appropriate Federal banking agency or the Corporation may accept an examination report on any insured depository institution which is based on an on-site examination by the appropriate State bank supervisor.".

(2) EFFECTIVE DATE.—Section 10(d) of the Federal Deposit Insurance Act (as added by paragraph (1) of this subsection) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

(3) TRANSITION RULE.—During the period beginning after the end of the period described in paragraph (2) and ending on December 31, 1993, section 10(d) of the Federal Deposit Insurance Act shall be applied by substituting "18-month" for "12-month" with respect to any insured depository institution other than—

(A) an institution which received a composite CAMEL rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System (or a comparable rating under an equivalent rating system) during the most recent examination of such institution; or

(B) an institution for which a notice or application has been received by the appropriate Federal banking agency under section 7(j) or 18(c) of the Federal Deposit Insurance Act during the 12-month period beginning on the date on which the most recent examination ended.

(b) EXAMINATION IMPROVEMENT PROGRAM.—

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program which meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.

(c) DEFINITION RELATING TO STATE BANK SUPERVISORS.—

(1) IN GENERAL.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

"(r) STATE BANK SUPERVISOR.—

"(1) IN GENERAL.—The term 'State bank supervisor' means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

"(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under subsection (d) may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor which received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.—Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under paragraph (1), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of

VOL 137 PT 23 NO 21—25 1991 UMI

receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution in proportion to the assets or resources of the institution.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of the examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—Section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

SEC. 115. REGULATORY REQUIREMENTS STUDY.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study to determine—

(1) ways to reduce and streamline regulatory requirements imposed by Federal banking agencies, particularly for small community depository institutions; and

(2) which, if any, regulatory requirements may be waived for such institutions without endangering the safety and soundness of the institutions.

(b) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to the Congress and the other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) containing the Corporation's findings and conclusions under the study conducted pursuant to subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

(c) IMPLEMENTATION.—The Federal Deposit Insurance Corporation and other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act), acting through the Federal Financial Institutions Examination Council, shall implement any recommendation for administrative action made by the Corporation pursuant to subsection (b).

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt regulatory action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING MEASURES.—Modify or eliminate any accounting principle or reporting requirement of such Federal agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.".

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS LOAN DATA REQUIRED IN REPORTS OF CONDITION.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) SMALL BUSINESS AND SMALL FARM LOAN DATA.—

"(A) IN GENERAL.—In the report of condition required under paragraph (3) for the 4th quarter of each calendar year, each insured depository institution shall include information indicating the total number and aggregate dollar amount of the institution's outstanding loans in each of the following categories:

"(i) Commercial loans to small businesses.

"(ii) Commercial mortgage loans to small businesses.

"(B) REPORTING CATEGORIES.—The information required by subparagraph (A) shall be listed separately for each of the following small business categories:

"(i) Businesses which were in existence for less than a year at the time the reported loans were made.

"(ii) Businesses with annual sales of $100,000 or less.

"(iii) Businesses with annual sales of more than $100,000 but not more than $250,000.

"(iv) Businesses with annual sales of more than $250,000 but not more than $1,000,000.

"(v) Businesses with annual sales of more than $1,000,000 but not more than $20,000,000.

"(C) MINORITY-OWNED BUSINESS CATEGORY.—The information required by subparagraphs (A) and (B) shall be further itemized for minority-owned small businesses.

"(D) CHARGE-OFFS AND INTEREST AND FEE INCOME.—Any report of condition referred to in subparagraph (A) shall indicate the insured depository institution's net charge-offs and the interest and fee income for commercial loans to small businesses and for commercial mortgage loans to small businesses, listed separately for each of the following small business categories:

"(i) Businesses with annual sales of $250,000 or less.

"(ii) Businesses with annual sales of more than $250,000.

"(E) AGRICULTURAL LOANS TO SMALL FARMS.—Any report of condition referred to in subparagraph (A) shall indicate the total number and aggregate dollar amount of the insured depository institution's outstanding agricultural loans to small farms.

"(F) DEFINITIONS.—For purposes of this paragraph—

"(i) SMALL BUSINESS.—The term 'small business' means an enterprise with annual sales of $20,000,000 or less.

"(ii) SMALL FARM.—The term 'small farm' means a farm business with annual sales of $500,000 or less.

"(iii) COMMERCIAL LOAN.—The term 'commercial loan' means a loan that is reportable as a commercial and industrial loan in the reports of condition submitted pursuant to this subsection.

"(iv) COMMERCIAL MORTGAGE LOAN.—The term 'commercial mortgage loan' means a loan that is reportable as a real estate loan secured by nonfarm nonresidential properties in the reports of condition submitted pursuant to this subsection.

"(v) AGRICULTURAL LOAN.—The term 'agricultural loan' means a loan that is reportable as a loan to finance agricultural production and other loans to farmers in the reports of condition submitted pursuant to this subsection.

"(G) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—The requirements of this paragraph shall not apply to any insured depository institution which has total assets, as of the most recent full fiscal year of such institution, of $100,000,000 or less.".

SEC. 123. REPORTS OF FINANCIAL CONDITION BY LARGE INSTITUTIONS ENGAGED IN INTERSTATE BANKING.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(10) CONDITION REPORTS BY LARGE INSURED INSTITUTIONS ENGAGED IN INTERSTATE BANKING.—

"(A) COVERED INSTITUTIONS.—For purposes of this paragraph—

"(i) INTERSTATE BRANCHING INSTITUTION.—The term 'covered interstate branching institution' means an insured depository institution that has total assets of $1,000,000,000 or more, as of its most recent fiscal year, and maintains branches in more than one State.

"(ii) INTERSTATE SUBSIDIARY INSTITUTION.—The term 'covered interstate subsidiary institution' means an insured depository institution that has total assets of $500,000,000 or more, as of its most recent full fiscal year, and it is a subsidiary of a holding company that controls insured institution subsidiaries in more than one State and has consolidated assets of $1,000,000,000 or more, as of the holding company's most recent full fiscal year.

"(iii) DUAL COVERAGE.—An insured depository institution that satisfies the criteria of both clauses (i) and (ii) of this subparagraph shall be deemed to be a covered interstate branching institution.

"(B) INTERSTATE BRANCHES: QUARTERLY LOAN DATA.—A covered interstate branching institution shall include in each quarterly report of financial condition required by this subsection the following loan categories, listed separately for each State within which it maintains one or more branches—

"(i) LOAN DATA ITEMS.—(I) The aggregate dollar amount of the institution's outstanding in-State loans in regard to such State, (II) the interest and fee income earned on such loans, (III) the dollar amount of such loans with nonaccrual status, and (IV) the net charge-offs for such loans.

"(ii) LOAN CATEGORIES.—(I) Construction loans, (II) commercial mortgage loans, (III) residential mortgage loans, (IV) farmland mortgage loans, (V) commercial loans to small businesses, (VI) agricultural production loans, and (VII) consumer loans.

"(C) DEFINITION OF IN-STATE LOANS.—For purposes of subparagraph (B) the term 'in-State loan' means a loan that is made to a business entity that is engaged in business in the State, an agricultural loan to an entity in the State, a loan that is secured with property located in the State, and a loan made to an individual who is a resident of the State.

"(D) INTERSTATE BRANCHES: QUARTERLY DEPOSIT DATA.—A covered interstate branching institution shall also include in each quarterly re-

VOL 137 PT 23 NO 21—25 1991 UMI

port of financial condition required by this subsection the following deposit data items for each of the following deposit categories, listed separately for each State within which it maintains one or more branches—

"(i) DEPOSIT DATA ITEMS.—(I) The aggregate dollar amount of deposit balances at the institution's branch offices located within each State, and (II) the interest paid on such deposit balances.

"(ii) DEPOSIT CATEGORIES.—(I) Demand deposits (deposit balance data only), (II) interest-bearing transaction accounts, (III) savings deposits, (IV) time deposits under $100,000, (V) time deposits of $100,000 or more, and (VI) State and local government deposits (deposit balance data only).

"(E) INTERSTATE BRANCHES: OTHER QUARTERLY DATA.—A covered interstate branching institution shall include in its report of financial condition required by this subsection the following financial data, listed separately for each State within which it maintains one or more branches—

"(i) the aggregate dollar amount the institution's real estate owned in each State not including property owned by the institution for banking operations; and

"(ii) the institution's income from service charges on deposit accounts at the institution's branch institution.

"(F) INTERSTATE BRANCHES AND INTERSTATE SUBSIDIARIES: ANNUAL LOAN DATA.—A covered interstate subsidiary institution shall include in its report of financial condition required by this subsection for the fourth quarter of each calendar year the following information for its home State and a covered interstate branching institution shall include in its report of financial condition required by this subsection for the fourth quarter of each calendar year the following information listed separately for each State within which it maintains one or more branches—

"(i) SMALL BUSINESS LOANS.—The institution's total number and aggregate dollar amount of commercial loans and commercial mortgage loans outstanding to small businesses whose principal place of business is located within such State; itemized separately for—

"(I) commercial loans; and

"(II) commercial mortgage loans;

and further itemized separately for—

"(I) small businesses with annual sales of $250,000 or less, and

"(II) small businesses with annual sales of more than $250,000.

"(ii) SMALL FARM LOANS.—The institution's total number and aggregate dollar amount of agricultural production loans and farmland mortgage loans outstanding to small farms whose principal place of business is located with such State; itemized separately for—

"(I) agricultural production loans; and

"(II) farmland mortgage loans.

"(G) SMALL BUSINESS LOANS BY METROPOLITAN AREA.—The small business loans required by subparagraph (F)(i) shall be further itemized (according to the principal place of business of the small business borrowers) separately for—

"(i) each metropolitan area of the State,

"(ii) the low and moderate income portion of each such metropolitan area, and

"(iii) the minority portion (if any) of each such metropolitan area.

"(H) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—The Federal banking agencies may require insured depository institutions to report additional information beyond the requirements of this paragraph for the purposes of monitoring the insured condition of the depository institutions engaged in interstate branching and monitoring the volume of credit provided at the State and local community level by institutions engaged in interstate banking through either separate insured institution subsidiaries or interstate branching, and for implementing Federal antitrust laws.

"(I) ADJUSTMENT OF LOAN CATEGORIES.—The Federal banking agencies may adjust the loan category definitions prescribed by this paragraph to reflect changes in loan category definitions or classifications generally employed in the reports of financial condition required by this subsection, except any such adjustments must be consistent with the purposes of this paragraph.

"(J) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'small business' means an enterprise with annual sales of $20,000,000 or less;

"(ii) the term 'small farm' means a farm business with annual sales of $500,000 or less;

"(iii) the term 'commercial loan' means a loan that is reportable as a commercial and industrial loan;

"(iv) the term 'agricultural production loan' means a loan that is reportable as a loan to finance agricultural production and other loans to farmers;

"(v) the term 'farmland mortgage loan' means a loan that is reportable as a real estate loan secured by farmland;

"(vi) the term 'metropolitan area' means a primary metropolitan statistical area, or consolidated metropolitan area, or consolidated metropolitan statistical area, as defined by the Secretary of Commerce;

"(vii) the term 'commercial mortgage loan' means a loan that is reportable as a real estate loan secured by nonfarm residential properties;

"(viii) the term 'construction loan' means a loan that is reportable as a real estate loan secured by construction and land development;

"(ix) the term 'consumer loan' means a loan that is reportable as a loan to individuals for household, family, and other personal purposes;

"(x) the term 'non-metropolitan portion' means the portion of a State that lies outside the metropolitan areas;

"(xi) the term 'low and moderate income area' means census tracts, as defined by the Secretary of Commerce, whose median family income is less than or equal to 80 percent of the median family income of the metro area in which they are located;

"(xii) the term 'minority area' means all census tracts as defined by the Secretary of Commerce in which minority persons compromise 75 percent or more of the resident population;

"(xiii) the term 'home State' means with respect to an insured depository institution that is a subsidiary of a holding company, the State in which the insured institution's deposit balances are principally located; and

"(xiv) the term 'reportable' refers to the reporting classifications employed in the reports of financial condition submitted pursuant to this subsection.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 37 (as added by section 121 of this title) the following new section:

"SEC. 38. PROMPT REGULATORY ACTION.

"(a) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(1) IN GENERAL.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall establish a prompt regulatory action system which meets the requirements of this section, including the establishment of any standards, minimum capital requirements, deadlines for the submission and review of plans, and other classifications required to implement this section.

"(2) DOCUMENTATION OF DETERMINATION.—In complying with this section, the agency and the Corporation shall document in writing the facts and assumptions and any other conclusion underlying any determination to take any specific action and any determination not to take any other action authorized under this section.

"(3) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency and the Corporation (with respect to regulations required to be prescribed under this section by the Corporation other than as an appropriate Federal banking agency) shall, after notice and opportunity for comment, prescribe final regulations under paragraph (1) not later than 180 days after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 and such regulations shall take effect not later than 270 days after such date of enactment.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CAPITAL DISTRIBUTION.—The term 'capital distribution' means any of the following:

"(A) A dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of any insured depository institution, except a dividend consisting only of shares of the institution or any amount paid on the deposits of a mutual savings bank or a mutual savings association that is determined by the appropriate Federal banking agency not to constitute a dividend.

"(B) A payment made by an insured depository institution to repurchase, redeem, retire, or otherwise acquire any of the institution's shares, including any extension of credit made to finance an affiliate's acquisition of such shares.

"(C) A transaction that the appropriate Federal banking agency or the Corporation determines by order or regulation to be in substance the distribution of capital.

"(2) COMPENSATION.—The term 'compensation' means any payment of money or provision of any other thing of current or potential value in connection with employment.

"(3) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' means a ratio of tier 1 capital to total assets of 2 percent.

"(4) EXECUTIVE OFFICER.—The term 'executive officer' shall have the same meaning as provided in section 22(h) of the Federal Reserve Act.

"(5) LEVEL 1 DEPOSITORY INSTITUTION.—The term 'level 1 depository institution' means any insured depository institution which—

"(A) maintains a risk-based capital ratio that is significantly in excess of the required minimum ratio;

"(B) maintains tier 1 capital that is significantly in excess of the minimum requirements for tier 1 capital; and

"(C) maintains capital that meets or exceeds the required minimum ratio for each other relevant capital measure.

"(6) LEVEL 2 DEPOSITORY INSTITUTION.—The term 'level 2 depository institution' means any insured depository which—

"(A) maintains capital in an amount that meets or exceeds the required minimum ratio for each relevant capital measure; and

"(B) is not a level 1 depository institution.

"(7) LEVEL 3 DEPOSITORY INSTITUTION.—The term 'level 3 depository institution' means any insured depository institution which—

"(A) is not in compliance with all currently applicable capital standards; and

"(B) is not a level 4 or level 5 depository institution.

"(8) LEVEL 4 DEPOSITORY INSTITUTION.—The term 'level 4 depository institution' means any insured depository institution which maintains capital in an amount which—

"(A) is significantly less than the required minimum ratio for any relevant capital measure; and

"(B) exceeds the critical capital level.

"(9) LEVEL 5 DEPOSITORY INSTITUTION.—The term 'level 5 depository institution' means any insured depository institution which maintains capital in an amount which is less than or equal to the critical capital level.

"(10) LEVERAGE LIMIT.—The term 'leverage limit' means the leverage limit established by the appropriate Federal banking agency.

"(11) OTHER DEFINITIONS RELATING TO CAPITAL MEASURES.—The terms 'total assets', 'tier 1 capital', and 'tier 2 capital' have the meanings given to such terms by the appropriate Federal banking agencies.

"(12) REQUIRED MINIMUM RATIO.—The 'required minimum ratio' means the minimum acceptable capital level adopted by the appropriate Federal banking agency by regulation or guideline with respect to each relevant capital measure.

"(13) RISK-BASED CAPITAL RATIO.—The term 'risk-based capital ratio' means the risk-based capital standard established by the appropriate Federal banking agency.

"(14) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of depositors or general creditors.

"(15) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any level 3, level 4, or level 5 depository institution.

"(c) CAPITAL MEASURES AND RECLASSIFICATIONS OF LEVELS.—

"(1) CAPITAL AND LEVERAGE LIMIT REQUIREMENTS.—

"(A) IN GENERAL.—Any capital measure prescribed by any appropriate Federal banking agency for purposes of this section shall include at a minimum—

"(i) a tier 1 capital to assets ratio;

"(ii) a risk-based capital ratio; and

"(iii) a leverage limit.

"(B) INTEREST RATE AND OTHER MARKET RISKS.—In establishing any risk-based capital standard for purposes of this section, the appropriate Federal banking agencies shall take into account interest rate risk and other market risks.

"(2) MINIMUM CAPITAL RATIOS FOR INSTITUTIONS IN EACH LEVEL.—Consistent with the purposes of this section, each appropriate Federal banking agency shall establish, by regulation, the applicable minimum capital ratios for each relevant capital measure for the insured depository institutions in each level of depository institutions defined in subsection (a).

"(3) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation or guideline, establish any additional relevant capital measure consistent with the purposes of this section.

"(4) CONSULTATION.—In prescribing any regulation under paragraph (2), each appropriate Federal banking agency shall consult with the Corporation.

"(5) RECLASSIFICATION OF UNSAFE OR UNSOUND INSTITUTIONS.—If the appropriate Federal banking agency or the Corporation determines that any insured depository institution is in an unsafe and unsound condition or is operating in a manner which poses a risk to any deposit insurance fund, the agency or the Corporation shall reclassify such institution as a depository institution of an appropriate level for purposes of this section.

"(d) STANDARDS FOR SAFETY AND SOUNDNESS.—

"(1) OPERATIONAL AND MANAGERIAL STANDARDS.—The appropriate Federal banking agencies, in consultation with the Credit Standards Advisory Committee, shall establish operational and managerial standards for all insured depository institutions and depository institution holding companies, including standards relating to the following subjects:

"(A) Internal controls, information systems, and internal audit systems in accordance with section 36.

"(B) Loan documentation requirements.

"(C) Underwriting standards.

"(D) Interest rate exposure.

"(E) Asset growth.

"(2) ASSET AND EARNINGS STANDARDS.—The appropriate Federal banking agencies shall establish standards governing the asset quality and earnings of any insured depository institution or depository institution holding company which shall include—

"(A) a maximum classified loans to capital ratio; and

"(B) an earnings standard for such institutions and companies which require such institutions and companies to maintain earnings sufficient to absorb losses of the institution or company without impairing the capital of the institution or holding company.

"(3) REQUIRED ACTION FOR FAILURE TO COMPLY WITH STANDARDS.—

"(A) CORRECTIVE ACTION PLAN.—In addition to any other action which the appropriate Federal banking agency may take, the agency shall require any insured depository institution or depository institution holding company which fails to meet any standard established pursuant to paragraph (1) or (2) to submit a corrective action plan for correcting any deficiency of the institution or company with respect to such standard to the agency not later than 30 days after the institution is notified by the agency of such failure.

"(B) FAILURE TO COMPLY.—If any insured depository institution or depository institution holding company fails to submit a corrective action plan which meets the appropriate Federal banking agency's approval or fails to comply with the corrective action plan, the agency shall issue an order requiring such corrective action and impose such restrictions as the agency determines to be appropriate.

"(C) RESTRICTIONS WHICH MAY BE INCLUDED IN ORDER.—Any order issued under subparagraph (B) to any insured depository institution or depository institution holding company may include the following restrictions:

"(i) RESTRICTING ASSET GROWTH.—Subject to subparagraph (E), prohibiting any increase in total assets of the institution.

"(ii) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(iii) REQUIRING AN INCREASE IN CAPITAL.—Requiring the institution or company to increase the amount of capital of the institution or company.

"(D) ORDER REQUIRED FOR CERTAIN INSTITUTIONS.—The appropriate Federal banking agency shall issue an order under subparagraph (B) imposing at least 1 of the restrictions described in subparagraph (C) on an insured depository institution if—

"(i) the insured depository institution fails to meet any operational or managerial standard established pursuant to paragraph (1) or asset or earnings standard established pursuant to paragraph (2); and

"(ii) the institution—

"(I) has been chartered as a depository institution for less than 2 years;

"(II) has undergone a change in control within the 2 years preceding the date on which the institution first failed to meet a standard described in clause (i); or

"(III) has experienced extraordinary growth (as defined by the agency) during the 18-month period ending on the date on which the institution first failed to meet a standard described in clause (i).

"(E) LIMITED GROWTH EXCEPTION.—Any order issued by any appropriate Federal banking agency under subparagraph (B) which prohibits any increase in the total assets of any insured depository institution in accordance with subparagraph (C)(i) may permit the institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(4) PROCEDURES.—Each appropriate Federal banking agency shall establish requirements and procedures for the preparation and submission of corrective action plans under paragraph (3) to the agency and shall require the agency to review and to approve or disapprove such plan before the end of the 60-day period beginning on the date such plan is received.

"(e) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(1) IN GENERAL.—An insured depository institution shall make no capital distribution if the institution would not meet all currently applicable capital standards after making the distribution.

"(2) EXCEPTION.—Notwithstanding paragraph (1), any appropriate Federal banking agency, after consultation with the Corporation, may approve a capital distribution by any insured depository institution which would, but for this subparagraph, be prohibited under paragraph (1), if the agency makes a prior written determination that the distribution will enhance the ability of the institution to satisfy capital standards and the institution submits a capital restoration plan in accordance with subsection (f)(1) which is approved by the agency.

"(f) PROVISIONS APPLICABLE TO UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(1) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized depository institution shall submit a capital restoration plan to the appropriate Federal banking agency before the end of the period prescribed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify how the insured depository institution will satisfy all applicable capital standards, without increasing the risk (including credit risk, interest rate risk, and other types of risk) to which the institution is exposed;

"(ii) specify the types and levels of activities in which the institution will engage; and

"(iii) contain such other information as the appropriate Federal banking agency may require.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—Each appropriate Federal banking agency shall establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution is first classified as an undercapitalized depository institution;

"(ii) require the agency to approve or disapprove any capital restoration plan expeditiously and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(2) ASSET GROWTH RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the appropriate Federal banking agency shall prohibit any asset growth by any undercapitalized depository institution.

VOL 137 PT 23 NO 21—25 1991 UMI

"(B) LIMITED GROWTH EXCEPTION.—The appropriate Federal banking agency may permit an undercapitalized depository institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(3) CAPITAL PLAN GUARANTEE.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall not approve a capital restoration plan under this subsection unless each company having control of the insured depository institution guarantees in writing the institution's compliance with the plan until the institution has satisfied all applicable capital standards for each of 12 consecutive months, and provides appropriate written assurances of continued performance.

"(B) AGGREGATE LIABILITY.—The aggregate amount of liability for any company under subparagraph (A) with respect to any insured depository institution shall not exceed the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(C) NO EFFECT ON SECURITIES EXCHANGE ACT REQUIREMENTS.—Nothing in this section shall be interpreted to supersede, or in any way limit or condition compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and the rules, regulations, and orders thereunder.

"(4) EXAMINATION RATINGS TAKEN INTO ACCOUNT.—In reviewing any capital restoration plan submitted under this section with respect to any insured depository institution, the appropriate Federal banking agency may take into account the CAMEL ratings of such institution under the Uniform Financial Institutions Rating System (or any equivalent rating under a comparable system).

"(g) PROVISIONS APPLICABLE TO LEVEL 4 AND LEVEL 5 DEPOSITORY INSTITUTIONS AND INSTITUTIONS THAT FAIL TO SUBMIT OR IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) SCOPE OF APPLICATION.—This subsection shall apply to—

"(A) any level 4 or level 5 depository institution; and

"(B) any undercapitalized depository institution which—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (f)(1)(C); or

"(ii) fails in any material respect to implement a capital restoration plan approved by the agency.

"(2) AGENCY ACTIONS REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall carry out the purpose of this section by issuing an order which imposes 1 or more of the actions described in paragraph (3) with respect to any institution described in paragraph (1).

"(B) SUBSECTION (h) ACTIONS AUTHORIZED.—In addition to actions described in paragraph (3), any appropriate Federal banking agency may issue an order which imposes, with respect to any institution described in paragraph (1), any restriction applicable under subsection (h) to any level 5 depository institution.

"(3) SPECIFIC ACTIONS AUTHORIZED.—The actions described in this paragraph with respect to any insured depository institution described in paragraph (1) are the following:

"(A) REQUIRING SALE OF SHARES OR OBLIGATIONS.—

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will satisfy capital standards after the sale.

"(ii) Requiring that instruments sold under clause (i) be voting shares.

"(B) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(C) PROHIBITING PAYMENT OF BONUSES TO EXECUTIVE OFFICERS.—Prohibiting the payment of any bonus to any executive officer.

"(D) PROHIBITING PAYMENT OF EXCESSIVE COMPENSATION TO EXECUTIVE OFFICERS.—Prohibiting the payment of compensation to any executive officer at a rate exceeding that officer's average rate of compensation during the 12 calendar months preceding the calendar month in which the institution ceased to comply with capital standards.

"(E) REQUIRING FDIC APPROVAL FOR NEW BRANCHES.—Requiring the institution to obtain the approval of the Corporation before establishing or acquiring any new branch.

"(F) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(G) RESTRICTING OTHER ACTIVITIES.—Prohibiting any other activity of the institution which the agency finds is detrimental, or is likely to be detrimental, to the institution's financial condition.

"(H) REQUIRING A NEW ELECTION OF DIRECTORS.—Requiring a new election for the institution's board of directors or any member of the board of directors.

"(h) ADDITIONAL PROVISIONS APPLICABLE TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) LIMITATIONS ON PAYMENTS ON SUBORDINATED DEBT.—

"(A) IN GENERAL.—An insured depository institution shall make no payment of principal or interest on the institution's subordinated debt unless, after making the payment, the institution would have capital in an amount which is equal to or greater than the critical capital level applicable with respect to such institution.

"(B) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until January 1, 1996, subparagraph (A) shall not apply with respect to any subordinated debt that is—

"(i) outstanding on January 1, 1991; and

"(ii) not extended or otherwise renegotiated after such date.

"(2) CONSERVATORSHIP OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date the capital of any insured depository institution ceases to equal or exceed the critical capital level specified under subsection (b)(3), the appropriate Federal banking agency shall, notwithstanding any provision of any State law, appoint a conservator or receiver for the institution under this Act or any other applicable Federal law.

"(B) OTHER ACTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any institution described in such subparagraph, the appropriate Federal banking agency shall take any other action described in subsection (g)(3) which the agency determines to be appropriate in lieu of such appointment if the agency—

"(i) determines in writing, with the written concurrence of the Corporation, that such action would better achieve the purposes of this section; and

"(ii) documents that such action would protect the appropriate deposit insurance fund more than the immediate appointment of a conservator or receiver for such institution.

"(C) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by any appropriate Federal banking agency under subparagraph (B) to take any action with respect to an insured depository institution in lieu of the appointment of a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date such determination is made and a conservator or receiver shall be appointed for such institution pursuant to subparagraph (A) unless the agency makes a new determination under subparagraph (B) at the end of the effective period of the prior determination.

"(D) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—In the case of any institution referred to in subparagraph (A) for which a receiver has not been appointed and notwithstanding any provision of the law of any State, the appropriate Federal banking agency shall appoint a receiver for such institution as follows:

"(i) If the capital of such institution does not exceed the critical capital level at the end of the 6-month period beginning on the date action is first taken by the agency under subparagraph (A) or (B), a receiver shall be appointed at the end of such period.

"(ii) If the capital of such institution exceeds the critical capital level at the end of the 6-month period but fails to exceed such level at the end of any of the 3 months immediately following the end of that period, a receiver shall be appointed.

"(E) ACQUISITION BY ANOTHER INSURED DEPOSITORY INSTITUTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any insured depository institution described in such subparagraph and subject to section 13, the appropriate Federal banking agency may require the insured depository institution to be acquired (as defined in section 13(f)(8)(B)) by another insured depository institution which offers to acquire such institution if the agency determines, with the written concurrence of the Corporation, that such acquisition would resolve the capital problems of the institution in a manner that is least costly to the affected deposit insurance fund and the taxpayer.

"(F) TREATMENT OF PROFITABLE INSTITUTIONS.—Notwithstanding the provisions of subparagraph (D), the appropriate Federal banking agency may continue to take such other action which the agency determines to be appropriate in lieu of such appointment if—

"(i) the agency determines, with the concurrence of the Corporation, that—

"(I) the insured depository institution has positive net worth;

"(II) the insured depository institution has been in substantial compliance with an approved capital restoration plan which requires consistent improvement in the institution's capital position since the date of the approval of such plan;

"(III) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable; and

"(IV) the insured depository institution is reducing the ratio of nonperforming loans to total loans; and

"(ii) the head of the appropriate Federal banking agency and the Chairperson of the Board of Directors both certify that the institution is viable and not expected to fail.

"(i) RESTRICTING ACTIVITIES OF LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In addition to any other action authorized or required under this section, the Corporation shall, by regulation or order, restrict the activities of any level 5 depository institution.

"(2) MINIMUM RESTRICTIONS.—Regulations and orders prescribed or issued by the Corporation under paragraph (1) with respect to any institution described in such paragraph shall prohibit, at a minimum, the following activities by any such institution without the Corporation's prior written approval:

"(A) Any material transaction other than in the usual course of business, including any investment, expansion, acquisition, or other similar action with respect to which the institution is required to provide notice to the appropriate Federal banking agency.

"(B) Any highly leveraged transaction.

"(C) Any amendment to any charter or bylaws other than to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Any material change in accounting methods.

"(E) Any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Payment of excessive compensation or bonuses.

"(G) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds.

"(H) Any other limitation on activities which will carry out the purposes of this section.

"(3) TERMINATION OF AFFILIATIONS.—The appropriate Federal banking agency or the Corporation may require any level 5 depository institution or any depository institution holding company which controls such institution to terminate any affiliation with any affiliate of such institution (other than an affiliate which is an insured depository institution) if the agency or the Corporation determines that the affiliate—

"(A) is in danger of default;

"(B) poses a significant risk to the liquidity or solvency of the insured depository institution or any insured depository institution subsidiary of such company; or

"(C) is likely to cause a significant dissipation of such institution's or subsidiary's assets or earnings.

"(4) CONSULTATION WITH FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (3) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commission and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(j) REVIEW REQUIRED IF INSURANCE FUND INCURS LOSS.—

"(1) IN GENERAL.—If any insurance fund or the Resolution Trust Corporation incurs a loss with respect to an insured depository institution on or after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Inspector General of the Corporation shall—

"(A) review the regulatory supervision of the institution (including the implementation of this section) to ascertain why there was a loss to the fund;

"(B) transmit a written report to the appropriate Federal banking agency, the Corporation, and, in the case of a State depository institution, the appropriate State bank supervisor on the results of the review under subparagraph (A), including recommendations for preventing any such loss in the future; and

"(C) provide a copy of the report to—

"(i) the Comptroller General of the United States; and

"(ii) the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) LOSS INCURRED.—For purposes of this subsection, any insurance fund incurs a loss with respect to an insured depository institution—

"(A) if the Corporation provides any assistance under section 13(c) with respect to that institution; or

"(B) if the Corporation is appointed receiver for the institution.

"(3) DEADLINE FOR REPORT.—The Inspector General of the Corporation shall comply with paragraph (1) expeditiously, and in any event as follows:

"(A) If the institution is described in paragraph (2)(A), before the end of the 18-month period beginning when the assistance is provided unless the assistance is fully repaid before the end of that period.

"(B) If the institution is described in paragraph (2)(B), before the end of the 12-month period beginning on the date the receiver is appointed for the institution.

"(4) PUBLIC DISCLOSURE REQUIRED.—The Corporation shall disclose any report under paragraph (1)(B) upon request under section 552 of title 5, United States Code, without excising—

"(A) any portion of the report under section 552(b)(5); or

"(B) any information about the insured depository institution under paragraph (4) or (8) of section 552(b).

"(5) GAO REVIEW.—The Comptroller General of the United States shall annually—

"(A) review reports made under paragraph (1)(B) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) audit 1 or more of those reports.

"(6) APPLICABILITY.—This subsection shall not apply with respect to any assistance provided under section 13(c), or the appointment of any receiver, before the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(k) NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e), (f), (g), (h), and (i) shall not apply before July 1, 1994, with respect to any insured savings association if—

"(1) before the end of the 30-day period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the savings association has submitted a plan meeting the requirements of section 5(t)(6) of the Home Owners' Loan Act;

"(2) the Director of the Office of Thrift Supervision approves or does not disapprove that plan;

"(3) the plan remains in effect; and

"(4) the savings association remains in compliance with the plan.".

(b) CONSERVATORSHIP AND RECEIVERSHIP AUTHORITY.—

(1) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR STATE BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of any undercapitalized depository institution (as defined in section 38(b))—

"(i) failure to submit a capital restoration plan acceptable to the appropriate Federal banking agency within the time prescribed under section 38(f)(1)(C); or

"(ii) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(2) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR FOR NATIONAL BANKS.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(9) in the case of a bank not in compliance with all currently applicable capital standards, the bank fails—

"(A) to submit a capital restoration plan acceptable to the Comptroller of the Currency within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

"(B) to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(3) ADDITIONAL GROUNDS FOR APPOINTING RECEIVER FOR NATIONAL BANKS.—The Comptroller of the Currency may appoint a receiver for any national bank which is not in compliance with all currently applicable capital standards if the bank—

(A) fails to submit a capital restoration plan acceptable to the Comptroller within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

(B) fails to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C) of the Federal Deposit Insurance Act.

(4) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR FEDERAL SAVINGS ASSOCIATIONS.—Section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) is amended—

(A) by striking "or" at the end of clause (vii);

(B) by striking the period at the end of clause (viii) and inserting a semicolon; and

(C) by adding at the end the following new clause:

"(ix) with respect to an association not in compliance with all currently applicable capital standards prescribed by the Director—

"(I) failure to submit a capital restoration plan acceptable to the Director within the time prescribed under section 38(f)(1)(C); or

"(II) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

SEC. 132. APPOINTMENT OF CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 11(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(4)) is amended to read as follows:

"(4) APPOINTMENT OF THE CORPORATION BY THE CORPORATION.—

"(A) IN GENERAL.—Except as otherwise provided in section 21A of the Federal Home Loan Bank Act and notwithstanding any other provision of Federal law or the law or the constitution of any State, the Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State bank supervisor (if any), if the Board of Directors determines that—

"(i) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the affected deposit insurance fund would incur a loss with respect to the insured depository institution, or

VOL 137 PT 23 NO 21–25 1991 UMI

"(II) any loss that the affected deposit insurance fund is expected to incur with respect to that institution.

"(B) NONDELEGATION.—The Board of Directors shall not delegate any action under this paragraph.".

(b) AMENDMENT RELATING TO APPLICABLE GROUND.—Section 11(c)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)(B)) is amended to read as follows:

"(B) A finding by the Corporation that—

"(i) a conservator, receiver, or other legal custodian has been appointed for the institution;

"(ii) the institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 days; and

"(iii) 1 or more of the depositors in the institution is unable to withdraw any amount of any insured deposit.".

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), (9) and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the affected deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the affected deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the affected deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

(B) by adding at the end the following new subparagraph:

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. LIMITATION ON USE OF LIQUIDITY LENDING FOR DEPOSIT INSURANCE FUND PURPOSES.

(a) REDESIGNATION OF SECTION 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act is amended by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATION ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as so redesignated by subsection (a) of this section) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following new subsection:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is a viable depository institution; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is a viable depository institution,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as a level 5 depository institution under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED COSTS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any level 5 depository institution (as defined in section 38 of the Federal Deposit Insurance Act)—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a level 5 depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of such 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs costs in excess of the cost of liquidating such institution as of the end of such period,

the excess cost shall be an obligation of the Board to the affected deposit insurance fund, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS COST.—The liability of the Board under subparagraph (A) for the amount of any excess cost described in such subparagraph shall not exceed the amount of the loss the Board or any Federal Reserve bank would have realized on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) as if such increased advances had not been secured.

"(C) SEMIANNUAL ASSESSMENTS ON FEDERAL RESERVE BANKS TO PAY OBLIGATION.—The amount of any liability of the Board to the Federal Deposit Insurance Corporation shall be paid by the Board from the proceeds of semiannual assessments which the Board may impose on the net earnings of the Federal Reserve banks.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) PERMISSIBLE ADVANCES TO AVOID SYSTEMIC RISK.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, any Federal Reserve bank may make advances to an undercapitalized depository institution under this section if the Secretary of the Treasury determines in writing, upon the recommendation of the Board, that the advances are necessary to prevent a severe adverse effect on a regional or the national economy.

"(B) LIABILITY FOR INCREASED COST.—To the extent that any advance pursuant to a determination of the Secretary of the Treasury under subparagraph (A) to any depository institution causes any deposit insurance fund in the Federal Deposit Insurance Corporation to incur costs in excess of the cost of liquidating such institution as of the first day of such advance, such excess cost shall be an obligation of the United States.

"(C) NOTICE.—The Secretary of the Treasury shall provide a written notice of each determination under subparagraph (A) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and each notice shall contain a description of the basis for the determination.

"(6) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate federal banking agency' has the meaning given such term in section 3(q) of the Federal Deposit Insurance Act.

"(B) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' has the same meaning given to such term in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the meaning given to such term in section 19(b)(1)(A).

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is not in compliance with all currently applicable capital standards; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE DEPOSITORY INSTITUTION.—The term 'viable depository institution' means any depository institution which the appropriate Federal banking agency or the Board determines, giving due regard to the economic conditions and circumstances in the marketplace in which the institution operates, has capital in excess of the critical capital level and is not expected to fall below the critical capital level or be placed in conservatorship or receivership.".

(c) CONFORMING AMENDMENT.—Section 11 of the Federal Reserve Act is amended by adding the following new subsection:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 143. NO ASSISTANCE TO TROUBLED INSTITUTION WITHOUT REMOVING MANAGEMENT AND REPUDIATING SHAREHOLDERS CLAIMS.

Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by inserting after paragraph (11) (as so redesignated by section 141(e) of this title) the following new paragraph:

"(12) ACTIONS REQUIRED IF ASSISTANCE IS PROVIDED.—

"(A) IN GENERAL.—Upon providing any assistance under this subsection to or on behalf of any insured depository institution and in addition to any other action or condition the Corporation may take or impose, the Corporation shall—

"(i) remove the board of directors of such institution; and

"(ii) treat the claim of any shareholder against the institution with respect to any share or other capital investment of such shareholder in the institution as if such institution had been closed.

"(B) PREEMPTION OF STATE LAW.—The requirements of this paragraph, and the duty of

VOL
137
PT
23
NO
21
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25
1991
UMI

the Corporation to carry out such requirements, shall preempt any right of any shareholder in any insured depository institution under the law of any State.

"(C) WAIVER AUTHORITY.—

"(i) IN GENERAL.—The Corporation may waive the requirements of subparagraph (A)(i) for any person upon a written finding that—

"(I) such waiver would lessen the risk to the Corporation posed by the insured depository institution provided assistance; or

"(II) such person complied with the applicable laws, rules, supervisory directives, and orders, and did not engage in any insider dealing, speculative practice, or other abusive activity while serving on the board of directors or any other management position in the institution.

"(ii) AUTHORITY LIMITED TO BOARD OF DIRECTORS.—The authority to waive the requirements of subparagraph (A)(i) may not be delegated by the Board of Directors.

"(iii) PUBLICATION OF WAIVER.—The Board of Directors shall publish a notice in the Federal Register of any waiver granted under this subparagraph and any amendment made by the Board to any such waiver.".

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Uniform Depositor Protection Act of 1991".

SEC. 152. FEDERAL DEPOSIT INSURANCE REQUIRED FOR STATE CHARTERED BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) IN GENERAL.—After the end of the 2-year period beginning on the date of the enactment of this Act, no State depository institution or State credit union may accept deposits unless such depository institution or credit union is an insured depository institution or an insured credit union, as the case may be.

(b) DEFINITIONS.—For purposes of this section—

(1) STATE DEPOSITORY INSTITUTION.—The term "State depository institution" has the meaning given to such term by section 3(c)(5) of the Federal Deposit Insurance Act.

(2) STATE CREDIT UNION.—The term "State credit union"—

(A) has the meaning given to such term by section 101(6) of the Federal Credit Union Act; and

(B) includes—

(i) any corporate credit union; and

(ii) any member of the Central Liquidity Facility (as such terms are defined in section 302 of the Federal Credit Union Act).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term by section 3(c)(2) of the Federal Deposit Insurance Act.

(4) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given to such term by section 101(7) of the Federal Credit Union Act.

Subtitle G—Technical Corrections

SEC. 161. TECHNICAL CORRECTIONS AND CLARIFICATIONS.

(a) SECTION 11 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(3)(A), by striking "(4)(A)" and inserting "(4)";

(2) in subsection (d)(11)(B), by striking "(14)(C)" and inserting "(15)(B)";

(3) in subsection (e)(3)(C)(ii), by striking "subsection (k)" and inserting "subsection (i)";

(4) in subsection (e)(4)(B)(iii), by striking "subsection (k)" and inserting "subsection (i)";

(5) in subparagraphs (A) and (E) of subsection (e)(8), by striking "subsections (d)(9) and (i)(4)(I)" and inserting "subsection (d)(9)";

(6) in subsection (n)(9), by striking "(13)" and inserting "(12)"; and

(7) in subsection (n)(11)(D), by striking "(8)" and inserting "(9)".

(b) CLARIFICATION OF FDIC POWERS IN FSLIC RESOLUTION FUND CONSERVATORSHIPS AND RECEIVERSHIPS.—Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)) is amended by adding at the end the following new paragraphs:

"(4) RIGHTS, POWERS, AND DUTIES.—Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation's duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this Act.

"(5) CORPORATION AS CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Effective August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any depository institution—

"(i) the accounts of which were insured before August 10, 1989 by the Federal Savings and Loan Insurance Corporation; and

"(ii) for which a conservator or receiver was appointed before January 1, 1989.

"(B) RIGHTS, POWERS, AND DUTIES.—When acting as conservator or receiver with respect to any depository institution described in subparagraph (A), the Corporation shall have all rights, powers, and duties that the Corporation otherwise has as conservator or receiver under this Act.".

(c) CLERICAL AMENDMENT TO SUBSECTION HEADING.—The heading for section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by striking "HOLDING COMPANIES" and inserting "AFFILIATES OF DEPOSITORY INSTITUTIONS".

(d) FDIC REMOVAL PERIOD MADE CONSISTENT WITH RTC PERIOD.—Section 9(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(2)(B)) is amended by inserting "before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party" before the period.

(e) CLARIFICATION OF FDIC AUTHORITY TO PAY DE MINIMUS CLAIMS.—The 2d sentence of section 11(i)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)(A)) is amended by striking "The" and inserting "Notwithstanding any other provision of Federal or State law, or the constitution of any State, the".

(f) CLERICAL AMENDMENT TO SECTION HEADING.—

(1) The heading for section 219 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation".

(2) The table of contents for the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation" in the item relating to section 219.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the foreign bank engages directly in the business of banking outside the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country;

"(B) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(C) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(D) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(E) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(3) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(B) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

"(2) DISCRETION TO DENY HEARING.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO AGENCY FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) ENFORCEMENT OF ORDERS.—

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(f) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) SCOPE OF JUDICIAL REVIEW.—Section 706 of title 5, United States Code, (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) CONSULTATION WITH STATE BANK SUPERVISOR.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) INITIAL FEDERAL BRANCH OR AGENCY.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(3) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

(3) by adding at the end the following new paragraph:

"(2) NOTICE TO AND COMMENT BY BOARD.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) FACTORS FOR CONSIDERATION BY BOARD.—

"(1) COMPETITIVE FACTORS.—The Board shall";

(3) by striking "In every case" and inserting "(2) BANKING AND COMMUNITY FACTORS.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) TREATMENT OF CERTAIN BANK STOCK LOANS.— Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting " 'affiliate,' " after "the terms" the 1st place such term appears.

(2) DEFINITIONS.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES, AND AFFILIATES.—

"(A) IN GENERAL.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) COORDINATION OF EXAMINATIONS.—

"(i) IN GENERAL.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) SIMULTANEOUS EXAMINATIONS.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination.

"(D) COST OF EXAMINATIONS.—The cost of any examination under subparagraph (A) shall be assessed against and collected from the foreign bank or the foreign company that controls the foreign bank, as the case may be."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—

(1) IN GENERAL.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a for-

VOL
137
PT
23
NO
21
—
25
1991
UMI

eign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under

this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

(2) by adding at the end the following new paragraphs:

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

Subtitle B—Customer and Consumer Provisions

SEC. 221. PAPERWORK REDUCTION AND IMPROVEMENTS IN ADMINISTRATION OF COMMUNITY REINVESTMENT ACT OF 1977.

(a) REPORT TO CONGRESS.—

(1) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of this Act, each appropriate Federal banking agency shall submit to the Banking, Finance and Urban Affairs Committee of the House of Representatives and the Banking, Housing, and Urban Affairs Committee of the Senate a report containing the following:

(A) Identification of the documentation deemed by each agency to be necessary to properly carry out examinations under the Community Reinvestment Act of 1977.

(B) Recommendations for steps to reduce paperwork required of insured depository institutions in connection with examinations for compliance with the Community Reinvestment Act of 1977.

(C) Recommendations for improvements in the administration and enforcement of the Community Reinvestment Act of 1977.

(2) CONSIDERATIONS.—

(A) ASSET SIZE.—In preparing the recommendations for the report under paragraph (1), the appropriate Federal banking agency shall take into consideration the asset size of insured depository institutions and the administrative resources available to such institutions in developing recommendations for reduction of paperwork.

(B) CONSISTENCY OF RECOMMENDATION WITH PURPOSES OF THE ACT.—The recommendations for reduced paperwork contained in the report under paragraph (1) shall be consistent with the purposes of the Community Reinvestment Act of 1977 and the responsibility of the appropriate Federal banking agency to properly evaluate each insured depository institution performance under the Act.

(b) GAO STUDY AND RECOMMENDATIONS FOR IMPROVEMENTS AND COST SAVINGS.—

(1) REQUIRED.—The Comptroller General of the United States shall conduct a study of the examination processes used by the appropriate Federal banking agencies to evaluate the compliance with the Community Reinvestment Act of 1977.

(2) FACTORS TO BE CONSIDERED.—The study conducted under paragraph (1) shall include the following analyses:

(A) An analysis of the documentation required of insured depository institutions by each appropriate Federal banking agency in carrying out such examinations referred to in paragraph (1).

(B) An analysis of to what extent, if any, such documentation may vary according to the asset size of insured depository institutions.

(C) An analysis of the cost of such documentation based on a representative sample of various insured depository institutions by asset size.

(D) An analysis of the effect of such documentation on the costs to the agency in carrying out an examination under section 804 of the Community Reinvestment Act of 1977.

(E) An analysis of the number of—

(i) applications which have been filed by insured depository institutions which are subject to evaluation under provisions of the Community Reinvestment Act of 1977;

(ii) such applications which have been subject to formal protests;

(iii) such protests which have been granted public hearings by each of the banking agencies; and

(iv) such applications which have been denied on the grounds of unsatisfactory performance under the Community Reinvestment Act of 1977.

(F) An analysis of the time required to process applications subject to evaluation under the Community Reinvestment Act of 1977.

(G) An analysis of the methods utilized by each banking agency in processing protests filed under the Community Reinvestment Act of 1977.

(H) An analysis of the rating systems used by each appropriate Federal banking agency under the Community Reinvestment Act of 1977, together with a detailed description of any inconsistencies between the rating systems used by each such agency and the weight given the ratings in processing and evaluating protests filed under such Act.

(I) An analysis of the factors considered in evaluating the performance of credit card banks and other nontraditional institutions under the Community Reinvestment Act of 1977.

(3) REPORT.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings and conclusions made by the Comptroller General in connection with the study required under paragraph (1).

(4) RECOMMENDATIONS.—The report submitted under paragraph (3) shall contain any recommendations for legislative or administrative action the Comptroller General may determine to be appropriate, including any legislative recommendations relating to—

(A) proposals to make administration and enforcement of the the Community Reinvestment

VOL
137
PT
23
NO
21—25
1991
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Act of 1977 more effective and consistent with the purposes of the Act; and

(B) proposals to reduce costs associated with examinations under, and the enforcement of, such Act.

(c) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 222. ADDITIONAL FACTOR IN ASSESSING MAJORITY-OWNED INSTITUTION'S RECORD OF MEETING COMMUNITY CREDIT NEEDS.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by inserting before the first sentence the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) MAJORITY-OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency shall consider and give credit for capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions that help meet the credit needs of local communities in which such institutions and credit unions are chartered.".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 224. FAIR HOUSING REPORTING.

Effective 1 year after the date of the enactment of this Act, no Federal agency shall require any institution for which the agency is the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of, the Fair Housing Act, other than a form for data collection, analysis, or maintenance prescribed pursuant to the Home Mortgage Disclosure Act.

SEC. 225. REGULATORY BURDEN STUDY.

(a) IN GENERAL.—The Secretary of the Treasury and the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) shall each conduct a review of all laws primarily under their respective jurisdictions and all regulations prescribed by them (except with respect to the Internal Revenue Code of 1986, and all regulations, rules, and orders issued thereunder) with respect to such laws to determine whether such laws and regulations adversely affect the capital position and profitability of insured depository institutions.

(b) ADDITIONAL REVIEW REQUIRED.—The review required by subsection (a) shall include an evaluation to determine whether such laws and regulations impose duplicative paperwork and compliance requirements.

(c) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, and the head of each appropriate Federal banking agency shall each submit a report to the Congress containing—

(1) a description of the laws and regulations that should be revised, simplified, repealed, or rescinded in order to enhance the capitalization and profitability of insured depository institutions without adversely affecting safety and soundness and consumer protection;

(2) to the extent practicable, an analysis of the costs and benefits of such laws and regulations, including those pertaining to corporate applications and filings and other reporting and recordkeeping requirements;

(3) an analysis of the cost impact and effect on safety and soundness of reducing the number of items to be reported on reports of condition of depository institutions with assets of less than $50,000,000; and

(4) an evaluation of the appropriateness of terminating recordkeeping and reporting requirements not directly related to safety and soundness.

SEC. 226. NOTICE OF SAFEGUARD EXCEPTION.

Section 604(f)(2) of the Expedited Funds Availability Act (12 U.S.C. 4003(f)(2)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) After a depository institution has provided notice as required under subparagraphs (A), (B), and (C), no further notice shall be required until the earlier of 1 year after notice has been provided or such other time as the exception for which the notice was provided ceases to apply.".

SEC. 227. PROHIBITION ON DECEPTIVE PRACTICES RELATING TO ELECTRONIC FUND TRANSFERS FROM ACCOUNTS.

(a) IN GENERAL.—Section 907 of the Electronic Fund Transfer Act (15 U.S.C. 1693e) is amended by adding at the end the following new subsection:

"(c) PROHIBITION ON CERTAIN DECEPTIVE PRACTICES INVOLVING PREAUTHORIZED TRANSFERS FROM ACCOUNTS.—

"(1) IN GENERAL.—No preauthorized electronic fund transfer, or any other electronic fund transfer, from any consumer's account may be made on the basis of any endorsement, deposit, transfer, or other form of negotiation of any check by the consumer.

"(2) NO PROVISION OF ANY CHECK MAY CONSTITUTE AUTHORIZATION OF CONSUMER.—No provision contained on any check which is received by a receiving depository institution and is endorsed, deposited, transferred, or otherwise negotiated by any consumer may be treated as constituting the authorization of the consumer to make any preauthorized electronic fund transfer, or any other electronic fund transfer, from the consumer's account.

"(3) REGULATIONS.—The Board shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(4) CHECK DEFINED.—For purposes of this subsection, the term 'check' has the meaning given to such term in section 602(7) of the Expedited Funds Availability Act.

"(5) RECEIVING DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'receiving depository institution' has the meaning given to such term in section 602(20) of the Expedited Funds Availability Act.".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply with respect to any electronic fund transfer on or after the date of the enactment of this Act without regard to the date of the endorsement, deposit, transfer, or other form of negotiation of the check which, but for the enactment of such amendment, would constitute the authorization of the consumer to make any such transfer.

SEC. 228. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 229. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—

"(1) IN GENERAL.—Each insured depository institution shall adopt policies for closings of branches of the institution.

"(2) CONTENTS OF POLICIES.—Policies adopted under this subsection by an insured depository institution may include, among other matters, the following:

"(A) IDENTIFICATION OF CANDIDATES FOR CLOSING.—A requirement that in identifying branches as candidates for closing, consideration shall be given to profitability and growth potential as indicated by, at a minimum—

"(i) deposit level and mix;

"(ii) loan level and mix;

"(iii) trends in deposits and loans;

"(iv) operating income;

"(v) operating expense and size of staff; and

"(vi) transaction volume and mix;

except that in the case of a closure of an automated teller machine, only clauses (v) and (vi) need be considered.

"(B) MARKET EVALUATION.—A requirement that in evaluating whether to close a branch, the institution shall assess the market demographics of, and the availability of competitive financial services to, the immediate market area of the branch, including assessment of—

"(i) economic trends and forecasts for the immediate market area;

"(ii) the overall coverage of the general market area of the branch, including by other branches of the institution;

"(iii) other financial institutions that serve that general market area, including locations of branches of such other institutions; and

"(iv) except in the case of a closing of an automatic teller machine, general deposit and loan trends—

"(I) at other branches of the depository institution, and

"(II) if available, at locations of competitor depository institutions that serve the general market area of the branch.

"(C) ASSESSMENT OF IMPACT.—A requirement that the following measures shall be taken to assess the impact of any decision to close a branch:

"(i) Determination of whether alternative actions could be taken to improve the profitability of the branch to make it viable on a long-term basis.

"(ii) Forecast the resulting—

"(I) account runoff, and

"(II) operating costs savings, including those resulting from reductions in staff and occupancy costs.

"(iii) Consider the impacts, if any, on surrounding neighborhoods and the actions that can be taken to minimize those impacts, including, at a minimum, by evaluation and financial consideration of other service alternatives for the market area of the branch, including—

"(I) other nearby branches, and

"(II) any appropriate changes in facilities where customers' accounts would be moved.

"(D) REVIEW AND APPROVAL.—Requiring the following reviews and approvals for all proposed branch closings:

"(i) Initiation of any such proposal by the appropriate executive officer responsible for the affected community.

"(ii) Review and approval of any recommendation of such an action by—

"(I) a regional executive officer,

"(II) the appropriate branch group manager,

"(III) the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(IV) the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(V) appropriate executive management of the institution, and

"(VI) the Board of Directors of the institution.

"(E) NOTIFICATION TO CUSTOMERS.—Compliance with the following notification procedures for all branch closings:

"(i) Making every effort before the closing to assure that those affected by the closing, including neighborhood and political groups, are given ample and appropriate notice of the proposed closing, including by posting notice of the closing in the branch lobby and at each drive-in and automatic teller machine of the branch at least 30 days before the effective date of the action.

"(ii) Except in the case of a closing of an automatic teller machine, provision of a written notice to all account holders and safe deposit box customers at the branch at least 30 days before the effective date of the action, which includes—

"(I) the effective date of the action,

"(II) the branch to which accounts will be transferred,

"(III) the location of other nearby facilities of the institution, and

"(IV) a telephone number which customers may use to obtain further information about the action.

"(F) DOCUMENTATION.—The following documentation requirements:

"(i) Maintenance of all written analyses and decision approvals related to the closing (including all customer complaints about the closing that are submitted in writing) by the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977, for a period of at least 2 years after the effective date of the closing.

"(ii) Indication in all written analyses related to the closing of whether the neighborhood surrounding the branch is a low- to moderate-income area.

"(iii) Maintenance by the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977 of all customer complaints about the closing that are submitted in writing.

"(3) BRANCH DEFINED.—For purposes of this subsection, the term 'branch' includes an automatic teller machine.".

Subtitle C—Bank Enterprise Act

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122 and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of ½ the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount

VOL
137
PT
23
NO
21
—
25
1991
UMI

taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(C) by adding at the end the following new clause:

"(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

"(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

"(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).".

(c) AVAILABILITY OF FUNDS.—This section shall not take effect until sufficient funds are determined to be available to compensate the Federal Deposit Insurance Corporation for any losses resulting from reduced assessment rates.

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under subsection (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution which meets such requirements, (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "qualified distressed community" means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assessment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under paragraph section 7(d)(1)(B).

(f) AVAILABILITY OF FUNDS.—This section shall not take effect until sufficient funds are determined to be available to compensate the Federal Deposit Insurance Corporation for any losses resulting from the award of community enterprise assessment credits.

(g) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. COMMUNITY DEVELOPMENT ORGANIZATIONS.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in any community development credit union which meets the requirements established by the National Credit Union Administration Board for community development credit unions; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

TITLE III—FEDERAL DEPOSIT INSURANCE REFORM

Subtitle A—Activities

SEC. 301. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (c), by striking "an insured depository institution" and inserting "any level 1 or level 2 depository institution";

(2) by striking subsection (e) and inserting the following new subsection:

49-059 O—96 Vol. 137 (Pt. 23) 3

VOL 137
PT 23
NO 21—25
1991
UMI

"(e) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, impose—

"(1) such additional restrictions on the acceptance of brokered deposits by any troubled institution as the Corporation may determine to be appropriate; and

"(2) such restrictions or limitations as the Corporation may determine to be appropriate on the acceptance, renewal, or rollover of funds obtained, directly or indirectly, through any deposit broker by any insured depository institution which the Corporation determines—

"(A) has suffered a material decline in capital so as to constitute a threat to the institution's solvency;

"(B) has knowingly or willfully violated any cease and desist order issued to the institution by the appropriate Federal banking agency, or any written agreement entered into between the institution and such agency, which relates to the safety or soundness of the institution; or

"(C) has failed to comply with any applicable reporting or notification requirements imposed by the Corporation with respect to the acceptance of brokered deposits by an insured depository institution.";

(3) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and inserting after subsection (e) (as amended by paragraph (2) of this section) the following new subsection:

"(f) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution which does not meet the institution's applicable minimum capital requirements, or an employee of any such institution, shall not engage, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on comparable deposits offered by other insured depository institutions in such institution's normal market areas.";

(4) in paragraph (4)(A) of subsection (g) (as so redesignated by paragraph (3) of this subsection) by striking "exclusively"; and

(5) by striking subsection (h) (as so redesignated by paragraph (3) of this subsection) and inserting the following new subsection:

"(h) TROUBLED INSTITUTION DEFINED.—For purposes of this section, the term 'troubled institution' means any insured depository institution which—

"(1) does not meet the minimum capital requirements applicable with respect to such institution;

"(2) based on the most recent report of condition, report of examination, or inspection of such institution, has been assigned a CAMEL composite rating of 4 or 5 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable system; or

"(3) has been informed in writing by the appropriate Federal banking agency that, on the basis of the institution's financial condition, the institution has been designated a 'troubled institution' for purposes of this section.".

(b) CLERICAL AMENDMENT.—The heading for section 29 of the Federal Deposit Insurance Corporation is amended to read as follows:

"SEC. 29. BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.".

SEC. 302. RISK-BASED ASSESSMENTS.

(a) ASSESSMENT RATES.—

(1) MAXIMUM RATE.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended—

(A) in clause (i), by striking "the greater of 0.15 percent or"; and

(B) by inserting after clause (iii), the following new clause:

"(iv) Until the Corporation establishes a risk-based assessment system pursuant to paragraph (8), the annual assessment rate for Bank Insurance Fund members shall not be less than 0.15 percent.".

(2) USE OF ESTIMATES AND PROJECTIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) USE OF ESTIMATES AND PROJECTIONS.—

"(i) AUTHORITY TO COMPUTE RATES.—The Corporation may make and use such estimates and projections as may be appropriate for computing assessment rates to be paid by Bank Insurance Fund members and Savings Association Insurance Fund members.

"(ii) AUTHORITY TO SET RATES.—The Corporation may—

"(I) set any assessment rate for Bank Insurance Fund members; and

"(II) after December 31, 1997, set any assessment rate for Savings Association Insurance Fund members.".

(3) REVISION OF ASSESSMENT BASE.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) AVERAGE ASSESSMENT BASE.—The average assessment base for any insured depository institution for any semiannual period shall be the average of such depository institution's assessment base for each of the following 2 dates:

"(A) the 1st of the 2 dates falling within such semiannual period for which the depository institution is required to submit reports of condition pursuant to subsection (a)(3) (hereafter in this section referred to as 'reports of condition'); and

"(B) the 2nd of the 2 dates falling within the semiannual period immediately preceding such semiannual period for which the depository institution is required to submit reports of condition.".

(b) RISK-BASED ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by this section and sections 103(b) and 232(b)(2) of this Act) is amended by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12) and by inserting after paragraph (7) (as added by section 103(b) of this Act) the following new paragraph:

"(8) RISK-BASED ASSESSMENTS.—

"(A) IN GENERAL.—Subject to paragraph (1), the Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system under which the assessment rate determined for each insured depository institution is based on the risk that the institution poses to the appropriate deposit insurance fund.

"(C) PROVISIONS APPLICABLE TO ESTABLISHMENT OF SYSTEM.—In establishing a risk-based assessment system, the Board of Directors may use the following criteria:

"(i) The ratio of capital to assets of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(ii) The activities conducted by the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iii) The assets and liabilities of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iv) Such other circumstances, conditions, activities or risk factors which the Board of Directors determines to be appropriate.".

(c) REGULATIONS.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe the final regulations required by section 7(b)(8) of the Federal Deposit Insurance Act (as added by subsection (b) of this section).

(2) EFFECTIVE DATE.—Such regulations shall take effect before the end of the 12-month period beginning on the date such regulations are published in final form.

(d) MORTGAGE LENDING SAFEGUARDS.—

(1) ANALYSIS.—Before the end of the 12-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall analyze the impact of such system on the following categories of lending:

(A) Single family mortgages.

(B) Single family mortgages located in low- and moderate-income census tracts.

(C) Nonconforming single family mortgages.

(D) Multifamily mortgages.

(E) Construction lending for—

(i) single family homes;

(ii) single family homes located in low- and moderate-income census tracts;

(iii) nonconforming single family homes; and

(iv) multifamily homes.

(F) Small business loans.

(2) REPORT.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall submit to the Congress a report describing the findings of the analysis required under paragraph (1).

(e) PUBLIC HEARING.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall hold at least 1 public hearing regarding that system.

(f) 2-YEAR REVIEW.—Before the end of the 2-year period beginning on the effective date of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall—

(1) using data collected from examinations of insured depository institutions, analyze the impact of the risk-based assessment system on the categories of lending described in subsection (d)(1); and

(2) submit to the Congress a report on the findings of that analysis, including recommendations for any legislation needed to ensure that the risk-based assessment system does not have an inequitable impact on those categories of lending.

SEC. 303. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting

except to the extent that activity is permissible for national banks.

"(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

"(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

"(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

"(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

"(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

"(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

"(i) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

"(ii) LOWER INCOME.—The term 'lower income' means income that less than or equal to the median income based on statistics from State or Federal sources.

"(4) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(d) SUBSIDIARIES OF INSURED STATE BANKS.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) SECURITIES AND INSURANCE UNDERWRITING PROHIBITED.—

"(A) PROHIBITION.—Notwithstanding paragraph (1) and any provision of the Federal Deposit Insurance Corporation Improvement Act of 1991, no subsidiary of an insured State bank may engage in securities or insurance underwriting except to the extent such activities are permissible for national banks.

"(B) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

"(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

"(ii) control of the insured State bank has not changed since that date.

"(e) SAVINGS BANK LIFE INSURANCE.—

"(1) IN GENERAL.—No provision of this Act or the Federal Deposit Insurance Corporation Improvement Act of 1991 shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

"(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

"(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

"(2) FDIC FINDING AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

"(f) CURRENTLY PERMITTED EQUITY INVESTMENTS.—

"(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank.

"(2) EXCEPTION.—Notwithstanding paragraph (1) or any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured State bank in a State which permits investments described in paragraph (1) as of September 30, 1991, may invest not more than 10 percent of the bank's total assets in—

"(A) common or preferred stock listed on a national securities exchange (except that not more than 0.5 percent of the bank's total assets may be invested in common or preferred stock of any 1 company); or

"(B) shares of an investment company registered under the Investment Company Act of 1940.

"(3) NOTICE OF PARAGRAPH (2) ACTIVITIES.—An insured State bank may only engage in any investment activity pursuant to paragraph (2) if—

"(A) the insured State bank has filed a 1-time notice with the Corporation of the bank's intent to acquire or retain such investments; and

"(B) pursuant to such notice, the Corporation has not determined, within 60 days of receiving such notice, that acquiring or retaining such investments poses a significant risk to the Bank Insurance Fund.

"(5) DIVESTITURE OF INVESTMENTS.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of such bank.

"(6) FDIC FINDINGS AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether such equity investments by insured State banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of such equity investments conducted by any insured State bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1) or to the insurance fund of which such bank is a member.

"(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(h) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking ": Provided, however, That no Federal reserve bank" and inserting ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank".

SEC. 304. RESTRICTIONS ON REAL ESTATE LENDING.

(a) RESTRICTIONS ON REAL ESTATE LENDING ESTABLISHED.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 39 (as added by section 229 of this Act) the following new section:

"SEC. 40. REAL ESTATE LENDING.

"(a) UNIFORM REGULATIONS.—The appropriate Federal banking agencies shall jointly adopt uniform regulations prescribing standards for loans or extensions of credit by insured depository institutions that are—

"(1) secured by liens on, interests in, or liens on interests in unimproved real estate, or

"(2) made for the purpose of financing the construction of a building or buildings or other improvements to real estate.

"(b) STANDARDS.—

"(1) CRITERIA.—In prescribing standards pursuant to subsection (a) for loans or extensions of credit described in such subsection, the agencies shall consider—

"(A) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be, by such loans or extensions of credit;

"(B) the safe and sound operation of insured depository institutions; and

"(C) the availability of credit.

"(2) VARIATIONS PERMITTED.—In prescribing the standards referred to in paragraph (1), the agencies may jointly provide for differentiations

VOL 137 PT 23 NO 21–25 1991 UMI

among insured depository institutions and among types of loans to such extent and in such manner as may be—

"(A) required by Federal law;

"(B) warranted on the basis of risk to the deposit insurance funds; or

"(C) warranted on the basis of the safety and soundness of the institutions.

"(3) LOAN EVALUATION STANDARD.—No Federal financial regulatory agency shall adversely evaluate an investment or a loan made by a federally insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property.".

(b) EFFECTIVE DATE.—The regulations prescribed pursuant to the amendment made by subsection (a) shall take effect before the end of the 12-month period beginning on the date of the enactment of this Act.

SEC. 305. CAPITAL STANDARDS AND INTEREST RATE RISK.

(a) IN GENERAL.—The appropriate Federal banking agencies shall develop a system to monitor interest rate risk and to adjust risk-based capital standards to reflect interest rate risk.

(b) IMPLEMENTING REGULATIONS.—In order to implement the system required under subsection (a), the appropriate Federal banking agencies shall prescribe regulations in final form before the end of the 1-year period beginning on the date of the enactment of this Act. Such regulations shall take effect before the end of the 2-year period beginning on such date of enactment.

SEC. 306. TRANSITION RULE.

Section 5(t)(5)(D) of the Home Owners Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by striking "for a national bank," and inserting "for a national bank or if such impermissible activities were commenced after April 12, 1989, and before August 9, 1989, by a savings association with assets of less than $400,000,000 and were made in residential real estate or land held for development as residential real estate,".

SEC. 307. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF BOARD TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) AUTHORITY TO RECOMMEND THAT APPROPRIATE FEDERAL BANKING AGENCY TAKE ENFORCEMENT ACTION.—The Corporation, based on an examination of an insured depository institution by the Corporation or the appropriate Federal banking agency or on other information, may recommend that the appropriate Federal banking agency take any enforcement action authorized under this section or section 7(j) or 18(j) with respect to any insured depository institution or any institution-affiliated party.

"(2) AUTHORITY OF BOARD TO DIRECT ENFORCEMENT ACTION BE TAKEN IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—

"(A) IN GENERAL.—If the appropriate Federal banking agency fails to take the recommended action, or to provide an acceptable plan for addressing the concerns of the Corporation set forth in the Corporation's recommendation, before the end of the 60-day period beginning on the date of the receipt of the formal recommendation from the Corporation, the Board of Directors may direct the Corporation to take such action if the Board of Directors determines that—

"(i) the insured depository institution is in an unsafe or unsound condition;

"(ii) failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the insured depository institution; or

"(iii) the violation or threatened violation, or threatened practices or omission, or continuation of practices, or omissions may cause, or is likely to cause, a risk of loss to the appropriate insurance fund, or may prejudice the interests of depositors of the institution.

"(B) ENFORCEMENT POWERS.—In the exercise of any authority under this subsection at the direction of the Board of Directors—

"(i) the Corporation shall have the same powers with respect to any insured depository institution and any subsidiary or affiliate of the institution as the appropriate Federal banking agency has with respect to such institution, subsidiary, or affiliate; and

"(ii) the institution and any subsidiary or affiliate of the institution shall have the same duties and obligations with respect to the Corporation as the institution, subsidiary, or affiliate has with respect to the appropriate Federal banking agency.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may direct the Corporation to exercise the Corporation's authority under this subsection before the end of the 60-day period described in paragraph (2)(A) in exigent circumstances after notifying the appropriate Federal banking agency.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Board of Directors shall, by agreement with the other appropriate Federal banking agencies, establish and publish a description of the exigent circumstances under which the Board of Directors may direct the Corporation to act under this subsection without regard to the 60-day period described in paragraph (2)(A).

"(4) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—Whenever a regional office or regional bank of an appropriate Federal banking agency submits a request for a formal investigation or enforcement action, such regional office or regional bank shall concurrently submit the request to the head of the appropriate Federal banking agency and the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation the status or disposition of all such requests, including the reasons for the appropriate Federal banking agency's decision to either approve or deny all such requests.

"(5) NONDELEGATION.—The authority of the Board of Directors to make any determination or to direct the Corporation to take any action under this subsection may not be delegated.".

Subtitle B—Coverage

SEC. 311. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.—

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.— After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 312. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by section 304 of this title) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED.

"Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

SEC. 313. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or

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"(ii) submits the statement at a time which is minimally after the time required in such paragraph,
shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required,
shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,
shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

SEC. 321. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

SEC. 322. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

Subtitle D—Credit Unions

SEC. 331. LIQUIDATIONS OF FEDERALLY INSURED STATE CREDIT UNIONS.

(a) AUTHORITY TO LIQUIDATE.—Section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) APPOINTMENT OF THE BOARD BY THE BOARD.—Notwithstanding any other provision of this Act, any other Federal law, or the law or constitution of any State, the Board may appoint itself as the liquidating agent of any State credit union insured under this title, and close such credit union, if the Board determines that the credit union is insolvent or bankrupt.

"(C) NOTICE AND APPROVAL OF STATE OFFICIAL.—

"(i) IN GENERAL.—The authority conferred by subparagraph (B) with respect to any State credit union shall be exercised only with the written approval of the State official having jurisdiction over such credit union that the grounds specified for such exercise exist.

"(ii) EXCEPTION.—If the approval of the State official having jurisdiction over any State credit union referred to in clause (i) has not been received within 30 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by unanimous vote of the Board.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)), as so redesignated by subsection (a) of this section, is amended in the first sentence by striking "(b)" and inserting "(j)".

(2) Section 207(a)(1)(A) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)(A)) is amended by striking "himself" and inserting "itself".

Subtitle E—FDIC Property Disposition

SEC. 341. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 41 (as added by section 512 of this Act) the following new section:

"SEC. 42. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) LIMITATIONS ON APPLICABILITY OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning 180 days after the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(2) FISCAL LIMITATIONS.—

"(A) IN GENERAL.—During the period in which the provisions of this section are effective (as provided in paragraph (1)), such provisions shall apply only during the period beginning on the commencement date under subparagraph (B) and ending (if applicable) on the termination date under subparagraph (C).

"(B) COMMENCEMENT DATE.—For purposes of this paragraph, the commencement date shall be the day during the period referred to in paragraph (1) on which sufficient amounts are first determined to be available to compensate the Corporation for any losses resulting from the sale of properties under this section. For purposes of this subparagraph, such losses shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the period in which the program under this section is effective. If the determination under the first sentence of this subparagraph is made before the commencement of the period referred to in paragraph (1), the commencement date shall be considered to be the first day of the period referred to in paragraph (1).

"(C) TERMINATION DATE.—For purposes of this paragraph, the termination date shall be the day during the period referred to in paragraph (1) on which the sum of the affordable housing discounts for eligible residential properties transferred under this section by the Corporation first exceeds $30,000,000, as determined by the Corporation.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'affordable housing discount' means, with respect to any eligible residential property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section; and

"(ii) the term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws, as determined by the Corporation taking into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act and the prices of other properties sold under similar programs.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property that is subject to an agreement entered into by the Corporation before the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 providing for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL SINGLE FAMILY PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households; or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of such property, or (ii) make the property available for purchase by such families.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families.

"(3) RECAPTURE OF PROFITS FROM RESALE OF SINGLE FAMILY PROPERTIES.—Except as provided in paragraph (5), if any eligible single family property sold to a qualifying household is resold by the qualifying household during the 2-year period beginning upon initial acquisition by the household, the Corporation shall recapture the percentage provided in paragraph (4) of the amount of any proceeds from the resale that exceeds the sum of (A) the original sale price for the acquisition of the property by the qualifying household, (B) the costs of any improvements to the property made after the date of the acquisition, and (C) any closing costs in connection with the acquisition.

"(4) PERCENTAGE OF PROFIT RECAPTURED.—The percentage of excess proceeds recaptured under paragraph (3) shall be as follows:

"(A) FIRST YEAR.—In the case of any resale occurring during the 1-year period beginning upon initial acquisition by the qualifying household, 75 percent of the amount of such excess proceeds.

"(B) SECOND YEAR.—In the case of any resale occurring during the 1-year period beginning 1 year after initial acquisition by the qualifying household, 50 percent of the amount of such excess proceeds.

"(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation may in its discretion waive the applicability to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (o)(12)(B) and (C). The Corporation may grant such a waiver only for good cause shown, including any necessary relocation of the qualifying household.".

"(6) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, and (C) the resident household intends to occupy the property as a principal residence.".

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1), or until the Corporation determines that a property is ready for sale, whichever occurs first. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon determining that a property is ready for sale, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),
except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination

VOL 137
PT 23
NO 21—25
1991
UMI

with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE BUILDING PROPERTIES.—With respect to any property consisting of a single building or structure purchased by a qualifying multifamily purchaser under paragraph (4)—

"(i) not less than 35 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located; and

"(ii) not less than 20 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTISTRUCTURE PURCHASES.—With respect to any purchase under paragraph (4) by a qualifying multifamily purchaser property involving a property consisting of more than one building or structure or involving more than one property as a part of the same negotiation—

"(i) not less than 40 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located;

"(ii) not less than 20 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and

"(iii) not less than 10 percent of the dwelling units in each separate building or structure of each property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of the meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements applicable to the property under paragraph (7), if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTISTRUCTURE PURCHASES.—The Corporation shall give preference, among substantially similar offers made under subsection (d)(4) to purchase an eligible multifamily housing property consisting of more than one building or to purchase more than one such property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate building or structure of each such property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of eligible residential properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent and not greater than 115 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price. The Corporation shall establish a market value for each eligible multifamily housing property and shall sell such property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7).

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c), (f), and (g)(1) shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) OFFERS TO SELL.—During the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by such families. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by such families. The restriction described clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(i) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(j) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that during the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsections shall toll for the duration of any suspension under this paragraph.

"(2) USE RESTRICTIONS.—Any eligible single family property sold under this subsection shall be made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families. Eligible multifamily housing properties sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7).

"(l) LIABILITY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c) and (d) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(m) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office.

"(n) REPORT.—In the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(o) DEFINITIONS.—For purposes of this section:

"(1) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(3) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).

"(4) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(5) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(6) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(7) INCOME.—The term 'income' shall have the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5));

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5)); and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

VOL 137 PT 23 NO 21–25 1991 UMI

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 401. FINDINGS AND PURPOSE.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 402. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term 'broker or dealer' means any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term 'futures commission merchant' means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceeds the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceeds the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

SEC. 403. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 404. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract

to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 405. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 403 and 404.

SEC. 406. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 411. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 421. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 431. COMMISSION ON THE THRIFT INDUSTRY.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on the Thrift Industry (hereinafter in this section referred to as the "Commission").

(b) MEMBERSHIP OF COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed not later than 90 days after the date of the enactment of this Act. The members shall be appointed as follows:

(A) 2 citizens of the United States, appointed by the President.

(B) 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(C) 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(D) 2 citizens of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(E) 1 citizen of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(2) ADDITIONAL QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Commission who are appointed under any subparagraph of paragraph (1) other than subparagraph (A) and are not Members of the Congress shall be appointed from among individuals who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(B) LIMITATION.—Of the total number of the members of the Commission who are described in subparagraph (A), not more than 2 such members may be, at the time of any such member's appointment and during any such member's service on the Commission—

(i) a director, officer, or employee of any Federal or State agency or instrumentality with supervisory or regulatory authority over any savings association;

(ii) a director, officer, employee, or agent of any trade association which represents any savings association; and

(iii) a director, officer, employee, or agent of any consumer organizations.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(6) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(7) VACANCIES.—No vacancy on the Commission shall affect the powers of the Commission and any such vacancy shall be filled in the manner in which the original appointment was made.

(8) COMPENSATION AND EXPENSES.—

(A) NO BASIC PAY.—Except as provided in subparagraph (B), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(B) PER DIEM AND TRAVEL EXPENSES.—Members of the Commission who are appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of substance, as authorized by law for persons serving intermittently in the government service to the extent that funds are available for such expenses.

(9) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(c) FUNCTIONS OF COMMISSION.—

(1) CONTENTS AND SPECIFIC RECOMMENDATIONS.—The Commission shall conduct an investigation and evaluation of and shall report and make recommendations on the future status of the thrift industry.

(2) ISSUES TO BE CONSIDERED.—Pursuant to its responsibilities under this section the Commission shall consider the following issues:

(A) The continued economic viability of savings associations, including the impact of the regulatory limits on safety and soundness.

(B) Obstacles and issues related to the conversion of savings associations to banks.

(C) The appropriateness and viability of a separate system of depository institutions dedicated to financing housing production.

(D) The appropriate role of community based financial institutions.

(E) The effectiveness and impact of the Qualified Thrift Lender Test.

(F) The status and role of the regional Federal home loan banks.

(G) The commercial ownership of savings associations.

(H) The merger of the Bank Insurance Fund and Savings Association Insurance Fund within the context of savings association conversion to bank status.

VOL 137 PT 23 NO 21-25 1991 UMI

(I) The merger of regulators and regulations.

(J) The service provided to low- and moderate-income consumers and neighborhoods.

(K) The impact on the construction and sale of affordable housing.

(3) FINAL REPORT.—

(A) REPORT REQUIRED.—Not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Commission shall submit to the President, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing and Urban Affairs of the Senate, a final report which contains a detailed statement of the findings and conclusions of the Commission, including such recommendations for administrative and legislative action as the Commission determines to be appropriate.

(B) MAJORITY VOTE.—A recommendation may be made by the Commission to the President and to the Congress only if it is adopted by a majority vote of the members of the Commission.

(C) ADDITIONAL, DISSENTING, AND SUPPLEMENTAL VIEWS.—The report required under subparagraph (A) shall contain any additional, dissenting, or supplemental views of any member of the Commission.

(d) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of operations, organizations, and personnel.

(3) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this section. Each such agency or instrumentality shall furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(B) ADMINISTRATIVE SUPPORT SERVICES AND PERSONNEL.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(ii) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section, except that any expenses of the Commission incurred under this clause shall be subject to the limitation on total expenses set forth in subsection (e)(2).

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(5) CONTRACTING.—The Commission may, to such extent and in such amounts as provided in advance in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this section, subject to the limitation on total expenses set forth in subsection (e)(2).

(6) STAFF.—

(A) IN GENERAL.—Subject to such rules and regulations as may be adopted by the Commission and the limitation on total expenses set forth in subsection (e)(2), the Chairperson of the Commission may appoint, terminate, and fix the compensation of an executive director and such additional staff as the Chairperson deems advisable to assist the Commission.

(B) PAY RATES.—Individuals appointed under subparagraph (A) may be paid at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(C) CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE, NOT APPLICABLE.—Appointments may be made under subparagraph (A) without regard to—

(i) provisions of title 5, United States Code, concerning appointments in the competitive service, and

(ii) provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to number, classification, and General Schedule rates.

(7) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee under the Federal Advisory Committee Act.

(e) EXPENSES OF COMMISSION.—

(1) IN GENERAL.—Any expense of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(2) LIMITATION.—The total expenses of the Commission shall not exceed $500,000.

(3) GAO AUDIT.—Prior to the termination of the Commission pursuant to subsection (f), the Comptroller General of the United States shall conduct an audit of the financial books and record of the Commission to determine that the limitation on expenses under paragraph (2) has not been exceeded, and shall include its determination in an opinion to be included in the report of the Commission.

(f) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (c)(3).

SEC. 432. BANK INSURANCE FUND ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Bank Insurance Fund Advisory Committee (hereinafter in this section referred to as the "Committee").

(b) MEMBERSHIP.—The Committee shall consist of 12 members, appointed as follows:

(1) 1 member shall be elected from each administrative district of the Federal Deposit Insurance Corporation (hereinafter in this section referred to as the "Corporation") by banks headquartered in that district from among individuals residing therein who are officers of banks that are Bank Insurance Fund members.

(2) 4 members appointed by the Corporation from among individuals who shall represent the public interest.

(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

(f) AUTHORITY OF THE COMMITTEE.—The Committee may—

(1) select its Chairperson, Vice Chairperson, and Secretary,

(2) adopt methods of procedure,

(3) confer with the Board of Directors on general and specific business conditions and regulatory and other matters affecting banks that are members of the Bank Insurance Fund, and

(4) request information and make recommendations with respect to matters within the jurisdiction of the Corporation and specifically with regard to the sources and uses of funds raised under sections 7 and 14 of the Federal Deposit Insurance Act.

(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

(h) REPORTS.—The Committee shall submit by March 31 of each year a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the Committee for the preceding year and contain such recommendations as the Committee considers appropriate.

(i) PROVISION OF STAFF AND OTHER RESOURCES.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to the Congress, under this section.

(j) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

SEC. 433. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such bank by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 434. DEPOSITORY INSTITUTIONS REFORM ADVISORY COMMITTEE.

(a) PURPOSE.—The purpose of this section is to establish a committee—

(1) to study the current system of regulation and supervision of financial institutions; and

(2) to make recommendations to—

(A) improve the system's ability to ensure the safe and sound operation of depository institutions; and

(B) minimize losses to the deposit insurance funds.

(b) ESTABLISHMENT.—There is hereby established the Depository Institutions Reform Advisory Committee (hereafter in this section referred to as the "Committee").

(c) MEMBERSHIP.—

(1) APPOINTMENT.—Subject to paragraphs (2) and (3), the Committee shall consist of 16 members as follows:

(A) 4 members of the public appointed by the Speaker of the House of Representatives.

(B) 4 members of the public appointed by the Majority Leader of the Senate.

(C) 8 members of the public appointed by the President, 1 of whom shall be designated by the President to be the Chairperson of the Committee.

(2) QUALIFICATION OF MEMBERS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), members of the Committee shall be appointed from among individuals who are citizens of the United States and are specially qualified to serve on the Committee by virtue of their education, training, or experience with the depository institutions industry.

(B) INELIGIBILITY OF INDIVIDUALS HOLDING CERTAIN POSITIONS.—No individual may be appointed to the Committee who—

(i) holds any position to which such individual was appointed by the President; or

(ii) is an institution-affiliated party (as defined in section 3 of the Federal Depository Insurance Act) with respect to any depository institution.

(C) CONSUMERS AND ACADEMICS.—At least 2 of the members appointed under paragraph (1)(A), 2 of the members appointed under paragraph (1)(B), and 2 of the members appointed under paragraph (1)(C) shall be appointed from among individuals who are representatives of consumer organizations or who hold teaching positions at postsecondary educational institutions.

(3) POLITICAL AFFILIATION.—Not more than 8 members of the Committee shall be members of the same political party.

(4) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee.

(5) MEETINGS.—The Committee shall meet, not less frequently than monthly, at the call of the Chairperson or a majority of the members.

(d) RESOURCES AND STAFF.—The Federal Deposit Insurance Corporation shall provide the Committee with all resources, including staff, offices, or equipment, as the Committee may require to carry out its duties.

(e) INFORMATION.—

(1) IN GENERAL.—The Committee may secure directly from any appropriate Federal banking agency or the Securities and Exchange Commission any information that the Committee deems necessary to enable it to carry out this section.

(2) AVAILABILITY UPON REQUEST OF CHAIRPERSON.—Upon request of the Chairperson of the Committee, the head of an appropriate Federal banking agency or of the Securities and Exchange Commission shall furnish the information to the Committee unless specifically prohibited by law.

(f) CONFLICT-OF-INTEREST AND CONFIDENTIALITY GUIDELINES.—The Committee shall prescribe guidelines to avoid—

(1) conflicts of interest with respect to the disclosure to, and use or release by, members of the Committee of any information relating to any depository or other financial institution or appropriate Federal banking agency; and

(2) the release of nonpublic information relating to depository or other financial institutions to which members may have access.

(g) DEFINITIONS.—For purposes of this section, any term used in this section which is defined in section 3 of the Federal Deposit Insurance Act shall have the meaning given such term in such section, except that the term "depository institution" includes any depository institution holding company (as defined in such section).

(h) DUTIES OF THE COMMITTEE.—

(1) IN GENERAL.—The Committee shall study and include in the report required under subsection (i) recommendations for changes in the regulation and supervision of depository institutions in order to ensure their safety and soundness and to minimize losses to the deposit insurance funds.

(2) EVALUATION OF SPECIFIC FACTORS.—The study shall include an evaluation of the ability of the appropriate Federal banking agencies to—

(A) identify risks associated with new or existing complex activities or products of depository institutions;

(B) identify and monitor transactions between a depository institution and its affiliates, and to assess and control potential risks arising from these transactions;

(C) attract and retain supervisory, examiner, and legal staff with the qualifications, training, and experience necessary to ensure safe and sound depository institutions;

(D) detect and control conflicts of interest arising in depository institutions;

(E) anticipate and rapidly respond to changes in the depository institutions environment; and

(F) improve operations by using private contractors to assist with examinations or other aspects of supervision.

(i) FINAL REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Committee shall submit to the President, each House of Congress, each appropriate Federal banking agency, and the Securities and Exchange Commission a report containing the findings of the Committee and such recommendations as the Committee may determine to be appropriate, including any specific proposal for legislative or administrative action.

(j) TERMINATION.—The Committee shall cease to exist as of the end of the 60-day period beginning on the date on which the Committee submits the final report under subsection (i).

SEC. 435. REPORT ON GOVERNMENT CHECK CASHING.

Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the effects, on insured depository institutions that serve client bases that have a disproportionately high number of persons that receive Federal Government checks, of requiring those institutions to cash those checks.

SEC. 436. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsection:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

Subtitle E—Utilization of Private Sector

SEC. 441. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable and efficient.".

SEC. 442. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during the reporting period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

SEC. 443. REQUIREMENT TO MINIMIZE PAYMENTS FOR LEGAL SERVICES.

The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall adopt and follow procedures with respect to contracts for legal, accounting, and investment banking services to assure that, to the extent reasonably practicable—

(1) the costs of such services are minimized, and

(2) there is a sufficiently representative distribution—

(A) geographically, and

(B) in terms of size of firms providing such service and contracts awarded for such services.

Subtitle F—Emergency Assistance for Rhode Island

SEC. 451. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the terms and conditions established by or under this subsection, the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount

VOL
137
PT
23
NO
21—25
1991
UMI

of any loan for which the guarantee is sought is fully secured as follows:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the lien and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan, is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and interest, on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year, are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless—

(A) each such proposed loan has received from a nationally recognized statistical rating organization a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of either the highest investment grade rating or not less than 1 less than the highest investment grade rating; or

(B) if no such rating is issued, the Secretary determines that the collateral securing the guarantee is sufficient so as to pose no risk of loss to the Federal government.

(6) TERMS.—

(A) IN GENERAL.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 10 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 5 years of the repayment term of such loan.

(B) AUTHORITY TO VARY TIME PERIODS.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) ADDITIONAL TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) APPROPRIATION OF AMOUNTS.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

Subtitle G—Qualified Thrift Lender Test Improvements

SEC. 461. SHORT TITLE.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 462. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 463. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 464. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 465. PRUDENT DIVERSIFICATION OF ASSETS.

(a) IN GENERAL.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 466. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

The 2d sentence of section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended by striking "30 percent" and inserting "35 percent".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 471. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Establishment of Capital Standard Requirement

SEC. 481. CAPITAL STANDARDS.

Federal banking regulatory agencies shall establish minimum capital standards at least equal to the minimum capital requirements under all international accords to which the United States has agreed on capital standards for financial institutions.

Subtitle J—Bank and Thrift Employee Provisions

SEC. 491. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

(a) CONTINUATION COVERAGE.—The Federal Deposit Insurance Corporation—

(1) shall, in its capacity as a successor of a failed depository institution (whether acting directly or through any bridge bank), have the same obligation to provide a group health plan meeting the requirements of section 602 of the Employee Retirement Income Security Act of 1974 (relating to continuation coverage requirements of group health plans) with respect to former employees of such institution as such institution would have had but for its failure, and

(2) shall require that any successor described in subsection (b)(1)(B)(iii) provide a group health plan with respect to former employees of such institution in the same manner as the failed depository institution would have been required to provide but for its failure.

(b) DEFINITIONS.—For purposes of this section—

(1) SUCCESSOR.—An entity is a successor of a failed depository institution during any period if—

(A) such entity holds substantially all of the assets or liabilities of such institution, and

(B) such entity is—

(i) the Federal Deposit Insurance Corporation,

(ii) any bridge bank, or

(iii) an entity that acquires such assets or liabilities from the Federal Deposit Insurance Corporation or a bridge bank.

(2) FAILED DEPOSITORY INSTITUTION.—The term "failed depository institution" means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver has been appointed.

(3) BRIDGE BANK.—The term "bridge bank" has the meaning given such term by section 11(i) of the Federal Deposit Insurance Act.

(c) NO PREMIUM COSTS IMPOSED ON FDIC.—Subsection (a) shall not be construed as requiring the Federal Deposit Insurance Corporation to incur, by reason of this section, any obligation for any premium under any group health plan referred to in such subsection.

(d) EFFECTIVE DATE.—This section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event under section 603 of the Employee Retirement Income Security Act of 1974 occurred before, on, or after such date.

Subtitle K—Severability

SEC. 496. SEVERABILITY.

If any provision of this Act, or any application of any provision of this Act to any person or circumstance, is held invalid, the remainder of the Act, and the application of any remaining provision of the Act to any other person or circumstance, shall not be affected by such holding.

Subtitle L—Sense of the House of Representatives on the Credit Crisis

SEC. 498. CREDIT CRUNCH.

(a) FINDINGS.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade first from tax rules that in 1981 stimulated excessive investment in real estate, and then in 1986 when rules were adopted that discourage capital investment in real estate, artificially eroding real estate values.

(b) SENSE OF THE HOUSE OF REPRESENTATIVES.—It is the sense of the House of Representatives that—

(1) immediate and carefully-coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors; and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) restore balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily and single-family real estate; ending mark-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) rationalize the tax system for real estate owners and operators by modifying the passive loss rules and encouraging loan restructures.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 501. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction were a State bank which the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution which is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit

VOL
137
PT
23
NO
21—25
1991
UMI

and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act.

SEC. 502. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(t) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.".

SEC. 503. ACQUISITION OF THRIFT INSTITUTIONS BY CERTAIN COMPANIES WHICH CONTROL BANKS AND ARE NOT TREATED AS HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following new paragraph:

"(14) SAVINGS ASSOCIATION ACQUISITIONS.—For purposes of paragraph (2)(A), an insured institution is described in this paragraph if control of the insured institution, or more than 5 percent of the shares of the insured institution, is acquired by a company described in paragraph (1) of this subsection in connection with a transaction—

"(A) which involves the insured institution and a bank controlled by the company;

"(B) which is approved under section 5(d)(3) of the Federal Deposit Insurance Act by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act); and

"(C) in which a bank controlled by such company is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act).".

(b) EXCEPTIONS TO CERTAIN LIMITATIONS ON BANK ACTIVITIES TO FACILITATE ACQUISITIONS.—Section 4(f)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTIONS FOR PARAGRAPH (14) MERGERS.—If any company described in paragraph (1) acquires control of any insured institution, or more than 5 percent of the shares of any insured institution, pursuant to a transaction described in paragraph (14)—

"(i) subparagraph (B)(i) shall not apply so as to prohibit the bank which is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act) in connection with such transaction from engaging in any activity in which the insured institution was engaged before the date of such transaction to the extent that—

"(I) the activity is permissible for bank holding companies under subsection (c)(8); and

"(II) the bank is not both accepting demand deposits that the depositor may withdraw by check or similar means for payment to third parties or others and engaging in the business of making commercial loans as a result of engaging in such activity; and

"(ii) subparagraph (B)(iv) shall not apply to an increase in the assets of the bank controlled by such company as a result of the transaction referred to in paragraph (14) during the 1-year period beginning on the date of such transaction.".

(c) TECHNICAL AMENDMENTS.—Clauses (i) and (ii)(VIII) of section 4(f)(2)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)) are amended by striking "(10) or (12)" and inserting "(10), (12), or (14)".

The CHAIRMAN. No amendment to the substitute is in order.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose, and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. CARR, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes, pursuant to House Resolution 289, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ARMEY. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

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The Clerk read as follows:

Mr. ARMEY of Texas moves to recommit the bill, H.R. 3768, to the Committee on Banking, Finance and Urban Affairs with instructions to report the same to the House forthwith with the following amendment: Page 220, line 5, strike "(C) and (D)" and insert "(C), (D), and (E)".

Page 220, strike line 6, and all that follows through line 16, and insert the following new subparagraphs:

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor or by others for the benefit of the depositor, as follows;

"(i) Deposits registered under the same taxpayer identification number or employer

identification number of one depositor shall be attributed to that depositor.

"(ii) Deposits registered under the taxpayer identification number or employer identification number of more than one depositor shall be attributed equally, unless otherwise specified in the deposit account records, among those depositors.

"(iii) Deposits consisting of a revocable trust or similar account shall be attributed to the settlor or grantor of the deposit account.

"(iv) Deposits maintained by an individual or entity (including an insured depository institution) acting as an agent, custodian, nominee, conservator or in a similar capacity on behalf of a principal (other than an insured depository institution) shall be attributed to such principal.

"(v) Such other attribution to a depositor as the Board of Directors determines by regulation not to be unduly burdensome and costly to calculate; provided that the depositor has control over the deposit account and that such attribution would be consistent with the insurance purposes of this Act.

"(D) DEPOSITOR IDENTIFICATION.—

"(i) IDENTIFICATION NUMBER.—All deposits shall be registered under the taxpayer identification number or employer identification number of each depositor.

"(ii) CONSIDERATION OF ADDITIONAL INFORMATION.—For the purpose of aggregating and attributing deposits the Corporation may consider additional information contained in the records of the insured depository institution or made available by the depositor.

Page 220, line 17, strike "(D)" and insert "(E)".

Page 226, after line 22, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

(2) AGGREGATION RULES.—Section 11(a)(1)(C) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on January 1, 1995.

Page 227, line 16, strike "(B)" and insert "(E)".

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempere [Mr. GEPHARDT]. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempere. The gentleman from Texas [Mr. ARMEY] is recognized for 5 minutes in support of his motion to recommit.

Mr. ARMEY. Mr. Speaker, my motion to recommit is an effort to limit taxpayer exposure to any potential repeat of the savings and loan debacle in banking. My amendment would provide depositors with FDIC coverage of $100,000 and an additional coverage for individual retirement accounts up to $100,000 for every individual depositor per institution.

Mr. Speaker, this is one of the primary recommendations that President Bush sent to the Congress in February.

This reasonable level of protection for depositors would introduce sorely needed market discipline into the banking industry. This will increase substantially within our financial industry by spreading the risk and decreasing taxpayers' exposure to any potential FDIC resolution insofar as this will result in more depositors considering more banks with which to place their deposits. It will encourage more prudent banking practices by both depositors and by bankers.

Mr. Speaker, I encourage my colleagues to join me, to recommit this bill with instructions from the full House to enforce market discipline in our banking system and to protect taxpayers.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Texas [Mr. ARMEY] for yielding.

Mr. Speaker, I am going to vote for the motion to recommit with instructions offered by the gentleman from Texas [Mr. ARMEY]. I would not be honoring my own commitment in this regard if I did not because this is identical to an amendment which I offered and got a vote on; did not get very many votes, not as many as I thought it would; to limit the insurance on deposits to $100,000 per person per institution and $100,000 per person in an individual retirement account.

Mr. ARMEY. The gentleman is correct.

Mr. WYLIE. Mr. Speaker, I think this is an amendment which is designed to protect the small saver, not the rich investor, as I said when I offered the amendment a little earlier. Ninety-seven percent of the American depositors in financial institutions would not be covered by this amendment. It would not be affected by this amendment, and I think that whereas, perhaps, this might not cause failures, the fact that we have these multiple accounts insured, it does help make this hole a little deeper if there are failed institutions.

So, I commend the gentleman from Texas [Mr. ARMEY] for his motion to recommit.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Ohio [Mr. WYLIE].

Mr. Speaker, just a few minutes ago we heard the distinguished majority leader of the House, the gentleman from Missouri [Mr. GEPHARDT], speaking about the effectiveness of the Federal Deposit Insurance Corporation for these past so many years in protecting this Nation from the dilemma we saw in the 1930's so aptly described by John Kenneth Galbraith in his book "The Great Crash," when Galbraith said at this time, "The fallacy of man is most apparent, for nothing was lost but money," and in order to avoid this kind of dilemma being repeated, we did, in the 1930's, create the Federal Deposit Insurance Corporation to insure the deposits and to assure the security and the sense of security of the small, unsophisticated depositor so that we would not have a repeat of the runs on the bank, and so far, over the years that we have maintained this principle that Federal Deposit Insurance Corporation exists for the purpose of increasing the small unsophisticated depositor and assuring them with a sense of security in the system, it has worked.

Mr. Speaker, in recent years, especially in the savings and loan industry, we have seen, if we take the concept too far, if we insure in large denominations and couple that practice with passthrough accounts and brokered deposits, we can attract speculators into the industry and sloppy, imprudent, undisciplined practices in the industry which can cause the industry's performance to be just exactly what we feared we would see again and hope to avoid with this institution of this deposit insurance.

Let me encourage the Members of the Congress to understand that the purpose of this motion is to restore Federal deposit insurance to what it was intended to be in the first place, insurance for the small depositor and the unsophisticated depositor, insurance that would be broad enough in its impact across this Nation's population, secure enough in its reliability, that the Nation's people would never again need to fear that there would be a run on the banks.

The beauty of the Federal Deposit Insurance Corporation was that, if it were effective, we would never have to use it. We have become so lax in the standards of insurance that we have put ourselves in a position today where we are having to ask for $30 billion for the agency to secure against the risks we have created.

Mr. Speaker, I urge the Members to vote for this security for the American working family.

Mr. GONZALEZ. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. GONZALEZ. Mr. Speaker, the truth of the matter is that, when the gentleman from Ohio [Mr. WYLIE] said what he said a while ago, I joined Mr. WYLIE in that amendment he referred to. That has to do with this aggregation, aggregation of accounts. The sorry truth is that we lost in subcommittee, we lost in full committee, and we lost twice on the House floor.

So, Mr. Speaker, if we were to do this now, we would go back and unravel that string, and we would be back where we were just last week and the week before. So, I must vigorously oppose this motion to recommit.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I, too, rise in opposition to this motion to re-

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137
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commit, but I have a question that has arisen.

We in some of our States have State-chartered institutions that are allowed by State law under certain municipal sizes to sell insurance. This bill in no way impacts on that; does it?

Mr. GONZALEZ. Absolutely not, no way.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ] very much.

Mr. GONZALEZ. Also, Mr. Speaker, since the gentleman and one of the ranking members of the committee has been the gentleman we had to contend with when we had the Wylie-Gonzalez amendment, I yield to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I would say to my friends who continue to bring this before us in Congress time, and time, and time again, and continue to be defeated, that they are persistent in their efforts. As the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], mentioned, those who would limit deposit insurance, those who would cause tomorrow's headlines across the Nation to be "House Cuts Deposit Insurance at Banks and Causes a Run on the Banks," they were defeated in the Subcommittee on Financial Institution Supervision, Regulation and Insurance, and they were defeated in the full Committee on Banking, Finance and Urban Affairs, and they have been defeated on the House floor. The last time we had a rollcall vote on this on the House floor was rollcall 372, and the vote was 153, yes; 264, no. Those Members who voted no on the Wylie amendment October 31 would, I assume, want to again vote no on this motion to recommit offered by the gentleman from Texas [Mr. ARMEY], my friend.

Mr. Speaker, what do the New York Times, the Washington Post, the American Association of Retired People, the U.S. Chamber of Commerce, Comptroller General Charles Bowsher, and almost every major banking group in the country all have in common? The answer is: Each opposes this motion to recommit and opposes new restrictions on existing deposit insurance coverage.

Mr. Speaker, I do not always agree with the Washington Post editorials, and I know that some others do not, but I am going to read one more time what I read on October 31, the first paragraph of the editorial of the Washington Post on this subject.

> The average citizen is in no position to know which bank is sound and which is tottering. Notoriously, there have been cases in recent years in which regulators with access to banks' internal accounts have been taken by surprise.

The editorial goes on to say that now, for sure, is not the time to limit deposit insurance, and that has been said by editorials across the Nation in newspapers from California to Maine.

□ 1720

Mr. Speaker, I urge my colleagues to realize that in many communities across this Nation, like in my own district, there is only one bank, and some people do have more than $100,000 in that bank. If they are required to take it elsewhere, they will take it to a canning jar or put it in government bonds or take it to other institutions in other cities. Some may take it to one of these banks in the Northeast that are said to be too big to fail.

I urge my colleagues to think twice about this last-ditch attempt to bring back this issue that has been defeated time and time and time again in recent months. I ask my colleagues to vote no on the motion to recommit. I ask them to vote as they did on October 31, when we soundly defeated the Wylie amendment which has now come back again in the form of the Armey motion to recommit.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ, I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I want to thank the gentleman for his kind remarks, and I want to thank the gentleman for reminding the Members of our past misjudgment on this issue. I also want to tell the gentleman how pleased I am to give all those Members who voted wrong in the past a chance to atone for that mistake.

Mr. HUBBARD. Mr. Speaker, I know the Members of Congress will be consistent in the defeat of this effort.

The SPEAKER pro tempore (Mr. GEPHARDT). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ARMEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. ARMEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 74, nays 355, answered "present" 1, not voting 4, as follows:

[Roll No. 414]

YEAS—74

Archer
Armey
Ballenger
Beilenson
Bennett
Bentley
Burton
Carper
Cox (CA)
Crane
Dannemeyer
DeFazio
DeLay
Dornan (CA)
Dreier
Durbin
Frank (MA)
Gingrich
Goodling
Green
Hefley
Herger
Houghton
Hughes
Johnson (SD)
Johnson (TX)
Kanjorski
Kasich
Kildee
Kolbe
Leach
Lent
Lewis (CA)
Lipinski
Livingston
McCandless
McCollum
McEwen
McGrath
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Morella
Olin
Penny
Petri
Ridge
Ritter
Rohrabacher
Russo
Santorum
Scheuer
Schumer
Sensenbrenner
Shays
Sikorski
Skaggs
Solomon
Stark
Stearns
Studds
Taylor (NC)
Thomas (CA)
Unsoeld
Walker
Walsh
Weiss
Weldon
Wolf
Wolpe
Wylie
Yates
Zimmer

NAYS—355

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Barton
Bateman
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Murphy
Murtha
Myers
Nagle
Natcher

Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Serrano
Sharp
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stenholm
Stokes
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Weber
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yatron
Young (AK)
Young (FL)
Zeliff

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—4

Brooks
Fawell
Mrazek
Waxman

□ 1741

Messrs. BUSTAMANTE, CUNNINGHAM, and JEFFERSON changed their vote from "yea" to "nay."

Mrs. UNSOELD, and Messrs. SIKORSKI, KILDEE, DEFAZIO, SCHUMER, PENNY, SCHEUER, JOHNSON of South Dakota, WEISS, YATES, and SKAGGS changed their vote from "nay" to aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

(Mr. MICHEL asked and was given permission to proceed out of order for 1 minute.)

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I have asked unanimous consent to speak out of order between the vote on the motion to recommit and the final vote for the purpose of engaging in a colloquy with the distinguished majority leader while we have the full complement of the House here and so that we might get some kind of reading as to how we will be proceeding for the balance of this day, tomorrow, the weekend, et cetera.

I yield to the gentleman from Missouri [Mr. GEPHARDT], my distinguished friend, for some kind of response on how he sees developments unfolding.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

As we said yesterday, if this legislation passes today, and of course we hope that it does, that will be the end of business for today.

Tomorrow we will meet at 11 a.m. and take up the conference report, again, on Labor, HHS appropriations, the veto override, and then we will also take up H.R. 2929, the California Desert Protection Act of 1991.

It is my belief that those two pieces of legislation could be finished at around 7 o'clock tomorrow night. We will inform Members as early as possible, probably by the middle of the afternoon tomorrow, whether or not there would be the need for vetoes and session on Saturday or Sunday. Then we can announce the schedule for Monday and Tuesday.

It is, again, our hope that on Monday and Tuesday we can finish the conference on the transportation bill, the conference on the crime bill, and be able to take up and complete legislation on the RTC and on campaign finance.

There will be some other matters that will be up on those days, but it is still our intent and belief that we can be finished with this session of Congress before the Sun comes up on Wednesday morning.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader for that enlightening announcement.

The SPEAKER pro tempore (Mr. DYMALLY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 344, noes 84, answered "present" 1, not voting 5, as follows:

[Roll No. 415]

AYES—344

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (IL)
Combest
Conyers
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dornan (CA)
Downey
Dreier
Duncan
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hefley
Hefner
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Riggs
Rinaldo
Roberts
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Volkmer
Walsh
Washington
Weiss
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—84

Andrews (ME)
Andrews (NJ)
Armey
AuCoin
Bacchus
Bentley
Blackwell
Bruce
Burton

VOL
137
PT
23
NO
21
—
25
1991
UMI

Carr
Chapman
Coleman (TX)
Collins (MI)
Condit
Costello
Crane
Cunningham
Dannemeyer
DeFazio
DeLay
Dorgan (ND)
Durbin
Dwyer
English
Evans
Gaydos
Guarini
Gunderson
Hayes (IL)
Hayes (LA)
Henry
Herger
Hertel
Hughes
Hunter
Jontz
Kanjorski
Kaptur
Kolter
Laughlin
Levine (CA)
Lipinski
Marlenee
McNulty
Miller (CA)
Moody
Obey
Owens (NY)
Pallone
Perkins
Petri
Poshard
Rahall
Richardson
Ridge
Ritter
Roemer
Rohrabacher
Roth
Russo
Sanders
Sangmeister
Santorum
Savage
Schulze
Sensenbrenner
Serrano
Sikorski
Solomon
Stump
Tallon
Taylor (MS)
Towns
Traficant
Upton
Visclosky
Vucanovich
Walker
Waters
Weber
Weldon
Williams
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—5

Brooks
Doolittle
Fawell
Mrazek
Waxman

☐ 1804

The Clerk announced the following pairs;

On this vote:

Mr. Waxman for, with Mr. Doolittle against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3768, the bill just passed.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Texas?

There was no objection.

ORDER OF BUSINESS

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that on the list of special orders for tonight, November 21, 1991, my name be transposed with the majority whip, the gentleman from Michigan [Mr. BONIOR].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT, THURSDAY, NOVEMBER 21, 1991, TO FILE REPORTS ON H.R. 3604, GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991, AND H.R. 3245, CHATTAHOOCHEE FOREST PROTECTION ACT OF 1991

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until 12:00 midnight, Thrusday, November 21, 1991, to file the reports on H.R. 3604, entitled the Greer Spring Acquisition and Protection Act of 1991, and H.R. 3245, entitled the Chattahoochee Forest Protection Act of 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

WOMEN'S BUSINESS DEVELOPMENT ACT OF 1991

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2629) to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Development Act of 1991".

SEC. 2. WOMEN'S DEMONSTRATION PROJECTS.

The Small Business Act is amended by adding at the end the following new section:

"SEC. 28. (a) The Administration may provide financial assistance to private organizations to conduct 3-year demonstration projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

"(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

"(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(b)(1) As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(A) If the project first receives its Federal financial assistance prior to fiscal year 1993, an annual amount that is not less than the amount of the Federal financial assistance provided each year.

"(B) If the project first receives Federal financial assistance in fiscal year 1993, or thereafter, annual amounts equal to—

"(i) in the first year, 1 non-Federal dollar for each 2 Federal dollars;

"(ii) in the second year, 1 non-Federal dollar for each Federal dollar; and

"(iii) in the third and final year, 2 non-Federal dollars for each Federal dollar.

"(2) Up to one-half of the non-Federal matching assistance may be in the form of in-kind contributions which are budget line items only, including but not limited to office equipment and office space.

"(3) The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal matching funds are obtained.

"(4) If any recipient of assistance under this section fails to obtain the required non-Federal contribution during any year of any project, it shall not be eligible thereafter for advance disbursements under paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded. In addition, prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

"(c) Each applicant for assistance under this section initially shall submit a 3-year plan on proposed fundraising and training activities, and may receive financial assistance under this section for a maximum of 3 years per site. The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

"(1) the experience of the applicant in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(2) the present ability of the applicant to commence a demonstration project within a minimum amount of time; and

"(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(d) For purposes of this section, the term 'small business concern' means a small business concern, either start-up or existing, owned and controlled by women, and—

"(1) which is at least 51 percent owned by 1 or more women; and

"(2) the management and daily business operations of which are controlled by 1 or more women.

"(e) There are authorized to be appropriated $4,000,000 for each fiscal year to carry out the demonstration projects authorized by this section. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

"(f) The Administration shall prepare and transmit an annual report, beginning February 1, 1992, to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this section. Such report shall provide information concerning—

"(1) the number of individuals receiving assistance;

"(2) the number of start-up business concerns formed;

"(3) the gross receipts of assisted concerns;

"(4) increases or decreases in profits of assisted concerns; and

"(5) the employment increases or decreases of assisted concerns.

"(g) The Administration shall not provide financial assistance under this section to any new project after October 1, 1995, except that it may fund projects which commenced prior thereto.".

SEC. 3. ADMINISTRATIVE PROVISION.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking subsection (c) and redesignating subsections (d) through (j) as subsections (c) through (k). Projects funded pursuant to the provisions of former subsection (c) shall be deemed to be funded under and shall be treated as if funded under section 28 of the Small Business Act, as added by section 2.

SEC. 4. PERMANENT AUTHORIZATION OF SMALL LOAN PROGRAM.

Section 7(a)(19)(B) of the Small Business Act (15 U.S.C. 636(a)(19)(B)) is amended by striking "during fiscal years 1989, 1990, and 1991,".

SEC. 5. NATIONAL WOMEN'S BUSINESS COUNCIL.

Subparagraph (G) of section 403(b) of the Women's Business Ownership Act of 1988 (102 Stat. 2695) is amended to read as follows:

"(G) The Chairperson and Vice Chairperson of the council shall be designated by the President and may be either a representative of the public sector or the private sector, except that the Chairperson and Vice Chairperson shall not be from the same sector concurrently. Each shall serve for a maximum term of 2 years. No person may be designated to the same office for 2 consecutive terms, nor may consecutive designees as Chairperson be from the public sector.".

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

Mr. IRELAND. Reserving the right to object, Mr. Speaker, I take this time for the purpose of asking the chairman if he would very quickly explain the differences between the Senate amendment and the House bill.

Mr. LAFALCE. Mr. Speaker, if the gentleman will yield, I would be very glad to explain the Senate amendment.

Mr. IRELAND. Mr. Speaker, I am glad to yield to the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, although technically the Senate amendment struck all after the enacting clause of the House bill, by and large they simply reinserted all of the provisions we had with the exception of two substantive areas.

As passed by the House, the bill would extend a 1988 pilot program under which private organizations may apply to conduct demonstration projects to provide training and counseling to women. These organizations can receive Federal grants providing they obtain an equal amount of financing from the private sector. The Senate amendment would expand the sources of the matching grants the organizations may use to qualify so as to include State and local government funding rather than only private money.

In the second area, as passed by the House, the bill would expand the National Women's Business Council which recommends to the President and the Congress specific ways to support women-owned businesses and help women overcome barriers to full participation in the economic mainstream. Under existing law, the size of the Council is nine members; the bill, as passed by the House, would expand the size by two, with both of the new members being selected by the President, one of whom would be an African-American woman and one of whom shall be a Hispanic woman. The Senate amendment would eliminate the increase in size of this Council.

I believe it is very important that we enact this legislation which also extends the provisions of a program which provides incentives to lenders to provide small loans to women and other entrepreneurs. Especially with the current credit crunch, it is essential that we extend this program which, unfortunately, expired October 1. Both the House bill and the Senate amendment include this extension.

I regret that the Senate did not simply agree to the House bill, but they did not. In the interest of enacting the bill without additional delay, I urge acceptance of the Senate amendments.

Mr. IRELAND. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on the Senate amendment to H.R. 2629, which was just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MODIFICATION OF APPOINTMENT OF CONFEREES ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

The SPEAKER pro tempore. The Chair, on behalf of the Speaker, without objection, appoints the following additional conferees on the bill (H.R. 3371) to control and prevent crime:

Pursuant to the previous order of the House of November 21, 1991, the last paragraph of the appointment of conferees on the bill H.R. 3371 is amended to read as follows:

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and sections 502, 2901, and 4401 through 4403 of the Senate amendment, and modifications committed to conference: Messrs. ROE, ANDERSON, OBERSTAR, HAMMERSCHMIDT, and INHOFE.

There was no objection.

LOWER INTEREST RATES FOR AMERICAN MADE CARS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, we have a bit of good news in this Thanksgiving season, and that is that the Bank of Glen Burnie, MD, has instituted a 1-percent rate discount on all of its loans to persons buying new American manufactured cars and trucks, starting Nov. 1, 1991.

According to Rie Almes, executive assistant to senior vice president Stephen G. Boyd, the advertisements announcing the rate discount have generated more calls than the loan department has ever received for new cars.

The ads were placed in the weekly Anne Arundel County Sun edition and the community paper the Maryland Gazette, and have generated calls being handled by 20 people in the bank's 5 locations: Glen Burnie, Severn, Odenton, Crownsville, and Pasadena.

Mr. Speaker, because of the success of this new discount car loan rate, the Bank of Glen Burnie is leaving the duration of the program open-ended, and I suggest to other banks across the country that this is an excellent way to help jump-start a stalled economy.

☐ 1810

Support American manufactured products, let us get Americans working again. It does work.

VOL 137 PT 23 NO 21—25 1991 UMI

TWENTY-THIRD ANNUAL REPORT OF DEPARTMENT OF TRANSPORTATION, FISCAL YEAR 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SERRANO) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce, the Committee on Merchant Marine and Fisheries, and the Committee on Public Works and Transportation.

(For message, see proceedings of the Senate of today, Thursday, November 21, 1991.)

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, am I correct to assume that under the precedents of the House, no further legislative business can be conducted today and no bills could be brought forward by unanimous consent or by other means?

The SPEAKER pro tempore. The Chair knows of no further legislation at this point. When the Chair is aware of any possible further legislation, it announces the start of the special orders without prejudice to resumption of business.

Mr. WALKER. Mr. Speaker, but I am seeking assurance from the Chair. Typically, when we go to special orders, there will be the assurance to the Members that there will be no more legislative business conducted.

I am seeking that assurance since there has been some rumor that the foreign aid bill would be attempted to be sneaked through the Congress at some point.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Speaker, I would just tell the gentleman it is my understanding from speaking to majority staff that there is no intention by the chairman of the Committee on Foreign Affairs, or any other Member, to bring the foreign aid bill forward at this time.

Mr. WALKER. I thank the Chair.

NATIONAL SURFACE TRANSPORTATION BILL IS ON HOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise today to speak about the national surface transportation bill that is holed up in conference. My State of Missouri is losing millions of dollars and hundreds of potential jobs because conferees in the Senate and House have reached a stalemate—apparently the other body is insisting upon adoption of their own basic structure as the future national highway plan.

I am gravely concerned about this, because the Senate bill perpetuates the old formula under which donor States—including Missouri—contributed while other States received. The time has come to move into a new phase of transportation policy. Our needs have changed over the last 20 to 30 years, and I firmly believe that our transportation policy—which is at the core of economic development for communities, particularly in rural America—must reflect these changes.

This opportunity to refocus transportation policy and provide for the equitable distribution of trust fund dollars must not be lost. If Congress can't produce a highway bill that is acceptable to over 250 Members of this body, representing the donor States, then it is clear that the process by which we make laws has broken down. We cannot buckle down to the other body's wishes and accept a bad bill just to have a bill.

We cannot afford to let this legislation lapse, costing our country hundreds of thousands of jobs, and go our merry way to have Thanksgiving dinner. Let's get this bill done, but let's put forth a bill that treats States fairly in terms of trust fund dollars.

Since highway construction funds expired September 30, miles of road have not been built or repaired, desperately needed bridges have not been fixed or constructed, and jobs have been lost. The State Highway Department estimates that Missouri, alone, could lose over 4,000 jobs as a result of halting work on 73 million dollars worth of projects because of these delays.

In my district in northwest Missouri, contract bids for a project on a major artery through St. Joseph—a $3.4 million project—have not been let. In Maryville, the request for bids for the first phase of a long-awaited project—a bypass on Highway 71—were scheduled for October. This phase is an $8 million portion of a $16.7 million project. And on one of the most important north-south links in northwest Missouri, bids were to be let in October to replace a bridge over railroad tracks in Livingston County. This is a $3 million project.

These projects in Northwest Missouri are indicative of what is needed all over the State of Missouri—major work on roads and bridges. I supported H.R. 3566 because I wanted to bring Missouri dollars back to Missouri where they are greatly needed for these kinds of projects. Missouri would receive $452 million a year starting in 1992, compared with $250 million that the State received between the year 1987 and 1991.

Let me go over some of the provisions that I voted for in the House-passed version, that make for a fair distribution of trust fund dollars.

We need an apportionment formula based on usage, so if your State's roads are heavily traveled and you have a lot of roads, your State receives money to keep these necessary arteries safe for travel. This makes sense. The House-passed version contains this kind of formula, and I believe it is one of the most important provisions in the bill. We also need a true minimum allocation of 90 percent, based on all apportionments, allocations, and demonstration funds. That way, States are assured a fair and equitable return on their trust fund contributions. This makes sense.

The bill also established a 155,000 mile National Highway System, identifying major strategic roads nationwide—both rural and urban—that promote economic development by linking towns with major transportation hubs and other major cities.

If these provisions are fair and foster the growth of this country, why are there such problems reaching a solution in conference? Is it that the other body does not support fairness? The House passed its version by a vote of 343 to 83. In the other body, an amendment was offered to S. 1204 which would have implemented the same type of apportionment formula as that contained in the House version. The amendment was defeated, but received 41 votes. From these numbers, it is clear that a compromise including this formula would have considerable support in both bodies. Instead of giving in on something as important as how the money will be distributed nationwide, why not let go of those important pork barrel projects?

The House crafted a bill, after many long hours of work, with provisions that treat States fairly. I urge the conferees not to let this hard work be for nought. I urge the 250 Members representing donor States to make their voices heard, and make known that as a bottom line we will not accept anything less than equitably apportioned and allocated funds. Let's stay here until this goal is accomplished.

THE FEDERAL PROGRAM IMPROVEMENT ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing with my colleagues, JAKE PICKLE, chairman of the Oversight Subcommittee, BILL ARCHER, ranking Republican of the Ways and Means Committee, DICK SCHULZE, ranking Republican of the Oversight Subcommitte, and members of the Oversight Subcommittee, important reform legislation, H.R. 3837, The Federal Program Improvement Act of 1991. This legislation is one part of the major oversight initiative project I announced in January of this year to systematically review the efficiency and effectiveness of programs under the jurisdiction of the Committee on Ways and Means.

The Subcommittee on Oversight spent the first session of this Congress investigating administration of the health, trade, tax, and benefit programs for which the committee is responsible. As a result, the subcommittee has developed recommendations that will significantly improve the operations and management of Federal programs under the committee's jurisdiction, as well as address fraud, waste, and abuse that have been identified.

The bill I am introducing today reflects the subcommittee's recommendations for reform. Throughout its review this year, the subcommittee has forwarded the results of its investigations in separate reports to the full Committee on Ways and Means for its consideration. Importantly, these reports have been approved by the subcommittee on a bipartisan basis.

Problems addressed in H.R. 3837 include: mistaken payments of Federal benefits to deceased individuals; erroneous payments of Medicare benefits to individuals having other primary medical insurance; schemes involving the sale of durable medical equipment to Medicare beneficiaries; mismanagement and abuse of Customs' overtime pay laws; and, problems with accounting for and collection of pension premiums by the Pension Benefit Guarantee Corporation.

Mr. Speaker, the American taxpayer must have confidence that the programs and Federal agencies they are supporting with their hard-earned tax dollars are operating efficiently, without waste or abuse. Our citizens deserve no less. The legislation introduced today is one strong step in the direction of assuring the American people that their tax dollars are being well-spent and not squandered.

I think it is important that the subcommittee's recommendations be available in statutory form for the public and the affected agencies to review during the congressional recess. Several of the provisions contained in H.R. 3837 may need to be discussed further, and in greater detail, before final enactment. I am aware of the concerns of various Federal agencies and their employees, and other interested parties, about certain aspects of this package—particularly the subcommittee's recommendations to reform Customs inspector overtime pay and to reform the Medicare laws. I understand that compromises may be developing with respect to the issue of Customs' overtime, and I encourage such efforts. The full Committee will continue to listen to all concerned, with the goal of fine-tuning and improving the package as need be.

Mr. Speaker, I want to publicly commend Subcommittee Chairman PICKLE and all the members of the subcommittee for their cooperative, diligent and responsible oversight effort. I intend to take the subcommittee's bipartisan package of recommendations before the full committee early next year for committee discussion and eventual approval.

□ 1820

TRIBUTE TO HARRY C. HAMM

The SPEAKER pro tempore (Mr. SERRANO). Under a previous order of the House, the gentleman from West Virginia [Mr. MOLLOHAN] is recognized for 5 minutes.

Mr. MOLLOHAN. Mr. Speaker, I rise today to pay tribute to Harry C. Hamm, whose 50-year career with the Wheeling News-Register set a high standard for journalists, and citizens, everywhere.

Long before his retirement in September and his death less than 2 months later, Harry had attained legendary status in his home State of West Virginia and beyond. He was principally known in the newspaper field for his keen eye, his crisp writing and his sound professionalism. Harry Hamm possessed these qualities in abundance, and they served him well.

He began his long and distinguished career with the Ogden Newspapers in 1941, when he joined the News-Register staff as a reporter. Duty called soon after, and Sergeant Hamm served with distinction in the U.S. Army during World War II, earning both the Purple Heart and the Oak Leaf Cluster. After 3 years of service—2 of which were spent in the European Theater of Operations—he returned home to Wheeling and to the News-Register. In 1948, Harry was promoted to city editor of the newspaper. He was named managing editor in 1951, and in 1957 was promoted to editor. In addition, from 1968 until 1975 he served as editor in chief and consultant to other Ogden newspapers.

Mr. Speaker, it would be a great understatement—even an injustice—to describe Harry Hamm's career only by using words such as "editor" or "reporter." He was much, much more. As his own newspaper stated in an editorial published soon after his death:

> It is difficult to sum up, in a few words, the life of a man so complex as Harry Hamm. Perhaps it can be accomplished best by saying that he always wanted the best for his family, his community and his profession; that he labored mightily and well to those ends—and that in so many ways, there is proof he succeeded.

Mr. Speaker, I know of no one who loved Wheeling more deeply, or who labored more diligently on its behalf, than Harry Hamm. He appreciated Wheeling's rich history, and took a great deal of pride in how the city had evolved. He also had a grand vision for its future—a vision he shared with us all.

Harry played a key role in developing the State's first urban renewal project. He was a steadfast supporter of urban renewal in his community, and served as chairman of the Wheeling Urban Renewal Authority. This was the groundwork for Wheeling 2000—the plan Harry authored to lead his community into the 21st century.

Mr. Speaker, the city of Wheeling, like virtually all of West Virginia, suffered in the 1980's. The decline of the steel and coal industries caused high unemployment, and forced many West Virginians to leave the State. But Harry Hamm's faith in his city and its people did not waver—he saw Wheeling as a city in transition, and set out to develop a blueprint for its future.

His Wheeling 2000 plan generated a renewed sense of optimism in the community. It provided a realistic, orderly approach to economic development; one based upon the city's most valuable resources. And although Harry never sought personal glory for his many achievements, it is important to note that he was honored as a valley visionary in recognition of his work on Wheeling 2000.

Harry also was a tireless and successful supporter of Oglebay Park, of Wheeling Jesuit College and of Wheeling Hospital; he was the driving force behind countless community projects, both large and small.

I personally placed a high value on his friendship, and I greatly admired his integrity, his enthusiasm and his strong devotion to family. He drew great strength from his family: from his remarkable wife, Marry Haddox Hamm, and their wonderful 12 children and 16 grandchildren. As everyone who knew Harry can attest, his family was a constant source of inspiration and pride. And there is no question that those feelings were deeply shared.

Mr. Speaker, while the city of Wheeling has lost one of its strongest and most eloquent voices, the contributions that Harry Hamm made to our community will remain a source of enrichment for years to come. I extend my deepest sympathies to the Hamm family and to Harry's many close friends.

THE FREEDOM OF INFORMATION ACT, THE CONGRESS, AND THE WHITE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, in recent weeks, others have raised the issue of the applicability of the Freedom of Information Act to the Congress, and several Members have introduced bills that would make Congress subject to the FOIA. This is a proposal that has been raised from time to time in the past.

It is not my purpose today to take a position on the basic issue. Rather, I would like to broaden the discussion about the scope of the FOIA to include some other relevant points. In general, I believe that there are three fundamental misconceptions about the FOIA and the Congress that have not been fully recognized in the debate.

The first misconception is that the FOIA covers the entire Federal Government except for the Congress. The truth is that the FOIA

VOL 137
PT 23
NO 21—25
1991
UMI

does not apply to parts of the executive, judicial, and legislative branches of Government. Congress did not exempt only itself from the FOIA.

Perhaps the most significant part of the executive branch that is not covered by the FOIA is the Office of the President and the Vice President. These two elected officials and their immediate staffs are not required to accept or respond to FOIA requests. Similarly, elected Members of Congress and their staffs are not covered by the FOIA. In addition, the FOIA does not cover any part of the judicial branch of the Federal Government.

The scope of the FOIA was carefully defined by the Congress to apply to those parts of the Federal Government where it was needed. Extensive hearings held in the 1960's and 1970's demonstrated that executive branch agencies were unwilling to make routine information about their activities available to the public. The FOIA was passed in response to a documented, long-term problem of excessive secrecy in the executive branch. No one has made a similar case for the Congress.

The President and Members of Congress were not made subject to the FOIA. This decision was made in part because of a recognition that elected officials are directly accountable to the public in a way that bureaucrats are not. The judicial branch was not covered either, partly out of recognition of its separate role and need for independence.

Portions of the Executive Office of the President are covered by the FOIA. The Executive Office of the President includes agencies such as the Office of Management and Budget, the Office of the U.S. Trade Representative, and the drug czar, and these agencies are subject to the FOIA. Other offices in the Executive Office of the President whose sole function is to provide advice to the President—or Vice President—were expressly exempted from the FOIA in the 1974 amendments. At the insistence of the President, Congress in 1974 preserved the exemption for the immediate staff and Office of the President and Vice President.

A second misconception is that applying the FOIA to the Congress would actually make more records publicly available. The truth is that applying the FOIA to the Congress would permit both the Congress and the executive branch to withhold from the public some information that is now routinely disclosed. Let me explain this unexpected result.

Standard FOIA principles permit the withholding of predecisional documents for the purpose of protecting advice, recommendation, and opinions which are part of the deliberative, consultative, decisionmaking processes of Government. The fifth exemption of the FOIA covers these types of documents.

Consider how these rules might apply to legislation. A bill as introduced is just a draft which fuels the deliberative, consultative, decisionmaking process of the Congress. Until a bill is voted upon and approved by a committee, by the House, or perhaps even by both Houses of Congress, the bill remains a draft document subject to change. One could argue that bill and amendments are predecisional documents subject to withholding.

I am not suggesting that the Congress would withhold bills in process, just that the authority to do so might exist if the FOIA applied to the Congress. For anyone who wants to test this theory, I suggest that you make a FOIA request at any executive branch agency for a copy of any legislative recommendations that have not yet been approved by the agency head or by OMB. In general, you are likely to find that such a request will be denied on the grounds that the draft bill is a predecisional document.

Applying the FOIA to the Congress could have the perverse effect of permitting the executive branch greater authority to withhold documents. Under exemption 5 in current law, interagency documents can be withheld from the public under certain circumstances. Documents sent by the executive branch to the Congress generally do not qualify as interagency documents because Congress is not an agency under the law. If Congress were defined to be an agency under the FOIA, then a broader range of executive branch documents could fall within the fifth exemption. The net result could be that information that is available today would no longer have to be released.

The third misconception is that the Congress operates in excessive secrecy. The truth is that the Congress is the most open of the three branches of Government. All debate on the floor of both Houses is open to the public. The proceedings of both Houses are televised, and a complete transcript is published immediately upon the conclusion of each day's business. Copies of the CONGRESSIONAL RECORD are widely distributed throughout the country. Even the most sensitive business of congressional committees—the markup of legislation—is usually conducted in open session.

The vast majority of congressional hearings are open to the public and the press. Many are televised. Transcripts of hearings are routinely published and provided to Federal depository libraries and others at no charge. Copies of all bills, resolutions, committee reports, and other House and Senate documents are routinely available upon request.

It is difficult to identify any category of current congressional records that would be more available under the FOIA. What about the much disputed records of the House bank? Those records would be exempt from disclosure under the FOIA's existing exemption covering invasion of personal privacy. Anyone who doubts this conclusion should ask any executive branch agency for any personal financial information of a comparable nature regarding any Federal employee. The request will properly be denied. As a Federal banking agency for a list of delinquent borrowers or check bouncers from banks operated by the Federal Government. That request will also be denied.

Further, may of the congressional records that are available to the public are now provided in response to requests made by telephone. The House Document Room, for example, provides copies of House bills and reports in response to requests made in person, on the telephone, in writing, and by fax.

If FOIA procedures were applied to the distribution of these documents, all requesters could be obliged to make written requests. The Document Room would be entitled to wait 10 days before providing the requested material. In addition, a charge could be imposed on requesters. Today, House materials are distributed at no charge to the public. I know of no Federal agency—including the Office of the President—that provides so many different documents to so many different people in such a convenient manner.

It is useful to contrast the openness of the Congress with the disclosure practices of the Office of the President and the Office of the Vice President. A recent FOIA decision by a Federal district judge offers some insight into the availability of Presidential and Vice Presidential records. The case is Meyer versus Bush, and it was decided about a month ago.

The requester in the case sought access to records created by the Task Force on Regulatory Relief which was chaired during the Reagan administration by Vice President George Bush. The request was denied on the ground that the Vice President's task force was not an agency under the FOIA. The Government would not even search the Vice President's Office for any records responsive to the request.

What is interesting about this case is the argument made on behalf of Vice President George Bush and not the outcome. For 3 years, the Government has been resisting the FOIA request for these records on the grounds that the FOIA did not apply. Whether that legal position is correct is a separate issue. There is, however, no legal principle that prevented the Vice President from releasing those records regardless of the applicability of the FOIA. The records could have been released if President Bush were willing to do so. He was not.

The judge did not accept the Government's legal arguments. The judge found that Vice President's Bush's task force was an agency subject to the FOIA because it had functions beyond providing assistance and advice to the Vice President. This is not a final judgment, and I am sure that the Government will appeal this ruling to the Supreme Court if necessary.

The Council on Competitiveness, chaired by Vice President Quayle, also contends that it too is not subject to the FOIA, and its records are not available to the public. The Council on Competitiveness, the successor to the Task Force on Regulatory Relief, is heavily involved in overseeing the Federal Government's regulatory activities. The Council has been criticized for conducting these activities in secret.

The question about the applicability of the FOIA to the Congress cannot and should not be considered in a vacuum. If we should make the Congress comply with the FOIA, I believe that we must make the President and Vice President subject as well. If we are to alter the FOIA's exemption for elected officials, let us treat all elected officials equally.

We may also need to reconsider the exemption for the judicial branch. A recent article in the Washington Post discussed the effect of a new law that required Federal judges to report on motions and trials that have remained undecided for more than 6 months. The resulting information provided an interesting new window on the activities and performance of judges. I also suspect that some of the judges were embarrassed. My guess is that the effect of this limited amount of sunshine on the courts will be to spur delinquent judges to do

a better job. That has certainly been one of the major benefits from more FOIA disclosures by the executive branch.

Let me turn briefly to another related issue. A few weeks ago, the President offered the observation that the Congress was not subject to the Privacy Act of 1974. This is certainly true, although the President failed to mention that he, the Vice President, their immediate staffs, and the judiciary are not subject to the Privacy Act either. In fact, the FOIA and the Privacy Acts are identical in scope.

The President raised the Privacy Act in the context of using the act to punish leakers. I am not sure, however, that the Privacy Act is an effective deterrent to leaks in the executive branch. First, the criminal penalties under the Privacy Act are misdemeanors with a maximum fine of $5,000. No one who violates the Privacy Act can be sent to jail.

Second, the criminal penalties of the Privacy Act have only been used a few times. I do not know the exact number of people who have been prosecuted in the more than 15 years that the law has been on the books, but it is no more than a handful. How many leaks of personal information came from the executive branch during that time? Of course, any leaks that might have come from the immediate staff of the President would not be subject to criminal sanctions under the Privacy Act because the act does not apply to the office of the President. And apparently, the President has not proposed extending the Privacy Act to his own office.

Third, it is not even clear that a release by the FBI of sensitive personal information from its investigative files would be a violation of the Privacy Act. The FBI has reserved to itself the ability to disclose publicly any information about the subject of an investigation—including appointees to Federal office—without violating the Privacy Act.

Under the Privacy Act, each agency can define permissible disclosures of information—called routine uses—through notices in the Federal Register. If a particular disclosure has been authorized by a routine use, then it is legal under the Privacy Act. The routine uses for any system of records are defined by the agencies. There is no general legal requirement for establishing any particular routine use. It is up to each agency.

The FBI's main investigatory records are maintained in a system called the central records system. This system of records contains information on subjects of investigations, applicants for sensitive positions in the U.S. Government, informants, and others.

Given the sensitivity of the records in this system, I was shocked to learn that a routine use has been established reserving to the FBI the ability to disclose any of the information to the news media and general public where there exists a legitimate public interest. This is as broad and vague a standard for the disclosure of personal information as exists anywhere. It could be used to justify virtually any release of data. If any personal information from the central records system were released by the FBI to the news media, I suspect that the first defense would be that the release did not violate the Privacy Act because FBI had reserved the right to disclose the information.

I am at a loss to explain why the FBI maintains the right to release to the news media all sensitive personal information that it maintains. I wonder if confidential FBI informants would sleep confortably if they were aware that the FBI could disclose their identities without even violating the Privacy Act.

This is certainly a convenient provision just in case anyone at the FBI is ever caught disclosing confidential personal information. If the President is concerned about punishing leakers under the Privacy Act, he should immediately direct the FBI to revise its rules to eliminate the ability of its agents to release to the press sensitive personal information. This change could be implemented through administrative action. No change in the law is needed to accomplish this purpose.

What this illustrates is that the Privacy Act provides little protection against leaks or invasions of privacy. Extending the act to the Congress would not solve the existing problem or provide any additional protection. I have introduced legislation to amend the Privacy Act to make it more effective. I would be happy to work with the President to strengthen privacy laws and to consider extending those laws to the President as well as the Congress.

TRADE AND THE SAD STATE OF THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, when we had our discussion yesterday about the sad state of the economy and the impact it has on many American workers, one of the things that struck me was, if the administration's trade team, and the efforts that have gone on under both this and the Reagan administration, had been a basketball team or a football team on the field or the court, there would have been an investigation to see if they had thrown the game. If it had been a fight, there certainly would have been an investigation because, when we look at the impact on American workers and on American companies of the attitude of this supposed free trade, what it really is, is only free trade when foreigners come to sell here, but it is not free trade when we go to sell over there, and I can give my colleagues one example in my own State, an issue we have been fighting for some time.

The Ferrier Co. in Uncasville, CT, Montville, CT, is a company that makes gauges. It makes some of the best gauges for tachometers for all kinds of engines, pressure gauges, RPM gauges, mile-per-hour gauges, and they were selling to the aftermarket of Japanese engine manufacturers. They have been taken out of that business. They were told, frankly, that the Japanese home company wanted a Japanese product, a Japanese gauge, not that they did not meet the spec, not that they did not meet the price, but they did not want an American-made product, and they found in the assembly plants of the Japanese car makers that the door had been locked, locked to American manufactured products of cars that are supposedly made in the United States.

Mr. Speaker, we end up with a situation where, when we have an opportunity to grow, the administration has not been there for the American worker. When we need to invest into conversion, into diversification, the administration has been an obstacle, and, as we take a look at the economic situation we are in now, with the downturn in the economy, the future problems are not simply whether unemployment continues to grow, or gets a little better. It is that we do not have the number of jobs that we really need, nor do we have the kind of economic growth that will expand the opportunities for our country.

Mr. Speaker, we have a number of other gentleman who have joined with us today to address these economic issues, but it is not just a broad policy discussion that we are all about. What this comes home to is in each of our districts, in each of our hometowns, and across this Nation, workers are losing opportunities because of bad fiscal and monetary policies at times, because of bad budgeting from the White House and because of the fact that, when it came to trade policy, the administration threw the game.

I can remember when I took over the International Economic Policy and Trade Subcommittee and the administration came in to tell us about Europe 92, and they told us it was the best thing since sliced bread, that it is going to be great for American workers, and I asked the question at that time, "If you're in the middle of a sporting event, and it's a tie, and you find that the other side wants to change the rules by which you play with, don't assume they're going to try to make it easier for you to win."

They said, "No, no, this is going to be easier access for our markets."

Mr. Speaker, what has happened is, time and time again, it has closed off American markets. If we now want to sell to the $600 billion public sector in Europe, we have to have a plan to facilitate in Europe. They do not want to buy American products; they want to buy European products.

If we want to have access to their most lucrative markets in power systems and utilities, we have been locked out. A number of American companies have moved their investments out of the United States into Europe.

So when we look at these unemployment numbers, and if we look at some of the charts, maybe, that we have pulled out a while ago on the economy, we see that we have a continuous problem with employment growth. I think that is the real issue here. The unemployment numbers alone are very disheartening for Americans, but when we take a look at this chart, maybe the chairman of the Committee on the Budget would care to join us, and we have the gentleman from California [Mr. FAZIO] here, and maybe we could go through the chart on the numbers again, because I think it is critically important to take a look at where the job growth has been, and where it has been the most anemic.

Mr. PANETTA. Mr. Speaker, would the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, the chart indicates and tries to track employment growth beginning after World War II, during the Truman administration. If we look at every administration, whether it is Truman or Eisenhower or Kennedy, in the Johnson era there was a 3.9-percent growth in jobs; Nixon, 2.2; Ford, 1.1; Carter, 3.1. In President Reagan's administration it was 2.1. In the Bush administration we have 0.5. If you compare it to other administrations it is clearly the slowest employment growth in the postwar era.

REQUEST FOR EXCHANGE OF SPECIAL ORDER TIME

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to exchange my special order time for this evening with that of the gentleman from Missouri [Mr. GEPHARDT] and with that of the gentleman from Indiana [Mr. JONTZ].

The SPEAKER pro tempore (Mr. SERRANO). The Chair will advise that the majority leader has a 60-minute special order. The next gentleman on the list is the gentleman from Indiana [Mr. JONTZ] for 5 minutes.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

Mr. JONTZ. Mr. Speaker, I rise this evening to take part in this very important discussion of the economy of our Nation. I represent a district in northern Indiana, the Fifth Congressional District of Indiana, that is very typical of the Midwest. It consists of farms and factories, and I wish I could come to the floor this evening to report that everything was in good shape with the economy at home. Regrettably, it is not.

We do have the means here in the Federal Government to help or to hurt the situation, and it bothers me and it bothers my constituents, as so many times there are opportunities we could take to improve the economy at home where we have not done so.

I am very concerned, for instance, about the trade policy of our country. We are now engaged in negotiations with Mexico on a possible free-trade agreement. Just this spring a factory in my district closed in Wabash, IN, United Technologies plant, making wire harnesses, not because there was not a need for those harnesses, but rather because this particular company could manufacture them less expensively in Mexico. So we saw 500-and-some individuals lose their jobs.

My hope is that this country will adopt a trade policy which reflects an understanding that to have a strong economy requires a strong middle class here at home, and that investing in the United States, investing in factories in our Nation's heartland, is a more productive policy in the long run than encouraging investments to go to Mexico.

My distinguished colleague, the gentlewoman from Ohio, MARCY KAPTUR, has invited Carla Hills, our Nation's Trade Representative, to come to the Midwest to see some of the factories that have closed. Mr. Speaker, I recently have extended a similar invitation to Ms. Hills because I believe she should come to the portion of our country, to all parts of our country, that have been adversely affected by our Nation's trade policies in the past, and she should talk to the individuals whose jobs and lives literally were on the line.

My belief is that if we had a trade policy which was focused more on the needs here in our own country to invest, that we would build our economy, and in the long run, we would have a much stronger Nation.

I also represent a great many individuals in the farm sector at home who have seen their share of problems, because of low prices and also because of the drought this year. Later this evening the gentleman from Illinois [Mr. EWING], my colleague, will be having a special order, and he will speak about the need to pass drought-assistance legislation to help some of these family farmers.

In 1988 when we had a drought, we had the benefit of high prices. Today we have low prices on the farm, and I have a lot of farmers that are actually suffering, in worse shape now than they were in 1988. The Federal Government could take positive action to help these farmers. This House has passed a drought-assistance bill, an authorizing bill, and also a dire emergency special appropriations bill that would provide funding to make disaster payments to these family farmers who work hard, and deserve to stay in business, but unfortunately, may not be able to without some help.

I wish there were support from the administration for this disaster package. I hope there will be. The President travels all around the world. He helps people with U.S. tax dollars in other corners of our globe, yet we have people here at home who are suffering on the farm in northern Indiana who deserve help as well. I would hope if we have the funds to send overseas that we will also have the funds to help producers here at home.

Our country is a great country. We have workers in farms, and on the farms, and in the factories, and throughout our Nation, who are extraordinarily productive, yet they do not enjoy the standard of living which they should, given the resources of this country, and their willingness to work hard. It is greatly disturbing to me that in the Congress we make efforts to assist our working families, which oftentimes are frustrated by the policies of the White House.

I would hope that the White House and the Congress could work together on some of these matters, and it is disturbing that we see some good initiatives that are put forward in the Congress halted by a lack of support at the White House. My hope is that in these next few weeks and months, that we will see the attention of our Nation in Washington turn to the problems we are facing with our economy at home.

There is no question we have not enjoyed the sort of economic growth that we should. We have it within our means to make a difference, and I would hope that that challenge would be taken up in Washington so that we can have the sort of economic growth that our working families at home should enjoy.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 60 minutes.

Mr. FAZIO. Mr. Speaker, I would like to engage in continuing dialog with my friend, the gentleman from California [Mr. PANETTA], who was indicating to us some of the statistics that portray very starkly the very slow rate of growth in employment that has occurred during the Bush administration. It really does coincide directly with the slow growth in GNP during the same period of time. In fact, I was looking at some data the other day that showed that President Bush is really the first President in many years to have had an average of below 1 percent GNP growth during the first 3 years of his administration.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to my friend, to show what impact that has had on job creation.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding. The gentleman is correct, both in terms of productivity as well as in terms of growth, as well as in terms of employment, the administration has had the worst record in the postwar era in terms of achievement. They are all interrelated. Obviously if you do not have the growth, if you do not have the productivity, clearly you are not going to have the employment.

I might add that today's figure with regard to those applying for unemployment benefits rose to near 500,000, slightly less than 500,000. That is the largest we have seen in quite a while in terms of those applying for extended benefits, and it does indicate that with regard to this employment picture that we are looking at unemployment that is going to continue to remain high or relatively high we estimate, according to our economists, for a 2-year period. That could be devastating to those individuals and to their families and to our economy.

Mr. FAZIO. Mr. Speaker, if my friend would yield, I think it is important we put this in the context of the promises that were being made by this administration. Just over 3 years ago, in August 1988, at the Republican Convention, the President stood and said "My mission is 30 and 8, 30 million jobs in the next 8 years." Of course, we have seen a very, very poor performance by this administration, the poorest performance of any modern administration, of either party.

Mr. President has, of course, seen in the last 3 years only 1.2 million jobs created, and that is really only 4 percent of President Bush's 8-year, 30-million-job-creation goal.

☐ 1840

Mr. PANETTA. If the gentleman will yield further, this chart also portrays that promise. Basically it says where are the 30 million new jobs?

We had the promise in January 1989 that we would see 30 million new jobs. That would essentially take us up to this point by 1997. Right now we are going down with regard to that promise at a point of only about 1,500,000 jobs that have been achieved. So the President is falling far short of it.

Again, it is an indication of the fact that the economy, productivity, growth, competitiveness, the ability to be able to get our goods abroad, the ability to be able to have the kind of growth within our economy that produces jobs, it is not there.

Mr. FAZIO. Mr. Speaker, reclaiming my time, to compound this tragedy, with only 38 percent of all unemployed Americans eligible for benefits today, until very recently this President has resisted every effort to provide extended benefits to people who were not employable or not able to find work in this economy, which showed this very weak job creation record.

So the tragedy is not just that the President has promised far more than he is producing, he as not even been willing to own up to that and provide in compensation the extended benefits that would have helped the economy and certainly helped the many millions of Americans who are totally without benefits at the same time their bills continue to pile up.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield further, we have just seen in the period of the last few days the President continuing to blame the situation in the economy on the Congress. I frankly think the American public is probably tired of blame letting on either side at this point because the problem is so serious. But here you have a situation where the Congress basically says we need unemployment compensation for those that are unemployed.

Clearly these numbers reflect the huge numbers of unemployed. Yet, when we passed two versions of the bill, they were vetoed, and we were finally able to get an agreement worked out with the President for a third version that finally was accepted. But it was not as if it was a situation where the President himself had proposed the need to extend unemployment compensation.

Mr. FAZIO. Mr. Speaker, I think it is important we as Democrats get across this fact: we are not simply satisfied to extend unemployment benefits. We need to get the country growing again so that we can create the jobs that will drain our coffers far less, and in fact will help fill them again, help bring additional revenues in to help balance our budget.

We have a policy that I think the gentleman is very much in the forefront of advocating that is going to get the country moving again, a growth policy using both expenditures and tax incentives to move the country in the direction that President Bush says he wants to go in, but which so far he has been absolutely an abysmal failure in moving us in that direction.

Mr. PANETTA. Mr. Speaker, I think that is the key.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order and be recognized for 5 minutes at this time.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think the key is that everyone is asking what can we do in terms of restoring confidence in our economy and Government? What are the key factors? What do we turn to?

The keys are essentially you have to restore growth. We have to restore jobs, we have restore basic fairness to the American society, and we are going to have to restore resources by essentially trying to implement better fiscal discipline in the country.

Obviously, economic growth is going to be produced when you begin to invest in things like education. The President talks about education. He talks about the need for reforms in education. But he never talks about the resources needed to make education better in this country.

So education, the ability to have a fully funded Head Start Program, the ability to have fully funded compensatory education programs. Those are essential to future growth.

The ability to have research and development funds expanded so that we can improve our research and development and begin to expand growth within our economy is essential. The need for an energy plan, a comprehensive energy plan, is essential to a growth strategy for this country. Yet we have not seen that kind of comprehensive energy strategy produced by the President that includes conservation, production, and the development of alternatives.

Lastly, we do need tax incentives, but tax incentives that are targeted, that are paid for, and that develop long-term strength.

Jobs is another area. We definitely need to produce jobs. One of the bills we have is the highway bill. According to the chairman of that bill, if we could pass that highway bill 2 million jobs would be created, the kind of jobs that do help try to restore the situation in our economy.

Mr. GEPHARDT. Mr. Speaker, reclaiming my time, if the chart on growth during the postwar period could be established, I would like to ask the gentleman from California [Mr. PANETTA] about that particular chart.

We have heard a lot about growth packages and ideas for growth. All of us are worried about having the kind of economy where President Kennedy once said, "The rising tide lifts all boats."

I think Democrats have always believed that in order to have the land of opportunity available for all of our people, it has to be a growing economy. That is the kind of economy where new jobs, good paying jobs, are being created.

This chart is instructive when you look and see when the growth really happened. Obviously the highest growth in the postwar period came right after the war, when troops were coming back home, homes were being built, cars were being built. We had 5.2 percent average annual GNP growth in the Truman administration. Then it

VOL 137 PT 23 NO 21—25 1991 UMI

was down to 2 percent during Eisenhower, back up to almost 5 percent in those early sixties and the Kennedy years. We had the investment tax credit, we had tax cuts for the middle class.

Of course during the Johnson period we had high growth again at 4.6 percent. It was back down to 2 percent during the Nixon administration, 2.6 percent during the Ford administration, and back up to 3 percent during Democrat Jimmy Carter's administration. We had 2.9 percent during Reagan, and now, of course, the lowest postwar growth that we have ever seen.

Mr. Speaker, I think if we cannot figure out how to deal with this problem, and do it very soon, America as the land of opportunity is going to be a very, very different place.

Now we are in a recession. I doubt that we have even got 0.5 percent. In fact, probably there are negative figures there for growth and for the creation of jobs.

I think the President should have a growth package. I wish he would have had it by now. I hope that he will have one in January.

I believe, as I know the gentleman does, that we need to pass a growth package, and the Congress will take up that growth package. As soon as he has it, we will consider it, and we will try to have it on this floor as soon as humanly possible, because I think the American people are rightfully asking why aren't we having 3 or 4 or 5 percent growth as we did during the Truman, Kennedy, and Johnson administrations.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield further, I think the greatest concern about this chart is that because we are at a 0.5 percent growth rate right now, and we are also at a negative productivity rate for the first time in the postwar era, negative productivity, that to begin to get our economy going again is going to take twice or three times the effort. No matter what you do on the growth front, it is going to take a lot to get us here.

Now, the problem you are having in both productivity and growth is not only unemployment, but people who are working are getting fewer wages. Let me just display that in this next chart.

Mr. Speaker, you are looking here at real average hourly earnings for nonfarm payroll workers. We again begin in 1981. You can just track hourly earnings of individuals, and you can see where they are headed right now. They are headed down, again for the first time in the postwar era, where individuals, in terms of their income, are bringing home less.

That is impacting on them and their families, and it is impacting obviously on our economy.

When the President says go out and buy a house or go out and buy a car, he has to ask these workers where are they going to find the money to do that? Where are they going to find the money to do that, when in fact they are earning less than they were in the early 1980's.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield, I think it is very important to point out real consumer spending per capita during the Bush administration has not increased at all. In fact, you can see that with the average hourly earnings declining, people are having to spend their savings in some cases in order to be able to keep consumer spending at an even level.

You can see why our retail establishments are struggling, why so many elements of our economy, certainly the housing industry is stagnant or, in some cases, even declining in assessed valuation. It is because the consumer is not able to spend because he is not earning, not seeing the kind of income increases that we saw historically in the post-World War II era.

□ 1850

This administration has the worst rate of any administration since World War II in terms of real consumer spending. And that is why so many of our small businesses in this country are hurting so badly, that they are going into bankruptcy.

Mr. GEPHARDT. Mr. Speaker, I know that our time has expired. I would simply say that the gentlemen from California have been leading the effort to get our country moving in the right direction. We will be taking up the budget early next year, and I hope we can continue this discussion in the nights ahead so that we can begin trying to lay out, formulate plans that we can get a package of legislation done early next year to move these lines in a different direction, getting growth going in the United States again.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, I would like to begin with good news. The United States Coast Guard today transferred more than 1,400 Haitian refugees from Coast Guard cutters to the area around the United States Naval Base at Guantánamo Bay, Cuba, to enable the Coast Guard cutters to continue rescue operations.

The State Department announced that 858 Haitians were transferred to the Navy vessel *Tortuga* in Guantánamo Bay, and 572 were being sent out to the base itself.

That leaves 380 Haitians still on cutters. This is good news because it represents a more humane approach to the problem of assisting those Haitians who are so desperate that they are risking their lives to flee the terror of the military government, illegal military government, of Haiti.

I think it is good news that our Government has ceased a policy of returning these refugees, political refugees, to Haiti. More than 500 have been returned already, but as a result of a court order, they have stopped returning the refugees and have started behaving like a more human democratic government.

We have begun to apply the same standards to the Haitians that we have always applied to refugees seeking to escape terror and persecution.

The policy of the United States Government is the primary reason we have the continuing turmoil in Haiti. If only we would support the democratically elected government of President Aristide, we would not have had the problem of having to accommodate thousands of Haitians attempting to flee terror and persecution. If only we had supported the man who was elected by 70 percent of the voters, we would not have a problem.

But we do have a problem. I am happy to report that we have begun to deal with that problem in a more humane way.

Mr. Speaker, at this point I yield to the gentleman from New Jersey [Mr. PAYNE] for his comments on the subject.

Mr. PAYNE of New Jersey. Mr. Speaker, let me thank the gentleman from New York [Mr. OWENS] for taking a special order tonight to dramatize the plight of people who are attempting to speak out against injustice and attempting to leave a place of persecution but who, as they have left harshness, have been treated the same way in their plight.

Mr. Speaker. I speak with a sense of outrage for the action of my Government in the treatment of Haitian refugees. For the United States, who in the past had vigorously opposed the involuntary repatriation of Vietnamese boat people by Hong Kong, to now turn our back on our suffering neighbors in Haiti, is truly an embarrassment.

I also speak to the American people in the hope that a better understanding of Haiti will bring about a wave of reaction against this inhumane and barbaric act.

Haiti is one of the most densely populated countries in the world where 10 percent of the people take home more than 70 percent of the per capita income.

These are the same 10 percent who are standing behind the unlawful expulsion of democratically elected President Aristide by the military.

Haiti is a country where 40 percent of the children are dead by the age of five. Where 20 million trees are lost each year for fuel consumption, and 10 percent of the topsoil washes into the Caribbean each year.

One may ask, "How did Haiti become such a basket case?" Let us look at history.

With World War II, the President of Haiti asked our President Roosevelt how his small country could be of assistance in this war for the salvation of mankind. Roosevelt said that the United States had suffered a loss of rubber sources through the Japanese invasion of Southeast Asia. He then asked Haiti to convert its agricultural economy to the production of trees and plants that produce latex.

Agreeing to this challenge, the mahogany trees and other forest plants indigenous to the island came down to make way for the Firestone plantations. The experimental plants to produce latex were planted, but were not successful. The Haitian Minister of Agriculture told his President that if this policy did not stop he would be sacrificing the future of his country. The President did not take his advice, and the Minister resigned his position and never served in government again.

There were other sacrifices Haiti made for our country. In our Revolutionary War there was a voluntary battalion of 1550 French Haitian volunteers that fought in the battle of Savannah. In that battalion was a black unit called a company of color.

One corporal by the name of Henri Christophe helped repel three charges from the British, was finally wounded, and returned to Haiti where he became one of the famous leaders in Haiti's slave revolt for its own independence.

This slave revolt against Napolean's best regiments also stopped the French strategy for reclaiming their military foothold in the Western Hemisphere and dominating the North American Continent through the Louisiana Territory because they could not reestablish their position in Haiti.

Haiti was then a threat to the institution of slavery in the southern part of the United States.

Haiti trained and armed Simon Bolivar so he could free South America.

This is part of the reason for the compassion of the Organization of American States to help Haiti and offer sanctuary for fleeing refugees in Venezuela, Honduras, Belize, Trinidad, and Tobago.

And yet in the face of these offers Mr. Bush's administration stated that "the absence of a sufficient safe haven option" demands that the United States Coast Guard and Navy return the refugees back to Haiti to head off threats of a mass exodus.

What Mr. Bush is really worried about is another exodus similar to the early 1980's when Haitians were treated in a different manner than Cubans. The Cubans were welcome because they were fleeing a wornout communism, while the Haitians were fleeing for their lives from a murderous dictatorship.

Cubans received preferential treatment for permanent residence status, while Haitians received Krome Prison in Florida where families were separated. Husbands from wives and brothers from sisters. Males and females were divided like in the early slave days.

Now the office of the U.N. High Commissioner for Refugees has found the courage to speak out against this current violation of the Geneva Convention, where refugees with a recognized fear of persecution are being forced to return without even normal due process guarantees.

Where is America's sense of fairness and compassion? Let us help them in their time of need like they did for us. Have we forgotten what is inscribed on the Statute of Liberty?

I quote:

> Give me your tired, your poor, your huddled masses yearning to breath free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me. I lift my lamp beside the golden door.

Or, do we remember the Willie Horton's, the David Duke's, and others who are beginning to symbolize our new domestic order.

It is inconceivable to me to think that any career diplomat, or State Department official who has dedicated his or her life in service to others could order such a unhumanitarian action without orders from the White House.

Therefore, I call on President George Bush to personally explain this inhuman, racist action to the American people. So far his explanation falls far short of explaining our humanitarian responsibility, or the difference in treatment of people of color.

I challenge George Herbert Walker Bush to come to my district and explain his reasoning to the many Haitian groups I have to, or to the black, white, Hispanic, and Asian constituents that have been in touch with my office.

□ 1900

Once again, Mr. Speaker, I am happy that the Government has temporarily reconsidered its policy. But I am giving my statement here tonight because I am hoping that they will not rethink it as they did yesterday, sending out an executive order that appeared in the paper today, but then before noon rescinding it.

So in this ball of confusion I am asking that our Government do the right thing, the humane thing.

Once again, I appreciate the gentleman from New York taking the time in this special order and for allowing me time to express myself.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman from New Jersey, and appreciate very much some very important background information he gave us about the long-term relationship between the United States and Haiti.

The United States and Haiti have always had a close relationship. Unfortunately, Haiti has usually been the victim in this relationship. No other country is allowed to establish a base of influence in Haiti. We would not allow the French, for example, who speak the same language as most Haitians, to establish a base of influence. Our country has always jealously guarded its prerogative and insisted that Haiti follow certain kinds of lines of development that we set down.

What has happened in Haiti over the years has been very much influenced by the government in power in the United States. Nothing really takes place of a significant nature in Haiti that is not, in some way, influenced by what happens here.

That includes military coups. When the military, which is trained by the U.S. Government, which is paid for by the U.S. Government, when they decide to stage a coup, they either stage it in complicity with the U.S. Government or because they have received certain signals from the U.S. Government. The present dilemma, the present problem with respect to President Aristide is directly related to the kinds of signals that the State Department and the U.S. spokesmen sent with respect to the Aristide government. Criticisms of Aristide, condemnations of his so-called human rights policy, disapproval of his economic policies, foot-dragging by our Government were all signals that were sent to the Haitian military. They felt they had an opportunity. They moved because they thought they would receive the approval of the U.S. Government.

After the military takeover, after the bandits and the thugs with guns had marched through the streets and randomly shot down citizens, after they had forced Aristide out by gunpoint, our Government began to speak with a forked tongue. On the one hand they joined the other countries of the Organization of American States in condemning the military takeover. On the other hand, they criticized Aristide for his human rights record, and they made remarks which indicated that they did not approve of this method of governing. They wanted him to be more conciliatory toward the opposition.

Here we have the irony of a President who is elected with a little more than 50 percent of the vote lecturing to a President who was elected with 70 percent of the vote and telling him that he should be more conciliatory toward the opposition, while the same President of the United States has just completed his 24th veto, has just vetoed a 24th bill passed by the Congress of the United States and exults in that victory. Does this seem to be a man who believes in working with the opposition? Twenty-four vetoes. He has never lost a veto since he was elected, and he lectures to

VOL 137 PT 23 NO 21—25 1991 UMI

the President of Haiti that he should be more conciliatory toward his opposition, and he uses the fact that the President has not been conciliatory toward his opposition as a rationale for not being more forceful in insisting that Aristide be returned to power.

That is the wrong signal to send to the military bandits. The thugs with guns feel that they can hold out forever as long as the United States is speaking with a forked tongue.

Then we have the phenomenon of Haitians who were so desperate, and only very desperate people would brave the elements and brave the waves of the ocean in order to escape in boats that are rickety, very poorly put together, risking their lives, only very desperate people would dare attempt to get to the mainland of the United States in this manner. So obviously they are desperate, obviously they are fleeing political persecution. Yet our Government insists that they are economic refugees and they are leaving the country only because they want to seek better conditions economically.

How do we explain the fact that during the time shortly after the election of President Aristide, the number of people who were interdicted, picked up in boats by the U.S. Coast Guard, went down almost to zero, that despite the economic conditions, despite the fact that nothing had changed for the average Haitian with the election of Aristide except the fact that they had a democratically elected government, and they had hoped for the first time that there would be a new deal for them, and they stopped seeking to escape? The military government of Haiti has shot people down in the streets at random because they wanted to make a point. They wanted to cower the population.

One person who was killed was a constituent of mine who happened to be in Haiti because he was operating a business that was set up shortly after President Aristide was elected. By accident, misidentification, he was identified wrongly, he was hauled out of his bed, beaten by soldiers and killed on the way supposedly to the hospital. This is just one example. There were 300 cases of such murders admitted by the official news agency in Haiti. We have sources that make it clear that more than 1,000 people have been killed this way. People are forced to leave their houses and sleep in the bushes in order to escape the terror of the soldiers at night. Certain towns have been marked, and soldiers come through in order to cower the population, and just shoot people at random. So there is a reign of terror, and people are seeking to escape that reign of terror, and we have instituted an inhumane policy until recently.

As a result of the objections that have been raised on the floor of this House, as a result of hearings held by the gentleman from Kentucky [Mr. MAZZOLI], and as a result of the press finally beginning to expose what was going on, we have good news to report today: a more humane policy has been instituted, and we are happy to hear that. But is is very important that we take another step to guarantee safe haven of all of the Haitian refugees here in this country.

Mr. Speaker, I yield to the gentleman from Detroit [Mr. CONYERS] for a statement on this matter.

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Mr. CONYERS. Mr. Speaker, first of all, let me say that the gentleman from New York [Mr. OWENS] has been a stellar leader in this matter. I was able to sit in on the hearings of the Subcommittee on Immigration and was very impressed by the gentleman's leadership, and in calling this special order tonight as well.

Let me be very brief. The question is what can the wealthiest Nation in the world do to help the 6 million inhabitants of the poorest nation in to world? I would like to make some suggestions.

The first is that we suspend the only migrant interdiction treaty that exists between the United States and any other country in the world. That is the one that was entered into by our country and the former dictator, Mr. Duvalier, in which they gave us permission to pick up those in their own waters who were attempting to leave. I think that is a very important first step.

There are other considerations that are very important. I would like to suggest them to the gentleman from New York and to the subcommittee chairman, the gentleman from Kentucky [Mr. MAZZOLI] who is also on the floor.

First, staying the deportation of Haitians who are currently under orders to be deported from the United States.

Second, processing refugee applications in Haiti.

Third, granting temporary protected status to Haitians in the United States.

Fourth, processing all Haitians interdicted at sea as asylum claimants.

Now, the reality of the legislative process is that there is a great likelihood that in the next few days, the Congress will have concluded its work and the gentleman's measure that he hopes to bring before this body, and my own measure, which would not have a date, but would limit the entry of granting asylum to claimants, would probably not be able to go into effect.

So I come here with the suggestion that an emergency of this kind requires a response that meets the emergency. The only way that this tragedy can be contained and eliminated, is that that conference at Cartagena, at that conference at which President Aristide will be there with the military meeting in conference with the military junta that has illegally deposed him, is that it be made clear there that this country unequivocally backs the return of President Aristide to his post as the first democratically elected Haitian President in its history, and that this not be words only, that this be a support that would be additionally backed up by the Organization of American States, and that it be made clear that nothing less should come out of that conference than an agreement on the specific return and the conditions of return of President Aristide to his rightful place as the President of his country.

Now, the reason that I threw out these other suggestions is because I am now down to this. The only way that we can get the immigration of Haitians who are now caught not only by the junta whose economy is totally destroyed, but they are also in the grips of a blockade that has been instituted. So we are talking about people choosing between a possible death in leaky boats that will be pushed wherever the wind sends them, and in which a certain number of them are doomed to death on the high seas trying to escape, or merely starving to death or being a victim of the random violence that now occurs there.

So to me we need to fashion a result that meets this emergency, and the only way, I will say to the gentleman from New York and the gentleman from Kentucky, that that can happen is that it be made clear through the OAS, the Caribbean nations, through any constellation, including the United States, that we support our friends.

Now, we send nonmilitary aid and military aid to friendly nations throughout the world. This is no time to be hung up on immigration technicalites where this is a situation unlike any that we have faced in modern history.

So I am urging that we consider supporting the immediate return of President Aristide, and that nothing less should be accepted in the conference at Cartagena that is taking place. We must get this President back into office. We must say that the most democratic event that has occurred will be completely supported, not merely through a diplomatic statement, but that we must support the return of Aristide immediately to his country, and that will halt the flow.

Quite frankly, in my examination of the problem, nothing else will. We are caught between the impossible circumstances of either opening the doors even in a suggested proposal of far more Haitians, and that number will grow if we do not act quickly, attempting to get over here by any means necessary, or that we try through a process of a time date, a fine line in which we say that everybody up to this date can stay and obtain asylum, but everybody after this date cannot.

Between those extremes of MAZZOLI and CONYERS is the return of the President with the full support of the OAS, the Caribbean nations, and the country that has an obligation to help make sure that Haiti turns around from the tragic political and economic history that is theirs, and of which we all here have some measure of responsibility.

Mr. Speaker, I thank the gentleman from yielding to me.

Mr. MAZZOLI. Mr. Speaker, will the gentleman from New York yield?

Mr. OWENS of New York. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I appreciate my friend, the gentleman from New York, yielding to me.

I wish to commend the gentleman who had the interest and showed important sympathy in calling this special order, and my friend, the gentleman from Michigan, my next seatmate in the Judiciary Committee, for their outstanding testimony yesterday when we had the hearings and for their really strong support for the people who are the victims of this tug of war.

As I said earlier, in the well in a 1-minute speech, there is a human tragedy unfolding in the waters off Florida, and that human tragedy is the fact that you have something like 1,800 people aboard Navy ships, and you have to salute the work that the Coast Guard is doing taking care of the people, rescuing them from the peril at sea, but they are there in what I later called in the same 1 minute a kind of watery limbo, because thankfully, the Federal judge has said these people will not be repatriated or deported, whatever you said, back to Haiti; but that is where the order ends and the people stay aboard the ships or they are debarked momentarily at Guantanamo Bay Naval Base or someplace. Some few hundred, I think, are being sent to Venezuela for safekeeping for the moment, but those are only palliatives. These are only Band-Aids. Those are only momentary reliefs from the pain. They do not get to the heart of the problem.

As the gentleman said, I had a bill which I dropped in today which reinstates the Federal court order in statutory law which says there will be no more deportations. It also suggests that there be a temporary protective status under the 1990 Immigration Act applied to all these Haitians so that they are given an opportunity to work.

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They are given, again, safe haven, they are given food, shelter, and protection.

The other part of my bill says that there will be 2,000 refugee numbers given to the Haitians who do qualify as refugees—and not all will, because some are economic migrants, and, as I said yesterday, some are trying to better themselves for their families, looking at the other side or the hill and seeing what the other side of the hill looks like—but the fact is that those who do qualify as refugees, who have a lively and well-founded fear of persecution for race, religion, social order, or political persuasion for their home country Haiti, would under this bill be granted an opportunity to get a visa number.

So this is a good bill. The gentleman's bill is a great bill.

The fact of the matter, is, time is of the essence. To flesh out the record, I called the White House again today, as I did yesterday, to see if there was some way the gentleman from New York [Mr. RANGEL] and I might sit down with the President, talk with the President, have a conference call with the President or one of his aides and see if there were not some Executive way—because, as the gentleman knows, the quickest way to solve this problem is by that Executive pen, just as the President by Executive pen can veto bills that takes years to work here on the Hill—the Executive pen can cut through all the redtape that has taken years and years to build up.

Mr. CONYERS. May I ask the gentleman if he has considered the recommendation of inviting President Aristide to come before his committee to hear the other side, the complete side of this tragedy? Not only that, I have been thinking about the Democratic caucus inviting the Republican caucus to join with us in having President Aristide come back from Cartagena to bring us up to date on this.

Mr. Speaker, I commend the gentleman for the bill he has introduced. The bill that I have here that I am not going to introduce, because I am afraid it would have a misconstrued effect in Haiti and that there would be a misinterpretation about what we are actually doing, I think again that unless we return Aristide at the earliest possible moment, that this tragedy is not susceptible to a legislative solution. Plus, the humanitarian aid that must come in the wake of the junta's devastating control over it for this period of time that they have ousted the President.

Now, it should start here, and I applaud the gentleman, the chairman of the Subcommittee on Immigration, joining us in this debate because he knows we consider him to be a friend of ours and that his concern is deep and his compassion is wise.

Mr. OWENS of New York. I think the gentleman has made some very important concrete, practical suggestions. I would also like to applaud the fact that the chairman of the subcommittee most responsible for immigration matters has taken the leadership in the past few days. Not only has he introduced legislation but he has concerned meetings with representatives of the administration, he has called hearings. I want to, on behalf of the second largest concentration of Haitian-Americans in the country, offer him my thanks and their thanks for the initiative that he has taken.

I do hope that before we adjourn we will move expeditiously to deal with the legislation that has been introduced today. I applaud the gentleman for his efforts.

Mr. MAZZOLI. I thank the gentleman very much for his compliments. They certainly are very warmly received.

The Haitian people whom I have met, some of whom were with us yesterday, are warm and very generous and decent people, just charming people to be around.

So it is a pleasure to be of some help.

Certainly, the gentleman's intention is to move the bill as quickly as it can be moved. I recognize the problem. I recognize the fact that there is a difference of opinion on whether this bill should pass, whether if it were to pass it would act, as my friend said, as maybe a misstatement of what realistically is available to the people for Haiti.

But I just cannot leave this place without having tried something to help people in that first category.

As the gentleman remembers, we talked yesterday about the two tiers, the first tier here, the tier of people who are in the emergency situation; on the boats, on the cutters, floating around in that watery limbo.

The second tier, of course, is the problem, economic, political, to solve the sending problem, the push factor that pushes the people away from their own home country.

I just do not know that we cannot try to do something for these people even though we recognize that every solution is fallible, every solution has some element that may not fit correctly into the puzzle.

I certainly join the gentleman in suggesting that President Aristide—I believe he was elected by 57 percent of the vote in the election.

Mr. CONYERS. Eighty-seven percent.

Mr. OWENS of New York. No, it was 70 percent.

Mr. MAZZOLI. He was freely elected in a democratic election, the first one in many years.

If I am not mistaken, both of the gentlemen could correct my recollection, but it seems to me during the time that President Aristide was in office, 7 or 8 months, I believe that the out-migration movement from Haiti had virtually dropped to zero.

Mr. OWENS of New York. Almost down to zero, those people who were leaving and trying to get to the mainland of the United States went down to zero.

Mr. MAZZOLI. Let me propound this question to the gentleman: I do not

VOL 137 PT 23 NO 21—25 1991 UMI

think poverty was cured in Haiti in that 7 months.

Mr. OWENS of New York. Nothing happened in Haiti except the election of a democratic government, which obviously gave the people of Haiti hope and a new sense of a future.

Mr. MAZZOLI. The gentleman said that yesterday. The only change—the topography in Haiti remained the same, they had the same square meters of land, same number of people. The one thing that they did not have earlier in the elections was hope. When that hope was extinguished, the people began their journey, their sojourn began again.

So we have to do something more concrete. The gentleman is right; until the free government is reestablished, this problem will not end. But I think in the meantime we need to do something, and I hope this, or something, will be there.

Mr. CONYERS. Let me point out that there is a way that we can restore hope, in addition to any legislative process. That is to make it clear that we understand that it was the election of this President that brought hope and the way the hope will be restored is the return of the President.

I have no idea what the agenda is in Cartegena, but the fact of the matter is that until the President is returned, hope will continue to disappear and dissipate out of that nation.

More and more people will risk their lives, some losing them, in an attempt to get over here.

So, with all deference to the legislative process, in this emergency I am hoping that more people will pick up the banner and that we get President Aristide over here. If there is something missing in the analysis, that he be restored as quickly as possible, with the support of the OAS, the Caribbean Governments, and this Government making it clear—making it clearer that we want him back in power, then we will see the end of this watery limbo that the gentleman so accurately described that will not not only be ending but will be continuing to get worse as the economic circumstances worsen in Haiti.

Mr. MAZZOLI. The gentleman brought up earlier the question of the embargo. I think both gentlemen yesterday accurately pointed out that the targets of the embargo, which would be perhaps the people who supported the junta, the takeover coup, are not really very much affected by the embargo. Basically speaking, they have theirs and they are not really too seriously discommoded by this embargo.

But who are put at risk? Who are deprived of water, electricity, food, shelter, jobs? It is the very people that we are talking about today, whose brothers and sisters are on those cutters in the Windward Passage. In effect, the embargo ought to be reexamined. That is one thing that the President——

Mr. OWENS of New York. If I may explain to the gentleman, I represent large numbers of Haitian-Americans, and we have communication lines into Haiti. They think it is very important that the embargo continue, and that the embargo was undertaken because it sends a message that there is real concern.

It sends a message that the outside world does disapprove, and the majority of the Haitian people have suffered for a long, long time and do not find the degree of suffering has increased so much as a result of the embargo. They would like to see the kind of solution that is being recommended here, and I think most Members of Congress agree the best solution is to return Aristide to power.

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Mr. Speaker, there is not much disagreement in the Congress. The problem is with the administration, and the fact is that they have double-talked on this situation, and, while they themselves have endorsed the principle of returning Aristide to power and agreed to support the position of the OAS, they made comments on the side, and even the President himself has criticized Aristide in ways which have strengthened the resolve of the junta to hold out. Until we end the duplicity and talk with one voice, speak with one voice from the United States, I think we are going to have trouble with the military government cooperating with the return of Aristide to power. That would solve all the problems on a long-term basis. The immediate problem we still have.

As I said before, I congratulate the gentleman from Kentucky [Mr. MAZZOLI] for his speedy action, and I think that pressure has been brought to bear by the Congress, which has led the media to take an interest in the problem and has also led to the improvised solution that the administration has developed becoming more humane and making more sense.

Mr. CONYERS. Mr. Speaker, if the gentleman will yield, I am glad to know that there is more support for our proposal than I have heard in the Congress. I know of members of the Congressional Black Caucus, and I know of several Members on the Subcommittee on Immigration that do more than give lipservice to the return of President Aristide. But there is a difference between hoping that and accomplishing that President Aristide be returned and taking the definitive action that will ensure his return.

Now I am not talking about a theoretical change of heart from the junta. I am talking about the junta getting a message. I do not have any idea how many Members of Congress the junta thinks wants Aristide returned. They certainly have not gotten the message from the President of the United States, and it seems that within that ambit there is a role for the Congress to make itself more clearly heard, and that is the virtue of this special order which the gentleman from New York [Mr. OWENS] has taken and which, to me, not enough Members of Congress had the opportunity to participate in.

Mr. Speaker, I think it is far from clear, in my judgment, if I had to say how many Members of Congress are willing to back my proposal of getting this issued raised at Cartagena. I do not know what the count would be, and I think that, until we address that as forcefully as we can, as the gentlemen here in this special order have, that we will be grappling. We will be doing the best we can, but the legislative solution now takes a back seat to giving the kind of impetus to the executive branch that will lead them to give the signals to the Organization of American States, to the Caribbean Association of Countries, and to that conference going on in Colombia right now. That is where we might be able to work a solution that will make all of our legislation at least temporarily unnecessary.

Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] for allowing me to make this contribution.

Mr. OWENS of New York. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, there are a couple of things the gentleman from Michigan [Mr. CONYERS] has just said that I thought were worthy of note, and that is the idea of trying to bring influence, political, moral, and otherwise, on the participants, whether OAS or Caribbean Basin or whatever, in trying to make sure they support the return of the freely elected President, and two things strike me.

One is, of course, the fact that Secretary Baker is a very able man and very hard-working and very talented, and it is possible that somehow he might be able to, or someone from the State Department at a high level could be able, to be present in those meetings or perhaps be involved somehow with them. That would obviously raise the stakes, would raise the tension point, the boiling point, if my colleagues will, and I think it would be constructive.

Mr. Speaker, I believe everyone in the Chamber salutes the President for the moral leadership which he showed during Desert Storm, the way that he was able to rally nations that had never been in the same tent together, at least in recent time, and he was able to work, somehow, a common cause with all these disparate nations and disparate groups. It strikes me that somehow maybe the President, and I realize how intensely busy and difficult these days are, but maybe somehow he could try to rally the same kind of support within these regions, the hemisphere nations, on behalf of the simple

proposition that at least the people in such extreme situations, the people who are in such difficult situations currently, the ones on the boats, the few that are still on the land; it just seems like something very, very quick could be done for those, and then to try to move to a more substantive conclusion.

Mr. Speaker, I thank the gentleman from New York [Mr. OWENS]. I appreciate his taking this special order.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman from Kentucky [Mr. MAZZOLI] for his leadership on this matter, and I thank the gentleman from Michigan [Mr. CONYERS] for the concrete suggestions that he made, and I hope in the next few days we can, in addition to all the efforts that have been undertaken to date, seek to increase the pressure and the exposure of this problem by undertaking some of the suggestions made by the gentleman from Michigan.

The Haitian National Assembly today reversed its earlier decision not to meet with Aristide at Cartagena to negotiate his return to Haiti. Six to eight members of the Parliament will be going as a delegation to meet with Aristide tomorrow, and the talks will be mediated by OAS Representative Decampo. Aristide says that if he is reinstated, he is also prepared to make concessions, including naming a new Prime Minister and inviting the opposition into his government.

Mr. Speaker, that is a good note to close on, but I do fear that, given the nature of the military junta, given the desperate tactics that they have undertaken to date, given the fact that an element that is never mentioned here is the fact that the military often is involved with drug running and they receive a considerable amount of income from running drugs, they seek to desperately hold on to power for that reason. Given all these factors, these talks may not go well. We may need to continue to apply the maximum amount of pressure from Congress that we possibly can apply to the administration so that our administration will take a stronger and clearer stand.

Mr. Speaker, the key to the resolution of this matter is in the White House and the State Department. If they send a clear message to the military bandits in Haiti that we will not tolerate the depositing of a duly elected President any longer, I think that we will resolve this matter. The policies of the United States Government are the most influential factor in determining what happens in Haiti. We can change this tragic situation by insisting that the rightfully elected government be returned to power.

Mrs. LOWEY of New York. Mr. Speaker, I rise to join my colleagues in calling on the administration in the strongest possible terms to reverse itself and provide sanctuary to Haitians who are fleeing that island nation for safety. The military coup which stole from the people of Haiti the democracy they have sought for decades is illegitimate; it is immoral; it is cruel. The people of Haiti are suffering economically, but also through the loss of liberties.

Immediately after the coup, I came to the well of the House and called on the administration to move aggressively to return President Aristide to office. I commend the fact that the administration has worked with other nations in the hemisphere to isolate the harsh regime which has taken power. The measures which have been taken against Haiti are harsh, there can be no doubt about that. But strong action is necessary if we are to restore to the Haitian people the freedom and democracy they have given so much to secure.

It is clear that those who have stolen control of that nation have no concern for their own people. I have a very good friend from that nation, and she tells me that it has been weeks since she has been able to reach her mother. Furthermore, whenever she has been successful in contacting a friend or relative in Haiti, they have repeatedly said, "I cannot talk. I cannot talk. I may be hurt." From those messages, there can be no question at all about what this regime is up to. Today, repression and violence have once again taken over Haitian society. The Haitian people live in fear.

To have heard the administration say that they could not permit those who are fleeing to have temporary asylum here because they are fleeing economic, not political repression leaves me wondering if our State Department has made any attempt at all to understand what is happening to the Haitian people. I call on them to look, to listen to the Haitian people and to realize that they want democracy and freedom.

Many of the Haitian people are being imprisoned in their own land. Why? Because they want to live in freedom. After decades of totalitarian rule, Americans praised their resolve in successfully holding the elections which led to President Aristide's election. Now, we have a responsibility to stand with the Haitian people. To work to restore their freedoms, and, in the meantime, to adopt policies which provide the Haitian people help and safe haven.

Mr. TOWNS. Mr. Speaker, I want to thank the gentleman from New York for bringing this important issue before us today on the current United States immigration policy toward Haitian refugees.

As you are well aware, Mr. Speaker, for the last 10 years, this Congress has had under review United States immigration policy toward Haitians. During that time period, the Congressional Black Caucus hoped that various policy and legal changes would provide equitable treatment for Haitians who fled to our shores seeking refuge. Tragically, regardless of the administration in the White House or the laws on the books Haitians have continually faced discriminatory treatment.

The 1980 Refugee Act established a uniform standard for refugees and political asylees: "a well-founded fear of persecution * * *" We removed the requirement that you had to be from a Communist country in order to be admitted as a refugee into the United States. Yet, despite this change in our refugee law, Haitians still found themselves denied due process and jailed in Federal prisons around the country while Cuban refugees were welcomed into Miami. Even with the government's designation of "Cuban-Haitian entrant" status, Haitians still found themselves without the same benefits as Cubans with this same status.

It was certainly our hope and expectation that the election of President Jean-Bertrand Aristide would bring democracy and social justice to Haiti and thus end the necessity of Haitians to flee their homeland. During the first months of President Aristide's term of office, we in fact saw fewer Haitian boat people. The recent military coup has again increased the flow of Haitian refugees. In other instances, where there has been civil strife, we have permitted the nationals of those countries to enter the United States and be processed for political asylum or to be given the temporary status of extended voluntary departure. We have done this for Poles, Nicaraguans, Lebanese, and most recently Palestinians from Kuwait. We even permitted Ethiopians to remain here under extended voluntary departure for a short time before an effort was made to revoke their status in 1981.

The case of Ethiopians illustrates the problem currently faced by Haitians. Despite the continuing political conflict in Ethiopia, the previous administration sought to revoke extended-voluntary-departure status for Ethiopians. No one ever gave an explanation for this change in policy. It was only through the bipartisan efforts of Congressional Black Caucus members and our former colleague, current HUD Secretary, Jack Kemp, that Ethiopians were able to retain the protection of extended voluntary departure.

Was it a mere coincidence that Ethiopians, black refugees, were targeted for this change in policy? Is it a coincidence today, that Haitians, another group of black refugees, are being denied even temporary protection until the political situation in Haiti is resolved? Even the so-called regional solution to disperse some 500 Haitians to other countries, in the Caribbean and Latin America, is unprecedented and has been established exclusively for Haitians.

Unfortunately, Mr. Speaker, we do not have a coincidence. Our refugee and asylum policy continues to be driven not by equity but by the skin color of the refugees involved. It is only with black refugees that we seem committed to a policy of return despite the political conditions in their home countries. This policy toward Haitians is particularly disturbing in light of the imminent negotiations which are expected between President Aristide and the Haitian Parliament for his return to Haiti. I would ask the administration: What is the big rush? Given the deteriorating political conditions in Haiti, I am at a loss as to why our Government believed that the Haitian Red Cross was able to offer protection to the Haitians who were returned. Hopefully, yesterday's court order, to halt the repatriation process, will allow time for the administration to develop a more humane response to the current political crisis in Haiti.

Finally, Mr. Speaker, the one bright spot in this whole affair has been the bipartisan opposition to the administration's policy. I would hope that this Congress will move quickly on

49-059 O—96 Vol. 137 (Pt. 23) 4

VOL 137 PT 23 NO 21—25 1991 UMI

legislation introduced by Congressmen MAZZOLI and RANGEL to halt this repatriation policy.

Mr. DELLUMS. Mr. Speaker, it is with pleasure that I join my colleague, Mr. OWENS, the distinguished gentleman from New York to condemn the actions of the administration regarding the ongoing forcible return of Haitian refuges into a volatile and dangerous situation. This policy is unthinkable.

If United States policy can be changed to afford refugees of other islands, countries and situations entry into the United States, why not Haitians? The capriciousness of immigration restrictions is matched with a reluctance to assist in achieving peace, justice, and tranquility.

Have we traveled back to 1980? The people of Haiti clearly were saying then, we can't live under Duvalier. Yet the United States did nothing to assist. Since the overthrow of both Papa Doc and Baby Doc Duvalier, two successive administrations have maintained the status quo through the support and recognition of several repressive military regimes.

In 1991 the people elected a President. A coup has taken place and another military government is illegally in power. The United States through sins of commission and omission, has allowed history to not only repeat itself, but also to grow and replicate itself.

When is the United States going to stop treating Haiti like the Invisible Man of the region and recognize the legitimate hopes and aspirations of a people for a democratic existence?

When is the United States going to develop a foreign policy that does more than give minuscule aid to a country in dire economic and developmental need? Haiti must be allowed to expand and diversify its economy.

Now is the time for the United States to assume responsibility and reassess its priorities. The current situation is too serious to deserve anything but a concerted and sustained initiative to forge a long term policy approach that addresses the root cause and not just the symptoms of what ails Haiti. The problems will not be rectified until the United States recognizes the legitimate concerns of the Haitian people and concretely assists in the reinstatement of President Aristide.

I join my colleagues in continuing to address this issue and to press for substantive change in United States policy toward Haiti.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on Haiti, the subject of my special order tonight.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from New York?

There was no objection.

REQUEST FOR EXCHANGE OF SPECIAL ORDER TIME

Mr. EWING. Mr. Speaker, I ask unanimous consent to exchange my time on my special order time this evening for that of the gentleman from California [Mr. RIGGS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SUPPLEMENTAL APPROPRIATIONS LEGISLATION TO HELP MIDWEST DROUGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 60 minutes.

Mr. EWING. Mr. Speaker, I have taken out this special order to bring to the attention of my colleagues an issue which most of us have not heard much about but which is critically important to thousands of families in the Midwest and throughout the country. That issue is the drought which has ravaged crops this year and the supplemental appropriations legislation working its way through Congress which contains $1.75 billion in much-needed relief for those who have been hard hit by drought and other natural disasters. As we enter the final days and hours of the first session of this Congress, I want to call on my colleagues and the administration to ensure that drought relief is delivered to those who desperately need it before we go home for the holidays. We cannot let this important measure fall by the wayside in the rush to get home for Thanksgiving. We owe it to the innocent victims of natural disasters.

The country has seen an unusually high level of natural disasters in the last 2 years—drought, flooding, freezing, and fires. While I would like to particularly emphasize the agricultural drought which has hit the Midwest and my congressional district, the disaster relief contained in the supplemental bill is important throughout the country and in scores of congressional districts. In fact, in the last year the President has declared disasters in 33 States all over the country. The Secretary of Agriculture has declared disasters in nearly every State.

In Illinois the drought of 1991 has devastated wheat, soybean, and corn crops. In most areas farmers saw only a few inches of rain all summer, and some farmers had absolutely no rain during the critical growing season. As a result, many are facing major crop losses this year and some are facing total losses. I know too many farmers who have simply plowed under this year's crop, finding it cheaper to abandon what little marketable crops they have. I've brought to the floor some photos which clearly demonstrate what thousands of farmers have to show for their efforts this year. The corn in these photos is completely useless. This summer I toured several farms throughout my 125-mile long district where producers showed me endless fields filled with corn like this.

Our State of Illinois consists of 102 counties. The Federal Government has declared 86 of those counties disaster areas for corn and soybean crops. Eighty-nine of our counties have been declared disaster areas for winter wheat crops. Every county in my east-central Illinois district has been declared a disaster area. In fact, nearly every county in the northern half of our State will suffer corn crop losses of at least 30 percent.

Now the economic experts will tell my colleagues that nationwide crop production is on the low side of average this year. But what they won't tell you is that this year's Midwest drought has been spotty. Some farmers are producing average yields, but those who have been hit by drought have been hit hard, as the photos I've displayed indicate. During the summer I toured many corn fields full of corn which looked like this. Farmers with regular production will not benefit from drought relief. Only those with major losses such as this will receive any assistance. For those hit by the drought, this legislation will not just be helpful, it will save many from going out of business altogether.

This year's drought is particularly devastating because it comes on the heels of a decade-long series of droughts. We can all remember the major wipeout of crops in 1988 and the media attention generated at that time. But agricultural producers also faced widespread disaster years in 1980 and 1983. Many of the victims of these drought years are still trying to recover from the income losses incurred during those years, and for a lot of them this year will be the last straw unless disaster assistance is passed by Congress. As a matter of fact, a farmer called my office just yesterday and said that he has been advised to file for bankruptcy if this drought relief package is not cleared by Congress. I have heard stories like this time and time again in the last several months.

In addition to income loss due to the destruction of their crops, the prices producers receive are depressed this year. In 1988, farmers with a product to sell could count on higher prices to soften the blow. This year they do not have that good fortune. Prices are at extremely low levels.

As farmers go out of business because of this series of droughts in the last 10 years, the decline in the number of farms in America will be further accelerated. A failure by this Congress to provide some assistance to those hard hit by the drought will mean that a lot more small, family farmers will go out of business in 1992. That is a fact. The economic problems in the Corn Belt has and will affect our agribusinesses and yes every merchant on Main Street U.S.A. Many of these small business may also be forced out of business.

Thousands of farmers going out of business will not only hurt their families, but I believe it will hurt our Nation's economy as a whole. Farmers going out of business will not only swell the ranks of the unemployed, but the move toward fewer farms could drive up the cost of agricultural products in the long run.

Also particularly hard hit are the younger farmers who have been struggling to get started in their careers. I do not exaggerate the facts when I tell my colleagues that, because of consistent droughts throughout the last decade, we may be losing an entire generation of farmers. This, in the long run, will have a strong impact on our national economy, which is quite dependent upon our agriculture sector.

The supplemental appropriations legislation which contains drought relief funds has been languishing in the Congress for over 4 months. In that time, those impacted by agriculture disasters throughout the country have been on an emotional roller coaster as this on-again, off-again legislation has moved through the legislative process at an incredibly slow pace. As we enter the final days and hours of this session of Congress, the time has come for us to act. We would be neglecting our responsibilities if we went home for the holidays without taking some decisive action on this issue. Just as we felt the need to pass an unemployment benefits extension in order to get checks to the unemployed before Thanksgiving, we ought to be able to deliver relief for natural disasters before Christmas.

There has been a great deal of concern both in Congress and the administration about the cost of the drought relief appropriation. The dire emergency supplemental bill passed by the House on October 29 and being considered in the other body this week contains $1.75 billion for agriculture-related disaster assistance, including the drought. I do not stand here to tell my colleagues that this is not a significant amount of money. It is.

I am a fiscal conservative and do not take new spending lightly. In fact, I consider it my top priority while I'm in Congress to help reduce the level of Government spending and erase the Federal deficit. I am a strong supporter of a constitutional amendment to require a balanced Federal budget. I am also a strong supporter of the line-item veto and this week will introduce my own line-item veto legislation which would give the President the same power our Illinois Governor has to reduce spending. In all the years I served in the Illinois legislature I was one of the most ardent fiscal conservatives, and I plan to continue that philosophy in Congress.

Having said that, I tell my colleague that I do strongly support efforts to offset the costs of drought relief with cuts elsewhere in the budget. If it can be done, this legislation should be passed without violating the principles of last year's budget agreement and without increasing the deficit. However it is financed, I hope that the leadership of Congress and the administration will work together to make this critical relief a reality.

The message I hope my colleagues will receive from this special order is that drought relief is critically needed, and it is desperately needed before Congress adjourns for the holidays. I urge the administration, the congressional leadership, and all of my colleagues to support drought relief contained in the dire emergency supplemental appropriations legislation.

FARM BUREAU SURVEY SHOWS CROP DAMAGE

Irreversible drought damage to the Illinois corn crop in both northern and southern Illinois was reported in a county-by-county assessment of crop damage conducted last weekend by the Illinois Farm Bureau.

The largest area of crop damage in the state lies north and east of Interstate 74, which runs from Danville to Rock Island. Thirty-three of thirty-five counties in the region report corn yield losses of 30% or more in all or portions of the county, said Illinois Farm Bureau president John White.

Corn crop damage in northern counties is more severe in the eastern part of the region, with yield reductions exceeding 50% in portions of Livingston, Kankakee, Ford and Iroquois counties and along the Wisconsin borders in McHenry and Lake counties.

An area of southern Illinois roughly south of a line from Vandalia to Robinson also reports yield losses on corn exceeding 30% of a normal crop. As in northern Illinois, corn crop conditions are worse in the eastern part of this region.

White called the IFB damage assessment a "subjective survey" which can be used by county, state and federal officials to provide focal points for drought assistance efforts. He noted that even within these stressed areas, farmers report large variability in expected yields, with isolated pockets of more normal yields in intensely dry areas, and patches of crop damage in areas which have generally received more moisture.

White said the IFB survey showed that a change to a wetter weather pattern is needed to prevent the areas of damage to the soybean crop from becoming even larger than the area of crop damage.

IFB's assessment of the soybean crop showed farmers in more than a dozen central and southern Illinois counties expected final soybean yields to be cut by a larger percentage than corn unless the weather patterns change dramatically.

"The area of drought impact expanded after permanently damaging corn yields," White said. "Soybeans are known for drought resistance. But our members report serious damage to soybean plants has already been inflicted in the driest areas and yield potential has been cut across the state."

White said the impact of this year's drought on the net income of some Illinois farmers will be more severe than the drought year of 1988. "Because of weak demand and good crops elsewhere, Illinois farmers experiencing yield losses face cash prices for corn and soybean 15 to 30 percent below prices in August 1990. Farmer income is price times yield, both of which are suffering this year.

White also noted that reduced crops of corn and soybeans in southern Illinois follow damage to the wheat crop caused by adverse weather in June. Average wheat yields across the state were cut by 50% from excellent yields in 1989. Wheat producers also faced price reductions for poor quality grain.

[From the Chicago Tribune, Aug. 12, 1991]

RAINS TOO LATE TO WATER DOWN CROP DAMAGE

(By George Gunset)

Last week's rain put a damper on surging grain prices but probably came too late to prevent extensive crop damage from the drought that hit dead center in the Corn Belt this summer.

The drought's toll won't be added up until after the fall harvest but will include shrinking farm income, more farm failures, hard times for businesses dependent on farmer spending and a small impact on consumer food prices.

Though the rain will help the soybean crop, which was at its most critical growth stage, corn damage was beyond repair.

How badly the crops have been hurt will be outlined from field surveys for the first time Monday, when the Agriculture Department makes its August projections for corn and soybean harvests. Private forecasters have trimmed 700 million to more than 1 billion bushels off the corn crop and more than 200 million bushels from the expected soybean crop.

Crop damage has brought calls for government help. Agriculture Secretary Edward Madigan told a press conference last week that he is willing to negotiate a disaster relief plan when Congress returns from vacation next month. The Bush administration has opposed a pending bill that would provide $1.75 billion for disaster relief payments to farmers.

Even in one of the worst-hit areas, Madigan's old congressional district in east central Illinois, not every farmer is seeking relief from Washington.

"I've had two lean years out of the last four, but I had 19 pretty good ones before that," said Bob Fitzpatrick, a corn and soybean grower from Custer Park who farms 1,400 acres in Will and Kankakee Counties.

"This is a high-risk business," he said. "I made a management decision last spring not to take out federal crop insurance. I'm not crying now or going hat in hand to ask for a bailout."

Officials of the Federal Crop Insurance Corp, said they don't have 1991 totals but have been told by private insurers that coverage will be down from 1990. In Illinois, farmers took out insurance on 3.5 million acres of corn last year, compared with 4.9 million in 1989 and 1.2 million in the drought year of 1988.

Soybean figures were 1.9 million acres in 1990, 2.9 million in 1989 and 840,000 for 1988.

"It's like wrecking your car, then running to Allstate to take out a policy," said Cliff Lorick, an agency spokesman.

"A local insurance agent told me that farmers who had been carrying crop insurance for the previous two years saw the nice rains in April and decided they could avoid the expense of premiums," said Bob Dyer, manager of the Kankakee Farm Bureau.

Fitzpatrick, who can weather another bad year, acknowledges that younger farmers and those with burdensome debt loads will find it difficult to survive a severe drought so soon after the much more widespread one in 1988.

"Even good managers are going to be forced out of business because of this drought," said Dyer.

In Kankakee County, one of the worst hit in Illinois, a Corn Growers Association field

VOL 137 PT 23 NO 21—25 1991 UMI

survey by five teams last Monday put the average corn yield about half of normal at 61 bushels and acre and soybeans at a minuscule 13 bushels, less than a third of normal.

"The soybean number was surprising, but rains could help increase the yield," said Fitzpatrick. "In some of my fields, though I'm always hopeful, I know it won't pay to run the combine."

The national picture is sure to be worse than the "trendline" forecast by the USDA. Based on historic trends and planted acreage, the department estimated corn production at 8.27 billion bushels, or 120.2 bushels an acre, before the drought. For soybeans, the department's trendline estimates projected at 1.97 billion bushel harvest, or an average yield of 33.6 bushels.

A survey of 20 grain analysts by Commodity News Service late last week produced an average estimate of 7.44 billion bushels for corn and a range of 7.15 billion to 7.75 billion. For soybeans, the range was 1.69 billion to 1.87 billion with an average estimate of 1.82 billion.

Meanwhile, a survey of 2,500 grain elevator managers, processors and dealers by private grain analyst Conrad Leslie indicated a 1991 corn harvest of 7.39 billion bushels and a national average yield of 109.5 bushels an acre. Leslie's survey forecast a soybean crop of 1.82 billion and yield of 31.3 bushels.

For 1990, U.S. farmers produced 7.93 billion bushels of corn and 1.92 billion bushels of soybeans. The records were 8.87 billion for corn in 1985 and 2.26 billion for soybeans in 1979.

Leslie, head of the Leslie Analytical Organization, said the reduced corn crop plus anticipated higher consumption implies a drop in supplies to 865 million bushels at the end of next August.

That would be the lowest crop inventory since 723 million bushels in 1984, which followed the drought year of 1983. Surpluses of 4.2 billion bushels cushioned the effect of the 1988 drought, but stocks at the end of the current marketing year Aug. 31 are expected to total only 1.47 billion.

The effects of the drought on the agricultural economy can be seen in projections for Indiana, the state suffering the most damage. Leslie estimated that the state's corn production will fall to 472 million bushels from 703 million in 1990, and soybean output will decline to 139 million bushels from 171 million a year ago.

Purdue University agricultural economist Bill Uhrig said at the end of July that Indiana farm incomes will be significantly lower than last year. He estimated the 1991 corn receipts would be down $300 million and soybeans by $80 million from 1990 levels.

"In addition, hog receipts was estimated to be down $70 million before the drought," he said. "With milk prices and other commodity prices down, Indiana hog farm income could be as low as that experienced in 1988."

Uhrig said that "all Hoosier farmers will be affected by the low crop production caused by the drought. The loss in crop income may range from $30 to $50 per acre to a complete loss."

The drought's final impact will be felt in the general economy. Uhrig noted that each dollar generated on the farm creates about $3 of additional purchases as it moves to manufacturers.

Joe Uhl, also a Purdue agricultural economist, pointed out that the impact on consumers will not be as severe as that at the farm level. "To get a 1 percent rise in the consumer price index, food prices must rise 6 percent. And to get a 6 percent increase in food prices, farm prices must rise 20 percent overall."

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Mr. BRUCE. Mr. Speaker, will the gentleman yield?

Mr. EWING. I am happy to yield to my fellow colleague from Illinois.

Mr. BRUCE. Mr. Speaker, I am happy to join the gentleman from Illinois [Mr. EWING] in his plea that we handle very quickly and expeditiously the emergency supplemental that will bring relief to farmers throughout the Midwest, particularly in the State of Illinois. I want to thank the gentleman for giving me this opportunity to speak on this important subject, and rise today to ask that there be prompt action on H.R. 3454.

In July of this year I had a chance to return to my district in central Illinois and visit farms that had been really affected by a crippling drought this year. As I walked through very parched fields, I was left with an image of absolute crop failure. So severe were some of those losses in northern Vermilion County and Champaign County, that reductions of crop yields of up to 50 percent were not unusual.

A 400-acre farm in Vermilion County averaged a pitiful 7 bushels per acre of corn. A young farm wife and mother visiting Washington this summer brought me some of the corn that they were producing in that part of the State. A normal year it would be as big around as your wrist and 12 to 14 inches long. Ears like this is what I found when I walked around in fields in Vermilion County.

The 1991 crop is a disaster compared to any earlier crop. It does not stretch the imagination to know the hurt that is going on in central Illinois and in areas of the State and areas of the Nation where farmers are getting these kinds of yields.

The farmers of my district, the farmers of Illinois, the farmers of this Nation provide the best food supply to the world. They are the world's providers. They do it at a very economical cost.

American consumers spend about 11.8 percent of their disposable income on food. We provide, the Congress in joint operation with the President, assistance to the Kurdish rebels, to those who have suffered in the monsoons in Bangladesh. In their times of devastation we have reached out.

Today we have added Russia to that list. It appears without help Russia will, in fact, run out of food this winter. It is commendable that this Congress and the President and our farmers are willing to share their bounty with people around the world in times of distress.

But we can ill afford to let our own source of bounty, America's farm families, stand alone in their times of distress. It is now time to take care of the people who produce the food that we send to those other countries. The people who have helped those who are hurting around the world are now hurting themselves. It is time to take care of some of our own.

As the gentleman from Illinois [Mr. EWING] has indicated, we are trying to conclude this Congress and go home for Thanksgiving. We will celebrate at tables at grandmothers' homes and mothers' and fathers' homes around this Nation a celebration of our bounty that we have produced.

Let us not forget as we celebrate this Thanksgiving the very great farm families in this Nation who have provided the food for our tables who are suffering this year. We ought not adjourn this Congress without acting on the urgent supplemental to give those people belief in our system and belief in our farm economy.

Mr. EWING. Mr. Speaker, reclaiming my time, I am extremely pleased that the gentleman from Illinois [Mr. BRUCE] could join me here tonight. I would just ask the gentleman, I have prepared a chart here at the well with some of the corn samples that came probably from counties that we share on the borders of our districts in Ford and Iroquois, Vermilion, McLean, and Livingston Counties.

I would ask the gentleman if those represent some of the examples that you have seen?

Mr. BRUCE. Mr. Speaker, if the gentleman will yield, these are certainly very typical of what I found. These representations are certainly horrible examples of a good corn crop. They are very small ears. You have compared one to about the size of a can of Pepsi. That is about what I have in my hand. A normal ear would be much larger than that, almost as big around as that Pepsi can, and as long as two Pepsi or Coke cans stacked one on top of the other.

That represents for Illinois farmers, disaster. This disaster relief legislation certainly ought to be passed, because this tells us bad things have happened in Illinois agriculture.

Mr. EWING. Mr. Speaker, I found—and I do not know if the gentleman found the same thing—that this just was not an isolated ear, but we had fields of this, piles of this.

Mr. BRUCE. Mr. Speaker, if the gentleman will yield further, as I mentioned, I had one 400-acre farm in Vermillion county, a large corn-producing county, where the average yield was 7 bushels of corn per acre. Mr. Speaker, this is just a guess, but I would say the average yield in that county would normally run about 145 bushels countywide, 145 bushels per acre. That has been reduced to 7 bushels per acre on a 400-acre farm in that county.

Mr. EWING. Mr. Speaker, reclaiming my time, I understand that some of these crops where they sometimes cut them for silage, because of the chemi-

cals used and the fertilizers they were unable to even harvest them for silage. The reason is because when the crop is suffering under drought situations, it takes the chemicals up into the plant and makes it toxic to the livestock. So they could not even cut it for silage or for feed.

Mr. BRUCE. Mr. Speaker, in many areas farmers trying to salvage a crop, when cornfields are so low, will chop the stalk up to feed livestock and create silage. The stalks were so dry and brittle they had not filled out at all and many farmers, after they started to chop the silage, just gave up. The quality was low, the protein content was very low, and the uptake of chemicals by the plant trying to survive was such that it would not have been, in some instances, a healthy feed for the animals.

So not only did they lose the corn crop, but they lost any possibility of using that stalk as feed for their livestock.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Speaker, I would just like to say, first of all, I salute both gentlemen for their interest and leadership in bringing this plight of the farmers throughout the Midwest to the attention of the Nation and hopefully to the Secretary of Agriculture and the attention of the President and the Senate. I salute and commend both of you.

I would like to say that this drought is not particular or specific just to Illinois. My farmers in Indiana have been going through a particularly difficult time this summer and fall.

The gentlemen from Illinois talk about the examples in Illinois, about way reduced bushels per acre. Many of my farmers, Dwight Ennis, Jim Whitmore, Tom Bradford, were the other day talking to me about 10 and 20 bushels per acre, when they were getting 120 last year and the year before.

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Devastating to our middle class and family farmers throughout the country, just devastating.

As we go on to celebrate Thanksgiving, as we look, as the gentlemen were just talking about, to helping out the Soviets, both with a free market system and democracy. If we want to continue to sell them grain, beans or corn or wheat in the future, we have to have our middle-class farmers vibrant, alive, and healthy to be able to help in this spreading of democracy around the world.

So I would like to salute both of you for your interest, join in your efforts here tonight to try to get help for our farmers, who, when we walk through a cornfield, usually it is towering above you and now these days, as the gentlemen both know, it brushes up against your knees, in addition to seeing the tiny production that we are seeing, usually smaller than a can of Pepsi.

I join in the efforts to bring this to the attention of the Senate and the administration, and I hope we act quickly. I have enjoyed working with both of the distinguished gentlemen from Illinois, Mr. BRUCE and Mr. EWING, in trying to get the Nation's attention and the administration's attention on this.

Mr. Speaker, I would first like to recognize the fine leadership of Congressman EWING and our colleagues in bringing this important issue to the attention of Congress and our Nation today.

Mr. Speaker, a lot of pressure was put on Congress last week to quickly pass an extension of unemployment benefits so that many of our consitutents would have needed unemployment benefits in time for Thanksgiving. I supported that measure.

I stand here tonight to bring your attention to another group whose Thanksgiving will be less than plentiful if we do not pass the dire emergency supplemental appropriations conference report by the time we adjourn this year, America's farmers. This is not the first holiday that will be less than celebratory for farmers in my district.

The drought that hit Indiana last summer made the Fourth of July a time of worry and prayer for rain, Labor Day a time of distress and disappointment over the loss of crops, and the Halloween season a time of anxiety and frustration over how to repay operating loans coming due.

Now, as we quickly approach the most uniquely American holiday, Thanksgiving, we are poised to deny the very people who provide our holiday bounty the same for their families.

Mr. Speaker, in my home in the Third Congressional District of Indiana, several farmers are not faced only with the problems caused by the drought. The drought was an agonizing addition to a host of obstacles. For example, Mr. Dwight Annis of North Liberty, in addition to getting less than 30 percent of last year's yield, is still trying to get money from the owners of a failed elevator that held his grain under a deferred pricing plan. And Jim Whitmer of North Liberty is grappling with low dairy prices and scarce hay to feed his cows while getting only 15 to 20 bushels an acre.

It is my hope that the bill the other body's Appropriations Committee favorably reported last week, which is expected to be passed by that body in the next few days, will be put on a "fast track" in the House so that a conference report can be approved before we leave for the upcoming recess.

While the administration turns out empty pockets at this request for $1.75 billion in critical aid for American farmers, they miraculously claimed to have $2.5 billion in those same packets to extend agricultural credit to the Soviet Union this winter. Though certain technological and humanitarian aid to the Soviets may be in our country's best interest, I believe that a foreign aid program of this magnitude ignores a domestic crisis that will have lasting ramifications.

Mr. Speaker, it is time that the administration stop turning its back on the American family farmer. We must support the people at home whose hard work in the valleys and fields of America's farm belt is the backbone of our quality of life.

SENATE PANEL ADDS ITS STAMP TO 'DIRE EMERGENCY' BILL

More than two weeks after the House approved a "dire emergency" spending bill that lawmakers said was desperately needed by farmers, ranchers and disaster-struck communities around the country, Senate appropriators sprang into action Nov. 15, approving a nearly identical bill that sets up a showdown with the White House.

On a 26–3 vote, the Senate Appropriations Committee approved a $7.6 billion bill for fiscal 1992 that has been languishing in Congress since July. The full Senate was expected to take it up early the week of Nov. 18.

Senate appropriations had publicly exhibited no urgency about the bill until the night before the markup, but their leisurely pace seemed like legislative lightning compared with that of the House, which had held the bill for four months before finally approving it Oct. 29.

The problem all along has been strenuous White House objections to the size of the bill, which triggered a veto threat in July when House appropriators had just begun to consider the measure. Negotiations with the administration went nowhere, and the House finally passed a $7.5 billion measure.

Senate appropriators had been widely expected to pare the bill to meet administration objections, but they threw their House colleagues a legislative curveball. Ignoring the House-passed bill, they picked up a dormant measure sent to the Senate earlier in the year (HJ Res 157), stripped it and built their own version of the emergency spending bill in the shell.

That allowed the Senate committee to drop controversial House-passed language that would have changed the way presidential candidates can get money from the taxpayer checkoff fund, a provision that risked a sure veto. "I didn't want it on our bill," said Appropriations Chairman Robert C. Byrd, D-W.Va., who added that the provision would have opened the way for tax amendments and would have provoked "a sure filibuster" on the Senate floor.

Senators did the unexpected when it came to the bill's size. Instead of scaling it back, they accepted virtually everything the House passed and added a little military spending of their own, turning the $7.5 billion House version into a $7.6 billion Senate measure. Sen. Thad Cochran, R-Miss., a committee member and a chief supporter of the farm aid provision, said the House had "sort of set the Senate up to be the heavy" by raising expectations that senators would cut the bill down to size.

Instead, most participants now expect the bill to be cut down in a House-Senate conference committee, where the White House will be a key negotiator.

WHERE THE FUNDS ARE

As approved by Senate Appropriations, the bill includes about $3.5 billion in mop-up costs for Operation Desert Shield/Desert Storm, $1.75 billion for crop-loss assistance to farmers and ranchers, $943 million to enable the Federal Emergency Management Agency (FEMA) to help communities hit by fires, floods, and other disasters, $1.4 billion for three children's assistance programs, and smaller sums for other priorities.

The Senate panel also included a provision to bar military sales to Saudi Arabia and

VOL
137
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Kuwait until the countries pay an estimated $3.29 billion still owed the United States for expenses connected with the gulf war.

The key dispute between Congress and the administration is over how to pay for the measure. The White House wants to designate the Pentagon money and a small fraction of the FEMA money as emergency spending, which would exempt it from caps set in the budget law. All the rest would have to be paid for by cutting spending in other programs.

The House flatly rejected the offset idea, however, insisting that the entire bill be designated emergency spending. Under budget rules, both Congress and the president must jointly designate emergency spending. The administration has indicated that it would veto the House bill.

In the Senate, Byrd added a twist of his own, including language that would block spending of any of the money unless the president declared it an emergency at the time he signed the bill. That would prevent Bush from signing the measure, spending the money and then ordering an across-the-board spending cut in other domestic programs to pay for it—something he could do with the House bill.

But the language would open the way for Bush to selectively designate emergency items in the bill, letting the others expire for lack of funds.

Brock Adams, D-Wash., complained that that approach would effectively give the president a line-item veto. "He can take items and say, 'This one is funded and this one is not.'" Adams said. He added that Byrd's language was precisely what doomed Congress' first attempt to pass an extension of unemployment benefits in August. That bill stipulated that the benefits would be funded only if the president declared an emergency, which allowed Bush to sign the bill but not implement the benefits.

Byrd insisted that he was "the granddaddy of all opponents to the line-item veto." But he also signaled that he did not expect the bill to go to the White House in that form. "I am hopeful that additional amounts for FEMA and crop losses will be declared an emergency by the White House," he said.

It has been expected for months that a compromise would eventually include more emergency money than the administration wanted for FEMA and some, but not all, of the farm aid Congress has demanded. Much or all of the children's aid added in the House is expected to drop out of the bill.

Mr. EWING. Mr. Speaker, I find that the drought has not only affected farmers but agribusiness people, people who run elevators and seed companies and fertilizer. And every business on Main Street, U.S.A., whether it is in Illinois or Indiana, without some money to sustain these farmers, they are not the only ones going out of business.

I would ask the gentleman, has he found that?

Mr. ROEMER. Mr. Speaker, if the gentleman will continue to yield, the spin-off in Indiana for ancillary and directly-connected jobs and employment and revenue are unbelievably connected to the health of our economy in the Hoosier State. We are seeing all kinds of pain and suffering across our sectors because of the drought in northern Indiana and through the State of Indiana.

Also, as the gentleman from Illinois knows, 80 percent of our growth right now in our economy is coming from exports. Much of that, a lot of that is coming from our agriculture industry and agribusiness.

So we are not just talking about our farmers and our middle class families and the health of these farmers to help spread democracy, to help feed our people, to help get food in our grocery stores. We are talking about the direct spinoffs to the State economies in both Illinois and Indiana and around the country, a very, very important point to articulate.

I am glad the gentleman from Illinois brought that up.

Mr. EWING. Mr. Speaker, it is my fear that when we look at a roomful of some of our farmers in our district, we see a lot of gray hair. We do not see a lot of young men and women who are in there in the farming business. But those that are most apt to be hurt by the failure of this Congress to act and the administration to approve a crop disaster bill will be those young people who we will need to depend on in the years to come.

Does the gentleman find that?

Mr. ROEMER. Mr. Speaker, we are talking about passing on the American dream. We are talking about a family that has been successful in farming for generations, now wanting to pass this on to a young son or daughter. And when the young son or daughter sees the type of problems that their parents are experiencing in working with the Government or that the Government is not paying attention to them when they have gone through this severe and devastating drought, I think it makes it very difficult then for a young person to say, I want to go into this kind of business and spend the next 50 years here.

I just had a town meeting in a backyard of a farmhouse, not too long ago, where many of the farmers were saying, "Tim, why should we pass this on to our young people with these kinds of problems?"

I would just like to also say, too, in terms of this drought, as the gentleman from Illinois was talking about so emphatically earlier in his remarks, that this drought has affected all types of farmers. We can go from one side of a corner to another in the same county in the same city and see that while one farmer might be doing fairly well, another farmer is completely wiped out from their production the year before.

It is down 30, 40, 50, 60 percent. So I would just like to say to the gentleman from Illinois that we do have to preserve this dream for our young people, whether they choose to be a farmer, whether they want to go to college, whether a middle-class family wants to pursue a dream of being a scientist or whatever, these options have to be available. And too oftentimes now with these kinds of problems, we are seeing too many of our young people being discouraged from taking over the middle-class family farm.

Mr. EWING. Mr. Speaker, I would like to thank both the gentleman from Indiana [Mr. ROEMER] and the gentleman from Illinois [Mr. BRUCE] for joining me tonight on what I think is certainly a very, very important issue.

I would say in closing that we do have a very serious problem. I address that to the Congress and to the administration. We have low yields. We have terribly low prices for what little was produced. We have a disaster of major proportions in the Corn Belt of the Midwest, in Indiana and Illinois.

We are going to lose a lot of farmers. They are going out of business, and we are going to lose a lot of agribusinesses who supported those farm businesses.

I propose a question to this Congress and to the administration: Who will we look to to produce our food if we allow this disaster to overtake us?

In addition, we will lose a way of life which we have cherished in this Nation, a way of life which we have held out as the traditions and the values which we emulate. It is something we cannot allow to happen.

I thank both gentlemen for helping.

Mr. SANGMEISTER. Mr. Speaker, let me first commend my good friend and neighbor, Congressman TOM EWING, for scheduling this special order. Since being elected in July, Congressman EWING has established himself as a true friend of agriculture and, more importantly, a defender of the American farmer. His efforts on behalf of the agriculture community are sincerely appreciated.

When we discuss the dire need for drought assistance to our Nation's farmers, we are not talking about a bailout or another Government check for the farmers. Although I've heard such callous statements, anyone who has seen the damage this disaster has caused would agree that such cliches are a disservice to the hard-working men and women in the farming community. What we are talking about today, Mr. Speaker, are human lives. We are talking about a way of life that constitutes the backbone of our Nation's economy. Ultimately, we are talking about an obligation our Government has to assist those who, through no fault of their own, stand to lose all they have worked to accumulate.

Back in Illinois, Mr. EWING's district and my own encompass the northern and north-central parts of the State and, as I am sure my colleague would agree, contain some of the best farmland in the Nation. I am also certain he would agree this area has had its share of natural disasters in the last 10 years or so. Our districts have been ravaged with drought over the last decade—in 1980, 1983, 1988, and again this past summer.

This year's drought, which devastated my district, did not receive the same attention as the 1988 drought due in large part to its scattered pattern. Throughout the Midwest—and the Nation for that matter—there was a spattering of severe drought areas. One county may have had normal or near-normal rainfall

while a neighboring county went literally months without even a drop. I submit that this is the most devious characteristic of the drought, because it tainted Americans' perception of the problem and trivialized the need for aid.

I recognize that this drought was not on the same scale as the one we experienced in 1988. It was not as serious a problem nationwide. But, just because it did not reach the networks' 6 o'clock news every night does not mean it, or the people it has devastated, should be ignored. There is an emergency here, Mr. Speaker. A dire emergency that a majority of my colleagues in the House have acknowledged. We have approved an authorization and, last month, an appropriation to bring much needed aid to these farmers, farmers who cannot pay their mortgages or put food on the table, let alone save for retirement or their childrens' educations. A dire emergency is almost an understatement when looking at the potential damage to the thousands of families whose livelihoods hang in the balance.

When I was home in July, I visited some farms in my district to see firsthand the damage the drought had brought. The corn had no ears, the beans sagged at my ankles, and the ground was so dry you could lose a yardstick in its cracks. It was a dramatic showing. However, Mr. Speaker, the real tragedy was not found in the field, it was found in the faces and words of the farmers who gathered around me to hear what Washington was going to do to help them. These farmers were nervous and they were disillusioned. Here they were, many worse off than in 1988, and I had to tell them the administration did not consider their situation an emergency. Congress had just passed the authorization for drought aid, and I had to tell them that the chance of getting them a check was clouded by a veto threat. I had to explain that, yes, aid was given to assist the Kurds and the people of Bangladesh, but somehow, their situation did not merit similar attention. With 30 years of public service under my belt, this was not a shining moment.

Since that day in July, this Congress has made great strides toward making drought aid a reality. It may have taken 4 months, but a supplemental appropriation which included drought aid was approved by this body and was to be taken up by the Senate today. This should bring a sigh of relief from farmers and lawmakers alike, but we are still left wringing our hands over a veto threat. I hope this special order will raise awareness of the problem, and inspire the courage needed to stand up for America. I challenge the administration to take a step back and look at what happened to the farmers in my district this summer. Then tell me there is no emergency.

Once again, I thank my colleague, Congressman EWING, for calling this special order. I vow my continued support for this aid and submit that the farmers of this Nation deserve no less.

GENERAL LEAVE

Mr. EWING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE BCCI DEBACLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 60 minutes.

Mr. RIGGS. Mr. Speaker, I rise tonight on a subject of very real importance to our Government and certainly to all of my colleagues, a subject that is very timely indeed, given the fact that this House today, after several previous futile efforts, passed a bank reform bill to recapitalize the bank insurance fund and at the same time impose on the American banking industry regulatory standards, one of which is standards that came out of the Committee on Banking, Finance and Urban Affairs hearing on the BCCI debacle.

I would tell my colleagues that the standards that we contained in today's bill regulating foreign interests in the United States will hopefully prevent a recurrence of the situation I am going to describe in some detail tonight.

My special order is specifically focused on BCCI, the Bank of Commerce and Credit International, and what our Federal Government has done or has not done with respect to investigating what has come to be known as the largest criminal organization, largest organized criminal fraud in the history of the world.

It is a story replete with examples of lost leads and very, very costly efforts on the part of our Government in terms of both protecting the American taxpayer and also, and probably just as importantly, in terms of restoring American consumer confidence and faith in our financial institutions here in the Nation, so critically important to this body enjoying rather the public support necessary to enact meaningful regulatory legislation with respect to both the banking industry and the thrift industry, but also critically important in terms of jump starting our economy and getting the economic engine going again so that we really can promise our constituents back home a period of sustained prosperity and economic growth that will hopefully lead to job creation and also promote investment and savings in American businesses.

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Mr. Speaker, on July 5, 1991, bank regulators seized the offices of Bank of Credit and Commerce International in the United States, Europe, and other parts of the world. The closures have been followed up with enforcement proceedings against the BCCI parent company or holding company, BCCI Holdings of Luxemburg and subsidiary banks for violation of United States banking laws. These closings have also been followed by racketeering charges brought by the U.S. attorney in Tampa, as well as an indictment by a New York grand jury for defrauding BCCI depositors, falsifying bank reports to hide money laundering, and various multimillion-dollar larcenies.

On September 10, of this year, shortly after we returned from our summer recess, the full House Banking, Finance and Urban Affairs Committee began hearings on the BCCI affair, concentrating on the illegal, secret takeovers of First American Bank right here in the District of Columbia, the National Bank of Georgia, CenTrust Savings Bank of Miami, FL, and Independence Bank of Encino, CA, in southern California. We heard evidence, strong evidence that BCCI secretly and systematically infiltrated the U.S. banking system while our banking regulators and law enforcement personnel in the Federal Government ignored or just plain overlooked numerous warnings.

The Banking Committee quickly moved on to other matters because we had, when we came back in September, pending before us the very, very vexing and troublesome issues of bank reform and recapitalizing the bank insurance fund, as we did earlier today on this floor, and pumping millions more into the savings and loan industry, as we will be contemplating doing here within the remaining few days of this session. When we moved on from BCCI we did it, I hope, with the understanding that we will revisit that subject at a future date. It is one that I am terribly interested in, and frankly I am joined by just a handful of my colleagues in actively pursuing this in the U.S. Congress. I can tell my colleagues looking in and our visitors here tonight that others of my colleagues share my concerns such as the gentleman from New York [Mr. SCHUMER], who has been actively pursuing this matter through his Judiciary Committee subcommittee, as well as Senator KERRY in the other body. I certainly hope that we will be diligently and painstakingly pursuing this matter further, because I am personnally not satisfied in the least that we have even scratched the surface of the BCCI affair to date. I have written to the Banking Committee chairman, Mr. GONZALEZ, asking that we look further into the involvement of two principals in the First American takeover here, again in the District of Columbia, Robert Altman and Clark Clifford.

I am disturbed by revelations of the very close financial and personal ties between Bank of America and BCCI. I have requested that the committee probe further, that it review all of the documents that have been obtained on B of A, all of the internal documents

VOL 137 PT 23 NO 21—25 1991 UMI

obtained pursuant to a subpoena issued by the Banking Committee, and we as a committee look deeper into the links between Bank of America and BCCI at a future hearing.

Recently, we have seen a flurry of legal activity. The Justice Department has filed new indictments in Florida, and a California grand jury has leveled charges. In New York State, the Manhattan district attorney continues to pursue the case, and overseas regulators in France, Great Britain, and the Cayman Islands are investigating widespread fraud, money laundering, and illegal stock manipulations. Clearly, BCCI, as we used to know it, is on the run. But I do not take much satisfaction from that fact.

I want to go back, and I have a chart here that I will be referring to as I move into my special order, but I would like to go back and really talk a little bit about BCCI, again, the largest criminal organization in the history of the world, which left in the wake of its failure earlier this year a decade of criminal activity and outright thievery. BCCI was founded in 1973, and early on it gained a reputation for shading dealings. Yet, despite continued evidence that it was in fact a widespread organized criminal operation, and information that it had infiltrated the American banking community, it had been operating, or had been prior to its takeover or shutdown, it had been operating in the United States for almost 10 years under the cover of its illegally owned American banks. And despite the fact that it was criminally indicted for money laundering in 1988, a number of this country's most prestigious banks, including the Bank of America, Security Pacific, and the Bank of New York continued corresponding relationships which offered unlimited opportunities for BCCI and its criminal customers to hide their illegal and ill-begotten funds.

Too often in the past we have thought of white collar crime as a relatively harmless activity. The bright guys occasionally get caught, and sometimes actually go to jail, but nobody really gets hurt, and the money damage is so spread out that the average citizen does not feel the pain. I am here tonight to say that in the case of BCCI and in the case of the savings and loan scandal that myth is rapidly dissipating. We all know that this Government is going to be financially saddled for generations to come because of the $500 billion-plus cost of the savings and loan bailout. And we are all awakening to the toll in terms of the lost public faith in government officials who turned a blind eye and who in fact in some cases personally benefited, and in financial institutions in general.

The BCCI scandal takes financial chicanery to a whole other and new dimension. The damage BCCI has done to thousands of people is immeasurable, and in fact has continuing international consequences. The most obvious victims of BCCI are the thousands of customers around the world who have lost approximately $12 billion in deposits. Some of those customers are very close here to home. Just in today's Washington Post in their business section they ran an article indicating that First American Bank here of Washington, DC, as I have mentioned earlier, as we have come to know now which was illegally owned by the Arab investors behind BCCI, lost $1 billion during its fall quarter and had a drop in terms of total assets of 12.3 percent. Clearly that institution is on the financial ropes as a result of its infiltration by BCCI.

The most obvious victims, as I have mentioned, are the depositors. But we can count those who are affected by the $1 billion drug deals financed by BCCI as victims of their activities as well, both those who are tragically addicted to the drugs of cocaine and heroin, and the victims of violent crimes perpetrated by desperate drug users and rival criminal gangs.

BCCI, the Bank of Criminals and Corruption International, was in reality a full-service bank for drug traffickers. It financed the drug transactions of Latin American drug cartels, laundered dirty money, and made it possible for drug traffickers to invest in legitimate businesses.

Add to the list of victims innocent, ordinary people living in unstable regions of the world where BCCI financed arms deals for militaristic and radical regimes, and promoted terrorism by extension. BCCI financed the purchase, sale, and delivery of illegal arms to Saddam Hussein. It assisted a Pakistani arms dealer via letters of credit and monetary transfers in smuggling weapons to Iran. It facilitated arms deals to Arab terrorist organizations, and it may have even formed a network, and this is almost mind-boggling, to purchase components for the construction of a nuclear device in Pakistan, a so-called Islamic bomb that would turn the Fundamentalist Islamic government of Pakistan into a regional superpower.

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BCCI as it turns out was the favored bank of some of the world's major league thugs, including in addition to Saddam Hussein, Manuel Noriega, and Ferdinand Marcos. The friendly and accommodating bankers of BCCI helped these dictators loot their treasuries by developing numerous complicated transactions involving the use of shell companies that obscured the dictator's selfish intent and allowed them, frankly, to hide money away in secret accouts.

In Third World countries, the basics of survival are enough food, clean water, and sanitation. I wonder what kind of suffering resulted when government moneys were redirected by BCCI into these strong men's secret accounts?

Robert Morganthau, the Manhattan district attorney who is diligently prosecuting a case against BCCI and who has accused the Justice Department of noncooperation, even obstructionism in the matter, says, and I quote:

> The BCCI was operated as a corrupt criminal organization throughout its entire 19-year history. It systemmatically falsified its records. It knowingly allowed itself to be used to launder the illegal income of drug sellers and other criminals and it paid bribes and kickbacks to government officials.

And those are officials perhaps of our Government as well.

> The corporate structure of BCCI was set up to evade the national and international banking laws so that its corrupt practices would be unsupervised and remain undiscovered and the defendant systematically falsified the capital structure of BCCI to make it appear as though it was a solvent profitable bank secured by the backing of wealthy businessmen from the Middle East.

Mr. Morganthau continues:

> In fact, much of the bank's capitalization and assets were fictitious and its backing illusionary. The defendants created the appearance of respectability by persuading world leaders to appear with them and defrauded thousands of depositors, both small and large, who relied on that appearance of respectability.

BCCI worked hard to earn the appearance of respectability. In this country, as is well documented, it courted and contributed to some of the Nation's leading politicians, going so far as to contribute $8 million and office space to former President Carter's favorite charity. Other beneficiaries of BCCI's largess through its subsidiaries and operatives included Bert Lance, former Secretary of the Treasury in the Carter administration; Andrew Young, former Ambassador to the United Nation; and John Connelly, former Secretary of the Treasury, all officially honorable men, all men certainly with influence close to the centers of power.

Respectability. Last September I sat in the Banking Committee hearing room and listened to Robert Altman and Clark Clifford, two very respected members of the Washington establishment who were top First American officers, deny participating in or even knowing about the BCCI takeover of their bank.

I was struck with the deference that many members of the committee displayed to these men, even after being presented with evidence that shredded whatever credibility that they may have with respect to their repeated denials of culpability.

Robert Altman and especially Clark Clifford are both respectable men, the kind of men other respectable men and women are reluctant to question. It is

especially disturbing that Mr. Clifford, the former Secretary of Defense and adviser to numerous Presidents, appears to be implicated in the illegal takeover of First American Bank.

It is more disturbing, however, that there is little interest here in official Washington in examining Mr. Clifford and Mr. Altman's role further, even after it was suggested to the Banking Committee that Mr. Clifford may have perjured himself for the committee on the basis of testimony that he had submitted earlier to the Federal grand jury here in Washington investigating the failure of BCCI of Washington.

Mr. Clifford was paid only $50,000 annually for his chairmanship of First American, yet he and Mr. Altman collected millions as attorneys representing BCCI from 1978 to 1990, and by representing First American, and according to published reports took home several other million dollars made—now get this, by selling stock in the First American Bank that they were able to purchase with a 100-percent nonrecourse loan made by a BCCI subsidiary in the Cayman Islands.

Mr. Clifford repeatedly told the Federal Reserve in 1981 that no relationship existed then or would exist in the future between First American Bank and BCCI. The Fed apparently was satisfied with his claim that the bank was owned by Middle East investors, and despite repeated warnings from many sources, never probed deeper.

It was not until this year that overwhelming evidence from Morganthau persuaded the Federal Reserve that First American Bank of Washington, DC, was in reality a BCCI subsidiary.

Mr. Clifford, now at 84 years of age and certainly deserving of a great deal of respect and even gratitude from the Nation for his service to this Nation, says that he was duped. He says, "If the Federal Reserve was duped, then so was I."

That remark brings the blame full circle, for bank regulators say today that they trusted Mr. Clifford's repeated assurances that BCCI was not the invisible hand behind First American Bank.

Mr. Clifford was too respectable, he was too honorable a man to repeatedly over the years mislead Federal banking regulators about the true ownership of First American Bank of Washington.

Last September the Banking Committee also heard that Bank of America, one of the Nation's largest and most respected banking institutions, a bank with its headquarters in San Francisco, CA, not far from my First Congressional District on the north coast of California, had a prominent role in the whole BCCI affair. Bank of America was a founding investor of BCCI, at one time owning I think close to 40 percent of the stock in BCCI, but it sold off its shares in BCCI by the early 1980's because of, according to senior officials of Bank of America because of management misgivings about BCCI's loose lending practices and lack of internal controls.

Bank of America, however, in selling off their interest made a very hefty profit, I think in the neighborhood of 600 percent on its original investment of $5 million, and continued a corresponding bank relationship with BCCI until the day that BCCI was shut down.

During the 1980's, more than a billion dollars a day at times flowed into Bank of America accounts from BCCI. In fact, in at least two instances Bank of America acted as a middleman, a broker, if you will, for financial transactions between B and L, an Italian Government-owned bank that had a branch in Atlanta, GA, that had dealings with Saddam Hussein and the Iraqis, and BCCI.

Did Bank of America ever question whether this money that was flowing into their institution, money that frankly may have helped to prop up Bank of America during the 1980's when it, too, experienced financial troubles. Did they ever question whether or not any of those funds were laundered? If they did, did they care, did they let on to anyone in terms of Federal law enforcement officials or Federal banking regulators regarding their suspicions?

In my mind, the BCCI debacle has conjured up a terrible vision of hundreds of powerful and influential people, immaculate in their dress, impeccable in their manners, who sit at their vast desks under the gilded motto reading, "See no evil, hear no evil, speak no evil."

But such an attitude really offers no explanation why it took so long for Federal authorities to rein in this rogue bank.

I believe that if we look deeper at the clues that are continuing to surface, we will find more than one explanation. At least seven Federal agencies have a long history of involvement in the BCCI affair. They are the Federal Reserve, the Internal Revenue Service, the Treasury Department, U.S. Customs, the Drug Enforcement Administration, the Central Intelligence Agency, and the U.S. Department of Justice.

Let us take a glimpse at the record of lost leads, disregarded data, and conflicting personal policy and political interests that too often characterize the Federal effort to rein in this rogue bank.

The Federal Reserve has general oversight responsibilities for the Nation's banks. The Fed this year finally got tough on BCCI, issuing a cease and desist order and proposing a $200 million fine against BCCI for evading U.S. banking rules in clandestinely taking over First American, but this was after 19 years of lax supervision on the affairs of First American Bank.

One explanation, of course, is the political juice that flowed from the distinguished Mr. Clifford. The Fed Chairman, Alan Greenspan at the time, noted that he had socialized with Mr. Clifford and to his credit abstained from voting on the cease and desist order.

The Wall Street Journal, however, informs us that, "Many more meaningful links between the Fed, BCCI, and First American existed."

Michael Bradford, for example, was a Fed attorney who monitored the role of the Arab investors who bought into First American. Those Arab investors turned out to be frontmen, or as we heard them described in the committee, nominees and surrogates for BCCI.

Mr. Bradford left the Fed in 1989 and joined the law firm of Jones, Day, Reavis & Pogue, where he labored on issues concerning BCCI's interest in the bank holding company.

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Two of the former Fed attorneys in important oversight positions also joined law firms which represented First American.

Robert Mannion was the Fed's general counsel who presided over the 1981 hearings in which BCCI was prohibited from becoming involved with First American.

Then there is Baldwin Tuttle, who worked in the Fed's general counsel's office, left it in 1977, and then as a private attorney helped Mr. Altman and Mr. Clifford obtain approval for the Arab investors, who again turned out to be the BCCI nominees to buy into First American.

When your former associates go to work for a bank that you are regulating, is it easier then to ignore the warning signs?

Would you, like William Rybuck, the Fed's director of bank supervision, ignore an IRS agent's revelation in 1988 that undercover agents had recorded a BCCI official boasting that BCCI secretly controlled First American, as alleged by Agent David Burris?

For all the work of individual agents, the IRS cannot escape blame completely in this matter, for BCCI's illegal activities go on and on and on.

In 1986 the IRS refused to begin a criminal investigation of BCCI despite persistent requests by the criminal investigation division, which had acquired information about BCCI's criminal activities. In 1984 former BCCI employee Aziz Rehman provided IRS agents information about deposits to a nonexistent BCCI branch in Nassau, the Bahamas, and his role as a courier of cash deposits for customers and other banks.

Mr. Speaker, based on this information, the IRS special agent recommended that the IRS launch an undercover operation, but it was denied three times by upper echelon officials.

VOL 137 PT 23 NO 21—25 1991 UMI

Also in 1986, the IRS received a referral from the DEA on a large-scale heroin trafficker, Satter Nadjmehchi. Meeting with an undercover DEA agent and a BCCI official, Nadjmehchi bragged about concealing and laundering money "at a foreign bank." The IRS issued a $9.5 million jeopardy assessment against his property, but did not follow up with a criminal investigation.

Again in 1986, the Government of India provided the IRS with documents showing that BCCI accounts in a number of countries were being utilized for a multimillion-dollar money laundering scheme. India's request was handled as "a request for law enforcement assistance" but was not pursued, and there was no further followup.

In Washington in 1987, the IRS received a criminal referral from the Federal Reserve, concerning suspect cash transactions and irregular activities in BCCI Miami and Atlantic accounts.

In St. Louis, in 1988, the IRS established that Jerry Lee Harvey used BCCI accounts in Panama and the Cayman Island as part of a $60 million money laundering scheme.

The next year the IRS participated in an investigation and conviction of a million dollar plus money laundering scheme by a heroin dealer who used BCCI accounts in New York and Hong Kong.

The IRS has identified 15 separate matters in its files involving BCCI, 10 of which have been referred for criminal investigation.

I can only ask why the IRS did not pursue the early leads? Why did no one notice a pattern? The explanation, of course, is as always that the IRS had limited resources. Middle-class taxpayers who have been hounded by the IRS might take exception at that explanation.

BCCI's involvement in international drug trafficking was common knowledge within the Drug Enforcement Administration. In Washington, a DEA review of its own files has revealed 125 cases that have been identified as being related to BCCI. Most cases are undercover money laundering storefront operations which led to warrants to seize BCCI bank accounts containing suspected drug proceeds. In other words, it's common knowledge among DEA agents all over the country that BCCI is the narcotraffickers bank of choice.

The House Banking Committee has in its possession three classified reports prepared by the Central Intelligence Agency concerning illegal activities by BCCI in the 1980's.

The first report accused BCCI of manipulating international markets for certificates of deposits. The report asserted that in May 1985, BCCI bribed a key financial firm to publish false and misleading quotations to buy and sell certificates of deposit.

In September 1986, the CIA detailed BCCI's involvement in providing financial services to drug traffickers. The report was circulated to Treasury, State, and Commerce Department more than 2 years before BCCI was indicted for money laundering in Tampa, FL.

Finally, a 1989 CIA memo was distributed to several law enforcement agencies, stating, "BCCI is still trying to attract Colombians who want to launder narcodollars in Panama."

And recently, acting CIA Director James Kerr testified before a Senate panel that between 1983 and 1985 the CIA had circulated several hundred reports to Government agencies outlining BCCI's illegal activities.

In a 1985 report, according to Kerr, the CIA told the Treasury Department that BCCI secretly owned First American Bank. Treasury did not follow up on the information.

The CIA appears to have been doing its job, gathering international intelligence information and distributing it to Federal agencies. Clearly, the CIA recognized BCCI as a rogue bank. Unfortunately, it appears that the rogue had some uses for the CIA. The agency used BCCI banking facilities to transfer funds to support a number of secret operations, including the support of Afghan resistance through BCCI Pakistan. It was not until 1989 that the CIA closed its accounts. Of more concern is a published report that BCCI investigators believe that the CIA used BCCI accounts to stash away funds to illegally support the Contras in Nicaragua, in contravention of the will of this body.

So it is troubling to read that in October of this year a U.S. Customs officer wrote to Senator JOHN KERRY, chairman of the Senate Subcommittee on Terrorism, Narcotics and International Operations that in a 1988 inquiry "tons of documents were reviewed * * * and the CIA put a halt to certain investigative leads."

The first successes against BCCI's criminal enterprise was conducted by the U.S. Customs Service. From 1986 to 1988 Customs ran an undercover operation in which agents masqueraded as drug sellers eager to launder the proceeds of their endeavors. The undercover agents chose BCCI Miami branches to deposit funds that were then wired to Panama. After some time, the agents were approached by BCCI officials who told them that they knew what they were doing, and would be caught if they did not use more sophisticated methods. BCCI officials devised for the undercover agents of the U.S. Customs Service a complex series of transactions that rendered the deposits untraceable. BCCI was rewarded by larger deposits, and the agents continued to gain confidence with the bankers and, in turn, were rewarded with valuable information—which they secretly taped—about the scope of BCCI's illegal activities.

Operation C-Chase, as the undercover operation was known, came to an end in 1988 in a widely publicized bust. Unfortunately, someone apparently leaked out information that the bust was coming down and a number of drug lords withdrew millions of dollars from their accounts at BCCI just prior to the bust.

In 1989, BCCI worked out a plea bargain with U.S. attorneys and was fined $14 million. Five bank executives, implicated by the undercover operation were subsequently convicted.

There were other problems with C-Chase besides the apparent tipoff to BCCI's customers. Officials in the Customs Service have complained that inadequate resources were available to carry the BCCI prosecutions to the highest levels and furthest extent of the law. Field agents were frustrated that within 1 month of identifying high-level bank officials directly involved in money laundering schemes, top Customs officials decided to prematurely terminate the operation. In a rush to prosecute, important evidence, including hundreds of hours of tapes and boxes of documents were only quickly reviewed.

The Justice Department's involvement with BCCI began as early as 1978. From 1978 to 1981, Kidder Peabody & Co. registered itself with the Justice Department as a foreign agent. The company disclosed on registration forms that they were aiding BCCI, Agha Hassan Abedi—BCCI's founder—and three related corporations in connection with offers to purchase Financial General Bankshares, the predecessor to First American Bank. This was the first explicit warning to the Federal Government that BCCI was behind the takeover of First American, and this has been reported in media publications such as the Wall Street Journal.

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The Justice Department failed to bring an indictment against Jordanian arms merchant and coffee smuggler Munther Bilbeisi, one of BCCI Miami's largest customers until August 1981, despite repeated warnings about Bilbeisi's activities from several sources.

The Customs Service learned in 1983 that Bilbeisi was using fraudulent bills of lading and cargo manifests to illegally smuggle coffee. Later Federal prosecutors were warned by attorneys representing Lloyds of London, which was perusing an insurance fraud case against Bilbeisi, that Bilbeisi had repeatedly violated customs laws from 1983 to 1986.

Bilbesi now faces charges of tax evasion. The statute of limitations has expired on most coffee smuggling matters. This comes after the Federal Reserve notified the IRS of suspicious deposits of money and checks into the accounts of Florida offices of BCCI. After deposit, the funds were wired to Panama.

Again we have a breakdown of communication between Federal agencies.

The Justice Department is the central investigator of the BCCI case. They should serve as a clearinghouse of all information about BCCI's affairs and lead in the prosecution of the case. However, according to several officials from other Government agencies, the Justice Department has repeatedly dropped leads, failed to zealously go after higher-ups and associated officials and have even blocked inquiries by other departments and withheld information.

Time magazine recently reported that Justice investigators and prosecutors have told reporters that higher-ups at the Justice Department stymied the progress of lower-level investigators telling those investigators that "the case is political." Federal attorneys and agents are frustrated by an official line that says on the one hand spare no resources and go forward, and on the other hand, a molasses-like response from Washington to their requests.

During his nomination hearings very recently in the Senate before the Senate Judiciary Committee, William Barr, the new Attorney General, reacting to congressional criticism promised to press forward in the BCCI prosecution, and I certainly hope that would be the case, because at this juncture it is apparent that the Nation's top law enforcement agency has fumbled the ball, or, even worse yet, been sidelined in the investigation of the biggest criminal organization in history. I think similar things can be said about the other agencies involved in the case.

Pick your reason: inter- and intra-Department rivalries, incompetence, lack of resources, misjudgments, fear of upsetting confidential criminal investigations. Or is there, as some suggest large-scale influence buying, complicity in criminal activities or a desire to coverup illegal or covert operations?

Whatever the reason, I believe that the people of this country have the right to know just what happened and why, and the true extent and involvement of officials of the Federal Government in the whole BCCI affair, both the contributing causes to the affair, as well as any subsequent efforts to cover up the true magnitude of this large-scale criminal enterprise.

What kind of trust can we put in the Government of this country to protect our national security which increasingly depends on the stability of both the American and international financial system, if the biggest criminal enterprise in the history of the world has not been properly investigated and prosecuted by our Government?

For this reason I am preparing legislation that would create an outside counsel, totally independent of the executive and legislative branch of the Government with the powers to subpoena witnesses and documents and with access to a Federal grand jury to conduct a thorough investigation into the behavior of past and present Government officials. It's time that Congress takes an aggressive stance on uncovering what so long was hidden in the bowels of the Federal bureaucracy.

Let us trust the American people with the truth. Let us bring forward this information. Let us see with the light of day. Let us assess blame where blame should be assessed. Let us hold those in Government, in both elective and appointed capacities, responsible for their actions where those actions contributed to this incredible financial scandal, which again is costing the American people and those who put their faith and confidence in BCCI around the globe dearly. Let us look at this situation as we should look at all matters of this nature, with unblinking eyes, uncover the truth, and let us learn from this experience. Let us insist on full accountability and full enforcement of the law with respect to both civil and criminal penalties for those involved, and, if we have not gone far enough with respect to the bank bill that we just passed, let us further remedy the situation by passing into law those regulations necessary to prevent a recurrence of this incredible scandal.

NATIONAL TELECOMMUNICATIONS POLICIES

The SPEAKER pro tempore. (Mr. SERRANO). Under a previous order of the House, the gentleman from Tennessee [Mr. COOPER] is recognized for 60 minutes.

Mr. COOPER. Mr. Speaker, I come before the House tonight with my distinguished colleagues, the gentleman from Colorado [Mr. SCHAEFER], a Republican, and the gentleman from California [Mr. LANTOS], a Democrat, to talk about a really very technical matter, but a matter that affects the lives, the working habits and the entertainment habits, of the vast majority of American people in coming years. This debate has to do with something as simple and as taken for granted as the average home or business telephone, but this debate encompasses a wide array of future-oriented information services, those services which can be transmitted over a telephone line in addition to regular telephone calls, services, information services of the future, electronic publishing, things of that type, which will literally transform the way the average American works and plays.

Mr. Speaker, this is a debate which could well be the most heavily lobbied issue in this Congress. The economic forces on each side of this debate are huge and gigantic because the future market is so large. One estimate puts it at approximately $100 billion of new market potential that this telecommunications market provides.

Mr. Speaker, many Members of this House have been very confused by an issue of this technicality. Many members of the general public are confused by an issue of this technicality. So, I thought that we would take time tonight to try to explain some of the considerations involved.

To be brief, Mr. Speaker, these issues involved primarily how we are going to set national telecommunications policies regarding the telephone, what uses the telephone can be put to in the future, the diversity of our information sources over that phone, the affordability of those services and the enhanced productivity of the American workers as a result. It also has to do with the way we, as Americans, deal with monopoly corporations, corporations which enjoy an exclusive franchise in a particular region of our country, corporations which, with the Government's blessings, are able to send us monthly bills for just about whatever amount they want to send us.

☐ 2050

To be sure, these corporations are regulated, but sometimes the regulations fall short. Sometimes these corporations are able to outfox, outsmart, outgun our regulators, whether those regulators are the Federal Communications Commission at the Federal level or the various State regulatory bodies.

This is a debate which will not, by any means, be concluded in this calendar year, but it should be concluded early in the next calendar year as Members of Congress from all over this great Nation meet with their newspaper publishers back home during the Thanksgiving and Christmas recess, as we hear from the various Bell executives and their lobbying organizations which are very outspoken on this legislation, and as the Nation itself makes up its mind on these important, but technical, issues.

I have the great privilege of serving on the Committee on Energy and Commerce in the House, which has jurisdiction over these issues. I wish all of my colleagues could have the privilege of hearing the testimony of the witnesses and exploring these issues. Unfortunately, most of my colleagues will only bear the brunt of one of the most massive lobbying campaigns in modern times.

One of the first victims of the Bell lobbying effort, I am afraid, is the gentleman from Colorado, Mr. DAN SCHAEFER, my good friend and colleague. He was brave enough to be a primary sponsor of the legislation. We joined hands across the aisle to promote the American public interest, and for doing so Mr. SCHAEFER was criticized and at-

VOL 137
PT 23
NO 21—25
1991
UMI

tacked in ways that I think are probably new to American politics.

Mr. SCHAEFER. Mr. Speaker, would the gentleman yield?

Mr. COOPER. I would be happy to yield at this time to my good friend and colleague, Mr. SCHAEFER, so that he can explain some of what went on in his home State of Colorado.

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, considering H.R. 3515 was introduced just more than a month ago, it has certainly received a good deal of attention. And while as sponsors of the legislation we would like to take sole responsibility for familiarizing other Members with the issue, we can't honestly do so. Much of the credit rightly goes to the Bell operating companies.

Unfortunately, the RBOCS have chosen not to focus on the substance of the bill, but to use it as an opportunity to break new ground in the area of special-interest lobbying. Many in Washington and in my district are now aware of the harshly worded letters, radio ads, and 1–800 numbers targeted against the sponsors of the legislation. While I believe these heavy-handed tactics set a dangerous precedent and are worthy of congressional attention in their own right, we can't let lobbying become the issue. To do so would only give it wholly undeserved legitimacy.

I would like to use my time tonight to discuss the issue of Bell Co. entry into information services in the appropriate manner—on its merits. To dismiss it simply as a battle between the RBOCS and the newspapers is to grossly understate its importance and reach. The manner in which this matter is resolved will fundamentally change the way Americans receive their information. It is just that critical.

For that reason, it is an issue that should rightfully be decided by the people through their Representatives in Congress. The Bell companies once strongly shared this philosophy, until a recent court decision came down in their favor. Now they want Congress to stay out of their affairs.

But court decisions don't change the fact that it is the role of Congress to set policy. It is our responsibility to make difficult decisions, even if our actions incur the wrath of special interest groups. For regardless of the size and strength of the Bell companies, one segment of our constituencies has them vastly outnumbered—the telephone ratepayers.

It was on behalf of this large, yet unorganized group, that I joined Mr. COOPER and three other Energy and Commerce Committee colleagues in sponsoring H.R. 3515, the Telecommunications Act of 1991. This legislation, contrary to its characterization by the RBOCS, permits the Bells to enter the vast majority—an estimated 95 percent—of the information services market. Only in those areas where a particular company—like US West—has monopoly control of local telephone service would a limited and temporary prohibition on entry apply.

The reason for this stipulation is simple: Allowing those who firmly control information access to the home and control content as well is setting up a system ripe for abuse. Information service providers, many of which are small businesses, are fully dependent on local telephone service to deliver their product to customers. It would be unfair to now require these companies to compete with the very entities—the phone companies—on which their services rely.

The current marketplace reality is this: If a consumer is unhappy with a telephone he or she just purchased, there are countless others from which to choose. Or if long-distance service isn't satisfactory, he or she can opt for another. But if a business or consumer is displeased with local telephone service, there is nowhere else to go.

H.R. 3515 aims to change that. In the everchanging telecommunications marketplace, we just don't accept that a monopoly on local telephone service is an unfortunate fact of life. Our legislation knocks down many of the barriers which currently exist to competition in the local telephone exchange. There is simply no better protection for consumers than competition.

The Bells can't have it both ways. They can't expect to aggressively pursue entry into other lines of business while clinging dearly to their monopoly at the local exchange. American businesses and telephone consumers can only be protected if marketplace forces are allowed to work in each segment of the telecommunications industry. Until that point, restrictions on the RBOCS must be retained.

The effect of Bell Co. entry into information services will impact each of us. We all have a large stake in ensuring that the information we receive comes from a wide variety of sources. This fundamental right can best be guaranteed by structurally separating those who generate the information from those who hold a monopoly on its transmission. H.R. 3515 does just that.

Support for our legislation is by no means limited to the newspaper publishers, as the RBOCS would like to believe. A range of information service providers—like Prodigy, for instance—have added their name to the bill. But perhaps more important, consumer groups including the Consumer Federation of America have also endorsed the measure. Their only incentive is mine as well: to protect the telephone ratepayers from the abuses of a monopoly.

Mr. Speaker, let's set the record straight: H.R. 3515, not unrestricted Bell entry into information services, is the procompetition, proconsumer approach. But members shouldn't take our word for it, or that of the Bell companies. They should take the time to read the legislation.

□ 2100

Mr. COOPER. Mr. Speaker, I thank the gentleman for his excellent statement and for yielding back.

As the gentleman from Colorado [Mr. SCHAEFER] correctly points out, we are very proud to have the support of the Consumer Federation of America, an unbiased and objective consumer group, that speaks on behalf of the vast majority of Americans who just want affordable quality telephone service.

As the gentleman also points out, by no means are the publishers of newspapers our only supporters. There are countless businesses across this country, large and small, who want to be able to compete with Bell telephone companies on a fair basis, on the proverbial level playing field, and not to have the competition be unfair, the deck stacked against them. They just want a fair chance to compete.

To give the Speaker and the Members of this House and members of the general public a small sampling of the interests involved, most of the broadcasters of this country seem to be sympathetic with the goals of our legislation. Many of the cable television operators seem to be as well. I have certainly been a critic of their local monopolies.

Prodigy and CompuServe are two of the information services that are available today and which I think deserve a chance to grow and prosper and thrive and improve. Companies such as Dow Jones and Dun & Bradstreet are just some of the companies that have a nationwide interest in transferring information on an objective and fair basis to the average consumer.

There are a number of other companies that do not have household names, but are represented in most of the small and medium-sized cities of this country. Burglar-alarm companies, paging and answering-machine companies, even the local florist shops.

Mr. SCHAEFER. Mr. Speaker, if the gentleman will yield further, as the gentleman knows, the realtors in this country, which are certainly small businesses that rely so much on the phone and have had so many problems in the past with them, is another good example, as I know the gentleman knows.

Mr. COOPER. Mr. Speaker, reclaiming my time, the gentleman is exactly right. Virtually all businesses today rely on some form of telecommunications to conduct their business in a more efficient and cost-effective manner. They have a stake in the outcome of this legislation.

Mr. Speaker, another of our colleagues has joined us, the gentleman from California [Mr. LANTOS], who is not only a noted expert in defending consumer rights, but human rights in general.

Mr. Speaker, we would like to hear from our colleague concerning his experiences with dealing with this issue in his home State of California.

I yield now to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Speaker, I want to thank my distinguished friend and colleague for yielding. I am very proud to stand with my two colleagues, the distinguished Republican gentleman from Colorado [Mr. SCHAEFER] and the distinguished Democrat colleague from Tennessee [Mr. COOPER], because this surely is a nonpartisan crusade that we are engaged in.

I would like to deal with two entirely separate issues very briefly. First I would like to say a few words about the substance of this legislation, which I have studied as a professional economist, I believe one of the three professional economists in this body.

Second, I would like to deal briefly with the absolutely gutter-level lobbying tactics of what we used to call Baby Bells, but what should be properly called Bully Bells.

With huge sums of money and little regard for the public interest, the Nation's seven powerful regional phone monopolies are waging an expensive, outrageous campaign to turn 7 years of sound telecommunications policy on its head.

Supposedly cut down to size in the 1984 breakup of American Telephone & Telegraph Co., the local phone monopolies are grown, regrouped and greedy—bent on controlling not only the wire running into your home, but the information it carries.

In this quest, as in others, they will let nothing—even the interests of consumers and the vitality of a free press—stand in their way.

My distinguished colleague from Tennessee [Mr. COOPER] mentioned that the Consumer Federation of America, the organization representing American consumers, is on our side in this battle.

The target of the Bully Bells is clear: the $9 billion-a-year market in electronic information services offering everything from news, information and stock quotes to medical advice, beach reports and home shopping.

To hear them tell it, this is a duel of the titans: the so-called Baby Bells up against newspapers and other current providers of information services. Don't believe a word of it.

This isn't a battle of corporate giants. It's a David versus Goliath struggle over whether the phone company gets a green light to invade our lives to a degree never before imagined. With their heavyhanded tactics, the Bells have shown themselves to be what they've always been: not babies to be coddled, but bullies to be feared.

There are 15,000 information services in this country, offered by hundreds of suppliers. The telephone has become the gateway to a whole new world of electronic services—not because of the Bells, but because of the competition that has flourished while protected from their predatory behavior.

Since 1984, the Bells have been barred from this field—and for good reason.

For one thing, they hold an unfair advantage so long as their competitors must rely on Bell lines to deliver their services.

Let me digress for a minute. Mr. Speaker, just visualize an airport, where all of the airport gates and the control tower are owned by one airline. Just imagine for the sake of my argument that TWA owns all of the gates and TWA owns the entire control tower. All of the air traffic controllers are employees of TWA.

Now, I ask the question: Do you think United and American and all the other carriers will get the same access to the gates? Do you think they will get the same priority when they want to land or take off?

Not at all. If such a preposterous situation were to exist at an American airport, where many airlines compete but the facilities that they commonly used are not owned by any one of them, the American people would rise up in outrage and disgust and would say, "This kind of monopoly must not be allowed."

Mr. Speaker, that is exactly the kind of monopoly that the Bells wish to achieve.

Mr. Speaker, their profits, of course, are guaranteed from their local phone monopolies, and these profits can be used, if we allow this new situation to prevail, to finance new expensive information services, forcing average ratepayers to pick up the tab.

If the Bells have their way, a vital element of our society and economy—the electronic lifeline into virtually every home and office—could be in the hands of what U.S. District Judge Harold Greene decried as "a few dominant, collaborate conglomerates."

What would be the consequences? At the mercy of the Bells, consumers could look forward to higher prices and less freedom of choice. Average telephone customers could wind up bankrolling the development of dazzling new voice, video or computer services that they don't need or—worse yet—can't even afford.

If the Bells are allowed to set the terms for competition in information services, the consumer will suffer. And if anyone doubts their readiness to exploit their Government granted monopolies to the fullest, just look at their record since 1984—billions of dollars in overcharges and abuses—and the strong arming they've unleashed to prevent their greed from being restrained.

Mr. Speaker, my office has been flooded with phone calls, letters and telegrams in an orchestrated drive by the Bells to head off legislation that would have them trade fair competition in local phone service for open competition in information services.

But my office has been flooded even more by my outraged constituents, who see this as a greedy power grab by the Bully Bells.

□ 2110

The Telecommunications Act of 1991, which I am proud to cosponsor, would hurt no one. And it would help all Americans. Every communications business in the United States would enjoy greater freedom. Bell and non-Bell firms alike would be able to branch out into fields they had sought for years. They would be allowed to grow and to prosper, but in a way that safeguards the public interest.

The sad truth, Mr. Speaker, is that the Bully Bells have no interest in equality. With millions of dollars to spend, they are pressuring Congress in a disgusting manner to let them have their way. Two of them, Pacific Telesis and Southwest Bell, have hit the airways with radio ads attacking those of us standing up for consumers. Another, U.S. West, rigged up special toll-free lines to inundate us with angry calls.

Do not be fooled. The ads and frenzied phone calls are not the signs of a public groundswell, but they are the signs of slick, expensive lobbying that the gentleman and I, as telephone users, are paying for. It is an affront to consumers and a threat to something even more compelling: the future freedom of the press.

If the Bells begin offering news and advertising over their phone lines, our local home town newspapers, deprived of revenues and readership, could be among the first casualties. Another would be consumer choice. The phone could supplant the newspaper and other independent providers as a major source of our daily diet of information, whether it is sports scores, help wanted ads or weather reports.

This is not a debate, Mr. Speaker, over market access. It is a debate over market control. It is a question of having the chance to decide how and where we get the news and information so crucial to our daily lives.

This country was built on the principles of diversity and a free press. As we begin to realize the exciting full potential of the information age, I do not want to see more American towns become media monopoly towns, much less slaves to the Bully Bells.

Let me, in conclusion, Mr. Speaker, just spend a minute or so on the pressure tactics used by the Bell operating companies.. With their deep pockets, with their unlimited funds, they are buying tens of thousands of dollars of advertising time to denounce individ-

VOL 137
PT 23
NO 21—25
1991
UMI

ual Members of Congress to whom even they have to refer to as proconsumer. The ads running in northern California refer to me as TOM LANTOS, the proconsumer Congressman. And they are trying to terrorize our colleagues so that they will not have the guts to cosponsor this legislation.

Mr. Speaker, I ask, where will this lead? If a piece of legislation is introduced in any field, if the giant monopolies then go on the airways to personally attack Members of Congress who have the courage to sponsor this legislation, what kind of a chilling impact will such corporate monopoly arrogance have on the work of this body and the other body?

We had better nip this in the bud.

I was enormously gratified, Mr. Speaker, that since the Bells have begun this campaign of vilification, these Mafia tactics of terrorism, colleagues who disagreed with me on the substance of the legislation have expressed their outrage at these tactics.

The Bells, as they have so often done in the past, have overreached themselves. Their greed knows no end. They have attempted to intimidate Members of Congress from sponsoring a piece of legislation supported by the Consumer Federation of America and providing for a level playing field in the field of information. The American people will not stand for it.

The Bells can have all the money they want. We do not have any money to buy ads against them. We do not have to. The American people are intelligent enough to understand that what is at stake here is their freedom of choice and the free press that has been the cornerstone of this society.

Mr. COOPER. Mr. Speaker, I thank my good friend for his brilliant statement. He has used his customary eloquence to highlight the important features of this debate.

I think all members of the public should find his explanation, as they would the explanation of the gentleman from Colorado, extremely useful in understanding the contours of this debate.

I would like to add to the gentleman's list of Bell operating companies that have run these ads the names of Bell South and Bell Atlantic. Soon all of them will be running these ads attacking Congressmen.

I agree with the gentleman, probably in the hope of intimidating other Members of Congress not to sponsor the legislation.

It is hard to believe that in an America 1991 we would see such tactics of intimidation, and to be sure the publishers are working hard on the other side and the other companies are working hard, and I do not claim that the publishers have entirely clean hands, but I cannot recall in modern or old-fashioned American politics tactics of this type ever being used, such as the ones being used by the Bell operating companies.

Mr. LANTOS. Mr. Speaker, if the gentleman would continue to yield, I have never in the many years that I have been following political and public events seen a spectacle as disgusting as this one. As a matter of fact, when a piece of legislation is introduced, and this is a very complex piece of legislation which is going to work its way slowly through the laborious labyrinth of the legislative process. It will take months, who knows how long to get it through committee, get it through the House, get it through a Senate committee, get it to the Senate floor.

Presumably what will emerge will be two different pieces of legislation. There will be a conference committee. Hopefully it can work out a compromise. It goes back to the Senate. It goes back to the House. Another vote, then to the President. Then the possibility of a veto.

These people, the Bully Bells, have declared nuclear war the day after the legislation was announced. If we listen to them, Mr. Speaker, we get the feeling that this is the all-consuming public issue in America today. The Bully Bells have not bought radio time to discuss the plight of the homeless. They did not buy radio time to talk about affordable housing. They did not buy radio time to deal with unemployment or the tragedy that is unfolding with crack babies and the million other problems of our society.

They bought time to promote their own greed. They are shoving their own selfish interests onto the minds of the American people, and they can do it with their deep pockets.

Mr. COOPER. Mr. Speaker, I thank the gentleman. I appreciate his outstanding eloquence.

I would like to take a moment, with the gentleman's permission, to detail some of the elements of the bill. These are some specifics that perhaps may go beyond the patience of the listening public, specifics which I think should nonetheless be explained because the Bells are making two primary attacks on our legislation: No. 1, they are saying that our bill, H.R. 3515, keeps them out of information services.

One of the Bell executives has gone so far as to say that our bill gives them zero.

The other attack is that somehow we are protecting other businesses from fair Bell competition. If colleagues read our bill, and unfortunately very few Members have, they will discover that our bill allows, as the gentleman from Colorado noted, allows the Bell operating companies into 90 or 95 percent of information services tomorrow afternoon, if they want in. We want them in the business as competitors. We just do not want them to gouge the ratepayers or to cripple or discriminate against their competitors.

☐ 2120

To understand this portion of the bill let me turn to these maps, and I have colored them by myself, so they are probably not as professional as perhaps they should be. We allow the Bell operating companies into noncontent information services immediately with only a separate subsidiary, separate accounting requirement. Separate subsidiaries are no big deal. Separate accounting is necessary so we can catch the Bells if they cheat. And as the gentleman from California so ably pointed out, the Bells have been cheating on an unfortunately regular basis ever since the breakup of AT&T in 1984.

It is hard to read the Wall Street Journal for a month or more without seeing yet another article on how they have, for example, taken ratepayer money, hard-earned monthly telephone bill money and use it, for example, for lobbying purposes illegally. Or they have taken for-profit subsidiaries, a furniture subsidiary, for example, and overpriced the furniture in hopes of mixing up their accounting in a way that regulators cannot unravel it, and making excess profits in that fashion. There are a variety of means, generally very technical and complicated by which they have managed to abuse the consumer's interests.

So our bill allows then into noncontent information services nationwide, from California, to Maine, to Florida, to Alaska and Hawaii tomorrow afternoon if they want in. These noncontent services are services in which the Bells would not actually own the information that traveled over the telephone, but they would process it, for example, with all manner of data processing activities, whether it is accounting, or inventory management, or point of sale transactions, or credit card verification, a whole host of business transactions that are extremely lucrative, extremely important for our economy. And we want the Bells into this business.

I would also include services such as voice storage and messaging, protocol conversion, a lot of services like that which may sound technical but are very important for the functioning of our economy, and we let the Bells in, as the green color hopefully symbolizes, nationwide tomorrow afternoon.

The more controversial area of the bill has come in the area of content-based services. These are services in which the Bells would own some or all of the information that is transferred across the telephone wire. These are services more like electronic yellow pages, stock quotes, sports scores, databases of various types, whether it is compilation of newspapers or information. We would allow the Bells really into most of the country outsides of their own service area, to be sure, and inside their own service area if they have a unique advantage in providing

the service and that service can be provided without harming their own ratepayers.

Mr. SCHAEFER. Mr. Speaker, will the gentleman yield?

Mr. COOPER. I am happy to yield to the gentleman from Colorado.

Mr. SCHAEFER. We incorporated, as the gentleman knows, a waiver, and the gentleman, of course, being from a rural area, if indeed no one else could provide this particular type of service, they can apply for a waiver to the FCC and get it.

Mr. COOPER. Exactly. In other words, if the Bells do have the key to the future, as their advertising claims, what we say is let them use it to open the door. We do not deny them an opportunity to offer a service to any American. It is important to realize though that I think even the Bells do not believe their own advertising. They do not think they have the key to the future. They know that they are just trying to expand their monopoly into a new area and make even more money. And we are not against the Bells making money. We want to them to be rich, prosperous, happy companies, but we do want consumer rights to be protected in the meantime, and competitors' rights to be protected.

So let us take the example of say Bell Atlantic here in this area of Washington, DC. Let us take the example of a newspaper such as the Washington Post. How would our bill affect Bell Atlantic and the Washington Post? Let us assume the worst case, that Bell Atlantic cannot prove that it has a unique advantage in offering a needed service, and cannot prove that it will not be harming ratepayers. We would not keep them out of the business. We would not put a red light on, we would put more of a yellow light on the area so that they would be delayed in offering that service until they did not have a 100-percent monopoly, but until that monopoly was, say, only 90 percent.

The Bells are falsely making the claim on our bill that by so doing we would somehow be protecting the newspapers or other businesses in the area. Wrong. Our bill would not only allow it, but would encourage every other Bell in the United States, Bell South, NYNEX, Ameritech, Southwestern Bell, Pac-Tel to compete against any and all businesses in this area with full vigor. So to us it is an approach that encourages competition. No business in America will face less competition as a result of this bill. Every business will face more competition because they will at least be facing six additional Bell operating companies if not all seven.

So I would like to use arrows to illustrate the situation with a U.S. West coming into the area, a Bell South coming into this area, as it should be, in order to promote competition, in order to challenge publications such as the Washington Post with the competition that they should be facing. This is just a small illustration of some of the misunderstandings that are created as a result of folks who do not take the time or the effort to read and understand the legislation.

There is another section of the bill that is even more poorly understood, because the Bells do not want to talk about it at all. That is the part of the bill that affects local competition, competition when we are calling a friend across town. It is that business when you pick up your phone just to make what we would view as a regular telephone call.

Today when you sign up for your phone you have only one choice in this area, and it would be C&P Telephone. They are a fine company, but I think a better system would offer the consumer choice, alternatives so that if they did not like C&P Telephone they could pick another company, another provider of service, and that competition under the great, free enterprise. capitalist system would generate cheaper, more affordable telephone rates and better service. So our bill would open up, and the FCC, to its credit, today initiated a proceeding to try to really emulate some features of our legislation to promote local competition. The Bells do not like to talk about this because they come from a parentage, the old AT&T, which did not even want us to have the right to pick our own phones in our own homes or businesses. It was not until 1968 in America that we even had the right to choose our own type of telephone in our own homes or businesses, primarily because AT&T, the old AT&T fought us every step of the way.

It was not until 1984, as the gentleman from California pointed out, that we had the right to even choose our own long distance company. Now thankfully there is MCI, Sprint and 140 other companies who offer competitive long distance services that have done what? Driven down long distance costs 40 percent, and improved service as a result of competition. All we want today is competition in the local exchange, the last element of telephone service other than information services competition so that we can have cheaper, more affordable service and better service.

So these are elements of our bill that may sound technical to the uninitiated, but are extremely important if we are going to lay the groundwork for a progressive and advanced telecommunications future for our Nation. I hope our colleagues will focus on some of these details and realize how misleading some of the Bell advertising is.

Not only is our position the proconsumer position, our position is the procompetition position. There is no other bill introduced in either the House or the Senate that addresses competition in the local exchange. There is no other bill that I am aware of in either the House or the Senate that encourages at least six if not seven of the Bell operating companies to compete against existing business in America. We have the procompetition approach, and I think that is something that we should be very proud of.

Mr. SCHAEFER. If the gentleman will yield, I would just like to say to my good friend from California, [Mr. LANTOS] what an eloquent statement he just finished making on the tactics that have been used in this particular endeavor of the RBOC's. I guess I was probably the first to incur the wrath of U.S. West on this, and I do not know whether they just were out forward on it or not, but now I do know that other Members, including the two gentlemen here have had that, and as has been mentioned, so have a number of others.

☐ 2130

The one thing that it has done that has awakened many Members, as the gentleman so appropriately stated, asking me and probably asking the gentleman from Tennessee [Mr. COOPER] and the gentleman from California [Mr. LANTOS] as well, what is in this bill? What is going on?

As the gentleman from Tennessee [Mr. COOPER] stated, it is a difficult one for the man and woman on the street to understand. It is not an easy black and white issue. It is one of these that we feel needs an explanation, and the purpose, of course, of us doing this tonight is to explain to those who are watching tonight what exactly we are trying to do for the consumers of this country.

Mr. Speaker, I would like to ask my colleague, the gentleman from Tennessee, we have had a series of questions that come up from time to time, and knowing that the gentleman represents a rather rural area in Tennessee, one of the question was, "Well, what steps have we taken to protect the customers of basic telephone service in rural America?"

If the gentleman would like to have his people know what the answer to that is, I think it would be advantageous.

Mr. COOPER. Absolutely. Many of our colleagues are concerned, as they should be, about protecting the rights of all Americans rural Americans, included, and preserving at least the quality of phone service they have before they risk losing or in any way harming that service.

As the gentleman well knows, we tried to talk with representatives of every rural telephone group in America that we could find, whether independent, privately owned telephone companies, whether cooperative telephone companies, so that we could find out their real interests and wishes with

VOL 137 PT 23 NO 21—25 1991 UMI

this bill and we tried to work with them very carefully to craft the different solutions.

For example, we have a universal service element in this bill so that in case there were any jeopardy or any danger to the universal service features of today's telephone system, we could preserve the universal service, because the universal service is an absolutely vital goal of any sensible national telecommunications policy.

We also preserve the ability of State regulators to regulate the type and quality of service in smaller communities.

We also set up planning guidelines so that as the new telecommunications networks of the future are designed, they will not be designed thinking only of urban consumers. They will be designed thinking also of rural customers.

We will have a seat at that table, as we should have.

There are many other features, primarily technical in the bill, in which we have tried to work with rural interests. We intend to keep on with that process, to continue the dialog so that we will also be sensitive to their concerns, so that as I say, no American need fear a deterioration in service quality, that Americans can only look forward to improved service hopefully at cheaper rates.

Mr. SCHAEFER. Mr. Speaker, if the gentleman will yield further, I would like to bring up one other point. The gentleman alluded to this.

Two things that they have been hitting on very hard is to try to say this is anticonsumer and anticompetitive. This is what the message is that is coming out.

I know the gentleman from Tennessee [Mr. COOPER] and the gentleman from California [Mr. LANTOS] would not be on this bill, nor I, if this were truly the message that we were trying to put into law.

One of the questions again many times that I have got from my constituents when I have been out in Colorado, they ask, one of the purposes of the bill is to encourage competition in the local exchange, but they ask, "Won't that lead to higher basic telephone rates as it becomes harder to maintain the current subsidy in an increasingly competitive environment?"

As the gentleman stated, universal service element was part of this. Would the gentleman care to expound on that just a little bit more, because this is the one thing I want to make sure that we get out. This is not going to raise rates, more likely to lower them.

Mr. COOPER. Absolutely, as the gentleman knows, the experience we have already had with long-distance competition has proven that when you have real competition, you get dramatically lower rates and improved service. We can expect the same at the local level if we just have the willingness to try it.

We do not accept as a group the defeatist attitude that you have to rely on monopolies, State-sanctioned monopolies to provide service. We believe in the American way, the free enterprise system, the capitalist system of competition in as many aspects of our lives as possible, so that consumers can choose, so that companies can compete on a fair basis so that we can drive prices down and we can drive the quality of service up. That is our intention in this legislation, and I have challenged people at hearings and other public events if they have a disagreement with our language or a concern, if they have an improvement, come to us to show us ways that we can improve our bill, because this is not a perfect bill. It can be improved and we are soliciting ways in which we can better achieve our intentions, better accomplish our goals.

I think through this open process we will be able to design an even better bill next year when the real markup process begins, when the real committee voting process begins.

The universal service element that we have already included in our bill is an important step toward assuring that telephone bills do not go up for any American and that quality service is preserved for all Americans.

It is a relatively technical concept that is best understood by telephone company executives, but the bottom line is we want telephone service, quality telephone service available to all Americans every day. That is the goal and we are working very hard to try to achieve that goal.

The telephone is not a luxury, as the gentleman knows. The telephone is an absolute necessity, and not just the old-fashioned telephone that can just relay telephone calls, the modern telephone that can also relay information services, possibly even including television is also an important part of American life and we need to work as hard as we can to try to assure as many advanced information services as possible.

Mr. SCHAEFER. I might just add on to that point, particularly those people who are bedridden, who are disabled, who are blind, numerous types of individuals who rely on that basic telephone service and we are not going to get the support of the Consumer Federation of America on a piece of legislation like this if it is going to raise rates or if it is going to be anticompetitive. We are not going to get that.

Mr. COOPER. The gentleman raises an important point. The Bell's have made very strong claims on their own behalf that they are the ones who are more prohandicapped than we are. That is a false claim. They have made the claim, which is also false, that they somehow represent more of the consumer interests. If you look at their track record, however, if you look at the history, if you look at the specifics, you can prove dramatic Bell shortcomings in these regards. For example, serving the handicapped. I ask the chairman of one of the great Bell operating companies what his company had done to offer more services to the handicapped, how many waivers he had applied for from the Justice Department or Judge Green in order to serve the handicapped. Of course, he had no answer in the hearing, but in a written response that I received weeks later, the first sentence of it was, "We have applied for no waivers to serve the handicapped"—none, zero.

Another great Bell operating company in this Nation, I asked them as long as 2 years ago to come to me with any requests they had for better service for the handicapped and I would be anxious to support their request for a waiver so that they could provide whatever service for the handicapped they wished. I am still waiting for them to come to me.

Apart from service to the handicapped, there is another important consumer area that the Bell's have neglected terribly. The Bell's have been empowered for several years now to offer a service called an Information Gateway. That is a single number that a telephone customer could dial so that they could access the 15,000 information services that are available in America today, a local number so that they could call and have a window on the world.

Well, there are seven Bell operating companies. Two chose never to offer an Information Gateway regardless of the demand, and it is my impression that even the gentleman's own company in California neglected to offer the service even to the host of advanced users that the gentleman has in his State, in Silicone Valley and all the other high-technology industries in the gentleman's State.

Mr. LANTOS. Correct.

Mr. COOPER. Two that had offered the Information Gateway decided they did not want to pursue it, so they took it down even though they were disappointing thousands and thousands of their customers who wanted to use that service. So if the Bell's claim they are really for an information future, we should ask them why they did not do more with the powers they have today to provide us with a better future. But unfortunately, too many of the companies have chosen not to offer us the information future that should have already been available to us today.

Even in those areas where the Bell's still have a gateway, remember the Bell's are multi-State companies, and I know of no Bell that has a gateway in every State in its service area. Oftentimes they will choose one favorite

State that gets the gateway. The other States have to take the leftovers. They have to make the long-distance calls. They do not have a gateway of their own, so they can access the information feature that we should have available to us today.

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Mr. LANTOS. If my colleague will yield, first of all I want to commend the gentleman on his extremely knowledgeable and lucid presentation. I would like to pick up on one point my friend from Tennessee made.

We are not frozen into every last sentence of this piece of legislation. This is an enormously complex piece of legislation which we approach with a degree of openmindedness that we wish the telephone companies had approached it with.

We would be happy to reason together, we would be happy to look at amendments and modifications and improvements. Goodness knows we do not claim that this piece of legislation is perfect. But it is so contrary to the spirit of comity and the spirit of compromise which are the hallmarks of a democratic system, to see the operating Bell companies declare nuclear war the day after a complex piece of legislation is introduced.

So I hope the Bell operating companies have listened to the distinguished principal author of this legislation. We do not claim that this legislation is perfect. There are probably many features of it that can be improved upon, other features that could be modified or eliminated. But that has to take place in a free give-and-take of reasoned men and women arguing about the public good, not monopolistic, deep-pocket giants unleashing simplistic radio ads on the airwaves paid for by the users of telephone services. That is really what the issue has now become because we certainly are ready to debate the merits of this bill and to recognize that there are features that obviously can be improved upon.

Where I do not think we can compromise is tolerating the tactics of the gutter, which has characterized the operating Bells' attack on Members of Congress who had the audacity to propose legislation that the operating Bell companies did not think is in their own commercial interest.

I want to thank my friend for yielding.

Mr. COOPER. Mr. Speaker, I thank the gentleman so much because no one can say it better than the gentleman expresses it.

I yield to the gentleman from Colorado.

Mr. SCHAEFER. In conclusion, I think no one who is on this particular piece of legislation or who helped draft it has or had a big vendetta against the telephone companies.

Mr. COOPER. The gentleman is correct.

Mr. LANTOS. Yes.

Mr. SCHAEFER. They provide a great service, they will provide more in the future, and I know that it certainly was not my intent, nor the intent of the two gentlemen here, and I do not think anyone else—and I want to make that point—that we did not get into this to blindside anybody. We just felt that when that restriction was lifted, we had to have a little bit of competition continue within this country.

I do not look in the future of holding any vendetta, but I agree with my friend from California that the tactics that have been used are only defeating their longrun goal, and that is not the way it should be. I appreciate being here with the gentleman from Tennessee and the gentleman from California.

Mr. COOPER. The gentleman is so right. We have nothing against the Bells. In fact, our bill gives them more dramatic business opportunities than they have ever had before, with the sole exception of a court decision issued on October 6 and confirmed by the circuit court October 30, which, as a result of 20-year-old antitrust litigation only, happened to unleash them without any consumer safeguards, without any safeguards for business competitors, into the whole range of information services that most sensible Members of Congress realize is too great a privilege. We do not seek to deny them that privilege; we only seek to make sure that consumer interests and competitors' interests are preserved while they are expanding their franchises. That is our goal, and as the gentleman so ably said, we seek improvements to our legislation, we seek better ways with which we could implement our intent.

There is a vendetta against no one. We hope, certainly, that in America 1991 we can set a democratic example for the world in terms of the high quality of our debate, not in the low level of the debate or the scurrilousness of the advertisements or the oversimplistic approaches that have been used so far in this debate.

So I would challenge all parties to the debate to hone their arguments, to understand the merits so that they can give America what it deserves, the best possible telecommunications future.

I thank the gentlemen so much for participating with me tonight. I appreciate their bravery in this issue because it is not easy to face a barrage of negative advertising a full year before the election from not only deep pockets but probably unlimited pockets.

So I appreciate the gentlemen, the Davids standing up to the Goliaths. I think, as in the biblical story, we are going to win this fight.

I thank the gentlemen.

REMOVAL OF NAME OF MEMBER AS COSPONSOR, AND ADDITION OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 342

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent to remove the name of the gentleman from North Carolina, Mr. ALEX MCMILLAN, as cosponsor of a bill that I introduced recently as House Joint Resolution 342 and, instead, add the name of the gentleman from Maryland, THOMAS C. MCMILLEN as a cosponsor of my bill.

Mr. Speaker, I apologize to the gentleman from North Carolina for this oversight, an inadvertent mistake made by my office staff.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from America Samoa?

There was no objection.

A CONCURRENT RESOLUTION TO EXPRESS THE SENSE OF CONGRESS TO RECOGNIZE CONCERNS OF PACIFIC NATIONS AND CALL UPON THE GOVERNMENT OF FRANCE TO CEASE ITS NUCLEAR TESTS IN FRENCH POLYNESIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I request that it be reflected in the Journal of the House that I have two separate and unrelated issues that I want to take up in my special order this evening, and I will address my colleagues accordingly to each of the subject matters.

Mr. Speaker, I want to take this opportunity to thank the distinguished gentleman from New York [Mr. SOLARZ], who also serves as chairman of the House Foreign Affairs Subcommittee on Asia-Pacific, for his tremendous leadership and concern for the countries and peoples from throughout the Asia-Pacific region of the world. More specifically, Mr. Speaker, I commend the gentleman from New York [Mr. SOLARZ] for his assistance in drafting this concurrent resolution, along with the gentleman from the territory of Guam [Mr. BLAZ], both of whom have graciously offered to cosponsor this resolution.

Mr. Speaker, this resolution may not have the attention of our national leaders and press, but I am gratified by the fact that at least I have an opportunity to share with my House colleagues the concerns expressed in this resolution.

Mr. Speaker, this resolution first recognizes that the Government of France has been conducting nuclear testings since 1966, in the South Pacific, and continues to do so despite public announcements and declarations issued by many South Pacific nations—espe-

VOL 137 PT 23 NO 21—25 1991 UMI

cially through the South Pacific Forum organization, comprised of some 16 island nations—even to the United Nations General Assembly—to stop the underwater nuclear tests in French Polynesia.

Mr. Speaker, I want to make it crystal clear that this legislation is not offered to embarrass the leaders and the good people of France.

Mr. Speaker, the concern expressed by the several island nations over French nuclear testing is the impact nuclear contamination provides for the region's marine environment. Our own country conducted similar nuclear tests both in the atmosphere as well as underwater in the Pacific. It is obvious that the reason we no longer conduct tests in the Pacific Ocean is because of the harm we've caused the marine environment and the hundreds of innocent Micronesian men, women, and children who were severely subjected to nuclear contamination.

Mr. Speaker, why must these Pacific Islanders be made subjects or specimens for experimentation by our most upright and upstanding Western democracies of the world? Where is the conscience and moral fiber amongst our own leaders and the leaders of France to resolve this serious environmental spectacle? No one in France would ever entertain the thought of conducting nuclear tests underground or even within the exclusive economic zone of France, but the Polynesian inhabitants of these little islands in French Polynesia—and the islands themselves—are made the sacrificial lambs for a practice that can easily be resolved, and that is, why not conduct joint underground tests with our own country?

Mr. Speaker, approximately 130 nuclear detonations have taken place since France first conducted its tests in 1966.

Obviously, France's nuclear testing programs have proven enormously beneficial to France's nuclear capability—and perhaps even to enhance its commercial nuclear industry, which now ranks probably among the top five countries that export and sell nuclear reactors to other industrialized and Third World countries.

Mr. Speaker, I submit, if and when France does decide to stop its nuclear testing program—it will and may well be said to all those who live in the vast Pacific Ocean, and someone who may say that the marine environment in the Pacific Ocean is no longer fit for human consumption and habitation—attributed primarily to these underwater nuclear tests—to be said simply, too long and a little too late.

Mr. Speaker, I want to share with my colleagues certain articles that relate to this proposed legislation.

HOUSE CON. RES. —

Whereas the Government of France has been conducting nuclear tests in the atolls of Moruroa and Fangataufa in French Polynesia since 1966;

Whereas these tests have included more than 130 underground nuclear tests;

Whereas there is considerable concern among the countries of the South Pacific about the possibility of radioactive contamination in the region as a result of these underground tests;

Whereas the members of the South Pacific Forum agreed at the Forum's annual meeting in July 1991 to "give consideration to an expanded programme of opposition to France's nuclear testing in the region";

Whereas despite French claims that its nuclear testing program is absolutely safe, there is some scientific evidence to suggest both that some radioactive leakage has already occurred at the testing site and that additional, more serious leakage might occur in the next 10 to 100 years;

Whereas there is also concern in the region that the Moruroa atoll is in danger of disintegration as a result of the testing program; and

Whereas the Government of France would have the option of using United States nuclear testing facilities if it gave up testing in the South Pacific: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States should recognize the concerns of the people of the South Pacific and call upon the Government of France to cease all nuclear testing at Moruroa and Fangataufa Atolls.

[From Greenpeace, March-April, 1991]

EXPLODING THE GREAT SECRET

(By Judy Christrup)

Arguments in favor of nuclear testing usually revolve around fighting and deterring war. The rationale goes something like this: Design, build, and test weapons with long-term nightmarish destructive capabilities, and everyone will be too scared to use them. Hawks and doves have been debating the logic of this nuclear deterrence theory for decades.

But there is a growing constituency that is largely ignored in the arms debate. Over the four-decade span that makes up the nuclear age, thousands of people have seen their communities destroyed and their health jeopardized by weapons production and testing itself—from the extraction of uranium in underground mines, to the refinement of nuclear fuels in the factory, to the explosion of nuclear bombs underground. One such group inhabits the islands claimed by the French in the Pacific, where France conducts underground nuclear tests.

Testimony: "It was during drilling work that I got contaminated. I was working in a little hole trying to dismantle an old pipe. I wasn't careful enough and got splashed by some water that had been left in the hole. It was mainly my hair that got wet as I wasn't wearing any protective gear on my head. I tried to wash it but it was difficult to get the stuff out. When I went into the decontamination chamber all the alarms went off. I washed my hair three times but it was still radioactive. . . . So a specialist had to use some special product to decontaminate me."—Manutahi. Worked as a welder on Moruroa from 1965 until 1980, when he became sick with pulmonary disease.

It may be argued that the lives lost over the past 45 years are a small price to pay for nuclear deterrence. A full-blown nuclear war would undoubtedly be far more deadly. Unfortunately, those suffering the consequences of radiation poisoning do not do so as willing martyrs for the greater good. They are simply not told.

The pattern of secrecy, arrogance, and neglect of workers and residents has been repeated around the world, from the Navajo miners of Utah to the displaced Nenets of Novaya Zemlya and the irradiated Australian aborigines of Maralinga.

Testimony: "When the military first arrived and explained what was going to happen, lots of very important people came to the atoll to talk to us. The admiral came and told us that there was no danger and that nuclear bombs were good. He came with a man who was said to be a professor and was introduced to us as one of the greatest scientists in the world. This man's knowledge could not be argued with. The admiral compared him to a fabulous pearl. This man also said there were no dangers for us."—Hiro. Lived on Tureia, 78 miles north of Moruroa, from 1928 to 1986.

The casualties of the French nuclear testing program are Polynesians. Their ancestors—inhabitants of 130 islands and atolls called Te Ao Maohi—remained free of European influence until the late 18th century, when traders, whalers, and missionaries settled on the islands, bringing fatal diseases and paving the way for colonization. French Admiral Dupetit-Thousards convinced his country that Tahiti would make a good penal colony, and so the French government made the island a protectorate in 1842. In 1880, Tahiti became a French colony—French Oceans. Those who resisted colonization, like Tahitian Queen Pomare, were subdued by threats of bombardment and deportation to New Caledonia (the Melanesian colony that became the penal colony instead of Tahiti).

When France chose its Polynesian colonies as nuclear test sites in 1962, the islanders again resisted. The 30-member elected Territorial Assembly objected to the plan, but was ignored. The French governor of Polynesia wrote to the head of the assembly, saying, "I should like to repeat my assurances here, in the name of the Republic, that all necessary measures are being taken to guarantee that the population will not suffer in the slightest degree from the scheduled experiments." France finally decided to conduct the bulk of its testing program on the tiny atoll of Moruroa, which means "the great secret" in a local dialect.

France's Prime Minister General Charles de Gaulle was enthusiastic and single-minded about his country's nuclear testing program. When France exploded its first nuclear bomb (in Algeria) his cable message read, "Hurrah for France! Since this morning she is stronger and more proud than ever!" After one successful atmospheric test on Moruroa, de Gaulle was scheduled to witness the next explosion on September 10, 1966, from the cruiser *De Grasse*. The test was postponed because the wind was blowing toward inhabited islands to the west. But after a day of waiting, de Gaulle's patience wore thin, and he ordered the bomb to be detonated. Monitoring stations operated by the New Zealand National Radiation Laboratory detected heavy radioactive fallout in the Cook Islands, Niue, Samoa, Tonga, Fiji, and Tuvala.

Testimony: "Instead of drifting away, the mushroom cloud drifted over the boats. It started to rain and everyone was ordered below deck. However, a group of Polynesians who were playing the guitar on deck and were a little bit drunk from the free drinks offered after every 'successful' test, did not understand what was happening and remained on deck. . . . After the rain stopped,

the whole boat had to be washed and scrubbed down."—Edwin Haoa. Worked on Moruroa as leader of team monitoring radioactive contamination after the explosions.

De Gaulle's enthusiasm for nuclear testing reflected both the French elite's embarrassment over their rapid defeat in World War II and their vision of a militarily independent nation that could act as a counterweight to the belligerent superpowers. As Paris-based journalist Diana Johnstone put it, "It could be argued that what all post-1940 French leaders have striven to restore is not so much la grandeur as le pouvoir: the power to master the nation's fate and keep it from falling to pieces." But France's desire for le pouvoir, like that of other colonialist nations, served to obliterate the self-sufficiency and cultures of other peoples.

Testimony: "When I was offered the posting to Mangareva, I was promised a beautiful island, nice people, and no problems. However, the situation had changed with the arrival of the legionnaires. They had become the 'kings' of the island because they had money and alcohol. They got women by getting husbands or fathers drunk, or by buying them off. Some of the local men had gone to work on Moruroa, which made it 'easier' for the legionnaires."—Roland. A gendarme who lived in Mangareva from 1963 to 1968.

Even the most simple aspect of Polynesian life, a diet of fresh fish, has become impossible because of ciguatera fish poisoning. An article appearing in the January 28, 1989, issue of the scientific journal The Lancet reports that increased incidents of ciguatera "are related largely to miliary activities that disturb coral reef ecology." The researcher, Dr. Tilman A. Ruff, found that ciguatera outbreaks in Micronesia, Melanesia, and Polynesia occurred after World War II battles, nuclear testing, shipping activities, dumping, and construction by the United States, Great Britain, and France.

Testimony: "What I saw was no longer recognizable as a human being. Basinas could not talk and his whole body was black and suppurating. He had pains in his joints and he was still scratching and pulling his skin off. Usually, patients who arrived at the hospital sick from eating fish got sent straight to Tahiti and dismissed, but it was probably not possible with Basinas because he was so sick."—Tehiura. Worked as a docker at Moruroa from 1963 to 1968.

France has always maintained that its nuclear tests are perfectly safe. Yet the French government stopped publishing health statistics of French Polynesians in 1963, just after the testing program began. It has relied on anecdotal evidence and public relations stunts to prove that safety concerns are unfounded. In 1970, French Defense Minister Michel Debre tried to blunt criticism by swimming in the lagoon at Moruroa six hours after an atmospheric test. This sort of demonstration continued, even after testing was moved underground in 1974.

Testimony: "While I was working there, politicians and journalists came to check out rumors about the contamination of the atoll and the lagoon. To prove everything was safe, the military brass would go swimming in the lagoon. But afterwards they took showers in special containers. Later I had to go and clean up the containers and I noticed they used special soaps or creams. There were tubes containing a yellow liquid which were never used in the normal showers."—Ruta. Has worked on Moruroa and Tahiti since 1976.

As time went on, it became increasingly difficult to keep unflattering news about the testing program from reaching the public News of two accidents in 1979 and a typhoon in 1981 leaked out. The first accident—the explosion of a plutonium-contaminated bunker—killed two workers and injured three. The second occurred when a bomb got stuck halfway down a test shaft and was detonated anyway. The explosion—measuring 6.3 on the Richter scale—caused a million-cubic-meter piece of the atoll to drop into the ocean, which in turn caused a tidal wave. The French authorities denied any connection between the tidal wave and the explosion.

Testimony: "After the explosion, people with special protective gear had to enter the bunker and pour cement over the whole container. They were only allowed to stay in there for a short time as the whole place was full of plutonium and other radioactive substances. Rene Vilette's remains—or what were thought to be his remains—were found three days later and sent to France in the form of a concrete block."—Tama. Began working at Moruroa in the 1960s as an office worker.

The typhoon hit on the night of March 11–12 1981. Fearing for their safety, civilian technicians leaked the news to the French press. The storm swept radioactive waste, including 10 to 20 kilograms of plutonium, off the north beach of the atoll. According to the technicians, who were members of the CFTD trade union, the plutonium had been spilled on the beach during "security tests" from 1966 to 1974, then covered in asphalt. The powerful winds peeled off the asphalt and flung the plutonium into the lagoon.

GREENPEACE INVESTIGATION FINDS RADIOACTIVE CONTAMINATION

This time, it was not for a protest, but simply to take scientific samples. Nevertheless the *Rainbow Warrior's* December visit to the Pacific atoll of Moruroa, where France explodes nuclear bombs, was met with military force. Evidence of the environmental effects of the nuclear testing program, rumored to be destroying the foundations of the atoll and contaminating the ocean with radioactivity, is hard to get: The French government actively discourages impartial investigations. So when Greenpeace asked last summer if researchers could come and take a few water samples near the atoll, France refused. Greenpeace went anyway.

On December 11, trailing a plankton net, the *Rainbow Warrior* skirted the 12-mile territorial limit around Moruroa. Samples collected were found to contain Cesium-134 and Cobalt-60—both artificial radionuclides produced by nuclear tests. When confronted with the data, French authorities stonewalled, refusing to discuss the results with Greenpeace scientists. "After our alarming initial findings, we felt we had no choice but to go into the lagoon itself to sample for radioactivity," says Stephanie Mills, a campaigner aboard the *Rainbow Warrior*.

Ignoring the warnings from the French warships that shadowed the *Rainbow Warrior*, a team of five volunteers boarded an inflatable and crossed into French territory, towing a plankton net a 3 to 4 knots. After an hour of tense waiting, 40 masked French commandos aboard inflatables arrested the team, holding them for three hours before releasing them. A few hours later, the team entered the exclusionary zone a second time and were once again arrested. "Although our inflatables were returned to the *Warrior*, we were taken to Moruroa and held incommunicado for three days, guarded night and day by French legionnaires," recalls Mills. The seizure unleashed outcry by Greenpeace activists around the world, with demonstrators unfurling protest banners in front of French Consulates in Vancouver, San Francisco, Sydney, Auckland, and across the rose windows of Norte Dame Cathedral in Paris.—Diane Feeney

Testimony: "People came out of their houses when it was over and we saw that boats had been lifted onto the rocks and that all sorts of barrels were floating around. The waves had washed them out of the repository where they had been buried. It was hard work to retrieve them and store them away again, this time in the blockhouse. We were not told they contained radioactive materials."—Ruta.

In 1982, the French Defense Ministry finally gave in to demands by Pacific and French politicians for an independent investigation of the "radiological state" of Moruroa. But the team—handpicked by French Defense Minister Charles Hernu—was not given complete access to the atoll. Because the team was not allowed to take any measurements or visit the test sites, its visit amounted to nothing more than a helicopter tour. The scientists were forced to rely on French military data, so their results, published in The Tazieff Report, were immediately disputed. The 1984 Report of a New Zealand, Australian, and Papua New Guinea Scientific Mission to Moruroa Atoll (otherwise know as The Atkinson Report) was similarly limited. Nonetheless France used a shortened version of the report to defend the nuclear testing program.

One of The Atkinson Report's more dubious findings is that "cancer statistics for the region do not support any suggestions of elevated rates for tumor sites which might be associated with excessive exposure to radioactive fallout." It would have been impossible for the statistics to reflect elevated cancer rates because a death certification system was not resumed until 1983, and then only under pressure form the World Health Organization. And all the health data that allegedly support this conclusion were supplied by the French military. Professor Robert Beaglehole, an epidemiologist at the Auckland University Medical School wrote, "The French Polynesian health statistics have been of such poor quality that it appears the authorities were not seriously monitoring the health of the population."

Testimony: "All the handicapped children on the island were born after the testing started. There are also a lot of cross-eyed people. Soon after the tests begin, the women were sent to Tahiti to give birth. The reason given for this was that supposedly the facilities on Manareva were not set up to handle births. This is nonsense because in 1959 and 1963 there was no infirmary at all and everybody gave birth at home as they had always done. . . . The fact that there were no facilities was just an excuse used so that if anything went wrong they could just hush it up in the hospital in Tahiti."—Robert. Lives on the Gambier Islands, southeast of Moruroa.

The most recent scientific expedition to Moruroa was in 1987, when Captain Jacques-Yves Cousteau visited the island. Cousteau described severe fissuring, underwater slides, sinking, and accelerated aging of the atoll. He also noted radioactive Cesium-134 in the lagoon. Norm Buske, a scientist with SEARCH Technical Services reexamined Cousteau's data, and released a report last year. His calculations suggest that the atoll is far less efficient at holding in radioactive isotopes than the French assert. Buske tried to get permission to visit the atoll himself to

VOL 137 PT 23 NO 21–25 1991 UMI

collect new samples, but his request was never answered. When he approached the atoll with the *Rainbow Warrior* crew in December 1990, he was arrested by French commandos.

Testimony: "Since the tests went underground there are fissures all over the place. I'm sure these fissures prove that the tests are dangerous, but no one warns the workers of this when they first arrive. In some areas we had to wear badges to measure the degree of radiation we were exposed to and we had annual medical checkups but we never got any feedback."—Philippe. Worked on Moruroa from 1971 to 1985.

The testimonies in this article are taken from the Greenpeace book Testimonies. The interviews were conducted in 1987 by Dr. Andy Biedermann, a Swiss doctor and former crew member of the *Rainbow Warrior*. The names of the people interviewed were changed to protect them from official repercussions.

HEARING ON H.R. 3127, TO ESTABLISH A NATIONAL NATIVE AMERICAN UNIVERSITY

Mr. FALEOMAVAEGA. Mr. Speaker, tomorrow morning I will be privileged to chair a hearing that will consider the provisions of H.R. 3127, which is a bill that will hopefully, establish a "National Native American University."

Mr. Speaker, I introduced this bill purposely to raise our Nation's conscience again—to remind us all of the plight of our native American community when it comes to education. I realize our national media, and even many of our leaders, never seem to pay much attention to problems affecting native Americans. But that is all right, endurance must also be worth something. While I have heard it said that black Americans have learned to overcome, native American Indians have learned to endure.

As early as 1621, the East India School was set up by colonists and included American Indians in the student body. Indian students were expected to embrace Christianity and embark upon the work of conversion. The school closed in 1622, after an Indian uprising.

In the founding documents of Harvard, Dartmouth, and William and Mary Colleges in the 17th and 18th centuries, the goal of educating Indians was clearly stated. However, the intentions were never realized as the founders had expected.

The 1816 Civilization Act provided Federal funds for religious groups to promote Christianization and education among tribes.

In 1879, an Army captain named Richard Henry Pratt was granted the use of an Army barracks in Pennsylvania by Congress. Pratt founded the Carlisle Indian School where 200 Indian children and young adults from the West were trained for academic and vocational learning and socialization. At Carlisle, traditional Indian language and dress were not permissible. In his memoirs, Pratt wrote:

> I believe in immersing the Indians in our civilization and when we get them under, holding them there until they are thoroughly soaked.

By the turn of the century, there were 25 boarding schools. Discipline was harsh, student manual labor was essential because of limited Federal funding, and the quality of education was frequently very poor. Dropout rates were high, and even the students that graduated, found little work on their reservations in vocations for which they were trained.

In 1928, the Meriam Report charged that Government-run boarding schools were not providing skills relevant to Indians, curricula was too uniform, white culture was stressed, and tribal cultural differences were ignored. The report attacked vocational training that often closed rather than opened doors. Within 5 years of the report, 12 boarding schools either closed or changed to daytime schools.

In 1934, the Indian Reorganization Act passed, and the pace of Indian reform quickened under Indian Commissioner John Collier. Collier argued "Indian societies, whether ancient, regenerated or created anew, must be given status, responsibility and power." Commitments were made by the Roosevelt administration for Indian self-governance and to support cultural pluralism. However, the Depression of the 1930's limited the funding for innovative programs and slowed the reform movement.

World War II changed the funding priorities for Indian programs and in the post-war era Congress discussed the need for getting out of the "Indian business." The 1950's were a time when Congress terminated several tribes and ended the Federal trust responsibility.

The era of Indian self-determination began in the late 1960's. A new emphasis was placed on the preservation of tribal sovereignty and culture.

In the field of higher education, the first tribally controlled community college was founded on the Navajo Reservation in 1968. The Navajo initiative was no doubt the impetus for the 1978 Tribally Controlled Community College Assistance Act. Today there are 25 tribal community colleges in the United States.

There are also currently approximately 85 organized Indian studies programs in non-Indian colleges and universities across the country; however, close to 90 percent of the native American students who enter such programs eventually drop out.

In general, the idea of a national Indian university granting undergraduate and graduate degrees to native Americans is not new. For example, in 1911, an Indian named August Breuninger proposed the creation of an Indian university that would focus on culture and be connected to an Indian museum:

> A university for Indians is the greatest step that we educated Indians could make in uniting our people . . . It would eliminate the general conception—that an Indian consists of only feathers and paint. It would single us out—as really progressive Indians. It would give us a better influence with the rising generation, by setting out our character in such a conspicuous manner as to be . . . observed and imitated by them.

Mr. Speaker, over the years I have always been a strong advocate of education and its importance to any society. I have always held the belief that there are three fundamental stages in the educational process, and they are: elementary/intermediate, secondary, and postsecondary levels. Without question I have always believed that the elementary/intermediate level is most important, for the obvious reason that this is where a child begins to learn the alphabet, the three R's, if you will; and if children miss the fundamentals or are not taught properly, the basics, their pursuit of higher education obviously becomes more difficult, if not, almost impossible to achieve.

Mr. Speaker, while I recognize the problems attending the entire spectrum of congressional efforts to provide decent educational opportunities to our native American citizens, I still believe the establishment of a national university for our native American community will enhance their opportunities to obtain a full college-university level of education.

Mr. Speaker, I am greatly encouraged by the fact that there are currently 24 tribally operated community colleges set up primarily to serve our native American communities throughout the country. These colleges will play a tremendously important role—as they will be the major players by establishing linkages, and continuation of a native American youth's dreams and aspirations to obtain a university-level training at this National University for Native Americans.

Mr. Speaker, it is important that our National Government and native American leaders everywhere, be conscious of the fact that we need to address the needs of native Americans in education on all three levels, as I have mentioned earlier.

Mr. Speaker, it is my hope that this bill will draw greater attention to the tribulations and the plight of native Americans when it comes to education. Some critics have said why a university when we cannot even resolve the serious problems native American Indians now face even in the elementary level of education? Mr. Speaker, there is no reason why we cannot attack the problems of Indian education on all three levels. To suggest that we wait until one level is resolved will be like waiting for another 100 years. We can no longer wait. We are talking about generations of native Americans who will be lost if we don't address their problems now. Mr. Speaker, Rome was not built in a day. The native American community certainly does not want handouts, but many are forced

into economic dependence on Federal subsidies, because of the many inconsistent and simply bad policies the Federal Government has imposed upon them over the years.

Mr. Speaker, the native Americans do not want to continue to eat the fish we give them. They only want opportunities to learn how to fish so they can also become economically independent like all other Americans. It is my sincere hope that perhaps a national university for native Americans will provide that forum to sustain a unique culture, and at the same time, present them with the necessary tools to become good and honorable fishermen and women, and to contribute substantially to the economic, political, and social needs, of our great Nation.

☐ 2200

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Coleman of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. Dreier of California, for 60 minutes, today and November 22, 23, 24, 25, 26, and 27.

Mr. Coleman of Missouri, for 5 minutes, today.

Mr. Boehlert, for 5 minutes, today.

Mr. Kasich, for 5 minutes, on November 22.

Mr. Walker, for 60 minutes, today.

Mr. McEwen, for 60 minutes, on November 22.

(The following Members (at the request of Mr. Gejdenson) to revise and extend their remarks and include extraneous material:)

Mr. Wolpe, for 5 minutes, today.

Mr. Mollohan, for 5 minutes, today.

Mr. Lipinski, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Wise, for 5 minutes, today.

Mr. Fazio, for 60 minutes, on November 25.

Mr. Faleomavaega, for 60 minutes, today.

Mr. Gejdenson, for 5 minutes, today.

Mr. Jontz, for 5 minutes, today.

Mr. Fazio, for 5 minutes, today.

Mr. Atkins, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Coleman of Missouri) and to include extraneous matter:)

Mr. Lewis of California.

Mr. Petri.

Mr. Bunning.

Mr. Schulze.

Mr. Goodling in three instances.

Mrs. Roukema.

Mr. Gunderson.

Mr. Santorum.

Mr. Davis.

Mr. Shays.

Mr. Hunter.

Mr. Porter in two instances.

Mr. Rohrabacher.

Mr. Ritter.

Mrs. Morella.

Mr. Franks of Connecticut in three instances.

Mr. James in two instances.

Mr. Lagomarsino.

Mr. Riggs.

Mr. Spence.

Mr. Gekas.

(The following Members (at the request of Mr. Gejdenson) and to include extraneous matter:)

Mrs. Lloyd.

Mr. Bonior.

Mr. Stark in two instances.

Mrs. Mink.

Mr. Gordon.

Mr. Aspin.

Mr. Serrano.

Mr. Oberstar.

Mr. Boucher.

Mr. Kostmayer.

Mr. Luken.

Mr. Stokes.

Mr. Williams in two instances.

Mr. Swett.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 2270. An act amending certain provisions of title 5, United States Code, relating to the Senior Executive Service;

H.R. 3394. An act to amend the Indian Self-Determination and Education Assistance Act;

H.R. 3624. An act to amend the Tariff Act of 1930 to provide appropriate procedures for the appointment of the Chairman of the United States International Trade Commission;

H.J. Res. 130. Joint resolution designating January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 327. Joint resolution designating 1992, as the "Year of the Gulf of Mexico."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1563. An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes; and

S. 1568. An act to amend the act incorporating The American Legion so as to redefine eligibility for membership therein.

ADJOURNMENT

Mr. FALEOMAVAEGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, November 22, 1991, at 11 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2586. A bill to amend title 31, United States Code, to allow the General Accounting Office to procure the services of additional experts and consultants; to permit the Comptroller General to enter into agreements with other Federal agencies relating to health care for employees serving abroad and their dependents; to exclude temporarily certain positions from the GS–15 pay limitation which would otherwise apply; and for other purposes. (Rept. 102–343). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3012. A bill to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. 102–344). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3245. A bill to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes; with an amendment (Rept. 102–345, Pt. 1). Ordered to be printed.

Mr. de la GARZA: Committee on Agriculture. H.R. 3604. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri and for other purposes; with an amendment (Rept. 102–346, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PICKLE (for himself, Mr. Rostenkowski, Mr. Archer, Mr. Schulze, Mr. Anthony, Mr. Ford of Tennessee, Mr. Rangel, Mr. Jacobs, Mr. Jenkins, Mr. Russo, Mr. Shaw, Mr. Sundquist, Mr. Bunning, and Mr. Thomas of California):

H.R. 3837. A bill to make certain changes to improve the administration of the Medicare Program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans; jointly, to the Committees on Ways and Means and Energy and Commerce.

VOL 137 PT 23 NO 21–25 1991 UMI

By Mr. PICKLE (for himself, Mr. SCHULZE, Mr. ARCHER, Mr. ANTHONY, Mr. FORD of Tennessee, Mr. RANGEL, Mr. JACOBS, Mr. JENKINS, Mr. RUSSO, Mr. SHAW, Mr. SUNDQUIST, and Mr. BUNNING):

H.R. 3838. A bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayers' rights; to the Committee on Ways and Means.

By Mr. NATCHER:

H.R. 3839. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

By Mr. HOYER:

H.R. 3840. A bill to authorize a foreign assistance program to protect the rain forests in developing countries, to provide duty-free treatment for products that are certified to be produced through sustainable use of the rain forests, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. WYDEN (for himself, Mr. CHANDLER, Mr. AUCOIN, Mr. THOMAS of Georgia, Mr. CALLAHAN, Mr. BAKER, Mr. KOPETSKI, Mr. SPRATT, Mr. WILSON, Mr. EMERSON, Mr. HUCKABY, Mr. NATCHER, Mr. OBERSTAR, Mr. DEFAZIO, Mr. MORRISON, Mrs. LLOYD, Mr. SWIFT, Mr. SMITH of Oregon, Mrs. UNSOELD, Mr. JONTZ, and Mr. CHAPMAN):

H.R. 3841. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. DAVIS, Mr. STUDDS, Mr. HUGHES, Mr. TAUZIN, Mr. HUBBARD, and Mr. HERTEL):

H.R. 3482. A bill to extend the territorial sea and the contiguous zone of the United States, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Foreign Affairs, and the Judiciary.

By Mr. CHANDLER (for himself, Mr. GUARINI, Mr. GOODLING, Mrs. SCHROEDER, Mr. SCHIFF, Mr. COLEMAN of Missouri, Mr. PETRI, Mrs. ROUKEMA, Mr. ARMEY, Mr. FAWELL, Mr. BARRETT, Mr. GRANDY, Mr. SANTORUM, Mrs. JOHNSON of Connecticut, and Mr. PARKER):

H.R. 3843. A bill to amend the Employee Retirement Income Security Act of 1974 and title 11, United States Code, to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings, and for other purposes; jointly, to the Committees on the Judiciary, Education and Labor, and Ways and Means.

By Mr. MAZZOLI (for himself, Mr. SCHUMER, Mr. BERMAN, Mr. BRYANT, Mr. KOPETSKI, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. LEHMAN of Florida, Mr. RANGEL, Mr. OWENS of New York, and Ms. WATERS):

H.R. 3844. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. DEFAZIO (for himself, Mr. AUCOIN, Mr. MCDERMOTT, Mr. BROWN, Mr. KOPETSKI, and Mr. WYDEN):

H.R. 3845. A bill to terminate the military assistance pipeline for El Salvador; jointly, to the Committees on Foreign Affairs and Appropriations.

By Mr. FOGLIETTA:

H.R. 3846. A bill to authorize the Secretary of Health and Human Services to award a grant for the purpose of constructing a medical research facility at the Children's Hospital of Philadelphia, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUNDERSON:

H.R. 3847. A bill to amend the Securities Exchange Act of 1934 to impose certain restrictions on the conduct of hostile takeovers by foreign-based persons, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HALL of Texas (for himself, Mr. BROWN, Mr. WALKER, Mr. SENSENBRENNER, Mr. BACCHUS, Mr. CRAMER, Mr. ROHRABACHER, Mr. TRAFICANT, Mr. HAYES of Louisiana, Mr. VOLKMER, Mr. PACKARD, Mr. SMITH of Texas, and Mr. LEWIS of Florida):

H.R. 3848. A bill to encourage the growth and development of commercial space activities in the United States, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Armed Services.

By Mr. HASTERT (for himself, Mr. EMERSON, Mr. RAMSTAD, Mr. HORTON, Mr. JEFFERSON, Mr. EWING, Mr. KLUG, Mr. SANDERS, Mr. PERKINS, Mr. BLAZ, Mr. POSHARD, Mr. FALEOMAVAEGA, Mr. KOSTMAYER, Mr. SANGMEISTER, Mr. WILLIAMS, and Mr. UPTON):

H.R. 3849. A bill to grant a Federal charter to VietNow; to the Committee on the Judiciary.

By Mr. HATCHER (for himself, Mr. MARLENEE, Mr. VOLKMER, Mr. KOPETSKI, Mr. BOEHNER, Mr. ENGLISH, Mr. ROBERTS, Mr. HUCKABY, Mr. EMERSON, Mr. STENHOLM, Mr. MORRISON, Mr. TALLON, Mr. GUNDERSON, Mr. PENNY, Mr. LEWIS of Florida, Mr. STALLINGS, Mr. SMITH of Oregon, Mr. NAGLE, Mr. COMBEST, Mr. CAMPBELL of Colorado, Mr. HERGER, Mr. ESPY, Mr. WALSH, Mr. SARPALIUS, Mr. CAMP, Mr. PETERSON of Minnesota, Mr. ALLARD, Mr. BARRETT, Mr. NUSSLE, Mr. EWING, and Mr. RAY):

H.R. 3850. A bill entitled, the Federal-State Pesticide Regulation Partnership Act of 1991; to the Committee on Agriculture.

By Mr. HOAGLAND:

H.R. 3851. A bill to amend title XVIII of the Social Security Act to provide for coverage of annual preventive examinations under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HOAGLAND (for himself, Mr. LEACH, and Mr. ORTON):

H.R. 3852. A bill to establish the Peace and Prosperity Commission to review United States economic policies toward the former Soviet Union; jointly, to the Committees on Foreign Affairs, Ways and Means, and Banking, Finance and Urban Affairs.

By Mr. KANJORSKI:

H.R. 3853. A bill to provide a framework for national economic revitalization, to provide additional resources to the Bank Insurance Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KOSTMAYER:

H.R. 3854. A bill to amend the Solid Waste Disposal Act to require the regulation of produced water from oil and gas exploration, development, and production, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3855. A bill to amend the Clean Air Act to require existing incinerators to comply with EPA regulations under section 129 within 6 months after promulgation, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3856. A bill to amend the Mineral Leasing Act with respect to the administration of certain oil and gas rights, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MCMILLAN of North Carolina:

H.R. 3857. A bill to provide for medical injury compensation reform for health care provided under the Social Security Act and other Federal health programs, to amend the Internal Revenue Code of 1986 to implement like reforms in employer-provided health plans, and for other purposes; jointly, to the Committees on the Judiciary, Ways and Means, and Energy and Commerce.

By Mrs. MINK:

H.R. 3858. A bill to amend part A of title IV of the Social Security Act to require States to continue aid to families with dependent children during the first month of employment of the recipient; to the Committee on Ways and Means.

By Mr. MRAZEK:

H.R. 3859. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on capital gains of individuals; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself and Mr. TORRES):

H.R. 3860. A bill to amend the Truth in Lending Act to require additional disclosures with respect to credit card accounts, to require a study of the competitiveness of the credit card industry, to authorize the President to establish a cap on consumer credit card interest rates, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Rules.

By Mr. TORRICELLI:

H.R. 3861. A bill to provide demonstration grants to secondary schools for the purpose of extending the length of the academic year at such schools; to the Committee on Education and Labor.

By Mr. WILLIAMS:

H.R. 3862. A bill to authorize the Secretary of the Interior, in cooperation with the Secretary of Energy, to allocate Pick-Sloan Missouri River Basin Program project pumping power to non-Federal irrigation projects in the State of Montana, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS (for himself and Mr. CLAY):

H.R. 3863. A bill to amend the National Labor Relations Act with respect to the right to organize of certain security personnel; to the Committee on Education and Labor.

By Mr. BOUCHER (for himself, Mr. TAUZIN, Mr. SYNAR, Mr. THOMAS of Wyoming, Mr. BRUCE, Mr. SLATTERY, Mr. SPRATT, Mr. COOPER, Mr. SANDERS, Mr. MONTGOMERY, Mr. KOPETSKI, Mr. SCHEUER, Mr. PAYNE of Virginia, and Mr. STAGGERS):

H.R. 3864. A bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination; to the Committee on the Judiciary.

By Mr. BONIOR:

H.J. Res. 378. Joint resolution designating the last week of September 1992, and the last week of each September thereafter, as "National Senior Softball Week"; to the Committee on Post Office and Civil Service.

By Mr. FRANKS of Connecticut:

H.J. Res. 379. Joint resolution proposing an amendment to the Constitution of the United States authorizing the President to veto an item of appropriation in any act or resolution containing such an item; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA (for himself, Mr. SOLARZ, and Mr. BLAZ):

H. Con. Res. 243. Concurrent resolution expressing the sense of the Congress that the United States should recognize the concerns of the people of the South Pacific and call upon the Government of France to cease all nuclear testing at Moruroa and Fangataufa Atolls; to the Committee on Foreign Affairs.

By Mr. FOGLIETTA:

H. Con. Res. 244. Concurrent resolution to encourage peace and reunification on the Korean Peninsula; to the Committee on Foreign Affairs.

By Mr. VISCLOSKY:

H. Con. Res. 245. Concurrent resolution urging all parties in Yugoslavia to cease further use of force and engage fully and in good faith in negotiations on the future of Yugoslavia; to the Committee on Foreign Affairs.

By Mr. WAXMAN (for himself, Mr. GEPHARDT, Mr. DINGELL, Mr. WYDEN, Mr. SIKORSKI, Mr. CONYERS, Mr. FORD of Michigan, Mr. BROWN, Mr. BERMAN, Mr. DOWNEY, Mr. ESPY, Mrs. KENNELLY, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. MATSUI, Mr. OBEY, Mr. OLVER, Mr. ROSE, Mr. RUSSO, Mr. SANDERS, Mr. SCHUMER, Mr. TORRES, Mr. WEISS, Mr. PANETTA, Mr. OWENS of Utah, and Mr. MORAN):

H. Con. Res. 246. Concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HUGHES (for himself, Mr. SAXTON, and Mr. ANDREWS of New Jersey):

H. Res. 291. Resolution relating to elimination of perquisites for Members of the House of Representatives and amending the Rules of the House of Representatives to establish additional conditions for official committee travel expenses; to the Committee on Rules.

MEMORIALS

Under the clause 4 of rule XXII,

318. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the Iraq-Kuwait war; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 73: Mr. KOSTMAYER, Mr. HYDE, Mr. THOMAS of Wyoming, Mr. STALLINGS, Mr. MRAZEK, Mr. BOEHLERT, and Mr. HERGER.

H.R. 134: Mr. RAMSTAD and Mr. FISH.

H.R. 298: Mr. MILLER of Washington.

H.R. 371: Mr. ROWLAND.

H.R. 423: Mr. BROWN.

H.R. 606: Mr. WILSON and Mr. WALSH.

H.R. 769: Mr. SMITH of Florida.

H.R. 791: Mr. ENGEL.

H.R. 830: Mr. COLEMAN of Texas.

H.R. 999: Mr. JOHNSON of South Dakota and Mr. STUMP.

H.R. 1067: Mr. MCDERMOTT, Mr. OLIN, and Mr. FIELDS.

H.R. 1069: Mr. SOLOMON.

H.R. 1245: Ms. NORTON, Mr. HENRY, Mr. PASTOR, Mr. BILBRAY, and Mr. GRANDY.

H.R. 1300: Mr. KOLTER.

H.R. 1430: Mr. BUSTAMANTE and Mr. PASTOR.

H.R. 1466: Mr. MARKEY and Mr. PETERSON of Florida.

H.R. 1515: Mr. NCNULTY, Mr. PETERSON of Florida, Mr. RAMSTAD, Mr. GEREN of Texas, Mrs. LLOYD, Mr OBEY, and Mr. ENGLISH.

H.R. 1527: Mr. SPRATT and Mr. KOLTER.

H.R. 1544: Mr. COLEMAN of Texas.

H.R. 1566: Mr. VENTO, Mr. HAMMERSCHMIDT, and Mr. SWETT.

H.R. 1665: Mr. BONIOR.

H.R. 1681: Ms. PELOSI and Mr. LEWIS of Florida.

H.R. 1771: Mr. BAKER and Mr. BURTON of Indiana.

H.R. 1916: Mrs. MORELLA.

H.R. 2089: Mr. GONZALEZ.

H.R. 2149: Mr. ROSE and Mr. DOOLITTLE.

H.R. 2202: Mr. ROHRABACHER.

H.R. 2232: Mr. ANTHONY.

H.R. 2236: Mr. JONES of North Carolina.

H.R. 2550: Mr. FISH.

H.R. 2600: Mr. HERTEL.

H.R. 2661: Mr. JOHNSON of South Dakota and Mr. MACHTLEY.

H.R. 2766: Mr. UPTON, Mr. JONES of North Carolina, Mr. MCCOLLUM, and Mr. DORNAN of California.

H.R. 2872: Mr. SANTORUM, Mr. DE LUGO, Mr ROHRABACHER, Mr. LEWIS of Georgia, Mr. SAVAGE, Mr. HYDE, and Mr. HAYES of Illinois.

H.R. 2880: Mr. ACKERMAN, Mr. COX of Illinois, Mr. PAYNE of New Jersey, Mr. JACOBS, Mr. HOCHBRUECKNER, and Mr. COYNE.

H.R. 2894: Mr. FROST.

H.R. 2898: Mr. DOWNEY, Mr. PICKETT, and Mr. WHEAT.

H.R. 2943: Mr. HASTERT.

H.R. 3121: Mr. RAMSTAD and Mr. GILCHREST.

H.R. 3130: Mr. YOUNG of Alaska.

H.R. 3138: Mr. ENGEL.

H.R. 3146: Mrs. MEYERS of Kansas.

H.R. 3170: Mr. UPTON.

H.R. 3176: Mr. FROST.

H.R. 3198: Mr. HUTTO, Mr. PICKETT, Mr. CLINGER, Mr. VANDER JAGT, Mr. HUNTER, Mr. ZELIFF, Mr. DELAY, Mr. SMITH of Oregon, Mr. QUILLEN, Mr. TANNER, Mr. MILLER of Ohio, Mr. OXLEY, Mr. SPENCE, Mr. BILIRAKIS, Mr. EDWARDS of Texas, Mr. NICHOLS, and Mr. GILLMOR.

H.R. 3216: Mr. JEFFERSON, Mr. MFUME, Mrs. LLOYD, and Mr. DOOLITTLE.

H.R. 3222: Mr. RANGEL, Ms. PELOSI, Mr. HOCHBRUECKNER, Mr. KOPETSKI, Mr. LEWIS of Florida, Mr. GEJDENSON, Mr. PETERSON of Minnesota, Mr. QUILLEN, Mrs. BYRON, and Mr. LANTOS.

H.R. 3357: Mr. HORTON, Mr. SPRATT, Mr. MCCOLLUM, Mr. BLAZ, Mr. DE LA GARZA, Mr. FRANKS of Connecticut, Mr. LAGOMARSINO, Mr. JEFFERSON, Mr. SOLOMON, Mr. WILSON, Mr. TOWNS, Mr. SANDERS, Mrs. JOHNSON of Connecticut, Mr. ZELIFF, Mr. EVANS, Mr. SCHAEFER, Mr. DOOLITTLE, Mr. SANTORUM, and Mr. DEFAZIO.

H.R. 3376: Mr. SOLOMON.

H.R. 3395: Mr. GILLMOR, Mr. MACHTLEY, Mr. LANCASTER, and Mr. CHAPMAN.

H.R. 3444: Mr. EVANS.

H.R. 3463: Mr. CONDIT.

H.R. 3515: Mrs. LLOYD, Mr. NEAL of Massachusetts, Mr. POSHARD, Mr. SARPALIUS, Mr. ALEXANDER, Mr. PENNY, and Mr. ANTHONY.

H.R. 3518: Mr. RIGGS, Mr. ROHRABACHER, Mr. SMITH of Florida, Mr. COX of California, Mr. SHAYS, and Mr. STEARNS.

H.R. 3553: Mr. STUDDS, Mr. KOSTMAYER, and Mr. DYMALLY.

H.R. 3554: Mr. KOSTMAYER, Mr. TORRES, Mr. DWYER of New Jersey, Mr. RANGEL, and Mr. JONTZ.

H.R. 3627: Mr. SMITH of Iowa, Mr. DICKINSON, Mr. FROST, Mr. JEFFERSON, Mr. COSTELLO, Ms. NORTON, Mr. HANSEN, Mr. STOKES, Mr. GILLMOR, Mr. MCHUGH, Mr. JACOBS, Mr. BILBRAY, Mr. LAUGHLIN, Mrs. BYRON, Mr. TALLON, Mr. SARPALIUS, Mr. GEREN of Texas, Mrs. LLOYD, Mr. TANNER, Mr. KOSTMAYER, Mr. CONDIT, Mr. HOPKINS, Mr. STENHOLM, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. EARLY, Mr. PICKETT, Mr. SCHUMER, Mr. BREWSTER, Mr. ENGLISH, Mr. VOLKMER, Mr. EDWARDS of Oklahoma, Mr. BONIOR, Mr. GEPHARDT, Mr. KANJORSKI, Mr. PICKLE, Mr. THOMAS of California, Mr. DONNELLY, Mr. CALLAHAN, Mr. SHARP, Mr. BARNARD, Mr. DINGELL, Mr. SLATTERY, Mr. BENNETT, Mr. FLAKE, Mr. LEWIS of Georgia, Mr. LAROCCO, Mr. TORRES, Mr. HOLLOWAY, Mrs. PATTERSON, Mr. BROWDER, Mr. JONES of Georgia, Mr. DARDEN, Mr. JENKINS, Mr. MARTINEZ, MR. WOLPE, Mr. QUILLEN, Mr. MORAN, Mr. KLECZKA, Mr. PAXON, Mr. ANNUNZIO, Mr. ALLEN, Mr. WALKER, Mr. JOHNSON of Texas, Mr. MCMILLAN of North Carolina, and Mr. BAKER.

H.R. 3639: Mr. DWYER of New Jersey and Mr. ZIMMER.

H.R. 3645: Mr. DE LUGO.

H.R. 3669: Mr. FOGLIETTA, Mr. WAXMAN, Mr. DWYER of New Jersey, Ms. NORTON, and Mr. MARTINEZ.

H.R. 3678: Mr. BURTON of Indiana and Mr. HERGER.

H.R. 3681: Mr. QUILLEN, Mrs. LOWEY of New York, Mr. FROST, Mr. ALEXANDER, Mr. SPRATT, and Mr. DYMALLY.

H.R. 3702: Mr. BOUCHER and Mr. DEFAZIO.

H.R. 3734: Mr. COX of California.

H.R. 3736: Mr. COSTELLO, Mr. RAHALL, Mr. HENRY, Mr. JONTZ, Mr. HUBBARD, Mr. MCNULTY, and Mr. FISH.

H.R. 3740: Mrs. LOWEY of New York and Mr. DICKINSON.

H.R. 3744: Mr. TAUZIN, Mr. PARKER, Mr. UPTON, Mr. GALLEGLY, Mr. HUNTER, Mr. SMITH of New Jersey, Mr. GUNDERSON, Mr. DANNEMEYER, Mr. LENT, Mr. HASTERT, Mr. MCCRERY, Mr. HOBSON, Mr. SAXTON, Mr. HANSEN, Mr. INHOFE, Mr. MOORHEAD, Mr. HEFLEY, Mr. BURTON of Indiana, Mr. HYDE, Mr. HORTON, Mr. LIGHTFOOT, Mr. YOUNG of Alaska, and Mr. BUNNING.

H.R. 3750: Mr. DOWNEY.

H.R. 3770: Mr. GOODLING, Mr. GOSS, Mr. MOORHEAD, Mr. BEREUTER, Mr. OXLEY, Mr. FAWELL, Mr. KOLBE, and Mr. GALLEGLY.

H.R. 3816: Mrs. LLOYD, Mr. IRELAND, Mr. CALLAHAN, Mr. ZIMMER, Mr. RAVENEL, Mr. WYLIE, Mr. PETRI, Mrs. JOHNSON of Connecticut, Mr. FIELDS, Mr. CARR, Mr. GUARINI, Mr. ANNUNZIO, and Mr. VANDER JAGT.

H.R. 3822: Mr. HERGER and Mr. FIELDS.

H.J. Res. 28: Mr. SANTORUM.

H.J. Res. 293: Mr. LEHMAN of California, Mr. HOYER, Mr. BALLENGER, Mr. BEVILL, Mr. DOOLITTLE, Mr. FLAKE, Mr. BOEHLERT, Mr. MANTON, Mr. PAYNE of Virginia, Mr. REGULA, Mr. VANDER JAGT, Mr. SMITH of New Jersey, Mr. DAVIS, Mr. PAYNE of New Jersey, Mr. DWYER of New Jersey, and Mr. HOUGHTON.

H.J. Res. 300: Mr. CRAMER.

H.J. Res. 316: Mr. HOYER.

H.J. Res. 369: Mr. FRANK of Massachusetts, Mr. ROGERS, Mr. HUGHES, Mr. TAUZIN, Mr. ATKINS, and Mr. JONTZ.

H.J. Res. 372: Mr. MANTON, Mr. MACHTLEY, Mr. BALLENGER, Mr. SUNDQUIST, and Mr. HUGHES.

H.J. Res. 376: Mr. WEISS, Mr. HORTON, Mr. JOHNSTON of Florida, Mr. KOSTMAYER, Mr.

VOL
137
PT
23
NO
21
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25
1991
UMI

MATSUI, Mr. MFUME, Mr. LEVINE of California, Mrs. MORELLA, Mr. LEVIN of Michigan, Mr. SAWYER, Mr. KENNEDY, Mrs. UNSOELD, Mr. MILLER of California, Mr. PAYNE of New Jersey, Ms. NORTON, Mrs. BOXER, Mr. MARKEY, Ms. PELOSI, Mr. TRAFICANT, Mr. DELLUMS, Mr. DYMALLY, Mr. DE LUGO, Mr. SCHEUER, Mr. STUDDS, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. WOLPE, Mr. YATES, Mr. MRAZEK, Mr. FASCELL, Mr. ACKERMAN, Mr. MCNULTY, Mr. OWENS of Utah, Mr. SWIFT, Mr. BERMAN, Mr. MCMILLEN of Maryland, Mr. DIXON, Mr. SKEEN, Mr. TOWNS, Mr. FEIGHAN, Mr. KOLTER, Mr. ROWLAND, Mr. DARDEN, Mr. OLVER, Mr. DURBIN, Mr. BARNARD, Mr. BOUCHER, Mr. WISE, Mr. TORRES, Mrs. LOWEY of New York, Mr. KOPETSKI, Mr. PANETTA, Mr. LAROCCO, Mr. EDWARDS of California, Mr. SABO, Mr. PRICE, Mr. SCHUMER, Mr. SIKORSKI, Mrs. COLLINS of Michigan, Mr. NATCHER, Mr. WALSH, Mr. AUCOIN, Mr. BONIOR, Mr. BRYANT, Mr. CLEMENT, Mr. COSTELLO, Ms. DELAURO, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. FALEOMAVAEGA, Mr. HOYER, Mr. FAZIO, Mr. HALL of Ohio, Mr. ECKART, Mr. HASTERT, Mr. HAYES of Illinois, Mr. HEFNER, Mrs. KENNELLY, Mr. KANJORSKI, Mr. JONES of Georgia, Mr. KILDEE, Mr. LEHMAN of California, Mr. LEWIS of Georgia, Mr. PASTOR, Ms. OAKAR, Mr. MILLER of Washington, Mrs. MINK, Mr. MORRISON, Mr. PICKLE, Mr. PORTER, Mr. RICHARDSON, Mr. RHODES, Mr. ROSE, Mr. SAVAGE, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. STOKES, Mr. TRAXLER, Ms. WATERS, Mr. WHEAT, Mr. WYDEN, Mr. SKAGGS, Mr. PERKINS, Mr. SHAYS, Mr. ABERCROMBIE, Mr. RUSSO, Mr. COX of Illinois, Mr. MOODY, Mr. GLICKMAN, Mr. DEFAZIO, Mr. WASHINGTON, Mr. MINETA, Mr. BURTON of Indiana, Mr. GUARINI, Mr. MOAKLEY, Mr. DWYER of New Jersey, Mr. MARTINEZ, Mr. LEHMAN of Florida, Mr. ANDERSON, Mr. ANDREWS of Texas, Mr. ANDREWS of New Jersey, Mr. ANTHONY, Mr. ATKINS, Mr. BENNETT, Mr. BROWN, Mr. BRUCE, Mr. CARDIN, Mr. CARPER, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. COYNE, Mr. DICKS, Mr. DONNELLY, Mr. ENGEL, Mr. ERDREICH, Mr. ESPY, Mr. FLAKE, Mr. FORD of Michigan, Mr. FROST, Mr. GEJDENSON, Mr. GEREN of Texas, Mr. GIBBONS, Mr. GREEN of New York, Mr. HAMILTON, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. KLUG, Mr. LEWIS of California, Mr. MCCLOSKEY, Mr. MCGRATH, Mr. MCHUGH, Mr. MAVROULES, Mr. MAZZOLI, Mrs. MEYERS of Kansas, Mr. MORAN, Mr. MURPHY, Mr. PETERSON of Florida, Mr. POSHARD, Mr. RANGEL, Mr. SHARP, Mr. SMITH of Iowa, Ms. SNOWE, Mr. SPRATT, Mr. STARK, Mr. TANNER, Mr. VENTO, Mr. WILSON, Mr. SANDERS, Mr. FUSTER, Mr. JONTZ, Mr. BLACKWELL, Mr. WAXMAN, Mr. CLAY, Mr. GRADISON, Mr. BROWDER, Mr. HUBBARD, Mr. MCCANDLESS, Mr. PICKETT, Mr. HOAGLAND, Mr. HOBSON, Mr. HOUGHTON, Mr. BEILENSON, Mr. BILBRAY, Mr. BOEHLERT, Mr. BROOMFIELD, Mr. CARR, Mr. CONDIT, Mr. DELAY, Mr. FORD of Tennessee, Mr. GEPHARDT, Mr. GONZALEZ, Mr. GRANDY, Mr. HARRIS, Mr. HENRY, Mr. HANSEN, Mr. HUGHES, Mr. HYDE, Mr. JEFFERSON, Mr. JENKINS, Mr. KLECZKA, Mr. LAFALCE, Ms. MOLINARI, Mr. MURTHA, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. ORTIZ, Mrs. PATTERSON, Mr. REED, Mr. ROHRABACHER, Mr. SARPALIUS, Mr. ROYBAL, Mr. SCHULZE, Mr. SERRANO, Mr. STAGGERS, Mr. TAUZIN, Mr. STENHOLM, Mr. THOMAS of California, Mr. UPTON, and Mr. VISCLOSKY.

H. Con. Res. 145: Mr. DEFAZIO and Mr. CAMPBELL of California.

H. Con. Res. 211: Mr. ANDERSON and Mr. KILDEE.

H. Con. Res. 218: Mr. RITTER.

H. Con. Res. 232: Mr. GUARINI, Mr. TORRES, Mr. FUSTER, Mr. HENRY, Mr. TOWNS, Mrs. MORELLA, and Mr. EVANS.

H. Con. Res. 235: Mr. BONIOR and Mr. CONDIT.

H. Con. Res. 236: Mr. MCNULTY, Mr. LEWIS of Florida, Mr. EDWARDS of Oklahoma, Mrs. MEYERS of Kansas, Mr. MARTINEZ, Mr. POSHARD, Mr. FRANKS of Connecticut, Mr. HANCOCK, and Mrs. LLOYD.

H. Con. Res. 240; Mr. EMERSON, Mr. EVANS, Mr. FAWELL, Mr. FUSTER, Mr. GILMAN, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mrs. MORELLA, Mr. STARK, Mr. TOWNS, and Mr. TRAFICANT.

H. Res. 107: Mr. SANTORUM.

H. Res. 129: Mr. COX of California, Mr. MATSUI, Mr. GEJDENSON, Mr. CRANE, and Mr. MRAZEK.

H. Res. 152: Mr. PARKER.

H. Res. 233: Mr. SWETT and Mr. ECKART.

H. Res. 234: Mrs. JOHNSON of Connecticut, Mr. GUARINI, Mrs. MORELLA, Mr. OWENS of Utah, and Mr. BROOMFIELD.

H. Res. 257: Mr. KILDEE, Mr. GILCHREST, and Ms. NORTON.

H. Res. 263: Mr. FAWELL.

H. Res. 284: Mr. TRAXLER, Mr. ATKINS, Mrs. BYRON, Mr. COSTELLO, Mr. DE LA GARZA, Mr. HALL of Texas, Mr. HORTON, Mr. KOPETSKI, Mr. PRICE, and Mr. SYNAR.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolution as follows:

[Omitted from the Record of October 23, 1991]

H.R. 1790: Mr. ERDREICH.

[Submitted November 21, 1991]

H.J. Res. 342: Mr. MCMILLAN of North Carolina.

SENATE—*Thursday, November 21, 1991*

(Legislative day of Wednesday, November 20, 1991)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

The ACTING PRESIDENT pro tempore. We are privileged this morning to have the Reverend Thomas H. Carr, associate pastor, Burke Community Church, Burke, VA, to deliver the prayer.

PRAYER

The Reverend Thomas H. Carr, associate pastor, Burke Community Church, Burke, VA, offered the following prayer:

Let us pray:

Gracious Father, You shatter all the ways we use to hide from Your liberating truth. For example, Your word declares: "Consider it pure joy whenever you face many kinds of trials * * *."—James 1:2.

"Pure joy" under the pile of today's business? While facing the seduction of money, sex, and power in its many guises? Lord, You must have a way that is above our ways? A wisdom that beggers our own. This joyous truth eludes us.

And so, I bring to Your loving embrace the Members of this body with their political trials and their personal temptations, known only to them, and to You. They often agonize over issues that tear at them deeply.

Father, give Your servants more than just the will to survive today's spiritual warfare. In the name of Jesus Christ, enable them to thrive by "counting it all joy" in the midst of the conflict.

For Your gracious word reminds us:

"Blessed are they who persevere under trial, for when they have stood the test, they will receive the crown of life that God has promised to those who love Him."—James 1:12.

In the name of the One who chose the agony of the cross for the joy of resurrection. Amen.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business for not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein.

The Chair now recognizes the senior Senator from Tennessee [Mr. GORE] who is permitted to speak for up to 25 minutes.

Mr. GORE. Thank you, Mr. President.

With apologies to my colleague, I will reclaim the title of the junior Senator from Tennessee in deference to Senator SASSER.

The ACTING PRESIDENT pro tempore. The Chair might say to the distinguished Senator from Tennessee, I probably was thinking about his father.

Mr. GORE. I appreciate that reference also, Mr. President.

COMPLIMENTS TO THE GUEST CHAPLAIN

Mr. GORE. I would also like to say that I especially enjoyed and was moved by the opening prayer this morning, and my compliments to our visiting chaplain.

YUGOSLAVIA

Mr. GORE. Mr. President, on October 25, Senator PELL and I submitted Senate Resolution 213 regarding developments in Yugoslavia, or what some call the former nation of Yugoslavia because, in effect, it exists no longer. Later today, I am given to understand that the Senate may well take up Senate Resolution 213 and, as of now, it has 24 additional cosponsors whose names will be included in a list that I will attach to the end of my statement, and I will ask unanimous consent to do that at the appropriate time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORE. I think it is also important to thank those Members who have expressed doubt about one aspect or another of this resolution but who were gracious enough not to prevent the Senate from taking it up. I want to say that I deeply respect their concerns and that I also believe that they rightly decided to risk erring on the side of the concern for the great tragedy now unfolding in Yugoslavia.

As amended, Senate Resolution 213 says, essentially, that, assuming the Republic of Croatia adheres in good faith to European Community ceasefire and peace proposals, and in the event that the Republic of Serbia will not do the same, then, there should be a change in United States policy. Namely, the United States should promptly raise, in broad consultation with other governments, in the EC, bilaterally, and through the United Nations, the question of recognizing republics such as Slovenia and Croatia, that have declared their sovereignty and independence, and that have agreed to cooperate with EC efforts.

There are additional points in the resolution, but this one would represent the most salient change in American policy. It would say that Members of the Senate wish to warn the Government of the Republic of Serbia that continued resort to violence risks placing them in the status of a parish state: diplomatically and economically isolated. In the spirit of objectivity and fairness, it also puts on notice all concerned in this conflict, that the path to formal recognition places obligations upon them: to cooperate with the EC, and to go the extra mile toward absolutely assuring the protection of the rights of ethnic minorities within their borders. And this is especially true where the rights of Serbians within the Republic of Croatia are concerned.

I believe it both appropriate and urgent for the Senate to send this message today. What the Republic of Serbia is attempting to do cuts across the interests of the United States in a way deserving our close attention. I am convinced that we are not witnessing some random spasm of violence. Rather, we are in the presence of a strategic concept whose successful realization is dangerous for our National interests.

From the press and television reports, we know—however imperfectly—what is happening in Vukovar and Dubrovnik. This morning's reports showed rows upon rows of corpses in Vukovar and the frightened children with their mothers emerging from shelters and the reports of summary executions of civilians. But Vukovar and Dubrovnik, which has not yet fallen, are not the be-all and end-all of the conflict. They are actually the left and right hand anchors of an extended military campaign planned and conducted by the last unreconstructed Communist dictator on the continent of Europe. Forces responding to the Republic of Serbia are attacking cities in the Republic of Croatia along an arc running from the Hungarian border to the Adriatic. Behind that arc is a region equivalent to at least one-third of Croatia, as its borders have been recognized for centuries.

Let me take a moment to digress on the duration of that border. It has been

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
137
PT
23
NO
21
—
25
1991
UMI

said that the internal boundaries separating the various republics inside Yugoslavia represent an artificial creation by Tito. In some cases that is true.

Not so with the border between Croatia and Serbia. That border was the border between the empire of Constantinople and the empire of Rome. It was the boundary line between East and West. In fact, history has placed so much ethnic strife right in this concentrated area that has been called Yugoslavia because it was the outer boundary of three empires: the Roman Empire, the Eastern Empire coming out of Constantinople, and the farthest reaches of Islam, and then, from the north, the Russian empires. It represented, in a sense, an area in which the tectonic plates of geopolitics have pressed against one another for millennia. And then, after totalitarianism descended in the 1930's, the conflict was exacerbated, and when the Communist form of totalitarianism froze everything in place, all of these tensions were put on hold, in large part.

And now, with the collapse of communism, the conflicts that have been in part there for millennia have come to the surface. But it represents a challenge to what President Bush has attempted to describe as a new world order. It represents a challenge specifically to the hopes and dreams of Europeans for a continent free of the war which has ravaged that continent for most of its history. And it represents a challenge to the United States of America as the natural leader of the effort by humankind to create a new world in which territorial boundaries cannot be changed by violence. And that is what Serbia is engaged in right now.

Meanwhile, to the rear of this region, across the border into the Republic of Bosnia and Hercegovina, Serbs have reportedly voted to create an autonomous zone to be linked to the Republic of Serbia. This is an extremely ominous development, since it threatens to ignite civil war in Bosnia-Hercegovina between Serbs, Croats, and Muslims, all of whom share the region. This has the clear potential to spread. Already communities and villages in Hungary have been bombed by aircraft under the control of the Republic of Serbia. The surrounding area is threatened by a continuation of this violence.

My own family, as I have said on one prior occasion here on the floor, was touched by the conflict which erupted out of the Balkans in 1914, and called many young men from the hills of Tennessee and Kentucky and States all across our Nation to go. And many lost their lives in World War I, partly because the world stood by and did not attend to the simmering conflict in the Balkans.

Now, as the world is on the verge of a potential for a unified European Community, for a common agreement throughout most of the world that democracy and a free market will be the path taken by humankind in the future, we cannot afford to stand by and allow this violence to spill over these boundaries.

Clearly, under the inspiration of the Republic of Serbia, there is an effort to totally redraw the map of the region: to truncate Croatia, shave off the top of Bosnia, add the two to Serbia, and create a greater Serbia which cuts Yugoslavia in two, and reaches to the Adriatic Sea. Keep in mind, also, that before the Republic of Serbia invaded the Republic of Croatia, it had earlier seized control of the previously autonomous region of Kosovo, with its Albanian population. This greater Serbia will then presumably dominate all the other Republics and provinces of Yugoslavia, including Macedonia, to the south.

This is an effort to establish a small empire of the sort dreamed of since Serbia was a kingdom. And this process is being carried forward at the expense of the single most important principle for the postwar organization and stability of Europe. To create greater Serbia, it is necessary to utterly disregard the principle that borders will not be changed by force. And that principle—so long as it is intact—constrains every state in Eastern Europe from seeking redress from every other state for territories transferred in the aftermath of WWII, and it inhibits those who might seek to stir up violence between every ethnic group in every state of Eastern Europe and the Balkans.

If the world stands by, paralyzed and afraid to act in the face of this naked aggression, mass death, and destruction, it will send a message that whatever dictator can amass the most weapons can, with virtual impunity, expand his borders and conquer the territory of his neighbors.

In this delicate situation in the immediate aftermath of the cold war, do we want to send that message? Mr. President, inaction is a policy in and of itself.

We cannot pretend by doing nothing that we are not expressing ourselves and influencing the course of events in the Balkans. By standing by as the only Nation capable of providing leadership for the world and doing nothing as this tragedy unfolds, we are sanctioning it, in effect. We have an obligation to speak out.

Some say the European Community is the natural intervenor. And, indeed, Lord Carrington, speaking for the European Community, has conducted a dialog in the region. But the European Community has been exceedingly timid. And there is a reason why. It is because many of its members, including most prominently Great Britain, have been reluctant to deal with this situation, which takes what was a nation, in the aftermath of World War I, and travels down a path toward the elevation of a subnational grouping into an entity that will achieve political recognition. Great Britain, of course, has the festering problem of Northern Ireland. It does not want to raise the profile of that issue. It wants to stay hands off.

Germany, which has been sympathetic to the point of view which I am expressing, is so invested in the idea of a unified Europe that it has deferred to Great Britain.

France has not been sympathetic. But for all of these reasons, and others, the European Community has not been willing to lead. The United States of America can offer leadership here, and can make the difference in bringing this conflict to an end.

Instability in this region is contageous, with the possibility for advancing eastward until it encounters the westward spread of ethnically driven instability radiating out from Moscow. The prospect for a Europe whole and at peace is the foundation for American planning and hopes for the future. And that prospect is at risk to the forces of violent ethnic nationalism, which is burning white hot at the moment in Yugoslavia, fanned by the actions of the leaders of the Republic of Serbia.

I do not mean to give short shrift to the human costs of all this. Thousands have died. Hundreds of thousands are displaced. Innocent people on both sides of the conflict are exposed not only to random injury and death from shells and bombs, but to direct, inhuman cruelty at the hands of that small, but awful percentage of humankind that seems to thirst for the opportunity to do unimaginable evil in the name of lofty ideals. The efforts of an entire generation to build for themselves and for their children have been wiped away by artillery paid for by their own taxes. And all of this in the midst of Europe struggling to move forward, rather than to recycle the bloody past.

There may be some among us who continue to feel that the United States should not move out ahead of the European Community, which, for better or for worse, has the lead in this matter. I would argue that the United States ought already to be exerting leadership, because of the long-term significance this issue has for us. Reasonable people can differ on that point. But surely, we ought not to lag far behind the EC, and should at least be keeping pace with it and strengthening its resolve.

The EC now essentially blames Serbia for continuation of the violence, and for conducting violence on a scale out of proportion to military necessity. The EC has not only announced sanctions against Yugoslavia—and appealed to the United Nations to make them

universal and binding—but has also announced its intention to slip those sanctions in the case of republics that are cooperating with the EC peace effort: read, Slovenia and Croatia. Finally, the EC, even in its most recent communique, is itself raising the issue of recognition, tied to absolute guarantees for the human and cultural rights of minorities.

And that insistence on absolute guarantee is contained in Senate Resolution 213. Senate Resolution 213 as amended, is squarely in line with what the EC is doing. The EC is attempting to totally isolate Serbia: diplomatically and economically. It is on record as intending to work out special ties to Slovenia and Croatia. And it has used the word "recognition" in a manner which clearly hints that continued Serbian intransigence may well cause this card to be played. Senate Resolution 213 expresses the sense of the Senate that if Serbia will not cooperate, the United States will—as the EC is threatening to do—confront the issue of recognizing the independence of Slovenia and of Croatia, within that Republic's borders as established by history, custom, and law. That we and other nations should also move to protect the rights of all minorities in the Republics and Provinces of Yugoslavia should be a given, and Senate Resolution 213 makes that clear.

But if Serbia will not cooperate in bringing this war to a conclusion, the United States, the European Community, and the world in general should draw the necessary conclusions and act upon them to protect basic principles of international order while that is still possible. I believe that all of us agree that sometime in the future a durable peace in this region requires that some kind of common framework for cooperation needs to replace the shattered and essentially totalitarian dream of a unitary Yugoslav state. But that framework cannot be assembled at gunpoint. It has to come into being based on the consent of the peoples who will have to make it work, and right now those peoples are concentrating on achieving the stature of independence, which alone gives them the means to choose cooperation in the future on the basis of decisions taken in freedom and in dignity.

There are times when we should be concerned to protect the continuity of other states that matter to us. For many years, so long as our primary concern was the Soviet threat, what mattered most to us about Yugoslavia was that it was a barrier to Soviet expansionism and for that purpose it had to be unitary and intact.

There are other times in history when we must recognize that efforts to prolong the continuity of failed governments is itself a source of danger for our interests. The Serbian effort to perpetuate a dominant position over other peoples in this region now threatens America's national interest. Even if human concerns did not force us to realize that the time for change has come, a rational calculation of our national interest ought to. If we do not know how to help history move forward, it will assuredly know how to pull us back.

Mr. President, I ask unanimous consent to have printed the text of Senate Resolution 213, as amended.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 213

Whereas attacks against the people and territory of the Republic of Croatia by armed forces responding to direction from the Republic of Serbia are continuing despite numerous cease-fire agreements negotiated under the auspices of the European Community;

Whereas losses of life, property, and displacement of persons have already reached grievous levels and are continuing to rise as the result of continued violation of cease-fires;

Whereas attacks against the Republic of Croatia represent an effort to change post-war borders by force; and

Whereas it is a fundamental principle essential for the future peace of Europe that internationally recognized borders not be changed by force: Now, therefore, be it

Resolved, That it is the sense of the Senate that, if the Croatian government adheres in good faith to the terms of cease-fires negotiated by the European Community, and if those parties now conducting military operations against the Republic of Croatia refuse to comply immediately with the terms of such cease-fires, the policy of the United States should be—

(1) to consult promptly with the EC, with other countries on a bilateral basis, and with the United Nations on the question of recognizing, upon request, those Republics such as Slovenia and Croatia that have declared their sovereignty and independence and have agreed to cooperate with EC efforts;

(2) to take whatever steps are needed under existing legal authorities to bring the United States into conformity with sanctions and other punitive measures agreed to by the EC for its own members and recommended by them for others, and to take action parallel to those proposed by the EC for applying "positive compensatory measures" to be applied to those parties that "cooperate in a peaceful way towards a comprehensive political solution on the basis of EC proposals;"

(3) to offer humanitarian assistance to those republics that require such assistance on an emergency basis in light of conflict taking place on their territories;

(4) to place the Republic of Serbia on notice that continued military action will cause the United States to support EC efforts to call for mandatory UN Security Council measures as a response to an act of aggression;

(5) to require of all authorities a clear and binding commitment to protect the rights of minorities living within the borders mutually recognized by the republics and provinces of Yugoslavia in 1974 and to seek formal commitment on their part to accept international inspection and, if necessary, arbitration, to protect those rights; and

(6) to lend strong support to all EC and other international activities aimed at bringing about a restoration of peace and respect for the principle that territorial disputes shall not be settled by the use of violence.

EXHIBIT 1

COSPONSORS OF SENATE RESOLUTION 213, AS OF NOVEMBER 20

Gore/Pell Lieberman, Wellstone, Kohl, Gorton, Akaka, Adams, J. Kerry, DeConcini, Wirth, Wofford, D'Amato, Pressler, Bryan, Dixon, Johnston, Dole, Breaux, Specter, Exon, Inouye, Rockefeller, Danforth, Craig, Riegle, Lautenberg.

BACKDOOR ACCESS FOR POLLUTERS

Mr. GORE. Mr. President, before my time expires, I would like to turn to another matter. I ask unanimous consent to have printed at the conclusion of these remarks two newspaper articles, one from the Washington Post by Michael Weisskopf and one from the Boston Globe by Michael Kranish.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORE. Mr. President, both of these reports describe what I believe is a reprehensible conflict of interest within the administration. The White House has established a special panel, the Council on Competitiveness, to give polluters backdoor access to review regulations protecting the environment before they are put into effect. Companies that dump pollution into the environment go through the process established by EPA to fight against regulations, and some they win and some they lose. But in every case, especially when they lose, after the public process is over with, they are given another bite at the apple, illegally and unconstitutionally, in my view. I will spell out in just a moment my reasons for believing that.

They come in the back door and, without any procedural safeguards for the public's interests, they whisper in the ear of this White House panel Director and say, "EPA should not have won this one, it is too tough on us, kill it," and in many cases they kill it.

Now we find that the Executive Director of that panel, Alan Hubbard is an owner of a chemical company putting pollution into the atmosphere and that he is affected by the regulations he is reviewing. He got $786,000 in dividends from this company in 1990, the last year for which the figures are available. The regulations affect his company.

Yet, he is in charge of the hot wiring. He is the one who decides whether to take an EPA regulation that EPA will not give in on and shuffle it over to this Council that is made up of the people in the administration most hostile to environmental protection. That is his power.

Vice President QUAYLE, who chairs the Council, has given Hubbard an ex-

VOL
137
PT
23
NO
21
—
25
1991
UMI

emption from the conflict of interest requirements. Hubbard says he avoids dealing with any regulation that directly affects his company.

It is unclear as to whether he has been successful in so doing. His company is World Wide Chemical, Inc., in which he has an interest valued at over $1 million. We do not know how much over $1 million.

One of the issues that has been referred to his Council—and the way it gets referred to his Council is the polluters call up and say, "Hey, look at this,"—one is a matter involving the regulation of small polluters, a category in which, World Wide, his company, falls, this regulation in question would give a blanket 5-year exemption from the permits for companies that emit small amounts of pollution, like Mr. Hubbard's company.

That exemption was approved by EPA. I think that violates the authority granted to EPA by Congress. I think they went too far there. But EPA gagged on what Mr. Hubbard is trying to make them do because EPA said, "We are going to give you this exemption for 5 years, but then you, the polluter, have the burden of proof to extend that exemption." Mr. Hubbard says, "No, no, no, no, we want to hot wire that provision; we want that to stay in effect and give the polluter an indefinite exemption unless EPA bears the burden of proof to come in and affirmatively change it."

Apparently, EPA gagged on it, as I said, and has decided to fight. The evidence is all in the public press now, but, Mr. President, this is an outrage. Here we have a situation that clearly illustrates what the American people are sick and tired of—the arrogance of power. A polluter with more than $1 million in a company that is polluting the environment is put in charge of the regulations governing the pollution, is acting behind closed doors, refusing to answer questions from Congress or anyone else, refusing to abide by the safeguards established in the laws which delegate authority to the Environmental Protection Agency, safeguards which say, in effect, be fair. Mr. Hubbard is thumbing his nose at the law and the principle of due process and hot-wiring regulations to allow the pollution of the environment to continue unimpeded.

You think the American people are tired of the arrogance of power, of people who are in power just caring little or nothing about the people? Well, here is a prime example. And Vice President QUAYLE has specifically given him an exemption from the conflict-of-interest regulations. And President Bush, who originally chaired this panel in the Reagan administration, knows all about it. He is the one who set this deal up.

The Constitution gives some powers directly to the President. It gives others to the Congress, which we delegate to agencies to administer laws, and when we delegate power, we often establish safeguards to ensure that power is exercised fairly. It is that latter route by which the Constitution has given authority to regulate this pollution, and this executive branch officer is violating the safeguards that we established here in the Congress, and the administration is saying, we do not care, we are going to give him an exemption. Even though he owns a polluting company, we are going to give him extra constitutional authority to cut down the regulations.

Vice President QUAYLE made a critical error not only by turning his back on a flagrant conflict of interest but also by condoning that conflict of interest with a waiver. Vice President QUAYLE should not have granted that waiver and Allan Hubbard should not be allowed to continue as Executive Director of the President's Council on Competitiveness. This arrogance of power must stop. It's time to put the public's interest first, not the special interests of polluters or the personal interests of high-placed bureaucrats. That's why today I am calling for Allan Hubbard's immediate resignation as Executive Director of the President's Council on Competitiveness.

EXHIBIT 1

[From the Washington Post, Nov. 20, 1991]

REGULATORY ADVISER HAS STAKE IN CHEMICAL FIRM

(By Michael Weisskopf)

The executive director of the White House council that reviews federal regulations, including new Clean Air Act rules for the chemical industry, is half owner of a chemical processing company in Indianapolis.

As chief administrator of the President's Council on Competitiveness, Allan B. Hubbard coordinates debates among agencies on clean air regulations and has an important say on the antipollution rules the chemical industry will have to observe. The council itself has drawn increasing attention—and some criticism from congressional authors of the law—for altering regulations to make them more palatable to business.

According to Hubbard's financial disclosure report at the Office of Government Ethics, he has an interest of "over $1 million" in World Wide Chemical Inc., which manufactures car polishes, waxes and cleaners. The company paid him $786,233 in dividends in 1990, Hubbard reported.

Hubbard has sought and received from Vice President Quayle, the council chairman, a waiver of conflict-of-interest laws which otherwise might have prevented him from participating in decisions affecting the industry in which he has a financial interest.

In a memo last May to Quayle disclosing his business interests, Hubbard pledged to avoid "even the appearance of a conflict," saying he would rescue himself "from any particular matter that specifically involves" his holdings. Specifically, he promised to abstain from matters involving auto appearance.

There is no evidence that Hubbard has departed from that pledge. He has, however, participated in decisions affecting regulation of the chemical industry generally.

Last week, for example, Hubbard asked the Department of Justice to review a legal opinion by the EPA questioning whether business should be able to increase pollution simply by giving seven days' notice to environmental authorities.

By seeking the review, officials said, Hubbard kept the EPA from complying with the Nov. 15 deadline set by Congress for the issuance of regulations governing a key enforcement tool of the Clean Air Act Amendments of 1990: the process for controlling pollution through the granting and withholding of permits.

According to administration officials, Hubbard also participated in a recent meeting where outstanding issues of the permit regulations were discussed.

Federal law prohibits government officials from participating "personally and substantially" in decisions in which they have a financial interest. A waiver may be granted if the official fully discloses his holdings and receives a written finding from a superior that his judgment would not be compromised.

Hubbard declined several interview requests in recent days. He also has declined invitations to testify in Congress about the council. The council was set up to make sure regulations were not unduly burdensome on industry. In practice, this has usually meant scaling back regulations to hold down costs. In recent months, the council has been criticized for its secrecy. Because of its White House status, it is not subject to the same "sunshine" provisions of federal law that governs regulatory agencies such as the EPA.

Hubbard serves as deputy chief of staff to Quayle and became director of the Council on Competitiveness in June 1990.

"I believe that the range of chemicals processed by World Wide is sufficiently narrow to establish that I do not have an interest in particular matters focused upon the chemical industry generally that is so substantial as to be deemed likely to affect my services in government," Hubbard said in the May 22 memo to Quayle.

Vice presidential spokesman David Beckwith said that Quayle approved the waiver and that Hubbard has circulated a copy of his recusal statement to his staff with instructions that matters posing a potential conflict be referred to his deputy.

Such a referral "has not been necessary to date," according to the spokesman.

Hubbard has said previously that he chairs a biweekly meeting on rule-making for the new clean air law, which is expected to cost industry $26 billion a year and cover virtually every manufacturer from utilities to cars. He uses the meetings for general discussions of issues and to resolve differences among agencies, he said.

Although the EPA is legally responsible for writing and enforcing the law, the Office of Management and Budget has veto power over all regulations under a longstanding executive order.

Since Bush inaugurated the competitiveness council in 1989 to protect industry from onerous regulation, it has opened the rule-making process to aides of its six permanent members, including those least sympathetic to environmental laws—the director of OMB, the secretaries of Commerce and the Treasury, the White House chief of staff and the chairman of the Council of Economic Advisers.

Hubbard can call a formal session of the council in the event of irreconcilable differences between the agencies. That, officials

say, is the real source of his power. Knowing it faces even more formidable foes among the council members, the EPA is more inclined to compromise with its conservative rivals.

The proposed rules governing pollution permits have divided the administration for months. Congress was unusually explicit in its directions for permits, intended to give backbone to the law by spelling out pollution limits for each factory, timetables for achieving them and specific duties for companies to plan and monitor the cutbacks.

Among the issues is the regulation of small polluters, such as World Wide, which emitted less than 10 tons of toxic and smog-forming substances last year, according to a company report to the EPA. The agency has proposed granting a blanket, five-year exemption from the permits for companies that emit relatively small amounts of pollution. The proposal, while it appears to exceed the discretion that Congress gave the EPA for such exemptions, is accepted by all sides of the administration.

What is in dispute, however, is the fate of small polluters after the grace period, according to informed sources. The EPA wants the exception to expire automatically, unless the agency extends it. OMB officials want the burden reversed: They want the exemption automatically extended unless the EPA decides formally to stop it.

Asked whether the issue would pose a conflict for Hubbard, his spokesman said, "He hasn't had to face it, so we don't know.

Another issue concerns the procedures that companies with permits must follow if they want to exceed allowed emissions. In these circumstances, the law requires polluters to apply for a new permit, triggering a public review. The EPA carried out that provision in its initial draft of the regulations. But in a package of "suggested changes" sent to the agency April 6 by Hubbard's deputy, David McIntosh, the rule was revised in line with the demands of industry lobbyists. Under the revision, plants would be allowed to increase pollution, essentially without limit, by giving seven days' notice to authorities. No public review would be required.

According to Beckwith, the revisions were prepared by other White House officials. Hubbard was not involved, he said.

When the EPA formally proposed its permit rules in late April, the revised plan was intact. But by August, its general counsel questioned the legality of exceeding permit limits on pollution without public review. Hubbard asked the Justice Department for a second opinion Nov. 12.

Beckwith said that Hubbard asked for the opinion to resolve the legal questions, and that he has not taken a position on the issue. Asked if World Wide had an interest in the outcome if it eventually is required to get a permit, he said such questions were "speculative."

[From the Boston Globe, Nov. 20, 1991]

QUAYLE AIDE'S FIRM IS LINKED TO POLLUTION

(By Michael Kranish)

WASHINGTON.—Vice President Dan Quayle's deputy chief of staff, who is deeply involved in the revision of federal clean air regulations, is co-owner of a company that an Indianapolis official said violates local antipollution laws. The official also said the company could benefit from the revisions that the aide is pursuing.

Quayle granted the aide, Allan Hubbard, a waiver of federal conflict-of-interest laws, allowing him to work on issues that might generally benefit his substantial corporate holdings, according to documents reviewed by the Globe.

Hubbard is Quayle's deputy chief of staff and executive director of the Council on Competitiveness, which the vice president heads.

In that role he oversees the council's review of federal regulations that affect business interests. Critics say the council's proposed changes would weaken dozens of air pollution regulations.

On Nov. 12, Hubbard signed a memorandum asking the Justice Department about the legality of a Quayle proposal to allow a company to increase pollution if local authorities fail to object in one week.

Hubbard owns 50 percent of World Wide Chemical Inc., an Indianapolis firm that deals with products used in automobile finishing. Indiana environmental officials told The Globe that the company emits toxic pollutants without the required local permit. Hubbard's company, they said, stands to benefit from some of the regulation changes proposed by Quayle's council.

As reported by The Globe last week, some Democrats say the Quayle and the Hubbard-run council are acting as a "shadow government," overturning proposed federal regulations at the behest of business lobbyists. The Environmental Protection Agency recently clashed with the panel on several matters, including a decision by Quayle to redefine wetlands in a way that would allow commercial development of vast acreage now off limits.

A Quayle spokesman denied that Hubbard has a conflict of interest in the air pollution case. The spokesman said that while Hubbard did not remove himself from dealing with such matters, he received a special waiver that enables him to deal with issues even though they could affect the financial interest of an industry with which he is associated.

"The vice president gave him the waiver," said the spokesman, David Beckwith.

The waiver allows Hubbard to deal with matters that generally benefit his company, but not a specific matter such as a contract that affects his firm, according to a Quayle aide. Beckwith denied that the waiver had created the appearance of a conflict of interest.

Hubbard has not been charged with any wrongdoing.

Beckwith said Hubbard "doesn't know anything" about claims his company is violating clean air laws.

According to Hubbard's financial disclosure reports, he made $786,000 from his half-ownership of World Wide Chemical in 1990 and nearly $1.6 million the year before. Hubbard also has millions of dollars worth of investments in an array of other interests, making him among the wealthiest members of the Bush administration.

Records on file in Indianapolis show that in 1990 World Wide Chemical emitted into the air about 19,000 pounds of chemicals, some of them classified by the federal government as toxic and ozone-depleting.

The firm was not subject to federal laws until the Clean Air Act passed in 1990, but the regulations for that are not in effect yet.

FIRM LACK PERMIT

David Jordan, director of the Indianapolis Air Pollution Board, said in an interview that World Wide Chemical does not have the permit required to release the emissions. The company is putting out nearly four times the allowable emissions without a permit and could be subject to a $2,500-a-day penalty, Jordan said.

"We believe, based on the information we have, that they should have an operating permit," Jordon told the Globe. They are currently violating a local regulation."

The official said the company should have obtained a permit "at some point in the last six to eight years."

Jordan said his agency notified World Wide Chemical on Nov. 6 about the need for the permit, and he said his agency will have to make some judgment as to whether it was just ignorance on their part. It will probably be a matter of how cooperative they are in submitting the necessary paperwork."

If the board determines that World Wide Chemical violated the law out of ignorance, Jordan said, the board might not invoke the penalty.

TERRIBLE IDEAS

Jordan is also president of the National Association of Local Pollution Control Officials, which has charged that the Council on Competitiveness is trying to weaken air pollution laws by making it difficult or impossible for local officials to control pollution at local companies. Jordan said he did not know Hubbard was an owner of World Wide Chemical and executive director of the council until informed yesterday by The Globe.

Jordan said he was surprised at the connection and said it raised questions about the propriety of Hubbard's involvement in the council's review of air pollution laws.

Jordan charged that Quayle's council has come up with "terrible ideas" that could limit the ability of local boards to police air pollution violators.

He cited a proposal that would allow a company to increase pollution if a state did not object within seven days.

EPA FOUGHT PROPOSAL

The Environmental Protection Agency fought the proposal, saying it would not allow time for the public to object to increased pollution. EPA general counsel Donald Elliott wrote a legal opinion saying the proposal would be thrown out of court. Hubbard then wrote a letter to the Justice Department Nov. 12 asking for a new opinion.

Beckwith said Hubbard did not take a position on the seven-day proposal. Nonetheless, the Council on Competitiveness originally backed the proposal, and Hubbard's letter indicates that the council is trying to get a new legal opinion to uphold it.

Jordan, the Indianapolis official said Hubbard's company could benefit if the seven-day pollution proposal were upheld.

In another example, the EPA, earlier this year, proposed that the federal government be allowed to enforce air pollution laws if a local government does not. Quayle's council is seeking to block the plan.

If Quayle's revision is approved, the federal government and citizens' groups would not be allowed to sue a company if the local government does not enforce air pollution laws, according to government officials. The officials said Hubbard's company also could benefit from that action.

Beckwith said that although the proposal was forwarded to the EPA on vice presidential stationary by Hubbard's top assistant, it was not fair to assume that Hubbard had backed it.

MOTIVES QUESTIONED

Quayle, he added, "has complete confidence" in Hubbard and does not think his aide did anything wrong. Beckwith said "Hubbard only attends quarterly stockholders' meetings" and does not know anything about charges that the company violates air pollution laws.

Beckwith at one point questioned Jordan's motives, asking what party Jordan belonged

VOL 137 PT 23 NO 21–25 1991 UMI

to. Jordan, a Republican, said he had no political motive for making his statement, and he stressed that he did not know Hubbard had anything to do with World Wide Chemical until yesterday.

Beckwith said "Hubbard had gone to extraordinary lengths to go beyond the requirement of the ethics law to make sure that conflict and even the appearances of conflict do not occur." However, the spokesman acknowledged that Hubbard did not divest himself of his holdings when he entered government nor did he put his holdings into a blind trust. Divestiture is not required, but many officials, including President Bush, have taken such steps to avoid suggestions of impropriety.

Quayle became acquainted with Hubbard after Hubbard's wife helped run Quayle's Senate race in 1980. Hubbard was the campaign manager of Senator's du Pont's unsuccessful race for the presidency in 1988.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Chair recognizes the Senator from Nevada [Mr. REID] for 15 minutes.

DRUG TESTING OF SCHOOLBUS DRIVERS

Mr. REID. Mr. President, this past August, on a Wednesday night, August 28, just after midnight, in New York, beneath Manhattan's Union Square, 5 people were killed and over 200 injured in a bloody accident. The cause of the accident was the result of the actions of one Robert E. Ray, who was the driver of the subway car which, at the time of the incident, was traveling three times faster than the limit posted when the train smashed into a steel column. Robert E. Ray was drunk and in the process of falling asleep at the time of this accident. Ray's blood alcohol level, in fact, was twice the State's legal limit for operating a vehicle, and this test came about 13 hours after the accident. Think of how badly deficient he was at the time of the accident.

Mr. President, experts estimate that his blood alcohol level 13 hours before he was tested was at least .33 percent.

Most people would have passed out long before Robert E. Ray fell asleep at the controls of his subway car. His ability to still be awake with a blood alcohol level of .33 is a sign of chronic use of alcohol.

Because this was a case of chronic use, this accident could have been avoided if the driver, Robert E. Ray, had been subjected to a drug test any time during his employment, not just the day or the night before this accident. Mr. President, lives could been saved. Human beings could still be alive. Five of them were taken from this Earth as a result of his activities. If a drug testing program had been implemented, 200 people would not have been injured, some of them seriously, and 5 people would still be alive. If this were an isolated incident, we could disregard it, but it is not an isolated incident.

Last December, less than a year ago, at 6:45 a.m. in a subway in Boston, 33 people were hurt when a trolley struck another from behind. At least 1 of the 33 injured was critically injured. The driver tested positive for alcohol abuse.

Again, in 1988, an Amtrak train, the so-called Washington-to-Boston Night Owl, went down the wrong track and smashed into a 17-ton ballast regulator and derailed just north of Philadelphia; 19 people were injured, some of those seriously, 2 locomotives overturned, 10 passenger cars derailed. The switchman on duty during the crash failed his drug test. Why? Because he was grossly under the influence of drugs when he sent his train down the wrong tracks.

One of the greatest environmental disasters of all time, the *Exxon Valdez* spill in Alaska, which in effect devastated so much of the beautiful Alaska coastline, was as a result of a drunk captain, Joseph Hazelwood.

These tales of horror and terror continue, as we speak, on our roads, on our rails, on the seas, and even in the skies. In the skies? Yes, even in the skies? In August of last year, three Northwest Airlines crew members were convicted of flying while intoxicated—not driving while intoxicated, flying while intoxicated. One of the pilots testified he drank 20 rum and cokes the night before his 6 a.m. takeoff.

The Transportation Department's inspector general has also reported that 10,300 active pilots certified by the Federal Aviation Administration had their automobile licenses suspended or revoked for drunken driving. These are the same people who carry me and hundreds of thousands of other passengers from National Airport, Dulles Airport, Dallas-Fort Worth, McCarran in Las Vegas, Cannon in Reno. Wherever we go, there is the potential of one of these 10,300 FAA active pilots flying, or trying to fly, us across the country.

This Congress has passed legislation that addresses this issue. We have required alcohol and drug testing of certain transportation workers in various safety-sensitive positions, and rightfully so. We have, however, overlooked one very important group, schoolbus drivers. But I must say in passing, Mr. President, that this is not the first time children have been forgotten. Children, really, in this modern day and age, are the forgotten group. That is one of the reasons why 25 percent of young people who enter high school never graduate; we do not pay a lot of attention to them, and we have failed to pay attention to them in this regard.

Why are our schoolchildren not as important as a truckload or trainload of chemicals? How is it possible transportation workers who are responsible for driving our children to and from school are exempted from the regulations we have passed? It does not make sense.

This past September, a couple months ago, not far from where I stand today, not far from this Senate Chamber—in fact, in Montgomery County—a schoolbus driver with children on board was clocked exceeding the speed limit. This was a 30-mile-an-hour speed limit. The bus turned on to what is called Route 27, one of the busiest roads in the entire area, and started going even faster. After having been witnessed twice recklessly crossing over the dividing line on the highway, he was stopped and arrested and tested to be under the influence of drugs.

In this instance we have a happy ending; the children were not hurt, but we cannot leave such a thing to chance. Some school districts—for example, the Montgomery County school district, about which I just spoke—have drug testing policies for their bus drivers. You see, in most places in this country, if that bus driver had been stopped, his employer could not have tested him. Law enforcement officials under certain circumstances could, but his employer could not. Drivers are required, in Montgomery County, to take a drug test at their annual physical and after any incident involving their bus.

The policy also allows for random testing. For example, in the Manhattan Union Station tragedy, that involved a chronic abuser of alcohol. In this instance, if in fact they had had a procedure like in Montgomery County, that person could have been tested at random and because he was a chronic user, it would have come up positive and he would have been taken from the controls.

Since March 1991, using the example of Montgomery County, when this plan was implemented, 9 of 211 drivers tested positive. That is 5 percent. Seven of those have been fired and the other two cases are pending. This is an average of one case per month in just one school district or, as I said, about 5 percent.

We can extend Montgomery County's rate of 5 percent nationwide. If we do that, it is obvious that this country needs a nationwide policy. Parents and students have a right to know whether their bus drivers are loaded, not loaded with passengers but with drugs or alcohol.

National Public Radio recently ran a segment on a program called All Things Considered, and they were talking on that program about a confession service in New York where you can dial a number and confess to whatever you feel like confessing about on the telephone. They had some outrageous things that people had called confessing about. And they have the actual voices of persons who had called in confessing. One confessed that he was a bus driver, and that he went to work high every day; that he was trying to stop but he could not. He said he was always stoned while he drove the bus.

I think we have enough examples that we can easily show there is a need

to do some drug and alcohol testing of school bus drivers.

The Supreme Court has permitted the unannounced drug tests under certain circumstances for workers who hold safety-sensitive jobs. We should not have to have a requirement of a Supreme Court decision to tell us that schoolchildren are being driven around by drivers in situations where the driver is in a safety-sensitive position.

Driving our children to school is one of the most safety-sensitive positions that I can think of. If 5 percent of our children are being put at risk by drunken or stoned bus drivers we need to do something about it. I hope my colleagues will support me in this effort.

I yield the floor, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Chair informs the Senator from Illinois that we are. Under a previous order the Senator from Connecticut [Mr. LIEBERMAN] is permitted to speak for 5 minutes, and the Senator from Arkansas [Mr. PRYOR] controls the remaining time until 10 a.m. this morning.

ORDER OF PROCEDURE

Mr. SIMON. Mr. President, I ask unanimous consent to speak for not more than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. I have no objection, Mr. President. The Senator from Arkansas looks forward to hearing the Senator from Illinois speak.

The PRESIDING OFFICER. The record will so note. The Senator from Illinois is recognized.

Mr. SIMON. I thank the Senator from Arkansas.

MOVE TO END HIRING PREFERENCES

Mr. SIMON. Mr. President, I got up this morning, picked up the morning newspapers, and read about the move by the administration away from affirmative action. I could not believe that we in this country are going to turn our backs in saying we want opportunity for everyone.

We have slipped into a kind of poisonous atmosphere in this country that is not helpful. In the last 10 years we have sanctified indifference. The stops are not far from indifference to Willie Hortonism to Dukeism, and now the administration seeing what has happened with the Duke phenomenon is hoping it is not going to be bitten by that monster that they have created.

We have to return to seeing to it we are going to give opportunity for everyone. That means reaching out to some people who have been denied opportunity. That is what affirmative action is all about. It does not mean we are going to hire people who are not qualified. It does mean that we are going to see to it the dream of opportunity is here.

Just this morning I read this statistic, that the number of children in very poor homes—that is homes where there is half the poverty rate—has grown in this past decade from 3.3 to 4.8 million.

We just are ignoring these kind of things. I want to see a country with compassion. I want to see a country with common sense. I want to see a country that creates more and more opportunity for all Americans, and we are moving away from that. I think it is a great disservice to the country.

The administration in the announcement that was made yesterday is trying for political reasons to move away and to escape from the bite of the monster of Dukeism. They helped to create that monster by their own actions. I hope that there will be a reaction in this country that will move us back to a more common sense compassionate course.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

Mr. PRYOR. Mr. President, first, I want to make one or two brief statements relative to prescription drug prices in the United States of America, where we are today, and to say that the prescription drug price increases of the last year and of the last decade are absolutely defying the law of gravity.

In the whole medical care area, in the health care system we have in this country, the cost of prescription drugs for the average American is the single biggest cost increase factor in the whole health care environment.

Mr. President, today, on behalf of myself, along with Senator COHEN, Senator SASSER, Senator BAUCUS, Senator BURDICK, Senator CONRAD, Senator EXON, Senator METZENBAUM, and Senator WELLSTONE, we are introducing the Prescription Drug Cost Containment Act of 1991. It is a step in the right direction, Mr. President. It is not the overall cure, but it is a step that we must take.

This is an area that is so concerning to me, and so concerning to all of us in the U.S. Senate, that almost on a daily basis—in fact, sometimes several times a day—when we open our mail from constituents back home, seldom does a day go by that there is not some elderly person or some individual constituent out there who is writing to protest the cost of drugs.

Mr. President, the drug manufacturers of America have become greedy. They have become rich. They have become insensitive, and they have become immune to the cries of those Americans out there everywhere who say, yes, we may make the finest prescription drugs in the world, but the problem is we can no longer afford to purchase them. It is happening all across America, Mr. President, in all walks of life. Whether we be Democrat or Republican, we are hearing from our constituents that no longer can they afford the cost of prescription drugs.

Mr. President, in fact, if I might demonstrate on this chart, when the prescription drug companies last year were told by an act of Congress that we were going to attempt to lower the prices of those drugs that they sold to the State Medicaid programs, we thought the Congress had then sent a message that said to the pharmaceutical manufacturers of this country that no longer are you going to continue increasing your prices over the cost of inflation without some action by Congress.

So the Congress spoke. In the OBRA 90 of last October, we spoke, I think, in very clear terms. But what happened since October 1990 until 1991? At the present time, we have seen general inflation rise 2.9 percent in that 12-month period.

What have we seen the pharmaceutical manufacturers do, Mr. President? We have seen them increase the price of prescription drugs, not 2.9 percent, as is happening in Canada, for example, or might be happening in Germany or Great Britain, but we are seeing the cost of prescription drugs in that 12-month period rise 10.1 percent.

This is in keeping, Mr. President, with an overall inflation rate of prescription drugs over the past decade, which has consistently tripled the rate of general inflation. We have seen, for example, Mr. President, in prescription drug costs, since 1980 let us say, a bottle of pills that sold for $20, we have seen that same $20 bottle of pills increase to $53.76 in 1991. If this trend continues, Mr. President, that same cost of prescription drugs, that same $20 bottle of 1980 is going to, by 1995, cost $77.06. By the year 2000, 9 years from now, it will cost $120.88.

We have seen over the last decade a general rate of inflation of 58 percent—58 percent in the past 10 years. That is

VOL 137 PT 23 NO 21—25 1991 UMI

the blue area on the chart, Mr. President, from July 1980 to July 1990.

In looking back over that decade, the price of prescription drugs has spiraled 152 percent—a staggering increase, especially a staggering increase for those citizens out there across our country who are victims of this price gouging, and who no longer can afford the price of being ill. We think that this is a situation, Mr. President, that can no longer continue.

Mr. President, as recently as yesterday, I visited CNN, along with a representative of the drug manufacturers. It was a public visit.

This particular chart demonstrates what the drug companies are doing today in compensating their executives. They say: We care about the poor people in America. We want to make certain that they not only have quality drugs, but that they are at a fair price. We want to make certain that there is a sense of basic fairness in the marketplace, where we are not taking advantage of anyone. Yet, we want to make a reasonable profit, so that we can develop and make more drugs to cure AIDS, cancer, Alzheimer's, and other diseases.

Well, Mr. President, let us look and see how the drug companies are making out. If we might look here at the average elderly household income.

I see my friend from Tennessee, Mr. SASSER, who is going to be speaking momentarily. He is a cosponsor, along with Senator COHEN, my colleague on the Aging Committee, the vice chairman of the Aging Committee from the State of Maine.

When we look at these figures, the median elderly household income in America today is $8,781.

Mr. President, we looked at the salary of the top 15 drug companies' executives in America. What would you imagine their salaries might be, Mr. President, of the CEO's of these companies that want to represent the people, and be fair, and give them a good deal? The median salary of the CEO's of these top 15 manufacturing companies salaries is $1.56 million. This is not stock. It is not stock options. It is not dues to the country clubs. It is not yachts, sailboats, Mercedes, chauffeurs, or limousines, or other perks. This is their base salary—$1.56 million, the median salary for the top CEO's of our 15 major drug companies.

Then the drug companies come back and say to the Members of the Congress and the American public, "We would like to have these profits, because we must find a cure for cancer; we must find a cure for AIDS; we must find a cure for Alzheimer's disease that is affecting the elderly population of our country."

Let us look at this argument. We have taken one company, Ciba-Geigy, because we think what they have done is very, very representative of what is happening with many companies in the drug industry. While many companies are investing in research, there are many cutting back on research and adding to their profits by simply increasing their prices to try to find new ways to sell what we call "me too" drugs. These are not the breakthrough drugs. These are the drugs that duplicate the drugs that are already on the market. They change the color of the capsule. They might change the color of the box. They might hire huge marketing firms to find out how to get doctors to prescribe these particular drugs.

We think that in itself is an abuse that we are going to talk about a great deal later.

So the pharmaceutical manufacturers are not only pulling the wool over the eyes of Congress and the American people, but now they are getting in our pocketbook. They are getting in the pocketbook of the poorest of the poor to enrich the richest of the rich.

We think that the legislation that we are going to introduce today is going to be a step in the right direction.

My colleagues are going to be called upon in just a moment to make a presentation and statements. Let me ask my colleagues if they are aware of a section in the Internal Revenue Service Code called the section 936 program? You can pick up the phone and you can call any tax lawyer or CPA and you can say, "What is the section 936 program?" Well, a moment of history:

In the 1920's, this country adopted legislation which said that we want to help the territories of the United States, such as Puerto Rico, we want to help the Philippines, we want to create jobs in those territories to help bolster them economically. So section 936 became a part of the Tax Code. Any industry basically could use it. You could go to Puerto Rico, you could set up a plant, and if you hire a native worker there, you get a tax credit.

For example, if you are a shoe manufacturer and you want inexpensive labor, you can set up a manufacturing operation in Puerto Rico. The amount of the tax credit, Mr. President, is not based on good will, it is not based on altruism, it is not based on what is going to be good for the economy of Puerto Rico; it is based, rather, on what is going to be good for the economy and the finances of the drug companies. Because of the enormous profits that the drug companies are making, under section 936, a drug company can get a tax credit—unbelieveable but true—of $70,788 per employee that they hire in Puerto Rico for an average salary paid of $24,500.

Mr. President, I know this is incredible, but these are the figures from the Internal Revenue Service, based on the latest available data in 1987.

Today in 1991, because drug profits have gone up even more; we would anticipate that this $70,000 may even be higher now.

Mr. President, we are going to say in our legislation that those drug companies that are taking advantage of this section of the Tax Code, when they increase their drug prices over the price of the general inflation rate, we are going to take away some of these section 936 tax credits.

Further, we are going to say that the savings, the billions of dollars in savings, from this tax credit reduction, first, are going to go for deficit reduction and, second, are going to go to establish demonstration projects across America to help Medicare beneficiaries—the elderly in our country—afford their prescription drugs.

Third, this legislation is going to establish a new board. I know that no one wants to establish a new board, but we are going to establish a new board that represents the people. It is going to become, we hope, the people's advocate against the drug manufacturers in trying to get a better deal. This board will be called the Prescription Drug Policy Review Commission. This Commission would determine the feasibility of establishing a Canadian-like drug price review board, here in our country, which has helped contain the drug prices in Canada. We are going to see if that would be feasible here. We are going to analyze international prescription drug pricing trends. American consumers pays more for their drugs than the citizens of any other industrialized country of Europe or in Canada. And finally, we are going to make policy recommendations aimed at containing drug cost increases for Medicare and Medicaid and other public and private programs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prescription Drug Cost Containment Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) although prescription drugs represent one of the most frequently used medical care interventions in treating common acute and chronic diseases, many Americans, especially elderly and other vulnerable populations, are unable to afford their medications because of excessive and persistent prescription drug price inflation;

(2) between 1980 and 1990, prescription drug price inflation was triple the rate of general inflation, and in the first half of 1991, prescription drug price inflation increased even faster, exceeding 3½ times the rate of general inflation on an annualized basis;

(3) because of the limited availability of private or public prescription drug coverage for the elderly, prescription drugs represent

the highest out-of-pocket medical care cost for 3 of 4 elderly patients, surpassed only by costs of long-term care services;

(4) prescription drug manufacturers continue to make enormous profits on the backs of the elderly, poor, and other vulnerable populations that are unable to afford their medications;

(5) the Federal Government and American taxpayer provide substantial subsidies to the pharmaceutical industry in the form of tax incentives, tax write-offs, and grants for non-research activities;

(6) for example, in 1987 alone, the pharmaceutical industry received a section 936 tax credit of more than $1,400,000,000, and such credit is estimated to have yielded over $2,000,000,000 in tax breaks in 1990 to such industry; and

(7) in addition, there is a need to determine whether Federal subsidies are used in the most efficient manner by the pharmaceutical industry to develop drugs which represent true therapeutic advances over those products already on the market.

(b) PURPOSES.—The purposes of this Act are—

(1) to insure that elderly patients and all Americans have access to reasonably-priced pharmaceutical products;

(2) to establish a medicare outpatient prescription drug benefit demonstration project and trust fund;

(3) to provide for the establishment of the Prescription Drug Policy Review Commission and a study of the impact of a pharmaceutical price review board on containing price inflation on prescription pharmaceutical products in the United States;

(4) to provide for a study on how Federal tax credits and subsidies and market exclusivity given to the pharmaceutical industry can be used to modify an individual manufacturer's pricing behavior and research priorities; and

(5) to provide the Federal Government with information on drug prices in other industrialized nations.

SEC. 3. REDUCTION IN POSSESSIONS TAX CREDIT FOR EXCESSIVE PHARMACEUTICAL INFLATION.

(a) IN GENERAL.—Section 936 of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by adding at the end the following new subsection:

"(i) REDUCTION FOR EXCESSIVE PHARMACEUTICAL INFLATION.—

"(1) IN GENERAL.—In the case of any manufacturer of single source drugs or innovator multiple source drugs, the amount by which the credit under this section for the taxable year (determined without regard to this subsection) exceeds the manufacturer's wage base for such taxable year shall be reduced by the product of—

"(A) the amount of such excess, multiplied by

"(B) the sum of the reduction percentages for each single source drug or innovator multiple source drug of the manufacturer for such taxable year.

"(2) MANUFACTURER'S WAGE BASE.—For purposes of this subsection—

"(A) IN GENERAL.—The manufacturer's wage base for any taxable year is equal to the total amount of wages paid during such taxable year by the manufacturer to eligible employees in Puerto Rico with respect to the manufacture of single source drugs and innovator multiple source drugs.

"(B) ELIGIBLE EMPLOYEES.—The term 'eligible employee' means any employee of the manufacturer (as defined in section 3121(d)) who is a bona fide resident of Puerto Rico and subject to tax by Puerto Rico on income from sources within and without Puerto Rico during the entire taxable year.

"(C) WAGES.—The term 'wages' has the meaning given such term by section 3121(a).

"(3) REDUCTION PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The reduction percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) the sales percentage for such drug for such taxable year, by

"(ii) the price increase percentage for such drug for such taxable year.

"(B) SALES PERCENTAGE.—The sales percentage for any drug for any taxable year is the percentage determined by dividing—

"(i) the total sales of such drug by the manufacturer for such taxable year, by

"(ii) the total sales of all single source drugs and innovator multiple source drugs by the manufacturer for such taxable year.

"(C) PRICE INCREASE PERCENTAGE.—The price increase percentage for any drug for any taxable year is the percentage determined by multiplying—

"(i) 20, times

"(ii) the excess (if any) of—

"(I) the percentage increase in the average manufacturer's price for such drug for the taxable year over such average price for the base taxable year, over

"(II) the percentage increase in the Consumer Price Index (as defined in section 1(g)(5)) for the taxable year over the base taxable year.

"(D) TOTAL SALES.—

"(i) DOMESTIC SALES ONLY.—Total sales shall only include sales for use or consumption in the United States.

"(ii) SALES TO RELATED PARTIES NOT INCLUDED.—Total sales shall not include sales to any related party (as defined in section 267(b)).

"(E) AVERAGE MANUFACTURER'S PRICE.—The term 'average manufacturer's price' for any taxable year means the average price paid to the manufacturer by wholesalers or direct buyers and purchasers for each single source drug or innovator multiple source drug sold to the various classes of purchasers.

"(F) BASE TAXABLE YEAR.—The base taxable year for any single source drug or innovator multiple source drug is the later of—

"(i) the last taxable year ending in 1991, or

"(ii) the first taxable year beginning after the date on which the marketing of such drug begins.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—

"(i) IN GENERAL.—The term 'manufacturer' means any person which is engaged in—

"(I) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(II) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(ii) CONTROLLED GROUPS.—For purposes of clause (i)—

"(I) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(II) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subclause shall be based on principles similar to the principles which apply in the case of subclause (I).

"(B) SINGLE SOURCE DRUG.—The term 'single source drug' means a drug or biological which is produced or distributed under an original new drug application or product licensing application, including a drug product or biological marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(C) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug (within the meaning of section 1927(k)(7)(A)(i) of the Social Security Act) that was originally marketed under an original new drug application or a product licensing application approved by the Food and Drug Administration.

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) DOSAGE TREATMENT.—Except as provided by the Secretary, each dosage form and strength of a single source drug or innovator multiple source drug shall be treated as a separate drug.

"(B) ROUNDING OF PERCENTAGES.—Any percentage shall be rounded to the nearest hundredth of a percent.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4. MEDICARE OUTPATIENT PRESCRIPTION DRUG PROGRAM DEMONSTRATION PROJECT.

(a) IN GENERAL.—Not later than October 1, 1992, the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall establish no less than 15 demonstration projects in counties (or other geographic areas) located in different States in rural and urban areas. Each of the counties (or other geographic areas) designated shall have a significant proportion (as determined by the Secretary) of individuals eligible for medicare benefits under title XVIII of the Social Security Act.

(b) PURPOSE.—(1) The purpose of demonstration projects conducted under this section is to assess—

(A) the impact on cost, quality of care, and access to prescription drugs of developing (in each geographic area) a medicare outpatient prescription drug benefit using various forms of benefit design and reimbursement policies, and

(B) the impact on cost and quality of care of extending coverage of outpatient prescription drugs to medicare beneficiaries served by community health centers.

(2) The partial purpose of at least 5 of the demonstration projects is—

(A) to assess the impact on quality of care and reduction in other health care service expenditures of reimbursing pharmacists separately for providing ongoing drug utilization management (including medication regimen review) to insure that prescriptions are appropriate, medically necessary, and unlikely to result in adverse medical results;

VOL
137
PT
23
NO
21
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25
1991
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(B) to reimburse pharmacists (or other persons authorized to dispense drugs under State law) under such projects based on marketplace pricing; and

(C) to use an electronic, on-line claims capture and adjudication component in such projects to process medicare prescription drug claims.

(c) Project Requirements.—(1) A project conducted under this section shall provide for coverage of all drugs and biologicals approved by the Federal Food and Drug Administration and all medically accepted indications of these drugs as indicated in the 3 national compendia of drug use standards: the USP-DI, AHFS-DI, and AMA-DE.

(2) In each geographic area in which a project is conducted, a Drug Use Review Board (hereinafter referred to as the "DUR Board") shall be established which shall consist of a sufficient number of actively practicing physicians and pharmacists from the geographic area who shall possess knowledge in pharmacology and therapeutics, especially as it relates to drug use with respect to the elderly. In lieu of establishing a DUR Board in the area, functions of the DUR Board may be performed by the State medicaid DUR Board established under section 1927(g) of the Social Security Act.

(3) The DUR Board established under this section shall be responsible for recommending the design and development of the medicare prescription drug benefit within the geographic area. It shall establish a program of prospective and retrospective drug use review for medicare beneficiaries entitled to drug benefits under the project. The Board shall also develop appropriate educational interventions to ensure that drugs are prescribed and dispensed in accordance with standards that are described in the 3 national medical compendia and the peer-reviewed medical literature.

(4) In assessing the total costs of the medicare prescription drug benefit, the DUR Board should consider various levels of discounts, rebates (or other appropriate incentives), and inflation containment mechanisms that could be negotiated with, or required from, pharmaceutical manufacturers as a condition of participating in the program, such as the discounts and rebates provided to the medicaid program under section 1927 of the Social Security Act.

(d) Duration of Projects.—The demonstration projects established under this section shall be conducted for a period of 5 fiscal years beginning October 1, 1992, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(e) Evaluation and Report of Secretary.—The Secretary shall fund an independent evaluation of the demonstration projects and shall report to the Congress on the results of such evaluation no later than 5 years from the date of enactment of this Act. The report of the Secretary shall review the impact on cost and quality of care of the various forms of benefit design and reimbursement policies to provide prescription drugs to medicare beneficiaries and make recommendations on the applicability of the demonstration projects to other medicare beneficiaries.

SEC. 5. ESTABLISHMENT OF MEDICARE OUTPATIENT PRESCRIPTION DRUG TRUST FUND.

Part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1841 the following new section:

"MEDICARE OUTPATIENT PRESCRIPTION DRUG TRUST FUND

"Sec. 1841A. (a) There is established in the Treasury of the United States a trust fund to be known as the 'Medicare Outpatient Prescription Drug Trust Fund' (hereafter in this section referred to as the 'Trust Fund'), consisting of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts transferred to such Trust Fund under subsection (b).

"(b) There are hereby appropriated to the Trust Fund amounts equivalent to the additional revenues raised as a result of the amendments made by section 3(a) of the Prescription Drug Cost Containment Act of 1991. The amounts required to be transferred to the Trust Fund under the preceding sentence shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) The provisions of subsections (b) through (i) of section 1841, as in effect on the day before the date of the enactment of the Prescription Drug Cost Containment Act of 1991, shall apply to the Trust Fund in the same manner as such provisions apply to the Federal Supplemental Medical Insurance Trust Fund.

"(d)(1) Of the amounts in the Trust Fund—

"(A) an amount determined under paragraph (2) shall be available for each of the fiscal years 1993 through 1997 for making expenditures to carry out the demonstration projects established under section 4 of the Prescription Drug Cost Containment Act of 1991;

"(B) $1,000,000 shall be available for each fiscal year beginning with fiscal year 1993 for—

"(i) the administrative expenses of the Prescription Drug Policy Review Commission, and

"(ii) the report required under section 7 of the Prescription Drug Cost Containment Act of 1991; and

"(C) such funds, as provided in appropriation Acts, beginning with fiscal year 1998 shall be available to the Secretary of Health and Human Services to improve the accessibility of prescription drugs to the elderly.

"(2)(A) For purposes of paragraph (1)(A), the amount determined under this paragraph is—

"(i) for fiscal year 1993, $200,000,000, and

"(ii) for fiscal years 1994, 1995, 1996 and 1997, the dollar amount for the previous fiscal year, increased by the cost-of-living adjustment.

"(B) For purposes of subparagraph (A), the cost-of-living adjustment for any fiscal year is the percentage (if any) by which—

"(i) the CPI for the previous fiscal year, exceeds

"(ii) the CPI for fiscal year 1992.

"(C) For purposes of subparagraph (B), the CPI for any fiscal year is the average of the Consumer Price Index for prescription drugs as of the close of the 12-month period ending on June 30 of the previous fiscal year.

SEC. 6. PRESCRIPTION DRUG POLICY REVIEW COMMISSION.

(a) Establishment.—The Director of the Congressional Office of Technology Assessment (in this section referred to as the "Director" and the "Office", respectively) shall provide for the appointment of a Prescription Drug Policy Review Commission (in this section referred to as the "Commission"), to be composed of individuals with expertise in the provision and financing of inpatient and outpatient drugs and biologicals. The provisions of title 5, United States Code, governing appointments in the competitive service shall not apply to the appointment of members of the Commission.

(b) Composition.—(1) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than October 1, 1992, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

(2) The membership of the Commission shall include—

(A) recognized experts in the fields of health care economics and quality assurance, medicine, pharmacology, pharmacy, and prescription drug reimbursement,

(B) other health care professionals, and

(C) at least one individual who is an advocate of medicare and medicaid recipients.

(c) Annual Reports.—The Commission shall submit to the Congress an annual report (by not later than January 1 of each year beginning with 1994) which shall include information and recommendations regarding national and international drug policy issues, such as—

(1) trends and changes in prices for prescription and non-prescription drugs in the inpatient and outpatient setting in the United States;

(2) trends and changes in prices for prescription drugs in other industrialized nations, such as Canada, Japan, and countries of the European Economic Community;

(3) the scope of coverage, reimbursement, and financing under titles XVIII and XIX of the Social Security Act (including the structure and operation of the demonstration projects provided under section 4 of this Act), and other programs that directly provide or receive Federal funds to provide coverage for or reimbursement of prescription drugs, such as the Department of Veterans Affairs, the Department of Defense, and Public Health Service clinics;

(4) the availability and affordability of prescription drugs for various population groups in the United States, and the accessibility and affordability of public and private insurance programs for prescription drugs for such population groups;

(5) changes in the level and nature of use of prescription drugs by recipients of benefits under titles XVIII and XIX of the Social Security Act, taking into account the impact of such changes on aggregate expenditures under these titles;

(6) suggestions to make prescription drugs more affordable and cost-effective for third party insurers, including State-based pharmaceutical assistance and general assistance programs;

(7) evaluation of technologies available for efficient third party prescription drug program administration, such as electronic claims management and payment technologies;

(8) methods of providing reimbursement under Federal health care programs to providers for drug products and cognitive services;

(9) evaluation of the use and efficiency of all Federal tax credits and subsidies given to the pharmaceutical industry for various purposes, including the tax credit allowed under section 936 of the Internal Revenue Code of 1986; and

(10) evaluation of the impact on total health care expenditures in other industrialized nations of switching prescription drugs to non-prescription status, and the role of various health professionals in the distribution of such non-prescription drugs.

(d) Special Report.—(1) The Commission shall submit to the Committee on Finance of the United States Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, and the Special Committee on Aging of the United States Senate, by not later than October 1, 1993, a study of the feasibility of establishing in the United States a pharmaceutical products price review board.

(2) In conducting the study, the Commission shall—

(A) assess the impact of such a board in other industrialized nations, such as Canada, in containing the costs of prescription drugs and the introductory price of new drugs;

(B) suggest how such a board might operate in the United States, including the membership of the Board;

(C) suggest guidelines that might be used by the board in determining whether prices or price increases for prescription drugs are excessive and whether the introductory prices on new drugs are excessive; and

(D) suggest incentives for drug manufacturers to price their products fairly in the United States, including a system of compulsory licensing of pharmaceutical products or a reduction in the period of market exclusivity as a penalty for excessive inflation.

(e) Administrative Provisions.—Section 1845(c)(1) of the Social Security Act (42 U.S.C. 1395w-1(c)(1)) shall apply to the Commission in the same manner as such section applies to the Physician Payment Review Commission.

SEC. 7. REPORT ON FEDERAL SUBSIDIES AND INCENTIVES PROVIDED TO THE PHARMACEUTICAL INDUSTRY.

(a) Report.—By not later than July 1, 1992, the Secretary of Health and Human Services, acting in consultation with the Secretary of the Treasury, shall submit a report to the Committee on Finance of the United States Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the United States House of Representatives, and the Special Committee on Aging of the United States Senate, on Federal subsidies and incentives provided to the pharmaceutical industry. Such report shall include—

(1) a determination of the total cost over the 5 immediately preceding fiscal years to Federal taxpayers of all Federal subsidies provided to the pharmaceutical industry (including tax incentives, subsidies, grants, and any other financial support);

(2) a description of—

(A) the purposes for which such Federal subsidies are used by the pharmaceutical industry;

(B) the Federal role in researching and developing patented pharmaceutical products and the extent to which the Federal Government should co-license certain drugs and biologicals;

(C) the extent to which pharmaceutical industry marketing research costs are incorporated into allowable Federal tax credits;

(D) comparable financial incentives, subsidies, and tax credits provided to the pharmaceutical industry by other industrialized nations and the use of such incentives, subsidies, and credits by such industry;

(E) the relationship between the total Federal financial support provided to the pharmaceutical industry by the United States and other industrialized nations and the prices paid by the citizens of such respective nations for prescription drugs; and

(F) the extent to which tax credits provided by the Federal Government subsidize total worldwide pharmaceutical industry research and development; and

(3) recommendations on how Federal tax credits to pharmaceutical manufacturers and marketing exclusivity for drug products may be related to—

(A) an individual manufacturer's pricing behavior in the marketplace; and

(B) the relative therapeutic value of new pharmaceutical products researched, developed, and marketed in the United States.

SEC. 8. MANUFACTURER INTERNATIONAL DRUG PRICE REPORTING REQUIREMENTS.

Subparagraph (A) of section 1927(b)(3) of the Social Security Act (42 U.S.C. 1396r-8(b)(3)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by adding at the end thereof the following new clause:

"(iii) not later than 30 days after the end of each calendar year, the average price that the manufacturer sold each covered outpatient drug in such calendar year in the following countries: Canada, Australia, and the countries of the European Economic Community.".

Mr. PRYOR. Mr. President, at this time I wish to yield to either of my colleagues.

Mr. President, I recognize now and I yield the floor to Senator Cohen of Maine.

Mr. COHEN. Mr. President, I thank the Senator for yielding.

Mr. President, I am pleased to join my colleague, Senator Pryor, the distinguished chairman of the Special Committee on Aging, in introducing legislation to address the problem of skyrocketing costs of prescription drugs.

Americans are becoming more and more alarmed about the high cost of health care, both in terms of out-of-pocket health care expenses, and runaway costs of insurance premiums. I have joined with my colleagues from both sides of the aisle in devising major proposals aimed at containing health care costs, and the merits of these proposals will be debated in the coming months.

While a comprehensive overhaul of our Nation's health care system may be many months in coming, passage of the bill we are introducing today would be a major leap toward lower health care costs by lowering the out-of-pocket costs of prescription drugs for millions of Americans. I am pleased to note that this bill has the support of over 40 major senior citizen, consumer, and small business groups.

Mr. President, as the Senator from Arkansas has made clear, a trip to a pharmacy for a prescription drug has become a journey into a Chamber of financial horrors for many Americans. Families with no insurance, or with no prescription drug coverage under their insurance policies dread a trip to the doctor for fear of what their prescription drugs will cost.

High drug prices are especially devastating for senior citizens. So many of us have seen our mothers and fathers spread across the table an array of medications that they must take daily for a variety of conditions. It is little wonder, then, why unrelenting drug prices hit senior citizens especially hard. In addition to being major consumers of prescription drugs, most elderly do not have prescription drug coverage themselves, and Medicare does not provide coverage of outpatient prescription drugs. In fact, prescription drug prices are the highest out-of-pocket medical expense for 3-out-of-4 elderly Americans.

Senior citizens in my State of Maine are greatly worried by high drug prices. For example, in 1989 one of Maine's Area Agencies on Aging surveyed seniors and volunteers working with seniors to identify their 10 greatest needs. From a list of 30 items, those taking the survey listed the rising cost of prescription drugs as the No. 1 concern of the elderly.

Recently, the Congressional Budget Office concluded that a full 60 percent of Medicare enrollees face potentially catastrophic out-of-pocket expenses, either because they have no supplemental Medicare coverage, or because their supplemental coverage does not include prescription drugs. When we stop to consider that, over the past decade, prescription drugs have increased three times as fast as the general inflation rate, it is no surprise that drug prices are taking a greater and greater bite out of the fixed incomes of our senior citizens.

While Americans are scrimping to pay for their medications, the profits of drug companies are soaring far above those of other industries. Recently, the Senate Special Committee on Aging, on which I serve as the ranking Republican member, released a staff report that included many shocking statistics on how drug companies have enjoyed profits soaring into the stratosphere at the direct expense of the consumer.

It has been argued by some that the drug companies are the only ones making a profit, and that we should thank God we have the drug companies to help pick up the slack in our economy. The fact is that we are learning that most every other industrialized country has some cost containment mechanism to control the cost of prescription drugs. What we are seeing is a cost shifting to the American taxpayer because there is, in fact, an interlocking network of drug companies and their research and development programs. So while the prices are being controlled in other countries, the prices are allowed to go without any restraint in our country.

Free market system? Are we impinging on it? The question I would have is

VOL
137
PT
23
NO
21
—
25
1991
UMI

what choice do our elderly citizens have when a doctor prescribes a drug for their precondition? Take it or leave it? Live or die?

Mr. President, we find ourselves in one of those good-news bad-news jokes. The good news is that, as a result of the inventiveness and the research and technology that has been applied by our drug companies, we can develop a drug that will save your life. The bad news is you cannot afford it. And that is what more and more people are finding in our society.

During the 1980's, the prescription drug price inflation rate tripled the general inflation rate and rose, on average, almost 20 percent more each year than even medical inflation in general. Once more, the annual average profit margin of the drug industry is now more than three times the profit margin of the average Fortune 500 company. These exorbitant profits are far above those necessary to finance the legitimate research and development costs of drug companies. In fact, the Aging Committee investigation found that the drug industry is spending a billion dollars more per year on public relations than it is spending on research expenses.

In fact, some drug manufacturers offer cash payments to doctors for prescribing their drugs, or tempt doctors with lavish gifts or vacations. Taxpayers should not be footing the bill for these questionable marketing practices.

To illustrate how high drug prices have become, the average American now must pay $54 for a bottle of pills that cost him or her $20 in 1980. If drug prices continue on their current course, this same prescription will cost the consumer about $77 in 1995, and $120 in the year 2000, representing an increase of over 600 percent.

These tremendous price increases and unparalleled profits of drug companies are unacceptable in light of the fact that the Federal Government now provides $2 billion annually to the prescription drug companies in the form of nonresearch and development tax credits. This so-called section 936 tax credit, which provides tax exemptions for business income earned in Puerto Rico, in effect lowers the effective tax rate of the drug industry by 9 percent. This tax subsidy is in addition to the hundreds of millions of dollars in tax credits that the drug companies receive for researching and developing new pharmaceutical products.

To illustrate how bad this situation has become, I have a family from the town of Skowhegan, ME, that has a monthly income of roughly $1,300 per month in Social Security, other pensions, and disability payments. They spend $690 a month for prescription drugs for Parkinson's disease and heart disease, which is over half of their monthly income. In addition, they have to pay another $60 a month out of pocket for the wife's medication for heart disease. They do not even qualify for Medicaid. Mr. President, their total out-of-pocket expenses of $750 for prescription drugs represent 58 percent of their combined monthly income. And that does not take into account the long, cold winter months that are coming.

The bill we are introducing today provides an important incentive for the drug companies to lower their windfall profits that are taking such a toll on individuals and families nationwide. Namely, drug manufacturers would lose portions of their section 936 tax credits if the increase their prices beyond the general inflation rate. This proposal is designed to pull the plug on the tax subsidies that the Federal Government provides the drug companies if they do not take steps to curb their excessive profits. While the companies may attack this approach as unfair price controls it is only fair that the Federal Government reassess the subsidies it provides an industry through the Tax Code when that industry is making windfall profits at the expense of the American consumer.

We must stop allowing the Federal Tax Code from supporting a prescription drug pricing system that has millions of Americans in a financial chokehold. Too many drug companies are stuffing money from the Treasury in one pocket and money from hard-hit consumers in the other.

The savings from the reduced tax credits would be funneled into a new prescription drug trust fund which would finance 15 demonstration projects providing outpatient prescription drugs to Medicare beneficiaries. Additional savings would be used to reduce the deficit.

Further, the bill would establish a Prescription Drug Policy Review Commission, to analyze trends in national and international drug prices and make recommendations on improving the coverage and financing of prescription drugs under Federal programs, such as Medicare and Medicaid. The Commission would also be charged with studying whether a drug price review board should be established in the United States.

Finally, the bill requires the Secretary of the Department of Health and Human Services to study and report to Congress on the value of all the grants, subsidies, and writeoffs that are now given to the prescription drug companies by the Federal Government.

Mr. President, consumers are fed up with the outrageous costs of prescription drugs and it is time for us to address this spiraling health care cost. While we cannot underestimate the tremendous, and indeed, often life-saving, importance of prescription drugs to millions of Americans, we must take steps to make these drugs affordable and accessible. The legislation we are introducing today will go far toward achieving this goal.

Finally, Mr. President, I want to thank and congratulate my colleague, Senator PRYOR, for his leadership on this important issue. He has been dogged and unceasing in his pursuit of affordable prescription drug prices, first for the Medicaid Program, and now for all Americans, especially senior citizens. We owe him greatly for his dedication in this area and I look forward to working with him on the Aging Committee on this and many other ways to bring quality health care within the financial reach of senior citizens.

Mr. PRYOR. Mr. President, I want to thank the Senator from Maine for his comments. And I would like to just note, Mr. President, for the record, that this is not a partisan affair. This is not something the Democratic Party has cooked up over here on this side of the aisle. This is an issue that transcends political parties and transcends politics.

Senator COHEN, who is the ranking member of the Senate Special Committee on Aging, is one of the major moves in this whole area of trying to bring fairness into the prescription drug pricing for our citizens. I want to thank the very distinguished Senator from Maine and my very good friend, the vice chairman on the Special Committee on Aging.

Mr. President, at this time, my friend from the State of Tennessee, Senator SASSER, is on the floor, and I yield to Senator SASSER at this time for as much time as he may consume.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Tennessee.

Mr. SASSER. Mr. President, I thank my friend from Arkansas for yielding. I am pleased to join with my good friend from Arkansas today in introducing the Prescription Drug Cost Containment Act of 1991. This is legislation which I think is of critical importance to the health of all of our citizens here in this country.

I want to commend at the outset Senator PRYOR's tireless efforts to address the runaway costs of prescription drugs. I think his efforts deserve the praise of every Member of this body.

Mr. President, we simply must find a way to ensure access to affordable quality health care for all of our citizens here in this country. We all have ideas about how to achieve the goal of quality accessible health care for our citizens. As a matter of fact, literally dozens of proposals have been made in this area.

But skyrocketing medical costs are blocking the road toward fundamental health care reform in this country. We have all seen the latest figures. Last year, we as a Nation spent over $600 billion on health care—over $660 billion

last year was spent on health care. That represents almost 13 percent of everything we produce in this country—13 percent of our gross national product. If this trend continues—and we surely cannot allow it to continue—we will be spending 16.4 percent of our total national output on health care by the end of this decade.

Unless we get a handle on these costs, Mr. President, any attempt to extend medical care coverage to 35 million Americans who presently lack health insurance is doomed to failure. And I might say, Mr. President, that today the United States of America is spending over twice as much of its GNP, its gross national product, on health care than the Japanese are, and yet they extend health care coverage to all of their citizens, and we have 35 million who have no health care whatsoever.

Last year, I chaired a Senate Budget Committee hearing which looked into the dimension and causes of our country's health care inflation problem. It was clear to me at that time that there are a number of areas in which medical costs are simply totally out of line.

Eight months ago, I began an investigation into the waste and inefficiency in Medicare's Durable Medical Equipment Program. As many of my colleagues know, we found a $2 billion program—a $2 billion Medicare Program dealing with durable medical equipment—that was losing more than 10 percent of its annual budget to waste, inefficiency, and mismanagement.

Just this last month, after months of investigation and hearings before the Senate Budget Committee, I introduced legislation to correct many of these loopholes—to close them—loopholes that were being exploited by unscrupulous medical equipment dealers.

I am pleased to advise my colleagues that the Secretary of Health and Human Services, Secretary Louis Sullivan, announced just last month that the Department of Health and Human Services will, by regulation, adopt much of the language of the legislation which I have introduced in order to stem the flow of wasted tax dollars from the Medicare system.

I am gratified that the Department of Health and Human Services has taken notice of our efforts to expose this waste and abuse and is moving unilaterally to try to close some of the loopholes themselves.

I should mention that my able and distinguished colleague from Arkansas has been very much involved in this issue, and the Special Committee on Aging, which Senator PRYOR chairs, has also held hearings on this very serious problem. I am pleased to have him as a cosponsor of our legislation, and I look forward to working with him to pass the additional reform measures which are so badly needed.

All of us realize that this country delivers the best medical care in the world to those who can afford it, but ever spiraling costs are driving medical care beyond the reach of millions of our fellow Americans.

I see my involvement in the legislation that we are introducing today to limit the price increases on drugs as a logical and important step in the battle to lower health-care costs.

I think the figures that have been provided are simply staggering.

If we look at a chart that has been prepared by the Senate Committee on Aging, we see that the general inflation rate over the past decade has been 58 percent. But when we look at the general inflation rate of prescription drugs, they have gone up over three times higher than the general inflation rate; a 152-percent increase in prescription drug prices just over the past 10 years.

The Aging Committee has uncovered dozens of examples of medicines that have risen in costs astromically during the last several years. Let me cite just a few.

In 1980, the commonly prescribed heart medicine, Lanoxin, cost $1.25 per 100-tablet package. Today, that same prescription costs $9.40, an increase of 652 percent over a 10-year period.

Mr. President, this is just one example of an industry that is out of control.

I would like to also take another look at a couple of charts that were discussed just a moment ago. The second chart, if we may look at it again, shows drug inflation between October 1990 and October of just this year. We are talking about 1 year, Mr. President. As we can see, the chart illustrates very graphically that, between October 1990 and October 1991, we had a general price inflation of 2.9 percent, almost 3 percent.

But, look at what happened to prescription drugs in the same period of time. Prescription drugs went up 10 percent, almost 300 percent higher than the ordinary rate of inflation during the period from October 1990 to October 1991.

Let us look at a third chart, if we may. What we will see is that a prescription that costs $20 in 1980 costs almost $54 today. By the year 2000, that prescription will cost $120. If the same drug that cost $20 in 1980 increased at the general rate of inflation, rather than costing almost $54 in 1991, it would be $20 cheaper, $33 in 1995. If it continues to increase at the present rate, it will be up to $77, whereas, if the drug increased at the general rate of inflation, it would be some $33 cheaper, at $39.

We see it goes on out to the year 2000. The general inflation rate between 1980 and the year 2000 would have doubled the price of the drug. But at the rate of increase for drug prices, it would have gone up to $120 from the price of $20 in 1980.

Mr. President, my fellow Tennesseeans simply cannot afford to pay these prices. These price increases are making prescription drugs less accessible to those who are elderly, who are living off fixed incomes, to those who work for a living, to those without health insurance. They simply cannot afford to buy the medications that their doctors tell them are necessary for life.

I do not believe there is any reasonable justification for this type of huge increases we have seen across the industry in the prices of prescription drugs. This becomes very clear if we look at the profit margins realized by drugmakers in recent years. In 1990, the average Fortune 500 company posted a profit of 4.6 percent, but the 10 largest pharmaceutical companies, those who make the prescription drugs, posted a profit margin 300 percent higher than that posted by the Fortune 500 companies.

Last year, the pharmaceutical industry, the industry that makes these prescription drugs that those who are ill have to have, led all the industries in the United States in each of the three most commonly used profitability measures. In fact, I am advised that the prescription drugmakers' profits in 1990 were almost twice that of the second most profitable industry in this country.

I have no objection to American companies making a profit. In fact, we all applaud the fact that American companies can make a profit. But I think these profit margins are out of line when they come at the expense of the health and well-being of the most vulnerable of our citizens. Average middle-class Americans are finding it impossible to make ends meet while trying to pay the ever increasing costs of prescription drugs.

The huge increases we have seen in prescription drug prices, in my view, amount to nothing less than piracy at the expense of those who are ill. My colleague, Senator PRYOR, has already demonstrated to us the very high salaries paid to drug company officials. These executives can sit behind their desks. Perhaps they are not aware of what I see when I go into the drugstores of my native State of Tennessee, when I see elderly people standing before the drug counter having to make a decision about whether they have the money to buy this prescription drug that their doctor tells them they have to have, whether they will have enough money left over to buy food, to pay their rent, to pay their electrical bill. I have seen their faces myself. Thousands of Tennesseans and literally millions of Americans have found they can simply no longer afford to pay the price of prescription drugs. They are forced to walk away from the prescription counter without the medication that they desperately need.

I say enough is enough. In my view, action by the Congress to remedy this

VOL
137
PT
23
NO
21—25
1991
UMI

problem is not only prudent, but absolutely necessary. Legislation has been drafted, under the leadership of Senator PRYOR, and I am pleased to join with him, to slow the unreasonable and skyrocketing cost of prescription medicines. I am proud to add my efforts as a cosponsor. This bill will go a long way, I think, toward dealing with the problem of prescription drugs and pharmaceutical companies. It establishes a drug policy review commission with wide-ranging authority, including the investigation of the feasibility of a national drug price review board.

Second, the legislation will curtail the use of a little-known tax credit that has been taken advantage of by the pharmaceutical companies called the possessions tax credit. This benefit allowed drugmakers with operations in Puerto Rico, for example, to reap a $2 billion tax windfall in 1990.

Third, the bill will use the money saved by the preceding provision to fund a 3-year, 15-site Medicare outpatient prescription drug demonstration project. This project will provide outpatient drug coverage not currently provided by Medicare. This legislation will be the first step in reining in drug company excesses which are unjustified and which we as a nation can no longer afford.

I do think we ought to take cognizance of at least the efforts of one or two pharmaceutical firms here, who have tried to be reasonable on their own. Merck, Sharp, Dohme, considered to be one of the world's most research intensive pharmaceutical firms, restricts its price increases to the general inflation rate. They are to be commended for that. I am also advised that the Schering-Plough Co., which has some nonprescription operations in my own State of Tennessee, has shown some restraint in their pricing practices also.

But, Mr. President, I think we all owe a debt of gratitude here today to our friend from Arkansas, Senator PRYOR, for his unstinting efforts to bring some reasonableness to the pricing of these very vital pharmaceuticals which the elderly of our Nation and those who are ill rely on a day-to-day basis.

I yield, now, to the distinguished Senator from Arkansas for any further comments he might wish to make.

Mr. PRYOR. Mr. President, I thank my very good friend from Tennessee. He has long been interested in this issue. And in discussing this matter with him over the last several weeks, I will say that he has been most instrumental in not only encouraging us to introduce this legislation, but also to be involved in its development and deciding the characteristics of this legislation. I thank my friend from Tennessee, the distinguished chairman of the Senate Budget Committee.

Mr. President, I have only a few moments left, but in summary let me say I would like to thank the 42 organizations across America who are endorsing this legislation that we are introducing today.

For example—let me read just a few of them: The Small Business Legislative Council, United Auto Workers, the Older Womens League, the National Rural Electric Cooperative Association, the National Council of Senior Citizens, the AARP, AFL–CIO, Consumers Union, Families USA, Green Thumb, Independent Insurance Agents of America, Apha, the Leadership Council of Aging Organizations. There are 42 organizations, Mr. President.

I ask unanimous consent to have the names of those organizations that support us in the RECORD at this time. Mr. President, I also ask unanimous consent to have the bill printed in the RECORD and the bill's specifications, with an explanation and a section-by-section analysis.

Mr. President, we also have an R&D factsheet. I ask unanimous consent to have the research and development factsheet printed in the RECORD, which challenges the drug industry's claim that they need all this money for research and development of new drugs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS ENDORSING THE PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

AFL–CIO.

AIDS Action Council.

American Association for International Aging.

American Association of Homes for the Aging.

American Association of Retired Person [AARP].

American Nephrology Nurses Association.

American Pharmaceutical Association.

AFSCME Retiree Programs.

American Public Welfare Association [APWA].

Asociacion Nacional Pro Personas Mayores.

Association for Gerontology in Higher Education.

Association for Gerontology and Human Development in Historically Black Colleges and Universities.

Catholic Golden Age.

Childrens Defense Fund [CDF].

Consumers Union.

Families USA.

Gray Panthers.

Green Thumb.

Independent Insurance Agents of America.

International Ladies Garment Workers Union [ILGWU].

Leadership Council of Aging Organizations [LCAO].

National Association of Area Agencies on Aging.

National Association of Foster Grandparents Program Directors.

National Association of Life Underwriters.

National Association of Meal Programs.

National Association of Older American Volunteers Programs Directors.

National Association of Retired Federal Employees.

National Association of RSVP Directors.

National Association of Senior Companion Project Directors.

National Association of State Units on Aging.

National Caucus and Center on Black Aged [NCBA].

National Committee to Preserve Social Security and Medicare.

National Consumers League [NCL].

National Council of Senior Citizens.

National Hispanic Council on Aging.

National Indian Council on Aging.

National Rural Electric Cooperative Association.

National Small Business United.

North American Transplant Coordinators Organization.

Older Womens League.

Small Business Legislative Council.

United Auto Workers Retired Members Department.

THE PRESCRIPTION DRUG COST CONTAINMENT ACT OF 1991

SUMMARY OF THE LEGISLATION AND LEGISLATIVE SPECIFICATIONS

General Background

For years, consumers and their advocates, businesses, insurers, health care providers, and the Congress have raised serious concerns about skyrocketing health care costs. From 1980 to 1990, prescription drug prices [CPI–Rx] incflated by a staggering 152 percent, while the general inflation rate [CPI–U] was 58 percent. This disturbing trend continues and is worsening in the 1990's. In fact, for the 12-month period between October 1990 and October 1991, the CPI–Rx was running at more than three times the rate of the CPI–U. These facts are particularly troubling to older Americans because prescription drug costs represent the highest out-of-pocket health care expenditure for three out of four elderly and 60 percent of this population have inadequate prescription drug coverage. Other vulnerable populations, plarticularly children and their parents, are also significantly burdened by these costs.

The September, 1991 Senate Special Committee on Aging staff report, "The Drug Manufacturing Industry: Prescription for Profits," outlines many distressing facts about prescription drug inflation, industry profits, marketing expenditures, internationall prices, and the degree to which Americans subsidize the drug manufacturing industry through the lavish nonresearch and development oriented tax credit provide under section 936 of the Internal Revenue Code. The report makes it clear that the drug manufacturing industry has exploited the section 936 tax credit well beyond the bounds of its intended purpose. This taxpayer-supported subsidy, in combination with the price increases and profits Americans are being forced to underwrite, well illustrate how this Nation is not receiving and adequate return on its multibillion-dollar investment on prescription drugs.

Legislative Summary

The Prescription Drug Cost Containment Act of 1991 addresses the prescription drug inflation problems by utilizing a carrot and stick tax incentive approach. Specifically, individual drug manufacturers would have reduced access to the section 936 tax credit if, and only if, the manufacturer increases prices beyond the general inflation rate. The drug manufacturing industry receives approximately $2 billion in section 936 tax credits each year. Under the proposal, revenue saved would be funneled into a new prescription drug trust fund to finance Medicare outpatient prescription drug demonstration projects and to reduce the deficit.

Section 1—Reduction in Section 936 (Possession) Tax Credit for Excessive Drug Inflation

Legislative Specifications: Amending section 936 of the Tax Code, section 1 establishes a formula that provides a strong tax incentive for drug manufacturers to keep price increases at or below the general inflation rate. The formula first compares the drug manufacturer's section 936 tax credit to the amount of wages it paid in Puerto Rico. If the manufacturer's section 936 tax credit exceeds the wages paid in Puerto Rico, the excess will be subject to a reduction of 20 percent of the 936 tax credit for each percentage point its drug prices increase over the general inflation rate [CPI–U]. The reduction formula will be applied on a drug by drug basis and be weighted according to the percent of sales that each drug accounts for the manufacturer's total drug sales. If the manufacturer's section 936 tax credit does not exceed wages paid, the reduction formula does not apply.

Background: While most Americans are aware that the drug industry receives hundreds of millions of dollars each year in tax credits for research and development of new drugs, few are aware the extent to which the drug industry avails itself to the multibillion dollar nonresearch and development section 936 tax credit.

The purpose of the credit is to stimulate the development of jobs in Puerto Rico. However, the tax credit is calculated based on the profits of a company, not on any basis related to jobs or wages. The result is a subsidy to the already enormous profit margins of the drug manufacturers, rather than to the Puerto Rican economy and its people. For example, the latest IRS data for 1987 indicate that the average drug company receives a tax credit of $70,788 per employee hired in Puerto Rico, which is 267 percent more than the average salary of $26,471 paid per employee.

The average drug company has a profitability of 15.4 percent, compared to the average Fortune 500 company which has an annual average profit of 4.6 percent. Because the Section 936 tax credit is based on profits, the drug companies get more tax credit per employee than any other manufacturing industry in Puerto Rico. In fact, the structure of the credit gives them the incentive to raise prices, because the more profits they make, the more section 936 tax credits they receive. As a result, almost 50 percent of all section 936 tax credits—almost $2 billion each year—go to drug manufacturing companies.

It is important to note that it is more than possible for drug companies to maintain inflation at the CPI–U, while still making significant investments in meaningful research. For example, Merck Sharp and Dohme, the world's most research intensive drug company, restricts it annual price increases to the CPI–U.

Section 2.—Establishment of Medicare Prescription Drug Benefit Demonstration Project and Trust Fund

Legislative Specifications: Section 2 provides that up to $200 million saved from the recapture of the 936 tax credit (and directly attributable to excessive and inflationary pricing practices of drug manufacturers) would be directed each year to a new Federal Prescription Drug Trust Fund. The Fund would finance the establishment of a 5-year, 15-site Medicare Outpatient Prescription Drug Demonstration program as well as the establishment of the Prescription Drug Policy Review Commission [RxPRC]. Revenue above the amount necessary to fund the Demonstration program would be directed for deficit reduction.

The demonstration requires that Medicare beneficiaries have access to all FDA-approved prescription drugs and that a physician-pharmacist Drug Use Review [DUR] program be utilized in each demonstration. The DUR program can be separate or linked into the Medicaid DUR programs required under OBRA 90. Discounts or rebates should be sought from drug manufacturers as a condition of participation in the project, and appropriate pharmaceutical inflation containment mechanisms should be developed.

Background: The Medicare program does not provide insurance protection against the costs of out-patient prescription drugs. Moreover, because of the high costs of these medications, few private Medicare supplemental insurance policies offer affordable prescription drug coverage. As a result, according to an August, 1991 report by the Congressional Budget Office, 60 percent of older Americans do not have adequate prescription drug insurance protection. It is therefore not surprising that, for three out of four elderly, prescription drug costs represent their highest out-of-pocket expenditure. To begin to address this situation, it is advisable that we study the feasibility of amending the Medicare program to provide at least some protection for some of the most vulnerable populations of our society.

Section 3—Establishment of U.S. Prescription Drug Policy Review Commission and Study on Price Review Board

Legislative Specifications: Section 3 provides for the establishment of a Prescription Drug Policy Review Commission [RxPRC]. The Commission would be responsible for analyzing trends in national and international prescription drug prices and making recommendations on providing or improving coverage, reimbursement, and financing for prescription drugs under federal health care programs, such as Medicaid and Medicare. In addition, it would monitor the use and effectiveness of the various financial incentives given to the drug industry, including the revised section 936 tax credit. Finally, the Commission would be charged with studying the feasibility of establishing a pharmaceutical products price review board in the United States. Membership on the Commission would include health care and pharmaceutical economists, physicians, pharmacists, other health care professionals, and consumer representatives.

The study of the price review board would:

(a) Assess the impact that such a board has had in other nations in containing the costs of old and new prescription drugs;

(b) Develop guidelines that might be used by the board in determining whether prices or price increases for drugs are excessive; and

(c) Evaluate possible incentives for drug manufacturers to price their products fairly, including a system of compulsory licensing of drug products and/or a reduction in the period of market exclusively (patent life) as a penalty for excessive inflation.

Background: The Medicare Catastrophic Coverage Act (MCCA) of 1996 provided for a RxPRC, which would advise Congress on policy matters relating to the operation of the Medicare outpatient prescription drug program established under the legislation. Although RxPRC was abolished along with the repeal of MCCA, there are many other public prescription drug programs, such as the $5 billion Medicaid prescription drug program, and private insurance prescription drug programs, that could significantly benefit from the establishment of a RxPRC. Congress benefits tremendously from information provided by the Prospective Payment Assessment Commmission [ProPAC] and the Physician Payment Review Commission [PhysPRC]. Unlike many industrialized nations, the United States does not have a commision that could provide accurate data and policy guidance on the U.S. prescription drug marketplace to Medicaid and other third party insurance plans. This could be accomplished through a RxPRC.

Section 4—Study on Federal Subsidies and Tax Write Offs Given to Drug Industry

Legislative Specifications: Section 4 instructs the Secretary of the Department of Health and Human Services, in consultation with the Secretary of the Treasury, to conduct a study of the value of all the federal tax grants, subsidies, and write offs given to the pharmaceutical industry.

Included in the study should be an assessment of:

(a) The value and designed purpose of federal subsidies of the drug industry;

(b) The federal role in researching and developing patented pharmaceutical products;

(c) Comparable financial incentives and tax credits provided to the drug industry by other industrialized nations; and

(d) How Federal tax subsidies can be modified to provide incentives for an individual drug manufacturer's pricing behavior and research priorities.

Background: While the industry receives hundreds of millions of dollars in tax write offs to research and develop new drugs, there is little evidence to suggest that the industry is bringing a significant number of innovative, breakthrough products to the market. Many of the drugs brought to market already duplicate what is available to physicians to prescribe, which are commonly called "me-too" drugs. There is also evidence that the manufacturers are using the drug research tax credit to write off expensive marketing research activities, some of which may be illegal.

In addition, there are many new drug research projects that are funded in whole or in part by federal grants or conducted in federal institutions, such as the National Institutes of Health [NIH]. For example, two drugs used to treat symptoms of AIDS—AZT [Retrovir] and Foscavir—were researched and developed primarily in Federal Government labs, yet private drug companies hold the patents. This monopoly allows the companies to charge exorbitant prices for these drugs. With thee facts in mind, it may make sense to restructure the R&D tax credits so that manufacturers have move incentive to bring more breakthrough drugs to market.

Section 5—Manufacturing Reporting of International Drug Prices

Legislative Specifications: Section 5 requires drug manufacturers to report to the the Health Care Financing Administration at the end of each calendar year, the average price that the manufacturer sold each of its drugs in Canada, Australia, and the countries of the European Economic Community.

Background: Under the OBRA 90 legislation, manufacturers are required to report to HCFA on certain prices for which they sell drug products in the United States. However, there is overwhelming evidence to suggest that American citizens pay some of the highest prices for drugs in the world when compared to Canadians and Europeans. It is important for HCFA and the Congresss to know how prices in the United States compare to

VOL
137
PT
23
NO
21
—
25
1991
UMI

prices in other industrialized nations, especially since the United States provides billions of dollars in tax subsidies and incentives for the worldwide pharmaceutical industry, with little evidence to suggest that the result is lower drug prices for the American consumer.

For additional information about the legislation, or a copy of the Aging Committee staff report on which the legislation is based, contact either Chris Jennings or John Coster at the U.S. Senate Special Committee on Aging (202-224-5364).

FACTS COUNTERING DRUG INDUSTRY FICTION REGARDING RESEARCH AND DEVELOPMENT

Background: Anytime Congress is critical of the enormous profit margins of the pharmaceutical industry, or questions the need for the industry to raise prices in excess of three times the rate of inflation, the industry argues that they need these exorbitant profits and high prices to finance research and development. However, it is clear that their well-worn and re-recycled research and development argument is not going to sell anymore. Consider these facts:

Fact 1: Americans are already providing hundreds of millions of dollars in tax breaks annually for the industry's R&D investment.

Fact 2: According to a 1991 Forbes Magazine article, the drug industry is spending a billion dollars more a year on marketing than it is on research; that is, the industry will spend $10 billion on marketing and advertising this year, but only $9 billion on research and development.

Fact 3: After accounting for the investment in research and development, the pharmaceutical industry still earns an annual Fortune 500 industry-leading profit of 15.4 percent. This industry profit average is TRIPLE that of the average Fortune 500 club member, which is 4.6 percent.

Fact 4: The drug industry says it needs such profits to attract capital, yet they certainly do not need a return on shareholder investments (return on equity) that industry analysts say is consistently 50 percent higher than the average Fortune 500 company to attract capital. Other Fortune 500 companies, whose profit margins are one-third that of the drug industry, do not appear to have trouble attracting sufficient capital.

Fact 5: In addition to the hundreds of millions of dollars in direct research and development tax breaks given to the drug industry each year, a significant amount of research on new drug products occurs in Federal facilities or with grants provided by federal agencies. For example, most of the research on the drug AZT, used to treat symptoms of AIDS, was conducted at the National Institutes of Health [NIH], yet a private drug company holds the patent on the product and has used the patent to charge exorbitant prices for the drug.

Fact 6: The drug companies whose R&D investment has brought no new breakthrough drugs to market are the very same companies that are increasing prices at some of the highest rates. Therefore, while there are some drug companies who are research intensive, the majority are using the "research" argument as the excuse to raise prices, yet their research pipeline is dry. For example:

Dilantin, an antiepileptic drug, manufactured by Parke-Davis has been on the market since 1953. Since 1985 it has gone up in price 69 percent, an annual average increase of over 11 percent. Parke-Davis has not brought one new molecular entity to market in the last 5 years.

Fact 7: For a pharmaceutical company that spends 15 percent of its revenue on research to increase their research expenditures by 10 percent, it would only require a 1.5 percent increase in their drug prices each year. However, drug manufacturers have been increasing prices, on average, at three times the rate of inflation for the last 11 years.

Fact 8: One of the largest investors in R&D in the industry—Merck—is holding their price increases to inflation. Merck Sharp and Dohme has been one of the most research productive companies over the last decade, yet they have adopted a public policy position that restricts their price increases to changes in the CPI-U. If the world's most research-intensive drug company can adopt this responsible public policy, the others should be able to do the same.

Fact 9: In Canada, the drug industry has voluntarily agreed to limit its price increased to the inflation rate, while substantially increasing its investment in research.

While the industry's arguments about the relationship between high profits and research are clearly questionable, the "Prescription Drug Inflation Containment Act", introduced by Senator David Pryor, will not reduce the research tax credits of drug manufacturers. The legislation uses the industry's $2 billion annual nonresearch and development tax credit, which is bestowed on the industry each year by American taxpayers, as an incentive to contain prescription drug price inflation at or below the rate of general inflation.

Mr. PRYOR. Mr. President, the recent and decisive victory of Senator HARRIS WOFFORD has ignited a long overdue movement to overhaul the health care system in the United States. There is little doubt that the problem of out-of-control costs is, and will continue to be, the No. 1 issue driving the health care reform debate.

Today, I am pleased and honored to be joined by Senators COHEN, SASSER, BAUCUS, BURDICK, CONRAD, EXON, METZENBAUM, and WELLSTONE in taking an important step toward containing costs by introducing legislation that addresses the single highest inflating component of the entire medical inflation index—prescription drugs. With the introduction of the Prescription Drug Cost Containment Act of 1991 (S. 2000), we are sending a message to the drug manufacturers that their price grouping status quo is unacceptable and will no longer be tolerated.

Nothing we do in the Congress convinces the drug industry that we mean business about skyrocketing drug prices. During the debate surrounding last year's Medicaid drug rebate law and the years of hearings leading up to it, drug manufacturers frequently stated that the 1980's was an anomaly. They said that drug price inflation that tripled the general inflation rate would not continue and gave many in Congress the impression that they had received the message that drug cost increases of the past were unacceptable.

Incredibly, if current trends continue, it appears that the 1990's will not only be a price inflation encore, but may well surpass the intolerable performance of the 1980's. Recent drug price increases continue to defy the laws of gravity. Over the 1-year period between October 1990 and October 1991, drug prices increased 10.1 percent, more than triple the rate of increase in general inflation, which was 2.9 percent.

Mr. President, the drug industry recently criticized my use of the CPI as a measure of drug price increases. They said that the Producer Price Index, the PPI, rather than the CPI, was a more accurate measure of drug price inflation. Out of curiosity, I checked the October PPI. Guess what product topped the list of all products in price increases? That's right, prescription drugs. Their prices rose more than two and half times the PPI for all goods. Even the industry cannot find an index that shows them in a favorable light.

While the news about drug prices is bad with one index and even worse with another, for the average older American, it really doesn't matter what index you use. They only know that they cannot afford their medications. Day after day, my office receives letters from citizens around the Nation who tell me about the devastation that drug price increases are having in their life. One elderly woman from Fort Smith, AR, wrote that her drug bill increased in 1 year from $8,000 to $11,000 for the very same medications. She says that she may have to stop taking some of her drugs.

Mr. President, it is getting to the point where the only Americans who can afford to buy medications are drug company executives. The annual median income of an elderly household in this country is just $8,781. At the absolute opposite end of the spectrum, drug company CEO's made a median salary of $1.56 million in 1990—175 times the income of the median elderly household. In fact, 5 of the 20 highest paid CEO's in the entire country are drug company executives. Maybe these figures explain why the drug industry is so price insensitive.

This year the drug company CEO's are using the new Medicaid rebate law as the excuse to raise prices. Never mind that the Medicaid Program makes up only 10 to 15 percent of the industry's market and could not possibly explain their increases in prices. Never mind the industry invests $10 billion in marketing and makes multibillion-dollar profits. Never mind the industry chose to cost shift to this Nation's soldiers, veterans, hospitals, HMO's and poor people served by Public Health Service clinics.

By raising drug prices to the Department of Veterans Affairs and Defense during the Persian Gulf war, a number of drug companies showed that their so-called patriotism does not run as deep as their pockets. Although the bill I am introducing today does not specifically address the cost shifting concerns of the DVA, Public Health Service clinics, hospitals and HMO's, I remain resolute in my commitment to developing legislation to alleviate their problems.

Mr. President, the day has come for us to enact legislation that contains prescription drug price inflation for all Americans. If we do not act now, we are condemning ourselves to witness a $20 drug in 1980 costing $120 in 9 short years—a 504-percent increase. The answer to this problem begins with revising our Tax Code.

It was, and still is, difficult for even me to believe, but American taxpayers now bestow upon the drug industry a $2 billion a year, nonresearch and development tax break for manufacturing drugs in Puerto Rico. This section 936 tax credit is designed to increase employment in U.S. possessions—like Puerto Rico. This credit returns to the drug industry $70,788 for every employee they hire. This is quite a return when you consider the average annual salary of these employees is $26,471. Amazingly, beyond underwriting excessive price increases, unmatched profits, multibillion-dollar marketing campaigns, and hundreds of millions of dollars in research and development tax credits, our taxpayers are reducing—through the 936 tax credit—the effective tax rate of the drug industry by 9 percent.

Mr. President, enough is enough. Attempting to shame the drug manufacturing industry into being responsive to the needs of the American public is obviously not working. American citizens and businesses are demanding that we take actions against the high cost of health care, and many want us to begin with prescription drugs.

To address the escalating costs of prescription drugs, the legislation we are introducing today uses a simple, business-like, carrot and stick approach. In short, it achieves its goal by:

First, reducing the multibillion-dollar section 936 tax credit for each point that a drug manufacturer raises its prices over general inflation.

Second, directing any money saved from the section 936 tax credit reduction to:

Reduce the Federal deficit; and

Establish a Medicare prescription drug demonstration to determine feasibility of providing a new drug benefit.

Third, establishing a board called the Prescription Drug Policy Review Commission, which would, among other things:

Determine the feasibility of establishing a Canadian-like drug price review board in the United States;

Analyze international prescription drug pricing trends; and

Make policy recommendations aimed at containing drug cost increases for Medicare, Medicaid, and other public and private purchasers.

Fourth, directing the Secretary of HHS to determine the amount of subsidies the Federal Government provides to the drug industry, such as tax credits and research grants, and to recommend how these taxpayer underwritten benefits can be restructured to provide better incentives for the industry to contain costs and produce more breakthrough—not "me too"—medications.

Mr. President, 42 national organizations have endorsed the Prescription Drug Cost Containment Act. These organizations represent a broad spectrum of groups concerned about the escalating cost of prescription drugs, and include representatives of small business, older Americans, children, pharmacists, consumers, unions, rural communities, and insurance agents.

Mr. President, lobbyists for the Pharmaceutical Manufacturers Association and their member companies have already geared up their multimillion-dollar lobbying machine to claim that my policies toward the drug industry are bad and my solutions are even worse. I am not surprised that they are trying to use their old and recycled argument that they need their high prices and exorbitant profits to finance research and development of new drugs.

Many drug companies are hiding behind this research fiction to gouge the American public. The drug companies that are doing the least research are the ones that are increasing prices the fastest. Let me give you just one of many startling examples. Ciba-Geigy, which makes the antiarthritis drug Voltaren, increased the price of the drug over 14 percent from 1989 to 1990. During this same period, the company actually decreased its expenditures on R&D by 1.2 percent. Yes, Mr. President, the companies are raising prices, but it is to put dollars in their profit coffers not their research labs.

Mr. President, drug companies are also double-dipping by charging outrageous prices for drugs that were primarily researched by the Federal Government. Recently, Astra Pharmaceuticals, a Swedish-based company, marketed the drug Foscavir for eye infections in AIDS patients. In spite of the fact that the overwhelming majority of the research on the drug was done with Federal tax dollars, the company holds the patent on the drug. It is charging $21,000 a year, enabling it to make hundreds of millions of dollars in profits. A similar situation occurred with AZT. Burroughs-Wellcome continues to make hundreds of millions of dollars in profits from Federal research efforts on this drug.

Examples like these make me wonder if this legislation goes far enough. The drug industry has made the American public the laughingstock of the world for so long, that I believe more draconian action may be needed. However, I am a realist, and understand that this business-like approach may be more acceptable to many of my colleagues. Let me say for the record, however, that I am not willing to wait forever. If evidence continues to mount into 1992 that drug prices are not coming down, I will be back on this floor next year with much stronger legislation.

Mr. President, we have given the drug industry a blank check to run rough-shod over this Congress and the American public. We must have the resolve to stand up to an industry who places profits before patients and greed before the common good. The American public is looking to this Congress to take bold steps and meet the challenge of containing health care costs. If we do not meet the challenge, the American public—as they recently reminded us—may not be shy about turning to others to get the job done.

Mr. President, in conclusion, let me say, because I know that many of my colleagues are going to be here, that the drug industry will be swarming the Capitol Hill area in the next several days and weeks as this legislation moves through. They are going to be talking about all of the research they provide in finding new drugs.

Let me say, Mr. President, that last year the research spent for new drugs was $9 billion by the pharmaceutical manufacturers, but marketing and advertising expenditures exceeded—exceeded—research by $1 billion. In fact, $10 billion was spent on areas and ways to market the drugs coming on the market.

Mr. President, also, many of the drug companies are going to be telling our colleagues: We do not make any more money than the other companies. Mr. President, the Business Week magazine 1991, in one of their recent issues, said the average Fortune 500 company in 1990 made a profit of 4.6 percent for the top 10 drug manufacturing companies, 15.5 percent.

Let me conclude, Mr. President, by saying that 3 out of 4 elderly people in the United States of America today find that prescription drugs that their doctors are prescribing to stay alive is the highest out-of-pocket expense that they have. The second fact is that according to CBO, 60 percent of all the elderly people in America today are approaching a financially catastrophic situation because they can no longer afford the cost of drugs, and 60 percent of the elderly have no coverage whatsoever for the drugs that they must have to stay alive.

Mr. President, we need to take some very dramatic action. As I said earlier in the beginning of my statement, this is a step in the right direction. But, Mr. President, I can say without reservation that if the pharmaceutical manufacturers of America continue to abuse the American citizens and continue to abuse the Tax Code and continue to take advantage of those who should not be taken advantage of, then we are going to be back on this floor with even tougher legislation.

VOL 137 PT 23 NO 21—25 1991 UMI

The White House some years ago appointed a drug czar. I am saying, Mr. President, this morning, that we need a drug czar, not for illegal drugs, but a drug czar for legal drugs, for prescription drugs, someone who will become the advocate for the average American citizens out there who are finding themselves in the precarious situation of no longer being able to buy a prescription drug.

Mr. President, I thank the Chair for recognizing me. I thank, once again, Senator SASSER, Senator COHEN, and others. I thank the sponsors of this legislation and, of course, those many associations, 42 in number, which have now endorsed this particular legislation.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I am pleased to rise today as a cosponsor of this important bill. Senator PRYOR, the distinguish chairman of the Aging Committee, has worked on this issue for months, if not years. I am glad to join him and Senator COHEN and others in offering this legislation to rein in prescription drug inflation.

It is a commonsense approach. It tells the drug manufacturing industry that unless they keep their drug prices within the general inflation rate, they will lose at least a portion of the special tax break—known as section 936—that benefits them.

Section 936 of the Internal Revenue Code provides an income tax exemption for business income earned in Puerto Rico and other U.S. territorial possessions. The stated purpose of section 936 is to promote employment and investment in these possessions. But it appears that drug manufacturers have benefited beyond the intent of the provision.

The drug manufacturing industry receives about $2 billion a year in section 936 tax credits. They also receive other tax breaks, including the research and development tax credit, which I strongly support. Their tax burden is proportionately lower than that of the average U.S. industry.

And yet their profits have been the highest, according to several indicators, of any U.S. industry. Their annual 15.5-percent profit margin is more than three times as high as the 4.6-percent margin of the average Fortune 500 company.

While the drug industry is making these huge profits, the people who buy their products are paying the price. Hardworking Americans, as well as senior citizens, are having a harder and harder time buying their prescriptions. The prescription drug inflation rate rose 152 percent in the 1980's, compared to the general inflation rate of 58 percent. As the price goes up on the order of 10 percent a year, and CPI increases less than three, consumers have less buying power. But they need those medicines, so they pay the price. And they just have to make sacrifices elsewhere.

In addition, American consumers are subsidizing the drug industry for consumers in other countries. The average American pays 62-percent more for prescription drugs than the average Canadian citizen and 54-percent more than the average European citizen.

Mr. President, I fully recognize the value of the drug manufacturing industry. There is no question about the usefulness, and indeed the necessity, for new kinds of drugs as well as those that have become commonplace on the market. If a health problem can be treated with drugs rather than surgery, it is beneficial to the patient and to the health care system as a whole because it saves money.

But the drug manufacturing industry should not continue to make extraordinary profits at the expense of the consumer—and still reap huge benefits from taxpayer-supported subsidies.

Mr. President, this legislation is fair. A taxpayer-supported subsidy is not, and should not be, a blank check. If drug manufacturers want to continue to receive preferential tax treatment, they will have to show, at the minimum, that they are being fair to the American public.

I am pleased to be a cosponsor of this important bill, and I urge our colleagues to support it.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to speak for 3 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. First, let me commend Senator PRYOR for his leadership in calling attention to what is a great worry and concern about the high price of drugs. He has done a lot of work, put a lot of thoughtful effort in this. I think his active leadership, his involvement in this issue has made it one of which we are all very aware.

DIRECTIVE ON HIRING PRACTICES

Mrs. KASSEBAUM. Mr. President, what I would like to speak to is my concern regarding the administration's directive on hiring practices which was reported in the news this morning. I have not read the full directive. I have no problem with taking steps that would be in compliance with our new civil rights legislation, but I am deeply concerned if, indeed, we are going to use a broad sweeping hand to overturn what I think has worked very well for many years. As an equal employment opportunity employer, we have put into place affirmative action policies which have opened many doors, and have given us opportunities to bring women and minorities into the work force in a very constructive way.

So I hope, Mr. President, that we will be very cautious with any directives that would undo very positive, constructive policies that now exist and think carefully about what initiatives we put into place. Certainly, changes must be made to conform Government policies to the new law, but this process must be done thoughtfully and with due regard for the importance of continuing beneficial and appropriate affirmative action policies. The Uniform Guidelines, for example, have been in place for 13 years and should not be discarded in whole without careful consideration.

Particularly now, when divisions have become so great, we can ill-afford to send the wrong signal. The employment practices of the Federal Government serve as a model to all employers, and thus we should be especially careful when we change or eliminate current worthwhile practices.

Certainly none of us desire to eliminate legitimate affirmative action policies, and I fear the broad thrust of this directive may do just that.

I yield the floor, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair informs Senators that the time for morning business has expired.

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. D'AMATO. Mr. President, I ask unanimous consent that I may be permitted to proceed as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

CREDIT CARD INTEREST RATES

Mr. D'AMATO. Mr. President, today, I have sent letters to both the Attorney General, William Barr, and to the Chairman of the Federal Trade Commission, Janet D. Steiger.

In these letters, I have requested an investigation into the credit card interest rates being charged to the American public. In particular, Mr. President, I am concerned that 7 out of 10 of the largest cardholders have the same interest rates, 19.80, identical right down to the demical point.

I have been subject to extensive criticism for the legislation I introduced attempting to get those credit card interest rates down, and to see to it that we truly have free competition in the credit card industry. Some have said that I am trying to control credit and to allocate it. Indeed, that is not my intent. Nor is that the intention of the legislation. The legislation is intended to serve as the juggernaut to attack what I believe is collusive activity by the largest of the credit card issuers to dam up the rates artificially so that the people have little choice but to pay these exorbitant interest rates.

This lack of competition among the top credit card issuers is detrimental to the economy. It is detrimental to an economic recession, and it certainly does not act to spur consumer confidence. Indeed, the absence of competition ends up costing consumers billions of dollars in excess interest. Many of these consumers are already trapped, considering that average outstanding balance carried on a credit card is approximately $2,300. At an almost 20-percent interest rate, that person with a $2,300 balance of his credit card finds himself paying hundreds of dollars annually in interest costs, and in many cases, doing little to get the balance down.

Most consumers do not really have the opportunity to actively shop for the lowest interest rates in many geographic areas.

The public does not have adequate opportunity to find out that there is a bank in Arkansas, for example, that may have an interest rate of 11½ percent, or that there is another bank outside of their region that could and would be happy to serve them that offers a rate of 13½ percent.

It is this conspiracy to which I believe that the regulators have, at a minimum, been indifferent. The Federal policy has been to lower the discount rate, and Federal funds rate to encourage the reduction in interest rates so that the banks could pass this on in the cost of lower consumer credit as well as lower mortgage rates.

The lack of true competition in the credit card industry is not an overnight occurrence. I introduced legislation to bring down the rates in order to try and achieve free market competition 6 years ago. Congress turned the other way from the face of this issue after we were promised that the credit card issuers would undertake actions to promote real competition and to bring interest rates down. Indeed as the cost of money to the institutions has come down, however, the credit card interest rates, if anything, have continued to climb.

This is, as the November's Business Week editorial stated, a subsidy of the banks by the consumers. Let me read a part of this Business Week editorial:

> For their part, regulators and politicians should stop subsidizing banks by allowing outrageous rates on consumer loans. It is time to end this charade.

This is not a very cleverly bank subsidy. I think there are some, who are just as happy by having the public unknowingly ballout banks rather than having to come forward and affirmatively ask for a taxpayer bailout—such as the $70 billion "loan" to the bank insurance fund which the taxpayers may be stuck paying back.

Those who talk about free competition should be looking closely at whether we have a free market system with respect to the credit card industry. To do otherwise would be to encourage, and actually allow an illegal practice and restraint of trade and commerce; at the expense of middle-class taxpayers, families, and workers. These individuals have been paying exhorbitant rates of interest to subsidize credit card issuers with billions of dollars, while these same issuers have the nerve to literally blackmail the public by saying, if you dare threaten what we are doing, we will pull at least one-half of these credit cards back from you.

Mr. President, I am not giving up on this battle. We are going to get those interest rates down because we are not going to turn the spotlight away from this horrible anticompetitive practice. We already have begun to see some signs of recognition of this situation by the large credit card companies, some of which are beginning to advertise for the first time and mention interest rates. I think maybe this is a crack in the facade of competition. I want to see to it that that crack becomes more than just a crack but that the wall damming up those interest rates so artificially high is knocked down.

This is why today I have written to both Attorney General Barr and to the Chairman of the Federal Trade Commission to ask them to launch an inquiry to see to it that we have free market competition among credit card issuers, particularly, those seven who interestingly charge the same interest rates, 19.80, as I have said identical right down to the last decimal.

If we are going to talk about free market competition, and that is the best way to go, and I believe it is, then we have an obligation to ensure we actually have unencumbered competition.

I wonder what Teddy Roosevelt would have done if he had seen this kind of situation and whether or not these institutions would have been permitted to conspire for so long against the American people to artificially keep credit card interest rates up in order to make an inordinate profit to pay off their bad loans and compensate for other poor practices. Credit card issuers must be stopped from soaking the middle-class, and those who are using and are forced to use credit cards.

Mr. President, I ask unanimous consent that both these letters be printed in the RECORD.

Later on, when we get to the banking bill, I will have more to say on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 21, 1991.

JANET D. STEIGER,
Chairman, Federal Trade Commission, Washington, DC.

DEAR MS. STEIGER: As you are probably aware, on Wednesday, November 13, I introduced an amendment to the Senate banking bill, S. 543, to set a floating ceiling on the interest rates that credit card issuers could charge their customers. This amendment passed by a vote of 74–19.

This legislation was intended to reduce the cost of credit to consumers. The amendment was also intended to help ease the credit crunch in the hope that savings in credit card interest could be funneled back into the economy through an increase in consumer spending.

I first introduced this legislation back in December 1985, (S. 1992) when I became concerned that credit card issuers were charging their customers rates of interest that bore no rational relation to the cost of money. Although this legislation did not prevail in 1985, I have continued to monitor the high rates of interest being charged by credit card issuers.

Since 1985, the average interest rate on credit cards has actually increased from 18.7 percent to 18.9 percent In 1985, the average prime rate of interest was 10 percent and the average discount rate was 7.75 percent Today, the prime rate of interest is 7.5 percent, and the discount rate is 5.5 percent, yet the average interest rate charged to credit card customers is 18.9 percent. Further, seven of the top ten credit card issuers charge the identical rate of interest—19.8 percent.

There is no free market competition among credit card issuers. The top ten credit card issuers have set an unreasonably high rate of interest to be charged to their credit card customers. Statistics show that the average interest rate being charged on credit card debt continues to increase, despite a definite decline in the cost of money.

Since S. 1992 was introduced in 1985, my office has received approximately 43,000 letters from constituents requesting information on where to obtain credit cards with a lower rate of interest. This response demonstrates that consumers are concerned about the high rates of credit card interest.

I am deeply concerned that credit card issuers are not being adequately supervised. I am also concerned that the identical rate of interest being charged by seven of the top ten credit card issuers—19.8 percent (identical to the decimal), more than suggests collusion and price fixing activities among these companies.

As a result, I ask that the Federal Trade Commission consider the facts I outlined above and conduct an investigation into whether there is free and unrestrained competition in the credit card industry and whether there are any antitrust violations. In particular, the investigation should consider the practices engaged in by top credit card issuers in setting their rates of interest. Enclosed is a chart printed in Newsday that identifies the largest ten credit card issuers and their rates.

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Please keep me advised as to your progress on this matter. It is crucial that we continue to protect the public's interests. I look forward to a quick response.

Very truly yours,

ALFONSE M. D'AMATO,
U.S. Senator.

IN THE CARDS—CREDIT CARD TERMS AT 10 BIGGEST, ISSUERS NATIONWIDE, BASED ON OUTSTANDING BALANCES

	Annual rate (percent)	Annual fee
Citibank	19.8	$20
Discover	19.8	(2)
Chase Manhattan	19.8	20
MBNA America	19.8	20
Bank of America	19.8	18
Credit card terms at issuers charging lowest interest:		
Simmons First National Pine Buff, AR	[1] 9.5	25
Arkansas Federal Savings, Little Rock, AR	[1] 9.5	35
Wachovia Bank Wilmington, DE	[1] 10.4	19
Prime Bank Elkhart, IN	12.9	20
AFBA Industrial Bank Alexandria, VA	[1] 13.0	(2)
Bank of New York (Del.) Newark, DE	[1] 13.4	(2)
First Chicago	19.8	20
Optima	16.25	15
Bank of New York	16.98	18
Manufacturers Hanover	19.8	20
Household Bank	21.0	(2)
Fidelity National Bank, Atlanta, GA	[1] 13.7	20
USAA Federal Savings, Tulsa, OK	[1] 13.75	(2)
Bank of Montana, Great Falls, MT	[1] 13.75	19
Bank One Wisconsin, Milwaukee, WI	13.9	25
People's Bank, Bridgeport, CT	13.9	25

[1] Variable rate.
[2] None.

U.S. SENATE,
Washington, DC, November 21, 1991.

WILLIAM P. BARR,
Attorney General, Main Justice Building, Washington, DC.

DEAR MR. BARR: As you are probably aware, on Wednesday November 13, I introduced an amendment to the Senate banking bill, S. 543, to set a floating ceiling on the interest rates that credit card issuers could charge their customers. This amendment passed by a vote of 74–19.

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Since 1985, the average interest rate on credit cards has actually increased from 18.7 percent to 18.9 percent. In 1985, the average prime rate of interest was 10 percent and the average discount rate was 7.75 percent. Today, the prime rate of interest is 7.5 percent, and the discount rate is 4.5 percent, yet the average interest rate charged to credit card customers is 18.9 percent. Further, seven of the top ten credit card issuers charge the identical rate of interest—19.8 percent.

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As a result, I ask that the Justice Department consider the facts I outlined above and conduct an investigation into whether there is free and unrestrained competition in the credit card industry and whether there are any antitrust violations. In particular, the investigation should consider the practices engaged in by top credit card issuers in setting their rates of interest. Enclosed is a chart printed in Newsday that identifies the largest ten credit card issuers and their rates.

Please keep me advised as to your progress on this matter. It is crucial that we continue to protect the public's interests. I look forward to a quick response.

Very truly yours,

ALFONSE M. D'AMATO,
U.S. Senator.

IN THE CARDS—CREDIT CARD TERMS AT 10 BIGGEST ISSUERS NATIONWIDE BASED ON OUTSTANDING BALANCES

	Annual rate (percent)	Annual fee
Citibank	19.8	$20
Discover	19.8	(1)
Chase Manhattan	19.8	20
MBNA America	19.8	20
Bank of America	19.8	18
Credit card terms at issuers charging lowest interest:		
Simmons First National, Pine Bluff, AR	[2] 9.5	25
Arkansas Federal Savings, Little Rock, AR	[2] 9.5	35
Wachovia Bank, Wilmington, DE	[2] 10.4	39
Prime Bank, Elkhart, IN	12.9	20
AFBA Industrial Bank, Alexandria, VA	[2] 13.0	(1)
Bank of New York (Del.), Newark, DE	[2] 13.4	(1)
First Chicago	19.8	20
Optima	16.25	15
Bank of New York	16.98	18
Manufacturers Hanover	19.8	20
Household Bank	21.0	(1)
Fidelity National Bank, Atlanta	[2] 13.7	20
USAA Federal Savings, Tulsa, OK	[2] 13.75	(1)
Bank of Montana, Great Falls, MT	[2] 13.75	19
Bank One Wisconsin, Milwaukee, WI	13.9	25
People's Bank, Bridgeport, CT	13.9	25

[1] None.
[2] Variable rate.

WORLD CUP SOCCER

Mr. GRAHAM. Mr. President, for the first time in history, the United States has been selected to host the World Cup Soccer Championship. It is a great honor to be chosen host to the games. The World Cup is the largest single-sport spectacle in the world. In the 1990 games, 112 nations played 313 games for the chance to compete in the tournament.

Hosting World Cup represents a historic opportunity for Americans to participate in this international event. Twenty-six cities, including three in my home State of Florida, are competing to host a portion of the games.

The World Cup legislation will create gold, silver, and clad coins to be minted by the U.S. Mint and sold to the public in commemoration of this event. The revenues generated by the coin sales will help the World Cup USA organizing committee stage the tournament. After ticket sales, surcharges will provide the second largest revenue source for the United States to host the games. These funds will help make the event a first-class success and ensure that state-of-the-art facilities are in place in approximately a dozen U.S. host cities.

The 1994 games will match world class soccer with world class American hospitality. The U.S. Department of Commerce anticipates that 1.5 million foreign visitors will attend tournament games. The games will increase aggregate tourism spending by $1.5 billion or 8 percent in 1994. These funds will be spent in our communities, bolstering our economy, in addition, 10 percent of those funds will be set aside for scholarships to qualified students.

By authorizing this commemorative coin, Congress has the opportunity to support World Cup, at no cost to the taxpayers. Let us send a message of support to the potential host communities, to the athletes, and to the expected 20 to 30 billion worldwide viewers, that our Government is behind the 1994 World Cup Soccer Championship.

For the benefit the record and my colleagues, I would like to include a description of the scholarship program.

The description follows:

Subsection 8(b): Ten percent of the funds made available by subsection 8(a) will be available to the United States Soccer Federation Foundation, Inc. for distribution to institutions for scholastic scholarships to qualified students. The scholastic scholarships shall go to any groups for distribution to qualified students that meet the following criteria:

Definition of "Institutions"—In selecting institutions to provide scholastic scholarships to qualified students, we expect that the United States Soccer Federation Foundation shall select no more than five recipients, provided that the institution:

Is a 501(c) (3) nonprofit which includes as its mission increasing the representation of qualified students, as defined in the following section, in higher education by providing scholarship assistance to students pursuing college degrees;

Serves all of the geographic and ethnic subgroups of a target population consisting principally of qualified students; and

Provides educational services, scholastic scholarships and related services to qualified students.

We do not intend that institutions of higher learning, trade associations, for-profit institutions, units of state or local government, or other organizations or entities providing scholastic scholarships that are generally available to persons other than qualified students be considered by the United States Soccer Federation Foundation for participation in the programs authorized by this section.

Definition of "qualified student"—We intend that the term "qualified students" be interpreted narrowly by institutions providing scholastic scholarships. The Committee intends to limit scholarships under this section to the most undereducated persons and groups in American society. The Committee

expects that "qualified Students" shall be identified based on the following criteria:

Individuals who are "first-generation" college students. i.e., whose parents did not complete a course of study at an accredited institution of higher learning; and

Individuals who are "economically disadvantaged", i.e., who come from families with incomes at or below the median family income of the U.S. population, or who are members of communities with median incomes at or below 70% of the median family income of the U.S. population; and

Individuals who are "educationally disadvantaged," because of developmental disability, national origin, nativity or limited-English proficiency, or attended school districts with dropout rates at least twice as high as the national average; and

The scholastic scholarship fund will be targeted to minority student groups that have a high school completion rate of less than 60 percent.

Provided further,

That at least one such institution serves as an umbrella organization for at least 125 affiliated local community-based organizations. Such institution provides capacity-building assistance, public policy analysis and advocacy, public information efforts, and special catalytic efforts on behalf of economically and educationally disadvantaged persons. Such institution is governed by organizational by-laws that required a Board of Directors reflective of the geographic, gender and ethnic composition of a target population consisting principally of qualified students and their families, as defined in this section. Such institution includes a corporate board of advisors composed of at least twenty senior executives of major corporations.

That at least one such institution is a 501(c)(3) nonprofit organization whose sole mission is to provide scholarship assistance to qualified students in all fifty states and Puerto Rico. Scholarship recipients are selected on the basis of academic achievement and personal strengths, and represent hundreds of both public and private colleges and universities across the nation. Recipients are also reflective of the composition of five national regions. Such institution annually selects scholarship recipients using a process of regional review committees. In addition, such institution is government by organizational bylaws which require a board of directors comprised of corporate and educational leaders.

That at least one such institution is a 501(c)(3) nonprofit organization with a national scope and a primary goal to provide post high school scholarship assistance to qualified students in all fifty states and the territories of the United States of America. Scholarship recipients are selected on the basis of academic achievement, community leadership and financial need. Such institution is governed by organizational by-laws that require officers, board of directors, and trustees who are business and community leaders throughout the nation and are dedicated to the educational advancement of a target population of qualified students as defined in this section.

Student eligibility: A qualified student who is in attendance or who has been accepted for admission, as a full-time undergraduate or graduate student at an accredited institution of higher education may apply.

We recognize that institutions must have some flexibility in the selection of scholarship recipients; however, we expect that, except in unusual or exceptional circumstances, each scholarship recipient shall meet the three of the four broad criteria in addition to other criteria set forth by the institution.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

EXTENSION OF MORNING BUSINESS

Mr. ROBB. Mr. President, I ask unanimous consent, after checking with the managers of the upcoming bill, that the period for morning business be extended for up to 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized.

Mr. ROBB. I thank the Chair.

(The remarks of Mr. ROBB pertaining to the submission of Senate Concurrent Resolution 78 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The PRESIDING OFFICER. The Senate will now resume consideration of the banking reform bill. The clerk will report the pending business.

The bill clerk read as follows:

A bill (S. 543), to reform Federal deposit insurance, protect the deposit insurance funds and improve supervision and regulation of and disclosure relating to federally insured depository institutions.

The Senate resumed consideration of the bill.

Pending:

(1) Dixon modified amendment No. 1352, to improve the governance of the Resolution Trust Corporation.

AMENDMENT NO. 1352

The PRESIDING OFFICER. The pending business is the Dixon amendment.

Mr. RIEGLE. Mr. President, with respect to the Dixon amendment, let me comment. Senator DIXON has been doing some very important and excellent work in discussions centering around his amendment, which has to do with the restructuring of the RTC. He has been holding those discussions with others of us on the committee and with the Treasury Department officials, and I think he has made very considerable progress in finding a formulation that would be generally agreeable on that issue. That is not to say there will not be some who will not find it precisely to their liking. But progress has been made in that area, greatly to his credit.

Therefore, I ask that the Dixon amendment be temporarily laid aside, fully preserving his rights on that amendment, so that we can take up discussion of a managers' amendment that deals with other issues.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair. With the Dixon amendment temporarily laid aside, we return to consideration of the banking reform bill. At the end of the day on Monday, there were several Senators who expressed doubt that the Senate could complete its work on the bill before the Thanksgiving holiday. They pointed out that a number of amendments might be offered to the bill, and suggested that the Senate just could not possibly consider those in a timely fashion.

The majority leader and the minority leader asked Senator GARN and I, and the other members of the committee, to work in every way possible to see if we could resolve as many and, hopefully, all of those issues in this very compressed timeframe in which we are dealing.

I am here now to report, and am pleased to report, that we have made very considerable progress in reaching agreement on contentious issues. We are still working at this minute on those few that remain.

I want to just say at this time, and pay a great personal professional compliment to the Senator from Utah [Mr. GARN] who has worked as hard as I have ever seen anybody work to try to resolve issues, particularly ones that are troubling to Members on his side of the aisle, in a good-faith effort to try to find fair and balanced answers that will keep this bill balanced and intact.

I must say that in working with Senator GARN, which I have now done for many years, there are certain unpleasant experiences that go with this job. One of the pleasant experiences has been the opportunity to work together with the Senator from Utah. I want to thank him for his diligent work and for what I think we have been able to—together and with the help of many others—accomplish to this point.

Yesterday afternoon, Senator GARN and I met with Secretary Brady, and in the course of that discussion, we reached a general outline of an agreement, if you will, tentative agreement, as to how we would try to resolve concerns of all Senators and to undertake to narrow the scope of the bill in a fashion that would be generally agreeable, so that we could bring this issue to a conclusion today.

It is very much my hope and intention that we act on this bill and finish

VOL 137
PT 23
NO 21—25
1991
UMI

it today. We are compelled to do that, I think, not only by the Senate calendar and schedule and other items waiting to come to the floor, but also the fact that the deposit insurance fund is virtually empty. It will be bankrupt by the end of the year and cannot be left in that condition, because otherwise, failed banks in the coming year—and there are anticipated to be some large number of those—would not be able to pay off the insured deposits of depositors, and that is obviously a condition that would be intolerable and cannot be allowed to be the situation that we would face.

In terms of the work since late afternoon yesterday, and in the meetings with Secretary Brady that I have just referenced, we have agreed to drop out title IV which would restructure the board of directors of the FDIC, and it has certain other items in it.

We have in previous sessions taken and adjusted and removed part or all of other sections.

We have also worked to achieve a compromise acceptable to most, but not all. I see the Senator from Delaware on the floor, so I am not going to get into, now, any lengthy discussion on the issue of issues.

But we have been working to balance that issue out as best we can, and we are continuing that effort, and I hope and feel that we may be very close to doing that. Where we have 100 Senators agreeing with it, sometimes we can get there; sometimes we cannot. And certainly that is the nature of settling issues here in the Senate.

I want to say just with respect to two or three other items, we had a controversy in the area with respect to the Lampf decision. I want to say in that area, Senator BRYAN and Senator DOMENICI have worked steadily to resolve those issues. I thank them both for that effort. It would allow the Lampf decision to be set aside so there would, in fact, be a legal reachback to cover cases that have been filed in the way of alleged fraud, fraudulent activities. That is a very important provision of the bill, and we have reached a compromise on that, that settles that issue.

We have also worked with a number of other Senators to work out items that will be contained in a managers' amendment to be offered by Senator GARN and me shortly on the front end of this discussion. And then, finally, a residual managers' amendment, which we will offer on the back end, that will contain other items that have been agreed to, and where the technical language is being worked out literally as we speak.

So at that point, we will be offering first one and then the other.

We are down here now to a very limited number of specific amendments that Members want to offer on the floor, and to have time to debate those amendments and to perhaps have a vote on those amendments and have the Senate settle it. I have two such amendments from Senator GRAHAM that have been identified. I have one from Senator KERRY.

And, in addition to that, let me just check one thing here. I am told there is one issue that I hope is on its way to resolution. It may not be. In addition, two by Senator GRAHAM, and the one by Senator KERRY that will require discussion and disposition by the Senate.

There may be an amendment by Senator DODD dealing with the Small Business Administration's investments in banks. I know discussions have been going on back and forth, with appeals on both sides of that issue. I hope that will be settled out.

And then there are four Senators on the other side of the aisle who have indicated they may need to offer amendments. I will let Senator GARN address those, for his part, and any other amendments that may come in from other Senators. The hotline has gone out.

I know Members have questions about certain items that we have worked out late last evening and in the middle of the night, and even early this morning. We will be in a position to discuss those with individual Senators as they come to the floor.

The bottom line is this: We have a solid package here, I think. Each provision that we have worked out, I think, will stand on its own as a solid provision. I think they have to all, in effect, be taken in combination. I think the combination of provisions is sound. We have to enact this bill today, in my view, in terms of the time schedule, so that we are in a position to meet our responsibilities, go to conference, and get this legislation in place.

The President has asked us to do this on an urgent basis. This is one of a very short number of top operational priorities that he set forward. I think that what we have here meets the request for action in that area, and does it in a responsible way.

I thank everyone that has been participating in the effort to resolve these issues. It is not easy to do because they are complicated, they are contentious, and it is necessarily time consuming, even in the best of circumstances, to resolve issues that are very difficult to resolve.

Let me yield to my ranking member.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, I thank the chairman for his overly generous remarks. Certainly, he has been working extremely hard over the last couple days to resolve these issues.

I compliment him for his work to do that. There is no necessity to repeat all of that he said, other than to emphasize that there has been a lot of progress made on this bill.

Some of the most contentious issues have been agreed to, and I would like to compliment the Senators who, at our request, sat down together and worked out their differences. So this is a considerably different bill and situation than when we left the floor a couple days ago.

Having said all that, though, that does not indicate there are still not some problems to be resolved. There are. And there are still some Senators, as outlined by the chairman, who wish to offer amendments. We would hope they would come to the floor and do that.

I was remarking a few minutes ago, when I first got here, I can remember how much I admired Mike Mansfield, who was then the majority leader, and the Senator from Pennsylvania, who was the minority leader. They were as nice Senators, and kind and gentle, as I have ever seen. But they were not very kind when it came to delay.

And we, I think, have become too accommodative of individual Senators, not just on this bill, but we often sit for hours because some Senator is in a meeting; he is on a conference call; he is downtown giving a lunch, and we wait.

In the old days, it used to be, they would say: Fine; if the Senator is not here in a half hour to offer his amendment, we are going to move on. If nobody is here, we are going to go to third reading.

When you have 100 prima donnas all thinking—each one of us—we are the most important Senator on Earth, you cannot accommodate each one and not have the delays that we do over and over again.

So if I could run this place, I would not be as nice and as compliant as our leaders have been. I may not be leader very long, either, if that were the case.

But on the other hand, I would suggest to those who are listening, what we need to do—if people have amendments, we are ready to consider those amendments; we are willing to debate them; and we are willing to accept the judgment of the Senate, whatever that is. But this Senator is not very tolerant of people stalling by not coming over and debating in the old-fashioned way.

It used to be, too, if a Senator really did want to delay, not by using the good graces of the majority and the minority leaders in accommodating his lunch schedule, or whatever it is, I have been on this floor when I have seen Senators debate for 10 or 12 hours. And if they sat down and quit talking, it was over. The two-speech rule was enforced in lots of things. So I hope that Senators will come over and do their business.

The chairman is right. Whatever the end result of this bill, it must be finished today. And I hope we will stay all night, if we have to, because what is ultimately at stake is the safety and soundness of the banking system of this country. And if you hear an edge in my voice, I am going to repeat this ad nauseum, and people are sick of it.

In October 1986, I stood out here, and I gave up my entire bill. I withdrew it, except for one title: Recapitalization, $15 million for FSLIC, the insurance fund of the S&L's, to be paid for entirely by the S&L's, not the taxpayers, every dime of it. No taxpayer involvement.

We passed it in the Senate; the House refused.

I begged, I begged for that to be passed. And what do we have? A $160 billion taxpayer bailout because Congress failed to act on that.

So I would suggest on November 20, 1991 that if we leave this session—I will put it the other way. We cannot leave this session without passing the recapitalization of the bank insurance fund which, once again, is not taxpayers' money. The banks will pay it back with increased premiums on their deposits.

I hope no one loses sight of this, of what fire we are playing with; that in 5 years down the road, if we do not do this before we leave this session, we are going to see a couple other Senators up here talking about another $160 or $200 billion of taxpayer bailout because Congress refused to act.

So I would suggest that everybody that has an amendment out there, bring it over. We will debate it. But let us finish this tonight, and do our responsibility to the taxpayers of this country to put some money in that bank insurance fund, or the FDIC, as we always used to call it. Let us take care of that responsibility with whatever meaningful reforms we can put in.

This is a good package. We ought to be able to put it for a vote right now. The chairman has worked hard. It is a good package.

We recognize there are difference of opinion. Again, I repeat: Fine, come away from your lunches or meetings. There is nothing more important in this body right now than making sure that that bank insurance fund is safe and sound, and has the money to do its business. That is the overriding responsibility. Let us get to it, and get it done before the day is over.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I wonder if I could ask the managers of the bill a question, and then I would like to comment for maybe 5 minutes on the substance of a couple of amendments that I had. May I ask the chairman and ranking member—I say to the chairman, he alluded to the fact that we have reached an agreement with reference to the Lampf decision which, in essence, takes away all the retroactive aspects of that decision but does not extend the statute of limitations. That agrument lives for another day. I think that is a reasonable resolution because, if we are going to extend the statutes of limitations, there are many who wanted to change some of the rules, the rule under which lawyers operate in that kind of suit. So I am willing to do that. I have done that. I told you I have done that. I just wonder, from my own standpoint, will that be offered by the managers as part of some package sometime today?

Mr. RIEGLE. Yes. As a matter of fact, shortly I will be sending a managers' amendment to the desk, which will contain that compromise the Senator from New Mexico has worked out with the Senator from Nevada. I might say that one very important part of that compromise is that it will protect and allow cases, major cases of investment fraud alleged, to be able to proceed and not be cut off by the statute of limitations in terms of cases already set in motion. And so it is very important that those cases be allowed to go forward, and the Senator's agreement on that would allow that and that would be part of it.

Mr. DOMENICI. As I have said two or three times on the floor, I never objected to that. What I wanted to debate in the Senate was should we extend the statute of limitations for the entire body of law? And there are some that think we should. There are some who think we should only if, and the ifs happen to be the amendments that I would have offered.

What I will do now is send to the desk, so everyone will know because this apparently generated a significant amount of activity in America—I do not know from whence it comes but apparently there are all kinds of interest in what this might do, I am going to submit four amendments to the desk. They will never be offered, but they are what I would have offered, and they will give everyone a chance in the next 3 or 4 months to take a look at them because, sooner or later, this issue will be revisited. I do not think there is any doubt about that. So let me send them to the desk with again no intention than they will ever be offered.

They will be the following: I have a combination amendment that puts together the joint and several liability reform with fee-splitting; and then I have a straight joint and several liability amendment; and then one on fee-splitting alone; and then one on what I call miscellaneous provisions. I send those to the desk and ask that they be made a part of the RECORD.

The PRESIDING OFFICER. The amendments will be received.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

On page 778, line 13, strike "Except" and insert "(a) IN GENERAL.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) AWARD OF FEES UPON FINAL JUDGMENT.—In any implied private action arising under this title, brought on behalf of a class, where the court enters a final judgment against a party on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses under subsection (b) incurred by that party.

"(c) APPLICATION TO COURT.—A party seeking an award of fees and other expenses under subsection (b) shall, not later than 30 days after a final, nonappealable judgment is rendered in the action, submit an application to the court for fees and other expenses. The application shall verify that the party is entitled to such an award under subsection (b) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed.

"(d) COURT'S DETERMINATION.—The court, in its discretion, may—

"(1) determine whether the amount to be awarded under subsection (b) shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny the award if—

"(A) the prevailing party, during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; or

"(B) the court determines that, notwithstanding any other provision of this section, the action was substantially justified.

"(e) LIABILITY OF COUNSEL.—Counsel for the party against whom fees are awarded under this section in connection with an action described in subsection (b) shall be personally liable for those fees. Such counsel may enter into an agreement for reimbursement or indemnification of such fees from members of the class on whose behalf the action was brought prior to or at any time during such litigation. All such agreements between the counsel for the class and the class members shall be approved by the district court.

"(f) DISCOVERY MOTIONS.—In any motion for an order compelling discovery made pursuant to an implied private action arising under this title, the court shall award the prevailing party as to the securities action reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorney fees, unless the court finds that special circumstances make an award unjust.

"(g) AWARD OF FEES UPON DISMISSAL PRIOR TO TRIAL.—In any action brought on behalf of a class that alleges a violation of section 10(b) or 14 or the rules issued thereunder, where such action is dismissed prior to trial, the court shall order the nonprevailing party or that party's counsel to pay reasonable attorneys' fees and expenses incurred by any prevailing party if, upon motion to the court, the court finds that the plaintiff has failed to establish that, after reasonable investigation made prior to the commencement of the action, the plaintiff had reasonable grounds to believe and did believe that the action—

"(1) was well grounded in fact; and

"(2) was warranted based upon existing law or upon good faith arguments for the reasonable extension, modification, or reversal of existing law.

VOL 137 PT 23 NO 21—25 1991 UMI

"(h) FEE AMOUNTS.—The amounts of fees awarded under this section and the reasonable allocation of expenses among multiple parties shall be in the discretion of the court, based upon prevailing legal fees in the district, the prevailing party's legal and other bills, and the pleadings and proceedings in the case, provided that such fees and costs relating to representation at trial or deposition shall not be awarded for simultaneous representation of any 1 defendant by more than 1 attorney. The amount recovered shall not include any amounts separately awarded under Rule 11 of the Federal Rules of Civil Procedure.

"(i) DEFINITIONS.—

"(1) FEES AND OTHER EXPENSES.—For purposes of this section, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses.

"(2) PREVAILING PARTY.—For purposes of applying for an award of fees under this section, the 'prevailing party' shall be considered to be—

"(A) the party that brought the underlying action if such party succeeded on the central issue of the suit by acquiring the primary relief sought; or

"(B) the party defending in the underlying action if such party prevented the plaintiff from acquiring the primary relief sought.".

SEC. . PROPORTIONATE LIABILITY REFORM.

"( ) LIABILITY.—In any implied private action arising under a provision of this Act, the liability for damages of each defendant shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility, as determined under subsection ( ). A separate judgment shall be rendered against each defendant for that amount.

"( ) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact in an action referred to in subsection (b) shall determine the proportion of responsibility assignable to each defendant.

"( ) EXCEPTION.—This section does not apply to any defendant found by the trier of fact in an action referred to in subsection (b) to have acted with actual, subjective intent to deliberately deceive, manipulate, or defraud. Proof that the defendant acted recklessly does not subject the defendant to joint and several liability in any implied private action arising under this Act.".

On page 778, line 13, strike "Except" and insert "(a) LIMITATIONS.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) LIABILITY.—In any implied private action arising under a provision of this Act, the liability for damages of each defendant shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility, as determined under subsection (c). A separate judgment shall be rendered against each defendant for that amount.

"(c) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact in an action referred to in subsection (b) shall determine the proportion of responsibility assignable to each defendant.

"(d) EXCEPTION.—This section does not apply to any defendant found by the trier of fact in an action referred to in subsection (b) to have acted with actual, subjective intent to deliberately deceive, manipulate, or defraud. Proof that the defendant acted recklessly does not subject the defendant to joint and several liability in any implied private action arising under this Act.".

On page 778, line 21, insert "(a)" after "section 36".

On page 778, line 23, insert after the period the following: "Section 36(b) of the Securities Exchange Act of 1934, as added by subsection (a), shall become effective on the date of enactment of this Act and shall apply to all proceedings commenced on or after that date of enactment.".

On page 778, line 13, strike "Except" and insert "(a) IN GENERAL.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) AWARD OF FEES.—In any implied private action arising under this title, where the court enters a final judgment against a party on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses incurred by that party.

"(c) APPLICATION TO COURT.—A party seeking an award of fees and other expenses shall, not later than 30 days after a final, nonappealable judgment is rendered in the action, submit an application to the court for fees and other expenses. The application shall verify that the party is entitled to such an award under subsection (b) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed.

"(d) COURT'S DETERMINATION.—The court, in its discretion, may—

"(1) determine whether the amount to be awarded pursuant to this section shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny an award if—

"(A) the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; or

"(B) the court determines that, notwithstanding any other provision of this section, the action was substantially justified.

"(e) MOTIONS.—In any motion for an order compelling discovery made pursuant to an implied private action arising under this title, the court shall award the prevailing party as to the securities action reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorney fees, unless the court finds that special circumstance make an award unjust.

"(f) LIABILITY OF COUNSEL.—Counsel for the party against whom fees are awarded under this section in connection with an action described in subsection (b) shall be personally liable for those fees. Such counsel may enter into an agreement for reimbursement or indemnification of such fees from clients prior to or at any time during such litigation. In the case of a class action, all such agreements between the counsel for the class and the class members shall be approved by the district court.

"(g) Definitions.—

"(1) FEES AND OTHER EXPENSES.—For purposes of this section, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of services furnishes.

"(2) PREVAILING PARTY.—For purposes of applying for an award of fees under this section, the 'prevailing party' shall be considered to be—

"(A) the party that brought the underlying action if such party succeeded on the central issue of the suit by acquiring the primary relief sought; or

"(B) the party defending in the underlying action if such party prevented the plaintiff from acquiring the primary relief sought.".

On page 778, line 21, insert "(a)" after "section 36".

On page 778 line 19 strike the quotation marks and the final period and insert between lines 19 and 20 the following:

SEC. .

( ) RECOVERY BY NAMED PLAINTIFFS IN CLASS ACTIONS.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the share of any final judgment or of any settlement that is awarded to any party serving as a representative plaintiff shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the plaintiff class.

( ) PROHIBITION ON CONFLICTS OF INTEREST.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the class may not be represented by any attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation. An attorney who knowingly violates this prohibition shall be barred from acting as class counsel in any future action arising under this Act or under the Securities Act of 1933.

( ) PAYMENT OF REFERRAL FEES.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, an attorney may not represent the class if the attorney has paid or is obligated to pay a fee to a third party who assisted him in obtaining the representation of any member of the class. An attorney who knowingly violates this prohibition shall be barred from acting as class counsel in any future action arising under this Act or under the Securities Act of 1933.

( ) PROHIBITION ON ATTORNEYS' FEES PAID FROM COMMISSION DISGORGMENT FUNDS.—Funds disgorged as a result of any action brought by the Commission in federal court or of any Commission administrative action shall not be distributed as payment for attorney fees or expenses incurred by private parties seeking a share of the disgorged funds except as much court may order upon a motion of the Commission."

Mr. DOMENICI. Now, let me indicate my appreciation to the chairman and ranking member on another matter. I had an amendment that was essentially an economic amendment because, if you sit down with any Senators and start talking about the banking system in America, the first thing they say is the banks are not lending money, and then you meet with the

bankers and the bankers say, well, we are having a lot of difficulty lending money because the regulators are on our backs. And then you come back here and ask the regulators, "Are you really doing that?" And they tell you, "Oh, not at all."

Well, I am sure either they are really doing it or it is perceived that they are doing it. But everyone agrees that it is much, much more difficult today to lend money on a home or for the purpose of a home because it takes very long to get the appraisals done. In some of our States, it is taking, instead of 10, 15 days, $200 or $300, it is taking 2 or 3 months and it is costing well over $1,000. And, if you get to commercial property, in many States it is taking weeks upon weeks to get the appraisal finished, and the fees are enormous.

Now, I do not deny professional appraisers their due. This amendment had nothing to do with trying to deny them their right to collect as professionals. What it has to do with is the economic fact that that is the big delay and the statistical truism that the threshold for causing certified appraisals is too low; $50,000 for a home is too low. And $50,000 for commercial property is too low. This changes that to $100,000 for homes, $250,000 for commercial, which means they will be appraised under that threshold, but the necessarily by certified appraisers.

This is a new kind of appraisal. And we are short of them in all our States. Every State is short of these because we are bringing ourselves up to speed. And we think the losses are very, very insignificant for sales under those thresholds. History reveals that, and current history reveals that. So we do not think using a different kind of appraiser is going to cause any harm to the banking system. On the other hand, it will move things out much more rapidly.

Likewise, on a home loan, when you want to add an improvement loan to it, currently, you have to go through an entire appraisal for a $20,000 improvement loan. Ridiculous. This makes some changes in that and indicates that some flexibility can be used there. So that if the equity is gigantic, you do not have to spend the money for a full appraisal. It will cause that kind of money to move out of banks more quickly.

There are a few other things in the amendment that will be adopted. And on that one I understand the managers will put that in their collective bill, and I thank them for it. I believe it will do some good. In fact, there are a number of Senators who know more than I about banking who indicate this will be a significant improvement if we can just put it into the law.

So I want to thank everyone for helping on that, and I yield the floor.

Mr. RIEGLE. I would like to say again, I thank the Senator from New Mexico for his diligent efforts over the last several days to work this issue out satisfactorily, and very particularly Senator BRYAN, from Nevada, who happens not to be on the floor. And Senator MCCONNELL was also involved in that.

Mr. DOMENICI. Will the chairman yield?

Mr. RIEGLE. Yes.

Mr. DOMENICI. I forgot to mention, and I do apologize, that Senator MITCH MCCONNELL has been very active in the area with reference to attorneys' fees and court costs, and he was a cosponsor of all of those amendments that I sent to the desk and clearly would have been my ally had we offered them. I am sure he is pleased that we resolved the issue by not extending the statute of limitations on 10(b) type of litigation.

Mr. RIEGLE. Very good.

I now have the amendment, the first managers amendment that I will send to the desk. I want to do that now, but I see the Senator from Missouri on his feet. Did he want to make a comment before I do that?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the chairman.

I just want to commend our colleague from New Mexico because, as we talk about all the things that we do to put additional burdens on the system, Senator DOMENICI has been a real leader in pointing out some of the things that we can do to lighten the burdens and help us encourage economic activity. There is a lot of work to be done in this area.

I thank the chairman and the ranking member for making the accommodations. There is much more that we have to do here, but I congratulate the Senator from New Mexico and assure him that I am willing to work with him in these areas in the future.

I express my appreciation again to the chairman for the time.

AMENDMENT NO. 1368

(Purpose: To strike certain portions of the committee amendment)

Mr. RIEGLE. Mr. President, let me now indicate what I am sending to the desk in the manner of the first agreed-to amendment by Senator GARN and myself. It is an amendment that will contain two of the three items that I previously discussed. The third involves some technical changes that are still being put in printed form. We will offer that just a little bit later.

The issue has been resolved. It is a matter of getting it prepared in a proper form so it can go to the desk, and that relates to the Lampf issue. So we will be sending that a little later to the desk but the issue is settled.

The two that I will now send up to the desk and offer in behalf of Senator GARN and myself will narrow the bill down in this respect.

We have agreed to drop title IV of the bill, which would restructure the Board of Directors of the FDIC, which contained the Federal Financial Institutions Coordination Council Act and which addressed the registration of bank securities. So that section will be now taken out of the bill and that is part of what is accomplished in the amendment I now send to the desk.

We also incorporated here the changes that had been worked out in the area of insurance, of interest to the Senator from Delaware and others. But the amendment we have developed and have sent to the desk modifies the provisions of the bill regarding insurance activities of banks. It modifies a provision adopted by the committee during markup that would prohibit a bank from selling insurance outside its chartering State unless specifically authorized by the statute laws of the target State.

As amended, this provision will not apply to bank subsidiaries. Senator DODD and Senator GRAMM of Texas contributed significantly to this compromise and I want to commend them for their efforts. A number of other Senators also, of course, have an interest in that.

I say again I know the Senator from Delaware does. I am sure he will speak to that at an appropriate point. The Riegle-Garn amendment that has been worked out on the Lampf issue, just the subject of the discussion with Senator DOMENICI, has been settled. It is being typed now in its final form. When it is ready to come to the desk it will likewise be sent forward as we have just done with the two I have just described. So those amendments are there.

Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. GARN, proposes an amendment numbered 1368.

Mr. RIEGLE. Mr. President, I ask further reading of the amendment be dispensed with.

Mr. ROTH. Mr. President, I object.

Mr. RIEGLE. I did not seek a unanimous-consent request. I just sent the amendment to the desk.

The PRESIDING OFFICER. The Chair's understanding was the unanimous consent was requested to call off reading. If consent was not obtained, the regular order is to read the amendment.

Mr. RIEGLE. Does the Senator need it all read or just the part on insurance?

Mr. ROTH. I would like it all read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

Beginning with page 396, line 1, strike all through the end of title IV of the committee amendment.

VOL 137 PT 23 NO 21—25 1991 UMI

Beginning with page 669, line 7, strike all through page 676, line 17, and insert the following:

(b) REGULATIONS.—Not later than 210 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate final regulations to administer and carry out the purposes of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effective date of final regulations promulgated under subsection (b), but in no event later than 300 days after the date of enactment of this Act.

SEC. 771. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) REPEAL OF OBSOLETE PROVISION.—Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers vested by law in national banking associations" and all that follows through "filing his application for insurance.".

(b) NEW PROVISION FOR INSURANCE ACTIVITIES OF NATIONAL BANKS.—The Revised Statutes are amended by adding the following new section after section 5136A (12 U.S.C. 24):

"SEC. 5136B. INSURANCE ACTIVITIES OF NATIONAL BANKS.

"(a) IN GENERAL.—A national bank may not provide insurance as agent or broker except pursuant to this section or section 5136 of the Revised Statutes.

"(b) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE ACTIVITIES PERMITTED FOR STATE BANKS.—

"(1) IN GENERAL.—A national bank or any of its branches may provide insurance as agent or broker in the same manner and to the same extent that a bank chartered in the State in which the national bank or branch is located is permitted to provide insurance as agent or broker.

"(2) SUBSIDIARIES OF NATIONAL BANKS.—A subsidiary of a national bank that is located in the same State as the national bank may provide insurance as agent or broker in the same manner and to the same extent that a subsidiary of a bank chartered in that State is permitted to provide insurance as agent or broker.

"(3) BANK CHARTERED IN THE STATE DEFINED.—For purposes of paragraph (1), the term 'bank chartered in the State' does not include any organization that is excluded from the definition of 'bank' in section 2(c)(2) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)).

"(c) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE AGENCY ACTIVITIES IN SMALL TOWNS.—

"(1) IN GENERAL.—A national bank may provide insurance as agent or broker in any small town in which the bank or any of its branches is located.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided pursuant to paragraph (1) in a small town in which a national bank or branch is located may only be provided to—

"(A) an individual who is a resident of or employed in the small town;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the small town;

"(C) a person who is engaged in business in the small town and has a business office in such town, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the small town, or

"(ii) services or products provided in or from the small town; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the small town; or

"(ii) personal property that is principally located or used in the small town.

"(3) GUARANTEES PROHIBITED.—No national bank that provides insurance pursuant to paragraph (1) may—

"(A) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

"(B) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(5) SMALL TOWN DEFINED.—For purposes of this subsection (c), the term 'small town' means—

"(A) any place with a population not exceeding 5,000 (as shown by the preceding decennial census); and

"(B) any contiguous rural area, including rural communities, within 7.5 miles of the borders of a place described in subparagraph (A), except to the extent such contiguous rural area includes any part of an incorporated city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

"(d) AUTHORITY OF NATIONAL BANKS TO CONTINUE CERTAIN AGENCY ACTIVITIES.—

"(1) IN GENERAL.—A national bank or branch providing insurance pursuant to the provision repealed in section 771(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 may continue to provide insurance as agent or broker from any place in which the national bank or branch was located on May 1, 1991, if—

"(A) the national bank or branch was actually providing insurance from that place as of May 1, 1991;

"(B) the insurance insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991; and

"(C) the insurance is provided only in the contiguous region to the place in which the national bank or branch is located, except that such insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided in a contiguous region by a national bank or branch pursuant to paragraph (1) may only be provided to—

"(A) an individual who is a resident of or employed in the contiguous region;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the contiguous region;

"(C) a person who is engaged in business in the contiguous region and has a business office in such contiguous region, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the contiguous region, or

"(ii) services or products provided in or from the contiguous region; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the contiguous region; or

"(ii) personal property that is principally located or used in the contiguous region.

"(3) CONTIGUOUS REGION DEFINED.—For purposes of this subsection, the term 'contiguous region' means the county in which the national bank or branch is located and any county bordering on the county in which the national bank or branch is located, except for—

"(A) any incorporated city or town with a population exceeding 30,000 (as shown by the preceding decennial census); or

"(B) any metropolitan area, as determined by the Office of Management and Budget.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(e) STATE DEFINED.—For purposes of this section, the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(c) NATIONAL BANK INSURANCE ACTIVITIES THAT ARE INCIDENTAL TO BANKING ACTIVITIES.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), as redesignated by this section, is amended by adding at the end the following: "A national banking association may engage in activities pursuant to this paragraph that constitute providing insurance as principal, agent, or broker, but only if such activities were lawfully engaged in by one or more national banks before May 1, 1991. For the purposes of the previous sentence, activities were not lawfully engaged in before May 1, 1991, to the extent that they are finally adjudged as unlawful under laws in effect on May 1, 1991. A national banking association providing insurance pursuant to this paragraph shall comply with the laws governing the provision of insurance of the State in which such banking association is located, unless such State law is preempted by Federal law.".

SEC. 772. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following new section:

"SEC. 13. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES.

"(a) IN GENERAL.—No bank holding company may permit any subsidiary bank to provide insurance as agent or broker beyond the borders of the State in which the subsidiary bank is principally located, unless—

"(1) the statutes of the host State expressly authorize a bank principally located in another State to provide insurance in such host State, by language to that effect and not merely by implication;

"(2) the insurance is provided through a branch of the subsidiary bank, so long as the branch—

"(A) is located in the State in which the insurance is provided;

"(B) is otherwise authorized by State or Federal law to provide such insurance; and

"(C) is engaged primarily in banking activities, not insurance activities;

"(3) the insurance is provided pursuant to subsection (d) of section 5136B of the Revised Statutes, except that such insurance may not be provided—

"(A) in any place in the host State that is more than 7.5 miles from the place in which the national bank or branch is located; or

"(B) any incorporated cities or towns with a population exceeding 12,500 (as shown by the preceding decennial census);

"(4) the insurance—

"(A) insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the subsidiary bank or any subsidiary of that bank was providing as of May 1, 1991, beyond the borders of the State in which the subsidiary bank is principally located, and

"(B) is not provided pursuant to a statute enacted by a State after May 1, 1990;

"(5) the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by the bank holding company and any subsidiary (including the subsidiary bank) in the event of the death, disability, or involuntary unemployment of the debtor; or

"(6) the insurance is placed on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(b) APPLICATION.—The restrictions of subsection (a) shall not apply to any non-bank subsidiary of a bank.

"(c) DEFINITIONS.—

"(1) PLACE IN WHICH INSURANCE IS PROVIDED.—For purposes of this section, the place in which insurance is provided includes the place in which an individual who purchases such insurance is domiciled.

"(2) PRINCIPALLY LOCATED DEFINED.—For purposes of this section, the State in which a bank is principally located is—

"(A) the State in which the bank is chartered; or

"(B) if the bank is a national bank, the State in which the bank has its main office.

"(3) HOST STATE DEFINED.—For purposes of this section, the term 'host State' means a State in which a bank provides insurance other than the State in which the bank is principally located.

"(d) NO EFFECT ON BANK HOLDING COMPANY INSURANCE ACTIVITIES.—Nothing in this section shall be deemed to affect the ability of a bank holding company to engage, directly or indirectly, in insurance activities that are permissible under sections 4(a)(2) and 4(c)(8).".

SEC. 773. SAFEGUARDS FOR SALE OF INSURANCE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting the following new section at the appropriate place:

"SEC. _____. SAFEGUARDS FOR SALE OF INSURANCE BY INSURED INSTITUTIONS.

"(a) PROMINENT DISCLOSURE THAT INSURANCE PRODUCTS ARE NOT FEDERALLY INSURED.—Pursuant to regulations issued by the Corporation, an insured depository institution shall prominently disclose in writing to each of its customers that insurance products sold, offered, or recommended by the insured depository institution are not deposits and are not insured by the Corporation, and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

"(b) NO FAVORING OF CAPTIVE AGENTS.—No insured depository institution may, directly or indirectly—

"(1) require as a condition of providing any product or service to any customer, or any renewal of any contract for providing such product or service, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer, agent, or broker;

"(2) in connection with a loan or extension or credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution; or

"(3) impose any discriminatory requirement on any insurance agent who is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such institution.

"(c) NO SOLICITATION OF CERTAIN INSURANCE BEFORE PROVIDING LOAN COMMITMENTS.—

"(1) IN GENERAL.—No insured depository institution may, directly or indirectly, solicit the purchase of any insurance required under the terms of any proposed loan or extension of credit from such insured depository institution to a customer before the customer has received a written commitment with respect to such loan or extension of credit.

"(2) EXCEPTION FOR INSURANCE REQUIRED FOR CREDIT AGREEMENT.—Nothing in this section shall prevent an insured depository institution from placing insurance on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(d) RESTRICTIONS ON USE OF NONPUBLIC CUSTOMER INFORMATION.—

"(1) IN GENERAL.—No insured depository institution may use, directly or indirectly, any nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer.

"(2) EXCEPTION FOR CREDIT-RELATED INSURANCE.—For purposes of paragraph (1), the term 'insurance' does not include insurance—

"(A) provided to assure the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) provided on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(C) provided to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit.

"(3) RECORDS OF CUSTOMER CONSENT.—Any insured depository institution that obtains the consent of any customer to disclose nonpublic customer information shall maintain appropriate records or other evidence of such consent.

"(4) DEFINITIONS.—

"(A) CUSTOMER DEFINED.—For purposes of this section, the term 'customer' means any person who, after January 1, 1992, establishes a credit relationship with an insured depository institution.

"(B) NONPUBLIC CUSTOMER INFORMATION DEFINED.—For purposes of this section, the term 'nonpublic customer information' means information obtained from an individual by an insured depository institution in connection with a loan or extension of credit, but does not include—

"(i) customers' names and addresses (unless a customer has specified otherwise);

"(ii) information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business; or

"(iii) information that is customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions that do not provide insurance.

"(5) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, and avoid conflicts of interest or other abuses.".

SEC. 774. INSURANCE UNDERWRITING IN BANK RESTRICTED.

(a) IN GENERAL.—Section 24 of the Federal Deposit Insurance Act (as added by section 211(a) of the Act) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) INSURANCE UNDERWRITING.—

"(1) IN GENERAL.—No insured State bank or any of its subsidiaries may provide insurance as principal except to the extent that a national bank may lawfully provide insurance as principal.

"(2) CONTINUATION OF EXISTING ACTIVITIES.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on July 15, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(3) EXCEPTION FOR CERTAIN FEDERALLY REINSURED CROP INSURANCE.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, that was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

(b) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

(2) TRANSITION RULE.—An insured State bank or subsidiary of an insured State bank that, as of the date of enactment of this Act, was lawfully engaged in any activity prohibited by this section may continue to engage in that activity during the period ending one year after that date of enactment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, as soon as Senator SPECTER arrives, we will interrupt just momentarily to take care of another matter. Senator FORD is here to object to a unanimous-consent request. Senator SPECTER will be here momentarily. I just wanted to first thank the—Senator SPECTER is here.

I will just take a minute to thank the managers for the progress they

VOL 137 PT 23 NO 21—25 1991 UMI

have made and indicate to anybody on this side who may have amendments, Senator GARN needs to know very quickly, and hopefully all those who have amendments will understand that if we are going to conclude this session before Thanksgiving, today we need to not only do this bill but the supplemental appropriations bill, which has about 30 amendments to it.

I know the managers are still trying to work out some of the amendments, even those amendments which are listed. That would be helpful, too.

So after the distinguished Senator from Pennsylvania makes his request, anything the leaders can do to help the managers, we are willing to do it.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER].

UNANIMOUS-CONSENT REQUEST

Mr. SPECTER. Mr. President, I thank the managers of the bill for permitting this very brief interruption. I thank my distinguished Republican leader, Senator DOLE, for working this out procedurally.

I am about to make a unanimous-consent request, Mr. President, which I anticipate an objection to. But I think it important to comment about it, albeit briefly.

This request is made on behalf of myself and Senator DOMENICI relating to legislation which we have introduced which would permit the withdrawal of IRA's up to $10,000 for middle-income Americans, the condition on those IRA's being used to purchase consumer goods.

We have at the present time some $450 billion in IRA's, and a considerable sum in 401(k) plans, where there is a total of about $800 billion involved. Those funds cannot be withdrawn until the taxpayers are 59½ without a considerable penalty.

The legislation which Senator DOMENICI and I have introduced, we think, would be realistically directed immediately to have a substantial stimulus in consumer purchasing power which could be significant in helping to take us out of the current economic recession, because if you put billions of dollars into the economy to purchase consumer goods, that could be a very, very significant step forward, with our proposal providing that $10,000 becomes available immediately, with the taxes paid over the next 4 years.

There had been an intention to put this on the unemployment compensation bill. That was not noted before the unemployment compensation bill was handled in a summary fashion in a wrapup yesterday which poses a procedural situation that unanimous consent is required in order to put this amendment on that bill.

The absence of putting the amendment on that bill is not necessarily fatal because there is another vehicle, the supplemental appropriations bill, where this amendment would be doable, but it is more in line on the unemployment compensation bill.

I would anticipate that the distinguished chairman of the Appropriations Committee would not like to have additional amendments on the supplemental appropriations bill. So I feel it is incumbent to make a maximum effort to put it on the unemployment compensation bill.

But this is not just a run-of-the-mill amendment, Mr. President. This is an amendment which would really be very material and a substantial stimulus to the economy, an issue which Senator DOMENICI and I have discussed with the Secretary of the Treasury, Nicholas Brady, the Chairman of the Federal Reserve, Alan Greenspan, the Chairman of the President's Economic Advisers, Michael Boskin, and also the President's Chief of Staff, Governor Sununu, with a great deal of interest being shown in it, although no commitments as of this point.

With that preliminary statement for 3 minutes, I know what the result is going to be, but I do formally, Mr. President, ask unanimous consent that the Senate action disagreeing to the House amendment to H.R. 1724 requesting a conference on the disagreeing votes of the two Houses and appointing conferees on the part of the Senate be vitiated in order to allow Senator DOMENICI and myself to make a motion to concur in the House amendment with an amendment dealing with the issue of withdrawal of IRA's as I have heretofore described.

Before I pause to hear the objection, I just want to say that I will take this up on the floor with the distinguished chairman of the Finance Committee, Senator BENTSEN, later today. He cannot be here until 4 o'clock. But he wanted to proceed at this time. When the objection is made, the bill can proceed through the process to be signed at the earliest possible date.

With that, I thank my colleagues, and do formally make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, reserving the right to object, I will object, the Senator has a good amendment. But we are talking about $5.6 billion going to those who will have no money at all, and it will go immediately. What we would do is delay this piece of legislation for some time. How long, I do not know, nor do I know whether it would be acceptable by the House, or whether the conference will accept it. It really does not belong on this bill. It belongs on the finance bill, supplemental appropriations bill, whatever.

Therefore, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I thank my colleague from Kentucky for his comments. It is a worthwhile amendment. Whatever specific language he used, is it not in the affirmative. And I do want to say for the Record that I do not intend to hold up the unemployment compensation bill.

We passed two bills last Friday. One bill has been signed and is in effect so that the payments are being made. Pennsylvania does not get the benefit from the second bill and I know that Kentucky and other States do. I respect and agree with the intent of the second bill in expanding those benefits. But this amendment, I submit, will not hold up in any way any checks going to anybody who is unemployed because Kentucky, for example, gets 6 weeks under the legislation which has been signed. This would be handled in much shorter than 6 weeks so that the additional weeks up to 13 could be effectuated.

But I understand what my distinguished colleague from Kentucky has to say and I respect his right to make the objection. We will purse it on the supplemental appropriation.

Mr. FORD. Mr. President, there is no guarantee that this amendment will be accepted. There is no reason to believe that it could not hold this unemployment extension bill. So without some kind of guarantee that this would fly on through, then we will be here after Thanksgiving, because I am not going to leave here until that bill is passed and my people are taken care of.

So I think there is more than just a good amendment here. There is the possibility of delaying the implementation of this legislation and delaying the ability of Congress to sine die. So there is more here than meets the eye.

I yield the floor.

The PRESIDING OFFICER. The Chair reminds Senators that the pending business is amendment 1368 proposed by the Senator from Michigan and the Senator from Utah.

Mr. SPECTER. Mr. President, I do not disagree with what the distinguished Senator from Kentucky has said. It may be that we would have to be here beyond Thanksgiving. I have made the call for the session to go beyond Thanksgiving and into December to deal with the problems under this session.

I thank the Chair. I thank my colleagues for permitting me to interrupt.

The PRESIDING OFFICER. Who seeks recognition? Is there additional debate on the pending amendment? If not, the question occurs on amendment 1368.

Mr. ROTH. Parliamentary inquiry. What amendment?

The PRESIDING OFFICER. The Chair would remind the Senator that the pending amendment is amendment 1368 which was read in its entirety offered by the Senator from Michigan

and the Senator from Utah. Is there additional debate?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. ROTH].

Mr. ROTH. Mr. President, I am deeply concerned about what this amendment does in the area of insurance. Frankly, the provisions discriminate against the State of Delaware. I might point out that I was just standing here a week ago at which time I was forced to object to a unanimous consent request because of an agreement that had been reached in private on the extension of unemployment benefits.

And as I said at that time, those provisions were unfair; they were unfair to my State of Delaware, and they were unfair in their discrimination against 17 other States, as well.

My concern here today with the so-called management proposal is that, once again, this provision discriminates against my State, and in fact does not accomplish what the original purpose of this reform legislation was.

Mr. President, when the administration submitted its proposal on bank reform, those reforms were to include a number of provisions that would strengthen our banking system. It would strengthen our banking system by enabling them to be involved and engaged in a number of activities which are not currently available to them.

It was thought that, by giving these additional powers, it would not only promote discrimination in a number of activities, including securities and insurance, but it would also enable the banks to attract further capital for their business, which would enable those financial institutions to be strengthened. It is no secret that many of these institutions have difficulty at the current time.

Unfortunately, as the legislation developed, the so-called reform became deform. Rather than strengthening and broadening the authority of our banking institutions to enter new areas of activity, it would, under the present proposal, in effect, moved backward. There were a number of dissents about this legislation as it emerged from our committee just because of that situation.

I point out that the distinguished ranking member of the committee, in a statement of his own, pointed that out. He noted that "the insurance provisions are diametrically opposite from the security provisions." At that time, the legislation included securities as an area of power for the banking institutions. But it pointed out that "whereas the securities provisions are pro-competitive," as I point out, in the bill reported out by the committee, "the insurance provisions seek to restrain competition by restricting banks' ability to compete. As reported, the bill will overturn actions taken by bank regulators and State legislatures to enable banks to enter the insurance business. Attempts to overturn actions by State legislatures are particularly troublesome, given the fact that the State legislatures were presumably acting to reflect the wishes of their constituents. If consumers of insurance products express through State legislatures a desire for more competition in the insurance industry, and/or a desire for the convenience of one-stop shopping for financial services, why should the Federal Government say no?"

At that time, as I said, the insurance provisions were deeply disturbing to me, as well as to the junior Senator from Texas, who wrote, in a separate opinion on page 249, that:

> An even more egregious example of the balkanization of our national economy is contained in the insurance provisions of the bill. Here we find barriers to interstate commerce based not only on where a business may have its headquarters, but also on who owns the business.
>
> Currently, all insurance companies conduct their business in each State under the same set of rules. Under this bill, that would all change if an insurance company were acquired by a bank. While the competitors could operate freely across State lines, an insurance company owned by a bank could do so only with the explicit approval of the legislature of each State where it wished to market its product.
>
> This has nothing to do with the sale of insurance by banks, which I do not support. This is a limitation that would apply to the sale of insurance through traditional channels, an unfair limitation based upon nothing more than the ownership of the company.

Mr. President, I noted in my separate opinion in the committee report that:

> The economy is failing, in no small part, because of the credit crunch. Banks are not extending credit because of capital shortages. Capital is short because banking is not currently profitable. Banking is not profitable because of the effect of antiquated banking laws, under which the former bank customers were free to go to other providers of banking services, while potential customers of new banking products in securities and insurance have been effectively shut out.
>
> The administration forwarded to Congress a true reform package to increase the profitability of banks by opening doors to securities and insurance customers.
>
> However, in various committee actions in both the House and Senate, the financial competitors of the banks have used the opportunity for reform to further close the doors on competition. That is why what was once heralded as reform is now denounced as retreat.
>
> The most glaring example of this reversal is in the area of insurance. Whereas the Administration bill would have federally authorized banks to have insurance powers, S. 543 not only strikes such federal authorization but turns tail and federally restricts any State authorization. Since the Committee action violates our two-hundred-year commitment to a national economic union, since the very purposes of the Committee action is to stop competition in insurance for reasons totally unrelated to banking policy, and since the Committee action, regressive as it is for all America, specifically discriminates against my State of Delaware, I respectfully dissent from reporting this legislation.
>
> Try as it may to provide a rational policy explanation for the Committee's action, the majority report fails. This is understandable because the insurance lobby took the Committee by storm and dictated the terms of surrender. This is why the majority report embarrassingly justifies the insurance lobby's position by asserting that there is already enough competition in insurance, as if it were common practice for Congress to monitor levels of competition, lest they rise too high, and whenever they do, statutorily cut them off.

As I stated before in my statement:

> * * * there are three major problems. First, the committee's action violates one of the paramount principles governing our country——

Mr. GARN. Mr. President, will the Senator from Delaware yield?

Mr. ROTH. Yes; I am happy to yield to my distinguished colleague.

Mr. GARN. I thank the Senator from Delaware.

I ask unanimous consent that this not be counted in the two-speech rule, so that I can enter a quorum call and the Senator's rights to continue to debate this issue would be protected.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 335, H.R. 3371, a bill to control and prevent crime; that all after the enacting clause be stricken and the text of S. 1241 as passed by the Senate on July 11, 1991, be inserted in lieu thereof; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

I further ask unanimous consent that the Senate insist upon its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the bill (H.R. 3371) was passed.

The Presiding Officer appointed Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. LEAHY, Mr. DECONCINI, Mr. THURMOND, Mr. HATCH, and Mr. SIMPSON conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I thank my colleagues. This culminates

VOL
137
PT
23
NO
21—25
1991
UMI

approximately 3½ weeks of disagreement on proceeding to the conference. I regret that it took that long and that there remain only a few days prior to the time when we hope to adjourn for this session of Congress. But I hope that the chairman and ranking member and the other conferees will now do everything possible to attempt to reach agreement in conference on a bill so that we can act on a conference report prior to the time that we adjourn for this year.

This is a very important measure. I know that there are no two people in the Senate who have worked longer and harder in trying to make this bill into law than Senators BIDEN and THURMOND. And I know they are committed to that objective.

I thank my colleagues for permitting us to proceed at this point, later than we hoped. But nonetheless we wish better late than never and hopefully still in time that there be action on the bill.

Senator DOLE and I have presented to Senators BIDEN and THURMOND repeatedly over the past couple of years very difficult challenges, and they have risen to meet every challenge. This poses, perhaps, the most difficult of all. But we ask their best effort, and I know we will receive that.

I would like now to yield to the distinguished Republican leader.

Mr. DOLE. Let me indicate this is a very important bill, and there are very important differences, and I want to indicate that before the conference starts. There are very important measures that passed by one or two votes in the Senate. We hope the Senate provisions would be sustained when it comes to habeas corpus and some of the other provisions.

I commend my colleagues from South Carolina, Senator THURMOND, because some will say, "Well, does it make any difference on the conference numbers?" It certainly does make a difference, because these are very, very controversial provisions, and one vote in the conference could make a difference.

But I think we have done the best we could. We are not the majority party. We are working on that, but we are not there now.

I thank the distinguished Senator from South Carolina and the Senator from Delaware for their cooperation last evening. We had a good session. I also want to thank the distinguished Senator from Idaho [Mr. SYMMS], who also has some very strong reservations on a number of the gun provisions in this bill. This morning he authorized me to, in effect, lift his hold on this proceeding and I want to thank him for that; and also the other Senator from Idaho [Mr. CRAIG].

So we are going to start the process now. I thank everyone, the majority leader and others. I think it is something we should do as quickly as we can, knowing that there are very, very sticky issues to be resolved in the conference and it could take awhile.

I am still very optimistic about leaving here tomorrow evening. So I wish Senator THURMOND and Senator BIDEN luck.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Delaware.

Mr. BIDEN. Mr. President, Senator THURMOND and I—I am sure I can speak for him on this one point—are overwhelmed by the vote of confidence our colleagues have placed in us. I think we both would have preferred that vote of confidence next year, maybe passed us.

But let me just say this: No. 1, I respect Senator SYMMS' tenacity. I respect the fact that he said from the outset that he had no intention of wanting to see this bill passed.

The minority leader pointed out that there were some very close votes on the Senate floor, and it is the hope that we will protect all those close votes. Well, the assault weapon bill passed by a couple votes in this bill. Half of the conferees on both sides are against it.

The habeas corpus provision in the Senate passed by a couple of votes here. Half the conferees on both sides are against it. The exclusionary rule provision, which I happen to like, passed only by a couple votes over here if my recollection serves me correctly.

All of them are at odds with one another. The very people who do not support guns support the habeas provision in the Senate, and so on. So it is a very complicated matrix out there. I promise the Senate that I will do, along with the ranking member, all we can to produce a conference report.

Without criticizing anyone, just let me say this: Here we are on Thursday before we go out, with the weekend facing us, attempting to bring back what I think everyone in this body understands is one of the most controversial, complicated pieces of legislation we are going to deliver.

We will do our best. No one has a greater interest in seeing a tough crime bill than the Senator from South Carolina and myself. It is the Biden-Thurmond crime bill. We have a great interest in producing it. I just want to make it clear that the fact we are starting on Thursday afternoon instead of 3 weeks ago increases the degree of difficulty.

If I could say to the majority leader, who is standing here, I know what an athlete he was. I do not know whether he ever dove competitively. But in diving, what you do is, when you dive, you get one score for the degree of perfection with which you complete the dive. You get another score for the degree of difficulty of the dive. If you do a jackknife and you get a perfect 10, it is multiplied by 1. If you do a triple gainer with a full twist, and you do it with a perfect score, you multiply it by three.

I respectfully suggest starting Thursday by doing a triple gainer with a full twist. I cannot promise perfection. All I can promise is all the effort that I can possibly bring, I will bring to this. And I am optimistic. As a friend of mine who is in the medical profession once said, I am a congenital optimist. I think we can get it done, but I do not want anyone to be under any illusion.

Mr. MITCHELL. Mr. President, I thank my colleague from Delaware for his comments. I am satisfied that the best effort of the Senator from Delaware represents the best effort of which the Senate is capable. I believe we are going to get, and hope we will get, a bill.

I must state that these conferees are in the numbers and in the ratio that Senator BIDEN requested 3½ weeks ago. We could have been in conference 3½ weeks ago. But we are starting late. Better late than never. We hope we get the job done. I regret the delay, but we will now proceed to do the best we can.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we did not get the ratio that we should have. We did the best we could. We are in favor of a strong crime bill, and I worked to that end. Unless we get a strong crime bill there is no sense to have any bill. We are going to be handicapped with the ratio from the Senate. We will do the best we can.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, the pending business is the banking bill?

The PRESIDING OFFICER. The pending business before the Senate now is the Riegle-Garn amendment to the banking bill.

Mr. DECONCINI. Mr. President, I wonder if I can have 5 minutes to make remarks on another subject matter?

Mr. KASTEN. If the Senator would yield just for a moment, I was instructed—both the managers are here now—my understanding is we are in the process of trying to work out an agreement on a question the Senator from Delaware had. The sense of the managers was they wanted to deal with that. I was instructed to try to keep us in a quorum call, but I will yield now to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Arizona has been recognized.

Mr. GARN. Will the Senator from Arizona yield?

Mr. DECONCINI. Without losing the floor I will be glad to yield, Mr. President.

Mr. GARN. How long does the Senator request?

Mr. DECONCINI. Five minutes, six minutes at most.

Mr. GARN. I have no objection as long as we maintain the status quo to protect the rights of the Senator from Delaware, as previously requested in the unanimous-consent agreement.

Mr. DECONCINI. I ask unanimous consent with the approval of the ranking member and approval of the manager of the bill that I can proceed on another subject matter for not to exceed 6 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2004 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I know we have pending the managers' amendment. Senator ROTH had been speaking. He is agreeable to my moving forward now to send to the desk the amendment that we have worked out on the Lampf issue with Senator DOMENICI and Senator BRYAN which is acceptable to us. Senator ROTH has kindly consented to set his position without losing his right to the floor when we finish this item which is going to be presented now.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

AMENDMENT NO. 1369

(Purpose: To replace certain portions of the committee amendment)

Mr. RIEGLE. Mr. President, with the pending amendment set aside, I send the Lampf compromise to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 1369.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 778, line 9, strike all through page 779, line 12, and insert the following:

SEC. 1126. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

(a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation for any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991, shall be the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as such laws existed on June 19, 1991.

(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991—

(1) which was dismissed as time barred subsequent to June 19, 1991; and

(2) which would have been timely filed under the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as they existed on June 19, 1991,

may be refiled and reinstated (included any disposition) not later than 60 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(c) DEFINITIONS.—The terms used in this section shall have the same meanings as in the Securities Exchange Act of 1934.

Mr. RIEGLE. Mr. President, let me briefly explain what this will do.

This provides protection of investors from securities fraud which is critical to maintaining confidence in and the liquidity of the securities markets. The most important antifraud protection available to investors is the implied right of action under section 10(b) of the Securities Exchange Act. Testifying before the Banking Committee on October 2 of this year, SEC Chairman Breeden noted that "private actions perform a critical role in preserving the integrity of our securities markets and in protecting a system of respect for the law."

On June 20 of this year, the United States Supreme Court in Lampf versus Gilbertson, shortened this statute of limitations significantly. In its 5-to-4 decision, the Court applied this statute of limitations to cases currently pending, even though those cases were timely when they were filed and even on the day prior to the Court's decision.

Lampf's shorter period does not allow individual investors adequate time to discover and pursue violations of securities laws. The SEC has stated that the Court's decision in Lampf "imposes an overly stringent time limit on investors who often are the victims of fraudulent activity that has been deliberately concealed from them." Testifying before the Banking Committee on July 25, 1991, SEC Chairman Breeden stated "the time frame set forth in the [Supreme] Court's decision is unrealistically short and will do undue damage to the ability of private litigation."

To ensure that securities markets are fair and attract individual investors, the Banking Committee unanimously adopted at markup a provision originally introduced by Senator BRYAN that extends the time period for victims of securities fraud to bring suit. The legislation also restores certain lawsuits that have been dismissed as a result of the Supreme Court's decision. In a letter to Senator BRYAN, SEC Chairman Richard Breeden stated that he strongly supports adoption of this bill in part because "[a]doption of these measures would give private litigants a more realistic time frame in which to discover that they have been defrauded, while also accommodating legitimate interests in providing finality to business transactions and avoiding stale claims."

I strongly supported the Bryan amendment during the Banking Committee markup, and I strongly support it today.

As part of a compromise that Senator DOMENICI and I spoke about earlier today however, I have sent to the desk an amendment to the provisions in the bill dealing with Lampf.

Since the Lampf case will result in dismissal of cases that were timely prior to that decision, we simply cannot drop the Bryan amendment and return to it next session. We must take steps to protect those investors who had cases pending prior to that decision. This amendment allows these cases to go forward by applying that limitations period that existed on the day before Lampf.

While I support this compromise, I expect the Banking Committee will again consider extending the limitations period in the next session of Congress.

This Bryan bill will protect investors by providing them with sufficient time to discover and fight violations of the securities laws.

Let me just say now, with that item having been sent to the desk, we now have the three items that were in the managers' amendment this morning sent to the desk. I think we may be very close to resolving an outstanding difference on the insurance issue, and we will know that. There are discussions occurring now here on the floor on that matter. A great effort has been made to resolve that. We should know that within just a matter of a few minutes, hopefully even moments.

If we can get that issue settled, I want to move immediately then to the issue of the Senator from Florida, who is on the floor. I appreciate his coming over at this time because we are under tremendous pressure to finish this bill as early as possible today because other legislation is waiting the disposition of this bill.

May I inquire of the Senator from Florida, pending the resolution of this matter, if we can, in a moment which of the two amendments he intends to offer first?

Mr. GRAHAM. Mr. President, it is my intention to offer first the amendment to limit the funding of the FDIC.

Mr. RIEGLE. As we discussed last night, we had agreed, as my notes re-

VOL
137
PT
23
NO
21
—
25
1991
UMI

flect, that we would take 45 minutes on that, 30 minutes for the Senator from Florida and 15 for the Senator from Michigan. Is that acceptable?

Mr. GRAHAM. We talked about several different timeframes, but those numbers are acceptable.

Mr. RIEGLE. Very good. I appreciate that. I am wondering, without his amendment up right now, if the Senator would be in a position to maybe make some initial comments on what he intends to do with that amendment. I am told that we are within maybe 2, 3, 4 minutes of being able to resolve this other issue and so, if it would not be inconvenient to the Senator from Florida, he might want to start his discussion and then be prepared to suspend in a moment if we can handle this other item of business.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Florida.

Mr. RIEGLE. I ask unanimous consent that we temporarily set aside the pending matter so that the Senator from Florida might be recognized to begin his comments.

The PRESIDING OFFICER. Is there objection to setting aside the other pending matters before the Senate? If not, the Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

In this truncated initial statement as to my amendment, let me use this as an opportunity to set the context for the policy which my amendment will place before the Senate.

We are about to start a practice with the Federal Deposit Insurance Corporation which is going to be eerily reminiscent of the policy that we have followed over the last several years as it relates to the savings and loan bailout. That deja vu has several forms. One, it has the form we are going to hear that this is not a taxpayers' bailout, that in fact the full cost of the FDIC replenishment will be paid by the industry itself.

Mr. President, those of you who have been here longer than I will recall that those were exactly the statements made, in fact made as recently as 1988, about the savings and loan bailout: It was not going to be at the charge of the taxpayer; that it would be fully paid by the industry.

The second context is the similarity of the structure of the payments. Essentially, as with the savings and loan bailout, the proposed payments will be in two components. The first component is what could be referred to as the loss funds. Those are the funds that are going to be committed to pay off the difference essentially between the amount of the insured deposits and the assets of the failed institutions. It is estimated that those will amount to $25 billion.

The way in which the $25 billion will be raised will be by borrowing from the Treasury and then a repayment of those borrowings over time through a special assessment of the FDIC premium of the participating institutions.

The second component is $45 billion. That is the so-called working capital fund. The working capital fund is intended to be available to finance the assets that will be held by FDIC pending their sale. The working capital fund is not expected under this plan to impose any permanent obligation on the U.S. Government in that those working capital dollars will eventually be recovered through the sale of assets.

We have had, Mr. President, a recent experience with the savings and loan circumstances and with the Resolution Trust Corporation of how this process will work. That has not been a happy experience. It has been characterized by consistently underestimating the real cost of the bailout, as witnessed by the fact that in a few hours or days we are going to be requested to make another substantial commitment to paying the cost of the bailout of the RTC.

The RTC has also been characterized by great public distress as to how it has managed its assets. Assets have continued to accumulate. While there has been some improvement in the last few months, for a long period of time the RTC was ballooning in terms of the assets which it held. Those large asset holdings constituted a major shift of private assets to the public sector and an overhang of what was left of the private real estate market to its detriment.

There was very little incentive within the RTC to want to move its assets expeditiously. In fact, there were a number of counterincentives. One of those was just typically bureaucratic. Every time you sold assets, you put your job in jeopardy, because when the RTC completes the disposition of all of its assets the some 5,000, more or less, people who are employed will have nothing to work about and their positions could conceivably be rendered as unnecessary, redundant, and terminated. That is something which causes a great disincentive to moving the assets.

But there is even a more subtle disincentive, Mr. President. That is the fact that as long as those assets are not sold, they are carried on the books of the RTC at their original book value, that is, the value which they moved from the institution that was held in conservatorship to the RTC in its receivership capacity. There is great suspicion, and in fact the actual results of the sale of those assets which have been made confirm that suspicion, that the values placed on those assets in receivership are substantially overstated, which is to say that if the RTC is carrying on its books, let us say, $70 billion of assets, and in fact those assets have a market value of $50 billion, at some point there is going to have to be another $20 billion recognition of the cost of this whole enterprise.

That is another disincentive to sell the assets, to have to recognize the fact that you have been carrying them at an unrealistic value and then come back to Congress yet again for another increment of the cost of the bailout.

That is, Mr. President, in summary, most of the context in which my amendment is going to be offered. There is one other context that disturbs me, and that is the fact we do not have very good financial data from the FDIC which surprises me. The FDIC as an institution has been around a long time. It has only been recently it has had anywhere near its current level of activity. But I think we would have the right to expect some better, more periodic financial statements than we have. Therefore, Mr. President, I am going to be properly subject to some questions as to the specifics of my proposal to which I will state now I am inadequate to fully respond.

My defense is that nobody else could fully respond to them either, because we are using financial information which is, in some cases, as much as a year out of date. We are using it because that happens to be the best and the latest financial information which is available.

With that context, Mr. President, in light of the fact that negotiations seem to still be proceeding on, I will move to a more specific description of the amendment which I intend to offer.

As I indicated, the basic proposal is to grant to FDIC $25 billion to pay what I would call the loss fund, the difference between what depositors' insured accounts equal, and what the value of the assets in the institution are.

The second $45 billion is the working capital fund. Those are the funds that will be used to pay off the depositors and to hold the assets that have been created, or that have been taken over from the failed institution, which will eventually be sold. Theoretically, since the assets are supposed to represent fair market value, the full amount will be recovered, and therefore the full amount of the $45 billion of working capital will be repaid from the sale of those assets.

The amendment which I offer will do this: It would say that of that $25 billion—that is, the loss fund—that $10 billion would be immediately available to the FDIC. That would give the FDIC the funds that are necessary to meet its pressing, immediate requirement to replenish the fund, and be able to respond to cases that would come in the immediate future.

But for the second $15 billion, the FDIC would be required to first commence the sale of some of those up to $45 billion in assets that it has. And it would be only on a dollar-for-dollar basis of sales of assets, the draw down

dollars from that remaining $15 billion of loss funds.

The principle here is one that would apply to any debtor in distress; that is, the first thing that you are expected to do is to liquidate assets that have a value before you go to your creditors and ask for more money.

If I could use an example that we might relate to of a debtor, of a child in college. Suppose you had a child who was in college, had a car, had a stereo set, and had other things. What he did not have was very good grades. At the end of the semester, when the parents got a copy of the grades, they concluded that maybe their son or daughter needed some greater sense of discipline and inspiration to study hard. One of the ways of doing that is henceforth, the monthly check that was going to the child in college would be reduced or terminated until the child demonstrated a greater intensity of application to his or her studies.

One of the things the parent might suggest to that child is: You can cover your expenses by selling that car and selling that stereo set, and using those proceeds to live on. That might not only help you eat, but will help you do better academically.

That rough analogy is what we are suggesting with this amendment. That is that the FDIC, before it comes back here for additional dollars—in fact, before it can draw down the full amount of the $25 billion that we are being asked to make available to it today—that first it has to turn its attention to disposing of this massive and growing amount of assets that it currently holds.

What do I think will be the benefits of this amendment? I think it would attack two of the disincentives which the RTC has so dramatically indicated are in place to frustrate the sale of assets. It would require that there be a regular assessment of what the real value of these assets were, as opposed to the book value carried, based on some earlier appraisal; and second, it would contribute to a removal of any bureaucratic institutionalization of this FDIC asset management function because it would be forcing the agency to constantly be selling these assets as a precondition to be able to draw down general Treasury resources.

I think that would make a substantial contribution to avoiding a repetition of the negative impact which the large volume of formally private, now public, assets held at the RTC have had on our general economy.

Mr. President, in summary, that is the amendment that I intend to offer. I think it is a very important amendment.

We are about to be asked in the context of this overall banking reform bill to do something that no Congress in the history of this Nation has done in such a short period of time; that is, to provide $70 billion of public funds, albeit with the representation that it is going to be paid off without there ultimately being a charge against the taxpayers, a claim that we all hope will prove to be correct, but which recent history with the savings and loan industry gives us at least some pause for skepticism.

We are also going to be asked in the next few days or hours to provide up to $80 billion for the Resolution Trust Corporation so that it can continue its bailout of the savings and loan industry. That is a total of $150 billion.

Mr. President, think of all the things in the State of Alabama that you could do with $150 billion to enhance the quality of life of the citizens of your State, or of any State in the Union. You are about to be asked to make $150 billion available to bail out and pay off the depositors of failed commercial banks, and savings and loans.

I think that the amendment that I have offered is an appropriate requirement and incentive to proper management of this process, and an incentive to returning the assets back into the private sector.

MODIFICATION TO AMENDMENT 1368

Mr. RIEGLE. Mr. President, will the Senator yield at that point for a moment? I would like to send a correction to the bill, an adjustment to the bill, that reflects the compromise discussions on insurance that will amend the managers' amendment in the insurance section on page 18.

So I am going to send a substitute page 18 to the desk. It contains only one change, and that is the effective date, which has been penciled in. I ask the clerk to take note of that.

I ask now that that amendment to our amendment be made.

The PRESIDING OFFICER. If there is no objection, amendment 1368 is so modified.

The modification to amendment No. 1368 is as follows:

On page 18, line 7, strike "July 15," and insert in lieu there of "November 21,".

Mr. ROTH. Mr. President, will the distinguished manager yield for a question?

Mr. RIEGLE. Yes.

Mr. ROTH. Can he tell me what date is being substituted?

Mr. RIEGLE. Let me have the clerk read the new date per the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 18, line 7, strike "July 15," and insert in lieu thereof "November 21,".

Mr. ROTH. I thank the Senator.

Mr. RIEGLE. I thank the Senator for this help on this.

Mr. President, I now ask that we move to approve the managers' amendment.

Mr. GRAHAM. Mr. President, will the chairman yield?

Mr. President, for the benefit of us who have not been involved in the negotiations, can we get a summary of what the impact of the modified managers' amendment, as it relates to the insurance issue, is?

Mr. GARN. Mr. President, the current modification is nothing more than a change of date: July 15, until today. That is the only change we made in what was submitted before.

Mr. GRAHAM. Could the Senator give us a summary, with that changing date, as to what is the position in the managers' amendment relative to insurance, and how does that differ from the insurance provision as it was reported by the committee?

Mr. GARN. Well, if I can quickly explain, basically, it was a disagreement over the ability of certain institutions to underwrite insurance, and the final disposition of this would be that, in the State of Delaware, the institutions that are currently doing this could continue underwriting, but only in the State of Delaware.

Mr. GRAHAM. What would the original bill, as reported by the Senate committee, have done to the capacity of an institution in Delaware to underwrite in Delaware?

Mr. GARN. It would have prohibited them from underwriting, even in Delaware.

Mr. GRAHAM. The amendment does not affect the sale of insurance or any other aspect; it is restricted to changes in the underwriting capability of an institution within its own State; is that correct?

Mr. GARN. It is my understanding that there is no change in the sale provisions that were in the original managers' amendment that we introduced last week.

Mr. GRAHAM. Are there any differences in the sale of insurance in the managers' amendment as distinct from the bill as reported by the committee?

Mr. GARN. Yes. Those modifications were made last week when Senator DODD and Senator GRAMM and others came to an agreement, and we presented those last Thursday. Those are different than the original bill. There is no difference in the managers' amendment today, other than what I outlined from what was contained on sales last week.

Mr. RIEGLE. Mr. President, I urge adoption of each of the amendments.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 1368, as modified.

The amendment (No. 1368), as modified, was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, having settled those issues, I now want to re-

VOL 137 PT 23 NO 21—25 1991 UMI

turn to the amendment of the Senator from Florida. I am wondering, how much time does the Senator feel he will need to have, beyond the time that he has had an opportunity to take so far, in order to complete his presentation on this amendment?

Mr. GRAHAM. Mr. President, I have almost completed my presentation. I do not know if anyone else will wish to speak as a proponent of this amendment. So I think 20 minutes on this side would be adequate at this point.

Mr. RIEGLE. Twenty minutes for the Senator from Florida?

Mr. GRAHAM. Yes.

Mr. RIEGLE. I think 5 minutes for myself would be adequate here. If the Senator is in agreement, and that is acceptable to the Senator from Utah, I am going to ask unanimous consent that we enter into a time agreement for 25 minutes on the Graham amendment, which is now under discussion, to be divided 20 minutes for the Senator from Florida and 5 minutes to the Senator from Michigan, with no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The pending amendment is amendment No. 1369.

Mr. RIEGLE. Mr. President, I am told that the Senator's amendment has not gone to the desk yet, and it probably ought to at some point. The unanimous-consent request is in order, nevertheless, and I take it that it has been agreed to.

The PRESIDING OFFICER. There was no objection, and it was so ordered.

Is it the intention of the managers to lay aside amendment 1369?

Mr. RIEGLE. Yes. I ask unanimous consent that that amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I am told that the time will not start running until the Senator sends his amendment to the desk.

AMENDMENT NO. 1371

(Purpose: To limit the funding for the FDIC)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 1371.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, add the following:

SEC. . TERMS OF ADDITIONAL FUNDING.

(a) DIRECT FUNDING.—

(1) IN GENERAL.—Of the $25,000,000,000 authorized for losses by other provisions of this Act, the Secretary of the Treasury shall make available to the Federal Deposit Insurance Corporation $10,000,000,000 from funds not otherwise appropriated.

(2) LIMITATION.—No sums described in paragraph (1) may be obligated after November 30, 1992.

(b) ADDITIONAL MATCHING FUNDING.—

(1) IN GENERAL.—The Secretary of the Treasury shall make the remaining funds authorized for losses by the other provisions of this Act available to the Federal Deposit Insurance Corporation, from funds not otherwise appropriated, in an amount equal to the amount of cash dividends the Federal Deposit Insurance Corporation receives after September 30, 1991, from receivership estates under its control, that were established on or before September 30, 1991.

(2) LIMITATION.—The matching funds appropriated by paragraph (1) may not exceed $15,000,000,000.

Mr. GRAHAM. Mr. President, just briefly, based on the description of the amendment that I made prior to offering it, this amendment deals with the $25 billion of lost funds that are contained in this bill. It splits that into two components: A $10 billion component, which will be immediately available to FDIC, and a $15 billion component, which will be available as the FDIC begins to sell down its current volume and anticipated increase in volume of assets. As of the latest report from the FDIC, it was holding approximately $40 billion of assets already acquired from failed banks and is estimating a substantial increase in that inventory of assets as additional banks come under FDIC jurisdiction.

The proposal is to provide a strong incentive to avoid with FDIC what we have just experienced with the Resolution Trust Corporation, a tendency toward making the corporation permanent, a forcing of a truer valuation on assets that are being held, a strong inducement to return these assets to the private sector, and a movement from the current public ownership, and to, hopefully, reduce the ultimate costs or to facilitate accomplishment of the objective of this plan, which is to have no cost to the American taxpayer.

Mr. President, I reserve the remainder of my time.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, the Lampf amendment I mentioned earlier and sent to the desk needs to be acted upon as part of the managers' amendment. So I ask that, for a moment, the Graham amendment be set aside long enough to have the Lampf amendment presented to the Senate. I urge that we now agree to that.

The PRESIDING OFFICER. The question is on agreeing to amendment 1369.

The amendment (No. 1369) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Let me comment briefly on the Senator's amendment. I do so with great respect to the Senator from Florida, who has worked very hard on all aspects of this legislation and has expressed concern in this area, going back now for many years. So I have great respect for the strength of his feeling on this issue.

The Graham amendment would initially limit borrowing by the BIF to cover losses of $10 billion instead of $25 billion provided by the committee's bill and requested by the administration. The other $15 billion would be available on a dollar-for-dollar basis to the extent the BIF is able to sell receivership assets it held on September 30. On the 30th of September, the BIF held receivership assets with an original book value of $30 billion. These assets represent the dregs of past resolutions of failed banks. The FDIC expects that the BIF will only recover half of the original book value of those assets, or $15 billion. So to get access to the full $25 billion of lost funds provided by the bill, FDIC will have to sell every receivership asset currently on its books.

The BIF may need that money within the next 2 years. I think that is faster than they can be expected to reasonably sell all of these assets. If they can, fine, but there is no assurance of that. If not, the FDIC is left with two bad choices, either delay shutting down failed banks or to dump assets at a price that really, I think, would be unwise and might make some problems in those markets worse.

The potential delays in providing lost funds to the FDIC under the Graham amendment may have the effect of helping to keep insolvent institutions open longer and potentially delay the cleanup and, in turn, might increase the bank insurance funds' losses.

I fully understand that his concern is about forcing a rapid and efficient effort to dispose of RTC assets or, in this case, BIF fund assets, repossessed assets. I agree with him 100 percent on that issue. My concern is that I am not sure we can do it effectively by means of a set formula that is locked into a timeframe that we have no way of knowing w'll be workable.

S. 543 takes dramatic and important steps to ensure that failing institutions are not kept open by bank regulators because our painful experience is that that raises costs. That is certainly not the Senator from Florida's intent. But if his amendment is adopted and the FDIC is not able to sell assets rapidly enough to meet their need for loss funds, the bank regulators must either leave failing banks open or close them—and delay payment on the Government's obligation to depositors until the funds are provided. I express these concerns about the amendment with all due respect to the goal the Senator seeks which is precisely the goal I seek.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the Senator from Florida is a very valuable member of the Senate Banking Committee, and what he is attempting to do is commendable. There are a lot of assets out there and it would certainly reduce the cost to the taxpayer if those assets could be sold.

He is also trying to protect and make sure that these borrowings of $5 billion are paid back. Certainly, I or the chairman cannot disagree with that.

What I am worried about is, this would require the FDIC to dump assets and would increase bank insurance fund losses, which is just the opposite of what the Senator intends. The potential delays in providing lost funds to the FDIC under the Graham amendment would only serve to keep insolvent institutions open longer, delay the cleanup, and increase the bank insurance fund's losses. It may reverse this policy and force the regulator to forbear. All of us who went through forbearance, keep those institutions open in 1980's, know that that only increased the cost to the taxpayers.

I believe the required dumping of assets under the Graham amendment may inappropriately impact market prices as well. We already have a depressed real estate market in this country. We have a severe economic slump going on. We need recovery, and one of the basic places we have to have it is in real estate if we are going to produce jobs. And so I really think this would delay economic recovery and in very many critical areas of the country in real estate.

So while I applaud the objectives of the Senator from Florida, I cannot support his amendment because I think of the unintended consequences it would have not only to the RTC but to the real estate markets as well.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

The Senator from Florida has 18 minutes remaining.

Mr. GRAHAM. Mr. President, the walls here are beginning to reverberate with the sounds of past debates. We are about to start down a path that we have been before. The question that we have to ask is are we prepared to accept those same representations and move down that same path, as if we were walking it for the first time? Or are we going to be more cautious? Are we going to be maybe somewhat more skeptical? Are we going to take protections that we did not take before?

As I indicated, I have serious question as to whether the premise of this financing, which is that it will not require taxpayer funds, will in fact prove to be reality.

As recently as late 1988, we were getting the exact same representations relative to the S&L fund. On August 2, 1988, Under Secretary of the Treasury Gould testified before the Senate Banking Committee and he said this:

> In closing, I urge this committee in the strongest terms to resist mounting pleas for an unnecessary budget-busting bailout of the Federal Savings and Loan Insurance Corporation. In my view there is enough money to continue down the path the Federal savings and loan insurance fund is presently on.

On October 5, 1988, the chairman of the Federal savings and loan insurance fund made this statement before the Senate Budget Committee:

> We believe we have the resources if we are permitted to continue as we are.

Those were representations made on the precipice of the greatest collapse in the American financial system's history by two of the most informed, most advantaged to have full access to the facts individuals in America, the Under Secretary of the Treasury and the chairman of the Federal savings and loan insurance fund, that they had enough money within the fund in order to be able to meet its obligations.

Clearly, they were wrong and the American public is about to pay an additional $80 billion to underscore their error. Yet, today we are being asked to accept that there will be enough money in the fund with the industry making the payments to fully pay back the $70 million that we are about to authorize.

I am very skeptical. My skepticism is enhanced by the statement that the chairman just made which is, first, that the FDIC fund has $30 billion in assets. That is not what their latest financial report indicated. Their latest financial report indicated that it had $29.2 billion in the Department of Liquidation and an additional $10.8 billion managed by assisted institutions, or a total of approximately $40 billion in assets.

But, second, the further representation that whether it is $40 billion or $30 billion it is substantially less than that because the real values are not what the paper values are.

Mr. President, that is exactly the path that we have gone down with RTC. We have put on the books values that were under water. And one of the reasons that we kept them on the books, one of the reasons that there has been such reticence to sell those assets, is that when you sell them there is no way to continue to fudge the book. You have a property that you say is worth $1 million, but nobody will pay you more than $600,000. It is worth $600,000. At that point you have to recognize that you carried $400,000 on paper of phantom assets.

The chairman has just indicated that we may be carrying half of the assets in FDIC as phantom assets. Do we really want to go down that path again? How many times, Mr. President, do we have to trod that path of illusion, of deception and of egregious cost to the American taxpayer?

My amendment is a modest one. It says we are going to give to the FDIC $10 billion immediately. So if the chairman is correct, they will now have assets of $30 billion on their books, plus an additional $10 billion, or $40 billion. According to the FDIC's numbers that have been given to us it is actually $50 billion.

(Mr. DODD assumed the chair.)

Mr. GRAHAM. If there is $15 billion of water in that $50 billion, then they have either the $35 billion which their own books would indicate that they have in real value, or $25 billion if their books are as the chairman states them to be. I do not know what the real books are because they are so late and inadequate. Another reason, in my opinion, Mr. President, to approach this whole issue with a great deal of caution and concern.

So my modest amendment would say, we will give them $10 billion immediately but the next $15 billion of loss funds will only come on a dollar-for-dollar basis as they begin to dispose of those assets.

The Senator from Utah has made the argument that was made 3 or 4 years ago, that we do not want to force this agency to have to sell these assets. That is an argument that sounds as if it would be more appropriate to a legislative body in Moscow than one in Washington. They are reluctant to move assets from the public sector back into private hands.

I would not think that this bastion of capitalism would be a place in which we would be reticent to adopt a principle that the management of these assets is going to be better over time in private hands than in public hands, and our own recent experience of the deterioration in value and the high costs that have been imposed and the enormous bureaucracy that has developed as long as we keep these assets in public hands.

Mr. President, I believe that this amendment, in my opinion, is the necessary prerequisite for us to consider appropriating $70 billion of taxpayer funds for the refinancing of the FDIC. I do not know how we can face the American taxpayers, with the bill that we already imposed on them for the savings and loans—a bill that is about to get $80 billion higher—and say, and we are coming again now to the FDIC for commercial banks using the same worn out discredited script that we used for the savings and loans.

I urge the adoption of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I will move to table the amendment. I am

VOL 137
PT 23
NO 21—25
1991
UMI

wondering if we could agree to have the vote at 1:45? There is a bill signing down at the White House that a number of Senators are attending. I am going to ask unanimous consent, if that is agreeable with the Senator from Florida, that we set the vote for the amendment at 1:45. Would that be agreeable to him?

Mr. GRAHAM. Yes.

Mr. RIEGLE. That will be on the motion to table at that time.

Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. I ask further then by unanimous consent that that vote occur at 1:45.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. I might inquire of the Senator from Florida, who is still on the floor, would the Senator from Florida be prepared to take his second amendment up immediately upon the disposition of the vote on the amendment at 1:45?

Mr. GRAHAM. I believe we will be able to do so. There will be other Senators participating in the debate on this issue and I am checking their schedules to see if they will be available at that time. I believe we will be ready to go at 1:45.

Mr. RIEGLE. I might also say, if the Senator wanted to begin any part of that, the time between now and 1:45 would also be available for that purpose if that would be workable for him. I do not suggest that he disadvantage himself in terms of how he wants to proceed. But let me let him think about that.

I know the Senator from Ohio was here a moment ago, too, and I think he has some questions that he wants to pose to us. This would be a good time to do that.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, prior to the Senator from Michigan, the manager of the bill, going forward with his unanimous-consent request, I wonder if he would be good enough to yield for some questions from the Senate from Ohio?

Mr. RIEGLE. Yes, I am pleased to yield to the Senator from Ohio.

Mr. METZENBAUM. As the Senator from Michigan knows, I have been concerned about whether the banks will be required to pay back the $70 billion loan. I offered language to ensure that part of the money would be paid back through the sale of assets of failed institutions. And then, if that is not enough, the rest of the money would come from assessments on the banks. Is that language in the bill?

Mr. RIEGLE. Let me assure the Senator from Ohio that language is in the bill, and it is contained in the managers' amendment. It is a useful addition.

Mr. METZENBAUM. I appreciate that, and I appreciate the action of the comanagers in seeing to it, because I think it is important that the people of the country know that $70 billion is to be repaid by the banks.

I am a strong proponent and coauthor of legislation to give law enforcement officials the tools they need to combat money laundering in our financial institutions. Is that language also included?

Mr. RIEGLE. Yes, it is.

Mr. METZENBAUM. I thank the Senator from Michigan.

I understand that there will be language in the bill that I had previously offered prohibiting a bank from opening a branch solely for the purpose of draining deposits out of a community. Is that correct?

Mr. RIEGLE. Yes, it is.

Mr. METZENBAUM. Is it also true that there is language in the bill protecting retirement benefits of State and local government employees in the event that a bank in which they have their retirement savings fails? I have sponsored legislation to that effect last year.

Mr. RIEGLE. Yes, that is in the bill.

Mr. METZENBAUM. I am very pleased to hear that.

While I am very disappointed that the Government check-cashing and basic banking language did not prevail at this point, I understand that the final bill does include other provisions that we, the manager and I had fought for this week. For instance I am referring to the provision requiring banks to disclose yields and fees on deposit accounts and those provisions which strengthen the tools to combat mortgage discrimination. Am I correct that these measures remain in the unanimous-consent agreement and will be in the bill?

Mr. RIEGLE. The Senator is correct.

Mr. METZENBAUM. Mr. President, I want to say to the manager that I am pleased that these provisions are in the bill. I had hoped that there would be stronger language with respect to certain consumer provisions. The Senate has acted on that subject. I thing they erred, but I certainly recognize the will of the Senate. I do appreciate the consideration and cooperation of the Senator from Michigan in seeing to it that some of these other provisions are in the bill. It is a pleasure to work with him.

Mr. RIEGLE. I thank the Senator from Ohio. It is always a pleasure to work with him, as well.

If I might direct a question to the Senator from Florida [Mr. GRAHAM]. I do not know if we have yet structured a time agreement officially on the second amendment that he intends to offer. When we talked last evening, my notes indicate we were talking in terms of perhaps an hour's time, divided 45 minutes for the Senator from Florida, 15 minutes for the Senator from Michigan. I am wondering if that would be a time acceptable or would he prefer a different amount of time?

I might just say to the Senator, we are under terrific pressure from the majority leader to try to conclude the bill. So I want to try to balance that pressure on the one hand with the need for the Senator to have the time he needs.

Mr. GRAHAM. Senator, if we had 45 minutes to present our amendment, I believe that would be adequate.

Mr. RIEGLE. Very good.

I then ask unanimous consent that a time agreement be entered into with respect to the Graham amendment on broker deposits, to be divided, 45 minutes for the Senator from Florida under his control and 15 minutes under my control, and with no amendments in the second degree to be eligible.

The PRESIDING OFFICER. Is there objection? without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I am wondering, does the Senator prefer to wait and start after the vote?

Mr. GRAHAM. Yes; I prefer to wait until the other Senators who are going to be participating are here.

Mr. RIEGLE. Very good. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent to speak as in morning business for a period of time not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS

Mr. METZENBAUM. Mr. President, I rise to express my dismay at the latest in a long series of attempts by President Bush to cater to the radical right wing of his party on civil rights issues. I refer, of course, to reports published this morning that the President planned to sign the historic civil rights bill today while at the same time seeking to eliminate the use of all affirmative action programs that have been in existence for decades in the public and private sectors. The President's announced intentions are an outrageously cynical effort to undermine the clear mandate of the 1991 Civil Rights Act.

Earlier this month, Congress passed a bill reinstating the disparate impact standard set forth two decades ago by the Supreme Court in the Griggs case. The bill provides that employment practices which disproportionately exclude women or minorities are unlawful, unless employers prove both that these practices are "job related for the position in question" and that they are "consistent with business necessity." The bill explicitly states as its purpose to restore the concepts of "job-related" and "business necessity" that were enunciated by the Supreme Court in Griggs and other decisions prior to Wards Cove. The bill also states expressly that it is preserving the lawfulness of voluntary affirmative action programs.

President Bush has spent 2 years fighting the spirit and letter of this legislation. By repeatedly failing to recognize the distinction between unlawful use of quotas and lawful use of affirmative action, he has polarized the electorate on the race issue. By repeatedly insisting that employers should be allowed to require that all workers have high school diplomas, even where there is no basis for concluding that such diplomas are job-related, he has displayed his hostility to Griggs itself; Griggs was a case involving education requirements irrelevant to the jobs in question. Having finally agreed to sign the civil rights measure, he and his White House advisers are still scurrying about trying to undermine its clear purpose. And now, by suggesting that he can abolish affirmative action with the stroke of a pen, he is seeking to accomplish through his Executive powers what Congress clearly rejected in the legislative process.

I understand the White House issued a press release this morning announcing it was changing the statement circulated yesterday, after some administration officials raised objections. The American people should not be fooled. The President may have backed off today, because it might ruin today's photo opportunity. But keep watching. And watch carefully. You will see the White House attempt to undermine the civil rights consensus reached by Congress some time soon, if not this week, perhaps next week, or next month, or early next year. The President may denounce David Duke the man, but he also must renounce the policies David Duke promotes in the civil rights area. This trial balloon did not fly. But there will be others. And I hope the American people will be watching.

Mr. DODD. Mr. President, I ask unanimous consent I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ECONOMY

Mr. DODD. Mr. President, as late as yesterday, according to news accounts—the administration continued to suggest that the recession is over.

I wish it were so, Mr. President. For too long the administration has grabbed on to every statistic they could possibly get their hands on, trying to give some false hope to families across this country. When the GNP rose by 2.4 percent in the last quarter, they said the recession was over. But if you ask most families in this country whether the economy has improved at all in the last several months, they would give you a resounding no.

The latest housing start figures are, no doubt, a positive sign. This good news, however, is no excuse for the absence of an economic program on the part of the administration. The Bush administration has done little to stimulate the economy for middle-income families. In my view they have merely allowed this recession to run its course and when the statistics are good, through no effort on their part, they proclaim an end to the hard times.

Unfortunately, the news is not good for most persons. Housing starts may be up, but affordability is down.

The President says that it is a good time to buy a home. I am sure it is if you happen to be among the wealthiest people in the United States. God help you if you are a middle-income family with one income having been lost in the last several months, as is the case for millions of people in this country. For them, the idea of purchasing a new home is just totally out of the question.

Why is this so? Frankly, because millions of Americans are out of work, as we all know, and businesses continue to close their doors.

I do not believe we have done enough to end this recession. Our legislative efforts have been derailed at almost every turn with vetoes and an absence of Presidential leadership on pressing domestic matters. Except for the unemployment bill, we have little else to show for this session in the way of economic reform.

(Mr. REID assumed the chair.)

Mr. DODD. Mr. President, the extension of unemployment benefits is only one important but small part of the solution. In fact, the unemployment bill is evidence of the fact that we have not done anything. The unemployment benefits are merely an effort to provide relief for people who are out of work.

What we need to be doing is talking about an economic program to make it possible to put people back to work, not talking about what sort of extension of benefits we will be able to provide them when they are trying to make ends meet.

What families in my State, and I think in most parts of the country, want most are jobs and a strong economy. They are only going to get that if we start putting our shoulder to the wheel and come up with some creative, innovative ideas that will get this economy moving forward.

It is to understate the case to say that people are still hurting. Thousands of workers continue to lose their jobs each and every month. Unemployed and underemployed families are without health insurance, and over 60,000 long-term unemployed in my State have had a painful wait for extended benefits.

Mr. President, I believe we owe it to the American people to roll up our sleeves and adopt an economic policy that will work regardless of how long that may take. That is what we are elected to do. That is our job. That is what we should be doing as Members of the U.S. Senate.

Mr. President, I am not saying that my colleagues should miss their Thanksgiving dinner or the holiday recess that is approaching, but I certainly, for one, would like to suggest that we stay and try to come up with a economic program that may work. Instead of just talking about unemployment benefits and their extension, we might talk about a program that will actually provide some jobs for people in this country to get the economy moving.

It seems to me we need to pass a highway bill, and if we fail to act on this measure, my own State of Connecticut could lose as many as 3,000 jobs in the coming weeks. I am told over 100,000 jobs could be lost nationwide.

I believe that we ought to finish this banking legislation which is before us, and I believe and hope we will do it in the next day or so. We need to extend the 12 tax credits that are due to expire next month. And we must, in my view, restore fairness to our tax system and adopt tax policies that will encourage economic growth.

Why is tax reform necessary, Mr. President? The economic decisions made during the last decade created a great deal of wealth for some, and obviously a huge pricetag for the many. Today, middle-income families have to foot the bill and, frankly, they just cannot afford it.

Ten years ago, middle-income families were told that they would benefit from lower taxes of the most affluent of our land and increased Federal spending, the so-called trickle-down theory, as it was proposed. They were also led to believe that Reaganomics would provide long-term economic growth and stability for our country.

Mr. President, what really happened during that period of time is, of course, now obvious. Part of the prophecy was correct. Presidents Reagan and Bush kept their campaign promises to the top 1 percent of the most affluent in our country; the very wealthy enjoyed

VOL
137
PT
23
NO
21—25
1991
UMI

tax cuts of up to 15 percent and watched their incomes increase by as much as 110 percent during the past 10 years. But, Mr. President, somebody had to pay for that 15-percent tax break for the wealthy. And I might suggest that anyone in this Chamber and across this country could tell you what the answer to that question is. If you suspect that it was the average working man and woman in this country, then you are absolutely correct. Most saw their income stagnate as taxes went up.

Middle-income Americans ended up paying more taxes and watched their real after-tax wages drop while prices on basic necessities in life went through the ceiling.

What else happened? Reaganomics promised that the tax breaks would encourage investment and economic growth in this Nation. Did it create jobs? Certainly some were created. But where are those jobs today? The policies of the 1980's encouraged investment and paper profits, not real profits. They encouraged shortsighted planning, not sound investments in our future.

Mr. President, the economic decisions of the 1980's took shape in the Tax Reform Acts of 1981 and 1986. I am proud to say that I voted against both of those measures and was in a small minority in this Chamber in doing so.

Those measures mortgaged the future of the middle class in this country to give the most affluent in this Nation the tax breaks that they so desperately wanted. I believed then that the passage of those bills would result in reckless deficits, and it did.

The 1980 Tax Act, which was not paid for 10 years ago, is being paid for today. On its own, it was responsible for a drop in Federal revenues of $264 billion in 1988, $291 billion in 1989, and more than $320 billion in 1990.

Because of the deficit spending that resulted from lost revenues, middle-income families are paying more in taxes today and getting far less in return. Fortunately, there appears to be a growing consensus that we need to reverse the trends of the 1980's and once again place this Nation on sound economic ground.

Mr. President, the hour is getting late for economic reform. But as late as the hour is, it is not too late. The American people are experiencing one of the worst and most complicated recessions since World War II. They are tired of hearing politicians say that the recession will be short or, as the administration said, it will be short and shallow, or that the recession is over, or that we cannot afford to make the kind of investments that are needed to jump start the economy.

In my own State of Connecticut, Mr. President, more jobs have been lost in the last 2 years than in any previous recession since the end of World War II, and the unemployment rate continues to rise; 96,000 people in a State of 3.5 million have lost their jobs in the last 12 to 18 months.

Connecticut also ranks among the top 10 States with the highest number of long-term unemployed who have exhausted their unemployment benefits. We have the highest combined rate of personal and business bankruptcies of any State in the country. Business failures for the first half of 1991 are up 220 percent for the same period in 1990.

Mr. President, there is little doubt in the minds of working people in my State and other regions across this country that the recession continues to ravage the economy, and they hold little hope that the end is in sight. For this reason, we desperately need, in my view, basic, fundamental economic reform, and we cannot wait until sometime next year or sometime after the next Presidential election.

In my view, we need to restore fairness to our tax system and provide much needed relief to middle-income families. We can do this by bringing back Senator MOYNIHAN'S proposal to lower payroll taxes for employees and small businesses alike, or we could lower taxes for people who fall in that middle-income range.

When I first introduced my own tax reform bill this spring, I proposed that we could restore equity and fairness to our tax system by shifting some of the tax burden away from the middle income by asking the financially most secure in our country to pay a small bit more. The measure provides for higher personal exemptions for taxpayers in the 15-percent and 28-percent tax brackets.

Unlike other proposals under consideration, Mr. President, this measure would target tax relief to all working Americans in these two lower tax brackets. For low- and middle-income families with children under the age of 5, I also would provide a tax credit of $800.

Unlike the 1981 Tax Act, this legislation would pay for the changes to offset lost revenues. My proposal would raise taxes on the most affluent in our society, the very people who have enjoyed Federal tax cuts of up to 15 percent during the last decade.

Mr. President, the emergency of Senator BENTSEN's tax reform proposal, which I have cosponsored, is one more sign, I believe, that Congress intends to give economic reform serious consideration. I strongly support Senator BENTSEN's efforts to give these families a break. I do, however, believe that all middle-income workers deserve a break, even those with grown children or no children at all. I look forward to working with him and other members of the Finance Committee to achieve this.

Senator BENTSEN would pay for his tax reform bill, as most of my colleagues know, with further cuts in the defense budget. In our changing world, some downsizing of our defense structure is appropriate and necessary. Those cuts, however, must be prudent, with an eye toward the remaining instabilities that exist in our world.

We must also keep in mind the direct impact of cuts on those who work in the defense industry, people I have called the veterans of the cold war. They have served this Nation well and deserve to be treated with dignity.

In addition to providing tax relief to families, of course, we must also restore policies that help to bolster economic growth. Economic reform would not be complete without incentives for long-term investment and planning and job creation. I believe that we can do this by adopting the venture capital bill of Senator BUMPERS of Arkansas, that would encourage long-term equity investments in smaller businesses. Or, as I discussed earlier, we could extend the housing, education, and R&D tax credits, which are due to expire on December 31 of this year.

Part of any economic growth plan should provide assistance to States and cities that today are bearing a larger responsibility for the cost of domestic programs. For this reason, I joined Senator BAUCUS earlier this year as a principal cosponsor of a measure to lower the cost of issuing bonds for our cities and States. Lower bond costs would enable cities and States to better respond to infrastructure needs, roads and bridge repairs, the renovation and construction of schools, highways, and prisons. It is my hope my colleagues will agree that this measure should be a part of our economic recovery package.

These are only a few examples of the proposals I think we should consider this fall; not wait, and put off until next year, or 1993. Economic reform should be our single top priority in this country, and we should not let the President's lack of leadership get in our way of moving forward. The American people need to see that we are not going to give up this fight; and tax relief, relieving some of the burdens of some businesses is absolutely essential if we are going to jump start this economy.

For that reason, Mr. President, I urge, rather than taking the break we would all like to have this coming fall, that we stay here and do some of this work, and send a message to the American people that unlike the President, who seems to believe there is no recession, at least those in Congress understand it.

We may not come up with all the answers, but it is vitally important we not pack our bags and go home at the very hour this country is in one of its most desperate economic conditions in the last 40 years.

And so, Mr. President, I urge we stay here and do some of this work, try at

least to advance some of these ideas, and see if we cannot make a difference in getting this country moving again.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I hear my colleague from Connecticut, and I echo those concerns. I would love to see us stay and do something to help the economy. I do not think we are going to help it if we are going to be pointing fingers. There is enough of it to go around.

Some of us wanted to pass an energy bill this year, and we did not even have the courtesy to proceed to the bill that could have provided something like 750,000 jobs in the United States. We did not pass it.

The Senate passed a highway bill months ago, 7 or 8 months ago. We passed a highway bill. We are still waiting on it. The House would not even take it up. We are talking about thousands of jobs in my State, jobs that we need, contracts that will not be let unless we pass the bill.

The PRESIDING OFFICER. Under a previous order, the question now occurs on——

Mr. NICKLES. Mr. President, I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I think it is vitally important that we not just be pointing partisan guns but we really do work to make some positive strides toward helping the economy, maybe through tax changes but also through passing a highway bill, through making some significant changes that need to be done and not just pointing partisan fingers at the President of the United States.

The PRESIDING OFFICER (Mr. DODD). Does the Senator yield back the remainder of his time?

Mr. NICKLES. I yield back the remainder of my time.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the amendment of the bill.

AMENDMENT NO. 1371

The PRESIDING OFFICER. The hour of 1:45 having arrived, the question is on agreeing to the motion to table the amendment of the Senator from Florida.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

The result was announced—yeas 77, nays 19, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—77

Akaka
Baucus
Biden
Bond
Boren
Breaux
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NAYS—19

Adams
Bingaman
Bradley
Brown
Bryan
Bumpers
Conrad
DeConcini
Fowler
Graham
Hollings
Nunn
Pryor
Reid
Robb
Sasser
Shelby
Simon
Wellstone

NOT VOTING—4

Bentsen
Harkin
Kassebaum
Kerrey

So the motion to table the amendment (No. 1371) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Michigan.

Mr. RIEGLE. Mr. President, by previous agreement the Senator from Florida has offered and agreed to go next with his brokered deposits amendment. I would hope he could be recognized for that purpose.

The PRESIDING OFFICER. Without objection the pending amendment is laid aside and the Senator from Florida is recognized.

AMENDMENT NO. 1372

(Purpose: To prohibit the insurance of brokered deposits under the Federal Deposit Insurance Act)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 1372.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 212, line 6, strike all through page 217, line 4, and insert the following:

SEC. 211. PROHIBITION ON INSURANCE OF BROKERED DEPOSITS.

Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) by striking subsections (a) through (e) and insert the following:

"(a) PROHIBITION ON INSURANCE.—Notwithstanding any other provision of law, deposits obtained, directly or indirectly, by or through a deposit broker are not insured deposits under this Act.";

(2) by redesignating subsection (f) as subsection (b); and

(3) by striking subsection (g).

Mr. GRAHAM. Mr. President, this amendment goes to why we are largely here today. While this bill is a bill that contains bank reform measures, the engine that has brought us to our current destination has been the collapse of the bank insurance fund. The reason for most of the concern about bank reform is in order to create an economic environment, climate, financial regulation, financial opportunities which will make the banking system more secure, but the engine has been the collapse of the bank insurance fund.

The reasons for that collapse are multiple. The one that I believe we have inadequately focused upon is the fact that what we are purporting to do semantically and historically is not, in fact, what the reality of our current deposit insurance system is.

Semantically we refer to this as a deposit insurance system. The word "insurance" carries with it certain inferences and certain accepted characteristics. One of those is that there is a transfer of risk, that persons have the risk that they may die, that their house may burn down, or that the bank in which they may deposit their money could go bankrupt. So you pay a premium which is calculated to be the economic value of that risk and you transfer that risk to a third party.

In this instance the risk of our deposit being not there when you go to the bank is transferred to the Federal Government, to the FDIC, by a premium being paid. In this instance the premium is being paid by the bank itself.

Another concept of insurance is risk. Some people are 25 years old, some people are 85 years old. Obviously the price of an equal dollar amount of life insurance is going to be different from those two people because they impose different risks of when they will actually be eligible or their heirs to draw upon that life insurance policy.

In neither of those two fundamental characteristics of insurance is the FDIC fund appropriate.

First, the amounts of premiums paid are not commensurate with the risks that are being assumed in aggregate and there is no differentiation between the riskiest and the most conservatively operated institution.

The Securities and Exchange Commission, Mr. President, has this year

VOL
137
PT
23
NO
21
—
25
1991
UMI

released a study on March 28 estimating the value of the Federal deposit insurance fund. To read from the summary of the report:

> The current premium for deposit insurance, which at that time was 19.5 bases points, is much lower than the estimate of what the real cost of providing that insurance coverage would be under the methodologies which were utilized by the economists at the Securities and Exchange Commission.

The study provides evidence that deposit insurance is on average significantly underpriced, thus representing a large contingent liability for the Federal Government.

Mr. President, we are about to find some of that contingent liability because it has moved from contingent to real. That is why we are about to be asked to appropriate $70 billion to replenish the bank insurance fund and will soon thereafter be asked to appropriate $80 billion as the latest installment for the failed savings and loan fund.

The study goes on to estimate that during the 1980's this underpricing averaged, averaged $20 billion annually. That means every year the FDIC collected $20 billion less than it should have collected if it were operating an actuarially sound insurance program.

Second, there is no risk. Every institution pays exactly the same premium, a tremendous incentive as we particularly saw in the savings and loan industry for high-flier operators. It was the greatest of worlds. If a transaction that was risky turned out to be profitable, the profits were privatized by the owners of the institution. If that same transaction proved out to be a dud, it was socialized. The taxpayer paid the cost of failure. So we have had a Federal deposit insurance system which fails to meet two of the basic standards of an insurance program.

Historically, deposit insurance was one of the many innovations of the New Deal, and its purpose was to provide a safe haven for small investors, a place where American families could put their money and be secure that it would be available to them in the future, that they would not have to undertake the individual responsibility to assess the worthiness of a depository institution which was insured by the Federal Government.

That was a very important part of creating the economic recovery from the Great Depression of the 1930's.

Mr. President, we have gone a long way from that historical beginning. We now are insuring deposits of up to $100,000. With any degree of creativity, an individual can have almost an unlimited number of those $100,000 deposits. At one institution, a family—husband, wife, two children—can have a dozen or more accounts each insured up to $100,000. And then, of course, if you have more than that $1.2 million that you want to have insured, you can go to the next institution and repeat the process.

So, virtually, there is no limit as to how much a person can place within a depository institution and have fully insured by the Federal Government. That, Mr. President, I submit was not the rationale that led to the establishment of federally insured deposits.

But beyond that, Mr. President, the focus of the amendment that we are going to offer goes to another and increasingly significant part of the expansion of the Federal Government's vulnerability, and that is brokered deposits. Brokered deposits are where an individual goes to, generally, a securities institution, and says, "I have $50,000 to invest. I want to invest it at the best return I can get, but I want to invest it also with a high degree of security."

And so the securities firm finds that there is an institution, federally insured, which is paying the highest interest rates available—generally rates that are above those in the local community in which the individual happens to live.

He says, "I will place your $50,000 in a federally insured deposit and you will see this rate of interest higher than you can get at a federally insured institution in your community."

We saw this system run completely amok in the 1980's where the institutions that nationally were paying the highest interest rates were those that were in the greatest trouble. They would be like the 85- or 95-year-old man who was able to buy life insurance at the same rate as the 25-year-old man, contributing very substantially to the failure of many of those institutions and the enormous costs that are now imposed upon the American taxpayer.

This bill makes some important reforms. It would limit brokered deposits to those commercial banks which fall into the top two categories of capital adequacy. And I will state that that is a substantial improvement and reduces significantly the prospect of the taxpayers having to pick up that enormous cost for failures from these institutions as a result of brokered deposits.

But, Mr. President, I believe we should go further. I believe that we should not prohibit brokered deposits but provide that those deposits will not be federally insured. If a person wants to go into their local securities office and find where in the Nation they can place their funds at the highest rate of return, they should have the responsibility to also assess the quality of that institution, this financial worthiness. They should not rely upon the Federal insurance system to eliminate from them that necessity at self-protection. And the U.S. taxpayers should not be putting their subsidized deposit insurance behind those accounts.

I think this is an appropriate amendment. At the very minimum, we ought to require that brokered deposits pay the actuarial cost of that insurance. I would ask anyone to defend the proposition of why the American taxpayers, at what may be a subsidy rate of equal to the amount of premiums paid, why we should be subsidizing the insurance behind brokered deposits. What is the public policy that justifies that position?

So, Mr. President, the amendment which I offered would say that brokered deposits can continue, but brokered deposits will no longer be insured by the Federal Government.

Brokered deposits have been one of the most expanding areas of deposits within our system. The Federal Reserve has provided these figures as a percentage of total assets represented by brokered deposits in commercial banks. In 1984, the first year for which statistics were kept, brokered deposits represented 0.147 percent of the total assets. By the first quarter of 1991, it increased approximately sevenfold to 1.036 percent.

So we have had a tremendous growth in brokered deposits, both absolutely and as a proportion of the asset base of insured institutions.

Mr. President, I do not believe that there is a legitimate public policy to continue to provide subsidized Federal deposit insurance behind brokered deposits. The adoption of this amendment would terminate that process.

I thank the Chair.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield to the Senator from Maryland such time as he requires.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, how much time remains?

The PRESIDING OFFICER. Sixteen minutes.

Mr. SARBANES. Would the Chair indicate when 5 minutes has been used?

The PRESIDING OFFICER. Yes.

Mr. SARBANES. Mr. President, I rise in strong support of the amendment offered by Senator GRAHAM of Florida, and I want to commend Senator GRAHAM for a very perceptive and analytical statement about this issue of providing deposit insurance for brokered deposits.

In fact, when this legislation, when the chairman's committee print was first put forward in the Banking Committee, it contained a simple prohibition on extending taxpayer-backed deposit insurance to brokered deposits. It had a provision that was substantially identical to a major deposit insurance reform proposal put forward by the Treasury which had made the judgment that this was a desirable thing to do in terms of strengthening the deposit insurance system.

Unfortunately, it was modified in the committee in significant ways to now

permit brokered deposits under certain conditions. But it is my own view that the limitations are, in a sense, vague and expandable and that the problem, the basic problem, connected with brokered deposits would continue to exist, at least to a significant degree.

Now we are about to put $70 billion into the bank insurance fund, some direct and some to be drawn upon. And if there is anything that ought to be done as part and parcel of that, it is to strengthen the deposit insurance system. That, in the end, ought to be the principal purpose of this legislation.

Now, I know that the banks are not directly analogous to the S&L's, but we have to learn some history and draw at least what lessons are appropriate. One of the leading causes of the savings and loan collapse was the practice of failing S&L's of paying higher interest rates in order to attract brokered deposits from around the country. These brokered deposits can flow into an institution very quickly. We have had testimony where institutions have unraveled in a very short period of time. So you may set up, as the provision in the bill does, capital standards that you think assure you that you are getting institutions that have a lot of strength and all of a sudden it can just erode very quickly. And, of course, it is under the pressure of that erosion that the institution seeks to maximize its use of brokered deposits in order to bring in new money, in order to try to carry them over, over the difficult period.

We had testimony in the committee on the Bank of New England, that even if you applied that standard in this bill, they would have qualified to draw brokered deposits. Yet within a few months they were in very deep trouble indeed.

Since these deposits are insured by the Federal Government, all of the risk associated with the deposit is assumed by the taxpayer. That has to be clearly understood. When people go into Merrill Lynch for a brokered deposit, there is no financial judgment being exercised here. They run a computer to see who is paying the highest rate and they run a computer to make sure the client has not exhausted or partly used up his $100,000 coverage on an account in that institution. Then they locate the high rate and they just shift the money out there.

They never even have to stop to look as to whether the institution to whom the money is being sent is a safe, sound, prudent institution, because the deposit insurance is going to take care of that problem.

We had the President of the Independent Bankers Association who testified before the committee in April of 1990:

> One of the lessons from the thrift crisis is their ability to gather deposits through brokered deposits and increase the size of the institution and the funds they had available very rapidly without additional capital and, quite frankly, without additional management. Then, to take these funds out and invest them in what turned out to be very risky matters, is certainly a lesson America has to learn and look at.

In the hearings before the committee on this legislation, which reviewed the problems of commercial banks and the deposit insurance system, we had some highly respected witnesses testify in opposition to deposit insurance coverage for brokered deposits in commercial banks, the very thing the able Senator from Florida is addressing in his amendment.

Under Secretary of the Treasury Glauber testified before the committee on the Treasury's proposals for deposit insurance reform.

In his testimony Mr. Glauber stated:

> We think insurance coverage behind brokered deposits goes beyond the original intent of deposit insurance.

That is a point which the able Senator from Florida just made in his exceedingly fine statement when he made reference to the purpose of deposit insurance.

Mr. Glauber went on:

> We would eliminate it in our bill. We would just simply say that brokered deposits should not be covered by deposit insurance.

In May of this year Paul Volcker testified before the committee, supporting the Treasury proposal. He said:

> Brokered deposits seem to me to be a way of, in a sense, distorting the purpose of the $100,000 limit, which is to protect a rather sizable deposit for unsophisticated people.

Let me repeat that:

> which is to protect a rather sizable deposit—

And it is sizable—

> for unsophisticated people.
>
> You are now making a machine for collecting funds wholesale, so to speak, and distributing it in a way to take advantage of the insurance system.

That is exactly what this brokered deposit system does.

The advocates for permitting deposit insurance coverage for brokered deposits argue that the risk of abuse is worth the benefit of permitting deposits to flow more easily to institutions with greater lending opportunities. But the problem with this is discussed in a study submitted to the Congress by the Treasury in February of 1991, "Modernizing the Financial System." As that study pointed out, "These deposits are insured rather than uninsured, which means there is no market discipline involved in sending these funds to distant parts of the country to unknown banks and thrifts."

No one has to make any judgment about the institution. You just find out they are paying a higher rate, you make sure that you can get deposit insurance coverage on the amount you are going to put in, and you send it on out there. You do not have to take two breaths to look at the condition of the institution.

This means that financial firms are using the Government's credit rather than their own financial condition to raise funds, which is an obvious invitation for increased risk and increased risk of misallocation of resources. This was never, never a purpose of Federal deposit insurance.

Finally, that Treasury report to which I referred points out that the brokerage of insured deposits has expanded the scope of deposit insurance coverage primarily for wealthier depositors. According to the preliminary result of the 1989 survey of consumer finances, households with more than $100,000 in depository institutions hold almost three-quarters of the insured brokered deposits held by all households.

There is no clear public reason, I submit, no reason whatever—no public policy reason—why the taxpayer, the ordinary taxpayer should routinely protect these large, wealthier depositors from losses. The system was not designed for that purpose.

The system was designed to protect the small depositor. We took it from $40,000 to $100,000, which some people thought was taking it too high. But in any event, it was to provide the sort of ordinary depositors, not highly sophisticated, unable to check out all the alternatives as to where to place their money, a safe place in which to put their money and to assure them that there would be Government insurance upon it.

These large depositors do not need deposit insurance to find a safe way to invest their funds. They ought to engage in a process of making the best judgment they can.

I believe that this amendment offers an opportunity for a fundamental improvement and protection for the Federal Deposit Insurance system and I commend my colleague, Senator GRAHAM of Florida, for offering it and for his very strong statement in support of it.

I strongly urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Utah.

Mr. GARN. Mr. President, section 211 of S. 543, the provision which addresses brokered deposits, is a result of a very carefully crafted compromise. The brokered deposits provision in S. 543 strikes an appropriate balance between those who wanted to eliminate deposit insurance coverage for brokered funds and those who believe that abuses are not the result of accepting brokered deposits, but rather of not investing them prudently.

Where the money comes from really has not been the problem. It is the bad investing that has taken place. S. 543 would tighten the restrictions put in place by FIRREA. I want to emphasize we reached a compromise in FIRREA to control brokered deposits. Now we

VOL 137
PT 23
NO 21—25
1991
UMI

are tightening, in S. 543, those requirements. But it would not turn off the spigot. Only well-capitalized and well-managed banks would still be able to accept brokered funds.

In addition, the FDIC would have the authority to allow banks which are adequately capitalized and which have a CAMEL rating of 1 or 2 to accept brokered deposits upon application.

In addition, to address the problem of undercapitalized institutions bidding up deposit rates, S. 543 limits any inadequately capitalized institution or institution which is in conservatorship from offering rates of interest on brokered funds which are significantly above the prevailing rate in their normal market areas or in the market area in which the deposits would otherwise be accepted.

Further restrictions on brokered deposits would unnecessarily restrain well-managed and well-capitalized institutions from prudently using brokered deposits to manage their short-term liquidity needs.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I yield 5 minutes to the Senator from Alaska.

Mr. MURKOWSKI. I thank the managers for the time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I think we have a clear case here of an effort to address a problem that really no longer exists. It did exist at one time and it existed in a manner where there was clearly flagrant abuse of the process. The abuse occurred as a consequence of brokered deposits by unhealthy financial institutions being marketed by the securities industry. It greatly increased the cost of the S&L bailout. And I would have certainly welcomed the presence of my colleagues on this matter prior to 1989 when I debated the issue of brokered deposits on the floor.

I spoke out against the inappropriate use of brokered deposits in that timeframe in 1989. But in 1989, we took the first major step to address the flagrant abuse. I authored a provision of the 1989 S&L cleanup legislation under FIRREA restricting the use of brokered deposits by unhealthy institutions. The provision was controversial at that time, and I ask unanimous consent to print in the RECORD a number of articles specifically addressing that.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 16, 1991]

FLOOR FIGHT LOOMS ON KEY S&L BILL REFORM

(By Jerry Knight)

The savings and loan bailout bill is barely two-thirds of the way down the legislative assembly line, but efforts already are under way to strip off a key reform that restricts the long-criticized use of brokers to raise deposits for troubled S&Ls, according to congressional sources.

As far back as 1985, the heads of the bank and S&L deposit insurance funds called for restricting brokered funds, which they warned were contributing to S&L failures and driving up interest rates.

Both the S&L bailout bill adopted by the Senate last month and the version cleared by the House Banking Committee two weeks ago would prohibit troubled associations from bringing in any new brokered deposits without advance permission from the Federal Deposit Insurance Corp.

As the name implies, brokered deposits are obtained for S&Ls by brokers—usually because the association needs more deposits than it can attract by advertising in its local market. Some funds are raised by professional "money brokers" who do nothing else; most come from securities brokers, who sell high-interest certificates of deposit just as they sell stocks or bonds.

Brokered CDs are now one of the most popular investments for sophisticated savers and are the single biggest source of new business for most securities firms, which are among the leading opponents to the limits. Because they are sold in amounts of less than $100,000, brokered CDs are fully protected by deposit insurance; they can pay rates as high as those on uninsured money market funds.

Sen. Frank H. Murkowski (R-Alaska), author of the Senate's brokered deposit restrictions, said yesterday a move is afoot to remove the limits when the S&L bill reaches the floor of the House later this month.

"I thought we had a clear shot at this," said Murkowski, "but now it looks like the boys who sell them are trying to turn it around."

Securities industry sources argue that restricting brokered deposits would hurt small investors and would compound the problems of struggling S&Ls that need the funds to stay in business.

The effort to remove the restrictions has the backing of FDIC Chief L. William Seidman, who is scheduled to testify Wednesday at a hearing on brokered deposits called by Rep. Carroll Hubbard (D-Ky.), chairman of the House Banking Committee's general oversight subcommittee.

Seidman is expected to testify that brokered deposits themselves are not the problem, FDIC aides said. According to Seidman, the problems with brokered deposits have come when they were used to finance explosive growth by S&Ls investing in risky real estate deals. Now, however, brokered funds are being used primarily to keep afloat troubled S&Ls that otherwise would have to be bailed out directly by the government.

Seidman's view conflicts with that of his predecessor, William Isaac, who along with former Federal Savings and Loan Insurance Corp. Chief Edwin J. Gray tried unsuccessfully to get Congress to do something about brokered funds.

At a Senate hearing four years ago, Isaac warned, "I cannot overstate the case. Fully insured brokered deposits represent a clear and present threat to the Federal Deposit Insurance System." Troubled institutions make much greater use of brokered funds than healthy ones, he said, and "when these institutions fail, the cost to the deposit insurance fund is greatly increased."

Gray told the same hearing that brokered deposits were "the single most important factor in a rising number of thrift institution failures."

Murkowski said yesterday he considers brokered deposits "a risky game that has been played with the taxpayers' money." When troubled S&Ls turn to brokers to sell their high interest CDs, it drains money out of local financial institutions, which then are under pressure to raise their own rates to compete, he added.

Murkowski's measure—and a virtually identical amendment to the Senate bill authorized by Rep. Stephen Neal (D-N.C.)—would authorize the FDIC to permit institutions to use brokered funds, but FDIC officials said that would be too restrictive.

Congressional banking committee staffers said the most persuasive argument in favor of lifting the broker deposit rules is that the government has no choice: If troubled S&Ls can't raise deposits through brokers, they will go broke and then the deposit insurance fund will have to pick up their losses.

[From the Wall Street Journal, Apr. 20, 1989]

SENATE OVERWHELMINGLY PASSES S&L BILL CONTAINING $50 BILLION IN RESCUE MONEY

(By Paulette Thomas)

WASHINGTON.—The Senate overwhelmingly approved the Bush administration's landmark savings-and-loan bill, after toughening accounting standards for banks and thrifts and limiting their authority to engage in risky growth practices.

The bill, approved 91–8, would provide $50 billion to close or merge insolvent savings and loans, tighten the industry's permissive accounting standards, and put some distance in the traditionally cozy relationship between the industry and its regulators.

The House Banking Committee will take up the issue next week. Its chairman, Rep. Henry Gonzalez (D., Texas) has promised to seek a similarly tough bill.

In the final minutes of debate yesterday, senators approved an amendment pushed by Sen. Howard Metzenbaum (D., Ohio) to require thrifts to maintain real capital equal to 1.5% of assets. Earlier, the bill called for a minimum capital requirement of 3% of assets, but it provided that "good will," the intangible value of the thrift, could be counted as capital up to the entire amount required.

"Good will isn't worth doodly-doo," Sen. Metzenbaum said. In exchange for the speedy approval of the capital provision, he agreed to drop amendments designed to help low-income consumers.

One part of the last-minute, 76-page compromise amendment—which was sponsored by Sens. Donald Riegle (D., Mich.) and Jake Garn (R., Utah), the chairman and ranking Republican, respectively, on the Senate Banking Committee—would prevent the Bush administration from reversing certain regulatory exemptions the Federal Home Loan Bank Board previously granted to several large thrifts. White House officials have said some of the exemptions, spelled out in Bank Board letters, needn't bind future regulators and could be rescinded.

The amendment specifically would exclude the Bass Brothers' American Savings & Loan Association of Stockton, Calif., Western Federal Savings & Loan Association of Phoenix, Ariz., and Gibraltar Savings, of Beverly Hills, Calif., from a change in regulations to the extent that "they relied in good faith" on letters the Bank Board provided them in connection with acquisitions or enforcement cases. In the Bass Brothers case, the letters related to the treatment of securities transactions.

The Senator also approved an amendment proposed by Sen. Frank Murkowski (R., Alaska) that would prohibit sick thrifts or banks from expanding their deposit bases by using so-called brokered deposits. Many sick thrifts deepened their insolvencies—and the Federal Savings and Loan Insurance Corp.'s liabilities—by offering through deposit brokers to pay higher-than-market interest rates and investing the funds thus raised in risky ventures.

The bill would require undercapitalized institutions to obtain a waiver from federal regulators before trying to attract highrate deposits through brokers.

The Senate's speedy approval of such a far-reaching and costly bill was a huge victory for President Bush, who made the legislation an early priority for his administration. "The Senate deserves a great deal of credit for acting swiftly to pass President Bush's savings and loan reform plan," said Treasury Secretary Nicholas Brady. "We particularly appreciate the bipartisanship and cooperation shown in this effort."

More than 60 amendments were proposed over three days of Senate debate, but most were withdrawn in deference to Sen. Riegle, who warned that he would fight extraneous amendments to the "emergency legislation."

An amendment that would have required reconfirmation of Danny Wall as chairman of a restructured Federal Home Loan Bank Board failed in the face of opposition by Sen. Garn. Mr. Wall formerly was the committee's staff director when Sen. Garn was its chairman. The House bill, however, would require reconfirmation of Mr. Wall, the controversial Bank Board chairman who presided over the thrift industry during its period of record insolvencies and fraud.

Assuming the House passes its version of the bill, the House and Senate will have to work out differences over capital standards, the cash cushion that institutions must maintain to absorb possible losses. Tougher capital standards are considered one of the ending legislation's most important regulatory changes to prevent widespread insolvencies in the future.

The House version would require a minimum of 1.5% real cash capital, and another 1.5% that may include such items as good will and deferred loan losses. It also would allow thrifts to continue to use insured deposits in risky ventures, such as commercial loans made through subsidiaries. The Senate bill wouldn't allow use of deferred loan losses and would curtail riskier investments.

Under both the Senate and House bills, a new agency, the Resolution Trust Corp., would raise $50 billion by selling bonds to pay off depositors at insolvent institutions. Thrifts would pay higher insurance premiums and a portion of the earnings of regional home loan banks, which they own, to pay the bonds' principal. But taxpayers would pay the greatest share of the roughly $157 billion total cost over 10 years.

[From the Washington Post, Mar. 20, 1991]

HIGH-RATE DEPOSITS POSE RISK TO AILING AREA BANKS

(By Joel Glenn Brenner)

Troubled banks in Washington and New England, forced to offer unusually high interest rates to get customers, have attracted billions of dollars of volatile deposits from around the country, increasing the financial risks they face, according to industry analysts and regulators.

These deposits, raised by Wall Street brokers, have poured into these institutions in the past year, financial documents show. Federal banking regulators are concerned that these high-cost deposits may increase losses at the banks and could boost the government's cost of rescuing the banks if they fail.

The banks are obliged to pay high interest rates for deposits because many local customers, concerned about the health of these banks, are withdrawing their money. But such high rates typically attract so-called "hot money" from customers who move their funds in and out of various institutions, looking around the country for the best rates.

The increase in deposits raised by brokers nationwide has been most dramatic at banks in economically depressed New England and at local institutions, including the largest bank company in the Washington area, MNC Financial Inc.

At American Security Bank, one of MNC's subsidiaries, for example, brokered deposits increased sixfold in the first nine months of 1990, to $1.4 billion from $195 million. Maryland National Bank, another subsidiary, experienced a similar increase to $2.4 billion from $630 million.

"Those increases are staggering," said George M. Salem, an analyst with Prudential Securities Inc. in New York. "For the banks using brokered deposits, they have no choice—you can either starve to death or eat expensive food. But it does cause significant problems for the institution and tends to weaken the banking system overall."

An MNC official said loss of customer funds and increasing reliance on brokered deposits is the "most pressing issue" facing the bank company, which has suffered heavy losses due to the real estate downturn.

Recently, federal regulators placed special restraints on MNC that limit growth of brokered deposits.

Most of the brokered funds are certificates of deposit sold in amounts less than $100,000 and insured by the federal government.

The relatively high rates on these CDs increase the ultimate loss if an institution fails, a cost that is picked up by the federal deposit insurance fund. The heavy use of brokered deposits by savings and loan associations substantially increased the cost of the S&L debacle.

"Brokered deposits contributed enormously to the savings and loan mess and could contribute enormously to a bank crisis in the future," said Ken Guenther, executive vice president of the Independent Bankers Association of America, the trade group that represents community banks.

"We're concerned about the use of brokered deposits, especially by troubled banks," said Ellen Stockdale, spokeswoman for the federal Office of the Comptroller of the Currency, which oversees national banks.

A recent survey by the Securities Industry Association showed that banks surpassed thrifts for the first time last year in the sales of certificates of deposit through brokerage firms. However, the banking industry is much larger than the S&L industry, and on a percentage basis the use of brokered deposits by troubled banks is far less prevalent than it was among troubled savings and loans.

According to data supplied by banks nationwide, brokered deposits increased $5 billion in the first nine months of 1990 to an all-time high of $77.3 billion. Final figures for last year are not yet available from the banks.

Although some of these funds are raised by professional "money brokers" who sell only CDs, most of the money is raised by securities brokers, who sell high-interest certificates of deposit for Merrill Lynch & Co. and other brokerage houses just as they sell stocks or bonds. Brokered CDs have become one of the most popular investments for sophisticated savers and are the single biggest source of new business for many securities firms, which search out the highest available rates for investors. Brokers receive commissions from the investors for the service.

The high interest rates on brokered deposits typically prompt a bidding war for funds among all banks and S&Ls, thus weakening the entire financial system, regulators and analysts agree.

In the Washington area, for example, local banks and savings and loans are paying the highest interest rates in the country on certificates of deposit, according to Bank Rate Monitor, a Florida newsletter that tracks rates nationwide.

For six-month certificates of deposit, Washington area institutions are paying interest rates with a yield of 6.86 percent, compared with the national average of 6.37 percent.

For one-year CDs, the Washington market is currently the only market in the nation paying interest rates yielding in the 7 percent range. Local institutions are paying an average yield of 7.14 percent, compared with the national average of 6.57 percent.

William Isaac, former chairman of the Federal Deposit Insurance Corp. (FDIC) and a longtime critic of brokered deposits, pointed out that when hundreds of savings and loans in Texas began paying high rates in the mid-1980s, large Texas banks tried to offer competitive rates. That factor, Isaac said, ultimately contributed to the failure of nine out of 10 of the largest Texas banks.

"While brokered deposit might make sense from the standpoint of an individual institution that can't survive without this money, it spells big trouble for the banking systems," Isaac said, "You end up with too many marginal institutions bidding for funds and the whole system gets weaker."

Because of this threat to the industry, the Treasury Department has recommended as part of its massive legislative package on banking reform that brokered deposits not be covered by federal deposit insurance. A final draft of the reform package is expected to be sent to Congress this week.

However the FCIC, which must give permission for troubled institutions to use brokered deposits, has advised the Treasury that it has concerns about taking such action because revoking insurance on brokered deposits could dry up such funding for banks that need cash.

Sen. Frank H. Murkowski (R-Alaska), who authored legislation that required the FDIC to give permission for the use of brokered deposits, criticized the agency yesterday for allowing the level of brokered deposits at banks to increase.

Alan J. Whitney, an FDIC spokesman, said yesterday that his agency carefully reviews all applications for permission to use the expensive deposits.

The problem is not the brokered deposits per se," Whitney said, "The problem is why the institution is using brokered deposits in the first place. In some situations, they simply have no other option."

However, Isaac said banks could borrow their funds from the Federal Reserve's Discount Window, which was created to help fund banks at low rates of interest. Banks always have been reluctant to borrow from the Fed because of the stigma attached to it.

Mr. MURKOWSKI. Mr. President, the provision prohibited banks and thrifts that did not meet minimum capital re-

VOL 137 PT 23 NO 21—25 1991 UMI

quirements from using brokered deposits unless the institutions received a waiver from the Federal Deposit Insurance Corporation.

In other words, rather than micromanaged by the Senate or the Congress, we put it with the oversight agencies and the insurance agencies, the Comptroller of the Currency, and FDIC. They had to have a waiver to basically accept a brokered deposit under my legislation, which became law in 1989. The waiver would be available if the Federal Deposit Insurance Corporation made a determination that the use of the brokered deposit by that institution did not constitute an unsound banking practice.

The enactment of this provision has worked. It stopped the bleeding of the insurance fund. What the committee does, and I commend the committe for its action, it fine-tunes the process that I started in 1989, and I did it basically alone. The committee was not there on this issue. We were a little bit ahead of ourselves. Because of my particular knowledge and expertise, I knew what was happening out there. It was clear.

The securities groups were making hundreds of millions of dollars by simply finding banks that were unsound, soliciting from their customers amounts under $100,000, and then placing them under the FDIC insurance and simply escalating the price that these organizations had to pay for money. The higher risk the organization, the higher the interest rate.

While I sympathize with the objective of the Senator from Florida, unfortunately there are legitimate short-term liquidity needs that the banking system should have available to it. And with the provisions under what the committee bill does, by limiting that to only well-capitalized, well-managed institutions, and provision of the law that I invoked in 1989, we have that oversight, we have a responsible agency that can direct. They basically put their reputation on the line if they allow an organization to accept a brokered deposit. They do it on the basis of their analysis of the soundness of the institution, the fact that there may be a temporary liquidity shortage and, as a consequence of that, the justification for approval.

The action of my friend from Florida—and his amendment solves a problem that really does not exist anymore, but he throws the baby out with the bathwater, so to speak, by simply meat-axing this allowance, legitimately available for liquidity, now that it is no longer flagrantly abused by the security industry and limited to a responsible oversight by the committee.

So I suggest to my colleagues that we reflect a little bit on the reality that we are really shutting the door after the house has left. The big problem existed during the time when we had the S&L's who were sick, sick, sick. And, as a consequence, the security industry was ready, at the expense of the taxpayers, to make unhealthy institutions available brokered deposits. We have secured that action.

It is the opinion of the Senator from Alaska that this legislation proposed by the Senator from Florida simply is not necessary under the current disposition of the marketplace.

I thank the Chair.

I thank my friend from Florida, and please understand that my criticism is based on my analysis that the problem really does not exist anymore.

Mr. RIEGLE. Mr. President, can I inquire as to the amount of time left on both sides?

The PRESIDING OFFICER. Five minutes and 50 seconds; on the side of the Senator from Florida, 7 minutes 14 seconds.

Mr. RIEGLE. Mr. President, I yield myself 3 minutes on this issue, if I may.

I must say that I have great sympathy for the amendment offered by the Senator from Florida. In fact, as he will recall, in the original committee print of the bill, it contained the language that is contained in his amendment now. We ended up striking a compromise on this issue in the committee. I think we have struck a reasonable compromise. There are lots of parts of this bill that if I could do myself in a single, unilateral fashion I would do differently than we find. But that is not the nature of how we work these issues through and balance them out one by one.

So I will not be able to support the Senator's amendment, despite the fact that I can appreciate the points that he makes, and I feel it is very important that we maintain the provision that is in the bill as a part of the fabric of the bill.

But let me just indicate what the protections are in here, because no one feels more strongly than I about preventing abuses with brokered deposits. We had that in the past. We should not under any circumstances tolerate that in the future. That is why the use of brokered deposits are very sharply restricted within this legislation.

First of all, only well-capitalized institutions with a CAMEL or 1 or 2, two top ratings, would be eligible to accept funds through a deposit broker. You have to bear in mind, in other parts of the bill, we are much tougher in terms of how we monitor the banks, how we insist on them meeting capital standards, so we are much less likely to have the CAMEL rating be misleading in terms of what it actually tells us.

There are other parts of the bill unrelated to this that reinforce the strengths in the prohibitions and protections we have in here. The bill, as it is written now, also restricts the number of institutions that can accept brokered deposits by waiver of the FDIC. The FDIC may allow only adequately capitalized institutions and institutions in conservatorship to accept brokered deposits for successive periods for up to 90 days.

The bill restricts the interest rate on such brokered deposits to the prevailing rate in the bank's area of operation, or the national rate paid on comparable rates of maturities. This deals with the problem of creating artificially high rates and creating a way to vacuum funds into an institution that ought not to have them and is operating in a way that is clearly uncompetitive with others in the area.

It also restricts the interest rates that weak institutions can offer. Undercapitalized institutions may not offer rates of interest on insured deposits that significantly exceed the prevailing rate in their normal market areas.

I think restricting brokered deposits to only the healthiest institutions and restricting the interest rates of weak institutions works again in tandem to encourage banks to operate safety and soundly. It means that in some situations, brokered deposits will still be available as a source of liquidity. But I think we have, in a sense, screened out the prospect for the kind of abuse that we have seen in the past and which has clearly been a problem.

Having said that, I understand the sentiment of the Senator from Florida. I certainly understand the argument on his side. I think we have struck a reasonable approach to, in effect, put the safeguards in place which otherwise I would not be able to support.

So I think they are there, and I hope that the Senate will stay with the committee provision and not take the amendment offered by the Senator from Florida.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield myself such time as required.

What we have not heard in the comments thus far, and in the time remaining maybe it will be offered, is what is the public policy that justifies the taxpayers of America providing heavily subsidized deposit insurance to funds which flow through a security wholesale operation out to the area of the country which in paying the highest interest rates. What is the public policy? How does that relate to the rationale upon which deposit insurance was established almost 50 years ago to provide that small, unsophisticated depositor a safe haven, where a family could go to sleep another night not having to worry that their $1,0000 or $2,000 life savings were going to be placed in jeopardy because of the failure of their local bank, that the Federal Government would provide them

that degree of assurance? What is the public policy that justifies the Federal taxpayers now providing this heavily subsidized deposit insurance to brokered deposits?

It has been said, well, even if there in no pubic rationale for it, at least there is not much of a problem; there will not be many abuses. As the Senator from Maryland pointed out, the Bank of New England would have qualified for brokered deposits just a few months before it went under. This very bill indicates that capital standards are not in and of themselves sufficient real time indicators of the health of an institution.

Mr. President, as you well know as a member of the Banking Committee, the committee rejected the concept of relying totally on capital standards and inserted what were referred to as noncapital trip wires, that is, standards that did not relate to capital but which the committee, on expert testimony, found to be better indicators of the real financial health of that institution.

We are not applying any of those trip wires to institutions which are now going to be eligible to receive brokered deposits. And so we are going to have more Bank of New Englands waiting out there in the weeds to be vacuuming up money, taking it into their deposits, putting the stamp of "fully federally insured" on top of it, and then facing the prospect of going into bankruptcy with the taxpayers picking up the costs.

I might also point out that the language, as this provision came from the committee, provides that that interest rate limitation is not the limitation in the community in which the money is gathered; it is the interest rate in the community of the institution in which it is deposited. So we are still going to have that vacuum sweeper effect without any legitimate public policy.

As indicated, this proposal was the the proposal of the President of the United States and the Secretary of the Treasury and their representatives before the committee and has consistently been the position of the Treasury. Those who are most responsible for protecting the insurance fund have urged exactly the amendment that is now before us.

Mr. President, let us do something for the American taxpayer as we ask that taxpayer to write a check for $70 billion. At least we should remove from the backs of the taxpayer the burden of providing subsidized deposit insurance to brokered deposits, which have no legitimate public policy purpose.

I thank the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. How much time does the Senator from Michigan have at this point?

The PRESIDING OFFICER. Three minutes.

Mr. RIEGLE. How much time does the Senator want; 2, 3 minutes?

Mr. MURKOWSKI. One and a half minutes.

Mr. RIEGLE. I yield 1½ minutes.

Mr. MURKOWSKI. Mr. President, I would like to try to answer the questions raised by the Senator from Florida. First of all, as to the Bank of New England, under the policy existing as a consequence of the action taken by Congress on the legislation of the Senator from Alaska, which strictly limited brokered deposits, it would not allow the institution to have brokered deposits without the oversight of the Federal Deposit Insurance Corporation. So I am not debating the issue whether it was done or not, but it was simply not allowed unless there was the oversight of the insuring agency. And they have the responsibility for the soundness of the banking system.

From the standpoint of public policy, clearly public policy is that it is not in the public interest to have unscrupulous dealers dealing in brokered deposits. But that is no longer the case. My point is that there is a legitimate justification for the approval, with the regulatory authorities' concurrence, to allow a very limited amount. But the illegitimate business that was out there and was functioning is no longer there. The securities industry is not flagrantly taking and soliciting individuals with under $100,000 to invest their money and get a 12- or 13-percent return. That is gone by the legislation. That is the point I think my friend from Florida fails to recognize. The abuse has been addressed, and it is no longer in existence. It is in the realm of the authorities now to regulate and limit when they think it is in the interest of the institution's liquidity.

Mr. GRAHAM. Will the Senator yield for a question?

Mr. MURKOWSKI. I am happy to yield for a question.

Mr. GRAHAM. Will the Senator give me what he thinks is the strongest affirmative public policy rationale of why the American taxpayer should provide subsidized deposit insurance to brokered deposits?

Mr. MURKOWSKI. The limitation, I would respond to my friend from Florida, Mr. President, is so narrow now, it is no different than an individual receiving insurance on $99,000 in a commercial bank, which the Senator from Florida might suggest is subsidized, but in reality the banks pay for that insurance and that insurance premium is going up as a consequence of the Banking Committee action.

I would also advise my friend from Florida, when you use a general assertion that this is a $70 billion giveaway to the banking institutions, the banks are going to pay that back over an extended period of time. So we are not writing a check for the benefit of the banks; we are authorizing a recapitalization of a fund that will be paid back over an extended period of time.

Mr. GRAHAM. If I could pursue the question, we know what the rationale was initially for Federal deposit insurance being made available. Could the Senator from Alaska tell us what he thinks is the strongest public policy rationale for providing subsidized insurance deposits for brokered deposits?

Mr. MURKOWSKI. I think I have explained it adequately but one more time, the rationale the Comptroller or the FDIC would see in an individual bank coming to them asking for permission to accept some brokered deposits would be to get over some short-term liquidity. Let us assume that there was an economic decline that had a seasonal variation. Let us say it was a fishing industry where there was a need for increased borrowings in the summertime period. Obviously, the loans would increase. They would be repaid in the fall. If the bank could get permission to get some brokered deposits during that time, that is in the interest of serving the public in the fishing industry, which is significant in both Florida and Alaska. So there are specific cases on seasonal variations where it is quite appropriate and the public is not subsidizing anything any more than the public is subsidizing the individual with a passbook savings account that has $50,000 in it and he or she is receiving FDIC insurance.

I thank the Chair. I thank my colleague, and I appreciate the extra time.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Is there any time remaining, Mr. President?

The PRESIDING OFFICER. One minute, twenty eight seconds.

Mr. RIEGLE. On my side?

The PRESIDING OFFICER. Yes.

Mr. RIEGLE. Is there any time remaining for the Senator from Florida?

The PRESIDING OFFICER. No.

Mr. RIEGLE. Mr. President, I understand the direction the Senator is moving on the amendment. I have sympathy with it. I think we have addressed the issue. We have addressed it in more ways than one. I think we have resolved the problem that previously existed in this area. I think the committee provision is a sound, solid provision, and I strongly recommend it to the Senate.

I yield back the remainder of my time.

Mr. GRAHAM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there a sufficient second?

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I move to table the amendment and I ask also for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? There is a sufficient second.

VOL 137
PT 23
NO 21—25
1991
UMI

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Florida. the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—64

Baucus
Bingaman
Bond
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McConnell
Murkowski
Packwood
Pell
Pressler
Pryor
Riegle
Robb
Roth
Rudman
Sanford
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—32

Adams
Akaka
Bentsen
Biden
Bradley
Breaux
Bryan
Burdick
Byrd
Conrad
DeConcini
Fowler
Gore
Graham
Jeffords
Kassebaum
Kohl
Levin
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Reid
Rockefeller
Sarbanes
Sasser
Simon
Wellstone
Wofford

NOT VOTING—4

Boren
Dixon
Harkin
Kerrey

So the motion to table the amendment (No. 1372) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senator from Wisconsin now be recognized for a 20-minute time limit, equally divided, for his amendment with no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

AMENDMENT NO. 1373

(Purpose: To express the sense of the Senate that the Congress should immediately adopt legislation to repeal the luxury excise tax on boats)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. MACK, Mr. COATS, Mr. HELMS, Mr. BURNS, Mr. NICKLES, Mr. SMITH, Mr. SEYMOUR, Mr. LOTT, Mr. DURENBERGER, Mr. SANFORD, Mr. GRAHAM, Mr. CHAFEE, Mr. PELL, and Mr. LAUTENBERG, proposes an amendment numbered 1373.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE REPEAL OF THE LUXURY EXCISE TAX ON BOATS.

It is the sense of the Senate that—

(1) the luxury excise tax on boats has imposed an unfair burden on boat workers, manufacturers, and retailers;

(2) the luxury excise tax on boats has caused the loss of up to 19,000 jobs in the boat building industry and thousands more in the retailing industry;

(3) middle-class workers and small businesses, not the wealthy, are harmed by the tax;

(4) the luxury excise tax on boats is costing the Government more in lost income tax receipts, payroll tax receipts, additional unemployment compensation, and compliance and enforcement costs than the revenue generated by such tax on boats;

(5) the luxury excise tax forces small business people to become tax collectors and enforcers for the Internal Revenue Service;

(6) the luxury excise tax on boats is harming one of America's strongest domestic industries and aiding our foreign competitors;

(7) the luxury excise tax on boats is contributing to the depth and severity of the recession and helping ensure that economic recovery will be more difficult; and

(8) the Congress should immediately adopt legislation to repeal the luxury excise tax on boats.

Mr. KASTEN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KASTEN. Mr. President, I rise today on behalf of myself, Senators MACK, COATS, HELMS, BURNS, NICKLES, SMITH, SEYMOUR, and LOTT to propose an amendment in the form of a sense-of-the-Senate resolution calling for the repeal of the so-called luxury tax on boats.

Some have argued that we need to pass a banking bill in order to strengthen the economy and in order to create jobs. The amendment is related to economic growth and jobs in the boat-building industry.

The luxury tax on boats is anything but a luxury for the 19,000 middle-class workers who have lost their jobs this year because of it.

I voted against this tax a year ago when it was approved, and I have been pushing for its repeal for months, and now time is running out.

I propose that under the 1990 Budget Act, the Congress declare an emergency and immediately repeal the luxury tax on boats.

In addition to putting thousands of middle-class workers in the unemployment lines, the boat tax is forcing plant closures, and it is aiding foreign competitors by destroying one of America's finest manufacturing industries.

It is costing the Government far more in lost tax revenue and collection costs than it will raise.

This tax must go now. Every month the Congress delays, more workers lose their jobs.

During this past summer and fall, there has been no shortage of evidence concerning the tremendous destruction that this tax has brought to the marine industry. Congress heard testimony from unemployed boat workers and from boat builders. Businesses have closed. The unemployment lines have grown and grown longer, and still Congress has done nothing.

This inaction is no longer acceptable and I believe we have to push forward for some kind of action now before we leave.

Another ironic aspect of this tax is that the Federal Government is losing millions of dollars from this tax. A report put out in July by the minority staff of the Joint Economic Committee shows a minimum net loss to the Federal Government of $15.2 million in 1991.

While the Joint Tax Committee has projected only $3 million in revenue from this tax, this figure includes no offset for the job loss that has resulted from the tax. Using an extremely conservative job loss number, the Government will lose $8 million in income tax receipts, $8.1 million in lost payroll tax receipts, and $2.1 million in Federal unemployment payments.

Mr. President, I ask unanimous consent that a report on the luxury tax costs and actual revenues be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD as follows:

UPDATE ON LUXURY TAX COSTS AND ACTUAL REVENUES BASED ON IRS COLLECTIONS TO DATE

(Joint Economic Committee Republican Staff Estimate, November 20, 1991)

Actual revenue from the luxury taxes on boats, planes and jewels contained in the Omnibus Budget Reconciliation Act of 1990, are unlikely to meet the Joint Committee on Taxation's projections, and the cost of job loss that results from their imposition negates by a large margin what revenue gain there may be.

Because of these luxury taxes, 9,400 Americans will find themselves unemployed this year, at a cost to the government of more than $9 million (see Table 1). The effect of this tax when only the cost to the federal government of increased unemployment is taken into account is to spend nearly $1.60 to raise one.

TABLE 1—EFFECT OF LUXURY TAXES ON BOATS, PLANES AND JEWELRY IN FISCAL 1991

[Tax-related unemployment costs, dollar amounts in millions]

Taxed item	Job loss[1]	Receipts	Outlays	Total	Estimate[2]	Revenue[3]
Boats	7,600	−$16.1	−$2.1	−$18.2	$5.9	−$12.3
Planes	1,470	−4.5	−.6	−5.1	.1	−5.0
Jewelry	330	−.8	−.1	−.9	9.2	8.3
Total	9,400	−21.4	−2.8	−24.2	15.2	−9.0

[1] 1991 tax-related job loss.

[2] Estimated IRS revenue, fiscal year 1991.

[3] Net revenue effect.

Source: Joint Economic Committee Republican staff estimate of October 20, 1991. Estimated IRS revenue based on actual collections through September 30, 1991 and adjusted upward for full fiscal year 1991 estimate.

Repealing these counterproductive taxes could alleviate some of the economic stress suffered in these three industries, all of which were already feeling the sting of recession prior to the enactment of the new excise taxes. Allowing workers in the boating, aircraft and jewelry industries to return to their jobs would benefit government coffers to a far greater extent than the revenue occurring from the taxes. Just as consumers reacted adversely to the tax, purchases will increase if the tax is removed.

Unfortunately, revenue estimators ignore the business employment consequences of new taxes when projecting tax revenue. Even demonstrable evidence of job loss will not make a difference given current revenue estimating procedures. If boat dealers sold only one luxury boat in 1991 to reap a single tax payment of $30,000 and all blue-collar workers in the boat manufacturing industry lost their jobs as a result, revenue estimators would stubbornly insist that this tax is a $30,000 revenue gainer. What excuse will the revenue estimators make when the tax on boats brings in less than one-third of the $18.2 million that it costs the federal treasury? For airplanes, the tax will bring in less than $100,000 and yet its' opportunity cost to just the federal government is over $5 million. States are losing additional direct revenues from boat and aircraft activity, but the real victims are the small businessman being put out of business, and the blue-collar workers whose jobs and wages have been taken by this misguided social experiment.

The Office of Tax Analysis (OTA) has responded, partially, to a request of October 4, 1991 that resulted from a July 23 letter requesting that OTA re-estimate the impact of the luxury tax. Below is a copy of this most recent OTA estimate, which breaks down OTA's luxury tax revenue by product. Congress's Joint Committee on Taxation (JCT) has only recently replied to the original letter of July 23 in its letter dated October 25, 1991. As indicated in an earlier letter to you, the breakdown shows clearly th offsetting mis-estimates of different indu tries lower the error in the total estimate for both OTA and JCT, who claim to use similar revenue estimating techniques. Shear luck bails-out faulty methodololgy. The aggregate estimates of both organizations, compared with the likely fiscal year (FY) 1991 total, are off by less than 20 percent each, almost close enough for government work. Looking at the estimates for each of the affected industries, however, show very disturbing errors for both estimators. OTA's airplane revenue estimate is likely to be over-estimated in FY 1991 by a whopping 7,400 percent! JCT, which did not break down their most recent FY 1991 estimate, was extremely low in the total in their original estimate, but still had revenue on airplanes over-estimated by 1,150 percent. The JCT has since re-estimated total revenue for FY 1991 at $121 million, up almost five-fold over the original, without giving us the breakdown of these numbers.

[Dollar Amounts in Thousands]

Luxury tax receipts on	OTA[1]	JCT[2]	IRS[3]	Estimate[4]	Error[5]
Airplanes	$6,000	$1,000	$53	$80	$7,400
Boats	7,000	3,000	3,910	5,865	19
Vehicles	82,000	20,000	88,000	132,000	(38)
Furs	4,000	1,000	279	419	854
Jewelry	20,000	1,000	6,126	9,189	118
Total	119,000	25,000	98,368	147,352	(19)

[1] OTA estimate, fiscal year 1991.

[2] JCT estimate of fiscal year 1991 on Jan. 30, 1991.

[3] Actual IRS collections through Sept. 30, 1991.

[4] Full fiscal year 1991 estimate.

[5] Estimated OTA percentage error, fiscal year (under).

[6] Now $121,000.

Source: Office of Tax Analysis letter of Oct. 30, 1991 and JCT letter of Oct. 25, 1991 to Rep. Dick Armey; IRS, Returns Processing and Accounting Division, memo of Nov. 13, 1991; and JEC Republican staff calculations. The latest Office of Tax Analysis, U.S. Treasury estimate ($ Mil.) appears below.

	1991	1992	1993	1994	1995	1996
Receipts:						
Airplanes	6	10	12	13	15	17
Boats	7	15	18	21	23	26
Vehicles	82	158	209	262	322	368
Furs	4	8	11	13	15	17
Jewelry	20	38	48	57	68	77
Total	119	229	298	366	443	505

Mr. KASTEN. Mr. President, I understand that the Finance Committee may bring legislative vehicles to the floor before we recess—MFN for the Baltics or possibly a tax-credit extenders bill.

This Sense of the Senate underscores the need to repeal this tax now. Unless we repeal it now, several boat builders in Wisconsin—and throughout the country—will go out of business in the next few months.

My constituents—Wisconsin's workers—along with the workers in Maine, Louisiana, Rhode Island, Connecticut, Florida, Michigan, and other States—are losing their jobs. They cannot wait another year, another month, another day, they need our help and they need it now.

That is why the bill to repeal the boat tax enjoys the broad bipartisan support of 29 Senators, including the majority leader. If everyone agrees that this tax must go, then I see no reason why we cannot knock it out now before the recess.

In effect, what we are saying in this sense-of-the-Senate resolution is that we want to move forward. This, in itself, will not repeal the tax. But what this says is it is the sense of the Senate that we must move forward to repeal this tax before we continue to have people all across the country lose their jobs.

Mr. KASTEN. Mr. President, I would like to also add the Senator from Maine [Mr. COHEN] as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANFORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I yield 2 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, I certainly understand the concerns of the Senator from Wisconsin. I share the concerns of my friend from Louisiana, and my friend from Kansas, whether we are talking about boats, about airplanes, or about the other items subject to the luxury tax—luxury cars, jewelry, and furs. When we get into this, we need to repeal the entire luxury tax, not just the tax on boats.

My problem is, does the resolution say how you are going to pay for repeal? We have the budget agreement and I would like to have an understanding as to how repeal will be paid for, because that is the problem obviously we will face in the Finance Committee. When this comes up, there will need to be revenue to pay for repealing the entire tax. Paying for boat tax repeal is not enough.

Mr. KASTEN. Will the Senator yield?

Mr. BENTSEN. Yes.

Mr. KASTEN. I understand that there has been discussion in the Finance Committee about different kinds of ways of paying for this, including a fee on diesel fuel and all sorts of other kinds of things that have been worked out. We are not specific in this sense-of-the-Senate resolution. What I am saying is we have to move forward and do this. I know the Senator from Texas understands this. This was supposed to pick up a certain amount of revenue and it is not picking up much revenue.

Mr. BENTSEN. Let me state in my 2 minutes, my problem is we have to finally get specific as to how that is to be done. It behooves me, and it behooves you, to get specific. It is the pain that comes in paying for these things that is the real problem.

I recognize the legitimacy of the argument that this tax has added to problems created by the recession for the boating industry, the aircraft industry, and the other affected industries—the serious loss of jobs and the problems that result therefrom. We will be giving this consideration in the Finance Committee. The question is whether we can do it this quickly at this late date with the controversy that will arise over raising the funds to pay for it. That is my problem. That is my concern.

I share with the Senator the concerns of the unemployed that have resulted from this. The problems in the economy have grown far beyond what was anticipated when the luxury tax was enacted. We had no idea we would be

VOL
137
PT
23
NO
21
—
25
1991
UMI

dealing with these kinds of economic conditions, with a recession that would be so deep or last so long. And, of course, conventional economic wisdom is that sales of luxury goods are not price-sensitive. There is a CRS study showing that is true in the boat industry.

So, the major factor here, whether you are talking about boats, airplanes or other luxury goods in this recession. People do not by new boats when they are in a recession. They do not look on that as a necessity. They don't buy used boats either, and sales of used boats are also down. That's one factor that tells you this recession has been the major cause of job losses in these industries.

As I said, this terrible recession was never anticipated when the luxury tax was passed. But coupling that increased tax with a recession has led to concern about hitting these industries when they are down. That's why the tax issue must be address. When we do that, again let me emphasize that, we need to look at the repealing the entire tax, not just the boat tax.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the majority leader.

Mr. MITCHELL. Will the Senator from Wisconsin yield me 3 minutes in support of his resolution?

Mr. KASTEN. I am happy to yield to the majority leader.

Mr. MITCHELL. Mr. President, as all Members of the Senate are aware, the Constitution prohibits the Senate from initiating tax legislation. Therefore, we cannot originate in the Senate legislation to change the tax laws, including legislation to repeal the luxury boat tax. This resolution will not have that effect. However, if it is adopted, it will have the effect of conveying a clear sense of the Senate that action should be taken in a constitutional way to repeal this unfortunate and unfair provision of law.

I support the resolution for that reason. It is a combination of a very long and deep recession and the luxury boat tax which has resulted in very substantial increases in unemployment in the boat building industry. It has affected the State of Maine, which Senator COHEN and I represent, and many other States, and thousands of people all across this country.

Whatever may have been the theoretical reason for advancing this—and there were sound theoretical reasons at the time—it has proven in its implementation not to have worked as intended. Therefore, all of us ought to acknowledge and say that when a step is taken, for whatever reasons, that demonstrably does not accomplish its objective, and in fact has a negative effect, then it ought to be changed, and in this case repealed.

So in behalf of the many thousands of people in my own State and in other States who have been adversely affected, I ask unanimous consent that I be added as a cosponsor of the resolution and I urge Senators to support it, even as we recognize its limitations.

We are not here repealing the law. We cannot constitutionally do that. That can only occur if we act on a tax bill that originates in the House. But a clear, strong signal by a large majority of the Senate may be helpful in encouraging us to reach that point when we can and to repeal this tax.

The PRESIDING OFFICER. Without objection the Senate majority leader is added as an original cosponsor.

Mr. KASTEN. Mr. President, parliamentary inquiry. How much time remains on each side?

The PRESIDING OFFICER. The Senator from Wisconsin has 2 minutes and 40 seconds; the Senator from Michigan 6 minutes and 40 seconds.

Mr. KASTEN. I yield 1½ minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, let me associate myself with my colleague from Maine, the majority leader, and further say that I am pleased to join my colleague from Wisconsin, Senator KASTEN, in offering this sense-of-the-Senate resolution to repeal the luxury tax on recreational boats.

Because the Constitution prohibits the Senate from initiating a tax bill, we are unable to offer an amendment today that would, in fact, repeal this tax. This sense-of-the-Senate amendment, however, is designed to send a clear message to our colleagues in the House that the Senate strongly supports a repeal of the luxury tax on boats.

I am deeply concerned about the condition of the boat building and related industries in my State of Maine. Since enactment of the new luxury tax, I have heard from many representatives of and workers in the boating industry, both in my State and across the country, on the serious toll that this new tax is taking on their industry. The pleasure boat industry has experienced declining sales over the past 2 years due to the economic recession, and this new tax is sharply exacerbating the industry's decline.

A recent report prepared by the staff of the Joint Economic Committee confirms that the luxury boat tax will result in massive job losses nationwide in boat manufacturing and related industries. This report estimates that, even using conservative estimates, over 7,600 jobs will be lost this year directly because of the 10-percent excise tax on boats. Boat builders and employers in boat related industries in my State of Maine are already feeling the devastating effects of lost boat sales, in large part due to the new excise tax. The Hinckley Co. in Southwest Harbor, ME, for example, has been forced to lay off at least 10 percent of its work force. As the second largest employer in Hancock County, reductions at Hinckley have taken a great toll on this part of my State.

This case is certainly not unique: Every Maine boat builder has reported worker layoffs and significant slowdowns in production due to this tax. Customers are backing out of contracts once they realize that a tax is being applied to their boat purchases, thus affecting even those sales that were generated before the tax went into effect.

These job losses in my State are particularly difficult to bear since the workers who lose their jobs due to the slowdown often have no transferable skills, and are unable to find other jobs in the State. The demise of the boating industry will quickly have a wide ripple effect on other parts of the Maine economy, from the State government which depends upon revenues from new and used boat sales, to the hotels, restaurants, marinas, and other Maine industries that rely on a thriving recreational boat industry for their survival.

The recent staff report of the Joint Economic Committee also provides important evidence to support a concern that boat builders, their workers, and I have shared for some time, namely, that the luxury tax will not yield the $3 million in revenues that were estimated to be gained by the tax when it was included in the Budget Reconciliation Act of 1990. In fact, this report estimates that the luxury tax on boats will actually cost the Government $18.2 million in lost income taxes, employer and employee FICA contributions, and unemployment outlays in fiscal year 1991. In other words, this tax will cost the Government over six times the amount of money that it was supposed to raise.

To me, this is convincing evidence that the luxury tax on boats is costing far more than it is worth, and should be repealed.

I would further point out that this tax is not meeting the other goal for which it was intended, that is, to impose a greater portion of the tax burden on high-income taxpayers. It is abundantly clear that this tax will not be borne solely by wealthy taxpayers. These people often have the financial means to pay the 10-percent tax, but choose to spend their money on some other item that is not taxed. Instead, the real burden of this tax falls on the hardworking men and women of the boating industry who are losing their jobs.

Mr. President, I recognize that some may misconstrue efforts to repeal this tax as simply an attempt to help rich taxpayers. Nothing could be further from the truth. I, for one, fully support proposals to make wealthy taxpayers pay more in Federal taxes. During the Senate debate on the budget reconciliation bill that contained this excise tax, for example, I supported amendments to increase the tax burden on upper-income taxpayers, and ultimately, I did not support the final bill because I believed that the deficit reduction package, as a whole, disproportionately hurt low- and middle-income taxpayers, and did not place enough of the burden on the wealthy. A luxury tax on recreational boats, however, is not simply a tax on the wealthy, but rather threatens severe, harsh consequences on an already troubled industry.

The many comments of concern that I have received from my constituents in these industries, the recent staff report of the Joint Economic Committee, and the compelling testimony of industry representatives at hearings before the Senate Finance Committee have more than convinced me that the luxury tax on boats must be repealed. I hope that the Senate will pass this amendment and send a clear message to the Congress.

Mr. BREAUX. Mr. President, will the Senator from Michigan yield to me?

Mr. RIEGLE. Mr. President, how much time does the Senator require?

Mr. BREAUX. Two minutes.

Mr. RIEGLE. I yield the Senator 2 minutes.

Mr. BREAUX. I thank the Senator for yielding. I want to commend Senator KASTEN for bringing this to the attention of the Senate.

Senator KASTEN and others have joined with me on legislation to repeal the luxury tax on yachts. I think when the Congress enacted this legislation, we really missed the boat—pardon the pun—in the sense we were thinking we were going to require millionaires in this country to pay extra revenues to help reduce the deficit when, in effect, we are just putting workers who work on vessels out of work.

The very wealthy are not buying the boats. As a result, the workers who do the electrical work and the pipefitting and the plumbing and the cabinet work on yachts simply have lost their jobs.

Instead of increasing the revenues, we have caused approximately 18,000 to 20,000 people to lose their jobs. I have introduced a bill to repeal it.

We have an offset, I would say, Mr. President, to the distinguished chairman of the Finance Committee. If we have a vehicle, I think we can offer it. Then I think we can solve the problem. Since we do not have a vehicle to do it, I think a strong vote for the resolution would at least indicate the support in the Senate to correct what obviously was a mistake when it was enacted.

Hopefully, we will find, in the future, a way of getting this brought to the attention of the Senate in a real repeal form, which is something I support and hope we will have a chance to vote on.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I do not know who has control of the time. I will take just 30 seconds.

I do not have any quarrel with the sense-of-the-Senate resolution. But if we are going to do this, we ought to include everything that is covered by luxury taxes. In my view the luxury tax is not a very good idea, and has not raised a great deal of money. There are people in the jewelry business, there are furriers, people in the automobile business, and people in the airplane business that feel just as strongly as those in the boating industry.

I certainly agree with the Senator from Wisconsin, the majority leader, my colleague from Maine, and others who are being hit pretty hard because of the luxury tax on boats. But my view is that we ought to abolish the whole luxury tax.

In the short time that the tax has been in effect, it has directly affected middle-class workers. It's the middle-class working men and women, Kansas consumers and manufacturers who are paying the price for this mistake.

The luxury tax was put in the bill to go after the rich. It backfired and is going after the working people.

The PRESIDING OFFICER. The Senator from Michigan has 4 minutes and 26 seconds.

Mr. RIEGLE. Let me yield myself 2 minutes.

Mr. President, I think it is important to note this issue is obviously not germane to this bill. This is a banking bill. The issue that has been raised is within the jurisdiction of the Finance Committee, which is a different committee. So, while I understand the purpose of the Senator in offering it here, in cold point of fact it ought not be on this bill.

Second, while there is always a question as to the fairness or the unfairness of special taxes and how they affect the economy and others, the amendment is not paid for in the sense there is a revenue offset put in the amendment to keep it budget neutral.

Some way or another, some source of revenue would have to be found to replace that which is scored by the Budget Office as coming from this item. Obviously, that issue is not addressed or settled in this particular amendment.

I, for one, think the tax laws do need to be reviewed. We have some expiring tax law provisions that I think ought to be extended. I think we need a middle-class tax cut to try to get more equity into the tax laws and some more strength out into the economy.

So I think, in the broader context of a revision of some of our tax laws, that this is the kind of issue that can be looked at and should be looked at in terms of how it is actually affecting the economy; is it gaining jobs, losing jobs, and so forth.

This is not the right bill for it, as I know the Senator from Wisconsin would acknowledge, in terms of the jurisdictional arrangements. In any event, I think it is important we try to keep the focus in this bill on the items that relate to the banking reform issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Wisconsin has 1 minute and 32 seconds.

Mr. KASTEN. Mr. President, very quickly, the Senator from Louisiana has indicated that he and the Senator from Rhode Island [Mr. CHAFEE] are trying to work this issue in the Finance Committee. It is just that a number of us have been waiting for months to find a vehicle. I know they have been waiting in the Finance Committee. It is not clear what is happening.

This is the only way right now—and it is not a perfect vehicle—it is the only way for us in the Senate to indicate that it is our sense, it is the sense of the Senate, that this is a bad law, that this is a bad tax.

With regard to the revenue questions, they say they are going to get $3 million from this, but it has not raised $3 million because people are not buying the boats. The Government, in fact, has lost $8 million in income tax receipts; $8.1 million lost in payroll tax receipts, and $2.1 million in unemployment payments which are going out now. So this is costing the Government money.

Finally, I associate myself with the view of the Senator from Kansas, the Republican leader: airplanes, automobiles, furs, jewelry—this entire tax ought to be repealed. This is just a beginning.

On September 18, I submitted Senate Resolution 183 which calls for the repeal of the luxury tax on automobiles, aircraft, jewelry, and furs. The people that are hurt are the working men and women who build and produce these products.

I am confident we will prevail. I believe that repeal of the boat tax is the first step toward repealing all the luxury taxes which have hurt many small businesses in the automobile, fur, aircraft manufacturing, and jewelry industries. I look forward to working with all of you in the fight ahead to save American jobs.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. D'AMATO. Mr. President, I am wondering if I might have 30 seconds.

Mr. RIEGLE. I yield 30 seconds to the Senator from New York.

Mr. D'AMATO. Mr. President, I voted against this initially, as it related to

VOL
137
PT
23
NO
21
—
25
1991
UMI

so-called soak the rich. This is hurting people. This is costing little people jobs. Who builds these boats? Who operates these boats?

We should, absolutely, if we want to help this economy, see to it that we repeal this so-called soak the rich tax. It is wrong; it does not make sense. It is counterproductive.

I would like to be a cosponsor, and I share the sentiments of my colleague from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York [Mr. D'AMATO] is entered as cosponsor. Who yields time?

Mr. KASTEN. I also ask unanimous consent the Senator from Rhode Island [Mr. PELL], be added as an original cosponsor of this sense-of-the-Senate amendment.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I see no one seeking time at this point, so I yield back the remainder of my time and suggest we go to a vote.

Will the Senator accept a voice vote on this issue?

Mr. KASTEN. We have the rollcall vote ordered. I asked for the yeas and nays. I think it is important that the Senate make a statement here.

Mr. FORD. It will save a half-hour.

Mr. KASTEN. I also ask unanimous consent that Senator CHAFEE be added as a cosponsor.

Ms. MIKULSKI. Mr. President, I rise in strong support of the resolution to express the Senate's desire that the boat luxury tax be repealed. I want to be clear on why I support the Senator from Wisconsin's resolution.

When the luxury tax on boats was put into the 1990 budget reconciliation bill, I was on the Senate floor telling this Congress that "we have to go get it from those who got it." I meant that. America needs a tax system that makes people pay their fair share. Those who are benefiting most from this country's success have a responsibility to give something back.

But America doesn't need a tax system that puts people out of work. That's just what the luxury tax on boats is doing. We thought we were going after the Donald Trumps and the Leona Helmsleys when we put this tax into the budget package. It turns out that we're just hurting the mom-and-pop small businesses in Maryland and across the country. These are the people who build the boats, insure the boats, sell the boats—and they are hurting. That's why I am a cosponsor of the Boating Jobs Preservation Act of 1991.

When I was first asked to support this bill, I was pretty skeptical. Removing a tax on boats costing over $100,000 didn't seem like a good idea. I decided to meet with members of Maryland's boating industry to get their point of view on the tax. They let me know how this tax is hurting the people of Maryland and costing us jobs and revenue.

In just the last year, Maryland has lost over 50 boating businesses and hundreds of boating jobs. These are small companies, employing hard-working Marylanders, and they deserve fair treatment from the Government. I don't want to see any other Marylanders put out of work.

The boat luxury tax isn't just putting people out of work, it isn't even raising the revenue it was supposed to. Studies show that the lost tax revenues from decreased boat sales may be larger than that collected from the luxury tax. If this tax isn't raising any money to help balance our budget, why do we have it?

I hear that Bermuda has eliminated all taxes on new boats sold there to lure business out of this country. That means more American jobs moving overseas. I've seen enough of that and it must stop. We need to create good jobs in this country, not keep shipping them overseas.

This resolution tells the House of Representatives, which under the Constitution has to originate all tax legislation, to get moving on passing a repeal of the boat luxury tax. It also lets the President know that the Senate strongly wants this part of our Tax Code repealed. I hope all my colleagues will join me in supporting this resolution.

We must stand up and admit that the boat luxury tax is hurting Maryland and hurting America. Let's repeal this tax before any more boating jobs are lost. Let's put people back to work.

Mr. LAUTENBERG. Mr. President, I rise in support of the Kasten amendment, calling for repeal of the luxury tax on boats. The evidence is clear—verified by independent economic analyses—that this is a tax that loses revenue and hurts an industry and its workers.

Mr. President, the boat industry in my State of New Jersey is hurting, and hurting badly. Thousands of New Jersey workers in the boat industry will be laid off this year. In fact, the impact on the State's economy will be much greater as related businesses are affected by the boating industry's problems. A New Jersey Department of Commerce and Economic Development study concluded that, based on the estimate of 3,250 job losses in the industry, the State stands to lose a total of 6,250 jobs and about $140 million in income in 1991.

Of course, Mr. President, these numbers fail to convey the real personal pain experienced by the men and women in the industry, and their families. I have met personally with these workers, and I must tell you the experience was deeply moving. These are proud, hard-working, decent people. Most are far from rich. And, as jobs continue to slip away, they feel an increasing sense of desperation.

Compounding matters, Mr. President, many of those thrown out of work have few places to turn. At least in my State, much of the boatbuilding industry is located in fairly small towns. There are no jobs to replace the boatbuilding jobs. So not only are workers losing their jobs and their incomes, some tragically may be forced to leave their homes and their hometowns.

Mr. President, the luxury tax on boats was intended to make our Tax Code more fair. That is a goal I believe in. As I see it, the middle class is already being burdened with an unfair portion of the tax burden. That needs to change.

Yet, ironically, as independent analysis has established, the tax is actually striking hardest at ordinary working Americans.

The people losing their jobs because of this tax are not fat cats. They are small-business owners, electricians, carpenters, painters, and other manual and clerical workers. Most live modestly and work hard for their money.

Meanwhile, most real fat cats are escaping the tax altogether. Many are buying their boats overseas. Others are buying used boats, on which no luxury taxes are imposed. Either way, the Government gains nothing, while the American boatbuilding industry, and the people who work in that industry, lose out.

Mr. President, my opposition to this tax is not based on speculation, nor on unsubstantiated claims or questionable reports sponsored by an affected industry. It is based on hard, objective analysis by reputable independent experts.

Most importantly, I would point to a study I noted earlier that was performed by the New Jersey Department of Commerce and Economic Development. The report produced by this State government agency provides independent documentation of the severity of the problem in New Jersey. Its findings are striking and very disturbing.

I also would note an interesting, though somewhat less authoritative, report that was prepared for members of the Joint Economic Committee. According to that report, the luxury tax on boats will result in the elimination of at least 7,600 boat manufacturing and retail jobs in 1991. The report also concluded that the combined cost of the revenue lost and the increased outlays from this job loss is $18.2 million, substantially higher than the $3 million revenue increase projected by the Joint Committee on Taxation.

In sum, Mr. President, I have become firmly convinced that Congress must act to repeal this tax, and quickly. It is hurting workers in my State. It is costing ordinary, middle-class taxpayers money because of increased Government outlays for the unemployed. And it is increasing the deficit by reducing payroll and income tax revenues.

Mr. President, it is a tax that does not make sense.

Mr. SANFORD. Mr. President, I rise today to speak in support of the sense-of-the-Senate amendment regarding the repeal of the luxury excise tax on boats introduced by Senator KASTEN. I appreicate the intent of this amendment—to bring this matter to the attention of the Senate. Indeed, my only regret is that a sense-of-the-Senate amendment carries no weight in this body other than to bring attention to an issue.

This so-called luxury tax was introduced to the public as a part of the Omnibus Budget Reconciliation Act of 1990. As my colleagues will remember, I voted against the budget agreement at that time. Since then, the boating industry in my State of North Carolina has witnessed an 80-percent decline in both unit and dollar sales, which has thus far caused a drop in the boating industry employment of over 50 percent in my State. These figures are staggering. While some of this industry decline can arguably be attributed to a recessionary economic climate, this tax is undoubtedly causing severe damage to the boating industry in North Carolina and the rest of the country.

This tax was designed to reach those in the upper-income levels. It has not. It was designed to reach those who could most afford it. Instead, it has reached those who could afford it least. It has taken jobs away from the manufacturing, maintenance, and retail sectors of the industry. And, ironically, estimates by the Joint Committee on Taxation show that the revenue loss from lost payroll taxes could be as much as 5 to 10 times higher than the luxury tax actually being collected. Mr. President, not only can the people of the boating industry not afford this tax, our country cannot afford this tax.

Mr. President, there comes a time when this body must admit that, while our intentions are noble, the fruit of our labor is not always successful. Such is the case with the luxury excise tax on boats. As my colleagues might know, I wholeheartedly support and am a cosponsor of the Boating Jobs Preservation Act of 1991 as introduced by the Senator from Louisiana [Mr. BREAUX]. I urge that, instead of paying lipservice to the very real problem of a tax that is costing jobs in my State and so many others, as we do here today, we act on the problem by eliminating the luxury tax on boats.

The Boating Jobs Preservation Act will help correct a great injustice done to those employed in the marine manufacturing, maintenance, and sales industries across the Nation by the so-called luxury taxes which were instated as a part of the budget reconciliation package of 1990. I urge my colleagues to support the effort to repeal this ill-advised tax and begin to repair the damage that this body has incumbered upon the boating industry.

In the meantime, however, I support Senator KASTEN'S efforts to bring this issue to the attention of this body. While a sense-of-the-Senate amendment that only addresses this problem with rhetoric is no answer, and is not going to help those people in my State who have lost their jobs, I do support the message it carries. I now urge my colleagues to go the step further that is necessary to repeal this tax as quickly as possible, and put so many of the people of North Carolina and the rest of our country back to work.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Wisconsin.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "aye."

The PRESIDING OFFICER (Mr. ROCKEFELLER). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 82, nays 14, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—82

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
DeConcini
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Roth
Rudman
Sanford
Sarbanes
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—14

Bingaman
Byrd
Conrad
Daschle
Exon
Gore
Jeffords
Leahy
Metzenbaum
Rockefeller
Sasser
Simon
Wellstone
Wofford

NOT VOTING—4

Boren
Dixon
Harkin
Kerrey

So the amendment (No. 1373) was agreed to.

Mr. KASTEN. I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I ask now that the Senator from Connecticut [Mr. DODD] be recognized to offer an amendment; there be 20 minutes equally divided; that there be no amendments in order thereto; and with a vote at the end of the 20-minute period.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1347

(Purpose: To authorize the Small Business Administration to participate in the purchase of eligible securities issued by qualified commercial banks or qualified mutual savings banks)

Mr. DODD. Mr. President, I would like to call up amendment No. 1347.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] for himself, Mr. CHAFEE, Mr. LIEBERMAN, Mr. RUDMAN, Mr. SMITH, and Mr. KENNEDY, proposes an amendment numbered 1347.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 796, immediately after line 17, insert the following:

Subtitle C—Small Business Recovery

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Small Business Recovery Act of 1991".

SEC. 1152. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) IN GENERAL.—Economic recession, coupled with asset devaluation of the banking industry, has led to a severe tightening of available credit for small business concerns. Community banks cannot meet Federal capital and asset standards without calling in existing good loans or ceasing to extend credit to qualified borrowers, particularly small business concerns, thereby further constricting the available credit and constraining economic activity and recovery.

(2) CAPITAL SHORTAGES.—In the wake of recent concerns over the safety and soundness of banks and thrifts and the economic recession, community banks are finding it increasingly difficult to attract new capital needed to meet Federal and State requirements and promote economic growth and expansion.

(3) EFFECT ON SMALL BUSINESSES.—Small business concerns now employ nearly 60 percent of the United States work force, and are expected to generate 50 percent of all new jobs through the year 2000. Since small business concerns are also the primary providers of employee training, restricting small business startup and growth could have profound implications for overall growth in national productivity and for research and development.

(4) SMALL BUSINESS FINANCING SOURCES.—Community banks have historically been,

VOL 137 PT 23 NO 21—25 1991 UMI

and remain, the primary source of small business debt capital. Other sources of small business financing, such as venture capital markets, public markets, or institutional investors, such as pension funds or insurance companies, are not viable alternatives for many small business concerns.

(5) CREDIT DEMAND.—As the Nation begins to recover from the recession, demand for credit will become even greater, thus exacerbating the credit crunch during the initial stages of economic recovery.

(6) INFUSION OF PRIVATE CAPITAL.—Banks must have a significant infusion of private capital in order to effectuate a long-term economic recovery.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to infuse private capital into banks under a pilot program that would also reinvigorate lending to credit-worthy small business concerns, thereby easing the credit crunch, stimulating job growth, and promoting economic recovery;

(2) to provide loans to small businesses by facilitating the creation of a self-insured pool of private capital, protected by a Small Business Administration guarantee, to be used by community banks for loans to small business concerns; and

(3) to strengthen smaller community banks by increasing their available capital levels, which have been dramatically reduced over the past 3 years.

SEC. 1153. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Administration" means the Small Business Administration;

(2) the term "approved securities" means any eligible security that has been approved for sale by the Administration under this subtitle;

(3) the term "eligible securities" means any new issue of preferred or common stock issued by a qualified commercial bank or any new debenture issued by a qualified mutual savings bank;

(4) the term "eligible State" means a State in which, during the period between January 1, 1989 and December 31, 1989 the total number of banking institutions located in the State experienced an overall decrease in tier 1 bank capital;

(5) the term "Panel" means the Regional Small Business Recovery Panel established under section 1157;

(6) the term "qualified financial institution" means any commercial bank or mutual savings bank that—

(A) has total assets of less than $1,000,000,000;

(B) has an equity capital to asset ratio of not less than 3 percent, nor more than 8 percent;

(C) has held a charter issued by the Comptroller of the Currency or a State banking authority for not less than 3 years; and

(7) the term "small business concern" has the same meaning as in section 2 of the Small Business Act.

SEC. 1154. AUTHORIZATION.

(a) IN GENERAL.—The Administration is authorized to enter into agreements to participate, on a guaranteed basis, in the purchase of eligible securities issued under this subtitle by a qualified financial institution that is located in an eligible State.

(b) LIMITATIONS.—

(1) PRIOR APPROVAL OF SALE.—A sale of eligible securities must be registered and approved, prior to the sale or offering, by the Administration in accordance with section 1155.

(2) COMPLIANCE WITH APPLICATION AND APPROVAL REQUIREMENTS.—A qualified financial institution must fully comply, prior to the sale or offering, with the requirements of section 1155.

(3) PARTICIPATION AMOUNT.—Participation by the Administration in the purchase of eligible securities by a qualified financial institution in the form of a guarantee under subsection (a) shall not exceed the lesser of—

(A) 75 percent of the initial offering price of the approved securities; or

(B) $3,750,000.

(4) PARTICIPATION LIMIT.—The Administration's total participation in the purchase of eligible securities in the form of a guarantee under this subtitle may not exceed $375,000,000.

(5) DURATION OF PARTICIPATION.—The term of a guarantee by the Administration, authorized under subsection (a), shall not exceed 6 years from the date of the initial offering of approved securities.

(c) TYPES OF SECURITIES.—Eligible securities issued in accordance with this subtitle may be either of the preferred or common stock type in the case of a commercial bank, or a debenture in the case of a mutual savings bank. Prior to being offered for sale, all eligible securities issued in accordance with this subtitle shall—

(1) be classified as tier 1 capital by the primary Federal or State regulator of the qualified financial institution; and

(2) be approved by the Administration.

SEC. 1155. APPLICATION PROCESS AND PARTICIPATION CRITERIA.

(a) LOAN POOL AND OUTREACH PROGRAM.—Prior to receiving a guarantee under this subtitle, a qualified financial institution shall—

(1) establish a small business loan pool, equal to the dollar amount of the approved securities guaranteed by the Administration, which shall be utilized for extending loans to small business concerns; and

(2) establish a small business outreach program designed to increase the institution's overall lending to small business concerns.

(b) APPLICATION.—A qualified financial institution that proposes to issue approved securities that are guaranteed in accordance with this subtitle shall submit an application and business plan to the Panel for review, including—

(1) a detailed description of planned uses of additional capital resulting from the sale of approved securities;

(2) a detailed description of the type and terms of the proposed securities offering, the planned price of the issue, and any other information relating to the securities sale;

(3) a detailed description of past and present levels of the applicant's capital, including the applicant's capital to asset ratio and any applicable risk-based ratio;

(4) documentation of the applicant's past and present lending patterns to small business concerns;

(5) the applicant's balance sheets for each of the 5 years preceding the date of application; and

(6) certification that the sale of eligible securities will not violate any past or pending State or Federal regulatory rulings or orders.

(c) PARTICIPATION FEES AND ANNUAL PREMIUMS.—

(1) INSTITUTION'S PARTICIPATION FEE.—Upon approval by the Administration of an application and business plan under subsection (a), based on the recommendation of the Panel, each qualified institution shall—

(A) pay a participation fee equal to 0.6 percent of the total dollar amount of any issue of approved securities that are guaranteed under this subtitle; and

(B) pay an annual premium equal to 2 percent of the total dollar amount of any issue of approved securities during each year for which a guarantee is provided for such issue under this subtitle.

(2) PURCHASER'S PARTICIPATION FEE.—Upon the sale of any approved securities guaranteed under this subtitle the purchaser of the securities shall pay a participation fee equal to 2 percent of the total purchase price of the approved securities.

(3) FEES AND PREMIUMS TO BE PAID INTO TREASURY.—The participation fee and annual premiums required under paragraph (1) shall—

(A) be paid into the Treasury of the United States in accordance with section 1159; and

(B) be used to defer the costs of any repurchase by the Administration of approved securities under section 1156.

(4) FEE SCHEDULE.—Fees established under this subsection shall be payable immediately upon the sale of approved securities and at 12-month intervals thereafter (as applicable).

(d) DISCLOSURES.—Each qualified institution that offers approved securities for sale that are guaranteed in accordance with this subtitle shall fully disclose to the Administration the identity of all holders of such securities and the quantity of such holdings.

(e) COMPLIANCE WITH APPLICABLE LAW.—Any application or business plan submitted in accordance with this section, must conform to the requirements of all applicable State and Federal banking laws and regulations for approval.

(f) PARTICIPATION BY INSTITUTIONS LOCATED IN ELIGIBLE STATES.—The Administration shall establish procedures to ensure that guarantees provided under this subtitle are reasonably distributed among applicants located in all eligible States.

(g) DISPOSITION.—Upon satisfaction of all requirements of this section and after evaluating the recommendations of the Panel, the Administration shall approve or disapprove of all applications submitted in accordance with this section.

SEC. 1156. REPURCHASE BY ADMINISTRATION.

No claim may be made for the repurchase by the Administration of approved securities issued in accordance with this subtitle unless—

(1) the qualified financial institution has issued a declaration of insolvency;

(2) the primary regulator of the qualified financial institution has declared the institution to be insolvent;

(3) the Panel has determined that by the end of the 12-month period beginning on the date on which an institution becomes insolvent, there is little likelihood—

(A) that the holders of approved securities will recover not less than 75 percent of the initial investment cost of the approved securities through the complete liquidation or sale of the institution's assets; and

(B)(i) that the holders of approved securities will recover not less than 75 percent of their initial investment through a merger or sale agreement with another federally or State-chartered financial institution; or

(ii) that the approved securities will retain not less than 75 percent of their initial investment cost through a merger or sale agreement with another federally or State-chartered financial institution; and

(4) such claim is made not more than 6 years after the date of the initial sale or offering of the securities.

SEC. 1157. ESTABLISHMENT OF REGIONAL SMALL BUSINESS RECOVERY PANEL.

(a) ESTABLISHMENT.—There is established a Regional Small Business Recovery Panel which shall be composed of—

(1) the Administrator of the Small Business Administration;

(2) the chairperson of the Federal Deposit Insurance Corporation;

(3) the chairman of the Board of Governors of the Federal Reserve System;

(4) the Comptroller of the Currency; and

(5) the Secretary of the Treasury.

(b) APPOINTMENT OF DESIGNEE.—Any member of the Panel may appoint a designee to serve on the Panel to the same extent and with the same authority as the original member.

(c) DUTIES.—The Panel shall—

(1) evaluate all applications submitted in accordance with this subtitle, and recommend to the Administration the approval or disapproval of such applications;

(2) evaluate the type of proposed debt or equity security and, in consultation with the primary regulator of the qualified financial institution, determine whether or not eligible securities should be classified as tier 1 capital; and

(3) evaluate claims for the repurchase of approved securities by the Administration and recommend the repurchase of approved securities under section 1156 in appropriate cases.

(d) FACTORS FOR CONSIDERATION.—In carrying out its duties under subsection (c), the Panel shall consider, among other appropriate factors—

(1) the relative strength of the qualified financial institution at the time of application (as compared to other similarly sized financial institutions in the same geographic area);

(2) the present capital position, equity to asset ratio, and any applicable risk-based ratio of the institution, particularly as compared to other similarly sized institutions in the same geographic area;

(3) whether or not participation by the Administration under section 1154(a) would substantially improve the capital position and strength of the qualified financial institution;

(4) whether or not the qualified financial institution would be able to secure equity capital (in the case of a qualified commercial bank) or debt capital (in the case of a qualified mutual savings bank) without participation by the Administration;

(5) the degree to which the qualified financial institution has demonstrated an historical commitment to small business lending;

(6) the degree to which external national, regional, and State economic conditions have had a negative impact on the institution and the valuation of the institution's assets;

(7) the management of the qualified financial institution; and

(8) the qualified financial institution's compliance with all applicable State and Federal laws and regulations.

(e) EXAMINATION AUTHORITY.—To carry out its duties under this section, the Panel is authorized to review all bank examiners' reports and related regulatory materials of a qualified financial institution.

SEC. 1158. CONSULTATION AND REPORT.

(a) REPORT.—Not later than 2 years after the date of enactment of this subtitle, the Administration shall submit a report to the Congress evaluating the progress of the Administration in achieving the purposes of this subtitle, particularly with regard to—

(1) the small business loan pools established in accordance with section 1155(a);

(2) the types, terms, and amounts of loans made by qualified financial institutions in accordance with this subtitle;

(3) the functioning of the Panel; and

(4) the impact of guarantees provided under this subtitle on community lending to small business concerns.

(b) CONSULTATION.—Prior to submitting the report required by subsection (a), the Administration shall consult with individuals from the private sector representing each eligible State, small business concerns, and the financial services industry, for the purpose of making the evaluations referred to in subsection (a).

SEC. 1159. ESTABLISHMENT OF FUND.

There is established in the Treasury of the United States the Regional Small Business Recovery Fund. All fees and premiums referred to in section 1155(c) shall be paid into the fund, to be used to defer the costs of program defaults in connection with any repurchase by the Administration under section 1156, to the extent approved in an appropriations Act.

SEC. 1160. REGULATIONS.

The Administration, in consultation with the chairperson of the Federal Deposit Insurance Corporation, the chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of the Treasury, shall promulgate appropriate regulations to implement this subtitle.

AUTHORIZATION.—This bill is subject to appropriations as required under section 504(b) of the Budget Enforcement Act of 1990.

Mr. DODD. Mr. President, I would also send a modification to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modification is as follows:

On page 4, strike lines 20 thru 24, and insert in lieu thereof the following:

"(4) the term 'eligible State' means a State in which, during the period between December 31, 1989 and December 31, 1990, the total number of insured commercial banks located in the State experienced an overall decrease in tier 1 bank capital;"

Between lines 17 and 18 on page 5, insert the following new paragraph:

"(8) the term "State" means any State of the United States, and the District of Columbia."

On Page six, line 20, strike "$375,000,000" and insert in lieu thereof "$75,000,000."

After line 24 on page 6, add the following new paragraphs:

"(6) EXHAUSTION OF REGIONAL SMALL BUSINESS RECOVERY FUND.—If the costs of program defaults in connection with repurchase by the Administration under section 1156 have exhausted the Regional Small Business Recovery Fund established under section 1159, then the Administration shall not enter into further participations pursuant to this section until the Regional Small Business Recovery Fund has attained a positive balance.

"(7) PROGRAM SUNSET.—The Administration shall not enter into new participation pursuant to this section after June 30, 1994."

On page 16, line 5, strike "The," the first time it appears and insert in lieu thereof the following:

"No later than 180 days after enactment of this subtitle, the"

Mr. DODD. Mr. President, I offer this amendment on behalf of myself, and Senator CHAFEE, from Rhode Island; Senator LIEBERMAN, from Connecticut; Senator RUDMAN, from New Hamsphire; Senator SMITH, from New Hampshire; and Senator KENNEDY, from Massachusetts.

Mr. President, we represent States in which businesses are suffering bankruptcies at rates far above the national average. Our States are absolutely ravaged by this recession. In fact, we have lost some 96,000 jobs in the State of Connecticut in the last 12 to 18 months.

Our business failures are up 220 percent the first half of this year, as opposed to the first half of last year. Connecticut is now among the top 10 States in the Nation in terms of the number of unemployed who have exhausted their unemployment benefits.

Suffice it to say, Mr. President, our part of the country is in the worst economic condition in decades—the same is now happening in other parts of the Nation.

Add that to the fact that our banks have been absolutely ravaged as well. We now have lost almost $13 billion in assets; 10 percent of all the bank failures in the Nation have occurred in Connecticut. We lost another one last week.

One of the major problems is getting capital into those institutions. This amendment is designed to make an effort to attract some capital to banks. It would strengthen those lending institutions that are not brain dead, and are in fairly good condition, but could end up in that column of brain-dead institutions if they don't see some capital coming in.

This amendment is designed to strengthen some of these institutions before they fail and ultimately cost the American taxpayer millions more in dollars, such as we are having to provide here today with this legislation.

The amendment, Mr. President, is not a panacea. It is not going to solve all our economic difficulties. But it would offer a ray of hope to the small business community that cannot find any credit available, any credit at all, and as a result are in dire conditions, and are failing in many instances. As I mentioned at the outset Connecticut is suffering bankruptcies at rates far above the national average.

I would point out that what we are facing in Connecticut and New England is going to happen in other parts of the country as well if we do not begin to take some positive steps in a progressive way to put this country back in economic shape. We have to take some action to create jobs and spur economic growth—in addition to extending unemployment benefits to help people who have lost jobs.

Let me limit myself to 5 minutes. I ask unanimous consent that my remarks be limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, we will hear several arguments against this

VOL 137 PT 23 NO 21—25 1991 UMI

amendment by my good friend from Arkansas, and others, who are concerned about this legislation. I understand that.

First, it may be alleged that this amendment would put Federal money at risk by helping banks that are about to fail. In fact, Mr. President, under this amendment, banks with capital of less than 3 percent would not be eligible for the assistance.

Second, those banks who do apply for this assistance will have to submit a detailed business plan spelling out their plans for using the capital they would get under the provision.

Third, the application for the guarantee in no way relieves a bank of its responsibility to comply with any and all restrictions imposed upon it by the banking regulators.

Basically what we are doing here is providing a guarantee of capital into banks with assets of less than a billion. No more than $5 million would be guaranteed per bank. The entire amount of money would have to be raised by the private institutions themselves.

According to the Budget Office, there is no budget impact with this amendment whatsoever. It is totally budget neutral.

In fact, we provide an additional safeguard—in the form of a provision that would terminate the program in the extremely unlikely event that losses exceed the amount generated by the fees levied to offset them.

In short, we are limiting this to smaller banks, and limiting it to institutions that are relatively healthy.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I know the chairman of the Banking Committee wished to move this process along. I know that my colleague from Arkansas wants to raise some questions about this. I will reserve the remainder of my time on this amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

I want to say I feel like I used to when your mother used to whack you, and say that "This hurts me more than it does you." I have such an immense respect for my distinguished colleagues from Connecticut.

I find myself in a very difficult position in not just resisting this, but strongly resisting it, at least at this time.

No. 1, there have been no hearings on it.

No. 2, it totally changes the mandate of the Small Business Administration.

No. 3, it puts the Small Business Administration in the bank bailout business.

No. 4, it is double dipping at its worst.

No. 5, it applies to the banks of New England, Maryland, the District of Columbia, and New Mexico. All you other folks do not get any of this. That is not unusual or unheard of around here.

But let me just say very briefly what it does. It says that any bank with $1 billion in assets or less whose capital requirements do not meet the present requirements may issue up to $5 million worth of stock, and the SBA, the Small Business Administration, will guarantee any purchaser of that stock up to 75 percent of any loss he may sustain as a result of having invested in this bank.

The $5 million will then be placed into a fund in that particular bank to make loans to small businesses. Laudatory.

But the double dipping comes because the loans they make will almost certainly be guaranteed by the Small Business Administration to the tune of 90 percent. So you put the SBA in the bank bailout business. You make the taxpayers of this country guarantee 75 percent of a stock issue, a stock issue in a bank—we are going to guarantee 75 percent of up to $5 million, put it in a fund, and let the banks loan it out, and then guarantee them 90 percent of any loss that they may sustain on the loan.

Mr. President, I have told my dear friends and colleagues I will be delighted to hold hearings on this when we come back here after the first of the year. I will be delighted to have a study done on it. I might even support it.

But on the face of it, I can tell you, Mrs. Saiki, who is the head of the Small Business Administration, is about to go ballistic about the whole concept.

As difficult, as painful as this is to me, I cannot as chairman of the Small Business Committee accede to this, even though I know Connecticut, Rhode Island, Massachusetts, New Hampshire, I know that those States have a lot of banks failing.

But to put us—I say "us," and I use that term advisedly, as I am talking about the Small Business Administration. To add the Small Business Administration to the Resolution Trust Corporation and OTC and everybody else, and these banks, and it certainly makes no since whatever, without at least having a hearing, and you are starting down a whole new path. I must reluctantly, for the reason just stated, strongly resist this amendment.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Will the Senator yield?

Mr. DODD. I will be glad to yield time to my colleague from Connecticut.

Mr. LIEBERMAN. Mr. President, we are in the midst of a very serious recession that is drastically hurting American businesses and American people. At the heart of it, I think everyone agrees, is the credit crunch.

Chairman Alan Greenspan recently stated that "The economy is moving, but it is moving against a 50-mile-per-hour headwind, which is the credit crunch." And, Michael Boskin, Chairman of the President's Council on Economic Advisers, stated that "the serious problem of the availability of credit in the United States is probably the single biggest threat to a sustained recovery."

The Chairman of the Federal Reserve Bank of Boston testified before the Small Business Committee and said that the credit crunch is a capital crunch. Banks are not lending to small- and medium-sized businesses. They do not have the capital to do it. Some of the reasons go to the Basel accords and the new capital asset requirements imposed on banks. But the fact is, behind all the rhetoric and all of the theorizing and all of the laws is that American businesses wanting to come out of this recovery cannot borrow. As a result, they are closing down, cutting back, and they are laying off people. The only way to break this cycle is to get capital into the banks.

My colleague from Connecticut and I have tried a dozen different ways of appealing to the administration to have net worth certificates and open bank assistance. None of it has happened.

Finally, this idea emerged, not from us, but from the New England Council, a group of business leaders in our region, that felt this was the most appropriate way to get capital back into the banks. Our friend and colleague from Arkansas has raised questions about this proposal.

Let me try to briefly answer them. In the first place, this is the banking bill. I cannot think of anything the American people need or want more from this bill than some help with the credit crunch to get us out of this recession.

Second, this amendment relates directly to the purpose of the SBA, which is to help small business, because as has been indicated, the money put into these banks under these guaranteed investments will be loaned out to small businesses.

The SBA is not new to this field; it is its mission, and it has used the guarantee authority it has in many programs—the SBIC Program, for instance—to back up and leverage private sector investments. That is what this amendment intends to do. Tier 1 capital is used as a standard. Right now only the New England States, Maryland, and New Mexico happen to qualify. But if this is put in place, any State that suffers an overall loss in the preceding year in tier 1 bank capital would qualify. I am afraid that, as time goes on, more and more States will qualify.

My friend from Arkansas says this would amount to double dipping. Let me say that it is my understanding that very little of the money that would be loaned out by the banks, once they receive this capital infusion, would be loaned out under existing SBA programs.

It is a remarkably fashioned amendment. I am troubled by the opposition to it. It is completely self-financing. It is not a bailout of failing banks or failed banks. It is, in fact, assistance to banks that are determined by all of the Federal regulators to have the capacity to go up. There are loads of banks out there that are still strong but, because of the existing capital asset requirement, simply cannot make loans.

This amendment is aimed at helping them. It will create a guarantee fund of its own by charging fees to the banks and the borrowers that will be there if any defaults occur. It has been certified by the Congressional Budget Office, working with OMB, as completely budget neutral. And its leverage potential is enormous. We figured out that every $5 million that is invested in a bank will be multiplied many times over, according to bank procedures $60 million per bank, up to $233 million in new economic activity per institution.

Mr. President, we are in a crisis. This is an amendment that responds responsibly to that crisis. I urge my colleagues to vote for it.

The PRESIDING OFFICER. All time allotted to the senior Senator from Connecticut has expired.

Mr. BUMPERS. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Five minutes, 3 seconds remain.

Mr. BUMPERS. First, Mr. President, I want to put into the RECORD a letter from Pat Saiki, who is Administrator of the SBA. She strongly objects to this.

Also, I have a letter from G. Thomas Cator, Washington representative of National Small Business United, strongly opposing this.

I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SMALL BUSINESS ADMINISTRATION,
Washington, DC, November 14, 1991.

Hon. DALE BUMPERS,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am compelled to write to you in strong opposition to Senator Lieberman's amendment to the banking reform bill (S. 543) that would authorize the Small Business Administration [SBA] to guaranty the stock and debentures of financial institutions.

The agency is adamantly opposed to any SBA involvement as a guarantor of individual investors equity. This fundamental premise is in conflict with the free enterprise system. While this legislation is described as a small business recovery act, it will benefit only the investors in financial institutions identified as the recipients of this assistance rather than any small business.

Further, the estimate of losses projected by the Congressional Budget Office [CBO] relevant to this legislation are based on unknown factors and the SBA believes them to be unrealistically low.

The action contemplated by Senator Lieberman's amendment will further mask the true problems experienced by financial institutions. While this administration wholeheartedly embraces measures to relieve the credit crunch, this amendment does not represent a reasonable solution to the problem. I appreciate this opportunity to provide you with my comments on this legislation.

Sincerely,

PATRICIA SAIKI,
Administrator.

NATIONAL SMALL BUSINESS UNITED,
Washington, DC, November 14, 1991.

Hon. DALE BUMPERS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BUMPERS: We are writing to express our grave concern and strong opposition to the Dodd-Lieberman amendment to the banking bill which would utilize an SBA guarantee to recapitalize failing banks. Although we are keenly aware of the severe credit crisis facing small businesses and understand that this amendment is being offered under the guise of increasing small business lending, the amendment really amounts to a bank bail out which is not the role or responsibility of SBA. This amendment is another example of Congress requiring SBA to fulfill a function it should not and cannot do. If congress wants to increase small business lending, then it should increase funding for SBA's 7(a) and 504 loan programs. It should aid potential small business borrowers directly utilizing programs SBA knows and manages well.

We appreciate your listening to our concerns.

Sincerely,

G. THOMAS CATOR,
Washington Representative.

Mr. BUMPERS. Mr. President, there are a couple of more points to be made.

First, I do not know what the budget impact of this is, but OMB will be the final arbiter and determiner of the budget impact. And if the budget impact is greater than provided in this amendment, there is going to be a sequester.

Second, in 1988, I guess it was when we passed what we commonly referred to as the FIRREA bill, we put a provision in there that the OTS, the Office of Thrift Supervision, and now the FDIC, could provide what we call open thrift assistance to any bank or S&L that has a chance of making it, in the FDIC Director's opinion.

Unhappily, he has not used that authority. I think it is a tragedy. I wrote him telling them they ought to use it, and he made a speech saying they were going to start using it, but they have not done it.

Here is a case where if $5 million would save a $1 billion bank, surely the head of the FDIC would be charitable enough—he has $100 billion assets in his inventory—to transfer $5 million over to these people to help their capital requirement.

Mr. DODD. If the Senator will yield, he is right. We have tried for 2 years to get the administration to consider all sorts of ways of helping our economy in New England, but they sit on their hands. If they actually took action, we would not have offered this amendment.

Mr. BUMPERS. I say to my colleague that I am sympathetic on that point, because we put open thrift assistance in that bill for precisely this kind of situation. They have $100 billion in assets, and they refuse to use it. I am hoping this debate will come to the attention of the FDIC, so they will know that Congress is concerned about it.

Mr. President, just to finish the debate up, because I do not want to belabor this, never in the history of man—or as we lawyers like to say, since the memory of man runneth not—has the U.S. Government ever guaranteed a stock issue. I do not know what the market would do with it. I am not sure anybody would buy stock in some of those banks up there, even with the Government guaranteeing 75 percent of it. But if we were ever going to get into this kind of a mess, we should have done it back during the S&L debacle. We should have been guaranteeing stock issues by them and trying to save them.

Finally, Mr. President, this is a very limited bill. It takes care of Connecticut, Rhode Island, Maryland, District of Columbia, New Mexico, and other New England States, but it does not do anything for Arkansas, Georgia, Louisiana, and North Dakota. It is just a narrowly construed bill to help banks in New England. These others just happen to get caught in the formula, but it is really for New England, and I do not oppose that. I am saying that the Small Business Administration is in business to help small businesses and loan money to them.

Make no mistake about it. This amendment has one purpose and one purpose only, and that is to bail the banks out in New England by guaranteeing stock issues on those banks. We have never done it before. It changes the whole SBA mandate.

Mr. DODD. Mr. President, will my colleague yield?

Mr. BUMPERS. Do I have any time remaining?

The PRESIDING OFFICER. Thirty seconds.

Mr. BUMPERS. I yield.

Mr. DODD. Mr. President, I ask unanimous consent to print in the RECORD a letter from Bob Reischauer of the Congressional Budget Office.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

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137
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23
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25
1991
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CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 14, 1991.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Washington, DC.

DEAR SENATOR: At your request, the Congressional Budget Office has estimated the cost of a program similar to the one authorized by S. 1753, which would allow the Small Business Administration to guarantee a portion of the cost of stock for debentures issued by qualified banks. As you specified, we used the following parameters provided in your letter: $500 million in total stock issues; 75 percent federal coverage; 0.6 percent origination fee; 2 percent annual premiums paid by banks; 2 percent purchaser payment, due upon purchase; 6-year guarantee; and all fees based on the total amount of the issue, not only on the insured amount.

CBO estimates that receipts from fees would cover the costs of the program, which would result from the failure of participating banks. This estimate is based on an estimated loss rate of about 15 percent. On this basis, we estimate that such a program would result in no net additional cost to the federal government, when valued using the procedures specified in the Federal Credit Reform Act of 1990.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John Webb, who can be reached at 228–2860.

Sincerely,

ROBERT D. REISCHAUER.

Mr. DODD. Mr. President, this amendment is budget neutral. All funds are put up by lending institutions. There is no Federal money here.

I appreciate my colleague's concern. If the amendment does not carry, I would hope that we might have hearings next year.

Mr. KASTEN. Mr. President, I rise today to associate myself with the remarks of the chairman of the Small Business Committee in his efforts to table the Dodd-Lieberman amendment.

This amendment is bad policy for the Small Business Administration. The SBA should not be in the business of guaranteeing stock purchases—the SBA is set up to guarantee loans made by banks, not stocks in banks.

The Dodd-Lieberman amendment is strongly opposed by the SBA, the administration, and several small business groups including National Small Business United.

If my colleagues want to revive New England's economy, I would suggest the Senate pass an economic growth package to turn the Nation's economy around. A growth package would sustain long-term economic prosperity and create jobs.

A progrowth package should contain a capital gains tax cut. This one provision—reducing the tax on capital gains—will do more to promote long-term economic growth than anything else we can act on this Congress.

Again, Mr. President, as the ranking member of the Small Business Committee, I join the distinguished chairman in his motion to table this amendment.

Mr. BUMPERS. Mr. President, I move to table.

Mr. DODD. I ask for the yeas and nays.

Mr. BUMPERS. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Did the Chair hear my motion to table.

The PRESIDING OFFICER. The Chair did here the Senator's motion to table.

Mr. BUMPERS. Were the yeas and nays ordered on that?

The PRESIDING OFFICER. No.

Mr. BUMPERS. I ask for the yeas and nays on the motion to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might speak for 1 minute.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CHAFEE. Mr. President, I join with enthusiasm in support of this amendment. The suggestion is made that it is solely limited to New England. That is not accurate. It applies to many States across the Nation that lost so-called tier 1 capital.

It is true that many of the States in New England particularly are affected by it. But it seems to me what we are tying to do is to encourage these ones to get some capital into these banks and this does that by saying to the individuals who invest this capital that 75 percent will be guaranteed. They still take the risk for 25 percent of it. Second, when that capital is invested, then these small banks make the commitment to make small business loans.

We are trying to get this recession defeated. We are trying to get things going. Is there a better way? There might well be. I would hope at least we could embrace this way.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas to lay on the table the amendment of the Senator from Connecticut. On this motion the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 23, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—73

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Conrad
Craig
Cranston
Danforth
Daschle
DeConcini
Dole
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Helms
Hollings
Johnston
Kassebaum
Kasten
Kohl
Levin
Lott
Lugar
Mack
McConnell
Metzenbaum
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—23

Bingaman
Chafee
Cohen
D'Amato
Dodd
Domenici
Heflin
Inouye
Jeffords
Kennedy
Kerry
Lautenberg
Leahy
Lieberman
McCain
Mikulski
Mitchell
Moynihan
Murkowski
Pell
Rudman
Smith
Symms

NOT VOTING—4

Boren
Dixon
Harkin
Kerrey

So the motion to lay on the table the amendment (No. 1347), as modified, was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleagues for at least considering this amendment. I realize it came up at a late hour, when the banking bill was moving. It was a complicated amendment. I also want to thank my colleague from Arkansas, who graciously offered to have hearings on this proposal. I think he understands the seriousness of the credit crunch in our States, and recognizes how it is spreading across this country.

Regretfully, the administration over the last 2 years has been unwilling to consider a variety of available options. They had the tools at their disposal, but they refused to use them.

I just inquire of the Senator from Arkansas whether or not we could hold some hearings—possibly jointly in the Banking Committee and Small Business Committee—to look at this proposal and others that could help provide needed lift to the small banks that are the lifelines to small business in our States. Again, he mentioned that in our earlier debate, but I raise it again with him now, Mr. President.

Mr. BUMPERS. Mr. President, I am happy to assure the Senator from Connecticut that, so far as the Small Business Committee is concerned, we would be delighted to have a joint hearing with the Banking Committee to try to develop something creative.

I regret, as I said in my remarks during the debate, that the OTC—or RTC has refused to provide open thrift assistance, despite the fact that Congress was very specific about the reasons for it. And this would be an ideal situation in New England where banks still have a chance to make it.

But, barring that, if we have to continue assuming that the FDIC is not going to provide open assistance, then we have to come up with something creative, and I applaud the Senator for what is, obviously, a very creative idea. As he knows, my objection to it is simply I did not want to get the Small Business Administration into the business of bank bailouts. But the Senator is showing a great deal of creativity and certainly great concern for the banks in New England and especially in Connecticut, and he is to be applauded for that. And I applaud him for that. And I certainly will hold the hearings at the very earliest possible time that the Senator from Michigan [Mr. RIEGLE] and I can agree upon a date and time. We will be delighted to do that. We will get back to the Senator at the earliest possible time.

Mr. DODD. I thank my colleague from Arkansas, and I thank my colleague from Michigan as well. I look forward at the earliest possible time, in January possibly, to hearings on this subject matter to see if we cannot come up with some creative ideas that provide needed assistance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I am going to now attempt to construct a unanimous-consent request that would limit and outline the number of amendments that are left. I want to indicate the ones that are on our side of the aisle of which I am aware. I will name those now. I am not going to try to set times with those at the moment but simply to list the amendments so we have them fully identified. Then Senator GARN will identify those that exist on his side of the aisle.

At this point, on our side, I have remaining only four amendments. Some of these may not, in fact, be offered. We have two from Senator KERRY, of Massachusetts; we have the potential of one from Senator BUMPERS, of Arkansas; and we have the potential of one from Senator CONRAD, of North Dakota. So I ask that those four items be listed on the list for those three Senators.

Let me just leave the discussion open for a moment here and let the Senator from Utah go through his list.

Mr. GARN. Mr. President, I emphasize at this point we are not asking for any time agreements on the bill or on anybody's amendment. We just need to know where we are, and we have tried as hard as we can with all of our colleagues during this vote. So we are simply trying to limit the amendments, so everything else is still unlimited. So I hope no one will object because that is all we are attempting to do.

First of all, on our side of the aisle, one amendment, Senator MACK; one amendment, Senator D'AMATO; one amendment, Senator GORTON; one amendment, Senator DOLE; one amendment, Senator GRASSLEY; three amendments, Senator HELMS; one amendment, Senator DANFORTH.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I am wondering if I might ask my friend and colleague from Utah if he might not put down another amendment for me, which the managers may or may not take up.

Mr. GARN. Two amendments from Senator D'AMATO.

Mr. RIEGLE. Let me indicate that Senator GORE also has an amendment he would like to have listed. I would like that added to my list. That may be one that is cleared, so it may not necessitate a debate and vote, but in any event he wants to be protected, so he should be on the list.

Mr. GORE. Will the manager of the bill yield?

Mr. RIEGLE. Yes.

Mr. GORE. It will probably not be offered at all. There is a separate resolution that is in the process of being cleared. I expect it will be cleared, but in order to protect my prerogatives, I wish to remain on the list.

Mr. GARN. Very good, and it is a sense-of-the-Senate resolution, as I understand it.

That is the list, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that with respect to the pending legislation, S. 543, the banking bill, the only amendments remaining in order to the bill, in addition to the committee substitute amendment, be the following listed amendments and that the pending Dixon amendment, No. 1352, be withdrawn: A managers' amendment; an amendment by Senator GORE, a sense of the Senate regarding Yugoslavia; an amendment by Senator KERRY of Massachusetts regarding pay-as-you-go; an amendment by Senator KERRY of Massachusetts deleting the prohibition on State bank investments; an amendment by Senator BUMPERS that will be relevant to the bill; an amendment by Senator STEVENS regarding red lining.

Mr. GARN. No; Senator STEVENS has now been taken off the list.

Mr. MITCHELL. Mr. President, I withdraw the reference to Senator STEVENS' amendment.

An amendment by Senator CONRAD, a sense of the Senate regarding FDIC legal expenses; an amendment by Senator MACK that will be relevant to the bill; two amendments by Senator D'AMATO, one regarding freedom national and one regarding capital standards; an amendment by Senator GORTON regarding insurance; an amendment by Senator DOLE that will be relevant to the bill; three amendments by Senator HELMS, one regarding slave labor, one regarding chemical weapons, one regarding foreign banks; an amendment by Senator DANFORTH regarding TWA [PBGC]; an amendment by Senator GRASSLEY regarding credit cards.

I further ask unanimous consent that there be 30 minutes of debate remaining on the manager's amendment, the committee reported substitute and the bill inclusive; that no other amendments or motions to commit be in order except the second-degree amendments that are relevant to amendments on this list that are not relevant to this bill; and that at the conclusion or yielding back of time, the Senate proceed to vote without any intervening action or debate on final passage of the bill.

Mr. President, I withhold the request for one moment.

Mr. President, I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I want to make clear just so there is no misunderstanding, this agreement provides that there are 30 minutes of debate remaining on the managers' amendment, the committee-reported substitute and the bill itself inclusive. That is the only time limitation in this agreement. There is no time limitation on any of the amendments contained on the list.

With respect to those amendments on the list which are relevant to the bill, second-degree amendments will not be in order. With respect to those amendments which are not relevant to this bill, second-degree amendments will be in order, so long as they are relevant to the first-degree amendment being offered. There is no time limitation on either the first-degree amendments or on any second-degree amendments permitted under this agreement.

And so, Mr. President, this is progress of a sort, but the list of amendments is still very long, and I hope that now, although we do not

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137
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have time agreements here, the managers, who have been pursuing this with such diligence and perseverance, for which I commend them, will now proceed to try to complete action on this bill as soon as possible.

Mr. GARN. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. GARN. I thank the leader for his help. I expect many of these, even though they have been locked in, will not be offered. But I do have a request for the majority leader simply to have one more relevant amendment for Senator DOLE, if the Senator could ask consent for that.

Mr. MITCHELL. Mr. President, I will add one for Senator DOLE to make that two, and one for myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I thank the managers particularly for their perseverance and encourage any Senators who have amendments to offer them and if they can do so with time agreements.

We are going to be very late, with a lot of votes, because we have other measures to take up after this, if Senators want to have any hope whatsoever of being able to adjourn sine die before Thanksgiving. And so we have devoted a lot of time to this bill. It is very important. But we now have to proceed and complete action on these amendments and on the bill as soon as possible.

Mr. RIEGLE. I thank the majority leader, and I thank my colleagues.

The PRESIDING OFFICER. If the Senator from Michigan will withhold, in part of the agreement, it was understood that the Dixon amendment was withdrawn. It was felt that that should be made clear here.

Mr. MITCHELL. Mr. President, that was included in the text of the agreement as drafted.

The PRESIDING OFFICER. Correct. The Parliamentarian requested that that be acknowledged.

Mr. MITCHELL. Yes. The pending Dixon amendment No. 1352 be withdrawn.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I can put some times on some of these. On capital standards, D'Amato amendment, I understand he is prepared to agree to 20 minutes equally divided. I ask unanimous consent that that time be agreed to on that amendment, capital standards amendment by Senator D'AMATO.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I am hopeful that we are going to be able to accept Senator CONRAD's amendment. How much time did Senator CONRAD feel he needed?

Mr. CONRAD. Ten minutes on my side.

Mr. RIEGLE. Why not say 20 minutes equally divided. I am not sure we are going to need any time. I hope we could in the course of discussion decide we could accept that. Maybe we could shorten that down because, as the majority leader said, we really have to move here. Is that acceptable to the Senator?

Mr. CONRAD. Absolutely.

Mr. RIEGLE. I ask unanimous consent then that the Conrad amendment be 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I am also told that Senator HELMS is willing to agree to 10 minutes on each of his three amendments equally divided. I ask unanimous consent then that that be approved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Let me indicate that Senator KERRY on his pay-as-you-go amendment has indicated that he would agree to 40 minutes, divided 30 minutes for him, 10 minutes for me. I think he will not offer that amendment, but in any event let us enter that agreement for unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I am told that Senator D'AMATO is prepared to agree to a 20-minute time limit equally divided on his Freedom National Bank amendment, which is his second amendment. I would ask unanimous consent that it be so ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I urge other Senators to come and chat with us and see if we can set both time periods and perhaps work out amendments so they can go into the package of amendments agreed to by the committee. I thank the Chair and yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. We have all heard a lot of talk about capital standards, capital adequacy, and the fact that lately there is a credit crunch, and this credit crunch is exacerbating any hoped-for recovery. As a matter of fact, this credit crunch is, indeed, devastating to the economy.

Here is what I am concerned about. In this bill, I believe that inadvertently what we do is set out standards to the regulators which will, indeed, create a manifest question and require them to seek more capital from banks than what would be necessary, and what will eventually require even the callback of that credit that is existing today to credit-worthy applicants.

Let me tell you why. Banks have been calling in loans and lines of credit. Individuals and small businesses have been having a difficult time obtaining their credit.

This bill seeks to potentially increase capital tenfold, and I say potentially tenfold. This bill requires regulators to set capital standards to a level that, "Will prevent or minimize loss to the deposit insurance funds."

The FDIC has said that the assets of failed small banks decrease in value as much as 30 percent. This means that when small banks fail, the assets of the institutions could be worth negative 30 percent.

I should like to ask the chairman, does this mean the regulators must require small banks to maintain a capital level of 30 percent in order to prevent or minimize loss to the deposit insurance fund? And if the Senator wants, I would give the question to the Senator again.

The FDIC says that the assets of small banks decrease as much as 30 percent. Does the section of the bill which says that we have to set standards at a level that will prevent or minimize loss to the deposit insurance funds then mean we will have to maintain a capital level of 30 percent in order to prevent or minimize loss to the deposit insurance fund?

And let me continue. The FDIC has said that assets of medium banks decrease as much as 18 percent. This means that when medium banks fail the assets of the institution can be worth a negative 18.

Mr. President, the same question. Does this mean that the regulators must require medium-sized banks to maintain a capital level of 18 percent in order to prevent or minimize loss to the deposit insurance fund?

What am I concerned about?

I am concerned, Mr. President, about the implications of the FDIC statistics. What do the numbers actually mean in terms of what the final capital levels will be? Will not the regulators be faced with fulfilling inconsistent goals?

Regulators will want to set capital levels high enough to give a comfortable margin of protection to the deposit insurance fund. Indeed, the language suggests that. If the regulators set capital too high, the results may actually be to cause more banks to fail. They are going to have to call in more money.

What guidance will be given regulators to help them balance these two competing interests?

Mr. President, banks already are having such a hard time meeting their current capital requirements and as a result available credit is already restricted. I am concerned that the capital standards provided for in this bill will further exacerbate the credit crunch.

I would like to know what is our estimate of how high the regulators will have to go to set capital levels to prevent or minimize loss to the fund. What impact will the new capital levels have on the availability of credit?

That is why I will send an amendment, Mr. President, to the desk that says "to ensure the safety and soundness of the institutions."

I would suggest to you that if we could accept this language, we would be sending a clear signal about the safety and soundness of the institution. But if you have the language that is presently in the bill that they will say we have to look to the safety and soundness of the FDIC and given the various ratios—by the way, the regulators have indicated this is of concern to them. I would hope that we will send a very clear signal. I just see their credit situation being exacerbated as a result of this legislation.

AMENDMENT NO. 1374

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1374.
>
> On page 131, delete lines 1 through 3, and insert in lieu thereof "to ensure the safety and soundness of the institution."

Mr. D'AMATO. Mr. President, that is the essence of the legislation. If we are going to ensure the safety and soundness of the institution, we will be indeed protecting the FDIC, the taxpayers, and I would suggest that while this is maybe a legislative change it is one that will inure to the benefit of the taxpayers, the FDIC, and the institution, and provide adequate capital without endangering taxpayers and without creating further risks to the small business community.

Mr. President, today I would like to offer as an amendment to S. 543 this small piece of legislation that will rectify a large injustice created by the Federal Deposit Insurance Corporation when it refused to reimburse in full certain not-for-profit corporations' accounts located at Freedom National Bank.

My amendment seeks to protect the intended beneficiaries of the charitable not-for-profit organizations who believe they had fully insured and fully protected accounts at Freedom National Bank.

Freedom National was one of the Nation's largest minority-owned banks with deposits of approximately $90.8 million and branches in the Harlem and Bedford Stuyvesant communities of New York City.

In an effort to support economic independence in the black community, many local charitable groups had maintained their operating accounts at Freedom National. I have been informed that at least nine charitable groups had multiple accounts, exceeding $100,000 in the aggregate.

On November 9, 1990, the Office of the Comptroller of the Currency declared Freedom National Bank insolvent and appointed the FDIC as its receiver. In the process of liquidating the bank, the FDIC determined that the multiple accounts belonged to a single depositor—the charitable organization behind the accounts.

As a result, the FDIC only paid each not-for-profit organization a total of $100,000, notwithstanding the fact that the organization may have had multiple accounts, each designated for a separate purpose, and each with a balance under $100,000.

On November 29, 1990, I wrote to Bill Seidman, Chairman of the FDIC, to urge the FDIC to look behind the charitable organization to see the intended beneficiaries of the separately designated accounts. On November 30, 1990, the FDIC Board agreed to an advance payment of 50 percent of the proven claims of uninsured depositors and other creditors of the bank, allegedly as an attempt to minimize the effects of the bank's closing on the community.

On January 15, 1991, the FDIC announced that it "lacked the authority and the flexibility under existing law to fully reimburse all depositors at Freedom National."

Mr. President, my amendment carves out the not-for-profit organizations as an exception to the FDIC's policy not to fully reimburse all of the depositors at Freedom National Bank.

Depriving these not-for-profit organizations full reimbursement is effectively denying many of my constituents valuable and important community services that the account funds were earmarked for.

I have a list of these accounts that were sent to me by the Fort Greene Senior Citizens Council of Brooklyn, NY. Among the accounts listed are day care facilities for more than 200 children from low-income families, and services providing for serving daily meals to over 8,000 elderly people. The United Negro College Fund also had set up separate accounts for 50 different colleges which the FDIC treated as a single account.

Although S. 543 seeks to eliminate the practice of paying uninsured depositors in cases where institutions are deemed too big to fail, the inequity of not making whole the charitable organizations with accounts at Freedom National must first be put to rest.

My amendment would protect the people who had entrusted the funds of charitable, not-for-profit organizations at a small community bank that was not too big to fail.

The FDIC estimates the cost of making whole these charitable organizations at between $5 to 7 million. This is a negligible amount in a bill that seeks $70 billion to recapitalize the bank insurance fund.

I agree that S. 543 should drastically reduce the practice of paying uninsured depositors but let us not make the mistake of making a lesson of Freedom National. Congress should move toward implementing this policy prospectively, and in an even-handed manner.

Just about this time last year, the FDIC made sure that the charitable organizations with accounts at Freedom National had nothing to be thankful for. My amendment would truly give these organizations something to be thankful for this Thanksgiving.

Thank you, Mr. President.

Mr. President, I yield the floor.

I know the chairman is reviewing this.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I appreciate the cooperation of my colleagues. The distinguished Senator from Washington [Mr. GORTON] would agree to 20 minutes equally divided on his amendment, and Senator GRASSLEY would agree to 20 minutes equally divided on his amendment.

I ask unanimous consent that those two be approved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Senator BUMPERS would agree to 40 minutes equally divided on his amendment.

I ask unanimous consent that be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I am wondering if my friends would yield me 2 minutes of time. How much time do I have?

The PRESIDING OFFICER. There are 9 minutes on each side remaining.

Mr. D'AMATO. Mr. President, if I might suggest to the chairman that we lay this over because there is no pride of authorship as it relates to the language which we suggest.

There is a very real concern though that, if we adopt this bill with this language, we are going to have the regulators breathing down the necks of the banks saying Congress told us that we have to set these capital levels. These levels are going to be in some cases tenfold higher than what may be necessary to ensure the soundness of a bank. We are, inadvertently, going to be creating some very real trouble and exacerbating the credit crunch.

VOL 137 PT 23 NO 21—25 1991 UMI

I know the chairman and the ranking member have worked very diligently to avoid this. I would be willing to lay this over, we could pick it up, and maybe the staffs could work it out.

Mr. RIEGLE. If the Senator will yield, I think that is a constructive suggestion. I think there is a possibility in that area. I would like to suggest on that basis that the Senator's amendment be temporarily laid aside while we have a chance to discuss this and find a satisfaction answer.

I will ask that we go to work with staff and see if we can resolve that, and if so, bring it back at the earliest moment and settle that.

Mr. D'AMATO. I thank the chairman.

Mr. President, I ask unanimous consent that the amendment be laid aside so that other business can be undertaken.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I wonder if we might go to the Senator from North Dakota.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we are here debating providing $70 billion of coverage to the bank insurance fund and will be asked soon to give an additional $80 billion to the RTC, a total of $150 billion of taxpayers' money. At the very time we are being asked to extend $150 billion of taxpayers' money, we are finding that these two agencies are not using the money we have already extended to them prudently or wisely and, in fact, are wasting millions and millions on legal fees.

Mr. President, I am referring to a series of articles which appeared in the press in recent days reporting that FDIC and the RTC are spending $1 billion a year on outside lawyers. It is not $1 million, Mr. President. That is $1 billion.

Unfortunately, much of that time is being wasted.

Mr. President, I have an amendment to address this question of wasting hundreds of millions of dollars potentially in taxpayers' money on legal fees. I send an amendment to the desk and ask for its immediate consideration.

AMENDMENT NO. 1375

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 1375.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, add the following new section:

SEC. 232. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) Two recent studies by Price Waterhouse and Altman & Weil on behalf of the FDIC have concluded that—

(i) the FDIC and RTC may spend more than $1 billion this year on legal fees and expenses yet there is in effective oversight or management of these expenses;

(ii) outside counsel are generally not selected on a competitive basis;

(iii) the FDIC and RTC have not instituted policies to insure that tasks are assigned to the firm best able to perform them in a cost-effective manner;

(iv) the FDIC generally pays hourly rates rather than arranging less costly fixed rate contracts;

(v) outside attorneys spend significant amounts of time performing tasks which do not require attorneys' skills; and

(vi) the FDIC and RTC have allowed persons and firms whose activities contributed to the decline of the banking and thrift industries to contract with and profit from the activities of the FDIC and RTC; and

(3) These practices undermine the faith of the American taxpayers in the use of taxpayer dollars to finance the cleanup of the banking and thrift industries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and RTC should not contract with persons or firms whose activities contributed to the decline of the banking or thrift industries.

Mr. CONRAD. Mr. President, in pointing out that we are spending $1 billion a year of taxpayer's money on outside lawyers, there has been an accounting report done by the firm of Price Waterhouse that accuses FDIC of passing out hundreds of millions of dollars in legal work to law firms chosen without competitive bidding, and suggests that legal expenses could be slashed if the agency made lawyers compete for its business. That is a pretty novel idea—have lawyers compete for the business instead of just handing it out.

Mr. President, an article that appeared in the New York Times on November 16, last Saturday, is headlined "U.S. Said to Squander Millions for Legal Work on the Bailout."

The studies found among other things that the "FDIC and its affiliated agency, the Resolution Trust Corporation, failed to use competitive bidding or to negotiate steep enough discounts or fixed fees when hiring lawyers even though many lawyers are eager for the work."

Mr. President, I direct my colleagues to the Wall Street Journal article that appeared on Monday: "FDIC's Legal Unit is Criticized in Study in Handing Jobs to Outside Law Firms."

Mr. President, if this evidence were not enough, in the last few hours, we have new evidence, evidence that has not yet been publicly released that is contained in a series of audit reports, done by the Office of Inspector General.

Mr. President, the Office of Inspector General today has released eight new reports, eight individual audits on the work of individual law firms on behalf of the FDIC.

Mr. President, I have agreed not to release the names of these law firms. But the details contained in these reports are stunning. Again, I say to my colleagues that these reports have not yet been made public. But they record a system of abuse and neglect that should outrage every one of my colleagues and, I believe, outrage the American people, as well.

Let me just share a few of the examples. One law firm included billings for professional time for which there were no time sheets. Overcharged to the American taxpayer: $285,000. That is one law firm.

Mr. President, this is the audit report on a second law firm, a series of overcharges from this law firm found in these audit reports just released. In this case, the law firm gave a discount in order to reflect what they would have paid if they were paying the standard professional rate. But they did not apply the discount to get to the standard rate on all of their billings. The overcharge to the taxpayers on this one case, Mr. President, is $257,000. One law firm. But it did not end there with that law firm.

Next we find duplicate payments. They submitted duplicate bills. Overcharge to the American taxpayer: $252,000. It did not end there, Mr. President.

Next, we have hourly rate discrepancies, because they were charging higher than the prevailing contract fees. Overcharge on this item to the taxpayers: $161,000. It does not end there, Mr. President.

Excessive conferences. Well, this overcharge is not as great; it is only $39,000 in overcharges.

Use of personnel without approved rate. Overcharges: $153,000.

Marked up photocopy expenses—Mr. President, you have to hand it to them. These folks have been ingenious. Not only did they file duplicate payments, not only did they overcharge on hourly rates, not only did they charge for excessive conferences, not only did they charge for use of personnel without approved rates, they marked up the photocopy expenses. The overcharge for this one firm to the American taxpayers: $81,000.

Mr. President, here is another audit just released today, not made public yet. These people were ingenious on photocopying, too; there were $34,000 in bills over and above their actual cost. Stuck to the American taxpayer: $34,000.

Here is another law firm. Legal assistant time reports indicate the firm was billed for assistant services at rates ranging between $17 and $20 per hour. What did they charge the taxpayer? They charged the taxpayers $40 an hour. I do not know what the loss is on this company.

Mr. President, it does not stop there. Not only do we have these very large amounts, but we have personal telephone calls being charged to the American taxpayer, hotel movies being charged to the American taxpayer; all of these things were found in audits.

What is the solution, Mr. President? The solution is to tell our friends that they have to bid on a competitive basis. That is what this sense-of-the-Senate resolution does. It says that the FDIC and Resolution Trust Corporation should protect the insured depositors of banks and savings and loans at the least possible cost to the American taxpayer. That ought to be the goal.

Mr. President, to accomplish that goal, we suggest, No. 1, the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively, on the basis of their ability to perform, and require tasks at the lowest possible cost to taxpayers; No. 2, that the FDIC and RTC should not contract the person or firms whose activities contributed to the decline of the banking and thrift industry.

Mr. President, that second point is necessary because, lo and behold, we find out that not only have we got hundreds of thousands of dollars, and millions of dollars, and perhaps hundreds of millions of dollars being wasted by the law firms that have been hired to help clean up this mess; but, in addition to that, we find that many of the firms that are profiting were involved in creating the problem in the first place.

Mr. President, one accounting firm that has been hired was involved in covering up the problems at Silverado S&L. This failure will cost the Government $1 billion to clean up. Yet, the accounting firm that was involved is now right at the trough getting fees to help clean up the mess that they helped create.

Mr. President, there is something wrong about that. I think if the American taxpayers would go through these audit reports, report after report after report after report, which demonstrate the kind of abuse that is occurring, and the law fees that are being charged the American taxpayers to clean up the mess, they would be outraged. These are the people we have hired to clean up the mess. Now we find out they are part of the mess.

Mr. President, I hope that my colleagues will join with me and send a very clear signal: This is unacceptable to the American taxpayer. It is outrageous. The people of this country know this mess has to be cleaned up. But it ought to be cleaned up on a basis that is as least costly as possible to the American taxpayer.

Mr. President, again, I hope this amendment will be accepted, and that we will send a message to the FDIC and the RTC that this is unacceptable operations. Overcharge after overcharge, no management, no oversight, nobody minding the store. It is no wonder the American people are outraged.

We have an opportunity right now to pass an amendment that will do something about it. I hope my colleagues will agree.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired. There are 10 minutes remaining for a response.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I have conferred with the ranking member, and he tells me that he feels this amendment can be worked out and accepted, and that if his staff will undertake now to meet with the minority staff, in very short order, we should be able to resolve this and accept this amendment.

So, if the Senator finds that acceptable, I suggest that I reserve the remainder of the time here, ask that this amendment be temporarily set aside for the purpose of seeing if we can reach an agreement and accept this amendment.

Mr. CONRAD. I would be glad to work with the chairman and ranking member to seek to do that.

Mr. RIEGLE. Fine. May I suggest we start immediately beyond that, because I would like to get this done in the next 10 minutes, if possible.

Mr. GARN. Mr. President, if the Senator will yield, I will tell the Senator that I do not think there is any problem. There is just some language we need to clarify. That can probably be done in 5 or 10 minutes.

Mr. CONRAD. We will be happy to participate in the effort.

Mr. RIEGLE. Mr. President, then I ask unanimous consent that the Conrad amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

AMENDMENT NO. 1376

(Purpose: To amend the Employment Retirement Income Security Act of 1974)

Mr. GARN. Mr. President, I send an amendment on behalf of Senator DANFORTH to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. DANFORTH, for himself, Mr. BOND, and Mr. KENNEDY, proposes an amendment numbered 1376.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

Mr. GARN. Mr. President, I am offering this amendment for Senator DANFORTH on behalf of himself, Senator BOND, and Senator KENNEDY. The amendment has been cleared by myself and the chairman of the Banking Committee.

The amendment is narrow and straightforward, and provides that Carl Icahn, through control of TWA, should

VOL 137
PT 23
NO 21—25
1991
UMI

not be permitted to insulate himself by means of a slick legal maneuver and leave the Federal taxpayer responsible for picking up the tab.

The amendment has been cleared on each side. I ask that we approve it.

Mr. DANFORTH. Mr. President, Carl Icahn, the owner of Trans World Airlines, is presently negotiating with the creditors of the carrier in an attempt to put together a prepackaged plan before filing for reorganization under chapter 11 of the Federal bankruptcy laws.

A very troubling prospect has arisen during the course of these negotiations. It is troubling for the employees of TWA; it is troubling for the Federal taxpayer. According to the Pension Benefit Guarantee Corporation, TWA has substantial unfunded pension liabilities. Estimates range from $150 to $900 million. Because Carl Icahn today holds more than 80 percent of the common stock of TWA, the law deems him to be in control of TWA, and holds the other businesses he controls in common with TWA liable for the pension obligations. As part of this prepackaged plan, Mr. Icahn is proposing to decrease his ownership of TWA below 80 percent, but to retain control of the TWA board and TWA management. The effect of this proposal, if successful, will be to insulate Mr. Icahn's financial empire from liability for the unfunded pension obligations. Ultimately, the Federal taxpayer could end up holding the bag.

This amendment is narrow, simple, and straightforward. Narrow in that it applies only to this one unconscionable proposal. Simple in that it says if Mr. Icahn controls TWA, either through ownership of the airline or by directing its management, he is liable for the pension obligations. Straightforward in that it provides the PBGC with the type of protection any private guarantor would require in a similar situation.

In this bill, the Federal taxpayer is providing over $70 billion in guarantees for recapitalization of the bank insurance fund. Should Carl Icahn be allowed to stick the Federal taxpayer for perhaps close to another $1 billion in liability? The answer is "no." The Federal taxpayer should not have to assume liability for TWA's unfunded pension obligations so long as Mr. Icahn has assets available and either owns the carrier or controls its destiny.

In summary, Mr. President, the issue presented by this amendment is simply this:

Do you believe that Carl Icahn should be able to take a business he now owns, continue to run it, but through a slick legal maneuver, insulate his financial empire from lability for perhaps close to $1 billion in unfunded pension obligations, and turn over this liability, ultimately, to the Federal taxpayer?

If not, then support this amendment.

Mr. KENNEDY. Mr. President, I commend Senator DANFORTH for his leadership on this issue and his tireless efforts to protect TWA's employees and retirees against the attempt by Carl Icahn to dismantle TWA.

Most recently, we have seen reports of Mr. Icahn's negotiations with creditors to put together a prepackaged bankruptcy reorganization plan as a preliminary to filing for reorganization under chapter 11 of the bankruptcy laws.

Under this plan, Mr. Icahn would reduce his actual stock ownership in TWA to below 80 percent, but would retain control of 6 of the 11 seats on the board of directors and the management of the company.

By reducing his stock ownership below 80 percent, Icahn and the other businesses he controls would effectively shed their current liabilities under TWA's pension plans.

Estimates of the current unfunded liabilities of the TWA pension funds range from $150 to $900 million. If Mr. Icahn is allowed to rid himself of these pension obligations in this way, there is a good chance that these pension liabilities will end up being dumped on the PBGC, and perhaps ultimately on the taxpayer.

Mr. Icahn should not be allowed to insulate his financial empire from these unfunded liabilities through clever manipulation of the bankruptcy laws.

We have seen this kind of thing happen all too often in recent years in the airline industry, both with Mr. Icahn and with Frank Lorenzo and Continental and Eastern Airlines.

This is a simple amendment to ERISA that will make clear that if Mr. Icahn retains control over the direction and management of TWA, then he and his other businesses will also retain responsibility for TWA's pension obligations.

The amendment is narrowly drafted in that it applies only to TWA, and is aimed only at preventing Mr. Icahn from getting away with this unfair legal maneuver.

Again, I commend Senator DANFORTH for his work on this amendment and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, I reviewed the amendment and checked it with other Members concerned with this issue on other committees, and I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment

The amendment (No. 1376) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1377

(Purpose: To make certain technical and conforming changes in the bill, and for other purposes).

Mr. RIEGLE. Mr. President, we have worked at some length to develop a managers' amendment that has resolved a number of issues that were in contention by various Senators.

I now send that manager's amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. GARN, proposes an amendment numbered 1377.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment (No. 1377) is printed in today's RECORD under "Amendments Submitted.")

EXPLANATION OF MANAGERS' AMENDMENTS, S. 543

Mr. RIEGLE. Mr. President, I rise to offer for myself and the distinguished Senator from Utah a set of amendments to S. 543. For the convenience of my colleagues, I will briefly summarize the key points of these amendments.

The amendments require that Bank Insurance Fund borrowing from the Federal Financing Bank be repaid by the sale of assets of failed institutions.

The limit on the FDIC's outstanding obligations is amended to distinguish between contingent and noncontingent liabilities. The FDIC must include the expected cost of any contingent liability.

The provision governing the deadline for FDIC to notify an institution of the amount of its semiannual assessment are modified to eliminate any rigid deadline.

Risk-based capital standards are required to reflect the actual performance and expected risk of loss of multifamily mortgages in addition to the factors already required to be reflected.

The bill's use of the defined terms "Federal banking agency" and "appropriate Federal banking agency" is made consistent.

There is a clarification that the Federal banking agencies' authority over accounting principles for FDIC insured depository institutions does not affect

the Securities and Exchange Commission's authority over accounting and financial disclosure under the Federal securities laws.

Regulators are provided additional flexibility for dealing with critically undercapitalized institutions. Savings associations with capital plans approved under FIRREA are exempted from the bill's provison requiring appointment of a conservator or receiver for critically undercapitalized institutions.

The Federal banking agencies are given expanded authority to require significantly undercapitalized institutions to merge with healthy institutions. This will facilitate efforts to resolve troubled institutions before they fail.

The amendments clarify the application of passthrough deposit insurance to retirement plans for employees of State and local governments and nonprofit organizations.

Provisions are added to codify the existing community development authority of national banks and to broaden the bill's language permitting safe-and-sound community development investments by State banks.

The amendments provide an exception to equity-investment restrictions for bankers' banks.

A provision is added to preserve the Federal Reserve's existing authority to permit investment in high-quality debt securities by U.S. depository institutions operating abroad.

The amendments require that executive officers and directors of depository institutions report annually to the board of directors on extensions of credit to officers and directors secured by the institution's shares.

In determining how to satisfy the FDIC's obligation to depositors at the least cost to the insurance funds, the FDIC is required to consider lost Federal tax revenues.

To prevent regulators from being bogged down in litigation over the FDIC's determination under the least-cost resolution requirement, these determinations will not be subject to stays or injunctions.

The amendments provide a presumptive safe harbor from cross-guarantee liability for a subsidiary of an insured depository institution in which the institution and its affiliates do not, in the aggregate, possess a plurality of the ownership interest or voting shares.

Section 224 on granting FDIC insurance to banks is rewritten for clarity.

Provisions requiring disclosure by institutions lacking Federal deposit insurance are revised to phase in more gradually, and responsibily for enforcement of the disclosure requirement is shifted from the FDIC to the Federal Trade Commission. Private deposit insurers are required to submit an annual independent audit beginning 120 days after enactment of the act and to submit business plans detailing their viability within 240 days after enactment.

Interstate branching solely to engage in deposit production is prohibited.

The Justice Department is required to report on bank holding company applications for interstate branching that raise significant competitive issues.

The Savings and Loan Holding Company Act is amended to incorporate BCCI-related changes parallel to those in the Bank Holding Company Act.

The amendment requires that a thrift institution be adequately capitalized in order to use the bills' streamlined thrift-to-bank conversion procedures. Those procedures may be used to convert to a savings bank charter under certain circumstances.

State officials are allowed to serve on the proposed Presidential Insurance Commission.

The provisions of the bill requiring disclosure of coverage by the Securities Investor Protection Act have been modified slightly.

The amendment adds protections for whistleblowers who expose wrong-doing by depository institutions.

Changes are made to ensure that the bill will not affect the application of the Internal Revenue Code to bank holding companies.

The Federal Reserve Board is given authority to grant immunity from prosecution, with approval of the relevant U.S. attorney.

Regulators are required to develop regulations regarding excess compensation of bank and thrift officials.

Federal agencies are required to report information they develop that would significantly affect the safety and soundness of an insured depository institution.

The amendment also revises the provision extending the securities-fraud statute of limitations. Under the amendment, the statute of limitations that existed before the Supreme Court's Lampf decision will continue to apply in cases that were pending at that time. Cases that have been dismissed as a result of Lampf but were timely filed prior to the Courts' decision may be refiled. Cases that have not yet been dismissed may be retained.

There is a sense-of-the-Senate resolution expressing concern about the availability of credit.

Technical corrections are made to the Federal Deposit Insurance Act.

Finally, various minor drafting changes are made to delete redundant language and promote clarity and consistency.

The amendment lengthens the phase in period for certain appraisal requirements enacted in 1989, broadens regulators' authority to make exceptions to those appraisal requirements, and establishes de minimis levels for those requirements.

Amendments were also made to title X, lender liability.

The manager's amendment also contains three coin provisions that have the required number of cosponsors.

Let me yield to the ranking minority member.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the vast majority of this particular amendment is technical and a measure that we have been trying to work out over several days and hours. I would want people to be aware of that.

However, the amendment as to underwriters liability is involved in this. The current occupant of the chair and I spent several months coming to agreement. I think it is a good compromise.

I thank the occupant of the chair, the Senator from New Jersey, in that particular matter.

STOP EXCESSIVE COMPENSATION AT FEDERALLY-INSURED BANKS AND S&L'S

Mr. Levin. Mr. President, I would like to thank the managers, Senator RIEGLE and Senator GARN, for including in their package my amendment to require Federal regulators to stamp out compensation abuses by bank and S&L insiders.

My amendment is the result of a year-long investigation by the Subcommittee on Oversight of Government Management, which I chair. This investigation found host of compensation abuses in which federally insured bank and S&L funds were used for sailboats, vacation homes, butlers, multimillion-dollar golden parachutes, and other types of excessive compensation, which drained healthy institutions of needed assets and helped drive ailing institutions into Federal takeovers. The worst cases by far occurred at S&L's in the 1980's—I will describe some examples in a minute—but the investigation also uncovered evidence that banks are not immune to this practice and that it has not disappeared in the financial institutions of the 1990's.

My amendment, which is not part of the managers' package, would create the first Federal statute that specifically require Federal bank and S&L regulators to address the problem of compensation abuse by insiders. In essence, it would require them to prohibit as an unsafe and unsound practice any compensatory arrangement which is excessive or could lead to material financial loss to a federally insured bank or S&L. Regulators who battle inappropriate compensation at federally insured institutions now must do so on the basis of inconsistent regulations and without the benefit of an explicit Federal statute.

That ought to change. Here is what the Office of Thrift Supervision says about my amendment:

> The experience of the Federal banking agencies is that [compensation] abuses of

VOL
137
PT
23
NO
21
—
25
1991
UMI

> this nature exist and, in many instances, such agencies have not always had the proper tools in which to address these abuses—this provisions would provide specific statutory authority to address such abuses. The proposed language sets forth clear and concise guidelines for the Federal banking agencies to follow, but does not handcuff the agencies with respect to the manner in which the statutory requirements may be implemented * * *.

My amendment would strengthen the regulations in this area and give regulators the tools they need to enforce them. As one regulator told my staff, a statute on insider abuse would raise this oversight issue to a whole different plane in his agency and, by providing clear statutory support, would strengthen the hand of regulators confronting these abuses. It would also send an unequivocal message to the financial community that inappropriate compensation threatening the safety and soundness of federally insured institutions must stop.

Finally, my amendment would also complement S. 543's provisions on insider loans by addressing this second type of insider abuse which can present equally significant threats to the safety and soundness of federally insured financial institutions.

To demonstrate the need for my amendment, we can look at the lessens of the recent past. Since there has already been extensive coverage of the S&L scandal, I will describe just two examples of compensation abuse by S&L insiders.

The first involves Centrust Bank, a federally insured S&L in Florida. In 1988, the chief executive officer received $550,000 in salary, a bonus of $300,000, and $2.76 million in Centrust stock dividends, despite the fact that the S&L was losing money. In 1989, he received $700,000 in salary and a $445,000 bonus, despite continuing losses. In 1990, he received $950,000 in salary and a $310,000 bonus despite another year of losses. That is a total of $6 million in 3 years in which the S&L never showed a profit. Just the opposite. Centrust lost money so fact that, in 1990, the Federal Government had to seize it and assume its debts.

After the takeover, Federal regulators found not only the exhorbitant cash compensation I have described, but a host of other insider abuses. They include a $6 million term life insurance policy payable to the CEO's spouse, for which the S&L paid a $258,000 annual premium; $400,000 spent by the S&L on a security system and guards for the CEO's home; a monthly allowance of $550 for the CEO's car; $75,000 spent on personal items in the CEO's home such as a refrigerator and 6 video cameras; $45,000 spent on hotel bills for the CEO during a trip to New York City; $233,000 to purchase a sailboat; and $1 million to maintain a jet and hangar. The list goes on, and it is incredible.

The second example involves Columbia Savings and Loan in Beverly Hills, CA. That S&L was primarily owned by the members of one family. In 1989, a year in which Columbia lost money, it paid its CEO, a family member, a bonus of $3 million. A few years earlier, in 1985, it had paid the same CEO $9 million, including a lump-sum retirement benefit of $5 million. Also in 1985, it paid the chairman of the board, the CEO's father, $560,000. Back then, director fees averaged in the mid-$20,000's.

Columbia also provided its CEO with a wild array of lavish perks, including use of condominiums in popular resorts, yachts and corporate jets. It employed an English butler and martial arts instructor. It provided the CEO with $463,000 in personal expenses, including a $2,000 wine-tasting course, $7,000 in Michael Jackson concert tickets, and the purchase of 55 guns including Uzi submachine guns. All at a federally insured financial institution which, by the way, collapsed this year and may cost Federal taxpayers as much as $1 billion.

Compensation abuses at other S&L's are also well known, detailed in indictments and civil suits involving such well known institutions as the Lincoln, Lamar, Vernon and Sunbelt S&Ls. In each of these cases, Federal regulators have sued for the return of excess compensation or assisted in criminal prosecutions of the individuals who ran these S&L's into the ground and looted the assets. Unfortunately, these actions are taking place after the S&L insiders enriched themselves and left the American taxpayer holding the bag.

One might suppose, after the widespread media coverage of the S&L scandal, the multibillion-dollar bailout, and taxpayer outcry, that compensation abuses by insiders would have ended. Unfortunately, you would be wrong. For example, in 1990, the press reported that the president of an S&L in Virginia received $825,000 after resigning, despite the fact that the S&L was losing money. In 1991, the Federal Government took control of this S&L.

While bank regulators have not uncovered problems of the same magnitude as in the S&L industry, the signs are there too. Here are a few recent examples.

According to press reports, in February 1990, the chairman of Washington Bancorporation resigned from that bank and received nearly $2 million in pay for 1990, though he worked less than 2 months in that year. Six months later, the bank collapsed.

Also in 1990, Riggs National Bank paid its CEO $1.4 million in salary, despite the fact that, in 1990, the bank lost $56 million, twice reduced its stockholder dividends and experienced a 59-percent drop in its stock price. Due to his poor performance, this CEO was rated by Barron's as the most overpaid bank CEO last year.

Just a few weeks ago, the press reported that the chairman of C&S–Sovran Corp. will get up to $6 million in severance pay if his job is terminated in the next 2 years. That arrangement is part of an executive pay package for eight individuals at the bank, who have been promised severance pay totalling $24 million. Press reports also indicate that the bank may have reached this agreement knowing that it would soon be taken over by another bank, NCNB, which is planning to eliminate 9,000 of the 60,000 jobs between them. That means that this multimillion-dollar payoff is highly likely.

That is not all. Each year, financial publications publish a list of the most highly paid bank executives in the United States, keeping statistics on what they call the millionaires club—those bank executives earning $1 million or more in a single year. In the last decade, the growth in this club's membership has been huge. From 1981, where there were 0 members, to 1982, with just 1 member; to 31 members in 1990.

It is striking to me that large numbers of bank millionaires are occurring in years with record numbers of bank failures. It is also worth noting that the first $2 million-dollar salary was recorded in 1989. In 1990, the highest paid bank executive obtained $2.5 million. And these figures do not include stock options, which can add millions more.

Despite this record, there is currently no Federal statute which directs Federal regulators to stop compensation abuse by insiders at banks and S&Ls. Existing regulations and examination requirements in this area are incomplete and inconsistent. Actions by regulators are often after-the-fact and ineffectual. That is why this legislation is needed.

My amendment would require each appropriate Federal banking agency to prescribe standards prohibiting as an unsafe and unsound practice compensatory arrangements which are excessive or could lead to a material financial loss to a federally insured institution. By using the phrase, "unsafe or unsound practice," section (c)(1) of the amendment would provide Federal regulators with clear authority to use all existing enforcement tools to stop compensation abuse. If, for example, regulators determined that a bank is providing executives with excessive pay, they would be able to use all regulatory means, including cease and desist orders, to require the bank to recover the excess pay, nullify unreasonable employment agreements, or take other appropriate action to end the abuse.

Section (c)(1) would apply to all types of compensation, including any employment contract, compensation or benefit agreement, fee arrangement, prerequisite, stock option plan, postemployment benefit, or other compensatory arrangement. This language would cover, for example, all types of cash payments, including executive pay and bonuses, director fees, consulting fees, automobile allowances, reimbursement of travel expenses, membership dues, severance payments and retirement pay. It would also cover all types of noncash compensation, including arrangements which provide an individual with, for example, stock options, stock, property, artwork, security services, use of automobiles, use of real estate, use of aircraft, life insurance, medical insurance, health care, financial counseling or other perks. In short, the amendment is intended to apply broadly to all types of compensatory schemes.

The amendment would also apply to any executive officer, employee, director, or principal shareholder of a federally insured institution. This broad language is necessitated by the history of compensation abuse in the 1980's. There have been situations, for example, in which an S&L placed a key stockholder on its board and paid him huge director fees, and others in which a bank paid a principal stockholder enormous fees as a consultant. In another case, an S&L CEO put relatives and friends on the S&L payroll as employees, paying them huge salaries for little work.

The amendment would require Federal regulators to prohibit compensation which is excessive or could lead to material financial loss to a federally insured institution. This language is drawn in part from existing regulations and examination manuals, including 12 C.F.R. 563.39, 47 and 161(b), and the 1978 Office of Comptroller of the Currency Banking Circular No. 115. It provides two different tests for regulators evaluating compensation schemes. The first focuses on the nature of the compensation being provided, while the second focuses on the potential cost to the institution.

Section (c)(2) of the amendment addresses the issue of "when compensation, fees or benefits are excessive." Regulators currently use various regulations and examination requirements to make that determination. This section of the amendment requires them to issue standards to guide their efforts. It is my hope, by the way, that in issuing these standards, all of the agencies would work together to produce a single set of rules that all of their examiners, supervisors and regulators could follow.

Section (c)(2) is intended, not only to encourage consistency among Federal regulators, but also to require a tougher test which includes consideration of a range of factors. This expanded test is needed because, currently, some examination manuals indicate that regulators evaluating compensation should concentrate on comparing compensation at similar institutions. This comparison can be misleading, however, since comparable institutions may also be paying excessive compensation, and a rachet effect could be used to justify increases in everyone's salary. That is partly what happened in the S&L scandal.

Section (c)(2) requires regulators to determine whether the compensation being provided is unreasonable or disproportionate to the services actually performed by the individual. This language tells the regulators that they should put the focus first on what the individual is doing for the institution, rather than on what compensation levels his or her peers may be receiving. The provision also requires the regulators to consider a range of factors in evaluating whether the individual's compensation, fees and benefits are excessive.

For example, section (c)(2)(A) requires consideration of the total cash and noncash benefits being provided to the individual, so that regulators will consider the total situation, including the value of noncash benefits such as arrangements providing stock options, use of a residence or plane, personal property or other perks.

Section (c)(2)(B) requires regulators to consider the compensation history of the individual and other, similarly situated individuals at the institution. In one S&L, for example, the CEO doubled his pay each year for 5 years, a rate of increase which is clearly excessive. Another example would be a CEO who received a salary significantly greater than his or her predecessor, with no apparent reason for the pay discrepancy.

Section (c)(2)(C) requires consideration of the institution's financial condition. Salaries which might be reasonable at a profitable bank may be excessive at a bank losing money. Huge salary increases or severance payments at unprofitable institutions also raise red flags. On the other hand, the mere fact that an institution is profitable is not in and of itself justification for any compensation level, no matter how high. The S&L scandal is replete with cases where insiders wasted or looted a profitable S&L's assets and, in so doing, undermined its safety and soundness.

Section (c)(2)(D) requires regulators to consider comparable practices at comparable institutions, since peer institutions can provide a useful benchmark. At the same time, the point of section (c)(2) is to emphasize that this is only one element of many to consider.

Section (c)(2)(E) requires regulators to consider, for postemployment benefits, their total cost and benefit to the institution. Postemployment benefits include both cash and noncash benefits available upon termination of employment. They include severance pay, retirement income, medical and life insurance, and unusual arrangements such as charitable contributions and use of residences, aircraft and office space. Some of these benefits are provided as an inducement to employment, others are unexpected windfalls with no apparent benefit to the institution. For example, an unexpected million-dollar payment to a departing CEO would impose a significant cost with no apparent benefit to an institution, since the CEO is leaving and never expected that payment. If you think this example is far-fetched, the $24 million severance package for 8 C&S-Sovran executives and the $27 million payoff to Fannie Mae's departing CEO ought to demonstrate that it is all too possible. Even benefits offered to attract or retain a valuable employee may have to be curbed if they entail huge costs.

Section (c)(2)(F) requires regulators to consider any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with which the individual receiving the compensation may be involved. This language, drawn from golden parachute provisions in 12 U.S.C. 1828(k), requires regulators to consider whether the individual in question was involved in any wrongdoing affecting the institution, including any insider abuse.

Section (c)(2)(G) enables regulators to consider any other relevant factor as well. One example that comes to mind is whether the individual was involved in wrongdoing elsewhere. Because compensation and circumstances can vary significantly from institution to institution, regulators must be free to consider a wide range of factors. The point of section (c)(2)'s expanded test is to enable regulators to determine that compensation is excessive, even when peers are paying similar amounts, if such factors as disproportionate increases, unprofitability, wrongdoing, or other relevant factors are present.

In addition to prohibiting excessive compensation, section (c)(1) would prohibit compensation which could lead to material financial loss to a federally insured institution. The point here is to stop compensatory arrangements with the potential for requiring a bank or S&L to make substantial payouts or to dissipate its profits or capital. The word, "material," is used, not to require a showing of significant injury to the institution, but to exclude consideration of arrangements with a trivial impact. Examples of compensatory arrangements which could meet this test include agreements to provide unlimited lifetime medical care of executive officers and their families; multimillion-dollar golden parachutes; and unlimited indemnification agreements.

Finally, section (c)(3) of the amendment would authorize Federal regulators to address any other aspect of compensation abuse at federally-insured institutions.

VOL
137
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1991
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Congress needs to send a strong, clear message to its regulators that the American people are fed up with insider abuse at federally insured banks and S&L's. While S. 543's provisions on insider loans address one aspect of this problem, they do not go far enough. Compensation abuses are part and parcel of the S&L scandal, and are beginning to show up in banks as well. Congress ought to act now to direct Federal regulators to redouble their efforts to stop this unsafe and unsound practice. My amendment does just that. Again, I thank my colleagues, Senator RIEGLE and Senator GARN, for supporting it.

BCCI-RELATED AMENDMENTS TO S. 543

Mr. BROWN. Mr. President, I rise today to bring to your attention three important amendments to S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, which will assist the proper Federal Government agencies to conduct more comprehensive and timely investigations into questionable banking activities. I am proud to have as a cosponsor Senator JOHN KERRY of Massachusetts, whose hard work during our investigation of the Bank of Credit and Commerce International, or BCCI, helped bring the deficiencies in current banking law these amendments correct to light.

These three amendments are the first changes in Federal law resulting from the BCCI investigation. They will strengthen the ability of Federal regulatory agencies to enforce our Nation's banking laws, bolstering existing law to prevent loopholes exploited by BCCI.

I am pleased to note both sides have cleared the three amendments and they are included in the managers' amendment.

The first amendment will help prevent sweetheart deals and the secret takeover of banks by undisclosed third parties. It requires that directors and officers of federally insured institutions, bank holding companies, and savings and loan holding companies annually report to their board of directors the outstanding amount of any loan made to them which is secured by their stock in the institution or holding company. It is important to note that this amendment applies only to institutions and holding companies whose stock is not publicly traded. It does not apply to companies whose stock is publicly traded.

The purpose of this amendment is to ensure that boards of directors are aware that directors or officers have pledged shares of that institution or holding company to secure credit. The amendment does not prohibit any director or officer from pledging shares that the director or officer may own; rather, it simply ensures such an action is reported.

The information provided formally to the board of directors must then be maintained in the bank or holding company's official records. The Federal Reserve and other bank regulators would then have access to the information during annual audits, and, thus, be better able to track who actually controls U.S. banking institutions. We have attempted here to increase the accountability of our banking system without requiring a significant new load of paperwork on bank officers, directors or regulatory agencies. This amendment does just that.

During hearings concerning BCCI's illegal ownership of First American National Bank, BCCI achieved effective ownership of First American National Bank by financing front men. Mr. Clifford and Mr. Altman received 100-percent offshore, nonrecourse loans from BCCI. The stock was pledged as collateral and helped ensure BCCI de facto control of the parent holding company. Adequate disclosure of this transparent financial arrangement would have alerted the Federal Reserve to BCCI's control of First American.

This amendment helps ensure the loophole exploited by Clifford and Altman is closed.

The second amendment would require U.S. agencies to promptly pass any information affecting the safety and soundness of the U.S. banking system to the proper Federal banking agencies. During the investigation of BCCI, critical information held by the CIA was not passed on to the Federal Reserve, which was the agency with regulatory authority over the banks involved. This delayed the Federal Reserve's in-depth investigation of BCCI's hidden ownership of U.S. banks by as much as 5 years.

The amendment will ensure that information concerning the safety and soundness of the U.S. banking system is not caught within a Balkanized bureaucracy, where important information is not shared properly. At the same time, the amendment has been drafted to address specific concerns of the Department of Justice that the disclosure of information not jeopardize criminal prosecutions or the safety of investigators, or create problems with respect to grand jury investigations. We also have ensured that sensitive intelligence information is handled in a fashion that ensures its protection.

The third amendment provides the Federal Reserve the authority to grant the power of immunity to witnesses who assist in developing information critical to its investigations. In providing the Federal Reserve the power to grant immunity to witnesses we are simply granting the Federal Reserve the same power that the Securities and Exchange Commission [SEC], the Federal Deposit Insurance Corporation [FDIC] and other agencies currently exercise. This power gives the Federal Reserve an increased ability to conduct investigations of greater magnitude and scope.

If the Federal Reserve had had the power to grant immunity during the 1980's, many experts believe its investigation of BCCI might have uncovered evidence of the bank's illegal ownership of First American when allegations first began to surface in the early eighties. Instead, the Federal Reserve was forced to wait for years—into the late eighties—until other Federal agencies were able to collect the necessary information and then decide to share it with the Fed's investigators.

These three amendments provide the Federal Government the ability to access information necessary to uncover questionable banking activities that might affect the safety and soundness of U.S. financial institutions earlier—long before depositors become victims or taxpayers must bail out the institution.

Mr. President, I thank the Chair and ask unanimous consent that the amendments be printed in full in the RECORD following my statement.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

On page 272, between lines 5 and 6, insert the following:

"(11) REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.".

At the appropriate place in title XI, insert the following:

SEC. 11 . REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consulting with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS; SAFETY OF GOVERNMENT INVESTIGATORS.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) DEFINITION.—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—As used in this section, the term "appropriate Federal banking agency" has the meaning given to the term in section 3 of the Federal Deposit Insurance Act.

(2) DEPOSITORY INSTITUTION.—As used in this section, the term "depository institution" has the meaning given to that term in section 3 of the Federal Deposit Insurance Act.

At the appropriate place in title XI, insert the following:

SEC. 11 . POWERS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

Section 6001 of title 18, United States Code, is amended in paragraph (1) by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

REAL ESTATE APPRAISAL REFORM

Mr. DOMENICI. Mr. President, I am offering an amendment here today to change the real estate appraisal process to help reduce regulator burdens on real estate lending and stimulate real estate markets.

I am proud to announce that this amendment has bipartisan support and cosponsors by Senators BINGAMAN, BOREN, MURKOWSKI, MCCAIN, SEYMOUR, and CHAFEE.

This amendment also has the support of the Bankers Association, the National Association of Realtors, the Homebuilders, the U.S. Savings League, the National Association of Community Bankers.

This amendment is also supported by the Treasury, Federal Reserve, and other Federal agencies such as the Bureau of Land Management.

RELIEF TO THE CREDIT CRUNCH

During the last year there has been considerable discussion about the credit crunch and its impact on the economy. By credit crunch, I mean loans that could be reasonably and responsibly made, are not available.

The credit crunch is not simply a matter of weak demand for loans; but has a supply side component being driven by banks not making loans they could safely make. While the cause of the credit crunch cannot be pinpointed to one problem, part of the problem is a new phenomena created in FIRREA called the appraiser crunch.

While no one questions the need to have qualified and well-trained real estate appraisers, the requirements in FIRREA have resulted in an appraiser shortage that distorts real estate markets, prevents bank lending, delays the completion of real estate transactions, slows economic recovery, and accelerates the credit crunch.

While components of this amendment can be changed by bank regulators, the need for this amendment today is evident. This amendment will provide immediate economic relief to help stimulate the economy and real estate markets. While no one wants to return to the dangerous regulatory laxity that marked the savings and loan crisis, the economy cannot wait.

APPRAISER SHORTAGE: WAIVER PROCEDURE

In many States the new licensing and certifying requirements have caused a shortage in appraisers. This has resulted in higher fees to borrowers and created delays in completing transactions.

This amendment will require that the Real Estate Appraisal Subcommittee create an operational waiver system. A waiver will give an entity an option to use an appraiser that is not licensed or certified by the State.

I do not question the need to have well-trained and qualified appraisers and eventually we will have qualified appraisers nationwide. However, these requirements are not ready to be implemented nationwide and they need to be relaxed to relieve the real estate credit crisis.

I want to emphasize that I do not want to permanently weaken these standards, because I think they are addressing an important concern. However, a realistic transition period needs to be phased-in more slowly than anticipated in FIRREA.

The immediate shortage of appraisers is having two devastating effects on the real estate industry.

First, it has already resulted in an appraiser crunch, which in turn, has escalated appraisal fees between 50 and 300 percent, which will obviously increase closing costs and could prevent or delay many home buyers—in particular, first-time home buyers—from purchasing a home.

Second, delays in obtaining an appraisal could stall the recovery of real estate values across the country.

The appraiser shortage is adding unnecessary delays in completing real estate transactions. At the beginning of 1991, turnaround times for obtaining appraisals was in the range of 3 to 6 months. Today turnaround times are in the range of 6 to 9 months.

The shortage results in higher borrowing costs to consumers from higher appraiser fees. In New Mexico, appraisal fees can add up to $400 for home mortgages and $10,000 for commercial real estate transactions. In New Mexico, the shortage has resulted in appraisal fees increasing by about 25 percent.

TWO-TIER THRESHOLD: $100,000 RESIDENTIAL/ $200,000 COMMERCIAL

Currently the Real Estate Appraisal Subcommittee and the banking regulatory agencies establish a de minimis level of loan amounts that would need to be appraised. These regulations make no distinction between residential and commercial real estate, and require all real estate loans made by federally insured banks above $50,000 be evaluated by a State licensed or certified appraiser.

This amendment increases the $50,000 de minimis floor to $100,000 for residential and $250,000 for commercial real estate.

The present $50,000 level has created an administrative and costly burden disproportionate to the problem it was intended to address. Small loans were not part of the problem FIRREA was trying to capture in these appraisal requirements.

There are few commercial real estate loans made below $200,000. It has been demonstrated by the OCC and other regulators that establishing these higher thresholds would in no way jeopardize the safety and soundness of financial institutions. The two-tier approach allows scarce appraisal resources to be used more efficiently, while maintaining high appraiser standards.

Difficult appraisals are on large complicated real estate transactions, not small residential and commercial loans. Changing the de minimis standard will not effect the intent of FIRREA; however, it will help move real estate and ease the credit crunch.

The need to have well-qualified and well-trained appraisers is sound; however, substantial dollars and manpower resources are now being channeled unnecessarily into a category of loans where the fewest losses in the past have occurred.

VOL 137 PT 23 NO 21—25 1991 UMI

EXTENDING THE EFFECTIVE DATE

FIRREA requires all States to establish real estate appraiser licensing and certification systems as of January 1, 1992, for all federally related transactions.

Many States need some breathing room in order to license and certify adequate numbers of appraisers. This amendment extends the effective date for 1 year, until January 1, 1993, when States must comply with the real estate appraisal standards.

While many States technically have a program in place, only a small percentage of appraisers are considered qualified to examine loans at federally insured institutions. According to November data of the Appraisal Institute, 17 States have not issued final rules and regulations, and 23 States have not even begun issuing licenses.

Even with extending the date to give States a chance to comply, banks still need to get appraisals, it just won't be required that the appraiser be State licensed.

In general, a person is considered a State licensed or certified appraiser if they have taken at least 75 hours of educational appraisal classes and obtained at least 2,000 hours of experience. In some States the classes and licensing procedures can cost up to $1,000.

While I do not question the need to have well-trained appraisers, it seems unrealistic to think that all appraisers would have paid the cost and taken the tests. No wonder there is a shortage.

Before FIRREA, New Mexico had about 500 people doing appraisals, now there are only 275 State licensed and certified appraisers.

HOME EQUITY LOAN EXEMPTION

This amendment requires the regulators to implement a de minimis level for home equity loans.

Currently borrowers have to pay and wait for another appraisal to get some home equity loans. If a borrower wants a home equity loan on a house that is worth $300,000 and the outstanding mortgage is more than $100,000, the borrower will have to pay and wait for another appraisal before a $20,000 home equity loan is approved.

A banker in New Mexico responded to the OCC comment period in which he states that:

> Loans to individuals for the purpose of purchasing a home, remodeling expenses, or other personal reason have not resulted in losses to our bank, of any size. These loans require less analysis and documentation. Lending officers are aware of market conditions in their lending area. They know the market value of residential real estate. Loans below $100,000 should not require the depth of documentation of loans above $100,000.

This is absurd. This keeps valuable resources out of the economy and slows economic recovery.

CONCLUSION

In conclusion, changes in the real estate appraisal requirements are essential because strong banks and financial services are a key to the economic health of our country. Strong banks will keep credit availability in good times and bad, fueling economic growth and new jobs.

Competitive, well capitalized banks are a sure way to avoid future credit crunches. If you want stronger banks, banks that will return to the business of lending money to sound customers for sound projects, I am pleased with the passage of this amendment.

THE APPRAISAL AMENDMENT TO S. 543

Mr. MURKOWSKI. Mr. President, I rise in support of the amendment from my friend from New Mexico providing some much needed relief to the stringent appraisal standards enacted into law in 1989. I am pleased to join my friend as an original cosponsor of this amendment.

Mr. President, I supported efforts in 1989 to adopt tougher appraisal standards as part of FIRREA. Appraisal requirements are an important component of safety and soundness regulation. Unfortunately, however, the 1989 requirements need fine tuning and that is what we are attempting to do today. Our objective in offering this amendment is to make the existing regulations workable without limiting available credit.

WHAT AMENDMENT DOES

Mr. President, the amendment before us contains three needed reforms. First, it would extend for one year the implementation date of the 1989 requirements. Many States, like my State of Alaska, have yet to establish adequate State certification and licensing programs necessary to allow appraisers to qualify to review loans under the new standards. This delay will allow States to meet this requirement in a responsible manner.

Second, the amendment would codify the $100,000 de minimis level for residential real estate loans and establish a $250,000 de minimis level for commercial real estate loans. Codification of these levels will provide guidance to Federal banking regulators and stability to the marketplace with regard to enforcement of the statutory de minimis levels.

Finally, the amendment would provide for a rural exemption from appraisal requirements in certain circumstances. This rural exemption is particularly important in my State of Alaska where vast distances and infrequent transportation can contribute to appraisal costs that far outweigh any potential benefit.

WHY AMENDMENT NECESSARY

Mr. President, the primary objective of the sponsors of this amendment is to remove a layer of regulation that contributes little or nothing to safety and soundness and places needless costs on our economy. The present shortage of qualified appraisers and high costs associated with the appraisal requirement are choking-off economic growth. Our amendment is designed to stimulate the economy and facilitate prudent real estate transactions.

IMPACT IN ALASKA

Mr. President, no State suffers more from high transaction costs than Alaska—great distances and sparse population make inflexible apparaisal requirements simply unrealistic. I have heard from many in Alaska on this subject. There is almost uniform agreement that inflexible appraisal requirements are preventing prudent lending. I ask unanimous consent to insert several of the letters and articles I have received from Arkansas on this subject into the RECORD.

Alaska is currently suffering the ill-effects of a credit crunch. Banks don't want to lend in Alaska because of the high costs involved. This amendment will help to remove some of the unnecessary obstacles to lending and economic growth that presently exist.

I ask my colleagues to support this amendment.

FIRST NATIONAL BANK
OF ANCHORAGE,
November 7, 1991.

FRANK: I am reminded of my annual $60,000 loan to Mike Hiemburch in * * *. Mike borrows secured by his $250,000 home. The new appraisal requirement adds $500 for an appraisal to the cost of borrowing money. America is no longer competitive with this excessive overhead. Our bank with 18% net worth to assets is unlikely to go broke just because it wants to spare the consumer and the businessman the additional cost and delay of unneeded, unwanted appraisals. This is a consumer issue. Lets help the consumer by allowing solid, stable banks to continue to provide free appraisal to their customers.

David Cuddy.

FIRST NATIONAL BANK
OF ANCHORAGE,
November 7, 1991.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

SENATOR MURKOWSKI: I am the Branch Manager of the Valdez Branch of First National Bank of Anchorage, I am writing you to express my concern regarding current legislation requiring banks to have an independent fee appraisal completed for any loan over $50,000.00 that is secured by real estate. The effect of this legislation is to raise the cost of credit to the borrower. In Valdez the cost of a loan in excess of $50,000.00 secured by residential real estate has been increased by $750.00 as a result of this legislation ($500.00 for appraisal and $250.00 for travel expenses.) A loan over $50,000.00 secured by commercial property has been increased from a low of $2,000.00 to $5,000.00 or more. As you can see these are significant increases to the cost of credit. The result of the increases has been a reduction in the extension of credit and therefore a decline in economic activity.

Valdez borrowers, when faced with the increased cost resulting from an appraisal, have on several occassions elected to reduce their request to avoid the requirement. On one occassion a commercial borrower seeking funds to expand his retail space postponed the project rather than pay $3,000.00

for a commercial appraisal. From a lenders perspective this is very frustrating. I know the value of real estate in Valdez. I am just as able to review comparable sales and analyse cashflow to arrive at value as an out of town fee appraiser. This, when combined with First National's conservative credit culture and strong capital position makes appraisal requirement a limiting and unnecessary expense to prospective borrowers. I urge you as a former banker to re-examine the existing legislation and support the elimination of the appraisal requirements.

Sincerely,

M.J. SHIRRELL,
Branch Manager, Valdez Branch.

FIRST NATIONAL BANK
OF ANCHORAGE,
November 7, 1991.

Re Fee appraisals.
DOUG LONGACRE,
Vice President, Branch Loan Administrator, Branch Lending Department.

DEAR DOUG: At this time we are required to have an appraisal done by a certified appraiser if the loan exceeds $50,000. Since this change came about we have been unable to service our customers in an expeditious manner. We have to contact an appraiser either the only one here in Bethel if he is in town or call Anchorage to find out when the appraiser is coming out.

It wouldn't be so bad if there were an abundance of appraisers that are available when you needed them. Even when they are available it takes a week or so to get the final appraisal. It happens with all applications that are over $50,000, there is no exception.

If there is anything that you can do to bring the process back to where it used to be I know that our customers will be much happier.

Sincerely,

ARVIN D. DULL,
Vice President.

FIRST NATIONAL BANK
OF ANCHORAGE,
November 6, 1991.

To: Doug Longacre, Vice-President, Branch Lending Administrator.
From: David Smith, Manager, Elmendorf Branch.
Re: Mandatory fee appraisals over $50,000.

DEAR DOUG: Although the Elmendorf Branch has not required a fee appraisal from loan customers, it is apparent through candid conversation and customer opinion that this would directly effect the applicants desire to finance property over $50,000 because of the additional appraisal charge. During a time of economic uncertainty, most potential customers I speak with do not feel comfortable spending any additional money on charges or fees that are not necessary.

I have several customers that inquired about large loans with substantial collateral, and could not understand why an appraisal was necessary. For example, ——— owns a home which assesses for $198,000 on the lower hillside. He currently has a 1st deed of trust on the property of $40,000. He was inquiring about a $60,000 second deed of trust loan for home improvements and some debt consolidation. Our position would conservatively be at a 50% LTV and yet he was still required to have a fee appraisal. He could not understand why this was the bank's policy. I informed him that the guidelines were set by the Federal Government. He voiced his concern on Government intervention and the long-term negative effects this will bring.

I concur with ———. I feel that the collateral position for the bank would have been very strong, yet I was still required to ask for the appraisal. I am afraid that now our Government has become deeply embedded in the banking industry and it will take many years to remove them.

If you wish to dicuss this or other concerns about fee appraisals please call me at #2112.

Sincerely,

DAVID SMITH,
Branch Manager.

FIRST NATIONAL BANK
OF ANCHORAGE,
November 7, 1991.

To: Doug Longacre, Vice President, Branch Lending.
From: Clyde Johnson, Manager, Seward Branch.

Doug: Here are three situations whereby our customers loan requests and/or plans were modified due to the requirement of a fee appraisal on real estate loans of $50,000 or more.

1. ——— requested a loan of $110,000 to payoff existing 1st deed of trust and conduct improvements to his fishing vessel. Due to an appraisal being required he was forced to hold up on his improvements during this wait. Previous business with this customer had established a value of $150,000 on the house.

2. ——— requested a loan of $63,000 to pay existing 1st deed of trust, suppliers, and a tax liability. Property had an assessed value of $129,900 at the time. Advised customer of required commercial fee appraisal would cost between $3,000–$5,000. Customer withdrew request and a subsequent loan of $27,000 was booked unsecured.

3. ——— Customers requested a loan of $55,000 to pay existing 1st deed of trust, repay his father and purchase a new vehicle. Advised customer that a fee appraisal would be required for loan of $50,000 or more. Customers reduced request and settled for less expensive vehicle for their family.

FIRST NATIONAL BANK
OF ANCHORAGE.
November 8, 1991.

To: Doug Longacre, Branch Lending.
From: Fred Braun, Juneau Branch.
Date: November 7, 1991.

Over the past year, the following loan applications were withdrawn by the applicants due to appraisal requirements:

1. ——— Request to borrow $100,000, first deed of trust on a 19-unit apartment building valued at $750,000.00.

2. ——— Request for $55,000 on a first deed of trust on a home valued at $110,000.00.

3. ——— $128,000 request on a first deed of trust on a commercial building valued at $450,000.00.

4. ——— $100,000 loan to be secured by a first deed of trust on a $400,000 building.

There are several other instances in loan requests received from towns outside of Juneau where no appraiser resides, which then became cost prohibitive when an appraiser charged not only for his appraisal but also for airfare and expenses. The loan requests did not exceed 65% of estimated valued.

NOVEMBER 7, 1991.

Hon. FRANK MURKOWSKI,
U.S. Senator for Alaska.

DEAR SENATOR MURKOWSKI. This letter is pursuant the current banking bill requiring banks to obtain a fee appraisal on all real estate transactions $50,000 and above. Two points come to mind when arguing against this. One, First National Bank has always been able to prepare in-house appraisals that routinely show more conservative values than does a fee appraisal. Was it not these fee appraisers who were successful in inflating real estate prices in Alaska during the early and mid 80's? I realize that the Savings and Loan debacle produced officers that also inflated real estate prices for personal gain, and I can understand Congress's concern over this issue. I do not, however, understand why banks with a lengthy history of conservatism and profitability should share this burden. The second point is that the costs for both residential and commercial appraisals are often prohibitive to the borrower. In some remote areas of the state appraisers need to be flown in, thus incurring more expenses to an already pricey appraisal. Telling a customer that a $3,000–$5,000 commercial appraisal will be needed on his $50,000 loan more often than not kills the application.

Some examples of disgruntled customers are as follows:

——— owners of ——— complained about this regulation, and held the cost of the fee appraisal is unnecessary and she didn't want to pay it.

——— wanted to purchase some land in Homer and found the cost of the appraisal was the difference between buying the property and not buying it.

——— complained about the high cost of a commercial appraisal when financing their mini-storage complex. They felt badly because the bank ends up using their own value instead of the appraised value, that is unless the appraisal comes in lower than the banks, in which case the bank will, of course, use the lower amount.

——— owner of ——— scratched her new building plans once she found out that the bank would reqnire an appraisal that would cost her $?,000–$5,000.

In summation I would like to stress the points that I have made, and to let you know that this regulation is causing friction between this bank and its customers. A few bad examples should not debilitate the entire industry.

It is apparent that since the government is trying to stimulate the economy through interest rate reduction it should also make sure that regulations like this do not constrict this growth.

Thank you for your consideration,

Sincerely,

TODD K. GREIMANN,
Branch Manager,
First National Bank, Homer.

FIRST NATIONAL BANK OF ANCHORAGE,
November 7, 1991.

To: Doug Longacre, Vice President, Branch Administration, First National Bank of Anchorage.
Re: Required Fee Appraisal.

DEAR DOUG: I am writing to you in regards to the required fee appraisal on all loans over $50,000.00, listed below please find a few examples of cases where customerss changed their loan requests due to the extra money, time and aggravation of obtaining a fee appraisal as required by federal legislation.

1. ——— owns a commercial warehouse in the Peters Creek area. He recently requested funds from First National Bank of Anchorage for additional working capital in his business. Due to the expense and time involved in obtaining an appraisal he lowered his loan request to under the $50,000.

2. ——— requested $100,000 to complete tenant improvements to their $1,000,000. ** building. Even though this is a 10% loan to value we would be required to order an ap-

VOL 137 PT 23 NO 21—25 1991 UMI

praisal at an approximate cost of $5–8,000. To avoid this ridiculous requirement and costs we booked this loan unsecured. If this legislation was designed to protect banks this is a perfect example of how this legislation will have an opposite effect.

3. ——— lowered their loan request due to the time and aggravation involved in the appraisal process. They were completing their home and opted to settle for an unfinished down stairs to save the expense of the appraisal.

4. ——— also lowered their request due to the expense of an appraisal. They have a home that would be conservatively valued at $130,000, and felt that paying for an appraisal to borrow 45% loan to value was insane.

———

Loan Amount $80,000.00.

We granted ——— a $80,000 loan to construct and term finance a duplex located in King Cove, Alaska.

We made the construction loan prior to the appraisal requirement. Since we had made him a committment to provide him term financing we closed the loan without an outside independent appraisal. The estimated cost of getting an appraisal would be approximately $2,500 to $3,000. The appraiser would have had to be flown to King Cove from Anchorage because they have no resident appraiser.

———

Loan Amount $60,000.00.

$60,000 loan made in February, 1990 to construct a warehouse in King Salmon, Alaska.

We made ——— the loan by using his equipment as the primary collateral rather then using his real estate which would have been the norm. We did so because the cost and time of having an appraisal completed in King Salmon was cost preventive. Our customer had to accept a shorter term loan using the equipment as collateral then we would of allowed on a loan secured by real estate.

David in the next few years I can see where we might have a problem dealing with real estate loans to fishermen in the smaller communities where the cost of acquiring the appraisal will be cost preventive.

First National Bank of Anchorage,
November 7, 1991.

Hon. Frank Murkowski,
U.S. Senate,
Washington, DC.

Dear Sir: I am writing to express my displeasure with the current legislation requiring bank fee appraisals on real estate loans above $50,000.00.

I have recently been promoted to the Branch Manager of one of our Anchorage based lending branches. On two occasions I have had to inform my customers that even though their property had sufficient coverage, beyond any reasonable doubt, I would have to require a bank fee appraisal on their property in order to adhere to federal regulations. One specific client obtained a mortgage at one of the local credit unions and recently has asked us to re-write at a lower interest rate. His balance is approximately $56,000.00. His tax assessment on the property is $162,000.00. I informed him that we would require a bank fee appraisal. He stated that he would not pay the $500.00 to $600.00 because he felt the costs were so unjustified. The law in this case was detrimental to both the bank and the customer. He could not get his loan rate lowered from approximately 15% and we could not pick-up another good client. Because this particular customer is also a business owner of a printing shop, he wants to talk to us once again about the refinance and expansion plans, using his personal residence as collateral and once again I informed him of the appraisal requirements, and once again he has declined to make application with our institution. Because he feels the fee appraisal is unjustified he does not plan to expand his business and thus there goes three jobs that would help make our economy recover.

I realize that this may seem trivial to some, however it is very important to our business. We are not able to help some that will be able to generate tax dollars which will help not only our state, but also our nation. I feel the best answer is to raise the appraisal requirement to $100,000.00, especially in our compensating housing market.

We are very proud of the stability of our bank and what that stability means to our community. If we do not see some relief in this particular legislation, it could harm our ability to make some loans, which in turn will not allow us to reinvest adequately back into our local economy, thus harming the stability of our community.

I wish to thank you for allowing me to express my thoughts.

Sincerely,

Duane S. Klein,
Branch Manager.

First National Bank of Anchorage,
November 7, 1991.

Memorandum

To: Doug Longacre, Vice President, Branch Lending.
From: Jeff R. Belluomini, Vice President, Kenai Branch.
Re: Fee Appraisals.

Since the rules with regard to requiring fee appraisals when making advances in excess of 50,000.00 against real property have not changed, I thought I'd take a minute to provide you with some feedback as to how customers in general feel about this requirement. In addition, I'll cite a few specific instances in which low LTV loans were granted which really proved to be burdensome to the customer.

Generally speaking, in light of what has transpired in the banking industry nation wide the last few years, customers can appreciate the rationale for requiring a fee appraisal when there is some question as to whether there is sufficient value for the bank to maintain a 75 percent LTV ratio. However, when it is painfully obvious to the banker, as well as the customer, that the LTV ratio is lower than 75 percent, defending the fee appraisal requirement becomes difficult to do. What follows are five instances in which this proved to be the case.

1. Name: ———
Loan Amount: 61,000.00.
Value of Prop: 130,000.00.
LTV: 47 percent.
2. Name: ———
Loan Amount: 66,500.00.
Value of Prop: 104,000.00.
LTV: 64 percent.
3. Name: ———
Loan Amount: 154,000.00.
Value of Prop: 275,000.00.
LTV: 56 percent.
4. Name: ———
Loan Amount: 60,000.00.
Value of Prop: 90,000.00.
LTV: 67 percent.
5. Name: ———
Loan Amount: 107,200.00.
Value of Prop: 245,000.00.
LTV: 44 percent.

The foregoing examples represent instances in which the customer wanted the loan badly enough to pay for the appraisal; however, the bank, on occasion, looses business because a customer considers the requirement to be unreasonable.

I thought you should be aware of how the regulation is ultimately affecting the bank and our customers. I would welcome a modification to the existing legislation which would relax this requirement.

First National Bank of Anchorage,
November 7, 1991.

Hon. Frank Murkowski,
U.S. Senate,
Washington, DC.

Dear Senator Murkowski: I understand that you may soon be voting on important legislation governing the procedures banks must follow when lending on real estate. Apparently, consideration is being given to relaxing the requirement that banks obtain a fee appraisal on real estate for loans in excess of $50,000.00

I hope that you will be able to support an increase in this limitation from $50,000.00 to $100,000.00.

The current limitation that we are forced to honor causes our bank to have to pass on unfair and expensive appraisal costs to our borrowers. The typical fee appraisal in Anchorage cost between $450.00 to $550.00 per unit. Appraisals used to be priced much more reasonable but the appraisal community raised prices in response to the additional work they must perform to comply with appraisal guidelines established in Firrera.

In the last eight months there have been many occasions when I have been prohibited from lending on real estate without a fee appraisal because my loan has been slightly over $50,000.00. In these cases I have had a difficult time explaining to my customers why they have to pay for an appraisal on their homes even though they have twice the loan amount in equity. The most difficult part of this situation is the fact that in most cases I as the lending officer or loan committee will be more conservative than any appraiser that might complete a report.

To illustrate my point; is a loan for $100,000.00 on a $300,000.00 property appraised by a bank officer less of an investment than a $70,000.00 loan on a property appraised by a fee appraiser, for $100,000.00.

I believe there must be a more equitable method of protecting the banks interest and still minimizing the cost to the consumer. If the limit was raised to $100,000.00 for those financial institutions that maintained adequate reserves or capital I am confident the regulators concerns would be met. The other solution is to make the $100,000.00 limit be subject to a adequate loan to value ratio acceptable to everyone.

Either of these two solutions makes much better sense than to pass the responsibility to a third party who is not necessarily any better at identifying the value of real property. In the past this has lead to many institutions relying on the appraiser instead of their own intimate knowledge of the market.

Thank you for giving me the opportunity to provide another perspective on the issue at hand.

Sincerely,

Richard Brittain,
Assistant Vice President.

First National Bank of Anchoraoe,
November 7, 1991.

To: Doug Longacre, Vice President, Branch Lending Department.
From: Charles 1. Weimer, Vice President, Soldotna Branch.
Re: Fee Appraisals.

Has your office received any follow up information on the recent passage of the rules requiring that we as banks continue to require fee appraisals on all loans in excess of $50,000.00 that are secured by real estate? I continue to find this requirement a source of frustration and in some cases a hardship for a fairly significant number of our customers.

I would like to site a few examples of this frustration that has taken place in our Soldotna Service Area within the last 60 days.

No. 1 Loan /August 30, 1991.

Loan Amount: $250,000.00.

Collateral and Value: (1) 1st D.O.T. Lot 9, Block 3, Chinulna Point Subdivision valued at $260,000. (2) 1st D.O.T. Tract A-1 Tower Hill Subdivision valued at $131,000. (3) 1st D.O.T. Lot 7, Block 8, Alyeska Subdivision valued at $121,000.00.

The ——— Family is a long time customer of ours. At one point in time, our bank has had an interest in each and every one of the properties that we currently hold as collateral on this current note. I am familiar with each of the properties we hold as collateral, and personally did an inspection of each prior to approving this recent loan request. As mentioned, the new loan amount is $250,000.00. The value of the one piece of collateral alone (Lot 9, Block 3, Chinulna Point Subdivision) is $260,000.00 which is in excess of our gross loan amount. We have two other improved parcels as additional collateral, the combined total of which equals $252,000.00, making our collateral value $512,000.00 giving us an original loan to value ratio of 49%.

We are well collateralized on this note, we made personal inspections of each piece of our collateral, we made the loan to a customer that has borrowed from our bank on numerous occasions over the years, but we still needed fee appraisals on *each* piece of collateral. That is my estimation was a disservice and a great expense to our customer. The cost for the three fee appraisals to my customer totaled $1,675.00.

No. 2. Loan ——— / September 23, 1991.

———.

Loan Amount: $50,000.00.

Collateral and Value: 2nd D.O.T. (behind our own Soldotna Branch 1st D.O.T.) on NW¼ of NE¼ Section 32. Balance of 1st D.O.T. totals $74,000.00. Collateral value of this commercial real estate and improvements par Kenai Peninsula Borough assessed value totals $512,600.00 giving us a combined loan to value ratio of 244 on this property.

——— borrowed these funds to help him take care of some expanses associated with his small business as well as to pay some expenses relating to his family. ——— requested $60,000.00 to help him meet his obligations but when I informed him that we would need to have a fee appraisal completed on his property (at a cost to him of $3,525.000) he decided to only borrow $50,000.00.

What this ultimately did was make ——— take the additional $10,000.00 he needed out of his working capital to meet his obligations. Hopefully this decrease in his working capital will not present a hardship for him this winter.

No. 3. Loan ——— / September 23, 1991.

Loan Amount: $80,000.00.

Collateral and Value: 1st D.O.T. Lots 3A, 4 & 5, Thompson Park Subdivision valued by the Kenai Peninsula Borough at $194,600.00 giving us a loan to value ratio on this advance of 25% per that assessment.

The ——— approached our bank to help it refinance the indebtedness the ——— owed to the F.D.I.C. A balloon payment on the note to the F.D.I.C. had come due. Outstanding payoff balance totaled $57,000.00. I was happy to be able to help the ——— and informed the Trustees of the Club that a fee appraisal would be required. This particular fee appraisal was going to cost the Club $2,750.00—$3,500.00 plus tax. If the ——— had to buy an appraisal it would have had to use monies it had set aside for its scholarship program. Having to provide an appraisal was unacceptable to the Club and it made different arrangements to pay the balance of the payoff to F.D.I.C.

As mentioned our loan of $50,000.00 gave us a loan to value of 25%. If we had made the loan of $57,000.00 our LTV would not have been significantly changed at 29%.

No. 4. I would like to also make reference to a transaction that I expect to be completing within the next 10–14 days ——— own a beautiful home on the Kenai River here in Soldotna. The ——— are retired and operate the home as a Bed & Breakfast during the summer months of each year.

Currently ——— owe $84,000.00 on this property (which is the remaining balance of an investor $110,000 1st D.O.T.) which they built in 1984 at a cost of $185,000.00. The current year Kenai Peninsula Borough assessed value of the property totals $183,400.00. Both Cheryle James and myself had toured the entire property.

The ——— wish to re-finance this property to enable them to take advantage of current lower interest rates, but also wanted to take $20,000.00 out of their pocket to pay the balance down from $84,000.00 to $64,000.00. I told ——— and ——— that the bank would be happy to help them in this request and since our new loan amount would be $64,000 that I would need to require a fee appraisal of the property.

The ——— did not wish to spend the $700.00 for the fee appraisal and where in a quandary as to what to do. They could not understand why the bank would require an appraisal on a property that had as much equity as theirs. The ——— wanted to discuss things and agreed to get back with me.

As it turned out ——— decided to take additional money from their retirement savings to pay the $84,000.00 note down to $50,000.00 instead of paying it down to $64,000.00 thus eliminating the need for the fee appraisal.

In this instance I was frustrated that I needed to require a fee appraisal.

Doug, as a matter of course, the Soldotna Branch orders fee appraisals on those properties that we may be unfamiliar with or that we have any doubts about. We also order a fee appraisal of we feel our in-house bank appraisal and/or assessed value comparisons are insufficient. I have however been frustrated recently with regard to the $50,000.00 requirement.

Please let me know if and when you find out any additional or updated information regarding this matter.

[From the American Banker, Sept. 25, 1990]

The Tough Frontier: Appraisal Law Terrorizes Alaska's Wilderness

(By Stuart Sperry)

Nome, AK.—Trip itinerary of Alaska-certified real-estate appraiser Grizzly Iceberger:

4 a.m.—Load sled.

4:30 a.m.—Hitch dogs to sled.

4:45 a.m.—Depart from Fairbanks.

12:30 p.m.—Bore hole in ice, hook fish, cook and eat.

1 p.m.—Resume travel after dogs eat.

8 p.m.—Stop for night; bore hole in ice, hook fish, cook and eat; dig shelter in snow; crawl in, sleep.

Repeat for next few months, appraising every transaction required between the two cities.

Unlikely scenario—perhaps. But, the extent of this exaggeration is surpassed by the amount of concern Alaska bankers have shown about new appraisal standards in their state.

As the 1989 Financial Institutions Reform, Recovery and Enforcement Act swings into motion, Title XI, with its more rigid appraisal standards, may hit the nation's largest and most sparsely populated state the hardest.

By dogsled, Yukon Quest, host of the Ididarod dogsled race, said a 1,000-mile journey could cost as little as $3,000—and that is the deluxe package (complete with markers, food and air support). The imaginary appraiser, Grizzly Iceberger, could do it much cheaper on his own.

The state's rugged tundra menacingly awaits the certified appraiser—eager to gobble banks' dollars.

Alaska bankers are concerned that cost and appraiser availability will present tremendous problems.

State lawmakers, in an attempt to ease these concerns, have adopted legislation that would lessen the financial burden that banks would incur because of certified-appraiser shortages and astronomical time and travel expense. Thus, such cost-cutting extremes as dogsleds and igloo hotels may be avoided.

Because many Alaska cities are only accessible by air, "certified appraisals would be extremely expensive and time-consuming," said James C. Lund, senior vice president, National Bank of Alaska, Fairbanks.

Alaska appraisal legislation contains this subsection:

"The [appraisal] board may provide for the limited certification of persons not meeting the qualifications prescribed in this section and may prescribe qualifications for limited certification. Persons receiving limited certification under this subsection may perform an appraisal that would otherwise require an appraiser meeting [standard certification requirements] only if:

(1) "The property being appraised is located in a sparsely settled area of the state.

(2) "The cost of an appraisal by an appraiser certified under [the standard certification requirements] would be unreasonably high with regard to the value of the property being appraised.

(3) "The appraisal by the person is consistent with federal law."

Lund said the bill "gives the licensing and certification committee the ability to make exceptions to the hard rules."

However, such clauses may not be in accordance with federal guidelines as established by the Appraisal Subcommittee.

The subcommittee has designated two types of appraisers—state certified and state licensed. Subcommittee Chairman Kevin Blakely told ABA Bankers Weekly that the subcommittee will have to "look very carefully at" state legislation that designates appraiser types other than those stated—such as the "limited certification" in Alaska.

Blakely, who represents the Office of the Comptroller of the Currency on the interagency subcommittee, also explained the subcommittee's staunch position on the requirements for the certification and licensing of appraisers.

The Appraisal Subcommittee "has tried to alleviate the concerns of scar-city of appraisers and cost [of appraisals] by adopting regulations with a broad enough scope," he said.

VOL 137 PT 23 NO 21—25 1991 UMI

Blakely said the de minimis cut-off level and additional powers granted to licensed appraisers were adopted to address the concerns of states such as Alaska.

The chairman said the subcommittee has no problem with states that adopt appraisal standards that call for specified types of appraisers so long as the certified and licensed appraiser regulations are in place and comply with federal guidelines.

Many states are using a three-tiered system of classification. Legislation designates licensed, certified general and certified residential in this system.

[From the Anchorage Daily News, Sept. 29, 1991]

FEW WILL TOUCH ALASKA LOANS

(By Bruce Melzer)

Jan Sieberts of National Bank of Alaska can't get anyone to return his calls. Vic Mollozzi at Northrim Bank said he's gotten nothing but "No."

Savings and loan associations, pension funds and insurance companies outside Alaska that once loaned mortgage money for commercial real estate purchasers or developments are handing up on Alaska's bankers. Some are even demanding early repayment of the loans they've already made.

"We're right back to where we were 15 or 20 years ago. Nobody wants to put money hers," said Randy Boyd, the vice president who handles real estate lending at Key Bank of Alaska.

Alaska's credit crunch lingers today, five years after Anchorage's real estate market started collapsing in the late 1980s recession. For years it hardly mattered. Most of the commercial real estate sales were repossessed properties, often bought by investors with lots of cash and financed by the institutions that held the property.

But as Anchorage shakes off the dark days of the late 1980s, businesses and commercial real estate investors are scrambling to find loans to buy buildings, build new ones or expand existing ones. Some bankers fear Alaska's economy could be dragged down if business can't find the money to grow.

Alaska banks, stung by millions of dollars in soured loans during the 1980s, are picky about who gets their money today: only those who plunk down a lot of their own cash and don't want to borrow the banks' funds for very long.

Already bankers are putting pressure on the state to fill the void left by Outside lenders.

Blame it on the national recession, poor investments by the insurance companies and the collapse of many real estate based savings and loans around the country, said Boyd and Sieberts. Add to that the pressure by bank regulators to reduce real estate ending up in the nation's banks, the bankers said.

Aggressive real estate lending pulled down most of the nine banks that failed in the recession and that helped taint lenders' view of Alaska, said Glenn Olds, state commissioner of commerce.

"The Outside banks and pension funds had so much fun in Alaska, they don't want to come back," said Wayne Williams, deputy director at the Alaska Industrial Development and Export Authority.

NO TAKERS

Bob Hickel puts out 140 calls in his efforts to refinance the loan on his company's University Center shopping mall. Equitable Life Assurance Society held an 11-year loan on the mall. But, this year, the giant insurance company was in the middle of a well-publicized cash squeeze, he said.

When Equitable asked to be paid off early, which it had to right to do under the loan arrangement, Hickel spent nearly four frustrating months trying to find another lender.

Potential financiers didn't have problem with the real estate itself. "There was simply no interest in Alaska," said the president of Hickel Investment Co.

The mall owner is renegotiating the loan with Equitable. The insurer's willingness to keep the mall loan was due in part to its improved financial shape after cash infusion by a French insurance firm, Hickel said.

Banks typically loaned money for construction of projects like Hickel's mall, but often didn't carry the mortgage. Instead the banks sell the loan to companies that make their money with long-term investments; savings and loans, insurance companies and pension funds, said NBA's Sieberts.

Commercial real estate sales work the same way. Local banks often make the loan, then sell it.

This year, Sieberts tried to spur interest in some Alaska real estate deals to the few Outside investors still buying commercial mortgages.

"They will go through 49 states before they come here. They won't return my calls anymore," he said.

Alaska's banks will lend for real estate, but only for buildings that are sure-fire moneymakers over relative short periods. All of the major banks usually require buyers to put up at least 25 percent of the building price, sometimes more.

NBA will make real estate loans to investors for a maximum of 10 years, Sieberts said. Those loans stay in the bank's own portfolio. Interest rates adjust every three years for typical NBA real estate loans.

First National Bank of Anchorage, the state's second largest bank, gives 15-year loans with a minimum 25 percent down payment, typically with variable interest rates, said Richard Enberg, head of the corporate lending division.

Key Bank has the longest terms available. It offers loans between 15 and 20 years. But those loans often include an option to "call" the loan—a demand for full repayment after five to seven years. Boyd said.

Security Pacific Bank, Alaska's fourth largest, gives commercial real estate loans mainly for businesses occupying the building they are buying, said Ralph Holliday, president.

No borrower is immune from the credit crunch. Northrim Bank, Alaska's newest bank, is looking to buy the building it leases on C Street, said Marc Langland, bank president. Even though the sale is still being worked out, Seattle's Seafirst Corp. has already turned down Northrim, said Williams with AIDEA.

Northrim has taken the first steps to get a loan from AIDEA, Williams said.

NATIONAL CRISIS

The credit crunch extends beyond Alaska. "Over the past 18 months a credit crisis of national proportions has developed and grown increasingly severe, particularly for real estate market," wrote the National Reality Committee, an industry lobbying group.

"Today's credit crisis is marked by unchecked declines in real estate values, illiquid real estate markets, mounting stress on the banking system, increasing unemployment and an eroding state and local property tax base," the committee wrote.

That real estate group says the banks are being squeezed out of commercial real estate lending by a slumping market throughout the nation, and regulators fearful of excessive real estate lending. As part of a national trend, Alaska's bankers are being pressured by bank regulators to reduce real estate lending, said Sieberts of NBA.

The United States' banking system isn't set up to allow banks to loan long term, bankers said.

Banks rely on depositors for their funds, depositors that can demand their money at any time, said Northrim's Langland. This need for liquidity—the ability to get cash on hand in a hurry—makes it difficult for banks to tie up their money for the 20 or 25 years often needed for real estate deals, he said.

The credit crunch may be real, but bankers and commercial real estate brokers had a hard time pointing to a good, solid deal that died for lack of a loan.

Jeff Thon, broker at Pacific Tower Properties, said the problem may be that buyers are unsatisfied with the loan terms because they have to make too large a down payment or pay off the loan too quickly.

Alaska banks can handle the community's needs, said D.H. Cuddy, president of First National. Despite his confidence in the local banks, Cuddy said he is concerned by the pullout of the life insurance companies.

"With the chaos in the real estate market, Outside banks have taken losses in this market, and it will take time to woo them back," he said.

But some bankers worry that if the credit crunch continues, Alaska business will be badly hurt. If the lending system can't allow business to grow, "the economy can slide pretty fast. Coming out of the recession, we need all the tools we can get," Langland said.

TURNING TO THE STATE

Alaska's bankers are looking to the state-owned Alaska Industrial Development and Export Authority to plug the gap left by the exodus of Outside lenders.

"We can't rely on the rest of the United States to take care of us," said Sieberts.

So far the agency's new board has been reluctant to jump headlong into major real estate lending, but that policy is likely to change according to Olds, commerce commissioner and AIDEA board member. The agency's board is in the middle of examining its mandate, he said.

Last month AIDEA's board turned down a real estate loan for Aleut Corp. to buy a $2 million strip mall on Tudor Road. The board said the project wasn't worthy of funding because it didn't create jobs, said William Scott, agency executive director.

The decision shocked the bankers, who have been selling just such loans to AIDEA for 11 years. Under the program, the bank holds about 20 percent of a loan and AIDEA holds the rest, Williams said.

"We kind of thought with the new administration, they would open up (to commercial lending). That hasn't been the case," said Sieberts, whose bank brought the Aleut loan to AIDEA.

The deal didn't die, though, NBA financed the loan after Aleut agreed to a down payment of nearly 50 percent, said Alice Petrivelli, the Native corporation's president.

Bankers have been leaning on AIDEA to fund real estate, regardless of whether the deal creates jobs.

"My personal feeling is that AIDEA should be making good, solid, well-evaluated loans. I'm not that uptight that only procuring new jobs or products demonstrates, economic development," Scott said.

Edgar Blatchford, a board member and the state's commissioner of community and regional affairs, said he supports some real estate investment, but, "I would like to see the generation of local jobs for local people" as the priority for AIDEA funding.

Despite the cries of "credit crunch," AIDEA hasn't seen much demand for loans, Scott said.

Last year only one bank approached AIDEA with a loan, agency records show. This year banks have proposed eight deals, according to the records.

All the tools are in place to make it even easier for AIDEA to get into long-term real estate loans. A new program encourages banks to sell participation in long-term loans to AIDEA, by enabling the banks to get repaid twice as fast as the agency does. That technique already has been used to fund development of the new Carrs Quality Center in Kenai.

But AIDEA's funds are limited. Only about 15 percent of the agency's $900 million assets could be available for lending, Scott said. Real estate loans also would have to compete with other development projects, large and small, funded by the authority, he said.

So far the credit crunch appears to be manageable. Real estate buyers aren't breaking down the doors to get loans, bankers said. But Hickel, the mall owner, wonders what will happen if the insurance companies and other Outside lenders want their money sooner, rather than later, or refuse to refinance the loans they already have. "If everyone is going to call their loans, who is going to come up with the money."

Mr. DOMENICI. Mr. President, America will spend $300 billion directly and indirectly on litigation this year. If this money were dedicated to the deficit we would have no deficit this year. This would be great for the economy! It would reduce the cost of capital. It would free business managers from worrying about lawsuits and give them time to think about creating and marketing new products in new markets. It would create jobs. It sounds too good to be true.

I realize that litigation, like deficits are going to be around for years to come, but I think we should be careful not to encourage more litigation. We should focus carefully on one provision of the banking bill because it will have that effect.

The provision would overrule the Supreme Court in Lampf, Pleva, Lipkind, Prupis & Petigrow versus Gilbertson. This case established, for the first time, a uniform statute of limitations for 10(b)(5) securities private rights of actions.

Statutes of limitation are deadlines that people have for filing lawsuits. Changing a deadline does not sound like a very important issue for the Congress, but unless we act carefully we could be skewing our legal system too far in the wrong direction by inviting more meritless lawsuits. It could hurt us from a competitiveness standpoint and put us in the situation where the best thing the U.S. manufacturers in law suits.

For legal scholars, for securities lawyers and judges, 10(5) is a fascinating area of the law. Congress did not create a private right of action under section 10b. The Court did. They developed the elements of the action and the defenses and burdens of proof. When the Federal Rules of Civil Procedure were updated in 1966 the class action of rule 23 was married up with rule 10(b)(5) to become corporate America's Eleventh Commandment, that is, "Thou shalt not commit 10(b)(5)."

Rule 10b makes it illegal for an issuer of securities to employ any device, scheme, or artifice to defraud * * * and to make any untrue statement of a material fact or to omit to state a material fact. These words have been interpreted to allow private plaintiffs to sue for any fraud that touches upon the purchase or sale of securities. They can sue practically anyone, no matter how peripherally involved.

The Congress has taken a hands off approach to 10(b) and has allowed the courts to run the show. The Lampf case held that the appropriate statute of limitations for implied causes of action should be 1 year from the discovery of the fraud or 3 years from the date the fraud was committed. The Court provided this outside limit, and rejected the doctrine of tolling the statute (holding it in abeyance) when people don't have any way of knowing they have been defrauded.

The Court also made its "1 and 3" rule retroactive. Cases that were filed on time under the old rules must be dismissed if they were not filed on time according to the new rules of Lampf.

Allowing cases to be dismissed unless they met the new rule has caused a lot of trouble. FDIC is concerned that some of its S&L cases might be dismissed. Cases against Michael Milken, Charles Keating, and other famous rogues have been, or might be dismissed unless Congress acts.

In my own State, I know of a woman, Thomasita Garcia, who filed a 10(b)(5) case that was dismissed because it did not meet the Lampf timetable. She is hoping Congress will eliminate the retroactive impact of the Supreme Court's decision so that her case can be refiled.

Congress has to reverse the retroactivity. Perhaps the Congress should provide a longer statute of limitations.

The Chairman of the SEC, Richard Breeden believes that the 1- and 3-year limitation is too short and that the uniform rule should be 2 and 5, that is, 2 years from when the fraud was discovered or 5 years from the time the fraud was committed.

If Congress is going to overrule the Supreme Court and examine 10(b)(5), I think it has to also address the growing number of meritless 10(5) cases that are making it harder and harder for U.S. companies to focus on developing better products and competing internationally.

Lawsuits are a distraction. Frivolous lawsuits are not only, as one CEO has put it, counterproductive but nonproductive.

If the Congress is going to overrule the Supreme Court and lengthen the statute of limitations it must also enact some reforms to curb the abuse of the 10(b)(5) lawsuit and our courts.

The number of securities fraud lawsuits has tripled since 1988.

At least 1 out of every 14 companies on the New York Stock Exchange has been confronted by a securities fraud suit.

The Chairman of the SEC has publicly stated three times in as many weeks that "frivolous securities claims should * * * warrant our attention and our efforts to control."

He recognizes that litigation in all too many cases may be seen as the route for trying to recover what may have been market losses. In effect, some investors may seek a system of heads I win, tails I sue. * * *

Chairman Breeden agrees with an academic study of securities class actions that concluded, "because of the risks and costs of litigation, companies settle weak or even meritless claims on essentially the same terms as they settle meritorious claims."

He stated that:

> [a] litigation system that fails to separate strong claims from meritless claims serves no one. It does not serve investors who have clear, solid claims and yet receive only a modest settlement, even more modest after payment of substantial attorneys' fees. It does not serve companies who have valid, strong defenses, and yet pay millions to settle the claims to avoid the costs and risks of litigation.

The Supreme Court recognized the problem as long ago as 1975, stating that securities claims "which by objective standards may have very little chance of success at trial [have] a settlement value to the plaintiff out of any proportion to its prospect of success at trial so long as he may prevent the suit from being resolved against him by dismissal or summary judgment. The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit."

Also, "[t]he prospect of extensive deposition of the defendant's officers and associates and the concomitant opportunity for extensive discovery of business documents is a common occurrence in this and similar types of litigation."

> [T]o the extent that [this process] permits a plaintiff with a largely groundless claim to simply take up the time of a number of other people, with the right to do so representing an in terrorem increment of settlement value, rather than a reasonably founded hope that the process will reveal relevant evidence, it is a social cost rather than a benefit.

Vincent O'Brien, a principal of the Law and Economics Consulting Group in Berkeley, CA, examined 330 securities fraud cases.

VOL 137 PT 23 NO 21—25 1991 UMI

In the 330 suits brought since 1988, 96 percent settled out of court. The norm for most other civil litigation is 60 to 70 percent.

The average attorney's award in the 330 cases was $1 million in legal fees and $250,000 in costs. This amounted to 21 percent of the average settlement award.

The percentage of settlement amounts that compensated stockholders' actual losses were very low. Cash settlements averaged 6 percent of the total trading loses suffered by purchasers of common stock.

The 83 settlements in 1990 earned lawyers more than $100 million in expenses and fees.

I ask unanimous consent that a September 10, 1991, Wall Street Journal article entitled "The Class-Action Shakedown Racket" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 10, 1991]

THE CLASS-ACTION SHAKEDOWN RACKET

(By Vincent E. O'Brien)

The class-action securities-fraud suit has become a feature of doing business for just about every size and type of company in the U.S. Since 1968, the number of these suits filed in federal courts has almost tripled. In the past three years, at least one out of 14 companies on the Big Board has experienced a securities-fraud suit, most of them alleging concealment of failure to disclose information, and claiming significant monetary damages.

Proponents of securities class actions say that the suits prevent fraud and help maintain the integrity of financial markets. The large number of cases and the settlements are, to them, evidence of the need for securities class actions.

Are the proponents right? To shed some light on the issue, I collected data on more than 330 federal class-action securities-fraud cases involving common stock, all of them within the past three years. In every case, the plaintiffs alleged material misrepresentations and omissions by management regarding the true health and potential of the defendant company.

I found, as have most of other studies of the subject, that virtually all securities-fraud class-action cases are resolved through settlement. In my 330-case sample, only three cases were decided by a jury; an additional five were dismissed or withdrawn. All in all, 96 percent of securities class-action cases in my sample were settled out of court. The norm for most other civil cases is 60 to 70 percent.

It is not the small investor who benefits from this litigation. Individual stock buyers get little direct benefit from the class-action suits brought on their behalf. Most of the shareholder losses are suffered by large institutional investors, and it is they who receive the bulk of the settlements. In the most extreme case, five claimants out of 302—the T. Rowe Price Horizons Fund, the Fidelity Magellan Fund, the IDS Managed Retirement Fund, the Kemper Total Return Fund and Chase Manhattan Bank—received 36 percent of the settlements. In another case, with 4,952 approved claimants, 52 percent of the settlement went to 1 percent of the claimants; not one of that 1 percent was an individual. In a third, just one out of 1,531 claimants got more than 10 percent of the claim.

After, of course, deducting for attorneys' fees: the average attorney's award in the 330 cases was about $1 million in fees and $250,000 in expenses, or a little more than 21 percent of the average settlement amount. In 1990, settlements were announced for 83 cases, earning the plaintiffs' attorneys more than $100 million in fees and expenses. A big part of these fees goes to a small handful of plaintiffs' firms: While more than 120 firms were identified as plaintiffs' counsel, one or more of just seven of these firms were involved in 40 percent of the cases.

None of these facts would be especially objectionable if the lawsuits were in fact punishing and deterring wrongdoers. But despite the high settlement rate, the data don't support such a sunny conclusion. Instead, regardless of size, profitability, industry type or location, any company whose stock price declines is open to a class-action suit.

Conventional wisdom says companies likely to be the target of shareholders' wrath are small, new and probably high-tech. But in fact, securities-fraud class-action suits are not confined to say one type of company. While one-quarter of the defendants in the sample of 330 cases were banking and investment companies and one-fifth were computer or software companies, more than half of the cases represented a wide range of industries: heavy equipment, entertainment, retail, pharmaceuticals and health care.

Nor did size make any difference. Companies with less than $10 million in revenues were sued as frequently as their $30 billion brethren. While more than half of the companies sued had less than $500 million in sales, fully 13% had annual revenues exceeding $2.5 billion.

Being long established did not protect a company from litigation either. Nine percent of the companies sued had been incorporated for five years or less, but 75% had existed as corporations for more than 10 years. Fewer than a quarter of the suits related to new securities offerings, and fewer yet involved initial public offerings of stock.

One thing that virtually all the defendants did have in common was a steep drop in the price of their common stock—49%, on average. In a handful of cases, the defendant company was sued because the stock price went up. In these cases the plaintiff class consisted of investors who sold stock before disclosures, typically of mergers or takeovers, boosted the share price.

Curiously, there is little variation in settlement amounts, both in real terms and as a percentage of investor losses. This suggests that settlement payments are not determined on the merits of the cases but by other factors, perhaps insurance coverage. While the types of companies sued and the circumstances vary widely, settlement outcomes do not. One hundred and seventy-nine cases have reportedly settled since April 1988. Two-thirds of the cases studied settled for less than $5 million; almost 85% for less than $10 million.

The settlement amount as a percentage of stockholder losses was consistently low. In a random sample of 20 cases, I estimated actual trading patterns and calculated the total trading losses to stock buyers in the alleged damage period. I found that cash settlement amounts averaged about 6% of total trading losses for purchasers of common stock during the relevant period. Once again, the outcomes were highly concentrated in the lower end of the range; 12 of the 20 cases settled for less than 5% of the trading losses.

Cash settlements in our sample provided less than a nickel in actual compensation for every dollar lost by investors, since attorneys' fees and administrative fees consumed, on average, 21% or more of the settlement fund.

In sum, virtually every company in every industry faces a significant probability of being sued, most likely by one of seven law firms. If past experience holds true, the litigation will undoubtedly be settled and the amount of the settlement will probably be less than $5 million. Investors will receive only a tiny fraction of their losses, with most of this being paid to sophisticated, professional investors. Plaintiffs' attorneys will divvy up more than $1 million in fees. It is not likely that undergoing such a suit will improve a company's way of doing business, nor is it likely to deter fraud. Most important, the securities class-action suit will seldom offer any benefit to the party it is supposed to champion; the stockholder.

Mr. DOMENICI. Another study by Dr. Alexander came to similar conclusions: Settlement amounts do not vary on the basis of the strength of the plaintiff's claim. They depend entirely on the amount of damages claimed or the amount of the defendants' insurance coverage. Third, the settlements provide very little for the plaintiffs—between 5 and 15 cents for each $1 sought in the complaint, but the lawyers average $1 million in fees for each case, typically 30 percent of the entire settlement. Interestingly enough, the study found that lawsuits are much less frequently filed or not filed at all, where the amount of damages that could be claimed is less than $20 million.

The system isn't really working. Innocent defendants are settling meritless cases rather than fighting them. One CEO has called it extortion.

Victims of serious fraud are getting no more than those asserting meritless claims.

I would like to see a system where real victims recover 70 percent or more of their losses, where the attorneys get less and where speculators filing frivolous lawsuits get nothing. If amendments that Senator McCONNELL, Senator GRAMM and others offer later today are enacted we will have vastly improved the system. Speculators and their lawyers who file meritless suits would have to pay the prevailing party's attorneys' fees and costs.

LAMPF DECISIONS AND THE BANKING BILL

Mr. McCONNELL. Mr. President, the banking bill which had been before us this past week contained a provision in the miscellaneous section that was far from miscellaneous to emerging innovative businesses in our Nation. It was far from miscellaneous for trial lawyers who specialize in securities cases.

The provision I speak of was the so-called Bryan amendment that reversed a recent Supreme Court decision, Lampf versus Gilbertson. In Lampf, the Court interpreted securities laws to re-

quire a uniform statute of limitations for cases brought under section 10(b) of the Securities Exchange Act of the 1934 and Securities and Exchange Commission Rule 10b-5 alleging securities fraud brought by disgruntled shareholders against management

Determining that Congress had carefully balanced the relevant considerations in selecting statutes of limitations for the express causes of action contained in the 1934 act, the Court held that these same periods should apply to implied causes of action under section 10(b). It held that 10(b) claims must be brought within 1 year of the time the plaintiff knew or should have known of the facts constituting the alleged fraud, but in any event no later than 3 years from the time of those events.

The Bryan amendment changed the law set in Lampf in several aspects: First, it extended the 3-year absolute limit to 5 years; second, it doubled the time that plaintiffs have to file suit from the time they are on notice of the alleged fraud from 1 to 2 years; and third, it eliminated the requirement that plaintiffs exercise reasonable diligence in discovering the alleged fraud. Under the Bryan amendment, plaintiffs could have brought suit 2 years from the time they actually discovered the alleged fraud, whether or not they could have discovered it earlier through the exercise of reasonable diligence.

To fully appreciate the ramifications these changes portend for emerging, innovative businesses in this country, one needs to know the nature of securities litigation.

Mr. President, any company whose stock price is volatile is a sitting duck for these 10(b) lawsuits regardless of whether there is any fraud involved.

Companies, their outside directors, and accountants, are sued for allegedly overstating prospects, understating, and even saying nothing at all. Law firms who specialize in these cases use professional plaintiffs and other stock speculators to file a class action suit. Then, they use the discovery process to pressure companies, as well as peripheral deep-pocket defendants into settling the cases even when they have done nothing wrong.

Mr. President, such tactics have been termed "layermail." One favored target, who has been sued by 13 different plaintiffs, calls it "legalized extortion." He states, "They know how expensive it is for us to take our case to court. We're supposed to give them a few million dollars so they'll go away."

More than 98 percent of these suits are settled without trial. Lawyers typically get 30 percent of the settlements, plaintiffs about 10 percent of their trading losses. The big winners are plaintiff lawyers.

The big losers are targeted companies and the American people. Consumers pick up the tab for these suits and settlements that as Forbes magazine noted on August 19 are "a kind of tax on American businesses trying to survive in a tough industry and a tough world."

Mr. President, this is another example of the lawyer's tax that is dealing serious blows to our already feeble economy. To cut the tax for all Americans, last week I introduced S. 1979, the Lawsuit Reform Act.

It is no wonder that America has 70 percent of the world's lawyers. Congress is adept at keeping them busy. We have passed a litany of lawyer-relief bills and many more wait in the wings. This particular provision, the Bryan amendment, would have benefited a select group of plaintiff lawyers who prey on companies experiencing stock volatility—regardless of the presence of fraud.

Mr. President, we should be creating jobs for America's unemployed—not overpaid lawyers.

To that end, 2 years ago I introduced the Lawsuit Reform Act, comprehensive tort reform legislation that was supported by an extraordinary coalition of diverse organizations. The coalition consisted of volunteer organizations, health care providers, education associations, local governments, law enforcement organizations, professional groups, and small businesses. These groups share a common affliction—a civil justice system run amok. They supported my comprehensive bill because it addressed the concerns of all Americans, not just those of a narrow interest group.

Mr. President, comprehensive tort reform such as I introduced 2 years ago, and again last week, protects both the victims of wrongful injuries—who have a right to fair compesnation—and the victims of wrongful lawsuits. My bill, the Lawsuit Reform Act, does the following:

First, abolishes the doctrine of joint and several liability, so that a defendant's share of the damages is proportional with his share of responsibility for causing the harm;

Second, requires the loser of any civil action covered by the bill to pay the legal costs of the winner, up to a reasonable limit, unless the loser is legally indigent;

Third, prohibits a person from suing others if the person was under the influence of illegal drugs or alcohol and this condition was over 50 percent responsible for their injury;

Fourth, provides that awards for damages in product liability suits will be offset by payments from workers' compensation programs, and allows for a right of subrogation; and

Fifth, limits the statutory liability of local governments under 42 U.S.C. 1983 except in bona fide constitutional rights cases; and

Sixth, promotes alternative means of dispute resolution.

Mr. President, these six provisions would go a long way toward restoring balance and reason to our Nation's civil justice system. A civil justice system that currently is crushing America's volunteer spirit, driving up health care costs, reducing educational opportunities, cutting essential services of local governments, and making America less competitive in the world marketplace.

There has been a lot of talk around here lately on the terrible injustice of unemployment. We are awash in bills to stimulate the economy. One of the areas we should be looking at is tort reform to alleviate this terrible drag on the economy—the litigation crisis.

The civil justice system—the lawyer's tax—is costing America jobs. It is costing consumers billions of dollars. And it is robbing consumers of products that, although better than existing products, do not have an established legal history and therefore are too risky to put on the marketplace.

The lawyer's tax accounts for 95 percent of the cost of child vaccines; a third of the cost of a stepladder; and it adds a surcharge of $300 onto the bill that parents pay to have their baby delivered—if they can find a doctor willing to take the liability risk.

There is no sense in maintaining the status quo, or rejecting tort reform, unless one is more concerned with the economic well-being of trial lawyers than of the American people.

Mr. President, while I believe our Nation needs comprehensive tort reform, for the sake of the debate at hand over the banking bill, the amendment I was prepared to offer is very modest in scope. Further, my amendment is focused on consumer protection. It makes sure that plaintiffs get their money's worth and their fair share when they seek legal counsel. This amendment applies to implied actions brought under the Securities Exchange Act of 1934, and would do the following:

First, limit attorney fees to 20 percent of the total award, tracking the Federal Tort Claims Act.

Second, require an up-front estimate of how much the lawyer is going to charge the plaintiff to bring the suit, including any amounts that will be charged even if the plaintiff loses the case;

Third require up-front disclosure of the lawyer's hourly rates—and gives plaintiffs the right to choose an hourly rate over a contingency fee arrangement; and

Fourth, provide plaintiffs a private right of action against their lawyers if they do not comply with these provisions.

Mr. President, these are not draconian measures. They are modest provisions to ensure that the Bryan provision primarily benefits citizens who have been the victims of fraud—rather than lawyers looking to cash in. This is a consumer protection amendment.

VOL 137 PT 23 NO 21—25 1991 UMI

There is a case to be made for abolishing contingency fees, period. As Walter Olson, a senior fellow at the Manhattan Institute has written:

> The case against the contingency fee has always rested on the danger it poses not to the one who pays it, but to the opponents and more widely to justice itself. As other nations recognize, it can yoke lawyer and client in a perfectly harmonious and efficient assault on the general public. The designated opponents are far from the only ones victimized by wrongful or overzealous litigation. Every lawsuit sweeps in third parties who are forced to expand time, energy, and money without compensation, and surrender their privacy by answering under oath the probing questions of a hostile lawyer. The cost to taxpayers of running the system are far from trivial; more broadly, lawsuits tend to paralyze productive initiative by keeping rights in a state of suspense. We all pay for needless litigation.

The Bryan amendment and the Supreme Court's Lampf decision notwithstanding, there is a liability crisis afflicting the securities industry and, in turn, thousands of American businesses.

Mr. President, this is the time, and the place, for tort reform. But in the interest of getting an agreement on the banking bill, I along with Senator DOMENICI, Senator GARN, Senator GRAMM, Senator RIEGLE, and Senator BRYAN, have agreed to postpone this debate until after the Senate reconvenes in January.

We have agreed that the Bryan amendment to overturn the Supreme Court's Lampf decision will be removed from the banking bill, and that it will not be added in conference with the House. Further, we have agreed that the Banking Committee will hold hearings on the Bryan amendment as well as litigation problems in the securities industry.

Mr. President, the Bryan amendment and the tort reform amendments that I and Senator DOMENICI have proposed complement one another. It is not a question of one or the other. These matters must go hand-in-hand if we are to protect the victims of fraud and other wrongful actions as well as the victims of wrongful lawsuits.

Proportional liability, the English Rule, a 20-percent fee cap, and other reforms that have been put forth by this Senator and the Senator from New Mexico embody simple fairness and are long overdue. I am pleased that we will have the opportunity to examine these issues further before the Banking Committee and the full Senate.

[From the Investors Business Daily, Nov. 1, 1991]

BEING A PLAINTIFF SOMETIMES AMOUNTS TO A PROFESSION

(By Andrew Leigh)

When an attorney's computer alerts him to a company whose stock price is falling sharply because of an earnings surprise, he needs to quickly find a shareholder who can serve as a plaintiff in a lawsuit.

Only then can he file a class action complaint on behalf of all shareholders.

The lawyer, however, can't dally. Chances are, dozens of other attorneys are also aware of the stock-price change and are racing their complaints to the courthouse.

The incentive to the lawyers for being first is simple: Usually the judge who ultimately presides over the case will name the lawyers who got their cases filed first to be lead counsel. That means they control the case and get a larger cut of the fees.

To gain an edge, firms that specialize in such lawsuits maintain lists of "professional plaintiffs." Their portfolios are structured to be as diverse as possible. After all, you never know who you're going to have to sue.

Now, however, a growing number of judges are holding out another carrot for people who file such suits. They're awarding lead plaintiffs extra cash for sticking their necks out. Defense lawyers worry that these added incentives will encourage more professional plaintiffs and more litigation.

Some repeal plaintiffs are legendary. Harry Lewis, a retired attorney, has been the lead plaintiff in hundreds of lawsuits, mostly in Delaware and New York. Estimates run from 300 to 400. Lewis couldn't be reached for comment. Many repeal plaintiffs are corporate activists—people who consider themselves watchdogs over the American corporate world.

CYNICISM CHARGED

But defense lawyers grouse that the use of repeat plaintiffs reveals a cynicism underlying these cases.

"It's hard for them (repeat plaintiffs) to say that they've been 'had' 300 times," said Evan Tager, a Washington-based defense attorney.

Defense lawyers sometimes try to make an issue of a plaintiff's professional status. While the answers sometimes can be embarrassing to the plaintiff, the tactic rarely succeeds in altering the outcome of a suit.

Plaintiffs' attorneys in class action suits are sometimes referred to by judges as "private attorneys general." Their supporters view them as filling gaps in federal enforcement of securities laws. The victims aren't as important as they are in other civil cases.

"The plaintiff is a pretty nominal figure" in this type of suit, said Professor John Coffee of Columbia University Law School.

"The real driving force, the engine behind these cases, is the lawyers," said Jerold Solovy, a Chicago-based defense attorney.

Richard Greenfield, a prominent plaintiff's attorney based in Haverford, Pa., says that the "unseemly race to the courthouse" has been misinterpreted.

Greenfield blames the courts for giving deference to the first counsel in the door, and says that his main objective is to ensure that the lead counsel is the most experienced and competent lawyer, one who won't "sell out" the others or fumble the case.

"There's a lot of marginal lawyers out there," Greenfield said.

Greenfield is considered one of the best in the business. His firm has about 200 clients on file and a computer database loaded with financial reports.

"I can take apart a major transaction or prospectus and analyze it and find out what's wrong in an hour," Greenfield boasted.

PRO RATA SHARE

No one suggests plaintiffs' attorneys pay their clients. That is clearly illegal. But plaintiffs do get a pro rata share of whatever money is ultimately recovered in the lawsuit.

"As a practical matter, the lawyer has hired the client rather than the client hiring the lawyer, "said Coffee.

A growing number of judges are awarding extra cash payments of $10,000, $15,000 even $100,000, to lead plaintiffs for stepping forward. These payments come on top of the plaintiffs' regular share of the settlement pie.

The awards are sometimes described as compensation to the plaintiff for extra time and trouble. Sometimes the named plaintiff would have to serve as a witness or sit through lengthy pretrial questioning.

But those payments are often referred to as incentive awards, and judges say they hand them out in order to induce more injured parties to step forward.

In 1979, the Justice Department under former President Carter proposed a federal policy that would mandate incentive payments of $10,000, according to Greenfield, but the proposal was tabled.

Sometimes, in addition to being asked whether they approve of the final settlement, members of the class have been asked to vote on whether to grant the incentive award. Lead plaintiffs have won some and lost some of those votes.

Judges are granting incentive awards to name plaintiffs in other types of class actions as well. So far, these include lawsuits in cases of employment discrimination and antitrust violations.

Coffee warns that the incentive system could be subject to abuse. He described "conducive recoveries" where the plaintiffs' attorneys and the corporate defendant "quietly agree to pay a smaller settlement" in exchange for a higher attorneys' fee.

But the members of the plaintiff class must sign off on the deal. A bonus payment to the lead plaintiffs could smooth the way to a less-than-satisfactory settlement for the rest of the class, Coffee fears.

"These incentive fees, if they get too high, have a potential to become a bribe," said Coffee.

A more common practice than using outside professional plaintiffs, says Coffee, is for law firms to set up pension or profit-sharing plans with highly diversified portfolios.

CONFLICT OF INTEREST

In the past, Coffee says, law firms would use these portfolios to bring suits on their own behalf in shareholder suits. But the courts have ruled that this is a conflict of interest.

Since the ruling, law firms have simply agreed with one another to use one another's portfolios—Law Firm A represents Law Firm B's pension plan in one lawsuit, and vice versa.

The law firms also often keep track of the investments of employees and employees relatives.

"It's really very little different from ambulance-chasing—only in this case they're creating the accident," said Tager.

ELIMINATING SAVINGS PROVISION

Mr. GARN. Mr. President, the Federal Reserve bill that has been incorporated into the committee bill as title 6A has, as one of its purposes, to increase our bank regulators' ability to gather information from foreign supervisors regarding the activities of international banks. The goal is to prevent another BCCI situation, in which the bank's full activities were known to no one, from arising again.

This is important because, as my colleagues know, the only reason that enforcement actions against BCCI were finally successful was because many

nations cooperated and shared information regarding the far-flung dealings of BCCI's financial empire.

In furtherance of expanded cooperation, section 606 of the bill provides U.S. regulators with authority to provide and to receive information, subject to the requirement that sensitive information must be kept confidential in order to avoid jeopardizing ongoing investigations. Thus, the committee bill would exempt sensitive information obtained from foreign supervisors from disclosure under the Freedom of Information Act.

The committee bill also includes language in section 606(d) requiring Federal regulators to comply with disclosure requests from the U.S. Congress or the U.S. courts. Some foreign governments have indicated that this language would discourage them from providing confidential information for fear that it would become public, defeating the purpose of the underlying provision.

This language was not part of the original Fed bill and the Federal Reserve staff agrees that it undermines the purpose of the legislation. Therefore, I have requested deletion of that subsection because I want to encourage the kind of cooperation with other governments that has successfully brought BCCI and a number of drug money launderers to justice.

Even as amended, the bill's language would keep sensitive information from parties outside the law enforcement process but it would not limit access to information in furtherance of enforcement or congresssional oversight of our banking laws. It also has to be recognized that regardless of what the bill says the Congress and the courts have broad subpoena powers with which the agencies must comply.

FOREIGN BANKS

Mr. GRAHAM. Mr. President, there are several provisions relating to foreign banks in title VI that I would like to comment on. I am pleased that the amendments adopted in the Banking Committee's markup and offered in the manager's amendment by the committee here today address these concerns. I appreciate the help and support of Senators RIEGLE, GARN, and SARBANES and their staffs on these efforts. Title VI of the bill goes a long way toward increasing the Federal Reserve's ability to supervise foreign banks doing business in the United States.

In my home State, there are approximately 45 State-chartered foreign bank agencies. The primary business of many of these agencies is to use dollar deposits from their own citizens to finance the trade of their countries. A great deal of this trade is with the United States. This is particularly true of banks from Latin American and Caribbean Basin Initiative [CBI] countries which provide a high percentage of the trade financing of these countries. For example, the Banco International de Costa Rica provides approximately 70 percent of the trade finance available to Costa Rica. Moreover, almost two-thirds of Florida's $14.7 billion in exports went to Latin America and the Caribbean region in 1990. During that year, Latin American and Caribbean banks provided over $2.4 billion in trade financing through their Florida agencies. This accounted for over one-fourth of Florida's total exports of goods to the region. This trade has a direct impact on the economic development in Latin America and the Caribbean Basin region as well as on Florida's economy.

Florida's international future lies with the countries within the developing Latin American and Caribbean Basin region. Most of the banks from this region of the world are relatively small by United States, European, and Japanese standards. The Senate Banking Committee bill included language which expressly prohibits the Federal Reserve from making the size of the foreign bank the determinative factor in the Board's decisions to allow a foreign bank to establish or continue operations of a branch, agency, or representative office in the United States. These foreign bank agencies from smaller countries provide financing for trade with U.S. firms that might not be available from other sources. These agencies directly promote trade and commerce between the United States and their home countries.

Further, this amendment language included the following relevant standards for approval: the needs of the U.S. community to be served; the length of operation of the foreign bank in its home country; and the relative size of the foreign bank in its home country. The same restrictions and standards apply with respect to the Federal Reserve Board's decision to terminate the activities of a foreign bank branch, agency, or representative office in the United States.

The committee included these provisions because it is concerned that foreign banks from smaller countries and developing regions of the world might be at a disadvantage in the Board's application approval process, particularly if financial resources were a controlling factor. For example, banks in Latin America and the CBI region may be relatively small in terms of capital assets by world standards, but may have operated for a number of years and are among the largest banks in their home countries. They provide critical trade financing which may not be available from other sources. Trade is essential to these countries' economic and political stability. Small institutions can operate in a safe and sound manner and can possess the necessary managerial resources, experience, and capacity to engage in international banking.

Also an amendment offered today by Senator MACK and myself included in the manager's amendment addresses another important aspect of the bill regarding foreign banks from countries currently which do not regulate banks on a consolidated supervisory basis. While this may be an important consideration in the approval and termination decisions, we must provide a reasonable process for imposing this new requirement. Also, these foreign banks should have a general understanding of the parameters the Board will be using when reviewing them. Again, my concerns are primarily with foreign banks or agencies from Latin America and the CBI region. Today, few of these developing countries have a bank regulatory scheme that would comply with this standard. It is important to give these countries notice and an opportunity to reform their regulations. It is expected that the Fed will work with those countries that want to reform their regulatory scheme and provide these countries with guidance on what is meant by "comprehensive supervision or regulation on a consolidated basis."

Principally, this amendment requires the Fed, in consultation with the Treasury Department, to establish reasonable criteria for evaluating bank agencies from countries without a consolidated regulatory scheme to allow them to continue their U.S. operations. These criteria will allow the Fed to examine specific features of the bank's performance as an alternative to reliance on a foreign regulator.

The Treasury Department role is significant, particularly with respect to the Caribbean and Latin American region. It is important to ensure that the CBI and Enterprise for the Americas policies concerning trade and development and our banking policies are consistent.

It is also essential that the Fed promulgate criteria prior to taking any action based on the home country's regulatory scheme. This amendment requires the Fed to promulgate criteria within 1 year of enactment. During the time, the Fed will not take any action against foreign banks operating in this country solely because they are not subject to comprehensive supervision and regulation by their home country as long as they do not violate any U.S. laws and are operated safely and soundly, such foreign banks will be permitted to continue operating. Again, the Fed is expected to provide guidance to foreign countries on what is meant by "comprehensive supervision of regulation on a consolidated basis."

EXCESSIVE COMPENSATION

Mr. RIEGLE. Mr. President, the managers' amendment includes an amendment authored by Senator Levin to stamp out compensation abuses by bank and S&L insiders. These abuses have included using federally insured

VOL 137 PT 23 NO 21—25 1991 UMI

bank and S&L funds for sailboats, vacation homes, butlers, multmillion-dollar golden parachutes, and other types of excessive compensation. In some cases, these abuses have drained healthy institutions of needed assets, in others they help drive ailing institutions into Federal takeovers.

In essence, the Levin amendment requires bank and S&L regulators to prohibit as an unsafe and unsound practice any compensatory arrangement which is excessive or could lead to material financial loss to a federally insured bank or S&L. Federal regulators opposing excessive compensation must now act on the basis of incomplete and inconsistent regulations and without an explicit Federal statute on this subject.

S. 543 already contains provisions to stop improper insider loans; the Levin amendment addresses this second source of insider abuse which has caused so much damage. By providing the first Federal statutory language specifically requiring Federal regulators to stop insider compensation abuse, the amendment makes a strong addition to the bill.

DODD INSURANCE STUDY COMMISSION

Mr. METZENBAUM. Mr. President, I want to speak to an amendment Senator DODD and I have worked on which will be part of the manager's amendment to the banking bill.

The banking bill came out of committee with a provision to create a Presidential Commission To Study the Insurance Industry. As originally proposed the mandate of the Commission was too narrow in my view. If we have such a commission, it is essential that it study the critical issues facing the insurance industry and the existing regulatory framework under which the insurance industry does business today in this country.

The Senate Judiciary Subcommittee on Antitrust, Monopolies and Business Rights, which I chair, has been studying the insurance industry for a long time now. We have held numerous hearings concerning the solvency of the industry and the quality of State regulation.

The House Energy and Commerce Committee chaired by Congressman DINGELL has been conducting oversight of the insurance industry for over 3 years.

Both my subcommittee and the House committee have concluded that there are serious problems with the way insurance is regulated today and as a result the ability of the insurance industry to keep its promises to its policyholders is in jeopardy.

As a result of these hearings, I recently introduced legislation, "The Insurance Protection Act of 1991"—S. 1644—which I believe provides the basis for dealing with the real problems we face today. I ask that a summary of the bill and my introductory statement be reprinted at the end of these remarks.

In evaluating the Study Commission proposed by Senator DODD, my first reaction is the Congress has a pretty good idea that there are serious problems and that we can no longer sit by and trust that the States will be able to take care of these problems.

My second reaction is that if a Study Commission is necessary, the one originally proposed was not going to study many problems that require immediate attention. I have worked hard with Senator DODD to see that the Commission evaluates the problems that my committee and others have found in the insurance industry.

Let me explain what has been added to the charter of this Presidential Commission and what I believe the Commission must study if it is to provide any insight into what needs to be done.

Given the rash of huge insolvencies in the last couple of years, it is critical that the Commission also study whether the system by which we regulate insurance in this country is working. Today, one of the largest industries in this country—to the tune of $3 trillion—is regulated by 50 different State authorities. The quality of that regulation varies widely, the resources brought to bear are almost uniformly insufficient, and the laws being enforced by the States are frequently inadequate and weak.

For these reasons, the Commission will look at how the health of the insurance industry affects the rest of the national economy. Much of life insurance today is really a financial business and the health of that business is subject to the same forces that have shaped the S&L debacle and are now facing a weakening banking industry. As these three sectors are buffeted, so may the entire health and well-being of the country's economy.

In that regard, the Commission will look at the impact of the decline in real estate values and the effect of huge noninvestment grade bond portfolios on the health of the industry. Although these two aspects of the asset side of the balance sheet are the subject of much focus today, the Commission will also be looking at other factors that can impact the strength of a company's assets, such as its investment practices and the effect of guaranty fund assessments—both actual and projected under a variety of industry insolvency scenarios. The Commission also will learn, as part of this analysis, something about the general adequacy of the industry's capitalization, which has weakened in recent years.

Additionally, the provision calls for the Commission to look back and analyze the causes of insolvencies over the last 5 years. Whether the causes are fraud, mismanagement or a changing economic environment, the conclusions of this analysis will say much about the ability of the States to oversee this industry and anticipate problems before they result in disaster.

The Commission should also look into the effect fraud and criminal behavior can and do have on the solvency of companies as these are also factors which can be influenced by appropriate Government action. In that regard, the Commission should also look at the broadest influences on a company's balance sheet, namely the effect of company management practices and State regulatory oversight.

The Commission is specifically tasked to look at the overall effect of State regulation of insurance companies in a wide variety of areas. I have already mentioned some of the ways State regulation is critical to the solvency of the industry, but the Commission is also specifically required to look at this issue from the standpoint of whether high quality and consistent regulation is being met by the current system of regulation.

Given that the industry is by and large a national and even an international business today—and that the biggest most influential companies do business in virtually every State—the Commission should evaluate whether it still makes sense for the industry to be regulated by 50 different and varied State regulatory regimes. The Commission should determine whether the benefits of uniform regulatory requirements outweigh whatever benefits continue to accrue from the current system which is almost 200 hundred years old. As part of this analysis, the Commission should make some assessment of whether the current system in fact provides consistent and high-quality regulation in every State.

The Commission is also required to evaluate the adequacy of resources at the State level. This evaluation should include a review of the number of examiners and the number of qualified actuaries necessary to adequately regulate, the adequacy of funding in each State in relation to the number of insurers domiciled in that State and the annual premiums collected by that State.

The Commission should also look at critical issues relating to State solvency regulation, including the ability of each State authority to determine whether a company is financially troubled and to act quickly enough in taking the company over, whether each State adequately regulates the use of certain financial practices, such as surplus relief reinsurance and surplus notes, whether each State requires adequate capital and surplus for companies domiciled in such State, and the adequacy of each State's regulation of a company's investment practices.

The Commission is also required under this amendment to study the effect of State regulation on consumer issues including consumer protection and competition. The Commission as part of this review should look at pricing, product development, advertising, marketing, and the general adequacy of information provided to consumers. Consumers too often have far too little information to make informed decisions about whether they are buying the best policy for the money, with the best company available. The Commission should review whether consumers are given adequate information relating to the financial health of the companies, the relationship of premiums to the accumulation of interest, the claims paying experience of insurers, and whether the insurer or seller of the policy has been subject to any regulatory action.

Even when the consumer does everything possible to choose the best deal and the best company, that policy can be sold to another company, perhaps a weaker company, without the knowledge or consent of the insured. The Commission should review whether State regulation provides enough information to consumers and adequately protects their investments from involuntary transfer. Additionally, the Commission should analyze whether the current system whereby the States approve rates encourages efficiency of operation among insurers. If the rates are approved with little incentive for insurers to contain costs, then the system is not working well.

The Commission is further required to analyze the effectiveness of State regulation of reinsurance. With a very large percent of all reinsurance business in the United States being conducted by companies outside of the country, can States adequately regulate this business when they are unable to know anything about these companies? Even for those reinsurers that are U.S. based, the Commission must ask whether State laws are strong enough and whether regulators are adequately reviewing reinsurance agreements and reinsurers.

In sum, the Commission must determine the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance. Particularly in light of the national nature of the companies in the market and the importance of this industry to the well-being of the national economy and all Americans who hold insurance policies, the Commission must determine whether the Federal Government should continue to have no role in the regulation of insurance. As part of this review the Commission should look also to the views and practices of other nations and foreign insurers. This review would be a useful comparative analysis. The Commission should also take into account the views of other nations with respect to the fairness of the present system to international trade in services.

The amendment also requires the Commission to look at the efficiency of the present system for liquidation of insolvent insurance companies. In this regard, the Commission should evaluate the desirability of having a single authority to marshall assets of failed companies operating in multiple States in order to ameliorate internecine battles between competing State authorities.

The Commission is also required to review the adequacy of State and Federal civil and criminal enforcement authority and activity. The insurance industry is a prime target for insurance fraud and other misbehavior by individuals and by the companies. The Commission should determine whether State laws are adequate to deal with these problems and whether a greater Federal role is warranted. The Commission should also review whether State antigroup laws and antirebate laws inhibit competition or efficiency in the market for insurance. Additionally, the Commission should review the adequacy of State conflicts of interest laws as they apply to regulators and their relations with the insurance industry.

The amendment also provides that the Commission should undertake a broad review of the condition of the current guaranty fund system. The amendment lists a variety of considerations that the Commission must take into account, including the effect of State tax offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios.

The Commission has a very large mission. The industry it will examine is one of the most important to the country's economic health and to the well-being of its citizens. For hundreds of years the regulation of this critical industry has been left to the 50 States. Based on years of work by the Congress, I believe that we can no longer be satisfied with the status quo. Recent events and common sense dictate that the Federal Government be involved in assessing and regulating the health of the insurance industry. I don't think we need a Commission to tell us this. I believe the amendment agreed to by this body will result in a confirmation of what we already know to be the case.

The Commission will obviously take time to reach its conclusions. I only hope we have the luxury of waiting for those conclusions. If big insurers continue to experience problems and the pace of major insolvencies does not abate, I believe this Congress may have to act quickly to restore consumer confidence. In such circumstances no one should be under the mistaken impression that we should or could wait for the results of a Study Commission. We will have to act. Let's hope that is not the case, but let's not ignore reality either.

DISCLOSURE AMENDMENT

Mr. WIRTH. Mr. President, I rise to discuss a provision in the manager's amendment that would require increased public disclosure of information related to failed financial institutions if tax dollars are used to resolve the institution's failure.

Taxpayers are being forced to provide billions of dollars to resolve problems in the savings and loan industry. The estimated cost of the S&L crisis has increased steadily in recent years, from $19 billion in August 1988, to $216 billion today. We may see it increase further before we are through. Even if the current estimates hold, we'll still have to pay hundreds of billions of dollars more to pay the interest on the funds borrowed to resolve the problem.

Fundamentally, I believe taxpayers are entitled to know why an expenditure of this scale became necessary. But today, when taxpayer money is spent on a failed thrift or bank, the taxpayers often have no idea why the institution failed, and have no means to obtain that information.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is not available to the public. The provisions included in the manager's amendment would correct that and shed some light on how the S&L crisis developed. The public should have access to that kind of information.

Senator GARN and I have debated this issue on the floor twice this year. We have also discussed it in the Banking Committee and in several private meetings. We both wanted to make more information about financial institution failures available to taxpayers. We both wanted to protect the privacy of individuals who did not contribute to a failure. We disagreed on the best way to balance those concerns.

Senator GARN and I have now succeeded in reaching an agreement on the public disclosure issue. Neither of us think it is perfect. But it is a compromise and I think it does advance the goals we both have sought.

The amendment would require disclosure of examination reports and settlements of Government lawsuits related to financial institution failures. It is similar to an amendment that drew the support of a majority of the Senate on a cloture vote during consideration of the HUD, VA, and Independent Agencies appropriations bill.

Information about individual customers such as their account balances, deposits, home loan, et cetera, is not routinely included in examination reports. The reports that I have seen do

VOL 137 PT 23 NO 21—25 1991 UMI

not include this kind of material. Reports are far more likely to discuss overall problems in an institutions lending practices and controls than they are to single out individual loans.

The General Accounting Office currently has access to examination reports. I have a letter from the GAO that outlines the contents of examination reports. I would be happy to provide any Senator interested in an overview of what is included in a report with a copy of that letter and I ask unanimous consent that it be printed in the RECORD.

Nevertheless, I think it is important that we go the extra mile and would like to go over the privacy and other safeguards that we have included in the amendment.

First, the amendment directs regulators to remove the names and other identifying information from the report for any customers who are not affiliated with the bank.

So if you are a noninsider, in the unlikely event you happen to be named in an examination report, you are assured that your name will be deleted.

Second, any information about insiders that is included in an examination report will be removed from the report before it is made public if that information is not relevant to the relationship between the institution and the insider.

The amendment also includes provisions to prevent release of information that could affect open insured depository institutions.

I have also extended the period for which regulators can delay release of a portion of an examination report to avoid hindering an ongoing criminal investigation. Regulators will now be able to delay release for up to 5 years.

In addition, I have also opted to allow regulators to delay release of portions of examination reports for up to 2 years to avoid interference with a civil or administrative action.

I believe these safeguards improve the amendment and address the privacy concerns that Senator GARN has raised.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and a financial institution's examination reports can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is not available to the public. My amendment would correct that and shed some light on how the S&L crisis developed. The public should have access to that kind of information.

Under the agreement Senator GARN and I have reached, the public will be able to learn more about the S&L crisis and other financial institution failures that taxpayers are forced to resolve.

I think this kind of disclosure requirement is important and am pleased that we have been able to resolve the matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, October 18, 1991.

Hon. TIMOTHY WIRTH,
U.S. Senate.

DEAR SENATOR WIRTH: Since my testimony during the September 19, 1991, banking committee hearing on the Bank of New England, our staffs have been working together to better understand the implications of your proposal to publicly disclosed examination reports on banks that have failed. We appreciate your objectives to apprise the public of (1) the regulator's assessment of the safety and soundness of a bank's operations prior to its failure; and (2) the names of those borrowers—particularly insiders—whose loans have caused losses to the bank, Bank Insurance Fund, and ultimately the taxpaying public.

We believe your first objective would be served through disclosure of the examination reports on failed banks. However, we do not believe publicly releasing examination reports would serve your second objective because they are exception reports—not a complete accounting of bad loans or bank losses.

Examination reports differ slightly among federal bank regulators, but basically reflect concerns regulators have identified during an examination about the safety and soundness of a bank's operations. The regulators' concerns may be based, for example, on their review of a sample of loans out of a bank's portfolio. The examination report would then include a narrative discussion of the deficient bank practices or conditions found from reviewing the sampled loans. The only loan information that would be included in the report would relate to those sampled loans with the deficient condition to illustrate the adverse effects of the deficiency on bank operations.

Federal bank regulators' examination reports typically contain the following:

(1) Letter to the Board of Directors: This two to three page letter briefly summarizes the examination results. The summary generally describes the examiners' overall conclusions relative to the safety and soundness of the bank's operations. The letter also usually includes the composite CAMEL rating assigned to the bank as a result of the examination.

(2) Summary of Findings: This detailed summary generally describes the extent of examination coverage and the examiners' conclusions related to each of the CAMEL components. The conclusions may include both positive and negative comments about the safety and soundness of bank operations. They may also include a discussion of improvements needed in bank operations. Narrative comments for each CAMEL component are usually complemented with various ratios relative to bank operations and the examiners' numerical rating.

(3) Appendixes: The appendixes generally include listings and descriptions of specific deficiencies found in bank operations. For example, the appendix relative to asset quality typically includes a description of sampled loans reviewed and found to be improperly valued or classified by the bank. The appendixes also include specific violations of law or regulation found by examiners including violations of Regulation O relating to insider activities.

As you can tell from what we described as typically being in an examination report, it includes specific concerns examiners have about the safety and soundness of bank operations, but does not provide a complete accounting of all bank problems. Further, the specific loans listed in the appendixes do not account for all problem loans and those listed may not necessarily result in losses to the bank. Likewise, law or regulation violations, like preferential loan terms to bank insiders, cited in the appendixes involve only those loans with violations that were identified by the examiners.

In view of the shortcomings of examination reports in identifying insiders whose loans have caused losses to failed banks, you might wish to consider requiring the FDIC to disclose the names of all directors, executive officers, major stockholders and their related interests, including family members and controlled organizations whose loans are 30 days or more past due. The FDIC strikes us as the most appropriate agency for this type of disclosure, since as part of its efforts to liquidate or sell failed institutions it identifies loans in non-performing status.

We hope this information about federal bank regulators' examination reports and the additional disclosure we suggest will be helpful to you in deciding how best to satisfy your objectives. If we can be of any further assistance, please call me.

Sincerely yours,

RICHARD L. FOGEL,
Assistant Comptroller General.

HAIRCUT STUDY

Mr. WIRTH. Mr. President, the bank reform legislation includes a number of provisions to address the too-big-to-fail problem. I support these measures and was considering offering an amendment that would complement these provisions.

My proposal would have required uninsured depositors and creditors to take a haircut from their funds when an institution fails. Under this proposal, the FDIC could not make uninsured whole if a determination is made to protect uninsured deposits. The depositor would lose a portion of the uninsured funds.

S. 543's provisions to address the too-big-to-fail problem are important steps. We will see less coverage of uninsured funds and depositors will no longer be confident that their uninsured funds will be protected in the event of a failure.

These changes will introduce greater market discipline into the system by providing large depositors with an incentive to look at a bank's financial condition, not just its interest rate.

However, as depositors become familiar with the new system, we may see an increasing concentration of large deposits in a few big banks that the market believes regulators are certain to consider too-big-to-fail.

BENEFITS OF A HAIRCUT

A haircut would provide a stronger incentive and do a better job of bringing market forces into play, particularly for the very largest institutions.

For this reason, I think a haircut that takes effect a few years down the line is a strong complement to the provisions already included in the legislation.

Right now, investors can make deposits of well over $100,000 in our largest banks and be reasonably confident, based on past history, that the FDIC will protect them in the event of a failure.

However, if these depositors know that, no matter what, they would not be able to recover all their funds after a failure, they will be inclined to look at a bank's health, not just its interest rate. Banks themselves will have an incentive to better monitor their condition or risk being unable to attract deposits.

A haircut provides certainty that an uninsured depositor will lose money if an institution fails. I think that's a pretty strong incentive for a depositor to take a look at the financial condition of an institution before making a large deposit.

Some depositors, no doubt, will decide the risk is worth taking—that's the way markets work. But that's a big improvement over the current system where there is relatively little market discipline. It's also an improvement over the reforms currently included in S. 543.

There is some concern that a haircut will lead depositors to pull their funds from troubled banks because they are concerned about losing some of their uninsured funds when too-big-to-fail is invoked. That is the point of a haircut. It would bring more market discipline to the operations of large banks and the decisions of uninsured depositors.

Investors with large uninsured deposits are relatively sophisticated. In addition, industry analysts, newsletters, and other press will keep uninsured depositors informed in response to demand for information about large banks' financial condition. Depositors will learn about, and react to, relatively early signals about bank problems.

Any outflow of funds will happen early enough that an institution will be able to move to correct its problems. There may be a short-term outflow of funds but in the long term a haircut will contribute to more stable institutions and a more stable banking system.

If a haircut took effect immediately, I might agree there was reason to be concerned about an immediate large outflow of uninsured funds from large troubled banks. But my haircut proposal included a transition period to allow banks and depositors to examine risks and work to correct problems in order to protect their uninsured deposits.

During the Banking Committee markup Senator DOMENICI and I worked on a haircut proposal. The amendment that was ultimately adopted would require that the FDIC not provide uninsured depositors with early access to more than 90 percent of the value of their claims that could be supported by the institution's assets. This language is relatively modest and can be improved.

There is some resistance to a haircut proposal and I will not offer my amendment to establish a haircut in 1995. Instead, the managers' amendment includes provisions directing the the Congressional Budget Office to study the effect of a haircut and report back to the House and Senate Banking Committees within 18 months.

CBO will examine the possible savings a haircut requirement could yield for the insurance funds, as well as the benefits that increased market discipline will bring financial institutions and the insurance funds.

The amendment I had planned to offer would not have required a haircut until 1995. The additional information from CBO and the opportunity to examine the effectiveness of S. 543's provisions to address too-big-to-fail will help the Senate determine if a haircut is desirable and, if we do decide that a haircut is appropriate, we will still be able to put one in place for 1995.

Mr. SEYMOUR. Mr. President. I rise today to speak on a matter of utmost importance to California—the credit crunch. Everytime I return to California, my constituents cry out for help. The credit crunch is preventing the upturn in our economy, and they're right. While we are in a recession, present regulatory practices are causing the chilling of capital and ensuring a slower recovery. The credit crunch is not caused by a lack of qualified borrowers, many of my constituents have solid credit ratings, never missed a loan payment, and can't get a new loan, or for that matter a recommit of an existing loan, for a home or small business.

Since I took office last January, I have made the issue of the credit crunch one of my top priorities. At every turn, I have reminded the administration that the credit crunch is stifling the American economy, and in particular, the California economy. An economy that for decades has been the economic engine of the Nation. Over the last 2 months, President Bush has required his economic advisers to give a new look to the credit crunch problem. Finally, spurred by the reality of a sluggish national economy, the administration has begun to understand what we in California have been experiencing for months—banks unwilling to lend because of tightened regulatory practices and a devaluation of real estate prices.

The amendments that I am introducing will further send the message that: First, the Senate recognizes the need to find measures to end the credit crunch; and second, not all real estate loans, particularly performing loans, should automatically be considered a bad loan just because they are in real estate.

The first amendment is a sense of the Senate that the credit crisis must be resolved in order to provide a healthy and efficient marketplace that works for owners, lenders, and investors. This measure stresses efforts that should be undertaken, such as modernizing and simplifying the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate. In addition, restoring balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily, and single-family real estate; ending market-to-market, liquidation-based appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field. And last, encouraging a positive tax system for real estate owners and operators.

The second amendment requires Federal regulators not to adversely evaluate an investment or a loan made by a federally insured depository institution or consider the loan to be nonperforming solely because the loan is made to or the investment is in commercial, residential, or industrial property. The message here is that not all real estate loans, particularly performing loans, should automatically be considered a bad loan just because they are in real estate. This amendment does not inhibit Federal regulatory agencies if the loans or investments may affect the safety and soundness of the institution.

I urge my colleagues to support these amendments.

Mr. RIEGLE. Mr. President, a number of my colleagues have inquired about the insurance provisions of S. 543. I have prepared a summary and analysis of those provisions. I ask unanimous consent to have that document reprinted in the RECORD following this statement.

I should note that the summary and analysis does not reflect a minor amendment to these provisions adopted during today's consideration of S. 543. This amendment expanded the grandfathering in the small towns provision. Pursuant to the amendment, national banks that have been selling insurance under the small towns authority will be allowed to continue to seek insurance to existing customers, regardless of where the customer resides.

There being no objection, the material was ordered to printed in the RECORD, as follows:

SECTION 771. INSURANCE ACTIVITIES OF NATIONAL BANKS

Section 771 settles the debate over the insurance activities authorized for national banks by adding a new section to the National Bank Act, Section 5136B.

The general rule, set forth in subsection 5136B(a), states that national banks will not be permitted to provide insurance as a prin-

VOL 137
PT 23
NO 21—25
1991
UMI

cipal, agent or broker. That general rule is subject to four exceptions. Both the prohibition and the exceptions are equally applicable to national banks and to their subsidiaries.

Parity. Subsection 5136B(b) permits national banks to engage in insurance activities to the same extent as similarly-situated state-chartered banks. A national bank or its branch is permitted to provide insurance as a principal, agent or broker in the same manner and to the same extent that a bank chartered in the state in which the national bank or branch is located is permitted to provide insurance as a principal, agent or broker. Where a state allows state-chartered banks to sell insurance, national banks or branches located in that state would have the same power, to the same extent. Where a state bars state-chartered banks from selling insurance (or limits such activity), this subsection does not give any additional authority to national banks. This subsection does not permit a national bank to use its insurance powers in a "parity" state to market insurance in a "non-parity" state except to the extent that a state bank is permitted to do so under the new interstate insurance provision added by Section 772 of this Act.

Section 5136B also applies the same parity principles to the subsidiaries of national banks, thus creating an exception to the rule that a subsidiary of a national bank can only engage in activities permitted for the parent national bank. Under this provision, a subsidiary of a national bank is permitted to provide insurance as a principal, agent or broker in the same manner and to the same extent that a subsidiary of a bank chartered in the state in which the national bank is located is permitted to provide insurance as a principal, agent or broker.

The definition of "bank chartered in the state" is intended to make clear that the parity provision only grants national banks the insurance authority granted to similarly-situated state-chartered commercial banks, but does not "borrow" any authority that may be granted by a state to savings banks, thrift institutions or other institutions excluded from the definition of "bank" in the Bank Holding Company Act.

Some states have laws that grant state-chartered banks the same power to sell insurance as that granted under federal law to national banks. A national bank located in a state with such a "wildcard" statute will not obtain any insurance powers by virtue of such a provision, nor will this subsection grant any insurance authority to banks chartered by such a state.

Insurance Activities in Small Towns. Subsection 5136B(c) establishes geographic boundaries for the sale of insurance by national banks in small towns. Subsection (c) thus replaces the former 12 U.S.C. 92, which is repealed by subsection (a), and would limit the effect of recent administrative and judicial interpretations of the "small town" authority of national banks. Nothing in this recodification, or in any other part of this subtitle, would have any effect on existing insurance policies.

Subsection (c) reenacts and amends the grant of authority in Section 92. A national bank may sell insurance in any small town in which the bank or any of its branches is located.

The term "small town" is specifically defined. A small town includes any "place" with a population not exceeding 5,000 (as shown by the preceding decennial census). The word "place" is taken from the small-town provision of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8)(C)(i). Construing that term, the Federal Reserve Board has explained that a "place" "must be a cognizable political subdivision such as a village, town, municipality, or township for which population figures are available." *United Community Financial Corporation*, 73 Fed. Res. Bull. 508 (1987). That same interpretation is applicable here.

In addition to such a place, the definition of a "small town" also includes any contiguous rural area, including rural communities, within 7.5 miles of the borders of the place, except to the extent that such a contiguous rural area includes any city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

Within a small town, a national bank or branch may sell only to certain customers, who are specified in subsection 5136B(c)(2). Subsection (c)(2)(A) permits the sale of insurance to an individual who is a resident of or employed in the small town. As used in this subsection, the term "individual" is intended to include individuals who purchase insurance on behalf of family members. For example, a parent who otherwise qualifies under subsection (c)(2) would be permitted to purchase an automobile policy that covers a son or daughter who takes an automobile to college beyond the borders of the small town. Subsection (c)(2)(B) permits the continued sale of insurance to an individual who has ceased to satisfy the conditions of subsection (c)(2)(A), so long as the national bank or branch has provided insurance to that individual since he or she changed residence and/or place of employment.

The term "person" as used in subsection (c)(2) includes a corporation or other business entity. Subsection (c)(2)(C) is intended to permit truly local businesses to purchase a full range of insurance products and services for their small town operations. Thus, for example, a business that manufactures a product in the small town would be able to buy product liability insurance to cover those products. But a business that has an office in the small town would not be permitted to purchase product liability insurance to cover products manufactured in a plant located beyond the borders of the small town. In addition, a subcontractor of a business would not be a permissible customer unless it independently satisfied the requirements of subsection (c)(2).

Subsection (c)(4) provides that national banks and their branches that provide insurance are subject to state laws governing the provision of insurance unless the state law is preempted by federal law. There is currently pending litigation in which national banks assert that federal law preempts the ability of certain states to enforce against them provisions of state law restricting the sale of insurance by banks. The reenactment of Section 92 in subsection (c) is not intended to reflect any view whatever on the merits of such litigation. The same language is employed in subsection (d)(4) and in Section 771(c) to indicate that, in those sections as well, this legislation takes no view on the ability of states to apply state laws to national banks.

"Grandfathered" Insurance Activities From Small Towns. In 1986, the OCC ruled that Section 92 of the National Bank Act permits a national bank with a branch in a place of less than 5,000 inhabitants to sell insurance nationwide through that branch. OCC Interpretative Letter No. 366 (August 18, 1986). This interpretation has been upheld by a decision that is now on appeal. *National Association of Life Underwriters v. Clarke*, 736 F. Supp. 1162 (D.C.D.C. 1990). As noted above, the reenactment of Section 92 would limit the effect of these interpretations.

Subsection (d) addresses those national banks that may have begun to engage in geographically-expanded insurance activities as a result of those prior interpretations. Subsection (d) applies only to national banks or branches that were actually providing insurance from a place of under 5,000 as of May 1, 1991 and permits only the sale of insurance that insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991.

The limitation to insurance "of the same type" as that being provided on the grandfather date should be construed narrowly. For example, the provision should not be construed to permit the provision of ordinary life insurance by an institution that, on the grandfather date, was providing only credit-related life insurance. Similarly, a bank whose insurance agency activities on the grandfather date extended only to ordinary life insurance would not be within the scope of the grandfather if it later wished to sell property/casualty insurance.

National banks or branches that meet these qualifications are permitted only to provide insurance in the "contiguous region" to the place in which the national bank or branch is located, except that insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991. This last exception is not intended to include a county in which only a de minimis number of insurance policies were sold as of May 1, 1991. The term "contiguous region" is defined specifically in subsection (d)(4).

Incidental Insurance Powers of National Banks. Section 771(c) amends Section 24 (Seventh) of the National Bank Act, which permits banks to exercise "all such incidental powers as shall be necessary to carry on the business of banking." At least one Court has held that this language does not authorize national banks to engage in general insurance agency activities, see, e.g., *Saxon v. Georgia Association of Independent Insurance Agents*, 399 F.2d 1010 (5th Cir. 1968). The OCC and the courts have, however, construed the incidental powers clause to permit banks to conduct limited insurance agency activities, including the sale of credit-related life, health, and accident insurance, *Independent Bankers Association v. Heimann*, 613 F.2d 1164 (D.C. Cir. 1979), *cert. denied*, 449 U.S. 823 (1980), title insurance, municipal bond insurance, and annuity contractors. Litigation challenging the OCC's rulings as to title insurance and annuities are now pending.

Section 771(c) permits a national bank to engage in activities pursuant to Section 24 (Seventh) that constitute providing insurance as principal, agent or broker, but only if such activities were lawfully engaged in any one or more national banks before May 1, 1991. Otherwise, national banks may not provide insurance as a principal, agent or broker pursuant to Section 24 (Seventh).

The requirement that an insurance activity have been "lawfully engaged" in by one or more national banks before May 1, 1991 is intended to preserve federal-court litigation challenging the OCC's ruling concerning title insurance and annuities, although this provision does not indicate any view whatever on the merits of such litigation. Thus, activities were not lawfully engaged in before May 1, 1991 to the extent that they are finally adjudged by a federal court as unlawful under laws in effect on May 1, 1991.

Section 771(c) does not contain a definition of the term "insurance." It is intended that, in construing the meaning of this term, an administrative agency or court look to the manner in which a product is commonly regulated by state insurance departments. Although no single decision by a state insurance commissioner can control the meaning, for purposes of federal law, of the term "insurance," common state regulation of insurance products is, as a general matter, probative evidence that should be carefully considered by any decision-maker. On the other hand, decisions by a state insurance regulator finding that traditional bank products, such as letters of credit, are insurance, shall not in any way restrict the ability of national banks to offer such products. In addition, the fact that an insurance product may be characterized by another term for purposes of other laws does not detract from its status as "insurance" for purposes of this provision. Thus, for example a product that can be labeled as both "insurance" and a "security" can be "insurance" as that term is used herein.

SECTION 772. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES

Section 772 adds a new Section 13 to the Bank Holding Company Act that generally prohibits any bank holding company from allowing a subsidiary bank to provide insurance as an agent or broker beyond the borders of the state in which the subsidiary bank is principally located. For purposes of this section, the place in which insurance is "provided" includes the place in which an individual who purchases such insurance is domiciled. Thus, a bank may be providing insurance beyond the borders of the state in which it is principally located even if no insurance agent ever physically leaves that state and even if the contract of insurance is, for contractual purposes, made under the laws of the home state.

This provision does not apply to an insurance subsidiary of a state bank that markets insurance separately from its parent bank. Such a subsidiary remains subject to all state laws, including state laws that bar the affiliation of a licensed insurance entity with a banking institution, but the additional prohibition of this provision does not apply to the activities of such an insurance subsidiary. If, however, the insurance subsidiary markets its products in, through or from its parent bank, then the bank itself would be engaging in insurance activities subject to the prohibition and exceptions of this provision.

Section 13 contains six exceptions.

The first exception, Section 13(a)(1), provides that a bank principally located in one state may sell insurance in a host state if the statutes of the host state expressly authorize a bank principally located in another state to provide insurance in such host state, by language to that effect and to merely by implication.

The second exception, Section 13(a)(2), concerns interstate branches of banks. Where a bank is permitted to sell insurance in a host state by virtue of this exception, that insurance may be sold through the interstate branch by the out-of-state bank directly, or by a subsidiary of the out-of-state bank. Furthermore, this authority extends to interstate branches of national banks through the "parity" provision of subsection (b); where a state permits its state banks to sell insurance, a branch of an out-of-state national bank may also sell insurance.

The third exception, Section 13(a)(3), details the circumstances in which a national bank or branch selling insurance pursuant to the grandfather clause of Section 5136B(d), will be able to sell insurance across a state line. These limitations are in addition to the limitations of Section 5136B(d) itself. National banks selling insurance pursuant to the new small-town provision, Section 5136B(c), are not included in the exceptions to Section 13 and thus are not permitted to sell insurance across a state line.

The fourth exception is a grandfather provision. It extends only to the continuing interstate sale of insurance that insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the bank was actually providing beyond the borders of the state in which the subsidiary bank is principally located as of May 1, 1991. As in Section 771, the limitation to insurance "of the same type" as that being provided on the grandfather date should be construed narrowly and, to give but one example, the provision should not be construed to permit the provision of ordinary life insurance by an institution that, on the grandfather date, was providing only credit-related life insurance. In addition, the grandfather clause can only be used by a subsidiary bank that was providing insurance on May 1, 1991, so long as insurance is not provided pursuant to a statute enacted by a state after May 1, 1990. A statute that fails to meet this requirement was enacted by the state of Delaware on May 29, 1990. Accordingly, any bank holding company providing insurance pursuant to this Delaware legislation will not be able to satisfy this requirement of Section 13(a)(4).

The fifth and sixth exceptions permit the interstate sale of insurance by subsidiary banks of credit insurance and insurance placed on property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

Section 13(c) confirms that nothing in this section shall be deemed to affect the ability of a bank holding company to engage, directly or indirectly, in insurance activities that are permissible under Section 4(c)(8) of the Bank Holding Company Act.

SECTION 773. SAFEGUARDS FOR SALE OF INSURANCE

Section 773 contains four consumer safeguards applicable to the sale of insurance that are added to the Federal Deposit Insurance Act. These consumer safeguards are equally applicable to any insured depository institution and to any subsidiary of an insured depository institution.

Section 773(a) establishes disclosure provisions alerting customers of FDIC-insured banks that insurance products are not deposits and are not insured by the FDIC and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

Section 773(b) establishes three prohibitions on the manner in which FDIC-insured banks might otherwise favor their captive agents. No FDIC-insured institution may (i) require as a condition of providing any product or service to any customers, or any renewal, that the customer acquire, finance, or negotiate any insurance policy through a particular agent, or broker, (ii) in connection with a loan or extension of credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution, or (iii) impose any discriminatory requirement in any insurance agent that is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such intention.

Section 773(c) prohibits FDIC-insured institutions from soliciting the sale of insurance required under the terms of a proposed loan or extension of credit before the loan customer has received a written commitment with respect to the loan or extension of credit. This provision applies to renewals of loans and extensions of credit as well as originations.

Section 773(d) forbids FDIC-insured institutions from using nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer. The term "insurance" does not include certain specified forms of credit-related insurance.

SECTION 774. INSURANCE UNDERWRITING IN BANK RESTRICTED

Section 774 would amend the Federal Deposit Insurance Act to establish a general rule restricting state banks to insurance underwriting activities permissible for national banks as of May 1, 1991. Section 774 also contains a grandfather clause setting forth a limiting exception to the general restriction. Specifically, a state bank, or subsidiary of such a bank, that was lawfully providing insurance as a principal in that state on November 21, 1991, may continue to provide insurance of the same type to residents of that state, individuals employed in the state, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such state. In this context, the phrase "lawfully providing insurance was principal" requires that the state bank have been actively engage in the business of underwriting new insurance coverage on the grandfather date. The mere fact that, on the grandfather date, insurance previously underwritten by the state bank remained in force would not be sufficient to bring a state bank within the scope of the exception to the general rule.

Mr. RIEGLE. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1377) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I believe the Senator from North Carolina [Mr. HELMS] may be ready now to offer his amendment. I would certainly invite him to do so, if this is a convenient time for him.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1378

(Purpose: To prohibit foreign banks which have financed trade in slave labor produced goods from conducting operations in the United States).

Mr. HELMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

VOL 137 PT 23 NO 21—25 1991 UMI

The legislative clerk read as follows:

The Senator from North Carolina [Mr. Helms] proposes an amendment numbered 1378.

At the end, add the following:

"SEC. . SANCTION FOR FINANCING CHINESE SLAVE LABOR.

(a) Sanction.—A foreign person which is a bank, financial institution, or insurer, and any parent, subsidiary, affiliate and successor entity of that foreign person, shall be prohibited from conducting business in the United States if the President determines that on, or after the date of enactment, the foreign person has knowingly and materially contributed to the efforts of the People's Republic of China, to develop, produce, market, transport, or sell goods produced by forced or prison labor within the meaning of Section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307).

(b) Termination of Sanction.—A sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a) has ceased to aid or abet efforts by the People's Republic of China to develop, produce, market, transport, or sell goods produced by forced or prison labor.

(c) Waiver.—

(1) The President may waive the application of a sanction imposed on any person pursuant to this section, after the end of the 12-months period beginning on the date on which the sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the natural security interests of the United States.

(2) If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(d) Definition.—For purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

Mr. HELMS. Mr. President, I asked the clerk to read the amendment because it is self-explanatory, and I think that every Senator in this body will favor this amendment. I am not going to ask for a rollcall vote. I will simply say this:

Mr. President, with this amendment, Americans will see just how serious is the Senate about stopping the flow into the United States of Communist Chinese slave-labor produced goods.

Specifically, this amendment would prohibit from doing business in the United States, any foreign bank which knowingly and materially assists trade in Chinese slave-labor produced goods. The amendment is based on a provision just signed into law imposing sanctions on foreign companies which trade in chemical and biological weapons.

Mr. President, it is currently against the law to import or transport slave-labor produced goods to the United States. However, it is clear that this law is simply not working and that we need to do more.

How does this Senator know that current law is not working? Just 1 week ago, NBC TV visited a trade show in San Francisco. There they found representatives of Communist China distributing pamphlets hawking some machinery. Included in this pamphlet was a picture of the factory in which the machinery is produced. If one were to look closely—as did this Senator—he or she would see that surrounding this factory are guard towers and barbed wire.

That is correct, Mr. President. This factory is no factory at all—it is a slave-labor camp. And the Communist Chinese are openly selling its products here in the United States.

Mr. President, enough is enough. When it comes to Chinese slave-labor camps, America has played the patsy for too long. Last year, this Senator came to the floor with a bottle of Dynasty brand wine—wine which was produced in a Chinese slave-labor camp and sold here in the United States. That was over 1 year ago. Six months ago, Asia Watch reported that the New Life Cotton Cloth Mill—a slave-labor camp—has been exporting to the West since 1983.

But the State Department still claims they have no proof that Communist chinese slave labor goods are reaching our shores. The State Department is simply more interested in smoothing over relationships with the Chinese Communists that they are in protecting the rights of American workers who are forced to compete with—and are losing their jobs to—China's slave labor system.

The fact of the matter, Mr. President, is that these slave-labor produced goods—such as the ones being hawked in San Francisco—could never reach these shores if not for letters of credits issued by banks. In fact, according to Asia Watch, that slave labor New Life Cotton Cloth Mill has boasted of the low-interest loans it received fom a Japanese bank back in 1988.

As we speak, Mr. President, I have no doubt that there are foreign banks making profits off of sales of Chinese slave-labor produced goods here in the United States. If such banks are so greedy as to assist trade in slave labor—just to make profits, then they should not be permitted to do business here in the United States. It is as simple as that.

Mr. President, when goods produced by slave labor camps in China are sold in the United States, Americans lose jobs, and an insidious practice in China is being supported. We, as Senators, must do all we can to stop this trade. That is why I offer this amendment, and why I hope all Senators lend it their support.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mr. RIEGLE. Mr. President, I will indicate that on this side of the aisle, we are prepared to accept the Senator's amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, on behalf of the Republican side, I am willing to accept the amendment.

The PRESIDING OFFICER. Is there further debate? There is still time remaining.

Mr. RIEGLE. Will the Chair withhold for just a moment?

Let me say I am prepared to accept it. I am told we have to just check a jurisdictional question. We will take some time to do so.

If the Senator will forbear, I will ask we wait a moment on that. And could we perhaps lay that aside temporarily and move to the Senator's next amendment?

Mr. HELMS. We certainly can.

Mr. RIEGLE. I ask unanimous consent that we set aside temporarily the amendment offered by the Senator from North Carolina so he might now offer his next amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not lose the remainder of the time?

The PRESIDING OFFICER. The Senator is correct. There is 3 minutes under the Senator's control.

AMENDMENT NO. 1379

(Purpose: To impose sanctions on foreign banks or their affiliates that engage in financing the use or acquisition of chemical or biological weapons)

Mr. HELMS. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. Helms] proposes an amendment numbered 1379.

At the end of title XI of the bill, insert the following:

SEC. 1138. SANCTION FOR FINANCING THE USE OR ACQUISITION OF CHEMICAL OR BIOLOGICAL WEAPONS.

Section 81 of the Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by amending subsection (c)(1) to read as follows:

"(c) Sanctions.—

"(1) Description of sanction.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, that—

"(A) the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3); and

"(B) the foreign person is prohibited from conducting business in the United States if the foreign person is a bank, financial institution, or insurer, or any subsidiary thereof, and if the President determines that the foreign person knowingly and materially contributed to the efforts of any foreign country, project, or entity described in subsection (a)(2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.".

Mr. HELMS. Mr. President, I thank the clerk for reading the entire amendment. Again, I think the amendment speaks for itself, because, with this amendment, the Senate can take a quantum leap toward slowing down the proliferation of chemical and biological weapons. Specifically, as the language of the amendment states, it would prohibit from doing business in the United States any foreign financial institution which finances or insures the trade in chemical or biological weapons.

It was just a couple of weeks ago that President Bush signed into law the State Department Authorization Act for fiscal years 1992 and 1993. Included in this bill is a provision—which passed the Senate 92 to 0—imposing sanctions on foreign companies which participate in the chemical and biological weapons trade.

The amendment I offer today simply closes the loop by amending this newly enacted provision to impose sanctions on those who would finance or insure this insidious trade.

For the past couple of years, I have tracked the numerous, mostly foreign, companies which have ruthlessly provided Iraq, Iran, Libya, and Syria with the wherewithal to develop and build chemical and biological weapons. Among my findings were that the Deutsche Bank helped finance Libya's chemical weapons complex at Rabta, and that BCCI affiliates helped finance Saddam Hussein's war machine.

Mr. President, the fact of the matter is that we must take action to put a halt to the action of these and other companies. Otherwise, we will have only ourselves to blame when some of the most brutal regimes in the Middle East—Iraq, Syria, Iran, and Libya—obtain the capability to independently produce chemical weapons, biological weapons, and nuclear weapons. That is what is at stake.

Beyond this imperative, it is simply unfair that while the American taxpayer had to spend literally millions of dollars to provide our troops with protections against Iraq chemical weapons, the foreign companies which helped Iraq build these weapons, and the banks which provided the financing, got away scot-free with their profits intact.

This amendment includes provisions which will hit the foreign banks which finance this trade where it hurts—in their pockets.

Like the legislation dealing with companies which the President just signed into law, sanctions would be imposed by the President once he makes a determination that a foreign financial institution has "knowingly and materially contributed" to efforts by a foreign country to "use, develop, produce, stockpile or otherwise acquire chemical or biological weapons."

The sanctions would be imposed on the offending financial institution for at least 1 year. After that time, the sanctions remain if the financial institution continues its involvement with the chemical or biological weapons programs of these countries. However, also after a year, the President is provided the authority to waive the sanctions.

The chief difference between this amendment, and the provision which is now law lies in the particular sanction. This amendment prohibits offending institutions from doing business in the United States. The law on companies prohibits sanctioned companies from selling their products to the U.S. Government.

Admittedly, the sanction on companies is somewhat less stringent. However, the Senate in its 92 to 0 vote on the chemical weapons bill, approved language prohibiting imports from offending companies—a sanction similar to what is now being proposed. In addition, the import sanctions are included in the unemployment compensation package just received from the House yesterday. I have been assured by the conferees on this bill that the import sanctions will be included, and enacted into law.

Mr. President, Congress—in its wisdom—has already passed legislation to impose sanctions on foreign companies which trade in chemical weapons. In fact, the Senate passed that legislation on a number of occasions. Now is the time to expand the scope of that legislation to close down the foreign banks, insurance companies, and other financial institutions which finance and insure the trade in chemical weapons. That is what this amendment will do, and I urge Senators to lend it their support.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, I am prepared to accept this amendment. I yield to my colleague from Utah.

Mr. GARN. Mr. President, I am also prepared to accept the amendment.

Mr. RIEGLE. Mr. President, let us settle that amendment then. I yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from North Carolina has 3 minutes and 45 seconds remaining.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from New Hampshire [Mr. Smith] be added as an original cosponsor of both this amendment and the previous one, which was laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1379) was agreed.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1378

Mr. RIEGLE. Mr. President, I now move that the Senate return to the first Helms amendment, and I indicate that we have checked the jurisdictional issue on that matter, and we are prepared to accept that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield back the remainder of my time.

Mr. RIEGLE. I yield back the reminder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 1378) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the chairman.

Mr. RIEGLE. Am I correct now that the Senator from North Carolina has offered the two amendments that he intended to offer?

Mr. HELMS. I am going to have mercy on the managers of the bill. I will not offer the third one.

Mr. RIEGLE. I thank the Senator from North Carolina.

MODIFICATIONS TO AMENDMENT NO. 1342

Mr. RIEGLE. I send to the desk two technical changes to the previously adopted amendment No. 1342 offered by Senator Ford. I ask unanimous consent that they be agreed to.

The PRESIDING OFFICER. Is there any objection? Without objection, the modifications are agreed to.

The modifications are as follows:

Page 4, line 17, 18 insert before the semicolon "*Provided*, That a law in existence on the date of enactment of the Comprehensive Deposit Insurance and Taxpayer Protection Act of 1991 which prescribes a period of more than five years shall be deemed to provide a period of five years.".

Modify page 27 to read as follows:

2906(b)(1)) is amended by adding at the end the following sentence:

"A written evaluation shall contain the information required by subparagraphs (A) and

VOL
137
PT
23
NO
21
—
25
1991
UMI

(B) presented separately for each metropolitan area in which an insured depository institution maintains one or more domestic branch offices.".

SEC. 306. STATE TAX COMPLIANCE.

Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended by adding at the end the following:

"(C) Notwithstanding subparagraph (A), lawfully authorized auditors, examiners, and other representatives acting on behalf of the State agency or agencies charged with the administration and collection of taxes imposed by such State or political subdivision thereof, may, to the extent necessary, review the books, records, and accounts of a depository institution, chartered under Federal law which has its main office or any branch located in that State, to determine any State or local tax liability and to ensure compliance with the tax laws of the State or political subdivision thereof.".

SEC. 307. USE OF NAMES IN HOST STATE.

(a) BANK HOLDING COMPANY ACT OF 1956.—Section 3 of the Bank Holding Company Act of 1956 (12 fol.)

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum and that the time not be charged to the managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1380

(Purpose: To require the Federal Deposit Insurance Corporation to treat certain deposits of the Freedom National Bank of New York as insured deposits)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. D'AMATO, proposes an amendment numbered 1380.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York that—

(1) were deposited by a charitable organization, as such term is defined by New York State law; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be considered to have been insured deposits, as such term is defined in section 3 of the Federal Deposit Insurance Act.

Mr. GARN. Mr. President, this is the amendment we discussed before, concerning Freedom National and charitable organizations. It has been cleared on both sides.

The PRESIDING OFFICER. There is 9 minutes and 30 seconds remaining.

Mr. GARN. I yield back Senator D'AMATO's time.

Mr. RIEGLE. I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1380) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum without the time being taken from either side.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1381

Mr. RIEGLE. Mr. President, I send an amendment to the desk, offered in behalf of Senators BRYAN and SMITH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. BRYAN, for himself, and Mr. SMITH, proposes an amendment numbered 1381.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Senate believes that the responsibility to establish national banking policy should rest with the Congress and not Federal financial regulatory agencies; and

The Senate believes that this responsibility is especially true with regard to whether insured depository institutions, in particular, bank holding companies, should be permitted to engage in real estate brokerage; and

The Federal Reserve Board may, pursuant to section 4(c)(8) of the Bank Holding Company of 1956 (12 U.S.C. 1843(c)(8)), permit bank holding companies to engage in those non-banking activities which are "reasonably related to the business of banking or are a proper incident thereto;" and

The Senate believes that real estate activities other than those expressly approved for national banks pursuant to the National Bank Act, may not be directly related to the business of banking or incidental to banking, for purposes of the Bank Holding Company Act; and

Congress believes that Congress, not the regulatory avenue should determine whether or not bank holding companies should be permitted to engage in real estate brokerage.

Now, therefore, it is the sense of the Senate that Congress, not the Federal Reserve Board should determine whether or not real estate brokerage is "closely related to banking" per section 4(c)(8) of the Bank Holding Company Act of 1956.

Mr. RIEGLE. Mr. President, this amendment has been cleared on both sides and I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1381) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, we have now worked out the Conrad amendment. Let me suggest that the Senator from North Dakota be recognized now to send his modified amendment to the desk which is acceptable to both sides, and we are prepared to accept it.

AMENDMENT NO. 1375, AS MODIFIED

Mr. CONRAD. Mr. President, I ask that I be allowed to modify my amendment. I send the modification to the desk.

The PRESIDING OFFICER. The Senator is entitled to modify his amendment unless there has been a time agreement or the yeas and nays ordered. That has not been ordered.

Mr. CONRAD. I ask unanimous consent to be able to modify the amendment.

The PRESIDING OFFICER. The Senator does need consent. Without objection, it is so ordered. The amendment is modified accordingly.

The amendment (No. 1375), as modified, is as follows:

At the end of title II, add the following new section:

SEC. 232. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayers;

(2) As the number of failed institutions and assets in liquidation managed by the FDIC and RTC has grown, the Legal Division's caseload of legal matters has expanded to about 100,000.

(3) The FDIC and RTC are the largest purchasers of legal services in the United States today.

(4) Two recent studies by Price Waterhouse and Altman & Weil on behalf of the FDIC have concluded that—

(i) the FDIC and RTC may spend more than $1 billion this year on legal fees and expenses yet there is ineffective oversight or management of these expenses;

(ii) outside counsel are generally not selected on a competitive basis;

(iii) the FDIC and RTC have not instituted policies to insure that tasks are assigned to the firm best able to perform them in a cost-effective manner;

(iv) the FDIC generally pays hourly rates rather than arranging less costly fixed rate contracts;

(v) outside attorneys spend significant amounts of time performing tasks which do not require attorneys' skills; and

(vi) the FDIC and RTC have allowed persons and firms whose activities contributed to the decline of the banking and thrift industries to contract with and profit from the activities of the FDIC and RTC; and

(5) These practices undermine the faith of the American taxpayers in the use of taxpayer dollars to finance the cleanup of the banking and thrift industries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and RTC should not contract with persons or firms whose activities contributed to the decline of the banking or thrift industries.

Mr. CONRAD. Mr. President, we have been able to work out this amendment in a way that I believe is effective for the American taxpayer. It will help us to start to move on this massive abuse of using the legal fees, law firms, in a way that is costing the taxpayers tens of millions, if not hundreds of millions, of dollars a year in additional costs that they should not be asked to bear. I want to thank the chairman and ranking member for working to achieve this result.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 1375) as modified, was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. I thank the Senator from North Dakota. Mr. President, in looking at my list, we are now down to a relatively few amendments. We have an amendment in order for Senator GORE. We have one in order for Senator BUMPERS. I am advised that Senator BUMPERS does not intend to offer his amendment. I want to confirm that but, in any event, the Bumpers amendment will not be offered.

I show remaining on the list a Gorton amendment, a possible Mack amendment, a possible D'Amato amendment, a possible Dole amendment, a possible Grassley amendment, and I think that is it.

So we are very near conclusion of this bill. I ask any of those Senators who intend to proceed to come to the floor as quickly as they can, because there is great pressure by the leaders on both sides to complete this bill and to move to other matters that have to be brought up tonight that are quite urgent. May I ask those Senators and alert their offices now that it is essential they come to the floor and be prepared to offer these amendments.

The PRESIDING OFFICER. The Chair repeats the amendments to be certain the Senators hear and know about it. You had a potential amendment by Senator GORE, by Senator BUMPERS, which you are not certain will be offered, by Senator GORTON, Senator MACK, Senator D'AMATO, Senator DOLE, and Senator GRASSLEY; is that correct?

Mr. RIEGLE. Yes, and I believe an amendment has been reserved for the majority leader as well. That should be listed.

Senator KERRY also has two on this list. They should be acknowledged, although I am hopeful it may not be necessary for him to come and offer those. In any event, they were on the earlier unanimous-consent list and should be noted.

The PRESIDING OFFICER. That is Senator JOHN KERRY. The amendments by Senator JOHN KERRY are potential ones.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the quorum not be counted against the time of the managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, is the Senator from New Mexico correct in assuming that the banking bill is the pending matter and that an amendment would be appropriate?

The PRESIDING OFFICER. If the Senator is authorized to offer an amendment, that is correct. The banking bill is pending. We have a list of amendments. I do not see the managers here now, and, therefore, the Chair will have to check with the Parliamentarian.

Mr. DOMENICI. Mr. President, I do not need to offer an amendment. I am going to make a statement that has already been accepted because it was offered by the managers.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Mr. President, I have heretofore offered an amendment to change the real estate appraisal process to help reduce regulatory burdens on real estate lending and to stimulate real estate markets.

Almost all of us have been hearing from our constituents that somehow or another the banks seem to be clogged because of regulation, real or perceived, and that even when loans are going to be made, they take an inordinate amount of time from the time of application until conclusion.

None of us know the extent of that, and none of us know exactly how to fix that.

But we did come upon some situations that we think could be fixed and would not in any way jeopardize the health and the soundness of the institutions in the United States, banks and others making loans.

So I am very pleased that an amendment which I offered was cosponsored by my junior Senator, Senator BINGAMAN, by Senator BOREN, Senator MURKOWSKI, Senator MCCAIN, Senator SEYMOUR, and Senator CHAFEE. I thank them for helping with the amendment. It is now part of the bill as it works its way through the Senate because the managers have seen fit to accept it.

Essentially, what we are trying to do is to make the appraisal of homes and commercial property a little bit more expeditious, and to move the thresholds, the mandatory thresholds which require certified appraisers, up some. They were $50,000 both for commercial and residential. Almost everyone says that is far too low, and that we ought to move that up. Thus we have moved the residential up to $100,000, and commercial up to $200,000.

It means that they will be appraised even lower than that, but not necessarily by certified appraisers which we have found to be in short supply in almost every State, and extremely expensive as compared with appraisals of other types that were used before the certification process gained such a prominence.

So what we have done in this amendment is say that rural America, where it is very, very hard to get appraisers of a certified quality, is exempt from having to have certified appraisals. Thus you can have homes and commercial property in a very small community way far from the large cities, and you will not have to have a certified appraisal. You will have to have an appraisal.

A number of other exceptions have now been weaved into this amendment, and I have gone into them in some detail in this statement.

I thank the managers for accepting it. I believe it is the kind of amendment that should be accepted by the House because if we want to do some things to move money out of our banks into the hands of people, either for home improvements or for homes or commercial property, we ought to take away delays and costs wherever we can, especially if we have concluded that it is not necessary that they remain as they are today either for protection of the bank or for protection of those who are buying or mortgaging property.

I thank the Chair.

VOL 137
PT 23
NO 21—25
1991
UMI

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum and ask that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

AMENDMENT NO. 1382

Mr. RIEGLE. Mr. President, I send to the desk an amendment in behalf of Senator KERRY.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] for Mr. KERRY, proposes an amendment numbered 1382.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 262, between lines 13 and 14, insert the following new subparagraph:

"(E) CORPORATE EQUITY SECURITIES.—Acquiring common and preferred shares listed on a national securities exchange and shares of an investment company registered under the Investment Company Act of 1940, in an aggregate amount not exceeding 50 percent of the bank's capital, if the bank was engaged in investing in such securities as of September 30, 1991. A bank shall not acquire common or preferred shares of any issuer (other than a registered investment company) if, after the acquisition, the bank's investment in shares of that issuer would exceed 10 percent of the bank's capital.

Mr. RIEGLE. Mr. President, the amendment has been cleared on both sides. I ask for its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1382) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid on the table.

The Senator from Iowa.

AMENDMENT NO. 1383

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 1383.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 11 of the Federal Deposit Insurance Act is amended by adding a new paragraph (14) to subsection (e) as follows:

(14) CREDIT CARD SALES.—

(A) NOTIFICATION.—Any insured depository institution shall notify the Corporation in writing prior to entering into any agreement relating to the sale of credit card receivables, if the institution is:

(i) not in compliance with the minimum applicable core capital requirements; or

(ii) not adequately capitalized as defined in section 205 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(B) WAIVER BY THE CORPORATION.—After receipt of the written notice required in subparagraph (A), the Corporation, in its sole discretion and upon such terms and conditions as it may prescribe, may waive its right to repudiate the agreement if the Corporation determines that such a waiver is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the ability of the Corporation to otherwise waive its rights to repudiate any agreement or lease under this section.

(D) NO BREACH OF DUTY.—In granting any waiver of its right to repudiate a contract or lease, including any waiver granted under subparagraph (B), the Corporation, in any capacity, shall not be liable to any person for any damages as a result of such action nor shall any court have jurisdiction to enjoin, restrain or affect the exercise of such powers by the Corporation.

(E) EFFECT OF WAIVER ON SUCCESSORS.—Where the Corporation has waived its rights to repudiate pursuant to subparagraph (B), any restriction contained or incorporated by reference in a sales agreement on the manner in which any customer or any list of customers of the selling institution may be solicited or otherwise dealt with shall be binding upon a receiver or conservator of the institution and the Corporation shall require any entity which subsequently purchases or acquires such selling institution, or substantially all of the assets or liabilities of such institution, to assume, and agree to be bound by, such restrictions on the manner in which any such customer or lists of customers of the selling institution may be solicited or otherwise dealt with, as if the acquiring entity were the selling institution; provided however, that nothing herein shall be read to inhibit or restrict such subsequently acquiring entity's ability to offer any service or product to any group of prospective customers as identified without use of or reference to any such prior customer status or list, or to require such entity to discontinue or restrict any of its preexisting customer relationships. Nothing herein shall apply to a transaction in which the Corporation arranges for a depository institution to purchase only insured deposits.

(F) CREDIT CARD CUSTOMER LIST.—Notwithstanding any other provision of this paragraph (14), if any consummated agreement reached at arms length relating to the sale or transfer of credit card receivables by an insured depository institution provides for the sale of the exclusive use of any credit card customer list of the selling institution, the Corporation shall prohibit the use of such list by any person other than as provided by the terms of such previous agreement as part of any transaction undertaken pursuant to sections 11 or 13 of this Act.

(G) FRAUDULENT TRANSACTIONS EXCLUDED.—No provision of this paragraph shall be construed to interfere with the Corporation's rights to repudiate any contract undertaken with the intent to hinder, delay or defraud the institution, the creditors of such institution or the Corporation.

SUMMARY

This language amends subsection (e) of section 11 of the Federal Deposit Insurance Act to provide a mechanism for parties to credit card sale transactions to obtain a waiver of the ability of the FDIC to repudiate these transactions where the selling bank does not meet specified capital requirements. Subparagraph (C) clarifies that this amendment is not intended to prohibit the Corporation from granting waivers for other types of contracts.

Subparagraph (D) is intended to protect the Corporation from allegations that as conservator or receiver it has violated its fiduciary duty to all creditors by granting such a waiver prior to the failure of the insured depository institution. Without the protection afforded by subparagraph (D), the ability of the Corporation to grant such preclosing waivers would be unduly hampered by risk of potential litigation claims.

Subparagraph (E) provides certain protections to purchasers of credit card receivables when the FDIC waives its rights to repudiate such agreement by effectively passing through to the successor of any failed institution any previously agreed to restrictions on the seller relating to its customers.

Subparagraph (F) would require the FDIC to prohibit the use of any credit card customer list of a failed institution if that list had previously been sold or transferred in an arms length transaction to another entity.

Subparagrpah (G) protects the Corporation from any agreements that are designed to hinder, delay or defraud the depository institution, its creditors, or the Corporation.

Mr. RIEGLE. We are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 1383) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, we have one more amendment I am going to be sending to the desk that we are prepared to accept, and that is the sense-of-the-Senate resolution of Senator GORE.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. RIEGLE. It is not quite ready. We are going to suspend for a moment.

AMENDMENT NO. 1384

Mr. RIEGLE. Mr. President, let me send the Gore amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. GORE, proposes an amendment numbered 1384.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Expressing the sense of the Senate regarding United States policy toward Yugoslavia.

Since attacks against people and territory of the Republic of Croatia by armed forces responding to direction from the Republic of Serbia are continuing despite numerous cease-fire agreements negotiated under the auspices of the European Community;

Since losses of life, property, and displacement of persons have already reached grievous levels and are continuing to rise as the result of continued violation of cease-fires;

Since attacks against the Republic of Croatia represent an effort to change postwar borders by force; and

Since it is a fundamental principle essential for the future peace of Europe that borders not be changed by force: therefore, it is the sense of the Senate that, if the Croatian government adheres in good faith to the terms of cease-fires negotiated by the European Community, and if those parties now conducting military operations against the Republic of Croatia refuse to comply immediately with the terms of such cease-fires, the policy of the United States should be—

(1) to consult promptly with the EC, with other countries on a bilateral basis, and with the United Nations on the question of recognizing, upon request, those Republics such as Slovenia and Croatia that have declared their sovereignty and independence and have agreed to cooperate with EC efforts;

(2) to take whatever steps are needed under existing legal authorities to bring the United States into conformity with sanctions and other punitive measures agreed to by the EC for its own members and recommended by them for others, and to take action parallel to those proposed by the EC for applying "positive compensatory measures" to be applied to those parties that "cooperate in a peaceful way towards a comprehensive political solution on the basis of EC proposals;"

(3) to offer humanitarian assistance to those republics that require such assistance on an emergency basis in light of conflict taking place on their territories;

(4) to place the Republic of Serbia on notice that continued military action will cause the United States to support EC efforts to call for mandatory UN Security Council measures as a response to an act of aggression;

(5) to require of all authorities a clear and binding commitment to protect the rights of minorities living within the borders mutually recognized by the republics and provinces of Yugoslavia in 1974 and to seek formal commitment on their part to accept international inspection and, if necessary, arbitration, to protect those rights; and

(6) to lend strong support to all EC and other international activities aimed at bringing about a restoration of peace and respect for the principle that territorial disputes shall not be settled by the use of violence.

RECOGNITION OF THE YUGOSLAV REPUBLICS

Mr. DECONCINI. Mr. President, I rise to support the amendment offered by my distinguished colleague, Senator GORE. However, while I believe that it is important that we consult with the Europeans in the hope of having a common, multilateral approach to the issue, we must do more than consult. We should encourage recognition, and the United States should itself take a stand and recognize the Republics now. The United States stands in this world as a symbol of freedom and independence for all peoples, and it is critical that we do not abandon our principles in our response to the crisis in Yugoslavia.

The conflict in Yugoslavia has a complex network of intertwining historical roots, and the mutual accusations and one-sided reporting coming from the disputing parties makes it difficult for us to find easy answers. I would nevertheless like to make the following comments, which I believe justify recognition of the sovereignty and independence of the individual republics.

First, it is a simple fact that the Yugoslavia we once knew has now disintegrated. The blame for this rests not on the so-called "separatist" governments of Slovenia and Croatia, but on the Government of Serbia and its ally, the Yugoslav military, which claim to be preserving the Yugoslav State. In other words, the best arguments for recognition have come not from Ljubljana and Zagreb, but from Belgrade itself.

It is true that the people of Slovenia and Croatia elected governments which indeed have sought to break up the existing federation, an exercise of their right to self-determination. It is also true that this right is, for these two peoples and for all others, tempered by the principle of the equal rights of peoples. This means that, instead of taking unilateral actions, they must take into account the aspirations of others, in this case their countrymen in the other Yogoslav Republics and provinces. In fact, for the first 6 months of this year, Slovenian and Croatian officials engaged in negotiations that attempted to do just that. Even after the conflict started, the Croatian officials remained in the federal system in the hope of working things out.

During that same time, Serbian officials sought to undermine the Federal system they were claiming to defend. They stole Federal funds. They ensured that the representatives of Kosovo and Vojvodina were not the independent voices they constitutionally should be at the Federal level. They resigned from the Federal presidency, only to return and then block the normal rotation of the head of that body. Most recently, they claimed to take control of the presidency and assumed the powers of the Federal assembly. These arbitrary actions created the political chaos that denied Yugoslavia the legitimacy it otherwise had. With these acts, they have provided the other republics with the most genuine reason for wanting to leave the federation. And while they all nevertheless agreed to create a new Yugoslavia on the basis of a plan proposed by the European Community for an association of sovereign and independent states, Serbia turned the plan down. As a result, I believe that the future of those who have attempted to negotiate a mutually agreeable solution should not forever be determined by those who have not.

Second, the boundaries between the Yugoslav Republics were not internationally recognized frontiers, but that does not mean that changing these boundaries by the threat or use of force is in any way an acceptable practice. By seeking to change these boundaries by force, the efforts of the Yugoslav Army and the Serbian Government have made them the equivalent of international frontiers. Indeed, it is likely that we would not feel compelled here today to recognize the republics and their existing borders were it not for the Yugoslav Army attacks on them.

Finally, with all the violence that has occurred, whether we like it or not Yugoslavia has been shattered to the extent that it cannot be put back together except by the free will of its peoples. Given what has happened, reconciliation among the neighboring peoples of Yugoslavia is more likely to occur if they each first have their own sovereignty and independence.

I am under no illusion, however, about what recognition means. Like sanctions, it is unlikely to bring a sudden and complete halt to the fighting, since the fighting is really over territory and not maintenance of a federation. Recognition will not mean foreign intervention or military assistance to the independent republics, and it would be foolhardy, if not dangerous, to interpret it as such.

Recognition also does not mean approval of the policies of the republican governments, most of which have espoused nationalism, sometimes at the expense of democratic development, economic reform and respect for the rights of all peoples on their territories. None of the republics, including Croatia, can claim to be fully democratic. Of course, building democratic institutions might be difficult during the course of civil war, but such an effort cannot be abandoned. While independence may now be a precondition for further democratic development, I wish to make clear that, to the United States, democracy is far more important than either the unity of Yugoslavia or the independence of its republics, and opting to recognize the republics does not, in and of itself, mean full

VOL 137 PT 23 NO 21—25 1991 UMI

acceptance in the community of democratic nations.

While it is no cureall, recognition does take a stand on what we and hopefully the rest of the world will now accept as the best response to the Yugoslav crisis. Until recently, the Europeans and the United States have kept the door open to both sides of the dispute; we could have, were asked to, but chose not to recognize the republics earlier in the crisis. That open door has now been slammed shut by the Serbian Government and the Yugoslav military, first and foremost by its wholly unwarranted assault on Dubrovnik.

Recognition will also provide needed symbolic support to those republics which have never been independent before and may have a difficult time achieving it now. As hard as it may be to realize, these republics may in fact be the scene of even more bloodshed that has been seen thus far in Croatia, and they desperately need our support.

In return for recognition, we should ask that those republics willing to develop relations on the basis of the EC plan should in fact do so. The plan is a good one, and the EC should proceed with it. It contains important elements on respecting human rights and fundamental freedoms for all people, without discrimination on the basis of their enthnicity or religious belief, that should not be quickly abandoned by governments genuinely committed to the development of democracy. And just as they were neighbors within the Yugoslavia of past, so too shall they be neighbors as separate, sovereign entities, making cooperation among them as envisaged in the EC plan inevitable.

If the Serbian Government continues to choose to reject the plan, so be it—they choose their own isolation from the remaining Yugoslav Republics and also from the rest of Europe. In the end, I hope the people of Serbia will decide to join the community of free European nations rather than accept the isolation their government has brought them. When that time comes, Serbia's neighbors must be prepared to extend their welcome.

Mr. REID. Mr. President, neither the Croatians nor the Serbs are without fault in the current Yugoslavian conflict. In fact, both sides have been brutal.

Just this morning in the Washington Post, on the front page, we read an article, dateline Vukovar, a city in Croatia, beginning with this sentence: "Lying in Liberation Square today were a puppy, an old woman under a plaid blanket and a chubby man staring wide-eyed at the sky. All were dead." The article goes on to describe a Serb guerrilla "wearing a newly liberated white hockey helmet and a crimson scarf and shouldering a machinegun" pedalling by a burning apartment building on a child's bicycle. "He smiled broadly, flashed a V-for-victory sign and steered carefully so as not to run over the corpses."

It is the kind of sensationalist writing that gives a skewed picture of the Serbo-Croatian conflict. If we read only the front page and do not turn to the rest of the article, we think "Oh, aren't the Serbs awful. See how brutal they are."

It is only on page 30 that the author admits that "ethnic hatred here is not one-sided." The author goes on to describe a Serbian woman living in Vukovar whose family has been threatened with death by Serbian militiamen. She states "Sometimes, when there was the most shooting, the militiamen made us leave the apartment building and stand outside in the street. They said that if we didn't leave the building, they would slaughter us."

Both Serbs and Croatians have beaten prisoners. Ante Gudelj, a 72-year-old Croatian man, was captured by Serbian rebels in Tenja on July 1. When interviewed, this elderly man still had many black and blue bruises covering large areas of his back, chest, and arms. "The worst are the bruises on my back and kidneys. I was hit with police batons. They also hit me in the groin with their legs." According to the doctor, the patient's left lung was punctured and filling with water.

On the other side, according to Helsinki Watch, a Serbian prisoner was beaten by Croatian National Guardsmen, near Djakovo, July 7, 1991, in a similar manner. These incidents abound on both sides.

There is no need to describe all of the atrocities that have occurred on both sides, but there have been many. The majority of abuses committed by the Croats, according to Helsinki Watch, involve discrimination against the Serbs: the Croats' beating of prisoners in police custody and their failure to rigorously prosecute a killing are also serious violations. The abuses committed by the Serbs involve physical maltreatment—including the beating and use of electric shocks against prisoners—and egregious abuses against civilians and medical personnel, including the use of human shields and the taking of hostages. The Yugoslav Army has also committed serious human rights violations by attacking civilian targets.

These two peoples bare scars that date back hundreds of years. Serbs make up 37 percent of Yugoslavia, Croats are 20 percent, and Slovenians are 8 percent. Even this century, during World War II, while Yugoslavia was occupied by the Nazis and Italian fascists, a bloody civil war was waged among Croats, Serbs, and communists. The Independent State of Croatia was a fascist state which massacred thousands of Serbs, Jews, Gypsies, and others. Similarly, Serbian Cetniks, a group loyal to the Serbian King in exile, massacred thousands of Croats, Muslims, and others.

Today that conflict continues. Not under the same political labels, but out of revenge and hatred on both sides. Fears on both sides appear justified. Croatia has seceded with 600,000 Serbs living within its border. These Serbs are fearful. On the other hand, the Serbian leader, Slobodan Milosevic, is a hard-line Marxist and a public relations disaster.

Serbs living in Croatia feel threatened by the resurrection of Croatian nationalism, according to Helsinki Watch. The Serbs claim that such fervent nationalism is a prelude to the resurrection of the World War II Nazi puppet state under which thousands of Serbs were killed. They believe that an independent Croatia would be a fascist state. The Serbs are 11.5 percent of Croatia's population, and they do not want to be labeled as an ethnic minority in Croatia. They fear being treated as second-class citizens, or worse.

The Croats believe that the current Serbian insurrection is the creation of the Federal Government in Belgrade, whose aim is to bring about the fall of the Croatian Government and to reinstate Serbian and Communist control over its territory. It is interesting to note, however, that the Yugoslav defense minister is a Croat, and the chiefs of the navy and air force are a Croat and a Slovenian.

Both sides should be sitting down at the bargaining table, not killing one another in yet another brutal Serbo-Croatian bloodbath.

I think the Senate needs to make it clear that we do not approve of the actions of either the Serbs or the Croatians.

Mr. RIEGLE. Mr. President, I urge adoption of the amendment of Senator GORE.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 1384) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the D'Amato amendment be withdrawn because that has been settled in another manner.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be given 5 minutes to discuss my vote on this bill immediately after its passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPITAL MAINTENANCE AGREEMENTS

Mr. RIEGLE. Mr. President, I rise to engage in a colloquy with the distinguished Senator from Tennessee [Mr. SASSER] dealing with the capital maintenance agreements provision of the bill. This provision is in title II of the legislation.

It is my understanding that this provision is not meant to be applied retroactively. In other words, that we are not taking any position on current law as it relates to capital maintenance agreements.

Mr. SASSER. Mr. President, in response to the Senator from Michigan [Mr. RIEGLE] I would simply like to say that I am in agreement with the Senator's interpretation of the provision.

Mr. RIEGLE. I thank my colleague from Tennessee for his affirmation of the intent of the capital maintenance agreements provision.

STATUTORY LIMITATIONS ON CREDIT CARD INTEREST RATES

Mr. MOYNIHAN. Mr. President, last week the Senate adopted an amendment to the banking bill proposed by Senator D'AMATO that would establish by law a limit on the interest rate that may be charged on credit card balances.

I voted in support of the amendment. I believe the amendment raised some fair questions about why many credit card interest rates have remained static, at persistently high levels, when other interest rates have gone down. Fair questions about whether there is a genuine and vigorous competition in the market. Fair questions about whether credit cards are being issued indiscriminately, with the losses made up by those who use their cards judiciously and pay their debts.

A floor vote in the Senate is a time-honored way of raising concerns in a forceful way, and I believe that objective has been accomplished. We have opened a dialog and are now getting some answers. I would venture that the American consumer is better informed this week than last, as is the Congress.

I don't believe this ends the matter. I think we should take a careful look at whether there is genuine competition among credit card providers, particularly large ones, and whether some cardholders are unfairly subsidizing bad credit decisions. These are fair questions, and I do not prejudge the answers. I would support proposals to provide for a study by disinterested experts. I believe that is as far as we need go at this point. Our main concern in the banking bill should be to modernize the banking laws so that banks have a fair chance to prosper, and to put the bank insurance fund on a sound footing. We must also be cautious in the current recession not to do anything that would jeopardize consumer spending.

While fair questions have been raised, statutorily imposed limits on credit card interest rates are not appropriate at this time. For this reason, I will vote against any final version of the pending banking bill that contains such limits.

CREDIT CARD INTEREST RATE CAPS

Mrs. KASSEBAUM. Mr. President, much has been said about the credit card vote in the Senate last week. I have read several articles that state the vote occurred on Thursday night and caused the stock market to drop 120 points the next day. The only problem with these analyses is that the vote actually occurred on Wednesday night not Thursday. The market on Thursday, the day after the vote, was down less than two points.

I have also read that the vote was a complete surprise to the credit card industry which had no time to respond to congressional concerns regarding their rate structure. Some type of vote should not have been unexpected by the credit card industry. The issue has been festering for some time. In the days prior to the vote, several respected Senators went to the floor questioning why credit card rates were not responsive to the other interest rate cuts. The industry did not respond to these speeches or offer any justification for their rates.

It was only after the vote that any type of justification or explanation was offered. President Bush stated that he was simply jawboning the issue to bring rates down. In a sense, this is exactly what the Senate did as well. Where President Bush can jawbone an issue by giving a speech that will be widely reported in the media, sometimes the Senate must resort to jawboning an issue by a symbolic vote. It is unlikely that the credit card ceiling will be enacted into law, and on its merits, it shouldn't be. Nevertheless, the vote did serve as a shot over the bow of the industry. In fact, with almost every complex bill, particularly a bill perceived as benefiting a particular industry and involving the perception of taxpayer assistance, there is generally at least one populist-driven, lopsided vote designed to serve as a shot over the bow. The votes generally force the industry to respond to a criticism they are ignoring. For all its criticism, the vote has put the burden of proof on the credit card industry to justify the public why credit card rates have not reacted to the other reduced rates, and it has made consumers better informed. The credit card industry clearly needs to do a better job of justifying their rate structure.

To the extent the industry is now focusing on this issue, the vote has served its purpose. In this regard, the Washington Post carried an excellent article by Rudolph A. Pyatt, Jr., which I ask be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 21, 1991]

CONGRESS CAN SHED LIGHT ON DARK CORNERS OF CREDIT CARD INDUSTRY

(By Rudolph A. Pyatt, Jr.)

When lawmakers in Maryland attempted to hold down bank card interest rates in the early 1980s, major banks in the state threatened to pick up their marbles and move the game elsewhere unless the rules were changed. And when the threat seemed to be having less than the desired effect, lobbyists for the state's banking industry raised the stakes by warning of possible jobs lost to neighboring Delaware.

Sure enough, when legislators refused to budge, Maryland's larger banks loaded up their credit card divisions and moved them, one by one up Interstate 95 to Delaware, which has no interest rate ceiling. Thus those Maryland banks. Operating from a safe haven, were free to charge 18 percent and 19 percent interest on their cards, just as many of their competitors were doing nationwide.

A much bigger dispute over credit card interest rates was flaring at the time, however, as national consumer groups and members of Congress joined the fray. As we have seen in recent days, it is a recurring argument in which issuers of credit cards nationwide find themselves increasingly on the defensive.

Congress was all set last week to pass legislation mandating a cap on interest rates, but apparently woke up with cold feet when it was widely suggested that congressional support for the measure caused a one-day plunge of 120 points in the Dow Jones industrial average.

Raising a wet finger to determine wind direction is probably a more accurate forecaster for the Dow's performance on most days than the reasons given. Congress nevertheless deferred action on an interest rate cap for the time being. The issue is bound to come up again.

In the meantime, it's unlikely that credit card issuers will relent and slash interest rates simply because the President says they should. In much the same way that Maryland banks responded several years ago, the nation's banks and other credit card issuers are warning that bad things will happen if you touch their cash cows.

A congressional cap on credit card interest rates "could deliver a knockout blow to America's economy," bankers, retailers and other industry groups warn in a high-pow-

VOL 137 PT 23 NO 21—25 1991 UMI

ered campaign. "Potentially, up to half of those citizens currently holding credit cards would no longer qualify," if a national cap were imposed, the groups contend.

Scare tactics? Call it a massive exercise in hyperbole for the time being.

Other factors pose a much greater threat of a knockout blow to the economy than a cap on credit card rates: growing unemployment, the competitive mismatch between U.S. companies and formidable protected foreign cartels, and the continuing upheaval and uncertainty in banking, to name a few.

Meanwhile, it's somewhat ironic that the banking industry warns of dire consequences for the economy while keeping a tight lid on loans for housing construction and business expansion. Something the banks are or aren't doing is fueling complaints about a credit crunch.

Credit card issuers maintain that an interest rate cap would force them to limit cards to their most creditworthy customers. That's the way it should be. As it is, the purveyors of plastic appear to be issuing cards to almost anyone who has a Social Security number. Small wonder, then, that the industry says high rates are necessary to cover credit losses and fraud.

If credit losses and fraud are as serious as banks and others say they are, why not reduce risk by restricting the availability of cards to truly creditworthy customers in the first place? The average middle-income consumer can qualify for a $5,000 line of credit and a bank card quicker than you can say charge it. College students in many instances can obtain a credit card quicker than they can get a job.

Much of the growing credit card business has developed, not as a result of applications initiated by consumers, but through aggressive marketing initiatives by competing banks and other marketers of plastic.

Rep. Frank Annunzio (D-Ill.), who authored a short-lived proposal that would have capped credit card rates at 14 percent, was quoted recently by the Associated Press as saying that U.S. consumers pay 20 percent interest on credit cards because banks lost money to "fast-talking, quick-buck artists."

Consumers were, in fact, paying close to 20 percent interest on credit cards long before banks were taken in by fast-talking, quick-buck artists in the go-go 1980s. Ten years ago, card holders were paying 18 percent. The prime rate, however, was above 17 percent. Five years ago, when the prime was less than 10 percent and the economy was booming, some card holders were still paying more than 19 percent.

It's possible to find rates as low as 14 percent, but the average consumer probably would need a national shopping list to find rates that low. Although some regional institutions, such as Richmond-based Crestar Bank, charge less than 16 percent, most major card issuers seem to be stuck on 19.8 percent.

If that's really representative of the high cost of operating a credit card business, then something's terribly wrong with the system. Banks generally pay no more than 7 percent today on certificates of deposit. They pay less than 5 percent on overnight borrowings from other commercial banks. The discount rate, or the charge on loans to banks from the Federal Reserve banks, is now only 4.5 percent.

With banks enjoying such wide margins in the cost of borrowing and lending, loan sharks may be in the wrong business.

But if the costs of issuing cards and processing credit transactions are really as high as bankers and others say they are, it may be time for Congress to look into the matter—not necessarily to put a cap on rates, but to shed more light on a business that has created a love-hate relationship for consumers.

RISK POOLS WORK

Mr. HATCH. Mr. President, increasing access to health care for all Americans has been one of my primary concerns, especially in light of rising costs, escalating insurance premiums, and the budget strain on public programs. Many Americans are finding out that when disastrous medical emergencies occur, they are squeezed out of vital coverage. For this reason, I have been interested in the development of risk pools that can be used by Americans who suddenly find themselves designated as high risk and unable to get the insurance coverage they need.

Mr. President, I want to bring my colleagues' attention to what can happen when a medical emergency makes a family uninsurable and the need for medical attention remains. I also want to highlight a successful, innovative solution to one aspect of the access to care problem.

In Utah, the risk pool has been made a reality because of a family, the Becks, who desperately needed medical coverage due to the birth of a child with Down's syndrome. The State of Utah has funded a risk pool for the uninsurable which will make a very real difference in the lives of not only the Becks, but also others in the State who have been denied insurance simply because of a need to use it. I commend the Becks and others who brought this issue to the attention of the State as well as my colleagues in the Utah Legislature who voted to establish the new program.

Mr. President, I ask that the entire article from the Salt Lake Tribune, dated July 29, 1991, be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOTHER, SON WIN BATTLE FOR MEDICAL INSURANCE

(By Dan Harrie)

Trisha Beck's introduction to the harsh policy of "risk avoidance" by health insurance companies came eight years ago when she gave birth to a son, Richard, with Down's syndrome and respiratory problems.

The medical bills for the first year were $100,000.

In the meantime, the Beck's insurance company raised their monthly premiums from $80 to $450 a month. Worse, the financially troubled firm took out bankruptcy and was forbidden from practicing in Utah.

Policyholders were told to find insurance elsewhere.

That was when Ms. Beck discovered an even more startling fact about the health insurance industry—the "blackballing" of people with major medical problems as uninsurable.

The Becks, who were self-employed, were turned away by company after company. Desperate, they finally turned to Medicaid, but were told their income was too high; they would have to divorce or abandon their child to the state to qualify.

"I remember slamming my hand down at the Medicaid office and saying this is not right. This is not fair. I said some day I'm gong to change this," Ms. Beck recalls.

She has.

Beginning Monday, a state-backed program to provide medical insurance to the "uninsurable" will begin taking applications. Ms. Beck, who lobbied the Legislature six years to create the Comprehensive Health Insurance Pool, will serve as vice chairwoman.

"It was a really tough sale," says the mother of five, who at times dogged unconvinced lawmakers to the door of the men's room with babe in arms.

The $2 million in state money will start a program officials say can be self-funding after it gets up and going.

It is not for poor people. Premiums are 50 percent higher than equivalent policies in the private sector.

Fred Havas knows the harsh, statistics-driven ways of the insurance industry inside and out.

An insurance agent, Mr. Havas discovered March 7 he had a disabling heart condition that required bypass surgery. The next day he was summarily fired from his job.

"I was shocked. That was probably the most absolutely filthiest thing that I'd ever had done to me."

Mr. Havas was saved by federal law requiring companies to continue existing coverage to employees, at their own expense, after they're terminated. But that safety net disappears after 18 months.

REPEAL OF GLASS-STEAGALL AND IMPOSITION OF FIREWALLS

Mr. GARN. Mr. President, I know that many of my colleagues shared my disappointment when we found it necessary to eliminate the Glass-Steagall provisions in title VII from S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, before consideration of that legislation by the Senate. Repeal of the Glass-Steagall Act is long overdue. I have every expectation that the Senate will revisit the Glass-Steagall issue at some time in the near future, however, so I am hopeful that the elimination of those provisions will not unduly delay the achievement of true financial services reform.

Recently I received a letter addressed to Senator RIEGLE and me that I believe indicates the direction that our future efforts should take with respect to Glass-Steagall. This letter is particularly noteworthy in that it comes not from a securities firm or commercial bank or other type of financial services firm, but from more than 70 companies and other entities that are users of financial services. It should not be surprising that they applauded the Banking Committee's repeal of Glass-Steagall, because they would directly benefit from enhanced competition in financial services. And it is important to note that they warned against our imposing excessive firewalls that could unnecessarily impair the competitive benefits of Glass-Steagall repeal.

I believe that this letter is an important message to the Congress from a group of interested parties we have not heard from before. I ask that it be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 8, 1991.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate,
Washington, DC
Hon. JAKE GARN,
U.S. Senate,
Washington, DC.

DEAR SIRS: Your Committee has taken the historic step of voting to bring to our country the full benefits of competition and innovation in financial services by repealing the Glass-Steagall Act, as part of S. 543 the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. As entities that raise capital in the public and private markets in this country and abroad, we applaud this action.

Equally important, we urge you not to allow this critical reform to be sabotaged—under the distingenous guise of preventing abuses—by new anti-competitive restraints on financial firms' ability to provide users of financial services like us with the full range of financial products and services. Excessive "firewalls" hurt not only the firms they are directed against but also the consumers of their services.

Among the most anti-competitive proposed firewalls are those that would prohibit a bank from lending to an underwriting customer of the bank's securities affiliate for a period of time following the underwriting. Some allege that such a prohibition is necessary to prevent banks from coercing their customers to give securities business to the banks' affiliates in order to maintain access to bank-provided credit.

As clients of banks that have securities affiliates, we think those allegations are spurious. Even if they tried—and they have not—our banks could not force us to use their affiliates by threatening to withhold credit. Borrowers creditworthy enough to issue securities generally have a wide choice of potential lenders. It is absurd to contend that we would accept any but the best-performing underwriters merely because their affiliates also provided credit. Firewalls designed to prevent this imagined potential for coercion would impose needless anti-competitive restraints.

Our fundamental concern is that restrictions such as this will sap the inherent competitive vitality of firms that offer a wide range of financial services. We and other major users of those services can only benefit if a greater number of able competitors vie for our business. We urge Congress to resist pressures to preserve the protected securities business of a few firms.

Ultimately, opening our financial markets to vigorous competition will aid the efficient flow of capital to productive uses in American industry and allow U.S. financial institutions to compete effectively in international markets. As you consider the legislation before you, we urge you to press for the comprehensive reform that will being us closer to this goal.

Sincerely,

AES Corporation, Arlington, Virginia.
AMSCO International, Inc., Pittsburgh, Pennsylvania.
Ashland Coal Inc., Huntington, West Virginia.
Ball Corporation, Muncie, Indiana.
Beverly Enterprises, Inc., Ft. Smith, Arkansas.
BP America Inc., Cleveland, Ohio.
Cincinnati Milacron, Inc., Cincinnati, Ohio.
Cone Mills Corporation, Greensboro, North Carolina.
The Dow Chemical Company, Midland, Michigan.
Faber-Castell Corporation, Parsippany, New Jersey.
Fluor Corporation, Irvine, California.
Geisinger Health Care System, Danville, Pennsylvania.
The Gillette Company, Boston, Massachusetts.
Hewlett-Packard Company, Palo Alto, California.
Ingersoll-Rand Company, Woodcliff Lake, New Jersey.
American Stores Company, Salt Lake City, Utah.
Apple Computer, Inc., Cupertino, California.
Ashland Oil, Inc., Ashland, Kentucky.
Barnes Hospital, St. Louis, Missouri.
Blount, Inc., Montgomery, Alabama.
C-TEC Corporation, Wilkes-Barre, Pennsylvania.
The Clorox Company, Oakland, California.
Cummins Engine Company, Inc., Columbus, Indiana.
Engelhard Corporation, Iselin, New Jersey.
Federal Paper Board Co., Inc., Montvale, New Jersey.
Ford Motor Company, Dearborn, Michigan.
Geo. A. Hormel & Co., Austin, Minnesota.
The Henry Ford Health System, Detroit, Michigan.
Household International Inc., Prospect Heights, Illinois.
InterMedia Partners, San Francisco, California.
Intermountain Power Agency, Murray, Utah.
Lifespan Inc./Abbott Northwestern Hospital, Minneapolis, Minnesota.
Lin Broadcasting Corporation, Kirkland, Washington.
Lukens, Inc., Coatesville, Pennsylvania.
McDermott International, Inc., New Orleans, Louisiana
The Methodist Hospital, Houston, Texas.
Mobil Corporation, Fairfax, Virginia.
Municipal Electric Authority of Georgia, Atlanta, Georgia.
National Rural Utilities Cooperative Finance Corporation, Herndon, Virginia.
The New York Hospital, New York, New York.
Newmont Mining Corporation, Denver, Colorado
PepsiCo Inc., Purchase, New York.
PHH Corporation, Hunt Valley, Maryland.
The Pittston Company, Stamford, Connecticut.
Ralston Purina Company, St. Louis, Missouri.
Service Corporation International, Houston, Texas.
Sonoco Products Company, Hartsville, South Carolina.
State of Delaware, Dover, Delaware.
State of South Carolina, Columbia, South Carolina.
J.C. Penny Company Inc., Dallas, Texas.
The Louisiana Land & Exploration Company, New Orleans, Louisiana.
McCaw Cellular Communications, Inc. Kirkland, Washington
McDonnell Douglas Corporation, St. Louis, Missouri.
Metropolitan Transportation Authority, New York, New York.
Modesto Irrigation District, Modesto, California.
Newmont Gold Company, Denver, Colorado.
PacifiCorp, Portland, Oregon.
Phelps Dodge Corporation, Phoenix, Arizona.
Phillips Petroleum Company, Bartlesville, Oklahoma.
The Procter & Gamble Company, Cincinnati, Ohio.
St. Luke's Episcopal Hospital, Houston, Texas.
Shell Oil Company, Houston, Texas.
Stanton Communications, Inc. Bellevue, Washington.
State of North Carolina, Raleigh, North Carolina.
Tenneco Inc., Houston, Texas.
The Texas A&M University System; College Station, Texas.
Textron Inc., Providence, Rhode Island.
Union Carbide Corporation, Danbury, Connecticut.
USAir Group, Inc., Arlington, Virginia.
Texas Instruments Incorporated, Dallas, Texas.
Tyson Foods, Inc., Springdale, Arkansas.
The University of Texas System, Austin, Texas.

Mr. MCCAIN. Mr. President, on June 20, 1991, I expressed my concerns with the present state of our banking industry to Chairman RIEGLE and ranking minority member GARN. I thank them for their efforts on this much-needed legislation. Without this legislation, I fear that the taxpayer would be asked to bailout the commercial banking industry.

Congress simply cannot permit another taxpayer bailout because of inaction. Reform of our banking laws are crucial not only to stabilize our financial services industry, but to spurring economic growth. No economy can be expected to grow without a healthy financial services sector. We only need to examine the credit crunch to realize how important a vibrant banking sector is to economic growth.

The legislation before us is not as comprehensive as I had hoped. But, contained in this legislation is substantial and meaningful deposit insurance reform, fiancial services reform, and regulatory reform. I feel this legislation will make our financial system safer, sounder, and internationally competitive.

I had hoped that taxpayer exposure to deposit insurance could be limited, but my amendment on this issue failed. Nonetheless, I feel that the elimination of the too-big-to-fail policy will go a long way toward protecting the average American from another enormous taxpayer bailout.

Notwithstanding my desire to further protect the taxpayer, I feel passage of a broad-banking-reform package is virtually an economic necessity. Without modern and efficient credit markets, our economy and people will never reach their full potential.

In July, I espressed my desire that the Senate move expeditiously in its consideration of comprehensive bank-

VOL 137
PT 23
NO 21—25
1991
UMI

ing reform. Now that the Senate has successfully passed a comprehensive reform bill, I call on my colleagues in the House to pass a broad-reform package.

A narrow banking bill which only recapitalizes the Bank Insurance Fund will only sow the seeds of another taxpayer bailout. Comprehensive reform of deposit insurance, financial services, and examination procedures is necessary to modernize our financial system and to protect the taxpayer from endless bailouts.

Let me take this opportunity to reiterate from my July statement a quote from Robert Frost's "The Road Not Taken" for my colleagues in the House. It goes like this:

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less traveled by
and that has made all the difference.

Mr. President, the Senate did not get lost in the woods and take the road more traveled. The road more traveled is the road to a taxpayer bailout. The Senate has taken the road less traveled, and I am confident that it will make all the difference.

I earnestly implore the House to follow the lead of the Senate and make a difference by reforming our banking laws. The House can join the Senate and effect reform that will modernize our banking industry, protect the taxpayer, and provide impetus for economic growth.

By acting judiciously, somewhere ages and ages hence, future Americans will laud the Congress for its foresight and reap the benefits of our diligence.

We must reform our banking system. We must reform it now.

DOLLAR COIN PROVISION OF S. 543

Mr. BRYAN. Mr. President, I would like to clarify a provision of the bill that would create a new dollar coin.

Nevada, and at least nine other States, has some form of lawful coin-operated gaming devices. Over 60 percent of Nevada's gaming revenue is derived from these machines. Of the approximately 136,000 machines in gaming establishments in Nevada, 27,500 are of dollar denomination. Many more machines are operated outside of gaming establishments. Because of the scarcity of Eisenhower dollars, almost all play is from dollar tokens. Dollar tokens are considerably larger than the Susan B. Anthony or the proposed dollar coin.

To accept the smaller coins, the gaming devices would have to be retrofitted with expensive electronic coin comparitors. The cost depending on the machine can vary from $300 to $1,200. In any case the end result would be tens of millions of dollars of additional costs to Nevada operators, not to mention other States. I am also advised that the multiple width of the proposed coin could require much greater machine maintenance and could be mistakenly inserted into the quarter machines.

I want to make sure, therefore, that no provision of S. 543, or the corresponding House bill, will in any way preclude the use of metal tokens for coin-operated gaming machines, or require or encourage a change in the Treasury Department's position allowing the use of metal tokens—contained in the "Final Statement of Treasury Policy Regarding the Use of Metal Tokens," Federal Register, page 28679, July 15, 1985—and that no provision will require operators of coin-operated gaming devices to bear the expense and potential problems resulting from retrofitting the devices to accept a new coin.

Mr. RIEGLE. I agree that it is not the intention of any provision of the bill to limit or eliminate the use of metal tokens, and that no provision of the bill is intended to require operators of coin-operated gaming devices to retrofit the devices to accept a new coin.

Mr. GARN. Mr. President, effective February 13 of this year the FDIC instituted a policy and procedures to minimize payments for outside legal services and reporting mechanisms to track such payments made during any previous consecutive 12-month period. I would like to commend the legal division for its timely action and its simple yet effective regulations.

At this time I would note the concern of my House colleagues regarding fees for legal, accounting, and investment banking services. We are all concerned that said services are minimized and when necessary that performed contracts be entered with sensitivity to geographical and regional distribution based on the location of assets or services rendered. We do not need to spawn another Washington, DC, monopoly.

At the same time we recognize that there will be cases where it is in the best interests of the taxpayers for the FDIC and the RTC to take advantage of the expertise and experience of some firms in this complex litigation area.

Mr. RIEGLE. To my good friend, I say we have mutually worked to minimize outside costs wherever possible. Perhaps it would assist our committee if the FDIC and the RTC each could advise us of particularly large fees or retainers, for example those in excess of $1 million per month. In most cases we anticipate that individual law firms' fees would not exceed more than such an amount of an annualized basis. Would Senator GARN agree?

Mr. GARN. I do, and I think the Senator has made some excellent points. I would like to join in requesting such information from the FDIC and the RTC.

INTERBANK LIABILITIES

Mr. BOND. Mr. President, I wonder if I might ask my colleague Senator RIEGLE, the chairman of the Banking Committee, a question about section 218 of this bill, which is entitled "Interbank Liabilities"?

Mr. RIEGLE. Certainly.

Mr. BOND. Do I understand correctly that the limit on interbank liabilities contemplated here would apply to a bank making a deposit at another bank, not to the bank receiving the deposit?

Mr. RIEGLE. That is correct.

Mr. BOND. I thank the Senator very much.

Mr. PRYOR. I also have a concern in this area. Might I also pose a question to my colleague, Senator RIEGLE?

Mr. RIEGLE. I would welcome the Senator's question.

Mr. PRYOR. I thank the Senator. My question relates to the Federal Reserve Board's role in implementing this section. The Federal Reserve is a bank regulator as well as our Nation's central bank, but in some respects it also competes with correspondent banks. I am concerned that it might use its authority under this section to put correspondent banks at a competitive disadvantage. What is the Senator's view on this?

Mr. RIEGLE. This section seeks to reduce the systemic risks posed by the failure or near-failure of a large depository institution. It is part of our attack on the notion that some banks are too big to fail. For the Federal Reserve to use its authority under this section to gain a leg up in competing for correspondent banking services would be inconsistent with the intent of this section and, in my view, a serious abuse of discretion.

Mr. PRYOR. I thank the Senator.

Mr. GRAHAM. Might I also ask a question about this section of the bill?

Mr. RIEGLE. By all means.

Mr. GRAHAM. My question relates to the possible effects of this section. One of my constituents, a bankers' bank in Florida, has expressed concern that a limit on interbank liabilities would prompt banks to redirect their correspondent balances from small banks to money center banks, figuring that a money center bank is too big to fail and deposits at that bank will therefore be immune from supervisory criticism.

Mr. RIEGLE. For the regulators to take such an approach would totally frustrate this section's purpose. That purpose is expressly stated in the statute: "to limit the risks that the failure of a large depository institution * * * would pose to insured depository institutions." In the scenario you describe, the regulators' policies would be exacerbating, not limiting, that risk. So I do not view that as a permissible result under section 218.

Mr. GRAHAM. I thank the chairman.

Mr. RIEGLE. The Senator is quite welcome.

Mr. WIRTH. Mr. President, the bank reform legislation (S. 543) has a number of important and valuable elements. It addresses priorities such as providing the Bank Insurance Fund with the resources it needs to address the problems of our Nation's banks and making important improvements to the deposit insurance system.

Many of the legislation's deposit insurance reform proposals make good sense. I have strongly advocated the provisions designed to limit use of the too-big-to-fail doctrine, early intervention requirements, and risk-based insurance premiums. While the provisions included in the legislation fall short of comprehensive restructuring of the deposit insurance system, they do make a number of important improvements and will help reduce the risk to the taxpayer.

The Banking Committee adopted two amendments that I offered which I believe make important improvements to the legislation. The first would make a number of important reforms to bank accounting and auditing rules and procedures. These reforms are designed to improve the financial management and recordkeeping systems of large banks and help regulators better understand the financial condition of these institutions. The reforms will help large banks monitor and improve their own financial condition as well as protect the Deposit Insurance Fund.

The second amendment is an effort by Senator GRAN and I to push the regulators to adopt uniform standards with respect to real estate lending. Because there are no Federal limits on the amount a bank or thrift can lend for real estate, in some States, banks and thrifts can gamble and loan up to 100 percent of the appraised value of a real estate property. The volatility of the real estate market makes lending in this area without appropriate standards dangerous to the financial system.

Although FIRREA directed the regulators to adopt uniform real estate lending standards, they have not done so in the 2 years since that legislation was enacted. The amendment adopted by the committee would again direct regulators to adopt such standards. If the regulators do not act within 9 months of the legislation's enactment, specific loan-to-value ratios included in the amendment would go into effect 6 months later. I hope this amendment will spur regulators to act in this area.

The managers' amendment includes provisions that I had sought to require the public disclosure of examination reports of failed financial institutions if taxpayer dollars are used to resolve the failure or assist the institution, as well as the disclosure of settlement of government lawsuits related to such institutions. I did not offer the amendment during markup because I was concerned that debate on the matter would have prevented the committee from promptly completing work on the legislation. Senator GARN and I were able to resolve our differences on the proposal and incorporate a number of safeguards to protect customer privacy. I am pleased that our compromise became part of the legislation.

I believe there are other areas in which S. 543 needs significant improvement. BIF funding and recapitalization and real deposit insurance reform should be our priorities in crafting this legislation. I'm not convinced the legislation as it now stands does enough in either area.

The legislation provides funds to allow BIF to address the current problems in the banking industry and includes provisions to promote rebuilding the fund. However, I am concerned that the plan does not rely enough on industry resources and raises the very real prospect of a taxpayer bailout of the industry if the economy doesn't recover and banks are unable to repay the Treasury. I am also concerned that the recapitalization approach could leave BIF in dangerously weak condition which in turn could enable weak and failing banks to remain open, ultimately increasing the costs to taxpayers.

The economy has remained weak since we began developing the bank reform package last winter. The longer the recession lasts, the deeper my concerns about the possibility of an eventual taxpayer bailout and the effectiveness of the recapitalization plan.

The deposit insurance reform title makes a number of important improvements to current law. However, I am concerned that it does not go far enough to bring more market discipline into the process. Risk-based deposit insurance reform premiums and the reinsurance provisions offered by Senator DIXON are a step in this direction as are the provisions designed to attack the too-big-to-fail problem.

While I support these provisions, I am concerned that the reforms will reduce the frequency with which uninsured deposits are protected in bank and thrift failure but not eliminate the practice. Once the new procedures are in place, there still may be a handful of institutions that depositors believe are too-big-to-fail. The result could be an increasing concentration of large deposits in a handful of money center banks. The result could be greater taxpayer exposure in the event one of those institutions fail.

That's why I sought to require that uninsured depositors and creditors lose a portion of their funds if regulators invoke systemic risk and cover all of a large bank's deposits. Such a haircut would bring greater market discipline to uninsured deposits. I worked with Senator DOMENICI on a haircut amendment during the committee's markup. Unfortunately, the language that was ultimately adopted was relatively modest and can be improved. I wanted to amend the legislation to impose a haircut and complement the other provisions that seek to curb use of the too-big-to-fail doctrine. I did succeed in obtaining an amendment directing the Congressional Budget Office to study the haircut concept. However, I think we should do more than study the question.

S. 543 lacks substantial regulatory restructuring. In markup, the committee deleted my proposal to establish a new, independent regulator for both banks and thrifts. The legislation did include other provisions I had proposed to repeal the exemption bank and thrift securities have from Securities and Exchange Commission registration and reporting requirements.

At a time when the bank and thrift industries are in turmoil, I think regulatory authority over their securities should lie with the agency that has the most expertise in that area. Investors deserve that protection. And when billions of tax dollars are being spent to cover bank and thrift losses, with the ultimate scope of the problem still unclear, taxpayers deserve the protection of an improved regulatory structure. I'm not so sure that a bank reform package that doesn't include the regulatory restructuring we need is worthy of the name.

While the above three issues are my primary concerns with S. 543, I have reservations about a number of other aspects of the legislation. For example, I supported an amendment to the interstate branching provisions. I do think it is time to revamp the Federal laws restricting branching but I think we have to take the concerns of State governments into careful consideration. I also supported the basic banking/Government check-cashing provisions that were deleted from the package. They are not as onerous as some earlier proposals in this area and I think it was reasonable to include them in legislation that provides so much financial support to the industry.

I also have concerns about what we have done in title seven of the bill. I would have preferred that we enact good comprehensive legislation that addresses powers. Instead, we are again putting off the central financial restructuring questions for another day. I don't have a quarrel with that in this context; the votes are not there in the House for a bill that addresses expanded powers.

The legislation includes several provisions I support. However, I have serious concerns about other provisions—the BIF funding and recapitalization plan, too-big-to-fail, the lack of meaningful regulatory restructuring, as well as others.

In considering the overall package, I conclude that my concerns and reservations about S. 543 outweigh the positive elements of the package. For this reason, I have decided to oppose the legislation.

VOL 137
PT 23
NO 21–25
1991
UMI

In some ways, I regret this decision. I have put a great deal of effort into the package. I am well aware that others have done more than I. The chairman and ranking member have been leading our efforts all year. It is not easy to oppose the product of these efforts. But in many ways, the legislation foundered on matters beyond their control. Regardless of whether this legislation is ultimately enacted into law, we will need to pass more comprehensive legislation in the future. That effort will benefit from the work that the committee has done this year.

Mr. ADAMS. Mr. President, I ask the chairman of the Senate Banking Committee if he would yield for a few minutes to discuss a couple of points I would like to make about this bill.

Mr. RIEGLE. I would be pleased to yield.

Mr. ADAMS. I thank my friend from Michigan.

Mr. President, I am concerned that the interstate branching structure envisioned in this bill will result in a loss of key safety and soundness reporting by banks.

Current law requires banking companies to report key safety and soundness information in quarterly financial reports. Since interstate banking companies are required to establish separate subsidiary banks in different States and each subsidiary must file a separate report, regulators today have access to this important information on a State-by-State basis.

Under S. 543, an interstate banking organizing operating under the new branching structure would only be required to file one quarterly financial report for its multistate operations. Gone would be State level information on outstanding loans. Gone would be information on nonperforming loans. Gone would be data on interest income, interest expenses, and loan loss rates.

Loan quality and profitability problems within a multistate branching company will not just show up overnight. Rather, they tend to begin in one State or region. Then, they spread throughout that company's sprawling interstate structure.

Without State level information, regulators will not be able to perform the job we ask of them in this bill, act fast and act decisively.

The reduction in vital safety and soundness information as a result of the interstate banking provisions is contrary to the mandate of this bill.

Title II of this legislation spells out that mandate. Risk-based capital ratios, risk-based assessments, and most importantly early intervention. Early detection of a bank's problems is essential if supervisory action is to be taken before problems spread. However, without State level reporting of key safety and soundness data by large interstate banks, regulators cannot possibly be expected to intervene before an institution is on the brink of failure.

In addition, without State-by-State reporting by large interstate branching companies, I believe we will also lose economic performance information. How will regional or State economic/development planners combat downturns in their economies without key information on vital economic indicators? Hidden in a multistate branching bank's quarterly financial reports will be specific data on the level of construction, commercial mortgage, residential mortgage, and agricultural production loans.

Growth in these areas are essential for pulling a region or State out of a recession. If large out-of-State branching companies are only required to file one report for their multistate operations, State planners will not have access to the data required to combat economic problems.

I am not willing to allow out-of-State banks to dictate the economic performance of Washington State. I doubt if there is a member of the Senate who would.

I ask the chairman of the Banking Committee if he is concerned about the loss of safety and soundness and key economic performance information as a result of banks organizing under the interstate branching structure?

Mr. RIEGLE. I am indeed concerned. During the markup of this legislation, the loss of information was considered. If the Senator will note, in section 557 of the committee print, the Banking Committee, recognizing the potential impact of this loss of information, required a GAO study.

Specifically, the Comptroller General is required to submit, within 9 months after enactment, a report that examines statutory and regulatory requirements for insured banks to report to regulators and to determine what new reporting requirements may be necessary to insure the interstate branching provisions do not result in a loss of safety and soundness reporting by banks.

Mr. ADAMS. If I may, I would like to continue in this same vein.

Mr. RIEGLE. I yield to my friend from Washington.

Mr. ADAMS. During the course of debate on this bill, I have listened to one Senator after another come to the floor to bemoan the credit crunch squeezing our economy, particularly in the small business area.

In fact, there have been a couple of amendments discussed on the floor that were drafted with small businesses in mind.

The devastating credit crunch sweeping through our economy has highlighted the importance of access to credit. A steady, consistent stream of lending is necessary for small businesses, the backbone of our economy.

A recent survey for the National Small Business United clearly showed that small business owners are feeling the pinch. Eighty percent of approximately 2,000 business owners who responded said small concerns are having a hard time getting credit for expanding firms. Seventy percent of these owners cited personal resources as the source of capital.

Our country depends on small business for its economic growth and expansion, particularly on the regional and local levels. Without access to credit, small businesses that are ready for expansion, ready to create new jobs, will not have the capital available.

I have discussed this credit access issue with some small business owners in Washington State, as well as trade groups representing thousands of small businesses across the country. I asked them what they thought about this bill and how we could improve it to ensure adequate credit is available.

They had some constructive comments that I would like to share here.

First, they believe that State-by-State data is needed by the Federal Reserve Board and small business organizations to analyze small business's credit crunch.

I agree with these groups that if we really want to help alleviate the small business crunch, we must have State-by-State information to make informed decisions.

Second, small businesses need to have a clear picture of small business lending for a State's various metropolitan areas, as well as rural areas. If a State or region is struggling through a recession or economic downturn, it would be essential that the specific metropolitan or rural areas be specified.

Mr. President, the announcement of a proposed merger between Bank of America and Security Pacific on the west coast has caused me deep concern. If this merger were to be completed today, the resulting money-center bank, operating out of San Francisco, would control over 50 percent of the total bank assets in my State and over 40 percent of the insured deposits. This is a tremendous concentration of banking power in one out-of-State institution.

I have asked myself what this will mean for my constituents. How will the proposed merger affect the cost and quality of services to consumers in Washington State? How will it affect the availability of credit to small businesses and farmers in my State. These are serious questions that must be answered before the merger is approved.

Regardless of the ultimate outcome of the proposed merger, it is clear to this Senator that megamergers are the wave of the future. But, if interstate branching is to become the norm, I want to have at my fingertips information on how any out-of-State banking conglomerate is operating in Washington State. It is vital for the economy of Washington that this information be available.

I ask my colleague from Michigan if he has heard the suggestions made by small business groups?

Mr. RIEGLE. Yes; I have.

Mr. ADAMS. During the course of the debate and ultimate dispensation of this bill, would the chairman accept proposals that address both the safety and soundness and economic performance reporting concerns raised here?

Mr. RIEGLE. I say to my colleague from Washington that I share his concerns and will do everything I can to address his concerns.

Mr. ADAMS. I thank the chairman for his consideration of my concerns and for the yielding me his time.

TITLE INSURANCE

Mr. BRYAN. Mr. President, when the Senate Banking Committee was considering this legislation, I filed an amendment that would have prohibited national banks from engaging in title insurance activities. I planned to offer this amendment because I was particularly concerned about how the combination of national banks underwriting title insurance and making mortgage loans might affect the safety and soundness of both banks and title insurers and whether consumers would be adequately protected. The various versions of the bill which were voted down in the House of Representatives, H.R. 6 and H.R. 2094, contained a provision similar to my amendment.

I would like to inquire about the treatment of national bank sale and underwriting of title insurance in the bill which is before us.

Mr. RIEGLE. The Senate has adopted a managers' amendment that addresses insurance issues and substitutes new sections 771 through 774 for those in the committee-reported bill. The amendment does not mention title insurance specifically. In general, section 771(c) of that manager's amendment provides that, with respect to ongoing litigation concerning OCC opinions allowing a national bank to engage in an activity under 12 U.S.C. 24, the incidental powers provision, the litigation will be governed by the statutes presently in effect, rather than the law as it will be altered by enactment of this bill.

Opponents of these OCC approvals under the incidental powers provision are arguing that 12 U.S.C. 92, the small towns provision, provides exclusive authority for banks to engage in title insurance activities. The manager's amendment modifies the small towns provision but contains no reference to title insurance. Consequently, arguments and rulings in pending litigation must also be based on 12 U.S.C. 92 as it existed prior to enactment of this legislation.

Mr. BRYAN. I remain concerned that the amendment does not specifically address title insurance, but I am reassured that the Senator believes that this legislation will not prejudice the outcome of any presently ongoing litigation or future litigation brought on OCC opinions. I also seek clarification from the Senator with respect to some language in section 771(c) which provides that activities are "lawfully engaged in to the extent that they are finally adjudged as lawful under laws in effect on May 1, 1991."

Mr. RIEGLE. It is my understanding that litigation concerning the ability of national banks to engage in title insurance activities under 12 U.S.C. 24 is presently pending in the second circuit. If that decision is not reviewed by the Supreme Court, it is the committee's intention that the final decision of the court of appeals regarding the lawfulness of the Comptroller's approval constitutes "final adjudication."

I agree with Senator BRYAN that the sale and the underwriting of title insurance are risky activities. I am also concerned that title insurance underwriting and sales by a national bank in connection with its own mortgage loans is a conflict of interest. If the decision in the second circuit creates problems, I anticipate that it may be necessary to revisit this issue.

Mr. PELL. Mr. President, it has been a long, hard fight to get this banking bill approved by the Senate and Senator RIEGLE has done a fine job of managing it on the floor. The primary goal of this bill is to provide continued funding for the Federal Deposit Insurance Corporation, which is the safety net for all federally insured banks. However in my view, a vital part of this bill is the $180 million Federal loan guarantee for Rhode Island.

This $180 million Federal loan guarantee will enable the State of Rhode Island to borrow the money needed to make depositors of closed Rhode Island banks and credit unions whole again.

Mr. President, I am truly pleased that the Senate has approved a banking bill that will help Rhode Island. I am also very grateful to the chairman of the Banking Committee, Senator RIEGLE, for his crucial support of efforts to help Rhode Island within the banking bill.

The Rhode Island banking crisis has had a severe emotional public impact in Rhode Island. The $180 million loan guarantee approved by the Senate will not solve Rhode Island's problems overnight, but if this loan guarantee is approved by the President, it will be of great assistance to our Governor, Bruce Sundlun, in his efforts to solve this terrible crisis.

Senator CHAFEE and I have been working for many months to lay the groundwork for Senate passage of this loan guarantee provision. I would also like to point out that it was Senator CHAFEE who introduced this measure in the Senate Banking Committee and that he did an excellent job of convincing his colleagues on the committee to approve it.

Now that this Rhode Island provision has been approved by the full Senate and the House of Representatives, we will continue to work with Congressman REED and Congressman MACHTLEY to secure the approval of the President.

Reaching the end of the Rhode Island banking crisis will not happen overnight. I know that depositors want their money now. I have seen the anger, misery, and pain of depositors firsthand. I also know that this loan guarantee, if it is approved by the President, will offer some light at the end of the tunnel. Lord knows we need that light.

I might state that, in the past, twice we have seen a situation where a rock can be thrown through the window of our Governor's house. Seven thousand Rhode Islanders were lined up in the rain to get free government food because they were hungry. This is an area where you have 9.6 percent unemployment. We have real misery in our State at this time, as we continue to be in a depression.

The Rhode Island banking crisis took years to develop, but nothing was done until Governor Sundlun closed these institutions on his first day in office. When this happened—and it was a necessary action, and he showed great courage in taking it—people were surprised. I know I was.

There should be no more surprises in Rhode Island. In the future, when we see a problem developing in our State, we should ask questions. And when somebody tries to wave us off and say, "It is no problem; do not worry about it," an alarm should go off in our heads, and we should ask even more questions.

If not for the activity of our Governor, on very short notice, we would be in even worse shape. This is a development of a good many years of misrule and misgoverning by previous Governors. We should not wait until problems become overwhelming, until we need Congress to step in to help pick up the pieces.

Henry Adams once said that "all experience is an arch to build upon." I hope that we Rhode Islanders can take the experience of this banking crisis, learn from our mistakes, and build a better future for our State.

I yield the floor.

Mr. ROTH. Mr. President, I wish to express my strong concern with removing the Securities and Exchange Commission from the compensation laws governing the vast majority of the executive branch. I hope and trust that the SEC and the Office of Personnel Management will use the next 6 months to address the Commission's recruitment and retention difficulties through the use of the pay reform law enacted last year.

As the ranking Republican member of the Committee on Governmental Affairs, which has jurisdiction over the civil service and compensation laws of the Federal Government, I can assure

VOL 137 PT 23 NO 21—25 1991 UMI

this body that the committee and the administration worked very hard last year to pass a comprehensive Federal pay reform law. I am confident that the authorities under current law will help solve the difficulties being experienced by the SEC. I know the Director of the Office of Personnel Management, Connie Newman, believes so, and I trust that she is correct.

The pay reform law was designed specifically to meet the needs of all Federal agencies and employees, and to prevent the fragmentation of the Federal compensation system. The provision in the bill prior to the adoption of this amendment represents the very thing we were trying to avoid—the breakdown of the Federal pay system. This is not simply a jurisdictional issue, Mr. President, but an issue of fairness to the vast majority of other Federal employees who are under the current pay laws.

Why should a lawyer at the SEC be exempt from the pay caps and a lawyer at the Department of Justice be under the pay system? Why should a budget analyst at the SEC be exempt from the pay laws, and a budget analyst at the Department of Health and Human Services be covered by them?

It would probably be easy, Mr. President, for each individual agency to make a compelling argument that they should exempt from the pay law. But as the ranking Republican member of the committee of jurisdiction, I have to look at the Federal Government in total. And that is what I did in the Pay Reform Act. There may be special circumstances where an agency is experiencing severe recruitment problems—but there are provisions in the comprehensive reform law to address those difficulties.

Last year the Congress passed a comprehensive pay reform law to address recruitment and retention difficulties facing all Federal agencies including the SEC. In addition to new recruitment and relocation bonuses and retention allowances, the new law provides a process to close the Federal pay gap in those localities where a gap exists.

In addition, the 1989 Ethics in Government Act increased executive schedule salaries by 25 percent and senior executive service salaries by between 18 and 25 percent. Given the economic climate at the moment, the Federal Government is a very attractive place to work. The new pay laws are intended to make the Federal Government the employer of first resort in all economic times, not just periods of slowdown. It is my understanding that applications are flowing into certain Federal agencies at a very high rate.

If such difficulties exist at the SEC, to what extent does the agency plan to use the recruitment and retention authority already provided in law by the Pay Reform Act? This amendment mandates that the agencies work closely together to use the authorities under current law.

For instance, there is a special rate program which permits approval of higher minimum rates for particular occupational groups. Under the expanded authority provided by pay reform, special rates of up to 60 percent above the normal maximum rate may be approved. In addition, the pay law provides for critical pay for exceptionally well qualified individuals up to executive level I, which is currently close to $140,000.

Mr. President, the Pay Reform Act makes a fundamental change in the method for establishing Federal employee salaries. The Pay Reform Act is designed to help close the pay gap between the Federal and non-Federal sectors. The impetus for the law was the need to improve the ability of the Government to recruit and retain across the board, in all occupations, by channeling resources in those localities where problems are most pervasive.

During consideration of pay reform, there was a lot of talk about a quiet crisis facing the Government—failing to attract topnotch recruits and retain top employees. There was a very strong belief that pay was so low relative to the private sector that the Government would be unable to accomplish its many missions.

The Pay Reform Law provides new tools to attract personnel and meet these challenges, particularly with a more credible annual pay adjustment process and locality differentials.

Beginning in January 1994, the pay system moves to a locality based system. All employees will receive a pay raise equal to the change in the employment cost index minus 0.5 percent. The goal of the locality based system is to close any existing pay gap with non-Federal employees. The Bureau of Labor Statistics will conduct annual surveys in major geographic localities to determine if an adjustment is warranted.

By establishing a locality system, the law moves us away from a comparability gap nationwide and looks at the gap within each locality. This will focus the Federal Government's limited resources to those areas with the greatest recruitment and retention problems.

The most immediate benefit of the Pay Reform Act fell to those employees in New York, Los Angeles, and San Francisco, which were provided with 8 percent geographic differentials in January. This was provided to almost 13 percent of the SEC staff who work in these three major cities.

Other provisions will help improve recruitment and retention efforts including special bonuses with service agreements. Agencies have been given the flexibility to establish bonuses, up to 25 percent of basic pay, which would be available to employees who must relocate to fill a position in which the agency is having difficulty filling. An employee receiving such a bonus would have to agree to work for the Government for a certain period of time. In addition, agencies have the authority to provide 25 percent retention allowances to those employees the agency believes it must retain.

Mr. President, I am confident that the pay reform law, given time to work, will solve the recruitment and retention difficulties being experienced by the SEC. I read this amendment to require that full and complete consultation will occur between the SEC Commissioner and the OPM Director prior to any certification permitted under this amendment.

PRESIDENTIAL INSURANCE COMMISSION

Mr. DODD. Mr. President, title XI of the bill provides for the creation of a Presidential Insurance Commission to assess the condition of the property and casualty insurance, life insurance, and reinsurance industries and to make "any recommendations for legislation or administrative action that the commission considers appropriate. * * *"

First, I would like to thank Senator METZENBAUM for his contributions to the managers' amendment. I think his changes will make for a more focused and effective commission.

In short, Mr. President, this title represents an effort to try to get ahead of problem in the hope of avoiding one entirely, or at least mitigating its severity. The failure to appreciate the impact of the huge upward spike in interest rates in the late 1970's on the S&L business, and the failure to learn the lessons of the S&L debacle for bank reform have cost the taxpayers more than $200 billion and may well add billions more if we do not pass bank reform legislation that strengthens the bank charter.

The last few months have shown that the insurance industry is suffering from some of the same problems plaguing the banking industry. Thus, Executive Life, the insurer with by far the largest portfolio of junk bonds, failed in April. Then, in rapid succession, Monarch Capital failed in June because of real estate problems and then Mutual Benefit Life, a solvent insurer with a liquidity problem, was taken over by the State of New Jersey after experiencing runs in July, due to a loss of confidence in its real estate portfolio.

Further, the last 3 months have seen the private rating agencies downgrade the claims paying ability of many larger insurers. While they are still rated investment grade, clearly this action will lock some insurers out of some investment markets.

In many respects, these problems are part of the more general problem of the serious recession. However, the industry and the public—businesses and consumers alike—have a number of other problems of a far different origin. Unfortunately, congressional consideration of these issues is scattered among many committees, so that the problems too often are being considered in isolation.

Just as you cannot separate deposit insurance reform from the strength of the banking industry itself, so you cannot separate the ability of insurers to remain solvent and strong—and thus have the ability to carry out their insurance commitments—from the nature of the insurance product and how it is regulated.

Over the last decade and a half, the industry has come under increasing pressure from a wide range of sources. In major part, the industry is the victim of its own success. When 156 million Americans are covered by life insurance; when more and more States mandate automobile insurance in order to drive a car; and when more and more businesses—from manufacturers to day care centers—realize they must carry insurance in order to do business, then as surely as the night follows the day, governments will try to make sure that insurance is available to all who need it and at a price they can afford.

The concept makes eminent good sense. However, the problem comes when we ask the insurance industry to pay more and more benefits, but not require the insurance consuming public to pay their full cost. The result may be good for consumers in the short run, but in the long run it can mean insolvent insurers who cannot meet their insurance commitments and who no longer will be available to write insurance in the future.

The same problem arises when the industry writes policies based on one assumption and then is forced to pay off under a different reality. Such, for example, has frequently been the case with respect to environmental liability insurance, particularly with respect to State and Federal superfund liability. Insurers write policies based on an assumption of limited liability, or of a lower risk associated with a particular hazard, then 20 years later the risk turns out to be far greater than anyone thought and the courts have expanded the ambit of liability to meet modern views of equity. The result may be good for the victims of environmental hazards, but bad for the solvency of insurers.

Similarly, last year the Congress in the budget deficit reduction agreement increased insurer taxes by $8 billion over 5 years. That may be good tax policy but, again, how does that help improve the solvency of an industry in need of more capital?

Clearly society needs a wide variety of insurance products at competitive prices to conduct our daily business. We cannot have such things if we do not have a strong, competitive and solvent insurance industry. Particularly given the limited involvement of the Federal Government with insurance issues—because they have historically been regulated at the State level—I believe that it is essential that we have a comprehensive look at all relevant issues so that if we decide to legislate in one or more areas, we do so in a way that will assure a financially healthy industry so that we can assure consumers the availability of adequate insurance coverage at competitive prices. We cannot have the latter without the former.

Title XI of the S. 543, as revised by the managers' amendment, addresses the problem by establishing a 25-member Presidential Commission—composed of the Secretary of the Treasury, the Attorney General, the Secretary of Transportation, the Secretary of Commerce, the Secretary of Labor, and the Chairman of the Federal Trade Commission—as well as 10 Members of the Congress and 9 individuals with expertise in insurance, State regulation of insurance, financial services, antitrust, liability law, and consumer affairs.

Mr. President, the mandate of the commission is very broad, both because there are a number of issues facing the industry and the public and because a good public policy resolution of those issues can be achieved only if we understand the interconnections among them. The only way we can be assured of the availability of a wide array of insurance products at competitive prices—and assure that insurers will have the funds needed to pay off when an insured event occurs—is by making sure that we have a strong and competitive insurance industry.

Mr. President, the commission has a truly challenging mandate, but I believe its successful completion will help us and the States to establish policies that will assure a strong, competitive insurance industry in the 21st century, will assure consumers a broad range of useful products at competitive premiums—and guarantee consumers that the industry will make good on its promises of insurance dollars when an event that should trigger coverage occurs.

THE LAMPF DECISION

Mr. SASSER. Mr. President, I have an inquiry about the interpretation of the provisions of the bill relating to the Supreme Court's decision in Lampf. It is my understanding that the purpose of this compromise is to return both plaintiffs and defendants to their positions that they had on June 19, 1991. This language is not intended to encourage, validate, or permit forum shopping.

Mr. RIEGLE. The Senator is absolutely correct. The language in the bill is designed to return plaintiffs and defendants to exactly the position that they had on June 19, 1991, and not in any way permit forum shopping.

Mr. GARN. Mr. President, I would like to address a question to the distinguished Senator from Michigan, the chairman of the Senate Committee on Banking, Housing, and Urban Affairs.

Mr. Chairman, earlier today the Senate adopted as part of the manager's amendment to S. 543 a provision relating to the retroactivity of the recent U.S. Supreme Court decision in Lampf, Pleva, Lipkind, Prupis & Petigrow versus Gilbertson. This amendment was intended to permit the courts, in cases arising under section 10(b) of the Securities Exchange Act of 1934, and pending at the time of the Lampf decision, to apply the statutes of limitation and principles of retroactivity applicable immediately prior to the Lampf decision in the jurisdictions in which such cases were commenced.

It is my understanding that this provision, designated as section 1126 of the bill, is not intended to apply to or in any way affect the parties or the claims in the Lampf decision itself. The Supreme Court's final judgment if the Lampf case will remain intact for the parties in that case. Is this your understanding?

Mr. RIEGLE. Yes, that is correct.

AILING BANKING SYSTEM NEEDS REFORM

Mr. SEYMOUR. Mr. President, last Wednesday I spoke on the Senate floor and expressed my disappointment with the inability of this body to do the Nation's business. Now, here we are today, wrapping up legislation that was supposed to overhaul and make more competitive the banking system; Instead, we are passing a watered down, narrow version. This measure should have been debated, amended, passed, and implemented months ago. I am not surprised that our constituents back home have become so cynical of Congress.

Our ailing banking system needs reform. It is essential that we take cooperative, bipartisan action to ensure the health of our banking institutions, calm the fear of their depositors, and put our banking system on a strong and stable footing. Bank failures have occurred at an unprecedented rate, the bank insurance fund has all but dried up, and our economy is being strangled by a lack of investment capital. A comprehensive and effective banking reform measure would have been one step forward in bringing this country's economic crisis to an end.

But, as we all know, the House has killed two banking reform measures. And, now our counterparts are back at the table for a third round. Well, I didn't come here to play legislative tennis with the administration and the House of Representatives, or engage in heated partisan politics. We have a duty and an obligation to the American people to do what is necessary to put this country on solid ground. I

VOL 137 PT 23 NO 21—25 1991 UMI

challenge my colleagues to do what is right and get down to business. As I have said before, I am ready to stay here until Christmas to do it.

I agree this bill contains some very essential and necessary provisions. Replenishing the bank insurance fund will ensure that bank depositors are adequately protected. And, just as important, are the reforms in the bill that will help to safeguard against bank failures in the future. By strengthening the regulatory supervision of these institutions, intervening early when an institution finds itself in serious trouble, and eliminated abusive banking practices, we can succeed in restoring faith in our banking system.

I do not need to tell my distinguished colleagues about the very controversial provisions that exist in this bill and in the amendments presented. The powerful competing interests of those groups who will be financially affected by this legislation are great. I have heard from many independent bankers from cities and towns across my home State who are concerned that if larger, more powerful banks are allowed to enter into interstate banking, they will be virtually choked out of business. At the same time, larger institutions have expressed the illogic of the present system of haphazard State by State laws on interstate banking. Those in the insurance and securities industries have also voiced their concerns about certain provisions of this legislation.

Our Nation is facing a financial emergency and we must treat it as such. Mr. President, my constituents back home are afraid for their economic livelihoods and the economic future of this county. They feel that we here in Washington don't care. By enacting an effective banking reform package, we could have sent a clear message back home to our constituents that we can work together and get the job done.

I am disappointed that we could not have taken a dedicated, nonpolitical path to putting our banking system back on the straight and narrow. Not only have we abdicated our responsibility, but we have failed to ease the fears of our constituents and restore the public's faith in this institution.

Mr. SASSER. Mr. President, I rise in support of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act. I voted against this bill in committee because I believed that the bill went further than is necessary and prudent considering the times.

I am therefore pleased that the distinguished chairman and ranking member have agreed, in particular, to strike the Glass-Steagall repeal provisions from the bill.

Mr. President, I believe that the expansive securities provision that was reported by the Banking Committee could have put the banking system and the taxpayers at increased risk.

As the full extent of the savings and loan debacle continues to unfold before us, increasing risk to the banking system—no matter how slight—is ill-advised and inappropriate. At this time the sole objective of any banking legislation should be safety and soundness—period.

Mr. President, the administration is currently asking Congress to make available $70 billion of Treasury funding to bolster the Federal Deposit Insurance Corporation. These funds are needed to cover losses and provide working capital in an estimated 588 bank failures that will occur in the next 4 years.

Mr. President, considering this enormous taxpayer loan, this is not a time for experimentation. Rather, it is a time to return to tried and true principles of safe and sound banking and conservative regulation.

Mr. President, unleashing federally insured banks on Wall Street—as this bill would have done—is not what the American people are seeking as a solution to the banking crisis. What the American people want is tough bank regulation, and an assurance that there is no threat to their hard-earned savings.

And importantly, they want banks to be banks again—to return to traditional lending so that banks can do their part in helping the economy climb out of this terrible recession.

The American people do not want any more federally insured loans to Donald Trump. They do not want banks to be making loans to corporate raiders or to Third World dictators. What the American people are demanding is that banks make loans to businesses to produce jobs and to consumers for purchases of homes and for education.

Mr. President, the record is out there: The banks that prospered in the 1980's have not been those that pursued speculative investments—like hostile takeover lending. The banks that have prospered, and will continue to prosper, are those that have concentrated on the traditional banking business.

Mr. President, as we all know, our financial system is in extremely sensitive condition. During the 1980's, we witnessed a financial calamity of unprecedented magnitude. The collapse of the savings and loan industry and its federally sponsored insurance fund is projected to cost the taxpayers several hundred billion dollars when the bills are paid.

There are a myriad of reasons for the savings and loan debacle—some political, some economic, and some technological. But I think lack of regulatory controls and oversight, and an expansion of powers to areas outside their expertise, weighs heavily as a contributor to the disaster.

There was a pervasive sentiment on the part of Reagan administration regulators that savings and loans would be better off if so-called entrepreneurs were brought in to run them, and if they could enter new fields, often beyond their expertise.

Unfortunately, the entrepreneurs often turned out to be high flyers and worse—downright crooks. By the time the regulators realized what was going on, it was too late. New fields all too often ended up meaning new risks and losses for federally insured institutions.

As an eerie followup to the savings and loan crisis, in the late 1980's, we began to see an emerging problem in the banking sector. Most importantly, there has been a dramatic decline in the financial resources of the FDIC. In 1987, the FDIC had $18 billion in reserves, today, according to the General Accounting Office, it is insolvent.

The rapid decline in the fortunes of the bank insurance fund is particularly shocking. The man in the street rightly asks "Where did the money go?" Unfortunately, the causes of the problems in banking are similar to those that caused the problems in savings and loans.

To a large degree, laissez-faire financial regulation, and overly zealous investments, contributed to the banking crisis.

Moreover, the so-called too-big-to-fail policy has been a major culprit. This policy, created by our banking regulators, has protected large banks in this country from failure. At the same time, however, banking regulators have shut the doors of our Nation's smaller community banks with dispatch.

For instance, when Freedom National Bank in Harlem ran into trouble last year, the FDIC promptly closed the bank. And it decided to only partially cover deposits over $100,000. Charities, such as the United Negro College Fund, that had invested in Freedom National because of the bank's important role in a poor minority community, took a big hit.

In contrast, at almost the same time, the FDIC arranged a so-called purchase and assumption of the National Bank of Washington. Rather than closing the bank, as the FDIC did in Harlem, it gave all the depositors a free ride over to a new bank. In particular, the foreign depositors, who had mega-holdings at the Bahamas branch of NBW, were made whole.

The inequitable treatment of these two banks is especially shocking when it's considered that no FDIC deposit insurance premiums are paid on foreign deposits. Under this policy, depositors and other creditors receive full and free insurance coverage in a large bank resolution courtesy of Uncle Sam, while depositors at small banks—who pay premiums on 100 percent of their deposits—often have the door slammed in their faces.

The fact that insurance premiums are not being paid on liabilities that are being insured creates a fundamental unfairness and distortion in the banking system. Look at the deposits of major U.S. banks—Citicorp pays insurance premiums on only 35 percent of its liabilities, and Morgan Guaranty pays premiums on only 11 percent of its liabilities.

Under too big to fail, all these liabilities are almost certainly insured by the FDIC, but no premiums are assessed against them. This stands in contrast to banks in my home State of Tennessee. For instance, SunTrust pay premiums on 89 percent of it liabilities and C&S/Sovran pays premiums on 85 percent of its liabilities.

Mr. President, the coverage of all liabilities—even uninsured liabilities—in bank failures has made it very easy for large banks to raise and lend money. During the 1980's, money gravitated to the big institutions, away from community banks.

Obviously, large sophisticated investors would choose to give their money to a failsafe large institution than to a small bank—hundreds of which were closed in the 1980's.

Easy money meant easy lending, and problems for the FDIC. Too big to fail contributed to the explosion in commercial real estate lending by large banks. Banks more than doubled the percentage of their assets in commercial real estate. As a result, there is more word among our leading banks then was that these loans were as safe as Fort Knox—sovereign nations didn't default on their debts. Well, now we know how false that premise was.

Mr. President, lack of regulation, policies like too-big-to-fail, and bad investments by banks during the last decade have nurtured the crisis we face today. They are a large part of the reason why the FDIC needs a $70 billion Treasury line of credit.

Mr. President, in several respects this bill moves in the right direction of encouraging safe and sound banking and correcting the mistakes of the past. Requiring that regulators intervene early before banks accrue massive losses is a critical reform that will not only reduce exposure to the insurance fund but also lay a major blow to too-big-to-fail.

Requiring that FDIC use the least costly method of resolution, restricting interbank deposits, and limiting the Fed's authority to lend to failing banks through the discount window should also curtail too-big-to-fail.

Charging premiums for deposit insurance based on risk is critical. Under the present system, banks pay a flat rate for deposit insurance no matter how they invest their funds. If a bank makes a loan to Donald Trump, it pays the same premiums as does a bank that makes a loan to a young family to buy a home.

Deposit insurance under the current structure does not provide an incentive to make a safe loan. There's a moral hazard—there's no reward for pursuing avenues that place the FDIC at the least risk.

Making banks pay more on funds that they may use on speculative investments will decrease the likelihood that they'll make such investments and that's important. Risk based premiums will help banks get back to basics.

Moreover, the bill contains a compromise on the foreign deposits issue, that I worked on in committee, that I believe will go a long way to addressing this great inequity. Under the provision contained in the bill, foreign deposits can only be covered in a bank failure if it is the least costly means to resolve the institution. And if they are covered, there must be an assessment levied only on banks that hold foreign deposits to pay for the cost of covering foreign deposits.

Under this provision, a community bank will never again have to bear the cost of insuring a foreign deposit of a large bank. Only banks that have foreign deposits will insure foreign deposits.

Mr. President, as I mentioned earlier, I support the decision of the managers to strike the Glass-Steagall provisions of the bill. I do not agree with some of my colleagues that permitting bank holding companies to fully enter the securities business is the answer to the banks' problems.

I quote the Chairman of the Securities and Exchange Commission, Richard Breeden, who said this year:

> Those who think that there's this fountain of profits in the securities industry that will cure the income problems of banks, have not looked at recent numbers. There are no profits at present in the securities industry.

According to the Comptroller General, the GAO "couldn't find the evidence * * * that by automatically granting these powers * * * that [banks] would [use them] on a profitable basis. Some companies obviously will * * * but others won't."

Indeed, I fear that if we permit an expansion of powers for large banks there will be a great temptation on the part of the regulators to attempt to let the new powers solve the old problems. That, I submit, Mr. President, would be a prescription for disaster. We should not repeat the mistakes of the past.

Mr. President, I think our first order of business is to start with the basics. Our first priority should be restoring the solvency of the insurance fund and assuring depositor confidence in banks and the economy. And next, we should make sure that we have a sound regulatory scheme in place.

I think the bill has been improved from the version that was reported by the Banking Committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Do the managers yield back their time?

Mr. RIEGLE. I yield back the time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass?

So the bill (S. 543), as amended, was passed.

(Note: The text of S. 543, as passed on this date, November 21, 1991, will appear in a future edition of the RECORD.)

The title was amended so as to read: "A bill to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulations of insured depository institutions, and for other purposes.".

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANNOUNCEMENT OF A POSITION ON A VOTE

Mr. GARN. Mr. President, I ask unanimous consent Senators BURNS and GORTON be recorded as "no" on the bill. If we had had a rollcall vote, they would have each voted "no."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, there has been no vote on this bill, I wish the RECORD to show my opposition and grave concerns with this legislation.

In the last decade, the Congress has passed laws that have resulted in losses of hundreds of billions of dollars that taxpayers have had to make up for, the administration has imposed regulations that have made it harder for banks to make good loans, and the bankers themselves have pursued short-sighted and sometimes self-destructive strategies. In 1989, I voted against the Financial Institutions, Reform, Recovery, and Enforcement Act. Earlier this year I voted against the $30 billion recapitalization of the RTC.

On all those occasions, I said that what we should be passing was legislation that presents a clear vision of the role that financial institutions can and should play in our Nation's economy and lays out a strategy for achieving that vision. That was my position throughout the 1980's, and it is my position today. The bill does not do that. Again we have backed away.

The financial sector is one of the keys to growth in the American economy, and the American people deserve more than the least common denominator.

Mr. WELLSTONE. Mr. President, I learn every day, and I guess I would not have believed that we would have voted on a bill, tens of billions of dollars, on a voice vote. If I had known that no one in the Senate was going to ask for the yeas and nays, I certainly would have. I deeply regret that a Senator did not ask for the yeas and nays. I deeply regret that we did this by voice vote.

VOL 137 PT 23 NO 21—25 1991 UMI

In my honest view, as much as I love being here, I think it reflects poorly on the Senate. I think it is a tough vote. I think our vote should be recorded. I think that is what people want from us, and I want it recorded that if we had had a recorded vote, my vote would have been "no."

Mr. GORTON. Mr. President, I will briefly discuss why I opposed the final version of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. I remain open to a comprehensive reform bill which provides significant taxpayer protection from a future savings and loan type bailout. This bill is not comprehensive and does not protect taxpayers from a future bailout of the banking industry. The only winners in this debate are the money center banks and the big insurance companies.

The banking bill which was debated and passed here tonight was the worst of all worlds for Washington's banks. The original concept behind this bill was everyone would get something and give up other things. Tighter regulation for the banks coupled with a willingness for the industry to pay for recapitalizing the bank insurance fund was to be traded off against greater bank powers for the industry. My State's banks, however, were asked to give up everything and received nothing.

Under the interstate branching provisions, large money center banks can open branches throughout Washington State draining deposits from Washington's banks and financial resources from the State's economy. Luckily, Washington banks are among the best run and well capitalized banks in the country. In the long run, I believe Washington's banks will withstand the assault of the money center banks if the legislation isn't changed in conference with the House. But solely because of this bill's passage, Washington's banks will be engaged in a struggle for their existence.

The bill's insurance provisions requires Washington's State banks which sell insurance to divest themselves of those profitable activities. Because of a compromise in the insurance area, however, Delaware State banks are now allowed to sell insurance throughout Washington State. I argued against this amendment because of its affect on Washington's banks because it was simply not fair. Those banks allowed to engage in insurance by their State regulators should be able to sell insurance if it posed no threat to the bank.

Mr. President, there are two notable accomplishments in the bill. First, Congress recapitalized the bank insurance fund. Without adequate recapitalization, the fund soon will be insolvent, and taxpayer funds rightly will be used to prevent depositors from losing their savings. Second, the bill tightens up the regulatory structures governing banks in several important ways, creating a more sound banking system.

Mr. President, Congress didn't need to kowtow to the big banks and insurance companies to get this bill passed. When it became clear that Congress could not achieve true reform, it should have done a narrow bill accomplishing only what had to be done to protect insured depositor's money. These big bank and insurance company interests should not have their wish list filled at the expense of the rest of the country's banking industry. Without significant modification, I remain skeptical of being able to support the conference report on the bill.

Mr. DOLE. Mr. President, I rise to make a few brief remarks on the legislation which this body has just passed, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

First and foremost, the legislation is critically important to restoring the deposit insurance system that has fallen into serious jeopardy in recent years. The point of this legislation is not to point fingers but to reform the system before we find ourselves facing another debacle like the savings and loan crisis for which American taxpayers are now footing the staggering bill.

I do not pretend to maintain that this legislation is perfect with respect to all my concerns or that all the interest groups are going to go home happy. In fact, I suspect that every group following this legislation will likely find something to complain about.

In this connection, I want to commend the valiant efforts of the distinguished chairman, Senator RIEGLE, and the ranking member, Senator GARN, who have not had an easy job in seeking to strike a fair balance among the many competing interests inherent to this far-reaching and highly complicated legislation. I also wish to commend them for their leadership in moving this legislation through to passage.

The work on this legislation is, of course, not over yet, and there are certain important issues that will need to be carefully addressed during the conference between the House and Senate bills.

One provision that has certainly raised a lot of eyebrows is the amendment passed by the Senate which imposed a cap on credit card rates. I am not going to stand here and say that this provision should become law as it is. Indeed, as I have previously said on this issue, there are sometimes matters that Congress meddles with that recognize a problem but which perhaps could be handled a little differently.

While I am well aware that banks need to make a profit—particularly in these rough times for the industry—it also seems that the system has a shortcircuit in it when the average bankcard interest rate—presently 18.9 percent—is almost four times the discount rate, which is at its lowest level since January 1973.

The issue for the conferees will be how to address this shortcircuit without otherwise harming the financial services industry and the many valuable services it provides to American consumers. In so doing, they will be making it a little bit easier for the consumer to find a fair deal, while increasing confidence and assisting this Nation's economic recovery.

Mr. President, I hope that when all is said and done on banking reform legislation that this legislation will be recognized as having provided the urgently needed financial resources to the deposit insurance system with certain much-needed reforms to revitalize the banking industry and ensure its survival, and prosperity into the next century.

Mr. GRAHAM. Mr. President, I share the concern of the Senator from Minnesota relative to the manner in which the banking bill was passed. The bill which represents one of the most significant financial commitments of the United States, second only to the savings and loan industry, in terms of a financial commitment for a potential failure in our financial services industry. That was an issue that deserved the thoughtful attention of the Senate on a recorded vote.

Mr. President, beyond the fact that it was passed in this manner, I have a series of substantive concerns about the bill. I am concerned about the fact that it was essentially disrespectful to a major source of innovation in financial services: the States; provisions relative to insurance sales; to override State environmental laws; and to the State's limited involvement in interstate banking; and I believe were disrespectful to the dual system that has served our financial services industry well.

I am also deeply concerned that we have not adequately protected the bank insurance fund, that we have continued to allow, through devices such as the concept of too big to fail, and the allowance of brokered deposits, for a continued growth in the exposure of the American taxpayer to an ultimate bailout.

I am concerned that the economic data upon which the $70 billion, which was voted by voice vote earlier this evening, was calculated is unrealistic and that in fact the total cost of this program will be significantly greater, and I fear it will be beyond the ability of the commercial banks themselves to carry the responsibility.

But my greatest concern, Mr. President, is that this bill is not responsive to the economic needs of America at a time when there is no concern more on the minds of Americans than their economic well-being.

That failure to respond is not by accident. This bill was never structured

from the orientation of what is in the interest of the users of the system, the people who depend upon our financial services system, in order to support their individual business, corporate, or commercial activities. We have heard from users in this bill; we heard a position expressed by home builders, by farmers, by individual consumers, and in too many instances what we did is reject those calls for assistance through this legislation.

I am also concerned, economically, that we are setting up the FDIC exactly on the same course of behavior which has led to the RTC and all of its problems, with which we are so familiar.

So, Mr. President, I am distressed at what has occurred, and the manner in which this legislation is adopted. Had we had a recorded vote, I would have voted "no." I hope that this matter goes further through the process and that the concerns which I have expressed will be ameliorated.

The PRESIDING OFFICER. The Senator from Arkansas is recognized under the previous unanimous-consent request.

Mr. BUMPERS. Mr. President, I think the Senate has just made a very serious mistake.

Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Those in the back of the Chamber wishing to converse will please retire. The Senate will be in order.

The Senator from Arkansas.

Mr. RIEGLE. Will the Senator yield for one moment?

Mr. BUMPERS. I am happy to yield.

Mr. RIEGLE. Senator DECONCINI sent a message that he wants it known he also would have voted against the bill.

I yield.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, there are some provisions in this bill that make a lot of sense, but overall and on balance this bill will cause irreparable damage to banks. The whole rationale for this banking bill was to assist banks in becoming more profitable, and to give troubled banks a better chance to avoid being closed.

Titles II and II of this bill are the provisions to recapitalize the bank insurance fund so that troubled banks can be closed, and depositors can be protected. I am not really criticizing that part of the bill.

But, Mr. President, when you look through the rest of the bill, you find that States are forced into interstate banking and almost forced into interstate branching. I made my case the other day and I lost. I got 39 votes for my amendment and I still do not understand why anyone would oppose it.

But this bill strongly encourages States, indeed, almost forces States into interstate branch banking. I do not like the idea. I do not want it in my State unless the legislature wants it. Right now the legislature does not want it, and the banks in my State do not want it. So why are we forcing this on them?

Senator NUNN and I have a very comprehensive bill pending in the Senate to reduce paperwork. We have been talking about reducing paperwork around here ever since I came to the Senate. But we keep passing bill after bill after bill that requires more paperwork of the business community.

This bill is a killer from the standpoint of paperwork. It costs the banks. If we really want to help banks, why are we imposing this unbelieveable burden on them?

Now I have no doubt that the provision setting credit card rates at 14 percent will never become law. I am not worried about that. That will be the first thing dropped in conference.

But go back and look at title V of this bill, the so-called consumer title. It contains just one thing after another that banks have to keep tabs on, that banks have to furnish, that banks have to disclose, or that banks have to report.

Mr. President, I believe in consumer protection. I believe as long as the cost is acceptable, it is fine. But the need for the information must be balanced against the cost. The Government paperwork burden is killing business in America.

So, Mr. President, for all of those reasons and others—it is a very comprehensive bill—I felt constrained to vote no. Frankly, I hope the House will not accept our bill. I would like to see everything after the enacting clause stricken and the House bill inserted. What the House has done is simply recapitalized the bank insurance fund so that if it can function, and that is all we should do.

So, Mr. President, even though there was not a rollcall vote I voted a loud "no." I wanted this short time to explain that vote.

Mr. GARN addressed the chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Utah.

Mr. GARN. Mr. President, I would like to explain that there is one amendment in this bill that made it difficult for me to be in favor of and I think everyone knows what that is. It is the cap on credit card interest.

I am not going to take all the time to explain the bad public policy and the difficult implications for the economy and for a lot of banks and savings and loans and credit unions in this country, and the violations of the free market with that amendment, and how disappointed I am that the Senate passed that. Nevertheless, we have the responsibility to recap the bank insurance fund before we leave. It would be irresponsible not to.

But I want to assure every colleague, being the only one who spoke against that amendment last week, that it will not become law. The House will not accept that because we are simply not going to let it come out of conference.

I have said to some of my colleagues who wished to vote against the bill because that was in the bill and they wished they had not voted for it to begin with, I have assured everybody today who says, "Well, I will not vote for the bill if that stays in it," it will not stay in the law, because this Senator will make sure, if, by some accident, it came back from the House in the conference report, that I would oppose the conference report.

I have one further assurance for those who are concerned about the implications of that; that, if by some way the chairman and I fail to dump that miserable amendment in conference, the President will veto the bill if that stays in it.

So let the word go out to everybody that wants to listen, I wish there was some way to remove that. I wish we had not put it in the bill to begin with. But it will not become law. Let all of the lobbyists outside of the Chamber who were so concerned about that hear this statement, too. It will not become law. There are no circumstances where it will.

I am sure we can kill it in conference. But as I say if, by some wild parliamentary maneuver, it stays in and we cannot kill the conference report, the President will veto it. So everybody quit squirming out there. We are not going to interfere in the free market. We are not going to mandate interest rate ceilings on anything. We are not going to determine the price of cars or airline fares or anything else by 535 Members of Congress arbitrarily making those decisions, no matter how seductive the politics of some of those issues are.

I do not know how to make it any clearer. The D'Amato amendment will not become law.

Now let me just say how much I appreciate the chairman's work on this. This is not just a few day's work. This has been more than a year's work. I do not know when I have been in a situation where both the majority and minority staff members have worked as closely together or when so many of my colleagues have been so cooperative.

The Senator from Colorado, Senator WIRTH, is standing there. We resolved an issue we have been working on for months; Senator BRYAN and Senator DOMENICI and others; Senator DODD; and Senator GRAMM of Texas. So there has been a lot of good will by both staff and Members and I would like to thank and congratulate all of them.

Mr. President, I would like to thank the staffs on both sides for their long hours of work on this bill.

VOL 137
PT 23
NO 21—25
1991
UMI

My colleague from Michigan and I have had many disagreements over the details of this bill. However, this bill, and in particular, refunding the bank insurance fund, is crucial to our financial system. We have worked over the past few months to reach this result and I am most appreciative to all my colleagues and their staffs on the Banking Committee.

Again, I would like to thank all the banking committee staff, especially Lamar Smith, Ray Natter, Ira Paull, John Walsh, Brad Belt, Kris Siglin, Wayne Abernathy, Ruth Amberg, Joel Miller, Barbara Matthews, Margarette Musket, Shelly Berlin, Paul Jarmen, and Mattius Jenke.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, let me just say I, too, want to thank my colleague from Utah for the great effort that he has made and for the way we have been able to work as a team on this issue now for some time. This is an extraordinarily complex and difficult issue. We have done our best to try to reconcile competing views here within the Senate and do it in a fashion that gives us a chance to build a much stronger banking system in the future.

Huge problems have accumulated in the banking system. We have seen a record level of bank failures. We see more bank failures coming ahead of us. We have taken steps here in this legislation to recapitalize the bank insurance fund, to put a much stronger set of regulatory reform measures in place so that the system will be stronger in the future. We have added certain other major elements of this including an improvement, I think, in the prospect of the bank business charter in the sense of allowing a measured way to let interstate banking take place. That allows banks to undergo some orderly consolidation and to be able to put geographic diversification in as a way to cushion against some of the large regional economic shocks that occur from time to time across our country.

So I think that interstate banking provision will help banks accumulate more capital and put more strength in place to protect the deposit insurance fund in the future.

There are some very important consumer safeguards in this legislation. There is the truth-in-lending requirement. There is a fair lending requirement to deal with the problems of discrimination based on one's status in the society. We move against those problems. We deal with the problems of money laundering in banks. We set in motion reforms that will stop future BCCI cases from occurring here in the United States. We move in the area of changes in SEC laws to allow some of the most important securities fraud cases that have been brought by people in court actions to be preserved through an extension of the time period that will allow those suits to be brought forward. We have done that both at the request of the SEC, and because it is good public policy.

This bill has a number of important elements in it. I would say each part is important in and of itself, and has been designed to meet that standard of being solid, section-by-section, title-by-title within the bill.

But perhaps the most important part of the legislation is something that is very difficult to see in just going through the bill. That is how each section cross-relates and cross-connects to each section. Because, while each section has its own purpose they work in combination, and we have designed this bill so that each section will reinforce each other section.

So the reforms, in terms of early intervention, by requiring regulators to move more quickly when banks get into trouble, to require that they restrict and end practices that are risky and that lead in the wrong direction, to require certain other steps, corrective steps to be taken to stop dividends from being paid by banks that are in that type of situation, to actually, finally be able to move in and close that bank before it finally reaches the point of causing a major loss of money from the deposit insurance system.

All of these issues, as I say, are designed to work in combination with each other. I think as this legislation is analyzed, it will be obvious that this legislation will have that effect.

It also needs to be said with respect to the $70 billion loan that is being made by all of us, as taxpayers, to the bank insurance fund, that this legislation requires that every dime of that be repaid by the banking system itself over the next 15 years, in terms of the insurance premiums that they must pay into the fund. If the projections that we have been given by the experts in Government who are responsible for making this kind of a future assessment, the people at the FDIC, the people at the Treasury Department, the people in the Federal Reserve—if they are accurate with the projections they have made, then that amount of money that is being provided in this bill would be sufficient to cover the level of losses that they are forecasting in even the worst case, as they see it.

There are several thousand professional employees in those agencies that have helped construct those official estimates that we have been given, and upon which we must rely in terms of asking for money here. Having said that, I have said before and I want to say again, I have great concern and I have great apprehension that their estimates may not be accurate; that the amount of moneys needed may in fact prove to be larger. I hope that is not the case. But I think it is entirely possible that may turn out to be the case. It will depend, importantly, on how the economy itself performs.

If the economy goes into a double-dip recession and we see more economic damage accumulate, it is entirely possible that the situation will be such that the losses will increase, and we certainly hope that is not the case. One hopes we will do things to strengthen the economy to avoid that turn of events.

Mr. President, I will not take much longer but I think it is important to summarize what is happening here because the bill has been on the floor for several days, it had to be taken down when we took up the unemployment issue, and as we debated the technical issues it was easy to lose sight of what the bill is intended to do.

I want everyone to be on notice that whatever the losses are that we are to see in the future in the banking system, many of those losses are already in place. They represent investments made, decisions made, and the full wisdom or lack of wisdom in those investments will only be clear as the months go by, and, as I say, in the context of what the economy itself looks like the rest of this year and on into the next several years.

If we find that we have a worse set of economic circumstances on our hands—and, God, I hope we do not—but if it turns out we do, the amount of money we provide in this bill will not be enough and we will have to revisit that issue.

As I say, I hope that is not the case. I have great apprehension about it. As we said at the outset of this debate, there are no guarantees on this issue because there is no one who can be found in this country today who can say with certainty exactly what the size of this problem may turn out to be.

I can say this, I think within the scope of what is available for us to do at this time and is within our capacity to do, recognizing how our system works with the executive branch and the legislative branch, this legislation attempts to deal with these problems in the most direct and forceful way we know how to do it. So I think we have moved in every way that we can with the tools that we have available to us now, to try to deal with this situation.

I want to say just two other things. The Senator from Utah spoke about the amendment that was offered on the credit card situation. There was a colloquy as well in that area.

There is concern about the size of interest rates being charged on credit cards and also the point that has been raised about the fact that a number of the major credit card companies and lenders have a uniform rate. It raises the question as to whether there really is active competition.

When that amendment was offered the other day many of us voted for it

because it was an expression of a feeling that we have that, if a reasonable way, a sensible way can be found to bring rates down, certainly we ought to try to do it. Certainly generally interest rates have been falling. We have not seen any real movement on credit card interest rates.

It is not practical to try to write a law per se that mandates a given rate that is somehow going to affect all situations for all time. I mean, there is a great temptation to do it. I find it a very attractive idea. But in terms of a practical solution, a one-shot adjustment, I think poses major difficulties not just from people who have a vested interest in that issue who have responded quickly, but also I think we have seen it from arm's-length professionals who have looked at the situation. We have seen reactions in the financial markets as well.

For better or worse, we are a country that is profoundly based on consumer-driven consumption. Probably too much so. But you cannot change that overnight.

So the momentum and the strength of our economy depends very importantly on the degree to which the consumer side of our economy can remain as strong as possible. Any action we might take to change those patterns, if it were to have an unintended consequence of withdrawing any significant amount of credit to people who now have credit, I do not think that would be a consequence that any of us would want.

If we are going to find a way to address that issue through some manner of policy or some manner of market adjustment, I think it has to be done over a period of time in an orderly fashion and, hopefully, if there are advantages to be gained that way it can be done in a fashion that would not in any material way destabilize the economy.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. RIEGLE. In just a moment I will, because I am speaking just extemporaneously, here, as the Senator can see.

What I am saying is that I think our economy today, as well, is in a very dangerous circumstance. If you look at all of the data, the manufacturing data, the retail sales data, consumer confidence data, trade data, debt level information—I see flashing red lights everywhere I look.

We need a comprehensive plan for America to work through this. And the issue of credit, credit availability, credit cost is a very important part of that equation. It needs to be looked at. It needs to be dealt with. That involves not just Federal Reserve policy but all the way through the issue in terms of whether small businesses and other borrowers of funds are getting the credit they need. Are they getting it at rates they can afford? Is there the strength in the economy to pull through the level of economic creativity and job creation that we need? So the point that is raised is an important point.

I know, seeing the Senator from New York on this floor, I have as great a concern about those issues as does he. Not just in my State, which is in trouble, or his State, which is having difficulties, and his region, but the whole country. But let me yield to his comment.

I yield for a question.

Mr. D'AMATO. Would it be a fair characterization to say that one of the reasons that my good friend, the senior Senator from Michigan, voted for the credit card interest limitation, the floating cap, was to send a message that these are inordinately high interest rates, the national average being close to 19 percent?

Mr. RIEGLE. I would say to the Senator, if I may——

Mr. D'AMATO. This is not a trick question.

Mr. RIEGLE. I understand. It is a very important question and it is a very relevant question and one I thought about and thought about that day because I think one can argue on the one side that large scale credit card offering companies develop a customer base and a risk profile with that customer base. Out of that comes a level of interest that they end up establishing that they think earns a profit, covers the risk of loss, and so forth.

Fine, that is an established part of the business. When you see a very sharp and long-term decline in interest rates——

Mr. D'AMATO. The cost of money.

Mr. RIEGLE. The cost of money, the cost of funds going down, the Federal Reserve lowering interest rates, you see interest rates generally dropping.

Mr. D'AMATO. Would it be fair to say the Fed is lowering those interest rates, that is, the cost of money to the banks, to bring consumer interest rates down also?

Mr. RIEGLE. Yes, that would be my view, and the Senator and I have the same feeling on that. I have argued other times and other places the same thing. I am distressed that in many cases that the banks or other lenders have not passed along the lower cost of funds, the advantage they gain from a different monetary policy, and after a while, you start to ask yourself the question, when the cost of funds is dropping so much, why is the price for borrowing the money staying up high?

Now you assume the same risk profile is out there and so, if you started out with a certain charge for a credit card to fit that risk profile, as your cost of funds drop, it would seem that at some point there ought to be a downward adjustment in the credit card costs.

And, so, yes, that thought was very much in my mind, and I suspect that when the President made his suggestion at a speech in New York that the Senator from New York was attending, I think maybe the President may have had that same thought in mind, that with the cost of funds having dropped so much, was there not a way in which costs being charged for credit could also start to show, start to work their way down to show the fact that there was a lower cost of funds to these companies?

Mr. D'AMATO. And if the cost of money had come down by almost half, where the rate at one time was close to 8 percent and it is now 4.5, and the cost of money basically coming down in half, where at one time they were paying for money 8 percent, now the average is 4.5 percent, and, indeed, in the period of 1985 to today, instead of seeing any reduction nationally taking all of the credit card companies together that, indeed, instead of there being any reduction, that the total average went up 1 to two-tenths of a point, does that not send an alarm that somehow the free market system is not operating as it should and that rates are being kept artificially high?

Mr. RIEGLE. I think it does cause one to raise that question and to wonder about it, although I think what also has to be said is that there are different kinds of people in the credit card business.

If you take a bank that is in the credit card business, their cost of funds is going to have a different look to it because they have access to Federal Reserve——

Mr. D'AMATO. Correct, discount.

Mr. RIEGLE. Discount help. They also have access to federally insured deposits, which is a tremendous advantage to them and, in fact, I think if you look at the cost of funds to banks or to any financial institution with Federal deposit insurance, you will find it has dropped faster to a lower point than any other institution. But there are other kinds of companies in the credit card business that have to go out and get their funds in the commercial market and have to pay a different rate, if you will, for their funds that would be the rate available to banks generally.

So there is that difference, but that gets into the subtleties of the different kinds of players that are in that market. The bottom line is I, too, think we should be seeing some lowering of these rates on credit cards because the cost of funds has dropped as much as it has, and I cannot believe, myself, that the risk profiles are going to change that dramatically in such a short space of time to sop up all the difference.

Mr. D'AMATO. I only ask one other thing, at least this Senator found it very disturbing—and I know Senator SEYMOUR is patiently waiting here and I am going to conclude this——

Mr. RIEGLE. I have one other comment to make, but let me yield just another minute.

VOL 137
PT 23
NO 21—25
1991
UMI

Mr. D'AMATO. It seems to me that something cries out, and that is why I wrote to the Attorney General today for an investigation. When 7 out of the top 10 issuers of credit cards are charging the precise rate, 19.80, to the decimal, and if we look at 10 of the largest credit card companies and it accounts for over 50 percent of the business, one has to say that real competition, in the sense that we think of it, in the commercial sense of advertising, of demonstrating better rates when we see that there are much lower rates available is not being undertaken.

I have to suggest to my colleagues that maybe we want to make excuses, maybe we are afraid to face the truth, and it seems to be it is kind of like the king who had no suit and everyone told him what a wonderful suit of clothes he had.

If we really think there is real competition going on with the major issuers, and I am talking for the most part, then I think either we do not know or we are deceiving ourselves. If we want to say that the subsidy of billions of dollars as a result of these inordinately high interest rates is something that is necessary to keep some of the large money center banks afloat, and it is basically a hidden subsidy because we do not go to the taxpayer directly and levy a tax; that would be more honest.

I believe that is why many of my colleagues support this amendment because they know that inherently the free market competition that would bring those rates down, if it was actively promoted, would result in much lower interest rates.

Mr. RIEGLE. Let me just say to the Senator on that point, I think many Senators, including this one, have a concern about a uniform level of rate that does not seem to move or show any kind of competitive variance by major companies. That, I think, is pattern which on its face raises questions. I am sure they would argue that they are not competing on price, they are competing maybe on service or the nature of the way in which they manage their accounts, and so forth, what they offer their customers, and what have you.

But I think it is appropriate that there be price competition as well, and there are some credit card companies and different outfits that offer credit card services that have interest rates that are much lower than the prevailing rates on very large——

Mr. D'AMATO. Simmons First National Bank in Pine Bluff, AR, 9.5; Wachovia Bank in Delaware, 10.4; Bank of New York, 13.4.

So when people say, oh, no, we could not do it, there are many institutions who are offering rates who are making money—all of these are making money.

So for us to blindly sign on to the fact that we are interfering in the free economic competitive system when we attempt to say at some point there should be some rate you do not go above and if you are charging above this the free market is not working, I would suggest that the free market has been impeded.

Mr. RIEGLE. Let me just conclude on that point. I think when you have had a dramatic fall in interest rates, meaning the cost of money, the cost of funds—you normally expect that there is going to be some adjustment on the price side where those savings are used or in effect made available in other forms, and we have seen it in a lot of areas. Mortgage interest rates are now down. They have come down.

Mr. D'AMATO. That is right.

Mr. RIEGLE. In many cases the rates to finance cars are dropping as well, with various incentives being offered in that area. So I think on the issue of the uniformity of rates, the Senator has a point to make. I think we need to assure ourselves there is competition and competition is providing access to credit and fair pricing of that credit throughout the system.

Let me say one other thing and then I really must yield the floor. That is this. I want to thank the staff of the Senate Banking Committee for an extraordinary job in this difficult situation. I think if anyone takes the time to really look at the scope of this legislation, in terms of the number of titles and the kind of complex law that is involved in each of the titles, it just takes a tremendous amount of time and technical expertise to work through these questions.

A vast number of people have been very helpful to us, a number of witnesses. We had several days, weeks of hearings from expert witnesses of all kinds. But I want to say to the staff, for the long hours, 7 days a week, day and night, to produce a bill of this complexity and this quality, it has been an outstanding work effort. I thank each and every one of them for service above and beyond the call of duty.

This is not joyous legislation because this is not a happy subject generally, to have to work through problems as difficult as these. They are a great challenge. We carry a great responsibility here, all of us in working on it. I think we have discharged that responsibility. This is a good piece of legislation, and I think we can take some pride in it.

I yield the floor.

Mr. GORE. Mr. President, I thank my distinguished colleague, the Senator from California, for his courtesy in allowing me to make these very brief remarks even though he was on his feet waiting for recognition.

I congratulate the chairman and ranking Republican member of the Banking Committee for a job well done. It has been a very arduous task and I know that they and their staffs are glad to have this phase of it behind them.

Mr. President, very briefly, I would like to thank my colleagues for allowing the Senate to go formally on record this evening with a sense-of-the-Senate resolution attached to this bill which states our sense that United States policy toward Yugoslavia must now change. We have gone on record as saying that if the Serbian Republic does not stop this offensive and does not comply with the European Community cease-fire terms, then it should be our policy to promptly consult with the EC and other nations bilaterally and with the United Nations about the possibility of recognizing the independence of those republics that will comply with the cease-fire terms, and that includes, of course, Croatia and Slovenia.

Many think this is an arcane subject. It is not to me. A member of my family was called into a great war because of violence spilling out of the Balkans, and now with the peace of Europe once again threatened with the first war to rage on European soil in quite a long time, I think the world community needs to speak out. Since the European Community has been so timid, I think the United States should provide leadership, and by the terms of this sense-of-the-Senate resolution it will be prepared to do so.

Mr. President, again I thank my colleague from California for his courtesy. I yield the floor.

Mr. SEYMOUR. Mr. President, I request permission to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR. I thank the Chair.

(The remarks of Mr. SEYMOUR pertaining to the introduction of S. 2016 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the distinguished chairman, Senator RIEGLE, of the Banking Committee, did announce that I would vote against him in opposition to the banking bill, S. 543. I wanted to say that I first want to compliment the Senator from Michigan, as he knows my personal respect and friendship for him and his family, and also that of the ranking member, Senator GARN.

However, this bill, though they have labored on it for so long, had some fundamental problems that I think are

very detrimental to my State. It has branch banking. That will be another disaster, as we have found out that interstate banking has been. It has the ability of brokering funds, and we saw what happened in the S&L problem with brokering funds. We did not adopt the amendment of the Senator from Arkansas, Mr. BUMPERS, about letting States not participate in this effort.

It has, I think, overmandated the ability of the Federal banking authorities to take over banks at almost their own discretion. I think it is a ticking time bomb that is going to come back and haunt us. I am very upset that we passed this bill and wanted to be recorded in opposition.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. DECONCINI assumed the chair.)

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1992 AND 1993—CONFERENCE REPORT

Mr. NUNN. Mr. President, I submit a report of the committee of conference on H.R. 2100 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2100) to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 14, 1991.)

Mr. NUNN. Mr. President, I am pleased to lay before the Senate the conference report on H.R. 2100, the National Defense Authorization Act for fiscal years 1992 and 1993. This conference report authorizes programs for the Department of Defense, the national security programs of the Department of Energy, and Civil Defense for fiscal years 1992 and 1993.

The conferees have worked very hard for the past 10 weeks to resolve more than 1,400 funding and policy differences between the House and Senate versions of this bill. I want to thank Chairman ASPIN, Congressman DICKINSON, and the other conferees from the House for their cooperation in this conference. I also want to thank my friend and colleague, Senator WARNER, the ranking minority member of the Armed Services Committee, and all of the members of the committee on both sides of the aisle, Democratic and Republican, for their cooperation and support during the conference.

I think the Senator from Virginia will likely be here before this debate is over on this conference report tonight, but he is being ably represented by the Senator from Arizona [Mr. McCAIN], who is a very valuable member of our committee. I thank Senator McCAIN for his diligence and his efforts on behalf of this bill and conference report.

Mr. President, the Armed Services Committee has been working on this defense authorization bill for the past 10 months. During that time, there have been some dramatic events and momentous changes that will affect our national security posture for many years to come.

U.S. military forces led a multinational coalition to an overwhelming victory in the Persian Gulf against the forces of Saddam Hussein.

Hardliners in the Soviet Union tried and failed to stem the forces of reform in that country. The unsuccessful coup last August has hastened the disintegration of the Soviet Union's rigid centralized government.

In response to events in the Soviet Union, President Bush has announced a series of changes in our Nation's nuclear forces, and President Gorbachev has responded to those changes with changes in the Soviet nuclear forces, particularly the tactical nuclear components of those forces, and these steps have immediate impacts on our defense and our budgetary consideration.

All of these events require changes in our national security policies and our military strategy. Some of these changes are still being debated, and this bill could not and does not make all the changes that will be necessary in the months and years ahead, because the conference had already started, and both the House and Senate bills had passed well before the President made his sweeping proposals on September 27, 1991.

However, this bill continues the process of reducing and restructuring our military establishment in an orderly manner, while strengthening the basic security foundation to protect our Nation against the threats of the future.

BUDGET IMPACT OF THE CONFERENCE REPORT

For the third time, the Defense authorization conference report authorizes national defense programs for 2 fiscal years. For fiscal year 1992, the conference report authorizes funding of $290.8 billion in budget authority, the same level contained in the Budget Resolution and the budget summit agreement.

For fiscal year 1993, the conference report authorizes approximately $165 billion, which is about 60 percent of the total amount requested. As we have done in the past, authorization of fiscal year 1993 funding for several controversial programs was deferred without prejudice until next year.

The world is changing and the threats to our national security are changing. However, I want to remind everyone that this year's defense budget and the current 5 year defense plan actually are based on the assumption that many of the positive changes taking place in the world will continue. Fiscal year 1992 will be the seventh year of real decline in Defense budget authority. Under current plans, fiscal year 1996 Defense budget authority will be 34 percent below fiscal year 1985. The fiscal year 1996 Defense budget will be 3.6 percent of GNP, the lowest level since 1940.

I want to take a few minutes to outline for our colleagues some of the major provisions in this conference report.

FORGING A CONSENSUS ON SDI

Mr. President, I am very pleased that the conferees reached agreement on a historic first step toward providing a highly effective defense of the United States against limited attacks of ballistic missiles. The ABM provision adopted by the conferees incorporates a two-track approach to attaining this goal: a deployment track and an arms control track.

First, the conference report directs the Secretary of Defense to develop for deployment by the earliest date allowed by the availability of appropriate technology or by fiscal year 1996 a cost-effective, operationally effective, and ABM Treaty compliant antiballistic missile system at Grand Forks, ND. There will be several years of defense authorization and appropriations bills before 1996, and this act does not constitute a final congressional authorization for a Grand Forks deployment. Furthermore, the conferees agreed that there is no commitment to procure ABM systems or components for deployment before the technology for these systems or components is ready. However, the conferees underscored that to meet the 1996 deployment goal it will be necessary to accelerate normal acquisition processes and procedures.

The treaty-compliant missile defense system that we have in mind would include:

One hundred ground-based interceptors, with the design to be determined by competition and down-selection for the most capable interceptor or interceptors;

Fixed, ground-based antiballistic missile battle management radars; and

Optimum utilization of space-based sensors, including sensors capable of cueing ground-based antiballistic mis-

VOL 137
PT 23
NO 21—25
1991
UMI

sile interceptors and providing initial targeting vectors, and other sensor systems that also are not prohibited by the ABM Treaty, such as a ground-based suborbital surveillance and tracking system.

This is a general outline of the architecture, but we are looking to the Defense Department and the Strategic Defense Initiative Organization to develop a detailed proposal for the Grand Forks deployment. The conference report requires a report laying out the proposed architecture to be submitted within 180 days.

To fund the ABM research and development activities specified in the act, the conferees agreed to authorize $4.15 billion for SDI in fiscal year 1992, including $1.52 billion for ground-based ABM systems associated with the Grand Forks deployment plan. The conference report specifically excludes any deployment of the Brilliant Pebbles space-based interceptor program as part of the limited ABM defense architecture. However, the conferees agreed that robust research and development funding for promising follow-on antiballistic missile technologies, including Brilliant Pebbles, is required, and $390 million is authorized for this program in fiscal year 1992.

The conferees also recommended the implementation of a parallel arms control track. The conference report includes a provision urging the President to pursue immediate discussions with the Soviet Union to determine the feasibility and mutual interest of the two nations with regard to amendments to the ABM Treaty to permit the following:

First, additional antiballistic missile sites and additional ground-based antiballistic missile interceptors;

Second, increased utilization of space-based sensors for direct battle management;

Third, clarification of what constitutes permissible development and testing of space-based missile defenses;

Fourth, increased flexibility for technology development of advanced ballistic missile defenses; and

Fifth, clarification of the distinctions between theater missile defenses and antiballistic missiles, including interceptors and radars.

I want to stress, Mr. President, that this conference report in no way constitutes an authorization to violate the ABM Treaty. What we are calling for are negotiations. There is no commitment, explicit or implicit, to withdraw from or abrogate the ABM Treaty if the Soviet Union does not agree to these amendments.

MAINTAINING NUCLEAR DETERRENCE AT LOWER LEVELS AND WITH GREATER STABILITY

For other strategic programs, the conferees agreed on the importance of maintaining nuclear deterrence at lower and more stable force levels, particularly in light of the continuing changes in the Soviet Union.

Funding for the B–2 bomber was one of the most difficult issues facing the conference. After a lengthy debate, the conferees authorized one new production B–2 bomber and a total of $4.4 billion in fiscal year 1992 funds for the B–2, including $1.6 billion for continued R&D and $2.8 billion for procurement. The full $1.6 billion in R&D and $1.8 billion in procurement are immediately available for the B–2 program. The remaining $1.0 billion in procurement and final assembly of the one new production B–2 bomber authorized in fiscal year 1992 are fenced pending various performance certifications and a second congressional vote to authorize obligation of these funds.

The conferees disagreed with President Bush's decision to terminate further research and development of mobile basing for the small ICBM. The conference agreement authorizes $548 million for continued R&D on the small ICBM, but prohibits the Defense Department from spending any of these funds unless the Secretary of Defense certifies that a sufficient amount of these funds will be obligated to conduct a viable R&D program on mobile basing options.

The conferees agreed with the President's decision to terminate the SRAM–II missile and Rail Garrison MX programs. No funds are authorized for these programs in fiscal year 1992.

APPLYING THE "LESSONS LEARNED" FROM OPERATION DESERT SHIELD/DESERT STORM

This year our committee made a major effort to incorporate some of the major "lessons learned" from the recent conflict in the Persian Gulf. I am pleased that all of our committee's major initiatives were endorsed by the conferees and included in this conference report.

The Persian Gulf conflict clearly demonstrated that stealth technology has revolutionized air warfare. The conferees agreed with the Senate position that the F–117 stealth fighter was one of the superstars of Operation Desert Storm, and that the current inventory of F–117 aircraft is insufficient to meet future requirements. This conference agreement authorizes $560 million in fiscal year 1992 to purchase the first of 4 F–117 Stealth fighters of a total limited buy of 12 aircraft.

Another lesson of the Persian Gulf conflict is that our Navy is woefully short of mine countermeasures. This conference report follows the Senate bill in including a major initiative to improve mine countermeasures capability. A total of $553 million is authorized for Navy mine countermeasures program, $165 million above the budget request. These programs include $361 million for 3 coastal minehunter ships, one above the budget request; $129 million for mine countermeasures helicopters—the amount requested—$14 million to continue the promising Magic Lantern mine countermeasures program; and $21 million to accelerate other mine countermeasures research and development efforts.

Our committee also concluded from Operation Desert Storm that modernization in the Marine Corps has lagged far behind the other services. The conferees adopted a major package of initiatives to improve the capability of the Marine Corps, many of which were first recommended in our committee by Senator WARNER. These programs include $100 million above the budget request to improve the flow of tactical intelligence to Marine Corps combat commanders; $95 million to buy multiple launch rocket systems for the Marine Corps—none were requested; $39 million for the purchase of night vision equipment; $2.5 million to develop a lighter weight 155 mm howitzer; and $2.3 million to provide a new night sight for the light armored vehicle [LAV].

The Persian Gulf conflict also revealed shortcomings in intelligence support to unified commanders and their combat forces. I am pleased that the conferees agreed to several important Senate proposals to address this problem. The conference agreement strengthens the authority of the Director of the Defense Intelligence Agency to manage defense intelligence, and directs the Defense Department to exercise the use of national intelligence systems on a regular basis to improve readiness and capabilities to support the combatant commanders in wartime.

DEVELOPING SENSIBLE WEAPONS ACQUISITION PROGRAMS

The conferees recognized that far-reaching changes have taken place in the threats to our national security. We are also realistic about the fiscal constraints on the defense budget in the coming years. Changes have to be made in some of the weapons acquisition programs of the military services, and this conference report includes some of these changes. At the same time, however, we are concerned about the need to preserve the defense industrial base in this country during this period of substantial restructuring.

The conferees authorized $1.1 billion to procure 48 F–16 aircraft and $78 million for advance procurement of 24 aircraft in fiscal year 1992, the same amount requested in the budget. The Senate had terminated the F–16 program 2 years ahead of Defense Department plans. At the insistence of the House conferees, keeps this program in production because of concern for the industrial base and the need to preserve an ongoing fighter manufacturing capability until the Air Force decides the future of the multirole fighter.

In action on other major acquisition programs, the conferees:

Authorized $625 million in new funding for building and testing 3 additional production-representative V–22 aircraft;

Authorized $1.6 billion for 4 C–17 aircraft in fiscal year 1992, and required continued adherence to performance milestones to ensure that further procurement is tied to the program's production and testing progress;

Authorized $32 million above the budget request to upgrade existing AH–64 helicopters to reflect lessons learned in Operation Desert Storm and to preserve a key element of the defense industrial base;

Terminated any further modification of F–14's, and authorized the Navy's request of $2.1 billion to procure 48 F–18 aircraft and $484.1 million to upgrade the F–18; and

Authorized $90 million above the budget request to buy 60 additional M1 tanks and $225 million above the budget request to continue the modification of early model M1 tanks into the M1A2 configuration.

STRENGTHENING DEFENSE TECHNOLOGY, EDUCATION AND MANUFACTURING

The conference report includes a number of provisions intended to strengthen America's defense technological superiority.

One of the difficult issues facing the conference in this area was the proposal in the House bill to provide full reimbursement for so-called IR&D—Independent Research and Development—costs of defense contractors beginning in fiscal year 1993. After lengthy debate and discussion with appropriate Defense Department officials, the conferees agree to require the Defense Department to fully reimburse the defense industry for independent research and development expenditures on matters of potential interest to the Department of Defense. Ceilings on reimbursement would be gradually increased over a 3-year period, with full reimbursement commencing in fiscal year 1996.

In other defense technology programs, the conferees:

Strengthened the dual-use critical technology partnership program and authorized additional funding of $100 million in fiscal year 1992 for this program. No funding was requested by the Defense Department for the program.

Authorized $75 million in additional funding for DARPA to develop high definition display technology and $70 million for DARPA support of advanced lithography technologies. No funding was requested by the Defense Department for these programs.

Authorized $183 million above the budget request of $97 million for defense manufacturing technology programs;

Authorized $50 million for regional Critical Technology Application Centers that will, in partnership with industry and State governments, help small high-technology firms that support the defense industrial base;

Authorized $50 million for a new DOD manufacturing extension program, and $30 million for a new DOD manufacturing engineering education grant program; and

Authorized $30 million for the Pilot Mentor Protege Program to encourage defense contractors to subcontract with small disadvantaged businesses, and $15 million for defense research at historically black colleges and universities and other military institutions.

MINIMIZING THE EFFECTS OF DEFENSE TRANSITION ON PEOPLE

Mr. President, one of our committee's highest priorities over the past 2 years has been to sustain and, where possible, enhance the well-being and combat effectiveness of military personnel as the military force structure shrinks over the next 5 years. With this concern in mind, the conferees authorized active duty military personnel endstrengths for fiscal years 1992 and 1993 that are 106,400 and 91,000, respectively, below the previous fiscal year's level. These strengths will keep the military services on a gradual glide path to achieve fiscal year 1995 targets established by the Congress last year.

The conferees are increasingly concerned over the prospect of involuntary separations of career military personnel. As a result, the conferees authorized a program to encourage voluntary separations to avoid involuntary separations as the military services build down. Under this program, certain military members who face the possibilty of involuntary separation would be offered the choice of two incentive packages to leave the military service voluntarily.

Under the first option, a military member could receive a lump sum payment of 15 percent of basic pay multiplied by the number of years of service of the volunteer. For example, in the case of an E–6 with 10 years of service, the lump-sum payment would be $27,000. This member would also be eligible for certain transition assistance, such as temporary military medical coverage, employment assistance, commissary and exchange shopping, temporary military housing, relocation assistance, and leave and travel benefits.

Under the second option, a military member could receive an annuity of 2.5 percent of basic pay, multiplied by the number of years of service of the volunteer, to be paid out over twice the number of years of service. For example, in the case of an E–6 with 10 years of service, the annuity would be $4,500 per year for the next 20 years.

In addition to these incentives, the act provides authority to the Secretary of Defense to waive the active duty strengths prescribed for fiscal year 1992, and to transfer funds to the manpower account to fund higher strength levels to avoid involuntary separations.

Mr. President, I believe that the Department of Defense should be able to avoid involuntary separations of career military members by prudently exercising these authorities.

To improve the quality of life for military members and their families, the conference report includes a January 1, 1992, military pay raise of 4.2 percent; authorizes the reimbursement of adoption expenses for military families; and enhances several military medical benefits, including an improved dental insurance plan for dependents and hospice care under CHAMPUS.

MAKING GREATER USE OF RESERVE FORCES

Last year the Armed Services Committee included greater use of Reserve Forces as a cornerstone of our new strategy. Operation Desert Shield/Desert Storm demonstrated the strength and vitality of the total force concept. This conference report continues to emphasize greater utilization of Reserve Forces as the overall size of the military services is reduced.

The conferees approved personnel endstrengths for the National Guard and Reserves that are approximately 67,500 and 118,700 higher than those requested for fiscal years 1992 and 1993, respectively. This still represents a reduction from current levels of about 37,600 in fiscal year 1992 and an additional reduction of 28,600 in fiscal year 1993.

In an effort to strengthen the Reserve components' combat capability, the conferees authorized $1 billion above the budget request of $1.5 billion for procurement of new equipment for National Guard and Reserve units, including $110 million for multiple launch rocket systems for the Army National Guard; $45 million for the LANTIRN night navigational system for the Air National Guard; and $129 million for four MH–53 mine warfare helicopters for the Navy Reserve.

Finally, the conferees also adopted a provision to prohibit the Navy from deactivating its Navy Reserve helicopter minesweeping squadrons. The Navy Reserve has been very successful in supporting minesweeping operations. Minesweeping was a key deficiency in the Persian Gulf conflict, and the conferees found no basis to support the Navy's recommendation to deactivate these squadrons.

CONCLUSION

Mr. President, in closing I want to again thank all of the members of the Armed Services Committee for their diligent work throughout the year on this bill. I owe a special debt of thanks to the chairmen and ranking minority members of the subcommittees who performed the lion's share of the work of the conference.

I want to thank the staffs of both the House and Senate Armed Services Committees for their untiring and professional efforts on this bill. The staffs of the Armed Services Committees provide superb support all year round.

VOL 137 PT 23 NO 21—25 1991 UMI

I also want to add a special note of thanks to Greg Scott and Charlie Armstrong of the Senate Legislative Counsel, and Bob Cover, Sherry Chriss, and Greg Kostka of the House Legislative Counsel for their work on this bill.

Mr. President, this conference report represents the culmination of a great deal of hard work by many Senators. It is a good bill which continues the process of reducing and restructuring our Defense Establishment in an orderly process to meet the challenges of the next decade. I urge my colleagues to support it.

Mr. President, I will be offering further comments after Senator MCCAIN, the Senator from Arizona, has had a chance to make his opening comments, and I will also, of course, yield the floor to Senators who would like to be heard on this as they come in.

Mr. WARNER. Mr. President, the recommendations contained in the conference report to accompany the fiscal year 1992–93 National Defense Authorization Act, H.R. 2100, represent the culmination of a difficult year's work on the part of both the Senate and House Armed Services Committees. Under the strong and able leadership of our chairman, Senator NUNN, together with the assistance and cooperation of our colleagues in the House of Representatives and our respective staff, we have put together one of the most balanced and, frankly, best defense bills since I have been a Member of the Senate. I urge its adoption.

While the conferees considered and reached agreement on thousands of national security programs, in my view, the Missile Defense Act of 1991, which is included as part C of title II of the conference report, represents an historic event. The conferees agreed to a plan to provide the United States with a defense system against limited ballistic missile strikes. The plan also approves an aggressive effort to build a highly effective defense system to protect our forward deployed and expeditionary forces overseas and our friends and allies from ballistic missile threats. The plan marks the first time in over 20 years that Congress has approved an anti-ballistic-missile system for the United States.

The conferees' approval of this bipartisan plan to provide the American people with defenses against the threat of ballistic missiles represents the culmination of many months of effort. In March of this year, I proposed an amendment to begin the debate on the need for an effective missile defense system for our Nation and to address the limitations of the ABM Treaty on our ability to have such a system. Subsequently, with the support and assistance of Senator COHEN, Senator NUNN, Senator WALLOP, Senator LUGAR, as well as the cooperation of the other Senate cosponsors of the Missile Defense Act, we have finally forged the necessary bipartisan consensus to aggressively deploy defenses for all Americans against limited ballistic missile attacks.

In the Missile Defense Act, the conferees have approved the deployment by fiscal year 1996 of an initial ABM system in the United States. While this initial defense site is limited, as is proper, by the terms of the ABM Treaty, the conferees also endorsed immediate discussions with the Soviet Union to amend the Treaty to permit the deployment of greater numbers of interceptors at additional sites in order to provide a highly effective defense against limited strikes.

By providing $4.15 billion for the Warner-Nunn missile defense plan, the conferees agreed on the highest level of funding for SDI in the history of the program. Included in this amount is $465 million for space-based interceptor programs, of which $390 million is approved for Brilliant Pebbles. This decision of the conferees protects U.S. options for future defensive systems.

Mr. President, the conferees' agreement on the Missile Defense Act provides for the future security of our country and the well-being of our Armed Forces overseas, as well as our friends and allies. The investment in SDI research since 1983 has provided us with the ability to make this critical decision to begin deployment of missile defenses. In short, the committee's program establishes a simple but vital goal that has significant implications for future generations of Americans, as well as friends and allies. I commend my colleagues on both sides of the aisle in both Houses for their far-sighted and well-considered decision to approve the Missile Defense Act of 1991.

Mr. President, I would like also to highlight briefly another important decision of the conferees—to approve several measures intended to enhance modernization of Marine Corps ground combat capabilities. The war in the Persian Gulf revealed a great deal about the capabilities and effectiveness of our Armed Forces, and the victory of the U.S.-led multinational coalition incorporated into weapons systems and equipment through modernization programs over many years. However, during three trips to the Persian Gulf region during the crisis and based on testimony by marines to our committee after the war, I developed concerns regarding several areas in the Marine Corps where modernization had not kept pace with that of other services.

Because of these concerns, I sponsored a modernization package which includes funding for both research and development as well as procurement actions focused on armor, artillery, night-fighting capabilities, intelligence, mine detection and clearing, and air defense. The conferees agreed to authorize through this initiative for the Marine Corps M–1 Abrams tanks, multiple launch rocket systems, the latest generation of night vision equipment, and improved intelligence capabilities.

Mr. President, I am privileged to have once served in the Marine Corps, and there is no intent here to be critical of the corps. The marines have always taken pride in getting along with less and sometimes we have to help them a bit with more resources. As part of this conference report, the conferees agreed to provide additional funding for Marine Corps modernization initiatives totaling over $300 million for fiscal year 1992, which will help alleviate the imbalance in equipment modernization identified during the Persian Gulf war.

And finally, Mr. President, while this may be wishful thinking on my part, it is my sincere hope that the budget summit agreement of October 1990 will remain in place throughout its entire term until fiscal year 1996. As a result of the long and difficult negotiations between Congress and the administration which led to the agreement, defense spending over 5 years will be reduced by more than $180 billion; domestic spending was permitted to remain relatively constant during that time. But just a year later, we have been hearing repeated calls for greater cuts in the defense budget, sometimes to pay for tax relief and sometimes to allow more domestic spending. If we depart from the summit agreement, military personnel will have to bear the brunt of the ensuing hardships.

Mr. President, defense spending took more than a fair share of the deficit reduction in the budget agreement; it took all the cuts. The Department of Defense has lived up to its commitments under the agreement and has proposed a long-term budget which reduces the U.S. military force structure by 25 percent. In the future, greater defense cuts may be possible if the changing world situation stabilizes into one that is less potentially threatening to our national security. But we cannot predict the future, and we should not make further reductions in the defense budget until we are able to assess their impact on the safety and well-being of the American people, and also on the U.S. economy. This bill will be enacted against the greatest degree of uncertainty respecting the Soviet Union since the close of World War II.

Mr. President, the 1990 budget summit agreement, which governs not only defense spending but all areas of the Federal budget including revenues, also has allowed the Congress to focus its attention on the priorities within the defense budget rather than requiring a prolonged debate over the total budget, as had been the norm in past years.

Stability in the defense topline has been crucial to the administration's planning for defense and to congres-

sional decisions on funding for defense programs, both of which have been extraordinarily complicated in the past few years by the ongoing, remarkable changes in Eastern Europe and the Soviet Union and the continuing instability in the Middle East. Most important, a predictable defense budget level has allowed both the administration and Congress to concentrate our efforts on ensuring that the United States maintains its military capabilities, which served us so well during the Persian Gulf war, and is prepared when necessary to defend our interests and the interests of our friends and allies around the world.

Mr. President, this conference report represents a balanced approach to the difficult choices involved in funding our national defense priorities within the constraints of a declining budget. The conferees attempted to minimize the negative impact of downsizing the Department of Defense on military personnel, the U.S. industrial base, and the economy in general, while providing the foundation to maintain our national security into the future.

I urge my colleagues to vote in favor of the conference report.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, first of all, I express my deep and sincere appreciation for the thousands of hours of effort on the part of the distinguished chairman, Senator NUNN, who in my view has presided over an Armed Services Committee and a conference that has had no precedent since the end of World War II in trying to reshape this Nation's Defense Establishment. He and the ranking minority member, Senator WARNER, have had to react to the dramatic events of the last 2 to 3 years, events that none of us ever anticipated, in shaping our present force posture.

There are those who may argue that we have not sufficiently adjusted our defense spending, and adapted our forces to suit the end of the cold war and the new threats to this Nation and peace throughout the world.

I believe we all recognize that further changes are necessary. But I suggest to you, Mr. President, that the product of the 10 months of effort on the part of the chairman, the ranking minority member, my other colleagues on the Senate Armed Services Committee, and the House Armed Services Committee represents a viable and reasonable blueprint for the incredibly difficult decisions which we have to make.

We are dealing with the most dramatic reduction in defense spending since 1947, and this poses special difficulties. In many ways it is easier to build up a defense establishment than it is to reduce it. I believe that Senator NUNN, Senator WARNER, my close friend Senator GLENN, who I work with on the Manpower and Personnel Subcommittee, and many others have contributed enormously in making sure we fulfill that obligation. We have addressed the issue of the strategic defense initiative. We have addressed, I think in a reasonable and compromising fashion, the issue of the B–2 bomber. We have shaped other major weapons systems programs to fit the dramatically changed threat that we face in the world today.

As I say, Mr. President, this is probably the most contentious era for defense that those of us now serving in this body have ever faced, and I congratulate the chairman for his leadership and his calm demeanor during very stormy times. All of us feel passionately about the issues that we have debated. Yet, as our chairman mentioned, over 1,400 items of disagreement between the Senate and the House were resolved in this conference.

Most importantly, I believe that we have largely satisfied the obligation we have to the men and women in the military and to the people of the United States. We have done our best with an ever-decreasing budget and to face future years of ever-decreasing defense spending. We have done our best to provide them with the peace and security that they deserve.

Mr. President, I will reserve my further remarks until after the chairman makes his statement.

I thank the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Georgia.

Mr. NUNN. Mr. President, I thank my friend from Arizona and also again repeat my praise of his efforts and the efforts of Senator GLENN in the Manpower Subcommittee. I chaired that subcommittee myself for several years. I cannot think of any subcommittee more important to our military and to our security because it deals with the people of the military.

The men and women in uniform are the key to our military, no matter what weapons systems we have, no matter how sophisticated. Without the dedication, the willingness to sacrifice and the constant sacrifice of these men and women in the military we would not and cannot have a strong national defense posture.

So I thank the Senator from Arizona for his overall work on the committee and particularly for his dedicated efforts with Senator GLENN, who is chairman of the Manpower Subcommittee, in this important subcommittee.

Mr. President, there is a missing part of this bill that I wish I could report on tonight. I wish it were in this bill, because I worked hard to get it in this bill. But I felt that the bill itself was jeopardized because of opposition to this particular provision, which is a provision that Congressman ASPIN and I worked on with other members of the committee. But it is not in this bill and not in this conference report.

It is my hope, however, that we are not forever forsaking the opportunity here to address this issue, to address what I think is the largest threat we have had of proliferation of weapons of mass destruction and the knowledge of how to build those systems that we had in this century, perhaps in the history of mankind. Certainly in terms of the nuclear systems and other weapons of mass destruction, it is indeed without any doubt the greatest proliferation danger we have faced in the history of mankind.

Mr. President, an important report by a Harvard group was released today. This report underscores the urgency of the problems and dangers we face in the era of nuclear proliferation. The report is called "Soviet Nuclear Fission: Control of the Nuclear Arsenal in a Disintegrating Soviet Union." It is by Mr. Ashton Carter, Mr. Kirk Campbell, Mr. Steven Miller, Mr. Charles A. Sorett.

The study has been put together by these experts who are all affiliated with Harvard University's Center for Science and International Affairs. Mr. President, I just want to read one passage from the introduction of the report which explains most vividly the challenge, the opportunity, and the grave danger we face in the circumstances of the disintegration of the world's largest military arsenal.

I am quoting from introductory material of that report:

> The Soviet nuclear command and control is at root a social and political creation. However successful its designers have been insulating it from all the problems they could foresee, it cannot be assumed capable of standing apart from the turmoil throughout the society within which it is imbedded. And even if 1/100 of 1 percent of the nuclear weapons in the Soviet stockpile fall into the wrong hands, destruction greater than the world has seen since Hiroshima and Nagasaki could result.

Continuing the quotation.

> The destiny of the 27,000 nuclear weapons on the territory of what is increasingly referred to as the former Soviet Union is, therefore, a paramount concern of our times. It is now without precedent and, therefore, without settled guidance. It calls for specific actions to be taken in the near term. There is no option to wait, deliberate or negotiate at length.
>
> Yet each and every one of the near term options is pregnant with long-term consequence. Thus an unusual amount of wisdom, foresight and thorough analysis of the possibilities are required from all citizens concerned, or all parties concerned, the citizens of the former Soviet Union, the United States, and nations around the world.

Mr. President, I commend this report to my colleagues. I hope they will read it or at least get an introductory summary of it from their staffs if they do not have time to read it in the next 2 or 3 days. Working with the Senator from Indiana, Senator LUGAR, and oth-

VOL
137
PT
23
NO
21
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25
1991
UMI

ers, Senator BOREN, chairman of the Intelligence Committee, Senator PELL, chairman of the Foreign Relations Committee, Senator BIDEN and a number of Republicans, including Senator DOMENICI, the ranking Republican on the Budget Committee, and many others Senators who indicated interest in this, it is my intention to give the Senate an opportunity to address this issue, I hope we can do it before this session is concluded because I, too, agree with the team from Harvard that we do not have time to waste.

By the time we come back here in Janaury, by the time we really get cranked up in February, it may be that we have already missed a great opportunity, and it may be that we have already failed to mitigate a great danger. We do not have time in this respect.

Mr. President, I see the Senator from Virginia on the floor. I have already commended him for his great leadership and his partnership with the chairman of the committee in producing this bill. I have some other remarks I am planning to make, but I thank my colleague from Virginia. I know he is in a conference on the highway bill, which is another enormously important piece of legislation, and he is being ably represented here by the Senator from Arizona.

But I yield the floor at this time to my friend from Virginia and I will complete my remarks later on both the opportunity for destruction of nuclear weapons in the Soviet Union and the great danger of proliferation of those weapons and the technology and the expertise and experts who may very well be in demand around the world, people who have been experienced and have the know-how in making weapons of mass destruction and other sophisticated military equipment.

So I yield the floor at this time so that the Senator from Virginia may make his remarks.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, as my distinguished colleague and good friend said, I am now in the highway conference. There are other colleagues here from our committee who will make their presentations shortly, the Senator from Arizona and the Senator from Wyoming, and then I will follow on later this evening. And then I wish to say that the Senator from Pennsylvania [Mr. SPECTER] at some point wishes to address the conference report.

But, Mr. President, it is always a pleasure to acknowledge a working relationship of some 13 years duration now that the Senator from Georgia and I have had working on the Armed Forces bill through these years. And I think this year in many respects is a high-water mark, particularly as it relates to the Strategic Defense Initiative and other strategic programs in which the Senator from Georgia took a great leadership role together with Members on this side and forged what I feel is a good compromise in the interests between the Senate and the House as it relates to programs which are of great importance to our Nation, and so stated by our President and the Secretary of Defense.

I have also been working again this morning with the Senator from Georgia as it relates to a proposal which hopefully we will submit to the White House—I presume the Senator has mentioned that—within the next day or so, at which time I am optimistic that there will be a consensus, a broad bipartisan consensus, in the Congress and the executive branch that at this time it is in the security interest of this country and indeed that of our allies that some authority be given to the President of the United States—I say "authority," discretionary authority—to perhaps deal with some events which are unforeseeable at the moment.

The key to it though, Mr. President, as we discussed this morning, the Senator from Georgia, and I, and others, is that we must be very careful to send a balanced message in this legislation, balanced in the sense that whatever we do as the United States cannot resolve all the problems that might occur, and it must be joined in a coordinated way with other allied and Western Nations. And, secondly, we must send a message in a way not to in any way instill fear in the minds of those in the Soviet Union or elsewhere in the world, particularly as it relates to any particular contingency with respect to nuclear weapons.

We all address the fact that these weapons have to be handled with great care and hopefully dismantled under the various arms control agreements and that agreement reached by President Bush and President Gorbachev, but we have to provide that technical assistance in such a way as not to instill any sense of fear.

At this time, Mr. President, I yield the floor such that other Members might address the bill, and I will follow on later this evening.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Parliamentary inquiry. Was there a specific amount of time reserved for the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has been allocated 30 minutes under the previous agreement.

Mr. LEAHY. Mr. President, I yield myself such time as I may need, and I know the distinguished senior Senator from Tennessee is also going to require some of my time. So I will try to make sure I leave some time for him.

I might say, before I begin the subject I want to talk about, I say to the distinguished Senator from Virginia, Senator WARNER, my good friend, if I might have his attention, I have heard what he and others have said about the concern for the Soviet Union weapons that are there. Nobody disagrees with that. Everybody would like to see a plan I think, one that unites Democrats and Republicans in the body, a plan that might see the eventual dismantling of the nuclear weapons that are scattered throughout the Soviet Union. Even an accounting, an accurate accounting, a specific and accurate accounting would be very helpful to all of us.

Mr. WARNER. Could I interrupt my distinguished colleague? Senator NUNN initiated the discussion about the conference report. I have opted to speak later. I wonder if one of my two colleagues here on the other side, between themselves, if they could set the framework from this side. Will the Senator yield with respect to the conference report and then to be followed by other Members?

Mr. LEAHY. I understand. If this was an inappropriate time for me to speak on the issues—is that what the Senator is suggesting?

Mr. WARNER. I am suggesting that I would prefer the framework of the bill be addressed in its entirety, presumably by the Senator from Arizona, and then we shall alternate as the evening goes on, if that is agreeable.

Mr. LEAHY. Mr. President, I might say to the chairman, the manager of the bill, if he had others that he had intended to speak first, I will withhold and use my time at a different time.

Mr. NUNN. I would say, I have no order in mind at all. It is a matter of who gets recognized, and everyone is entitled to the same rules of recognition. I would say that I did have a request from the Senator from Wyoming to speak, I believe, for 5 minutes.

Mr. LEAHY. Might I make this unanimous-consent request, Mr. President—the Senator from Georgia has at least two members of the committee apparently who wish to speak—that I be recognized once the Senator from Wyoming has finished speaking, and at that time my half-hour would begin.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me begin by thanking the Senator from Vermont. That is most gracious of him. I shall not be so long as he had intended to be.

Mr. President, let me say a couple of things about the Armed Services authorization. First is that the Senator from Wyoming has been, since 1979, trying to focus the attention of the Senate and finally of the Congress and the President of the United States on

the need for a defense of our people against ballistic missiles.

With the events of the late eighties having been perhaps the most exciting events, watershed events, in world history, we now see that the principal thing that threatens Americans in their homes, in their States, within the boundaries of their country, are missiles, not just the old Soviet missile threat, but the possibility of missiles from Third World countries. Our Secretary of State was not enormously successful with the Chinese. He may in time be. But the fact of it is that which threatens Americans is missiles.

I do not know of anybody who now believes that the Soviet land or air invasion of the United States is a plausible threat any longer. I do not know of anybody who believes that a threat by any other country presently an ally, or at some future date an enemy, or anything else, is a plausible threat to Americans.

But I know of no one who has thought about those things which can threaten Americans and in fact guarantee, if you will, our diplomacy and our national will through the use of missilery who can possibly say that we have not come a long way. Thanks indeed to the Senator from Virginia and the Senator from Georgia, the chairman and ranking member of our committee, to bring us to the decision, not only to deploy SDI, a ground-based one, a very limited one, but to commit ourselves to examining the future of defense for America.

If the occupant of the chair were not from a centrally located State in America but a coastal State, or Alaska or Hawaii, he might think it less than satisfactory that defense of mainland America was provided but that the coasts and the extraterritorial States were simply not a part of the equation.

I know of no American who was not pleased to see a very inadequate defense against missiles which was, in fact, designed as a defense against aircraft, used in the Middle East, the Patriot. The Patriot saved lives, sustained the courage and integrity of a courageous ally—of Israel. Israel was able to stay out of the gulf war because they were, and we were, able to provide a defense. I know of no one, as inadequate as that defense was, who does not believe that any citizen in Riyadh was much better served by having the Patriot there and shooting down missiles than they would have been had they not had such a defense.

What those events did was take the "gee whiz" out of missile defense and demonstrated to the world, and especially to our people that these things are now possible.

Knowing that they are now possible, the American public must demand some means by which they can be defended against the arbitrary, the whimsical, the accidental or the purposeful use of such weapons against our people.

So, that which is provided in this authorization for future study of space-based missile defense and other kinds of defenses is extremely important. But, as the Senator from Wyoming—who has from time to time been able to persuade the Senate to go on record as favoring a defense but has never been able to persuade either administrations or both Houses of Congress that it was important—I have to say I personally am grateful to the chairman and the ranking member for the effort that they put in to bring us to the point at which we now find ourselves.

Fourteen years of trying is a long time. I know that my two colleagues have tried other things for longer than that. But, nonetheless, I have to say that 14 years is a long time in trying and I genuinely appreciate the effort that they put in and I am certain the American public does, too.

Let me also say that, as we look at this bill and the enormous changes that are in it, and must by their nature follow in future authorizations that are coming down, that I have to say to the Senate and I have to say to the Congress and the Department of Defense and the American people that as we reduce our acquisition of those things necessary to project the interests of the United States, to defend the interests of the United States, we will no longer be able to focus solely on the unit cost of those weapons. To buy 5 instead of 50 is going to make the 5, by the piece, necessarily more expensive.

So we must find a way to choose those things which are really necessary for the survival of the United States, for the ability of the United States to project and to defend its interests at home and abroad. We must focus less on what one item costs us than what we would do without that one item or those several items.

Mr. President, this is a warning: in the future we are going to have to get used to a tank that costs more money because we are buying 50 or 500 instead of 1,000 or 5,000; to an airplane for which we no longer need hundreds, but 10's or 20's. We may have to live with buying a submarine for which we once thought our needs—and thank heaven they no longer exist—would have cost in the hundreds of millions of dollars, and may now cost billions of dollars. But the need of the United States to be a strong presence in the world will not disappear in the shadow of unit costs.

So I am suggesting that Congress begin to look at the reality of appropriations and of authorizations in the light of need and not so much the cost of one unit over several. Because our need for several may no longer exist.

Last, Mr. President, I would say I am still skeptical of a package that is devoted or directed toward dismantling of Soviet nuclear weaponry, not because I disagree with its goal but because I fundamentally feel that there is a small level of naivete which attaches to this, and that is the economic fundamental that money is fungible. And so long as there is any strategic weapons modernization program in existence in the Soviet Union, we should not be funding their dismantlement of nuclear weapons for this most simple reason: We will, in effect, be subsidizing that modernization whose only use can be against the peoples of the United States and their allies.

It is not that the goal is wrong but perhaps that the time is wrong, or the criteria are wrong. We will discuss this because I have the greatest admiration for those who support this proposal. I understand their purpose and do not quarrel with it. I just have a quarrel with the potential mechanism and the timing of it and the criteria under which it might be approved.

I do not think that Americans would like to be subsidizing those things which ultimately could be used against them.

So, Mr. President, once again, I genuinely thank the Chairman and the ranking member, Senator COHEN, and others who have worked on this bill. This is a milestone piece of legislation, and it was recognized as such by the Appropriations Committee which, for all the faults of that document, still understood what it was that we tried to do. I think what we tried to do will be gratefully received by the American people once they understand what a long step toward their own safety we have achieved.

Mr. President, I thank the Chair and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. WARNER. If the Senator will yield for a moment, Mr. President, as we developed through these months this whole concept of the SDI as developed in this bill, indeed there were many who shared equally, and, indeed, the Senator from Wyoming was one of the principals in the negotiations and, if I had to put a mark on the bill, it would be in that section that relates to Brilliant Pebbles.

He also was steadfast on the floor, in terms of funding, overall funding.

As we went back and forth, Senator COHEN, Senator LUGAR, Senator MCCAIN, the Senator from South Carolina, and myself, and Senator NUNN, there was always that. There stood the Senator from Wyoming, MALCOLM WALLOP, with certain irreducible minimums, and backed up with a corporate knowledge second to none, through the years, as it relates to missile defense.

So I thank the Senator for his marvelous contribution.

Mr. NUNN. Mr. President, second to none, n-o-n-e; correct?

The PRESIDING OFFICER. The Senator from Vermont is recognized.

VOL 137
PT 23
NO 21—25
1991
UMI

Mr. LEAHY. I understand I am recognized for 30 minutes.

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I understand the Senator from Arizona wished to speak for 5 minutes.

I ask unanimous consent the Senator from Arizona be recognized for 5 minutes, and then we go back to me under the original order.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, will the Senator kindly also allow one of the managers to ask that the Senator from South Carolina could be recognized for 2 minutes?

Mr. THURMOND. One minute.

Mr. WARNER. Just for the purpose of introducing a statement.

Mr. LEAHY. I am perfectly willing to do that; 6 minutes, on the understanding that 6 minutes from now I will be recognized under the previous order.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as the Senator from South Carolina may desire.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise to commend the able chairman, Senator NUNN, and the able ranking member, Senator WARNER, for the splendid leadership they have provided on this bill and the great job they have done in connection with it. I also would like to praise every member of the committee especially those on the minority side—Senator COHEN, Senator LOTT, Senator COATS, Senator SMITH, Senator MACK, for their interest and good work on this particular bill.

The distinguished Senator from Arizona, Mr. MCCAIN, has done an outstanding job as the ranking member of the Subcommittee on Manpower and Personnel. Senator WALLOP from Wyoming has done an outstanding job as the ranking member on the Subcommittee on Conventional Forces and Regional Defense. As the ranking member of the Subcommittee on Strategic Forces and Nuclear Deterrence it has been a pleasure to work with the distinguished chairman, Senator EXON. I want to thank him for his leadership and cooperation. Mr. President, we are very proud to bring this bill to the floor.

Mr. President, I rise to speak in support of the conference report on the National Defense Authorization Act for fiscal year 1992. Today's floor action brings to a close almost 9 weeks of intense negotiations and compromise. I want to emphasize the word compromise, because the bill before us is a compromise between various philosophies on the future of our Nation's defense. Despite the compromises, I endorse the legislation because it does not compromise the defense of our country and the welfare of our men and women in uniform.

Mr. President, this conference report reflects the significant changes that transpired after the Senate and House passed their respective authorization bills. I am referring to the August coup attempt in the Soviet Union and the President's September 21 announcement to eliminate almost one-third of the Nation's nuclear weapons. The report also reflects the realization that we are in a fiscal crisis, which, if not corrected, will cause more harm to our Nation than any aggressor's attack.

Mr. President, the conference report worked out under the able leadership of Chairman NUNN and the ranking member, Senator WARNER, reflects the resolution of over 1,400 funding and language differences between the Senate and House bills. It provides $291 billion to fund the Nation's defense programs for the next year. It also continues the rational process of reducing and restructuring our military establishment that this body endorsed last year. Although I am dismayed that the conference report essentially terminates the B–2 bomber program and funds several programs, such as the F–117, that are not requested by the Department of Defense; it is a good bill that deserves our support.

I am especially pleased with the bill's strong support of the strategic defense initiative. For the first time, we recognize the need to build an antimissile defense system to defend against limited ballistic missile attacks. To support this program and other SDI projects, the conferees agreed to authorize $4.15 billion in fiscal year 1992. This represents a milestone in this Nation's history and assures the country will not be held hostage to a missile threat such as the one made against Israel during Operation Desert Storm.

Mr. President, the most agonizing aspect of this bill is that it will eliminate approximately 106,000 spaces in our military force structure. These spaces are held by the men and women who served with such distinction during Operation Desert Shield and Operation Desert Storm. They are not the draftees of the past generations, but men and women of the highest caliber who volunteered to serve this great Nation. To ease the reductions, the bill provides temporary incentive programs to encourage individuals to volunteer for separation and, hopefully help avoid the specter of involuntary separations. The bill also provides increased benefits of those who remain on active duty. We should all keep in mind that our Nation's most precious assets are the men and women who wear its uniform.

As we confront the Nation's fiscal crisis, it is essential that we get more bang for the buck. To this end, the conferees agreed on the need to put greater emphasis on the use of our Reserve components. Our citizen soldiers served with great distinction and personal sacrifice during the Persian Gulf conflict. They demonstrated that they could provide this Nation with a capable and highly effective partner to the Active Forces at a lesser cost. I, therefore, applaud the conferees decision to significantly reduce the Department of Defense's proposed cuts in our Reserve components. Concurrent with these significantly lower cut in reserve end strengths, I support the language in the report which requires an independent study of our Reserve Force structure. We must have a better understanding of our defense needs prior to making recommendations on further cuts in this vital defense asset.

Finally, Mr. President, I want to comment on the important initiative in this legislation which are targeted at maintaining and strengthening our critical defense industrial base in these times of reduced resources. The conference report requires the Department of Defense to review the production base for its dependence on foreign suppliers and the barriers that prevent the integration of the defense and commercial production base. To encourage further development of our technology base, the bill provides over $6.0 billion for defense science and technology activities and almost $300 million for defense manufacturing technology programs. These programs are essential if we are to maintain this Nation's technological advantage that was so critical in our victory over Saddam Hussein and his forces.

Mr. President, as I indicated earlier, this is a compromise bill, but a sound bill. I urge adoption of the conference report and congratulate both Senator NUNN and Senator WARNER for their superb leadership of the Senate Armed Services Committee.

Thank you, Mr. President.

Mr. LOTT. Mr. President, it has been a long year and a difficult fight to get this bill to this point. But now we are approaching the end of a long and difficult process. The conferees have done a good job and produced a bill that will preserve our critical national defense capability during a time of severe cuts. I want to commend the committee chairman and ranking members for their diligence and hard work to produce this result. They have a tough job—but they have met the challenge.

There are many outstanding provisions in this bill which chart new waters in the defense of this country. I am particularly pleased with the dramatic accomplishments achieved in the area of the strategic defense initiative SDI. Finally—after spending some $24 billion—the Congress has now given some direction and focus to the program.

Passage of this bill and adoption of this report sends a clear and striking message—the Congress fully acknowledges that the strategic defense of the people of America makes more sense than pursuing the insane objective of mutually assured destruction.

No longer will strategic defense be a theoretical model which suffers from misunderstanding and hostile opposition. The world changed when Saddam Hussein fired the first Scud missile last year. The American people were instantly educated about the importance of missile defenses—it was a lesson captured live as millions watched in terror all over the world—courtesy of CNN. This bill significantly improves our ability to protect America—and it is an achievement which has been long in coming.

We are also keeping the B–2 program alive by passing this bill. Some people say we no longer need this plane—they say it is a composite albatross hanging round the neck of a classic cold-war warrior. I have had some questions about the B–2—I voted for it, but I have had some questions. But the course identified in this bill makes sense—it does not hastily kill the program, it slows production and gives us time to consider it further next year. It is an approach that makes sense and one that I support.

I am especially pleased that this report reflects the big lessons of the past year. We cannot get away from the lessons of Desert Shield and Desert Storm. We were all gratified by the performance of American men and women—and American technology and training in the sands of Saudi Arabia and Iraq. We have reason to be proud—but this bill presses forward and does not allow us to rest on our accomplishments. We can always improve on a successful formula—and this bill moves us in that direction. With improvements in mine counterwarfare, the Marine Corps will improve their ability to project power over the beaches and littorals of the world—and that is important.

This bill improves our battlefield management and intelligence capability by providing for the advance procurement of one of the brightest stars from Desert Storm—JSTARS. We also firmly support the need for an enhanced marine capability with the acquisition of heavier tanks and an improved night fighting capability.

Mr. President, it is no secret that I oppose the big cuts in the defense budget forced by the 1990 budget agreement. I did not like them then and 2 years later, I still do not like them. We should not cut so much, so fast. The cuts we are making are hurting our Nation's defense and our Nation's economy. We sit around here and pontificate and wonder cluelessly why the economy is listless—why unemployment continues to increase and why the deficit continues to rise. When you put 210,000 people out of work—people who used to work for the Department of Defense—you do not help the economy. So when somebody stands up and starts complaining we are not cutting enough—think about what you doing to the economy, the communities and the defense industry of this country.

I am also concerned that the shipbuilding aspects of this bill are too weak. It does not do all that we need. Without a robust naval shipbuilding program—in 30 years we will not have a navy with over 250 ships and that is insufficient. This shipbuilding program does not ensure America will have the naval power necessary to meet the challenges we may face in 10 years. Mr. President, it takes 5 years to build a Navy ship and with a ship life of 30 years—if we don't build as we go, we will not have the ships in the fleet to do the job and that is a concern.

Recognizing that there are things which I do not like in this bill, I am also a realist. We must work within the budget constraints we face. The conferees have done a good job working within those restraints. We, in the Congress, are doing what we agreed to do in the budget agreement of 1990. This conference report meets the budget summit totals and should be approved.

I urge my colleagues to approve this conference report. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I am proud of much of what we have accomplished in the fiscal year 1992 Defense authorization bill. I am proud that we have taken impressive new steps to help our men and women in uniform. I am proud of the new program we have developed for SDI. I am proud of the many force improvements we have funded to take advantage of the lessons of Desert Storm. I again want to thank our distinguished chairman, our ranking member, Senator WARNER, and also my dear friend, Senator JOHN GLENN, for the partnership we have enjoyed on manpower issues, for his important contributions and for his bipartisan willingness to accept ideas and suggestions.

PROGRESS IN MANPOWER ISSUES AND VOLUNTARY SEPARATION

Mr. President, there are three aspects of our action on personnel that I believe deserve special note:

Mr. President, there are three aspects of our action on personnel that I believe deserve special note:

VOLUNTARY SEPARATION PAY

The first area is voluntary separation pay. Mr. President, it is no secret that our Armed Forces are faced with cuts of a magnitude not seen since the end of the Vietnam war and that many men and women who had desired to make the military a career, will not be able to do so. So, for the first time in history, the Congress has authorized voluntary incentives for men and women to leave the service and return to the private sector.

In taking this action, we chose to offer two plans to the individual service member and let the service member choose which plan best fits his or her financial situation. The first plan was submitted by the Department of Defense and is called the voluntary separation incentive.

Under this plan an individual who has 6 or more years of service and serves in an overstrength military occupation specialty will receive an annuity for a period of time equal to twice the number of years the individual served.

The amount of the yearly annuity is equal to 2.5 percent of the member's basic pay multiplied by the number of years of service.

For example, someone with 10 years of service would receive 25 percent of their annual basic pay for a period of 20 years.

Mr. President, many of us were skeptical of this plan because by the Department's best estimates, slightly more than half of those eligible would select this option. For this reason, the conferees agreed to offer an alternative plan, and allow the individual to choose.

Our plan is quite simple. It is based upon the package of benefits offered to involuntarily separated personnel with an increased lump-sum payment.

Under this plan, an individual would be given a lump-sum payment equal to 15 percent of basic pay multiplied by years of service. Someone with 10 years of service would receive a year and one-half's pay upon separation.

But, that is not all. They would get the following additional benefits: preseparation counseling and employment assistance; job training assistance; transitional health care for 120 days; commissary and PX usage for 2 years; use of military family housing for up to 180 days following separation; relocation assistance for personnel currently serving overseas who elect to separate; and permissive leave for the purposes of job search and relocation.

Mr. President, between these two options, it is our hope that the number of involuntary separations can be greatly reduced. While we cannot assure the Senate that the two plans will eliminate the need for involuntary separations, we are confident that a choice between two entirely separate programs will encourage many young men and women who are candidates for involuntary separation to apply for voluntary separation.

COMMISSION ON WOMEN IN THE MILITARY

Mr. President, the second area is the role of women in the military. The Senate Armed Services Committee conducted an extended hearing concerning the repeal of all combat exclusion laws that limit the roles of women in the military services. Because the hearing raised many more questions than it answered, such as the desirabil-

VOL 137
PT 23
NO 21—25
1991
UMI

ity of registering women for the draft and whether or not it should be mandated in law, Senate voted to create a Presidential Commission to review the role of women in the military and to make recommendations to the President concerning the repeal of all combat exclusion laws.

The Commission will be composed of 15 members from various walks of life, who have expertise in law, sociology, women's issues, and most importantly, combat. It was our intent to ensure that the membership be diverse, and we believe we have achieved that end.

During the Commission's review, the Secretary of Defense will have authority to waive all combat exclusion laws for the purpose of testing women's abilities in various military occupational specialties from which they are now prohibited from serving in.

The Commission has to forward its report to the President not later than November 15, 1992 and the President must submit to the Congress not later than December 15, 1992.

PAY RAISE

Mr. President, the third area is military pay. Military personnel will receive an across-the-board pay raise of 4.2 percent on January 1, 1992. While military compensation has not kept pace with private sector wages in recent years, we feel confident that the current pay and allowances provide a good standard of living for our men and women in uniform.

PROGRESS IN MILITARY MEDICAL ISSUES

I am also pleased, Mr. President, that the Conference retained a number of important health provisions that I authored.

CHAMPUS COVERAGE OF THE DISABLED

The first is the provision to restore CHAMPUS coverage for those who lose it due to becoming disabled while on active duty, or if retired and prior to the age of 65. Mr. President, I do not believe it is fair to pull the rug out from underneath one who has become disabled. We have an obligation to these individuals, and I can think of no earthly reason why our obligation ought to be any less due to the fact that they have a disability.

Of course, these individuals are eligible for Social Security disability after 2 full years of disability. But, that coverage is less than that enjoyed by those individuals who will continue to enjoy CHAMPUS coverage as a result of their not being disabled. If anything, we should provide an extra hand to the disabled—certainly, not pull our hand back. This provision will ensure that those individuals who become disabled will receive the same benefit they would have realized had they not become disabled, not be penalized as a result.

HOSPICE COVERAGE FOR ACTIVE DUTY MILITARY

The second is a provision to provide hospice coverage to our Nation's active duty military, their dependents and retiree's who become terminally ill. Mr. President, the Medicare Program has enjoyed the ability to provide terminally ill Medicare beneficiaries with the option of selecting hospice as an alternative to traditional long-term care.

This critical option is cost-effective and often the preferred choice of terminally ill Medicare beneficiaries and their families. I am pleased that the Conference retained my provision, and that military families will now have this critical option, that is available to so many others in society, available to them.

COMPREHENSIVE STUDY OF DEPARTMENT OF DEFENSE HEALTH CARE

And, third, Mr. President, is a comprehensive study of the Department of Defense's health care delivery system. I believe we need to begin to focus on the health reform that must come along with our changing national defense structure, in order to ensure that we can effectively serve the health care needs of our Nation's active duty, dependents and retirees. As such, I am pleased that the Conference retained my proposal requiring that a study be conducted of the Department of Defense's health care delivery system. Not only will this study help us know where we are, with regard to capabilities and costs, it will be instrumental in helping us chart the future course.

The study will examine:

Current and projected costs of military health care over the coming 5 years. The Department's policy regarding various types of user fees and deductibles, and future plans for increasing or reducing such fees by category of service and user;

The availability of military health care to the uniformed personnel of each service—highlighting any shortfalls in the type of care or coverage by service, State, and overseas deployment;

The availability of care alternatives for military families—specifically, the average length of time it takes to gain access to military facilities and access to civilian alternatives by service, State, and area of overseas deployment and report on comparative costs per member and per family with regional indemnity and HMO insurance plans;

Existing alternatives to the traditional military medical system for military retirees and their families by service, State and area of overseas deployment, including Medicare risk contractors. Also, the level of access to military facilities for retirees;

Existing regulations to ensure proper treatment of disabled active and reserve personnel, and the preservation of their full level of benefits; and

The effect of base-closures on access to care, and what can be done to address the needs left unmet with base-closures.

THE FIGHT AGAINST PROLIFERATION

Mr. President, there are many useful portions and amendments in this bill concerning proliferation. One expands the current reporting on missile proliferation to cover all forms of proliferation: nuclear, biological, chemical, aircraft, and other delivery systems. It calls on the President to identify the merchants and buyers of weapons of mass destruction by name.

Exposure is one of the two most potent checks to proliferation, and I hope at some time we will move on to adopting sanctions for those who provide the weapons of mass destruction and the means to deliver them which pose the greatest threat to peace and security for the rest of this century and into the next century.

THE PROBLEM OF ENTITLEMENTS

At the same time, Mr. President, there are aspects of this bill that concern me. I believe that we have made a serious mistake in introducing more activities in the defense budget which have only a tenuous relationship to national security.

We now have costly programs that really belong in other parts of the Federal budget and that threaten to become entitlements programs, Federal subsidies that will drain our defense resources for years to come.

INDUSTRIAL DEVELOPMENT

One such area involves industrial development and the technology base. We have redirected a total of $918 million to programs in these areas, and many involve activities that threaten to make such funding another entitlements program.

Yet, far too many of these programs are largely undefined and inadequately structured. In several cases, the most detailed plans for how millions of defense dollars will be spent is found only in the language of this bill and the accompanying report.

It is worth noting that approximately $150 million was cut from Defense-wide support facilities—which primarily support our test and evaluation activities—to fund these other programs. These are the facilities we depend upon to support the extensive testing of our missiles, aircraft, and other weapons systems.

The Armed Services Committee has put increased emphasis on the test and evaluation phase of weapon system development through the concept of "fly before buy." But, it has effectively robbed these accounts in ways that will inevitably reduce and delay the test and evaluation of our new weapons systems.

I believe that we need to invest in programs to protect the industrial base and to strengthen the technology base. I believe we need national programs to improve our competitiveness and strengthen the private sector.

However, we should not fund general programs to deal with national industrial policy out of the defense budget. We should not spend money on educating K–12 students or establishing fellowship programs with only tenuous ties to defense. We should not drift into trying to reshape all of American industry out of a defense budget whose R&D and procurement levels are likely to drop by 33 to 50 percent by the end of 1997.

We should not embark on annual programs that only make sense if they are funded for years to come and at a steadily increasing level to reach the scale necessary to have a national impact. We are being asked to either waste money on half formed programs that are far too small to have meaning or back into a national industrial policy where most of the real issues affect the civil sector and a truly vast investment would be required to have any real effect.

ENVIRONMENTAL RESEARCH

Second, we will spend $50 million on defense environmental research. Once again, no one can deny the need to protect our environment. However, we are already spending $6.4 billion from the Defense—$2.2 billion plus $400 million for base closings—and defense portion of the Department of Energy budget, $3.8 billion, to clean up military facilities.

Over the next 5 years we will spend $11.5 billion on such clean up programs, and the Department of Defense has estimated that the total cost of environmental clean up for the current round of base closings will cost $424.5 million.

THE ENTITLEMENTS PROBLEM

We should never repeat this kind of mistake. We should either spend Defense dollars on Defense programs, or return them to the taxpayer in the form of tax and deficit reductions. We should never use these dollars to duplicate civil programs.

In saying this, there are some figures to support this point that are dramatic:

First, the growth of entitlements has long outstripped the growth in Defense spending and our economy. In the years since the height of the cold war in 1962, our GNP has increased by 150 percent in constant fiscal year 1992 dollars. In contrast, our real defense spending has risen by 33 percent, our discretionary Federal programs have risen by 194 percent, and our non-discretionary Federal spending—or entitlements programs—have risen by 474 percent;

Second, defense spending has already been cut enough to sharply reduce the burden it places on our economy and the Federal budget. If we go back to the height of the Reagan Defense buildup, defense spending has dropped from 27 percent of the Federal budget in fiscal year 1985 to 21 percent in fiscal year 1992—a drop of 6 percent. Discretionary Federal spending has stayed nearly constant at 16 to 17 percent, and non-discretionary Federal spending has leaped from 46 to 52 percent—a rise of 6 percent;

Third, these cuts in defense spending have already produced a major peace dividend. Defense spending has dropped in real terms during each of the last 6 years. Measured in fiscal year 1992 dollars, it has dropped from $366 billion in fiscal year 1985 to $278 billion this year. If one uses the fiscal year 1985 level as a standard of reference, this peace dividend has already reached $347 billion; and

Fourth, the contrast between the drop in real spending and the growth of entitlements has accelerated in recent years. If we measure the drop in real Defense spending in percentage terms, it has dropped by 24 percent in real terms, and 12 percent of this drop has occurred since 1990. In contrast, non-Defense discretionary spending has risen from $187 billion in fiscal year 1992 dollars in fiscal year 1985 to $212 billion in fiscal year 1992. This is a rise in real terms of 13 percent since fiscal year 1985, and 7 percent since fiscal year 1990.

The point, Mr. President, is obvious. Defense dollars are not large enough to feed the ravenous maw of our entitlement programs. They can be used to buy national security, or to provide a peace dividend and to cut our deficit and taxes.

But, they simply must not be used to disguise the fact that we are adding to Federal spending which is draining our economy of growth, costing us jobs, and reducing our standard of living.

I believe that wasting the peace dividend is the last thing the American people want or need. The majority of the American people want a sound economy, jobs, and lower taxes—not more exercises in congressional efforts to manage their lives and personal budgets.

They know that the best solution to our domestic problems is to allow the American people to solve them by reducing the budget deficit and/or Federal taxes. This is the path to a full and robust economic recovery, to more jobs and high wages, to the growth that funds better schools and services, and to a stronger America.

Before any Member of this body, or the other House, rises to recommend that we shift defense funds to any other federal activity, he or she owes the American people an explanation. That explanation must be detailed and comprehensive, and it must decisively show that such shifts are more important than cutting our deficit or reducing taxes. I suggest, Mr. President, that no such explanation will ever be forthcoming.

THE PROBLEM OF STRATEGY

Important as the issue of entitlements is, Mr. President, there is another problem shaping this year's Defense authorization bill that is equally important. This is the problem of strategy.

This is the last year we will be able to deal with our present force structure and strategy and treat them as another annual exercise in Defense budgeting. We face changes that require fundamental shifts in U.S. policy and strategy, and in our Defense priorities.

If we make these shifts in the right way, we can aid the American people and our economy, develop a force posture that meets the new strategic needs of the 1990's, and fund the forces we need by canceling projects whose time and value has passed.

If we make these shifts in the wrong way, we risk adding to domestic waste and our budget deficit. We will lose the capabilities we need to help maintain world peace and meet the new challenges to peace in the developing world. And, we will waste billions on dinosaurs like the B–2 and SSN–21, while failing to protect our men and women in uniform.

GIVING THE AMERICAN PEOPLE A REAL PEACE DIVIDEND

Let me begin by discussing the issue of .Defense spending. I believe that there is little doubt that if the current trends in the Soviet Union continue, we will be able to make additional cuts in Defense spending. At the same time, I believe we must be cautious in overestimating the size of that cut, and cautious in the way we use the resulting savings.

Our current force plans already call for a 25-percent cut in our military forces by fiscal year 1996. They call for cuts of 33 percent in our number of active divisions, 40 percent in our Reserve divisions, 18 percent in our naval battle force, 38 percent in active tactical air wings, and 33 percent in our strategic bombers.

We must not rush to take a further peace dividend before we are certain we can still fund the forces we need. There is no question that we live in a time of strategic change, and that our present strategy and forces do not reflect that change.

We will have to change our forces far more drastically during the next few years than we have yet admitted in shaping this year's Defense authorization and appropriations acts. We must be careful to make these changes at the right pace.

We cannot lose sight of the fact that the future nature and leadership of the Soviet Union are still highly unpredictable, that the future of the Soviet Union's military forces remains uncertain. Above all, we cannot ignore the fact that we still need military forces to defend our interests and those of our allies in other parts of the world.

I would not argue for a moment that we need everything funded in our current defense budget. As I have already argued in this body, programs like the B–2 have become a strategic albatross, and programs like the SSN–21 have become the equivalent of a lead balloon, and we can certainly make further cuts in our forces for Europe and the so-

VOL
137
PT
23
NO
21
—
25
1991
UMI

called reconstitution forces whose only purpose is to fight world war III.

We need to firmly recognize, however, that we have been spending our peace divided for more than half a decade. We need to recognize that the ongoing reductions in Defense spending will bring us close to the bare minimum we will need to make orderly cuts and changes in our forces, and to convert from cold war strategy and force posture to one oriented toward the power projection missions of the future.

This power projection strategy, and the force posture necessary to implement it, are the inevitable result of our position in the world. We cannot stand aside from history and try to shape it at the same time. We cannot seek a peaceful world, and global economic interdependence, and pretend there will not be new Saddam Hussein's in the future.

We need this strategy, and the proper forces, for the same reasons we needed a maritime strategy from the time we attacked the Barbary Pirates to the beginning of World War II. We need it for the same reasons we have used military force more than 220 times since the end of World War II to defend the interests of our citizens, our friends and allies, and our Nation in contingencies that had nothing to do with the Soviet Union and the Warsaw Pact.

We also should not have any illusions about the size of the forces we are cutting. We did not size or structure our forces to challenge the Soviet Union alone. We shaped them to take account of alliances like NATO, our alliance with Japan and South Korea, and our alliances with a host of friendly states like Israel, Egypt, and Saudi Arabia.

We also have made countless compromises in the past, in order to reduce the burden defense places on our economy. In fact, we have long accepted the military risk of having only about half the total mix of forces for NATO and power projection missions that many joint staff studies have shown we really need.

The resulting shortfalls were exemplified during Operation Desert Storm. We must remember that this crisis came at a time when many members of this body were stating there were no major threats in the developing world—and when some were saying that the Iran-Iraq war has brought a new stability to the region. We must remember that our victory was only made possible because Saddam Hussein sat and waited for 5 months, and failed to bring his forces to the readiness they had shown against Iran only 2 years before.

We must remember that we encountered major shortfalls in airlift and sealift during the build-up for Operation Desert Storm. We must remember that we were critically short of heavy armor and firepower for our Army and Marine forces up to the final weeks before the war began. We must remember that we used many of our ground forces for NATO, virtually all of our combat deployable carrier strength, at least two-thirds of our Marines, and a large portion of our tactical aviation and bombers for this one contingency.

We must remember that even this build up was only possible because of the cooperation of friends like Bahrain, Saudi Arabia, and the UAE. We must remember, for all our successes, that the political and strategic outcome might have been dramatically different if it had not been for Israel's courage and restraint, and if we had to escalate to a very different level of conflict. We must remember that we were part of a coalition and that our forces were successful because they fought along side the forces of Britain, France, Egypt, and many other nations.

We cannot afford the illusion that we have a vast surplus of forces we can easily eliminate. We must not cut defense spending without a clear picture of the force posture we wish to preserve and the strategic capabilities we wish to preserve or create.

We do not have a surplus of power projection capabilities, and it is important to note that our current defense spending and force plans will leave them badly short of sea and airlift, modern amphibious forces, long range tactical strike aircraft, mobile armored forces, and a host of other capabilities. As we cancel programs suited to the cold war, we may well need to shift these resources to the other military capabilities that will ensure we can rapidly and decisively project power without suffering serious casualties.

Above all, we must not confuse a new period in history with the end of the history. Like it or not, we have become the one power in the world that can project enough military force anywhere in the world to halt aggression, deter conflict, and protect our interests and those of our allies.

SETTING NEW PRIORITIES FOR DEFENSE SPENDING

This leads me to my final point, the need to set new priorities for Defense spending. I believe that we need to urgently concentrate our resources on power projection missions, and that we need to ensure that we fully fund the core forces we have in being, and the necessary air and sea lift, rather than indulge in high cost and high technology experiments that we may never be able to afford.

To be specific, we should not cut our carrier task groups or our Marine Corps combat forces. We should not cut the combat ready Army and tactical Air Force units, and their reserve counterparts, whose primary mission is power projection. We should keep elements of our forces forward deployed for missions in Asia, the gulf, and Europe—not rush forces home that we will need to redeploy in the emergencies and crises that are certain to come.

Where we can make cuts is in the nucear forces that will be cut as part of START, and which are certain to be the subject of ongoing force cuts as our relations with the Soviet Union or its successors improve. We can legitimately demand that it is our European allies that bear the overwhelming burden of their own defense, as we shift to a power projection role.

We can ruthlessly pare our Active and Reserve Force structure to eliminate those forces whose primary mission was to fight a prolonged conventional war in Europe. We do not need these forces, or the expensive shell of a reconstitution mission, and this should permit major further cuts in our force structure, support structure, and headquarters in the United States.

We need to recognize that as the Soviet threat continues to diminish, we need to emphasize maintaining our high quality of men and women in uniform, and the overall readiness of our forces, not technology per se. This is why we can and must kill expensive dinosaurs like the B–2 and SSN–21, and show extreme caution in depriving our defense industrial base of proven weapons and munitions in the hope that we actually produce sweeping advances in technology after the year 2000.

We cannot afford to throw away two birds in our hands for one in the bush. We cannot afford to leave tactical aviation unfunded to buy the B–2. We cannot afford to consume 25 percent of our ship building budget by buying an SSN–21 whose only justification is that the Navy failed to budget for the smaller submarine we actually need.

We cannot afford to halt production of all our current fighters in the hope some aircraft whose technical details remain uncertain may become a reality. We cannot halt the production of proven and easily upgradable armored weapons, and helicopters like the AH-64, for promises of unknown price and performance.

THE NEW CHALLENGE OF DEFENSE PLANNING AND BUDGETING

In conclusion, let me note that this year's authorization bill is only a prelude to the real Defense debate that will come next year.

I believe that that debate must focus on how to obtain a peace dividend in a way that will preserve our key capabilities. I believe that it must focus on using that peace dividend to cut our budget deficit and taxes.

I do not believe that it will serve the national interest in any way to confuse these real issues with yet additional spending on entitlements.

We cannot foresee all of those changes today. However, unless we make the right beginnings we will deprive the American people of the true peace dividend they deserve, we will pursue the wrong strategy and threaten the peace, and we will waste billions we cannot afford on forces and equipment we do not need. The central issue is how to cut our spending and our forces in a way that will preserve and expand the power projection forces we need for the future. This is the only meaningful standard for judging our success.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. WARNER. Mr. President, could I be allowed just to thank 1 year's worth of participation and hard work for 1 minute?

Mr. LEAHY. I do not want to be discouraged. I have had the floor five times and yielded the floor five times to others. Certainly, if the distinguished Senator from Virginia needs his 2 minutes, I will yield the 2 minutes without it coming out of my 30 minutes.

Mr. WARNER. I thank the Senator from Vermont. I simply wanted to acknowledge 1 year's hard work by the Senator from Arizona, working in partnership with Senator GLENN. Our committee is fortunate to have these two individuals because they draw on an extensive background of personal experience at all levels of the military, and those experiences are brought to bear on tough decisions, like the most recent in terms of how we deal with this, as the Senator from Maine used to say, the build-down, the personnel structure of the Armed Forces as we take 5 percent per year. I want to personally thank both Senator McCAIN and, at this time, Senator GLENN for their work in the personnel area.

The PRESIDING OFFICER. The Senator from Vermont has 30 minutes.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to yield 2 minutes, not out of my 30 minutes, to the Senator from Georgia, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Senator from Vermont for his great patience. I know he has important remarks to make, and I do thank him for his willingness to yield.

I can announce on behalf of the majority leader that there will be no further rollcall votes this evening.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I was glad to yield to the Senator from Georgia. I think the American public is probably thrilled, excited, and enchanted by the unanimous-consent request. They are probably right on the edge of their seats if they were watching or listening. Probably nowhere near as excited and enchanted as our colleagues when, at the very end, he said no more rollcall votes.

Mr. NUNN. Mr. President, it was one of my better speeches.

Mr. LEAHY. Mr. President, the press heralded a compromise between the House and Senate negotiators. The said the compromise was the death knell of the B–2 stealth bomber program. As the Senator who offered the first amendment to terminate the B–2 in 1989, I do not think anybody would be happier than I would be to see this monument of waste and inefficiency ended.

Mr. President, I was stunned, as I believe many others were, once we read the details of the final agreement that was made available on November 14. To paraphrase a famous statement of another Vermont Senator, we have declared defeat and pressed on.

Reports of the B–2's demise are based on the agreement of negotiators that only one additional plane would be authorized. You may recall the administration requested four. The fate of this last B–2 is still subject to approval next year by both the House and the Senate, and the House has killed the program for 2 years running. The Senate came within two votes of ending this boondoggle this year.

But this decision to conditionally authorize just one more plane, Mr. President, is a Trojan horse. There is some small print attached to the deal that has been missed by the press. It has been missed by the headline writers. I would hope that even at this late hour, there are those in the press who are following what is going on, because they missed the point.

The conferees also included a deal that virtually assures that the B–2 is going to be back for a rerun as a far more attractive program, to that dwindling percentage of people in this country who still support this flying boondoggle. The House and the Senate conferees approved $1.8 billion in unrestricted funds. The Air Force will use the funds to purchase parts and sections known as kits for future B–2's that have not yet been authorized by Congress.

This program is drowning in money. The B–2 is about the only thing in this country that has more money than it can even use.

The Air Force is sitting on a $3 billion pool of unobligated B–2 funds that were previously approved by Congress that has not even been tapped yet. It is almost like their own Swiss bank account. Northrop, the B–2 contractor, has been unable to show it can produce the aircraft orders planned by the Air Force.

Ironically, the problems that plague the B–2 program may actually save it from extinction. Can you imagine? The same failures, the same faults, the same design failures—all these things that should have killed the plane—we now find that the worse it got, the more it got screwed up, the longer it took, the more time it took, that may have actually saved it.

It has taken Northrop millions of man-hours to build each bomber. It will be years before Northrop and the Air Force need the actual authorization to assembly these kits into future planes.

This conference report is the wedge to pressure billions more taxpayer dollars in the future for a plane that became obsolete while it was still on the drawing board.

I hope that no Senator is deceived by this agreement that allows the Pentagon to spend billions on planes that have never been approved.

I can hear the Air Force testimony now that will be on the record in another year or so. They will bring in new pictures describing a new mission for the B–2. After all, nobody is going to hold onto the old mission, because we know it is anachronistic. The cold war is over.

The Air Force will tell Congress: well, it will be cheaper to build more planes with the kits that we have already purchased than it is to terminate the program.

How many times have we heard that? We pour so much money we do not need into a program, and the Pentagon says: But we have to spend a few billion more because, gee, we would waste all this money we spent. We would waste the money we wasted if we do not waste money.

Anywhere else in the world, this would be fantasyland. Here it is the defense budget.

How many kits do we have now? Who knows? But after this agreement, we are going to have even more. The Pentagon will argue that we have the parts, so why not put them together? And Congress will end up buying more B–2's, unless somebody is willing to stop this nonsense.

The narrow vote in the Senate on September 25 indicates the rapidly eroding support for the B–2 program. This plane, designed to elude Soviet radar and deliver nuclear weapons to downtown Moscow, lacks a mission. And, only weeks before the Senate vote, the Air Force announced that the B–2 had failed a flight test designed to test its stealthy features.

Does it sound a little bit like what went on with the B–1? During the Persian Gulf war, we used everything in our arsenal except the B–1. We found out to get it over there, we would have to have the Navy ship it over, and they did not really want it.

After spending $30 billion on the B–1, the Air Force now wishes that the Congress had killed it. Now, they have to pay for the crews, the pilots, and the upkeep. And now they are going to do the same thing to us on the B–2.

While the effort to kill the program failed when the Senate voted on it, we

VOL 137 PT 23 NO 21 — 25 1991 UMI

did restrict release of any further B–2 funds until a vote next year, and only after the plane met its original stealth requirements. The Senate restriction is a sensible fallback position.

If the House voted to kill the program, and the Senate restricted the funding, it would usually be a safe assumption that the House and Senate conferees would reach an agreement on such a troubled program that was somewhere between the two positions.

Well, this is the most novel compromise I think I have ever seen in my years in the Senate. The conferees rescued this program against all odds, and Senators should realize that it was not the posse but the cavalry that determined the B–2's fate. It got killed for all effective purposes in the Senate; it got killed for all effective purposes in the House.

And all of a sudden, in the dark of night, from the closed doors, out of the conference comes the B–2, alive and well—not able to fly very well, not able to elude radar very well, but sure as heck able to tap into the Treasury like a big vacuum cleaner.

No, Virginia, there is no peace dividend for the American taxpayer in the near future, because the Pentagon and some Members of Congress still believe in the Stealth bomber.

With all the problems of the B–2 bomber, we find that it has one mission, and only one, that it can successfully carry out. That is to milk the American taxpayers over and over and over again.

I yield to the distinguished Senator from Tennessee.

I yield the Senator control of the remainder of my time.

Mr. SASSER. I thank my friend from Vermont.

Mr. President, I have closely followed the progress of the armed services authorization bill and of defense spending in general over the course of this year, and I intend to follow it even more closely next year. I have watched this bill evolve into its present form, and I have expressed my views at various intersections along the way as the bill has evolved.

Mr. President, the Armed Services Committee has worked diligently, very hard, and the chairman and the distinguished ranking member both have struggled very ably with a varity of complex problems. This conference report is a product of diligent and conscientious effort for all concerned.

But, Mr. President, I shall vote against it. In broad terms, the legislation before us this evening simply authorizes too much spending for military purposes. I would observe that the record of the bill's history and development unequivocally proves beyond a shadow of a doubt that it spends too much in its current form.

Early this year, my colleagues will recall that I offered an amendment to the defense appropriations bill that cut military spending modestly, with the savings aimed at deficit reductions, simply taking some money off military spending and using it to reduce the deficit in this new era in international relations in which we find ourselves.

I offered that amendment to bring our pattern of military spending in conformity with the rigorous demands proposed by the budget agreement in coming years.

I proposed a prudent cut. I put a heavy premium on getting deficit savings, on reducing the deficit, without impairing the readiness of our military force structure in the near term or after.

I would call my colleagues' attention to a chart which indicates the problem we have now with the budget agreement scheduled to expire in fiscal year 1995.

It indicates that if we continue to spend at the present level of discretionary spending, by 1995 we will have exceeded the caps by a substantial margin; by fiscal year 1993, we will have exceeded the budget agreement by $9.4 billion; by 1994, by $19.8 billion; by 1995, by $24.8 billion.

I pointed out to my colleagues earlier this year the problem we have. The yellow represents the limit on discretionary spending that is imposed upon this Government by the budget agreement, slated to expire in fiscal year 1995. The red area represents where we are going if we continue to spend at the present level. You can see that clearly we are going to exceed our statutory spending authority under the budget agreement by a substantial margin beginning in fiscal year 1993 and continuing on out to 1995.

I tried to present the evidence documented by the Congressional Budget Office that big ticket programs are on a collision course with the discretionary spending limits. Ultimately, mine was an argument for preserving the budget agreement, saying simply that, if we continue to spend in the military area at the rate we are going, we are going to exceed the caps. I also indicated that would occur in domestic spending as well. I argued for presering the budget agreement. Curiously enough, I was opposed on the grounds of violating the agreement.

In the intervening period, we have had an effort by the armed services conference itself to cut even more out of defense in fiscal year 1992 than I purposed in my amendment. There was a proposal in the armed services conference to cut $1 billion in outlays for fiscal year 1992, roughly $250 million more than I proposed to cut myself in fiscal year 1992. That money was not going to deficit reduction, which it would have to under the terms of the budget agreement. It was going to be spent. Moreover, it was to be spent in a manner that, unlike my amendment, would actually have violated the budget agreement.

Even more surprising, the transfer would have come from sensitive operations and maintenance accounts, which was have been told in years past are sacrosanct and would have affected force structure immediately. The amendment that I offer was carefully tailored to avoid that.

Mr. President, the lesson in all of this could hardly be more clear. Every time some of us come to this floor to try to bring military spending down to conformity with the world we live in today and the threats that we face today, the reduced threats I might say that we are faced with today, we are confronted with the charges, oh, that cannot be done; that will weaken our security. Oh, this is an ad hoc cut. We have not looked into this. We have not had hearings on it, and that violates the budget agreement.

Yet, when the committee of jurisdiction itself wants to make cuts in a conference for reasons of its own choosing—and I do not contest the validity and the wisdom of those reasons—suddenly there is $1 billion that can be carved from the Pentagon budget without any perceptible consequences to our security. Typically, the defenders of military spending do not admit that we can simply take $1 billion in outlay out of our military budget, but this year we have a tacit confession that, yes, it can be done.

The committee's actions confirm that $1 billion under the defense cap does not really need to be spent for military purposes this year. Clearly, if defense cuts can be made for a transfer to the Soviet Union, them they can be made without impairing our defense.

Now that the Soviet aid will come from other budgetary resources, is that $1 billion that was originally allocated to go to the Soviet Union available for deficit reduction? Is it available for education, for health care, for roads, for crime prevention? Why, of course not. It is right back in the military budget, and we are told once again that every dollar of that bill is sacrosanct.

Mr. President, I want to emphasize that I am not opposed to aid to the Soviet Union. I want to commend the distinguished chairman of the Armed Services Committee for having the wisdom and the foresight to anticipate the problems that we are going to encounter in the breakup of the Soviet Union.

I wish that the President of the United States, and I wish that this administration would evidence the wisdom and the foresight that the distinguished chairman manifested when he isolated what I perceive to be one of the greatest dangers to the United States, and indeed to our lives, coming from the breakup of the Soviet Union itself. I do not contest that for one moment.

But the larger point that I am making this evening to my colleagues is that the Pentagon does not need all the money that is requested for military spending this year. If the Armed Services Committees can offer up $1 billion with relative ease and do it with the administration's initial approval, then I submit that the cap for defense spending in 1992 was simply too high to begin with. And it follows just as certainly as night follows day that the caps for 1993, 1994, and 1995 also are unrealistically high and should be reduced.

Having made that observation, Mr. President, I want to touch briefly on a specific request in this bill that I find most troubling—the proposal to dramatically increase spending on the strategic defense initiative. This bill would have the American people lay out $4.12 billion this year for the strategic defense initiative, the so-called star wars system that was conceived in the darkest days of the cold war, now to be deployed at the expense of far more pressing national needs.

It is a proposition, I submit, that has been totally unexamined by the vast majority in this body. It has not been debated in any public forum that I am aware of. It is a continuation of big ticket military spending that promises to misuse our fiscal resources for decades to come.

Mr. President, the vast majority of the House of Representatives and 50 Members of this body are on record opposing expansion of the strategic defense initiative and deployment of it. A majority of Congress believes that the strategic defense initiative is both strategically unwarranted and fiscally unsustainable.

Yet, an influential minority has pushed it forward with hardly a whisper about strategic considerations or expense. At a time when most committee chairmen are forced to tell their members there are no new initiatives to be funded in the health area, in the area of crime prevention in the area of education, and the infrastructure area, the Armed Services Committee plans not only to fund a new initiative, but to fund it at over $4 billion next year, and $10 to $20 billion in the coming years.

I have argued in the past that we need to put this whole issue in a national context. What exactly is this kind of protection worth to the American people? Does the threat of a rogue Soviet missile striking us really match the threat that we face internally? I do not need to go through the whole litany of decaying inner cities, a culture that is on the edge of disaster, a collapsing infrastructure, sagging test scores, a population desperately in need of some kind of sustainable health care system.

Does the possibility of a missile attack from Libya, from Pakistan, or even North Korea really weigh equally in the balance with the dangers posed by what we see right here, such as crime on the streets of our neighborhoods, where one is afraid to walk three or four blocks away from the Capitol after 8 or 9 o'clock at night? That is where the threats to this country and this culture and this system come from.

Well, the same questions, I think, have to be asked about our military budget that we ask about all other Federal expenditures. Why in the world are we spending so much money for the military in a world that has changed so dramatically? What are the real threats that face this Government and face the American people? That debate, in my judgment, has not occurred yet to an adequate degree. Until it does, I will continue to oppose military spending at the levels offered in this conference report today.

I would be remiss, Mr. President, if I did not also at this time pay tribute to the distinguished chairman of the Armed Services Committee for trying to point the way to this administration, and I think point the way to many others, of the new approach that needs to be taken in dealing with our former enemy, the Soviet Union. I think he is on the right track.

I disagree with the manner in which this effort was first put forward by the Armed Services Committee. But, indeed, I do think that there is a significant threat to our national security, and a significant national threat to all of the democratic countries that can emanate from the breakup of the Soviet Union, from the spread of nuclear weapons technology, and the very weapons themselves, coming out of the Soviet Union.

But that does not subtract from my main point that we are spending too much for the military at this time in our history, that this military spending can be reduced, and that we have seen by the actions of the Armed Services Committee itself, that it could be reduced by at least $1 billion, without jeopardizing the security of this country.

Mr. President, I yield the floor.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, pursuant to a previous order, I send a cloture motion to the desk and ask that it be read.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Senate Resolution 198, to amend Senate Resolution 62 (102d Congress) to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the U.S. hostages in Iran:

Paul Sarbanes, Don Riegle, Claiborne Pell, Dennis DeConcini, Jim Sasser, Paul Wellstone, Bob Graham, Wendell Ford, Pat Leahy, Carl Levin, John Glenn, Paul Simon, Howard M. Metzenbaum, J.J. Exon, George Mitchell, Harris Wofford.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. NUNN. Will the Senator from Ohio let me make one brief comment and ask the Senator from Tennessee a question before he leaves the floor?

Mr. GLENN. Yes. I yield to Senator NUNN.

Mr. NUNN. Mr. President, I would like the Senator from Tennessee to correct me if any of my information is incorrect. And, if not tonight, I would certainly like to have this information tomorrow, because while we may disagree on some of the policies, we should not have any disagreement on the facts as to the budget applications, or actual number of outlays in authorization authority here.

Mr. President, it is my understanding, and I believe this is absolutely factual, that the defense spending in this bill does not violate the budget agreement in 1992 and is not on a course to violate the agreement in 1993, 1994, and 1995, based on all of the analyses I have.

I think what the Senator has demonstrated here is, if you combine all discretionary, including defense, we are perhaps on a course to be over the budget in the outyears. But it is my view, and we have had this debate once, that that was a discretionary problem rather than a defense problem.

Let me just ask the Senator this: We understand—and we have the scoring from the Congressional Budget Office—that this bill is $1 billion under the budget resolution level in outlays, that we are not spending up to the cap. I do not believe you are going to find any other committee on Capitol Hill that is under the cap. We, in effect, are spending $1 billion under the cap in outlays in this bill.

Does the Senator have any information that he can confirm, or anything contrary to this information?

Mr. SASSER. Well, I have no information that would either confirm or indicate that the Senator from Georgia is incorrect. I just have no way of knowing.

Mr. NUNN. Would the Senator mind checking on that tomorrow and making a little statement for the RECORD, because of the respect that he has as chairman of the Budget Committee, and people listen very carefully to what he says, and perhaps if he agrees with this, we could indeed set an example here. But we are not spending up to the authority. We are $1 billion below the authority and, in essence, what the

VOL
137
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23
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1991
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Senator proposed on the floor was to cut, I believe—what was his proposal?

Mr. SASSER. I am proposing to cut approximately $750 million in outlays.

Mr. NUNN. We can save more than that in this conference report.

Mr. SASSER. Is that in outlays?

Mr. NUNN. Yes, in outlays.

Mr. SASSER. Well, if the Senator is coming in below the caps, then I want to commend him for that, and I would encourage him to do even more in the years ahead. I look forward to working with him in that respect and would give him all possible encouragement.

Mr. NUNN. I ask the Senator to make his congratulations contingent on further checking with the CBO. But this is the information that we have, the best information I have, and if it is not correct, I would like to know, and I would like to know where we differ in numbers.

If it is correct, I think it would certainly be helpful, and maybe it would stimulate other committees, if we are saving this much—and I believe we are—to have that known by the chairman of the Budget Committee.

Mr. SASSER. We will certainly check that in the Congressional Budget Office and get an affirmative response to the chairman of the Armed Services Committee, and if indeed the committee is coming in $1 billion below its cap that is commendable and the fact that that amounts to perhaps less than one-half of 1 percent of defense outlays should be taken into consideration. It is the motive.

Mr. NUNN. It is actually 25 percent above what the Senator from Tennessee asks us to save, so we have taken his comments to heart and we have done our best. I hope we are accurate.

Mr. SASSER. I respect the distinguished chairman.

The PRESIDING OFFICER. The time under the control of the Senator from Tennessee has now expired.

Mr. SMITH addressed the Chair.

Mr. GLENN. Mr. President, I had already been recognized I believe. I yielded to Senator NUNN.

The PRESIDING OFFICER. Who seeks recognition at this time?

Mr. GLENN. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GLENN. I believe I had already been recognized.

Mr. NUNN. The Senator from Ohio yielded to me.

Mr. GLENN. I had already been recognized and not made my statement yet. The Senator yielded me time to make a statement, I believe.

Mr. SMITH. I make a parliamentary inquiry.

The PRESIDING OFFICER. The Chair does not believe that the Senator from Ohio had been recognized. The Senator from Tennessee was the last recognized. The Senator from New Hampshire is ranking minority member of the committee and present on the floor at this time.

Mr. SASSER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. Was I advised all my time was expired?

The PRESIDING OFFICER. Yes.

Mr. SASSER. A further parliamentary inquiry: Was I controlling the time in opposition?

Mr. NUNN. Mr. President, I thought I was controlling the time on this side.

Mr. SMITH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Under the previous agreement the Senator from Vermont was given 30 minutes and yielded the remainder of his time to the Senator from Tennessee.

Mr. SASSER. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GLENN. Mr. President, I object. I was recognized and Senator NUNN asked to make a couple comments after I had been recognized.

Mr. SMITH. Mr. President, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SMITH. The time has been controlled by 5 or 6 speakers on the other side for the past 45 to 50 minutes with nobody on this side, few of whom are even members of the committee. We accepted the unanimous consent. Surely, the Senator from Ohio can afford us the courtesy to allowing someone to speak on this side.

I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, I appreciate the Chair's courtesy.

Mr. President, I rise today to support this defense authorization conference report and offer some personal comments concerning this bill before us.

First of all, I commend the distinguished chairman, Senator NUNN, and the ranking member, Senator WARNER, for their leadership and fairness throughout the Armed Services Committee's deliberations this year. I am a junior member of this committee, and this was my first opportunity to work with these two Senators, and their courtesy throughout the whole process is very much appreciated.

Mr. President, the bill before us reflects 10 months of hard tedious work by this committee and some 7 weeks of negotiations with the House of Representatives to try to fashion a defense bill which advances our national security interests in a rapidly changing world environment. Let me be clear from the outset. The task was very formidable. The House and the Senate-passed authorization bills embodied extremely divergent philosophies. They were different on national defense, national security, and other matters. The process of reconciling the disparities was tumultuous and difficult. In the end, we reached a compromise, but as always with compromises, neither side was completely satisfied, some winners, some losers.

The conference bill is something of a mixed bag of goods. On the one hand, there are many provisions which I strongly support. In particular, I am extremely pleased that the Senate and the House finally recognized, finally, the immense value of ballistic missile defense, and endorsed the goal of deploying a multiple site ABM system. Contrary to the remarks of the Senator from Tennessee, I believe we need very much that multiple site ABM system.

This long overdue initiative sets the groundwork for the United States to transition from the dangerous policy of mutual destruction to a deterrent posture which integrates both offensive and defensive forces. Furthermore, the legislation calls upon the administration to negotiate modifications in the ABM Treaty to permit multiple interceptor sites, increased utilization of space-based sensors for battle management, and clarification on deployment and testing of space-based defenses.

Mr. President, these are historic initiatives, controversial, but historic.

Mr. President, while I strongly support these initiatives, I would have preferred that Congress adopt the President's SDI program, known as Global Protection Against Limited Strikes. As we saw in Desert Storm, the proliferation of ballistic missiles and weapons of mass destruction pose a clear and present danger to our national security, even in Tennessee, Mr. President.

In my opinion, the President's program, which combines both ground- and space-based interceptor systems, is far more effective and responsive to these threats.

But we had to fight for every word and every penny of funding in the Missile Defense Act. And against my fervent opposition, SDI opponents succeeded in exempting Brilliant Pebbles from the initial architecture and reducing funding to $390 million. Nonetheless, the program survived, it survived. And the U.S. Congress has taken what I hope to be an irreversible step, and a long overdue one, to endorse a multiple site missile defense system.

On the other hand, Mr. President, I am disturbed by the scope and the pace of reductions in our military forces. As my colleagues know, I have often cautioned that we are embarking on unilateral reductions which go too far, too fast. Yet, in the days since August and abortive Soviet coup, I have heard countless demands to further constrain defense spending. So that no one

should forget, last year's budget summit agreement set the framework for a 24-percent reduction in defense spending by 1995—24 percent, Mr. President. The cumulative result of these and previous budget cuts will entail an approximate one-third reduction in overall defense spending between 1985 and 1995. Defense spending as a percentage of the Federal budget will fall to approximately 18 percent; 25 to 30 years ago it was 47 percent of our budget. In the very near future, perhaps by the end of this century, we will be spending more on interest on the national debt than on the defense of the United States of America. That is simply wrong.

Before my colleagues hastily jump on the so-called peace dividend bandwagon, I would urge them to consider the full range of military and economic effects of these actions. For instance, the bill before us keeps the United States on a track to eliminate some 500,000 military personnel in the next 5 years. Yet, as usual, unfortunately, politics and parochialism prevailed, and Congress approved only a fraction of the Reserve Force reduction requested by the administration. This action wreaks havoc on the budget and on the budget process and undermines the total force balance.

Furthermore, the myriad of budget driven program terminations and consolidations contained in this bill will eliminate tens of thousands of industrial-based jobs throughout the United States of America. This is hardly the kind of medicine needed to cure the nagging recession, especially in the high-technology corridors of California and New England.

At the same time, the United States is pulling ground forces out of Europe and Asia, we are eliminating a substantial number of naval vessels which form the very backbone of our forward deployed military posture. Thus, not only is John Lehman's vision of a 600-ship Navy dead, but our Nation's power projection capabilities are dying, as well.

Mr. President, without question, the world is a different place than it was just a few short years ago.

But it is in flux, and no one knows for sure how the various international transformations will play out. The Persian Gulf war vindicated Ronald Reagan's courageous and visionary defense buildup and it validated the equipment and war fighting doctrine of our Armed Forces as we saw in the Persian Gulf. Let us not sacrifice this hard fought superiority and replay the mistakes of the post-Vietnam era. Let us not make those mistakes again. We owe more than that to our national security and to the men and women who put the uniform on.

In conclusion, Mr. President, I caution my colleagues against falling into a trap of complacency. Because just as we benefited, we did benefit from the lessons learned in the Persian Gulf. But I might add, so did our adversaries. So did our adversaries learn a very, very difficult lesson, especially Iraq.

The United States must be prepared to fight the wars of the future—of the future; not the past, the future. And while the bill before us is not what I believe to be best for national interests, it is the best we could get out of this Congress. Believe me, it is the best we could get out of this Congress. In my opinion, it represents the minimum necessary to balance our military requirements with current fiscal realities. Hopefully, future Congresses will oppose further pillaging of the defense budget.

Mr. President, I yield the floor, and again thank the Chair for his courtesy.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, there are parts of this conference report that I believe the Senate can take great pride in. While there are some provisions with which I disagree, this conference report is balanced overall. Therefore, I intend to support passage.

One of the most important provisions contained in this conference report is the Missile Defense Act of 1991. This legal, conceptual, and arms control framework for proceeding with the development and deployment of theater and strategic defenses represents an historical consensus within Congress. While all Members have not endorsed it, the Missile Defense Act has brought together an overwhelming majority in Congress on this issue. I am hopeful that it represents an end to the wasteful and divisive debate over SDI that we have engaged in since 1983.

I was also pleased that full funding for the B–2 bomber was retained, although I realize that the program must pass some very stringent testing requirements before Congress will authorize additional aircraft. I believe that the B–2 must pass these performance standards, but I do not agree with some who have argued that the program is dead, that this year's actions merely signaled a last gasp for the program. If the B–2 successfully meets the technical standards set for it, I hope Congress will settle the procurement issue next year, once and for all. Each year, we defer a final decision on the B–2, the program becomes more expensive. Next year we should either terminate this program or proceed to buy the remaining aircraft at an economically efficient rate.

Mr. President, despite my general satisfaction with the conference report, I am deeply disappointed that the conferees dropped the provision, passed twice this year on the floor of the Senate, to allow localities first right to assume control of property associated with bases that are being closed. While I understand the opposition to this amendment, in both the administration and Congress, I believe this is a matter of fundamental fairness. I realize that the administration regards this provision as a source of revenue loss and an alteration to established means for disposing Federal property. In the case of base closure, however, there is an overriding concern: The needs of the communities that have served this country for years and who hold great pride in the bases that are located in their midst.

Given the sacrifices we are asking these communities to make, and given the Federal Government's already significant responsibility to help mitigate the impact of these planned closings, it may well be in the taxpayer's interest to turn these properties over to local governments where coherent planning is likely to get them back in the productive private sector sooner rather than later. In my view, we must do everything within our power to ensure that those individuals who must bear the negative impact of base closures at least have the opportunity to determine their reuse options.

I also realize that the Department of Defense has expressed a willingness to examine, on a case-by-case basis, the merits of local reuse proposals. While I appreciate this effort at flexibility, I believe we owe these communities stronger guarantees.

I am disappointed that we were unable to find an acceptable compromise this year. Therefore, Mr. President, I fully intend to revisit this issue next year.

If members of the Senate who have offered this amendment previously do not plan to do so in the future, I will do so. I intend to make it a matter of priority within the Senate Armed Services Committee. I think the U.S. Senate and the U.S. Congress needs to review this issue very, very carefully. And if we have to pass it a dozen times to make the point, then we should do so.

It is unfair to local communities who are devastated by the impact of closing a defense establishment or a military post to have to be last in line to receive the right to utilize the property to revitalize their area and to bring back the private sector growth to replace the loss incurred by the closing of the base. They should be first in line, not last in line. And the Johnston-Breaux amendment, which this Senate passed, and the Roth amendment, which clarified that amendment, clearly put the Senate on record as supporting that reversal of procedure which gives these communities first right.

I am disappointed that this was dropped in the conference and we could not secure DOD or administration sup-

VOL 137
PT 23
NO 21–25
1991
UMI

port or even support from key members of the committee on either side of the aisle. But I intend to press forward on this issue. It is a matter of equity and fairness to the communities involved, and I hope to revisit it early next year.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

Mr. NUNN. Mr. President, how much time is remaining, and how much time does the manager on this side have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 46 minutes 14 seconds.

Mr. NUNN. Mr. President, I yield to the Senator from Nebraska such time as he may desire and thank him for his tremendous leadership in the committee as a whole and particularly in the Strategic Subcommittee which is one of our most difficult and important subcommittees. I thank the Senator from Nebraska. I know of no one who is a stronger supporter of national defense and also a strong supporter of spending our taxpayers' money wisely in pursuit of strong national security than the Senator from Nebraska. I thank him for his leadership, and I yield him such time as he may desire.

Mr. EXON. I thank my friend and colleague from the State of Georgia, the very distinguished and able chairman of the Armed Services Committee.

I wish to join my colleagues, Mr. President, in saluting the leadership of not only Senator NUNN, as just referenced, but also the great team that he has with Senator WARNER of the State of Virginia. We admire both of these individuals from both sides of the aisle in the Armed Services Committee where there is probably less partisanship than any other committee in the U.S. Senate. We have our disagreements. We work them out as best we can.

I rise to briefly make some points with regard to the defense authorization conference report. I urge my colleagues to support this effort that has been one of the most difficult efforts that we have ever made in coming to some kind of an agreement with the House of Representatives. Never before in my memory of 13 years on the Armed Services Committee have we had such a wide disparity of positions and such a great disagreement as we have had this particular year.

I would simply like to say that and come to the defense of the chairman of the committee in response to some implied criticism of whether or not we came within the budget constraints under which our committee continually operates. We discussed coming in under or at the budget figures time and time again in our hours of deliberation in the Armed Services Committee, which takes a tremendous amount of time of all of its members.

I would also like to just touch on a few things with regard to the strategic programs that come out of the jurisdiction of this Senator as chairman of that subcommittee of the Armed Services. Once again tonight we have had impassioned speeches by two Members of the Senate who have given those same impassioned speeches time and time again on the floor of the U.S. Senate about some programs that they have opposed for a long, long time. I think the record will clearly show that this Senator has been one of the leading advocates of eliminating programs that have outlived their usefulness or programs that we simply cannot afford under the total new philosophy under which we are operating.

I would simply cite, Mr. President, that indeed the Armed Services Committee is working very diligently—in the years ahead, not just this year—on meeting, for example, the reduction of 25 percent of our personnel. I have called—and call again tonight—for further reductions in many of our troops scattered all around this planet that we obviously do not need and cannot justify for the purposes of national defense. More of them should be called home as we face the difficult decisions of a trimmed-down national security budget but still one that is producing the lean and the mean military force that we need.

I simply cite, this Senator, in addition to leading the effort in many areas where we can make large savings, was, I think, the first to call for the elimination of the rail garrison MX program. When I offered an amendment to cancel that, we lost by one or two votes. Subsequently, on an appropriations bill, it was eliminated.

Also, this Senator has been involved in many other programs like the rail garrison MX, like some of the nuclear-tipped missiles that I thought had outlived their usefulness—especially with the fall of the Russian empire—that we could make a savings in that particular area. So I take a back seat to no one with regard to making savings and cutting expenditures in the Defense budget.

Once again, this year, you will see there has been a significant reduction in the total dollars authorized for national defense, as should be properly the case.

Let me just make a few comments, if I might, about the B–2 bomber, that continues to come under attack. I heard one Senator on the floor tonight deplore the fact that the headlines indicated that the B–2 was not killed. Well, the B–2 was not killed outright. But the B–2 has been crippled, to the place where I call it a walking skeleton with very little meat on it. Unless we can have the backing and the support of the President of the United States, this program will die a very quick death in 1992.

What we have done with the B–2 in this particular budget is to make minimum recommendations for authorization to keep the production line alive. Why is that necessary? Because those of us who think into the future, those of us who recognize that the United States of America is going to have a dramatic need for the projection of force at the command of the Commander in Chief, all around this globe, from the United States, are simply saying: Look, listen, and be rational on the B–2.

The facts of the matter are that it will require another vote in both the House and the Senate sometime next year as to whether or not the program is going to be killed outright. Unless we have more active backing and support from the Commander in Chief than we have had thus far, I predict it will die.

There was reference made to the fact that here we are spending billions of dollars more, on top of the $33 billion that we have already wasted. The statement was made that it is a waste in toto. What sense does it make to pile additional waste on top of that? It is good rhetoric, but it lacks facts.

I am pleased to see that the substantial majority in the Armed Services Committee, which has major responsibilities to look to the future, took the stand that it did and at least kept the B–2 alive until we can look at ongoing tests that are going on right now with regard to its stealthiness.

Some of the rhetoric I have heard on the floor of the Senate tonight makes me wonder how far some people do look ahead. It makes me wonder why it is obvious, in the press today, that the B–2 is something that is attacked over and over again—sometimes by what I think are inappropriate statements that have been attributed to members of the Armed Forces.

There was a big hullabaloo just recently when a top Air Force officer had indicated that the B–2 bomber probably was visible on some Soviet radar screens today, or could be picked up by Soviet radar today. The facts of the matter are that the B–2 airplane was never intended, and was fully recognized from the beginning, as not to be an invisible aircraft. The point of the matter is that only half of the story was told in the reference made by a top Air Force official.

The B–2 bomber, as far as we know now, subject to the completion of its stealthiness tests now ongoing, is not invisible nor was it ever intended to be invisible. The basic thrust of the electronics and technology that went into the B–2 was not to make it totally undetectable, but to construct it in such a manner that it could not be tracked on radar, pinpointed on radar, its direction discovered by radar—all of which things are necessary if it is to be destroyed.

Simply stated, it is easy to kill a program, and I am sure the people of the United States today, because of all the information that has been fed to them, are for killing the program. It is a popular political thing to do, to be against the B–2, unless you fully understand, unless you recognize that the main bomber force we have today, the largest part of our bomber force, is B–2's, all of which are over 30 years old. How many people in the United States of America today would like to get into a 30-year-old aircraft and fly from point A to point B? Not very many, I suggest. All of the pilots that we have flying the B–52's today were not born when the aircraft was manufactured. It is still a great airplane, but it cannot go on forever.

In addition to that, we have 98 B–1 bombers. If the B–2 fails its tests, or if the B–2 fails because of the vote of the Congress, then the facts of the matter are we should recognize that we are not going to have a bomber available other than the 98 B–1's and the few production B–2's that would be as part of our bomber force, basically no more than 105 bombers to defend and carry forward the force projection that any knowledgeable Commander in Chief would recognize that he might need at sometime in the future.

So it is indeed popular, and it is indeed politically correct to say: Forget the $33 billion that we have in this aircraft; forget the fact that the B–2 technology was basically the forerunner of that stealthy fighter aircraft that performed so very, very well in the recent Persian Gulf conflict; forget about all of that, and kill the program.

And if we kill the program, we will cripple the need for a land-based bomber in the United States capable of striking all around the world. Or, Mr. President, kill the prospect that just two fully operating and penetrating B–2 bombers, just two of them, could have carried out the raid on Libya a few years ago from a base in the United States, and eliminate all of the necessity for the large number of bombers and fighter aircraft in battle carrier groups that were rushed to that part of the world with considerable but necessary expense.

I do not think that the B–2 bomber is something that should be killed out of hand, regardless of the fact that it might be the politically popular thing to do. Those of us charged with looking into the future as to maintaining a proper force for a Commander in Chief to have under his command are saying: At least be cautious enough; at least give the stealthy tests a chance to prove the plane's worthiness, which is continuing to be attacked.

There are legitimate differences of opinion. At least I am proud of the fact, Mr. President, that the B–2 program has not been killed outright. But I simply say, it is a walking skeleton and it is not very healthy, but at least there were a majority of us who felt it was wise, looking into the future, to give the B–2 another chance before it was killed outright.

Therefore, I hope that the rhetoric that we have heard over and over again on this floor against the B–2, for those who I suggest have not taken a careful, long-range look, it should be given a chance, a minor chance, as has been directed by the Senate itself, and out of the conference that we just finished with the House of Representatives.

Mr. President, I thank the Chair, and I yield the floor.

Mr. COATS. Mr. President, I inquire how much time is remaining under the time allocated to Senator WARNER.

The PRESIDING OFFICER. The Senator has 22½ minutes.

Mr. COATS. Mr. President, I yield 10 minutes of that time to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTOR. Mr. President, I thank my distinguished colleague, Senator COATS, and the ranking member, for yielding me 10 minutes.

I cannot begin, however, until the distinguished chairman returns because I have been discussing with him informally, off the record, a colloquy. So I cannot begin until Senator NUNN returns. I ask unanimous consent that I have the 10 minutes at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. I think under the previous unanimous-consent request, the Senator from Pennsylvania is now recognized.

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition in order to be sure, really, as a precautionary matter, because I think it is fairly clear on the record which exists at the present time without this colloquy. But I have for the last few minutes been discussing with the distinguished chairman of the committee the language which appears on page 638 of the conference report which accompanies H.R. 2100, the defense authorization bill, and I refer now to the third full paragraph which begins:

> In recommending these amendments to the Base Closure and Realignment Act of 1990, the conferees reafirm the view expressed in the statement of the managers' (H. Rept. 101–923) accompanying the Defense Base Closure and Realignment Act of 1990, that actions taken under the act "would not be subject to the rulemaking and adjudication requirements (of the Administrative Procedures Act) and would not be subject to judicial review.

That is a shorthand reference to the conference report on the Base Closure and Realignment Act of 1990, which is set forth at page 706 of that report, in a more expanded paragraph, which begins: "The rulemaking (5 U.S.C. 553) and adjudication (5 U.S.C. 554)," and continuing for approximately a third of the page, end ending in the last line with "sections 2904 and 2905," that short provision which I read in full from page 638 is intended, really, to state the full lengthy paragraph, which is the last paragraph on page 706, which I have just described.

Mr. NUNN. Mr President, I say to the Senator from Pennsylvania that I followed that question very carefully, and I know this is an important matter to him and to other Senators, and also to the committee and to the people who handle this base closure legislation, including the Senator from Illinois [Mr. DIXON], the Senator from Virginia [Mr. WARNER], myself, and others.

The Senator is essentially correct. The language in this year's conference report, that is the fiscal year 1992 and 1993 conference report, on page 638, I believe it is the third paragraph, beginning with the words "in recommending" and ending up with the words "judicial review" is intended to capture the entire section on meaning that was set forth in the Defense Authorization Act for fiscal year 1991, page 706, the bottom of that page, last paragraph, beginning with the words "the rulemaking" and going through the words "commission under sections 2904 and 2905" at the bottom of page 706.

Mr. SPECTER. Mr. President, I thank Senator NUNN for that, because I wanted to make sure there was nothing intended by the current conference report, and I think that clarifies that point.

Mr. NUNN. On that specific point.

Mr. SPECTER. On that specific point.

Mr. NUNN. Right.

Mr. SPECTER. Mr. President, I have had a discussion with the distinguished chairman of the committee about some of the other matters, and these are subject to litigation which is currently in process in the case captioned "Arlen Specter versus Secretary Garrett."

In view of the lateness of the hour, I think the only other point worth making is the part of our discussion that within the Base Closure Act, that it is a fair statement that all the information which is used by the Secretary to make a decision ought to be available to Members of Congress.

Mr. NUNN. As a general proposition, I believe that to be the case. I believe that to be true. I have learned enough in this business to know that there are always unique and unusual circumstances, and I would not try to judge each case by my answer. I do know we have had a considerable amount of testimony in our committee relating to certain instances of withholding information. It just seems to me that even independent of any kind of act—and I know we reference the duty of the Secretary of Defense and others to make available to the GAO, which is an arm of Congress, informa-

VOL
137
PT
23
NO
21
—
25
1991
UMI

tion on the Base Closure Act, but even independent of that, it seems to me that the Department of Defense owes to the Congress of the United States and individual Members the obligation of making available information pertaining to these matters of base closure to the individual Members who make a request.

Mr. SPECTER. I thank the chairman for that comment. I consider that to be a very important point for a number of reasons. I think that in our society, with the separation of powers, we simply cannot function if an executive branch agency does not make available—or let me not generalize. Let me be specific—the Secretary of Defense and Secretary of the Navy do not make available to Members of Congress the information relating to a base closure so we are in a position to argue our case where the statute provides for a hearing, as the Base Closure Act does. And I would reference the specific statute in the Base Closure Act, section 2903(c)(4) which says:

> The Secretary shall make available to the Commission and the Comptroller General of the United States all information used by the Department in making its recommendations to the Commission for closures and alignments.

And as the Senator from Georgia, the distinguished chairman, has already noted, the Comptroller General of the United States, that is, the General Accounting Office, is an arm of the Congress so that whatever is made available there necessarily would be made available to the Members.

It is important under the statutory scheme when information is made available to the Comptroller General of the United States, all the information, as the statute provides, when it picks up on 2903(c)(5):

> The Comptroller General of the United States shall, by no later than May 15th of each year in which the Secretary makes such recommendations, transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

So that the statutory scheme is plain that the General Accounting Office, or the Comptroller General of the United States was to have a review of what the Secretary had done and could make that review only after having all the information that the Secretary used, and then on the date specified, May 15, which is in advance of the hearing date where Members appeared, for example, this year, on May 22 in Washington, so that the Comptroller General of the United States, that is to say the General Accounting Office, would then transmit to the Congress as well as the Commission——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPECTER. I ask unanimous consent for 2 additional minutes.

Mr. NUNN. I will be glad to yield that amount of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. So the Comptroller General of the United States, that is to stay the GAO, would submit to the Congress a report containing a detailed analysis of the Secretary's recommendations and selection process, so that the Congress, having gotten the GAO report based on all the information used by the Secretary, would be in a position to evaluate what the Secretary had done and to make an argument based upon the facts which the Congressman should have, Members of the Senate and House, and the benefits of the GAO report which the statute flatly says is to be based upon all of the facts used by the Secretary making his determination.

That is the point I wanted to make, and I thank the distinguished chairman for engaging in the colloquy. I might note the presence of the distinguished ranking Republican on the committee, Senator WARNER, and I do not want the record to be incomplete, that he was present with any disagreement. I do not want to have any adoptive omissions.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as I may require.

Mr. President, I want to say to my distinguished colleague from Pennsylvania therefore is not more diligent Member of this body as it relates to his own State and in particular those military installations in his State. He has taken a wide interest in those installations ever since I have been privileged to serve with him here now some 12 years in the Senate. In this instance he fought a brave battle.

Mr. SPECTER. Fight.

Mr. WARNER. I believe he views it as a fight still going on. But nevertheless his conduct to date has been tenacious.

Mr. SPECTER. I thank my distinguished colleague from Virginia. If I might briefly respond if for no more than a minute, I am pursuing the matter in my capacity as a Senator in Pennsylvania. That is what I do. But I also pursue it as a U.S. Senator and as a U.S. Senator am very concerned about national defense, and I think substantively I have a strong point there for the Philadelphia Navy Yard, but, even beyond the substance on the procedure, that there should be fairness, absolute fairness, which requires full disclosure by the Secretary, as the statute calls for, to the GAO and to the Commission and full disclosure to the Members of the Senate and House, and then, if full disclosure is made and the decision is made, let the chips fall where they may. But in the absence of that full disclosure and compliance with the procedures, then the law has not been followed.

I thank the Chair and yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, in my earlier remarks, I referenced a study that has just been released on the Soviet nuclear proliferation problem and the control of Soviet nuclear weapons problem and the dangers that flow from that. I also made it clear that I think it is a serious omission in this bill, that this is the principal threat we face in the world today, in my view, and that is the breakup of an empire that is the heaviest armed empire in history. They are breaking up at the same time that their nuclear and chemical weapons are not under the kind of control that I would like to see in the sense of being able to quickly carry out the agreement by President Bush and President Gorbachev to destroy tactical nuclear weapons.

The Soviets have problems in terms of transportation of those weapons. They have problems in terms of storage of those weapons. They have problems in terms of the technology required to dismantle safely those weapons. At the same time tens of thousands of people who are engaged and have been engaged in producing weapons of mass destruction, including nuclear, including chemical, including missile technology are losing their jobs. With that kind of expertise and knowledge, if we are not careful and if we do not get off our hands in terms of taking some action in the next few days, we are going to find, I think, a very serious proliferation problem and wake up sometime by the time we get back next year and find that there are Third World countires not only shopping and purchasing some of this information but also weapons themselves or the know-how to make these weapons.

So I think we have not dealt with this threat in this bill. Congressman ASPIN, and, I and others, and Senator WARNER, helped on this, and others were of help. The Senator from Michigan was a tremendous help.

We tried to put a provision in this bill that gave the Secretary of Defense money to deal with this problem and cooperate with the Soviets because their leadership wants help now and is asking for help to destroy about 15,000 weapons that have been aimed at us; to destroy weapons that we have spent trillions of dollars defending against.

We have that opportunity. We are passing it by on this bill, and I hope we do not pass it by on other bills before this session concludes. I think if we do, it will be one of the most serious omissions and one of the most missed opportunities we have had in dealing with military affairs for a long time. We will regret it for years to come if we do not take prompt action.

Mr. WARNER. Mr. President, if I could interject and state that I have certainly endorsed that part of the program as it relates to the increasing

number of nations desiring to acquire these weapons. Given the backdrop now in the Soviet Union and the problems within the Armed Forces, they become the objects of offers of dollars, offers of all types, for those Soviet officers and enlisted men to perhaps take it upon themselves. That is the danger that the distinguished chairman has put his finger on and others.

Mr. NUNN. The Senator is entirely correct. He was very much in favor of this proposition. In fact, we had a meeting this morning with the authors of this report and, Mr. President, I ask unanimous consent that adjacent to my remarks there be printed in the RECORD a summary of the report and recommendations by the Harvard group which was made this morning. I ask unanimous consent that the Recommendations and Conclusion be part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PART IV—RECOMMENDATIONS AND CONCLUSIONS

A. Encouraging and Assisting Prompt Implementation of the Bush-Gorbachev Reciprocal Unilateral Proposals Regarding Non-Strategic Nuclear Weapons

B. Extending the Bush-Gorbachev Proposals to Strategic Weapons

C. Assuring Safety and Security During a Transitional Period

D. Addressing Proliferation Outside the Soviet Union

E. Exposing the New Political Structures in the Former Soviet Union to Prevent Conceptions of Nuclear Safety and Security

F. Adjusting U.S. Military Policy to the New Nuclear Realities in the Soviet Union

The preceding Parts I–III have analyzed the dangers to nuclear safety and stability posed by the profound political changes taking place in the Soviet Union. We have noted that there are three types of danger. First, the process of devolution of political authority that is plainly taking place in the Soviet Union creates the danger that the ultimate disposition of nuclear weapons among the new political structures will not be conducive to their safety or to international stability. Second, there is a danger of seizure, theft, sale, or use of nuclear weapons or components during the period of transition, particularly if there should occur a social disintegration of the nuclear weapons operating and custodial system—apparently still intact at present—that has performed these tasks for the past forty-two years. Third, there is a danger that any weakening of control over weapons or components could result in transfers outside of the territory of the former Soviet Union, fueling nuclear proliferation worldwide.

These three dangers warrant immediate consideration of U.S. interests in the outcome of the portentous transformation in the former Soviet Union, and of the sources of U.S. influence over the course of events. Parts I–III analyzed the status of the nuclear weapons of the former Soviet Union, the political and economic changes that are overtaking them, and the existing safeguards against unauthorized or irresponsible actions. These actions also analyzed the alternative outcomes that may result, and assessed actions that could be taken to influence them in the direction of safety and stability.

In this Part IV we state the recommendations for action that, in our judgment, emerge from the preceding analysis. Most of the recommendations are addressed to the U.S. government, but others are addressed to authorities of the Soviet government, to authorities in the emerging republics, and to the world community. In order of urgency of attention, these are:

(a) encouraging and assisting prompt implementation of the Bush-Gorbachev reciprocal unilateral proposals regarding non-strategic nuclear weapons;

(b) extending the Bush-Gorbachev proposals to strategic nuclear weapons;

(c) assuring safety and security of Soviet nuclear weapons during a difficult transitional period;

(d) addressing proliferation outside the Soviet Union;

(e) exposing the new political structures in the former Soviet Union to prevailing conceptions of international stability and security;

(f) adjusting U.S. nuclear relationships and military policy to the new nuclear realities in the Soviet Union.

We emphasize that the pace and profundity of the events taking place in the former Soviet Union call for uncommon wisdom and agility by policymakers. Actions are needed now, as spelled out below. But we are also mindful that the policy will need to be adjusted constantly to accommodate a chaotically changing reality. Our recommendations will thus doubtless be adjusted in the months ahead. Whichever way events turn, the U.S. security policy community will need to remain engaged in the situation to protect the interests of the United States and the rest of the world.

A. ENCOURAGING AND ASSISTING PROMPT IMPLEMENTATION OF THE BUSH-GORBACHEV RECIPROCAL UNILATERAL PROPOSALS REGARDING NON-STRATEGIC NUCLEAR WEAPONS

The need: We have argued that non-strategic nuclear weapons are of concern because of their great number and variety and because they are more widely dispersed among the republics than strategic weapons. We have also pointed out that the system of procedural and technical safeguards that has prevented unauthorized seizure or use of these weapons for over forty years cannot be guaranteed as capable of providing a comparable future level of safety in the face of widespread social and economic disintegration of the kind that is distinctly possible in the Soviet Union. Thus removing these non-strategic weapons to central storage (perhaps passing through an interim process of disablement and multi-party custody, see below, this section) and ultimately destroying them is of critical importance.

Fortunately, political steps have already been taken to open the way for removal of many kinds of Soviet non-strategic nuclear weapons to Russia—and for their ultimate destruction—in the reciprocal unilateral proposals of Presidents Bush and Gorbachev in September 1991. Our first recommendations therefore concentrate on ensuring prompt and thorough implementation of these proposals.

Recommendations:

1. Match the boldness of the Bush-Gorbachev proposals with boldness and thoroughness of implementation. On the U.S. side, this means moving beyond "encouraging by example" to establishing a vigorous multi-agency program within the U.S. government to devise methods for movement, storage, and dismantlement of nuclear weapons jointly acceptable to the United States and the Soviet Union, and to be willing to provide Soviet authorities with direct technical cooperation in applying those methods.

2. Jointly declare the locations and types of weapons covered by these proposals. Seek the agreement of central and republic authorities that Soviet weapons covered by the agreement will be stood down from active posture immediately and withdrawn to deactivation sites in the Russian Republic and be prepared for eventual destruction.

3. Jointly declare a detailed timetable for implementation of the proposals, to complete implementation by March 1, 1992.

4. Where practical difficulties preclude relocation of all involved weapons to central deactivation sites by March 1, 1992, arrange for:

(a) disabling those weapons in place so they are unusable in their existing form; and

(b) the United States and authorities of the former Soviet Union to request the technical assistance of the International Atomic Energy Agency in providing extraordinary safeguards for these weapons and their nuclear materials. These safeguards would include a detailed accounting of the weapons and material being monitored and the presence of international observers outside the perimeter security fence of facilities where the weapons are deployed or stored.

These safeguards would enhance security against unauthorized seizures and allow newly independent republics of the former Union to accede without delay to the Nuclear Non-Proliferation Treaty as non-nuclear weapons states, even if weapons are still located on their territory.

5. Extend U.S technical cooperation with appropriate central and republic authorities to remove bottlenecks in the implementation of the Bush-Gorbachev initiatives, and to overcome problems in the transport of weapons, disabling or dismantling of weapons, or storage of special nuclear materials.

6. Declare that the United States expects the Bush-Gorbachev proposals to be implemented by the Union of Sovereign States and any successor states to the former Soviet Union.

7. Agree that efforts by parties to impede implementation of the agreement are a matter of joint concern, and that the United States will cooperate with the legitimate successor governments in defeating such efforts. Further agree that any nuclear weapons or sensitive weapon-related items that are seized or held hostage by outside parties are a matter of joint concern, and that the United States will cooperate with legitimate authorities to defeat them.

8. Extend technical cooperation to authorities charged with the recapture of nuclear weapons or sensitive weapon-related items seized by unauthorized parties.

9. Encourage Union naval authorities to follow the U.S. lead and henceforth not allow ships (other than submarines carrying SLBMs) to put to sea with nuclear weapons.

10. Invite NATO allies and other nations to join in providing the technical cooperation recommended in this and subsequent sections.

Additionally, cost-sharing agreements can be made with authorities in the former Union. Finally, work performed in the former Soviet Union pursuant to these recommendations can be conducted by U.S. firms operating in the former Soviet Union (e.g., building new storage and deactivation sites for nuclear weapons), which firms would be recipients of funds allocated for these purposes.

B. EXTENDING THE BUSH-GORBACHEV PROPOSALS TO STRATEGIC WEAPONS

The need: The Bush-Gorbachev initiatives deal mainly with non-strategic rather than strategic nuclear weapons. Strategic weapons are obviously a special concern to the United States since they are capable of striking targets in the United States directly. The fate of strategic weapons is more complicated than the fate of non-strategic weapons. If the Bush-Gorbachev agreement is implemented promptly as outlined above, strategic weapons will soon be the only weapons located outside the Russian republic. The fate of these strategic nuclear weapons may therefore determine the nuclear status of Ukraine, Byelorrussia, and Kazakhstan. These republics have greatly simplified these questions by stating their intention to be nuclear-weapons free.

We have argued that a single nuclear power should emerge from the political change occurring in the Soviet Union, that day-to-day control over the arsenal should remain undisturbed from established patterns, that republics that secede from the Union should be non-nuclear, and that removal of nuclear weapons from these newly independent states should take place as soon as possible in concert with a great nuclear builddown that would not simply transfer all the nuclear weapons of the former Soviet Union to the republic. We further pointed out the absence in any republic except Russia of the technical means for full-cycle operation and maintenance of a nuclear arsenal and the consequent practical necessity of the republics to work together to maintain responsible custody of the arsenal during the period of removal and builddown.

We believe that there are a number of near-term policy steps that the United States could take in an effort to increase the likelihood that nuclear outcomes in the former Soviet Union match U.S. interests and preferences.

Recommendations:

1. Reaffirm long-standing U.S. non-proliferation policy as opposing any increase in the number of nuclear weapons states.

2. Reaffirm U.S. policy which supports leaving the day-to-day operational structure of central control of nuclear weapons of the former Soviet Union undisturbed, even as the structures for political decisionmaking may change.

3. Affirm U.S. policy that successor states to the former Soviet Union should carry out the obligations of the Strategic Arms Reduction Talks (START) and Conventional Forces in Europe (CFE) treaties.

4. Immediately open discussions aimed at taking steps to implement weapon destruction and inspections called for in the START treaty on an accelerated timetable, including such steps as can be taken before ratification is complete. In parallel, take steps to hasten ratification. Minor modifications to the treaty should be entertained if they would hasten removal of nuclear weapons from non-Russian republics.

5. Accept the stated intentions of Ukrainian, Byelorussian, and Kazakh authorities to join the Nuclear Non-Proliferation Treaty as non-weapons states, and pledge U.S. technical cooperation to assist in the prompt removal of nuclear weapons from their territory. Emphasize that this step can be accomplished as part of the implementation of the START treaty. Encourage republican authorities to state their intention to work with the existing authorities that manage custody and movement of nuclear weapons to ensure continuing safety and security during the transitional period. Such a relationship can involve close consultation but need not involve shared custody or technical means of shared control over use of weapons. State the U.S. view that the legitimate security needs of new states emerging from the Soviet Union can be assured by the international community, that nuclear weapons will not address those legitimate needs, that the cost and complexity of proliferation would be very great in view of the near total absence of relevant facilities on their territories for operating or maintaining a nuclear arsenal, and that any emerging state that did not live up to its obligations under existing international treaties and regimes would lose the political and financial support of the international community.

6. State U.S. willingness to support the same kind of extraordinary safeguards of strategic weapons proposed above for non-strategic weapons, if such safeguards prove desirable.

7. State the U.S. intention to destroy weapons as well as delivery vehicles as part of the implementation of the Bush-Gorbachev agreements and START. Encourage Soviet authorities to follow suit, and offer U.S. technical cooperation in this process.

8. The United States will continue to have grounds for engagement with nuclear issues in Soviet Eurasia and should continue its attempts to exert positive influence no matter what path events take in the former Soviet Union. The U.S. could, for example, help devise arrangements for multi-party participation in nuclear decisionmaking, involving voting and vetoing procedures, that widen participation without loosening control. It could encourage the emergence of an arms control process among the former Soviet republics to minimize frictions and arms competitions that might arise among them. But the U.S. should also be prepared to adjust policies rapidly in reaction to outcomes that are disappointing from the U.S. point of view. It is distinctly possible that the United States will need to cope with outcomes it does not prefer but cannot prevent. Nuclear weapons may remain distributed across a number of the republics. Centralized control of the Soviet nuclear arsenal may erode or collapse. Successor state proliferation may occur. These outcomes would result in a more complex nuclear order and would pose more difficult challenges for U.S. policy. But the U.S. (as well as the broader international community) would continue to have a large interest in seeing that such arrangements are as benign as possible and that the adverse consequences of such outcomes are minimized. The preceding Parts I–III provide the basis for such adjustments to these recommendations if they prove necessary.

C. ASSURING SAFETY AND SECURITY DURING A TRANSITIONAL PERIOD

The need: While the procedures described above leading to the destruction of many types of Soviet non-strategic and strategic nuclear weapons are occurring, there will be a continuing need to assure the safety and security of weapons and components from seizure, theft, sale, and other unauthorized actions. The custodial system that has maintained safety and security of Soviet nuclear weapons for forty-two years is apparently intact at this writing. But we have argued that nuclear command and control is a social as well as a technical system, that the key safeguards against unauthorized actions built into this system are procedural rather than technical, and that not all Soviet nuclear weapons have the newest and most sophisticated coded locks and other technical safeguards. The nuclear command, control, and custodial system therefore cannot be safely presumed to be immune from systemic disintegration of the military and social systems in which it is embedded. Thus special attention must be given to the integrity of the custodial system, and to the morale of its personnel in this time of social upheaval.

Recommendations:

1. Carry out the steps outlined in (A) and (B) above.

2. Send U.S. technical teams to Moscow to explore mutually agreeable steps to improve safety and security, including U.S. technical cooperation in transport, storage, disablement, and dismantling of nuclear weapons and sensitive weapons-related components.

3. Provide technical cooperation to carry out the contraction and conversion to civil activities of the Soviet nuclear weapons complex.

4. Do not emphasize the retrofitting of technical devices such as Permissive Action Links or post-launch missile destruct devices onto Soviet nuclear weapons, as these steps cannot be carried out with the speed appropriate to the situation and might distract from more useful actions. Likewise, installation of cooperative warning systems is of secondary importance.

D. ADDRESSING PROLIFERATION OUTSIDE THE SOVIET UNION

The need: Economic disorder within the Soviet nuclear weapons complex—comprising facilities and trained personnel for producing and storing special nuclear materials, and for designing and fabricating nuclear weapons and components—creates a potential source of nuclear proliferation outside the Soviet Union unlike any ever faced by the non-proliferation regime. Nuclear materials, sensitive non-nuclear components of nuclear weapons, the talents of skilled bombbuilders, and even entire nuclear weapons might find their way onto world markets. These world markets have been demonstrated to be lavish in the prices that some nations are willing to pay for nuclear weapons technology. Hard-currency strapped Soviet enterprises and individuals will therefore be tempted by smuggling and sale. If systemic disintegration of the nuclear weapons production and custodial systems begins to take place, the world could see a diaspora of military technology not seen since the Nazi rocket scientists emigrated from Germany after World War II.

Recommendations:

1. Take steps (A)–(C) above.

2. Establish an intelligence liaison with appropriate authorities in the Soviet Union to share information about potential export of nuclear-weapons related materials outside of the Soviet Union.

3. Encourage legislatures in the republics to enact promptly strict export control legislation covering nuclear-weapons related technology in the republics, and encourage the establishment of strong enforcement mechanisms. Invite republics to become members of existing international control regimes as soon as they have put the necessary control mechanisms in place.

E. EXPOSING THE NEW POLITICAL STRUCTURES IN THE FORMER SOVIET UNION TO PREVAILING CONCEPTIONS OF NUCLEAR SAFETY AND SECURITY

The need: Entirely new political figures and structures are clearly taking power in the territory of the former Soviet Union in the course of the ongoing process of liberalization and democratization. Many have no prior experience in managing security

affairs, let alone in managing full-cycle production, maintenance, custodial, and command and control systems for nuclear weapons. Many will have had little exposure to prevailing conceptions of nuclear stability and nuclear safety as these have developed over half a century of superpower custodianship of nuclear weapons. It is important that these new participants in the ongoing security dialogue with other nations be exposed to the best thinking about how to solve their security dilemmas peacefully, about norms of behavior that prevail in the international community, and in particular about the limitations of nuclear weapons as guarantors of military security. It is also important that these new actors on the world stage have the experience of being dealt with fairly and respectfully by the world diplomatic community.

Recommendations:

1. Engage emerging security policymakers in the republics in a broad security dialogue not confined to nuclear weapons-related matters, and expose them to the best international thinking about how their legitimate security needs can be met with international cooperation.

2. Encourage contact between emerging security policymakers in the republics and their counterparts in the West—both inside government and outside of government. The extra-governmental community that was instrumental in promoting understanding of security dilemmas and in devising innovative approaches to solving them during the Cold War has an obligation to turn its understanding and operating methods to the problem of Soviet nuclear devolution.

3. Continue and extend U.S.-Soviet military-to-military contacts. Be prepared to extend these to new military organizations in the republics if and when they emerge.

F. ADJUSTING U.S. MILITARY POLICY TO THE NEW NUCLEAR REALITIES IN THE SOVIET UNION

The need: The United States is accustomed to conducting its nuclear policy in the cold war context, that is, assuming a hostile and uncooperative but internally coherent Soviet Union. This context for strategic policymaking is now clearly called into question. The United States should recognize that the new situation raises opportunities as well as dangers. We believe that the United States should be prepared to think and act boldly in making adjustments to the dramatic change in the nuclear threat. Though we have not analyzed the full spectrum of adjustments to U.S. nuclear posture, deployments, and doctrine that might be warranted in view of the changes occurring in the Soviet Union, we make the following general recommendations.

Recommendations:

1. Offensive Nuclear Forces. The United States should be prepared to make more dramatic adjustments in its nuclear posture with the objective of promoting desirable nuclear outcomes in the former Soviet Union. This requires that unilateral moves and arms control proposals and agreements be evaluated not only in the context of traditional strategic concerns with stability, but in the light of the new and continuously changing political situation in the former Soviet Union and with an emphasis on their possible effects on the custody and control of the Soviet nuclear arsenal. We believe that a number of further steps beyond START, such as elimination of land-based ballistic missiles, de-MIRVing, and prompt movement toward deeper cuts, merit careful consideration because they might both reduce worries about nuclear spread in Soviet Eurasia and contribute to a desirable strategic nuclear relationship with the nuclear successor state.

2. Strategic Defense. The prospect of small-scale accidental or unauthorized launch by elements of the nuclear forces of the former Soviet Union has caused heightened U.S. interest in ballistic missile defenses. Our analysis bears on this point in two respects. First, unauthorized launch of ICBMs or SLBMs is only a small part of the overall problem of command and control of the Soviet nuclear arsenal during this period of political turmoil. Second, a purely unilateral initiative by the United States to develop and deploy robust strategic defenses at this time might affect the willingness of authorities of the former Soviet Union to ratify and implement the draft START agreement, which, as emphasized above, is an important policy tool for influencing the destiny of strategic weapons in the republics. Any U.S. initiative on strategic defenses should therefore be made through thorough consultation, and in the context of the START process.

3. The Alert Status of U.S. Nuclear Forces. In Presidents Bush and Gorbachev's reciprocal unilateral proposals of late September and early October, which dealt mainly with non-strategic nuclear weapons, steps were also proposed and subsequently taken to relax the alert postures of strategic bombers and ICBM's. Underlying these moves was the apparent judgment, which we share, that the traditional uses of high alert rates—for enhancing force survivability and for political signalling in crisis—were no longer justified in the new political setting. In particular, benefits of high alert rates were outweighed by the risks that high alert postures would contribute to the risk of accidental or unauthorized actions with nuclear weapons, and that changing alert rates in response to changing political fortunes could trigger anxiety and thus increase the chances of nuclear war. In this connection, we recommend that U.S. nuclear force commanders seek additional relaxations of operational practices, where consistent with stability, and encourage their Soviet counterparts to reciprocate.

Mr. NUNN. Mr. President, it would be my hope that working together with the Senator from Virginia, the Senator from Michigan, the Senator from Oklahoma [Mr. BOREN], who has been very active in this, the Senator from Indiana [Mr. LUGAR], who is taking a real leadership interest in this matter—working with these individuals on both sides of the aisle, I hope somehow we can strike the interest of the White House in this proposition; not only the interest, because I think they are interested. But they are not leading. They are not leading in this respect.

Without the President's involvement and without White House leadership, it is going to be very, very difficult to overcome opposition to what some perceive to be a foreign aid request. This is not foreign aid. This is in the national defense of the United States.

People say to me, well, we think you are right, but our constituents want us to protect America now in the sense of turning our attention to domestic matters. Mr. President, I cannot think of anything more important in protecting Americans than reducing the military threat that we face when we have an opportunity to do so. And I cannot think of anything more important to the American people than trying to avoid proliferation of weapons around the world, to the Saddam Hussein's of the world, that will come back to haunt us in the future.

To those who are saying how can we afford to spend $1 billion out of the defense budget or $500 million out of the defense budget for this purpose, my answer is how can we afford not to when we may very well spend literally hundreds of billions if not trillions of dollars in the years to come to protect against and to deter and defend against a proliferated threat around the world that has come from the arsenal breakup in the Soviet Union while we sat by and did nothing about it.

I think it would be a very serious error. I regret very much that this is not part of this bill. I will be working with my colleagues as diligently as possible until we adjourn to try to correct this omission, and to try to take affirmative action giving the Secretary of Defense discretion, giving him discretion and funding, to take the kind of action needed in the immediate future.

Mr. WARNER. Mr. President, could I say to my good friend, the chairman, that following the breakfast meeting this morning, Senator BOREN and I had the opportunity to meet privately with the Director of the Central Intelligence Agency, Mr. Gates, at which time we shared with him much of the discussions that we had with our group this morning.

He absolutely, indeed, expressed an interest in this subject. He was quite knowledgeable on it and conveyed to us I think some helpful guidance. That in turn was relayed to the national security adviser, and to the President. So, as the Senator mentioned, as we speak, the President and his staff are considering this matter once again.

Mr. NUNN. Mr. President, I thank the Senator from Virginia. I am delighted to hear that. I also would say I talked at length with Deputy Secretary of Defense Atwood, who just returned from the Soviet Union, who also believes—and I do not think he minds me quoting him since he was quoted in the Associated Press and other places—I think he believes this is one of the great threats we face. And I think it is safe to say he believes we ought to do something about it.

What we have is a lot of key individual people in the administration that believe we ought to do something about this, but we do not have the kind of leadership we need right now. I hope we will have it in the next 24 hours or so from the White House itself.

I yield to Senator from Michigan.

Mr. LEVIN. Mr. President, if the Senator will yield for one moment, then I will sit down so the Senator from Florida can make a brief statement. I will

VOL 137 PT 23 NO 21—25 1991 UMI

get back on the floor and spend a few more moments relative to the bill.

But first of all, I want to thank the Senator from Georgia. He has labored just ceaselessly to try to get into this bill a provision which is manifestly in the security interests of the United States, a provision which could lead to the direct dismantlement of nuclear weapons in what was once the Soviet Union.

As he has said, I cannot think of any provision which would more directly reduce the threat to our security than the provision which reluctantly was dropped from this bill. The proliferation which is threatened by the disintegration of the Soviet Union with tens of thousands of nuclear weapons is a threat, a manifest threat to American security. I have been gravely troubled by the fact that that provision was dropped.

Later on, I will explain why I have decided to vote against this bill, principally for that reason. I am that troubled by our unwillingness to see that it is clearly in our interest to dismantle Soviet nuclear weapons before they get into the hands of the crazies in this world.

I am very reluctant to vote against this bill because of the work which the Senator from Georgia, the Senator from Virginia, and so many others have put into this bill. I participated in this bill. I am proud of most of it. But again I am so troubled by the decision to drop this, which I know the Senator from Georgia had no alternative to do; that I have decided to express that feeling on my part by voting against this bill.

I want, before the Senator from Georgia leaves—I know he has to leave—to look him in the eye and tell him how proud I am of the work that he last done, how much I support it, how much I will continue to work with him to try to get this kind of an American security provision into this bill. I just wanted him to hear from me how much this country is in his debt for leadership which he continues to show in this effort.

I want to also thank our friend from Virginia for his joining now in trying to put together this provision in another vehicle.

Mr. NUNN. Mr. President, I thank my friend from Michigan. I cannot think of anyone who works more diligently, and is more effective on our committee than he is. He chairs the Conventional Forces Subcommittee. He does a tremendous amount of work. He is diligent, he is attentive, he is always there, he is always reading carefully every provision, and he is always contributing constructively.

A perfect example is this provision here. The Senator from Michigan has been a leader in getting this before the Senate. He has been a leader in our committee in trying to get it passed. I think his leadership, hopefully, will pay off before this session is over.

Mr. President, I find it very strange that anyone could take the position that when you are trying to put up some money that the Secretary of Defense would have discretion over to cooperate in the storage, safe storage and the destruction and dismantlement of nuclear weapons that have been pointing towards this country and our allies for the last 30 years, that someone would stand up on the floor of the Senate and behave as if this is a foreign aid provision, the equivalent of providing money to build a dam in some country in Africa, Asia or some other foreign aid provision.

I find it incredible that some of our colleagues believe that the American people cannot make this distinction. I have so much more confidence in the American people, in their ability to distinguish between dealing with a military threat and reducing that threat and avoiding the Saddam Husseins of the future attempting to gain nuclear control and knowledge. I have great confidence that the American people can make this distinction. Yet, some of our colleagues are saying, you are right, I do not believe our constituents will understand.

Mr. President, I think it is time for us to have leadership here in the Senate, leadership in the House, and leadership from the White House; without that, we will not make it. But we will be trying, and I am hoping we will have that leadership develop in the next few hours.

Mr. President, I know the Senator from Florida wants to be recognized. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes 33 seconds.

Mr. NUNN. How much time remains on the other side?

The PRESIDING OFFICER. Ten minutes 9 seconds.

Mr. NUNN. I yield the remainder of my time under the control of the Senator from Michigan.

Mr. WARNER. Mr. President, parliamentary inquiry. Do we now return to the pending DOD authorization?

The PRESIDING OFFICER. The Senator is correct.

Mr. GLENN. Mr. President, I rise in support of the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993.

Both the House and the Senate went through very trying times this year in producing this piece of legislation, and after the longest Defense authorization conference in my memory, we finally got a product, and I think it is a good one.

As a member of the Senate Armed Services Committee and chairman of the Manpower and Personnel Subcommittee, I want to recognize the extraordinary and successful efforts of Chairman NUNN, and ranking member Senator WARNER in leading the committee in this particularly fractious year for defense. Also, my appreciation to Senator McCAIN for his work as the ranking member of the Manpower Subcommittee; we work very closely together on all issues before the subcommittee.

Mr. President, today I will offer some rather detailed comments and assessments on manpower issues. Following these manpower comments I will discuss, in brief terms, some procurement and management issues that I feel are particularly worthy of note.

Mr. President, as chairman of the Subcommittee on Manpower and Personnel, I can say that the conference report contains military personnel provisions that provide for the combat readiness of our men and women in uniform, and for their quality of life.

Last year, we put the military services on a gradual glidepath that would result in a 22-percent reduction in active duty strength over 5 years—a reduction driven by the substantial easing of tensions in Europe. At the same time the Congress approved this plan, it provided a generous safety net of benefits for military personnel who might be involuntarily separated as a result of the strength reduction plan.

Since then, we have engaged in, and successfully concluded, the Persian Gulf conflict. In spite of the tremendous amount of personnel turbulence that this operation has had on the military services, they have shown great resilience in getting back on the strength reduction glidepath we set out before the conflict. I would note that in hearings we had on this matter, each service personnel chief testified that the strength levels in the President's budget request, which do place each service back on the glidepath we set out last year, were achievable and prudent.

MANPOWER STRENGTH LEVELS

So the conferees approved the active duty end-strength levels requested by DOD for each of the services for fiscal years 1992 and 1993. The levels reduce the active duty force by 106,358 from current levels in fiscal year 1992 and another 91,900 in fiscal year 1993.

At the same time, the conferees were increasingly concerned that these, and even greater strength reductions in the future, could require the involuntary separation of a substantial number of career military personnel. Therefore, the conferees authorized a program to encourage voluntary separations to avoid involuntary separations as the military services builddown.

Under this program, certain categories of military personnel who face the possibility of selection for involuntary separation would be offered the choice of two incentive packages to voluntarily separate.

Under the first option, such a volunteer could receive a lump sum payment

of 15 percent of basic pay multiplied by the number of years of service of the volunteer. For example, in the case of an E-6 with 10 years of service, the lump sum payment would be $27,000. Such a volunteer would also be eligible for certain transition assistance, such as temporary military medical coverage, employment assistance, commissary and exchange shopping, temporary military housing, relocation assistance, and leave and travel benefits.

Under the second option, such a volunteer could receive an annuity of 2.5 percent of basic pay, multiplied by the number of years of service of the volunteer, to be paid out over twice the number of years of service of the volunteer. For example, in the case of an E-6 with 10 years of service, the annuity would be $4,500 per year for the next 20 years, or $90,000 in current dollars.

In addition to these incentives, the conferees provided the Secretary of Defense with the authority to waive the active duty strengths prescribed for fiscal year 1992, and to transfer funds to the manpower account to fund higher strength levels to avoid involuntary separations.

Mr. President, I believe that the Department of Defense should be able to avoid involuntary separations by prudently exercising these authorities.

MILITARY PAY AND COMPENSATION

Mr. President, with regard to military pay and compensation, the conferees approved a 4.2-percent pay raise for military personnel, effective January 1, 1992. This will give our men and women in uniform a pay raise that matches the average civilian wage and salary increase expected in the private sector.

The conferees also approved a number of other targeted compensation initiatives that provide certain benefits for military personnel and their families, including permanent increases in imminent danger pay, death gratuity pay, and family separation pay; a program to reimburse military families for adoption expenses; and reimbursements for certain travel expenses.

I think it is fair to say that we have provided a very decent compensation package, given the pressures on the Defense budget.

MEDICAL PROGRAMS

Mr. President, the conferees also approved a number of provisions to improve certain medical benefits for the families of military personnel, and to contain the cost of medical care in the Department of Defense.

Some examples include the authority to expand the existing dental insurance program for military dependents, to include a supplemental option offering broader dental care coverage; the provision of hospice care; the restoration of certain CHAMPUS benefits to beneficiaries who lose the benefits because of disability; the simplification and enhancement of CHAMPUS payment procedures; and the flexibility to manage, more efficiently, alternative forms of contracted medical care.

The conference also approved, with minor modifications, Senate-passed language relating to the current CHAMPUS reform initiative contract for California and Hawaii. The language adopted is designed to ensure that the Department may rebid this contract, which by its terms expires on January 31, 1993, without regard to any limitation on the availability of funds for that purpose, regardless of whether that limitation is enacted before, on, or after the date of enactment of this legislation.

Moreover, the language provides that any such limitation may not be treated as constituting or requiring the extension of that contract beyond the expiration date of the contract. In other words, if any appropriations measure enacted by the Congress prohibits or limits expenditure of funds for the purpose of rebidding the contract, that limitation will not constitute a justification for extending the contract thereby avoiding the normal competitive bidding procedures required by applicable procurement laws and regulations.

MILITARY PERSONNEL MANAGEMENT

With regard to improvements in military personnel management, the conferees approved provisions that provide for more effective management of the officer corps in terms of providing more equitable procedures for the appointment of regular officers, strengthening committee oversight on the utilization and retirement of senior officers, prescribing uniform rules for the management of warrant officers, and strengthening officer promotion procedures. These recommendations are consistent with our policy of providing a healthy, competitive environment in the military services that encourages professional excellence.

PERMANENT BENEFITS FOR PERSONNEL SERVING IN SUPPORT OF FUTURE OPERATIONAL CONTINGENCIES

Mr. President, as Senators will recall, we passed a number of provisions in the National Defense Authorization Act for fiscal year 1991, and in the Persian Gulf Authorization and Personnel Benefits Act of 1991 that updated and enhanced certain benefits, and corrected certain inequities in the way activated reservists were compensated. The conferees approved, as part of its Persian Gulf lessons learned provisions, making permanent these authorities which we had previously enacted as temporary authorities for Desert Shield/Desert Storm for certain active duty and activated reservists engaged in future contingencies.

Mr. President, there were two manpower issues that we spent a lot of time on this year, and I want to make sure that the rationale for the action taken by the conferees on them is clear. The two issues deal with the personnel strength levels for the National Guard and Reserve components, and on the establishment of a commission to study and report on the assignment of women in our military services.

SELECTED RESERVE STRENGTH

With regard to the first issue—selected reserve strength levels—the conferees approved substantially smaller reductions than requested by DOD.

For fiscal year 1992, DOD requested a reduction in Selected Reserve end-strength of 105,076, and a further reduction in fiscal year 1993 of 79,800, a cumulative reduction of 16 percent over 2 years. The conferees approved 36 percent of the requested reduction in fiscal year 1992—a reduction of 37,580 instead of the 105,076 requested—and 40 percent of the requested reduction in fiscal year 1993—a reduction of 33,505 instead of the 79,800 requested. The committee's action would still reduce Selected Reserve end-strength by 6 percent over 2 years, reflecting the Reserve support tail associated with the reductions in the Active component.

Quite frankly, the conferees found that the large 16-percent cut proposed by DOD lacked any sound force-structure basis. Instead, Defense witnesses testified that the cut was basically budget driven. The National Guard and Reserve components were given numbers to hit and given the job of pulling out units.

Mr. President, this approach led to incomprehensible results. For example, the Navy proposed to deactivate two Navy Reserve minesweeping squadrons to get down to its budget-driven Selected Reserve end-strength. This is completely at odds with the serious problems the Navy had with mines in the Persian Gulf. Two ships were damaged, one extensively, by mines. It took the Navy nearly 2 weeks to clear the mines so that one of the battleships could get close enough to Iraq to use its 16-inch guns. Further, General Schwarzkopf testified that he could not risk an amphibious landing by the Marine Corps because of lack of minesweeping capabilities in the Navy. Yet, because of having to achieve an end-strength that is almost purely budget driven, the Navy wants to cut its minesweeping capability. This does not make any sense, and the conferees have prohibited this cut in the conference report.

Another example is DOD's planned 21 percent reduction in Marine Corps Selected Reserve end-strength. How can this make sense when 55 percent of the Marine Corps Reserve had to be activated for the Persian Gulf conflict? Specifically, in order to implement the proposed reduction, the Marine Corps plans to deactivate a tank unit that fought with distinction in the Persian Gulf war. With regard to this unit, DOD's interim report on lessons learned stated:

VOL
137
PT
23
NO
21–25
1991
UMI

> Postmobilization training was, for the most part, well supported by the Active Component, and was effective. Perhaps the best example of the effectiveness of this training is found in Company B of the 4th Tank Battalion, 4th Marine Division. This unit had been equipped with M60A1 tanks, a system that is much different than the more modern M1 and M1A1. When this unit was activated in November, it completed a 23 day M1A1 training program in 18 days. The unit arrived in Saudi Arabia on 19 February and went into battle on 24 February. In four engagements during the course of the war, Company B destroyed 59 enemy tanks, about half of which were T–72s, without losing one of its tanks.

How can pulling this unit out make sense?

The Navy and Marine Corps examples are but two of the many chaotic actions that the Reserve components would have to take if the Selected Reserve end-strengths proposed by the Department of Defense were to be approved.

So the conferees took the responsible action of recommending Selected Reserve end-strengths that preserve the combat readiness of the National Guard and Reserve components.

COMMISSION ON THE UTILIZATION OF WOMEN IN THE MILITARY

Mr. President, with regard to the issue of the assignment of women in the military, I believe we all acknowledge the outstanding contributions women serving in our Armed Forces have made to the national defense, despite laws and DOD policies that restrict their assignment from certain combat skills and positions. Today, women in the military serve in many extremely demanding roles. Some of these roles expose women to the risk of death in combat. Most recently, women have performed under such conditions in the Persian Gulf conflict.

Mr. President, we debated, on the floor of the Senate, the issue of what we should do about the so-called combat exclusion laws that prohibit women from being assigned to combat aircraft and combat ships in the Air Force and the Navy. It was the will of the Senate that we should repeal the combat exclusion laws with regard to assignment of women to combat aircraft, but retain the law with regard to the prohibition on the assignment of women to combat ships in the Navy. I spoke out against such action because I thought we should have a Commission conduct a comprehensive study of all aspects of this issue and make recommendations to us on the basis of its findings before we acted to change any laws. I still believe that my position is defensible on the merits; however, the majority of my colleagues thought otherwise. So the conference report contains a provision that repeals the statutory bars on the assignment of women to combat aircraft.

At the same time, the conferees approved a provision that would require the President to appoint a Commission to study and report on the assignment of women in the military. The Commission would consist of 15 members who have distinguished themselves in the public sector and in the private sector, and who have had significant experience in matters: such as social and cultural matters affecting the workplace; constitutional and other law; the effects of medical and physiological factors on job performance; military personnel management; and service in the Armed Forces in land, air, and sea combat.

The Commission could request, and the Secretary of Defense could waive all other laws or policies that restrict the assignment of women during the conduct of the study so that appropriate tests of assignment of women to combat skills and positions can be conducted.

The Commission would be required to submit its report to the President by November 15, 1992, and the President would be required to submit his comments and recommendations on the report to the Congress by December 15, 1992.

The Commission would be required to make specific recommendations with regard to whether existing law and policies governing the assignment of women in the military should be retained, modified, or repealed; what roles women should have in the military, including what, if any, roles women should have in combat; what transition process is appropriate if women are to be given the opportunity to be assigned to combat positions in the military; and whether special conditions, and different standards, should apply to women than apply to men performing similar roles in the military.

Mr. President, I think that establishing this Commission addreses many of the concerns I had raised on the floor of the Senate when I opposed the partial repeal of the combat exclusion laws. At this point, I think this is a very responsible approach for us to take on this very complicated, sensitive issue. I believe that, when we receive the results of the Commission's work, we will be able to act more positively by spelling out what we believe the role of women should be in each of our military services.

Mr. President, overall the conference report provides the personnel management tools that the military services need in these difficult times. It also recognizes the sacrifices that our men and women in uniform make every day to provide for our national security. As pressures grow to reduce the Defense budget, we cannot forget the vital human element, and I for one intend to continue to keep this as a high priority in the future.

Mr. President, I now move to some comment on some other defense authorization issues.

It is no secret that the B–2 stealth bomber was a major bone of contention in the conference. Given the strongly held views on both sides of the issue, I feel that the conference outcome on the B–2 was reasonable; namely, to authorize only one new production B–2 aircraft in 1992, but making release of the production money contingent on a further affirmative vote by both Houses of Congress next spring. Quite frankly, my personal view is that B–2 procurement should terminate at the 15 aircraft already funded—and I would hope that the Congress does not release the money for the 16th aircraft. It just makes no sense to beggar the Air Force budget, indeed the whole defense budget, to buy aircraft that at an absolute minimum will cost $865 million per copy.

That leads me to the B–1 aircraft. We have put over $28 billion into this heavy bomber; of the 100 aircraft produced we still have 97 in the inventory, but they have been languishing because of the refusal to address realistically some avionics deficiencies, and because of the delay by the Air Force in qualifying weaponry on this aircraft that it is perfectly capable of carrying. This country needs a heavy conventional bomber, the B–1 is capable of operating in sizeable numbers, and it is high time the Air Force gets on with implementing a B–1 conventional modernization program that takes full advantage of the aircraft's potential. Accordingly, the conference bill directs that such a B–1B bomber improved conventional capabilities plan be drawn up.

Another very important program, the V–22 Osprey tiltrotor aircraft, was funded this year to provide for development, manufacture, and operational testing of three production representative aircraft. This is an important breakthrough for this program that I contend will revolutionize low speed aviation not only in the military, but also in the longer term in commercial aviation. It is important that DOD, the Congress, and the manufacturer keep this program on track in order to ensure that tiltroter technology is not delayed in being incorporated into the operational inventory.

Mr. President, regarding the strategic defense initiative, I am in strong disagreement with the provision in this Conference agreement authorizing $4.15 billion for SDI in fiscal year 1992 and directing deployment of an ABM Treaty compliant system. I strongly disagree with this provision and the unnecessarily high funding level authorized for SDI. I opposed the deployment provisions and supported lower funding levels for SDI both in the committee markup and on the Senate floor.

While I have always supported a solid strategic defense research program, I am unconvinced that deployment of a strategic defense system is necessary, desirable, or even technically feasible. Clearly, with the failed coup attempt in the Soviet Union, the strategic relationship between the United States and the Soviet Union is more stable now than it has ever been since the end of World War II. Furthermore, I believe that the direct threat to the United States posed by accidental or unauthorized launches is extremely remote.

In addition, the proliferation of ballistic missiles in the Third World is also cited as a major justification for deployment of a strategic defense system. While no one should downplay the dangers posed by the proliferation of ballistic missiles, it is important to remember that ballistic missile proliferation raises more concerns about regional stability than about any direct threat to the United States. I do not share the view that the United States needs to rush out and spend billions of dollars to deploy even a limited SDI system to protect against the possible future threat of some Third World country lobbing a nuclear-equipped ICBM at the United States.

In short Mr. President, the Conference's action on SDI is a needless waste of increasingly scarce resources and threatens to be destabilizing.

I am pleased that the conferees agreed to include my language authorizing the Secretary of Energy to award up to $10 million in training grants to train and educate workers who are, or who may be, engaged in hazardous substances response activities, and to assess civil penalties up to $5,000 a day for each day contractors fail to certify to DOE that they have provided adequate hazardous waste training to workers.

This provision does no more than require the DOE to assure that hazardous waste workers are trained as they are in the private superfund program. This language is a mirror image of what is already in the current superfund law for private sites, which has been working successfully for 5 years now.

With three DOE facilities in my home State, I have become increasingly concerned over the lack of adequate training that DOE workers are receiving. This problem was also underscored in great detail by the recent review of worker safety at DOE by the Occupational Safety and Health Administration. At one site, workers were found to be machining hazardous wastes without proper protection and training. If this had happened at a private superfund site the contractor would be fined. However, although DOE can fine contractors for nuclear safety violations, under the Price-Anderson Act, contractors are not held accountable for nonnuclear worker-safety violations that may pose an equal or even more severe danger.

Without adequate training, many current DOE workers may not be able to keep their jobs because of the lack of proper skills. At the Fernald Facility in my home State this is not an abstract issue. Since 1988 some 500 people have lost their jobs. In its report to Congress this year, regarding the end of Fernald's production mission, DOE was unable to verify if Fernald workers had been adequately trained for hazardous waste work.

Work with hazardous substances will be a major component of DOE activities during the coming decades. DOE has estimated that during the next 5 years the most hazardous environmental restoration work will occur. This will involve efforts to prevent the spread of contamination and prevent unfortunate near-term public health impacts. This work presents immediate hazards to workers at sites not currently in environmental or health and safety regulatory compliance.

In the recent OSHA review of the DOE's worker health and safety program, a major reason why the DOE cannot guarantee its workers a safety working environment stems from a significant lack of controls over contractors. There currently exists no real leverage that the DOE can exercise over contractors to protect workers. This provision gives the DOE authority to regulate contractors in the area of worker training in a manner that makes it clear that the contractors are held accountable. I believe that is an excellent step at a critical juncture in our efforts to clean up DOE sites.

Regarding a different program, I wish to commend the House and Senate conferees for retaining the Senate language for a provision designed to establish priorities for the Department of the Army's activities in the development of medical countermeasures against biowarfare agents. The need for this provision is clear. In December 1990, the General Accounting Office [GAO] released a report on the Biological Defense Research Program [BDRP] that concluded that, because of lax controls, the Army "unnecessarily expended funds on research and development efforts that did not address validated threats, and may have duplicated research efforts of other Federal agencies." The GAO determined that the BDRP was spending an inordinate portion of its research funds on biological agents that had not been identified as validated threats by the Armed Forces Medical Intelligence Center [AFMIC]

The GAO's findings were dramatically underscored during Operation Desert Shield/Desert Storm when the Army was found to be unprepared to deal with Iraq's confirmed biological warfare capabilities. Lacking appropriate vaccines to protect our soldiers against anthrax and botulinum toxin, the Army was forced to make emergency requisitions for these materials from civilian and foreign sources. This bill contains a provision, section 251, that prohibits the obligation or expenditure of any DOD funds for product development or for research development, testing, or evaluation of medical countermeasures against a biowarfare threat agent that is not contained in the biological warfare threat list published jointly by the AFMIC and the Defense Intelligence Agency [DIA]. To ensure that the vast majority of the medical component of the BDRP research is concentrated on validated threats that could be confronted by the U.S. Armed Forces within the next 10 years, this provision requires that no less than 80 percent of the medical component of BDRP funding be targeted on such threats.

This bill also contains a provision, that I sponsored, that protects our industrial base for machine tools by supporting the extension of the purchase restriction which prohibits the Department of Defense from buying foreign machine tools. The U.S. machine tool industry is critical to maintaining this country's readiness, since machine tools are the foundation of virtually all of our manufacturing processes. I am pleased that Congress is working to foster the further development of that industry through the extension of the procurement restriction.

Last, I note that the bill resolves an issue involving another critical national security resource: the national defense stockpile. Some in Congress wanted to change the current system, by which Congress directly oversees the development and attainment of stockpile requirements, by allowing the President to unilaterally change stockpile requirements 30 days after notifying Congress of proposed changes. I could not support that position and successfully worked to have it eliminated from the conference bill. However, without the fullest possible examination of how this proposal would affect this Nation's readiness, I feel strongly that the Congress should not relinquish its oversight responsibility built into the current system. Consequently, I am pleased that this provision was eliminated from the conference bill.

Mr. President, these are but a few of the hundreds of issues in this very complex bill. As I said at the outset of my statement, I feel that it is a good bill and I urge my colleagues to vote for it.

Mr. DIXON. Mr. President, I am generally satisfied with the national Defense authorization bill for fiscal years 1992 and 1993. This bill is the result of many long hours of hard work by the Members and the staffs of both the House and the Senate. It is a good Defense bill. It downsizes our forces in an intelligent manner so as not to create an ineffective fighting force as we have done in previous force reduction programs. It balances force readiness, sustainability, and support in the face of a shrinking Defense budget.

Mr. President, I am glad to see that this bill removes the prohibition against women flying combat aircraft.

VOL 137 PT 23 NO 21—25 1991 UMI

Based upon our recent experiences in Desert Storm, I agree that the Defense Department needs to reexamine its artificial restrictions on the role of women in combat.

We owe much to our service men and women. Even with these Defense budget cuts, I am happy that the bill has not ignored the fact that the quality of the service member's home and workplace is vital to morale and efficiency. With the dollars authorized in this bill for military construction, the quality of life for service members and their families will continue to be heightened.

Mr. President, even though I am generally happy with this bill, I still have some concerns. I am worried about our ability to move out troops and materiel in a crisis on short notice over long distances. I believe there is a lack of sufficient support in the bill for the C–17, airlifters. One lesson we learned from the Persian Gulf war was that we need more airlift capacity. Buying only four C–17's next year is far short of what we need. I am afraid if we cannot buy adequate numbers this next year, dire consequences may result in this program.

Mr. President, the lack of adequate numbers of C–17 airlifters is not by itself reason to vote down the bill, but it is a major concern of mine.

Mr. President, the Senate Armed Services Committee began working on this bill in April and as all my colleagues know, it is the hard followup work done by the staff that brings us here today to vote on a final product. Mr. Arnold Punaro of the majority and Mr. Patrick Tucker of the minority have done an outstanding job in working with the respective staffs in creating this product. I would like to take this opportunity to thank David Lyles, Bob Bayer, and Mary Kampo of the majority staff of the Readiness Subcommittee for their diligence and insight. It is impossible to accomplish worthwhile legislation without bipartisan cooperation. Ron Kelly and Ken Johnson of the minority staff have worked closely with their majority counterparts, and I thank them for their professionalism. And finally, Mr. President, I would be remiss if I did not also recognize the invaluable assistance that my personal staff provides me. My long-time chief Defense aids, Charles Smith, and two congressional fellows on my staff, Charles Mudd and Jim Rohacik, have all played vital roles in helping me shape this legislation. I want to thank them for their contributions and I wish continued success to Jim now that his fellowship with us has ended.

Mr. ROTH. Mr. President, I intend to vote against this conference report for the simple reason that it spends too much money and misses opportunities to save money.

But, before I get into the details of my concerns, I think it is important to recognize and applaud the conferees' support for removing the congressionally imposed restrictions against female pilots.

The conferees have recognized the value of women aviators for our Nation's defense. In July, the Senate strongly approved the amendment that Senator KENNEDY and I offered to end this artificial restriction. The Pentagon must have the authority to decide who is best qualified to serve in any position, including who flies in combat aircraft. The conference report gives DOD this authority and ends Congress' unequal treatment of men and women aviators.

Mr. President, 1 week before this conference report was filed, I came to the Senate floor to criticize the action of the House and Senate conferees on the fiscal year 1991 Defense authorization bill.

Specifically, I was disturbed by the Conferees' decision to make $1 billion available to the Secretary of Defense for aid to the Soviet Union. It made no sense to me to take $1 billion out of the United States defense budget, while the Soviet Union continues to spend many times that number on its defense.

If this proposal had prevailed, we literally would have taken $1 billion out of our defense budget so that the Soviets could spend $1 billion of their own money on their defense. The greatest source of funds for the Soviets is still their own defense budget.

Mr. President, we may need to provide humanitarian assistance to the republics that comprise the Soviet Union. It is my firm opinion that any assistance to the Soviet Union must have clear near-term benefit for the United States, as well as being in our long-term strategic interest.

The conferees' proposal did not meet that criteria, and I am happy to see that aid provision has now been removed from the conference report. But I wonder where the $1 billion went.

Finding potential savings is good, but we need to take the next step and that is to save the billion dollars by reducing the overall level of the Defense budget. I also note that the conferees deleted three B–2 bombers from the procurement budget.

I support this initiative, but, again, I think it is essential that this economy be reflected in greater savings in the defense budget. There was a 75 percent reduction from the President's request for B–2 bombers, but where are the $2.5 billion that should have been saved?

Mr. President, in October, I came to the floor to introduce my proposal for restoring jobs, opportunity, and growth to America—which I refer to as the job America plan. I proposed a similar plan last year when the Warsaw Pact threat disintegrated and the economy began to slow.

These plans would stimulate the economy by returning the peace dividend to the American taxpayer.

In short, the Defense conference report should call for $3.5 billion less spending than it does. That money ought to be put to use now to jump start this economy by implementing a plan such as my jog America proposal.

At a minimum, if Congress were to act as I suggest, then it would send an important message to Americans that institutional inertia will not prevent the Congress from responding to the current economic situation.

Accordingly, I urge that the report be rejected and the $3.5 billion be made part of a larger plan to stimulate our economy.

Mr. BROWN. Mr. President, the National Test Facility is our Nation's premier testing facility for the Strategic Defense Initiative. The work that is done there is invaluable in developing our Nation's strategic defenses.

I rise today to address a concern I have about a portion of the conference report for the National Defense Authorization Act for fiscal years 1992 and 1993. Page 495 of that report urges the upgrade of computer facilities at the Advanced Research Center, Huntsville, AL. My concern, Mr. President, is that the language contained in the report may be misunderstood by some as calling for a reprioritization of resources within the Strategic Defense Initiative Organization.

The report may be misunderstood by some to suggest that upgrades to the advanced research center computer facilities should come at the expense of the National Test Facility. I would like to ask my friend from Virginia, the distinguished ranking member of the Senate Armed Service Committee and a member of the conference committee, if that is his understanding of the language.

Mr. WARNER. Mr. President, in answer to the Senator from Colorado's question, it is not my understanding, nor do I believe it was the intent of the conference committee to suggest that upgrades to the research center facilities should restrict the work being done at the test facility. On the contrary, the conference report clearly states it is the committee's belief that the work being done at the research center is complementary to the work done at the test facility.

Mr. BROWN. I thank the distinguished Senator from Virginia for his insight and leadership on the important issue of strategic defense.

Mr. President, I would also like to ask the distinguished chairman of the Senate Armed Services Committee for his understanding of the intent of the conference committee.

Mr. NUNN. Mr. President, the National Test Facility provides critical work in the area of strategic defense research. It was the intention of the conference committee that upgrades to the advanced research center computer hardware and software would not conflict with the ongoing work at the National Test Facility in Colorado Springs.

Mr. BROWN. Mr. President, I thank my good friend from Georgia for clarifying this issue for the Senate. The National Test Facility has provided unmatched research for the Strategic Defense Initiative Organization. It is clearly in our interests to continue to support and fund the work that is being done there.

I yield the floor.

Mr. WARNER. Mr. President, I yield the remainder of the time under my control.

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator is recognized for 10 minutes.

Mr. WARNER. Will the Senator yield for a moment?

Mr. LEVIN. Yes.

Mr. WARNER. Mr. President, I express my appreciation for the long hard work of the Senator from Michigan. We came to the Senate together some 13 years ago and served on this committee side by side. While we may have differed from time to time, I join with our chairman in saluting him for his hard work. There is not a line of work that goes through that committee, all during the course of the year, that the Senator from Michigan has not read. Sometimes he has the courage to say, "I am not sure that I understand it." But he reads it carefully, and before he departs that particular meeting, he understands it. I look forward to working with him.

Mr. LEVIN. Mr. President, I thank my dear friend from Virginia. We did indeed come here together. We have had a lot of good times together and, a few differences along the way, but they are very minor compared to the efforts we have been able to achieve.

As I said a little earlier, it is with reluctance that I have decided to vote against the bill that has such a tremendous positive input from Senators such as Senator NUNN and Senator WARNER. I know of no two Senators who operate better together in running a committee than do our good friends Senator NUNN and Senator WARNER.

Mr. WARNER. I thank my good friend from Michigan. I am anxious now to hear what he has to say.

Mr. LEVIN. Mr. President, this bill contains a great deal of good. It does, because it has had a great deal of effort put into it, under our chairman and ranking member, under the work of all of the members of the committee. This bill does indeed take some important strides forward in the defense of this country, in terms of our priorities, as well.

I have worked well with Senator WALLOP on the Conventional Forces Subcommittee, and we have been able to achieve a great deal in the area of conventional forces. This bill is responsive to many of the realities of a changing world.

It contains initiatives to address some of the shortcomings which we learned about in Operation Desert Storm.

For instance, we are investing in this bill in a program to reduce the likelihood of future American losses to friendly fire, and that is an important initiative.

There is a strong package to assure that our National Guard and Reserves are well-trained and ready with the equipment that they need. We protect our industrial base in some key areas so that we can preserve our ability to meet new emerging threats even as we scale back on our overall force structure.

We are also providing a substantial authorization, over $400 million, in 1989 for environmental cleanup at military bases that are being closed around the country, and that is the full amount which is needed for this purpose.

It is vital that we redress contamination on these bases so that local communities can reuse these sites for other purposes once they are closed.

On the nuclear side, we are finally shelving the rail garrison MX and SKAM missile and are not going to build any more nuclear Tomahawk sea-launched cruise missiles. There are important issues initiatives in this bill that do try to meet changing security threats. Some parts of this bill do not. We continue to authorize MX missiles even though Air Force wanted the program terminated. The price tag for that is over $450 million for six missiles. We are long past the time of buying more MX missiles which will add anything to the safety of this country.

We are continuing to try to force the Pentagon to develop a mobile Midgetman missile even after President Bush's announcement that we will not pursue land-based mobile missiles. The price tag in this year alone, just the year's portion, is $548 million.

Our deterrent force is more than sufficient without these additions, and our budget cannot sustain this kind of approach. We have to invest defense dollars wisely in programs that truly increase our security.

Those mistakes alone would not have caused me to vote against this bill because there is again so much good in this bill that I think on balance makes it a good bill.

But we made a grave mistake last week which, as I indicated before, troubles me greatly. We dropped from the conference report a forward-looking responsible major investment in our own security, and I am referring to the threat reduction provision which was authorized by chairman NUNN and chairman ASPIN of the House Armed Services Committee. That provision would have, as Senator NUNN said, provided completely discretionary authority to the Secretary of Defense to initiative programs that could have directly reduced the military threat facing us in what remains of the Soviet Union. It would have done that through the dismantlement of Soviet nuclear weapons.

We should have said "yes" to that innovative approach. We should have said "yes" to investigating a mere fraction, a small fraction of the cost of SDI, and we should have said "yes" to stopping cold the proliferation of weapons technology from a disintegrating Soviet Union to Third World dictators. But opponents mislabeled the plan a giveaway. Supporters in the administration were suddenly silent, and a few of us were left alone on this floor to defend the plan led by Senator NUNN.

The case is manifestly clear, if it will take more than a 30-second sound bite to look at, it is manifestly clear that we have invested billions of dollars year after year to match or defeat every Soviet weapon. We have spent billions to support an alliance that finally broke down the Berlin Wall, that broke the Warsaw Pact, that broke up the U.S.S.R. But last week it was decided that we could not make a small investment for the direct reduction in the numbers of Soviet nuclear weapons, a small investment against the reemergence of totalitarian dictatorships in the Soviet Union and against Soviet militarism.

For decades, Mr. President, we have spent billions to monitor their every move. We invented spy planes to fly over Soviet territory. Then we launched satellites that could detect the smallest changes in Soviet defenses. We then obtained intrusive onsite verification through arms control treaties. But when we might have a chance to send our own technicians with their own tool boxes into the Soviet Union to actually corral Soviet warheads and dismantle them, we refused because of the fear created by the label "Soviet aid."

It was a false label. It is a false label. What was proposed was a true American security measure. But because it took a few sentences to explain, the fear of voting for something that was falsely labeled as a Soviet assistance program killed an American security program.

And as Senator NUNN said, we underestimate the American people. Of course, we have to get our economic house in order and put our energies in the health and well-being of our citizens. But our people understand that renewal at home will be more difficult if we have to counter an aggressive military adversary again abroad. They understand that it is in our interest here in America for democracy to survive in the Soviet Republics which have thousands of nuclear warheads which would proliferate around this world.

VOL
137
PT
23
NO
21
—
25
1991
UMI

Senator NUNN and others are making a new effort to try to restore this language to some bill. I am part of that effort. It is a bipartisan effort. It must succeed. I hope it succeeds.

In the coming months, many of us will be working to articulate changes that we need to make in our Armed Forces to meet the overall security needs of the United States. But we also need the Pentagon to look at the world with fresh eyes, reevaluate the true threats and to make tougher choices.

There is a great deal ahead of us, Mr. President, for reshaping our military forces to meet the changing needs. We need to focus on maintaining modern and ready conventional defenses, smaller forces that are well-trained, well-supplied, highly mobile, highly capable and with great morale. That means we are going to have to use our resources carefully. We cannot afford to continue to spend defense dollars on cold war relics such as more and more MX missiles, which the Defense Department does not want and a mobile Midgetman system, which the Defense Department does not want and which will not contribute to American security.

As I said, I think more of the agenda that we have to pursue could have been pursued in this bill. But the bill is basically a good bill, except for the bad and grave error that we made when the Nunn-Aspin initiative was dropped from this bill.

Principally because of that, I have decided to vote against this conference report. I want to highlight our failure to grasp an important security opportunity to make our people safer.

I hope, I pray that Senator NUNN and the rest of us are successful in getting this provision passed another way. I pledge to do everything in my power to see to it that that happens.

Again, we are all in the chairman's debt for his initiative. It is sometimes difficult to be out here alone, as he has been, defending a provision, but he is so right in this case that he deserves the support of all of us, and more than anybody, his talent and his energies have been invested in that provision, and I hope they will still be rewarded. I only wish they could have been incorporated in this bill.

Mr. President, I yield back the remainder of my time, and I believe that the Senator from Virginia has yielded back the remainder of his time.

The PRESIDING OFFICER. All time has been yielded back.

Under the previous order the vote will occur tomorrow at 9:30 a.m.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,441st day that Terry Anderson has been held captive in Lebanon.

KUWAIT EVACUEES PROVIDED IMMIGRATION RELIEF

Mr. CRANSTON. Mr. President, on Friday, November 15, President Bush issued a directive that provides temporary immigration relief and work authorization for approximately 2,000 former Kuwait residents who were airlifted from Kuwait shortly after the Iraqi invasion and brought to the United States. I want to take this opportunity to commend President Bush for this humanitarian gesture to families who would have faced the real tragedy that they would be separated from each other and possibly not allowed to return to Kuwait.

In August, the plight of the evacuees was brought to my attention by Dr. Iyad Al-Shurafa, a Kuwaiti evacuee who now lives in California. Subsequently, I and 20 of my colleagues sent a letter to President Bush urging him to issue an order allowing approximately 2,000 former Kuwaiti residents who were airlifted from Kuwait after the Iraqi invasion to remain in the United States for 4 years.

Shortly after the invasion of Kuwait, a number of families were airlifted and brought to the United States. While these flights were promoted as returning American hostages to the United States, many of the adult passengers were permanent residents of Kuwait and not United States citizens. Members of these repatriated families were conferred parolee status and allowed to reside and work in the United States. That status was extended until December 31, 1991, at which time they would have been required to return to their country of nationality.

Unfortunately, most of these repatriated persons do not have a country to which they can return. Many of the families evacuated from Kuwait are stateless—Palestinians having only travel documents, not passports reflecting citizenship. Most were born, worked, and lived their lives for many years in Kuwait but were not granted citizenship because of the strict Kuwaiti citizenship laws. The Kuwaiti Government will not guarantee that these persons will be permitted to return to Kuwait and indeed has expressed Kuwaiti hostility toward Palestinians. Furthermore, Israel will not allow them to go to Israel or the Occupied Territories.

Many of the repatriated persons are children and their parents are professionals—physicians, engineers, accountants, and businesspersons. They eagerly desire to earn a living in the United States. They were repatriated because they have children who are U.S. citizens. Without any protection for the parents of these evacuated U.S. citizen children, these families would become tragically separated. These families wanted to remain together in the United States until they are able to return to Kuwait with assurances that they will be treated fairly.

The Presidential directive allows the families to remain in the United States until January 1, 1996. As we took responsibility to bring these families to safety, I am pleased that we will continue our commitment to provide them protection until it is safe for them to return to Kuwait. Again, I commend President Bush for responding in a compassionate and humanitarian fashion to this matter.

Mr. President, I ask unanimous consent that a letter signed by 21 Members of the Senate be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 14, 1991.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: We are writing to urge you to issue an Executive Order that will provide temporary immigration relief for several hundred families currently living in the United States who were airlifted from Kuwait during the Gulf crisis.

Shortly after the invasion of Kuwait, a number of families were airlifted and brought to the United States under the Persian Gulf Evacuation Program. While these flights were promoted as returning American hostages to the United States, many of the adult passengers were permanent residents of Kuwait and not United States citizens. Members of these repatriated families were conferred parolee status for a few months. This parole, which authorizes them to reside and work in the United States, was extended until December 31, 1991, at which time they will be required to return to their country of nationality.

Unfortunately, most of these repatriated persons do not have a country to which they can return. Many of the families evacuated from Kuwait are stateless—Palestinians having only travel documents, not passports reflecting citizenship. Most were born, worked and lived their lives for many years in Kuwait but were not granted citizenship because of the strict Kuwaiti citizenship laws. The Kuwaiti government will not guarantee that these persons will be permitted to return to Kuwait and indeed has expressed Kuwaiti hostility towards Palestinians. Furthermore, Israel will not allow them to go to Israel or the Occupied Territories.

Many of the repatriated persons are children and their parents are professional—physicians, engineers, accountants, and businesspersons. They eagerly desire to earn a living in the United States. They are repatriated because they have children who are United States citizens. Without any protection for the parents of these evacuated United States citizen children, these families would become tragically separated. These families would like to remain together in the Unites States until they are able to return to Kuwait with assurance that they will be treated fairly.

Unless these families are accorded immigration relief, they face the real tragedy

that they will be separated from each other and that they may not be allowed to return to Kuwait. As the country that took responsibility to bring these families to safety, the United States government has the ongoing responsibility to allow them to remain temporarily in the United States until the situation in Kuwait improves.

We urge you to issue an Executive Order which would provide these repatriated families four years temporary status and work authorization until it is safe for Palestinians to return to Kuwait. This order is in the same vein as the order issued for Chinese Nationals following the Tiananmen Square crisis.

Mr. President, we commend your efforts in coming to the aid of these families by airlifting them out of Kuwait after the invasion and bringing them to safety in the United States. We ask that you continue your leadership by allowing them to remain temporarily in the United States until the conditions improve for Palestinians in Kuwait.

Sincerely,

Terry Sanford, Edward Kennedy, Al Gore, John Chafee, Mark Hatfield, Alan Cranston, James Jeffords, Paul Simon, Barbara Mikulski, Daniel Inouye.

J. Bennett Johnston, Claiborne Pell, Charles Robb, John Terry, Harris Wofford, Herb Kohl, Brock Adams, John Warner, Paul Sarbanes, Paul Wellstone, John Breaux.

TRIBUTE TO FRANKLIN A. POLK

Mr. GLENN. Mr. President, recently, I was saddened to learn of the passing, at age 80, of one of Cleveland's more well known and involved citizens, Franklin A. Polk. Mr. Polk, who was the father of Minority Chief Counsel Franklin G. Polk of the Governmental Affairs Committee, had a distinguished career for more than half a century as a lawyer, public servant, and politician. He served for 8 years on the Cleveland School Board from 1943–51, and was the Republican candidate for mayor of Cleveland in 1949. Mr. Polk was active in many religious and fraternal organizations, and served for many years as a delegate to the American Bar Association House of Delegates and the Ohio Bar House of Delegates.

His career, and in particular, his dedication to meeting the legal needs of generations of Cleveland families were chronicled in an article last August in the Alumni Journal of John Carroll University.

I ask unanimous consent that the article, entitled, "The Neighborhood Counselor," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEIGHBORHOOD COUNSELOR

For 51 years they climbed his steps. Many spoke little or no English. Most had problems large and small in adjusting to life in a new country.

In the late 1940s, these so-called displaced persons—refugees from a Europe prostrated by war and shaken by the recent Communist takeover of Czechoslovakia and other Central European countries—flooded Cleveland, looking for work, which at the time was plentiful and family counselors who spoke their language, which were not. As they had for decades before, many settled in the neighborhood around Broadway and E. 55th, once called Little Bohemia for its dense concentration of transplants. And at 5725 Broadway on the second floor above a bank, Franklin Polk 35 was always available to dispense family legal services or simple guidance.

While he and his assistants juggled the details of hundreds of small cases—from the minutia of probate work to the arcane muddle of immigration law—he nevertheless managed always to remain an exceedingly public man. He founded a trial attorneys' group, served as president of the county bar association just eight years after becoming a lawyer, and agitated at every chance he could against abortion. He even made a credible run for mayor of Cleveland once.

And still he found time for prodigious professional mentoring. He remembers how difficult it was to establish a practice in 1940, when he first raised his shingle. "There were more guys running street cars than practicing law," he says. And so, over the years he sent a mass mailing to newly minted attorneys, offering them free overhead if they would come to his office and take up some of the bounteous casework he generated. One hundred and sixteen young attorneys took him up on the offer over the years. His alumni group, as he calls it, forms a network of admirers. One even chauffeurs him around town today.

But in April, coinciding with his 80th birthday; Franklin Polk reluctantly closed the office whose 24 steps he could no longer negotiate with his swollen legs, brought on by a heart condition. And with that, a final chapter was written in the career of one of Cleveland's pioneering family lawyers.

If you're Franklin Polk you got used to a life full of jaring contrast. As a national delegate to the American Bar Association, he once accompanied powerhouse lawyers from huge international firms to London, where they had an audience with the royal family. Then he would return to his dingy walk-up office with the minimalist formica paneling to minister to people from the old neighborhood, who came seeking his help on a range of family matters—legal and otherwise. "You never knew what was going to come up the steps," says his former secretary.

"I hear (about) a lot of lawyers having trouble getting business," says his son, Franklin, Jr., now the minority chief counsel and minority staff director of the U.S. Senate Governmental Affairs Committee. "But he always had a certain magic for that." His son remembers dinners in his childhood routinely interrupted by the interminable phone calls from clients. They were even waiting on hold when he would walk through the door at night.

"It was natural for these people to seek advice from a fellow ethnic," says James Masek, the editor of the *Neighborhood News*, which has chronicled the Old Broadway area since the paper's founding in 1920. "They're kind of suspicious of other people. And Frank was patient with people. He had the natural ability to get along with people."

And he knew their languages, at least portions of four. In addition to Czech, he spoke some Polish, Moravian and Slovak. (Czechoslovakia, a creation of the Versailles Treaty following World War I, represents a geographical marriage of three Slavic peoples—Czechs, Slovaks and Ruthenians).

Polk's brand of loyalty seems torn from the pages of a romance novel: extraordinarily appealing—rousing, even. Just hard to believe. In 1928, intent on helping his father, a clothes presser, find new work after he was partially disabled in an accident on the job. Polk approached the councilman of Ward 33, asking for help in securing a card from the city that would entitle the elder Polk to clip grass at city parks for $3 a day. The Republican councilman agreed. And 63 years later, Frank Polk remains a Republican out of an insistence on honoring a debt of gratitude to a man who has been dead for decades.

Like most ethnic, Catholic neighborhoods in the early and middle parts of this century, the Old Broadway area was dominated by a strong pastor. In this case, though, Monsignor Oldrich Zlamal was actually an international figure. Chosen by the National Catholic War Council in 1919 to travel to the newly established country of Czechoslovakia to lecture on American democracy. Fr. Zlamal kept his hands in foreign affairs even as he ran his neighborhood for forty years, until his death in 1955. On the verge of World War II, he raised money in the U.S. for a Czechoslovakian defense fund, and after the war, he organized relief efforts. He was therefore courted by a succession of Czech presidents, eager to keep the foreign aid flowing. The personal ties he formed translated into a stream of Czech immigrants for his neighborhood back in Cleveland.

In fact, through the trans-Atlantic human pipeline he helped erect, so many Czechs would land in Cleveland that it eventually became the world's fourth largest center of Czech population, trailing only Prague, Vienna and Chicago. "There is no truth to the rumor," one journalist joked during World War I, "that the capital of the Czechoslovak Republic will be removed from Prague to the neighborhood of Broadway and East 55th Street." This flood of immigrants and their families would form the core of Franklin Polk's client base.

Three boys—friends to this day—grew up in that neighborhood, attended South High and worshipped at Our Lady of Lourdes: Charlie Vanik, later a 13-term U.S. Congressman from Ohio; Ralph Perk, Republican mayor of Cleveland in the 1970s; and Franklin Polk.

Like his boyhood friends, Polk had his shot at high public office. But his one major plunge into elective politics should have been enough to convince him that his penchant for speaking his mind perhaps better suited him for the courtroom than political office.

In 1949, Polk ran for mayor of Cleveland as something of an unlikely combination: a Republican populist. From the outset, his chances of winning in a heavily Democratic city weren't good. But neither was Polk, who had once polled more than 120,000 votes to win a seat on the Cleveland school board, a political novice. He launched his mayoral campaign from his neighborhood by speaking briefly in Czech (drawing the wrath of local newspaper editorialists, who didn't take kindly to the sound of Slavic languages while the Iron Curtain was descending on Europe), and promptly went on a rhetorical offensive against the political status quo and Cleveland's downtown establishment.

But most of all, he launched a frontal assault on the incumbent mayor, Tom Burke, "Who has done less actual work than Mayor Tom?" Polk asked in a speech to the Lion's Club a few weeks before the election. "When he's not on the Great Lakes, he's in Tucson. When he's not in Tucson, he's in Nassau."

Just days before voters went to the polls, he charged that his opponent's policies were

VOL
137
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23
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1991
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driving people from the city, which had recently slid from the sixth to seventh most populous in the country. "People are moving from the traffic-choked arteries. the polluted lakes and rivers, the smoke and the dirt." he said. He likened Cleveland's potential to the situation in Pittsburgh a healthy city that was beginning to scrub itself up under a young, vigorous new mayor. If Cleveland voters saw a parallel in there somewhere, the 38-year-old Polk offered no objections.

More than 40 year later, the history books record only the lopsided vote total, and that he was on the wrong side of the count. As a result, his opponent's name lives on through a namesake airport on Cleveland's lakefront, and Frank Polk returned to his legal practice, a footnote in the annals of Cleveland political history. There was, however, a forgotten story arising from that race, though it's not one that Polk tells himself.

But his campaign manager, Ralph Perk, recounts it in detail. He recalls how the race was tight heading into the final weeks. And then self-inflicted disaster struck when Polk ventured to a ward meeting for a routine campaign talk.

During a question-and-answer session, he was asked about his plans for a cabinet in the event that he won. And with his answer—coming just one year after Jackie Robinson braved tomatoes from the stands to play Major League baseball, five years before the Supreme Court outlawed segregation in Brown vs. the Board—Franklin Polk committed political suicide by candidly observing that he thought it was time a black be appointed to the cabinet.

His campaign workers scattered and his voter support evaporated almost overnight. He lost decisively.

"I gotta tell you," says Perk, "I never saw so many people leave a campaign in my life. It backfired more than anything I've ever seen in politics."

"He was too far ahead of his time," he adds.

Franklin Polk isn't sailing into retirement amiably like some placid model in a Norman Rockwell print. His pale, blue eyes grow stormy when the subject arises. He equates the end of his legal career with the end of life itself (he will refer to this story as "my obituary").

But if being a trailblazer provides any comfort, he's earned that many times over.

"One of the great things about Franklin Polk is that he pioneered the family practitioner," says Charles Vanik, who left Congress in 1981 and now practices law in Washington. "They're just starting to recognize the importance of family practices, like in medicine. Someone who stays with you all your life," he says.

"I always thought the people came to him almost as a priest," says his daughter, Loretta. "They came to him and said, my son's in trouble. And he'd talk to them. And ten years later, the family would give him their legal business." He could have climbed higher up the ladder of success, she says, but the neighborhood he loved always drew him back. "He liked the people. They were real people with real problems."

And Franklin Polk, the man who mails 2,000 Christmas Cards, ought to be proud of that.

CAPITAL RESEARCH CENTER

Mr. WALLOP. Mr. President, I would like to bring to the attention of my colleagues an organization which has proved to be an invaluable resource.

The Capital Research Center, located here in Washington, DC, publishes materials which are indispensable to keeping track of the myriad political action committees, special interest groups, tax-exempt foundations, and other related political organizations which crop up in this town every day. The center describes itself as "a nonprofit tax-exempt, educational organization" that "provides documented information and reliable assessments that donors, public officials, and other individuals can use to make informed decisions on these new and influential organizations."

The center's publications have become an oft-utilized resource for both myself and my staff in performing the day-to-day operation of my office. Let me briefly describe some of the services and products available from the Capital Research Center.

Perhaps the most useful item the Capital Research Center publishes is its report entitled "Patterns of Corporate Philanthropy." This book documents, on an annual basis, the donation practices of major American corporations. Mr. President, the details are truly astounding. Major American corporations give hundreds of thousands—if not millions—of dollars to liberal political groups which advocate policies diametrically opposed to the interests of American business. The liberal groups benefiting from this philanthropy also support, work with, and give financial backing to policial candidates who are ardent foes of American business.

The problem, Mr. President, is that most of us would not have this kind of information at our fingertips. It is impossible to keep track of all the groups which lobby Members of Congress and send them information. Like most Members, my office receives numerous inquiries from constituents requesting information about groups which have contacted them about issues or sought contributions. It is very helpful to have this type of information readily available.

The Capital Research Center publishes "Studies in Organization Trends," a series which analyzes "the role of interest groups; their activities, leadership, and funding sources; and their influence on the policy process." The first of these monographs, published in 1986, was "Second Front: Advancing Latin American Revolution in Washington." It documented the extensive network of leftist groups in the United States operating on behalf of Marxist governments in Central and Latin America—like Castro in Cuba or the Sandinistas in Nicaragua—and Communist insurgency movements such as the FMLN in El Salvador. Last year Capital Research Center published the fifth in this series, "Protecting the Environment: Old Rhetoric, New Imperatives," which took an in-depth look into the activities, personnel, and funding of environmental groups.

Finally, Capital Research Center also puts out a monthly newsletter, Organization Trends, which "reports on and analyzes the activities and aims of advocacy and grant-making organizations." A recent issue entitled "Targeted Voter registration: Nonpartisan Rhetoric, Partisan Reality" discussed the forces behind the vote registration movement in this country. Since another cloture vote on the "motor voter" bill is looming over the Senate, awaiting the call of the majority leader, this Senator felt it would be helpful for Senators to have information on the current activities of several supposedly "nonpartisan" voter registration groups.

According to the center, one of these organizations, called Project VOTE, was designed "to pioneer the strategy of registering citizens to vote as they waited in long lines to collect unemployment, food stamps, and social services." Although Project VOTE has claimed not to be working on behalf of any party of individual candidates, its literature leaves little doubt as to whom it would like to see win elections.

During the 1990 Senate elections, Project VOTE issued reports describing polling results in a number of close races. In North Carolina, Project VOTE pointed to polls indicating a lead of 4 percent held by our colleague, Senator HELMS. Not surprisingly, Project VOTE then chose as its registration goal 5 percent of the expected turnout. In describing the Kentucky Senate election of that year, Project VOTE characterized our colleague, Senator MCCONNELL, as being vulnerable because of his "weak record on the environment, strong antichoice position and promilitary stance." Since my friend from Kentucky won rather handily, considering the demographics of his State, this Senator wonders if maybe it is Project VOTE that is seriously out of touch with the electorate.

Project VOTE's pervasive bias should not come as any surprise, Mr. President, because the membership of Project VOTE's advisory board is heavily tilted to the left. It is comprised of numerous representatives of big labor and those from ultraliberal political groups such as NOW, the nuclear freeze group SANE, the Sierra Club, and Americans for Democratic Action. Similarly, much of the funding for Project VOTE comes from the organized left, including many unions and liberal foundations.

Mr. President, so that my colleagues can learn more about Project VOTE and other voter registration groups, I ask unanimous consent that articles contained in the November 1991 issue of Organization Trends be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Organization Trends, November 1991]

TARGETED VOTER REGISTRATION: NONPARTISAN RHETORIC, PARTISAN REALITY

In 1984, major segments of America's political left collaborated in a large-scale effort to register and mobilize vast new numbers of typically apathetic poor and minority voters.

Aided by nearly $7,000,000 in foundation grants to voter registration drives, many so-called "progressives" believed that with a huge influx of newly politicized voters who would vote according to their "class interests," a fundamental change in the character of political parties would occur and government policy would move decidedly to the left.

But the ability of the Republican Party effectively to mobilize equal numbers of new voters largely quashed such hopes. By 1988, if not earlier, as David Moberg reported in the September 21–27, 1988, issue of the socialist newspaper In These Times, many of the left had become apathetic about the extent to which broadbased voter registration among minorities and the poor might effect a radical transformation of American politics. Resources that year were concentrated in only 20 "key states" instead of being "spread over 40 [states] as in 1983–1984."

This observation seems to underscore a reluctant but practical move by "progressives" away from a grander vision of radically transforming politics toward an emphasis on targeting voter registration in specific states or localities (as Moberg says, "key battlegrounds") where important elections are expected to be close, and thus where a small percentage of "swing votes" can effect the outcomes favorably.

The efforts of at least two leading "nonpartisan" voter registration groups lend support to this thesis.

PROJECT VOTE!

A self-described "non-partisan, charitable organization working to increase minority and low-income voter participation," Project VOTE! was created in 1982 "to pioneer the strategy of registering citizens to vote as they waited in long lines to collect unemployment, food stamps, and social services."

As explained in an article by Richard A. Cloward and Frances Fox Piven in The Organizer, published by a training affiliate of the Association of Community Organizations for Reform Now (ACORN), the time was "ripe for issue-oriented drives among the millions of unregistered clients of the welfare state" against "the corporate-Republican alliance" and "militarization."

This would be accomplished by "taking advantage of the way the welfare state concentrates non-voters" who "congregate on its lines and in its waiting rooms. One example of an organization which is already experimenting with this technique is called Project VOTE. Volunteer registrars are assembled in a particular city on the day that food stamp recipients receive their vouchers in the mail. As lines begin to form at the banks and check cashing centers where the vouchers are exchanged for food stamps, Project VOTE volunteers distribute fliers dramatizing past and pending cuts in the food stamp program, pass out registration forms, and warn that food stamp benefits will be lost unless people register and vote. (The registration forms are collected after being filled out, names and addresses are copied for follow-up, and then the forms are turned over to local boards of election.) These tactics make it possible for small groups of volunteers to register thousands of people in a day."

Based in Washington, D.C., Project VOTE! and its roughly 100 local affiliates have registered over 1,200,000 voters, often in collaboration with "local coalitions of civil rights, labor, women's religious, poor people's advocacy, peace, citizen action, environmental, and other groups" like the United Auto Workers, Operation Big Vote, the A. Philip Randolph Institute (which led the drive in 1989 to elect Democratic Virginia governor and Presidential hopeful L. Douglas Wilder), the National Coalition on Black Voter Participation, and the National Association for the Advancement of Colored People.

Project VOTE! claims that it does not "help any candidate or party" and that its mission is solely to "make democracy work for all Americans." Its registration and education efforts, however, evince a decidedly pro-welfare stance, and its literature indicates that it has specific political and electoral outcomes in mind.

One "educational" flyer advises new registrants to "Vote For" "day care," "Head Start," and "health care." Another says that "[e]vents in Eastern Europe have created a new reality and a critical window of opportunity to dramatically cut military spending and the threat of nuclear war" and that "The 1990 elections could decide whether we permit that opportunity to pass us by" or "reap a peace dividend to save our environment, our educational system, and our cities."

Through new voter registration, "we'll no longer see a vast range of social programs sacrificed to pay for wasteful and unending military buildups. We can take the immense natural wealth of America back from the exploiters, developers and polluters."

Project VOTE!'s pronouncements indicate an interest in election outcomes that is more than incidental:

"Decisive results in key [1990] Senate and Governors races [could] mark the death knell—or the rebirth—of attempts to restrict abortions."

"With three Supreme Court justices passing age 90, and two others passing 77 by the time Senators elected this year stand for reelection, the 1990 elections will play a key role in deciding the makeup of the Supreme Court for decades to come."

"Governors chosen in '90 will draw the new election district lines—deciding the outcome of hundreds of elections until the year 2002."

"These elections will decide which party controls the Senate. That means deciding whether Jesse Helms or Claiborne Pell chairs the Foreign Relations Committee—and whether Strom Thurmond or Joe Biden chairs the hearings on future Supreme Court nominees."

TRANSLATING CONCERNS INTO ACTION

In translating these concerns into action, Project VOTE! carefully targets its registration and education campaigns in states where slight shifts in votes or influxes of new voters are likely to put Democratic candidates in office.

A report outlining Project VOTE!'s 1990 registration strategy, released four months before the November elections, notes that pre-election polls in North Carolina showed Democratic Senatorial candidate Harvey Gantt trailing "vulnerable Republican incumbent" Jesse Helms by only 4 percent. Project VOTE! therefore sought to register 80,000 new voters, "approximately 5% of expected turnout [emphasis in original].

Again, in Kentucky, where Democratic Senatorial candidate Harvey Sloane challenged incumbent Republican Mitch McConnell, whose "weak record on the environment, strong anti-choice position and promilitary stance [made] him vulnerable," Project VOTE! sought to register 19,000 voters, or 2.9 percent of the expected turnout.

Similar strategies were followed in the "priority states" of Michigan, Rhode Island, Texas, Florida, South Dakota, and Colorado. Project VOTE! claims these efforts merely describe the "political contests" of its 1990 "non-partisan voter registration and education drives. . . ."

As with most voter registration groups, Project VOTE! combines registration with "persistent" and "intensive education." Follow-up letters and telephone calls "emphasize how decisions made by elected officials affect the registrants' lives" and are "carefully framed to be persuasive."

Given the dependency of Project VOTE!'s registrants on welfare programs, one may surmise that persuading them to vote in the desired direction is not particularly difficult. Project VOTE! estimates that such efforts have resulted to 82–87 percent turnout rates.

"THE WINNING MARGIN"

Project VOTE! also claims registrants have exceeded the winning margin" in four U.S. Senate races, five U.S. House of Representatives races, 23 state and local races, and the 1989 Virginia governor's race.

Paul Simon (D–IL), a leader in the recent fight against confirmation of Judge Clarence Thomas as an Associate Justice of the U.S. Supreme Court, says he "won election to the U.S. Senate [in 1984] by just 89,000 votes. Project VOTE! registered 131,000 new voters in Illinois. If it hadn't, I probably wouldn't be in the Senate."

Representative Peter Hoagland (D–NE) likewise remarks, "I won the election by 2,981 votes" and effuses that "if not for the voters you registered in my district, the outcome might well have been different."

Project VOTE!'s board of advisors includes several representatives of organized labor, among them Morton Bahr, Communication Workers of America; Owen Bieber, United Auto Workers; Mary Hatwood Futrell, National Education Association; Gerald McEntee, American Federation of State, County and Municipal Employees; Jack F. Moore, International Brotherhood of Electrical Workers; Vincent Sombrotto, National Association of Letter Carriers; John Sweeney, Service Employees International Union; Lynn Williams, United Steel Workers of America; and William A. Winpisinger, International Association of Machinists.

Other board members represent some of the nation's principal activist left groups:

Ira Arlook, Citizen Action.

Asia Bennett, American Friends Service Committee.

Kenyon C. Burke, National Council of Churches.

David Cortright, SANE/FREEZE.

Linda Davidoff, Human SERVE Fund.

Marian Wright Edelman, Children's Defense Fund.

Pablo S. Eisenberg, Center for Community Change.

Robert Greenstein, Center on Budget and Policy Priorities.

John E. Jacob, National Urban League.

Steve Kest, ACORN.

Michael McCloskey, Sierra Club.

Marc A. Pearl, Americans for Democratic Action.

Faye Wattleton, Planned Parenthood Federation of America.

VOL 137
PT 23
NO 21—25
1991
UMI

Molly Yard, National Organization for Women.

Barry Zigas, National Low Income Housing Coalition.

With 1989 total revenue of $703,000 (of which only $458,000 was expended), Project VOTE! and its parent organization, Americans for Civic Participation, received support from such sources as the American Express Foundation (at least $5,000), Patrick and Anna M. Cudahy Fund ($5,000), General Mills Foundation ($5,000), Joyce Foundation ($50,000), Public Welfare Foundation ($40,000), and Rockefeller Family Fund ($25,000).

Similar 1988 donors included the Cudahy Fund ($5,000), Joyce Foundation ($40,000), Max Kade Foundation ($35,000), J. M. Kaplan Fund ($35,000), Rockfeller Family Fund ($15,000), and Z. Smith Reynolds Foundation ($50,000).

Project VOTE! and the Institute for Effective Action, a nonprofit which provides technical assistance to "people's organizations" and which helped design Project VOTE!s volunteer training materials, have received recent support in unspecified amounts from such other sources as the Campaign for Human Development, Center for Community Change, International Association of Machinists, International Brotherhood of Electrical Workers, International Union of Bricklayers, National Education Association, Service Employees International Union, United Steelworkers, Vanguard Public Foundation, Winthrop Rockfeller Foundation, and Youth Project.

OPERATION BIG VOTE

Another leading voter registration group is Operation Big Vote, created in 1976 to conduct "intensive voter education, registration and Get-Out-The-Vote (GOTV) activities in black communities" around the country.

OBV is a project of the National Coalition on Black Voter Participation, a Washington, D.C.-based "nonprofit, nonpartisan, tax-exempt membership organization committed to enhancing and protecting the right of full political participation by African-Americans and other minorities."

As part of its effort to develop "autonomous nonpartisan voter coalitions in local communities," NCBVP in 1990 provided training and technical assistance to such organizations as the Center for Policy Alternatives, Joint Center for Political and Economic Studies, NAACP Legal Defense and Educational Fund, American Federation of State, County and Municipal Employees, and League of Women Voters. Forty-five local OBV coalitions also received financial assistance and training through lectures, seminars, and voter registration and education workshops.

NCBVP emphasizes states where OBV coalitions are active according to five criteria: a large black population, large numbers of unregistered blacks, a record of low or uneven black voter turnout, the existence of local registration organizations, and "elections having a particular impact on the black community during a given year at the federal, state or local level."

This last criterion strongly resembles Project VOTE!'s concern with particular election outcomes, a concern seemingly reflected in NCBVP's funding of local OBV coalitions. NCBVP's annual report for 1990 says that of "45 OBV coalitions active in 27 states" that year, only 20 coalitions in 15 states received NCBVP funding.

IRS records further show that of $23,000 disbursed to local coalitions in 1990, funding was concentrated in four states, which received nearly 50 percent of all voter registration and education funds: California ($3,000 to 2 coalitions); North Carolina ($2,000 to 2 coalitions); Ohio ($4,000 to 3 coalitions); and Texas ($2,000 to 2 coalitions). The other 11, all in different states, each received grants of $1,000 or less.

Major electoral contests—all predicted to be especially close or to have important political ramifications—occurred in at least four of these states in 1990:

In California, where the governor's race between former San Francisco Democratic mayor Dianne Feinstein and Republican Senator Pete Wilson was expected to be (and was) very close and where the state was expected to pick up from six to eight new seats in the U.S. House of Representatives through reapportionment.

In North Carolina, where former Charlotte Mayor Harvey Gantt was trying to unseat incumbent Republican Senator Jesse Helms.

In Ohio, where Republican gubernatorial candidate George Voinivich, whose campaign platform included a commitment to reform and streamline state-administered welfare agencies, was running against incumbent Democrat Richard Celeste.

In Texas, where pro-abortion state treasurer and Democratic gubernatorial candidate Ann Richards opposed anti-abortion Republican Clayton Williams. Texas also was expected to gain several new Congressional seats in post-Census redistricting, a process which affects the contexts of political campaigns and which also requires final approval by the governor.

NATIONAL VOTER REGISTRATION ACT

NCBVP regards the National Voter Registration Act, which would mandate automatic voter registration in all state drivers' license bureaus and welfare agencies, as "a step in the right direction" that "would allow registration groups to focus more . . . scarce resources on those members of our community that [would still be] unregistered as well as on get-out-the-vote activities." (See related article, pages 4–5.)

NCBVP's 44-member board of directors, strikingly similar in composition to Project VOTE!'s advisory board, includes such individuals as Clifford Collins of the National Association for the Advancement of Colored People, Coretta Scott King of the Martin Luther King, Jr. Center for Nonviolent Social Change, and Robert McAlpine of the National Urban League, in addition to Richard Womack of the AFL–CIO and such union figures as:

Leonard Ball, Coalition of Black Trade Unionists.

William Burris, American Postal Workers Union.

Louis Brady, International Union of Operating Engineers.

Mary Mays-Carroll, Communications Workers of America.

Douglas Couttee, United Food and Commercial Workers International Union.

Don Jackson, United Auto Workers.

William Lucy, American Federation of State, County and Municipal Employees.

Leon Lynch, United Steel Workers of America.

James M. McGee, National Alliance of Postal Workers and Federal Employees.

Phil McLaurin, National Education Association.

Earl Robinson, International Association of Machinists and Aerospace Workers.

William Stodghill, Service Employees International Union.

Foster Stringer, Jr., American Federation of Teachers.

This pattern is also reflected in NCBVP's 88 member organizations, among which are the AFL–CIO, American Federation of Teachers, Joint Center for Political Studies, Leadership Conference on Civil Rights, Martin Luther King, Jr. Center for Nonviolent Social Change, National Association for the Advancement of Colored People, National Urban Coalition, National Urban League, Operation PUSH, Southern Christian Leadership Conference, and United Auto Workers.

NCBVP's total 1990 support of $259,261, of which almost 50 percent was allocated to Operation Big Vote, was derived (in unspecified amounts) from such donors as the AFL–CIO, American Federation of State, County and Municipal Employees, United Food and Commercial Workers Union, and United Steel Workers of America; Anheuser-Busch; the American Express, Cummins Engine, Ford, Joyce, Meyerhoff, and Rockefeller foundations; and the U.S. Bureau of the Census.

(For additional background, see the following articles in previous issues of Organization Trends: "Voter Registration and Ideological Politics," December 1984; "Ideological PACs and the 1988 Elections," August 1988; "Nonprofits and the Presidential Campaign of 1988," July 1988; and "Foundation-Supported Voter Registration: How Nonpartisan?," November 1987.)

NATIONAL VOTER REGISTRATION: A BOON TO THE LEFT?

For several years, federal legislation has been pending to require all states automatically to register voters in drivers' license bureaus and state human services agencies, such as welfare, unemployment, and vocational rehabilitation offices.

Proponents argue that such "agencybased" registration would increase voter turnout significantly as "an important expansion of democratic rights." Last year, the National Voter Registration Act overwhelmingly passed the U.S. House of Representatives, but it has yet to be considered by the Senate.

One group spearheading the drive for enactment Service Employees Registration and Voter Education (Human SERVE) Fund, a "national, nonpartisan voter registration reform organization which has been working for 10 years to establish voter registration services in all state offices serving the public."

Founded in 1983 by Frances Fox Piven and Richard A. Cloward, two "activist-scholars" who "have spent two decades working on welfare rights movements and similar efforts to increase the political organization and participation of the poor." Human SERVE has lobbied successfully for state-level "motor voter" registration. Fifteen states and the District of Columbia now register voters in motor vehicle departments, and several other states register welfare and unemployment claimants.

Human SERVE estimates that voter registration in all drivers' license bureaus would raise national registration from the present 60 percent to 91 percent. Most of the newly registered would be poorer and minority persons with historically lower registration and voting rates. While fewer poor and minorities own cars, many still register to drive or acquire photo identification. As one observer says, "This nicely takes the pro-welfare sting out of the project."

Yet Human SERVE says registration in all motor vehicle departments still would leave "residual inequalities" in registration rates, since rural and white persons are more likely to drive than urban and minority persons; in states with lower overall percentages of drivers, like New York, such disparities are potentially great.

Human SERVE therefore believes registration in all state human service agencies would capture another 4 percent of the voting age population and raise the national registration rate to 95 percent, the highest attainable level.

The group warns that "if the federal bill does not pass," and if racial and income disparities persist, "the voting rights community will be compelled to initiate a whole new series of costly and time-consuming law suits in states with lower drivers' license rates." The "prudent approach" is "to support passage of the federal bill, and then to litigate if states fail to implement human service registration as widely and uniformly as in driver agencies."

Not surprisingly, the National Voter Registration Act is supported by "a broad range of good government, public interest, civil rights, and labor groups" which, by automatically registering nearly all adult Americans, could focus primarily on "education" and get-out-the-vote efforts among select classes of voters.

The same would hold for both major political parties, however; and genuinely nonpartisan voter registration and education groups could refocus their efforts primarily toward disseminating useful, unbiased information. Those who believe the Act is a panacea to benefit preferred candidates could find their hopes short-lived, as did many on the left during the massive 1984 registration campaign.

In 1989, Human SERVE received $20,000 from the J. Roderick MacArthur Foundation and $15,000 from the Rockefeller Family Fund. Liberal Senators Bill Bradley (D-NJ) and Alan Cranston (D-CA) have commended Human SERVE'S work, as have such organizations as the Indiana Civil Liberties Union, Jobs With Peace Campaign, Lawyers' Committee for Civil Rights Under Law, People for the American Way, Project VOTE!, and Ralph Nader's Public Interest Research Group.

A NONPARTISAN ALTERNATIVE: VOTE AMERICA

Created in 1982, the Washington, D.C.-based Vote America Foundation, by registering young voters and encouraging traveling Americans to vote absentee, seeks to "safeguard that most precious freedom: the right to vote."

With support from foundations, individuals, and corporations, Vote America committed nearly half its $783,000 budget in 1990 to "educating and motivating young Americans, aged 18 to 24, to register and vote."

Chairman Joe M. Rogers says, "We should once again expect our educational system to produce adults who can read the newspaper, understand the relative context of an issue presented on the evening news and even recount the struggles of those who have fought and died for the right to vote here and around the world."

Vote America maintains a diversity of programs:

At the high school level, it distributes a curriculum packet with information on "the history and mechanics of voting," statewide elections, and registration deadlines.

At the college level, student groups and/or administrators receive comprehensive registration materials with information on organizing campus registration drives, statewide elections, and registration and voting requirements in all 50 states.

Travel industry companies each year place "reminders" to vote absentee "in hotel rooms, rental car agencies, airport, clubrooms, airplanes, cruise ships, travel publications, bus stations and travel agent ticket envelopes."

Hundreds of other companies receive materials for company-wide registration programs. Participating firms provide absentee ballot forms for traveling employees, conduct on-site voter registration in cafeterias and reception areas, pass out absentee ballot applications to customers, give employees time off to vote on election day, and otherwise remind employees about registration and voting deadlines through memos, newsletters, and bulletin board announcements.

There also is a nationwide campaign of public service advertisements in both the broadcast and print media. "During the three months prior to [last year's] Election Day, Vote America television spots were aired more than 86,000 times, generating an estimated three billion viewer 'impressions.'" Radio announcements created an additional 492,000,000, listener impressions.

Vote America's efforts show that voter registration and education need not be calculated or partisan. Among the organization's major donors in 1990 were American Airlines, AT&T, Bell Atlantic Charitable Foundation, Grey Advertising, Merrill Lynch, Philip Morris, Phillips Petroleum and Ryder.

THE CONSTITUTION DOES NOT REQUIRE CONGRESS TO EXEMPT ITSELF FROM THE LAWS

Mr. NICKLES. Mr. President, 3 weeks ago the Senate defeated two amendments of mine that would have made the Congress of the United States subject to many of the same laws that apply to everyone else in this country. The first amendment would have made Congress subject to the same civil rights laws and enforcement practices and to the same labor laws and enforcement practices that Congress requires the rest of the country to live under. The second amendment would have made the Senate subject to jury trials and punitive damages in employment discrimination cases under the same terms and conditions as the Senate was then—in the very bill before it—applying to other employers throughout the country.

During debate on those amendments, a few Senators said they believed my amendments were unconstitutional because they violated separation of powers principles. I said then that the Constitution raised no bar to my amendments. I repeat that position today and am pleased to be joined in that opinion by one of America's outstanding legal scholars, Bruce Fein. Mr. Fein asks in a recent article the same question I put to the Senate, "How can it be seriously argued that a congressional decision voluntarily to apply ordinary principles of law to its own Members would violate the Constitution?" In answer, Mr. Fein quotes the Supreme Court: "Our system of jurisprudence rests on the assumption that all individuals, whatever their position in Government, are subject to Federal law."

The American people are not willing to be governed by an elite corps of lawmakers who put burdens on the people that they (the lawmakers) are not willing to bear themselves. That is why this issue is not behind us; that is why the Senate's recent half-hearted efforts will not suffice. When this issue returns to the floor, I am confident that more and more Senators and Representatives will agree that the Constitution does not demand hypocrisy from nor privilege for the Congress of the United States. The Constitution of the United States does not bar Congress from abiding by the same rules and procedures that govern all other Americans. Mr. Fein's recent article makes this point effectively, and I ask that his article be placed in the RECORD at the conclusion of my remarks.

Mr. President, I am reminded often of the wisdom of this Nation's founders. On this subject, for example, I doubt that the advice of James Madison, our great patriot and scholar, can be improved upon. Madison is the greatest lawmaker the United States has known. He may be the greatest lawmaker in history, for he is the father of the Constitution of the United States and the principal author of the Bill of Rights. Madison wrote:

> [The House of Representatives is] restrain[ed] from oppressive measures [because] they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer, the genius of the whole system, the nature of just and constitutional laws, and above all the vigilant and manly spirit which actuates the people of America, a spirit which nourishes freedom, and in return is nourished by it.
>
> If this spirit shall ever be so far debased as to tolerate a law not obligatory on the Legislature as well as on the people, the people will be prepared to tolerate anything but liberty. *The Federalist* no. 57 (J. Madison).

Making Congress subject to the same laws that govern all Americans is not the kind of harm the Constitution sought to protect Congress against. Indeed, in Madison's view, the Constitution and the spirit of liberty combine to make congressional coverage under the laws obligatory. There is no constitutional obstacle to removing the artificial barriers that now insulate us from the real world. The Congress has thrown up those barriers and the Congress can take them down, and it is time—and past time—that we did so.

I thank the Chair.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOL
137
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23
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21
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[From the Washington Times, Nov. 19, 1991]

CONGRESSIONAL FLIMFLAMMERY

(By Bruce Fein)

Why are so many Members of Congress held in low esteem? A major reason is their recurring insouciant intellectual dishonesty. Most will brandish any argument that furthers their personal or political welfare, no matter how preposterous.

Take the 1991 Civil Rights Act and numerous other laws that hold Members of Congress to a lesser legal obligation or provide more lenient enforcement procedures than obtain for the ordinary citizen. Senate Majority Leader George Mitchell, Maine Democrat, and House Speaker Thomas Foley, Washington Democrat, ardently defend the aristocratic legal privileges of Congress, a descendant of the First Estate in pre-revolutionary France. They and a majority of other members brainlessly bray that constitutional separation of powers principles require their regal treatment. They would think it lese-majeste to question whether either a syllable of constitutional text or history supports their legal elevation above those citizens who pay their handsome salaries. The notion that an assertion should be defensible by facts or reason is alien to their congressional existence.

It is thus characteristic that the Mitchell-Foley separation of powers argument is intellectual fraud, no more respectable than cold fusion.

Article I, section 6, of the Constitution provides that "for any Speech or Debate in either House, [Senators and Representatives] shall not be questioned in any other place." The initial formulations of the Speech or Debate clause simply stated: "Freedom of Speech and Debate in the Legislature shall not be impeached or questioned in any Court or Place out of the Legislature," and that wording was changed only for style and brevity. The purpose of the clause is to ensure uninhibited legislative debate and argument in congressional fora. Holding members legally accountable for such remarks and votes in judicial proceedings initiated by private parties or the executive would make the former vulnerable to intimidation through costly or harassing lawsuits. Congressional action would lose desired independence.

The narrowness of the Speech or Debate clause is fortified by the rejection at the Constitutional Convention of a proposal to make "each House, . . . [the] judge of the privilege of its own members." As Charles Pinckney, a convention delegate, later lectured: "[The Constitution] never was intended to give Congress . . . any but specified, and those very limited, privileges indeed. They well knew how oppressively the power of undefined privilege had been exercised in Great Britain, and were determined that no such authority should be exercised here. They knew that in free countries very few privileges were necessary to the undisturbed exercise of legislative duties. . . . they never meant that the body that ought to be the purest, and the least in want of shelter from the operation of laws equally affecting their fellow citizens, should be able to avoid them." Pinckney's views echoed those of the Father of the Constitution, James Madison, voiced in Federalist 57.

In sum, the Speech or Debate clause implements the Constitution's separation of powers by protecting freedom of deliberation and voting on the floor of Congress and in congressional committees. Would applying federal minimum wage and overtime provisions to Members of Congress threaten their freedom of debate and voting? Would the application of federal health, safety, or environmental statutes do so? Would authorizing private suits directly in federal district courts against members allegedly guilty of employment discrimination by on race, religion, gender, or disability undermine their independence in congressional floor or committee deliberations? Would requiring members to pay surcharges bank overdrafts?

These questions answer themselves to ordinary minds, unlike those of Messrs. Mitchell and Foley, and Supreme Court decisions confirm the obvious. They restrict the Speech or Debate clause to conduct within the "sphere of legislative activity," such as the deliberative and communicative processes by which Members participate in committee and floor proceedings with respect to the consideration and passage or rejection of proposed legislation. The cause does not reach countless acts by members, such as constituent communications, or the receipt of bribes to influence a vote.

How can it be seriously argued that a congressional decision voluntarily to apply ordinary principles of law to its own members would violate the constitution? That document fulsomely applauds legal evenhandedness. As the Supreme Court emphasized in Butz versus Economou (1978): "Our system of jurisprudence rests on the assumption that all individuals, whatever their position in government, are subject to federal law." The Speech or Debate clause is amply vindicated by prohibiting use of a member's vote or legislative statements as evidence of a legal violation.

Subjecting Members of Congress to the same laws that govern the great mass of society, James Madison observed, "has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments . . . without which every government degenerates into tyranny." To interpret the Constitution to deny Congress the power to adopt laws needed to prevent government degeneration into tyranny, as would Mr. Mitchell and Mr. Foley, is perverse

The 1991 Civil Rights Act recognizes the imbecility of the Mitchell-Foley constitutional worries. It prohibits senators from practicing employment discrimination on the basis of gender, religion, age, or disability, coupled with enforcement procedures involving the federal courts. But Congress should do more. Each chamber should require a recorded floor vote to retain or to create any member immunities from federal law and adopt resolutions renouncing the Mitchell-Foley embrace of a constitutionally privileged caste.

RECOGNITION OF RETIRED ADM. JOHN G. WILLIAMS, JR.

Mr. GORTON. Mr. President, I have recently learned of the death of a man who exemplified what one concerned and dedicated person can achieve in a lifetime. Retired Adm. Jack Williams succeeded in his career, as an active member of his community, and as a man devoted to family.

Jack Williams graduated from the U.S. Naval Academy in 1946, and from there proceeded to enjoy a long and distinguished military career, including teaching Naval Science at Oregon State College, serving as Executive Officer of the submarine U.S.S. *Stickleback*, and as Commander of the submarines U.S.S. *Sterlet*, U.S.S. *Haddo* and U.S.S. *Daniel Webster*. He later commanded a submarine squadron in Rota, Spain. In 1980, he was promoted to vice admiral, oversaw the Pacific fleet and became Deputy Chief of Naval Operations for submarine warfare. The last of an illustrious list of achievements was his appointment as Chief of Naval Materiel.

After retirement and cessation of the global travel that accompanies a military career, Jack and his wife Dorothy returned to the Pacific Northwest, to Long Beach, where they had met. In community as in career, Jack was generous with his energies, his time, and his talents, serving as president of the Columbia River Maritime Museum in Astoria, a member of the board for the Ilwaco Heritage Museum, and as vice president of the Keyport Undersea Museum. He helped found the Northwest Submarine League, which he served as president, was active with the boy scouts, and served as president of the local school board. Because of his stature in the community, I had planned to ask Jack to serve as a member of my Pacific County Advisory Committee, but the onset of his illness precluded my doing so. I have no doubt that his contribution would have been significant.

Finally, Mr. President, Jack Williams was a family man, not just in the narrower sense of having raised, provided for, and nurtured, with Dorothy, his own nuclear family, but in a larger, more joyous way. Jack and Dorothy Williams raised five children—Jack, Trond, Curt, Barbara, and Bronk—who, by the time of his death, had brought four spouses—Barbara, Cathy, Sheila, and Roger—and nine grandchildren—John, Carl, Trond, Matthew, Alex, Tara, Kate, Katie, and Hannah—to the immediate family. This growing clan gathered frequently at Jack and Dorothy's home and enjoyed each other as it seems fewer and fewer families find time to do these days.

But this was not the full extent of Jack's devotion to family. Each Labor Day is the occasion for an ever larger reunion of the extended Williams family, who celebrate in a uniquely American fashion their common Welsh lineage, and their sheer enjoyment of each other. Many families hold such reunions every ten years or so, but few do so on a yearly basis. Last year's gathering drew nearly 150 relatives. Next year's meeting will surely be more somber with the loss of this man who was a family leader, as he was a leader in all things. But they will meet, nonetheless, and in meeting will honor his memory.

Mr. President, I extend my sincere condolences to the family and many friends of Adm. John G. Williams, Jr., a man whose numerous personal successes contributed to the success of all he touched. In mourning his death, we also celebrate his life.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items 432, 435, 436, 437, 438, 439, 440, 441, 442, and 443, and the following nominations reported today by the Committee on the Judiciary: William Ho-Gonzales, to be Special Counsel for Immigration-Related Unfair Employment Practices; David C. Bramlette, to be U.S. district judge; Joe B. McDade, to be U.S. district judge; Anne C. Conway, to be U.S. district judge; Sam Sparks, to be U.S. district judge; Edith Brown Clement, to be U.S. district judge; David A. Faber, to be U.S. district judge; and Monti L. Belot, to be U.S. district judge.

Mr. President, I note for the record that all four nominees for the Department of Veterans Affairs, Calendar Orders 439, 440, 441, and 442, have given a commitment to respond to requests to appear and testify before any duly-constituted committee of the Senate.

I further ask unanimous consent that the Senate proceed to their immediate consideration; that the nominees he confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid on the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. We concur.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Alan M. Dunn, of Virginia, to be an assistant Secretary of Commerce.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

William Stewart Johnson, of New Mexico, to be a Member of the Board of trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 1996 (reappointment).

A. David Lester, of Colorado, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for the remainder of the term expiring May 19, 1994.

Piestwa Robert Harold Ames, of California, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 1996

Wiley T. Buchanan, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 1996.

DEPARTMENT OF VETERANS AFFAIRS

Sylvia Chavez Long, of New Mexico, to be an Assistant Secretary of Veterans Affairs (Congressional Affairs).

Allen B. Clark, Jr., of Texas, to be Director of the National Cemetery System. Department of Veterans Affairs.

Jo Ann Krukar Webb, of Virginia, to be an Assistant Secretary of Veterans Affairs (Policy and Planning).

James Ashley Endicott, Jr., of Texas, to be General Counsel Department of Veterans Affairs

U.S. INTERNATIONAL TRADE COMMISSION

Peter S. Watson, of California, to be a Member of the United States International Trade Commission for the term expiring December 16, 2000.

William Ho-Gonzalez, of Virginia, to be Special Counsel for Immigration-Related Unfair Employment Practices for a term of 4 years.

David C. Bramlette, of Mississippi, to be U.S. District Judge for the Southern District of Mississippi.

Joe B. McDade, of Illinois, to be U.S. District Judge for the Central District of Illinois.

Anne C. Conway, of Florida, to be U.S. District Judge for the Middle District of Florida.

Sam Sparks, of Texas, to be U.S. District Judge for the Western District of Texas.

Edith Brown Clement, of Louisiana, to be U.S. District Judge for the Eastern District of Louisiana.

David A. Faber, of West Virginia, to be U.S. District Judge for the Southern District of West Virginia.

Monti L. Belot, of Kansas, to be U.S. District Judge for the District of Kansas.

STATEMENT ON THE NOMINATION OF WILEY T. BUCHANAN

Mr. WARNER. Mr. President, addressing the most recent action by the Senate relating to the Executive Calender No. 438, referencing Wiley T. Buchanan to be a member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development, I have had the privilege of knowing that distinguished citizen for some many years and, indeed, his father. I wish to congratulate him for having taken on this important responsibility and having been so nominated by the President of the United States. I am confident he will discharge his responsibilities in a very commendable manner in the best interests of our Nation.

I admired greatly Wiley T. Buchanan, Sr., former U.S. Ambassador to Austria. He is survived by his equally distinguished wife, Ruth, mother of the President's nominee.

STATEMENT ON NOMINATIONS OF JO ANN K. WEBB, SYLVIA CHAVEZ LONG, ALLEN B. CLARK, AND JAMES A. ENDICOTT TO POSITIONS AT THE DEPARTMENT OF VETERAN AFFAIRS

Mr. SPECTER. Mr. President, as ranking minority member of the Committee on Veterans' Affairs, I am pleased to support the confirmation of the nominations of four remarkable individuals to key positions at the Department of Veterans Affairs [VA]. Each nominee is highly qualified for the post to be assumed.

I am proud to say that the President's nominee to be the VA's Assistant Secretary for Policy and Planning, Jo Ann K. Webb, is a Pennsylvania native and is a graduate of the Pennsylvania State University, which she attended under the U.S. Army's Nurse Scholarship Program. Until recently, Mrs. Webb served as the Director of VA's National Cemetery System. Prior to that appointment, she had been a practicing registered nurse, a career employee at VA, and an adviser to VA on women's issues. As a registered nurse in the U.S. Army, she served as an operating nurse in, among other places, the Republic of Vietnam.

Ms. Sylvia Chavez Long, who is nominated to serve as VA's Assistant Secretary for Congressional Affairs, began her career at VA in 1989 as Deputy Assistant Secretary for Program Coordination and Evaluation. Prior to assuming this position, Ms. Chavez Long served for more than 16 years on the staff of former Representative—and currently Interior Secretary—Manuel Lujan of New Mexico as his veterans' and military liaison. She now moves to a VA position for which she is uniquely suited.

The congressional affairs activity at VA has made great strides since the arrival of Secretary Ed Derwinski and Deputy Secretary Tony Principi. Under Dennis Duffy, Deputy Assistant Secretary for Congressional Liaison, and Jo Sherman, Deputy Assistant Secretary for Legislative Affairs, the Office of Congressional Affairs has served the Congress well. I am pleased that Ms. Chavez Long, a person with a depth of congressional experience, will be overseeing this important program.

Allen B. Clark, nominated to be Director of the National Cemetery System, has most recently served the VA and Assistant Secretary for Veterans Liaison and Program Coordination. Mr. Clark served as a captain in the Special Forces in Vietnam during 1966 and 1967, where he received, among other decorations, the Silver Star for Gallantry, the Bronze Star, and the Purple Heart. Sadly, both of Mr. Clark's legs were amputated due to combat wounds in Vietnam. Clearly, however, none of his spirit was left behind in Vietnam. Since his retirement from service, Mr. Clark has received an M.B.A. from Southern Methodist University, and has been a banker and businessman as well as a spokesman for Vietnam veterans. I anticipate that he will apply that same dynamic spirit to the management of our national cemeteries.

Mr. James A. Endicott, the general counsel-designate, has resided and practiced law in Texas, and served as a domestic court master there, since his retirement from the U.S. Army in 1982. Like Mrs. Webb and Mr. Clark, Mr. Endicott is a veteran of Vietnam service. Mr. Endicott went to the George Washington University Law School while he

VOL 137 PT 23 NO 21—25 1991 UMI

was a young officer stationed here in Washington and, subsequently, amassed a distinguished career in Army law before retiring in 1982 as a colonel. I believe his legal and military experience will provide a special focus and sensitivity to his duties as the Secretary's chief legal adviser and manager of the attorneys and staff in VA's Office of the General Counsel.

Mr. President, each of these nominees is a highly distinguished and qualified individual. I urge my colleagues to approve their nominations.

STATEMENT ON NOMINATIONS TO POSITIONS IN THE DEPARTMENT OF VETERANS AFFAIRS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge confirmation of the four pending nominations to Department of Veterans Affairs positions—Allen B. Clark, Jr., who is nominated to be Director of the National Cemetery System; James A. Endicott, Jr., nominated to be general counsel; Sylvia Ann Chavez Long, nominated to be Assistant Secretary for Congressional Affairs; and Jo Ann K. Webb, nominated to be Assistant Secretary for Policy and Planning. On October 25, 1991, I chaired a hearing to consider these four nominations and yesterday, November 20, the committee voted by voice vote and and without dissent to report these nominations favorably to the Senate.

BACKGROUND

Mr. President, I would like to discuss briefly the qualifications of each of the four nominees, all of whom are well qualified to serve in the positions to which they have been nominated.

ALLEN B. CLARK, JR.

Mr. President, Allen Clark is a 1963 graduate of West Point and a highly decorated Vietnam veteran. As a Green Beret in Vietnam, he lost both legs as a result of wounds received in combat. He was awarded the Silver Star for gallantry in action, the Bronze Star, the Air Medal, the Purple Heart, two Vietnam Service Battle Stars, the Combat Infantryman's Badge, and Airborne Wings. He retired medically as a captain in 1968.

Mr. Clark earned a master's degree in business administration at Southern Methodist University in 1970. His professional career has included nearly two decades in the private sector, where he held positions in banking and industry. From 1978 to 1981 he served as a special assistant to Texas Governor, Bill Clements.

He has devoted significant time and energy to many civic organizations, including the United Way, the Dallas American Heart Association, and the Austin Vietnam Veterans Leadership Program. He also is a member of numerous veterans' service organizations.

In October 1989, Mr. Clark was confirmed by the Senate to be the Assistant Secretary for Veterans Liaison and Program Coordination. In that capacity, he served as the Secretary's principal advisor regarding the interests and concerns of veterans and veterans' service organizations and was responsible for conducting program evaluations under section 527—formerly section 219—of title 38, United States Code. While Assistant Secretary, he also served as the chairman of the Native American Coordinating Council.

If confirmed as Director of the National Cemetery System, Allen Clark will assume responsibility for the management of 113 cemeteries, approximately 1200 employees, and a fiscal year 1992 operating budget of $67 million.

JAMES A. ENDICOTT, JR.

Mr. President, Jim Endicott received his bachelor's degree in 1960 from the Citadel, where he was a distinguished military student and dean's list scholar. After graduation, he began his military service in 1960 as an Army 2nd Lieutenant with the 101st Airborne Division and then served for 3 years with the 24th Mechanized Infantry Division in Germany. He returned stateside to Ft. Myer, VA, where he served in the 3d Infantry. From 1965 to 1968, he attended law school at George Washington University while serving on active duty in the office of the Army's Judge Advocate General. After receiving his J.D. degree with honors in 1968, he served a year tour in Vietnam as a Deputy Staff Judge Advocate with the 4th Infantry Division.

From 1969, when he returned from Vietnam, to 1982, when he retired as a Colonel, he served in progressively more responsible positions in the Army's Judge Advocate General Corps. His last active-duty assignment was as special assistant to the chief judge of the Army Court of Military Review.

After retiring from the Army, he worked as an attorney in private practice for 7 years and then, in 1989, he began serving as a Family Law Court Master in Bolton, Texas, a position in which he served until his nomination.

Jim Endicott is admitted to the bar of the U.S. Supreme Court, as well as the Courts of Appeals for the Fifth and Federal Circuits, the Court of Veterans Appeals, the U.S. Claims Court, and the U.S. District Court for the western district of Texas, and to the Virginia and Texas bars.

He served for 2 years on the Texas Veterans Commission, an executive body that oversees a statewide staff of veteran service officers.

If confirmed as general counsel, Mr. Endicott will assume management responsibility for approximately 650 employees and a budget of $37 million. It is the responsibility of the Office of General Counsel to provide legal and policy advice to the Secretary as well as to all VA offices.

Mr. President, at Jim Endicott's confirmation hearing, I raised with him my concern that the current level of funding for the Office of General Counsel does not address properly the increased staffing demands related to the Court of Veterans Appeals. His responses assured me that he is aware of the staffing needs of the office and of the importance of the major new judicial review responsibilities before the court.

I was pleased that Mr. Endicott, in response to questions posed by both Senator THURMOND and me, acknowledged that the general counsel, in addition to representing the Department before the court, has a responsibility to ensure that veterans receive fair treatment and all benefits and service to which they are entitled.

In response to requests for his views on the relationship between the general counsel and the chairman of the Board of Veterans Appeals with respect to board matters that come before the court, Mr. Endicott acknowledged that the respective roles of the general counsel and the chairman may, at times, result in conflicting views as to the proper course for the department to follow in cases appealed to the court. He stated that he would not be inclined to settle a case, which would effectively reverse the BVA decision, without first consulting the chairman of the Board of Veterans Appeals and that he would strive to resolve amicably any differences between BVA and the office of the general counsel.

SYLVIA ANN CHAVEZ LONG

Sylvia Chavez Long received a degree in business administration from the University of New Mexico in 1970 and pursued further education at the Albuquerque Technical-Vocational Institute and the University of New Mexico.

After graduating from college, she worked for 2 years in the private sector in New Mexico and then, in 1972, joined the staff of then-Representative, now Secretary of the Interior, Manuel Lujan, where she served for 16 years as the Veterans and Military Liaison.

In 1973, Sylvia Chavez Long joined the U.S. Navy Reserve as an enlisted member. She rose to the rank of chief petty officer and in 1989 received a commission as a chief warrant officer. She remains a member of the Navy Reserve, currently as an administrative officer in the Office of the Assistant Chief of Naval Operations for Surface Warfare.

In 1989, she became the deputy assistant secretary for Program Coordination and Evaluation at VA. In that capacity, she had primary responsibility for conducting evaluations of VA's PTSD treatment programs and homeless veterans programs, as well as for coordinating the Native American Home Loan Guaranty Study mandated by Public Law 101–237.

Ms. Long has been awarded numerous honors in connection with her service in the Naval Reserve and is active in several associations, including the

Council of Hispanic Women, the American G.I. Forum, the Association of the U.S. Army, and the National League of Families. She was also a member of the board of directors for the New Mexico Vietnam Veterans Leadership Program and editor of the New Mexico Veterans News.

If confirmed as assistant secretary for Congressional Affairs, Sylvia Chavez Long will serve as a principal advisor to the secretary and deputy secretary concerning all legislative matters. She will be the direct liaison between VA and congressional Members and their staffs and, thus, will be responsible for facilitating and encouraging a positive working relationship between VA and Congress.

At the committee's October 25 hearing, I requested that Ms. Long work with the Secretary to inform VA employees of the Department's policy regarding communications between congressional offices and VA. In prehearing responses, she stated that the policy did not require that all communications be processed through the Office of Congressional Affairs, yet committee members, and our staffs, have sensed confusion and in some cases serious apprehension among central office and field staff when making routine requests for information or assistance. I am very pleased that Ms. Long agreed to honor my request to clarify the policy, and I am confident that, as a former congressional staff person, she fully understands how important it is that congressional Members and their staffs receive timely and accurate responses to inquiries.

JO ANN K. WEBB

Mr. President, Jo Ann Webb received her bachelor of science degree from Pennsylvania State University in 1970 and then served in the Army Nurse Corps for 5 years as a lieutenant and then captain. This included a year as an operating room staff nurse in Vietnam during 1971–72. She served as a nurse at U.S. Army hospitals in West Germany and at the Walter Reed Army Medical Center, where she was the head nurse of the Ophthalmology Surgery Service. In May of 1978, she received a master's degree in health administration from George Washington University.

Mrs. Webb served 3 years as an original member of the VA Women's Advisory Committee, 3 years as a consultant to ACTION, the national domestic volunteer agency, and 4 years as a health systems specialist at VA. For the past 2½ years, she has served VA as special assistant to the secretary and, since October 1989, as Director of the National Cemetery System.

Mr. President, the position of Assistant Secretary for Policy and Planning is a new one. If confirmed, Mrs. Webb would be responsible for facilitating the Secretary's policy development and planning processes and integrating both into the Secretary's strategic management process. In this capacity, she would manage 76 employees and a budget of almost $7.5 million for fiscal year 1992. At the committee's confirmation hearing, I stressed that, given the scarcity of resources in the current budget climate, there is a need for strategic plans to include a priority for programs that address the needs of service-disabled veterans and the survivors of such veterans.

CONCLUSION

Mr. President, each nominee completed the committee's basic questionnaire for Presidential nominees and the committee received letters from the Office of Government ethics certifying that each is in compliance with applicable laws and regulations governing conflicts of interest. I reviewed the FBI reports on the nominees and found no bar to their confirmation.

Mr. President, I am pleased to recommend to the Senate the confirmation of Allen B. Clark, Jr., to serve as Director of the National Cemetery System; James A. Endicott, Jr., as general counsel; Sylvia Ann Chavez Long, as Assistant Secretary for Congressional Affairs; and Jo Ann K. Webb, as Assistant Secretary for Policy and Planning.

STATEMENT ON NOMINATION OF ANNE CONWAY

Mr. MACK. Mr. President, it is with great pleasure that I present to you Anne Conway, nominee for the U.S. District Court in the middle District of Florida.

Anne Conway was born in Ohio and graduated from John Carroll University in 1972 with a bachelor of arts degree. She attended the University of Florida Law School. Anne excelled in law school where she was executive editor of the Law Review. She received the Book Award in Estates and Trusts and was the recipient of the McIntosh Award from the Center for Governmental Responsibility. Anne graduated with honors from law school in 1975.

After law school, she clerked for the Honorable John A. Reed, Jr., at the U.S. district court in Orlando. Upon completing her clerkship, she went into private practice and is currently a partner in the Carlton, Fields Law Firm in Orlando. Her practice consists mainly of civil litigation, primarily in Federal Court.

Anne Conway has been very active in the Florida Bar and in the Orange County Bar Association where she served as past chairperson of the State and Federal Trial Practice Committee. Anne also is involved in the Southern Ballet Theatre, the Orlando Museum of Art and the Lakemont Elementary School PTA.

Anne enjoys widespread support in her community and has earned the respect of her colleagues. I have received numerous letters and phone calls in her behalf praising Anne, not only for being an outstanding attorney but also for her participation in her community and for her devotion to her family.

As I have stated previously before this body, I established a Judicial Advisory Commission to make recommendations to me for district court openings in my State. The Commission highly recommended Anne for my consideration. The Commission found her to be a very qualified candidate for the United States District Court and I wholeheartedly concur.

This morning, Anne was voted on favorably by the Senate Judiciary Committee and her nomination was reported to the full Senate for consideration. I trust each of you will examine Anne Conway's fine legal record. I believe her to be eminently qualified for the position of Federal District Court Judge and I urge the Senate to confirm her without further delay.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Rules and Administration.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT PM–97

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to provide you the Twenty-third Annual Report of the Department of Transportation's activities. This report reviews the Department's activities during fiscal year 1989.

FY 1989 was a year of major events in transportation. Evidence mounted that the crash of Pan Am 103 over Scotland was the result of terrorism. The *Exxon Valdez* oil spill heightened concern about safety of the transportation of oil. The Department reacted to these events and also worked to outline a national transportation policy to move

VOL 137 PT 23 NO 21—25 1991 UMI

America into the 21st century. It held nationwide outreach meetings to help draft such a comprehensive national transportation policy.

This report also outlines the gains the Department made in meeting the goals of regulatory reform, greater safety and security in all modes of transportation, elimination of drugs from the transportation workplace, privatization of mass transit, and increased reliance on user fees to pay for transportation services.

The Department continued to eliminate needless Federal regulations and shift many Federal controls to State and local governments where they would be more effectively managed. This was certainly true of motor carrier regulation.

The Department required drug testing and drug use prevention programs throughout most of the transportation industry and the Department work force. The Department issued regulations designed to identify drug use problems, prevent the threat of drug use by those employees holding safety- and security-related positions, and ensure a drug-free transportation environment.

The bombing of Pan Am Fight 103 stressed the need to increase civil aviation security around the world to protect the traveling public from criminal and terrorist acts. The Secretary worked with authorities on terrorism to identify vital areas for improvement and to strengthen the Department's activities to address them.

As we forge a national transportation policy that underscores safety, security, and market forces, we must do so with the full realization that transportation must play a central role in our investment in America's future. Our competitive success depends on it.

GEORGE BUSH.

THE WHITE HOUSE, *November 21, 1991.*

MESSAGES FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 159) for the relief of Maria Erica Bartski; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1284) to make certain technical corrections in the Judical Improvements Act of 1990; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2763. An act to enhance geological mapping of the United States, and for other purposes;

H.R. 2790. An act to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; and

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 238. Concurrent resolution concerning democratic changes and violations of human rights in Zaire; and

H. Con. Res. 242. Concurrent resolution emphasizing the vast extent of environmental damage in the Persian Gulf region and urging expeditious efforts by the United Nations to set aside funds to redress environmental and public health losses.

At 2:50 p.m. a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. GIBBONS, and Mr. ARCHER as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 355) to provide emergency drought relief to the reclamation States, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Interior and Insular Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. MILLER of California, Mr. MARKEY, Mr. RAHALL, Mr. VENTO, Mr. DE LUGO, Mr. GEJDENSON, Mr. KOSTMAYER, Mr. LEHMAN of Califronia, Mr. YOUNG of Alaska, Mr. HANSEN, Mrs. VUCANOVICH, Mr. RHODES, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 102(d), 104(a), 203(a)(4), and 303(6) of the House bill, and sections 102(d), 203(a)(4), 203(c), and 302 of the Senate amendment, and modifications committed to conferences: Mr. JONES of North Carolina, Mr. STUDDS, and Mr. DAVIS.

The message further announced that the House has passed the following bill, in which it requires the concurrence of the Senate:

H.R. 3635. An act to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes.

ENROLLED BILLS SIGNED

At 6:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 2270. An act amending certain provisions of title 5, United States Code, relating to the Senior Executive Service; and

H.R. 3624. An act to amend the Tariff Act of 1930 to provide appropriate procedures for the appointment of the Chairman of the United States International Trade Commission.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2763. An act to enhance geological mapping of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2790. An act to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 238. A concurrent resolution concerning democratic changes and violations of human rights in Zaire; to the Committee on Foreign Relations.

H. Con. Res. 242. A concurrent resolution emphasizing the vast extent of environmental damage in the Persian Gulf region and urging expeditious efforts by the United Nations to set aside funds to redress environmental and public health losses; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill, received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The Committee on Rules and Administration was discharged from the further consideration of the following resolution; which was placed on the calendar:

S. Res. 198. A resolution amending Senate resolution 62 of the One Hundred Second Congress to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3762. An act to amend the Metropolitan Washington Airport Act of 1986 to modify the composition of the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 21, 1991, he had presented to the President of the United States the following enrolled bill:

S. 1475. An act to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1330. A bill to enhance the productivity, quality, and competitiveness of United States industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes (Rept. No. 102–226).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1933. A bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes (Rept. No. 102–227).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

H.R. 3029. A bill entitled, "Food, Agriculture, Conservation, and Trade Act Amendments of 1991".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 447. A bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 1776. A bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

William Ho-Gonzalez, of Virginia, to be Special Counsel for Immigration-Related Unfair Employment Practices for a term of four years;

Ernest Wilson Williams, of Tennessee, to be United States Attorney for the Middle District of Tennessee for the term of four years;

Anne C. Conway, of Florida, to be United States District Judge for the Middle District of Florida;

Monti L. Belot, of Kansas, to be United States District Judge for the District of Kansas;

David C. Bramlette, of Mississippi, to be United States District Judge for the Southern District of Mississippi;

David A. Faber, of West Virginia, to be United States District Judge for the Southern District of West Virginia;

Joe B. McDade, of Illinois, to be United States District Judge for the Central District of Illinois;

John M. Roll, of Arizona, to be United States District Judge for the District of Arizona;

Edith Brown Clement, of Louisiana, to be United States District Judge for the Eastern District of Louisiana; and

Sam Sparks, of Texas, to be United States District Judge for the Western District of Texas.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for himself, Mr. COHEN, Mr. SASSER, Mr. BAUCUS, Mr. BURDICK, Mr. CONRAD, Mr. EXON, Mr. METZENBAUM and Mr. WELLSTONE):

S. 2000. A bill to provide for the containment of prescription drug prices by reducing certain nonresearch related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 2001. A bill to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of school buses; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON:

S. 2002. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of school bus drivers shall be allowable in computing adjusted gross income; to the Committee on Finance.

By Mr. JOHNSTON:

S. 2003. A bill to provide an exception to the coverage of State and local employees under Social Security; to the Committee on Finance.

By Mr. DECONCINI:

S. 2004. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling for private activity bonds; to the Committee on Finance.

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2005. A bill to amend section 2 of the Act of July 31, 1947 (61 Stat. 681); to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. KASTEN):

S. 2006. A bill to establish the Fox River National Heritage Corridor in Wisconsin, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 2007. A bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself and Mr. BOREN):

S. 2008. A bill to amend the Public Health Service Act to establish Federal standards to ensure quality assurance in private sector drug testing programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PACKWOOD (for himself, Mr. FOWLER, Mr. HATFIELD, Mr. NUNN, Mr. GORTON, Mr. BURNS, Mr. SHELBY, Mr. CRAIG, Mr. HEFLIN, Mr. SYMMS and Mr. BREAUX):

S. 2009. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

By Mr. HATFIELD:

S. 2010. A bill for the relief of Jessielito G. Infante; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. PELL):

S. 2011. A bill to provide agricultural and other essential commodities to the Soviet Union in exchange for Soviet fissile materials and to assist the development of lending institutions in the Soviet republics; to the Committee on Foreign Relations.

By Mr. SPECTER:

S. 2012. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for high speed rail and certain other mass transportation equipment; to the Committee on Finance.

By Mr. LEAHY:

S. 2013. A bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. PACKWOOD, Mr. GRAHAM and Mr. JEFFORDS):

S. 2014. A bill to amend the Employee Retirement Income Security Act of 1974 and title 11, United States Code, to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. D'AMATO, Mr. SIMON, Mr. HOLLINGS, Mr. NUNN, Mr. LUGAR, Mr. INOUYE, Mr. DURENBERGER, Mr. DECONCINI, Mr. STEVENS, Mr. METZENBAUM, Mr. GORTON, Mr. BUMPERS, Mr. DANFORTH, Mr. BOND, Mr. BURDICK, Mr. COHEN, Mr. CRAIG, Mr. REID, Mr. SIMPSON, Mr. THURMOND, Mr. MCCAIN, Mr. SHELBY, Mr. CONRAD, Mr. SASSER, Mr. FOWLER, Mr. BRYAN, Mr. SEYMOUR, Mr. HATCH, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. DIXON, Mr. FORD, Mr. HATFIELD, Mr. BURNS, Mr. SPECTER, Mr. LOTT, Mr. MACK and Mr. BOREN):

S. 2015. A bill to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the the defense of Corregidor Island, the Philippines, under General Wainwright; to the Committee on Armed Services.

VOL 137 PT 23 NO 21—25 1991 UMI

By Mr. SEYMOUR:

S. 2016. A bill to protect, restore and enhance fish, and wildlife habitat within the Central Valley of California, mitigate Central Valley Project impacts in order to maintain the continued orderly operation of the Central Valley Project, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATFIELD (for himself and Mr. BINGAMAN):

S. Res. 228. A resolution to amend the Albert Einstein Congressional Fellowship Program; considered and agreed to.

By Mr. LEVIN (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 229. A resolution to authorize testimony by and representation of a former Senate employee; considered and agreed to.

By Mr. ROBB (for himself and Mr. WARNER):

S. Con. Res. 78. A concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam; to the Committee on Foreign Relations.

By Mr. SIMON:

By S. Con. Res. 79. A concurrent resolution expressing support for Zambia's transition to democracy; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself, Mr. COHEN, Mr. SASSER, Mr. BAUCUS, Mr. BURDICK, Mr. CONRAD, Mr. EXON, Mr. METZENBAUM, and Mr. WELLSTONE):

S. 2000. A bill to provide for the containment of prescription drug prices by reducing certain nonresearch-related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, to requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes; to the Committee on Finance.

(Statements on the introduction of this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. REID:

S. 2001. A bill to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of schoolbuses; to the Committee on Commerce, Science, and Transportation.

(The remarks of Mr. REID on the introduction of this legislation appear earlier in today's RECORD.)

By Mr. JOHNSTON:

S. 2002. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of schoolbus drivers shall be allowable in computing adjusted gross income; to the Committee on Finance.

S. 2003. A bill to provide an exception to the coverage of State and local employees under Social Security; to the Committee on Finance.

ASSISTANCE FOR SCHOOLBUS DRIVERS

● Mr. JOHNSTON. Mr. President, today I am introducing legislation to help assist our Nation's schoolbus drivers who provide a very important role in the education of our children. Recently, several broad-based tax provisions have been enacted into law which adversely affect schoolbus drivers. The bills I am introducing today will provide some of our most dedicated school employees with relief which they need and deserve.

The first measure would permit bus drivers to deduct actual operating expenses, regardless of whether or not they itemize on their Federal tax returns. This was the law prior to enactment of the Tax Reform Act of 1986. Under current law, however, schoolbus drivers' actual expenses are treated as miscellaneous expenses, thus limiting the deduction to those who itemize and subjecting it to the 2-percent floor. This floor has prevented many schoolbus drivers from qualifying for any deduction for their actual operational expenses because they cannot meet the 2-percent floor applicable to miscellaneous itemized deductions. The result has been a substantial increase in schoolbus drivers' annual income tax liability. Moreover, even those bus drivers who itemize and qualify for deductions under the 2-percent floor have been penalized, especially those who file joint returns.

The second measure would exempt schoolbus drivers—and other State and local employees who work on a part-time, seasonal, or temporary basis—from paying Social Security taxes. Many of these individuals are already covered under State and local retirement systems; however, the law currently requires that they pay into Social Security as well. The result is increased costs to the employer and smaller take-home paychecks for the employees. Perversely, some States may even decide to remove these workers from their retirement systems, which could result in a reduction in, or loss of, retirement benefits for which the employees have worked for many years.

Our schoolbus drivers do a yeoman's job in transporting future generations to and from school. We all agree that education of our youth should be one of our highest priorities. Let's pass this legislation and provide some relief to those individuals who make it possible for our children to arrive at school in a safe and timely manner.

I ask unanimous consent that the text of the bills be printed in full immediately after this statement.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTIONS OF SCHOOL BUS DRIVERS ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 62(a) of the Internal Revenue Code of 1986 (relating to certain trade and business deductions of employees) is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN EXPENSES OF SCHOOL BUS DRIVERS.—The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer in connection with the performance by the taxpayer of services as an employee while driving a school bus (as defined in section 4221(d)(7)(C))."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCEPTION TO COVERAGE OF STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Subparagraph (F) of section 210(a)(7) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of clause (iv),

(2) by inserting "or" at the end of clause (v), and

(3) by inserting after clause (v) the following new clause:

(vi) by an individual who is characterized as a part-time, seasonal, or temporary employee by such retirement system;".

(b) EMPLOYMENT UNDER FICA.—Subparagraph (F) of section 3121(b)(7) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of clause (iv),

(2) by inserting "or" at the end of clause (v), and

(3) by inserting after clause (v) the following new clause:

"(vi) by an individual who is characterized as a part-time, seasonal, or temporary employee by such retirement system;".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11332 of the Omnibus Budget Reconciliation Act of 1990.●

By Mr. DECONCINI:

S. 2004. A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling for private activity bonds; to the Committee on Finance.

STATE CEILING FOR PRIVATE ACTIVITY BONDS

Mr. DECONCINI. Mr. President, the economy is getting worse not better. Most of our economic indicators point to a deepening recession. Consumer confidence is at an all-time-low. The trade deficit is up. The President seems to argue that if we think the recession

is over, it will be. Well, let me tell you this recession is not a figment of anyone's imagination. It is very real and we had better address it now before we sink into depression.

The news on the employment front in my State of Arizona is only getting worse. This is a story from yesterday's Arizona Daily Star reported by Jeff Herr, carries a headline "Burr-Brown Cutbacks May Affect 200 Jobs." The story states that the cutbacks are a result of "a major company restructuring triggered by the global recession."

Here I have a major employer in my State already in a recession and that is why they are cutting back over 200 jobs. Burr-Brown is a major Tucson, AZ, employer of nearly 1,200 workers in the semiconductor industry. It has been very successful. It has been above 1,200 before, and now we are seeing it start to shrink.

Today's news, from the same Arizona Daily Star is even worse. Reported again by Jeff Herr, the headline reads "Hughes to Cut 1,600 Jobs." This is Hughes aircraft, owned by General Motors, premier producer of missiles and other items. This is yet another sign of the weak economy and portends increasing unemployment and dislocation in Arizona.

We need leadership on the economy. Instead, we get platitudes. Yesterday, President Bush told NBC affiliates "I don't want to emphasize just the bad things, to talk us into a depression." Mr. President, it is not talk that is getting us into a depression, it is inaction. No action; no economic program from the White House.

Earlier this week the President told reporters, "I think I've got to do better in making clear what the message is." The administration has to spend less time worrying about what they say and worrying more about what they do. Or what they are not doing.

We need some action. And it is time for the President to put the politics aside and come help this country. How much time has he spent on domestic problems? Pretty soon, they are going to open up a White House in some foreign country for the President because that is where he is going to spend more time than he does here at the American White House.

There are a number of possible solutions to this economic crisis. Over the last 4 weeks, I have introduced a series of economic incentive tax bills. The legislation I have introduced targets different segments of the economy which are suffering in our current recession. My legislation seeks to create jobs. That is what we should be about if we want to get this economy moving again. I ask unanimous consent that a description of my entire four-part tax package and the full text of the bill I am introducing today be included in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DECONCINI. There is no magic cure for our economic woes. I do not pretend to have some solution in my pocket. But at least I am doing some thinking about it and offering suggestions and directions for this country. I have sought a multifaceted approach to job creation and economic growth. In addition to my tax proposals, I am working on job creation through the appropriations process. Just last week, the Defense Appropriations Subcommittee, at my request, included funding for the procurement of 891 AMRAAM missiles, 2,400 TOW 2A missiles, and continued research and development of the AAAM missile. All of these projects are vital to our national defense, even in a period of time when we are building down that national defense. They will serve to preserve Arizona jobs which might otherwise be lost. In this case, both the workers of Arizona and our Nation's Armed Forces are winners.

We need more actions, Mr. President, not words. The Washington Post is quoted this morning as saying that the White House's Economic Policy Council has become a message machine. Council members are more concerned about communicating a message than curing the economy.

President Bush has come to sound like Hamlet who said "Nothing is either good or bad, but thinking makes it so."

Hamlet came to a tragic end Mr. President. I do not want to see our economy meet a similar fate. Let us move forward today. Let us act before inaction destroys the American economy and there is little left to talk about. It is not too late if we have some action.

I implore the President to move forward on economic grounds. And I hope when we return in January the Finance Committee and other committees that have jurisdiction will take up these tax incentive bills I have introduced, as well as other bills I will be introducing, including one involving a flat tax across the board with no deductions that I hope will spur the economic growth of this country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[EXHIBIT 1.]

S. 2004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE CEILING FOR PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Section 146(d)(2) of the Internal Revenue Code of 1986 (relating to adjustments after 1987) is amended to read as follows:

"(2) ADJUSTMENTS.—

"(A) YEARS BEFORE 1992.—In the case of calendar years after 1987 and before 1992, paragraph (1) shall be applied by substituting—

"(i) '$50' for '$75', and

"(ii) '$150,000,000' for '$250,000,000'.

"(B) YEARS AFTER 1991.—In the case of calendar years after 1991, paragraph (1) shall be applied by substituting—

"(i) '$100' for '$75', and

"(ii) '$300,000,000' for '$250,000,000'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 1991.

DESCRIPTION OF DECONCINI TAX PACKAGE

Mr. President, to reiterate, today I am introducing the fourth and last bill in my package of economic growth tax incentives. I do not need to repeat for my colleagues the statistics on the dire economic straits facing this country. Suffice it to say, that the double dip recession is a reality—unemployment is not abating and the near term future is far from rosy. That is why I have introduced four bills aimed at helping different sectors of our economy toward recovery.

The first bill I introduced, S. 1905, would repeal last year's increase in the airplane ticket tax from 8 percent to 10 percent. This 25 percent increase, on the heels of the war and the recession which dramatically cut into the airline industry's profits, has been devastating. It just does not make any sense to raise taxes on an industry which has suffered losses of $3.7 billion and $1.37 billion in the last two quarters. Since I introduced this bill 3 weeks ago, yet another airline—Midway—has failed. We must wonder which airline will be next? My bill would provide a boost to the airline industry and all its hard-working employees.

President Bush has admonished Americans to go out and buy a car or a home to help the economy. This insulated view of the American public fails to recognize that Americans are not out buying because they do not have any savings. Net national savings in this country have plummeted 80 percent in the last 40 years. The Japanese save at a rate almost three times ours; the average American under 35 has less than $5,000 in savings. You can not buy a house with $5,000. Therefore, I introduced the Savings Incentive Act, S. 1929, which encourages Americans to save by providing that the first $2,500 of interest earned on savings accounts for a single filer—$5,000 for a couple filing jointly—will be exempt from taxes.

The automobile industry is experiencing some of its most difficult times. Motor vehicle manufacturers experienced a $1.7 billion loss in the most recent quarter. Sales in September were 15 percent below July. In my home State of Arizona, 10 major new car dealerships have closed in the past year and new car sales have declined 33 percent. Therefore, I introduced S. 1957 which seeks to provide a boost to the auto industry by allowing individuals who buy a new car during 1992 to deduct the first year's interest from their taxes. One in seven Americans depend on the auto industry for their livelihood; we need to do something to help this industry.

Today, Mr. President, I am introducing the fourth part of my package. Economic development is the lifeblood for local communities, especially those in rural areas. Small issue industrial development bonds have long been an important tool in bringing jobs into cities and towns. Not only are jobs directly created by new businesses, but indirect employment in fields like construction significantly increase. In 1984, in another example of governmental overreaction, the amount of these bonds that State's are allowed to use was severely restricted. Currently the allocation is $50 per capita. Per-

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haps this is adequate for State's that are not growing, but for an active vibrant State like Arizona, it is just not sufficient and I suspect that other States have similar problems. Therefore, today I am introducing a bill to double the current limit on qualified small issue development bonds to $100 per capita. I hope that this provision will encourage growth and development at reduced cost to States and local governments.

Early next year, the Senate Finance and House Ways and Means Committees are expected to seriously consider a package of tax incentives to boost the economy. Any solution to our current economic crisis will have to be both comprehensive and diverse because this recession is deep and wide. I urge the chairmen to consider my proposals as part of their packages of recession solutions.

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 2005. A bill to amend section 2 of the act of July 31, 1947 (61 Stat. 681); to the Committee on Energy and Natural Resources.

AMENDMENT OF THE ACT OF JULY 31, 1947

• Mr. JOHNSTON. Mr. President, Senator WALLOP and I are today introducing at the request of the Department of the Interior a bill to amend section 2 of the act of July 31, 1947 (61 Stat. 681).

I ask unanimous consent that the bill and the communication which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a)(1) of the Act of July 31, 1947 as amended, (30 U.S.C. 602(a)(1)), is hereby further amended to read as follows:

"(1) the contract is for the sale of less than five hundred thousand board-feet of timber; or, if".

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 7, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend section 2 of the Act of July 31, 1947 (61 Stat. 681)."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The draft bill would permit the Secretary of the Interior to authorize negotiated contracts for the sale of less than five hundred thousand board-feet of timber by raising the volume of timber for which a contract could be negotiated from the present two hundred and fifty thousand board-feet (250 mbf) to five hundred thousand board-feet (500 mbf).

This amendment would facilitate the sale of insect and fire salvage timber primarily from scattered tracts of public lands which lack public access. Using California as an example, during fiscal year 1989, the Bureau of Land Management (BLM) negotiated over 70 timber sales under the provisions of the Act of July 31, 1947. In most instances, these sales were negotiated with adjacent private landowners and represented the only means by which salvage of the timber could reasonably take place.

Our experience indicates that competitive sales are possible only when access to the sale area is available to anyone who is qualified to bid. It is our policy to offer competitive sales only when such access is obtained. However, in the case of salvage timber, time is critical to prevent major timber volumes losses due to decay or insect damage. In these instances, negotiated sales offer BLM managers the flexibility to maximize economic return to the United States, to minimize insect infestations to adjoining lands, and to reduce risks of wildfire. Increasing the sale authority from 250 mbf to 500 mbf would provide broader application of the advantages of negotiated sales of timber.

The Office of Management and Budget has advised that there is no objection to this legislation from the standpoint of the Administration's program.

Sincerely,

DAVID O'NEAL
Assistant Secretary.•

By Mr. KOHL (for himself and Mr. KASTEN):

S. 2006. A bill to establish the Fox River National Heritage Corridor in Wisconsin; to the Committee on Energy and Natural Resources.

FOX RIVER NATIONAL HERITAGE CORRIDOR ACT

• Mr. KOHL. Mr. President, I am very pleased to reintroduce legislation to establish the Fox River National Heritage Corridor in Wisconsin. This bill is almost identical to legislation I introduced in the last Congress. The purpose of the bill is twofold: To federally recognize the Fox River corridor's role in our Nation's development; and to coordinate Federal, State, and local efforts aimed at preserving and enhancing the corridor's unique natural, historical, and cultural heritage.

The Fox River winds across Wisconsin, from Portage to Green Bay. Long before European explorers arrived, native Americans traveled the Fox River and lived along its shores. Later, history was made when explorers Marquette and Joliet followed the Fox and Wisconsin Rivers to reach the Mississippi River. Later, the Fox River played a critical role in the opening of the Northwest Territory, serving as a significant transportation corridor for settlers traveling into the Nation's vast interior.

Throughout the 19th and 20th centuries, the Fox River has played a significant role in the commercial and industrial development of this country. Besides serving as a transportation corridor, the Fox River's plentiful water supply attracted various industries to the region. In particular, the Fox River corridor quickly became famous for its concentration of paper mills, attracted by the region's vast forest reserves, access to major markets, and water supply. In fact, the lower Fox River has the Nation's highest concentration of paper mills along a single stretch of river.

Development in the region was further enhanced by construction of the world's first successful hydroelectric plant, powered by dams along the river. A local residence was the first to get electricity from a centrally located hydroelectric plant.

One of the most significant and historic features of the Fox River is the remarkable system of locks and dams. Although the locks along the upper Fox were abandoned in 1956 most of the locks along the lower Fox have been operational for the past 140 years. This lock system has the distinction of being one of only two hand-operated systems in the Nation, and the only one in continual operation since the time of its construction.

But this bill is not intended to focus on the individual parts that make up the Fox River corridor. Instead, the legislation attempts to tie together the many different aspects of the corridor. The Fox River, the locks and dams, the historic buildings and sites, the industrial and cultural heritage which has developed along the corridor—all these parts taken together represent a unique slice of American life which should be preserved for ourselves and future generations. That's why I'm introducing this bill today.

Now more than ever, Americans want to learn more about their history, their roots. We want to know how this great Nation came to be what it is today. Tourism is on the rise, with people looking for new and different educational experiences to share with their families. The Fox River National Heritage Corridor will provide the region with the identity it needs to maximize its tourism potential.

This legislation establishes a Fox River National Heritage Corridor Commission to integrate Federal, State, and local activities aimed at preserving and interpreting the corridor's diverse resources. The Commission will be composed of 21 members representing the State, local governments, and interested members of the general public. Commissioners will be appointed by the Secretary of the Interior, with input from the Governor of Wisconsin.

The Commission's chief duty will be the development of a cultural heritage and corridor management plan, which will coordinate and consolidate any Federal, State, and local plans in order to present a unified historic preservation and interpretation plan for the corridor. The Commission will hold public hearings and make every attempt to involve the public in development of the plan.

The plan will define the boundaries of the corridor, provide an inventory of all properties and structures of significance to the corridor, and outline an historic interpretation plan to illustrate the history of the corridor. The plan will also recommend policies for comprehensive resource management throughout the corridor, and contain a program for implementation of those policies.

After review and approval of the plan by the Secretary of the Interior, the Commission will take steps to implement the plan. In so doing, the Commission will work closely with the State and with local governments in the region, as well as with the public. Interpretive materials, like guide brochures and historical markers, will be produced with the help of the Secretary of the Interior.

Finally, I should describe what this bill does not do. It does not involve any land acquisition, unless the land is offered as a donation, or money is donated for the acquisition of a property which has been offered for sale by a willing seller. In such cases, the land will be immediately transferred to whatever public agency is deemed appropriate by the Commission. There will be no condemnation of private lands for purposes of this legislation, and no land will be purchased with public funds.

Furthermore, this bill does not involve a significant expenditure of public funds. The bill authorizes Federal appropriations of up to $350,000 annually, but any Federal dollars spent must be matched by State, local or private dollars. In other words, this bill could accomplish a great deal with very modest resources.

In sum, I believe that this bill represents an impressive commitment on the part of many people living and working in the Fox River corridor. I have been impressed by the commitment and resolve among local residents who enthusiastically support this project. I will work with my colleague from Wisconsin, Senator KASTEN, to steer this legislation through Congress as quickly as possible. It is my strong hope that this legislation will be signed into law, and the Fox River National Heritage Corridor will become a reality.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fox River National Heritage Corridor Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Fox-Wisconsin waterway is famous as the discovery route of Marquette and Joliet;

(2) connecting the Great Lakes to the Great River, the waterway was critical in the opening of the Northwest Territory, serving as a major artery in bringing commerce to the interior of the United States and providing a vital communication link for early explorers, missionaries, and fur traders;

(3) within the Fox River corridor are an abundance of historic and archeological sites and structures representing early Native Americans, European exploration, and 19th century transportation and settlement;

(4) on the date of enactment of this Act, there are over 50 jurisdictions and a population of more than half a million people within the corridor, which is located within 300 miles of 22,000,000 people;

(5) historically tied to the development of the paper industry, the Lower Fox River is noted for having the highest concentration of paper mills along a single stretch of river in the United States;

(6) power generated from the river's early dams was responsible for the first successful hydroelectric plant in the world and the first residence electrified from a centrally-located hydroelectric plant;

(7) the Lower Fox River lock and dam system is the dominant historical element in the corridor;

(8) the 140-year old system is one of only two hand operated systems in the United States and the only hand operated system continually functioning since its inception;

(9) the system represents a distinct era in water transportation technology, falling between the earlier tow-path oriented models and the modern automated systems;

(10) the system is under threat of abandonment by the Army Corps of Engineers;

(11) the system has been placed in caretaker status by the Corps and operated by the State since 1984;

(12) despite State and local efforts, there is concern that the system will meet the same fate as the locks and dams of the Upper Fox River, which were abandoned in 1956;

(13) on the Upper Fox River, only the Eureka lock still operates, with restoration underway on the Portage Canal, the linkage between the Fox and Wisconsin Rivers;

(14) the full potential of the diverse natural and cultural features of the waterway, extending from Green Bay to Portage, and connecting to the Lower Wisconsin Riverway, will best be realized with assistance from the Federal Government; and

(15) the unique aspects of the waterway, from heavily developed portions of the Lower Fox River to the pristine expanses of the Upper Fox River, offer an opportunity to establish a nationally significant corridor representative of the Nation's Midwest heritage.

SEC. 3. PURPOSE.

The purpose of this Act is to provide a management framework to assist the State and its political subdivisions in developing and implementing integrated cultural, historical, and natural resource policies and programs that will preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within and surrounding the Fox River in Wisconsin.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the Fox River National Heritage Corridor Commission established in section 6(a).

(2) CORRIDOR.—The term "corridor" means the Fox River National Heritage Corridor established in section 5(a).

(3) PLAN.—Except as otherwise provided, the term "plan" means the Cultural Heritage and Corridor Management Plan prepared by the Commission pursuant to section 9(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Wisconsin or a State-designated management agency.

SEC. 5. ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of Wisconsin the Fox River National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the corridor shall consist of the lands generally depicted on an appropriately dated and referenced map.

(2) LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a legal description of the boundaries established under this subsection.

(3) PUBLIC ACCESS TO MAP.—The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and the State Department of Natural Resources.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with this Act.

SEC. 6. ESTABLISHMENT OF FOX RIVER NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is established the Fox River National Heritage Corridor Commission to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for the corridor.

(b) FEDERAL FUNDING.—The Federal share of the annual expenses of the Commission in carrying out its duties under this Act may not exceed 50 percent.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 21 members appointed not later than 180 days after the date of enactment of this Act, of whom—

(A) one member shall be the Director of the National Park Service (who shall be an ex officio member), or a delegate of the Director;

(B) 20 members shall be appointed by the Secretary, in consultation with the Governor of the State, of whom—

(i) one member shall represent the State Department of Natural Resources;

(ii) one member shall represent the State Historical Society;

(iii) one member shall represent the State Department of Development;

(iv) one member shall represent the State Department of Administration;

(v) six members shall represent local governments in the Lower Fox region of the State;

(vi) two members shall represent local governments in the Upper Fox region of the State; and

(vii) eight members shall be citizens of the State from the general public, and shall have knowledge and experience in appropriate fields of interest relating to the preservation, use, and interpretation of the corridor, of whom—

(I) six members shall be residents of the Lower Fox region; and

(II) two members shall be residents of the Upper Fox region.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission for a 2-year term.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TERMS.—

(A) IN GENERAL.—Each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(B) MEMBERS FILLING VACANCIES.—A member appointed to fill a vacancy occurring before the expiration of the term for which the

VOL 137 PT 23 NO 21—25 1991 UMI

member's predecessor was appointed shall be appointed only for the remainder of the term.

(C) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no compensation on account of their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) MEETINGS.—

(1) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(2) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or six of its members, except that the Commission shall meet at least quarterly.

(3) PUBLIC MEETINGS.—Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(4) QUORUM.—

(A) IN GENERAL.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(B) BUDGET.—The affirmative vote of six members of the Commission shall be required to approve the budget of the Commission.

SEC. 7. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) IN GENERAL.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—

(A) shall be appointed subject to title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the extent authorized by section 3109(b) of title 5, United States Code, and at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—

(1) FEDERAL.—On request of the Commission, the head of a Federal agency may detail, on a reimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) STATE.—The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or the political subdivision for the services.

SEC. 8. POWERS OF COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) SUBPOENA AUTHORITY.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) POWERS OF MEMBERS AND AGENTS.—A member or agent of the Commission, if authorized by the Commission, may take any action that the Commission is authorized to take under this Act.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of the money to make a contribution in order to receive the money.

(f) GIFTS.—

(1) IN GENERAL.—Except as provided in subsection (g)(2)(B), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) CHARITABLE CONTRIBUTIONS.—For the purpose of section 170(c) of the Internal Revenue Code of 1986, a gift to the Commission shall be deemed to be a gift to the United States.

(g) ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) EXCEPTION.—Subject to paragraph (3), the Commission may acquire real property, or an interest in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money given or bequeathed to the Commission on the condition that the money be used to purchase real property, or interests in real property, in the corridor.

(3) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. The conveyance shall be made—

(A) as soon as practicable after the acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—For the purpose of carrying out the plan, the Commission may enter into cooperative agreements with the State, a political subdivision of the State, or a person.

(2) CONTENTS.—A cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, the political subdivision, or the person, that may affect the implementation of the plan.

(i) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from, the State, political subdivisions of the State, and interested persons.

SEC. 9. DUTIES OF THE COMMISSION.

(a) PREPARATION OF PLAN.—

(1) IN GENERAL.—Not later than 1 year after the Commission conducts its first meeting, it shall submit to the Secretary a Cultural Heritage and Corridor Management Plan.

(2) SOURCES.—The plan shall be based on Federal, State, and local plans in existence on the date of enactment of this Act, and shall coordinate and consolidate those plans to present a unified historic preservation and interpretation plan for the corridor.

(3) CONTENTS.—The plan shall—

(A) define the specific boundaries of the corridor;

(B) provide an inventory that includes any property in the corridor that should be preserved, restored, managed, developed, maintained, or acquired because of its national, State, or local historic or cultural significance;

(C) develop a historic interpretation plan to illustrate the history of the Fox-Wisconsin waterway and its surrounding area;

(D) recommend policies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements, that will protect the corridor's historical, cultural, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization and expansion efforts;

(E) identify activities of mutual interest with the Fox River Management Commission;

(F) detail ways in which Federal, State, and local programs may best be coordinated to promote the purposes of this Act; and

(G) contain a program for implementation of the plan by the State and political subdivisions of the State.

(b) IMPLEMENTATION OF PLAN.—

(1) IN GENERAL.—After review and approval of the plan by the Secretary in accordance with section 11(a), the Commission shall implement the plan by taking steps to—

(A) preserve and interpret the historic resources of the Fox-Wisconsin waterway and its surrounding area; and

(B) support public and private efforts in economic revitalization and expansion consistent with the goals of the plan.

(2) APPROPRIATE STEPS.—The steps that the Secretary may take include—

(A) assisting the State in preserving and renovating the lock and waterway system;

(B) assisting the State and local governments in designing, establishing, and maintaining visitor centers and other interpretive areas and exhibits in the corridor;

(C) assisting the State, local governments, and nonprofit organizations in increasing public awareness of and appreciation of the historical, engineering, architectural, environmental, and geological resources and sites in the corridor;

(D) assisting the State, local governments, and nonprofit organizations in the restoration of historic buildings with national, State, or local significance in the corridor;

(E) encouraging enhanced economic and business development in the corridor consistent with the goals of the plan;

(F) encouraging local governments to—

(i) adopt land use policies consistent with the management of the corridor and the goals of the plan; and

(ii) take actions to implement the policies;

(G) ensuring that clear, consistent signs identifying access points and sites of interest are placed throughout the corridor; and

(H) establishing corridor recognition by actively promoting the cultural, historical, natural, and recreational resources of the corridor on a community, regional, statewide, national, and international basis.

SEC. 10. TERMINATION OF COMMISSION.

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate 5 years after the date of enactment of this Act.

(b) EXTENSIONS.—The Commission may be extended for a period of not more than 5 years beginning on the date of termination specified in subsection (a) if, not later than 180 days before that date—

(1) the Commission determines that an extension is necessary in order to carry out this Act;

(2) the Commission submits a proposed extension to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor of the State and the Secretary approve the extension.

SEC. 11. DUTIES OF THE SECRETARY.

(a) REVIEW OF PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove a plan submitted by the Commission not later than 60 days after date of receipt.

(2) APPROVAL.—The Secretary shall approve a plan if the Secretary—

(A) finds that the plan would adequately protect the significant historical and cultural resources of the corridor while providing adequate and appropriate outdoor recreational opportunities and economic activities within the corridor;

(B) determines that the Commission held public hearings and provided adequate opportunity for public and governmental involvement in the preparation of the plan; and

(C) receives adequate assurances from appropriate State officials that—

(i) the implementation program recommended in the plan will be initiated within a reasonable time after the date of approval of the plan; and

(ii) the implementation program will ensure effective implementation of the State and local aspects of the plan.

(3) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves a plan submitted by the Commission, the Secretary shall advise the Commission in writing of the reasons for the disapproval and shall make recommendations for revisions in the plan.

(B) RESUBMISSION.—Not later than 90 days after receipt of a notice of disapproval, the Commission shall revise and resubmit the plan to the Secretary, who shall approve or disapprove a proposed revised plan in accordance with this subsection not later than 60 days after the date of receipt of the revised plan.

(b) INTERPRETIVE MATERIALS.—

(1) IN GENERAL.—Following approval of the plan under subsection (a), the Secretary shall assist the Commission in designing and producing interpretive materials based on the plan.

(2) TYPES OF MATERIALS.—Interpretive materials may include—

(A) guide brochures for exploring the corridor by automobile, train, bicycle, boat, or foot;

(B) indoor and outdoor visitor displays, which may include video presentations, at several locations along the corridor; and

(C) a mobile display describing the history of the corridor, to be used in the corridor, public buildings, libraries, and schools.

(c) TECHNICAL ASSISTANCE.—The Secretary shall, at the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the plan.

SEC. 12. DUTIES OF OTHER FEDERAL ENTITIES.

A Federal entity conducting or supporting activities directly affecting structures along the Fox River or the natural resources of the corridor shall—

(1) consult with the Secretary and the Commission with respect to the activities;

(2) cooperate with the Secretary and the Commission in carrying out the Secretary's and the Commission's duties under this Act, and, to the maximum extent practicable, coordinate the activities with the carrying out of the duties; and

(3) to the maximum extent practicable, conduct or support the activities in a manner consistent with the plan and with this Act.

SEC. 13. WISCONSIN RIVER STUDY.

(a) FINDING.—Congress finds that movement up the Fox River and subsequent travel along the Wisconsin River created one of the most important corridors opening the Upper Midwest.

(b) ASSESSMENT.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of the State, shall conduct an assessment of the historic linkage of the Fox River corridor and the Lower Wisconsin River.

(2) CONTENTS.—The assessment required by paragraph (1) shall identify the historic value of the Lower Wisconsin River, including points of special note and threats to the historic integrity of the corridor or the points of special note.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall report to Congress on the findings of the assessment.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There are authorized to be appropriated to the Commission in each fiscal year $350,000 to carry out the Commission's duties under this Act.

(b) SECRETARY.—There are authorized to be appropriated to the Secretary in each fiscal year such sums as are necessary to carry out the Secretary's duties under this Act.●

● Mr. KASTEN. Mr. President: I rise to introduce legislation to create the Fox River National Heritage Corridor. The legislation that we are introducing today establishes a mechanism to protect and restore the historic Fox River System.

The Fox River has an important and varied history. Prior to Europeans coming to the region, it provided key points for settlement and served as an important transportation artery for Native Americans. Later the Fox played a key role in the settling of the Upper Midwest. Discovered by French Canadians, early explorers and fur trappers paddled their canoes into Green Bay and up the Fox River.

The Fox River was the lynchpin allowing the establishment of a trade route to develop commerce on our frontier. Not only did the Fox serve as an important corridor to Wisconsin's heartland, but it granted access to the entire Mississippi basin.

At Portage, WI, the Great Lakes, and the Mississippi basins are separated by a distance of only a couple of miles.

By portaging their canoes between the Fox and Wisconsin Rivers early travelers gained access to the entire Mississippi River system. A link was established to the South reaching to the Gulf of Mexico, and to the West reaching Montana via the Missouri River.

The Fox River link is the closest thing to a Northwest Passage ever established. It provided an easy means of transport for the movement of settlers and goods into the heart of America.

With the industrial revolution, the Fox River again played a key historic role. A system of locks and dams were established to allow the easy movement of goods.

The first hydroelectric dam in the Nation was built on the Fox. In fact, the first U.S. home to be wired for electricity is in the heart of the Fox River Valley, Appleton, WI.

Meanwhile, the Fox was becoming an industrial center.

The Fox River nurtured the establishment of the U.S. paper industry. Today, more paper is made in the Fox River Valley than anywhere else in the world. Much of our domestic technology was born there, and the Fox River Valley continues to lead the world in the development of paper products.

But the Fox River corridor is not just the home to the modern paper industry, or a monument to the early history of our Nation. It is truly a multiple use waterway.

Today the Fox River system attracts extensive recreational use. Some of the best fishing in the world is in this basin. There is a very high concentration of pleasure boats, as well as a center of diversified commerce.

This legislation will establish a mechanism to protect this valuable resource. The Fox River National Heritage Corridor Act will designate the Fox River as a National Heritage Corridor, and initiate an assessment of the suitability for designating the Lower Wisconsin River as such. Without this legislation, critical historical and natural resources will likely be lost.

We owe it to ourselves and future generations of Americans to protect this fabulous system.

This legislation has been years in preparation. Over the past 4 years I have worked closely with the people of the Fox River Valley to develop this bill.

This legislation is strongly supported in Wisconsin and by the entire delegation. In fact, the State legislature overwhelmingly passed a resolution in support of this legislation.

This bill brings together the need to protect historic features, promote tourism, and support the continued economic development of the Fox River Valley.

I hope that we can now act to enhance this living museum of America's environmental, cultural, and industrial heritage.●

By Mr. ROCKEFELLER (for himself and Mr. BYRD):

S. 2007. A bill to extend the Appalachian Regional Development Act of

VOL 137 PT 23 NO 21—25 1991 UMI

1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs; to the Committee on Environment and Public Works.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1991

• Mr. ROCKEFELLER. Mr. President, today I am very pleased to introduce legislation, on behalf of myself and Senator BYRD, that is vital to my State of West Virginia and the Appalachian region.

In 1965, the Federal Government made a commitment to Appalachia to provide the assistance necessary to bring the region into economic parity with the rest of the Nation. This commitment has yet to be fulfilled. The gap has been narrowed in some of Appalachia, but we are by no means on a par with the rest of the country. The Appalachian Regional Commission is the instrument to continue to provide this extra assistance.

For many years, the ARC has been targeted for termination by federal officials who didn't understand the needs and potential of the people of Appalachia. Only because of support from Congress through the appropriations process has the ARC survived and continued its mission to help put Appalachia on an equal footing with the rest of the Nation. Crucial leadership from my distinguished, fellow Senator from West Virginia, ROBERT C. BYRD, has literally saved the day for the ARC year after year. And I have proudly joined him in fighting past efforts to extinguish this program. Time and time again, we have stood up to fight for the future of our State.

Quite recently, the tide has shifted some in our favor. The Bush administration finally recognized the benefit of the Commission, and this year actually requested funding for both the ARC highway and area development programs. This makes much more economic and practical sense. Investing now in the roads and infrastructure of our region is the key to building a strong economy in Appalachia. In the end, all Americans will benefit from a commitment of resources and leadership to Appalachia.

I feel that Senator BYRD and I were instrumental in helping the President realize the importance of the program. Just 11 days after President Bush took office, Senator BYRD and I went to the White House to meet with him precisely on this subject. We described to him the special needs of the region, explained the reasons for this economic distress, and detailed the progress the Commission has made over the last two decades.

We showed him the maps of the partially completed Appalachian Corridors, and the roads leading, as we pointed out, "halfway to nowhere." This made it clear to the President that failure to continue the program, and further refusal to finish the building of these crucial roads, would be a ludicrous waste of the State and Federal funds already invested.

This legislation I am introducing will reauthorize the Appalachian Regional Commission, and will enable both the highway and the area development programs to continue for a period of 5 years. The highway program will be authorized at $150,000,000 for 1992 through 1996. The area development program will be funded at $51,500,000 for the same time period.

The ARC is a partnership between the States and the Federal Government. Through this partnership it has been possible to reduce the region's school dropout rate, infant mortality, and illiteracy—widely recognized as basic deterrents to economic advancement. However, much remains to be done. According to a recent study, there were nearly 300 distressed counties in the Nation, and nearly one-third of these are in Apalachia.

Reducing, or even removing, the human obstacles to development will not be enough. We must also overcome the physical barriers to development that plague Appalachia, and the most obvious physical barrier is the Appalachian Mountains. To be convinced that these mountains inhibit development, all one must do is compare unemployment rates in counties that are insulated by mountains to those on the other side. In my State of West Virginia, there is a stark difference between the development in the three counties of the eastern panhandle and the interior counties just over the mountain.

Corridor H, which would connect Interstates 81 and 79, would virtually solve this problem for the central West Virginia. Completion of corridor G would connect the coalfields of West Virginia with three interstate highways and the capital of our State. Completion of the corridors would open the area to development. According to the ARC, a full 81 percent of the jobs created over the last decade are in counties that have a completed interstate or corridor.

We have an undeniably compelling case for reauthorizing the ARC and completing the corridors. As a result of the Commission, and the contribution of the Federal Government, life is better and opportunities are greater for the men, women and children that live in all 398 counties of the 13 States of Appalachia. The hopes and dreams, especially of the young, should not be left unrealized.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Appalachian Regional Development Act Amendments of 1991".

SEC. 2. AMENDMENT OF STATEMENT OF PURPOSE.

Subsection (a) of section 2 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 2(a)) is amended by inserting before the period at the end of the sixth sentence the following: "and in severely distressed and underdeveloped counties or areas lacking resources for basic services".

SEC. 3 ADMINISTRATIVE EXPENSES OF THE COMMISSION.

Subsection (b) of section 105 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 105(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to the Commission to carry out the provisions of this section an amount equal to $3,500,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997. Not more than $1,200,000 of the amounts authorized to be appropriated pursuant to the preceding sentence for each fiscal year shall be available for expenses of the Federal co-chairman, alternate, and the Federal staff.".

SEC. 4. ADMINISTRATIVE POWERS OF THE COMMISSION.

Paragraph (7) of section 106 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 106(7)) is amended by striking out "1982" and inserting in lieu thereof "1997".

SEC. 5. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AUTHORIZATION.—Subsection (g) of section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 201(g)) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out the provisions of this section an amount equal to $150,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

(b) FEDERAL SHARE.—(1) Paragraph (1) of section 201(h) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 201(h)(1)) is amended by striking out "70 per centum" and inserting in lieu thereof "80 percent".

(2) The amendment made by paragraph (1) shall apply with respect to projects approved after March 31, 1979.

SEC. 6. DEFINITION OF FEDERAL GRANT-IN-AID PROGRAMS.

Subsection (c) of section 214 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended—

(1) by striking out "December 31, 1980" in the first sentence and inserting in lieu thereof "September 30, 1997", and

(2) by inserting "authorized by title 23, United States Code," after "road construction" in the second sentence.

SEC. 7. PROGRAM DEVELOPMENT CRITERIA.

Paragraph (1) of section 224(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 224(a)(1)) is amended by inserting before the semicolon at the end thereof the following: "or in a severely distressed and underdeveloped county or area lacking resources for basic services".

SEC. 8. AUTHORIZATION.

Section 401 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 401) is amended to read as follows:

"SEC. 401. In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there are authorized to be appropriated, to remain available until expended, to carry out this Act, $51,500,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

SEC. 9. TERMINATION.

Section 405 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 405) is amended by striking out "1982" and inserting in lieu thereof "1997".•

By Mr. HATCH (for himself and Mr. BOREN):

S 2008. A bill to amend the Public Health Service Act to establish Federal standards to ensure quality assurance in private sector drug testing programs, and for other purposes; to the Committee on Labor and Human Resources.

QUALITY ASSURANCE IN THE PRIVATE SECTOR DRUG TESTING ACT

Mr. HATCH. Mr. President, today I am pleased to once join the senior Senator from Oklahoma in the reintroduction of the Quality Assurance in the Private Sector Drug Testing Act. This legislation is substantially identical to legislation that I introduced with Senator BOREN during the 101st Congress.

BACKGROUND

The facts about substance abuse in this Nation remain alarming. According to the National Institute on Drug Abuse and Alcoholism, 1 in every 10 people in this country currently has an alcohol problem. One in every 12 currently employed fulltime workers reports a current use of illegal drugs. In total, Federal estimates indicate that substance abuse in America now costs our economy an estimated $102 billion per year in lost productivity.

Because some 70 percent of all illegal drug users are currently employed, the linkage between the workplace and substance abuse is unavoidable. Employers can no longer afford to ignore these facts and write off this situation as an acceptable cost of doing business.

More than at any time before, the facts point to an acute understanding by employers that substance abuse in the workplace is needlessly draining productivity and imposing unreasonable costs on business that can, and must, be brought under control. Enlightened employers are now realizing that it is in their own best interest and in the best interest of their employees to bring this problem under control.

This is because the negative results of substance abuse in the workplace are blatantly coming into perspective. Substance abusive workers miss more work. They are tardy more often. They are more likely to injure themselves, their coworkers, and innocent individuals outside the workplace, generating additional workers' compensation costs or court actions. Generally, these businesses also pay more in sick leave, overtime pay, and other insurance costs because of substance abuse. In addition, product quality is put in jeopardy. I ask my colleagues: Would you want to buy a car with brakes installed by someone high on drugs? How about boarding an airplane whose mechanic was terribly hung over?

Understandably, companies are beginning to fight back with positive substance abuse strategies. Management's desire to provide a safe and healthful workplace, protect the integrity of their products and services, better protect the financial interests of their shareholders, and, most of all, lend a helping hand to the employees whose lives have been negatively affected, has led to the formulation of a range of tactics to deal with these problems. Obviously, an integral part of such a strategy is drug testing.

Let me note here that drug testing makes sense for employees as well as management. While the national leadership of organized labor seems regrettably opposed to drug testing, one after another of the local unions are agreeing to such tests. Often they have asked employers to initiate such programs independent of or through the collective bargaining process. Clearly, employees and their more enlightened representatives recognize that for reasons of personal safety, and to maintain the integrity of their health benefits fund, a truly drug-free workplace is an essential matter. While demanding fairness and reliability in these tests, employees have come to understand that drug testing is in their best interest also.

Mr. President, this area, drug testing, is the specific focus of this legislation. However, while it is obviously a necessary and important element of a workplace drug abuse program, we cannot afford to ignore the consequences that adverse employment decisions based on erroneous test results can have on an employee. While we recognize the merits of drug testing and should encourage employers to lend helping hands to employees to bring substance control under control, we must simultaneously ensure balanced protection for employees.

That is the purpose of this bill, Mr. President. The purpose is to ensure the accuracy and reliability of any drug test that is administered. This would be accomplished in this bill through the imposition of Federal standards that would guarantee uniformity and predictability with respect to drug testing programs.

The standards established under this bill would require that a federally certified laboratory be used to analyze all samples taken as part of a drug testing program. The standards require the confidentiality of drug test results. And, the standards provide a right for employees to explain why a test result may have been caused by factors other than drug abuse.

Specifically, the areas for which standards are required, such as chain of custody, quality assurance, and laboratory staff training, mirror the areas dealt with in the Federal National Institute on Drug Abuse [NIDA] guidelines. However, specific provisions as well as general administration ensures that the guidelines under this bill will be crafted specifically for the private sector, taking into account the positive features of the many fine business-run programs that currently exist.

Because of the strong safeguards that these standards would put into place, persons subject to drug tests will know they have the protection of Federal law against sloppily administered drug testing programs. They will have the comfort of knowing that, consistent with our scientific and technical capabilities, needless errors will be avoided.

SUMMARY OF PROVISIONS

The cornerstone of this bill is a requirement that no person may perform a drug test subject to the provisions of this act unless such person is sanctioned under a laboratory certification program established by the Secretary of Health and Human Services. Under this program, reliable standards would be promulgated to guide such certifications.

In establishing these standards, the Secretary is required to use scientific and technical criteria that will ensure that the testing scheme will yield accurate and reliable results. This certification process is designed to ensure that false positive or false negative test results will not occur.

Because modern science now offers the tools to meet this worthwhile objective, these requirements are designed to maximize the predictive value of tests. And, to further ensure the quality of this process, the Secretary is also required to review the criteria on an annual basis to see whether or not improvements can be made because of advances in science and technology.

In another important area, this proposal requires that an employer establish, as a condition of maintaining a drug testing program, a written anti-drug abuse policy. The policy must, at a minimum, contain an explanation of the circumstances under which a drug test will be administered, the procedures for notifying an employee of a sample that tests positive in a conforming test, and a statement that all tests will be conducted in a consistent and nondiscriminatory manner. Among other elements of these policies, an explanation of the safeguards for protecting the privacy of individuals, including chain of custody procedures, must be included in the policy.

Additionally, employers must make a reasonable effort to provide notice of the written anti-drug abuse policy to applicants and employees who would be subject to these tests. Again, as a con-

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dition of implementing a testing program, an employer must establish a drug awareness program to inform employees of the dangers of drug abuse. Under these awareness programs, information as to the existence and availability of counseling, employee assistance, rehabilitation, other treatment programs, and the penalties that may be imposed by an employer would also be made available.

Another critical provision in this legislation establishes standards under which an employer may require a drug test. While there is no provision mandating an employer to test, an employer is authorized to require a drug test of any individual who applies for a job. This is, of course, subject to the requirement that such tests be applied consistently and not be administered with an intent to discriminate against any certain individual or group of individuals.

For current employees, an employer is authorized to test under several circumstances. First, drug testing would be permitted on a "for cause" basis or when an employer has reason to suspect that an employee is using or is under the influence of drugs. Second, employee testing would be authorized as part of any scheduled medical examination. Third, employee testing would be authorized in cases when an accident, or near accident, involving actual or potential loss of human life, bodily injury, or property damage is at issue. Fourth, employers would be authorized to test employees who are undergoing, or have completed, a drug treatment program. Testing under this fourth category could be administered at any time during a reasonable period after the completion of a drug treatment program or up to 5 years following. If the employee has tested negatively during this period, the slate is wiped clean.

A final circumstance under which employers are authorized to test is in certain, specified, random circumstances. Specifically, these circumstances include: First, situations in which the test is part of a universal testing program; second, in work units, locations, or facilities where drug abuse has been identified as a problem; or third, in cases concerning sensitive employee positions. A sensitive employee is defined as an individual employed in a position whose duties involve responsibilities affecting matters such as national security, health, or safety, the environment, or other responsibilities requiring a high degree of trust and confidence.

As I stressed at the outset, Mr. President, this bill contains specific employee protections designed to protect against the possible abuses that could arise out of a drug testing program. The bill specifically prevents an employer from taking retaliatory action against employees who exercise the rights bestowed under this legislation. And, an employer would be precluded from taking any adverse employment action unless a second test confirms a positive test result. That is a very significant safeguard that I hope each of my colleagues will note. They will also note that there is but one exception to this general prohibition.

The exception is as follows. In the case of employees in sensitive positions, if the initial drug test indicates a positive result, the bill permits an employer to transfer or reassign the employee from that sensitive position, with no loss of pay, until the test result has been confirmed. Confirmation generally takes at least a day, and it makes sense to temporarily reassign the employee to a nonsensitive activity pending a confirmation.

As I indicated earlier, an additional employee protection that the bill would establish is the confidentiality of drug test results. The results of a drug test could be released to third parties only in very specific and very limited circumstances. These circumstances include a release to the employee or to another individual designated by the employee in writing, a release to representatives of the employer with a need to know such as employee relations or medical personnel, a release to drug abuse treatment providers who are assisting the drug abusing employee, and releases as required by applicable law.

The enforcement provisions of this bill are divided into two parts. Enforcement of the laboratory certification standards is the responsibility of the Secretary of Health and Human Services. This enforcement effort would be guided by existing enforcement provisions in the Public Health Service Act. These provisions have, of course, a well-documented history of effectiveness.

Enforcement of the employee protection provisions would be conducted in accordance with administrative process in the Department of Labor. Under this process, the Secretary of Labor would receive complaints, conduct investigations and hearings, and issue orders to remedy violations. The remedies provided under the bill would be exclusive and would include make whole compensation and other forms of equitable relief. Orders for such relief by the Secretary of Labor would be reviewable in the Federal courts of appeals.

Mr. President, another critical part of this bill addresses its effect on other laws. Specifically, the provisions in this bill preempt any State or local law, rule, regulation, order, standard, or cause of action that applies to private sector drug testing. Additionally, nothing in this bill prohibits any Federal agency from issuing regulations with respect to drug and alcohol testing of private sector employees, subject to language in the bill requiring that such regulations are not inconsistent with the standards applicable to scientific and technical procedures for testing established under this act.

Finally, the bill provides for an effective date 1 year after enactment that should provide adequate time for the Secretary of HHS to promulgate the standards mandated under the act while permitting employers to prepare adequately for the act to take effect.

CONCLUSION

Mr. President, I sincerely believe that this legislation represents a balanced approach to dealing with the problem of drugs and alcohol in the workplace while specifically providing safeguards for employees.

I invite my colleagues to join Senator BOREN and me in cosponsoring this important legislation.

Mr. President, I ask that the text of the Quality Assurance in the Private Sector Drug Testing Act of 1991 be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality Assurance in the Private Sector Drug Testing Act of 1991".

SEC. 2. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress finds that—

(1) drug abuse imposes an enormous toll upon society in terms of broken families and individual suffering, infants born with disabilities from their mother's drug abuse, lost productivity, increased treatment and health care costs, and the generation of criminal conduct which threatens the very social fabric of many communities;

(2) drug testing can be an effective deterrent to drug abuse when administered in a manner that provides for quality assurance;

(3) drug abuse in the workplace is a serious national drug problem;

(4) the private sector workplace is an appropriate arena in which to fight the war on drugs through the establishment of drug-free workplace programs that include drug testing;

(5) there are currently many good quality private sector drug testing programs, in which testing is performed in a variety of settings, such as: in testing facilities at the employment site, in clinics, hospitals and small independent testing laboratories, and in large, high-volume specialized testing laboratories. Under appropriately designed standards and procedures taking into account the experience of these programs, each of these options will have a place in a well-designed regulatory system; and

(6) the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" issued by the Department of Health and Human Services on April 11, 1988 are generally responsive to Congressional concerns for quality testing in Federal Workplace drug testing programs, and on a solid footing. These Guidelines do not embody the only proper approach to the challenge of providing test

quality or employee protection in the Federal workplace, and key features of the Guidelines must undergo continuing scrutiny and rethinking. While a number of the current Guidelines' provisions are not suitable for incorporation into a drug testing regulatory system for the private sector workplace, many of the Guidelines' principles and standards are appropriate for that purpose.

(b) PURPOSE.—It is the purpose of this Act—

(1) to establish Federal standards applicable to private sector workplace drug testing programs that will assure the quality of such programs; and

(2) to ensure uniformity and consistency in the application of such Federal standards to preempt State and local laws and such other requirements that regulate private sector workplace drug testing programs.

SEC. 3. PUBLIC HEALTH SERVICE ACT

(a) DRUG TESTING.—The Public Health Service Act is amended—

(1) by redesignating title XXVI (42 U.S.C. 300cc et seq.) as title XXVII; and

(2) by inserting after title XXV (42 U.S.C. 300bb-1 et seq.) the following new title:

TITLE XXVI—QUALITY ASSURANCE IN PRIVATE SECTOR DRUG TESTING

SEC. 2601. LABORATORY CERTIFICATION STANDARDS

(a) PROHIBITION.—No person may perform a drug test in connection with any drug testing program that is subject to the provisions of this title unless such person is a laboratory certified pursuant to subsection (b).

(b) CERTIFICATION.—Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall establish a program for certifying laboratories that meet standards for performing—

(1) drug screening tests

(2) drug confirmatory tests; and

(3) both drug screening and confirmatory tests.

(c) SCIENTIFIC AND TECHNICAL CRITERIA.

(1) In establishing standards for certification under subsection (b), the Secretary shall use scientific and technical standards that:

(A) maximize the sensitivity and specificity of the testing scheme;

(B) give due regard to the experience and practices of drug testing in the private sector workplace; and

(C) take into consideration the practices, procedures, and experience of forensic toxicology laboratory certification programs conducted by private, non-profit accrediting entities. The Secretary is authorized to designate such entities or appropriate State agencies to administer the certification program established under this section. The Secretary shall oversee and review the performance of any such entity or State agency so designated to ensure its compliance with the certification program established under this section.

(2) In establishing the certification program required under subsection (b), the Secretary shall appoint and consult with an expert advisory panel not to exceed 15 members comprised equally of representatives of private sector employers and employees with experience in workplace drug testing, laboratories which conduct drug testing, and recognized scientific and professional disciplines within the drug testing community.

(3) The certification standards required under this section shall include:

(A) reasonable requirements for chain of custody procedures, for laboratory staff training and skills, for ensuring the identity and integrity of specimens, and for confidentiality of test results.

(B) laboratory quality assurance requirements, to include where appropriate minimum proficiency sampling, in order to assure the competence of the laboratory to conduct drug testing under this title. Responsibility for laboratory quality assurance, including where appropriate the provision of blind samples, shall rest on the Secretary or his designee.

(C) a requirement that any sample which tests positive on an initial screen test be submitted for a confirmatory test to a laboratory certified for performing such a test under this title.

(D) a requirement that all negative test results by initial screen be reported to the employer promptly by direct means.

(E) a requirement that no positive drug test result be reported to the employer before a confirmatory test has been conducted, except in the case of employees in sensitive positions pursuant to Sec. 2605(c) of this title.

(F) prompt adoption of testing protocols for any drug for which reliable testing methods are available and for other drugs as such methods become available.

(G) initial screen cutoff levels to reflect current testing technology.

(H) no bar to certification of a laboratory based on its physical setup or location, and no bar to certification of a laboratory which is part of a hospital or medical clinic on the grounds that the laboratory's drug testing facility is no separate from a secure laboratory facility which performs diagnostic or therapeutic tests, no on the grounds that staff medical personnel are allowed access to the testing facility, so long as the laboratory meets the requirements of this title.

(I) a requirement that, after the effective date of regulations implementing section 353 of the Public Health Service Act, 42 U.S.C. 263a. a laboratory may not be certified under the program established by this section unless the laboratory is certified under section 353, except that a laboratory which performs only drug tests is not required to be certified under section 353 to be certified under this certification program, nor is it required to be certified under section 353 for the purposes of that section.

(4) A laboratory which performs drug tests only on samples of arrestees, detainees, probationers, incarcerated persons, or parolees in the criminal justice system is not required to be certified under this section nor under section 353.

"(d) PERIODIC REVIEW.—At least once each year, the Secretary shall review, and where appropriate revise, the certification criteria established under subsection (b), taking into consideration the relevant scientific technical advances in the area of drug testing and revisions needed to reflect employer zero-drug tolerance practices.

SEC. 2602. ANTI-DRUG ABUSE POLICY

"(a) WRITTEN POLICY.—As a condition of implementing or maintaining a drug testing program, an employer shall establish a written anti-drug abuse policy that shall contain, at a minimum, an explanation concerning the—

"(1) circumstances under which a drug test will be administered, the procedures for notifying an employee of a sample which tests positive in a confirmatory test, and a statement the policy will be administered in a consistent and nondiscriminatory manner without regard to the position the employee holds;

"(2) safeguards established for protecting the privacy of individuals who are subject to testing, including chain of custody procedures and the limitations on disclosure of the results of drug tests;

"(3) availability of drug abuse treatment programs;

"(4) penalties that may be imposed by the employer for a violation of the anti-drug policy of the employer;

"(5) procedures for review by a medical officer in the case of a sample which tests positive in a confirmatory test; and

"(6) procedures under which an applicant or employee shall be given a reasonable opportunity to explain a sample which tests positive in a confirmatory test.

"(b) NOTICE.—An employer shall make a reasonable effort to provide notice of the written anti-drug policy to applicants and employees subject to testing using whatever methods the employer determines to be appropriate.

SEC. 2603. DRUG-FREE AWARENESS PROGRAM

"In order for an employer to be permitted to implement or maintain a drug testing program, such employer shall establish, as part of such drug testing program, a drug-free awareness program designed to inform its employees concerning—

"(1) the dangers of drug abuse, both inside and outside of the workplace;

"(2) the policy of the employer of maintaining a drug-free workplace;

"(3) information as to the existence and availability of counseling, employee assistance, rehabilitation, and other drug abuse treatment programs of which the employer is aware; and

"(4) the penalties that may be imposed by the employer on applicants and employees who test positive for the use of a drug, and for the manufacture, distribution, dispensation, possession, or use of a drug in the workplace of the employer.

SEC. 2604. STANDARDS FOR DRUG TESTING

"(a) APPLICANTS.—Nothing in this title shall be construed to prohibit an employer from requiring, as a condition of employment, that an applicant submit to and pass a drug test based on criteria established by the employer that are designed to achieve a drug-free workplace. Refusal by an applicant to submit to such a test may be treated in the same manner as a failure to pass a drug test.

"(b) EMPLOYEES.—Nothing in this title shall be construed to prohibit an employer from requiring an employee to submit to and pass a drug test—

"(1) on a for cause basis or where the employer has reasonable suspicion to believe that the employee is using or is under the influence of a drug;

"(2) where such test is administered as part of a scheduled medical examination;

"(3) in the case of an accident or incident involving the actual or potential loss of human life, bodily injury, or property damage;

"(4) during and for a reasonable period of time (not to exceed 5 years) after the completion of a drug abuse treatment program; or

"(5) on a random selection basis—

(A) in the case of sensitive employee positions;

(B) in work units, locations, or facilities where drug abuse has been identified as a problem; or

(C) as part of a universal testing program.

"(c) DEFINTION.—As used in this title, the term 'random' means the selection of individuals for testing based on uniform criteria

VOL
137
PT
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21—25
1991
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so that no employee is selected differently from other employees in similar circumstances. The term 'universal testing' means a program in which every employee in a particular work unit, location, or facility of an employer is tested.

SEC. 2605. EMPLOYEE PROTECTIONS

"(a) PROHIBITIONS.—In the case of an applicant or employee, it shall be a violation of this title—

"(1) for an employer to fail to make reasonable efforts to inform the applicant or employee as to the drug testing policy of the employee;

"(2) for an employer to take any adverse action based on the unconfirmed positive results of a drug test, except as provided in subsection (c);

"(3) for an employer, on the request of an applicant or employee, to fail to provide such applicant or employee with a reasonable opportunity to be informed of a sample which tests positive in a confirmatory test; and

"(4) for an employer, on the request of an applicant or employee, to fail to provide such applicant or employee with a reasonable opportunity to explain the results of a sample which tests positive in a confirmatory test.

"(b) ANTIRETALIATION PROHIBITION.—It shall be a violation of this title for an employer to take retaliatory action against an employee because of the exercise by the employee of any right granted or protected under this title.

"(c) EXCEPTION FOR SENSITIVE EMPLOYEES.—Pending the receipt of the results of a confirmatory drug test, an employer may transfer or reassign an employee in a sensitive position to another area or position without any loss in compensation to such employee if the initial drug test result is positive. If a confirmatory test of such employee is negative, such employee shall be entitled to immediate reinstatement to the position from which such employee has been transferred or reassigned.

SEC. 2606. CONFIDENTIALITY

"(a) IN GENERAL.—An individual, other than the applicant or employee who is the subject of a drug test, shall not disclose information obtained as a result of a drug test, except as provided in this section.

"(b) PERMITTED DISCLOSURES.—An employer, or individual conducting a drug test on behalf of an employer, may disclose information acquired from a drug test only—

"(1) to the applicant or employee taking such drug test or any other individual specifically designated in writing by such applicant or employee taking such drug test;

"(2) to the employer, including the duly authorized representatives of such employer, that requested such test;

"(3) to any court, governmental agency, arbitrator, or mediator, in accordance with the provisions of Federal or State law;

"(4) to appropriate drug abuse treatment providers; or

"(5) as required in defense of claims, suits, or proceedings challenging any employment action taken by an employer in reliance in whole or in part upon a drug test.

SEC. 2607. EMPLOYER PRACTICES

"(a) SAFE WORKPLACE.—Nothing in this title shall be construed to prohibit an employer from taking action necessary to apply personnel procedures and policies designed to ensure a safe workplace, without regard to whether or not a drug test is administered.

"(b) DRUG-FREE WORKPLACE.—Nothing in this title shall be construed to prohibit an employer from taking action necessary, up to and including termination, in the case of applicant or employee—

"(1) whose drug test is determined to be positive after a confirmatory test;

"(2) who refuses to take a drug test authorized under this title; or

"(3) who tampers with or adulterates a drug testing sample.

"(c) PARTICIPATION IN DRUG ABUSE TREATMENT PROGRAM.—Nothing in this title shall be construed to prohibit an employer from requiring an employee to participate in, and satisfactorily complete, a drug abuse treatment program as a condition of continued employment where the employee has a sample which tests positive in a confirmatory test, has refused to submit to a drug test, or has tampered with or adulterated a drug test sample.

"(d) SENSITIVE POSITION.—Notwithstanding any other provision of law, nothing in this title shall be construed to prohibit an employer from refusing to place an employee in, or to reinstate such employee, to a sensitive position if such employee has a sample which tests positive in a confirmatory test.

SEC. 2608. DRUG ABUSE TREATMENT PROGRAMS

"As part of the drug-free awareness program established pursuant to section 2603, employers shall provide information to employees concerning the existence and availability of public and private drug counseling, employee assistance, rehabilitation, and other drug abuse treatment programs of which the employer is aware.

SEC. 2609. REGULATIONS

"Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall—

"(1) establish a program for the certification of laboratories for the performance of toxicological urinalysis conducted for drug testing programs as described in this title; and

"(2) issue such other rules and regulations as may be necessary or appropriate to carry out his or her responsibilities under Section 2601 of this title.

SEC. 2610. ENFORCEMENT AND RELIEF

"(a) LABORATORY CERTIFICATION STANDARDS.—The certification program established pursuant to section 2601(b) shall be enforced in accordance with the procedures and sanctions contained in subsections (g), (h), (i), (j), (k), and (l) of section 353 of the Public Health Service Act, 42 U.S.C. 263a.

"(b) EMPLOYEE CHARGES CHARGING UNLAWFUL DISCHARGE OR DISCRIMINATION; INVESTIGATION; ORDER.

"(1) CHARGE.—An employee who believes that he or she has been discharged or otherwise discriminated against by an employer in violation of this title may, not later than 30 days after such alleged violation occurs, file (or have any individual file on behalf of such employee) a charge with the Secretary of Labor (hereinafter referred to in this subsection as the 'Secretary') alleging that such discharge or discrimination violates the provisions of this title. On receipt of such charge, the Secretary shall notify in writing the employer named in the charge of such filing.

"(2) INVESTIGATION.—On receipt of a charge filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in such charge. Not later than 30 days after the receipt of such charge, the Secretary shall complete such investigation and shall notify in writing the charging party and the employer named in the charge (and any individual acting on behalf of the employer) as to the results of such investigation.

"(3) ORDER.—Not later than 60 days after the completion of an investigation conducted pursuant to this section, the Secretary shall, unless the proceeding on the charge is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the employer alleged to have committed such violation, issue an order providing or denying the relief prescribed in this section.

"(4) RELIEF.—In response to a complaint filed under paragraph (1), the Secretary determines that a violation of this title has occurred, the Secretary shall order the employer who committed such violation to provide such suitable relief as the Secretary determines appropriate, including reinstatement, promotion, and the payment of lost wages and benefits.

"(5) REVIEW OF ORDER.—An employee or employer adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of such order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review shall be filed not later than 60 days after the issuance of the order of the Secretary under paragraph (3). Review by the Court of Appeals shall conform to Chapter 7 of Title 5, United States Code.

"(6) FAILURE TO COMPLY.—If a party fails to comply with a final order issued pursuant to paragraph (3), the Secretary may file a civil action to enforce such order in the United States court for the district in which the violation was found to occur. Such court, in issuing any final order under this subsection, may award the costs of litigation (including reasonable attorney and expert witness fees) to the prevailing party.

"(7) RULES AND REGULATIONS.—The Secretary of Labor may issue such rules and regulations as may be necessary to carry out his or her responsibilities under section 2610(b).

"(c) EXCLUSIVITY OF REMEDIES.—The rights and remedies provided for in this section shall be the exclusive enforcement rights and remedies for any violation of this title.

"(d) AFFIRMATIVE DEFENSE.—The good faith compliance of an employer with the standards and procedures established under this title shall constitute an affirmative defense against any charge filed under subsection (b).

"(e) CONSTRUCTION.—Nothing in this title shall be construed to require an employer to establish a drug testing program for applicants or employees or make employment decisions based on such test results.

SEC. 2611. EFFECT ON OTHER LAWS

"(a) STATE LAW SUPERSEDURE.—This section shall upon enactment of this title preempt any State or local law, rule, regulation, order, standard, or cause of action that applies to the private sector drug testing of an applicant or employee, or that relates to any matter addressed under this title. No State or local government shall adopt or enforce any law, rule, regulation, ordinance, standard or order relating to—

"(1) the certification of laboratories that perform drug testing analysis with respect to such analysis,

"(2) requirements for the conduct of drug testing under this title;

"(3) the establishment, scope, or conducting of employee or applicant drug testing programs;

"(4) the requirements applying to employer drug testing policies or drug awareness programs; or

"(5) any other matter relating to this title.

(b) OTHER FEDERAL LAWS.—Nothing in this title shall be construed to prohibit any Federal agency from issuing regulations with respect to drug and alcohol testing of private seotor employees, including requirements for mandatory drug testing in specified circumstances, provided that compliance by an employer with the standards established under Section 2601(c)(3) of this title applicable to scientific and technical procedures also shall constitute compliance with such Federal agency regulations to the extent that such regulations differ from the standards established under section 2601(c)(3).

SEC. 2612. EFFECTIVE DATE

"Unless otherwise specified, the provisions of this title shall become effective one year after the date of enactment of this title, except that the prohibition contained in section 2601(a) shall not take effect prior to 1 year after establishment of the certification program required under section 2601(b).

SEC. 2613. SEPARABILITY OF PROVISIONS

"If any provision of this title, or the application of such provision to any individual or circumstances, shall be held invalid, the remainder of this title, or the application of such title to individuals or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 2614. DEFINITIONS

"As used in this title:

"(a) APPLICANT.—The term 'applicant' means any individual who has submitted an application to an employer, whether written or oral, for employment with such employer.

(b) DRUG.—The term 'drug' means any controlled substance listed in schedules I through V of the Controlled Substance Act, alcohol, steroids, and lawful prescription medications which are the subject of abuse.

"(c) DRUG ABUSE TREATMENT PROGRAM.—the term 'drug abuse treatment program' means a program, such as an employee assistance program, designed to assist an individual in dealing with problems caused by drug abuse.

(d) DRUG TEST.—The term 'drug test' means any test procedure used to take and analyze blood, breath, hair, urine or other body fluids or materials for the purpose of detecting the presence or absence of a drug or its metabolites, except that for purposes of this Act the term drug test does not include breath alcohol analysis.

"(e) CONFIRMATORY TEST.—the term 'confirmatory test' means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

"(f) EMPLOYEE.—The term 'employee' means an individual employed by an employer.

"(g) EMPLOYER.—The term 'employer' means an individual, partnership, corporation, association, or other entity, that employs one or more employees, and that is engaged in an industry affecting commerce.

"(h) SENSITIVE EMPLOYEE.—the term 'sensitive employee' means an individual employed in a position whose duties, as defined by the employer, involve responsibilities affecting such matters as national security, health, or safety, environment, or other responsibilities requiring a high degree of trust and confidence.

(i) MEDICAL REVIEW OFFICER.—The term 'medical review officer' means a licensed physician, registered nurse, or other individual who possesses the training and skills necessary to assess the documentation and results of a drug test and to identify illicit drug use.

SEC. 2615. PROFESSIONAL ATHLETES

"For purposes of this title, professional athletes may be treated in the same manner as employees who meet the definition of section 2614(g), except that professional athletes shall not be covered by section 2606(a)."

(b) CONFORMING AMENDMENTS.—

(1) Sections 2601 through 2614 of the Public Health Service Act (42 U.S.C. 300cc through 300cc–15) are redesignated as sections 2701 through 2714, respectively.

(2)(A) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f) are each amended by striking out "2601" and inserting "2701".

(B) Section 305(i) of such Act (42 U.S.C. 242c(i)) is amended by striking out "2611" each place it appears and inserting "2711".

• Mr. BOREN. Mr. President, I am pleased to introduce again the Workplace Anti-Drug Abuse Act, which will play a vital role in the effort to detect and eliminate drug abuse in the workplace. My colleague, Senator HATCH, has explained the purpose and operation of the bill; I wish only to highlight a few of the important provisions in this act.

At the outset, we must keep in mind what this bill does not do; it does not mandate that any employer implement a system of drug testing for its employees. However, if an employer determines that such a system is necessary to combat the problems caused by drug abuse, this bill serves two functions. First, it establishes clear and uniform guidelines that employers must follow in establishing and operating their drug-testing programs. One of these requirements is that the laboratory performing the drug testing must be certified by the Secretary of Health and Human Services.

I note that the provisions concerning this certification process differ from similar provisions in the act that Senator HATCH and I introduced 2 years ago. The present bill is substantially more detailed in describing the certification standards, standards that are modeled after the National Institute of Drug Abuse guidelines applied in the Federal Government's drug-testing program but that are modified to provide flexibility for employers while continuing to ensure reliability.

The second function of this act is to protect the rights of workers. Surveys show that the majority of the workforce supports drug testing as a way to eliminate drug abuse in the workplace. This statistic is not surprising when one considers the dangers to workers caused by the abuse of drugs; drug use in the workplace costs this country $60 billion a year in worker accidents, insurance, lost productivity, and absenteeism.

While employees support drug testing, they have a right to expect that tests be conducted by reliable and federally certified labs, that tests be administered in a nondiscriminatory fashion, that employers provide full information about any drug-testing program, and that test results be kept confidential. This act ensures that those rights will be protected and that an employee whose rights have been violated can seek relief.

Simply put, this legislation strikes a balance. It provides employers with uniform and predictable standards for the implementation and operation of drug-testing programs, and it assures employees that testing will be conducted in a fair and accurate fashion.

I urge all Senators to study this bill carefully and to support this crucial legislation.•

By Mr. PACKWOOD (for himself, Mr. FOWLER, Mr. HATFIELD, Mr. NUNN, Mr. GORTON, Mr. BURNS, Mr. SHELBY, Mr. CRAIG, Mr. HEFLIN, Mr. SYMMS, and Mr. BREAUX):

S. 2009. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

REFORESTATION TAX ACT OF 1991

• Mr. PACKWOOD. Mr. President, today, I am introducing a comprehensive proposal, the Reforestation Tax Act of 1991, to encourage investment in and sound management of privately owned forest land. Identical legislation is being introduced in the House of Representatives by my colleague the gentleman from Oregon, Congressman RON WYDEN.

America's forests are one of our most valuable resources. They provide wildlife habitat, maintain watershed, and are used for a wide array of recreational activities such as hiking, camping, fishing, and hunting.

Our forests also serve as the foundation of a multibillion-dollar forest products industry. From lumber and construction materials to pulp and paper, timber provides a wide range of products that are essential to modern living.

The challenge for the future is to ensure we have enough forests to meet our wildlife habitat and watershed needs as well as sustain a reliable supply of timber for forest products. Harvest levels in many forest areas are undergoing large reductions in order to save endangered species, like the spotted owl. To fill this gap in our Nations's timber supply, we need to encourage private foresters to invest in and properly maintain their stock of trees.

Private forestry is a long-term, high-risk venture. Trees can take anywhere from 25 to 75 years to grow to maturity, depending on the type of tree and regional weather and soil conditions. The key to success is good management, which is costly. And fire and disease can wipe out acres of trees at any time during the long growing period.

Our legislation will boost private investment in forests and help with the cost of maintaining them. It does four things:

VOL 137 PT 23 NO 21—25 1991 UMI

Partially eliminates tax on inflationary gains: The gain from the sale of private timber would be reduced by 3 percent for each year the timber was owned, up to a maximum reduction of 50 percent of the gain. This will partially protect long-term investors in forest land from being taxed on inflationary gains.

Doubles the reforestation tax credit: The current law reforestation tax credit has been eroded by inflation because it has not been increased since it was enacted in 1980. The bill doubles the reforestation expenditures eligible for the credit—from $10,000 to $20,000—and indexes this amount for inflation in the future.

Amortizaion of reforestation expenses: Similarly, the current law special 7-year amortization for up to $10,000 of reforestation expenses has not kept up with inflation since it was enacted in 1980. The bill increases this amount to $20,000, indexes it for future inflation, and reduces the amortization period to 5 years.

Passive loss rules: Proposed Treasury regulations discourage private foresters from employing sound forest management practices. The bill overturns the 100-hour rule in the regulations so that private foresters, like most other business entrepreneurs, can prove that they are materially participating in the forestry business.

This legislation is key to the preservation and expansion of investment in this vital natural resource. It has been endorsed by the following conservation, environmental, and forestry organizations:

The Wilderness Society;

The National Woodland Owners Association;

The Oregon Small Woodlands Association;

The Washington Farm Forestry Association;

The Forest Farmers Association;

1,000 Friends of Oregon;

The Idaho Forest Owners Association;

The Forest Landowners of California; and

The Natural Resources Defense Council.

I urge my colleagues to join us in this effort to encourage long-term investment in private forest land and cosponsor this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reforestation Tax Act of 1991".

SEC. 2. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by adding at the end the following new section:

"SEC. 1202. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

"(a) IN GENERAL.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the qualified percentage of such gain.

"(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means the less of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain for the taxable year determined by taking into account only gains and losses from timber.

"(c) QUALIFIED PERCENTAGE.—For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

"(1) 3 percent, by

"(2) the number of years in the holding period of the taxpayer with respect to the timber.

"(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

"(b) COORDINATION WITH EXISTING LIMITATIONS.—

(1) Subsection (h) of section 1 of such Code (relating to maximum capital gains rate) is amended by inserting after "net capital gain" each place it appears the following: "(other than qualified timber gain with respect to which an election is made under section 1202)".

(2) Subsection (a) of section 1201 of such Code (relating to alternative tax for corporations) is amended by inserting after "net capital gain" each place it appears the following: "(other than qualified timber gain with respect to which an election is made under section 1202)".

(c) ALLOWANCE OF DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code (relating to definition of adjusted gross income) is amended by adding at the end the following new paragraph:

"(14) PARTIAL INFLATION ADJUSTMENT FOR TIMBER.—The deduction allowed by section 1202."

(d) CONFORMING AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 1202. Partial inflation adjustment for timber."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1991.

SEC. 3. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) DETERMINATION OF MATERIAL PARTICIPATION.—Subsection (h) of section 469 of the Internal Revenue Code of 1986 (defining material participation) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF TIMBER ACTIVITIES.—

"(A) IN GENERAL.—A taxpayer shall be treated as materially participating in any timber activity for a taxable year if—

"(i) the taxpayer's participation in the activity for such year constitutes substantially all of the participation in the activity of all individuals for such year, other than individuals—

"(I) who are not owners of interests in the activity,

"(II) who are retained and compensated directly by the taxpayer, and

"(III) whose activities are subject to the oversight, supervision, and control of the taxpayer, or

"(ii) based on all of the facts and circumstances, the taxpayer participates in the activity on a regular, continuous, and substantial basis during such year, except that for purposes of this clause—

"(I) the taxpayer shall not be required to participate in the activity for any minimum period of time during such year, and

"(II) the performance of services by individuals who are not owners of interests in the activity shall not be considered if the services are routinely provided by individuals specializing in such services and such services are subject to the oversight, supervision, and control of the taxpayer.

"(B) PARTNERS AND S CORPORATION SHAREHOLDERS.—Subject to paragraph (2), the determination of whether a partner or S corporation shareholder shall be treated as materially participating in any timber activity of the partnership or S corporation shall be based upon the combined participation of all of the partners or shareholders in the activity.

"(C) TIMBER ACTIVITY.—For purposes of this paragraph, the term 'timber activity' means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986.

SEC. 4. AMORTIZATION OF REFORESTATION EXPENDITURES AND REFORESTATION TAX CREDIT.

(a) INCREASE IN MAXIMUM AMORTIZABLE AMOUNT.—

(1) IN GENERAL.—Paragraph (1) of section 194(b) of the Internal Revenue Code of 1986 (relating to maximum dollar amount) is amended by striking "$10,000 ($5,000" and inserting "$20,000 ($10,000".

(2) INFLATION ADJUSTMENT.—Subsection (b) of section 194 of such Code (relating to limitations) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1992, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) of such section.

"(B) ROUNDING.—In any increase determined under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50."

(3) APPLICABILITY TO REFORESTATION CREDIT.—Paragraph (1) of section 48(b) of such Code (relating to reforestation credit) is amended by striking "section 194(b)(1)" and inserting "paragraphs (1) and (2) of section 194(b)".

(b) AVAILABILITY OF DEDUCTION AND CREDIT TO TRUSTS.—Subsection (b) of section 194 of such Code (as amended by subsection (a)(2) of this section) is amended—

(1) by striking paragraph (4),

(2) in paragraph (5)—

(A) by inserting "AND TRUSTS" after "ESTATES", and

(B) by inserting "and trusts" after "estates", and

(3) by redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—

(1) AMORTIZATION PROVISIONS.—Except as provided in paragraph (2), the amendments made by this section shall apply to additions to capital account made after December 31, 1991.

(2) TAX CREDIT PROVISIONS.—In the case of the reforestation credit under section 48(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to property acquired after December 31, 1991.

• Mr. SYMMS. Mr. President, I support this bill because it is a new attempt to offer a capital gains tax cut to a broad section of the forest industry. I would prefer, and I will continue to work toward, a broader capital gains tax cut, not just for forest products but for all assets.

We need to cut capital gains as a matter of fairness, but more importantly, a capital gains tax cut is one of the few effective means at our disposal to get the economy moving again.

This bill is particularly helpful in that it offers a formula under which the forest industry can benefit from capital gains indexing. I believe capital gains indexing is the best, most fair, and most effective way to reduce the capital gains tax. The trouble has always been how do we get this to apply in a reasonable way to timber.

But I want to make one thing clear: This bill applies to a broad section of the timber industry. If there is ever a successful effort to cut certain sections of the timber industry out of the bill, or if there is some effort to use these benefits to reduce the lands available for logging, my support for this bill will disappear immediately.

By Mr. CRANSTON (for himself and Mr. PELL):

S. 2011. A bill to provide agricultural and other essential commodities to the Soviet Union in exchange for Soviet fissile materials and to assist the development of lending institutions in the Soviet republics; to the Committee on Foreign Relations.

NUCLEAR WARHEADS SECURITY AND PLOWSHARES ACT OF 1991

Mr. CRANSTON. Mr. President, I rise today to introduce the Nuclear Weapons Security and Plowshares Act of 1991. I am joined in this effort by my good friend and distinguished colleague, the chairman of the Senate Foreign Relations Committee [Mr. PELL].

The truly extraordinary changes taking place within the former Soviet Union today confront the world with a series of equally sweeping and momentous challenges.

Perhaps the greatest threat to international security in this post-cold war era comes from the continued threat of nuclear proliferation.

And perhaps the most important aspect of this threat today is the huge number of obsolete and unwanted nuclear weapons and huge quantities of weapons materials lying about in the far reaches of the former Soviet Union.

These weapons and weapons materials have been rendered surplus by the end of the cold war, the START Treaty, and unilateral Soviet declarations matching those initiated by President Bush. The newly independent republics do not want the weapons, but they do need help in getting rid of them in ways that prevent further regional instabilities or worldwide proliferation.

It is clear that the former Soviet Union cannot manage its mammoth nuclear legacy without outside help.

Last month Victor Mikhaylov, the Soviet deputy minister of atomic power and industry, warned that the Union needs help from the United States to reclaim, dismantle and make safe the enormous number of nuclear weapons involved. Mikhaylov noted that alone the Soviets cannot hope to address this problem before the end of this decade.

Enterprises, agents and individuals formerly involved in the weapons programs of the U.S.S.R. are already desperate for hard currency and there are growing reports of Soviet nuclear scientists looking to "freelance" their knowledge and skills around the world.

Unless we can find constructive ways to influence the direction of events, we are in danger of trading the balance of terror in the cold war years for an era of nuclear anarchy.

The problem of the weapons is aggravated by the twin threat to order and democracy created by the collapsing Soviet economy and shortages of food and basic necessities. Desperation may all too soon rule.

A few days ago, my good friend, Amb. Robert Strauss, spoke in the most vivid terms about what might happen if we do nothing. The situation in the Soviet Union, he said, "sure can blow up in our face in the next 6 months."

"I'd rather risk a couple of billion bucks out here for our country," Strauss said, "than fail to risk a couple of billion bucks and end up looking at a real fascist-type situation."

Mr. President, I would ask each of my colleagues to reflect a moment on that day in August when we first heard a coup had taken place in the Soviet Union. At that moment, we faced the end of democratic change in the Soviet Union and a revival of the arms race.

Thanks to a burst of nationalist and democratic energy, the coup failed. As a result we are not facing a second cold war. Instead we need to stabilize the process of democratic change and prevent hunger and disorder from provoking another reactionary coup. And we need to help clean up the dangerous debris of 40 years of nuclear armament, lest it turn against us in new ways.

There is a mechanism to do both.

Time is short. As I think Ambassador Strauss is saying, there is a window of opportunity here—for us, for them, and for the world—that will surely slam shut if we do not know how to take advantage of it.

For that reason, Mr. President, I am proposing the "Nuclear Weapons Security and Plowshares Act of 1991." The bill provides a way for the United States and the Soviets to work together, in a mutually verifiable way, to gather, dismantle, and safeguard the materials in nuclear weapons that have been declared surplus. This can be done in a way that benefits the domestic United States economy as well as United States security interests, while providing the food and financial assistance essential to a peaceful transition in the former Soviet Union.

If enacted, this legislation could provide a needed next step to current arms reduction agreements that call for the elimination of some nuclear delivery systems but do not require the dismantling of warheads or safeguarding of nuclear weapons materials.

Actions by Western governments to offer trade credits for purchases of food based on the commercial value of Soviet weapons-grade uranium diluted to civilian reactor-grade could eliminate a critical threat to nonproliferation efforts and consolidated democratic and free-market reform.

Mr. President, under this proposal the United States would use the commercial value of uranium derived from Soviet weapons to offset the cost of sending food to the people of the former Soviet Union, but also includes a sweetener for the Soviet republics, which have made it clear that they, too, want a say in nuclear weapons policy.

Twenty-five percent of the commercial monetary value of Soviet fissile materials acquired under the provisions of this bill would be given to the republics in the form of financial aid. These monies would be earmarked for the creation of regional and local development banks.

The Nuclear Weapons Security and Plowshares Act also expresses the sense of Congress that reductions in the Soviet weapons-usable fissile stockpile should be accompanied by a parallel decrease in our own inventories, and by implementation of bilateral, multilateral or international safeguards on these materials.

It is the intention of this bill to help stabilize the transfer of Soviet weapons uranium to civilian use through the United States Department of Energy, and also to focus attention and provide resources for safety storing and ultimately disposing of plutonium inventories.

Funds for carrying out the provisions of the bill would come from unobligated Department of Defense monies.

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Mr. President, I believe that the purchase of diluted Soviet fissile nuclear material would be advantageous to United States domestic as well as security interests.

This bill would serve as an incentive for the control and dismantling of an almost-unthinkable number of Soviet nuclear weapons which, in other circumstances, could pose horrendous regional, strategic and proliferation risks.

Because the purchase of what would become a safeguardable form of moderately enriched uranium would be made with credits for American agricultural and other essential goods, U.S. dollars would be spent within the U.S. economy.

A few weeks ago, there were not a few voices raised during the debate on foreign aid in favor of tied aid. If this isn't tied-aid, then I don't know what is!

Mr. President, nuclear security for the United States has been tremendously expensive. The Nuclear Weapons Security and Plowshares Act provides for greatly increasing this security at much lower cost.

There are 10,000 to 20,000 warheads—about half the Soviet arsenal—which would be included under the terms of this proposal. Most of these are tactical weapons that are less secure against diversion or regional misuse than strategic weapons.

The United States still spends large sums to counter the threats posed by these weapons, and may end up spending even more if proliferation occurs.

The cost of this bill is more than justified on an avoided-defense cost basis. And, of course, the long-term gains in security will mean more money available to take care of our own long-neglected domestic agenda.

The purchased lower-enriched uranium can be used to reduce costs in the operation of Department of Energy enrichment plants. This use would not disrupt commercial markets. United States uranium producers have recently filed anti-dumping actions against the Soviets, and DOE's enrichment enterprise has been severely injured by low-priced sales by Soviet enterprises. This bill would reduce the domestic Soviet pressures that have led to this dumping and redirect Soviet efforts towards arms control, rather than commercial or even clandestine sales.

Enactment of this measure will provide substantial savings that will make the proposal revenue-neutral, and most likely positive.

The Department of Defense would avoid the future costs of countering tactical and strategic weapons that might otherwise likely remain intact and widely dispersed. There would also be savings from the reduction of the need to counter regional threats that might arise from eventual diversion of tactical weapons to third party states, or proliferation associated with migration of expertise.

American farmers and ordinary businesses, not defense contractors, would find themselves on the front lines in our effort to provide ourselves and our allies greater security.

Furthermore, the Department of Energy will save money on power and operational costs and increase future revenues from domestic and international sales.

Mr. President, penny wise and pound foolish is a bad way to run a government, but penny foolish and pound foolish at this critical time in our country's history will only ensure that the American people will not be able to enjoy the fruits of the end of the cold war.

Great challenges need to be met with great resourcefulness. Let's help the American farmer and the American worker win the peace for which so much money has already been spilled. Let us go forth in the manner which has made the United States a model for the rest of the world; let's show them that self-interest and common interest can be done.

Mr. President, I ask unanimous consent that several recent newspaper articles be included in the RECORD, as well as letters of support for the bill, two of the most highly-regarded practitioners in the non-proliferation field, and a "fact sheet" on the bill prepared by one of them, Dr. Thomas L. Neff of the Massachusetts Institute of Technology. I also ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Warheads Security and Plowshares Act of 1991".

SEC. 2. FINDINGS

The Congress finds that—

(1) the leadership of the Soviet Union is seeking to transform that country economically and politically while at the same time maintaining control of the more than 25,000 nuclear weapons on the territory of its newly independent constituent republics;

(2) the warheads in the Soviet nuclear arsenal contain quantities of valuable enriched uranium that may be processed and used in commercial nuclear power plants, as well as plutonium that should be placed under internationally accepted safeguards;

(3) failure of the United States and other modern democratic nations to fully support change in the Soviet Union may contribute to its further political and economic disintegration, thus creating a grave threat to world peace and stability;

(4) under the Strategic Arms Reduction Treaty and new commitments to dismantle tactical and strategic weapons, up to 40 percent of Soviet warhead materials will be rendered useless;

(5) current arms control agreements provide for the elimination of delivery systems, but do not address the issue of the dangerous and growing stockpile of weapons-usable fissile materials in retired nuclear warheads which are being recovered in the process of warhead dismantlement;

(6) a second and related danger resides in the possibility that such material might be sold, either officially or surreptitiously, in its weapons-usable form on an uncontrolled world market;

(7) the risk of clandestine or unsafeguarded international transfer of fissile materials presents a relatively new and highly dangerous threat to efforts at nuclear nonproliferation;

(8) a small portion of the plutonium and highly enriched uranium recovered as a result of the dismantlement of United States and Soviet warheads will be sufficient to supply nonweapons uses of these materials (such as fueling naval propulsion reactors) for decades, thus further production of these materials would be dangerous as well as wasteful because such production would make the problem of safeguarding against diversion unnecessarily complex; and

(9) action by Western governments to offer trade credits for purchases of food and other essential goods based on the commercial value of Soviet weapons materials would—

(A) strengthen United States agricultural interests while meeting urgent food needs in the Soviet Union;

(B) eliminate a critical threat to nonproliferation efforts; and

(C) help to consolidate democratic and free market reform in the Soviet Union.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to strengthen United States agricultural interests while meeting urgent food needs in the Soviet Union;

(2) to help to consolidate democratic and free market reform in the Soviet Union; and

(3) to eliminate a critical threat to nuclear nonproliferation efforts by safeguarding dangerous weapons-usable materials from United States and Soviet warheads.

SEC. 4. POLICIES TO REINFORCE NUCLEAR NONPROLIFERATION.

(a) DETERMINATION OF PURCHASE PRICE OF SOVIET FISSILE MATERIALS.—The Congress urges the President, in consultation with concerned allies, to determine a fair and equitable price for the purchase of diluted uranium equivalent to the volume of Soviet fissile materials which have been made redundant through unilateral reductions and arms control agreements.

(b) COLLECTION, DILUTION, AND SAFEGUARDING OF SOVIET FISSLE MATERIALS.—The Congress further urges the President to consult with the leadership of the Soviet Union for the purposes of establishing a procedure for the collection, dilution, and safeguarding of fissile materials from dismantled weapons.

(c) MUTUAL REDUCTION IN INVENTORIES AND IMPLEMENTATION OF SAFEGUARDS.—It is the sense of the Congress that it should be the policy of the United States Government that any reduction of the Soviet stockpile of fissile material for weapons should be accompanied by a parallel decrease in the United States' own inventories of fissile materials used in nuclear weapons, and by implementation of appropriate safeguards on such materials.

(d) PROPOSED AGREEMENT WITH IAEA.—It is the sense of the Congress that the President should initiate talks with the President of the Soviet Union and the Director-General of the International Atomic Energy Agency (IAEA) to seek agreement that the mutual and verifiable destruction and storage of nuclear warheads, including on-site and challenge inspections, will be subject to mutually agreeable and comprehensive verification; and to discuss the advisability and feasibility of an agreement to place all civilian fissile materials possessed by the United States and the Soviet Union under IAEA or equivalent bilateral safeguards, including such materials that have been permanently transferred from weapons uses.

SEC. 5. PROVISION OF AGRICULTURAL AND OTHER ESSENTIAL COMMODITIES FOR SOVIET FISSILE MATERIALS.

(a) EXCHANGE OF AGRICULTURAL COMMODITIES FOR SOVIET FISSILE MATERIALS.—The President shall provide to the Soviet Union—

(1) surplus agricultural commodities owned or controlled by the Commodity Credit Corporation which are available for disposition under section 416(b) of the Agricultural Act of 1949; or

(2) agricultural commodities or other essential commodities purchased at market prices,

in exchange for Soviet fissile materials of equivalent value.

(b) FINANCIAL ASSISTANCE FOR SOVIET DEVELOPMENT BANKS.—In addition to the commodities provided under subsection (a), the President shall provide 25 percent of the monetary value of the Soviet fissile materials acquired under value of the Soviet fissile materials acquired under such subsection to the Soviet republics in the form of financial assistance which shall be available only for the establishment of regional and local development banks.

(c) REIMBURSEMENT OF COMMODITY CREDIT CORPORATION.—The President shall reimburse appropriations for the Commodity Credit Corporation for commodities provided under subsection (a).

(d) SUPERSEDING EXISTING LAW.—Any agricultural commodity or financial assistance provided under this section to the Soviet Union or to any Soviet republic shall be provided notwithstanding any other provision of law.

SEC. 6. STORAGE, SAFEGUARDING, USE, AND ELIMINATION OF FISSILE MATERIALS.

(a) REPORTS.—Not later than 180 days after the date of enactment of this Act, with respect to paragraphs (1) and (2), and not later than one year after such date, with respect to paragraph (3), the Secretary of Energy shall submit a report to the Congress setting forth—

(1) a plan for the safeguarded storage and dilution on enriched uranium acquired under this Act;

(2) a plan for the safeguarding of plutonium in facilities in the Soviet Union and in the United States; and

(3) the findings of the study conducted under subsection (b).

(b) STUDY ON PLUTONIUM STOCKS.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study on United States and Soviet Union plutonium stocks and safe and effective means to store and ultimately dispose of such inventories and the plutonium accumulating in spent civilian-power reactor fuel.

SEC. 7. POLICY REGARDING NEGOTIATION OF BILATERAL AGREEMENT.

It is the sense of the Congress that the Secretary of State should explore with the Soviet Union an agreement not to produce highly enriched uranium or separated plutonium.

SEC. 8. TRANSFER OF FUNDS CUT OF DEPARTMENT OF DEFENSE ACCOUNTS.

The Secretary of Defense shall transfer to the President out of such accounts of the Department of Defense as he may designate during fiscal years 1992 through 1966 such funds as may be necessary to carry out the purposes of section 5.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) the term "agricultural commodity" includes any edible agricultural commodity grown in the United States;

(2) the term "nuclear weapon state" has the same meaning given to such term by Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(3) the term "safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency, done at the headquarters of the United Nations on October 26, 1956;

(4) the term "Soviet Union" includes all successor states to the Soviet Union; and

(5) the term "weapons-usable nuclear material" means (A) any uranium that is enriched to more than 20 percent in U-235 or U-233, or both, or (B) any mixture of plutonium isotopes containing less than 80 percent PU-238.

FEDERATION OF AMERICAN
SCIENTISTS FUND,
Washington, DC November 3, 1991.

Senator ALAN CRANSTON,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON, Your proposed "Nuclear Warheads Security and Plowshares Act of 1991" will be exceedingly helpful if enacted. Many of us are increasingly doubtful about the ability of the former USSR to manage its huge nuclear legacy without external help. Because of loss of confidence in the ruble, Soviet organizations are looking increasingly desperately for opportunities to earn hard currency. As your bill recognizes, that could be dangerous in the case of the Soviet nuclear establishment.

As your bill also recognizes, Soviet enriched uranium, both inside and outside nuclear warheads, has hard-currency value for legitimate peaceful purposes. After dilution to low-enrichment levels, it can be sold commercially as fuel for nuclear-power reactors.

It is important that this asset—one of the few fungible assets the Soviet people currently have—is not simply used for the benefit of a few well-placed apparatchiks. I think that your bill takes a long step in this direction by exchanging Soviet enriched uranium for essential commodities instead of cash. Some of these commodities will hopefully be used to keep the Soviet workers responsible for safeguarding and dismantling Soviet nuclear warheads on the job.

It is also important that your bill would have the U.S. undertake symmetrical commitments to verifiably move fissile materials from weapons to safeguarded storage or non-weapons uses. Otherwise, I think that Soviet hard-liners would balk at Soviet "unilateral disarmament."

Thank you for your far-sighted leadership in this matter. Please feel free to contact me if I can be of any further assistance.

Sincerely yours,

FRANK VON HIPPEL,
Chairman, FAS Fund (the research arm of the FAS) and Professor of Public and International Affairs, Princeton University.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY, CENTER FOR INTERNATIONAL STUDIES,
Cambridge, MA, November 20, 1991.

Senator ALAN CRANSTON,
112 Hart Senate Office Building, Washington DC.

DEAR SENATOR CRANSTON: Thank you for providing the final draft of the "Nuclear Warheads Security and Plowshares Act of 1991." The Act would facilitate a major step in arms control under a dramatically changed and changing situation in the Soviet Union, while providing the Executive Branch with flexibility in implementation. I believe the Bill reflects the major objectives of the proposal I put forward late in October, with additional incentives to the post-Soviet republics.

It is important to recognize that the U.S. and the USSR are no longer in symmetric strategic or institutional positions on weapons, and that many of the traditional assumptions of superpower negotiation no longer apply. This has been quite evident in the unilateral actions taken by Presidents Bush and Gorbachev. The dominant issue in the post-Soviet republics is now food and economic stabilization, not nuclear confrontation with the U.S. Nuclear weapons deployed across the republic, once assets of national power, have become liabilities to all.

It is in the interest of the U.S. to assist with food and economic stabilization and to help insure that nuclear weapons and weapons-usable fissile material do not go astray. These are related issues, since the desperations of economic stabilization that is explicitly linked to solution of a arms control problem that has been fundamentally transformed, in a way that meets U.S. Soviet security objectives.

We would not propose to help failing central ministries collect their weapons, lest they simply consolidate their power, but rather propose to trade peaceful economic assistance for the verified destruction and conversion to civilian use of surplus Soviet fissile material that is either in nuclear warheads or could—equivalently—be used to make warheads. This economic assistance would be provided in a way that provides direct incentives for the collection, dismantlement, dilution and safeguarding of surplus Soviet warheads.

To provide the most expeditious assistance, the U.S. should be prepared to purchase Soviet stockpiles of enriched weapons grade uranium equivalent in fissile content to weapons to be retrieved, dismantled and safeguarded under mutually agreed verification procedures. The United States stopped production of weapons-grade uranium in 1964. The USSR continued to produce it until at least 1987 and appears to have substantial stockpiles. Such stockpiles would actually pose the greatest new strategic threat to the U.S. since they are the most readily available for producing new weapons. Obsolete tactical weapons in the field pose a proliferation threat and need to be recovered.

Soviet officials estimate that it will take as much as a decade to collect and dismantle these obsolete warheads. By making an immediate purchase, the U.S. can provide the resources to make this possible, as well as aid the Soviet people at a critical moment. Material from warhead dismantlement can be gradually converted to safeguarded civilian use, with the volume eventually checked against the initial purchase agreement. Pay-

VOL 137 PT 23 NO 21—25 1991 UMI

ment, in the form of credits, would be made as surplus fissile material was delivered. This procedure would allow a rapid aid response while allowing time for U.S. and Soviet defense institutions to develop, coordinate, and implement verifiable destruction of warheads.

The Bill as written calls for funds to be drawn from the DOD budget, reflecting the substantial gains to U.S. security. There is a question about how DOE should treat the material financially. I would suggest that DOE analyze the operation of its enrichment enterprise and calculate the cost savings that would result from use of Soviet fissile material in its operations, and that this be the part of the purchase cost eventually attributed to the DOE budget. It is clear that the bargain proposed has both commercial and security benefits and the amount paid can reflect both.

The language of the Bill appears to provide for dilution in the Soviet Union of weapons-grade uranium to a level consistent with safe transport and protection against misuse (perhaps 20 percent U-235 rather than 93 percent), and with IAEA safeguard regulations and capabilities. To reassure everyone, it should only be moved under such safeguards and with sufficient physical protection.

It must be recognized that despite current problems, authorities in the post-Soviet world will remain concerned about strategic balances now and in the future, just as the U.S. must. The transfer of substantial fissile stocks must therefore be guaranteed not to increase U.S. weapons capabilities. The safest way to do this is to convert the material to civilian use under international or bilateral safeguards. Moreover, both sides must be assured that weapons dismantlement will proceed in parallel and in ways that ensure mutual confidence. There are technical and institutional mechanisms for doing so.

It seems appropriate to offer purchase credits rather than currency since agricultural and other essential goods are most needed, and since such credits are more difficult to turn to military use and are unlikely to be hoarded by particular groups. Purchase credits can also play an important role in accelerating development of a market economy. However the credits are initially allocated, it is likely that they will be bartered internally until they find the highest value uses. For example, a weapons dismantlement facility may not be able to use a large amount of grain purchase credits, but they could use those credits internally to procure steel, chemicals or other necessities for their activities. In this way, the effect of the credits in providing a hard currency equivalent for internal transactions that would be multiplied many times over.

I hope these comments are of value in your subsequent deliberations. Please let me know if I can be of further assistance.

With best wishes, and

Sincerely.

THOMAS L. NEFF.

QUESTIONS AND ANSWERS: SOVIET FISSILE MATERIAL PURCHASE PROPOSAL

(Proposed "Nuclear Weapons Security and Plowshares Act")

What is the Soviet surplus weapons and weapons-material problem?

According to the Ministry of Atomic Power and Industry of the former Soviet Union, there are between 10,000 and 20,000 surplus nuclear warheads widely distributed among the newly sovereign republics. Most of these are tactical weapons, which are mobile and more easily diverted than strategic weapons.

The central agencies of the former USSR that might otherwise be able to reclaim these weapons and destroy them no longer have the resources to do so, nor perhaps the political of financial leverage to deal with republics. At least some republics would prefer international involvement in the dismantlement process to sole dominance by another republic or old central agencies. A system of food and other incentives would provide the carrot to get agreement. Agricultural credits would support the technical and logistic efforts through their barter value, without providing direct hard currency support to military or weapons agencies.

There are also large stocks of weapons-usable highly-enriched uranium and plutonium, which would be the preferred material for new modernized nuclear weapons-usable parts destroyed or otherwise secured against misuse, under bilateral or multilateral safeguards. At present, there is no evident basis for achieving this.

Why might the commercial value of weapons material provide incentives?

Warheads and fissile stocks consist of both highly enriched uranium about 93 percent U-235) and plutonium. If processed and diluted with natural uranium, the highly enriched uranium has significant commercial value for civilian program use. Some older tactical weapons may contain more than 50 kilograms of HEU, worth more than a million dollars if converted to civilian use. Stocks of HEU may be worth billions.

Plutonium stocks and material derived from weapons has little civilian value, but action on the associated HEU would provide mechanisms and incentives to collect, store and safeguard this dangerous material in the former Soviet Union.

Highly enriched uranium stocks and warhead material would be diluted down to levels that no longer make it usable for weapons and purchased by the U.S. government in exchange for purchase credits for U.S. agricultural and other goods.

How might a U.S. purchase of Soviet Uranium solve domestic commercial problems?

Former Soviet enterprises, including MAPI, have already been selling increasing amounts of natural and low-enriched uranium to raise much needed hard currency for their activities. But in doing so, they have helped drive down prices in Western markets to all-time lows. This has limited the amount the Soviets can earn. It has also severely damaged Western mining activities, increasing unemployment, and greatly reduced the value and the ability of the U.S. government's Enrichment Enterprise to make profitable sales.

Congress has mandated two current investigations of Soviet dumping, and U.S. uranium producers, together with the Oil, Chemical and Atomic Workers Union, have recently filed an unfair trade action against the Soviets.

A large-scale government-to-government purchase would relieve the pressures on the Soviets to dump commercially, providing them with far more assistance than could be derived from dumping. The lower-enriched uranium (e.g., 20 percent U-235) would be used by the U.S. Department of Energy to reduce power and other costs in its operations. In this way, surplus material would not enter commercial markets, relieving pressure on Western uranium producers and increasing domestic employment. Removal of the threat of continued Soviet enrichment sales at non-competitive prices would allow DOE both to reduce government expenditures and make profitable new sales.

Why is the proposal cost-effective in meeting U.S. security interests?

The U.S. already spends very large amounts of money to counter the threat of Soviet nuclear weapons. If surplus weapons, weapons material, or expertise lead to further nuclear weapons proliferation, such events would require large new defense expenditures, one lesson of Iraq.

Expenditure of modest sums to neutralize these threats now would be far preferable to the large expenditures needed to respond to them later. The savings on current programs could well exceed the cost of a fissile material purchase. The long-run avoided defense cost may be extremely large.

The food and other assistance to the former Union deriving from this purchase would help prevent the desperation that may otherwise lead to reactionary change in the former Union or in republics, changes that would pose new threats to U.S. security.

How does the proposal meet domestic U.S. objectives?

The U.S. wishes to provide assistance to the people of the former Soviet Union, but it is politically difficult to do so unless there is a quid pro quo that results in enhancing domestic U.S. interests.

The proposal does so by ensuring that cash expenditures are made in the U.S. economy, particularly in vital non-defense sectors like agriculture, by reducing costs at Defense and the Department of Energy, and resolving problems of unemployment caused by Soviet dumping.

The purchase proposal makes sense from a purely domestic perspective. It also provides substantial assistance in maintaining post-Soviet economic, political and nuclear stability, all of which are in U.S. economic as well as security interests. The proposal is consistent with other suggestions for assistance, but has explicit objectives and payoffs for the U.S.

[From Newsday, Nov. 21, 1991]

NUCLEAR ALARM—SEIZED PLUTONIUM, URANIUM HINT OF EUROPE BLACK MARKET

(By Earl Lane and Knut Royce)

WASHINGTON.—Recent police seizures of plutonium and enriched uranium in Western Europe provide firm evidence for the first time of a black market in nuclear material that would be required for clandestine nuclear bomb factories, experts have told Newsday.

The latest incident occurred last week, when Swiss police seized about 65 pounds of contraband material in Zurich. Laboratory analysis has shown it to be low-enriched uranium. In mid-October, police in Como, Italy—acting on a tip from two informants—seized a tenth of a milligram of radioactive material that was subsequently found to be nearly pure bomb-grade plutonium.

While there is no determination on the origin of the materials seized in Como and Zurich, specialists interviewed by Newsday say there are intriguing hints of possible Soviet or Eastern Block origin.

Both plutonium and highly enriched uranium, in sufficient quantities, can serve as the core for an atomic bomb. Access to even low-enriched uranium as was seized in Zurich—can save a bomb maker many steps in the process turning natural uranium into fissionable material, experts said. The amount of uranium seized—even if it was subsequently enriched to weapons-grade—falls well short of the amount needed for a bomb, experts said.

Additional indications of a shadowy trade in nuclear material come from Africa, where an Angolan businessman recently told a Belgian firm that he had five boxes of enriched uranium for sale at $100,000 each. A faxed copy of the offer, which included blurry photos of the boxes, was obtained by Newsday. The contents of the boxes could not be determined.

While access to nuclear material is strictly controlled under international conventions, black market sales have long been rumored. The reports have often proved to be hoaxes, but specialists say the incidents in Europe—which are still under investigation—are cause for alarm.

"My greatest concern does not have to do with the quantity of plutonium that's been found but the fact that you actually had nuclear material of weapons-grade potential crossing borders illegally," said William Potter, an arms-control specialist at the Monterey Institute of International Studies in California. "I'm not aware of any prior documented cases in which materials such as enriched uranium or actual plutonium have been seized in the black market."

Potter and other arms-control experts worry particularly that economic and political chaos in the Soviet Union might induce renegade entrepreneurs to try to divert substantial amounts of nuclear materials from Soviet military or commercial facilities.

The deputy prosecutor in Como, Romano Dolce, told Newsday that documents written in Cyrillic—the alphabet used in the Soviet Union, Bulgaria, Serbia and Mongolia—were seized with the plutonium sample. Dolce declined to discuss the documents in detail. But in an earlier interview with the Swiss News Agency, Dolce said he believes the material may have been smuggled out of the Soviet Union after the failed coup in August.

The plutonium—which police officials says was being offered as a sample of bigger things to come—consists largely of pure plutonium-239 with lesser amounts of the isotopes plutonium-238 and americium-241, according to a source familiar with the laboratory analysis of the material. The 0.1 milligram plutonium sample was embedded in a plastic casing about the size of a silver dollar, the source said.

John Hessard, a physicist at Imperial College in London, said such isotope ratios are consistent with material produced by a military weapons program.

In the case of the uranium seized in Zurich, lab analyses just completed have found that its enrichment is at a level consistent with use in Soviet-made RBMK nuclear reactors. Natural uranium ore contains two major varieties—or isotopes—of uranium. It is 99.3 percent uranium-238 and 0.7 percent uranium-235. For the material to be useful in a power reactor, scientists must raise the amount of uranium-235 isotope only a few percent; for an atom bomb, the enrichment level typically is increased to above 90 percent.

Laboratory analysis has determined that the enriched material seized in Zurich has been raised to 1.2 percent uranium-235. Several experts said that RBMK reactors have used fuel enriched anywhere from 1.1 to 1.8 percent during initial fuel loading. Western commercial reactors typically use fuel about 3 percent enriched in uranium-235. "It's possible it's from an RBMK," one physicist said.

"This could be evidence of the kinds of leakage out of the Soviet program that a lot of people are worried about," said Paul Leventhal, head of the private Nuclear Control Institute and a specialist on proliferation issues. Vladimir Medinsky, a spokesman for the Soviet Embassy in Washington, said he was unaware of the seizures in Europe but said "the Soviet Union must be looking into this."

There also are hints of a Soviet connection in the Angola case. According to an intermediary who provided the photos to the Central Intelligence Agency, an agency representative told him that the boxes appeared to be of Soviet origin. There has been no analysis of the material in the Angola incident, however, and efforts by Newsday to reach the businessman who made the offer have been unsuccessful. The CIA declined to confirm or deny whether it is investigating the incident.

Whatever the outcome of that case, nonproliferation specialists said they found it and the recent seizures in Europe to be troubling. "The big question is, were there larger amounts for sale, and are we looking at a criminal network that has access to those amounts?" asked Gary Milhollin, director of the Wisconsin Project on Nuclear Arms, a private group.

Intelligence specialists and several experts on nuclear proliferation cautioned that investigations of alleged black market activity in uranium often lead nowhere. One U.S. intelligence source who tracks such reports said that the recent cases may reflect efforts by arms dealers and smugglers to capitalize on a perceived buyers' market for enriched uranium in such potential nuclear states as Libya and Iran.

That view is reinforced by reports in recent years of several amateurish attempts to peddle small amounts of natural uranium concentrate—known in the industry as "yellowcake"—at exorbitant prices. Yellowcake is a starting material for any attempt to enrich uranium, either for use in power reactors or in nuclear bombs. Experts said clandestine sales of yellowcake could readily avoid existing international safeguards since the material is not tracked nearly as closely as enriched uranium.

Sen. John Glenn (D. Ohio), a member of both the Armed Services and Intelligence Committees, has called for stronger safeguards on all nuclear material, saying that without stronger controls, "significant amounts of this material will increasingly appear on the black market."

Leventhal said that a country seeking to develop a clandestine nuclear bomb potential would likely seek to buy yellowcake on the black market in order to avoid advertising its intentions.

But it is the impossible leakage of enriched uranium or plutonium that has specialists most intrigued. "It is potentially very disturbing," Leventhal said.

Kurt Zollinger, a chemist in the Zurich police laboratory—where the seized enriched uranium is being held—said in a telephone interview that it consists of many irregularly shaped, small pieces of black material. While the intended use and origin of the material is a mystery, Zollinger speculated that it might be broken pieces from a fuel rod for a reactor.

"If this is a fuel rod, it is manufactured material which is supposed to be accounted for" under international safeguards, Milhollin said.

Under the 1980 convention on the physical protection of nuclear material, enriched uranium must be stored under controlled access and shipped "under special precautions," including formal arrangements among the buyer, seller and carrier and compliance with laws of the importing and exporting states.

The Zurich material is to be shipped to the Paul Scherrer Institute, Switzerland's national nuclear research center, for further analysis. Andreas Pritzger, head of administration for the institute, told Newsday that the two samples tested so far both were 1.2 percent enriched uranium.

Dolce is convinced there is "a close link" between the incidents in Como and in Zurich. "They [Swiss officials] got information and details from us," Dolce said. Seven people were arrested in the Zurich case—four of them police infiltrators, according to Dolce. Swiss police have thus far played down any connection between the cases, however.

In the Angolan case, a businessman named Amandio Dias was identified as a person to contact for the sale of the alleged enriched uranium, according to two persons familiar with the proposed deal. The offer was made by Fax to the Belgian diamond firm and included blurred photos of two rectangular boxes for sale. The fax material included the price, the number of boxes, the location, Angola, and the notation "can be seen on the spot."

The Belgian firm passed the offer to a Canadian importer in Toronto. The Canadian, who spoke with Newsday but asked not be identified, said that he urged the Belgian firm instead to report the unusual offer to the CIA. Al DeProspero, a former Army special forces officer who was asked by the Canadian to serve as a go-between, said the information immediately raised eyebrows at the CIA. "The intelligence people jumped on it," DeProspero said. He said that a CIA representative remarked that the boxes appeared to be "of Soviet origin."

"Someone in one of the [former Soviet] satellite countries evidently is hungry, got rid of this stuff," said DeProspero. Repeated efforts to contact Dias in Angola were unsuccessful.

DeProspero and the Canadian agent said they did not know whether, in fact, the boxes did contain any enriched uranium—either the highly enriched type useful in atomic bombs or the low-enriched commercial grade used in nuclear power reactors.

[From the Washington Post, Nov. 13, 1991]

SOVIETS ACCUSED OF 'DUMPING' URANIUM ON U.S.

(By Thomas W. Lippman)

Driven nearly to extinction by falling prices, U.S. uranium procedures have formally complained to federal trade officials that the Soviet Union is illegally "dumping" the commodity on the American market.

If the Commerce Department and the International Trade Commission find that the complaint is valid, the Bush administration would find itself in the paradoxical position as early as next summer of imposing trade sanctions on the Soviet Union just as it is trying to help that nation's crippled economy.

Experts throughout the industry said this week that the complaint appears to have merit. Uranium, in the natural form known as "yellowcake" and in the enriched form used as fuel for nuclear power plants, is one of the few products the Soviet, Union can export to earn desperately needed hard currency. The shutdown of several nuclear power plants in the Soviet Union and Eastern Europe since the 1986 accident at Chernobyl has reduced Soviet demand for nuclear fuel, and the Soviets are aggressively seeking new markets, unloading their uranium in the face of a worldwide glut, according to the Energy Department and independent analysts.

VOL 137
PT 23
NO 21—25
1991
UMI

The complaint was filed by 13 U.S. producers and the Oil, Chemical and Atomic Workers Union, which represents a fast-dwindling work force. They are represented by lawyers from the Washington office of Akin, Gump, Hauer & Feld, a firm whose most visible partner used to be Robert Strauss, now U.S. ambassador to Moscow.

The U.S. complainants say that they will lose $49.9 million this year because of the allegedly unfair Soviet practices. The Soviets also are reportedly underselling other producer nations, such as Namibia.

Laurence J. Hoffman, the firm's managing partner, said the lawyers "absolutely did not" consult Strauss or notify him that the complaint was coming. But the firm did inform the Bush administration, he said, and "the government may have" alerted Strauss to the case.

The trade complaint, formally filed on Friday, could be doubly embarrassing for the administration because the U.S. government stands to be a major beneficiary if sanctions are imposed. The Energy Department is this nation's sole producer of enriched uranium, and its obsolete plants have rapidly been losing market share to more efficient and lower-cost producers, including the Soviets.

The Energy Department is not a plaintiff in the case because U.S. anti-dumping laws were enacted to protect private corporations, not the federal government. As recently as a year ago, the Energy Department was negotiating with the Soviet Union to import Soviet enriched uranium to supply to its own clients—a deal that would have given the Soviets access to the U.S. market without price cutting and allowed the Energy Department to reduce production at its high-cost plants. However, that deal was blocked by Congress.

In a statement issued by Akin, Gump, Michael McMurphy, president of the Uranium Producers Association, said the producers "really struggled with the decision to file an anti-dumping petition. Nobody wanted to jeopardize sensitive political relationships, and everybody is concerned about the economic plight of the Soviet people. However, the industry is itself in serious straits caused by the devastating program of Soviet dumping and simply must do something about it."

Under well-established trade regulation procedures, the Commerce Department will investigate whether the Soviets are selling uranium at an unfairly low price. The International Trade Commission will decide whether the domestic industry has been harmed. If the answer to both questions is yes, according to Akin, Gump attorney Valerie A. Slater, the government will be required to impose cash import duties on the Soviet Union.

No one disputes that the U.S. uranium industry is in dire condition. Energy Department statistics-show that employment in the mines and mills, mainly in the southwestern states, has declined from 22,000 workers in 1979 to fewer than 1,300. Production is down from 44 million pounds in 1980 to about 9 million pounds. Prices have declined from a peak of $43.45 a pound in the 1970s to about $10 on the spot market.

The Energy Department, which once held a monopoly on the enriched uranium market in the non-communist world, now has about 40 percent of it, as competitors in France, Germany and Japan have entered the market, in addition to the Soviets.

U.S. nuclear utilities, which are free to buy their uranium wherever they wish, have turned increasingly to Canada, Australia and other foreign suppliers with more efficient mines and lower costs. Imports increased from 13.1 million pounds in 1989 to 24.3 million pounds in 1990, according to the U.S. Energy Information Administration. The Soviet share of the U.S. market has leaped from near zero in 1987 to about 17 percent.

The true value of Soviet uranium is difficult to determine, because the Soviet Union remains a state-controlled economy insulated from real prices for transportation, energy and labor. "They have no shareholders, no management and a bunch of virtual slaves," said Daniel R. Einbund, a New York uranium broker who has negotiated with them.

Much of the U.S. firms' complaint is devoted to calculations aimed at showing that the Soviets' export price is below its "imputed value," based on comparison with similar operations in Canada. The complaint says the price would have to rise at least 132 percent to be fair.

[The New York Times, Thursday, Oct. 24, 1991]

A GRAND URANIUM BARGAIN

(By Thomas L. Neff)

CAMBRIDGE, MS.—The Soviet Government is struggling to transform itself economically and politically while maintaining control of more than 24,000 nuclear weapons in the newly independent republics. Mikhail Gorbachev has pledged to dismantle thousands of them, but the bankrupt Government may not be able to pay for doing so in ways that prevent misuse or wider proliferation. There is, however, a way to pay for disarmament that also provides economic motivation to the republics and the central Government.

The warheads contain substantial amounts of valuable material that can be processed for use in commercial nuclear power plants. It may be advantageous for the U.S. to buy or barter of such materials and turn them safely to commercial use. This can be done in ways that protect Western and Soviet commercial and security interests.

If we do not obtain the material, agents in the former Soviet Union, perhaps uncontrolled by central authority, may flood commercial nuclear fuel markets with material from arms programs or even seek to sell weapons-grade materials to the highest bidders.

The Soviets have been selling increasing amounts of natural and enriched uranium in Western commercial markets, feeding a downward price spiral that has driven some uranium producers out of business and threatened the uranium enrichment business of America's Energy Department, the world's largest supplier of commercial fuel.

The risk of costly disruptions of the supply of uranium has been greatly increased by growing disorder in the former Soviet Union. Possible Soviet dumping could keep prices low for years, or alternately the supply may suddenly dry up. U.S. action thus offers the potential for stabilizing Western commercial markets.

The Soviet arsenal's explosive power comes from some 500 tons of uranium highly enriched in the isotope U-235 and about 100 tons of plutonium. If diluted with natural uranium, both highly enriched uranium and plutonium can be used in civilian reactors, though most countries prefer fuel not containing plutonium. Under the Strategic Arms Reduction Treaty and new commitments to dismantle tactical and strategic weapons, up to 40 percent of Soviet warhead material will be freed up.

A deal in which the U.S. offered trade credits for purchases of food and other essential goods could be based on the commercial value of the weapons material. The central Government could use these credits in negotiations with the republics to arrange for collecting, dismantling, diluting and exporting material usable for commercial but not arms purposes, and could pay for safe-guarding plutonium.

A typical warhead might yield fuel worth $200,000. Ten thousand warheads containing 200 tons of highly enriched uranium would be worth about $2 billion. This would be a good deal for the Soviets, for if they tried to sell such a volume commercially, prices would crash.

How might the material be accommodated without disrupting Western markets? The Energy Department could use the enriched material to help meet its delivery commitments, saving on its own production costs. It has tried to improve the economics of its enrichment enterprise, largely because of the threat of low-priced Soviet enrichment services.

Substitution of enriched Soviet material would result in larger Energy Department inventories of natural uranium, which potentially is a concern to miners in the West. But it seems better for everyone to accept a gradual buildup of U.S. natural uranium stocks in order to diminish the threat of large volumes of material that might destroy commercial markets and pose a major threat to international security.

It is important for the U.S. and the Soviet Union to be assured that such a transaction would not compromise their security. One solution is for Soviet enterprises to dilute the material down to a level that would make reuse of it for weapons difficult and transport safer. Dismantling weapons could be monitored bilaterally, with subsequent processing, shipment and conversion to reactor fuel in the U.S. safeguarded by the U.N. through the International Atomic Energy Agency.

A U.S.-Soviet agreement on weapon uranium would not just provide economic incentives to dismantle weapons but also would set useful precedents for dealing with the more difficult issue of plutonium stocks and for dismantling additional nuclear weapon systems.

Such an agreement would go far in satisfying non-weapons states that the superpowers are finally keeping their part of the bargain in the non-proliferation treaty. It would also provide a basis for international involvement in the post-Soviet republics that have nuclear activities, and would justify greater international oversight in other countries.

If the U.S. pursued and the Soviets accepted this grand bargain, the U.S. should accept bilateral monitoring of the dismantling of its own excess weapons and put subsequent processing of material from those weapons under international safeguards.

[From the Wall Street Journal, Oct. 20, 1991]

ARMS CONTROL—THE RISK NOW POSED BY THE SOVIET 'NUKES' IS ONE OF MANAGEMENT

(By John J. Fialka)

One day last spring, a heavily guarded military convoy emerged from the mists near Lychen, a resort town north of Berlin. After dropping off its keys with a local mayor, the column headed east toward home with its cargo: the terrible burden of an elite Soviet KGB military unit known as VK79.

Inside the Soviet trucks were dozens of desk-sized metal boxes, each containing a nuclear warhead for a Scud missile. Inside the warheads were explosive-wrapped globes of plutonium, each capable of triggering a blast almost as large as the one that devastated Hiroshima.

For many military units, the Cold War is over. But for detachments like VK79, it is more like the beginning of the end. The threat presented by its weapons lingers, because they are small, easily hidden, easily transported—and susceptible to theft.

MANY RISKS

Within the coming months and years, if all goes well, VK79's warheads will cease to exist. They are among some 10,000 tactical nuclear weapons that George Bush and Mikhail Gorbachev have vowed to eliminate, in history's first large-scale destruction of nuclear weapons (in the past, explosive parts of retired nuclear weapons have been recycled, not destroyed).

But Western experts have discovered that this "if" is a very big one. The rapidly unraveling Soviet Union lacks the resources to quickly collect and eliminate its share of the weapons, at least 7,000 warheads. Moreover, the 200 soldiers of VK79 don't seem to have the training or the experience to cope with terrorists, corruption, criminal gangs, coups, drugs and divisive politics—all growing facets of the uneasy peace they found when they returned home.

"They were oriented toward fighting a war," says William M. Arkin, military analyst for the environmental group Greenpeace and one of the first Americans to visit VK79's abandoned German base. Inside the 10-acre camp, hidden deep in a pine forest, he found a citadel—two underground bunkers surrounded by five barbed-wire-tipped fences, some electrified. Infantry trenches were arrayed around the bunkers, facing the probable direction of an enemy attack.

When Mr. Arkin, once a U.S. Army intelligence officer in West Germany, entered the bunker, he came upon a familiar scene; a secret world of warhead bays, sophisticated protective systems and evidence of extreme spit-and-polish discipline much like that in U.S. bunkers.

But he also sensed a big difference. The fenced compounds of U.S. nuclear storage sites, which dot the landscape in western Germany, are kept starkly illuminated and surrounded by open space. They were designed that way in the 1970s to cope with the more immediate threat of terrorists and demonstrators. The Soviet bunker had none of these features. Its soldiers seemed prepared only for the terrifying opening scenes of a third world war.

Today it is the non-war threats that are most worrisome to guard units like VK79, or units of the super-secret U.S. Army equivalent, the 59th Ordnance Brigade based in Germany. Of all nuclear weapons, tactical ones are the most vulnerable, because they are small enough for an enemy or a terrorist group to carry away.

MANAGEMENT IS KEY

Although a wide array of gadgets, including electronic combination locks called "permissive action links," are used by both sides to secure nuclear weapons, a determined expert can thwart them. The main defense is a tough management system involving tens of thousands of technicians and guards maintained by the U.S. and what remains of the Soviet Union. "It is their [the Soviets'] system of management that has to stay coherent. This is the one system that ought not to collapse in the Soviet Union," warns Fred C. Ikle, a former undersecretary of defense.

And it will have to stay coherent for a long time. A team of Soviet nuclear weapons experts who recently visited Washington said it may take 10 years and the equivalent of $2 billion to collect and destroy the tactical nuclear weapons. The Russians said they were considering plans to build a system of highly secured shelters to store about 15,000 weapons, after retrieval from outlying storage sites and other republics. (Only ethnic Russians were assigned to elite nuclear weapons units, so the republics would be starting from scratch in the business of guarding nukes.) After the weapons are retrieved, they are to be disassembled and their plutonium cores guarded in another type of shelter until they are burned up as fuel in reactors or submarines.

Victor N. Mikhailov, deputy minister of the Soviet Ministry of Atomic Power and Industry, worries that during the "several years" all this will take, "what might happen is difficult to predict." It would be cheaper and quicker, he told U.S. weapons experts, for the Soviet Union to pack a number of nuclear weapons in an underground tunnel and vaporize them with the searing blast from another nuclear weapon. "To destroy 30,000 weapons you will need 15 to 30 explosions underground," he calculated.

You also need money. During an informal meeting with U.S. senators, the Soviet nuclear experts suggested they needed U.S. funds to help build the storage and destruction shelters. But no such aid appears likely: Congress recently killed a provision in the defense budget that would have let the Bush administration spend up to $1 billion to help the Soviets shift their economy away from a war footing. Sen. Sam Nunn (D., Ga.), one of the measure's authors, contends such spending should be viewed not as aid but as "a direct way to reduce a threat to U.S. security."

U.S. weapons experts will begin talks with the Soviets in the next few weeks, an administration official says. The U.S. is prepared to offer "technical assistance" to help the Soviets destroy their weapons, he says, but he is unsure what form it would take. "We just don't know enough about their [nuclear weapons] system yet."

Even if the Soviets find funds for the destruction, there will be further difficulties: The system for accounting for the weapons must be perfect on both sides. Any missing nuclear device could provide a crisis. But tough accounting raises another touchy problem: secrecy. Both sides still worry that a mutually verified destruction process would reveal their bomb designs.

Complex problems are nothing new to U.S. politicians and officials who have spent many sleepless nights worrying about the ultra-secret business of managing tactical nuclear weapons. While other nuclear weapons were safely stored in remote silos, in hangers or under the sea, tactical ones have had to be kept in densely populated Central Europe.

Now much of this tension shifts to the Soviet side, where, in many cases, newly created managers and politicians must quickly learn the unforgiving nature of the mission of guarding the nukes. For the Russians, and the emerging rulers of the other Soviet republics, their job for months to come will be, in many respects, like the work of U.S. soldiers guarding the bunkers in what was West Germany.

Living close to danger and chaos came with their territory. There was always a Catch-22 aspect about what they did, U.S. Army nuclear artillery shells had to be housed within 15 miles of the East German border to be effective in wartime. That meant they were always in imminent danger of being overrun by Soviet forces before they could be used. Moreover, because they had to be stored in populous areas, threats of terrorist attack and political demonstrations were constant. The situation was a fertile one for morale problems. They began with the generals and ran to the lowliest guards in bunkers.

The presence of some 10,000 nuclear warheads that the U.S. Army pumped into Europe during the 1970s forced the Soviet army to spread out its armored formations so they couldn't be annihilated during an attack. But they also painted the U.S. Army into a corner; its strategy became "use them or lose them." Fortner Army chief of staff Gen. Edward C. Meyer recalls that in the 1970s, "the mission was delay, delay—then nuke. Every war game we played came to the point where you had to resort to nuclear weapons."

While the policy was clear, the matter of carrying it out haunted those in the nuclear bunkers. Since bunkers would be targets, at the first hint of preparations for an enemy attack, the mission was to load up the warheads and get them out in the field. That would take 10 hours, says a former commander of an Army nuclear ordnance company, who adds: "I know we would never get the first weapon out before we'd all be dead."

The actual protection and care of the warheads was left to carefully selected technicians, soldiers in their early 20s. The U.S. Army went to great lengths to keep technicians and guards happy, with everything in the bunker designed for "stress avoidance." The insides of U.S. bunkers are painted in soft pastels (as is the bunker vacated by the Soviet VK79). There is a great deal of busywork. Walls, hardware and floors are always kept freshly painted. "A clean bomb is a happy bomb," says a U.S. Army manual.

The Army also developed field manuals full of euphemisms to keep the average 22-year-old from thinking too deeply about his mission. For instance, troops nearest the nuclear blast wouldn't die from radiation burns and endless vomiting in their foxholes, but rather would sustain "Immediate permanent incapacitation."

As the commander of a nuclear bunker, says the former U.S. officer, who asked not to be named, "I was at the absolute mercy of the lowest dog in the unit. All he had to do is screw up and my career was gone. In the nuclear business, you had to be more perfect than perfect."

But perfect was hardly the word for the U.S. Army in Europe in the 1970s. The troops were plagued with drug, alcohol and morale problems, some of them a hangover from Vietnam. Nuclear units were no exception. In the officer's unit of 256 men, he says, there were almost 50 court martials, many for drug use.

By 1990, it was the Red Army that had severe morals problems. Soldiers in Germany began deserting and selling stolen uniforms and even weapons to get money. Moscow this spring ordered a hasty withdrawal of most nuclear units from Germany, up to two years ahead of time.

Mr. Arkin, the Greenpeace investigator, says the VK79 unit appeared equipped to handle every military contingency. There was a thick layer of earth on the roof and foot-thick doors to protect against direct hits. There were hundreds of gas masks, chemical protective suits, and an elaborate air conditioning and airlock system designed to thwart chemical attacks. He found a camouflaged loading dock and a timetable showing when U.S. satellites would pass overhead.

VOL
137
PT
23
NO
21—25
1991
UMI

Unlike other departing Soviet units, which stripped their bases to the walls, VK79 had left in a hurry, abandoning much of its expensive equipment. "I guess the one thing they weren't prepared for was peace," he concludes.

[From the Los Angeles Times]

U.S. FEARS SALE OF SOVIET A-ARMS AND TECHNOLOGY

(By Norman Kempster and Stanley Meisler)

WASHINGTON.—U.S. officials are expressing increasing concern that the Soviet Union's extensive inventory of defense technology—including nuclear weapons hardware and expertise—may soon go on the world market as a new class of opportunistic capitalists try to turn a fast profit from superpower disintegration.

Echoing a theme that has been discussed privately among U.S. officials for some time, Defense Secretary Dick Cheney said Saturday that he is seriously worried that the breakup of the Soviet Union "will result in dissemination of knowledge about weapons of mass destruction."

Cheney, addressing potential Soviet arms proliferation on a Cable News Network television program, warned of "individuals who've got technical expertise going to work for other countries, and possibly even the flow of some of those weapons themselves to third parties."

Noting that the Soviet Union still has 27,000 to 30,000 nuclear warheads, Cheney said the experts who work on the Soviet nuclear program might be tempted by high salaries to join the nuclear programs of Third World countries. And he said that Iraq and North Korea are two countries that would probably be interested in hiring Soviet nuclear scientists.

"Remember how we started our space program after World War II with Werner von Braun and his German [scientists]," Cheney said.

Other Bush Administration officials have expressed concern about potential sales of Soviet chemical warfare weapons or, even worse, about a Soviet economic collapse that could spawn black market sales of all kinds of weapons during the chaos.

These officials said that Washington has made it clear to the central Soviet government and to leaders of the increasingly independent republics that they must prevent clandestine weapons sales if they hope to obtain economic aid from the United States and Western Europe.

That will probably be enough to stop government-level sales, said one senior Administration official who requested anonymity. But there is no guarantee that the authorities will be able to prevent individual hustlers from getting their hands on weapons or other technology that might find a ready market in the Third World.

"If things go to hell in a handbag, if there are outbreaks of domestic violence, then all of the reservations which local leaders might have about entering into unsavory arms deals might disappear," the Administration official said.

He said that in the "nightmare scenario," hard-pressed Soviet troops might start to sell their weapons to the highest bidder.

The way Administration officials and some American businessmen see it, weapons and other military technology are the only things produced by the Soviet Union that measure up to world standards. With the economy starved for hard currency, the temptation to sell that equipment may prove irresistible.

"I think the fact that they have not made any progress in terms of economic reform," Cheney said, "enhances the possibility that the kind of chaotic situation may develop where there'll be an even greater incentive for people to allow the spread of that [military] capability than has been true before."

Not all potential sales of Soviet military equipment would have a nefarious impact on the Third World. Some top-secret Soviet defense technology can be adapted to produce new and valuable civilian products.

For instance, Philip S. Myers, president of Montecito Trading Co. of Santa Barbara, said that Soviet rocket scientists have developed a chemical spray that could revolutionize the cleanup of oil spills at sea. That is, it could if Moscow had the manufacturing and distribution capacity to put it on the market.

Myers, who hopes to put together seed-capital funds to market Soviet technology, said the spray hardens petroleum into a solid mass. Applied to a leaking oil tanker, the chemical could turn the leaking oil into a patch that would stop the leak and harden oil already in the water into a glob that could be easily removed.

"They can bring out their beakers and show what it does," Myers said. "This is a breakthrough. But first they have to patent it and prove it. The Russians don't know how to pick up the ball from the point where they have the nifty little spray in the laboratory."

The senior Administration official said the United States would have no objection to the sale of military technology for clearly civilian uses. But he agreed with Myers that Soviet companies are ill-equipped to exploit scientific developments.

The Soviet Union has been able to sell military equipment for many years. The armies of Iraq and Syria, to name just two, use Soviet weaponry almost exclusively. But the market for legitimate government-to-government sales may be drying up. Soviet arms, at least in Iraqi hands, did not perform well against high-tech American weaponry during the Gulf War.

U.S. officials are concerned that if the Soviet Union is unable to sell its arms to legitimate buyers, the temptation may increase to unload the weaponry to terrorist groups or other purchasers who are shut out of the legal market.

Moreover, there is a growing concern in the West that the Soviet army will begin to unravel, leaving behind unemployed and increasingly desperate soldiers and arms makers who might try to support themselves by selling their equipment or skills to anyone willing to buy.

In his television interview, Cheney made it clear that the Soviet Union and its breakaway republics are not his only concern as a source of the technology of mass destruction. He also is worried that China may be in the business of spreading nuclear know-how and weapons.

"We're concerned that they [the Chinese] need to conduct themselves in such a way that they don't contribute to the spread of weapons of mass destruction," he said. "That's a point that we push with them consistently."

[From the Washington Times, Oct. 31, 1991]

ACCIDENTAL SOVIET MISSILE LAUNCH WORRIES THE WEST

(By Gerald Nadler)

MOSCOW.—Reports yesterday of an errant missile launch in the Ukraine underscored fears that the Soviet Union may be losing control of its nuclear arsenal.

"A ground-to-air missile was accidentally launched in the Ukraine," the Tass news agency said. "* * * The missile flew 7 kilometers [4.2 miles] toward Kiremenchug in the Poltava region, there was no explosion and consequently no casualties. The missile had no nuclear warhead."

The Interfax news agency said the missile landed on a highway near the town of Kremenchug, 40 miles south of Kiev. Shrapnel from the impact flew 450 feet, injuring several soldiers but no civilians, Interfax reported without elaboration.

Neither dispatch said when the missile leaped from its launch pad. But the timing of the reports could not have been worse for President Mikhail Gorbachev, who was in Madrid, Spain, for the Middle East peace conference.

August's failed coup prompted widespread concern that a disintegrating Soviet Union might lose control of its nuclear arsenal.

Doomsday fears arose when Soviet newspapers confirmed the hard-line plotters took the so-called black box needed to launch a nuclear strike from the detained Soviet president.

Heightening the alarm, the Ukraine declared independence after the thwarted coup and then recently demanded joint control over the nuclear weapons on its territory.

Kazakhstan, headed by its influential president, Nursultan Nazarbayev, also indicated it wants joint control over the nuclear arms on its territory. Kazakhstan is "a nuclear republic," Mr. Nazarbayev has said.

In London yesterday. Mr. Nazarbayev again said his Muslim central Asian republic would be a player in controlling and reducing nuclear arms through negotiations.

"The solution for the problem in our opinion consists in establishing double control over nuclear power, similar to the system of the 'double key' * * * used for a long time regarding the American nuclear arsenal in a number of countries in Western Europe," he said.

Mr. Nazarbayev's stand raises a dilemma for the United States, whose major arms treaties—including last July's START pact to cut long-range nuclear missiles by one-third—were negotiated with Mr. Gorbachev.

Both Ukraine and Kazakhstan pledged to honor the pacts. But they also indicated they want a say in implementing the accords.

Voicing the discomfort of the Western nations, Spanish Prime Minister Felipe Gonzalez said at a joint news conference with Mr. Gorbachev in Madrid that the Soviet Union must be preserved as a single country capable of maintaining a dialogue with other countries.

Soviet unity is compatible with respect for the sovereignty of the Soviet republics and will guarantee stability and international cooperation, the Spanish premier said.

Other Western nations are also seeking assurances from Mr. Gorbachev.

Mr. Gorbachev left Madrid for Paris yesterday to discuss nuclear security and Western aid with French President Francois Mitterrand. Soviet Foreign Minister Boris Pankin tried last week to reassure France that Moscow retained sole control over the Soviet nuclear missiles.

In Moscow, Soviet Defense Minister Yevgeny Shaposhnikov also dismissed the concerns about nuclear control.

"The nuclear button will remain as before, in the hands of the center," Mr. Shaposhnikov told the government newspaper Izvestia on Tuesday.

[From the New York Times, Nov. 7, 1991]

A SOVIET COMPANY OFFERS NUCLEAR BLASTS FOR SALE TO ANYONE WITH THE CASH

(By William J. Broad)

A new Soviet trading company is trying to market the power of underground nuclear explosions for commercial application to anyone in the world who has the cash.

It is the first time that nuclear blasts are known to have been put up for sale, but the venture is surrounded by great uncertainty given the political turbulence in the Soviet Union and rising opposition around the world to nuclear blasts.

The atomic explosions are being marketed by the International Chetek Corporation of Moscow, a private trading company tied to the Soviet arms complex. Its initial goal is to carry out blasts in the Soviet Union for the incineration of toxic wastes. But the company says it will eventually try to do whatever the customer wants, as long as it is commercial and peaceful in nature, including conducting nuclear explosions in other nations.

DANGERS CITED

The move has startled Western experts, who say nuclear blasts could damage the environment and that the nuclear devices would be at risk of falling into unfriendly hands. Other experts, however, say the Soviet ideas may have technical merit and should be evaluated.

There apparently are no international accords that bar one country from selling nuclear devices to another for peaceful purposes.

The nascent marketing effort shows the lengths to which the crumbling Soviet bloc will go to acquire hard currency by converting military industries to civilian ones.

"We're willing to entertain all ideas," said Danny Wolfson, an agent for Chetek at Ph.D. International Trading Inc., a small concern in Montreal, Quebec. "It doesn't matter who, where or when. We have all the technologies and they're going to be used."

Mr. Wolfson said Chetek is owned by shareholders that include company officers, private Soviet enterprises, a scientific center, and most importantly, the Soviet ministry charged with production of nuclear weapons.

HAS MANY USES

Of the world's nuclear nations, only the Soviets have an extensive record of using underground nuclear blasts for civil ventures. Applications have included the creation of underground storage vaults, seismic exploration of geologic formations and the stimulation of gas and oil production.

Opposition to the fledging effort at commercializing the blasts is widespread among environmentalists and arms-control experts who know of it.

Dr. William C. Potter, an official of the Monterey Institute of International Studies in California, tried to foster public debate over the marketing effort after visiting Chetek's office in Moscow last month. He wrote an article appearing on the Op-Ed page of The New York Times today.

"Chetek is representative of a general danger," Dr. Potter said in an interview. "Soviet weapons scientists are faced with tremendous economic hardships and are going to be tempted to sell their services to anyone who is prepared to provide hard currency.

Tariq Rauf, a senior associate with the Canadian Center for Arms Control and Disarmament, in Ottawa, has also investigated and publicized Chetek and similar Soviet ventures that are getting under way.

"Everyone in Moscow wants to make a deal," he said. "These people are not really concerned about the consequences of the sales. They only want the dollars."

Dr. Ray E. Kidder, a weapons expert at the Lawrence Livermore National Laboratory in California, said the notion of using nuclear blasts to incinerate hazardous wastes and even nuclear warheads had technical merit.

"It would be cheapest way to dispose of them, by far," Dr. Kidder said. "But lots of environmental questions would have to be settled. You'd also have to find ways to make sure the blasts would not be used covertly for the further development of nuclear arms."

Underground detonations are essential for perfecting new warheads. Thus, their cessation is often seen as a way to halt the nuclear arms race.

The Non-Proliferation Treaty, ratified in 1970, has no apparent prohibition against commercial sales, as long as the blasts are for peaceful purposes.

Its only conditions are that transfers from a nuclear power to a non-nuclear one occur "under appropriate international observation and through appropriate international procedures," and that the price be fair.

For decades the Soviets have led the world in applying nuclear detonations to civilian efforts, conducting more than 120 blasts. The United States also investigated such peaceful applications of the atom, but dropped the effort in the 1970's as fears arose about the contamination of the environment with radioactive residue from the work.

The Soviet Union used the blasts to create underground cavities for storing fuels and disposing of chemical wastes such as the brine produced by oil fields. Another use was to stimulate the production of gas and oil fields by shattering rock and releasing trapped pockets. They also used blasts to extinguish stubborn fires in gas wells, and to generate powerful shock waves that helped geologists learn more about the earth's crust and mantle.

Chetek, an acronym formed from the Russian words for man, technology and capital, was formed late last year to try to sell these and other nuclear technologies to the world. In particular, it has promoted the novel idea of using nuclear blasts to vaporize all kinds of extremely dangerous wastes. The destruction would occur a little more than a half mile beneath the earth's surface, where a nuclear bomb was surrounded by waste and then exploded.

MARKETING CAMPAIGN

The company's president, Vladimir B. Dmitriev, began a quiet marketing blitz in early April, hailing the process at an international scientific conference in Moscow on the elimination of chemical arms. "It will be possible to export services," Mr. Dmitriev told the conference. "The problem of chemical weapons and highly toxic waste products destruction is urgent for many countries of the world."

Later in April, Mr. Dmitriev traveled to Ottawa for a scientific meeting on the environmental consequences of underground nuclear testing, sponsored by the Canadian Center for Arms Control and Disarmament, a private group. There he startled the audience by detailing his company's plans and suggesting that a trial waste-elimination blast be conducted in the Soviet Union under international supervision.

Also at the meeting and backing the waste plan was Dr. Alexander K. Chernyshev, a department head at Arzamas 16, the principal Soviet bomb-design laboratory.

"Everybody in the room thought they were nuts," recalled John M. Lamb, executive director of the Canadian center and the meeting's chairman. Later Mr. Lamb objected strongly when Chetek sought to say in a promotional brochure that the Canadian meeting had "discussed and approved" the nuclear technology.

MOSCOW BACKED PLAN

The commercial effort did, however, soon get boost from Viktor N. Mikhailov, the Soviet deputy minister of atomic energy and industry. He wrote the United Nations to endorse Chetek and the notion of using nuclear weapons to incinerate all kinds of wastes.

On Oct. 7, Mr. Dmitriev of Chetek signed an agreement with Ph.D. International Trading to have the exclusive rights in North America for any waste destruction, and the international rights, excluding Europe, for all other nuclear services or technologies. "This process will be carried out by the company together with the ministry of nuclear energy of the U.S.S.R.," said the agreement.

Mr. Wolfson said that he has had preliminary discussions with companies in the United States and Canada about the destruction of chemical wastes as well as other peaceful applications of nuclear blasts.

Mr. Wolfson played down the idea that bombs would be traveling between countries, saying there would probably be strong political objections to such transfers. Even though such exports are envisioned by Chetek, he said, they might never materialize.

For the waste-incineration plan, he said, the initial strategy is for waste material to be shipped to the Soviet Union for destruction there. He said his company has already made arrangements for special canisters, trucks and ships that could safely transport even radioactive wastes.

PRICE RANGE

The cost for waste destruction, he said, ranged between $300 and $1,200 per kilogram, or 2.2 pounds. "It goes by the danger," he said. "We just can't take a back loader and go after it. You need specialized equipment. The actual transport is done at night because you don't want to bother anybody.

"People may not like it," he added, "but it's the cheapest, easiest way to get rid of really dangerous wastes."

Opposition to such blasts is great and growing, however, even in the Soviet Union. Last month, President Mikhail S. Gorbachev announced a unilateral, one-year moratorium on underground nuclear tests and urged other nuclear powers to follow suit.

Mr. Wolfson, without being specific, said the moratorium posed no difficulty. Private arms experts say that Chetek and the Soviet Defense Ministry are pushing to have the moratorium interpreted as applying only to blasts for arms development.

Christopher E. Paine, a senior research associate with the Natural Resources Defense Council, a private group in Washington, said the whole idea of marketing nuclear blasts was dangerous.

"It's, 'Have bomb, Will travel,'" he said. "It's serious and has huge implications for weapons proliferation. The largest nuclear establishment in the world is undergoing a process of financial and political disintegration."

[From the Atlanta Journal/The Atlanta Constitution, Nov. 4, 1991]

AID SOUGHT TO SECURE SOVIET ARSENAL

(By Joseph Albright)

WASHINGTON.—The chief of the Soviet nuclear weapons complex has appealed to the United States for up to $2 billion in U.S. aid to help him move thousands of nuclear warheads from unstable Soviet republics.

49-059 O—96 Vol. 137 (Pt. 23) 10

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In meetings with senators and U.S. weapons experts last month, Victor Mikhaylov warned that all nuclear weapons storage depots in the Russian republic already are crammed with obsolete warheads.

Mr. Mikhaylov, the Soviet deputy minister of atomic power and industry, said that unless his ministry gets a foreign cash infusion, he will have to store surplus warheads for as long as 10 years inside spare bunkers in the Ukraine and other independence-minded republics.

That prospect has caused shudders among some nuclear weapons experts, especially since the Ukrainian Parliament has proclaimed its determination to create a 400,000-strong Ukrainian army. The republic, which borders Poland, Czechoslovakia, Hungary and Romania, expects to achieve full sovereignty through a popular referendum set for Dec. 1.

"If this is how much it would cost to get 10,000 nuclear weapons out of the hands of the republics and see them destroyed, it could be a bargain," said Chris Paine, a weapons expert at the Natural Resources Defense Council who heard the presentation.

In a reflection of the chaos besetting official Moscow, Mr. Mikhaylov launched his plea without going through ordinary diplomatic channels.

Arriving as a member of a Soviet scientific delegation Oct. 18, he spoke first to American scientists and then, in quickly arranged meetings, with four U.S. senators. He also is thought to have met with at least one Bush administration official during his weeklong stay.

U.S. SENATORS SIGNAL INTEREST

Sen. Ted Stevens (R-Alaska), the ranking Republican on the Senate defense appropriations subcommittee, took an interest in the proposal and urged the Soviet delegates to present it to the Bush administration through government-to-government channels, according to his spokesman.

Mr. Mikhaylov also met with Sens. John Warner (R-Va.), Edward M. Kennedy (D-Mass.) and Jeff Bingaman (D-N.M.) and with aides to Sen. Sam Nunn (D-Ga.).

A Nunn aide said Mr. Mikhaylov laid out a plan to spend $2 billion in foreign funds over the next four to five years. Mr. Mikhaylov said the money would build a new complex in the Russian republic that could temporarily store thousands of weapons, take them apart and keep the resulting uranium and plutonium in long-term storage vaults.

If the project is funded, Mr. Mikhaylov said, his ministry will be ready to dismantle 10,000 to 20,000 nuclear warheads over the next seven to nine years.

The Defense Department has estimated that the Soviet Union has 27,000 nuclear weapons. According to a new, unofficial estimate by the Bulletin of the Atomic Scientists, 19,000 of those weapons are in Russia, 4,000 are in the Ukraine, 1,800 are in Kazakhstan, 1,250 are in Byelorussia, and the rest are scattered among eight other Soviet republics.

[From the New York Times, Nov. 7, 1991]

RUSSIA'S NUCLEAR ENTREPRENEURS

(By William C. Potter)

Monterey, Calif.—It is premature to speak of the rise of capitalism in what once passed for the Union of Soviet Socialist Republics. But in at least one realm—nuclear trade—Russian entrepreneurs have discovered the free market with a vengeance. If you're in the market for a fast-breeder reactor, enriched uranium, a little heavy water or even "peaceful nuclear explosives," Moscow is the place to shop.

All visitors have to do is find their way to 15 Varvarka Street, home of the International Chetek Corporation, in the Kremlin's shadow. Chetek says it provides "peaceful nuclear explosives"—P.N.E.'s—as a desirable means of disposing of toxic waste, decommissioned reactors and retired nuclear weapons. A demonstration, the company says, is scheduled for the summer of 1992 at the Novaya Zemlya testing ground in the Soviet Arctic. For only $300 a kilo, Chetek promises to dispose of anyone's toxic waste (including Iraqi chemical arms) and guarantees "total safety." Chetek has also promoted P.N.E.'s as a way to put out Kuwait's oil fires.

Who are the Chetek nuclear salesmen? Where do they get their wares? Do they pose a threat to nonproliferation and strategic arms control?

Cheteck, an acronym for the Russian words for man, technology and capital, was founded in December 1990 as a private holding company. It is the child of the Soviet Ministry of Atomic Power and Industry and the All-Union Research Institute of Experimental Physics, better known as Arzamas 16, the Soviet nuclear weapon design center. The ministry has provided Chetek with exclusive rights to peaceful nuclear explosives; the institute has supplied much of the company's senior personnel. Chetek has also recruited from other Soviet nuclear research institutes and arms laboratories, which are struggling to survive in the post-Chernobyl, post-cold war environmental.

The marketing options for nuclear weapons are limited. But the founders of Chetek have discovered the old Madison Avenue wisdom that if you can't sell the product, alter the package. Voilà—nuclear weapons become peaceful nuclear explosives.

In a military-dominated economy that seeks to convert tank factories into ice cream machine plants, it is tempting to dismiss Chetek's machinations as another surreal but harmless product of the passing of Communism But the company may have closer links to the former and current Soviet military and nuclear establishment than it is prepared to advertise.

Chetek claims to have more than 200 million rubles in operating capital. It maintains a fleet of private jets and limousines, offices in eight cities in several republics and a luxurious retreat outside Moscow that was once the playground of the party elite. Rumors abound as to the sources of the company's fortune. Chetek may be a post-Communism success story. Alternatively, it may give new meaning to "blat," a Soviet-era term meaning "connections."

It is not clear how Chetek, even with its powerful patrons, will be able to carry out its intended 1992 demonstration in light of Mikhail Gorbachev's pledge of a one-year moratorium on nuclear tests. Chetek may also find that once word of its plans become more widely known that it had underestimated grass-roots opposition to testing in the Arctic. The company will probably need all the public relations help it can get, and has already hired a Canadian P.R. firm.

Most dangerous from the standpoint of nonproliferation is that Soviet firms like Chetek appear able to acquire and market nuclear-related material, equipment and know-how with little regard to export regulations. If the economy continues to deteriorate, one can expect nuclear export decisions in the former Soviet Union to be increasingly based on the need for hard currency. In this environment, perhaps it is too much to expect that entrepreneurs will show as much restraint as they do creativity in promoting their nuclear wares.

[From the Dallas Morning News, Nov. 12, 1991]

NUCLEAR MARKET

During a trip to the Soviet Union recently, a group of Americans was taken to what was once a top-secret ballistic missile manufacturing plant. There is some question whether the U.S. government knew of its location. Yet these Americans were given the royal tour.

That's not the half of it. The manager of the plant offered to sell a missile to one of the Americans who is a member of a wealthy oil family. The manager's asking price was $25 million, but when he was jokingly offered $20 million by the American, the manager said, "SOLD!"

In all likelihood, the manager was not joking. If he was willing to supply a wealthy American with a personal ballistic missile arsenal, he and others like him are certainly willing to supply wealthy despots with one of their own.

In the increasingly chaotic and economically strapped Soviet Union, everything is for sale to anybody with the cold, hard cash to pay. Some of the most saleable items are the things the Soviets were best at making and have the most of—military hardware.

If the Soviet sell-an-arsenal scenario doesn't make Americans more than a little uncomfortable, try "have nuke, will travel." It was reported last week that a newly formed Soviet company wants to sell its underground nuclear blast technology to dispose of the world's hazardous waste and for other peaceful purposes. The company, Chetek, would initially vaporize the waste in the Soviet Union after it was shipped there. But it would eventually export the nuclear devices to wherever its customers were. Neither the Peaceful Nuclear Explosion Treaty nor the Nuclear Non-proliferation Treaty prevents this, as long as the blasts are for peaceful purposes. But there could be no certainty that all customers would use the devices for peaceful means.

The potential security risks involved with this idea, not to mention the potential for environmental catastrophes from the nuclear blasts and the transport of toxic waste, are enormous. This takes the loose-Soviet-nukes scenario to new heights. The initial concern has been that the nuclear weapons in the restive Soviet republics might fall into the hands of militant nationalists. But now the leaders of these republics might follow the lead of Chetek and just sell them to the highest bidder.

Americans rightly want the Bush administration to spend more time on domestic issues, but the arms proliferation nightmare that is beginning to unfold with the disintegration of the Soviet Union is one that neither the U.S. president nor any other world leader can afford to ignore. This administration has been at the forefront of efforts to curb the spread of ballistic missiles and nuclear technology. But in the wake of what's going on in the Soviet Union, clearly more has to be done. Leading the international effort to prevent the sale of underground nuclear blasts should be part of that effort.

[From the Toronto Star, Nov. 8, 1991]

SOVIET NUCLEAR DEALS: A NEW TIME-BOMB?

(By Tariq Rauf)

A nuclear time-bomb may be quietly ticking away in the Soviet Union and some of its

republics. Evidence is growing that some elements of the Soviet nuclear industry complex have teamed up with private corporations to market their wares abroad.

Controls on such exports have been weakened in the breakup of the old Soviet Union. And the dramatic reductions in Soviet Union defence expenditures and virtual collapse of the economic infrastructure have spurred creation of private commercial enterprises that are now seeking foreign markets for a variety of Soviet military goods, materials, services, and technologies.

Facing diminished resources and demand, the Soviet nuclear production complex also is seeking new ways of financing its laboratories and facilities. The threat of such developments to global non-proliferation norms cannot be over-emphasized, given the present unsettled state of affairs in the Soviet Union and its republics.

The defence industries used to get their funding from Moscow through agencies such as the Military-Industrial Commission (VPK) and the State Planning Committee (Gosplan). Both the VPK and Gosplan have now been dissolved.

Most Soviet defence industries now have conversion, or the production of non-military goods, as their main goal. But certain specialized ones, notably in the nuclear field, face structural problems in converting due to the nature of their products and services. It is these industries that are trying to finance their operations by entering into agreements with private corporations. These corporations, in turn, want to make money by seeking both foreign and domestic joint-venture markets for the products and services of the defense industries.

It is a matter of public record that Chetek, a private corporation reportedly funded from the defunct VPK's funds, is now financing part of the work of the Ministry for Atomic Power and Industry (MAPI) and of Arzamas 16, the main nuclear weapons laboratory in the Soviet Union. MAPI, the counterpart of the U.S. Department of Energy, is responsible for the entire Soviet nuclear fuel cycle and for the Soviet Union's nuclear weapons production and testing program.

With Chetek's financial support, MAPI and Arzamas are working on a commercial plan to dispose of—by means of underground nuclear explosions—such items as chemical and radioactive wastes, chemical weapons, decommissioned nuclear reactors and retired nuclear warheads. MAPI/Arzamas will provide the technological know-how, the "peaceful" nuclear explosive devices and destruction sites. A demonstration explosion was planned for next summer at the Soviet nuclear test site at Novaya Zemlya, in the Arctic region. While Soviet foreign ministry officials assert that the moratorium on nuclear testing recently announced by President Mikhail Gorbachev means a halt to all tests and the closing of the Arctic site, Chetek and Arzamas officials maintain that the moratorium exempts "peaceful" nuclear explosions.

A radio-chemical enterprise near Dodonovo in south-central Siberia is reportedly also associated with private commercial interests. Dodonovo has three military reactors, plus plutonium production and reprocessing and tritium separation facilities. And a partially built, 1,500-metric-tons-per-year reprocessing facility has teamed up with Chetek to market its "chemical" expertise, now that its government funding has been terminated and further construction halted.

There are reports that several other export-oriented partnerships exist, including one working on converting weapons-grade nuclear material from nuclear warheads for use in power reactors.

Previously, Technabexport (or Tenex), the export firm of MAPI, had the monopoly for all Soviet nuclear exports. Since these exports were channelled through a single government-controlled company, controls could be properly enforced. Tenex's monopoly has now been broken and other companies also have entered the field.

Canada should, among other measures:

Seek additional information on these developments from Soviet and Russian Republic officials.

Table Canada's concerns with both the Soviet and Russian foreign ministries.

Offer to share Canada's experience in drafting and implementing export control legislation.

Support the inclusion of Russia (and other relevant republics) in such arrangements as the Nuclear Suppliers Guidelines.

Consider sponsoring a multilateral conference or working group to examine the feasibility of a total cut-off in the production of weapons-grade fissionable (or nuclear) material.

Further, Canada might consider making future economic co-operation and aid to Russia and other republics with nuclear facilities conditional upon their enacting and enforcing acceptable export controls, making full-scope safeguards a condition of supply, and subscribing to other non-proliferation norms.

Tariq Rauf is co-ordinator of nuclear non-proliferation research at the Canadian Centre for Arms Control and Disarmament at Ottawa. He visited Moscow last month for talks on these issues with Soviet officials and business people.

[From the New York Times, Nov. 4, 1991]

THE SOVIET DISUNION'S MISSILES

The disintegration of the Soviet Union has left hundreds of nuclear arms in republics eager for independence. That risks perilous proliferation. The world was reassured by the republics' initial virtuous commitment to become nuclear-free. Now, however, nationalism is pushing them in the opposite direction.

The disintegration of authority at all levels of Soviet government makes prompt U.S. action imperative. Yet the Bush Administration has failed to press for ratification of a strategic arms treaty that makes deep cuts in these arms.

With the Start treaty in place, Washington could quickly agree to deeper cuts eliminating the missiles outside Russia. And it could insist on isolation of any republic that insisted on keeping nuclear arms. What is the President waiting for?

No good can come of permitting nuclear arms to fall under local control in a region with uncertain borders and long-suppressed ethnic rivalries. A nuclear-armed Ukraine would cause special alarm not only in Russia, but also in neighboring Lithuania, Poland and Germany. Of special concern to the U.S. are long-range missiles based in Kazakhstan, the Ukraine and Byelorussia.

Washington took heart from grass-roots anti-nuclear movement that prompted the parliaments in all three republics to declare nuclear-free status. Washington expected them to turn their arms over to Russia, and even negotiated a Start treaty provision to facilitate that.

But irked by Russian pressure, the republics have had second thoughts. Kazakhstan's President, Nursultan Nazarbayev, is now trying to use the 100 SS-18 missiles on his soil as a bargaining chip in negotiations with Moscow. And ardent nationalists threaten to overwhelm the nuclear abolitionists in the Ukraine. There have been disturbing efforts to bar removal of nuclear arms.

Washington remains unaccountably placid. There is even talk of delaying Start ratification until the lines of political authority in the Soviet Union are clarified. But that could take years. Prompt ratification would put the U.S. in a better position to insist that successor governments live up to Soviet international obligations, including the Nuclear Nonproliferation Treaty, which prohibits nuclear-armed states from transferring arms.

Washington could prevent proliferation by negotiating elimination of the missiles in the outlying republics. The republics know that those missiles were not slated for destruction under Start. Rising nationalism demands that they be given up only in return for cuts in Russian missiles.

The U.S. could make that easier by offering equivalent cuts—accepting a lower warhead ceiling in Start. Washington could also facilitate Start-mandated destruction of missiles by providing storage facilities and other help.

The Pentagon resists deeper cuts, saying there is no one in Moscow with authority to negotiate. But appropriate interlocutors do exist in the form of a State Council meant to deal with nuclear arms and Foreign Ministry negotiating teams that include representatives of the republics.

The Soviet republics, splitting at the seams, have nuclear weapons. The only rational American goal is the fastest possible nuclear disarmanent.

[From the Nuclear Fuel, Nov. 11, 1991]

CRANSTON FOOD-FOR-SOVIET-HEU BILL COULD SEND WEAPONS MATERIAL TO MARKET

Sen. Alan Cranston (D-Calif.) plans to introduce a bill this week that would call for the exchange of Soviet high-enriched uranium (HEU) now in nuclear weapons for U.S. food and cash. If the U.S. did buy the HEU, it could eventually find its way into the commercial market, but those commercial decisions would then be in the hands of U.S., and not Soviet, officials, Cranston aides said.

The draft bill, termed the Nuclear Warheads Security and Plowshares Act of 1991, calls for Soviet HEU to be collected, diluted, and placed under IAEA safeguards in exchange for surplus U.S. food and financial assistance. The ultimate fate of the material is not laid out in the bill. A draft of the proposal calls for the U.S. Energy Secretary to submit a plan for the storage and dilution of the HEU. The material could be "utilized in the civilian nuclear energy cycle," according to a Cranston handout on the bill. The bill itself says "warheads in the Soviet nuclear arsenal contain quantities of uranium that may be processed and used in commercial nuclear power plants, as well as plutonium that should be placed under international safeguards."

Cranston said in a letter seeking cosponsors for the legislation that though current arms control agreements call for the elimination of some nuclear delivery systems, they do not require the disposal of fissile material. "Actions by Western governments to offer trade credits for purchases of food based on the commercial value of Soviet weapons materials could eliminate a critical threat to nonproliferation efforts and consolidate democratic and free market reform."

VOL 137 PT 23 NO 21—25 1991 UMI

While the U.S. would send the surplus food to the central Soviet government under the Cranston bill, the proposal includes a "sweetener" for Soviet republics, which have been seeking a say in the country's nuclear weapons policy. The bill calls for 25% of the commercial monetary value of the Soviet fissile materials acquired under it to be given to the republics "in the form of financial assistance which shall be available only for the establishment of regional and local development banks."

The draft bill calls for the president to consult with U.S. allies and "determine a fair and equitable price for the purchase of existing stocks of Soviet fissile materials which have been made redundant through unilateral reductions and arms control agreements." The proposal expresses a "sense of the Congress," i.e., a non-binding resolution that reductions in the Soviet fissile stockpile" should be accompanied by a parallel decrease in the U.S.'s own inventories of nuclear weapons-usable materials, and by implementation of appropriate safeguards on surplus materials."

Observers noted that the bill would use funds already obligated to, but unspent, by the Defense Department to pay for the commodities to be delivered to the Soviet Union, as well as the republics' development banks. The transfer of funds from defense to purchases of food would be attractive to lawmakers from agricultural states, the observers said.

Cranston and his partisans hold that the HEU from the Soviet weapons will reach the commercial market anyway, and that the draft bill would serve the purpose of stabilizing its transfer to the commercial U.S. market.

The bill also calls for a study by DOE and the Environmental Protection Agency on U.S. and Soviet stocks of plutonium and ways of safely and effectively storing and ultimately disposing of such inventories.

[From the Energy Report, Nov. 18, 1991]

CRANSTON TO PROPOSE GRAIN FOR URANIUM SWAP

Meanwhile, Sen. Alan Cranston, D-Calif., has another suggestion for helping the domestic industry. Next week he plans to introduce a bill shipping unobligated funds from the defense budget to the Commodity Credit Corp. in exchange for surplus agricultural products. Cranston would have the U.S. exchange the surplus crops for the Soviets' surplus highly enriched uranium at an exchange rate based on the commercial value of the uranium.

Lawmakers who were pushing for money to be given to the Soviets to help the financially struggling nation withdrew their efforts last week for lack of support. Now that it is clear the Soviets won't get something for nothing, Capitol Hill sources speculate, they may be willing to back a proposal like Cranston's.

Mr. PELL. Mr. President, I am pleased to be a principal cosponsor of the Nuclear Warheads Security and Plowshares Act of 1991. I congratulate the Senator from California [Mr. CRANSTON] for his initiative in introducing this legislation.

The Soviet Union faces a very real challenge that this bill addresses. The solutions proposed by the bill would be very much in both our interests.

The START Treaty to be considered next year by the Senate would, if ratified, lead to the elimination of several thousand warheads. The unilateral decisions by Presidents Bush and Gorbachev in September and October will lead to the elimination of additional thousands of nuclear warheads—possibly as many as 10,000 or so. These warheads could contain some 200 tons of high enriched uranium and some 50 tons of highly toxic plutonium. Because of the uncertain relationship between the Soviet Union's Central Government, the remaining 12 republics, and various ethnic groups, there is a significant possibility that these weapons or the nuclear materials could become items of commerce on the black market. If these nuclear weapons fall into the hands of dictators and terrorists, the world could be held hostage.

Dr. Valeri Davydov of the Soviet Institute of United States and Canada Studies comments on this situation:

> There was at least one incident, in Azerbaijan, in which a band of rebels briefly broke into an installation at which nukes were stored. That is why a majority of experts underlined the necessity to destroy the tactical nukes and welcome the new Bush proposals on arms control.

Our bill would make the uranium harmless by requiring the mixing of the 90 percent enriched uranium with normal uranium. Both the uranium and plutonium would be placed under safeguards. Soviet officials have stated that the Soviets will not be able to dismantle their nuclear weapons before the turn of the century. A decade is too long a time for the vast amounts of materials to be in an uncertain state.

The second key part of the bill is that the Soviet Union and the Republics would receive United States agricultural commodities in return for accepting this plan. This linkage makes a lot of sense to me, and it could have tremendous benefits for all involved.

By Mr. SPECTER:

S. 2012. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for high-speed rail and certain other mass transportation equipment; to the Committee on Finance.

INVESTMENT TAX CREDIT FOR HIGH-SPEED RAIL AND MASS TRANSPORTATION EQUIPMENT

• Mr. SPECTER. Mr. President, we must begin now to develop the transportation infrastructure we will need by the turn of the century. Reports indicate that congestion on our Nation's highways and airways is rapidly increasing. A study by the Federal Highway Administration forecasts that vehicle miles traveled on the Nation's roads will increase from 1.6 trillion in 1985 to 2.6 trillion in 2005. In turn, the average speed during trips is expected to decrease due to expected congestion.

The Federal Highway Administration expects vehicle delays to increase from 2.7 billion vehicle hours in 1985 to over 11.9 billion vehicle hours in 2005. To quantify this delay in terms of cost to the user, the 1985 cost of $12 billion per year will increase to $48 billion a year in the year 2005. This represents an increase of $36 billion per year in lost time and fuel costs. The Federal Highway Administration has further indicated that vehicle congestion in peak hours shows that in 1987, approximately 65 percent of peak hour was congested, up from the 1983 estimate of 54 percent peak hour congestion. If this trend continues, reports indicate that by the year 2005, nearly all peak hour travel will be under congested conditions.

At our Nation's airports, air traffic continues to increase adding additional congestion to an already full capacity system. According to the Transportation Research Board of the National Research Council, 11 major airports experience severe delays of over 8 minutes per takeoff. Reports indicate that the number of airports experiencing severe delays will increase to 29 by 1996 and is expected to be as high as 47 by 2005. The Department of Transportation expects demand for addition enplanements and passenger miles to more than double by the year 2005. The cost of delay in response to this demand is expected to increase from $5 billion in 1986 to $13 billion in the year 2005.

Mr. President, the recent report by Secretary of Transportation Samuel Skinner on National Transportation Policy recognizes the urgent need to upgrade our current modes of transportation. The policy direction of the report is based upon six essential elements to provide a transportation system well into the next century. Included in the policy's proposals are maintenance and expansion of our current modes of transportation, while encouraging advanced technology for transportation. I would agree that no single transportation mode will be able to meet the full range of transportation requirements, and that other forms of transportation should be developed which can offer relief for our Nation's highway and airway congestion. One of the most promising modes for this relief is that of the development of high-speed rail.

The development of high-speed rail was once an American initiative. Today, however, the United States trails behind a half dozen countries in the development and implementation of this advanced technology. The most promising of the high-speed rail technologies appears to be the use of magnets to separate the passenger vehicle from the guideway and to propel the vehicle at speeds up to 300 miles per hour. This approach, known as maglev, can offer high-speed ground transportation which is potentially superior to both airplanes and automobiles for trips between 100 and 600 miles. At these distances, it is believed that the journey may be too long to drive comfortably in a car but not

great enough to be accommodated efficiently in today's large commercial aircraft and congested airports.

Mr. President, the bill I am introducing today will assist developers of high-speed transportation systems, while maintaining the essential partnership between public development and private enterprise. Specifically, the bill would provide a 10-percent investment tax credit for the development of high-speed intercity rail facilities. The tax credit will be provided to qualified investments at the purchase price which are placed in service during the specific taxable year. To qualify, the property must be new, domestically produced, and also be a high-speed rail mass transportation system which does not burn fossil fuels directly for its propulsion or lift.

It is my belief that the Federal Government must act as a catalyst in promoting domestic development of this technology. In addition to its development, I believe that such systems deserve to be produced using domestic technology, resources, and labor. Therefore, as required under the investment tax credit provisions, to be eligible for the tax credit the qualified investment must be completed in the United States with the majority of its resources domestically produced.

I long have been interested in the development of high-speed rail in the United States. In 1985, I introduced legislation to determine the most effective means in which the Federal Government could encourage the development of high-speed rail systems within the United States. It is through the development of that legislation that I now believe that development of high-speed transportation systems should be through public-private-labor partnerships. In addition, I supported legislation in 1984 which provided Federal consent to an interstate compact involving Pennsylvania, Illinois, Indiana, Michigan, and Ohio for the preparation of a feasibility study for the development of high-speed inter-city rail service.

Mr. President, a high-speed rail network will not only provide the transportation system necessary to relieve congestion on our Nation's highways and airways, but also will deliver benefits related to its planning and construction. In my own State of Pennsylvania, a study prepared by the Pennsylvania High Speed Intercity Rail Passenger Commission found that new jobs directly created can boost the State's employment growth rate by as much as 68 percent during the construction years. In addition to construction jobs, a domestically produced high-speed rail industry will bring with it all the production and manufacturing of the equipment associated with the technology.

It is equally important to note that this economic and business activity would be shared by a wide range of industries, sparking an employment upturn in many of the same industries that built the Interstate Highway System, such as construction companies and those providing the steel necessary to construct bridges and guideways. Heavy industry currently building conventional railroad equipment would have a new market, while construction also would involve the advanced technology required for communications, operations, ticketing, and other aspects of a high-speed rail system.

There are many projects under consideration throughout the United States. In Pennsylvania, the Pittsburgh maglev project which grew out of a working group of private enterprise, industry, labor, and local government in conjunction with the High-Speed Ground Transportation Center at Carnegie Mellon University, has proposed the development of a regional system extending out of Pittsburgh toward the Midwest and the east coast. Their immediate focus is for a demonstration project between the Pittsburgh International Airport and downtown Pittsburgh.

Pennsylvania is a perfect candidate for high-speed rail because it has two large cities about 300 miles apart, with the infrastructure to handle the construction and production of the system. Depending on the technology used, a cross State trip could take approximately 2 to 3 hours. A high-speed magnetically levitated train as proposed by the Pennsylvania High-Speed Intercity Rail Passenger Commission would greatly reduce cross-State travel time. The current 7-hour trip between Philadelphia and Pittsburgh, for example, could be cut to 2 hours and 8 minutes, with intermediate stops several in Pennsylvania communities such as Lancaster, Harrisburg, State College, Altoona, and Johnstown.

In addition to its transportation benefits, high-speed rail systems are appealing because of its environmental benefits. Magnetically levitated [maglev] high-speed rail systems have better energy efficiency and would reduce air pollution. Electrically powered vehicles do not emit any pollutant in comparison to autos, trucks, and airplanes which emit toxic emissions. In some cases, however, high-speed rail systems will indirectly produce pollutants, since powerplants do emit pollutants which provide the electricity for the systems. However, the amount of these emissions is considered much less than that from autos, trucks, and airplanes. If we are to encourage the use of alternative fuels and less emissions in our urban areas, I believe that the development of an alternative, environmentally sound transportation mode of high-speed rail needs to be pursued.

Mr. President, I wish to thank those who have contributed to the advancement and development of high-speed rail in Pennsylvania and the Nation. Specifically, of the Maglev, Inc. of Pennsylvania, Mr. James Roddey, current chairman of Maglev, Inc.; Mr. John W. Kapala, chief operating officer of Maglev, Inc.; Dr. Richard A. Uher, director of the High Speed Ground Transportation Center at Carnegie Mellon University; Mr. Jay Weinberg of the Steel Valley Authority; and, Mr. Evan Stoddard, Rev. Pierre Whalon, Mr. Philip Shucet, Mr. Donald Deer, Mr. Andrew "Lefty" Palm, and others on the board of directors and advisory committees of Maglev, Inc. In addition, I wish to thank Meyer Berger, Esquire, Mr. Robert Casey, president of the High Speed Rail Association, and Mr. David O'Laughlin of Pittsburgh for his assistance in the development of maglev systems and contributions to this legislation. And lastly, I want to thank Pennsylvania State Representative Richard Geist for his continued leadership in the development of high-speed intercity rail service in Pennsylvania.

Just as railroads once paved the way for the development of our Nation, high-speed rail can pave the way for revitalization of our cities by relieving congestion, stimulating tourism, increasing employment opportunities, and encouraging business development. The promise of these economic benefits has stimulated private industry with State and local interest to begin to develop high-speed rail service, but these interests cannot meet this national need for an improved transportation infrastructure on their own.

I am pleased to join with many of my colleagues in this quest for the development of this important mode of transportation here in the United States. The legislation that I am introducing today, in conjunction with other bills introduced, is testament of the U.S. Senate's desire for Federal support for development of this needed mode of transportation. The public-private partnership which the Secretary of Transportation is calling for certainly appears to be in place. Now the Federal Government must serve as the catalyst in promoting this technology domestically.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INVESTMENT TAX CREDIT FOR HIGH-SPEED RAIL AND OTHER MASS TRANSPORTATION EQUIPMENT.

(a) ALLOWANCE OF INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of para-

VOL 137
PT 23
NO 21—25
1991
UMI

graph (3) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(4) the mass transportation credit."

(b) Mass Transportation Credit.—Section 48 of such Code (relating to energy and reforestation credits) is amended by adding at the end thereof the following new subsection:

"(c) Mass Transportation Credit.—

"(1) In general.—For purposes of section 46, the mass transportation credit is the mass transportation percentage of the basis of each mass transportation property placed in service during the taxable year.

"(2) Mass transportation percentage.—The mass transportation percentage is 10 percent."

"(3) Qualified mass transportation property.—For purposes of this subpart—

"(A) In general.—The term 'qualified mass transportation property' means tangible property—

"(i) which is used as an integral part of a qualified mass transit system, and

"(ii) the original use of which begins with the taxpayer.

"(B) Qualified mass transit system.—For purposes of paragraph (1), the term 'qualified mass transit system' means a transportation system which—

"(i) is a high-speed rail system, a magnetic levitation system using magnetic forces for its lift and propulsion, or other land transit system (whether surface or subsurface), or a water or air transit system,

"(ii) is operated under franchise, license, or other regulatory approval of the Federal Government or a State or local government, or any agency or instrumentality thereof,

"(iii) charges a fare-for-hire,

"(iv) is open to the general public without restriction (other than fares and times of service), and

"(v) does not directly use or consume fossil fuels or their derivatives for its normal operation.

"(C) Consumption of fuels.—For purposes of subparagraph (B)(v), a system shall not be treated as using or consuming fossil fuels or derivatives, if—

"(i) such fuels or derivatives are used as lubricants (and are not involved in providing the motive or lift forces necessary for normal operation), or

"(ii) such fuels or derivatives are used in emergency operations."

(c) Credit Only for Property Produced in United States.—Section 50(d) of such Code (relating to certain rules made applicable) is amended by adding at the end thereof the following new flush sentence: "In the case of the mass transportation credit, rules similar to the rules of section 48(a)(7) (relating to exceptions for property completed abroad or predominantly of foreign origin), as so in effect, shall apply."

(d) Conforming Amendments.—

(1) The heading for section 48 of such Code is amended by inserting "; MASS TRANSPORTATION CREDIT" after "REFORESTATION CREDIT".

(2) The item relating to section 48 in the table of contents for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting "; mass transportation credit" after "reforestation credit".

(e) Effective Date.—The amendments made by this section shall apply to periods after December 31, 1991, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).●

By Mr. LEAHY:

S. 2013. A bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination; to the Committee on the Judiciary.

SATELLITE HOME VIEWER ACT AMENDMENTS OF 1991

Mr. LEAHY. Mr. President, the bill I am introducing today, and that Congressman BOUCHER is introducing in the House, is intended to help reduce the amount that home dish owners have to pay for programming.

In 1988, Congress passed the Satellite Home Viewer Act, which created a temporary statutory license allowing satellite carriers to retransmit the signals of superstations and network affiliates for private viewing by home dishowners. That act specifically bars satellite carriers from discriminating in the prices they charge distributors of satellite programming as compared to the prices they charge cable operators.

In a report issued June 5, 1991, the Federal Communications Commission issued a report in which it concluded that some satellite carriers were engaging in price discrimination. This price discrimination against satellite distributors in turn drives up the price that home dishowners have to pay for programming.

The problem is that, although price discrimination is illegal under the Satellite Home Viewer Act, satellite distributors have no standing to sue to enforce their rights.

The legislation I introduce today will correct this anomaly by making clear that satellite distributors have such standing.

The bill also defines unlawful discrimination as: First, an unreasonable refusal by a carrier to deal with any distributor which meets reasonable requirements of creditworthiness, or second, discrimination in the price, terms, or conditions of service, taking into account cost savings reasonably attributable to the number of subscribers served by the distributor or cable operator.

In addition, the bill makes it clear that a satellite carrier may offer different price, terms or conditions to a distributor to the extent that the carrier can demonstrate that such differences are justified by differences in the cost of providing wholesale carriage.

The bill also emphasizes that nothing in its provisions creates any right on behalf of a satellite distributor in the copyright for works delivered to the distributor by a carrier.

The owners of home satellite dishes, many of whom live in rural areas, already have to pay a high price for television. Unlike cable subscribers, they have to pay for the dish itself and the decoder that allows them to watch scrambled signals. It is unjust and unnecessary to force them to pay more than cable subscribers for the programming itself. This legislation will put some teeth into the antidiscrimination section of the Satellite Home Viewer Act and help end the unfair treatment of home dishowners.

I ask unanimous consent that the full text of the bill be included in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Satellite Home Viewer Act Amendments of 1991".

SEC. 2. FINDINGS.

The Congress finds—

(1) the Satellite Home Viewer Act of 1988 (hereafter in this section referred to as the Act) was adopted to create a temporary statutory license allowing satellite carriers to retransmit the signals of superstations and network stations for private viewing by owners of home satellite dishes;

(2) unlawful discrimination by satellite carriers against home satellite distributors was recognized as contrary to the public policy objectives of the Act and was made actionable as an act of copyright infringement under section 119(a)(6) of title 17, United States Code;

(3) the Act also required the Federal Communications Commission to conduct an inquiry and submit to Congress a report on whether, and the extent to which, satellite carriers discriminate against satellite distributors;

(4) on June 5, 1991, the Commission adopted a report which found that some carriers were charging home dish distributors significantly higher prices for superstation and network station programming than they were charging cable companies, and found that these disparities were not justified by the cost of providing service;

(5) the Act has been interpreted not to grant standing to sue to satellite distributors; and

(6) home satellite dish owners may be penalized by unreasonably high prices when a satellite carrier unlawfully discriminates against a distributor.

SEC. 3. UNLAWFUL DISCRIMINATION AGAINST DISTRIBUTORS.

Section 119(a)(6) of title 17, United States Code, is amended to read as follows:

"(6) Discrimination by a satellite carrier.—

"(A) Infringement of copyright.—Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a superstation or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the satellite carrier unlawfully discriminates against a distributor.

"(B) Unlawful discrimination against distributors.—

"(i) Standing.—For any willful or repeated secondary transmission to the public by a satellite carrier which is actionable as an act of infringement under subparagraph (A), a distributor shall also have standing to sue.

"(ii) Unlawful discrimination.—A satellite carrier shall be determined to have unlawfully discriminated against a distributor under subparagraph (A), if the carrier—

"(I) has unreasonably refused to deal with any distributor which meets reasonable requirements for creditworthiness; or

"(II) has discriminated against a distributor, as compared to a cable operator or other multichannel video provider, in the price, terms or conditions of the service provided under this section, taking into account cost savings reasonably attributable to the number of subscribers served by such distributor, cable operator or other multichannel video provider.

"(iii) Exception to unlawful discrimination.—

"(I) Exception.—Notwithstanding clause (ii)(II), a satellite carrier may offer a different price or different terms or conditions to a distributor as compared to a cable operator or other multichannel video provider to the extent that the satellite carrier can demonstrate that such differences are justified by the difference, if any, in the cost of providing wholesale carriage for such cable operator or other multichannel video provider as compared to the cost of providing wholesale carriage for such distributor.

"(II) Justifiable cost.—For the purpose of this clause, any costs associated with the retail provision of service, including advertising, marketing and other costs, may not be considered, except to the extent that the distributor, without coercion, requests the satellite carrier to provide such services.

"(iv) Protection of rights of copyright owners.—No provision of this subparagraph shall be construed to create on behalf of any distributor any right, title or interest in the copyright for works delivered to the distributor by the satellite carrier.".

SEC. 4. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall be effective on the date of the enactment of this Act, shall apply with respect to acts of discrimination occurring before, on, or after such date, and shall apply to any satellite carrier or successor entity that receives or has received a statutory license under section 119 of title 17, United States Code.●

By Mr. GRASSLEY (for himself, Mr. Packwood, Mr. Graham, and Mr. Jeffords):

S. 2014. A bill to amend the Employee Retirement Income Security Act of 1974 and title 11, United States Code, to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings, and for other purposes; to the Committee on the Judiciary.

PENSION PROTECTION IN BANKRUPTCY ACT

● Mr. GRASSLEY. Mr. President, today, with my colleagues Senators Packwood and Graham, I am introducing legislation the purpose of which is to ensure that the Pension Benefit Guaranty Corporation receives priority in bankruptcy proceedings.

The need for this legislation arises from a recent district court decision which held that the Corporation does not have priority over other creditors for its claims in bankruptcy proceedings, and that, once in bankruptcy, a company does not have to continue funding its pension plans. Although the Corporation's claims are spelled out in the Tax Code and the Employee Retirement Income Security Act, the major statute regulating private pensions, they are not spelled out in bankruptcy law. Thus, creditors have argued that the PBGC was only a general, unsecured, creditor in bankruptcy proceedings. The recent court decision supported this claim.

This decision, if allowed to stand, could have a serious adverse effect on the viability of the Corporation. The Corporation believes that its current net worth deficit, now figured at $2 billion, could swell to $16 billion by the end of the decade as a consequence of this decision. Furthermore, the PBGC faces an exposure of some $40 billion in underfunded pension plans. Of this total, about $13 billion is concentrated in plans sponsored by financially troubled companies.

According to the General Accounting Office, in testimony presented before the Subcommittee on Oversight of the Committee on Ways and Means last August 1, the PBGC "* * * is experiencing financial difficulties." Although there does not appear to be an immediate risk to the PBGC's ability to pay benefits currently due and to meet its administrative expenses, the GAO does consider that the PBGC belongs on their list of "high risk" agencies and programs. The reasons for this were the "Corporation's long-standing control weaknesses, reported $1.8 billion accumulated deficit, and possible future losses for underfunded on-going pension plans * * *." According to the GAO in its August testimony, there is about $8 billion in underfunding among financially troubled companies in bankruptcy or close to it. (More recent estimates place that figure at closer to the $13 billion I just cited earlier.) The GAO stated that, in the event that many of these underfunded plans terminate in the near future "there is a serious question as to whether the Corporation's premium structure could be adjusted to meet the resulting funding needs. Such events could raise the possibility of Federal assistance."

Although the Pension Benefit Guaranty Corporation is probably not very well known by most workers or most retirees, it is clearly, by virtue of its responsibility for protecting the pension benefits of nearly 40 million people, one of the most important Federal agencies for millions of retired persons. The need for the pension protection provided by the PBGC arises when an employer experiences financial distress and is unable to fund those benefits. On such occasions, the PBGC draws on its premiums and trust funds to pay the pension benefits protected under terms of the Employee Retirement Income Security Act. The funds from which the PBGC draws to provide those pension benefits are built up from per employee premiums paid into the funds by companies sponsoring pension plans, from earnings on investments, and from recoveries in bankruptcy.

Depriving PBGC of a priority claim in bankruptcy has two major consequences for the Corporation's financial Health. The first, and most obvious and direct, consequence is that it reduces the recoveries the PBGC can make in bankruptcy. This weakens PBGC's trust funds. And it also reduces the pension levels of these companies' plan participants who receive a share of recoveries for those benefits not guaranteed by the PBGC. Second, and very important, failing companies with underfunded pension plans have a strong incentive to "dump" their pension obligations on the PBGC. A priority status for PBGC in bankruptcy proceedings would ensure that pension obligations are taken seriously by companies tempted to underfund their plans.

Mr. President, the legislation we are introducing today:

First, clarifies in the bankruptcy code PBGC's priority claims for unpaid pension contributions and for underfunding up to 30 percent of a controlled groups net worth.

Second, ties the priority claims for underfunding to a gradually increasing percentage of underfunding.

Third, gives tax priority to claims for underfunding due to shutdown benefits triggered within 3 years of termination of a pension plan.

Fourth, allows PBGC's claim to arise without having to terminate a plan in the event a sponsor liquidates and the controlled group assumes the plan.

Fifth, gives PBGC the option to be a member of creditors' committees.

Mr. President, I ask that the full text of the bill be included in the Record, together with a section-by-section description of the bill.

Mr. President, in conclusion I want to say that I think the Congress needs to take seriously the Pension Benefit Guaranty Corporation's financial exposure. I quite agree with Secretary of Labor Martin, Chairman of PBGC's Board of Directors, who said today that "steps must be taken now to make sure that pension promises made to American workers are kept and American taxpayers are not faced with the specter of another S&L-type bailout."

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Pension Protection in Bankruptcy Act of 1991".

(b) Table of Contents.—

VOL 137 PT 23 NO 21—25 1991 UMI

TITLE I—EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A—Amendments to Title IV of the Employee Retirement Income Security Act of 1974

Sec. 101. Employer liability lien and priority amount.
Sec. 102. Liability upon liquidation of contributing sponsor where plan remains ongoing.

Subtitle B—Amendments to Title 11, United States Code

Sec. 121. Pension Benefit Guaranty Corporation permitted to be a member of an unsecured creditors' committee.
Sec. 122. Clarification of priorities in conformity with the Employee Retirement Income Security Act of 1974.
Sec. 123. Notice required where federally-insured pension plan is administered by the debtor or its affiliate.

TITLE II—MISCELLANEOUS ERISA TITLE IV AMENDMENTS

Sec. 201. Enforcement of minimum funding requirements.
Sec. 202. Definition of contributing sponsor.
Sec. 203. Recovery ratio payable under corporation's guaranty.
Sec. 204. Elimination of the seventh revolving fund.
Sec. 205. Distress termination criteria for banking institutions.
Sec. 206. Variable rate premium exemption.

TITLE I—EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A—Amendments to Title IV of the Employee Retirement Income Security Act of 1974

SEC. 101. EMPLOYER LIABILITY LIEN AND PRIORITY AMOUNT.

(a) Revised Limitations on Lien and Tax Priority Amount.—Section 4068(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1368(a)) is amended—

(1) by striking "If any person liable to the corporation" and inserting "(1) Subject to paragraphs (2) and (3), if any person liable to the corporation";

(2) by striking "section 4062" and inserting "section 4062(a)(1)";

(3) by striking the comma after "belonging to such person" and inserting a period;

(4) by striking "except that such lien" and inserting the following:

"(2) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation before January 1, 1992, the lien established under paragraph (1)";
and

(5) by adding at the end the following new paragraph:

"(3)(A) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation on or after January 1, 1992, the lien established under paragraph (1) may not be in an amount in excess of the sum of—

"(i) the amount of benefits attributable to the occurrence of unpredictable contingent events valued as of the date of plan termination arising at any time during the 3 years preceding the date of plan termination (to the extent not funded prior to plan termination), plus

"(ii) the greater of—

"(I) 30 percent of the collective net worth of all persons described in section 4062(a), or

"(II) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities under the plan as of the date of plan termination over the amount described in clause (i).

"(B) For purposes of this paragraph—

"(i) The term 'currently applicable percentage' means—

"(I) with respect to plan terminations initiated in calendar year 1992, 10 percent,

"(II) with respect to plan terminations initiated in any calendar year after 1992 and before 2012, the percentage determined under this clause with respect to plan terminations initiated in the preceding calendar year, plus 2 percent, and

"(III) with respect to plan terminations initiated in calendar years after 2011, 50 percent.

"(ii) The term 'amount of benefits attributable to the occurrence of unpredictable contingent events' means, with respect to any plan, the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii)), determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044.

"(C) In applying subparagraph (A), the corporation may disregard subclause (I) of clause (ii) thereof if the corporation determines, in its sole discretion, that disregarding such subclause (I) is cost-effective.".

(b) Conforming and Clarifying Amendments Relating to Amount Entitled to Priority Treatment in Insolvency and Bankruptcy Cases.—Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended by inserting "(A)" after "(2)" and by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall apply—

"(i) in the case of terminations described in paragraph (2) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (2), and

"(ii) in the case of terminations described in paragraph (3) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (3).".

(c) Clarification of Bankruptcy and Insolvency Claim.—Section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100–203, 101 Stat. 1330–361) is amended by adding at the end the following new clause:

"(iii) Section 4068(c)(2) of ERISA (29 U.S.C. 1368(c)(2)) is amended—

"(I) by striking 'the lien imposed under subsection (a)' and inserting 'the liability to the corporation under section 4062(a)(1), 4063, or 4064'; and

"(II) by inserting 'which is' after 'tax', and by inserting 'and assigned priority' after 'United States'.".

(d) Effective Dates.—

(1) Section 4068(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(i) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act before January 1, 1992.

(2) Section 4068(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(ii) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act on or after January 1, 1992.

(3) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 11011(a) of the Single-Employer Pension Plan Amendments Act of 1986 (Public Law 99–272; 100 Stat. 253).

(4) The amendment made by subsection (c) shall be effective as if included in the enactment of section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100–203, 101 Stat. 1330–361).

SEC. 102. LIABILITY UPON LIQUIDATION OF CONTRIBUTING SPONSOR WHERE PLAN REMAINS ONGOING.

(a) In General.—Section 4062 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

"(f) Liability on Liquidation of Contributing Sponsor.—

"(1) In general.—In any case in which all or substantially all of the assets of a person who is a contributing sponsor of a single-employer plan are liquidated in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State, and in the course of such liquidation another member of such person's controlled group remains a contributing sponsor of the plan or is liable for payment of contributions or installments under section 302(c)(11) of this Act or section 412(c)(11) of the Internal Revenue Code of 1986, such person shall be deemed liable under subsection (b) as if such plan had terminated under section 4041(c) in the course of such liquidation and as if the termination date were the date determined by the corporation as the date on which the liquidation was initiated.

"(2) Applicability of other provisions.—Any provision of this Act or any other provision of law that applies to liability under this section upon termination of a plan shall apply in the same manner and to the same extent to the liability established under this subsection. For purposes of this paragraph, the date referred to in paragraph (1) shall be deemed the date of plan termination.

"(3) Transfer of liability payments to the ongoing plan.—The corporation shall pay to the plan amounts collected by the corporation in satisfaction of any liability established under this subsection in connection with such plan.

"(4) Regulations.—The corporation may prescribe regulations under this subsection. Such regulations may—

"(A) prescribe rules governing—

"(i) the basis upon which the plan will continue as an ongoing plan maintained by other members of the controlled group,

"(ii) the determination of whether a liquidation referred to in this subsection has occurred, and

"(iii) the assignment of the corporation's claim to liability payments under this subsection to other members of the controlled group as a means of collecting such payments, subject to the transfer of such payments to the plan, and

"(B) provide alternative arrangements for making liability payments under this subsection.".

(b) Conforming Amendment.—Section 4062(a)(1) of such Act (29 U.S.C. 1362(a)(1)) is amended by striking "subsection (b)" and inserting "subsections (b) and (f)".

(c) Effective Date.—The amendments made by this section shall be effective for liquidations initiated on or after the date of the enactment of this Act.

Subtitle B—Amendments to Title 11, United States Code

SEC. 121. PENSION BENEFIT GUARANTY CORPORATION PERMITTED TO BE A MEMBER OF AN UNSECURED CREDITORS' COMMITTEE.

(a) Definition.—Section 101(41) of title 11 of the United States Code is amended by inserting "that guarantees pension benefits of the debtor or an affiliate of the debtor, or" after "governmental unit" the second time it appears.

(b) Effective Date.—The amendment made by subsection (a) shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 122. CLARIFICATION OF PRIORITIES IN CONFORMITY WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) Priority As Expenses Arising Before Commencement of Case.—Paragraph (7) of section 507(a) of title 11 of the United States Code is amended—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(3) by adding after subparagraph (G) the following:

"(H) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period prior to the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; or

"(I) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is on or prior to the date of the filing of the petition.

For purposes of subparagraph (I), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(b) Priority as Administrative Expenses Arising After Commencement of Case.—Section 503(b) of such title 11 is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(7)(A) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period beginning on the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; and

"(B) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is after the date of the filing of the petition.

For purposes of paragraph (7)(B), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(c) Effective Date.—Sections 507(a)(7)(H) and 503(b)(1)(7)(A) of title 11 of the United States Code (as amended by this section) shall be effective as if included in section 9304(e) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-348). Sections 507(a)(7)(I) and 503(b)(1)(7)(B) of such title (as amended by this section) shall be effective with respect to cases under such title which commence on or after the date of the enactment of this Act or cases under such title which are pending on the date of the enactment of this Act and in which claims for liability have not been resolved as of such date.

SEC. 123. NOTICE REQUIRED WHERE FEDERALLY INSURED PENSION PLAN IS ADMINISTERED BY THE DEBTOR OR ITS AFFILIATE.

(a) In General.—Rule 2002(j) of the Bankruptcy Rules (11 U.S.C. Appendix) is amended by inserting before the period at the end the following: "; (5) to the Pension Benefit Guaranty Corporation in any case in which the debtor or an affiliate of the debtor maintains a pension plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE II—MISCELLANEOUS ERISA TITLE IV AMENDMENTS

SEC. 201. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) In General.—Paragraph (1) of section 4003(e) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(1)) is amended by inserting after "title" the following: "and, in the case of a plan to which this title applies under section 4021, section 302 of this Act or section 412 of the Internal Revenue Code of 1986".

(b) Effective Date.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 due on or after the date of the enactment of this Act.

SEC. 202. DEFINITION OF CONTRIBUTING SPONSOR.

(a) In General.—Paragraph (13) of section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(13)) is amended to read as follows:

"(13) 'contributing sponsor' means, with respect to a single-employer plan, a person entitled to receive a deduction under section 404(a)(1) of the Internal Revenue Code of 1986 for contributions required to be made to the plan under section 302 of this Act or section 412 of such Code."

(b) Effective Date.—The amendment made by subsection (a) shall be effective as if included in section 9305 of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-351).

SEC. 203. RECOVERY RATIO PAYABLE UNDER CORPORATION'S GUARANTY.

(a) In General.—Section 4022(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii) respectively; and

(2) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the outstanding amount of benefit liabilities does not exceed $20,000,000,".

(b) Terminations.—Clause (iii) of section 4022(c)(3)(B) of such Act (29 U.S.C. 1322(c)(3)(B)), as redesignated by subsection (a), is amended—

(1) by inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) by striking "in which occurs the date of the notice of intent to terminate with respect to the plan termination".

(c) Conforming Amendments.—Clause (i) of section 9312(b)(3)(B) of the Pension Protection Act is amended by—

(1) inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) striking "1990" and inserting "1994".

(d) Effective Date.—The amendments made by this section shall take effect as if included in section 9312(b)(3) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-362).

SEC. 204. ELIMINATION OF THE SEVENTH REVOLVING FUND.

(a) Transfer.—Effective September 30, 1991, all assets and liabilities of the fund described in section 4005(f)(1) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this section) shall be transferred to the fund established pursuant to section 4005(a) of such Act with respect to basic benefits guaranteed under section 4022 of such Act.

(b) Repeal.—Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) Effective Date.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1991.

SEC. 205. DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.

(a) In General.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting "Federal law or" before "law of a State".

(b) Effective Date.—The amendment made by this section shall apply to plan terminations under section 4041 of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after the date of the enactment of this Act.

SEC. 206. VARIABLE RATE PREMIUM EXEMPTION.

(a) In General.—Clause (v) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking all that follows "not less than" and inserting "the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Internal Revenue Code of 1986".

(b) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1991.

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SECTION-BY-SECTION ANALYSIS OF THE PENSION PROTECTION IN BANKRUPTCY ACT OF 1991

TITLE I. EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A. Amendments to Title IV of the Employee Retirement Income Security Act of 1974

Sec. 101. Employer Liability Lien and Priority Amount.

Subsection (a) of section 101 of the bill amends section 4068(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") to provide that for terminations initiated on or after January 1, 1992, the PBGC's lien for employer liability shall not exceed the sum of:

(1) the amount of benefits attributable to the occurrence of unpredictable contingent events within the three years before plan termination, plus

(2) the greater of—

(a) 30 percent of the collective net worth of liable persons, or

(b) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities over the amount of unpredictable contingent event benefits in (1) above. The applicable percentage is 10 percent for terminations initiated in 1992 and increases by two percentage points a year up to 50 percent, where it remains.

The term "amount of benefits attributable to the occurrence of unpredictable contingent events" means the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii) of ERISA) determined as of the termination date on the basis of assumptions prescribed by the PBGC for purposes of section 4044 of ERISA.

The PBGC may, where cost effective, compute the amount of the lien without regard to the 30 percent of net worth amount described in (2)(a) above.

Subsections (b) and (c) amend section 4068(c)(2) of ERISA to clarify that liability to the PBGC under sections 4062, 4063 and 4064 of ERISA has the priority of a tax due and owing the United States in bankruptcy and insolvency proceedings and conforms the limit on the amount of this liability to the revisions to the limit made by section 101(a) of the bill.

The amendments made by subsections (a) and (b) of this section and the conforming amendments thereto made by subsection (c) are effective for terminations initiated on or after January 1, 1992. The clarification set out in subsection (c) is effective as if included in the Pension Protection Act.

SEC. 102. Liability Upon Liquidation of Contributing Sponsor Where Plan Remains Ongoing.

Section 102 of the bill adds a new subsection (f) to section 4062 of ERISA that provides that in the event all or substantially all of the assets of a contributing sponsor of an ongoing plan are being liquidated in a bankruptcy proceeding and, therefore, the sponsor's controlled group members become responsible for maintaining the plan by operation of law, such sponsor is liable as though the plan had terminated in a distress termination as of a date determined by the PBGC as the date liquidation was initiated. The PBGC shall collect the liability and pay amounts it collects to the plan. The PBGC may, by regulation, issue rules to implement this subsection.

The amendment made by this section is effective for liquidations initiated on or after the date of enactment.

Subtitle B. Amendments to Title 11, United States Code

SEC. 121. Amendment Permitting the Pension Benefit Guaranty Corporation to be a Member of an Unsecured Creditors' Committee.

This section amends section 101(a)(35) of the Bankruptcy Code to permit the PBGC to be a member of an unsecured creditors' committee.

The amendment made by this section is effective for cases initiated on or after the date of enactment.

SEC. 122. Clarification of Priorities.

Subsection (a) of section 122 of the bill adds two new subparagraphs to section 507(a)(7) of the Bankruptcy Code to clarify the seventh priority claims include:

(1) unpaid pension contributions that are attributable to the pre-petition period and treated as taxes owing the United States under section 412(n)(4)(C) of the Internal Revenue Code and

(2) employer liability that arises under sections 4062, 4063, and 4064 of ERISA, to the extent the employer liability is treated as a tax under section 4068(c)(2) of ERISA, where termination occurs on or prior to the petition date.

Subsection (b) adds a new paragraph (7) to section 503(b) to clarify that unpaid contributions for plan years beginning after December 31, 1987 that are attributable to the post-petition period, and that employer liability arising after bankruptcy exist in the amounts specified in section 412(n)(4)(C) of the Internal Revenue Code and in Title IV of ERISA.

The clarifications set out in this section with respect to unpaid contributions are effective as if included in the Pension Protection Act. The clarifications with respect to employer liability are effective for cases commenced on or after enactment or cases pending on enactment in which claims for liability have not been resolved as of the date of enactment.

SEC. 123. Notice Required Where Federally Insured Pension Plan is Administered by the Debtor or Its Affiliate.

Section 123 of the bill amends the Bankruptcy Rules to provide that the bankruptcy court shall give the PBGC notice of a petition filed and all other notices required to be served upon creditors and interested parties, in any case under Title 11 in which the debtor or an affiliate maintains a pension plan covered under Title IV of ERISA.

This section is effective on date of enactment.

TITLE II. MISCELLANEOUS ERISA TITLE IV AMENDMENTS

SEC. 201. Enforcement of Minimum Funding Requirements.

Section 201 of the bill gives the PBGC the power to bring a civil action to enforce minimum funding standards, including the enforcement of liens, in plans covered under section 4021 of ERISA. (The enforcement authority of the Department of Labor would not be changed.)

The amendment made by this section is effective for installments and other required payments due on or after the date of enactment.

SEC. 202. Definition of Contributing Sponsor.

Section 202 of the bill makes a clarifying change in the definition of contributing sponsor of a single-employer plan to clarify that the contributing sponsor is the person entitled to receive a tax deduction under section 404(a)(1) of the Internal Revenue Code for contributions required to be made to the plan under section 302 of the Act or 412 of the Code.

The amendment made by this section is effective as if included in the Pension Protection Act.

SEC. 203. Recovery Ratio under ERISA Section 4022(c).

Section 203 of the bill clarifies that the average recovery ratio that PBGC applies to outstanding benefit liabilities to determine the portion of nonguaranteed benefits that will be paid to participants in small plans terminated in distress or involuntary terminations is calculated using the PBGC's recovery experience for distress and involuntary terminations of small plans only. The section also extends from three to seven years the transitional rule under which the recovery ratio in small plans is based on the recovery in the plan rather than the average recovery ratio.

The amendments made by this section are effective as if included in the provision of the Pension Protection Act to which such amendments relate.

SEC. 204. Seventh Revolving Fund.

The Pension Protection Act created a seventh revolving fund to receive premiums for plan years beginning on or after January 1, 1988, and to pay benefits in plans terminating on or after October 1, 1988, or before that date if other funds are no longer available. This section discontinues the seventh fund and merges its assets and liabilities with the assets and liabilities of the first revolving fund (the single-employer basic benefits guaranty fund).

The elimination of the seventh fund is effective as of September 30, 1991.

SEC. 205. Distress Termination Criteria for Banking Institutions.

A contributing sponsor or controlled group member can qualify for a distress termination under the first distress test of ERISA section 4041(c)(2)(b) if the sponsor or member is liquidating under Title 11, United States Code, or under any similar law of a State or political subdivision of a State. Section 205 of the bill extends the first distress test to proceedings under other Federal laws that are similar to Title 11 proceedings.

The amendment made by this section is effective for terminations initiated on or after the date of enactment.

SEC. 206. Variable Rate Premium Exemption.

A single-employer plan that is at the full funding limitation under section 412(c)(7) of the Internal Revenue Code for the preceding plan year is exempt from the variable-rate PBGC premium charge for unfunded vested benefits. Section 206 of the bill amends section 4006(a)(3)(E)(v) of ERISA to allow an exemption from the variable-rate charge when contributions to the plan for the preceding plan year are not less than the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Code.

The amendments made by this section are effective for plan years beginning after December 31, 1991.●

● Mr. GRAHAM. Mr. President, I rise today to join the distinguished ranking member of the Senate Subcommittee on Courts, Senator GRASSLEY, in sponsoring legislation to ensure the financial soundness of the entity established to protect the retirement benefits of 40 million workers.

The Pension Benefit Guarantee Corp. was established by the Employee Retiree Income Security Act of 1974 to ensure that, when a private corporation or business went bankrupt or was in other financial trouble, employee pensions would not be in jeopardy.

The fund is financed by contributions from employers for each employee enrolled in a defined benefit pension plan.

Unfortunately, Congress did not foresee the large number of bankruptcies that have been filed in the last few years. The liabilities of the PBGC are much greater than expected. Despite the overall financial health of the defined benefit system insured by PBGC, the Corporation faces an exposure of $40 billion in underfunded plans.

The problem, Mr. President, is that companies facing financial difficulty often begin underfunding their pension plans or falling behind in their contributions to the PBGC. Once a pension plan is terminated for lack of funds, the PBGC is required by law to pick up payments to the plans beneficiaries. Today PBGC makes payments to 350,000 workers and retirees.

If the PBGC is going to be able to make payments to the thousands of pensioners whose former employers go bankrupt, the Corporation needs to be able to claim some of the assets of the liquidating business in the bankruptcy process. Otherwise, PBGC will have to come to Congress for a bailout.

Unfortunately, the bankruptcy courts have not consistently found that the PBGC has any right to a priority claim on assets of a liquidating business. The Corporation's claims are considered only after numerous other creditors are paid and only then considered on par with all other unsecured creditors.

I hate to be the voice of doom, but under the current economic climate, I think it is safe to assume that PBGC's responsibility for taking over pension payments will continue to increase. Mr. President, I don't think the American people will look very favorably on a costly bail out of another Federal insurance program. And frankly, the Federal Government can't afford to bail out the PBGC. If we are serious about ensuring pension payments, we have to give PBGC the ability to fight for its beneficiaries in bankruptcy court.

I remind my colleagues that the PBGC is an involuntary creditor in bankruptcy—it cannot establish terms for or limit its commitment to guarantee pension liabilities, but is required by law to insure certain workers' pensions.

This legislation clarifies the bankruptcy code with regard to the PBGC's priority claims for unpaid pension contributions and for underfunding up to 30 percent of a controlled group's net worth. The bill also gives PBGC the option to be a member of creditors' committees in order to have access to information routinely available to other creditors and to hasten the reorganization process.

According to James Lockhart, PBGC executive director, clarification and improvements in PBGC's bankruptcy status "would be among the most significant statutory changes that could be made to strengthen the pension safety net."

Some may oppose this bill because it introduces a new liability in bankruptcy that is not on the books when investors and service providers are deciding whether to do business with a company. In the next few years, Mr. President, companies will be required by the Financial Accounting Standards Board [FASB] to list their retiree health liabilities on their annual balance sheets. I submit that perhaps business should also be required to shed more light on their ability to meet their pension obligations in the future.

Mr. President, it is my hope that this legislation will be considered in a timely fashion so that PBGC can have a leg to stand on in bankruptcy court; American workers can be assured that their pensions are safe; and taxpayers can be relieved of the need for another expensive bailout.●

By Mr. DOLE (for himself, Mr. D'AMATO, Mr. SIMON, Mr. HOLLINGS, Mr. NUNN, Mr. LUGAR, Mr. INOUYE, Mr. DURENBERGER, Mr. DECONCINI, Mr. STEVENS, Mr. METZENBAUM, Mr. GORTON, Mr. BUMPERS, Mr. DANFORTH, Mr. BOND, Mr. BURDICK, Mr. COHEN, Mr. CRAIG, Mr. REID, Mr. SIMPSON, Mr. THURMOND, Mr. MCCAIN, Mr. SHELBY, Mr. CONRAD, Mr. SASSER, Mr. FOWLER, Mr. BRYAN, Mr. SEYMOUR, Mr. HATCH, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. DIXON, Mr. FORD, Mr. HATFIELD, Mr. BURNS, Mr. SPECTER, Mr. LOTT, Mr. MACK, and Mr. BOREN):

S. 2015. A bill to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense on Corregidor Island, the Philippines, under General Wainwright; to the Committee on Armed Services.

AWARDING OF BRONZE STAR TO VETERANS OF BATAAN

Mr. DOLE. Mr. President, I rise today to correct an injustice that has been done to the sailors and marines that fought at Corregidor in the Philippine Islands in the opening days of World War II.

In the dark days that followed the attack on Pearl Harbor, America found itself at war, ill-prepared and untested. With the bulk of the American fleet devastated, and our aircraft in the Pacific destroyed at Hickham and Clark Airbases, the Japanese invasion of the Philippines was timed to ensure the minimum of resistance. However under the command of Gen. Jonathan Wainwright, soldiers, sailors, and marines fought a holding action at Corregidor. Although these Americans were outnumbered and out-gunned and had no possibility of relief or resupply, they held Corregidor and the Manila Bay against battle-hardened troops and constant bombardment until April of 1942. After over 4 months of savage fighting and impossible deprivations, these American heroes, were turned over to ruthless captors and forced to endure the atrocities of the infamous Bataan death march. The courage, vigilance, and loyalty displayed by the defenders of Bataan will live forever in the annals of American military history.

As a result of this action, all U.S. Army personnel at Bataan were awarded the Bronze Star. However, the over 3,000 sailors, and marines who fought with the same tenacity and suffered the same terrible fate of the Bataan death march were not awarded the Bronze Star. I believe that the fact that these Americans were in another branch of the service should not deny them the same recognition and honor that their Army counterparts received. The American heroes of the United States Naval Service deserve that recognition and that honor. In my view, that honor is long overdue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARD OF THE BRONZE STAR TO NAVY AND MARINE CORPS PERSONNEL WHO SERVED ON CORREGIDOR, THE PHILIPPINES, UNDER GENERAL WAINWRIGHT.

(a) FINDINGS.—Congress finds:

(1) United States Army personnel under the command of General Jonathan Wainwright who fought in and were captured during the defense of Corregidor Island, the Phillipines, at the outbreak of World War II were awarded the bronze star.

(2) Approximately 3,000 United States Navy and Marine Corps personnel, serving in various units under the overall command of General Wainwright, fought in the defense of Corregidor Island.

(3) These Navy and Marine Corps personnel were not awarded the bronze star pursuant to Navy policy not to award medals for gallantry to all personnel in a unit.

(4) the Navy and Marine Corps personnel demonstrated courage, endurance, and intrepidity in battle and in suffering the privations of battle, capture and internment after capture that was every bit exemplary as their Army counterparts.

(5) An award of the bronze star medal to Navy and Marine Corps personnel who served under General Wainwright in the defense of Corregidor Island provides appropriate recognition of and honor for the courage, endurance, and intrepidity of such personnel.

(b) AWARD OF BRONZE STAR MEDAL.—The President is urged and requested to require that the Secretary of an appropriate military department award the bronze star medal to each member of the United States Navy or Marine Corps who served under General Jonathan Wainwright during the defense of Corregidor Island, the Philippines, during World War II.

VOL 137 PT 23 NO 21–25 1991 UMI

By Mr. SEYMOUR:

S. 2016. A bill to protect, restore, and enhance fish, and wildlife habitat within the central valley of California, mitigate Central Valley project impacts in order to maintain the continued orderly operation of the Central Valley project, and for other purposes; to the Committee on Energy and Natural Resources.

CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT OF 1991

Mr. SEYMOUR. Mr. President, I rise today to introduce the Central Valley Project Fish and Wildlife Act of 1991.

Mr. President, this bill is a beginning. It is a bill written in, by and for Californians. It is the product of California groups; urban, agricultural, conservation interests all working together to develop legislation to address the fish and wildlife needs in the Central Valley. This is a first step in an attempt to resolve the water dilemma which has torn at the State of California for decades.

Specifically, this bill provides a mechanism for water transfers from agricultural use to urban and environmental uses. It includes actions for the restoration of fish and wildlife, and mandates firm water supplies for the wildlife refuges and fishery habitat. And it preserves the agricultural economy which is so vital to our State.

For the record, my position on Central Valley project legislation has been clear from the very beginning. I have strongly opposed a federally mandated reallocation of California State water, and I will continue to oppose any Federal legislation which dictates how a State will use or allocate water within its borders. Since the first hearing on Senator Bradley's bill, S.484, in Los Angeles on March 18, I have opposed any Federal reallocation of California water. In my remarks at that hearing, I stated that the political will of the citizens of the State of California should not be substituted by the wisdom of the Potomac. I said then and still do have faith in the people of California to resolve our problems. This bill is a step in that direction.

I advocate consensus rather than advancing a particular bottom line or specific view or position. This bill allows flexibility for the people of California to work together to improve upon this legislation with one simple objective. The objective is balance.

California is growing at an estimated rate of 700,000 people a year. Imagine a city the size of San Francisco. This is California's annual growth. The demands upon the natural resources in California will only continue to increase as our population grows. If California is to ever clear this hurdle which threatens both our economy and the quality of life for our citizens, we must balance the often competing needs of our cities and rural communities with our limited natural resources. I do not believe that commerce and conservation are incompatible.

I believe that we must balance the quality of life for our citizens. We must balance the often competing needs of cities and rural communities. And in ensuring that commerce and conservation are not incompatible, there is going to be sacrifice and difficult decisions lie ahead of us, but working together, we will resolve the water dilemma which has polarized our State for so long.

Having attended all four hearings on CVP legislation, it is clear to this Senator that any CVP legislation that properly addresses fish and wildlife problems, can only result from compromise, cooperation, and consensus. Therefore, the only condition that I attach to this bill is simple. Californians must make the decisions that will shape this bill. As it will be Californians who will make the difficult decisions regarding water policy in my State, it will be Californians who must make these sacrifices.

This bill will provide firm supplies of water for fish and for wildlife. It will result in the transfer of water from agricultural use to thirsty cities such as Los Angeles and it will begin to bring about the restoration of the environment. Are these not long-term water policy solutions?

This bill is the beginning of a responsible and equitable solution. I am willing to consider any ideas from Californians on how to improve it. I am specifically interested in several areas. Today I will be calling various members of several conservation groups, such as the California Chapters of Ducks Unlimited and The Nature Conservancy, and agricultural organizations in California, to request their continued participation in developing a solution, as well as to discuss delivering much-needed water to rice land in the winter for duck habitat.

This can provide off-stream storage, as well as provide substantial benefit to wintering waterfowl who rest and feed as they make their way south through the Pacific Flyway.

I will also request their input on the potential benefit and feasibility of incorporating fallowed and set-aside land into dryland habitat for wildlife benefits. I will also speak with fishing interests to seek their input on specific ideas and recommendations to begin to restore the north coast and river fisheries. This bill includes several provisions such as the rehabilitation of the Coleman National fish hatchery, the installation of a temperature control device at Shasta Dam, and a program for the replenishing of river gravels for spawning. While these projects will help restore the fisheries, I realize that any restoration will not be complete without increased supplies of water.

This bill recognizes the importance of stabilizing and augmenting river flows to restore, and if possible, enhance the natural production of anadromous fish. The economic and asthetic importance of salmon and steelhead runs, striped bass, and other fisheries along the north coast of California and in the rivers and streams are vital to our State, as well as to the States of Oregon and Washington. In March of this year, I introduced S. 728, the Upper Sacramento River Fishery Resources Restoration Act. Many of the requirements contained in that bill, including mandated instream flow requirements, have been embodied in this bill. The Secretary of the Interior is directed to work with the State of California in establishing desirable flows in the rivers and streams below project dams. Once established, these flows will become a firm requirement of the Central Valley project.

In addition, the bill immediately commits water to the wildlife refuges in the central valley and then increases the supplies to be made available to these important wildlife and waterfowl areas. Upon enactment of this legislation, the Secretary of the Interior will begin the immediate delivery of more than 380,000 acre-feet of firm water supplies to the 15 National Wildlife Refuges and Wildlife Management Areas in the central valley. The wetlands and associated habitat are important to several threatened and endangered species such as the American peregrine falcon, bald eagle, Aleutian Canada goose, and San Joaquin kit fox, and support a winter population of nearly 6 million waterfowl. Sixty percent of the ducks, geese, swans, and millions of shore birds of the Pacific Flyway crowd the existing acres. The bill directs, by the turn of the century, the Secretary of the Interior to increase the water supply to over 525,000 acre-feet. This has been identified by the Secretary of the Interior as the amount needed to fully manage all lands within the existing refuge boundaries.

I am committed to making such water supplies to the refuges and to fish a requirement of the Central Valley project.

Growth in California's urban areas is causing an increasing strain on the State's developed water supplies. It is no secret that agriculture accounts for a significant amount of the water deliveries in California. This bill provides a mechanism for voluntary transfers of water from agricultural users to urban users. Water may be transferred from a Central Valley project water contractor to any water user in the State. Limits are placed on the quantity that may be transferred out of an area so as to protect local ground water and environmental resources and to protect the economies of rural farming communities dependent on water for agricultural production. Such transfers will be consistent with California State water and environmental laws. The water

which will be available for transfer includes water resulting from programs involving the conjunctive use of surface and ground water supplies, water conservation programs, and temporary or permanent land fallowing. The transfer provision in this bill is the result of long and difficult negotiations between agriculture and urban users. This accomplishment is truly to the benefit of all Californians.

On October 31, this body passed the Reclamation States Emergency Drought Relief Act of 1991 which contained authorities for the Secretary of the Interior to carry out actions during drought conditions to reduce impacts on water users and fish and wildlife. Many authorities in that bill are needed even during nondrought years to meet the multiple demands for water in California. Some of the concepts of that bill have been incorporated here, such as conjunctive use of ground water and surface water and obtaining additional sources of water supplies. Others may be added as discussions are undertaken.

I am also interested in a funding mechanism devoted exclusively to the restoration of fish and wildlife in the central valley. Provisions in the bill direct the Central Valley project contractors to make annual payments into a fund established for this very purpose. Payments to the fund, of approximately $5.5 to $7.5 million annually will commence the first water year following enactment. Over 40 years, the total water contractor contributions will generate nearly $290 million for this purpose.

Mr. President, I intend to continue to work with the chairman of the Energy Committee, Senator JOHNSTON, as we continue the development of a responsible and balanced solution for California. In fact, Mr. President, several of the chairman's remarks at the September 4 hearing in San Francisco were helpful, and we have worked to incorporate these ideas into this bill.

Mr. President, I am committed to the resolution of the fish and wildlife problems in California's central valley. I am committed to the resolution of the water shortage problems faced by urban areas throughout the State. This bill is the beginning of the resolution of those problems.

ADDITIONAL COSPONSORS

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 487

At the request of Mr. GLENN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 487, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 664

At the request of Mr. INOUYE, his name was withdrawn as a cosponsor of S. 664, a bill to require that health warnings be included in alcoholic beverage advertisements, and for other purposes.

S. 878

At the request of Mr. DODD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 878, A bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 1128

At the request of Mr. GLENN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1128, a bill to impose sanctions against foreign persons and United States persons that assist foreign countries in acquiring a nuclear explosive device or unsafeguarded special nuclear material, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1641

At the request of Mr. BREAUX, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1641, a bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 1677

At the request of Mr. DASCHLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1677, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the medicaid program, and for other purposes.

S. 1698

At the request of Mr. SARBANES, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1755

At the request of Mr. BUMPERS, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 1755, a bill to reform the concessions policies of the National Park Service, and for other purposes.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from California [Mr. CRANSTON], the Senator from North Dakota [Mr. CONRAD], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HEFLIN], the Senator from Tennessee [Mr. SASSER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Kentucky [Mr. FORD], the Senator from Oklahoma [Mr. BOREN], the Senator from Georgia [Mr. FOWLER], the Senator from New York [Mr. MOYNIHAN], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1806

At the request of Mr. BROWN, the names of the Senator from Montana [Mr. BURNS] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1806, a bill to amend the Federal Water Project Recreation Act and to authorize the Secretary of the Interior to manage the land resources of Federal reclamation projects and for other purposes.

S. 1817

At the request of Mr. LAUTENBERG, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1817, a bill to amend the Trade Act of 1974 to require the National Trade Estimate include information regarding the impact of Arab boycotts on certain United States businesses.

S. 1830

At the request of Mr. WOFFORD, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

S. 1884

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1884, a bill to require the Secretary of Agriculture to conduct inspections of garbage from Canada and to assess fees for such inspections.

S. 1886

At the request of Mr. MCCONNELL, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of

VOL 137
PT 23
NO 21–25
1991
UMI

intergovernmental transfers as such a source.

S. 1912

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1935

At the request of Mr. SIMPSON, the names of the Senator from California [Mr. SEYMOUR], the Senator from South Dakota [Mr. DASCHLE] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1935, a bill to require the Secretary of Agriculture to submit a report on, and establish a system for, lamb price and supply reporting services in the Department of Agriculture, and for other purposes.

S. 1950

At the request of Mr. DANFORTH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1950, a bill to amend the Internal Revenue Code of 1986 to extend for 1 year certain expiring tax provisions.

S. 1965

At the request of Mr. GORTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1965, a bill to amend the Clean Water Act to provide global environmental protection incentives and enhanced competitiveness of domestic business.

S. 1978

At the request of Mr. CHAFEE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1978, a bill to amend title XVIII of the Social Security Act to remove the payment limitation imposed under such title with respect to the furnishing of psychiatric services in a nursing facility.

SENATE JOINT RESOLUTION 99

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Tennessee [Mr. SASSER], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maine [Mr. COHEN], the Senator from Arkansas [Mr. PRYOR], the Senator from New York [Mr. D'AMATO], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Nevada [Mr. BRYAN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Kansas [Mr. DOLE] and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 99, a joint resolution designating November 24–30, 1991, and November 22–28, 1992, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 149

At the request of Mr. ADAMS, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 149, a joint resolution to designate May, 1991, as "Older Americans Month."

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Alabama [Mr. SHELBY], the Senator from Arkansas [Mr. PRYOR], the Senator from Hawaii [Mr. INOUYE], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Georgia [Mr. NUNN] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month."

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. D'AMATO, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

At the request of Mr. DECONCINI, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Concurrent Resolution 65, supra.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. DECONCINI, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Concurrent Resolution 74, a concurrent resolution calling for acceptance and implementation by certain republics of the commitments on human rights, fundamental freedoms, and humanitarian cooperation contained in the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. PELL, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Concurrent Resolution 77, a concurrent resolution condemning the massacre of East Timorese civilians by the Indonesian military.

At the request of Mr. MOYNIHAN, his name was added as a cosponsor of Senate Concurrent Resolution 77, supra.

SENATE RESOLUTION 109

At the request of Mr. RIEGLE, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. AKAKA], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. GLENN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Mr. DIXON], the Senator from Arkansas [Mr. BUMPERS], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Nebraska [Mr. EXON] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 109, a resolution exercising the right of the Senate to change the rules of the Senate with respect to the "fast track" procedures for trade implementation bills.

SENATE RESOLUTION 213

At the request of Mr. GORE, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 213, a resolution expressing the sense of the Senate regarding United States policy toward Yugoslavia.

SENATE RESOLUTION 221

At the request of Mr. COATS, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. SYMMS] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Resolution 221, a resolution to establish a procedure for the appointment of independent counsels to investigate ethics violations in the Senate, transfer to the Committee on Rules and Administration the remaining authority of the Select Committee on Ethics, and abolish the Select Committee on Ethics.

AMENDMENT NO. 1347

At the request of Mr. DODD the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of amendment No. 1347 proposed to S. 543, a bill to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions.

SENATE CONCURRENT RESOLUTION 78—REGARDING THE UNFAIR IMPRISONMENT AND TRIAL OF DR. NGUYEN DAN QUE BY THE GOVERNMENT OF VIETNAM

Mr. ROBB (for himself and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 78

Whereas the normalization of relations with the Socialist Republic of Vietnam and the potential lifting of the economic embargo depend in part on that nation taking certain steps related to the recognition of certain human rights;

Whereas Dr. Nguyen Dan Que is a nonviolent advocate for human rights and de-

mocracy in the Socialist Republic of Vietnam;

Whereas Dr. Nguyen Dan Que's right to free expression is guaranteed by Article 19 of the Universal Declaration of Human Rights;

Whereas Dr. Nguyen Dan Que has been imprisoned for 12 of the last 13 years and has for 14 years suffered from ill health;

Whereas Dr. Nguyen has finally been charged with treason and trying to overthrow the Vietnamese government;

Whereas Dr. Nguyen is scheduled to go on trial on November 29, 1991; and

Whereas numerous international human rights organizations have called for the release of Dr. Nguyen: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Dr. Nguyen Dan Que should be accorded a fair and impartial trial as is his right under Articles 10 and 11 of the Universal Declaration of Human Rights;

(2) to ensure fairness and impartiality during his impending trial, international observers should be permitted access to all court proceedings and evidence; and

(3) if Dr. Nguyen is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the following persons: the Permanent Representative of Vietnam to the United Nations, the Speaker of the Vietnamese National Assembly, the Foreign Minister and the Prime Minister of the Socialist Republic of Vietnam, as well as the Secretary of State and the President of the United States.

Mr. ROBB. Mr. President, we Americans often fail to fully appreciate the rights granted to us by our Constitution. Recently, our colleague, HARRIS WOFFORD, spoke out on the inadequacy of health care in this country, and was elected to the Senate in part because he did so. But in another country, a man who took the same stand on the same issue has been imprisoned for 12 years, and now faces trial for treason.

Dr. Nguyen Dan Que was on the teaching staff of Cho Re Hospital in Ho Chi Minh City, formerly Saigon. After the war, in 1975, he was named director of the hospital. Dr. Nguyen took his job seriously and began to speak out about the shortage of medicines and modern medical standards in his country.

In 1978, Dr. Nguyen was dismissed from his post and arrested for trying to improve the care of his patients. For 10 years, he was deprived of his freedom without charge or trial. In February 1988, Dr. Nguyen was released. Taking the Vietnamese Government's professed political renovation to heart, he again spoke out for nonviolent change in the political social system. But for taking advantage of the official policy of openness, Dr. Nguyen was again arrested, in clear violation of the Universal Declaration of Human Rights. He has been held since June of 1990 without charges.

According to Amnesty International, Dr. Nguyen Dan Que will be brought to trial on November 29, a week from Friday, charged with "activities aimed at overthrowing the people's government," an offense for which he could be put to death.

Mr. President, America was founded by people who spoke unpopular thoughts. They knew the right of free speech was so important that it was the very first amendment added to the Constitution. Free speech is still the fundamental right of democracy from which all of our other freedoms flow.

We cannot stand by and let that right be suppressed elsewhere without at least speaking out on its defense. Therefore, Mr. President, I am introducing a resolution today that would express to representatives of the Vietnamese Government our desire that Dr. Nguyen Dan Que, prisoner of conscience, be released immediately.

Mr. President, like several of our colleagues, I spent more than a year of my life in Vietnam. In part, because of that experience, I am working to help increase cooperation and improve relations between our two countries. Regrettably, the Vietnamese Government's actions in suppressing Dr. Nguyen Dan Que's speech move us in precisely the opposite direction. I hope that Hanoi will come to realize that no nation can advance when the minds of its people are not free. There would be no better way to acknowledge this simple principle than by releasing Dr. Nguyen Dan Que.

Mr. President, I thank the Chair and yield the floor.

SENATE CONCURRENT RESOLUTION NO. 79—RELATING TO ZAMBIA'S TRANSITION TO DEMOCRACY

Mr. SIMON submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 79

Whereas the nation of Zambia achieved its independence from British rule in 1964;

Whereas Zambia has been administered under a state-of-emergency decree for the past 26 years and has been subjected to one-party rule for the past 17 years;

Whereas the Zambian economy faced continual decreases in commodity prices and, by 1989, Zambia's per capita income level has fallen to half its mid-1970s level;

Whereas the Zambian economy continues in a steady decline and the Zambian Government now incurs an external debt of $7.5 billion;

Whereas in 1990 the Government of Zambia had begun to institute a macro-economic arrangement with the International Monetary Fund and the International Bank for Reconstruction and Development (also known as the "World Bank");

Whereas in 1991 the Government of Zambia failed to meet its economic reform program with the World Bank and was subsequently suspended from $200 million in international asistance, in addition to a $5 million United States Government assistance program;

Whereas the people of Zambia have ceaselessly expressed their opposition to the Government of Zambia's policies;

Whereas the Zambian Government responded by releasing political detainees, by pardoning political prisoners and by enacting a law in December 1990, that allowed additional parties to participate in elections slated for October 1991;

Whereas on October 31, 1991, President Kenneth Kaunda and the people of Zambia demonstrated great courage and determination by conducting free and fair elections;

Whereas the Movement for Multiparty Democracy (MMD) won nearly 80 percent of the vote and secured 125 seats of the 150-seat Parliament; and

Whereas the elections were found to be free and fair without incidents of violence of corruption. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the United States Congress—

(1) commends the people of Zambia for their commitment to democracy;

(2) congratulates President Frederick Chiluba on his historic election as Zambia's President;

(3) commends former President Kaunda and the United National Independence Party (UNIP) on their cooperation in allowing open participation in the recent elections;

(4) calls on President Chiluba to restore respect for internationally recognized human rights and to establish a system of governance that fosters open political participation and encourages the development of democratic institutions;

(5) urges President Chiluba to take steps to strengthen Zambia's economy, renew its debt service payments to the International Monetary Fund and restore Zambia's commitment to implementing its economic restructuring obligations with the World Bank;

(6) calls on the President of the United States to take steps to implement a comprehensive assistance program, in coordination with other Western donors, to the newly elected government and its people that support democratic and economic development in Zambia; and

(7) urges the President of the United States to encourage other industrialized nations to participate in supporting Zambia's newly-elected government.

• Mr. SIMON. Mr. President, I would like to submit a concurrent resolution, concurrent with a similar provision in the House, to commend Zambia for its recent free and fair elections. Zambia joins a growing trend, already well underway among Africa's French-speaking nations, toward the establishment of democratically elected leadership. We need to welcome this trend and do what we can to reinforce it by recognizing the achievements of those countries which are successfully democratizing. The resolution also encourages the United States and the international community to work with the new government of President Chiluba to get Zambia back on the road to economic recovery. Declining copper prices and other economic problems have reduced Zambia's per capita income to half of its mid-1970's level, and Zambia's per capita external debt is now the world's highest. These are crucial problems which we need to help address in an assistance program.•

VOL 137 PT 23 NO 21–25 1991 UMI

SENATE RESOLUTION 228—RELATIVE TO THE ALBERT EINSTEIN FELLOWSHIP PROGRAM

Mr. HATFIELD submitted the following resolution; which was considered and agreed to:

S. RES. 228

SECTION 1. FELLOWSHIP PROGRAM.

Section 1 of the Senate Resolution entitled "A resolution to establish an Albert Einstein Congressional Fellowship Program" agreed to on August 2, 1991 (hereafter in this resolution referred to as the "Resolution") is amended—

(1) in subsection (a)—

(A) by striking "are" and inserting "is";

(B) by striking "three" and inserting "two"; and

(C) by striking "concurrent"; and

(2) in paragraph (3) of subsection (b), by inserting ", partial compensation" after "administration".

SEC. 2. SELECTION PROCESS.

Section 2 of the Resolution is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) in paragraph (3), by striking the period and inserting a semicolon and "and"; and

(C) by inserting at the end the following new paragraph—

"(4) convene a panel of representatives of not less than six scientific and educational societies to select the two recipients of the Senate fellowships.";

(2) by striking subsections (b) and (c);

(3) by inserting after subsection (a) the following new subsection:

"(b) INTERVIEWING.—Each fellowship recipient shall interview with various Senate committees and Senators' offices to determine the best placement for such Senate fellowship recipient.";

(4) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively;

(5) in subsection (c) (as redesignated in paragraph (4)), by striking "Recipients" and inserting "Fellowship recipients";

(6) by amending subsection (d) (as redesignated in paragraph (4)) to read as follows:

"(d) COMPENSATION.—Each Senate fellowship recipient shall receive one-half of the funds made available pursuant to section 6(a) as the Senate contribution to such recipient's compensation. The remainder of such recipient's compensation shall be provided by the Triangle Coalition for Science and Technology Education."; and

(7) in subsection (e) (as redesignated in paragraph (4)), by striking "up to 1 year" and inserting "ten months".

SEC. 3. EVALUATION.

Section 3 of the Resolution is amended by striking "and member of the Senate referred to in section 2(b)" and inserting "or member of the Senate in whose office a Senate fellowship recipient is placed".

SEC. 4. FUNDING.

Subsection (a) of section 4 of the Resolution is amended—

(1) by striking "and 1992" and inserting ", 1992 and 1993";

(2) by striking "1991 and $42,500" and inserting "1991, $42,500"; and

(3) by inserting "and $45,000 for fiscal year 1993" before "for the Senate".

SENATE RESOLUTION 229—AUTHORIZING TESTIMONY BY A FORMER SENATE EMPLOYEE AND REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. LEVIN (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 229

Whereas the New York State Commission of Investigation has requested the testimony of Robert Shapiro, a former Senate employee on the staff of Senator Daniel Patrick Moynihan, in connection with a matter under inquiry by the Commission;

Whereas by the privileges of the Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent present or former employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Robert Shapiro is authorized to provide testimony to the New York State Commission of Investigation.

SEC. 2. The Senate Legal Counsel is authorized to represent Robert Shapiro in connection with the testimony authorized by section one of this resolution.

AMENDMENTS SUBMITTED

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT

DOMENICI (AND OTHERS) AMENDMENT NO. 1364

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. MCCONNELL, Mr. SIMPSON, Mr. CRAIG, and Mr. LUGAR) submitted an amendment intended to be proposed by them to the bill (S. 543) to reform federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure related to federally insured depository institutions, as follows:

On page 778, line 13, strike "Except" and insert "(a) IN GENERAL.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) AWARD OF FEES UPON FINAL JUDGMENT.—In any implied private action arising under this title, brought on behalf of a class, where the court enters a final judgment against a party on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses under subsection (b) incurred by that party.

"(c) APPLICATION TO COURT.—A party seeking an award of fees and other expenses under subsection (b) shall, not later than 30 days after a final, nonappealable judgment is rendered in the action, submit an application to the court for fees and other expenses. The application shall verify that the party is entitled to such an award under subsection (b) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed.

"(d) COURT'S DETERMINATION.—The court, in its discretion, may—

"(1) determine whether the amount to be awarded under subsection (b) shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny the award if—

"(A) the prevailing party, during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; or

"(B) the court determines that, notwithstanding any other provision of this section, the action was substantially justified.

"(e) LIABILITY OF COUNSEL.—Counsel for the party against whom fees are awarded under this section in connection with an action described in subsection (b) shall be personally liable for those fees. Such counsel may enter into an agreement for reimbursement or indemnification of such fees from members of the class on whose behalf the action was brought prior to or at any time during such litigation. All such agreements between the counsel for the class and the class members shall be approved by the district court.

"(f) DISCOVERY MOTIONS.—In any motion for an order compelling discovery made pursuant to an implied private action arising under this title, the court shall award the prevailing party as to the securities action reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorney fees, unless the court finds that special circumstance make an award unjust.

"(g) AWARD OF FEES UPON DISMISSAL PRIOR TO TRIAL.—In any action brought on behalf of a class that alleges a violation of section 10(b) or 14 or the rules issued thereunder, where such action is dismissed prior to trial, the court shall order the nonprevailing party or that party's counsel to pay reasonable attorneys' fees and expenses incurred by any prevailing party if, upon motion to the court, the court finds that the plaintiff has failed to establish that, after reasonable investigation made prior to the commencement of the action, the plaintiff had reasonable grounds to believe and did believe that the action—

"(1) was well grounded in fact; and

"(2) was warranted based upon existing law or upon good faith arguments for the reasonable extension, modification, or reversal of existing law.

"(h) FEE AMOUNTS.—The amount of fees awarded under this section and the reasonable allocation of expenses among multiple parties shall be in the discretion of the court, based upon prevailing legal fees in the district, the prevailing party's legal and other bills, and the pleadings and proceedings in the case, provided that such fees and costs relating to representation at trial or deposition shall not awarded for simultaneous representation of any 1 defendant by more than 1 attorney. The amount recovered shall not include any amounts separately awarded under Rule 11 of the Federal Rules of Civil Procedure.

"(i) DEFINITIONS.—

"(1) FEES AND OTHER EXPENSES.—For purposes of this section, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses.

"(2) PREVAILING PARTY.—For purposes of applying for an award of fees under this section, the 'prevailing party' shall be considered to be—

"(A) the party that brought the underlying action if such party succeeded on the central issue of the suit by acquiring the primary relief sought; or

"(B) the party defending in the underlying action if such party prevented the plaintiff from acquiring the primary relief sought.".

SEC. . PROPORTIONATE LIABILITY REFORM.

"LIABILITY.—In any implied private action arising under a provision of this Act, the liability for damages of each defendant shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility, as determined under subsection ( ). A separate judgment shall be rendered against each defendant for that amount.

"( ) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact in an action referred to in subsection (b) shall determine the proportion of responsibility assignable to each defendant.

"( ) EXCEPTION.—This section does not apply to any defendant found by the trier of fact in an action referred to in subsection (b) to have acted with actual, subjective intent to deliberately deceive, manipulate, or defraud. Proof that the defendant acted recklessly does not subject the defendant to joint and several liability in any implied private action arising under this Act.".

DOMENICI AMENDMENT NO. 1365

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 543, supra; as follows:

On page 778, line 13, strike "Except" and insert "(a) LIMITATIONS.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) LIABILITY.—In any implied private action arising under a provision of this Act, the liability for damages of each defendant shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility, as determined under subsection (c). A separate judgment shall be rendered against each defendant for that amount.

"(c) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact in an action referred to in subsection (b) shall determine the proportion of responsibility assignable to each defendant.

"(d) EXCEPTION.—This section does not apply to any defendant found by the trier of fact in an action referred to in subsection (b) to have acted with actual, subjective intent to deliberately deceive, manipulate, or defraud. Proof that the defendant acted recklessly does not subject the defendant to joint and several liability in any implied private action arising under this Act.".

On page 778, line 21, insert "(a)" after "section 36".

On page 778, line 23, insert after the period the following: "Section 36(b) of the Securities Exchange Act of 1934, as added by subsection (a), shall become effective on the date of enactment of this Act and shall apply to all proceedings commenced on or after that date of enactment.".

DOMENICI (AND MCCONNELL) AMENDMENT NOS. 1366 AND 1367

(Ordered to lie on the table.)

Mr. DOMENICI (for himself and Mr. MCCONNELL) submitted two amendments intended to be proposed by them to the bill S. 543, supra, as follows:

AMENDMENT NO. 1366

On page 778, line 13, strike "Except" and insert "(a) IN GENERAL.—Except".

On page 778, line 19, strike the quotation marks and the final period and insert between lines 19 and 20 the following:

"(b) AWARD OF FEES.—In any implied private action arising under this title, where the court enters a final judgment against a party on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses incurred by that party.

"(c) APPLICATION TO COURT.—A party seeking an award of fees and other expenses shall, not later than 30 days after a final, nonappealable judgment is rendered in the action, submit an application to the court for fees and other expenses. The application shall verify that the party is entitled to such an award under subsection (b) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed.

"(d) COURT'S DETERMINATION.—The court, in its discretion, may—

"(1) determine whether the amount to be awarded pursuant to this section shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny an award if—

"(A) the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; or

"(B) the court determines that, notwithstanding any other provision of this section, the action was substantially justified.

"(e) MOTIONS.—In any motion for an order compelling discovery made pursuant to an implied private action arising under this title, the court shall award the prevailing party as to the securities action reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorney fees, unless the court finds that special circumstances make an award unjust.

"(f) LIABILITY OF COUNSEL.—Counsel for the party against whom fees are awarded under this section in connection with an action described in subsection (b) shall be personally liable for those fees. Such counsel may enter into an agreement for reimbursement or indemnification of such fees from clients prior to or at any time during such litigation. In the case of a class action, all such agreements between the counsel for the class and the class members shall be approved by the district court.

"(g) DEFINITIONS.—

"(1) FEES AND OTHER EXPENSES.—For purposes of this section, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of services furnishes.

"(2) PREVAILING PARTY.—For purposes of applying for an award of fees under this section, the 'prevailing party' shall be considered to be—

"(A) the party that brought the underlying action if such party succeeded on the central issue of the suit by acquiring the primary relief sought; or

"(B) the party defending in the underlying action if such party prevented the plaintiff from acquiring the primary relief sought.".

On page 778, line 21, insert "(a)" after "section 36".

AMENDMENT NO. 1367

On page 778 line 19 strike the quotation marks and the final period and insert between lines 19 and 20 the following:

SEC. .

( ) RECOVERY BY NAMED PLAINTIFFS IN CLASS ACTIONS.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the share of any final judgment or of any settlement that is awarded to any party serving as a representative plaintiff shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the plaintiff class.

( ) PROHIBITION ON CONFLICTS OF INTEREST.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the class may not be represented by any attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation. An attorney who knowingly violates this prohibition shall be barred from acting as class counsel in any future action arising under this Act or under the Securities Act of 1933.

( ) PAYMENT OF REFERRAL FEES.—In any implied private action arising under this Act that is certified as a class action pursuant to the Federal Rules of Civil Procedure, an attorney may not represent the class if the attorney has paid or is obligated to pay a fee to a third party who assisted him in obtaining the representation of any member of the class. An attorney who knowingly violates this prohibition shall be barred from acting as class counsel in any future action arising under this Act or under the Securities Act of 1933.

( ) PROHIBITION ON ATTORNEYS' FEES PAID FROM COMMISSION DISGORGMENT FUNDS.—Funds disgorged as a result of any action brought by the Commission in federal court or of any Commission administrative action shall not be distributed as payment for attorney fees or expenses incurred by private

provide insurance as agent or broker beyond

"SEC. _____. SAFEGUARDS FOR SALE OF INSUR-

tain appropriate records or other evidence of

VOL 137 PT 23 NO 21—25 1991 UMI

parties seeking a share of the disgorged funds except as such court may order upon a motion of the Commission.

RIEGLE (AND GARN) AMENDMENT NO. 1368

Mr. RIEGLE (for himself and Mr. GARN) proposed an amendment to the bill S. 543, supra; as follows:

Beginning with page 396, line 1, strike all through the end of title IV of the committee amendment.

Beginning with page 669, line 7, strike all through page 676, line 17, and insert the following:

(b) REGULATIONS.—Not later than 210 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate final regulations to administer and carry out the purposes of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effective date of final regulations promulgated under subsection (b), but in no event later than 300 days after the date of enactment of this Act.

SEC. 771. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) REPEAL OF OBSOLETE PROVISION.—Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers vested by law in naticnal banking associations" and all that follows through "filing his application for insurance.".

(b) NEW PROVISION FOR INSURANCE ACTIVITIES OF NATIONAL BANKS.—The Revised Statutes are amended by adding the following new section after section 5136A (12 U.S.C. 24):

"SEC. 5136B. INSURANCE ACTIVITIES OF NATIONAL BANKS.

"(a) IN GENERAL.—A national bank may not provide insurance as agent or broker except pursuant to this section or section 5136 of the Revised Statutes.

"(b) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE ACTIVITIES PERMITTED FOR STATE BANKS.—

"(1) IN GENERAL.—A national bank or any of its branches may provide insurance as agent or broker in the same manner and to the same extent that a bank chartered in the State in which the national bank or branch is located is permitted to provide insurance as agent or broker.

"(2) SUBSIDIARIES OF NATIONAL BANKS.—A subsidiary of a national bank that is located in the same State as the national bank may provide insurance as agent or broker in the same manner and to the same extent that a subsidiary of a bank chartered in that State is permitted to provide insurance as agent or broker.

"(3) BANK CHARTERED IN THE STATE DEFINED.—For purposes of paragraph (1), the term 'bank chartered in the State' does not include any organization that is excluded from the definition of 'bank' in section 2(c)(2) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)).

"(c) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE AGENCY ACTIVITIES IN SMALL TOWNS.—

"(1) IN GENERAL.—A national bank may provide insurance as agent or broker in any small town in which the bank or any of its branches is located.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided pursuant to paragraph (1) in a small town in which a national bank or branch is located may only be provided to—

"(A) an individual who is a resident of or employed in the small town;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the small town;

"(C) a person who is engaged in business in the small town and has a business office in such town, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the small town, or

"(ii) services or products provided in or from the small town; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the small town; or

"(ii) personal property that is principally located or used in the small town.

"(3) GUARANTEES PROHIBITED.—No national bank that provides insurance pursuant to paragraph (1) may—

"(A) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

"(B) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(5) SMALL TOWN DEFINED.—For purposes of this subsection (c), the term 'small town' means—

"(A) any place with a population not exceeding 5,000 (as shown by the preceding decennial census); and

"(B) any contiguous rural area, including rural communities, within 7.5 miles of the borders of a place described in subparagraph (A), except to the extent such contiguous rural area includes any part of an incorporated city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

"(d) AUTHORITY OF NATIONAL BANKS TO CONTINUE CERTAIN AGENCY ACTIVITIES.—

"(1) IN GENERAL.—A national bank or branch providing insurance pursuant to the provision repealed in section 771(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 may continue to provide insurance as agent or broker from any place in which the national bank or branch was located on May 1, 1991, if—

"(A) the national bank or branch was actually providing insurance from that place as of May 1, 1991;

"(B) the insurance insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991; and

"(C) the insurance is provided only in the contiguous region to the place in which the national bank or branch is located, except that such insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided in a contiguous region by a national bank or branch pursuant to paragraph (1) may only be provided to—

"(A) an individual who is a resident of or employed in the contiguous region;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the contiguous region;

"(C) a person who is engaged in business in the contiguous region and has a business office in such contiguous region, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the contiguous region, or

"(ii) services or products provided in or from the contiguous region; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the contiguous region; or

"(ii) personal property that is principally located or used in the contiguous region.

"(3) CONTIGUOUS REGION DEFINED.—For purposes of this subsection, the term 'contiguous region' means the county in which the national bank or branch is located and any county bordering on the county in which the national bank or branch is located, except for—

"(A) any incorporated city or town with a population exceeding 30,000 (as shown by the preceding decennial census); or

"(B) any metropolitan area, as determined by the Office of Management and Budget.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(e) STATE DEFINED.—For purposes of this section, the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(c) NATIONAL BANK INSURANCE ACTIVITIES THAT ARE INCIDENTAL TO BANKING ACTIVITIES.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), as redesignated by this section, is amended by adding at the end the following: "A national banking association may engage in activities pursuant to this paragraph that constitute providing insurance as principal, agent, or broker, but only if such activities were lawfully engaged in by one or more national banks before May 1, 1991. For the purposes of the previous sentence, activities were not lawfully engaged in before May 1, 1991, to the extent that they are finally adjudged as unlawful under laws in effect on May 1, 1991. A national banking association providing insurance pursuant to this paragraph shall comply with the laws governing the provision of insurance of the State in which such banking association is located, unless such State law is preempted by Federal law.".

SEC. 772. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following new section:

"SEC. 13. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES.

"(a) IN GENERAL.—No bank holding company may permit any subsidiary bank to

provide insurance as agent or broker beyond the borders of the State in which the subsidiary bank is principally located, unless—

"(1) the statutes of the host State expressly authorize a bank principally located in another State to provide insurance in such host State, by language to that effect and not merely by implication;

"(2) the insurance is provided through a branch of the subsidiary bank, so long as the branch—

"(A) is located in the State in which the insurance is provided;

"(B) is otherwise authorized by State or Federal law to provide such insurance; and

"(C) is engaged primarily in banking activities, not insurance activities;

"(3) the insurance is provided pursuant to subsection (d) of section 5136B of the Revised Statutes, except that such insurance may not be provided—

"(A) in any place in the host State that is more than 7.5 miles from the place in which the national bank or branch is located; or

"(B) any incorporated cities or towns with a population exceeding 12,500 (as shown by the preceding decennial census);

"(4) the insurance—

"(A) insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the subsidiary bank or any subsidiary of that bank was providing as of May 1, 1991, beyond the borders of the State in which the subsidiary bank is principally located, and

"(B) is not provided pursuant to a statute enacted by a State after May 1, 1990;

"(5) the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by the bank holding company and any subsidiary (including the subsidiary bank) in the event of the death, disability, or involuntary unemployment of the debtor; or

"(6) the insurance is placed on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(b) APPLICATION.—The restrictions of subsection (a) shall not apply to any non-bank subsidiary of a bank.

"(c) DEFINITIONS.—

"(1) PLACE IN WHICH INSURANCE IS PROVIDED.—For purposes of this section, the place in which insurance is provided includes the place in which an individual who purchases such insurance is domiciled.

"(2) PRINCIPALLY LOCATED DEFINED.—For purposes of this section, the State in which a bank is principally located is—

"(A) the State in which the bank is chartered; or

"(B) if the bank is a national bank, the State in which the bank has its main office.

"(3) HOST STATE DEFINED.—For purposes of this section, the term 'host State' means a State in which a bank provides insurance other than the State in which the bank is principally located.

"(d) NO AFFECT ON BANK HOLDING COMPANY INSURANCE ACTIVITIES.—Nothing in this section shall be deemed to affect the ability of a bank holding company to engage, directly or indirectly, in insurance activities that are permissible under sections 4(a)(2) and 4(c)(8).".

SEC. 773. SAFEGUARDS FOR SALE OF INSURANCE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting the following new section at the appropriate place:

"SEC. _____. SAFEGUARDS FOR SALE OF INSURANCE BY INSURED INSTITUTIONS.

"(a) PROMINENT DISCLOSURE THAT INSURANCE PRODUCTS ARE NOT FEDERALLY INSURED.—Pursuant to regulations issued by the Corporation, an insured depository institution shall prominently disclose in writing to each of its customers that insurance products sold, offered, or recommended by the insured depository institution are not deposits and are not insured by the Corporation, and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

"(b) NO FAVORING OF CAPTIVE AGENTS.—No insured depository institution may, directly or indirectly—

"(1) require as a condition of providing any product or service to any customer, or any renewal of any contract for providing such product or service, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer, agent, or broker;

"(2) in connection with a loan or extension or credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution; or

"(3) impose any discriminatory requirement on any insurance agent who is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such institution.

"(c) NO SOLICITATION OF CERTAIN INSURANCE BEFORE PROVIDING LOAN COMMITMENTS.—

"(1) IN GENERAL.—No insured depository institution may, directly or indirectly, solicit the purchase of any insurance required under the terms of any proposed loan or extension of credit from such insured depository institution to a customer before the customer has received a written commitment with respect to such loan or extension of credit.

"(2) EXCEPTION FOR INSURANCE REQUIRED FOR CREDIT AGREEMENT.—Nothing in this section shall prevent an insured depository institution from placing insurance on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(d) RESTRICTIONS ON USE OF NONPUBLIC CUSTOMER INFORMATION.—

"(1) IN GENERAL.—No insured depository institution may use, directly or indirectly, any nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer.

"(2) EXCEPTION FOR CREDIT-RELATED INSURANCE.—For purposes of paragraph (1), the term 'insurance' does not include insurance—

"(A) provided to assure the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) provided on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(C) provided to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit.

"(3) RECORDS OF CUSTOMER CONSENT.—Any insured depository institution that obtains the consent of any customer to disclose nonpublic customer information shall maintain appropriate records or other evidence of such consent.

"(4) DEFINITIONS.—

"(A) CUSTOMER DEFINED.—For purposes of this section, the term 'customer' means any person who, after January 1, 1992, establishes a credit relationship with an insured depository institution.

"(B) NONPUBLIC CUSTOMER INFORMATION DEFINED.—For purposes of this section, the term 'nonpublic customer information' means information obtained from an individual by an insured depository institution in connection with a loan or extension of credit, but does not include—

"(i) customers' names and addresses (unless a customer has specified otherwise);

"(ii) information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business; or

"(iii) information that is customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions that do not provide insurance.

"(5) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, and avoid conflicts of interest or other abuses.".

SEC. 774. INSURANCE UNDERWRITING IN BANK RESTRICTED.

(a) IN GENERAL.—Section 24 of the Federal Deposit Insurance Act (as added by section 211(a) of the Act) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) INSURANCE UNDERWRITING.—

"(1) IN GENERAL.—No insured State bank or any of its subsidiaries may provide insurance as principal except to the extent that a national bank may lawfully provide insurance as principal.

"(2) CONTINUATION OF EXISTING ACTIVITIES.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on July 15, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(3) EXCEPTION FOR CERTAIN FEDERALLY REINSURED CROP INSURANCE.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, that was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

(b) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

(2) TRANSITION RULE.—An insured State bank or subsidiary of an insured State bank that, as of the date of enactment of this Act, was lawfully engaged in any activity prohibited by this section may continue to engage

SEC. 7. PARTICIPATION OF PRIVATE SCHOOLS.

VOL
137
PT
23
NO
21–25
1991
UMI

in that activity during the period ending one year after that date of enactment.

RIEGLE AMENDMENT NO. 1369

Mr. RIEGLE proposed an amendment to the bill S. 543, supra, as follows:

Beginning with page 778, line 6, strike all through page 779, line 12, and insert the following:

SEC. 1126. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

(a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation for any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991, shall be the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as such laws existed on June 19, 1991.

(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991—

(1) which is dismissed as time barred subsequent to June 19, 1991; and

(2) which would have been timely filed under the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as they existed on June 19, 1991,

may be refiled and reinstated (including any disposition) not later than 60 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(c) DEFINITIONS.—The terms used in this section shall have the same meanings as in the Securities Exchange Act of 1934.

HATFIELD AMENDMENT NO. 1370

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill S. 543, supra, as follows:

At the appropriate place, add the following new section:

ELEMENTARY SCIENCE FACILITIES

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elementary Science Facilities Act".

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

SEC. 3. PROGRAM AUTHORIZED.

(a) GRANTS.—The Secretary is authorized to make allotments to State educational agencies under section 4 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 1993, 1994, and 1995 to carry out this Act.

SEC. 4. ALLOTMENTS OF FUNDS.

(a) IN GENERAL.—From the amount appropriated under section 3(b) for any fiscal year, the Secretary shall reserve—

(1) not more than ½ of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau according to their respective needs for assistance under this Act; and

(2) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

(b) ALLOTMENT.—From the amount not reserved pursuant to subsection (a), the Secretary shall allot among State educational agencies as follows:

(1) One-half of such remainder shall be distributed among the State educational agencies by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 11, inclusive, in the State bears to the number of such children in all States.

(2) One-half of such remainder shall be distributed among the State educational agencies according to each State's share of allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(c) DEFINITIONS.—For the purposes of this Act—

(1) the term "elementary school" has the same meaning given such term in section 1471(8) of the Elementary and Secondary Education Act of 1965;

(2) the term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965;

(3) the term "Secretary", unless otherwise specified, means the Secretary of Education;

(4) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(5) the term "State educational agency" has the same meaning given to such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.

(d) DATA.—The number of children aged 5 to 11, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

SEC. 5. STATE APPLICATION.

(a) APPLICATION.—Each State educational agency desiring to receive an allotment under this Act shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

(1) provide assurances that—

(A) the State educational agency shall use the allotment provided under this Act to award grants to local educational agencies within the State to enable such local educational agencies to carry out the purpose of this Act;

(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

(C) every elementary school in the State is eligible to receive a grant under this Act once over the 3-year duration of the program assisted under this Act;

(D) funds provided under this Act will supplement, not supplant, State and local funds made available for activities authorized under this Act;

(E) during the 3-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and individuals with disabilities; and

(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in awarding grants under this Act;

(2) provide, if appropriate, a description of how funds paid under this Act will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(3) describe procedures—

(A) for submitting applications for programs described in sections 6 and 7 for distribution of payments under this Act within the State; and

(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

SEC. 6. LOCAL APPLICATION.

(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for only one grant under this Act.

(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this Act to meet the purpose of this Act;

(2) include assurances that the local educational agency shall match on a dollar-for-dollar basis the funds received under this Act;

(3) describe, if applicable, how funds under this Act will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics;

(4) describe the process which will be used to determine different levels of grant amounts to be awarded to schools with different needs.

(c) PRIORITY.—In awarding grants, the State educational agency shall give priority to applications that—

(1) assign highest priority to schools which are most seriously under-equipped;

(2) are attentive to the needs of underrepresented groups in science and mathematics;

(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

(4) include plans for dissemination of lessons and activities using grant equipment and materials to teachers in schools not receiving grants.

SEC. 7. PARTICIPATION OF PRIVATE SCHOOLS.

(a) PARTICIPATION OF PRIVATE SCHOOLS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary schools, such State educational agency shall, after consultation with appropriate private school representatives, make provision for providing funds under this Act as will assure the equitable participation of such private schools in the purposes and benefits of this Act.

(b) WAIVER.—If by reason of any provision of State law a local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsection (a), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers.

SEC. 8. PROGRAM REQUIREMENTS.

(a) COORDINATION.—Each State educational agency receiving a grant under this Act shall—

(1) disseminate information to school districts and schools, including private schools, regarding the grant program;

(2) evaluate applications of local educational agencies;

(3) award grants to local educational agencies based on the priorities described in section 6(c); and

(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

(b) LIMITATIONS ON USE OF FUNDS.—

(1) IN GENERAL.—Grant funds and matching funds under this Act only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

(2) CAPITAL IMPROVEMENTS.—Grant funds under this Act may not be used for capital improvements. No more than 50 percent of matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this Act is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

SEC. 9. FEDERAL ADMINISTRATION.

(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this Act, shall develop procedures for State and local evaluations of the programs under this part.

(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this Act.

GRAHAM AMENDMENT NO. 1371

Mr. GRAHAM proposed an amendment to the bill S. 543, supra, as follows:

At the end of title II, add the following:

SEC. . TERMS OF ADDITIONAL FUNDING.

(a) DIRECT FUNDING.—

(1) IN GENERAL.—Of the $25,000,000,000 authorized for losses by other provisions of this Act, the Secretary of the Treasury shall make available to the Federal Deposit Insurance Corporation $10,000,000,000 from funds not otherwise appropriated.

(2) LIMITATION.—No sums described in paragraph (1) may be obligated after November 30, 1992.

(b) ADDITIONAL MATCHING FUNDING.—

(1) IN GENERAL.—The Secretary of the Treasury shall make the remaining funds authorized for losses by the other provisions of this Act available to the Federal Deposit Insurance Corporation, from funds not otherwise appropriated, in an amount equal to the amount of cash dividends the Federal Deposit Insurance Corporation receives after September 30, 1991, from receivership estates under its control, that were established on or before September 30, 1991.

(2) LIMITATION.—The matching funds appropriated by paragraph (1) may not exceed $15,000,000,000.

GRAHAM AMENDMENT NO. 1372

Mr. GRAHAM proposed an amendment to the bill S. 543, supra, as follows:

Beginning with page 212, line 6, strike all through page 217, line 4, and insert the following:

SEC. 211. PROHIBITION ON INSURANCE OF BROKERED DEPOSITS.

Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) by striking subsections (a) through (e) and inserting the following:

"(a) PROHIBITION ON INSURANCE.—Notwithstanding any other provision of law, deposits obtained, directly or indirectly, by or through a deposit broker are not insured deposits under this Act.";

(2) by redesignating subsection (f) as subsection (b); and

(3) by striking subsection (g).

KASTEN (AND OTHERS) AMENDMENT NO. 1373

Mr. KASTEN (for himself, Mr. MACK, Mr. COATS, Mr. HELMS, Mr. BURNS, Mr. NICKLES, Mr. SMITH, Mr. SEYMOUR, Mr. LOTT, Mr. MITCHELL, Mr. CHAFEE, Mr. DURENBERGER, Mr. SANFORD, Mr. GRAHAM, Mr. PELL, Mr. LAUTENBERG, and Mr. D'AMATO) proposed an amendment to the bill S. 543, supra; as follows:

At the end of the bill add the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE REPEAL OF THE LUXURY EXCISE TAX ON BOATS.

It is the sense of the Senate that—

(1) the luxury excise tax on boats has imposed an unfair burden on boat workers, manufacturers, and retailers;

(2) the luxury excise tax on boats has caused the loss of up to 19,000 jobs in the boat building industry and thousands more in the retailing industry;

(3) middle-class workers and small businesses, not the wealthy, are harmed by the tax;

(4) the luxury excise tax on boats is costing the Government more in lost income tax receipts, payroll tax receipts, additional unemployment compensation, and compliance and enforcement costs than the revenue generated by such tax on boats;

(5) the luxury excise tax forces small business people to become tax collectors and enforcers for the Internal Revenue Service;

(6) the luxury excise tax on boats is harming one of America's strongest domestic industries and aiding our foreign competitors;

(7) the luxury excise tax on boats is contributing to the depth and severity of the recession and helping ensure that economic recovery will be more difficult; and

(8) the Congress should immediately adopt legislation to repeal the luxury excise tax on boats.

D'AMATO AMENDMENT NO. 1374

Mr. D'AMATO proposed an amendment to the bill S. 543, supra, as follows:

On page 131, delete lines 1 through 3, and insert in lieu thereof "to ensure the safety and soundness of the institution.".

CONRAD AMENDMENT NO. 1375

Mr. CONRAD proposed an amendment to the bill S. 543, supra, as follows:

At the end of title II, add the following new section:

SEC. 232. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) Two recent studies by Price Waterhouse and Altman & Weil on behalf of the FDIC have concluded that—

(i) the FDIC and RTC may spend more than $1 billion this year on legal fees and expenses yet there is ineffective oversight or management of these expenses;

(ii) outside counsel are generally not selected on a competitive basis;

(iii) the FDIC and RTC have not instituted policies to insure that tasks are assigned to the firm best able to perform them in a cost-effective manner;

(iv) the FDIC generally pays hourly rates rather than arranging less costly fixed rate contracts;

(v) outside attorneys spend significant amounts of time performing tasks which do not require attorneys' skills; and

(vi) the FDIC and RTC have allowed persons and firms whose activities contributed to the decline of the banking and thrift industries to contract with and profit from the activities of the FDIC and RTC; and

(3) These practices undermine the faith of the American taxpayers in the use of taxpayer dollars to finance the cleanup of the banking and thrift industries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and RTC should not contract with persons or firms whose activities contributed to the decline of the banking or thrift industries.

DANFORTH (AND OTHERS) AMENDMENT NO. 1376

Mr. GARN (for Mr. DANFORTH, for himself, Mr. BOND, and Mr. KENNEDY) proposed an amendment to the bill S. 543, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

VOL 137
PT 23
NO 21–25
1991
UMI

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

RIEGEL (AND GARN) AMENDMENT NO. 1377

Mr. RIEGLE (for himself and Mr. GARN) proposed an amendment to the bill S. 543, supra; as follows:

On page 109, line 11, strike "or".

On page 109, line 14, strike the period and insert "; or".

On page 109, between lines 14 and 15, insert the following:

"(C) to cover such other costs as may be necessary to meet the Corporation's obligations under this Act.

On page 113, between lines 9 and 10, insert the following:

"(4) REPAYMENT OF BORROWING.—Borrowing under this subsection shall be repaid by the sale of assets of failed institutions. In the event that the proceeds from the sale of assets are insufficient to repay an amount borrowed under this subsection to fund the acquisition of such assets, the amount of the shortfall shall be funded through borrowing under subsection (a), and shall be repaid through semiannual assessments in accordance with section 7(b).".

On page 113, line 10, strike "(4)" and insert "(5)".

On page 114, line 22, before "any other" insert "the expected cost of".

On page 115, line 9, insert "(a) IN GENERAL.—" before "Section".

On page 125, between lines 8 and 9, insert the following:

(b) ASSESSMENT RATE CHANGES.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) RATE CHANGES.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment. The Corporation may establish and, from time to time, adjust the assessment rates for such institutions.".

On page 130, line 15, after "pledged" insert "to the Corporation's obligation to pay".

On page 130, line 22, insert "appropriate" after "Each".

On page 131, line 5, insert "appropriate" after "Each".

On page 131, strike lines 8 through 11, and insert "standards—

"(A) take adequate account of—

"(i) interest-rate risk;

"(ii) concentration of credit risk; and

"(iii) the risks of nontraditional activities; and

"(B) reflect the actual performance and expected risk of loss of multifamily mortgages.".

On page 131, line 18, insert "appropriate" after "Each".

On page 132, line 2, strike "the terms 'Federal banking agency' and" and insert "the terms 'appropriate Federal banking agency', 'Federal banking agency', and".

On page 134, line 2, strike the quotation marks and the final period and insert the following:

"(4) SECURITIES AND EXCHANGE COMMISSION'S AUTHORITY.—Paragraphs (2) and (3) shall not be construed as affecting the Securities and Exchange Commission's authority under the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934.".

On page 152, lines 14 and 15, strike "by the insured depository institution".

On page 154, line 19, insert "appropriate" after "Each".

On page 155, line 2, insert "appropriate" after "Each".

On page 155, lines 20 and 21, strike "institution's capital falls below that level" and insert "institution becomes critically undercapitalized".

On page 161, lines 15 and 16, strike "insured depository institution that is undercapitalized ' and insert "undercapitalized insured depository institution".

On page 161, line 19, strike "offices," and insert "office,".

On page 163, strike lines 8 and 9, and insert the following:

"(A) REQUIRING RECAPITALIZATION.—Doing 1 or more of the following:

On page 163, between lines 15 and 16, insert the following:

"(iii) Requiring the institution to be acquired by a depository institution holding company, or to combine with another insured depository institution, if 1 or more grounds exist for appointing a conservator or receiver for the institution.

On page 166, lines 8 and 9, strike "appropriate Federal banking agency for that company" and insert "agency".

On page 166, line 16, strike "that controls" and insert "having control of".

On page 167, line 2, strike "that controls" and insert "having control of".

On page 167, line 15, strike "shall take" and all that follows through line 21 and insert the following:

"shall take the following actions, unless the agency determines that the actions would not further the purpose of this section:

"(A) The action described in clause (i) or (iii) of paragraph (2)(A) (relating to requiring the sale of shares or obligations, or requiring the institution to be acquired by or combine with another institution).

"(B) The action described in paragraph (2)(B)(i) (relating to restricting transactions with affiliates).

"(C) The action described in paragraph (2)(C) (relating to restricting interest rates).

On page 168, lines 11 and 12, strike "ceased to comply with capital standards" and insert "became undercapitalized".

On page 169, line 16, strike "any action" and insert "any 1 or more actions".

On page 173, line 4, strike "80" and insert "60".

On page 173, line 6, before the semicolon, insert ", or the institution has submitted a plan in compliance with the requirements of subsection (e)(2) or section 5(t)(6)(A)(ii) of the Home Owners' Loan Act, the appropriate Federal banking agency has approved the plan, and the institution is in compliance with the plan".

On page 174, line 25, before the period, insert "to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas".

On page 180, line 16, strike "a Federal banking agency" and insert "an appropriate Federal banking agency or the Corporation".

On page 180, lines 19 and 20, strike "the authority of any Federal banking agency or" and insert "any authority of an appropriate Federal banking agency, the Corporation, or".

Beginning with page 181, line 20, strike all through page 182, line 4, and insert the following:

"(A) means any insured depository institution or company with respect to which action is taken under this section, and any company having control of that institution or company; and

"(B) includes any person dismissed pursuant to an order under this section requiring an insured depository institution to dismiss a director or senior executive officer.

On page 184, lines 3 through 5, strike "NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2) and (f)" and insert "ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2), (f), and (h)".

On page 184, line 18, before the first period, insert "or is operating under a written agreement with the appropriate Federal banking agency".

On page 188, line 12, strike "and".

On page 188, between lines 13 and 14, insert:

"(F) compensation, fees, and benefits, in accordance with subsection (c); and".

On page 189, between lines 6 and 7, insert the following new subsection:

"(c) COMPENSATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

"(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

"(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees, or benefits; or

"(B) could lead to material financial loss to the institution;

"(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

"(A) the combined value of all cash and noncash benefits provided to the individual;

"(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

"(C) the financial condition of the institution;

"(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

"(E) for postemployment benefits, the projected total cost and benefit to the institution;

"(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

"(G) other factors that the agency determines to be relevant; and

"(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

On page 189, line 7, strike "(c)" and insert "(d)".

On page 189, line 8, strike "and (b)" and insert ", (b), and (c)".

On page 189, line 10, strike "(d)" and insert "(e)".

On page 189, line 16, strike "or (b)" and insert ", (b), or (c)".

On page 190, line 14, strike "or (b)" and insert ", (b), or (c)".

On page 190, line 18, insert "OR COMPANY" after "IF INSTITUTION".

On page 191, line 18, insert "or company" after "the institution".

On page 192, line 21, strike "(e)" and insert "(f)".

On page 193, line 1, strike "(f)" and insert "(g)".

On page 194, line 8, strike "law" and insert "statute".

On page 195, lines 4 and 5, strike "for replenishment of the institution's capital" and insert "for the institution to become adequately capitalized (as defined in section 37(b))".

On page 195, line 8, strike "that is likely" and all that follows through line 12 and insert "that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings;

"(ii) weaken the institution's condition; or

"(iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

On page 195, line 14, after "board of directors or its" insert "shareholders or".

On page 198, line 6, strike "(as amended by subsection (a))".

On page 199, lines 18 and 22, strike "affected".

On page 200, strike lines 17 through 19 and insert "consenting in good faith to—

"(A) the appointment of the Corporation or the Resolution Trust Corporation as conservator or receiver for that institution; or

"(B) an acquisition or combination under section 37(f)(2)(A)(iii).

On page 202, line 23, strike "an" and insert "a written".

On page 205, line 4, strike "a Federal" and insert "an appropriate Federal".

On page 205, line 12, insert "appropriate" after "Each".

On page 205, lines 24 and 25, strike "a Federal banking agency" and insert "any of the Federal banking agencies".

On page 207, line 22, after "and" insert "is a type of plan".

On page 208, lines 1 and 2, strike "that was eligible to receive such coverage as of July 15, 1991".

On page 209, line 16, insert "or its agent" after "broker".

On page 217, line 3, strike "July 15, 1991," and insert "that date of enactment".

On page 220, line 21, strike "Section" and insert "(a) IN GENERAL.—Section".

On page 221, lines 13 and 14, strike "not less than 60 days before the beginning of each semiannual period".

On page 221, lines 19 and 20, strike "and the Resolution Funding Corporation under sections 21 and 21B" and insert "under section 21".

On page 221, line 21, strike ", respectively,".

On page 223, line 18, strike "(4)" and insert "(2)(F)".

On page 236, line 1, strike "a Federal banking agency" and insert "any of the Federal banking agencies".

On page 237, line 14, strike "the date" and insert "180 days after the date"

On page 240, lines 24 and 25, strike "meet applicable capital standards;" and insert "are adequately capitalized (as defined in section 37 of the Federal Deposit Insurance Act, as added by section 205);".

On page 258, line 21, before "restrict" insert "prohibit or".

Beginning on page 260, line 13, strike all through page 261, line 2.

On page 261, line 5, strike "or retain".

On page 261, strike lines 11 through 17, and insert the following:

"(A) COMMUNITY DEVELOPMENT INVESTMENTS.—Acquiring or retaining investments designed primarily to promote the public welfare, including low- and moderate-income communities or families (such as by providing housing, services, or jobs).

On page 262, lines 1 and 2, strike "or retaining".

On page 262, line 10, strike "or retaining".

On page 262, between lines 13 and 14, insert the following:

"(E) BANKERS' BANKS.—Acquiring or retaining shares of a depository institution if—

"(i) the institution engages only in activities permissible for national banks;

"(ii) the institution is subject to examination and regulation by a State bank supervisor;

"(iii) 20 or more depository institutions own shares of the institution, and none of those institutions owns more than 15 percent of the institution's shares; and

"(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the institution's officers and employees) are owned only by the institution.".

On page 262, strike lines 14 through 19.

On page 263, between lines 4 and 5, insert the following:

"(3) EXCEPTION.—Paragraphs (1) and (2) do not apply with respect to any corporate debt security acquired outside of the United States to the extent permitted by regulation or order of the Board of Governors of the Federal Reserve System under section 25 or 25A of the Federal Reserve Act.

On page 263, line 5, strike "(3)" and insert "(4)".

On page 263, between lines 7 and 8, insert the following:

"(e) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring any investment.

On page 263, line 8, strike "(e)" and insert "(f)".

On page 263, line 9, strike "a Federal" and insert "an appropriate Federal".

On page 265, between lines 20 and 21, insert the following:

(d) SAVINGS BANK LIFE INSURANCE GRANDFATHER RIGHTS.—Section 5(i)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(i)(4)) is amended by adding at the end the following:

"(C) Any Federal savings association that acquires, or that results from the conversion of, a savings bank chartered by a State that by State law authorizes its State chartered savings banks to sell or underwrite savings bank life insurance may sell or underwrite such insurance to the same extent that any savings bank chartered by that State may do so under State law.".

On page 279, between lines 10 and 11, insert the following:

(o) REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.

On page 281, line 8, insert "or" after the semicolon.

On page 281, strike lines 9 through 18.

On page 281, strike "(H)" and insert "(G)".

On page 292, lines 8 and 9, strike "or licensed under Federal or State law" and insert "under Federal law".

On page 295, between lines 9 and 10, insert the following:

"(B) FOREGONE TAX REVENUES.—The Corporation shall treat Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, as if they were revenues foregone by the affected deposit insurance fund.

On page 296, line 11, strike "repay advances" and insert "recover the loss to the insurance fund, less any loss recovered through a special assessment on foreign deposits, arising from advances with respect to an insured depository institution".

On page 298, strike lines 9 through 12.

On page 300, line 4, strike "payments" and insert "payment".

On page 300, line 6, strike the quotation marks and the final period.

On page 300, between lines 6 and 7, insert the following:

"(7) DISCRETIONARY DETERMINATIONS.—Any determination under this subsection shall be in the sole discretion of the Corporation or the Secretary of the Treasury, as the case may be. No court shall have jurisdiction to stay, enjoin, restrain, or otherwise delay action taken under this subsection or jurisdiction over any claim relating to any act or omission of the Corporation or the Secretary with respect to any determination under this subsection.".

(b) STUDY AND REPORT ON FDIC PAYMENTS ON UNINSURED DEPOSITS AND NONDEPOSIT LIABILITIES.—

(1) STUDY.—The Director of the Congressional Budget Office (hereafter referred to as the "Director") shall conduct a study on the effects of a reduction in payments by the Federal Deposit Insurance Corporation used

VOL 137 PT 23 NO 21—25 1991 UMI

to satisfy the obligations of depository institutions on the uninsured deposits of such institutions and to creditors of such institutions other than depositors. The study shall—

(A) include consideration of—

(i) any estimated savings accruing to the Federal deposit insurance funds as a result of such reduction;

(ii) the long-term benefits to insured depository institutions and the Federal deposit insurance funds of increased market discipline as a result of such reduction; and

(iii) any other relevant information on the effects of such reduction; and

(B) include an estimate of the total savings that would have accrued to the Federal deposit insurance funds during the years 1988 through 1991 if such payments by the Federal Deposit Insurance Corporation had been reduced by 10 percent.

(2) Report.—Not later than 18 months after the date of enactment of this Act, the Director shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the Director's findings and conclusions resulting from the study conducted under paragraph (1).

On page 303, line 3, strike "Limitation" and insert "Limitations".

On page 313, line 18, strike the quotation marks and the final period.

On page 313, between lines 18 and 19, insert the following:

"(13) Presumptive safe harbor for certain partially owned subsidiaries.—Except as otherwise provided by the Corporation, no subsidiary of an insured depository institution shall be liable under this subsection if the insured depository institution and its affiliates do not, in the aggregate, directly or indirectly control more of the subsidiary's voting shares, or have a greater aggregate ownership interest in the subsidiary, than does any 1 company not affiliated with the insured depository institution.

"(14) Insured depository institution subsidiaries.—For purposes of this subsection, other than paragraph (1)(A) the term 'insured depository institution' includes any subsidiary of an insured depository institution.".

On page 317, lines 17 and 18, strike "liability to" and insert "rights of".

On page 317, between lines 20 and 21, insert the following:

(d) Clarifying General Application of Definitions of Affiliate and Subsidiary.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (w)—

(A) by striking paragraphs (4) and (5); and

(B) by redesignating paragraph (6) as paragraph (5); and

(2) by adding at the end the following new subsections:

"(aa) Subsidiary.—The term 'subsidiary'—

"(1) means any company that is owned or controlled directly or indirectly by another company; and

"(2) includes any service corporation owned in whole or in part by an insured depository institution or any subsidiary of such a service corporation.

"(bb) Affiliate.—The term 'control' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.".

Beginning with page 317, line 22, strike all through page 321, line 13, and insert the following:

(a) In General.—Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended to read as follows:

"SEC. 4. ATTAINING INSURED STATUS.

"(a) Insurance Pursuant to Certification by Other Federal Banking Agency.—

"(1) In general.—Any eligible depository institution shall become an insured depository institution when all of the following subparagraphs are satisfied:

"(A) Application.—The Corporation receives an application from the institution.

"(B) Certificate.—The Corporation receives from the certifying agency a certificate stating that—

"(i) the institution—

"(I) is authorized to transact the business of banking, in the case of a national member bank;

"(II) is a member of the Federal Reserve System, in the case of a bank described in subclause (II) or (III) of paragraph (2)(A)(ii); or

"(III) is authorized to transact business as a savings association, in the case of a Federal savings association; and

"(ii) the certifying agency has considered the factors enumerated in section 6, and determined that insuring the institution's deposits under this Act is in the public interest.

"(C) No denial.—Either—

"(i) any period for denying insurance referred to in paragraph (3)(D) expires; or

"(ii) the Corporation notifies the institution or the certifying agency in writing that the Board of Directors will not deny insurance under paragraph (3).

"(2) Denial of insurance by Corporation.—

"(A) In general.—The Board of Directors may, upon a vote of a majority of all members, deny insurance to any eligible depository institution if the Board determines that insuring the institution's deposits under this Act is not in the public interest.

"(B). Standard applicable.—In determining whether to deny insurance under subparagraph (A), the Corporation—

"(i) shall consider the factors described in paragraphs (1) through (6) of section 6; and

"(ii) shall give due deference to the certifying agency's determination with respect to those factors.

"(C) Notice required.—If the Board of Directors denies insurance under subparagraph (A), the Corporation shall promptly notify the certifying agency, giving specific reasons for the denial.

"(D) Deadline for denial.—The Board of Directors may deny insurance under subparagraph (A) only during the 120-day period beginning on the date on which subparagraphs (A) and (B) of paragraph (1) are satisfied, or such additional periods as the Corporation may prescribe by order.

"(3) Definitions.—For purposes of this subsection:

"(A) Eligible depository institution.—The term 'eligible depository institution' means any depository institution that—

"(i) is engaged in the business of receiving deposits, other than trust funds; and

"(ii) is described in any of the following subclauses:

"(I) A national bank that is authorized to transact the business of banking.

"(II) A noninsured national nonmember bank that becomes a member of the Federal Reserve System.

"(III) A noninsured State bank that becomes a member of the Federal Reserve System (whether as a State bank or a national bank), except pursuant to section 9B of the Federal Reserve Act.

"(IV) A Federal savings association that is authorized to transact business as a savings association.

"(B) Certifying agency defined.—The term 'certifying agency' means—

"(i) the Comptroller of the Currency, in the case of a national bank;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a depository institution described in subclause (II) or (III) of subparagraph (A)(ii); and

"(iii) the Director of the Office of Thrift Supervision, in the case of a Federal savings association.

"(b) Insurance for Interim Depository Institutions.—

"(1) Interim federal depository institutions.—Any interim Federal depository institution that will not open for business shall become an insured depository institution when the appropriate Federal banking agency issues the interim Federal depository institution's charter.

"(2) Interim state depository institutions.—Any interim State depository institution that will not open for business shall become an insured depository institution upon approval by the appropriate Federal banking agency.

"(c) Continuation of Insurance.—

"(1) In general.—Any depository institution that was an insured depository institution on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 shall continue to be an insured depository institution after that date of enactment.

"(2) Charter conversion.—Any depository institution that results from any of the following transactions shall continue to be an insured depository institution:

"(A) The conversion of an insured Federal depository institution to—

"(i) a State depository institution; or

"(ii) a Federal depository institution.

"(B) The conversion of an insured State depository institution to—

"(i) a Federal depository institution; or

"(ii) a State depository institution.

"(3) Merger or consolidation.—Any depository institution that results from the merger or consolidation of insured depository institutions, or from the merger or consolidation of a noninsured depository institution with an insured depository institution, shall continue to be an insured depository institution.

"(4) Federal reserve membership.—Any insured depository institution that becomes a member of the Federal Reserve System, or any insured State bank that becomes a national member bank, shall continue to be an insured depository institution.".

(b) Conforming Amendments.—

(1) Section 5.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(A) in subsection (a)(1), by striking "(1) National and state nonmember banks; state savings associations.—";

(B) in subsection (a), by striking paragraphs (2) through (7);

(C) in subsection (b)(6), by adding "and" at the end; and

(D) in subsection (b)(7), by striking "and" at the end; and

(E) in subsection (b), by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively.

(2) Section 6.—Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively.

On page 323, line 13, strike "pursuant to" and insert "under".

On page 324, line 23, insert "of the" after "Each".

On page 326, line 12, strike "March" and insert "June".

On page 327, line 21, before the semicolon, insert ", and Federal Reserve System membership status".

On page 328, line 6, strike "banks" and insert "institutions".

On page 328, move lines 16 through 18 2 ems to the left.

On page 328, after line 23, insert the following:

(f) Additional Reports.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) Additional Reports.—

"(1) In general.—In addition to the reports required under subsections (a), (b), and (c) of this section, the Corporation shall submit to the Congress not later than October 31 of each year, the annual report on the activities and efforts of the Corporation.

"(2) Contents of report.—Each annual report required under paragraph (1) shall include the following information with respect to the Corporation's assets and liabilities and to the assets and liabilities of institutions for which the Corporation serves as a receiver or conservator:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during such period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

On page 330, line 19, after "oversight" insert "of insured depository institutions".

On page 330, line 22, strike "depository".

Beginning with page 334, line 3, strike all through page 337, line 17, and insert the following:

SEC. 227. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) Annual Independent Audit of Private Deposit Insurer; Disclosure by Institutions Lacking Federal Deposit Insurance.—

(1) In general.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 40. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) Annual Independent Audit of Private Deposit Insurers.—

"(1) Audit required.—Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing procedures and generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

"(2) Providing copies of audit report.—

"(A) Private deposit insurer.—The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) Depository institution.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) Disclosure Required.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) Periodic statements; account records.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) Advertising; premises.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) Acknowledgment of risk.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) Manner and Content of Disclosure.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) Exceptions for Institutions Not Receiving Retail Deposits.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) Eligibility for Federal Deposit Insurance.—

"(1) In general.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) Authority of FDIC and NCUA not affected.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) Definitions.—For purposes of this section:

"(1) Appropriate supervisor.—The 'appropriate supervisor' of a depository institution means the agency primarily responsible for supervising the institution.

"(2) Depository institution.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) Lacking federal deposit insurance.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) Private deposit insurer.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) Enforcement.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.".

(2) Effective dates.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ", and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

(C) subsection (e) shall become effective 2 years after that date of enactment; and

(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

(3) Conforming amendment to Federal Deposit Insurance Act.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) Viability of Private Deposit Insurers.—

(1) Deadline for initial independent audit.—The initial annual audit under section 40(a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

(2) Business plan required.—Not later than 240 days after the date of enactment of

VOL 137
PT 23
NO 21–25
1991
UMI

this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

(A) describe the insurer's—

(i) underwriting standards;

(ii) resources, including trends in and forecasts of assets, income, and expenses;

(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

(3) DEFINITIONS.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

On page 362, between lines 6 and 7, insert the following:

SEC. 231. DISCLOSURE OF CERTAIN INFORMATION.

(a) PUBLIC AVAILABILITY OF EXAMINATION INFORMATION.—

(1) IN GENERAL.—Each appropriate banking agency shall make available to the public copies of reports of all examinations of each failed depository institution that received funds, as defined in subsection (e), or of a holding company of such institution, that was performed by that banking agency or its predecessor, during the 5-year period preceding the transfer, failure, or receipt of funds. Each appropriate banking agency other than the National Credit Union Administration Board shall consult with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation prior to making such reports available to the public.

(2) DELAY OF PUBLICATION.—

(A) THREATS TO SAFETY OR SOUNDNESS OF INSTITUTION.—If the appropriate banking agency makes a determination in writing that release of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may initially delay release of the examination report for a reasonable period of time, not to exceed 12 months from the date of the transfer, failure, or receipt of funds described in subsection (e). Such determination may be renewed on an annual basis.

(B) ONGOING INVESTIGATIONS.—If the appropriate banking agency or the Resolution Trust Corporation determines in writing that release of a portion of an examination report would hinder an ongoing investigation of alleged negligence, or of other activity that would give rise to either administrative or civil proceedings, the portion of the examination report directly pertaining to the alleged negligence or other activity, may be withheld from release during the investigation, until a notice of charges is issued, a complaint is filed, or for a period not to exceed 24 months from the date of the transfer, failure, or receipt of funds described in subsection (e), whichever is earlier.

(C) DELAY PENDING CRIMINAL INVESTIGATION.—If the appropriate banking agency and the Attorney General of the United States or the attorney general of a State, in the case of a State-chartered depository institution, jointly determine that release of a portion of an examination report would hinder an ongoing investigation of alleged criminal activity, the portion of the examination report directly pertaining to the alleged crime may be withheld from release until the termination of such investigation, the issuance of an indictment, or for a period of not to exceed 5 years from the date of the transfer, failure or receipt of funds described in subsection (e), whichever is earlier. The Attorney General of the United States or of a State shall provide the Comptroller General of the United States with access to information regarding any such criminal investigation, and shall identify any law enforcement agencies or resources assigned to the investigation.

(3) EXCLUSION OF OPEN INSTITUTIONS.—

(A) OPEN INSTITUTIONS.—This subsection shall not apply to any open insured depository institution and shall not be construed to require disclosure to the public of any report of examination of any open insured depository institution.

(B) AFFILIATED SOLVENT INSTITUTIONS.—In connection with the release of an examination report of a holding company of a failed institution, nothing in this subsection shall be construed as requiring the release of any examination report information regarding any solvent depository institution that is also a subsidiary of such holding company.

(b) PROHIBITION OF CONFIDENTIAL SETTLEMENTS.—Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in subsection (e) shall be made available to the public.

(c) APPLICABILITY.—The requirements of subsection (a) shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation;

(2) to any member of the Bank Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in subsection (e), the Bank Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance:

(3) to any member of the Savings Association Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in subsection (e), the Savings Association Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance; and

(4) to any insured credit union that has failed and received funds, if during either the fiscal year in which the credit union failed or the fiscal year in which the credit union received funds, as defined in subsection (e), the National Credit Union Share Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance.

(d) REMOVAL OF CUSTOMER INFORMATION FROM EXAMINATION REPORTS.—In making available reports of examinations under subsection (a), the appropriate Federal banking agency shall excise the following:

(1) NONINSTITUTION-AFFILIATED PARTIES.—The names and all other identifying information for all persons who are not institution-affiliated parties of an insured depository institution.

(2) INSTITUTION-AFFILIATED PARTIES.—The names and any information related to an institution-affiliated party that is not relevant to the relationship between the insured depository institution and the institution-affiliated party.

(3) OPEN INSTITUTIONS.—The names and all other identifying information pertaining to open insured depository institutions.

(4) EXAMINERS.—Any reference to the examiners and other banking agency employees involved in the examination of the insured depository institution.

(5) WHISTLEBLOWERS.—All references to persons or entities that have provided information in confidence to a banking agency which may be utilized to pursue a civil or criminal action.

(e) DEFINITIONS.—For purposes of this section—

(1) an insured depository institution has "failed" if the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or National Credit Union Administration Board—

(A) has been appointed as receiver or liquidator for such institution; or

(B) has exercised the power to provide assistance under section 13(c)(2) of the Federal Deposit Insurance Act or the analogous powers under section 21A of the Federal Home Loan Bank Act.

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the National Credit Union Administration Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any Federal Reserve bank that lends for more than 30 days while the insured depository institution is critically undercapitalized within the 1-year period prior to the failure of the insured depository institution whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that such term includes an insured credit union, as defined in section 101 of the Federal Credit Union Act; and

(4) the term "appropriate banking agency" means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration Board, and, in the case of a State-chartered depository institution, the appropriate State depository institution regulatory agency.

(f) ADDITIONAL DISCLOSURES BY FDIC, NCUA AND RTC.—

(1) BORROWERS.—Within 6 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in subsection (e), the Federal Deposit Insurance Corporation, National Credit Union Administration, or the Resolution Trust Corporation, as appropriate, shall make available to the public the name and loan balance of any borrower who—

(A) was an executive officer, director, or principal shareholder of the institution, or a related interest of any such person, as such terms are defined in section 22(h) of the Federal Reserve Act (12 U.S.C. 375b); and

(B) at the time that the receiver was appointed, was more than 90 days delinquent on a loan.

(2) TRANSACTIONS.—Within 12 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in subsection (e), the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation shall make available, and update periodically thereafter, a list of pending and settled lawsuits brought by such agency involving transactions (other than those listed in paragraph (1)), that caused a material loss to such institution or to the deposit insurance fund.

(g) GAO AUDITS.—The Comptroller General shall selectively audit examination reports made available to the public by the appropriate Federal banking agencies under subsection (a), and disclosures made by the Federal Deposit Insurance Corporation, National Credit Union Administration, and Resolution Trust Corporation under subsection (f), to assess compliance with the requirements of those subsections. The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this subsection.

SEC. 232. UTILIZING PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management of and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services are practical, efficient and cost effective recognizing all of the costs inherent in such contracts.".

On page 395, after line 25, insert the following new section:

SEC. 308. ATTORNEY GENERAL'S DETERMINATION ON COMPETITIVE FACTORS.

(a) ATTORNEY GENERAL'S REPORT.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end the following: "In every case, before acting on any application described in subsection (a), the Board shall give notice of the application to the Attorney General. The Attorney General shall provide a report on any application that presents significant issues regarding competitive factors. The Board shall consider any report by the Attorney General on the competitive factors involved in the transaction, unless the Board finds that it must act immediately in order to prevent the probable failure of the institutions involved in the transaction that is the subject of the application. Any report shall be furnished not later than 30 calendar days after the date on which it is requested, or not later than 10 calendar days after such date if the Board advises the Attorney General that an emergency exists requiring executive action.

(b) BANK HOLDING COMPANY ACT AMENDMENT.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(i) REPORT TO THE CONGRESS ON APPROVALS OF ANTICOMPETITIVE TRANSACTIONS.—The Board shall submit a report to the Congress on the day on which any merger or transaction is approved under this section that includes a justification for approving any merger or acquisition, or any portion thereof, that the Attorney General has determined in the report required under subsection (c) may have an anticompetitive effect in any market or for any product. The Board's justification shall include the information, data, facts, assumptions, and other factors upon which the Board relied in approving the merger or acquisition notwithstanding the determination of the Attorney General.".

(c) FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

"(12) REPORT TO THE CONGRESS ON APPROVALS OF ANTICOMPETITIVE TRANSACTIONS.—The responsible agency shall submit a report to the Congress on the day on which any merger or transaction is approved under this subsection that includes a justification for approving any merger or acquisition, or any portion thereof, that the Attorney General has determined in the report required under paragraph (4) may have an anticompetitive effect in any market or for any product. The responsible agency's justification shall include the information, data, facts, assumptions, and other factors upon which the Board relied in approving the merger or acquisition notwithstanding the determination of the Attorney General.".

At the appropriate place in title III, insert the following new section:

SEC. 3____. REGULATIONS TO PROHIBIT BRANCHING FOR DEPOSIT PRODUCTION.

Not later than 180 days after the date of enactment of this Act, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate regulations to prohibit any person from using any authority to engage in interstate branching primarily for the purpose of deposit production.

On page 475, lines 11 and 12, strike "authorized" and insert "unauthorized".

On page 492, between lines 21 and 22, insert the following:

"(6) CRITERIA RELATING TO FOREIGN SUPERVISION.—Not later than 1 year after the date of enactment of this subsection, the Board, in consultation with the Secretary of the Treasury, shall develop and publish criteria to be used in evaluating the operation of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis. In developing such criteria, the Board shall allow reasonable opportunity for public review and comment.

On page 509, line 15, strike "Except as provided in subsection (d), the" and insert "The".

On page 510, strike lines 9 through 15.

On page 520, before line 1, insert the following:

SEC. 611. STANDARDS AND FACTORS IN THE HOME OWNERS' LOAN ACT.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (1), by inserting after subparagraph (B) the following:

"Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(2) in paragraph (2)—

(A) by inserting after the second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(B) by striking "or" at the end of subparagraph (A);

(C) by striking the period at the end of subparagraph (B) and inserting a comma; and

(D) by inserting after subparagraph (B) the following new subparagraphs:

"(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this Act, or

"(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

On page 520, line 1, strike "**611**" and insert "**612**".

On page 532, line 1, strike "**612**" and insert "**613**".

Beginning with page 532, line 14, strike all through page 537, line 13, and insert the following:

Subtitle B—Regulation of Foreign Banks and Subsidiaries

SEC. 621. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) SECTION 5.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) STATE NOT REQUIRED TO LICENSE BRANCHES AND AGENCIES OF FOREIGN BANKS.—Nothing in this Act shall be construed to require a State to maintain laws or procedures for the establishment or operation of a State branch or a State agency by a foreign bank.".

(b) SECTION 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsection (b) as subsection (b)(1);

(2) by designating the last undesignated paragraph as paragraph (2); and

(3) by adding at the end the following new subsection:

"(c) RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.—

"(1) IN GENERAL.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to accept or maintain deposit accounts having balances of less than $100,000, a foreign bank shall—

"(A) establish 1 or more banking subsidies in the United States for that purpose; and

"(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

"(2) EXCEPTION.—Deposit accounts with balances of less than $100,000 may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.".

(c) SECTION 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(j) GUIDELINES ON EQUIVALENCE OF FOREIGN BANK CAPITAL.—Not later than 180 days

VOL 137 PT 23 NO 21—25 1991 UMI

after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly publish in the Federal Register and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Supervisory committee of the Bank for International Settlements, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under section 5(a), subsection (k), and this subsection.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).

"(k) Equivalent Capital and Other Financial Requirements.—

"(1) Approval required.—No foreign bank may engage in the activities described in section 5(a)(5) without obtaining the prior approval of the Board.

"(2) Determination required.—The Board shall disapprove an application under paragraph (1) unless it determines that the financial resources of such bank or company, including the capital level, are equivalent to those of a domestic bank holding company that would be permitted to engage in such activities in accordance with section 3(d) of the Bank Holding Company Act of 1956, after consultation with the Secretary of the Treasury regarding capital equivalency.

"(3) Criteria for determination.—In making the determination in paragraph (1), the Board shall—

"(A) take into account differences in domestic and foreign accounting standards; and

"(B) assure that competitive equivalence between domestic and foreign banks is maintained.

"(4) Requirement for a separate subsidiary.—If the Board, taking into account differing regulatory or accounting standards, finds that adherence to capital requirements equivalent to those imposed on a domestic bank holding company under section 3(d) of the Bank Holding Company Act of 1956 can be verified only if banking activities are carried out in a domestic banking subsidiary within the United States, it may only approve an application under paragraph (1) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.".

Redesignate section 547 of the bill as section 559 and relocate appropriately.

Redesignate sections 548 and 549 of the bill as sections 547 and 548, respectively and relocate appropriately.

On page 555, line 6, strike "and" and insert "or".

On page 671, between lines 14 and 15, insert the following:

(g) Prohibition on Misrepresentation and Notice to Customers.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) Misrepresentation of Guarantees and Customer Disclosure.—

"(1) Misrepresentation of guarantees.—It shall be unlawful for any person selling or offering to sell insurance in accordance with section 771 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 or other authority to represent or imply in any manner whatsoever that such insurance—

"(A) is guaranteed or approved by the United States or any agency or officer thereof; or

"(B) is insured under this Act.

"(2) Customer disclosure.—

"(A) In general.—An insured depository institution shall prominently disclose in writing to the institution's customers pursuant to regulations prescribed by the appropriate Federal banking agency, that insurance products offered, recommended, sponsored, or sold by the institution—

"(i) are not deposits;

"(ii) are not insured under this Act;

"(iii) are not guaranteed by the insured depository institution; and

"(iv) are not otherwise the obligation of the insured depository institution.

"(B) Prohibition on joint marketing activities.—No insurance products may be offered, recommended, or sold on the premises of an insured depository institution or to customers of the institution as part of joint marketing activities unless the person marketing such insurance products prominently discloses to its customers in writing, in addition to the disclosures required in subparagraph (A), that such person is not an insured depository institution and is separate and distinct from the insured depository institution with which it shares marketing activities.

"(3) Enforcement.—The provisions of this subsection shall be enforced in accordance with section 8.

"(4) Regulations.—The appropriate Federal banking agencies shall promulgate regulations to implement this subsection not later than 1 year after the date of enactment of this subsection.".

On page 682, line 16, "insert "that is adequately capitalized (as defined in section 37 of the Federal Deposit Insurance Act)" before "may convert".

On page 685, lines 16 and 17, strike ", exclusive of a savings bank".

On page 685, between lines 17 and 18, insert the following:

(c) Safeguards on Certain Savings Banks.—

(1) In general.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) Safeguards on Certain Savings Banks.—The following provisions shall apply to any insured savings bank resulting from a conversion under section 5(i)(5) of the Home Owners' Loan Act and any savings bank that is a direct or indirect successor to that savings bank:

"(1) Risky activities.—Section 28 shall apply to the savings bank in the same manner and to the same extent as if the savings bank were a savings association.

"(2) Loans to one borrower.—Section 5200 of the Revised Statutes shall apply to the savings bank in the same manner and to the same extent as if the savings bank were a national bank.

"(3) Separate capitalization required for certain subsidiaries.—

"(A) In general.—In determining compliance with any applicable capital standards, all of the savings bank's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings bank's capital.

"(B) Exceptions.—

"(i) Agency activities.—Subparagraph (A) does not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

"(ii) Mortgage banking subsidiaries.—Subparagraph (A) does not apply with respect to the savings bank's investments in and extensions of credit to a subsidiary engaged solely in mortgage banking activities.

"(C) Transitional rule.—

"(i) Inclusion in capital.—Notwithstanding subparagraph (A), if a savings bank's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings bank may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

"(I) the savings bank's investments in and extensions of credit to the subsidiary on April 12, 1989; or

"(II) the savings bank's investments in and extensions of credit to the subsidiary on the date as of which the savings bank's capital is being determined.

"(ii) Applicable percentage.—For purposes of clause (i), the applicable percentage is as follows:

"For the following period:	The acceptable percentage is:
Prior to July 1, 1995	75
July 1, 1992–June 30, 1993.	60
July 1, 1993–June 30, 1994.	40
Thereafter	0.

"(iii) FDIC's discretion to prescribe lesser percentage.—The Corporation may prescribe, by order, with respect to a particular savings bank, an applicable percentage that is less than the percentage prescribed by clause (ii) if the Corporation determines, in its sole discretion, that the use of the greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the bank's being in an unsafe or unsound condition.

"(4) Transactions with affiliates.—The savings bank may not engage in any transaction that would be prohibited under section 11(a)(1) of the Home Owners' Loan Act if the savings bank were a savings association.

"(5) Parent company subject to bank holding company act of 1956.—Section 10(*l*)(1) of the Home Owners' Loan Act does not apply with respect to the savings bank.".

(2) Conforming amendment to home owners' loan act.—Section 10(*l*)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(*l*)(1)) is amended by striking "other provision of law," and inserting "provision of the Bank Holding Company Act of 1956, but subject to section 18(t)(5) of the Federal Deposit Insurance Act,".

On page 688, line 20, insert ", a Federal branch, or a Federal agency" after "bank".

On page 689, line 7, insert ", Federal branch, or Federal agency" after "bank".

On page 689, line 10, insert ", Federal branch, or Federal agency" after "bank".

On page 689, line 12, insert ", a Federal branch, or a Federal agency" after "bank".

On page 689, line 17, insert ", Federal branch, or Federal agency" after "bank".

On page 689, line 19, insert ", Federal branch, or Federal agency" after "bank".

On page 690, line 11, insert ", Federal branch, or Federal agency" after "bank".

On page 690, line 17, insert ", Federal branch, or Federal agency" after "bank".

On page 691, line 5, insert ", a Federal branch, or a Federal agency" after "bank".

On page 691, line 18, insert "or Federal agency (as those terms are defined under section 1(b) of the International Banking Act of 1978)" after "branch".

On page 695, line 8 through line 13, strike "If the savings association" and all that follows through "States." on line 13.

On page 701, lines 22 and 23, strike "the Office of the Comptroller of the Currency or".

On page 716, line 14, strike "(e)" and insert "(f)".

On page 716, line 23, insert "punishable under" after "or".

On page 717, line 13, strike "1992" and insert "1993".

On page 722, line 1, strike "1991" and insert "1992".

On page 724, line 14, strike "or prosecutive".

On page 725, between lines 14 and 15, insert the following:

"(3) Liability for disclosures.—Any financial institution not subject to the provisions of section 1103(c) of the Right to Financial Privacy Act of 1978, or officer, employee, or agent thereof, that makes a voluntary disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

On page 724, line 15, insert "and other financial crimes" after "laundering".

On page 727, line 14, strike "are" and insert "is".

On page 731, between lines 11 and 12, insert the following:

Subtitle C—Money Laundering Improvements

SEC. 941. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.".

SEC. 942. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) In General.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property, it shall not be—

"(A) necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture;

"(B) a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 2 years from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds deposited by a financial institution (as defined in section 20 of this title) into an account with another financial institution unless the depositing institution knowingly engaged in the offense that is the basis for the forfeiture.".

(b) Retroactive Application.—The amendments made by this section shall apply retroactively.

(c) Conforming Amendment.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 943. ADMINISTRATIVE SUBPOENAS.

(a) In General.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 985. Administrative subpoenas

"(a) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(1) administer oaths and affirmations;

"(2) take evidence; and

"(3) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records that the Attorney General deems relevant or material to the inquiry.

A subpoena issued pursuant to subsection (a) may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(b) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this section. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(c) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under subsection (b) not later than 5 days after the date of service.

"(d) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section.".

(b) Conforming Amendment.—The chapter analysis for chapter 46 of title 18, United States Code is amended by adding at the end the following:

"985. Administrative subpoenas.".

SEC. 944. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) In General.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) Conforming Amendment.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 945. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting

"(C) includes in the terms of its extension

"(1) The term 'property acquired through

"(C) a leasing company that is an affiliate

VOL 137 PT 23 NO 21–25 1991 UMI

"section 422 of the Controlled Substances Act".

SEC. 946. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "No person"; and

(2) by adding at the end the following:

"(b) No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 947. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 948. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 949. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 950. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of title 26, United States Code" after "criminal drug laws of the United States".

SEC. 951. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 952. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer".

(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 953. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316, and 5324 of title 31, or section 6050I of title 26, United States Code".

SEC. 954. DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE.

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c),".

SEC. 955. EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

(a) IN GENERAL.—Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "(ii) kidnaping, robbery, or extortion, or (iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978" after "Controlled Substances Act)".

(b) RETROACTIVE APPLICATION.—All amendments to the civil forfeiture statute, section 981 of title 18, United States Code, made by this section and elsewhere in this Act shall apply retroactively.

SEC. 956. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 957. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon: ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 958. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears;

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

Beginning with page 731, line 12, strike all through page 744, line 17, and insert the following:

TITLE X—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Asset Conservation and Deposit Insurance Protection Act of 1991".

SEC. 1002. ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION.

(a) CERCLA AMENDMENTS.—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by inserting after section 126 the following new section:

"SEC. 127. ASSET CONSERVATION.

"(a) LIABILITY LIMITATIONS.—

"(1) IN GENERAL.—The liability of an insured depository institution or mortgage lender under this Act or subtitle I of the Solid Waste Disposal Act for the release or threatened release of petroleum or a hazardous substance at, from, or in connection with property—

"(A) acquired through foreclosure;

"(B) held, directly or indirectly, in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution or such mortgage lender by a removal, remedial, or other response action undertaken by another party.

"(2) SAFE HARBOR.— An insured depository institution or mortgage lender shall not be liable under this Act or subtitle I of the Solid Waste Disposal Act and shall not be deemed to have participated in management, as described in section 101(20)(A), based solely on the fact that the institution or lender—

"(A) holds a security interest or abandons or releases its security interest in the collateral before foreclosure;

"(B) has the unexercised capacity to influence operations at or on property in which it has a security interest;

"(C) includes in the terms of its extension of credit covenants, warranties, or other terms and conditions that relate to the borrower's compliance with environmental laws;

"(D) monitors or enforces the terms and conditions of the extension of credit;

"(E) monitors or undertakes one or more inspections of the property;

"(F) requires the borrower to cleanup the property prior to or during the term of the extension of credit;

"(G) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the property;

"(H) restructures, renegotiates, or otherwise agrees to alter the terms and conditions of the extension of credit;

"(I) exercises whatever other remedies at law or in equity may be available under applicable law for the borrower's breach of any term or condition of the extension of credit; or

"(J) declines to take any of the actions described in this paragraph.

"(b) ACTUAL BENEFIT.—For the purpose of this section, the actual benefit conferred on an institution or lender by a removal, remedial, or other response action shall be equal to the net gain, if any, realized by such institution or lender due to such action. For purposes of this subsection, the 'net gain' shall not exceed the amount realized by the institution or lender on the sale of property.

"(c) EXCLUSION.—The limitations on liability provided under subsection (a)(1) and (a)(2) shall not apply to any person that has caused or significantly and materially contributed to the release of petroleum or a hazardous substance that forms the basis for liability described in subsection (a)(1) and (a)(2).

"(d) ENVIRONMENTAL ASSESSMENTS.—

"(1) DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to implement this section. Such regulations shall include requirements for insured depository institutions to develop and implement adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit that involves a security interest in such property. The regulations may provide for different types of environmental assessments in order to account for different levels of risk that may be posed by different classes of collateral. Failure to comply with the environmental assessment regulations promulgated under this subsection shall be deemed to be a violation of a regulation promulgated under the Federal Deposit Insurance Act.

"(2) MORTGAGE LENDERS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations that are substantially similar to those promulgated under paragraph (1) to assure that mortgage lenders develop and implement procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) FINAL REGULATIONS.—Final regulations required to be promulgated pursuant to paragraph (1) shall be issued within 180 days after the date of enactment of this section.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'property acquired through foreclosure' or 'acquires property through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or mortgage lender—

"(A) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(C) through any other formal or informal manner by which the insured depository institution or mortgage lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its security interest.

Property is not acquired through foreclosure if the insured depository institution or mortgage lender does not seek to sell or otherwise divest such property at the earliest practical, commercially reasonable time, taking into account market conditions and legal and regulatory requirements.

"(2) The term 'mortgage lender' means—

"(A) a company (other than an insured depository institution) that—

"(i) is regularly engaged in the business of making extensions of credit secured, in whole or in part, by property to nonaffiliated parties, and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final regulations under that subsection become effective;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that is regularly engaged in the business of buying and selling mortgage loans or interests therein, if such Association, Corporation, or entity requires institutions from which it purchases mortgages (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final regulations under that subsection become effective; and

"(C) any person regularly engaged in the business of insuring or guaranteeing against a default in the payment of an extension of credit to nonaffiliated parties, secured in whole or in part by real property, and extended by a mortgage lender (as such term is defined in subparagraph (A) of this paragraph), or an insured depository institution.

"(3) The term 'fiduciary capacity' means acting for the benefit of a nonaffiliated person as a bona fide—

"(A) trustee;

"(B) executor;

"(C) administrator;

"(D) custodian;

"(E) guardian of estates;

"(F) receiver;

"(G) conservator;

"(H) committee of estates of lunatics; or

"(I) any similar capacity.

"(4) The term 'extension of credit' includes lease transactions that are functionally equivalent to a secured loan.

"(5) The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act, and shall also include—

"(A) a federally insured credit union;

"(B) a bank or association chartered under the Farm Credit Act of 1971; and

"(C) a leasing company that is an affiliate of an insured depository institution (as such term is defined in this paragraph).

"(6) The term 'release' has the same meaning as in section 101(22), and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(7) The term 'hazardous substance' has the same meaning as in section 101(14).

"(8) The term 'security interest' includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a creditor under the terms of an extension of credit to secure the repayment of money, the performance of a duty or some other obligation.

"(f) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party.

"(g) EFFECTIVE DATE.—This section shall become effective upon the date of its enactment, except that it shall not affect any administrative or judicial claims that have been formally filed as of such date.".

(b) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 42. ASSET CONSERVATION.

"(a) GOVERNMENTAL ENTITIES.—

"(1) BANKING AND LENDING AGENCIES.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property (including any right or interest therein) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

"(B) in connection with the provision of loans, discounts, advances, guarantees, insurance or other financial assistance; or

"(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

"(2) APPLICATION OF STATE LAW.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying any State law, or any rights, actions, cause of action, or obligations under State law, except that liability under State law shall not exceed the value of the agency's interest in the asset giving rise to such liability.

"(3) LIMITATION.—The immunity provided by paragraph (1) shall not apply to any entity that has caused or significantly and materially contributed to the release of petroleum or a hazardous substance that forms the basis for liability described in paragraph (1).

"(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

"(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

"(B) is or was affiliated with or related to a party described in subparagraph (A);

"(C) fails to agree to take reasonable steps necessary to remedy the release or threat-

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VOL
137
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ened release in a manner consistent with the purposes of applicable environmental laws; or

"(D) causes or materially and significantly contributes to any additional release or threatened release on the property.

"(5) FEDERAL OR STATE ACTION.—Notwithstanding paragraph (4), if a Federal agency or State environmental agency is required to take remedial action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), such subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of such remedial action. However, any such reimbursement shall not exceed the full fair market value of the property following completion of the remedial action.

"(b) LIEN EXEMPTION.—Any property transferred pursuant to subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of petroleum or a hazardous substance known to exist at the time of the transfer.

"(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (a)(1).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'Federal banking or lending agency' means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration, in any of their capacities, and their agents;

"(2) the term 'hazardous substance' has the same meaning as in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; and

"(3) the term 'release' has the same meaning as in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party.".

On page 746, strike lines 3 through 11, and insert the following:

(5) a Presidential commission should be established to carry out the duties described in section 1104.

Beginning with page 746, line 16, strike all through page 748, line 5, and insert the following:

SEC. 1104. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall assess the condition of the property and casualty insurance, life insurance, and reinsurance industries, including consideration of—

(1) the present and long-term financial health of the companies in such industries and the importance of that financial health to other aspects of the national economy, including the impact on other financial institutions;

(2) the effect of the decline of real estate values and noninvestment grade bond holdings on the financial health of the companies in such industries;

(3) the effect of current and projected guaranty fund assessments, under different insolvency scenarios, on the financial health of the companies in such industries;

(4) the effect of residual markets on the competitiveness of voluntary insurance markets and on the financial health of the companies in such industries;

(5) the causes of company insolvencies in the last 5 years;

(6) the effect of State and Federal liability systems, including with respect to long-term liability, on insurance industry solvency and the appropriateness of the present allocation of Federal and State responsibilities in the underlying liability systems;

(7) the effect of State regulation of companies in such industries with respect to—

(A) solvency (including the quality and consistency of regulation and the adequacy of insurance regulatory resources);

(B) consumer protection and competition (including pricing, product development, the adequacy of information to consumers, the transfer by companies of the policies of individual policyholders between companies, and any other relevant matters);

(C) reinsurance (including the authority of State regulators to regulate offshore reinsurers doing business in the United States); and

(D) the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance;

(8) the efficiency of the present system for liquidation of insolvent insurance companies;

(9) the adequacy of State and Federal civil and criminal enforcement authority and activity; and whether any State law or regulatory action inhibits competition or efficiency or impairs insurer solvency;

(10) the condition of current State guaranty funds, including consideration of—

(A) the adequacy of assured payout to policyholders, including an assessment of the sufficiency of existing State guaranty associations to guarantee all policyholders payments, up to the limits of coverage under the funds, under a variety of industry insolvency scenarios;

(B) the effect of proposed changes in these funds by the National Association of Insurance Commissioners, including consideration of the timeliness with which such changes are likely to be adopted and implemented;

(C) the capability of a post-insolvency assessment system to meet large insolvencies in a timely manner;

(D) the effect on policyholders of differences in the amount of liability coverage offered by the funds from State to State and of differences in eligibility rules from State to State; and

(E) the appropriateness of the extent of protection provided to individual policyholders and corporate policyholders;

(11) the effect of Federal, State, and local taxes on the solvency of companies in such industries, and the effect of State tax-offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios; and

(12) whether there are some forms of catastrophic risks that deserve special insurance treatment.

(b) REPORT.—On the basis of the Commission's findings under subsection (a), the Commission shall submit the report required by section 1108.

On page 748, strike lines 7 through 25, and insert the following:

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members, including—

(1) the Secretary of the Treasury;

(2) the Secretary of Labor;

(3) the Secretary of Transportation;

(4) the Secretary of Commerce;

(5) the Chairman of the Federal Trade Commission;

(6) the Attorney General of the United States;

(7) 5 Members of the United States House of Representatives appointed by the Speaker of the House of Representatives from the committees of appropriate jurisdiction, of which 3 shall be appointed upon the recommendation of the Chairmen of such committees and 2 shall be appointed upon the recommendation of the Minority Leader;

(8) 5 Members of the United States Senate appointed by the President pro tempore of the Senate, of which 3 shall be appointed upon the recommendation of the Chairmen of the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, and 2 shall be appointed upon the recommendation of the Minority Leader; and

(9) 9 members, who are not Federal employees, who have expertise in insurance, financial services, antitrust, liability law and consumer issues, at least 1 of whom has expertise in State regulation of insurance, at least 2 of whom has expertise in the business of insurance and at least 2 of whom have expertise in consumer issues, to be appointed by the President.

(b) DESIGNEES.—An appropriate designee of any member described in paragraphs (1) through (8) of subsection (a) may serve on the Commission in the place of such member and under the same terms and conditions as such member.

On page 749, line 15, strike "or any State government".

On page 756, line 26, after "pledged" insert "to the obligation to pay".

On page 771, strike line 23 and all that follows through page 776, line 3 and insert the following:

"(1) IN GENERAL.—It shall be unlawful for any broker or dealer required to be registered under this Act, or for any person associated with such broker or dealer (other than a natural person or financial institution), to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security by any customer in contravention of the rules and regulations prescribed under this subsection.

"(2) DISCLOSURE RULES.—The Commission shall, by rule, set forth standards for the disclosure by brokers and dealers required to be registered under this Act, and persons associated with such brokers or dealers (other than a natural person or financial institution), to customers of information concerning coverage under the Securities Investor Protection Act of 1970 (hereafter referred to as 'SIPA'). The rules of the Commission shall require every broker or dealer required to be registered under this Act,

"(A) to provide each customer with a written notification of SIPA coverage that discloses—

"(i) the current Securities Investor Protection Corporation (hereafter referred to as 'SIPC') membership status of such person; and

"(ii) a general description, prescribed by SIPC, of the operation of SIPA, the method and extent of customer protection provided under SIPA, the property that is protected under SIPA, and a statement indicating that SIPA does not protect against a decline in the market value of securities; and

"(B) to include conspicuously in any periodic statement sent to a customer regarding a securities transaction—

"(i) a clear statement as to the current SIPC membership status of such person; and

"(ii) any other information regarding SIPA coverage that the Commission finds necessary or appropriate in the public interest or for the protection of investors.

"(3) EXEMPTIONS.—The Commission, as it determines consistent with the public interest and the protection of investors, may exempt, by rule or order, any person or class of persons, or any transaction or class of transactions from the requirements of this subsection.

"(4) DEFINITIONS.—The Commission shall, by rule, define the terms used in this subsection, except that—

"(A) the term 'customer' shall not include a broker, a dealer, a municipal securities dealer, or other such persons as the Commission shall provide in such rule; and

"(B) the term 'security', for purposes of and as used in this subsection, shall not include any security as the Commission shall provide in such rule.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of 1 year after the date of enactment of this Act or the effective date of rules and regulations prescribed by the Commission to implement the amendment made by subsection (a).

Beginning with page 778, line 9, strike all through page 779, line 12, and insert the following:

SEC. 1126. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

(a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation for any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991, shall be the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as such laws existed on June 19, 1991.

(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991—

(1) which was dismissed as time barred subsequent to June 19, 1991; and

(2) which would have been timely filed under the limitation provided by the laws applicable in the jurisdiction in which such civil action was commenced, including principles of retroactivity, as they existed on June 19, 1991,

may be refiled and reinstated (including any disposition) not later than 60 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(c) DEFINITIONS.—The terms used in this section shall have the same meanings as in the Securities Exchange Act of 1934.

On page 779, between lines 16 and 17, insert the following:

(1) in clause (i), by striking "deposits of each" and inserting "deposits of the transferor".

On page 779, line 17, strike "(1)" and insert "(2)".

On page 779, line 18, strike "(2)" and insert "(3)".

On page 779, line 20, strike "(3)" and insert "(4)".

On page 780, between lines 18 and 19, insert the following:

(c) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—If, under section 5(d)(2)(C) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this Act.".

On page 782, between lines 7 and 8, insert the following:

(f) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)) is amended by adding at the end the following new paragraph:

"(8) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—For purposes of this subsection, if, under section 5(d)(2)(C) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, any asset acquired from the bank that is not a qualified thrift investment shall not be treated as a portfolio asset of the savings association during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may, with respect to not more than 30 percent of the total assets acquired from the bank that are not qualified thrift investments, extend the 2-year period described in subparagraph (A) for not more than 1 year if the Director determines that the extension if consistent with the purposes of this Act.".

On page 791, line 16, strike "regarding action taken by a foreign government" and insert "arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred".

On page 796, immediately after line 17, insert the following new sections:

SEC. 1138. ACT NOT TO AFFECT APPLICATION OF INTERNAL REVENUE CODE.

Any reference in the Internal Revenue Code of 1986 to a bank holding company shall not include any bank holding company that—

(1) engages (directly or indirectly) in any activity that was not permitted, and that the Board of Governors of the Federal Reserve System could not have permitted, under the Bank Holding Company Act of 1956 as in effect on the day before the date of enactment of this Act; or

(2) owns or controls (directly or indirectly) shares of any company if the holding of those shares was not permitted, and could not have been permitted by the Board of Governors of the Federal Reserve System, under the Bank Holding Company Act of 1956 as in effect on the day before the date of enactment of this Act.

SEC. 1139. COMMUNITY DEVELOPMENT AUTHORITY OF NATIONAL BANKS.

Section 5136 of the Revised Statutes (12 U.S.C. 24), as amended by section 716, is further amended by adding at the end of subsection (a) the following new paragraph:

"(10) COMMUNITY DEVELOPMENT.—To make investments designed primarily to promote the public welfare, including low- and moderate-income communities or families (such as by providing housing, services, or jobs). The national bank may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. The Comptroller shall limit a bank's investments in any 1 project and a bank's aggregate investments under this paragraph. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 1140. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1141. CREDITABILITY OF SERVICE.

(a) CHAPTER 83.—Section 8332 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(b) CHAPTER 84.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service

VOL 137 PT 23 NO 21—25 1991 UMI

are transferred from such retirement system to the Fund.".

(c) APPLICABILITY.—The amendment made by this section shall apply with respect to any individual who transfers to a position in which he or she is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, on or after October 1, 1991.

SEC. 1142. DELEGATED PROCESSING.

(Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1713, note) is amended in the first sentence, by inserting before the period "or other individuals and entities expressly approved by the Department of Housing and Urban Development".

SEC. 1143. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as specified in such covenant described in subparagraph (B) of section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay approval of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.".

SEC. 1144. EXAMINATION AND SUPERVISION FEES FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the fourth undesignated paragraph and inserting the following:

"The Comptroller of the Currency is authorized to impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of his or her office. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.";

(2) by striking "In addition to the expense of examination" and all that follows through "to cover the expenses thereof.".

(b) TECHNICAL AMENDMENT.—Section 5240 of the Revised Statues is amended in the second undesignated paragraph (12 U.S.C. 481)—

(1) by striking the second sentence;

(2) by striking the third sentence and inserting "If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this section or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.";

(3) in the fourth sentence, by inserting "or from other fees or charges imposed pursuant to this section" after "assessments on banks or affiliates thereof"; and

(4) in the fifth sentence—

(A) by inserting ", fees, or charges" before "may be deposited"; and

(B) by inserting "or of other fees or charges imposed pursuant to this section" before the period.

(c) ASSESSMENT AUTHORITY OF THE OFFICE OF THRIFT SUPERVISION.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.";

(2) by amending subsection (k) to read as follows:

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.".

SEC. 1145. INTERAGENCY SHARING OF INFORMATION.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PRIVILEGES.—

"(1) IN GENERAL.—The transfer or use of any information by, between, or among—

"(A) any appropriate Federal banking agency;

"(B) the Resolution Trust Corporation;

"(C) the Farm Credit Administration;

"(D) the Farm Credit System Insurance Corporation; or

"(E) the National Credit Union Administration,

and any other agency of the Federal Government, in any capacity, shall not constitute a waiver of any privilege applicable to such information.

"(2) DEFINITION OF PRIVILEGE.—For purposes of this subsection—

"(A) the term 'agency of the Federal Government' has the same meaning as in section 6 of title 18, United States Code; and

"(B) the term 'privilege' includes any work product, attorney-client, or other privilege recognized under Federal or State law that is available to an agency of the Federal Government.".

SEC. 1146. APPLICATION OF STATE LAW FOR INSURANCE PURPOSES.

Section 5136A(c)(4) of the Revised Statutes, as added by section 771, is amended to read as follows:

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch and any State bank or branches providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.".

SEC. 1147. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency that employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsection (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Office of Thrift Supervision.".

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union or the Administration;

"(B) any director, officer, or employee of any credit union; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(c) COVERAGE FOR EMPLOYEES OF RTC AND RTC CONTRACTORS.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation in such corporation's capacity as manager of the Corporation or any personnel referred to in subsection (b)(9)(B)(ii)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Attorney General, or any appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation or such person or any director, officer, or employee of the Corporation or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person that committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

SEC. 1148. REAL ESTATE LOAN PORTFOLIOS.

No Federal financial regulatory agency shall criticize an investment or a loan made by a federally insured depository institution or consider the loan to be nonperforming solely because the loan is made to or the investment is in commercial, residential, or industrial property, unless the loan or investment may affect the institution's safety and soundness.

SEC. 1149. SENSE OF THE CONGRESS REGARDING THE CREDIT CRUNCH.

(a) FINDINGS.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date, the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade from dramatic changes in tax rules.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) immediate and carefully coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors, and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate bad debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) foster a balanced regulatory environment among supervisors and examiners in the field with respect to commercial, multifamily and single-family real estate by ending market-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) promote a rational tax system for real estate owners and operators.

SEC. 1150. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS; SAFETY OF GOVERNMENT INVESTIGATORS.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 1151. TECHNICAL CORRECTIONS TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3(q)(2)(E), by striking "Depository Institutions Supervisory Act" and inserting "Financial Institutions Supervisory Act of 1966";

(2) in section 7(a)(8), by striking "the the" and inserting "the";

(3) in section 7(*l*)(7), by striking "the value of";

(4) in section 7(m)(5)(A), by striking "institution" the second time it appears;

(5) in the third sentence of section 8(a)(7), by striking "the period" the first time it appears;

(6) in paragraphs (3) and (4) of section 8(b), by striking "subsection (u)" and inserting "subsections (u) and (v)";

(7) in section 8(b)(6)(F), by inserting "appropriate" before "banking";

(8) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(9) in section 8(g)(2), by striking "depository institution" each time it appears and inserting "bank".

(10) in section 8(o), by striking "board of directors" each time it appears and inserting "Board of Directors";

VOL
137
PT
23
NO
21
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25
1991
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(11) in section 8(r)(2), by striking "therof" and inserting "thereof";

(12) in section 11(a)(2), by striking the designation "(b)" and inserting the designation "(B)";

(13) in section 11(c)(6)(B), by striking "Owner's" and inserting "Owners'";

(14) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(15) in section 11(d)(8)(B)(ii), by inserting "provide" after "disallowed,";

(16) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(17) in section 11(e)(12)(B), by striking "directors or officers" and inserting "directors' or officers'";

(18) in section 11(i)(3)(A), by striking "or" the last time it appears and inserting "of";

(19) in section 11(q)(1), by striking "decided" in the second sentence and inserting "held";

(20) in section 13(f)(6)(A), by striking "has in default" and inserting "is in default";

(21) in section 13(i), by redesignating paragraphs (11) and (13) as paragraphs (10) and (11), respectively;

(22) in section 18(k)(4)(C)(ii), by striking "Board" and inserting "Corporation";

(23) in section 30(e)(1)(A), by striking "venders" and inserting "vendors";

(24) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors"; and

(25) in section 34(a)(1)(A)(iii), by striking "and" and inserting "or".

SEC. . DISCRIMINATION AGAINST REORGANIZED DEBTORS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, United States Code, if, after confirmation of a plan or reorganization, such corporation would not otherwise be highly leveraged.".

At the appropriate place in the bill, insert the following:

SEC. . REAL ESTATE APPRAISAL PROCEDURES.

(a) Extension of Effective Date.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended.—

(1) by striking "July 1, 1991" and inserting "January 1, 1993"; and

(2) by striking paragraph (2) and inserting the following:

"(2) State requirements.—No State may require that appraisals in connection with federally related transactions be conducted by State certified or licensed appraisers prior to the date contained in paragraph (1).".

(b) Waiver Based on Shortage of Appraisers.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(1) by inserting "(1) In general.—" before "Subject to the approval of the Council";

(2) by inserting at the end of the first sentence the following: "or that there are other relevant reasons for such action";

(3) by striking the last sentence and inserting the following: "A waiver may be granted upon the motion of the State, a Federal agency, or a unit of general local government."; and

(4) by adding at the end the following:

"(2) Timing.—The Appraisal Subcommittee shall determine whether to grant a request by an agency, State, or unit of general local government for a waiver under paragraph (1) not later than 60 days after such request is submitted.

"(3) Duration.—A waiver granted under this subsection shall remain in effect for a period of 1 year.

"(4) Duplicative requests for waiver.—If a State is granted a waiver under this subsection, the Appraisal Subcommittee is not required to consider similar requests by units of general local government.

"(5) Regulations Relating to Waivers.—The Appraisal Subcommittee shall promulgate and implement regulations to carry out this subsection not later than March 31, 1992.".

(c) De Minimus Exception.—

(1) In general.—Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(A) by inserting "(a) In General.—" before "In determining"; and

(B) by adding at the end the following:

"(b) De Minimus Exception.—The Federal financial institutions regulatory agencies shall exempt from the requirement for an appraisal by a State certified or by a State licensed appraiser—

"(1) any 1- to 4-unit single family residential transaction having a value of $100,000 or less; and

"(2) any other transaction having a value of $200,000, or less;

except that such agencies may establish a different value for the purposes of paragraph (1) or (2) if such agencies determine that unique economic conditions, geographic considerations, or other factors make such action appropriate.

"(c) Home Equity Loans.—The Federal financial institutions regulatory agencies shall establish and implement a separate de minimus standard applicable to home equity loans not later than 6 months after the date of enactment of this subsection.".

At the end of S. 543, add the following three titles:

TITLE—

SECTION 1. TITLE.

This Title may be cited as the "World Cup USA 1994 Commemorative Coin Act".

SEC. 2. DENOMINATIONS.

(a) Five Dollar Gold Coins.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) One Dollar Silver Coins.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) Half Dollar Clad Coins.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) Legal Tender.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) Gold.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

(b) Silver.—The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN.

(a) Design Requirements.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation on the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(d) Design Competition.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the enactment of this Act. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 5. SALE OF COINS.

(a) Sale Price.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) Bulk Sales.—The Secretary shall make bulk sales at a reasonable discount.

(c) Prepared Orders at a Discount.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) Surcharge Required.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) World Cup Communities.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) International Sales.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

SEC. 6. ISSUANCE OF THE COINS.

(a) Period for Issuance.—The coins authorized under this Act shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) Proof and Uncirculated Coins.—The coins authorized under this Act shall be issued in uncirculated and proof qualities.

(c) Bureau of the Mint.—Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Organizing Committee. Such amounts shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with ten percent of such funds to be made available through the United States Soccer Federation Foundation, Inc. for distribution to institutions providing scholastic scholarships to qualified students.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) Not Net Cost.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) Payment Assurances.—No coin shall be issued under this act unless the Secretary has received—

(1) full payment therefore;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

SECTION 1. TITLE.

This Title may be cited as the "James Madison-Bill of Rights Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) Five Dollar Gold Coins.—

(1) Issuance.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) Design.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) One Dollar Silver Coins.—

(1) Issuance.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) Design.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) Half Dollar Silver Coins.—

(1) Issuance.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) Design.—The design of the half dollar silver coins shall be emblematic of first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) Inscriptions.—all coins minted and issued under this Act shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) Design Panel.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) Legal Tender.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) Gold.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) Silver.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)

SEC. 4. ISSUANCE OF COINS

(a) Five Dollar Coins.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) One Dollar Coins and Half Dollar Coins.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) Commencement of Issuance.—The coins authorized and minted under this Act may be issued beginning on January 1, 1993.

(d) Termination of Authority.—Coins may not be minted under this Act after December 31, 1993.

SEC. 5. SALE OF COINS.

(A) In General.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) Bulk Sales.—The Secretary shall make any bulk sales of the coins minted under this Act as a reasonable discount.

(c) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) Surcharges.—All sales of coins minted under this Act shall include a surcharge of $30 per coin for the five dollar coins, $6 coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. 6. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) Reports to Congress.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the committee on Banking, Finance, and Urban Affairs of the House of Representatives and the committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this Act during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994. All remaining funds from the sale of the coins authorized under this Act shall be deemed as surcharges and promptly be transmitted according to section 7 of this Act.

VOL 137 PT 23 NO 21–25 1991 UMI

SEC. 7. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. 8. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section 7 of this Act. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section 7 of this Act shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

- TITLE —

SECTION 1. TITLE.

This Title may be cited as the "White House Commemorative Coin Act of 1991".

SEC. 2. COIN SPECIFICATIONS.

(a) One Dollar Silver Coins.—

(1) Issuance.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall issue not more than 500,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(2) Design.—The design of such dollar coins shall be emblematic of the 200th anniversary of the laying of the cornerstone of the White House. On each such one dollar coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) Legal Tender.—The coins issued under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 5. SALE OF COINS.

(a) Sale of Coins.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) Bulk Sales.—The Secretary shall make bulk sales at a reasonable discount.

(c) Prepaid Orders at a Discount.—The Secretary shall accept prepaid orders for the coins prior to their issuance. Sales under this subsection shall be at a reasonable discount.

(c) Surcharge Required.—All sales shall include a surcharge of $10 per coin.

SEC. 6. ISSUANCE OF COINS.

(A) Period for Issuance.—The coins authorized under this Act—

(1) shall be issued beginning not later than May 1, 1992; and

(2) may not be issued after November 1, 1993.

(b) Proof and Uncirculated Qualities.—The coins authorized under this Act shall be issued in uncirculated and proof qualities, except that not more than 1 facility of the Bureau of the Mint may be used to strike any particular quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out this Act. Nothing in this section relieves any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins in accordance with section 5 shall be promptly paid by the Secretary to the White House Endowment Fund (hereafter referred to as the "Fund")—

(1) to supplement the Fund for an endowment to be used as a permanent source of support for the White House collection of fine art and historic furnishings; and

(2) to be used for the maintenance of the historic public rooms of the White House.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Fund as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized to be paid to the Fund under section 8 from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) Adequate Security for Payment Required.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefore;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured under the Federal Deposit Insurance Act or the National Credit Union Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

At the appropriate place in title XI of the bill, insert the following new sections:

SEC. 11—SENSE OF THE CONGRESS REGARDING COMPETITIVE SOLICITATION OF RESOLUTION PROPOSALS.

(a) In General.—It is the sense of the Congress that in order to minimize the cost to the insurance fund, the FDIC when resolving troubled insured depository institutions, should vigorously solicit competing proposals from a wide spectrum of potentially interested acquirers and investors and, in so doing, should use a competitive bidding framework that affords a fair and impartial opportunity for participation by qualified and interested acquirers and investors and that is designed to produce the lowest-cost transaction with respect to each particular institution.

(c) Documentation—The FDIC should document its evaluation of proposals by qualified acquirers or investors. Such documentation should include, but is not limited to,

(1) Reducing all last offers to comparables;

(2) Comparing all last offers using the same principles;

(3) Describing the assumptions used to compare, accept and/or reject any offer or last offer;

(4) Stating the reason(s) for cessation of negotiations with any potential acquirer or investor, if any; and

(5) Stating why the final agreement is the best obtainable by the FDIC.

Amendment intended to be proposed by Mr. Dodd:

At page 778, after line 5, insert the following:

"(c) Effectiveness of Amendments.—The authority provided under subsections (a) and (b) of this section may be exercised at any time following the expiration of 180 days from the date of enactment, provided that the Chairman of the Commission shall in connection with such exercise certify in writing, with explanation, to the President and the Congress, after consultation with the Director of the Office of Personnel Management, that:

(1) the Securities and Exchange Commission, with the assistance of the Office of Personnel Management, has attempted to solve the Commission's difficulties in recruitment and/or retention of high-quality personnel through use of the flexibilities provided by the Federal Employees Pay Comparability Act of 1990; and

(2) despite such attempt, the Securities and Exchange Commission is faced with continuing or serious difficulties in recruitment and/or retention of high-quality personnel.

HELMS (AND SMITH) AMENDMENT NOS. 1378 AND 1379

Mr. HELMS (for himself and Mr. Smith) proposed two amendments to the bill S. 543, supra, as follows:

Amendment No. 1378

At the end, add the following:

"SEC. . SANCTION FOR FINANCING CHINESE SLAVE LABOR.

(a) Sanction.—A foreign person which is a bank, financial institution, or insurer, and

any parent, subsidiary, affiliate and successor entity of that foreign person, shall be prohibited from conducting business in the United States if the President determines that on, or after the date of enactment, the foreign person has knowingly and materially contributed to the efforts of the People's Republic of China, to develop, produce, market, transport, or sell goods produced by forced or prison labor within the meaning of Section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307).

(b) Termination of Sanction.—A sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a) has ceased to aid or abet efforts by the People's Republic of China to develop, produce, market, transport, or sell goods produced by forced or prison labor.

(c) Waiver.—

(1) The President may waive the application of a sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which the sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(d) Definition.—For purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

Amendment No. 1379

At the end of title XI of the bill, insert the following:

SEC. 1138. SANCTION FOR FINANCING THE USE OR ACQUISITION OF CHEMICAL OR BIOLOGICAL WEAPONS.

Section 81 of the Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by amending subsection (c)(1) to read as follows:

"(c) Sanctions.—

"(1) Description of sanction.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, that—

"(A) the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3); and

"(B) the foreign person is prohibited from conducting business in the United States if the foreign person is a bank, financial institution, or insurer, or any subsidiary thereof, and if the President determines that the foreign person knowingly and materially contributed to the efforts of any foreign country, project, or entity described in subsection (a)(2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.".

D'AMATO AMENDMENT NO. 1380

Mr. GARN. (for Mr. D'Amato) proposed an amendment to the bill S. 543, supra, as follows:

At the appropriate place in the bill, insert the following section:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York that—

(1) were deposited by a charitable organization, as such term is defined by New York State law; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be considered to have been insured deposits, as such term is defined in section 3 of the Federal Deposit Insurance Act.

BRYAN (AND SMITH) AMENDMENT NO. 1381

Mr. RIEGLE (for Mr. Bryan, for himself and Mr. Smith) proposed an amendment to the bill S. 543, supra, as follows:

The Senate believes that the responsibility to establish national banking policy would rest with the Congress and not Federal financial regulatory agencies;

The Senate believes that this responsibility is especially true with regard to whether insured depository institutions, in particular, bank holding companies, should be permitted to engage in real estate brokerage; and

The Federal Reserve Board may, pursuant to section 4(c)(8) of the Bank Holding Company of 1956 (12 U.S.C. 1843(c)(8)), permit bank holding companies to engage in those non-banking activities which are "reasonably related to the business of banking or are a proper incident thereto;" and

The Senate believes that real estate, activities, other than those expressly approved for national banks pursuant to the National Bank Act, may not be directly related to the business of banking or incidental to banking, for purposes of the Bank Holding Company Act; and

Congress believes that Congress, not the regulatory avenue should determine whether or not bank holding companies should be permitted to engage in real estate brokerage.

Now, Therefore, it is the sense of the Senate that Congress, not the Federal Reserve Board should determine whether or not real estate brokerage is "closely related to banking" section 4(c)(8) of the Bank Holding Company Act of 1956.

KERRY AMENDMENT NO. 1382

Mr. RIEGLE (for Mr. Kerry) proposed an amendment to the bill S. 543, supra, as follows:

On page 262, between lines 13 and 14, insert the following new subparagraph:

"(E) Corporate equity securities.—Acquiring common and preferred shares listed on a national securities exchange and shares of an investment company registered under the Investment Company Act of 1940, in an aggregate amount not exceeding 50 percent of the bank's capital, if the bank was engaged in investing in such securities as of September 30, 1991. A bank shall not acquire common or preferred shares of any issuer (other than a registered investment company) if, after the acquisition, the bank's investment in shares of that issuer would exceed 10 percent of the bank's capital.

GRASSLEY (AND HARKIN) AMENDMENT NO. 1383

Mr. GRASSLEY (for himself and Mr. Harkin) proposed an amendment to the bill S. 543, supra, as follows:

Section 11 of the Federal Deposit Insurance Act is amended by adding a new paragraph (14) to subsection (e) as follows:

(14) Credit card sales.—

(A) Notification.—Any insured depository institution shall notify the Corporation in writing prior to entering into any agreement relating to the sale of credit card receivables, if the institution is:

(i) not in compliance with the minimum applicable core capital requirements; or

(ii) not adequately capitalized as defined in section 205 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(B) Waiver by the Corporation.—After receipt of the written notice required in subparagraph (A), the Corporation, in its sole discretion and upon such terms and conditions as it may prescribe, may waive its right to repudiate the agreement if the Corporation determines that such a waiver is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

(C) Rule of Construction.—Nothing in this paragraph shall be construed to limit the ability of the Corporation to otherwise waive its rights to repudiate any agreement or lease under this section.

(D) No breach of duty.—In granting any waiver of its right to repudiate a contract or lease, including any waiver granted under subparagraph (B), the Corporation, in any capacity, shall not be liable to any person for any damages as a result of such action nor shall any court have jurisdiction to enjoin, restrain or affect the exercise of such powers by the Corporation.

(E) Effect of waiver on successors.—Where the Corporation has waived its right to repudiate pursuant to subparagraph (B), any restriction contained or incorporated by reference in a sales agreement on the manner in which any customer or any list of customers of the selling institution may be solicited or otherwise dealt with shall be binding upon a receiver or conservator of the institution and the Corporation shall require any entity which subsequently purchases or acquires such selling institution, or substantially all of the assets or liabilities of such institution, to assume, and agree to be bound by, such restrictions on the manner in which any such customer or lists of customers of the selling institution may be solicited or otherwise dealt with, as if the acquiring entity were the selling institution; provided however, that nothing herein shall be read to inhibit or restrict such subsequently acquiring entity's ability to offer any service or product to any group of prospective customers as identified without use of or reference to any such prior customer status or list, or to require such entity to discontinue or restrict any of its preexisting customer relationships. Nothing herein shall apply to a transaction in which the Corporation arranges for a depository institution to purchase only insured deposits.

(F) Credit card customer list.—Notwithstanding any other provision of this paragraph (14), if any consummated agreement reached at arms length relating to the sale

VOL 137 PT 23 NO 21–25 1991 UMI

or transfer of credit card receivables by an insured depository institution provides for the sale of the exclusive use of any credit card customer list of the selling institution, the Corporation shall prohibit the use of such list by any person other than as provided by the terms of such previous agreement as part of any transaction undertaken pursuant to sections 11 or 13 of this Act.

(G) FRAUDULENT TRANSACTIONS EXCLUDED.—No provision of this paragraph shall be construed to interfere with the Corporation's rights to repudiate any contract undertaken with the intent to hinder, delay or defraud the institution, the creditors of such institution or the Corporation.

SUMMARY

This language amends subsection (e) of section 11 of the Federal Deposit Insurance Act to provide a mechanism for parties to credit card sale transactions to obtain a waiver of the ability of the FDIC to repudiate these transactions where the selling bank does not meet specified capital requirements. Subparagraph (C) clarifies that this amendment is not intended to prohibit the Corporation from granting waivers for other types of contracts.

Subparagrah (D) is intended to protect the Corporation from allegations that as conservator or receiver it has violated its fiduciary duty to all creditors by granting such a waiver prior to the failure of the insured depository institution. Without the protection afforded by subparagraph (D), the ability of the Corporation to grant such pre-closing waivers would be unduly hampered by risk of potential litigation claims.

Subparagraph (E) provides certain protections to purchasers of credit card receivables when the FDIC waives its rights to repudiate such agreement by effectively passing through to the successor of any failed institution any previously agreed to restrictions on the seller relating to its customers.

Subparagraph (F) would require the FDIC to prohibit the use of any credit card customer list of a failed institution if that list had previously been sold or transferred in an arms length transaction to another entity.

Subparagrpah (G) protects the Corporation from any agreements that are designed to hinder, delay or defraud the depository institution, its creditors, or the Corporation.

GORE (AND DECONCINI) AMENDMENT NO. 1384

Mr. GORE (for himself and Mr. DECONCINI) proposed an amendment to the bill S. 543, supra, as follows:

Expressing the sense of the Senate regarding United States policy toward Yugoslavia.

Since attacks against the people and territory of the Republic of Croatia by armed forces responding to direction from the Republic of Serbia are continuing despite numerous cease-fire agreements negotiated under the auspices of the European Community:

Since losses of life, property, and displacement of persons have already reached grievous levels and are continuing to rise as the result of continued violation of cease-fires;

Since attacks against the Republic of Croatia represent an effort to change postwar borders by force; and

Since it is a fundamental principle essential for the future peace of Europe that borders not be changed by force: therefore, it is the sense of the Senate that, if the Croatian government adheres in good faith to the terms of cease-fires negotiated by the European Community, and if those parties now conducting military operations against the Republic of Croatia refuse to comply immediately with the terms of such cease-fires, the policy of the United States should be—

(1) to consult promptly with the EC, with other countries on a bilateral basis, and with the United Nations on the question of recognizing, upon request, those Republics such as Slovenia and Croatia that have declared their sovereignty and independence and have agreed to cooperate with EC efforts;

(2) to take whatever steps are needed under existing legal authorities to bring the United States into conformity with sanctions and other punitive measures agreed to by the EC for its own members and recommended by them for others, and to take action parallel to those proposed by the EC for applying "positive compensatory measures" to be applied to those parties that "cooperate in a peaceful way towards a comprehensive political solution on the basis of EC proposals;"

(3) to offer humanitarian assistance to those republics that require such assistance on an emergency basis in light of conflict taking place on their territories;

(4) to place the Republic of Serbia on notice that continued military action will cause the United States to support EC efforts to call for mandatory U.N. Security Council measures as a response to an act of aggression;

(5) to require of all authorities a clear and binding commitment to protect the rights of minorities living within the borders mutually recognized by the republics and provinces of Yugoslavia in 1974 and to seek formal commitment on their part to accept international inspection and, if necessary, arbitration, to protect those rights; and

(6) to lend strong support to all EC and other international activities aimed at bringing about a restoration of peace and respect for the principle that territorial disputes shall not be settled by the use of violence.

NATIONAL ACADEMIC REPORT CARD ACT

HATFIELD AMENDMENT NO. 1385

Mr. HATFIELD proposed an amendment to the bill (S. 2) to promote the achievement of National Education Goals, to establish a National Council on Educational Goals and an Academic Report Card to measure progress on the goals, and to promote literacy in the United States, and for other purposes, as follows:

On page 56, between lines 19 and 20, insert the following:

TITLE III—ELEMENTARY SCIENCE FACILITIES PROGRAM

SEC. 301. SHORT TITLE.

This title may be cited as the "Elementary Science Facilities Act".

SEC. 302. STATEMENT OF PURPOSE.

It is the purpose of this title to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

SEC. 303. PROGRAM AUTHORIZED.

The Secretary is authorized to make allotments to state educational agencies under section 304 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

SEC. 304. ALLOTMENTS OF FUNDS.

(a) IN GENERAL.—From the amount appropriated under section 310 for any fiscal year, the Secretary shall reserve—

(1) not more than ½ of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau according to their respective needs for assistance under this title; and

(2) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this title.

(b) ALLOTMENT.—From the amount not reserved pursuant to subsection (a), the Secretary shall allot among State educational agencies as follows:

(1) One-half of such remainder shall be distributed among the State educational agencies by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 11, inclusive, in the State bears to the number of such children in all States.

(2) One-half of such remainder shall be distributed among the State educational agencies according to each State's share of allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(c) DEFINITIONS.—For the purposes of this title the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) DATA.—The number of children aged 5 to 11, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

SEC. 305. STATE APPLICATION.

(a) APPLICATION.—Each State educational agency desiring to receive an allotment under this title shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENT OF APPLICATION.—Each application described in subsection (a) shall—

(1) provide assurances that—

(A) the State educational agency shall use the allotment provided under this title to award grants to local educational agencies within the State to enable such local educational agencies to carry out the purpose of this title;

(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

(C) every elementary school in the State is eligible to receive a grant under this title once over the 3-year duration of the program assisted under this title;

(D) funds provided under this title will supplement, not supplant, State and local funds made available for activities authorized under this title;

(E) during the 3-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

(F) the State educational agency will take into account the needs for greater access to

and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and individuals with disabilities; and

(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in awarding grants under this title;

(2) provide, if appropriate, a description of how funds paid under this title will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(3) describe procedures—

(A) for submitting applications for programs described in sections 306 and 307 for distribution of payments under this title within the State; and

(B) for approval of applicants by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

SEC. 306. LOCAL APPLICATION.

(a) APPLICATION.—A local educational agency that desires to receive a grant under this title shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for only one grant under this title.

(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this title to meet the purpose of this title;

(2) include assurances that the local educational agency shall match on a dollar-for-dollar basis the funds received under this title;

(3) describe, if applicable, how funds under this title will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics;

(4) describe the process which will be used to determine different levels of grant amounts to be awarded to schools with different needs.

(c) PRIORITY.—In awarding grants, the State educational agency shall give priority to applications that—

(1) assign highest priority to schools which are most seriously under-equipped;

(2) are attentive to the needs of underrepresented groups in science and mathematics;

(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning of implementation and teacher training support hands-on laboratory activities; and

(4) include plans for dissemination of lessons and activities using grant equipment and materials to teachers in schools not receiving grants.

SEC. 307. PARTICIPATION OF PRIVATE SCHOOLS.

(a) PARTICIPATION OF PRIVATE SCHOOLS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary schools, such State educational agency shall, after consultation with appropriate private school representatives, make provision for providing funds under this title as will assure the equitable participation of such private schools in the purposes and benefits of this title.

(b) WAIVER.—If by reason of any provision of State law of local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsection (a), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers.

SEC. 308. PROGRAM REQUIREMENTS.

(a) COORDINATION.—Each State educational agency receiving a grant under this title shall—

(1) disseminate information to school districts and schools, including private schools, regarding the grant program;

(2) evaluate applications of local educational agencies;

(3) award grants to local educational agencies based on the priorities described in section 306(c); and

(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

(b) LIMITATIONS ON USE OF FUNDS.—

(1) IN GENERAL.—Grant funds and matching funds under this title only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, text-books, or staff development costs.

(2) CAPITAL IMPROVEMENTS.—Grant funds under this title may not be used for capital improvements. No more than 50 percent of matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this title is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

SEC. 309. FEDERAL ADMINISTRATION.

(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this title, shall develop procedures for State and local evaluations of the programs under this title.

(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this title.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 for each of fiscal years 1993, 1994 and 1995 to carry out this title.

On page 2, after the item relating to section 212, insert the following:

TITLE III—ELEMENTARY SCIENCE FACILITIES PROGRAM

Sec. 301. Short title.
Sec. 302. Statement of purpose.
Sec. 303. Program authorized.
Sec. 304. Allotments of funds.
Sec. 305. State application.
Sec. 306. Local application.
Sec. 307. Participation of private schools.
Sec. 308. Program requirements.
Sec. 309. Federal administration.
Sec. 310. Authorization of appropriations.

On page 2, redesignate the item relating to "TITLE III" as the item relating to "TITLE IV".

On page 2, redesignate the item relating to section "301" as the item relating to section "401".

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

DECONCINI AMENDMENT NO. 1386

Mr. LEVIN (for Mr. DECONCINI) proposed an amendment to the bill (S. 1176) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purpose; as follows:

On page 2, line 8, strike "and".

On page 2, between lines 8 and 9, insert the following:

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

On page 2, line 9, strike "(3)" and insert "(4)".

On page 4, strike lines 15 through 19, and insert the following:

who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

On page 7, line 17, strike "and" after the semicolon.

On page 7, line 19, strike the period and insert a semicolon and "and".

On page 7, between lines 19 and 20, insert the following:

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

On page 8, line 14, insert "and Native American and Alaska Native health care and tribal public policy" before the period.

On page 8, line 20, insert "and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy" before the period.

On page 9, line 19, insert "and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy," after "environment".

On page 10, line 1, strike "Deserving" and insert "deserving".

On page 10, line 4, strike the period and insert a semicolon and "and".

On page 10, between lines 4 and 5, insert the following:

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

On page 10, line 11, strike "and".

On page 10, between lines 11 and 12, insert the following:

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues.

On page 10, line 12, strike "(C)" and insert "(D)".

VOL
137
PT
23
NO
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25
1991
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COAST GUARD AUTHORIZATION ACT

HOLLINGS (AND STEVENS) AMENDMENT NO. 1387

Mr. LEVIN (for Mr. HOLLINGS, for himself and Mr. Stevens) proposed an amendment to the bill (S. 1297) to authorize appropriations for the Coast Guard for fiscal years 1992 and 1993, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Coast Guard Authorization Act of 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) AUTHORIZATIONS FOR FISCAL YEAR 1992.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1992, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000; of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund; of which not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C. 262a); and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $452,000,000, to remain available until expended, of which $29,000,000 shall be used to acquire a new command and control aircraft and of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(b) AUTHORIZATIONS FOR FISCAL YEAR 1993.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000, of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $423,000,000, to remain available until expended, of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,000,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(c) ACQUISITION OF OIL RECOVERY SYSTEMS.—Funds authorized to be appropriated under subsection (a)(2) or (b)(2) for the construction of any new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(d) COMMAND AND CONTROL AIRCRAFT ACQUISITION.—(1) Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") may submit a request for reprogramming of funds in order to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for congressional review of appropriations reprogramming requests. Subject to such reprogramming procedures—

(A) the Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for the multiyear lease but not for the purchase of aircraft; and

(B) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(2) The Coast Guard may transfer the current command and control aircraft to the vendor of any replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and the proceeds applied toward such purchase, lease, or lease with option to purchase.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992

SEC. 3.(a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1993

SEC. 4.(a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

RETIREMENT OF REAR ADMIRALS

SEC. 5.(a) IN GENERAL.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and inserting in lieu thereof "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and inserting in lieu thereof the following new subsections:

"(f)(1) Unless retired under some other provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under some other provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b) TECHNICAL AMENDMENTS.—(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and inserting in lieu thereof "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

ENLISTED PERSONNEL BOARDS

SEC. 6.(a) IN GENERAL.—Section 357 of title 14, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Enlisted Personnel Boards shall be convened at such times as the Commandant may prescribe to review the records of enlisted members who have 20 or more years of active military service.";

(2) in subsection (b), by striking "retired from active duty by the Commandant pursuant to the action of an Enlisted Personnel Board" and inserting in lieu thereof "involuntarily retired by the Commandant";

(3) by redesignating subsections (b) and (c) as subsections (h) and (i), respectively; and

(4) by inserting immediately after subsection (a) the following new subsections:

"(b) Enlisted members who have 20 or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired upon recommendation of a Board—

"(1) because the member's performance is below the standards prescribed by the Commandant, or

"(2) because of moral or professional dereliction.

"(c) Each enlisted member considered for involuntary retirement shall be—

"(1) notified in writing of the reasons for which the member is being considered for involuntary retirement;

"(2) allowed 30 days to submit any matters in rebuttal;

"(3) provided counsel, certified in accordance with section 827(b) of title 10, to assist with the preparation of the rebuttal submitted pursuant to paragraph (2); and

"(4) allowed full access to and furnished copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted pursuant to paragraph (2).

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of Commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who have 20 or more years of active service and have been considered for involuntary retirement who, in its discretion, it determines should be involuntarily retired.

"(f) If the Commandant approves the recommendation of the Board, the enlisted member shall be notified of the decision of the Commandant and shall be retired from the service within 90 days after such notification.

"(g) This section is not applicable to reductions in force ordered by the Secretary.".

(b) TECHNICAL AMENDMENTS.—(1) The catchline to section 357 of title 14, United States Code, is amended by striking "Enlisted Personnel Board" and inserting in lieu thereof "Involuntary retirement of enlisted members".

(2) The item relating to section 357 in the analysis of chapter 11 of title 14, United States Code, is amended to read as follows:

"357. Involuntary retirement of enlisted members.".

AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE

SEC. 7. Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (q);

(2) by striking the period at the end of the first subsection (r) and inserting in lieu thereof "; and";

(3) by striking the second subsection (r); and

(4) by adding at the end the following new subsection:

"(s) accept and utilize, under such terms and conditions as are deemed advisable by the Commandant, services of individuals performing community service under the order of a Federal, State, or municipal court.".

HOUSING UNIT LEASE AUTHORITY

SEC. 8.(a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of 1 fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION AND RENOVATION OF HOUSING UNITS.—Beginning in fiscal year 1991 the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of such Massachusetts Military Reservation.

AIR FACILITIES LEASE AUTHORITY

SEC. 9.(a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of 1 fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriation Acts.

(b) EXPENDITURES ON CONSTRUCTION OF FACILITY.—Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

COAST GUARD HOUSING STUDY

SEC. 10. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

COAST GUARD ACADEMY ADVISORY COMMITTEE

SEC. 11. Section 193 of title 14, United States Code, is amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

JOHN F. LIMEHOUSE MEMORIAL BRIDGE

SEC. 12. Notwithstanding any other law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

NATIONAL BOATING SAFETY ADVISORY COUNCIL

SEC. 13. Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1996".

EMERGENCY RECALL OF RESERVISTS

SEC. 14. Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than 30 days in any four-month period and not more than sixty days in any two-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

RECALL OF RETIRED OFFICERS

SEC. 15.(a) INCREASE IN PERCENTAGE LIMITATION.—Section 332(b) of title 14, United States Code, is amended by striking "1" and inserting in lieu thereof "2".

(b) TECHNICAL AMENDMENTS.—Section 332(a) of title 14, United States Code, is amended by striking "his" and inserting in lieu thereof "that officer's" and by striking "he" and inserting in lieu thereof "that officer".

AMENDMENT OF INLAND NAVIGATIONAL RULES

SEC. 16. Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

REQUIREMENTS FOR CERTAIN VESSELS

SEC. 17. Section 3503 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "November 1, 1993" and inserting in lieu thereof "November 1, 1998"; and

(2) in subsection (b)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations shall comply with any noncombustible material requirements (which shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public) that the coast Guard prescribes for nonpublic spaces.".

STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS

SEC. 18. Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced

VOL 137 PT 23 NO 21—25 1991 UMI

and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE

Sec. 19. (a) Conveyance of Lighthouse.—(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) Terms and Conditions.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(d) Definition.—For purposes of this section, the term "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE

Sec. 20. (a) Conveyance of Lighthouse.—(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) Terms and Conditions.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) Definition.—For purposes of this section, the term "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit.

OREGON OIL SPILL RESPONSE STUDY

Sec. 21. Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

COAST GUARD CUTTER MACKINAW RENOVATION

Sec. 22. Before October 1, 1992, the Secretary shall use such funds as may be necessary, up to $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter *Mackinaw*.

EXTENSION OF FISHING VESSEL ADVISORY COMMITTEE

Sec. 23. Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and inserting in lieu thereof "1994".

DECLARATION OF NONNAVIGABILITY WITH RESPECT TO APPOMATTOX RIVER, VIRGINIA

Sec. 24. The portion of the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, extending 500 feet upstream and downstream from the Brasfield Dam (at 37 degrees 13 minutes 14 seconds north latitude, 77 degrees 31 minutes 31 seconds west longitude) is declared not to be navigable water within the meaning of the Constitution and laws of the United States, and not to be water affecting navigable waters of the United States or interstate or foreign commerce, except for purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

BRIDGE ACROSS WAPPINGER CREEK, NEW YORK

Sec. 25. Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0, at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401); section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA

Sec. 26. The Secretary, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA

Sec. 27.(2) Transfer of Property.—Notwithstanding any other law, the Secretary shall transfer without consideration to the County of Charleston all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b), subject to existing easements and restrictions of record. The transferee shall pay for all conveyance costs.

(b) Description.—The property to be transferred under subsection (a) is described as commencing at a point in the center of United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due

south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30 seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights of way connected therewith, extending from the Government's property at the east end of Folly Island to such power line's connection with the South Carolina Power Company's power line at Folly Beach.

REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS

Sec. 28. Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"Sec. 7.(a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regulations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality, or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States; or

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States,

shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purpose.".

AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION 1989

Sec. 29.(a) Payment to Salvors of Life.—Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" and inserting in lieu thereof "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) Technical Amendment.—Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and inserting in lieu thereof "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code,".

TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES

Sec. 30.(a) Conveyance of Lighthouses.—(1) The Secretary may convey by any appropriate means to the State of Oregon all rights, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) Terms and Conditions.—(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all rights, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) Definitions.—For purposes of this section—

(1) the term "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon; and

(2) the term "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Cape Blanco, Oregon.

CONVEYANCE OF WHITE ISLAND LIGHTHOUSE

Sec. 31.(a) Conveyance of Lighthouse.—(1) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) Terms and Conditions.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration;

(B) subject to such terms and conditions as the Secretary may consider appropriate; and

(C) the Coast Guard will complete its cleanup of the oil seepage on White Island and take any necessary measures to prevent further pollution.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) There is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) Definition.—For the purpose of this section, the term "White Island Lighthouse" means the Coast Guard lighthouse located at White Island, Isles of Shoals, New Hampshire, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

TRANSFER AT JUNEAU, ALASKA

Sec. 32.(a) Transfer by Secretary.—Notwithstanding any other provision of law, the Secretary shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) Availability to National Oceanic and Atmospheric Administration.—The Secretary of Commerce shall make the property

VOL
137
PT
23
NO
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25
1991
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transferred under this section available to the National Oceanic and Atmospheric Administration.

SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES

SEC. 33.(a) FINDINGS.—The Congress finds that

(1) The Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was mandated by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-397);

(2) recreational boaters who are required to pay this fee may not receive any direct service and cannot expect to receive any additional service in return for payment of the fee;

(3) recreational boaters already pay a motorboat fuel tax; and

(4) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the requirement that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of offsetting receipts in order to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II

SEC. 34.(a) AUTHORITY TO ISSUE CERTIFICATE.—Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Mayflower II*, owned by Plymouth Plantation, Inc. (a corporation under the laws of Massachusetts).

(b) EXEMPTION FROM CERTAIN REQUIREMENTS.—(1) The Secretary may exempt the vessel *Mayflower II* from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under any law codified in title 33, United States Code.

(2) If the Secretary exempts the vessel from any requirement under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

JONES ACT WAIVERS FOR CERTAIN VESSELS

SEC. 35. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) *Miss Lelia*, United States official number 577213.

(2) *Billfish*, United States official number 920896.

(3) *Marsh Grass III*, United States official number 963616.

BENTSEN AMENDMENT NO. 1388

Mr. LEVIN (for Mr. BENTSEN) proposed an amendment to amendment No. 1387 proposed by Mr. Levin (for Mr. HOLLINGS) to the bill S. 1297, supra; as follows:

At the appropriate place, insert the following:

DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS

SEC. . (a) AREA TO BE DECLARED NONNAVIGABLE.—Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east, 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet past the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 second west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 second west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 second west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of an out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds are follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the city of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15, 171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west, a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities, and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance at 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) AREAS EXCLUDED FROM DECLARATION OF NONNAVIGABILITY.—Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit "B" of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly known as the Rivers and Harbors Appropriation Act of 1899; 33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) *Expiration Date.*—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within 5 years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

BREAUX AMENDMENT NO. 1389

Mr. LEVIN (for Mr. BREAUX) proposed an amendment to amendment No. 1387 proposed by Mr. LEVIN (for Mr. HOLLINGS) to the bill S. 1297, supra, as follows:

At the appropriate place, insert the following new section:

NATIONAL MARITIME ENHANCEMENT INSTITUTES

SEC. . Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121-2(e)), is amended by striking "$100,000" and inserting in lieu thereof "$500,000".

CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

PELL AMENDMENT NO. 1390

Mr. LEVIN (for Mr. PELL) proposed an amendment to the concurrent resolution (S. Con. Res. 77) condemning the massacre of East Timorese civilians by the Indonesia military, as follows:

(a) FINDINGS.—The Congress finds that—

(1) On November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from the New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50 million in FY 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor the American ambassador to indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Sub-

during the session of the Senate on eral judicial districts in our Nation. As There have been great changes in the

VOL 137
PT 23
NO 21—25
1991
UMI

committee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, November 21, beginning at 9:30 a.m., to conduct a hearing on international nuclear safety standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS AND SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs jointly with the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Regulations be authorized to meet during the session of the Senate on Thursday, November 21, at 1:30 p.m., to hold a hearing entitled, "Broadcasting to China: Applying the Lessons from the European Freedom Radios".

COMMITTEE ON FOREIGN RELATIONS

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 2 p.m., to hold hearings on ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, November 21, at 9 a.m., to hold a hearing on the narcotics and foreign policy implications of the BCCI affair.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 A.M., November 21, 1991, to receive testimony on the effect of Foreign Service plan and timber sale appeals on timber supply.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 21, at 10 a.m., to hold an executive business meeting.

I. NOMINATIONS

United States District Judges

Monti L. Belot, of Kansas, to be United States District Judge for the District of Kansas.

David A. Faber, of West Virginia, to be United States District Judge for the Southern District of West Virginia.

Edith Brown Clement, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Sam Sparks, of Texas, to be United States District Judge for the Western District of Texas.

Anne C. Conway, of Florida, to be United States District Judge for the Middle District of Florida.

United States Department of Justice

William Ho-Gonzalez, of Virginia, to be Special Counsel for Immigration-Related Unfair Employment Practices.

II. BILLS

S. 793. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes—DeConcini.

S. 313. A bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from a person who engages in torture extra judicial killing—Specter.

S. 826. A bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purpose—Heflin.

S. 474. A bill to prohibit sports gambling under state law—DeConcini.

S. 758. A bill to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity—DeConcini.

S. 759. A bill to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity—DeConcini.

S. 654. A bill to amend title 35, United States Code, with respect to patents on certain processes (as amended by subcommittee)—DeConcini.

S. 1521. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material—McConnell.

S. 580. A bill to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons—Bentsen.

S. 120. A bill for the relief of Timothy Bostock (as amended by subcommittee)—Inouye.

S. 800. A bill for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini—Packwood.

S. 1776. A bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants—Kennedy.

S. 1941. A bill to amend the Immigration and Nationality Act for the purpose of reforming procedures for the resettlement of refugees of the United States—Kennedy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 21, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on S. 1705, a bill to resolve claims of the Sisseton-Wahpeton Sioux Tribe of South Dakota, the Devils Lake Sioux Tribe of North Dakota, and the Sisseton-Wahpeton Sioux Council of the Assiniboine Sioux Tribe of Montana arising out of a judgment fund distribution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, November 21, 1991, at 9:30 a.m. The Committee will hold a full Committee hearing on business and investment opportunities in Eastern Europe, the Baltic States, and the Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 4 p.m., to hold a closed hearing with former Ambassador to Iraq, April Glaspie.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 6 p.m., to hold ambassadorial nominations hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 3:30 p.m., to hold a hearing on an ambassadorial nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 21, at 10 a.m., to hold a hearing on the international covenant on civil and political rights—Executive E, 95–2.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet

during the session of the Senate on Thursday, November 21, at 8 a.m., to hold a hearing on whether the Senate should proceed to investigate circumstances surrounding the release of the American hostages in 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Thursday, November 21, 1991, at 4 p.m., to consider the nomination of Leo P. Duffy to be Assistant Secretary of Energy for Environmental Restoration and Waste Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed session on Thursday, November 21, 1991, at 9:30 a.m., to discuss the fiscal year 1992 defense appropriations bill conference report and to continue to discuss Air Force nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, November 21, 1991, at 9:30 a.m., for a hearing on Finding Medical Cures: The Promise of Fetal Tissue Research.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IN RECOGNITION OF THE CONFIRMATION OF RICHARD CULLEN TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF VIRGINIA

• Mr. WARNER. Mr. President, I am extremely pleased to have this opportunity to take special note of the recent confirmation of Richard Cullen to be the U.S. attorney for the Eastern District of Virginia.

Richard is a highly qualified, successful attorney who will bring considerable talent and expertise to the position. His long tenure with the Richmond-based law firm of McGuire, Woods, Battle & Boothe—where he was a partner for the past 6 years—is testimony to his ability as a litigator. With his other professional experience and strong educational background, he brings with him facility as a scholar, adviser, and manager.

The eastern district, which extends from Washington's Virginia suburbs, south to Richmond and on to Tidewater, is one of the most active Federal judicial districts in our Nation. As U.S. attorney, Richard will be faced with the daunting task of dealing with an ever-increasing volume of cases, many of which address the most poignant issues of our day. The illicit drug trade continues to rank as a special challenge—one reason why the U.S. attorney's office now includes almost 90 lawyers. Fortunately, I can report, Mr. President, that cooperation among Federal, State, and local law enforcement officials is strong in the eastern district, which is a key to success in the fight against crime. Richard Cullen is dedicated to fostering that cooperation.

In one respect, the eastern district is one of the most important jurisdictions in the Nation: It counts both the headquarters of the Central Intelligence Agency and the Pentagon among its clients. I could not be more confident of a person's ability to meet the needs of those institutions, as well as to deal fairly with all Virginians, than I am of Richard's. In fact, as interim U.S. attorney for the past month, he has already begun to demonstrate that ability.

Like many of my colleagues, Mr. President, I invest considerable time and care in the task of identifying and recommending highly qualified individuals in my State to serve as Federal officials or on the Federal bench. These positions are of crucial importance to the lives and liberties of all of us. It is particularly gratifying to me, therefore, to have recommended— and to have seen nominated by the President and confirmed by the Senate—someone whose work I so highly respect and whose company I so very much enjoy.

I have the highest personal regard for Richard, and I look forward to working with him and observing his many future successes.•

THE CONGRESSIONAL CALL TO CONSCIENCE

• Mr. LEVIN. Mr. President, I bring to the attention of the Senate the case of Yan Satanovsky of Moscow, a Soviet Jew who has sought to emigrate since 1979.

When Mr. Satanovsky and his family first applied for permission to emigrate to Israel, they were refused on the grounds of secrecy. They were refused repeatedly, most recently in June of 1990 when their appeal to the Weapons Ministry of the Soviet Government was turned down. But, Mr. President, the secret work for which Mr. Satanovsky was denied permission to emigrate was his job at the Ministry of Machine Building, a job he left in 1974.

It has now been 17 years since Mr. Satanovsky supposedly had access to secrets and 12 years since he first applied to emigrate. He has the dubious distinction of being possibly the oldest active refusenik case.

There have been great changes in the former Soviet Union during the past few years. The movement of Soviet Jews is truly an exodus of Biblical proportions. New laws on immigration have been enacted, but not fully implemented. There are still practices which are inconsistent with the new law. And even though they have set a 5-year limit on secrecy, there are two problems in the case of the Satanovsky family: the secrecy limitation law will not be implemented until January 1, 1993, and, the law has a clause that allows individual cases to be stretched out for prolonged periods.

Mr. President, I hope the case of the Satanovsky family is resolved soon. I hope the leaders of the new central government of the former Soviet Union, who have become more willing to recognize human rights, will acknowledge the injustice being done to this family. I hope that my colleagues will understand that there is still a need for vigilance and still a need for action until all refuseniks have been allowed to emigrate.•

SMALL TOWN TRIUMPH

• Mr. SYMMS. Mr. President, today I rise to bring to the attention of my colleagues the innovative solution one rural community has found to help solve the rural health care crisis. Like most rural communities, Weiser, ID, is facing tremendous challenges to their efforts to provide adequate health care to its residents. Weiser's problems were exacerbated by the retirement of two physicians who had served their community for many years.

Mr. President, I ask that the very interesting article from the November 11, 1991 edition of the American Medical (Association) News be printed in the RECORD so it is available for people who share my concern over conditional of rural health care today.

Although I have introduced legislation to assist rural communities, and we have had some success in leveling the playing field, so to speak. Rural Americans still face tremendous obstacles in assuring that they will have adequate medical care.

The people of Weiser, a community near my hometown in southwest Idaho, took matters into their own hands—and succeeded.

The article follows:

SMALL TOWN TRIUMPH

(By Arnold Q. Collins)

WEISER, ID.—When this farm town of 4,700 signed a new physician in mid-October, hospital and town officials were in a celebratory mood.

The contract signing, at the polished dining table of Weiser's foremost bed-and-breakfast inn, ended a three-year search for a family physician. It punctuated an outpouring of community spirit and small-town hoopla that had buoyed Deland Barr, DO, and his wife, Salley, through a four-day visit to western Idaho.

VOL
137
PT
23
NO
21
—
25
1991
UMI

Dr. Barr, of Wellington, Kan., was the answer to Weiser's prayers. An experienced family physician, he delights in doing obstetrics and was willing to cover the emergency room at the 27-bed Weiser Memorial Hospital.

Dr. Barr, 40, is a good-humored man, of stocky build, bearded and balding. He is leaving a successful practice in the flatlands of Kansas because "at 40 you stop and take a look at your life." He and his wife had always dreamed of living near mountains. In Weiser, the mountains begin just north of the potato and onion fields. Of his new, two-year contract. Dr. Barr says he's had "more misgivings signing house loans than doing this."

Administrator Phil Lowe of Memorial Hospital calls Dr. Barr "a natural, a perfect fit." Salley Barr, hoping to complete a master's in social work, has been offered employment at the hospital.

But the match-up didn't come easily. For three years, Weiser worried, planned, educated, raised funds and searched.

Weiser, named for a member of the Lewis and Clark expedition (and pronounced to rhyme with "Caesar"), is on the Snake River, which separates Idaho from Oregon. It is the largest of three towns in Washington County and has the only hospital, which serves 8,500 county residents and 1,500 inhabitants of adjacent Malheur County, Ore.

Of the three physicians practicing in town, two are about to retire. A third, Bryan Drake, DO, knew he could not handle the patient load and said he would leave unless help could be found. "Everyone was telling me, 'That's the best of all possible worlds—you'll make money hand over fist,'" says Dr. Drake, who is 38. "But you burn out and leave, and it's not healthy for the patients either, to be herded through like cattle and not well taken care of."

If Dr. Drake had left, only one physician would have remained in the county and he, too, is nearing retirement.

In 1988, shortly after his arrival in Weiser, Lowe identified the physician crunch as the hospital's No. 1 priority. With no doctors, the hospital would close and patients would have to travel to Ontario, Ore., 20 miles away, a hardship to the many elderly residents and a danger in cases of farming accidents and other emergencies.

In addition, the county's Economic Development Commission projected that a loss of physicians would depress the economy. Weiser Care, the town's nursing home, and Weiser Shelter Home, its retirement village, both depend on the town's doctors and, with the hospital, provide 132 jobs, with an annual payroll of $1.5 million.

For a year, the hospital sought a physician unsuccessfully. "We have all of these attractions—skiing, hunting, fishing, boating and camping," Lowe says. "But I can give you examples of hospitals that tried [marketing] the same things—and they're closed."

In January 1989, the hospital formed a physician-recruitment committee. Chaired by Lowe, it included a county commissioner, city attorney, liaison member from the northern part of the county, local business owners, clergy and the superintendent of schools.

Town meetings were held and residents made donations to a physician-recruitment fund, to be used for search fees, mailings and entertaining possible recruits. There were fund-raising car washes, sales of baked goods and Christmas trees, and canvasses of local businesses.

The committee contacted the Rural Health Education Center in Boise, a private nonprofit corporation providing consultation to rural areas. The center searched its database and provided 40 to 50 names. Three were considered suitable for practice in Weiser and were brought in for interviews, but none of the meetings produced a solid candidate. For its services, the center charges a $500 annual subscription fee, plus $6,000 to $8,000 for a successful placement.

But Weiser, by its organization and persistence, ran into a stroke of good luck. In June it was chosen by Merritt, Hawkins & Associates of Irving, Texas, a large, retained-consultant firm, as recipient of Merrit, Hawkins' first annual pro bono search.

The company cited Weiser's "most complete and impressive" application, which included a chronology of the community's efforts to find a physician, testimony from former patients who had undergone life-saving interventions at Memorial Hospital and letters of support from an array of officials including U.S. senators and representatives.

The award put an 80-person national firm in Weiser's corner while saving the town the $17,000 to $20,000 in fees that Merritt Hawkins normally charges for its services.

Company officials say their success rate is 90%—compared with an industry-wide rate of about 48%—largely because they refuse to work with towns where the physician compensation package is too low.

Dr. Barr had contacted Merritt Hawkins looking for a job in Colorado or another place where he could ski. His wife, though born in South Carolina, had spent some childhood years living in the Himalayas, so was more than ready to introduce their three sons to the mountains of Idaho.

The search firm's chief officer, Joseph Hawkins, emphasizes that Dr. Barr was a real find. "Imagine a family practitioner making $120,000-plus. Ask him to move to the middle of nowhere, to a hospital that might be closed in five years."

During an initial trip to Idaho, the Barrs were greeted by signs and banners, treated to receptions and barbecues, and taken sightseeing. They experienced the town's hospitality—and its concern, says county development aide Jeanette Anderson. "Without doctors, this town would just fall. We can't imagine a worse situation."

The subsequent, contract-clinching visit came Oct. 17–20, homecoming weekend at Weiser High School.

Accompanied by a team of Merritt Hawkins consultants, the Barrs toured the hospital and met with Edward R. Wheeler, MD, the retiring physician whose practice Dr. Barr will take over after an initial period of partnership. "I met a laid-back guy pretty much like myself," Dr. Barr says. "I just knew we could work together."

The couple moved on to a luncheon in the downtown mini-mall, accepted salutes in the homecoming parade, toured again, and were feted at a barbecue replete with country fiddlers. Later they were singled out for applause during the victorious football game.

Weiser's real victory came the next morning when Dr. Barr signed a contract in which the hospital guaranteed him $430,000 a year for two years—28.5 percent more than the national average for family physicians. Says Dr. Wheeler, "He has common sense. Weiser needs him. I think he'll do fine."

The national news media covered the event, a source of amusement to Dr. Barr. "Its a real big deal," he says, "about someone who's just looking for a job."

But the attention reflects the critical state of the physician shortage in rural communities. Weiser's successful search does provide a few clues for other underserved areas: The town used a provident and businesslike approach, rallied community support, employed a search agency and offered a generous financial package.

However, the odds against small rural communities are mounting. The current shortfall of rural physicians is estimated at 11,142 by the National Rural Health Assn. and the pool of rural doctors in diminishing, with an estimated 26% nearing retirement.

Meanwhile, only 1.5% of medical students graduating last year declared an interest in rural practice, according to the Assn. of American Medical Colleges.

Making matters worse, few physicians seem willing to relocate from cities to rural areas. In rural recruitment, "there is a certain amount of robbing Peter to pay Paul," admits Merritt Hawkins information aide Phil Miller. "We'd like to take them from cities and put them into the rurals, but most of the physicians willing to practice in the rurals are already there."

Dr. Barr's situation is a case in point. A strong irony involved in his successful recruitment by Weiser is that Wellington, which he will leave next July, is also critically underserved.

President-elect Larry R. Anderson, MD, of the Kansas Medical Society has a family practice in Wellington. He says that Sumner County will be losing "a fine and active physician" in Dr. Barr. When it does, a county that had 19 doctors in 1976 will be left with only 10.

Dr. Barr agrees that to look just at Weiser's success is "missing the boat." But its future might have been grim without him. He looks forward to being there, and to pitching in.•

FIFTY YEARS OF SERVICE

• Mr. LEVIN. Mr. President, on Wednesday, December 4, 1991, members of the U.S. Tank Automotive Command [TACOM] will gather to honor three outstanding employees: Henry B. Jones, Director of Procurement and Production; Sophia T. Sapielak, accounting technician; and Samuel Letman, materials engineering technician. Each of these fine individuals will be celebrating 50 years of loyal service to the U.S. Government.

Mr. Jones began his career with the U.S. Government as a junior engineering aide in October 1941. Through hard work and dedication, he rose to his current position as Director of Procurement and Production. He has demonstrated superior expertise within his field and has received numerous awards, most notably the Presidential Rank Award.

Mrs. Sapielak is retiring as an accounting technician, a position that she has held for more than a decade. She is a valuable part of the U.S. Tank Automotive Command organization whose proficiency in accounting and clerical skills will not easily be replaced. Her dedication is evidenced by the numerous awards she has received over the years, most recently the Special Act or Service Award.

Mr. Letman has most recently worked as a materials engineer technician for TACOM. He has made significant contributions to the security of our country as both a civilian employee and as a member of the Armed Forces. His research into the development of tank automotive rubber components has done much to strengthen our mobile ground forces. In 1990, he received the Highly Successful Performance Award.

These outstanding individuals have demonstrated extraordinary commitment to their professions and their country. They have earned the respect and admiration of all who know them. I salute them.•

MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT OF 1991

• Mr. LEAHY. Mr. President, at a time when thousands of Americans are losing their jobs because of the recession, the United States must do more to feed the hungry and help the newly-unemployed. This legislation will help cushion the shock for families hardest hit by the recession.

Current economic policies have failed.

Let us look at the hard facts. Housing costs are skyrocketing—45 percent of low-income renters spend 70 percent of their paycheck on housing. Many of these families must often choose between feeding their children or keeping a roof over their heads.

The Mickey Leland bill that the Senate Agriculture Committee ordered reported today expands nutrition programs to meet the economic demands of the recession. This bill makes important improvements in the Child Care Food Program, the after-school child care program, and the Food Stamp Program.

Farmers, storekeepers, factory and steel workers across this country are sending their sons and daughters to school hungry every day. Millions of Americans are just two or three paychecks away from hunger.

The bad news is that one in every five children in America lives in poverty. The good news is that over 80 percent of food stamp benefits go to families with children.

The Mickey Leland bill, for example, adjusts shelter cost estimates to more accurately reflect real costs and provide necessary food stamp benefits. This bill also raises the vehicle asset limit, which food stamp recipients deduct from their income when calculating benefit levels. The current limit of $4,500, which was set over a decade ago, is increased to $5,500 and indexed to inflation.

The bill also allows more low-income children to participate in the Child Care Food Program and the after-school child care program. The Mickey Leland bill encourages absent fathers to meet their child support payments by not counting the first $50 of support paid or received each month as income for purposes of calculating food stamp payments.

These provisions recognize the economic realities of providing for a family, and act as a safety net that helps put food on the table of working, now struggling Americans.

This year the administration wants to build four B2 bombers. With the same $3.4 billion that these planes would cost, we could fund the entire Mickey Leland bill for 2 years.

I have said time and time again that a country as wealthy as ours has the money to provide for its own—unfortunately the administration seems to have an economic plan for every nation in the world except this one.

I have been working with members of the Senate Agriculture, Budget, and Finance Committees to fund this bill. To date, no agreement has been reached.

I have pledged that I will not take this bill to the floor of the Senate until we reach a funding agreement that can be met within the budget. This represents the same understanding as in the House Agriculture Committee. The passage of the Mickey Leland bill by the Senate Agriculture Committee is a positive step toward realizing a funding agreement.

I want to work with Senate leadership, in a bipartisan fashion, to fund the Mickey Leland bill. I deeply appreciate the cooperation of all the committee members regarding this bill. Senator HARKIN, as chairman of the Nutrition Subcommittee has been a major supporter of nutrition programs over the years.

Nutrition issues are not partisan in this committee. For years Senator DOLE has worked to maintain a bipartisan tradition when it comes to nutrition programs. That tradition has been maintained by the ranking member, Senator LUGAR, who has become a leader on this issue.

Senator MCCONNELL, the ranking member of the subcommittee, has brought forward excellent ideas especially regarding child nutrition programs. Two excellent provisions of this bill were originally introduced by Senator MCCONNELL. Senator MCCONNELL'S provisions would allow more low-income children to participate in the Child Care Food Program and encourage more schools to participate in the after-school child care snack program.

The Mickey Leland bill takes sensible steps to support working families who are struggling to ensure security and self-sufficiency for their families. I urge Congress to reach an agreement soon to fund this important bill.•

THE CRISIS IN CROATIA

•Mr. WIRTH. Mr. President, I rise today to support the Gore-Pell resolution on United States policy toward Yugoslavia. The violence in that country this year has already claimed thousands of lives and cost billions of dollars. Despite the efforts of European Community diplomats and more than a dozen cease-fire agreements, there is no end in sight to this tragic fighting.

It is now evident that President Milosevic of Serbia is seeking to create a Greater Serbia out of the ruins of the Yugoslav State. He used the June 25 Croatian declaration of independence as a spark to ignite the anger and fear of Serbs living in Croatia, and then fanned the flame of violence once it had ignited. Now he hopes to create a Serbian State with Kosovo, Vojvodina, Montenegro, and as much of Croatia, Bosnia-Herzegovina, and Macedonia as he can gather. These efforts are a clear assault on the fundamental principle of territorial integrity and the rule of law. This new state would be based on the kind of repression that the Serbian authorities have used in Kosovo Province against ethnic Albanians.

I am also troubled by the active participation of the Yugoslav Federal Army in the bloodshed. When fighting initially broke out between the Croatian militia and Serbian guerrillas, the Army declared that it would use its superior strength to act as a peacekeeping force. Instead, the army has fought alongside the Serbian guerrillas, attacking and killing the Croatian citizens it is constitutionally obliged to protect.

Moreover, the army has not limited its role to fighting the Croatian partisans. It has destroyed Croatian villages, creating hundreds of thousands of refugees, and in the last few weeks has been heavily shelling the magnificent walled city of Dubrovnik, with its irreplaceable treasures of Byzantine, Gothic, and Renaissance art and architecture. After an 11-week siege, the Croatian city of Vukovar was captured by the army this week amid widespread reports of atrocities and with the town itself almost completely leveled. After more than 4 months of fighting, the army and the Serbian guerrillas are in control of more than one-third of Croatian territory.

The Army has even attempted political assassination. On October 7, Federal jets bombed the Croatian Presidential Palace in Zagreb, while Franjo Tudjman, the Croatian President, was meeting with Ante Markovic and Stipe Mesic, the President and Prime Minister of Yugoslavia.

Mr. President, this conflict may well have serious repercussions extending far beyond the borders of Yugoslavia. Since World War II, no border in Europe has been redrawn by force of arms. Serbian efforts to annex portions of Croatia are a dangerous precedent, particularly now, as the opening of Eastern Europe has allowed a number of border disputes and ethnic conflicts to rise to the surface. Bulgaria and Greece

VOL
137
PT
23
NO
21—25
1991
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have long been interested in Macedonia. Should the conflict spread there, they may become involved. The ethnic Albanians of Kosovo may take the opportunity presented by this war to press their efforts to join Albania. The mass movement of Croatian refugees into Hungary may drag that country into the war if the Yugoslav Army decides that refugee camps there are providing a safe haven for Croatian fighters. Thus, this war has the potential to widen significantly, destabilizing the region.

As a Member of the Commission on Security and Cooperation in Europe, I do not want to look back in a few years and wonder why we didn't do everything in our power to stop this tragedy before it got out of hand. I appreciate the administration's decision to let the European Community take the lead in solving this conflict. It is first and foremost a European problem. With that said, I want to stress to the administration and to the members of this body that the stakes here are very high and the human tragedy enormous.

The reality is that European efforts at diplomacy have not stopped the bloodshed. I am pleased that the European Community has finally imposed trade sanctions against Serbia and that President Bush is supporting them. However, it is time to go further, because the peaceful and united Europe, which we have been working toward since 1945, is at stake. That is the purpose of the Gore-Pell resolution.

First, that resolution would call on the administration to begin consultations with our allies on the question of recognizing Slovenia, Croatia, and the other republics which have declared their independence from Yugoslavia. This will bring home to Serbia that its armed aggression will not be tolerated and cannot succeed. Recognition would make clear to Serbia that this is not just an internal problem that it can deal with as it chooses. This conflict has consequences for all of Europe.

The Yugoslav federation is not going to be reestablished out of this conflict. We must stop basing American policy on the assumption that the status quo ante can be restored. Slovenia is already well on its way to becoming a responsible member of the European family. Croatia is not likely to rejoin Yugoslavia in its present form. Moreover, Bosnia-Herzegovina and Macedonia have also declared their independence.

Second, the resolution calls for taking whatever steps are necessary to ensure that the United States is in full compliance with the European sanctions against Serbia.

Third, the resolution would provide for humanitarian assistance to the republics which have fighting on their territory. This would primarily be Croatia, but it would not limit out other Republics if the fighting spreads.

Fourth, the Gore-Pell resolution would place Serbia on notice that if its military assault on Croatia continues, the United States will support a strong U.N. Security Council response. Such a response could include the introduction of a U.N. peacekeeping force.

Fifth, the resolution would seek a clear and binding commitment from each republic to protect the rights of minorities on its territory, including a formal commitment to accept international inspection and, if necessary, arbitration to protect those rights. Because without protection for minorities we really have not solved anything, we've just changed one dictatorship for another.

Finally, the resolution would reaffirm our support for international efforts to bring about a restoration of peace and respect for the principle that territorial disputes cannot be settled by use of force.

Mr. President, let me emphasize that I am not criticizing the diplomatic efforts of the European Community. Diplomacy should always be the first step in dealing with any conflict. Unfortunately, diplomatic efforts to bring both sides to negotiate in good faith have not worked. It is now time for stronger measures to be considered.

Working with our European allies, we should be developing mechanisms to strengthen the economic and military embargo of Serbia, laying the groundwork for recognition, and working to bring the issue of a peacekeeping force before the Security Council. We must now play a larger role in this conflict, so that we can stop illegal attempts to change borders by force, and get the parties involved to settle their differences peaceably and agree on the political arrangements to take the place of the Yugoslav Federal Republic.

In concluding, I would like to note the valuable information and advice I have received on this issue from two prominent Coloradans—Mr. George Miketa of Pueblo, and Dr. Michael Muftic of Denver.●

VETERANS COMPENSATION IMPROVEMENT ACT

● Mr. SIMPSON. Mr. President, I would like to make a brief statement about S. 775, the veterans' radiation provisions bill for certain veterans. In particular, I am not convinced that this legislation is needed.

The Department of Veterans Affairs is concerned about this legislation because the department feels the presumptive disease regarding the urinary tract cancer is much too broad-based, and the scope of this disease should be limited. I fully agree. I, too oppose this provision because I feel it is unwarranted and simply a continuation of the expansion of presumptive diseases. There are currently 84 presumptive diseases and I do not believe the list should continue to grow.

At the same time, it pleases me to see that a compromise was reached regarding the examination of other activities involving exposure to ionizing radiation, between the Department of Veterans Affairs and the sponsors of this legislation.

This compromise ensures that the established VA Advisory Committee will be properly utilized and it will require the Committee to examine all material relating to exposure of veterans to ionizing radiation, and make recommendations to the Secretary of Veterans Affairs for further study. I worked diligently with Senators SPECTER and MURKOWSKI to hammer out this meaningful compromise on this provision of the bill.

I offer my support for this bill, but with caution. We must sound the cry regarding our fiscal situation and the huge national debt over $4 trillion. I urge my colleagues to look at what we already provide veterans in terms of benefits, health care, and other truly deserving programs.●

GARBAGE IMPORTED FROM CANADA

● Mr. LEAHY. Mr. President, S. 1884 requires that the Department of Agriculture (USDA), collect a fee of $150 per ton on garbage imported from Canada.

For a number of years the State of Vermont has been working to develop a new system for dealing with the solid waste problems. We have learned that we just cannot drive to the town dump every Saturday morning and think the problem is solved.

This has been a difficult process for Vermonters. It has cost Vermont taxpayers money. But we have made changes in our solid waste practices because they were necessary.

In the last few months there have been disturbing reports about Canadian garbage coming into the United States. Large amounts have entered both New York and Pennsylvania. It is my understanding that this garbage is coming into Vermont because Canadian cities have recently increased their dumping fees dramatically.

I know the big waste management companies think that they have found a good way to improve their bottom line.

I do not care.

I am concerned that the landfills in Vermont will be overwhelmed by this garbage and I want to stop this garbage from coming into the United States until we know what is happening.

This bill, which puts a $150/ton fee on this garbage, will stop this garbage from coming into the United States.

That is why I support it.●

AMENDING THE ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of Senate Resolution 228 relating to the Albert Einstein Fellowship submitted earlier today by Senator HATFIELD.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 228) to amend the Albert Einstein Congressional Fellowship Program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Are there amendments? Is there debate? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 228) was agreed to, as follows:

S. RES 228

SECTION 1. FELLOWSHIP PROGRAM

Section 1 of the Senate Resolution entitled "A resolution to establish an Albert Einstein Congressional Fellowship Program" agreed to an August 2, 1991 (hereafter in this resolution referred to as the "Resolution") is amended—

(1) in subsection (a)—

(A) by striking "are" and inserting "is";

(B) by striking "three" and inserting "two"; and

(C) by striking "concurrent"; and

(2) in paragraph (3) of subsection (b), by inserting ", partial compensation" after "administration".

SEC. 2. SELECTION PROCESS.

Section 2 of the Resolution is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) in paragraph (3), by striking the period and inserting a semicolon and "and"; and

(C) by inserting at the end the following new paragraph—

"(4) convene a panel of representatives of not less than six scientific and educational societies to select the two recipients of the Senate fellowships.";

(2) by striking subsections (b) and (c);

(3) by inserting after subsection (a) the following new subsection:

"(b) INTERVIEWING.—Each fellowship recipient shall interview with various Senate committees and Senators' offices to determine the best placement for such Senate fellowship recipient.";

(4) by redesignating subsections (d), (e) and (f) as subsections (c), (d) and (e), respectively;

(5) in subsection (c) (as redesignated in paragraph (4)), by striking "Recipients" and inserting "Fellowship recipients";

(6) by amending subsection (d) (as redesignated in paragraph (4)) to read as follows:

"(d) COMPENSATION.—Each Senate fellowship recipient shall receive one-half of the funds made available pursuant to section 6(a) as the Senate contribution to such recipient's compensation. The remainder of such recipient's compensation shall be provided by the Triangle Coalition for Science and Technology Education."; and

(7) in subsection (e) (as redesignated in paragraph (4)), by striking "up to 1 year" and inserting "ten months".

SEC. 3. EVALUATION.

Section 3 of the Resolution is amended by striking "and member of the Senate referred to in section 2(b)" and inserting "or member of the Senate in whose office a Senate fellowship recipient is placed".

SEC. 4. FUNDING.

Subsection (a) of section 4 of the Resolution is amended—

(1) by striking "and 1992" and inserting ", 1992 and 1993";

(2) by striking "1991 and $42,500" and inserting "1991, $42,500"; and

(3) by inserting "and $45,000 for fiscal year 1993" before "for the Senate".

Mr. WARNER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

EXCLUSION OF TRUST INCOME OF INDIANS IN DETERMINING CERTAIN BENEFITS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 320, S. 754 to relating to Indians; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 754) to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program, was passed, as follows:

S. 754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended by—

(1) inserting immediately after "lands" a comma and the following: "and income including interest up to $4,000 per annum derived therefrom,"; and

(2) inserting immediately after "resource" the following: "or income".

CONCERNING THE USE OF FORCED LABOR IN CHINESE PRISONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 216, regarding the use of forced labor in Chinese prisons, just received from the House, the resolution be agreed to and the preamble agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 216) was agreed to.

The preamble was agreed to.

FORCED LABOR IN CHINA: AN INTERNATIONAL SCOURGE

Mr. SANFORD. Mr. President, the law of the United States is clear on the importation of goods produced by forced labor. China, though, continues to abuse its people and treat the international standards of human rights with a callous and cavalier defiance.

The legal history is not ambiguous. Over 100 years ago, the McKinley Trade Act of 1890 banned the importation of goods produced by convict labor. Forty years later, the Tariff Act of 1930 broadened the prohibition against the importation of prison-made goods into the United States. Most recently, on May 14, 1991, the Senate consented to ratification of the Convention Concerning the Abolition of Forced Labor (Convention No. 105) which was adopted by the International Labor Conference (40th session) at Geneva, Switzerland, on June 25, 1957.

The United States trade relationship with China is indisputably an important one, both for the immediate benefit of the exchange of goods and services but, more important, I would argue, for the long-term potential of United States influence in China to promote the respect for human rights and political participation. Overarching that long-term goal, the commitment that the United States has made to oppose forced labor is inherent in the very fabric of America as defined by our Bill of Rights.

The prevalence of forced labor in China is well-documented. It has been reported by the Congressional Research Service, Asia Watch, and the General Accounting Office. The July 23, 1991 GAO report summary stated that "forced labor is an integral part of the political, judicial, penal and economic systems in the People's Republic of China [PRC] and is practiced throughout the country." Mr. President, Most Favored Nation (MFN) status is designed for countries that act responsibly in the world community. China's record is reprehensible.

If forced labor as a humanitarian disgrace is not enough, consider the despicable example it sets about respecting international trade law. The disregard for international standards has a devastating impact on the U.S. textile industry in my State.

China is the largest single exporter of textiles and apparel to the United States, accounting for 14 percent of our total imports. It is no secret that the U.S. textile and apparel industry is in dangerous waters on all fronts. The North American Free Trade Agreement [NAFTA] continues to be negotiated. On November 7, 1991, the Fiber, Fabric and Apparel Coalition for Trade (FFACT) reported that the elimination of textile and apparel quotas currently being negotiated would result in a drop of as much as 60 percent in U.S. production and the loss of nearly one million jobs.

Facing the threatening outcome for the textile and apparel industry of NAFTA and the Uruguay round—both

VOL 137 PT 23 NO 21–25 1991 UMI

legitimate trade agreements—how can we continue to expose our industry to the influx of Chinese textiles and apparel produced by the illegal labor of prisoners in inhumane conditions of squalor, disease, and abuse?

The steady increase of Chinese exports to the United States of products made with prison labor is not in the United States trade advantage nor is it acceptable to the United States conscience. I advocate continued relations with China. Therefore, the exposure of this Chinese policy must lead to its abolishment.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 1176, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The committee is discharged.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1176) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President I am pleased to join with my colleagues Senator CHAFEE and DECONCINI in urging the passage of S. 1176, legislation to authorize the Morris K. Udall Scholarship and Excellence in National Environmental Policy at the University of Arizona. For nearly 30 years the gentle giant from Tucson represented his constituents with dedication, intelligence, and above all humor.

It is fitting that Congressman Udall's alma mater, the University of Arizona will be the site of the Udall Center for Environmental Policy. Morris Udall and environmental protection have been synonymous all his life. Mo Udall stood for environmental protection long before it became part of America's vocabulary. His efforts concerning public land management, wilderness, wild and scenic river designation, surface mining regulation and reclamation are legendary.

Early in my Senate career I served on the Senate Committee on Interior and Insular Affairs. On numerous occasions I had the pleasure of working with Congressman Udall. We worked on many issues of vital importance to the West. Mo Udall was always fair, he was always a gentleman and his word was his bond.

Senator DECONCINI will offer an amendment to add the training of Indian health care professionals to the mission of the foundation. Few in Congress have done more to advance the well being of native Americans than Mo Udall. As a member of the Senate Select Committee on Indian Affairs I strongly support this amendment. The health care problems confronting native Americans are varied and cry out for solutions. I look forward to working in the future with native American health care professionals who will be Udall scholars.

Again I commend my colleague from Arizona, Mr. DECONCINI, for initiating this legislation. I urge all of my colleagues to support this bill as fitting tribute to a man who served his constituents and the Nation well for nearly 30 years.

Mr. CHAFEE. Mr. President, I am proud to be a sponsor, along with Senators DECONCINI, BURDICK, and others, of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Act.

I can think of no Member of Congress more deserving of this tribute than Mo Udall. He was an environmentalist before it was fashionable. His list of accomplishments on behalf of the environment and the preservation of natural resources is too long to enumerate.

As chairman of the Interior Committee in the House of Representatives, he infused an environmental ethic into our policies governing our national parks, mining and mineral exploration, government land, and Indian Tribes. The Alaska Lands Act and comprehensive laws governing strip mining stand as major accomplishments in the career of one of the most productive legislators of our time.

The Senator from Arizona [Mr. DECONCINI] should be commended for crafting this legislation. I am hopeful that all of my colleagues will join with us in honoring Mo Udall with this fitting tribute to his 30 years of service to the Nation.

AMENDMENT NO. 1386

(Purpose: To amend the bill regarding Native Americans and Alaska Natives)

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. DECONCINI, proposes an amendment numbered 1386.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, strike "and".

On page 2, between lines 8 and 9, insert the following:

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

On page 2, line 9, strike "(3)" and insert "(4)".

On page 4, strike lines 15 through 19, and insert the following:

who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

On page 7, line 17, strike "and" after the semicolon.

On page 7, line 19, strike the period and insert a semicolon and "and".

On page 7, between lines 19 and 20, insert the following:

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

On page 8, line 14, insert "and Native American and Alaska Native health care and tribal public policy" before the period.

On page 8, line 20, insert "and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy" before the period.

On page 9, line 19, insert "and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy," after "environment".

On page 10, line 1, strike "Deserving" and insert "deserving".

On page 10, line 4, strike the period and insert a semicolon and "and".

On page 10, between lines 4 and 5, insert the following:

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

On page 10, line 11, strike "and".

On page 10, between lines 11 and 12, insert the following:

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues.

On page 10, line 12, strike "(C)" and insert "(D)".

Mr. DECONCINI. Mr. President, I am pleased that the Senate is today considering the Mo Udall Scholarship and Excellence in National Environmental Policy Act. This legislation is a fitting tribute to one of the finest individuals who has ever served in Congress. It is sponsored by 23 Senators, including the distinguished chairman and ranking member of the Environment and Public Works Committee.

Mo Udall was first elected to Congress in 1961 by a special election to replace his brother Stewart who was selected by President Kennedy to serve as the Secretary of Interior. During his tenure in Congress, Mo worked tirelessly to serve the people of the Second Congressional District, the State of Arizona, and the Nation. Although he was a leader in a number of areas, Civil Service Reform, Health Care and Campaign Finance Reform among them, he will be especially remembered for his commitment to protecting our precious natural resources. He was the author of landmark legislation such as the strip mining bill of 1977, the Alaska Lands Act of 1980 and most recently the Arizona Desert Wilderness Act of 1990. Mo often said that, "a nation that does not love and respect its land, does not respect itself."

It is for this reason that I introduced the Mo Udall Scholarship and Excellence in National Environmental Policy Act. This legislation will establish a national foundation as an independent entity of the executive branch with the express purposes of: First, increasing the awareness of the importance and promoting the benefit and enjoyment of our Nation's natural resources; second, fostering among the American population a greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States; third, identifying critical environmental issues; fourth, establishing a Program for Environmental Policy Research and an Environmental Conflict Resolution Program at the Udall Center for Studies in Public Policy on the campus of the University of Arizona; and fifth, developing resources to properly train professionals in the environment and related fields; and sixth, providing educational outreach on environmental issues.

To accomplish these goals, the legislation establishes a 10-member board of directors comprised of two Members of the House of Representatives, two Members of the Senate, two individuals selected by the President, the Secretaries of Interior and Education and two members from Mo's alma mater, the University of Arizona. The board will award scholarships, fellowships, internships, and grants to deserving individuals to pursue studies related to the environment.

The Foundation will also support the activities of the Udall Center on the campus of the University of Arizona. The Udall Center was established in 1987 to sponsor research and forums on a variety of critical public policy issues. Among the activities of the Udall Center that will be supported by the Foundation are the establishment of an environmental conflict resolution center, the creation of a repository for the Udall papers, and assembling an annual panel of experts to discuss contemporary environmental issues.

The legislation authorizes the creation of the Morris K. Udall Scholarship and Excellence in National Environmental Policy trust fund in the amount of $40 million which is to be administered by the Foundation. The proceeds of this trust fund will enable the Foundation to carry out the provisions of this legislation.

During consideration of the fiscal year 1992 Interior Appropriations bill, the Mo Udall Foundation was a topic of discussion between the House and Senate conferees for this legislation. There was unanimous praise for Mo by both his former House colleagues and the Senators on this conference committee. Accordingly, $5 million was included in this bill as an initial downpayment on the trust fund pending authorization. Also, in recognition of Mo's work on behalf of our Native Americans, Chairman YATES suggested that S. 1176 be amended to add the training of Indian health care professionals as a goal of the Foundation. I felt at the time, and still do, that this is an outstanding suggestion and therefore, I am offering an amendment that will do just that.

Also, to build on Mo's work on behalf of Indian self-determination, S. 1176 will also be amended so that the Foundation can provide scholarships to train native Americans in the field of public policy. As chairman of the House Committee on Interior and Insular Affairs, Mo was largely responsible for the passage of landmark Indian legislation such as the Alaska Native Claims Settlement Act, the Indian Financing Act, the Indian Self-Determination Act, the American Indian Policy Review Commission Act, the American Indian Religious Freedom Act, the Indian Child Welfare Act, the Indian Alcohol and Substance Abuse Prevention and Treatment Act, the Native American Grave Protection and Repatriation Act, and the Indian Child Protection and Family Violence Act.

Mr. President, Mo's efforts on behalf of our native American are nothing short of herculean. In the 14 years he was chairman of the House Interior Committee, over 184 Indian bills have been enacted into law. It is only appropriate that S. 1176 be amended to recognize Mo's efforts on behalf of the first Americans.

Mr. President, I want to thank the chairman and ranking member of Environment and Public Works Committee for their efforts to move this legislation forward. Without their assistance, we would not be here today.

Mr. President, this legislation will not only serve as a monument to one of our truly outstanding colleagues, but it will serve to prepare and train the next generation of leaders such as Mo Udall. I ask that my colleagues join me in supporting this legislation.

Mr. President, I ask unanimous consent that a list of Public Laws sponsored by Mo Udall be entered into the RECORD at this point. This list while not entirely complete, shows how prolific a legislator Mo was.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MORRIS K. UDALL LEGISLATIVE CAREER

87TH CONGRESS (1961–1962)

H.R. 7240—Authorizes an exchange of lands at Wupatki National Monument, AZ, to provide access to certain ruins to add certain federally owned lands. Became Public Law 87–136.

H.R. 10566—Provides for the withdrawal and orderly disposition of mineral interests in certain public lands in Pima County, AZ. Became Public law 87–747.

88TH CONGRESS (1963–1964)

H.R. 946—Authorizes the establishment of the Fort Bowie National Historic Site, in Arizona. Became Public Law 88–510.

H.R. 7419—Authorizes the conclusion of agreements with Mexico for joint construction, operation, and maintenance of flood control works on the lower Colorado River. Became Public Law 88–411.

89TH CONGRESS (1965–1966)

H.R. 1746—Defines "child" under the Civil Service Retirement Act to include adopted child but not stepchild for lump sum benefits. Became Public Law 89–407.

H.R. 3320—Authorizes the establishment of the Hubbell Trading Post National Historic Site, in Arizona. Became Public Law 89–148.

H.R. 6845—Provides that the basic compensation for teaching positions in overseas schools operated by the Department of Defense be the same as basic compensation for similar positions under the Government of the District of Columbia. Became Public law 89–391.

H.R. 7648—Authorizes long-term leases on the Papago Indian Reservation. Became Public Law 89–715.

H.R. 10281—Government Employees Salary Comparability Act

Title I. Federal Salary Adjustment Act—Provides for an increase in the compensation of Federal employees of approximately 4.5 percent. Provides for the reconsideration and review by the Civil Service Commission of "acceptable level of competence" for purposes of step increases. Increases to GS–10 (now GS–9) the maximum level at which overtime compensation may be paid.

Provides for similar increase in the compensation of Postal employees and relocation allowances for such employees who are transferred.

Provides similar increases for employees in Department of Medicine and Surgery of the Veterans' Administration, for officers, and employees in the Foreign Service, employees in the legislative branch, and employees in the judicial branch.

Provides for an additional adjustment of salary rates in 1966 and periodically thereafter to make the Federal salary schedule comparable to the rates paid by private industry.

Provides severance pay, up to 1 year's pay, for employees who are involuntarily (except for cause) separated from the service. Bases such as pay on years of service and age.

Title II. Federal Salary Review Commission Act—Provides for a 10 member Federal Salary Review Commission to review the compensation of Member of Congress, Justices, and salary levels under the Federal Executive Salary Act. Provides for the Commission to submit a report by January 1967, and periodically thereafter.

90TH CONGRESS (1967–1968)

H.R. 2154—Provides long term leasing for the Gila River Indian Reservation. Became Public law 90–182.

VOL 137 PT 23 NO 21—25 1991 UMI

92ND CONGRESS (1971–1972)

H.R. 15869—Provides that an action for money damages brought by the United States on behalf of a recognized tribe, band, or group of American Indians shall not be barred unless the complaints filled more than six years and ninety days after the right of action is accrued. Became Public Law 92-353.

H.R. 13825—Provides that an action for money damages brought by the United States on behalf of a recognized tribe, band, or group of American Indians, or on behalf of an individual Indian whose land is held in trust or restricted status, shall not be barred unless the complaint is filed more than eleven years after the right of action accrued or more than two years after a final decision has been rendered in applicable administrative proceedings required by contract or by law, whichever is later. Became Public Law 92-485.

93RD CONGRESS (1973–1974)

H.R. 7730—The Secretary of Interior is authorized and directed to acquire through purchase within the so called San Carlos Mineral Strip as of January 24, 1969, all privately owned real property, taking title thereto in the name of the United States in trust for the San Carlos Apache Indian Tribe. Became Public Law 93-530.

H.R. 3180—Franked Mail Amendment. The policy of the Congress that the privilege of sending mail as franked mail shall be established under this section in order to assist and expedite the conduct of the official business, activities, and duties of the Congress of the United States.

94TH CONGRESS (1975–1976)

H.R. 14227—Directs the Secretary of Agriculture to release the board of regents of the universities and State colleges of Arizona from the requirement that specified lands transferred by the United States for the use of the University of Arizona be used only for research or educational purposes.

95TH CONGRESS (1977–1978)

H.J. Res. 539—A resolution to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians. Became Public law 95-64.

H.R. 4992—A bill to amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian Business Development Program. Became Public law 95-68.

H.R. 8397—A bill to provide that a certain tract of land in Pinal County, AZ, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation. Became Public Law 95-361.

H.R. 10787—A bill to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management. Became Public Law 95-352.

H.R. 13972—A bill to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness Flathead and Lewis and Clark National Forests State of Montana. Became Public Law 95-546.

H.R. 2—To provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes. Became Public law 95-87.

H.R. 3454—To designate certain endangered public lands for preservation as wilderness, and for other purposes. Became Public Law 95-237.

H.R. 10532—To amend Public Law 95-18, providing for emergency drought relief measures. An act to provide temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-1977 drought. Became Public Law 95-226.

H.R. 13650—To authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management. Became Public Law 95-352.

96TH CONGRESS (1979–1980)

H.R. 39—A bill to provide for the designation and conservation of certain public lands in the state of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes. Became Public Law 96-487.

H.R. 1825—A bill to protect archaeological resources owned by the United States, and for other purposes. Became Public Law 96-95.

H.R. 3661—A bill to increase the authorization of appropriations under the Act of December 22, 1974. Became Public Law 96-40.

H.R. 1885—A bill to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies. Became Public Law 96-135.

H.R. 5278—A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments. Became Public Law 96-375.

97TH CONGRESS (1981–1982)

H.R. 2330—A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Became Public Law 97-415.

H.R. 4364—A bill to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, AZ. Became Public Law 97-386.

H.R. 5553—A bill to provide for the use and disposition of Miami Indians judgment funds in Dockets 124-b and 254 before the United States Court of Claims, and for other purposes. Became Public Law 97-376.

H.R. 6403—A bill to provide for the use and distribution of funds to the Wayndot Tribe of Indians in Docket 139 before the Indian Claim Commission and Docket 141 before the United States Court of Claims and for other purposes. Became Public Law 97-371.

H.R. 3809—A bill to provide for the development of repositories for the disposal of high level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high level radioactive waste and spent nuclear fuel, and for other purposes. Became Public Law 97-425.

H.R. 4707—A bill to designate certain National Forest Lands in the State of Arizona as wilderness, and for other purposes. Became Public Law 98-406.

98TH CONGRESS (1983–1984)

H.J. Res. 158—A joint resolution to make technical corrections in the Act of January 25, 1983. Became Public Law 98-608.

H.R. 1746—A bill to authorize appropriations for the Navajo and Hopi Indian Relocation Commission. Became Public Law 98-48.

H.R. 6206—A bill amending the Act of July 28, 1978 (P.L. 95-238) relating to the water rights of the Ak-Chin Indian Community and for other purposes. Became Public Law 98-530.

H.R. 4707—A bill to designate certain national forest lands in the State of Arizona as wilderness, and for other purposes. Became Public Law 98-406.

99TH CONGRESS (1985–1986)

H.R. 730—A bill to declare that the United States holds in trust for the Cocopah Indian Tribe of Arizona certain land in Yuma County, AZ. Became Public Law 99-23.

H.R. 1185—A bill to amend the Act establishing the Petrified Forest National Park. Became Public Law 99-250.

H.R. 2698—A bill to designate the United States Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse". Became Public Law 99-213.

H.R. 4378—A bill to govern the establishment of commemorative works within the National Capital Region of the National Parks System, and for other purposes. Became Public Law 99-652.

H.R. 5430—A bill to amend the Gila River Pima-Maricopa Indian Community Judgment Distribution Plan. Became Public Law 99-493.

H.R. 1083—A bill to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the Implementation of compacts providing for the establishment and operation of regional disposal for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low level radioactive waste; and for other purposes. Became Public Law 99-240.

H.R. 4216—A bill to provide for the replacement of certain lands within the Gila Bend Indian Reservation, and for other purposes. Became Public Law 99-503.

H.R. 4217—A bill to provide for the settlement of certain claims of the Papago Tribe of Arizona arising from the construction of Tat Momolik Dam, and for other purposes. Became Public Law 99-469.

100TH CONGRESS (1987–1988)

H.J. Res 284—A joint resolution designating the week beginning June 21, 1987, as "National Outward Bound Week". Became Public Law 100-61.

H.R. 1963—A bill to amend the Surface Mining Control and Reclamation Act of 1977 to permit States to set aside in a special trust fund up to 10 per centum of the annual State funds from the Abandoned Mani Land Reclamation Fund for expenditure in the future for purposes of abandoned mine reclamation, and for other purposes. Became Public Law 100-34.

H.R. 2937—A bill to make miscellaneous technical and minor amendments to laws relating to Indians, and for other purposes. Became Public Law 100-153.

H.R. 3479—An Act to provide clarification regarding the royalty payments owed under certain Federal Onshore and Indian oil and gas leases, and for other purposes. Became Public Law 100-234.

H.R. 1414—A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents. Became Public law 100-408.

H.R. 4102—A bill to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ and for other purposes. Became Public Law 100-512.

H.R. 4362—A bill to amend Section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes. Became Public Law 100-648.

H.R. 5232—A bill to grant the consent of the Congress to the Southwestern Low-Level Radioactive Waste Disposal Compact. Became Public Law 100-712.

H.R. 5261—A bill to authorize and amend the Indian Health Care Improvement Act, and for other purposes. Became Public Law 100-713.

H.R. 4754—A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes. Became Public Law 100-415.

H.R. 1044—A bill to establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes. Became Public Law 100-348.

H.R. 1223—A bill entitled "Indian Self-Determination Amendments of 1987". Became Law 100-472.

101TH CONGRESS (1989–1990)

H.R. 2843—A bill to establish the Kino Missions National Monument in the State of Arizona. Became Public Law 101-344.

H.R. 2570—A bill to provide for the designation of certain public lands as wilderness in the state of Arizona. (Arizona Desert Wilderness Act of 1990; Fort McDowell Indian Community Water Rights Settlement Act of 1990; Sudbury, Assabet, and Concord Wild and Scenic River Study Act; Camp W.G. Williams Land Exchange Act of 1989; Take Pride in America Act; Civil War Sites Study Act of 1990; Clarks Fork Wild and Scenic River Designation Act of 1990.) Became Public law 101-628.

H.R. 5237—A bill to provide for the protection of Native American graves, and for other purposes. Became Public Law 101-601.

Mr. McCAIN. Mr. President, today the Senate will honor a great man and a national treasure: Morris K. Udall.

When I last addressed the Senate about Mo it was on the occasion of his retirement. I wondered how to find words to honor one who has achieved so much, who has served his country and his countrymen with such grace and distinction.

I realized words could never fully describe what Mo Udall means to Arizona and our Nation. They ring hollow in tribute to a life which has exemplified action and achievement.

Mo Udall figures prominently in the laws of our Nation, his values memorialized in a natural heritage which is richer and healthier because of him. He is a public figure of enormous significance to our Nation's history. But the true measure of Mo's legacy can be found in the smiles of the countless souls whose lives he has touched.

Above all Mo Udall is a man of talent and humor, courage, compassion and integrity. The only worthy tribute would be to ensure the Nation carries on the work he has so nobly advanced.

Today, the Senate will vote to create the Morris K. Udall Excellence in National Environmental Policy Foundation and Scholarship. Passage of the legislation will ensure that the excellence of Mo Udall, his passion for the responsible stewardship of our natural resources, will endure in the leaders of tomorrow.

I congratulate Senator DECONCINI on his leadership and hard work in bringing this initiative before the Senate. Passage of this legislation is our way of saying—thank you Mo Udall, we have learned from you and your work will be carried on.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1386) was agreed to.

The PRESIDING OFFICER. Is there further debate on the bill as amended?

Without objection, the bill is engrossed for a third reading, deemed read a third time and passed.

(The text of S. 1176, as passed today by the Senate, will be printed in a future edition of the RECORD.)

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

A 6-MONTH EXTENSION OF THE COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

Mr. LEVIN. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 3728, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The committee is discharged.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3728) to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, the bill provides for a 6-month extension of the Bicentennial of the Constitution.

I ask unanimous consent the Senate proceed to its immediate consideration; the bill be deemed read a third time and passed; and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3728) was deemed read the third time and passed.

COAST GUARD AUTHORIZATION ACT OF 1991

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 253, S. 1297, the Coast Guard Authorization Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1297) to authorize appropriations for the Coast Guard for fiscal years 1992 and 1993, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Coast Guard Authorization Act of 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) AUTHORIZATIONS FOR FISCAL YEAR 1992.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1992, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000, of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $452,000,000, to remain available until expended, of which $29,000,000 shall be used to acquire a new command and control aircraft and of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(b) AUTHORIZATIONS FOR FISCAL YEAR 1993.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000, of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $423,000,000, to remain available until expended, of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medi-

VOL
137
PT
23
NO
21—25
1991
UMI

cal care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,000,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(c) ACQUISITION OF OIL RECOVERY SYSTEMS.—Funds authorized to be appropriated under subsection (a)(2) or (b)(2) for the construction of any new seagoing buoy tender (WLB) may not be expended for acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992

SEC. 3. (a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1993

SEC. 4. (a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

RETIREMENT OF REAR ADMIRALS

SEC. 5. (a) IN GENERAL.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and inserting in lieu thereof "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and inserting in lieu thereof the following new subsections:

"(f)(1) Unless retired under some other provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under some other provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b) TECHNICAL AMENDMENTS.—(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and inserting in lieu thereof "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

ENLISTED PERSONNEL BOARDS

SEC. 6. (a) IN GENERAL.—Section 357 of title 14, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Enlisted Personnel Boards shall be convened at such times as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.";

(2) in subsection (b), by striking "retired from active duty by the Commandant pursuant to the action of an Enlisted Personnel Board" and inserting in lieu thereof "involuntarily retired by the Commandant";

(3) by redesignating subsections (b) and (c) as subsections (h) and (i), respectively; and

(4) by inserting immediately after subsection (a) the following new subsections:

"(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired upon recommendation of a Board—

"(1) because the member's performance is below the standards prescribed by the Commandant, or

"(2) because of moral or professional dereliction.

"(c) Each enlisted member considered for involuntary retirement shall be—

"(1) notified in writing of the reasons for which the member is being considered for involuntary retirement;

"(2) allowed thirty days to submit any matters in rebuttal;

"(3) provided counsel, certified in accordance with section 827(b) of title 10, to assist with the preparation of the rebuttal submitted pursuant to paragraph (2); and

"(4) allowed full access to and furnished copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted pursuant to paragraph (2).

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of Commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who have twenty or more years of active service and have been considered for involuntary retirement who, in its discretion, it determines should be involuntarily retired.

"(f) If the Commandant approves the recommendation of the Board, the enlisted member shall be notified of the decision of the Commandant and shall be retired from the service within ninety days after such notification.

"(g) This section is not applicable to reductions in force ordered by the Secretary.".

(b) TECHNICAL AMENDMENTS.—(1) The catchline to section 357 of title 14, United States Code, is amended by striking "**Enlisted Personnel Board**" and inserting in lieu thereof "**Involuntary retirement of enlisted members**".

(2) The item relating to section 357 in the analysis of chapter 11 of title 14, United States Code, is amended to read as follows:

"357. Involuntary retirement of enlisted members.".

AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE

SEC. 7. Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (q);

(2) by striking the period at the end of the first subsection (r) and inserting in lieu thereof "; and";

(3) by striking the second subsection (r); and

(4) by adding at the end the following new subsection:

"(s) accept and utilize, under such terms and conditions as are deemed advisable by the Commandant, services of individuals performing community service under the order of a Federal, State, or municipal court.".

HOUSING UNIT LEASE AUTHORITY

SEC. 8. (a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION AND RENOVATION OF HOUSING UNITS.—Beginning in fiscal year 1991 the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of such Massachusetts Military Reservation.

AIR FACILITIES LEASE AUTHORITY

SEC. 9. (a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION OF FACILITY.—Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

COAST GUARD HOUSING STUDY

SEC. 10. Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

COAST GUARD ACADEMY ADVISORY COMMITTEE

SEC. 11. Section 193 of title 14, United States Code, is amended by striking "September 10,

1992" and inserting in lieu thereof "September 30, 1994".

JOHN F. LIMEHOUSE MEMORIAL BRIDGE

SEC. 12. Notwithstanding any other law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

NATIONAL BOATING SAFETY ADVISORY COUNCIL

SEC. 13. Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1996".

EMERGENCY RECALL OF RESERVISTS

SEC. 14. Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than thirty days in any four-month period and not more than sixty days in any two-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

RECALL OF RETIRED OFFICERS

SEC. 15. (a) INCREASE IN PERCENTAGE LIMITATION.—Section 332(b) of title 14, United States Code, is amended by striking "1" and inserting in lieu thereof "2".

(b) TECHNICAL AMENDMENTS.—Section 332(a) of title 14, United States Code, is amended by striking "his" and inserting in lieu thereof "that officer's" and by striking "he" and inserting in lieu thereof "that officer".

AMENDMENT OF INLAND NAVIGATIONAL RULES

SEC. 16. Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

REQUIREMENTS FOR CERTAIN VESSELS

SEC. 17. Section 3503 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "November 1, 1993" and inserting in lieu thereof "November 1, 1998"; and

(2) in subsection (b)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations shall comply with any noncombustible material requirements that the Coast Guard prescribes, consistent with preservation of the historic integrity of the vessel.".

STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS

SEC. 18. Not later than one year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE

SEC. 19. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(d) DEFINITION.—For purposes of this section, the term—

(1) "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE

SEC. 20. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of

VOL
137
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1991
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maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) DEFINITION.—For purposes of this section, the term—

(1) "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

OREGON OIL SPILL RESPONSE STUDY

SEC. 21. Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

COAST GUARD CUTTER MACKINAW RENOVATION

SEC. 22. Before October 1, 1992, the Secretary of Transportation shall use such funds as may be necessary, up to $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter Mackinaw.

EXTENSION OF FISHING VESSEL ADVISORY COMMITTEE

SEC. 23. Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and inserting in lieu thereof "1994".

DECLARATION OF NONNAVIGABILITY

SEC. 24. The portion of the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, extending 500 feet upstream and downstream from the Brasfield Dam (at 37 degrees, 13 minutes, 14 seconds north latitude; 77 degrees 31 minutes, 31 seconds west longitude) is declared not to be navigable water within the meaning of the Constitution and laws of the United States, and not to be water affecting navigable waters of the United States or interstate or foreign commerce, except for purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA

SEC. 25. The Secretary of the department in which the Coast Guard is operating, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

COAST GUARD RECREATIONAL BOAT TAX REPEAL

SEC. 26. Section 2110 of title 46, United States Code, is amended—

(1) by repealing subsection (b);

(2) in subsection (c), by striking "subsections (a) and (b)," and inserting in lieu thereof "this section,"; and

(3) by redesignating subsections (c) through (i) as subsection (b) through (h), respectively.

AMENDMENT NO. 1387

(Purpose: To make an amendment in the nature of a substitute)

Mr. LEVIN. Mr. President, I send a substitute amendment to the desk on behalf of Senator HOLLINGS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. HOLLINGS, for himself and Mr. STEVENS, proposes an amendment numbered 1387.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Coast Guard Authorization Act of 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2.(a) AUTHORIZATIONS FOR FISCAL YEAR 1992.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1992, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000; of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund; of which not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C. 262a); and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $452,000,000, to remain available until expended, of which $29,000,000 shall be used to acquire a new command and control aircraft and of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(b) AUTHORIZATIONS FOR FISCAL YEAR 1993.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,569,500,000, of which $31,054,000 shall be derived from the Oil Spill Liability Trust Fund and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $423,000,000, to remain available until expended, of which $26,752,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $28,800,000, to remain available until expended.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,000,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,200,000.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(c) ACQUISITION OF OIL RECOVERY SYSTEMS.—Funds authorized to be appropriated under subsection (a)(2) or (b)(2) for the construction of any new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(d) COMMAND AND CONTROL AIRCRAFT ACQUISITION.—(1) Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") may submit a request for reprogramming of funds in order to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for congressional review of appropriations reprogramming requests. Subject to such reprogramming procedures—

(A) The Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for the multiyear lease but not for the purchase of aircraft; and

(B) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(2) The Coast Guard may transfer the current command and control aircraft to the vendor of any replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and the proceeds applied toward such purchase, lease, or lease with option to purchase.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992

SEC. 3.(a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1993

SEC. 4.(a) ACTIVE DUTY PERSONNEL STRENGTH.—As of September 30, 1993, the Coast Guard is authorized as end-of-year

strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

RETIREMENT OF REAR ADMIRALS

SEC. 5.(a) IN GENERAL.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and inserting in lieu thereof "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and inserting in lieu thereof the following new subsections:

"(f)(1) Unless retired under some other provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under some other provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under some other provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b) TECHNICAL AMENDMENTS.—(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and inserting in lieu thereof "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

ENLISTED PERSONNEL BOARDS

SEC. 6.(a) IN GENERAL.—Section 357 of title 14, United States Code, is amended—

(1) By amending subsection (a) to read as follows:

"(a) Enlisted Personnel Boards shall be convened at such times as the Commandant may prescribe to review the records of enlisted members who have 20 or more years of active military service.";

(2) in subsection (b), by striking "retired from active duty by the Commandant pursuant to the action of an Enlisted Personnel Board" and inserting in lieu thereof "involuntarily retired by the Commandant";

(3) by redesignating subsections (b) and (c) as subsections (h) and (i), respectively; and

(4) by inserting immediately after subsection (a) the following new subsections:

"(b) Enlisted members who have 20 or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired upon recommendation of a Board—

"(1) because the member's performance is below the standards prescribed by the Commandant, or

"(2) because of moral or professional dereliction.

"(c) Each enlisted member considered for involuntary retirement shall be—

"(1) notified in writing of the reasons for which the member is being considered for involuntary retirement;

"(2) allowed 30 days to submit any matters in rebuttal;

"(3) provided counsel, certified in accordance with section 827(b) of title 10, to assist with the preparation of the rebuttal submitted pursuant to paragraph (2); and

"(4) allowed full access to and furnished copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted pursuant to paragraph (2).

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of Commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who have 20 or more years of active service and have been considered for involuntary retirement who, in its discretion, it determines should be involuntarily retired.

"(f) If the Commandant approves the recommendation of the Board, the enlisted member shall be notified of the decision of the Commandant and shall be retired from the service within 90 days after such notification.

"(g) This section is not applicable to reductions is force ordered by the Secretary.".

(b) TECHNICAL AMENDMENTS.—(1) The catchline to section 357 of title 14, United States Code, is amended by striking "Enlisted Personnel Board" and inserting in lieu thereof "Involuntary retirement of enlisted members".

(2) The item relating to section 357 in the analysis of chapter 11 of title 14, United States Code, is amended to read as follows:

"357. Involuntary retirement of enlisted members.".

AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE

SEC. 7. Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (q);

(2) by striking the period at the end of the first subsection (r) and inserting in lieu thereof "; and";

(3) by striking the second subsection (r); and

(4) by adding at the end the following new subsection:

"(s) accept and utilize, under such terms and conditions as are deemed advisable by the Commandant, services of individuals performing community service under the order of a Federal, State, or municipal court.".

HOUSING UNIT LEASE AUTHORITY

SEC. 8.(a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of 1 fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION AND RENOVATION OF HOUSING UNITS.—Beginning in fiscal year 1991 the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of such Massachusetts Military Reservation.

AIR FACILITIES LEASE AUTHORITY

SEC. 9. (a) SITE ACQUISITION LEASE.—(1) The Coast Guard may enter into a lease, for a term in excess of 1 fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) EXPENDITURES ON CONSTRUCTION OF FACILITY.—Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

COAST GUARD HOUSING STUDY

SEC. 10. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

COAST GUARD ACADEMY ADVISORY COMMITTEE

SEC. 11. Section 193 of title 14, United States Code, is amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

JOHN F. LIMEHOUSE MEMORIAL BRIDGE

SEC. 12. Notwithstanding any other law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

NATIONAL BOATING SAFETY ADVISORY COUNCIL

SEC. 13. Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1996".

EMERGENCY RECALL OF RESERVISTS

SEC. 14. Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than 30 days in any four-month period and not more than sixty

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(A) without the payment of consideration;

VOL 137 PT 23 NO 21–25 1991 UMI

days in any two-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

RECALL OF RETIRED OFFICERS

SEC. 15. (a) INCREASE IN PERCENTAGE LIMITATION.—Section 332(b) of title 14, United States Code, is amended by striking "1" and inserting in lieu thereof "2".

(b) TECHNICAL AMENDMENTS.—Section 332(a) of title 14, United States Code, is amended by striking "his" and inserting in lieu thereof "that officer's" and by striking "he" and inserting in lieu thereof "that officer".

AMENDMENT OF INLAND NAVIGATIONAL RULES

SEC. 16. Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

REQUIREMENTS FOR CERTAIN VESSELS

SEC. 17. Section 3503 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "November 1, 1993" and inserting in lieu thereof "November 1, 1998"; and

(2) in subsection (b)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting in lieu thereof"; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations shall comply with any noncombustible material requirements (which shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public) that the Coast Guard prescribes for nonpublic spaces.".

STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS

SEC. 18. Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE

SEC. 19. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(d) DEFINITION.—For purposes of this section, the term "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard and the maritime history of Cape May, New Jersey.

CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE

SEC. 20. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) DEFINITION.—For purposes of this section, the term "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that

lighthouse a nonprofit center for public benefit.

OREGON OIL SPILL RESPONSE STUDY

SEC. 21. Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

COAST GUARD CUTTER MACKINAW RENOVATION

SEC. 22. Before October 1, 1992, the Secretary shall use such funds as may be necessary, up to $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter MACKINAW.

EXTENSION OF FISHING VESSEL ADVISORY COMMITTEE

SEC. 23. Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and inserting in lieu thereof "1994".

DECLARATION OF NONNAVIGABILITY WITH RESPECT TO APPOMATTOX RIVER, VIRGINIA

SEC. 24. The portion of the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, extending 500 feet upstream and downstream from the Brasfield Dam (at 37 degrees 13 minutes 14 seconds north latitude, 77 degrees 31 minutes 31 seconds west longitude) is declared not to be navigable water within the meaning of the Constitution and laws of the United States, and not to be water affecting navigable waters of the United States or interstate or foreign commerce, except for purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

BRIDGE ACROSS WAPPINGER CREEK, NEW YORK

SEC. 25. Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0. at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401); section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA

SEC. 26. The Secretary, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA

SEC. 27.(a) TRANSFER OF PROPERTY.—Notwithstanding any other law, the Secretary shall transfer without consideration to the County of Charleston all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b), subject to existing easements and restrictions of record. The transferee shall pay for all conveyance costs.

(b) DESCRIPTION.—The property to be transferred under subsection (a) is described as commencing at a point in the center of United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30 seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights of way connected therewith, extending from the Government's property at the east end of Folly Island to such power line's connection with the South Carolina Power Company's power line at Folly Beach.

REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS

SEC. 28. Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"SEC. 7.(a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regulations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality, or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States, or

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States,

shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purpose.".

AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION, 1989

SEC. 29.(a) PAYMENT TO SALVORS OF LIFE.—Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" and inserting in lieu thereof "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) TECHNICAL AMENDMENT.—Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and inserting in lieu thereof "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code.".

TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES

SEC. 30.(a) CONVEYANCE OF LIGHTHOUSES.—(1) The Secretary may convey by any appropriate means to the State of Oregon all rights, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all rights, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon; and

(2) the term "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Cape Blanco, Oregon.

CONVEYANCE OF WHITE ISLAND LIGHTHOUSE

SEC. 31. (a) CONVEYANCE OF LIGHTHOUSE.—(1) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

VOL 137 PT 23 NO 21—25 1991 UMI

(A) without the payment of consideration;

(B) subject to such terms and conditions as the Secretary may consider appropriate; and

(C) the Coast Guard will complete its cleanup of the oil seepage on White Island and take any necessary measures to prevent further pollution.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property covered pursuant to this section.

(c) DEFINITION.—For purposes of this section, the term "White Island Lighthouse" means the Coast Guard Lighthouse located at White Island, Isles of Shoals, New Hampshire, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to able the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

TRANSFER AT JUNEAU, ALASKA

SEC. 32.(a) TRANSFER BY SECRETARY.—Notwithstanding any other provision of law, the Secretary shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) AVAILABILITY TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES

SEC. 33.(a) FINDINGS.—The Congress finds that—

(1) the Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was mandated by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388–397);

(2) recreational boaters who are required to pay this fee may not receive any direct service and cannot expect to receive any additional service in return for payment of the fee;

(3) recreational boaters already pay a motorboat fuel tax; and

(4) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the requirements that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of offsetting receipts in order to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II

SEC 34.(a) AUTHORITY TO ISSUE CERTIFICATE.—Notwithstandig section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. 883), as applicable on the date of documentation with appropriate endorsement for employment endorsement for employment in the costwise trade of the United States for the vessel MAYFLOWER II, owned by Plymouth Plantation, Inc. (a corporation under the laws of Massachusetts).

(b) EXEMPTION FROM CERTAIN REQUIREMENTS.—(1) The Secretary may exempt the vessel MAYFLOWER II from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under any law codified in title 33, Code.

(2) If the Secretary exempts the vessel from any requirements under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

JONES ACT WAIVERS FOR CERTAIN VESSELS

SEC. 35. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) MISS LELIA, United States official number 577213.

(2) BILLFISH, United States official number 920896.

(3) MARSH GRASS III, United States official number 963616.

Mr. HOLLINGS. Mr. President, I rise in strong support of S. 1297, the Coast Guard Authorization Act of 1991 which authorizes appropriations and manning levels for Coast Guard activities in fiscal years 1992 and 1993. The substitute amendment which I am offering today also includes other important provisions which provide for a sound investment in the future of the Coast Guard.

AUTHORIZATION LEVELS

With respect to funding, the bill provides an 8-percent increase for Coast Guard operating expenses over the level authorized for fiscal year 1991, totaling $2.57 billion for each of the 2 fiscal years 1992 and 1993. This account covers the basic needs of the Coast Guard, such as salaries, housing, medical care, training, and fuel.

From a budgetary standpoint, this bill will require the Coast Guard to run a tight ship, particularly give the multitude and variety of Coast Guard responsibilities. When the service was first established in 1790, its mission was fairly straightforward—to prevent smuggling and collect tax revenues. Since that time, many new responsibilities have been added, including search and rescue, fisheries law enforcement, drug interdiction, aids to navigation, marine safety, and marine environmental protection. The diversity of the Coast Guard's mission is apparent when one looks at its involvement in several recent highly publicized events. From the blockade of Iraq to the cleanup of the *Exxon Valdez*, the Coast Guard has been on the frontline. S. 1297 is intended to provide the necessary funds for all these activities.

In addition to operating expenses, the bill authorizes appropriations of $452 million for fiscal year 1992 and $423 million for fiscal year 1993 for the Coast Guard's capital funding account. Capital funding, of course, includes the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft. Specific programs to be undertaken during the next 2 years include continuation of the 378-foot high endurance cutter rehabilitation program, acquisition of the remaining 110-foot Island Class patrol boats, delivery of the last HH–60J Jayhawk helicopters, replacement of seagoing buoy tenders and 44-foot motor lifeboats, and renovation of the Coast Guard cutter *Mackinaw*.

The bill also authorizes payments to retired Coast Guard military personnel, including the Coast Guard Reserve and the former Lighthouse Service. Authorizations of appropriations for retired pay total $488 million in fiscal year 1992 and $519 million in fiscal year 1993. Other accounts authorized in the bill cover research and development, bridge alteration, and environmental compliance and restoration.

With respect to manning levels, and end-of-year strength of 39,559 military personnel is authorized for fiscal years 1992 and 1993. The bill also calls for average military training loads for recruits and special training, flight training, professional training, and officer training.

RELATED ISSUES

S. 1297 also contains a number of other provisions that affect the Coast

Guard. Three of these provisions in particular are important to the State of South Carolina. First, the bill contains language authorizing the Coast Guard to lease property for the construction of Air Station Charleston. This facility, when completed, will provide vital Coast Guard search and rescue services to the Charleston area. Second, the bill designates the John F. Limehouse bridge, near Charleston, as an obstruction to navigation. The designation makes this obsolete bridge eligible for repair or replacement under the Truman-Hobbs Bridge Act. Third, the bill transfers surplus Coast Guard property on Folly Island, South Carolina to Charleston County. This property will be used as a public park and will provide the public with needed access to that island's beaches.

There is one provision, to which I am firmly committed, that the bill before us today regrettably does not include: the repeal of the Coast Guard's recreational boat user fee. This fee, which was included in last year's Omnibus Budget Reconciliation Act, went into effect on July 30 of this year. The Coast Guard has implemented this user fee in a manner that is unfair to many boaters. For example, in South Carolina, boaters on Lakes Marion and Moultrie are required to pay the fee despite not having a Coast Guard presence on these lakes. The same is true on the Cooper River, the Congaree River, the Saluda River, the Wateree River, and the Pee Dee River. In fact, this fee in general bears no relationship to any direct services of additional services to be received by the boaters.

Thus, during the Commerce Committee's markup of this authorization bill, I cosponsored an amendment offered by Senator BREAUX to repeal the boat user fee. Since that markup in late July, Senator BREAUX and I, along with others, have been working to identify an offset for the repeal of the user fee. Unfortunately, this issue has not yet been resolved, and thus the fee repeal has been removed from this bill. However, the bill before the Senate does include a statement of Congress' intent that this fee be repealed once offsetting receipts are determined. I assure my colleagues that I intend to continue my efforts to repeal this unfair fee on boaters.

WORLD MARITIME DAY

Related to S. 1297, on September 26, 1991, the International Maritime Organization [IMO] celebrated World Maritime Day. This year's theme was "Passenger and Crew Safety on Board Ship."

The IMO is a U.N. technical organization with 135 members and 2 associate members. From its very beginning in 1958 as the first international body devoted exclusively to maritime matters, the improvement of maritime safety and the prevention of marine pollution have been the IMO's most important objectives. Recently, the IMO has made great strides on issues pertaining to the theme of World Maritime Day 1991. With regard to passenger vessel safety, the United States, and particularly the Coast Guard, has helped make this progress possible. At the May 1991 session of the IMO's Maritime Safety Committee, the Coast Guard not only chaired a working group on passenger vessel safety but also worked closely with the IMO Secretariat to produce a global consensus on these issues.

Mr. President, ship passenger and crew safety are a paramount national and international concern, as is demonstrated by the theme of this year's World Maritime Day. I ask unanimous consent that the message from the Secretary General of the IMO, Mr. William A. O'Neil, marking the observance of World Maritime Day 1991, be printed in the RECORD at the conclusion of my remarks, and

I urge my colleagues to support the passage of this important legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MESSAGE FROM THE SECRETARY-GENERAL, MR. WILLIAM A. O'NEIL

This year IMO is celebrating its 14th World Maritime Day. Each year the Organization uses the Day to highlight a particularly important activity. But this year the theme is the most important subject of all—the safety of the passengers and crews who sail on board the world's ships.

The days of the great ocean liners and the emigrant ships may have gone, for nowadays most people travelling between continents do so by plane rather than ship. Nevertheless sea travel remains popular. More and more people are now choosing to take their holidays on cruise ships which offer all the comforts of a luxury hotel, with the bonus of visiting a different port every day. The short-sea routes are dominated by ro-ro ferries. And the bulk of the world's trade is still carried in a fleet of more than 78,000 vessels.

IMO's most important task is to make sure that the people who sail on these ships, whether they are passenger or crew members, arrive at their destination safely. Over the years a great deal has been done in this regard by adopting international measures which are then implemented by national Governments. IMO's Membership now stands at a record 135 States and its most important conventions apply to more than 97 per cent of the world's ships.

This shows that IMO's work has global support and it should mean that the safety standards in the world fleet are roughly the same everywhere, but regrettably this is not the case. A glance at the annual statistics for losses at sea shows that people traveling on ships from the country with the worst record are 114 times more likely to be involved in an accident than those on board ships from the country with the best. This is unacceptable.

The responsibility for enforcing IMO standards rests with individual Governments. When they ratify a convention they undertake to ensure that its provisions are effectively applied to all ships which fly its flag. Yet the huge discrepancy between the accident rates of various fleets indicates that this is not being done.

For the last few years, IMO has been handicapped by a serious cash-flow crisis caused by the failure of many Governments to pay their contributions on time. Payments were due in January but by July only 59 States had paid in full. The other 76 were behind for this year and many of them owe money for previous year's as well. This failure to meet their legal obligation is sapping the strength of the Organization and tends to divert everyone's attention and energy from the real issues of life and death of those at sea.

It should not be any surprise that several IMO Members have expressed concern at the huge differences in safety standards and the attitudes toward safety that seem to exist in different countries. This concern has deepened by the changes that are now taking place in world shipping and which are likely to continue in the years to come. Many shipowners are reducing the sizes of their crews in an effort to save money; but is enough being done to raise the standard of the crews that remain? The average age of ships today is 16 years, which is already fairly elderly in shipping terms, and old ships need more maintenance and repair than young ones. Are Governments and shipping companies doing enough to ensure that this is done?

The danger is that if the improvement in the casualty rate that marked the 1980s is halted in the 1990s many lives will be lost. In 1989, 3.7 million people took their vacation on a cruise liner; by the end of the century this figure is expected to grow to 10 million a year. Yet in recent years there have been a number of accidents to passenger ships which have resulted in the deaths of hundreds of people. Will 10 million people really want to go to sea if they think there is a serious risk of a fire on board or of the ship sinking and that those responsible for safety are not doing anything to improve the situation?

The stability of roll-on/roll-off passenger ships continues to give cause for concern, as does the continuing loss of bulk carriers, many of which have vanished without a trace in the past year. If nothing is done to stop these casualties the public will lose faith in shipping and some countries will become impatient with the ability of the shipping industry to introduce improvements on an international basis, through IMO. This could lead to a proliferation of regional or national standards and would be the end of any real attempt to raise safety standards internationally.

Standards might improve in some countries—but overall there would almost certainly be a serious reduction in safety levels, an increase in the casualty rate and more accidents involving heavy loss of life.

IMO is taking positive steps to prevent this from happening by becomming more pro-active rather than reactive in improving international safety legislation. Emphasis is being placed on the fact that no single unit in the safety chain can act alone but, instead, all must work in concert to achieve the common objective. Shipbuilders, classification societies, shipowners, ship managers, charterers, insurers, seafarers' unions, government administrations and IMO must all do their part to being about safer shipping and regain the confidence of the public—without always trying to put the blame on others for any failures.

For this part, IMO will continue to assist and encourage all parties in this endeavor and will provide leadership in the never ending quest for improvements to safety of life at sea.

VOL 137 PT 23 NO 21—25 1991 UMI

Mr. KERRY. Mr. President, I rise today to support the Coast Guard Authorization Act of 1991. The Coast Guard provides valuable services to the Nation in the areas of drug interdiction, vessel safety, maritime law enforcement and protection of the marine environment.

I would like to thank the chairman of the Commerce Committee, Senator HOLLINGS, for accepting three of my amendments. Two of the amendments provide the necessary implementation for important international treaties designed to help protect the marine environment. The third amendment will provide the *Mayflower II*, a replica of the original *Mayflower* ship, with U.S. flagship status. It will also enable the guardians of the *Mayflower II*, Plymouth Plantation, to work closely with the Coast Guard to establish safety requirements that would enable the ship to sail on rare and special occasions while ensuring a safe trip for its passengers.

The first amendment I am offering will change the International Convention on Oil Pollution to require a vessel crew or facility personnel to report any observed oil spill. Under current domestic law, reporting is only required if the vessel or facility was responsible for the spill. Clearly, expanding the requirement to observers as well as spillers will increase the number of incidents that are reported and enhance our ability to respond to such events.

The second amendment implements changes to the International Convention on Salvage. These changes would allow salvors who attempt to prevent environmental damage during a salvage operation to be compensated, even if the attempt is not successful. This change is necessary because the traditional law of salvage, which is no cure-no pay, simply does not provide incentives that are needed to protect the environment from the hazardous materials that are carried by today's cargo ships.

Both of these treaties were negotiated through the International Maritime Organization in London and fully reflect U.S. interests. As a leader in international pollution reduction efforts, it is essential that the U.S. ratify and implement these provisions in a timely manner.

Finally, Mr. President, this legislation contains a provision for the *Mayflower II*, a replica of the original ship that brought the Pilgrims to America in the 1620's. The *Mayflower II* is part of a world-renowned living history museum located in Plymouth, MA. The replica was a gift from the British people after World War II as a symbol of friendship between our two nations. Over 11 million people have visited the ship since it arrived in Plymouth in 1958.

The *Mayflower II* periodically leaves her berth to visit other locations. These trips are conducted by qualified staff. Because the *Mayflower II* was built in 1955, as an accurate representation of a 17th century vessel, it carries no propelling machinery or modern equipment. A tug assist vessel accompanies her, carrying emergency equipment and electronic navigational equipment.

The amendment I am proposing today would allow the *Mayflower II* to meet an "equivalent level of safety" requirement rather than the existing standards that were established for modern vessels. The Plymouth Plantation has assured me that they plan to sail the vessel only a few times each year on very special occasions. In their view these safety requirements are essential when the vessel leaves its berth; they are committed to working closely with the Coast Guard to ensure the requirements are met. The safety requirements would be determined cooperatively by the *Mayflower II's* owners, investors, insurers, the U.S. Coast Guard, and tugboat operators. It would, for example, limit the weather conditions under which she could sail, define escort requirements and evacuation procedures, and enhance fire and life saving equipment. Without this change, it would be impossible for *Mayflower II* to sail. I want to assure my colleagues that this amendment will not jeopardize the safety of the crew or passengers of the vessel. It will only allow the Coast Guard and others to define specific safety standards that meet the special needs of this unique and historically important vessel.

Mr. President, the Coast Guard provides a number of valuable services to New England and to the Nation as a whole. Its mission to ensure safety in our waters is a gallant one. In the past few years the Coast Guard's mandated functions have increased. With the passage of the Oil Pollution Act of 1990 and the increased need for drug interdiction, the Coast Guard has had to reassess its budget and spending options. The bill we are passing today reflects the increased responsibilities which the Coast Guard faces.

I applaud the efforts of the Coast Guard throughout the Nation. I urge my colleagues to support this legislation that enables the Coast Guard to continue their essential work.

Mr. LAUTENBERG. Mr. President, I rise today in support of the Coast Guard authorization bill which includes a provision, incorporating the text of S. 1297, my bill to authorize the transfer of the Cape May Point Lighthouse to the State of New Jersey. I want to thank Senator HOLLINGS, chairman of the Commerce, Science and Transportation Committee for including this provision in the Coast Guard authorization bill we are considering today.

The Cape May Point Lighthouse is recognized by both the State of New Jersey and the Federal Government as an historically significant structure. The original lighthouse was built in 1823, and was the second lighthouse in New Jersey. In 1857, the Army Corps of Engineers began construction of the current structure and its light has guided navigators since 1859. It is one of the oldest active lighthouses in the Nation.

In 1986, the Coast Guard leased the lighthouse to the State of New Jersey which, in turn, subleased the structure to the Mid-Atlantic Center for the Arts to operate it as a museum of lighthouse and maritime history. By agreement, the Center assumes responsibility for restoration, maintenance, and operation of the lighthouse. This relationship has proved successful and has resulted in reopening the lighthouse to the public after more than a century.

The Cape May Point Lighthouse is currently in need of major repairs, the most important of which is repair of a leaking roof and the lantern room. The Mid-Atlantic Center for the Arts has applied to the State of New Jersey for historic preservation funds, but has been told that the project is ineligible for New Jersey State preservation funds, since the lighthouse is owned by the Federal Government.

The provision I included in the Coast Guard authorization bill would transfer ownership of the structure from the Coast Guard to the State of New Jersey. This transfer would allow the Mid-Atlantic Center for the Arts to receive preservation funds from the New Jersey State government. It will also help ensure that tourists can continue to enjoy the lighthouse and learn more about maritime history in southern New Jersey. Furthermore, the transfer would not affect the lighthouse's mission as a navigational aide because it assures the Coast Guard full access to the structure to maintain navigational activities.

The transfer of the lighthouse to New Jersey is widely supported in Cape May County, NJ, where the structure is located. The transfer also enjoys the support of the State of New Jersey.

I'm grateful to the chairman for his efforts and hope my colleagues will support this important effort.

Mr. ROBB. Mr. President, I rise today in support of S. 1297, the Coast Guard Authorization Act of 1991, and in particular, of section 24, which will facilitate the construction of a small hydroelectric facility on the Appomattox River in Virginia. The provision declares a narrow portion of the Appomattox River nonnavigable in order to remove a technical roadblock to the construction of a four megawatt hydroelectric facility by the Appomattox River Water Authority, a nonprofit State-chartered water supply agency, located in Petersburg, VA.

The authority has proposed building the hydroelectric facility at its existing Brasfield Dam, which was originally constructed by the authority to supply water to surrounding communities. Because the Appomattox River is a navigable water of the United States, the hydroelectric facility requires permits from a number of Federal agencies, including the Federal Energy Regulatory Commission [FERC]. The Authority has already received a permit from the Army Corps of Engineers and a license from FERC. However, because the Authority's charter says it must retain control over the Appomattox Reservoir, it has been impossible for the authority to accept the FERC license. FERC operating licenses require that FERC be given ultimate control over waterflows and other matters, control which the Authority does not believe its charter allows it to cede.

The provision in this bill is based on S. 1068, sponsored by Senator WARNER and myself. When S. 1068 was originally introduced, environmental groups raised some legitimate drafting questions. Section 24 of the Coast Guard bill reflects two specific changes suggested by the Environmental Defense Fund: the portion of the river declared nonnavigable was narrowed to 500 feet upstream and downstream of the Brasfield Dam; and the legislation now makes clear that the Clean Water Act will still apply to activities on all portions of the river. In addition, the Appomattox River Water Authority and the private company which will construct the hydrofacility have executed an agreement with the Virginia Department of Game and Inland Fisheries which will essentially require the Authority to do what FERC could have required: Build fish ladders to facilitate fish passage.

The Appomattox Authority is in a genuine bind: Its charter fundamentally conflicts with the requirements of the FERC license. The Coast Guard bill helps resolve the conflict and allows an otherwise fully permitted and engineered renewable energy project to proceed.

Mr. President, I want to make it clear that the declaration of nonnavigability contained in this bill is meant to address an unusual set of circumstances. It is in no way meant to set a precedent for exempting hydrofacilities from the requirements of FERC where these special circumstances do not apply.

I am pleased to support the Coast Guard Authorization Act of 1991, and I urge its passage.

Mr. PACKWOOD. Mr. President, I rise to support a provision included at my request in the Coast Guard authorization bill. This provision would open up some wonderful scenic sites for Oregonians and others from around the world. It would do this while saving the Federal Government some money, as well.

This provision would transfer two lighthouses located on the Oregon coast from the U.S. Coast Guard to the State of Oregon. People at the Oregon State Parks Department are excited about assuming ownership of the lighthouses and opening them up to the public.

Heceta Head, the first of the two lighthouses I would like to transfer, is located just north of the coastal town of Florence and right next door to the world famous Sea Lion Caves. The Heceta Head Beacon is one of the world's most photographed lighthouses, probably because it sits in front of a background of dark green firs and rocky headlands.

The Cape Blanco Lighthouse, the second lighthouse to be turned over to the State, is located on the westernmost headland of the Pacific coast. The historic Hughes House is the gateway to this tower that has guided sea vessels around the head since 1870.

Transfer of these lighthouses to the State of Oregon will allow the public the chance to enter these historic landmarks for the first time, will permit the construction of a museum and educational exhibits, and will provide much-needed tourism dollars to the local coastal communities. Visitors from across the country will be able to enjoy these time-honored sentinels of the Oregon coast.

My provision will allow the Coast Guard to continue operating navigational equipment at the lighthouses. However, the classic fresnel lenses on the beacons will cease to operate, so the public will be able to examine the mechanics of the light works. Alternate beacons will be placed atop these newly opened lighthouses, making them functional and enjoyable for Oregonians.

Mr. RUDMAN. Mr. President, I rise to support the amendment to transfer the White Island Lighthouse from the Coast Guard to the State of New Hampshire in order to preserve its historic and environmental assets. The State requested this transfer earlier this year and, along with my colleague, Senator SMITH, I have been working to honor it.

The White Island Lighthouse, at the Isle of Shoals, has been an integral part of New Hampshire's maritime history by standing as a guardian to Portsmouth Harbor since 1821. The State of New Hampshire, working with the University of New Hampshire, intends to renovate the property and undertake a variety of limited educational and historical programs in conjunction with similar activities at nearby Odiorne State Park. These programs will focus on the importance of the seacoast area to the economic and infrastructure development of New Hampshire over the past 170 years.

The State intends to limit access to the island out of concern for a tern nesting site located on the property. The State is working closely with the New Hampshire Audubon Society to ensure that all necessary measures are undertaken to preserve this important natural habitat and continue the nesting site at White Island.

I appreciate the support of Senator DANFORTH and Senator HOLLINGS, and their work on the Committee on Commerce, Science, and Transportation for this transfer as part of the Coast Guard authorization bill. This transfer will allow the State of New Hampshire to preserve this important part of its history and environment.

S. 1297, THE COAST GUARD REAUTHORIZATION ACT OF 1991

Mr. BREAUX. Mr. President, I rise in support of the Coast Guard Reauthorization Act of 1991. This bill supports the U.S. Coast Guard in its highly regarded work of protecting our shores. I remind us that the Coast Guard is a military service that in peacetime enforces America's maritime laws. The Coast Guard must patrol thousands of miles of coasts and inland waterways. The Coast Guard engages in illegal drug running interdiction. The Guard's services included search and rescue operations, and boat safety programs. Additionally, the Guard operates aids to navigation. In peacetime the Coast Guard's prime responsibility is to save lives and property at sea.

As if these responsibilities are not enough, Mr. President, we've added another. After more than 10 years of pressure from the administration, the 101st Congress yielded to those pressures and agreed to direct the Coast Guard to collect user fees from recreational boat owners. It is now clear that, as implemented, the fee is grossly unfair to over 4 million recreational boaters, and it is not fair to the Coast Guard to be required to collect it.

In order to alleviate the budget deficit, and without providing any new or improved services to boaters, the 1990 Budget Reconciliation Act requires the Coast Guard to collect a $25 per year fee from owners of boats that are 16 to 20 feet long; $35 if the boat is 20 to 27 feet; $50 for boats in the 27- to 40-foot category; and, $100 if your boat is longer than 40 feet. Boaters are subject to a fine or $5,000, if they fail to pay these fees.

Recreational boaters already pay registration fees, FCC radio license fees, State sales and property taxes, trailer and title fees, nearly $140 million a year in fuel taxes, and Federal luxury taxes. And now we've asked them to ante up another $700 million in so-called user fees.

Mr. President, not a nickel of this user fee collection is consigned to the Coast Guard. The Coast Guard is asked to collect over $700 million in 5 years, and all of it goes into the General Treasury to support deficit reduction. Calling this a user fee is a farce.

VOL 137 PT 23 NO 21—25 1991 UMI

The Coast Guard admits that there is no relationship between specific services or benefits to boaters and this fee. In fact, Mr. President, the Coast Guard may be required to cut back services in some areas; the Coast Guard could lose revenue as a result of its costs in collecting the fee.

Under the user fee statute a user fee must be related to services rendered, Mr. President. In this case, any such relationship is tenuous at best. So, let's identify these user fees for what they are, Mr. President. They are in fact highly discriminatory deficit reduction taxes. And, as such, they are grossly unfair, and they should be repealed.

This bill moves us a step closer to getting that repeal. The Coast Guard reauthorization bill includes a congressional resolution calling for the repeal of the recreational boat user fee. While I would prefer an outright repeal of this unfair tax, budget act complications require additional time and negotiations for their unraveling in both the House and the Senate. The House has already passed a resolution in support of repeal of the boat tax by an overwhelming vote of 412–6. If the Senate concurs, repealing this user fee should be a matter of resolving budget act concerns.

It should be clearly understood that I, and my colleagues who are sponsoring my boat user fee repeal legislation, S. 843—it has 24 Senate sponsors—will continue to pursue full repeal of this unfair and discriminatory tax.

AMENDMENT NO. 1388 TO AMENDMENT NO. 1387

Purpose: To declare certain portions of Pelican Island, Texas, nonnavigable

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Mr. BENTSEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BENTSEN, proposes an amendment numbered 1388 to Amendment No. 1387.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS

SEC. . (a) AREA TO BE DECLARED NONNAVIGABLE.—Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows: with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet past the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 second west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 second west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 seconds west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the city of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15,171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west a distance of 3,000.00 feed to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities, and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 341.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) AREAS EXCLUDED FROM DECLARATION OF NONNAVIGABILITY.—Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit "B" of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly known as the Rivers and Harbors Appropriation Act of 1899; 33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within 5 years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

Mr. BENTSEN. Mr. President, I rise to offer an amendment to the substitute to S. 1297, the Coast Guard Reauthorization Act of 1991, which has been submitted by my colleague, the distinguished Senator from South Carolina [Mr. HOLLINGS.] This amendment would declare that nonfederally owned real property on Pelican Island, TX is deemed non-navigable, thereby extinguishing any right of navigational servitude over that property by the United States.

Pelican Island is located within the city limits of Galveston, TX. It is an island of approximately 5,000 acres, approximately 2,100 acres of which are owned by the city of Galveston, the State of Texas, and various corporations and individuals. The 2,100-acre tract is almost fully developed and includes a city park, the site of Texas A&M University's Galveston campus, the Todd Shipyards, and other large and small businesses. The remaining 2,900 acres is owned in fee simple by the United States of America, and used by the U.S. Army Corps of Engineers as a disposal site.

Since 1988, the city of Galveston, along with Texas A&M University at Galveston, the Galveston Wharves Board, the Galveston Chamber of Commerce, the Galveston Economic Development Council, and owners of the privately held property on Pelican Island have actively discussed the future development of the Island among themselves and with the corps.

At the suggestion of the corps, the city of Galveston decided to pursue the enactment of Federal law that would facilitate the positive development of the island. It was this effort which led to the development of my amendment being offered today.

This amendment meets all of the corps' general policy criteria for declarations of non-navigability. Furthermore, the declaration will not obstruct any current or anticipated navigational channel and it expressly states that any further development is subject to all applicable Federal laws. Finally, this declaration only applies to nonfederally owned lands that are not submerged.

With the agreement of local interests, the text of the amendment includes stipulations requested by the corps that will ensure that certain corps activities will not be disrupted by the declaration. Specifically, the amendment allows for wider easements for dredging pipelines, an extension of current contracts allowing the corps to use some private property as a spoils disposal area, and an offshore easement for dredging operations.

Mr. President, this amendment is the results of 2 years of good faith negotiations between public and private parties in which the best interests of the city of Galveston and the United States have been thoroughly considered and addressed. All Federal Government guidelines have been followed and the specific operational requirements of the corps have been fully accommodated.

Therefore, I urge the immediate passage of this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1388) was agreed to.

AMENDMENT NO. 1389 TO AMENDMENT NO. 1387

(Purpose: *To amend the Act of October 13, 1989, to change the aggregate annual amount of the Federal share of awards to a designated National Maritime Enhancement Institute)*

Mr. LEVIN. Mr. President, I send an amendment to the desk for Senator BREAUX and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. BREAUX proposes an amendment numbered 1389 to amendment No. 1387.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

NATIONAL MARITIME ENHANCEMENT INSTITUTES

SEC. . Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121–2(e)), is amended by striking "$100,000" and inserting in lieu thereof "$500,000".

Mr. BREAUX. Mr. President, I am offering an amendment to the Coast Guard authorization bill for fiscal year 1992. This amendment pertains to National Maritime Enhancement Institutes, NMEI's. NMEI's were provided as

VOL 137 PT 23 NO 21—25 1991 UMI

part of the Maritime Administration, MarAd, Authorization Act for fiscal year 1990.

Universities that are designated as NMEI's are responsible for conducting research that will promote and strengthen our domestic maritime industries in international trade. Institutions seeking NMEI status are required to submit applications to the Secretary of Transportation under regulations that are prescribed by the Secretary and are approved or rejected based on this prescribed criteria. The Secretary then may make research grants on an equal matching basis to these designated universities from amounts previously appropriated to MarAd for the purpose of research and development. There are currently four universities that have been designated as NMEI's by the Secretary—The University of California at Berkeley, Massachusetts Institute of Technology, Memphis State University, and Louisiana State University.

There currently is a cap of $100,000 on the aggregate amount that the Federal Government can spend on NMEI research. The Coast Guard and other Federal agencies have expressed a willingness to fund Institute research on matters within their concerns. Because MarAd has spent the full amount allowed over the past 2 years, funding from other sources has been precluded.

By raising the cap to $500,000, this amendment would increase their flexibility in providing funding for NMEI research as well as allow research funding by other Federal agencies. This amendment has no Budget Act implications since all funding for NMEI's is subject to authorization and appropriation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1389) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to amendment in the nature of a substitute, as amended.

The amendment (No. 1387) in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 1776, the House companion, and that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 1297, as amended, be inserted in lieu thereof', that the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table; that upon disposition of H.R. 1776, Calendar Nos. 253, 107, 108, and 109 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1776), as amended, was deemed read the third time and passed.

(The text of H.R. 1776, as passed today by the Senate will be printed in a future edition of the RECORD.)

CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 331, Senate Concurrent Resolution 77, regarding the massacre of East Timorese civilians.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 77) condemning the massacre of East Timorese civilians by the Indonesia military.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Foreign Relations, with amendments, as follows:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring),

(a) FINDINGS.—The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed twenty to sixty and injured as many as one hundred people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian solders also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia in violation of international law illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately six hundred thousand died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report evidence of human rights abuses, including torture, arbitrary arrest, and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50,000,000 in fiscal year 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should reassess immediately all International Military Educational Training program funds to the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) the American Ambassador to Indonesia should immediately visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request a report by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, to be made available as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict, providing for self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage Secretary General of the United Nations and the governments of Indonesia and Portugal and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

AMENDMENT NO. 1390

Mr. LEVIN. Mr. President, I send to the desk a substitute amendment of Senator PELL.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. PELL, proposes an amendment numbered 1390:

(a) FINDINGS.—The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50 million in FY 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor, the American ambassador to Indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Execution of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1390) was agreed to.

Mr. DURENBERGER. Mr. President, I rise in strong support of the resolution before the Senate pertaining to the tragic situation in East Timor. I am an original cosponsor of this measure, and vigorously urge my colleagues to support its rapid adoption.

Although the world's attention was focused on East Timor last week in response to the latest outrage by Indonesia, the sad truth is that this is only the latest in a long series of outrages perpetrated by Indonesia against the people of East Timor.

Mr. President, since I came to the Senate, I have consistently attempted to raise this country's awareness about the history of East Timor, its annexation by Indonesia after the collapse of the Portuguese colonial empire, and the violent human rights abuses that tragically persist in East Timor.

Over the years, I and a number of colleagues, both here in the Senate and in the House, have written many letters, sponsored resolutions, spoken with colleagues and constituents—all in an effort to call attention to the deplorable situation in East Timor and to call the Indonesian Government to task for its responsibility in that situation.

This latest tragedy, in which a still undetermined number of peaceful, nonviolent people were killed or seriously wounded by Indonesian forces, should serve to remind each and every one of us that the people of East Timor do not yet live in peace and freedom.

It is true that the Indonesian Government has stated that it regrets the incident and will thoroughly investigate. I welcome these expressions of regret.

But I must emphasize that my very real concerns stretch back many years, not just 1 week. I decided to sponsor this resolution because the Government of Indonesia has a long and sordid record of gross human rights violations and violent repression of popular will in East Timor. This situation is much graver than just last week's tragic events.

The resolution now before the Senate speaks for itself. It expresses our serious concerns about the recent as well as ongoing circumstances in East Timor. It calls upon the President to take certain actions that I believe should constitute the bare minimum action from the U.S. Government. This is a responsible, evenhanded response to the recent tragedy, with appropriate recognition of the longstanding abuses that regrettably persist in East Timor.

I strongly urge my colleagues to swiftly and unanimously adopt this measure.

Mr. President, I ask unanimous consent that the full text of the resolution be printed in the RECORD at the conclusion of my remarks.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (S. Con. Res. 77), as amended, was agreed to.

(The text of Senate Congressional Resolution 77, as agreed to by the Senate today, will be printed in a future edition of the RECORD.)

Mr. LEVIN. I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—H.R. 3762

Mr. LEVIN. Mr. President, I ask unanimous consent that H.R. 3762, the Metropolitan Washington Airports Act Amendments of 1991, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, will the Senator indulge me for a moment?

Mr. President, this is a piece of legislation which I deem absolutely essential that the Congress of the United States address between now and whatever date this particular session may be recessed by the leadership.

This is a piece of legislation that has been worked on by the House of Representatives in conjunction with and in consultation with the administration—that is the Secretary of Transportation—as well as Governor Holton, former Governor of Virginia, who is the current CEO, so to speak, of the Washington Metropolitan Airport organization, together with certain other collateral groups to work with.

The problem is that the Supreme Court struck down the law that was adopted by the Congress some years ago. I was instrumental in drawing up the bill that was eventually passed by the U.S. Senate. The House then sought to amend the bill. I am not here to criticize, but they amended it in such a way that it provided a basis for the Court to find the law unconstitutional.

At the present time under the direction of Governor Holton, the Secretary of Transportation, and the board, the facilities at Dulles and National Airport are being modernized and expanded to first provide for a greater degree of safety, and second to take facilities which in many respects are far outdated and bring them into current usage practices, modernization.

Many of these contracts have been let. The authorities are in the process of going into the financial markets, primarily in the bonding markets, to raise additional capital. And absent action by the Congress on this piece of legislation before we recess there is no alternative but the authority has to stop the modernization and the seeking of the necessary funds, which would bring about an enormous amount of hardship to the millions of passengers that come to and depart from the Nation's Capital; not to mention the 535 Members of the Congress of the United States and their staffs, numbering in the many thousands and the constituency that comes here.

So I am very hopeful that the Congress will be able to work on this legislation. I have indicated earlier on the floor here of the Senate that it is my intention to try to work with both the Senate and the House to get together on a piece of legislation which can be inserted into the highway conference report, to which in a matter of minutes I will return as a conferee to discuss this and other matters.

I am hopeful that that conference will conclude this weekend. So that is one vehicle by which this legislation can be passed in a timely fashion, because the majority leader has made it very clear that that piece of legisla-

VOL 137 PT 23 NO 21 — 25 1991 UMI

tion, namely the highway conference report, will pass before the Congress adjourns.

So I am confident that we will have action on this piece of legislation. It may well be that the Senate would desire to work its will in connection with one or more amendments. I know the Senator from Arizona, the Senator from Kentucky, the chairman, Mr. HOLLINGS of South Carolina, have all expressed an interest in possible amendments to the House bill.

In any event, I do hope. And I must pay particular credit to my colleague, Senator ROBB, who is a member of the Commerce Committee having primary jurisdiction over this legislation. We are all working together to see it passed. I am hopeful that it can be done.

I thank my distinguished colleague from Michigan and the Chair for indulging the Senator in these remarks.

Mr. LEVIN. The Senator from Virginia is an extraordinarily creative Senator. I am sure he will have a way to accomplish his mission in that regard, and I am sure introducing this in the highway conference will introduce a note of simplicity and perhaps unlock that conference.

Mr. WARNER. I thank the Senator. That is precisely why I am going about it in that way.

AUTHORIZING TESTIMONY BY AND REPRESENTATION OF FORMER SENATE EMPLOYEE

Mr. LEVIN. Mr. President, in behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on authorization for a former Senate employee to provide testimony by and representation of the Senate Legal Counsel, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 229) to authorize testimony by and representation of former Senate employee.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Is there debate on the resolution?

AUTHORIZATION FOR FORMER SENATE EMPLOYEE TO TESTIFY AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MITCHELL. Mr. President, the New York State Commission of Investigation, a bipartisan, independent, State investigative body, has requested the testimony of Robert Shapiro, a former Senate employee on Senator MOYNIHAN'S staff. The commission believes that Mr. Shapiro's testimony may be helpful to its investigation into the purchase in 1984 and the eventual closing of Roosevelt Raceway in Hempstead, Long Island.

This resolution would authorize Mr. Shapiro to provide testimony to the commission, and also would authorize the Senate legal counsel to provide representation to Mr. Shapiro in connection with the requested testimony.

Although some of the matters about which the commission seeks testimony may be privileged, Senator MOYNIHAN does not wish to assert his privilege concerning matters that the commission considers important to its Roosevelt Raceway inquiry.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the resolution.

The resolution (S. Res. 229) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 229

Whereas, the New York State Commission of Investigation has requested the testimony of Robert Shapiro, a former Senate employee on the staff of Senator Daniel Patrick Moynihan, in connection with a matter under inquiry by the Commission;

Whereas, by the privileges of the Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288(b) and 288c(a)(2), the Senate may direct its counsel to represent present or former employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Robert Shapiro is authorized to provide testimony to the New York State Commission of Investigation.

SEC. 2. The Senate Legal Counsel is authorized to represent Robert Shapiro in connection with the testimony authorized by section one of this resolution.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION TO ENGROSSMENT OF S. 543

Mr. LEVIN. Mr. President, I ask unanimous consent on behalf of Senator KASSEBAUM and Senator DOLE that in the engrossment of S. 543 the Secretary be directed to include the following amendment, which shall also be included in the substitute amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

The legislative clerk read as follows:

On page 6 of amendment number 1368 to S. 543, line 14, strike "(A)" and insert "(A)(i)."

On page 6 line 17, redesignate subparagraph (B) as clause (ii).

On page 6, line 22, redesignate subparagraph (C) as clause (iii).

"1991; or

"(B) the insurance is provided as agent or broker to an individual to whom insurance was actually provided by the national bank as of November 21, 1991."

MODIFICATION TO AMENDMENT No. 1377

Mr. LEVIN. Mr. President, I ask unanimous consent that amendment 1377 to S. 543 be amended by striking section 1126 and inserting the modifications that I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, if the Senator will withhold that request, I would like to conclude the proceedings tonight with a few remarks on behalf of the majority leader.

He has taken a very active interest in the conference on the highways and has informed the conferees that it is his intention that this conference report is absolutely essential to all Americans, that it be passed, because it involves a considerable sum of money which, in accordance with Federal and State practices, can be, I think, reasonably and quickly injected into America's economy.

I have had the privilege of being a conferee on that now for some week to 10 days. The conferees met on Saturday and Sunday of last week and, like all conferences, they come to a point where there is not that certainty that we are going to achieve a result.

But when the majority leader walked in before the Senate and the House and all gathered, and in the presence of all indicated that he personally was going to see that the Congress of the United States remains in session until such time as the conferees assume the responsibility to reconcile their differences in such a manner that hopefully it will be accepted by both Chambers, that moved the bill and gave some certainty that it will become law and hopefully will be signed by the President and, of course, prior thereto be adopted by both parties. I wish to commend him for that action.

Mr. LEVIN. While on the subject of that bill, and since the hour is so early the Senator might want to add some words.

Mr. WARNER. The conferees will meet at 11 o'clock Thursday night.

Mr. LEVIN. I join in the sentiment of the majority leader as well as the Senator from Virginia. But I think he would concur, as I know the Presiding Officer would, that it is important we not only have a bill but that we have a bill which is fair to those States called the donor States which the Senator from Virginia, the Senator from Florida, and myself happen to represent. And I am sure that is one of the issues in that conference.

There has been an injustice for a long, long time to about 20 States in this country that have consistently contributed much more to that fund than they have gotten back based on very arcane formulas that no one can understand in our constituencies.

I wish the Senator well in his quest on the bill and on his continuing quest to get a fair bill for all the donor States.

Mr. WARNER. Mr. President, I am hopeful that is achieved and that the bill is recognized to be fair by the Senator from Michigan, and indeed the distinguished Presiding Officer, the Senator from Florida, who during the course of the debate on that legislation in this Chamber was a leader in advancing the cause of those States, of which mine is one.

I will say the distinguished Republican leader, Mr. DOLE of Kansas, together with the distinguished Senator, the ranking member, Mr. CHAFEE, and Mr. SYMMS are now working in a manner to achieve that result, together with Mr. MOYNIHAN, who was representing the majority on the Committee on Public Works.

So let us hope the leadership will be able to bring to this body a bill and represent that it strikes the best and most equitable arrangement which they feel can be achieved.

Mr. LEVIN. I wish the Senator well on both of his quests and also hope there will be sufficient time when that bill comes to the Senate we will have an opportunity to take a look at what the impact is on the various States.

I join in the Senator's comments about Senator GRAHAM of Florida, who led a very stalwart effort on this floor to try to produce greater equity for those donor States of which our States happen to be parties to.

ORDERS FOR TOMORROW

Mr. NUNN. Mr. President, on behalf of the majority leader, Mr. MITCHELL, and—based on my understanding—with the clearance of the minority leader, Senator DOLE——

Mr. WARNER. Mr. President, that is correct.

Mr. NUNN. I ask unanimous consent that upon the completion of the debate on the DOD authorization conference report this evening, the Senate then stand in recess until 9 a.m., Friday, November 22; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein, with the following Senators recognized to speak for the time indicated: Senators BOND and MCCONNELL for 15 minutes equally divided, Senator LIEBERMAN for up to 7 minutes; that at 9:30 a.m., without intervening action or debate, the Senate vote on adoption of the conference report accompanying H.R. 2100, the Department of Defense authorization bill; that upon disposition of the conference report, the Senate then proceed to the consideration of House Joint Resolution 157, the supplemental appropriations bill, and that the cloture vote on the motion to proceed to House Joint Resolution 157 be vitiated; that the Rules Committee now be discharged from further consideration of Senate Resolution 198, a resolution amending Senate Resolution 62 of the 102d Congress to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran, and the resolution be placed on the calendar; that a motion to proceed to the consideration of the resolution be deemeed to have been made, a cloture motion on that motion to proceed, which Senator MITCHELL will send to the desk later this evening, to be filed against that motion, and the motion to proceed be deemed withdrawn following the filing of that cloture motion; and that notwithstanding the provisions of rule XXII, the vote on the motion to invoke cloture on the motion to proceed to the consideration of Senate Resolution 198 occur at a time on Friday, November 22, to be determined by the majority leader after consultation with the Republican leader with the mandatory live quorum being waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. LEVIN. Mr. President, if there is no further business today, I ask unanimous consent that the Senate stand in recess as previously ordered until 9 o'clock tomorrow, Friday, November 22.

There being no objection, the Senate, at 10:55 p.m., recessed until Friday, November 22, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 21, 1991:

FEDERAL ELECTION COMMISSION

TREVOR ALEXANDER MCCLURG POTTER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997, VICE THOMAS JOHN JOSEFIAK, TERM EXPIRED.

SCOTT E. THOMAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997. (REAPPOINTMENT)

CONFIRMATIONS

Executive nominations confirmed by the Senate November 21, 1991:

DEPARTMENT OF COMMERCE

ALAN M. DUNN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

WILLIAM STEWART JOHNSON, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 1996.

A. DAVID LESTER, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR THE REMAINDER OF THE TERM EXPIRING MAY 19, 1994.

PIESTWA ROBERT HAROLD AMES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 19, 1996.

WILEY T. BUCHANAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 1996.

DEPARTMENT OF VETERANS AFFAIRS

SYLVIA CHAVEZ LONG, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS).

ALLEN B. CLARK, JR., OF TEXAS, TO BE DIRECTOR OF THE NATIONAL CEMETARY SYSTEM, DEPARTMENT OF VETERANS AFFAIRS.

JO ANN KRUKAR WEBB, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (POLICY AND PLANNING).

JAMES ASHLEY ENDICOTT, JR., OF TEXAS, TO BE GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS.

U.S. INTERNATIONAL TRADE COMMISSION

PETER S. WATSON, OF CALIFORNIA, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING DECEMBER 16, 2000.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

WILLIAM HO-GONZALEZ, OF VIRGINIA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF 4 YEARS.

THE JUDICIARY

ANNE C. CONWAY, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

MONTI L. BELOT, OF KANSAS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF KANSAS.

DAVID C. BRAMLETTE, OF MISSISSIPPI, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

DAVID A. FABER, OF WEST VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA.

JOE B. MCDADE, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

EDITH BROWN CLEMENT, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

SAM SPARKS, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

VOL 137
PT 23
NO 21—25
1991
UMI

EXTENSIONS OF REMARKS

TRIBUTE TO DR. EDWARD L. BERNAYS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. KENNEDY. Mr. Speaker, today marks the 100th birthday of a man whose innovation in the realm of public relations impacted our country and countless societies around the world. This man is Dr. Edward L. Bernays of Cambridge, MA, who is affectionately known as the father of public relations.

Dr. Bernays' pioneering work in the early part of this century in the field of public relations helped set standards that continue to influence our society today. He was one of the first to call attention to racial injustice in the United States. His early work with the National Association for the Advancement of Colored People proved to be worthwhile and important in their quest for public awareness. In 1945, he also urged major companies to end discrimination by hiring more black citizens.

Dr. Bernays' contribution also extended to the American woman's fight for equal rights. His early work in the area of women's suffrage helped change the course of American history forever.

Having counseled serveral American Presidents, Dr. Bernays served as a consultant to the State Department, U.S. Information Agency, Department of Health, Education and Welfare, the Treasury Department, the Armed Forces, and helped form the National Association for Mental Health. His public relations campaigns crossed international borders. In the early part of this century, he helped bring about America's recognition of Lithuania's independence. He influenced human rights in India by convincing the newly independent Nation to add a bill of rights to their new consitution and rejected a lucrative offer from the Third Reich to assist them in the development of propaganda.

Dr. Bernays' many contributions profoundly shaped the field of public relations in the 20th century, and they continue to affect the American way of life. I am delighted to take this opportunity to join his family and many friends in wishing him a happy birthday on this very special day.

CONGRATULATING MARIAN HEARD

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SHAYS. Mr. Speaker, it is my privilege to congratulate Marian Heard on her selection as the new head of the Massachusetts Bay United Way.

While I am happy for her, her dedication and good work as the president and chief executive officer of the United Way of Eastern Fairfield County in Bridgeport, CT, will be greatly missed.

The residents of Fairfield County are grateful for the leadership she has given us and for the tremendous accomplishments of the United Way under her guidance.

She enriched the community through her work with community groups, as a member of a variety of business and professional organizations and with the Points of Light Foundation.

The Greater Bridgeport area is a much better place to live, thanks to Marian Heard's efforts. For that we are very grateful.

GROWING SPARE PARTS FOR PEOPLE IN SPACE?

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HALL of Texas. Mr. Speaker, I would like to call to the Members attention an article by Kathy Sawyer that appeared in the November 18 edition of the Washington Post. The article explains in great detail about advances in biotechnology discovered through our space program. On October 23, the Subcommittee on Space, of which I am chairman, conducted a hearing on those medical advances. I would like the record to note that our space program not only benefits the scientific and space communities but has practical uses for us on earth as well. As Ms. Sawyer's article explains, research from our space program has the unlimited potential to cure human diseases such as cancer. I would ask the Members to read about these advances and take into consideration the many benefits of our space program.

The article follows:

GROWING SPARE PARTS FOR PEOPLE IN SPACE?

(By Kathy Sawyer)

While NASA has forced on the problems of sending whole humans into space, some medical researchers say a giant leap for mankind could come from the care and feeding in orbit of the tiniest of people parts.

Since early in this century, scientists have used increasingly sophisticated methods to grow animal and human cells in laboratory dishes. Advances in these techniques have contributed to recent leaps in genetics and medicine.

But some types of cell farming have been limited by the press of gravity, researchers say. While many individual cell types will live and divide well under routine conditions, they can rarely be induced to assemble themselves into the complex, three-dimensional tissues of the sort that grow in the water-cushioned human womb. And some cells can't grow at all.

But a space biology team at NASA's Johnson Space Center in Houston has created a stir in the biotechnology world with a government-patented invention that researchers say lifts gravity's heavy hand without leaving the Earth.

Several clinical researchers are using prototypes of NASA's Rotating Wall Bioreactor to improve patient treatment. They say it approximates weightlessness so well that, in pilot programs, it has grown unusually large, unusually authentic swatches of human brain tumor, small intestine, fibrous connective tissue, colon (normal and cancerous) and mouse cartilage.

Stocked with cells that, in conventional systems, grew four layers deep before shutting down, the NASA bioreactor grew them in heaps, hundreds of layers deep, scientists said.

How much scientists can improve on these results once the bioreactor is adapted to work in prolonged weightlessness in orbit is a tantalizing question.

"We're sort of excited about its potential for growing large quantities of cells for tissue structures," said surgical oncologist J. Miborn Jessup of Harvard Medical School's New England Deaconess Hospital in Boston, who is using the bioreactor for colon cancer research. On the ground, "it provides a pretty good re-creation of what happens [in both normal and cancerous colon tissue] in vivo."

Glenn Spaulding, manager of the space center's biotechnology program, said the NASA team was surprised that a mere reduction in the mechanical stress of gravity produced such dramatic results. The team has been "overwhelmed with requests for the technology," he said. There are only 10 or 15 of the bioreactors, each hand-built for NASA. The government is negotiating with potential commercial builders, but for now, "we're the only ones you can call." The cells must be sent to Houston for growing.

AN INDUSTRY IN ORBIT?

Privately, some NASA sources express intense excitement about the possibility that this technology could become the catalyst for a new space-based industry—a kind of bio-body shop in orbit, growing tissues and perhaps whole organs for implanting. Some congressional space advocates see such technology as a possible antidote to charges that space activity often is too removed from mainstream human concerns to justify its high costs.

However, NASA officials caution that the technology is in its infancy, and that for now they see weightlessness as just another possible tool for basic research. Conceived in mid-1988, the bioreactor is to make its first orbital test flight aboard the shuttle Atlantis on a mission scheduled for launch Tuesday.

Bob Rhome, director of NASA's microgravity science and applications office, said NASA officials are determined not to raise expectations prematurely out of a zeal to justify space activity. "We want scientific concerns to set the pace," in contrast to the past, when "in some cases we have dragged the science community into space," he said.

The Houston team got the idea for the Rotating Wall Bioreactor while developing equipment for the planned space station Freedom. They saw the system initially as a way to mount the cell cultures in the shuttle and protect them from severe stresses during launches and landings.

In conventional lab dishes, cultures of normal cells grow until they form a layer one cell thick and then stop multiplying. Cancer cells, more prolific, grow into multiple layers that smother those on the bottom. Cells kept in liquid suspension get damaged or dislocated by shearing forces from turbulence as the bottles are agitated or rolled.

"A high-shear environment is like taking a baby's hair and touching it to your skin. That's 100-fold more shear than we want," Spaulding said.

In the bioreactor, cells and their liquid medium are confined between the walls of two tubes set one inside the other. The distance between the walls is so small that when the device turns, the medium moves with the walls, carrying the cells along.

As a result, even on the ground, shear damage to cells is reduced tenfold compared to other ways of keeping cells in suspension, Spaulding said. In orbit, "there should be between 100 and 1,000 or more times less shear" than in conventional systems on the ground.

PRODUCING "NORMAL" CELLS

Philip C. Johnson, an infectious diseases specialist at Houston's University of Texas Science Health Center, called the NASA bioreactor "pretty ingenious." In his research, he said, it has enabled him for the first time "to grow normal human intestinal cells," where before "we had to rely on cell lines from people with cancer. * * * Much of our research on processes had been done on non-normal cells."

Maylou Ingram, senior research scientist at Huntington Medical Research Institutes in Pasadena, is using the bioreactor to improve treatment for brain tumors. She said it grows cells "beautifully, prolifically and much more like they grow in the body." Tumor-fighting cells grown this way, once implanted in a patient's brain, also had an improved ability to recognize and attack real cancer cells.

But after a few weeks or months, depending on the types of cells, even the new bioreactor runs into the limits of gravity. As the tissue masses get bigger, they tend to "hit the wall," Spaulding said.

In space, ever-larger bioreactors humming in weightlessness for months or years might provide an almost natural stress-free space womb in which the cell cultures might develop without limit.

"The larger the size of the culture, the higher the fidelity [to real human tissue]," Spaulding said. With high enough concentrations of tissue, it might be possible to isolate basic processes: "How do cells become an intestine instead of a toe? * * * Once you know that, you can reproduce the mechanism on the ground."

Spaulding said, however, that many technical hurdles remained.

Still, laced through the caution is the hint of an audacious dream. Harvard Medical School's Jessup voiced it. "The bottom line is: I think it's possible to grow organs [for implant in humans] in space—theoretically. I don't want to sound like a way-out kook, and I know this is far in the future. But that is the utlimate utility of this kind of biotechnology."

Clearly, our space program offers us many benefits. We have not been able to cure many life-threatening diseases thus far on Earth, and so we must look to a new horizon which presents new opportunities: space. At the Space Subcommittee hearing, Dr. Glenn Spaulding demonstrated the almost unlimited possibilities for cell and tissue reproduction made possible by the Rotating Wall Bioreactor. By utilizing our space stations such as Freedom, we can save human lives because of the weightlessness of space. In an environment with no gravity, pharmaceuticals, crystals, and cells can be produced in unlimited quantities; but Earth's gravity only allows such research in limited amounts. Thus it is paramount that we continue to recognize and encourage these advancements in space.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

INTRODUCTION OF THE PICK SLOAN PROJECT POWER ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. WILLIAMS. Mr. Speaker, today I rise to introduce the Pick Sloan Project Power Act. The legislation will authorize the Interior and Energy Departments to make available Pick Sloan Missouri River basin pumping power to non-Federal irrigation projects in the State of Montana.

Mr. Speaker, the Pick-Sloan Missouri basin plan, as part of the Flood Control Act of 1944, was developed to promote the welfare of the region and the Nation. The initial purpose of the plan was to control flooding, develop irrigation, produce hydroelectric power, and improve navigation on the Missouri. Irrigation and electrical benefits for rural electric cooperatives were to be the benefits received by the upper regions of the Missouri basin. However at this point Montana, North Dakota, and South Dakota receive less than one-third of the low cost of hydroelectric power generated in the eastern division of the Missouri River basin which is approximately the same amount of low-cost power that Minnesota now receives.

In Montana only 5 percent of the acres planned for irrigation development have been developed under the Pick-Sloan Program and of the low-cost electricity produced annually only 6 percent is allotted to Montana consumers, which is mostly rural co-ops.

These privately developed irrigation projects are mostly on the land the Bureau of Reclamation designated for development and so are included in the Pick-Sloan plan for the acres to be developed for Montana and to be supplied with low-cost hydropower. Folks in Montana do not receive that power now because they never applied to Congress or received authorization as a Bureau of Reclamation project.

This legislation is an important first step toward obtaining Montana's rightful share of benefits from the Pick Sloan Act. Montana sacrificed valuable farmland when it allowed construction of the Fort Peck Reservoir on the Missouri. The problem is that the State of Montana has yet to reap compensation in return. This legislation will begin that process. The small portion of benefits promised to Montana under the Pick Sloan plan can be a big factor in boosting the economy of this area and the State. All we need is a little helping hand and this bill will do just that.

INTRODUCTION OF THE PENSION PROTECTION IN BANKRUPTCY ACT

HON. MARGE ROUKEMA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mrs. ROUKEMA. Mr. Speaker, today, my colleagues and I are introducting legislation which will reform the Pension Benefit Guaranty Corporation's [PBGC] standing in bankruptcy in order to ensure the long-term viability of the single-employer termination insurance program under title IV of ERISA—the Employee Retirement Income Security Act of 1974.

The Pension Benefit Guaranty Corporation [PBGC] maintains that failure to enact adequate bankruptcy reforms will result ultimately in the insolvency of the single-employer program and necessitate a future taxpayer bailout. Particular concerns have been raised in connection with recent bankruptcy court and U.S. district court rulings in the LTV case which have undermined the status of PBGC's claims in bankruptcy as currently described under ERISA.

As stated by the PBGC, the problems and proposed solutions are as follows.

First, companies in bankruptcy often cease contributions to ongoing pension plans even though benefits continue to be paid to plan retirees. To solve this problem, the bill would affirm in the bankruptcy code that pension contributions accruing after the bankruptcy filing are an administrative expense that should be paid, just like wages, during bankruptcy. Also, the PBGC would be given seventh priority claim for all contributions missed more than 180 days prior to bankruptcy filing, some of which are now only a general unsecured claim.

Second, debtors and creditors have challenged PBGC's priority claims. A recent court ruling, which upheld this challenge, could add billions to PBGC's deficit. Therefore, the bill would affirm in the bankruptcy code that in bankruptcy proceedings, a portion of PBGC's claim for employer liability—underfunding—has tax priority. In addition, the proposal would clarify the priority claim to be the greater of the current priority claim—the amount of underfunding up to 30 percent of the sponsor's and affiliates' net worth—or a percentage of underfunding starting with 10 percent and increasing 2 percent per year until it reaches 50 percent.

Third, under current law, a sponsoring company can escape underfunding liability if it liquidates while a plan is ongoing and another member of the controlled group takes over responsibility. In this case, the bill allows PBGC or the plan to assert a claim for underfunding against a liquidating sponsor even though a plan is not terminating and it is being taken over by an affiliate.

Fourth, most benefits arising as a result of plant shutdown and permanent layoffs are not prefunded and dramatically increase plan underfunding and greatly add to PBGC's losses. Under this proposal, PBGC would be given a tax priority claim for shutdown benefits incurred during the 3 years prior to termination.

THE PEACE AND PROSPERITY

be the most important vehicles for growth in

over the past 16 years, Castro Valley High

VOL 137
PT 23
NO 21–25
1991
UMI

Last, the PBGC is rarely included on the creditors' committee and has limited access to financial data necessary to pursue its claims. Under the proposal, PBGC would be given the option to be a member of the creditor's committee.

The legislation I am cosponsoring today will make needed clarifications and improvements to PBGC's position in bankruptcy. I remain hopeful that these or similar reforms will be enacted to strengthen the agency's ability to better protect employees and retirees from the loss of their pension benefits and assure the long-term stability of our $1 trillion defined benefit system.

I look forward to working with my colleagues on the Education and Labor, Ways and Means, and Judiciary Committees to protect the hard-earned retirement income of our Nation's workers and retirees.

INTRODUCTION OF THE PENSION PROTECTION IN BANKRUPTCY ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GOODLING. Mr. Speaker, today, I am cosponsoring legislation which the Pension Benefit Guaranty Corporation [PBGC] strongly recommends as being necessary for the continued solvency of the ERISA title IV single-employer pension plan termination insurance program.

Today, PBGC protects the retirement benefits of 40 million workers and retirees without the use of tax dollars from the general fund. To cover the underfunding of the terminated plans it insures, it obtains revenues derived from premiums paid by sponsors of defined benefit pension plans and from investments. However, the financing of the single-employer program on a self-sufficient basis is becoming increasingly clouded because of the PBGC's current financial picture and future exposure to loss.

Although th PBGC currently has a net worth deficit of over $2 billion, it has sufficient revenue to pay benefits. However, by 1992 the PBGC projects that benefit payments will exceed premium income by over $100 million. While this potential negative cash flow is likely to be offset by investment income, before the end of the decade, benefit payments could exceed both premium and investment income.

Despite the short-term cash-flow health of the defined benefit program insured by PBGC, the PBGC faces an exposure of $40 billion in underfunded plans. The underfunding is concentrated in pension plans in the steel, airline, and automobile industries. Of this total, about $14 billion is in plans sponsored by financially troubled companies. This situation could present a serious risk to the continued health of the PBGC.

The future financial condition of the PBGC depends on whether this exposure becomes an actual loss during the 1990's. If PBGC's losses over the next 10 years average the net losses over its history—$300 million per year—PBGC could retire its deficit and experience a surplus in the year 2000. But a less optimistic forecast, based on average net losses for the past 9 years when PBGC began experiencing significantly larger losses, would show a deficit of $2 billion by the end of the decade. If the $14 billion of reasonably possible losses occur, the result would be a deficit of nearly $16 billion. The effects of a recent court ruling, which denies PBGC any priority status in bankruptcy, could add billions to PBGC's deficit. A continuation of the present economic slowdown could also lead to substantially higher losses.

In order to strengthen sponsor incentives to fund pensions and further reduce the insurance fund's exposure to loss, the PBGC is now seeking legislative changes that will clarify and improve PBGC's standing in bankruptcy proceedings. The PBGC is also looking at additional requirements for funding pension plans.

The intent of the legislation which I am cosponsoring is to restore and improve upon the legal framework that has been crafted under ERISA over the past decade. If the single-employer program is to survive in the longrun without severe reductions in guaranteed benefit levels, unsupportable premium increases, or an ultimate bailout by the taxpayers then the remedies suggested under this legislation, or similar ones, will have to be soon enacted.

The various features of the Pension Protections in Bankruptcy Act will give companies greater incentives to fund their plans rather than terminate them. In this regard, the bill clarifies that postpetition contributions and a portion of prepetition contributions and employer liability claims have priority under current law. Also, the Bankruptcy Code is amended to include contribution claims and a portion of employer liability claims: First, if pre-petition, as taxes accorded priority under section 507(a)(7) of the Bankruptcy Code, and second, if postpetition, as taxes accorded administrative expense priority under section 507 and 503 of the Bankruptcy Code.

In addition, the PBGC proposal increases priority claim limits to the greater of: First, 30 percent of employer net worth, or second, the applicable percentage of remaining underfunding. The applicable percentage begins at 10 percent and increases 2 percentage points a year until it reaches 50 percent in the year 2012. The PBGC is also authorized to ignore the net worth computation when cost-effective to do so.

The proposal also gives tax priority to any plan underfunding due to shutdown benefits triggered within 3 years of termination. The bill provides that a liquidating sponsor in a controlled group would be liable to the plan for underfunding as if the plan were terminating.

Finally, the bill would give the PBGC a statutory right to be a member of the creditors committee and require a bankruptcy debtor or trustee to give PBGC the same notices it is required to give other creditors when the debtor or an affiliate sponsors a PBGC-covered plan.

It is important that the debate over this legislation and the long-term solvency of the PBGC begin in a timely manner. At stake is the continued viability of the defined benefit pension system and the payment of full pensions to the American workers who have earned their right to security in retirement.

LINE-ITEM VETO LEGISLATION

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, earlier today I introduced legislation which would amend the Constitution to grant the President line-item veto authority.

Since I have arrived here, I have observed that Congress has a hard time saying no to spending items. Congress has yet to make real progress in reducing the deficit and, in fact, the deficit has reached an all-time high. I believe that granting the President line-item veto authority will encourage Congress to carefully evaluate the legislation they fund and will give the President an opportunity to check Congress' spending habits. As with other legislation which is vetoed by the President, Congress will have the opportunity to override the veto.

My legislation would grant the President this authority by amending the Constitution. I believe that the granting of line-item veto authority is an important change and should be an amendment to the Constitution and that the public should voice their opinion on the matter through their State's approval of the amendment. Any amendment to the Constitution requires that the legislation pass the House by a two-thirds majority and then be ratified by three-fourths of the States. I believe this is the appropriate measure to follow.

In my legislation, all bills containing spending are subject to the authority except funding items for the functioning of the judicial branch. I have exempted the judicial branch, as I believe the functioning of our courts should not be used as a bargaining chip in political bickering.

Additional restraints on Federal spending are necessary. Congress is failing miserably to reduce the deficit and control spending. I believe the President's use of line-item veto authority will improve this situation. I urge Members to cosponsor this legislation.

At this point in the RECORD, I submit a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS

"Section 1. The President may disapprove an item of appropriation in any Act or resolution presented by the Congress, except as provided in section 2.

"Section 2. The President may not disapprove under section 1 an item of appropriation for the operations of the judicial branch of the Federal Government.

"Section 3. Following disapproval under this article of an item of appropriation, the President shall return such item with objections to the House in which the bill or resolution containing such item originated.

"Section 4. Following the return of an item of appropriation, the Congress may reconsider the item in the manner prescribed under section 7 of article I of the Constitution for bills disapproved by the President.".

THE PEACE AND PROSPERITY COMMISSION ACT OF 1991

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HOAGLAND. Mr. Speaker, we are all familiar with the truly stunning events in the area formerly known as the Soviet Union. The rejection of communism and the collapse of the Soviet empire has opened an historic window of opportunity for peace and economic cooperation between the United States and the former Soviet Republics. The United States must now seize the initiative and insure that this tremendous potential is realized.

The immediate obstacle that stands in the way of transforming this potential into true peace and economic cooperation is uncertainty. Although we stand ready and willing to begin a post-cold war phase of economic relations with the former Soviet Repubics, their uncertain situation and lack of clear authority makes the effort a difficult one. That is why today I am introducing a companion bill to the bill (S. 1870) sponsored by my Nebraska colleague in the Senate Senator JIM EXON, to create a U.S./U.S.S.R. Peace and Prosperity Commission. This high-level bipartisan commission would analyze the economic relationship between the United States and the former Soviet Union, Republics of the Soviet Union, and the Baltic Republics. It would offer recommendations to the President and Congress on forms of economic cooperation to best serve the mutual interests of the United States and former Soviet Union.

The tenuous situation in the former Soviet Union is hampering propsects for economic cooperation in many ways. The absence of any clear central politcal authority in the country has given rise to local and republic disputes over control of resources and economic management. Legislation is being enacted at all levels, making it difficult for foreign businesses to keep pace with legal requirements. In addition, the insolvent ruble and banking system have exacerbated the economic situation.

Confronted with this instability, the United States needs a deliberative and farsighted approach. The commission created in this bill would consist of a panel of impartial experts, 23 members from government, business, and academia that will be selected by the President and the Democratic and Republican leaders of both Houses of Congress. The commission will report every 6 months for 2 years and offer short, medium, and long-term recommendations for cooperation between the United States and U.S.S.R. Union in all economic areas. The bill directs the commission to examine food processing and distribution, telecommunications, military conversion, transportation, and many other areas of economic importance.

Increasing economic cooperation to encourage trade and investment is essential for the recovery of the former Soviet Union. It also makes practical sense, because in light of the Federal budget deficit in this country, increasing U.S. aid to the Republics has become very unlikely. Trade and investment will therefore be the most important vehicles for growth in the former Soviet Union.

In addition, there are important economic advantages for the United States to formulate a clear policy toward the former Soviet Republics. The vast underdeveloped area is rich in untapped natural resources. The large population could provide a significant new market for American exports. There is also tremendous potential for American investment. By expanding its economic cooperation with the former Soviet Union, we would be helping Americans as we move the world toward peace and prosperity.

There is significant economic opportunity for Senator EXON's and my constituencies in Nebraska. The former Soviet Union needs food, equipment and expertise in the areas of food processing, distribution, and storage. In addition, the communications infrastructure is outdated. Nebraska's agricultural, agribusiness, and telecommunications sectors could benefit significantly from this opportunity.

Mr. Speaker, I also wish to compliment two people who had a very important role in formulating the idea for this commission, former Congressman John Cavanaugh of Omaha, and Douglas County Commissioner Howard Buffett. Both of them contributed significantly to the drafting of this legislation.

I encourage my colleagues to consider this legislation. The United States and Soviet Union are entering a new and exciting era of cooperation. The potential for both peace and prosperity exists, but many obstacles remain. The time has come for the United States to seize the initiative in forging this new relationship with the Soviet Union, and we must do so while the opportunity remains promising.

A TRIBUTE TO DR. EDWIN K. REULING

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. STARK. Mr. Speaker, I rise today to offer best wishes to Dr. Edwin K. Reuling, who is retiring from the Castro Valley Unified School District Board of Education following 16 years of exceptional service.

Dr. Reuling began his career in education in 1964 at Michigan State University. He worked there as a director for several student programs while earning a Ph.D. in education. His successes at Michigan State brought him to California State University at Hayward in 1972 as an associate dean of students. He continues his work there today as associate vice president of student services.

Dr. Reuling's fine skills as a school administrator enabled him to join the Castro Valley Board of Education in 1975. During his years with the board he shared his abilities with numerous committees countywide. Early on, he received an honorary service award from the Barbara Crosby PTA for his service to youth and all children. Dr. Reuling also served four terms as board president.

Dr. Reuling has made a powerful impact on the many students, teachers, parents, and other citizens he has come in contact with over the past 16 years. Castro Valley High School won national recognition as an outstanding secondary school in 1985 and 1989—testimony to the significant leadership role of Dr. Reuling. His contributions will be missed.

TRIBUTE TO J. SAXTON LLOYD

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. JAMES. Mr. Speaker, I am honored to rise today in tribute to J. Saxton Lloyd, a longtime business and civic leader who passed away on June 29, 1991. There are times when one just cannot let another day pass without recognizing such a prominent and admired citizen. J. Saxton Lloyd or "Sax" as he was affectionally known, was such a person.

Born in Savannah, GA, J. Saxton Lloyd was a resident of Florida since 1916 and had lived in Daytona Beach since 1924. Mr. Lloyd was married to the former Miss Adelaide Wells Crane in 1934. He was the father of twin sons, Robert and William, and the proud grandfather of 12 grandchildren and 7 great grandchildren.

After graduating from Seabreeze High School in 1926, Mr. Lloyd could not continue his formal education because of family financial difficulties. Sax was an excellent example of how a lack of higher education should not preclude a person from getting ahead. He was a strong advocate, however, of higher education to solve community problems.

Mr. Lloyd was founder of Lloyd Buick-Cadillac-BMW Inc., which has been in business in Daytona Beach, FL, for 61 years. His first employment in 1926, was as a service department employee with the then Buick dealer in Daytona Beach. During the Depression, he survived several personnel cuts and became parts and service manager at age 20. In 1930, the firm dissolved and Mr. Lloyd became secretary/treasurer of the newly organized company, Daytona Motor Co., which he bought in 1938. He changed the name to Lloyd Buick Cadillac in 1965 and served as general manager of that company until 1984.

Sax Lloyd was the founder and first chairman of the Civic League of the Halifax area. He was the yongest person to serve as president of the National Automobile Dealers Association, and chairman of the Cadillac and Buick dealer councils and was a member of the General Motors presidents' council. In 1963, Sax Lloyd gifted Sugar Mill Gardens in Port Orange to Volusia County as part of the county's park system. These beautiful gardens are now a part of the National Register of Historic Places.

With a keen interest in government at all levels, Sax Lloyd accepted appointments from three Florida Governors and Presidents Harry Truman and Dwight Eisenhower on their highway committees. He was appointed to the State of Florida's first State advertising commission, which he headed for 4 years. The commisson was responsible for creating and building Florida industry, promoting Florida commerce, encouraging visitors to the State and to raise the earning levels of residents. In

Trudeau with a forum for his unfounded at- sustained, long-term oversight effort that is es- more quickly and thus allow the agencies to

VOL 137 PT 23 NO 21–25 1991 UMI

1952, Mr. Lloyd was appointed to the State road board. He also became chairman of the Florida Racing Commission which governs all paramutual business in the State. In 1955, Mr. Lloyd was appointed to a 2-year term as chairman of the Florida Development Commission which was established to promote the State and attract new industry. He was appointed to serve on the St. Augustine Historical Restoration and Preservation Commission by former Gov. Leroy Collins in 1959 and was vice chairman when he stepped down in 1966.

Serving as vice chairman of Bethune Cookman College's board of trustees, Mr. Lloyd was a long time supporter of this historically black college located in Daytona Beach. He contributed much of himself to the black community and will always be remembered for improving racial relations in Volusia County.

Locally, he was a member of the Rotary Club of Daytona Beach and became known as "Mr. Rotary." in 1961, Mr. Lloyd was elected president of the Daytona Beach Committee of 100, again working for the primary purpose of attracting industry to his home.

Sax Lloyd was able to express his lifelong interest in the automobile industry and sports when he was named chairman of the local Racing and Recreational Facilities Authority. This group contributed their efforts to the financing and construction of the Daytona International Speedway.

Never having been able to fulfill his dream of attending the University of Florida still did not stop Sax Lloyd from supporting the academic and athletic programs of this prominent Florida school. in 1982, Sax Lloyd was named an honorary member of the Florida Blue Key. He was a member of the University of Florida Foundation's board of directors, the president's council, and the Gator Boosters.

The people of Volusia County as well as the State of Florida and this Nation are fortunate to have had J. Saxton Lloyd. A man who stood so tall, ready to reach out and lend a helping hand. A man who proved that if you put forth effort, if you worked hard, if you really cared, you could be a success. A man who left his mark.

It is often said that an individual never really begins to help others until they turn their mirror into a window—and look to the plight of others, realizing they, too, can help. Sax Lloyd always recognized the need to give of oneself. He represented the best of America. He was committed to fostering community spirit, working for fair and ethical Government, and caring for his fellow man. His deeds will determine the kind of America we leave for future generations. The pages of history have been written by people like J. Saxton Lloyd. He accepted a personal responsibility for all mankind.

In the words of Winston Churchill, "We make a living by what we get. We make a life by what we give." J. Saxton Lloyd lived by these words of wisdom. Man is measured by his deeds. As he goes along life's way, it matters not whether he is famous or unknown, possessed of material goods or whether he walks in humble paths. Man's humanity and concern for his fellow man is what accounts for his greatness in the book of life. Sax Lloyd fulfilled that greatness.

Mr. Speaker, J. Saxton Lloyd was a truly great American. He was extraordinary, he was determined, he was courageous, and he was an inspiration to all. He will never be forgotten.

TRIBUTE TO CLINT PEOPLES

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to Clint Peoples, former U.S. marshal for the northern district of Texas and senior lawman in tenure in the United States with 60 years service.

Marshal Peoples began his distinguished law enforcement career in 1930 as a deputy sheriff in Conroe, TX. He has held nine separate peace officers' commissions during his many years of service. Peoples has risen to the rank of senior captain of the Texas Rangers, only the second man in the history of the Texas Rangers to hold this title. Peoples was appointed by President Nixon to serve as U.S. marshal for the northern district of Texas, where he continued to serve under five presidents.

In his fight to maintain law and order, Peoples has confronted such notorious criminal figures as Bonnie and Clyde, Pretty Boy Floyd, Raymond Hamilton, and was involved in the closing of the infamous La Grange "Chicken Ranch." Despite his dealings with heartless criminals, he has preserved his Christian compassion for truth and understanding.

Marshal Peoples and his wife, Donna, have established a scholarship fund to assist children of current or former sheriffs who are seeking a degree or career in law enforcement. Peoples has had a law enforcement academy in Montgomery County, TX, named after him. He was instrumental in founding the Texas Ranger Hall of Fame and chaired the Texas Ranger Commemorative Commission and Foundation that honored the rangers on their 150th anniversary.

Peoples is honored by being the subject of a biography detailing his life from the early beginnings as a deputy with only a pistol and a pair of handcuffs. His image on his horse, Chico, is displayed in wax in the Southwestern Historical Wax Museum in Grand Prairie, TX. He has also commissioned a bronze sculpture entitled "One Man's Dream" with the proceeds designated to support the scholarship fund.

Clint Peoples will always be known as one of the good guys of the old West. The State of Texas is proud to have him as one of its distinguished sons. He has served as a protector of justice and servant of the people for 60 years.

Mr. Speaker, I commend Clint Peoples for his outstanding service and devotion to law and order, and I wish to extend a sincere "thank you" to him on behalf of all Americans for his dedication to law enforcement.

GARY TRUDEAU'S MEAN-SPIRITED ATTACK ON VICE PRESIDENT QUAYLE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. PORTER. Mr. Speaker, elected officials in America are subject to criticism by the people they represent and the media, and that's the way it should be. Those who serve in public office are answerable for their conduct and performance. But in America we also expect that those who level criticism adhere to basic principles of fairness. Unfortunately, Gary Trudeau's recent *Doonesbury* strips attacking Vice President DAN QUAYLE fail to meet that important standard.

Neither I nor anyone else would challenge Mr. Trudeau's right to express his political views—as a cartoonist and commentator that is not only his right, it is his job. But his recent strips, which recount discredited charges against the Vice President by a felon who admitted he was lying, are an outrageous abuse of Trudeau's editorial discretion and violate basic tenets of journalistic practice.

And it's not only elected officials or Republicans, Mr. Speaker, who are complaining about Trudeau's attacks. Scores of newpapers across the country which run his daily strip have felt compelled to withhold publication because they were uncomfortable with the content. Even the *Chicago Tribune*, one of our Nation's leading newspapers whose editorial board is second to none in defending free speech, withheld publication of some recent Doonesbury strips that it found to be outside the boundaries of responsible commentary.

Newspapers are not in the business of squelching criticism of public figures, Mr. Speaker. In a November 15 article, here's what *Tribune* Associate Editor Douglas Kneeland had to say about his paper's decision to withhold publication of some of Trudeau's strips.

> We give wide latitude to columnists and political cartoonists to express their opinions. For many, perhaps most, irony and satire are their weapons of choice. Their job is not to be fair, but to make a point. But the *Tribune's* job in anything resembling news reporting is to be fair * * * Trudeau's strip ventures often into the minefield of politics, merrily setting off explosions along the way. And we wouldn't have it any other way. For that reason, we weren't surprised in this budding presidential election season by Trudeau's plunge into politics. We were troubled, however, by the format he chose. The strips seemed to be more designed to peddle an old story that had been found lacking in substance—both by federal investigators and by a number of news organizations that had looked into it—than to satirize Dan Quayle, who for years has heatedly denied the charges Trudeau is recycling.

Kneeland goes on to explain that the assertions made in Trudeau's strips "did not meet the *Trubune's* factual standards for publication" and that "[u]nder no circumstances would we allow our own writers to report them as fact in a story without supporting evidence such as the name of a qualified source."

This assessment is why dozens of newspapers have chosen to not provide Mr.

Trudeau with a forum for his unfounded attacks. It is also why he has lost the respect of countless readers who have enjoyed his sharp-edged commentary over the years but who cannot understand this series of vicious strips.

Mr. Speaker, one of our society's most precious rights is the freedom to criticize the government and its officials. But that right carries with it a responsibility to maintain fairness and decency in our public discourse, standards which Gary Trudeau has violated.

MARIE PONZILLO RECEIVES HOME ECONOMICS TEACHER OF THE YEAR AWARD

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, These days students have tough choices to make about their academic future. They look to teachers for advice and counsel in making these important decisions. Students today need positive role models who lead by example.

It is always special to find a teacher who provides all the normal academic requirements, but steps above this and becomes a friend and role model for the students.

Marie Ponzillo is this special kind of teacher. Ms. Ponzillo was recently named teacher of the year by the American Home Economics Association. This award recognizes excellence and creativity in teaching of home economics.

Ms. Ponzillo, is a home economics teacher at Crosby High School in Waterbury, CT. She has developed the Crosby Consignment Shop, which is a student-run program involved with recycling used cloths and providing retail business experience for the students. Profits from this program go to the students and the University of Connecticut Medical Center's Children With Cancer Fund.

I want to commend Ms. Ponzillo for her work to assure excellence in education. At this point in the RECORD, I would like to submit an article from the Journal of Home Economics outlining Ms. Ponzillo's accomplishments.

THE FEDERAL PROGRAM IMPROVEMENT ACT OF 1991

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SCHULZE. Mr. Speaker, I am pleased to speak today as an original cosponsor of the Federal Program Improvement Act of 1991. This act represents the bipartisan product of the Ways and Means Subcommittee on Oversight, of which I am ranking Republican member.

I have long believed that Congress must be vigilant in looking over the shoulder of the far flung bureaucracy. No stone should go unturned in the search for possible fraud and abuse. This bill is the product of the kind of sustained, long-term oversight effort that is essential to good government. The bill makes key changes to five Federal programs that will result in significant, tangible savings to the taxpayer through improved Government operations.

First, Mr. Speaker, one of the most important sections of the bill addresses abusive telemarketing by unscrupulous durable medical equipment [DME] suppliers. Due to the high concentration of both elderly citizens and medical equipment companies in southeastern Pennsylvania, my home district has become a hotbed of this abuse.

Earlier this year, the Subcommittee traveled to West Chester, PA, and learned firsthand how boiler room telemarketing operations make unsolicited calls to unsuspecting seniors, and induce them to buy equipment that they don't need and don't want.

The bill puts an end to this practice by placing an outright ban on DME telemarketing under the Medicare Program.

I originally proposed such a ban in my bill, H.R. 3587, and I am pleased to say that my legislation has been incorporated in its entirety into this act. The act also gives the Department of Health and Human Services new authority to bring outrageously high DME prices down to current, more reasonable levels. In particular, the bill orders a complete review of the prices for TENS units and decubitus care equipment—two of the most abused items uncovered in our investigation.

Second, the bill reduces erroneous payments under the Medicare Secondary Payer [MSP] Program. Under the Medicare law, private insurers must pay claims before Medicare. However, doctors and hospitals often send claims to Medicare first, since Medicare pays more quickly. The Medicare contractors are then left to figure out who should really pay. As a result, the taxpayers lose up to $1 billion per year due to these erroneous payments.

This bill goes to the heart of the problem, by establishing new penalties for doctors and hospitals who repeatedly violate MSP screening requirements.

Third, the bill ends the abuses and mismanagement that have characterized the overtime pay system for U.S. Customs Service Inspectors. Under the 80 year old overtime law, inspectors get paid 4 hours pay for working just 1 minute past the end of the regular work day, or 16 hours pay for any work done on a Sunday.

Customs managers have treated the user fee fund that covers overtime expenses like free money, and Congress and OMB have exercised little or no oversight. This bill changes that situation by modifying Customs Service compensation rules to make hours paid bear a more direct relationship to hours worked. I personally advocated provisions to restore oversight of the overtime fund by making it open to OMB review, and subject to annual authorization and appropriation by Congress.

Fourth, the bill would reduce the erroneous payment of Federal benefits to persons who have died. It would do this by directing the Federal agencies to cross check their beneficiary lists with death data compiled by the Social Security Administration. This screening process will identify deceased beneficiaries more quickly and thus allow the agencies to stop issuing benefit checks more quickly.

Fifth, the bill directs the Pension Benefit Guarantee Corp. to improve its management system for the collection and tracking of premium payments by pension plan sponsors. The Oversight Subcommittee found that the PBGC's premium collection system was under stress because it was based on an out-of-date computer system. The variable rate feature of the PBGC premium pushed the collection system beyond its capability and the system crashed.

Mr. Speaker, the five major features of this act will improve the efficiency of Federal programs. The details are neither glorious nor flashy but they address the nitty gritty operational features which are essential for good management.

BEST WISHES TO DR. HERBERT GRAW

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. STARK. Mr. Speaker, I would like to extend my warmest wishes to Dr. Herbert Graw who is retiring after providing 8 years of outstanding service to the Castro Valley Unified School District Board of Education—years in which Castro Valley High School was recognized for national awards in 1985 and 1989.

Dr. Graw has long been dedicated to quality and opportunity in education. He holds a doctorate in education and is the associate vice president of off-campus programs at the California State University in Hayward.

During his tenure on the Board of Education, Dr. Graw acted as president of the board of education for 2 years. He was the representative to the Eden Area Regional Occupational Program for 6 years, including 2 years as chairperson. Dr. Graw also served as representative to the School Boards-Chabot College Board of Trustees Liaison Committee.

Dr. Graw has provided important guidance and support to the Castro Valley Unified School District and the people of Castro Valley. He will be missed by all.

FLAGLER COUNTY'S 75TH ANNIVERSARY

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. JAMES. Mr. Speaker, the year 1992 will be a big year for Flagler County, FL, which is located near the center of the district I am proud to represent here in the Congress. For next year marks the 75th anniversary of the county, named after the businessman—Henry Flagler—whose railroad lines and resort hotels were so instrumental in opening up and developing the east coast of Florida back in the late 1800's and early 1900's.

Indeed, this milestone is of sufficient significance to people in Flagler County that com-

VOL 137
PT 23
NO 21–25
1991
UMI

memorative activities have gotten underway already. This past June 29, for instance, the Flagler County Historical Society sponsored one of its planned activities, a first ever for the county—dinner-recital. Held at Palm Coast, this historic cultural event, which featured the internationally famous oboist Andrea Franceschelli of Perugia, Italy, also marked the first time such a musical superstar had performed in Flagler County.

Mr. Speaker, I'd like to take this opportunity both to commend the Flagler County Historical Society for hosting such an auspicious musical event and to invite my colleagues to come visit Flagler County as it celebrates its 75th anniversary. Located not far north of Daytona Beach, the county not only has much to offer but always has its welcome mat out.

A TRIBUTE TO THE HONORABLE D. FRENCH SLAUGHTER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. PORTER. Mr. Speaker, I am pleased to add my accolades for our distinguished colleague, French Slaughter, to those of the Virginia delegation and French's many friends on both sides of the aisle. His retirement from the House due to ill health after nearly 7 years of dedicated service to the people of Virginia's Seventh District is a loss for them and for our Nation.

Throughout a career of public service that began in the Virginia General Assembly in 1958, French Slaughter distinguished himself as a thoughtful, effective advocate for his constituents, and a forceful voice for fiscal responsibility, and sound public policy. Here in the House, he was an outstanding member of the Committees on Judiciary; Science, Space and Technology; and Small Business.

A July editorial in the Richmond Times-Dispatch captured the way many of us feel about French's departure:

> With the resignation of Republican Representative D. French Slaughter. Jr. of the 7th Congressional District, the American people will lose the services of one of the most highly principled conservatives in public office. If Washington were dominated by political leaders who shared his values, the federal government would be far more responsible, effective and economical than it is . . . [h]e deserves our gratitude for his many years of service, and our best wishes for the future.

Together with so many of his colleagues, I second those sentiments, and include my own personal best wishes for French and his family in all the years ahead.

INTRODUCTION OF LEGISLATION TO ALLOW EMPLOYEES TO CHOOSE COLLECTIVE-BARGAINING REPRESENTATIVE OF THEIR CHOICE

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. WILLIAMS. Mr. Speaker, today I am introducing legislation to protect the rights of certain service employees to freely choose a bargaining representative. The legislation is intended to close a loophole created by interpretations of the law that are contrary to the intent of Congress. The bill amends section 9(b)(3) of the National Labor Relations Act to ensure that it is interpreted in a manner that reflects the intent of Congress when it enacted this provision in 1947.

Section 9(b)(3) provides that a bargaining unit is not appropriate when it includes both nonguard employees and "any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises." Section 9(b)(3) further provides that no union may be certified as the representative of a bargaining unit of guards if such union admits or is directly or indirectly affiliated with a union which admits nonguards to membership. The language of 9(b)(3) has been grossly misinterpreted to restrict the rights of a wide range of employees including doormen, desk clerks, and lobby attendants to mention only a few.

The bill I am introducing specifies that section 9(b)(3) applies only to those personnel "whose primary responsibility is to prevent employee disorders and misconduct of employees." Any plant guard hired for the purpose of ensuring that other employees obey and respect an employer's rules would remain subject to the restrictions imposed by section 9(b)(3).

The language of 9(b)(3) was included in the Taft-Hartley Amendments because of congressional concern over the decision of the Supreme Court in *NLRB* v. *Jones & Laughlin Steel*, 331 U.S. 416 (1947). In that case the Supreme Court upheld the ability of the NLRB to certify the United Steelworkers of American as the bargaining agent for the steel plant's guards. The Jones & Laughlin case raised concerns in Congress because the same union which represented the regular plant employees could be certified to represent the plant guards. In the event there was a strike of the plant employees, it was feared the guard employees would face the dilemma of having to choose between their duty to protect the employer's property and desire to honor the picket lines of their union. Section 9(b)(3) was enacted for the purpose of overturning NLRB versus Jones & Laughlin to eliminate this potential conflict of interest. The House report accompanying the 1947 amendments directly refers to "plant policemen and guards" and the terms "guards" and "plant guards" are used interchangeably throughout the legislative history.

Unfortunately the NLRB over the years has not consistently recognized this legislative intention. Their interpretation of the reach of 9(b)(3) has not been limited to plant guards with the specific and primary duty to enforce rules against other employees for the protection of an employer's property. Rather the Board has mistakenly extended the reach of 9(b)(3) to cover doormen, desk clerks, lobby attendants, elevator operators, watchmen, delivery drivers, armored car drivers, janitors and others. None of these employees has special duty to protect an employer's property against other employees. NLRB decisions at times have interpreted 9(b)(3) to cover employees if any part of their responsibility included the protection of an employer's property, a standard of coverage that includes most if not all employees.

Recent decisions of the Board suggest that the Board may be moving toward a recognition of the original intent of 9(b)(3). In the case of *Purolator Courier Corp.* 300 No. 103, (1990) the Board found that certain courier-guards are not guards within the meaning of 9(b)(3). They stated "these courier-guards are not engaged directly and substantially in the protection of customer property, and therefore are not statutory guards." Since Purolator Courier the Board's interpretation appears to be returning to the original intent of 9(b)(3). (See *Hoffman Security*, 302 NLRB No. 141, *EPS Guard Services, Inc.* 300 NLRB No. 34, *SMI of Pattison Avenue, L.P.*, Case 4–RC–17509) While it is encouraging that currently the Board seems to be moving in the direction of the original intent of Congress, there remains the concern that the Board has not gone far enough or that it could once again reverse its course.

The bill I am introducing today would clearly confine the scope of 9(b)(3) to cover only an employee who is a "plant security guard whose primary responsibility is to prevent employee disorders and miscondust of employees". It does not repeal 9(b)(3), but restores the original intent of Congress". While addressing the concerns that originally lead to the enactment of 9(b)(3), the bill ensures that employees who were never intended to be covered by 9(b)(3) regain the ability to choose the collective-bargaining representative of their choice.

ROY BYARS' 20 YEARS OF SERVICE AS WEATHER OBSERVER

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. PICKLE. Mr. Speaker, Roy Byars has received another honor. This legendary man who hails from the Texas hill country has been not only a successful merchant, but an unbelievably good postmaster, as well. And all this time he has served as an official weather observer for Blanco, TX.

This year, Roy marks his 20th anniversary as a weather observer for the historical Blanco Weather Station. This station, which was founded in 1896, has had four official observers. Roy has upheld the fine tradition of taking the weather by serving as only the fourth observer for the station in almost 100 years. He

follows the ranks of the first three observers, Mr. C.R. Crist, Mr. Charles E. Crist, and Mr. W.A. "Bill" Byars.

It is great to see honors come to a good man of the hill country. Roy is certainly worthy. And the Byars family is as strong as the granite hills of Burnet and Blanco Counties.

Mr. Speaker, I include the following article in the RECORD.

BYARS RECEIVES RECOGNITION PLAQUE—20 YEARS AS WEATHER OBSERVER

The local weather station is under the direction of the U.S. Department of Commerce National Oceanic and Atmospheric Administration National Weather Service, Southern Region with Robert W. Manning as Chief, of Regional Cooperative Program.

The Blanco Weather Station was established in May of 1896 and has now been here for over 95 years. One of the unique features of this station is that it was in one exact location for many of these years. Another unusual thing about it is that there have only been four observers during this time. Mr. R.C. Crist, the father of Charles E. Crist, was the first one and he was followed by the son, Charles E. Crist. W.A. "Bill" Byars started working at the Charles E. Crist business in 1933 and soon acquired the duties of "taking the weather". Sometime in the early forties after Mr. Crist's illness Bill became the official observer. Roy H. Byars also started to work at the same business in 1935 and he became the substitute weatherman when Bill was absent.

Bill died on December 23, 1971 and Roy took over the job completely and was named the official weather observer.

This week Roy was presented a plaque and a pin. The letter presented at the same time states: "This year marks your completion of 20 years as a cooperative weather observer. I join the Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration and the Director of the National Weather Service in congratulating you on this outstanding record of public service.

Every day many organizations and individuals in governmental activities, as well as private enterprises, use the valuable information made available only through your efforts and wholehearted support.

Please accept the enclosed emblem as a small token of the high esteem with which your service is held. I hope you continue to find your weather work interesting." The letter was signed by Robert W. Manning.

Along with Roy's official duties he is also a Weather Watcher for TV station KVUE, Channel 24 in Austin. He reports any kind of unusual weather or rainfall and calls the station each day at 5:00 p.m. and at 9:00 p.m. and reports the low, high and present temperature of the day and any rainfall. This information is given during the stations Newscast at 6:00 p.m. and 10:00 p.m. daily.

The weather observing is very interesting and Roy has the records going back to May of 1896. The monthly rainfall records starting in 1900 are on display in the Blanco Lumber and Hardware business. This display was a project of the Blanco Lions Club and was started in the late forties and has been kept up ever since. He keeps the daily rainfall records posted on one of the bulletin boards in the Blanco Post Office and furnishes information for the Weather Facts column weekly for this newspaper.

PREVENTIVE CARE FOR THE ELDERLY: PROVIDING MEDICARE COVERAGE FOR ANNUAL PREVENTIVE EXAMINATIONS

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HOAGLAND. Mr. Speaker, I am pleased to introduce today a bill to provide Medicare coverage for annual preventive physical examinations. This legislation would add as a Medicare benefit, for all Medicare beneficiaries, an annual physical examination for what in medical jargon are called asymptomatic individuals. I am introducing this bill, the result of consultation with medical professionals, because for too long our health care system has paid billions of dollars for sickness, after the fact rather than for prevention of illness before the fact. It is time that we expand our effort to health problems before they become thousand dollar expenses.

Generally, Medicare, the Government health insurance program for the elderly and disabled, does not pay for preventive measures other than those specifically mentioned in the Medicare law. Thus, very few preventive services have been covered by Medicare. Only in the last 10 years has Congress begun a slow process of providing piecemeal coverage for a limited number of preventive services. Services currently covered by Medicare include pneumonia vaccine, hepatitis B vaccine for certain high-risk individuals, pap smears to screen for cervical cancer, and mammography screening for breast cancer.

In 1984, the Federal Government recruited dozens of health experts to form the United States Preventive Services Task Force and charged it with surveying the accumulating literature on the merit of hundreds of preventive measures. The panel's final report, issued in 1989, endorsed a complete schedule of periodic pap smears, mammograms, regular blood pressure, cholesterol checks, vaccinations for the elderly and counseling. The task force was a significant milestone for preventive care. In addition, the National Cancer Institute, the American Cancer Society, and the Health Policy Agenda for the American People, recommend annual exams for people over age 65.

Many recognize the value of preventive medicine. Earlier this year Blue Cross and Blue Shield, the Nation's large private health insurer, offered a health insurance plan covering periodic tests to detect cancer, heart disease, and other diseases for their subscribers. Ninety-five percent of health maintenance organization [HMO] plans cover preventive exams, but HMO's make up only 20 percent of the insurance marketplace. These efforts by Blue Cross and Blue Shield and others illustrate a growing recognition that preventive services must play a more prominent role in health care.

Many will argue that annual routine examinations will add to overall national spending on health care at a time when medical costs are soaring and Congress is looking for fundamental change in the Nation's health care system. But the concern about cost usually focuses on exotic high-technology procedures, not on simple, routine examinations. Adding an annual preventive exam under Medicare for the Nation's 33 million beneficiaries could add about $3 billion per year to the Federal Government's health care bill. Part of the cost would be paid by the beneficiary in the monthly premium, as is the current practice for Medicare part B benefits. However, the costs are more than outweighed by untold savings in future treatment costs. According to studies by the American College of Physicians, "Screening—the search for specific health problems in a person who has no known signs or symptoms—has enormous medical value in finding disease early, when it can be treated most successfully and economically."

A number of nurses in Omaha, NE, my hometown, who work for the Visiting Nurse Association have expressed interest in preventive examinations. One of the nurses is a coordinator for the Visiting Nurses Association in my congressional district and sees nurses identifying a problem requiring medical diagnosis and treatment, but unless the patient perceives it to be bad enough, does not go to the doctor until full blown symptoms develop. This makes the neglected medical problem more complicated and more expensive to treat when the patient finally gets to the doctor. This situation in Omaha, NE, is repeated around the country.

Health professionals have recognized the value of preventive services for many years. Early detection and treatment are not just cost effective. For diseases like cancer, early detection and treatment may offer the best chance for reducing mortality and duration of illness. It is time to move away from this traditional mentality of paying huge sums of money for unpredicted illness when it is exacerbated and expensive and move toward the encouragement of routine health maintenance and prevention. Not only does it make medical sense, but, most important, it means a better, healthier quality of life for millions of Americans.

THE FUTURE OF THE REPUBLIC OF GEORGIA

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GIBBONS. Mr. Speaker, recently the Subcommittee on Trade of the Committee on Ways and Means visited the Republic of Georgia in connection with our review of the United States-Soviet Trade Agreement. In Tbilisi, the delegation met with republic officials and business leaders. We learned of the fervent desire of the Georgian people to be free and independent of the USSR. We also learned of the Republic's movement toward a market economy and a democratic government.

I would like to share with my colleagues a speech delivered by the Counselor to the Prime Minister, Temur Gamtsemlidze, to the Business Council for the United Nations on September 11. This speech clearly sets forth the economic and political plans for the future of the Republic of Georgia as they chart inde-

VOL 137 PT 23 NO 21-25 1991 UMI

pendence from the old Soviet Union. I recommend it to all Members.

Plans for the Republic of Georgia

(By Temur Gamtsemlidze)

Thank you. I assure you I am delighted to be here, and I thank you for coming here today to meet representatives of the Republic of Georgia. In a way, this is already an historic occasion, for us to be speaking with you in the building of the United Nations.

For exactly 70 years ago—in 1921—the League of Nations recognized the independence of Georgia after more than 100 years of domination by czarist Russia.

Now, after 70 years of domination by the Soviet Union, we are again coming before the community of nations of the world to ask for recognition of our independence and sovereignty.

We are also asking the United States government to recognize our independence. Under international law, we meet all the conditions for our independence to be recognized.

And we are both hopeful and optimistic that the next time we meet, we will do so with Georgia as a full member of the United Nations, taking its place among the community of sovereign and democratic nations, helping in the important work of international peace and understanding.

This is our goal.

And I assure you, we deeply appreciate any support that you may be able to offer us in our path to achieving that goal.

Indeed, by being here today, you are providing us with moral support. And we greatly appreciate it.

Why, as Americans, as business leaders, and as supporters of the noble goals of the United Nations, should you be interested in whether or not Georgia achieves recognition of its already declared independence?

First, let me just mention that only five republics have fully declared independence—the three Baltic Republics, which have now achieved it, and Moldavia and Georgia.

Others are in various stages of holding a referendum.

But Georgia held a referendum on the question of independence last March and our people voted overwhelming in favor. Our independence was proclaimed on April 9.

All we seek now is recognition. We have received recognition from the Baltic States and Romania. And we expect to receive it very soon from the other east European states—Bulgaria, Hungary, Poland and the Czech and Slovak Republic. We are also expecting early recognition from the New State Council in Moscow—and we believe that most other nations will then follow.

But Washington remains the key. In the last two days we have met with top officials at the State Department and the White House.

We have tried to convince them that we are no different from the Baltics. We were an independent nation for many centuries. We were recognized as independent by the League of Nations. We have our own language, culture, religion and national identity—all well established for over two thousand years. We are not only a distinct nation, but one of the world's oldest nations. Our capital city was founded in the fifth century (and this was our *new* capital. Our original capital existed for five centuries before that!)

Like the Baltics, we also were invaded and annexed by the Soviet Union against our will.

The chief difference between Georgia and the Baltic States is that we were annexed 20 years earlier—and our people suffered proportionately more under Soviet rule.

I do not say this lightly. 200,000 Georgians were murdered during Stalin's purges. Hundreds of thousands more were forced to leave their homes and sent to other parts of the Soviet Union as forced labor. Nearly every Georgian family today has horrible memories of this period. Nearly every family lost relatives.

As everywhere in the Soviet Union, the intellectuals were a special target. We lost a whole generation of leaders, writers and teachers. So I hope this will help you to understand the intensity of our desire for true independence—and our determination to achieve it.

I hope it will help you understand why we do not want to be part of any future political or defense union with the central government, no matter what form it takes.

We want our independence restored. We want our country back. We believe we have not only every legal right—but also an unassailable moral right.

In economic relations we also are very similar to the Baltic states. Our economic relations are so intertwined with the other Soviet republics that we have to continue them.

But like the Baltics, too, we are anxious to move away from this over-dependence on the Soviet economy. We are looking for new partners in the West. New trade relations. New industries. New investments.

We are not silly enough to burn our bridges. We have established markets with the other republics. These will continue.

But we must diversify. Our nation has much more to offer than potatoes for other parts of the Soviet Union.

Let me tell you of the opportunities that we see for Western businesses—and we hope especially for American business.

First, we are more Western in our outlook and attitudes than any other part of the old Soviet Empire. For centuries, we have been a crossroads of culture and trade between East and West and between North and South. We understand business and trade. It is in our genes. We were doing international business long before the Soviet Union was created and, if you excuse my mentioning this, long before the United States was created, too.

This means we are good people to do business with. We understand how it works. We understand this probably better than any other of the republics.

And this is why one of the first actions of our new democratically elected government was to introduce legislation that would sweep away all the old Communist restrictions on international trade and investment.

This legislation was finally enacted in July and is now the law of our land. Our doors are wide open to all American companies . . . and, of course, companies of other countries.

No requirements for sharing ownership of businesses with Georgian partners.

No restrictions on transferring profits out of Georgia. We clearly recognize those profits are your property, not ours. We are happy that you make them . . . and we will do all we can to help make sure you do make them.

I am pleased to make this pledge on behalf of our whole government and of our people. We want you to be in Georgia. And we will do all we can to make it a profitable experience for you.

I was going to say we will move mountains . . . but our mountains are just too big. And instead of moving them, we would like you to know that they provide some of the best skiing in the world. Experts say that our mountains are better than the Alps. So if any of you have interests in winter sports, I invite you to come to Georgia and see for yourselves. I do know one thing for sure: winter sports in Georgia are many times less expensive than in the Alps.

This brings me to my second point . . . the opportunities in Georgia for American business. What do we have that you might be interested in?

First and most obvious are the opportunities for the travel, tourism and hotel industries.

We have a Mediterranean climate, hundreds of miles of beautiful beaches, palm trees, great food and wine, great attractions for tourists of all kinds . . . from our world famous folk dancers and theater to unrivaled antiquities from the many early civilizations that met in ancient Georgia and contributed to our unique culture. And then we have the mountains . . . the Caucasus . . . the highest and most dramatic in Europe.

For the tourism industry, Georgia offers a combination of Rome, Monte Carlo and Switzerland . . . at one tenth of the price.

Georgia has been the great resort area of the Soviet Union for half a century * * * and now the rest of the world will discover it. American investment in this area should provide very quick and very good returns.

Agriculture is a major industry in Georgia. We are the chief producer of tea and citrus fruits for all the former Soviet republics. We are also a major producer of tobacco, grapes for wine, mulberry trees for the silk industry, and have a flourishing meat industry—especially lamb, pork and poultry.

While these agricultural sectors are all very successful—they are successful by Soviet standards. That means they need capital, modernization of equipment and methods, new packaging technology and, of course, marketing. This is a marvelous area of investment for American agri-business. There are world markets for Georgian agricultural products.

I would be especially neglectful if I did not mention Georgian wine, brandy and vodka. Another very big industry for us. If there is anybody here from Seagrams, or any importer of wines or liquor, there is a great opportunity here to be first with the best. Georgia red and white wines are among the best in the world. With Western-style labels and marketing, they will be best sellers.

Coming to the heavier industry sectors, Georgia is immensely rich in minerals, especially manganese. We also have major deposits of copper, coal, lignite, iron, molybdenum. We have oil. We have marble, dolomite and talc deposits. And construction-quality clays.

Georgia also has abundant hydro-electric energy. Excellent ports and road and rail facilities.

What do we make with all these riches?

We manufacture iron and steel, all kinds of machinery and machine tools, railroad and mining equipment, chemicals and building equipment.

And lots of other things that depend on these major manufacturing areas. For example, we have a strong shipbuilding industry. We also make trucks and buses.

So Georgia has a lot to offer and we urge you to come or send your representatives to investigate.

You can start joint ventures * * * or invest in privatized former state owned operations * * * or start completely from scratch. The opportunities for doing business * * * good business * * * are literally endless.

We are right now finalizing the privatization laws for both land ownership and the taking over of former state-owned enterprises. We are also revising our tax laws to encourage private enterprise in every sector.

All of these will be in place in a matter of two or three weeks.

Let me close with a few general remarks about the economic and political outlook for the Soviet republics in general, as viewed from Georgia.

Obviously, nobody knows for sure what the future form of any central Soviet government will be.

But the people of Georgia have made a decision. Whatever the future central government * * * if there is one * * * we do not want to be any part of it.

We will continue our traditional trade and economic ties with the republics, of course. If there is some kind of customs union, we will probably be a part of it.

But we want these decisions affecting our future to be made by our own government in Tbilisi, not Moscow.

Seventy years of being ruled by the center has been enough for us. We do not want to be part of any lingering Soviet political or military apparatus.

We in Georgia are sometimes quite surprised, I must say, at the amount of anguish expressed in the West over the loss of power of the central government.

We in the republics certainly do not share that anguish.

We read reports that the Soviet economy is collapsing because of the lack of central control.

This is a rather new theory of economics, I think.

The facts are that the Soviet economy has been collapsing for years because of the central government and its ideological passion for control.

The collapse of the central government means the economies of all the republics are now liberated from that stifling central control.

I can assure you, the economy of Georgia is not going to collapse. It is going to get stronger with every month that passes. Already it is being invigorated by Western investment and know-how and technology and by the opening of new Western markets denied to us before by the central government.

I think it will be the same story in every one of the republics. None of us is fearful. None of us wants that central control to return . . . with the exception of those hardline communist functionaries who now fear for their power and privileges.

Of course there will be some short-term setbacks as we adjust to the new conditions. That is natural. It is part of the price we are willing to pay for our freedom.

But we in the republics are not a helpless lot of people who need Moscow to tell us what to do.

We find the suggestions by well meaning western politicians and economists that we still need central control to be, well, let me say uninformed. The reality is different. By freeing our economies we are freeing the talents and skills and energies of our people to create new markets, new products and new industries. To develop new trading partners throughout the world.

We are excited by these developments and by the new prospects for building our own economic strength.

There is a new optimism in the air. There is a new determination to succeed. New private enterprises are being started every day.

Those economists who predict doom and gloom seem to have left out of account the enormous power of the human spirit. Our spirits have been liberated. We are on the road to building a better life for our people. We have waited a long time for this moment. Seventy very painful years. And we are not going to give it up. I can guarantee you that.

Let me close by just reminding you of the West German experience after World War II. You will recall that when Ludwig Erhard, the West German economics minister, wanted to remove all government controls of the economy and currency, the western allies were shocked.

They begged Chancellor Adenauer not to let this foolish man Erhard go ahead with his plans. Washington predicted that the West German economy would descend into chaos. London predicted it would collapse. Paris predicted that it would collapse. All the western economists wrung their hands in anxiety.

And what happened?

That silly man Erhard went ahead and freed the economy. That silly Chancellor Adenauer allowed him to do it.

And in a very short time, the West German economy had become the greatest economic miracle the world has ever seen.

It is a lesson we should do well to remember at this moment in history.

Freedom and independence are the solution, not the problem.

The people and the government of the independent republic of Georgia are totally dedicated to this proposition.

And we invite you to take part with us in creating this new economic miracle.

I thank you for being such a patient audience. My colleagues and I will be happy to answer any questions you may have.

A PARODY OF BANKING REFORM

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. NEAL of North Carolina. Mr. Speaker, the following editorial from today's New York Times is correct. Our attempts to reform, modernize, and make the banking industry safer and sounder and more competitive have largely failed. The bill we are dealing with today helps some in the area of regulatory and accounting reform, capital requirements, et cetera, but major reforms must await another day. I ask my colleagues to consider the thoughts contained in this editorial and help us when we next make the effort. Major reform is the real key to avoiding a taxpayer bailout in the future. I hope we can return to this subject soon. It's essential that we do so and do it soon. I commend the editorial to our colleagues.

A Parody of Banking Reform

Sadly, the only question remaining is how irresponsible the Congressional effort to reform the banking system will become. Committees in both houses have rejected the Administration's wise plan. Now they are littering flawed bills with one ugly amendment after another.

The best outcome would be for Congress to stop the farce. That means passing a simple bill pumping $150 billion into funds that pay off depositors at failed savings and loans and commercial banks—and leaving comprehensive reform as the first order of business next year.

The Administration submitted a farsighted bank reform bill last winter. It would have allowed banks to tap new sources of profit, at lower risk, by permitting them to open branches anywhere in the country and sell securities, insurance and mutual funds. The bill would also have corrected the major flaw in current law by requiring authorities to close failing banks before they went bankrupt, thereby protecting funds backing up insured deposits.

Initially, the House Banking Committee adopted an improved version of the Administration's plan. But then lobbyists for the insurance and securities industries dismantled it piecemeal and Treasury Secretary Nicholas Brady did previous little to salvage it. When the misshappen bill failed on the House floor, the committee produced a parody.

It would not allow banks to sell securities or insurance or open interstate branches. The Senate bill wouldn't allow entry into securities either; and it would grant interstate branching only at the price of taking away existing, severely limited rights to sell insurance.

The story gets worse. The Senate would put a cap on interest rates banks can charge on credit cards. The notion that Congress has to regulate prices in an industry with 6,000 competitors would embarrass even the Kremlin; and the cap would destroy a vital revenue source for banks wallowing in losses.

The House would rob other programs to replenish the fund backing insured depositors at failed savings and loan institutions. That's galling. A bank bailout is one program that Congress should finance by borrowing. By returning the loan to bank depositors, the money stays in private capital markets, insulting the economy from harm.

Rather than passing deformed reform that will harm the economy for decades, Congress could simply refund the insurance funds and fix the system next year. The U.S. is the only industrial nation, other than Japan, that keeps its banks out of securities and other financial industries. Asking Congress to bring banks into the 21st century might be too much. But why not into the 20th?

TRIBUTE TO JAMES W. MARTIN, STURGIS ANDREW SOBIN, AND WILLIAM J. MENNA OF ANSONIA, CT

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, I recently had the privilege of attending a gathering where homage was paid to three men who have served their community with distinction as mayors of the city of Ansonia.

James W. Martin, Sturgis Andrew Sobin, and William J. Menna will be remembered as true leaders—who used their tenure to modernize local government, fight for the rights of taxpayers and provide economic opportunity for the people of Ansonia.

JAMES WOOD MARTIN

James Wood Martin, the youngest of five children, overcame the death of his father, George Martin, at an early age. He delivered newspapers as a young man, earned Eagle Scout status and worked in a local clothing store during his high school years.

VOL 137
PT 23
NO 21—25
1991
UMI

Mayor Martin enlisted in the U.S. Navy in 1945 and was discharged in 1946. From there, he became a journeyman carpenter in the construction business before fulfilling the dream of all Americans—running his own company—Martin Construction Co. from 1957 to 1971.

By the mid-1960's, he was asked to run for mayor of the city of Ansonia. He lost by 109 votes in 1966. In 1969 he won by over 1,000 votes. Mayor Martin has also served with distinction on a variety of local commissions including the school building commission, the charter revision commission, the veteran's memorial committee and the board of apportionment and taxation.

Mayor Martin has long been active in civic affairs—vice president of the Ansonia Chamber of Commerce, director of the Ansonia Copper "Pop Warner" Football Association, director of the Masonic Temple Association, vice president of the Prendergast School PTA and a member of the B.P.O.E. Elks Lodge of Ansonia, the Ansonia Lions Club, the Assumption Home-School Association, and the Shelton Congregational Church.

He has received special recognition as the Jaycee Man of the Year in 1963, as a special deputy sheriff for New Haven County in 1975 and recognition by the Connecticut Housing Finance Authority in 1975.

Mayor Martin continued his service to the public by, serving from 1971 to 1973 as executive director, Connecticut Mortgage Authority and then as chief of engineering services for the Connecticut Department of Mental Health from 1973 to his retirement in October 1989.

STURGIS ANDREW SOBIN

Sturgis Andrew Sobin was raised in both Ansonia and Derby. He graduated from Derby High School in 1945 and attended Worchester Polytechnic Institute and the University of Maryland.

Mayor Sobin was drafted, served in the Korean war and was granted an honorable discharge in 1954. He is a disabled American veteran.

He was active in voter registration drives in Ansonia and in 1969 was appointed selectman. A year later, Mayor Sobin was elected to the board of aldermen. From there, he was elected to fill the unexpired term of Mayor Martin. In 1971, Ansonia voters elected him to serve a full 2-year term which ended in 1973.

Mayor Sorbin secured funds for a sewage treatment and waste disposal plant as well as improvements to recreational facilities in Ansonia. He was the first full-time mayor of Ansonia.

He also negotiated contracts with private waste haulers to save the town thousands of dollars.

Most importantly, Mayor Sobin led efforts to create a full-time Office of Finance, modernized the bookkeeping and accounting practices in city hall and made sure city funds were invested on a day-to-day basis—thereby getting the best return on the Ansonia tax dollar.

Former Governor and U.S. Congressman Thomas Meskill appointed Mayor Sobin to the Connecticut Department of Special Revenue.

He helped establish rules, regulations, and licensing procedures for the State's legalized gambling enterprises.

Mayor Sobin subsequently drafted curriculum in this area which is now being offered by the University of Arizona.

He also negotiated for the acquisition of 100 acres for recreational open space for future generations of Ansonia residents.

Mayor Sobin has also served on the Connecticut Solid Waste Commission and Railroad Advisory Commission.

WILLIAM J. MENNA

William J. Menna began his elected career as a member of the Connecticut Legislature where he served with distinction from 1981 to 1983.

He then came home and was elected mayor, serving two consecutive 2-year terms which ended in 1987.

Mayor Menna realized the future of Ansonia depended on its economic health. The lower Naugatuch Valley was struggling under the weight of a recession during his first term, but through his stewardship, Ansonia held its own.

He led efforts to revitalize upper Main Street, brought the State Motor Vehicle Office back to Ansonia and supported a paramedic program.

Mayor Menna sheperded half a dozen businesses to his city, including Latex Foam, Spectrum Plastics, and Light Source Inc.

He also aggressively pursued State grants for a variety of services which led to improvements to Ansonia parks and other recreational facilities.

He also negotiated new agreements with the state to reap more court rental fees, introduced Student Government Day to local schools, and sold excess city property to generate revenue.

Mayor Menna also made sure the building he worked in was left in better condition than he found it. He was able to have the roof repaired and have the State declare city hall a historic building.

These men personify public service. At a time where confidence in our elected leaders is waning, their record of accomplishments was based on the premise that the interests of the taxpayers came first.

The city of Ansonia is a better place due to their leadership.

Mayor Sobin and Mayor Martin are both recovering from temporary illness.

I would like to wish them and Mayor Menna continued health and happiness and thank them for a job well done.

INTRODUCTION OF LEGISLATION REGARDING SOLID WASTE RECYCLING

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SANTORUM. Mr. Speaker, I rise today to introduce legislation designed to be a small step to further our Nation's objective of reaching a meaningful and effective solid waste recycling goal. House Resolution 245 ensures that all letterhead stationery used in the House of Representatives is made from at least 50 percent recycled material. It is time to stop talking about helping the environment and start acting.

For years, Congress has heard from environmental groups testifying before committee panels about how increased recycling can make significant strides toward reducing our country's landfills. Now it is our chance to show that we have been listening to the American public by requesting recycled paper for our stationery. House Resolution 245 is a simple straightforward piece of legislation that saves money. Currently, only 50 percent of all House offices are using recycled paper for their stationery needs.

This is a small, yet I believe significant, step which allows Congress to show that we are listening and that we are concerned about the environment. I urge my colleagues to join me in this endeavor and show their support for this legislation.

INTRODUCTION OF THE PENSION PROTECTION IN BANKRUPTCY ACT

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. CHANDLER. Mr. Speaker, in 1974, Congress enacted landmark legislation to protect the retirement benefits of American workers, the Employee Retirement Income Security Act [ERISA]. Among the protections included in ERISA was the creation of a Federal agency that would insure the pension benefits provided by private employers. The Pension Benefit Guaranty Corporation [PBGC] was then, and continues to be, one of the cornerstones of the foundation that protects the retirement benefits for millions of American workers and retirees.

Currently, the PBGC protects the retirement benefits of nearly 40 million Americans in about 95,000 pension plans. Its revenues are derived entirely from premiums paid by employers that sponsor defined benefit pension plans. The PBGC is, in effect, a safety net for our private pension system. Unfortunately, that safety net is becoming frayed.

To correct this disturbing situation, Mr. Speaker, I am introducing today, along with a number of my colleagues, the Pension Protection in Bankruptcy Act of 1991.

In short, this bill would give the PBGC higher priority in bankruptcy proceedings, as well as a greater role in managing those proceedings. Such legislation is necessary because, while both ERISA and our current Tax Code make clear the PBGC's authority to assert claims for pension debt, companies in bankruptcy and their creditors have challenged this authority.

Mr. Speaker, the implications of these inconsistencies within current law are significant. Currently, the PBGC's net worth deficit exceeds $2 billion. If Congress doesn't act quickly to guarantee the PBGC priority in bankruptcy, the agency's debt could rise above $16 billion by the end of the decade.

To address this alarming situation, this legislation would:

Clarify in the Bankruptcy Code, the PBGC's priority claims for unpaid pension contributions and for underfunding up to 30 percent of a controlled group's net worth;

Tie the priority claims for underfunding to a gradually increasing percentage of underfunding, a more clear-cut test than the time-consuming and contentious determination of net worth;

Give tax priority to claims for underfunding due to shutdown benefits triggered with 3 years of termination of a pension plan because the benefits are very costly to the insurance fund;

Allow PBGC's claim to arise without having to terminate a plan in the event a sponsor liquidates and the controlled group assumes the plan;

Give PBGC the option to be a member of creditors' committees in order to have access to information routinely available to other creditors and to hasten the reorganization process.

Mr. Speaker, in introducing this legislation, I am aware that some of its provisions may raise questions or concerns among various groups and businesses. To these groups, let me say that I am sensitive to their concerns; and, furthermore, that I consider the introduction of this bill a starting point from which all interested parties can work. I welcome their comments and suggestions as to how we can both address their concerns and enact meaningful reforms.

But these are complicated issues which will require careful review and consideration. What's more, this legislation will be referred to three separate committees of jurisdiction, each of which will give the bill the close scrutiny it deserves. For these reasons, this may very well be a long and time-consuming process. If so, it is imperative that we begin this process now to ensure that Congress takes the action that is so clearly needed to protect workers' retirement security.

Mr. Speaker, if Congress learned anything from the savings and loan debacle it's that we must act swiftly and decisively when trouble appears on the horizon. Such is the case with the PBGC. If we don't act soon to improve its standing in bankruptcy, it is the American taxpayer that may very well be left holding the bag. Worse yet, it is the American worker who may lose his or her pension benefit. We simply cannot allow that to happen.

Mr. Speaker, I urge my colleagues to support and cosponsor the Pension Protection in Bankruptcy Act of 1991.

SECTION-BY-SECTION ANALYSIS OF THE PENSION PROTECTION IN BANKRUPTCY ACT OF 1991

TITLE I. EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A. Amendments to Title IV of the employee Retirement Income Security Act of 1974

Sec. 101. Employer Liability Lien and Priority Amount.

Subsection (a) of section 101 of the bill amends section 4068(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") to provide that for terminations initiated on or after January 1, 1992, the PBGC's lien for employer liability shall not exceed the sum of:

(1) the amount of benefits attributable to the occurrence of unpredictable contingent events within the three years before plan termination, plus

(2) the greater of—

(a) 30 percent of the collective net worth of liable persons, or

(b) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities over the amount of unpredictable contingent event benefits in (1) above. The applicable percentage is 10 percent for terminations initiated in 1992 and increases by two percentage points a year up to 50 percent, where it remains.

The term "amount of benefits attributable to the occurrence of unpredictable contingent events" means the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii) of ERISA) determined as of the termination date on the basis of assumptions prescribed by the PBGC for purposes of section 4044 of ERISA.

The PBGC may, where cost effective, compute the amount of the lien without regard to the 30 percent of net worth amount described in (2)(a) above.

Subsections (b) and (c) amend section 4068(c)(2) of ERISA to clarify that liability to the PBGC under sections 4062, 4063 and 4064 of ERISA has the priority of a tax due and owing the United States in bankruptcy and insolvency proceedings and conforms the limit on the amount of this liability to the revisions to the limit made by section 101(a) of the bill.

The amendments made by subsections (a) and (b) of this section and the conforming amendments thereto made by subsection (c) are effective for terminations initiated on or after January 1, 1992. The clarification set out in subsection (c) is effective as if included in the Pension Protection Act.

Sec. 102. Liability Upon Liquidation of Contributing Sponsor Where Plan Remains Ongoing.

Section 102 of the bill adds a new subsection (f) to section 4062 of ERISA that provides that in the event all or substantially all of the assets of a contributing sponsor of an ongoing plan are being liquidated in a bankruptcy proceeding and, therefore, the sponsor's controlled group members become responsible for maintaining the plan by operation of law, such sponsor is liable as though the plan had terminated in a distress termination as of a date determined by the PBGC as the date liquidation was initiated. The PBGC shall collect the liability and pay amounts it collects to the plan. The PBGC may, by regulation, issue rules to implement this subsection.

The amendment made by this section is effective for liquidations initiated on or after the date of enactment.

Subtitle B. Amendments to Title 11, United States Code

Sec. 121. Amendment permitting the Pension Benefit Guaranty Corporation to be a Member of an Unsecured Creditors' Committee.

This section amends section 101(a)(35) of the Bankruptcy Code to permit the PBGC to be a member of an unsecured creditors' committee.

The amendment made by this section is effective for cases initiated on or after the date of enactment.

Sec. 122. Clarification of Priorities.

Subseciton (a) of section 122 of the bill adds two new subparagraphs to section 507(a)(7) of the Bankruptcy Code to clarify that seventh priority claims include:

(1) unpaid pension contributions that are attributable to the pre-petition period and treated as taxes owing the United States under section 412(n)(4)(C) of the Internal Revenue Code and

(2) employer liability that arises under sections 4062, 4063, and 4064 of ERISA, to the extent the employer liability is treated as a tax under section 4068(c)(2) of ERISA, where termination occurs on or prior to the petition date.

Subsection (b) adds a new paragraph (7) to section 503(b) to clarify that unpaid contributions for plan years beginning after December 31, 1987 that are attributable to the post-petition period, and that employer liability arising after bankruptcy exist in the amounts specified in section 412(n)(4)(C) of the Internal Revenue Code and in Title IV of ERISA.

The clarifications set out in this section with respect to unpaid contributions are effective as if included in the Pension Protection Act. The clarifications with respect to employer liability are effective for cases commenced on or after enactment or cases pending on enactment in which claims for liability have not been resolved as of the date of enactment.

Sec. 123. Notice Required Where Federally Insured Pension Plan is Administered by the Debtor or Its Affiliate.

Section 123 of the bill amends the Bankruptcy Rules to provide that the bankruptcy court shall give the PBGC notice of a petition filed and all other notices required to be served upon creditors and interested parties, in any case under Title 11 in which the debtor or an affiliate maintains a pension plan covered under Title IV of ERISA.

This section is effective on date of enactment.

TITLE II. MISCELLANEOUS ERISA TITLE IV AMENDMENTS

Sec. 201. Enforcement of Minimum Funding Requirements.

Section 201 of the bill gives the PBGC the power to bring a civil action to enforce minimum funding standards, including the enforcement of liens, in plans covered under section 4021 of ERISA. (The enforcement authority of the Department of Labor would not be changed.)

The amendment made by this section is effective for installments and other required payments due on or after the date of enactment.

Sec. 202. Definition of Contributing Sponsor.

Section 202 of the bill makes a clarifying change in the definition of contributing sponsor of a single-employer plan to clarify that the contributing sponsor is the person entitled to receive a tax deduction under section 404(a)(1) of the Internal Revenue Code for contributions required to be made to the plan under section 302 of the Act or 412 of the Code.

The amendment made by this section is effective as if included in the Pension Protection Act.

Sec. 203. Recovery Ratio under ERISA Section 4022(c).

Section 203 of the bill clarifies that the average recovery ratio that PBGC applies to outstanding benefit liabilities to determine the portion of nonguaranteed benefits that will be paid to participants in small plans terminated in distress or involuntary terminations is calculated using the PBGC's recovery experience for distress and involuntary terminations of small plans only. The section also extends from three to seven years the transitional rule under which the recovery ratio in small plans is based on the recovery in the plan rather than the average recovery ratio.

The amendments made by this section are effective as if included in the provision of the Pension Protection Act to which such amendments relate.

VOL
137
PT
23
NO
21—25
1991
UMI

Sec. 204. Seventh Revolving Fund.

The Pension Protection Act created a seventh revolving fund to receive premiums for plan years beginning on or after January 1, 1988, and to pay benefits in plans terminating on or after October 1, 1988, or before that date if other funds are no longer available. This section discontinues the seventh fund and merges its assets and liabilities with the assets and liabilities of the first revolving fund (the single-employer basic benefits guaranty fund).

The elimination of the seventh fund is effective as of September 30, 1991.

Sec. 205. Distress Termination Criteria for Banking Institutions.

A contributing sponsor or controlled group member can qualify for a distress termination under the first distress test of ERISA section 4041(c)(2)(b) if the sponsor or member is liquidating under Title 11, United States Code, or under any similar law of a State or political subdivision of a State. Section 205 of the bill extends the first distress test to proceedings under other Federal laws that are similar to Title 11 proceedings.

The amendment made by this section is effective for terminations initiated on or after the date of enactment.

Sec. 206. Variable Rate Premium Exemption

A single-employer plan that is at the full funding limitation under section 412(c)(7) of the Internal Revenue Code for the preceding plan year is exempt from the variable-rate PBGC premium charge for unfunded vested benefits. Section 206 of the bill amends section 4006(a)(3)(E)(v) of ERISA to allow an exemption from the variable-rate charge when contributions to the plan for the preceding plan year are not less than the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Code.

The amendments made by this section are effective for plan years beginning after December 31, 1991.

FIRMS FIND A HAVEN FROM U.S. ENVIRONMENTAL RULES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HUNTER. Mr. Speaker, in light of the proposed U.S.-Mexico free-trade agreement, I urge my colleagues to read the following article from Tuesday's *Los Angeles Times*. As the free-trade debate continues across the country, it is important that we remind ourselves of the environmental and social dangers of such a pact.

Firms Find a Haven From U.S. Environmental Rules

(By Judy Pasternak)

TIJUANA—It's not easy to make the trip every week. But for David Finegood, 71, it's well worth the trouble to drive three hours from Los Angeles and pass through a border checkpoint from the First World to the Third.

His destination is his furniture factory on the southeast end of town, the replacement for plants he closed in Compton and Carson within the last 20 months. He employs 600 people, the same number he laid off in the United States.

Wages are much lower here—about 13% of U.S. pay. There is virtually no workers' compensation expense. Best of all, in Finegood's mind, he no longer must deal with the constant intrusions of air quality inspectors, emissions monitors, lawyers and ever-stricter rules, rules, rules.

In the United States, his company paid tens of thousands of dollars in environmental fines and penalties in only two years. Lawsuits blamed his operations for incidents ranging from sawdust lodged in someone's eye to the spontaneous combustion of solvent-soaked rags forced the evacuation of 2,000 people.

Looming restrictions on polluting paints and varnishes promised to be more costly. So Finegood decided to go. "We're not trying to evade anything," he said. "We're trying to live with reality."

Reality these days is Muebles Fino Buenos, a literal translation of Fine Good Furniture. In many ways, it is the embodiment of environmental fears about a pending free-trade pact between the United States and Mexico. Environmental activists say they believe that a free-trade pact will create a Mexican haven for many companies with tainted records in the United States and a desire to lower the costs of controlling contamination.

The Tijuana incarnation of Fine-good's factories appears to abide by Mexican laws, or at least follow practices accepted by the government. This is more than most U.S.-owned companies here can claim, regulators on both sides of the border say.

Yet, even Muebles Fino Buenos pollutes more than the two U.S. plants did. Gases pour from the stacks for longer hours. Shifting winds carry the sharp tang of solvents to surrounding homes. "It makes me dizzy and my throat is sore," said Elodia Montano, a 50-year-old mother who lives near the plant's front gate.

Diesel trucks spew smog-forming exhaust during long-distance trips to a warehouse that was close to the U.S. plants. The Tijuana factory's jobs are part of the attraction fueling the city's explosive growth, outpacing the government's ability to treat sewage or provide drinking water.

The experience of Muebles Fino Buenos underscores the vagueness of Mexico's environmental rules, the regulators' lack of resources, the shortage or precise information about conditions here and the many years it will take, even for a government intent on change, to clean up the crisis.

One company may not have much impact, but there are nearly 2,000 foreign-owned firms, known as maquiladoras, allowed in Mexico under special trade rules since 1965. The largest concentration, about 530, is in Tijuana. Cumulatively, the industries have significantly fouled the water, air and soil.

Environmental awareness also had grown, and for Finegood that meant trouble. Though he invested in new technology, his companies started showing up in the violation logs of the South Coast Air Quality Management District.

The Compton factory exceeded solvent emissions limits in 1988; AQMD agreed to accept an out-of-court settlement of $17,500. The Carson plant paid $400 for sending out too much sawdust in 1988 and $1,000 in 1990 because neighbors complained about odors and dust. The inspectors "couldn't find an odor themselves," Finegood said, still softly seething, "but they called us a public nuisance."

In May, 1989, a waste hauler packed up a load from the Carson factory and headed for a hazardous materials dump in Santa Barbara County. In the Ventura County town of Fillmore, the driver pulled over for a nap. A Sheriff's deputy woke him, saying, "your truck's on fire."

Fear of toxic smoke led authorities to evacuate 2,000 people, more than 10% of Fillmore's residents, for about five hours. Prosecutors charged Finegood's firm with improperly preparing and marking the solvent-soaked rags in the drums, which made it more difficult for the hauler to take precautions and for firefighters to battle the flames. After a no-contest plea, the penalty was $2,350 plus $10,730 for cleanup costs.

Documents show that plant manager Tom Pliner told investigators that the company had called the Fire Department two years earlier because a drum full of rags spontaneously burst into flames inside the Compton plant. A forklift driver told authorities that another drum had started smoking three days before the incident in Fillmore. In April, 1990, nearly a year after the truck fire, a state health inspector cited Finegood's Carson operation because drums of waste at the factory still bore none of the identifying details required by law.

More problems lay ahead. The AQMD had passed a rule requiring furniture makers to cut down pollution by switching from solvent-based coatings to water-based coatings—likely to be more expensive—by 1996.

"We could see what was coming," Finegood said. "It was not economically possible."

He knew that other furniture companies were leaving the area. Indeed, a UCLA survey shows that 15% of the furniture industry's work force departed Southern California between 1987 and 1989, when the AQMD coating measure was passed.

Finegood wanted to stay near his customers in the West. But he did not want to risk going to another part of the United States that might follow the AQMD's lead. San Diego, for example, also is restricting use of solvent-based coatings.

The Compton plant closed in February, 1990. The Carson operation shut down last March.

Pliner transferred to a rambling new building in the heart of La Cienega, a working-class district here. Employees can get clean in the company shower room and healthy at the company doctor's office. For 75 cents, they can buy lunch, with unlimited tortillas, in the company cafeteria.

On Fridays, a guard rolls a cart onto the factory floor with individual cash-stuffed envelopes containing an average wage of $43 a week.

A block away, Montano's symptoms ebb and low with the breezes. In 25 years, she has watched the site at the end of Calle Primera change from a wheat field to a cement mixing facility, then the maquiladora. Until production geared up and odors started seeping out, she had no health problems, she said. She recovers a few hours after the fumes recede.

In the opposite direction, on a rise overlooking the back of the plant, Daniel Saavedra and seven relatives rarely venture out of their cramped quarters. Their home's walls blunt the olfactory assault of "tiner"—paint thinner—the Lutheran pastor said. "From 8 to 4, we smell it all day long."

Below, by the factory wall, lies a onetime elementary school. For years, church volunteers from the United States have leased the building as a campsite, sleeping in bedrolls on the floors. This past summer, for the first time, many suffered headaches and nausea.

The strength of the vapors varied from day to day. But most of the campers felt worse at "the mission." as they call the school, than

they did at the drug recovery center where they planted trees or the convalescent home where they took orphans to visit the elderly.

"It was terrible to wake up to that smell," said Heidi Hyland, a Chicago seminary student who was a counselor during July. The first morning, she led a Bible study session outdoors until "this one girl in my group said * * * 'I just can't stand it. It's making me sick.' "

Often, a fine dust coated the group's three vans overnight. "It was lacquer," said Rob Lochner, another counselor. "I know it was. I've worked spraying at a carpentry shop."

The neighbors' complaints are consistent with exposure to solvents used in furniture making, said Paul Papanek, who heads the toxics program for the Los Angeles County Department of Health Services.

In the suburbs of Los Angeles, clean air rules set a strict daily cap on how much pollutant can escape from each plant's stacks. The limit forced Finegood's U.S. workers to stop painting and varnishing by mid-afternoon.

Here, employees start a half hour earlier and spray later, at least till 5 p.m. There is a small night shift too.

Workers aim nozzles of paint and lacquer at furniture passing by on a conveyor belt. A free-standing wall of pads is positioned on the other side—a setup designed to absorb the extra spray.

The pads are changed every two weeks, Pliner said. In the Los Angeles area, most companies install clean pads more often, anywhere from once a day to once a week, said Bill Kelly, an AQMD spokesman.

The factory tests its emissions every six months, Pliner said, declining to divulge the results. In the United States, the company monitored and logged them every hour.

Though Mexico adopted a General Ecology Law in 1988, giving environmental regulators authority over *maquiladoras*, the country has no measures limiting air pollution from furniture factories. "We are working on many other standards that are much more important," said Sergio Reyes Lujan, undersecretary for the environment. "The production of electricity, cement, textiles, chemicals."

He added that he is concerned about the health problems such fumes could cause, from mere irritation to long-term damage from smog. New factories, he said, will have to comply with whatever standard is the tightest in the world, until Mexico can frame its own.

As for existing companies, Reyes said, "I don't know if it's this week, next week, next month, or even next year, but with or without a standard, we will stop situations like that."

Meanwhile, plant manager Pilner said: "I haven't had any complaints."

But then the residents of *La Cienega* have not complained, except among themselves, about any of the contamination they suspect comes from *maquiladoras* in Tijuana. That is a common reaction, said Laura Durazo, a social anthropologist who helped form one of the city's nascent environmental groups.

"They simply accept," she said, "that this is part of Tijuana's progress."

In the yards of La Cienega stand empty 55-gallon drums purchased from used furniture stores or roving trucks—price: about $3.50. Most now serve as trash receptacles, but some hold water for washing or flushing toilets. "This container will be hazardous when emptied." one warns in English. "Residues will be explosive or flammable.

An outfall spills directly into a shallow stream where dogs splash and drink. In poorer neighborhoods, squatters use such canals for bathing. Water samples analyzed for The Times in August by a San Diego laboratory show levels of two suspected carcinogens, perchloroethylene and bis (2-ethyl-hexyl) phthalate, at 18 to 24 times the drinking water standards of the U.S. Environmental Protection Agency.

The concrete pipe emerges from a steep rise next to *Muebles Fino Buenos*. The company has told Mexican regulators that it sends its waste water into the city sewage system, in an area where there is no treatment. This particular pipe may also carry residues from any number of sites further southwest, where two more *maquiladoras* make magnetic heads and baby furniture. Perchloroethylene is used in both industries. Bis (2-ethylhexyl) phthalate is used to soften plastics.

Where do the chemicals come from? Mexican regulators are in no position to unravel mysteries like these.

Even with recent budget increases, there is little money for analyses and few staffers are available for investigations. For the foreseeable future, the government will simply have to trust in industry, said Diane Perry, a UCLA analyst who has studied the border region for the past five years. U.S. and other foreign owners "will have to do it on their own, knowing that the enforcement's not going to be there," she said.

In a widely publicized move this summer, border-area inspectors, with their ranks doubled to 100, visited 1,000 *maquiladoras* to check the firms' documents. They found that in 1990, less than a third of the companies had applied for the required environmental operating license, by 1991, after a series of well-publicized crackdowns, 55% had. In 1990, only 14.5% has proof that they sent hazardous wastes back to the United States for disposal as required; in 1991. 31% had.

The new figures show major progress, but Reyes conceded that they are still abysmal, "We will improve them further," he promised. To that end, inspectors are being hired to double the number along the border again in 1992.

Muebles Fino Buenos is one of the positive statistics. The environmental inspector who arrived Aug. 13 was the first ever to pay a formal visit. (One had dropped by briefly before). Pliner produced a notebook containing the factory's application. A stamp acknowledged its receipt on Sept. 27, 1990, by SEDUE—the Spanish acronym for the federal ministry that includes the environmental office.

The EPA also had been notified that about 325 drums of hazardous waste would be shipped back across the border in 1991.

The SEDUE inspector pronounced himself satisfied.

The license documents were submitted late—six months after opening for assembly of furniture and four months after spraying had begun. This was illegal, according to Reyes, but the government will not punish for the offense because it shows more effort than other firms have made. He added, that from now on, new industries will face penalties.

Because the license was pending, the company was churning out bedroom sets and tables without a permit. Operating under such circumstances also was not strictly legal: since 1990, every new business must have its license before even starting construction of its facility.

But environmental officials admit that it is partly their fault. More than a year after Muebles Fino Buenos submitted its papers, overworked regulators have not gotten around to reviewing the documents. The wait is typical. And until the application is examined, SEDUE cannot decide what changes, if any, to require.

"We are trying to respond very, very rapidly," Reyes said. "They are going to receive a written answer.

"We are rewriting history here. It was only recently that anyone here started to care about the environment. It will take time."

The backlog troubles EPA officials who deal regularly with SEDUE. Said one, who spoke on the condition of anonymity: "This is a situation where the economic activity has gotten way ahead of the regulatory activity."

The EPA official also worries about SEDUE's emphasis on documents: "I would like to put SEDUE [inspectors] in respirators and have them look at what's really going on. They're afraid to take the bull by the horns. . . . They just deal with the paperwork."

There also has been little attention paid to the indirect pollution caused by maquiladoras.

Finegood's warehouse is at what was once the Carson plant—just a few miles from what was once the Compton factory. Diesel trucks, the owner said, make 20 round-trip treks each weekday between Tijuana and the distribution center. In a year, that means about 13.9 tons of carbon monoxide is added to the air along the way. The trucks also discharge about 20 tons of nitrogen oxides and 4.2 tons of hydrocarbons, the two main building blocks of smog.

An overall increase in cross-border traffic—from 12.4 million crossings in 1987 to 16.9 million in 1990—concerns air pollution authorities in San Diego and the Los Angeles region. One problem is the Customs stations themselves, where hundreds of idling vehicles sometimes wait as long as an hour. Nearly half the cars and trucks are Mexican-registered and not subject to smog checks.

The jobs offered by Muebles Fino Buenos and the other maquiladoras also lure newcomers from the rural interior. Tijuana grew from about 429,500 people in 1980 to about 743,000 in 1990—and these official census numbers are widely assumed to be low.

The city's skyrocketing population has outstripped the government's ability to provide basic services. In response to complaints about a proposed border environmental plan, SEDUE recently announced that 24,000 houses will be connected to Tijuana's sewers next year. By 1995, an international treatment plant is scheduled to open, but financing arrangements are not complete. For now, 12 million gallons of raw sewage flow into the Tijuana River each day.

The operators of Muebles Fino Buenos know firsthand about the infrastructure problems. Raw sewage spilled across the property when pipes overflowed during a winter storm. And the company did not plan on constructing its own water reservoir and electric generating substation. But it had to be done.

Finegood does not mind. He sees himself protecting a 35-year investment. "I've spent much of my life in this company," he said. "I'm not a young kid anymore. But I couldn't get anything for the company there. Nobody's going to buy a furniture company in Los Angeles now."

VOL
137
PT
23
NO
21—25
1991
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H.R. 3842, THE TERRITORIAL SEA AND CONTIGUOUS ZONE EXTENSION AND ENFORCEMENT ACT OF 1991

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. JONES of North Carolina. Mr. Speaker, Today I have introduced H.R. 3842, the Territorial Sea and Contiguous Zone Extension and Enforcement Act of 1991. The principal purpose of my legislation is to declare the sovereignty of the United States over the 12-mile territorial sea and to begin to implement Presidential Proclamation 5928 of December 27, 1988, which extended the U.S. territorial sea from 3 to 12 nautical miles for certain purposes.

At the end of his term in office, President Reagan declared a 12-mile territorial sea for the United States mainly to protect our national security interests. The Presidential proclamation had the effect of expanding the international seaward boundaries of the United States from 3 to 12 miles. Since the time George Washington was President, the United States has had a 3-mile territorial sea. But now, the United States has a 12-mile territorial sea, as do some 120 other nations which have acted in accordance with evolving international law.

Within its territorial sea, a nation exercises virtual sovereignty, similar to that which it exercises in its land territory. This means the United States can control all activities within the territorial sea vis-a-vis foreign persons and vessels, much as it does within its land territory. There is one exception—within the territorial sea, all foreign vessels have the right of innocent passage. Innocent passage does not mean, however, that vessels can conduct intelligence-gathering operations, and submarines must navigate on the surface and show their flag.

The Presidential proclamation asserted both the jurisdiction and sovereignty of the United States over the extended territorial sea. As an accompanying legal opinion from the Justice Department indicated, the question whether the President had the constitutional authority to assert sovereignty of the United States over an area that was equivalent, in international law, to the acquisition of territory was "open to some question." The most extensive acquisitions of territory by the United States have been accomplished through the use of the treaty-making power. By treaty, the United States acquired the Louisiana Purchase, the Gadsden Purchase, the Oregon Territory, California, Alaska, the Panama Canal Zone, and the Virgin Islands. In all these instances, the Senate had to give its advice and consent. The other major annexations of territory involved the admission of new States, such as Texas and Hawaii. These annexations were accomplished by the exercise of Congress' authority to admit new States into the Union. The only instances in which the President, acting alone, acquired new territory for the United States were the acquisitions of a few small islands in the Pacific Ocean.

To preserve the Congress' prerogatives to acquire new territory for the United States and to cure any possible defect in the proclamation, my legislation declares the sovereignty of the United States over the territorial sea. I note that similar declarations are contained in the comprehensive crime bills now pending before the Congress, H.R. 3371 and S. 1241. Should these bills be enacted into law before we have completed work on my bill, I will amend my legislation as needed.

The Presidential proclamation explicitly provides that the extension of the territorial sea to 12 miles does not alter existing State or Federal law. In other words, the United States has a 12-mile territorial sea in the eyes of the rest of the world, but until Congress amends Federal laws to conform to the extended territorial sea, existing authorities only apply within the former 3-mile territorial sea. This disclaimer means that Congress has the responsibility of completing what the President could only begin. If the United States is to have a meaningful 12-mile territorial sea, it must have the statutory authority to enforce its laws in the extended maritime zone. Only Congress can amend U.S. laws to accomplish this.

The second objective of my bill, therefore, is to amend various Federal maritime laws to make them applicable throughout the extended territorial sea. In most instances, the conforming amendments provide implementing agencies, such as the Coast Guard and the National Oceanic and Atmospheric Administration [NOAA], with important new enforcement powers over foreign persons and vessels violating U.S. marine resource laws. For example, the Coast Guard and NOAA will be able to seize vessels carrying illicit products when they first enter the 12-mile territorial sea. The bill also extends the coastwise laws of the United States, providing added benefits to the U.S. Merchant Marine and U.S. Fleet.

This bill represents only a start on the process of implementing the territorial sea proclamation. The laws amended by this bill are primarily those within the jurisdiction of the Merchant Marine and Fisheries Committee. For some months, the staff of my committee has been examining our law to determine which ones should be amended. This bill represents a first step in identifying laws to be amended. It is only the beginning of the process. Through the hearing process we will obtain the views of the administration and affected constituents to make sure we have not done something inadvertent or excluded some laws which should be extended. At the end of my statement, I have appended a list of laws amended by this bill.

The legislation also extends the contiguous zone of the United States from 12 to 24 nautical miles. The contiguous zone is a maritime zone adjacent to the territorial sea within which a nation can prevent infringement of its customs, fiscal, immigration, or sanitary laws and protect its territory and territorial sea. The contiguous zone was not extended by Presidential Proclamation 5928 because of the question whether the President, acting alone, could and should supersede the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone. This convention, to which the United States is still a party, only provides for a 12-mile contiguous zone. But, it has been overtaken by evolving customary international law which now recognizes the right of a nation to have a 24-mile contiguous zone. Acting together, the Congress and President can establish a 24-mile contiguous zone for the United States, providing further protection to our territory.

My bill also authorizes the Under Secretary of Commerce for Oceans and Atmosphere—The Administrator of NOAA—acting through the Director of the National Sea Grant College Program, to award a grant for a policy study of existing State and Federal laws to determine their adequacy for the management of living and nonliving resources within the extended territorial sea. The results of this study shall be provided in a report to the Congress, the President, and the public, in 1 year from the award of a grant to the sea grant Institutions designated to conduct the study. I expect this study to examine whether any further changes are needed to Federal or State laws to manage the resources of the extended territorial sea.

This legislation explicitly provides that it does not change State or Federal boundaries as they existed prior to the enactment of this legislation. The dividing line between the States and Federal Government within the extended territorial sea is established by the 1953 Submerged Lands Act. With the exception of Texas and the gulf coast of Florida—which have a 3-marine league or 9-mile seaward boundary—all States and most territories have a 3-mile seaward boundary. Within this boundary, the States own and regulate offshore resources, including oil and gas and fish. Beyond this boundary, the Federal Government has exclusive jurisdiction and management responsibility. Nothing in my bill changes this demarcation of authority as between the States and the Federal Government. My bill only provides the Federal Government with enhanced enforcement powers over resources between 3 and 12 miles that are currently managed by the Federal Government.

Implementing the Presidential proclamation on the territorial sea is not a simple matter. For many years we have operated on the basis that the United States has a 3-mile territorial sea. Virtually all Federal maritime laws are based on this presumption. My bill sticks one toe in the water and begins to change this presumption. We will see through the hearing process whether the bill goes too far or not far enough. I welcome the support and comments of my colleagues, the administration, and interested parties in this endeavor.

LIST OF AMENDED MARITIME LAWS AND TERMS

Marine Mammal Protection Act—"import" and "territorial sea."

Endangered Species Act—"territorial sea."

Antarctic Marine Living Resources Convention Act—"territorial sea."

Fur Seal Act—"territorial sea."

Lacey Act—"territorial sea."

North Pacific Halibut Act—"import" and "territorial sea."

Magnuson Fishery Conservation & Management Act—"import" and "territorial sea."

National Sea Grant College Program Act—"territorial sea."

Marine Protection, Research, and Sanctuaries Act (titles I and III)—"territorial sea," "contiguous zone."

Shore Protection Act of 1988—"territorial sea."

Ocean Thermal Energy Conversion Act—"territorial sea."

Rivers & Harbors Appropriation Act of 1899—"waters of the U.S.," "navigable waters."

Anchorage Grounds—"navigable waters."

Vessel Bridge-to-Bridge Radiotelephone Act—"navigable waters."

Ports & Waterways Safety Act—"navigable waters."

Deepwater Port Act—"territorial sea" and "contiguous zone."

International Navigational Rules Act—"territorial sea."

Act to Prevent Pollution from Ships—"navigable waters."

Oil Pollution Act of 1990—"territorial seas."

Foreign Vessel Salvage Operations—"territorial waters."

Uninspected Vessels Generally—"navigable waters."

Recreational Vessels—"waters subject to the jurisdiction of the U.S."

Uninspected Commercial Fishing Industry Vessels—"high seas."

State Regulation of Pilots—"high seas" and "navigable waters."

Captain of the Port—"territory," "territorial waters of the U.S.," "waters within the jurisdiction of the U.S."

Merchant Marine Act, 1920 (sec. 27, 27A)—"points in the U.S."

Merchant Marine Generally—"navigable waters of the U.S."

Shipping Act, 1916 (sec. 1, 511)—"common carrier by water in interstate commerce," "high seas."

INTRODUCTION OF COMMERCIAL SPACE COMPETITIVENESS ACT OF 1991

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HALL of Texas. Mr. Speaker, today I am introducing the Commercial Space Competitiveness Act of 1991, a bill that is intended to encourage the growth and development of commercial space activities in the United States by establishing coherent policies for Federal activities which affect commercial space businesses.

Over the past three decades, commercial space activities have made important contributions to the U.S. Space Program and the national economy. Although communications satellites represent the only truly commercial space business to succeed to date, I believe that many exciting ideas exist for harnessing the benefits of space for economic gain. Many of these ideas will depend on the Federal Government as the initial customer and will be strongly influenced by Federal space programs and policies. For example, today the Federal Government spends more than 10 times as much on space goods and services as the private sector—and the vast majority of private sector space spending is for communications satellites.

I believe that the Commercial Space Competitiveness Act will help the entrepreneurs of today and tomorrow bring the benefits of space down to Earth for the benefit of all Americans and will maintain this Nation's leading position in commercial space activities. At the same time, greater dependence on commercial suppliers of space goods and services, as provided in this legislation, would improve the efficiency and cost effectiveness of our Nation's civil and military space programs.

The bill represents the product of three hearings held by the Subcommittee on Space in July. In these hearings, the subcommittee received testimony on the overall status of commercial space activities, the implications of the commercial space policy guidelines approved by the President earlier this year, and issues of concern to the commercial launch industry.

One critical issue we covered in our hearings involves the potential use of missiles retired from the military arsenal as space launch vehicles. As a result of the Strategic Arms Reduction Treaty signed this summer by President Bush and President Gorbachev, hundreds of military missiles will become available for alternative uses. By using these missile assets to build space launch vehicles, it may be possible to reap substantial benefits from the investment that American taxpayers have made in these tools of the cold war. On the other hand, using these missiles may be more expensive than buying commercial launch services and dumping these missile assets on the private market could cause significant damage to our commercial launch industry.

The bill I am introducing today would implement a responsible and careful approach to this complex and difficult problem. The bill basically requires any Federal agency wanting to use missiles assets for space launch to show that they are cheaper than available commercial launch services and to employ the services of the private sector wherever possible when using the missile assets as launch vehicles. The bill also sets up a process for selling excess missile assets to the private sector.

These and the other provisions of the bill are summarized in the attachment I have provided as part of my statement.

In closing, I urge my colleagues in the House and in the other body to recognize the great potential of commercial space activities and to give this bill their full support.

SUMMARY OF THE COMMERCIAL SPACE COMPETITIVENESS ACT OF 1991

Extension of Liability Provisions: Section 201 of the bill extends the sunset date on the Commercial Space Launch Act provision on Government payment of third party liability claims above industry's insured level, reflecting the continuing incapacity of the private insurance market to cover these liability risks.

Commercial Launch Services for Suborbital Payloads: Section 202 of the bill requires NASA, by 1993, to purchase commercial launch services for suborbital payloads. Such payloads are not included in the current law and NASA currently launches suborbital payloads using mostly civil service personnel. The bill also redefines the conditions under which NASA may exempt specific launches from the requirement to purchase commercial launch services. This redefinition specifically requires NASA to purchase commercial launch services if they could be made available in response to a procurement request, even if such services are not currently available. Greater use of commercial launch services should improve the cost effectiveness of Federal space programs and allow U.S. industry to improve its competitive position in international markets.

Launch Vouchers: Section 203 of the bill requires NASA to set up an innovative program to demonstrate the feasibility of issuing launch vouchers to space scientists for payment of commercial launch and payload integration services as part of grants they receive to develop suborbital or small orbital experiment payloads.

Space Transportation Infrastructure: Section 204 of the bill establishes a matching grant program in the Department of Transportation to improve and add to U.S. space transportation infrastructure. The program would require that at least half of the cost of any infrastructure improvement or development program funded by these grants be financed by private industry and the states. All projects must be recommended by a Selection Committee composed of NASA, the Defense Department, and the Transportation Department and be evaluated on the basis of the contribution of the grant activity to both Federal and industry needs.

Trust Fund for Licensing Fees: Section 205 of the bill establishes a trust fund to collect revenues from licensing fees assessed on launch companies by the Department of Transportation. Revenues in the trust fund may only be used for purposes approved by the companies which pay the user fees and may not be used to cover the operating expenses of the Department of Transportation.

Use of Decommissioned Missiles for Space Launch: Title III of the bill establishes policies for the Federal use of decommissioned missiles as space launch vehicles and for the possible sale of these missile assets to the private sector. The bill requires agencies to determine, before using the missiles for space launch, that use of missiles is more cost effective that the purchase of commercial launch services. The bill requires agencies using the missiles to purchase commercial services for refurbishment launch of the vehicles constructed from the missiles. The bill also establishes a process by which agencies will hold competitions for these contracts and a process through which agencies may sell excess missile assets to the private sector.

Anchor Tenancy and Termination Liability: Section 401 of the bill establishes criteria for when the Federal Government may enter into contracts as an anchor tenant (the first major customer) for commercial space products. The bill also provides NASA with the authority to compensate commercial providers in the event that the Government terminates anchor tenancy contracts for its convenience.

Use of Government Facilities: Section 402 of the bill establishes criteria for when non-Federal entities may use Federal space-related facilities. The bill requires the Federal agency owning the facility to charge users only for costs directly attributable to their use of the facility. Section 206 of the bill requires NASA to conduct an inventory and identify Federal launch facilities which could be made available for outside use.

Protection of Information: Section 403 of the bill amends the 1958 NASA Act to provide NASA with the identical authority available to all agencies under the Stevenson-Wydler Act. This authority allows agencies to protect from disclosure information which private companies develop in cooperative research activities with the agencies. NASA requested this provision because the agency prefers to use the authority of the NASA Act to arrange cooperative projects.

Commercial Space Achievement Award: Section 404 of the bill establishes an award

VOL 137 PT 23 NO 21–25 1991 UMI

for corporations or individuals who have contributed to commercial space activities or technologies. To qualify, corporations must obtain at least half of their space-related revenues from non-Federal sources.

TRIBUTE TO ST. PATRICK'S PARISH

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. CARDIN. Mr. Speaker, Today I rise to pay tribute to St. Patrick's Parish in the Fells Point community in Baltimore. The church was first established during George Washington's first term as President of the United States in 1792. It is currently the oldest active parish in the city of Baltimore. The parish has survived 200 years and will celebrate its bicentennial during 1992.

The first church building that was established by Father Garnier, the pastor of the church, was a crude, unplastered building on the third floor of a house located on Bond and Fleet Streets. The first mass celebrated had a congregation of 12, however, the number grew steadily under the guidance of Father Garnier.

The second church building was opened in 1793 in the home of Mr. Edward Haghthrop on Thames Street. In 1796, Father Floyd leased a lot on Apple Alley for $40 a year, and a church was built. Each member of the parish contributed to its construction. During this time, the congregation grew so large that the building was quickly outgrown.

In 1806, the cornerstone was laid for the new church building at the current site of St. Patrick's Church. The church was opened in 1807 and the citizens of Baltimore proudly and modestly proclaimed it the finest church in the area.

The parishioners of St. Patrick's have always responded to problems that afflict their community. The church began a school in 1815 with the mission of educating Baltimore's poor children, especially focusing on children who lacked educational opportunities. The church is also home to Assisi House. The mission of Assisi House is to provide assistance to Baltimore's poorest citizens by supplying food and clothing for the needy.

The faithful of St. Patrick's have experienced their own difficulties while focusing on the difficulties of other in the community. One serious challenge occurred in August of 1983. A disastrous fire seriously damaged the church building. The process of rebuilding was a slow and arduous task. For several years, the congregation was forced to worship in the church hall. Rebuilding continues to this day. However, the spirit of the Parishioners was not dampened by the damage of the building. Part of the building was lost, but not their spirit.

Mr. Speaker, I would like you and my colleagues to join me in celebrating the bicentennial of St. Patrick's, a parish dedicated to helping the community of Baltimore.

THE SITUATION IN THE SOVIET UNION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. ASPIN. Mr. Speaker, Senator Nunn and I recently proposed giving the President authority to use $1 billion from the fiscal year 1992 Pentagon budget to provide food and medicine for the Soviet people this winter and begin the process of dismantling the Soviet nuclear arsenal and reducing its military industrial complex. I looked at the proposal as an insurance policy for the United States against chaos in a country with nearly 30,000 nuclear weapons. Like any insurance policy, it might prove unnecessary. But if the Soviet Government disintegrates and severe shortages of basic goods tear at the social fabric of the country, the command and control of nuclear weapons would surely weaken. A breakdown in discipline or even civil war would cause these weapons to fall into the wrong hands.

Unfair and inaccurate characterizations of the aid proposal created a political atmosphere that made it impossible to include the initiative in the fiscal year 1992 Defense Authorization Act. However, the specter of chaos in the former Soviet Union has not gone away.

Many recent press accounts confirm the strain. A story in the November 18 The Washington Post reported that Soviet health officials have or can produce only 30 to 35 percent of their drug needs this year. This figure is only half the supply available last year. Another story in the Post dated November 19 said United States Ambassador Robert Strauss has noted Russian and Soviet aid requests have shifted dramatically toward food staples like flour, wheat, and bread. Strauss added he was convinced the requests were based on genuine need. Another piece noted the mayor of St. Petersburg announced rationing of all kinds of food beginning December 15 because the city has been receiving only half of what it needs.

A November 17 article in the Baltimore Sun describes the potential exodus of Soviet scientists who design and build nuclear weapons. A November 21 article in The Washington Post raises the possibility of strife among republics and the Soviet military. In the story, a high-ranking Soviet Defense Ministry official warned that the armed services will defend themselves and their equipment from attack by force if necessary.

I am providing my colleagues a copy of these stories and hope they will bear these disquieting developments in the former Soviet Union in mind.

[From the Washington Post, Nov. 18, 1991]

SOVIET MEDICINE IN DIRE STRAITS

(By Eleanor Randolph)

MOSCOW.—"It's freezing in here," moaned Marina Elenova from under a sheet and blanket in Room 68 of the heart patients' ward in Moscow's Hospital No. 4. The room was cold, even for those in heavy sweaters, and Marina Elenova had wrapped her head with a dish towel for extra warmth.

"Also," she shouted, "the sheets have not been changed in a month."

As the doctors and guests turned to listen, Marina Elenova saw, perhaps for the first time, the hospital director and the heart ward chief, both looking distressed. Suddenly she became nervous, as many Muscovites still do in the face of authority. "But the treatment here is good, of course," she added quickly.

If Marina Elenova recuperates from a heart attack—13 percent in this ward do not—she will emerge from Moscow Hospital No. 4 in about a month. In the "cardiac therapy" ward, the death rate is high because the equipment is old, drugs are scarce, and the doctors are overworked. Like others taken to hospitals in the disintegrating Soviet Union, Marina is a victim of a medical system in a state of emergency.

"Now the situation here is so hard that the only idea for this hospital is to survive," Alexander Stepanov, director of No. 4, explained quietly in this office. Founded by empress Catherine the Great two centuries ago as Russia's first facility dedicated to healing the poor, this oldest hospital in Moscow has remained a center for anyone who needs help in this huge, struggling city.

"The only idea is to try to at least conserve the care that we have now," Stepanov said.

Doctors, patients and politicians here finally are acknowledging the Soviet medical system's vast problems. Officials are opening their hospitals to Western inspection teams, speaking frankly and begging the West for help. A photo in the Komsomolskaya Pravda newspaper last week, for example, showed a surgeon in an operating room in Sikhtivkar near the Urals holding up his "scalpel." It was an ordinary two-edged razor blade.

The number of deaths caused by substandard care is not available, but estimates of the number of people who will die over the next year due to inadequate care range up to hundreds of thousands. Interviews with a number of doctors, patients and medical officials—both those working here and those visiting from the United States—have helped draw a grim picture.

Drug supplies in the Soviet Union are erratic. Last year in the Russian republic, hospitals reportedly made do with 70 percent of the drugs needed. This year, health officials are saying they have—or are able to produce—30 to 35 percent of their needs. Vladimir I. Deighin, Russian deputy minister of health, said the shortage has been caused in part by the virtual disappearance of drugs produced for the Soviet Union by former satellite countries in Eastern Europe. Plants there now are demanding payment in hard currency instead of Russian rubles.

Deighin said the Russian government plans to buy 100 percent of the "life-essential" drugs needed, but such medicine is expensive at a time when everything, including hard currency, is in short supply. In October, the Russians paid about $59 million to Western pharmaceutical firms for a supply of life-essential drugs that Deighin said would last about a month.

Drug supplies from the West have not been arriving in the amounts or types that Russian doctors had hoped. Some drugs are unknown here and lose potency while scientists check them out. Others do not meet Russian or Soviet drug standards, such as some children's medicines with codeine. New pharmaceutical joint ventures are being formed to fill these gaps, Deighin said, but most will not begin full operations for more than a year.

Doctors and patients, however, said the need for some drugs is urgent. Insulin, which

diabetics need to survive, is so scarce in some areas outside Moscow that only children and the sickest adults receive any.

Antibiotics are becoming scarce and are used only for serious cases in some areas. In Byelorussia, medical officials trying to save their supplies for residents of their republic have said that to obtain drugs, citizens now must have a prescription from a doctor and their Byelorussian residence card.

Equipment is anticipated and hard to obtain. At the All Union Cancer Research Center outside Moscow—the country's version of the U.S. National Cancer Institute—the huge diagnostic X-ray machine is 17 years old. The defibrillator machine for heart patients at Moscow's No. 4, bought from the former East Germany, is newer, but the staff said they had to start repairing it two months after it went into operation.

"If Western hospitals want to get rid of equipment after it's a few years old, we will take the second-hand machines gladly," said Boris I. Dolgushin, chief researcher at All-Union.

Even the most basic medical supplies are hard to find. Regular cotton thread is sometimes used to stitch wounds. Catheters are in short supply. Many hospitals have run short of disposable syringes and intravenous equipment.

Hospitals are often dark, grimy places, and efforts to enforce sanitary standards can be lax or ineffective. Cleaning people, who make barely enough money for a piece of sausage a week at today's prices, frequently refuse to work, sitting outside in the corridors smoking instead.

An American doctor from the Washington area recently toured what was said to be one of the Soviet Union's best surgery wards and said after the visit, "It looked terrible, awful."

"What concerned me most was that they did not change the sheets between patients. There was blood on the sheet, and I kept watching a fly light on it. Bandages were thrown in an old basin. I dare not ask how the medical wastes are disposed of here."

Doctors in the public health-care system—which is still the primary system for all but a few private doctors now opening clinics for the newly rich—are paid less than most bus drivers. Even though there are clinics with advanced and innovative care—such as those for eye surgery and skin transplants—the rewards in the field of medicine for ordinary doctors are dwindling, as they lose patients to such problems as a sudden lack of plasma, which occurred in Moscow during the last few weeks in September.

Some doctors have switched to less depressing and more lucrative jobs. Vasily Pavlov decided seven months ago to become an interpreter. "I liked being a doctor," said Pavlov, who has a wife and 4-year-old daughter. "But I couldn't live on the pay."

Others, such as Zakhar Simchovich, a specialist in arthritis and bone problems, have emigrated to the West. Simchovich left for Canada earlier this month because, as he said shortly before his departure, "professionally and for my family, it is like living in an earthquake."

Hospital patients, whose treatment in most cases is free, feel trapped in their beds, bored and afraid to question the medical staff about whether needles are clean or what medicines they are receiving. When a doctor or nurse walks into the room, fear among patients often is tangible.

Patients did not want to talk about their fears for the record, but at Hospital No. 4 in Moscow, heart patient Anatoly Barishnikov, 62, told visitors about a professor who had come to visit his ward earlier in the day. "I was surprised by the kindness of the professor," Barishnikov said. "He asked us questions very nicely," he kept saying, clearly unaccustomed to such treatment. "He listened so much to us."

In a society where medicines are hard to find and care is erratic, prevention is not a priority either. Immunizations have fallen off as supplies of vaccines diminish or lose effectiveness in unrefrigerated cupboards, even in Moscow. When a Moscow official asked an American group recently for help in obtaining dental supplies, he was asked whether there was fluoride in the city water. The Muscovite shook his head. They had barely heard of it, he admitted.

Problems with the official health-care system have become so overwhelming for many people that relatives provide the support care for ailing family members. In some cases, patients and their families "pay" for what is supposed to be free care by supplying to the medical facilities extra medicine or supplies purchased from the black market. If 10 disposable syringes are needed, for example, patients are advised to provide 30.

Others reject what serves for science in hospitals and turn to home remedies or medical charlatans. Medical scientists are alarmed at the increase in quacks who successfully trade on the emergency in Soviet medical care—such as a "healer" who has sold "charged water" to treat AIDS or a woman who sells a "magic stick" that she claims who remove nitrites if it is waived over food.

For many in the medical profession, foreigners provide the answer—either by bringing aid, providing money for joint ventures or appearing at their hospitals as paying patients.

In Hospital No. 4, in a building built in 1807, Korshunov Viacheslov, a famous Soviet hand surgeon, wants to have a section for, hardcurrency patients.

"But as you can see, the conditions do not encourage foreigners here," he said as he swept a hand toward a dim hallway. There along the wall, were extra beds. On one, a man sat, holding his bandaged hand and waiting for a spot in one of the rooms, which house 10 to 12 people. Down the hall, nurses appeared to be working on someone in a makeshift emergency ward. They had pulled portable curtains around the patient in the hallway for a moment of much-needed privacy.

"And worse is the first floor. The first floor is terrible," acknowledged Viacheslov. "It's frightening down there."

The first floor that day was indeed filthy and dark. The stairs were littered with cigarette butts and paper. Underneath was what looked like weeks of dust. As the visitors passed through, Stepanov said, "We have no one to clean. Those who are paid to do it don't want to do it. Even if we pay more, they still don't do it." The nurses and doctors sometimes have to scrub, but it wears them down month after month, he said. "They are too talented to be doing that, but they do it."

A revamping of the building is planned, but it will take more than paint and new linoleum floors to make it acceptable to a Western client, Viacheslov said. Without Western currency, however, the hospital will deteriorate. It is a debilitating cycle.

Now the doctors and nurses scramble to make everything last, to use supplies that they are not accustomed to using. Pain medicine, for example, is hard to find, and it often comes in forms that Soviet doctors have never seen.

Sasha, 17, a factory worker, knows about the drug supplies in this hospital. As he sat forlornly on a cot in a huge patient dormitory, he explained that his hand had been caught in a wood-processing machine two weeks before.

"There was no pain during the operation," Sasha said hesitantly. "But after, of course, it was very, very painful."

"But you didn't ever cry out in pain," chided Stepanov from the end of the bed.

"Oh, no sir, no sir," Sasha agreed quickly, as the other patients laughed or smirked at him.

Stepanov then turned to his guests and explained: "Sometimes our drugs don't work very well. Sometimes our patients simply have to stand pain."

[From the Washington Post, Nov. 19, 1991]

STRAUSS SEES URGENT NEED FOR SOVIET AID

(By Fred Hiatt)

MOSCOW, Nov. 18—U.S. Ambassador Robert S. Strauss said today he is concerned about growing U.S. opposition to aiding the Soviet Union, and he urged the West to provide food and debt relief to his economically depressed country.

He said he will return to Washington next month and argue for the "kind of aid the Soviets expect and probably need—I'm absolutely satisfied that the needs are as they represent them to be."

Strauss did not mention any specific aid programs currently being considered, but he said he fears that the political climate in Washington, particularly heading into an election year, will make it hard for President Bush to push for a large aid package.

Strauss also likened the restive Soviet republics to independence-minded teenagers who eventually will see the wisdom of maintaining some form of political union. But he acknowledged that "there will never be a center as we've known it in the past," and he was full of praise for Russian President Boris Yeltsin, whose government has superseded that of Soviet President Mikhail Gorbachev in many respects.

Strauss, a well-connected Democrat who assumed this highly visible post for the Bush administration three months ago, said that even with Western aid the situation here "sure can blow up in our face in the next six months." But he said that a "modest" U.S. investment would be well-spent if it helps this former Communist dictatorship become a peaceful, free-market democracy.

"I'd rather risk a couple of billion bucks out here for our country . . . than fail to risk a couple of billion bucks and end up looking at a real fascist-type situation," Strauss said during his first substantive discussion with reporters stationed here since he settled in to his post.

Strauss's remarks came as senior finance officials of the seven leading industrialized democracies met with Soviet officials here to discuss aid and debt questions. The ambassador said Russian and Soviet aid requests have shifted dramatically recently, with "a lot more emphasis on just flour, wheat, bread."

"They know they're in for a hard time," he said.

The centralized economy built here over 74 years has disintegrated, with most Soviet republics declaring independence from Moscow and firms and farm collectives going their own way. But no new system has emerged to replace the old, and the result has been a deepening depression characterized by empty

VOL 137 PT 23 NO 21—25 1991 UMI

shelves, declining exports and a shortage of foreign currency.

Strauss said Western creditor nations should negotiate a plan under which the Soviet Union would continue paying interest on its massive foreign debt while delaying payments of principal. Such a plan would be possible only if the republics and central government cooperate, he said.

But he acknowledged that selling the idea of debt relief and food aid in Washington will be difficult. Sen. Harris Wofford (D-Pa.) recently won a special election in part by attacking the Bush administration for doing too little to help Americans.

Strauss said the danger of economic failure here is not a repeat of August's failed Kremlin coup, but a surge of popular discontent. "There's an awful lot of people who'd like to swap what they have now and go back to the security of knowing what two rubles would buy—knowing all they have to give up would be a little freedom of speech," he added. "Out of that kind of climate, demagogues are made."

Strauss said he met Yeltsin Saturday and found him "very strong, very up, very knowledgeable." He said the Russian president is realistic about the coming challenges and the need for some form of union to replace the old Soviet administration.

The ambassador said he believes the central government still has an important role to play in controlling nuclear weapons, the army and international economic policy. He predicted that the 12 remaining Soviet republics, 10 of which have declared independence, will eventually agree.

"At times, the republics remind me of our children when they were growing up and they were teenagers," he said. "They thoroughly enjoyed their independence until their laundry got dirty and they had to get their laundry done." But Strauss also said it is inevitable that a new regional federation will be "Russia-influenced and -driven," since Russia is by far the largest and wealthiest republic. Yeltsin's government this weekend assumed control of most Soviet financial mechanisms.

Asked whether he would advise U.S. businessmen to invest money here in such chaotic times, the millionaire Texas lawyer found a way to express what he said is optimism tempered by realism.

"If I had $100,000 and I was your age," he told a young reporter, "I'd be damn interested in coming over here and investing that $100,000. If I had $10 million and I was your age, I'd be interested in coming over here and investing $100,000 of it."

[From the Baltimore Sun, Nov. 17, 1991]

Soviet Nuclear Scientists Ripe for Offers From Highest Bidder

(By Dan Fesperman)

WASHINGTON.—When the Soviet Union throws open its borders to would-be emigres this January, thousands of scientists who design and build nuclear weapons will face a decision that has government officials biting their nails from here to Moscow.

It is the nightmare prospect of Soviet "nuclear mercenaries" ending up anywhere from Iran to North Korea to Libya.

"After January, all the doors are open, and it is like the Wild West," said one Soviet official tracking the issue. "Some of these people, they have no scruples at all. They won't give a damn if it is Saddam Hussein or anyone else [who hires them], as long as there is work."

Such a possibility is realistic, he and other authorities say, because there is so little incentive for the Soviet scientists to stay.

Those who do can expect a bleak winter of unemployment brought on by 40 percent budget cuts in the Soviet nuclear program, or, if they're lucky, continued employment at low wages that for many are less than a bus driver makes. And even the higher-paid scientists will be trapped in the same crumbling economy, with its chronic shortages and ever-lengthening bread lines.

Those who leave, on the other hand, might be able to name their price in any of several places where governments want nuclear weapons expertise.

Anyone doubting that a few imported scientists can make much of an impact need only look back to 1945, when the United States plucked rocket scientist Werner von Braun from the ashes of Nazi Germany to jump start U.S. missile research and the space program.

That kind of potential impact causes officials to view the nuclear mercenary issue as a far greater danger than the already publicized fear that a Soviet nuclear weapon might fall into the wrong hands amid the chaos of political disintegration.

"You have scientists whose raison d'etre disappeared at the end of the Cold War," said William C. Potter, director of the Center for Russian and Soviet Studies at the Monterey Institute of International Studies. "They are ripe for offers from abroad."

Though estimates vary, authorities and government analysts say there are probably from 3,000 to 5,000 scientists with knowledge of such vital facets of nuclear arms production as uranium enrichment—generally the most difficult step in building a weapon—or bomb design.

Mr. Potter, who led a workshop of U.S. authorities on such issues last month in Moscow, said Soviet officials told him that "Soviet nuclear scientists have been approached by foreign governments for employment."

Apart from the economic incentives. Mr. Potter cites "the ideological, religious, ethnic, and historical ties" to Middle Eastern countries of some of the scientists in some of the southern Soviet republics. He also warned that there are far more people to worry about than the 3,000–5,000 at the heart of the nuclear weapons program.

"On top of that you have all of the people who have served in the Soviet armed forces in one capacity or another and have worked around or otherwise used nuclear weapons in their daily routines," Mr. Potter said.

"Then you have the people in the nuclear power sector who, while they may not be working with nuclear weapons, per se, have skills which would be of use to a potential proliferant."

In addition, he said, there are about 100,000 Soviet scientists with high enough security clearances to have obtained information that could be helpful to a fledgling weapons program.

To keep track of at least some of those people, U.S. intelligence services are stepping up efforts "in terms of developing analytical capabilities and increased resources," one U.S. official said. And keeping tabs on the mercenary issue will be one of the first chores of the CIA's new Non-Proliferation Center that opened in September.

But authorities here and in Moscow say that not even the Soviet government seems to have a firm handle on who knows what, much less the ability to keep track of the scientists if they start leaving in January. Nor is anyone likely to suggest trying to keep scientists from leaving.

That's especially true for the United States, which has long made a human rights issue out of restrictive Soviet emigration policies. One of the most frequently cited examples has been Andrei D. Sakharov, the nuclear weapons designer-turned-dissident who was repeatedly denied permission to leave the country until 1989, the final year of his life.

So, U.S. officials are trying to think of other ways to make the scientists stay put, such as helping to pay for research to determine the best way to disarm Soviet nuclear weapons.

Thousands would be dismantled under the recent arms treaty agreement, and other countries might keep the scientists employed doing this by picking up the tab, one official said. "At the policy level, there is a sense of urgency," he said. "You need to keep these people in the country or at least find some safe avenues."

Oleg Bukharin, a Soviet physicist who has joined efforts to alert his countrymen to such issues, said that the best way to keep scientists happy would be "by offering them a good job at a good salary," though he admitted that that will be difficult. Mr. Bukharin, who has spoken to colleagues who specialize in nuclear physics, said, "They seem to be very pessimistic, and they don't see any solution."

"It is difficult to say what they will do," said Andrei Zagorski, vice director of the center for international studies at the Moscow State Institute of International Relations. "It might happen that there are some that will accept those kinds of [outside] offers."

Mr. Zagorski joined Mr. Bukharin and a handful of other Soviet citizens last week in a return visit to the Washington area to meet with members of the U.S. group led by Mr. Potter. Mr. Zagorski is heading the nascent Association of Non-Proliferation in his country.

But even the scientists who stay home could become part of the nuclear proliferation problem, authorities say, if they end up working for a burgeoning wave of new companies that are trying to generate much-needed cash by marketing "peaceful nuclear explosions" and other arms-related technology to the world at large.

The early leader in this group is the International Chetek Corp., an 11-month-old company created by nuclear scientists who were about to be laid off from the Arzamas-16 nuclear weapon design center. With a boost of 200 million rubles from the Soviet Ministry of Atomic Power and Industry. Chetek has begun touting its willingness to blow up hazardous waste with underground nuclear explosions and has already hired a Canadian firm, PHD International Trading Inc. of Montreal, as its international sales agent.

Danny Wolfson, PHD's Chetek representative, said he has received about 40 inquiries from potential customers in Canada and the United States during the past two months, including one U.S. state that he would not identify.

That kind of interest alarms Tariq Rauf, senior associate of the Canadian Center for Arms Control and Disarmament, in Ottawa. "This is the first time anyone involved with nuclear weapons production has come on the market to offer their technology and services to anyone who is interested," Mr. Raul said. He said this only makes it more likely that some customer will end up acquiring the technology. "They [at Chetek] have not ruled out taking the PNEs [peaceful nuclear explosions] to other countries and using them on foreign soil."

"Totally impossible," Mr. Wolfson responded. "No nuclear device of any shape, matter or form will ever leave the U.S.S.R., under any circumstances." The waste will be shipped to the U.S.S.R. for destruction, he said.

Other new Soviet companies getting in on the nuclear business are Vremya, which Mr. Rauf said is marketing nuclear materials and equipment, and the uranium-marketer Tenex, a recently privatized enterprise.

Making these companies more worrisome, Mr. Potter said, is that Soviet controls on exporting such products are rapidly being relaxed, as oversight shifts from the Ministry of Foreign Affairs to the Ministry of Foreign Economic Relations.

"And the main mandate of the Ministry of Foreign Economic Relations is to bring in hard currency," he said. "Basically, everything is for sale."

[From the Washington Post, Nov. 21, 1991]

Soviet Army Says It Will Defend Itself

(By Fred Hiatt)

MOSCOW, Nov. 20.—The Soviet army is prepared to defend its equipment and installations—by force, if necessary—against attacks from independence-minded republics, a military spokesman said in an interview today.

Lt. Gen. Valery Manilov, chief of information for the Soviet Defense Ministry, said his ministry and the Interior Ministry jointly have warned the republics not to try to seize Soviet military property. Such attempts "cannot be tolerated any longer," the ministries said.

"Under the law, the armed services have every right to defend themselves and their property, and they are determined to act in accordance with the law," Manilov said.

The ministries' warning represented the most forceful effort yet to prevent the Soviet armed forces' disintegration, which many fear could lead to civil war. Since a hard-line Communist coup failed three months ago, most of the 12 remaining Soviet republics have been accelerating their drives for independence, in many cases claiming the right to form their own armed forces and seize Soviet military equipment within their borders.

Manilov said the warning was aimed at the Ukraine, Moldavia, Georgia and Azerbaijan, all of which have laid claim to Soviet military property on their territories or have attempted to "take inventory" of arms and ammunition.

The movement has aroused most anxiety in the West with respect to nuclear weapons, which are concentrated in Russia but which also are located in the Ukraine, Kazakhstan, Byelorussia and perhaps other republics. Today, Manilov repeated assurances that "full-scale control" of nuclear arms is in the hands of the central government.

But the republics have been far more assertive with respect to conventional arms, claiming possession of army and navy bases and in some cases disarming small units of Soviet troops, according to press reports.

"Attacks on military units with the aim of seizing weaponry, armored vehicles, ammunition and other equipment pose the most serious threat to stability and internal security," the ministries' statement said. "In certain areas, military equipment and property of army units have been stolen. Only the restraint of army officers has made it possible to avoid bloodshed and numerous victims."

"The demands to cede weapons and military equipment have been accompanied by threats to stop supplies of water, fuel and energy," the statement said, without mentioning republics by name. "Such facts cannot be tolerated any longer. They are aggravating the already extremely tense situation and are fraught with the most unpredictable circumstances.

"No one should have any doubts that the army servicemen have every right to necessary defense, including the use of arms.

Alexander Konovalov, an expert on conventional arms and troops at Moscow's Institute of USA and Canada, said attempts by republics to divide the armed forces could eventually provoke armed clashes.

"Right now, it's very difficult to imagine such a thing, but everything is changing so quickly," Konovalov said in a recent interview. "The West has not realized the scope of the danger."

Konovalov said he believes that in the short term republics are unlikely to attack military installations but will try to woo their officers with promises of improved living conditions and benefits. He said such promises may be especially enticing in the Ukraine, where many troops returning from Eastern Europe have been living in tents for a year or more.

Also influencing the situation, he said, is the fact that about 30 percent of Soviet army officers are Ukrainian. Similarly, many of the troops stationed in Azerbaijan, which is believed to be arming itself in preparation for a possible conflict with neighboring Armenia, are Azerbaijanis.

Manilov said he has "no doubt" that Soviet troops in Azerbaijan and elsewhere "will remain loyal to their oaths and to the rules of their army . . . and to the defense minister and the general staff."

"I think this statement will have a sobering effect on violators and a morale-boosting effect on those in service," Manilov said.

NEW HAMPSHIRE MOURNS THE LOSS OF RICHARD DUNFEY

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to Richard P. Dunfey, an outstanding individual who has given a lifetime of distinguished public service and personal generosity to the citizens of New Hampshire. Richard died this week, and people from all walks of life are mourning the loss of this exceptional man, who spent the last 12 years of his life serving as the chief justice of New Hampshire's Superior Court.

Richard Dunfey was a proud member of a well-respected New Hampshire family. This family has always been willing to work tirelessly on causes they believed in, no matter what the financial or personal cost. Richard's death falls especially hard on the hearts of New Hampshire citizens, because it so closely follows the death of several others from the Dunfey family.

Mr. Speaker, on November 21, 1991, the Manchester Union Leader published an excellent editorial tribute to Richard Dunfey and the Dunfey family by Jim Finnegan, which I would like to share with my colleagues.

The Dunfey Legacy

One hopes that when future historians comment on the legacy of the Dunfey family in New Hampshire they will not be too preoccupied with the purely political aspects of that legacy.

To be sure, the political impact the Dunfeys made on the Granite State, and indeed the nation, is legendary. But the Dunfeys, may it be recorded by historians for all time, were not simply good politicians.

They were good people.

That salient point was emphasized, although it hardly needed restating, by virtually everyone who commented on the death this week of Richard P. Dunfey, for 12 years chief justice of the state Superior Court and the sixth of the Dunfey children to die since 1989.

Over the years, this newspaper frequently has found itself on the opposite side of political issues from the powerful Dunfey dynasty, whose influence, outdistancing even its business interests, ran all the way to the White House. Could the history of those days be relived, undoubtedly nothing would be changed. The same political battle lines would be drawn, and the political wars would be waged just as vigorously.

But the deaths especially of Walter and William, and now Richard should remind all of us that some things in this life are much more important than points of ideological contention. The archtypical liberal, we have noted frequently, is generous—most notably with other people's, the taxpayers', money.

But the Dunfeys, perhaps due in large measure to their Irish heritage, are distinguished for their financial support of public charities and their many unheralded personal kindnesses.

Monsignor Philip Kenney made that point well when he said on the occasion of Judge Dunfey's death:

"Even though they were born here in America, I think their parents impressed upon them what I call an 'immigrant mentality.' There was always room at the immigrant's table for someone in need, and in a social sense, the Dunfeys have always shown great generosity toward the less fortunate, and most often, they have done so anonymously."

Political historian Charles Brereton was making much the same point when he observed:

"Once people become successful in business, a lot of them just sit at home and clip coupons, but not the Dunfeys."

Business, philanthropy, national and international political causes—whatever the Dunfeys did they did with verve and dedication and a genuine humanitarian instinct. They wouldn't have known how to be apathetic, to be less than role models deserving of emulation.

May the six remaining Dunfey children enjoy long lives perpetuating that enviable heritage.

TRIBUTE TO RABBI FABIAN SCHONFELD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Rabbi Fabian Schonfeld, spiritual leader of the Young Israel Synagogue of Kew Gardens Hills. Rabbi Schonfeld is being honored this weekend by a grateful congregation, on the 40th anniversary of the synagogue which he helped to found in 1951.

VOL 137 PT 23 NO 21—25 1991 UMI

A simple listing of Rabbi Schonfeld's activities yields accomplishments enough for any man. He has been the spiritual leader of a vibrant religious community for 40 years.' He has been president of the Rabbinic Council of America and the Rabbinic alumni of Yeshiva University. He is an executive member of the World Jewish Congress, chaplain to the Jewish postal workers, and a contributor to numerous Jewish publications. Within the religious community, Rabbi Schonfeld is looked up to for guidance, for wisdom, and for leadership.

And still, Mr. Speaker, when the people of Young Israel and their guests meet this Sunday to honor this man, the true congregation of Rabbi Schonfeld will not be fully represented. For Rabbi Schonfeld has for many years reached out to touch all the people of his community. A man of tireless and legendary compassion, Fabian Schonfeld has always extended his hand to everyone, regardless of race, regardless of all the trivial differences which so sadly continue to come between us.

He has worked with the police to help them understand the needs of the community, and with the Queens Valley Home Owners Association to improve the quality of life for the people of his county. Through his work on the Queens black-Jewish people-to-people project, Fabian Schonfeld has tried to bring together all the people of his larger congregation, to foster understanding, friendship, and above all compassion. City, State, and National politics have all been touched by his energy, and have all turned to him for help. If the measure of a man is in what he does for others, than Rabbi Schonfeld is truly a qiant.

Presidents have sought him out to inspire national conventions, and every local official I know has benefited from his counsel and wisdom.

It has been my privilege to know Rabbi Schonfeld from the time I was in Hebrew school. From that and other vantage points I have watched him work for the betterment of Queens and our Nation. It is my privilege to join those who honor him this weekend. I know that he will continue to show the same dedication and energy to his work that he always has, and that he will continue to touch the lives of all those around him. I am only sorry that we do not have more people like Rabbi Schonfeld among us.

Mr. Speaker, I ask all of our colleagues in the House to rise and join me in wishing Rabbi Schonfeld 120 years of health and continued good works.

OPPOSITION TO H.R. 3769

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. OWENS of Utah. Mr. Speaker, I rise in opposition to H.R. 3769. As we know, this legislation would cap credit card interest rates. That this issue strikes a significant emotional and political chord is without question. What we should question is both the short and long-term impact of this legislation in its current form. I appreciate this opportunity to present to my colleagues a number of important considerations before they cast their opinion, and possibly their votes, in favor of this legislation.

First, let us ask whether or not this legislation will provide an added boost to the economy. It is conceivable that for some consumers, this will somewhat lighten the burden of debt repayment. But most consumers are doing just that—paying off debt. They are jittery about their jobs. Their health care expenses. Their mortgages. They are holding on to their paychecks to save for better days. And a good number of consumers pay their credit card bills on time, with no interest added.

Before the end of the session, we will have mandated new, much higher capital levels on banks. Granted, much of the banking industry's current woes are self-inflicted. But what we will essentially be doing is telling banks "You have to have reserves of x amount, but you have to build that capital with one arm tied behind your back." A cap, in and of itself, would simply lower profit margins and exacerbate an already grave situation—banks cannot lend money to small businesses and homeowners if they don't have adequate capital.

Second, we seem to be forgetting what banks do. Granted, the existence of federally-insured deposits constitutes a basic social contract between banks, Government and consumers. We have been revisiting that contract over the past 3 weeks, and will likely do so again for years to come. But banks operate fundamentally as a profit-making enterprise, seeking to maximize profits and, more often than not, to minimize risks.

The banks' natural response to this legislation is not to increase lending. It is to charge higher annual fees, turn away higher-risk applicants and cut back on services. Should we tack on amendments to this bill prohibiting banks from taking these steps as well? If so, we cross the boundary from regulation to micromanagement. And we can't outlaw the possible inflationary consequences. Yet to avert the natural, market-driven reaction to such a policy, that is what we would have to do.

Third, we have heard much about the disparities between the prime rate and credit card interest rates. But let us look at that in a different perspective. Interest rates declined, yet economic recovery remains sluggish. Those rates declined as a result of administrative fiat, not market pressures. What that suggests is that the prime rate is artificially low, not necessarily that credit card interest rates are inordinately high.

We do have options. There are thousands of credit cared issuers nationwide, with variable rates and accompanying services. We can bridge the gap between the consumer and the marketplace by providing for greater disclosure of rates, and I am receptive to the solution advocated by the Gentleman from New York [Mr. SCHUMER]. Capping rates does nothing to enhance competition in the industry.

Mr. Speaker, I am pleased that the House leadership has opted to take a step back and think through this legislation more carefully. The American economy is more consumer-driven than that of almost any other industrialized nation. Americans will eventually pull out their wallets and there credit cards when the economy recovers. But we need a period of austerity to build our reserves and restore consumer confidence. Such is the downside of a market economy, but it is also the unfortunate reality. Credit card interest rates, and the accompanying consumer frustration, are a symptom of the more complex problem of rebuilding the Nation's low rate of savings. Let us not skirt around that important task by supporting the mandatory rate cap.

JEFFERSON COUNTY SHERIFF HONORED

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. ERDREICH. Mr. Speaker, I'd like to take this opportunity to extend my congratulations to Sheriff Mel Bailey, who has been inducted into the Alabama Peace Officers Hall of Fame. I'd also like to share with my colleagues some of the many professional and civic contributions Sheriff Bailey has made to our community.

Sheriff Bailey has served Jefferson County as sheriff for more than 28 years. He held various positions with the Birmingham Police Department until being elected sheriff in 1963. One of his major achievements as sheriff was the creation of a professional law enforcement operation for Jefferson County.

Under Sheriff Bailey's leadership, innovative crime-fighting equipment was obtained for his department and for use by other law enforcement agencies. Sheriff Bailey implemented a standard training procedure for his officers and chaired the committee of the Alabama Peace Officers' Association that established standardized training for all law enforcement personnel. The Sheriff was also responsible for setting up one of this area's most effective neighborhood watch programs back in 1974.

Sheriff Bailey has been supportive of legislation that benefits both law enforcement and the citizens of Jefferson County. The Sheriff is actively involved in many professional, church and civic organizations in the State.

Sheriff Bailey is truly deserving of this prestigious award and it is my honor to pay tribute to one of Alabama's most highly respected elected officials. Attached is an editorial from the Birmingham News praising Mel Bailey for this distinguished honor.

[From the Birmingham News]

BAILEY MAKES HALL

Congratulations to Jefferson County Sheriff Mel Bailey, who has been inducted into the Alabama Peace Officers Hall of Fame.

Bailey has served the Birmingham area as sheriff for more than 28 years. He made the sheriff's office the professional division of government is has become.

He put his deputies into uniforms and marked cars and had them investigate auto accidents and keep proper records.

People in this county take those things for granted now, because of Bailey.

The Sheriff also was responsible for setting upon this area's most effective neighborhood watch programs back in 1974.

The Hall of Fame, which was created by the Legislature in 1987, only has six members.

Also inducted with Bailey was retired FBI agent Joel Hitt of Mobile, who served with the federal law enforcement agency 35 years.

Discussing Bailey's induction, former Peace Officers Association president Joseph W. Stone said the sheriff is one of the most highly respected elected officials in Alabama.

That's high praise that is well deserved.

Bailey's honor makes all Jefferson County feel proud.

H.R. 2440, THE CREDIT CARD DISCLOSURE ACT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. SCHUMER. Mr. Speaker, today I am introducing, along with Mr. TORRES, chairman of the Consumer Affairs and Coinage Subcommitee of the House Banking Committee, a revision of H.R. 2440, the Credit Card Disclosure Act.

Last week, the President called for credit card issuers to bring sky-high credit card interest rates back down to Earth. When the Senate took him up on his request, it brought uncertainty and panic to Wall Street and a firestorm of criticism. By the White House's own admission, it turns out that the President was just winging it.

Well, we in the House are not winging it. For years, I have been calling on the credit card issuers to stop gouging the consumer and bring down rates. In 1988, we entered my Fair Credit and Charge Card Disclosure Act, which, for the first time, required card issuers to disclose clearly and conspicuously in tabular format, the terms of their cards on initial applications and solicitations. No longer could card issuers hide their high rates and fees in the fine print.

My belief was that if consumers knew about the high rates and fees they were going to be charged, they would take their business to competitors that offered lower rates. This bill succeeded in letting consumers know that they could get low-rate, no fee credit cards if they just shopped around.

This year, I introduced H.R. 2440, to further combat the card issuers who persisted in ripping off consumers on rates. It has become increasingly clear that the market for credit cards does not work. In a declining interest rate environment, many credit card issuers—primarily large commercial banks—continue to charge an average 19 percent interest to consumers.

You would expect that in a declining rate environment, banks would be passing on their savings from a lower cost of funds down to the consumer. In fact, the current situation is the exact opposite. Banks have lowered the interest they pay out to consumers for CD's, checking, savings accounts et cetera, but the rate they charge consumers for auto loans and credit card loans have actually gone up. Over the past 2 years, the average credit card rate has risen almost a full percentage point as the bank's cost of funds have gone down a full 2.5 points. Credit card rates are as high today as they were when the discount rate was 14 percent.

In the current recessionary climate, consumers are running up higher debt balances because they are out of work. Others are trying to get out from under the debt they rang up in the 1980's. It is therefore important to alert them to better credit opportunities and make it easier for them to switch to cards with less onerous interest rates. The Schumer-Torres bill facilitates a consumer's ability to change to lower rate cards and further increases disclosure by credit card companies so that consumers have the information to make an educated decision.

American consumers ran up over $328 billion in transactions in 1989 using 268 million credit cards and this is expected to rise to $500 billion by 1995. The typical American family has 4.6 credit cards. In families making over $75,000 per year, the number rises to 7.4 cards. Because the credit card is such a pervasive part of the American landscape, it is critical that the market work in the consumer's favor.

The bill we are introducing today accomplishes four things:

First, it fosters true competition in credit card rates by requiring banks to prominently notify cardholders of their interest rates on all advertisements and on the envelope of every mailing.

Second, if a card issuer changes any term of the credit card agreement, it must notify its customers 30 days in advance of the change and allow the consumer to cancel the card and pay off any outstanding balance on the original terms.

Third, it mandates a GAO study to once and for all find out why there is virtually no competition on interest rates among the biggest 10 banks.

Fourth after completion of the study, it authorizes the President to impose a reasonable floating cap, which at today's low rates would be about 15.5 percent. The President started this latest panic with his winging it, so we're going to let him determine whether to impose the cap.

We believe that this bill is a responsible and thoughtful response to the calls from the President, and ourselves, for lower interest rates. It is now up to the card issuers, in the next 9 months, to show that they compete for customers, not only with perks, but most importantly, with rates. It just makes no economic sense for 7 of the top 10 card issuers to offer the exact same 19.80 percent rate to most of their customers if there is true competition in the market as so many industry participants claim.

If the GAO study confirms our claims that there is no competition in the credit card industry, it will be up to the President to finally take meaningful action, to complement the strong disclosure provisions of our bill, instead of just winging it.

The president has fired the initial shot across the bow of the card issuers by calling for lower rates. In 9 months, the President again will be holding a loaded gun, in the form of the GAO report—and it will be up to him to pull the trigger and finish what he has started.

CONGRESSIONAL SALUTE FOR ALICIA M. TURENNE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. OBERSTAR. Mr. Speaker, it is with great pride that I rise today to pay tribute to Alicia M. Turenne from International Falls, MN, who placed second at the National Right to Life Oratory Contest. At a time when America has been called the disposable society, it is encouraging to see that there are committed young individuals who believe in the sanctity of life. Because an essential element of the pro-life movement is education, I would like to commend to the attention of my colleagues the award-winning speech of Alicia M. Turenne:

THE TRAGEDY OF ABORTION

(By Alicia M. Turenne)

When a 92 year old man dies in his sleep, we give it very little thought because this person has had the opportunity to live a full and satisfying life. A 48 year old person dies of a sudden heart attack, we are saddened because we feel that this person still had time to enjoy life and share experiences. A 19 year old student is killed in a car accident. We are angered at the senseless death of this individual who had just begun to experience the challenges and blessings of life. A five month old baby dies of crib death—we grieve for this child because he barely had a chance to fulfill the hopes and dreams we had for him. An infant still inside the mother's womb is killed by an abortionist. This baby did not have any chances, opportunities, or experiences. 1.6 million of these babies are killed each year in the United States.

Babies who at the moment of conception have 46 chromosomes and an entirely unique genotype that will determine every characteristic of this new life—until death. A baby who at only three to four weeks gestation has a backbone, a spinal column, a complete and complex nervous system, and a pulsating heart that is pumping blood. This same baby is not recognized as even "potential life" in the United States. A baby who at only six weeks gestation has tiny hands, fingers, and toes. The child's liver has taken over the production of his or her own blood cells, and the child has his or her own circulatory, digestive, and eliminating systems. Brainwaves can be detected and read by scientific instruments. Yet every year in the United States, 28 out of every 1000 women between the ages of 15 and 44 kill this baby. A baby who by the end of eight weeks gestation has a skeleton that has begun to change from cartilage to true bone, and a jaw with gums and teeth buds. The baby responds to touch, and perceptible movements can be recorded. Still one of these babies is killed every 20 seconds in the United States. A baby who after three months, the first trimester, has fully formed hands, fingers, legs, feet, and toes. Fingernails are beginning to grow and fingerprints appear. The heartbeat can be heard with a fetoscope, and genitals reveal the sex of the new child. The baby can turn its head, curl and fan its toes, and open and close its mouth. The child can sleep, wake up, and breathe amniotic fluid regu-

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larly which exercises and helps develop the

H.R. 3553—the Higher Education Amend-

ALLEGHENY NATIONAL FOREST

pact surface resources owned by the public. Today I am introducing legislation that would

streams in the Allegheny National Forest. The practice of land spreading as a disposal meth-

INTRODUCTION OF THE SATELLITE HOME VIEWER ACT

VOL 137
PT 23
NO 21—25
1991
UMI

larly which exercises and helps develop the respiratory system. The baby can drink, digest, and excrete portions of the fluid. This baby is not protected by law in the United States.

In a society in which we are so proud of our freedoms and liberty, it is ironic that we don't grant a baby its one natural right-life. Pro-choice advocates feel that a woman should be able to have her rights-to control her own body. I believe in these rights also—until her rights impose on the rights of another person, in this case the child she is carrying.

Pro-choice advocates also support abortion because there are many children in the world today that are suffering. This is true and it is definitely one of the evils of our society, but I can not understand how one can hope to correct one evil by compounding it with another evil—the taking of a life.

A third reason given to justify abortion is that the child in the womb is not normal. Sometime during development something went wrong, and the child isn't perfect. Which of us is perfect? Perfection is an unrealistic image portrayed to us in movies and in media propaganda. It is an opinion.

Denise is a friend of mine, and she is mentally handicapped. When I was in kindergarten, Denise worked in the lunchroom. Her job was to hand out the milk. I remember she would always point to the different kinds of milk—skim, chocolate, or two percent—showing us that we had a choice. After I had made my choice, and she had handed me the right kind, she would smile with the feeling of accomplishment that we all have after we've done something right. Now that we're older I still see Denise frequently around town, and she greets me with the same warm smile and "hello" as I remember from grade school. Denise is not the same as everyone else, but she has brought happiness to me just as I know I have brought happiness to her. Does society have the right to deny either Denise or me our happiness and friendship?

I have great faith in our country. The people of America, both as individuals and as a government, have always been able to find the truth and have implemented systems which protect the truth. I believe the Americans are truly good and that with education we will come to realize the tragedy of abortion. As a society we will learn to help unwed mothers, support and not condemn pregnant teenagers, and we will accept people as they are because we are all unique. Just as Americans found the truth and reversed the Dred Scott decision to recognize the black person as a human being, so will Americans today discover the truth and overturn the Roe vs. Wade decision of 1973 to recognize the unborn baby as a human being. Someday soon Americans will realize that the child within the mother's womb is indeed a human being, here for a reason, and definitely worthy of life.

IN SUPPORT OF THE HIGHER EDUCATION AMENDMENTS OF 1992

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1992

Mr. SERRANO. Mr. Speaker, I rise to call your attention to one of the most important pieces of legislation that will impact this Nation and how we prepare our youth for the future, H.R. 3553—the Higher Education Amendments of 1992.

I am one of those individuals who believes that when it comes to education there should not be any spending limits. Developing our human resources should be a priority because it would guarantee our future ability to compete in the global market. Education is power, and until every American recognizes that fact, and is afforded the opportunity to fully participate and reap the benefits, we shall continue to decline as a nation.

H.R. 3553 provides access to a quality education for all, albeit low-income students, part-time nontraditional students or, middle-income students. This bill is particularly sensitive to nontraditional students in that it includes measures to ensure equitable financial aid, special services such as child care and special hours for nontraditional students. I am particularly pleased that also incorporated in this measure is a provision I authored, the Teacher Opportunity Corps Program. This program would award grants to teachers aides/paraprofessionals working in economically depressed school districts. Several States have successfully initiated such programs involving committed individuals working as paraprofessionals, frequently employed in schools that serve children with the greatest needs, and that unfortunately, also suffer a shortage of full time qualified teachers.

I am especially pleased that the act also provides a mechanism to make whole the victims of unscrupulous schools who have defaulted on student loans and thus deterred many from continuing their education. If we can forgive a debt of $7 billion for Egypt, we can forgive students who have been taken advantage of by scheming operators.

It is particularly important that when students do enroll in college or university that they are focused on their studies and not distracted about whether their loan or grant will cover all their educational expenses. If we are truly about the business of refining this Nation's education system it is imperative that all students have access and choice of educational programs regardless of their economic background. By establishing the Pell grant program as an entitlement, students would be assured of an amount not subject to the whims of policymakers.

Mr. Speaker, I have often stated and stand by the fact that, education is the best and surest way out of the poverty and misery that our people live in. Many of the problems that affect our communities would be solved, or at least dealt with, if people had the ability to read, write and defend themselves properly. As we move into the 21st century, it is vital that we educate all Americans to acquire the skills and knowledge that are essential to being successful and productive members of our society. By enhancing the educational attainment of our competitiveness in the world market, we only can strengthen the state of our economy.

I urge my colleagues to support the Higher Education Amendments of 1992, H.R. 3553.

ALLEGHENY NATIONAL FOREST PROTECTION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. KOSTMAYER. Mr. Speaker, In the Allegheny National Forest [ANF]—Pennsylvania's only national forest—groves of cherry, oak and hemlock stand, towering over hiking trails and cold water trout streams. Within its congressionally-designated wilderness are thousands of precious acres largely untouched and unspoiled by man, including Pennsylvania's only designated wilderness. According to the 1986 Forest Service [FS] land and resource management plan for the ANF—

> The Forest is situated in the rugged plateau country of northwestern Pennsylvania. The topography is characterized by flat to rolling plateaus which are frequently dissected by stream valleys. . . . The watersheds provide high quality water supplies for local communities and habitat for deer, black bear, squirrels, rabbits, grouse, nongame species, and predators. At least 49 different mammals are common to the Allegheny. Water is a plentiful resource with several reservoirs and over 500 miles of stream available. These provide for a variety of fishing and hunting experiences. Opportunities for forest-based recreation are both numerous and diverse. Many miles of trails exist for the hiker, cross-country skier, and snowmobiler. Developed recreation facilities include four beaches, six boat launches, eighteen campgrounds, three overlooks, and nine picnicking areas.

The reality of the Allegheny National Forest is startlingly different, however. The ANF is home to 6,000 oil wells and the countless miles of dirt roads linking these wells. Because of the activities connected with oil and gas operations, many of the forest's streams that used to support native trout are now silted over, brine spills have killed the trees, and uncounted acres have been disturbed by road building, equipment storage, rock pit and pipeline construction, and the scattering of oil field debris and abandoned equipment. Quite by change, a group of citizens discovered a 33-ton pile of oily debris that had been dumped in the ANF with the apparent acquiescence of the Forest Service. Only after this inadvertent discovery was brought to their attention did the agency require removal and proper disposal. On countless occasions, private mineral operators have adopted the forest for their convenience, illegally using all-terrain-vehicles to carve short cuts through the woods to connect their well sites. The FS has resisted calls to adopt modern, environmentally sound land management practices and take decisive enforcement steps to balance oil and gas activities with other legitimate multiple use objectives.

Mr. Speaker, a routine staff investigation of the impacts of oil and gas operations on the Allegheny National Forest has led me to realize that the Forest Service regards itself as powerless to protect the lands and waters of the ANF. The Service's position is that since the oil and gas rights beneath its lands are privately owned, it can only use persuasion as a method to rein in activities that severely im-

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pact surface resources owned by the public. Today I am introducing legislation that would assure that the Forest Service and the public regain their authority to bring matters under control.

My bill gives the Forest Service 6 months to adopt regulations to protect the natural, cultural, historical, scenic and recreational resources in national forests from the impacts of privately owned oil and gas exploration and drilling. In 1979, the National Park Service promulgated regulations to control the activities of private oil and gas mineral rights holders inside national parks. These regulations permit oil and gas operations but with built-in safeguards that allow park rangers to prevent unnecessary or undue degradation to surface resources. As applied to the Forest Service, the rules would trigger a National Environmental Policy Act [NEPA] review that informs FS management officials and the public of the scope of planned activities and allows for the development of measures to mitigate the impacts of these activities. If the Forest Service fails to finalize rules within 6 months of this bill's enactment, then a modified version of the existing Park Service regulations would apply to the exercise of privately owned oil and gas rights in national forests.

These rules would compel the Forest Service to come to grips with the very troubling issue of the cumulative impacts of oil and gas development activities on national forests with significant private oil and gas ownership. As matters now stand, forest supervisions wash their hands of any attempt at assessing the impacts of road building, timber cutting, and oilfield waste disposal practices that accompany oil and gas activities. In the Allegheny National Forest, each of the thousands of oil or gas wells that have been routinely approved has required 5 or more acres of surface clearing. Yet, rather than seeking ways to mitigate the very real effects of such development, the Forest Service routinely ignores the cumulative impacts.

My bill also includes language authorizing citizen suits as a mechanism for bringing operations into compliance with the law. In many instances, and informed and vigilant citizenry is our best hope for protecting the public interest in the face of an entrenched and unsympathetic regulatory bureaucracy. The potential for enforcement action from ordinary citizens will send a message to unscrupulous operators while protecting responsible ones from unfair competition by those that flaunt laws and regulations that protect the environment.

Mr. Speaker, I am also introducing today legislation to amend the Solid Waste Disposal Act to require the regulation of produced water from oil and gas exploration, development and production. Produced water, a highly concentrated brine that accompanies oil and gas in underground formations, often contains elevated concentrations of metals and such carcinogenic compounds as benzene. These highly saline fluids can be 10 times saltier than sea water.

The damage that the unregulated dumping of produced water has done to the wetlands of the gulf coastal States has been amply documented in a Public Broadcasting Service documentary. Careless handling and discharge of these brines have killed trees and polluted streams in the Allegheny National Forest. The practice of land spreading as a disposal method in the such Eastern States and Pennsylvania and Ohio has, according to recent studias, caused an ominous build-up of the hazardous component of these brines in soils and groundwater. In short, the failure to regulate produced water disposal clearly and decisively at the Federal level has had very significant—effects on the environment.

Mr. Speaker, I am cognizant of the need to encourage domestic energy production in an environmentally sound manner. My bill on produced water regulation strikes a careful balance between the desire to stretch domestic reserves and the need to protect our environment. It provides producers with options on how they can treat their produced waters most effectively and economically while significantly improving the environment around their well operations. It is my hope that the House will move promptly on these bills when we reconvene in January.

ON THE OCCASION OF THE 15TH ANNIVERSARY OF THE VENTURA COUNTY AND COAST REPORTER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. LAGOMARSINO. Mr. Speaker, I would like to take this opportunity to congratulate Nancy S. Cloutier and everyone associated with the Ventura county and Coast Reporter as they celebrate the newspaper's 15th anniversary.

Originally founded as an 8-page monthly newspaper named the Marina & Tower Views in November 1976, the Reporter went weekly in 1979 and changed its name to its present form.

The Reporter began its new life in 500 square feet of office space in wagon Wheel Junction on Buckaroo Avenue "over the barber shop, in front of the roller rink, and behind the bowling alley" with a staff of 5.

The publication became adjudicated as a newspaper of general circulation in 1981.

The Reporter moved to the Telephone Road Plaza in 1983, occupying 1,000 square feet and growing to 28 pages weekly. The paper continued to grow in staff and page size, eventually moving to its present 2,000 square foot location in Ventura Harbor Village in early 1986.

The Reporter is owned by Nancy, a 15-year Ventura resident who has been owner, publisher, and editor-in-chief for 12 years. There are 12 full-time and over 30 part-time employees who publish over 35,000 copies weekly.

The newspaper serves the communities of Ventura, Oxnard, Camarillo, Ojai, Fillmore, and Santa Paula, offering news of current events affecting the cities and county of Ventura as well as coverage of cultural events, fine arts, entertainment, sports, ecology, real estate, boating, and recreation.

Again, Mr. Speaker, I congratulate Nancy on achieving this milestone and wish her every success in the years to come.

INTRODUCTION OF THE SATELLITE HOME VIEWER ACT AMENDMENTS OF 1991

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. BOUCHER. Mr. Speaker, today I am pleased to be joined by 13 of my colleagues in introducing the Satellite Home Viewer Act Amendments of 1991.

Senator LEAHY will be introducing a companion bill in the other body.

Mr. Speaker, the goal of the bill is simple—to lower the prices home satellite dish [HSD] owners pay to receive superstation and network affiliate programming.

The Satellite Home Viewer Act [SHVA] of 1988 established a legal framework for the retransmission of satellite-delivered broadcast programming, including superstations and network affiliates uplinked for the HSD market, by providing a statutory compulsory license to satellite carriers. The SHVA also prohibits satellite carriers from discriminating against HSD distributors in the use of this compulsory license. Despite the SHVA's explicit prohibition against discrimination, the Federal Communications Commission [FCC] documented in its June 5, 1991 report that discrimination exists and as a result HSD distributors are paying unreasonably high prices for broadcast programming.

While the SHVA permits injured parties to bring an action for violations of the prohibition against discrimination, the Copyright Office has concluded that HSD distributors are not entitled to sue for discrimination because they lack standing. The parties with standing, namely the copyright owners, have no incentive to sue because they have suffered on pecuniary injury. Thus, the aggrieved parties—HSD distributors—are left without a remedy for the price discrimination found by the FCC.

As a result, dish owners are paying excessive prices to receive broadcast programming. Most dish owners live in rural areas that are too sparsely populated to support a cable TV system and too remote or mountainous to receive clear over-the-air TV signals.

Our bill will amend the SHVA to allow distributors of programming to HSD owners to sue satellite carriers for unlawful discrimination. The bill will:

Give standing to distributors to bring civil actions against satellite carriers for unlawful discrimination.

Define "unlawful discrimination" as: first, the unreasonable refusal of a satellite carrier to deal with an HSD distributor which meets reasonable requirements for creditworthiness, or second, the refusal of a satellite carrier to offer to an HSD distributor the same price, terms or conditions, taking into account cost savings reasonably attributable to the number of subscribers served, as the satellite carrier has offered to a cable operator or other multichannel video provider.

Create an exception to the prohibition on unlawful discrimination where the satellite carrier can demonstrate that the price differential is justified by an additional cost incurred in providing wholesale carriage to the HSD distributor.

VOL 137
PT 23
NO 21–25
1991
UMI

Permit distributors to avail themselves of the remedies provided for copyright infringement, including injunctive relief, compensatory and statutory damages, costs and attorney's fees.

This legislation has been endorsed by groups representing consumers, HSD owners, HSD dealers, and others, including the following: Consumer Federation of America, Consumer Satellite Coalition, National Rural Telecommunications Cooperative, National Rural Electric Cooperative Association, National Telephone Cooperative Association, the Program Packagers Segment of the Satellite Broadcasting and Communications Association, Heart of America Independent Satellite Dealers, National Farmers Union, National Grange and Communicating for Agriculture.

The Copyright Office has recognized the need for this legislation and so testified during a July 10, 1991 hearing before the Subcommittee on Intellectual Property and Judicial Administration.

I want to thank the Senator from Vermont [Mr. Leahy] for his assistance in structuring the legislation we are introducing today, and ask my colleagues in the House to join us in this effort. It is a straightforward means of solving a problem that is affecting hundreds of thousands of HSD owners throughout the Nation.

PRESIDENT BUSH AND CIVIL RIGHTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. STOKES. Mr. Speaker, President Bush today is reportedly considering action that would shame and disgrace himself, his administration and his political party in the eyes of history.

On the very day that he signed the Civil Rights Act of 1991 into law, his administration contemplated using an Executive order to repeal 25-year-old Federal rules, regulations guidelines and policies designed to assure equal opportunity in employment and contracting. This action would be a perverse insult and slap in the face to every American who believes in the ideals of this Nation.

By Executive directive, President Bush has been urged to order Federal agencies to discard many of the programs that they have been using to break down long-standing practices of racial and sexual discrimination in employment and contracting. Such action would effectively abolish the uniform guidelines for employee selection, a set of rules and guidelines used by the EEOC to detect patterns of job discrimination and by other agencies in the design and implementation of their recruitment and hiring programs. It would effectively gut the guidelines of the Office of Federal Contract Compliance in which Government contractors must take affirmative action to insure that job applicants represent a diversified work force.

More devastating than the direct impact on Federal agencies is the spill-over effect that such an edict would have in the private sector. Employers and contractors have followed Federal guidelines and have developed policies that are consistent with Federal Government policy. President Bush's change of policies would provide fresh license to discriminate. Minority and female entrepreneurs who simply seek a piece of the action would be told that the "good old days" and the "good old boys" are back at DOT, the SBA, the FAA, NASA or wherever and that racism, sexism and cronyism will once again rule in the Federal contracting marketplace.

Mr. Speaker, any directive by President Bush would reduce his signing of the civil rights bill to a cynical act. Civil rights to this President are little more than a shell game: Give with one hand and take with the other. The President signs a bill to restore rights and remedies, his staff proposes a directive that emasculates those same rights and remedies. Although I am outraged, I am not surprised. This President and his predecessor have been in office 11 years and we have had 11 years of full retreat on civil rights, 11 years of vicious racial politics and 11 years of malicious and misguided policy. We should not forget the proposed tax exemptions to private segregated schools, the initial opposition to the Voting Rights Act extension, the wholesale attack upon and denigration of affirmative action, the clumsy effort to ban minority scholarships, Willie Horton, Clarence Thomas, the phony quota bill rhetoric and the rest of the sad legacy of this administration.

Mr. Speaker, perhaps issuing a license to discriminate as you sign a Civil Rights Act wins some political plaudits from the most insecure elements of our Nation. Perhaps it would be a clever diversion from the disaster that this administration has made of the national economy for 11 years. Whatever the explanation may be, the action would speak for itself. The proposed directive is an attempt to undercut the intent of Congress, to compromise legal protections granted by the courts and to roll back the clock on civil rights. Any such action would be a national disgrace.

I have seen a copy of the proposed signing statement for the Civil Rights Act of 1991 containing language directing Federal agencies to review and terminate existing affirmative action and equal employment policies. Apparently, the reaction to this proposal has been so negative that the administrative retreated from its issuance, at least for now. Let us hope that it is buried forever.

LINDA MEDDERS OF SANTA ROSA RECEIVES RECYCLER OF THE YEAR AWARD

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. RIGGS. Mr. Speaker, I am proud to announce that Linda Medders of Santa Rosa, CA, has been honored as the 1991 Recycler of the Year by the National Recycling Coalition of Washington, DC. She was awarded this honor in recognition of her outstanding achievements over the past decade for Empire Waste Management's recycling division in Santa Rosa.

With landfill problems affecting much of our country, the First Congressional District in northern California, under the leadership of Linda Medders and Empire Waste Management, has consistently reduced its landfill problems through community recycling and educational programs.

Linda Medders success story exemplifies the benefits of hard work and dedication. She began at Empire Waste Management's recycling division in Santa Rosa, CA, in 1981. As the only woman in a crew of 50, she started in the yard sorting the thousands of cans and bottles from the truckloads of materials that entered the facility daily.

Ten years later, after sorting material in the yard, running forklifts and bailers, organizing and driving reclamation routes, training drivers, handling community relations, speaking with schools and community groups, and creating and producing advertising, Linda now runs the recycling department of Empire Management, Inc., a division of Waste Management of North America.

Empire started one of the Nation's first curbside recycling programs in 1978, when sorting trash was relatively rare. When Linda came on board in 1981, Empire ran two residential recycling routes and two part-time commercial routes. Now there are 10 residential and 5 commercial recycling routes running full-time trying to keep up with the demands of the City of Santa Rosa, as well as Sonoma and Mendocino counties.

With Linda's knowledge of the recycling industry and the popularity of recycling growing simultaneously, Empire began working in the community to promote the advantages of its programs and how they could benefit the community and the environment. Linda began speaking at schools, hospitals, retirement homes, Cub Scout meetings, Lions Club sessions, and other forums to promote recycling. She also gave tours of Empire's facilities to children so they could see first-hand the thousands of cans and bottles being recycled.

When this outreach program started, Linda had to work to convince area groups to have her speak about recycling. Now, she is bombarded with so many requests for her time that she can barely keep up with them. Recently, Linda gave a tour of Empire's facilities to a visiting Russian delegation.

To promote Empire's message through advertising, Linda created these characters: Veri Peri, a small green bottle with a French accent who's pleading to be recycled; Red Daily, a cigar-smoking newspaper reminding people to save their papers; and Patty Plastic, a lonely plastic container with a valley girl accent. Using these characters in radio ads and print materials, Linda reached children and adults with the message that recycling is fun, as well as the right thing to do.

California's First Congressional District is proud of Linda Medders. Due to her hard work and dedication the communities of the district are becoming environmentally conscious and better educated about the benefits of recycling. I am proud to represent her and I encourage my colleagues to look at her achievements as a model for waste management programs around the country.

BUSH ATTACK ON CIVIL RIGHTS ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. CLAY. Mr. Speaker, as we all learned this morning, President Bush was prepared to undo 30 years of civil rights progress at the very same hour that he was going to be signing the Civil Rights Act of 1991. I have seldom seen such an outrageous, cynical attack on civil rights as this.

White House staff began circulating a draft directive yesterday afternoon at 4 p.m., less than a 24 hours before it was to be announced, that would have eliminated all Federal policies that give preferences to minorities and women in hiring or promotion.

I am outraged. As far as I'm concerned, there is about as much difference between David Duke and George Bush as there is between tweedle-dee and tweedle-dum. Before the ink was even dry on the Civil Rights Act of 1991, George Bush had begun waging guerrilla warfare on the very rights it was intended to protect. This would have been worse than declaring open war on civil rights, as my good friend Ralph Neas of the Leadership Conference on Civil Rights said. That gives him too much credit. This would have been a sneak attack.

George Bush acts like David Duke won last week. Mr. President, David Duke lost. The good citizens of Lousiana were revolted. Do what the deepest of the Deep South did. Reject racist politics.

The President was thinking of doing through executive fiat what the Congress would not do. I am haunted by memories of Southern governors who used similar tactics in refusing to carry out the law of the land. This is a modern day version of the 1950's massive resistance and interposition to the extension of civil rights. This draft directive indicates an arrogant disregard for the law, the will of the Congress and the decency of the American people.

The White House draft being circulated for release today would have terminated the Government's 13-year-old Uniform Guidelines on Employee Selection Procedures, which are used by private and public employers to determine how to comply with anti discrimination laws. The directive also would have ordered all Government agencies to begin phasing out "any regulation, rule, enforcement practice, or other aspect of these programs that mandates, encourages or otherwise involves the use of quotas, preferences, set-asides or other similar devices, on the basis of race, color, religion, sex or national origin."

As we know now, the furor created by news accounts led President Bush to rescind the directive this morning. However, his press secretary refused to rule out the possibility that the President would later order the elimination of these policies that have opened doors for minorities and women for over 30 years.

As chairman of the Committee on Post Office and Civil Service I intend to ensure that any changes in the affirmative action policies of the Federal Government proposed by the White House in the implementation of the Civil Rights Act receive full and detailed congressional review. It is readily apparent that at least some in the White House no longer believe that race and sex discrimination are a problem. One wonders whether those individuals would even acknowledge that there has ever been a problem. I will do all within my power, however, to remind George Bush of the fact that many Americans continue to be denied equal opportunity on the basis of their race or sex, that Americans are still victimized by a legacy of over 400 years of discrimination, and that the Federal Government, especially in its capacity as an employer, has an imperative and abiding moral obligation to redress these wrongs.

GUN VIOLENCE IS OUT OF CONTROL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. AUCOIN. Mr. Speaker, the special interests are at it again. In the closing days of this session of Congress, the gun lobby is trying once again to kill the Brady bill. We beat them fair and square on the House floor, so they're trying to go around us to get their way.

Right-wingers in Congress in league with the gun lobby are trying to hold local crime-fighting funds hostage, hoping to defeat a simple waiting period for handgun purchases.

Evidence from the States shows the Brady bill will help keep guns out of the wrong hands. Oregon's own waiting period prevented over 250 felons and mentally disturbed people from buying handguns last year.

Gun violence is out of control, and so is the gun lobby. I'm sick and tired of its dilatory tactics. Congress must move the crime bill and the Brady bill before it adjourns.

CREDIT CARE LEGISLATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. TORRES. Mr. Speaker, today Congressman CHARLES SCHUMER and I are introducing legislation we have developed on the issue of credit card interest rates. We have come to an agreement that presents a prudent approach to addressing the disparities in rates consumers are charged on their credit card purchases.

The gloom and doom forecast of the banking industry amounts to a hue and cry over possible impingement on their profit margins. Banks are actually experiencing one of their largest credit card profit margins since 1982. It is clear that these profits are not being passed on to consumers in the form of lower interest rates, but instead are being achieved at the expense of the consumer.

When my subcommittee held a hearing on this very issue last month, it was apparent to me that the banks could not justify credit card interest rates at or near 20 percent when the cost of borrowing was near 5 percent. A 15-point spread cannot be justified based on costs alone.

However, we cannot dismiss the effect on the market of the Senate's vote last week to impose an interest rate cap. That action demonstrated just how volatile the marketplace is. While a rate cap is appealing, we must legislate in the national interest. I am confident that the approach Mr. SCHUMER and I have developed is the sensible way to proceed.

Our legislation, by mandating a study of the credit market, will keep attention focused on this issue which is so critical to Americans. Americans carry a total of more than 980 million credit cards and will run up a tab of close to $500 billion in credit card transactions by 1995. Because the credit card is such a pervasive element of our American economy, it is imperative that the market work in the consumer's favor. This issue will not go away until Congress is convinced that competition is alive and well in the credit card industry.

TRIBUTE TO ANDREW MATTHEW SNAUFFER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GEKAS. Mr. Speaker, I rise today to congratulate Andrew Matthew Snauffer, of Montoursville, PA, on attaining the rank of Eagle Scout. Andrew is the son of Donald and Kathleen Snauffer.

Drew, as he is known to his family and friends, worked his way up through the ranks in his Cub Scout and Boy Scout troops, earning numerous badges and awards since he first started Scouting in 1980. Drew is a member of Troop 21 at the Faith United Methodist Church in Montoursville.

Drew undertook an Eagle Scout project that benefited the Willing Hand Hose Company No. 1 of Montoursville and the Montoursville Fire District. Drew organized and supervised the unloading, cleaning, painting, and reloading of the cabinets on four fire trucks. Due to his effort, these fire trucks are now much more visible to traffic at nighttime. Drew worked with 24 other Scouts and firemen on this important venture, contributing a total of 176 man-hours to the project. What is most remarkable about Drew's effort was that he accomplished it while he was in a leg cast and using crutches because of a skiing accident. Such dedication under these circumstances is truly admirable.

Drew is currently attending Penn State University studying nuclear engineering. He was an outstanding scholar at Montoursville High School, as he received several academic and scholastic awards and honors. He has been very active in his local church and in local charitable organizations.

Mr. Speaker, I ask all of my colleagues to join me in paying tribute to Andrew Snauffer for his many achievements, as his family, friends, and fellow Scouts honor him on becoming an Eagle Scout. I have no doubt his future will be a bright one.

VOL 137
PT 23
NO 21–25
1991
UMI

HOGAR CREA: 23D ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. RITTER. Mr. Speaker, I rise today to recognize the 23d anniversary of Hogar CREA, which is being celebrated this Saturday, November 23, at the Codado Convention Center in San Juan, PR.

I cannot say enough positive things about Hogar CREA's excellent work in helping drug addicts become free of their dependency. It is an important international organization that is heavily involved in the front-line battle against drug abuse in the United States and throughout many of the countries of Central and Latin America.

Hogar CREA first established itself in the continental United States in my congressional district in the Lehigh Valley of Pennsylvania. They now have a beachhead of 3 treatment centers in my congressional district and I am determined to help them spearhead their expansion into other areas and other cities and towns in the United States that need help with drug treatment and education.

Earlier this year, I helped arrange a meeting between Joe McHugh, the head of congressional liaison at the White House's Office of National Drug Control Strategy, and Juan Jose Garcia Rios, president and founder of Hogar CREA International.

Hogar CREA provides a unique drug treatment program to addicts that works. It has a success rate of over 90 percent and it is a treatment model worth studying and supporting.

I have seen first hand how Hogar CREA's treatment and rehabilitation program transforms hopeless drug addicts into productive and enthusiastic citizens who care about their communities and their fellow man. It is a metamorphosis that offers hope to people and communities throughout the United States and the Americas.

The banquet this Saturday in San Juan follows the 4th Annual Crusade for Faith and Hope that was held in August and reached out to 78 communities in Puerto Rico. The banquet commemorates yet another year of CREA's determination to provide rehabilitation to addicts and to prevent drug addiction through education.

Mr. Speaker, it is important to recognize and salute Juan Jose Garcia Rios for his outstanding courage, faith, and vision in founding Hogar CREA. The truths that he discovered in his own personal battle as an exaddict, have been a source of light for those struggling to overcome and unshackle themselves from drugs.

I would also like to thank Anger Blanco, vice president of Banco Central; Atilano Codero, banquet president; Donald Carson, CREA supporter from my congressional district; Tomas Torres, with WAPA TV Channel 4; Martin Cotto, national treatment director in the United States; Francisco and Silma Gonzalez and others for their support and work with Hogar CREA.

Mr. Speaker, Hogar CREA's 23d year of success and growth is something we should note as we look toward the future of better and more effective treatment for those afflicted with drug addiction in the United States.

I send my best wishes for their continued efforts and their banquet celebration In San Juan.

O.W. MOTIVATIONAL, INC., SELECTED AS THE 621ST DAILY POINT OF LIGHT

HON. CHARLES LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. LUKEN. Mr. Speaker, I would like to take this opportunity to congratulate O.W. Motivational, Inc., on being selected as the 621st Daily Point of Light.

The organization was founded in 1987 by Dr. Obadiah Williams, a retired educator, and prepares students and their parents for successful academic careers. The Early Childhood Stimulation and Parent Training Program takes a proactive stance on the improvement of the American educational system.

The program equips children with the proper learning tools before they enter school. Preschool children and their parents, who are often from low-income communities, attend three 2-hour sessions each week where volunteers teach the alphabet, numbers, and other basic skills to the youngsters, while teaching their parents games and techniques for reinforcing the learning process at home. The children also practice visual and audio development, and motor and quantitative skills.

O.W. Motivational is currently based at the First Church of God in Cincinnati, OH. Volunteers are available at the church to tutor 1st through 11th grade students in reading and mathematics.

Obadiah Williams and his volunteers are an excellent point of light in honor of American Education Week, as they brilliantly light up Albert Einstein's theory that, any definition of a successful life must include serving others. I am proud to have this organization in my district.

INTRODUCTION OF THE DOMESTIC INDUSTRY SAFEGUARD ACT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GUNDERSON. Mr. Speaker, today I am introducing the Domestic Industry Safeguard Act, aimed at protecting American industry from foreign ownership which results in downsizing and asset sales.

Congress and the administration have been reluctant to adequately address the trend of increasing foreign ownership of U.S. businesses. While this trend is helpful in terms of increasing overall economic growth through investment, numerous examples exist of where foreign ownership hurts individual companies.

In 1987, I introduced similar legislation after several hostile foreign takeovers nationwide left thousands of American workers unemployed. Today, I am reintroducing the legislation after determining that this trend continues.

For example, since introduction of the first legislation, the French-owned Michelin Corp. bought up America's Uniroyal-Goodrich Tire Co. Promises were made by Michelin that the friendly buyout would result in recapitalization of Uniroyal-Goodrich operations. Instead, Michelin is forcing the closing of Uniroyal plants.

One of those plants, located in Eau Claire, WI, employed over 1,400 workers prior to the buyout. Earlier this year Uniroyal announced it would close the plant by late 1992. Since the announcement, over 700 employees have been permanently laid off, and the U.S. Government has had to step in with financial assistance for those displaced. This certainly cannot have been a good transaction from the perspective of U.S. interests.

As important, the transaction was clearly not in the best interests of U.S. workers, or communities built up around Uniroyal plants. Some 1,400 workers will be forced to retire or look for new work. In most cases, this requires relocation, retraining, and reassessment of retirement goals. For the community, the merger and subsequent demise of Uniroyal operations in Eau Claire will mean $20 million annually will be drained from the local economy. The secondary effect on local businesses and other local employees will be tremendous.

On a broader scale, the American economy is at risk. Upon introduction of this legislation in 1987, I reported that the annual number of foreign takeovers of American businesses increased eightfold between 1976 and 1986. That trend is increasing. At that time, foreign takeovers accounted for between 5 and 10 percent of total merger activity. The percentage continues to grow. In 1987, I quoted Lawrence Brainard, chief international economist for Manhattan's Bankers Trust as stating, "By the end of this century, the United States may have the most modern manufacturing sector in the world, but it won't own it."

An irony of foreign takeover is that, for U.S. tax purposes, foreign corporations are allowed to fully deduct their debt service financing while taking over a U.S. company. In times of increasing budget deficits, this deserves review by Congress.

Also, current law allows those leading takeover attempts to borrow up to 100 percent of the purchase price for the target company. This practice inevitably leads to the strategy of buying a company, stripping it of its most valuable assets to pay off debt, then selling the remaining shell of the company for profit. Such leveraged buyouts rarely have as a main goal improving the operations of a firm alone for profit.

The Domestic Industry Safeguard Act will not prevent foreign investment in, or even takeover of American companies. However, it requires more stringent reporting requirements and asset sale prohibitions for foreign firms attempting to take over U.S. firms.

The House Energy and Commerce Committee is currently acting to restrict the foreign ownership of some sensitive U.S. industries. These industries are targeted for protection due to the sensitive Information that may be transferred abroad through takeovers. It is

time to take a similar Interest in the welfare of American workers and communities who have everything to lose in some foreign takeovers.

PEARL HARBOR VETERANS HONORED

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. ROHRABACHER. Mr. Speaker, on Wednesday, November 27, 1991, 600 southern California veterans will receive the Congressional Pearl Harbor Commemorative Medal in honor of their military service in Hawaii on December 7, 1941.

This special ceremony will bring together over 1,000 people—Pearl Harbor veterans, next of kin, and proud families—in a World War II hangar at the Armed Forces Reserve Center Airfield in my district. Central to the organizing of this event is airfield commander, Lt. Col. James Ghormley III, California Army National Guard. His cooperation and leadership has made it possible for me to stage a great event in an environment familiar to our Pearl Harbor heroes.

The story of the American servicemen and women who defended Hawaii against the Japanese attack on Pearl Harbor is written with the ink of bravery, courage, and sacrifice. These defenders of freedom have earned their place in history. They deserve our recognition and we owe them our thanks. In the same tradition of commitment and shared honor, Colonel Ghormley and his servicemen and women have made possible this special recognition event for our Pearl Harbor veterans, and a great opportunity for us to express our thanks to them.

RALPH EMERY: A LIVING LEGEND

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. GORDON. Mr. Speaker, middle Tennessee has known and loved many popular personalities—entertainers, public servants, and civic activists. But only a handful have earned legend status. Ralph Emery is one of those distinguished few.

As a youth during the late 1950's and early 1960's, I can remember settling back with my parents in our living room to listen to Ralph Emery's program on WSM radio. Only in his mid-20's Ralph already was developing a legion of fans of all ages with his down-home style and humor.

His stature skyrocketed throughout the Nation. Syndicated radio programs began in 1968,. and his "Goody's Presents Ralph Emery" now airs on more than 445 radio stations. Between 1961 and 1970, he was voted the No. 1 country music disc jockey six times.

By 1972, his appeal grabbed the attention of the growing television industry, and he became host of the early morning "Opry Almanac" show on television station WSMV in Nashville. By January 1, 1972, the show had been renamed the "Ralph Emery Show."

For 20 years, his morning show has taken on a variety of challengers and today garners a 67-percent share of the morning viewing audience in middle Tennessee and southern Kentucky. No locally produced program in the country can match that record.

In addition, from 1974 until 1980 he hosted the syndicated television show "Pop Goes the Country." He hosted "Nashville Alive" on superstation WTBS from 1981 to 1983, and for the last 8 years he has hosted "Nashville Now" on the Nashville network, which is viewed daily in more than 1 million homes across the country.

From 1985 through 1989, the show was voted by the readers of Music City News, the Nation's largest country music publication as their favorite television series. In 1986 he was overwhelmingly voted favorite cable personality by readers of Cable Guide Magazine. In 1989, he was inducted into the Disc Jockey Hall of Fame.

Many stars forget their roots once they've reached the big time. They become detached from their fans. They abandon the places they call home. Not Ralph Emery. He remains active in civic affairs, using his name, his time, and his energy to make his community a better place for all to live.

While the folksy charm is the real Ralph Emery both on and off the camera, don't confuse his style with any stereotype, because he has a keen insight of not only the entertainment business but also the problems of everyday folks that is matched by few. It's that genuine warmth and sensitivity that have endeared him to thousands of people across our Nation.

Mention his name and just about anyone will tell you how Ralph Emery gives them more than just news and entertainment to start their day; he provides them with the kind of warm-hearted cheer that makes each new day a joy.

INTRODUCTION OF THE FEDERAL-STATE PESTICIDE REGULATION PARTNERSHIP ACT OF 1991

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HATCHER. Mr. Speaker, today I am joined by my distinguished colleague from Montana, Mr. MARLENEE, and 28 other Members in cosponsoring the Federal and State Pesticide Regulation Partnership Act of 1991 to ensure the effective and uniform Federal and State regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA].

The proposal we set forth today seeks to amend FIFRA by preempting local jurisdictions from regulating the sale and use of pesticides. This legislation will ensure that the field of pesticide regulation is occupied entirely by a partnership of Federal and State governments. The issues surrounding pesticide regulation are complex and demand that we rely on sound, scientific judgment based on fact. When regulations are based on fear, hysteria, and other unscientific grounds, we stand to lose many benefits and we threaten to dismantle an effective regulatory mechanism.

All citizens can and should have an interest in pesticide decisions, and we support the concept of locally specific pesticide regulation—when warranted and when scientific fact supports it. It is imperative, however, that those decisions be made in the context of a Federal-State partnership, and not scattered across tens of thousands of local bodies.

We believe that the Federal and State governments are best equipped with the resources and expertise necessary to develop and administer a sensible, uniform, regulatory program which will ensure that the public continues to enjoy the benefits of access to tested and proven pesticide products—both agricultural and nonagricultural products.

This legislation has the support of the Coalition for Sensible Pesticide Policy [CSPP], a broad coalition of almost 160 State, regional, and national trade associations whose members depend upon the use of tested and proven pesticide products. CSPP's members represent structural pest control companies, nurseries, florists, arborists, landscape and lawn care companies, general, specialty, and agricultural chemical manufacturers, advocates for sound environmental practices, and a wide variety of agricultural interests such as crop growers, animal producers, individual commodity groups, food processors, grocers, and wholesalers. Included at the end of this statement is a list of CSPP member organizations.

On June 21, 1991, the Supreme Court handed down a decision in the case of Wisconsin Public Intervenor versus Mortier which effectively opened the door for the more than 83,000 local jurisdictions nationwide to enact their own pesticide regulations. The Court ruled that, while FIFRA establishes a strict and complex Federal-State process governing the sale and use of pesticides, the FIFRA statute does not explicitly preempt local municipalities from regulating pesticides to the extent allowed under State law.

However, in reaching its decision, the Court was mindful of the potential chaotic effect of its ruling on the real world of pesticide use and regulation. Fully aware that tens of thousands of local municipalities with potentially insufficient expertise would be free to regulate pesticide use on their own, Justice White concluded, "* * * Congress is free to find that local regulation does wreak [such] havoc and enact legislation with the purpose of preventing it. We are satisfied, however, that Congress has not done so yet." The ramifications of this decision are potentially devastating.

We believe that the recent Supreme Court decision will:

Allow local regulation of pesticides to quickly encumber agricultural production. Immediately, farmers are at risk of facing regulation of their modern production tools by the smallest possible units of government—more than 83,000 sub-State jurisdictions throughout our Nation.

Result in fewer job opportunities in agriculture, the crop protection industry, and pest and vegetation control, because many of these businesses typically operate across several local jurisdictions, each of which would be free to adopt conflicting and/or overlapping regulations.

VOL
137
PT
23
NO
21
—
25
1991
UMI

Result in reduced availability and use of tested and effective pesticides and other sanitation products, which would in turn reduce our ability to control the spreading of certain diseases via insect control. It could also increase the price of food through new artificial limits on agricultural productivity and food processing/storage protection.

Shift control away from EPA to local, often very diverse, jurisdictions on issues affecting the whole Nation. Even more troubling, these local government units will seldom have the scientific and technical expertise to make the difficult decisions which are currently the domain of EPA working in concert with other Federal and State bodies.

Undermine, if not eliminate, the Federal/State government control over key domestic regulatory matters, at a time when there are ongoing international trade discussions.

Erode the ability of the Nation's best scientific and technical experts to participate in complex pesticide regulatory decisions. By diverting these decisions to 83,000 local units of government, participation by such experts at EPA and the State level is made virtually impossible.

In addition to the economic impact I have just mentioned, a burgeoning umbrella of local regulation may damage the health and welfare of the American public. The Supreme Court's recent decision could result in reduced availability and use of tested and effective pesticides and other sanitation products which, in turn, would erode our ability to control the spread of disease via insect control. Too frequently, we forget about the important human health benefits provided by the proper use of pesticide products.

For example, proper mosquito abatement programs in numerous States effectively reduce the spread of diseases, such as mosquito-borne encaphalitis, carried by these insects. Without proper public health programs, these diseases might once again become epidemic in the United States. Herbicides also control ragweed, thus reducing the costs associated with suffering from hay fever. Other herbicides control dandelions and clover, and discourage stinging insects from recreational and home and lawn areas, thus reducing potential insect stings. In States across America, the proper use of pesticide products are used against ticks that cause Lyme disease.

LEGISLATIVE HISTORY OF PREEMPTION ISSUE

Under section 24(A) of FIFRA, Congress extended limited pesticide authority to the States to regulate the sale and use of pesticides. The legislative history clearly demonstrates that Congress did not want to share its authority with local jurisdictions.

When the Senate Committee on Agriculture passed its FIFRA bill in 1972, its accompanying committee report concluded:

> The Senate Agriculture Committee considered the decision by the House Committee to deprive political subdivisions of states and other local authorities of any authority or jurisdiction over pesticides and concurs with the decision of the House of Representatives. Clearly, the fifty states and the federal government provide sufficient jurisdictions to properly regulate pesticides. Moreover, few, if any, local authorities, whether towns, counties, villages or municipalities, have the financial wherewithal to provide necessary expert regulation comparable with that provided by the state and federal governments. On that basis and on the basis that permitting such regulation would be an extreme burden on interstate commerce, it is the intent that Section 24, by not providing any authority to political subdivisions and other local authorities of or in the states, should be understood as depriving such local authorities and political subdivisions of any and all jurisdiction and authority over pesticides and the regulation of pesticides. 3 U.S. Code Cong. & Ad. News, page 4008 (1972).

At about the same time, the Senate specifically rejected an amendment that would have allowed local political subdivisions such as cities, towns, counties, et cetera, to regulate the sale and use of pesticides. The vote was 71 to 0. Despite this explicit legislative history, the Supreme Court did not recognize that Congress never intended to vest local governments with the authority to regulate pesticides.

BACKGROUND ON WISCONSIN PUBLIC INTERVENOR, ET AL. VERSUS MORTIER, ET AL.

For those of you who are unfamiliar with the June 21, 1991, Supreme Court decision, I would like to give you some background surrounding the case. The Wisconsin Public Intervenor case centered on an ordinance adopted by the small town of Casey, WI, which required applicators to submit an application for a permit from local officials 60 days before the application of pesticides to public lands, aerial spraying of pesticides, or the application of pesticides to private lands subject to public use.

Individuals applying for the permit under this ordinance were required to provide a description of the pesticides to be used, associated risks, chemical and nonchemical alternatives, regulatory status of the specified chemicals, environmental impact of the proposed application, precautionary measures to preserve the health and safety of the public, and the positive and negative effects of eliminating or reducing the proposed use.

In addition, upon approval of the application, the ordinance required that signs be posted 24 hours prior to application. The town board vested itself with the authority to deny, amend, or grant the permit. A resident of Casey applied for such a permit. However, the town board denied the permit application. Subsequently, the resident brought suit against the town arguing that the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA] preempted the town's ordinance.

A Wisconsin county court agreed and ruled that the Casey ordinance was preempted by FIFRA. The Wisconsin Publio Intervenor and the town of Casey then appealed the lower court's ruling to the Wisconsin Supreme Court, which also held that FIFRA preempted the ordinance. The case was then appealed to the U.S. Supreme Court.

THE JUNE 21, 1991 SUPREME COURT DECISION

Justice Byron White wrote the Supreme Court's June 21 opinion and Justice Antonin Scalia wrote a concurring opinion. The Court received eight separate amicus briefs arguing points on both sides of the case, in addition to an early brief by the Justice Department urging the court to review the case.

In the end, Justice White wrote, "* * * we conclude that FIFRA does not preempt the town's ordinance either explicitly, implicitly, or by virtue of an actual conflict."

In reaching its decision, the Supreme Court reviewed various methods for finding Federal preemption, including express, implied, and actual conflict preemption analysis. In the end, the Court concluded that although congressional committee reports arguably supported the preemption argument, the express language of the statute itself did not provide sufficient justification for preempting local regulation of pesticides. In his written opinion, Justice White reasoned that because FIFRA did not actually address or provide the type of detailed regulations concerning pesticide use found in the Wisconsin statute, it could not be said to preempt all local regulation.

Mr. Speaker, I would like to direct your attention to an excellent analysis of the Supreme Court decision as written by Lawrence S. Ebner, partner in the Washington, DC office of McKenna & Cuneo. With your permission, we request that a copy of his article entitled "FIFRA Pre-Emption Battle Expected To Shift Congress, States in Wake of Supreme Court Decision," which appeared in the July 19, 1991, issue of BNA's Chemical Regulation Reporter, be included with my statement today.

In the article, Mr. Ebner writes, "'* * * Perhaps the most disappointing aspect of the court's opinion is the short shrift that it gives to industry's arguments as to why local regulation of pesticides would obstruct Congress' objectives, including protection of health and the environment."

Mr. Ebner continues by stating that the Court offered little explanation for its finding that no actual conflict between FIFRA and local regulation exists. He writes, "'* * * Instead, the court dismissed industry's arguments as resting on 'little more than snippets of legislative history and policy speculations.'"

The article aptly concludes that "'* * * The challenge is to prevent the Wisconsin Public Intervenor decision from turning pesticide regulation on its head."

Mr. Ebner also makes an excellent rebuttal to arguments fueled on public fear and hysteria that industry's efforts to resolve the local jurisdiction issue will put the public at risk by "failing to take into account localized needs and conditions." His answer is one we should all take heed of, "'* * *. To the contrary, both EPA and State agencies have in the past—and can in the future—adopt localized restrictions on pesticide use where and when appropriate. Equally important, pre-empting local governments from regulatory decisions are based on dispassionate scientific judgments, that they are well balanced and shielded from political pressures, and that cost-effective pest control will remain available for the benefit and protection of society."

EMERGENCE OF LOCAL ORDINANCES

During the 1980's and early 1990's, many local jurisdictions have been enacting restrictions on pesticides that create considerable hardship on farmers, ranchers, foresters, homeowners, pesticide users and manufacturers, formulators, and distributors. These nearly 85 jurisdictions have, in effect, attempted to deny the pesticide user and the public the specific benefits of pesticide control.

We now face the possibility that thousands of local jurisdictions will attempt to regulate the sale and use of pesticides, and the notification

of use of pesticides. Many small businesses face the confusing prospect of trying to market pesticide products in multiple jurisdictions, thus impeding interstate and intrastate commerce. Since the Supreme Court decision, we have several other real world examples which illustrate just how complex the local jurisdiction is.

Within the few short months which have elapsed since the Supreme Court issued its decision, we have witnessed a firestorm of unnecessary local ordinances which, if adopted, could cost thousands and thousands of local dollars to implement. We do not feel that we should be wasting limited resources, especially at a time when we are having to reach deeper into pockets to fund programs that serve a purpose.

To give you some idea, the Burlington, VT City Council is considering a proposal that would require 72-hours advance notice prior to any commercial or private outdoor pesticide application to residential grounds greater than 200 square feet. Prenotification and posting requirements would also be established for application to trees and shrubs. In addition, the proposed ordinance would require that property owners adjacent to golf courses and other nonresidential application sites receive 72-hours advance notice. The draft regulation would also prohibit the use of lawn care chemicals on the grounds of a licensed day care center, preschool, primary or secondary school, without prior approval from the Burlington Board of Health.

Residents of Missoula, MT, recently overwhelmingly defeated a referendum which would have made it a violation of law to apply pesticides on any area larger than 50 square feet unless special signs were posted 1 day before application and 2 days after. Homeowners would have been subject to a fine of as much as $100 a day for violation of the ordinance—even if the pesticide application was performed by another party or even if the signs were stolen by somebody else off of their property. The mandate of this proposal, however, did not stop with the residents of Missoula, MT. This initiative went one step further by seeking to include pesticide applications made anywhere within 5 miles outside town limits. Had this proposal passed, it would have had a severe impact on the many ranchers and farmers who live and work near Missoula.

Posting requirements have also been considered in Howard County, MD. One proposal requires that signs be displayed for at least 24 hours prior to pesticide application by a custom or commercial applicator. Signs would have to remain posted for a period of 3 to 7 days following application.

Earlier this summer, the city of Lake Winnebago, MO, proposed an ordinance which would ban the use of a number of widely utilized pesticide products within city limits. The list of targeted chemicals includes diazinon and dursban. These two chemicals are commonly used in a variety of tested, effective, EPA-registered home garden pesticide products used by homeowners around the country. The city of Lake Winnebago proposal sets forth stiff fines of as much as $500 per incident.

In Ohio, the October 8, 1991, issue of the Cleveland Plain Dealer reported that the Fairview Park City Council adopted an ordinance which requires property owners and commercial applicators to provide written notice to occupants within 150 feet of spray application sites. The notice is required 1 week prior to pesticide application and must include information on when the spraying is to occur as well as a description of which chemicals will be used. The city council also approved a provision requiring that signs be posted at the application site.

In Denver, CO, a proposal is under consideration which would place posting and notification requirements on homeowners and building owners. Presently, Colorado pesticide law preempts local ordinances regulating commercial applicators. This ordinance would affect the property owner—regardless of the fact that he or she contracted the services of a commercial pesticide applicator.

The town of Agawam, MA, would make it illegal to spray pesticides between the hours of 6 p.m. and 8 a.m. If adopted, this would mean that pesticide applications in such facilities as schools and day care centers could only take place during normal operating hours when children were present. This ordinance, in essence, would significantly increase the exposure of children to pesticides.

In Mansfield, MA, an ordinance has been proposed which sets out specific requirements for the size and color of posting signs at application sites that differ from those requirements already set out by State law.

Another proposal would require the residents of Plum, PA, to remain in their homes during residential fumigations.

These examples are but a few of the many ordinances, based on inadequate expertise, which are emerging now on an almost daily basis. They illustrate very clearly the fact that local jurisdictions simply are not equipped to make the scientific and regulatory decisions required to regulate pesticides in a sound, reasonable fashion.

CONCLUSION

Before we, as a nation, face the chaos and havoc mentioned by Justice White, we need to reinforce and reinvigorate a Federal-State partnership of pesticide regulation, so that we can obtain a degree of effective and uniform public policy. To discourage 83,000 local jurisdictions from attempting to regulate the sale and use of pesticides, we need to enact this legislation, the Federal and State Pesticide Regulation Partnership Act of 1991, that will amend FIFRA to preempt local jurisdictions from regulating the sale and use of pesticides.

Mr. Speaker, we insert the bill in full with this statement.

COALITION FOR SENSIBLE PESTICIDE POLICY

Agricultural Alliance of North Carolina.
Alabama Agricultural Chemical Association.
All-America Rose Selections.
American Agri-Women.
American Association of Nurserymen.
American Farm Bureau Federation.
American Sheep Industry.
American Society of Agricultural Consultants.
American Sod Producers Association.
American Soybean Association.
American Wood Preservers Institute.
Animal Health Institute.
Arizona Pest Control Association.
Arkansas Agricultural Pesticide Association.
Associated Landscape Contractors of America.
Associated Landscape Contractors of Massachusetts.
California Association of Nurserymen.
Chemical Manufacturers Association.
Chemical Producers and Distributors Association.
Chemical Specialties Manufacturers Association.
Chocolate Manufacturers Association.
Colorado Pest Control Association.
Connecticut Nurserymen's Association.
Connecticut Pest Control Association.
Corn Refiners Association.
Delaware Association of Nurserymen.
Delmarva Agricultural Chemical Association.
Eastern Regional Nurserymen's Association.
Florida Nurserymen and Growers Association.
Florida Pest Control Association.
Garden Centers of America.
Georgia Green Industry Association.
Georgia Pest Control Association.
Gulf Course Superintendents Association of New Jersey.
Hawaii Agricultural Alliance
Hawaii Pest Control Association.
Idaho Soil Fertility and Crop Protection Association.
Illinois Fertilizer & Chemical Association.
Illinois Landscape Contractors Association.
Illinois Pest Control Association.
Indiana Pest Control Association.
Industrial Biotechnology Association.
Institute of Shortening and Edible Oils.
International Sanitary Supply Association.
International Society or Arboriculture (New Jersey Chapter).
Iowa Fertilizer and Chemical Association.
Iowa Nurserymen's Association.
Iowa Pest Control Association.
Kansas Fertilizer and Chemical Association.
Kansas Grain and Feed Association.
Kansas Termite and Pest Control Association.
Kentucky Pest Control Association.
Landscape Contractors Association, MD-DC-VA.
Landscape Ontario Horticultural Trades Association.
Louisiana AG. Industries Association.
Louisiana Pest Control Association.
Maryland Alliance for Responsible Regulation of Pesticides.
Maryland Nurserymen's Association.
Maryland State Pest Control Association.
Massachusetts Arborists Association.
Massachusetts Biotechnology Council.
Michigan Agri-Business Association.
Michigan Alliance for the Rational Approach to Pesticides (MARAP).
Michigan Nursery and Landscape Association.
Michigan Pest Control Association.
Millers National Federation.
Minnesota Biotechnology Association.
Minnesota Pest Control Association.
Minnesota Pesticide Information and Education.
Mississippi Nurserymen's Association.
Mississippi Pest Control Association.
Missouri Association of Nurserymen.
Missouri Pest Control Association.
National Agrichemical Retailers Association.
National Agricultural Aviation Association.

National Agricultural Chemicals Associa-

United Egg Producers.

of the pesticides and quantities to be used,

VOL 137 PT 23 NO 21–25 1991 UMI

National Agricultural Chemicals Association.
National-American Wholesale Grocers Association.
National Arborist Association.
National Association of Plant Patent Owners.
National Association of State Departments of Agriculture.
National Association of Wheat Growers.
National Broiler Council.
National Cattlemen's Association.
National Christmas Tree Association.
National Confectioners' Association.
National Corn Growers Association.
National Cotton Council of America.
National Council for Environmental Balance.
National Fertilizer Solutions Association.
National Fisheries Institute.
National Food Processors Association.
National Forest Products Association.
National Grain and Feed Association.
National Grange.
National Landscape Association.
National Pest Control Association.
National Pork Producers Council.
Nebraska Fertilizer and AG–Chemical Institute.
Nebraska State Pest Control Association.
New England Nurserymen's Association.
New England Pest Control Association.
New Jersey Nursery and Landscape Association.
New Jersey Pest Control Association.
New Jersey Turfgrass Association.
New York State Nursery/Landscape Association.
New York State Pest Control Association.
North Carolina Landscape Contractors Association.
North Carolina Pest Control Association.
North Dakota Agricultural Association.
Ohio Agrobusiness Association.
Ohio Grain & Feed Association.
Ohio Nurserymen's Association.
Ohio Pest Control Association.
Oklahoma Fertilizer and Chemical Association.
Oklahoma Pest Control Association.
Oregon Agricultural Chemicals Association.
Oregon Association of Nurserymen.
Oregonians for Food and Shelter.
Pennag Industries Association.
Pennsylvania Agronomic Products Association.
Pennsylvania Nurserymen's Association.
Pennsylvania Pest Control Association.
Pest Control Operators of California.
Pest Control Operators of Oregon.
Pesticide Association of New York State.
Pesticide Association of North Carolina.
Professional Lawn & Pest Applicators of Idaho.
Professional Lawn Care Association.
Responsible Industry for a Sound Environment.
Rocky Mountain Plant Food and Agricultural Chemicals Association.
Society of American Florists.
South Carolina Pest Control Association.
South Dakota Fertilizer and AG Chemical Association.
Southern Agricultural Chemicals Association.
Southern Nurserymen's Association.
Tennessee Pest Control Association.
Texas Association of Landscape Contractors.
Texas Pest Control Association.
The Alliance for Environmental Concerns.
The Alliance of Rhode Island Professional Pesticide Applicators.
United Egg Producers.
United Fresh Fruit and Vegetable Association.
United States Canola Association.
United States Chamber of Commerce.
Virginia Pest Control Association.
Washington Friends of Farms and Forests.
Washington State Nursery & Landscape Association.
Washington State Pest Control Association.
West Virginia Nurserymen's Association.
West Virginia Pest Control Association.
West Virginia Vegetation Management Association.
Wholesale Nursery Growers of America.
Wisconsin Agri-Business Council.
Wisconsin Fertilizer and Chemical Association.
Wisconsin Forestry/Right-of-Way/Turf Coalition.
Wisconsin Landscape Contractor's Association.
Women Involved in Farm Economics.

[From the Chemical Regulation Reporter, July 19, 1991]

FIFRA PRE-EXEMPTION BATTLE EXPECTED TO SHIFT TO CONGRESS, STATES IN WAKE OF SUPREME COURT DECISION

(By Lawrence S. Ebner)[1]

On June 21, the U.S. Supreme Court ruled 9–0 that the Federal Insecticide, Fungicide, and Rodenticide Act does not pre-empt local governments from regulating the use of pesticides (*Wisconsin Public Intervenor v. Mortier*, 59 LW 4755, US SupCt 89–1905, 6/21/91; 15 CRR 387).

The court's opinion, written by Justice Byron White, is legalistic and mechanical, what The New York Times described on June 22 as "a dry review of the text and history" of FIFRA.

Justice Antonin Scalia's separate concurring opinion is a little more spirited, and even accepts industry's view of FIFRA's legislative history, but will be of interest primarily to legal scholars who question the legitimacy of using congressional committee reports to interpret federal statutes.

Neither the court's opinion nor Scalia's concurrence squarely addresses the real issue concerning local regulation: Whether allowing tens of thousands of municipal and county governments to ignore or second-guess the Environmental Protection Agency's and the states' scientific and regulatory determinations will undermine the well-coordinated system of professional federal/state pesticide regulation that has evolved under FIFRA during the past 20 years.

TOWN OF CASEY ORDINANCE

The Supreme Court made it clear at the outset of its opinion exactly where it was coming from on the issue of local regulation. The first footnote explains that the Town of Casey, Wis., which has a population of 400–500, is "large enough to enact the ordinance at issue" in the case (59 LW 4756).

The Casey ordinance requires a permit to be sought at least 60 days before applying pesticides aerially or to public-use lands. To obtain a permit the prospective pesticide applicator must submit to the Town Board extensive information, including a description of the pesticides and quantities to be used, their regulatory status and potential risks, available chemical and non-chemical alternatives, the environmental impact of the proposed pesticide application and any chemical alternatives, and the precautions that will be taken to protect the public.

The Town Board then can deny or grant the permit, or grant it with conditions.

If a permit is granted, placards must be posted giving at least 24 hours' advanced notice of the pesticide application.

It is impossible to read the elaborate text of the ordinance without concluding that the members of the Casey Town Board (1) have made it extremely difficult to obtain permission to use pesticides, and (2) have reserved for themselves apparently unfettered discretion to disallow or restrict the use of pesticides which both EPA and Wisconsin authorities have determined will not cause unreasonable adverse effects when applied in accordance with label precautions and directions.

The court held that "FIFRA does not preempt the town's ordinance either explicitly, implicitly, or by virtue of an actual conflict." Id. at 4757. This ruling reversed a decision of the Supreme Court of Wisconsin, and resolved the split of authority on FIFRA preemption of local regulation that had developed among several federal appellate courts and state supreme courts.

The Supreme Court case provoked numerous amicus curiae briefs, not only from pesticide industry associations, but also from the solicitor general, a number of states, public interest groups, and others.

THE COURT'S PRE-EMPTION ANALYSIS

The court identified "textual inadequacies" in FIFRA, such as inconsistent usage of the term "state," and found that "the statutory language * * * is wholly inadequate to convey an express pre-emptive intent on its own." Id. at 4758.

Based on FIFRA Section 24(a), which authorizes "states" to regulate pesticide "sale or use," the court found that "the statutory language tilts in favor of local regulation" because "political subdivisions are components of the very entity the statue empowers." Id.

Along the same lines, the court pointed to FIFRA's statutory structure in finding that "[w]hatever else FIFRA may supplant, it does not occupy the field of pesticide regulation in general or the area of local use permitting in particular." Id. at 4759.[2]

The court emphasized that "FIFRA's authorization to the states leaves the allocation of regulatory authority to the 'absolute discretion' of the states themselves, including the option of leaving local regulation of pesticides in the hands of local authorities," Id. at 4758.

Accordingly, the states remain free to enact legislation (as several have) to prohibit or otherwise restrict their political subdivisions from regulating pesticides.

Although the industry relied heavily on FIFRA's legislative history to establish congressional intent to pre-empt local regulation, the court found it "at best ambiguous." Id. In this regard, the court adopted EPA's view (expressed in the solicitor general's brief) that the two key Senate committees (agriculture and commerce) with responsibility for rewriting FIFRA in 1972 "agreed to disagree" about local regulation. See id.

Scalia pointedly took exception to the other justices' interpretation of the same legislative history. He quoted from the 1972 Senate Agriculture Committee report which explained that FIFRA Section 24 "should be understood as depriving * * * political subdivisions of any and all jurisdiction and authority over pesticides." Id. at 4761 (Scalia, J., concurring) (quoting S Rep 838. 92 Cong, 2d Sess 17 (1972).

Scalia found that "[C]learer committee language 'directing' the courts how to interpret a statute of Congress could not be found, and if such a direction had any binding effect, the question of interpretation would be no question at all." Id. at 4761.

As to the supposed disagreement between the two Senate committees. Scalia cited a Commerce Committee report confirming that the Agriculture Committee report "states explicitly that local governments cannot regulate pesticides in any manner." Id. (quoting S. Rept. 970. 92nd Cong, 2d Sess 27 (1972).

According to Scalia, "[t]his legislative history clearly demonstrates * * * not (as the court would have it) that the two principal Senate Committees disagreed about whether [the 1972 FIFRA Amendments] pre-empted local regulation, but that they were in complete a accord that it *did*, and in disagreement over whether it *ought* to." Id. (emphasis in original).

Nevertheless Scalia concurred in the Court's holding because he believes that committee reports are unreliable indicators of congressional content.

INDUSTRY ARGUMENTS GIVEN SHORT SHRIFT

Perhaps the most disappointing aspect of the court's opinion is the short shrift that it gives to industry's arguments as to why local regulation of pesticides would obstruct Congress' objectives, including protection of health and the environment. Even where there is no express preemption, federal law pre-empts a state or local law which "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." Id. at 4767 (quoting *Hines* v. *Davidwitz*, 312 US 52, 67 (1941)).

Although the court "discern[ed] no actual conflict * * * between FIFRA and local regulation generally," it offered little explanation for this misperception.

Instead, the court dismissed industry's arguments as resting "on little more than snipets of legislative history and policy speculations." 59 LW 4760.

The industry had argued that local governments lack the technical resources and expertise to regulate pesticides competently; that local regulation would render superfluous the comprehensive system of professional federal-state regulation established by FIFRA, and that multiple, overlapping, conflicting or inconsistent, and onerous local ordinances would lead to regulatory chaos and prevent cost-effective pest control.

The court found that "Congress is free to find that local regulation does wreak such havoc and enact legislation with the purpose of preventing it * * * [but] has not done so yet." Id.

A NEW CHALLENGE

Because the Supreme Court has ruled that FIFRA as currently written does not preempt local regulation, the focus will shift from the courts to the legislative arena, where the industry will seek amendments to FIFRA or state laws. As a practical matter, such amendments will not change the status quo, since it has been widely understood for 20 years that local governments do not have the authority independently to regulate pesticides.

The challenge is to prevent the Wisconsin Public Intervener decision from turning pesticide regulation on its head. At a minimum, industry will urge local governments to exercise forbearance and give deference to EPA's and state agencies' scientific and regulatory determinations, while continuing to cooperate on pesticide enforcement.

Public interest groups inevitably—but erroneously—will contend that industry's efforts to meet the challenge of local regulation will place the public at risk by failing to take into account localized needs and conditions.

To the contrary, both EPA and state agencies have in the past—and can in the future—adopt localized restrictions on pesticide use where and when appropriate. Equally important, pre-empting local governments from regulating pesticides will help ensure that regulatory decisions are based on dispassionate scientific judgments, that they are well balanced and shielded from political pressures, and that cost-effective pest control will remain available for the benefit and protection of society.

Wisconsin Public Intervener affords Congress and state legislatures a fresh opportunity to reaffirm those objectives.

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[1] Ebner is a partner in the Washington, D.C., office of McKenna & Cuneo, where he specializes in pesticide legal matters. He submitted an amicus curiae brief in Wisconsin Public Intervenor on behalf of the National Pest Control Association, National Agricultural Chemicals Association, Agricultural Commodity Coalition, Edison Electric Institute, and Chemical Manufacturers Association.

[2] The court's decision does make it clear the regulation of pesticide labeling "fall[s] within an area that FIFRA's program pre-empts." Id. at 4760. Accordingly, even under Wisconsin Public Intervenor, local governments, like the states, are pre-empted from regulating pesticide labeling. See FIFRA Section 24(b), 7 USC 136v(b).

INTRODUCTION OF THE FEDERAL-STATE PESTICIDE PARTNERSHIP ACT OF 1991

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. MARLENEE. Mr. Speaker, Mr. HATCHER of Georgia and I, along with 28 other members of the House Committee on Agriculture, are introducing today the Federal-State Pesticide Regulation Partnership Act of 1991. Upon enactment, this legislation will rectify a serious problem which has arisen recently as we attempt to protect the public against any potential harm from the use of modern pesticides and agricultural chemicals. Congress and the various States have recognized the need to protect the public in this area, but we have also attempted to do so within a framework which allows for an orderly, scientifically sound regulatory approach, thus maximizing nationwide uniformity and enforcement in dealing with this serious manner.

Earlier this year, the U.S. Supreme Court issued a decision which held that our current Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] does not actually preempt local units of government from second guessing the Environmental Protection Agency and adopting their own pesticide regulations. Previously, most officials familiar with FIFRA and pesticide regulation had assumed that local governments were prohibited under the Federal statute from adopting such local regulations.

Under the Supreme Court's reading of FIFRA, however, some 83,000 local units of government—counties, cities, townships, even school districts—are now free to independently enact pesticide use regulations. Further, there is no requirement that such local regulations be adopted with even a shred of scientific input, and no requirement that the 83,000 local jurisdictions coordinate their rules. Consequently, that is a very real potential for conflicting and overlapping and inconsistent regulation.

On the surface, such a result may not seem particularly troublesome. But consider, for example, that home pest control or lawn service companies operating in urban areas could be faced with having to comply with 10 or 15 or more different sets of regulations in order to be in compliance. Just imagine the enormous additional costs which our consumers would be required to bear, not to mention the very real possibility that such companies simply could not adjust to so many conflicting and confusing rules in order to stay in business.

In addition, Mr. Speaker, the scope and economic impact of this problem is not as limited as some might think. Businesses which depend upon access to EPA tested and approved products include farmers and ranchers, home and commercial pest control companies, nurseries, arborists and florists, rights-of-way maintenance firms, and lawn care companies—just to name a few. In fact, to date more than 160 national, regional, and state-level trade associations and producer groups, representing thousands of businesses and tens-of-thousands of agricultural producers, have joined together to form the coalition for sensible pesticide policy in support of the bill we introduce today. The groups comprising this coalition—ranging from the National Association of State Departments of Agriculture to the U.S. Chamber of Commerce—are not opposed to the rational, reasonable, and scientifically based regulation of pesticides.

They do support this legislation, which now becomes necessary in order to prevent a state of regulatory chaos. They recognize that such chaos could actually threaten to undermine the orderly, effective regulation of such pesticide compounds. With confusing and conflicting regulatory disharmony, everyone will lose—agricultural producers, consumers, business enterprises, wage earners, local tax bases—virtually everyone will suffer an enormous and adverse economic impact.

The reality of local activity in this very complex and technical area of pesticide regulation is not speculative. Since the Court's decision, about 100 attempts at local regulation have been identified—and no two efforts have proposed identical sets of regulations. Not only are thousands of dollars being spent in supporting or opposing these ordinances, but misinformation about the safety and proper handling of pesticides is becoming epidemic. When this happens, the public interest and the proper regulation of pesticides are ill served.

Not all of these proposals are adopted or approved by local interests. On November 7, for instance, the voters of Missoula, MT, soundly rejected a referendum initiative which not only would have impacted that city's own residents, but which would have purported to extend the regulations to all persons within a 5-mile radius of the town's boundaries. We believe this result shows the public—when adequately informed about the issue—does not want or need more and more complex and localized pesticide regulations. Fortunately, in

VOL
137
PT
23
NO
21
—
25
1991
UMI

this case the good citizens of Missoula recognized that a three-tiered local-State-Federal regulatory scheme which conflicts and overlaps simply will not work in their best interests.

Some might attempt to say that we have not focused on the rights of local citizens to have a voice in the area of pesticide regulation. To the contrary, we absolutely believe that local input into this important area is wholly justified and highly desirable. However, we also believe that the public health and safety are best served when we employ the type of technical and scientific considerations involved in effective pesticide regulation within the context of the Federal-State partnership envisioned under FIFRA.

Finally, Mr. Speaker, I would point out that the Supreme Court did underscore in its opinion that Congress is certainly free to enact legislation for the purpose of preempting this hodge-podge of local regulatory activities if we believe that the result will wreak havoc with the goals and effectiveness of our nationwide statutory approach to the problem under FIFRA. We firmly believe the Federal-State Pesticide Regulation Partnership Act of 1991 which we introduce today will address the concerns expressed by the Court, and will prevent the political, regulatory, and economic havoc envisioned by the Court as a result of multitudinous local regulatory efforts. We respectfully urge the speedy adoption of this important measure.

NIH CELEBRATES 50 YEARS IN BETHESDA

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mrs. MORELLA. Mr. Speaker, I rise to congratulate the National Institutes of Health Alumni Association, which, this weekend, will celebrate the 50-year anniversary of NIH moving from Washington, DC, to its current headquarters in Bethesda, MD.

As NIH's Representative in the Congress, this landmark occasion in the history of the agency is a source of great pride for me. Little needs to be said about the outstanding biomedical research being conducted each day at NIH. As we all know, the agency has been at the forefront of efforts to combat the scourges of AIDS, cancer, heart disease, and other public health menaces.

NIH's move to Bethesda in 1941, signified the beginning of the agency's mandate to "further the health of all mankind," as President Franklin D. Roosevelt stated in 1941. Indeed, with the move came a complete reorientation of the Institutes from epidemic control and sanitary engineering to broad-based human health research, diagnosis, and treatment. Today, NIH has expanded the scope of its activities to include investigation of virtually all facets of human health.

This weekend, former and current NIH scientists, researchers, doctors, and support personnel will travel from all parts of the country and the world to celebrate this landmark in the history of the Institutes. It is a pleasure for me to bring this noteworthy event to the attention of the Congress, and I know that my colleagues join me in warmly congratulating the agency, its talented alumni, and the entire staff.

CREDIT CRUNCH REQUIRES IMMEDIATE ACTION

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. HAYES of Louisiana. Mr. Speaker, today we received word from the Board of Governors of the Federal Reserve that they are lowering the discount rate by half a percentage point to 4.5 percent—the lowest rate in 18 years. That's an extraordinary measure, even in a time when the Fed has taken several steps to drive down interest rates. And it is ironic indeed as interest rates are falling that so many of our constituents are unable to obtain financing for sound business ventures.

Any number of factors might be blamed for such a state of affairs. But it is far more important to assure the future economic health of the Nation than to ascribe blame for the causes of the current crisis. Mr. Speaker, a lack of liquidity lies at the core of the Nation's inability to recover from this recession. Of course, in a market economy like ours, there are limitations—and appropriately so—to the ability of the Federal Government to leverage the performance of the economy. Unfortunately, despite all the positive measures that have been taken, economic recovery remains stymied by a persistent lack of liquidity.

There is little doubt among the men and women who run the farms and small businesses in this country that the combination of a weak economy and the savings and loan debacle have had a chilling effect on lending. Time and time again, our friends in the banking industry have told us that their willingness to make prudent loans for new ventures has been hamstrung by overly cautious regulators. Mr. Speaker, financial institutions need to reexamine their credit policies with a view toward the role these institutions play in fueling economic recovery. Regulators need to be sensitive to the dangers that overly restrictive credit policies pose to the health of the economy. Economic strength will minimize the effects of the bank failures these regulators are charged with resolving. The sooner the economy recovers, the less likely it will be that more taxpayer funding will be needed. Yet that recovery cannot occur unless regulators are equally vigilant in criticizing both unduly lenient and unduly restrictive bank lending practices.

Today, my colleagues from Texas [Mr. BRYANT], Washington [Mr. CHANDLER] and Florida [Mr. MCCOLLUM] are joining me in introducing a resolution expressing the sense of the Congress that the policy of the United States to foster improved financial stability of the Nation's banking and thrift institutions "shall be consistent with the preservation of the availability of credit, under safe and sound lending practices, for commercially prudent business purposes in order to create jobs and promote a speedy and robust economic recovery."

The resolution calls on the Treasury, including the Comptroller of the Currency and the Office of Thrift Supervision, the Federal Deposit Insurance Corporation and the Federal Reserve Board, in consultation with the Secretaries of the Departments of Agriculture and Commerce and the Administrator of the Small Business Administration to review current policies and practices to identify those that may adversely affect the availability of credit for sound commercial purposes.

The resolution also calls for a report to the President and to Congress on the actions and initiatives taken and on any legislative recommendations.

I would like to include the text of the resolution in the RECORD at the conclusion of my remarks.

Mr. Speaker, the current combination of low interest rates and tight money is without precedent. It is choking our economy. I urge my colleagues to join me in supporting this resolution as a first step toward addressing the credit crunch.

WHOSE RECESSION IS THIS?

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. BUSTAMANTE. Mr. Speaker, we're in a recession, one that may be very long. And what do we hear from the White House? "It's not my recession." The President, while he won't even admit we have an economic slump, is busy blaming it on Congress for not acting, on the banks for not lending, or even on the American people for not buying.

He's blamed it on the distinguished majority leader of the other body, who is also named George. Nice try—but obviously a case of mistaken identity.

No, Mr. Speaker, this recession is clearly the property of the White House. Clearly the property of this government-by-veto administration. And we need some leadership to get us moving out of it. Not blaming, not Congress-bashing, not criticism of the American consumer. We need leadership.

The Congress and the American people understand that this Bush recession can't just be wished or denied away. It's time for the President to realize that, too.

It's time to stop blaming, and start acting.

IN SUPPORT OF NATIONAL SENIOR SOFTBALL WEEK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a segment of our society which remains increasingly spirited—those who say you're never too old to stay active. I am of course referring to those who are engaged in sports and physical fitness well beyond their 50th birthday.

With a growing interest in health and fitness, our society has been witness to a great increase in the number of athletes over 50. One

of the more popular sports for such individuals is softball. It is so popular, in fact, that each year at the end of September they have their own world series.

That is why I am introducing a resolution to designate the last week of September as National Senior Softball Week.

In 1985, Mr. Ken Maas and Ms. Jacqui Jolly founded the National Association of Senior Citizen Softball [NASCS] to dispel the myth of aging—that becoming older does not mean you no longer want to stay competitive and active. They promoted their association with missionary zeal to assist those who wanted to play softball, not just be bench warmers for younger players in other leagues.

To showcase the best in senior softball, Mr. Maas and Ms. Jolly began the NASCS tournament in Clinton Township, MI, starting in 1985 with 12 teams—contrasted with 57 teams in 1991.

By 1988, the NASCS tournament was so successful that the Sporting Goods Manufacturers Association [SGMA] approached Mr. Maas with the idea of a senior softball world series. Together they founded Seniors Softball World Series Inc., and held the first world series during the last week of September 1989 in Greensboro, NC, with 68 teams. Last year, the world series attracted 83 teams to Palm Beach County, FL. Next year the world series will be held from September 21 through September 27 in Wayne County, MI, and promises to be even more successful.

I am introducing this resolution to recognize those who participate in this competitive athletic endeavor on a national and international level. Not only are these participants having fun, they are promoting intergenerational role modeling by engaging in a worthwhile activity that gives our youth a positive image of the future.

I also want to pay tribute to the many who have dispelled the myth of aging by participating in senior softball. At an age when most have hung up their cleats, these competitors are making new friends, accepting new challenges, and adding years to their lives.

I urge my colleagues to support National Senior Softball Week.

PROTECTING PENSIONERS AGAINST PBGC INSOLVENCY

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. PETRI. Mr. Speaker, today, the Secretary of Labor will issue an alert to the Congress that one of the cornerstones of the foundation that protects the pensions of our Nation's workers and retirees is flawed and in need of repair. The Pension Benefit Guaranty Corporation [PBGC], established under the ERISA pension law to guarantee the benefits of pensioners in terminated underfunded plans, has already incurred a $2 billion deficit which will rapidly escalate unless the Corporation's rightful seat in the bankruptcy courts is restored and solidified.

Fortunately, for the 40 million participants in the defined benefit pension plans who look to the PBGC for their retirement income security, help is in the offing. I commend my colleague from the State of Washington, Representative ROD CHANDLER, for introducing legislation, the Pension Protection in Bankruptcy Act, which will help keep the PBGC solvent and able to meet its pension obligations in the long run. I am pleased to join Representative CHANDLER and many other of my colleagues in the House as a cosponsor of this important retirement income security measure.

Over the past decade the PBGC single-employer termination insurance program has received several shots of legislative aid in an attempt to place the program on a sounder financial footing. For example, employer premium taxes were increased substantially and made risk-related, minimum funding standards were strengthened, the insurable event was transformed from mere plan termination to one requiring financial distress, and the PBGC's recovery of plan underfunding in bankruptcy proceedings was enhanced. However, several recent court rulings involving the pension plans of the LTV Corp. threaten the PBGC's claim and status in bankruptcy and, therefore, the long-term solvency of the pension safety net.

These court rulings have set aside the priority claims for pension plan underfunding which are clearly given the PBGC under title IV of ERISA. Unless this new loophole is quickly closed, we can expect to see many other corporations, such as LTV, deliberately invoking chapter 11 bankruptcy proceedings in a blatant attempt to shed their unfunded pension liabilities. More immediately, the PBGC estimates that unless the loophole is closed the single-employer program could be faced with up to $8 billion in additional liabilities from companies already in bankruptcy.

The Congress has a clear duty to put to an end this idea that LTV and other companies may have, that is, to pass along to their competitors or the taxpayers the cost of paying the pensions of their own workers.

I urge my colleagues in the House, who wish to avoid another S&L type crisis and taxpayer bailout, to cosponsor and seek the early enactment of the Pension Protection in Bankruptcy Act of 1991.

AID TO FAMILIES WITH DEPENDENT CHILDREN EXTENSION ACT

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mrs. MINK. Mr. Speaker, today, I have introduced legislation to extend Aid to Families with Dependent Children [AFDC] for 30 days after an individual or family become ineligible for assistance.

The transition between government assistance and self-sufficiency is often difficult. Despite an increase in income, families often cannot cope with the immediate elimination of AFDC funds. Plagued by unpaid bills, unexpected emergencies, and an unpredictable economy, families who are struggling to survive by their own means are often sabotaged by circumstances, they do not control.

In the case of families that are able to increase their income and wean themselves off of assistance, it is often 1 or 2 weeks after AFDC benefits have been cut off before they actually receive the increased income from a new job or promotion. This means children will go unfed, the sick uncared for, and families will suffer.

The legislation I have introduced today would give families an additional month to make this transition. The bill allows families who become ineligible for AFDC benefits or must reduce their benefits because of increased income to receive the current level of AFDC benefits for an additional 30 days. This would assure that the people will actually receive the increased income before AFDC benefits are reduced or eliminated.

Mr. Speaker, this is a practical solution to a real problem. I urge my colleagues to join me and support this 1-month extension of Aid to Families with Dependent Children benefits.

COSPONSORS TO H.R. 534

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. DAVIS. Mr. Speaker, I would like today to list additional cosponsors to H.R. 534, a bill to repeal the recreational boat tax: Representatives CASS BALLENGER, JOHN W. OLIVER, ROBERT K. DORNAN, JOHN R. KASICH, and RICHARD H. BAKER.

THE BREAST IMPLANT DECISION

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mrs. LLOYD. Mr. Speaker, on November 14, 1991, Representative OAKAR and I introduced legislation to allow women of this country seeking breast implant surgery to be fully informed of the risks involved before making a decision. The Breast Implant Informed Decision Act (H.R. 3783), will require that all States enact informed-decision laws which require physicians to fully apprise women of all risks, both known and those currently being studied, associated with breast implants by way of a standardized written summary in layperson's terms. Unfortunately, this has not always been the case for the two million women who have already undergone the surgery since implants became available in 1961. For many of these women, implants have posed no problems or ill effects, but some women have had to deal with unwelcome and often unexpected side effects and other health concerns resulting from implants, namely those made of silicone gel.

Many of these women also assumed that the implants they sought were approved by the Food and Drug Administration [FDA]. Unfortunately, implants were on the market well before the agency began to regulate medical devices in 1976. However, due to concerns over their safety, the FDA has required that

VOL
137
PT
23
NO
21
—
25
1991
UMI

manufacturers of silicone gel implants provide the agency with evidence that their products are safe and effective by early January, 1992. Women should note that the FDA action does not mean that silicone gel implants are unsafe. Rather it means that the FDA does not have information from the manufacturers to prove their safety. The FDA reports that they still have not been presented with adequate data to answer their concerns.

On the same day that H.R. 3783 was introduced, an advisory panel to the agency issued its recommendation that silicone gel implants be kept available to women while necessary scientific research is conducted by the manufacturers. I am heartened to see that the panel also recommended that women be given detailed information about the risks and benefits of implants. The FDA will consider these recommendations and issue a final decision in early January.

Once again, women are shortchanged by inadequate research data. Understandably, they are confused, angry, and worried as a result. Women want the ability to make an informed decision as to whether the benefits of breast implant surgery outweigh the risks in their individual situations. This is especially the case for women recovering from breast cancer, many of whom report the invaluable role implants played in recovery back to their old selves. No matter what a woman's reason for seeking implants may be, she deserves to know the potential risks, both those that are currently known and those under investigation, before she makes this very personal decision with her physician. The Breast Implant Informed Decision Act will ensure this right to all women seeking breast implants in this country.

The Commissioner of the FDA, Dr. David Kessler, has assured us that the agency will make a balanced assessment of the risks and benefits of silicone implants and will do all they can to expedite research efforts to gain the necessary research data. Until women have access to the research results, they should not be precluded from access to an option which clearly has provided important benefits to hundreds of thousands of women. However, as is the case with all medical devices, women should also be aware that there are risks associated with breast implants. I urge my colleagues to support H.R. 3783 and the right to make an informed decision on this deeply individual and private issue.

A TRIBUTE TO R.E. "JEFF" KASLER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the outstanding public service and lifetime achievement of my good friend R.E. "Jeff" Kasler of Long Beach, CA. Jeff will be recognized at a special dinner in his honor in early December celebrating his 30 years of distinguished service with Kasler Corp.

Jeff Kasler is a giant in the engineering and construction industry. His career, spanning almost 45 years, has been highlighted by personal and professional integrity. Over the years, Jeff and his company have made important contributions to the high quality and technological sophistication of American civil engineering.

Following his service in the U.S. Navy Air Force, Jeff graduated from Purdue in 1946 with a bachelor of science degree in aeronautical engineering. After a year working as an aircraft designer for Northrop Aircraft, Jeff began his career in public works as a junior civil engineer with the California Bridge Department.

A couple years later, he went to work as a labor foreman with what was then Fredericksen & Kasler, a partnership founded and led by Jeff's father, C.E. "Jack" Kasler. In his 12 years there, Jeff served as a project superintendent, chief engineer and assistant general manager. The company grew and prospered laying the foundation for a promising future.

In 1962, Jeff founded and incorporated Kasler Corp. Under his leadership, the company has become a national leader in the construction and repair of highways, bridges, freeways, airfields, and other infrastructure projects in the Western United States. But Kasler's work has not been limited to roads and bridges. The 1980's began with Kasler Corp.'s award of a $145 million contract, the company's largest ever, for the space shuttle launch complex project at Vandenberg Air Force Base in California. The decade ended with Kasler receiving a $124 million contract, the largest highway contract in the history of the California Department of Transportation, for the Century Freeway Super 37 project due for completion in 1994.

Jeff's innovative work in research, testing and construction has earned him a great deal of well-deserved recognition. Among his many honors, Jeff has received the Distinguished Engineering Alumnus Award from Purdue University as well as the 1989 Lifetime Achievement Award from the Los Angeles Chamber of Commerce for being an "outstanding member of the industry whose professionalism and leadership has enhanced the economic vitality and quality of life in our region."

Mr. Speaker, words are not enough to measure my admiration and respect for Jeff Kasler who I am proud to call my friend. I join his many friends, his wife Elaine, and children Jill, Judy, and Steve, in asking you to join me in honoring this fine man who is certainly worthy of recognition by the House today.

SENATE—*Friday, November 22, 1991*

(Legislative day of Wednesday, November 20, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by the Reverend John E. Stait, Associate, Navigator Ministries, Washington, DC.

PRAYER

The Reverend John E. Stait, Associate, Navigator Ministries, Washington, DC, offered the following prayer:

Let us pray:

O come, let us sing unto the Lord: let us make a joyful noise to the rock of our salvation. Let us come before His presence with thanksgiving, and make a joyful noise unto Him with psalms. For the Lord is a great God, and a great king above all gods.—Psalm 95:1-3.

Almighty God of Heaven and Earth, Creator of love, forgiveness and, therefore, salvation, we are so consumed with ourselves—what we don't have, what we haven't achieved yet, what we think we need to be happy.

We lack faith in Your provision because we are reluctant to submit to Your perfect plan and trust You for the results. We are trying to save our lives and, therefore, we are losing them.

Help us, as the Thanksgiving season approaches, to appropriate Your provision for our forgiveness, to forgive ourselves, to forgive others who have hurt and disappointed us, to be genuinely thankful and praise God from whom all blessings flow. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 22, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak therein.

The Senator from Missouri [Mr. BOND] and the Senator from Kentucky [Mr. MCCONNELL] are permitted to speak for 15 minutes equally divided.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Missouri.

Mr. BOND. I thank the Chair.

WETLANDS SIMPLIFICATION ACT

Mr. BOND. Mr. President, today, I, along with Senator MCCONNELL, Senators HEFLIN, NICKLES, BURNS, CONRAD, DANFORTH, and PACKWOOD, introduce the Wetlands Simplification Act. This overdue, badly needed legislation is supported by the Missouri Farm Bureau, Missouri Department of Agriculture, Missouri Corn Growers Association, Missouri Soybean Association, Missouri Cattlemen's Association, the Cotton Producers of Missouri, Missouri Rice Council, Missouri Pork Producers, American Farm Bureau Federation, National Cattlemen's Association, National Association of Wheat Growers, American Soybean Association, the National Corn Growers Association, and the National Pork Producers Council.

Why are all these organizations supporting this legislation? Quite simply because the Federal Government has created a nightmare for farmers. Go into any coffee shop where farmers gather, or any town meeting, visit with a farm family in your State and ask them what is their greatest headache. And they will tell you it is wetlands and trying to figure out what to do with wetlands.

Farmers make their living from the land, working with it every day. Often their land has been in the family for many generations and, God willing, they hope to be able to pass it along to their children. You see, a farm family's land, including a wetland is precious to them, certainly more precious than it is to any Government or any interest group.

Most farmers I have talked to want to protect their land and they want to comply with the law. But it is heavy-handed Government, pushed by overzealous activists, that makes this very difficult. Some people seem more concerned about preserving a wet piece of ground than they are about preserving family farmers.

If you are a farmer with a single wet patch of ground on your land, you are up against four different agencies of the Federal Government, armed with complex and confusing regulations from two very different pieces of legislation overseen by two Senate committees. Even worse, the four Federal agencies probably will not even agree on whether the patch of wet ground on your farm is a wetland or not, let alone how you should handle it. But if you do not handle it right, you could be penalized or fined tens of thousands of dollars.

Any one of these four Government agencies could come on a farmer's land at any time with no warning and tell him one story about his land. The farmer, who works hard every day, struggles to make a living from his land for his family, pays his taxes and obeys the law, then follows this story and does what the Government agent tells him to do. However, the next week another one of these four Government agencies come on the farmer's land, again with no warning, and tells him a totally different story. Well, that farmer is now surprised, confused and not sure what to do. A week later the farmer gets a letter in his mailbox from the Federal Government threatening legal action and fines.

That is exactly what happened to Jerry Lightle and Ray Bleich, two farmers in Andrews County, MO.

Unfortunately, this is not an isolated case. This story is repeated every day in this country. Farmers across America dread the day they find a Government agent running around uninvited on their land. A neighbor, a friend, someone in the next county—most farmers know or have heard of a story like this. I have heard them all over my State, and I think it is time to say enough is enough.

We tried to clear up the wetlands problem during the 1990 farm bill debate. I believe the Soil Conservation Service [SCS] and the Agricultural Stabilization and Conservation Service [ASCS] personnel have done a solid job of educating farmers on sodbuster and swampbuster regulations. I believe the President has announced a commonsense approach to wetlands.

Unfortunately, when you throw in section 404 of the Clean Water Act, the wetlands issue becomes mud. The Clean Water Act was designed to prevent pollutants from flowing from one body of

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL 137 PT 23 NO 21—25 1991 UMI

water to another. Now regulators use it as an open-ended mandate for a completely different purpose. In less than 20 years, the section 404 program has gone from regulating navigable waters to regulating corn and soybean fields.

Mr. President, around the country, there are over 400 case studies where farmers and ranchers have been caught up in the bureaucratic mess of wetland regulations. These are the documents of those 400 cases. I want to share with my colleagues a few quick stories that took place in my home State of Missouri.

First, a little more than a year ago, my staff and I brought together four different agencies—the Corps of Engineers, SCS, EPA, and the Fish and Wildlife Service—together to work out a wetland problem on the farm of Earl Stolte in St. Louis County, MO.

As we listened to them, there were two very different views on whether this particular piece of property was a wetland, and the agencies could not even agree on the proper course of action for the farmer to follow. How is he, as a subject of the Federal Government, to respond to four different agencies that tell him four different things? It makes no sense.

Let me cite another example. Recently, Jerry Lightle in Andrew County was visited by a representative of the Corps of Engineers to discuss his 404 permit problem. The corps representative, after looking over the land, informed the farmer that he also had a wetland problem which was evident because he had standing over in the field cattails. He said, "Look at those cattails." The farmer, Jerry, informed the corps representative that what he was looking at were the heads of milo, grain sorghum, not cattails, not wetlands vegetation.

It is time for legislation that will end these regulatory nightmares that farmers and ranchers have been experiencing. It is time for a commonsense approach to wetlands, one which will assure that the legitimate environmental purposes are realized, but that farmers will not be subjected to four contradictory, conflicting and uncoordinated views from the Federal Government.

It is absolutely incredible to me that currently there are four different agencies and two different pieces of legislation regulating a single damp piece of ground on a farmer's land.

The inconsistency caused by separate determinations of wetlands substantially burdens farmers and ranchers. The results are unnecessarily cumbersome, slow, and unpredictable. They can be alleviated if responsibility for making wetlands determinations was carried out by one agency.

The Wetlands Simplication Act would give the Soil Conservation Service, in consultation with the Fish and Wildlife Service, the authority to provide consistent interpretations and make all technical determinations concerning wetlands on agricultural lands only. It would apply only on agricultural lands.

This bill will not reduce the oversight authority over wetlands. It will not change the underlying provisions. It is common sense to let the one Federal agency with the most experience be the one stop shop for farmers and ranchers when seeking answers on what to do about land on their property that may be wet.

The Soil Conservation Service has a long history of working with farmers; it knows farmers and farm operations and can apply that understanding to these determinations. With their 3,000 offices nationwide, SCS has a positive working relationship with the farming community in every county of the country.

I can assure you after talking with farmers in my State they have great respect for the expertise and for the understanding of the representatives of the Soil Conservation Service.

Out of the nearly 1.9 million wetland determinations that SCS has made to date, only about 300 have been appealed. This outstanding working relationship is vital to efforts to protect wetland resources because more than 60 percent of the lower 48 States' wetlands are in private ownership.

Wetlands serve as one of our Nation's most valuable natural resources. Protecting and preserving the millions of truly functional wetlands should be a national priority.

However, the 450,000 acres per year that have been largely attributed to agricultural conversion, are inaccurate and does not reflect recent trends. Recent estimates by the USDA, show the total annual wetland losses, both natural and manmade, range from 124,000 to 290,000 acres. Agriculture's share of wetland drainage was only 35 percent of that total.

We can preserve our wetlands without burying family farmers in red tape, bureaucracy, and paperwork. It is clear that we must increase Federal efficiency when dealing with wetlands and clear up any confusion in the agricultural community. The Wetlands Simplification Act is the cure to the problem. Farmers will be able to do their jobs, to earn their livings, and to get a simple, clear, definitive answer from one Federal agency.

That is why I ask my colleagues to join with me in cosponsoring and supporting this legislation.

Mr. President, I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wetlands Simplification Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) technical determinations with respect to wetland or converted wetland on agricultural lands (including the identification of wetlands and the development of wetland restoration and mitigation plans) are currently made by—

(A) the Soil Conservation Service, in consultation with the Fish and Wildlife Service, to carry out subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); and

(B) the Secretary of the Army, acting through the Chief of Engineers, to carry out section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(2) the system of separate determinations made under such Acts has led to unnecessarily cumbersome and slow decisionmaking and to a lack of consistency and unpredictable results in determinations;

(3) the lack of consistency places substantial burdens on private property owners that could be alleviated if responsibility for making the determinations was carried out by one Agency; and

(4) the Soil Conservation Service has a long history of working with agricultural producers to protect soil and water resources, has considerable soils expertise, and has field personnel in almost every county of the United States.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide that a single Federal agency shall be responsible for making technical determinations on agricultural lands with respect to wetland or converted wetland (including the identification of wetland and the development of wetland restoration and mitigation plans) in order to reduce confusion among agricultural producers; and

(2) provide that the Soil Conservation Service, in consultation with the Fish and Wildlife Service, shall be the Federal agency responsible for all such technical determinations concerning wetlands and converted wetlands on agricultural lands.

SEC. 3. COMPLIANCE WITH WETLAND CONSERVATION REQUIREMENTS.

Section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)) is amended by adding at the end the following new paragraph:

"(4) EFFECT OF DETERMINATIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a technical determination with respect to wetland or converted wetland on agricultural lands (including the identification of wetland under paragraph (1) and the development of a wetland restoration or mitigation plan developed under paragraph (1)) shall be used in the administration of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

"(B) CONSISTENCY.—Any area of agricultural land or any activities related to the land determined to be exempt from the requirements of this subtitle shall also be exempt from the requirements of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) so long as those lands are used as agricultural lands.

"(C) DEFINITION.—For purposes of this paragraph, the term 'agricultural lands' means cropland, pastureland, native pasture, rangeland, orchards, vineyards, and nonindustrial forest land, and any other land used to produce or support the production of an annual or perennial crop of a commodity, acquaculture product, nursery product, or livestock.".

Mr. MCCONNELL. Mr. President, we all realize the value of protecting our environment, particularly our water resources. It has been estimated that 1 out of every 20 acres of the world's land surface can be called a wetland. Wetlands can be found in all climates and countries.

Previous policy has neglected, to some extent, both the economic and ecological value of wetlands. Wetlands serve many valuable environmental, economical, and agricultural purposes. Wetlands serve an important role in erosion and flood protection. Obvious values such as wildlife habitats, water purification, and water storage alone would justify maintaining the wetland.

For a number of years Americans were told that clearing wetlands would help improve our infrastructure, particularly roads, and reduce diseases transmitted by insects. Many university and Government leaders were convinced that eliminating these swamps was the right thing to do. But, after much research, the American public is gaining a greater appreciation for the value of the American wetlands.

However, for all of the wonderful things wetlands do for our environment, there is probably no subject which is more complicated. No wonder it is so complicated—a total of four Federal agencies and various State agencies have some jurisdiction over wetlands and their use. These agencies all serve different constituencies and therefore follow different agendas. The lack of consistency resulting from separate determinations of wetlands has placed substantial burdens on private property owners.

Having four Federal agencies attempt to control wetland oversight has, and will continue to cause, much confusion. It is the American public, and more precisely the Nation's landowners, who suffer most from this slow, cumbersome and unpredictable process.

These "bureaucrats from the black lagoon" hide behind a shroud of forms and throw the landowner into a holding pattern, sometimes for years, until final decisions are provided. In several cases which I am familiar with in Kentucky, working through the process of obtaining proper permits and approvals can take 4, 5, and even 6 years. This often means thousands of dollars in legal fees plus lost income from the property. On top of this is the humiliation of fines, property liens, and even being sued by the Federal Government.

Kentucky Farm Bureau has documented several instances where farmers have encountered problems with wetlands determinations. The one common denominator is the inconsistency of the various Federal agencies. Not only in the actual determinations, but in the amount of time it takes to get an official determination. This is not just happening in Kentucky and Missouri, but in almost every State in the Nation. The American Farm Bureau Federation has compiled more than 400 similar examples from 40 States.

The regulations concerning wetlands must be condensed and handled in a consistent manner. The issue itself is confusing enough without having to get four different agencies attempt to agree on wetland policy. The Government and the American people will be better served by simplifying the process.

The lead agency for wetlands delineation should be an organization which has constant contact with the areas of wetlands, be accessible to the people most affected by wetland policy, and have the technical expertise to understand and implement the regulations in question.

This bill, which Senator BOND and I are introducing today is intended to clear some of the confusion which exists in the farm community over wetlands. It could also allow the various Federal agencies to concentrate their scarce resources in a targeted approach rather than the current broad, duplicative manner.

The bill would make the Soil Conservation Service [SCS], within the Department of Agriculture, the lead agency in wetland determinations on agricultural lands. The Soil Conservation Service maintains a long history of working with farmers and currently has the experience and technical background to oversee wetland jurisdiction of farmland. Additionally, the SCS will be required to consult with the Fish and Wildlife Service in order to provide consistent interpretations.

The bill does not intend to reduce the oversight authority over wetlands. The Corps of Engineers retains all permitting responsibilities. We wish to create consistency. It just makes sense to let the Federal agency with the most experience be the one stop shop for farmers when seeking answers on wetlands.

Ironically, the current hodge-podge of wetlands regulations was never intended to be a comprehensive national wetlands management program. We have a few square pegs which we have tried to pound into a single round hole. We must make a uniform, all-inclusive, wetlands program a national priority and do it now. If we don't act now thousands more acres of vital wetlands will be lost.

The debate and legislation over wetlands originated in 1972 with the passage of the Clean Water Act by Congress. Section 404 of the Clean Water Act began the era of wetlands protection. Section 404 gives the Corps of Engineers the power to issue permits needed to dredge or fill wetlands. Anyone wishing to alter a wetland by making it deeper or filling it must apply to the Corps of Engineers for a permit.

Section 404 has broadened oversight far beyond its original intent for many types of wetlands. Meanwhile, the failure to expand jurisdiction over nonpermitted conversion has cost the Nation hundreds of thousands of acres of wetlands. Last year one-quarter of a million acres of wetlands were converted by nonregulated means such as excavation, channelization, and drainage.

In addition to the 1972 Clean Water Act, Congress passed the swampbuster provisions in 1985. The swampbuster provision gives the U.S. Department of Agriculture the power to deny Federal commodity crop subsidies to farmers planting on wetlands which have been converted to agricultural uses after December 25, 1985.

The wetland regulations have become a mess of tangled, conflicting provisions. Most of my State's wetlands are in western Kentucky which is where rowcrop production is concentrated. It is not surprising that is where the majority of hotly disputed wetland cases occur.

By the current definition of a wetland, over 60 million acres of presently farmed wetlands could possibly be taken out of production and protected as wetlands. In this 60 million acres, the majority of land has small areas that are covered by water only after a spring rain and only for a matter of days. In the case of Kentucky, it is these river bottoms which are the most productive farmland in the State.

Of the figures I have found, it is reported that agricultural wetlands consist of 75 percent of the estimated 95 million acres of remaining wetlands. Over 71 million acres of wetlands are located in private, largely agricultural lands. The American farmer is by far the most affected party in the wetlands debate.

The Soil Conservation Service has and continues to be in day-to-day contact with all of the wetland areas. Their hands on experience, and their technical knowledge, makes them the obvious choice. There are 98 district conservation offices in Kentucky with a field staff which extends into all 120 Kentucky counties. Each conservation district operates with an elected local advisory committee made up from local residents.

Also, the Soil Conservation Service has a single statewide office to which all of these county and district offices are responsible. All 50 State offices are then ultimately responsible to the Department of Agriculture.

Another distinct advantage which the Soil Conservation Service has is an established appeals process for individual property owners to disagree with determinations by the SCS. Landowners have been very frustrated because the only process to disagree with a decision by the corps or EPA is through a court of law.

Simply put, Federal wetlands protection programs are a mess unless we act to streamline and improve the current procedures. If we do not act promptly,

VOL 137 PT 23 NO 21—25 1991 UMI

thousands more acres of wetlands will be lost and more landowners will be put unnecessarily through the wringer.

Mr. President, I want to thank the Senator from Missouri [Mr. BOND] for his leadership on this issue and commend him for his dedication to help our Nation's farmers, particularly those in my State of Kentucky. I want to encourage my colleagues to review this legislation and urge their support. Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

FLEXIBLE MANDATORY CAP ON CREDIT CARD INTEREST RATES

Mr. LIEBERMAN. Mr. President, yesterday the Senate struck a blow for America's consumers when it approved, along with the banking legislation, flexible cap on credit card interest rates. Since we originally passed the credit card legislation last week my office, like so many others, perhaps all others, has been deluged with phone calls and faxes from the major banks and other credit card companies. My staff and I have met with representatives from these institutions, and listened to their arguments opposing interest rate caps, and describing the impact the cap might have on them.

They made some points that are worth considering. But I want to say here this morning that no one has convinced me that our basic premise, which is that the banks are charging too much interest on consumer credit card debt, is wrong. No one has convinced me that the basic premise of the need for some limits and the need for lower credit card interest rates is right.

What has disappointed me over the past week is the amount of hyperbole, misinformation, and at times indeed hysteria that has been spread by the special interest groups opposed to this credit card interest rate cap. The banks would have us believe we caused a 120-point drop in the stock market last Friday, when everybody knows there are a host of other economic indicators and facts that caused that drop. They would have us also believe that they will drop 60 million consumers, customers, credit card customers, abandoning this remarkably lucrative mass market business and issue credit cards only to the very rich. That does not make any economic sense.

We have been told that the regulation of interest rates is an unheard of intrusion into the free market.

Mr. President, it is time for some calm and perspective here. Regulation of interest rates is not, as the Secretary of the Treasury has said, a wacky idea. Indeed, it is as old as the Bible, and has been accepted as an appropriate part of legal systems since the earliest days of the English common law.

In fact, every State in this Union that I know of has some form of usury laws. Until the late 1970's most States imposed interest rate caps on consumer loans including credit cards, in order to protect consumers from unscrupulous lenders.

It is interesting to note that what brought an end to these State rate caps was not an economic revelation, but a remarkable Supreme Court decision, Marquette National Bank versus First Omaha Services Corp., that effectively enabled renegade States to lift credit card rate caps throughout the Nation by allowing credit card companies to charge customers whatever rate was allowed in the credit card company's home State. States could no longer protect their own citizens against usurious rates charged by out-of-State credit card companies.

Connecticut's experience with rate caps is instructive. Following the relentless increases in rates that naturally followed the Marquette decision, Connecticut, after much debate, enacted a 15-percent cap on credit card interest rates. The State was eventually compelled to lift the cap, not because credit card companies were stripping Connecticut residents of their cards or failing to issue cards to Connecticut residents, but because the State's cap could easily be circumvented by transferring the credit card company's home office to an out-of-State location which had no limit on credit card interest rates.

Just recently the attorney general of Connecticut, Richard Blumenthal, wrote to me urging that this Senate consider enacting a cap on credit card interest rates that could be exported to other States, as he put it. He urged us to make some improvements in existing credit card disclosure laws as well. His office was increasingly frustrated by its inability to take action against credit card companies located outside of the State which not only were failing to decrease the interest rates they were charging Connecticut residents, but were actually increasing the rates they were charging Connecticut consumers.

Attorney General Blumenthal's experience and, indeed, Connecticut's experience with credit card rates over the past 10 years greatly influenced my decision to cosponsor and support Senator D'AMATO's credit card amendment. Connecticut's experience has also increased my skepticism about the dire predictions with which the banking industry has reacted to the current proposal.

My constituents cannot understand why banks are paying them less and less on their savings but still charging them almost 20 percent interest on their credit cards. They cannot understand why the banks, given the annual fees, late fees and other charges that credit card companies require them to pay, cannot, as they claim, make a reasonable profit under a flexible rate cap that reflects the decreasing cost of money to the banks.

They simply do not understand why banks have decreased rates for auto loans and mortgages, loans that have clearly been hit as hard by bankruptcies and economic problems today as credit cards but cannot lower the rates for credit cards.

Mr. President, as this banking bill now goes to conference committee, I know that there are powerful forces arrayed to strip the credit card interest rate cap out of the bill. But I want to ask them this morning before they rush in to do that to think long and hard. I want them to understand that those of us who supported the amendment last week do not want to be unfair to the banks.

We believe that we can enact a cap that is fair to the banks but also fair to consumers as well, one that does not continue this hidden bailout for the banking industry. If that fair rate is not 4 percent over the IRS underpayment rate and the banks and the credit card companies can convince us that it can be 5 or 6 percent if they have fine-tuning recommendations to make to our proposal, if the retailers, as many have come to us and said they are different from the banks, they do not make money on credit cards, in fact they are loss leaders for them, we are open to all those discussions. That can all be fixed in conference. There is time to work out those details.

I think it is fair to say that those of us who believe in the need for a credit card interest rate cap are prepared to listen to our critics and accept reasonable changes in the current proposal. But what we cannot accept is a continuation of the status quo.

So I urge the conferees, the House of Representatives, the White House to join the Senate in sending the credit card industry a strong message: To get those unfair rates down and to support fairness for the average, hard-hit American consumer by moving expeditiously toward enacting a fair limit on credit card rates.

Mr. President, we, in Congress, cannot stand idly by and let consumers be treated so unfairly. Lower credit card interest rates must be achieved. The fundamental unfairness we are experiencing right now cannot go on, and I hope the message gets through to the banks and the credit card companies: Our economy will benefit if consumers say no to high rate credit cards and more banks say yes to lower rates.

I thank the Chair, and I yield the floor.

Mr. D'AMATO addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New York.

CREDIT CARD CAPS

Mr. D'AMATO. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Connecticut as it relates to the opportunity for the Congress to do something to help the consumer, to help working middle-class families during this extraordinary difficult time of recession—and we are in a recession.

When the marketplace is free, when the marketplace is competitive, when there is true competition for business, there is no need for this kind of legislation, and I think my good friend from Connecticut would agree with me. But I think he would also agree that we do not have that kind of competition today. One need only look at the record and when one understands that the 10 largest credit card issuers control 50 percent of the market and sees that 7 out of 10 have the identical rate, 19.80, to the decimal; that the eighth has a 21 percent rate; and two others are at 16 plus; we find that there is not that kind of competition. And indeed, we know that something is wrong.

We all know it and we know why it is tolerated. We have heard it said in our Chambers and our private circles when those who have come to us said, look, this is an area where the banks are making lots of money. That is the real reason, because the banks are making billions of dollars in profits and no one denies them, nor would this Senator want to deny them a fair return on their investment. But when we talk about returns that are in excess of 100 percent, 200 percent, 300 percent, some approaching 400 percent how do I come to this?

Mr. President, the interesting thing is that the cost of money to the banks has come down. The Federal Reserve has continually moved, repeatedly, almost a dozen times, to reduce the cost of money.

Why has it lowered the discount rate?

It has lowered that so that it could make cheaper money available to the banks so that the banks, in turn, could cut their rates of interest that they charge and, indeed, they have.

And so while the cost of money to the banks has come down, while the cost of money that the banks pay out to those who have savings accounts, checking accounts, certificates of deposit are at historical lows, probably the lowest in the past 20 years—about 4.68 is what the average cost of money is for the banks—while the prime interest rate has come down during this time, there is an absolute correlation between what interest rates should be paid by consumers as it relates to the cost of money.

We have not seen reductions in the consumer area as it relates to credit cards, but we have seen increases. They have actually increased since 1985. While the cost of money to the banks have come down, they have increased the cost to the consumer. It is wrong. It is a hidden bailout. If anything, let us put the spotlight on it.

I have to say this. I do not think our legislation is perfect. As Senator LIEBERMAN indicated, people say, listen, maybe it should be tied to prime rate. Fine, we can come up with a formula basically 6, 6½ points over prime. Prime is 7½. Maybe it should be 7 over prime, a floating rate, an indicator of what money costs and what the best customer pays.

How much over prime?

This is not a ceiling, by the way; it floats. It is a ceiling that is tied to the cost of money or the cost of loans that are put out. So it is not an arbitrary ceiling—14 percent plus.

What should it be? Prime plus 8?

I ask my colleagues, is there not a point then when it becomes unconscionable to the people who have to pay this, particularly if the free market system is not permitted to work? Should it be prime plus 9? Prime plus 10? I say to my colleagues, when do we stand up and do what is right?

Maybe we have to rock some boats. It is a powerful lobby out there, and if we think that the people are upset with the institutions of Government, they are, and they have every right to be. I am convinced that they will attempt to take this measure out without attempting to, as my friend and Senate colleague, Senator LIEBERMAN from Connecticut indicated, fine tuning, make it so that it does meet the objections, the legitimate objections and concerns of some of the retailers.

There are differences between the retailer and the bank. But to simply throw it out or to come back with a nonsense study which will impede anything being done is wrong.

Why do we not stand up for that working middle-class guy? He knows something is terribly wrong. We know it, too. When do we have the guts and the courage to do what is right?

This is not the last. This conference report will come back. If it does not address this problem, I want to serve notice that this Senator is not just going to fold his little tent and go home. We are going to make our colleagues accountable and vote on this issue. The people have a right to see that we really are working to protect their interests. I believe that they are entitled to help.

Mr. President, I yield the floor.

THE DEVELOPING EUROPEAN ORDER—AND U.S. INTERESTS

Mr. HELMS. Mr. President, the 12-nation European Community will convene December 9 in the historic town of Maastricht in the Netherlands for a meeting that could well be a decisive turning point for Europe. Even more important, from my point of view, it may also be a turning point for the United States and its relationship with Europe.

Several questions are obvious: Will the Maastricht meeting mark the beginning of the end of state sovereignty in Europe? Will it mean that the European Community could emerge as a transnational political power in its own right? All of Europe is ablaze with speculation, but American observers have been strangely silent about an event which could affect the interests of the American people so vitally.

While the British remain true to their traditions of parliamentary sovereignty and state autonomy, the French and Germans press for ever greater political and monetary union. What is startling is that with the exception of defense policy, most of the other countries stand with Germany—and against Britain—in this debate. This tension between transnational power and state sovereignty will ultimately define the new world order.

Even if the Maastricht summit ends in stalemate, the fall of the Soviet empire and the evolution of Europe pose serious dilemmas for United States foreign policy. Powerful forces of nationalism, economic interest, and political and security interests will jockey for dominance in the new Europe. These forces will inevitably lead to new alignments, and to a new position for the United States in Europe.

So the question before us, Mr. President, is how can the United States make sure that the developing world order is an order which supports the interests of the United States?

From this side of the Atlantic, it is sometimes difficult to discern how complex the argument about political union and disunion is. There are a variety of different political interests at stake here. Indeed, in some ways we are watching an ongoing European version of the Philadelphia Convention of 1787.

The British on the one hand subscribe to the principle of subsidiarity. In other words, they want to see the EC only for business which cannot be done better at the national level or lower. The French, on the other hand, believe that the national governments should cede significant sovereignty to the EC, and then take turns controlling it through the European Council. The Germans are in favor of union, but would like to see the EC significantly federalized, with a greater emphasis on the European Parliament. Holland does not like the French plan either because it is afraid that the small states would lose political power.

Mr. President, there are other major issues. The Benelux countries, France, Spain, and Italy would all like to see the European Community develop a more activist social agenda. Again Britain leads the fight in keeping socialism at bay.

VOL 137 PT 23 NO 21—25 1991 UMI

On defense issues there is also a split between those forces which favor more European alignment in the West European Union, and those which would like to maintain the power of NATO. And then there is Denmark, which wants to be able to incorporate its neutral Nordic neighbors within the EC structure, and so is dragging its feet on any kind of common security policy.

At the same time, there are other countries waiting in the wings which could also fundamentally alter the character of the EC. The countries of the European Free Trade Association, especially Sweden and Austria, are waiting in the wings to enter the EC. Also, the East European countries, in particular Poland, Czechoslovakia, and Hungary, would also like to become members of the European Community. Looking even farther down the road, a reconstituted Soviet Union, or Russia, or Ukraine could also be significant players in the European scene.

Mr. President, the EC is not the only transnational institution which needs to be studied. Other international institutions are already in place to shape the order that may emerge. Politically and strategically, the chief institutions to watch are NATO, the West European Union [WEU], the Conference on Security and Cooperation in Europe [CSCE], CFE, and EPC, the political arm of the European Community.

The oldest of these institutions, NATO, is being re-evaluated since its strategic mission of containing the Soviet threat seems to have been accomplished. Every one wants to know what its purpose will be in the future. The United States has a major role in NATO, and is therefore seeking a semipolitical role for NATO so that the investment which the United States has made in Europe continues to bear fruit.

However, the importance of CSCE seems to be growing at the expense of NATO. This is significant, since the Soviet Union has a major role in CSCE, but of course, is excluded from NATO. The growing influence of CSCE would seem to indicate a decline in U.S. influence concerning what happens in Europe at the same time that it gives the former Soviet Union a seat at the table—something it never has had before.

The Germans have shown that they are serious about political unification. But they also have the most to win from surrendering their sovereignty to a united Europe. With a population of 80 million people and the most advanced economy in the region, the Germans would control the vital aspects of a united Europe. In a way, they seem to consider the linkage of monetary union to political union as a way to force the other countries to fall into line. If the rest of the European Community does fall into line, the Maastricht conference may lead to political unification, and a major step in the surrender of state sovereignty by the member nations.

Economically, it is important to watch how the European Bank of Research and Development implements its projects of rebuilding the economies of the former Soviet Empire. The EBRD programs may increase the viability of the East Europeans coming into the European Community, but it could also work to sustain a neo-socialist government in the Soviet Empire.

The European Community has two alternatives before it. It could work to incorporate the economies of Eastern Europe in a continental wide version of German unification. On the other hand, it could maintain its current nucleus and base its growth on the economic compatibility of its members. For these reasons it is important to watch how economic integration of Europe develops in 1992 and beyond.

Everyone wants to be on the side of an economic winner, and the EC with its 345 million person population and $6.75 trillion GDP is likely to become the single largest and most important economic entity, until or unless the United States expands its own free market zone deeper into South America.

The EC has long had problems with its basic identity. What England wants is far different from what the socialist south wants. The development of majority rule on most issues in the European Community, would not only severely curtail state sovereignty; it would also lead to a union for more socialist in its economic and social principles. This development would have profound ramifications for the United States, not just economically, but at the most fundamental political levels as well.

Mr. President, there are also areas where existing institutions have not developed to cope with the emerging realities. The EC has handled the Yugoslavian crisis miserably. Nor is there a single international institution which is coping responsibly with the Baltics, Ukraine, or the other countries of the decaying Soviet Union. We need to be able to read the signs of emerging nationalisms and the power of new states, and prepare not just for what will happen, but for what may happen.

President Wilson's tired dreams of internationalism are being resurrected yet again. We must continue to expect to see the explosive effects of nationalism. Nothing can be accomplished on the international level if it goes against the grain of a nation's basic identity. We need only remember the experience of this century to know how fragile dreams of perpetual peace can be.

For these reasons, Mr. President, I submit that the developing world order may not turn out as beneficial as popular opinion seems to indicate. We need to implement a national security policy which can cope with unexpected, as well as expected, developments in Europe and the former Soviet Union. We need to be aware of the fact that the European Community could develop in any number of directions, not all of them in the interest of the United States.

The new European order could expand to include all of Europe and Russia or it could maintain its current nucleus. It could adopt a neosocialist agenda or commit itself firmly to free market principles. It could embrace the United States or it could attempt to isolate the United States. New powers in the Ukraine and Eastern Europe could emerge and old powers decline—as the Soviet Union seems to be doing now.

Mr. President, the institutional arrangements will not be for or against U.S. interests, but the content of those arrangements could well affect our future. For this reason, we have to ask ourselves what would be the best case scenario for the United States amid this mixture of opportunity and danger.

Throughout history, those countries have done best which have managed to avoid conflicts with their chief rivals, exploited opportunities for challenges through surrogates, and developed sound alliances based on a wide range of common interests and values. Our focus for developing United States relations with Europe should be a sound alliance strategy. We need to minimize the ability of an antagonistic rival to develop. And we need to promote international institutions which emphasize our common interests and values.

Mr. President, the European states are embarked on a historic task of redefining their most fundamental political arrangements. These states are doing so in the interests of promoting a stronger political community for the benefit of the European people. The United States, given its own history, would never stand in the way of such an endeavour if it were to be legitimately in the interests of all Europeans. The Europeans must know that we want to work constructively with them to build free markets and democratic political arrangements based on traditional European values.

Likewise, Mr. President, we should work toward the development of a strong Russia, a strong Ukraine, a strong Poland, and strong states in the Baltic which are democratic, market-oriented, and pro-American. We need to demonstrate, Mr. President, that these three qualities—democracy, market economies, and pro-Americanism are synonymous with strength.

Is this, then, the new world order of which we hear so much? I think not. The institutions of the new order need to be judged not by their structure, but

by their content and their general directions. We should not applaud every development that results in a new, stronger Europe. We do not want to see our alliances with individual European nations weaken, nor our power to compete in European markets diminish. Neither do we want our own national integrity and sovereignty to vanish into some global superstructure that takes away our freedom of action.

Mr. President, we should support a strong, unified Europe only if it is in our interest to do so. The imposition of out-moded socialist welfare principles or the development of European defense arrangements which vitiate the sacrifices of American time, money, and blood must be fought.

It is true that we have vital security, political, and economic interests in Europe. But we cannot afford to support institutions which may be opposed to our interests in the long term.

Institutions such as the European Bank of Research and Development are redundant and potentially impossible to control. We should not send U.S. taxpayers' dollars overseas to promote institutions like these which dilute American strength and leadership.

Mr. President, we should be wary. We should be prepared to reject a new world order which does not develop in accord with our national interests. At the same time we should make sure that we do everything in our power to make sure that it genuinely does develop in our national interests.

The European summit on December 9 in Maastricht will be a time of testing for the developing world order. It may help to determine the direction of U.S. diplomacy in the years to come.

TRIBUTE TO JUDGE PELHAM JONES MERRILL

Mr. HEFLIN. Mr. President, it is with sorrow that I rise today to pay tribute to the life and career of the late retired Alabama Supreme Court Justice Pelham Jones Merrill. My friend and former colleague died on November 5 at the age of 84. Public service was truly in the blood of this teacher, legislator, and distinguished jurist from Cleburne County, AL.

His grandfather, J.W. Jones, served in the State legislature; his father, Circuit Judge Walter B. Merrill, served as a State senator and representative; an uncle, Ralph Jones, was a Senator and House Member; another uncle, Hugh D. Merrill, Sr., was Lieutenant Governor, a State senator, and House speaker; and a third uncle, John W. Abecrombie, served as a Member of Congress from Alabama, as an Acting Secretary of Labor under President Woodrow Wilson; and later as president of the University of Alabama. It is no wonder, then, that such a lineage produced a man of accomplishment like Pelham Jones Merrill.

Attending local schools and entering the University of Alabama at the age of 14, Pelham Merrill graduated at the age of 18. He taught school and coached for 5 years, eventually becoming the Bibb County supervisor of opportunity schools, where adult men and women learned to read and write.

He earned his law degree from Alabama in 1934 and soon became active in local and State Democratic Party politics. Beginning in 1936, he served in the State legislature, but left the political arena in 1942 to join the Air Force. After World War II, Pelham was elected to two terms in the legislature, twice serving as House Speaker pro tempore. He became Justice Merrill in 1952, when he was elected to the State's highest court. He served there as an associate justice until his retirement in 1976.

During his illustrious career, Judge Merrill worked diligently to improve Alabama's judicial system. He wrote numerous articles on the subject, and authored bills creating the courts of criminal and civil appeals. A Mason and American Legionnaire, he was a member of the Farrah Law Society; American Bar Association; American Judicature Society; Alabama State Bar; and the Alabama Law Institute.

Among his many honors and achievements were his election in 1978 to the Alabama Academy of Honor; his receiving the dean's award from the University of Alabama and Cumberland Schools of Law; and his being awarded the Eugene W. Carter Medallion, presented to him by the Administrative Law Section of the Alabama Bar.

Mr. President, Judge Pelham Jones Merrill's contributions to the administration of justice are countless. He displayed wisdom, amiability, and kindness on the bench and in the conference room. His persistence in the study of cases assigned to him and the promptness in which his decisions were made brought honor to the court. His opinions evoked outstanding comment from legal scholars all over the Nation, and were noted for their soundness, clarity, and forthrightness. He was truly a judge's judge. Everyone who served on the Supreme Court of Alabama with him always considered him to be Alabama's finest jurist. Like others who knew and worked with Judge Merrill, I considered it a tremendous pleasure and privilege to have served with him.

I extend my heartfelt condolences to his wife, Gladys, to whom he was married for 55 years, and to his entire family. One of Judge Merrill's favorite quotations, from Daniel Webster, epitomized his career:

> I shall be content if, when my days are numbered, it can truthfully be said of me that with such ability as I possessed, and whenever opportunity offered, I labored faithfully, to build this temple higher in my time.

If we assume that Pelham Merrill's "temple" was his State and its judicial system, then we know that he was very contented when he left us, for he did indeed leave his temple "higher during his time."

Mr. President, I ask unanimous consent that an article on Judge Merrill's career be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Montgomery Advertiser and Alabama Journal, Apr. 26, 1987]

SPECIAL ROOM TELLS THE TALE OF JUDGE'S ILLUSTRIOUS CAREER

(By Alvin Benn)

MONTEVALLO.—Pelham J. Merrill—teacher, coach, lawyer, prosecutor, soldier, legislator, Alabama Supreme Court justice and civic leader—has found a repository for mementos of his illustrious career.

It's a special room at Reynolds Hall at the University of Montevallo, and at 2 p.m. today friends from throughout Alabama will be on hand to help the 79-year-old Merrill dedicate it.

Credit for the room belongs to Merrill's wife of 51 years, a woman who has spent her life as his faithful companion, traveling partner and, at times, press agent.

"My husband has had careers in many fields and I felt they should all be preserved," said Gladys Merrill, as she took a breather from hanging up some of the certificates in the room.

The walls are filled with memories of a man who went to the University of Alabama at the age of 14 and used the head start as a springboard into multi-faceted careers.

His life hasn't surprised those familiar with the Merrill family. His father also was a lawyer, legislator and judge.

Pelham Merrill went him one or two better, however, and came away with some priceless stories about the movers and shakers of Alabama who held sway for more than half a century.

One of the most colorful was James E. "Big Jim" Folsom, a two-term governor whose career included some bizarre happenings—some apocryphal, but taken as the gospel today.

One belief held by many credits Folsom with shooting into the ceiling of the Montgomery Country Club during a reception many years ago.

Such was not the case, says Merrill, because he was there and knows who did it.

"Most folks there had taken several nips and a sheriff near us was just plain drunk," he said. "He kept telling a particularly boring speaker to shut up and when he didn't the sheriff pulled out his pistol and fired it into the ceiling."

Folsom, known to have taken a nip or two himself in his lifetime, was as sober as the judge during the event and was not about to leave.

"We all knew he'd be blamed for it and we wanted to get him out of there," Merrill said. "He went upstairs because he was afraid somebody might have been hit by the bullet."

No one was.

They were able to spirit Folsom out of the country club, and though he was innocent, the legend of Big Jim and the ceiling shooting was born.

That incident occurred decades after Merrill already had established himself as one of Alabama's leading citizens.

He had been a teacher and coach at West Blocton High School, where he taught the

VOL 137
PT 23
NO 21–25
1991
UMI

first seven classes and then was "allowed" to get the football team into shape late in the day.

His 13-member team had not won a game the year before he arrived. In his first year, they lost only one game and won the county championship.

His love of football remains, perhaps because of his closeness to the University of Alabama's famed Crimson Tide and the legendary Johnny Mack Brown.

The two were in the same class during the 1920s and Merrill remembers Brown as a talented runner with good looks and little gray matter.

"He was one of the finest and dumbest boys I ever met," he said of Brown, who helped Alabama win a Rose Bowl game and then captivated Hollywood with his Southern charm and chiseled features.

Brown, who became a leading man before turning out dozens of "B" westerns, must have been reading cue cards because he surely couldn't remember his plays in the huddle, Merrill said.

"Our coach was Hank Crisp and he kept telling Johnny Mack he'd make him a star, but he would have to remember his plays in order for that to happen," Merrill said.

Brown frequently called his own number to run the ball because he had difficulty remembering what the other players were supposed to do, he said.

When Merrill finally set up his law practice in Claburne County, he found out the Depression did not differentiate between rich and poor. Few had any money.

After one of his first months in practice, Merrill said, he and his partner had $7.00 left after paying their secretary and the rent.

"He got $5 because he was the senior partner," Merrill said. "Guess who got the $2!"

Merrill also found politics to his liking during those days and was elected to the Legislature three times from Claburne County.

He served in the Army Air Corps during World War II, then returned to the Legislature, where he gained the distinction of being the only person ever elected twice as speaker pro tem of the House of Representatives.

In 1947 he was named "Most Resourceful Member of the House" and in 1951 he was named "Most Effective Member" of the lower chamber.

In 1952, Merrill was elected to the first of four six-year terms on the Alabama Supreme Court.

He and his colleagues served during the most turbulent period of Alabama's history following the Civil War.

The civil rights movement emerged after the U.S. Supreme Court's decision to end segregation of schools, which was supported by Congress until 1964, Merrill said.

"Sure I supported segregation in those days," he said. "It was the law of the state and the land. If Congress had taken some action to end it before 1964, (that action) would have been supported at that time, too."

One of the U.S. Supreme Court's most illustrious justices during that period was Hugo Black, a man from Merrill's east Alabama stomping grounds who had to overcome the bad publicity about his Ku Klux Klan membership before gaining admission to the highest court in the land.

"Regardless of what FDR or anybody else had to say about him, he was one of the leading Ku Kluxers in the state," Merrill said. "He knew it was politically helpful in Alabama to be a friend of the Klan.

Black eventually became one of the Supreme Court's leading liberals and was constantly castigated in Alabama because of his pro-civil rights opinions.

For Merrill, his election to the Alabama Supreme Court proved to be the highlight of his career.

He said he loved the legal reviews and enjoyed writing lengthy opinions when they were justified.

Many justices said the work was arduous, but Merrill said it tended to keep his adrenalin pumping during most of the quarter century he served on the panel.

His reviews led some men to the electric chair and others to the bank to collect big judgments.

The case he remembers most involved a grain company and a takeover attempt by one of the stockholders.

It had little of the drama of a capital case, but money and greed tended to generate a special excitement.

According to Merrill, the case filled 26 or 27 volumes and became the most drawn-out appeal in Alabama history.

"It took a whole week just to hear the argument from the two sides," he said. "It was really something. I remember the stockholders used to go to Europe to discuss the price of wheat. It had that kind of element."

Merrill, inducted in the Alabama Academy of Honor in 1976, enjoys his many successes and the company of the woman who has been with him every step of the way.

They haven't had any children and look to the UM Merrill Room as the perfect place to preserve memories of a remarkable life.

For Gladys Merrill, the room is a dream come true.

"I've been thinking about it for a long time," she said. "It's a bit belated, but this is my golden wedding anniversary gift to him."

TO EXPRESS GENERAL RIDGWAY'S GRATITUDE FOR THE CONGRESSIONAL GOLD MEDAL

Mr. THURMOND. Mr. President, recently I had the pleasure of accompanying Senator NUNN, the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, and the Vice Chief of Staff of the Army, Gen. Dennis Reimer to present the Congressional Gold Medal to Gen. Matthew B. Ridgway.

I want to report to the Senate that I was deeply moved, as were the other members of the entourage, when General Powell presented the medal to this distinguished patriot and military leader. It appeared that General Ridgway was deeply honored to be recognized for his service to this great Nation.

Mr. President, on behalf of General Ridgway, Senator NUNN, Senator WARNER, and I wish to express his gratitude and thanks to the Congress of the United States for the honor accorded him. I also ask unanimous consent that the letter from General Ridgway which expresses his sentiments be included in the RECORD following this statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GEN. M.B. RIDGWAY,
Pittsburgh, PA, November 21, 1991.

Hon. SAM NUNN,
Hon. JOHN W. WARNER,
Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR STROM: Please accept my deepest appreciation for the honor which you and your distinguished colleagues have accorded me, so movingly embodied in the venerable Congressional Gold Medal and so warmly spoken to in the Senate Chamber and in Conference.

I am, of course, by no means the ultimate honoree. That which you have bestowed upon me properly accrues to the thousands of men and women with whom I have been privileged to serve in the cause of freedom that has touched the lives of so many others in so many different lands.

In remembrance of them and on their behalf, I hope you will convey my gratitude and and thanks to the Congress of the United States.

With deepest respect,

M.B. RIDGWAY,
General, U.S. Army, Retired.

GEN. M.B. RIDGWAY,
Pittsburgh, PA, November 21, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Your gracious letter of 22 October is deeply appreciated. My only regret is that I was not able to travel to Washington. However, General Powell represented you superbly in conveying your good wishes.

I am not unmindful of the seriousness of this considered action of Congress, which not only has included the efforts of Senators Nunn, Warner and Thurmond, but has involved the concern of the Department of Defense, and, most particularly of your own, in arranging the Congressional Gold Medal ceremony in Pittsburgh last week.

As I wrote to the Senators, that which you have bestowed upon me properly accrues to the thousands of men and women with whom I have been privileged to serve over many years.

On their behalf, as my own, I thank you for your personal interest and testimony.

With deepest respect,

M.B. RIDGWAY,
General, U.S. Army, Retired.

FISCAL YEAR 1992 DEPARTMENT OF DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. ADAMS. Mr. President, I take this time to indicate my support for, and I will vote for, the 1992 defense authorization conference report. Despite some reservations that I have about a number of issues, this bill contains several extremely important provisions for the State of Washington.

I am extremely proud of the provisions that establish a trust fund for the cleanup of nuclear waste at Hanford. This was one of my primary goals when I first came to the U.S. Senate in 1987. Today, this proposal is a reality.

Based on legislation I introduced earlier this year, the provisions, sections 3134 and 3135, fulfill the five critical objectives set out in my bill, S. 1462.

First, the legislation establishes a separate, environmental restoration and waste management trust in the Treasury.

Second, safeguards will assure that moneys put into the trust fund are used for nuclear waste cleanup at Hanford and other defense nuclear facilities around the country—and for this purpose exclusively. Money cannot be diverted to defense production or other purposes, as in the past. This has been a big problem for us with the Department of Energy. It will be a problem no more.

Third, the provisions establish greatly needed oversight over the waste cleanup process. They create a direct linkage between waste cleanup activities and waste cleanup agreements, like Hanford's Tri-Party Agreement. These agreements make sure cleanup funding and activities meet local and State laws and needs. The target completion date of 2019 is specifically included in the legislation to help avoid any slippage in DOE's commitment to critical cleanup.

Fourth, the provisions guarantee public participation in the cleanup process. This has been sorely missing. In such a sensitive area, it is no surprise that the absence of public input into DOE's plans may have been more through intent than oversight.

This bill requires consultation with Governors, attorneys general, affected Indian tribes and, most importantly, the public at large in developing 5-year cleanup plans. Section 3135(c) specifically makes $20 million in grants available to States to facilitate such participation and public oversight of the process.

Finally, the bill gives environmental restoration and waste management activities greater weight and visibility at DOE. The managers' statement specifically directs that an office, headed by an Assistant Secretary, be designated in DOE to carry out these activities.

The cleanup of defense nuclear waste is an overwhelming prospect. We are talking about the safety of hundreds of thousands of Americans. Dozens of communities. We are also talking about tens of billions of dollars. The figures boggle the mind.

This legislation gives the people of the Tri-Cities in Washington, and in other communities throughout this Nation, a fund dedicated to making their environment safer. To making their lives safer. I am proud of this bill, and look forward to assuring its implementation in the coming years.

I would also like to point out that this bill will fund my request of $5 million for the Hanford Health Information Network, $1.6 million in fiscal year 1992 and $1.8 million in fiscal years 1993 and 1994. This crucial program helps disseminate information to the people of Tri-Cities about radiation exposure that is or may affect their health.

Other programs for which I requested funding in this bill are the Environmental and Molecular Sciences Lab, which will receive $17.1 million in fiscal year 1992, and section 801 housing for service families at Whidbey Naval Air Station, which will receive $21.11 million in fiscal year 1992. Enlisted families currently wait up to 17 months for adequate housing. These funds should help meet the pressing housing demands at Whidbey.

Mr. President, at this point I wish to extend my deep appreciation to Chairman NUNN, and especially to Senator EXON, who worked closely with me in crafting the Hanford Trust fund provisions. I also wish to acknowledge the outstanding work of Ms. Madelyn Creedon, who assisted me and my staff in drafting the trust fund provisions.

This legislation is a tremendous step forward for defense environmental restoration, the rights of women in the military, and in a limited number of other areas. I support it for these reasons.

I have profound reservations, however, about the amount of taxpayer money that this bill will spend on outdated and unnecessary weapons programs. The bill authorizes $290.8 billion in fiscal year 1992, several billion dollars more than the fiscal year 1991 authorization.

Has nothing changed over the course of the last year? I am astounded that we are still arming ourselves for a showdown with the evil empire. There is no more empire.

We live in a changed world. Both the United States and the Soviet Union have announced massive cuts in their nuclear arsenals. More importantly, the Soviet Union no longer poses the same threat it once did to United States security. The Pentagon has downscaled the Soviet Union to a risk.

A $4.15 billion program for SDI has no place in this new world. Breaking the ABM Treaty, which the SDI provisions of this bill almost inevitably lead to, has no place in this world.

The same is true for the majority of the other strategic programs in this bill. We have agreed not to build more than 15 B–2 bombers. But this bill authorizes $1.8 billion for R&D on this airplane. This does not make sense.

These are substantial sums of money. Every day we hear pleas from the American people to help fix the economy, to offer better education and better health care. We have better uses for this money. I urge my colleagues to rethink their priorities.

DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. MITCHELL. Mr. President, section 334 of H.R. 2100, the National Defense Authorization Act for fiscal years 1992 and 1993, provides that the Department of Defense is to complete, not later than 36 months after enactment of this act, all draft final remedial investigations and feasability studies [RI/FS] at bases scheduled to be closed pursuant to the Base Closure Act of 1991 that are listed on the National Priority List. This provision affects the State of Maine in that the Department of Defense must now complete the RI/FS's for Loring Air Force Base within 3 years from the date of enactment. This new completion date is several years sooner than the time period originally thought necessary and agreed to by the Environmental Protection Agency [EPA], the State of Maine and the DOD.

I am concerned that some States, such as the State of Maine, are under such severe budgetary limitations that the State may not be able to obtain adequate funding or qualified personnel to oversee the expedited completion of the RI/FS as mandated by section 334. This potential lack of funding or personnel could also apply to the Environmental Protection Agency.

The RI/FS is necessary in order to understand the extent of the contamination at the base and to identify cleanup mechanisms. Only a thorough RI/FS can accurately assess the extent of the contamination at the base and identify appropriate cleanup methodologies. Quick completion of the paperwork should not be the sole object of this legislation.

I am further concerned that we may end up in a position a few years hence in which the Department of Defense is racing to complete the RI/FS's and the quality of environmental protection is undermined as a result. Clearly it is in the best interest of affected communities to have the base cleaned up and available for reuse as soon as possible, but environmental and health protection standards should not be compromised as a result.

I understand that section 334(c) provides for an extension of the deadlines established in the legislation in certain situations.

Mr. NUNN. The majority leader is correct in his understanding. Section 334(c) was included to address the problem that he has identified, as well as other situations. I would expect the DOD to request an automatic extension in cases where the Federal Environmental Protection Agency or the State expresses an inability to adequately oversee the RI/FS process due to a lack of funding, a lack of qualified personnel, or both.

We must ensure that cleanup of closing bases remains a high priority and that there are no unnecessary delays. At the same time, we must also ensure that the cleanup process is conducted in a manner that is consistent with all environmental requirements, and that will protect human health.

Mr. KOHL. Mr. President, last night we passed a $70 billion bailout for the Nation's banks by voice vote—presumably because the leadership was afraid that if Members had to publicly record their position on such an unpopular bill, the measure would have been defeated. Today I am afraid we are about

VOL
137
PT
23
NO
21
—
25
1991
UMI

to pass a $290.8 billion bailout for the Nation's defense industry by a recorded vote—presumably because the leadership wants to give Members an opportunity to get some political credit for supporting national defense.

The irony would be amusing if it was not so frightening.

I have no idea why supporting this Defense Authorization Act will generate political credit for anyone. As it has for the past 2 years, this legislation makes a rhetorical bow to the changing world in which we live. The speeches made by the proponents of this legislation recognize that the disintegration of the Soviet state and the Soviet threat has changed our national defense needs. Those speeches also acknowledge the economic and political ability of our allies to carry a greater share of the burden of preserving the peace and creating a new world order. And those speeches also pledge a complete reexamination of our defense programs and strategy, with an emphasis on reducing spending on unnecessary system, because the largest danger we face now is economic rather than military.

They are fine speeches.

But the details of the legislation does not mirror the language of those statements. Let me give you some examples.

As Senator LEAHY—who led the fight to terminate the B-2—pointed out last night, this bill really does not achieve that goal, despite claims to the contrary. I will not repeat his arguments today; suffice it to say that any bill which kills a weapon system by authorizing an additional $4.4 billion in spending on it is an amazing piece of work. And it is not just the B-2. Once again we have killed the V-22 Osprey by authorizing almost $1 billion in spending, despite the objections of the Department of Defense. We killed the F-117 by authorizing over $600 million for that program, despite the objections of the Department of Defense.

This list goes on, Mr. President. And my point is simply this: If the Department of Defense eliminated our enemies as well as the Congress eliminates unnecessary programs, we would either have surrendered or still be fighting in the Persian Gulf, in Korea, in Europe and Japan—and maybe even here at home in a desperate effort to win the Revolutionary War.

In addition, Mr. President, although I supported the latest vision of SDI—the so-called GPALS or global protection against limited strikes—I never in my most cynical moments thought that we would authorize $4.15 billion for the program. That is over $1 billion more than we authorized last year when we were still working on a concept of space based defense that had guided our research and development efforts for a decade. Now we have a new approach—a more limited, ground based system which builds on technology already in place—but instead of making a limited investment in this approach, we are throwing more money at it. That makes no sense in terms of traditional research and development strategy.

Finally, Mr. President, I would commend to my colleagues and to the country the argument advanced last night by Senator SASSER, the chairman of the Budget Committee. From his perspective as a person who looks at the overall spending of our Government—and deals with the staggering deficit that spending has produced—he rejects the approach taken in the bill because it does not reflect the priorities this Nation needs to set. Is defense spending down? Yes. Has it gone down as dramatically as the threats we face have declined? No. Is the level of defense spending appropriate given the other needs we face here at home—the need to improve our educational system, rebuild our highways and roads, make health care available and affordable, increase incentives for business development and job creation, give middle income Americans some tax relief? Absolutely not. We can not finance all of those needs through cuts in defense; after all, one of Government's most basic obligations is to "provide for the common defense." No one wants, and I would not support, a defense budget that failed to achieve that goal. But, Mr. President, this budget is excessive. We do not need it and should not support it. I vote no.

Mr. SANFORD. Mr. President, I want to commend the members of the Senate who have worked for the past 4 months to bring to the floor the conference report of the National Defense Authorization Act for fiscal year 1992-93. On August 2 of this year the Senate passed its version of the Defense authorization bill. There were world events that greatly altered the threat to our national security and those events have been factored into this legislation before us. Also factored into this legislation are our own domestic needs and the performances of our personnel and equipment during the war in the Southwest Asia.

Every State in the Union is affected by this bill in some manner. For North Carolina the legislation is of vast significance. Fort Bragg, Camp Lejune, Cherry Point Marine Corps Air Station, New River Marine Corps Air Station, Pope Air Force Base, and Seymour Johnson Air Force Base are all located in North Carolina. Twenty-five percent of the forces deployed in Operation Desert Shield and Operation Desert Storm came from these installation. This authorization conference report will provide for the beginning stages of a new medical center for Fort Bragg that would serve not only to benefit the soldiers and dependents located there, but all of the active duty military in North Carolina, surrounding States, and military retirees and their dependents.

It must be noted that the National Guard and Reserve are a vital part of the total force structure of the U.S. military. Approved in this legislation is $1.05 billion for equipment modernization for National Guard and Reserve units. The Air National Guard Unit based in Charlotte, NC, has for years maintained levels of proficiency above those of active duty units. They have done so with the oldest aircraft in the Guard. They are now scheduled to have those aircraft replaced thanks to this legislation.

Mr. President, H.R. 2100 benefits segments of the civilian population of North Carolina as well. At the beginning of the 102d Congress, the Desert Storm Personnel Benefits Task Force worked to offer emergency assistance to small businesses adversely affected by Desert Storm. As I mentioned earlier, there were tens of thousands of soldiers, sailors, airmen, and marines that left North Carolina for the Middle East. Those military personnel were also consumers and areas surrounding military bases were economically devastated during their deployments. Section 1087 serves to directly assist small business that suffered drastic losses due to the large deployments associated with the gulf war.

I wish to commend the conferees for taking note of the lack of funding made available to historically black colleges and universities that would like to either enter into or expand efforts in research programs sponsored by the Department of Defense. In addition to five predominantly black institutions of the University of North Carolina system whose chancellors advocated such action, North Carolina is home to six of the United Negro College Fund colleges and universities that would also benefit from section 812.

So much attention is given to the large ticket items of defense legislation. Most Americans are familiar with B-2 bombers, Patriot missiles, and Star Wars weapons, but the Defense authorization bill is so much more than hardware. The provisions that provide pay research funding, housing and numerous other nonhardware items so important to the infrastructure of our national security establishment are the ones that concern me most. The cold war is ended and the Congress must focus on the essentials when debating defense legislation. H.R. 2100 does just that and I give it my strong support and implore my colleagues to do so similarly.

Mr. DOLE. Mr. President, there are many important aspects to this conference report, hard won compromises on tough issues. On balance, this is a good bill that will provide for our security needs, begin the deployment of ballistic missile defenses, and continue modernization of many aspects of our force structure.

In addition, there are several programs important to my State of Kansas. Programs that represent jobs and make major contributions to our national security. But Mr. President, I intend to vote against this conference report and I want to take just a minute to discuss my reasons.

The position taken by the conferees on the B-2 bomber is so out of line with regard to our future security needs, and so terribly wasteful with our scarce defense dollars that I cannot abide by it. Although the Senate position, which I fought hard to sustain during our deliberations on the Defense authorization bill, provided for four additional B-2 bombers, this conference report supports only one. And that single aircraft cannot be built unless the Congress votes once again to allow it. This makes no sense.

I supported amendments that ensured the B-2 completes the required testing to prove that the bomber will work as advertised. In my view, that is a prudent approach. But to buy one bomber at a time, purposefully driving up the cost so that opponents can stand in mock horror about the price tag is irresponsible—and I won't be a party to it. This report provides enough money to buy three or four B-2 bombers but it spends billions to buy nothing.

Opponents claim that the B-2 is a waste of money. I don't believe that, but I do believe that spending money on a bomber that the Congress refuses to build is a waste—a waste of taxpayers money, a waste of our technology, and a wasting away of our future security.

In my view, America needs the B-2 bomber. It is insurance for an uncertain future. And without the B-2, the bomber leg of the triad will become obsolete. So, I think we should face facts here instead of playing games with the taxpayers' money.

Mr. KERREY. Mr. President, I would like to express my opposition to the conference agreement on the fiscal year 1992 Department of Defense authorization bill.

I have decided to oppose this agreement because it does not adequately reflect changes that have taken place both in the world and in this country. The level of defense spending provided in this bill was set out in the budget agreement negotiated between Congress and the administration in October 1990. Since that agreement was fashioned, the failed coup in the Soviet Union demonstrated that the nature of the threat against which we had been preparing to defend ourselves is far different than we thought. The world looks like a much different place than when we passed the budget agreement in October 1990 or when we passed the Senate's version of the fiscal year 1992 DOD authorization in August 1991.

Other things have changed as well. CBO recently estimated the fiscal year 1992 budget deficit at $362 billion, far higher than earlier estimates of $280 billion and far in excess of the total amount we spend on domestic discretionary programs such as education, transportation, agriculture, and the environment. Moreover, the demand for additional attention to vital domestic needs grows stronger every day.

I do not advocate simply cutting defense spending and increasing social spending to meet out needs. However, I do believe we need a fundamental reassessment of our priorities to allow us to build for greatness. This is particularly true in the case of our defense and domestic needs and in the wake of the Soviet coup.

This conference agreement reflects a cold war defense. It does not provide for a restructured military that conforms to the new realities of the post-cold war world. We must reassess our needs, maintaining our military superiority on a global basis, but not arming against an enemy that no longer exists.

We must question the approval of funds for unproven weapon systems when, at the same time, 37 million Americans have no health insurance, we do not fully fund our education needs or programs like Head Start, and, of course, when the national debt is pushing $3.5 trillion.

I think it is important for us, now and in the future, to develop a consensus about what this Nation needs in the way of strategic defense, keeping in mind that true national security involves more than spending billions of dollars on SDI or determining how many bombers to build. It will involve responding to new challenges in our education, transportation, health, and nutrition programs.

I'd like to comment on two specific aspects of the conference agreement. First, I am disappointed in the $4.15 billion figure authorized for the strategic defense initiative. This figure is substantially higher than the $2.9 billion authorized in last year's budget. I have serious concerns about this system, which is intended to develop defenses against short-range and long-range missiles, including its impact on the ABM Treaty. I remain unconvinced that SDI is either technically feasible or necessary—or that we can afford it.

I was pleased to see the conference agreement include a provision barring further production on the B-2 bomber beyond the 15 previously authorized. I am also encouraged by the bill's insistence on both House and Senate approval before any future procurement funding can be applied to the building of a new plane. I believe this one measure is a step in the right direction, but it is not enough.

I do not believe we should lower our defenses, but we must modify them to address changing threats, both domestic and international. I believe this defense budget is a product of yesterday's world.

Mr. NUNN. Mr. President, this conference report includes provisions that will have a major impact on the assignment and role of women in the military services, and I want to take a few moments to summarize these important provisions.

Under current law, women are prohibited from being assigned to combat aircraft in the Air Force, and women are prohibited from being assigned to combat aircraft and combat ships in the Navy. Women are prohibited from being assigned to combat aircraft in the Army by regulation.

Both the House and Senate versions of the Defense authorization bill this year included a provision that would allow women to be assigned to combat aircraft. This provision would do so by repealing the Air Force law, and that portion of the Navy law that prohibits the assignment of women to combat aircraft. Women would still be prohibited from being assigned to combat ships under both the House and Senate provisions, except that women could be assigned to these ships as aviation officers as part of a carrier air wing or as part of an air element assigned to other ships.

This conference report includes this groundbreaking provision. Women will soon be eligible to be assigned to combat aircraft in all of the military services. I am confident that women aviators will serve well in these new assignments.

Mr. President, the Senate bill also contained a provision that would require the President to appoint a commission of 15 members to conduct a comprehensive study and make recommendations on the assignment of women in the military services. The conferees agreed to include this provision in the conference report.

The commission will look at a series of issues involving the assignment of women in the military services, including social and cultural factors in the military workplace; mental, physical and other job requirements for serving in combat positions; public attitudes in the United States regarding the service of women in the military; and the legal and policy implications of opening combat positions to women on a voluntary basis.

During the course of the commission's work, the Secretary of Defense will be authorized to temporarily waive any laws or policies that restrict the assignment of women so that women may be assigned to any skills or positions in the military services on a test basis.

The commission will make a final report to the President by November 15, 1992, and the President is required by this provision to forward the commission's report to the Congress by De-

VOL
137
PT
23
NO
21
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25
1991
UMI

cember 15, 1992. The President's report to the Congress will contain his recommendations on whether existing law and policies regarding the assignment of women in the military should be retained, modified or repealed; what roles women servicemembers should have in combat; what transition process is appropriate if women military members are to be given the opportunity to be assigned to combat positions; and whether special conditions and different standards should apply to women than apply to men serving in similar military positions.

The work of this commission will be very important, Mr. President. I look forward to reviewing the commission's report and the President's recommendations on this matter.

All of us are aware of the many outstanding contributions of women in our military services, most recently in the Persian Gulf conflict. Indeed, this provision was inspired in large part by the dedication, professionalism, and sacrifice of the women soldiers, sailors, marines, and airmen who served their country with such distinction during Operation Desert Shield and Desert Storm.

FAIR COMPROMISE ON TOUGH ISSUES

Mr. GORTON. Mr. President, I would like to take a few moments to discuss H.R. 2100, and the fiscal year 1992 DOD reauthorization conference bill. I applaud both committees for their diligence in putting together a fair compromise on tough issues such as the strategic defense initiative, and the B–2 bomber. Not since World War II, has Congress had to budget for our Nations' defense in a time when the world has endured such dramatic changes. As a former member of the Senate Armed Services Committee, I can appreciate the hard work required to complete this bill, particularly in these very difficult times of massive international and military reforms.

B–2

The continuation of the B–2 bomber program is one of the most contentious issues faced by Congress today. I must admit that, when I was first elected as Senator, I had serious reservations concerning the need for this aircraft. I have since come to know the importance of this aircraft to our Nation's security, and have actively supported the continuation of the B–2 program. Although this bill does not comply with the Senate's decision to procure funds for four aircraft, it does authorize funds to keep the production lines open, and allows the Secretary of Defense to reexamine the B–2 program due to recent low observability testing problems. Upon completion of this review, both Chambers will be given a second look at the program, and will hopefully vote to authorize $1 billion for the procurement of one new aircraft. I am confident that the Secretary will find the B–2 aircraft acceptable and will continue to lend his support for the program.

SDI

America deserves the protection provided by technologies such as the strategic defense initiative because of the increased threat posed by the proliferation of independent, newborn states and a concern that political instabilities found worldwide could increase the potential for ballistic missile use, including accidental and unauthorized launches.

Nobody can predict what will unfold in world events, and it is premature to cut back on strategic defenses based on the assumption that all will change smoothly. For instance, the nuclear weapons outside the Russian Republic may be returned safely, and then again they may not. The Soviet Union may dissolve peacefully, and then again it may not. Who is to say how the course of events will unfold? But until we know exactly what will transpire, we must continue to perfect our strategic defenses to protect America and its allies against an unpredictable future.

I am pleased to note that the conference report generally reflects the language of the Nunn-Warner Missile Defense Act. Under this provision, the President is encouraged to begin negotiations on amending the ABM Treaty to permit defenses at multiple sites and sets a 1996 deployment date for a ground-based system and/or when the technology is feasible. Let me add here, that I think this additional language is both reasonable and necessary to ensure that the system we develop is the best possible.

WOMEN IN COMBAT

The Persian Gulf illustrated that women are an integral part of our national defense. As we have recently witnessed, the military duties that women perform can put them in areas of considerable danger. They have also proven themselves to be capable pilots; women have flown successful reconnaissance and refueling missions in Grenada, Panama, and the Persian Gulf. This bill will allow women to fly in combat aircraft with the stipulation that the Secretary from each military department may prescribe the conditions under which women may be assigned to aircraft engaged in combat.

Women have been flying military aircraft for over 20 years, and have proven themselves to be skillful pilots. This legislation opens a window of opportunity for women who have chosen to make military aviation a career.

There is, however, a significant amount of information to evaluate before we lift combat restrictions across the board. I support the provision directing the President to set up a commission to study the effects of women in military combat.

801 HOUSING: NAVAL AIR STATION WHIDBEY ISLAND

I would also like to take this opportunity to discuss a particular problem facing Naval Air Station Whidbey Island. This year, I amended the Senate DOD authorization bill to include NAS Whidbey on the list of bases to receive long-term leases for the construction of military housing. This particular provision remains in the conference bill and I would thank my colleagues on the committee for their support of the 801 program. I would also like to add that I am deeply committed to this project, and will continue to work with the Navy to ensure the construction of housing at Naval Air Station Whidbey in the very near future.

DEFENSE WASTE PRIVATIZATION

The Senate version of the authorization bill contained a provision based upon S. 1030, a bill that I introduced earlier this year. This provision would have expanded the Department of Energy's authority to enter into contracts with private industry for the cleanup of defense wastes. Such authority would enable DOE to bring the competitive spirit of the private sector to bear on cleanup of DOE waste sites, and would allow DOE to allocate its resources more efficiently. Increased privatization would also attract new commercial entities to communities near DOE sites, adding to the diversity of their economies.

Unfortunately, the privatization provision was dropped in conference. Although the conferees stated their support for increased privatization, there were a number of technical issues that they could not resolve. I look forward to working with my colleagues on these issues next year, and hope that together we can pass a privatization bill.

SMES

The conference agreement increases the authorization for the Superconducting Magnetic Energy Storage [SMES] Program to $20 million, and directs the obligation of $10 million in unobligated fiscal year 1991 funds. I am pleased that the conferees recognized the many benefits that could result from the successful operation of a full-scale SMES test model.

Partly because of its potential applications in the defense sector, SMES has been placed on the critical technologies list by the Department of Defense. But SMES also shows great promise as a means to increase the flexibility of the U.S. electrical distribution system. In my own State, SMES could solve peak loading problems in the Puget Sound area, and could help protect endangered and threatened stocks of salmon. For this reason, the conference agreement directs the Department of Defense to work with the Department of Energy in developing the SMES Program. I encourage the Department of Energy to be a willing and creative partner in this endeavor.

YAKIMA FIRING CENTER

Briefly, I would like to thank the members of the committee for their

support in funding the expansion of the Yakima Firing Center. I feel that the compromise reached on the expansion accommodates all affected parties, and that the amount allotted for the project, although lower than the budget request, is both reasonable and fair.

Mr. President, I have a strong commitment to the above items, and would again like to commend the Armed Service Committee for its work in completing a very difficult and complex bill.

ARMOR COMBAT TANK BADGE

Mr. McCONNELL. Mr. President, although I will vote for final passage of the conference report accompanying H.R. 2100, the National Defense Authorization Act for fiscal year 1992 and 1993, I want to take a moment to speak on a provision which was deleted from the Senate's bill in conference.

In early August, I offered an amendment to the DOD bill requiring the Secretary of the Army to report on the feasibility of establishing an armor combat tank badge. I had hoped that through such a report, additional information and support for this badge could be gleaned.

Our armor soldiers are a unique breed of warrior, capable of rapidly engaging enemy forces throughout a theater of combat. If there is a ready lesson from Operation Desert Storm, it is that our armor forces are vital on tomorrow's battlefields.

Mr. President, I'd like to conclude my remarks by personally thanking the many supporters of my amendment. I'd like to single out the council of Armored Division Associations in Louisville and its chairman, Edward Reed.

Mr. BAUCUS. Mr. President, I rise in support of the National Defense Authorization Act covering fiscal year 1992–93.

This bill is far from perfect. I believe that in several regards, our defense policy remains bound by a cold war mindset. The effect of this mindset is not benign. Preoccupation with yesterday's war keeps us from focusing on the important struggles of today and tomorrow.

But we have taken a step in the right direction. In my view, key elements of this bill include the maintenance of a core nuclear deterrent; significant cuts in certain cold war era weapons; and the provision for a missile defense system to counter terrorist, accidental or rogue firings.

CORE NUCLEAR DETERRENT

Since World War II, international peace has rested upon the balance of nuclear terror. Fundamental change in the Soviet Union has changed forever the face of international security. Nevertheless, the world is in many ways more unstable today than at the height of the cold war. America continues to need a core nuclear deterrent.

One of the front line facilities in the maintenance of this deterrent is Malmstrom Air Force Base in my home State of Montana. In accordance with the START Treaty, Malmstrom is in the process of deactivating its Minuteman II missiles. These will be replaced by more modern Minuteman III's. I was extremely concerned at the potential effects of an amendment to the defense authorization bill that could have impeded the shift to Minuteman III's. Fortunately, clarifying language has been added to the conference report to insure that Malmstrom's modernization efforts will not be delayed.

SIGNIFICANT CUTS

I believe that our country continues to spend too much on defense. In a time of a diminished Soviet threat abroad and a budgetary crisis at home, we need to carefully marry our national security decisions to the nature of the threats we face.

We need defenses structured to address major regional conflicts such as the recent gulf war. This bill gives strong support to the weapons that were most important in winning the gulf war. We also need to realize that the most significant struggle facing America today is economic—a commercial battle with the Japanese and Europeans. In this arena, I strongly support the Defense Advanced Research Projects Agency's efforts to foster cooperation between the Government and private sector research organs. More programs like DARPA are needed.

We do not need weapons designed uniquely for a total war scenario with the Soviet Union. For many years, I have opposed the production of the B–2 bomber. This plane was designed for a scenario of total nuclear war. Despite the feeble repackaging effort of its proponents, the B–2 has no conventional mission not already covered by existing weapons systems—especially at the staggering cost of $860 million a copy. I would liked to have seen the B–2 eliminated altogether. At the very least, I hope the minimal funding for the plane signals its deathknell.

STRATEGIC DEFENSE

Strategic defense represents another area where this bill makes important progress, but continues to suffer from a cold war mindset.

I support the deployment of a limited, ground-based missile defense system. Instability in the Soviet Union has raised serious questions about the security of the Soviet's far-flung nuclear arsenal. Moreover, the Scud missiles of the gulf war provided a graphic demonstration of the danger of Third World missiles. We also learned that we know frighteningly little about the nuclear and missile capabilities of our adversaries. In recent weeks, North Korea and Iran have been added to the list of countries whose advanced nuclear efforts have taken the United States by surprise.

A ground-based antimissile system offers the hope of protecting the United States from an accidental, terrorist, or rogue missile attack. In my view, such a system matches the nature of the dangers Americans now face. It is a prudent insurance policy against our most likely threats.

In contrast to the prudence of a ground-based system, I am disappointed to see continuing funding for a space-based antimissile system. There is an overwhelming consensus among scientists that a space-based star wars system would not work. Unlike a modest ground-based system, a space-based system would cost hundreds of billions of dollars. It is ironic that while we spend millions to research Brilliant Pebbles, the Japanese pump money into research supportive of commercial enterprise.

CONCLUSION

We hear a lot of talk about entering a new era of international relations. I think we all realize that the world we have known for 40 years has changed forever.

Unfortunately, there often seems to be a lag time between realization and action. Too many of the programs we debate in Congress remain frozen by old mindsets. This is true not only in defense—but also in competitiveness, trade, health care, and education.

The defense authorization bill is far from perfect. The ghosts of the cold war remain apparent in weapons systems like the B–2 and Brilliant Pebbles.

But in sum, this bill is a significant step in the right direction.

Mr. PELL. Mr. President, it was with considerable misgivings that I cast my vote today for the fiscal year 1992 DOD authorization conference report.

On the one hand, I am very pleased that the conferees in their wisdom curtailed the B–2 Bomber Program, and I am especially glad that authorization has been provided for the third *Seawolf* submarine, a stabilizing weapons system that will serve our security needs well into the 21st century and the production of which is of great consequence to the economy of southern New England.

I can also see the possible wisdom of redirecting the SDI Program to provide for a limited antiballistic-missile system to deal with isolated accidental or deliberate launches. But it seems to me we should continue to examine this program at every step to make sure that it responds to a real threat and not to an illusory one. I regret that the limited program we are authorizing this year results in an increase in SDI funding.

I am especially concerned that future developments in this area do not lead to hasty or ill-considered revisions of the ABM Treaty. We need to be absolutely sure about the nature of the threat we face and the value of the proposed defense system before we take any steps to modify the treaty.

VOL
137
PT
23
NO
21
—
25
1991
UMI

It is regrettable that circumstances required the withdrawal of the proposal of Senator NUNN and Congressman ASPIN to authorize use of up to $1 billion for humanitarian assistance to the Soviet Union and to promote conversion of the Soviet military industrial base. These are objectives which are certainly in our own national interest and hopefully they will be pursued in other contexts as circumstances allow.

But it is the bottom line figures of the conference report which cause my gravest misgivings. It seems beyond belief to me that this bill authorizes an amount which is actually $2 billion above the amount authorized for the current fiscal year. In the intervening time, the major threats to our national security have virtually evaporated, with the reduction of conventional forces in Europe and the withdrawal of tactical nuclear weapons. Yet we are now increasing our defense spending authority at the very time needs would appear to be decreasing.

Mr. President, the long debilitating struggle of the cold war was conducted at enormous cost and yielded no real victors but only improverished combatants. The Soviet Union is in shambles. And the United States, having spend some $12 trillions on defense over the 45-year period, now staggers under a national debt of over $3 trillion and a current deficit on the order of $300 billion.

Now we have an opportunity to stop this drain on our resources. The cold war is over and the threat has disappeared. There is no need to continue funding old solutions to old problems. I hope and urge that future DOD authorization bills will more accurately reflect the reality of our times.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to vote on adoption of the conference report to accompany H.R. 2100.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

Conference report on H.R. 2100, an act to authorize appropriations for fiscal years 1992 and 1993 for military activities for the Department of Defense, and for other purposes.

The Senate resumed consideration of the conference report.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 15, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—79

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Dodd
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Reid
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NAYS—15

Daschle
DeConcini
Dole
Hatfield
Kohl
Leahy
Levin
Metzenbaum
Pressler
Pryor
Riegle
Roth
Sasser
Simon
Wellstone

NOT VOTING—6

Bradley
Cranston
Dixon
Exon
Harkin
Kerrey

So the conference report was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL CORRECTIONS AND CORRECTIONS TO ENROLLMENT OF CERTAIN APPROPRIATIONS ACTS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 157, which the clerk will state by title.

The assistant legislative read as follows:

A joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991; and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Appropriations, with an amendment to strike all after the resolving clause and inserting in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental costs of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation associated with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm) and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense pursuant to that Act, not to exceed $3,814,100,000 may be transferred during fiscal year 1992 from either the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund, to the following accounts in not to exceed the following amounts:

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $227,300,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $270,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $75,000,000.

PROCUREMENT

(TRANSFER OF FUNDS)

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $270,800,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile procurement, Army", $21,800,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $80,500,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $508,000,000, to remain available for obligation until September 30, 1994.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", $8,100,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other procurement, Navy", $112,700,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $4,300,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $309,500,000.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $460,000,000, of which $100,000,000 may be available for the procurement of combined effects munitions, to remain available for obligation until September 30, 1994.

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement, Defense Agencies", $76,900,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

(TRANSFER OF FUNDS)

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $47,800,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $6,100,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $24,300,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, Development, Test and Evaluation, Defense Agencies", $28,100,000, to remain available for obligation until September 30, 1993.

REVOLVING AND MANAGEMENT FUNDS

(TRANSFER OF FUNDS)

ARMY STOCK FUND

For an additional amount for "Army Stock Fund", $410,000,000.

NAVY STOCK FUND

For an additional amount for "Navy Stock Fund", $450,000,000.

AIR FORCE STOCK FUND

For an additional amount for "Air Force Stock Fund", $280,000,000.

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,900,000.

DEPARTMENT OF VETERANS AFFAIRS

(TRANSFER OF FUNDS)

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For a Department of Veterans Affairs program of marriage and family counseling services for veterans of the Persian Gulf War and the spouses and families of such veterans: $10,000,000: Provided, That an Act authorizing the program is enacted during the One Hundred Second Congress.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28) and under the terms and conditions of that Act, during the fiscal year 1992, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Act in amounts not to exceed $6,282,400,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal year 1992: Provided, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

To be derived by transfer, $685,000,000 for "Military personnel, Army".

MILITARY PERSONNEL, NAVY

To be derived by transfer, $70,000,000 for "Military personnel, Navy".

MILITARY PERSONNEL, MARINE CORPS

To be derived by transfer, $18,000,000 for "Military personnel, Marine Corps".

MILITARY PERSONNEL, AIR FORCE

To be derived by transfer, $81,000,000 for "Military personnel, Air Force".

RESERVE PERSONNEL, ARMY

To be derived by transfer, $80,000,000 for "Reserve personnel, Army".

RESERVE PERSONNEL, AIR FORCE

To be derived by transfer, $4,000,000 for "Reserve personnel, Air Force".

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $10,000,000 for "National Guard personnel, Army".

NATIONAL GUARD PERSONNEL, AIR FORCE

To be derived by transfer, $3,000,000 for "National Guard personnel, Air Force".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $2,717,500,000 for "Operation and maintenance, Army".

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $1,080,000,000 for "Operation and maintenance, Navy".

OPERATION AND MAINTENANCE, MARINE CORPS

To be derived by transfer, $165,000,000 for "Operation and maintenance, Marine Corps".

OPERATION AND MAINTENANCE, AIR FORCE

To be derived by transfer, $1,241,400,000 for "Operation and maintenance, Air Force".

OPERATION AND MAINTENANCE, ARMY RESERVE

To be derived by transfer, $6,000,000 for "Operation and maintenance, Army Reserve".

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

To be derived by transfer, $59,200,000 for "Operation and maintenance, Air Force Reserve".

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

To be derived by transfer, $3,600,000 for "Operation and maintenance, Army National Guard".

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

To be derived by transfer, $58,700,000 for "Operation and maintenance, Air National Guard".

GENERAL PROVISIONS—CHAPTER I

SEC. 101. The prohibition in section 132(a)(2) of Public Law 101–189 (103 Stat. 1383) does not apply to the obligation of $70,200,000 provided in "Aircraft Procurement, Army" of chapter I, title I for the procurement of AH–64 Apache attack helicopters.

SEC. 102. Of the funds provided in title III of Public Law 101–165 for "Other Procurement, Air Force", not more than $80,000,000 shall be available, and may be obligated and expended, for costs arising from the cancellation of the Alaskan OTH–B radar program and powerplant lease: Provided, That such funds will be available for contract termination, site restoration, modification of facilities and other costs associated with the termination of the Alaskan OTH–B radar program and powerplant lease, or the transfer and modification of facilities and material located at or procured for the Alaskan OTH–B radar program or powerplant to any other Department of Defense activity or program at the OTH–B radar powerplant site.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

SEC. 103. In addition to other transfer authority granted by this or any other Act, and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Act, 1991" (Public Law 101–28), the Secretary of Defense may transfer not to exceed $100,000,000 for costs incurred during fiscal years 1991 and 1992 from the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund to appropriate Department of Defense appropriations for costs incurred through February 1992 in support of U.S. military forces in and around Iraq and Turkey known as the Kurdish Protection or Ready Reaction Force.

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any current or future sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any current or future sale" means any sale with respect to which the President was required to have submitted, or will be required to submit, a numbered certification to the Congress pursuant to the Arms Export Control Act on or after August 2, 1990.

MIDDLE EAST HUMANITARIAN RELIEF

SEC. 105. Of the funds appropriated from the Defense Cooperation Account for the Kurdish Ready Reaction Force not less than $15,000,000 shall be made available only for the prepositioning of relief supplies in the Middle East to meet emergency humanitarian needs and related transportation costs. In addition, the Secretary of Defense is authorized to use up to $15,000,000 in additional funds from the Defense Cooperation Account for this purpose.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Section 518(a) of the "General Provisions" in H.R. 2519, the Departments of Veterans Affairs

VOL 137 PT 23 NO 21—25 1991 UMI

and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, is amended by striking out "Section 662A(c)" and inserting in lieu thereof "Section 1722A(c)".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISION

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (H.R. 2519), is amended—

(1) in the appropriating paragraph entitled "Personal Services and Travel, Office of Public and Indian Housing" by striking "$10,424,000" and inserting in lieu thereof "$12,788,000" each time it appears in the paragraph;

(2) in the appropriating paragraph entitled "Personal Services and Travel, Office of Policy Development and Research" by striking "$10,705,000" and inserting in lieu thereof "$8,717,000" each time it appears in the paragraph; and

(3) in the appropriating paragraph entitled "Personal Services and Travel, Office of General Counsel" by striking "$14,985,000" and inserting in lieu thereof "$14,609,000" each time it appears in the paragraph.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Of the funds made available under this head in Public Law 102–139, not to exceed $950,000, to remain available until September 30, 1993, shall be available for the purpose of providing financial assistance (through grant or contract made, to the maximum extent feasible, not later than 150 days after enactment of this Act) to facilitate the furnishing of legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply, or with other proceedings in the Court, through a program that furnishes case screening and referral, training and education for attorney and related personnel, and encouragement and facilitation of pro bono representation by members of the bar and law school clinical and other appropriate programs, such as veterans service organizations, and through defraying expenses incurred in providing representation to such persons: Provided, That such grants or contracts shall be made by the Legal Services Corporation pursuant to a reimbursable payment from the United States Court of Veterans Appeals for the purposes described herein: Provided further, That the Legal Services Corporation is authorized to receive a reimbursable payment from the United States Court of Veterans Appeals for the purpose of providing the financial assistance described herein: Provided further, That no funds made available herein shall be used for the payment of attorney fees: Provided further, That, not later than 180 days after the enactment of this Act, and, again, not later than one year after a grant or contract is made pursuant to the provisions of this paragraph, the Legal Services Corporation and the United States Court of Veterans Appeals shall report to the appropriate committees of the Congress regarding the implementation of the provisions of this paragraph.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Of the funds appropriated for the wastewater treatment facilities fund under title VI of the Federal Water Pollution Control Act, up to one-half of one per centum may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For emergency disaster assistance payments necessary to provide for expenses in presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for "Disaster relief", $943,000,000, to remain available until expended, for necessary expenses under such Act: Provided, That up to $1,250,000 of the funds made available under this heading may be transferred to, and merged with, amounts made available under the heading "Federal Emergency Management Agency, Salaries and expenses" in the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101–144), is hereby deleted.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

In view of the occurrence of recent natural disasters—similar to the volcano eruption of 1980, the earthquake of 1989, and the hurricane of 1989—droughts, floods, freezes, tornadoes, and other catastrophes which resulted in billions of dollars in damages, and in an effort to restore the economy and to alleviate the effects of the disasters, an additional $1,750,000,000, to remain available until expended, is hereby made available for losses associated with 1990 crops as authorized by law, and for losses associated with 1991 crops under the same terms and conditions.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

Millions of acres of land have been damaged by natural disasters, seriously affecting the local economy of much of the Nation. To respond to the effects of recent droughts, floods, freezes, tornadoes, and other catastrophes, an additional $28,000,000, to remain available until expended, to carry out the Emergency Watershed Protection Program of the Soil Conservation Service.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for the Special Supplemental Food Program for Women, Infants and Children, $100,000,000.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an additional amount for "Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" to meet dire emergency needs resulting from devastating flooding in the lower Mississippi Valley, $15,000,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", $15,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $10,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

Of the amount appropriated under this heading in the Energy and Water Development Appropriations Act, 1992 (Public Law 102–104), up to $5,440,000 shall be available for Buffalo Bill Dam Modification, Wyoming, as proposed in the United States Department of the Interior Budget Justifications, Fiscal Year 1992, for the Bureau of Reclamation.

CHAPTER V

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $5,600,000, to be derived by transfer from unobligated balances of Board for International Broadcasting, "Israel Relay Station", to be available for the costs of the participation of the United States in the 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy.

CHAPTER VI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for the Childhood Immunization Program, $90,000,000.

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, $1,200,000,000: Provided, That this amount shall not be subject to sections 640(a)(2)(C), 637(5)(B) and 640(a)(3)(A) of that Act.

TITLE II—GENERAL PROVISIONS

SEC. 200. CONGRESSIONAL DESIGNATION OF EMERGENCY.—Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as "emergency requirements", the Congress believes that the same or higher priority should be given to helping American people recover from natural disasters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in this joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution are available for obligation only for costs of Desert Shield/Desert Storm or to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 203. CONSTRUCTION OF MEDICAL FACILITY, NELLIS AIR FORCE BASE, NEVADA.—The Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189), the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and the Military Construction Authorization Act for Fiscal Years 1992 and 1993 and as provided for in the Military Construction Appropriations Act, 1991 (Public Law 101–519) (and the Military Construction Appropriations Act 1992 (Public Law 102–136)).

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of 1992".

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, House Joint Resolution 157, making dire emergency supplemental appropriations for fiscal year 1992, provides appropriations totaling $7,965,100,000. Of this amount, $3,814,100,000 is for additional Desert Shield/Desert Storm costs and will be derived from the defense cooperation account. By definition, under the Budget Enforcement Act, these appropriations for Desert Shield/Desert Storm are deemed to be emergencies and, therefore, do not require offsets.

For domestic emergencies, the resolution contains appropriations for the Disaster Assistance Program of the Federal Emergency Management Agency [FEMA] totaling $943 million. For 1990 and 1991 crop losses, the resolution contains $1.75 billion; for the Soil Conservation Service, the resolution contains $28 million for watershed protection and facility repair; and for the Corps of Engineers, the resolution contains $40 million for flood repairs.

Finally, the resolution contains an additional $1.2 billion for Head Start, $100 million for the Women, Infants, and Children [WIC] Program, and $90 million for childhood immunization. These amounts were included in the House-passed bill by a floor amendment on a rollcall vote of 243 to 180. These appropriations do not meet the definition of emergencies as contemplated in the Budget Enforcement Act.

The committee has included them in order, hopefully, to expedite Senate and conference action on this dire emergency supplemental.

I cannot support them as emergency items, however.

Mr. President, the resolution also contains a congressional designation that all funds provided in the resolution are deemed emergencies under the Budget Enforcement Act. This language is identical to the House-passed provision. However, a congressional designation alone is not sufficient to avoid a sequester under the Budget Enforcement Act. Therefore, the House-passed bill, if enacted into law, would cause a sequester on all domestic discretionary appropriations for fiscal year 1992 of approximately 2.7 percent across-the-board. In order to prevent this possibility, the committee has included a provision which provides that the funds in this act may be obligated only to the extent and only in the amounts designated as emergencies by the President not later than the date of enactment of this act.

Let me point out that prior to last year's summit agreement, appropriations for emergencies had to be paid for within our discretionary caps. The outlays from appropriations for Hurricane Hugo and Loma Prieta, for example, have to be accommodated within our outlay caps as the bills come due.

It was my position at the summit that the Appropriations Committees should be held harmless for factors or events beyond our control, which is something new. As I have already indicated, the outlays for appropriations for such disasters as Hurricane Hugo and Loma Prieta have had to be accommodated within our outlay caps as the bills come due but not so under the budget agreement.

Such factors for which the appropriations for our domestic discretionary are to be held harmless included faulty economic and technical assumptions on interest rates, inflation, unemployment, and so forth.

We were successful in having these hold harmless provisions included in the summit agreement, which are now incorporated into the Budget Enforcement Act of 1990.

The Budget Enforcement Act also provides for an exemption from the budget authority and outlay caps, spending that is designated as "emergency requirements" by both the President and Congress. Senators should keep in mind that, prior to the Budget Enforcement Act, emergency spending was not exempt from the discretionary caps. So we negotiated with the administration the provision which holds us harmless for emergency spending if both the President and Congress agree to designate appropriations as such.

At this point, the administration has only agreed to declare $151 million of the FEMA appropriation as emergency spending. The balance of FEMA funding, $792 million, has not been declared an emergency by the administration. Instead, the administration takes the position that Congress cut the FEMA budget over the last 4 years and, therefore, should now have to provide offsets for $792 million of the FEMA appropriation. This position by the administration is, in my judgment, totally unfounded. Between 1985 and 1991, the executive branch requested $1.509 billion in appropriations for FEMA's disaster relief fund.

During that same period, Congress appropriated $3.142 billion. Furthermore, Congress' decision not to provide funds for fiscal year 1991 was based on information provided by FEMA that there were large amounts of money available from prior years' appropriations to meet 1991 disaster declarations.

So, it is not the fault of Congress that FEMA needs these additional appropriations in order to fund the Presidentially declared disasters that have occurred in 1991. The historical average is 24 disasters per year; for 1991, there have been 38 disasters declared by the President—14 more than an average year.

The administration has also refused to declare as emergency spending any of the $1.75 billion contained in the resolution for disaster crop loss assistance for 1990 and 1991. Yet, for 1990 generally, spring freezes reduced fruit yields in the East and heavy rains resulted in crop and property losses in Texas, Arkansas, and Louisiana. Late summer drought reduced peanut, corn, and soybean yields throughout the Southeast. North Dakota had its driest winter this century.

In 1991, several regions of the country, including the West, Midwest, Southern and Northern Plains have suffered drought. Heavy spring rains flooded Mississippi, Louisiana, Iowa, and Minnesota, delaying or preventing the planting of crops. Freezing temperatures in the Northwest decimated fruit and other crops; and, Hurricane Bob wreaked havoc in the Northeast.

As of October 28, 1991, a total of 1,392 counties have been designated either by the President or the Secretary of Agriculture for crop losses resulting from disasters occurring in 1991. This figure compares with 1,973 counties designated for crop losses resulting from disasters occurring in 1990; 44 of the 50 States are included in these designations. Of the remaining six States, five have disaster declarations pending. The magnitude of these figures demonstrate the widespread nature of disasters suffered by the farmers of this Nation over the last 2 years.

I urge the administration to work with us in conference on this resolution so that we can provide these disaster assistance funds to the American people who have suffered devastating losses caused by natural disasters. It is time that we wake up and pay at least as much attention to the problems facing Americans because of disasters be-

eloquently and in great detail outlined

emergency into jeopardy. So there is

veto. And we will make a record on

VOL
137
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yond their control as has been paid to the problems of other nations.

Mr. President, this resolution contains an additional $3.8 billion to cover the costs of Operation Desert Shield/Desert Storm. The money is to be transferred from the defense cooperation account, made up of contributions from our allies. This will bring the total appropriated from that account to $48.3 billion. The problem is that we have received only $45.3 billion into the account leaving a shortfall of $3 billion.

I think the American public will be stunned to learn that two countries still owe us $3.25 billion, and that those two countries are Saudi Arabia and Kuwait, the countries that we, together with our British allies and other allies, saved from extinction. I encourage the leaders, I urge the leaders, in Saudi Arabia and Kuwait to think back to August of 1990. The United States did not hesitate then. The United States took swift, incisive action to stop the aggression of Saddam Hussein. Our country's military might and the blood of our citizens were committed to defend Kuwait and Saudi Arabia, and we expect them to honor their commitments to help us to shoulder the financial costs of that effort on their behalf, in the main.

Some may be concerned that after all of the pledges are finally collected the United States will come out with some kind of profit. I want to make it clear that this is not the case. The administration estimates the total cost of the war will be about $61 billion. Pledges, both cash and in-kind will offset almost $54 billion leaving the American taxpayer with a bill for approximately $7 billion. We are not asking for a handout from Saudi Arabia and Kuwait. We sent our men and women to their countries to save them from Saddam's brutal attack and now we want those countries to live up to their promises, made when they were desperately in need of, and when they desperately wanted, our help.

Section 104 of this resolution prohibits arms sales to Saudi Arabia and Kuwait until they completely fulfill their pledges. It is similar to section 109 of the first Desert Shield supplemental which was included because of concern that the United States, having borne the majority of the burden for the military operation in the gulf, would be saddled with picking up the tab for the financial costs as well. I and many of my colleagues feared that the mercifully quick end of the war would cause some of the contributors to rethink and to renege on their pledges.

Unfortunately the language in section 109 was not explicit enough. Now, more than 7 months after the end of the war, we discover that our fears are being realized. The payments have not been swift. Debts to the U.S. taxpayer seem to take a back seat to the hunger for new military equipment. This provision will reverse that order and make sure that these pledges are fulfilled before future arms sales can go ahead.

I understand that Senator KENNEDY will offer an amendment which I support, that will delay implementation of this provision for 120 days. This change will allow Saudi Arabia and Kuwait ample time, at their current rate of payment, to completely fulfill their pledges before the sanctions take effect. More importantly, Senator KENNEDY'S amendment will allow the continuation of existing contracts and, thereby, prevent the layoffs of employees of U.S. companies currently doing business with those countries.

Mr. President, before I yield the floor, I thank my distinguished colleague, the ranking member on the Republican side of the aisle, Senator HATFIELD, for his support, his cooperation, his helpfulness, his advice. As the ranking member of the committee, he always stands shoulder to shoulder with the chairman as we take up the various appropriation bills throughout the year. And this instance has been no exception.

He is a ready fellow soldier in the trenches, always there in time of trouble and always with the kind of encouragement that is often needed. I thank him and I thank all the members of the Appropriations Committee on both sides of the aisle, and I thank our diligent and effective and capable staff. Later, I will supply for the RECORD the names of staff persons on both sides of the aisle.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Oregon.

Mr. HATFIELD. Mr. President, here we are, just 8 weeks into the fiscal year, with two regular fiscal year 1992 appropriations bills not yet signed into law, and we are considering a supplemental. This is an extraordinary situation that requires some attempt at explanation.

The bulk of the funding recommended in House Joint Resolution 157, more than $10 billion, is for the costs of Operation Desert Shield/Desert Storm, and was requested by the President last summer as a fiscal year 1991 supplemental. These funds are exempt from the discretionary caps of the budget agreement. An additional $693,000,000 fiscal year 1991 supplemental was requested at the end of June for disaster relief programs under FEMA. The President designated $151,000,000 of that amount as an emergency under the terms of the budget agreement, and recommended an offset for the balance.

The President's request languished in the other body throughout last summer. As the end of fiscal year 1991 approached discussions were held with the administration to reach compromise on a supplemental measure providing the funding requested by the President plus additional amounts for agriculture disaster relief, offset by reductions in other programs. Unfortunately, no action was taken, and the available offsets expired along with the fiscal year.

At the end of last month, the House finally took action on the supplemental, which by that time had become a fiscal year 1992 measure. The House committee reported H.R. 3543 with funding for Desert Shield/Desert Storm, FEMA, agriculture disaster relief, and a few other items. During consideration on the House floor, amendments were adopted adding $1.2 billion for Head Start, $100 million for WIC, and $90 million for child immunization programs. No offsets for these additional amounts were offered, since the bill included language declaring all funds in the bill to be emergencies under the budget agreement, and that sufficed for consideration in the House.

The budget agreement, however, stipulates that both Congress and the President must agree on emergency funding in order for that funding to be exempt from the discretionary caps of the agreement. Were the House measure to be signed by the President a sequester of approximately 2.7 percent would fall on nondefense domestic programs.

Faced with this prospect, the committee elected to take a different approach recommended by Chairman BYRD. We took up House Joint Resolution 157, a technical corrections measure which had been referred to the committee early this year, and amended it with most of the provisions of H.R. 3543. Thus all those matters, in addition to whatever may be added here on the Senate floor, will be subject to negotiation in conference. That will give us the opportunity to reach an agreement acceptable to both Houses and the administration.

In addition, the committee has included a provision stipulating that none of the funds provided are to be made available except to the extent they are designated by the President to be for emergency, the funds can be expended without triggering a sequester. Funds that are not so designated will lapse. In other words, the President can pick and choose what he wants to spend.

This is an extraordinary procedure, Mr. President, with ramifications that we may not fully appreciate. We may regret it, or come to see it as just another useful device in the budgetary games we play.

In any event, Mr. President, I join with the chairman in asking for prompt consideration of this measure so we can get on to conference and be done with it.

Mr. President, the chairman of the committee, Senator BYRD, has very

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eloquently and in great detail outlined the provisions of this supplemental appropriation. I am sure that Members who have read the bill as presented will be made aware of the provision to which Senator BYRD has referred, and that is the fact that we used House Journal Resolution 157, a bill for technical corrections, as the vehicle for this supplemental.

I only underscore that for one purpose, and that is to indicate, again, the great difficulty under which the Appropriations Committee had to deal with this matter. And I believe that this is, again, one of those extraordinary examples of how Senator BYRD, by his great knowledge of the Senate rules, procedures, and the history of the Congress, was able to take a most difficult task and resolve it through what might appear to be a very simple procedure—and yet a very profound one.

We have honored the custom of House-originated appropriations bills. By the same token, we are not dealing with the House-passed supplemental appropriations bill, H.R. 3543. So I am sure when the history of this Congress is written, there will probably be a footnote given to this particular procedure today and again demonstrating how at the same time we were able to move through the traditional procedures to reach the resolution of this issue.

I command Senator BYRD for that genius. It is a pleasure to work with my colleague from West Virginia. And I also want to indicate my pleasure in the work of the staff. We have a very harmonious staff on our Appropriations Committee, and I think that is one mark of its professionalism. It is a very professional staff.

Chairman BYRD and I, as the ranking member, I am sure, do express our appreciation from time to time, but perhaps not enough.

So we have this before us, Mr. President. I am not here to represent the perspective of the White House, necessarily, on this bill. But I think we ought to expedite it. I do not think there is any great pressure from the White House for this bill.

The House of Representatives placed a great deal more in the appropriations supplemental that they passed which we, in turn, have incorporated in this vehicle. And that represents another very important part of this procedure today, and that is we have recognized a certain political reality as far as returning some of those nonemergency programs—and yet very important programs—that the House added—women and infant children.

Mr. BYRD. We did not delete them. We did not delete them.

Mr. HATFIELD. We could have proposed a deletion, but we knew the practical politics, so we did not. By the same token, we did not want to put these other programs that are truly emergency into jeopardy. So there is this provision that Senator BYRD devised in accordance with the budget agreement, on the matter of the role of the President in being able to obligate these funds by declaring an emergency.

In our discussions in the committee, there were those who raised the question as to whether or not this was a form of a line item veto. There are no two people in this Senate who more avidly, and with a certain amount of pleasure, have united to fight line item veto proposals on this floor than Senator BYRD and I.

I want to make it very clear, Mr. President, that this is not a line item veto, and I do not think the White House, or anyone else who supports line item vetoes, should take any reading of this provision as a breakthrough from their perspective. I just want to make record on that, as the chairman did in the committee session, as the issue was raised in the committee.

Mr. BYRD. Mr. President, will the Senator yield on that point?

Mr. HATFIELD. I will be very happy to yield.

Mr. BYRD. I thank him for making this matter clear, anent the line item veto. At such time as that is ever brought up on this floor, it is my hope that I can surpass STROM THURMOND'S record for having held the floor the longest. At that time I promise the Senator I will be prepared to talk at great length—hours. At that time I will recite all of the English monarchs, beginning with Cerdic in 519, and all the way down to Elizabeth II in our time. I will give the period of each reign, for example Cerdic from 519 to 534. I will go through all that.

But, before I do that, I will give the reigns of all the Roman emperors, beginning with Augustus in 27 B.C., down to the fall of Rome in 476 A.D.

I will likewise give the years during which they reigned. There will be 88 of the Roman monarchs and 78 of the English monarchs.

And then I will speak of the Persian monarchs and give the time of their reign, from Cyrus the Great, down to the time of Alexander the Great.

And then I will relate all of the American Presidents and give their reigns, and I will not have any notes. I will just do it all. I will take my time and do it all.

Then I will name all of the books of the Bible, 66 books of the Bible. And I will be prepared to go on from there and do other things of likewise extraordinary nature.

Mr. HATFIELD. Shakespeare.

Mr. BYRD. So, when the time comes to fight the line item veto, or the enhance rescissions, which, the enhanced rescission, is much, much worse than the line item veto—to the magnitude of perhaps 100 times or more—my friend and I will be happy to entertain those who wish to talk about the line item veto. And we will make a record on that which, hopefully, the courts will one day take a look at if need be.

I thank my friend for yielding. I am prepared now, if someone, wishes, to start now.

Mr. HATFIELD. Mr. President, as much a history buff as I am, I hope we do not force our chairman into the activity, that historic review.

I would also say to the chairman, he cited Senator THURMOND as having held this floor the longest period of time. He is prepared to exceed that record. I would say the second longest holder of this floor was the late Senator from Oregon, Wayne Morris. And I would join the Senator from West Virginia by saying I am prepared to exceed Wayne Morris' record, if necessary, as well.

Mr. LEAHY. If the Senator would just yield for a commentary, the distinguished chairman and ranking member, also former chairman of the committee, knows the Senator from Vermont totally opposes the idea of line item veto. It would render the Congress virtually a secondary, almost historical accident in the system of Government. It would certainly go further than any other step possible to remove us as one of the three equal branches of Government.

It would be as if we totally stripped the courts of their jurisdiction. A line-item veto would not only remove the Congress from anything even approaching an equal branch of Government, but it also would be the worst possible way of doing this, because we would have done it ourselves.

Having said that, if the Leahy family were not planning to be home for Thanksgiving I would be almost inclined to introduce such an amendment just to hear the history lesson by the distinguished chairman. But before the distinguished chairman prepares to do that, let me assure him that perhaps it might be better if I were to join him in his office; maybe we could have a cigar together and he could give me that history lesson piecemeal, in due respect for those who have plans for Thanksgiving.

Mr. BYRD. Will the Senator yield?

Mr. HATFIELD. I will be happy to yield?

Mr. BYRD. The Senator from West Virginia is prepared not only to speak on history, I will be very glad to enlighten those who support the line-item veto with respect to poetry, I will make copious quotes from Milton's "Paradise Lost," or Dante's—or someone would say Dante's "Divine Comedy," Darwin's "Origin of Species," Adam Smith's "Treatise on Economics," and with copious and generous helpings from Shakespeare and the Bible.

So I think it is well for the supporters, the misguided, I must say, well-intentioned but misguided supporters of the line-item veto to be forewarned so

VOL 137
PT 23
NO 21—25
1991
UMI

they may be forearmed. It may be well for the joint leaders to realize that if we ever get to that point in time, sine die may wait until January 3 of 1992 at noon.

Mr. LEAHY. Mr. President, if the distinguished Senator will yield to me further, I note that should that matter be, I will be here standing foursquare with my chairman to speak against it, too. I cannot imagine any Senator, especially a Senator from a small State, who could ever say that they had shown respect for their duty to their State if they voted for such a thing.

I will join in some of those Shakespearean discussions, too. I will probably quote at length from my two favorites, "Richard III" and "King Lear." But having said all that, so we would not hold up people further, I do have an amendment——

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HATFIELD. I yield the floor.

Mr. LEAHY. I realize I am on the Senator's time.

Mr. HATFIELD. No, no. I yield the floor.

Mr. LEAHY. I understand the managers may have some technical amendments they may want to go to. I advise the chairman that I am here prepared to bring up an amendment and I hope it will not take too long. So I yield.

Mr. HATFIELD. Mr. President, I think we have made adequate record on the matter related to the line-item veto. But I do only raise that for the simple point of this vehicle, this exercise in this year's appropriations supplemental is, indeed, extraordinary and historic.

Mr. President, I do hope the Senators who expect to offer amendments will make themselves available. I appreciate the Senator from Vermont being here on the floor to start the amendment process. But I only urge, particularly those on my side of the aisle, and all of our colleagues, that if they have a plan or an idea of an amendment, certainly to be here. Senator BYRD, our chairman, and I are here to do the business of the Senate. This being Friday, I am very hopeful we can expedite this procedure. I want to put the Senate on notice that, as far as I am concerned, I will not hesitate to call for third reading of the bill if there do not appear to be any further amendments at a particular point in time that Members wish to offer.

Mr. BYRD. Mr. President, I thank my friend, Senator HATFIELD, and also thank my equally good friend, Mr. LEAHY.

AGRICULTURE DISASTER ASSISTANCE

Mr. COCHRAN. Mr. President, I rise today to urge my colleagues to support the joint resolution (H.J. Res. 157) which includes the Dire Emergency Supplemental appropriations bill and the $1.75 billion it will provide for agriculture disaster assistance for this Nation's farmers. As you know, Mr. President, I have been working on this critical issue for over a year and am pleased that we are now in a position to provide the assistance our farmers so desperately need.

The devastating consequences of adverse weather conditions across the United States during the past 2 years are clear and well documented. It is estimated that in 1990 alone, Mississippi farmers lost $100 million. While some areas of my State escaped the effects of the terrible floods last spring and were able to achieve normal and, in some cases, even above-normal crop yields, other areas have experienced significant losses in 1991.

In response to this situation, Mr. President, I introduced on July 10, 1991, a bill to provide assistance to those farmers hard hit by natural disasters in 1990 or 1991. The fact that this legislation was cosponsored by over 30 Senators attests to the dimensions of the crisis facing many farmers today.

I am pleased that the bill before the Senate today will provide the assistance that is long overdue. I urge my colleagues to support this supplemental appropriations bill.

AMENDMENT NO. 1391

Mr. BYRD. Mr. President, I send to the desk certain technical amendments. Mr. President, I ask unanimous consent they may be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1391.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, strike lines 1 through 8, and insert in lieu thereof:

SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution, other than those made available by transfer, are available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1391) was agreed to.

Mr. BYRD. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1392

(Purpose: Subject to enactment of authorizing legislation to allow the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, to provide that not more than $2,000,000 of such donated funds may be obligated for certain costs associated with the Conservatory renovation)

Mr. BYRD. Mr. President, I will temporarily delay my friend from Vermont. I send to the desk an amendment by Mr. JOHNSTON, for himself and Mr. GORTON. I ask unanimous consent that it be agreed to; that the motion to reconsider be laid upon the table; and that a statement by Mr. JOHNSTON in explanation of the amendment be inserted in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. JOHNSTON, for himself, and Mr. GORTON, proposes an amendment numbered 1392.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

"SEC. . Upon the enactment of a provision of law authorizing the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, not more than $2,000,000 of the amounts accepted pursuant to such authorization shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden.".

Mr. JOHNSTON. Mr. President, no funds were included in the fiscal year 1992 legislative appropriations bill for the renovation of the Botanic Garden Conservatory.

Yet, private donations are continuing to be raised to plan for the outside national garden, which is expected to be complete in time for the 175th anniversary of the Botanic Garden in 1995.

We thus may be faced with a situation where outside improvements are complete, but the Conservatory—the crown jewel of the Botanic Garden—is not.

This amendment will allow private funds to be used to begin the planning process for the Conservatory reconstruction, subject to the enactment of authorizing legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1392) was agreed to.

AMENDMENT NO. 1393

(Purpose: To increase the rate of price support for milk and establish a surplus reduction program for the production of milk and products of milk)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. KASTEN, Mr. KOHL, Mr. HARKIN, Mr. DURENBERGER, Mr. JEFFORDS, Mr. WELLSTONE, Mr. D'AMATO, Mr. WOFFORD, and Mr. DASCHLE, proposes an amendment numbered 1393.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

At the end of the committee substitute, add the following new title:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) PRICE SUPPORT.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) RATE.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 THROUGH 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—Subsection (e) of such Act is amended to read as follows:

"(e) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—

"(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) ASSESSMENT.—

"(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) SURPLUS REDUCTION PROGRAM.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

"(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

"(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

the terms and conditions of the contract

"(aa) $5,000 for the violation; or

tember 30, 1998, the Secretary shall provide

VOL 137
PT 23
NO 21–25
1991
UMI

"(D) Regional allocation.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) Surplus reduction contracts.—

"(A) In general.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) Rate of payments.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) Period of contract.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) Annual level of reduction.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) Milk marketing history.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) Enrollment period.—

"(i) Frequency of enrollment periods.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) Initial period.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) Payments to participants.—

"(i) Timing.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) Annual settlement payment.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) Reduction in price received.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) Funding.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) Seasonal stability.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) Other terms.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) Surplus prevention contracts.—

"(A) In general.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) Reduction in price received.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) Period of contract.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) Annual level of marketings.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) Enrollment period.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) Diversion program adjustment.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) Other terms.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) Considered marketed.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) Records.—

"(A) Marketing history.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) Other records and reports.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) Modification of contracts.—

"(A) Authority.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) Determination.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) Assignment of contracts.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) Deceased producers.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) Compliance.—

"(A) In general.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) Initial enrollment.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) Violations of surplus reduction contracts.—

"(i) Refunds.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) Penalties.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) Level of penalties.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) Exception.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) Violations of surplus prevention contracts.—

"(i) Penalty.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) Violation.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) Level of penalty.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) Exception.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) Effect on the livestock industry.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) Dairy cow slaughter.—

"(A) Limitation.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) Subsequent months.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) Monitoring.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) Limits on new contracts.—

"(i) Monthly determination.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) Impact on new contracts.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) Use of government resources.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) Reduction in Price Received.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) Reduction in Price Received.—

"(1) Surplus reduction contracts.—

"(A) In general.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) Amount of reduction.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 through 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) Reconciliation commitments.—

"(A) 1991.—

"(i) Authority.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) Refund.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) Authority.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 through 1995.—

"(i) Authority.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in

vided by this title and the amendments made "(1) In general.—The Secretary shall "(4) Surplus reduction contracts.—

VOL
137
PT
23
NO
21
—
25
1991
UMI

the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I ask unanimous consent that this amendment be offered on behalf of myself, Mr. KASTEN, Mr. KOHL, Mr. HARKIN, Mr. DURENBERGER, Mr. JEFFORDS, Mr. WELLSTONE, Mr. D'AMATO, Mr. WOFFORD, and Mr. DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1394 TO AMENDMENT NO. 1393

Mr. LEAHY. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 1394 to amendment 1393.

Mr. LEAHY. Mr.. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is no ordered.

The amendment is as follows:

In the pending amendment, strike all after section 301, and add the following:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the Nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) PRICE SUPPORT.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) RATE.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 THROUGH 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—Subsection (e) of such Act is amended to read as follows:

"(e) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—

"(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) ASSESSMENT.—

"(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) SURPLUS REDUCTION PROGRAM.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

"(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

"(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) ENROLLMENT PERIOD.—

"(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) PAYMENTS TO PARTICIPANTS.—

"(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

VOL 137
PT 23
NO 21—25
1991
UMI

"(iii) Reduction in price received.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) Funding.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) Seasonal stability.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) Other terms.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) Surplus prevention contracts.—

"(A) In general.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) Reduction in price received.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) Period of contract.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) Annual level of marketings.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) Enrollment period.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) Diversion program adjustment.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) Other terms.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) Considered marketed.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) Records.—

"(A) Marketing history.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) Other records and reports.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) Modification of contracts.—

"(A) Authority.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) Determination.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) Assignment of contracts.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) Deceased producers.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) Compliance.—

"(A) In general.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) Initial enrollment.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) Violations of surplus reduction contracts.—

"(i) Refunds.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) Penalties.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) Level of penalties.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) Exception.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) Violations of surplus prevention contracts.—

"(i) Penalty.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) Violation.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) Level of penalty.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) Exception.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) Effect on the livestock industry.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the

Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) Dairy cow slaughter.—

"(A) Limitation.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) Subsequent months.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) Monitoring.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) Limits on new contracts.—

"(i) Monthly determination.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) Impact on new contracts.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) Use of government resources.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) Reduction in Price Received.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) Reduction in Price Received.—

"(1) Surplus reduction contracts.—

"(A) In general.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) Amount of reduction.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 through 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) Reconciliation commitments.—

"(A) 1991.—

"(i) Authority.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) Refund.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) Authority.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 through 1995.—

"(i) Authority.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) Assessment refund.—

"(A) Excess CCC purchases.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) Timing.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) Collection of funds.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) Minimum price provisions.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) Definitions.—

(1) In general.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) Definitions.—As used in this section:

"(1) Milk equivalent, total milk solids basis.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) Net removals.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) United states.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) Administration.—Section 204(d)(5) of such Act is amended by striking "(5) Administration.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) Administration.—In estimating".

(f) Conforming amendments.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) Period.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricul-

VOL 137 PT 23 NO 21—25 1991 UMI

tural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, the amendment on behalf of myself, Mr. KASTEN, and others, is very straightforward. It refers to our dairy farms and the escalating problems that they are facing. Our Nation's dairy farmers are up against very difficult times. Over the past year, those farmers have suffered through a dramatic 25-percent drop in the market price—causing many to lose thousands of dollars in income. In fact, some of the same farmers who produce the food for our country have been forced to apply for food stamps just to feed their own families.

In virtually every State of the country, from Vermont to California, family farmers are in danger of losing their farms. Even the Department of Agriculture admits that dairy farmers' revenues will drop by $3 billion in 1991 alone. Some of our farmers may not make it through these hard times. That is true across the country. The dairy farmers in virtually every State—virtually every State—are in danger of losing their livelihood.

The amendment I have offered to the supplemental appropriations bill is to help our Nation's dairy farmers. Its purpose is very simple. The amendment would raise the minimum support price dairy farmers receive by $1, coupled with a voluntary diversion program. This increase will help save our family farmers by giving them a fighting chance to make it through this winter and next year.

It will not make them rich, but it will give them that fighting chance. I am offering this amendment because I have been blocked at all other attempts to bring the Dairy and Disaster Assistance Act, reported by the Agriculture Committee, to the floor of the Senate. Since we have not been able to bring that bill before the Senate, today I am offering a similar but, I point out to my colleagues, a pared-down dairy package.

So everyone understands, the amendment I am offering is a price-support increase, coupled with a basic diversion plan, and that diversion plan is acceptable to the administration and the Department of Agriculture.

Unlike the committee-passed version of the dairy bill, this amendment only includes the support price increases, the diversion plan, and a simple extension of the solid standards for California alone. We have dropped the general solids provision. We have also dropped all other provisions of the reported bill that were objectionable to the administration.

It is important for all Senators to know that this bill is within budget. Let me emphasize that. This bill is within budget. In fact, the dairy program has shown a remarkable record for budget responsibility. In the early 1980's, the dairy program cost around $2.3 billion a year. Notwithstanding inflation, notwithstanding the fact that virtually every other Government program has gone up, from the $2.3 billion a year it cost in the 1980's, it now costs under $500 million a year.

Given these budget cuts, it is important that the dairy industry keep supply and demand in balance so that we no longer accumulate expensive surpluses. That is the purpose of this amendment. It is a program which will better manage the supply of milk; Government purchases of surplus dairy products will be reduced; and the entire package will be budget neutral.

Mr. President, if the Senate does not respond today, there is going to be pain in rural America. If we do not pass this amendment and support price increase, we are going to lose our family farms. They already face the constant threats of rising costs, of declining profits, of dramatic boom-or-bust swings in the marketplace. The giant farms can make it through these lean times, but our small family farms struggle to survive.

When our country was founded, we were an agrarian Nation. We were made up of small farms. In the past 200 years, large corporate farms have come to dominate our landscape. But some of our past, one of the best parts of our past—the family farm—still survives.

There is real pain on that farm. We need this price support increase. We need this diversion plan. It will be funded by farmers, for farmers. It will cut Government cost. It makes sense, and it keeps this vital part of our Nation viable. It helps to protect rural America. It gives family farmers who have worked hard—honest, decent, clean-living people—a chance. It tells them that that hard work actually can pay off.

So if we want to keep the family farm alive, if we want to keep these men and women in business, then we need to pass this amendment.

Mr. President, I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, first of all, I am pleased to join my friend, the Senator from Vermont, the chairman of the Agriculture Committee. As he said, we have been working—he has been working, particularly in the committee—to try to deal with this problem.

The fact is that it is absolutely essential that we raise the price support for dairy and that we raise it before we leave here. This opportunity might not be perfect, but this is the opportunity that we have. That is why the amendment before us, of which I am a cosponsor, would raise the price support for dairy, and at the outset I simply want to urge my colleagues to join me in supporting it.

The basic components of the diversion program of this amendment have been agreed to. They have been agreed upon by the chairman, the ranking member of the Agriculture Committee, the administration, the National Milk Producers Federation, and many others. So the diversion part of this amendment is no longer controversial. As I say, it is basically agreed to.

While I have personally had to take a deep breath, frankly, to accept some of the compromises of this package, such as deleting the standards for milk which are now present in California, I have nonetheless decided this is an acceptable agreement for the 34,000 dairy farmers which I represent in Wisconsin.

So basically, Mr. President, this amendment boils down to one single issue—$1. There is nothing complicated or difficult to understand. It raises the price support level from $10.10 to $11.10. And simply translated, the amendment raises the price support by $1—$1. That is what we are talking about.

While I strongly support a higher increase, this dollar will provide a critical boost to some of America's most valuable farm communities. That is a point that I think all of us want to stress. We are not simply talking about individual dairy farms. We are talking about rural America, rural Vermont, rural Alabama, rural Wisconsin. We are talking about some of America's most valuable farm communities.

A drop of just a few cents in the dairy price can turn a profitable farm into a failed farm, into a foreclosed disaster.

Earlier this year, Wisconsin farmers experienced a drop in their income of more than 25 percent, and at the same time feed costs and energy costs have been rising, so they were squeezed. They found this is causing a very serious squeeze in communities with large

dairy sectors. People who live inside the beltway, frankly, do not understand exactly what we are talking about and certainly do not understand how dire and how difficult the situation is in rural America, particularly in States like Wisconsin.

When you lose your job in the suburbs or in the cities, you go out and put an ad in the paper and try to find a new job. You go out and knock on doors. When you lose your farm in Wisconsin or in Vermont, or in some other place, when you lose your farm in the dairy country, your options are few. You are not trained for other kinds of things. There are not available other kinds of jobs. You cannot go out and do some other kind of work.

To ask these families to watch their life's work go down the drain I believe is simply unacceptable. It is unconscionable. They need and they deserve price stability, and that is what this $1 will provide.

There are those who believe we should wait until spring before we act on any price-support increase. I want to inform my colleagues that if we wait much longer, there might not be any cows left to milk for many of these dairy farmers, particularly in Wisconsin.

In fact, price stability is the key to a healthy agricultural economy. Without it farmers are going to go bankrupt. The economic hardship spreads from the farmers themselves, then to the banks who lend them money, then to the agribusiness dealers who supply them with feed and farm implements, and throughout the entire farm community.

So I want to emphasize the point I made earlier. We are not talking about a single dairy farm or dairy farmer. We are talking about a whole way of life. We are talking about rural economic development. We are talking about the opportunities and responsibilities that we here have in order to keep our rural communities vibrant.

Our rural communities cannot survive this kind of economic chain reaction. That is what we have been seeing. A situation in which farmers live on food stamps obviously does not help anyone.

Mr. President, bankruptcy and economic hardships are not the only things with which dairy farmers have to contend. Recently, I read a shocking article in a farm newspaper called Country Today, which is published in Eau Claire, WI. That article stated, "That suicide rates among men involved full-time in dairy farming are nearly twice as high as those of the general male population." And these were statistics according to the National Farm Medicine Center—twice as high. These are chilling statistics, and they are even more devastating when you stop and think about what our policies are doing and how they are affecting families all across this Nation.

We have more than bankruptcy and cash flow problems when we start talking about problems with the dairy farmers. We have real human tragedy.

According to a recent study by the U.S. General Accounting Office, while farmers are receiving 25 percent less for their milk, consumers only pay 5 percent less for milk products. This is very important because we see the price to the farmer going down by 25 percent, yet the price in the grocery store goes down only 5 percent. One of the issues that we are talking about here is the fact that we are finding the farmers in this sequeeze, but yet the consumers did not see that difference.

People talk about lags and say it would have gone down if the price was lower for longer, et cetera. The fact is we do not see the relationship. We have not seen the relationship between the price the people are paying and the price the farmers are receiving. I think it is important to recognize that because, if the price starts to go up, we also do not see the price going up at the retail level. Clearly consumers, as well as farmers, are right now being victimized by the current situation because they are not getting the benefits of the lower milk prices.

That is why all year I have been fighting to make price stability and fairness a reality for Wisconsin farmers, and I hope my colleagues, especially those 67 Senators who voted with us for a 30-percent increase in dairy back in March will today stand up with us for these financially strapped families and support this more modest increase, $1, roughly 10 percent increase in the price supports. They have been waiting too long. They have been waiting long enough. They need us to do the right thing, and the right thing for us to do is the very small price support increase of $1 to give them the stability that they need.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise as a cosponsor and strong advocate of this amendment.

Let me first say that I would have preferred to debate this issue on the Dairy and Disaster Assistance Act—a bill that was reported out of the Agriculture Committee in October. Unfortunately, we have been unable to bring that bill up because of opposition of certain Members acting on behalf of the administration. It has been made very clear to us that members on the Republican side of the aisle would use all procedural tools available to them to bring the Senate to a standstill should cloture be invoked on the motion to proceed to that measure. Given the press of this week, that threat has kept us from filing cloture on the bill and has forced us to the floor today.

I am not surprised that, now that we have been forced to raise this issue on the supplemental, the ranking member of the Agriculture Committee will oppose this amendment. But I hope that nobody will be swayed by his reasons.

The Senator suggests that anyone who wants the crop disaster benefits contained in this bill should vote against this amendment. In a letter sent to all members of the Senate yesterday, he said—and I quote:

> A vote for this amendment is a sure way to forestall any such benefits and ensure that hard-pressed farmers will not receive assistance.

Now, Mr. President, I know that there are hard-pressed farmers in many States who have lost their crops this year to floods, drought, and other disasters. But let no one suggest that these are the only hard-pressed farmers in America.

Dairy farmers in Wisconsin and across this country have suffered an equal disaster this year. The only difference is that their disaster is an economic one. And whether farmers have suffered at the hand of God or the hand of the market is not, in my mind, important. The fact remains that both have lost their livelihoods. Both are in desperate need of some assistance from the Federal Government. And both deserve our help.

Let me point out, Mr. President, that the pricetag for crop disaster assistance in this bill is $1.7 billion. The price tag for our amendment, however—an amendment that provides equally needed assistance to equally hard-pressed farmers—is zero. Our amendment would not cost the Federal Government a cent. Frankly, I am surprised that the ranking member of the Agriculture Committee can have no quarrel with a $1 billion disaster relief package but objects to a no-cost amendment to extend that relief to dairy farmers.

Mr. President, there is no legitimate fiscal argument against this amendment. The administration and the Senator from Indiana object to this amendment on purely philosophical grounds. And I hope that Members of this body will soundly reject their philosophy because it is a philosophy of callous indifference to American dairy farmers.

This administration's solution to the problem of surplus milk production is to drop the dairy price support. Supply management through attrition. Put enough dairy farmers out of work and the milk surplus will disappear.

Fortunately, Congress rejected this approach in the 1990 farm bill, and chose to freeze the dairy price support at its current level. However, because of the administration's refusal to endorse any kind of meaningful supply management program, we were unable last year to enact the kind of changes necessary to provide long-term price stability for the dairy industry.

Instead, USDA was directed to solicit and analyze supply management pro-

VOL 137 PT 23 NO 21—25 1991 UMI

posals from the dairy industry, and come back to Congress with a recommendation on a supply management program this year.

Now, Mr. President, USDA received almost 100 supply management proposals. Some were mandatory programs; some were voluntary. Some were permanent; some were designed as standby programs. One would have thought that USDA could have found a supply management program to its liking out of all of these proposals. But USDA came back with a recommendation that no changes to the current program were necessary.

What I find so discouraging about this recommendation—or lack thereof—is that it was made on June 14 of this year. It was made when milk prices were at their lowest level since 1978. It was made after 60 Members of this body went on record in support of a temporary price increase for dairy farmers. It was made at a time when there is virtually no disagreement that changes are needed.

Since then, many of us in Congress have tried to develop dairy legislation that would meet the needs of the dairy industry without adding to the costs of the dairy program. In July, I joined with the distinguished chairman of the Agriculture Committee and others in introducing a bill advocated by the National Milk Producers Federation. That measure created a $12.60 price support, a two-tier supply management program, and a new standard for the percent of solids-not-fat in fluid milk. Despite broad bipartisan support for the measure, the administration vowed to veto the bill. In addition, cattlemen, consumer groups, and dairy processors raised concerns about the bill's potential impact on beef and retail dairy product prices. Instead of pressing ahead with that measure—which, in retrospect, maybe we should have done—we went back to drawing boards.

The result is essentially the amendment before us. And from the dairy industry's perspective, this amendment is truly a compromise. We have reduced the support price to $11.10 to appease the administration. We have replaced the two-tier program with a voluntary diversion program to address the concerns of the administration and the National Cattlemens Association. We have taken out the solids-not-fat change for fluid milk to address the concerns of consumer groups and dairy processors. And, in a separate amendment, we will provide a means of ensuring that the WIC program is held harmless.

Despite all these concessions, Mr. President—and they have been many—dairy farmers in my state of Wisconsin still support this approach. They do, sadly, because they are desperate for help.

In recent survey done by the University of Wisconsin, 528 farm families—90 percent of them dairy farmers—were asked about their financial status. More than 83 percent of them said that they were in financial trouble. Nearly half of them said they did not know if they would still be farming in 5 years. And when asked to grade the Federal Government on its support for their industry and their way of life, 75 percent rated the Federal Government's job as poor.

Mr. President, we have to improve our job rating. We cannot continue to turn our backs on the hard-working dairy farm families across this country. If we ignore the financial instability in the dairy sector, Wisconsin alone may lose 5,000 dairy farms next year. If we ignore the distress in dairy-dependent communities, Wisconsin's suicide rate among farmers—already twice as high as the rate among nonfarmers—will continue to grow. If we ignore the fact that dairy farmers are paying 1991 costs of production and receiving 1978 prices for their product, Wisconsin farmers will continue to have to seek help to pay for such basic necessities as food, heating and medical expenses.

Certainly there are farmers who will survive. But there are many farmers who will not. And every farm forclosure and auction puts not only one farm family out of work, but several people in farm-related jobs. If we do not act now, some 10,000 dairy-dependent jobs may be lost. Last week, we provided over $5 billion to extend unemployment benefits to people out of work. Let us not put more people out of work here today.

Mr. President, this amendment will not increase the costs of the Dairy Program. It will not increase the retail cost of milk. It will not reduce the ranks of WIC recipients. And it will not drive down the price of cattle.

If we do not adopt this amendment, we will have acknowledged one farm-related disaster and not another. If we do not adopt this amendment, the situation will only get worse next spring and the pressure to act greater.

If we do not adopt this amendment, we will be as indifferent to the future of America's dairy farmers as this administration is.

Mr. President, I am not willing to do that, and I hope that my colleagues also will not be willing to do that.

I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I first want to remind my colleagues that earlier this year when it became readily apparent that we had a severe crisis in the dairy industry, and this body did react very favorably to try and help the dairy farmers. By a vote of 60 to 40, we moved forward with a rather controversial piece of legislation which, would have given us a more stable milk price in time to try and bring about something like we are bringing about today. So I first want to thank my colleagues for their support at that time for Senator LEAHY, myself and that proposition.

But, as I pointed out at that time, that amendment was a much more controversial and less desirable provision that we could have with more time and effort. Today, we have such an option for the Members to consider.

What we are doing here today is to try and provide stability which will ensure that we do not put more farmers out of business than is necessary, and at the same time give stability to the dairy pricing system, which has been in effect for many, many years.

It always grieves me when we have to talk and defend ourselves as representatives of dairymen, because the dairymen of this country are heros. They have done more for our society in the sense of demonstrating what productivity can do to give us a secure, reasonable food supply. So I, first of all, want to show and demonstrate by a chart which will indicate very clearly the tremendous advantage that our dairy farmers have provided to our society. That does not include just the fact that they have been productive and the prices have gone down, but it also shows things which we find ourselves trying to defend.

The dairy farmers productivity has allowed many, many more people to be able to be on the WIC Program because of the tremendous productivity and the fact that they have brought us a product which is cheaper now than it was 10 years ago, and therefore has provided for many more people to be given an opportunity to be on the WIC Program. It has reduced the cost of our School Lunch Program. It has reduced the cost of providing nutritional food to the needy in times of great need to much less of a cost than 10 years ago.

Let me point to this chart so I can show you where we were 10 years ago. In 1981 we had a support price, of $13.10.

At that time, we had a growing supply, and we ran into some problems. So we came up with an different supply management program, combined with some price cuts because of productivity, to bring the cost of the program down, and also to provide our customers a much more reasonable price for their product.

This top line here demonstrates what would have happened if the dairy supplemental had been adjusted to the cost of living index. So right now that price support which was, $13.10 a hundredweight, in 1981, if they had just gone along with the cost of living increases, the price support would be $19.63. But what is it? This is inflated dollars, I remind you. It is now $3 less than it was in 1981.

If you were to take into consideration that these are inflated dollars

and ask yourself what is the real cost, based on the 1981 dollars, it would be $6.74 a hundredweight, or about half of what it was.

In other words, the productivity of the dairy industry is now providing us milk at one half the cost to consumers than it was 10 years ago. I say that because it irritates me when people get attacked by consumers groups that say our efforts will increase the price.

Let me examine the current situation with respect to that.

Right now, we have a price support of $10.10. But we have a price that is going up because this is the fall of the year. The reason it has increased is because we know that, by the cycle of cows and the way they produce milk, the fall, obviously is not time when cows have calves. So we have a reduction in the supply and therefore an increase in the price. Our farmers are getting well over $10.10, in the area of $12 to $13.

Thus, what we do today is to try to give that security to the farmers so that when the spring comes, by nature's cycle, calves arrive, and the production of milk increases in the spring. We will not fall off of the cliff again, as we did this past year and end up with serious economic ramifications on the dairy farmers and the dairy industry in this country. I want to point out that they are above where this amendment would increase the support price. So there should be no increase in the price to consumers, no impact the WIC program, and no reason not to support our very reasonable approach we have here.

Thus, for those that would say there are going to be ramifications as a result of this amendment, I say there is no rational basis for that because the price is above where it would be as a result of this amendment and if we hold it steady, it should have no real impact on consumers or any programs.

In addition, we will be using, under this program, a supply management program which we did use in 1983, when we had a problem of increasing supplies of milk, called a diversion program. In my mind, it is not the most preferable one, but it worked. It worked successfully. The problem was, however, it only was allowed to be worked for 15 months. We warned them at the time that it would work, but unless you expanded it to at least 3 years, it would not result in any change in the methodology in which our farmers produce milk.

A GAO study shows that it saved the Government from spending in reduced CCC purchases around $683 million during the 15 months. Six hundred eighty-three million dollars.

I point out now that it had a zero cost to the dairy program and, in fact, saved spending. We transferred that saving onto the school lunch people and onto others who did not have dairy food supplies available to them.

This diversion program under this proposal will be working for a length of time which should give us some security. You might ask: If it worked before, why not try it again? I was a Member of the House of Representatives at that time, and we had to take an oath, if this program works, that we will not suggest it again, because we do not like programs that work in agriculture. They sometimes get us in a position where we do not have to do anything. We do not like that. We took an oath with the administration at that time and said if this program works, we will not ask for it again.

Maybe I am going against that, but I shifted from the House to the Senate. So I figure that perhaps that oath is no longer in effect. I am certainly going to support this amendment.

What we have for you today is a program that is proven to work. It worked in 1983. It worked to save us almost $700 million. It brought supply under control. It kept the price at a reasonable amount, furthermore it even reduced prices to a certain degree at that period of time.

So I urge Senators that if they want to ensure that we have an adequate supply of milk for our public, at a reasonable price, and be consistent with the vote that they made earlier this year then support this program. Had dairy farmers not had good years many more would have gone out than have already. What we want to do now is not place them in a position where they have drained most of their equity to stay alive. Next spring when the normal flush period for dairy begins we will not give them the coup de grace or place them in a position where they no longer have the capital necessary to live through those negative cash flow through situations.

Again I commend my senior Senator from the great State of Vermont, one of the prime dairy areas of this country, for his efforts in bring this bill to us here. I urge Senators to be consistent with their vote in March when they demonstrated sincere desire to help the struggling dairy farmers of this country to get a fair price for their milk; we will pass this and hopefully get it approved by the House and enacted into law before it is too late for our dairy farmers.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EXON). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I would like to thank both Senators from Vermont and other Senators who have sponsored this amendment. I am pleased to be an original cosponsor of the amendment.

In many ways this amendment seems to me like something that is too late, inadequate, and not enough. I wish it were not attached onto an emergency spending bill. But it is a step in the right direction. It is an absolutely essential thing for us to do right now if we are to respond at all to the concerns and circumstances of the lives of dairy farmers in our country.

Now we must take this step forward. I hope the Congress will pass it, and send it to the President. And I certainly hope the President of the United States will support this amendment.

First, Mr. President, let me tell you in the spirit of honesty that for thousands of farmers it is too late. We have been talking about the need for dairy farmers to have a price that they can make it on for almost a year. And throughout the past 9 months thousands of dairy farmers have been driven off the land. For them it is too late. The administration did not want to act. I hope it will act now.

Second of all, Mr. President, for a majority of the country's dairy farmers this price, let us be clear about it, $11.10 with voluntary diversion is really just a small step forward. I mean if the average cost of production in the United States is well over $13 per hundredweight, then 11.10 per hundredweight is just a step in the right direction, not unreasonable to be sure. Excepting for the fact the price should be even higher.

My State of Minnesota has lost 500 dairy farmers this year. That is 500 farmers forced from their business, forced off the land. This amendment will not bring them back.

But we will need this amendment to raise the price for other farmers. Mr. President, we have spoken on the floor of the Senate about other citizens in our country who are in economic pain. I have spoken on the floor of the Senate about those citizens. Citizens that are unemployed. We had that debate about extending unemployment benefits. We have talked about people without health care. We have talked about children without an adequate education. We have talked about how difficult it is for many small businesses to make a go of it in these difficult economic times.

Mr. President, you know as senior Senator from Nebraska that there is a pain felt in America's heartland that has been less remarked upon. Now that pain in the countryside may be a little less clear, it may be more hidden, but it is no less real.

It is not always observed through statistics. But anyone who travels throughout rural America, and who talks to dairy farmers, can experience their pain, can see it in the looks of the faces of people. I have spoken here before about the importance of dairy farming to my State's economy.

We have 15,000 dairy farms in the State of Minnesota. That is about a tenth of the United States total. The milk production for Minnesota generates over $1.3 billion in cash receipts last year.

We are the No. 4 dairy State in the United States of America. Yet, and I want to repeat this several times, yet

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have seen their prices drop dramati-

lation, 23 million people, receive food

The Senator from Idaho is recog-

itor this on a week-to-week basis and

My dairymen have told me that their

VOL 137 PT 23 NO 21—25 1991 UMI

the average herd size of a Minnesota dairy farm is about 50 cows, 50 cows per farm. So we are talking about a family farm structure of agriculture. We are talking about a business that generates $1.3 billion in sales a year that contributes to small town economies, that contributes to the economy of our State, that contributes to the economy of the heartland, that contributes to the economy of the Nation. And it is a family farm structure of agriculture.

Everybody loves the family farmer and the small business person, at least when it comes to rhetoric. But then when it comes to public policy, to make sure that family dairy farmers receive a fair price in the marketplace, all of a sudden the policies do not match the rhetoric.

Mr. President, I have said it before and I want to say it again on the floor, when we are talking about national dairy policy in the U.S. Senate, we are not only talking about a way of life, and we are not only talking about dairy farmers, we are talking about the very soul of this country. I am concerned and I will tell you something, every single citizen in this country should be concerned, whether or not they come from an agricultural State or not, that we are moving away from a family farm structure of agriculture to a factory farm system. That is what we are doing. We are making that transition. And if we make that transition, and we do not change the course of policy, every citizen in this country will deeply regret it. And I want to explain why.

A family farm structure of agriculture promotes economic vitality in rural America and in rural communities. It is also more environmentally sustainable.

And finally the dairy farmers in this country, and we all owe them an enormous debt of gratitude, have provided us with a plentiful supply of wholesome milk at a fair price. That is what we are trying to do with this amendment. It is not enough. It is too late for some, but at least it is a step in the right direction.

We are trying to enact public policy which will provide family dairy farmers with a fair price in the marketplace, or at least move us in that direction, while at the same time protect consumers and taxpayers and make sure that we have cost at a reasonable level.

We are not trying to make dairy farmers wealthy. We are not talking about powerful special interests.

Anybody who spends any time with dairy farmers in my State of Minnesota or anywhere in the country will realize that. We are just trying to achieve a fair and stable price, that is not too much to ask for, that is what anybody in business asks for, and that is what any wage laborer asks for.

This has been a long year for dairy farmers. During most of this year, they have seen their prices drop dramatically. Prices fell over 25 percent during a 12-month period starting in 1990, and yet at the same time, retail prices barely went down, if at all.

Now normally what we would expect is that when the farmers' prices go down, the retail milk prices go down. That way consumers who see the prices go down buy more in volume. That is the way it is supposed to work.

Unfortunately, the dairy market does not work that way. Instead, it works to the disadvantage of producers. Even when the farmers' prices go down—which is what has happened throughout most of this year—retail prices do not go down and retailers capture most of the profit. That is what the General Accounting Office tells us. Consumer demand does not increase because retailers do not drop their prices to reflect the costs. The middleman takes the middle, and the dairy farmer loses both ways.

Mr. President, farmers' prices have come up in the past several months, but there are indicators that the prices may go down again. Already cheese prices in Green Bay are turning down again, and that is usually a signal to dairy farmers that milk prices are about to decline.

The administration has said "There is no crisis in dairy." Three billion dollars in losses, according to one estimate, and thousands of dairy farmers driven from business. This is a crisis. "The market is working," the administration says. "Prices are coming back up." But the prices are not coming up to cover the cost of production. We still have a crisis. We have been waiting 8 months for action, and now it is time for the United States Senate and the House of Representatives and the President to take action.

Mr. President, before I was elected to the U.S. Senate, I would travel around the State and I would meet with farmers, and I used to hear over and over again the problem is that dairy farmers are divided, but we have had proposals around in which there was unity. Going back to last year—I believe it was in March—we had unity around a $1 increase per hundredweight. A veto threat in conference committee killed that. We had a proposal by Chairman LEAHY for $12.60, two-tier pricing. We were not able to move forward on that. We had the unity, but we did not take the action. Now, late in the session, I think we are about to take some significant action that will make a difference.

Let me make two final points: No. 1, it is profoundly disturbing to me that there are some who argue that if dairy farmers begin to get a fair price, somehow this will hurt poor people in this country.

Are we going to blame and punish dairy farmers, 160,000 dairy farmers, for the fact that one-tenth of the population, 23 million people, receive food stamps?

In Minnesota, there are dairy farmers who receive food stamps. Is that not a bitter irony? Also, surplus butter and cheese. I can hardly believe that the administration which has done so little for those people who are really in pain in the cities now will use that as an excuse—and I hope they do not—to do so little for dairy farmers across the country.

I want to remind my colleagues in closing that this is not a matter of urban versus rural. This is not farm versus city. It is not one region versus another. It is a matter of doing all we can by way of public policy to support family dairy farmers who have done such a marvelous job of providing us with wholesome milk at a decent price, farmers who have contributed so much to the national interest of this country. It is true that this is only a step in the right direction. But it is an important step, and I am very proud to be a part of this.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I hope that we might be able to get to the vote fairly soon. Senators have been asking me about that. Earlier this year we voted 60 to 40 in favor of this proposal. So Senators know how they voted then and will probably be reminded of this by the managers of the amendment at the time when they do vote.

I note also for Senators that it will be my intention, once this is over, at an appropriate time, to bring up another amendment on WIC cost containment. I do that to make very, very clear that adoption of this amendment will in no way cut into WIC participation. We have had strong bipartisan support of the WIC Program in this body. I have had the privilege, since I have been in the Senate, of being either the sponsor or main cosponsor of virtually every piece of WIC legislation that has gone through this body. I have either been the floor manager or one of the floor managers of every single WIC improvement item that has gone through the Senate. I would not, for this amendment or any other amendment, do anything to hurt WIC.

Our amendment, which will come up subsequently, will be designed to assure that nothing will happen to WIC. As I say, I have spent 17 years protecting WIC. I am not going to let WIC be hurt here.

Mr. President, I ask unanimous consent that I might yield to the Senator from Idaho for a series of questions which will not take more than, I think, a couple of minutes. I know he has a colloquy on some issues that he wishes to raise with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. CRAIG. I thank the chairman for yielding, and I am proud to be able to support the amendment he has provided us today. I want to compliment him on the effort and his persistence in trying to resolve the crisis that our dairy industry has been in. I have had the privilege of working with him on his committee, our committee, to try to achieve that.

But I have also worked with him to try to achieve a balance as it relates to the potential impact that I think some of us were very concerned about as to a program that would bring additional red meat to the market and, of course, result in some kind of price reduction that might impact the beef industry of this country. We have tried to resolve that and I believe that a diversion program designed like this, with the payment level where it is set, goes a long way toward resolving that issue.

But there were other things done in committee, Mr. President, that are awfully important that not only should, I think, the record show and be understood as to the intent of it, but should be discussed for a brief time on the floor.

My concerns, of course, as I expressed them, are an interest to bring balance to the red meat industry and the cattle interest, because I am saying here—and I think we all recognize—that the dairy industry provides a substantial portion of red meat along with the cattle industry to this country. So they are both cooperative types in this effort.

I ask the chairman, does the amendment follow the guidelines of the committee to protect the cattle industry as we discussed and voted on?

Mr. LEAHY. Mr. President, I would tell the distinguished Senator from Idaho the answer to that is a definite yes. I should also note for the Senate that the Senator from Idaho has been very important in getting this legislation here. He serves as a valuable member of the Senate Agriculture Committee. He comes from a State which has both a dairy industry and a cattle, or red meat, industry and has been invaluable in working with me and Senator JEFFORDS and with so many others in trying to balance those interests.

But to his first question—I know he has other questions—but to his first question, the answer is a definite yes.

Mr. CRAIG. Mr. President, it is my understanding that the amendment directs the Secretary to vary the beginning and the ending dates of the surplus reduction contracts to minimize the effects on beef producers, or red meat producers?

Mr. LEAHY. Again, Mr. President, the Senator is correct. Yes.

Mr. CRAIG. It is also my understanding that the amendment directs the Secretary of Agriculture to limit the monthly dairy cow slaughter and monitor this on a week-to-week basis and suspend the reduction program if the dairy slaughter rises excessively?

Mr. LEAHY. Again, Mr. President, I am pleased to state that the answer is yes.

Mr. CRAIG. I thank the chairman for yielding. I think all of us are concerned about the dairy industry as we know it, to bring some stability there in price structure and, of course, profitability to the family farmer who really is a large part of the dairy industry in my State and in the chairman's State, but also to recognize there could be other impacts as a result of dairy cattle moving to the market for slaughter.

These amendments that we have discussed, as well as the bill itself, works to mitigate that very effort.

I thank the Chairman for yielding.

Mr. LEAHY. I thank the Senator from Idaho.

The PRESIDING OFFICER (Ms. MIKULSKI). Who seeks recognition?

Mr. LEAHY. I believe I still have the floor, but I know there are other Senators who want to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, most Americans are not aware that dairy prices have hit their lowest point in 13 years. Few Americans know that dairy farmers all over the country are struggling to keep their operations going on the same price they received in 1977.

In real dollars, milk producers are receiving about one-half of what they were only 14 years ago. To be able to make a living at that price, dairy farmers are expected to increase productivity at over 5 percent per year for 14 years, more than three times the rate of productivity gain for the United States.

In my State of North Dakota, we lost one dairy farmer per day for a large part of 1991. One dairy farmer per day is going out of business in my State as a result of poor dairy prices and high operating costs. In 1985, there were 3,400 dairy farmers in North Dakota. By 1988, that number had dropped to 2,500. Today, Madam President, there are just over 1,500 dairy farmers in North Dakota.

Madam President, earlier this year I invited the Secretary of Agriculture to North Dakota. Secretary Madigan accepted my invitation, and we spent part of the time in my State on a dairy farm. The owners of that dairy farm that we visited, the Kalvada family, told the Secretary that these are the worst economic times ever to hit the dairy business.

In a hearing before the Agriculture Committee yesterday, an official of USDA told us that rural America is strong and healthy. Madam President, that just is not so. Nowhere is it more clear than in dairy.

My dairymen have told me that their bankers will not finance them any longer if the dairy program is not changed.

This bill provides that dairy producers receive an increase to make up for just 25 percent of the rate of inflation since 1977—that is not asking too much, not 25 percent more than inflation—just 25 percent of inflation.

The bill proposed by the dairy cooperatives, and embodied in Senator LEAHY'S bill, would mean that dairy farmers would receive a pay raise of about 1.5 percent per year for the past 14 years when inflation averaged 5.2 percent per year. In other words, even with the improved price in this bill, dairy producers are expected to increase their productivity by 3.7 percent per year to survive.

The American consumer pays a lower percent of his income for food than do the consumers of any other country in the world—about 10 percent. The American consumer pays so little because our farm programs have worked to the benefit of our consumers.

This legislation also protects the WIC Program from any effects. I am pleased that this small increase in dairy support will not affect that important program.

Additionally, I have worked hard to make sure that the red meat industry is not harmed by this dairy legislation. The committee accepted my amendment—with bipartisan support—to make sure that cattlemen and other red meat producers are not adversely affected.

In addition, the Leahy-Lugar compromise contains a provision that the Secretary may suspend the diversion program if dairy cow culling exceeds a certain level. These two provisions—my amendment and the Leahy-Lugar compromise amendment—should preclude any adverse effects on the red meat industry.

Let me close by stating once again that I am pleased to support this legislation with the above provisions to protect the red meat industry and the WIC Program.

Madam President, if you go to my State and visit the dairy farmers, what you will hear is that they are faced with a serious crisis: Falling prices, rising operating costs, and a level of payment in the marketplace that simply cannot sustain their lives.

These are not rich folks. These are not giant corporate dairy farms. These are family farmers who have made a living for generations on the land. And the question before this body is: Do we force these people from the land or do we give them a chance to continue?

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I rise to support the Leahy amendment to the supplemental appropriations bill in

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In January 1991, Minnesota had 15,350

commodation and appreciation of the

any factor of efficiency, we would still

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regards to the dairy farmers of America. We have seen an unusual situation. The dairy farmers' price at the marketplace has fallen over the last year-and-a-half between 30 and 40 percent of what they normally would have received for their milk. Unfortunately, this was not reflected in the price of milk at the supermarkets and grocery stores.

Consumers have been paying the price that they have been normally paying over a great number of years. The price that the farmer received is the lowest in 13 years. A lot of effort has been expended in trying to come up with a solution in regards to this problem.

Earlier, a two-tier system was considered. But opposition arose. Any time we deal with dairy, since cows are involved, we try to reach an accommodation by which dairy farmers can be helped but, at the same time, cattlemen and other red meat producers are not harmed in any way.

The Leahy amendment balances these concerns and in my judgment is an excellent legislative approach to try to be of assistance to our dairy farmers.

But at the same time, to not hurt the beef and red meat producers of this Nation.

The Leahy amendment to the supplemental appropriations bill will increase the safety net for American dairy farmers by $1. By increasing the support price for fluid milk by $1, we can avoid the painful price drop in the future that the dairy farmers have experienced over this last year and a half.

By coupling the price support increase with a marketing diversion program, this amendment will not increase budget outlays. The chairman of the Agriculture Committee, Senator LEAHY, is to be commended for forging this compromise and working out this bill. I congratulate him on achieving a bill which I think is in the best interest of America as a whole, and will be helpful to dairy farmers, but at the same time, will not hurt the beef and the red meat producers.

Madam President, while I am on the floor, let me also congratulate Senator BYRD and the members of the Appropriations Committee in drafting other aspects of this supplemental appropriations bill in a manner to be of assistance to the farmers of America.

We have seen unusual weather conditions at various localities throughout the United States. My State of Alabama has had sections of its State that have suffered from drought or unusual weather conditions that have decreased their production of various crops substantially 5 out of the last 6 years. We have certain sections, particularly the Tennessee Valley, which is the northern section of Alabama, that has had adverse weather conditions now for a number of years. Last year, the Tennessee Valley and the entire State of Alabama experienced extreme heat and drought conditions.

The lack of rainfall during the 1990 growing season and the erratic rains of 1991 pushed a number of Alabama family farmers to the brink of financial collapse. Therefore, it is imperative that a Federal disaster assistance program be forthcoming. According to the 1990 USDA estimates, cotton production in Alabama was down 35 to 50 percent. Peanuts were down 40 percent. Soybean production was reduced by 50 percent.

In the 1991 heavy spring floods, we found that they ruined many of the State's spring harvested crops, such as potatoes, wheat, canola, and sweet corn. We had also had in both years' freezes that occurred that affected our fruit crops, like our peach crop in Chilton County and other counties.

In 1991, these unusual weather conditions caused unusual conditions. Farmers have shown me potatoes, as an example in Baldwin County, Mobile County. If you took the potato and squeezed it, it would shoot out a stream of water. Those potatoes rotted in the field because of the adverse rain conditions as they existed during the spring of this year.

In the Tennessee Valley, they suffered unusual drought during the period of time in July and August when they needed rain. Earlier, they experienced too much rain and their planning season was delayed. Freezes came and destroyed many, many cotton bolls, and they were not able to produce anywhere near to the cotton.

In other sections of my State, in regards to the cotton crop, the rains came and, therefore, they did not suffer. But the bill is designed in a manner by which those who suffer will receive benefits, and those who did not suffer will not be receiving benefits.

We have had a very unusual situation in regard to our winter wheat production during this year. It was down considerably. The rains came at the wrong time, and it was too much rain. The unpredictable and erratic rain conditions in the State have caused a great deal of disaster.

The cotton farmers, particularly in the Tennessee Valley this year, not only experienced disaster as a result of no rains at the right time, but also too much rain at the wrong time. In addition to that, the price of cotton dropped by 30 cents a pound. The provisions in the supplemental appropriations represent a commitment to the American family farmer, a commitment that should not go unfulfilled, and the resolution will go a long way toward sustaining family farmers in this Nation.

This bill, of course, provides for both crop years. The House bill provides for a choice in regard to this, and I am sure that the conference will work out the differences. We have allocated $1.7 million in regard to disaster, and that will be considered. We hope that this will go through, the President will sign it, and that there will be some relief for our farmers who have suffered. The bill is crafted in such a manner as to where nobody gets a bonanza. If they have crop insurance, that is taken into account, too.

The last time that we passed the farm bill, we provided in the authorization bill for this. But no appropriations came along at that particular time.

We strove to try to attain it, but we were not able to attain it. So this year, we see that the supplemental appropriations corrects a real situation that needed correction, and we see that this bill is an excellent bill. It contains provisions dealing with disaster.

So I hope that we will pass the Leahy amendment rapidly as it applies to our dairy farmers and move forward in regard to the weather disaster provisions that are contained in the supplemental appropriations bill.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Madam President, I rise to support the amendment of my colleague from Vermont. He has asked me to be relatively brief about it, and I appreciate that, and I will be. I think I can get right to the heart of the issue.

I have been preceded today by some both more eloquent and perhaps more illustrative, as I look at some of the charts around here.

Mr. President, I come from the fourth largest dairy producing State. The country in which I was born and raised is probably the most productive dairy county in this country, certainly it is in the Upper Midwest. So the reality that the dairy farmers of this Nation are hurting is impressed on me every time I go home.

The last 12 months in the dairy industry have proven that a price of $10.10 per hundredweight is not enough.

If the Senate approves a dairy bill without a $1 increase in the price support, it would be like throwing a 10-foot rope to a drowning man 20 feet from shore.

The Senate has the opportunity today to provide long-term assistance to America's beleaguered dairy farmers. An $11.10 price support with a voluntary diversion program will assure farmers a fair price for their milk and keep them in business as well.

This dairy amendment will not only help dairy farmers—it will help the communities of rural America.

Our dairy farmers produce 10 billion pounds of milk, and manufacture 654 million pounds of cheese, 115 million pounds of butter, and 37 million pounds of powdered milk.

In January 1991, Minnesota had 15,350 dairy farms. Today we have 14,500 farms—850 fewer—and we are losing more each day. Without an increase in the support price, Minnesota will lose another 1,000 dairy farmers in 1992.

There is no blinking at the fact that there is a real problem in dairy right now. In 1991, dairy farmers saw the lowest prices for milk since 1978—with prices dropping as low as $10 a hundredweight. The rural countryside is devastated. As dairy farmers go out of business, so do all small businesses in the communities.

Everytime 7 dairy farmers shut down operations, 1 small business closes its doors and that is a loss of another 150 small businesses in my State.

It will help consumers who will have to pay higher prices as the number of local dairy farmers decreases. There is no question about that. We cannot rely on huge dairy farms in California for cost-effective production to meet the needs of consumers throughout this Nation.

Madam President, the United States is in a recession. Many people are having to do with less. But how many Americans are working 12 to 16 hours a day and getting the same pay as they did in 1979? The dairy farmers are, and it is impossible to pay 1991 bills with 1979 prices. My very eloquent colleague, the junior Senator from Vermont, made that case so very well on the floor.

Farm taxes have increased by 36 percent over the last 10 years, tractor prices increased by 70 percent, machinery costs by 88 percent, and fuel and energy costs by 39 percent.

Keeping dairy farmers in business is good for America. This is not an issue of city versus country or nutrition programs versus ag programs. It is an issue of what is right and what is good. This amendment will keep dairy farmers and rural small businesses and communities in operation. Most importantly, the amendment guarantees our Nation a supply of safe, fresh, affordable milk.

The best part of the amendment is that it has the support of the real dairy experts, the farmers themselves. I have heard from hundreds of them in my State, and they all say they must have $11.10 per hundredweight to survive. It would bring stability to their farms. I urge my colleagues to support our Nation's dairy farmers and to approve this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I also rise in support of the amendment of the Senator from Vermont, the distinguished chairman and thank him for his effort in bringing us to this point.

Those who argue for no compromise on price support increases trouble me a good deal. We are a body that is based upon sacrifice and compromise and accommodation and appreciation of the difficulties that constituencies across the country face, whether they are ours or somebody else's, and this attitude about no compromise, this belief in no price support increases ignores the facts.

We did not see these arguments when we indexed taxes. We did not see these arguments when we argued for an increase in the cost-of-living allowance for various people. We did not see these arguments when salaries here in the Congress or down in the White House or any place else were considered. The fact is, each and every time those particular matters were brought to the attention of the Senate, we understood the need. We understood that we had to respond to very specific concerns and understandable needs and did so through compromise.

That is really what this is all about, Madam President. We are talking about compromise. Yet there are those who tell dairy farmers, "Forget it; we want you to swallow the costs. If you cannot make it on 1978 prices, find something else to do."

The fact is support prices are not in line at all with the cost of production today. Costs-of-production estimates are that prices last year alone to most dairy farmers, when having to deal with their costs, went up 10 percent. The fact is they are making up for their price in increases in volume and that, very frankly, has been self-defeating. A 2-percent increase in milk production last year resulted in a 30-percent drop in farm prices. USDA estimates the cost of production in the upper Midwest today at nearly $14 per hundredweight. Nationwide the cost of production is $13.62. So the price today is at least $1—$1 below the cost of production.

Now, what business anywhere in the country can survive for any length of time on a cost of production that is above the price that they receive in the marketplace?

The result has been very predictable, as it would be for any business. The result is that 5 percent of our producers in South Dakota have already been forced out of business. The result is that 10,000 farmers are estimated to have lost their opportunity to produce dairy products nationwide.

The administration argues that it is just the inefficient that are being forced out, that to a large extent it is the small, inefficient farmer that has no place in the modern agricultural environment that we work under today; that in order to be efficient you have just got to be bigger.

Nothing could be further from the truth. If size was any guarantee of efficiency, Eastern Airlines, Pan American, Midway would all be part of business today. If size were any factor of efficiency, the Bank of New England would be prosperous today. If size were any factor of efficiency, we would still have a lot of S&L's that are out of business today and the RTC would not even exist.

The fact is that size is no guarantee of efficiency. The fact is that there are family farmers who have an amazing level of productivity. The fact is that it is not their productivity that is driving them out of business today. It is the price.

A 30-percent price drop resulted in a monthly loss of $5.7 million in South Dakota alone. USDA projects that cash receipts to dairy farmers in the United States will drop by $4 billion this year. In the State of South Dakota, there has been a 7-percent increase in the number of farmers on food stamps in the last 3 months nearly all of them dairy farmers—a 7-percent increase. And what a cruel irony. Those producing food need food stamps just to buy it back.

This legislation is not going to turn these circumstances around completely. We recognize that. No compromise will ever do that. It will not do all that many of us would like it to do. Producers will be asked to submit to voluntary production controls and limit the exposure of the Federal Government in return for a fair, stable price.

So here are the final facts. The costs for administering the program will be paid for by producers through assessments, not the Federal Government; $11.10 is below the current market price. The bill will not increase retail market prices. Rather, wholesale prices will be prevented from crashing down to bankruptcy levels once again. Finally, an $11.10 support price in conjunction with the diversion plan will save taxpayers tens of millions of dollars in program costs over the next 5 years.

Madam President, those are the facts. Those, I hope, will be given consideration by all Members as we weigh the extreme importance of this legislation to every dairy farmer in America. I urge its adoption. I urge its careful consideration, and again I commend the sponsors for their leadership in bringing it to this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to speak about the amendment on dairy and disaster assistance which was offered by the distinguished chairman of the Agriculture Committee, Senator LEAHY.

DISASTER

First, I would like to express my strong support for passage of the disaster assistance provisions. This legislation will provide needed assistance to farmers who suffered crop losses due to adverse weather conditions for 1990 and 1991.

VOL
137
PT
23
NO
21
—
25
1991
UMI

Mother Nature has again dealt a cruel blow to some farmers across the country.

Whether they have suffered from too much rain, or not enough rain, or freezing conditions, the result is the same—some farmers have lost their crops due to conditions beyond their control.

While Montana has been very fortunate this year and last to have had adequate rainfall throughout most of the State, there are farmers in a few areas in Montana who lost their crops because of adverse weather.

Last year, we had some farmers who suffered because of drought conditions. This year, our cherry farmers lost their crops because of a hard freeze.

Losses for these farmers are no less real than they were during the devastating drought years of 1988 and 1989.

That is why I strongly support passage of this disaster authorization, and the $1.75 billion that is provided for it in the supplemental appropriations bill.

Farmers in Montana and throughout the country should not have to suffer financial devastation at the hands of Mother Nature.

OPPOSE DAIRY

I am afraid, however, that I must strongly oppose passage of the dairy portion of the Senator's amendment.

I am sympathetic to the plight of dairy farmers. And I know that they have suffered hard times lately.

But unfortunately, this amendment threatens the financial well-being of Montana's largest industry—cattle. Therefore I must oppose it.

When I talk to Montanans about a dairy diversion program like the one we are considering today, they see red.

THE 1986 BUYOUT

They will never forget the devastating effect the 1986 dairy buyout program had on domestic cattle prices.

That program may be the single worst idea to come along in the farm debate in the last decade.

In 1986, during the week following USDA's announcement of the buyout, cattle prices declined nationwide by from $2 to $6 per hundredweight, depending on the type of cow. This decline equals a drop of from $20 to $60 per head; or a 1 week total of about $25 million.

Montana cattle prices, on the other hand, during that same period, dropped a whopping $8 to 10 per hundredweight. Or nearly $100 per head.

When you consider the fact that the cattle industry is the largest industry in the State of Montana, any kind of price fluctuation can have a devastating impact on our economy.

And let there be no doubt about it, a dairy diversion program, no matter what the form, could have a similar effect on cattle prices.

The 1986 price decline was caused in large part by the fact that the USDA did not follow the law when implementing the dairy buyout program. Montanans do not trust that the USDA will do it right this time either.

According to the National Cattlemen's Association, every $1 move in cattle prices today affects the cattle industry by about $6.6 million every week.

Cattlemen simply cannot withstand such a gouging.

Clearly, the 1986 proposal and the one before us today, set up a system under which we rob Peter to pay Paul.

What I am concerned about is that the cattle industry would be forced to represent Peter.

FRAGILE CATTLE PRICES

Montanans also believe that we could see a large number of cattle come on the market at a time when cattle prices are fragile. During August and September of this year, cattlemen suffered losses of up to $200 a head, and are today losing between $50 and $75 a head.

Montana cattlemen don't understand why we should pass legislation to help the dairy industry whose prices are currently increasing, at the expense of the beef industry whose price decreased 2 months ago and has not yet recovered.

All that the cattlemen ask is to be left alone to get a price based on the free market system of supply and demand.

LONG-TERM SOLUTION

In addition, it is clear by the amendment we are considering today that previous dairy surplus-reduction programs have had no lasting effect on the milk surplus or milk price situation.

Since 1986, production has increased with fewer dairy cows, but with substantially higher milk output per cow. There are also fewer dairy farms, but sharply larger average herd sizes.

What we need is a long-term solution to the recurring milk surplus problem so that the cattle industry is not continually threatened.

The only solution, in my view, is to let the market take its course.

Creating this diversion program will only place a Band-aid on the continuous milk problem and cause a rupture in the beef industry.

FREE MARKET FOR BEEF

Further, cattlemen—unlike dairy producers—benefit from no Government support programs. They live and die completely on the free market.

Therefore, I find it unfair that the cattlemen should be asked to pay for an additional dairy subsidy.

It is for these and other reasons that I am unable to support the dairy proposal.

It is unfair to come up with so-called solutions for the problems of one industry at the expense of another—especially when the other is the largest industry in Montana.

You can be sure that if the Government subsidizes competition to America's cattlemen, the cattlemen will come out the losers.

CONCLUSION

Finally, I want to again express my strong support for the disaster provisions of this amendment.

It is unfortunate for me that the dairy and disaster provisions are being considered together. I wish they weren't because I very much support disaster relief to American farmers.

But because the dairy proposal poses such high stakes for my State, I must vote against the package as a whole for the reasons I just outlined.

The essential point is this: I understand the problems facing the dairy industry, but unfortunately this amendment does not have sufficient safeguards to protect against another devastating blow to the beef cattle market such as occurred in 1986. That is the essential reason why I must oppose the amendment.

I do not like to be in the position where one segment of American agriculture is at odds with another. I do not think the dairy industry, nor do I think the beef cattle industry likes that position. We very much prefer to be in the position where we can reach an agreement, an agreement that would accommodate both the dairy industry and the beef cattle industry.

When we reach that accommodation, I think we will reach an agreement. Unfortunately today, we do not have that agreement. There are not sufficient safeguards built into the amendment which would give the requisite assurance to the cattle industry so that cattle and dairy could come to an agreement.

It is therefore with regret that I must, and very strongly, oppose the passage of this amendment. I urge my colleagues to do the same. Thank you Mr. President.

I yield the floor.

Mr. SIMON. Madam President, dairy farmers across the country have been asking Congress to come up with a more effective Federal Dairy Program. They want to see a fair price for their milk in relation to their cost of production and they want to see more stable prices. Senator LEAHY and others have been working hard to come up with a bill that the Administration can live with and that is fair to everyone involved. This bill raises milk price supports modestly, and it establishes a supply management program that will stabilize the production of milk and contribute to an overall more stable market for producers and consumers.

With the combination of an increase in the price support for milk and implementation of the diversion program, we have a dairy program that will stabilize prices to the farmer and the consumer with less cost to the Government. This bill does not raise the retail price of milk and it does not cost the Government more money. The supply

management program implemented in the bill—the voluntary diversion program—is acceptable to the administration and to the dairy industry nationwide. It successfully manages the supply of milk in this country and does so in a fiscally responsible way.

Farmers are not the major recipients of the money we pay at the grocery store. In the past 2 years, the price of milk to the farmer has reached record highs and record lows. The General Accounting Office found that when milk prices dropped 25 percent, consumers only paid around 5 percent less for milk products. This bill will hopefully bring some fairness back into the market place. It will keep thousand of dairy farmers from going out of business, it will provide some hope for struggling rural America.

Regarding the disaster portion of this bill, I support the $1.75 billion appropriated in the supplemental appropriations bill for disaster relief to farmers suffering from a severe drought. Eighty-two counties in Illinois have been declared eligible for emergency loans by the Department of Agriculture. Some farmers in my State have losses up to 50 percent of their yields. Farmers in the Southern counties of Illinois were hit twice this year when the winter wheat crops were damaged by disease due to heavy rains. In December, farmers will start making financial decisions for the 1992 planting year. For some, a disaster payment will determine whether they are eligible for 1992 crop loans.

Congress gave the President what is in effect line-item veto authority over this bill. It is my hope that the administration will agree with Congress and appropriate the full amount for disaster relief to farmers.

It is apparent, however, that now more than ever we need a strong Federal crop insurance program to help farmers make wise financial management decisions. Farmers cannot continue to hang in the balance, while the administration and the Congress decide year after year whether to declare an emergency for disaster relief to farmers. I am looking forward over the next year to examining more thoroughly, proposals for a Federal Crop Insurance Program.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Vermont.

Mr. JEFFORDS. Madam President, I will be very brief.

Madam President, I understand the concerns of the Senator from Montana. I want to reassure him that first of all I am committed to working over the holidays and before next year to reach the kind of an agreement to which he referred, where the cattlemen and the dairymen can live in peace. I believe that this can be achieved.

Second, I want to reassure him and his colleagues that in 1983 when a similar diversion program was put into effect, there was absolutely no impact at all on the beef industry; that any impact this will have will probably be negative, if anything, because it might result in less cattle going on to the market.

Third, I would also point out to my colleagues that this past year, because of shortages of beef, especially in the area of lean beef where the dairy industry cattle are utilized, we imported over 1 million cows in order to supply the market. Thus, there should be further understanding that any impact, of which I believe there will be none other than ordinary culls—there should be no impact whatsoever upon the beef industry by this program.

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I rise to oppose the amendment offered by the distinguished chairman of the Agriculture Committee, Senator LEAHY. I do so with regret that this amendment is being offered on the dire supplemental appropriations bill.

We have considered dairy issues and issues involving other farm producers and consumers in America throughout the year. The dairy issues are important, and the problems faced by dairymen are very substantial.

I have no argument at all with the thought that has been expressed by many who have spoken this morning about the human tragedy of dairy producers in our country who are not making a profit.

Indeed, the figures that have been given by a number of Senators show the enormity of the problems of those individual producers—it was suggested by one of my colleagues that the average cost per hundredweight in the United States of America is in the ballpark of $14 per hundredweight—clearly, with the price minimum support price of $10.10, or the price offered in the amendment today of $11.10, or even the current market in the country, which ranges somewhere between $12 and $12.50.

If in fact the average production cost for dairy farmers is on the order of $14, by that reckoning the average dairy farmer in America is losing money, a lot of money. As a matter of fact, Madam President, in hearings held by the Agriculture Committee we took a look at figures from New England and Eastern States which showed that in fact there were 10 percent of dairy farmers in those States with average costs of $18. Indeed, 20 percent of the dairy farmers, as I recall, had costs of $16 or above.

Madam President, the basic question that faces this body and the country as we consider an amendment of this sort, is clearly, as one Senator has expressed it today, what business can survive if production costs exceed prices—exceed prices by quite a lot, as a matter of fact.

The answer is that no business, either a small dairy farmer or a large one or a retail merchant or a small manufacturer, can stay in business if production costs exceed prices for any sustained period of time.

I suppose the question, Madam President, that is being asked by the dairy farmers is essentially whether the United States of America, all of the rest of our citizens, ought to provide enough income to them—that is, the dairy farmers—so that their income will equal their costs. That is the position that the Leahy amendment approaches today.

It approaches it in a modest way because by my own reasoning the $11.10 as a support price does not come close to $14. I think the dairy farmers know that too. Many dairy farmers support this amendment as a step that they feel will be helpful to them. I will argue shortly that certainly not all feel that way; But if the amendment is clearly inadequate, if one were trying to get the whole job done—that is to sustain dairymen, all 160,000 of them in our country.

Madam President, what is really being suggested is that we attempt, in this specific industry, to do something that the public as a whole does not prefer to do for most industries. That is that we accept the fact that producers have costs, and through taxpayers funds, try to supplement income until the income of the producer is equal to those costs.

It has been suggested that this particular issue arises because diary farms overproduced, as in fact they did, the amount of milk that was demanded by the public in 1989 and 1990. When overproduction occurs, Madam President, the price falls. That is true in every business, even those in which there are marketing orders and governmental supports, such as the dairy business.

As a matter of fact, Madam President, unless there is substantially greater demand for milk and milk products in our country, we will perennially be in a situation, where a small increase in supply, a small increase in production, creates surplus and declining prices. In this particular case, the prices rose, and dairymen were apparently stimulated to produce more. They did so, and prices fell, all the way down to the floor; a $10.10 support price was provided by last year's farm bill.

Let me point out that last year's farm bill was favorable to the dairy industry. It provided a floor for dairy producers. There is no floor for hog producers or for apple producers. There is a very special niche here, a price for dairy producers. To say the least, the farm bill, if anything, we skewed in favor of dairy producers.

VOL
137
PT
23
NO
21
—
25
1991
UMI

I congratulate the distinguished chairman of our committee, whose strong advocacy was largely responsible for that result.

But, Madam President, having given the benefit of the doubt to the dairy producers, as opposed to many other producers, dairy producers did produce more, and their price fell and hit the floor. Thus, earlier in this year, when the last dire supplemental appropriation came before us, impelled largely by the costs to this country of fighting and military activity in Desert Storm, you can imagine my surprise when in the midst of discussing the war, suddenly the distinguished chairman of the Agriculture Committee rose and suggested that we increase dairy prices by 25 percent.

Madam President, by and large the same sentiments were expressed then. Senators who have dairy farmers in fair numbers in their States came to the floor both to speak and to vote on behalf of what I considered an arbitrary increase in the price of one agricultural commodity. The proposal of the distinguished chairman was not to raise the price of corn by 25 percent, or soybeans, or cattle, or apples, but milk—a very specific targeted amendment.

I suppose history will record that debates such as the one we are now having are a principal reason why our country has very substantial financial problems; and even more, Madam President, why there is a certain cynicism in the public as a whole about the way we conduct our affairs. When constituents ask us how could the Federal budget get so far out of hand, or why do Members of the Senate listen to special interests, as opposed to consumer and Americans generally, one should look at this debate that we have had today.

A long train of my colleagues are coming in to say that dairy farmers in their States have production costs substantially greater than their income, and they are hurting, and they are hurting in an America that has many economic problems. Therefore, on a dire supplemental bill, at this point in the Congressional session, we ought to react by raising the support price by $1 and to go into a diversion program to assist them. This is to occur even though, by definition of the average prices and average production costs, even if this amendment were adopted, it would not do very much for them, in my judgment.

In fact, I will argue that this particular amendment will operate in a very perverse way, to the extent that it stimulates a significant number of the 160,000 dairy producers in our country to produce more. This is usually the way upward price signals in the market are interpreted. If the Federal Government guarantees a price, it is almost a knee-jerk reaction that more supply is forthcoming. Despite all of the hopes for the diversion that accompanies this legislation, the facts are that whenever prices have been raised, so have been expectations in surpluses. And we are then in a dairy industry which is prepared for another precipitous fail, and the cycle would bring distinguished Senators to the floor again to suggest still more price fixes for the dairy industry.

In fact, Madam President, if what is required here is some fairness—and that was suggested earlier on—fairness in the marketplace means supply and demand. Fairness must also be shown to consumers who do not pay a hidden tax for milk that they do not wish to consume. Fairness means that we do not attempt to reward a particular special interest in the hope that all the rest of America will not notice.

A suggestion was made that if a cost-of-living increase had been reflected in the dairy price over the course of the last 2 decades, the price of milk would now be $19. This is to suggest that we have a static economy, the same people, same productivity, same costs, and that absolutely nothing in the world changes. If you applied that logic to computers, and calculated what they were worth 20 years ago, as opposed to today, the results would appear ludicrous. The same would apply to a whole host of things that are very much a part of our lives. Of course, we do not hold prices equal for 20 years with cost-of-living indexes. We have efficiency and productivity gains in our economy, and that has brought us a higher standard of living. Our economy is not a static model in which we perpetually do identically the same thing.

I just say, in addition, that having made these arguments philosophically, let me make some that are very practical. I appreciate that there are Senators who sincerely want this amendment passed and a great number of us who sincerely want to be helpful to the dairy industry. But I think it ought to be known at the outset of this debate that the amendment that is being offered is very unlikely to become law. We know that because a letter as recent as November 20, 1991, mailed to the Honorable ROBERT DOLE, Republican leader, from Richard Darman, Director of the Office of Management and Budget, says in its final and concluding and most specific paragraph:

> We understand that there may be a floor amendment to attach the supplemental bill dairy provisions which would raise dairy price supports and increase the price of dairy products to consumers. These provisions, of course, are unrelated to the subject of supplemental appropriations. The President's senior advisers would recommend a veto of the bill if such an amendment were adopted.

This is not news, Madam President. The President's advisers, Mr. Darman; Secretary of Agriculture, Mr. Madigan, have throughout the year stated clearly if a price support increase were adopted, they would recommend a veto. That has been consistent. That is still the case.

So, in many ways, Madam President, we are proceeding today to what may be more accurately termed not a legislative proceeding but a public relations opportunity. A great number of Senators will find it useful to be recorded on this vote and to make statements on this supposed help for dairymen. But I think all Senators and the public generally should know that this is very likely not going to be accepted in the conference with the House, and if it should be, the entire appropriations bill will be vetoed on this account alone. This is an unacceptable result for the Congress in my judgment. So, Senators start this entire exercise today with a choreographed script, in which a number of Senators make a plea, make their case, and issue their press releases, confident that whatever the merits or demerits of this amendment might be, it will not become law and, as a matter of fact, dairy farmers will not be helped one whit.

I make this point very clearly, Madam President, because in the Agriculture Committee—my staff has been working with the staff of the distinguished chairman, the majority and minority staffs together, to try to devise legislation that would have incorporated a paid diversion program. This compromise, in fact, was acceptable to the Secretary of Agriculture by letter to the committee. That effort unhappily has not succeeded. And as a result, elements of the paid diversion are in the chairman's amendment today but with an increase in the support price which I would say is the fatal flaw.

Mr. LEAHY. Will the distinguished Senator yield on that one point?

Mr. LUGAR. I am happy to yield.

Mr. LEAHY. Would the distinguished Senator agree though, that on the paid diversion plan, that we have a bill before us with just that item? Unanimous consent has been requested to bring it up, and I think we would all acknowledge within a day or so of the end of the session it could come up only by unanimous consent.

Would the distinguished Senator from Indiana agree that there are at least four holds from his side of the aisle blocking that from coming up?

Mr. LUGAR. My understanding is that the chairman may be correct. I do not know the number, but there are persons certainly who have put holds on that legislation.

Mr. LEAHY. Madam President, if the Senator will just yield further for a moment, I would note and I concur in the fact that he and his staff have worked with me and others to put together a diversion program that is acceptable to the administration. My understanding is it would be signed into law if we could pass it.

I would hope, no matter what happens on this amendment, that those

who are blocking that diversion program will allow it to go forth. It will help, it will help a lot more than all the great speeches all of us give—myself or anybody else—for or against, to help the dairy farmers, and the diversion program would help. I hope those Senators blocking it will allow it to go forward.

I thank the Senator from Indiana for his typical courtesy in allowing me to ask that question.

Mr. LUGAR. I thank the chairman and I appreciate the point he is making and his careful and accurate description of our cooperation on behalf of the dairy industry.

I would point out, as the chairman knows, that this is an issue that has continued for a long while and one of the problems with our compromise position is that it is easily blocked by those Senators who may or may not agree with us. But, nevertheless, the pending amendment is broader than our compromise by including more than something more than a paid diversion. That is why I rise to oppose it.

I would say that a part of the complications, as the chairman knows, is that there is strenuous opposition to this amendment from the National Cattlemen's Association.

I wish to, at this point, quote paragraphs written to me by Don B. Smith, president of the National Cattlemen's Association, in which in the second paragraph he says:

> Historically, cattle producers have strongly opposed dairy programs that artificially encourage or mandate the slaughter of dairy cows in order to reduce surplus milk production. Clearly, the proposed milk diversion plan, like the 1983 diversion program and the 1986 Dairy Termination Program, falls into this category.
>
> NCA has been, and continues to be, a strong advocate for allowing the market system to work. The intent of both the 1985 farm bill and the 1990 farm bill was to allow market forces to play a more important role in the function of the major government commodity programs, including dairy.
>
> The milk market supply and demand forces are working. In the fall of 1990, milk prices were at near record highs. Milk production increased to meet demand. Unfortunately, too much milk was produced and milk prices fell dramatically in the spring of 1991. In response to this, dairy cow slaughter increased, and in late summer of this year, the price of milk has increased. Currently, milk production has decreased to such a level, because of additional dairy cow slaughter, that it is estimated that only 1.5 billion pounds of milk will have to be diverted in 1992. This leads us to believe that if the current dairy program is allowed to work, then supply, demand and price equilibrium for milk will be accomplished in the near term.

I agree with the analysis of Mr. Smith and of the cattlemen. As they point out, the dairy program has been working.

When we last debated dairy, on a supplemental appropriations bill, the dairy price had fallen to the $10.10 price support floor. Now, dairy prices have risen to $12 per cwt. Supply and demand has worked. Cows as a result of low prices this spring, were culled, less milk was produced and prices rose. That price action occurred without the sought after changes to the dairy program.

I would simply point out, Madam President, there are certain other implications of this proposal, aside from the impact upon agricultural producers, that must be very carefully considered by this body. The distinguished chairman of the committee, Senator LEAHY, has mentioned that after disposition of this amendment, he will attempt to regain the floor to offer an amendment dealing with the retail price for purchases, made under a program designed to protect less fortunate women, infants, and children, the so-called WIC Program.

The chairman's interest in this amendment is obvious. Under the dairy proposal before us, very substantial problems are going to occur in the WIC Program if the price of milk goes up—and the U.S. Department of Agriculture estimates show that it will go up substantially.

So the chairman's plan is to cap or fix the price of milk, in retail stores throughout the country, to engage in the most egregious form of price control in order to try to remedy problems created by the price increases contained in this amendment. It is an extraordinary combination.

Madam President, I hope that Senators and the American public understand this point before it is too late. In short, if one is determined to rig prices by Federal statute, and then is reminded that the attempt hurts poor people, is the proper response to rush around and try to correct the problem by demanding that grocery stores sell the product to these people at a fixed price? I think not.

In fact, throughout all of the argument today Senators have suggested that the marketplace only works in one direction—toward higher retail prices. Some Senators state that lower dairy prices do not mean lower consumer prices. However, most Senators, at least who are scholars of this subject, appreciate that the lag factor between farmgate prices and retail prices, is a substantial one. But the market eventually reacts.

But even if it did not react, Madam President, playing the devil's advocate, are proponents of this measure really suggesting that the Senate in its desire to help 160,000 dairy producers ought to establish price controls in retail markets, controls designed to take away profits of those enterprises?

Or, Madam President, do Senators really believe that somehow we should, in a very perverse way, decide to start capping prices of milk for WIC recipients in retail markets? Do we believe that retail markets would not raise prices on other items to offset milk losses in order to stay alive?

Indeed, Madam President, why in a parallel situation, should not retail grocery stores come to this body and point out that their costs have been rising, their revenues, may be falling, and that there are more retail grocery stores in the United States of America than there are dairy farmers?

I have yet to hear during an Agriculture debate a serious proposal to make certain that every one of those stores remained in business and remained whole. As a matter of fact, we have not heard that argument made for anyone; for small manufacturers or entrepreneurs who are trying to create jobs in America.

Maybe, Madam President, what is sauce for the goose should be sauce for the gander: if we are to take the proposition that costs for dairy are high and we must in fact meet those costs by providing income. We should consider applying the same thing to almost any business in America and have a very strong number of adherents argue the point seriously.

Madam President, let me just sum up the situation. We have in front of us an amendment, and I have stated as clearly as I know how that the authoritative voice of the Office of Management and Budget, on behalf of the administration, says that this amendment will be vetoed if it finally arrives at the White House in this form after the conference between the House and the Senate. Therefore, in my judgment, this debate is important as an expression of our interest in the dairy industry, but the debate is not going to have a conclusion that will help dairy people.

If we had been serious about that situation, Madam President, we would have adopted legislation in the Agriculture Committee, and would have come to the floor in due course some time ago, that would have met with at least some agreement by the administration. And, as I have outlined, that formula has been found. However, as the distinguished chairman has pointed out our activities in attempting to work within the committee have come very late and, as a result, it is not surprising they did not find the unanimous favor which perhaps they need at this point.

Second, I would point out that the administration has indicated throughout the year that it has been more than willing to discuss this subject. In fact, the distinguished chairman and I have discussed the subject many times with Secretary Madigan and others. As a result of these discussions a number of administrative steps have been taken by the administration that I would argue strongly, under girded the rise in the price of milk this year without disturbing the support price or other mechanisms provided by the farm bill

of last year. I contend that the farm stores who are not lowering their I would also say that a large number

for maybe 10 or 15 minutes and I know That is going to raise prices. That is ommended in this legislation. That is

VOL
137
PT
23
NO
21
—
25
1991
UMI

of last year. I contend that the farm bill is working as well in the dairy industry as it is for other commodities.

Finally, Madam President, we have other interests that are clearly at hand. The distinguished senior Senator from Montana, Senator BAUCUS, has spoken, and Senator BURNS, the distinguished junior Senator from Montana, will soon speak, discussing very real problems that cattlemen have when we delve into one sector of the agricultural economy and ignore others.

I would say finally, Madam President, that however one cuts it, this particular amendment, if adopted, will play havoc with the programs now run by the Food and Nutrition Service of the U.S. Department of Agriculture.

Let me put in the record the estimates of how much damage. USDA estimates that the legislation originally passed by the Senate Agriculture Committee, H.R. 2893, would raise the cost of programs run by the Food and Nutrition Service by an average of $277 million per year during fiscal years 1993 to 1996. During fiscal year 1992, an additional $100 million in costs will be imposed not only on the Federal Government but on nutrition program beneficiaries since program benefits will not yet have been indexed to account for the higher milk prices.

In addition, an average of 91,000 fewer people per month would be served by the Women-Infant-Children [WIC] Program according to USDA.

The amendment before us today admittedly would marginally cut that injury, because it does not impose the nonfat solids requirements of H.R. 2893. That has been deleted from the amendment today. But the effect would still be significant.

This amendment raises 1993 Federal Nutrition Service spending by $164 million, according to CBO. The price of milk would rise 17 cents a gallon in 1993 according to their estimate. The price support increases also mean higher consumer prices. The higher support levels will raise consumer costs by an average of $1.5 billion per year.

Madam President, if in this Chamber someone were to come in today and suggest a tax increase of $1.5 billion, Members would run for cover. That is not only unfashionable, that is totally unacceptable to Members and to the American public at this point.

Yet, Madam President, in the course of a very civilized debate to help a sector of our agriculture industry, if the product of our labors was to pass this amendment and it finally became law, I submit that this would, in fact, be a hidden tax on American consumers of $1.5 billion. That is a substantial hidden tax.

Let me say, Madam President, one can argue back and forth as to who is responsible. Senators have argued that the increase in dairy prices is not the culprit. After all, it is the grocery stores who are not lowering their prices fast enough, when the prices for dairy farmers go down. They are culpable.

Madam President, that argument is insoluble, in that grocery stores all over America use various products as loss leaders to get people inside the store. In fact, we applaud the long list of price cuts in the weekly shopping advertisements, dairy products sometimes among them, sometimes not.

The costs of this program, however, cannot be hidden. They are there. And they may be realized by dairy farmers, they may be realized by retail merchants, but they will not be realized by the American people who pay the $1.5 billion.

I would hope, Madam President, that the amendment would not find favor with Members today. I am hopeful, as a matter of fact, that we will not proceed down this course of raising the support prices.

I would say in fairness to all of agriculture in America, Madam President, that our committee strove last year, under the dedicated leadership of our chairman, Senator LEAHY, to fashion a 5-year farm bill. And one reason we wrote a bill for 5 years was to give some sense of stability. It was a grand bargain of sorts among hundreds of agriculture and consumer interests in America; a contract, in essence, about what was fair, as best we could fashion it at that point. I make no claim that the target price for corn is precisely the one that I would have wanted, or the marketing loan for soybeans.

These were compromises, reached over an entire year of debate, in which all parties were heard.

Now, Madam President, today we hear one segment of the agricultural industry in our country—an important one, but a segment nonetheless—saying essentially: We want better treatment. We want to ignore all of the agreements made with others and advance our own cause. At least the proponents on the Senate floor make that claim.

I would say, Madam President, that in my State there are 5,000 dairymen and that is a fairly large number. If the Chair would look down through the roll of the States, and see which ones have dairy farmers, I suggest the 5,000 that we have in Indiana, as part of the 160,000, are significant compared to the population of our State. And I visit with them a great deal because of my interest in agriculture, my interest in my own farm. I have contacts with people in the Farm Bureau, the Farmers Union, the Grange, and other organizations in our State.

Attitudes are very divided on this issue. I think it is fair to say that some dairy farmers who have high costs and who are genuinely fearful that they will not be able to continue, are prepared to support almost any amendment that would offer relief. And I understand that.

I would also say that a large number believe the Federal Government should not be in this business right now of jiggering up the Federal program for dairy farmers.

As a matter of fact, Madam President, a growing sentiment among dairymen in my State, and among farmers generally, amounting to somewhere between 35 and 40 percent, is that the Federal Government ought to get out of agriculture altogether.

I suspect at another time, if we were going to debate dairy again, I would want to offer for consideration by this body the thought that, as opposed to an incessant number of amendments, always attempting to do something to jack up prices arbitrarily, we ought to give careful consideration to the possibility of eliminating the dairy program altogether, and allowing supply and demand in this country to work in that industry.

My guess is that if we did so, fresh, healthy milk would come to the American people for less money. There would be a substantial consumer income gain from such a move. And as a matter of fact, such a course would be favored by a very large percentage of dairymen—perhaps even a majority—once they thought through all the hassles of the marketing orders and the arcane regulations that now put a straitjacket on this industry.

Madam President, this is late in the session, and we are debating an amendment that I believe is not going to be successful. Therefore, I am not prepared today to argue the entire philosophy of the program, but I will say: This is bad policy and an amendment that should not be passed.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The sponsor of the bill, Senator LEAHY.

Mr. LEAHY. Madam President, I know the Senator from Montana wishes to speak, and I will yield the floor in just a couple of minutes.

Madam President, we have had a number of people ask when we might come to a vote. With the primary opponent of the amendment on the floor, and with the primary proponents of the amendment on the floor, what I am going to do is propose a unanimous-consent request. I will not do it yet. But, I am going to propose a unanimous-consent request that we vote on this amendment at 1:30 today, and, that I be recognized 4 minutes prior to that vote.

This is what I intend to do. I wonder if, without losing my right to the floor, anybody wishes to indicate anything about that?

Mr. KASTEN. Madam President, I have been trying to survey our side, both opponents and proponents of the Leahy-Kasten amendment. I know the Senator from Montana wishes to speak

for maybe 10 or 15 minutes and I know the Senator from Rhode Island wishes to speak, he has indicated, for 5 minutes.

It seems to me most of our proponents have spoken. There is a possibility the Senator from New York might want to speak, but that will not be for an extended period of time.

So I hope we can agree to something like this. I know the leadership is now meeting over on the house side, trying to determine the schedule for the weekend and early next week. Their hope was we would not vote before 1:30. That might be a way to expedite the process.

Mr. LEAHY. Madam President, if I might comment on that. I checked to see on the schedules of both the Republican and Democratic leaders, and others who had meetings. It seems that 1:30 helps everyone the most.

Let me make the unanimous-consent request, and then I will yield the floor if it is accepted.

Mr. LUGAR. Will the chairman yield for a moment before making the request?

Mr. LEAHY. Yes.

Mr. LUGAR. I noted the chairman was proposing 4 minutes of final summation before 1:30 on his behalf.

Could I reserve 4 minutes before the chairman at that point?

Mr. LEAHY. Certainly. What I would do, then, when I make the unanimous-consent request, is make it for 1:35. Let us state then, at 1:35 the Senator from Indiana be recognized; at 1:30, the Senator from Vermont, the proponent, be recognized.

I now do ask unanimous consent—another suggestion has been made. Let me do this.

At 1:20, the Senator from Indiana be recognized for 5 minutes; at 1:25, I be recognized for 5 minutes; and at 1:30, the Senate vote on the pending amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Vermont?

Observing none, the Senator's request is agreed to.

Mr. LEAHY. Madam President, I will yield the floor in just about——

The PRESIDING OFFICER. The Senator from Montana.

Mr. LEAHY. Madam President, I still have the floor.

The PRESIDING OFFICER. I am sorry; I thought the Senator had yielded the floor.

Mr. LEAHY. I am going to yield it, Madam President, literally in a matter of seconds.

I would just note, in response to one item we are addressing, whether this legislation might raise retail milk prices. I do not feel it would raise prices. We have given credits to the Soviet Union in the amount of several billion dollars, which is really a disguised foreign aid gift to the Soviet Union. That is going to raise prices. That is going to raise prices right here. That will be a tax on the American people, because we are going to have to pay for it. It is likely the debt will never be paid back.

We are able to do that in a moment. But when it is something that might help our people right here at home, it seems to me to be a matter of dispute.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I thank the floor manager for this amendment and the time to speak on it, and the ranking member on the Agriculture Committee for his very wise words this morning.

I also applaud those who champion the cause of their constituents, especially on this issue. I do not think there is anybody who has championed that cause any better than my colleague, Senator JEFFORDS.

It seems as though everytime we get into a debate about what we can do for our basic interests, particularly in agriculture, it is pretty hard to do anything for one group that does not impact another. It has been a pattern since time immemorial in agriculture that, yes, one segment has always thrived at the cost of another.

Any time that you are in the business of producing a raw product, a raw consumer product, you have a lot of problems. Not only is end price—what we get for our product—very important, but also what it costs us to produce it.

I think the argument has been made very well today about what it costs to produce that particular product. I am wondering if anybody has ever given any thought to what goes into that cost of production. Again, I go back: In the production of a raw product, you are subject to the whims of the consumer and the whims of government.

You are subject to the whims of the processor; you are also subject to the whims of government; you are also subject to the whims of retailers in the normal process of things and to the whims of government. Government is involved every step of the way.

We in Montana have dealt with this milk issue for our dairy producers in what I think is a very sound way. It may be the model of the future, but we have a milk control board. Of the consumer dollar, so much goes to the distributor, so much goes to the processor, and so much goes to the producer, and they agree on those prices. No matter where you live, you pay the same for a gallon of milk, whether you have it delivered to your doorstep fresh every morning or you drive down to the store and pick it up.

That is not what we are talking about today. We are talking about a pay diversion that has been recommended in this legislation. That is voluntary, nothing mandatory about it, and I understand that. The best figure we can get is it would take 70,000 head of cattle above the average to even make a dent in lowering the production. I do not know how many people who are standing on this floor who are in charge of making policy for this country have ever sat in an auction market and seen a program go into effect in Montana, sit in an auction market and see cow prices absolutely go through the floor, $5 to $7 a hundredweight on butcher cows, in 15 minutes through the auction, rattling right through there.

There are those who would say that it had a very short life, the quiver in that market went down, it did not last very long. Let me tell my colleagues, it lasted for a full year for those who had livestock on the market that day. Because in this business, we do not get paid by the month, we get paid whenever we sell our product, which is usually once, maybe twice, a year. You take $7 a hundredweight off a cow that weighs from 1,000 to 1,400 pounds and you have taken $70 a head to $120 a head off that animal in 15 minutes. The salvage value on butcher cows is as much a part of the management and the overall economic health of that ranch as is anything else. I imagine with our dairy farmers that is true, too.

What is the salvage of a cow once she has outlived her usefulness as a producer on the farm? Twenty thousand a month does not sound like much, but they want to get the annual surplus down under 4.5 billion pounds a year. If we do not hit the 4.5 billion and, say, production would go to 6 billion, the assessment against the milk producers to pay for this program would be refunded to whom? The dairy producer, 30 to 40 cents a hundredweight over a year's time, maybe 2 years' time. Say they go over 6 billion. And that is the USDA's penalty for being wrong. The USDA does not own any cattle. They are on the farms. If I was a dairy producer sitting out there and I could see 30 to 40 cents a hundredweight coming back to me after 2 years, I would make sure that they were wrong. My production would go up. No. 1, I am going to get paid another $1 a hundredweight to produce, plus at the end of a specific time, I am going to get maybe 30 to 40 cents on top of that.

I do not think that is being very fair with the taxpayers of this country. It sure is not fair to the dairy producer once it is seen and evaluated and it is done away with and all at once he says, Government has changed their mind, the policymakers said it had to go, and the rug is pulled out from under him. Not a very well thought out policy.

That is the meaning of it. The impact on the beef producers and the red meat production will be substantial. There

VOL 137 PT 23 NO 21—25 1991 UMI

will be impact because anybody who has done business with those people who process cattle or livestock will tell you that the real market does not mean much, but if the psychology is on your side, that is when you use it, and that is the tool that we as producers have against those who process our product.

The psychology in the market is what moves it. I have heard a lot of people say that you buy on facts, but you sell on emotions. And it is true. That is the real world. I do not know how many people who are involved in policymaking have actually seen this happen. I have. My route to this body is a little bit different than some folks who stand here and try to think on the policy, how it affects the business of a farmer. But we make these decisions at the cost of another segment of agriculture, and that is not fair. We have seen the psychology in the cattle market go down.

If you want to see or hear some great figures, you realize in 1940, we had 133 million head of cattle in this country. When the inventory is taken in January, we will have about 99 million head of cattle. And do you realize that that is a 30-, 35-percent decrease in numbers, but we are only 2 percent down in total red meat production? Which means our beef industry has done a pretty good job of becoming more efficient, not only with feeding and the kind of animals that they are breeding and the kind of animals that are going into the feedlot.

So what does it do? It affects all of the management and the management mix not only on the dairies of this Nation, but it also affects the management marketing practices, the management mix of the beef producer. I do not think either one of those segments deserve that. It is just as hard to make a living in the beef business as it is to make a living in the dairy business. I think we milked cows at one time. I am not sure milk did not pay for the old farm down in northwest Missouri. It is a tough way to make a living. So we know what it is like. Cows do not take Saturdays and Sundays off, Christmas, New Year's Day, and those things. The hours are the same; procurement of feed, investment in equipment and material, but still with some diversity.

But let us think about what we have done in order to hurt this dairyman more than anything else. Every time we talk about livestock, we talk about environment. How many rules and regulations have we passed out of this body that had a direct effect on how we manage our land and water and, yes, the environment in which we can handle livestock?

Every one of those rules and regulations cost money. The Government did not pay for it. It just did not come out of the air. The producer had to pay for it. When he pays for that, that adds to his cost of production. He cannot go to the marketplace and say, "OK, I put in a new milking parlor and I invested in some higher producing heifers. I have them on line and in production, and it cost me so much money, and now I must have more for my end product." He cannot do that because you know what that processor is going to say? "Big deal, milk is only $2.13 cents for a gallon. That is all I can get for it at the grocery store." So I cannot give you any more for the raw product. I can pay you a little more if it has different qualities to the milk, butterfat and this type thing. But I cannot pay you any more for the raw product.

General Electric, Westinghouse, big corporations, they say we have saturated the market on toasters and so we are not going to make any toasters next month. So they lay off people and they slow down the supply line until the market comes back to where they can have a lever in the market because they can control production. But on the farms and ranches of America, we just cannot shift gears and turn it off next Monday morning; and then the next Monday we just cannot shift gears and turn it on, because the plans to make a farm or ranch work are 2 and 3 years way out on the bench on how we buy, how we sell, the numbers we keep, the money it takes to manage our farms and our ranches. So it is not just like a spigot. You just cannot turn it on; you just cannot turn it off.

That is why this is bad policy, because it changes everything for the larger segment of the business called agriculture. Sure, feed producers, supplement suppliers, small towns have to retool because it is turned off or it is turned up.

We can say that the CRP program is the main thing, the conservation set-aside is the most devastating thing that ever happened to our smaller towns. They set aside acres and nothing happened. It takes too much machinery to operate them. The farmer could bid his land into acres, the Government pays him for not producing and he goes onto CB&M rotation.

I would work very hard as a diary producer to make sure that this program failed because at the end of the year if we are over 6 billion pounds in surplus—and that has been the purchases by the CCC—then this assessment that we have assessed them on, this is returned to the producer.

Mr. President, I would also have some comments with regard to the WIC Program, of which I am very supportive. I was a county commissioner. No matter what we do in the Senate, the men in the trenches or the women in the trenches of this country called county commissioners are the ones who finally deliver the services. They are administered under county programs as predescribed by this body.

If you put a cap on WIC, which does more good for more people in our country at this time than probably any other single program as far as nutrition, concern for women, infants and children—tremendous program—but if you say they can only pay so much for milk, does the processor have to sell them the milk? It is a free market system. You have capped their ability to procure what they need for the people that they serve.

And if it stays at that level, then we are locked into paying a support price on a product forever the market will not go up because of the psychology in the market. I cannot emphasize that too much. Once the psychology is in the market, it is there, and it takes its toll to the producer and, might I add, to consumer.

So policy has to be that we step back and really evaluate what we are doing.

This is bad policy, not well thought out in its effect upon the farm and ranch communities across America. And, yes, our policy should be that this country should enjoy the same security from hunger, for shelter, for something to wear every day. I think some of our policies, most of our policies ensure that the man who can make a farm and ranch tick and go are designed that way. That gives us that little insurance policy that we do not have a shortage in food. But this disrupts all of that.

So the impact would be greatly felt by both ends with a lot of players in the middle, but they get to say very little.

Mr. President, I would add that should this amendment be successfully added to the supplemental, I have an amendment that I would offer to it. I think we, as policy members, must really think about what we are doing to the agricultural producers—not just the dairymen—across this Nation.

I thank the Chair. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. CHAFEE addressed the Chair.

Mr. LEAHY. Mr. President, I see the Senator from Rhode Island on the floor. I will yield to him in just a minute or so.

Mr. President, we have heard so much on this floor in opposition to this amendment that I sometimes wonder if people are talking about the same issue.

We are asked, why are we adding it to this bill? I will tell you why. Because several Senators objected to bringing it up separately. That is why. We have this sort of innocent look: Why is it on this bill? Because we tried to bring it up as a separate item and it was objected to.

I want this to go into law. I do not want to go through this exercise so we can all go home and say, "We gave

wonderful speeches for you men and women on the farm; unfortunately, we do not have anything to bring to you." I want to pass this bill.

Look at this chart of the milk price index. People want to see what is happening. Here is what is happening on the farms. Here is what has happened since December 1984, and it has gone down to here. And we are saying we want to protect the consumers. Who is protecting the farmer? They are consumers also.

The fact is the price stays right up here for the processor, it stays right up here at the store, but it is down here for the farmers. When I go grocery shopping with my family, when I go in the grocery stores in Vermont or in Washington or in Virginia or anywhere else, the price of milk is still up there. It is still the same as it was months ago. But the farmer is getting an awful lot less.

What we are trying to do is give more to the farmer without costing the taxpayers. This amendment does not cost the taxpayers anything. I do not hear people objecting to the fact that there is $1.57 billion in here for crop farmers. I do not hear anybody objecting to that. That is real money. That is real money.

The fact is we are trying to change this program, without costing the taxpayers any money, to keep dairy farmers from going out of business. The fact remains that the dairy program has been cut substantially by hundreds of millions of dollars. But we should at least let dairy farmers make a living.

You know, some of the same people that objected to giving help to the dairy farmers, even though it is not going to cost the taxpayers any money, are the same ones that are going to support $1.75 billion for other crops. If you want to be consistent and object to all farm programs, do so. But do not play games. Do not say, well, we will object only for dairy farmers but we will throw those huge subsidies out for others.

Also, do not come on to this floor and tell us how wonderful it is that the administration has just given a $4 billion gift of foreign aid to the Soviet Union that the taxpayers are going to pay for. We can help out those poor farmers in the Soviet Union. We can give them a taxpayers' gift, even though it is going to raise our taxes and the price of food in this country—but you say do not do anything to help our own farmers. Do not do anything to help the men and women on our own farms, whether it is in Vermont, Wisconsin, Minnesota, or anywhere else.

Let us get some of these things in perspective. If we are going to help the farmers of Russia and Eastern Europe, with our tax dollars, let us do something here at home.

I yield to the Senator from Rhode Island. I would like to hear his views. Thank you.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Vermont yield? The Senator from Rhode Island.

Mr CHAFEE. Mr. President, I had reserved 5 minutes. I do not have to have it yielded to me. I am entitled to it.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I am disappointed in the last barrage from the Senator from Vermont, Mr. President. We can go through this business of raising the hobgoblin of help to the Soviet Union, help to anybody else, and therefore that entitles us to give away any sum of money we want domestically.

I noticed that when the Senator from Vermont loosed his barrage against helping the Soviet Union, he did not raise anything about $4 billion to Israel, for example. He did not comment upon the $10 billion guarantee to Israel, or what we are doing elsewhere in foreign aid.

So if we are going to talk foreign aid, let us just not concentrate on the Soviet Union and say that because we are going to do something for the Soviet Union that entitles us to embark on any giveaway program that we can conceive.

Mr. President, there has been much talk this morning about the dairy amendment having been adopted in March by 60 to 40, so therefore, this is a foregone conclusion. I do not think that is necessarily so.

I would like to point out that after the vote on that amendment in March, there are a whole series of editorials that appeared, that were entitled, for example, in the New York Times, "Milking Poor Families; "or in the Washington Post, "The Senate: Wrong on Milk; "or in the Providence Journal, from my home State, "Green Mountain Muddle."

So I do not think we should consider this a forgone matter. I hope that more attention will be called to the effect that the adoption of such an amendment would have upon poor families in the United States of America.

I particularly would like to concentrate if I might on the cost of what this amendment will cost to nutrition programs over the next 4 years.

There is not a Senator on this floor that I suspect is not in favor of food stamps, is not in favor of child nutrition programs, is not in favor of WIC, is not in favor of special milk programs. The cost to all of those programs which we are always seeking money for, we always ask for additional money, we always fall short, the cost of these programs if this amendment is approved will go up over the next 4 years by nearly $1 billion $928 million.

Every year I have worked in tandem with Senator DECONCINI to increase the WIC money. My colleagues have now come to expect us to lobby them for increased funds for WIC. This year, the Senators responded overwhelmingly, and 86 of our colleagues, nearly nine-tenths of the Senate, joined us in writing to the Appropriations Committee to urge a boost in WIC funding.

So we achieved something. We did not get it all. But we got some increases. Now what we gave with one hand we are apparently proposing here to take away with the other hand by increasing the cost to the WIC Program and thus providing less of the WIC funds, making less of the WIC funds available for poor women in our country.

That is why the National Association of WIC Directors have grave concerns about this amendment. I know the sponsor of this amendment has noted that he will offer an amendment later on to help protect WIC. I think we all ought to look very closely at that amendment to see if it really accomplishes the goal of protecting WIC, the Women and Infants Nutrition Program.

I would note that even if that fix takes place, and we are not sure that it will, I suspect that it will not, it will not help the other nutrition programs that I just mentioned. Clearly, it does not help the consumers.

CBO estimates that under this amendment there will be an increase of 18 cents per gallon over the current $2.50. That is about a 7-percent increase. Some may say that is insignificant. Well, it is not insignificant to the poor families that are trying to purchase milk, trying to keep body and soul together.

Under the Leahy WIC amendment that is going to be proposed, as best we can ascertain as of now, the result of it will be to cause grocers to quit the WIC Program. And in another way it will hurt WIC because it will only protect milk; that is, the direct sale of liquid milk. It will not deal with cheese and infant formulas that of course stem from the original cost of the milk.

So it will only be a partial remedy. It will not be a total remedy.

I have sympathy for the dairy producers. We have some in our State. I am anxious for them to make a living. It is important that they do that because dairy farmers are important, in a whole host of ways. But I am convinced that we have to build into this amendment some real protection for the WIC Program, and until that is made possible I certainly cannot support it.

Mr. President, I ask unanimous consent that these editorials that I mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 21, 1991]

MILKING POOR FAMILIES

What's one of the first things you'd do if you wanted to devastate poor families with young children? Raise milk prices. That's exactly what the Senate has approved, without

VOL 137 PT 23 NO 21—25 1991 UMI

hearings, as an amendment to an emergency appropriations bill. The provision would raise the price of whole milk by as much as 26 cents per gallon and low-fat milk by as much as 40 cents per gallon.

The sponsors, led by Senator Patrick Leahy of Vermont, contend that higher milk prices are needed to save dairy farmers victimized by a 25 percent drop in prices during the past year. The plight of dairy farmers is real, and some may go broke if milk prices don't recover. But their plight is not unique; millions of other Americans have been victimized by recession. Besides, if Congress wants to bail out dairy farmers, there are a lot of better ways than to take milk away from poor children.

The sponsors say their bill won't increase consumer prices very much because it affects only the price paid to dairy farmers. The basis for this claim is that because milk processors and retailers have successfully avoided passing plummeting raw milk prices on to consumers, they will now charitably choose to absorb the new price hikes. That's a novel but unconvincing assumption. The amendment would also raise the cost of food stamps and other Federal programs in ways the sponsors only partially recognize and offset.

It's no mystery why Senator Leahy wants to help Vermont dairy farmers with higher prices, whose origin few consumers will understand, rather than with higher taxes, which everyone will understand. What's odd is why 59 other senators, many from non-dairy states, went along with this outrageous affront to low-income families.

[From the Washington Post, Mar. 21, 1991]

THE SENATE: WRONG ON MILK

The catch-all money bill now making its way through Congress is supposed to be confined to "dire emergency supplemental appropriations." But this is a joke. The Senate has turned its version into a vehicle for increasing farm price supports. An amendment passed 60 to 40 Tuesday evening would lift the incomes of both wheat and dairy farmers. The wheat provisions are bad enough—further export subsidies to reduce the price of U.S. wheat abroad after the government has already paid to raise it here at home—but the dairy provisions are the worst.

They would raise the price to the farmer of the milk you buy in the supermarket by roughly 25 percent. Proponents, led by Agriculture Committee Chairman Patrick Leahy of the dairy state of Vermont, say the large increase is justified because dairy prices have fallen a like amount in recent months and without the income, parts of the industry won't survive. At the same time they offer assurances that only part of the increase would be passed along to consumers (the rest would be absorbed by middlemen) and that the provisions would not affect the taxpayer or the deficit at all.

It may be true that in the short run part of the price increase would be absorbed and the budget effects would be minimal. A higher price would nonetheless be regressive, the more so because it would not just pluck money out of the budgets of poor people but could reduce the purchasing power of the government's supplemental feeding program for lower-income pregnant women, infants and children, an event Sen. Leahy was working to avoid.

The lasting damage would not be an income transfer; it would be structural. Dairy price supports used to be too high in this country. The 1985 farm bill put them on a more rational basis. The secretary of agriculture was required to adjust them every year—down to discourage producers if it seemed that production might otherwise be too high, up to bring forth more milk if likely production seemed too low. The mechanism worked—but in last year's farm bill Congress saw fit to change it so that supports can't fall beneath a certain floor that happens to be where they are today.

If that elicits a costly surplus for the government to buy, the legislation envisions a shift to production or marketing controls. A farmer will need the equivalent of a license, if not to milk a cow, at least to market the milk. The price increase the Senate would enact makes such an unwieldy result all the more likely. The price of milk is already a federal artifact too far removed from the useful reminders of supply and demand. This would make it more so. The administration is trying in the world agricultural trade talks to reduce the costly role of governments in agriculture. The Senate proposes to head in the opposite and wrong direction.

[From the Providence Journal, Mar. 22, 1991]

GREEN MOUNTAIN MUDDLE

Sen. Patrick Leahy of Vermont is a man of impressive flexibility. With much fanfare, the Senator has introduced a bill to crack down on alleged anti-competitive practices by three big drug companies that make most of the infant formula sold in the United States. And who could disagree with strong action if, in fact, the companies are engaging in these activities? But read on for a more ambiguous performance by the Senator.

First, what appears to be his principled side: Mr. Leahy, the Democratic chairman of the Committee on Agriculture, Nutrition and Forestry, says that questionable bidding practices by these concerns (Ross Laboratories, Mead Johnson and Wyeth-Ayerst) cost taxpayers $168 million a year, and keep 270,000 poor women, infants and other children off the government's highly effective WIC (Women, Infants and Children) nutrition program, which buys a third of all infant formula sold in the country.

The Senator asserts that the companies may be engaging in price-fixing, losing the government millions of dollars that could be going into the WIC program. The companies have repeatedly denied these allegations.

If the charges turn out to be true—and the Federal Trade Commission, among others, is investigating them—then the practices should be stopped immediately, and the perpetrators punished. The WIC program does such good work that any weakening of its ability to help the poor is distressing.

But now the Senator's more practical side: While Mr. Leahy has been quite properly looking after the interests of the poor, he has also been looking after the interests of the dairy industry, which might not be entirely the same. The Senator has sponsored a measure to raise the price of whole milk by as much as 28 cents a gallon, and low-fat milk as much as 40 cents a gallon.

It's hard to think of any measure that would hurt poor families with young children more—but Senator Leahy, in this instance, seems most concerned with pleasing a major economic force in his lovely state (and lovely, it is true, partly because of the presence of this force): The dairy industry.

Now, it is true that dairy farmers are suffering from a recent sharp drop in the price of milk. But the way to deal with that is not through gouging the consumer, and especially poor consumers. Other subsidies to dairymen should be considered instead. Meanwhile, a larger problem—that there's no economic justification for America to have as many dairy farmers as it has—will, it seems certain, be circumvented as skillfully by Senator Leahy as he has navigated the contradiction described above.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, there are only two people who had reserved time on this amendment, the Senator from Indiana and myself, I advise the Senator from Rhode Island. I will, because it would very close to the time consent of the Senator from Indiana, withhold until my time, to address some of the statements made by the Senator from Rhode Island.

I am glad to hear that he also is a supporter of WIC. As one who has carried the WIC bill every year since I have been here, I will be glad to have his help any time he would like to come and join us in getting supporters for it.

I am sure he is concerned about the few dairy farmers in his State. I did not hear objections from him when the banking bill went through, whatever effect that might have to help other interests in his State, but everybody has to decide what is important.

I yield the floor.

Mr. DIXION addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. If the debate has concluded, I have waited here patiently. I want to talk on another subject. In all fairness, if anybody wants to talk further on the dairy issue before the vote, I will wait until after the vote.

Mr. LUGAR. If the Senator will yield, at 1:20, the Senator from Indiana is to be recognized for 5 minutes for a presentation.

Mr. DIXON. Then, of course, I would not proceed at this time.

Mr. SHELBY. I rise today in support of the Leahy amendment to the DIRE Emergency Supplemental Appropriations Act. This legislation comes before the Senate at a crucial time, in the last days of this session of the 102d congress. Yet the timing of this bill is all the more crucial for America's family farms.

Mr. President, family dairy farms in our country have suffered from a 25-percent reduction in prices over the last several months. While many segments of the economy are feeling the effects of the current recession, few industries are suffering to the extent of the agricultural community.

The debate over dairy legislation began in the Senate this spring as several bills were introduced. While each of these efforts had the same goal—the preservation of the family dairy farm—reaching a consensus has been difficult. Moreover, legislative efforts on behalf of the dairy producers have been trained by veto threats from the bush administration.

The Senate Agriculture Committee has reported a bill that, I believe, represents the best interests of the dairy producers and the consumers at large. I applaud the efforts of chairman LEAHY and his colleagues on the committee. This bill provides for a reasonable price support level as well as voluntary diversion that is more acceptable to all parties involved.

This legislation will also address another fundamental need, Mr. President, disaster relief. America's farmers suffered extensive losses in 1990 and 1991 due to both drought and excessive rain. My home State of Alabama was adversely affected by both as well. It is not enough for congress to have good intentions, as past efforts to provide disaster assistance have failed to receive funding. The Senate must act today to provide this aid.

The integrity of the American family farm is assailed on many fronts today. The adverse economic climate has created havoc on our Nation's farms while ongoing trade negotiations could result in massive imports of subsidized agricultural goods from other countries. Many American farms are facing a life or death situation. Without assistance, a great many farms will go under.

No one will argue that disaster aid packages are expensive. However, as a Senator from a State that depends heavily on its agriculture industry, I, along with many of my colleagues in the Senate, know that losing our agriculture base will cause severe economic consequences.

I have historically supported disaster aid packages for farmers and such packages should not be partisan issues. The United States of America is the breadbasket of the world. We cannot allow for the destruction of our agricultural community.

Mr. President, I ask that my colleagues in the senate join me in supporting the Leahy amendment to the Dire Emergency Supplemental Appropriations Act.

Thank you, Mr. President.

Mr. WOFFORD. Mr. President, I rise today to encourage my colleagues to support the Leahy amendment to increase the support price for milk to $11.10 with a producer financed diversion program.

For Pennsylvania dairy farmers who are trying to deal with low milk prices, the drought further complicated their financial situation. Several dairy farmers have sent me copies of their milk check stubs to illustrate the decline in milk prices during the past year. One dairy farmer from Wyoming County produced 81,257 pounds of milk in July 1990 at a net value of $7,182.01. One year later, in June 1991 sales of 99,351 pounds had a value of $6,291.11. These figures speak for themselves. This farmer produced nearly 18,000 pounds more milk and received $1,000 less net income for the month. Many farmers have been forced to produce more milk to make up the lost income.

The producer financed surplus reduction program gets at the heart of the perceived problem in the dairy industry—over production. The amendment will allow a farmer to reduce production by entering into a contract with the Secretary of Agriculture. This is self-help program for dairy farmers. They are taking responsibility for their industry and allows producers who are frustrated with their industry to do something about it.

I understand why they are frustrated. A Government Accounting Office report, in August 1991, found that prices received by dairy farmers declined 25 percent and retail prices paid by consumers declined only 5 percent.

Dairy farmers would feel differently if the prices they pay for machinery, labor, feed, health care, et cetera, declined accordingly, but this isn't the case.

To add insult to injury, the administration may allow greater dairy imports under the Generalized System of Preferences [GSP] Program. This at a time when our own producers are struggling with low prices and surpluses. Why import more products when we can't market our own?

The GSP was intended to give preferential trade treatment to developing countries. It was the intent of the GSP Program from the beginning that economic advantages would not be offered to developing countries at the expense of established U.S. industry.

I think it's time we look right here at home for preferential treatment by granting our own productive farmers the same benefits as our foreign neighbors. We should be strengthening our agricultural exports, not giving up a greater share of domestic markets.

Mr. President, I urge my colleagues to support the Leahy amendment to the dire emergency bill.

Mr. LUGAR. Mr. President, the debate today is about a $1 increase in price support for milk and a paid diversion program. The proponents of this amendment have hoped that this would bring about higher income for dairy producers in this country. It is arguable whether that will be the case or not.

I argue on behalf of the opponents of the amendment that what an increase is likely to bring about is more production of milk. That action is likely to result in lower prices and the same crisis that impelled this debate.

In short, we are back to the dairy bill again, because of signals given to dairy producers leading them to overproduce in 1990, at a time when prices were much higher, and that overproduction led to a fall in price down to the support level of $10.10.

Ideally, we should leave the farm bill alone. It was a grand compromise by many interests. We tried to take into consideration supply and demand, as well as all of the controls on dairy and other producers in our country. I simply hope that that will be the final product of the debate; namely, that the price increases which are now occurring for dairy farmers in the marketplace will continue.

We have already seen prices come from $10.10 to a level above $12 and, in October, to a national average of $13.20. In my judgment, this amendment will hurt dairy farmers and will lead to overproduction and a fall of prices again.

In addition to that, very quickly, the amendment we have today will lead to a cost to consumers. I have estimated those costs are likely to be $1.5 billion. That is a hidden tax on citizens that we would not tolerate if it were offered in a straightforward way.

Mr. President, I am advised by USDA that, after analyzing the Leahy amendment this morning, they believe it will increase Federal spending $100 million in fiscal year 1992. That is the year we are now in, Mr. President—an increase of $100 million, because of the dollar limitation on assessment collections. The USDA projects the need for an additional $100 million in collections. That is a serious problem with regard to our current budget situation, quite apart from the $1.5 billion of hidden taxes that are implied by this amendment.

Senator LEAHY has already admitted there will be an impact on the Women, Infants, and Children Program and announced he will offer an amendment attempting to fix prices in grocery stores. He will try to remedy the injury by creating another injury and distortion in our markets.

That would be, I think, a catastrophe, to get involved now in setting prices in retail stores, even with the strong argument that somehow retail prices for milk ought to be managed in the same way that we are attempting to manage producer prices in this amendment.

Finally, I just have to say that the argument that somehow or other we are not taking care of our own—a very familiar argument heard in the politics of this country, particularly in the last 60 days—is a thoroughly misplaced statement in this situation. Whatever argument one has on credits to the Soviet Union, as a matter of fact, these are loans that we anticipate will be repaid. The United States has found the Soviet Union to be a good customer, with $20 billion of agriculture exports going to the Soviet Union. Ask any farmer around the country, and they are very much inclined to support those credit sales and the collections of money from the Soviets to pay for it.

The additional $1.5 billion recently is on top of $2.5 billion of credits that are already out there. Those credits were used to buy American corn, soybeans

ducers from going out of business due

this legislation so that as the industry

VOL 137 PT 23 NO 21—25 1991 UMI

and, soybean meal—not money for the Soviets, but money for American farmers. Some on the Agriculture Committee may argue that because there have been sales of corn from Indiana, somehow or other that means we ought to have $1 more for milk today in Vermont. That seems shortsighted. Particularly shortsighted in view of the fact that all of us debated all commodity supports when we passed the 1990 farm bill; and now dairy is asking for differential treatment. In my judgment, it is not in the interest of the dairy industry. It is clearly not in the interest of the taxpayers, it is not in the interest of consumers, or in the interest of nutrition programs.

For that reason, the amendment should be defeated.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I yield 1 minute of my 5 minutes to Senator JEFFORDS.

Mr. JEFFORDS. Mr. President, I want to make a couple of comments. We have had a lot of discussion—and it is difficult for my colleagues to understand—but there are certain things that cannot be misunderstood; that is, the facts.

I want again to go to the chart which demonstrates the success of the dairy program over the last 10 years. As I pointed out earlier, if the price support in 1981 had kept up with the CPI, the present price support price would be $19.63. Where is it? At $10.10. We would only raise it to $11.10. Thus, it would be lower than what the CPI would have brought it to.

If you compare a deflated figure, it is half of what our farmers are getting. Look at what that had done, and we should do that not only for the consumers but for WIC participants. Probably 20 percent or more people that are on the WIC Program because of the high productivity of your dairy farmers and the decreasing costs. Probably as much as 50 percent of the people on WIC would not have been there if we had kept the same cost of the WIC Program. The dairy farmers are the heroes of the WIC Program, of the feeding programs, and of our consumers.

We are trying to maintain that high productivity, maintain the best agricultural program we have. They did not get any special treatment. Others got as good or better than dairy farmers did in the 1990 farm bill. We are trying to keep things where they are and give the benefits to the citizens of this tremendous, well-run program.

Mr. WALLOP. Mr. President, I am voting against this dairy diversion amendment. Over 1 million families with beef cattle operations are deeply and rightly concerned about the pending dairy and disaster assistance amendment being imposed on this emergency supplemental legislation today. Henry Wadsworth Longfellow once said, "We judge ourselves by what we feel capable of doing, while others judge us by what we have already done."

I am concerned about the plight of the dairy industry and interested in reaching an agreement which is appropriately beneficial for both the beef and dairy industries. However, as we debate this dairy amendment, distressing thoughts come to mind of the last Dairy Diversion Program of 1983. The diversion program eventually led to the failed Dairy Termination Program of 1985, when the beef market was forced to record-low levels. Thousands of hard working families in the beef industry were unnecessarily driven out of their business by the Government.

We are reminded of that other time so similar to this time, when Congress proposed a dairy diversion program requiring the Government to subsidize dairy farmers who agreed to freeze or reduce dairy production. Under dairy diversion provisions of this dairy and disaster assistance amendment, farmers who do not agree to freeze or reduce milk production would be assessed a mandatory fee. In principle, if the dairy industry has a government-subsidized dairy diversion program, the Government takes decisions for when dairy producers should sell their cattle assets on to the beef market away from those dairy producers, and the beef industry becomes unfairly influenced by Government directives—Government by its nature is incapable of dealing with more than one devil at a time.

As a rancher and long-time proponent of markets free from Government mismanagement, I remember clearly the legislation in 1983. It hit my socks too. Remember 1985, when Congress was no longer satisfied with a dairy diversion program and enacted the dairy termination program to further control dairy supply/demand levels. Senators heard speeches similar to the ones you're hearing today quoting studies supporting the Government's further involvement in the beef market. After pondering the rosy picture being painted of a Government-subsidized dairy program designed to market dairy cattle onto the beef market in an orderly way, Congress made a grave mistake: it enacted it. For a variety of uncontrollable reasons, business was not usual in the beef industry. The beef industry was severely damaged. As a result of the dairy termination program, and an economically unaware and an unpredictable Department of Agriculture, over a million head of cattle were driven on to the beef market. Beef inventories were reduced to a level not seen since 1962. Congress was judged by what we had done, and we were rightfully ashamed.

Unfortunately, when Congress finally came back to its senses and eliminated the termination program, granting back to the beef industry its present market free from Government intrusion, extensive damage had already been done to communities and businesses nationwide. Hundreds of families with beef operations were bankrupted and thousands more damaged by their own Government.

I had the privileged opportunity to speak in my home State of Wyoming a few weeks ago about a very important agricultural matter. My friend from Vermont, Senator JEFFORDS, made a special effort to travel to my home State to meet cattle ranchers and to see the challenges on their ranches. And I thank him for that effort. Perhaps, as have I, he spoke with strong ranchers expressing painful emotion, Mr. President, as they described the devastating effects of the failed dairy termination program on the beef market only 5 years ago. We have been judged by what we have done. We must expect to be judged by what we will do today and tomorrow.

Mr. President, no segment of agriculture should either profit from another segment's adversity, nor be the cause of that adversity. I empathize with the plight of the dairy industry. I hope a solution undamaging to the beef industry can be reached which appropriately benefits ailing dairy farmers. Nevertheless, it is of the utmost importance that the beef industry's free-market system is neither altered nor damaged.

Even with the proposed dairy diversion compromise, I believe a potential problem would remain if Congress enacts this legislation. No real caps on the number of dairy cattle to be pushed onto the beef market are included in this legislation. I believe the dairy industry has a recent history of considerable supply/demand fluctuations which cannot be completely controlled by any system of government. For example, in 1989 the dairy industry experienced large price increases due to a severe drought the year before. That drought increased dairy prices in 1989 and led to a dramatic increase in dairy production/supplies in 1990. What will happen if we enact a Government-subsidized dairy diversion program today, and it becomes necessary for many more dairy farmers to enter into dairy cattle diversion contracts next year? The answer is that Government's involvement in the beef industry would be never-ending.

Once again, under the logic of this legislation, if it's necessary to continue increasing the dairy support price, it is equally necessary to continue increasing the number of dairy diversion contracts. Good and hard working folks in the dairy industry will tell you that support prices must be considerably higher than even the proposed level being discussed today for many dairy producers to stay in business. If Congress adopts a philosophy today protecting most dairy producers from going out of business due to natural supply/demand dairy market fluctuations at the expense of the beef industry, the trend would be for Congress to continue increasing the support price and increasing the number of dairy diversion contracts entered into each year. It would be most unfortunate if Congress enacts this legislation inadvertently making the beef industry second-guess dairy diversion programs each year.

With all due respect to my distinguished friends and colleagues representing large dairy constituencies, I ask this important question: Is the beef industry assured by every Senator supporting this dairy legislation that the American people will not be asked to support future legislation—or regulation—next year or any year to increase the dairy diversion program or to institute a costly dairy buyout program? Of course the answer to that question is "no," Mr. President. I understand there is a lot of dissatisfaction in the dairy industry regarding a possible compromise in the price support level. I hear the dairy industry opposes a support price lower than $11.10.

Mr. President, even if this legislation passes with some sort of second-degree amendment further decreasing the potential impact of a dairy diversion program on the beef market, this Senator anticipates that the beef industry can unfortunately expect future proposals to further increase the dairy support price. Of course, if the support price is increased, it follows that the number of dairy diversion contracts necessary would also increase.

While both the beef industry and the dairy industry have common business interests, they have very different philosophies about Government's appropriate role in the marketplace. I believe we must learn from our mistakes by not traveling down the same misguided path again. This amendment does not really limit the number of dairy cattle which may be slaughtered from the proposed dairy diversion program.

For the benefit of the beef industry and thousands of communities nationwide involved in the beef industry, I would urge careful evaluation of this dairy diversion legislation. Sure there must be a better alternative to this important dairy issue which does not involve potential damage to the beef industry. Thank you, Mr. President.

Mr. SPECTER. Mr. President, I support the amendment offered here today by my colleague Senator LEAHY to the supplemental appropriations bill for fiscal year 1992 to assist our Nation's dairy farmers.

The dairy industry in Pennsylvania has suffered significant losses since last year and this legislation will assist these producers in maintaining their livelihood. I believe it is crucial that the Senate act prior to adjournment on this legislation so that as the industry approaches spring a program will be in place that will effectively regulate production and price levels to allow the producer a fair market price.

Dairy production and processing is a major part of Pennsylvania's economy. With Pennsylvania ranking fifth in the Nation for milk production, it produces annually about 10 billion pounds of milk worth approximately $1.3 billion to the Commonwealth's economy. The Pennsylvania industry boasts nearly 13,200 dairy farmers with 698,000 cows in production. In the past year I have visited personally on several occasions with the dairy producers of Pennsylvania to hear their concerns on the dramatic decline in the price paid for their hard work. Their voices were united in that the current program needs reform and that without assistance many farmers will be out of business.

As I have stated in the past, the current dairy program needs revision. It has resulted in producers having little or no control over the milk prices. In turn, the price reductions which occurred earlier this year resulted in many producers having to incur losses. This matter is further exacerbated at a time when the operating and production costs have been on the rise. The U.S. Department of Agriculture estimates that the price of milk paid to producers in 1991 will be below the costs of production. It is estimated that earlier this year in some areas of the Commonwealth the average dairy farmer was paid a market price that was $4 less than the cost of production. Any good businessperson will recognize that when the cost of production is greater than the price you are paid for you commodity, you will eventually be forced out of business. Our Nation cannot afford to lose any more of its vital rural population. That is why this legislation is necessary at this time.

The amendment by Senator LEAHY provides an increase in dairy support price paid to producers from the current level of $10.10 per hundredweight to $11.10 per hundredweight. The price support floor as established in 1949 is intended to protect farmers from price declines that could force them out of business. The price reductions and production cost increases Pennsylvania farmers experienced last summer is indicative that the current price support is not doing the job.

Further, to balance the increased price support the amendment directs the Secretary to operate and manage a voluntary surplus reductions program. This program is designed to reduce production to avoid surpluses in the market in order to obtain a stable, reliable price for both the consumer and the producer. A supply control program will help prevent catastrophic declines in the price of milk by managing amounts produced. To control the costs associated with the dairy program, the industry itself will pay for the voluntary surplus reduction program.

I understand the concerns expressed by cattle producers regarding this proposal. It is my belief that if we do not act on this legislations we will continue to experience price instability and drastic loss of dairy producers. I further believe that continued loss of producers would only result in greater numbers of dairy cows culled to market through foreclosures and sales. The amendment by Senator LEAHY does contain mechanisms to minimize the negative effect on the livestock industry. It directs the Secretary, when implementing the surplus reduction program, to stagger and limit the number of contracts between USDA and participating producers.

Price stability is a goal we must strive for in the dairy industry. Price instability has been found to drive producers from the farm and damages the ability of the market to provide a dependable supply of quality milk to consumers. Only through a managed program to control production and price can a stable dairy industry be achieved. While the proposal before us may not be perfect, it represents a culmination of efforts to develop a program that will treat every dairy producer fairly.

I am hopeful that in the long term, with stability in the price of milk through a realistic price support, a production management program and the development of international trade for dairy products, the dairy industry will remain a strong, vibrant industry in Pennsylvania and the Nation.

Mr. LEAHY. Mr. President, my distinguished colleague from Vermont let me borrow this chart.

It shows that 1983, where wheat, corn, and milk were roughly in the same area of support rates. Look where they are now. Wheat and corn up here, milk down here. There is no question where the favored area has been—and it has not been milk, in these farm bills.

In fact, just a few years ago, $2.5 billion was spent on dairy price supports. We made the change to save taxpayers money. I have supported changes to save taxpayers money. Today we spend one-fifth of that on dairy. I would like to see some of the people arguing against this amendment stand up, here, and tell me how many programs they have supported to save taxpayers money like that. Have they done it in the defense bill? No. Have they done it in the foreign aid bill? No. Have they done it anywhere else? No. We have done it here in dairy. The men and women who were dairy farmers sacrificed to try to bring down the budget deficits. Let us not say to them, your reward today is that we are going to throw you off the farm, that we are not going to allow you to continue dairy farming, and being an integral part of rural America.

VOL
137
PT
23
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21
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The fact is, the Congressional Budget Office says that my amendment will save another $24 million. It does not cost. It saves even more money. We have cut the cost of this program by four-fifths. We can save more, but at the same time we can design this in a way that actually works for the dairy farmers.

People seem to be upset when I mention what we are doing in foreign aid. The fact is, when you want to send $4 billion to the Russians to help their farmers and to help their people, it is done just like that, with the snap of a finger.

Let us at least take some steps in this country when we are at the height of a recession, when we are hurting in rural America. Rural America is hurting more than any other part of the country. Let us say, at least, that we can be as generous to our own people, and as helpful to our own people, as we are to all of these other countries to whom we give foreign aid.

I yield the floor.

Mr. President, I yield back the remainder of my time and I ask for the yeas and nays on the second-degree amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Vermont. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—47

Adams
Akaka
Bentsen
Bond
Breaux
Bryan
Burdick
Byrd
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
Dodd
Durenberger
Fowler
Glenn
Gore
Gorton
Grassley
Heflin
Inouye
Jeffords
Kasten
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Mitchell
Moynihan
Pressler
Riegle
Rockefeller
Sarbanes
Sasser
Seymour
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—51

Baucus
Biden
Bingaman
Boren
Bradley
Brown
Bumpers
Burns
Chafee
Coats
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Garn
Graham
Gramm
Hatch
Hatfield
Helms
Hollings
Johnston
Kassebaum
Lautenberg
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Robb
Roth
Rudman
Sanford
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—2

Harkin
Kerrey

So the amendment (No. 1394) was rejected.

Mr. LEAHY. Mr. President, I ask unanimous consent that the yeas and nays which are on the underlying amendment be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. I thank the Chair.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the first-degree amendment.

The amendment (No. 1393) was rejected.

Mr. LEAHY. Mr. President, I am very saddened by the Senate's rejection of this dairy amendment.

This has been a very tough year for our Nation's dairy farmers. Not only have prices dropped 25 percent between last January and early this year, but the administration has defeated dairy relief legislation three times.

The first time was last March, when the administration killed emergency dairy relief legislation that passed the Senate on a 60–40 vote.

The second time was last July, when White House veto threats derailed mandatory supply management legislation in the House and Senate Agriculture Committees.

The third time was today, when the administration led an all-out lobbying effort to block a support price increase for dairy farmers—a support price increase that passed the Senate Agriculture Committee last month.

The proposed amendment could put an additional $10,000 to $20,000 in the pocket of the average northeast dairy farmer. A northeast farmer participating in this program could have receive an all-milk price of between $13 and $14 per hundredweight. In some parts of the country, farmers would have received more.

I am not optimistic about passing that dairy relief in the future. While the Senate Agriculture Committee could pass our bill again, it has virtually no chance of becoming law unless the administration changes its opposition to it. I do not want to give any of our dairy farmers false hopes by passing a bill in the Senate Agriculture Committee only to have it defeated again by the administration.

In some ways, dairy farmers have more control over their lives than other farmers. They control their co-ops and the co-ops are exempt from the antitrust laws. There is nothing preventing farmer-controlled co-ops from working together and setting a price that is reasonable and will provide farmers with a fair price and an adequate income.

Certainly it would be better to pass national dairy relief legislation. But I do not see how that is possible while the current administration controls the White House. But at some point, if we are going to have any kind of a farm program at all, we ought to ask why this segment has to be singled out the way it has been here.

Rather than work to pass bill after bill, with the White House stopping each one, dairy farmers have no choice but to shift their energies inward to improve their lives. The key for dairy farmers is to organize themselves—locally, regionally, and statewide.

I will do all I can to help farmers achieve that goal.

Mr. President, I was going to next bring up the WIC amendment that I had told my colleagues earlier I was going to attempt to bring up right after this. But I know the distinguished majority leader is on the floor and the distinguished chairman is on the floor.

I ask unanimous consent that I may be able to yield to other Senators without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, I have just completed a meeting with the Speaker, the majority and minority leaders in the House, and the Republican leader of the Senate in an effort to reach an agreement on a process by which we can adjourn prior to Thanksgiving, as has been my objective for several months now. I am pleased to report to the Members of the Senate that the leadership is united in its determination to achieve that objective.

In order to do so, a great deal of work will have to be done between now and next Wednesday. This is an important bill we are now considering, and we have now been on it for almost the entire day up until this point and only one amendment has been disposed of. So it is obvious to both the Republican leader and myself that the Senate will have to be in session tomorrow if we are to have any hope of completing action prior to Thanksgiving.

So, Senators should be prepared for a late Senate session this evening and a session tomorrow. It is my intention, following consultation with the distinguished Republican leader, to proceed to the defense appropriations conference report following completion of this measure. I do not think any of us can at this moment know when this measure will be completed. I have discussed the matter with the chairman of the Appropriations Committee, the

manager of the bill, and he has indicated he expects it will be some time because there are a number of amendments, but he and the ranking member and also manager want to proceed this evening. So we are going to proceed. It is my hope that those Senators who have indicated an intention to offer amendments will be prepared to do so and that we will not be subjected to lengthy delays during the day today waiting for Senators to offer amendments. That is never an attractive practice, and I think particularly so as we try to reach our objective of adjournment prior to Thanksgiving. But I want to reaffirm my determination to do that if it is at all possible.

We have to complete action on certain important measures, and we are going to try to accomplish as much of the Nation's important business as we can. And I think if there is any hope of reaching that objective, we will have to be in late tonight and tomorrow.

I would like to yield to the distinguished Republican leader, if I may.

Mr. DOLE. Let me reaffirm what the majority leader just stated. It occurs to me I would rather be in here tomorrow than on Wednesday, because I think, if people are going to be going anywhere for Thanksgiving, they need some traveltime. So I am very optimistic. I have been hoping we could finish tonight. I think we could, for all practical purposes, finish anything with any number of votes on it. We may be down to conference reports by tomorrow evening. And then if some felt like leaving at that time, that would be all right with me, too. We could just leave the leaders here; we could just wrap it up sometime next Tuesday. We would give you a ring.

In any event I think it looks like it is possible now.

Mr. MITCHELL. Yes, it does.

Mr. BIDEN. Mr. President, let me ask a question. I am happy and prepared to and delighted to be in here tomorrow to finish the business. But since all of us are in the same boat where the only thing we know our constituents do not understand is being told we are canceling a commitment we have made to them and give the reason because the Senate is in session and then they pick up the paper the next morning and find out the Senate is not in session and we look like we were not telling the truth—we are going to be in for certain tomorrow; is that correct?

Mr. MITCHELL. Mr. President, if I might respond, there is a natural longing to impose certainty in a situation, to wit, the Senate's operations, in which certainty is inherently impossible. If we finish this bill in the next hour and then we pass the defense appropriations bill in the hour after that and we finish three or four other bills by 6 or 7 o'clock tonight, all of which I think highly unlikely, it would not be my intention to say, well, let us come on in here because I earlier said we have to be here. I think that is not very likely.

I can say that if the Senator receives any such complaint, I will be pleased to field the questions from the people of Delaware.

Mr. BIDEN. Mr. President, I just ask if the leaders would be willing to write me a note. [Laughter.]

Mr. MITCHELL. I just say that I think it is highly unlikely that we will reach the point today that will render it unnecessary to have a session tomorrow.

If I knew that for sure I would say it. I think you better plan on being here, and I will be glad to write any note.

Mr. BYRD. Will the Senator yield to me?

Mr. LEAHY. Certainly.

Mr. BYRD. While we have a good attendance here, I wonder if Senators would indicate if they have amendments. I would like to see how many Senators——

Mr. D'AMATO. Mr. President, I am ready to go. I understand——

Mr. BYRD. Senator D'AMATO has one amendment.

Mr. D'AMATO. Yes; at least one.

Mr. BYRD. Senator NICKLES has one. Who else has amendments? Senator LEAHY has one. Senator LOTT has one. Senator LAUTENBERG has one. Senator CONRAD has one. Senator KENNEDY has one. Any others?

Mr. GORTON. Senator NUNN, I believe, has several.

Mr. BYRD. Senator NUNN has some amendments.

Mr. COATS. I possibly have an amendment. We think it might be accepted and worked out. It is in that category. We are not sure. There is one possible amendment.

Mr. BYRD. Very well, I ask my counterpart who is working with me, Mr. HATFIELD, if he would help on his side. We have the names of those who indicated. If we could find out from them, if during the afternoon we can get a time agreement on their amendments, and if we could also alert our Cloakrooms to have Senators who have amendments to let the managers of the bill know as soon as possible so we have some idea of how many amendments are going to be called up. At some point I would hope that my colleague will join me in moving to table all amendments after a certain point.

These initial amendments that we learn about, I am willing to not move to table them. But as the day wears on, if more and more amendments sprout, then I think we ought to form an alliance here and attempt to table amendments. That will not be for a while, however.

Mr. CHAFEE. Mr. President, I wonder if I might ask, was I to understand the distinguished Senator from Vermont suggesting he offer the same amendment all over again?

Mr. LEAHY. Mr. President, I still have the floor. I cannot imagine any Senator who would actually be so out of tune to think that, and I know the Senator from Rhode Island is not out of tune. So I suspect he was just trying to make a joke.

Mr. CHAFEE. I am not spending my time making jokes. It is just that I understand the suggestion to that effect.

Mr. LEAHY. Then, Mr. President, I suggest the Senator was out of tune, and, the answer is, of course not.

Mr. BYRD. Mr. President, if the Senator will continue to yield.

Mr. LEAHY. I do yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I have one final suggestion, and that is those Senators who have amendments, if they would call them up and speak briefly on them—they can have a vote up or down as far as I am concerned, but in order that we might not go too late into the evening, if they would call them up and get a vote on them, one way or the other so we can get on with the bill.

Mr. President, I thank the Senator for yielding.

The ACTING PRESIDENT pro tempore. The Senator from Vermont [Mr. LEAHY] has the floor.

Mr. LEAHY. Mr. President, can we have order, please?

The ACTING PRESIDENT pro tempore. The Senate will come to order. The Senator from Vermont has the floor.

Mr. LEAHY. I know I told others I am going to bring up a WIC amendment. In all likelihood, I will get us in and out of that in 5 to 10 minutes.

I ask unanimous consent that I be able to yield to the senior Senator from Massachusetts without losing my right to the floor, and I will then be recognized again on the WIC matter which I assure my colleagues will take a very brief time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1395

(Purpose: Substitute language to restrict arms sales to Saudi Arabia and Kuwait)

Mr. KENNEDY. Mr. President, for myself and my colleagues, Senators KERRY, SHELBY, DODD, SMITH, FORD, AND PELL, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts [Mr. Kennedy], for himself, Mr. KERRY, Mr. SHELBY, Mr. DODD, Mr. SMITH, Mr. FORD, and Mr. PELL, proposes an amendment numbered 1395.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VOL 137 PT 23 NO 21–25 1991 UMI

The amendment is as follows:

On page 13, line 21, strike out section 104 of the substitute and insert in lieu thereof the following:

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

Mr. KENNEDY. Mr. President, I am proposing this amendment on behalf of myself, Senator KERRY, Senator SHELBY, Senator DODD, Senator SMITH, Senator FORD, and Senator PELL. I believe that the amendment has been cleared on both sides.

The amendment would modify a provision in the supplemental that would halt all American arms sales to Saudi Arabia and Kuwait until they have fulfilled all of their financial pledges to the United States for Operation Desert Storm.

I strongly support the objective of full payment of Desert Storm debts.

Our gulf war allies pledged both financial and in-kind contributions, and these commitments must be honored.

But, as drafted, the provision in the supplemental suspending arms sales to Saudi Arabia and Kuwait would cause significant unintended hardship for American defense workers in Massachusetts and elsewhere. It would force the cancellation of ongoing contracts worth billions of dollars, and lead to thousands of layoffs around the country.

For example, in Massachusetts, by halting all work on Patriot air defense missiles being built under contract for Saudi Arabia, the provision would lead to an immediate layoff of over 1,000 workers. In the longer term, this provision could mean the loss of over 5,000 jobs in Massachusetts.

There would be similar employment impacts in California, Florida, Michigan, Ohio, and elsewhere. These job losses would come at the worst possible time given the current recession, which is particularly severe in the Northeast.

The amendment that we propose would modify the arms sale provision to avoid these severe job losses. It would provide Saudi Arabia and Kuwait with 120 days to pay their Desert Storm obligations in full. If they failed to meet this deadline, new arms sales would be barred until they meet their obligations.

This amendment has two major advantages over the existing provision. First, it would avoid major layoffs in the American defense industry. Our defense workers were the unsung heroes of Operation Desert Storm. Their long hours and quality workmanship provided American forces with the technological capability that led to a quick victory with extremely low casualties. It would be unfair now to penalize these workers because other nations have been slow to pay the obligations arising from the war.

Second, the amendment would grant Saudi Arabia and Kuwait a reasonable time to make good on their Desert Storm commitments. To date, Saudi Arabia has paid $14.9 billion of its total Desert Storm commitment of $16.8 billion. It is paying off the balance at a rate of $500 million a month.

Similarly, Kuwait has already paid $14.6 billion of its total commitment of $16 billion. And, it is paying off the balance at the rate of $700 million per month.

Saudi Arabia and Kuwait have already paid about 90 percent of their Desert Storm commitments and they are on a schedule to reach payment in full within a few months.

If these two nations maintain this payment schedule, they will meet their Desert Storm commitments well within the 120-day timetable in this amendment.

Both nations should pay all of their debts associated with the gulf war. The amendment that we propose will achieve this objective in a reasonable manner without unnecessary hardship for American defense workers that a sudden cutoff will involve.

I want to thank the chairman of the Appropriations Committee, Senator BYRD, for his cooperation in working out this amendment. Through his efforts and those of his fine staff, I believe we have developed an alternative that protects both the Treasury and the job security of a large number of American defense workers.

This 120-day delay is designed to allow defensive sales already in progress to proceed. It should in no way be interpreted as an endorsement of the sale of offensive weapons to the region during this period.

I am deeply concerned over reports of administration plans for a massive infusion of offensive weapons into the Middle East.

There are reports of a proposal for the sale of 72 sophisticated F–15 aircraft to Saudi Arabia, as well as the possibility of providing Saudi Arabia with an offensive military capability. Since the gulf war, the administration has provided no overall assessment to Congress of the defensive needs of the region, and yet it has sold $11.5 billion in arms to the region since the war.

The United States is now the leading arms supplier in the Middle East and has sold $30.7 billion in arms to the region between 1987 and 1990. In the wake of the gulf war, it is imperative that we assess the legitimate needs of the region before moving forward on any such sales of offensive weapons—and certainly before we diverge from the long-standing United States commitment to ensure Israel's qualitative military edge.

I urge the administration to provide Congress with an overall assessment of the military threat and the legitimate defense needs of the region. Until Congress receives such a report it would be ill-advised for us to approve a new sale of offensive weapons to Saudi Arabia. I urge the administration to provide such a report within the 120-day period provided in this amendment.

Mr. President, I have talked to both managers of the legislation and I understand that this amendment is acceptable. All of us are desirous for the full repayment by Kuwait and Saudi Arabia for their obligations. They have been 90 percent fulfilled at the present time. At the rate that they are moving, they expect to be fulfilled within the 120-day period. This mandates that they do, where otherwise all sales to Kuwait and to Saudi Arabia will be curtailed.

In the pipeline prior to this particular action had been sales of defensive weapons systems, one of them the Patriot weapon system. This particular amendment, therefore, will insist that there be repayment by Kuwait and by Saudi Arabia, but it does provide a timeframe by which this sale will be made, and it is of 120 days. There is every expectation that there will be a full and complete payment of that particular obligation.

I want to lastly say I appreciate very much the consideration that has been given to this proposal by the chairman of the committee. I am in complete support with the objective of the particular amendment which has been put in place. This will ensure that the objective of the committee amendment will be carried forward, but it will also permit a defensive weapons system that had been effectively contracted for, to be completed without very significant loss and disruption of employment practices.

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Mr. President, my friend and senior colleague, Mr. KENNEDY, and I are offering an amendment to correct the unintended detrimental effect of an important provision added by the Senate Appropriations Committee to the supplemental appropriations bill.

That provision if enacted would halt all sales of United States arms to both

Saudi Arabia and Kuwait until they have paid the entire amount of their pledges to the United States to share the financial burden of Operation Desert Storm.

The distinguished chairman of the Appropriations Committee, who also is the manager of this bill, certainly deserves only the highest commendation for taking steps to ensure that the commitments made by our gulf war allies—particularly the two which were the foremost beneficiaries of our involvement in the Desert Shield and Desert Storm actions—are fully honored.

But as the provision is worded, very serious difficulties unintentionally would be imposed on firms manufacturing important defensive armaments and on their employees, in Massachusetts and other portions of the Nation.

An important illustrative case can be found in Massachusetts, where work currently is under way to manufacture Patriot air defense missile systems for Saudi Arabia. Enactment of the supplemental appropriations bill containing the arms sale prohibition in its current form would necessitate the immediate shutdown of the assembly line, resulting in the layoff of over 1,000 workers. As the ripple effect takes its toll, eventually this action could cost the Commonwealth over 5,000 jobs.

Mr. President, such employment loss never is an attractive prospect. At a time when a severe recession grips not only the State Senator KENNEDY and I represent but large regions throughout the Nation, such an outcome is unthinkable.

As Senator KENNEDY pointed out, the amendment we are proposing, with the distinguished Senators from Alabama [Mr. SHELBY], from Connecticut [Mr. DODD], from New Hampshire [Mr. SMITH], from Kentucky [Mr. FORD], and from Rhode Island [Mr. PELL], preserves the key thrust of the provision added by the Appropriations Committee—imposing an arms sale moratorium on Kuwait and Saudi Arabia until their Desert Storm financial obligations are paid in full. But it delays the effectiveness of that provision for 120 days.

In my judgment, it is appropriate to use the carrot and stick approach to this matter, rather than only the stick. It also may well be more productive. The moratorium provision, as modified by our amendment, serves notice of what will occur if the Kuwaiti and Saudi obligations are not met in the near future, but it also provides a reasonable amount of time during which those two nations can comply. In fairness, it should be noted, as my senior colleague, Mr. KENNEDY, indicated in his statement, that Saudi Arabia has to date paid $14.9 billion of its obligation of $16.8 billion, and that payments of $500 million are being received each month. Kuwait owes $1.4 billion of its original obligation of $16 billion and is making payments of $700 million a month. So both nations should be able to complete their payments within the 120 days provided by our amendment.

This advantage is joined by the fact that this amendment will prevent immediate and major layoffs of defense workers. It would be strikingly ironic and unjust if the defense workers who went into the equivalent of overdrive—increasing productivity, in some cases working double shifts, and otherwise responding in every possible way to be sure our soldiers, marines, airmen, and sailors had the weapons, delivery systems, and equipment they needed successfully to prosecute Operation Desert Storm—were made to suffer because Kuwait and Saudi Arabia have been slow in meeting their gulf war obligations.

The distinguished manager of the bill, Senator BYRD, has been gracious and accommodating in working with us to resolve this matter in a way that will preserve the original intent of the arms sale moratorium provision without imposing immediate and unfair hardships on U.S. defense workers or companies. I want to offer sincere appreciation to him and his staff—my personal appreciation and appreciation on behalf of several thousand Massachusetts workers who want only to be able to continue to produce a first-rate defensive weapons system.

Mr. President, I would like to thank the distinguished President pro tempore and manager of the bill and chairman of the Appropriations Committee for listening on this matter. I think he is absolutely correct in seeking to guarantee the full repayment and he is to be congratulated for setting up the structure that does that.

At the same time, Senator KENNEDY and the others who have joined in the amendment feel that this amendment avoids an unintended consequence. The workers courageously, obviously, went into double gear in order to meet the demands of Desert Storm and it would be clearly inappropriate for them to now somehow be handicapped inadvertently as a consequence.

I thank the distinguished chairman of the Appropriations Committee for being sensitive to that fact and for accepting this amendment as consequence.

Mr. SHELBY. I rise today to join my colleague on the Armed Services Committee as a cosponsor of this amendment. The amendment offered by Senator KENNEDY represents a good compromise on the issue of payment of the gulf war pledges by Saudi Arabia and Kuwait.

I can certainly understand the necessity for a provision in the supplemental appropriations bill which calls for the suspension of arms sales to Saudi Arabia and Kuwait until each country fulfills its gulf war pledge. The United States defended Saudi Arabia from further aggression by Saddam Hussein and liberated Kuwait. These nations made commitments which must be adhered to.

However, a vital component of the defense of Saudi Arabia and other nations of the Middle East was the Patriot missile. Every Member of this body can still visualize Patriot missiles streaking up into the night to intercept Saddam Husseins's Scuds raining down on Saudi Arabia and allied troops.

It is, therefore, understandable that Saudi Arabia wants to purchase Patriots from the United States. The Middle East remains an unstable region and the Patriot would add to that Nation's security.

This is also an industrial base issue. Contractors building this missile are dependent upon the sale that is already under contract and the proposed sale of an additional 12 fire units to keep workers employed until the next generation of Patriots are produced.

Mr. President, it is my understanding that Saudi Arabia has paid approximately 90 percent of its pledge of $16.8 billion and is on schedule to compete payment in the next few months. The amendment before the Senate would allow for an additional period of 120 days after enactment of this legislation before the provision takes effect. I believe that Saudi Arabia will have paid off its pledge by this time.

Mr. President, I commend the President pro tempore for his attention to this important issue. I also want to applaud Senator KENNEDY for his leadership. All nations that have made commitments to the United States to support Operation Desert Shield/Desert Storm must fulfill such commitments. I believe this amendment will ensure that these obligations are carried out in a fair and equitable manner.

Mr. DODD. Mr. President, I rise in strong support of the amendment proposed by the Senators from Massachusetts. I am proud to be an original cosponsor of this amendment. And I want to commend the Senator from Massachusetts [Mr. KENNEDY and Mr. KERRY] for their work on this important measure.

This amendment remains true to the original purpose of section 104, which was designed to ensure that our partners in the gulf war fully compensate the United States for the cost of that war. That is an important goal, Mr. President, and one that I wholeheartedly support. Americans took the greatest number of casualties among allied forces in the Persian Gulf, and Americans absorbed the greatest number of expenses. It is only fair that our allies, particularly Saudi Arabia and Kuwait, pay their share on a timely basis.

At the same time, Mr. President, the provision as written would imme-

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The amendment is as follows:

At the end of the substitute, add the fol-

With this WIC amendment, we can increase the number of people on WIC.

because taxpayers currently reimburse retailers for every item a WIC recipient

VOL 137
PT 23
NO 21—25
1991
UMI

diately cut off all arms sales to Saudi Arabia and Kuwait—regardless of when those contracts were signed. That presents an unfair burden for a number of defense contractors that have spent weeks and months making plans based on those sales. Many of those contractors, such as Norden, Sikorsky, and a number of small suppliers, are located in the State of Connecticut. To ask these contractors to pay the price for Saudi and Kuwaiti intransigence is hardly equitable—especially when the economies of Connecticut and many other States in the region are so dependent on defense contractors.

Mr. President, the amendment currently before the Senate would address both issues in an honest and equitable manner. It would apply only to contracts signed after the provision takes effect. And the provision would not take effect until 120 days after the enactment of this legislation.

At the current rate of payment, that will provide plenty of time for Saudi Arabia and Kuwait to repay their debts in full. At the same time, it will provide those countries with a serious incentive to do so.

Mr. President, this amendment strikes me as a fair compromise, and I urge its immediate adoption.

Mr. PELL. Mr. President, I am delighted to be an original cosponsor of the legislation proposed by the Senators from Massachusetts [Mr. KENNEDY and Mr. KERRY]. The distinguished President pro tempore of the Senate and chairman of the Committee on Appropriations, Mr. BYRD, deserves our commendation for taking the position that Kuwait and Saudi Arabia must meet their pledged obligations as a result of the desert war. I think that this amendment preserves Senator BYRD's excellent intent and ensures that the Kuwaitis and Saudis will get a very strong message from the Senate of the United States. I should note that his amendment will allow military transfers and proposals regarding Saudi Arabia to proceed for 120 days.

One proposal is currently under consideration. Congress has been given informal notification of one particular sale, that of 14 Patriot anti-aircraft missile fire units. Against the background of the gulf war, I and other Members have concluded that Saudi Arabia has a legitimate need for strong missile defenses against potential threats from both Iran and Iraq.

At the same time, at this critical point in the quest for a peace settlement and in efforts to achieve multilateral constraint, I do believe that we should be very resistant to any plans to ship highly sophisticated offensive weapons to the gulf region. I intend to consult closely with the executive branch in the coming months with regard to this matter.

Mr. President, I ask that a letter that the distinguished Senator from North Carolina [Mr. HELMS] and I sent to the Secretary of State in regard to this matter be inserted in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, November 21, 1991.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: We are writing with regard to the proposed sale to Saudi Arabia of fourteen Patriot surface-to-air missile fire units with a total value of $3.3 billion. The Departments of State and Defense have been very helpful in consultations beginning last month, including a full briefing for staff on November 7, prior to the informal submission on November 14.

The Congress made it clear last year and this year in several legislative vehicles, including the Foreign Aid bill and the State Department authorization act that it draws a distinction between major offensive equipment and purely defensive equipment, such as the Patriot. With regard to this particular sale, we are not aware of any serious opposition.

We note that Saudi Arabia will face in the years ahead a missile threat posed by both Iraq and Iran. It is clear that adequate Saudi defenses against this threat can contribute to stability in the Middle East.

We note further that the proposed sale, taken together with a Patriot sale allowed by the Congress last year, would result in levels of equipment comparable to the Patriot forces deployed by the United States in Saudi Arabia during the Persian Gulf War. Accordingly, we believe that the Patriot sale is appropriate.

At the same time, we want you to understand that it is important that countries in the Middle East recognize the right of all nations in the region to exist within safe and secure borders and that they support the peace process. I hope you will continue your efforts to ensure that this is the case with such nations as Saudi Arabia. Moreover, a number of Members have expressed general concerns with regard to arms sales to the Middle East at this point in the quest for a peace settlement in the region, and there is a widely held view that the United States should be particularly wary of sales of major equipment that could jeopardize efforts to achieve supplier agreement on meaningful restraints.

Given the considerations we have outlined, we conclude that it would be appropriate for the Administration to submit a formal 30-day notification upon the expiration of the informal period in the first week of December.

We believe this approach will be understood and accepted by our fellow Senators. However, should substantial concerns materialize, we would expect to consult with you when Congress returns in January as to how best to proceed.

With every good wish.

Ever sincerely,

JESSE HELMS,
Ranking Minority Member.
CLAIBORNE PELL,
Chairman.

Mr. BYRD. Mr. President, I appreciate the concern and I understand the concern that has been expressed not only here this afternoon but prior to this afternoon by the distinguished Senators from Massachusetts. I thank them for offering the amendment. I am certainly willing to accept it.

I view the change that Senator KENNEDY and Senator KERRY and others who are cosponsoring the amendment are proposing as a positive contribution to the legislation. I understand the concerns about the possible adverse impact of the immediate cutoff of existing arms sales. I think the changes that have been proposed will take care of that problem.

I also thank the staff on both sides and the staff of Senator KENNEDY and my own staff for working to come up with language which allows us to achieve the intent of section 104 without jeopardizing American jobs.

I ask unanimous consent that I be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the amendment offered by the Senator from Massachusetts has been cleared on this side.

I would like to underscore a simple fact, though. In no way does this amendment diminish the deep feeling that was expressed in the amendment offered by the chairman of the committee in the first instance, but yielding to the pragmatic aspects of its implementation, the amendment in no way, from my perspective, diminishes the importance of that initial amendment.

It is cleared on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 1395) was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized.

AMENDMENT NO. 1396

(Purpose: To provide a minimum rate of price support for milk and to protect the WIC program)

Mr. LEAHY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. KOHL, Mr. DASCHLE, Mr. WELLSTONE, Mr. WOFFORD, Mr. KERRY, and Mr. HARKIN, proposes an amendment numbered 1396.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the substitute, add the following new section:

SEC. . Section 17(f)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended by adding at the end the following new subparagraph:

"(F) During each of fiscal years 1992 through 1995, a State agency shall not redeem any food instrument for fluid milk presented by retail vendors under the program established by this section (or, in the case of a State that operates a home delivery or direct distribution system under the program, shall not pay or reimburse any distributor) in an amount in excess of the average farm milk price (the average price paid to producers for milk fluid uses) for the State for the previous month, plus 59 cents for a half gallon of milk or $1.06 for a gallon of milk, except that the Secretary, with respect to an Indian State agency, the State of Alaska, or any State agency (in compelling circumstances), may grant exemptions to retail stores from the application of the redemption limits contained in this paragraph if imposition of the limits is likely to cause hardships to participants in the program.".

Mr. LEAHY. Mr. President, this amendment is offered on behalf of myself, Senators KOHL, DASCHLE, WELLSTONE, WOFFORD, KERRY of Massachusetts, and HARKIN. It speaks to savings in the WIC Program. It would actually put 63,000 more women, infant, and children on WIC.

WIC, I think most of us would agree, is one of our most important nutrition programs. Over the years I have offered amendments that have boosted funding for WIC, cut administrative costs, and added additional needy infants, children, and pregnant women to the program.

As stated earlier, I think I have either been the sponsor or prime cosponsor of every improvement in the WIC Program that has gone through this body in the past 17 years. I am pleased by the tremendous, bipartisan support on that. I remember times when most of the WIC bills were either a Dole-Leahy or Leahy-Dole, or others within this body who joined in them—the distinguished colleague from Vermont, and the distinguished Senator from Massachusetts and others who have been here.

This amendment was intended to follow the previous dairy amendment, had it passed.

This amendment was to be offered as an added insurance—insurance to protect WIC from any unintended, adverse impact.

CBO agrees with me. CBO's letter says that this amendment means that "no funding increases would be needed to maintain the WIC population." This means that WIC is fully—fully funded.

It is obvious that this bill now, as it is without the dairy amendment, would not be the best place to put the WIC amendment. So I will shortly withdraw the amendment. I have submitted it here and it will of course be printed and it will alert my colleagues to a form that I wish to use in WIC later on.

With this WIC amendment, we can increase the number of people on WIC. Today, 40 percent of the women, infants, and children who are eligible for WIC cannot participate in the program. There is not enough money for them.

This amendment does more then fully protect WIC. It will stretch each WIC dollar, allowing more eligible infants, children, and pregnant women to receive benefits.

Right now, only 60 percent of those eligible for WIC actually receive WIC benefits.

Let's remember for a moment why WIC is so important.

For every WIC dollar spent on a pregnant woman, between $2.84 and $3.90 was saved in Medicaid costs during the first 60 days of her newborn's life (report issued by USDA);

WIC reduces infant mortality;

WIC improves prenatal care; and

WIC reduces premature deliveries.

The amendment before the Senate would increase WIC funding without taking one penny from the U.S. Treasury.

Before I outline the amendment, it is important to review what is happening with milk at the retail level.

In January of this year, I asked the General Accounting Office to investigate reports of milk price gouging by retailers.

In September, GAO reported that the price farmers receive for a gallon of fluid milk dropped an average 20 percent between August 1990 and May 1991 while the price consumers pay for milk has declined by less than 5 percent.

In other words, consumer prices for milk are slightly lower than last year despite a big drop in the price farmers are getting for their milk.

An April 1991 Cornell University study, Agricultural Economics Prof. Richard Aplin, concluded:

> As the farm price of milk dropped drastically * * *, most of the widening marketing spread can be attributed to a big increase * * * in the food retailers margin. * * *
>
> Looking at the retailer, it is clear the average retail margins on Milk * * * are well in excess of the cost of supermarket's handling milk. * * * *Retailer margins have been well in excess in their costs at least since 1985 but the profitability of fluid milk to supermarkets has increased significantly in recent months.* (Emphasis added.)

The study concludes with the following observation:

> Comparing retailer margins with the cost of handling milk in supermarkets suggest that fluid milk is a very profitable item for supermarkets.

Somebody is making a lot more while dairy farmers are making a lot less. Retailers and others are making a fast buck while dairy farmers are losing thousands of dollars.

No matter how greedy the retailers are, I am not proposing a general rollback of their prices. Neither am I proposing price controls.

However, price gouging at the retail level costs taxpayers' dearly. This is because taxpayers currently reimburse retailers for every item a WIC recipient buys, no matter how inflated a price the retailer charges.

When a WIC mother buys food, she exchanges special vouchers for food—such as milk, infant formula, cereals, and so forth. The recipients pay nothing; the State reimburses the store for the full retail cost of the food.

The amendment does not affect the WIC recipient. Rather, the amendment sets a limit on the amount of reimbursement a store can get for milk it sells to WIC participants.

The amendment does not regulate the price set by the store. Stores can continue to charge what they want for milk. However, if they charge too much, the WIC Program will only reimburse them for a fair price.

Cost controls on Federal expenditures are not a new concept.

For example, Medicaid uses cost controls to keep down the price on prescription drugs. The Veterans' Administration uses a similar procedure.

In fact, I wish the Pentagon used cost controls. I am tired of $500 toilet seats.

All of us have heard horror stories where stores in the inner-city or rural America take advantage of poor people who often lack transportation to travel to bigger stores.

Poor infants and children are getting ripped off by some stores that charge excessive prices.

Right now, we use cost containment for WIC. Legislation Congress passed saves over $600 million each year on infant formula for WIC. This puts over 1 million more women, infants, and children on WIC at no cost to American taxpayers.

Even the administration likes cost containment. A 1990 USDA report on WIC says that in addition to infant formula—

> States need to have the flexibility to develop other cost containment models that better suit the specific WIC product being considered and the individual state's characteristics, *including retailer operations.* States should be able to take into consideration cost containment measures at the retail level such as coupons and cost-off discounts. (Emphasis added.)

Putting politics aside, the administration should be supporting my amendment because it furthers the goals outlined in the USDA report.

Several States—like Indiana and Texas—already use cost containment for WIC. Both Indiana and Texas require stores to sell less expensive brands to WIC recipients.

This amendment proposes a less severe approach than used in either Indiana or Texas. Instead of using the Indiana/Texas approach of limiting the brands a WIC recipients, buy any brand of milk they want.

The amendment simply puts a reasonable cap on the cost to the Government—and sets that cap at a reasonable amount for the retailer.

Let us deal for a moment with some

Mr. LEAHY. If I could complete just this one thought

Mr. LEAHY. Mr. President, I thank my distinguished colleague for his kind

VOL 137 PT 23 NO 21—25 1991 UMI

Let us deal for a moment with some of the arguments that commercial interests may raise against the amendment.

Some may claim that this might force stores off of WIC. There is no basis for this claim.

WIC milk sales are only a fraction of all milk sales in the country. Less than 3 percent of all milk sold is sold through WIC. Also, a store's WIC business is such a small part of that store's total business.

WIC customers buy products other than milk at the same store. This amendment will not affect the price or reimbursement of other WIC products, or non-WIC products.

However, if a store suffers from unusual circumstances, the Secretary of USDA can exempt stores from these limitations.

Others may claim that this amendment discriminates against small stores, rural stores, or inner-city stores.

This amendment does not discriminate against big stores or little stores, or against rural stores or urban stores.

It discriminates only against stores who are gouging their customers.

I do not like price controls. I am not in favor of them.

This amendment does not impose price controls. It is cost containment. It is a concept we should impose on more Federal programs, not less.

Every Member of this body all too well knows of the enormous Federal deficit and the urgent needs that go unfunded every day.

Today, we have the opportunity to add more people to one of the most successful programs in government without asking the taxpayers to contribute even one cent.

This is good government. This is the right thing to do.

The withdrawal of this amendment in ironic, as WIC is probably the program that all of us, at least the vast majority of us in this body—Republicans and Democrats alike—could agree has been one of our most important nutrition programs.

As I said previously, I am saddened by the Senate's rejection of the dairy amendment. All the cosponsors worked exceptionally hard on it. I would single out only one of the cosponsors, and not suggest the others have not worked hard, they have worked very hard, but I would single out one and that is my colleague and partner from Vermont, Senator JEFFORDS. Nobody on either side of the aisle worked harder, more diligently, longer hours than did Senator JEFFORDS. He knows, as I do, it has been a very tough year for our Nations' dairy farmers.

So, Mr. President, I thank all Senators who joined in this debate. I might say——

Mr. JEFFORDS. Will the Senator yield?

Mr. LEAHY. If I could complete just this one thought.

I especially want to extend as a personal matter my thanks to the ranking member of the Senate Agriculture Committee, who opposed me on this legislation. I congratulate him on winning. But I express my appreciation to him because in this, as in all other matters on which we work together, he has been honest, forthright, and direct with me. He has made very clear his position. He has never suggested otherwise. And I appreciate both that honesty and also the strong support I have received from him on other issues, as I hope he appreciates the support he has received from me on such issues.

Now, I would like to yield to my distinguished colleague and partner from Vermont.

Mr. JEFFORDS. I thank my colleague from Vermont for yielding.

I just want to echo some of the comments that have been made, but most importantly to commend him on the tremendous effort he has made in trying to bring forth successful legislation to assist beleagured dairy farmers.

As he has pointed out, it indicates that when you have dissension within the ranks of those within the dairy industry, it is very difficult to pass a bill, and that we have found out as an analysis of the votes would show.

But I also want to echo his comment on the WIC Program and again point out that it is the dairy farmers who have added more people to the WIC Program and allowed more women, infants, and children to participate in the WIC Program through their productivity, and thus there is no need in any way to chastise or in any way criticize the dairy industry because their productivity has helped more than anything else and certainly more than we have.

I know he shares my view that there would be nothing better for this Nation in health and otherwise than to make the WIC Program an entitlement program. The Harvard study of many years ago and many other studies have indicated that for every dollar we spend on the WIC Program, we save $3 in health costs and thus it is ridiculous to do anything other than have an entitlement program if we want to reduce health costs in this country.

Also, I know I speak for my senior Senator in that we have not given up, nor will we give up, on finding that magic program which will help our dairy farmers without creating any significant problems to others. I am hopeful now that we do know there are other options available to us, at least one option the administration agrees with, either in the next few days or at least early next year we will be able to do something to prevent the serious drop in price which we will expect to find next year.

With that, Mr. President, I yield back to the Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my distinguished colleague for his kind words. I agree with his assessment of the situation.

I also should note the enormous work of the team led by Janet Breslin for the Senate Agriculture Committee: Lynnett Wagner, Jim Cubie, Tom Hebert, Ed Barron, and of course staff director, Chuck Riemenschneider. But I especially want to thank Dr. Breslin for putting together such a good team, and for all the work she did on it.

Mr. President, I would withdraw the WIC amendment now pending. I wish to say to the distinguished chairman of the Senate Appropriations Committee, Chairman BYRD, now has a herculean effort ahead of him. And time and again he, like Hercules, is up to it.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator has the right to withdraw the amendment. The amendment is therefore withdrawn.

The amendment (No. 1396) was withdrawn.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Vermont.

AMENDMENTS NOS. 1397, 1398, 1399, AND 1400, EN BLOC

Mr. BYRD. Mr. President, I send an amendment to the desk by Mr. REID, an amendment by Mr. BREAUX, two amendments by Mr. DECONCINI.

I ask unanimous consent that they be considered en bloc; agreed to en bloc; that the motion to reconsider en bloc be laid on the table, and that statements and colloquies in explanation thereof be appropriately placed in the RECORD as though read.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (numbered 1397, 1398, 1399, and 1400) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1397

SEC. . From the funds made available for land acquisition of the United States Fish and Wildlife Service in the fiscal Year 1992. Department of the Interior and Related Agencies Appropriations Act (PL 102–154), $965,000 is hereby appropriated by transfer to the Resource Management account of the United States Fish and Wildlife Service.

Mr. REID. Mr. President, during the 101st Congress I introduced legislation to settle an 80-year-old war affecting northern Nevada, California, and the Pyramid Lake Indian Tribe. Public Law 101–618, the Truckee-Carson-Pyramid Lake Settlement Act, was enacted in November 1990 to provide for a multibureau action program in the Truckee-Carson River system to adequately balance the highly complex and controversial water management aspects of this settlement.

The Fish and Wildlife Service is involved in several aspects of implementing this legislation including a negotiated operating agreement for the Truckee River, protection of Pyramid

Lake Fisheries, and acquisition and transportation of water for the Stillwater National Wildlife Refuge. The Fish and Wildlife Service has just recently indicated to me that in order to accomplish these purposes, they need greater appropriations flexibility than that which was provided in the fiscal year 1992 Interior appropriations bill, Public Law 102–154.

My amendment provides the necessary flexibility by moving a portion of the money appropriated in the Interior appropriations bill for land acquisition for the Stillwater National Wildlife Refuge to the Resource Management Account of the U.S. Fish and Wildlife Service.

A total of $1.7 million is required for various activities under the Truckee-Carson-Pyramid Lake Settlement Act, such as NEPA compliance, endangered species protection, fishery technical assistance and ecological contaminant studies. Of that amount, the Fish and Wildlife Service has advised me that $965,000 must be appropriated through a transfer of funds from land acquisition to the resource management account of the U.S. Fish and Wildlife Service. The amendment I am proposing directs that transfer to occur within the supplemental appropriations bill.

Mr. President, it took many years of work to complete the Truckee-Carson River settlement. It has the full backing of the administration and Congress. My amendment does not entail any additional appropriation by the Congress, and I understand that it has been cleared by both sides of the aisle.

AMENDMENT NO. 1398

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATIONS GUARANTEES" in Public Law 102–140 is amended by striking from the colon after the sum "$1,000,000" through to and including the sum "$10,000,000".

Mr. BREAUX. Mr. President, on behalf of myself and Senators KERRY, BENTSEN, JOHNSTON, LAUTENBERG, ROBB, WELLSTONE, DURENBERGER, and LOTT, I want to raise a concern regarding a provision in Public Law 102–140, the act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1992, and for other purposes.

The Fisheries Obligation Guarantee Program [FOG], characterized as a simple Fishing Vessel Obligation Guarantee Program in this act, guarantees loans for the construction, reconstruction, reconditioning and purchase of shoreside fishery facilities, refinancing of existing vessels, and only to a minimal extent, construction of new vessels. I was pleased to see that the conferees provided a total of $2.7 million in subsidy costs and administrative expenses for this important program. These amounts were clearly required under the new accounting procedures of the Federal Credit Reform Act of 1990 [FCRA].

I am concerned, however, with the inclusion of a $10 million limit on loan guarantee authorizations under the act as currently written. Although there appears to be conflicting interpretations of FCRA requirements, appropriations for some other loan guarantee programs indicate that a specific loan guarantee authorization figure is not necessary, provided that a subsidy cost appropriation is made. We believe that the subsidy cost assumptions used are not accurate, and that the $1 million appropriated for subsidy costs should provide for as much as $66.7 million in loan guarantees.

Mr. HOLLINGS. The Senator from Louisiana makes a good point. The conferees had assumed that the program requires a 10-percent subsidy appropriation.

Mr. BREAUX. Although I disagree with the conferees' interpretation, I can appreciate the desire to limit the Federal Government's exposure to risky loans. A $27 million appropriation was needed in 1985 to cover losses incurred by the loan program after the collapse of the shrimp fishery in the early 1980's, however, the program has been restructured since then. Fees collected from program participants were increased in 1986, and a policy was implemented prohibiting loan guarantees for vessels in overcrowded fisheries. Over the last 5 years, according to Congressional Budget Office and agency calculations, the program has been operating at a profit. Furthermore, the fishing industry has expressed a willingness to increase the fee structure once again to provide even greater security for Government loan guarantees.

Mr. HOLLINGS. If the Senator would yield. His example of overcapitalization in the shrimp fleet represents a fear many people entertain when talking about loan guarantees for the fishing industry. The problems with fisheries in other parts of the country, for example in New England, have prompted buy back bills in the House that could place a significant drain on the Government's fiscal resources. With regard to the estimated subsidy rate, I agree there may be a need for reestimation of the program's cost to the Government as well as developing a more appropriate estimate of the subsidy appropriation's buying power.

Mr. BREAUX. The Senator from South Carolina has focused on the essence of the issue involved here. In the Senate's original report on H.R. 2608, we declined to fund the program because it was felt that there were already "too many boats chasing too few fish." As my colleague is well aware, however, there are several aspects of our domestic fisheries that are in need of development. Underutilized fishery resources, such as whiting and mackerel, could help increase exports and provide alternative fisheries for fishermen and plantworkers in heavily exploited traditional fisheries. In addition, both vessels and shore-based facilities must be upgraded in response to new Federal requirements concerning employee safety, environmental protection, and food safety.

Mr. HOLLINGS. I can assure my colleague that I would be pleased to work with him to resolve this problem.

Mr. BREAUX. I want to thank the Senator from South Carolina. I appreciate his willingness to address these concerns and his recognition of the productive nature of this particular loan guarantee program.

In an effort to address some of these concerns, Mr. President, I offer this amendment and ask that it be printed in the RECORD.

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATION GUARANTEES" in Public Law 102–140 is amended by striking from the colon after the sum "1,000,000" through to and including the sum "$10,000,000".

This amendment does not increase cost to the Government. I am not trying to turn this bill into a Christmas tree, rather, I am simply trying to provide the flexibility necessary to increase the authorization limit currently available under the law—if such an increase is appropriate. Whether or not reestimation of the program's cost to the Government reflects greater, or reduced, buying power for the $1,000,000 subsidy appropriation, loan guarantees in excess of the $10,000,000 limit originally provided will not, by definition, add to the Government's overall cost.

The 10-percent subsidy cost relied upon by the conferees represents an erroneous, and rushed, first estimate given by FOG managers in NOAA. In a staff memorandum, the Congressional Budget Office lists the baseline fiscal year 1992 subsidy for the FOG Program at 4 percent; given the $1 million subsidy cost appropriation, this rate would apparently translate into an allowable $25 million in loan guarantee authorization. A closer look at the historical data from the FOG Program, however, reveals subsidy rates of 1.5 percent using 1970–91 loan performance—a rate that permits approximately $67 million in authorizations—and negative 4 percent based on 1986–91 loan performance, which translates into a $25 million credit for appropriators.

Loan guarantee applications should not be turned down as a result of an overly conservative subsidy cost estimate. Since 1986, the FOG Program has approved an average of $69 million in new guaranteed loans per year. According to the National Marine Fisheries Service, at least 46 persons this year have either applied, or want to apply, for guaranteed financing under this

VOL 137 PT 23 NO 21–25 1991 UMI

program in the aggregate amount of $130 million. These numbers indicate a substantial need for loan guarantee authorization greater than the $10,000,000 million currently provided by law.

AMENDMENT NO. 1399

(Purpose: To require the termination of human rights abuses in order for Kenya to be eligible for United States assistance)

At the appropriate place in the joint resolution, insert the following new section:

SEC. . RESTRICTIONS ON ASSISTANCE FOR KENYA.

(a) RESTRICTIONS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to establish political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1) and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

AMENDMENT NO. 1400

(Purpose: To express the sense of Congress that the President should recognize the independence of Ukraine)

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of peoples to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

Mr. D'AMATO. Mr. President, I rise as an original cosponsor of Senator DECONCINI's amendment in support of Ukrainian independence.

On August 24, 1991, the Ukrainian Parliament declared independence. On December 1, the Ukrainian people will reaffirm this declaration in a fair and free vote. It is my belief that the citizens of Ukraine deserve their freedom.

After more than 70 years of suffering, suffering that rivaled that of any oppressed peoples, the citizens of Ukraine will finally vote to walk away from their history of repression, oppression, and totalitarianism. A quick journey through the history of suffering in Ukraine reveals millions of deaths in the forced famine of 1932–33, millions more dead during World War II and an unknown, but tremendous death toll, in the gulags of Siberia.

Mr. President, the history of suffering in Ukraine and the determination to go on marks a significant trait of the Ukrainian people; they are survivors. And now, after 70 years of suffering, punishment, loss of loved ones, and unimaginable repression they have emerged to see a new light. The light of freedom. The light of self-determination. The light of a new world order, full of unknowns.

The citizens of Ukraine take a tremendous risk in following the path toward independence. Yet, they are willing to take this risk, they want to take this risk, because they know that a new day has come and that their rights will never again be stomped by the boot of oppression.

They realize that the fight ahead will be long and hard. Yet, they have chosen to carry on this fight. I have tremendous respect for the character of these people. By choosing independence, they have decided to walk through the darkness in order to see the light of freedom. It is our moral duty to stand with them.

Many potential problems are evident in an independent Ukraine. From ethnic tensions to the widely reported nuclear arms arsenal on their land, it is my firm belief that Ukrainians, energized by the power of freedom, will approach these problems within an honest and democratic forum, where decisions are made based on the will of the people rather than the power of the sword.

The Ukraine must establish itself as the guarantor of peace and freedom within its borders and the world community. With the support of the United States, other democracies, and the guiding light of freedom, I believe they can achieve this goal.

AMENDMENT NOS. 1401, 1402, 1403, AND 1404 EN BLOC

Mr. HATFIELD. Mr. President, I send a number of amendments to the desk that have been cleared on both sides, one on behalf of Mr. SPECTER, Mr. HARKIN, Mr. KENNEDY, and myself; one on behalf of Senator THURMOND and Senator HOLLINGS; two for the Senator from New York, Mr. D'AMATO.

I ask that they be considered en bloc, agreed to en bloc, and that the motions to reconsider and table be agreed to en bloc, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Numbered 1401, 1402, 1403, and 1404) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1401

On page 24, after line 21, insert the following:

SEC. 204. Notwithstanding the provisions of section 728(a) of the Public Health Service Act, or any other provision of law, Federal loan insurance pursuant to subpart I of part C of the Public Health Service Act may be granted for loans to new and previous borrowers. The fiscal year 1992 ceiling shall be $290,000,000, as set forth in H.R. 3839, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992.

● Mr. HARKIN. Mr. President, this amendment simply clears up a problem faced by health professions students who are seeking federally guaranteed HEAL loans to pay for school.

The problem was caused when the authorization for the HEAL program expired in fiscal year 1991. Since the start of this fiscal year, HHS has refused to guarantee loans to new HEAL borrowers. The Department even sent a memo to HEAL lenders on November 8 stating that, "until Congress reauthorizes the HEAL program, lenders may make HEAL loans only to previous borrowers."

This action by HHS has left almost 10,000 first-year students without access to loans to help pay for their schooling. I am particularly concerned about this because I have been contacted by the Palmer College of Chiropractic, in my home State.

With so many areas of the Nation suffering from shortages of doctors and other health professionals, we need to do more, not less, to help students of the health professions.

I recommend adoption of this amendment, which will allow these students to get the funds they need to attend school.●

Mr. HATFIELD. Mr. President, the Health Education Assistance Loan [HEAL] Program insures loans to students in the health professions. Eligible student borrowers obtain loans from participating commercial lenders, educational institutions, State agencies, insurance companies, and pension funds. The repayment of principal and interest is guaranteed by the Federal Government if the borrower becomes permanently disabled, dies, or defaults on the repayments.

On October 4, 1991, the Department of Health and Human Services notified lenders throughout the country that loans in fiscal years 1992 under the HEAL Program could only be made to prior HEAL borrowers. According to the Department, new HEAL loans cannot be made until Congress reauthorizes the program. Program authority expired on October 1, 1991.

This position is contrary to the intention of the Labor, HHS, and Education Subcommittee which included a loan limitation of $290,000,000 for fiscal year 1992 in the recently vetoed Labor, HHS, and Education appropriations bill. It also is contrary to the intent of the chairman of authorizing committee, Senator KENNEDY, as expressed in a colloquy during the Senate's consideration of the conference report accompanying H.R. 2707 on November 7, 1991.

An estimated 10,000 medical, dental, and other health professions students throughout the country are depending on receiving new loans. In most cases they already are attending classes and are receiving deferrals from the institutions for tuition payments. Many, however, depend on these loans also for living expenses.

The amendment makes clear the intent of Congress that loans in fiscal year 1992 under the Health Education Assistance Loans Program be available to both prior year borrowers and new borrowers. There are no costs to the amendment. The total number of loans still would be limited to the ceiling set for the HEAL Program by the amendment and by H.R. 3839, the Labor, HHS, and Education and related agencies appropriations bill for fiscal year 1992. I urge my colleagues to support the amendment.

AMENDMENT NO. 1402

(Purpose: To permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities and to permit States to use forfeited real property for State parks)

SEC. . WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa–(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. . USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) in the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

Mr. THURMOND. Mr. President, I rise today to offer an amendment for myself and Senator HOLLINGS. This amendment will permit the Secretary of Health and Human Services to waive certain Federal recovery requirements regarding the construction or remodeling of community mental health facilities. It includes the text of S. 1891—which passed the Senate unanimously on October 30, 1991—and an additional unrelated provision concerning the use by States of forfeited real property as public parks.

Under section 2713 of the Public Health Service Act (42 U.S.C. 300aaaa-12), the Federal Government may recover certain Federal construction funds used in building a community mental health center in two situations. In the first situation, the Federal Government may recover funds if at any time within a 20-year period after a center is constructed, the center is either sold or transferred. In the second case, the Federal Government may recover funds if a center "ceases to be used by a community mental health center in the provision of comprehensive mental health services."

In the latter situation, the Secretary of Health and Human Services may waive the recovery rights of the Federal Government (section 1713(d) of the Public Health Service Act, 42 U.S.C. 300aaa-12(d)) if the Secretary determines that there is good cause for waiving such rights.

By way of background, the waiver authority was included as part of the 1985 amendments to the Public Health Service Act. Unfortunately, the legislative intent of this provision is not entirely clear. The legislative history does not clarify the reason for authorizing the waiver authority in the second situation—where a facility ceases to be used as a mental health facility—and not in the first, where there is a sale or transfer of property. Nevertheless, it is reasonable to assume that one of the underlying purposes for the Federal right of recovery is to ensure that comprehensive mental health services are provided to the community for 20 years.

The Office of General Counsel at the National Institute of Mental Health [NIMH] has construed the waiver provision narrowly. Even though a facility may cease to be used as a mental health center, if a sale or transfer happens to be involved, no waiver would be available. In effect, the interpretation given by NIMH is that no waiver can be obtained where there is a sale or transfer of property, even though the new mental health center is larger, provides improved services, or is in a better location than the former facility. Surely this anomalous result was not intended.

Because of my concern with these unforeseen and unfortunate consequences, I am today introducing an amendment which would permit a waiver where a sale or transfer of property is involved. This does not mandate a waiver. Rather, it simply gives the Secretary of Health and Human Services authority to grant a waiver not only where a facility ceases to provide mental health services—as under current law—but also where a sale or transfer of property is involved.

Mr. President, by way of example, the Coastal Empire Mental Health Center in Beaufort, SC, desires to cease operations at its current location, and

VOL 137 PT 23 NO 21—25 1991 UMI

move to another nearby site provided by Beaufort Memorial Hospital, a local public hospital. The old site would become part of a new $23 million expansion of the hospital, which provides a large volume of free and below-cost medical care to the residents of the five counties surrounding Beaufort. On the new site an expanded and vastly improved mental health center would be constructed.

All the county and State governing bodies involved or affected by this proposal strongly support it, but because of the interpretation of NIMH on sales or transfers, the mental health center is not eligible for even consideration of a waiver. This is very disturbing, particularly where the equities and reasons for moving to a new facility are overwhelming. Accordingly, it is my hope that this legislation will prevent this and other such anomalous situations in the future.

Finally, included at the request of some Members of the House of Representatives is a provision relating to the use of forfeited real property as public parks. While there is general agreement on this latter provision, the Department of Justice has raised some reasonable concerns which I may wish to raise at a later date.

I appreciate the managers consideration of this amendment and I urge its adoption.

Mr. HOLLINGS. Mr. President, today I join my colleague Senator THURMOND to introduce a clarifying amendment which would permit the Secretary of Health and Human Services to consider a waiver of certain Federal recovery requirements in construction or remodeling of community mental health facilities.

Prior to 1985 amendments to the the Public Health Service Act, waiver of Federal right of recovery of construction funds could be considered when a community mental health center "cease[s] to be used by a community mental health center in the provision of comprehensive mental health services" or if the facility was "sold or transferred" within a 20-year period. Amendments passed in 1985, however, specifically retained such waiver authority only in the event of cessation of services and did not address sale or transfer.

Virtually no legislative history exists, but it clearly was the intent to ensure that comprehensive community mental health services be provided for 20 years if any Federal funds are used in the construction of the facility, and with this purpose there is no disagreement. However, the Office of General Counsel at the National Institute of Mental Health has interpreted the 1985 amendments so narrowly as to preclude any consideration of waiver if a sale or transfer is involved—even though a facility may cease to be used as a mental health center and the proceeds would be utilized to provide improved or expanded services in accordance with the original grant conditions. Failure to allow consideration of waiver in the event of sale or transfer, however, has led to unanticipated consequences. For example, Coastal Empire Mental Health Center in Beaufort, SC, wishes to sell its existing facility to Beaufort Memorial Hospital, a local public hospital, and to relocate to a new site at an expanded and vastly improved mental health center. The old site would become part of a new $23 million expansion of the hospital, which provides a high volume of indigent care in a five-county area. The result of the proposed sale and transfer would be improved services for both medical and mental health patients, and all State and local governments involved or affected strongly support it. When Coastal Empire submitted its plan to NIMH, the following response was received to the request: "While NIMH recognizes the worthy intent to expand and improve mental health services in the Beaufort area, based on its review of 42 U.S.C. 300aaa–12 and on advice of the Office of the General Counsel, we have determined that the law does not authorize a waiver of the Federal right of recovery when a community mental health center facility is sold or transferred to an entity that does not plan to use it as a CMHC in accordance with the original grant conditions."

It is reasonable to assume, since many CMHC's were constructed 15 or more years ago, that the experience of Coastal Empire is not unique and that more such situations will arise over the next few years as grantees outgrow their current facilities. We need to correct the statute to permit consideration of waiver so that the real intent of the law—provision of comprehensive community mental health services—can be met.

Mr. President, the amendment we offer today does not grant a waiver to Coastal Empire Mental Health Center or any other community mental health center. It merely permits the National Institute of Mental Health to consider waiving Federal recovery for a center which wishes to utilize the sale or transfer of its facility to continue provision of services or to expand or improve services under its original commitment. There is no cost to the Federal Government associated with this amendment. Rather, as would be the case if such a waiver could be granted to Coastal Empire, improved services could be provided to more needy individuals at no cost to the Federal Government. Too seldom do we get to do something that makes sense, helps people in need, and does not cost anything. I urge your consideration of this amendment.

AMENDMENT NO. 1403

(Purpose: To appropriate additional funds for the Department of State Terrorist Information Rewards Fund)

On page 22, line 6, after "Chapter V", insert the following:

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $5,000,000, to remain available until expended, for rewards to individuals as authorized by 22 U.S.C. 2708: Provided, That such funds shall be available for obligation notwithstanding section 15 of the State Department Basic Authorities Act, as amended.

Mr. D'AMATO. Mr. President, Americans are the most frequently attacked nationality in the world. In 1990, there were 455 terrorist incidents worldwide and nearly half of them, 197, were against American targets. In these attacks, 10 Americans were killed and 34 injured.

On November 14, 1991, the Justice Department indicted two Libyan intelligence officials for the murder of 270 innocent people, 189 of whom were Americans, including 35 young students from Syracuse University.

Yet, these cowardly criminals are safely protected in Libya, far from the reach of American justice. How can we get them? One way is to offer cash rewards for information leading to their apprehension.

Presently, cash rewards are available through a reward fund in the State Department. My amendment would appropriate $5 million to this fund. It would make additional money available to be used to reward people with information that could prevent atrocities such as the bombing of Pan Am flight 103, or capture those responsible for them.

The Department of State has indicated to me that it supports my amendment to appropriate these funds. It is also my understanding that this amendment is acceptable on both sides.

Used at the Secretary of State's discretion, with the concurrence of the Attorney General, money from the fund rewards any individual who furnishes information leading to the arrest or conviction of any individual or group of individuals that conspires or attempts to commit an act of terrorism against an American national or American property.

Funding the State Department fund would facilitate the November 14, 1991, Justice Department indictment against the two Libyan agents, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi.

The offer of a significant sum of money—as much as $2 million on any single reward—could make a critical difference in persuading someone to come forward with information that could prevent a bombing such as that of Pan Am flight 103, or lead to the capture of its perpetrators.

We must send a message to the criminals who kill Americans. There is a price on your head. We will find you.

I urge my colleagues to support my important amendment.

AMENDMENT NO. 1404

(Purpose: Expressing the sense of the Senate that the President of the United States should pursue by any and all legal means the apprehension of Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi for trial)

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE.

Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi have been indicted by the Justice Department for conspiracy to destroy a United States aircraft and kill one hundred and eighty nine United States nationals in violation of sections 2331 and 2 of title 18, United States Code, and section 371 of title 18, United States Code;

The above named individuals have been indicted for causing the destruction of a United States carrier plane, Pan Am flight 103, used in foreign commerce, over Lockerbie, Scotland on December 21, 1988, in violation of sections 32(a)(1), 34, and 2 of title 18, United States Code; and section 844(i) and 2, of title 18, United States Code;

The meticulous investigation by the Federal Bureau of Investigation, the Justice Department and the various other agencies involved in the events, has led to these indictments;

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost three-year investigation of the destruction of Pan Am flight 103; and

The families of the victims of Pan Am flight 103 have suffered untold grief at the loss of their loved ones: Now, therefore, it is the sense of the Senate that—

(1) the President of the United States should pursue by any and all legal means the apprehension for trial in the United States, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi who have been indicted by the Justice Department for their roles in the destruction of Pan Am flight 103 on December 21, 1988;

(2) the President should offer rewards for information leading to the arrest and return to the United States for trial for the above named individuals as part of the State Department's Terrorism Information Reward Fund, under section 2709 of title 22, United States Code; and the Justice Department's Terrorism Information Reward Fund, under section 3071 of title 18, United States Code;

(3) the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie Doctrine; and

(4) Notwithstanding the indictments of the above named individuals, the investigation of the bombing of Pan Am flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for the commission of this terrible crime, no matter where they may be located.

Mr. D'AMATO. Mr. President, my amendment calls on the President to pursue by any and all legal means, the apprehension, for trial, of Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi, as charged by the Justice Department for their roles in the destruction of Pan Am flight 103 and the murder of 189 Americans aboard.

These heinous murderers are charged with obtaining both the bomb and the timers and planting it aboard the plane. These purposely conspired to kill all the passengers.

My amendment calls on the President, should offer rewards for information leading to the arrest and return to the United States of the two Libyan agents for trial.

It also states that the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie doctrine, the doctrine upheld by the Supreme Court, that allows for the extraterritorial apprehension of wanted terrorists.

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost 3 year investigation of the destruction of Pan Am flight 103..

And the families of the victims of Pan Am flight 103 have suffered untold grief at the loss of their loved ones.

Finally, my amendment states that the investigation of the bombing of Pan Am flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for the commission of this terrible crime, no matter where they may be located.

We must send the message that wherever these cowardly criminals go, we will find them and bring them to justice. They must be apprehended. It is our duty to the memory of all those killed by their evil intent.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO].

AMENDMENT NO. 1405

(Purpose: To amend the Harmonized Tariff Schedule of the United States to clarify the classification of certain motor vehicles)

Mr. D'AMATO. Mr. President, I rise today to discuss an amendment which is intended to close not only a loophole but an incredible gap that has been deliberately created in the vehicle import tariffs schedule that offers imports a competitive advantage against our domestic manufacturers.

Mr. President, each year this so-called loophole which I have to say is shocking, which is outrageous, which is anticompetitive, costs the U.S. taxpayers close to $0.5 billion a year.

So unlike most times when most of us come forward and we have a good program, a necessary program, we advocate it, and we are met with the budget constraints, I am coming forward today to offer an opportunity to bring about fairness in economic competition to increase jobs in America, to actually increase jobs here in America, and to provide 0.5 billion dollars' worth of additional revenue.

I have not even suggested an offset—that we spend it somehow. One-half billion dollars we can give to the taxpayers of America, We can reduce the deficit by $0.5 billion.

That sounds amazing. It truly is. It is amazing because when I go through the story of how this came about, I think that all of us should be shocked. I have no illusions in terms of what we are dealing with here, in terms of the entrenched, established, powerful groups that will rise in opposition and will come forward with some kind of contorted reason to oppose this.

I suggest that how this came about is a shocking, an arrogant display of broad, naked power and display of power that flies in the face of what is good for America, this country, and its people.

This amendment, as I said, not only raises millions of dollars in lost revenue but at the same time is a significant step toward restoring fairness to the United States-Japanese trade relations. The Japanese lobby gained a major share of our United States market for the multipurpose vehicles, MPV's.

What are we taking about? I am talking about vehicles like the Chevy Blazers, Ford Explorers, Jeep Cherokees. They did it by influencing—I use that word very carefully—by influencing the U.S. Treasury Department to classify certain foreign-made, multipurpose vehicles as cars instead of trucks for the purposes of import tariffs.

You see, the U.S. tariff that was imposed and is imposed on foreign-made trucks, the MPV's was 25 percent instead of only 2.5 percent on foreign cars. Vehicles classified as cars can be imported therefore much, much more cheaply when they penetrate the U.S. market.

So, consequently, by having the classification changed from a car, or to a car from a truck, they have $3,500—$3,500.

When the classification became a problem in January 1989 when the U.S. Treasury Department overruled a U.S. Customs Service decision which called a truck a truck and basically what we saw was that the Customs Commission in reviewing this matter, being called upon by the various lobbyists, the Japanese lobbyists, to make a review said obviously this is a truck. And it would not allow them to enter it designated as a car.

However, their decision was taken to the Treasury Department. There is no rational explanation for Treasury's ruling, but it found that this vehicle suddenly was no longer a truck. It became a car.

Understand what it did. It saved at least $3,500 in tax, in a tariff tax, that would have been paid to the U.S. Treasury. That meant that the taxpayers of this country were losing $500 million in revenues. There is no rational explanation for Treasury's ruling. The following facts will make that clear.

Foreign-made MPV's must meet U.S.

In the spring of 1988, the U.S. Cus-

lon, but a car when it comes to cus-
toms—why? Why has the same vehicle

VOL 137 PT 23 NO 21—25 1991 UMI

Foreign-made MPV's must meet U.S. Government standards, just like domestic vehicles. The standards are less stringent for trucks than for cars. Four different U.S. regulators must decide the classification is based on established standards.

I will show you the chart, the Environmental Protection Agency. EPA sets emission standards. The National Highway Traffic Safety sets various standards, and the Department of Transportation sets fuel standards.

Under each of these three regulators, these MPV's multipurpose vehicles are classified as trucks: EPA, a truck; the Department of Energy, a truck; the Department of Safety Standards, a truck.

How can a truck under EPA, a truck under the National Highway Transportation Safety Association, a truck under the Department of Transportation be a car according to Customs, the Treasury Department? How can a truck be a car?

The Job Fairness in Trade Equity Act, which I am going to be introducing, provides for a clarification to the U.S. tariff schedule. My bill simply requires that any vehicle classified as a truck for emission standards or a truck for fuel economy standards will be classified as a truck for tariff purposes.

In other words, you cannot classify it under EPA standards for emissions because the truck emission standards are much less. They are much less stringent. Therefore, the classification as a truck for one of these vehicles means that they do not have to meet those standards set for a car. The same is true as it relates to the miles per gallon.

If it is a truck, it does not have to meet the 26.5 miles per gallon test. We cannot and should not allow this practice to continue, because the consequences of our inaction on this measure are twofold: First, the U.S. taxpayer loses one-half billion dollars a year in forgone tariff revenues; second, we are subsidizing and supporting auto manufacturers and workers in Japan at the expense of workers in the United States. And while employment in the Japanese auto manufacturing industry has been growing, United States industry has lost 138,000 jobs over the past 5 years.

Mr. President, continuing this practice will mean that Japanese auto manufacturers pay less taxes and sell more vehicles, while the United States manufacturers sell fewer vehicles and U.S. workers lose their jobs.

Mr. President, I am going to give, if I might, a little timetable. In 1987, there was a growing demand for light trucks. People love the light trucks and multipurpose trucks. There was a growing demand for them and these family vehicles. The Japanese found there was an unfilled quota under the VER. The Japanese began to reclassify light trucks as passenger cars.

In the spring of 1988, the U.S. Customs initiated a review process of possible abuse of tariff regulations by the Japanese. This review was requested by U.S. companies and lasted almost 1 year. On January 4, 1989, the U.S. Customs ruled that light trucks could not be classified as cars. Commissioner von Raab said: "A truck is a truck is a truck."

Well, Japan acted swiftly. They organized their counterparts from Germany and Britain to contact the Secretary of Treasury to ask for reconsideration. The Secretary agreed to reconsider the U.S. Customs decision. Within 9 days, the U.S. Customs' decision was suspended.

Japan moved to kill the ruling permanently via a promotional campaign that the Customs ruling would harm United States consumers by increasing the price of light trucks. The big three U.S. auto manufacturers unified and sent letters to the President and Congress asking that the U.S. Customs original ruling stand. Within 45 days of the original U.S. Customs ruling, the Treasury Department overturned the decision and said that a truck is not always a truck, but that, for tariff purposes, it would be considered a car.

Then the Japanese convinced the administration to reclassify the vehicles as a truck once they were inside the United States, therefore meeting the less stringent truck standards for safety emissions and fuel economy standards.

Question: Will this decision hurt the consumers by forcing price increases? The answer is no. Until 1988, more than 98 percent of these vehicles were brought into the United States as trucks, and they paid their tariff of 25 percent. So this cost was already built into the importers' pricing margins. And if the importers' claim that there would be a huge impact were true, that would be different.

Mr. President, they did not reduce their prices to the consumers, reflecting the lower tariff. They passed on no price reduction. So I think these claims about prices going up—which we will meet and we will hear how this is an anticonsumer, anticompetitive measure—are specious.

Let me, before I conclude, go through this again. Mr. President, what we have seen here is a clear case of incredible influence and power that was used at the expense of the American workers, the American consumers, and the American Treasury. On the business that this is going to create lower prices, et cetera, and more competition, we see that has not taken place. We see that the prices have not gone down to the consumers.

On the fact that a truck, for EPA emission standards, certainly should be a truck for all others, a truck for the standards as related to highway safety, a truck as it relates to miles per gallon, but a car when it comes to customs—why? Why has the same vehicle now turned into a car? It turned into a car simply because it saves the Japanese exporters $3,500.

Mr. President, the people sense that something is wrong. I believe that the people sense when Government is not responding to their legitimate needs and concerns, and as it becomes so heavily influenced by those who seek to gain material advantage, where fairness is a word that disappears, where equity is a word that has no meaning, where indeed the power of the special interest groups has become paramount.

How can you bring in a vehicle, which is a truck, and have it reclassified as a car, simply to escape the payment of $3,500? And then, so you do not have to meet the more stringent EPA standards as it relates to emissions, as it relates to fuel economy, have it reclassified as a truck? Either it is a truck for EPA, either it is a truck as it relates to the Department of Transportation, or it is a car. But to say that it is a car to come in, so that you can save $3,500, and then it becomes a truck for the classification of emission standards, and it becomes a truck for the classification of the Department of Transportation economy standards, is wrong. It is simply wrong. And at the same time, we see the American auto worker losing his job.

We wonder why the Japanese market goes up. Here we have a clear indication that while the U.S. auto market and workers have decreased from 867,000 jobs to 729,000 jobs, we see the Japanese auto market from 1987 to 1990 increasing.

I suggest to you that we are going to continue to lose jobs if we have these unfair predatory pricing practices, because that is exactly what this is. And if we have our own Government that interprets the rules the way it wants, not related to any fairness, not related to any real standards, but related to the special interest groups who are calling the shots, it is wrong.

What about the little guy? What about the taxpayer? What about the $3,500 that we are losing on every vehicle? Last year, they estimated that 135,000 vehicles came into this country, 135,000 that, by any reasonable standards, were trucks. But because we had this fast ruling, the overturning of the Customs Commissioner's ruling that a truck was a truck, except when it came to the special interest of the Japanese, when it came to saving $3,500 on average on each and every one of these trucks, this truck mysteriously became a car.

How are we going to compete against this? What is the American taxpayer to think? What is the little guy to think? What about the fellow in that factory working as hard as he can with a commitment to excellence? They cannot compete against this.

You wonder why auto workers become discouraged, and why plants become discouraged. You cannot compete against this. I cannot believe it, but we are doing it to our workers, to our own people, to our own taxpayers. What are we doing? We are disadvantaging them. It is unethical, unprincipled, and it is wrong.

Mr. President, I will soon send an amendment to the desk, but before I do, I want to say that I have no illusions as to what is going to take place here. I am simply going to say this amendment says that a truck is a truck is a truck. If it is a truck for all of the other purposes to meet the EPA requirements, if it is a truck to meet the fuel economy requirements, if it is a truck to meet the fuel safety requirements, then it should be a truck as it relates to the customs requirements.

Let me also say, Mr. President, coincidentally, before I conclude, that this same truck became a car last year for the purposes—and by the way, the Treasury Department did this; the Treasury Department did this. As it related to the luxury tax placed upon them, they said: Well, for this purpose, we will make this a car, because the car—or this car became a truck for the same purposes, because we would make them exempt; trucks are exempt.

So within the Treasury Department, we have two different rulings as it relates to the luxury tax. We find it is a truck because it escapes the payment of that luxury tax.

I am not suggesting that it should not be a truck for all purposes. I am suggesting that it is inconceivable—inconceivable—that we would find that this is not a car so that it can escape the $3,500 that it should be paying. I think it is unfair. I think that we should do something. I do not believe we are.

I think we will find on technicalities that the people will be denied the opportunity to have fairness applied. I think that is the kind of thing that many people are saying: Something is wrong here. And we have the vested special interest groups that will rise up with the chorus of how this is anticonsumer. And they will simply turn their backs on how it is that this classification came to be, who was behind it, and why it took place. And I am just suggesting it should not continue.

Mr. D'AMATO. Mr President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1405.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following language:

The Additional United States Notes for chapter 87 of the Harmonized Tariff Schedule of the United States are amended by adding at the end thereof the following new note:

3. any motor vehicle that is—

"(a) a light truck within the meaning of section 523.5 of title 49 of the Code of Federal Regulations (as in effect on October 1, 1990); or

"(b) a light-duty truck within the meaning of such term as defined in section 86.082–2 of title 40 of the Code of Federal Regulations (as an effect July 1, 1990):

shall be classified under heading 8704.".

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

The PRESIDING OFFICER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The President pro tempore is recognized.

AMENDMENT NO. 1406

(Purpose: To revise a provision of the classified annex incorporated into the Department of Defense Appropriations Act, 1992)

Mr. BYRD. Mr. President, I send to the desk an amendment which has been cleared on both sides, an amendment by Mr. NUNN and Mr. WARNER, and ask unanimous consent that it be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 1406) was agreed to, as follows:

On page 14, below line 23, insert the following new section:

SEC. 106. CLASSIFIED PROGRAM.

(a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "*Provided*, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

Mr. NUNN. Mr. President, I am offering an amendment on behalf of myself and Senator WARNER to the supplemental appropriation bill that actually relates to a provision in the fiscal year 1992 defense appropriations conference report, which the Senate will consider at a later time. It is necessary to offer this amendment on this supplemental appropriations bill because the defense appropriations conference report cannot be amended.

The amendment I am offering concerns a classified program, the details of which I cannot discuss here today. I can say that the conferees on the Defense Authorization Act and the Intelligence Authorization Act all came to an agreement on this program. We agreed that the administration could not proceed to full-scale development on this program in fiscal year 1992. Funding was also fenced with certain requirements on the Department of Defense. The classified annex to the National Defense Authorization Act, which was incorporated into the act, contains a provision that reflects this agreement. Likewise, the classified annex to the Intelligence Authorization Act contains a provision that is in accord with this agreement.

However, a provision was included in the classified annex to the Defense Appropriations Act that is inconsistent with and contradicts this agreement. That is why this amendment is necessary. I have spoken with the individuals on the appropriations committees who were involved in this matter. I do not believe this was intended since the authors of the appropriations provision were party to our negotiations. They now understand that the provision in the appropriations bill does not reflect our collective agreement. I want to emphasize that the authors of the appropriations provision in question have agreed to accept this amendment.

Unfortunately, the authors of the appropriations provision do not have a mechanism to correct their provision, since the House has already passed the defense authorization, intelligence authorization, and defense appropriations conference reports. Over here, the Senate has passed the defense and intelligence authorization conference reports. The defense appropriations conference report, as I mentioned earlier, cannot be amended.

Moreover, Mr. President, because the classified annexes to these conference reports have the force and effect of law, they can be changed only by an act of Congress. That is why I must offer this amendment to the supplemental appropriations bill.

I understand that this amendment is acceptable to all the parties involved. The amendment simply conforms the Defense appropriations bill to the Intelligence and Defense authorization acts in a manner which was understood to be the agreement. I urge the adoption of this amendment and thank the Chair.

AMENDMENT NO. 1405

The PRESIDING OFFICER. Is there further debate?

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BYRD. Is the Senator ready to vote?

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from New York?

The distinguished President pro tempore is recognized.

Mr. BYRD. Mr. President, the distinguished Senator from Texas [Mr. BENT-

VOL 137 PT 23 NO 21–25 1991 UMI

SEN] the chairman of the Finance Committee, wishes to speak on this amendment.

I, therefore, ask unanimous consent that if the distinguished Senator from New York has no problem with my doing so, that his amendment be temporarily laid aside so that an amendment by Mr. LAUTENBERG may be—I understand Mr. LAUTENBERG has an amendment—he may call up his amendment; and with the further understanding that when Mr. BENTSEN reaches the floor, Mr. BENTSEN may be recognized to speak in opposition to the amendment by the Senator from New York.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. If the chairman of the Appropriations Committee would abide a question here. Is the suggestion being made that if I am in the middle of my remarks, that I halt at that point, or finish?

Mr. BYRD. No. I only suggest that the distinguished Senator be aware that Senator BENTSEN is going to be on the floor, and at the convenience of the distinguished Senator from New Jersey, he would yield to Mr. BENTSEN at whatever point he wishes to yield.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, might I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABORTION RIGHTS AMENDMENT

Mr. LAUTENBERG. Mr. President, I rise to offer an amendment that would reverse current Department of Defense Policy and allow servicewomen and military dependents access to safe and affordable abortion services in overseas military medical facilities. I am offering this amendment because, like a clear majority of Senators in this body, I see the injustice of the administration's policy. But I am also offering this amendment because this same provision was dropped narrowly by the Defense appropriations conferees last week even though a majority of my colleagues supported this amendment in the Defense appropriations bill. My colleagues who switched their votes told me that they would support this amendment if it was not on the Defense appropriations bill. They told me that the President would veto the entire Defense appropriations bill over the provision. Well, now I am heeding my colleagues suggestion and am offering this amendment. I want to take a few minutes to explain this issue to my colleagues.

Once again, Congress has to take action to prevent the further erosion of the constitutional rights of American women. This action is necessary to overturn a 1988 Reagan administration directive prohibiting American servicewomen and military dependents access to privately financed abortions in overseas military medical facilities.

Mr. President, like the gag rule, this directive came from nowhere and is an affront to every affected service person or dependent. From 1982 to 1988, servicewomen and military dependents could receive safe, privately funded abortion services in overseas military medical facilities. Then in June 1988, the Assistant Secretary of Health Affairs at the Department of Defense arbitrarily overturned existing policy without any direction from Congress or warning to the public.

The Assistant Secretary of Defense for Health Affairs took this action while conceding that providing privately financed abortions in overseas military medical facilities "does not violate the legal prohibition" against using Federal funds for abortions. The Reagan administration decided to ban such abortions anyway.

Mr. President, the issue here is whether or not a servicewoman or dependent who is stationed overseas leaves her constitutional rights at the U.S. border. In countries like the Philippines, Panama, and Saudi Arabia, abortion is not permitted. A servicewoman who seeks to terminate a pregnancy in those countries must either try to obtain an unsafe, back alley abortion or travel all the way back to the United States or some other country, where the service is available.

Mr. President, the U.S. military initially built U.S. medical facilities on our bases overseas because our service members are often stationed in countries where safe health care is not available. Since 1988, however, if a servicewoman wants to terminate an unintended pregnancy while stationed overseas, she does not have access to safe medical care. She has access to butcher knife care. And the result is severe medical complications. Not only does this Department of Defense policy rob women of their rights; it forces them into life threatening situations.

Mr. President, we should not treat our dedicated servicewomen as second-class citizens when they serve our country overseas. To the contrary, that is the time when we ought to make sure that every service that is available to our military is there and available to them. Do the opponents of my amendment think this policy is a good way to reward our brave and courageous servicewomen? Would we force our Nation's servicemen to travel all the way back to the United States to receive treatment for prostate cancer?

Mr. President, I also want to set the record straight on a few issues that have been distorted by proponents of this reprehensible policy. First, this amendment does not violate the statutory ban against using Defense funds for abortion established in 1984. It simply returns U.S. policy to the way it was from 1982 to 1988 where servicewomen and military dependents could receive privately financed abortions in overseas military medical facilities.

Second, this amendment will not allow third trimester abortions or so-called postviability abortions. This provision upholds all existing military regulations regarding reproductive health care that the military has promulgated within the Roe versus Wade framework. These existing regulations prohibit third trimester amendments unless the life or health of the mother is in danger.

Third, military service branches already have existing regulations that require parental notification for minors before any major medical procedure, including abortions, can be performed.

Fourth, this amendment does not require any military health care worker to perform an abortion if he or she believes that it is against his or her ethical, moral, or religious beliefs. All branches of the service have so-called conscience clauses that allow military health care workers to abstain from performing procedures that violate their beliefs.

Therefore, Mr. President, this amendment is not about using Federal funds for abortions, third trimester abortions, parental notification or making someone perform an abortion against his or her will. This amendment is about protecting the constitutional rights of our servicewomen.

Mr. President, if there are any critics out there who think that this current policy is not having a traumatic affect on our servicewomen or military dependents, I wish they would read the letter that I have from Dr. Jeffrey T. Jensen, M.D., head of the Department of Obstetrics and Gynecology at the U.S. naval hospital at Subic Bay in the Philippines.

I ask unanimous consent that the entire text of Dr. Jensen's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

HEAD, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY, U.S. NAVAL HOSPITAL, SUBIC BAY, REP. PHILIPPINES,
FPO San Francisco, CA, May 11, 1991.

Hon. LES AUCOIN,
Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN AUCOIN: I understand that you are reintroducing an amendment to the DOD Authorization bill, which you had sponsored in 1990, which would allow overseas active duty military and their dependents the option of obtaining an abortion at a

military treatment facility at their own expense. I would like to share with you some of the experiences I have had with this issue over the past two years at the U.S. Naval Hospital, Subic Bay, where I have served as a staff Obstetrician/Gynecologist, and Head of the Department of Ob/Gyn. They exemplify the danger and frustrations that our volunteer servicewomen and female military dependents are subject to in the Philippines. Hopefully these examples will help you and other members of Congress see even more clearly how the 1988 DOD prohibition against abortion at overseas hospitals has endangered women's lives and interfered with the readiness of our military.

First let me provide you with details of health care at the U.S. Naval Facility, Philippines, and contrast it with that available locally. The Naval Hospital is a 85 bed facility serving a patient population of about 17,000 active duty and dependents. It also serves as a referral center for the Fleet and Naval Station Diego Garcia. Our department provides comprehensive Ob/Gyn services to both active duty, retired, and dependent patients. Problems we are unequipped to deal with are transferred to other military treatment facilities. We have the equipment necessary to perform elective abortions, as it is identical to that used for spontaneous abortion. Olongapo City borders the base, and serves as the local liberty area for personnel. The community is known for its cheap bars and prostitution is a way of life for many economically disadvantaged women who flock to Olongapo. Needless to say, sexually transmitted diseases are common. I do not think our military leaders would be proud to show the parents of our sailors the lifestyle that is common in Olongapo. The Philippines is a third world country with high unemployment and a rapidly increasing population. Government population policies are severely restricted by the Catholic church. As a consequence, availability of contraceptive methods is low and the birth rate is high. Although abortion is illegal for any reason, it is commonly available. Procedures available range from abdominal massage and catheter insertion techniques of lay midwives to more sophisticated dilatation and curettage procedures provided by physicians. As all of these procedures are illegal, there is no quality assurance. I have visited the local hospitals. The facilities for legal procedures such as surgery and vaginal delivery are questionable. I can only imagine the facilities and equipment for sterilizing instruments in black market abortion clinics. One patient relayed a chilling story of instruments set to boil upon the stove, a technique ineffective against spore forming bacteria and certain viruses.

We admit about eight patients per year with complication from illegal abortion. In order to minimize this occurrence, I am outspoken and open when counseling my patients. I maintain an open door policy to any women needing information on options in early pregnancy. If a patient chooses abortion, I council her against obtaining the procedure locally due to the inherent risks involved in even the best clinics. If the patient intends to have a local procedure she is instructed to come to my clinic following the procedure for an examination to rule out infection or other problems. I fit them into my schedule without appointment. Unfortunately, many patients do not consult us, wrongly concluding that since the system does not support her choice a Navy physician will not be supportive or compassionate. Some even fear having their plans revealed to their (sponsor's) command. This has an obvious negative impact on the quality of the physician-patient relationship.

Not all illegal procedures result in complications. When problems do arise, however, there is a tendency to present late for legitimate care. Part of this is a suspicion of the system which initially denied care. It is against Navy regulations for active duty members to seek health care outside of the military system (unless referred by a military physician). An active duty woman suffering a complication might find herself in a "line of duty" investigation which could find her injuries non service-connected and ineligible for care in the military or VA system. If she suffered injury from faulty illegal care in the Philippines she also cannot be compensated through civil suits. Is this fair treatment for an individual who, having volunteered to serve her country, was guaranteed comprehensive health care as a benefit of service, and then sent overseas? To protect our patients, the unofficial policy we have adopted is to not document (in the medical record) illegal abortion as the antecedent cause of complications which may result in admission to our hospital. I imagine other facilities handle this problem in a similar fashion so accurate statistics on number of admissions for complications of illegal abortion may be impossible to obtain. Hospital administrators vary with respect to their concern and compassion for this problem.

I urge my patients to travel to Japan or the States if possible. This requires that a servicewoman take leave. For junior enlisted taking leave on short notice presents a problem, as leave is a privilege granted only if the needs of the command are met. As the safety of abortion procedures is inversely proportional to the length of gestation, delays contribute to morbidity. The servicewoman often finds herself in a situation where she must divulge (against her wishes) her most private decisions regarding her reproductive health. And she must do this in an environment which may be hostile to her intentions. Despite attempts at education by the Navy, the level of sexual harassment remains high. My patient could find this decision has a negative impact on her career if a supervisor is not supportive of a woman's right to choose abortion. Even after receiving permission from her command to take leave, my active duty patient faces the obstacle of obtaining transportation to a country where abortion is safe and legal. There seems to be some myth about the availability of government transportation to military personnel overseas. [In contrast to the situation for White House Staffers, air transport for military on leave is on a "space available" basis only, and flights do not occur every day. In addition, a flight may be canceled at any time. You may not sign up on the wait list for a flight until you are in a leave status, so chargeable leave time accumulates while you wait. The wait lists for the States is much longer than Japan. Furthermore, there is no guarantee of a return flight. This further increases time away from work anxiety, and expense. During peak transit times there may be no space available seats, resulting in the additional financial burden of commercial airline tickets.]

The predicament for active duty dependents is even worse as they are in a lower category of priority for space available flights (i.e. an active duty member on regular leave showing up on the day of a flight will get space before a dependent regardless of the duration of the dependent's wait). I know of at least two cases, one active duty enlisted and one dependent daughter, who were subjected to the increased morbidity and expense of a second trimester procedure secondary to wait involved for a space available flight. The fact that the risk of death and complications from their procedures was needlessly increased four fold left me exasperated and outraged. These are real people, military members (or their dependents) who volunteer their lives to defend their country and are denied the same standard of care available to other Americans.

For teenagers, the situation is more complicated and frightening. This problem is compounded by the local ruling which prevents minors (dependent children under 21) from access to health care, including contraceptive counseling, without parental consent. A recent survey done by students at our DODDS high school revealed that 61% of female and 81% of male juniors and seniors state that they are, or have been, sexually active. About 8–10 students carry a pregnancy to term each year. A comparable number have abortions. Combined, that number is roughly 10% of all female high school students (grade 9–12). In other words about 5% of all female high school students here will have an abortion! It is an unfortunate fact of life that not all families have perfect communication. Even the best parent-teenager relationships are strained by the intensely personal nature of sexuality and pregnancy. In families with dysfunctional communication, or where physical or mental abuse is present, it is unreasonable to assume that these issues can ever be openly discussed. Rather than confront an abusive parent (or disappoint a good one), teenagers often attempt to conceal their pregnancies and present late for prenatal care or abortion referral. Again, for those who choose to leave the Philippines for an abortion, the additional wait for transportation may add significantly to the risk of the procedure. The stories of young women who choose not to involve their parents and pursue illegal abortions locally horrify and sicken me. They are forced to travel to unsafe locations for the procedures. Often times the person performing the procedure cannot explain it in English. Prices are inflated to extorsion levels for Americans. Anesthetics are administered without appropriate monitoring. We have admitted two teens so far this school year for intravenous antibiotics and completion curettage following an illegal procedure. One, a high school junior was hospitalized for over 7 days. What impact this will have on her future fertility remains to be seen. In my opinion, it is only a matter of time before a teenage dependent daughter dies here from a complication of illegal abortion. Even legal termination presents serious difficulty for students. One of my patients, an intelligent high school sophomore who states she would have used a reliable birth control method had access to confidential care been available, went to Japan for her abortion, accompanied by her mother. Although she suffered no complications, she missed two and a half weeks of school due to flight delays.

Cases of fetal anomalies provide further insight into the arbitrary cruelty of the current law. We have the technology to screen for fetal malformations with high resolution ultrasound imaging, and detect chromosomal anomalies with amniocentesis and genetic studies. The military supports these diagnostic studies as they are the standard of care. Most patients are shocked to learn, however, that there is no federal funding for pregnancy interruption in the event that a

VOL 137
PT 23
NO 21—25
1991
UMI

serious anomaly is found, even if the anomaly is significant enough to be 100% fatal! This is not abortion for birth control; these couples are usually anxious to conceive again. Often times these are couples who have delayed childbearing and planned their pregnancy. Let me illustrate this with an example from my own practice. A 23 year Marine Lance Corporal and his 21 year old wife were pregnant with their first child. An ultrasound was performed at about 20 weeks in order to confirm gestational age, as the patient had presented late for prenatal care. At that time, multiple fetal anomalies were discovered. Repeat studies were performed with the same conclusions; the anomalies were incompatible with extrauterine life. The patient and her husband were counseled regarding the findings, and options for continuing or electively terminating the pregnancy were discussed. Observing the deteriorating condition of the fetus through multiple exams, the parents felt unable to cope with continuing the pregnancy and requested interruption. Although they had previously been told that federal regulations would not allow the procedure in our hospital, they again requested we reconsider this in view of the severity of the anomalies. The case was presented to the Hospital ethics and executive committees; both refused to go against federal regulations. A Lance Corporal has a take home pay of about $865/mo. Exclusive of transportation and incidental expenses, the cost of hospitalization and labor induction termination in Japan is around $2,500. With no savings, this young couple had no choice but to continue the pregnancy. Just imagine what it feels like as a physician to have to tell a patient that although you have the tools and training to end her suffering you cannot do so. I presume it is easy for policy makers to abstract themselves from this situation and consider the issue black and white. But attempt to visualize the emotional pain this real life situation creates in both patient and physician. The heartache a mother feels with each fetal movement knowing that her baby will never live past birth, and that she must be continually reminded and tormented by this knowledge until her delivery. The sadness and helplessness her physician shares at every office visit and phone call. This young couple lived through this hell for an additional 10 weeks until the doomed fetus suffered an intrauterine death. The labor induction which followed was long and painful, complicated at delivery by the massive size of the fetal abdomen (secondary to ascites), which had developed during the last several weeks of the pregnancy. After a year this couple has conceived again, this time with a normal fetus. Physically the patient is fine, but the emotional scars of this unnecessary suffering remain in both her and me. I can't help but think that this young marine's vision of what his country is willing to do for him and his family, in return for his dedication and professionalism as a soldier, has been forever altered.

The current situation in the military provides me with insight into the problems we would see if abortion were not readily available in the United States. The powerful and wealthy would continue to receive safe care with terminations provided by sympathetic private physicians in their own offices. The "have nots" would be unable to access this type of care for several reasons. Primarily, as these patients have not developed longstanding relationships with a physician, the doctor would be unwilling to run the risk of criminal prosecution to treat the patient. I am certain that many military gynecologists have found themselves in the position to help someone they trusted and have terminated a pregnancy by camouflaging it as an incomplete or missed spontaneous abortion. I consider this to be more an act of kindness than civil disobedience. Unfortunately, those with the greatest need, the young junior enlisted where the financial burden falls heaviest--are unlikely to benefit from this relationship. I taste the bitter irony of my words when I tell a young woman, who has volunteered to serve her country because she believes in the ideals of democracy and freedom, that despite my training and expertise I am not free to help her. As a medical student, I never expected to see the day when a military physician could face criminal prosecution for performing a procedure which is safe, effective, legal, and common in the civilian community.

It is appalling to me that the President of the United States, Commander and Chief of the military, sees it fit to send active duty women overseas, and then neglect a major issue of health care concern. The overwhelming sexism in this policy is especially ugly. On any given night one can observe scores of young men taking "liberty" in Olongapo City. The service gives implied consent to this by treatment of repeat offenders for sexually transmitted diseases, and ignoring the shameful problem of children fathered in these relationships and later abandoned. It is assumed "boys will be boys" or that such activity is necessary after a long deployment. It is my opinion that the Navy's attachment to its Philippine base centers more on its use as a liberty port than a shipyard. The active duty female probably acts irresponsibly far less often, but receives no support from the system when unintended (undesired) pregnancy results.

Thank you for letting me share my experiences with you. Although I personally feel federal funds should also be available for abortions, this legislation alone would significantly improve the physical and mental health of military women overseas. By allowing women the option of obtaining the procedure in military hospitals at their own expense, we would guarantee them access to safe treatment at a clean facility in a timely fashion. The preparedness of the military would be improved not only by reducing lost work days, but also by enhancing morale through this expression of empathy for women's issues. I appreciate your dedication to improving the health care of active duty and military dependent women. If I can be of any further help with this issue (or any other women's health care issue) feel free to contact me.

Sincerely,

JEFFREY T. JENSEN, M.D.

Mr. LAUTENBERG. I will paraphrase the letter, Mr. President. He talks about the medical treatment that has to be done when a back alley abortion fails. He talks about the endangerment of a woman's life and alerted us to the fact that this failure to provide these kinds of services is threatening to American citizens who are serving their country overseas.

My distinguished colleague, Senator WIRTH, of Colorado, who has worked long and hard on this issue during consideration of the Defense Authorization bill, inserted this letter in the RECORD previously. For those who have not read this letter, let me summarize a few items contained in it.

First, Dr. Jensen sees approximately eight patients per year with complications from illegal abortions. These women typically come forward with these complications late and are experiencing life threatening situations. In other words, the military will pay to treat a woman who suffers from a botched abortion but will not allow her to pay for a safe abortion at a military medical facility to prevent this. This is absurd.

Second, Dr. Jensen's letter discusses a case where a lance corporal discovered that her baby would die at birth after several tests. After receiving medical counseling, she elected to terminate her pregnancy. But in this case she had no constitutional rights. Her options were either to carry her pregnancy several months knowing that the child was going to die, get an unsafe back alley abortion in the Philippines, or fly to Japan and pay $2,500 to have a safe abortion if she could get leave or a flight, on a monthly salary of $965.

Third, Dr. Jensen documents how difficult it is for servicewomen to get leave and a flight to travel to another country to terminate an unwanted pregnancy. Often servicewomen are forced to disclose this very personal decision to terminate a pregnancy to a superior officer in order to get leave. Also, women who often have to wait to get a flight to another country often have their health put at risk and are forced to go through further trauma.

Mr. President, it is time to end this disgrace and restore the constitutionally protected rights of our American servicewomen serving abroad and military dependents. I urge my colleagues to support this amendment.

Mr. President, it is my understanding that, under a previous agreement, we are to recognize the Senator from Texas. I relinquish the floor for that purpose, but retain my rights to the floor.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Texas.

AMENDMENT NO. 1405

Mr. BENTSEN. I thank the distinguished Senator for his consideration and the chairman of the Appropriations Committee for giving me an opportunity to state my concern over this amendment.

I can well understand what the distinguished Senator from New York is trying to do here. What he is talking about is trying to raise this duty from 2.5 to 25 percent, as I understand it, to give it a truck classification. This is identical with a bill that he submitted back in August and that was referred to the Finance Committee. We, in turn, sent it to the administration; we sent it to the International Trade Commission for their comments.

Let me make one point very clear. This is a tax measure, and that is what

it is. Under the Constitution, those things have to originate on the House side. That is their prerogative.

What this would do is increase the taxes paid on light trucks. So it is a revenue measure. If we send that to the House on this bill, it is going to be blue-slipped. All the work that has been put in by the committee members on the Appropriations Committee, all of the concerns that rest in this piece of legislation will be for naught. And we are talking about this right when we are talking about adjournment. All wasted.

It took too long to get this bill to the floor. It is too important to be treated this way. We have nearly 150 different tariff measures like this one that have been introduced and referred to the Finance Committee. We cannot act on these until we have a revenue measure from the House. That is just the way it is. That is the Constitution.

Just today, the House Ways and Means Committee's subcommittees acted on a miscellaneous tariff bill covering 227 tariff measures.

Let me make a further point. My understanding is the administration, a Republican administration, opposes this amendment. They say that it conflicts with our international agreement obligations under GATT. And that is as well as the Customs Cooperation Council, that it would be extremely difficult to administer. These are their arguments against it.

I will move to table, I understand that the distinguished Senator from New York has talked on this at some length. I would be happy to yield him 5 minutes, 10 minutes, with the understanding that I do not lose my rights to the floor, if he would like to speak before I move to table.

Mr. D'AMATO. I appreciate it.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York.

Mr. D'AMATO. I appreciate my colleague's courtesies. I have indicated quite clearly that it was this administration that reversed the ruling of the Customs Commission, who found that, indeed, a truck is a truck. And that it is a truck for the purpose of EPA, a truck for the purposes of the Department of Transportation, and that it should be a truck as it relates to coming into this country.

Except I think we found some extraordinary influence outside of the realm of fairness, outside of the realm of what equity should be. It suddenly makes a vehicle that had been a truck for years and years, a car, so that it could escape its payment of a proper tariff. And that is what we have here.

I can appreciate the sentiment of my colleagues, and that expressed by the distinguished Senator from Texas, that we worked hard to get this bill here. But I think it is about time. We waited a long time to get the bill here. The American people have been waiting too long, the American workers have been waiting too long, for fairness. This is costing our producers jobs—our auto manufacturers, who manufacture the Chevy, the Jeep, the Cherokee, the others. This is wrong.

The American taxpayer has waited too long. We are talking about $500 million a year in lost revenue. I think we should find a way to deal with this. And, to be quite candid, I do not believe we are going to get fairness out of the House Ways and Means Committee.

If they want to blue slip it, let them do it. I was on this floor when I brought up a cutoff of trade with Saddam Hussein. I pulled down that amendment at that point in time. I pulled it down because we said, oh, my gosh, this will be terrible and it will be blue-slipped by the House.

When are this body and the other body going to begin to stand up and say what is right for the people?

I have to tell my colleagues something. When we move to table this, let us understand we are moving against fairness, we are tabling something that seeks equity, we are moving against correcting an inequity that has existed for too long. There is no reason, except the special interest groups that came in, for the Japanese to be motivated to unfairly say a truck is a car because they can save $3,500. That is what took place. It is that simple. It did take place. And we can say this is a revenue measure.

When are we going to stand up for the people and stop worrying about the intricacies of the institution and make the institution work for the people? That is the problem around here. That is the message the people are sending.

They are saying we are sick and tired of Government not responding to our legitimate needs; finding manners and ways and loopholes to keep from doing what we should be doing. If you can tell me reasonably why we will call it a truck—oh, it is a tax measure. It is a measure to see that taxes that should be paid will be paid?

I agree with my colleague this was the administration. Let us give them a chance to address the inequity that they have created, because this is an inequity. Let them take a look at it. Let it see the light of day. I do not know whether the President has seen this. I do not know whether he believes this is really fair. Let us see what he thinks, whether the present situation is fair and whether it should be changed.

How do we get it changed? Do we have to wait for a revenue measure to come through to deal with it? We will have to wait forever, and we have been waiting forever.

The distinguished Senator is right, this is the same legislation I introduced in August. I have no doubt if he had the opportunity to deal with this fairly and equitably, he would. As he rightfully points out, this measure does have to be generated from the House of Representatives as a revenue measure.

But I would appeal to my distinguished colleague. If they, the other body, seeks to take it down on a technicality, then that will be their obligation, that will be their shortchanging of the people.

I think we should act on behalf of the people, work for them, give them an opportunity to get the fairness and protection they are entitled to. And that is what this amendment is aimed to do, to bring about fairness.

Mr. BENTSEN. I would say to my friend from New York, it is not the substance of the amendment, as to the equity or inequity that is involved here. I would be willing to entertain that kind of discussion if the ground rules let us act on this. But my colleague's argument is not with the Government, it is with the Constitution. And we are not going to amend the Constitution on the floor this afternoon.

So, when you have that kind of limitation put on you, this then turns into what we down south call "show time.'

I do not blame the Senator for wanting to get it off his chest and he has strong feelings about it. I had questions as to the classification, too, and I remember the argument over that classification and how it came about, the argument between Customs and the Treasury, and finally the administration stepping into it.

But we cannot resolve that here. We have a Constitution to face. Revenue measures come from the House. Just today the Subcommittee on Trade of the Ways and Means Committee acted on 227 of these items. So they do act. But then we have to get it over here.

The Senator will have prime time to discuss his amendment and it will be relevant under the constitutional procedures of the Senate and the House. So, at this point, Mr. President, I move to table the amendment.

Mr. SANFORD. Mr. President, I appreciate the efforts of my colleague from New York to clarify a discrepancy in the way in which various agencies of the U.S. Government categorize certain vehicles. Most of these agencies consider numerous of these vehicles to be trucks, but the U.S. Customs Service has classified them as cars. This distinction dramatically affects the amount of customs duties assessed on these vehicles when they are imported.

Like the Senator from New York, I would like this matter to be clarified. However, I am afraid, as the distinguished chairman of the Finance Committee, Mr. BENTSEN, has noted, that if we pass this amendment, it will force the House to blue-slip the entire supplemental appropriations bill, that is, kill it because it did not originate in

VOL
137
PT
23
NO
21—25
1991
UMI

the House as required by the Constitution. I cannot afford to let that happen. There are too many provisions in this bill that are crucial to my State, including provisions to help North Carolina farmers who have suffered significant crop losses in 1990 and 1991. The bill also includes much needed money for FEMA to offer assistance to those who have been the victims of disasters across the United States, including many in North Carolina who had their homes and businesses destroyed by Hurricane Hugo. Therefore, I must vote at this time to table the amendment of the Senator from New York.

The PRESIDING OFFICER. The question occurs on the motion to table.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from New York. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—56

Akaka
Baucus
Bentsen
Boren
Bradley
Brown
Bryan
Burdick
Burns
Byrd
Chafee
Cochran
Craig
Cranston
Daschle
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gore
Graham
Gramm
Grassley
Hatch
Hatfield
Inouye
Johnston
Kassebaum
Kennedy
Leahy
Lugar
Mack
McCain
McConnell
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Rockefeller
Sanford
Seymour
Simpson
Smith
Stevens
Symms
Wallop
Warner

NAYS—41

Adams
Biden
Bingaman
Bond
Bumpers
Coats
Cohen
Conrad
D'Amato
Danforth
DeConcini
Dixon
Glenn
Gorton
Heflin
Helms
Hollings
Jeffords
Kasten
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
Metzenbaum
Mikulski
Pressler
Riegle
Robb
Roth
Rudman
Sarbanes
Sasser
Shelby
Simon
Specter
Thurmond
Wellstone
Wirth
Wofford

NOT VOTING—3

Breaux
Harkin
Kerrey

So the motion to lay on the table the amendment (No. 1405) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I will yield shortly to the Senator from New York for 30 seconds. But I would like for Senators to know about the list of amendments that I have in my hands. Mr. LOTT has an amendment. Mr. NICKLES has an amendment.

Does Mr. D'AMATO have another amendment?

Mr. D'AMATO. I do, but I believe the committee is ready to accept.

Mr. BYRD. Mr. D'AMATO has an amendment. Mr. LAUTENBERG has an amendment pending, I believe. Mr. CONRAD has an amendment. Mr. NUNN has three amendments.

Mr. COATS has an amendment. Mr. DOLE has an amendment. Mr. MCCAIN has an amendment. Mr. SPECTER has an amendment. Mr. KASTEN has an amendment. Mr. MURKOWSKI has an amendment. Mr. WALLOP, Mr. BOND, together with Mr. DANFORTH. Mr. BRADLEY has an amendment. Mr. STEVENS has an amendment. Mr. BINGAMAN, Mr. PELL, Mr. GORE have three amendments. Mr. BYRD has three amendments and Mr. HATFIELD three amendments. Does anyone else have an amendment?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. DOLE. I might say to the distinguished chairman that we are now doing a hotline to make certain we can accommodate, sort of put all of these in the basket, and that will be it. So we ought to have this information shortly.

Mr. BYRD. All right.

Mr. DOLE. That is on our side of the aisle.

Mr. BYRD. Yes.

Mr. JOHNSTON. Mr. President, are we asking also about second-degree amendments?

Mr. BYRD. I will shortly.

Mr. President, Mr. RIEGLE has three amendments. Mr. LEVIN has an amendment.

Mr. President, before anyone objects, I ask unanimous consent that the amendments I have listed, together with germane second-degree amendments thereto, constitute the only amendments that may yet be called up, with the exception that within 5 minutes from right now, if there are additional amendments called in on either side, we will add those to the list.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. There is a unanimous-consent request being propounded.

The Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President, reserving the right to object, I am not certain as to the contents of all of these amendments, but with respect to those amendments which are not appropriations matters but which constitute legislation on appropriations bill, I would certainly reserve the right to put in second-degree amendments, and I would tell my colleagues that this appropriations bill will not be a Christmas tree for every legislative matter that every Senator wants to have.

We have to understand that. If it is such, if it becomes such a Christmas tree, then there a number of baubles that I would want to put on which I think would engage us in conversation beyond Thanksgiving. I would hope that we would not do that because I support my chairman in the desire to get this bill out in its pristine form before Thanksgiving.

Mr. BYRD. Mr. President, I thank my friend.

Mr. METZENBAUM. Mr. President, reserving the right to object, I do not intend to object. Would the Senator from West Virginia please include on his list a possible amendment of the Senator from Ohio?

Mr. BYRD. I add one amendment by Mr. METZENBAUM.

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS].

Mr. COATS. I also reserve the right to object, and I would like to add an amendment to the list.

Mr. BYRD. I have an amendment down for Mr. COATS. Does he wish two amendments?

Mr. COATS. We are consulting with Senator RIEGLE. We are working to see if we are working on one and the same. We will clarify that.

Mr. BYRD. So the list will be two amendments by Mr. COATS.

Mr. COATS. I appreciate that.

Mr. LEAHY. Reserving the right to object, I shall not. Does that show a Leahy agriculture amendment?

Mr. BYRD. It does not.

Mr. LEAHY. Could we add that to the list?

Furthermore that no points of order be waived by virtue of this request.

That Mr. SIMON be added to the list with one amendment; Mr. NICKLES, two additional amendments; two by Mr. KOHL; one by Mr. PRYOR; and one by Mr. BOREN.

Mr. JOHNSTON. Mr. President, did the leader reserve unlimited second-degree amendments for the Senator from Louisiana?

Mr. BYRD. Yes. That was in the request, the second-degree germane amendments.

Mr. JOHNSTON. Not necessarily germane.

Mr. BYRD. Oh.

Mr. JOHNSTON. Not relevant, not germane.

Mr. BYRD. Did the Senator wish to be listed for an amendment or two amendments?

Mr. JOHNSTON. Not knowing what the subject matter is, Mr. President, the problem is that there may be legislation on this appropriations bill which the Senator from Louisiana would oppose. If that is so, then we must get into other matters which are nongermane, nonrelevant.

I would just tell my colleagues this will not be a Christmas tree for legislation unless they are willing to deal with the matters which are of concern to the Senator from Louisiana, particularly energy matters.

I have been trying to get this floor to consider some energy matters which it was not willing to consider. If they are ready to consider it at this time, I am certainly more than anxious to do so. But if we are going to get into those matters, let us get all the way in. I am anxious to get home for Thanksgiving, but willing not to do so for a good cause.

Mr. BYRD. Then I amend my request as follows:

Provided that if any energy amendments, any amendments, any energy amendments are offered, the Senator from Louisiana may offer some second-degree amendments thereto.

Mr. JOHNSTON addressed the Chair.

Mr. BYRD. Not necessarily germane ones.

Mr. JOHNSTON. If the Senator will say just any nongermane amendments on behalf of the Senator from Louisiana.

Mr. BYRD. Any nongermane amendments on behalf of the Senator from Louisiana with respect to any energy amendments that may be offered.

Mr. JOHNSTON. With respect to any subject, because I have a number of interests.

Mr. METZENBAUM. Mr. President, I would have to object to that because it would give the Senator from Louisiana an advantage 99 other Members of the Senate will not have, and that is he would be in the position to offer second-degree amendments on any subject he wanted; the rest of us would not be in that position. I have a lot of respect for my friend.

Mr. BYRD. I hope the Senator from Louisiana will not push that hard. I think the request I have before the Senate will certainly afford him ample opportunity to offer nongermane amendments to any amendment that he wished, and his nongermane amendments could deal with anything else.

Mr. JOHNSTON. Mr. President, ordinarily I would not concede on this matter, but since my friend from West Virginia asked, as long as it pertains to energy, I will concede.

Mr. BYRD. Yes. I thank the Senator. Again I say with no points of order being waived.

Mr. COCHRAN. Mr. President, reserving the right to object, I am asked to advise the distinguished manager of the bill that there is an objection on this side to getting that unanimous consent at this time. We are working with the Senator who has expressed concern and we hope to be able to report back.

In the meantime, I do have some indications from other Senators interested in being listed as having amendments. Senator DOLE has three amendments.

Mr. BYRD. All right. Let me add three amendments by Senator DOLE.

Mr. COCHRAN. Senator STEVENS, two amendments instead of the one previously entered.

Mr. BYRD. Two amendments by Senator STEVENS.

Mr. COCHRAN. Two amendments for Senator HELMS.

Mr. BYRD. Two amendments by Senator HELMS.

Mr. COCHRAN. An amendment by Senator KASSEBAUM.

Mr. BYRD. One amendment by Senator KASSEBAUM; two more amendments by Mr. RIEGLE; another amendment by Mr. LEAHY; two amendments by Mr. GLENN. Mr. FOWLER has one amendment. Messrs. BUMPERS and PRYOR have one amendment. And Mr. HOLLINGS will object.

I should state that I am not attempting to get the time on any of these amendments. I am not attempting to get a time limitation on the bill. So the Senators are fully protected. What I am trying to do is get consent on the number of amendments that may be called up, and with the proviso that second-degree germane amendments may be added thereto.

I mentioned three amendments. I hope that shortly we can get such an agreement merely for the purpose of limiting the number of amendments, because as Senators have just seen, the list grew geometrically during the time I was making the request. So I hope we can get such limitation shortly.

Mr. WELLSTONE also has an amendment. So Senators can easily see what problems there can be. I hope we will be able to get an agreement before long which, as I say, will not waive points of order. It will not seek time limitations on the amendment; will not seek a time limitation on the bill. So any Senator may filibuster to his heart's content, if there are amendments called up and agreed to which he does not like.

I would importune and beseech my dear friends to let us get an agreement at this time, which is a most reasonable one.

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. Yes.

Mr. JOHNSTON. Mr. President, the Senator from Louisiana limited his request to germane amendments. Did other Senators limit their request to germane amendments, or did the other Senators have the ability to put in amendments on anything?

Mr. BYRD. They did not limit them to germane. The only germane provision I included in my request is that amendments in the second degree to any of the amendments listed be germane to the amendments listed.

Mr. JOHNSTON. I see. So that all other amendments in the second degree would be germane?

Mr. BYRD. Second-degree amendments would be germane to the first-degree amendments.

Mr. JOHNSTON. So with respect to the Senator from Louisiana, he may introduce nongermane amendments with respect to energy.

Mr. BYRD. That is——

Mr. METZENBAUM. I would have to object to that. Mr. President, I would reserve the right to object.

If the Senator from Louisiana were to be allowed to offer nongermane amendments on the subject of energy, he would, frankly, be in a position to bring issues to this floor that could not be brought in any other manner, and we would find ourselves in a position of either having to filibuster such a proposal or kill the supplemental appropriations bill.

So I have to say that I think the Senator from Louisiana should stand in the same position as all other Members of this body. He is my good friend, but I do not think I am prepared to give him that advantage in certainly an area such as energy, where there are many issues of some controversy, which could be controversial.

If that is the way the unanimous-consent request is propounded, I would have to object.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I am most anxious to serve the interests of the Appropriations Committee in getting the supplemental appropriations bill through. I would hope that we could have this appropriations bill limited to matters that are appropriations matters and not to legislative matters. I would be happy not to object, if we did not get into the other arena.

But if we are going to have unlimited amendments on unlimited subjects, from abortion to defense appropriations to whatever, then I think Senators should be protected.

Mr. METZENBAUM. We all are protected, as I understand it. We have the right to offer a second-degree amendment. I think that the way the unanimous-consent request was made, the Senator from West Virginia is limiting the number of first-degree amendments and spelling them out. There is no limit with respect to the debate, no limit with respect to the right to have a second-degree amendment.

But if the Senator from Louisiana is given a special cutout that he has a right to offer amendments in connection with energy matters that none of the rest of us have, it provides him with some special privileges that he is——

VOL
137
PT
23
NO
21
—
25
1991
UMI

Mr. JOHNSTON. Well, the unanimous consent is a limitation on the privileges of Senators, otherwise available under the rules. What I am saying is, I do not know what the subject matter of the first-degree amendments are.

Mr. METZENBAUM. Neither do I. I heard some names mentioned over there that raise some concerns.

Mr. JOHNSTON. In effect, what I am asking for is the ability to kill those first-degree amendments by second-degree amendments. Let us be frank.

Mr. METZENBAUM. Do we not all want that same thing?

Mr. JOHNSTON. I think the Senator from Ohio should seek the same kind—should not limit his rights, I should say.

Mr. METZENBAUM. As I understand it, my rights are not limited by the unanimous-consent request of the Senator from West Virginia. He is saying that any second-degree amendment that is germane can be offered to any amendment.

Mr. JOHNSTON. If it is germane.

Mr. METZENBAUM. If it is germane. I am not clear what the idea is of the Senator from Louisiana. But let us assume that there was an abortion amendment. Is the Senator saying that he has the right to put an ANWR amendment on the abortion amendment?

Mr. JOHNSTON. What I am saying is, under the present rules, if an amendment were offered to the appropriations bill, then the Senator from Ohio could put on any nongermane amendments.

Mr. METZENBAUM. No. The way he has it, I believe——

Mr. JOHNSTON. Under the rules.

Mr. METZENBAUM. Under the rules, that is correct.

Mr. JOHNSTON. The distinguished chairman of the Appropriations Committee would like to limit that by saying that only germane amendments could be offered to that. And I think, frankly, I am not anxious—I am not anxious—for this bill to be a Christmas tree for any matter that any Senator would like.

I think many of these matters ought to go through committees. I think they ought to be more fully considered. But if we are going to have a grab bag out here, then we ought to be able to stop those amendments, in effect, by second-degree amendments.

Mr. METZENBAUM. As I understand it, we have that right, provided our second-degree amendment is germane; am I correct?

Mr. BYRD. That is correct. There is no time limitation on the bill, which allows any Senator or Senators to filibuster the bill, if they so wish. So everybody is protected.

I am simply trying to get some kind of limitation on the amendments so that we then can begin to work through time limitations on the amendments.

Mr. METZENBAUM. I have no problem with that.

Mr. BYRD. I think it would be better if I attempted—now that we have the names of several Senators who want to offer amendments—to get the subject matter of the amendments, so that we can lay out for all Senators the subject matter of the amendments that are being listed, and then perhaps we can get an agreement. So for the moment, I would desist.

Mr. METZENBAUM. I ask the Senator from West Virginia that if he desists and comes back to this subject, the Senator from Ohio would like to be advised in advance so I can be on the floor. I will be here within 5 minutes.

Mr. BYRD. If we have another rollcall vote, I will attempt at that time.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The request is withdrawn. The Senator from New Jersey [Mr. LAUTENBERG] is recognized.

AMENDMENT NO. 1407

(Purpose: To limit the use of funds for carrying out any Department of Defense policy that prohibits certain abortions overseas)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. WIRTH, proposes an amendment numbered 1407.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, insert the following:

SEC. 2 . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other Act may be used to carry out the Department of Defense policy set out in the memorandum of the Assistant Secretary of Defense, Health Affairs, dated June 21, 1988 (Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities) or to promulgate or carry out any other policy having the same substance, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

Mr. LAUTENBERG. Mr. President, for clarification this amendment is designed to provide to servicewomen and military dependents the same rights that every other citizen of this country has.

We do not, when we recruit people, say to them: Remember that when you leave these shores, you also leave your rights behind. What we do say to them is that if you are stuck in another country someplace, and you need or want a privately funded abortion is in a military medical facility you don't have that right.

One day in 1988, an arbitrary decision was made, sent forward by Dr. William Mayer, Assistant Secretary for Health Affairs of the Department of Defense. The date was June 21.

Mr. President, I ask unanimous consent that a memorandum from Dr. Mayer for the secretaries of the military department be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 1, 1988.

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities.

Until this time, there has been no formal Department of Defense policy on the issue of performing abortions, not funded by the government, in military medical treatment facilities in certain countries in which quality medical care may not be locally available. In a very small number of cases, military medical facilities in several locations around the world have performed abortions when paid for, not by appropriated funds, but by the patient.

Under the law, funds available to the Department of Defense may not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. The informal practice of performing so-called "pre-paid" abortions in very limited circumstances outside the United States does not violate the legal prohibition. However, it might suggest insensitivity to the spirit of the Congressional-enacted policy of withholding government involvement in the provision of abortions.

It therefore appears appropriate to establish formally a uniform Department of Defense policy in this regard. The policy is that the performance of pre-paid abortions in military treatment facilities is not authorized. To permit time for necessary instructions to be issued to facilities, this policy becomes effective October 1, 1988.

WILLIAM MAYER, M.D.

Mr. LAUTENBERG. Mr. President, suddenly a memorandum was sent out that limited the rights heretofore available for years, limited the rights of servicewomen and dependents of service families to get abortion services at military facilities. What was suggested was that, on a space available basis, you might be able to get the same rights.

Mr. President, what is suggested by the military as an alternative is, "Listen, why don't you wait and get a flight seat on availability and you can go back to the United States, or you can go to another country where abortion services are safe and clean."

Mr. President, that immediately poses a question. Does the Department of Defense policy put a servicewoman's health at risk when she is forced to wait for a flight back to the United States and her pregnancy advances further, possibly into the second and third trimester? The answer is "yes."

So, Mr. President, Department of Defense's policy puts the servicewoman's health in jeopardy by saying, "You wait until there is a seat available." Suppose a 15-year-old girl becomes pregnant, and she says, "I want my mother with me; I want my father with me. I want the comfort of my family around me when I go through this process." This is not something that people want to get. So then, does a dependent have to wait for three seats to become available and do they all ride on the same plane?

What happens if there are complications after an abortion? It can happen even in the best of circumstances. Do we say then, "No, no, too bad young woman. Your folks have to go home." Or if the person is a member of the service does that person have to take additional leave to take care of his or her daughter after a bad medical procedure? Certainly we would not ask that of a man who needs a particular treatment and ask him to take his personal leave and wait for an available flight to go back to the States, if the service is available on the base like abortion services have been before 1988.

This amendment doesn't require any health care workers to challenge their conscience. We say very clearly there is room for conscience objection to participating in any kind of a procedure the person deems objectionable. So we violate none of the rules that the military had already established before 1988, Mr. President, except the rules of fairness, the rules of decency. Can you imagine what would happen if we put on a recruiting poster or the agreement that an enlistee signs, saying, remember, like on a pack of cigarettes, military service may be injurious to your health? Do we say that not only enlistment in the service might be injurious to your health, but we should also say that it is injurious to your rights? What our Government says is serve your country, go to Saudi Arabia and go to the Philippines, but if something goes awry and you have a pregnancy that you do not want or you think is against the best interest of yourself or the fetus, but don't expect to retain your constitutional rights. There are many countries that only permit abortions under very strict terms. We have in the United States a law; it is Roe versus Wade. It is very clear what these privileges and rights are in our society under this Court decision. But it is also clear that you don't have these rights when you serve in the military.

Mr. President, there can be a lot of debate about whether or not Roe versus Wade ought to exist. There is going to be plenty of examination of that in the near future and there is a chance that the Supreme Court could overturn it. But how dare we say to someone who goes overseas to serve their country, often in very dangerous circumstances, "Remember, that if you go there, your rights are left at the national border."

So, Mr. President, this amendment is designed to make this wrong right and return our constitutional rights to 65,000 servicewomen and 400,000 dependents living abroad. Recently we had many discussions here about bringing the troops home. Well, I am one of those who favors that, but they are serving abroad at our behest. They are serving at our Government's direction. They are serving at the people's direction. While they are there, certainly they are entitled to all of the privileges and service and rights that any American citizen has.

Mr. President, I, with the distinguished Senator from the State of Colorado, TIM WIRTH, authored an article that appeared in the New York Times on November 13, 1991. It talks about abortion rights, and it is headlined, "Abortion Rights? Not in the Military," and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 13, 1991]

ABORTION RIGHTS? NOT IN THE MILITARY

(By Frank R. Lautenberg and Tim Wirth)

WASHINGTON.—When a pregnant 21-year-old woman in the Philippines discovered that her child would be born with fatal birth defects, she and her husband reluctantly decided to end the pregnancy. Since abortion is illegal in the Philippines except to save the woman's life, she could have flown to Japan where its legal. On her husband's salary, the couple simply could not afford it. She was forced to carry the fetus to term with the agonizing knowledge it would die at birth.

The woman was not an impoverished Filipino but the wife of an American serviceman. Her husband was stationed at a naval base where the abortion could have been done safely and affordably, if not for a 1988 Defense Department directive barring abortions at U.S. military hospitals except to save a woman's life.

We've included an amendment to overturn this directive in the Senate version of the defense appropriations bill for 1992. Its fate will be decided in a House-Senate conference this week. The President has threatened to veto the entire defense bill in order to deny American servicewomen and military dependents access to safe abortions.

Last spring the nation shred a swell of pride and support for our forces in the Persian Gulf. Yet the President would tell our service members and their families that they deserve lower-quality health care than they could have at home.

In Saudi Arabia, where about 30,000 American women were stationed during Operation Desert Storm, abortions are illegal except to save the life of a woman. The laws are similar in Panama and the Philippines, where about 46,000 members of the military and their dependents are stationed.

Even where abortion is legal, American women may have to accept substandard medical care that endangers their life. Many developing countries cannot afford to test their blood supply for the AIDS virus. They lack antibiotics and trained personnel to provide high-quality health care. The results are deadly. In Latin America, complications from illegal abortions are thought to be the main cause of death in women between the ages of 15 and 39.

Lieut. Comdr. Jeffrey I. Jensen, former head of obstetrics and gynecology at the Subic Bay U.S. Naval hospital in the Philippines, has written a letter to Congress detailing his experiences over the last two years. He saw families forced to spend their life savings to travel to another country to have an abortion. He saw military doctors prohibited from providing counseling and care they believed to be in the best interest of their patients. He saw a young enlisted woman so distraught about her inability to end an unintended pregnancy that she committed suicide.

Overturning the Pentagon directive would allow servicewomen or military dependents to pay for their own abortions at overseas U.S. medical facilities. The Defense Department admits that the current ban on using its funds for abortions would not be violated.

The appropriations amendment upholds all regulations on health care that the military itself has established, including those prohibiting third-trimester abortions unless the life or health of the mother is in danger and requiring parental notification by minors before any major medical procedure, including abortion. It would not require any military health care worker to perform an abortion if it violated his or her ethical, moral or religious beliefs.

It is appalling that women who have volunteered to defend our nation should be expected to surrender a constitutional right because they are stationed in Manila instead of Manhattan.

Mr. LAUTENBERG. I ask unanimous consent to print in the RECORD an editorial in the Washington Post dated Saturday, May 18.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 18, 1991]

A PENALTY FOR SERVING ABROAD

In 1982 the Department of Defense prohibited the use of federal funds to pay for abortions. This policy is in conformity with the government's refusal to finance abortions for the poor through the Medicaid program, for government workers whose health insurance policies specifically exclude abortion and for those in desperate poverty in places overseas where the use of U.S. foreign assistance money is restricted. Americans living and working in this country, however, at least have access to safe abortions as long as they use their own funds to pay for them.

Not so for Americans serving their country in the armed forces abroad. Since 1988, members of the armed forces and their dependents have been barred from using military hospitals abroad for abortions even if they pay for the abortions privately. Many of them are stationed in countries where abortions are illegal. Others are in places where any kind of medical care in a local hospital is risky.

Congress did not require this wrongheaded regulation, and legislators can overturn it. An attempt will be made on Monday, when the House takes up the Defense Appropriations Bill. Last year, Senators Tim Wirth and John Glenn tried; they had 58 votes but not enough to stop a filibuster. In the House, the Les AuCoin-Ronald Machtley effort failed by only 16 votes. This year, the numbers look better. Servicewomen and military dependents abroad are not asking for special

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The words of Lt. Comdr. Jeffrey Jen-

is illegal or access to abortion is se-

Mr. METZENBAUM. Mr. President, if

VOL 137
PT 23
NO 21—25
1991
UMI

treatment, only the right to receive the kind of treatment—at their own expense—that is available in this country.

Mr. LAUTENBERG. Mr. President, I take a moment to read from that editorial:

> In 1982, the Department of Defense prohibited the use of Federal funds to pay for abortions. This policy is in conformity with the government's refusal.

And in 1982 they rearranged it so that no abortions can be paid for with Government funds. Those are the rules, but they did permit privately funded abortions. That means that persons pay for this themselves at a rate that is easily developed. There are HCFA and other agencies in the Government that can very clearly evaluate the rates for such service.

But the Washington Post editorial goes on to say that this access to safe abortions, as long as they use their own funds to pay for them, was available until 1988. Not so, the article says, for Americans serving their country in the Armed Forces abroad, and it describes again the condition.

In the last paragraph it says:

> Congress did not require this wrongheaded regulation, and legislators can overturn it.

An attempt is going to be made and again I make reference to the fact that this was in May. Senators TIM WIRTH and JOHN GLENN tried and they had 58 votes.

Mr. President, 58 votes, not enough to get cloture, not enough to stop a filibuster, but 58 sounds like a pretty good majority.

Consider, Mr. President, at that time there were a couple Senators favorably disposed to righting this wrong who are not with us in this Chamber.

In the House, there was an amendment to correct this reprehensible policy introduced by Congressman AUCOIN, that was adopted in the defense authorization bill by a 220 to 208 majority. We had an amendment dropped in the Defense appropriations conference, which I authored. We lost by two votes because the President threatened to veto the bill. This threat does not indicate an unwillingness by the majority of the House Members as well as Senate Members to support this. The numbers are certainly there. Mr. President, the question is what is right. That is what we are talking about.

The will of the majority is constantly thwarted by Presidential threats of veto and by a group of opponents who are distinctly in the minority.

Mr. President, I ask unanimous consent to add Senator METZENBAUM and Senator PACKWOOD as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. Thank you, Mr. President.

Mr. President, once again I rise in support of this important amendment which is one that merely goes to equities. There are those who can debate whether or not we ought to change the Constitution. The Supreme Court, I hope, will rule on that one of these days and not duck the issue, whether Roe versus Wade ought to be changed. But until it is changed, that is the law of the land. That is the law of the land. That is what the Court has said.

Now why should we be in a situation in which we, the Government, the Pentagon says that that law of the land is going to apply to most people in one way but it is going to apply to women in the military in another way? Should we condone treating women in the military as second-class citizens? Should we get some kind of ideology in the way of our fair treatment of women in the military? I think not. That is what this amendment is all about.

Now people can vote on this amendment and raise all kinds of issues related to their positions on abortion. That is fine. But I think that should be done another day. What this is about is just very narrowly involved with a simple question: Are women in the military going to be treated the same way as women elsewhere in our society? Are we going to do it?

This amendment does not provide for the public funding of abortions. It does not remotely address whether a woman should have the right to choose to have an abortion. It does not allow postviability abortions. It does not force military personnel to be involved in providing abortion-related services if that is contrary to their religious or moral beliefs. And finally it does not preclude parents from being involved in these important decisions that their children may face. It is simply about equality.

AMENDMENT NO. 1408 TO AMENDMENT NO. 1407

(Purpose: To provide servicewomen and military dependents access to reproductive health services in overseas military medical facilities)

Mr. WIRTH. Mr. President, I have an amendment to the amendment and I would ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 1408 to amendment No. 1407.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of amendment 1407, add the following:
>
> (a) IN GENERAL.—Chapter 55 of title 10, United States Code, is further amended by inserting the following new section:
>
> **SEC. . REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.**
>
> (a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.
>
> (b) PAYMENT FOR SERVICES.—In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full costs including indirect costs of providing the service.
>
> (2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.

Mr. WIRTH. Mr. President, the situation in front of us is again a very simple one. Our women in uniform volunteered to serve their country, not to give up their constitutional rights.

Our amendment would allow those stationed overseas to be able to use military medical facilities for the full range of reproductive health services permitted under U.S. law. Any service that cannot be funded by appropriated Federal funds will be paid for by the individual. And that if what current law is.

I ask you all to think back to this past spring when across the Nation we witnessed a powerful display of emotion and support for the accomplishments of our voluntary forces in the Persian Gulf. Flags were waved, ribbons were hung, and we sang praises to the accomplishments of our troops, and justifiably so.

But in the next breath we have turned around and told our service members overseas that they deserve a lower quality of health care than what they could have at home. These people risked their lives to protect our country. They must not risk their lives because we will not provide them access to safe health care.

If we do not include this amendment in the bill, we will only be hurting more Americans, and I do not believe that that is our mission.

The supplemental appropriations bill that we are considering today has been brought to us so that our debts from Operation Desert Storm can be paid. Our amendment provides an opportunity for Congress to repay a debt to our service members to restore basic rights that one arbitrary DOD directive took away from them. Passage of the amendment would be a statement of support for simple justice, decency and equality for our women in the military.

The words of Lt. Comdr. Jeffrey Jensen at the U.S. Naval Hospital in Subic Bay, Philippines bring to our attention the repercussions and human cost involved with this directive. Because he worked in a country where abortion is illegal, he was exposed to several situations where forcing women off the base to obtain illegal abortions endangered women's lives and interfered with the readiness of our military.

Lieutenant Commander Jensen wrote:

> I taste the bitter irony of my words when I tell a young woman, who has volunteered to serve her country because she believes in the ideals of democracy and freedom, that despite my training and expertise, I am not free to help her. As a medical student, I never expected to see the day when a military physician could face criminal prosecution for performing a procedure which is safe, effective, legal and common in the civilian community. * * *
>
> Not only are our U.S. service women faced with the horror of obtaining illegal abortions that are unsafe and expensive, but many avoid informing their military physician about complications from the abortion for fear of having gone against military regulations—which, if their superior is not supportive of the right to choose, could jeopardize their careers.

Do not be fooled into believing that women are not forced into the streets. Dr. Jensen states that at his hospital alone, about eight patients each year are admitted with complications from illegal abortions. This is a very real problem for the individuals in the military.

Dr. Jensen went on to say:

> It is appalling to me that the President of the United States, Commander in Chief of the military sees it fit to send active duty women overseas, and then neglect a major issue of health care concern. The overwhelming sexism in this policy is especially ugly. On any given night, one can observe scores of young men taking "liberty" in Olongapo City. The service gives implied consent to this by treatment of repeat offenders for sexually transmitted diseases, and ignoring the shameful problem of children fathered in these relationships and later abandoned. It is assumed "boys will be boys" or that such activity is necessary after a long deployment. . . . The active duty female probably acts irresponsibly far less often, but receives no support from the system when unintended (undesired) pregnancy results.

I ask my colleagues to join me in carefully looking at this situation—remove some of the emotion of the issue, and look at how we should rationally solve this injustice.

Let us look at the situation—our service members are frequently serving our country in locations where safe health care is not available at local facilities. That is precisely why the United States has established medical facilities on our bases—to meet the needs of DOD personnel and dependents in these locations. That is why we do not depend on local hospitals in the Philippines or in Panama or Saudi Arabia.

In many countries where U.S. military personnel are stationed, abortion is illegal or access to abortion is severely restricted. Their country's laws, not ours. In Saudi Arabia, where approximately 30,000 women were stationed during Operations Desert Storm and Shield, abortions are illegal except to save the life of the woman. The laws are similar in the Philippines and Panama, where about 46,000 military personnel and their dependents are stationed. This is also the only situation when a woman can obtain an abortion on the base.

So what choices are we leaving these women? Because they are stationed in a place that does not allow a woman the right to choose whether or not to continue a pregnancy to term as is the case in our country, we eliminate her option to choose to have proper health care.

Where does our responsibility to protect the life of the woman end? Unless her life is in danger by carrying the fetus to term, we force her to pursue unsafe medical practices that put her life in danger for choosing to exercise her constitutional rights. What kind of reasoning is that? It is the illogical reasoning used at the White House.

Even in countries where abortion services are legal, many subject American women to substandard health care where the blood supply is not tested for disease and trained personnel may not be available. Is this a price we are asking those who are serving the Nation to pay—simply because they are stationed overseas?

Left uncorrected, the DOD directive has a terrible impact on lives of those in our Armed Forces. It is as Senator LAUTENBERG so clearly pointed out, unfair and unjust. We ought to end this folly and remove the arbitrary directive.

Mr. President, this is not an issue that is new to Members of the U.S. Senate. It is not new to a majority of Members of the U.S. Senate. It is not new to more than 60 Members of the U.S. Senate who agree that this is fundamentally unfair. More than 60 Members agree that this is fundamentally unfair. Yet we are in a situation where we have 58 or 57 or 59 votes. It has been a movable feast of votes, figuring out how to oppose this so a filibuster can continue.

Well it is time we have this out again and see where people are. Let us sort this out, and sort it out as clearly as we can. Now is the time to do that. This is a perfect vehicle. We are paying a lot of bills for Operation Desert Storm. We are paying the bills for much of the Operation Desert Storm and Desert Shield, and as we pay those bills let us make sure we are doing our duty for the women of this country.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, if ever there was a wrong that needed to be righted, if there is such a word, this is it.

Women in the military had no problem with respect to this matter of abortions until the 1988 DOD directive. They were permitted to have safe and privately funded abortions in overseas military facilities. And what we are trying to do here is restore the pre-1988 Department of Defense policy.

That policy was wrong. It was unfair. The women who serve in the military should not be discriminated against. And this is a matter of sending them out into the back alleys of some countries that do not permit abortions and saying they cannot use the medical facilities in American hospitals, even if they pay for those services themselves.

It is the wrong kind of approach. It is an indignity to America's women who are serving in the military. It is a backward step and it deserves to be righted.

What happens as a consequence of the present policy is that oftentimes a woman is forced, if she wants a safe abortion, to pay up to two or three times her monthly salary in order to receive an abortion in another country. And as has already been pointed out there are some countries where you cannot even get the abortion unless you use the back alleys.

This is unfair. This is wrong. No matter what our policies may be, no matter what our positions may be with respect to the matter of Roe versus Wade, or no matter how we feel about existing other provisions that the Department of Defense has on this issue, we should not deny American servicewomen this basic and fundamental right of choice, paid for out of their own funds in safe and secure military hospital facilities.

It does not affect Roe versus Wade. It does not affect the Department of Defense policy on parental notification. It does not affect the Department of Defense policy on third trimester abortions. It does not affect the existing statutory ban on using Department of Defense funds for abortions. This only gives a woman a fair right to use the medical facilities that are available in the country in which she is serving so that she not be forced to come all the way back to this country, or travel to some far distant country. It gives her a chance to be with her family in that country where she is serving, assuming her family is there.

I believe this is the right amendment. I think it is time for us to act. I think we have delayed far too long.

Mr. President, I hope this body will see fit to give America's servicewomen the rights to which they are entitled.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I think it

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VOL 137
PT 23
NO 21–25
1991
UMI

Mr. COATS. Mr. President, I think it is unfortunate that at a time when we are trying to move the Senate to adjournment, dealing with one of the last pieces of legislation necessary to accomplish that task, the supplemental appropriations, that we have to inject an issue that is, yes, important; yes, we have debated it on a number of occasions; and, yes, there are appropriate places to debate this I think it is unfortunate that the debate has to be raised once again on the floor, particularly at a time like this.

We have a number of people in this country who are desperately waiting for the benefits that will be provided through this supplemental appropriations. Yet I think as everyone in this Chamber knows, and certainly as the proponents of the amendment know, this is simply an effort to cause the administration to veto this so the Members then can come to the floor, and others, and say the President once again thwarted the attempt of Congress to provide benefits for farmers, benefits for veterans, benefits for women under the nutrition program, immunization for young people, and so forth.

As you read through the supplemental appropriations bill you find a number of important programs that are going to receive very needed appropriations. Veterans from Desert Storm and their spouses, and families who need special counseling or marriage counseling services as a result of the trauma incurred by those families during the Desert Storm operation are provided for with an appropriation in this supplemental appropriations.

If we are going to insist on legislating on an appropriations bill, and we are going to inject an issue that has been before the body and debated on numerous occasions just in this session alone, with a sure veto of the legislation, we are going to deny these families and their spouses the opportunity to receive this important counseling.

There is humanitarian relief for a number of people who are unintended victims of the conflict in the Middle East. Those people will be denied that assistance. More important, or just as important, there is disaster relief for people whose lives, homes, property was devastated by a number of disasters in this country. There are farmers who have suffered drought. I have thousands of farmers in Indiana who will receive at best half of the net income that they received last year because of a severe drought that hit almost every one of our counties in Indiana during this past summer. There is more than $1.5 million available to provide that drought relief. That is being put in jeopardy by the proponents of this amendment. Disaster relief for flooding, coastal flooding, losses associated with crop loss in both 1990 and 1991 will suffer here.

Small things—maybe it seems small to some Members here but certainly important to others—relief for the State of Maine for potato disease. That relief is provided in this bill. Flood control along the rivers of Mississippi—Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, and other coastal emergencies is provided in this bill and, maybe most important, a special supplemental food program and nutrition program for women, infants, and children to the tune of $100 million. Special immunization, childhood immunization, funding for $90 million; Head Start funding for $1.2 billion—all of that is provided in this bill.

It is a bill that everyone in this body knows has to conform to the agreements made by the Appropriations Committee in the Senate and the House, by the people at OMB and the White House. And if we load it up with this or any of a number of other amendments that probably will be offered here we are going to find this once again the subject of a Presidential veto.

Then those who enjoy beating up on the President will say the President, in another cruel, heartless way, has vetoed money that goes to women and children and infants and so forth.

This particular amendment is particularly unnecessary because it is a solution in search of a problem. We hear a lot of talk about this being unfair to women; that women find themselves trapped overseas with no alternative but the back alley, and nothing could be further from the truth.

To confirm that, I contacted the Department of Defense to ask them what the exact situation was, and I want to quote back from the letter that they used to reply to my written inquiry about whether or not we face the problem. The proponents of the amendment like to paint the picture that we have hundreds, if not thousands of women who are trapped in some overseas location who desire an abortion and have no option, because the host country prohibits abortions except to save the life of the mother, or because the health conditions of the medical facilities and medical providers' lack of skills in that country simply do not allow for a clean, a sanitary, a safe abortion procedure and, therefore, these women, in desperation, are driven to the back alley.

Nothing could be further from the truth. The Department of Defense certified to me in writing that they have no record of any case, of any woman who has been denied any option for transportation back to her home State for the purposes of an abortion. The Department of Defense makes the first available military plane available to any women to take her back to her State of origin for the performance of an abortion for any reason without any questions asked if that woman makes the request for an abortion.

It simply is not necessary that this amendment be adopted to provide the kind of rights or belief that the proponents of the amendment say are being denied.

A second objection to the amendment is the fact that the amendment is totally unlimited in terms of the kinds of reproductive health services and the kinds of abortions that may be available to a woman in a military hospital if the amendment were adopted Unlike restrictions, reasonable restrictions placed on the types of abortions performed in various States in our Nation, this amendment would allow an abortion for any reason on demand for any woman.

(Mr. ROBB assumed the chair.)

Mr. COATS. Mr. President, I am sorry that the proponent of the second-degree amendment is not on the floor. I did have some questions I would like to ask, but I do see the offerer of the first-degree amendment. I wonder without yielding the floor, Mr. President, if I could ask the Senator from New Jersey some questions as to the scope and extent of his amendment.

Is it true, I ask the Senator, Mr. President, that an abortion may be allowed under this amendment for any reason within a military hospital? In other words, would a woman be able in the 9th month of pregnancy to receive an abortion at a military hospital under the terms of this amendment?

Mr. LAUTENBERG. Will the Senator repeat the question, please?

Mr. COATS. I would like to ask the sponsor of the amendment that we are dealing with here some questions relative to the scope of the amendment that is provided. It is my reading of the amendment that this would allow a woman in the military an abortion, for any reason, in a military hospital; in other words, an abortion in the 9th month would be permissible, I assume, under this amendment.

Mr. LAUTENBERG. I assume that the Senator was on the floor during much of this discussion because we have been at it for some time now, and it is clear and the RECORD will indicate that this amendment allows the Department of Defense to operate under the existing rules and the law as it was established under Roe versus Wade. I was so specific in my comments. I am sorry the Senator did not hear it.

In the first trimester under Roe versus Wade, the State has no interest. In the second trimester, limited interest. In the third trimester, the State essentially has a compelling interest. This amendment continues to uphold this framework.

So we would not do anything that is not allowed to any other citizen in this country. If the Senator is asking me, should we restrict a service family member's rights and let the law apply

only to those within the country's borders, I would say definitely no. I think that when we enlist someone in the service to defend our country, send them abroad, expose them to danger, I think we ought to say, hey, listen, at least you have the same constitutional protections that every person has.

Mr. COATS. I would like to reclaim my time, Mr. President. That did not exactly answer my question because it is clear that the laws of any particular State which may govern performing of abortions in the first trimester or second trimester or prohibitions of abortions in the third trimester are limited for whatever reason because laws passed by that State would not be applicable to a military facility overseas.

So my question is: It appears to me, unless the sponsors of the amendment can indicate otherwise, that a woman in the military stationed at a military facility overseas would not be covered by the laws of the particular State which she resided from relative to the securing of an abortion; in other words, there would be no limitations. And because this covers not only abortions but any reproductive health service, I would assume under this amendment a woman, say, stationed in the Philippines or Panama, Europe or wherever, could walk into a military hospital and on demand have an abortion even in the 9th month of her pregnancy or if she determine through an ultrasound process that the child was a boy and she wanted a girl or vice versa, she could ask for an abortion for the purposes of sex selection. Or if they determined through amniocentesis or some other procedure that there might be a slight handicap present in the child, regardless of what stage she was in, whether the first, second or third trimester, that such a woman could demand an abortion, and if that is the case, then obviously the rights inherently available to that woman in the military were not, as has been suggested, less than the rights of a woman living in the United States and actually greater than most rights available to women living in either New Jersey or Indiana, Colorado, or any other State in the Nation.

It seems to me this amendment would expand the rights available to women, not address an inequity. The discrimination appears to flow to the women, under this amendment, living in New Jersey or Colorado or Indiana.

I will be happy to yield to the Senator for an answer.

Mr. LAUTENBERG. Mr. President, I do not know whether the Senator is aware of the rules that apply and have applied even before 1988 dealing with abortion that say that no abortion shall be permitted in the third trimester, unless there is a threat to the mother's life or health. I think that is pretty clear.

Once again, I respond to the Senator's inquiry about restoration of rights. I am happy to hear that the Senator believes in the restoration of rights of those in the service because services in this country are generally available, perhaps with some States taking different views but for the most part, abortions are available without challenge in the first trimester, with limited restrictions in the second, and are typically forbidden unless the life or health of the mother is in danger.

Mr. COATS. Mr. President, I again make the point that laws that may be applicable or restrictions that may have been placed on performance of abortion in various States would not be applicable to a military facility overseas and, therefore, a woman would be able to demand an abortion for any reason at any time, including the ninth month of pregnancy if she so desired. It would not be restricted by any rights under the particular State law.

In reference to the court decision in Roe versus Wade, I think the Roe versus Wade decision and subsequent decisions have allowed for abortions in the third trimester to protect the life of the mother, or if her health is at stake, and that has been determined under a number of court decisions purely liberally to include anxiety, distress, or other health reasons.

So it would seem to me that this amendment is more extreme than virtually any, if not all, States of the Union in terms of how they have attempted to interpret the application of Roe versus Wade.

I think Members need to understand that my objection to this amendment is not premised on the debate over pro-life or pro-choice.

It is clear that this amendment seeks to expand a right not available to most women, and that it attempts to provide a solution to a problem which does not exist.

Now, I would be happy to make, for the RECORD, Mr. President, a copy of a letter that I have received back from the Assistant Secretary of Defense in answer to my questions as to whether or not the Department has had any complaint filed concerning the current policy in effect. Their answer to that is "No".

I asked them if there were any legal challenges instituted concerning the policy, and their answer to that was "No".

I asked them if any members or their dependents have ever been denied access to an abortion as a result of their policy. Their answer was "No".

Have any members or their dependents been denied access to military transport for the purpose of procuring an abortion? Their answer was "No".

Have any members or their dependents been denied access to the opportunity to leave a host country to return to the United States? Their answer was "No".

If the proponents of the amendment have evidence to the contrary, obviously we ought to make that part of the RECORD.

We have heard the letter of Dr. Jensen quoted at length in previous discussions of this amendment and again today. Perhaps it would be beneficial to follow up on that and find out just what the circumstances were in this particular case.

But it appears we are making the policy on the basis of one letter which applies to one woman without fully knowing what the circumstances are, because the Department of Defense has a policy which allows any woman to return to her home State for an abortion, for whatever reason she so desires.

It really does not seem to me to be necessary to propound this amendment, particularly at this time, on a bill which we know will not survive with this amendment attached to it.

So again I question why the amendment is being offered at this time. I question the necessity for the amendment. I believe we are facing a situation that simply is not necessary for us to go through once again.

Mr. WIRTH. Will the Senator yield?

Mr. GLENN addressed the Chair.

Mr. WIRTH. Will the Senator yield?

Mr. COATS. I would be happy to yield to the Senator from Colorado for a question.

Mr. WIRTH. The Senator asked four questions, and I would be very happy to very briefly respond. The questions asked which conditions were placed under this. Exactly the same under Roe, which is the constitutional law of the land. Abortions, as I pointed out, are not to be allowed in postviability time. That is exactly the same here. Roe also says it should be done with consultation of a physician to determine viability. Third, Roe also says, as the Senator correctly points out, States can regulate conditions postviability at any time. And DOD can do that and has in the past.

We are not talking about those conditions. We are talking about the fundamental rights under Roe, which is the ability of an individual to have an abortion if she wishes previability. That is the current law of the land as it applies to most people and not women in the military.

I thank the distinguished Senator for yielding.

Mr. GLENN addressed the Chair.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana retains the floor.

Mr. COATS. Mr. President, it occurs to me that this clearly is a case of legislating on an appropriations bill, although that is a decision not for me to make but for the Parliamentarian. But pursuant to rule XVI, I would raise a point of order, Mr. President, that this is legislation on an appropriations bill.

Mr. WIRTH. Mr. President, I would appeal the—

The PRESIDING OFFICER. Does the Senator from Indiana raise the point of order at this time?

VOL
137
PT
23
NO
21
—
25
1991
UMI

Mr. COATS. I raise the point of order at this time.

The PRESIDING OFFICER. Is it directed to the first- or the second-degree amendment?

Mr. COATS. At the underlying first-degree amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

Mr. GLENN. We do not have a ruling from the Chair yet.

The PRESIDING OFFICER. After consultation with the Parliamentarian, the Chair rules that the point of order is well taken. It attempts to legislate on an appropriations bill.

Mr. WIRTH. Mr. President, I would appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is: Shall the decision of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] the Senator from Iowa [Mr. HARKIN], and the Senate from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—40

Bond
Boren
Burns
Byrd
Coats
Cochran
Craig
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—57

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Brown
Bryan
Bumpers
Burdick
Chafee
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Fowler
Glenn
Gore
Gorton
Graham
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Wellstone
Wirth
Wofford

NOT VOTING—3

Breaux
Harkin
Kerrey

The PRESIDING OFFICER. So the decision of the Chair does not stand as the judgment of the Senate.

The pending amendment remains the Wirth second-degree amendment to the Lautenberg first-degree amendment.

Who seeks recognition?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Parliamentary inquiry. When would it be timely to offer an amendment?

The PRESIDING OFFICER. On disposition of the pending amendment.

Mr. SIMPSON. Mr. President, I would wish to briefly explain my vote on the procedural point of order regarding the Wirth amendment which would allow members of the armed services and their dependents the right to choose to have an abortion, just as stateside citizens have at overseas military health facilities. On August 2, 1991, the same issue was before the Senate, but in a different procedural context. On that date, I stated that I supported the amendment on the merits. However, the Wirth amendment, in the final day prior to the August Recess, threatened passage of a bill critical to the security of our Nation—the Defense Department authorization bill. At that time that amendment was the last major obstacle to the expeditious passage of the $290.8 billion bill providing for our Nation's security. On that bill, Members of the Republican leadership followed the course set out by the respected ranking member of the Armed Services Committee, and voted against cloture. Seven Democrats joined us in that vote. The House version of that bill had already passed on May 22. Therefore, work on reconciling the two, huge bills was then able to begin immediately. It was a very long and difficult process, and the final version of that bill passed this Chamber only last night.

As of the time, I speak to you now, there are approximately 75 amendments which Members intend to offer to this so-called dire emergency spending bill. This bill provides for $9.5 billion in spending authority in fiscal year 1992. The first form of this bill passed the Senate on March 20, 1991. It has been caught up in all sorts of intramural fun and games—politics—but it clearly has not lived up to its name. In fact, it is actually the last train leaving the station. We are voting on all sorts of things that are not relevant to this bill. Although the Chair ruled that the Wirth amendment was legislation on an appropriations bill—that objection certainly has little meaning to us when the floodgates have already opened as they have today. Since I favor the Wirth amendment on the merits, and have always supported a woman's right to choose, and because of the different circumstances surrounding this bill than those facing us last August—I was pleased to vote not to sustain the Chair's ruling, along with 56 of my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the Wirth second-degree amendment to the Lautenberg first-degree amendment.

The amendment (No. 1408) was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I rise today in support of an amendment offered by my esteemed colleague, Senator LAUTENBERG, permitting military personnel and their dependents to obtain abortions at military medical facilities overseas. The need to change DOD's inequitable policy preventing women from obtaining abortions in overseas military medical facilities is as important as ever and I am here to urge my colleagues to support Senator LAUTENBERG's amendment.

WHY THIS CHANGE IS NECESSARY

Let me tell you a dramatic story about what happened to a military couple stationed over in the Philippines, where abortion is illegal, I believe you will see why this amendment is so desperately needed.

The case has been poignantly related to Congress by a military doctor frustrated by his inability to help his patients. In that case, the couple, a 23-year-old lance corporal and his 21-year-old wife, were expecting their first child. At about 20 weeks, the woman underwent an ultrasound and multiple fetal anomalies were discovered. Additional testing indicated that the anonalies were so severe that the child could not live beyond birth.

The couple was counseled concerning the child's chances for survival and options related to continuing the pregnancy or electively terminating it. Faced with the deteriorating condition of the fetus, the couple chose to terminate the pregnancy.

It is at this point that the harshness and cruelty of DOD's current policy become most visible. This couple, devastated by the news that their child could not possibly live, made the decision to terminate the pregnancy, a decision fraught with agony. They were then faced with the fact that the abortion procedure could not be conducted in a military medical facility.

The couple then sought to obtain an abortion in Japan. However, at the time, the cost of an abortion in Japan was about $2,500 and the couple could not afford the procedure. A lance corporal does not make a large salary and the young couple had no savings. This family felt they had no other choice but to continue the pregnancy. For 10 weeks, the woman carried this fetus until it died. A long and painful labor was induced, a labor that was complicated by the fetus' anomalies. Mr. President, there simply was no need to put this couple through this kind of emotional trauma. The amendment Senator WIRTH and I propose would end this needless agony.

EFFECT ON OTHER CURRENT POLICIES

Despite suggestions to the contrary, Mr. President, this amendment merely overturns the current Department of Defense policy preventing servicewomen and dependents from obtaining abortions in military medical facilities. The amendment does not affect the ban on using DOD funds to pay for abortions because it requires that all costs associated with the abortion procedure be paid by the individual. Even DOD's own policy letter admits that the ban on using DOD funds is not violated when military medical facilities are used to perform abortions paid for by the individual. Nor does this amendment impact DOD regulations which provide that military medical personnel are not required to participate in abortion procedures if they object because of their ethical, moral, or religious beliefs.

WHAT THE AMENDMENT DOES

Adoption of this amendment eliminates the inequity that the current policy has created. It removes the obstacles that have been thrown in the way simply because these women are in the service or are dependents of those in the service. It simply gives these military women access to the same medical procedures available to women living in the United States.

Moreover, Mr. President, if people are not persuaded by the fundamental fairness of this amendment, this measure also eliminates the policy which can force a woman to seek an illegal abortion if she is stationed in a country outlawing abortions, and the policy which can force a woman to rely on a substandard health care system in a country that does not routinely apply the health care standards to which we in the States are accustomed.

What could possibly be the rationale for transforming an otherwise safe and legal procedure into an illegal act or a needlessly life-threatening situation? Why would DOD seek to make its people commit criminal acts or risk their lives for the sake of subverting a constitutionally protected right? Mr. President, I submit, we, as legislators, cannot stand by idly while the rights of these women are eroded.

THE DEBATE'S LEGAL FRAMEWORK

Before we embark on the kind of debate that has become customary whenever the Senate addresses issues related to abortion, let me lay out the contours of the real debate so that we can avoid being diverted by arguments that really have no place in this debate.

Let me begin at the most basic and fundamental level with the constitutional perspective. U.S. citizens have a constitutionally protected right to obtain an abortion.

People can disagree with that policy, but they cannot dispute, nor, more importantly, can they ignore, the fact that our Constitution has been interpreted to protect this fundamental right. Therefore, the question of whether abortion should or should not be a protected right is not an issue here today and arguments against this amendment based on the belief that abortion should not be legal miss the mark. Abortion is legal and thus, the debate must begin from that starting point.

The real question is whether we will continue to allow the Department of Defense to compromise the undisputed constitutionally protected rights of our servicewomen and dependents by denying them access to safe, legal abortions in military medical facilities overseas. Mr. President, I maintain that we cannot tolerate the arbitrary curtailment of constitutional rights.

And, Mr. President, let me add that when I speak of the arbitrary curtailment of rights I am not raising arcane concepts of constitutional law, I am talking about a policy which sends women to abortion clinics in underdeveloped countries exposing them to questionable health care practices. I ask you, Mr. President, what does that say about the respect the Department of Defense shows for the rights of individuals who would risk their lives to protect our basic freedoms.

When Mr. WIRTH and I introduced a similar amendment to the last 2 year's Defense authorization bills, opponents of the amendment raised a whole host of issues which really have no bearing on the merits of this amendment. Mr. President, I intend to put those arguments to rest at the very outset.

OPPOSITION'S ARGUMENTS LAST YEAR

Last year, opponents of this measure argued that the measure was unnecessary because the number of abortions performed in military medical facilities overseas would not be very high. They argued that it was unnecessary because DOD officials had not sought a legislative change to their policy. They argued that access to abortions in military medical facilities overseas was unnecessary because servicewomen and dependents could always fly back to the United States to obtain an abortion.

They also argued that the 1984 statutory ban on funding abortions would be undermined by this amendment. They argued that the funding ban was not just a funding ban, but that it was a ban on Government involvement in abortion services. They argued that the amendment would allow abortions to be performed in the third trimester of pregnancy, or that this amendment would be used as a vehicle to select the gender of a child.

OPPOSITION IS NOT PERSUASIVE

I think you will see, Mr. President, that none of these arguments is persuasive. In fact, I believe that most of these arguments are designed to confuse and inflame the issue.

As I've already mentioned, Mr. President, opponents last year sought to defeat this measure as unnecessary because, in their view, there isn't enough of a need for it. That is, it is unnecessary because too few women would need to obtain abortions in military medical facilities. In a related argument, opponents argued that the amendment was unnecessary because neither the Secretary of Defense nor the Assistant Secretary of Defense for health sought this legislation.

Mr. President, I find it almost incomprehensible that Members of this body would condition protection of a constitutional freedom on how frequently the need for protection arises. I ask those Senators what the magic number should be? Mr. President, even if it turns out that only one woman seeks to obtain an abortion, I believe all women should be guaranteed access to safe, legal abortions while they are stationed overseas. Moreover, the fact that senior officials in the Defense Department have not sought this legislation has no bearing on the issue. The right to an abortion is a constitutionally protected right. I do not think we need to look to these officials as the arbiters of our constitutional freedoms.

Mr. President, opponents of this measure have also argued that this amendment violates the statutory ban on using DOD funds to perform abortions. This argument is simply wrong, Mr. President. Under this amendment, the individual seeking the abortion would be responsible for its cost, including all indirect costs associated with the procedure. No taxpayer dollars would be used. And as I mentioned earlier, even DOD acknowledges that the ban is not violated when the individual pays for the abortion.

In a strange twist, these same opponents have argued that the current DOD policy need not be changed because women seeking abortions in countries where abortions are illegal or in countries where the health care system could imperil their lives are free to take leave, and fly back to the United States or to another country to obtain an abortion. I find it incredible that these same opponents who view abortions fully paid by the patient as involving the expenditures of DOD funds would suggest that women fly back on military aircraft to obtain abortions. If anything were to violate the ban on using funds, flying around on military aircraft would seem more likely to do it.

Moreover, needlessly making women fly around the world to obtain an abortion because they happen to be in military service and stationed overseas

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(A) by striking "1991" each place it appears

tinguished colleague from Ohio. The

vised that this is the kind of a promise

VOL 137
PT 23
NO 21–25
1991
UMI

seems to be a thinly veiled attempt to make a woman's exercise of a constitutional freedom as difficult as possible.

Lastly, Mr. President, this amendment does not affect the scope of sanctioned abortions. So I ask my colleagues not to be taken in by arguments that this amendment would allow abortions in the ninth month of pregnancy or to select the gender of a child. This amendment merely provides access to abortions for military personnel stationed overseas. It does not allow or prohibit anything more or less than is allowed or prohibited in the United States.

Mr. President, as I have now said a number of times, I support this amendment because it demonstrates the fact that Congress respects the constitutional rights of our servicewoman and military dependents. I urge my colleagues to support this amendment to restore sanity and compassion and reject the absurd interpretation of the funding ban and its potentially deadly consequences.

Mr. CHAFEE. Mr. President, I would like to express my support for Senator LAUTENBERG's amendment. This amendment would simply afford women serving overseas in the military the same reproductive rights that they would have had they chosen to remain in the United States.

In the past years, we have seen an increasing participation by American women in the U.S. military. We welcome the service of these women, and admire their patriotism and courage. If anything, we should be going out of our way to accommodate these women, who often leave behind children to serve our country. Instead, we have a policy which discriminates against them and, in many cases, places them at medical risk.

There are many in this body who are opposed to abortion rights. Yet the fact remains, that, at least for now, in the United States, a woman has a right to terminate a pregnancy if she so chooses. Under current law, women in the military and female dependents of those serving in the military may not obtain abortions at military hospitals. An unfortunate 1988 directive prohibits military hospitals from providing abortions. This places these women in the untenable position of having to seek abortions at a health facility in that foreign country, if it is even legal, or to try to come back to the United States in time to have the procedure performed safely.

This is terribly unfair. First, in many countries, abortion may not even be legal, thus the woman may be forced to seek an illegal abortion. Second, many countries do not have the same standards of health care as we have in the United States, and the woman would be forced to use such substandard care. Thus, in effect, women stationed overseas, be they serving in the military themselves or dependents of military families are prevented from obtaining a medical service that is guaranteed by the U.S. Constitution.

This amendment would allow military hospitals to perform abortions and the woman would be required to pay for the service. We are not asking the U.S. Government to pay for the service, just to provide women with the same access to health care as she has in the United States. This is fair, and I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate on the underlying amendment?

The question is on the Lautenberg amendment, as amended.

The amendment (No. 1407), as amended, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

AMENDMENT NO. 1409

(Purpose: To provide an incentive for increased consumer spending and to provide a short-term economic stimulus by waiving the penalty under the Internal Revenue Code of 1986 on certain withdrawals from pension plans which are used to purchase consumer goods and other items and by extending for 1 year the research and experimentation tax credit, the low-income housing tax credit, the mortgage revenue bond tax provisions, and the targeted jobs tax credit.)

Mr. SPECTER. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DOMENICI, proposes an amendment numbered 1409.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

TITLE —PENALTY-FREE WITHDRAWALS

SECTION 01. SHORT TITLE.

This title may be cited as the "Consumer Confidence and Financial Flexibility Act of 1991."

SEC. 02. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for he taxpayer's first taxable year beginning in 1991 exceeds—

(1) $1,000,000 in the case of married individuals filing a joint return,

(2) $50,000 in the case of a married individual filing a separate return, and

(3) $75,000 in the case of any other taxpayer.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning on the date of the enactment of this Act and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is spent by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs,

to purchase or improve real property or to purchase durable goods.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 03. ONE-YEAR EXTENSION OF RESEARCH AND EXPERIMENTATION TAX CREDIT, LOW-INCOME HOUSING TAX CREDIT, MORTGAGE REVENUE BOND TAX PROVISIONS, AND TARGETED JOBS TAX CREDIT.

(A) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Paragraph (5) of section 864(f) of the Internal Revenue Code of 1986 (relating to allocation of research and experimental expenditures) is amended—

(A) by striking "2 taxable years" and inserting "3 taxable years", and

(B) by striking "August 1, 1991" and inserting "August 1, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after August 1, 1991.

(b) LOW-INCOME HOUSING CREDIT.—

(1) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(A) by striking "1991" each place it appears and inserting "1992",

(B) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(C) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(D) by striking "1994" in paragraph (2)(C) and inserting "1995".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1991.

(e) MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(2) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(3) EFFECTIVE DATES.—

(A) BONDS.—The amendments made by paragraph (1) shall apply to bonds issued after December 31, 1991.

(B) CERTIFICATES.—The amendment made by paragraph (2) shall apply to elections for periods after December 31, 1991.

(d) TARGETED JOBS CREDIT.—

(1) IN GENERAL.—Paragraph (4) of section 51(c) of the Internal Revenue Code of 1986 is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to individuals who begin work for the employer after December 31, 1991.

Mr. SPECTER. Mr. President, in the interest of expediting the proceedings on this important legislation, I have had a discussion with the distinguished chairman of the Appropriations Committee hoping that this might set an example. Senator DOMENICI and I are prepared to agree if its agreeable with others to 40 minute time limits, equally divided.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. SPECTER. I yield.

Mr. BYRD. Mr. President, the distinguished Senator has offered to limit debate on his amendment to 40 minutes to be equally divided. I wonder if there is any objection to that.

Mr. BENTSEN. Mr. President, reserving the right to object, I would say to the distinguished chairman of the Appropriations Committee, as chairman of the Finance Committee I am deeply concerned about the amendment. It obviously violates the constitutional ruling as to the origination of revenue measures. I want to be sure that the Senator from Texas had some time.

Mr. BYRD. Mr. President, I ask unanimous consent that the time on the amendment be limited to not to exceed 40 minutes with the Senator from Pennsylvania in charge of 20 minutes and the Senator from Texas in charge of 20 minutes.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, could we be advised as to what the amendment is?

Mr. SPECTER. Mr. President, I would be pleased to respond to my distinguished colleague from Ohio. The amendment seeks to alter the rules on withdrawals of funds from IRA's so that people would not have to wait until they are 59½ and could withdraw without penalty up to $10,000 a year to stimulate the economy.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the amendment which Senator DOMENICI and I are offering, is directed to provide a stimulus to the economy which is so sorely in need of increased consumer purchasing power. We face a very serious economic situation in the United States today and we are limited as to what we can do within the current budget agreement. It is not possible for additional expenditures to be made by the Government nor is it possible to reduce taxes in order to provide additional consumer purchasing power.

But after some thought and analysis, Senator DOMENICI and I propose that the very considerable existing funds in IRA's and 401(k) plans could be made available to stimulate consumer purchasing power. There are in these funds in excess of $800 billion. They cannot be withdrawn by those who own them, IRA's, for example, until someone is 59½ without paying a considerable penalty.

Our thought is, and this amendment proposes, that there would be permission to withdrawn up to $10,000 by middle-income or slightly higher taxpayers, limited to those who have incomes of $75,000 a year individually or for married taxpayers, $100,000 a year, without penalty and without tax in the year of withdrawal, providing that $10,000 is spent on consumer goods. The tax would then be paid in equal installments in each of the next succeeding 4 years.

We have given considerable thought to this amendment. We had tried to put it on the unemployment compensation bill which might have been a more appropriate vehicle, but could not do so. We recognize that technically it is legislation on an appropriations bill, but that is a rule which is honored in the breach when necessity arises, as it just did on the preceding amendment.

We think this is a very, very important measure which ought to be enacted this year. We have discussed this matter with the Secretary of the Treasury, Nicholas Brady, with the Chairman of the Federal Reserve, Alan Greenspan, with the Chairman of the President's Economic Advisers, Michael Boskin, and all have been very interested and have responded that it is a matter certainly worth pursuing. There has not been a final commitment made by the administration at this time.

We also have discussed with Chief of Staff, Governor Sununu, who has advised that this is the kind of a promise that in broad outline, again without a final commitment, that the President would like see moved ahead, although again there is no final commitment.

We are facing very, very serious economic problems. We are a nation with great wealth, great resources but we are in a state of great difficulty. We have sought for the past 2½ weeks to get some sophisticated projections as to how much would be spent, but candidly nobody knows. Even with the penalties, Mr. President, we are advised that there are some $10 billion a year withdrawn from IRA's, and it is the thought of Senator DOMENICI and myself that there would be very, very considerable expenditures. There is a relatively limited downside in terms of restricting savings because it is only $10,000 per person.

We think this would be a very significant help. It is patterned in effect after some of the legislation introduced by the distinguished chairman of the Finance Committee as to future IRA's where there are provisions for withdrawals for important items like first-time homebuyers, college education, and medical expenses. We think it is a very promising idea and urge its adoption.

How much time remains Mr. President?

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator has 15 minutes and 20 seconds.

Mr. SPECTER. I yield 5 minutes to my distinguished colleague from New Mexico.

Mr. DOMENICI. Mr. President, I note that the distinguished chairman of the Finance Committee is waiting and I am sure he knows we do not intend to take a long time this evening. We already agreed to a rather short time for debate.

Let me say that I am sure we will hear the argument that the country needs more savings and not less, and no one will get an argument from the Senator from New Mexico. He will not argue with anyone that says that. In fact, I think we should substantially change the Tax Code so that we have far more savings and far more investment and less consumption in this country. But I believe we are in a very serious economic downturn.

As a matter of fact, I believe that this is the most unusual of all downturns, because while the manufacturing industry is somewhat down, and unemployment is somewhat high, it is not really very high. We had a recession 2½ points higher than this one, in fact, the last time out. We were up around 9 or over 9 percent unemployment. But this one appears to many to be more severe, and I think that is the case because real estate is in an almost freefall status in the American economy. And it is a huge part of the GNP and a huge part of our assets and wealth.

Many people are worried about

Mr. BENTSEN. Mr. President, I yield

country on consumer products. I don't

VOL 137 PT 23 NO 21–25 1991 UMI

Many people are worried about spending money because they think their property, their real property is going down in value and their homes are in jeopardy. I think that unless we build something very quickly on the consumer side to start confidence, I believe there is a chance that it will continue in that kind of downturn with real estate in somewhat of a freefall with the exception of housing starts, which are stabilizing a bit. Nothing to write home about yet, but stabilizing.

So it seemed to me that for a very short period of time, 6 months, you ought to be able to draw from your IRA account up to $10,000 spend, it on yourself, on your child, or on your grandchild for any of the following: a home, an automobile, home improvements, or the big appliances that go into a home. That is what we have enumerated. If people will do that, they will start the kind of growth that the economy needs.

Almost everyone says get the housing market started, stabilize that automobile market somewhat, and we will be coming out of this economic downturn. That is precisely what this will do. Now the argument that we should not take out of savings because over the long term we need savings, leads me to suggest the following. If this were to reverse the downward trend even 6 months earlier than it would otherwise occur, you will save more money in both savings accounts and in assets that will not disappear through bankruptcy and insolvency, than what you will take out of the IRA accounts to spend under this proposal.

I would not have been part of this unless I was absolutely confident that in the short term it will help, in the long term it will cause no damage, and we are not permanently changing anything. But if we could entice people to spend that money now, it would truly do some positive things.

Now you might ask: why would they withdraw it when it is only a penalty that is forgone? Well, we are also doing another thing. We are saying that the $10,000 that you take out, upon which you owe taxes, you do not have to pay right now. In fact you pay it over 4 years in 4 equal installments, the first one being at the end of the taxable year during which you withdraw the funds. It seems to me that is a big advantage along with no penalty, and we might get very, very many billions of dollars taken out and spent that would not otherwise have been taken out of the IRA accounts and spent.

Nonetheless, the concept of the incentive for IRA's should remain, and we ought to look in the long term at something better than we have been able to do. But for now this seems to be a petty good way to accomplish what most economic experts are saying we ought to try to do.

I thank the Senator for yielding me time, and at this time I yield the floor.

Mr. BENTSEN. Mr. President, I yield myself 5 minutes.

Mr. President, this is a replay of the amendment of the junior Senator from New York that we dealt with earlier today. Let me make it very clear this amendment is a revenue measure. The Constitution says that revenue measures must originate in the House, the House feels very jealous about those prerogatives. That means all the work on the underlying bill, the dire emergency appropriations bill, could be down the tubes if this amendment is adopted.

Now let me talk about the substance of it for just a moment. This amendment does not encourage savings. This amendment will encourage the short-term spending of the retirement savings of the people of this country. It will allow them to use that money to buy TV's, VCR's, and boom boxes.

That is what would happen, if it ever became law. But it will not become law because adoption of the amendment would violate the Constitution of the United States and the House will object. Even if the House did not object, the courts would hold this not to comply with the Constitution because it is a revenue measure and revenue measures must originate in the House. As a result, this amendment is a wasted effort. In the end it is nothing more than showboating.

I strongly urge the Members of this body to resist this amendment. As I said, the Senate just defeated another unconstitutional amendment offered by the junior Senator from New York [Mr. D'AMATO]. But this amendment also reminds me of another D'Amato amendment that was passed here late one night where we tried to put a cap on credit card interest rates. I went along with that. It sounded good. By the next day I knew better. I began to understand what could happen to consumer spending and that many people might lose their credit cards. This amendment has the same kind of appeal as the earlier D'Amato amendment. It sounds good, but the long-run consequences could be very negative.

Let us take a closer look at this amendment and see what would happen if it ever became law. I have talked to some of the financial institutions in the country, and they are concerned about a possible run on the banks. They are concerned about the IRA accounts that they are administering and the amount of money that would pour out of the banks. Financial institutions are having enough trouble now with liquidity. If that kind of situation developed, if this amendment were really to work, to really stimulate the economy, then it would take a massive outflow in the IRA and other retirement accounts into consumption, consumption of durable goods.

But this is no time to deplete the retirement savings of the people of this country on consumer products. I don't think there will ever be such a time. It is one thing to allow IRA's to be used to invest in a home. It is one thing to allow the investment in the education of children or to take care of a serious unexpected medical illness, as has been done under some of the other IRA proposals. But to encourage people to deplete their savings to go out and buy durable goods is very short-sighted. My friend from New Mexico says he is confident that would result in a net positive for the economy. But, how does he know that? I do not know that. And he cannot know it. We can't afford to take that kind of risk with the retirement savings of millions of Americans.

My friend from Pennsylvania says that he talked to the Secretary of the Treasury and he says it was an interesting idea. Boy, I have used that line a lot of times without making a commitment on it. And that is what you are facing here.

So I strongly urge my colleagues not to buy this one. If you do, all the work that the chairman and ranking member of the Appropriations Committee have done on this supplemental appropriations bill could be for nothing. This critical and essential bill could go down the drain.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I wonder if I might have 4 minutes.

Mr. BENTSEN. In opposition to the amendment?

Mr. CHAFEE. Yes.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. BENTSEN. I am glad to yield 4 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I join with the distinguished chairman of the Finance Committee in opposition to this amendment. This is a very, very difficult position for me to take because I have such respect for the sponsors of the amendment.

Setting aside the arguments that the chairman made regarding the fact that this would blue-slip the entire bill should the amendment succeed and it go back to the House—I think he presented those arguments very, very well—it seems to me we get back to the fundamental question that we are caught in a crossfire here, Mr. President. We are urged on the one hand to increase our savings in the United States. So IRA's were developed. And all of us, at least those that fall in the proper income brackets, use the IRA's as a form of saving, it is an inducement to save.

And then on the other hand, we have some saying the trouble with this recession is the consumer does not have confidence, the consumer is not out

there spending enough. And so we have amendments such as this that would permit the more rapid and earlier drawdown of IRA's than currently is possible under the law.

I want to associate myself with the remarks that were previously given by the senior Senator from Texas. I just do not believe that is truly going to be a stimulus for the economy. I think there is probably going to be a rush on; it would disturb the banks with this withdrawal; there would be fewer savings obviously available.

Then what is it going to be used for? I do not think its going to be used—I may be mistaken; who knows?—but I just do not think it is going to be used for the major big ticket items that are going to be necessary to pull us out of this recession. I hardly think somebody is going to go out and buy a new automobile because they have some money in an IRA and they can pull it out early. In this kind of a mood that people have, your determination to buy a new car or not is based upon how good your job is, and whether you are going to keep your job. And your determination whether you are going to buy a new House is what are your job prospects, your wife's job prospects, are you going to keep the job, either of you. You do not make a decision to go out and buy a home, or buy an automobile because you can pull some of the money out of an IRA, and have to pay the income tax over a 4-year period.

So it does not come free. I would like to believe that it is going to be of help in pulling us out of the recession, but I have a feeling it is really not.

Now that does not mean we should not do something. And we have had the privilege of meeting with the distinguished Senator from New Mexico on what we should do. And of course everybody has different ideas.

But I would like to take this opportunity to submit to this body that what we ought to take are those steps that are going to encourage our competitive position in the world, and that is encourage our manufacturers to invest in more productive machinery so we can better compete. I think the route that that leads us to is the reinstallation of the investment tax credit.

Now, Mr. President, I am sure many will laugh to themselves when they hear that because the distinguished chairman of the Finance Committee for years, the senior Senator from Louisiana, used to say this, I will never forget, when we had our tax reform efforts—not efforts, when we reformed the Tax Code in 1986 and repealed the investment tax credit. He said, you will be back here reinstituting the investment tax credit when times are bad.

And I think he is right.

So, Mr. President, while I reluctantly rise in opposition, not solely for the procedural reasons but also for the reason I just do not think it is going to do the job, I would commend our good friend from New Mexico to keep up his efforts. He is giving us leadership on this side of the aisle, anyway. And I hope we continue to look at reinstituting the investment tax credit which I really think will do something positive, to pull us out this recession.

I thank the Senator from Texas.

Mr. BENTSEN. Does the Senator from Delaware care for some time?

Mr. ROTH. Yes.

Mr. BENTSEN. How much time do we have left?

The PRESIDING OFFICER. Eleven-and-a-half minutes.

Mr. BENTSEN. I yield 4 minutes to the distinguished Senator from Delaware.

Mr. ROTH. Mr. President, the Senate must not approve this amendment. I believe this proposal would compound the already devastating savings crisis in America.

I, too, have the greatest respect for the two Senators who are proposing this amendment. But as has already been said, it will neither help this country from the standpoint of savings, nor will it have the beneficial effect that they intend it have, to move this country out of a recession and into better times.

I greatly regret that the United States is not a savings country because it is affecting our ability to compete with other countries. It is a fact that the average 50-year-old only has savings of around $2,000—a deplorable fact. I am sure everyone here would agree with me.

But to propose now that individuals could take up to $10,000 for consumption is a very shortsighted proposal in my judgment.

What we are trying to do in the IRA, the super IRA that the distinguished chairman of the Finance Committee and myself are sponsoring, is to promote savings. It is true that we provide certain conditions under which it can be withdrawn—in the event of a crisis in health, to buy the first home, to send a child college. But those are incentives to get people to save more. And there is nothing attached to that here. This, in my judgment, is a dangerous precedent. If this becomes law and the courts would enforce it, it would mean every time there is some kind of crisis we would open the process of withdrawing funds, which is exactly the wrong way to go if we are going to promote growth and jobs in this country.

I also agree with the distinguished chairman when he says this proposal is not constitutional. This is a revenue measure. If it was adopted by the Senate, there is no question but what the House would reject it, and the entire supplemental bill would be gutted as a result.

So I hope my distinguished friends would not support this amendment. Both the chairman and I are strong believers we have to do something in the tax area to provide some help to both the American people and to the economy. But this is not the place, or time, or means of doing it.

So I encourage my colleagues to vote down this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senaitor from Pennsylvania.

Mr. SPECTER. Mr. President, I am a little surprised by the arguments advanced by the three speakers in opposition to this amendment because the Senator from Texas and the Senator from Delaware are sponsors of a very similar bill to have IRA's in the future, where they could be used for important purposes, like first-time home purchases, for college tuition, or medical expenses.

So, they are principal exponents of the proposition to have IRA's to be expended for important purposes of public policy. And that is precisely what is being done by this amendment.

When the country faces the serious problems we have now, I hardly think it is logical that as the Senator from Delaware says this is a terrible precedent because every time a problem arises we will be doing this sort of thing.

I would say to the Senator from Delaware that when a problem is as perilous as the economy of the United States is today, it is high time the Senate took some action. I do not think this Congress sought to go into recess. I do not think we ought to leave here after Thanksgiving for the month of December when the United States faces the serious problems that we have.

We should not be on vacation when millions of Americans are on a forced vacation by unemployment. When the Senator from Rhode Island says we ought to be doing something about it, we ought to have an investment tax credit, I agree with that. Let him bring a bill to the floor for an investment tax credit. We ought to be doing that to stimulate the economy, to encourage producers to have new equipment, to provide more jobs for Americans. But let us not all be nay-sayers. Let us find something which is useful. We have some great brain power in this body and some of those with the great brain power in this body are arguing against this bill.

We have the Senator from Texas and the Senator from Delaware and the Senator from Rhode Island who have been on the Finance Committee for five decades among them. Let us see tham bring forward some ideas which will help this country out of its serious economic problems.

When the Senator from Texas says he heard a great argument from the dis-

VOL
137
PT
23
NO
21
—
25
1991
UMI

tinguished Senator from New York [Mr. D'AMATO] on credit cards, what does that have to do with the proposal that Senator DOMENICI and I are advocating? Every time something comes up there is some non sequitur about the credit card issue, it does not make any sense.

The Chairman of the Federal Reserve, Alan Greenspan, and the Secretary of the Treasury, Nick Brady, and Michael Boskin, the Chairman of the Council of Economic Advisers, said it was a lot more than interesting, but they are waiting to see something happen from the Congress.

Frankly, this Senator is also waiting to see something happen. We have a duty to the American people to advocate something constructive and positive. If somebody has a better idea, this Senator will be delighted to withdraw his amendment. But I heartily disagree with everybody saying, 'No, not now," and "massive withdrawals." we need some confidence in the American people on consumer purchasing power. People are worrried about what is going to happen to their jobs.

I would paraphrase Franklin Roosevelt who said, "all we have to fear is fear itself." If the American people and the consumers see something constructive coming from the American Congress besides a lot of nay-saying, and others join in spending—people do have money but they are afraid to spend it. But if there is some concerted action taken to lend some purchasing power, consumer purchasing power—and it is their money, they do not have to take it if they do not want to. There is simply no penalty, and they pay the tax in 4 years.

This business about it being unconstitutional is simply not correct. The House considers appropriations bills to be revenue measures. I have sent for the precedents with Bob Dove, who is a noted expert on the Constitution. I have some familiarity with the subject myself. My research guide has come with some tools.

So I will yield the floor at this point, after inquiring what the remainder of time is that remains.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. BENTSEN. How much time?

The PRESIDING OFFICER. Six minutes. The Senator from Texas has 8 minutes remaining.

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Delaware.

Mr. ROTH. Mr. President, I agree with the distinguished Senator from Pennsylvania that the time has come for action. But I think it is important, in taking action, that we do what will not only help the short-term problem but the long range as well.

The problem with this proposal before us is that it is short range. It will take out savings from the Nation that is needed desperately for our long-term competitiveness.

I will say to the distinguished Senator from Pennsylvania that I wish he would look at my proposal, jog America, or the tax proposal introduced by Senator BENTSEN and sponsored by me in which we are, taxwise, trying to address the very problems we are discussing now. But there is a right way and a wrong way of doing that. While we want to jump-start the economy short term, it is critically important we do not do it in such a way that we hurt or damage the long-term growth prospects of this country.

I urge and I will send to my distinguished colleague my proposal which I introduced about a month ago to deal with the very problem with which he seeks to deal. I agree with my colleague. I would like to act, and think we should stay and do that now because I think the people are concerned and they are deeply concerned as to where this country is going.

Mr. President, there is a right way and a wrong way, and drawing down savings now short term is not going to help this Nation longer.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Will the President advise me when I am down to 2 minutes?

The PRESIDING OFFICER. The Chair will do so.

Mr. BENTSEN. Mr. President, my friend from Pennsylvania says that these bills that the Senator from Delaware and I have introduced on the IRA are comparable to what he is proposing today. He could not be more wrong. What we have done is to reinstate the fully deductible IRA—and create a new type of IRA. This amendment does nothing to promote savings. Our bill would allow some IRA withdrawals, but only for long-term investments—investing in that first home, investing in your children to send them to college, to pay for costly medical bills and then, of course, for retirement. But all those proposals promote new savings, making the IRA more attractive to millions of younger Americans.

Ours is prosavings. The proposal of the Senator from Pennsylvania is antisavings. It would hurt the long-term strength of the economy, by reducing the savings pool of this country. The annual savings rate in this country is about one-fourth what the Japanese save per capita, United States savings is less than half of what the West Germans save per year. Is it any wonder that we have a shortage of capital in this country?

What my friend is talking about is not a minor piece of legislation. It is major because it could affect the very fragile economy that we have in this country today. Do we really want people drawing down the retirement savings of this country to buy TV sets—to spend it on boom boxes.

The Senator from Delaware and I agree that something has to be done and has to be done soon, and that is why I have announced hearings on our tax legislation for next Tuesday. I urge my friend from Pennsylvania to be there. We would be delighted to have the Senator come and talk about his proposal. But a major piece of legislation like this—with its possibly serious effect on the economy and on the banks of this country, which are already in fragile condition—deserves full consideration of the committee of jurisdiction—the Finance Committee. I would be delighted to hear the Senator from Pennsylvania on Tuesday to tell us why he thinks this proposal will work.

But I say to my colleagues, what we need to do is to encourage savings in our country. Savings that are going to be used to help improve the productivity of our country, to help educate our people, to see that young couples who are having to live with mom and dad can own a home of their own. That is what we provide in the Bentsen-Roth IRA. That is the way we ought to go to invest in the future of our country.

I retain the remainder of my time.

Mr. DOMENICI. Will the Senator yield me 2 minutes?

Mr. SPECTER. I do.

Mr. DOMENICI. Let me first say this measure will last only 1 year, and that 1 year will start the date it becomes law. Second, Senator CHAFEE wondered whether people would indeed spend it for the things we have been speaking of here. I assure him they will spend it for that or they will have their penalty imposed, because they have to prove that to the IRS, just like you do on any other items within the Tax Code. It says that in the law, that is all you can spend it for and be entitled to be penalty-free and the 4-year payment of your taxes.

To those who oppose this because they are worried about savings, let me once again state the following: The Senator from New Mexico will join with anyone who will change our laws so that we will save more on a permanent basis. One of the reasons we are in this recession, or downturn—not the total reason, but one—is because we do not save enough. The problem now is not saving more. In fact, no one will tell you that they want the American people to save more now. In fact, they are saying they want to spend more, if anything.

Those who know about the economy are begging Americans to take money out of their savings account and spend it because we need customer purchases and confidence to come out of this downturn. We are merely saying that out of the $800 billion in IRA's and 401(k)'s, a small portion in the next year could be withdrawn for these purposes by the people we have described here. They will use it for the items we

say they will use it for in the law, or they will not be entitled to have their penalty forgiven and their 4-year tax payment of the $10,000 that they take out of their IRA's.

I submit that if only $40 billion came out, or $50 billion, the economic prophets are doomed. They say we will have runs on banks. They are absolutely insane. You would have to draw $200 billion out of these accounts for a significant impact on savings. Actually, anywhere from $40 billion to $50 billion to $60 billion taken out of IRA's that would not otherwise come out would be a magnificent consumer purchase injection into this economy. None of the tax bills that have been introduced to fix this economy will do that much in consumer purchasing power, not a single one introduced by the distinguished chairman or others. In 1 year from $40 billion to $60 billion would flow into the economy for the purchase of big ticket items. Nobody's tax proposal does that.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, a number of objections have been raised to this amendment, and I submit none has any validity. I will start with the one about it being unconstitutional and cite as precedent an amendment on a continuing appropriations bill on September 24, 1981, which would leave the $3,000 limit on expenses away from home, challenged in the Senate, sustained as an appropriate amendment on continuing appropriations, accepted by the House of Representatives and became law.

I can give you many more precedents, but I found this one in response to the argument by the Senator from Texas.

This conclusively proves that the argument by the Senator from Texas is wrong on the constitutional issue, and I submit the other arguments raised are similarly invalid.

When the Senator from Texas tells me about hearings next Tuesday and invites me to come, I already know about them and I have already made an application to appear before the Finance Committee.

When the Senator from Delaware says this may be short term but we need something that is long term, I am delighted to do something that is long term and I am glad to hear the Senator from Delaware say he thinks we ought to stay in session, too. I believe that the Congress of the United States ought not to take off in December. I will be glad to appear, as I plan to be before the Finance Committee, to expound upon this bill. I would like to see the Finance Committee take up a variety of measures and apply the talent there to find an answer.

When the Senator from Texas says that there ought to be full consideration by the committee of jurisdiction, I think the American people want something besides hearing about the committee of jurisdiction. That is what this argument is all about. The members of the Finance Committee, the Senator from Texas, the Senator from Delaware, the Senator from Rhode Island, do not like a matter being taken up which is within their jurisdiction. It is time not to talk about jurisdiction; it is time to talk about answers.

There is nobody in this body who knows more about finance and budget than Senator DOMENICI. He served as chairman of the Budget Committee for 6 years with great distinction, and when anybody wants to crunch the numbers, they come to PETE DOMENICI.

When he cosponsors this legislation and exercises his judgment that it will put $40 billion to $50 billion of consumer purchasing power into the economy, that is significant. It is time we did something, Mr. President, besides naysay.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. How much time does the Senator have?

The PRESIDING OFFICER. The Senator has 2 minutes 40 seconds.

Mr. BENTSEN. And the other side?

The PRESIDING OFFICER. Thirty seconds.

Mr. BENTSEN. Mr. President, this is not a minor amendment. If you vote for this, and if it carries, tomorrow morning when you hear the replies of the financial institutions of the country, you will be looking for a hole. You will be wishing you had not voted that way, and you will be trying to explain.

With Senator SPECTER'S amendment, we are talking about depleting long-term savings. That is the exact opposite of the legislation the Senator from Delaware and I have proposed. In the Bentsen-Roth IRA bill, we are talking about making long-term investments in the education of our children or buying that first home.

We think those are the positive things that have to be done. We are talking about permanent legislation, not some short-term spending spree that could affect the fragile economy; that could bring about a drain on the banks where they are having a very difficult time retaining enough liquidity today.

After all that, let us not forget what happens between the House and the Senate; and the relationship established between the two bodies by the Constitution. The authority to kill this bill is in the House, and the Ways and Means Committee will kill it. That means the appropriations bill could be voided, if this amendment were included.

Mr. BYRD. Will the distinguished Senator from Texas yield?

Mr. BENTSEN. I will be happy to yield.

Mr. BYRD. Mr. President, I support the position taken by the distinguished Senator from Texas. I only make this statement, which will be a little contrary to what he just said: The Ways and Means Committee maybe will blue-slip this. It will be blue-slipped before it gets to the House. It will be blue-slipped in the conference.

This is obviously a measure which is under the jurisdiction of the Ways and Means and Finance Committees, and under the Constitution revenue-raising measures must originate in the House. So I hope Senators will not take this amendment seriously in that it is being offered to this bill. We hope to get a bill to the President. This is a dire emergency bill. This bill is not going anywhere if we continue doing what we have been doing all afternoon.

I hope that Senators will vote to table the measure if the distinguished Senator from Texas moves to table it, because it is not going anywhere. It is not going anywhere in conference with this amendment on it, if it is adopted, and I do not want to see this bill go down the drain. We invested too much work in it already.

The PRESIDING OFFICER. The time has expired.

Mr. BYRD. I thank the Senator.

Mr. BENTSEN. I thank the Senator for his wise advice, and I will move to table when the Senator from Pennsylvania has used his allotted time.

Mr. DURENBERGER. Mr. President, I join the distinguished chairman of the Senate Finance Committee in opposing the amendment that would allow tax-free withdrawals from individual retirement accounts as a method of stimulating consumption in the economy.

Mr. President, none of us knows the short-term and long-term economic implications of this proposal. We already have one of the lowest savings rates in the world and this proposal will only serve to further drain savings. No one would doubt that this economy needs stimulation. Our factories need to be more productive; we need to increase our ability to compete abroad. We need more investment and we need more consumption.

I am convinced that we may need an economic growth package that will help jumpstart the economy. But piecemeal consumption measures written on the Senate floor as part of a supplemental appropriations bill will do nothing to help this economy. This will kill the appropriations bill because such tax legislation must originate in the House.

Mr. President, I know the chairman of the Finance Committee will be holding hearings on the state of the economy next week. I trust that the Congress and the President will act appropriately if a tax cut bill is necessary. However, this is not the appropriate time nor place to be putting together a tax bill.

VOL 137 PT 23 NO 21—25 1991 UMI

Mr. SPECTER. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has one-half minute.

Mr. SPECTER. Mr. President, when the Senator from West Virginia says he hopes the Senators will not take this bill seriously, I hope Senators will take seriously the serious problems of the economy. When he says this bill will go down the drain, I think it is a lot more important that the economy may go down the drain.

This is a positive step forward, and I urge my colleagues to vote for it and to resist the motion to table.

The PRESIDING OFFICER. Time has expired.

Mr. BENTSEN. Mr. President, I move to table the amendment, and I am joined in it by the distinguished Senator from Delaware.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 31, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—66

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Hatch
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simon
Symms
Warner
Wellstone
Wofford

NAYS—31

Bond
Brown
Coats
Cochran
Craig
D'Amato
Dole
Domenici
Garn
Gramm
Grassley
Helms
Hollings
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Sasser
Seymour
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Wirth

NOT VOTING—3

Breaux
Harkin
Kerrey

So the motion to table the amendment (No. 1409) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I would like to try to get a reading on a list of amendments that I have before me.

Mr. President, may we have order in the Senate? We do not have order in the Senate. I am looking at a couple of my friends on the Republican side.

Now let me see if I have order over here?

The PRESIDING OFFICER. Those Senators wishing to chat will please retire to the cloakroom.

Mr. BYRD. Mr. President, I think the time has come for some serious talk. The distinguished majority leader has indicated that if the bill is not completed tonight then the Senate will be in tomorrow, and I think that we must continue to go tonight as long as we can go, because even so, we will not finish tomorrow unless we get more work done this evening than we have done thus far.

This is a dire emergency supplemental bill. It is not a bill that should be a vehicle for various and sundry legislative amendments. If we had plenty of time, I could understand the feeling of necessity on the part of some Members to try to put their rider on this horse.

This horse is not going very far. I intend to drop a great many of these amendments in the conference because the President is going to veto it anyhow, so we might as well just kill it here if we continue to add these amendments.

I do not say that disrespectfully of any Senator who is serious about his amendment. But there has been a good deal of work done on this bill and obviously it is not a bill on which we ought to try to attach revenue amendments. We have had already two or three efforts of that today, and the Constitution, if we have read it lately, indicates that revenue-raising measures must originate in the House.

So we are wasting our time in calling up revenue measures, and those bills are not going to be blue slipped by the Ways and Means Committee. They are going to be blue slipped right in the room across the hall here when the conference meets.

I have 25 amendments listed on the Democratic side, and I have 35 amendments on the Republican side. And 35 and 25 add up to 60.

Now, I have been talking with my friend, Mr. HATFIELD, and it is my feeling that after a little more patience is demonstrated on the part of Mr. HATFIELD and myself, inasmuch as we only have I day left this week, that is Saturday, and we only have 2 days next week, if we hope to get out of here in time to give Senators an opportunity to catch their planes and make arrangements to get out of town before Thanksgiving, I thank that a desperate situation requires desperate action. So, it would be my intention if my friend will join me, and if he does not, I may try it anyhow, to move to table amendments that are legislative in nature and that are not of an emergent nature. This is a dire emergency bill.

I hope Senators will understand that I recognize their right under the rules to offer the amendments. I recognize how each Senator feels that his amendment is of such degree of importance that he should make an attempt to get it on this bill.

But it is not going anywhere, I tell my friends, and in order to save time, then, after a little while longer, after sitting here a little while longer, I am going to let Senators know when I am ready to start moving to table amendments that are legislative in nature, or that are not of a dire emergent nature. I am going to move to table.

Now the Senate might not want to table. I fully understand that Senators may vote otherwise. But, we have to take some extraordinary action here if we hope to complete this bill.

If we were going to be in session all next week, and all of the next week, it would be a different thing. We would have a lot of time for some fun. But the time is running out. And so I hope that Senators will understand the spirit in which I am saying these things. I am not angry. I am not impatient. I just feel that one has to face up to the reality of things, and the reality is that we hope to get this bill passed, and I do not want to go home and have the President charge Congress with not having passed a dire emergency supplemental.

Let me read the list.

Mr. HATFIELD. Will the Senator yield for just a moment?

Mr. BYRD. Yes.

Mr. HATFIELD. Mr. President, I thank the Senator for yielding. I would like to associate myself with the remarks made by the chairman. I will be a happy and willing partner for the extraordinary action that he has indicated might be taken.

Mr. President, I would like to just make one observation. From my perspective as a member of the Appropriations Committee, we have spent more hours in this Senate on amendments on

appropriation measures than any other vehicle we act upon. I would only like to suggest that if you look at the number of amendments that have been adopted on Appropriations Committee bills in the past and the numbers that survive the conference, it is indeed a very poor cost-benefit ratio. The hours do not justify the efforts that have been made for those amendments.

I am using this as an illustration. We may add 35 amendments, and 2 survive the conference. That is the history of the appropriations conference because the House has more strict rules governing what can and what cannot be on an appropriations vehicle than the Senate has.

And the House just sits there in these conferences and says to us: It may be meritorious, but it does not fit our rules.

So I plead with the Senate as well to just learn out of our history that the hours we spend in this exercise do not bear results or fruit.

Mr. President. I again respect everybody's right to offer amendments on vehicles because our rules of procedure provide that right. But let us look at it pragmatically, and the practical aspects of how much good it does to spend the hours on some of these amendments when they have absolutely no chance of surviving, and the rotunda of this Capitol is full of thieves that rob these amendments from the Senate vehicle before we ever get over to the House on occasion. I just think that ought to be understood, too.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. MITCHELL. Mr. President, I strongly endorse the words of the distinguished chairman of the Appropriations Committee and urge our colleagues to permit prompt disposition of this measure.

And I now make an appeal to the self-interest of Senators. We have to complete action on this bill and then we are going to proceed to the Defense Department appropriations conference report, which I am advised will stimulate some debate—I hope not excessive—but a reasonable and fair and appropriate amount of debate.

It is my hope, and I have discussed this with the distinguished Republican leader, that we will then be able to go to the CFE Treaty. There is something which the President has asked the Senate to take up and consent to: the Secretary of State has asked repeatedly. We are now in the awkward situation where we have proposed taking that treaty up, but are now prevented from doing so by Republican objections to dealing with that treaty.

I know the distinguished Republican leader is working to eliminate those objections, but I appeal to my colleagues on the ground that this is an important measure for the country and something which the President has negotiated, which the President has asked us to act on and the Secretary of State has asked us to act on, and yet we are prevented from going to it at least up to this point because of Republican objections.

So I know the distinguished Republican leader is doing his best, working diligently in that regard, and I hope he is successful. In any event, we will have to proceed to it. If we cannot do it by consent, then it means a somewhat longer process involving the possibility of lengthy debate and numerous amendments, which I hope does not occur because I personally support the treaty and commend the President and the Secretary of State for its successful negotiation.

Mr. President, I have been asked by a number of Senators on both sides of the aisle about various items that have been before us and that may be before us. I would like to just state briefly that, both Houses now having passed the banking bill, that matter is now the subject of discussion with Senate and House participants, the Secretary of Treasury and others representing the administration. We have to act on that bill. We have to act on the Resolution Trust Corp. funding bill. That is essential.

The surface transportation bill is in conference. I know the conferees met very late last night, and into the early morning hours today. We hope that progress is being made there and that we are going to be able to act on that.

The conference has begun or I expect shortly will begin on the crime bill. We hope to be able to complete action on that measure as well.

The Finance Committee met this morning on the question of the Medicaid regulations, and I know that the administration and the Governors have worked out an agreement. Senator BENTSEN's committee has reported out a proposal that we are going to try to deal with. I hope it will be the subject matter of an agreement.

I do want to say that we will not be taking up the energy bill this year, but I do intend to give it a very high priority early next year. I know a lot of work has been done on it, particularly by the distinguished chairman of the committee, the distinguished Senator from Louisiana. I have discussed the matter with him and with the distinguished Republican leader. While it is, in my judgment, not possible to complete action on that legislation this year, it is important that we have a comprehensive national energy policy, and this is the matter which I intend to give a very high priority early next year. I look forward to working with the distinguished Senator from Louisiana in that regard.

Mr. President, I do not want to create the implication, if I have left anything out for this year, that I have suggested an exclusive list. There are several other things that we are going to take up and deal with. The distinguished Republican leader and I meet now on an almost continuous basis. I have attempted to highlight some of the important measures to buttress the points made by the distinguished chairman of the Appropriations Committee about the need to move promptly on this bill.

I now, Mr. President, yield to the distinguished Republican leader.

Mr. DOLE. I want to underscore what was stated by both managers. I would not wait too long. I would hope your patience is wearing thin, because we have been in fairly late every night this week and we will be in late this evening—we anticipate that—and we will be here tomorrow. I would say if the list got too long tonight, we would have to have something to do tomorrow in addition to the other matters listed by the distinguished majority leader.

I would be prepared to table all of them en bloc. Just ship them all up there and we would have one vote on 45 amendments. I think it would be unanimous.

These are very important amendments. Everybody has a right to offer amendments, but this is a dire emergency supplemental appropriations bill. I have given the distinguished chairman two pages of amendments on this side. In some places there is a name that has three amendments following it, so it is probably more than the two pages. If I understand this is satisfactory with my colleague, Senator HATFIELD. We are prepared to say we will not add any more amendments on this side. Hopefully within the next 30–40 minutes we can trim that list substantially. But I want to cooperate with the chairman and Senator HARTFIELD, and I think most members do. Whenever the chairman indicates that he is prepared to start tabling amendments, then I think he will have cooperation on both sides.

Mr. MITCHELL. Mr. President, if I just might add one point. We want to get this done because Senator DOLE and I are united in our determination that we are going to adjourn prior to Thanksgiving. Every Senator here—almost every Senator—has come up to me at some time or other in the last few weeks and said, "Now we have got to get out of here prior to Thanksgiving, and I encourage you, I urge you, I applaud you," various words of support. But each of those Senators must recognize that when this comes to delay, in the famous words of Pogo, "We have met the enemy and it is us." So we cannot have it both ways.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. We will be coming back next year. If we miss anything, next year, we will have another chance.

VOL 137
PT 23
NO 21—25
1991
UMI

Mr. MITHCELL. That is right. There will be ample opportunity for Senators who feel they have something that is important to deal with it, recognizing again every Senator has a right to offer amendments. But those Senators who expressed a desire to complete action so that we can adjourn prior to Thanksgiving must recognize that, to the extent they contribute to the delay, they make it more difficult to obtain that objective.

Mr. BUMPERS. Before the majority leader yields the floor, will he yield for a question?

Mr. MITCHELL. Certainly.

Mr. BUMPERS. Would you like to provide some incentive to finish this bill by saying, for example, if we finish this bill tonight, we would not be in tomorrow?

Mr. MITCHELL. I am very sorry that I cannot say that because I have already said exactly the opposite of that twice today. When we finish this bill, we are going to go to the defense appropriations bill, and then it is my hope to go to the CFE Treaty tomorrow.

Mr. BUMPERS. So we will be in tomorrow regardless?

Mr. MITCHELL. Yes, we will.

Mr. BUMPERS. Then I do not care if we finish this bill tonight or not.

Mr. MITCHELL. I can provide a different incentive. If we do not finish enough matters tomorrow, we will be in Sunday. So maybe at some point tomorrow I can suggest that alternative, which I have been reluctant to do, because I have learned to take these days one at a time. But I hope the Senator will cooperate with us by permitting completion of this matter.

Mr. BUMPERS. I do not have any amendment. I will be here.

Mr. MITCHELL. I thank the Senator. That is a wholesome attitude.

Mr. METZENBAUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. When the majority leader has finished.

Mr. MITCHELL. I yield to the Senator.

Mr. METZENBAUM. I am a supporter of what the Senator from West Virginia is attempting to do. I just heard the minority leader speak to the subject and say it is a dire emergency bill. As I read what is being done, I question whether it is of such dire emergency.

I am not looking for a confrontation or a dispute with the manager of the bill, but I wonder what is the urgency of doing this since it appears to be a transfer of some funds that came out of Desert Storm that the Arabs have been paying us that appears to pick up six helicopters and certain other items. I am not here really trying to make an issue, but I really am sort of asking why is there such a dire emergency that it could not be in a regular appropriations bill?

Mr. BYRD. I suppose I should answer the distinguished Senator by saying, if we did not pass this bill this year, we would be back in February and pass a bill at that time. But as the chairman of the Appropriations Committee, I am very reluctant to go home without passing this bill. I do not want the President to say the Senate could not pass or the Congress could not pass a dire emergency appropriation bill. There are some items in this bill that are of an emergent nature. There are others I do not consider to be. Some of them were voted in by the House of Representatives.

I can only say I think we have a responsibility to try to pass this bill and do it as soon as possible. Once we pass this bill in the Senate, those of us on the Appropriations Committee of course, as the Senator knows, have to go to conference and work there. And if we are going to be out next Tuesday and the President should elect to veto this bill, then we are at home and he has a pocket veto.

Mr. METZENBAUM. Is there anything that would affect our Nation's security adversely, if he did veto it? Or if we did not pass it?

As I looked over the items in the bill, and I do not claim to be an expert in this area, but I looked at six helicopters are being purchased. I looked at the AH64, which is an Apache helicopter that was not in the House bill but is in ours.

I am not taking issue about any of these items, but I just was, really, raising the question of why do we have to act at this point. And I think the Senator has already answered that we probably could do it in February. But there may be some things that are of a more urgent nature. I was asking whether there was anything specific that could be pointed out that falls into that category?

Mr. BYRD. Well, I think there are some items that are of an emergent nature in here. I do not think that this is a particularly needful question or answer, really. I had my mind set on trying to pass this bill.

There will be some items in conference that we may not consider to be emergent. I hope we can drop them.

Let me now read the list of amendments. I am not sanguine about getting agreement on the list, but I think Senators ought to just have an understanding about what amendments are going to be offered.

Pressler on GATT.

Kasten amendment on capital gains.

Kasten amendment on boat tax.

McCain amendment on defense. Whatever that is.

McCain amendment on the environment.

Warner, Washington National Airport amendment.

Warner, relevant.

Bond amendment on TWA.

Wallop amendment, Marine Corps modernization.

Danforth-Nunn amendment on university research.

Nickles amendment, change the marketing year definition.

Nickles amendment, an Interior technical amendment.

D'Amato amendment, Air National Guard.

Stevens amendment, *Exxon-Valdez* settlement fund.

Stevens amendment, dealing with salmon.

Stevens amendment, Senate seal.

Stevens amendment, technical correction.

Coats amendment on crop insurance.

Coats amendment, relevant. That does not tell us very much.

Gramm amendment, relevant. Same as the above.

Gramm amendment, delete nondire.

Hatfield amendment, unspecified.

Hatfield amendment, relevant.

Helms amendment, relevant.

Helms amendment, relevant.

Kassebaum amendment, family farm.

Kassebaum, relevant.

Dole, unspecified.

Burns amendment, Bureau of Indian Affairs and Parks.

Garn amendment, relevant.

Symms amendment, special prosecutor.

Murkowski amendment, National Freedom Act.

On the Democratic side:

Bingaman, R&D Defense Subcommittee.

Boren, Soviet tech assistance.

Bumpers with Pryor on FERC.

Byrd has a substitute for the bill. I hope I do not have to call it up.

Conrad, an amendment on end use certificates on foreign grain.

Bradley, Buffalo Bill Dam.

Cranston, money for scientific study on old growth forests.

D'Amato-DeConcini, Udall provision; make one feed grain base rather than separate.

Fowler, Hunting Safety and Preservation Act.

Kohl, high moisture corn, and a second amendment on refundable assessments.

Leahy, direct FHA to earmark funds for certain projects.

Levin, impact aid for school in Michigan.

Nunn, DOD university research, DOD museum funding, and Soviet nuclear destruction.

Pell, NOAA disaster relief for shellfish.

Pryor, SDI related.

Riegle, 50-50 Federal-State cost for low-quality fruit; include fireblight as disaster eligible; and make more dollars available for rehabilitation; to remove crop insurance criteria FMHA disaster funds; and increase appropriations for small business affected by agricultural disasters.

So, some of those I would understand probably are appropriate and can be adopted perhaps without debate or without much debate.

But there are others on there, as Senators will have noticed, that are pretty far-ranging and far-reaching.

So, Mr. President, I ask unanimous consent that those amendments—that the remaining amendments to the bill be limited to the amendments that I have just listed. It does not mean they will all be called up and it does not mean that they will be agreed to, by any means. And I would ask such unanimous consent provided, also, that no points of order be waived thereby.

Mr. JOHNSTON. Mr. President, reserving the right to object, I wonder if the chairman would expand his request by putting in two Johnston amendments, one related to nuclear waste and one related to the Arctic National Wildlife Refuge?

Mr. BYRD. Yes. I ask that they be included in the list.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. And two amendments by Mr. GLENN.

And, Mr. President, provided also that any second-degree amendment be relevant to the first-degree and any unspecified amendment be relevant to the committee substitute.

Mr. JOHNSTON. Mr. President, any second-degree amendments be relevant and germane to the first-degree amendments? I would like an exception with respect to nuclear waste and Arctic National Wildlife Refuge. In other words, I would like the ability to put in second-degree amendments relating to those two matters, to any first-degree amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I do not know the implication of the unanimous-consent request on the amendments that I have now drafted. So I would have to object, although I hope I will not have to object for long. I just do not know. We will have to check those. We hope they are relevant, but there are very strict rules on that, and I would object at this point.

The PRESIDING OFFICER. May I inform the Senate that part of the request was agreed to.

Mr. BYRD. Mr. President, I present the request.

The PRESIDING OFFICER. Is there objection to the request as modified?

Mr. METZENBAUM. Does it again have the second-degree rights reserved to the Senator from Louisiana?

Mr. BYRD. Let me say any second-degree amendments be relevant to the first-degree and unspecified amendments be relevant to the committee substitute. Plus—if I may ask the Senator from Louisiana to add his proviso?

Mr. METZENBAUM. I would have to object so long as any one Senator in this body is given special rights over any other Senator. And particularly I do not know what the Senator from Louisiana would be intending to add as a second-degree amendment having to do with energy. I do not want to object, but I do not think it is appropriate to have any special reservation in connection with any particular subject, accorded to one particular Senator.

Mr. JOHNSTON. Mr. President, would the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. JOHNSTON. Mr. President, the subject matter of the amendment which I will seek a reservation for, both in the first-degree and in the second-degree, has to do with drilling in the Arctic National Wildlife Refuge and preemption of the rights of the State to restrict nuclear waste. Both of these matters have been reported by the Energy Committee. The nuclear waste matter has been pending on the floor for some months and I would like very much to have that considered by the Senate. And if this bill is the vehicle for consideration of legislative matters, I think it is very appropriate they would consider it.

I am very glad to restrict the bill to dire emergency matters, but if it is not to be restricted, then I think these matters are more important than other first-degree amendments.

So I personally would object to a unanimous-consent agreement that would restrict the right of this Senator to offer those amendments. So those are the subject matters which I would like to address.

Mr. METZENBAUM. Mr. President, under those circumstances, I have to object.

I must point out that if the Senator from Louisiana, in my opinion, would have a right to offer those amendments in the first degree, they probably would be subject to a challenge on the basis of their not being relevant. And this way, the Senator would have an opportunity to come in through the back door, something he could not do through the front door. So I object.

Mr. BYRD. Mr. President, I can understand the objections. I have been around here quite a long time.

The PRESIDING OFFICER. Will the Senator from West Virginia withhold for an explanation? I say that the Chair did call for the earlier request, which was granted. The modified request is still in question.

The Chair did grant the request that included the list that the Senator from West Virginia read, but not the following request, which was modified.

Mr. JOHNSTON. Mr. President, is the Chair stating that the request for the Senator to limit, with the right of the Senator from Louisiana to put on a first-degree and second-degree amendments, was granted?

The PRESIDING OFFICER. The request that was granted was just to the list of amendments that was read by the Senator from West Virginia, and it did not pertain to the secondary amendments.

Mr. JOHNSTON. Mr. President, I do not believe the Chair called for a unanimous consent with respect to the limitation of the first list. I do not believe unanimous consent was granted with respect to that, because I made a reservation on that. I have been right here and made a reservation on that.

Mr. BYRD. Mr. President, I would rather see the request—I would rather see the announcement of the Chair vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I say that because I believe there was ample reason for Mr. JOHNSTON to be confused, and others as well, including myself, as to just what the status of things were. I respect the Chair greatly, especially the Member who presently occupies it, and I know he is trying to move forward in an orderly way. But I am glad we have vitiated that agreement.

I would like to present the agreement again, so that all Senators will understand what we are doing. I would like to renew my request concerning the list of amendments that I read, and that is all I will request right now—just the list that I read. Other Senators may reserve the right to object and ask for a request that they like.

Mr. JOHNSTON. Mr. President, reserving the right to object, I request the distinguished chairman to amend the request to allow first-degree amendments relative to Arctic national wildlife refuge drilling, and with respect to nuclear waste preemption in the first degree and in the second degree, with respect to any first-degree amendment.

Mr. METZENBAUM. I object.

Mr. GLENN. I wonder if the distinguished Senator from West Virginia will yield for a question?

Mr. BYRD. Yes, I will yield the floor shortly.

Mr. GLENN. I wanted to find out if I was included in there. A CHAMPUS reform initiative, in the long haul, will save us money. That I was concerned about; I want to make sure that was on there.

Mr. BYRD. Yes; the Senator has two amendments on there.

Mr. GLENN. I thank the Senator.

Mr. BYRD. May I say before I take my seat, many times I have seen—and I am sure the distinguished Republican leader, who is on the floor and has worked with me over the years, has seen—a very long list of amendments that were included in such a request. And nearly always, it has worked out, as far as I can remember, a good many of those amendments are never called up. They are merely put on the list for protective reasons. So while it may

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look rather formidable when one looks at the list, it really does not turn out that way.

But the initial step in bringing things to closure, I think, is to try to get a limitation on the number of amendments, so that at least we know when we get through them, there will not be anymore.

So I will attempt, I suppose, again a little later, to try to renew my request. But I am going to beg the indulgence of the Senate to forgive me for starting to move to table amendments pretty soon. I will not say I will try to move to table every amendment, and I may fail to get any of them tabled. But I think we have to make a start on this, or else we will not finish.

Mr. METZENBAUM. Will the distinguished Senator from West Virginia yield?

Mr. BYRD. Yes.

Mr. METZENBAUM. I want the Senator from West Virginia to understand the Senator has no objection to his getting a list of first-degree amendments, and I will not object to that. Nor would I object if the Senator from Louisiana listed his amendments as one of your first-degree amendments on your list. He has a right to do that, just as I can make any amendment I want.

What concerns me is the parliamentary situation that would develop if he had the right to offer a second-degree amendment having to do with nuclear waste or ANWR, and I do not want to put the Senate in that position.

I ask of my colleague from West Virginia whether or not he would be good enough to assure the Senator from Ohio that I do not have to stand here every moment of the evening. If the Senator has a request for first degree, I have no problem at all. If the Senator from Louisiana or some other Senator is to get a special reservation, then I would ask that the Senator from West Virginia protect my position so I do not have to stand here all night long.

Mr. BYRD. I certainly understand the Senator's feelings. I hesitate to assure any Senator that I will be able to protect him, because I might not be on the floor. I feel that is a pretty big responsibility for me. But certainly the Senator would hear on the television of any such request. If he called over and said he had to object, I respect that.

Mr. METZENBAUM. Things move rapidly here, and I just ask if before the Senator from West Virginia again propounds his unanimous-consent request, if he would be good enough to give the Senator from Ohio an opportunity to be on the floor with him.

Mr. BYRD. I will be happy to have someone get in touch with the Senator. I will alert him before I make such a request.

Mr. DOLE addressed the Chair.

Mr. BYRD. I yield to the Republican leader.

Mr. DOLE. Mr. President, I just suggest I think you can get the leadership to join you right now in tabling them. I do not know why we want to wait any longer. I see people trying to slip in before the final verdict. In my view, we have had enough time; we have been on this bill for a while. We can be out of here by 9:30 with seven or eight straight victories.

I think people will be discouraged. I will, as the Republican leader, join with the manager of the bill now to table any amendment on either side of the aisle.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I would like to make a couple of observations about this bill, and one of the reasons we are here tonight. I hate to say this, because I have the greatest respect for the chairman. He is not responsible for this bill. but this is not a dire emergency appropriations bill; it is a sham. There is a little, tiny piece of it, about $150 million, that is dire emergency domestic funding designated by the President. The rest of the domestic spending was put in by the House.

In fact, they started this process, having a dire emergency bill, about 6 months ago. It has been languishing ever since. Then they had big votes in the House, and put items in it that make everybody feel good. We are declaring that we need another $100 million for WIC, and it is an emergency, a dire emergency. And we need another $1.2 billion for education, and it is an emergency, a dire emergency. We just finished appropriating those programs in the annual appropriations bills. Nobody believes those are dire emergencies as contemplated in the Budget Agreement.

There is funding in this bill associated with acts of God, such as tornadoes that tore up a town, or maybe crop failure of an enormous size because of drought. This bill only has a piece that is designated as dire emergency funding by the President. The rest of it is more than a bit of mischief. The House puts all these things in knowing that they are not going to be paid for unless the President, after he gets the bill and after he signs it, declares those items to be emergencies. Just think of that. This is the second wave of appropriations following about 2 weeks after we finished the regular bills. We are making everybody in the country think we are really going to do these things, but as a matter of fact, we are not going to do them at all because we put some of this funding in knowing full well we are not going to pay for it. We know the President would not declare $1 billion for education a dire emergency when he has not yet signed the bill providing appropriations for education. That bill is coming back through the Senate. It has not even been signed, and it has increased funding for education. We've completed the bill that funds WIC. Following right behind these bills is this thing we call a dire emergency supplemental appropriations bill.

So it is no wonder that the Senators found this to be a pretty good opportunity, in a sense, to do likewise. To do like the House did, and put anything in it that they like, that they have been waiting around for a year, 2, maybe 3 years, to put on a bill. And some are insisting that they even get a vote.

I am not suggesting we should delay matters. I am merely suggesting that we will waste an awful lot of time. We do not have to have this bill up. We do not have to finish it. But I am for the chairman completing his bill, so I will support anything he wants to get rid of the amendments so we can get on with the business of the Senate. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Parliamentary inquiry. What is the status of the Senate at this time?

The PRESIDING OFFICER. The Senate is considering House Joint Resolution 157.

Mr. REID. Is there still pending a unanimous-consent request?

The PRESIDING OFFICER. The request was objected to.

Mr. REID. Mr. President, I want to make sure that I am heard on this matter and I will do that just very briefly. I wanted to alert my chairman that if there are amendments offered relating to nuclear waste, I want to make sure that I have an opportunity to second degree any such amendment. Therefore, I object, as has my distinguished friend from Ohio, to the previous unanimous-consent request to place not only a first-degree amendment but a second-degree amendment.

AMENDMENT NOS. 1410, 1411, 1412, 1413, 1414

Mr. BYRD. Mr. President, the following amendments have been cleared on both sides, and they are: two technical amendments by Mr. BYRD, of West Virginia; an amendment by Mr. DASCHLE; an amendment by Mr. LEAHY; an amendment by Mr. PRYOR; an amendment by Mr. CONRAD. They have been cleared on both sides.

Mr. DOLE. Have any Republicians been cleared?

Mr. METZENBAUM. Does the Senator from West Virginia mean they have all been cleared? Is that what he means?

Mr. BYRD. These amendments, most of them are technical. They are minor amendments. This is something that is not out of the ordinary. I am not trying to pull anything over on the Senate. They have been cleared.

I send them to the desk. I ask unanimous consent that they be considered en bloc and agreed to en bloc and the motion to reconsider be laid on the

table and appropriate statements explaining them, if there be such, be included in the RECORD as though read.

Mr. DOLE addressed the Chair.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. I am not the manager on this side, but I understand there is some question about the Leahy amendment, whether or not that has been cleared on this side.

Mr. BYRD. Mr. President, if I may have the amendment by Mr. LEAHY back. I will eliminate that from the request. The Republican leader is correct. I thank the Republican leader.

The PRESIDING OFFICER. Is there objection to the request?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, reserving the right to object, and I will not object, the distinguished Senator from West Virginia proposed sending to the desk an amendment he referred to as an amendment by Senator Pryor, from Arkansas. I am wondering if this is the amendment, in fact, that deals with hydroelectric power in Arkansas. Actually, I think the chief sponsor of that amendment is my senior colleague, Senator BUMPERS. Is this the one?

Mr. BYRD. Yes; the Senator is correct. The amendment is a Bumpers-Pryor amendment.

Mr. PRYOR. Mr. President, I thank the distinguished Senator.

Mr. BYRD. And the subject matter is in accordance with what has been stated.

Mr. PRYOR. Mr. President, I thank the distinguished Senator.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 1410, 1411, 1412, 1413 and 1414) were considered and agreed to en bloc as follows:

AMENDMENT NO. 1410

SEC. 17. EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102–154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

AMENDMENT NO. 1411

SEC. 17. EMERGENCY FOREST SERVICE FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102–154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

AMENDMENT NO. 1412

At the appropriate place, insert the following:

SEC. . AUTHORIZATION FOR SOUTH DAKOTA WATER.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100–516).

Mr. DASCHLE. Mr. President, I rise today to offer an amendment to address the ongoing water problems in South Dakota. This is a technical amendment that would authorize the Secretary of the Interior to perform a needs assessment of the Rosebud Sioux Reservation's current and future water needs and to determine the desirability, feasibility, and cost of extending the Mni Wiconi water pipeline to the Rosebud Reservation.

The Mni Wiconi project was authorized in 1988 in Public Law 100–516. The goal of the project is to bring decent drinking water to areas in South Dakota where water quality and quantity are unsound, including the Pine Ridge Indian Reservation. Rosebud faces water problems similar to those on Pine Ridge and in other areas in western South Dakota. In order to address these problems, the Rosebud Tribal Council passed a resolution asking to become a part of the Mni Wiconi project. The current beneficiaries of the Mni Wiconi project, namely the Oglala Sioux Tribe and the West River and Lyman-Jones water systems, have passed similar resolutions supporting Rosebud's addition to the project.

In order to determine the wisdom of adding Rosebud to the project, which would require amending Public Law 100–516, it is essential that we better understand the water needs on the reservation, and the feasibility, both technically and financially, of amending the current law. Because Rosebud is outside the project area as defined by Public Law 100–516, the amendment I am offering today is necessary to give the Bureau of Reclamation the authority to perform the study.

It should be noted in the report language accompanying the fiscal year 1992 energy and water appropriation bill, the authority I am seeking by this amendment was granted. However, through an oversight, similar language was not included in the conference report, and the Bureau feels that they need specific authorization to perform the needed study.

I should note that this amendment will not obligate new funds. The Bureau would use unobligated funds, should they be available, to perform the study. I do not intend to have the Bureau use obligated fiscal year 1992 funds for the Mni Wiconi project, unless it becomes apparent that these funds will not be spent for the uses intended in the fiscal year 1992 appropriation.

Finally, Senator BRADLEY, the chairman of the authorizing subcommittee in the Energy Committee, supports this amendment.

This should be a noncontroversial amendment, and I would hope that it could be swiftly adopted.

AMENDMENT NO. 1413

(Purpose: To authorize extensions of time limitations in certain FERC-issued licenses)

On page 24, between lines 21 and 22, insert the following new section:

SEC. 304. EXTENSIONS OF CERTAIN FERC-ISSUED LICENSES.

(a) IN GENERAL.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(1) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(2) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(3) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(b) TERMINATION OF AUTHORIZATION.—The authorization for issuing extensions under this section shall terminate 3 years after the date of enactment of this section.

(c) CONSOLIDATION OF REQUESTS.—To facilitate requests under this section, the Commission may consolidate the requests.

AMENDMENT NO. 1414

(Purpose: To improve monitoring of the domestic uses made of certain foreign grain after importation and to modify procedures for suspension or debarment for use of foreign grain in connection with certain agricultural trade programs)

At the appropriate place, insert the following new sections:

SEC. . MONITORING OF DOMESTIC USES MADE OF CERTAIN FOREIGN GRAIN AFTER IMPORTATION.

(a) DEFINITIONS.—For purposes of this section:

(1) ENTRY.—The term "entry" means the entry into, or the withdrawal from warehouse for consumption in, the customs territory of the United States.

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) CERTIFICATION REQUIREMENTS REGARDING FOREIGN GRAIN.—

(1) END-USE CERTIFICATE.—An end-use certificate that meets the requirements of subsection (c) shall be included in the documentation covering the entry of any foreign grain.

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(2) QUARTERLY REPORTS.—A consignee of

(A) the Agricultural Trade Act of 1978 (7

Mr. D'AMATO. My amendment, to-

Mr. DOMENICI. I move to reconsider

Mr. DOLE. I did not note the Senator

just get a flimsy type of perusal. We

VOL 137 PT 23 NO 21—25 1991 UMI

(2) QUARTERLY REPORTS.—A consignee of imported foreign grain shall submit to the Secretary of Agriculture a quarterly report that certifies—

(A) what percentage of the foreign grain covered by an end-use certificate was used by the consignee during the quarter; and

(B) that the grain referred to in paragraph (1) was used by the consignee for the purpose stated in the end-use certificate.

(c) END-USE CERTIFICATE AND QUARTERLY REPORT CONTENT.—The end-use certificates and quarterly reports required under subsection (b) shall be in such form, and require such information, as the Secretary of Agriculture considers necessary or appropriate to carry out the purposes of this section, including—

(1) in the case of the end-use certificate—

(A) the name and address of the importer of record of the foreign grain;

(B) the name and address of the consignee of the grain;

(C) the identification of the country of origin of the grain;

(D) a description by class and quantity of the grain covered by the certificate;

(D) specification of the purpose for which the consignee will use the grain; and

(E) the identification of the transporter of the grain from the port of entry to the processing facility of the consignee; and

(2) in the case of the quarterly report—

(A) the information referred to in subparagraph (A) and (B) of paragraph (1);

(B) the identification of the end-use certificates currently held by the consignee;

(C) a statement of the quantity of the foreign grain covered by each of the end-use certificates identified under subparagraph (B) that was used during the quarter;

(D) a state of the use made during the quarter by the consignee of each quantity referred to in subparagraph (C); and

(E) a statement of the quantity of wheat, barley, and oats that have been exported by the consignee during the quarter.

(d) REGULATIONS.—The Secretary of Agriculture shall prescribe such requirements regarding the preparation and submission of the quarterly reports required under subsection (b)(2) as may be necessary or appropriate to carry out the purposes of this section.

(e) PENALTIES.—

(1) CUSTOMS PENALTIES.—End-use certificates required under this section shall be treated as any other customs documentation for purposes of applying the customs laws that prohibit the entry, or the attempt to enter, merchandise by fraud, gross negligence, or negligence.

(2) CIVIL PENALTIES.—Any person who knowingly violates any requirement prescribed by the Secretary of Agriculture to carry out this section is punishable by a civil penalty in an amount not to exceed $10,000.

(f) ENTRY PROHIBITED UNLESS END-USE CERTIFICATE PRESENTED.—The Commissioner of Customs may not permit the entry of foreign grain unless the importer of record presents at the time of entry of the grain an end-use certificate that complies with the applicable requirements of subsection (c).

SEC. . SUSPENSION OR DEBARMENT FOR USE OF FOREIGN GRAIN IN CERTAIN AGRICULTURAL TRADE PROGRAMS.

(a) DEFINITIONS.—As used in this section:

(1) AGRICULTURAL TRADE PROGRAM.—The term "agricultural trade program" means an export promotion, export credit, credit guarantee, bonus, or other export or food aid program carried out through, or administered by, the Commodity Credit Corporation, including such a program carried out under—

(A) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(B) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(C) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(D) section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c).

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) HEARING.—The Commodity Credit Corporation shall provide a person with an opportunity for a hearing before suspending or debarring the person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program.

(c) WAIVER.—

(1) IN GENERAL.—The Commodity Credit Corporation may waive the suspension or debarment of a person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program if the use of the grain by the person was unintentional and the quantity of grain involved was small.

(2) OTHER PENALTIES.—Any waiver by the Commodity Credit Corporation of a suspension or debarment of a person under paragraph (1) shall not affect the liability of the person for any other penalty imposed under an agricultural trade program for the quantity of foreign grain involved.

Mr. DOLE. Mr. President, I understand that there are two amendments on this side—again I am just passing through. I am not the manager. But there are members of the Appropriations Committee here. I will let Senator DOMENICI do this. These two have been cleared.

AMENDMENT NO. 1415

Mr. DOMENICI. Mr. President, I send to the desk an amendment in behalf of Senator D'AMATO and ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator withhold for just a minute.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI for Mr. D'AMATO proposes an amendment numbered 1415.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, after line six insert the following:

"CHAPTER VII

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $10,100,000 to remain available until September 30, 1994, for the purpose of one MH-60G helicopter."

Mr. D'AMATO. My amendment, totalling almost $10.1 million, funds a replacement for the MH60G Pave Hawk lost by the 106th Air Rescue Group, New York Air National Guard, on October 30 while attempting to rescue a lone sailor caught in 25-foot waves whipped up by the freak storm that battered the New England coast 3 weeks ago.

The helicopter reached the lone sailor, but was unable to winch him aboard due to the intensity of the storm. With fuel dangerously low, the helicopter dropped survival equipment and sped for home.

It never made it. The helicopter was unable to link up with the HC130 sent to refuel it due to winds gusting up to 70 mph. Sixty miles short of Long Island the helicopter ran out of fuel. The pilot managed to skillfully ditch the helicopter and get his men safely out, but tragically, rescue specialist T. Sgt. Arden "Rick" Smith became separated from his comrades and drifted away in the darkness. He was never found.

Mr. METZENBAUM. Will the Senator from New Mexico yield?

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Objection.

Mr. CONRAD. If I might just ask for a unanimous-consent request on sponsors.

Mr. METZENBAUM. I withdraw the objection.

Mr. CONRAD. Mr. President, if I might just make a unanimous-consent request with respect to the Conrad amendment that was just adopted, showing as original cosponsors Senator CRAIG, of Idaho; Senator DASCHLE, of South Dakota; Senator BURNS, of Montana; Senator BAUCUS, of Montana; and Senator PRESSLER, of South Dakota. I ask unanimous consent they be shown as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I thank the Chair. I yield the floor. I note the absence of a quorum.

Mr. DOMENICI. Mr. President, I believe we are ready to proceed. Will the Senator withhold?

Mr. CONRAD. I will be pleased to withhold.

Mr. DOMENICI. I have explained to Senator METZENBAUM this is an amendment that replaces an Air National Guard helicopter that was lost at sea.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1415) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1416

Mr. DOMENICI. Mr. President, I send an amendment to the desk in behalf of Senator BURNS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BURNS, proposes an amendment numbered 1416.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The following is to be added in the appropriate place:

"( ) The Secretary of Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992.".

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. METZENBAUM. Mr. President, would the Senator from New Mexico be good enough to explain what the amendment does?

Mr. DOMENICI. Would the clerk read the amendment? It is self-explanatory?

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BURNS, proposes an amendment numbered 1416.

( ) "The Secretary of the Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992."

Mr. DOLE. Mr. President, would the Senator yield?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I have to object to proceeding at this point in connection with this amendment until I have a chance to study it further. I am told that I already have a hold on the amendment.

Mr. DOLE. I did not note the Senator from Ohio objecting to any of the Democratic amendments. We put through five at once. He did not say a word. If he is going to stand there every night all night and object to every Republican amendment, there have not been too many of them cleared; in any event we are going to have a long evening.

We are going to play fair or we are not going to play at all.

Both of these amendments have been cleared by the managers, as had the five before. The Senator sat silent.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am not looking at these amendments as if they are Democratic or Republican amendments. I asked the manager of the bill whether the amendment had been cleared, whether those amendments had been cleared, and he said yes.

Mr. DOLE. So are these.

Mr. METZENBAUM. Apparently, I was just told by one of the staff people that I had a hold on this amendment. I did not know it. I do not know the reason why at this moment. But I would like to explore it.

I do not wish to keep the Senator from New Mexico from proceeding forward, and I just suggest that it be laid aside in order that I can check the facts. I certainly do not want to hold up the Senator from New Mexico nor the Senator from Kansas, nor anybody else. But I think every Senator has the right to know what we are adopting out here.

Mr. DOLE. He inquired about the helicopter amendment, which had been cleared. Now he has inquired about the second Republican amendments, which are Republican amendments. I did not hear him make any inquiry about the previous five amendments.

Mr. METZENBAUM. I think the Senator from Kansas is a little political, a little more political than the Senator from Ohio.

I did not know whether the first five were democratic or Republican amendments. The Senator from Ohio did not look at the amendments and did not know whether they were Democratic or Republican.

I will try to work it out with my colleague from New Mexico. I do not think it is a major problem.

I am afraid the Senator from Kansas is looking to be political, probably, and I am not.

Mr. DOMENICI. Mr. President, I assume that we want to let the Senate proceed. I want to make this comment.

This amendment also, so the RECORD will be complete, was a subject matter that was within the jurisdiction of the distinguished chairman of his Subcommittee on Interior. So we did not just get a flimsy type of perusal. We got one from very able committee chairman.

Mr. METZENBAUM. I would just suggest we not make a cause celebre out of the matter.

I ask the Senator from New Mexico to let us lay this matter aside temporarily so the Senate can proceed with other business, and we can take a look at it to see if we can work it out.

Mr. DOMENICI. Mr. President, I ask the the last amendment which I submitted in behalf of Senator BURNS be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NO. 1417, 1418, 1419, AND 1420 EN BLOC

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. GORE and an amendment by Mr. BRADLEY and an amendment by Mr. LEAHY and an amendment by Mr. STEVENS. I ask unanimous consent—may I have the attention of the Senator from Ohio? I send these amendments up en bloc.

I ask unanimous consent that they be considered en bloc; agreed to en bloc; and that the motion to reconsider be laid on the table. They have been cleared on the other side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (Numbered 1417 1418, 1419, and 1420) were considered and agreed to en bloc as follows:

AMENDMENT NO. 1417

At the appropriate place, insert the following new section:

SEC. . WAIVER OF CERTAIN PERSONNEL PROVISIONS.

In the administration of the provisions of subchapter IV of chapter 35, United States Code, the Secretary of State may waive any 5-year limitation under such subchapter (including periods of separation under section 3582(b) and reemployment under sections 3581(5) and 3582(c) of such title) relating to any employee of the United States who on the date of the enactment of this section is serving with the Intergovernmental Panel on Climate Change, except such waiver may not extend any such 5-year period for more than an additional period of 2 years, with a possible further extension of 1 year.

Mr. GORE. Mr. President, Narasimhan Sundararaman is an atmospheric scientist who is currently serving as the Secretary of the Intergovernmental Panel on Climate Change [IPCC], an organization chartered by the World Meteorological Organization [WMO] and the United Nations Environment Program [UNEP]. In this capacity and in his earlier work at the WMO, Dr. Sundararaman has been instrumental in advancing the science of climate change and ozone depletion and in informing policymakers of the important implications of the scientific findings. His contributions have truly been invaluable and have won for him the respect and admiration not only of his colleagues here at

VOL 137
PT 23
NO 21—25
1991
UMI

home but of scientists and policymakers from around the world.

Dr. Sundararaman began his tenure at the WMO on January 27, 1984. He assumed that position while on a separation transfer from the Federal Aviation Administration. An extension of 5 years to the transfer was granted by the FAA and, in light of his exemplary service, an additional extension for a period of 3 years was granted by the Secretary of State. The 8-year period comes to an end on January 26, 1991, and it is my understanding that there is no opportunity for further extension under Office of Personnel Management regulations.

The amendment that I propose would therefore provide that, at the discretion of the Secretary of State, Dr. Sundararaman may retain his position at the IPCC for a maximum of 3 additional years.

Mr. President, this additional extension of Dr. Sundararaman's service is crucial. The world community is currently engaged in negotiating an international convention on the emission of greenhouse gases. The issues involved in these talks are, of course, extremely complicated, and Dr. Sundararaman's input has been invaluable to our representatives as well as those of the other nations engaging in this endeavor. His loss at this time would be sorely felt, indeed.

Amendment No. 1418

(Purpose: To limit appropriations for the Buffalo Bill dam project to authorized amounts)

On page 22, line 5, before the period, insert ", subject to authorization".

Amendment No. 1419

(Purpose: To direct the Federal Highway Administration to allocate, to five Vermont municipalities, $990,000 earmarked in the Fiscal Year 1992 Transportation appropriations act for four bridge repair or replacement demonstration projects in those five municipalities)

At the appropriate place in the bill, insert: "Unobligated funds in the amount of $990,000 authorized and appropriated under Public Law 102–143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the city of Barre for the Granite Street Bridge, $350,000 to the city of Montpelier for the Bailey Avenue Bridge, $90,000 to the town of Brandon for the replacement of the Dean Bridge, and $90,000 for the town of Williston and $110,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are incurred in accordance with sections 101, 106, 110, and 120 of title 23 of the United States Code.".

Amendment No. 1420

At the appropriate place in the bill insert the following:

"SEC. . SEALS OF THE UNITED STATES SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES.

"(a) The caption for Section 713 of title 18, United States Code, is amended to read as follows:

"§713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives"

(b) Section 713 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States or of the seals of the United States Senate or United States House of Representatives, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any public building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a face impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, Knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(d) Whoever, except as directed by the United States House of Representatives, or the Clerk of the House on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(e) A violation of subsection (a), (b), (c), or (d) of this section may be enjoined at the suit of the Attorney General upon compliant by any authorized representative of any branch, department or agency of the United States."

(c) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives.".

Mr. STEVENS. Mr. President, the United States District Court for the District of Alaska recently approved a judicial settlement which resolves claims by the Federal Government and the State of Alaska arising from the tragic oilspill by the *Exxon Valdez* in Prince William Sound, AK, in March of 1989. This amendment is necessary to clarify existing law and ensure that the $50 million received as restitution under the plea agreement and the Federal portion of the moneys received for future restoration costs under the agreement and consent decree can be spent as intended without further appropriation by Congress.

This amendment does not affect moneys received by the State of Alaska under these agreements or moneys received by the Federal Government for reimbursement of cleanup and response costs.

This amendment only addresses the disposition of the $50 million restitution payment to the United States under the plea agreement, and those amounts that the State of Alaska trustees and the Federal trustees agree should be transferred to the United States out of the joint fund established by the agreement and consent decree for future costs of restoration, replacement, or acquisition of equivalent natural resources.

In addition, this amendment is consistent with the terms of the plea agreement and the agreement and consent decree.

Mr. BYRD. May I say to my friend from Ohio, the way we attempt to work these out is that the amendments they have, they think may be cleared on their side, they are run by my staff people. My staff people work with the floor staff people. If there are Senators who have some problems with those amendments, then they are not given clearance.

But once we feel that they have been cleared on our side, we feel they can call them up, and ask that they be considered en bloc. And it works the same in reverse. We have amendments, and if we clear them over there, then I offer those amendments, and ask that they be considered en bloc. It saves the time of the Senate.

Mr. METZENBAUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. METZENBAUM. Are these amendments that are being cleared, are these matters of substance or are these matters of minor detail? Are they matters of clarification? Could he give us some idea what he is going through so rapidly?

The Senator from West Virginia knows that when he was the leader of this body, at night I stood here and tried to find out what amendments were. That is all I am trying to find out now, what the amendments are.

Mr. BYRD. Senator, I have been in the Senate now for 33 years.

Mr. METZENBAUM. I have only been here 17 years.

Mr. BYRD. I have been here 33 years. I do not think I have ever had my integrity challenged.

Mr. METZENBAUM. I am not doing that.

Mr. BYRD. If the Senator will let me finish, he may speak and I will listen to him.

The PRESIDING OFFICER. The Senators will be advised they must address one another through the Chair.

Mr. BYRD. I have been here 33 years. I have been the majority leader, I have been the minority leader, I have been the majority leader again. I am now the President pro tempore, and chairman of the Appropriations Committee. I do not think I have ever been challenged as to my integrity.

I make mistakes like others do. But I am just as solicitous of the rights of my colleagues as the Senator from Ohio, and I am just as solicitous of the rights of my colleagues on their side of the aisle as any Senator over there can be.

I would be very careful if I thought that I was slipping through an amendment that the Senator from Ohio would object to or that any Senator would object to, because I know that sooner or later would come back to haunt me.

I do not think that anyone has ever found me getting an amendment through, saying that these have been agreed to, and questioning me as to whether or not they were checked on the telephone, or how were these checked out, how was this done.

Obviously, I do not know everything that is in every amendment that I send up, but I do trust my staff. When my staff runs it by the subcommittee, this is an appropriations bill, and the authorizing committee, that we have one of the finest staffs that ever was put together on this Hill. And they work with the floor staff. And that floor staff on the Democratic side works with that floor staff on the Republican side. If they ever catch me trying to slip something through here, then I will be the first to stand up here in the Senate and say I apologize.

But we cannot move forward on this bill if these little itsy-bitsy, teensy-weensy amendments—I will categorize them that way, because they are certainly not controversial or big amendments or they will not be sent to the desk.

If it is ever found out that Robert Byrd has entered into some kind of a cabal here, whereby they are going to slip a lot of controversial amendments through which the Senator from Ohio would object to, then I daresay that the members of the Democratic caucus will not let me continue to be President pro tempore of the Senate or chairman of the Appropriations Committee.

We do our level best. He has the right to ask these questions, I say to the Senator. But I am trying to assure him that he can go back to his office, and he can be just as safe in his mind and his heart, and as assured that things are being done right. If he finds that something went through tomorrow, I will be the first to come here to the floor, and ask that that action be vitiated. Let us do it over again.

So I will do everything I can to protect the Senator. But if we are going to be asked this question every time we send up a batch of amendments that have been cleared, we will not get out work done here. Obviously, I cannot answer the question as to what every amendment does. But I trust my staff. I trust the staff over here.

I said I would listen to the Senator.

Mr. METZENBAUM. I will not take long. I never question the integrity of the Senator from West Virginia nor the integrity of any Member of this body.

I have taken issue with the Senator from West Virginia, as he has taken issue with me on certain issues. That is doing his job, and I do mine. I did not find it inappropriate to find out what an amendment contains when it is coming before this body. You have answered my question. I asked you are these substantive, and you told me each teensy-weensy——

Mr. BYRD. The Senator will address another Senator in the third person.

Mr. METZENBAUM. I would be very happy to talk to the President pro tempore and can be certain that my friend from West Virginia will hear me, if that makes him feel more comfortable.

But the fact is, I do not question the integrity of anybody around here. I never have. All I thought is that I, as a Senator, had a right to know what was in amendments.

Since the Senator from West Virginia has assured the Senator from Ohio that these are—I forget his words, but something like teeny-weeny, itsy-bitsy amendments. If that is what they are, that is fine. But I did not find anything inappropriate about any Member of this body trying to find out what is being voted upon, and I do not intend to refrain from trying to find out today, tomorrow, or any other day in the Senate what is being voted on.

The Senator from West Virginia, to my knowledge, has never done anything to violate or to in any way cause anybody to question his integrity. And I do not.

But I do not see anything wrong with Senators knowing what is being passed. Because a lot of things have been passed in the U.S. Senate—not in this matter—but a lot of things have been passed that Senators woke up the next day, next week, next month, next year and found it had been passed, and they did not know it. So I have no objections, but I do not question the Senator's integrity. I do not think it is inappropriate to find out what the amendments are.

Mr. BYRD. Mr. President, if the Senator from Ohio will let me say this. It is not inappropriate, Senator. I did not say it was inappropriate. I simply said I was trying to assure the Senator——

Mr. METZENBAUM. And I am assured.

Mr. BYRD. That we are going to try to do everything right here. If there is a mistake made, I will be the first to try to correct it.

Mr. LEAHY. Mr. President, if I might, I will take only a moment, if I could have the attention of the Senator from West Virginia.

I know how difficult it is to be chairman of a complex piece of legislation. About a year ago, we passed the 5-year farm bill. I was the floor manager of that legislation. That bill had the distinction of being the longest and most complex piece of Senate legislation ever passed in history. It had the most words and was, in that regard, the longest one. We also passed it in the least amount of time.

There were evenings—and the Senator from West Virginia was here, and the Senator from Ohio and the Senator from New Mexico—when the distinguished Senator from Indiana [Mr. Lugar] and I, would be here with a stack of amendments. I am not exaggerating, literally a stack a foot high. Those are highly complex things. We had to ask Senators on both sides of the aisle to trust that we had cleared the amendments. And we had.

By the time we got to conference, we felt it was our obligation as managers to completely clear up any question, to the satisfaction of the people asking the questions, or we would not have taken the bill to conference.

The point I make is this—any manager of any bill has a difficult time. Whomever is the manager of the Democratic side, or Republican side, is very careful to check these amendments. If we do not let them check the amendments, we do not let them clear the amendments, and then, we are going to be here singing Christmas carols before this bill gets done.

That is all I have to say, Mr. President.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

There has to be a high degree of mutual trust here in this body for us to get our work done. As far as I am concerned, there is that degree of trust.

I also will say that the distinguished Senator from Ohio [Mr. Metzenbaum] is right in that things can be done sometimes in haste, or when questions are not asked, and with everyone acting in good faith, mistakes can be made. I do not have any fault with that.

I ask unanimous consent that the action on the Daschle amendment 1412 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. Nunn had indicated that he had an amendment he wished to call up.

VOL 137
PT 23
NO 21–25
1991
UMI

AMENDMENT NO. 1416

Mr. DOMENICI. Mr. President, is not the pending business now the Burns amendment, which I had heretofore sent to the desk?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. There is no longer any objection, as I understand it.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 1416) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 1421

(Purpose: To clarify existing legal authority to deposit and expend funds received for restitution under the Plea Agreement and future restoration under the Agreement and Consent Decree arising out of the settlement of Federal claims resulting from the discharge of oil by the T/V *Exxon Valdez* on March 23–24, 1989)

Mr. HATFIELD. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS, which has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Oregon [Mr. HATFIELD], for Mr. STEVENS, proposes an amendment numbered 1421.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the resolution insert the following new section:
>
> "SEC. . Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States versus Exxon Corporation and Exxon Shipping Company (Case No. A90–015–1CR and 2CR), hereinafter the Plea Agreement, United States versus Exxon Corporation et al. (Civil No. A91–082 CIV) and State of Alaska versus Exxon Corporation et al. (Civil No. A91–083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited in the Oil Spill Liability Trust Fund (26 U.S.C. 9509). Such funds, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses, incurred after October 8, 1991, for restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23–24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided*, That such funds shall remain available until expended: *Provided further*, That such funds may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree."

Mr. HATFIELD. Mr. President, this amendment is relating to the *Valdez* oil spill, and I ask now that it be agreed to.

Mr. BYRD. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1421) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I hope that Senators would be here to call up their amendments. I discussed with Senator NUNN a little earlier an amendment or two that he had. I urged him to call it up soon. I hope he has not grown weary of listening to the recent colloquy and left the floor.

Mr. President, after 8 o'clock I am going to start moving to table amendments that are legislative in nature and not germane.

And at some point, I will move that the bill be read the third time, and ask for the yeas and nays on that motion, and if the Senate wants to continue to offer amendments, they can vote my motion down. I do not relish saying these things, but because we are in an extenuating situation with Thanksgiving coming up and the hoped-for final adjournment being an objective of almost all Senators, I feel that it is necessary if we are going to get a bill to attempt to get the votes.

After 8 o'clock, I will have to start moving to table amendments that are legislative in nature and constitute legislation on the bill and not germane.

Mr. HATFIELD. Why wait until 8 o'clock?

Mr. BYRD. The question has been asked me, "Why wait until 8 o'clock?" I feel I should give some notice. It is a rather radical action on the part of the chairman to begin to table all amendments, but I think I might be justified in this situation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SENATE SHOULD REJECT LAWRENCE LINDSEY'S NOMINATION TO BE A MEMBER OF THE FEDERAL RESERVE BOARD OF GOVERNORS

Mr. SANFORD. Mr. President, I rise to express my strong opposition to the nomination of Lawrence Lindsey to be a member of the Federal Reserve Board of Governors.

When considering nominations, particularly those for positions within the Cabinet or posts in the administration, I generally try to give the President the benefit of the doubt. It is his administration and he is generally entitled to have his choice of who is to serve in his administration. However, the nomination before the Senate today is not for someone to serve in the Bush cabinet; it is for a position on the independent Federal Reserve Board of Governors, the organization principally responsible for determining and implementing monetary policy for the country. Given the economic crisis currently plaguing the country, the importance of this position is magnified. It is the Senate's obligation to ensure that we are placing a well-qualified, independent, capable person on this key policymaking board.

OVERREPRESENTATION OF THE FIRST FEDERAL RESERVE DISTRICT

In examining Lawrence Lindsey's qualifications for this post, I started by looking at the Federal Reserve Act itself and the terms set forth in the statute for those who are nominated to fill these key positions. On this issue, I think the statute is clear and should serve as a guiding principle for the Senate. The statute states:

> In selecting the members of the Board, *not more than one of whom shall be selected from any one Federal Reserve District*, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. (12 U.S.C. 241, emphasis added.)

I believe Mr. Lindsey's nomination violates the clear prohibition in the statute against more than one nominee from a given district. A fair reading of Mr. Lindsey's background, education, and work experience suggests quite clearly that he is from the First Federal District. This district includes the State of Maine, where Mr. Lindsey spent 4 years attending college, and the State of Massachusetts, where Mr. Lindsey has spent most of his professional life. He attended graduate school for his master's degree and Ph.D. in Massachusetts, and went on to spend the next 4 years teaching in Massachusetts.

Mr. Lindsey could quite appropriately serve as a nominee from the First Federal Reserve District. However, if the President had nominated him for that seat, he would have directly violated the clear prohibition in the statute against appointing more

than one member to the Board from a given district, since the Federal Reserve Board already includes a member, Mr. John LaWare, from the Frist Federal Reserve District.

NOT A FAIR REPRESENTATIVE OF THE FIFTH DISTRICT

So instead of selecting from the many, many people who live, work and have been broadly engaged in the economic life of North Carolina, South Carolina, Maryland, or Virginia, the President selected Larry Lindsey as his nominee and contends that he meets the terms of the status simply because he has lived in a suburb of the District of Columbia while working for the last 3 years for the White House. The President has totally distorted the clear meaning of the statute. Mr. President, this is not sufficient and it is certainly unfair to the people of the South. The South is considered a major region within the United States, and rightfully so. The South has economic characteristics that are unique. It is outrageously unfair that the statute that ensures that our unique, regional needs will be fairly represented on the Board that determines our economic future is being blatantly violated.

The Federal Reserve Act is not a mere residency statute and the President should not be allowed to twist it into one. It does not require a nominee to have lived a certain amount of years in the district they would represent like a voting statute does. Instead, the statute calls for fair representation of the financial, agricultural, industrial and commerical interests of the district. With all due respect, Mr. President, Larry Lindsey could not possibly provide such representation because he has never engaged in the economic life of North Carolina, South Carolina, Virginia, or Maryland. Sure, he has technically lived in Virginia while working in the District of Columbia, but he has not been spending those years worrying particularly about the economic problems of Virginia, or running a business or a bank in Virginia or interacting with businessmen or farmers in Virginia. He has simply lived there while working on national policy issues for the White House. That is simply not sufficient to meet the terms of the statute.

Indeed, Mr. Lindsey was asked at his confirmation hearing what economic activity he has engaged in in the Fifth Federal Reserve District other than living in a D.C. suburb, and his answer was none.

Mr. President, I do not believe that the requirement for fair representation of the financial, agricultural, industrial, or commerical interests of the District is one which the Senate should ignore. Indeed, I believe the Congress, in designing the Federal Reserve System was appropriately mindful of the need to have representation from a number of regions and interests in the country. The clear rationale for the requirement is to ensure that views of what is going on in the economic life of one part of the country do not dominate the Board. Yet, Mr. Lindsey does not and cannot bring any such variety to the Board. He has no independent contacts in the District that would allow him to get a true feeling for what is really going on in the economic life of the Fifth Federal Reserve District.

LACK OF BOARD EXPERIENCE

Again, Mr. Lindsey was specifically asked at his confirmation who he would turn to if he wanted to get a sense of what was really going on in the private sector and in the business community and his response was "Well, I think that I would call on academic economist friends of mine who have worked for business organizations. The Conference Board for example." As my colleagues know well, the Conference Board is a business-oriented economic analysis group headquarted in New York. If that is the closest connection Mr. Lindsey has to the economic life in North Carolina or South Carolina, it is surely an indication that he is not adequately familiar with the agricultural or industrial interests of this region.

Moreover, I find his choice to contact academic economists first somewhat troubling. I speak without prejudice. I spent much time in the academic world. But at a time when the Federal Reserve needs to be in close touch with what is truly going on in the economy and the lives of workers, business people, and the unemployed across the region, I find Mr. Lindsey's response more than inadequate; it is quite disturbing.

IMPORTANCE OF GEOGRAPHIC DIVERSITY AND "REAL" EXPERIENCE

I might note, Mr. President, that the requirement that Federal Reserve Board members adequately reflect the economic life of their district has been fairly carefully adhered to over the past 10 to 15 years. Indeed, one has to go back to 1978 to find a nominee who had as little connection to the district from which he or she was nominated as Mr. Lindsey does. As a matter of fact, Senator GARN, the distinguished ranking member noted in the committee mark up on Mr. Lindsey's nomination, that he had raised the same objection to a nominee to the Federal Reserve Board that I am raising on the floor now. Senator GARN's comments during the Banking Committee mark up were, "Mr. Chairman, may I say to the Senator from North Carolina that I understand his opposition on the basis of geography. If he had been here in the late 1970's, he would have heard virtually the same speech from this Senator on a nominee of the Carter Administration." As I said during the committee's mark up, had I been here then, I would have supported him in that objection. The requirements in the Federal Reserve Act should not be treated so lightly.

In addition, in a hearing held in the Banking Committee just last week, former vice chairman of the Federal Reserve Board, Preston Martin, began his testimony with advice to the committee regarding their role in reviewing appointments to the Board itself. His statement is as follows:

> I appreciate academic credentials for Board membership. However, my 4 years on the Federal Board convinces me that it is clearly in the public interest to confirm board members who have a variety of "real world" experience, experience in the business arena, the financial areas, and time spent as regulators: all are useful at the Board, even indispensable.

Martin went on to impress upon the committee the importance of adhering to the statute in the Federal Reserve Act which guarantees fair regional representation on the Board. Again, I am quoting directly from Mr. Martin's testimony:

> A diversity of geographic backgrounds is a second criterion. The United States has now endured the increased impact of regional business cycles which have been notable: first the middlewestern Rust Belt, then the farm States' crisis, and then reversal of the Massachusetts Miracle all over New England. Today greater New York and its environs are suffering, and the growth rate in once booming California has yielded to normalcy, just ordinary growth. I respectfully recommend that this committee return to a criterion of the Federal Reserve Act which mandates geographic diversification of the Board membership itself, not just among the Fed bank presidents.

In addition to the concerns I have noted about Mr. Lindsey's failure to meet the clear requirements set forth in the Federal Reserve Act, I also am concerned about his independence on the Board. The Federal Reserve Board was set up to be insulated from the political process. Most positions on the Board were established as 14-year terms, some of the longest of any such positions requiring Senate confirmation. The decision to grant lengthy terms to Board members was clearly intended to give them a good deal of independence from the White House and the political pressures of election cycles. With Mr. Lindsey's nomination, I am concerned that we are not getting a nominee who will be independent of the White House. The only time Mr. Lindsey has spent in this region has been spent working for the White House. Given that close connection to this administration, I am concerned about how willing he will be to make decisions that are not in complete accord with the administration's views. In addition, Mr. Lindsey lacks the real world experience that Mr. Martin referred to as indispensable to the Federal Reserve Board.

NARROW ECONOMIC VIEWS

Finally, I am concerned over the appointment of Mr. Lindsey to the Board of Governors because of his views on

VOL
137
PT
23
NO
21
—
25
1991
UMI

the economy and the relationship between tax policy and monetary policy. Mr. Lindsey wrote a book just last year entitled "The Growth Experiment," in which he makes a number of disturbing claims. He is a strong proponent of supply side economics and states that "the Reagan tax cuts contributed only trivially to the booming deficits of the 1980's." Mr. Lindsey also asserts that "The country has exchanged economic peril for economic prosperity * * *. Those days [the late 1970's] of constant crisis are gone, largely because the large tax rate cuts for upper income and upper middle income taxpayers restored the incentives that drive the American economy." Mr. President, I am disturbed that a man possessing the academic credentials of Mr. Lindsey can make these statements with a clear conscience. I can only think that Mr. Lindsey's lack of personal experience in the real world and his reliance on academic economist friends have prevented him from grasping a true sense of the American economy and how it relates to real people. I should think my colleagues would be very reluctant to approve a nominee to the Federal Reserve Board who does not believe that our current economic troubles are not substantially if not completely, due to excesses of the 1980's, and more specifically, Reaganomics. If this was not clear last spring, it is abundantly clear today.

I am also concerned that Mr. Lindsey believes that tax cuts, more than monetary policy, have been responsible for bringing inflation down. At great economic and social cost, the Federal Reserve succeeded in reducing inflation from double digit rates in 1981 to a range of 3 to 4 percent in subsequent years by raising and holding up interest rates long enough to induce a major recession. Despite Mr. Lindsey's claims to the contrary, interest rates finally fell because the Federal Reserve ultimately responded to the serious deterioration of the economy and the sharply lower inflation rates. Inflation slowed because the economy slowed first, making it costly for workers and firms to continue raising wages and prices rapidly. Understanding the effects of monetary policy should be fundamental to a Board member. At a time when fiscal policy seems to be unable to revive the economy, we are relying on monetary policymakers to find a solution.

Given the debilitated state of the Nation's economy, the decisions made by the Federal Reserve are monumental. Misjudgments by the Fed could prevent much needed economic improvement. It is crucial that an appointee to the Federal Reserve possess a truly balanced understanding of the role and the power of monetary policy.

CONCLUSION

In conclusion, Mr. President, I think Mr. Lindsey lacks the real life experience associated with financial, industrial, agricultural, and commercial interests in general to make the crucial decisions that will bring our economy out of jeopardy and put it on a realistic, not a theoretical,.path of growth. One step to finding this realistic solution is having Federal Reserve Board members who properly represent the Federal Reserve districts from which they are nominated. I do not think that there can be any doubt that Mr. Lindsey's nomination clearly violates the Federal Reserve Act which was designed to give us balanced representation. His presence on the Federal Reserve Board would upset the balance of diversity on the Board and stifle the voice of economic indicators from a major region of the Nation. I think the people of the Fifth Federal Reserve District, the people of the South, deserve a representative who has been a participant and has been able to develop a clear understanding of their economic needs. Without such a representative, policy cannot be crafted that is responsive to the needs of the entire country, including the South. In short, Mr. Lindsey is not only not the best person for this position, he is not even qualified. Therefore, I have urged my colleagues to uphold the statutes in the Federal Reserve Act and reject this nomination.

Mr. SARBANES. Will the Senator yield for a question?

Mr. SANFORD. Certainly.

Mr. SARBANES. Mr. President, I subscribe to the point of view which the Senator has advanced with respect to this nomination because it seems to me clear that it is not conforming certainly with the spirit of the Federal Reserve Act, because I think the residential requirement is not simply a technical requirement that someone come down to work in Washington, DC, from an academic appointment at Harvard and then live in Virginia or Maryland and that residence there constitutes meeting the geographic requirements that are contained in the Federal Reserve Act. I agree completely.

Let me ask the Senator. As I understand the point he is making, it is his view that the person taken from a Federal Reserve district should have some nexus with that district; in other words, he should have some feel and sense for the industrial and commercial and agriculture life of the Federal Reserve district from which he is being drawn and ostensibly would represent on the board of Federal Reserve. Is that correct?

Mr. SANFORD. The Senator is correct. In fact, the statute specifically requires that.

Mr. SARBANES. Mr. President, we have had this problem come up before, I must say, where they have taken someone who is a Washington hand and then they say, well, you know, a number of years ago he went to school in this Federal Reserve district or something and then they use that as the basis to try to put him on the board and meet the geographic requirement.

I do not think that geographic requirement is something to be ignored or laughed at or simply brushed off. I think it has meaning. I think it was developed on the basis of good rationale and that the Senate ought to hold to that rationale. It certainly is not happening in this instance for the reasons which the very able Senator from North Carolina has detailed so eloquently. I am pleased to join with him in the position that he has taken on this nomination.

Mr. SANFORD. Mr. President, I thank the Senator from Maryland. I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my colleagues for expressing most forthrightly their sentiments on this. It has been my privilege to introduce this nominee on behalf of the President. I take issue with some of the conclusions that my distinguished colleagues from North Carolina and Maryland raised. But, nevertheless, I wish to thank them for allowing the nomination to go forward and to have the Senate work its will, presumably sometime tonight.

I had the pleasure of meeting with Dr. Lindsey on several occasions before his nomination came before the Senate Banking Committee and found him to be an exceptionally impressive individual. He has not only served as an economic advisor to two Presidents—I repeat, two Presidents—but he has taught at Harvard University, and has published numerous economic books and articles.

Dr. Lindsey has named several goals he wishes to achieve subject to his confirmation by the U.S. Senate and his eventual position as a board member of the Federal Reserve. Those goals include a growth oriented, noninflationary monetary policy, a regulatory position which would not impede credit conditions, reform of the Nation's financial system so that our banks can better compete internationally, and gradual reduction of inflation. These goals are laudable, and on track with the needs of our country's monetary policy.

Mr. President, I am pleased that Dr. Lindsey's nomination, in my judgment, enjoys bipartisan support in this Chamber. I think the President has made an excellent choice. I look forward to the Senate working its will on this nomination. I hope it will be favorable, because I think he will serve and discharge the duties as board member of the Federal Reserve with distinction and effectiveness.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

TECHNICAL CORRECTIONS AND CORRECTIONS TO ENROLLMENT OF CERTAIN APPROPRIATIONS ACTS

The Senate continued with the consideration of the joint resolution.

Mr. DOMENICI. Mr. President, I want to get back to the subject matter before us.

I do not choose to use much of the Senate's time in explaining why I will vote against this joint resolution. I did a bit of it awhile ago in some extraneous remarks regarding what this bill was not. I have prepared an analysis of the bill, and an analysis of what we have failed to do in the normal appropriations process for disaster relief which led us to a point where the House had to put money in the disaster relief account and declare it an emergency, and that started this bill.

I have attempted to analyze the measure as best I can and I want to repeat: The House—not the Senate, not the Appropriations Committee—decided that they were going to take some votes on some measures and matters that had great political appeal and put them in this bill because obviously many, many House Members would vote for it. One was WIC, one was some money for Head Start, and one was some immunization. money. We had just funded them in the regular appropriations bill, but somebody decided that if we were having another appropriations bill run through, we would put them on it.

Frankly, in our debate in the Appropriations Committee, there was no one that really tried to take the position that those funding items were emergencies. They are not. And so what we are doing is putting them in the joint resolution without a true emergency situation and sending them to the President. If he declares them an emergency, we will spend the money. And everyone knows that the President will not do that, because it is not a true emergency.

But I also indicate in my statement how these programs have increased over the last 5 years and indeed over the last year, and they have been substantial increases. I mean a program like WIC in the last 5 years has just grown dramatically; in the last year it has grown as much as almost any other program around. And well it should. So has the immunization program that is in here, and so has Head Start. So I have that analyzed in detail, and it will be my justification and explanation for what this bill is, and what it is not.

Mr. President, I must rise in opposition to House Joint Resolution 157, a bill making so-called dire emergency supplemental appropriations for fiscal year 1992, which was reported by the Senate Appropriations Committee on November 15.

Mr. President, this is the last appropriations bill that the Congress is likely to consider this session.

I oppose this bill because, as I said during the full appropriations committee markup session, it is way beyond mischief. By that I mean that this bill take to new heights the fiscal games that the Congress likes to play, but in my opinion. It is so disingenuous that I cannot let it go unchallenged.

Mr. President, this bill is a sham. Plain and simply it is an attempt by the Congress to make everyone think that they have addressed a problem when all it has done is found a mischievous way to avoid making difficult decisions on priorities for Federal spending.

It is way beyond mischief for the Congress to give the impression to the victims of natural disasters that they will receive relief under this bill when in fact they probably will not.

The bill is simply another attempt by the majority party in Congress to get around the bipartisan budget agreement, and to embarrass the President with charges that he is ignoring the domestic agenda when he does not declare every item of spending in this bill as an emergency requirement.

"DIRE EMERGENCY" ITEMS

Mr. President, before the President has signed the last of the 13 regular appropriations bills, the Congress is passing a $14.2 billion so-called "dire emergency" supplemental appropriations bill for fiscal year 1992.

The bill includes $10.1 billion for Operation Desert Shield/Desert Storm, which is funded out of allied contributions to the defense cooperation account or the Persian Gulf regional defense fund, and not from taxpayer funds.

Excluding the Operation Desert Shield/Desert Storm funding, and the $151 million in FEMA disaster assistance that the President declared "emergency requirements" back in July, which will not be charged against the discretionary spending caps in the bipartisan budget agreement, the Senate is today voting on adding $4.0 billion in budget authority and $2.85 billion in outlays to Federal spending.

Without the designation of these funds as "emergency requirements" by the President, making this disaster relief and other spending available would force a sequester of all domestic discretionary spending by between 1 and 2 percent across-the-board.

This bill again shows that Congress will not make the tough decisions. Rather, it specifies in this bill that these funds will be spent only when the President declares them as "emergency requirements," and therefore, outside the fiscal discipline of the fiscal year 1992 spending caps.

So this is the choice Congress is forcing on the President—he can either declare these funds "emergency requirements" when arguably many of them are not, and break the budget agreement, or, he can refuse to make that designation and be charged as insensitive to the plight of disaster victims and the domestic economy overall.

So I would ask my colleagues where is the lack of leadership in this country?

The Federal Government appropriately has in place programs that are available to assist the victims of natural disasters. It has been Federal policy to say that the Government is ready to help those who have suffered serious losses through no fault of their own.

The problem is that the Congress has not adequately funded the major domestic disaster relief account, the Federal Emergency Management Agency disaster relief account, for the past few years.

In each of fiscal year 1989, fiscal year 1990, and fiscal year 1991, congressional appropriations were significantly below the budget request, totaling $542 million less than was requested by the President over the 3 years. It is this amount that the administration has not designated as "emergency requirements" for purposes of this bill.

In the fiscal year 1992 VA–HUD independent agencies appropriations bill signed into law October 28, the bill accepted the President's original budget request of $184.5 million, reflecting Congress' growing realization that unmet disaster assistance needs were building up. The Congress did not, however, approve an additional $90 million requested by the President in June to meet revised estimates of fiscal year 1992 disaster needs.

Now, the Congress is trying to make up for this shortfall in funding in this appropriations bill and not be charged for that spending.

If there is a level of disasters above and beyond what we historically have experienced and responsibly budgeted for, the bipartisan budget agreement was designed to accommodate the costs associated with those disasters under the "emergency requirement" provisions.

To underfund the disaster assistance programs in order to fund lower priority programs, and then to expect the budget agreement to bail us out of that situation is, again, "way beyond mischief."

Mr. President, there is other spending in this bill which the Congress also seeks to exempt from the discipline of the budget agreement. The bill includes $1.75 billion for crop loss assistance. It is my impression that the President and Secretary of Agriculture have done their best with existing authorities and resources to address agricultural disaster needs in areas experiencing problems due to severe weather conditions.

VOL
137
PT
23
NO
21
—
25
1991
UMI

The bill also seeks to declare "emergency requirements" for three programs, which have broad congressional support—the Women, Infants, and Children [WIC] Feeding Program, the Head Start program, and the Childhood Immunization Program.

I doubt if there is one member in this body who is not familiar with the good works done through these three programs.

It is for this very reason that:

The WIC Program increases by $250 million, or 10.6 percent, from fiscal year 1991 to fiscal year 1992. In fact, the WIC Program has increased by $797.6 million, or 44.2 percent, since fiscal year 1988;

The Head Start Program increases by $250 million, or 12.8 percent, from fiscal 1991 to fiscal year 1992, and by $995.7 million, or 82.5 percent, since fiscal year 1988; and

The childhood immunization Program increases by $66.9 million, or 36.7 percent, from fiscal year 1991 to fiscal year 1992, and by $150.7 million, or 153.6 percent, since fiscal year 1988.

Over the past 5 years, in the regular annual appropriations bills, the Congress has approved significant increases for these important programs. It has even done so in the first 2 years of the bipartisan budget agreement when caps were placed on spending.

But that is not enough. Congress now attempts to add another $1.39 billion to these three programs claiming there is some new emergency associated with them, when in fact, there is not.

Thus, Mr. President, even though this bill does not technically violate the Budget Enforcement Act, I must vote against this bill because it seeks to stretch the reasonable definition of "emergency requirements" under the bipartisan budget agreement and the Budget Enforcement Act of 1990. In passing this bill, the Senate will in effect be saying that it cannot uphold the intent of the budget agreement and set domestic priorities within that agreement.

FISCAL YEAR 1992 APPROPRIATIONS WRAP UP

Finally, Mr. President, we are almost to the end of congressional action on the fiscal year 1992 spending bills. With the exception of the foreign operations bill, which we will consider early next year, all of the regular fiscal year 1992 appropriations bills are about to be completed.

Very little has been said about Congress' record in abiding by the budget agreement. As is usually the case, Congress gets a mixed review.

On the "paygo" front, the Congress ultimately enacted an unemployment compensation bill that will pay for itself over the 5-year period. Yet, it could not resist making a deal to enact another expensive unemployment bill as part of the agreement to complete action on these much anticipated benefits.

Also on the "paygo" front, we have authorizing committees seeking to turn various programs into entitlement programs, but to avoid paying for them, the effective date of this entitlement spending is beyond the horizon of the budget agreement. Again, Congress seeks to spend more money on programs when it doesn't have the money to pay for them.

On the appropriations front, I must commend the distinguished chairman of the Senate Appropriations Committee for his commitment to upholding the bipartisan budget agreement. He has done his best under very trying circumstances.

It appears that the enactment of the regular appropriations bills will be within the spending caps on discretionary spending.

In enacting the bills, however, we have had to delay the obligation of funding totaling $4.1 billion in budget authority until late in the fiscal year to minimize the near-term outlays associated with our spending decisions. In so doing, we are putting increased pressure on the spending caps next year and are limiting our flexibility in making spending choices next year.

To live within the spending caps this year, the Congress has also made promises of funding by approving advanced appropriations for fiscal year 1993, and assuming that Department of Defense funding will be used to offset funding requirements of programs through domestic agencies like the Coast Guard, National Science Foundation, the National Aeronautics and Space Administration, and others.

Throughout it all, the spending caps have not been so tight to preclude the funding of special projects in many bills—both the domestic bills and the defense bill.

Mr. President, I regret that final action on the fiscal year 1992 appropriations bills this year finds this Senator opposing a bill reported by the Senate Appropriations Committee.

I have tried, as a member of that committee, to support the distinguished chairman and ranking member in their efforts to implement the budget agreement.

But in the case of this bill, I must strongly oppose the Congress' latest attempt to have it all without paying for it, and to use this as an excuse to attack the President on the domestic agenda.

I oppose this bill, and I say to my colleagues that if you are serious about upholding the bipartisan budget agreement and the fiscal discipline we set out in that agreement, then you will vote to defeat this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. BYRD. Mr. President, several times today, I have attempted to get a unanimous consent concerning a list of amendments that we might attempt to—that we might, hopefully, limit the amendments to those on the list. I failed. There certainly, with 60 amendments, must be at least 30 Senators who have those amendments. So I am sure that I am not speaking in a vacuum tonight. Senators, I am sure, or their staffs, are watching television.

It is now 20 minutes until 8. If, within 10 minutes, an amendment is not offered, I am going to move to go to third reading, and I will ask for the yeas and nays on that motion.

Mr. DOLE. Why wait?

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

Mr. BYRD. No. No. I say within 10 minutes. I say, within 10 minutes, if no amendment is offered, I will move to go to third reading, and I will then ask for the yeas and nays.

I suggest the absence of a quorum.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2521, the Defense appropriations bill, and has found that the bill is under its 602(b) budget authority allocation by $497 million and under its 602(b) outlay allocation by $32 million.

I must compliment the distinguished manager of the bill, Senator INOUYE, and the distinguished ranking member of the Defense Appropriations Subcommittee, Senator STEVENS for their excellent work in attempting to bring Defense spending into conformity with the threats to U.S. security.

This bill complies with the ceilings on Defense spending set forth in the budget agreement over 1 year ago. However, in light of changing fiscal and international conditions, it is becoming increasingly clear that funding Defense activities up to the legally allowed limits no longer makes sense. I look forward to working with the distinguished chairman and ranking member in the months ahead to ensure that our budgetary priorities properly reflect to problems this Nation needs to address.

Mr. President, I ask unanimous consent a scoring table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2521

H.R. 2521

DEFENSE SUBCOMMITTEE—SPENDING TOTALS

[In billions of dollars]

Bill summary	Budget authority	Outlays
New budget authority and outlays	269.9	176.5
Enacted to date	0	98.9
Adjustment to conform mandatory programs to resolution assumptions		0
Scorekeeping adjustments	0	0

DEFENSE SUBCOMMITTEE—SPENDING TOTALS—Continued

[In billions of dollars]

Bill summary	Budget authority	Outlays
Bill total	269.9	275.4
Senate 602(b) allocation	270.4	275.4
Total difference	−.5	
Discretionary:		
Domestic		
Senate 602(b)	0	0
Difference		
International	0	
Senate 602(b)	0	
Difference	0	

DEFENSE SUBCOMMITTEE—SPENDING TOTALS—Continued

[In billions of dollars]

Bill summary	Budget authority	Outlays
Defense	269.8	275.2
Senate 602(b)	270.2	275.2
Difference	−.4	
Total discretionary spending	269.7	275.2
Mandatory spending	2	2
Mandatory allocation	2	2
Difference	0	0
Discretionary total above (+) or below (−):		
President's request	−1.0	−1.3
House-passed bill	7	
Senate-passed bill	−.3	.2

DEFENSE 1992 APPROPRIATIONS

[In thousands of dollars]

	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Discretionary spending:										
Domestic:										
New spending in bill	0	0	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
Outlays prior	0	0	0	0	0	0	0	0	0	0
Supplementals (Public Law 102–27)	0	0	0	0	0	0	0	0	0	0
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
602 (b) allocation	NA	NA	0	0	0	0	0	0	0	0
Above/below (+/−) allocation	NA	NA	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
International:										
New spending in bill	0	0	0	0	0	0	0	0	0	3,416
Outlays prior	0	0	0	0	0	0	0	0	0	0
Supplementals (Public Law 102–27)	0	0	0	0	0	0	0	0	0	0
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0	0	0	0	3,416
602(b) allocation	NA	NA	0	0	0	0	0	0	0	4,000
Above/below (+/−) allocation	NA	NA	0	0	0	0	0	0	0	−584
Defense:										
New spending in bill	270,781,222	177,644,351	270,396,692	176,324,193	270,243,247	176,352,343	270,044,147	176,106,562	269,821,920	176,327,947
Outlays prior	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658
Supplementals (Public Law 102–27)	0	33,272	0	33,272	0	33,272	0	33,272	0	33,272
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	270,781,222	276,510,281	270,396,692	275,190,123	270,243,247	275,218,273	270,044,147	274,972,492	269,821,920	275,193,877
602(b) allocation	NA	NA	270,454,000	275,355,000	270,244,000	275,222,000	270,244,000	275,222,000	270,244,000	275,222,000
Above/below (+/−) allocation	NA	NA	−57,308	−164,877	−753	−3,727	−199,853	−249,508	−422,080	−28,123
Total discretionary:										
New spending in bill	270,781,222	177,644,351	270,401,692	176,325,443	270,243,247	176,351,568	270,093,647	176,155,287	269,747,140	176,327,942
Outlays prior	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658
Supplementals (Public Law 102–27)	0	33,272	0	33,272	0	33,272	0	33,272	0	33,272
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	270,781,222	276,510,281	270,401,692	275,191,373	270,243,247	275,217,498	270,093,647	275,021,217	269,747,140	275,193,872
Mandatory spending:										
New spending in bill	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100
Permanent appropriations	0	0	0	0	0	0	0	0	0	0
Outlays prior	0	0	0	0	0	0	0	0	0	0
Subtotal mandatory	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100
Resolution scoring adjustments	−100	−100	−100	−100	−100	−100	−100	−100	−100	−100
Adjusted mandatory total	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000
Bill total:										
Discretionary	270,781,222	276,510,281	270,401,692	275,191,373	270,243,247	275,217,498	270,093,647	275,021,217	269,747,140	275,193,872
Adjusted mandatory	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000
Subtotal	270,945,222	276,674,281	270,565,692	275,355,373	270,407,247	275,381,498	270,257,647	275,185,217	269,911,240	275,357,972
602(b) allocation	NA	NA	270,618,000	275,519,000	270,408,000	275,386,000	270,408,000	275,386,000	270,408,000	275,390,000
Above/below (+/−) allocation	NA	NA	−52,303	−163,627	−753	−4,502	−150,353	−200,783	−496,760	−32,028
Discretionary total compared to:										
President's request	NA	NA	−379,530	−1,318,908	−537,975	−1,292,783	−687,575	−1,489,064	−1,034,082	−1,316,409
House-passed	379,530	1,318,908	NA	NA	−158,445	26,125	−308,045	−170,156	−654,552	2,499
Senate-passed	687,575	1,489,064	308,045	170,156	149,600	196,281	NA	NA	−346,507	172,655

Mr. BYRD. Mr. President, the Dire Emergency Supplemental Appropriations Act of 1992 passed by the House, provides $693 million in new budget authority for FEMA's disaster relief programs. Resources available for the current fiscal year were insufficient to meet the requirements of fiscal year 1991 and prior-year disaster declarations. FEMA has been unable to grant any assistance since May of this year.

Mr. President, I would like to enter into a colloquy with the distinguished Chairman of the Budget Committee, Senator SASSER, to discuss the importance of supplemental FEMA funding. Communities all across the country

VOL 137 PT 23 NO 21–25 1991 UMI

have suffered as a result of the current fiscal shortfall, and it is important that we assure an adequate level of supplemental funding.

Mr. SASSER. I thank the Senator from West Virginia for his kind comments and his recognition of this important issue. The FEMA Disaster Relief Fund plays a crucial role in assisting State and local entities address damages caused by a natural disaster. FEMA has helped many communities in my State of Tennessee get back on their feet after unfortunate circumstances have occurred.

The nature of disaster activity is highly unpredictable and 1991 and past year disaster-related needs have consumed all available FEMA funds. Communities are in dire need of restoration of facilities destroyed or damaged by natural events. During visits to Tennessee I have surveyed several areas and facilities which have sustained considerable damage due to flooding and tornado activity. As Senator BYRD stated, many localities have been waiting long periods of time for aid.

For example, Hamilton County has been waiting since February of 1990 for FEMA funds. Torrential rains in a residential area of Chattanooga caused an embankment to slide, tearing out 6 feet of Crestone Circle Road. This important city road has remained closed for over 18 months.

A flood in Graysville, Rhea County, during the beginning of 1991, weakened the piers of the Graysville bridge. Sections at both ends of the bridge subsequently collapsed. Since this time citizens of the area have had to find alternative ways of crossing Roaring Creek.

And, in May of this year, severe rains and flooding damaged roads and bridges in nine Tennessee counties including: Cheatham, Dickson, Hardin, Hickman, Humphreys, Lawrence, Lewis, Perry and Wayne. All nine counties have been designated disaster areas by the President, yet no financial assistance has been forthcoming.

These three examples highlight the urgent need to assure that FEMA is adequately funded. We must move quickly to provide supplemental funding. As the central agency for emergency response activities, FEMA must have the fiscal means to address disaster needs in a timely fashion. I agree with the FEMA funding level contained in the Dire Emergency Supplemental Appropriations Act and I trust that once this bill is approved FEMA will move quickly on past claims.

Mr. BYRD. I would like to thank the Senator for his comments. I share his interest in assuring that those communities in need of aid will soon receive the necessary FEMA resources.

Mr. SASSER. I thank the distinguished chairman of the Appropriations Committee for his support.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1422, 1423, 1424, AND 1425

Mr. BYRD. Mr. President, I send to the desk amendments, one amendment by Messrs. COATS, RIEGLE, and LEVIN; one amendment by Mr. RIEGLE; and one amendment by Mr. DOLE.

I ask unanimous consent that they be considered and agreed to en bloc; that the motion to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (Nos. 1422, 1423, 1424 and 1425) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1422

(Purpose: To provide relief to farmers seeking low interest emergency loans)

At the end of page 20, insert the following: "CROP INSURANCE.—Effective only for the 1991 crop year, Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act."

COATS CROP INSURANCE WAIVER AMENDMENT

Mr. COATS. Mr. President, this summer, farmers throughout America and especially the Midwest once again have suffered crop losses due to drought.

In Indiana, many farmers and farm experts indicate that the losses from the drought of 1991 may equal or surpass the devastating drought of 1988. Agriculture economists, crop specialists, and other farm experts from Purdue University are estimating that when the crop is marketed that crop losses in Indiana might be as great as half a billion dollars. We know that row crop losses alone will probably be a minimum of $350 million. Other Midwestern States which make up the bulk of row-crop production in the United States have experienced similar losses.

However Mr. President, unlike the drought of 1988, even with the severity of the drought of 1991, the crop markets did not respond to the losses. Thus, not only have farmers seen less corn and soybeans in their combines, they also see substantially less dollars in their pockets. Farm economists at Purdue are estimating that with the drought of 1991 farm income in the State of Indiana may drop as much as 50 percent.

All of this falls on the shoulders of farmers already suffering under the weight of previous crop failures, skyrocketing interest rates and other factors beyond their control. Many farmers are left asking themselves how they can possibly make it through another year—how can they possibly pay off high interest loans and still have the cash flow to plant the 1992 crop, let alone clothe and feed their families.

Today I am introducing an amendment which will ease the burden on some American and Hoosier farmers which are facing the bleakest of times. The Crop Insurance Waiver Amendment increases the financing options for those farmers who have been severely hurt by the drought of 1991. Under current provisions for drought relief in the supplemental bill, all farmers will be forgiven of this requirement except for those bottom 2 or 3 percent who need help the most. Under current law, only farmers who meet the criterion and have crop insurance policies would be eligible for low-interest FMHA loans. This amendment, Mr. President, seeks to waive that crop insurance requirement and thus make low-interest loans available to all qualifying farmers.

This bill will not affect those farmers who currently hold crop insurance policies—they will still be reimbursed at their full guaranteed rate, and also be eligible for low-interest FMHA loans if they meet the loan requirements. Some of the requirements that farmers must meet include having a loss of at least 30 percent and not being able to obtain financing through normal commercial means. It will only open up opportunities for all farmers to apply for 4.5 percent loans from the Farmers Home Administration.

This bill is a responsible means of addressing the financial hardships that farmers will be facing in the fall of 1991, and the spring of 1992. It is by no means an answer to every problem they face. Even with this option, farmers will still struggle to make ends meet. But it will help meet some urgent needs in difficult times.

Mr. President, it is my hope that the Senate will support this amendment.

AMENDMENT NO. 1423

(Purpose: To provide emergency crop loss assistance to producers of fruits and vegetables who suffered damage due to fire blight).

At the appropriate place, insert the following new section:

SEC. . Section 2251(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting "fire blight," after "earthquake,".

AMENDMENT NO. 1424

(Purpose: To provide assistance for rehabilitating trees).

At the end of the joint resolution, add the following new section:

SEC. . (a) Section 2256(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting after "replanting trees lost" the following: "and rehabilitation or restoring trees damaged".

(b) Section 2257(a) of such Act (7 U.S.C. 1421 note) is amended by striking "$25,000" and inserting "$75,000".

AMENDMENT NO. 1425

On page 19, line 13, insert the following after the ".": "For the purposes of this Act,

the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992."

AMENDMENT NO. 1426

Mr. BYRD. Mr. President, I ask unanimous consent an amendment I send to the desk on behalf of Mr. PELL be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1426) considered and agreed to is as follows:

AMENDMENT NO. 1426

On Page 22 on line 6, after "Chapter V" insert the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $300,000, to remain available until expended, to be expended through the Interjurisdictional Fisheries Program for the Quahog Transplant Fund of the Rhode Island Department of Environmental Management for the restoration of shellfishing beds damaged by Hurricane Bob.

Mr. PELL. Mr. President, I am pleased to offer this amendment to the Dire Emergency Supplemental Appropriations Act which would provide emergency assistance to those shellfishermen in Narragansett Bay whose livelihoods were severely disrupted by Hurricane Bob.

When Hurricane Bob struck New England on August 19 of this year, extensive damage was done to the rich shellfish beds located in Narragansett Bay. The flooding and power failures caused by Hurricane Bob forced wastewater treatment plants to release tens of millions of gallons of raw, untreated sewage into Narragansett Bay, contaminating shellfish beds and closing all of Narragansett Bay to shellfishing for 9 days.

I am offering this amendment because no currently funded federal program is available to help cope with the legacy of this ecological and economic disaster. Title III of the Interjurisdictional Fisheries Program of the National Oceanic and Atmospheric Administration [NOAA] can provide funds for the restoration of fisheries following natural disasters. Unfortunately, no funds are available for Title III of the Interjurisdictional Fisheries Program.

For this reason, this amendment requests that $300,000 be appropriated to fund the Interjurisdictional Fisheries Program for the purpose of funding the Rhode Island Quahog Transplant Fund, a shellfish restoration program. The amendment will accomplish two goals. First, the amendment will allow the vigorous restoration of contaminated shellfishing beds. Second, this amendment will directly benefit Narragansett Bay shellfishermen through the Rhode Island Department of Environmental Management's Quahog Transplant Fund. This fund will use the skills of these shellfishermen in the restoration of Narragansett Bay shellfish beds. This will allow these shellfishermen to recover a portion of their losses that were the result of Hurricane Bob.

I am pleased that the Senate has seen fit to address this vitally important issue and to rectify the dire consequences facing Narragansett Bay shellfishermen as a result of Hurricane Bob. With this amendment, the Narragansett Bay shellfishing industry will receive some measure of the assistance that they need. In order for this provision to become law, it must now be agreed to by a House-Senate conference committee and agreed to by the administration. I am hopeful that the measure will be enacted.

Mr. BYRD. Mr. President, the bill before the Senate, House Joint Resolution 157, the dire emergency supplemental appropriations bill, provides $1.75 billion for disaster payments to growers who suffered crop losses in the 1990 and 1991 crop years. This assistance is urgently needed by farmers in West Virginia and it is long overdue.

I have heard from growers in my State about the losses they have suffered. West Virginia's farmers were hard hit by detrimental weather conditions in 1990 and 1991. Thirty-nine counties in West Virginia are eligible for assistance under this bill. In 1990, a late freeze resulted in an estimated $15.2 million in crop losses in West Virginia, primarily damage to fruit crops. For example, the West Virginia growers experienced a 35-percent loss in the apple crop, an 85-percent loss in the peach crop, and plum and cherry crops experienced a 100-percent loss. In 1991, West Virginia farmers also suffered heavy losses in feed grain and vegetable crops.

The assistance provided in this bill is needed for farmers in West Virginia and all over our Nation. Without this assistance some farmers will be facing severe economic losses from which they may not be able to recover. I support providing assistance to those who have suffered 1990 and 1991 crop losses.

SOME IMPORTANT BENEFITS

- Mr. ADAMS. Mr. President, several provisions in this legislation are important to Washingtonians. This bill will benefit those who have suffered through disasters this past year as well as children in our state.

The fires in and around Spokane last month took lives and devasted millions of dollars in property. The bill recommends an additional $943 million for the Federal Emergency Management Agency, including $31 million for Washington State to deal with the wildfires and other disasters.

The FEMA funding will also assist with ritual dike repair and other flood mitigation projects. Lack of funding has crippled important work on these projects. A dairy farmer in Snohomish, Washington wrote to me to say that all his farmland in the river valley was ravaged by the great flood one year ago this month. Dangerous, unrepaired flood control facilities still exist in that area. Milk prices are so low, this farmer cannot afford to suffer through another flood.

The bill also makes $1.75 billion available for farm disaster assistance. Farmers who participated in Federal farm programs and had a 35-percent crop loss are eligible for 65 percent of the target price. For nonprogram farmers, they must show a 40-percent crop loss for disaster assistance. In Washington, where severe freezing and hail damaged wheat and some tree fruits, this disaster assistance is extremely important.

Supplemental appropriations of $90 million for child immunization, $100 million for the Women, Infants and Children [WIC] feeding program, and $1.2 billion for Head Start are also included in this legislation. These programs serve Washington's children. For every dollar spent on the prenatal component of WIC, the savings in Medicaid costs range from $2.84 to $3.90 for newborns alone.

Another section I support denies any military sales to Saudi Arabia and Kuwait until these governments have paid the $3.25 billion outstanding for Operation Desert Storm. American servicemen and women did not hesitate to serve when called upon to help defend these countries. Why the delay?

Finally, I want to go on record in support of the Leahy amendment. It provides protection for the WI program and will restore stability in milk prices for our farmers.

Our dairyers have suffered from the same fate as credit card holders over the last several years. Credit card interest rates have remained high while real interest rates have dropped substantially. Retail milk prices have remained steady, and even increased, while the price paid to farmers has plummeted.

Our dairyers have been hit by a double whammy: a recession and steeply falling milk prices. In the first six months of this year, Washington lost 80 dairy farms, out of 1,260. It takes 2 years for a calf to become a producing cow. Our farmers need and deserve some certainty. Senator LEAHY'S amendment will do this.

DISASTER ASSISTANCE

Mr. SEYMOUR. Mr. President, I would like to commend the distinguished chairman of the Appropriations Committee, Senator BYRD, and the ranking Republican, Senator HATFIELD, for their efforts to include disaster assistance in this supplemental bill.

California agriculture has endured more than its share of natural disas-

VOL 137 PT 23 NO 21–25 1991 UMI

ters this past year. In December 1990, a catastrophic freeze destroyed much of California's navel and Valencia orange crop, as well as many other crops. The damage to California agriculture was further compounded by losses due to 5 years of drought, and more recently due to an infestation of the sweetpotato whitefly in Imperial and Riverside Counties.

The devastating effects of the drought have been well documented. Last year, according to the California Department of Water Resources, roughly 800,000 acres of farmland were idled due to lack of water. The University of California, Davis has estimated that losses to irrigated crops totaled approximately $640 million. Another drought year similar to 1991 will be crippling to California's economy. In fact, the Bureau of Reclamation has already announced that even a normal year of rainfall will not provide enough water supply for regular deliveries.

In early October, an outbreak of the sweet potato whitefly, exacerbated by unusually warm weather, wiped out much of California's fresh winter vegetable crop. Crop damage estimates due to the whitefly infestation already total approximately $90 million. It is estimated that losses could reach $200 million by spring. This figure does not represent losses due to unemployment. Already, 2,500 farmworkers are out of work due to this infestation.

In terms of crop damage, the freeze which struck California in December and January was the most devastating. A Los Angeles Times article, dated January 6, 1991, stated the freeze is the worst to hit California citrus since the industry was launched in the 1870's. The California citrus industry supplies approximately 90 percent of the navel oranges, 50 percent of the fresh Valencia oranges, and 80 percent of the lemons in the United States. The citrus industry provides thousands of jobs and revenue to California's economy.

The freeze destroyed most of the navel and Valencia crop. This includes 90,000 acres of navel oranges, 40,000 acres of Valencia oranges, and 10,000 acres of lemons. The resultant on-farm crop loss was $450 million. Citrus trees also perished by the millions, burned by the freeze. Conservative estimates of crop damage have been as high as $1 billion. Some of the hardest hit agricultural communities were in the counties of Tulare, Fresno, Ventura, and Kern.

In Tulare County, crop damage exceeded $341 million, as unemployment reached upward of 23 percent. In the small town of Lindsay, unemployment reached 50 percent. In Fresno County, citrus producers had production losses totaling approximately $70 million.

This winter's freeze is the third worst disaster in the history of California, third only to the 1906 San Francisco earthquake and the 1989 Loma Prieta earthquake.

The combined efforts of USDA and the administration to assist farmers and farmworkers impacted by these disasters has been extraordinary. I am now convinced, however, that disaster assistance is the only solution to complete the economic recovery of these crippled rural communities.

Mr. President, I am hopeful that Congress, in close cooperation with the administration, will reach agreement on disaster assistance this year so that farmers will be able to get back to farming, and farmworkers will be able to go back to work.

Mr. SANFORD. Mr. President, let me briefly let my colleagues know that I intend to support the passage of the fiscal year 1992 supplemental appropriations measure which has been approved by the House and favorably reported from the Senate Appropriations Committee.

One major expenditure in this bill will help our farmers who have suffered significant crop losses in 1990 and 1991. These farmers have been waiting for relief for many months now. For many growers in North Carolina, help will come too late. It is high time that the Government did its share for these citizens who suffered severe drought, and in many areas hail, last year. Many of the same producers are presently calculating the losses resulting from this summer's heavy rains.

I have talked to many farmers of my State about the hardships that they have endured lately, some of whom have, in the last year and a half, made the painful decision to stop working the family farm.

Mr. President, North Carolina continues to rank among those States losing the largest numbers of farms. I will do what I can to see that we shed this distinction.

I must mention the wise advise of Ms. Jean Bryson of the little town of Faison in Duplin County, NC. Ms. Bryson tells me that the Government will end up paying one way or another—either through disaster payments or through the more expensive avenues of food stamps, unemployment benefits, and other programs resulting from a weakened economy. Ms. Bryson runs a farm supply operation and grows produce. She sees and hears the concerns of our producers; many of the men and women who are on the verge of bankruptcy today are not fly-by-night operators, but those conservative managers who have been in the business for generations and can no longer make a go of it.

I have talked with too many farmers in North Carolina who came into the 1991 growing season with a "must do" criterion for profit. Ms. Faye Wilcox of Lillington in Harnett County grows green beans, cucumbers, watermelon, and greens. She suffered a loss last year of nearly 80 percent of her crop. And, larger row-crop growers such as Mr. C.T. Perkins of Goldsboro in Duplin County saw somewhat similar situations. He lost at least 50 percent of his cotton last year and realized nearly as much damage to his corn.

Mr. President, since 1990, I have continuously pressed to find relief for these farmers and have endorsed freestanding legislation, as well as last year's reauthorization of the farm bill, which should have been sufficient to compel an appropriation for 1990 and 1991 crop losses. These efforts were apparently not adequate to get the job done in light of administration opposition.

These agriculture disaster relief provisions will do justice by those Americans who are bearing burdens not of their making.

This supplemental appropriations bill also includes $943 million for the Federal Emergency Management Agency. These monies are desperately needed to offer assistance to those who have been the victims of disasters across the United States.

In North Carolina, there were many who suffered losses due to Hurricane Hugo, which hit Mecklenburg, Gaston, and surrounding counties on September 21–22, 1989. There was massive destruction of homes, businesses, and farms. The cities and towns in the hurricane's path were without electricity and water over 2 weeks.

The cities of Charlotte and Gastonia responded very quickly to the emergency, moving the felled trees from homes and roadways and providing emergency phone lines and water. The total cost to Charlotte alone was over $42 million. But Charlotte and Gastonia together have over $8.4 million in claims from FEMA still outstanding. The money contained in this supplemental appropriations bill should finally cover those outstanding FEMA claims related to Hurricane Hugo.

I would like to add that this funding comes at a time when the cities involved are faced with having to reduce services due to FEMA's inability to reimburse the cities for the costs they incurred in their emergency efforts.

I must point out that the administration had requested only $150 million for FEMA's emergency funds. That small amount would not have covered the needs of Charlotte and Gastonia. Therefore, I am grateful that both Houses of Congress thought it imperative to provide the $943 million necessary to cover emergencies like those we experienced in North Carolina due to Hurricane Hugo.

And while on this subject, I would like to add that I believe we need to ensure that FEMA responds more promptly in offering followup assistance to communities like Charlotte and Gastonia. I am aware that it has taken quite a few months for FEMA to approve reimbursements for emergency expenditures to our North Carolina

communities and I would hope that this improves in the future.

This bill also includes $1.2 billion in emergency funding for the Head Start Program to ensure that more eligible children receive funding under this program. I believe that early childhood education is vital to the later academic success of many students. Each year almost 1 million children from low-income families enter school for the first time. While their more fortunate classmates may face the new challenge with assurance, many children from low-income homes begin school with health problems and a lack of self-confidence. Without the skills and the will to move ahead, these children often fall behind in their first years of school and find their troubles further compounded as they pass through the education system. Head Start seeks to start low-income, disadvantaged and handicapped students out with the skills they will need to be academically successful. Increasing the funding for Head Start will ensure that more disadvantaged children across the United States can obtain the benefits of early childhood education.

Mr. SIMPSON. Mr. President, I rise to voice my opposition to the dairy legislation introduced as an amendment to the emergency supplemental appropriations bill. I believe that the legislation is shortsighted and not comprehensive. In my opinion, it does little to provide an extensive long-range dairy program that will assist the dairy producers, protect low-income consumers, or protect the integrity of the cattle industry.

My fine and able friend and colleague from Vermont, Senator LEAHY, presented an amendment today to increase the current price support of $10.10 for hundredweight for fluid milk to $11.10 per hundredweight. The amendment also called for a paid herd-diversion program. Although the increase in the price support is quite small. I opposed the amendment because I truly believe than an increase would send the wrong message to producers. It does not make a lot of sense to try to fight overproduction in the dairy industry, while attempting to rationally consider providing an incentive to overproduce.

I too have great concern for the dairy producers in my fine State of Wyoming and throughout the Nation. I know they are facing increasing production costs and are having some economic hardship. In my opinion, an increase in the support price would inhibit the current workings of a successful free market system. Wyoming producers have production costs of around $9 per hundredweight, while the price received for milk is around $10.50 per hundredweight. After taking out about 50 cents for taxes and management costs, producers end up making about $1 in profit per hundredweight. Current statistics from the Wyoming Department of Agriculture show that Wyoming producers are doing more than just breaking even.

The other concern with the amendment is the paid Herd-Diversion Program. I am opposed to dairy policy that artificially mandates the slaughter of dairy cattle to control the overproduction of milk. I believe that in the free market system business-oriented dairy producers will send their cows to slaughter when the milk market is in oversupply. I don't think the Government has to pay producers to make the "right" production decisions.

I have listened intently to both sides of this issue and fully comprehend that a serious philosophical difference exists between dairy and cattle producers. The cattlemen feel threatened by the aspects of any kind of diversion. Their stance is reasonable. The cattle industry was devastated in 1986 by the Dairy Termination Program which was grossly mismanaged by the U.S. Department of Agriculture.

I want to strongly state that the tactics sometimes employed by the adversaries, on this issue have been at cross purposes, so that in the end, little could really be done to forge dairy legislation that could benefit those dairy producers who need it more. That is most unfortunate.

I am optimistic that the Department of Agriculture will do its best to monitor the daily situation in the following months to ensure that the dairy industry is not irreparably damaged and the fine traditions of that industry preserved. My good friend Senator DICK LUGAR, the intrepid and splendid Senator from Indiana spent enormous amounts of his time in the last year to ensure a fair dairy policy for all of those who would be effected. His devotion to American agriculture is always commendable.

I would also like to recognize the fine efforts of my friend Senator LARRY CRAIG of Idaho. He forthrightly took on the task of continuing a dialogue between the sparring industries long after others had given up. His total dedication to good farm policy deserves great credit.

I do look forward to working closely with my colleagues in the following months to revisit and further investigate the plight of the dairy industry. I maintain my position that any legislative alternative to the current dairy policy adopted under the 1990 farm bill must always take into account the welfare of the cattle industry. These industries must work together and strive for common ground.

• Mr. HARKIN. Mr. President, I cannot support the fiscal year 1992 defense authorization bill. This remains a cold war budget in a post-cold-war world. The total military budget authority of $290.8 billion is an increase of $5.2 billion over fiscal year 1991. The Soviet threat is disintegrating before our eyes, and the Congress agrees to increase the defense budget, including $160 for the defense of Europe.

The Pentagon has estimated for years that about 60 percent of the military budget was justified on the basis of stopping a surprise Soviet-Warsaw Pact attack on Western Europe, with only 10 to 14 days' warning. In effect, we spent over $160 billion each year to defend our European allies.

Obviously, this basis for Pentagon budget planning has evaporated. The Berlin Wall is gone. The Warsaw Pact is dead. The Soviet Union itself is in disarray.

Proponents of continued high military spending contend that Soviet military forces are still strong and could be reinvigorated, and that the Soviets are still improving their strategic nuclear weapons, which remain as potent as ever.

A hard-line Soviet Government could regain control of the failing Soviet empire at any time. The next coup could succeed. But we would have years of warning before any new Soviet menace could even contemplate an attack on Western Europe. A reconstituted Soviet hard-line military would have to reconquer Poland, Czechoslovakia and possibly Byelorussia and the Ukraine to reach Germany.

Therefore we no longer have to maintain a massive military machine that can respond in 10 to 14 days. We can and must end our $160-billion dollar per year subsidy of our European allies. We can afford to shift active duty forces to the Guard and Reserve. We can afford to slow down our rush to produce a new generation of conventional high technological weapons. The gulf war showed that our existing military hardware is superior to modern Soviet planes and tanks in the hands of the Iraqis.

And we can and must end our expansion of our nuclear weapons arsenal. We must acknowledge that nuclear weapons serve no useful military purpose, except to deter their own use. We can deter any rational leader with a few hundred survivable nuclear warheads. We can afford deep reductions in nuclear weapons, from our current level of 12,000 strategic deliverable warheads down to 1,000 or so on each side.

Other proponents of excessive military budget point to the Iraq war to prove that we live in a dangerous and unpredictable world. But we defeated the world's fourth largest army in 43 days using just 15 percent of our total forces.

We do live in a dangerous world, and we must have a strong military, able to defend America against any potential enemy. But we are running out of enemies. Countries that might conceivably be hostile to the United States and their estimated annual military budgets include China, $21 billion; Iraq,

VOL
137
PT
23
NO
21
—
25
1991
UMI

$13 billion; Iran, $22 billion; North Korea, $5.8 billion; Syria, $3.3 billion; Libya, $3 billion; and Cuba, $1.7 billion. The fiscal year 1992 Defense budget of $290.8 billion is therefore 13 to 270 times larger than any potential enemy. If we cannot defend ourselves spending more than 13 times any potential adversary, then maybe we aren't spending our money wisely. As the Iraq war illustrated, however, we have vast overkill capability.

But this defense budget for fiscal year 1992 ignores these realities of 1991. The Soviet Union is disintegrating before our eyes, and we authorize a $5.2 billion increase. The DOD budget is $90 billion more than we spent after the Korean war and after the Vietnam war, still in the midst of the cold war. This is irresponsible, given our grotesque and growing national deficit and unmet domestic needs.

We should not be determining our military spending by reference to last year's budget. Last year's budget was also a cold war budget. Our military budget should be determined by what we need to protect America and American interests around the globe, not by how much we were spending when the Warsaw Pact was intact.

I oppose many provisions in this bill, but let me cite several more egregious items.

First we have the B-2 stealth bomber. The administration requested $4.8 billion to build four more bombers. Congress wisely chose to cancel production, but we still authorized $4.4 billion. While $1 billion was put into escrow pending another vote to build one more plane next year, this still seems like quite a bargain: $4.4 billion authorized to build no planes, versus $4.8 billion to build four planes.

Then there is star wars, born to stop a massive Soviet attack with thousands of missiles and nuclear warheads. After spending $25 billion, more than that consumed by the entire Manhattan project that created the first atomic bombs, we have learned that we do not have the technology to stop even a small fraction of a Soviet nuclear attack. So now the goal posts have been widened. Now star wars has to stop only 200 warheads due to an accidental or *n*th country attack.

The original threat from the Soviet Union has diminished to insignificant proportions, but the star wars budget is increased by 30 percent over last year's budget, to $4.15 billion. While I do support the ground-based theatre, short-range missile defense systems such as improved versions of the Patriot missile, this accounts for only 20 percent of the SDI budget. We could provide a robust tactical missile defense system to stop real world threats and still cut SDI funding by more than 50 percent.

This defense budget contains other nuclear weapons programs, such as the Midgetman, $549 million; 6 more MX missiles, $252 million; 49 more of the D-5 missiles, $1.1 billion; and 120 Advanced Cruise Missiles, $610 million. In addition, the Department of Energy Atomic Energy Defense Activities is funded at $12 billion, or $1 billion more than last year for these nuclear weapons activities, including cleanup of the nuclear weapons production facilities. These nuclear weapon programs should be substantially reduced with the end of the cold war.

Finally, this bill includes an unknown authorization for various intelligence activities including the CIA, the National Security Agency, the National Reconnaissance Office, various other intelligence agencies, and super secret weapons in the so-called black budget. Outside experts estimate that this black budget may account for $30 billion of the $290.8 billion in this bill.

The American public has a right to know how much is spent on these supersecret projects. We must have accountability, particularly when funds as large as $30 billion, not million, are hidden from public view. Article I, section 9 of the Constitution requires that "a regular statement and account of the receipts and expenditures of all public money shall be published from time to time." The Constitution doesn't say all money except that in the black budget. It says that expenditures of "all public money" shall be made public.

During the cold war, we looked the other way and ignored this violation of the Constitution by keeping intelligence budgets secret from the American people. We can no longer accept this secrecy. The Senate Intelligence Committee voted to make the black budget total public, but this provision was removed at the insistence of the White House.

In short, I cannot support this budget which is rooted in the past. We must move to reduce our military forces and budgets to reflect the real external threats to our Nation, and to transfer funds from the military to deficit reduction and to making necessary investments in health, education, infrastructure, environmental restoration, clean energy development, and other urgent domestic needs.●

DEFENSE COOPERATION ACCOUNT

Mr. INOUYE. Mr. President, the Defense chapter of the supplemental provides an appropriation of $3.4 billion from the defense cooperation account to various DOD and related appropriations to cover incremental costs of Operation Desert Shield.

The amount provided is $850.4 million more than requested. The specific differences related to the proper allocation of costs to Operation Desert Shield for reconstituting Marine prepositioning forces which were not originally charged to Desert Storm, and for the replacement of equipment lost or damaged during Operation Desert Storm, but for which no funds were originally requested. These include: $70.2 million for Apache helicopters, $268.8 million for F-15E aircraft, and $40.7 million to replace damaged tailpipes on F-117 aircraft. An additional $100 million is included for Kurdish protection, and $15 million for humanitarian assistance.

The bill also provides a reallocation of $6.3 billion in previously appropriated funds among military personnel and operations and maintenance appropriations to reflect the latest estimate on how funds have been needed to cover the costs of Operation Desert Shield.

The committee has adhered strictly to the budget summit agreement that only funds to cover legitimate costs of Desert Storm have been included.

DISASTER ASSISTANCE

Mr. LAUTENBERG. Mr. President, I rise today to express my support for several important provisions of House Joint Resolution 157, the dire emergency supplemental appropriations bill. This legislation includes funds which will provide much-needed relief to many residents of my State who have been hard hit by natural disasters. This bill lends a helping hand to farmers who produce fruit tree crops in the southern part of the State, and provides sorely needed funds to replenish the Federal Emergency Management Agency disaster relief programs.

CROP DISASTER ASSISTANCE

Mr. President, 1990 was a disastrous year for growers of peaches, apples, and other fruits in my State. Extreme freezing temperatures late in the spring caused the loss of approximately 50 percent of the peach crop statewide, with losses on individual farms of up to 80 percent of total production. The apple crop was equally hard hit, while producers of other fruit crops, such as pears, plums, blueberries, and nectarines faced losses as well.

While the President declared the six counties in southern New Jersey eligible for disaster assistance, without funding for the crop assistance provisions of the 1990 farm bill, fruit farmers had nowhere to turn. Many peach producers face a risky outcome for their crops, with high up-front costs required for pruning and cultural activities. I have heard from peach growers in my State who are burdened with mounting debts because of their devastating losses. They fear that they will lose their farms and livelihood. This legislation provides relief for these farmers whose crops were crippled by freezing temperatures.

My hope is that this assistance will enable fruit farmers to get back on their feet, and to invest in next year's crop. Fruit production is a mainstay of New Jersey's agriculture industry. I am gratified that this bill takes action to assist farmers facing difficult times.

FEDERAL EMERGENCY MANAGEMENT AGENCY DISASTER RELIEF

This legislation contains $943 million to replenish the funding for FEMA's disaster relief programs. Without these resources FEMA will be unable to meet the emergency needs of our communities which have been hard hit by natural disasters. It is essential that we restore this funding so FEMA can assist communities that are struck by disasters to save lives, protect property, and protect public health and safety.

My State, along with other Northeastern and mid-Atlantic States, has experienced serious flood damage from the October 1991 storm. Shortly after the storm hit, I visited the coastal areas of New Jersey, along with State and Federal officials, to inspect the extent of the flood damage. I was deeply disturbed by the extent of the damage to private and public structures.

The Federal emergency relief well has run dry. In the midst of this recession, victims of natural disasters are hit twice—once by the economy and again by the storm. We have an obligation to ensure the availability of Federal resources to restore businesses and to assist people to restore their homes and their communities.

New Jersey's request for a Presidential disaster declaration is pending. I sent a letter to the President, cosigned by the rest of my colleagues in the New Jersey delegation, urging him to act promptly and favorably on New Jersey's request. If the President approves New Jersey's request for a declaration, my State will be forced to stand in a long line of backlogged emergency disaster relief obligations.

Mr. President, I note that the report accompanying this bill includes language at my request urging FEMA to actively use its power to provide assistance to communities that suffer flood damage and beach erosion in Presidentially declared disaster areas. It is my hope that FEMA, in conformity with the law, will apply its regulations liberally to provide prompt assistance to repair the flood damage and beach erosion in New Jersey caused by the recent storm.

I commend the distinguished chairman for his outstanding work on this legislation. It is important that we replenish funding for FEMA's disaster relief programs and provide funds for the crop disaster assistance program authorized in the 1990 farm bill. I urge my colleagues to support this legislation.

INDIAN HEALTH CARE

Mr. DECONCINI. I rise today to support this supplemental appropriations bill. I do so because there is funding in the bill to cover disasters—the true emergencies which have occurred over the past year which we could not have planned for nor anticipated. However, I do have reservations about this bill because it funds other very meritorious programs—programs like WIC, Head Start and Child Immunizations for which I have fought for increased funding for many years—but programs nonetheless, which do not meet the test of a true emergency under the Budget Act. I believe all these programs should be given higher priority in the budget and appropriations process. But after the process has been completed, we should live within the spending limits we were given. The supplemental appropriations bill should be the vehicle for funding only true emergencies.

If we start down this road of appropriating funds as emergencies, those programs which we could not fully fund in our regular appropriations bills because our allocations would not permit it, where do we stop, Mr. President?

For fiscal year 1992 my Treasury bill allocation was cut $1.6 billion in budget authority and $380 million in outlays from the current services level. I didn't like it, but I had to live with it. It forced the subcommittee members to pick and choose among competing priorities. We had to cut $97 million from GSA's rental program which funds Federal office space requirements. Most of these funds represent contractual requirements for leases. We had to cut $36 million from the program which funds operations and maintenance of Federal buildings. We had to cut $180 million from the Postal Service's revenue forgone program. And we had to delay the obligation of $97 million for redesign of the IRS computer systems—that agency's No. 1 priority. Mr. President, that was just my bill. Other subcommittees experienced similar problems. But we made our cuts. We had no choice. We were following the rules we were told to follow. What we are doing now is funding as emergencies certain programs the subcommittees were unable to fund. But there was no rhyme or reason to the process. If we are going to declare certain programs as emergencies, then why not include funds for the $1 billion backlog in the VA medical equipment account and the hundreds of millions of dollars shortfall in the VA medical care account?

One area that always gets overlooked in these emergency designations is health care for native American programs. The status of Indian health care services is deplorable. They suffer epidemic levels of debilitating diseases like diabetes and alcoholism; 40 percent do not receive early prenatal care; their children die at much higher rates than other Americans, and their elderly by and large do not receive basic geriatric services which most Americans take for granted.

Mr. President, I get upset when I see no rational basis for the designation of emergencies. I get upset when I know that Indian health care programs are underfunded by 30 percent, yet no one wants to call this problem an emergency and include additional funds in the bill for these accounts. Chronic underfunding of these accounts has forced the Indian Health Service and tribal health programs to ration care for many years. Sadly, native Americans must defer treatment for complicated health problems until a medical emergency arises which demands immediate attention.

I know the difficulty the distinguished Appropriations Committee chairman faced with respect to this bill, particularly with the previous action taken by the House. I also want to take this opportunity to acknowledge the support my distinguished friend and colleague from West Virginia gives in his own subcommittee to Indian programs—he has been extremely generous given the budgetary limits he faced.

I mention these areas simply to make the point that I think the process is askew. We ought to use the budget process to establish our national priorities. We ought to use the supplemental appropriations process to fund true emergencies which are agreed upon by the administration and the Congress.

DISASTER RELIEF PROVISIONS

Mr. FOWLER. Mr. President, I rise today on behalf of farmers from across the State of Georgia who have suffered too long from the failure of the White House and the Department of Agriculture to understand the critical need for agricultural disaster relief funding.

Today, the Senate can once again send a message to President Bush that we will not stand idly by while the Nation's rural economy reels from the effects of the 1990 drought and the torrential rains of 1991.

Through passage of this emergency supplemental appropriations bill, we can once again ask the President whether he will put the needs of American farmers on a level equal to that of farmers half a world away.

We can ask, once again, whether the President is willing to lend a helping hand to the working men and women who form the backbone of our Nation's rural economies.

We can ask whether the President is willing to put American farmers—and Georgia farmers—first.

In 1989, Congress provided needed relief to the Nation's farmers who suffered severe losses because of dry weather. But the drought of 1990 was worse—possibly the worst the farmers of Georgia have ever experienced.

The Governor of Georgia requested that 141 out of 159 Georgia counties be declared agricultural disaster areas. Out of about 73,000 farms in Georgia, 63 percent, or 45,132, experienced losses of 30 percent or more.

These losses were not confined to any region or any crop. Only 18 of 159 counties in Georgia did not experience over-

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137
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all crop losses of more than 30 percent. The losses extended to corn, peanuts, hay, pasture, grain, sorghum, cotton, and soybeans.

The revenue loss for Georgia alone is estimated at $750 million. I hate to imagine the number for the Southeast and across the Nation.

In spite of all this compelling evidence, there was nothing I or anyone else was able to do last year to convince the President and the Secretary of Agriculture to request disaster relief. We supplied the administration with the facts. We made our wishes known in the appropriations bill—all to no avail.

The bad weather combined with the administration's inaction have placed a heavy burden on small towns already suffering in a sluggish economy. Our farmers, who were just recovering from the hard times of the last decade, are harder hit than ever. Their difficulties have nothing to do with their management efficiency, economies of scale of any other administration buzzwords in agriculture.

Just this week, President Bush announced more than $1.5 billion in emergency assistance to the Soviet Union. Once we have completed action on this bill, I hope that President Bush will also be able to see his way toward approving emergency funds to help people suffering right here at home.

Mr. President, for more than a year now, the only thing that has stood between disaster-stricken farmers and the relief checks that they deserve is the President of the United States.

I certainly hope that remaining obstacle will be removed after a decisive vote in the Senate today.

BENEFICIAL PROVISIONS

Ms. MIKULSKI. Mr. President, I rise in support of the committee-reported version of this dire emergency supplemental appropriations bill.

The chairman of the full Appropriations Committee, Senator ROBERT C. BYRD, has crafted a bill that meets the needs of communities devastated by numerous natural disasters, and provides vitally needed funds for costs incurred as a result of Operation Desert Storm, and our chairman should be commended.

As chair of the VA, HUD, and Independent Agencies Subcommittee, there are a number of provisions, which I would like to mention.

First, the bill provides $943 million for FEMA disaster relief assistance. Recent disasters have hit many areas of the country from Hurricane Bob across the eastern seaboard, to devastating fires in Oakland, CA, and Washington State. Moreover, many communities have gone without needed Federal disaster assistance since April, when FEMA ran out of disaster relief funds and was forced to quit funding public assistance projects. Of the funds provided, FEMA is authorized to transfer up to $1.25 million to salaries and expenses, to hire additional personnel to meet the escalated level of disaster activity.

Some have said that this FEMA assistance is due to the Congress shortchanging the disaster relief account. Nothing could be further from the truth. Since 1985, the Congress has appropriated more than $3 billion in FEMA disaster relief, while the President has only requested $1.8 billion. So the Congress, in response to acts of God, for which this disaster relief fund is intended, has provided nearly 67 percent more for disaster relief since 1985 than requested during that time by Presidents Reagan and Bush.

Finally, I would like to add that 1991 has been a particularly devastating year in terms of natural disasters. There have been 38 declared disasters to date—costing $396 million—compared to 24 in an average year, costing $270 million.

In chapter 1, which covers costs incurred as a result of Operation Desert Shield/Desert Storm, $10 million is provided for marriage and family counseling for veterans returning from Operation Desert Storm. There has been an inordinate number of returning military personnel facing marital and familial difficulties as a result of service in the Persian Gulf. These veterans deserve to receive the counseling they need to adjust to civilian life. These funds will enable VA to employ a part-time marriage and family counselor at each VA facility.

The bill includes language allowing the Court of Veterans Appeals to transfer $950,000 to the Legal Services Corporation for grants to organizations to provide representation for pro se, or unrepresented, cases. These pro se cases make up 65 percent of all cases before the court, and require excessive amounts of time and personnel to process, thereby increasing the court's backlog of cases and denying veterans timely response to their appeals. Due to the emergency nature of this problem, and the growing backlog of veterans claims, this provision was included.

An administrative provision has been included giving the Environmental Protection Agency discretion to award one-half of 1 percent of construction grants funds to Indian tribes, thereby assuring the eligibility of Indian tribal governments and Alaska Native villages for EPA funds to construct wastewater treatment facilities. This set-aside existed up until 2 years ago, and will likely be re-established under the Clean Water Act reauthorization. In the mean time, Indian tribes have a vital need for sewage treatment construction grants, and without this language tribal governments and Alaska Native village will not have an opportunity to apply for these funds.

The bill also includes three technical amendments: First, making some minor adjustments to staffing at three HUD headquarters offices; second, repealing a cap on the CRAF-Cassini mission, and finally a technical provision has been included to correct a drafting error in the regular fiscal year 1992 VA, HUD, and independent agencies appropriations bill. Due to recodification, this VA-related provision is needed. Each item in this bill has a compelling and urgent need, and I urge my colleagues to support its expeditious adoption by the full Senate.

DISASTER RELIEF

Mr. DIXON. Mr. President, as I look at this dire emergency supplemental appropriations bill, I see very few things that can be classified as a dire emergency. Many provisions are worthy, some are even important enough to do right now. There is only one provision, however, that can truly be classified as a dire emergency: providing disaster relief to the farmers of this country.

Farmers in Illinois and across the Nation have suffered enormous losses in 1990 and 1991. Eighty-nine of Illinois' 102 counties have been declared disaster areas because of the drought-induced failure of the winter wheat crop. Eighty-six Illinois counties have been declared disaster areas because of the drought's destruction of our corn and bean crops. Counties normally yielding 174 bushels of corn per acre are currently harvesting as low as 20 bushels per acre. Counties accustomed to a yield of 50 bushels of soybeans per acre are now reaping yields as low as 20 bushels per acre.

Because of the nature of this bill, and the need to get desperately needed relief to our producers as soon as possible, I am reluctantly supporting passage of this bill. I can only hope that when this bill comes back to the Senate, that provisions that are not real emergencies and which should be considered in a more deliberative fashion are removed. I want to make it crystal clear, however, Illinois needs this disaster assistance. We must enact this bill before Congress adjourns for the year.

Mr. WELLSTONE. Mr. President, I rise in support of this emergency supplemental appropriations measure. There is no question that the circumstances faced by thousands of Americans this year due to natural disasters constitute an emergency. Nor can anyone argue that many thousands of children in this country do not face an emergency situation. Given recent statistics concerning American children, the supplemental spending in this bill for WIC, Head Start, and childhood immunization are clearly justified.

I would particularly like to note the need for this bill's agricultural disaster relief provisions. These funds are urgently needed to meet a real emergency in my State, as well as in the States of many of my colleagues. The situation in the countryside, where thousands of farmers face what could be calamitous economic losses this year due to the weather, justifies this emergency response. Despite our difficult budgetary circumstances, we must act.

In Minnesota this year, thousands of corn and soybean farmers, especially in the southern and western portions of the State, planted very late. In some cases, they were unable to plant at all. This was due to torrential rains, record rains, in the spring. Many now face serious financial loss. Of course, when farmers suffer an economic disaster, the economies of those small towns in which the farmers do their business also suffer.

Many Minnesota farmers, although they normally carry Federal crop insurance, could not obtain it this year because Federal crop insurance required planting your crop by a certain deadline date. The heavy rains prevented meeting this deadline. Many farmers switched from corn to beans because of the rain. These farmers actually were quite hopeful during the summer. The weather improved, and it appeared the beans would do well. Since they had planted late, however, all they feared was an early frost. Of course, we did have an early frost this year in southern Minnesota. The frost seriously damaged the crops of many of those farmers who had switched from corn to beans, and who though they had averted a disaster through their action.

Mr. President, farmers know they take risks. They know that the weather does not always cooperate with their need to make a living. But many of those who suffered serious damage this year in Minnesota have not been able in recent years, due to low prices, to build up a cushion to survive this disaster. And now the weather conditions of a single year, obviously beyond their control, threaten to wipe some out.

Along with many of my colleagues in both parties, I have pleaded for 5 months now with USDA officials to assist those hurt by this year's weather. I am happy we can finally offer some relief, and sincerely hope the President will recognize this emergency.

I have already spoken at some length about the dairy amendment to this bill. I will not add to those comments here.

I also wish, however, to note with pleasure that we were able to include in this bill the end-use certificate provisions, regarding imported agricultural commodities, introduced by my colleague from North Dakota. The provisions will improve the monitoring of some imported grain, and will help ensure that imported grain does not become part of our Government-supported grain export program.

Finally, I am very pleased we have been able to get to this bill before Thanksgiving, and I am grateful to Chairman BYRD for his efforts to ensure that outcome.

Mr. DODD. Mr. President, I rise in support of the legislation we are considering today to provide supplemental appropriations to meet several urgent needs. I support the legislation, first, because it will help meet our national commitment to the veterans of Desert Shield/Desert Storm. Second, the bill will expand the Federal resources we devote to the cost-effective early intervention programs for children and families throughout the Nation.

Some may argue that the needs of America's children do not constitute an emergency. But when infant mortality rates in our inner cities are higher than most Third World countries; when more than half of infants and toddlers in our Nation's capital lack immunizations; when thousands of children enter school not knowing colors or numbers, much less being ready to read—then, Mr. President, that is clearly a national emergency.

Very simply, the supplemental appropriations bill directs more funds to early intervention programs that have been proven to work. It begins by adding $1.2 billion to Head Start, a program that is a key to improving school readiness. Currently, two of every three eligible children cannot participate because there isn't enough money. Last year, we unanimously approved legislation I sponsored to authorize full funding for Head Start by 1995, so that every eligible child could participate. These supplemental funds will move us closer to meeting that commitment.

Why is it so important to keep that promise? Of course the children benefit—they are less likely to be held back in school or be placed in special education. Head Start also saves money: $1 invested in the program saves $4.75 in future costs related to welfare use and crime. But there is another reason we often overlook. A skilled work force is absolutely essential to our economic future. The work force of the future will have to be the best trained and educated of any in our Nation's history. To build that work force, we have to begin now, with the very children who are now missing out on that important early boost that Head Start gives them. So, while Head Start plays an important social role, we should point out that it can play a pivotal role in the long-term economic strength of our Nation as well.

The supplemental also provides $100 million for the Special Supplemental Food Program for Women, Infants, and Children—or WIC. The extra nutrition WIC provides helps to reduce infant mortality and the number of births at low birthweight. Like Head Start, WIC saves money—a $1 investment in the prenatal component saves $3 in short-term hospital costs alone. Yet, less than two-thirds of those eligible are served.

The legislation provides an additional $90 million for immunizations. The benefits of immunization are obvious. Dramatic declines in the incidence of diseases such as rubella, mumps, polio, diphtheria, tetanus, and pertussis mean a reduction in the impairments and institutionalization that can result from them. One dollar invested in immunizations will save $10 in later medical costs. Yet, in the District of Columbia, only 44 percent of infants and toddlers are adequately immunized, a rate that is similar to that of other large cities. To sit by and watch increases in cases of measles and mumps when we know exactly how to prevent them is insanity. Clearly, these additional funds would be money well spent.

Under the provisions of this bill, funds for these children's programs would not be released automatically, but only if the President declares that there is an emergency. It is my fervent hope that President Bush will look around him—visit a Head Start center or a clinic where children are immunized or a neonatal intensive care unit—and see that our Nation's children truly are in need and that these programs truly respond to an emergency. Unquestionably, when Iraqi troops filled the streets of Kuwait City, that was an emergency. I think if we look in the streets in Bridgeport or Hartford, we will find an emergency there, as well. I hope the President will join us in responding to our children's crisis.

Mr. President, this bill also serves to meet other critical needs, and I would like to take just one more moment to express my strong support for the increased funding included for the Federal Emergency Management Agency. Over 3 months ago, the State of Connecticut, along with much of the Northeast, was devastated by Hurricane Bob. Losses in my State alone topped $48 million. Given the extent of the losses and damage, President Bush declared Connecticut a major disaster in late August and FEMA stepped in to lend a hand to towns and communities around my State. Unfortunately, it was an empty hand as FEMA's disaster assistance fund had already been exhausted, and it will remain empty until FEMA's funds are replenished—something this legislation would finally do. In this regard, I urge my colleagues to support passage of this measure.

Mr. SEYMOUR. Mr. President, as the Senator from Utah is well aware, California's Bay Area communities continue in their efforts to recover from the devastation of the Loma Prieta earthquake. And there is no need for me to detail at any great length the added pain and trauma that has resulted from the recent fires throughout Oakland, Berkeley, and other East Bay communities.

Clearly, the Loma Prieta earthquake damaged and destroyed hundreds of

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producers who are in the midst of a dis-

Mr. President, again, I am pleased to

I urge the President to approve this

VOL 137 PT 23 NO 21–25 1991 UMI

structures throughout the bay area. However, today, I would like to draw your attention to one structure in particular, the Merritt Peralta Medical Center. Like any other facility that was damaged, Merritt Peralta immersed itself in the disaster survey report [DSR] process to secure FEMA funding for its damaged and now condemned hospital tower. But to the difference of other applications, FEMA delayed the Merritt Peralta applications for a period of 6 months.

It is important to note that this is the only hospital facility in the bay area that remains closed as a result of the earthquake. It is incurring significant losses daily, which limits its ability to provide comprehensive health care services to the community.

For 6 months, beginning in November 1990, medical center officials believed their DSR was being processed and that Federal funds would be forthcoming. However, it wasn't until May of this year that FEMA notified medical center officials that the DSR had been suspended. This delay has resulted in the medical center's application being pushed further down the funding list so that funding in the near future is unlikely.

Is it the understanding of the distinguished ranking member of the VA-HUD Appropriations Subcommittee that it is within FEMA's discretionary authority to restore the Merritt Peralta Medical Center application to its previous place in the funding queue so that the application can be processed immediately and the funding provided?

Mr. GARN. Mr. President, in response to the Senator from California, I would like to say that FEMA should give priority to projects where critical and compelling community needs such as health care are at stake. While I am not familiar with the specifics of the Merritt Peralta Medical Center case, its role as a needed health care center in the Oakland and Alameda County area should qualify it for such treatment. As long as its application for assistance is within the scope of FEMA regulations, I would encourage FEMA to act expeditiously.

On one final note, I would like to reiterate that the bill before us provides $943 million for FEMA disaster assistance programs. FEMA advises us this amount will be sufficient to take care of pending requests for public assistance, including projects dating back to the 1989 Loma Prieta earthquake.

Mr. SEYMOUR. Mr. President, I want to thank my colleague for his assistance and attention to this matter.

SENATOR LEAHY'S DAIRY AMENDMENT

Mr. DOLE. Mr. President, earlier today, the Senate rejected by a vote of 51–47 an amendment offered by the Senator from Vermont to increase the dairy support price and to establish a voluntary dairy diversion program. I commend the chairman of the Agricultural Committee for his diligent and untiring efforts on behalf of dairy producers.

Mr. President, the legislation considered earlier today was seemingly a final effort in an attempt to get some kind of dairy legislation passed by this body this year. Although the bill had changed drastically over the last 6 months, a few provisions remained which were of concern to myself and others.

Of course, many of us were concerned about the impact which a diversion program would have on the beef market. Admittedly, there were provisions in the bill to protect beef producers by establishing caps for increases in culling rates, but these caps were inconsistent with the amount of cows that would have to be liquidated in order to comply with other provisions of the law. In the end, I am pleased that we escaped the sure difficulties which would have arisen for beef producers with the implementation of the bill, and have avoided the "unintended" consequences of years past.

What's more, as several of my colleagues pointed out during the debate, this proposal would have had a severe impact on the ability to provide dairy products to low-income persons and those taking part in programs such as WIC—besides increasing the cost of milk to all consumers. Let me be the first to recognize the distinguished chairman's longstanding devotion to nutrition issues and his work on the WIC program and the food stamp program, but let's not think that the impacts on these programs can be swept away by mandating price controls at the retail level. That is one thing that I hope this body does not involve itself with.

For whatever reason, we've also seen producer support for the bill take a nosedive recently. I'm sure that most producer groups expect to be able to come back next year and get more, and maybe they will. But I also think—and I hope—that they recognized the impact which a dairy diversion program would have on the small producers, the husband and wife team milking 30 or 40 cows. Mr. President, those are the people who would reduce production in exchange for cash payments—not the large producers who would continue to expand and make up for the production forfeited by the small family producers.

But probably most important, for matters of this discussion, is the fact that I have a letter addressed to me from OMB Director Darman saying that President Bush's senior advisers would recommend a veto should this provision have been accepted. It seems to me that there are a number of provisions in this overall appropriations package that are important to a lot of people, so I'm pleased we did not put those interests in jeopardy.

Mr. President, I'm sure that this issue will be revisited next year, and maybe then we can do something responsible. We will be in the midst of an election year, so, most likely, it will not be responsible. But I hope that we all remember the lessons of this year—that the market did work—and keep any future debate focused on legislation which does not have such dire implications for so many other sectors of our economy, as well as consumers.

WINTER WHEAT DISASTER ASSISTANCE

Mr. DOLE. Mr. President, I rise to offer an amendment to the bill before us to include a disaster assistance provision for winter wheat producers who have already planted their 1992 crop. This provision offers disasters coverage for that crop which, although harvested in 1992, has already been planted and is now facing severe disaster conditions.

Although Kansas had a nearly average wheat crop this year, our fall crops were ravaged by drought conditions that reflect the driest year on record. While those crops will be covered—if a disaster bill should ultimately be approved by the administration—many wheat producers, who's crop should already be well established, are now facing a complete loss.

Mr. President, my State produces—almost exclusively—Hard Red Winter wheat, which is the most common and popular variety harvested in the United States. Winter wheat is planted in the early fall, and a producer hopes to have a good stand established before the harsh winter storms begin whipping across the plains. The crop matures and ripens in the spring, for harvest sometime in late June and early July.

Unfortunately, due to a drought which has left 100 percent of Kansas topsoil in short to very short moisture conditions, fields throughout the State lie bare because the seed has not even germinated. A good portion of that which had sprouted and emerged was severaly damaged several weeks ago by a winter storm which covered parts of my State with ice and more than a foot of snow. If that snow would have stayed in the field, it would have provided both moisture and needed insulation for the crop—but, unfortunately, most of it blew south. We did receive some timely rains earlier this week, but it is uncertain whether the crop will show any appreciable benefit.

My amendment specifies that, for 1991 crops covered under the act, 1991 crops includes those program crops planted in 1991 for harvest in 1992. The authorization bill, which should be coming to the floor this week, as drafted, already goes back in time to provide assistance for 1990 disasters. Given the current conditions in the major wheat producing areas of the country, I hope that my colleagues will join me in providing this assistance to the wheat

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producers who are in the midst of a disaster at this very time.

FUNDINO FOR CALIFORNIA NATURAL DISASTERS

Mr. SEYMOUR. Mr. President, there is another aspect of this bill whose critical importance to victims of natural disasters cannot be overlooked.

Whether it be the few short seconds as we witnessed during the 1989 Loma Prieta earthquake, or the agonizing hours as we watched flames of death crawl up hillsides in Oakland, calamitous acts of God can destroy all that it has taken a lifetime to build, leaving entire communities to the arduous task of rebuilding. The statistics—individuals killed or injured, homes destroyed, families displaced, and the many other numbers used to tally such events—are always staggering.

"It was like a visit to hell at Ground Zero." That's how one resident of the Oakland Hills area described the recent fire storms that swept through California's East Bay communities. What began as a brush fire fueled by dry winds and 5 years of drought became a raging inferno consuming everything in its path. Seventy-four strike teams, each with 5 engines and over 1,000 firefighters and emergency response personnel battled this tremendous fire. Two of these valiant emergency workers, a police officer and a fire battalion chief, lost their lives in the process of serving their community.

Now its's our job to help them.

While I am pleased this bill would provide $943 million for FEMA disaster assistance programs and make good on our commitment under Federal law, I can't help but remark that this funding is long overdue. Estimates for public sector damage in the aftermath of the Oakland fires are in excess of $42 million. Moreover, the current estimate for unmet needs resulting from the 1989 Loma Prieta earthquake is $500 million.

That was 2 years ago, Mr. President.

I do, however, want to congratulate Chairman BYRD for moving quickly to bring this bill before us. On October 29, I wrote to the chairman to urge quick action for the sake of Oakland and every other disaster-stricken community. Without this supplemental appropriations bill, these communities would continue to languish without the Federal assistance due them.

Clearly, after such traumas, we can never expect to make any victim of natural disaster entirely whole. In fact, Federal law does not contemplate full reimbursement for losses. Rather, the Federal Government's role and relief programs as codified under the Stafford act are designed to supplement other forms of assistance, such as homeowners and property insurance. But 2-year delays in funding, with the actual construction work still to follow, is much too long for the individuals and communities who have suffered the destruction of an earthquake, fire, hurricane, or other calamity.

Mr. President, again, I am pleased to see the money for FEMA included in this bill. I do hope, however, that in the future, we will take better care to ensure that FEMA is adequately funded in order to prevent such delays in the future.

HURRICANE BOB

Mr. PELL. Mr. President, the dire emergency supplemental appropriations bill is an important piece of legislation for my home State of Rhode Island.

In late August of this year, Hurricane Bob swept across New England. Rhode Island was especially hard hit by Hurricane Bob. The path of the hurricane and Rhode Island's small geographic size created a devastating set of circumstances that made Rhode Island the only New England State to suffer the full force of Hurricane Bob within every single square mile of the State's borders.

The Governor of Rhode Island, Bruce Sundlun, asked the President to declare Rhode Island a disaster area under Public Law 93–288. The President subsequently declared Rhode Island a disaster area, which made my State eligible for disaster relief funds administered by the Federal Emergency Management Agency [FEMA].

These FEMA funds were to be used to reimburse State and local authorities for the costs associated with cleaning up after Hurricane Bob. In many cases, these costs represent a serious financial burden for Rhode Island cities and towns. This burden is even more serious when viewed in the light of the crippling state budget deficit which Governor Sundlun inherited from the previous administration.

One example of the urgent need for these emergency relief funds can be found in the town of Jamestown, RI. Jamestown has thus far spent $200,000 in scarce town funds for Hurricane Bob-related cleanup. In a recent letter sent to me by Jamestown Town Administrator Robert W. Sutton, Jr., the need for Federal assistance was described succinctly. "The town of Jamestown is a small community feeling the financial strains of this economy and we cannot afford this unanticipated and unbudgeted expenditure. We simply do not have the money."

Mr. President, this problem faces every Rhode Island community that has been forced to bear the costs associated with cleaning up after Hurricane Bob. This dire emergency appropriations bill is badly needed in Rhode Island, and I am pleased that the Senate has approved this measure.

The next hurdle that remains is for the members of the House and Senate Appropriations Committees to get together and rectify the House and Senate versions of this bill. I am sure this will be done quickly and it will then be up to the President to decide to approve or disapprove this important legislation.

I urge the President to approve this measure when it reaches his desk. Summer has long been over in Rhode Island. It is time for the Federal Government give us the opportunity to put Hurricane Bob behind us and allow us to get ready for the trials and demands of another New England winter.

Mr. JEFFORDS. Mr. President, I did not intend to talk about the National Cattlemen's Association's attempts to block dairy legislation. However, since their recent letter has been discussed and has been read into the RECORD, I feel compelled to do so.

It is clear from this letter that the NCA intends to continue to relate statements that mislead at best, deliberately distort more likely, past events.

It is my hope and desire that the individuals representing the beef industry and the dairy industry will be able to sit down over the holidays and reconcile their differences. I am hopeful this can happen because it is clear that they both have the same interests:

Fewer cows means less milk which means a higher milk price. Fewer cows means less beef and a higher beef price.

It is clear that both the beef industry and the dairy industry benefit from efforts to control the dairy herd size. Thus, it seems we ought to be able to sit down and achieve this result without pushing any dairy farmers or beef ranchers to bankruptcy to reach that goal.

Let me first review the history of the dairy policy in the 1980's. I would also like to bring my colleagues up to date on attempts to reconcile differences between the two groups.

By 1981, dairy cow numbers had substantially increased, causing higher production levels and a buildup of dairy surplus stocks. In an effort to deal with this problem, the 1981 farm bill instituted a set of triggers relating the minimum support level to the size of the CCC purchases. This was a major departure from traditional price support policy under which price changes were tied directly to parity. In addition it used an assessment to cut cost, but at the same time gave hope for a big price bonus.

Although I was not a member of the 1981 farm bill conference committee that instituted these changes in calculating the support price, there was a fundamental problem in establishing a program that only called for price cuts based upon levels of CCC purchases. It did not deal with the basic problem that was facing the dairy industry—cow numbers—too many cows.

Following this change in the 1981 farm bill, further legislation was enacted in 1982 which froze support price for 2 years, and provided for assessments of producers totaling $1 per hundredweight to help offset rising Government costs for CCC purchases. However, history has clearly shown that

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milk production levels do not respond well or quickly to price cuts, and during the period of 1981–83, cow numbers actually increased from 11.1 to 11.5 million head, although surpluses and program costs went down. But the program was successful; its period of operation was too short to have any lasting effect. The short period had to be agreed to to get any supply management program.

By 1983, dairy surplus purchases increased from about $247 million in fiscal year 1979, to a high of $2.7 billion. In response to these increased costs, Congress initiated the Milk Diversion Program, which paid farmers to reduce milk production for a 15-month period. An assessment on producers was utilized to help offset the cost of the program. This largely remedial measure did result in a reduction in cow numbers and milk production levels; however, the effect was only temporary. It did show that the combination of supply management and price cuts could be successful.

In 1985, although demand was increasing, the number of cows was increasing at a much greater rate. Thus, it was decided rather than put the whole industry into the throes of economic depression in order to bring the number of farmers down and gradually the number of cows, it would be much quicker and more efficient to reduce cow numbers by buying whole herds and slaughtering or exporting them. Since we were talking about 1.5 million cows, this obviously brought concern to the beef industry.

Representatives BOB SMITH and RON MARLENEE recognized something would have to be done to prevent an adverse impact upon the beef price, which at the time was low. Therefore, a program was worked out to help the beef industry. First, the beef promotion program was created. Second, the slaughter of dairy cows would be phased in gradually starting September 1, 1986. In addition, the dairy industry agreed to purchase the additional beef over normal culls that would come on to the market as the result of the buyout. This beef would be sent overseas to our military installations so as not to impact the domestic beef price. It also allowed for some distributions to the domestic nutrition programs but only in amounts that would not adversely affect domestic beef prices. The cost of the beef purchase program was to be paid from an assessment on dairy farmers. The calculations showed the price increase to dairy farmers as a result of this action would be more than sufficient to pay for the assessment.

The Senate bill had no such whole herd buyout. In conference, two major changes were made in the whole herd buyout program. First, the assessment was cut in half at the insistence of Chairman HELMS with the expectation that the savings to the Government would more than offset the cost of the buyout and the beef purchase program. Second, late at night during the end of the conference, representatives of the beef industry, led by Burton Eller, gained access to the staff conferees by bringing in hamburgers and other snacks. The conferees were convinced by Eller that it would be in the best interest of the beef industry to front load the slaughter program in the spring rather than to wait until the fall. This may well have been a reasonable request and might have worked. Thus the bill was changed to commence a front-loaded slaughter on April 1, 1986.

When it came time to announce the regulations and the commencement of the program in March 1986, a bad error was made by the Department of Agriculture. It announced on Friday, March 28, that the whole herd buyout would commence the following week and that the Government would commence the purchase and slaughter of 1.6 million head. They failed, however, to announce that the Government would be purchasing the excess beef off of the market, and therefore, it should have no adverse impact on the domestic beef industry.

The following Monday, after the announcement was made, a number of beef producers panicked and rushed their herds to market. Obviously, the price went down. In addition, the futures market had a flurry of activity. When I heard about it I immediately called the futures market and found that none of them knew that the Government was going to purchase the excess beef back off the market. The word of this aspect spread and the down price on beef and the futures activities ended in 2 weeks.

The beef price rebounded to where it was before this unfortunate incident. The beef price continued to rise and reached a high at year's end.

In April 1986, a lawsuit was brought by the beef industry which blamed USDA for the problem. There is no question that USDA deserved a lot of the blame. However, the beef industry has to carry some of the responsibility for not getting the word out to its producers about the new phase-in date and the red beef purchase program.

Aside from this unfortunate incident, the program was highly successful, saving the Government billions of dollars and allowing dairy farmers to go out of business with dignity instead of through bankruptcy. It does not seem that the program should be precluded now. In addition, since it would bring the size of the dairy herds down in a way that would not impact beef prices, it should be a program that is supported by the beef industry. Annual small cow or heifer purchases could keep this dairy supply under control and prevent any threat to beef prices.

It appears that somewhere in the area of $50 million was lost by beef producers who brought their beef to market during that 2-week time period. The bill introduced earlier this year offered to repay these farmers if peace between the industries could be reached. Considering the critical change to April 1, 1986, was requested by the Eller group, I believe this was most conciliatory. The National Cattlemen's Association [NCA] opposed the bill. Overall, with the two options in that bill, of exporting dairy cattle and the purchase and slaughter program combined with purchase of the beef off the market if necessary, both industries should benefit and no one should be hurt.

I strongly felt that I had done a substantial amount to address the concerns of the beef industry. A hearing was held in hope of reconciling the differences between the groups. Unfortunately, they did not desire to make peace and adamantly opposed my bill. They refused to offer help to the dairy farmers, and would not give any assistance to me in developing a plan to jointly help our farmers.

Since that time, we have tried to put together legislation that could ensure stability for the dairy farmers. We have tried a number of proposals, all of which have faced opposition. We have tried to address the concerns of the beef industry. Today we have a program which will secure stability for the dairy industry and has attempted to address all of the concerns of beef producers and others. I hope my colleagues will consider it closely and support it.

THE NEED FOR DISASTER ASSISTANCE FOR FARMERS

Mr. WOFFORD. Mr. President, I rise today to emphasize the need to provide our farmers with direct disaster payments due to this summer's devastating drought. We have the opportunity with the 1992 dire emergency supplemental appropriation bill to send a clear message to the agricultural community that we will stand by them when—through no fault of their own—they lose their crops.

During the 1991 drought, Pennsylvania has lost an estimated $600 million in economic activity. At a time when the Commonwealth is already coping with a recession, we cannot afford this additional loss. Sixty of the sixty-seven counties in Pennsylvania—more than 90 percent of the State—were declared disaster areas by the U.S. Department of Agriculture back in August. In a State where agriculture is the No. 1 industry, the loss is tremendous.

Farmers and rural communities will feel the effects of this economic loss for years to come. Many farmers will have to borrow money in order to continue operating. In many cases, they will have to struggle to repay an operating loan for a crop that doesn't exist. Agricultural lenders are deeply concerned.

But we need to be clear about what is necessary. Passing the dire emergency appropriations bill alone will not get the funds the drought-stricken farmers need. Before the funds would actually become available, the President will need to agree that an emergency has occured in order to comply with the restrictions contained in last year's budget agreement. Up until now, the President has not seen fit to declare such an emergency. He has not responded to the needs of farmers suffering as a result of the drought. I hope he will see the wisdom in acting now.

The moneys provided for in the dire emergency appropriations bill will not be every farmer's answer. For many, however, it will be the difference between staying in business and getting out. I urge its enactment.

Mr. BYRD. Mr. President, is there not a substitute that has to be agreed to before third reading?

The PRESIDING OFFICER. The Senator is correct.

Is there further debate on the substitute? If not, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. BYRD. Mr. President, I move that the joint resolution be read the third time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WARNER addressed the Chair.

Mr. BYRD. Mr. President, the Senator from Virginia was seeking recognition.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Parliamentary inquiry. Is it in order for Senators to send to the desk amendments in the first degree?

The PRESIDING OFFICER. No amendments are in order at this time. The Senate has already adopted the substitute.

Mr. WARNER. Mr. President, parliamentary inquiry. Is the adoption of the substitute then a mechanism by which all amendments have now been cut off?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I was on the floor awaiting the arrival of a member of the Senate Armed Services Committee at which time I was to join with him. It was my understanding the managers were aware that was to take place. I stepped off the floor momentarily, at which time the most recent parliamentary decision by the Senate was taken. I was under the impression that the managers had asked for third reading but had deferred it to allow Senators to come to the floor and there was a period of 10 minutes. I did not know the period of 10 minutes expired. But I expect the parliamentary situation is such now that one may only speak to the bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, the distinguished Senator from Virginia was on the floor and seeking recognition.

Mr. WARNER. Yes.

Mr. BYRD. And I realize that the procedure that was followed is a rather unusual procedure here, but certainly well within the rules and precedents of the Senate. In fairness, I think that the Senator from Virginia ought to be allowed to call up his amendment.

I ask unanimous consent that notwithstanding the fact that the bill has been advanced to third reading that the Senator from Virginia be permitted to call up an amendment to the bill.

Mr. STEVENS. Reserving the right to object.

Mr. BYRD. And that consequently that amendment be open to an amendment in the second degree.

Mr. STEVENS. I shall not object.

Mr. WARNER. I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the distinguished Senator from West Virginia.

The PRESIDING OFFICER. Will the Senator withdraw his request for third reading?

Mr. BYRD. Mr. President, I do not withdraw my request for third reading, but I have asked unanimous consent that the Senator from Virginia be allowed, nevertheless, to offer an amendment. I ask that third reading of the bill be had and then the Senator may offer his amendment notwithstanding.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished Senator from West Virginia. At this time, it will not be my intention to send an amendment to the desk on this bill.

Mr. President, I understand the distinguished Senator from West Virginia has informed this Senator of my right to do so. I was going to do it in partnership with another member of the Senate Armed Services Committee. I am now advised perhaps——

Mr. BYRD. You may still do that.

Mr. WARNER. Mr. President, I do understand that, but I understand further it was the intention I was trying to reserve the right for my distinguished colleague to come forward but apparently that is not his intention at this time. As a consequence, I will perhaps have some comments to make with respect to the bill at a later time. I thank the courtesy of the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The question is on agreeing to the motion to read the joint resolution the third time.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the joint resolution having been read the third time, the question is, shall the joint resolution pass, as amended?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Idaho [Mr. SYMMS].

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] and the Senator from Idaho [Mr. SYMMS] would each vote "nay."

The PRESIDING OFFICER (Mr. LEAHY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 17, as follows:

(Rollcall Vote No. 270 Leg.)

YEAS—75

Adams
Akaka
Baucus
Biden
Bond
Boren
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Grassley
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pressler
Reid
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—17

Bingaman
Brown
Burns
Craig
Domenici
Gore
Gramm
Kasten
Kohl
Mack
Murkowski
Nickles
Nunn
Roth
Smith
Wallop
Wirth

VOL
137
PT
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21—25
1991
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NOT VOTING—8

Bentsen
Breaux
Harkin
Helms
Kerrey
Pryor
Riegle
Symms

So the joint resolution (H.J. Res. 157) was passed, as amended.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

The title was amended so as to read:

> Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate insist on its amendments to House Joint Resolution 157, request a conference with the House on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees on the part of the Senate; and that the motions to reconsider these actions be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. LEAHY) appointed Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. HATFIELD, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. GORTON conferees on the part of the Senate.

Mr. GLENN. Mr. President, due to the rapid passage of this legislation, I regret that an amendment I would have proposed will not be considered.

Mr. President, my amendment would have had the effect of: First, prohibiting a mandated, noncompetitive extension of the current CHAMPUS reform initiative [CRI] contract; and second, prohibiting a mandated expansion of the CHAMPUS reform initiative.

Mr. President, the CHAMPUS reform initiative is a contract for the delivery of civilian medical care to the families of military personnel and military retirees and their eligible dependents in the States of California and Hawaii. The annual cost of the contract to the Department of Defense is about $800 million. The current 5-year contract expires on February 1, 1993, and the Commerce Business Daily has announced DOD's planned issuance of a new request for proposal [RFP] for another 5-year contract to be awarded competitively.

At the same time, the current contractor for CRI, Foundation Health Corp., located in California, has been lobbying for the noncompetitive extension of the contract.

Mr. President, I want to say that I do not fault the current CRI contractor for wanting a noncompetitive extension of the existing contract. Obviously, the contract must be profitable, otherwise the company would not want to continue to be the CHAMPUS intermediary.

I want to also say that our CHAMPUS beneficiaries have expressed general satisfaction for the health care services they have received under CRI, and I for one, believe that CRI should continue to be the mode of civilian health care delivery for CHAMPUS beneficiaries in California and Hawaii.

So I am not opposed to CRI. In fact, I think CRI has proven to be not only effective from the standpoint of patient satisfaction, but in holding down cost. And depending on cost/benefit analyses, a case could be made for the expansion of CRI to other States.

Mr. President, my problem is not with the concept of CRI, but with the procurement of CRI services as proposed in the Defense appropriations conference report.

Mr. President, the Defense appropriations conference report contains a provision that would noncompetitively extend the current CRI contract for 1 year. This particular provision would overturn a provision in the Defense authorization conference report we just passed that would ensure that the CRI contract would be renewed competitively. Quite frankly, the action we took in the Defense authorization conference report was in reaction to a provision in the House Defense appropriations bill that would mandate the noncompetitive extension of the existing CRI contract.

Mr. President, our Senate appropriators initially supported the authorization conference provision, but eventually gave in to the House appropriators in conference. I find this very disappointing because the Senate and House had already voted against such a flagrant disregard of fair procurement policy.

Mr. President, current Federal procurement statutes require competition for the award of Federal contracts. Federal agencies may "sole source" only under very limited circumstances that are specifically prescribed in law. Obviously, the Department of Defense saw no circumstances that would lead it to "sole source" because it has already announced its intention to issue an RFP for competitive bid.

If we allow a noncompetitive 1-year extension of the current CRI contract, we would be turning a blind eye to the Competition in Contracting Act and the Federal acquisition regulations. We would be singling out for special treatment a company that happens to be in the district of a senior member of the House Appropriations Committee. In doing so, we would be excluding other companies who may be equally or competent in providing the needed services.

Mr. President, aside from fairness, there is the issue of cost. Requiring a noncompetitive extension of the current CRI contract could potentially cost taxpayers millions of dollars. There are other companies who could compete for, and possibly win, a competitive contract that could result in lower cost and equal or even better health care delivery to CHAMPUS beneficiaries.

Mr. President, for these reasons, I regret that my Senate colleagues will not have the opportunity to vote in favor of fair and open competition, by voting for this amendment.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

INVESTIGATORY POWERS AUTHORIZATION

Mr. MITCHELL. Mr. President, pursuant to a prior order, following consultation with the Republican leader, I was vested with the authority to set a cloture vote on a motion to proceed to Senate Resolution 198, to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran.

I now ask unanimous consent that there be 1 hour of debate equally divided and controlled between Senators SANFORD and MCCONNELL and at the conclusion or yielding back of that time, the cloture vote occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who controls time under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. May I inquire: Does the leader care to make any additional comments?

Mr. MITCHELL. Mr. President, I will be making a statement shortly. I suggest the Senator proceed and then yield time to me.

Mr. SANFORD. All right.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina, and the Chair again would ask who yields time?

Mr. SANFORD. I yield myself 5 minutes.

The PRESIDING OFFICER. The distinguished Senator from North Carolina is yielded 5 minutes.

The Senator from North Carolina.

Mr. SANFORD. Mr. President, the U.S. Congress has an oversight obligation to represent the people in making certain that their National Government is being operated effectively and appropriately and within the bounds of the law. The duty falls to the Congress

to examine serious allegations of extraordinary wrongdoing within the Government process.

There is no simple way for Congress to carry out those obligations. It can, and has, created a process for the employment of a special counsel within the structure of the administrative branch. The legal complexities, the political conflicts, the difficulties of focus and direction by Congress, and the high investigative costs make this less than satisfactory.

Congress can and has created special investigative committees to conduct public inquiries, but this approach is fraught with the inefficiencies of partisan differences.

Standing committees and subcommittees have been assigned investigative tasks, and most effectively when that assignment is made by full Senate resolution. This is the approach chosen by the Senate leadership in responding to the persistent charges that unwarranted and illegal actions were taken to delay the release of the Americans who had been taken as hostages from our Embassy in Iran.

The Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs was asked by the majority leader to take responsibility for inquiring into these old but enduring charges that the Reagan-Bush presidential campaign engineered the delay of the release of the hostages in Iran for political advantage and that in exchange they would provide what turned out to be, if it were true, illegal transfer of military equipment to the Iranian Government.

The ranking member of the subcommittee, Senator JEFFORDS, and I did not volunteer for this assignment. We accepted it as a duty to lay to rest, as true or false, these allegations of extremely heinous actions.

In accepting this unpleasant task, neither Senator JEFFORDS nor I bring any presumption of the truth of the allegations. Certainly, for my part, I hope we can quickly demonstrate that there is no factual basis for the charges.

But it is the Senate that must decide whether it wants to proceed, and if so, it must be the Senate that enacts this resolution empowering the committee to subpoena witnesses and documents and to take evidence under oath.

While the committee might proceed without such a resolution, and that might be the only path, the sounder policy is to make this inquiry a function of the entire Senate.

Mr. President, during the past 2 days we have examined three witnesses. Two were hostages who, along with fellow hostages, wrote to the President and to the Congress. We also heard from Gary Sick, adjunct professor at Columbia University, who put forward these very serious allegations in a widely read op-ed piece in the New York Times last April and who has recently written a book on the subject laying out the evidence as he sees it and, more importantly, laying out the evidence that might be obtained with official action in subpoena power.

Mr. Sick served on the National Security Council under Presidents Ford, Carter, and Reagan and is well known as an expert on the Middle East. He is a retired captain in the U.S. Navy. He has previously written a book about the fall of the Shah of Iran. He was involved in the efforts of the Carter administration to seek release of the hostages from the very beginning of the storming of our Embassy until their final release in January of 1981.

Mr. Sick very carefully set forth a series of unanswered questions, unanswered questions that seem to suggest that they deserve the attention of a serious congressional investigation, unanswered questions because answers cannot be obtained without the official authority, without the power of subpoena, without the power to put witnesses under oath. He asked some questions that seem to demand an investigation to find the answers if we are to lay to rest these longstanding charges.

For example, Cyrus Hashemi, who was apparently a participant in this action, if it took place, an international arms dealer, was the subject of very intense surveillance, phone taps, television intelligence, the most careful kind of coverage by the FBI, from the early fall of 1980 until after the inauguration in 1981 when the surveillance was suspended. This information alone might very well quickly give an indication of whether or not there is any truth to these allegations, may very quickly demonstrate that there is no real substance to be pursued.

All in all, Mr. Sick laid out about 20 such items which if we could pursue with the official power of subpoena and the congressional committee we probably could fairly quickly get the answers.

It is my belief that the honest answers to these questions can only be obtained with the power of the U.S. Congress, and it seems to me that we have that obligation.

I want to read a paragraph or two from the letter that the hostages wrote to the President and to the Congress, and I am reading from an open letter to the U.S. Congress, two paragraphs:

> For the last 10 years there have been rumors, reports, and allegations of foul play in the 1980 Presidential election. The thought that any American, whether a private citizen or Government official, may have participated in delaying release of the hostages for political gain is distressing. Until recently, these allegations have been dismissed as unsubstantiated. But substantial enough information has been presented by respected and persistent investigators to warrant a thorough examination of this matter.
>
> It is not appropriate to say there is insufficient proof-until there has been an official investigation. The question of whether there is evidence of any wrongdoing must be answered by an unbiased, bipartisan congressional investigation with full subpoena power. Unless this happens, speculation and unanswered questions will erode public confidence in our electoral system.

It seems to me, Mr. President, that the Senate would be derelict if it ignored the requests from these former hostages who suffered so much while on duty on behalf of all of the people of the United States.

Mr. President, I yield 5 minutes to the distinguished Senator from Vermont.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I also rise to express my belief that it would be appropriate for us to go forward. When this matter came up before the committee, I did not vote in favor. I voted "present" because at that time I did not have sufficient information upon which I could make a judgment as to whether or not it would be worth the Senate's time and money to proceed forward in this particular investigation.

I must say that I have had tremendous cooperation from the Senator from North Carolina. I have absolute confidence that he agrees with me that we must do everything we can to ensure that we keep matters under control and that nothing goes forward unless we have sufficient evidence that would warrant something other than the kind of investigation we intend to hold. Our task is to find out whether there is sufficient evidence out there, after the appropriate use of subpoenas and the powers of congressional testimony, to determine that a full investigation should go further.

On August 5, the majority leader announced that the Near Eastern and South Asian Affairs Subcommittee of the Senate Foreign Relations Committee would be asked to conduct an investigation into allegations that officials of the 1980 Reagan Presidential campaign attempted to delay the release of the United States hostages in Iran.

As the chairman and ranking member of the subcommittee, it fell to Senator SANFORD and me to decide how such an investigation, if ordered, should be conducted. While neither of us had requested the task, we both agreed that if the full Senate approved the investigation, it should be carried out in a professional and nonpartisan manner.

We agreed that any staff would work under our joint jurisdiction and that all decisions would be made jointly by myself and the chairman. We both believe that such an investigation should be conducted with as little fanfare as possible. If an investigation begins, no statements would be made to the press until the subcommittee is prepared to releast its findings. We do not intend

VOL 137 PT 23 NO 21—25 1991 UMI

to hold public hearings in the course of the investigation, and only after its conclusion if the subcommittee should decide they are necessary.

Mr. President, the intensity and persistence of rumors that there was an attempt to delay the release of the hostages have brought us here today. In an effort to determine the nature and extent of the allegations, the Subcommittee on Near Eastern and South Asian Affairs held two hearings, yesterday and today, with two Americans who were held hostage in Iran and with Dr. Gary Sick, author of "October Surprise." Mr. Steve Emerson, author of the New Republic article "What October Surprise?" declined to testify. Our task was to determine if there is probable cause to warrant a more thorough and exhaustive investigation.

In the course of preparing for and conducting these hearings, I became convinced that there is a need to clear the air on this matter. President Bush and President Reagan both want it put to rest. Several of the hostages have spoken out about their need to resolve the question of whether they were unnecessarily detained in captivity. But more importantly, my analysis of the evidence presented to the subcommittee leads me to conclude that a relatively short investigation by our subcommittee could either lay to rest one of the central allegations of the October surprise or prove that insufficient evidence exists to resolve the issue beyond a reasonable doubt. Either way, the investigation would have performed a useful function in a brief period of time.

In my mind, the key element in the October surprise theory is the allegation that William Casey, Ronald Reagan's 1980 Presidential campaign manager, met with representatives of the Iranian Government in Madrid in late July and again in August 1980 to discuss the possibility of a deal to delay the release of the hostages in Iran. Dr. Sick lays out in his book a detailed account of these meetings as relayed to him by an individual who claims to have been present. This individual insists that an agreement was reached whereby the hostages would be released on the day of the inauguration in exchange for shipment of ammunition and military spare parts. He also claims that in addition to Casey and himself, five other people were present at each meeting.

In addition to questioning several of these participants, an investigation could pursue several other areas of information and related sources to determine whether such a meeting actually took place. Because of the limited scope and time of the inquiry and the relatively small number of people in question, I did not believe that such an investigation, properly staffed, would take more than a few months. After that time, it should be possible to conclude either that the meeting did or didn't happen, or that evidence no longer exists to prove anything.

If the preponderance of the new evidence should indicate that no such meetings took place, the matter would be put to rest. If, on the other hand, hard evidence should come to light that indicated a deal between Mr. Casey and the Iranians had been struck, then the entire investigation would probably be handed over to proper law enforcement officials. If the Iran-Contra investigation taught us anything, it was that a congressional investigation should not proceed where only the Justice Department or law enforcement officials should tread. And if the investigation concluded that there wasn't any conclusive evidence to be had on this question, then as much as could be done by this subcommittee would have been done and much of the public hype over this scandal would die and hopefully the matter would be put to rest.

As the ranking minority member on this subcommittee, I take very seriously my responsibility to see that all persons are treated fairly, that the tough questions get asked and the proper leads are pursued. I am confident that a short, professional and nonpartisan investigation could finally put this nagging scandal to rest.

I am concerned, as a member of the minority, that if we do not do so at this time, then this matter will linger on as a public issue continually in question. And it may very well be that someone may attempt to take political advantage of it as we move into the election next year. So I would urge the Members on this side of the aisle not presume at this stage that there is any intent to do anything other than search for the truth.

I urge a yes vote on the motion to invoke cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, the concern of the Senator from Kentucky is that the only October surprise envisioned in the investigation is the October 1992 surprise. This issue has already been considered by the Tower Commission by the House and Senate Select Committees on Iran-Contra, by the independent counsel, and by the Senate Intelligence Committee.

The congressional Iran-Contra investigation has already cost the taxpayers millions of dollars, with 50 staffers fanning out across the country looking for information to corroborate allegations by the press.

The majority report of the Iran-Contra Committee concluded—this is the majority report, Mr. President—the majority report of the Iran-Contra Committee concluded:

> Reagan campaign aides were approached by individuals who claimed to be Iranian intermediaries about potential release of hostages, as were other campaign staffs. The committees were told that the approaches were rejected, and have found no credible evidence to suggest that any discussions were held or agreements reached on delaying release of hostages or arranging an early arms-for-hostages deal.

Mr. President, that is a quote from the majority report of the Iran-Contra Committee.

Mr. President, some now claim that the October surprise issue was not given adequate consideration in the Iran-Contra investigation. Well, the truth is that these allegations were not considered worth investigating any further.

Further, Congress was not the only institution to make that rational determination. The independent counsel has been hard at work since December 1986, costing taxpayers $27 million—and counting—with 38 people looking for evidence of Presidential wrong-doing. Five years later the cases against North and Poindexter have been summarily dismissed. The independent counsel could not prove what some people want to prove.

If there is any institution and it is now an institution, in Washington that is always on the prowl for new scandals to justify its existence, certainly it is the independent counsel. Yet even the independent counsel—with no limits on its terms, time, or issue jurisdiction—has found no reason or evidence to justify an investigation of the October surprise story.

The Tower Commission also reviewed many of the allegations we are about to hear—and as if that were not enough, the Intelligence Committee shoveled through this heap during the Gates confirmation hearings.

None of these investigations—conducted by able people from both sides of the aisle—has proven what some people still want to prove. Even the press is not buying this nonsense. In the last few weeks, both Newsweek and the New Republic have laid waste to these ridiculous allegations, the Newsweek piece of October 1 and the New Republic piece of the same week.

One, the New Republic, entitled "What October Surprise?" And in the Newsweek, "The October Surprise, the Charge, Treason; the Evidence, Myth." The evidence, myth. They laid waste to these allegations, charge by charge and line by line.

I happen to have caught the two reporters, the two principal reporters in each of the magazines on the Fox Morning News a couple of weeks ago. They were laughing about this. They said this is absurd. They said we can save the Congress the $600,000; just read the articles. Just read our articles.

Someone made reference tonight to the fact that one of the reporters did not want to appear before our committee, not because he was reluctant to tell what he thought had happened. He had already done that. But because he thought it was inappropriate to be appearing before a congressional committee as a reporter.

These reporters have said, in effect, we can save the taxpayers $600,000 that some people want to spend, by just reading the articles. And they are available for any Senators who would like to read them. In fact, this whole October surprise story really belongs in the National Enquirer, Mr. President. I can see the headline, "Gary Sick Sees Reagan Meet Iranian Officials and Big Foot." Or, "Elvis is Key Witness in October Surprise Investigation."

That is about what this amounts to, Mr. President. Yet we are seriously contemplating, apparently, spending $600,000 to investigate something that happened 11 years ago and did not, in fact, happen at any time.

Yesterday, the subcommittee heard from two former hostages on this issue. Both of them are courageous Americans, real patriots. But the truth is that they do not know anything more about these spurious charges than anyone else. And they were both honest and decent enough to admit it. Just yesterday, Charles Scott, one of the hostages who appeared said, and this is a direct quote:

> I have no firsthand knowledge from the point of view of whether or not there was an October Surprise. * * * I don't know if it happened or not.

Barry Rosen admitted that his suspicions arose entirely from "reading pieces of work that have been done by * * * Christopher Hitchins or Gary Sick and others." We spent an entire day yesterday talking to two wonderful Americans who endured great pain but could lend nothing to the inquiry, in terms of facts about whether this October surprise could have occurred. In other words, the hostages' knowledge of whether the October surprise story really happened is no greater than that of anybody in this body. Frankly, probably less.

I would also like to know this. We heard from two hostages and received a letter on the subject from a total of eight hostages. How do the other 46 hostages feel about it? We did not hear from them. We do not know how they feel about it—46 former hostages said nothing about this issue.

So where does that leave us today? Millions of dollars later, we are still poring over uncorroborated allegations of witnesses who are relying on hearsay, gossip, innuendo, and even outright lies of incredible scandalmongers.

Consider some of those who have spun this conspiracy web: Barbara Honegger. She apparently worked for the Reagan campaign—or should I say someone calling herself Barbara Honegger worked for the campaign. After all, she publicly admits to making decisions based on little voices that contact her. She may be qualified to discuss the paranormal and parapsychology which she pursued a masters in—but the question is whether her opinions are reliable. Maybe we should find out the source of her channeling and call him or her as a witness. That would be a great story for the National Enquirer.

We do not need to look far because she claims one of her sources is the notorious Richard Brenneke, well-known liar before the Foreign Relations Committee.

Mr. Sick has called Brenneke a man of courage for pursuing his misguided convictions. Our committee called him what he is: a liar. His stories change so fast, it's impossible to keep up.

But the very premise of Brenneke's fabrications is his claim to have worked for the CIA—a claim the CIA publicly denies.

In fact, in a memo we relied on in earlier Foreign Relations Committee proceedings, the CIA felt so strongly about Brenneke's fantastic fabrications that they departed from their historic practice of neither confirming nor denying employment and denounced Brenneke as a liar.

But it is not all Brenneke and Honegger's fault. They relied on sources at the Executive Intelligence Review. That is run by Lyndon LaRouche.

The last I checked, Executive Intelligence Review firmly believes that the Queen of England and Henry Kissinger conspire in international drug trafficking. In other words, they print the stories that the National Enquirer will not touch.

Next we have the ex-President of Iran, Bani-Sadr. By my count, his story has changed at least five times. He claims his memory improves with time. I think the only thing that improves is his Nielsen ratings and the amount of time he gets in the press.

This Bani-Sadr is the same who said that Jimmy Carter and his NSC adviser Brzezinski conspired with Saddam Hussein to invade Iran and restore the monarchy.

So if you believe his allegations about a secret Reagan campaign deal, why not swallow the whole pig in this perjurious poke?

Ben-Menashe is the last major player in this game of liar's poker. According to the ranking member of the Intelligence Committee, Senator MURKOWSKI, the committee found his story totally unbelievable. Then again, strange things happen to your imagination when sitting in a Federal prison for illegal arms deals.

Now let us look specifically at the ringleader of this conspiracy cabal: Gary Sick. I was simply astonished by Mr. Sick's revelations today before the subcommittee. Gary Sick said he relied on six sources to confirm that a key meeting took place launching the October Surprise. Among these six sources, there was only one supposed eyewitness—Jamshid Hashemi—an indicted arms dealer. And we have no proof other than Hashemi's word that he was there. The only other possible witness, Mr. Casey, continues to be unavailable for comment.

None of the five corroborating witnesses that Sick used were at this elusive meeting. In fact, most of them are Hashemi's partners in crime.

We have already talked about convicted arms dealer Ben Menashe. Menashe was not there but told Sick that he read about the meeting in intelligence cables. We asked Sick if Menashe had given him a copy of these cables—well, of course he had not.

The second corroborating witness is Admiral Madani—a close friend of Hashemi, whom Hashemi promoted for President over in Iran. Madani was not at the meeting—but if his friend said the meeting happened, then it must be true.9

That is the logic there.

Mr. President, the next witness Sick relied on was an arms dealer named Durrani, a Pakistani. But he also was not at the meeting. Sick never actually spoke with Durrani personally but heard about him from journalists.

The fourth corroborating witness was a Mr. Rupp. Rupp is a close friend and associate of Richard Brenneke, whom we have already discussed. Even Sick must have felt a little queasy about Rupp because he could not bring himself to interview Rupp but relied on hearsay from some unidentified journalist's account.

Finally, Mr. President, the last corroborating witness to Hashemi's eyewitness account is a Mr. Babayan. Mr. Babayan was not at the secret meeting either and Sick never actually spoke to Mr. Babayan either.

So, Mr. President, these are the sources on which we are going to bet hundreds of thousands of taxpayer dollars for an investigation of their wild and unproven allegations.

I have to wonder what the Senate and the world is coming to when we base decisions on how to spend large amounts of taxpayers' money on the ravings of channelers, liars, felons, and flat out flakes. Millions of dollars and years of investigative work later there is still no serious evidence today about the "October Surprise" that was not available to congressional committees, the independent counsel, and the Tower Commission.

Even the former hostages who testified yesterday could offer no factual basis for this inquiry to proceed. Both of them admitted to no firsthand knowledge. In fact, both described their conditions as total isolation and a communication vacuum.

The facts, Mr. President, we need facts. We have none. What does the other side want to spend to investigate this collection of wild, unsubstantiated allegations?

Let us start with travel: $40,000 is pecially for what he just said. From various documents and heard the testi-

warrant not a presumption of any guilt the 1980 Presidential election. The thought Carter's term, and then for a few

VOL 137 PT 23 NO 21–25 1991 UMI

Let us start with travel: $40,000 is budgeted at a time when the voters are fed up with congressional junkets. Yet the committee will be jetting around the globe looking for more lost clues. We ought to call this expense "Air October" or better yet "Air Sick." Then we have $400,000 for more staffers. Just what Congress needs, a few more staffers. And we have a budget item of $72,000 for consultants. There is even $15,000 budgeted for special stationery. Why in the world are we spending $15,000 for "October Surprise" stationery. That will be a real keeper for the archives. I am surprised there is not a budget item for "October Surprise" T-shirts or coffee mugs.

Add all of this on top of the nearly 70 staffers and a $3 million budget that the Foreign Relations Committee already gets. Voters all across America, and even Democratic leaders are saying we should pay more attention to domestic problems and issues. So what does this resolution propose? That we give more tax dollars to the Foreign Relations Committee to investigate some wild ravings, wild ravings about foreign affairs that supposedly happened more than a decade ago.

If the voters want any proof that Congress does not understand or respond, this resolution is absolute convincing proof.

Some say we should pursue this just to lay it to rest once and for all. Mr. President, with that rationale, then why not investigate all the persistent allegations of vote buying by Democrats in the 1960 Democratic Kennedy campaign? Why do we not lay that to rest?

Frankly, Mr. President, we will never lay this to rest until we lay the President to rest. There will always be conspiracy-minded partisans who, for a buck or for a book contract, will be willing to smear the President and those around him. I think the taxpayers and our country have suffered this partisan witch hunt long enough. Sooner or later our constituents are going to think that the United States and U.S. Senate stands for unending scandals. It is time to bring the scandalmongering to an end, Mr. President, before our scandalmongering becomes itself a scandal.

As I said, the only "October surprise" envisioned by this investigation is an October 1992 surprise. I think it is entirely inappropriate to proceed with this resolution. I certainly hope cloture will not be invoked.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. McCONNELL. Mr. President, I yield 3 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WALLOP. I thank the Chair, and I thank the Senator from Kentucky especially for what he just said. From time to time, Mr. President, it is becoming difficult to hold our heads up and call ourselves Senators. One really wishes maybe by now we might be to the point where Gilbert and Sullivan could relieve us of the unending pain of what we are doing to ourselves.

Fortunately, the Senator from Kentucky spoke with wit and made light of some of the idiocies and the ironies that are upon this. And my friend from Rhode Island also has wit. And I know him to be a friend, but this is not worthy of his committee.

What we are faced with here tonight is silly, it is petty, it is political and the country cannot stand all that. They have watched us be silly and petty and political and they watched us make fools of ourselves and they are used to it.

But what the country should not have to do is what the Senator from Kentucky just pointed out that they are going to have to do, should this resolution pass, is pay hundreds of thousands of dollars to prove what they already know to be the case. There is absolutely nothing that substantiates any kind of venture such as this. No doubt, no unusual kinds of things that sit in the bank, nothing.

What the public's interest is, besides a sort of prurient kind of current affairs type of interest is, I assume, what we do to ourselves. The public knows. The public has spent its hard-earned money learning this already. Why they should say that we are behind the expenditures of more funds to play political party games is beyond me. We are looking at trying to find some kinds of reasons for two failed Presidents, that of Bani-Sadr and that of Jimmy Carter.

I say to my friend I thank him for having wit. I find myself without any tonight as I look at what I am asked to vote on in behalf of the public that we all serve.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Mr. President, I yield 2 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I will speak briefly. First of all, I want to commend my friend from Kentucky for the very scholarly presentation he has made. As a member of the Foreign Relations Committee, I followed this debate and approached it with an open mind and there is absolutely nothing there to investigate.

Several of our national publications have completely blasted this theory. We are in a situation where we are wasting money. It is an absurd proposition. I could repeat many of the arguments that Senator McCONNELL has made, but I shall not do so except to say that as a member of the Committee, as one who has looked over the various documents and heard the testimony, this is something the Senate should not do, and I shall vote against it with a very firmly held conviction.

Mr. McCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. I yield myself 30 seconds, simply to set the record straight. I am not going to attempt to answer.

The Tower Commission formed by President Reagan did not look into the 1980 allegations. The Iran-Contra committee did not investigate the allegations, had a simple footnote. The independent counsel, like the Iran-Contra Committee, was limited to the period of time covered by the Boland amendment, so they did not cover it. The truth of the matter is the October surprise has never been investigated by an official body and that is the reason we need to have the kind of investigation that can put people under oath.

Now, Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. GORE. I thank my distinguished colleague from North Carolina. I thank the chairman of the committee for his patience. I shall only take 2 minutes.

I commend the Senator from North Carolina for his initiative in sponsoring this resolution. Indeed, this matter has not previously been investigated except by a number of prominent investigative journalists who have laid on to the public record sufficient facts to raise very troubling questions about what did occur.

I have taken note of the reports by other journalists who have sought to debunk the theories put forward by Mr. Gary Sick, by Nightline, by Front Line, and others. But, Mr. President, more than sufficient evidence remains on the public record to warrant the kind of inquiry that the resolution before us would authorize.

Much has been made about the nature of some of these characters who have spoken out as part of these investigations. It is a fact that the kinds of people who are sought out as intermediaries in the sort of deal that is alleged here are frequently people of slippery reputations. The fact that those reputations now are used to indict what they are saying is perfectly fair, but they were not chosen by those who wished to investigate this matter as witnesses because of their reputations. They were chosen because they were the people who were sought out allegedly as intermediaries.

I believe that the evidence remaining, which has not been rebutted, is sufficiently powerful and credible to

warrant not a presumption of any guilt of what has happened but a presumption that it does deserve to be looked into.

I shall vote for this matter, and I commend my colleague from North Carolina.

Mr. SANFORD. I yield 4 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 4 minutes.

Mr. PELL. I thank the Senator from North Carolina.

As we all know, our Committee on Foreign Relations ordered reported Senate Resolution 198, the resolution to authorize and provide supplemental funds for inquiry into the allegations concerning the release of the American hostages in Iran.

The reports do keep coming up over and over again that someone may have tried to make a deal that involved delaying the release of the hostages in Iran in 1980 for political purposes. We all trust and believe that this is not correct, but the allegations keep rising, and I would think that those who are most vociferous in their opposition would really be enthusiastic if we are all equally sure that there is no fire where the smoke is.

Accordingly, it is my own view that this subject should be examined once and for all if for no other reason than the charges could finally be laid to rest, which would be a great relief to all of us, Democrats and Republicans alike.

Finally, I applaud the conscientious, nonpartisan manner in which the responsibility for this important task has been assumed by the chairman of the Subcommittee on Near East and South Asian Affairs, Senator SANFORD, and by the ranking minority member of our subcommittee, Senator JEFFORDS.

I yield the floor.

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 12 minutes.

Mr. SANFORD. I recognize the Senator from Maryland, and yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 4 minutes.

Mr. SARBANES. Mr. President, I thank the able Senator from North Carolina. I commend him and the ranking minority member of the subcommittee, the very able Senator from Vermont, for their efforts to move forward on a fair and objective investigation.

Mr. President, I think the best way to start is to quote from a letter, an open letter to the United States Congress from a number of former American hostages in Iran. I now quote:

> For the last 10 years there have been rumors, reports and allegations of foul play in the 1980 Presidential election. The thought that any American, whether a private citizen or Government official, may have participated in delaying release of the hostages for political gain is distressing. Until recently * * *

And this letter is dated June 13 of this year—

> these allegations have been dismissed as unsubstantiated, but substantial enough information has been presented by respected and persistent investigators to warrant a thorough examination of this matter. It is not appropriate to say there is insufficient proof until there has been an official investigation. The question of whether there is evidence of any wrongdoing must be answered by an unbiased, bipartisan congressional investigation with full subpoena powers. Unless this happens, speculation and unanswered questions will erode public confidence in our electoral system.

The sort of inquiry that they are asking for has not been conducted, and that is what this resolution, which is before us, is all about. This is not, as one of my colleagues said, a silly or a petty or a political matter. It seems to me people on both sides of the aisle ought to be concerned with having a proper inquiry in order to find out the answers to these questions that have been raised.

Yesterday, before our committee, Charles W. Scott, one of the hostages, a very impressive witness said:

> I'm frustrated. I want to see the thing put to bed one way or the other so we can get on with the important things that the United States has to face in the future.

And he later went on to say:

> I do find it appalling though that as a private citizen, if this thing took place, the question is how far will people go to ensure that their candidate is elected to the highest and most powerful position on the face of this Earth today. And that is really the question, and that is what bothers me. I want to believe that within our constitutional framework and our electoral process that is the way people reach that highest office in the land. And I'm not saying in this case, because you have no information. In fact, you might as well know this. I voted for President Reagan in '84. I voted for President Bush in '88. So I have no political or personal ax to grind on this thing.

And he went on then, Mr. Scott, to conclude, saying,

> The best shot we have to get at the answer is to go forward with this investigation.

I have heard Gary Sick put down here on the floor of the Senate tonight. All I can say to that is we have here a book, the "October Surprise," which is a very careful, reasoned book which deserves to be addressed on its own terms.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. SARBANES. It deserves to be examined.

If the Senator will just give me 30 seconds.

Sick was for 24 years an officer of naval intelligence. He served on the National Security Council, first under President Ford, then through President Carter's term, and then for a few months during Ronald Reagan's term.

The allegations which are widespread need to be addressed. They are not going to go away, obviously.

It seems to me the responsible thing to do is for the country to go forward with this inquiry, use the subpoena power, the other resources available, and try once and for all to find out the answer to these disturbing questions.

The PRESIDING OFFICER. The Senator from North Carolina has 7 minutes remaining.

Mr. McCONNELL. Mr. President, I yield 2 minutes to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

What we have before us today is the granddaddy of all conspiracy theories—the so-called October surprise.

This theory has a life of its own. It was born amid the followers of Lyndon LaRouche, and nurtured by the enterprising investigative journalists at ABC's "Nightline" and PBS "Frontline." Now that the key sources of the theory have been thoroughly debunked, one would think we could allow the theory to die a long-overdue death. But for some reason, we undertake a Senate investigation, at a cost approaching $600,000 in order to keep it alive awhile longer, which would amount to a full employment act for a number of lawyers as well.

I have watched some of this story unfold from my vantage point as vice chairman of the Senate Select Committee on Intelligence. When some of these allegations arose during the confirmation hearings of Robert Gates, we explored the credibility of some key sources such as Ari Ben Menashe and Richard Babiyan. In doing so, we found that we could quickly dismiss them.

I was bothered, Mr. President, when we heard no retractions when ABC News finally got around to polygraphing Mr. Menashe and discovered that he was not telling the truth. Instead, they simply turned to other sources such as Jamshid Hashemi. If it is possible to find a witness less credible than Ari Ben Menashe, I think ABC News may have found one in Mr. Hashemi.

Until I saw the recent pieces in Newsweek and the New Republic, I was quite concerned that American investigative journalism was headed straight for the supermarket tabloid rack. Thankfully, some investigative journalists working for the New Republic and Newsweek directed their considerable talents toward seeking the truth, and in the process, may have helped to save the medium itself.

Here is what the New Republic said in its November 18 article entitled "The Conspiracy that Wasn't."

> * * the truth is, the conspiracy as currently postulated is a total fabrication. None of the evidence cited to support the October Sur-

VOL
137
PT
23
NO
21—25
1991
UMI

> prise stands up to any scrutiny. The key sources on whose word the story rests are documented frauds and imposters. Representing themselves as intelligence operatives, they have concocted allegations that are demonstrably false.* * *

Newsweek, in its November 11 edition, said:

> Newsweek has found, after a long investigation including interviews with government officials and other knowledgeable sources around the world, that the key claims of the purported eyewitnesses and accusers simply do not hold up. What the evidence does show is the murky history of a conspiracy theory run wild.

Mr. President, I ask unanimous consent those two articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Newsweek, Nov. 11, 1991]

MAKING OF A MYTH

It is a story that will not die—a dark tale of conspiracy and political intrigue that, if true, would constitute something like an accusation of treason against George Bush, the late William Casey and other members of Ronald Reagan's 1980 presidential campaign. Briefly put, the "October Suprise" theory holds that Bush or Casey—or possible Bush *and* Casey—cut a secret deal with Iran in the summer or fall of 1980 to delay the release of 52 U.S. hostages until after the November elections. Their objective, or so the theory holds, was to deny Jimmy Carter whatever political advantage the hostages' last-minute release might create—or, in short, to swing the 1980 election toward Reagan and Bush.

The October Surprise theory has been kicking around for the past 11 years, and it has become a mother lode for conspiracy junkies of all political persuasions. It got its biggest boost early this year when Gary Sick, a former member of Jimmy Carter's National Security Council staff, wrote an article on the op-ed page of The New York Times asserting his belief that it could have happened. Sick, who has already written a *much praised book* ("All Fall Down") about the Iran hostage crisis, is about to publish a second book laying out his case for the October Surprise. The new book, to be published this week by Random House, is entitled "October Surprise." The Senate Foreign Relations Committee, meanwhile, voted last week to launch an investigation of the October Surprise theory, and the House Rules Committee is scheduled to vote this week whether or not to launch a separate investigation headed by Rep. Lee Hamilton of Indiana. So, true or not, the October Surprise is about to become yet another exhibit in the Beltway's chamber of Alleged Political Horrors—to escalate, along with the BCCI scandal, the Iran-contra affair and the savings and loan crisis, from cocktail-party gossip to subpoenas, sworn testimony and endless disputes among lawyers, investigators and witnesses.

Like all good conspiracy theories, this one forces all who would deny it to prove a negative—to prove that something did *not* happen. As any logician can testify, proving a negative is *ultimately impossible*. Equally disturbing, the October Surprise theory has now become complicated and so hideously detailed that no reasonable person can say with absolute certainty that there was no conspiracy and no deal. *But* NEWSWEEK has found, after a long investigation including interviews with government officials and other knowledgeable sources around the world, that the key claims of the purported eyewitnesses and accusers simply *do not hold up*. What the evidence does show is the murky history of a conspiracy theory *run wild*.

GOING MAINSTREAM: A STORY IS BORN

Washington in the fall of 1980 was, like the rest of the United States, obsessed with the U.S. Embassy hostages in Iran. It was a national crisis: public officials, the voters and the news media were grasping at every rumor. Jimmy Carter, then running for a second term, was almost completely preoccupied by obscure events half the world away; so was the Reagan campaign. In April, the Carter administration launched a desperate military gamble to extract the hostages from captivity, and failed, miserably, in the smoking wreckage at Desert One. The campaign proceeded: Carter turned back Edward Kennedy's challenge in the Democratic primaries, and Reagan dispatched George Bush. The hostage crisis, seemingly at an impasse, continued to simmer amid the hullabaloo of an election campaign. The election came and went with Carter's landslide defeat—and in December, with the hostages still held in Iran, rumors of some sort of backstage contract between the Republican campaign and the Iranian government first appeared in print.

The outlet was hardly prestigious: the Executive Intelligence Review, a periodical published by followers of right-wing political extremist Lyndon LaRouche. On Dec. 2, 1980. EIR ran a story alleging that former secretary of state Henry Kissinger, a target for LaRouche followers, "held a series of secret meetings during the week of Nov. 12 in Paris with representatives of Ayatollah Beheshti, leader of the fundamentalist clergy in Iran." This was attributed to "Iranian sources" in Paris. The article continued: "Top level intelligence sources in Reagan's inner circle confirmed Kissinger's unreported talks with the Iranian mullahs, but stressed that the Kissinger initiative was totally unauthorized by the president-elect. 'If you know any way of controlling that man,' said one Reagan insider, 'please let me know'." (Kissinger said the EIR report was "totally untrue.")

The story said that this meeting was the climax of a prior liaison: ". . . it appears that the pattern of cooperation between the Khomeini people and circles nominally in Reagan's camp began approximately six to eight weeks ago, at the height of President Carter's efforts to secure an arms-for-hostage deal with Teheran. Carter's failure to secure the deal. which a number of observers believe cost him the Nov. 4 election, apparently resulted from an intervention in Teheran by pro-Reagan British intelligence circles and the Kissinger faction."

EIR said that its source "stressed" that those involved in this effort "did not have the approval of Ronald Reagan himself." Fast-forward to 1983, when the LaRoucheans returned to the story. An article in the Sept. 2 issue of their journal New Solidarity gave more detail. "During the pre-election period, Carter and his crowd were frantically trying to negotiate a deal based on arms and spare-parts shipments, which Iran desperately needed after the outbreak of war with Iraq on Sept. 22 . . . The deal . . . fell through when the hard-line mullahs boycotted the Majlis in late October. Ayatollah Beheshti—known as the most pro-Soviet of the mullahs—was the key mover behind this."

When the story got its next boost—in an April 1987 article in The Miami Herald—it was from former Iranian president Abolhassan Bani Sadr, by now in exile in Paris. Bani Sadr "said he learned after the hostage release that two of the Ayatollah Ruhollah Khomein's advisers had been involved in negotiations with the Reagan camp. The negotiations were to delay release of the hostages until after Reagan became president . . . The former president identified the two as Hashemi Rafsanjani [now himself Iran's president] and Mohammed Beheshti." Bani Sadr said he had asked both men about this. "'They laughed.' he said. 'They didn't say no'."

The Herald's story didn't get much play. But when Bani Sadr next spoke, to Flora Lewis of The New York Times in August 1987, the story grew. With The New York Times, Bani Sadr was more specific than he had been with The Miami Herald. He said negotiations with the Carter administration had been going well. "But then in October, everything suddenly stopped. My aides found out it was because the group in charge of the hostage policy, Rafsanjani, Mohammed Beheshti and Khomeini's son, did not want Carter to win the election. There was a meeting in Paris between a representative of Beheshti and a representative of the Reagan campaign." These and subsequent events, Lewis wrote, "confirm for him persistent rumors that the Reagan campaign offered arms if the hostages were not released until after the 1980 election. . . ." The story had finally made it into the mainstream.

The timing was propitious—high summer, so to speak, for conspiracy buffs. The reason was the Iran-contra scandal, which proved that the Reagan administration had indeed engaged in secret dealings with Iran. Although the exact starting point of those secret negotiations remains obscure to this day, it seems clear that the roots of Iran-contra run deeper than anyone has been able to document publicly. The Reagan White House, it seems clear, was obsessed by Iran during the early 1980s. Iran-contra also showed that the administration was eager to engage in covert action, and that it was ready to lie, destroy documents and cover up a range of covert activities that violated the law.

Contragate, in short, created fertile ground for the October Surprise theory. Reporting in November 1987, the joint investigating committee created by the House and Senate relegated the October Surprise rumors to a footnote. "There have been allegations that officials of the 1980 Reagan campaign—in order to prevent a pre-election announcement. by President Carter (an 'October Surprise')—met with Iranian emissaries and agreed to ship arms to Iran in exchange for a post-election release of hostages," the report stated. "Reagan campaign aides were, in fact, approached by individuals who claimed to be Iranian emissaries about potential release of hostages, as were other campaign staffs. The committee was told that the approaches were rejected and found no credible evidence to suggest that any discussions were held or arrangement reached on delaying release of hostages or arranging an early arms-for-hostages deal."

It is likely that the October Surprise would have died somewhere in late 1987, except for the appearance of a group of apparently knowledgeable, conspiracy-minded "super-sources." Journalists are vulnerable to the lure of a super-source—another Deep Throat, someone who knows all and pieces everything together in a nice, neat package. In the October Surprise case, there are four would-be Deep Throats: Barbara Honegger,

Richard Brenneke, Jamshid Hashemi and Ari Ben-Menashe. At some point each has claimed first-person knowledge of the conspiracy. The stories they told overlapped in broad outline—and in some cases, they compared stories, swapped details and helped each other become more convincing. Journalists committed to the notion of the October Surprise often acted as a conduit between them.

Barbara Honegger: Honegger was a researcher in Reagan's 1980 campaign and worked at the White House and the Justice Department until 1983. In summer of 1987, Honegger claimed that in late October 1980, in the Reagan campaign headquarters in the Washington suburb of Arlington, she had heard a jubilant staffer say, "We don't have to worry about an October Surprise. Dick cut a deal." Dick, presumably, was Richard Allen, the Reagan campaign's top foreign-policy adviser and subsequently Reagan's first national-security adviser. It was the first confirmation from inside—a bull's-eye for the conspiracy theorists and the journalists who were following their trail.

But there were several problems. The most basic was that Honegger was never able to identify this alleged staffer or say whether she had any reason to believe the staffer knew what he was talking about. The second was that Honegger, who published a book, "October Surprise," in 1989, herself seemed to have some difficulty in separating fact from fiction. Even Christopher Hitchens, a columnist for The Nation magazine and a sometime proponent of the October Surprise theory, said her expose was "diffuse and naive."

Richard Brenneke: A businessman from Portland, OR, Brenneke claims to have worked for the CIA for 18 years as a contract operative. He met Honegger in August 1988 in Washington, where she told him about her theories on the October surprise. Brenneke, astonishingly enough, claimed he had been present when the deal was done. He said the meeting had taken place in Paris, at the Hotel Raphael, on Oct. 19, 1980. And Brenneke confirmed what Honegger already thought: William Casey, then Reagan's campaign manager and later CIA director during Iran-contra, had represented the Reagan-Bush campaign. Donald Gregg, then a member of Jimmy Carter's National Security Council staff and later a national-security adviser for Vice President Bush, had been there, too. The Iranians were two arms dealers, Manucher Ghorbanifar and Cyrus Hashemi.

Then, two weeks later, Bani Sadr expanded his previous story. In Playboy magazine, Bani Sadr made the most surprising charge so far—George Bush was also present in Paris. (In a scathing story on the October Surprise, The New Republic reported last week that Bani Sadr has now retracted his claim that Bush was present.) Brenneke said he, too, could confirm that Bush was in Paris—and he said so, under oath, in Denver on Sept. 23, 1988.

Brenneke was testifying on behalf of Heinrich Rupp, 58, a pilot and gold dealer who had been convicted of bank fraud. Rupp was an old friend, Brenneke said, the two had been involved in covert ops for the CIA. Brenneke gave senstational testimony. He said he had worked for the CIA for 18 years, until 1985. He said that on Oct. 19, 1980, Rupp had flown "Mr. Bush, Mr. Casey, and a number of other people to Paris, France, from the United States for a meeting with Iranian representatives." Brenneke said he had been directly involved in one of what he said were three meetings with the Iranians. He listed the Americans present as Bush, Casey, Donald Gregg and Richard Allen. He said the Iranians included Hashemi Rafsanjani, who was then speaker of the Iranian Parliament and now president of Iran, and Cyrus Hashemi.

Brenneke's testimony made news—and among those who read it, with mounting fury, was the investigator from Sen. John Kerry's subcommittee, Jack Blum. Blum had spent thousands of hours checking what Brenneke had told him and had begun to believe that Brenneke was a fraud. The final proof, for Blum, came when he read Brenneke's assurance to the judge in Denver. "I will say, your honor, I have made these statements to Senator Kerry's committee and the United States Senate—again, under oath. . . ." Blum knew that was not true Brenneke had never mentioned any involvement in the October Surprise. Blum pressed the U.S. attorney's office in Denver to file perjury charges, and Brenneke was indicted in May 1989.

The trial, in April 1990, pitted Brenneke against the U.S. government—and the government lost. Donald Gregg, now U.S. ambassador to South Korea, testified he had not been in Paris on Oct. 19 or 20, 1980. Two of Casey's former secretaries said he had not been out of the country at that time. Two Secret Service agents said they were guarding Bush on the campaign trail when the meetings allegedly took place. A CIA records specialist said there was no trace that Brenneke had ever worked for the agency. But the government's case was sloppy, and Brenneke's lawyers played on the jury's doubts so skillfully that Brenneke was acquitted. In the process, he said he never meant to testify that he had actually seen Bush in Paris—only that he had been told Bush was there.

Ari Ben-Menashe: Ben-Menashe first surfaced as an October Surprise source in 1990, while he was being held in a federal prison in New York City on charges of attempting to sell U.S.-made military transport planes to Iran. Tried in October, he was acquitted after maintaining he had the secret approval of both the Bush administration and the Israeli government. Although Israeli officials deny it, Ben-Menashe claims he was an Israeli intelligence agent and an adviser to Prime Minister Yitzhak Shamir.

Like Richard Brenneke, Ben-Menashe has been interviewed many times by journalists looking into the October Surprise (NEWSWEEK, Nov. 4). Ben-Menashe says he, too, was in Paris on Oct. 19–20, 1980, as a member of a six-person Israeli team that helped set up the meeting. He says he saw Bush and Casey there, and that they were accompanied by Robert Gates, who is now George Bush's nominee as CIA director. He says the Iranian delegation was led by the Ayatollah Mehdi Karrubi, not Cyrus Hashemi and Manucher Ghorbanifar. He told NEWSWEEK that the meeting took place at the Hotel Ritz, not the Raphael or Crillon as Richard Brenneke claims; he also told another investigator, Israeli author Shmuel Segev, that the meeting was held at the Hotel George V. ABC News gave Ben-Menashe a lie-detector test in November 1990; according to Christopher Isham, an ABC producer, Ben-Menashe failed it.

Jamshid Hashemi: Jamshid Hashemi is a younger brother of Cyrus Hashemi, an Iranian arms dealer who died in London in 1986. Jamshid has been a source for ABC News and for "Frontline," the PBS documentary program. He claims that he, his brother Cyrus and Karrubi met William Casey in a hotel in Madrid in July 1980, to begin negotiating a secret deal with the Reagan-Bush campaign. There is at least some corroborating evidence for this claim. For one thing, knowledgeable officials agree that Cyrus Hashemi played a minor role during the hostage crisis—offering to help establish communications between the Carter White House and Iranian leaders. For another, as ABC-News reported, the register at the Madrid Plaza Hotel actually shows that "A. Hashemi" and "Jamshid Halaj" were registered as guests at the time in question, late July 1980.

MEETINGS AND MIXED MESSAGES

There are, of course, myriad further details to these shifting and mutually contradictory allegations. But the essentials are clear. There were two sets of meetings, the first between Karrubi, the Hashemi brothers and William Casey in Madrid, and the other in Paris in October. The second meeting involved either Casey and Gregg—or Casey, Bush and Gates—on the American side. On the Iranian side, depending on which "witness" is believed, it involved either Cyrus Hashemi and Manucher Ghorbanifar or the Ayatollah Karrubi. Bush, Gates and Gregg have all denied that they were in Paris on those dates, and that they ever tried to arrange a deal with any Iranian leaders. Casey is of course dead. So is Cyrus Hashemi. Ayatollah Karrubi has denied ever visiting Madrid.

A team of NEWSWEEK correspondents has spent much of the past eight weeks exploring the evidence for these allegations. The NEWSWEEK team believes that:

Casey did not go to Madrid: Jamshid Hashemi told his story at length to PBS's "Frontline" series in April and to ABC's "Nightline" in June. He would not appear on camera for either program, and he did not reply to NEWSWEEK's requests for an interview. He alleges that in March or April 1980, Casey made contact with Cyrus and himself while the pair were on a visit to Washington. Casey, he says, wanted to establish contact with an Iranian who was close to Ayatollah Khomeini. The brothers agreed to act as go-betweens. The meeting took time to set up, but in July, Cyrus asked Jamshid to bring the Ayatollah Karrubi from Teheran to Madrid to meet with Casey. According to Jamshid, Mehdi Karrubi arrived with his brother Hassan.

They talked with Casey over two consecutive days, Jamshid says—two morning sessions of some three hours apiece. Then in August, Jamshid says, there was a second meeting between Casey and Karrubi, also in Madrid. After an exhaustive search of press reports, of Casey's diaries and of the diaries of his colleagues, ABC's "Nightline" reported that there was a three-day window—July 27, 28 and 29—during which Casey's whereabouts were unknown. On the 30th, ABC reported, Casey was being interviewed by an ABC correspondent at Reagan campaign headquarters and dined that night with Bush in Washington.

But Casey's whereabouts during the July "window" are convincingly established by contemporary records at the Imperial War Museum in London. Casey, it turns out, took a three-day breather from the campaign to participate in the Anglo-American Conference on the History of the Second World War. As a veteran of the Office of Strategic Services—the forerunner of the CIA—Casey delivered a paper on OSS operations in Europe during the war. He went to a reception for conference participants on the evening of July 28, and he was photographed there. He delivered his papers on the morning of July 29.

VOL 137
PT 23
NO 21–25
1991
UMI

ABC News acknowledged these facts in an update later in June—but still maintained that Casey had enough time on July 27 and 28 to fly to Madrid to meet with the Iranians. A close examination of the conference records by Newsweek, however, demonstrates that Casey in fact was present at the conference sessions in London on July 28. Historian Jonathan Chadwick, who organized the conference, kept a precise, day-by-day and session-by-session record of who was present and who was not. According to Chadwick's records, Casey was present at 9:30 a.m. on the 28th, stayed for the second morning session, leaving after lunch and returning at 4 p.m. He was also present, of course, on the 29th, when he delivered his paper. "I was very excited that such a big man was coming, but it turned out to be a disappointment," Chadwick said. "He just talked it through in a very gravelly voice. He came over as a very tough sort."

There are records showing where Casey slept and ate as well—at the Royal Army Medical College, close to the Imperial War Museum. Officials there say they have a bill in the name of "W. Casey" charging him for a room on the nights of July 27 and 28, and for "messing" (eating a meal) on the 28th and 29th. There is, in short, no possibility that Casey could have held meetings with anyone on two successive days in Madrid.

Finally, there are large questions about Jamshid's story. He told ABC's Ted Koppel, for instance, that he and Cyrus made big profits in the arms trade as a direct result of the meeting in Madrid. But there is little evidence that the Hashemis had much money to spare. Elliot Richardson, who was Cyrus Hashemi's attorney in a 1984 arms-smuggling case, said that Cyrus seemed to be dealing in a "remarkably petty" quantity of arms.

The Paris meeting did not occur: The vast discrepancies between Ben-Menashe's account and Brenneks's account show, at the very least, that one of the two men is lying. But the weight of evidence suggests that both versions are false.

Ben-Menashe has changed his story repeatedly: did it happen at the Ritz, as he told Newsweek, or at the Hotel George V, as he told Shmuel Segev? He is also confused about dates. In an interview with NEWSWEEK, Ben-Menashe said he was sure it was Oct. 19 or Oct. 20 because it was close to the Jewish festival of Sukkot. Sukkot, a movable feast, occurred on Sept. 25 in 1980.

There is reason to believe, meanwhile, that Brenneke was nowhere near Paris on Oct. 19–20, 1980. The evidence consists of Brenneke's own credit-card receipts and desk diary for that period of time. According to a recent story in New York's Village Voice newspaper by Frank Snepp, a former CIA agent who is now a freelance journalist and investigator, Brenneke's credit-card receipts show that he stayed at a motel in Seattle, Wash., from Oct. 17 to Oct. 19. His desk calendar, Snepp also reported, showed that he was home in Portland on Oct. 20. These records, Snepp said, were shown to him by Peggy Adler Robohm, a writer who at first admired and wholly believed Brenneke's stories. Robohm got the records from Brenneke himself, during a short-lived collaboration on his autobiography. Fearful of being caught in a literary fraud, Robohm ended their collaboration last summer.

(Brenneke did not return repeated calls from Newsweek. But one of his lawyers, Mike Scott, said Snepp's story was false.)

There is, finally, solid evidence that George Bush did not go to Paris on Oct. 19–20, 1980—the U.S. Secret Service logs recorded where candidate Bush was on those days. Those logs show that Bush campaigned in New Jersey and Pennsylvania on Oct. 17, and that he went to the Chevy Chase Country Club, outside Washington, during the day on Oct. 19. They also show that he delivered a campaign speech before the Zionist Organization of America at a Washington hotel that night. The logs show that he returned to his home at about 9:30 on the night of the 19th. The next day, Oct. 20, the Secret Service logs and press reports both record that Bush was back on the campaign trail in New Haven, Conn. Given the travel time involved, there is no reasonable possibility that he could have flown to Paris, met the Iranians and returned to the United States in that time period.

These details may or may not convince conspiracy theorists who cling to the October Surprise—just as the Warren Commission report failed to convince a whole generation of would-be investigators that Lee Harvey Oswald, acting alone, killed John F. Kennedy. But the evidence on, Bush and Casey's whereabouts—and on the bona fides of their accusers—must also be considered against the broad history of U.S.-Iran relations in the 1980s. Indeed, the October Surprise theory, rests on two broad-brush assumptions that are highly suspect.

One is the notion that Iran must have gotten U.S. weapons from the Reagan administration in return for delaying the hostages' release. Despite the record of the Iran-contra scandal, however, there is oddly little evidence of any substantial weapons "payoff" to Iran. An authoritative analysis by the Stockholm International Peace Research Institute shows that Iran spent approximately $5 billion on arms between 1980 and 1983—and $3 billion of that total went for military equipment from communist-bloc countries. It is true, apparently, that Israel supplied Iran with $50 million worth of spare parts for U.S.-built F-4 Phantom jets in the spring of 1980. But $50 million is chicken feed for swinging a U.S. presidential election. And Iran never got spare parts for its more potent F-14s, which rarely flew during the Iran-Iraq War but which could well have deterred Iraqi air attacks on Teheran and other cities. Only the United States could have provided the parts. Arms dealer Ian Smalley, who made a fortune selling weapons to Iran, says he does not believe that the Reagan administration cut a deal. "If the U.S. had been in the market, we would have been out of business," Smalley said.

A second pivotal notion is that secret negotiations on the hostage issue between the Carter administration and the Iranian government inexplicably broke down during October 1980. (Gary Sick, among others, places great emphasis on this fact.) But Iranian leaders were arguably distracted by the outbreak of the Iran-Iraq War, which began on Sept. 22. In a report for the Council on Foreign Relations, former Carter administration official Harold Saunders argues that the war "diverted and absorbed the attention of Iran's leaders"—and Saunders said that only "skillful management" by Rafsanjani got the Iranian Parliament to resolve its disagreements on the hostage issue. If, as some October Surprise proponents have claimed, Rafsanjani participated in the alleged secret deal with the Reagan campaign, why did he try to resolve the hostage impasse while Carter was still in power? Then, too, many Iranians hated Jimmy Carter. Eric Rouleau, who is now France's ambassador to Turkey, was a journalist, in Teheran at the time. Rouleau, who knew many Iranian leaders personally, says he heard no gossip about any pending deal with the Reagan campaign. But the Iranians were well aware that releasing the hostages could help Carter win the election—and Rouleau says there was "a lot of discussion, lots of declarations, to the effect that the Iranians would never give any kind of 'gift' to President Carter."

There is, finally, one tantalizing coincidence in the secret record of the hostage crisis. On July 1, or July 2, 1980, Cyrus Hashemi met with a member of the Iranian leadership at the Ritz Hotel in Madrid. He was, apparently, acting as a go-between for the Carter administration, which by then was desperately seeking some new avenue to reopen the hostage negotiations. (That meeting, Newsweek sources say, led to a last-ditch diplomatic initiative by Secretary of State Edmund Muskie in September.) Within a week, according to Bani Sadr's diaries, Bani Sadr was told by the Ayatollah Khomeini's nephew that Iran had been approached by Reagan's men with a proposition on the hostages. The meeting site—Spain—was mentioned. Could it be that the Ayatollah's nephew confused Reagan with Carter—and that the whole notion of the October Surprise stems from that simple mistake?

[From the New Republic, Nov. 18, 1991]

THE CONSPIRACY THAT WASN'T

(By Steven Emerson and Jesse Furman)

Few op-ed pieces prove to be as popular or long-lived as the one Gary Sick wrote for *The New York Times* last April. He claimed that in October 1980 officials in Ronald Reagan's presidential campaign made a secret deal with Iran to delay the release of the American hostages until after the election. In return, the United States purportedly arranged for Israel to ship weapons to Iran. The charges of an "October Surprise" weren't new. They had been circulating in the press since 1987. But Sick, who had served on Jimmy Carter's National Security Council staff and is the author of the acclaimed *All Fall Down* (1985), an account of the 1980 Iran hostage crisis, gave new impetus to the story. So did a show the following day by PBS's "Frontline," in which Sick was featured.

When Sick first wrote about the release of the hostages in his book, he explained that there were several reasons they were freed in January 1981: Iranian enmity for Carter, the complications of unfreezing Iranian assets, the disorganization of the Iranian regime, and the protracted nature of U.S.-Iranian negotiations. But in his op-ed piece, Sick wrote that in preparation for a new book on Iran, *October Surprise* (to be published this month), he interviewed "hundreds of people" who told him about a secret Reagan-Bush hostage deal in 1980. What finally persuaded him was "the absence of contradictions on the key elements of the story" provided by his sources. Sick became convinced that William Casey, then Reagan's campaign manager, had met secretly in Madrid in the summer of 1980 with Iranian intermediaries to negotiate a secret deal, and that Casey and other officials met in Paris in October 1980, after which Iran broke off negotiations with the Carter administration. Sick also wrote that three of his sources saw then Vice President George Bush in Paris as well, but that "in the absence of further information, I have not made up my mind about this allegation."

The Sick piece and the "Frontline" story prompted a spate of alarmed editorials, an indignant request from former President Carter for a "blue-ribbon panel" to investigate the charges, and congressional inquiries into the October Surprise.

But the truth is, the conspiracy as currently postulated is a total fabrication. None of the evidence cited to support the October Surprise stands up to scrutiny. The key sources on whose word the story rests are documented frauds and imposters. Representing themselves as intelligence operatives, they have concocted allegations that are demonstrably false, and their stories, full of internal inconsistencies, are also contradictory. Almost every primary source cited by Sick or "Frontline" has been indicted or was the subject of a federal investigation prior to claiming to be a "participant" in the October Surprise. Finally, evidence we have uncovered shows that William Casey and George Bush could not have been present at the meetings alleged by the sources.

The term "October Surprise" was actually coined by Reagan campaign aides who worried in the fall of 1980 that Carter would launch an operation to free the hostages in order to win the election. Thus in the fall of 1980 members of the Reagan campaign team often met to discuss developments regarding the hostages. there was concern that Carter would do something to exploit the hostage situation, and some of the things the Republicans did—such as stealing Carter's debate book—were sleazy. But they certainly did not amount to treason, as proponents of the October Surprise have charged.

The conspiracy theory began to catch on in April 1987. On the front page of the *Miami Herald*, Alfonso Chardy reported on a secret meeting in early October 1980 with Richard Allen and Laurence Silberman, then foreign policy advisers to Reagan, and Robert McFarlane, then an aide to Senator John Tower on the Senate Armed Services Committee. The article said they "met secretly" (it was actually in the hotel lobby) for "20–30 minutes" at the L'Enfant Plaza Hotel in Washington, D.C., with a "man who said he represented the Iranian government and offered to release to candidate Reagan 52 American hostages being held in Tehran." Allen told the House Foreign Affairs Committee last May that he went at the "insistence" of McFarlane, who only indicated that the meeting was about the Middle East. Although the article quoted Allen as saying that he rejected the man's offer as "absurd" and told him to deal directly with the Carter administration, the article strongly implied that this meeting was part of a new scandal linked to the Iran-contra affair. Allen's decision not to inform Carter officials of the meeting fueled suspicion about the story.

Abolhassan Bani-Sadr, the president of Iran from January 1980 through June 1981, was quoted as claiming that he "learned in 1981" that Iranian leaders Ali Akbar Hashemi Rafsanjani and Mohammed Beheshti had collaborated with Reagan campaign aides to release the hostages. (Beheshti and Rafsanjani, bitter political opponents of Bani-Sadr, had forced him from power. Beheshti was later killed by a bomb in 1981, and Rafsanjani is now president of Iran.) Bani-Sadr also charged that the Reagan officials had promised Iran that it would receive weapons for its war with Iraq. But Bani-Sadr stipulated that the promises of weapons were not linked to the release of the hostages—and furthermore, he didn't know if any weapons were eventually shipped.

In early July 1987 the October Surprise got a big push from the *Nation* with Christopher Hitchens's charge that the Reagan campaign assured the Iranians that "if they kept the American hostages until after the election," the Iranians would be rewarded with arms. Hitchens quoted Barbara Honegger, a Reagan campaign researcher and low-level worker in the Reagan White House, as saying that in late October 1980 she had overheard an unidentified "staffer" say, "We don't have to worry about an 'October Surprise.' Dick cut a deal," presumably a reference to Richard Allen.

As these charges began circulating, Bani-Sadr's memory improved dramatically. On August 3 Flora Lewis reported in a *New York Times* column, based on an interview, that Bani-Sadr now held without doubt that the "Reagan campaign offered arms if the hostages were not released until after the 1980 election." He also asserted that in October 1980 his "aides found out" that Rafsanjani and Beheshti had delayed the release of the hostages, that there was a meeting between Beheshti and a "Reagan campaign official" in Paris, and that he "learned later" that Allen, Silberman, and McFarlane met with an Iranian envoy in Washington.

Bani-Sadr's memory continued to improve. On August 9, 1987, *Miami Herald* reporter Chardy quoted him as now saying that "secret contacts between Reagan and Khomeini representatives" had fixed a deal in October 1980 to free the hostages. (Note that according to Sick in a 1988 *Los Angeles Times* story, "Bani-Sadr had nothing to do with the negotiations. He was completely out of it.") The article also reported that the Reagan administration approved of, or at least condoned, Israeli arms sales to Iran in 1981. All the ingredients for the cabal were now in place.

Then, in an August 1987 interview with Leslie Cockburn for her book *Out of Control*, Bani-Sadr said that he knew ahead of time that Rafsanjani and Beheshti sent an Iranian envoy to meet with Allen and Silberman and that he even protested to Rafsanjani and Khomeini that it was "dangerous" to renege on the negotiations with Carter. Remember that initially he claimed to have no prior knowledge of any such meeting. Later he said he "learned" about the meeting in 1981. Now he was saying that he knew of the meeting ahead of time.

It got better. The following year, in a September 1988 article in *Playboy* by Abbie Hoffman and Jonathan Silvers, which painted the most comprehensive October Surprise conspiracy to date, Bani-Sadr said definitively that George Bush was the Reagan campaign official who met in Paris with Beheshti in October 1980. (A year later Bani-Sadr said he had a "document" showing that Bush was present at the meeting—but he could not disclose the document because "the life of the writer . . . and the lives of many people would fall into danger.") Bani-Sadr's accusations about Bush prompted an editorial in *The Washington Post*—not especially disposed to defending Bush in general—in October 1988 that noted Bani-Sadr's motivation in "smearing Bush." The *Post* wrote, "Bani-Sadr has to hope that U.S.-Iranian relations will continue to be antagonistic if the Iranian opposition is ever to have a chance of gaining important American support. His effort to smear Bush betrays concern about tension lessening if the Republicans stay in power."

Emboldened by the eager response to his allegation by international journalists, Bani-Sadr wrote his memoirs, which went beyond even the October Surprise conspiracy. In My Turn To Speak: Iran, the Revolution & Secret Deals with the U.S. (published in France in 1989, and in the United States in 1991), Bani-Sadr portrayed himself as a man victimized by the double dealings of the Khomeini regime and the Reagan campaign.

At the same time a new "source" emerged—who was fortuitously able to confirm Bani-Sadr's allegations. His name was Richard Brenneke, an Oregon businessman, and he surpassed even Bani-Sadr in his ability to recall events that he had admitted earlier he knew nothing about.

Brenneke claimed to have worked for the CIA and FBI in addition to the Mossad and the French, Italian, and other intelligence services. He first surfaced in late November 1986, immediately after the official disclosure of the Iran-Contra affair, when he claimed that he personally had informed then Vice President Bush's office in February 1986 of secret details of the Iran-Contra affair. Reporters flocked to Brenneke as he began propounding incredible tales of U.S. and other covert operations. For example, he was a primary source for a front-page New York Times story on February 2, 1987, about the "Demavand project," a purportedly classified CIA-Pentagon operation to ship billions of dollars of sophisticated weapons, including tanks, bombers, and helicopters to Iran. Brenneke, the article reported, had provided the Times with "documents and tel-exes" including a letter of reference, dated June 20, 1979, which stated that he had been employed by the CIA for thirteen years and that the CIA "found him to be thorough, competent, and very trustworthy."

The CIA and the Defense Department issued categorical denials of the story. Other reporters at the Times began looking into Brenneke's allegations and his background. Both began to collapse. According to a veteran New York Times reporter, "We soon found out that Brenneke was . . . an absolute liar. Even the documents he gave us were forged, including the CIA letter of reference."

At The Portland Oregonian, reporters were amused at Brenneke's celebrity status: the paper had reported weeks earlier that Brenneke had greatly "exaggerated" his role in arms sales, that he had said he couldn't remember if he worked at the CIA, that none of his international arms dealing ever came to fruition, and that he had been the subject of an FBI investigation for his suspected role in a check-kiting scheme and a forged airplane title report years earlier.

For the most part, however, the press was willing to suspend disbelief. ABC News quickly ran a series of "investigative" stories based on new Brenneke allegations. In April 1988 the network aired a report based on a "confidential source"—who the network later admitted to be Brenneke—alleging that in 1983 the United States, working with Israeli intelligence, secretly flew weapons to the contras and used the planes on their way back to transport drugs into the United States.

Newsweek followed up with a story by Robert Parry that provided even more details about Brenneke's allegations, including the charge that Donald Gregg, Vice President Bush's national security adviser (now ambassador to South Korea), was part of the drugs-for-weapons operation. Parry suggested that he had independent confirmation of the ABC allegations, but Brenneke was the only named source for both news organizations. Over the next five months Brenneke's claims were the focus of more than 200 national news stories and columns. (One of the few reporters to raise questions about Brenneke was Mark Hosenball, who wrote an article for TNR in June 1988 saying that Parry and ABC had uncritically bought the story of an unreliable witness.)

VOL 137 PT 23 NO 21–25 1991 UMI

It seemed there wasn't anything Brenneke did not know. He told The Los Angeles Times that he supplied explosives to a PLO training camp located in western Oregon, a camp about which Oregon law enforcement knew nothing. He told the Seattle Times of his knowledge of Israelis training Colombia drug cartel hit squads. He told the Detroit Free Press that he supplied U.S. intelligence with information from an Iranian military officer that included maps of Qaddafi's headquarters two months before the United States bombed Libya in April 1986. He quickly discovered that it was possible to get away with any allegation in the national security arena: if an intelligence agency already suspect in the public's mind, denied something, that merely reinforced the authenticity of the charges.

By late September 1988 Brenneke, having never mentioned anything about the October Surprise, suddenly emerged as the primary source of the conspiracy in the United States. His disclosures came right after he met Honegger, the former Reagan campaign aide, in August 1988. Honegger had become one of the leading champions of the October Surprise. She claimed to have her own intelligence and confidential sources who "confirmed" the conspiracy and began working on a book called October Surprise, published in 1989.

Honegger herself was no stranger to controversy. A believer in paranormal events (she has an unusual master's degree in "parapsychology"), she claimed a "source" with her voice contacted her in early 1980 to tell her she would get a job with the Reagan administration. She said that an intelligence officer told her that U.S. satellites parted the clouds during Reagan's inauguration to let the sun shine only on Reagan. When she resigned from the Reagan White House, she told a reporter that she had been guided by insights that she described as "channeled information . . . as if it were from the future."

Honegger says in her book that she met Brenneke on August 22, 1988, in Washington. At the meeting, Brenneke told her that he had learned from his "Iranian contacts" that a secret meeting was held at the Raphael Hotel in Paris on October 19, 1980, between William Casey, Donald Gregg, Iranian arms dealer Cyrus Hashemi, and Iranian merchant Manucher Ghorbanifar. Brenneke told Honegger that he was not present at the Paris meeting, but that he had been in the city that weekend and that his presence there was purely "coincidental."

Honegger, who had been in touch with Bani-Sadr and was eager to substantiate his story about Bush attending the secret Paris meeting, recounted the allegations. What could Brenneke tell her about "Bush's possible participation"? she asked. Brenneke said he would "make a few phone calls to see the 'lay of the land,'" and would get back to her.

A week later the Playboy article hit the stands.

On September 23, 1988, Brenneke suddenly recalled that he had attended at least one of the meetings in Paris in October 1980, that there were a total of three meetings held on October 19 and 20, 1980, and that he had played a pivotal role in the October Surprise deal. Brenneke was appearing that day as a character witness at a Denver court for the sentencing of his friend Heinrich Rupp. Trained as a Nazi pilot, Rupp was a Colorado gold dealer who had been convicted of bank fraud and sentenced to forty-one years in jail. Brenneke told the court that Rupp had been prosecuted to shut him up about his involvement in flying Reagan campaign aides to Paris in October 1980.

Brenneke testified that on October 18, 1980, Rupp participated, at the request of the CIA, in a flight taking Bush, Casey, Allen, and Gregg to a meeting in Paris with Iranian representatives to work out a deal to delay the release of American hostages until after the election. He said that Rupp had been a long-time CIA pilot, and that Rupp personally flew Casey to France. Brenneke also said that he attended the third meeting, at which Casey and Cyrus Hashemi (both men were dead by the time of Brenneke's testimony) and Gregg also participated.

Brenneke went on to say that a CIA officer named Robert Kerritt had given him instructions to go to Paris. And as a result of the meetings with Casey and Bush, he claimed that he witnessed an agreement over the "logistics of transferring $40 million [in U.S. funds] for the purchase of weapons [for Iran]." Asked whether he ever played a "role in conveying or transferring that money," Brenneke said, "I don't believe so."

After the February 1987 New York Times article had appeared, Brenneke had been contacted by Jack Blum, special investigator for the Senate Subcommittee on Terrorism, Narcotics, and International Operations, headed by Senator John Kerry. He met with Brenneke for hundreds of hours, and a year and a half later Brenneke began telling newspapers that Blum and the other staffers corroborated his allegations about the October Surprise. Moreover, Brenneke testified under oath in the Rupp hearing that he had provided the October Surprise information to the Senate subcommittee and that it was later confirmed by the staffers.

Yet according to Blum and other Senate staffers, not only did Brenneke never mention the October Surprise; the subcommittee found him to be an outright liar. The committee obtained thousands of pages of documents from law enforcement and intelligence agencies and discovered, says Blum, "that nothing he said was true—he had made it up based on what he read in the newspaper or what he was told."

The Senate subcommittee released a 1,166-page report in December 1988, in which two pages are devoted to Brenneke. Among the conclusions: "The records show that Brenneke was never officially connected to U.S. intelligence." The report noted that Brenneke "began telling his stories about his 'secret' life as a spy" after being stopped by the U.S. Customs Service on his way back from Europe and asked about documents relating to arms deals. "His response was to offer to become a Customs informant," stated the report. Customs declined the offer. The report also noted that "Brenneke applied for a job with the CIA when he finished school but his application was rejected."

By May 1989 Brenneke's stories began to catch up with him. A Denver grand jury indicted him for perjury for making false declarations under oath to a federal judge in the Rupp hearing. Brenneke's trial took place in Portland, Oregon, in April 1990. A CIA official testified that not only had Brenneke and Rupp never worked for the CIA; the agency had never heard of anyone named Robert Kerritt—Brenneke's supposed contact. Secret Service agents testified that Bush had not left the country in the two weeks before the election; two of Casey's secretaries said the same thing about their boss. Then Gregg testified that on the weekend of October 18 and 19, 1980, rather than being at the Paris meetings as Brenneke claimed, he was on vacation at a beach in Delaware; on Monday, October 20, he said he was back at work at the Old Executive Office Building. He recalled that the weather was cloudy and produced a photograph of himself and his daughter on the beach. The back of the photo is stamped "October 1980" from the processing lab. The photo showed a hazy but party sunny sky.

In response, Brenneke's lawyers produced Robert Lynott, a retired Portland TV weatherman who testified that his review of the weather reports showed there were overcast and rainy conditions most of that weekend in Deleware—and that therefore the photo must have been taken at a different time. This turned out to be the key piece of evidence on which the jury concentrated.

Following a three-week trial, Brenneke was acquitted, thanks to the prosecution's incompetence and overconfidence and the defense's success in shrouding Brenneke in the smoke and mirrors of the intelligence world. The prosecution was roundly criticized for not asking for or admitting any documentary evidence. The Secret Service agents didn't bring records to the trial, which made them vulnerable on cross examination. Casey's two secretaries admitted that Casey kept secrets from them, which rendered their testimony questionable in the minds of jurors.

Prosecutors did not introduce into evidence Gregg's datebook, which has the word "beach" penned on the October 18 weekend, or the four computerized White House memoranda that he sent from and received in his office on October 20. Thus the jury became preoccupied with the questions raised by the defense about the alleged date of the photograph. Three jurors later admitted that their "doubt" about the photograph was the main reason they had acquitted Brenneke.

Despite the litany of Brenneke's inconsistencies, October Surprise supporters touted his acquittal as proof of his veracity. Sick says: "Brenneke had the courage of his conviction in taking on the U.S. government on three key allegations [about the presence of Bush, Casey, and Gregg at the Paris meetings], and he was acquitted. . . . The evidence on George bush not being in Paris is less persuasive than that of Donald Gregg. The way Bush has dealt with this is very suspicious. There is not a single shred of evidence that Bush was where he said he was." "Frontline" embraced Brenneke's trial defense that the weather conditions on the Delaware shore on October 20, 1980, were incompatible with the Gregg photo, claiming that "U.S. government documents show the weather was cold and cloudy that weekend on the Delaware shore." In fact, detailed hourly weather maps of that weekend from the National Oceanic and Atmospheric Administration show that on Sunday afternoon weather conditions were compatible with the picture Gregg produced.

"Frontline," Sick, and October Surprise conspiracy supporters also rely on the "eyewitness testimony" of Brenneke's good friend Rupp. Weeks after Sick published his op-ed piece, in which he indirectly cited Brenneke and Rupp (though not by name), when questioned by reporters skeptical about Brenneke's credibility, he disclaimed any reliance on him. Rupp, however, was still a primary source. He has maintained that his involvement in a loan fraud, which led to the collapse of the Aurora Bank in Colorado in 1985, was actually due to the CIA, for whom he said he was working, as part of a "national security operation" related to Iran-contra.

Like Bani-Sadr and Brenneke, Rupp's sudden recall of the October Surprise came about belatedly. Only after his conviction for bank fraud, Rupp began telling newspapers and TV stations that he flew Casey to Paris on October 18, 1980, and insisted that Bush was present on the tarmac at the French airport. There are numerous inconsistencies in Rupp's account. He was unable to produce any proof that the worked for the CIA, and the plane he said he piloted to Paris that weekend, according to leasing company records, was actually parked in California. Furthermore, Rupp's passport (and Brenneke's too, for that matter) shows no exit from the United States or entry into France in October 1980. Rupp has told reporters he didn't know who his passengers were at the time of the flight to Paris. He claims only to have recognized the "Old Professor" six years later when Casey was shown "testifying on television" about the Iran-contra scandal (a dubious detail, seeing that Casey had a stroke a day before the televised hearings). Rupp also said it was only years later that he recognized the "tall man with the crooked eyes"—the person at the Paris airport—as George Bush. Is it conceivable that Rupp would not have recognized Bush or Casey when he saw them? After all, he claims to be a long-time CIA employee and pilot—and Bush was head of the CIA four years before. Moreover, Brenneke says that Rupp was one of "Casey's favorite pilots."

As for the allegations about Bush's presence in Paris on October 19 and 20, Secret Service records and contemporaneous news accounts of Bush's speeches show indisputably that he is publicly accounted for almost hourly—in numerous campaign stops—from October 15 through the late evening of October 18. On Sunday morning, October 19, according to information obtained by Gordon Crovitz of The Wall Street Journal, Bush had a private lunch with Judge Potter Stewart at the Chevy Chase Country Club. And Secret Service records show that agents went to the club to provide protection for Bush that Sunday morning. On the evening of October 19 Bush spoke at a campaign event at the Washington Hilton, which is substantiated by newspaper accounts. On Monday, October 20, according to a schedule released by the White House and confirmed by newspaper and wire service reports, Bush campaigned the entire day in several cities in Connecticut.

When confronted with this information, October Surprise buffs either claim that the Secret Service records were fabricated or maintain that Bush could have flown to Paris on the Concorde and technically returned eight hours later. But if he did fly via Concorde (or any other high-speed plane), it conflicts with all of the statements made by Rupp and Brenneke, who said that Bush and Casey has flown to Paris on October 18 on a BAC–111. Nor is it compatible with any of the statements made by the other key sources used by "Frontline" and Sick.

By any measure of honest reporting, the October Surprise conspiracy should have died long ago. But like a version of the child's game "telephone," the story had taken on a life of its own, changing and expanding as it went from source to source. More and more "eyewitnesses" began emerging who often appropriated elements of the conspiracy, swapped lies among themselves or were prodded by journalists, and then wove new tales inserting themselves as minor or major characters. Though Bani-Sadr has consistently claimed to have his own proof of the conspiracy, for his book his only evidence was excerpts from Brenneke's court statements in the Rupp hearing. An October Surprise cult emerged, fueled by entrepreneurial journalists who had made the allegations into a lucrative cottage industry. PBS's "Frontline" documentary, for example, cost about $200,000 to $250,000 to produce, paid partially by taxpayer funds.

"Frontline" touted Brenneke's acquittal on perjury charges, declaring that "the government tried and failed to prove that William Casey was not in Paris." "Frontline" and Sick did not tell the public about Brenneke's numerous misstatements, discrepancies, and prevarications, which cast doubt on the credibility of the entire October Surprise scenario. On "Frontline" Brenneke said again that Gregg and Casey traveled secretly to Paris in October 1980. (Allen had produced a videotape of his October 19 appearance on "Meet the Press," so his name did not come up this time.) But Brenneke changed his story once again. In September 1988 he testified that he did not play a role in the transfer of $40 million in weapons to Iran; on "Frontline" he said that he was instructed by Casey at the meeting to launder the $40 million through a Mexican bank and that he did so.

Rather than rely exclusively on Brenneke, Sick and "Frontline" featured new sources who they said "confirmed" each other's accounts. These included Houshang Lavi, Ari Ben-Menashe, and Jamshid Hashemi. Lavi, an Iranian-born arms dealer, claimed he was the unidentified Iranian emissary who met with Allen, McFarlane, and Silberman in Washington in early October 1980 at the L'Enfant Plaza Hotel. "Frontline" quoted Lavi as saying that he witnessed Khomeini's representatives being allowed to enter NATO bases in Europe and "pick whatever they want" for shipment back to Iran.

What "Frontline" and Sick did not reveal was the following: (1) Lavi's claim to have met the three Reagan supporters has been denied by McFarlane, Allen, and Silberman. (2) The only independent record of Lavi's meeting with anyone in 1980 are memoranda from the John Anderson campaign showing that he approached Anderson campaign officials on October 2 offering to secure the release of the hostages if the United States would unfreeze Iranian assets and provide F–14 spare parts. The campaign referred him to the State Department. (3) Lavi implied that he was acting on behalf of Bani-Sadr, but the State Department, according to 1980 department documents, found that he "had no authority to speak on behalf of Bani-Sadr," that he was a "self-appointed middleman" who was trying to broker a deal by going back to each party showing he had lined them up, and that "Lavi was a thoroughly disreputable character." (4) American and European defense and intelligence officials say it is ludicrous to believe that Iranians were escorted to NATO bases to play a military version of "supermarket sweep." (5) Since 1988, when Lavi was "discovered" by Honegger, he has made a series of unsubstantiated allegations, including that Customs Service agents assassinated an informant (Cyrus Hashemi) by pumping poison gas into his hospital room.

Even more than Lavi, "Frontline" and Sick relied heavily on the statements of Ari Ben-Menashe, an October Surprise source who only surfaced in 1990. "Frontline" described Ben-Menashe as a "former Israeli intelligence officer" and aired his claim to be "one of half a dozen Israelis sent to Paris at Casey's request to help coordinate arms deliveries" to Iran. "Frontline" reported that Ben-Menashe "saw a man [he] believed to be Bush" in Paris. Sick used Ben-Menashe as one of his major sources in proving that the October Surprise happened, that Casey was a key participant, and that Israel shipped weapons as part of the "deal."

Apparently emboldened by the acceptance of his allegations on "Frontline" and by Sick, last spring Ben-Menashe told several Australian newspapers and In These Times that he saw Bush arrive at a meeting on October 17 or 18, 1980, at a "top-floor conference room" in Paris, shake hands with Mehdi Karrubi, a leading Iranian cleric, and "close the door." But none of the other "eye-witnesses" and "sources" had ever mentioned Ben-Menashe's presence in Paris or that of any other Israelis, or of Mehdi Karrubi. Moreover, all of the reported sightings of Bush took place on October 19 or 20—not on October 17 or 18. Ben-Menashe has also claimed that Israel shipped more than $82 billion in arms to Iran since 1980—more than thirty-five times Israel's defense imports and domestic weapons production!

In an interview with In These times last April, Ben-Menashe claimed that it was he—not Lavi—who met to discuss the hostages in early October at the L'Enfant Plaza Hotel with Allen, McFarlane, and Silberman.

Without providing any evidence—despite repeated promises to reporters and to congressional officials to hand over "documents"—Ben-Menashe has belatedly become a key insider on other topical issues. He has claimed to have detailed inside knowledge of the Inslaw case. He said that he met many times with Robert Gates in Chile and the United States, and even that he transferred a suitcase containing $16 million to Gates at one point. (The CIA and the National Security Council provided documents to the Senate Intelligence Committee showing that Gates was meeting elsewhere at the time of every meeting cited by Ben-Menashe.) Ben-Menashe has said that McFarlane was a paid Israeli agent since 1978, had received "millions of dollars from Israel, and was the secret "Mr. X" in the Jonathan Pollard spy case. He even says that the United States, through Israel, shipped "billions of dollars of arms" to Iraq. He has become an "expert" on Israel's nuclear program—despite the fact that he never had any connection to it. He has claimed that in 1981 he planted the homing device at the Osirak reactor before it was bombed by Israeli planes, but records show he wasn't out of the country then. He has told Israelis and journalists that he was even offered to be head of the Mossad, Israel's secret intelligence service, but that he declined.

Sympathetic reporters uncritically portray Ben-Menashe as a "senior Israeli intelligence officer" and a "national security adviser" and "special emissary" to Israeli Prime Minister Yitzhak Shamir. In a recent interview, Sick said: "I am satisfied that Ben-Menashe knows a great deal. He has told me three or four things that I was able to corroborate. He told me he was an officer in a sigint [signal intelligence] unit. I have made no attempt to corroborate any of his other information [beyond allegations of 1980]." Seymour Hersh's new book, The Samson Option, which describes Israel's nuclear program and intelligence activities, uses Ben-Menashe as the primary source. Hersh said in an interview that Ben-Menashe was in sigint, that he was a "key player," and that "the Israelis want to hurt him bad" for his leaks of high-level classified information. But Hersh didn't interview Ben-Menashe until April, and he told The New York Times that he did not go

VOL 137 PT 23 NO 21–25 1991 UMI

to Israel to investigate Ben-Menashe's allegations or credibility. Hersh claims, incorrectly, that he would have been subject to Israeli censorship. What's more, according to U.S. and Israeli government documents and officials, Ben-Menashe was never in sigint, and the Israelis have never even attempted to initiate legal proceedings against Ben-Menashe, an act they would have obviously pursued if he were the source of important leaks. The closest access Ben-Menashe ever had to intelligence was his work as a low-level translator for the Israel Defense Forces External Relations Department from 1977 through 1987. Contrary to Hersh's assertion that the department is one of the most sensitive branches of military intelligence, it is in fact, compared with other branches, one of the most insignificant.

Ben-Menashe's responsibilities included translating letters and reports between the Israeli military and foreign military attachés. They did not include any translations of cables, though Israeli officials acknowledge that he did have access to minimally classified information, including a report in 1986 prepared for the United States discussing Israel's request to replenish weapons that it supplied to Iran as part of the Iran-contra operation. This alerted him to Israeli involvement in the affair, and to Iran's desperate search for weapons.

Like others before him, Ben-Menashe's recall of the October Surprise came about belatedly—after he was arrested in 1989, imprisoned for a year, tried, and ultimately acquitted in 1990 on charges of illegally trying to export planes to Iran. According to his own letter of resignation, he left in 1987 because he had not received a promotion in many years. (Ben-Menashe has told reporters that he was fired for leaking a covert operation.) His personnel file notes that he was denied a special security clearance at one point because he was considered "delusional." It also says that he had begun trying to peddle weapons in scams in Chile (where he impersonated an Israeli embassy official), Singapore, and Sri Lanka (where he impersonated a Hebrew University professor). Since 1987 he has periodically charged foreigners with being Mossad agents, without any evidence. The most recent and notorious of these claims, which appears in Hersh's new book, is against media giant Robert Maxwell, who has sued.

In 1989 Ben-Menashe was arrested in California along with two Americans. A U.S. Customs agent, posing as a buyer for Iran, tape-recorded some of the conversations in which the men offered to ship the military transport planes to Iran, using a false end-user certificate, for $12 million apiece. Ben-Menashe was going to obtain the transport planes from Israel. The trial of Ben-Menashe and one of the Americans was held in 1990 in New York (the other was tried in California); Ben-Menashe was eventually acquitted. Most of the evidence that the prosecution introduced was directed against his co-defendant, and the evidence submitted against Ben-Menashe was insufficient to convict him.

Yet the court records and information provided by prosecutors show how wildly inconsistent Ben-Menashe's story has been. In 1988 he told a Time reporter that he was involved in a "secret operation" to free American hostages in Lebanon by arranging the sale of planes to Iran through Israel. But a short while later Ben-Menashe told a U.S. Customs undercover agent that since 1987 he had been "self-employed as a journalist and a translator and a political writer doing a lot of traveling . . . [and] that he had no ties with the Ministry of Defense." The undercover agent also testified that Ben-Menashe revealed to him that he was trying to obtain planes from Israel to be sold to an arms buyer. At pretrial, however, Ben-Menashe told attorneys that he became involved in plane sales to Iran because he wanted to expose Israel's covert operations. Ben-Menashe said he was acting as an "undercover journalist gathering information for a book" to "expose the ugly role of Israel and the United States in weapons sales."

During and after the trial, Ben-Menashe contended that he was one of the leading intelligence agents in Israel: Ben-Menashe's lawyer told the court that only three people in Israel were "privy to what was going on with Iran-contra"—Shamir, Israeli counterterrorism official Amiram Nir, and Ben-Menashe. Ben-Menashe claimed that Shamir dispatched him personally to carry out an operation to investigate who was trying to sell planes to Iran. Accordingly to sworn affidavits, Israeli officials in the office of the prime minister, including Shamir himself, never heard of Ben-Menashe.

Despite his brazen claims of being a "senior intelligence officer," Ben-Menashe went to extraordinary lengths to prevent the prosecution from obtaining his personnel records. He refused to sign a waiver authorizing the Israeli government to release his records to the U.S. court, telling his lawyers and the prosecutor that to do so would constitute a violation of the "Official Secrets Act in Israel," punishable "by death." In fact, there is no such thing as an "Official Secrets Act" in Israel, and there is no death penalty for releasing classified information—nor for that matter has Israel ever invoked its death penalty, with the notable exception of the execution of Adolf Eichmann. The judge compelled Ben-Menashe to sign the waiver. The records were then produced, which showed he was just a translator.

As a final defense, Ben-Menashe supports claim that he must be credible because he knew of the Israel arms sales to Iran before they became public. But Israel officials note that this knowledge can be explained both by his work translating letters to the United States in 1986 and by the fact that rumors of Israeli arms sales to Iran had circulated routinely throughout the Israeli Ministry of Defense. Ben-Menashe supporters also cite the numerous trips abroad he made from 1980 through 1987, evidence, they claim, that he was a secret agent. Yet his trips were on non-paid leave, and were recorded in his civilian passport. He never possessed a diplomatic passport as he claimed.

The last "new" primary source used by "Frontline" and Sick was Jamshid Hashemi, an Iranian middleman. His account added a new dimension to the October Surprise: he claimed that, in addition to the meetings in Paris in October 1980, there were earlier meetings in July and August of 1980, which Casey attended and at which the "deal" was actually made to delay release of the hostages.

In interviews on "Frontline" and with Sick, Jamshid said that in July 1980 he and his brother Cyrus (who died in 1986) met secretly in Madrid with Casey, a "senior CIA officer," and Iranian cleric Mehdi Karrubi. Jamshid said that Casey urged that "the Iranians hold the hostages until after the election," and that he, Cyrus, and Karrubi attended a second meeting with Casey in August in Madrid, where "Karrubi expressed acceptance . . . the hostages would be released after Carter's defeat." In his op-ed piece, Sick accepted uncritically Jamshid's claims that he and his brother helped put the final touches on an agreement between Casey and Iran that weapons would be supplied if Iran delayed the release of the hostages.

Missing from Sick's and "Frontline"'s recounting are revelations of Cyrus's and Jamshid's backgrounds that show their credibility problems to be even worse than those of Brenneke and Ben-Menashe.

Cyrus Hashemi was a typical Iranian middleman, trying to marry up business deals between Iran and other countries by inflating his importance to each side. According to declassified CIA documents and American intelligence officials, in early 1980 he offered his services to the Carter administration in getting the hostages released in return for spare parts for Iran. His lawyer, former Attorney General Elliot Richardson, put him in touch with the State Department. During the abortive attempt to free the hostages in April 1980, Cyrus offered to organize assistance from supporters in Tehran. The State Department even supplied him with funds, through the CIA, to assist him. But Cyrus failed to demonstrate that he had any connections in Tehran, and the CIA concluded that "his offers were part of a scam." All contact was dropped with Cyrus.

Cyrus was only one of several self-anointed Iranian intermediaries who purported to speak for Iran in dangling the freedom of the hostages in exchange for military weapons. Sick himself observed as much several years ago, in a chapter for the 1985 Council of Foreign Relations anthology *American Hostages in Iran: The Conduct of a Crisis:* "Throughout the late summer and fall of 1980, the Carter administration had been approached by private individuals claiming to speak for Iranian authorities . . . the evidence strongly suggested that these were private entrepreneurs who saw the possibility of some lucrative business for themselves."

In mid-1984 Cyrus, Jamshid, and a third brother, Reza, were indicted for their illegal efforts from October 21, 1980, through November 1981 to ship tens of millions of dollars of military equipment to Iran. After learning about the Hashemis' secret contacts with Iranian arms procurement officials in September 1980, FBI agents wiretapped Cyrus's office and temporary apartment in Manhattan. According to a transcript of one conversation on October 21, 1980, Cyrus and several Americans discussed plans to fulfill a request from Iranian officials for Cyrus (who had told them that he could obtain badly needed weapons) to arrange the exporting of arms. In the conversations Cyrus admitted that the project was illegal and suggested various ways of avoiding detection. That was the day after Brenneke had said Cyrus was in Paris meeting with Casey. In a subsequent interview with ABC's "Nightline," Jamshid made another startling claim: that starting in August 1980, after the "deal" was concluded with Casey, tens of millions of dollars of American-made weapons were shipped by boat to Iran from Israel. No evidence exists to support the claim, but if it is true, why would the Hashemis have worked so feverishly to obtain weapons in October through what they knew were illegal means?

Reza pleaded guilty, but Cyrus and Jamshid fled to Europe to avoid arrest. Cyrus retained several lawyers, including Richardson, who asked Casey, unsuccessfully, for special dispensation for his client in light of his earlier "assistance" to the United States in 1980, referring to his secret work with the State Department. When that failed, Cyrus attempted, again unsuccessfully, to negotiate for charges against him to

be dropped in return for his cooperation in interceding with Iranian officials to secure the release of the hostages in Lebanon. Throughout this period neither Cyrus nor Reza nor Jamshid ever revealed to their attorneys or to U.S. government officials their alleged secret meetings with Casey in 1980. Is it conceivable that these men, who were desperate to get the charges against them dropped and were threatening, according to memorandums of conversations between Justice and CIA officials at the time, to reveal anything they knew, would not have threatened to disclose the most damaging information they possessed—a secret deal between Casey and Iran in 1980?

According to court records, in 1985 Cyrus, still a fugitive from Justice, became involved with a group of international arms dealers, including Americans and Israelis, trying to sell arms to Iran. Cyrus then asked his attorneys to relay to the Justice Department his offer to serve as an informant in the arms transaction in return for dropping the charges. The U.S. government agreed only to be "lenient" with Cyrus. He accepted. Soon thereafter the Customs agents, as part of a giant sting operation, began working with Cyrus overseas and in the United States to record secretly his conversations with the arms dealers.

Cyrus died on July 21, 1986, in London. A coroner's report attributed his death to a virulent strain of leukemia, which had been diagnosed only days before. A U.S. Customs Service agent attended the autopsy and concurred in its conclusions. Nevertheless, Hashemi's supporters, including attorney William Kunstler (who represents one of the arms dealers) and "Frontline"'s Parry have stated that his death was "mysterious," that Cyrus was murdered to shut him up about what he knew about the October Surprise, and that the U.S. government has covered up his murder. Kunstler, who says that "there are suspicious needle pricks on both elbows" about the case, points out that The Village Voice is seriously considering paying for an exhumation. If anyone had an incentive to kill, Cyrus, however, it was the arms dealer. After all, it was Cyrus's death that forced the government to drop its case against these men.

On July 20, after Sick and "Frontline" had aired Jamshid's charges, ABC's "Nightline" picked up on them. In an off-camera interview Jamshid described the meetings in Madrid at which the deal was allegedly arranged. At the first of them, which he said covered two consecutive days in "late July," Casey and two unidentified Americans first proposed the deal to Mehdi Karrubi, a "close associate" of Khomeini. The Hashemis allegedly served as interpreters. According to Jamshid, the parties met in Madrid again two weeks later, when Karrubi conveyed Khomeini's approval of Casey's offer. "Nightline" and The Financial Times of London investigated Jamshid's charges and claimed to have found evidence that corroborated the story.

Among the "evidence" was the fact that hotel records indicate a Jamshid Halaj and an A. Hashemi checked into the Madrid Plaza in late July, and an Ali Balnean in August. These names allegedly confirmed Jamshid's recollection that he and his brother often used aliases. Jamshid even furnished "Nightline" with a business card using the name Ali Balnean. ("Nightline" also said that the name Robert Gray was in the hotel records. Robert Gray is a Washington public relations executive who served as Casey's top deputy in the 1980 campaign. He supplied "Nightline" with his passport, which indicated that he had not left the country in July or August 1980.) Even if one were to believe that the records were not altered, with the Hashemis running around the globe attempting to broker arms deals it would hardly be surprising that they had been in Madrid during the time Jamshid is talking about. Casey, however, was not.

"Nightline" said that Hashemi's accounts of the meetings were supported by the fact that William Casey was unaccounted for in the public record between August 8 and August 13, as well as July 27 to July 29. It is true that Casey was absent from the public record for a week in August, but it is surely more likely that he was busy with the Reagan campaign than flying off to Madrid. "Nightline" offered more "evidence" in support of the July absence: an unrelated article from The New York Times on July 30, 1980, about the complaints of a right-to-life group over Bush's selection as vice president, quoting a Reagan spokesman as saying Casey would deal with the group, "when he returns [today] from his trip abroad." (In a side note, "Nightline" did report that Jamshid Hashemi said Bush did not attend the alleged October Paris meetings as claimed by a number of others.)

However, "Nightline" had failed to find out that Casey was not in Madrid, but in London, at the Anglo-American Conference on the Second World War. So at the end of an unrelated show a week later, having been contacted by some of those who had attended the conference with Casey, "Nightline" provided a brief update on their previous report. They said that it had been confirmed that Casey had presented a paper on special operations in France during World War II on the morning of July 29, and showed a picture of Casey with some others taken at a reception on the evening of July 28. Ted Koppel said this would leave July 27 and early on July 28 for Casey to have met in Madrid (it is a ninety-minute flight from Madrid to London).

But "Nightline" was wrong again. Jonathan Chadwick, the secretary of the British planning committee for the conference, showed us documents from the conference, which chart the attendance of each participant at each session as well as their accommodations. Casey is not only accounted for on the evening of July 28 and the morning of July 29, but also for the night of July 27 and all day, except for a brief absence, on July 28. This makes Jamshid's story of two consecutive days of meetings impossible.

Not surprising, after the "Frontline" and Sick airing of the October Surprise, new "sources" emerged to tell of their dealings with Bush and Casey. Gunther "Russ" Russbacher claimed that he was the "smoking gun" in the October Surprise conspiracy. He told Marc Cooper of the Village Voice, in a story published this past August, that as instructed by his "big boss" at the CIA, he—along with "co-pilot" Richard Brenneke—flew Bush and Gregg back and forth to Paris in October 1980. What's more, Russbacher claimed that he flew back to the United States in a SR–71 supersonic high altitude spy plane in a flight that lasted ninety minutes. "Sitting next to me was George Bush," throughout the flight.

Russbacher gave his interview to The Village Voice from prison, where he is serving a twenty-one-month sentence for impersonating a federal officer. Yes, he too claims that he was framed by the CIA to shut him up. But he would not be silenced. And as noted by the Voice, Russbacher "has already become a sought-after guest on the radio talk show circuit (from a phone inside the prison) and his story has elicited queries from ABC 'Nightline,' NBC, CBS, The New York Times, Newsday, USA Today, San Diego Union, San Jose Mercury News, Dallas Morning News and other publications."

The Voice revealed that Russbacher had a lengthy relationship with federal authorities, going back to 1965 when he was arrested for impersonating a U.S. marshal, to his army desertion in 1967, his false claim that he was an Army major, and his escape from prison in 1975. In 1987 he pleaded guilty to securities fraud.

For believers in the October Surprise, no doubt there are other "sources" out there, waiting to provide their own testimony. Yet the story has finally begun to unravel—and at least one star witness seems to have caught himself in his own web of lies. The Voice, which has been a proponent of the conspiracy, published a piece in September declaring that Brenneke "was nowhere near the alleged conspirators' meetings in Madrid and Paris in 1980, where he claims he helped Republican big-wigs negotiate a secret hostage deal behind Jimmy Carter's back." The author, Frank Snepp, had obtained Brenneke's diaries and credit card receipts, which showed that between 1980 and 1982 Brenneke "was never away from his favorite Portland restaurants and shopping malls for more than a few days at a time"—despite his sworn testimony that he personally flew planeloads of arms to Iran for "four to five weeks at a time" and his claim to have met with Bush, Gregg, and Iranian intermediaries during the same period.

Brenneke had originally given his financial documents to a writer named Peggy Adler Robohm after she signed a contract with Brenneke and his agent last year to write his story. Initially an ardent believer in Brenneke, after scrutinizing his personal records Robohm found credit card bills, and personal calendar notations that showed indisputably that he had lied, and she volunteered her information to Snepp. Snepp, who had reported Brenneke's allegations as truthful for ABC News for several years, now admits that his "apparent October Surprise fabrications undercut the credibility of everything he touched." He also concedes that Brenneke's own letters "trace the evolution of his public allegations, showing how tips from journalists and other sources prompted him to change this or that date, or modify a particular story line."

Still, conspiratorialists are not easily dissuaded. Although Snepp no longer believes that Bush or Gregg went to Paris in October 1980, he believes that Casey met with Iranian officials in Madrid in July 1980 to negotiate a secret deal with the Iranians. As for Brenneke, Snepp questions whether he was deliberately planted to "sidetrack and sabotage the investigation." Nevertheless, it is important to note that despite the irrefutable evidence that Brenneke never participated in any meetings, none of the other key sources has ever disassociated himself from Brenneke.

Meanwhile, with Brenneke largely discredited, Ben-Menashe has emerged as the main source. The October issue of Esquire features an article by Craig Unger that rehashes many of the earlier allegations and Ben-Menashe's most fantastic stories about the conspiracy. Not to be outdone, Newsweek has hired Unger to be a special consultant to help promote its own October Surprise investigation, although it recently published a piece raising serious questions about Ben-Menashe's credibility.

VOL 137 PT 23 NO 21–25 1991 UMI

Beni-Sadr himself seems to be tripping over misstatements he has made over the past several years. In an interview with THE NEW REPUBLIC in September 1991 at his home in Versailles, he recanted key allegations. Asked whether he still affirmed his charge in Playboy that Bush led the American side in secret Paris meetings with the Iranians and at least three arms dealers whom he also named, Bani-Sadr said, "No, that information had been given to me. So I gave the information so that it could be checked to see if they were there. For me, their presence does not matter. I have never guaranteed that those people were really those who had negotiated."

Pressed on his allegation in his book and in Playboy about Bush's presence in Paris, which he had said came from "intelligence," Bani-Sadr now backed away: "I have always repeated that I wasn't sure." He went on to say: "As a matter of fact, I am a sociologist. I do not deal with names; I deal with relations. And morally also I cannot really say if these people or other people were there because I am not sure.... I received names from Iran and I transmitted them; some proved to be true through research and others did not." Still, Bani-Sadr had a novel explanation for why he had raised the Bush charge: "It is said that Bush himself and his entourage initiated this information so they could later refute it and brand it all lies."

In the end, October Surprise believers point to their final fall-back argument: Casey was capable of doing anything. Indeed, Casey was capable of doing a lot of nasty things—as demonstrated by the Iran-contra disclosures. But no evidence has ever emerged that shows Casey at a secret meeting in Madrid or involved in any scheme to delay the release of the hostages.

On October 20, the very day that Brenneke and Ben-Menashe claim that Casey was in Paris, campaign records show that Casey had an 8 a.m. appointment at the Metropolitan Club in Washington and that he had two other appointments that day. Moreover, Richard Allen's personal telephone log shows that Casey made a telephone call to him on October 20 at 7:30 a.m., which Allen recalls as being local.

Proponents of the October Surprise theory, including Sick, cite as circumstantial evidence of a Reagan-Khomeini deal the facts that promising negotiations with the Carter administration in the fall of 1980 were broken off and that the Iranians dropped arms from their list of demands. Even here, however, the events do not support the conclusion. According to all accounts of the crisis, far from breaking off, the negotiations continued intensely through January. In September 1980 Khomeini sent his associate Sadegh Tabatabai to meet with the American negotiator, Warren Christopher, in Germany. "The first meetings were very promising." Christopher told The Los Angeles Times in October 1988. Tabatabai presented a set of moderate demands, including a U.S. non-intervention commitment, the unfreezing of Iranian assets in the United States, and the return of the Shah's wealth to Iran. In addition, Tabatabai asked for the delivery of some $350 million in arms and other military equipment that the Shah had purchased. Although Sick and other conspiratorialists remain surprised at the dropping of this demand, Christopher, who should know, notes: "I discouraged it, and it never came back. . . ." As he explained to the Los Angeles Times, "The issue of arms stayed on the table only briefly. I think they were just testing us."

In September 1980 Iraq invaded Iran. The Iraqi invasion preoccupied the Iranians, interrupting the negotiations. It was not until November 2, after they had stabilized the front, that the Iranians were able to return to the negotiating table. It was too late to reach a deal before the November 4 election. Both Christopher and Lloyd Cutler, counsel to President Carter, accept this explanation. As Christopher said: "It is an interesting question why the promising meetings we had in September ended so abruptly. . . . But I've always felt that the outbreak of the war seemed a sufficient explanation." In an op-ed piece in the New York Times, Cutler wrote that it was not until later in the fall that Hashemi Rafsanjani consolidated power, and any earlier deal would have made him vulnerable to attack from the more radical, anti-U.S. mullahs, including Bani-Sadr, who opposed the January deal with Carter as being too favorable to the United States. It was for this reason also that the Iranians rejected an October 11 offer from President Carter to provide, in exchange for the release of hostages, $150 million in arms that had been purchased by the Shah but held in the United States after the revolution. The release was in fact delayed, but it was done so unilaterally by the Iranians for their own motives—not least their enmity for Carter.

One of Sick's and "Frontline"'s major claims is that Israel served as a conduit for weapons immediately after release of the hostages. Yet none of their sources even remotely agrees on what arms were allegedly traded as a result of a deal, or how they were traded. Ben-Menashe's assertion that Israel sold $82 billion in arms to Iran over six years, mostly transported by plane, is contradicted by Jamshid Hasemi's statement that his brother arranged for the shipment of $150 million in arms by boat in four round trips from Israel to Iran between August 1980 and January 1981. Houshang Lavi declared that he witnessed Iranian officials select arms on NATO bases in 1981, and Richard Brenneke claimed that he laundered $40 million to Iran for arms purchases. And Bani-Sadr can't even get his own story straight. In In These Times he said that Iran received between $50 million and $100 million in arms during his administration. In his book and in our interview, however, Bani-Sadr denied that any large arms shipments were received when he was president, and that those promised as a result of the 1980 "deal" are continuing today.

Israel did in fact deliver arms, most probably with Reagan administration approval, in February 1981. However, State Department documents and interviews with Israeli and U.S. intelligence officials show that the amount was no more than $70 million. Moreover, the shipments were anything but an aberration. They were the resumption of what had been Israeli policy toward Iran prior to the crisis and the arms embargo, a policy that had often diverged from American interests. Israel had even continued some shipments during the embargo, but when Prime Minister Begin retroactively asked President Carter for his approval, Carter angrily refused, and no more equipment was traded. Shipments were resumed only after Carter himself, as part of a final agreement before he left office, lifted most sanctions on Iran on January 19, 1981.

Meanwhile, Sick has plunged even further into the depths of conspiracy. Several journalists say that earlier this year he told them that Gates was part of the October Surprise in 1980, and that the Senate Intelligence Committee chairman, David Boren, would not investigate because he was being "blackmailed" by the White House, which threatened to leak derogatory allegations about his personal life. According to Sick: "I never said I had personal knowledge of that. It was being told to me by other journalists." As for the bigger story, Sick says: "The whole October Surprise was a professionally managed covert action, and I'm frankly surprised that I have as much evidence as I do."

Sick's stubborn perpetuation of the story is all the more surprising given the scorn with which he greeted the Republicans' allegations in 1980 that Carter was planning an "October Surprise" to win the election. Six years ago, writing in the Council of Foreign Relations anthology, he declared: "In the last few months before the presidential elections, there were spurious reports that the Carter administration was planning a spectacular military operation against Iran. This so-called 'October Surprise' allegedly would be intended to win votes for the president. The story was a total fabrication. It was promptly denied by the White House, and a number of responsible newspapers refused to print it. Nevertheless, the story received widespread attention and soon developed a life of its own."

Mr. MURKOWSKI. Mr. President, investigative journalism is an American institution—one that we frankly depend on in a democracy. In the New Republic and Newsweek stories, I believe we witnessed a midcourse correction in investigative journalism. The journalists at those magazines, along with their editors, looked at the activities of their colleagues at "Nightline" and "Frontline" and said, "That's enough * * * this may be interesting and entertaining to some, but it isn't journalism of the sort that we want to practice." So I commend them for working to set the record straight.

As for us, Mr. President, I do not believe this is destined to be our finest hour. I heard it reported that the New Republic spent about $3,000 to disprove the October surprise theory. In true Government fashion, I predict that we will spend $600,000 to do the same thing.

Thank you, Mr. President.

The PRESIDING OFFICER. (Mr. DASCHLE). Who yields time?

Mr. SANFORD. Mr. President, I yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. I thank my friend, the Senator from North Carolina.

I think the search for truth ought to begin on this floor tonight. I find it ironic to hear my friend from Alaska saying that polygraph tests should now be used as a litmus test when some of the same Republicans were arguing about 3 weeks ago that in the case of Anita Hill, who took a polygraph test, that that should never even be brought up, much less considered in any way, shape, or form to judge the truth.

Mr. MURKOWSKI. The Senator from Alaska did not say that. ABC's news director said that.

Mr. FOWLER. I noted that the Senator from Alaska quoted that approvingly and with authority for his point on the polygraph, thus endorsing the concept.

The colonel that my friend from Maryland referred to is Colonel Charles Scott of my State of Georgia. He served our country for 31 years—in war and peace—bravely, courageously, and with distinction. He was held hostage by the Iranians for 444 days.

When the Senator from Kentucky [Mr. MCCONNELL] earlier quoted Colonel Scott's testimony this morning, he stopped short of the truth. The Senator from Kentucky said "quoting Colonel Scott, 'I have no firsthand knowledge, I do not know whether it happened or not.'" Colonel Scott said that, but he said I want the truth. "We ought to have an investigation. I am no partisan," said Colonel Scott. "* * * 31 years I served my country. I voted for Ronald Reagan. I voted for George Bush. And at least we could find out the truth. Please, Senators, conduct an investigation and help us find out the truth".

That is what this is about this evening.

The PRESIDING OFFICER. Who yields time?

Mr. SANFORD. I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator has 4 minutes 40 seconds remaining.

Mr. SANFORD. I yield 4 minutes.

Mr. KERRY. Mr. President, I have listened to the proponents of this measure for the last 10 or 20 minutes and, in fact, everything that they have said is the reason they have made the argument for why we ought to go forward with an investigation because each and every one of them have spent time from their perspective trying to discredit each of the witnesses.

The point is there is a different point of view about these witnesses. And the question is whether we are going to have a legitimate investigation that seeks to decide in an appropriate manner who might or might not be telling the truth. The issue that is being asserted by those of us on this side is that they are not telling the truth. But this is an issue which raises fundamental questions about understanding about us, about this institution, about what happened, and we ought to answer them.

The very people who are making light of these witnesses, I might say, are the very people who made light of all the witnesses who said that the Contras were involved with drugs and arms, and those are the very witnesses today that are in the Noriega trial testifying under oath for the Government.

The people who make light of this are the very people who made light of the effort to say that General Noriega was involved in drugs and ought to be taken down, and then he was. Now he is on trial. The people who make light of this are the very people who made light of all of witnesses in the BCCI case, and now that is a matter of record.

The people that we say come up here and tell the truth so consistently have now been found guilty in our courts and are pleading guilty for having lied to the Congress.

So the question is, are we going to make an effort to find the truth or are we not? They assert that there is not somehow a record here that makes a case that we ought to investigate.

Well, Mr. President, this is an issue about that. Gary Sick, as Senator SARBANES said, as others have said, is no flake. This book is documented, and the existence of a book means that this issue will not go away. This Senate has seen fit to have an investigation of an issue not 10 years old but 20 years old, of an issue that has not had 1 or 2 investigations, but maybe 50. We have discovered 50 on the POW–MIA issue. In the hearings we held last week, we discovered already that those 50 previous investigations never even established the baseline of the numbers of people who were lost or may not have been lost. That is not even known for certainty.

There are secret lists. Right here I have a document about the arms sales, that shows that the arms sales went through BCCI, the very arms sales that were linked to this, and we know that Adnan Khashoggi had a $10 million check as part of the arms sales that went through BCCI. We are just learning about these things.

Gary Sick spent three administrations at the NSC, two of them Republicans—Reagan and Ford. He wrote a book that was highly critical of President Carter. He began his investigation for his book with a view that all of these allegations were poppycock. He did not believe them until he kept coming across them, until he discovered himself in his research that the Iranian Foreign Minister had told the Parliament on August 16 that: "The American Republican Party, in order to win the upcoming election, is trying very hard to delay the resolution of the hostage question until after the American election." He learned about the activities of Cyrus Hashemi, an international wheeler dealer who specialized in bringing Americans and Iranians together.

He kept learning about meetings that took place. So, Mr. President, the issue is whether or not we are going to perform for the American people what the hostages themselves have asked us to do. And the fact that the hostages alone have asked us, given what they went through in that desert, given the years they gave up of their lives, the danger they faced, that alone ought to require the U.S. Senate to do its duty.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from North Carolina is out of time.

The Senator from Kentucky has 5 minutes and 30 seconds remaining.

Mr. MCCONNELL. I yield to the Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, I believe pontificating has reached a new high in the Senate tonight. I had a call earlier this week from a North Carolinian—Democrat, by the way. I do not speak harshly about Democrats, but I would not be here had it not been for their votes along with Republicans. He said, "Jesse, you have all sorts of scams in Washington. I remember the Abscam." Then he said there was the "Iran scam." And he said now we have the "sham scam." That is what it is all about.

I wish the American people would take a look at the salaries proposed for this little fantasy that is about to unroll. They are planning to hire a chief counsel at an annual salary of $115,000. They are going to hire two associate counsels at an annual salary of $90,000 apiece. I guess that means a plain ordinary lawyer. And $80,000 each on an annual basis for four investigators. Well, it is coming down a little. That is $40,000 apiece. One executive secretary, $39,250. One security clerk at $33,500. Two paralegals, each for an annual salary of $29,625. One receptionist at $19,000. One secretary at $25,000.

I think that lays out the picture very well. It is just what the Senate has always needed: More high priced lawyers.

Mr. President, there are a whole lot more of things that could be said that have not been said.

Mr. President, on October 29, the Committee on Foreign Relations voted to report Senate Resolution 198, as amended, to the Rules Committee for further action. The vote was 9 ayes, 8 noes, and 1 present.

No member of the minority on the committee voted in favor of the resolution. Seven out of eight members of the minority strongly oppose Senate Resolution 198, even as amended. This is the resolution which has now been discharged from the Rules Committee by unanimous consent.

The original purpose of Senate Resolution 198 was to provide additional spending authority of $596,000 to the Committee on Foreign Relations for the purpose of investing "its duly authorized inquiry into allegations that private United States citizens acted to delay the release of United States hostages in Iran until after the 1980 Presidential elections."

The reference is to the so-called "October surprise"—that is, to a group of totally unsupported statements by journalists, former aides of President Carter, and dubious international adventurers that a conspiracy existed in the 1980 Presidential campaign to delay the release of the United States hostages taken in Iran on November 4, 1979.

In addition to the new spending authority the resolution provides unprec-

VOL 137 PT 23 NO 21–25 1991 UMI

edented subpoena power to the Subcommittee on Near Eastern and South Asian Affairs to require witnesses to appear "any time or place" before staff for depositions—without the concomitant presence of committee members—and to produce subpoenaed documents, accounts, evidence, and so forth. The Senate legal counsel during the business meeting advised Members that the full committee itself does not have the sweeping power to compel witnesses to appear before staff under pain of contempt and other penalties.

Most members of the minority felt strongly that the resolution as presented exhibited a partisanship unworthy of the traditions of the committee. No specific evidence was presented by the supporters to the resolution to support the need for such an investigation. The undersigned believe that the expenditure of $596,000 represents an appalling waste of the taxpayers funds that would contribute to the lack of confidence that the public has expressed toward the Senate.

The committee adopted, 17 to 1, an amendment to broaden the investigation to include allegations against both United States citizens and Government officials who may have acted to manipulate the release of the hostages in Iran in relation to the 1980 Presidential election. The amendment gives only a semblance of balance to the partisanship of the original text.

LACK OF EVIDENCE

During the committee debate on the resolution, minority members pointed to the total lack of evidence justifying the expense of the taxpayer's money on yet another investigation. I asked whether there was "even enough evidence to look for a shred of evidence?" In answer to my question, I quoted from the majority report of the Iran/Contra Committees—repeat, the majority report—on page 162:

> Reagan campaign aides were, in fact, approached by individuals who claimed to be Iranian intermediaries about potential release of hostages, as were other campaign staffs. The committees were told that the approaches were rejected and have found no credible evidence to suggest that any discussions were held or agreements reached on delaying release of hostages or arranging an early arms-for-hostages deal.

At that time, I pointed out that even the majority had found no credible evidence.

The distinguished Senator from Indiana [Mr. LUGAR] took the point further. He stated:

> The allegations are that our President, George Bush, and our former President, Ronald Reagan, were involved in a conspiracy with the Iranian Government to delay the freedom of American hostages. It is an outrageous charge.
>
> It goes to the heart of our entire political system. Anyone who does not see the gravity of this seems to me is simply moving in a very superficial realm to what is a fundamental charge as to the legitimacy of our government.
>
> The President of the United States, that is George Bush, is alive and he has testified that there was no October Surprise, there was no conspiracy, there were no visits by him or persons in his campaign in any such manner. He is our President now and he has given that testimony and he has said it a number of times, publicly and privately.

The distinguished Senator from Alaska [Mr. MURKOWSKI], pointed out that the chief witness cited as the basis of the allegations was completely unreliable. He said:

> As Vice Chairman of the Intelligence Committee, I have been exposed to the allegations and to one of the people who makes these allegations, one Ari Ben Menashe. He gave two extensive interviews to our Committee staff in the context of the Gates investigation. PBS "Frontline" did some stories based on the Ben Menashe tale. Newspapers ran other stories. The Intelligence Committee asked the FBI to investigate specific issues during the background investigation of Bob Gates. We asked the CIA's Inspector General to investigate. We also asked Bob Gates under oath—under oath—to answer allegations involving the October Surprise. We made inquiries and we simply found nothing.
>
> There is nothing credible, in my opinion, as Vice Chairman of the Intelligence Committee, to suggest that there is evidence which suggests there is more to investigate.

The distinguished Senator from Kentucky [Mr. MCCONNELL] was equally emphatic. He stated:

> The Tower Commission, the House and Senate Select Committees on Iran/Contra, and the Independent Counsel considered every dimension, every angle, every issue at some point or another, including, as Senator Murkowski indicated, as recently as the Gates hearings.
>
> My figures indicate that $6 million and 50 staffers were involved in the Iran/Contra investigation; the Independent Counsel, $27.6 million; and on and on. Now we want to go out and try to do it one more time.

The distinguished Senator from Indiana, [Mr. LUGAR], continued the case by making the following points:

> Clearly, if there were charges that were credible, if there were at least the normal due process of law, an indictment in which a fair number of people, a Grand Jury or someone, had looked at material, that would be one thing. But the contention that I am making is there is not a credible case. There is not any.
>
> It's not a question of covering up something. This is a question of manufacturing something to investigate.
>
> Now if the Majority is prepared to make a case that is credible to investigate, of persons who have some eye witness knowledge, documentation, and what have you, that would be worthwhile.
>
> But I'm saying in this case there isn't any evidence, at least that I've seen or that any of us have seen. This is why it appears to come as a matter of whole cloth out of someone's imagination.

Minority members of the committee were willing to discuss any factual evidence, if such evidence were available. In the course of the discussions, I proposed that the committee go into secret session, excluding members of the press, the public, and staff from the room, to receive any credible evidence that the proponents of the resolution could offer as justification. The proponents did not accept the offer, and did not submit any evidence in open or closed session supporting the credibility of the October surprise allegations.

THE COMMITTEE WITHIN THE COMMITTEE

Senate Resolution 198 also authorizes sweeping new subpoena powers to the Subcommittee on Near Eastern and South Asian Affairs, powers even greater than the full committee possesses, and lacking the checks and balances in the full committee rules. I pointed out that the effect of these new powers is to create a committee within the committee like the bank within the bank of BCCI, where actions hidden from the bank's officers and directors took place.

The committee within the committee concept turns the committee system on end because it endows a subcommittee, supposedly a constituent part of the full committee, with greater powers and secrecy than the full committee itself. Moreover, it creates a capsule of secrecy which excludes all other members of the committee, except the members of the subcommittee. Indeed, in the guidelines proposed by the chairman of the subcommittee, he arrogates to himself, with the concurrence of the ranking members of the subcommittee, the authority to make all decisions without even reference to other members of the subcommittee.

Minority members feel strongly that the exclusion of other Senators who are members of the full committee from the work and files of the subcommittee sets a dangerous and sinister precedent, and is a violation of rules 26 and 27 of the Senate.

The opportunity for abuse of the subpoena power is particularly serious. Under the rules of the Committee on Foreign Relations, the chairman—of the full committee—may issue a subpoena after consultation with the ranking minority member, or after a vote of the full committee.

When subpoenaed, witnesses must present themselves before the committee—that is, before a meeting of the members themselves—to give testimony or produce records. A witness who refuses faces charges of contempt or other sanctions of law. However, a witness who refuses to give a deposition to a member of the committee staff faces no penalty. He or she may voluntarily give a deposition before staff, but cannot be compelled to do so.

The fact that the committee must vote and at least one Senator must be present during testimony of a subpoenaed witness are built-in procedural safeguards which protect the rights of the witnesses as well as the integrity of the process.

However, the authority demanded by the subcommittee is indeed disquieting. Under the proposed authority, the

subcommittee chairman, with the concurrence of the subcommittee ranking member, would be able to issue the subpoena. There is no provision for a vote by the members of the subcommittee, much less the committee as a whole.

Once the subpoena is issued, the witness would be compelled to give depositions before sfaff at any time or place, or face the penalties of contempt, as well as being compelled to produce subpoenaed documents or evidence. This contrasts sharply with the full committee practice of compelling witnesses to testify only before Members of the Senate.

The practice of allowing staff to travel anywhere to force witnesses to give depositions discards the inherent safeguard of requiring the presence of a Senator—an elected official responsible to the people—to be present. Not only does it multiply the physical possibilities of receiving coerced testimony, but it would require the most intense supervision of the staff employee by the subcommittee chairman to ensure that the civil rights of U.S. citizens are not violated.

But during the committee debate, the subcommittee chairman, Mr. SANFORD, indicated that he did not intend to provide such supervision. According to the transcript of October 22, he stated:

> We will attempt to leave as much as possible to the discretion of the professional investigators that we retain for the purpose, that we will not be personally involved in the investigation until, indeed, there is something for the Committee to hold some public hearings on.

Moreover, my colleague from North Carolina [Mr. SANFORD] reinforced this unsettling theme that the staff would be given free reign to conduct the investigation as they chose, by stating:

> We will not have a procedure that forces the professionals to tell us exactly where they are going and when, but that in advance we will indicate approval of going to location A, B, C, and D, but the time or the timing of that would be life to the professional counsel that we bring in for the purpose of directing the investigation.

Considering that the broad scope of the investigation stretches half way around the world, this admission suggests that the subcommittee chairman is relinquishing responsibility of staff investigators to do what they want with only vague guidelines to restrain them. Moreover, these special authorities would be given to a yet-to-be-hired staff of investigators whose skills and biases are not known.

Indeed, the subcommittee chairman is also seeking unprecedented authority in Senate Resolution 198 for the subcommittee to issue its own rules and guidelines, without putting them to a vote or discussion by the whole committee. If Senate Resolution 198 is approved, the subcommittee could make up its own rules as it proceeds and with no restraints whatsoever over its manner of proceeding or the targets of its investigation.

Ironically, the majority counsel of the committee and the legal counsel of the Senate had prepared a detailed set of consensus procedures to guide the subcommittee in its work. The minority did no participate in the drafting of these procedures, but I found them fair and reasonable with two or three minor corrections. Unfortunately, the subcommittee chairman rejected the draft procedures out of hand, and concocted a vague, but highly partisan procedure that virtually contradicted the consensus document on all key points.

The allegations involved in the so-called October surprise are inflammatory and after 11 years unsubstantiated. Indeed, the Senator from Indiana [Mr. LUGAR] called them ludicrous. Yet Senate Resolution 198 would allow a rogue "committee within a committee" to send staff all over the world with a mandate and extraordinary powers to investigate in secrecy whatever and whomever it chooses in connection with the so-called October surprise. The authoritarian powers sought by the proponents of this resolution stir the deepest apprehensions of the minority that this investigation is an act of the most blatant and tasteless partisanship.

THE COST

Senate Resolution 198 calls for increasing the over-all spending authority of Senate Resolution 62, the current omnibus committee funding resolution, by $596,000 for the period beginning March 1, 1991, and ending February 29, 1993, and expanding the spending authority of the Committee on Foreign Relations for that period. Presumably, the investigation would be completed during that period.

The proposed cost breakdown is as follows:

Salaries	$395,500
Consultants	72,000
Administrative	128,500
Total	596,000

The subcommittee seeks authority for the following staff:

Title	Annual salary	Total for period
1 chief counsel	$115,000	$57,500
2 associate counsels	90,000	90,000
2 counsels	80,000	80,000
4 investigators	40,000	80,000
1 executive secretary	39,250	19,625
1 security clerk	33,500	16,750
2 paralegals	29,625	29,625
1 receptionist	19,000	9,500
1 secretary	25,000	12,500
Total		395,500

This hiring profile essentially establishes a select committee within the committee. The outline of the personnel positions resembles the staff of a high-priced law firm or a prosecutor's office, rather than that of a bipartisan investigating committee. Not surprisingly, the subcommittee chairman has announced that he proposes to hire a distinguished former U.S. assistant attorney, well-known for successful prosecutions against judges, Members of Congress, and the executive branch as the chief counsel.

The minority is disturbed that a staff based upon the concept of what is, in effect, a special prosecutor, will inevitably taint the outcome of the investigation. Although the proposed chief counsel has an outstanding and well-deserved reputation as a prosecutor, the minority feels that introduction of a prosecutor's outlook at this stage of the investigation is entirely premature.

As noted above, the majority has cited no evidence of any crime. Nor has the majority suggested that any statutes might have been violated. Moreover, if any such statutes were violated 11 years ago, the question is moot, since by now the statute of limitations has run. The sole reason put forward for the investigation is the totally unsubstantiated charge of political manipulation of the electoral process.

Thus the notion of a prosecutorial approach to a long-past political question is akin to exhuming a corpse from the past century for forensic analysis to titillate historians. Finally, it undermines the objectivity and integrity of the investigating process.

The minority firmly believes, therefore, that the request to spend $596,000 on unsubstantiated political allegations is a total waste of the taxpayers' money for partisan political purposes.

Mr. President, clearly, this proposal needs additional discussion. I urge that the motion for cloture on Senate Resolution 198 be rejected.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, much has been said about the hostages. The hostages' credibility is not the issue. They, by their own admission, do not really know what happened; they have no earthly idea. They were in seclusion and probably are much less likely to know what happened even than people here in the Senate. So the hostages' credibility is not the issue here. The hostages do not know anything about this.

As a matter of fact, it could be argued that Gary Sick does not really know anything about this. He admitted today that the section in his book related to the key meeting that was alleged to have occurred in Madrid, he relied on six sources to prove that the meeting had happened in Madrid; of those six, only one claimed to have been there, and that was a convicted felon.

So, Mr. President, I repeat, the only October surprise envisioned by this investigation is a October 1992 surprise. There is no more basis to go back and

VOL
137
PT
23
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1991
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investigate these allegations than there would be to investigate whether or not the Democrats stole the Illinois election in the 1960 Kennedy-Nixon race. That was only 31 years ago. Surely we can go back and look at that and see what really happened. There are all kinds of allegations out there, Mr. President. At what expense do we chase every rabbit that somebody in America wants to chase?

Mr. President, how much time do I have left?

The PRESIDING OFFICER. One minute and 50 seconds.

Mr. McCONNELL. I yield the remainder of my time to the Republican leader.

Mr. DOLE. Mr. President, I thank the Senator from Kentucky for his statement and for his knowledge of this particular subject. I am not going to say anything derogatory about Gary Sick. He happens to live in Russell, KS, or he did live in my hometown. His parents live in my hometown. I have not had any contact with him for a long time.

Notwithstanding that, I think the Senator from Kentucky has made some salient points, and we are just wasting $600,000. That money might be better spent checking into Centrust and David Paul and some of these people who ripped off the American taxpayers for billions of dollars. Will that be investigated as part of this, I ask the Senator from Kentucky?

Mr. McCONNELL. I say that, unfortunately, an investigation of CenTrust is not envisioned by this.

Mr. DOLE. I do not think it is envisioned by anybody, as far as I can tell. It should be invested by somebody. I hope that all Republicans will vote against cloture.

I yield back my time.

The PRESIDING OFFICER. All time has expired.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Parliamentary inquiry. Do I have leader time left?

The PRESIDING OFFICER. Leader time has been reserved.

Mr. MITCHELL. I will be very brief and use a moment of my leader time.

Mr. President, in recent months serious allegations have been made in the media and elsewhere that individuals associated with the political campaign organization of then-Presidential candidate Ronald Reagan entered into a secret ageement with representatives of the Government of Iran. Allegedly, the agreement was to delay the release of United States hostages until after the Reagan administration took office in 1981, in exchange for the subsequent sale of arms to the Government of Iran.

The alleged actions are reported to have included a third government, or governments and other third parties, in the sale of, or the promise of the sale of weapons.

While I am not aware of any conclusive evidence of any such agreement, the seriousness of the allegations and the weight of the circumstantial information compel an effort to establish the facts. This is particularly so in light of the accusation that the President and former high U.S. Government officials were involved.

Although I personally accept President Bush's statement that he neither participated in, nor had any knowledge of such contacts, former Presidents Reagan and Carter and President Bush have all expressed the view that these allegations should be laid to rest once and for all.

Mr. President, we know two things: We know that the release of the hostages was delayed until moments after President Reagan took office. And we know that after taking office President Reagan authorized a secret effort to transfer arms to Iran. So the two events did occur. That is a matter of history. That is undisputed.

What we do not know is whether the two events occurred completely independently and totally by coincidence, or whether they were the result of a secret agreement linking them and causing them to occur in that fashion.

That is what this inquiry is intended to establish. I think it raises a question, a fundamental question in everyone's minds. If someone is so opposed to trying to find out the facts, the question arises: What are they trying to hide? Why are they so afraid of an inquiry? What is it that they are trying to conceal?

Common sense, and our own human experience in our daily affairs tells us that when some individuals and groups go to great lengths to prevent the facts from being made public, they are concerned about what those facts are and what those facts will reveal. So I think the fundamental question before the Senate now is a simple one: We know the release of the hostages was in fact delayed until moments after President Reagan took office, and we know that, shortly thereafter, President Reagan did in fact authorize the secret transfer of arms to Iran. Was that just a coincidence? Did it just happen completely independent of any agreement, or was there some agreement? We do not know. We ought to find out for the sake of all concerned and lay this issue to rest once and for all. If there was no agreement, then we ought to try to find out and get that on the record and establish it.

I should think all concerned would want to have the facts made public. So I urge my colleagues to vote for cloture, to permit this inquiry to go forward, so we can find out the facts once and for all, so that at least on this one occasion the American people can feel secure that nothing is being hidden, nothing is being concealed, and there is no coverup. We just want the facts.

Mr. President, I yield the floor.

Mr. KERRY. Mr. President, will the majority leader yield 30 seconds at this time?

Mr. MITCHELL. Yes.

Mr. KERRY. Mr. President, I want the record to be clear, and I say to the minority leader, David Paul's records and CenTrust's records had been subpoenaed by our committee over a year and half ago. We would welcome him as a witness; he is on our witness list. And if the minority leader would like to join in making $600,000 available to our staff and the two people who have done the entire investigation of BCCI, I promise him an investigation of CenTrust such as the Justice Department has never seen.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Senate Resolution 198, to amend Senate Resolutuon 62 (102d Congress) to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the U.S. hostages in Iran.

Paul Sarbanes, Don Riegle, Claiborne Pell, Dennis DeConcini, Jim Sasser, Paul Wellstone, Bob Graham, Wendell Ford, Pat Leahy, Carl Levin, John Glenn, Paul Simon, Howard Metzenbaum, J.J. Exon, George Mitchell, Harris Wofford.

WAIVER OF CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call will be waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that the debate on the motion to proceed to the consideration of Senate Resolution 198, the resolution to amend Senate Resolution 62 of the 102d Congress, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS], is necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "nay."

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 43, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—51

Adams
Akaka
Baucus
Bentsen
Biden
Boren
Bradley
Bryan
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Exon
Ford
Fowler
Glenn
Gore
Graham
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NAYS—43

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Reid
Roth
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—6

Bingaman
Breaux
Bumpers
Harkin
Kerrey
Symms

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, as I had previously announced, the next item of business before the Senate will be the conference report on the defense appropriations bill. Having consulted with the Republican leader, the managers, and several other interested Senators, I will now propound a unanimous-consent request which, if approved, will permit us to dispose of that measure tomorrow and will permit us to complete or to discontinue the Senate session this evening.

I hope Senators will permit us to do so. If this is approved, there will be a maximum of 5 hours for debate on the defense appropriations bill commencing at 9 a.m., meaning a vote will occur not later than 2 p.m., although there is a possibility of time not being used and yielded back, and a vote could occur prior to that. I think I can safely assure Senators no vote would occur before noon under these circumstances. A vote could occur between noon and 2.

It is my intention, following consultation with the Republican leader, to proceed to the CFE treaty after completion of this measure tomorrow. That will be in the afternoon. I hope we can complete that during the day, tomorrow. These are two important measures.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that at 9 a.m. tomorrow, the Senate proceed to the consideration of the conference report to accompany H.R. 2521, the defense appropriations bill; and that it be considered under the following limitation on time: 5 hours total, with 1½ hours each under the control of Senators NUNN and WARNER; 45 minutes each under the control of Senators INOUYE and STEVENS; and 30 minutes under the control of Senator SASSER; that when all time is used or yielded back, the Senate proceed to vote without any intervening action or debate on adoption of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the unanimous-consent request having been granted, there will be no further rollcall votes this evening; however, Senators should be aware that we will have a full day tomorrow. I want to make clear that I mentioned two matters for consideration tomorrow. Senators should understand other matters may also be taken up tomorrow. I did not mean to limit tomorrow's session to just those two. Those are two matters we know we will be going to. There are possibly others as well. Senators should be prepared for activity in this regard tomorrow.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SARBANES. Does the majority leader have any idea how late he plans on going tomorrow?

Mr. MITCHELL. That will depend entirely on how long Senators choose to speak on the CFE treaty.

Mr. SARBANES. We will complete the first item, you have an agreement and then if you complete the CFE——

Mr. MITCHELL. There could be other matters. I just stated there may be other matters tomorrow. I did not intend by mentioning those two items to indicate that those two were the exclusive listed matters for tomorrow. There may be other matters. The Senate will be in session and it is expected to be a full day tomorrow. There may be other matters, depending on the necessity for doing so and trying to get some other matters cleared here.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican leader, pursuant to provisions in Public Law 101–628, as amended by Public Law 102–166, appoints Howard Coffin, of Vermont, to the Civil War Sites Advisory Commission.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ANDEAN DRUG INITIATIVE

Mr. LEAHY. Mr. President, before I was elected to the U.S. Senate I spent 8 years as a prosecutor in Vermont, and like any prosecutor I saw the terrible toll of drug abuse.

Vermont has so far been spared the tidal wave of drugs and violence that has hit most of America's cities, but that is not to say those things do not exist in my State. Back when I was a prosecutor drugs were gaining in Vermont, and they still are. Often, drug use led to robberies and burglaries to pay for more drugs, and just as often assaults and even murders were committed under the influence of drugs. Careers and families were destroyed, with children usually suffering the most. I prosecuted hundreds of drugs cases, as well as a police officer who made a name for himself by planting drugs on innocent people and then lying in court.

So I know something of the devastation that drugs can cause. And I have watched, during my years in the Senate, how the appearance of crack cocaine and AIDS from shared needles in the 1980's surpassed our worst fears. I have voted for virtually every piece of legislation to fight drugs here and abroad—to support eradication and interdiction, law enforcement, education and prevention and treatment programs—billions of dollars to stop drugs at the source and discourage their use.

One of those programs is the Andean drug initiative—the administration's 5-year, $2.2 billion program to cut cocaine flow to the United States by 60 percent by 1990—through eradication, interdiction, and targeting the leaders of the drug cartels.

The Andean initiative was announced in late 1989, but we were pouring hundreds of millions of dollars into the Andean countries to fight drugs long be-

VOL 137 PT 23 NO 21—25 1991 UMI

fore that. Back in 1987 the administration requested and we approved over $100 million in aid to Peru, Colombia, and Bolivia. We did the same in 1988 and 1989. We were told that a central goal of that aid was to counter the production and trafficking in narcotics. We were told that our aid would buttress the courageous efforts those countries were making to fight drugs.

What happened during those 3 years? What happened to the more than $350 million we sent down there?

Let us look at the administration's figures. In 1987 in Peru, 124,437 metric tons of coca were cultivated; 405 metric tons were eradicated, leaving a net of 124,000 metric tons. By 1989, eradication had increased to 1,285 metric tons, but production had risen faster. The net was 137,300 metric tons.

In Bolivia, we saw the same story. Net production of coca in 1987 was 46,500 metric tons. In 1989 it was 68,400 metric tons. In Colombia, it rose from 20,500 metric tons in 1987 to 33,900 metric tons in 1989.

All in all, during those 3 years, what we got for our $350 million was an additional 48,000 metric tons of coca, and more cocaine for sale on our streets.

We also saw that rather than fighting the drug traffickers, the police and the armed forces in those countries, and even top government officials, were in cahoots with them. They were getting rich off drugs, just like the traffickers.

And, we have since learned, that no mechanisms were in place to effectively monitor how those funds were spent.

Mr. President, one would have thought at that point someone would have asked whether there was a fundamental flaw in our strategy. Anyone who spent hundreds of millions of dollars of his own money to stop something from happening only to see it get worse, would at least say "Wait a minute. Maybe we are doing something wrong here."

But that did not happen. Instead, the solution was to send more money, and this time to put a lot more of it into guns and bullets. The Andean drug initiative, formulated without Andean input, calls for a huge increase in aid to the Andean countries with a major military component.

In 1990, the first year of the Andean initiative, antinarcotics aid jumped from $131 million to $264 million. This year it will jump to $372 million—triple what it was just 3 years ago. For 1992 the request is $490 million. The 5-year total for these three counties is $2.2 billion.

About half is for military aid, despite objections from some of the leaders of the Andean countries themselves. In 1989 military aid to Colombia, Bolivia, and Peru was $17 million. This year it is $77 million. The request for next year is $141 million. Total military aid for the 5-year Andean initiative is $1.04 billion.

And, from the separate international narcotics budget, another $100 million has been sent to the Andean countries in the past 2 years. Next year INM will spend another $54 million down there.

The administration's goal was to reduce the availability to cocaine by 15 percent by the end of 1991. 1991 is almost over. What has happened?

According to the administration, "there have been notable achievements in many areas." They mention "new, democratically elected governments * * * increased seizures, arrests, confiscation of assets, and signs of disarray within the trafficking organizations."

Those are important accomplishments. But what about the bottom line—the production of coca that is made into cocaine for sale in the United States? What does the record show after 2 years of the Andean initiative?

According to the administration's own figures, net cultivation of coca has dropped slightly since 1989 from 215,850 to 211,820 hectares in 1990, give or take 10 percent. But production of coca in the Andean countries has increased significantly, from 297,800 metric tons in 1989 to 310,000 metric tons in 1990. This year they predict 337,000 metric tons.

In other words, so far the Andean initiative has got us an additional 39,200 metric tons of coca—raw material for hundreds of additional tons of cocaine, at a cost to U.S taxpayers of about $630 million.

These are preliminary results—the Andean initiative is only beginning its third year, and we may yet see the results we are hoping for. But I am very concerned, and so should be every American taxpayer. Year after year the Congress has given the administration practically everything it asked for to fight drugs, both at home and abroad—$13 billion over the past 10 years. The Andean initiative is one example. Billions of dollars are going down there.

So far, the results are not encouraging. Despite some signs that the Andean Governments are cooperating better in the counternarcotics effect, I have serious concerns about the effectiveness of the administration's Andean strategy.

First, let us look at the economic aid. The administration says the purpose of the economic aid is to counter the destabilizing effects of the drug trade, and to promote economic growth. The idea is that with a strong economy a country like Bolivia can offer a better life to its people, without having to resort to growing or trafficking in coca.

Pehaps, in 10 years, with our aid and a lot of luck, Bolivia's or Peru's economies could become what Mexico's is today. Per capita income in Mexico is twice as large as Peru's and three times larger than Bolivia's. But today Mexico produces a third of the heroin and 70 percent of the marijuana imported into the United States. And over half of the cocaine that comes from the Andes to the United States goes through Mexico. Economic development has not made any difference in solving the drug problem, as far as I can see. These countries are so poor it will take many years for economic development to produce real alternatives to narcotics production.

Even in our own country, with an economy thousands of times larger than Bolivia's or Peru's, marijuana production is flourishing and drug use is far more pervasive. The United States continues to be a major transhipment country for narcotics.

So we should not be under any illusions that sending a billion dollars in economic aid to the Andes is going to solve our drug problem in a 5-year counternarcotics program, at least not as long as there is a demand for drugs in this country.

The military aid is another story. The administration has said we cannot win the war against drugs without it. Last year, we sent $77 million in military aid, and this year it will be about $141 million.

The Appropriations Committee's concern about the militarization of the Andean program is a matter of record. Last year, in its report on the 1991 foreign operations bill, the committee expressed its "growing concern [about] the administration's evident intention to continue a growing emphasis on the military component in U.S. counternarcotics efforts in the Andean region."

Referring to Peru, the committee, said:

> While the committee has consistently supported efforts to control drug trafficking abroad, that should not be taken as an endorsement of a policy which has the potential for drawing the United States into a protracted war against an insurgency in the Andean jungle.

The committee recommended that no military aid be provided to Peru until the Government took concrete steps to bring the military under civilian control and enforce respect for human rights, including bringing to justice military personnel responsible for the worst human rights abuses.

The committee's concern was based on reports from reputable human rights organizations, and reinforced by the State Department's own "Country Reports on Human Rights," dated February 1990, which concluded:

> Security forces personnel were responsible for widespread and egregious human rights violations. * * * There were widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military. * * * Credible reports of rape by elements of the security forces in the emergency zones were so numerous that such abuse can be considered a common practice condoned—or at least ignored—by the military leadership.

These and other concerns about the Andean initiative have also been cited by the General Accounting Office.

Let me quote from a recent GAO report about the Peru counternarcotics program:

> U.S. counternarcotics programs in Peru have not been effective, and it is unlikely that they will be effective until significant progress is made to overcome serious obstacles currently hindering U.S. programs. These obstacles include Peru's inability to maintain effective government control over military and police units * * * a lack of coordination and cooperation between military and police, failure to control airports, political instability * * * extensive corruption, widespread human rights abuses, and the effects of an economy heavily dependent upon coca leaf production.

The GAO went on:

> The executive branch has not established the management oversight needed to properly execute large counternarcotics aid programs. No reliable criteria have been established to measure Peru's progress in meeting U.S. counternarcotics objectives. Further, the U.S. Embassy lacks an end-use monitoring system for the military aid. * * * In addition * * * a substantial amount of training is being provided to police units that do not have a primary counternarcotics mission.

Although generally positive, the GAO's report on the Colombia program also mentioned several serious problems. It said:

> [T]he executive branch has not instituted the controls necessary to ensure that the aid is used as intended. * * * U.S. officials have not begun to monitor the Colombian military's use of aid and, as a result cannot ensure it is being used primarily for counternarcotics purposes. * * * [T]here is no reliable system for evaluating the success of the counternarcotics programs in Colombia. * * * [A]buse of civilians' human rights has increased * * * including [by] the military and police.

According to the administration, controls for monitoring how the aid for Colombia is used have recently been formulated. Presumably then, at least in the future, we can find out what our aid has accomplished.

The State Department inspector general recently completed a review of the United States counternarcotics program in Bolivia. He found many improvements, but he also found many problems. Let me mention some:

Interdiction still only stops 1 percent of the cocaine produced.

It is not possible to draw any realistic correlation between the effect of United States aid and interdiction results.

There is a lack of coordination between United States agencies operating in the field.

There is cross border expansion of illicit cultivation, processing, and trafficking.

Use of the Bolivian Army in the counternarcotics effort "may potentially increase human rights abuses" because of the army's history of such abuses.

The Bolivian Government agency tasked to regulate coca and prevent its movement to illegal processing centers has been ineffective due to corruption and other problems.

Coca cultivation is legal in the areas where many of the United States-funded control activities occur. In areas where coca is illegal, the Bolivian Government has been reluctant to fully enforce the law.

The price of coca has risen, making it more profitable to sell coca than to eradicate it voluntarily, or to switch to alternative crops.

I could go on.

Mr. President, despite all these problems, despite the hundreds of millions of dollars to fight drugs in the Andes and virtually nothing to show for it, the Congress will approve substantial economic and military aid to support the Andean initiative again this year, next year, and I suspect in future years. We will do so because of the devastating, tragic effects of drugs in our cities and towns.

But we also have a responsibility to see that the results justify the huge amount of money we are sending down there.

Right now I cannot say they are. I cannot ignore the problems that continue to plague this program, and the potential danger in the increasing emphasis on a military strategy where the line between counternarcotics and counterinsurgency is often blurred.

That is why, after repeated reports of widespread, egregious human rights atrocities by the security forces in Peru, I and other Members of Congress put holds on the military aid portion of the counternarcotics program there. Torture, rape, abductions, disappearances, extrajudicial executions—these are daily occurrences in the 40 percent of that country that is under a state of emergency.

The guerrilla insurgency, Sendero Luminoso, in a crusade to transform Peruvian society reminiscent of the Khmer Rouge, has massacred entire villages. But the State Department says the army is also culpable. In its zealousness to defeat Sendero the army has engaged in a scorched earth campaign that has terrorized the Indian population. That policy has only led to greater support for Sendero over the years.

We have insisted that before any military aid can go forward, specific steps must be taken to protect human rights. Elementary steps—like allowing the Red Cross access to prisoners. Like establishing a central registry of detainees, so family members can learn the whereabouts of their relatives. Like bringing to justice those responsible for some of the worst human rights abuses—cases where witnesses have come forward, where the perpetrators are known, and yet nothing has been done.

In response to United States pressure, the Peruvian government has taken several steps on human rights. But it is too early to say what impact they will have. Americas Watch reports numerous cases of alleged abductions, disappearances, and murder by the security forces since August. According to a November 20, 1991 Amnesty International report:

> Since the new government took office in July 1990 some 250 people have 'disappeared' or been extrajudicially executed * * * but the true toll of the victims will likely never be known. And despite the significant number of gross violations committed by the military under the new government, few judicial investigations have been carried out and no one is known to have been convicted.

Our insistence that military aid be preceded by improvements in human rights is fully consistent with our law, which prohibits counternarcotics aid to any government that engages in a pattern of gross violations of human rights.

Of the $94 million in economic and military aid intended for Peru this year, we agreed to release $84 million. We even agreed that $3.7 million for the army, despite its reputation as the worst human rights abuser of all the armed forces, intended for road building and other civic action programs, could go forward. We refused to release $10 million which was intended for counterinsurgency training and weapons for the army.

The State Department argued strongly against any conditions on the aid. They said the steps President Fujimori has already taken show that he is serious about human rights. I do not doubt the seriousness of President Fujimori, or of the leaders of the other Andean countries. They see that drugs are not only a U.S. problem. Drugs are destroying their countries too. But I have not forgotten how a United States-trained battalion murdered six Jesuit priests in El Salvador and then lied about it and destroyed evidence, despite the State Department's assurance that the army had been reformed.

If the Peruvian army wants our aid, it is going to have to stop the abuses by its own members. The Peruvian police should also be aware that we will apply the same standard to them. Abuses by their members will jeopardize the entire program.

In testimony on October 13, 1991, Assistant Secretary Levitsky reacted strongly to criticisms of the Andean program by the GAO, the State Department inspector general, and the Congress. Let me summarize Mr. Levitsky's response:

The critics do not "comprehend the realities" of getting things done in a foreign country.

By cutting $10 million in military aid for Peru, the Congress has "seriously compromised" the program. This aid was to train and equip army battalions to "aggressively pursue Sendero Luminoso." Without it, the army will remain ineffective and corrupt.

The Peruvian government has taken steps which "should" increase respect for human rights.

VOL
137
PT
23
NO
21—25
1991
UMI

The purpose of the inspector general's audit of the Bolivia program was to "find fault * * * rather than provide an accurate picture." Mr. Levitsky dismisses practically all of the IG's findings.

Mr. President, as I said earlier, the Congress is going to continue to support the Andean initiative. We can see that it has achieved some things, and in another year we will be far better able to judge its results. We all want to stop the deadly flow of drugs into our country.

But the counternarcotics program in the Andes has been plagued by problems, and we are not going to just sign on the dotted line whenever the administration asks for another couple of hundred million dollars to send down there. The administration trumpets the numbers of arrests and seizures, laboratories destroyed, hectares eradicated, and corrupt officials ousted. Again, these are important. But we cannot ignore the fact that so far the results have been insignificant to the American people. The fact is, the amount of coca produced has increased 13 percent in 3 years. That is what the American people care about. That is what matters.

Nor can we accept that by cutting $10 million we are undermining the entire Andean program. We cannot ignore the dangers in pursuing a military strategy in a region where the armed forces commit bloodcurdling atrocities. The Andean initiative can only fail if we ignore the heinous crimes of the very people who would receive our aid.

Nor can we ignore the GAO, inspector general and dozens of press reports of corruption throughout the armed forces and at all levels of government in these countries. Corruption is endemic. Numerous State Department, Defense Department, and DEA officials have acknowledged it publicly. Yet we are sending billions of dollars down there.

I believe the Congress has a responsibility to do what we can to stop the flow of drugs into this country. I recognize that it is a complex problem that is not amendable to easy or quick solutions. But we have learned some things. Brute force, at the expense of human rights, only backfires. Ignoring corruption is the same as throwing money away. And, the huge demand for drugs in our own country is the fuel that feeds the fire.

So far, we have very little to show for our efforts and I intend to follow this program closely. I urge the administration to consult closely with Congress on its plans to allocate funds for this program in the future.

I ask unanimous consent that a November 20 Washington Post article about a recent massacre of 16 people in Peru, and a press release on Amnesty International's November 20 report, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 20, 1991]

PERUVIANS LOOK FOR ANSWERS IN MASSACRE OF 16

(By Eugene Robinson)

LIMA, PERU—It seemed to be just another chicken barbecue, the Peruvian equivalent of an old-fashioned rent party. Residents of a little apartment block in a crumbling downtown district called Barrios Altos had printed flyers inviting one and all to a Sunday evening of food, dancing and beer—$2.50 at the door, the proceeds earmarked to repair the building's decrepit plumbing.

At 10:30 that night, the party eight hours old and beginning to wind down, two four-wheel-drive wagons with flashing police-style lights pulled up. Out scrambled six or eight men carrying automatic weapons and wearing combat boots. Witnesses said they ordered the 20 or so partyers to lie down in the building's cramped central courtyard, and opened fire. Sixteen people were killed, including a 9-year-old boy. The massacre on Nov. 3 shocked a nation already numbered by years of political turmoil and death.

More than 22,000 Peruvians have been killed since leftist insurgents began fighting the government 11 years ago, but most of the episodes have taken place in the countryside. The indiscriminate slaughter in Barrios Altos was just four blocks from the Congress building.

The massacre had other elements that set it apart. Most of the evidence points strongly to a paramilitary group, probably including policemen or soldiers, who wanted to eliminate one or more people at the party suspected of having links with Shining Path, the Maoist guerrilla group trying to destroy the Peruvian state.

But government investigators seem to be going out of their way to avoid seeing a paramilitary connection. The Peruvian Senate angrily rejected a report by the ministers of defense and the interior—both of them army generals—that attributed the massacre to Shining Path, another leftist group, or unnamed "others."

"The report was a disaster," said Sen. Enrique Bernales. "The authorities seem to be afraid to discover the truth."

The massacre comes at a time when the government of President Alberto Fujimori is under international pressure to improve its record on human rights. The U.S. Congress last month rejected $10 million in planned antidrug aid for the Peruvian army because of human rights abuses. Of more than $80 million in aid that was approved, most was conditioned on progress on rights. An Organization of American States human rights fact-finding commission called on Fujimori to follow through with promised rights initiatives.

Fujimori issued decrees that effectively put the country on a wartime footing in the fight against subversion. One measure, which Congress may challenge, gives the armed forces authority to confiscate goods and "reorient" the activities of individuals and businesses in the event of a "national mobilization."

The circumstantial evidence that a paramilitary group carried out the massacre starts with the fact that it took place less than 50 yards from a police intelligence headquarters and within two blocks of four other police installations. The area is guarded day and night, but none of the police on duty seems to have heard or seen anything.

The killers were said to be all men—Shining Path, by contrast, often includes women in its squads. They allegedly were of military bearing and carried sophisticated automatic weapons equipped with silencers.

The report rejected by the Senate insisted despite physical and eyewitness evidence, that silencers were not used.

The vehicles used by the killers fit the description of two registered to government security agencies, one of them to the presidential guard. Both vehicles were reported stolen earlier in the year, and neither of the thefts seems to have been investigated.

Finally, Sen. Javier Diez Canseco, a frequent government critic, has released a secret document that he says indicates army intelligence had the building under surveillance for at least two years, suspecting that supporters of Shining Path were holding meetings there.

When authorities searched the apartment of victim Filomeno Oscar Leon, the organizer of the barbecue, they found copies of El Diario, the Shining Path newspaper. Another of the victims had been formally accused of having terrorist links.

Several of the victims were ice-cream vendors who pedal through the streets on cycle carts selling their wares. The document released by Diez Canseco indicates that authorities believe Shining Path is trying to infiltrate the legions of street vendors who operate throughout Lima with a perfect cover to observe, agitate and move on.

While most experts find the idea of a silent, subversive ice-cream army far-fetched, they agree that Shining Path has made significant gains in metropolitan Lima, home to 7 million people, a third of the Peruvian population.

One of the most violent and uncompromising guerrilla groups in the world, Shining Path began its military campaign high in the southern Andes, now controls vast areas of the highlands and is stepping up its campaign in and around Lima.

The group has recruited mainly through terror, and has never been believed to enjoy widespread popular support. Two weeks ago, for example, Shining Path guerrillas murdered 42 peasants in a small highland town because they had taken steps to form one of the self-defense militias that are a major component of Fujimori's anti-terrorist strategy.

But Fujimori's belt-tightening economic policies have created a deep recession that has doubled the number of Peruvians living in "extreme proverty" to 8 million. In this new climate, say observers, there is more potential sympathy for Shining Path.

"The government washes its hands and tells the army to solve the problem of Shining Path," said Jose Bailetti, a retired army colonel whose think tank, the Institute for National Defense Research, has conducted human rights courses for active-duty officers. "The president sees it as a military problem, just like the last president, and the one before that. But it also has political, social and economic demensions."

PERU: HUNDREDS KILLED, "DISAPPEARED" DESPITE HUMAN RIGHTS PLEDGES

More than two hundred people in Peru were unlawfully killed or "disappeared" at the hands of the security forces this past year—some in brutal massacres of entire families—despite the president's repeated promises to respect human rights, Amnesty International said today.

"The reality of human rights in Peru is still a far cry from the pledges made more

than a year ago," the human rights organization said.

"We've seen hundreds more Peruvians fall victim to brutal abuses, heard the president lash out against human rights activists, and are still waiting for the full action needed to change the course of human rights in Peru."

In a new report released today, Amnesty International said that since the new government took office in July 1990 some 250 people have "disappeared" or been extrajudicially executed, the majority in the country's military-run emergency zones—but that the true toll of victims will likely never be known.

And despite the significant number of gross violations committed by the military under the new government, few judicial investigations have been carried out and no one is known to have been convicted.

"We believe that a sense of impunity pervades the armed forces," the organization said in a letter to President Fujimori, also made public today. "It is a deadly and dangerous attitude that gathers strength from the continued failure to bring military perpetrators to justice and convict them."

In that letter, Amnesty International also said it was shocked by the president's recent blanket condemnation of human rights groups as "the legal arm of subversion" and "agents of terror"—a denunciation the organization fears could lead to more threats and attacks on activists.

The organization said the gross violations that have marked Peru for almost a decade often take place in revenge raids on peasant communities following attacks by the armed opposition group Shining Path (Sendero Luminoso) and the Movimiento Revolucionario Tupac Amaru (MRTA)—in some cases entire communities have been punished for opposition group atrocities.

The mass extrajudicial executions of peasants and suspected government opponents have continued under the new government, with at least five massacres by the security forces since mid-1990. Some 16 people, one as young as 11, were reportedly shot dead by soldiers and civil defense patrols in August 1990 in a massacre after they refused to join in an attack on the Shining Path. In May of this year, six other peasants were allegedly killed by soldiers posing as members of Shining Path.

Since July 1990, as well, close to 200 peasants and others have "disappeared", mostly from emergency zones, where the military has been known to assume that people support the opposition simply because they live in areas of armed insurgency. People "disappear" on the spot or after being arbitrarily arrested and most are never seen again. Those who are freed have often been tortured first; some have been found alive, dumped, bound and gagged, from an army vehicle, with no record of ever having been detained.

In its report, the organization strongly condemns atrocities committed by the MRTA and, in particular, by Shining Path, which has been responsible for the brutal killing of thousands of non-combatant civilians and captive troops since 1980 in clear breach of humanitarian standards. In the past decade, Shining Path has killed some 90 mayors in Peru and recently has killed a number of foreign nationals, including a nun, priests and development workers.

In its letter to the president, the organization said that such abuses, however, can never be used as an excuse for security force violations. "The terror tactics of opposition groups can never justify counter-terror by the forces of law and order," Amnesty International said.

The organization said it welcomed the government's recent positive steps towards protecting human rights, such as the granting of greater access to prosecutors investigating violations and access of the International Committee of the Red Cross to all places of detention.

More fundamental changes are needed in investigating violations and bringing those responsible to justice, the organization urged, such as moving human rights cases from military to civilian courts.

In the very few cases heard before military courts, there has never been a case which resulted in a member of the military being found guilty of committing human rights violations, even when the government has acknowledged that civilians were deliberately and arbitrarily killed.

ELECTION OF BOUTROS GHALI AS UNSYG

Mrs. KASSEBAUM. Mr. President, yesterday was a most significant day for the United Nations and for her member states. Yesterday, the Security Council recommended by unanimous vote that Boutros Ghali become the next U.N. Secretary General. The General Assembly's endorsement of the Council's recommendation is a certainty, and Mr. Ghali will take office as the United Nation's sixth Secretary General in early January.

Mr. President, I rise to offer my congratulations and best wishes to Boutros Ghali on this historic occasion. Truly a distinguished international public servant, he will bring to his new position a wealth of experience and an understanding of both developed and developing countries that few could rival. Boutros Ghali's career has prepared him well for the challenges he will soon face. As Egypt's Deputy Foreign Minister, he was a key architect of the Camp David accords which helped set the stage for the historic Middle East peace negotiations now underway. He has also played an instrumental role in forging closer ties between Egypt and her African neighbors, and in mediating a number of intra-African disputes.

Significantly, Boutros Ghali is the first individual from the African continent to be elected to the United Nation's top post. I am hopeful that he will play a very active role in attempting to resolve some of Africa's most pressing problems—problems which cry out for assertive U.N. leadership. The continuing conflicts in Somalia and Liberia, the humanitarian emergencies in the Sudan and Ethiopia, Africa's crushing debt burden, and the struggle of so many of Africa's people to achieve genuine democracy, all call for a creative and active United Nation's role.

In the years ahead, the United Nation's role as peacekeeper, election monitor, defender of human rights, and agent of positive change will likely grow. In order to meet these demands, Boutros Ghali will have to transform that organization into an entity where there is more discipline, less redundancy, and better coordination among U.N. agencies. In the decade of the 1990's, fiscal restraint must be the U.N.'s watchword.

Boutros Ghali takes the helm of the United Nations at a time of unparalleled challenge and opportunity. I wish him all the best as he attempts to redefine the United Nation's role in this new and exciting era.

OPPOSITION TO PRESIDENT'S FORMERLY ANNOUNCED POLICY TO END HIRING PREFERENCES IN THE ADMINISTRATION

Mr. GLENN. Mr. President, today I rise to express my surprise when I read that the staff of the President of the United States had yesterday chosen to create a standard for the Federal agencies that was inconsistent with the Civil Rights Act of 1991. Although the President has now disassociated himself from the directive, one cannot help but wonder whether that message will not creep into the regulatory process or White House guidelines in the future. Therefore, I want the RECORD to be clear that I disapprove of such anticivil rights rhetoric.

The Federal Government has always stated its goal to be the model employer. We have not always met that goal, but it is a worthy one that we must strive to achieve. Congress constantly makes employment laws for the private sector; we should include the Federal Government in those laws.

As chairman of the Governmental Affairs Committee, I presided over hearings concerning the employment and promotion opportunities in the Federal Government for women and minorities. The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, requires Federal agencies to develop and implement affirmative employment programs to eliminate the historic underrepresentation of women and minorities in the Federal work force.

In 1989, I requested that the U.S. General Accounting Office [GAO] conduct a Governmentwide survey of how well the Federal agencies are—here I am quoting from the letter—"implementing existing civil rights laws regarding the hiring, promotion, and retention of women and minorities in the Government. The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, requires Federal agencies to develop and implement affirmative employment programs to eliminate the historic underrepresentation of women and minorities in the Federal work force."

At the first Governmental Affairs hearing on the glass ceiling in Federal agencies held May 16 of this year, the U.S. General Accounting Office presented a survey of 25 Federal agencies. The Director of the Equal Employment

VOL 137 PT 23 NO 21—25 1991 UMI

Opportunity Commission, Evan Kemp, and others testified that indeed a glass ceiling does exist within the Federal agencies. The glass ceiling is generally defined as an invisible and subtle barrier to the advancement of women and minorities. The GAO recommendations will enable the Equal Employment Opportunity Commission and the Office of Personnel Management to collect more meaningful data concerning Federal agencies and the advancement of women and minorities in key jobs within the agencies. It is clear that this is not the time to retrench our efforts in advancing the employment rights of women and minorities in the Federal workplace.

It is ironic that on the very day the Civil Rights Act of 1991 was to be signed into law, the now withdrawn White House Directive was to have been issued that would render the law meaningless within the Federal agencies. Each agency could have circumvented the protections mandated by the Civil Rights Act. The private sector would have been forced to comply with rules which would not have applied in the public sector.

Mr. President, although the Federal Government has made progress in the area of equal employment opportunity, it is still far from a model employer. In a recent report, the Department of Labor determined that the glass ceiling is a reality in the ranks of private sector corporations. The Senate, in the 1991 civil rights bill created a Glass Ceiling Commission. However, as I have said before, the public sector should not be ignored. The Federal Government should lead by example and become a fairness model in shattering the glass ceiling. We in the Congress must thoroughly monitor the Federal Government's hiring, promotion, and retention practices, including White House directives, guidelines, and regulations that will be promulgated on civil rights.

The Labor Department study identified barriers that restrict women and minorities from rising in the workforce of private sector corporations. The barriers often include: Lack of commitment by top management officials; reliance upon recruitment practices that result in limited applicant pools; lack of career advising and training; and a general lack of understanding that equal employment opportunity is a shared responsibility. I might add that providing for equality opportunity simply makes good business sense. Diversity has long been our biggest asset in this country. When we are restrictive either in Government or industry, we hurt ourselves and diminish our economic potential.

At our Governmental Affairs Committee hearing last month on the glass ceiling in Federal Agencies, several witnesses testified that the complaint process itself is a barrier to the advancement of women and minorities. The EEO complaint process is designed to aid the Government in ferreting our illegal barriers to employment and promotion. Therefore, if the complaint process is also flawed, barriers to career advancement multiply. The EEOC guideline to resolve cases is 180 days; the average time it takes a Federal Agency to resolve a claim is 418 days; and the Department of State and the Department of Justice each average over 1,000 days. Some Federal agencies are already playing fast and loose with the rules. The President is not well-served by staff members who seek to create additional barriers to full employment.

The U.S. Comptroller General, Charles Bowsher, has testified before this committee concerning critical issues facing the Federal Government. He told us that investment in human resources for Government operations is one of those critical issues.

According to census figures and the Department of Labor's Work Force 2000 report, our Federal work force will be different in 9 years. It will be more diverse; it will contain more women; it will contain more minorities and it will require more technological expertise. We must guarantee that the work force is well-trained and efficient. And we must ensure that Federal employees are secure in the knowledge that every right which is mandated in the private sector will exist for them.

Therefore, Mr. President, I hope that the ill-fated directive on White House policy with regard to affirmative action does not rear its ugly, divisive head ever again. The newly signed Civil Rights Act of 1991, as well as title VII of the Civil Rights Act of 1964, are very specific as to what is expected of the administration, not only the President, but also his aides and staff in fully implementing these policies.

That is the very least we must do.

DAVID A. "SONNY" WERBLIN

Mr. LAUTENBERG. Mr. President, I rise with deep sadness and a heavy heart to pay tribute to David A. "Sonny" Werblin, a friend and an outstanding New Jerseyan who passed away Thursday. Sonny Werblin was a special man who touched the lives of countless Americans. New Jersey is a better place today for his work.

Mr. President, Sonny Werblin was a success in every sense of that term. He was born March 17, 1910. He attended local schools in Brooklyn and graduated from Rutgers College in 1931. He then took a job with the Music Corp. of America. Starting as an office boy, he rose through the ranks to become the company's president in less than 20 years. As such, he headed a firm that represented many of the major concert, theatre, film, and television stars of the time.

But success in the entertainment field was not enough for Sonny. In 1963, he joined with four partners to purchase what was then known as the New York Titans, a bankrupt team in the American Football League. They were renamed the Jets. Sonny served as president, and turned the Jets into a world champion, in part by signing stars like Joe Namath and Matt Snell. Their 1969 Super Bowl victory over the Baltimore Colts still stands as one of the great football achievements of all time.

After building the Jets into a powerhouse, Sonny was named the first chairman of the New Jersey Sports and Exposition Authority. Again, Sonny proved a huge success. Under his leadership, the authority built the Meadowlands Sports Complex, which helped make New Jersey a player in major league sports. The Meadowlands was a catalyst for jobs and economic development, and a source of renewed pride in our State. There were those who, at the time, said that New Jersey would never succeed. But, Sonny Werblin made it happen.

Even after his success in Meadowlands he went on to become president of Madison Square Garden.

Mr. President, Sonny Werblin's success extended well beyond his professional career. he spent a great amount of time serving his alma mater, including a stint as chairman of Rutgers' Board of Overseers. Not surprisingly, his chairmanship coincided with a period when the university undertook the most successful capital fund-raising effort in its history. His efforts were widely appreciated, and earlier this year, Rutgers completed the Sonny Werblin Recreation Center.

Sonny Werblin received honorary doctorate degrees from St. Peter's College, where he served on the board of regents, Bethany College, and Rutgers University.

Mr. President, I want to extend my sincere condolences to Sonny's widow, Leah Ray, to his sons Robert and Thomas, and to the rest of the Werblin family.

Sonny was a special man who left a lasting mark on our State.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,442nd day that Terry Anderson has been held captive in Lebanon.

As you know, 2 days before Thomas Sutherland was released from captivity, his father-in-law and devoted advocate, William Murray, passed away. The funeral of the family patriarch was postponed so that Mr. Sutherland could attend. But the reunion was postponed due to medical considerations. And the ceremony commenced today without Tom and Jean Sutherland.

Mr. President, I ask unanimous consent that a Washington Post article, "For America's Family, A Bittersweet 'Rebirth'," be printed in the RECORD. And I call on my colleagues to keep this family and the families of the men still held hostage in their thoughts and prayers.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR AMERICAN'S FAMILY, A BITTERSWEET 'REBIRTH'

(By Edward Walsh)

AMES, IA, November 19.—Since that dark moment in 1985 when Thomas Sutherland was kidnapped near the Beirut airport, William Murray had looked forward to this day, when he could join in celebrating his son-in-law's release from captivity.

For more than six years, Murray was the family's spokesman in the nightmarish hostage drama. It was a role relished by the retired professor of agricultural economics at Iowa State University here and two-time Republican candidate for governor of Iowa. "He had no problem with the limelight," his eldest son, David G. Murray, recalled today.

But William Murray never got to be spokesman at the drama's most critical moment. He could not relay the family's joyous feelings at news of Sutherland's release in Beirut today.

Murray died of cancer at age 88 here Saturday. According to his son, he knew that a hostage release was expected in the next few weeks but was unaware that it would come so soon and that one of those freed would be his son-in-law. "He missed it by a couple of days," David Murray said.

It has been a time of extraordinary passage for the family. It involved the death of the patriarch here, the expected birth this week of his 10th grandchild to Sutherland's daughter Ann in Berkeley, Calif., and what David Murray called "the rebirth of Tom Sutherland" in the Middle East.

"This is a bittersweet time for those of us in the Murray family," David Murray told about 200 people gathered at a ceremony today on the Iowa State campus to celebrate Sutherland's release and mourn William Murray's death.

News of Sutherland's release overwhelmed the sense of sadness that had touched the spacious, comfortable Murray house near the edge of the campus, alma mater not only of Sutherland but also of Terry Anderson, The Associated Press bureau chief in Beirut held longer than any Western hostage in Lebanon.

An American flag stood in the leaf-covered front yard of the Murray home, and yellow and red, white and blue ribbons encircled a nearby tree. The phone started ringing at 6 a.m. and calls continued all day.

Some were from Sutherland's wife, Jean, who arrived in the United States from Beirut Sunday night en route to her father's funeral, which had been scheduled here for Thursday.

According to family members here, Jean Sutherland spent much of the day in a public-telephone booth at the Newark, N.J., airport, confirming her husband's release and rearranging travel plans. They said she was to leave Newark for Frankfurt, Germany, late today and be joined there by the couple's two other daughters, Kit Sutherland of Fort Collins, Colo., and Joan Sutherland of Gresham, Ore.

Thomas Sutherland is expected to be reunited with them at the U.S. air base in Wiesbaden, Germany, that has served as the first extended stop for released hostages since the Iranian hostage crisis more than a decade ago.

Meanwhile, plans were being made here to delay William Murray's funeral until Friday so the Sutherland family, including the newly freed former hostage, can attend.

Sutherland's release also was celebrated in Fort Collins, where he taught animal sciences and genetics for 26 years at Colorado State University.

"He's quite talkative, articulate, full of jokes, the same old Tom," said Gerry Ward, 70, a longtime friend, after watching Sutherland on a televised news conference in Damascus, Syria. "I think I've aged more in the time Tom' been held captive than he has."

David Murray had a similar reaction after watching the news conference on television here. "He looked better than I thought, but I was not totally surprised," Murray said. "He is a resilient guy, and he always had a great sense of humor. . . . It was the same old Tom—the smile, the twinkle in the eye."

Love of agriculture and of teaching brought Sutherland, a native of Scotland, here in the mid-1950s for graduate study at one of the nation's preeminent agriculture schools where he met Jean Murray, his future wife. The same interests later took Sutherland to Beirut, where he was dean of the agriculture school at the American University of Beirut and she taught English.

David Murray said their devotion to agriculture and teaching served as a bond between his father and his brother-in-law, whom he described as "just like father and son." William Murray was a founder of the Iowa Living History Farms, a facility near Des Moines that commemorates the history of farming in Iowa. For the last several years of his life, David Murray said, his father had "two focuses—the Living History Farms and Tom Sutherland's release."

"You would have had an earful, I'll tell you," Murray said when asked how his father would have handled today's momentous developments. "It would have been a highlight of his life."

Instead, it was David Murray, chairman of the orthopedic surgery department at State University of New York-Syracuse Medical School, who spoke for the family. An eldest son unexpectedly thrust by death into the role of father, he scurried from interview to interview today with a broad smile on his face.

"At this moment, we can't be anything but happy," he said. "We'll get back to the sadness tomorrow."

FORCED REPATRIATION OF HAITIAN REFUGEES

Mr. KENNEDY. Mr. President, this week a Federal court issued a temporary restraining order suspending the Bush administration's shameful policy of forcibly repatriating Haitians fleeing the violence and turmoil in their homeland.

No matter what their eventual legal status may be, now is not the time to return Haitians to Port-au-Prince. None of these helpless civilians should be required to return to their homes until the legitimate and democratically elected Government of Haiti is restored and able to secure their safety.

At this point, the United States should take a leadership role within the Organization of American States and, with the assistance of the United Nations High Commissioner for Refugees, encourage other nations in the region to adopt several new initiatives to deal with this refugee crisis.

First, the administration should urge all countries in the region to refrain from forcibly returning Haitians until conditions in Haiti are stabilized, and should press these nations to grant temporary protected status or temporary safe haven to Haitians entering their country. The administration has the authority to do this within the United States under the terms of the Immigration Act of 1990, and it should use it today to protect the Haitian people.

At the same time, U.S. representatives should press within the OAS and the U.N. for the establishment of regional holding centers for Haitians rescued on the high seas. Such centers should be designed to provide protection and screening for bona fide refugees and temporary care for those deemed not to be refugees.

To persuade other countries in the region to join in this effort, the United States should immediately open such a temporary center, under OAS auspices, at an available camp or facility in Florida.

Finally, the United States must redouble its diplomatic efforts to restore democracy and peaceful conditions in Haiti. President Bush should renew his personal efforts to secure, under OAS resolutions, the return of President Aristide and the reestablishment of Haiti's civilian government. Only when this goal is achieved will it be possible to return Haitian immigrants to their homeland.

The escalating plight of the Haitian boat people, and the emergent conditions they face, require urgent humanitarian initiatives. The forcible repatriation of these innocent civilians to a country divided by chaos and violence would undermine the very humanitarian ideals and democratic freedoms upon which our own country is founded.

MICROGENESYS

Mr. DODD. Mr. President, since Magic Johnson's stunning announcement that he is infected with the human immunodeficiency virus [HIV] which causes AIDS, much of our attention has rightfully been focused on the spread of this disease and the tragic impact it has on the lives of those who are infected. I want to call my colleagues' attention to something going on in my State which gives us a glimmer of hope.

MicroGeneSys, a small biopharmaceutical company in Meriden, CT, developed the first AIDS vaccine which was cleared by the FDA for testing in humans in 1987. During clinical trials

VOL 137
PT 23
NO 21—25
1991
UMI

sponsored by the National Institutes of Health, the Walter Reed Army Institute of Research and Walter Reed Army Medical Center, and several universities both in this country and abroad, the vaccine has been administered to over 500 people without any adverse reactions.

Last summer, the distinguished New England Journal of Medicine published the first results of a study conducted by Dr. Robert Redfield of Walter Reed. The study reported that in 87 percent of the HIV infected recipients—13 of 15—who received six injections, the vaccine boosted their immune response against the AIDS virus and prevented a decline in T4 cells over the 10 month period of the study. Only 40 percent of the test volunteers—6 of 15—responded to a lesser schedule of 3 inoculations. (A decline in T4 cells marks the progression of HIV infection to development of diseases and symptoms associated with AIDS.)

At the recent National Institute of Allergy and Infections Diseases' [NIAID] AIDS conference, Dr. Redfield gave current data on the subjects of the study. After 24 months of treatment, the first 13 responders to the vaccine showed only a 2.8-percent decline in T4 cell counts. Historically, a 26-percent loss would have been expected in patients over this time period. Of equal note, most of the study participants who were given fewer dosages of the vaccine and classified as nonresponders in the New England Journal article displayed stabilized T4 cell counts after receiving additional dosages of the vaccine.

Another study by Dr. Christos Tsoukas of McGill University also reported encouraging results. Twenty of 21 recipients showed stable or elevated T4 cell counts after 12 months. Significantly, in addition to an elevated mean T4 cell count, the patients in the study also showed a mean increase in the percentage of T4 cells relative to other T cells. The ratio of T4 cells to other T cells is another measure of the health of the immune system, and its decline generally signals the onset of disease.

Mr. President, all of these test results are interim results, and they are not conclusive. However, they give us some reason for hope that we can develop a way to effectively help HIV infected people maintain their immune system function and stay healthy or at least stay healthy for a longer period of time.

I am pleased that this kind of work is being done by MicroGeneSys in my State.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 10:12 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1563. An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes;

S. 1568. An act to amend the Act incorporating The American Legion so as to redefine eligibility for membership therein;

H.R. 3394. An act to amend the Indian Self-Determination and Education Assistance Act;

H.J. Res. 130. Joint resolution designating January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 327. Joint resolution designating 1992 as the "Year of the Gulf of Mexico".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 12:40 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2629) to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

The message also announced that the House disagreed to the amendment of the Senate to the bill (H.R. 3371) to control and prevent crime; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except sections 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference: Mr. Brooks, Mr. Edwards of California, Mr. Conyers, Mr. Schumer, Mr. Hughes, Mr. Staggers, Mr. Hyde, Mr. Sensenbrenner, Mr. McCollum, and Mr. Gekas: *Provided*, That Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of sections 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House bill.

From the Committee on Ways and Means, for consideration of section 1719 of the House bill, and sections 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Rangel, Mr. Archer, Mr. Vander Jagt; and Mr. Rostenkowski and Mr. Archer are appointed as additional conference for consideration of section 702 of the Senate amendment.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1502 and 1831 of the House bill, and sections 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Mr. Annunzio, Mr. Neal of North Carolina, Mr. Wylie, and Mr. Leach.

As additional conferees from the Committee on Education and Labor, for consideration of sections 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except section 822(f)) and sections 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Kildee, Mr. Martinez, Mr. Goodling, and Mr. Petri.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and sections 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Rowland, Mr. Lent, and Mr. Bliley.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Swift, Mr. Eckart, Mr. Lent, and Mr. Ritter.

As additional conferees from the Committee on Government Operations, for consideration of sections 801, 802, 1509, and 1751 through 1758 of the House bill, and sections 1701 and 1702 of the Senate amendment, and modifications committed to conference: Mr. Conyers, Mr. Wise, Mr. Towns, Mr. Horton, and Mr. McCandless.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 1716, 1719, and 1722(b) of the House bill, and sections 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference: Mr. Jones of North Carolina, Mr. Studds, Mr. Tauzin, Mr. Davis, and Mr. Lent: *Provided*, That Mr. Taylor of Mississippi is appointed in place of Mr. Tauzin for consideration of section 1722(b) of the House bill.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and sections 502, 2901, and 4401 through 4403 of the Senate amendment, and modifications committed to conference: Mr. Roe, Mr. Anderson, Mr. Oberstar, Mr. Hammerschmidt, and Mr. Inhofe.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2130. An act to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992.

At 4:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; and

H.R. 3839. An act making appropriations for the Departments of Labor, Heath and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following joint resolution, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2176. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the seventh special impoundment message of the President for fiscal year 1991 and his first special message for fiscal year 1992; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Foreign Relations.

EC-2177. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a report on the feasibility of establishing an International Criminal Court and the relationship to the Federal judiciary of such a court; to the Committee on Foreign Relations.

EC-2178. A communication from the Assistant Secretary of the Treasury (Legislative Affairs) and the Assistant Secretary of State (Legislative Affairs), transmitting jointly, pursuant to law, the third report on foreign contributions in response to the Persian Gulf Crisis; to the Committee on Foreign Relations.

EC-2179. A communication from the Director of the Arms Control and Disarmament Agency, transmitting, pursuant to law, the report on verification of the CFE Treaty; to the Committee on Foreign Relations.

EC-2180. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the interest rate charged to borrowers, referred to as the cost of money rate, as determined by the Governor of the Rural Telephone Bank; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2181. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, the Strategic and Materials Report for the period October 1990 through March 1991; to the Committee on Armed Services.

EC-2182. A communication from the Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the annual report on the implementation of the Community Reinvestment Act for 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-2183. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Thrift Resolutions: FSLIC 1988 and 1989 Assistance Agreement Costs Subject to Significant Uncertainties"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2184. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation; to the Committee on the Budget.

EC-2185. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-2186. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the potential benefits of a shipper responsibility law; to the Committee on Commerce, Science and Transportation.

EC-2187. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on recommendations on the adoption of import and export restrictions on anadromous fish and anadromous fish products; to the Committee on Commerce, Science and Transportation.

EC-2188. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report on air traffic control services in the Caribbean/Miami regions; to the Committee on Commerce, Science and Transportation.

EC-2189. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a report on meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2190. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the State Energy Conservation Program for calendar year 1990; to the Committee on Energy and Natural Resources.

EC-2191. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the Industrial Waste Reduction Program Plan; to the Committee on Energy and Natural Resources.

EC-2192. A communication from the Commandant of the United States Coast Guard, transmitting, pursuant to law, a report on progress in preparing a report on deepwater ports and associated vessels; to the Committee on Environment and Public Works.

EC-2193. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on the audit of the Bank by independent auditors for fiscal year 1990; to the Committee on Governmental Affairs.

EC-2194. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report on the activities and operation of the Public Integrity Section, Criminal Division, Department of Justice for fiscal year 1991; to the Committee on the Judiciary.

EC-2195. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "System and Control Problems Further Weaken the Pension Benefit Guaranty Fund"; to the Committee on Labor and Human Resources.

EC-2196. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1990; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-253. A joint resolution adopted by the Legislature of the State of Wisconsin; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION 47

"Whereas, since 1956, Wisconsin has contributed $1,150,000,000 more in transportation tax dollars to the federal government than it has received in federal transportation aids; and

"Whereas, Wisconsin has received 74 cents back for each federal highway tax dollar paid; and

"Whereas, in 1990, Wisconsin received back 7 cents for each federal transit tax dollar paid; and

"Whereas, improvements in the state's transportation system are needed to support economic growth and development; and

"Whereas, the current federal surface transportation program is scheduled to expire on September 30, 1991; and

"Whereas, Congress is currently considering reauthorization of the federal surface transportation program; and

"Whereas, the reauthorization of the federal surface transportation program will present an opportunity for Congress to provide Wisconsin, for the first time, with a fair share of federal highway and transit aids; now, therefore, be it

"*Resolved by the Senate, the Assembly concurring*, That the members of the legislature of the state of Wisconsin urge Congress to provide funding for federal highways and transit in Wisconsin and other states that is a more equitable distribution of federal highway and transit aids in relationship to each state's contribution in federal highway taxes; and, be it further

"*Resolved*, That the Senate Chief Clerk shall provide a copy of this joint resolution to the president of the U.S. Senate, to the Speaker of the U.S. House of Representatives and to each member of the congressional delegation from this state."

POM-254. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 26

"Whereas, Pursuant to Section 101 of the Highway Beautification Act of 1965 (23 U.S.C. Sec. 131) and Section 5419 (former Section 5288.5c) of the Business and Professions Code, a provision of the Outdoor Advertising Act, the Director of Transportation (formerly the Director of Public Works) and the Administrator of the Federal Highway Administration, on February 15, 1968, entered into an agreement to define and approve the size,

VOL 137 PT 23 NO 21—25 1991 UMI

spacing, and lighting of outdoor advertising displays located in areas zoned commercial or industrial; and

"Whereas, That agreement did not approve advertising displays which have changeable messages which can be changed by electronic processes or by remote control, except those with messages advertising only activities occurring on the property upon which the display is located; and

"Whereas, The state, and counties and cities, desire the authority to regulate the erection of off-premises changeable message signs, known as message center displays, as a means of providing economic and other benefits to the state and counties and cities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to direct the Administrator of the Federal Highway Administration to meet with the Director of Transportation of the State of California to amend the agreement entered into on February 15, 1968, pursuant to Section 101 of the Highway Beautification Act of 1965 and former Section 5288.5c, now Section 5419, of the Business and Professions Code, a provision of the Outdoor Advertising Act, to permit the state, and counties and cities, to regulate off-premises changeable message signs, known as message center displays, in accordance with the Outdoor Advertising Act; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of Transportation."

POM–255. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION 24

"Whereas, The Secretary of Health and Human Services has responsibility for determining those opportunistic infections that represent a diagnosis of acquired immune deficiency syndrome (AIDS) for purposes of both epidemiological surveillance and eligibility for certain entitlement benefits; and

"Whereas, The federal Centers for Disease Control, within the United States Department of Health and Human Services, are currently updating the definition of AIDS which has previously not acknowledged differential clinical manifestations of human immunodeficiency virus in various population groups, including, but not limited to, women and children; and

"Whereas, The determination of presumptive eligibility for federal Supplemental Security Income (SSI) program benefits for a person with human immunodeficiency virus (HIV) has been based on the definition of AIDS by the Centers of Disease Control; and

"Whereas, As a result, a person may develop HIV-related symptoms or opportunistic infections which render him or her incapable of working but that person cannot presumptively obtain certain benefits and services which target people with AIDS because, although he or she cannot work, the condition is not diagnosed as AIDS under the current case definition; and

"Whereas, The federal Social Security Administration, within the United States Department of Health and Human Services, is currently reviewing the criteria to establish presumptive eligibility for SSI for symptomatic persons with HIV infection who cannot work: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorialize the United States Secretary of Health and Human Services to establish criteria for the determination of presumptive eligibility for federal Supplemental Security Income program benefits that include HIV-infected persons who have previously been unable to obtain that eligibility, including, but not limited to, women and children; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Health and Human Services, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POM–256. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION 32

"Whereas, Over 470,000 American men and women have been uprooted from their families and peacetime careers to sacrifice their time and risk their lives for their country in the Iraq-Kuwait crisis; and

"Whereas, The American people are united in their respect for the sacrifices suffered by America's men and women serving in Operation Desert Storm; and

"Whereas, Those sacrifices also are borne stateside by military dependents whose reservist parents or spouses were called to active duty, and who were forced to leave behind their children, often with inadequate child care; and

"Whereas, Due to the Iraq-Kuwait crisis, more than 11,500 members of the United States Military Reserve who are residents of California have been called to active duty to serve their country; and

"Whereas, This sudden and unexpected call to arms has caused unavoidable financial and emotional hardship for those reservists, their families, and their dependents, and many of these reservists have suffered directly from substantial personal income reductions; and

"Whereas, Reservists called to active duty often lose their salaries without receiving comparable compensation from the military, which is a direct loss or injury to our nationals within the meaning of paragraph 16 of United Nations Resolution 687; and

"Whereas, The United Nations has created a fund to pay compensation for claims that fall within United Nations Resolution 687, which establishes a commission that will administer the fund; now, therefore, be it

"*Resolved, by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President of the United States to claim compensation from the United Nations compensation fund for the military families of the United States, who sacrificed employment income to provide military service, and for their employers, who continue payment of the difference in salaries, including the State of California; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Representative of the United States to the United Nations."

POM–257. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION 33

"Whereas, The Persian Gulf War has been brought to a swift and successful resolution by United States and Allied Forces who served with honor and distinction; and

"Whereas, Iraq's seven-month occupation of Kuwait has left Kuwait physically devastated and will require extensive reconstruction of oil-producing facilities, government buildings, and other public and private facilities; and

"Whereas, The United States government will play a significant role in the rebuilding effort, and American construction and engineering firms and equipment companies will benefit by being awarded a large portion of the reconstruction contracts that will be worth million of dollars; and

"Whereas, A significant portion of the United States military personnel involved in the Persian Gulf War were minorities and women; and

"Whereas, The California Legislature believes that the contribution made by minority and female military personnel in the Persian Gulf War should be recognized as a part of the reconstruction effort; now therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the California Legislature encourages the United States government and all American companies participating in the reconstruction of Kuwait to adopt and implement as an employment goal the hiring of minority and female workers in proportion to the ethnic and gender composition of the American military personnel who served in the Persian Gulf War; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives; and to each Senator and Representative from California in the Congress of the United States."

POM–258. A resolution adopted by the Virginia Council of Chapters of the Retired Officers Association relative to missing in action in Southeast Asia and previous conflicts; to the Select Committee on POW/MIA Affairs.

POM–259. A resolution adopted by the House of Representatives of the Commonwealth of Puerto Rico; ordered to lie on the table.

"RESOLUTION

"Judge Thomas replaces retired Justice Thurgood Marshall, a giant of the United States law and the first member of the black race to hold a seat in the highest Court of the nation.

"After a stormy confirmation process, and in view of the immense challenge faced by this humble son of a small town of the southern state of Georgia, it is the duty of this High Body, in representation of the People of Puerto Rico, to extend its congratulations to Judge Clarence Thomas.

Be it resolved by the House of Representatives of Puerto Rico:

"SECTION 1. To extend the warmest congratulations of the House of Representatives to the Hon. Clarence Thomas, Judge of the Circuit Court of Appeals for the District of Columbia, on the occasion of his confirmation as Associate Justice of the Supreme Court by the Senate of the United States.

"SEC. 2. A copy of this Resolution, translated into the English language, shall be remitted to Judge Thomas, to the President and the Vice-President of the United States and to the members of the United States Senate.

"SEC. 3. A copy of this Resolution shall be delivered immediately to the communications media.

"SEC. 4. This Resolution shall take effect from the time of its approval."I62

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S.J. Res. 215. A joint resolution approving the extension of nondiscriminatory treatment (most-favored nation treatment) to the products of the Union of Soviet Socialist Republics (Rept. No. 102–228).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1869. A bill to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes (Rept. No. 102–229).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 188. A concurrent resolution concerning freedom of emigration and travel for Syrian Jews.

S. Res. 196. A resolution expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet armed forces from the Baltic states and undertake discussions with the governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal.

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. 1128. A bill to impose sanctions against foreign persons and United States persons that assist foreign countries in acquiring a nuclear explosive device or unsafeguarded special nuclear material, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 78. A concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Francis S. M. Hodsoll, of Virginia, to be Deputy Director for Management, Office of Management and Budget;

Edward Joseph Mazur, of Virginia, to be Controller, Office of Federal Financial Management, Office of Management and Budget;

Kathleen Day Koch, of Virginia, to be Special Counsel, Office of Special Counsel, for the term of five years;

Reggie Barnett Walton, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Emmet Gael Sullivan, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years; H. Edward Quick, Jr., of Maryland, to be a Commissioner of the Postal Rate Commission for the term expiring November 22, 1996;

Tirso del Junco, of California, to be a Governor of the United States Postal Service for the term expiring December 8, 2000; and

J. Sam Winters, of Texas, to be a Governor of the United States Postal Service for the term expiring December 8, 1999.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

William Kane Reilly, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994;

Clair W. Burgener, of California, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1994;

Jose E. Martinez, of Texas, to be Director of the Trade and Development Program;

Robert Stephen Pastorino, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Robert Stephen Pastorino.

Post: United States Ambassador to the Dominican Republic.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses names: Shannon and Michael Lewis, none; Stephen Robert Pastorino, none.
4. Parents names: Adolph and Florence Pastorino, deceased.
5. Grandparents names: Mr. and Mrs. Giovanni Pastorino, Mr. and Mrs. Pierangeli, deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: $50, Diane Feinstein, Oct, 1990. $20, Congressman Dellums, Oct, 1990; James and Karen (Pastorino) Eagan.

Curtis Warren Kamman, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Curtis Warren Kamman.

Post: Ambassador to Chile.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: none.
3. Children and spouses names: Edward G. Kamman (son) none. John Curtis Kamman (son) none. Nichole Kamman (spouse of John) none. W. Stephen Kamman (son) $55 August 1, 1990, N.C. Democratic Party.
4. Parents names: Mildred I. Kamman, mother, none. Glenn F. Kamman, father, $25, November 12, 1988, Nat'l Republican Sen. Committee; $68, November 23, 1988, Nat'l Republican Sen. Committee; $25, January 7, 1989, 1989 GOP Victory Fund; $25, February 22, 1989, Republican Nat'l Committee; $50, March 13, 1989, Republican Nat'l Committee; $25, May 12, 1989, GOP Victory Fund; $25, June 21, 1989, Republican Nat'l Committee; $25, July 10, 1989, Nat'l Republican Sen. Committee; $25, July 20, 1989, Republican Nat'l Committee; $25, August 3, 1989, Nat'l Republican Sen. Committee; $25, August 14, 1989, Republican Nat'l Committee; $20, August 31, 1989, Nat'l Republican Sen. Committee; $25, September 11, 1989, Republican Nat'l Committee; $37, October 20, 1989, Republican Nat'l Committee; $15, October 19, 1989, Nat'l Republican Sen. Committee; $20, December 19, 1989, GOP Victory Fund; $25, January 4, 1990, GOP Victory Fund; $35, January 14, 1991, Republican Nat'l Committee.
5. Grandparents names: Horace Kamman (deceased), none. Bertha Kamman (deceased), none. Warren Merry (deceased), none. Ella Merry (deceased), none.
6. Brothers and spouses names: Jonathan Kamman, none; Beverly Medlyn (spouse of Jonathan) none; Robert Kamman, none.
7. Sisters and spouses names: No sisters.

George Fleming Jones, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: George Fleming Jones.

Post: Guyana.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: $10, April 8, 1987 Americans for Robertson; $20, July 12, 1987 Americans for Robertson; $20, December 13, 1987 Americans for Robertson; $50, September 20, 1988 Dukakis for President; $50, October 17, 1988 Dukakis for President.
3. Children and spouses names: George F. Jones III, $75, October 26, 1988 Keyes for Senate. My three other children, none. All four children are unmarried.
4. Parents names: Deceased.
5. Grandparents names: Deceased.
6. Brothers and spouses names: Nominee has no brothers or sisters.

William Edwin Ryerson, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William Edwin Ryerson.

Post: Tirana, Albania.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Nina Ryerson Quistoff, Thomas, Marten, Jennifer and Nicholas, none.
4. Parents, J. Delbert Ryerson, father (deceased), Marian Ryerson, mother (deceased).
5. Grandparents: William B. Ryerson, grandfather (deceased), Loretta Ryerson, grandmother (deceased), Edwin W. Wheeler, grandfather (deceased), Emma W. Wheeler, grandmother (deceased).
6. Brothers and spouses: none.
7. Sisters and spouses: Jane Ryerson Logdon, none, George Logdon, none.

John R. Davis, Jr., of California, a Career Member of the Senior Foreign Service, Class

VOL
137
PT
23
NO
21—25
1991
UMI

of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John R. Davis, Jr.

Post: Ambassador to Romania.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Thorp Davis, Katherine, Anne, none.
4. Parents: John R. and Petronilla Davis (both deceased).
5. Grandparents: David and Claire Davis; Thorp and Minnie Wilcox (all deceased).
6. Brothers and spouses: none.
7. Sisters and spouses: Sister Petronilla, O.P., none.

Frederick Vreeland, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Frederick Vreeland. Post: Kingdom of Morrocco.

Contributions, amount, date, and donee:

1. Self, $1,000, Dec 4, 1987, "George Bush for President", $1,000, Jan 8, 1990 "The President's Club".
2. Spouse: None.
3. Children and spouses: Mr. and Mrs. Alexander Vreeland, New York, NY, none. Mr. Nicholas Vreeland, India, none.
4. Parents (deceased).
5. Grandparents (deceased).
6. Brothers and spouses: Mr. and Mrs. Thomas Vreeland, Los Angeles, CA, none.
7. Sisters and spouses, none.

John Hubert Kelly, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John H. Kelly. Post: Helsink, Finland.

Contributions, amount, date, and donee.

1. Self; John H. Kelly; none.
2. Spouse, Helena Marita Ajo-Kelly, none.
3. Children, David Snowdon Kelly, Maria Louise Kelly, none.
4. Parents, Clarice Kelly (father deceased).
5. Grandparents, (deceased).
6. Brothers and spouses Mr. and Mrs. James Kelly, $250, 1990, Michael Liu for Congress; $50, 1990, Patricia Saiki for Senate; $100, 1990, Republican National Committee; $100, 1989, Republican National Committee; $100, 1988, Republican National Committee; and $100, 1987, Republican National Committee.

Dr. and Mrs. Michael Kelly, $800, 1990, BDM International Political Action Committee; $800, 1989, BDM International Political Action Committee; $800, 1988, BDM International Political Action Committee; and $500, 1987, BDM International Political Action Committee.

7. Sister, Kathryn Kelly, none.

I have listed above the names of all members of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BURDICK, from the Committee on Environment and Public Works:

E. Gail Planque, of New Jersey, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 1995; and

Herbert Tate, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself and Mr. WELLSTONE):

S. 2017. A bill to amend title XVIII of the Social Security Act to provide for medical coverage of long-term benefits in home- and community-based settings and nursing facilities, to create a new long-term care trust fund, and for other purposes; to the Committee on Finance.

By Mr. BOND (for himself, Mr. MCCONNELL, Mr. BOREN, Mr. COATS, and Mr. GRASSLEY):

S. 2018. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal Agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 2019. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem; to the Committee on Foreign Relations.

By Mr. WELLSTONE:

S. 2020. A bill to provide for the transition to a sustainable energy future by moving systematically toward much more efficient energy use and greater renewable energy production through a program of State energy transition grants designed to foster vigorously competitive markets of sustainable energy ideas and innovations at the State and local levels, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2021. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOREN:

S. 2022. A bill to establish the United States-Soviet Democracy Center, to authorize the Peace Corps to operate in the Soviet Union, and to establish a fellowship program for young Soviet leaders; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself, Mr. SIMON, Mr. CRANSTON, Mr. WELLSTONE, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. ADAMS, Mr. METZENBAUM, Mr. HARKIN, Mr. INOUYE, Mr. SARBANES, Mr. LIEBERMAN, Mr. GORE, Mr. MOYNIHAN, Mr. LEAHY, Mr. KERREY, and Ms. MIKULSKI):

S. 2023. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on Governmental Affairs.

By Mr. BOND (for himself and Mr. DANFORTH):

S. 2024. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. KOHL, Mr. BRADLEY, and Mr. CRANSTON):

S. 2025. A bill to authorize grants to State, local, and private entities for programs to prevent youths from becoming involved in gangs; to the Committee on Labor and Human Resources.

By Mr. MACK:

S. 2026. A bill to assure the protection of Haitians in the United States or in the United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself and Mr. BINGAMAN):

S. 2027. A bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the medicare program; to the Committee on Finance.

By Mr. SPECTER:

S. 2028. A bill to amend title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs; to the Committee on Veterans Affairs.

By Mr. SPECTER:

S. 2029. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers; to the Committee on Veterans Affairs.

By Mr. COHEN:

S. 2030. A bill to amend the Securities Exchange Act of 1934 to provide for confidentiality in the granting and voting of proxies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself and Mr. BINGAMAN):

S. 2031. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTION

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO (for himself, Mr. KASTEN, Mr. RIEGLE, Mr. GLENN, Mr. GRASSLEY, Mr. DIXON, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. DANFORTH, Mr. DODD, Mr. FORD, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. HELMS, Mr. LEVIN, Mr. MCCONNELL, Mr. PRESSLER, Mr. STEVENS, Mr. INOUYE, Mr. LIEBERMAN, Mr. BYRD, Mr. LEAHY, Mr. GARN, Mr. SANFORD, Mr. JEFFORDS, Mr. SPECTER, Mr. KOHL and Mr. SIMON):

S. Res. 230. A resolution in support of Machine Tools VRA; to the Committee on Finance.

By Mr. SIMON:

S. Res. 231. A resolution expressing the sense of the Senate that the President should submit to the 102d Congress a proposal for reforming the health care system of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself and Mr. WELLSTONE):

S. 2017. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of long-term benefits in home and community-based settings and nursing facilities, to create a new long-term care trust fund, and for other purposes; to the Committee on Finance.

LONG-TERM CARE FAMILY PROTECTION ACT OF 1991

Mr. SIMON. Mr. President, I am introducing today the Long-Term Care Family Protection Act of 1991. I am pleased that my colleague Senator WELLSTONE is an original cosponsor.

Since 1988, I have been listening to people in Illinois and all over the country tell me we need a comprehensive long-term care policy. At times, such as back in 1989, it appeared we were going to move ahead on legislation. I sponsored in the Senate a bill that had been introduced by the champion of seniors, the late Representative Claude Pepper. It would have provided assistance for home- and community-based care, and it came close to passing. In that year I also joined Senator MITCHELL and Senator KENNEDY as a cosponsor of their separate bills providing long-term care assistance.

Since that Congress, we have lost momentum on this issue, and we need to regain it. The need for action has increased in recent years while the debate has shifted to problems in other areas of health care. I am wholeheartedly in support of comprehensive reform in national health care. But reform must include means to address the critical need in the area of long-term care, and we must not allow controversy about other parts of health care reform to delay action on this vital legislation.

There is a strong consensus in the country and in the Congress that long-term care must be a high priority for action. I am introducing this bill today in an effort to put long-term care back on the front burner.

Long-term care is more than a seniors issue. It is a family issue that is of paramount concern to millions of households. American families today are sacrificing to pay for long-term care for parents, grandparents, children, and other relatives. For those who try to keep a loved one at home, the cost may be in the loss of other important opportunities in their lives. An estimated 70 to 80 percent of all long-term home and community care is provided by family members. Most have no respite at all for their efforts. For those who need the services of a nursing facility, the costs are frequently catastrophic, not just for the individual but for a family.

The reality is that only about 5 percent of elderly Americans are in a nursing home at any one time. But the reality also is that these numbers are rising dramatically. In just 9 years, almost a million more senior citizens will be in nursing homes than today. And for every person 65 and older living in a nursing home, there are twice as many who need various kinds of long-term care in the community.

Estimates are that the nursing home population may be as high as 2 million by the year 2000, 3.8 million by the year 2030 and 4.4 million by the year 2040. If current rates continue, 43 percent of persons who turned 65 in 1990 can expect to use a nursing home at some time in their lives. People aged 85 and older are more than 4 times as likely as those aged 65 to 74 to need long-term care services, and this age group is one of the fastest growing in our population.

Most Americans do not realize it, but Medicare pays for very little long-term care. Before Medicaid can help, individuals or couples must exhaust their own resources, becoming poor enough to qualify by spending down their income, savings, and other assets. Long-term care saps the life savings of even the thriftiest middle- and lower-income families and forces countless seniors to close out their lives as paupers.

Today, about half of all long-term care is paid for through private sources, and 97 percent of private funding comes directly out of the pockets of consumers. Even though private sector insurance is sold by more than 130 companies and there are more than a million policyholders, estimates are that less than 3 percent of long-term care is currently being paid by these policies.

The Health Care Financing Administration estimates that under current programs, with no legislative change, total spending for nursing home care will increase from the current approximately $50 billion a year to $129 billion by the year 2000. Unless we act, seniors and their families will be forced to try to shoulder the burden of a major part of that amount out of their own pockets. The burden is growing and we need to address it now.

The Long-Term Care Family Protection Act would put us on the road to a responsible policy on long-term care. It is not as generous as our families need and deserve, but it would be a significant benefit to many individuals who need long-term care. It recognizes that while most people do not spend more than 6 months in a nursing home, those who must spend longer amounts of time fill most nursing home beds and face the greatest financial burdens.

The basic elements of this bill are:

First, nursing facility benefits, after 90 days of care, covered to a maximum of $2,400 a month, with a copayment of $500 a month. This amount is based on an average cost of nursing home care and assumes an individual could plan to supplement this coverage with private insurance or choose to spend more in a more expensive facility. To be eligible, an individual would need to have limitations in the ability to perform three activities of daily living such as eating, bathing, dressing, transferring, or toileting. This would cover about two-thirds of all individuals now in nursing facilities and about 77 percent of all those who have a memory problem or disorientation caused by a disease such as Alzheimer's;

Second, home and community care benefits that include case management; nursing care; personal care services; physical, occupational, speech-language or respiratory therapy; rehabilitative services, adult day care services; respite for family caregivers and other services ordinarily needed to enable a person with a chronic illness or disability to live at home. Eligibility begins with those needing assistance with two activities of daily living and the rate of reimbursement is increased for those needing assistance with four or more activities of daily living; and

Third, children with chronic illness or dependency on medical equipment would be eligible for long-term home care, and individuals with disabilities would be able to "buy-in" to Medicare to receive long-term care services.

I have suggested two funding sources in this legislation, and recognize that additional sources of funding will be needed to fully cover the intended benefits. Payment for long-term home and community care is limited in this bill to the amounts generated by the revenue source for the legislation, and I hope that early in the process of consideration, both the revenues and the benefit levels can be increased. This bill is a beginning. My intent is that we match long-term care service provisions to specific revenues to make sure the program is fully self-financed.

Under this proposed legislation, nursing facility care would be financed through an increase of one-half of 1 percent in the employer and employee portions of Social Security deductions. Home and community care would be financed through elimination of the

VOL 137
PT 23
NO 21-25
1991
UMI

cap—$125,000 in 1991—on income subject to the Medicare payroll tax of 1.45 percent.

Soon after I began working on long-term care legislation I received a letter from a constituent in Greenville, IL. In part the letter read:

> Last week our neighbor across the street was discovered near death because he had deprived himself of food and air conditioning in order to meet the cost of over $3000 per month to maintain his wife in our local nursing home. This man is 80 years old, owns his own home and at the time he retired 15 years ago, his income plus Social Security and Medicare was very adequate. Keeping his wife in the nursing home has cost him in 2 years $72,000. He has had his home for sale unsuccessfully for over a year. Now she must become a recipient of Medicaid and he of welfare. Just trying to deal with the redtape of all of this is enough to kill the man. How sad for America that it treats it elderly citizens in this way.

Too many Americans are experiencing this sad reality. Too many Americans are being reduced to poverty and deprived of their right to live with dignity because of our lack of a long-term policy. I am confident that we can build the support we need to pass meaningful long-term care legislation in the near future.

Mr. President, I ask that a section-by-section summary of the Long-Term Care Family Protection Act of 1991 and the text of the bill be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Long-Term Care Family Protection Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

Sec. 101. New part C long-term care program.
Sec. 102. Conforming and miscellaneous amendments.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY INSURANCE

Sec. 201. Assuring self-financing of benefits under this Act.
Sec. 202. Assuring quality of long-term care.

TITLE III—FINANCING OF LONG-TERM CARE

Sec. 301. Source of revenue for home and community care.
Sec. 302. Source of revenue for nursing facility care.

TITLE IV—MEDICARE BUY-IN FOR INDIVIDUALS WITH DISABILITIES

Sec. 401. Permitting individuals with disabilities to purchase medicare coverage during the 24-month waiting period for Medicare entitlement; permitting individuals with disabilities not entitled to long-term care benefits to buy into Medicare to obtain such benefits.

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

SEC. 101. NEW PART C LONG-TERM CARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—LONG-TERM CARE PROGRAM

"SCOPE OF BENEFITS

"SEC. 1851. (a) SCOPE OF BENEFITS.—The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on behalf of such individual (subject to the provisions of this part) for—

"(1) home and community care; and

"(2) nursing facility care,

but only if the individual has been determined by a long-term care management agency (or others under arrangement with such agency) to be eligible for such care under section 1852.

"(b) HOME AND COMMUNITY CARE DEFINED.—(1) In this part the term 'home and community care' means the items and services—

"(A) which are home- and community-based items and services described in paragraph (2) furnished to an individual by a home care agency (as defined in section 1861(kk)) (or by others under arrangement with such agency) provided—

"(i) in a place of residence used as such individual's home; or

"(ii) subject to paragraph (3) on an outpatient basis at a—

"(I) hospital;

"(II) skilled nursing facility, or

"(III) rehabilitation center;

"(B) which are furnished under a written plan of care (for furnishing such items and services and other related items and services to such individual) which—

"(i) is established and periodically reviewed and revised by a long-term care management agency (or by others under arrangement with such agency); and

"(ii) reflects the individual's needs identified in the assessment under section 1852.

"(2) The home- and community-based items and services described in this paragraph are as follows:

"(A) Case management services.

"(B) Nursing care provided by or under the supervision of a registered professional nurse.

"(C) Services of a homemaker/home-health aide who has successfully completed a training and competency evaluation program approved by the Secretary.

"(D) Medical social services.

"(E) Personal care services.

"(F) Physical, occupational, speech-language, or respiratory therapy, or rehabilitative services.

"(G) Medical supplies (other than drugs and biologicals) and durable medical equipment, while under such a plan.

"(H) Medical services provided by an intern or resident in training of a hospital affiliated with the home health agency.

"(I) Respite services for family caregivers.

"(J) Adult daycare services (including at least one meal a day).

"(3) Home- and community-based services provided on an outpatient basis at a facility other than an individual's place of residence shall include the items and services described in paragraph (2) but only to the extent that such individual is at a facility to receive case management services or services including equipment not readily available in the individual's place of residence under arrangement with a home-health agency. But such items and services shall not include transportation to and from a facility.

"(c) NURSING FACILITY CARE DEFINED.—In this part, the term 'nursing facility care' means the following items and services furnished to a resident of a nursing facility (as defined in subsection (d)) and (except as provided in paragraphs (3) and (6)) by such facility, excluding, however, any such item or service if it would not be included under section 1861(b) if furnished to an inpatient of a hospital:

"(1) Nursing care provided by or under the supervision of a registered professional nurse.

"(2) Bed and board in connection with the furnishing of such nursing care.

"(3) Physical, occupational, or respiratory therapy, or speech-language therapy, furnished by the facility or by others under arrangements with them made by the facility.

"(4) Medical social services.

"(5) Such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the facility as are ordinarily furnished by such facility for the care and treatment of residents.

"(6) Medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of section 1861(l)), under a teaching program of such hospital approved as provided in the last sentence of section 1861(b), and other diagnostic or therapeutic services provided by a hospital with which the facility has such a agreement in effect.

"(7) Such other services necessary to the health of the residents as are generally provided by nursing facilities.

"(d) NURSING FACILITY DEFINED.—In this part, the term 'nursing facility' means—

"(1) a skilled nursing facility (as defined in section 1819(a)), or

"(2) a facility that is a nursing facility (as defined in section 1919(a)) which meets the requirements of section 1819(b)(4)(C) (relating to required nursing care), or

"(3) an intermediate or custodial nursing facility that meets the license requirements of the State in which it operates and such further requirements as provided by the Secretary.

"(e) LONG-TERM CARE MANAGEMENT AGENCY DEFINED.—(1) For purposes of this part, the term 'long-term care management agency' means an agency or organization, or a subdivision of such an agency or organization, which—

"(A) is a government agency; except that the agency or organization may be a private, nonprofit agency or organization with respect to a service area if there is no government long-term care management agency serving the area;

"(B) demonstrates expertise in managing health and social services for elderly individuals and is capable of completing the assessment and plan of care and arranging for services under section 1852 within a reasonable time period following referral to the agency or organization;

"(C) provides only case management services under this title and makes arrangements with a home care agency (with which it does not have a direct or indirect ownership or control interest) to provide long-term home care the agency or organization prescribes;

"(D) has policies, established by a group of professionals (associated with the agency or organization) including one or more registered nurses, one or more physicians, and one or more social workers, to govern the services described in subparagraph (B) which it provides;

"(E) maintains a sufficient number of professional case management teams which—

"(i) are trained in the process of determining eligibility for long-term home and community care and in assessing the needs of chronically dependent individuals, and

"(ii) include—

"(I) at least a registered professional nurse and a licensed social worker,

"(II) in the case of an individual under the age of 19, a physician, and

"(III) such other health professionals (including rehabilitation professionals) as are appropriate;

"(F) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature—

"(i) is licensed pursuant to such law, or

"(ii) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

"(G) has been designated by the Secretary to perform the functions of such an agency with respect to residents of a State or specified subdivision thereof; and

"(H) meets such other conditions of participation as the Secretary, in consultation with the Long-Term Care Advisory Council (established under section 1855(i)), may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization and for the effective and efficient operation of the program.

"(2) The Secretary may provide for a temporary waiver of any of the requirements of any subparagraph (other than subparagraph (A) or (B)) of paragraph (1) for such period (not to exceed one year, but subject to renewal) as the Secretary deems appropriate in the case of an agency or organization serving an area that is a rural area or that is designated as a health manpower shortage area under section 332 of the Public Health Service Act if—

"(A) failure to waive such requirements would significantly limit access to long-term home care services to beneficiaries residing in the area,

"(B) the agency or organization has made and continues to make good faith efforts to meet such requirements, and

"(C) waiver of such requirements does not jeopardize the health, safety, or well-being of beneficiaries receiving long-term home care services.

"(f) ELIGIBILITY UNDER THIS PART FOR CERTAIN DEPENDENT CHILDREN AND INDIVIDUALS NOT OTHERWISE ELIGIBLE FOR BENEFITS UNDER PART A.—(1) The provisions of section 1818 (other than subsection (d)) shall apply to this part in the same manner as they apply to part A, except that, with respect to this part, an individual need not be enrolled under part B of this title to be eligible to enroll under this part.

"(2)(A) A dependent child described in subparagraph (B) shall be eligible to receive home and community care under this part.

"(B) For purposes of this part, the term 'dependent child' means a child described in section 226(h) and who is determined by the long-term care management agency (or by others under arrangement with such agency) to be eligible for home and community care as provided under this part.

"ASSESSMENTS AND CERTIFICATIONS OF ENTITLEMENT

"SEC. 1852. (a) IN GENERAL.—In order to be eligible to receive benefits under this part each individual entitled to benefits under this part must receive an assessment and in order to be eligible to receive home and community care such individual must be certified as a chronically dependent individual as described in subsection (d)(1) and in order to be eligible for nursing facility care such individual must be certified as a chronically dependent individual as described in subsection (d)(2).

"(b) INITIAL ASSESSMENT.—The long-term care management agency established under section 1851(e) shall conduct an initial assessment of each individual entitled to benefits under this part in order to determine the level of care to which such individual is eligible.

"(c) CERTIFICATIONS FOR HOME AND COMMUNITY CARE AND NURSING FACILITY CARE.—(1) After conducting an initial assessment on an individual with respect to home and community care as provided under subsection (b), a case management team shall certify whether or not the individual is a chronically dependent individual (as defined in subsection (d)(1). If the case management team determines that such an individual is eligible for care under this part, the team shall include in its certification a determination as to whether the degree of impairment of the individual is moderate or severe (as described in subsection (d)(3)) and shall establish a plan of care for such individual consistent with that individual's degree of impairment.

"(2) After conducting an initial assessment on an individual with respect to nursing facility care as provided under subsection (b), a case management team shall certify whether or not the individual is a chronically dependent individual (as defined in subsection (d)(2)) and shall include in its certification a determination as to whether the degree of impairment of the individual is moderate or severe (as described in subsection (d)(3)).

"(d) CHRONICALLY DEPENDENT INDIVIDUAL DEFINED.—(1) In this part, for purposes of determining eligibility for home and community care, the term 'chronically dependent individual' means an individual who—

"(A) is unable to perform (without substantial assistance from another individual) at least 2 of the following activities of daily living: bathing, eating, dressing, toileting, transferring, and eating; or

"(B) has a similar level of disability due to cognitive impairment that requires substantial direction, instruction, or supervision of another individual in order—

"(i) to perform 2 or more of the activities of daily living described in subparagraph (A); or

"(ii) to remain in the home or community without causing harm to self or others because of inappropriate behavioral patterns.

"(2) In this part, for purposes of determining eligibility for nursing facility care, the term 'chronically dependent individual' means an individual who—

"(A) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living as described in paragraph (1)(A); and

"(B) has a similar level of disability due to cognitive impairment as provided in paragraph (1)(B).

"(3)(A) For purposes of this part, an individual shall be considered to have a moderate level of impairment if he or she is determined to be unable to perform without substantial assistance from another individual at least 2 of the activities of daily living described in paragraph (1)(A).

"(B) For purposes of this part, an individual shall be considered to have a severe level of impairment if he or she is determined to be unable to perform without substantial assistance from another individual at least 4 of the activities of daily living described in paragraph (1)(A).

"(e) APPEALS.—For review of certifications made under this section, see section 1869.

"PAYMENTS AND COST SHARING

"SEC. 1853. (a) PROSPECTIVE PAYMENT BASIS FOR HOME AND COMMUNITY CARE.—(1) Subject to the succeeding provisions of this section, there shall be paid from the Federal Long-Term Care Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits are payable under this part for home and community care, amounts determined under a fee schedule (or other prospectively determined reimbursement mechanism) established and annually adjusted by the Secretary under paragraph (2).

"(2) The Secretary shall establish a fee schedule (or other prospectively determined reimbursement mechanism) consistent with the following:

"(A) Except as adjusted under subparagraph (C), the schedule or mechanism shall provide for uniform national payment rates.

"(B) The Secretary shall provide for an annual adjustment in the rates under such schedule or mechanism based on the Secretary's estimate, before the beginning of the year involved, of the percentage by which the cost of the mix of goods and services comprising long-term home care (based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in long-term home care) for the year will exceed the cost of such mix of goods and services for the preceding year.

"(C) The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of payment amounts which are attributable to wages and wage-related costs of long-term home care for area differences in wage levels by a factor (established by the Secretary) reflecting the relative wage level for such care in the geographic area in which the care is provided compared to the national average wage level for such care. At least every 36 months, the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs for long-term home care in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category.

"(3) The maximum amount of payment that may be made with respect to long-term home and community care provided—

"(A) a chronically dependent individual (other than a dependent child described in section 226(h)) residing in a State in a month is an amount that the Secretary estimates is equal to the product of—

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"(i) 50 percent of the average per diem payment rate for nursing facility care in the State on a full-time basis (determined under paragraph (4)) for days in the month, in the case of an individual determined by a long-term care management agency to have a moderate impairment, or

"(ii) 65 percent of the average per diem payment rate for nursing facility care in the State on a full-time basis (determined under paragraph (4)) for days in the month, in the case of an individual determined by a long-term care management agency to have a severe impairment, and

the number of days in the month over which the individual is provided such care; or

"(B) a dependent child described in section 226(h) residing in a State in a month is an amount that the Secretary estimates is equal to the product of—

"(i) 100 percent of the per diem amount that would be payable, under the plan of the State approved under title XIX, during the month if the individual were provided appropriate care in an appropriate institutional setting and if no limit on amount, duration, or scope of covered institutional services applied other than medical necessity, and

"(ii) the number of days in the month over which the individual is provided such care.

The monthly payment limitations established under the previous sentence shall be applied on an average basis with respect to long-term home and community care furnished over any period of 4 consecutive months.

"(4) Before the beginning of each calendar year, the Secretary shall estimate, for nursing facilities located in each State, the State average per diem payment rates that would apply (under paragraph (1)) for nursing facility care in the State on a full-time basis in the year if there were no reduction for coinsurance under this part.

"(b) PER DIEM PAYMENT RATE FOR NURSING FACILITY CARE.—(1) Subject to the succeeding provisions of this section, there shall be paid from the Federal Long-Term Care Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits payable under this part for each day of nursing facility care, after the first 90 days of such care an amount equal to $63 (subject to a maximum payment amount of $1900 per month) after the copayment requirement described in paragraph (2) has been met.

"(2) The copayment requirement for nursing facility care under this part shall be $500 for each 30 days of care in such a facility.

"FEDERAL LONG-TERM CARE TRUST FUND

"SEC. 1854. (a) ESTABLISHMENT.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Long-Term Care Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such Fund as provided in this part.

"(b) INCORPORATION OF TRUST FUND PROVISIONS.—The provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as such provisions apply to the Federal Supplemental Medical Insurance Trust Fund, except that any reference to the Administrator of the Health Care Financing Administration shall be deemed a reference to the Secretary.

"(c) FUNDING.—

"(1) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(A) CERTAIN ADDITIONAL REVENUES.—There are appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by—

"(i) section 301, and

"(ii) section 302,

of the Long-Term Care Family Protection Act of 1991.

"(B) TRANSFERS BASED ON ESTIMATES.—The amounts appropriated by subparagraph (A) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than such taxes.

"(2) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make expenditures referred to in subsection (d)(3).

"(d) EXPENDITURES.—

"(1) HOME AND COMMUNITY CARE.—Payments in each calendar year from the Trust Fund as determined under section 1853(a) are hereby authorized and appropriated from the amounts determined under subsection (c)(1)(A)(i).

"(2) NURSING FACILITY CARE.—Payments in each calendar year from the Trust Fund as determined under section 1853(b) are hereby authorized and appropriated from the amounts determined under subsection (c)(1)(A)(ii).

"(3) LONG-TERM CARE ADVISORY COUNCIL.—Amounts in the Trust fund shall be available, as provided by section 1855(n), to carry out the functions of the Long-Term Care Advisory Council.".

(b) HOME CARE AGENCY DEFINED.—(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by inserting after subsection (jj) the following new subsection:

"HOME CARE AGENCY

"(kk) The term 'home care agency' means a public agency or private organization, or a subdivision of such an agency or organization, which is a home health agency (as defined in subsection (m)) or—

"(1) is primarily engaged in providing services of homemaker/home health aides and personal care aides;

"(2) maintains clinical records on all patients;

"(3) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature—

"(A) is licensed pursuant to such law, or

"(B) is approved, by the agency of such State or locality, responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

"(4) meets the conditions of participation described in section 1891(g) and such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization; and

"(5) meets such additional requirements as the Secretary finds necessary for the effective and efficient operation of the program.".

(2) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended—

(A) by inserting "nursing facility," after "skilled nursing facility", and

(B) by inserting "home care agency," after "home health agency,".

(3) Section 1861(w)(1) of such Act (42 U.S.C. 1395x(w)(1)) is amended—

(A) by inserting "nursing facility," after "skilled nursing facility", and

(B) by inserting "home care agency," after "home health agency,".

(4) Section 1863 of such Act (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (kk)".

(5) Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by inserting "or home care agency" after "home health agency", and

(B) in the second sentence, by inserting "home care agency," after "home health agency,".

(6) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by striking "or 1861(dd)(2)" and inserting "1861(dd)(2), or 1861(kk)".

(7) Section 1891 of such Act (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraph (2), the previous provisions of this section shall apply to home care agencies in the same manner as they apply to home health agencies.

"(2) In applying paragraph (1) with respect to home care agencies:

"(A) Any reference to a home health agency, home health aide, section 1861(m), or section 1861(o) (or paragraph (3) thereof) is deemed a reference to a home care agency, a homemaker/home health aide or personal care aide, and section 1851(b), or section 1861(mm) (or paragraph (2) thereof), respectively.

"(B) Any dates or deadlines specified in the previous provisions of this section shall be 1 year after the date otherwise specified.".

(c) TRUST FUND CONFORMING AMENDMENTS.—(1) Section 201(a) of such Act (42 U.S.C. 410(a)) is amended, in paragraphs (3) and (4), by inserting "and section 1854(c)(1)(A)(ii)" after "of this section".

(2) Section 1817(a) of such Act (42 U.S.C. 1395i(a)) is amended—

(A) in paragraph (1), by inserting ", less the amounts specified in section 1854(c)(1)(A)(i)" before the semicolon, and

(B) in paragraph (2), by inserting ", less the amounts specified in section 1854(c)(1)(A)(i)" before the period.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993, but no payments shall be made under title XVIII of the Social Security Act for services furnished under part C of such title before January 1, 1994.

SEC. 102. CONFORMING AND MISCELLANEOUS AMENDMENTS.

(a) ENTITLEMENT TO BENEFITS OF SOCIAL SECURITY BENEFICIARIES.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended—

(1) in subsections (a) and (b), by inserting ", and care benefits under part C," after "entitled to hospital insurance benefits under part A";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by redesignating paragraph (2) as paragraph (3), and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) entitlement of an individual to benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part C of title XVIII on his behalf for home and community care and nursing facility care furnished him in the United States during such month; and";

(D) in subsections (e)(1), (e)(4), and (f), by inserting "and long-term care benefits" after "hospital insurance benefits";

(E) in subsection (e)(3), by inserting "and long-term care benefits" after "hospital insurance benefits" the first place it appears;

(F) in subsection (e)(3), by inserting "and such long-term care benefits" after "hospital insurance benefits" the second place it appears; and

(G) in subsection (g)(1), by inserting "and for long-term care benefits under part C of such title" after "part A of title XVIII".

(b) ENTITLEMENT TO BENEFITS OF DEPENDENT CHILDREN.—Section 226 of such Act (42 U.S.C. 426) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsections:

"(h) Every individual who—

"(1) is under 19 years of age,

"(2) is—

"(A) a citizen of the United States, or

"(B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month involved,

"(3) has been certified by a trained case management team of a long-term care management agency in consultation with the individual's attending physician (or, in the absence of such a physician, any physician)—

"(A) to be chronically dependent or disabled and to be unable to perform (without human assistance or supervision) due to the individual's chronic dependence or disability at least 2 age-appropriate activities of daily living (as defined in section 1852(d)(1)), or

"(B) to require both a medical device to compensate for the loss of a vital body function necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability,

"(4) has filed an application for benefits under this subsection, and

"(5) is not otherwise eligible for benefits under part A of title XVIII,

shall be entitled to benefits for long-term home and community care under part C of title XVIII for each month beginning with the first month the individual meets the requirements of this subsection and ending with the month following the month in which the individual no longer meets such requirements.".

(c) ENTITLEMENT TO BENEFITS OF RAILROAD RETIREMENT BENEFICIARIES.—Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)) is amended—

(1) in paragraph (1)—

(A) by striking "and outpatient hospital diagnostic services" and inserting "outpatient hospital diagnostic services, home and community care, and nursing facility care", and

(B) by striking "parts A and C" and inserting "parts A, C, and D"; and

(2) in paragraphs (4) and (5), by striking "part A" each place it appears and inserting "parts A and C".

(d) OTHER INDIVIDUALS.—The provisions of section 103 of the Social Security Amendments of 1965 shall apply to community care and nursing facility care under part C of title XVIII of the Social Security Act (and the Long-Term Care Trust Fund established under such part) in the same manner as such provisions apply to hospital insurance benefits under part A of title XVIII of such Act (and the Federal Hospital Insurance Trust Fund established under such part).

(e) DETERMINATIONS AND APPEALS.—Section 1869 of the Social Security Act (42 U.S.C. 1395ff) is amended—

(1) in subsection (a), by striking "or part B" each place it appears and inserting ", part B, or part C";

(2) in subsection (a), by inserting "or part C" after "a claim for benefits under part A";

(3) in subsection (b)(1)(C), by striking "or part B" and inserting ", part B, or part C";

(4) in subsection (b)(1), by striking "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraph:

"(E) a negative certification under section 1852(b), or the determination of a level of impairment under section 1852(b)(1),"; and

(5) in subsection (b)(2)(A), by inserting "or part C" after "part A".

(f) MISCELLANEOUS.—Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting "the Federal Supplementary Medical Insurance Trust Fund, and the Federal Long-Term Care Trust Fund".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to home and community care and nursing facility care provided on or after January 1, 1994.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY ASSURANCE

SEC. 201. ASSURING SELF-FINANCING OF BENEFITS UNDER THIS ACT.

(a) STATEMENT OF PURPOSE.—The purpose of the amendment made by this section is to assure that all the additional costs to the Federal Government for home and community care resulting from the enactment of this Act do not exceed the additional revenues derived from the amendments made by section 301 of this Act.

(b) ASSURING SELF-FINANCING OF BENEFITS.—Section 1854 (42 U.S.C. 1395c) of title XVIII of the Social Security Act as added by title I of this Act is amended by adding at the end the following new subsection:

"(e)(1) Not later than 3 months before the effective date for 1994 and not later than October 1 of 1994 (and of each succeeding fiscal year), the Secretary shall, in close consultation with the Long-Term Care Advisory Council, estimate the amount (if any) for the transition period or for the succeeding fiscal year, respectively, by which—

"(A) the amounts of revenues to be transferable into the Trust Fund under subsection (c)(1)(A)(i) in that period or succeeding fiscal year exceeds or is less than—

"(B) the sum of—

"(i) the amount to be expended during that period or succeeding fiscal year under subsection (d)(1),

"(ii) the amount of claims expected to be received during that period or fiscal succeeding year under subsection (d)(1); and

"(iii) with respect to the provision of home and community care, any additional administrative costs to be expended during that period or succeeding fiscal year under this title, or under part B of title XI, as a result of the enactment of the Long-Term Care Family Protection Act of 1991.

In this paragraph, the term 'effective date' means January 1, 1994, and the term 'transition period' means the period beginning on the effective date and ending with the last day of the fiscal year in which the effective date occurs.

"(2) If the Secretary estimates under paragraph (1), with respect to a period or fiscal year, that a deficit exists, then—

"(A) the amount that is payable for home and community care furnished to any individual on each day in the period or fiscal year shall be reduced, subject to the limit established in paragraph (3), by such a copayment amount as the Secretary estimates to be necessary to reduce by ½ the amount of such deficit, and

"(B) the payment limits established under section 1853(a) for months in such period or fiscal year shall be proportionally reduced by such a percentage as the Secretary estimates to be necessary to achieve the same savings as are achieved from the application of subparagraph (A).

"(3) Any copayment amount established under paragraph (2)(A) may not exceed 5 percent of the Secretary's estimate of the national average daily payment rate for home and community care under this part for the period in which the copayment amount will be applied.".

SEC. 202. ASSURING QUALITY OF LONG-TERM HOME CARE.

(a) IN GENERAL.—Part C of title XVIII of the Social Security Act as added by title I of this Act is amended by adding at the end the following new section:

"LONG-TERM HOME AND COMMUNITY CARE QUALITY ASSURANCE

"SEC. 1855. (a) LONG-TERM HOME AND COMMUNITY CARE CONSUMERS' BILL OF RIGHTS.—The Secretary shall promulgate, by regulation, a long-term home and community care consumers' bill of rights, which shall recognize the following as rights of long-term home and community care consumers which may be asserted by the home and community care consumer receiving care under this part or the consumer's representative or guardian:

"(1) To be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle.

"(2) To be fully and promptly informed orally and in writing—

"(A) of services to be provided and any limits regarding availability of services from the home health agency or home care provider;

"(B) of whether services may be provided under this title or are covered by other sources, and whether uncompensated care may be available;

"(C) of charges for services and billing procedures, including an itemized copy of each bill submitted to any payor;

"(D) of changes in services or charges; and

"(E) of the procedures to follow if rights are violated or services are not satisfactory, including the right to a hearing before an entity other than a home health agency or a long-term care management agency.

"(3) To take an active part in creating and changing the plan of care.

"(4) To take an active part in selecting and evaluating the home health agency and the home care provider, and in selecting and evaluating treatment, care, and services.

"(5) To be served by individuals who are properly trained and competent to perform their duties.

"(6) To be fully informed by a home care provider of the provider's assessment of the home care consumer's condition, unless contradicted by documentation provided by a professional practitioner in the home care consumer's record.

"(7) To refuse all or part of any treatment, care, or service, and to be informed of the likely consequences of such refusal.

"(8) To receive treatment, care, and services in compliance with all State and local laws and regulations without discrimination in the provision or quality of services based

VOL 137 PT 23 NO 21—25 1991 UMI

on race, religion, gender, age, disability, or creed (except as provided under the Age Discrimination Act of 1975 (Public Law 94–135; 42 U.S.C. 6101 et seq.)), or because of a change in the source of payment.

"(9) To be free from mental and physical abuse, neglect, and exploitation, and to be free from chemical and physical restraints.

"(10) To receive respect and privacy in the home care consumer's treatment, care, and services in caring for personal needs, in communications, and in all daily activities.

"(11) To be assured respect for the home care consumer's property rights.

"(12) To be assured confidential treatment of personal, financial, and medical records and to approve or refuse their release to any individuals outside the agency except as otherwise required by law or third-party payment contract.

"(13) To voice grievances and recommend changes in policies and services to staff or outside representatives of the consumer's choice and to be assisted in doing so when assistance is needed, free from restraint, interference, coercion, discrimination, or reprisal by the long-term care management agency, by the home health agency, or by the home care provider.

"(14) To be free to fully exercise the consumer's civil rights and to be assisted in doing so when assistance is needed.

"(15) To receive promptly written notice from the long-term care management agency if treatment, care or services are to be reduced or terminated, and assistance to assure a smooth transition in services consistent with the welfare of the home care consumer.

"(16) To be promptly notified by the home health agency of acceptance or denial of services and the reasons for such denial.

"(b) Home Health Agency Quality Assurance Requirements.—(1) In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that to receive funding for the provision of long-term home and community care services under this part, a home health agency must within 6 months after the date of the publication of such regulations—

"(A)(i) comply with the home and community care consumer's bill of rights promulgated under subsection (a); and

"(ii) provide a written copy of such bill of rights to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency or other providers under this part;

"(B)(i) implement procedures for promptly reviewing and resolving grievances of long-term home and community care consumers regarding the provision of long-term home and community care services; and

"(ii) provide a written copy of such procedures to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency;

"(C) ensure that each long-term home and community care provider employed by or under contract with the home health agency receives training—

"(i) sufficient to meet a level of proficiency established by the Secretary in regulations (in consultation with representatives of the elderly, individuals with disabilities, and children, home health agencies, and experts in the fields of geriatric nursing, pediatric nursing, geriatric social work, pediatric social work, mental health, rehabilitation, and other appropriate health care professionals) to be appropriate in content and amount;

"(ii) which develops separate levels of proficiency in and is reflective of the range of skills required of long-term home and community care providers providing different levels of long-term home and community care services; and

"(iii) the extent of which shall be made available on request to each long-term home and community care consumer with respect to the amount of training or level of certification achieved by each long-term home and community care provider;

"(D) supervise all long-term home and community care providers employed by or under contract to the home and community health agency in accordance with regulations promulgated by the Secretary (including regular random onsite supervisory visits by registered nurses or other appropriate health care professionals); and

"(E) perform annual evaluations of quality of services rendered by long-term home and community care providers employed by or under contract to the home health agency which includes and documents long-term home and community care consumer involvement.

"(2) In addition to such other requirements as may apply, to receive funding for the provision of durable medical equipment services under this title, a home health agency or long-term home and community care provider shall in each case of a long-term home and community care consumer to which such services are provided—

"(A) issue written instructions for the operation of such equipment;

"(B) provide sufficient training to the long-term home and community care consumer, the long-term home and community care consumer's family, and staff to allow correct, safe operation of all such equipment; and

"(C) formulate an emergency plan appropriate to the services provided to the long-term home and community care consumer.

In the previous sentence, the term 'durable medical equipment services' means supply, maintenance, or training in the operation of durable medical equipment.

"(c) Long-Term Care Management Agency Quality Assurance Requirements.—In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that to receive payment for the provision of case management services under this part, a long-term care management agency must within 6 months after the date of the publication of such regulations—

"(1)(A) comply with the long-term home and community care consumers' bill of rights promulgated under subsection (a); and

"(B) provide a written copy of such bill of rights to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency under this title;

"(2)(A) implement procedures for promptly reviewing and resolving grievances of long-term home and community care consumers; and

"(B) provide a written copy of such procedures to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency;

"(3) provide to each long-term home and community care consumer (or the consumer's representative or guardian) a written statement of the services to be provided to the long-term home and community care consumer and the schedule for provision of such services, as agreed upon by the long-term home and community care consumer;

"(4) provide to each long-term home and community care consumer a clear written statement as to how the consumer, or the consumer's representative or guardian, may appeal benefit and level decisions made by the agency;

"(5) maintain procedures that assure prompt access to long-term home and community care services for eligible long-term home and community care consumers;

"(6) ensure that personnel providing case management services to long-term home and community care consumers have received adequate training as prescribed in regulations by the Secretary, in consultation with the Long-Term Care Advisory Council; and

"(7) establish and implement case management processes which include—

"(A) a plan of care which states reasonable and measurable client objectives and long-term home and community care services to be provided to meet the objectives;

"(B) a plan of care that employs outcome measures insofar as they are appropriate and available for each long-term home and community care consumer served;

"(C) methods for periodic review of—

"(i) a long-term home and community care consumer's needs; and

"(ii) the plan of care for a long-term home and community care consumer;

"(D) methods for follow-up and on-going monitoring of patient and services delivery; and

"(E) a statement of criteria and procedures for discharge or transfer to another agency, program, or service.

"(d) Survey Requirements.—(1) The Secretary shall, in consultation with the Long-Term Care Advisory Council, promulgate regulations which establish procedures for surveying long-term care management agencies regarding compliance with conditions of participation established by this section.

"(2) Regulations promulgated under paragraph (1) shall include—

"(A) survey methodologies which include—

"(i) patient-oriented assessment techniques;

"(ii) process and outcome criteria for measuring the compliance of long-term care management agencies with conditions of participation under this title; and

"(iii) randomized, onsite review of a representative sample of long-term home and community care consumers to evaluate compliance with applicable conditions of participation;

"(B) a graduated schedule of unannounced surveys that provides surveys—

"(i) not less than every 9 months for long-term care management agencies that are determined by the Secretary to have a substandard record of compliance with applicable conditions of participation;

"(ii) not less than every 15 months for long-term care management agencies that are determined by the Secretary to have consistently satisfactory records of compliance with the applicable conditions of participation; and

"(iii) not less than every 12 months for other such agencies.

"(3) The results of surveys performed under this subsection shall be provided to the Long-Term Care Advisory Council and community advisory boards established under subsection (e)(1) and shall be made available to others in accordance with this title.

"(4)(A) The Secretary may enter into a contract with a State under which a State, which has survey and enforcement procedures which are determined by the Secretary to be at least equivalent to the survey and enforcement procedures which the Secretary would otherwise apply under this section, shall conduct surveys of compliance of long-term care management agencies (other than those owned or operated by a State) with the requirements of this section and provide for the annual transmittal to the Secretary of the results of such State surveys.

"(B) The Secretary shall develop and implement procedures for annually validating a representative sample of surveys of long-term care management agencies performed by States under subparagraph (A).

"(C) Procedures developed under subparagraph (B) shall provide for review of such surveys within 1 month after the performance of such a survey.

"(e) Quality Assurance System Through Peer Review Organizations.—(1)(A) The Secretary shall promulgate regulations under which peer review organizations shall monitor the provision of home health services and long-term home and community care.

"(B) In awarding, administering, and evaluating contracts entered into with peer review organizations of the performance of monitoring under this subsection, the Secretary shall—

"(i) take into consideration information contained in reports issued by Consumer Boards under paragraph (2)(C)(iii);

"(ii) require that at least ¾ of the level of effort of a peer review organization shall be for the purpose of monitoring the quality of home health services and long-term home and community care provided;

"(iii) require that the remainder of the effort of a peer review organization shall be for the purpose of review, on the basis of exceptional circumstances and on the health and safety of the home and community care consumer, of the appropriateness and necessity of care denied under this title;

"(iv) require that any review by a peer review organization of a home health agency or a home and community care management agency include a representative sample of documentary reviews and personal interviews of home and community care consumers and home and community care providers;

"(v) require that if any portion of a peer review organization's responsibilities are provided by a third party under contract with the peer review organization the fulfillment of such responsibilities are fully integrated with other functions of such peer review organization; and

"(vi) require that the membership of a peer review organization board include representatives of all types of home and community care providers reviewed by the peer review organization and consumers under section 9353(b) of the Omnibus Budget Reconciliation Act of 1986.

"(C) A peer review organization performing monitoring functions under this subsection may not be—

"(i) a home health agency;

"(ii) a home and community care management agency;

"(iii) a home and community care provider; or

"(iv) a fiscal intermediary.

"(D) The Secretary shall make available to a peer review organization such information as may be necessary for it to carry out its responsibilities under this paragraph.

"(E) A peer review organization may recommend to the Secretary sanctions to be applied to home health agencies and to home and community care management agencies who have been found to have not met professionally recognized standards of care.

"(2)(A) The Secretary shall establish a Consumer Board in each State within 1 year after the date of the enactment of this section.

"(B)(i) A Consumer Board shall be composed of at least 5 and not more than 7 members appointed by the Secretary based on recommendations from organizations in each State representing home and community care consumers who are entitled to benefits under this title. Members must be entitled to benefits under this title or be representatives of organizations which represent home and community care consumers who are entitled to such benefits.

"(ii) Limited staff support and training shall be provided to a Consumer Board by the Secretary as is necessary to carry out its functions.

"(C) A Consumer Board shall—

"(i) monitor the review activities of peer review organizations by—

"(I) providing input into the awarding of contracts to peer review organizations; and

"(II) evaluating the contracts of peer review organizations and the mechanisms established to monitor home health agencies and home and community care management agencies;

"(ii) have access to—

"(I) information of peer review organizations,

"(II) results of State surveys conducted under subsection (d)(4)(A), and

"(III) information from toll-free hotlines (established under paragraph (3)), after protection of the identities of individual health care providers and consumers; and

"(iii) file an annual report with the Secretary and the chief executive officer of the State on October 1 of each year regarding the performance during the previous year of peer review organizations.

"(D) A Consumer Board shall not be involved in the day-to-day operation of peer review organizations.

"(3) Peer review organizations shall establish and operate statewide toll-free hot-lines for receiving questions and complaints from home and community care consumers, home and community care providers, and other interested persons concerning home and community care quality issues.

"(4) The Secretary shall require peer review organizations to assist home and community care consumers in the resolution of problems related to the quality of home and community care services and case management services.

"(5) Consumer Boards established under paragraph (2) and peer review organizations shall coordinate with State and local government officials to educate home and community care consumers regarding quality assurance programs and the various forms of assistance available to home and community care consumers with quality assurance problems under this title.

"(f) Community Advisory Boards and Additional Quality Assurance.—(1) Each State shall establish and appoint (based on the recommendations of long-term home and community care consumers, their representatives, and organizations representing these individuals and pursuant to regulations of the Secretary) members to a community advisory board (in this subsection referred to as the 'board') for each long-term care management agency. Each board shall be composed of long-term home and community care consumers and their families, representatives of agencies and organizations representing long-term home and community care consumers and professionals providing services to chronically ill individuals. Long-term home and community care consumers, their families, or their representatives shall form a majority of the members of each board. The Secretary shall provide limited staff support to each board as is necessary to carry out its functions.

"(2) Each board shall—

"(A) monitor the activities of the long-term care management agencies,

"(B) provide input in the selection of long-term care management agencies,

"(C) file a report with the Secretary on the findings of its monitoring not less frequently than annually, and

"(D) have prompt access to results of surveys and of investigations of complaints of the long-term care management agency with respect to which it was established and home health agencies providing long-term home and community care services to individuals in the area served by the agency.

Each report under subparagraph (C) shall be reviewed and its findings incorporated into the survey of long-term care management agencies under subsection (d).

"(3)(A) The Secretary shall develop and implement methods for monitoring the continuity of care provided to long-term home and community care consumers throughout episodes of illness and across care settings.

"(B) The Secretary shall develop and implement outcome-oriented criteria for use in determining quality assurance in long-term home and community care services.

"(g) Sanctions.—(1) The Secretary shall develop and implement a range of intermediate sanctions and procedures implementing such sanctions to be applied to long-term care management agencies providing case management services under this title for failing to comply with this section.

"(2) Sanctions and procedures established under paragraph (1) shall—

"(A) include civil monetary penalties (under the procedures described in section 1128A), a ban on admissions, receivership, and emergency authority to decertify home health agencies and long-term care management agencies;

"(B) include specific criteria as to when and how each sanction is to be applied and the amounts of any fines and penalties;

"(C) be designed so as to minimize the time between the identification of violations and final imposition of the sanctions;

"(D) provide for a plan and schedule for corrective action by home health agencies found to be out of compliance with conditions of participation; and

"(E) require public disclosure of failures of home health agencies and long-term care management agencies to meet professionally recognized standards of care, and the sanctions imposed for such failures.

"(3) The Secretary shall file an annual report with the Congress on January 1 of each year regarding the availability, adequacy, and use of sanctions to correct failures of long-term care management agencies to meet the requirements of this title.

"(h) Development of Licensing Policies.—The Secretary shall—

"(1) encourage States to develop policies and procedures for the licensing of home health agencies;

"(2) gather information relating to activities of States in implementing licensing policies and procedures; and

"(3) issue a biannual report which summarizes information gathered under paragraph (2).

"(i) Long-Term Care Advisory Council.—

"(2) Each report required by paragraph (1)

cial Security Act) such term shall not in-

(42 U.S.C. 1395i-2(a)) as amended by sub-

LONG-TERM CARE FAMILY PROTECTION ACT

ther requirements as provided by the Sec-

VOL 137
PT 23
NO 21—25
1991
UMI

"(i) LONG-TERM CARE ADVISORY COUNCIL.—(1)(A) There shall be established, no later than 60 days after the date of the enactment of this section, an independent body to be known as the Long-Term Care Advisory Council (in this subsection referred to as the 'Council').

"(B) The Council shall be composed of 13 individuals appointed by the Secretary and shall include, to the greatest extent possible, individuals with expertise in pediatrics, geriatrics, rehabilitation, gerontology, disability, case management of home and community-based services and payment for such services, home and community-based care providers and their representatives, professionals with expertise in long-term care (including nurses, social workers, and discharge planners and physicians), third-party payers, long-term care ombudsmen, peer review organizations, and State and local health and social service agency representatives. Appointments to the Council shall be for a term of not to exceed 4 years.

"(2) The purposes of the Council are—

"(A) to assist the Secretary in assuring the prompt and efficient implementation of the provisions of this part,

"(B) to review regularly the implementation of such provisions, and

"(C) to recommend to the Secretary and the Congress any needed changes or refinements to such provisions or regulations promulgated to implement such provisions.

The Secretary shall regularly and closely consult with the Council in the implementation and administration of the provisions of this part, including the issuance of regulations to carry out such provisions. The Secretary (or the Secretary's designee) shall meet with the Council at least once every month during the 24-month period beginning 2 months after the date of the enactment of this part, and at least quarterly thereafter, for these purposes.

"(j) STUDIES.—(1)(A) The Secretary shall conduct studies on quality assurance measures for long-term home and community care services provided under this part.

"(B) Studies referred to in subparagraph (A) shall include examination of—

"(i) methodologies which develop and evaluate outcome standards in the provision of long-term home and community care services;

"(ii) mechanisms for ensuring and monitoring long-term home and community care quality by episode of care;

"(iii) the role of case management for ensuring quality in provision of long-term home and community care services;

"(iv) the differing approaches to and responsibility for the development of a plan of long-term home and community care services; and

"(v) the impact on quality of care of—

"(I) the separate reimbursement for supply of durable medical equipment to long-term home and community care consumers; and

"(II) the training of long-term home and community care consumers and their families in the operation of such equipment.

"(2) The Secretary shall report to Congress, by not later than 2 years after the date of the enactment of this part, on the findings of studies funded under paragraph (1).

"(k) REPORTS ON QUALITY ASSURANCE SYSTEM.—(1) The Secretary shall prepare (in consultation with the Long-Term Care Advisory Council) and file an annual report with the Congress on January 1 of each year regarding the nature and performance during the preceding fiscal year of the home and community care quality assurance system established under subsection (e).

"(2) Each report required by paragraph (1) shall include information regarding—

"(A) the number of individuals served by long-term home and community care providers subject to the provisions of this section;

"(B) the amount of Federal funds expended for long-term home and community care services under this title;

"(C) examination of noncompliance with the provisions of this section by long-term home and community care providers who received funds under this title and the sanctions imposed;

"(D) the economic impact on home health agencies of requiring them to comply with the requirements of this section;

"(E) the impact of the requirements of this section on availability of long-term home and community care services in rural areas and to members of minority and ethnic groups;

"(F) the concerns and recommendations of community advisory boards and Consumer Boards; and

"(G) the status of studies undertaken under subsection (j).

"(l) DEFINITIONS.—For purposes of this section:

"(1) The term 'long-term home and community care consumer' means a chronically dependent individual who is provided long-term home and community care services.

"(2) The term 'long-term home and community care provider' means an individual who provides long-term home and community care services directly to a home and community care consumer.

"(3) The term 'long-term home and community care services' means home health services and long-term home and community care.

"(4) The term 'Consumer Board' means a Consumer Board established under subsection (e)(2).

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Long-Term Care Trust Fund such sums as may be necessary in each fiscal year to carry out the provisions of this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of enactment of this Act.

TITLE III—FINANCING OF LONG-TERM CARE

SEC. 301. SOURCE OF REVENUE FOR HOME AND COMMUNITY CARE.

(a) ELIMINATION OF LIMIT ON WAGES OR SELF-EMPLOYMENT INCOME SUBJECT TO HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Section 230 of the Social Security Act (42 U.S.C. 430) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this Act or of the Internal Revenue Code of 1986, this section shall not have the effect of limiting the total amount of any individual's net earnings from self-employment or remuneration for employment which is subject to the hospital insurance tax under section 1401(b), 3101(b), or 3111(b) of the Internal Revenue Code of 1986; and sections 1402(b)(1) and 3121(a)(1) of such Code shall not apply in determining the amount of any individual's wages and self-employment income for purposes of that tax."

(2) CONFORMING AMENDMENTS.—

(A) Section 1402(b) of the Internal Revenue Code of 1986 (defining self-employment income) is amended by striking "except that such term shall not include" in the matter preceding paragraph (1) and inserting "except that (subject to section 230(e) of the Social Security Act) such term shall not include".

(B) Section 3121(a) of such Code (defining wages) is amended by striking "except that such term shall not include" in the matter preceding paragraph (1) and inserting "except that (subject to section 230(e) of the Social Security Act) such term shall not include".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1992, and with respect to earnings from self-employment attributable to taxable years beginning after such date.

SEC. 302. SOURCE OF REVENUE FOR NURSING FACILITY CARE.

(a) INCREASE IN FICA TAXES.—

(1) TAX ON EMPLOYEES.—The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	The rate shall be:
1992	6.2 percent
1993 or thereafter	6.7 percent ."

(2) TAX ON EMPLOYERS.—The table in section 3111(a) of such Code (relating to rate of tax on employers for old-age survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	The rate shall be:
1992	6.2 percent
1993 or thereafter	6.7 percent ."

(b) TAX ON SELF-EMPLOYMENT INCOME.—The table in section 1401(a) of the Internal Revenue Code of 1986 (relating to rate of tax on self-employment income for old-age survivors, and disability insurance) is amended to read as follows:

"In the case of a taxable year

Beginning after:	And before:	Percent:
December 31, 1989.	January 1, 1993.	12.4
December 31, 1992.	....	13.4."

TITLE IV—MEDICARE BUY-IN FOR INDIVIDUALS WITH DISABILITIES

SEC. 401. PERMITTING INDIVIDUALS WITH DISABILITIES TO PURCHASE MEDICARE COVERAGE DURING THE 24-MONTH WAITING PERIOD FOR MEDICARE ENTITLEMENT; PERMITTING INDIVIDUALS WITH DISABILITIES NOT ENTITLED TO LONG-TERM CARE BENEFITS TO BUY INTO MEDICARE TO OBTAIN SUCH BENEFITS.

(a) DISABILITY BUY-IN.—Section 1818(a) of the Social Security Act (42 U.S.C. 13951–2(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) has not attained the age of 65 and would be described in section 226(b)(2) if the phrases ', and has for 24 calendar months been entitled to,' ', and has been for not less than 24 months,' and 'including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted from subparagraphs (A), (B), and (C)(ii), respectively, of such section,";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) LIMITED BUY-IN FOR LONG-TERM HOME CARE BENEFITS.—Section 1818(a) of such Act (42 U.S.C. 13951–2(a)) as amended by subsection (a), is further amended by adding at the end the following: "In enrolling under this section, for months beginning with the first month that begins 1 year after the date of the enactment of this sentence, an individual has the option of enrolling for all benefits under this part or, for long-term care benefits described in part C of this title, or for both.".

(c) PREMIUMS.—Section 1818(d) of such Act (42 U.S.C. 13951–2(d)) is amended—

(1) in the first sentence of paragraph (2), by striking "for months occurring in the following calendar year" and inserting before the period the following: "for benefits (other than for long-term care benefits described in part C of this title) for months occurring in the following calendar year for individuals described in subsection (a)(1)"; and

(2) by adding at the end the following new paragraphs:

"(4) The Secretary shall, during the next to last calendar quarter of each year, determine and promulgate the dollar amount which shall be applicable for premiums (other than for long-term care benefits described in part C of this title) for months occurring in the following year for individuals described in subsection (a)(1). Such amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such individuals will equal 100 percent of the total of the benefits and administrative costs which he estimates will be payable from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such individuals (other than with respect to long-term care benefits). In calculating such amount the Secretary shall include an appropriate amount for the contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or, if a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1.

"(5) The Secretary shall, during the first calendar quarter of 1993 and during the next to last calendar quarter of each year (beginning with 1993), determine and promulgate the dollar amount which shall be applicable for premiums for individuals enrolled for long-term care benefits under this section for months occurring in 1993 or in the following year, respectively. Such amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount for such period or calendar year with respect to individuals so enrolled will equal 50 percent of the benefits and administrative costs which will be payable from the Federal Long-Term Care Trust Fund for long-term care benefits provided and related administrative costs incurred in the period of year with respect to individuals so enrolled under this section. In calculating such amount the Secretary shall include an appropriate amount for the contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning on or after January 1, 1993.

LONG-TERM CARE FAMILY PROTECTION ACT SECTION-BY-SECTION SUMMARY

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

Sec. 101. New Part C Long-Term Care Program

Scope of Benefits

SEC. 1851. Establishes an entitlement in the Social Security Act, in a new Part C of Medicare, for payment for home and community care and nursing facility care for individuals determined by a long-term care management agency to be eligible for such care.

Home and Community Care Defined

Home and community care consists of items and services furnished by a home care agency (or others under arrangement with such an agency) and provided in a place of residence or on an outpatient basis at a hospital, skilled nursing facility or rehabilitation center. Items or services must be furnished under a written plan of care reflecting the invididual's needs as determined in an assessment by a long-term care management agency. The written plan of care is to be periodically reviewed and revised by the long-term care management agency.

Home- and community-based items and services include case management services; nursing care provided by or under the supervision of a registered professional nurse; services of homemaker/home-health aide who has completed a training and competency evaluation program approved by the Secretary; medical social services; personal care services; physical, occupational, speech, or respiratory therapy, or rehabilitative services; medical supplies (other than drugs and biologicals) and durable medical equipment, while under the plan; medical services provided by an intern or resident in training of a hospital affiliated with the home health agency; respite services for family caregivers; adult daycare services (including at least one meal a day).

Home- and community-based services at a facility other than an individual's place of residence shall be provided to the extent the individual is there to receive case management or other services not readily available in the individual's place of residence, but shall not include transportation to and from a facility.

Nursing Facility Care Defined

Nursing facility care consists of items and services that would be provided to hospitals, inpatients under Medicare, including nursing care provided by or under the supervision of a registered professional nurse; bed and board; physical, occupational, respiratory, or speech-language therapy furnished by the facility or by others under arrangement with the facility; medical social services; drugs, biologicals, supplies, appliances and equipment as ordinarily furnished by the facility for the care and treatment of residents; medical services provided by an intern or resident-in-training of a hospital with which the facility has a transfer agreement under Medicare, under an approved teaching program, and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement; and other services necessary to the health of residents as are generally provided by nursing facilities.

Nursing Facility Defined

A nursing facility is a skilled nursing facility as defined under Part A of Medicare; a nursing facility as defined under Medicaid; or an intermediate or custodial nursing facility that meets the license requirements of the state in which it operates and such further requirements as provided by the Secretary.

Long-Term Care Management Agency Defined

A long-term care management agency is a government agency or organization (or its subdivision, or a private nonprofit agency or organization if there is no government long-term care management agency serving the area) that demonstrates expertise in managing health and social services for elderly individuals and is capable of completing an assessment and arranging for services within a reasonable period of time following a referral. The long-term care management agency must provide only case management services and must make arrangements with a home care agency (with which it does not have direct or indirect ownership or control) to provide prescribed home care.

The long-term care management agencies must have policies established by a group of professionals, including one or more registered nurses, one or more physicians, and one or more social workers. It must maintain a sufficient number of case management teams trained in the process of determining eligibility and assessing the needs of chronically dependent individuals. Such teams shall include at least a registered professional nurse and a licensed social worker; in the case of the assessment of an individual under 19, a physician; and other health professionals (including rehabilitation professionals) as are appropriate. Where state and local law provides for the licensing of agencies or organizations of this nature, the long-term care management agency must be licensed pursuant to such law or approved by the licensing agency as meeting licensing standards.

The long-term care management agency must be designated by the Secretary and must meet conditions of participation as the Secretary, in consultation with the Long-Term Care Advisory Council, may find necessary.

The Secretary may temporarily waive the requirements for a long-term care management agency (with the exception that it be a government or private nonprofit agency or organization with demonstrated expertise and ability to carry out its responsibilities in a reasonable period of time) in the case of an agency or organization serving a rural area or designated health manpower shortage area. A waiver would be granted for one year at a time if failure to grant such a waiver would significantly limit access to long-term home care and if the agency or organization is making good faith efforts to meet the requirements of this part.

Eligibility for Certain Dependent Children and Others

Individuals eligible under this part are those persons eligible under Part A of Medicare and dependent children under age 19 who are determined by the long-term care management agency to be eligible for home and community care under this part.

Assessments and certifications of entitlement

Initial Assessment

SEC. 1852. Each individual entitled to benefits under this part must receive an assessment and be certified as a chronically dependent individual. The long-term care management agency shall conduct an initial assessment of each individual to determine the level of care to which such individual is eligible.

Certifications

Following the initial assessment, a case management team shall certify whether or

VOL 137 PT 23 NO 21—25 1991 UMI

not the individual is a chronically dependent individual eligible for home and community care or for nursing home care. The team shall include in its certification a determination as to whether the degree of impairment is moderate or severe. In the case of certification for home and community care, the team shall establish a plan of care consistent with the degree of impairment.

Chronically Dependent Individual Defined

A chronically dependent individual is an individual who is unable to perform (without substantial assistance from another individual) multiple activities of daily living (bathing, dressing, toileting, transferring, or eating) or has a similar level of disability due to cognitive impairment that requires substantial direction, instruction, or supervision to perform 2 or more of the activities of daily living or to remain in the home or community without causing harm to self or others because of inappropriate behavioral patterns.

For purposes of determining eligibility for nursing facility care, the term chronically dependent individual means an individual who is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living or has a similar level of disability due to cognitive impairment.

A person shall be considered to have a moderate level of impairment if he or she is unable to perform at least 2 of the activities of daily living; an individual shall be considered to have a severe level if impairment if he or she is unable to perform at least 4 of the activities of daily living.

Appeals of certification decisions shall be carried out under provisions applicable for appeals of benefits for Medicare Part A.

Payments and cost sharing

Prospective Payment Basis for Home and Community Care

SEC. 1853. Amounts shall be paid from the Federal Long-Term Care Trust Fund for the expenses of providing home and community care for eligible persons under this part. Such amounts shall be determined under a fee schedule or other prospectively determined reimbursement mechanism established and annually adjusted by the Secretary. The fee schedule or reimbursement mechanism shall provide for uniform national payment rates.

The Secretary shall provide for annual adjustment in the rates based on an estimate, before the beginning of the year, of the percentage by which the cost of the mix of goods and services comprising long-term home care (based on an index of appropriately weighted indicators of changes in representative wages and prices) for the year will exceed the cost of such mix of goods and services for the preceding year.

The Secretary shall adjust the proportion of payment amounts attributable to wages and wage-related costs of long-term home care for area differences in wage levels by a factor reflecting the relative wage level for such care in the geographic area in which the care is provided compared to the national average wage level for such care. The Secretary shall update this factor at least every 36 months on the basis of a survey of the wages and wage-related costs for long-term home care in the United States. To the extent feasible, such survey shall measure the earnings and paid hours of employment by occupational category.

The maximum monthly payment that may be made with respect to long-term home and community care provided a chronically dependent individual (other than a dependent child) with a moderate impairment is 50% of the average per diem rate for full-time nursing facility care in the state multiplied by the days in the month the individual is provided such care. For an individual determined to have a severe impairment, the maximum monthly amount is 65% of the average per diem rate for full-time nursing facility care in the state multiplied by the days in the month the individual is provided such care.

The amount of payment for a dependent child in a month is 100% of the per diem amount that would be payable in a month under the state's plan for Medicaid if the individual were provided appropriate care in an institutional setting and if there were no limit on amount, duration or scope of covered services applied other than medical necessity, multiplied by the number of days in the month the individual is provided such care.

Monthly payment limitations shall be applied on an average basis with respect to long-term home and community care furnished over any period of 4 consecutive months.

Before the beginning of each calendar year, the Secretary shall estimate, for nursing facilities located in each state, the state average per diem payment rates that would apply for nursing facility care in the state on a full-time basis if there were no reduction for coinsurance under this part.

Per Diem Payment Rate for Nursing Facility Care

Amounts shall be paid from the Federal Long-Term Care Trust Fund for the expenses of providing nursing facility care for eligible persons under this part. The amount available to an individual shall be, following the first 90 days of nursing facility care, $63 for each day of care (subject to a maximum payment amount of $1900 per month) after the copayment requirement has been met. The copayment requirement for nursing facility care under this part shall be $500 for each 30 days of care in such a facility.

Federal long-term care trust fund

Establishment

SEC. 1854. There is created on the books of the Treasury of the U.S. a Federal Long-Term Care Trust Fund. The Trust Fund shall consist of gifts and bequests and such amounts as may be deposited in or appropriated to the Fund as provided in this part.

Funding

There are appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as a result of amendments made by this Act. Not less frequently than monthly, amounts estimated by the Secretary of the Treasury to represent the taxes paid to or deposited in the Treasury as a result of these amendments shall be transferred to the Trust Fund. Additional sums are authorized to be appropriated to the Trust Fund as may be required to make expenditures for nursing facility care.

Payments each year from the Trust Fund for home and community care are authorized and appropriated from the amounts determined under the provisions of this Act eliminating the limit on wages or self-employment income subject to the hospital insurance tax.

Payments each year from the Trust Fund for nursing facility care are authorized and appropriated from the amounts determined under the provisions of this Act increasing FICA taxes on employers and employees by .5%.

Amounts in the Trust Fund shall be available to carry out the functions of the Long-Term Care Advisory Council.

Home care agency defined

A home care agency is a public agency or private organization (or a subdivision) that is a home health agency as defined under Medicare or is primarily engaged in providing services of homemaker/home health aides and personal care aides; maintains clinical records on all patients; meets any applicable state or local licensing requirements; meets conditions of participation for an approved home health agency under Medicare and other conditions the Secretary may find necessary.

Conforming Amendments

Title XVIII of the Social Security Act is amended in appropriate places to include references to nursing facilities and home care agencies. Reference to a home health agency or home health aide is deemed a reference to a home care agency, a homemaker/home health aide or personal care aide. Provisions of the Federal Hospital Insurance Trust Fund are amended to include provisions for the Long-term Care Trust Fund.

Effective Date

Provisions authorizing the appropriation of funds to the Long-Term Care Trust Fund become effective January 1, 1993, but no payments shall be made for services under this part before January 1, 1994.

Miscellaneous Amendments

Various provisions of the Social Security Act are amended to include appropriate references to long-term care benefits under part C.

Entitlement to Benefits of Dependent Children

Persons intitled to benefits for long-term home and community care include every individual who is under 19 years of age; is a citizen of the U.S. or an alien lawfully admitted for permanent residence who has resided in the U.S. continuously during the 5 years immediately preceding the month involved; has been certified by a trained case management team of a long-term care management agency, in consultation with an attending physician, to be chronically dependent or disabled. The individual must be certified to be unable to perform (without human assistance or supervision) at least 2 age-appropriate activities of daily living or to require both a medical device to compensate for the loss of a vital body function necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability; has applied for these benefits and is not otherwise eligible for benefits under part A of Medicare.

Entitlement to Benefits of Railroad Retirement Beneficiaries

The Railroad Retirement Act of 1974 is amended to include home and community care and nursing facility care.

Determinations and Appeals

The hearing and judicial review procedures for appeals of Medicare part A benefits are made available to persons appealing a negative certification or any other determination with respect to a claim for benefits under this part.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY ASSURANCE

Assuring self-financing of benefits

The additional costs to the Federal Government for home and community care resulting from this Act are not to exceed the revenues derived from amendments made by this Act.

Not later than 3 months before the effective date for home and community care benefits, the Secretary, in consultation with the Long-Term Care Advisory Council, shall estimate the amounts transferable to the Trust Fund and the amounts expected to be expended during the succeeding year for home and community care. If the Secretary estimates that a deficit exists, the amount payable for home and community care shall be reduced by a copayment amount (no more than 5% of the national average daily payment rate for home and community care) necessary to reduce the amount of the deficit by one-half. The Secretary shall also reduce the maximum monthly payment limits for home and community care by a percentage estimated to be necessary to reduce the deficit by one-half.

Sec. 202. Assuring quality of long-term home care

Long-Term Home and Community Care Quality Assurance

SEC. 1855. Long-Term Home and Community Care Consumers' Bill of Rights.—The Secretary shall promulgate by regulation a long-term home and community care consumers' bill of rights that may be asserted by the consumer or the consumer's representative. These include the right to be treated with courtesy, respect and full recognition of one's dignity, individuality and right to control one's own household and lifestyle.

The individual has a right to be fully informed of services to be provided and any limit on services; of whether services may be covered by other sources and whether uncompensated care may be available; of charges for services and any changes in services or charges; of procedures to follow if rights are violated or services are not satisfactory.

The individual has a right to take an active part in creating or changing the plan of care and selecting and evaluating the home care provider, the treatment, care and services.

The individual has a right to be served by persons who are properly trained and competent to perform their duties.

The individual has a right to be fully informed of the assessment of his or her condition, unless documentation of a professional practitioner contradicts this right.

The individual has the right to refuse all or part of any service and to be informed of the likely consequence of the refusal.

The individual has the right to receive treatment, care and services without discrimination in the provision or quality of service based on race, religion, gender, age, disability or creed or because of a change in the source of payment.

The individual has the right to be free from mental and physical abuse, neglect and exploitation and to be free from chemical and physical restraints.

The individual has the right to receive respect for property rights; privacy in caring for personal needs, communications and all daily activities; and confidential treatment of personal, financial and medical records.

The individual has the right to voice grievances and recommend changes in policies to staff or outside representatives of the consumer's choice and to be assisted when needed, free from restraint, interference, coercion, discrimination, or reprisal by the long-term care management agency, the home health agency, or the home care provider.

The individual has the right to be free to fully exercise his or her civil rights and to be assisted in doing so.

The individual has the right to receive prompt notice if services are to be reduced or terminated, assistance to assure smooth transition in services, and prompt notice of acceptance or denial of services and reasons for denial.

HOME HEALTH AGENCY QUALITY ASSURANCE REQUIREMENTS

The Secretary shall promulgate regulations making payment for the provision of long-term home and community care services contingent upon compliance, within 6 months of promulgation, with the home and community care consumer's bill of rights and with the following:

The agency shall provide a written copy of the bill of rights to each consumer or his or her representative.

The agency shall provide a written copy of and implement procedures for prompt review and resolution of grievances in the provision of services.

The agency shall ensure that each long-term care provider receives training sufficient to meet a level of proficiency established by the Secretary in consultation with representatives of the elderly, children and individuals with disabilities, and with appropriate health and social service professionals. Training must develop separate levels of proficiency and reflect the range of skills needed to provide different levels of longterm home and community care. The extent of training and level of certification of each provider shall be available on request to the long-term home and community care consumer.

The agency shall supervise all of its providers under regulations promulgated by the Secretary (including regular random, onsite visits by registered nurses or other appropriate health care professionals) and perform annual evaluations of quality of services. Evaluations must include and document consumer involvement.

To receive funding for provisions of durable medical equipment services a home health agency or long-term home and community care provider shall provide for each consumer receiving the services written instructions for the operation of the equipment; sufficient training to the consumer, the family and staff to allow correct, safe operation of the equipment; and an emergency plan appropriate for the services to the consumer.

Long-Term Care Management Agency Quality Assurance Requirements

The Secretary shall promulgate regulations making payment for the provision of case management services contingent upon compliance, within 6 months of promulgation, with the home and community care consumer's bill of rights and with the following:

The agency shall provide a written copy of the bill of rights to each consumer or his or her representative.

The agency shall provide a written copy of and implement procedures for prompt review and resolution of grievances in the provision of services.

The agency shall provide a written statement of the services to be provided, the schedule for provision of services and how the consumer or his or her representative or guardian may appeal the benefit decisions made by the agency.

The agency shall maintain procedures that assure prompt access to long-term home and community care services for eligible consumers.

The agency shall ensure that personnel providing case management services have received adequate training as prescribed in regulations by the Secretary, in consultation with the Long-Term Care Advisory Council.

The agency shall establish and implement case management processes that include a plan of care stating reasonable and measurable client objectives, services to meet the objectives, and outcome measures to the extent appropriate and available for each consumer served. The processes must include methods for periodic review of the consumer's needs and plan of care, methods for follow-up and on-going monitoring of service delivery, and a statement of criteria and procedures for discharge or transfer to another agency, program, or service.

Survey Requirements

The Secretary, in consultation with the Long-Term Care Advisory Council, shall promulgate regulations establishing procedures for surveying long-term care management agencies regarding compliance with conditions of participation. The regulations shall include survey methodologies that include patient-oriented assessment techniques; process and outcome criteria for measuring compliance; and randomized onsite review of a representative sample of consumers.

The regulations shall include a graduated schedule of unannounced surveys not less than every 9 months for long-term care management agencies determined to have a substandard record of compliance; not less than every 15 months for agencies determined to have consistently satisfactory records of compliance; and not less than every 12 months for other such agencies.

The results of surveys shall be provided to the Long-Term Care Advisory Council, community advisory boards and others.

In the case of a state that has survey and enforcement procedures equivalent to the procedures the Secretary would apply, the Secretary may enter into a contract for the states to conduct the compliance survey required by this section. The Secretary shall develop and implement procedures for annually validating a representative sample of surveys performed by states. Such validation review shall take place within 1 month after the performance of a survey.

Quality Assurance System Through Peer Review Organizations

The Secretary shall promulgate regulations under which peer review organizations shall monitor the provision of home health services and long-term home and community care. In awarding, administering, and evaluating contracts entered into with peer review organizations, the Secretary shall take into consideration information contained in reports issued by Consumer Boards; require that at least ¾ of the level of effort of the peer review organization shall be for the purpose of monitoring the quality of home health services and long-term home and community care; require that the remainder of the efforts shall be for the purpose of review, on the basis of exceptional circumstances and on the health and safety of the consumer, of the appropriateness and necessity of care denied under this title.

The Secretary shall also require that any review include a representative sample of documentary reviews and personal interviews of home and community care consumers and providers; require that any responsibilities carried out by a third party under contract with the peer review organization

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By Mr. WELLSTONE:

VOL 137 PT 23 NO 21—25 1991 UMI

are fully integrated with other functions of the organization; and require that the membership of the peer review organization board include representatives of all types of home and community care providers reviewed by the organization and consumers under section 9353(b) of the Omnibus Budget Reconciliation Act of 1986.

A peer review organization performing functions under this subsection may not be a home health agency; a home and community care management agency; a home and community care provider; or a fiscal intermediary.

The Secretary shall make available to a peer review organization such information as may be necessary for it to carry out its responsibilities, and the organization may recommend to the Secretary sanctions to be applied to home health agencies and to home and community care management agencies that have not met professionally recognized standards of care.

The Secretary shall establish a Consumer Board in each state within 1 year after the date of enactment of this section. The Board shall be composed of at least 5 and not more than 7 members appointed by the Secretary on the basis of recommendations from organizations in each state representing home and community care consumers entitled to benefits under this title. The Secretary shall provide limited staff support and training as is necessary for the Board to carry out its functions.

A Consumer Board shall monitor the review activities of peer review organizations by providing input into the awarding of contracts and by evaluating the contracts and mechanisms established to monitor home health agencies and home and community care management agencies. A Board shall have access to information of peer review organizations, results of state surveys, and information from toll-free hotlines after protection of identities of individual providers and consumers. A Board shall file an annual report with the Secretary and the chief executive officer of the state on October 1 of each year regarding the performance of peer review organizations during the previous year. A Board shall not be involved in the day-to-day operations of peer review organizations.

Peer review organizations shall establish and operate statewide toll-free hot-lines for receiving questions and complaints from home and community care consumers, home and community care providers, and other interested persons concerning home and community care quality issues.

The Secretary shall require peer review organizations to assist home and community care consumers in the resolution of problems related to the quality of home and community care services and case management services.

Consumer Boards and peer review organizations shall coordinate with state and local community officials to educate home and community care consumers regarding quality assurance programs and various forms of assistance available to consumers having quality assurance problems.

Community Advisory Boards and Additional Quality Assurance

Each state shall appoint members to a community advisory board for each long-term management agency. Each board shall be composed of long-term home and community care consumers and their families, representatives of agencies and organizations representing long-term care consumers and professionals providing services to chronically ill individuals. Long-term home and community care consumers, their families, or their representatives shall form a majority of the members of each board. The Secretary shall provide limited staff support to each board as is necessary to carry out its functions.

Each board shall monitor the activities of the long-term care management agency; provide input into the selection of long-term care management agencies; file a report with the Secretary on the findings of its monitoring not less frequently than annually; and have prompt access to surveys and investigations of complaints.

The Secretary shall develop methods for monitoring the continuity of care provided to home and community care consumers throughout episodes of illness and across care settings, and shall develop outcome-oriented criteria for use in determining quality assurance in home and community care.

Sanctions

The Secretary shall develop and implement a range of intermediate sanctions and procedures implementing such sanctions for failure to comply with this section. Sanctions and procedures shall include: civil monetary penalties, a ban on admissions, receivership, and emergency authority to decertify home health agencies and long-term care management agencies; criteria on when and how each sanction is to be applied and the amounts of fines and penalties; a design to minimize time between identification of violations and imposition of sanctions; a schedule for corrective action; a requirement for public disclosure of failure to meet professionally recognized standards of care and the sanctions imposed for such failure.

The Secretary shall file an annual report with the Congress on January 1 of each year regarding the availability, adequacy and use of sanctions to correct failures of long-term care management agencies to meet the requirements of this title.

Development of Licensing Policies

The Secretary shall encourage states to develop policies and procedures for the licensing of home health agencies; gather information relating to activities of states in implementing licensing policies and procedures; and issue a biannual report summarizing this information.

Long-Term Care Advisory Council

The Council shall be established no later than 60 days after the date of enactment of this section. The Council shall be composed of 13 individuals appointed by the Secretary and shall include, to the greatest extent possible, individuals with expertise in pediatrics, geriatrics, gerontology, disability, case management of home and community-based services and payment for such services, home and community-based care consumers and their representatives, professionals with expertise in long-term care (including nurses, social workers and discharge planners and physicians), third-party payers, long-term care ombudsmen, peer review organizations, and state and local health and social service agency representatives. Appointment to the Council shall be for a term not to exceed 4 years.

The purposes of the Council are to assist the Secretary in assuring the prompt and efficient implementation of the provisions of this part; to review regularly the implementation of these provisions; and to recommend to the Secretary and the Congress any needed changes or refinements to these provisions or their implementing regulations.

The Secretary shall consult regularly and closely with the Council in the implementation and administration of the provisions of this part and on the issuance of regulations. The Secretary (or the Secretary's designee) shall meet with the Council at least once every month during the 24-month period beginning 2 months after the date of the enactment of this part, and at least quarterly thereafter.

Studies

The Secretary shall conduct studies on quality assurance measures for long-term home and community care services provided under this part. The studies shall include examination of methodologies to develop and evaluate outcome standards; mechanisms for ensuring and monitoring quality by episode of care; the role of case management for ensuring quality in the provision of services; differing approaches to and responsibility for development of a plan of services; and the impact on quality of care of the separate reimbursement for supply of durable medical equipment and the training of consumers and their families in the operation of such equipment.

The Secretary shall report the findings of these studies to the Congress no later than 2 years after the date of enactment of this part.

Reports on Quality Assurance System

The Secretary shall prepare (in consultation with the Long-Term Care Advisory Council) and file an annual report with the Congress on January 1 of each year on the nature and performance of the home and community long-term care quality assurance system.

Each report shall include information on: the number of individuals served; the amount of Federal funds expended; noncompliance by providers and sanctions imposed; the economic impact on home health agencies of requirements of this section; the impact of requirements of this section on availability of services in rural areas and to members of minority and ethnic groups; the concerns and recommendations of community advisory boards and Consumer Boards; and the status of studies on quality assurance measures.

Authorizations

There are authorized to be appropriated from the Federal Long-Term Care Trust Fund such sums as may be necessary in each fiscal year to carry out the provisions of this section.

Effective Date

The amendments made by this section shall become effective upon the date of enactment of this Act.

TITLE III—FINANCING OF LONG-TERM CARE

Sec. 301. Source of revenue for home and community care

Elimination of Limit on Wages or Self-Employment Income Subject to Hospital Insurance Tax

Section 230 of the Social Security Act is amended to provide that notwithstanding any provision of the Social Security Act or the Internal Revenue Code of 1986, there is no limit on the amount of an individual's net earnings from self-employment or remuneration for employment that is subject to the hospital insurance tax. Conforming amendments are made to the Internal Revenue Code of 1986.

Effective Date

The amendments made by this section shall apply with respect to remuneration paid after December 31, 1992, and with respect to earnings from self-employment at-

tributable to taxable years beginning after such date.

Sec. 302. Source of revenue for nursing facility care

Increase in FICA Taxes

Tax on Employees

The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to provide that the rate of tax on wages shall be 6.2 percent in 1992 and 6.7 percent in 1993 or thereafter.

By Mr. BOND (for himself and Mr. MCCONNELL):

S. 2018. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands; to the Committee on Environment and Public Works.

(The statements of Senators on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. PRESSLER:

S. 2019. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem; to the Committee on Foreign Relations.

PROHIBITING MILITARY AND ECONOMIC AID TO TURKEY

Mr. PRESSLER. Mr. President, Turkey invaded Cyprus in 1974. Occupying forces of Turkey still control a large area of northern Cyprus, where they support the illegal Denktash regime. More than 1,600 Greek Cypriots and five American citizens who were captured by the Turks in 1974 still are missing and unaccounted for.

It is unfortunate, Mr. President, that the Government of the United States has been implicated, at least indirectly, in the continuing illegal Turkish occupation of Cyprus. The United States is the major supplier of Turkish military equipment. That equipment was illegally used in the 1974 invasion and continues to be used today to enforce Turkish control of northern Cyprus.

The United Nations has managed to initiate a series of discussions between Rauf Denktash, leader of the self-proclaimed breakaway territory, and the President of Cyprus, George Vassiliou. These talks have not resulted in progress toward a peaceful reconciliation. The political and military stalemate still exists.

Mr. President, it is time to put aside patience and forbearance in this matter. Within the last year, American and coalition forces liberated Kuwait, a country also occupied by hostile forces. Soviet troops have left Afghanistan for all intents and purposes. An Angolan peace treaty has provided for the departure of Cuban troops from that country. Vietnamese troops are leaving Cambodia. Yet, illegal Turkish troops and colonists remain in Cyprus. Seventeen years of Turkish occupation of over one-third of Cyprus must be brought to an end, and the United States and the world community have an obligation to contribute to a resolution of this problem.

Therefore, today I am introducing a bill to prohibit any military or economic assistance to Turkey until certain conditions are met.

Mr. President, I recognize that this is tough legislation. It is deliberately meant to be tough. We have tried other legislative formulas in the past. They have not worked. The U.N.-sponsored discussions have resulted in no concrete progress. Those talks are likely to continue to drag on, punctuated now and then by propagandistic displays of movement synchronized with the foreign assistance legislative calendar here in Congress. It is time for us to stop being led around on this issue by a recalcitrant ally. It is time for us to display courage in defending the principles of democracy as applied to Cyprus.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no military or economic assistance may be provided under the Foreign Assistance Act of 1961, as amended, or any other law, for Turkey, and that no credits may be extended and no guarantees may be issued under the Arms Export Control Act for Turkey, until the President certifies to the Congress that—

(1) all Turkish military forces, in excess of those permitted by the 1960 Treaty of Guarantee, and all Turkish colonists are withdrawn from Cyprus;

(2) the Government of Turkey has returned to the Government of Cyprus under the auspices of the United Nations the formerly Greek Cypriot-occupied area of Famagusta/Varosha for the immediate resettlement of refugees;

(3) the negotiations under United Nations auspices have achieved significant progress towards establishing a constitutional democracy in Cyprus based on majority rule, the rule of law, and the protection of minority rights;

(4) the Government of Turkey has released and returned the five Americans abducted by the Turkish invasion forces in 1974 and 1,614 Greek Cypriots who have been missing since the Turkish invasion;

(5) the Government of Turkey is in compliance with the United Nations Charter, Article 2(4), United Nations resolutions on Cyprus including General Assembly Resolution 3212 of November 1, 1974, endorsed by Security Council Resolution 365 on December 13, 1974, Security Council Resolutions 353, 354, 357, 358 and 360 of 1974, and other relevant resolutions on Cyprus;

(6) the Government of Turkey is in compliance with the North Atlantic Treaty Preamble and Article 1; and

(7) the Government of Turkey is in compliance with the United States Foreign Assistance Act of 1961, as amended.

By Mr. WELLSTONE:

S. 2020. A bill to provide for the transition to a sustainable energy future by moving systematically toward much more efficient energy use and greater renewable energy production through a program of State energy transition grants designed to foster vigorously competitive markets of sustainable energy ideas and innovations at the State and local levels, and for other purposes; to the Committee on Finance.

SUSTAINABLE ENERGY TRANSITION ACT OF 1991

• Mr. WELLSTONE. Mr. President, we had an important vote on this floor 3 weeks ago on a cloture motion to end debate on the motion to proceed on S. 1220, the Johnston-Wallop energy bill. I consider that a historic vote for a new direction in national energy policy. I now want to contribute in an important and constructive way to that new direction by introducing the Sustainable Energy Transition Act of 1991 (S. 2020).

We need a national energy policy which will begin an orderly transition to a sustainable energy future built around renewable energy supplies and efficient energy use. National energy policy should also recognize and support the crucial role regional, State, and local efforts will play in such a transition process.

For the past few months, I have been working with many individuals from Minnesota, other States, and national organizations to develop legislation which will achieve these goals. I hope my colleagues will give serious attention to the bill I am introducing today.

The polls show that the American people are deeply concerned about threats to the environment resulting from climate change, national security vulnerabilities due to heavy dependence on imported oil, and declining economic prosperity and competitiveness in the new global economy. People are looking to us for leadership, and know each of these problems is tied to our wasteful energy habits. They are urging us to begin a transition to sustainable energy technologies by maximizing energy efficiency and rapidly expanding renewable energy production.

Each State and region has different opportunities and challenges for energy efficiency and renewable technologies, given the diversity of climates and indigenous resources. This diversity argues for implementing a transition to sustainable energy use at the State or regional level. That is the direction taken by the Sustainable Energy Transition Act. It provides the means to catalyze and support the diverse and creative energy programs across each of the 50 States toward achieving national energy goals.

The expertise, the experience, the motivation, and the regulatory authority to design and direct such programs are all found at the State level. Local

VOL 137 PT 23 NO 21–25 1991 UMI

entrepreneurs, businesses, and communities stand ready to take advantage of new technological opportunities for energy saving and development of local energy resources if given support.

This is a particularly important moment for this proposal. Billions of dollars in oil overcharge funding have supported an impressive range of State and local energy efforts. But, the funding that has been the lifeblood of most State energy offices will soon run out. Many successful State programs to conserve energy will be lost if these offices are forced to close. This bill will not only ensure their continued funding, but expand and build upon their success.

This legislation would also generate significant new employment opportunities in all States at a time when jobs are most needed. Studies indicate that energy conservation and renewable energy production are considerably more labor-intensive than conventional energy production, yet save substantial money and resources in the long run. Why not put people to work installing efficient lighting in homes across the Nation or building wind machines and ethanol plants in America with American labor?

This legislation would establish a multi-billion-dollar sustainable energy transition trust fund to support energy transition efforts. Those efforts would be based upon sustainable energy transition strategies which would be developed by the States, or regional consortia of States, with Federal support and guidance. The overall objective would be to launch serious and innovative programs in each of the 50 States aimed at achieving a 20-year national goal of reducing energy use by at least 10 percent and tripling renewable energy production.

Achieving an energy transition will be no small task—it will take the level of commitment by which we achieved leadership in space exploration and constructed an Interstate Highway System. This legislation proposes to fund these efforts from two appropriate sources—eliminating tax subsidies and imposing a fee on the major cause of climate change. First, it closes two large energy tax loopholes—the passive loss exemption and percentage depletion allowance. Second, it establishes a small carbon-based tax on fossil fuels. When fully phased in over 3 years, the carbon-based tax would amount to roughly one-half penny per gallon of oil produced or imported.

For that small cost, there will be many benefits in addition to saving consumers money and creating jobs. Investing in energy efficiency and renewable supplies will protect the environment and increase energy security. Serious investments in these technologies will improve our Nation's economic competitiveness and establish the United States as a leader in sustainable energy technologies. And by planning a long-term transition, economic dislocation and hardships to workers and communities dependent on fossil fuels can be anticipated and addressed.

I hope that this legislation will be an important part of any future national energy policy debate. A detailed summary of the bill is appended. I am introducing this legislation now and circulating it widely among my colleagues and others. It is my intention to reintroduce a revised bill in early January with original cosponsors.

Finally, I want to thank everyone on my staff, from other Senate offices, from my advisory group in Minnesota, and from energy, environmental, taxpayer, and consumer organizations who worked so hard to formulate what I believe is a fundamentally new approach to national energy policy. I look forward to working with many more colleagues and groups as we refine this legislation and prepare to move forward next session.

Mr. President, I ask unanimous consent that a summary of S. 2020 be included in the RECORD immediately following these remarks.

There being no objection, the summary was ordered to be printed in the RECORD as follows:

SUMMARY OF PROVISIONS ON THE SUSTAINABLE ENEROY TRANSITION ACT OF 1991—S. 2020

FINDINOS, PURPOSES AND GOALS

Findings: This legislation recognizes the importance of moving to sustainable energy use through maximizing energy efficiency and renewable energy production. It finds that the technology is now, or will soon be, available for such a transition. It states that by moving to efficiency and renewables, there will be a net increase in employment. It declares that fostering regional, state and local efforts will be the best course to take in order to implement such an energy transition.

The findings assert that communities dependent on fossil fuels should not bear the burden of this transition, and providing economic development and employment for those communities is an important part of a transition effort. It indicates that both energy exporting states and energy importing states stand to gain economically from a program of systematic investments in energy efficiency and renewables.

The bill states that a carbon tax is the appropriate source for funding programs to mitigate carbon-induced climate change, and that eliminating subsidies of non-renewable fuels is a necessary part of a transition to sustainable energy use. Finally, the findings declare that states and regions should be allowed to implement energy efficiency standards higher than federal standards in appropriate circumstances.

Purposes: The legislation has seven purposes:

(1) to ensure a sustainable energy future through increasing energy efficiency and the use of renewable energy sources;

(2) to enhance national security by reducing oil imports;

(3) to reduce US contribution to climate change by reducing fossil fuel use;

(4) to provide for economic growth and expanded employment;

(5) to assist individuals and communities affected by a transition away from fossil fuels;

(6) to establish the US as an international leader in sustainable energy technologies; and,

(7) to enhance US economic competitiveness generally.

Goals: The legislation establishes as its minimum goals the achievement by the year 2011 of—

(1) a reduction in national energy use by 10 percent from current levels, and

(2) an increase in renewable energy sources to supply 25 percent of domestic energy needs.

TITLE I—SUSTAINABLE ENERGY TRANSITION STRATEGIES

This Title defines the criteria for "Sustainable Energy Strategies," with which states (or regional consortia of states) need to comply within two years of enactment to be eligible for funding.

Sustainable Energy Strategies will delineate each state's or region's plans to achieve long-term (20 year) energy efficiency goals which meet or exceed the goals of the Act. The Strategies will include comprehensive long-term assessments and detailed short-term transition programs.

The legislation requires that the long-term assessment evaluate:

(1) the energy use of the state or region,

(2) the technical potential for efficiency improvements and renewable production,

(3) alternative plans for achieving those potentials,

(4) the market place barriers to increasing efficiency and deploying renewables, and,

(5) the social, economic and employment impacts of the alternatives, including impacts on equity and competitiveness.

Each state or region will also be required to produce a short-term assessment. This includes an Energy Transition Program which details the state or region's proposed actions during the next 5 years to achieve the efficiency and renewable energy production goals it has established in its Strategy. The Transition Program includes consideration of a broad range of public policies, from direct investment in technologies to public education programs. It must also address employment transition programs for individuals and communities affected by the transition to new energy sources.

The legislation specifies that the short-term strategy would also include a detailed budget for the plan, and a specific proposal for evaluation of the state's or regional consortium's progress towards achieving its goals, including evaluation of the success or failure of specific programs undertaken.

In developing both the long-term and short-term aspects of the strategy, the legislation directs states to consider the life cycle and external costs of technological options.

Strategies, once developed by a state or regional consortium, are reviewed by the Secretary of Energy at least three months prior to final submission to the Department of Energy (DOE). After final submission, the Secretary is directed to determine whether or not the Strategy meets the requirements of this Act. If it does, the State qualifies for funding through the Sustainable Energy Transition Trust Fund.

Strategies are required to be updated every three years. Updates will also include consideration and development of a short-term program for using "incentive funding" which the state may apply for from the Trust Fund.

The legislation allows states to enter into consortium agreements for carrying out the

purposes of this Act. The Secretary is authorized to provide funding to facilitate consortium formation and support their operating expenses. The bill specifies that the formation of a regional consortium shall not decrease the funds available to any state.

TITLE II: SUSTAINABLE ENERGY TRANSITION TRUST FUND

A Sustainable Energy Transition Trust Fund is created in the Treasury. Expenditures from this fund are authorized to be available, as provided in appropriation Acts, for carrying out the provisions of this Act. Any unexpended balances remaining in the Fund are required to be invested by the Treasury in interest bearing accounts.

The Secretary of the Treasury is directed to appropriate to the Trust Fund amounts determined to be equivalent to the revenues received on an annual and continuing basis as a result of three provisions of this Act. They are:

(1) repeal of the passive loss exemption to the alternative minimum tax (estimated revenue gain: $300 million/year);

(2) phase-out of depletion allowance for oil, gas and coal (estimated revenue gain: $1.2 billion/year); and (3) an excise tax on the production or importation of coal, oil and natural gas (estimated revenue gain: $4.2 billion/year).

The excise tax imposed on coal, oil, and natural gas is based upon their relative carbon content, to reflect their contribution to eliminate change. The tax is phased in over three years. At its peak, it is equivalent (based on carbon content) to roughly a one-half cent per gallon tax on oil production.0

The funds generated by these three provisions are allocated into three separate subdivisions of the Transition Trust Fund—a designated fund, an incentive fund and a support fund.

Fifty percent of the total funds generated are allocated to the designated fund. Up to twenty percent of the designated fund is immediately available to be distributed to the states for developing Sustainable Energy Strategies. After approval of its Strategy, each state receives its share of the designated fund based upon the following formula: forty percent shall be divided equally among all States and sixty percent shall be divided in proportion to their population.

Forty-five percent of the total funds generated are allocated to the incentive fund. Incentive funding will be awarded to the states beginning five years after enactment of this act based upon their performance in achieving the energy efficiency and renewable energy production goals of this Act and their individual Strategies.

The Secretary of Energy, in consultation with the Transition Fund Advisory Board, is directed to make the incentive funding allocations based upon a review of each State's efforts and the evaluation and incentive funding application provided by each state. Incentive funding allocations will be made for a three-year period. The additional funds would support activities and programs consistent with the state or regional Strategy.

Five percent of the total funds generated are allocated to the support fund. These funds shall be used to support the Energy Transition Information Clearinghouse, state and regional research and training efforts, and the formation and operation of regional consortia.

A Transition Fund Advisory Board is created to advise the Secretary in carrying out the provisions of this Act, particularly the distribution of incentive funds. The bill specifies that the Advisory Board shall have eleven members, appointed on a non-partisan basis, representing a range of interests, technical expertise, and relevant government agencies.

. Several specific requirements must be met by states receiving funds: (1) states must provide 20 percent of the financial support for the programs funded by the designated fund from sources within the state; (2) states must establish a statewide citizens energy council for advice regarding the conduct of the program; (3) local governments must be allocated at least 20 percent of the funds provided annually and must establish community energy councils to provide advice about local programs; and (4) a minimum of 2 percent of all funds must be spent on evaluating the strategies, programs, policies and other activities carried out under the Act.

Several restrictions are placed on expenditure of funds under the Act: (1) funds may be spent only for the implementation of energy efficiency and renewable energy projects and other programs consistent with the State or regional consortium's energy transition strategy, (2) the state must support a mix of both efficiency and renewable initiatives, with no less than 30% of the funds spent on either efficiency or renewables, and (3) not more than 10% of the funds provided may be used for administrative purposes.

TITLE III: ENEROY TRANSITION INFORMATION CLEARINOHOUSE

An Energy Transition Information Clearinghouse is established within the Energy Information Administration of DOE. The clearinghouse is directed to collect and disseminate information on:

(1) energy efficiency and renewable programs among the states;

(2) evaluations of both successful and unsuccessful policies and programs;

(3) sustainable energy strategies;

(4) the role of local governments and community groups in advancing strategies

(5) information on joint ventures and the use of private funding mechanisms

(6) such other informatin as necessary.

In addition the Clearinghouse is charged with promoting technology transfer and cooperating with State and local governments in carrying out this Act.

TITLE IV: RESEARCH AND TRAININO

This Title provides general direction for the Secretary of Energy to re-orient federal research efforts to support the goals and purposes of this Act.

First, it directs the Secretary to support State energy research and development efforts. It also directs the Secretary to promote the establishment or regional councils of State research and development officers and representatives of institutions of higher learning. Finally, the bill mandates that existing DOE research activities be reviewed and revised to designate appropriate regional research centers to support State activities under this Act.

Second, the bill directs the Secretary to support community colleges and vocational-technical institutions to create and expand training programs for energy efficiency and renewable energy technologies.

TITLE V: STATE AND REGIONAL STANDARDS

The legislation repeals the language of existing law which has been interpreted as possibly prohibiting states from adopting incentive programs for the purchase of more efficient automobiles.

Further, the legislation authorizes states or regional consortiums with a total population of more than 10,000,000 to adopt standards which are stricter than federal standards for automobiles and light trucks, heating and air conditioning equipment and other appliances, showerheads, or any other product which the state or regional consortium finds uses a significant quantity of energy.

Any state or regional standards adopted, however, must (1) be at least as energy efficient or renewable-energy intensive as the federal standards, and (2) must be adopted as part of the implementation of the state or regional consortium's sustainable energy strategy.

Further, the legislation details procedures for any person adversely affected by state or regional standards to petition for the Secretary of Energy to disallow standards which fail to save energy and which impede interstate commerce. While authorizing disallowance if the Secretary concurs, the legislation requires consideration of adopting a federal standard in cases where the Secretary finds that state or regional standard does save energy but impedes interstate commerce.

TITLE VI: AUTHORIZATION OF APPROPRIATIONS

This Title authorizes the appropriations of such sums as necessary to carry out out this Act.

Estimated amounts available to States in 1995 from the dedicated fund of the Sustainable Energy Transition Trust Fund

VOL 137
PT 23
NO 21–25
1991
UMI

State	*Millions*
Alabama	$52.34
Alaska	26.94
Arizona	47.94
Arkansas	40.24
California	224.04
Colorado	46.64
Connecticut	46.14
Delaware	27.94
Florida	110.74
Georgia	68.24
Hawaii	31.04
Idaho	30.34
Illinois	105.64
Indiana	62.64
Iowa	43.34
Kansas	40.94
Kentucky	49.64
Louisiana	54.54
Maine	31.74
Maryland	56.04
Massachusetts	65.04
Michigan	88.74
Minnesota	53.74
Mississippi	41.84
Missouri	59.74
Montana	28.94
Nebraska	34.64
Nevada	30.74
New Hampshire	30.94
New Jersey	77.94
New Mexico	33.94
New York	150.24
North Carolina	69.24
North Dakota	27.94
Ohio	100.24
Oklahoma	46.24
Oregon	42.84
Pennsylvania	108.34
Rhode Island	30.24
South Carolina	47.84
South Dakota	28.34
Tennessee	57.94
Texas	142.64
Utah	35.24
Vermont	27.14
Virginia	65.94
Washington	56.24
West Virginia	36.54
Wisconsin	57.64
Wyoming	26.64●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2021. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

RIO GRANDE DESIGNATION ACT OF 1991

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to amend the Wild and Scenic Rivers Act by designating an additional 12-mile segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System. I am pleased that my colleague, Senator DOMENICI, has joined with me in cosponsoring this bill.

You may recall that the Rio Grande in northern New Mexico was among the first rivers protected under the Wild and Scenic Rivers Act. We in New Mexico have a great regard for our free-flowing streams and we were eager for the designation. Water in our State is scarce, and the beauty of a flowing river is increased for us because of this scarcity.

This bill again shows the appreciation we have for our river resources. It will confer the designation "recreational river," as provided for in the Wild and Scenic Rivers Act, for an additional 12 miles downstream from the southern terminus of the Rio Grandes' existing designation. This will cover from the Taos Junction Bridge down to the village of Rinconada.

A majority of the lands in the proposed extension are public lands under the administration of the Bureau of Land Management. Private lands are centered around the village of Pilar for about 2 river miles, and at three locations downstream, totaling about 1¼ additional miles.

Mr. President, let me tell you about this 12-mile segment of river. Just south of the Taos Junction Bridge the river enters the Orilla Verde Recreation Area, a stretch with several developed recreation sites and with some prime riparian areas which provide homes to a variety of birds and animals. State Highway 570 follows the river in this section. South of the recreation area, beginning just below Pilar, the river carves its way through deep, spectacular canyons. There are stretches of rapids in this part of the river. And, above the canyon, State Highway 64 runs, providing pullouts to watch both the activities on the river and the river taking its course below. River rafters, boaters, people fishing, photographers, hikers and rockclimbers, campers—all use and enjoy the free-flowing Rio Grande along this 12-mile segment.

This bill will provide protection for this portion of the river from any new federally built, permitted, or licensed dams or other water resource projects which would have a direct and adverse effect on the free-flowing values of the Rio Grande.

But, "recreational river" is also the most expansive designation within the Wild and Scenic Rivers Act for continuing multiple resource management of the area—that's good for this segment. And this is why, under the designation "recreational river" the following may occur: optimum access by motorized vehicles on existing roads will be continued; public use areas may be in close proximity to the river; new structures will be allowed for both recreational use and habitation—but extensive recreational development is not required; recreation uses will be encouraged to the extent consistent with protection of the river environment; new rights of way will be discouraged, but if unavoidable, will be located and designed in ways to minimize effects on the river's values; lands will be managed for a full range of agricultural and livestock grazing uses, consistent with current practices; timber harvesting would be allowed under standard restrictions to avoid adverse effects on the river environment; water quality will be maintained or improved; existing dams and diversions may be maintained in such a way as to assure that the character of the waterway will remain generally natural; new mining claims are allowed and existing operations are allowed to continue; existing parallel roads can be maintained on either or both banks of the river; and finally, several bridge crossings and numerous river access points are permitted.

It is with this knowledge that the landowners along the river—Federal and private—support this designation. As recently as last week at a town meeting held near the proposed extension, the bill was greeted with clear and enthusiastic support. The bill will protect the values of the river that New Mexicans hold dear. And, finally, both the people who use the river, and those who live along it, will be assured of a beautiful, free-flowing stream for themselves and their children.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Designation Act of 1991".

SEC. 2. DESIGNATION OF RECREATIONAL RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The main stem from the southern boundary of the Rio Grande, New Mexico, wild and scenic river, designated pursuant to paragraph (4), located at the intersection of State Highway 567 and State Highway 570 at the site of the Taos Junction Bridge, downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a recreational river.".

SEC. 3. WITHDRAWAL.

(a) IN GENERAL.—Subject to valid existing rights, the lands described in subsection (b) are withdrawn from entry, sale, or other disposition under the public land laws, from all forms of appropriation under the mining laws, and from operation of the mineral leasing laws.

(b) LANDS.—

(1) DESCRIPTION AND MAP.—The lands referred to in subsection (a)—

(A) comprise approximately 1,349.36 acres;

(B) were conveyed from the State of New Mexico to the Bureau of Land Management on or about July 23, 1980, April 20, 1990, and July 17, 1990;

(C) are known as the Orilla Verde Recreation Area; and

(D) are generally depicted on the map entitled "Recreation Addition to Rio Grande Wild and Scenic River", numbered and dated .

(2) PUBLIC ACCESS TO MAP.—The map shall be on file and available for public inspection in —

(A) the Office of the Director of the Bureau of Land Management; and

(B) appropriate offices of the Bureau of Land Management in the State of New Mexico.

By Mr. BOREN:

S. 2022. A bill to establish the United States-Soviet Democracy Center, to authorize the Peace Corps to operate in the Soviet Union, and to establish a fellowship program for young Soviet leaders; to the Committee on Foreign Relations.

INITIATIVE FOR SOVIET DEMOCRACY ACT OF 1991

● Mr. BOREN. Mr. President, 2 days ago, I joined with my distinguished colleague from Indiana to call for a bipartisan, cooperative approach to deal with the crisis in the former Soviet Union. We said then, and continue to believe today, that the prospect of social chaos and of a return to anti-American leaders in Moscow is too great, at this pivotal moment in history, to be left to the petty maneuvers of party politics.

And so yesterday, a group of Senators from both sides of the aisle met to discuss legislation which would help the Soviets dismantle their most ominous weapons of mass destruction. I am pleased to see that Senator LUGAR and the chairman of the Senate Armed Services Committee, Senator NUNN, have unveiled the product of our bipartisan labor. I am proud to be a cosponsor of this measure and hope the Senate will look favorably upon it.

It is notable that today, the Senate will have considered not only this much-needed and sensible legislation, but also the treaty to slash conventional forces in Europe. Both serve the same strategic purpose: To reduce the ability of the Soviet military to inflict harm on America or our allies, whatever the future of the crumbling Soviet Union.

But Mr. President, where the Soviet Union is concerned, we must have a two-track strategy for safeguarding our security—and dismantling their weapons is only one of them. We must also move—with the same urgency, the same recognition that our actions will resonate generations from now—to bolster democracy in the Soviet republics.

No one should believe that the forces of repression, of hatred and iron rule, disappeared when the August coup failed. Those forces merely went underground, and their leaders are waiting patiently for democracy to sputter and die. For every reformer, there is a Vladimir Zhirinovski, the extremist, the neofascist, the conspiracy theorist. And for every Zhirinovski, there are 10 Russians who are hungry and angry and ashamed, who might become willing to give up on this curious idea of freedom. What a blow it would be Mr. President, not just to the Soviet people but to the American taxpayers who have spent untold sums to win the cold war, if the United States stood by, nervous and afraid, at this decisive moment in postwar history, only to see a dangerous and costly arms race reignited.

That is why I am introducing today the Initiative for Soviet Democracy Act of 1991. This bill, if enacted, would represent the first coherent effort by the United States Government to bolster the fledgling democratic institutions of the former Soviet Union. Its cost is modest, but its benefits will be profound and lasting.

The initiative for Soviet democracy is a three-pronged plan.

First, we would create a United States-Soviet Democracy Center in Moscow. This would be an institute where American and Soviet experts would determine the best means to address Soviet deficiencies in legal, business, and English language skills. The center would serve as a focal point for the numerous private efforts already out there to strengthen democracy and a market economy. It would sponsor training programs for Soviet policymakers, and issue policy recommendations to the United States President and Congress.

Second, the initiative would create two new Peace Corps programs. One, known as the United States-Soviet Democracy Corps, would send 100 American graduates of law, public policy, or business schools to serve as interns and advisers to a variety of republic governmental institutions. Another Peace Corps program, the United States-Soviet English language initiative, would send 200 volunteers to teach English in the republics.

Finally, the initiative would create leadership-by-example groups, or LEGS, a program of fellowships for young Soviet lawyers, lawmakers, and academics to spend 1 year observing American Government institutions at all levels.

Mr. President, the total proposed funding for this program is $12 million in fiscal year 1992, and $18 million in fiscal year 1993. This 2-year sum of $30 million represents less than one-fourth of 1 percent of the foreign aid budget. More importantly, it represents a wise investment in our own long-term security. And to forsake such an approach now because of party politics or a desire to score short-term political points would be terribly misguided.

We have heard in the last several weeks a strong sentiment against foreign aid boondoggles. We have heard cries for America first. These pleas come from the hearts of many Americans, and as I said Wednesday, I am among those who believe that if we don't take care of our problems at home, we won't be able to help anyone else. But Mr. President, the initiative for Soviet democracy is not a giveaway. It is not charity. It is—plain and simple—an act of rational self-interest. We are dealing with a very special case in the Soviet Union, the only entity with 30,000 nuclear warheads, 12,000 of them able to reach the United States.

It helps America if we start now, at this enormously uncertain time, to build lasting relationships with the young pro-Western, pro-American future leaders of the Soviet Republics. This is not a foreign aid issue. It is a national security issue.

As I said before, this initiative is a modest proposal. Let's remember how much the Soviets have to learn about democracy—about representation, about public accountability, about checks and balances, about regulatory law, about the relationship between free markets and political liberty. They have so much to learn, Mr. President, and so little time. The Soviet winter is coming, and their economy is mired in a disaster of unknown proportions. But we must start somewhere, and in a way that will provide lasting and concrete returns. This proposal is cost effective. It creates no bureaucracy. It relies not on huge grants of cash but on the sharing of American technical expertise. Programs like the Democracy Center, the Democracy Corps, the English language initiative, and the LEGS fellowships are seeds which we must plant now if we want to see freedom, peace, and demilitarization blossom in Moscow next spring.

Mr. President, in the years after World War II, America and the Soviet Union became locked in a costly cold war. Forty-five years and trillions of dollars later, we are so tantalizing close to a final resolution of that cold war. It is true that in this recession, we can't afford to throw money away. But to make a small investment now to ensure that the Soviets give freedom a chance is not a wasteful use of our funds. It is common sense. It is in the American interest. We have an unprecedented opportunity to consolidate the gains made by democratic reforms in the Soviet Union. For our own sake, let's finish the job we started.●

BY Mr. KENNEDY (for himself, Mr. SIMON, Mr. CRANSTON, Mr. WELLSTONE, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. ADAMS, Mr. METZENBAUM, Mr. HARKIN, Mr. INOUYE, Mr. SARBANES, Mr. LIEBERMAN, Mr. GORE, Mr. MOYNIHAN, Mr. LEAHY, and Mr. KERREY):

S. 2023. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on Governmental Affairs.

NEW COLUMBIA ADMISSION ACT

Mr. KENNEDY. Mr. President, today, I am reintroducing legislation to grant statehood to the District of Columbia.

This legislation fulfills a fundamental right that no self-respecting democracy can ignore. Statehood is a matter of simple justice for the 600,000 citizens of the District of Columbia. All of the old arguments against it are more threadbare than ever.

VOL 137
PT 23
NO 21—25
1991
UMI

The District of Columbia has a strong private sector and a sound economic base. It is time to put to rest, once and for all, the shameful myth that the District is nothing more than a collection of Federal monuments, federal workers, and foreign embassies. It is a living, breathing, thriving city that is home to large numbers of Americans who discover the same basic rights that all other Americans enjoy.

Contrary to popular belief, 70 percent of D.C. residents are employed outside the Federal Government. District residents pay more taxes to the U.S. Treasury than eight States. If taxation without representation is wrong for those states, it is wrong for the District of Columbia.

Nothing in the Constitution prevents statehood for the District. The proposed legislation carves out the Capitol, the White House, and other essential parts of the Federal Government, and Congress will continue to exercise exclusive jurisdiction over this area. That is all the Constitution requires.

The citizens of the District of Columbia are ready for this step. They want it and they deserve it. In 1980, they voted for statehood by a margin of 59 to 40 percent.

For generations, the residents of the District of Columbia have borne the burdens and responsibilities of U.S. citizens. The District lost more young men in the Vietnam war than 10 States. In the Persian Gulf war, the District of Columbia ranked fifth per capita, in reserves called to active duty. By every standard, the citizens of the District of Columbia deserve to be citizens of a State, not citizens of America's Last Colony.

We all know what's going on here. Opponents of statehood have felt in the past that the District of Columbia is too urban, too liberal, too Democratic, too black.

Those arguments can't stand the light of today. They're an insult to everything America stands for. No Americans anywhere in this country should have lesser rights because of where they live, their social philosophy, their political party, or the color of their skin.

It is time to end this disgraceful double standard. It is time to make the District of Columbia the 51st star in the American flag. And when we do, the flag will fly higher and prouder, because our democracy will be fairer and stronger.

"Fifty-four forty or fight" was a great American rallying cry of the past. May our rallying cry now be "Fifty-one in '92"—statehood for the District of Columbia in 1992.

Mr. SIMON. This year, as we celebrate the bicentennial of the District of Columbia, I am pleased to join my colleague Senator KENNEDY in reintroducing legislation to grant statehood to the District of Columbia. The residents of the District of Columbia have voted on and duly presented their application for statehood to Congress. Congress should debate and, ultimately, honor their request for admission.

I have supported national representation for the residents of the District of Columbia since I was a House Member in the 1970's. It is patently unfair for D.C. residents to be the hosts of Congress and yet have no voting representation in either the House or the Senate.

As Americans, we take for granted our right to contribute to national policy and to have representation in government. But those who move from Illinois or another State to Washington, DC, lose the rights they once enjoyed. They lose the right to voting representation in Congress as well as some measure of control over local schools and Government. This situation is discriminatory, yet it is correctable.

Our bill responds to the petition for statehood approved by the residents of the District of Columbia. It grants equal rights to the two-thirds of a million Americans who live in the District of Columbia. It gives them the right to do what other Americans have the right to do—elect two U.S. Senators and a voting Member of the House of Representatives. The bill further removes congressional control over many local activities of the District government and puts that power in the hands of local residents, where it belongs.

There are those who say that statehood for the District of Columbia requires an amendment to the Constitution rather than congressional passage of a statute. As chairman of the Senate Subcommittee on the Constitution, I have considered that argument and I am convinced that a constitutional amendment is not required.

Article I, section 8, clause 17 of the U.S. Constitution provides for a district of not more than 100 square miles, outside of the boundaries of any State, to serve as the Nation's Capital. At present, the District measures 68.25 square miles. The Constitution specifies no minimum area. A bill that grants statehood to much of the present District, while leaving a Federal enclave to serve as a capitol under the control of Congress would meet the requirements of article I. Our bill does that.

According to current census figures the residents of the District of Columbia outnumber the residents of three States—Wyoming, Alaska, and Vermont. When President Monroe signed the proclamation to make Illinois the 21st State in 1818, our Illinois population was just 55,211, less than 10 percent of today's District population.

Furthermore, District residents pay more in Federal taxes than eight States. Yet District residents have no voice when Congress votes on these taxes.

U.S. citizens in the District of Columbia serve in the military and have been subject to the draft. When we went to war in the Persian Gulf, the District of Columbia ranked fifth on a per capita basis in the number of reservists called to active duty. District residents had no voting representation on the floors of Congress during the historic vote to authorize a war in the Persian Gulf. District residents cannot vote for those in Congress who set our defense, foreign, and military policies. Can we just sit back and continue to accept this inequity within our country?

We have welcomed the democratic change sweeping Eastern Europe. It is ironic that the residents of Warsaw, Prague, and the other East European capitals all will have voices in their new legislatures, while the citizens of our Capital still do not. Accepting the District of Columbia as a State will end this inequity once and for all. I encourage my colleagues to cosponsor this important legislation.

By Mr. BOND (for himself, and Mr. DANFORTH):

S. 2024. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991

• Mr. BOND. Mr. President, Senator DANFORTH and I are pleased to introduce legislation today which protects one of the most beautiful parts of our State—the Greer Spring tract in southeastern Missouri. It is identical to H.R. 3604, which was recently introduced by Congressman EMERSON and cosponsored by all members of the Missouri congressional delegation. It has been reported by both the House Agriculture and Interior Committees and the full House is scheduled to approve it before the Thanksgiving recess.

This breakthrough represents 4 long, hard years of dedicated negotiation by all the parties involved—Congressman EMERSON, Congressman VOLKMER, the current landowner, Mr. Leo Drey, and Missouri environmental groups. It is an excellent proposal which will preserve and protect this beautiful site, which is the second largest spring in the State, while allowing access to hikers, fishermen, hunters, and for forest management needs.

The legislation directs the Secretary of Agriculture to acquire 7,000 acres, including and surrounding Greer Spring. The 2,500 acres along the Eleven Point River, which includes the Spring, would be added to the Wild and Scenic Rivers corridor and managed under the current stringent guidelines. The remaining 4,500 acres would be designated the Greer Spring Special Management Area and managed under special guidelines for outdoor recreation, protection of the area's natural, archaeological and scenic resources, timber harvesting, mining and vehicular access. Hunting and fishing would be permitted within the special management area.

Fortunately, the $4 million needed to purchase the property is assured. Senators DANFORTH and EAGLETON secured $1.5 million in fiscal year 1987; Senator DANFORTH and I obtained $2 million in fiscal year 1989. In addition, Anheuser-Busch will make a generous contribution of $500,000.

Safeguarding this scenic land will preserve an essential part of Missouri's natural heritage. Greer Spring embodies the untouched wilderness that confronted explorers, pioneers, and settlers when they crossed the Mississippi River into Missouri territory. Preserving this tract will allow our children to enjoy the land that challenged and nurtured their forefathers.

I will pursue its passage at the earliest date, hopefully before Congress adjourns for the year.•

By Mr. SIMON (for himself, Mr. KOHL, Mr. BRADLEY, and Mr. CRANSTON):

S. 2025. A bill to authorize grants to State, local, and private entities for programs to prevent youths from becoming involved in gangs; to the Committee on Labor and Human Resources.

PREVENTION OF YOUTH INVOLVEMENT IN GANGS

• Mr. SIMON. Mr. President, I rise today to introduce legislation to establish the Early Gang Prevention Center Grant Program. This program builds on my earlier efforts to address the gang problem, the Gang Prevention Grant Program, which became law in 1988. The success of programs funded under this effort pointed out two things; we desperately need to continue working with youth involved with gangs and we must broaden our focus to include effective prevention for younger children.

Due to the dramatic rise of violent crimes by juveniles, the Justice Department, through the Office of Justice Programs—OJP—has begun to hold a series of site studies on gang crime throughout the Nation. Testimony at the recent hearings in Chicago provided a grim insight into the lives of those who are on the front lines combatting gang violence. Cook County State's Attorney Jack O'Malley spoke of the first degree murder charges filed against two gang members, 13 and 14 years old, for killing another 14 year old, apparently over recruitment. Mothers told stories of hiding their children in bathtubs when gang members start shooting. One mother testified that one of the few sentences that her 2-year-old child knows is: "Get down, get down, they're shooting." In Chicago, it has come to this.

The Early Gang Prevention Center targets the growing number of youth in our country joining gangs. These youth believe that becoming a gang member is their most worthwhile option. The loyalty among gang membership provides a secure family, and the profits from gang-related illegal activities such as drug trafficking are a powerful draw. However, the life of a gang member can be a violent one. Gang-related crime and violence have continued to increase at an alarming rate. In Chicago alone, gang-related homicides have risen from 38 in 1980 to 101 in 1990. Already many neighborhoods, both in urban and rural areas, are virtually controlled by gangs.

Both the public and private sectors have come up with strategies to deal with this growing problem. Attempts to lure youth away from gangs have revealed that gang members rarely leave their gangs. At the Chicago hearings, local law enforcement officials and residents alike stressed the importance of child oriented programs as the only real answer to the gang problem. We must concentrate on prevention and target those young people at risk of becoming a gang member. We must educate our youth to let them understand that gangs are a dead end. They need support to resist gang membership, as well as alternatives that allow them to pursue healthy avenues for their lives.

The Early Gang Prevention Center Program would allow professional staff to work through the school system and public housing to reach youth at the elementary level, when youth are seriously thinking of gang membership. Reaching out through the school system and public housing has been extremely successful as they provide the structure and consistency required for effective prevention. Staff would educate youth about the dangers of gangs, organize antigang action in the communities in which the youth live and cooperate with the social service agencies who already provide services for youth and their families. In addition, staff would be available for counseling at-risk youth and crisis intervention as needed. Successful prevention involves addressing all the complexities of this problem. Only through a multifaceted approach can we begin to effectively steer away youth from gang membership.

Without preventing these youth from becoming involved in gangs, we will see gang-related crime and violence rise to previously unheard of levels. We cannot afford to have thousands more of American youth joining gangs. It is imperative that we take action now to prevent our youth from becoming involved in activities that kill opportunities to lead a healthy and productive life, or more importantly, kill them. The Early Gang Prevention Center Grant Program gives young people a chance to fight off the powerful pull of gang membership. Gangs are fierce in their recruitment efforts. We must be just as forceful in our efforts to keep youth out of gangs. Strong prevention efforts, like this program, are the way to do that. We cannot afford to wait another day. It could be a matter of life and death.

Mr. President, I ask unanimous consent that the text of this bill be included in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PREVENTION OF YOUTH INVOLVEMENT IN GANGS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to State and local government agencies and to private entitles to establish and carry out programs to prevent elementary school children from becoming in volved in gangs.

(b) USE OF FUNDS.—Grants made pursuant to subsection (a) shall—

(1) target elementary school students, with the purpose of steering students away from gang involvement;

(2) provide individual and family crisis intervention and counseling to students and their families who are particularly at risk of gang involvement, including cooperation with social service, welfare, and health care programs as needed;

(3) develop and support community education about gangs and gang activity with the intent of involving the community in dealing with the problems associated with gangs; and

(4) include a special location within the school or housing project for program activities.

(c) APPLICATION.—(1) An entity that desires a grant under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) An application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) REPORTS BY GRANT RECIPIENTS.—Each recipient of a grant under this section shall submit a report to the Secretary of Health and Human Services annually that—

(1) describes the activities that were carried out with grant funds during the preceding year; and

(2) describes the recipient's plans for the coming year.

(e) REPORTS BY THE SECRETARY.—The Secretary of Health and Human Services shall annually make an assessment of and report to Congress on the effectiveness of the grant program established by this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1992, $7,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994.•

By Mr. MACK:

S. 2026. A bill to assure the protection of Haitians in the United States or in United States custody pending the

VOL 137 PT 23 NO 21—25 1991 UMI

resumption of democratic rule in Haiti; to the Committee on the Judiciary.

HAITIAN REFUGEE PROTECTION ACT OF 1991

• Mr. MACK. Mr. President, for weeks now we have been witnessing a tragic story of human suffering in Haiti as that country's people have demonstrated to the world the value they place on freedom. We've been reminded again just how precious freedom is and how equally difficult it can be to obtain.

Cuban news sources have reported that at least 120 Haitians are feared dead as a boat crammed with 200 people fleeing to the United States for freedom had sunk.

We cannot continue to operate a policy toward Haitian refugees that is based solely on damage control and crisis management. We must develop a lasting policy that works.

The argument that we should interdict and return Haitians to prevent further loss of lives only demonstrates that what is needed is an orderly safe process for Haitians seeking freedom.

Today, I am introducing legislation which provides the road to freedom without forcing people to risk their lives at sea. The bill essentially does two things:

First, it sets aside at least 2,000 refugee admission slots specifically for Haitians. This provision provides the process within which Haitians may flee persecution without compelling them to brave the high seas and risk their lives. This bill also provides that these 2,000 slots do not deplete the current 3,000 allotment for refugees admissions from Latin America and the Caribbean. I would encourage other freedom-loving nations throughout the world to take on a similar responsibility.

Second, the bill grants temporary protected status [TPS] to Haitians who are currently in the United States or who are in the custody or control of the United States. Importantly, the language in this bill ensures that those granted TPS will be able to access necessary Federal Assistance. As the first point of entry to the United States, Florida must be assured that the Federal Government will take its proper financial role.

Regrettably, our Haitian refugee policy has lost touch of the universal principal of freedom. It is a disgrace to intercept Haitians on the high seas fleeing persecution only to send them back to an island run by an illegal military leadership that rules by fear and violence.

Since the illegal military coup September 30, the Haitian people have lost hope that freedom will be theirs at last.

Now, more than ever, the United States must take a leadership role and call on all freedom-loving nations to band together to help restore Haiti's democracy. Once free, the Haitian people will have the opportunity to rebuild their country.

In the meantime, any immigration policy that systematically applies a double-standard to Haitians is morally wrong. That's why this bill is so essential. It corrects the injustice in our current policy that discriminates against the poorest of our Caribbean neighbors. It provides a logical and systematic plan for allowing Haitian refugees who are persecuted to come to the United States without crossing teacherous seas.

Haitian people are like any other on this Earth. They desire to live free. To treat them differently ignores the principles of freedom that have made this Nation great.

Freedom is the core of all human progress. When we forget that lesson, we have cheated ourselves and others who long to be free.•

By Mr. CHAFEE (for himself and Mr. BINGAMAN):

S. 2027. A bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the Medicare Program; to the Committee on Finance.

ELIMINATION OF ANNUAL CAP FOR MEDICARE PAYMENT FOR CERTAIN OUTPATIENT SERVICES

• Mr. CHAFFE. Mr. President, today I am introducing legislation to make it easier for senior citizens to get needed physical therapy services through the Medicare Program. These services are critical to individuals who have suffered from such conditions as stroke or heart attack. My bill eliminates an existing $750 cap on payments for physical therapy or occupational therapy provided by therapists in independent practice.

Under current Medicare law, there is no limit to physical therapy services when they are provided either in a physician's office, or on an outpatient basis in a hospital. Medicare does, however, limit reimbursement for services provided by an independent physical or occupational therapist to $750 per calendar year. When a patient who receives services from an independent therapist reaches his or her limit, the patient must either stop treatment, change to a therapist in a physician's office or a hospital, or pay for these services out-of-pocket. Not only is it a burden for seniors to change providers, but for those Medicare patients who live in areas where there is a shortage of health care providers, a therapist in a physicians office or hospital may be unavailable, or reachable only by traveling long distances.

Some may argue that removal of this cap will significantly increase Medicare expenditures for physical therapy services. The Health Care Financing Administration [HCFA] however, has placed the services of these physical therapists under the new Medicare physican fee schedule and volume performance standards. These regulations would control payment for services performed by independent practitioners based on a fee schedule. Therefore, an arbitrary cap on reimbursement is no longer necessary.

Beside decreasing the availability of services to senior citizens, the current limit may actually increase costs to the Medicare Program. According to 1988 data, Medicare paid on average $1.62 less for physical therapy services by independent providers than for these same services when provided by a physician. Although $1.62 doesn't seem like much, when multiplied by the 1 billion physical therapy procedures that were billed to Medicare in 1988, the cost becomes clear.

My legislation would allow patients in need of physical and occupational therapy to receive these services without having to face the possibility of terminating treatment early, or continuing treatment elsewhere, because of a predetermined limit on Medicare reimbursement. I hope that my colleagues will join me in sponsoring this legislation which assures our senior citizens access to these critically needed services.•

By Mr. SPECTER:

S. 2028. A bill to amend title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

WOMEN VETERANS' HEALTH EQUITY ACT

Mr. SPECTER. Mr. President, I am today introducing the women veterans' health equity bill of 1991. The purpose of this legislation is to begin the long march toward equality in treatment for our 1.2 million women veterans within the VA health care system.

BACKGROUND: A HISTORY OF PROUD SERVICE

Since the founding of our republic, women have served both in and as an adjunct to our Armed Forces. As we know, although 34,000 women served during World War I, women were brought into military service for the first time in large numbers in World War II, when some 384,000 women wore the uniform. Although women's components of the military were to have been phased out after the war, they remained as part of the peacetime military for the best reason of all: Their strong record of service. That decision was proved sound, as some 110,000 women served in the Korean conflict, while 261,000 served in Southeast Asia during the Vietnam era.

Of course, Mr. President, we have only recently witnessed the dramatic contribution of women in the military in the Persian Gulf war, as some 33,000 women soldiers were deployed in Southwest Asia. These brave women served in key combat-support positions: They served as pilots and crew members of planes and helicopters, drove trucks, ran prisoner-of-war facilities, served on support and repair ships, and built the infrastructure in construction battalions.

Today, the 233,000 women in uniform constitute 11 percent of our Active Force, while 155,000—13 percent—serve in our Ready Reserve. What is most impressive is that less than 20 years ago, women comprised less than 2 percent of America's military. Further, women veterans are currently the fastest-growing segment of the veteran population: Our 1.2 million female vets comprise 4.3 percent of the total veteran population. By the year 2000, that percentage will increase to 5.3 percent.

But we do not have to go just by statistics. Last July, when the Committee on Veterans' Affairs held its important hearings on the readjustment needs of Persian Gulf war veterans, I invited members of the 14th Quartermaster Detachment from Greensburg, PA to testify. Among others, we heard the testimony of Sgt. Mary Rhodes of California, PA, and Specialist Tracy Akra of Harrisburg, both wounded in the infamous Scud attack. Since then, my staff and I have maintained close contact with the 14th, including Specialist Angela Betton of North Versailles, PA, and Specialist Lois Abreski of North Huntington, PA, both still recovering from wounds at Walter Reed Army Medical Center here in Washington. These are remarkable individuals, Mr. President, of whom all Americans may be proud.

THE NEED FOR CHANGE

It is clear that women are, and have been, an integral part of our Nation's military and, as a result, of our Nation's veterans. And although the Department of Veterans Affairs [VA] has responded aggressively in many instances to womens' needs in the past few years, it is my view that much remains to be done.

This bill is aimed at correcting what I believe is the most important issue facing women veterans: Health care within the VA system. The VA has done good work in the general field of health care. Through a system comprised of 172 hospitals, and hundreds of outpatient clinics and readjustment centers, VA is engaged in important treatment and research. But frankly, Mr. President, that treatment and that research is primarily aimed at issues that affect men. That is simply an historical fact.

It is my firm belief that our commitment to quality of health care for women veterans receive must match the commitment these citizens have made to their country. I think that it is time to intensify VA's focus on women veterans. And that is what I intend to do through the Women Veterans' Health Equity Bill of 1991. This bill would address health issues affecting women veterans, both in terms of treatment and in terms of research.

EQUITY IN TREATMENT

In terms of treatment, the bill would require that VA provide "well-women care services" to two critical classes of women veterans: Those who suffer from a service-connected disability and those whose income would qualify them for mandatory inpatient treatment—currently $18,171 per year. These services, which would be directed toward the health-care needs of both younger and older women veterans, would include pap smears, breast exams, reproductive health care and family planning services.

I believe, Mr. President, that these services proposed in my bill are not only vital to women veterans, but that they also are in line with VA's admirable drive to emphasize preventive health-care services within the system.

EQUITY IN RESEARCH

The Department of Veterans Affairs has long been a leader in health-care research. We are justifiably proud of the pioneering work that has been done by the dedicated men and women working for, or under the auspices of, VA. And we match that pride with dollars: President Bush recently signed Public Law No. 102-139, the VA/HUD appropriations bill, which authorizes some $227 million for medical and prosthethic research.

Nevertheless, not very much of that money goes directly to issues which concern women. Indeed, when I was preparing this bill, Mr. President, VA could identify only about $1.7 million that was directed at research specifically involving women, and that figure was derived from a single researcher who, out of personal interest, kept track of that number. And even this $1.7 million is not exclusively from the VA appropriation: It includes funding from other Federal sources. Because of my view of the importance of the health-care needs of women veterans, I do not believe that is enough. Nor do I believe that VA should not have good figures on this important work.

To deal with these issues, my bill would require an expansion in VA medical research to focus on areas with health consequences for women, including breast cancer and osteoporosis, with 3-year funding of $6 million. In addition, VA would be required to coordinate its research relating to women veterans, so that those involved in these important areas are aware of what is being done.

In connection with this expansion of VA research, there is another area that is of considerable interest to me and, I believe, to women veterans. It concerns gender discrepancies involving the incidence of mental illness. In 1990, 14.8 percent of women were hospitalized within the VA with a diagnosis of psychotic illness; during that same period, 8.9 percent of men's admissions were for the same reason. We know also that psychotic illnesses suffered by male veterans are more likely to be related to alcohol than psychotic illnesses suffered by women veterans. We simply do not know the reasons for these disparities. Accordingly, this research provision of my bill would require a directed research study to examine this reported disparity.

Another important area, Mr. President, is finding out exactly what the health-care needs of our women veterans are. No such major study has been done since 1985, when VA commissioned Louis Harris and Associates to perform a population study of women veterans. At that time, the study seemed to indicate that women veterans had a cancer rate of 8.6 percent, as opposed to a rate of 5.2 percent in the general population of American women. That study also found that most frequently occurring cancer among women veterans was cancer of the reproductive organs, which occurred twice as often as breast cancer, while the general population of American women had exactly the opposite result.

Those are disturbing statistics, Mr. President. But what is perhaps most disturbing is the fact that the Harris Population Study is the only source we have to describe the population of women veterans. We need an update.

Accordingly, this bill would require VA to conduct a population study of women veterans and active-duty women, aimed at determining and predicting the health-care needs of women veterans, with an authorization of $1.5 million. This study is essential, Mr. President, if we are to enable the VA health-care system to meet the demands—now and in the future—of women veterans. The information collected will assist VA and veterans by targeting those needs and working out strategies, both in terms of treatment and research, to deal effectively with the needs of this population.

Another aspect of VA research that is important to me is ensuring that, when medical research based on an analysis of population is done, it is directed at issues important to and done in a way that will produce results meaningful to our women veterans. Accordingly, my bill would require that VA, in conducting medical research based on analysis of populations—in other words, epidemiological research—take into account problems significant to women, and that VA ensure that the population studied is representative of the number of women in the general population.

Finally, Mr. President, in order to ensure that Congress is able to keep current on the status of VA's research regarding women veterans, my bill would require VA to report annually to the Committees on Veterans' Affairs of the Senate and House of Representatives, from 1992 through 1995, on the status of research on women veterans.

CONCLUSION: LEADING THE WAY

The Women Veterans' Health Equity Act is an important step forward, Mr.

VOL
137
PT
23
NO
21–25
1991
UMI

President. I know that it is not the solution to all the problems facing women veterans. But by providing a critical package of preventive health-care services and by requiring significant medical research relating to women veterans, I believe my bill will lead the way to a new and long-overdue emphasis on the needs of these patriots.

It has been said, Mr. President, that no nation can long survive that does not remember those who defended her. This Nation, through its extensive program of veterans' benefits, has shown that we do remember. But I believe our memories are unjustifiably hazy when it comes to the women who have put themselves in harm's way. My bill seeks to clear away that haze, to move us to the day when we do not speak of "men veterans" and "women veterans," but simply "veterans."

I urge my colleagues to support me in this mission.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD immediately following my remarks, and that a detailed section-by-section analysis of the bill be placed immediately thereafter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women Veterans' Health Equity Act of 1991".

SEC. 2. WELL-WOMEN CARE SERVICES.

(a) REQUIREMENT TO PROVIDE SERVICES.—Chapter 17 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VIII—WELL-WOMEN CARE SERVICES

"§ 1771. Well-women care services

"(a) The Secretary shall furnish well-women care services to the women veterans referred to in subsection (b) in accordance with this section.

"(b)(1) The Secretary shall furnish well-women care services under this section—

"(A) to any woman veteran who has a service-connected disability; or

"(B) to any woman veteran who is eligible for hospital care under section 1710(a) of this title and the annual income of that veteran (as determined under section 1503 of this title) does not exceed the maximum rate of pension that would be payable to that veteran if that veteran were eligible for pension under section 1521(d) of this title.

"(2) Subject to section 1712(f) of this title, the Secretary may furnish well-women care services to a woman veteran who is eligible for hospital care under section 1710 of this title and who is not otherwise eligible for such services under this subsection.

"(c)(1) Except as provided in paragraph (2), the Secretary shall furnish well-women care services under this section in Department facilities through personnel of the Department who are qualified in the furnishing of such services.

"(2) In the event that the furnishing of well-women care services in facilities referred to in paragraph (1) is not feasible because of geographic inaccessibility or other reason determined by the Secretary, the Secretary may furnish such services by contract with non-Department facilities (including community-based health care organizations, private health care contractors, and non-profit health care facilities) through appropriately qualified personnel of such facilities.

"(3) The Secretary shall prescribe qualifications for the furnishing of well-women care services applicable to the personnel referred to in paragraphs (1) and (2). The Secretary shall ensure that such qualifications apply uniformly to personnel of the Department and personnel of the facilities referred to in paragraph (2).

"(d) In order to furnish well-women care services under this section, the Secretary shall take such actions as the Secretary considers appropriate to encourage the employment and retention by the Department of gynecologists and other health care professionals who are qualified to furnish such services.

"(e)(1) For the purposes of this section, the term 'well-women care services' means health care services provided to women outside the maternity cycle, including counseling and services relating to the following:

"(A) Papanicolaou tests (pap smear).

"(B) Breast examinations and mammography.

"(C) The number and spacing of children.

"(D) Contraception.

"(E) General reproductive health care.

"(F) The management of infertility.

"(G) Adoption.

"(2) Well-women care services under this section do not include the following:

"(A) Pregnancy care (including prenatal and delivery care).

"(B) Abortion.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new matter:

"SUBCHAPTER VIII—WELL-WOMEN CARE SERVICES

"1771. Well-women care services.".

SEC. 3. EXPANSION OF RESEARCH RELATING TO WOMEN VETERANS.

(a) EXPANSION OF MEDICAL RESEARCH PROGRAM.—(1) Subject to paragraph (3), in carrying out the medical research program of the Department under section 7303 of title 38, United States Code, the Secretary, in consultation with the Chief Medical Director (who shall consult with the Assistant Chief Medical Director for Nursing Programs), shall initiate research and expand on-going research into the health consequences for women veterans of the matters referred to in paragraph (2).

(2) The Secretary shall initiate and expand research under paragraph (1) on the following matters as they relate to women:

(A) Breast Cancer.

(B) Gynecological and hormonal matters.

(C) Cancer of the organs of the reproductive system.

(D) Alzheimer's Disease.

(E) Osteoporosis.

(F) Post-traumatic stress disorder.

(3) The Secretary shall carry out the research referred to in paragraph (1) by any of the following means designated by the Secretary:

(A) Through personnel of the Department in facilities of the Department, including facilities of the geriatric research, education, and clinical centers designated pursuant to section 7314 of title 38, United States Code.

(B) Through personnel of appropriate independent medical research organizations (as determined by the Secretary) under a contract with or grant from the Secretary for such research.

(C) Through personnel of other departments and agencies of the Federal Government (including the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, and the Department of Defense) under an agreement between the Secretary and the head of the department or agency for the performance of such research.

(b) RESEARCH STUDY.—The Secretary shall carry out a research study to determine—

(1) the frequency of the diagnosis of psychotic illness as the basis for the admittance of women veterans to facilities of the Department;

(2) the frequency of the diagnosis of that illness as the basis for the admittance of male veterans to such facilities; and

(3) an explanation for the difference, if any, in the frequencies referred to in paragraphs (1) and (2).

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for the Department of Veterans Affairs to carry out subsections (a) and (b) as follows:

(1) For fiscal year 1993, $1,500,000.

(2) For fiscal year 1994, $2,000,000.

(3) For fiscal year 1995, $2,500,000.

SEC. 4. POPULATION STUDY OF WOMEN VETERANS.

(a) STUDY.—(1) Not later than December 31, 1993, the Secretary shall conduct a study to determine the health-care needs of women veterans as of that date and during the ten-year period beginning on that date.

(2) Before carrying out the study, the Secretary shall request the advice of the Advisory Committee on Women Veterans established under section 542 of title 38, United States Code, and, in consultation with the Secretary of Defense, the Advisory Committee on Women in the Services.

(3) In carrying out the study, the Secretary (with the assistance of the Secretary of Defense) shall examine the medical, biopsychosocial, and demographic histories of an appropriate sample of women veterans and women members of the Armed Forces who are serving on active duty. The sample shall include women veterans and women members of the Armed Forces who are serving on active duty who represent (as determined by the Secretary) the full range of ages, and ethnic, social, economic, and service-related backgrounds of such women. The protocol for the study shall meet standards for scientific merit prescribed by the Secretary.

(b) REPORT.—Not later than April 1, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study carried out under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs $1,500,000 to carry out the purposes of this section. Amounts appropriated pursuant to this authorization of appropriations shall be available for obligation until expended without fiscal year limitation.

SEC. 5. COVERAGE OF WOMEN IN THE MEDICAL RESEARCH PROGRAM OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) COVERAGE REQUIREMENT.—Subchapter I of chapter 73 of title 38, United States Code, is amended by inserting after section 7303 the following new section:

"§ 7303A. Research programs: requirements relating to research on women veterans

"(a) In initiating and carrying out any research referred to in subsection (b) that is based on an analysis of a population of persons, the Secretary shall ensure that, to the maximum extent practicable—

"(1) the matters researched reflect (as determined by the Secretary) matters that are significant for the general population of women in the United States; and

"(2) the population analyzed in such research are representative (as so determined) of the incidence of the condition or illness in the general population of women in the United States.

"(b) The research referred to in this subsection is any research carried out by or under the jurisdiction of the Secretary under section 7303 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7303 the following new item:

"7303A. Research programs: requirements relating to research on women veterans.".

SEC. 6. COORDINATION OF RESEARCH OF THE DEPARTMENT OF VETERANS AFFAIRS RELATING TO WOMEN VETERANS.

Section 7303A of title 38, United States Code (as added by section 5), is amended by adding at the end the following new subsection:

"(c) To the maximum extent practicable, the Secretary shall take appropriate actions to ensure that personnel engaged in research pursuant to a research program under section 7303 of this title—

"(1) are informed of the existence and progress of other research relating to women veterans conducted by or under the jurisdiction of the Secretary; and

"(2) have access to such research.".

SEC. 7. REPORT ON RESEARCH RELATING TO WOMEN VETERANS.

Not later than July 1 of each of 1992, 1993, 1994, and 1995, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) a description (as of May 31 of the year in which the report is submitted) of the status of any research relating to women veterans being carried out by or under the jurisdiction of the Secretary (including the research carried out under section 3 of this Act and section 7303A(a) of title 38, United States Code (as added by section 5 of this Act)); and

(2) recommendations of the Secretary as to future research (including a proposal for any legislation relating to such research) relating to women veterans.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) The term "Secretary" means the Secretary of Veterans Affairs.

(2) The term "Department" means the Department of Veterans Affairs.

(3) The term "facilities of the Department" means the following facilities at which the Secretary furnishes medical services:

(A) Facilities over which the Secretary has direct jurisdiction.

(B) Government facilities for which the Secretary contracts.

(4) The term "medical services" has the meaning given such term in section 1701(6) of title 38, United States Code.

(5) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

SECTION-BY-SECTION ANALYSIS ON THE WOMEN VETERANS' HEALTH EQUITY ACT OF 1991

SECTION 1: SHORT TITLE

Section 1 would give the bill the short title of the "Women Veterans' Health Equity Act of 1991."

SECTION 2: WELL-WOMEN CARE SERVICES

Section 2 would add new section 1771 to title 38, United States Code, with the title "Well-Women Care Services."

New section 1771(a) and (b) would require the Secretary to furnish well-women care services to women veterans who (1) have a service-connected disability or (2) are otherwise eligible for VA hospital care and whose incomes do not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension (currently $18,171 for a single veteran). The Secretary would have the discretion to furnish well-women care services to women veterans who are not eligible under the above criteria, but are otherwise eligible for hospital care.

New section 1771(c) would require the Secretary to furnish well-women care services (1) in Department facilities by Department personnel qualified to furnish such services, or (2) by contract with non-Department facilities. New section 1771(c) would also require the Secretary to prescribe the qualifications for the furnishing of well-women care services both in Department and non-Department facilities.

New section 1771(d) would require the Secretary to take appropriate action to encourage the employment and retention by VA of gynecologists and other health care professionals who are qualified to furnish well-women care services.

New section 1771(e) would define "well-women care services" as the health care services provided to women outside the maternity cycle, including counseling and services relating to (1) pap smears; (2) breast examinations and mammography; (3) the number and spacing of children; (4) contraception; (5) general reproductive health care; (6) the management of infertility; and (7) adoption. Well-women care services would specifically exclude pregnancy care (including prenatal and delivery care) and abortion.

SECTION 3: EXPANSION OF RESEARCH RELATING TO WOMEN VETERANS

Section 3 of the bill, in a freestanding provision, would require the Secretary, in carrying out the Department's medical research program under section 7303 of title 38, United States Code, to initiate and expand, in consultation with the Chief Medical Director (who whould be required to consult on this issue with the Assistant Chief Medical Director for Nursing Programs), research programs into the health consequences for women veterans with respect to (1) breast cancer; (2) gynecological and hormonal matters; (3) cancer of the organs of the reproductive system; (4) Alzheimer's disease; (5) osteoporosis; and (6) post-traumatic stress disorder. Such research would be conducted through VA personnel, through personnel of appropriate independent medical research organizations, and/or through personnel of other departments and agencies of the Federal Government.

Section 3 would also require the Secretary to carry out a research study to determine whether there is a difference, between men and women veterans, of the frequency of psychotic illness as an admission diagnosis in VA Medical Centers, and, if so, the explanation for any such difference.

Finally, section 3 would authorize appropriations to carry out the section of $1.5 million in fiscal year 1993, $2.0 million in 1994, and $2.5 million in 1995. Funds would be available until expended.

SECTION 4: POPULATION STUDY OF WOMEN VETERANS

Section 4, in a freestanding provision, would require the Secretary to carry out a study to determine, not later than December 31, 1992, the current health-care needs of women veterans, and their predicted health-care needs over the next ten years. The Secretary would be required to report these findings to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than April 1, 1994. The Secretary, in preparing this study, would be required to consult with VA's Advisory Committee on Women and with the Advisory Committee on Women in the Services of the Department of Defense. Section 4 would authorize $1.5 million to carry out such a survey, with funds available for obligation until expended without fiscal year limitation.

SECTION 5: COVERAGE OF WOMEN IN THE VA RESEARCH PROGRAM

Section 5 would add new section 7303A to title 38, United States Code. New section 7303A would require the Secretary, in conducting any research based on population analyses under section 7303 of title 38, United States Code, to ensure that, to the maximum extent practicable, (1) the matters researched reflect the extent to which such matters are significant for the general population of women in the United States, and (2) that the populations analyzed reflect the incidence of the illness or condition studied in the general population of women in the United States.

SECTION 6: COORDINATION OF VA RESEARCH REGARDING WOMEN VETERANS

Section 6 would amend section 7303A (as added by section 5 of the bill) to require the Secretary to take appropriate actions to ensure that the existence and status of research programs or projects relating to women veterans is accessible to all personnel engaged in research pursuant to section 7303 of title 38, United States Code.

SECTION 7: REPORT ON RESEARCH RELATING TO WOMEN VETERANS

Section 7, in a freestanding provision, would require the Secretary, not later than July 1 of 1992 through 1995, to provide the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing (1) a description (as of May 1 of the relevant year) of the status of each research project relating to women veterans and (2) the Secretary's recommendations as to future research and legislation relating to women veterans.

SECTION 8: DEFINITIONS

Section 8, in a freestanding provision, would define "Secretary," "Department," "facilities of the Department," "medical services," and "veteran" for the purposes of the bill.

By Mr. SPECTER:

S. 2029. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers; to the Committee on Veterans' Affairs.

SELF-FUNDING OF VA HEALTH CARE

Mr. SPECTER. Mr. President, no veterans' issue has higher priority with

VOL 137 PT 23 NO 21—25 1991 UMI

me than that of health care. It is critical that VA provide the best possible care to our veterans, particularly to those who have been disabled in service. Today, I am introducing legislation which, by providing an inventive for VA medical centers to increase collections from insurance companies, will substantially improve the quality of care at those centers.

My bill would amend title 38 of the United States Code to permit VA medical centers to retain, for the provision of direct patient care, a portion of the proceeds recovered from commercial insurance companies. Specifically, the bill would provide that, of the total amount recovered or collected by a VA medical facility in a fiscal year, there would be available for the provision of direct patient care at that facility for the following 3 fiscal years the lesser of: First, the amount equal to the excess of that total amount over the amount obligated for the payment of the expenses of collection allocable to that facility; or second, the amount equal to one-half of that total amount.

It is no secret that the veterans' health care system is short of money, staff, and equipment. Rising medical costs and Federal budget constraints have tightened VA's budget and restricted the medical care it can provide to America's veterans.

Recently, Mr. President, the Committees on Veterans' Affairs of the Senate and House held an important joint hearing to take testimony concerning the forthcoming report of VA's Commission on the Future Structure of Veterans' Health Care. That blue-ribbon panel told us that, during the years 1980–90, VA's appropriated health-care funding, expressed in 1980 dollars, increased by about $600 million. That's an increase of about 10 percent. During that same period, the Commission told us, medical inflation skyrocketed by 117 percent.

As a veteran myself, as a member of the Committee on Veterans' Affairs for more than a decade, and now as banking Republican member, I find this situation profoundly disheartening. I salute Secretary of Veterans Affairs Ed Derwinski on the fine job he has done during the past few years to bring the VA health-care system back up to the quality our veterans should expect. The Secretary and I have spent many hours visiting VA medical centers in Pennsylvania and throughout the country. I know he's doing his best.

Still, it is up to us in the Congress to do our part as well. We are the ones, after all, who ultimately control the purse strings.

Since assuming the position of ranking Republican member on the Committee on Veterans' Affairs, I have worked hard to improve VA's health-care system. That was the key reason, for example, that I fully supported the Department of Veterans Affairs Physicans' and Dentists' Compensation and Labor Relations Act of 1991, which the President signed on May 7, 1991. This bill, by increasing pay for physicians and dentists in the VA health care system, will help attract and retain the kind of quality professionals our veterans deserve.

My concern for veterans was also the reason for my vote in support of Senator BUMPERS' amendment to H.R. 2519, the VA/HUD appropriations bill, which would have added some $430 million to VA's appropriation at the expense of the space station. That was not an easy vote, Mr. President. I know the space station is important. But when the choice is between delaying funding for the space station and veterans' health care needs, I must choose veterans. As I said during the debate on that amendment, "Fundamental budget priorities such as the veterans/related programs * * * take priority over a space exploration project."

That is also why I spoke out recently on the need for Geriatric Research, Education and Clinical Centers—known as "GRECC's"—in Pennsylvania. The kind of research performed by GRECC's, as demonstrated in a recent report by the Institute of Medicine of the National Academy of Science, can result not only in a better quality of life for our aging veterans, but also can be extraordinarily cost-effective. That is why I am working closely with Secretary Derwinski to establish GRECC's in Pennsylvania.

The legislation I offer today, Mr. President, is intended to continue to provide some relief from the budget crisis in the VA health system without the necessity of additional appropriations. And I am pleased to note that it is in direct agreement with one of the major recommendations of VA's Commission on the Future Structure of Veterans' Health Care. In his prepared testimony, Oliver Meadows, the Commission's chairman, said this:

> In our recommendations, we have tried to reconcile those conflicting problems of growing needs and national budget deficits. Our major recommendations in this area is that Congress authorize VA to be reimbursed for caring for veterans who are eligible for treatment in other settings—without that money being transferred to the Treasury or offset from appropriations you would otherwise authorize for VA programs.

This bill, Mr. President, is in line with that recommendation.

Under current law, VA hospitals and outpatient clinics are authorized to collect payment from third parties, such as private insurance companies, when veterans in these facilities are covered under their own policies. VA medical centers collect from these third parties, and—until last fall—sent the entire payment directly to the U.S. Treasury. Last November, in section 8011 of Public Law 101–508, the Omnibus Budget Reconciliation Act, we wisely added provisions which established the medical-care cost recovery fund. This fund is the depository for VA's collections, and the Secretary is authorized to use those funds to offset the costs of collection.

That was a good idea because it gave VA an incentive to spend money on the collection process. And it worked. When we passed OBRA, the Congressional Budget Office estimate revenues of $113 million from this provision for fiscal year 1991. In fact, VA collected $247.8 million from insurance companies. We've seen that this kind of incentive system works extremely well. And I'm certainly concerned that this process be as efficient as possible—those are important dollars which go toward reducing the deficit.

But frankly, Mr. President, I am more concerned with the provision of health care to veterans. And I think we can do better. I think we can draw on the desire to serve veterans that I know exists in the VA health-care system to bring more money and better treatment to the individual medical centers.

Let me give you some examples from my State.

During the period October 1, 1990 through June 30, 1991, the VA Highland Drive Medical Center in Pittsburgh established insurance receivables of nearly $3.2 million. To date, that center has collected about $500,000, an effective return of about 16 percent. Similarly, the VAMC in Butler, PA, has established receivables of about $4.6 million, and has collected $954,000 during that same period, a rate of 21 percent. Indeed, when we look at all VA Medical Centers in Pennsylvania for that period, we find insurance receivables established in the amount of $49 million, and collections of $8 million, a rate of about 16 percent.

What we're looking at, Mr. President, in Pennsylvania alone, is as much as $40 million in uncollected receivables.

My bill sets forth a simple idea: We already let VA keep some of its collections to pay for the administrative costs; let's permit the medical centers to keep some to provide patient care. I'm not saying VA should keep it all, Mr. President. I'm saying the medical centers should be able to keep up to one-half.

Let's use the Highland Drive Medical Center in Pittsburgh as an example. Suppose the director at Highland Drive knew that he could increase his budget by one-half of what his center collected. That's more than $1.5 million. I think it's obvious that he would do all he could to try for a 100 percent rate of recovery.

And suppose that the other hospital directors in Pennsylvania knew they could collectively increase their budgets by one-half of the $49 million in receivables. Mr. President, that could mean $24.5 million for veterans' health care in Pennsylvania, with $24.5 million to the Treasury. And it wouldn't require a nickel in appropriations.

Even under conservative estimates, my bill would bring in significant amounts of money to VA medical centers. VA tells us that, under present conditions, it estimates collections of $325 million in fiscal year 1992. And we know that, under the VA–HUD 1992 appropriations measure, Public Law No. 102–139, VA can retain up to $77 million of that amount for the cost of collections. Under my bill, Mr. President, that would mean a system-wide return of about $124 million, and does not take into account the obvious incentive the bill would provide to medical center directors.

That's a good deal no matter how you look at it.

Now there will undoubtedly be some criticism of this bill because it is thought by some that the Office of Management and Budget will simply deduct the amount recovered from VA's health care budget. I have a direct response to the concern: Congress controls the purse strings. The Constitution provides that it is this branch, Mr. President, which decides how much money will be appropriated. I am fully prepared to battle OMB on veterans' funding, just as I was willing to delay the space station to provide more money for veterans' health care.

This is a fair compromise between the needs of reducing the deficit while still increasing the medical care accounts at our local VA hospitals. It is based on an incentive which works, and it is supported in principle by a blue-ribbon commission which spent a year and a half examining the entire VA health care program. I look forward to hearings on this measure and urge my colleagues to support it.

Mr. President, I ask unanimous consent that the bill, along with a technical description of its provisions, be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETENTION OF THIRD PARTY REIMBURSEMENTS BY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.

(a) REIMBURSEMENT.—Section 1729(g) of title 38, United States Code, is amended—

(1) in paragraph (2), by inserting "and shall be available to the Secretary as provided in paragraphs (3) and (4)" after "the Fund";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) Of the total amount recovered or collected by a Department facility in a fiscal year and deposited in the Fund, there shall be available for the provision of direct patient care at that facility for the following three fiscal years the lesser of—

"(i) the amount equal to the excess of that total amount over the amount obligated pursuant to paragraph (3) for the payment of expenses, costs, and charges allocable to that facility in connection with the recovery and collection of such total amount; or

"(ii) the amount equal to ½ of that total amount.

"(B) Amounts that remain unobligated at the end of the period of availability shall be covered into the Treasury as miscellaneous receipts.".

(b) CONFORMING AMENDMENT.—Paragraph (5) of such section (as redesignated by subsection (a)(2)) is amended—

(1) by inserting "(A)" after "minus"; and

(2) by inserting ", and (B) any part of such balance that remains available for obligation pursuant to paragraph (4)" after "paragraph (3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 2, 1992, and shall apply with respect to amounts recovered or collected under section 1729(g) of title 38, United States Code, after September 30, 1991.

TECHNICAL DESCRIPTION OF LEGISLATION RELATING TO RETENTION OF MEDICAL CARE COST RECOVERY FUNDS BY VA MEDICAL CENTERS

This bill would amend section 1729(g) of title 38, United States Code, relating to recovery by the United States of the cost of certain care and services in VA health-care facilities, by adding a new paragraph which would permit VA medical centers to retain, for the provision of direct patient care, a portion of the proceeds recovered from commercial insurance companies. Specifically, the bill would provide that, of the total amount recovered or collected by a VA medical facility in a fiscal year, there would be available for the provision of direct patient care at that facility for the following three fiscal years the lesser of—

The amount equal to the excess of that total amount over the amount obligated for the payment of the expenses of collection allocable to that facility; or

The amount equal to ½ of that total amount.

For example, if a facility collected $10 million in a fiscal year and had $3 million in allocable costs, the amount available for provision of direct patient care would be the lesser of—$7 million (total less collection costs); or $5 million (one-half total collections), so that the amount available would be $5 million.

On the other hand, if a facility collected 3 million in a fiscal year and had $2 million in allocable collection costs, the amount available would be the lesser of—$1 million (total less collection costs); or $1.5 million (one-half total collections), so that the amount available would be $1 million.

The bill would be effective with respect to fiscal year 1992 collections.

By Mr. COHEN:

S. 2030. A bill to amend the Securities Exchange Act of 1934 to provide for confidentiality in the granting and voting of proxies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CONFIDENTIAL PROXY VOTING

- Mr. COHEN. Mr. President, today I am introducing proxy reform legislation, which is designed to enhance shareholder participation in the corporate governance process. The current Federal regulatory program places almost insurmountable obstacles in the path of effective shareholder participation in corporate governance, and the result is a disturbing lack of accountability on the part of corporate management to the shareholders of the corporation.

Reform of the proxy process is required to strengthen shareholder democracy. My clear preference would be for the Securities and Exchange Commission [SEC] to pursue needed reforms in the proxy process under the broad authority Congress has granted the Commission to protect the interests of shareholders and to facilitate shareholder participation in corporate governance. Unfortunately, recent events have convinced me that the SEC cannot be relied upon to vigorously pursue such reforms and, therefore, that congressional action is required.

I have a longstanding interest in this issue. In 1986, the Governmental Affairs Subcommittee on Oversight of Government Management, under my chairmanship, held hearings and issued recommendations on the participation of institutional investors in corporate governance issues. The subcommittee found that pension funds, major shareholders in American corporations, were not engaging in a careful evaluation of those corporate governance issues which can affect the rights of shareholders and the value of their investments. In a subsequent report, the subcommittee made a number of recommendations aimed at encouraging institutional investors to become better informed and more active shareholders.

Earlier this year, the Oversight Subcommittee held a hearing examining whether the Federal regulatory program unfairly restricts shareholder proxy proposals. It was clear from the testimony presented at the hearing that the current SEC regulations restrict the ability of shareholders to hole corporate management accountable for their actions, and that there is a need to reform the proxy process to enable more effective shareholder involvement in matters of corporate governance.

I was encouraged by the testimony presented at the hearing by Linda C. Quinn, Director of the SEC's Division of Corporate Finance. Ms. Quinn emphasized the Commission's dedication to enhancing the voting rights of shareholders, reiterated the Commission's commitment to an ongoing review of the shareholder voting process, and indicated that the Commission would be coming forward in the near future with a proposal dealing with these issues.

I was further encouraged by the SEC's subsequent publication in June of a proposed rule containing several amendments to its proxy rules that are designed to facilitate shareholder com-

VOL 137
PT 23
NO 21–25
1991
UMI

munication with each other and with management in furtherance of the goal of informed proxy voting. The proposed rule has been characterized by SEC Chairman Richard Breeden and others as mild and was the first step in what was expected to be a broader revamping of the proxy process.

Regrettably, it appears that these mild reforms have been torpedoed by pressure exerted by corporate managements. In a campaign orchestrated by the Business Roundtable, the Nation's largest corporations have generated large numbers of letters in opposition to the proposed rule and have sought the assistance of administration officials in an effort to kill the proposed reforms. As a result of this campaign, plans to finalize the rule will apparently be delayed until next year, the proposals themselves will be redrafted and may be weakened, and any possibility of broader reforms may now be dead. Yesterday, the SEC formally announced that it will be revising the proposal and seeking further public comment before going forward with a final rule.

It has been my view for some time that reform of the shareholder voting process is necessary, but it was also my view that such reforms could and should be made by the SEC through the regulatory process. The Securities Exchange Act grants the SEC broad authority to promulgate rules and regulations which are necessary in the public interest and for the protection of shareholders. However, I am now convinced that congressional action in this area is necessary given the apparent failure of the SEC to successfully pursue even the most modest reforms designed to enhance shareholder democracy.

The legislation I am introducing today would provide for greater shareholder access to the proxy process by means of direct shareholder nomination of directors and more equitable treatment of shareholder proposals in the proxy statement. To ensure the integrity of the proxy voting process, the bill would require the Securities and Exchange Commission to issue regulations providing for confidential voting and tabulation of votes by an independent third party.

The bill would also encourage the SEC to expand the type of shareholder proposals relating to executive compensation for the corporate managers and board of directors that would be considered proper for shareholder action and, therefore, must be included in the proxy statement. The authority to define the types of proposals that will be required to be treated as proper subjects would remain with the SEC.

Shareholders have a legitimate interest in becoming more active participants in the proxy process. They are entitled to receive information on and have a voice in important decisions which affect them as stockholders and owners of a corporation. Moreover, as the beneficial owners of a corporation, they should also have reasonable opportunities to present to fellow shareholders and to management their own proposals and views on issues which are of concern to them.

The current Federal regulatory program blocks shareholders from effectively participating in the proxy process and, as a result, does not adequately protect the interests of shareholders. The reforms I am proposing are needed to remove obstacles to shareholder action and to restore accountability to the corporate governance process.

I urge my colleagues to join me in supporting this legislation which will enhance shareholder participation in the corporate governance process and corporate accountability.●

By Mr. HATFIELD (for himself and Mr. BINGAMAN):

S. 2031. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Labor and Human Resources.

ALBERT EINSTEIN TEACHER FELLOWSHIP ACT OF 1991

● Mr. HATFIELD. Mr. President, I rise today to pay tribute to a very special member of my staff—Dr. June Yamashita. I have had the privilege of June's talents as part of my legislative team for the past year, and before she leaves next month to pursue other endeavors, I want to recognize her unique wisdom, enthusiasm, and perspective as both an educator and a special friend of the young.

June and I met almost a year ago after she was selected as one of four secondary schoolteachers to serve as an Albert Einstein congressional fellow. Two of these fellows were assigned to the Senate and two to the House, each to work on a personal or committee staff in the 102d Congress. Immediately, June and I shared two common bonds, our attendance at Stanford University and a kinship on the importance of mathematics and science education. I asked her to join my staff to work with me on new initiatives in education reform.

June arrived on Capitol Hill after 29 years in the classroom. From her experiences as a public high school mathematics teacher in Hawaii, she introduced fresh perspectives to me and my staff on how educational legislative proposals would actually work in a school system like her own. She spent a great deal of her initial time in Washington reading the myriad of reports on mathematics and science education, and attending workshops and conferences. Through these opportunities, she not only gathered an abundance of information from practitioners in the field, but she spread the word that there was both an interest and a commitment in the Congress to improve the Federal investment in this critical area.

In addition to the resource she has been to me, June has been an innovative and creative influence to those outside my office. She has crafted legislation, much of it well on its way to enactment, and in so doing, she has worked closely with members of my mathematics and science education "working group" to incorporate and present new ideas in the Congress. She helped me to assess basic needs within this community and ultimately, to direct Federal attention in the most effective manner possible.

Mr. President, I sponsored the initial Albert Einstein congressional fellowship program with complete confidence that the contributions our Nation's teachers could bring to the political process would be of tremendous benefit to our schools. June has brought this vision to life and while I will miss her daily presence in my office, I know that the legacy she leaves is an extremely positive one for teachers everywhere.

I ask unanimous consent that recent letters I have received from the Triangle Coalition for Science and Technology Education and the National Association of State Universities and Land-Grant Colleges in reference to June's accomplishments be included in the RECORD.

Furthermore, as a tribute to all of the fellows who have served this past year, and particularly in recognition of the splendid service of Dr. June Yamashita, I am today introducing legislation to permanently establish the Albert Einstein congressional fellowship program at the Department of Education. I ask unanimous consent that the text of the legislation be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Albert Einstein Teacher Fellowship Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) a need exists to facilitate understanding, communication, and cooperation between the Federal Government and the science education community;

(2) the science education community includes a cadre of nationally recognized outstanding secondary school science and mathematics teachers;

(3) secondary school science and mathematics teachers can provide insight into effective education programs; and

(4) a pilot program has confirmed the effectiveness of outstanding secondary school science and mathematics teachers serving in

professional staff capacities in the Senate and the House of Representatives.

SEC. 3. PURPOSE; DESIGNATION.

(a) PURPOSE.—It is the purpose of this Act to establish a national fellowship program for outstanding science and mathematics teachers.

(b) DESIGNATION.—A recipient of a fellowship under this Act shall be known as an "Albert Einstein Fellow".

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "contractor" means a nonprofit educational organization selected by the Secretary to administer the fellowship program assisted under this part;

(2) the term "outstanding science or mathematics teachers" means secondary school teachers who—

(A) are State or national winners of the Presidential Awards for Excellence in Science and Mathematics Teaching;

(B) have participated in the Woodrow Wilson Fellowship Program; or

(C) have been recipients of other similar recognition programs of a national scope;

(3) the term "secondary school" has the meaning provided by section 1471(21) of the Elementary and Secondary Education Act of 1965; and

(4) the term "Secretary" means the Secretary of Education.

SEC. 5. FELLOWSHIP PROGRAM AUTHORIZED.

(a) IN GENERAL.—

(1) IN GENERAL.—The Secretary is authorized to establish the Albert Einstein Teacher Fellowship Program which shall provide outstanding secondary school science or mathematics teachers with fellowships in accordance with the provisions of this Act in each fiscal year.

(2) NUMBER OF FELLOWSHIPS.—The Secretary shall provide—

(A) 2 outstanding secondary school science or mathematic teachers with fellowships in the House of Representatives;

(B) 2 such teachers with fellowships in the Senate; and

(C) 1 such teacher with a fellowship in the following Federal agencies:

(i) The Department of Education.

(ii) The Department of Energy.

(iii) The National Institutes of Health.

(iv) The National Science Foundation.

(v) The Office of Science and Technology Policy.

(3) TERM OF FELLOWSHIPS.—Fellowships under this Act shall be awarded for a period of 1 year, beginning August 1 of any fiscal year and ending on July 31 of the succeeding fiscal year.

(b) PROGRAM ADMINISTRATION.—

(1) CONTRACT.—The Secretary is authorized to issue a contract to a qualified nonprofit educational organization (hereafter in this Act referred to as the "contractor") to administer the Albert Einstein Teacher Fellowship Program.

(2) DUTIES.—The contractor shall—

(A) develop and administer an application process for the awarding of fellowships under this Act;

(B) publicize the fellowship program in appropriate professional publications and directly invite applications from teachers listed in the directories of the Presidential Awardees, the Woodrow Wilson Fellows, and other national recognition programs;

(C) develop and conduct an initial screening process of applicants for the Albert Einstein Fellowship Program to narrow the pool of such applicants to 9 outstanding secondary school science teachers and 9 outstanding secondary school mathematics teachers;

(D) develop and conduct the process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(E) conduct, or enter into a contract with another qualified agency for the conduct of, a program of orientation for the fellowship recipients under this Act;

(F) establish and conduct a reporting and evaluation program for each year fellowships are awarded under this Act;

(G) submit an annual report and evaluation of the fellowship program assisted under this Act to the Secretary on August 31, 1993, and each year thereafter; and

(H) administer all disbursements of funds under this Act, including salaries and expenses incurred in conducting the selection process.

(c) USE OF FUNDS.—

(1) IN GENERAL.—The contractor shall only use funds under this Act for fellowship recipient salaries, Social Security contributions, and administrative expenses including information dissemination, direct mailing, advertising, direct staff costs for coordination and accounting services, and expenses of conducting the final selection interviews in Washington, D.C.

(2) SPECIAL RULE.—The contractor may seek funding from non-Federal sources to provide an orientation program for the Fellows and an account from which the Fellows may be reimbursed for moving, travel, and professional meetings expenses.

(d) SELECTION.—

(1) IN GENERAL.—The contractor shall invite the 18 semifinalists to Washington, D.C. to participate in interviews after the initial screening process described in subparagraph (C) of subsection (b)(2) is completed.

(2) FINAL SELECTION.—

(A) The final selections shall be made in accordance with paragraph (2) and announced prior to May 1 preceding each fellowship term.

(B) The contractor shall develop and conduct a process whereby final selections of fellowship recipients under this part are made as follows:

(i) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees shall select the 2 fellowship recipients who shall be assigned to the House of Representatives.

(ii) The President pro tempore of the Senate and the Minority Leader of the Senate, or their designees shall select the 2 fellowship recipients who will be assigned to the Senate.

(iii) The Secretary of Education, the Secretary of Energy, the Director of the National Institutes of Health, the Director of the National Science Foundation, and the Assistant to the President of the Office of Science and Technology Policy, or their designees shall each select 1 fellowship recipient who shall be assigned within the department, institute, or office that such individual represents.

(e) FINAL PLACEMENT.—

(1) IN GENERAL.—Each individual selected to receive a fellowship pursuant to subsection (d) shall interview in the various sections, offices, or divisions within the department, institute, or office in which such individual is to be placed to determine the best fellowship placement for such individual.

(2) DATE.—The final placement described in paragraph (1) shall take place in August of each fellowship term.

SEC. 6. FELLOWSHIPS.

(a) SALARY.—Each recipient of a fellowship under this Act shall be paid at a rate of pay that shall not exceed the minimum rate payable for a position under GS–13 of the General Schedule.

(b) DEDUCTIONS.—Notwithstanding any other provision of law, from the salary described in paragraph (1) no deductions shall be taken nor employee benefits extended beyond payroll deductions described in subtitle C of the Internal Revenue Code of 1986.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $500,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2000.

TRIANGLE/NSTA,
College Park, MD, November 22, 1991.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: We are pleased to have had a role in bringing June Yamashita to Washington, D.C. Her selection as an Einstein Congressional Fellow for '90–91 is a clear demonstration of the high quality of both the pool of candidates and the group finally selected. June made a wonderful contribution to the launching of the Einstein Congressional Fellows program.

She brought the skills and insight of a teacher, the imagination of a student, and the enthusiasm of a new arrival to D.C. and offered them for service on Capitol Hill. She achieved a great deal in a short time. Over and over she has demonstrated her talent for working with others and shared the sense of professionalism she brought from her teaching. We are also aware of the contribution she has made to your staff and to your efforts to lead in education reform legislation.

We are pleased with all these efforts but most of all that we can join you in heartfelt thanks for her love of education and her willingness to share so much of her self with our staff and those who follow her as Einstein fellows. I hope you will convey to her our appreciation for all she has done to make science education a more visible and vital part of the national agenda.

Sincerely,

JOHN M. FOWLER,
Executive Director.

NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES
Washington, DC, November 20, 1991.

Hon. MARK O. HATFIELD,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: I have learned that Ms. June Yamashita will be concluding her work on your staff next month. In behalf of the National Association of State Universities and Land-Grant Colleges (NASULGC), I am writing to express our deep appreciation for her outstanding work this year in support of your efforts both to secure an appropriation for and to propose the reauthorization of Title XI ("Urban Community Service") of the Higher Education Act. June was always responsive to our recommendations, comments and questions, and she skillfully negotiated several differences of perspective among the urban higher education representatives with whom she worked. She has played a key role in ensuring that the attention of the Federal Government will be focused increasingly on the resources and skills of the nation's urban universities.

I found June personally to be a delight, and I will miss her as we continue our work together to ensure that Title XI remains a part of the reauthorized Higher Education Act next year. NASULGC's urban univer-

VOL
137
PT
23
NO
21—25
1991
UMI

sities and I wish June the best of luck as she returns to her home in Hawaii.

Sincerely,

NEVIN C. BROWN,
Assistant Director for
Urban Affairs.●

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. BOREN, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 509

At the request of Mr. HARKIN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 509, a bill to amend the Public Health Service Act to establish a program for the prevention of disabilities, and for other purposes.

S. 514

At the request of Ms. MIKULSKI, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 514, a bill to amend the Public Health Service Act, the Social Security Act, and other acts to promote greater equity in the delivery of health care services to women through expanded research on women's issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes.

S. 846

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 972

At the request of Mr. BRADLEY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 972, a bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 1123

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1123, a bill to improve the health care delivery system and ensure access to affordable quality health care through reduced liability costs and improved quality of care, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1423, supra.

S. 1533

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1533, a bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934.

S. 1622

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Washington [Mr. ADAMS], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such act with respect to the health and safety of employees, and for other purposes.

S. 1704

At the request of Mr. WALLOP, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1704, a bill to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Alabama [Mr. SHELBY], the Senator from Washington [Mr. GORTON], the Senator from Louisiana [Mr. BREAUX], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Iowa [Mr. HARKIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Texas [Mr. BENTSEN], the Senator from Colorado [Mr. WIRTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Florida [Mr. GRAHAM], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Utah [Mr. HATCH], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. DIXON], the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1810

At the request of Mr. DURENBERGER, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the Medicare Program, and for other purposes.

S. 1835

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1835, a bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to qualified beginning farmers and ranchers, and for other purposes.

S. 1863

At the request of Mr. LEVIN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1863, a bill to provide for the establishment of a program that shall facilitate, on a voluntary request basis, the reunion of birth parents and adopted individuals, birth siblings, or birth grandparents of adopted individuals, through a centralized computer network, and for other purposes.

S. 1872

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1872, a bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes.

S. 1894

At the request of Mr. ROTH, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1894, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free-Trade Agreement, and for other purposes.

S. 1912

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1933

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1933, a bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes.

S. 1962

At the request of Mr. ADAMS, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 1962, a bill to amend the Civil Rights Act of 1991 to apply the act to certain workers, and for other purposes.

S. 1998

At the request of Mr. EXON, the name of the Senator from South Carolina

[Mr. HOLLINGS] was added as a cosponsor of S. 1998, a bill to adopt the Airline Consumer Protection and Competition Emergency Commission Act of 1991.

SENATE JOINT RESOLUTION 99

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. STEVENS], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 99, a joint resolution designating November 24–30, 1991, and November 22-28, 1992, as "National Family Caregivers Week".

SENATE JOINT RESOLUTION 100

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 100, a joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week".

SENATE JOINT RESOLUTION 222

At the request of Mr. DASCHLE, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mr. ADAMS], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 222, a joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians".

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Wisconsin [Mr. KASTEN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week".

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 78

At the request of Mr. ROBB, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Concurrent Resolution 78, a concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

SENATE RESOLUTION 227

At the request of Mr. PRESSLER, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Resolution 227, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION NO. 230—RELATING TO SUPPORT ON MACHINE TOOLS VRA

Mr. D'AMATO (for himself, Mr. KASTEN, Mr. RIEGLE, Mr. GLENN, Mr. GRASSLEY, Mr. DIXON, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. DANFORTH, Mr. DODD, Mr. FORD, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. HELMS, Mr. LEVIN, Mr. MCCONNELL, Mr. PRESSLER, Mr. STEVENS, Mr. INOUYE, Mr. LIEBERMAN, Mr. BYRD, Mr. LEAHY, Mr. GARN, Mr. SANFORD, Mr. JEFFORDS, Mr. SPECTER, Mr. KOHL, and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 230

Resolved,

Whereas, the Machine Tool Industry is vital to our nation's national security and industrial competitiveness;

Whereas, no weapon or industrial product or manufacturing equipment can be made without using a machine tool;

Whereas, the United States Government signed five-year Voluntary Restraint Arrangements with Taiwan and Japan in 1986 in order to allow our machine tool industry to rebuild its competitiveness in order to continue to serve our nation's national security and economic competitiveness;

Whereas, arresting the invasion of foreign built machines allowed the industry to respond by substantially increasing its investments in modern facilities, new product research and development and new technology in general. The U.S. machine tool industry has used the VRA constructively, increasing investment by 78 percent and increasing productivity by 11.3 percent annually. And, simultaneously keeping price increases to the rate of inflation;

Whereas, the American machine tool industry has made some progress since the inception of the VRA's, but the progress has not been enough to bring the industry back from the devastation it suffered during the early 1980's at the hands of foreign targeters; and

Whereas, there still exists a dramatic disparity between the health of the U.S. machine tool industry and that of Japan and Taiwan. In the interest of fairness and vital national security, this industry must be allowed to continue their progress under the structure provided by Voluntary Restraint Arrangements: Now, therefore, be it

Resolved, That the United States Senate urges the President to renew the Voluntary Restraint Agreement with Taiwan and Japan for an additional five years in order to continue to protect U.S. national security and ensure industrial competitiveness.

● Mr. D'AMATO. Mr. President, 5 years ago when the White House negotiated voluntary agreements with Japan and Taiwan limiting imports of machine tools, the future of this old line, American industry brightened. Machine tools, used for punching, cutting, bending, and shearing sheetmetal, have played a crucial role in our industrial economy and national defense since the beginning of the century.

Then, hit by the recession of the early 1980's, years of unfair trading practices, America's machine tool industry lost ground to low cost imports. These factors, coupled with a cheap yen, gave the Japanese the opportunity to grab half the United States market for machine tools.

In 1986, citing the importance of the industry to our national defense, the Reagan administration acted to protect domestic machine tool producers and give them time to regroup by negotiating the 5-year voluntary restraint agreements [VRA's]. These VRA's expire December 31 of this year. Unless extended, the U.S. Government will effectively slam the door on an industry that has hustled and kept its promise to use the time wisely.

Solid and permanent gains have been made and the industry's ability to compete in the world market has increased dramatically. Arresting the invasion of foreign built machines allowed the industry to respond by substantially increasing its investments in modern facilities, new product research and development, and new technology in general.

New York-based Strippit, Inc., with annual sales exceeding $50 million and 400-plus employees, redesigned its entire computer-controlled machinery line. This same company now has a patent pending on a personal computer-based machine tool controller that will revolutionize the industry.

Another New York company, Hardinge Brothers, Inc., made substantial investments to modernize its plant and improve product quality. Robert E. Agan, President and CEO of Hardinge, recently testified before the House Ways and Means Committee that his company's emphasis on quality products has evolved into a multi-million dollar quality commitment program. Elaborating on the program, Mr. Agan said, "We have aggressively competed for the Malcolm Baldridge National Quality Award for manufacturing excellence, finishing in the top 22 companies in the country—a tribute to the effort we have undertaken. Without the VRA's, Hardinge may not have had the resources to commit to such a program."

And Strippit, Hardinge, and the rest of the U.S. machine tool producers played a vital role in the success of our military operation in Desert Storm. U.S. machine tool technology made possible such sophisticated U.S. weapon systems as the Patriot missile system, stealth bomber, and the Bradley fighting vehicle. Clearly, our national security would be gravely impaired if we had to depend on foreign sources for our critical industries.

VOL 137 PT 23 NO 21–25 1991 UMI

The 70,000-strong skilled work force is committed to achieving manufacturing superiority. Management and labor have learned the lesson that being competitive requires constant improvements in technology and in the quality of production.

America's machine tool industry was not decimated overnight; it cannot be restored to full competitiveness overnight either. More time is needed to complete the industry's return to health. Certainly, the current recession that has lasted longer than anyone anticipated has not helped.

Extending the VRA's another 5 years makes sense. Let's not jeopardize the jobs of tens of thousands of skilled workers, threaten our national security and risk endangering an entire industry now that its recovery has begun.

The machine tool industry and America deserve better. ●

SENATE RESOLUTION 231—URGING THE PRESIDENT TO SUBMIT A PROPOSAL TO REFORM THE HEALTH CARE SYSTEM OF THE UNITED STATES

Mr. SIMON submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. Res. 231

Whereas the United States currently spends more than $700 billion a year on health care services;

Whereas the United States spends about 13 percent of its Gross National Product on health care services, compared to an average of 8 percent for other industrialized nations;

Whereas the Administration projects that if current trends continue, health care spending will reach 16 percent of Gross National Product by the year 2000 and 37 percent of Gross National Product by the year 2030;

Whereas health care spending continues to increase by more than 10 percent each year;

Whereas spending for health care absorbed 15.3 percent of Federal outlays in 1990 and 11.4 percent of state and local outlays in 1990;

Whereas 37 million indiviudals in the United States, 13 percent of the total population, are not covered by health insurance;

Whereas the United States, as compared to other industrialized nations, currently ranks 18th in life expectancy, 22nd in infant mortality and 26th in low birthweight, an indication that a child will suffer illnesses throughout his or her life;

Whereas the United States has the highest administrative cost of an health care system in the industrialized world;

Whereas the successful overhaul of our health care system must include the participation and cooperation of providers of health care services, business, labor, consumer organizations, senior citizens' groups, and both major political parties;

Whereas fundamental changes to our health care system will require the commitment of Presidential leadership;

Whereas the President has yet to propose any board changes for our health care system: Now, therefore, be it:

Resolved, That it is the sense of the Senate that the President should submit to the 102nd Congress a proposal for reforming the health care system of the United States.

AMENDMENTS SUBMITTED

URGENT SUPPLEMENTAL APPROPRIATIONS ACT, FISCAL YEAR 1991

BYRD AMENDMENT NO. 1391

MR. BYRD proposed an amendment to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 24, strike lines 1 through 8, and insert in lieu thereof:

Sec. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution, other than those made available by transfer, are available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

JOHNSTON (AND GORTON) AMENDMENT NO. 1392

Mr. BYRD (for Mr. Johnston, for himself and Mr. Gorton) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert the following new section:

"Sec. Upon the enactment of a provision of law authorizing the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, not more than $2,000,000 of the amounts accepted pursuant to such authorization shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden."

LEAHY (AND OTHERS) AMENDMENT NO. 1393

Mr. LEAHY (for himself, Mr. Kasten, Mr. Kohl, Mr. Harkin, Mr. Durenberger, Mr. Jeffords, Mr. Wellstone, Mr. D'Amato, Mr. Wofford, and Mr. Daschle) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of the committee substitute, add the following new title:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) In General.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) Protection of Consumers.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) Price Support.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) Rate.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 through 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) Recourse Loans for Processed Milk Products.—Subsection (e) of such Act is amended to read as follows:

"(e) Recourse Loans For Processed Milk Products.—

"(1) In general.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) Rate.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) Terms.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) Assessment.—

"(A) In general.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) Effect on orderly marketing.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) Consultation.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) Surplus Reduction Program.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) Surplus Reduction and Prevention Program.—

"(1) In general.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) National reduction in milk marketings.—

"(A) Annual determination.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) Criteria.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) Regional reduction in milk marketings.—

"(A) In general.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) Definition of regions.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) Regional marketing percentage.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) Regional allocation.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) Surplus reduction contracts.—

"(A) In general.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) Rate of payments.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) Period of contract.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) Annual level of reduction.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) Milk marketing history.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) Enrollment period.—

"(i) Frequency of enrollment periods.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) Initial period.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) Payments to participants.—

"(i) Timing.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) Annual settlement payment.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) Reduction in price received.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) Funding.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) Seasonal stability.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the

VOL 137 PT 23 NO 21–25 1991 UMI

supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) SUBSEQUENT MONTHS.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) MONITORING.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) LIMITS ON NEW CONTRACTS.—

"(i) MONTHLY DETERMINATION.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) IMPACT ON NEW CONTRACTS.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) REDUCTION IN PRICE RECEIVED.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) AMOUNT OF REDUCTION.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 THROUGH 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) RECONCILIATION COMMITMENTS.—

"(A) 1991.—

"(i) AUTHORITY.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) AUTHORITY.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 THROUGH 1995.—

"(i) AUTHORITY.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to

VOL 137 PT 23 NO 21—25 1991 UMI

sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

LEAHY AMENDMENT NO. 1394

Mr. LEAHY proposed an amendment No. 1393 proposed by him (and others) to the joint resolution (H.J. Res. 157), supra, as follows:

In the pending amendment, strike all after section 301, and add the following:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the Nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) In General.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) Protection of Consumers.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) Price Support.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) Rate.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 through 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) Recourse Loans for Processed Milk Products.—Subsection (e) of such Act is amended to read as follows:

"(e) Recourse Loans for Processed Milk Products.—

"(1) In general.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) Rate.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) Terms.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) Assessment.—

"(A) In general.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) Effect on orderly marketing.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) Consultation.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) Surplus Reduction Program.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) Surplus Reduction and Prevention Program.—

"(1) In general.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) National reduction in milk marketings.—

"(A) Annual determination.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) Criteria.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) Regional reduction in milk marketings.—

"(A) In general.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) Definition of regions.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) Regional marketing percentage.—Not later than November 15 of each of the

calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) Regional allocation.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) Surplus reduction contracts.—

"(A) In general.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) Rate of payments.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) Period of contract.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) Annual level of reduction.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) Milk marketing history.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) Enrollment period.—

"(i) Frequency of enrollment periods.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) Initial period.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) Payments to participants.—

"(i) Timing.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) Annual settlement payment.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) Reduction in price received.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) Funding.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) Seasonal stability.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) Other terms.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) Surplus prevention contracts.—

"(A) In general.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) Reduction in price received.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) Period of contract.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) Annual level of marketings.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) Enrollment period.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) Diversion program adjustment.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) Other terms.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) Considered marketed.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) Records.—

"(A) Marketing history.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) Other records and reports.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) Modification of contracts.—

"(A) Authority.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) Determination.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) Assignment of contracts.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) Deceased producers.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) Compliance.—

"(A) In general.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction

VOL
137
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contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) Initial enrollment.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) Violations of surplus reduction contracts.—

"(i) Refunds.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) Penalties.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) Level of penalties.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) Exception.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) Violations of surplus prevention contracts.—

"(i) Penalty.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) Violation.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) Level of penalty.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) Exception.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) Effect on the livestock industry.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) Dairy cow slaughter.—

"(A) Limitation.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) Subsequent months.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) Monitoring.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) Limits on new contracts.—

"(i) Monthly determination.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) Impact on new contracts.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) Use of government resources.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) Reduction in Price Received.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) Reduction in Price Received.—

"(1) Surplus reduction contracts.—

"(A) In general.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) Amount of reduction.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 through 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) Reconciliation commitments.—

"(A) 1991.—

"(i) Authority.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) Refund.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) Authority.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 through 1995.—

"(i) Authority.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) Amount.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) Assessment refund.—

"(A) Excess ccc purchases.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) Timing.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) Collection of funds.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) Minimum price provisions.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) Definitions.—

(1) In general.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) Definitions.—As used in this section:

"(1) Milk equivalent, total milk solids basis.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) Net removals.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) United states.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) Administration.—Section 204(d)(5) of such Act is amended by striking "(5) Administration.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) Administration.—In estimating".

(f) Conforming Amendments.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) Period.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

KENNEDY (AND OTHERS) AMENDMENT NO. 1395

Mr. KENNEDY (for himself, Mr. Kerry, Mr. Shelby, Mr. Dodd, Mr. Smith, Mr. Ford, Mr. Pell and Mr. Byrd) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 13, and 21, strike out section 104 of the substitute and insert in lieu thereof the following:

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

Sec. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

LEAHY (AND OTHERS) AMENDMENT NO. 1396

Mr. LEAHY (for himself, Mr. Kohl, Mr. Daschle, Mr. Wellstone, Mr. Wofford, Mr. Kerry, and Mr. Harkin), proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of the substitute, add the following new section:

Sec. . Section 17(f)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended by adding at the end the following new subparagraph:

"(F) During each of fiscal years 1992 through 1995, a State agency shall not redeem any food instrument for fluid milk presented by retail vendors under the program established by this section (or, in the case of a State that operates a home delivery or direct distribution system under the program, shall not pay or reimburse any distributor) in an amount in excess of the average farm milk price (the average price paid to producers for milk fluid uses) for the State for the previous month, plus 59 cents for a half gallon of milk or $1.06 for a gallon of milk, except that the Secretary, with respect to an Indian State agency, the State of Alaska, or any State agency (in compelling circumstances), may grant exemptions to retail stores from the application of the redemption limits contained in this paragraph if imposition of the limits is likely to cause hardships to participants in the program.".

REID AMENDMENT NO. 1397

Mr. BYRD (for Mr. Reid) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

Sec. . From the funds made available for Land Acquisition of the U.S. Fish and Wildlife Service in the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act (PL 102–154), $965,000 is hereby appropriated by transfer to the Resource Management account of the U.S. Fish and Wildlife Service.

BREAUX AMENDMENT NO. 1398

Mr. BYRD (for Mr. Breaux) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATIONS GUARANTEES" in Public Law 102–140 is amended by striking from the colon after the sum "$1,000,000" through to and including the sum "$10,000,000".

DeCONCINI (AND OTHERS) AMENDMENT NO. 1399

Mr. BYRD (for Mr. DeConcini), (for himself, Mr. Simon, Mrs. Kassebaum, Mr. D'Amato, and Mr. Leahy) proposed

VOL
137
PT
23
NO
21—25
1991
UMI

an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . RESTRICTIONS ON ASSISTANCE FOR KENYA.

(a) RESTRICTIONS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to establish political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1), and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

DECONCINI (AND OTHERS) AMENDMENT NO. 1400

Mr. BYRD (for Mr. DECONCINI) (for himself, Mr. D'AMATO, Mr. DODD, Mr. WALLOP, Mr. MOYNIHAN, Mr. RIEGLE, Mr. HATCH, Mr. BRADLEY, Ms. MIKULSKI, Mr. SIMON, Mr. HELMS, Mr. KASTEN, Mr. PRESSLER, Mr. KERRY, Mr. SPECTER, Mr. LIEBERMAN, Mr. WOFFORD, Mr. MACK, and Mr. INOUYE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of peoples to peaceful and democratic self-determination.

(8) As recognized in Article VII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

SPECTER (AND OTHERS) AMENDMENT NO. 1401

Mr. HATFIELD (for Mr. SPECTER) (for himself, Mr. HARKIN, Mr. KENNEDY, Mr. HATFIELD, and Mr. RUDMAN) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 24, after line 21, insert the following:

SEC. 204. Notwithstanding the provisions of Section 728(a) of the Public Health Service Act, or any other provision of law, Federal loan insurance pursuant to subpart I of Part C of the Public Health Service Act may be granted for loans to new and previous borrowers. The fiscal year 1992 ceiling shall be $290,000,000, as set forth in H.R. 3839, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992.

THURMOND (AND HOLLINGS) AMENDMENT NO. 1402

Mr. HATFIELD (for Mr. THURMOND) (for himself and Mr. HOLLINGS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

SECTION . WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa-12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. . USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

D'AMATO AMENDMENT NOS. 1403 AND 1404

Mr. HATFIELD (for Mr. D'AMATO) proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

AMENDMENT NO. 1403

On page 22, line 6, after "Chapter V", insert the following:

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $5,000,000, to remain available until expended, for rewards to individuals as authorized by 22 U.S.C. 2708: Provided, That such funds shall be available for obligation notwithstanding section 15 of the State Department Basic Authorities Act, as amended.

AMENDMENT NO. 1404

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE.

Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi have been indicted by the Justice Department for conspiracy to destroy a United States aircraft and kill one hundred and eighty nine United States nationals in violation of sections 2331 and 2 of

title 18, United States Code, and section 371 of title 18, United States Code;

The above named individuals have been indicted for causing the destruction of a United States carrier plan, Pan Am Flight 103, used in foreign commerce, over Lockerbie, Scotland on December 21, 1988, in violation of sections 32(a)(1), 34, and 2 of title 18, United States Code; and section 844(i) and 2, of title 18, United States Code;

The meticulous investigation by the Federal Bureau of Investigation, the Justice Department and the various other agencies involved in the events, has lead to these indictments;

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost three-year investigation of the destruction of Pan Am Flight 103; and

The families of the victims of Pan Am Flight 103 have suffered untold grief at the loss of their loved ones: Now, therefore, it is the sense of the Senate that—

(1) the President of the United States should pursue by any and all legal means the apprehension for trial in the United States, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi who have been indicted by the Justice Department for their roles in the destruction of Pan Am flight 103 on December 21, 1988;

(2) the President should offer rewards for information leading to the arrest and return to the United States for trial for the above named individuals as part of the State Department's Terrorism Information Reward Fund, under section 2709 of title 22, United States Code; and the Justice Department's Terrorism Information Reward Fund, under section 3071 of title 18, United States Code;

(3) the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie Doctrine; and

(4) Notwithstanding the indictments of the above named individuals, the investigation of the bombing of Pan Am Flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for commission of this terrible crime, no matter where they might be located.

D'AMATO AMENDMENT NO. 1405

Mr. D'AMATO proposed an amendment to the joint resolution (H.J. Res. 157) supra, as follows:

At the appropriate placed insert the following language:

The Additional United States Notes for chapter 87 of the Harmonized Tariff Schedule of the United States are amended by adding at the end thereof the following new note:

"3. Any motor vehicle that is—

"(a) a light truck within the meaning of section 523.5 of title 49 of the Code of Federal Regulations (as in effect on October 1, 1990); or

"(b) a light-duty truck within the meaning of such term as defined in section 86.082-2 of title 40 of the Code of Federal Regulations (as in effect July 1, 1990);

shall be classified under heading 8704.".

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

NUNN (AND WARNER) AMENDMENT NO. 1406

Mr. BYRD (for Mr. NUNN, for himself and Mr. WARNER) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 14, below line 23, insert the following new section:

SEC. 106. CLASSIFIED PROGRAM.

(a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "*Provided*, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1407

Mr. LAUTENBERG (for himself, Mr. WIRTH, Mr. CHAFEE, Mr. METZENBAUM, Mr. PACKWOOD proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of title II, insert the following:

SEC. 2. . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other Act may be used to carry out the Department of Defense policy set out in the memorandum of the Assistant Secretary of Defense, Health Affairs, dated June 21, 1988 (Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities) or to promulgate or carry out any other policy having the same substance, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

WIRTH AMENDMENT NO. 1408

Mr. WIRTH proposed an amendment to amendment No. 1407 proposed by Mr. LAUTENBERG (and others) to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of amendment 1407, add the following:

(a) IN GENERAL.—(1) Chapter 55 of Title 10, United States Code is further amended by inserting the following new section:

SEC. . REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost, including indirect cost of providing the service.

(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.

SPECTER AMENDMENT NO. 1409

Mr. SPECTER proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert:

TITLE —PENALTY-FREE WITHDRAWALS

SECTION 01. SHORT TITLE.

This title may be cited as the "Consumer Confidence and Financial Flexibility Act of 1991."

SEC. 02. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable-year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(1) $1,000,000 in the case of married individuals filing a joint return,

(2) $50,000 in the case of a married individual filing a separate return, and

(3) $75,000 in the case of any other taxpayer.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning on the date of the enactment of this Act and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is spent by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs,

to purchase or improve real property or to purchase durable goods.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.)—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

VOL
137
PT
23
NO
21
—
25
1991
UMI

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 03. ONE-YEAR EXTENSION OF RESEARCH AND EXPERIMENTATION TAX CREDIT, LOW-INCOME HOUSING TAX CREDIT, MORTGAGE REVENUE BOND TAX PROVISIONS, AND TARGETED JOBS TAX CREDIT.

(A) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Paragraph (5) of section 864(f) of the Internal Revenue Code of 1986 (relating to allocation of research and experimental expenditures) is amended—

(A) by striking "2 taxable years" and inserting "3 taxable years", and

(B) by striking "August 1, 1991" and inserting "August 1, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after August 1, 1991.

(b) LOW-INCOME HOUSING CREDIT.—

(1) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(A) by striking "1991" each place it appears and inserting "1992",

(B) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(C) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(D) by striking "1994" in paragraph (2)(C) and inserting "1995".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1991.

(e) MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(2) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(3) EFFECTIVE DATES.—

(A) BONDS.—The amendments made by paragraph (1) shall apply to bonds issued after December 31, 1991.

(B) CERTIFICATES.—The amendment made by paragraph (2) shall apply to elections for periods after December 31, 1991.

(d) TARGETED JOBS CREDIT.—

(1) IN GENERAL.—Paragraph (4) of section 51(c) of the Internal Revenue Code of 1986 is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to individuals who begin work for the employer after December 31, 1991.

BYRD AMENDMENTS NOS. 1410 AND 1411

Mr. BYRD proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

AMENDMENT No. 1410

SEC. . EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102–154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

AMENDMENT No. 1411

SEC. . EMERGENCY FOREST SERVICE FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102–154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

DASCHLE AMENDMENT NO. 1412

Mr. BYRD (for Mr. DASCHLE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert the following:

SECTION . AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100–516).

BUMPERS (AND PRYOR) AMENDMENT NO. 1413

Mr. BYRD (for Mr. BUMPERS, for himself and Mr. PRYOR) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 24, between lines 21 and 22, insert the following new section:

SEC. 204. EXTENSIONS OF CERTAIN FERC-ISSUED LICENSES.

(a) IN GENERAL.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(1) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(2) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(3) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(b) TERMINATION OF AUTHORIZATION.—The authorization for issuing extensions under this section shall terminate 3 years after the date of enactment of this section.

(c) CONSOLIDATION OF REQUESTS.—To facilitate requests under this section, the Commission may consolidate the requests.

CONRAD (AND OTHERS) AMENDMENT NO. 1414

Mr. BYRD (for Mr. CONRAD, for himself, Mr. CRAIG, Mr. DASCHLE, Mr. BURNS, Mr. BAUCUS, and Mr. PRESSLER) proposed an amendment to the joint resolution (H.J. RES. 157), supra; as follows:

At the appropriate place, insert the following new sections:

SEC. . MONITORING OF DOMESTIC USES MADE OF CERTAIN FOREIGN GRAIN AFTER IMPORTATION.

(a) DEFINITIONS.—For purposes of this section:

(1) ENTRY.—The term "entry" means the entry into, or the withdrawal from warehouse for consumption in, the customs territory of the United States.

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) CERTIFICATION REQUIREMENTS REGARDING FOREIGN GRAIN.—

(1) END-USE CERTIFICATE.—An end-use certificate that meets the requirements of subsection (c) shall be included in the documentation covering the entry of any foreign grain.

(2) QUARTERLY REPORTS.—A consignee of imported foreign grain shall submit to the Secretary of Agriculture a quarterly report that certifies—

(A) what percentage of the foreign grain covered by an end-use certificate was used by the consignee during the quarter; and

(B) that the grain referred to in paragraph (1) was used by the consignee for the purpose stated in the end-use certificate.

(c) END-USE CERTIFICATE AND QUARTERLY REPORT CONTENT.—The end-use certificates and quarterly reports required under subsection (b) shall be in such form, and require such information, as the Secretary of Agriculture considers necessary or appropriate to carry out the purposes of this section, including—

(1) in the case of the end-use certificate—

(A) the name and address of the importer of record of the foreign grain;

(B) the name and address of the consignee of the grain;

(C) the identification of the country of origin of the grain;

(D) a description by class and quantity of the grain covered by the certificate;

(D) specification of the purpose for which the consignee will use the grain; and

(E) the identification of the transporter of the grain from the port of entry to the processing facility of the consignee; and

(2) in the case of the quarterly report—

(A) the information referred to in subparagraphs (A) and (B) of paragraph (1);

(B) the identification of the end-use certificates currently held by the consignee;

(C) a statement of the quantity of the foreign grain covered by each of the end-use certificates identified under subparagraph (B) that was used during the quarter;

(D) a statement of the use made during the quarter by the consignee of each quantity referred to in subparagraph (C); and

(E) a statement of the quantity of wheat, barley, and oats that have been exported by the consignee during the quarter.

(d) REGULATIONS.—The Secretary of Agriculture shall prescribe such requirements regarding the preparation and submission of the quarterly reports required under subsection (b)(2) as may be necessary or appropriate to carry out the purposes of this section.

(e) PENALTIES.—

(1) CUSTOMS PENALTIES.—End-use certificates required under this section shall be treated as any other customs documentation for purposes of applying the customs laws that prohibit the entry, or the attempt to enter, merchandise by fraud, gross negligence, or negligence.

(2) CIVIL PENALTIES.—Any person who knowingly violates any requirement prescribed by the Secretary of Agriculture to carry out this section is punishable by a civil penalty in an amount not to exceed $10,000.

(f) ENTRY PROHIBITED UNLESS END-USE CERTIFICATE PRESENTED.—The Commissioner of Customs may not permit the entry of foreign grain unless the importer of record presents at the time of entry of the grain an end-use certificate that complies with the applicable requirements of subsection (c).

SEC. . SUSPENSION OR DEBARMENT FOR USE OF FOREIGN GRAIN IN CERTAIN AGRICULTURAL TRADE PROGRAMS.

(a) DEFINITIONS.—As used in this section:

(1) AGRICULTURAL TRADE PROGRAM.—The term "agricultural trade program" means an export promotion, export credit, credit guarantee, bonus, or other export or food aid program carried out through, or administered by, the Commodity Credit Corporation, including such a program carried out under—

(A) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(B) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(C) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(D) section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c).

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality;

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) HEARING.—The Commodity Credit Corporation shall provide a person with an opportunity for a hearing before suspending or debarring the person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program.

(c) WAIVER.—

(1) IN GENERAL.—The Commodity Credit Corporation may waive the suspension or debarment of a person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program if the use of the grain by the person was unintentional and the quantity of grain involved was small.

(2) OTHER PENALTIES.—Any waiver by the Commodity Credit Corporation of a suspension or debarment of a person under paragraph (1) shall not affect the liability of the person for any other penalty imposed under an agricultural trade program for the quantity of foreign grain involved.

D'AMATO AMENDMENT NO. 1415

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 23, after line six insert the following:

CHAPTER VII

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $10,100,000 to remain available until September 30, 1994, for the purchase of one MH–60G helicopter."

BURNS AMENDMENT NO. 1416

Mr. DOMENICI (for Mr. BURNS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

The following is to be added in the appropriate place:

( ) "The Secretary of Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992."

GORE AMENDMENT NO. 1417

Mr. BYRD (for Mr. GORE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert the following new section:

SEC. . WAIVER OF CERTAIN PERSONNEL PROVISIONS.

In the administration of the provisions of subchapter IV of chapter 35, United States Code, the Secretary of State may waive any 5-year limitation under such subchapter (including periods of separation under section 3582(b) and reemployment under sections 3581(5) and 3582(c) of such title) relating to any employee of the United States who on the date of the enactment of this section is serving with the Intergovernmental Panel on Climate Change, except such waiver may not extend any such 5-year period for more than an additional period of 2 years, with a possible further extension of 1 year.

BRADLEY AMENDMENT NO. 1418

Mr. BYRD (for Mr. BRADLEY) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 22, line 5, before the period, insert ", subject to authorization".

LEAHY AMENDMENT NO. 1419

Mr. BYRD (for Mr. LEAHY) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert: "Unobligated funds in the amount of $990,000 authorized and appropriated under P.L. 102–143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the City of Barre for the Granite Street Bridge, $350,000 to the City of Montpelier for the Bailey Avenue Bridge, $90,000 to the Town of Brandon for the replacement of the Dean Bridge, and $90,000 for the Town of Williston and $100,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are incurred in accordance with Sections 101, 106, 110, and 120 of Title 23 of the United States Code."

STEVENS AMENDMENT NO. 1420

Mr. BYRD (for Mr. STEVENS) proposed an amendment to the joint resolution (H.J. Res. 157) supra, as follows:

At the appropriate place in the bill insert the following:

"SEC. . SEALS OF THE UNITED STATES SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES

(a) The caption for Section 713 of Title 18, United States Code, is amended to read as follows:

"§713. Use of likenesses of the great seal of the United States, the seals of the

President and Vice President, and the seals of the United States

Senate and the United States House of Representatives".

(b) Section 713 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States or of the seals of the United States Senate or United States House of Representatives, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any public building, monument, or stationery, for the purposes of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or pruchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(d) Whoever, except as directed by the United States House of Represenatatives, or the Clerk of the House on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(e) A violation of subsection (a), (b), (c), or (d) of this section may be enjoined at the suit of the Attorney General upon complaint by any authorized representative of any branch, department or agency of the United States."

(7 U.S.C. 1421 note) is amended by inserting TITLE II—REDUCING THE COST OF CAP-

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tax credit, etc.) is amended by inserting (b) PHASEOUT OF PERSONAL EXEMPTIONS the extent applicable) the limitations of sec-

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(c) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives.".

STEVENS AMENDMENT NO. 1421

Mr. HATFIELD (for Mr. STEVENS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the Résolution insert the following new section:

SEC.   . Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States versus Exxon Corporation and Exxon Shipping Company (Case No. A90-015-1CR and 2CR), hereinafter the Plea Agreement, United States versus Exxon Corporation et al. (Civil No. A91-082 CIV) and State of Alaska versus Exxon Corporation et al. (Civil No. A91-083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited in the Oil Spill Liability Trust Fund (26 U.S.C. 9509). Such funds, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses, incurred after October 8, 1991, for restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23-24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided*, That such funds shall remain available until expended: *Provided further*, That such funds may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree."

COATS (AND OTHERS) AMENDMENT NO. 1422

Mr. BYRD (for Mr. COATS, for himself, Mr. RIEGLE, and Mr. LEVIN) proposed an amendment to the joint resolution (H.J. Res. 157), supra; as follows:

At the end of page 20, insert the following:

"CROP INSURANCE. Effective only for the 1991 crop year, Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 (b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act."

RIEGLE AMENDMENT NOS. 1423 AND 1424

Mr. BYRD (for Mr. RIEGLE) proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

AMENDMENT NO. 1423

At the appropriate place, insert the following new section:

SEC.   . Section 2251(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting "fire blight," after "earthquake,".

AMENDMENT NO. 1424

At the end of the joint resolution, add the following new section:

SEC.   . (a) Section 2256(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting after "replanting trees lost" the following: "and rehabilitation or restoring trees damaged".

(b) Section 2257(a) of such Act (7 U.S.C. 1421 note) is amended by striking "$25,000" and inserting "$75,000".

DOLE AMENDMENT NO. 1425

Mr. BYRD (for Mr. DOLE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 19, line 13, insert the following after the ".": "For the purpose of this Act, the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992."

PELL AMENDMENT NO. 1426

Mr. BYRD (for Mr. PELL) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

KASTEN (AND OTHERS) AMENDMENT NO. 1427

(Ordered to lie on the table.)

Mr. KASTEN (for himself, Mr. WALLOP, Mr. MACK, Mr. LOTT, Mr. NICKLES, Mr. SYMMS, Mr. SMITH, Mr. BURNS, Mr. COATS, Mr. CRAIG, and Mr. HATCH) submitted an amendment intended to be proposed by them to the joint resolution (H.R. Res. 157), supra, as follows:

On page 22 on line 6, after "Chapter V" insert the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $300,000, to remain available until expended, to be expended through the Interjurisdictional Fisheries Program for the Quahog Transplant Fund of the Rhode Island Department of Environmental Management for the restoration of shellfishing beds damaged by Hurricane Bob.

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Growth and Family Tax Freedom Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—NONREFUNDABLE TAX CREDIT FOR CHILDREN

Sec. 101. Nonrefundable tax credit for children.

TITLE II—REDUCING THE COST OF CAPITAL BY REDUCING CAPITAL GAINS TAX RATES, INDEXING THE BASIS OF CERTAIN ASSETS, AND EXCLUDING GAIN FROM SALES OF PRINCIPAL RESIDENCES

Sec. 201. Reduction in individual capital gains rate.
Sec. 202. Reduction in corporate capital gains rate.
Sec. 203. Reduction of minimum tax rate on capital gains.
Sec. 204. Indexing of certain assets for purposes of determining gain or loss.
Sec. 205. Indexing of limitation on capital losses of individuals.
Sec. 206. Exclusion of gain from sale of principal residence.
Sec. 207. Effective dates.

TITLE III—ADJUSTING DEPRECIATION RATES TO REFLECT INFLATION

Sec. 301. Depreciation adjustment for certain property placed in service in taxable years beginning after December 31, 1991.
Sec. 302. Phase-in of expensing for property placed in service in taxable years beginning after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

Sec. 401. Establishment of individual retirement plus accounts.
Sec. 402. Penalty-free IRA plus withdrawal for home purchase, higher education, and health costs.

TITLE V—TREATMENT OF PASSIVE LOSSES

Sec. 501. Treatment of certain real estate activities under limitations on losses from passive activities.

TITLE VI—ENTERPRISE ZONES

Sec. 600. Purpose.

Subtitle A—Designation of Enterprise Zones

Sec. 601. Designation of zones.
Sec. 602. Reporting requirements.
Sec. 603. Interaction with other Federal programs.

Subtitle B—Federal Income Tax Incentives

Sec. 611. Definitions and regulations; employee credit; capital gain exclusion; stock expensing.
Sec. 612. Alternative minimum tax.
Sec. 613. Adjusted gross income defined.
Sec. 614. Effective date.

Subtitle C—Regulatory Flexibility

Sec. 621. Definition of small entities in enterprise zone for purposes of analysis of regulatory functions.
Sec. 622. Waiver or modification of agency rules in enterprise zones.
Sec. 623. Federal agency support of enterprise zones.

Subtitle D—Establishment of Foreign-Trade Zones in Enterprise Zones

Sec. 631. Foreign-trade zone preferences.

Subtitle E—Repeal of Title VII of the Housing and Community Development Act of 1987

Sec. 641. Repeal.

TITLE I—NONREFUNDABLE TAX CREDIT FOR CHILDREN

SEC. 101. NONREFUNDABLE TAX CREDIT FOR CHILDREN.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign

tax credit, etc.) is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter and chapter 21 for the taxable year an amount equal to the sum of—

"(1) $1,000 multiplied by the number of qualifying children of the taxpayer who have not attained the age of 6 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(2) $300 multiplied by the number of qualifying children of the taxable year who have attained the age of 6 but have not attained the age of 19 as of the close of such calendar year.

"(b) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) for a taxable year shall not exceed the excess (if any) of—

"(1) the sum of the regular tax (reduced by the sum of the credits allowable under subpart A and section 32) and the tax imposed by chapter 21, over

"(2) the tentative minimum tax,

for the taxable year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given to such term by section 32(c)(1) (determined without regard to subparagraph (B) thereof).

"(2) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given to such term by section 32(c)(3) (determined without regard to subparagraphs (C) and (E) thereof).

"(3) CERTAIN OTHER RULES APPLY.—Subsections (d) and (e) of section 32 shall apply."

(b) DEPENDENT CARE CREDIT NOT AVAILABLE FOR CHILDREN UNDER AGE 6.—Subparagraph (A) of section 21(b)(1) (defining qualifying individual) is amended by inserting "(other than an individual described in section 30(a)(1))" after "taxpayer".

(c) CONFORMING AMENDMENT.—The table of sections for such subpart B is amended by inserting after the item relating to section 25 the following new item:

"Sec. 30. Credit for children."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE II—REDUCING THE COST OF CAPITAL BY REDUCING CAPITAL GAINS TAX RATES, INDEXING THE BASIS OF CERTAIN ASSETS, AND EXCLUDING GAIN FROM SALES OF PRINCIPAL RESIDENCES

SEC. 201. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.

(a) GENERAL RULE.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the net capital gain, plus

"(B) a tax equal to the sum of—

"(i) 7.5 percent of so much of the net capital gain as does not exceed—

"(I) the maximum amount of taxable income to which the 15-percent rate applies under the table applicable to the taxpayer, reduced by

"(II) the taxable income to which subparagraph (A) applies, plus

"(ii) 15 percent of the net capital gain in excess of the net capital gain to which clause (i) applies."

(b) PHASEOUT OF PERSONAL EXEMPTIONS AND LIMITATION ON DEDUCTION OF ITEMIZED DEDUCTIONS NOT TO RESULT FROM NET CAPITAL GAIN.—

(1)(A) Subparagraphs (A) and (B) of section 151(d)(3) (relating to phaseout of exemption amount) are each amended by inserting "modified" before "adjusted gross income".

(B) Paragraph (3) of section 151(d) of such Code is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income reduced by net capital gain."

(2) Subsection (a) of section 68 (relating to overall limitation on itemized deductions) is amended by inserting "(reduced by net capital gain (determined in accordance with the last sentence of section 151(d)(3)(D)))" after "adjusted gross income".

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "13/28 (19/34 in the case of a corporation) of the amount of gain".

(2)(A) The second sentence of section 7518(g)(6)(A) is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

SEC. 202. REDUCTION IN CORPORATE CAPITAL GAINS RATE.

(a) GENERAL RULE.—Section 1201 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c), and by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, or 831(a) (whichever applies), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—In the case of a taxable year which includes December 31, 1991, the amount of the net capital gain for purposes of subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "85 percent".

(2) Paragraphs (1) and (2) of section 1445(e) are each amended by striking "34 percent" and inserting "15 percent".

SEC. 203. REDUCTION OF MINIMUM TAX RATE ON CAPITAL GAINS.

Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended to read as follows:

"(A) the sum of—

"(i) 15 percent of the lesser of—

"(I) the net capital gain (determined with the adjustments provided in this part and (to the extent applicable) the limitations of sections 1(h)(2) and 1201(b)), or

"(II) so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, plus

"(ii) 20 percent (24 percent in the case of a taxpayer other than a corporation) of the amount (if any) by which the excess referred to in clause (i)(II) exceeds the net capital gain (as so determined), reduced by".

SEC. 204. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset of property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

VOL 137 PT 23 NO 21—25 1991 UMI

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1991).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (A)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for the subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—This table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after June 30, 1991, see section 1022(a)(1)."

SEC. 205. INDEXING OF LIMITATION ON CAPITAL LOSSES OF INDIVIDUALS.

Section 1211 (relating to limitation on capital losses) is amended by adding at the end thereof the following new subsection:

"(c) INDEXATION OF LIMITATION ON NONCORPORATE TAXPAYERS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1991, the $3,000 and $1,500 amounts under subsection (b)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the applicable inflation adjustment for the calendar year in which the taxable year begins.

"(2) APPLICABLE INFLATION ADJUSTMENT.—For purposes of paragraph (1), the applicable inflation adjustment for any calendar year is the percentage (if any) by which—

"(A) the gross national product deflator for the last calendar quarter of the preceding calendar year, exceeds

"(B) the gross national product deflator for the last calendar quarter of 1990.

For purposes of this paragraph, the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

SEC. 206. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—Gross income does not include gain from the sale or exchange of property if such property has been owned and used by the taxpayer as the taxpayer's principal residence.

"(b) SPECIAL RULES.—

"(1) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(2) INVOLUNTARY CONVERSIONS.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(3) PROPERTY USED IN PART AS PRINCIPAL RESIDENCE.—In the case of property only a portion of which has been owned and used by the taxpayer as the taxpayer's principal residence, this section shall apply with respect to so much of the gain from sale or exchange of such property as is determined, under regulations prescribed by the Secretary, to be attributable to the portion of the property so owned and used by the taxpayer."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1033(h) is amended to read as follows:

"(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121."

(2) Subsection (l) of section 1034 is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any sale or exchange occurring after December 31, 1991, in taxable years ending after such date."

(3) Section 1038 is amended by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(4) Paragraph (7) of section 1250(d) is amended to read as follows:

"(7) DISPOSITION OF PRINCIPAL RESIDENCE.—Subsection (a) shall not apply to a disposition of property to the extent used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121)."

(5) Subsection (c) of section 6012 is amended by striking "one-time exclusion of gain from sale of principal residence by individual who has attained age 55" and inserting "exclusion of gain from sale of principal residence".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 121 and inserting the following new item:

"Sec. 121. Exclusion of gain from sale of principal residence."

SEC. 207. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall apply to sales or exchanges occurring after December 31, 1991, in taxable years ending after such date.

(b) INDEXING OF LOSS LIMITATION.—The amendments made by section 205 shall apply to taxable years beginning after December 31, 1991.

TITLE III—ADJUSTING DEPRECIATION RATES TO REFLECT INFLATION

SEC. 301. DEPRECIATION ADJUSTMENT FOR CERTAIN PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1991.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(j) DEDUCTION ADJUSTMENT TO ALLOW EQUIVALENT OF EXPENSING FOR CERTAIN PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1991.—

"(1) IN GENERAL.—In the case of tangible property (other than residential rental property and nonresidential real property) placed in service in a taxable year beginning after December 31, 1991, the deduction allowable under this section with respect to such property for any taxable year (after the taxable year during which the property is placed in service) shall be—

"(A) the amount so allowable for such taxable year without regard to this subsection, multiplied by

"(B) the applicable neutral cost recovery adjustment.

"(2) APPLICABLE NEUTRAL COST RECOVERY ADJUSTMENT.—For purposes of paragraph (1), the applicable neutral cost recovery adjustment for any calendar year is the number determined by—

"(A) dividing—

"(i) the gross national product deflator for the calendar quarter of the preceding calendar year which corresponds to the calendar quarter during which the property was placed in service by the taxpayer, by

"(ii) the gross national product deflator for the calendar quarter during which the property was placed in service by the taxpayer, and

"(B) then multiplying the number determined under subparagraph (A) by the number equal to 1.035 to the nth power where 'n' is the number of calendar years after the calendar year in which the property was placed in service by the taxpayer and before the 1st calendar year beginning with or within the taxable year for which the deduction under this subsection is being determined.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—For purposes of paragraph (2), the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

(b) CORRESPONDING MODIFICATION TO DEPRECIATION SCHEDULES.—Paragraphs (1)(A) and (2) of section 168(b) (relating to applicable depreciation method) are each amended by striking "200 percent" and inserting "125 percent".

(c) AMENDMENTS TO ALTERNATIVE MINIMUM TAXABLE INCOME.—

(1) NO INCREASE DUE TO INDEXING.—Subsections (a)(1)(A)(i) and (g)(4)(A) of section 56 (relating to adjustments in computing alternative minimum taxable income) are each amended by inserting "(as adjusted by section 168(j))" after "section 168(g)" each place it appears.

(2) PHASE-OUT OF ALTERNATIVE MINIMUM TAX DEPRECIATION DEDUCTION.—Section 56 is amended by adding at the end thereof the following new subsection:

"(i) PHASE-IN OF FULL DEPRECIATION DEDUCTION.—

"(1) IN GENERAL.—The depreciation deduction with respect to any property determined under subsections (a)(1) and (g)(4) for each taxable year shall be increased by the applicable percentage of the depreciation differential for such taxable year.

"(2) APPLICABLE PERCENTAGE.—The applicable percentage for any taxable year shall be determined in accordance with the following table:

"In the case of a taxable year which begins:

After January 1 of:	And on or before January 1 of:	The applicable percentage is:
1992	1993	20
1993	1994	30
1994	1995	40
1995	1996	50
1996	1997	60
1997	1998	70
1998	1999	80
1999	2000	90
2000		100.

"(3) DEPRECIATION DEDUCTION DIFFERENTIAL.—With respect to any property, the depreciation deduction differential for any taxable year is equal to the excess of—

"(A) the depreciation deduction applicable for purposes of computing the regular tax for such taxable year, over

"(B) the depreciation deduction determined under subsections (a)(1) and (g)(4) for such taxable year."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 302. PHASE-IN OF EXPENSING FOR PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1996.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(k) PHASE-IN OF EXPENSING.—

"(1) IN GENERAL.—In the case of tangible property placed in service in a taxable year beginning after December 31, 1996—

"(A) the phase-in deductions with respect to such property shall be allowable under this section for the taxable year in which such property is placed in service, and

"(B) the applicable recovery period with respect to such property shall be reduced by the phase-in number of years.

"(2) PHASE-IN DEDUCTIONS AND YEARS.—For purposes of this subsection—

"(A) IN GENERAL.—The phase-in deductions with respect to any property are the aggregate deductions allowable under this section (determined without regard to this subsection and subsection (j)) for the first phase-in number of years in the applicable recovery period.

"(B) PHASE-IN NUMBER OF YEARS.—The phase-in number of years with respect to any property is the number of calendar years after 1996 and before the calendar year in which the property is placed in service.

"(3) ELECTION.—This subsection shall not apply to any property if the taxpayer elects not to apply this subsection to such property. Such an election, once made, shall be irrevocable."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

SEC. 401. ESTABLISHMENT OF INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"408A. INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, an individual retirement plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) INDIVIDUAL RETIREMENT PLUS ACCOUNT.—For purposes of this title, the term 'individual retirement plus account' means an individual retirement plan which is designated at the time of the establishment of the plan as an individual retirement plus account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an individual retirement plus account.

"(2) CONTRIBUTION LIMIT.—

"(A) IN GENERAL.—Except in the case of rollover contributions, the aggregate amount which may be accepted as contribu-

VOL 137
PT 23
NO 21—25
1991
UMI

tions to an individual retirement plus account shall not be greater than the excess (if any) of—

"(i) the nondeductible limit with respect to the individual for the taxable year under section 408(o) (after application of subparagraph (B)(ii) thereof), over

"(ii) the designated nondeductible contributions made by the individual for such taxable year to 1 or more individual retirement plans.

"(B) $1,000 INCREASE AFTER 1996.—In the case of any taxable year beginning after December 31, 1996, the amount determined under subparagraph (A)(i) (without regard to this subparagraph) shall be increased by $1,000.

"(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—The nondeductible limits under subparagraph (A) for an individual and for such individual's spouse shall be an amount equal to the excess (if any) of—

"(i) $2,000, over

"(ii) the sum of the amount allowed as a deduction under section 219 for contributions on behalf of such individual or such spouse, plus the amount determined under subparagraph (A)(ii) with respect to each.

In no event shall the sum of such limits exceed an amount equal to the sum of the compensation includible in the individual's and spouse's gross income for the taxable year, reduced by the sum of the amounts determined under clause (ii).

"(3) CONTRIBUTIONS AFTER AGE 70½.—Contributions may be made by an individual to an individual retirement plus account after such individual has attained the age of 70½.

"(4) LIMITATIONS ON ROLLOVER CONTRIBUTIONS.—No rollover contributions may be made to an individual retirement plus account unless such rollover contribution is a contribution of a distribution or payment out of—

"(A) another individual retirement plus account, or

"(B) an individual retirement plan which is not allocable to any amount transferred to such plan which represented any portion of the balance to the credit of an employee in a qualified trust (or any income allocable to such portion).

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) IN GENERAL.—Except in the case of a qualified distribution, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an individual retirement plus account.

"(2) TREATMENT OF QUALIFIED DISTRIBUTION.—In the case of a qualified distribution from an individual retirement plus account—

"(A) the amount of such distribution shall not be includible in gross income; and

"(B) section 72(t) shall not apply.

"(3) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of an individual) on or after the death of the individual, or

"(iii) attributable to the employee's being disabled (within the meaning of section 72(m)(7)).

"(B) DISTRIBUTIONS WITHIN 5 YEARS.—No distribution shall be treated as a qualified distribution if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year in which the individual made a contribution to an individual retirement plus account, or

"(ii) in the case of a distribution properly allocable to a rollover contribution (or income allocable thereto), it is made within 5 years of the date on which such rollover contribution was made.

"(4) SPECIAL RULES RELATING TO ROLLOVERS FROM REGULAR INDIVIDUAL RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Except as provided in this paragraph, any amount paid or distributed out of an individual retirement plan on or before the earlier of—

"(i) the date on which the individual attains age 55, or

"(ii) June 30, 1993,

shall not be included in gross income (and section 72(t) shall not apply to such amount) if the individual receiving such amount transfers, within 60 days of receipt, the entire amount received to an individual retirement plus account.

"(B) TREATMENT OF TAX-FAVORED AMOUNTS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), there shall be included in gross income (but section 72(t) shall not apply to) the portion of any amount transferred which bears the same ratio to such amount as—

"(I) the aggregate amount of contributions to individual retirement plans with respect to which a deduction was allowable under section 219, bears to

"(II) the aggregate balance of such plans.

"(ii) TIME FOR INCLUSION.—Any amount described in clause (i) shall be included in gross income ratably over the 4-taxable year period beginning with the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) ROLLOVER CONTRIBUTIONS.—For purposes of this section, the term 'rollover contributions' means contributions described in sections 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), and 408(d)(3).

"(f) DETERMINATIONS.—For purposes of this section, any determinations with respect to aggregate contributions to, or the balance of, individual retirement plus accounts shall be made as of the close of the calendar year preceding the calendar year in which the taxable year begins."

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Individual retirement plus accounts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 402. PENALTY-FREE IRA PLUS WITHDRAWAL FOR HOME PURCHASE, HIGHER EDUCATION, AND HEALTH COSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 408A(d)(3) (as added by section 401) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iv) which is a qualified special purpose distribution (within the meaning of subsection (e)).

(b) QUALIFIED SPECIAL PURPOSE DISTRIBUTION DEFINED.—Section 408A (as so added) is amended by redesignating subsections (e) and (f) as (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) QUALIFIED SPECIAL PURPOSE DISTRIBUTION FROM IRA PLUS ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified special purpose distribution' means—

"(A) a qualified first-time homebuyer distribution, or

"(B) an applicable medical or educational distribution.

"(2) 25 PERCENT ACCOUNT LIMIT.—

"(A) IN GENERAL.—A distribution shall not be treated as a qualified special purpose distribution to the extent it exceeds the amount (if any) by which—

"(i) 25 percent of the sum of—

"(I) the aggregate balance of individual retirement plus accounts established on behalf of an individual, plus

"(II) the aggregate amounts previously treated as qualified special purpose distributions, exceeds

"(ii) the amount determined under clause (i)(II).

"(B) LIMITATION NOT TO APPLY FOR PURPOSES OF SECTION 72(t).—Section 72(t) shall not apply to any distribution which would be a qualified distribution but for the limitations of subparagraph (A).

"(3) DISTRIBUTIONS FROM IRA PLUS ACCOUNTS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYER.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer (or by a parent or grandparent of a first-time homebuyer) from an individual retirement plan to the extent such payment or distribution is used by the individual receiving the payment or distribution before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such first-time homebuyer.

"(B) BASIS REDUCTION.—The basis of any principal residence described in subparagraph (A) shall be reduced by any amount excluded from the gross income of such first-time homebuyer (or parent or grandparent thereof) by reason of this section.

"(C) RECOGNITION OF GAIN AS ORDINARY INCOME.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in clause (ii)—

"(I) gain (if any) on the sale or exchange of a principal residence to which subparagraph (A) applies shall, to the extent of the amount excluded from gross income under this section, be treated as ordinary income by such individual, and

"(II) section 72(t) shall apply to such amount.

"(ii) EXCEPTION.—Clause (i) shall not apply to any taxable year to the extent of any amount which, before the due date (without extensions) for filing the return for such year, the taxpayer contributes to an individual retirement plus account. Such amount shall not be taken into account for purposes of any provision of this title relating to excess contributions.

"(iii) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in clause (i) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before clause (i).

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plus account to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, such amount cannot be so used,

the amount so paid or distributed may be paid into an individual retirement plus account as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(ii) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(iii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

"(iv) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(4) APPLICABLE MEDICAL DISTRIBUTIONS FROM IRA PLUS ACCOUNTS.—For purposes of paragraph (1), the term 'applicable medical distributions' means any distributions made to an individual (not otherwise taken into account under this subsection) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 for amounts paid during the taxable year for medical care (without regard to whether the individual itemized deductions for the taxable year). For purposes of determining the amount so allowable, any child or grandchild of the taxpayer shall be treated as a dependent of the taxpayer.

"(5) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLUS ACCOUNTS FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable educational distributions' means distributions to an individual to the extent that the amount of such distributions (not otherwise treated as qualified special purpose distributions, determined after application of paragraph (4)) does not exceed the qualified higher education expenses of the individual for the taxable year.

"(B) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(I) the taxpayer,

"(II) the taxpayer's spouse, or

"(III) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(ii) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE V—TREATMENT OF PASSIVE LOSSES

SEC. 501. TREATMENT OF CERTAIN REAL ESTATE ACTIVITIES UNDER LIMITATIONS ON LOSSES FROM PASSIVE ACTIVITIES.

(a) IN GENERAL.—Subsection (c) of section 469 (relating to passive activity losses and credits limited) is amended by adding at the end the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings, and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—

(1) IN GENERAL.—Paragraph (2) of section 469(c) is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) CONFORMING AMENDMENT.—Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE VI—ENTERPRISE ZONES

SEC. 600. PURPOSE.

It is the purpose of this title to provide for the establishment of enterprise zones in order to stimulate entrepreneurship, particularly by zone residents, the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

Subtitle A—Designation of Enterprise Zones

SEC. 601. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7880. Designation.

"SEC. 7880. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITION.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as an enterprise zone.

"(2) AUTHORITY TO DESIGNATE.—The Secretary of Housing and Urban Development is authorized to designate enterprise zones in accordance with the provisions of this section.

"(3) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area, and

"(ii) the procedures for designation as an enterprise zone, including a method for comparing courses of action under subsection (d) proposed for nominated areas, and the other factors specified in subsection (e)

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 48-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) June 30, 1992.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban development may designate—

"(I) not more than 50 nominated areas as enterprise zones under this section and

"(II) not more than 15 nominated areas as enterprise zones during the first 12-month period beginning on the date determined

VOL
137
PT
23
NO
21–25
1991
UMI

under subparagraph (B), not more than 30 by the end of the second 12-month period, not more than 45 by the end of the third 12-month period, and not more than 50 by the end of the fourth 12-month period.

"(ii) Minimum designation in rural areas.—Of the areas designated as enterprise zones, at least one-third must be areas that are—

"(I) within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined using the most recent census data available);

"(II) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)); or

"(III) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) Procedural rules.—The Secretary of Housing and Urban Development shall not make any designations under this section unless—

"(i) the local government and the State in which the nominated area is located have the authority to—

"(I) nominate such area for designation as an enterprise zone,

"(II) make the State and local commitments under subsection (d), and

"(III) provide assurances satisfactory to the Secretary of Housing and Urban development that such commitments will be fulfilled, and

"(ii) a nomination therefor is submitted by such State and local governments in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall prescribe by regulation.

"(4) Nomination process for Indian reservations.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) Time Period for Which Designation is in Effect—

"(1) In general.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date specified by the State and local governments as provided in the nomination submitted in accordance with subsection (a)(3)(D)(ii),

"(C) such other date as the Secretary of Housing and Urban Development shall specify as a condition of designation, or

"(D) the date upon which the Secretary of Housing and Urban Development revokes such designation.

"(2) Revocation of designation.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the State or a local government in which the area is located is not complying substantially with the agreed course of action for the area.

"(c) Area and Eligibility Requirements—

"(1) In general.—The Secretary of Housing and Urban Development may designate a nominated area as an enterprise zone only if it meets the requirements of paragraphs (2) and (3).

"(2) Area requirements.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government;

"(B) the boundary of the area is continuous; and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of not less than—

"(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(3)(C)(ii)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

"(II) 1,000 in any other case; or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) Eligibility requirements.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State or local governments in which the nominated area is located certifies, and the Secretary of Housing and Urban Development accepta such certification, that—

"(A) the area is one of pervasive poverty, unemployment and general distress;

"(B) the unemployment rate for the area, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for the period;

"(C) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 1.5 times the national poverty rate for the period to which such data relate; and

"(D) the area meets at least one of the following criteria:

"(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

"(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

"(4) Eligibility requirements for rural areas.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(3)(C)(ii) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

"(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

"(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

"(d) Required State and Local Commitments.—

"(1) In general.—No nominated area shall be designated as an enterprise zone unless the State and the local government or governments of the jurisdictions in which the nominated area is located agree in writing that, during any period during which the nominated area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) Course of action.—The course of action under paragraph (1) may include, but is not limited to—

"(A) the reduction or elimination of tax rates or fees applying within the enterprise zone,

"(B) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(C) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention, and drug enforcement prevention and treatment,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area,

"(E) mechanisms to increase equity ownership by residents and employees within the enterprise zone,

"(F) donation (or sale below market value) of land and buildings to benefit low and moderate income people,

"(G) linkages to—

"(i) job training,

"(ii) transportation,

"(iii) education,

"(iv) day care,

"(v) health care, and

"(vi) other social service support,

"(H) provision of supporting public facilities, and infrastructure improvements,

"(I) encouragement of local entrepreneurship; and

"(J) other factors determined essential to support enterprise zone activities and encourage livability or quality of life.

"(3) Later modification of a course of action.—The Secretary of Housing and Urban Development may by regulation prescribe procedures to permit or require a course of action to be updated or modified during the time that a designation is in effect.

"(e) Priority of Designation.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give preference to the nominated areas—

"(1) with respect to which the strongest and highest quality contributions have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief,

"(2) with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action will actually be carried out during the period of the enterprise zone designation,

"(3) with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(4) which best exhibit such other factors determined by the Secretary of Housing and Urban Development, including relative distress, as are consistent with the intent of the enterprise zone program and have the greatest likelihood of success.

"(f) Geographic Distribution.—In making designations, the Secretary of Housing and Urban Development will take into consideration a reasonable geographic distribution of enterprise zones.

"(g) Definitions.—For the purposes of this title—

"(1) Governments.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) State.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other possession of the United States.

"(3) Local government.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia."

"(h) Cross References for—

"(1) definitions, see section 1391,

"(2) treatment of employees in enterprise zones, see section 1392, and

"(3) treatment of investments in enterprise zones, see sections 1393 and 1394."

(b) Clerical Amendment.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter D. Designation of enterprise zones."

SEC. 602. REPORTING REQUIREMENTS.

Not later than the close of the second calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each second calendar year thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title.

SEC. 603. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) Coordination With Relocation Assistance.—The designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 (as added by this title) shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such title.

(b) Coordination With Environmental Policy.—Designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 shall not constitute a Federal action for purposes of applying the procedural requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

Subtitle B—Federal Income Tax Incentives

SEC. 611. DEFINITIONS AND REGULATIONS; EMPLOYEE CREDIT; CAPITAL GAIN EXCLUSION; STOCK EXPENSING.

(a) General Rule.—Chapter 1 (relating to normal tax and surtax rules) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Enterprise Zones

"Sec. 1391. Definitions and regulatory authority.
"Sec. 1392. Credit for enterprise zone employees.
"Sec. 1393. Enterprise zone capital gain.
"Sec. 1394. Enterprise zone stock.

"SEC. 1391. DEFINITIONS AND REGULATORY AUTHORITY.

"(a) Enterprise Zone.—

"(1) In general.—For purposes of this subchapter, the term 'enterprise zone' means any area which the Secretary of Housing and Urban Development designates pursuant to section 7880(a) as a Federal enterprise zone for purposes of this title.

"(2) Termination of enterprise zone.—An area will cease to constitute an enterprise zone once its designation as such terminates or is revoked under section 7880(b).

"(b) Enterprise Zone Business.—

"(1) In general.—For purposes of this subchapter, the term 'enterprise zone business' means an activity constituting the active conduct of a trade or business within an enterprise zone, and with respect to which—

"(A) at least 80 percent of the gross income in each calendar year is attributable to the active conduct of a trade or business within an enterprise zone,

"(B) less than 10 percent of the property (as measured by unadjusted basis) constitutes stocks, securities, or property held for use by customers,

"(C) less than 10 percent of the property constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of the active trade or business,

"(D) substantially all of the property (whether owned or leased) is located within an enterprise zone, and

"(E) substantially all of the employees work within an enterprise zone.

"(2) Related activities taken into account.—Except as otherwise provided in regulations, all activities conducted by a taxpayer and persons related to the taxpayer shall be treated as one activity for purposes of paragraph (1).

"(3) Special rules.—

"(A) Rental real property.—For purposes of paragraph (1), real property located within an enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business for purposes of paragraph (1)(A) and as not subject to paragraph (1)(B).

"(B) Termination of enterprise zone business.—An activity shall cease to be an enterprise zone business if—

"(i) the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 7880(b);

"(ii) more than 50 percent (by value) of the activity's property or services are obtained from related persons other than enterprise zone businesses; or

"(iii) more than 50 percent of the activity's gross income is attributable to property or services provided to related persons other than enterprise zone businesses.

"(c) Enterprise Zone Property.—

"(1) In general.—For purposes of this subchapter, the term 'enterprise zone property' means any property used in the active conduct of an enterprise zone business.

"(2) Termination of enterprise zone.—The treatment of property as enterprise zone property under subparagraph (A) shall not terminate upon the termination or revocation of the designation of the enterprise zone in which the property is located, but instead shall terminate immediately after the first sale or exchange of such property occurring after the expiration or revocation.

"(d) Related Persons.—For purposes of this subchapter, a person shall be treated as related to another person if—

"(1) the relationship of such persons is described in section 267(b) or 707(b)(1), or

"(2) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(e) Regulatory Authority.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of title VI of the Economic Growth and Family Tax Freedom Act of 1991, including—

"(1) providing that Federal tax relief is unavailable to an activity that does not stimulate employment in, or revitalization of, enterprise zones,

"(2) providing for appropriate coordination with other Federal programs that, in combination, might enable activity within enterprise zones to be more than 100 percent subsidized by the Federal government, and

"(3) preventing the avoidance of the rules in this subchapter.

"SEC. 1392. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) General Rule.—In the case of a taxpayer who is an enterprise zone employee, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 5 percent of so much of the qualified wages of the taxpayer for the taxable year as does not exceed $10,500.

"(b) Definitions.—For purposes of this section—

"(1) Enterprise zone employee.—The term 'enterprise zone employee' means an individual—

"(A) performing services during the taxable year that are directly related to the conduct of an enterprise zone business,

"(B) substantially all of the services described in paragraph (1)(A) are performed within an enterprise zone, and

"(C) the employer for whom the services described in paragraph (1)(A) are performed is not the Federal government, any State government or subdivision thereof, or any local government.

"(2) Wages.—The term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such subsection).

"(3) Qualified wages.—The term 'qualified wages' means all wages of the taxpayer, to the extent attributable to services described in paragraph (1).

"(c) Limitations.—

"(1) Phase-out of credit.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) $525, over

"(B) 10.5 percent of so much of the taxpayer's total wages (whether or not constituting qualified wages) as exceeds $20,000.

"(2) Partial taxable year.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (c)(1) shall be adjusted on a pro rata basis (based upon the number of days).

"(d) Reduction of Credit to Taxpayers Subject to Alternative Minimum Tax.—The credit allowed under this section for the taxable year shall be reduced by the amount (if any) of tax imposed by section 55 (relating

VOL 137
PT 23
NO 21–25
1991
UMI

to the alternative minimum tax) with respect to such taxpayer for such year.

"(e) Credit Treated as Subpart C Credit.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C of part IV of subchapter A of this chapter.

"SEC. 1393. ENTERPRISE ZONE CAPITAL GAIN.

"(a) General Rule.—Gross income does not include the amount of any gain constituting enterprise zone capital gain.

"(b) Definition.—For purposes of this section—

"(1) In general.—The term 'enterprise zone capital gain' means gain—

"(A) treated as long-term capital gain,

"(B) allocable in accordance with the rules under subsection (b)(5) of section 338 to the sale or exchange of enterprise zone property, and

"(C) properly attributable to periods of use in an enterprise zone business.

"(2) Limitations.—Enterprise zone capital gain does not include any gain attributable to—

"(A) the sale or exchange of property not constituting enterprise zone property with respect to the taxpayer throughout the period of twenty-four full calendar months immediately preceding the sale or exchange,

"(B) any collectibles (as defined in section 408(m)), or

"(C) sales or exchanges to persons controlled by the same interests.

"(c) Basis.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the taxpayer.

"SEC. 1394. ENTERPRISE ZONE STOCK.

"(a) General Rule.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) Limitations.—

"(1) Ceiling.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed $100,000 for any taxable year, nor $500,000 during the taxpayer's lifetime.

"(A) Excess amounts.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under this paragraph (1)—

"(i) the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) Related person.—

"(A) In general.—The taxpayer and all individuals related to the taxpayer shall be treated as one person for purposes of the limitations described in subsection (b)(1).

"(B) Excess amounts.—The limitations described in subsection (b)(1) shall be allocated among the taxpayer and related persons in accordance with their respective purchases of enterprise zone stock.

"(3) Partial taxable year.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (b)(1) shall be adjusted on a pro rata basis (based upon the number of days).

"(c) Dispositions of Stock.—

"(1) Gain treated as ordinary income.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized upon such disposition shall be treated as ordinary income and recognized notwithstanding any other provision of this subtitle.

"(2) Interest charged if disposition within 5 years of purchase.—

"(A) In general.—If a taxpayer disposes of any enterprise zone stock before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) Additional amount.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

"(d) Disqualification.—

"(1) Issuer or stock ceases to qualify.—If a taxpayer elects the deduction under subsection (a) with respect to enterprise zone stock, and either—

"(A) the issuer with respect to which the election was made ceases to be a qualified issuer, or

"(B) the proceeds from the issuance of the taxpayer's enterprise zone stock fail or otherwise cease to be invested by the issuer in enterprise zone property, then, notwithstanding any provision of this subtitle other than paragraph (2) to the contrary, the taxpayer shall recognize as ordinary income the amount of the deduction allowed under subsection (a) with respect to the issuer's enterprise zone stock.

"(2) Special rules.—

"(A) Liquidation.—Where enterprise zone property acquired with proceeds from the issuance of enterprise zone stock is sold or exchanged pursuant to a plan of complete liquidation, the treatment described in paragraph (1) shall be inapplicable.

"(B) Termination of enterprise zone.—The treatment of an activity as an enterprise zone business shall not cease for purposes of paragraph (1) solely by reason of the termination or revocation of the designation of the enterprise zone with respect to the activity.

"(C) Partial disqualification.—Where some, but not all, of the property acquired by the issuer with the proceeds of enterprise zone stock ceases to constitute enterprise zone property, the treatment described in paragraph (1) shall be modified as follows—

"(i) the total amount recognized as ordinary income by all shareholders of the issuer shall be limited to an amount of deduction allowed up to the unadjusted basis of property ceasing to constitute enterprise zone property,

"(ii) the amount recognized shall be allocated among enterprise zone stock with respect to which the election in subsection (a) was made in the reverse order in which such stock was issued, and

"(iii) the amount recognized shall be apportioned among taxpayers having made the election in subsection (a) in the ratios in which the stock described in paragraph (2)(C)(ii) was purchased.

"(3) Additional amount.—If income is recognized pursuant to paragraph (1) at any time before the close of the 5th calendar year ending after the date the enterprise zone stock was purchased, the tax imposed by this chapter with respect to such income shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(A) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disqualification event described in paragraph (1),

"(B) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disqualified.

"(e) Definitions.—For purposes of this section—

"(1) Enterprise zone stock.—The term 'enterprise zone stock' means common stock issued by a qualified issuer, but only to the extent that the amount of proceeds of such issuance are used by such issuer no later than twelve months following issuance to acquire and maintain an equal amount of newly acquired enterprise zone property.

"(2) Qualified issuer.—

"(A) In general.—The term 'qualified issuer' means any subchapter C corporation which—

"(i) does not have more than one class of stock,

"(ii) is engaged solely in the conduct of one or more enterprise zone businesses,

"(iii) does not own or lease more than $50,000,000 of total property (including money), as measured by the unadjusted basis of the property, and

"(iv) more than 20 percent of the total voting power and 20 percent of the total value of the stock of such corporation is owned by individuals, partnerships, estates or trusts.

"(B) Limitation on total issuances.—A qualified issuer may issue no more than an aggregate of $50,000,000 of enterprise zone stock.

"(C) Aggregation.—For purposes of applying the limitations under paragraph (2), the issuer and all related persons shall be treated as one person.

"(3) Amount paid.—For purposes of subsection (a), the amount 'paid' by a taxpayer for any taxable year shall not include the issuance of evidences of indebtedness of the taxpayer (whether or not such indebtedness is guaranteed by another person), nor amounts paid by the taxpayer after the close of the taxable year.

"(f) Issuances in Exchange for Property.—If enterprise zone stock is issued in exchange for property, then notwithstanding any provision of subchapter C of this chapter to the contrary—

"(1) the issuance shall be treated for purposes of this subtitle as the sale of the property at its then fair market value to the corporation, and a contribution to the corporation of the proceeds immediately thereafter in exchange for the enterprise zone stock, and

"(2) the issuer's basis for the property shall be equal to the fair market value of such property at the time of issuance.

"(g) Basis Adjustment.—For purposes of this subtitle, if a taxpayer elects the deduction under subsection (a), the taxpayer's basis (without regard to this subsection) for the enterprise zone stock with respect to such election shall be reduced by the deduction allowed or allowable.

"(h) Limitations on Assessment and Collection.—If a taxpayer elects the deduction

under subsection (a) for any taxable year, then—

"(1) the period for assessment and collection of any deficiency attributable to any part of the deduction shall not expire before one year following expiration of such period of the qualified issuer that includes the circumstances giving rise to the deficiency, and

"(2) such deficiency may be assessed before expiration of the period described in paragraph (1) notwithstanding any provisions of this subtitle to the contrary.

"(i) Cross Reference.—

For treatment of the deduction under subsection (a) for purposes of the alternative minimum tax, see section 56."

(b) Technical Amendment.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (23); by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1394(g), in the case of stock with respect to which a deduction was allowed or allowable under section 1394(a)."

(c) Clerical Amendment.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Enterprise zones."

SEC. 612. CORPORATE ALTERNATIVE MINIMUM TAX.

Section 56(g)(4)(B) (relating to adjustments based on adjusted current earnings of corporations) is amended by adding the following new clause at the end thereof:

"(iii) Exclusion of enterprise zone capital gain.—Clause (i) shall not apply in the case of any enterprise zone capital gain (as defined in section 1393(b)), and such gain shall not be included in income for purposes of computing alternative minimum taxable income."

SEC. 613. ADJUSTED GROSS INCOME DEFINED.

Section 62(a) (relating to the definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) Enterprise zone stock.—The deduction allowed by section 1394."

SEC. 614. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years ending after December 31, 1991.

Subtitle C—Regulatory Flexibility

SEC. 621. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONE FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any unit of government that nominated an area which the Secretary of Housing and Urban Development designates as an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 1392(b)(1) of such Code)."

SEC. 622. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of any government which nominated an area that the Secretary of Housing and Urban Development has designated as an enterprise zone under section 7880 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If such a request is made to any agency other than the Department of Housing and Urban Development, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety, or of environmental pollution.

"(e) If a request is disapproved, the agency shall inform all the requesting governments, and the Department of Housing and Urban Development, in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of applicability of such waiver or modification.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

"(i) No waiver or modification of a rule under this section shall remain in effect with respect to an enterprise zone after the enterprise zone designation has expired or has been revoked.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) The analysis for chapter 6 of title 5, United States Code, is amended by redesignating the items relating to sections 611 and 612 as items relating to sections 612 and 613, respectively, and by inserting after the item relating to section 610 the following new item:

"611. Waiver or modification of agency rules in enterprise zones."

(c) Section 601(2) of such title 5 is amended by inserting "(except for purposes of section 611" immediately before "means".

(d) Section 613 of such title 5, as redesignated by subsection (a), is amended—

(1) in subsection (a) by inserting "(except section 611)" immediately after "chapter"; and

(2) in subsection (b) by inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence.

SEC. 623. FEDERAL AGENCY SUPPORT OF ENTERPRISE ZONES.

In order to maximize all agencies' support of enterprise zones, the Secretary of Housing and Urban Development is authorized to convene regional and local coordinating councils of any appropriate agencies to assist State and local governments to achieve the objectives agreed to in the course of action under section 7880 of the Internal Revenue Code of 1986.

Subtitle D—Establishment of Foreign-Trade Zones in Enterprise Zones

SEC. 631. FOREIGN-TRADE ZONE PREFERENCES.

(a) Preference in Establishment of Foreign-Trade Zones in Revitalization Areas.—In processing applications for the

VOL
137
PT
23
NO
21
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25
1991
UMI

establishment of foreign-trade zones pursuant to an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7880 of the Internal Revenue Code of 1986.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone so designated.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones so designated, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications, to the maximum extent practicable, consistent with their respective statutory responsibilities.

Subtitle E—Repeal of Title VII of the Housing and Community Development Act of 1987

SEC. 641. REPEAL.

Title VII of the Housing and Community Development Act of 1987 is hereby repealed.

LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1428

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 848) an act Little Bighorn Battlefield National Monument, as follows:

Insert the following new title at the end of the bill:

TITLE III

SEC. 301. EXTENSION OF ALIENABLITY RESTRICTIONS ON SETTLEMENT COMMON STOCK.—Section 37(a) of P.L. 92-203, the Alaska Native Claims Settlement Act, (43 U.S.C. 1629(a)) is amended by striking "December 18, 1991." and inserting in lieu thereof "July 16, 1993: *Provided, however*, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.".

RECOGNIZING THE CONTRIBUTIONS OF FEDERAL CIVILIAN EMPLOYEES DURING THE ATTACK ON PEARL HARBOR AND WORLD WAR II

AKAKA AMENDMENT NO. 1429

Mr. MITCHELL (for Mr. AKAKA) proposed an amendment to the joint resolution (S.J. Res. 198) to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, as follows:

On page 2, line 3, strike "Hawaii" and insert "Federal Civilian Employees".

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. LEAHY proposed an amendment to the bill (H.R. 3029) to make technical corrections to agricultural laws; as follows:

On page 321, line 9, insert after "Laws." the following new sentence: "Any such reimbursement shall be subject to appropriations under clause (v)."

On page 263, strike line 14 and all that follows through line 3 of page 265.

FOWLER AMENDMENT NO. 1431

Mr. MITCHELL (for Mr. FOWLER) proposed an amendment to the bill H.R. 3029, supra, as follows:

At the end of section 1016 of the Committee substitute to H.R. 3029, add a new title XI as follows:

TITLE XI

SECTION 1. SHORT TITLE.

This Title may be cited as the "Recreational Hunting Safety and Preservation Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting within the boundaries of national forests and other Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) national forests comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting in national forests in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within national forests and on other Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a national forest, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(2) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) PERSON.—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a national forest;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a national forest or upon a public or

private road, highway, path, trail, or other normal route of access to a national forest;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a national forest, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within national forests; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within national forests.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate of November 22, 1991, at 10 a.m. to consider a temporary moratorium related to the issues of medicaid voluntary donations, provider-specific taxes, and intergovernmental transfers.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Friday, November 22, 1991, at 10 a.m. to conduct a hearing on the nomination of David Ryder to be Director of the Mint of the United States for 5 years.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Friday, November 22, 1991, at 10 a.m., in SR-332, to hold a hearing on the nominations of Charles R. Hilty, to be Assistant Secretary of Agriculture for Administration, and Gary C. Byrne, to be a member of the Farm Credit Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday, November 21, 1991, after the first vote of the afternoon, to hold a business meeting to markup S. 767, the Mickey Leland Childhood Hunger Relief Act, and H.R. 3029, Food Agriculture, Conservation, and Trade Act Amendments of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 2 P.M. to hold an ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 9:30 a.m. to hold an ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 4 p.m. to hold a brief business meeting.

MEETING AGENDA

The Committee will consider and vote on the following business item:

LEGISLATION

(1) S. 1128, Omnibus Nuclear Proliferation Control Act of 1991.

(2) S. Res. 196, concerning a prompt withdrawal of Soviet armed forced from the Baltic States.

(3) H. Con. Res. 188, concerning freedom of emigration and travel for Syrian Jews.

(4) S. Con. Res. 78, regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

NOMINATIONS*

(1) Mr. John H. Kelly, of Georgia, to be Ambassador to the Republic of Finland.

(2) Mr. Williams Edwin Ryerson, of Virginia, to be Ambassador to the Republic of Albania.

VOL
137
PT
23
NO
21
—
25
1991
UMI

(3) Mr. John R. Davis, Jr., of California, to be Ambassador to Romania.

(4) Mr. George Fleming Jones, of Texas, to be Ambassador to the Co-operative Republic of Guyana.

(5) Mr. Curtis Warren Kamman, of the District of Columbia, to be Ambassador to the Republic of Chile.

(6) Mr. Robert Stephen Pastorino, of California, to be Ambassador to the Dominican Republic.

(7) Mr. Frederick Vreeland, of the District of Columbia, to be Ambassador to the Kingdom of Morocco.

(8) Mr. Clair W. Burgener, of California, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1994.

(9) Mr. Williams K. Reilly, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994

*All nominations are contingent upon the successful completion of their hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environmental and Public Works, be authorized to meet during the session of the Senate on Friday, November 22, Beginning at 10 a.m., to conduct a hearing to examine proposed revisions to the procedures for determining wetlands jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRAVELERS WITH DISABILITIES AWARENESS WEEK

• Mr. KERRY. Mr. President, I want to commend the travel industry for participating in Travelers With Disabilities Awareness Week from December 1–7, 1991. This educational program was created in response to the enactment of the Americans With Disabilities Act to promote understanding throughout the tourism industry about the benefits and challenges of serving travelers with disabilities. Although this is a national program, I am very proud that it is being organized in my home State of Massachusetts, where the tourism industry is very important to us.

Now that the ADA is law and barriers to equal access for public accommodations and transportation are being eliminated, this awareness effort is extremely important in carrying out the spirit as well as the letter of the law. The tourism industry, to its credit, is preparing actively to welcome the 43 million Americans with disabilities. The Society for the Advancement of Travel for the Handicapped, or SATH, a nonprofit organization which has actively represented travelers with disabilities since 1976, estimates that these tourists have spending power of some $50 billion or 15 percent of the total $350 billion spent on tourism in the United States in 1990.

Participants in this awareness week include more than 200 hotels, motels, attractions, museums, transportation companies, travel agencies, State tourism departments and visitors bureaus. I would like to include a copy of the Awareness Manifesto which participants are signing to pledge their acceptance of the principles of this week:

TRAVELERS WITH DISASSBILITIES AWARENESS WEEK MANIFESTO

The Americans With Disabilities Act is now law.

Increasing numbers of persons with disabilities are traveling, touring and enjoying hospitality services and leisure activities.

The travelers-with-disabilities market represents significant annual revenues.

Travelers with disabilities create jobs in the tourism industry.

We pledge our best efforts and understanding as participants in Travelers With Disabilities Awareness Week to promote:

Awareness of the needs of travelers with disabilities; and

Attitude of respect for travelers with disabilities; and

Accessibility to accommodate travelers with disabilities.

We also pledge to employ qualified persons with disabilities.•

COMMEMORATING THE SESQUICENTENNIAL OF THE CONGREGATION OF HOLY CROSS

• Mr. D'AMATO. Mr. President, I rise today to commemorate the national celebration of the sesquicentennial of the establishment of the Congregation of Holy Cross, in the United States.

The Congregation of Holy Cross was founded near Le Mans, France in 1837, by Father Basil Anthony Moreau. The Congregation of Holy Cross was a union of the Brothers of St. Joseph, dedicated to education, and the auxiliary priests of Le Mans, dedicated to missionary work. With this union, the future tenets of the Congregation of Holy Cross, were formed.

Father Edward Sorin and six Holy Cross brothers, at the invitation of Bishop Hailandiere, of Vincennes, IN, traveled from France to New York in September 1841. Father Sorin and the Brothers continued on to Vincennes, where Bishop Hailandiere offered them a plot of land that would become the site of Notre Dame University. Father Sorin went on to serve as President of Notre Dame University until 1865.

The Sisters of Holy Cross were brought from France in 1843, by Father Sorin, and established in Bertrand, MI, some five miles from Notre Dame. Nine years later, he moved them to a motherhouse adjacent to the University. Father Sorin was instrumental in bringing Eliza Maria Gillespie to the United States. As Mother Angela, she became to the Sisters of Holy Cross, what Father Sorin was to Notre Dame. The Sisters of Holy Cross, along with brothers from the congregation, provided important medical care and spiritual consolation for injured soliders during the Civil War.

With Father Sorin's election to superior-general in 1868, he began to supervise the educational and missionary activities of the Congregation in France, Canada, and Bengal, as well as in the United States.

From their humble beginnings in France, education has been a fundamental tenet of the Holy Cross Congregation, and these efforts continue today through their work in universities in Massachusetts, Pennsylvania, and Oregon. Their missionary work has expanded to Asia, Africa, and South America.

The Congregation of the Holy Cross has dedicated itself to the virtuous and admirable goals of education and missionary work serving generations of educationally and spiritually needy people. May the congregation continue to carry on with its good works and charity, educating generations of students all over the world in the interests of humanity and kindness.•

TRIBUTE TO STATE SENATOR THOMAS J. WYSS

• Mr. COATS. Mr. President, I would like to take this opportunity to ask my colleagues to join me in saluting Indiana State Senator Thomas J. Wyss, the only State legislator in the Nation chosen by the National Commission Against Drunk Driving to receive its seventh annual Distinguished Service Award.

During his 6 years of service in the Indiana General Assembly, Senator Wyss has fought tirelessly to pass legislation that will significantly reduce the number of impaired drivers on Indiana roads. His previous efforts include laws that make it more difficult for minors to falsify their drivers' licenses, and laws that give judges greater sentencing options for drunken driving offenders.

As Senator Wyss prepares for the next session of the Indiana General Assembly, he will take with him a message from 14,000 Hoosier students and the South Bend Adams High School chapter of Students Against Drunk Driving to continue his crackdown on drunk drivers. He plans to introduce a bill that would permit judges to impose consecutive sentences on persons convicted of causing multiple deaths or injuries as a result of their drunken driving.

Senator Wyss' commitment to public service also carries over to his time outside the State House. He serves as an officer in the Indiana Air National Guard and belongs to the Greater Fort Wayne Crimestoppers and the National Guard Association.

During his years of public service in the Indiana General Assembly and the Indiana Air National Guard, Senator Wyss has provided dedicated and professional service to the citizens of Indiana, and Allen County in particular. He has distinguished himself as a man of principle whose efforts have saved the lives of many Hoosier travelers.•

TRIBUTE TO JAMES W. HEMPHILL

• Mr. HATFIELD. Mr. President, one of the greatest satisfactions of serving in the U.S. Senate is the opportunity to guide the growth of young people who choose to give their time and talents in a staff capacity in this august body.

Over the years I have been privileged to hold office representing the people of Oregon as a State legislator, as secretary of state, as Governor, and now as a U.S. Senator. I have been associated with literally hundreds of young people, each one contributing in his or her own special way to the offices I have held.

I can think of no individual who has been a part of my staff over this span of 40 years who has shown more loyalty to me and my associates than James W. (Jim) Hemphill.

I can think of no individual who has grown as much in his professional life as Jim Hemphill has done over the past 17 years he has been on my Senate staff. Jim started to work with me when he was 20 years of age.

It is particularly refreshing to see someone who is serving his fellow man who is truly motivated for the real calling we have in public service. Jim Hemphill has no agenda for himself; his performance over these many years has always been in the interest of the people of my State, and in assisting others in the office so that they may properly perform their duties.

One of the major responsibilities that Jim has had is the supervision of our intern program. In this capacity he has served as a role model and instructor for hundreds of young people. How would they describe him? Organized. Trustworthy. Knowledgeable. Compassionate. What more could one ask for in an evaluation by their associates?

Jim has served me as my executive assistant, office manager, as keeper of the books, as a staff assistant on the Rules Committee, and in various political assignments. He has performed with distinction in every one of these assignments.

Perhaps the most lasting memory of his time in my office will be the most important one. He met his wife-to-be, Gail Torokhanian, who also was a member of my staff, during his tenure with me. The Hemphills now have two fine children.

Now it is time for Jim to make even more use of his unusual talents. He will become executive assistant to the Archivist of the United States on December 16, 1991. I thank him not only for what he has done for me and my constituents, but most importantly for the positive example he has provided for so many others.•

MEGA-NOPR

• Mr. KASTEN. Mr. President, I rise today to bring to the attention of the Senate a matter recently proposed by the Federal Energy Regulatory Commission [FERC] which—if implemented as now outlined—would have dire economic consequences for the consumers of natural gas in my State of Wisconsin, as well as in many other States. Moreover, it could, in the long run, reduce the very competition within the natural gas industry that it purports to create.

Known as the mega-NOPR on gas service comparability, the FERC recently released this proposed rulemaking that will dramatically alter the way the natural gas business has operated, principally forcing the separation of the pipeline merchant, or sales, function from the pipeline's transportation function, and thus eliminating one of the ways gas is now purchased. While FERC's stated purpose of promoting these changes in order to level the playing field and enhance competition is worthy, and one which I would normally support, the direction FERC is proceeding would, in fact, actually reduce the options available to all purchasers of natural gas. The specific requirement to separate or unbundle the pipelines' merchant and transportation functions will clearly reduce their ability to provide the traditional, safe, and reliable delivery service offered for over a half century, thus limiting the opportunity of local gas distribution companies to shop among the greatest number of suppliers for the best price and most secure supply possible.

Mr. President, I want to emphasize that I strongly support competition and do not speak exclusively for any particular portion of the natural gas industry. I am, however, an unashamed supporter of natural gas users having as many options as possible to purchase gas. One of these options that is particularly important to those of us from the colder, northern tier States, and which I just alluded to is known as bundled, City-Gate Sales Service. This service, typically utilized by a local distribution company predominantly during the winter months, takes advantage of all the efficiencies of the pipeline system to make available the guaranteed delivery of natural gas regardless of the length or severity of cold weather. This service, of course, is not inexpensive, however, it is necessary, strongly desired by the consuming public, and—we believe—significantly more reliable and safe for the consumer than the alternative proposal offered by the FERC to unbundle the various components that make up the service and then repackage them as separate cost items. When this repackaging occurs, the efficiencies of the system I mentioned earlier unfortunately disappear, thus forcing the natural gas consumer to assume the supply risk or foot significant additional costs.

Limiting market choices, as I believe the proposed mega-NOPR actually does, is not the direction the FERC should be taking us. Rather, the FERC should provide the flexibility in the NOPR for consumers to decide what they want available from the market. Bundled, City-Gate Sales Service can provide substantial savings to all ratepayers—residential, commercial, and industrial consumers. It will provide greater security of natural gas supply to allow distributors to meet our winter heating needs. It will provide one key component in the natural gas supply options, thus allowing our distributors to compete for the best combination of price and secure supply. Moreover, I believe that the freedom to choose the type and form of services available—whether bundled or unbundled—is necessary to properly serve consumers, and increased competiton at the wellhead and at the burner tip is actually achieved.

Mr. President, the gas service comparability policy being developed by the FERC through the mega-NOPR obviously has economic consequences for my constituents as well as for those of other members representing the colder, Northern States. I would submit, however, that this policy could also adversely impact many other areas of this country, including those sections with a great reliance on the economic viability of smaller, independent natural gas producers. I would strongly urge my colleagues to take the time to review this policy very closely and not be fooled by its characterization as a plan to enhance competition. It clearly will not.•

BAHA'I COMMUNITY EMANCIPATION

• Mr. LIEBERMAN. Mr. President, I am pleased to note that the Senate Foreign Relations Committee has recently approved Senate Concurrent Resolution 43, The Baha'i Community Emancipation Resolution. I am proud to be one of the more than forty Senate cosponsors of this important statement of concern for the rights of a peaceful religious minority, the Baha'i community of Iran.

Although the Government of Iran has recently moderated its most repressive actions against Baha'is, the regime continues to persecute individual Baha'is because of their religion, and denies Baha'is the right to function as a law-abiding religious community.

Long before I was elected to the U.S. Senate, I discussed Iran's repression of

VOL 137 PT 23 NO 21—25 1991 UMI

the Baha'is with my Connecticut neighbor, Dr. Firuz Kazemzadeh. As a member of the elected national governing board of the 120,000-member American Baha'i community, Dr. Kazemzadeh has been a tireless spokesman for the rights of his coreligionists in Iran. He has testified many times before committees of the Congress, and he helps to remind us of the continuing need to speak out in behalf of an innocent and persecuted minority.

Thanks in part to international pressure—including the four resolutions adopted by the U.S. Congress during the past decade—conditions for many individual Baha'is have improved in recent months. No Baha'is have been executed for nearly 3 years, and few now remain in prison.

This resolution expresses our deep concern, however, that Baha'is continue to suffer religious discrimination. We have ample evidence, in the form of official government documents, that they are denied employment, pensions, and access to education, solely on account of their religion.

Moreover, the resolution makes clear our concern that Iran's largest religious minority is denied the basic rights guaranteed by the Universal Declaration of Human Rights: to organize as a community, elect its leaders, operate schools or carry on any of the normal functions of a law-abiding religious community.

It is my hope that the Government of Iran will acknowledge its responsibilities under the various international covenants to which it is a signatory, and will extend rights to the Baha'i minority.●

A TRIBUTE TO MR. ROGER BACCIGALUPPI UPON HIS RETIREMENT

● Mr. SEYMOUR. Mr. President, I am very pleased to have this opportunity to congratulate Roger Baccigaluppi upon his retirement as president and chief executive officer of the Blue Diamond Cooperative of California.

Since 1961, when Mr. Baccigaluppi joined Blue Diamond, the California Almond crop has increased tenfold, from 71 million pounds, worth about $50 million to 650 million pounds, valued at almost $1 billion. He has played a key role in this dramatic growth process as the leading officer of one of our Nation's strong and healthy cooperatives. As a major contributor in the efforts to modernize and stimulate California's almond industry, Mr. Baccigaluppi has overseen not only advances in technology and efficiency, but also the implementation of progressive marketing strategies. His efforts have been essential in helping the California almond become the State's leading food export and the nation's sixth largest agricultural export. Today, 94 countries consume California almonds.

Mr. Baccigaluppi's exemplary dedication, hard work, and vision have led him to his distinguished position of accomplishment. California's almond industry will miss his dynamic leadership, and its future leaders will undoubtedly draw inspiration from his example to continue on the path of thoughtful planning and healthy growth. I am confident Roger Baccigaluppi will continue, in retirement, to share his wealth of knowledge and experience to the increased productive benefit of California and American agriculture. I am sure my Senate colleagues join me in recognizing the fine work and outstanding accomplishment of my friend and fellow Californian, Roger Baccigaluppi.●

THE PHOENIX COUNTRY DAY SCHOOL CELEBRATES ITS 30TH YEAR

● Mr. McCAIN. Mr. President, I rise today to pay tribute to the Phoenix Country Day School, which is celebrating the 30th anniversary of its founding tonight. Located in a natural desert setting in Paradise Valley, AZ, this independent, not-for-profit college preparatory school has distinguished itself as an institution of invigorating academic achievement.

What began as a dream to establish a high quality school to prepare children for entrance into the best colleges in America, has blossomed into one of the finest schools in the Western United States. I must admit that I say this with a certain lack of objectivity, since two of my children attend Phoenix Country Day School.

The 30th anniversary celebration for PCSD appropriately has selected Mae Sue Talley as the guest of honor. Her vision of creating an outstanding college preparatory school has come to marvelous fruition, and we all owe her our most sincere gratitude for her lifelong commitment.

While I'm privileged to be a Phoenix Country Day School parent, it is readily apparent to all who visit or learn about the school that it is indeed a very special place. From its modest beginnings as a 93-student pioneer school on the arid outskirts of Phoenix, the Phoenix Country Day School has doubled its size and grown to over 570 students.

The Phoenix Country Day School has not only grown older and larger, it has intensified its commitment to academic excellence and love of learning. At a time when our Nation's students are facing increasing challenges from the academic achievements of other industrialized nations, we can point to the Phoenix Country Day School as a heartening example of educational success.

Mr. President, this is a school that vigorously challenges its students, and opens their minds to science, mathematics, the arts, and history. Offering a curriculum for students ranging from prekindergarten to the 12th grade, the Phoenix Country Day School has created an atmosphere for learning that is both rigorous and fun. You can feel this sense of mission in the open and warm relationships among students, faculty, and staff.

Students are taught a foreign language in kindergarten, and a proficiency in public speaking is a requirement for graduation. PCDS's extremely low student-to-faculty ratio allows a great degree of personal tutelage for its students.

The results of this positive and supportive atmosphere is a student body that not only achieves a high degree of academic excellence, but one that also carries forth the Phoenix Country Day School's fine tradition of service to the community.

All PCSD students participate in many worthy community service activities and projects, and the school has also established a 5-week summer program to help disadvantaged children stay in school. Known as Project Excellence, this endeavor is a good example of the caring and nurturing spirit of the faculty and staff at Phoenix Country Day School.

In its 30th year, the Phoenix Country Day School is impressively meeting its goal of preparing its students for success in America's finest universities in a superlative manner. Currently, 99 percent of its students enroll in college after graduation.

I want to offer my special thanks to the Phoenix Country Day School's board of trustees, and the head of the school, Ms. Margaret Madden, for their able stewardship of PCSD.

It is a pleasure for me to extend my congratulations to all the faculty and staff at the Phoenix Country Day School on this milestone in their proud history. I wish them continued success and accomplishment for many decades to come.

The students of PCDS are very fortunate to be able to benefit from this truly wonderful learning center.●

S. 543, THE BANKING BILL

● Mr. ADAMS. Mr. President, yesterday the Senate passed S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

I rise today to expalin why I would have voted against this bill. I simply could not, in good conscience, add my support to the bill in its present form.

I fully understand the pressures on the chairman of the Banking Committee in bringing the debate on this bill to a conclusion. I watched his frustration grow every day this bill was on the floor. His job was not easy. He should be commended for his efforts.

But I am concerned that in a effort to bring the debate to a conclusion, we

have embarked down a path that will lead to greater uncertainty and more chaos in the banking industry.

I hoped the Senate would focus on the most critical problem facing the banking industry—the steadily worsening financial shape of our banks and the draining of the fund intended to protect the deposits of 110 million Americans.

I had hoped this bill would have addressed the worsening credit crunch, which is cutting off needed loans to small businesses and individuals.

Unfortunately, the Senate became embroiled in a third topic—how the banks could become bigger and richer—even if it might be at the expense of the rest of us.

Somewhere along the way we lost our focus on this bill.

I felt that strong regulatory reforms were an essential component to any bill. I believe the reform sections of the bill including risk-based assessments and capital ratios, early regulatory intervention, strong oversight of foreign banks, and protections against the BCCI's of the world are vitally important.

However, if we were truly interested in getting the banking industry back on its feet, that is where we should have stopped.

Mr. President, we need a banking system that serves people. We need a place for businesses, particularly small businesses, and individuals to obtain credit at reasonable rates. We need a banking system that offers consumers a place to keep their money, write their checks and pay their bills.

The bill that was agreed to yesterday expands powers for banks, ignores vital consumer protections and, I believe, puts American taxpayers in front of runaway locomotive.

Weak regulatory oversight, bad investment decisions, incompetent management and a weak economy has brought the banking industry to this point. Adding more uncertainty by expanding bank powers is not the direction I believe we should be going.

Mr. President, the bill opens the door for nationwide interstate branching. Attempts to strengthen this bill by allowing States to choose whether or not they want interstate branching banks failed. I believe this was a mistake.

Breaking down the barriers to interstate branching has potentially serious affects for Washington State.

In August of this year, Bank of America announced its intention to merge with Security Pacific. This new multistate banking company, based in California, will be the No. 1 player in Washington, controlling over 50 percent of the assets and 40 percent of the insured deposits. This is an incredible concentration of bank power in one out-of-State bank.

This merger is expected to cost Washington 4,000 jobs. A few weeks ago, the Wall Street Journal reported that First Interstate Bankcorp of Los Angeles' merger with First Interstate of Tacoma will cause 3,000 employees to be laid off. That is potentially 7,000 jobs in Washington.

That also means that decisions about loans in Longview and mortgages in Marysville will be made in California. Not in Washington.

Serious questions about the availability of credit, cost, and quality of services to consumers, influence on regional economies, and overall health of an individual State's banking industry must be answered. The advent of interstate branching greatly enhances these concerns. The Senate did not address these issues.

Two days ago, the Senate also sent a negative signal to the elderly of this country. The Senate voted to strip from this bill the basic services and check cashing provisions. With this vote, the Senate lost sight of those who most needed our attention.

Mr. President, this seemingly minor provision would have created equality and fairness for our seniors. It would have guaranteed that basic banking services, which we all need, were available at an affordable cost to retirees.

Yet, the Senate succumbed to the big banks and sold out those in our society who don't have a place at the bargaining table because they can't afford to hire high priced lobbyists to pull up a chair.

We also had the opportunity to strengthen this bill by putting a shorter leash on the FDIC and limiting insured brokered deposits. When the limitation on brokered deposits was defeated, the Senate admitted it failed to learn one of the lessons that the S&L debacle should have taught us.

As I stated earlier, I opposed this measure with deep regret. There were some provisions of this bill that were constructive and would have added stability to the industry.

The controversial provisions allowing banks to engage in risky securities activities were not included in the final package. Deleting these questionable provisions sent a strong signal to the American taxpayer that we understood the dangers in this approach.

As passed by the committee, S. 543 included what I believe was a balanced approach to the difficult problem of banks selling insurance.

Almost 10 years have passed since Congress last passed legislation establishing the authority of banks to sell insurance. However, regulators have, through regulatory fiat, eroded the historic barrier separating banking and insurance. On two occasions, in 1984 and 1988, Congress came close to enacting legislation to close loopholes created by the regulators.

As passed by the committee, S. 543 closed these loopholes. I believe this was a responsible approach to resolving a longstanding ambiguity.

The proponents of banking reform argue that times have changed—that we now have a global marketplace that requires flexibility and diversification for banks. Indeed, times have changed. However, it is highly questionable to maintain that allowing banks to sell insurance will propel our Nation's banks into the ranks of 25 largest banks in the world.

While the world has changed and technical advances continue to be made, it is important to focus on what has not changed. Safety and soundness, and a recognition of the special power and responsibilities associated with providing our economy's credit. These factors continue to define the fundamental features of banking.

If we would not have addressed the insurance issue in S. 543, we would have abdicated our responsibility to stop regulatory activism and legal sleight-of-hand.

The insurance industry today is among the most competitive industries in this country. In my State, the competition is intense and has resulted in fair prices and high quality services to consumers. There are over 500,000 insurance agents and approximately 6,000 life, health, and property/casualty companies in the United States. The premise that bank entry into insurance is necessary to enhance competitiveness is without merit.

I am disappointed that the Senate took a few steps back from the excellent work accomplished by the committee, but I still believe that the insurance provisions were a solid contribution to the overall package.

In addition, I am pleased that the Senate recognized that there is a human cost to the merger mania sweeping the country. The Senate accepted an amendment I offered to assure that Federal regulators examine the impact of mergers on employees. This is already required for mergers in the transportation field. It should be required here. Particularly when it is expected that mergers over the next decade could cost as many as 350,000 jobs.

The Senate is now on record endorsing the fact that no merge should occur without due consideration to the employees who lost their jobs. I believe this is a positive step forward and will reassure bank employees throughout the country that the Senate has not forgotten their plight in the rush to achieve efficiency.

Nonetheless, on balance I believe the bill passed yesterday is seriously flawed. It is my hope that when the conference committee convenes to iron out the significant differences between the House and Senate versions, that we can do better.

I believe we can do better. I will do everything I can to see the final bill is something that serves consumers, seniors, farmers, small businesses and oth-

VOL
137
PT
23
NO
21
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25
1991
UMI

ers who depend on the ready availability of credit at reasonable rates. I will work for legislation that we all can be proud to discuss with our constituents back home.●

TRIBUTE TO MAJ. GEN. CHARLES S. COOPER III

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to retiring commander Maj. Gen. Charles S. Cooper III. I salute his 36 years of distinguished military service. He is retiring as commander of the New York Air National Guard, Headquarters, Stewart International Airport, Newburgh, NY. He has been responsible for the readiness, training, staffing, and equipping of New York Air National Guard's five flying and seven mission support units.

The general was born on December 27, 1933 in Boston, MA. He graduated from Garden City High School on Long Island, NY, in 1951. He earned a bachelor of arts degree, cum laude, in economics from Amherst College in 1955. His military education transpired at Air Command and Staff College and Air War College.

General Cooper began his USAF military career on June 12, 1955 when he was commissioned as a second lieutenant. He was a distinguished graduate of the Air Force Reserve Officer Training Corps Program. He entered active duty in 1956 and attended U.S. Air Force Primary-Basic Navigation School in Texas. In 1957 he was awarded navigator wings and assigned to the 962d Airborne Early Warning and Control squadron, Otis Air Force Base in Massachusetts.

In July of 1962 he joined the New York Air National Guard and was assigned to the 102d Aeromedical Transport Squadron. In 1972 he was appointed administrative management staff officer in the 106th Fighter Interceptor Group where he stayed until 1976 when he was appointed director of operations at Headquarters, New York Air National Guard. In 1978 he was appointed deputy commander and assumed his present position as commander on July 29, 1984. He was promoted to major general on May 22, 1985.

His military awards and decorations include the Meritorious Service Medal, Air Force Outstanding Unit Award, the Air Force Organizational Excellence Award, National Defense Service Medal, Vietnam Service Medal, Air Force Longevity Service Award with four oak leaf clusters, Armed Forces Reserve Medal, New York State Military Commendation Medal, New York State Long and Faithful Service Award with 25-year device, New York Humanitarian Service Medal, New York State Aid to Civil Authority Medal and the New York Exercise Support Ribbon.

The general is married to Ann (Lewis) of Baldwin, NY. He has four children: Deborah Iacoponi, Peter, Thomas, and Kathryn.

General Cooper is a highly skilled and ready patriot, I congratulate him on his 36 years of dedicated service to our Nation. General Cooper, thank you for your sacrifice and devotion. I wish you every success in your retirement.●

BATTLE CREEK ADVENTIST HOSPITAL 125TH ANNIVERSARY

● Mr. LEVIN. Mr. President, I rise today to join with the citizens of the city of Battle Creek, Calhoun County, and the State of Michigan in congratulating the Battle Creek, Adventist Hospital on the occasion of that institution's 125th anniversary celebration.

The hospital was founded as the Western Health Reform Institute in 1866 by a group of Seventh Day Adventist health pioneers. John Kellogg, father of the health care and food industry legends, Dr. John Harvey Kellogg and W.K. Kellogg gave the first $500 donation to the new hospital.

The institute served 2,000 patients in its first 10 years with only 10 dying, an average of 1 per year, an incredible record, especially for the time. Such an outstanding reputation catapulted the hospital into national prominence which it was to maintain for decades.

In 1877 the institute changed its name to the Battle Creek Medical and Surgical Sanitarium combining modern ideas of medicine with the wholistic approach of physical, psychological, and spiritual wellness. Practicing preventive medicine techniques such as proper diet, exercise, hydrotherapy, sunshine, and massage.

Under the leadership of Dr. John Harvey Kellogg, who served as its medical director for 67 years, and brother W.K. Kellogg, serving as its business director, the hospital gained worldwide recognition as a health care mecca drawing luminaries from all areas of society.

Inventor Thomas Edison, industrialists Henry Ford and Harvey Firestone, athletes Bill Tildon and Johnny Weissmueller, and U.S. President William Howard Taft all were patients at the sanitarium.

America, indeed the world's breakfast habits owe a great debt of gratitude to the sanitarium. The toasted flake cereal product was first developed at the sanitarium and then refined by W.K. Kellogg and others. C.W. Post, a one-time patient is said to have also gleaned ideas from there. He later founded the Post Cereal Co.

The original building for the sanitarium burned down in 1899 and the new building opened in 1903, which is now a portion of the Federal center. The final part of the building opened in 1927, which is now the towers portion of the Federal center. The sanitarium left this building in 1942 and the site became the Percy Jones Veterans Hospital. It moved over to the Old Stone Building and later moved from that to the present building now occupied by the hospital. The sanitarium reverted back to the ownership of the Adventist Church in 1974, which it had left in 1900, and changed its name to the Battle Creek Adventist Hospital in 1981.

The present Battle Creek Adventist Hospital is a 147-bed regional treatment center for metal health and addictions problems which serves 20 counties on a consistent basis but draws patients from all of Michigan and part of Indiana. It serves persons from ages 6 to senior citizen in a variety of modes, including inpatient, partial hospitalization and outpatient treatment at the Battle Creek setting as well as outpatient clinics throughout the region. The original Western Health Reform Institute and then the sanitarium, were forerunners of not only the significant work of the present Adventist Hospital in Battle Creek, but began what has become a worldwide health mission for the Adventists, who eventually established 568 health care facilities in 88 countries, including 60 hospitals in the United States and the world famous Loma Linda University and Medical Center in California.

I had the privilege of touring this outstanding institution last summer and meeting with some of its dedicated staff members. The spirit of wellness through wholeness still exists in the hospital's present incarnation as they remain on the cutting edge of mental health care and addiction treatment.

Mr. President, I ask you along will all of my colleagues in the Senate to join with me in extend our heartfelt congratulations to all the employees and supporters of Battle Creek Adventist Hospital as they commemorate their past and look forward to their future.●

TRIBUTE TO MARIAN L. HEARD

● Mr. LIEBERMAN. Mr. President, it is with great pleasure that I bring to the attention of the Senate a very special individual from my home State of Connecticut, Marian L. Heard.

In recognition of Marian Heard's tireless efforts as president and chief executive officer of the United Way of Eastern Fairfield County, she was recently promoted by this organization to a similar position at the United Way of Massachusetts Bay. Marian, who first joined with the United Way in 1974 as a child care program specialist and member of the planning department, worked her way up in the organization to her current position. As president and chief executive officer, a position she assumed in March of 1990, she manages an annual campaign of over $5 million and provides support to a $60 million agency and social service system covering the six-town region of Bridgeport, Fairfield, Easton, Stratford, Trumbull, and Monroe. Although her responsibilities in her new position will be much greater, Marion has clearly demonstrated that she is capable of handling the challenges that lie ahead.

Marian's deep concern for the greater Bridgeport community and helping it to meet its needs, is evidenced by her commitment and dedication to the United Way as well as to a wide variety of regional causes. Marian serves on several area United Way committees such as the national professional advisory council, the national issues committee and the national committee on foundations for the United Way of America. In addition, she serves as the vice chair of the donor choice committee for the United Way of Tri-State and is a member of both the professional advisory councils of the Southwestern United Ways and the United Way of Connecticut.

In her community, Marian has served as a member of the Governor's Child Day Care Council, an appointment which was personally bestowed upon her by the late Governor Ella Grasso. She has hosted her own radio program on WICC in Bridgeport for 6 years, and has won several awards for community service from such organizations as Big Brothers and Big Sisters of Fairfield County and the American Cancer Society.

Marian has also utilized her talents on a national level. In May, 1990, in a meeting at the White House, she was elected as the interim president and chief executive officer of the Points of Light Foundation. Under her leadership, the foundation wrote and adopted a strategic plan and presented the report of the foundation's goals to the honorary chairman, President George Bush, at a special meeting with the board at Camp David.

Marian's activities also highlight her strong commitment to a wide variety of educational causes. Her extensive involvement as an instructor at Housatonic Community College, and her involvement with the University of Bridgeport, where she is a trustee and president of the board of associates, exemplify Marion's dedication to improving the quality of our Nation's educational system.

Marian's involvement does not end here; she is also an accomplished businesswoman. Currently, she is a director at the Mechanics & Farmers Savings Bank in Bridgeport and a member of its audit and executive committees and chair of its contribution committee. She is also a member of the Negro Business and Professional Women's Club, the Bridgeport Rotary and the National Association of Female Executives.

This remarkable woman has been recognized numerous times for her efforts. Most notably, she was cited by the United Nations as one of the top 100 women in Connecticut. Marian was the first recipient of the John Garber Minority Professional Development Award, which was awarded to her by the YWCA for community service, the United Way of America and the Stratford Junior Chamber of Commerce. In 1989, she was named Woman of the Year by the Business and Professional Woman's Club of Bridgeport. In 1990, she was cited by the Housatonic Scout Council for Community Leadership and was presented the Golden Tee Award by the Cardinal Shehan Center for 20 years of volunteer leadership to the youth of the greater Bridgeport region.

The residents of Connecticut have been touched by the efforts and presence of this great individual. Mr. President, I hope that my colleagues will join me in paying tribute to Marian L. Heard for her unselfish devotion to improving the lives of others. Her boundless and energetic spirit, her deep concern for her community, for education, and for the United Way, serve as an inspiration to us all.●

LAMPF VERSUS GILBERTSON

● Mr. McCAIN. Mr. President, the Senate recently passed S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. That legislation contained a significant provision that protects investors from fraud.

Specifically, the Senate agreed to compromise language that would protect investors who filed securities fraud cases before the Lampf decision. The Supreme Court, in a 5 to 4 decision in Lampf versus Gilbertson, held that securities fraud cases must be brought within 1 year of discovery of the fraudulent act and, at most, within 3 years of the date that the fraudulent act occurred.

Furthermore, this decision was applied to cases filed in a timely fashion prior to the decision. Many cases were dismissed as a result. S. 543 eliminates the retroactive application of the decision, and protects suits filed before the Lampf decision. Without this provision, the Lampf decision would provide a legal escape hatch for perpetrators of some of the worst securities frauds in history.

Michael Milken of Drexel Burnham Lambert, Fred Carr of Executive Life Insurance, and Charles Keating of Lincoln Savings & Loan have moved to have their cases dismissed under the Lampf decision. It's simply not fair that fraud cases of such magnitude be dismissed by an arbitrary, legal technicality. A statute of limitations should not prevent the reasonable course of justice. The 1- to 3-year statute of limitations does not provide victims of fraud adequate time to file their claims.

The banking reform legislation did not extend the statute of limitations. That is why I have decided to cosponsor S. 1533. While eliminating the retroactivity provision is a step in the right direction, more needs to be done to protect investors from fraud. I support the extension of the statute of limitations to protect investors from fraud. It is equally important that we guard against the abuse of our judicial system.

Investors clearly deserve protection. But we must also guard against opening a floodgate of meritless litigation. We must balance the legitimate rights of defendants and plaintiffs. I hope a judicious compromise can be struck that extends the statute of limitations to a 2- to 5-year rule that at the same time protects American businesses from frivolous and meritless litigation. While present law may result in what Securities and Exchange Commission Chairman Richard Breeden described as a windfall of immunity, we must guard against creating an environment that would result in a windfall of litigation.

I look forward to working with Senators BRYAN, DOMENICI, and McCONNELL to equitably resolve this contentious issue.●

THE RETIREMENT OF OGLESBY, IL, POLICE CHIEF RUDY GANDOLFI

● Mr. DIXON. Mr. President, I rise today in honor of Rudy Gandolfi, Oglesby, IL, chief of police for the last 16 years. Chief Gandolfi spent 33 years on the Oglesby Police Force overall, and his retirement marks the end of a era in Oglesby.

Chief Rudy was not your average police chief. He concentrated his efforts not on the negative aspects of police work, but on the positive aspects. Crime prevention and community relations were what were important to him. Stories have been told of the chief arresting people and having those same people turn right around and praise him for his patience, his fairness and for treating them with dignity. In Oglesby, nobody commanded love and respect like Police Chief Gandolfi.

He was an extraordinary police chief, but he will probably be best remembered for his great contributions to the community outside of his duties as a police officer and police chief. For 39 years he has coached youth baseball in Oglesby. For 33 years he has been the director of the youth B.B. Gun Club; an organization which he founded. He also founded the "Just Say No" to Drugs Fun Day Program. This program, which started as a small scale event, he expanded to a full community project. He never turned down the opportunity to help with any community event.

The Oglesby News-Tribune recently ran an editorial which sums up the feelings of many on his commitment to the city and the people of Oglesby. It says,

> While longevity is respected, it isn't really the number of years that sets Gandolfi apart

VOL 137 PT 23 NO 21–25 1991 UMI

from his colleagues. Instead, it is the devotion to his duties, the respect he commanded from citizens and his work with children that have earned this police chief the distinction as one of the area's best.

Congratulations to Chief Rudy Gandolfi on an outstanding career in law enforcement. He is indeed an inspiration to us all. I wish him success and happiness in the future.●

CONGRATULATING JIM ROHACIK, CONGRESSIONAL FELLOW

● Mr. DIXON. Mr. President, I rise today to extend my heartfelt thanks and deep appreciation to Jim Rohacik, a congressional fellow who worked with me on defense issues over the past year.

Jim joined my staff after a distinguished career with the U.S. Army. As a military officer he served his country in a variety of capacities including as the principal advisor to a member of the Joint Chiefs of Staff. He also served as principal advisor to the Chief of Staff of the Army for strategic and national security policy.

Even before becoming well-versed on these policy issues, he possessed a rich and extensive background. After earning a masters degree in physics, Jim went on to be an assistant professor of quantum and modern physics at West Point. His mastery of this technical field is complimented by his firsthand knowledge of ground warfare. A holder of the Purple Heart, he served tours in Vietnam and Germany as a commander of artillery forces. Indeed, he is both an impressive scholar and a decorated veteran.

Jim helped me with many issues during his tenure in my office. His valuable assistance on the Defense Production Act, the 1992–93 national defense authorization bill and base closure issues, contributed to effective legislation. I was also able to utilize his expertise on arms control and strategic force structure in a number of important meetings and hearings.

I am sure I speak for all of those on my personal staff and those members of the Senate Armed Services Committee staff who worked with Jim when I say his enthusiasm and diligence will be sorely missed.

Thanks Jimmy, for all your tireless work. You are a great American, and I wish you continued success.●

THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

● Mr. DODD. Mr. President, I rise today in support of the Convention on the Elimination of All Forms of Discrimination Against Women. The treaty symbolizes a major breakthrough in the evolution of women's rights throughout the world.

The Convention was adopted by the United Nations General Assembly in 1979 and was signed by President Carter in 1980. Although it is not the first human rights treaty to address the plight of women, it is the first to do so in such a comprehensive manner. In the past 11 years, over 100 countries have ratified the Convention. The time has arrived for the leadership of this country to demonstrate its commitment to women and ratify this treaty as well.

The United States prides itself as being a leader in the promotion and preservation of equal rights and human decency for all. We have a rich history of great struggles to improve the status of women in employment, domestic relations, health care, law and education. As early as 1862, Congress showed its commitment to ending sexual discrimination. The Fair Labor Standards Act of 1938 applied equal minimum wage standards to both men and women. The 1964 Civil Rights Act prohibited employment discrimination on the basis of sex. And the Pregnancy Discrimination Act of 1978 prohibits employment discrimination on the basis of pregnancy, childbirth or related medical conditions. Even today, in the aftermath of the debate on the Civil Rights Act of 1991, the protection and promotion of women's rights are at the forefront of the political agenda.

Unfortunately, the women's rights agenda has not yet been fulfilled. In this country and in countries all over the world, women face many challenges to their basic human dignity. Today, millions of women live in poverty, unable to care for themselves or their children. In many cultures, exploitation and violent acts are accepted forms of behavior. In the workplace, women throughout the world face unequal pay, unsafe working conditions, and limited benefits. And in many instances, limited access to health care and poor living conditions literally threaten women's lives.

It is hard to believe that in an age of democracy and progressive government, injustice against women in many countries still exists. Enactment of the Convention will create universal codes of equality that guarantee women the right to reach their full potential. The treaty recognizes that the only difference between men and women is biological. It seeks to abolish discrimination in every facet of life—cultural, political, and economic. It also emphasizes the importance of family and children, including special provisions to balance the roles of men and women.

We have made it clear that we will not tolerate discrimination on the basis of sex. Unfortunately, women are still victims of harassment, prejudice and sexual stereotypes. Ratification of this treaty would not promise women preferential treatment. Instead, it promises them the basic rights to which they are entitled as human beings. I urge the administration to act quickly on the Convention and send a signal to the world that we are ready to act on the principles we espouse.●

TRIBUTE TO CINCINNATI, OH BUSINESSMAN DON E. HARDIN

●Mr. GLENN. Mr. President, I rise today to congratulate an outstanding man and community leader on the occasion of his election to the presidency of the American Orthotic & Prosthetic Association [AOPA]. Don E. Hardin, owner and president of Tribar Orthopedic, Inc., in Cincinnati, OH will assume the AOPA presidency on November 30, 1991.

The American Orthotic & Prosthetic Association is a national membership organization representing the approximately 1,200 facilities that provide orthotic and prosthetic [O&P] patient services to the physically challenged throughout the United States. Members of the O&P field design and fit braces and prostheses that enable physically challenged individuals to overcome often serious and crippling conditions and return to productive lives.

Mr. Hardin entered the orthotic and prosthetic field in 1966 as a sales representative. Since that time, he has served the national organization in a number of positions, most recently, as vice president in 1990 and secretary-treasurer for AOPA in 1989. Previously, he was the FDA Advisory Committee chairman and a member of the Government Relations Committee. His other duties within AOPA have included being chairman of the Regulatory Advisory Committee and a member of the Strategic Planning Committee for over 6 years. He has also served as Marketing Committee chairman and as chairman of the AOPA Charity Golf Tournament.

A native of Chicago, IL Mr. Hardin has been involved in the Cincinnati community for many years. He has been married for 23 years, and is the father of two children. His daughter recently joined him in the orthotics and prosthetics field and travels extensively with her father for Tribar Orthopedic. Like other small businessmen and businesswomen throughout America, Mr. Hardin is providing an invaluable service to his community as well as supporting our Nation's economy.

The American Orthotic & Prosthetic Association has elected an able and respected leader as their president. They are fortunate to have such a leader, and I commend Mr. Hardin on the occasion of his election.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

The text of S. 1176, a bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes, as passed by the Senate on November 21, 1991, is as follows:

S. 1176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) For three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 4. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

(a) Establishment.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) Board of Trustees.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of 10 members, as follows:

(1) Two Members, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives.

(2) Two Members, one appointed by the Majority Leader and one appointed by the Minority Leader of the Senate.

(3) Two members, appointed by the President, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) One member, appointed by the President of the University of Arizona after consultation with the Center, who has shown leadership and interest in the continued use, enjoyment, education and exploration of the Nation's rich and bountiful resources.

(5) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(7) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

(c) Term of Office.—

(1) In General.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Board members first taking offices—

(i) members appointed by the President shall serve for 2 years; and

(ii) the Members appointed by the Senate and the member appointed by the President of the University of Arizona shall each serve for 4 years; and

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which the member's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Travel and Subsistence Pay.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) Location of Foundation.—The Foundation shall be located in Tucson, Arizona.

(f) Executive Director.—

(1) In general.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) Compensation.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 5. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 6. AUTHORITY OF THE FOUNDATION.

(a) Authority of the Foundation.—

(1) In general.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) Scholarships.—Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) Fellowships.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

VOL
137
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23
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1991
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(4) Internships.—Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

(5) Grants.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) Repository.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) Coordination.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) Morris K. Udall Scholars.—Recipients of scholarships, fellowships, internships and grants under this Act shall be known as "Morris K. Udall Scholars".

(c) Program Priorities.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3) and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6) and section 6(a)(7) conditioned on a 25 percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

SEC. 7. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) Establishment of Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 10 and amounts credited to it under subsection (d).

(b) Investment of Fund Assets.—

(1) In general.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the fund. Such investments shall be in Public Debt Securities with maturities suitable to the needs of the Fund. Investments in Public Debt Securities shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States" of comparable maturity.

SEC. 8. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) In General.—The Foundation shall pay from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) Audit by General Accounting Office.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) In General.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation.

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the fund $40,000,000 to carry out the provisions of this Act.

CONCURRENT RESOLUTION CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

The text of Senate Concurrent Resolution 77, a concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military, as agreed to by the Senate on November 21, 1991, is as follows:

S. Con. Res. 77

Resolved by the Senate (the House of Representatives concurring), That—

(a) Findings.— The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totaled $50 million in FY 1991.

(b) Statement of Policy.—It is the sense of the Congress that—

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor, and American ambassador to Indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

HIGH-PERFORMANCE COMPUTING ACT OF 1991

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 272.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 272) entitled "An Act to provide for coordinated Federal program to ensure continued United States leadership in high-performance computing, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Performance Computing Act of 1991".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, industrial production, engineering, and scientific advancement.

(2) The United States currently leads the world in the development and use of high-performance computing for national security, industrial productivity, science, and engineering, but that lead is being challenged by foreign competitors.

(3) Further research and development, expanded educational programs, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to reap fully the benefits of high-performance computing.

(4) A high-capacity and high-speed national research and education computer network would provide researchers and educators with access to computer and information resources and act as a test bed for further research and development of high-capacity and high-speed computer networks.

(5) Several Federal agencies have ongoing high-performance computing programs, but improved long-term interagency coordination, cooperation, and planning would enhance the effectiveness of these programs.

(6) A 1991 report entitled "Grand Challenges: High-Performance Computing and Communications" by the Office of Science and Technology Policy, outlining a research and development strategy for high-performance computing, provides a framework for a multiagency high-performance computing program. Such a program would provide American researchers and educators with the computer and information resources they need, and demonstrate how advanced computers, high-capacity and high-speed networks, and electronic data bases can improve the national information infrastructure for use by all Americans.

SEC. 3. PURPOSE.

The purpose of this Act is to help ensure the continued leadership of the United States in high-performance computing and its applications by—

(1) expanding Federal support for research, development, and application of high-performance computing in order to—

(A) establish a high-capacity and high-speed National Research and Education Network;

(B) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(C) promote the further development of an information infrastructure of data bases, services, access mechanisms, and research facilities available for use through the Network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications software;

(F) accelerate the development of computing systems and subsystems;

(G) provide for the application of high-performance computing to Grand Challenges;

(H) invest in basic research and education, and promote the inclusion of high-performance computing into educational institutions at all levels; and

(I) promote greater collaboration among government, Federal laboratories, industry, high-performance computing centers, and universities; and

(2) improving the interagency planning and coordination of Federal research and development on high-performance computing and maximizing the effectiveness of the Federal Government's high-performance computing efforts.

SEC. 4. DEFINITIONS.

As used in this Act, the term—

(1) "Director" means the director of the Office of Science and Technology Policy;

(2) "Grand Challenge" means a fundamental problem in science or engineering, with broad economic and scientific impact, whose solution will require the application of high-performance computing resources;

(3) "High-performance computing" means advanced computing, communications, and information technologies, including scientific workstations, supercomputer systems (including vector supercomputers and large scale parallel systems), high-capacity and high-speed networks, special purpose and experimental systems, and applications and systems software;

(4) "Network" means a computer network referred to as the National Research and Education Network established under section 102; and

(5) "Program" means the National High-Performance Computing Program described in section 101.

TITLE I—HIGH-PERFORMANCE COMPUTING AND THE NATIONAL RESEARCH AND EDUCATION NETWORK

SEC. 101. NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.

(a) National High-Performance Computing Program.—(1) The President shall implement a National High-Performance Computing Program, which shall—

(A) establish the goals and priorities for Federal high-performance computing research, development, networking, and other activities; and

(B) provide for interagency coordination of Federal high-performance computing research, development, networking, and other activities undertaken pursuant to the Program.

(2) The Program shall—

(A) provide for the establishment of policies for management and access to the Network;

(B) provide for oversight of the operation and evolution of the Network;

(C) promote connectivity among computer networks of Federal agencies and departments;

(D) provide for efforts to increase software availability, productivity, capability, portability, and reliability;

(E) provide for improved dissemination of Federal agency data and electronic information;

(F) provide for acceleration of the development of high-performance computing systems, subsystems, and associated software;

(G) provide for the technical support and research and development of high-performance computing software and hardware needed to address Grand Challenges;

(H) provide for educating and training additional undergraduate and graduate students in software engineering, computer science, library and information science, and computational science; and

(I) provide—

(i) for the security requirements, policies, and standards necessary to protect Federal research computer networks and information resources accessible through Federal research computer networks, including research required to establish security standards for high-performance computing systems and networks; and

(ii) that agencies and departments identified in the annual report submitted under paragraph (3)(A) shall define and implement a security plan consistent with the Program and with applicable law.

(3) The Director shall—

(A) submit to the Congress an annual report, along with the President's annual budget request, describing the implementation of the Program;

(B) provide for interagency coordination of the Program; and

(C) consult with academic, State, industry, and other appropriate groups conducting research on and using high-performance computing.

(4) The annual report submitted under paragraph (3)(A) shall—

(A) include a detailed description of the goals and priorities established by the President for the Program;

(B) set forth the relevant programs and activities, for the fiscal year with respect to which the budget submission applies, of each Federal agency and department, including—

(i) the Department of Agriculture;

(ii) the Department of Commerce;

(iii) the Department of Defense;

(iv) the Department of Education;

(v) the Department of Energy;

(vi) the Department of Health and Human Services;

(vii) the Department of the Interior;

(viii) the Environmental Protection Agency;

(ix) the National Aeronautics and Space Administration;

(x) the National Science Foundation;

(xi) such other agencies and departments as the President or the Director considers appropriate;

(C) describe the levels of Federal funding for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, for specific activities, including education, research, hardware and software development, and support for the establishment of the Network;

(D) describe the levels of Federal funding for each agency and department participating in the Program for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies; and

(E) include an analysis of the progress made toward achieving the goals and priorities established for the Program.

(1) perform research and development on, fluid dynamics, and in the incorporation of cal year 1992; $1,700,000 for fiscal year 1993;

VOL 137 PT 23 NO 21—25 1991 UMI

(b) HIGH-PERFORMANCE COMPUTING ADVISORY COMMITTEE.—The President shall establish an advisory committee on high-performance computing consisting of non-Federal members, including representatives of the research, education, and library communities, network providers, and industry, who are specially qualified to provide the Director with advice and information on high-performance computing. The recommendations of the advisory committee shall be considered in reviewing and revising the Program. The advisory committee shall provide the Director with an independent assessment of—

(1) progress made in implementing the Program;

(2) the need to revise the Program;

(3) the balance between the components of the Program;

(4) whether the research and development undertaken pursuant to the Program is helping to maintain United States leadership in computing technology; and

(5) other issues identified by the Director.

(c) OFFICE OF MANAGEMENT AND BUDGET.—(1) Each Federal agency and department participating in the Program shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office of Management and Budget which—

(A) identifies each element of its high-performance computing activities which contributes directly to the Program or benefits from the Program; and

(B) states the portion of its request for appropriationa that is allocated to each such element.

(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the annual report submitted under subsection (a)(3)(A), and shall include, in the President's annual budget estimate, a statement of the portion of each appropriate agency's or department's annual budget estimate relating to its activities undertaken pursuant to the Program.

SEC. 102. NATIONAL RESEARCH AND EDUCATION NETWORK.

(a) ESTABLISHMENT.—As part of the Program, the National Science Foundation, the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, and other agencies participating in the Program shall support the establishment of the National Research and Education Network, portions of which shall, to the extent technically feasible, be capable of transmitting data at one gigabit per second or greater by 1996. The Network shall provide for the linkage of research institutions and educational institutions, government, and industry in every State.

(b) ACCESS.—Federal agencies and departments shall work with private network service providers, State and local agencies, libraries, educational institutions and organizations, and others, as appropriate, in order to ensure that the researchers, educators, and students have access, as appropriate, to the Network. The Network is to provide users with appropriate access to high-performance computing systems, electronic information resources, other research facilities, and libraries. The Network shall provide access, to the extent practicable, to electronic information resources maintained by libraries, research facilities, publishers, and affiliated organizations.

(c) NETWORK CHARACTERISTICS.—The Network shall—

(1) be developed and deployed with the computer, telecommunications, and information industries;

(2) be designed, developed, and operated in collaboration with potential users in government, industry, and research institutions and educational institutions;

(3) be designed, developed, and operated in a manner which fosters and maintains competition and private sector investment in high-speed data networking within the telecommunications industry;

(4) be designed, developed, and operated in a manner which promotes research and development leading to development of commercial data communications and telecommunications standards, whose development will encourage the establishment of privately operated high-speed commercial networks;

(5) be designed and operated so as to ensure the continued application of laws that provide network and information resources security measures, including those that protect copyright and other intellectual property rights, and those that control access to data bases and protect national security;

(6) have accounting mechanisms which allow users or groups of users to be charged for their usage of copyrighted materials available over the Network and, where appropriate and technically feasible, for their usage of the Network;

(7) ensure the interoperability of Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy for each component network;

(8) be developed by purchasing standard commercial transmission and network services from vendors whenever feasible, and by contracting for customized services when not feasible, in order to minimize Federal investment in network hardware;

(9) support research and development of networking software and hardware; and

(10) serve as a test bed for further research and development of high-capacity and high-speed computing networks and demonstrate how advanced computers, high-capacity and high-speed computing networks, and data bases can improve the national information infrastructure.

(d) DEFENSE ADVANCED RESEARCH PROJECTS AGENCY RESPONSIBILITY.—As part of the Program, the Department of Defense, through the Defense Advanced Research Projects Agency, shall support research and development of advanced fiber optics technology, switches, and protocols needed to develop the Network.

(e) INFORMATION SERVICES.—The Director shall assist the President in coordinating the activities of appropriate agencies and departments to promote the development of information services that could be provided over the Network. These services may include the provision of directories of the users and services on computer networks, data bases of unclassified Federal scientific data, training of users of data bases and computer networks, access to commercial information services for users of the Network, and technology to support computer-based collaboration that allows researchers and educators around the Nation to share information and instrumentation.

(f) USE OF GRANT FUNDS.—All Federal agencies and departments are authorized to allow recipients of Federal research grants to use grant moneys to pay for computer networking expenses.

(g) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act, the Director shall report to the Congress on—

(1) effective mechanisms for providing operating funds for the maintenance and use of the Network, including user fees, industry support, and continued Federal investment;

(2) the future operation and evolution of the Network;

(3) how commercial information service providers could be charged for access to the Network, and how Network users could be charged for such commercial information services;

(4) the technological feasibility of allowing commercial information service providers to use the Network and other federally funded research networks;

(5) how to protect the copyrights of material distributed over the Network; and

(6) appropriate policies to ensure the security of resources available on the Network and to protect the privacy of users of networks.

TITLE II—AGENCY ACTIVITIES

SEC. 201. NATIONAL SCIENCE FOUNDATION ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I—

(1) the National Science Foundation shall provide computing and networking infrastructure support for all science and engineering disciplines, and support basic research and human resource development in all aspects of high-performance computing and advanced high-speed computer networking;

(2) to the extent that colleges, universities, and libraries cannot connect to the Network with the assistance of the private sector, the National Science Foundation shall have primary responsibility for assisting colleges, universities, and libraries to connect to the Network;

(3) the National Science Foundation shall serve as the primary source of information on access to and use of the Network; and

(4) the National Science Foundation shall upgrade the National Science Foundation funded network, assist regional networks to upgrade their capabilities, and provide other Federal departments and agencies the opportunity to connect to the National Science Foundation funded network.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Science Foundation for the purposes of the Program $213,000,000 for fiscal year 1992; $262,000,000 for fiscal year 1993; $305,000,000 for fiscal year 1994; $354,000,000 for fiscal year 1995; and $413,000,000 for fiscal year 1996.

SEC. 202. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the National Aeronautics and Space Administration shall conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aerospace sciences, earth and space sciences, and remote exploration and experimentation.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of the Program $72,000,000 for fiscal year 1992; $107,000,000 for fiscal year 1993; $134,000,000 for fiscal year 1994; $151,000,000 for fiscal year 1995; and $145,000,000 for fiscal year 1996.

SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Energy shall—

(1) perform research and development on, and systems evaluations of, high-performance computing and communications systems;

(2) conduct computational research with emphasis on energy applications;

(3) support basic research, education, and human resources in computational science; and

(4) provide for networking infrastructure support for energy-related mission activities.

(b) COLLABORATIVE CONSORTIA.—In accordance with the Program, the Secretary of Energy shall establish High-Performance Computing Research and Development Collaborative Consortia by soliciting and selecting proposals. Each Collaborative Consortium shall—

(1) conduct research directed at scientific and technical problems whose solutions require the application of high-performance computing and communications resources;

(2) promote the testing and uses of new types of high-performance computing and related software and equipment;

(3) serve as a vehicle for participating vendors of high-performance computing systems to test new ideas and technology in a sophisticated computing environment; and

(4) be led by a Department of Energy national laboratory, and include participants from Federal agencies and departments, researchers, private industry, educational institutions, and others as the Secretary of Energy may deem appropriate.

(c) TECHNOLOGY TRANSFER.—The results of research and development carried out under this section shall be transferred to the private sector and others in accordance with applicable law.

(d) ANNUAL REPORTS TO CONGRESS.—Within one year after the date of enactment of this Act and every year thereafter, the Secretary of Energy shall transmit to the Congress a report on activities taken to carry out this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary of Energy for the purposes of the Program $93,000,000 for fiscal year 1992; $110,000,000 for fiscal year 1993; $138,000,000 for fiscal year 1994; $157,000,000 for fiscal year 1995; and $169,000,000 for fiscal year 1996.

(2) There are authorized to be appropriated to the Secretary of Energy for fiscal years 1992, 1993, 1994, 1995, and 1996, such funds as may be necessary to carry out the activities that are not part of the Program but are authorized by this section.

SEC. 204. DEPARTMENT OF COMMERCE ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I—

(1) the National Institute of Standards and Technology shall—

(A) conduct basic and applied measurement research needed to support various high-performance computing systems and networks;

(B) develop and propose standards and guidelines, and develop measurement techniques and test methods, for the interoperability of high-performance computing systems in networks and for common user interfaces to systems; and

(C) be responsible for developing benchmark tests and standards for high-performance computing systems and software; and

(2) the National Oceanic and Atmospheric Administration shall conduct basic and applied research in weather prediction and ocean sciences, particularly in development of new forecast models, in computational fluid dynamics, and in the incorporation of evolving computer architectures and networks into the systems that carry out agency missions.

(b) HIGH-PERFORMANCE COMPUTING AND NETWORK SECURITY.—Pursuant to the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724), the National Institute of Standards and Technology shall be responsible for developing and proposing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(c) STUDY OF IMPACT OF FEDERAL PROCUREMENT REGULATIONS.—(1) The Secretary of Commerce shall conduct a study to—

(A) evaluate the impact of Federal procurement regulations that require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors use to develop the software; and

(B) determine whether such regulations discourage development of improved software development tools and techniques.

(2) The Secretary of Commerce shall, within one year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated—

(1) to the National Institute of Standards and Technology for the purposes of the Program $3,000,000 for fiscal year 1992; $4,000,000 for fiscal year 1993; $5,000,000 for fiscal year 1994; $6,000,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996; and

(2) to the National Oceanic and Atmospheric Administration for the purposes of the Program $2,500,000 for fiscal year 1992; $3,000,000 for fiscal year 1993; $3,500,000 for fiscal year 1994; $4,000,000 for fiscal year 1995; and $4,500,000 for fiscal year 1996.

SEC. 205. ENVIRONMENTAL PROTECTION AGENCY ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Environmental Protection Agency shall conduct basic and applied research directed toward the advancement and dissemination of computational techniques and software tools which form the core of ecosystem, atmospheric chemistry, and atmospheric dynamics models.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Environmental Protection Agency for the purposes of the Program $5,000,000 for fiscal year 1992; $5,500,000 for fiscal year 1993; $6,000,000 for fiscal year 1994; $6,500,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996.

SEC. 206. ROLE OF THE DEPARTMENT OF EDUCATION.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Education is authorized to conduct basic and applied research in computational research with an emphasis on the coordination of activities with libraries, school facilities, and education research groups with respect to the advancement and dissemination of computational science and the development, evaluation and application of software capabilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of Education for the purposes of this section $1,500,000 for fiscal year 1992; $1,700,000 for fiscal year 1993; $1,900,000 for fiscal year 1994; $2,100,000 for fiscal year 1995; and $2,300,000 for fiscal year 1996.

SEC. 207. MISCELLANEOUS PROVISIONS.

(a) NONAPPLICABILITY.—Except to the extent the appropriate Federal agency or department head determines, the provisions of this Act shall not apply to—

(1) programs or activities regarding computer systems that process classified information; or

(2) computer systems the function, operation, or use of which are those delineated in paragraphs (1) through (5) of section 2315(a) of title 10, United States Code.

(b) ACQUISITION OF PROTOTYPE AND EARLY PRODUCTION MODELS.—In accordance with Federal contracting law, Federal agencies and departments participating in the Program may acquire prototype or early production models of new high-performance computing systems and subsystems to stimulate hardware and software development. Items of computing equipment acquired under this subsection shall be considered research computers for purposes of applicable acquisition regulations.

SEC. 208. FOSTERING UNITED STATES COMPETITIVENESS IN HIGH-PERFORMANCE COMPUTING AND RELATED ACTIVITIES.

(a) FINDINGS.—The Congress finds the following:

(1) High-performance computing and associated technologies are critical to the United States economy.

(2) While the United States has led the development of high-performance computing, United States industry is facing increasing global competition.

(3) Despite existing international agreements on fair competition and nondiscrimination in government procurements, there is increasing concern that such agreements are not being honored, that more aggressive enforcement of such agreements is needed, and that additional steps may be required to ensure fair global competition, particularly in high-technology fields such as high-performance computing and associated technologies.

(4) It is appropriate for Federal agencies and departments to use the funds authorized for the Program in a manner which most effectively fosters the maintenance and development of United States leadership in high-performance computers and associated technologies in and for the benefit of the United States.

(5) It is appropriate for Federal agencies and departments to use the funds authorized for the Program in a manner, consistent with the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), which most effectively fosters reciprocal competitive procurement treatment by foreign governments for United States high-performance computing and associated technology products and suppliers.

(b) ANNUAL REPORT.—

(1) REPORT.—The Director shall submit an annual report to Congress that identifies—

(A) any grant, contract, cooperative agreement, or cooperative research and development agreement (as defined under section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) made or entered into by any Federal agency or department for research and development under the Program with—

(i) any company other than a company that is either incorporated or located in the United States, and that has majority ownership by individuals who are citizens of the United States; or

VOL
137
PT
23
NO
21–25
1991
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(ii) any educational institution or nonprofit institution located outside the United States; and

(B) any procurement exceeding $1,000,000 by any Federal agency or department under the Program for—

(i) unmanufactured articles, materials, or supplies mined or produced outside the United States; or

(ii) manufactured articles, materials, or supplies other than those manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, under the meaning of title III of the Act of March 3, 1933 (41 U.S.C. 10a–10d; popularly known as the Buy American Act) as amended by the Buy American Act of 1988.

(2) CONSOLIDATION OF REPORTS.—The report required by this subsection may be included with the report required by section 101(a)(3)(A).

(c) REVIEW OF SUPERCOMPUTER AGREEMENT.—

(1) REPORT.—The Under Secretary for Technology Administration of the Department of Commerce (in this subsection referred to as the "Under Secretary") shall conduct a comprehensive study of the revised "Procedures to Introduce Supercomputers" and the accompanying exchange of letters between the United States and Japan dated June 15, 1990 (commonly referred to as the "Supercomputer Agreement") to determine whether the goals and objectives of such Agreement have been met and to analyze the effects of such Agreement on United States and Japanese supercomputer manufacturers. Within 180 days after the date of enactment of this Act, the Under Secretary shall submit a report to Congress containing the results of such study.

(2) CONSULTATION.—In conducting the comprehensive study under this subsection, the Under Secretary shall consult with appropriate Federal agencies and departments and with United States manufacturers of supercomputers and other appropriate private sector entities.

(d) APPLICATION OF BUY AMERICAN ACT.—This Act does not affect the applicability of title III of the Act of March 3, 1933 (41 U.S.C. 10a–10d; popularly known as the Buy American Act), as amended by the Buy American Act of 1988, to procurements by Federal agencies and departments undertaken as a part of the Program.

Amend the title so as to read: "An Act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing.".

Mr. HOLLINGS. Mr. President, as an original cosponsor of S. 272 as introduced, I rise to support the version of S. 272, the High-Performance Computing Act of 1991, before us today. This is an important piece of legislation, which will help improve the coordination of the Federal Government's diverse computing research programs.

The bill before us represents a House-Senate compromise worked out by the Senate Commerce Committee, the Senate Energy Committee, the House Science Committee, and the House Education and Labor Committee. Working with the administration, we have crafted a bipartisan bill that will help ensure that the United States maintains its lead in the development and application of leading-edge computer technology.

The computer industry is one of the fastest growing segments of the U.S. economy, one that has generated tens of thousands of new jobs in the past few years. Even more importantly, computer technology has helped to improve the productivity and competitiveness of workers throughout the economy. Computers are used today by accountants, auto mechanics, grocery clerks, engineers, farmers—almost everyone—and the number of applications for computers increases daily.

Today's personal computers are more powerful than the best computers available 20 years ago. One of the reasons for the incredibly rapid advances in computer technology since the 1960's is the large Federal investment in computer research and development. Federal research grants funded the development of the first national computer network, some of the most commonly used computer software, and much of the fundamental research that led to development of today's personal computers and supercomputers. S. 272 is intended to continue this important investment, authorizing additional money for computing research and development that will fund the development of the next generation of computers, computer networks, and computer software.

In addition, this bill will provide necessary coordination of the various agencies doing computer research and development. The High-Performance Computing Program established by S. 272 will involve the National Science Foundation, the National Aeronautics and Space Administration, the Defense Advanced Research Projects Agency, the Department of Energy, the Department of Commerce, and a number of other agencies. The White House Office of Science and Technology Policy [OSTP], whose mission is to oversee multiagency research programs, will be responsible for ensuring that the computing research activities of these agencies support each other and mesh into a single coherent program. The Director of OSTP, Dr. Allan Bromley, clearly has the experience in coordinating successfully research in a number of areas. This kind of coordination is essential if different agencies, with different missions, are to work effectively together toward a common goal.

S. 272 has strong support from many different groups. As expected, the computer industry and the telecommunications industry strongly support this bill, and there are also strong supporters in the pharmaceutical industry, the aerospace industry, the information industry, and the manufacturing sector. I have received letters from librarians, scientists, teachers, doctors, senior citizens, and others, all expressing their support and enthusiasm for this bill. The reason for this broad support is clear—the technology developed and deployed under this bill will benefit all Americans, in every State across the Nation.

The coordination envisioned by S. 272 resembles that established in legislation which I authored last Congress, and which became law last year, dealing with global change research. This approach also can be followed for other technology initiatives dealing with other critical technologies. This year, I have introduced, among other technology competitiveness initiatives, S. 1329, the Federal Technology Strategy Act, to strengthen Federal efforts for the development and deployment of critical advanced technologies like advanced manufacturing, advanced materials, information technology, and biotechnology. A few weeks ago, the Commerce Committee approved S. 1330, the Manufacturing Strategy Act of 1991, which I also introduced to enhance the productivity, quality, and competitiveness of U.S. industry through the accelerated development and deployment of advanced manufacturing technologies. Like S. 272, these bills will strengthen the U.S. economy by ensuring that U.S. companies have access to the advanced technology they need to compete in world markets without foreign competitors.

Mr. President, in closing, I commend Senator GORE and Chairman BROWN of the House Science Committee, who have worked hard to craft a sound program. I also acknowledge the important role played by Dr. Paul Huray, senior vice president of the University of South Carolina, who has helped to shape the High-Performance Computing Program established under this bill. We are proud of his contributions to this important national initiative.

This is a good bill that will have important implications for the future of U.S. technology. I urge my colleagues to support it.

Mr. WALLOP. Mr. President, I rise in support of the High-Performance Computing Act of 1991, S. 272 as amended by the House.

This legislation establishes a comprehensive, 5-year Federal high-performance computing research and development program, and provides for the creation of a National Research and Education Network.

This legislation will help the United States advance the state of the art in high-performance computing, and thereby our competitive edge. It does so by directing the President to coordinate ongoing high-performance computing research and development activities by Federal departments and agencies.

There are some differences between S. 272 as passed by the Senate on September 11, 1991, and S. 272 as amended and passed by the House on November 20, 1991, the legislation which is now before the Senate, but these differences are not particularly significant.

For the purposes of the legislative history of the High-Performance Computing Act of 1991, it should be noted that S. 272 as passed by the Senate on September 11, 1991, was a melding of the provisions contained in S. 343 as reported by the Committee on Energy and Natural Resources (S. Rept. No. 102–64), and S. 272 as reported by the Committee on Commerce, Science, and Transportation (S. Rept. No. 102–57).

Although the Committee on Energy and Natural Resources has jurisdiction over many elements of this legislation, to accommodate the interests of the Senate Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources agreed to merge together the two bills and have the Senate pass only one bill, S. 272. Accordingly, the complete legislative histories of both S. 343 and S. 272 are to be considered when interpreting congressional intent expressed in the High-Performance Computing Act of 1991.

Mr. President, the High-Performance Computing Act of 1991 is the result of a joint effort between the administration, the Senate Committee on Energy and Natural Resources, the Senate Committee on Commerce, Science and Transportation, and the House Committee on Science, Space, and Technology. The administration and these three congressional committees have worked together long, hard, and cooperatively to fashion this legislation.

The pending legislation is especially important to the future of the United States' economy because high-performance computing has become an integral part of every aspect of modern life. For example, scientific investigation, product design, and manufacturing are now all heavily dependent on supercomputers. Thus, as is stated in the act's first finding, advances in computer science and technology are vital to the Nation's prosperity, national and economic security, industrial production, engineering and scientific advancement.

Although the United States has led the world in the development and use of high-performance computers, this lead is now being challenged by foreign competitors and it won't exist much longer if we do not take action. The legislation before the Senate is the kind of action we need.

It is important that the executive branch develop and implement, through this generic authorizing legislation, an appropriate Federal role in the promotion of high-performance computing and networking. Failure to do so would weaken our defense posture, it would weaken our competitive edge in the international marketplace and it would weaken our ability to achieve scientific advancements ahead of our international competitors. That would clearly be unacceptable.

For the benefit of the Senate and for the purpose of amplifying and clarifying Congress' intent in the High-Performance Computing Act of 1991, I would like to describe certain of its provisions.

The act establishes a 5-year Federal high-performance computing program [program] which consists of three key elements. One, it requires the President to establish goals and priorities for Federal high-performance computing research and development. Two, it requires the President to provide for interagency coordination of Federal high-performance computing research and development. And three, it creates a high-performance computer network, referred to in the legislation as the National Research and Education Network [NREN].

The legislation also contains numerous other provisions requiring certain Federal departments and agencies to undertake, or to continue to take, specified activities. Some of these are to be undertaken as part of the program, whereas others are to be taken in accordance with the program. As is always the case, activities undertaken pursuant to the act are subject to appropriations.

The most important feature of the High-Performance Computing Act of 1991, and perhaps the most significant improvement over certain of the act's parent bills, is its provisions which specifically give the President, and not a particular Federal department, agency, or any other person, full authority and responsibility for developing and implementing the program. Like S. 343, as reported by the Energy and Natural Resources Committee, the act does not designate by law a specific Federal department or agency as a lead agency for the program. If such designation is to be made, it is left to the President's discretion. It was decided to leave this matter entirely in the President's hands because over time circumstances may change, and what might be appropriate today might not be appropriate tomorrow. Thus, no agency is by law established as a lead agency or given authority to direct the activities of other agencies. Only the President, pursuant to his constitutional duties, has such authority.

Thus, within the context of the high-performance computing program establishing by this act, the President will retain full discretion to direct appropriate Federal agencies to undertake such activities as may be necessary to carry out the act's requirements. This gives the President the authority and flexibility necessary to implement and make changes in the leadership and management of the program as may be necessary to ensure that it is undertaken in the most effective and efficient manner.

Section 101(a)(1) confers exclusively upon the President the authority and the responsibility to implement the high-performance computing program, including: one, the establishment of the goals and priorities for Federal high-performance computing research, development, networking, and other activities; and two, the interagency coordination of Federal high-performance computering research, development, networking, and other activities. Because the coordination role of the OSTP Director provided for by section 101(a)(3)(B) does not give the OSTP Director any authority to direct the activities of Federal departments and agencies pursuant to this act—that is reserved exclusively to the President—the OSTP Director cannot be held accountable for the failure of any Federal department or agency to carry out activities required by the act. Federal departments and agencies are themselves directly responsible and accountable for their activities pursuant to this act.

The coordination role for the OSTP Director envisioned by section 101(a)(3)(B) is that of helping to ensure that the appropriate Federal departments and agencies discuss and coordinate their activities with each other in order that such activities are in accordance with the program as established and implemented by the President. Actions taken by the OSTP Director to coordinate agency activities will be pursuant to the program as established and implemented by the President. Again, it is the President, and not the OSTP Director, who is responsible for the program and for the activities of Federal departments and agencies pursuant thereto.

Section 101(b) requires the establishment of a high-performance computing advisory committee to provide advice to the OSTP Director on the high-performance computing program. Nothing in this section precludes the use of an existing advisory committee to satisfy this requirement.

Section 102(a) requires the establishment of a national research and education computer network [NREN] which shall be capable of transmitting data at one gigabit per second or greater by 1996. The requirement that the named Federal agencies support the establishment of the NREN is subject to, and subordinate to, existing and future agency mission requirements. The listing in a nonalphabetical order in section 102(a) of some of the Federal agencies and departments required to support the NREN is not be taken to imply that any particular agency is more or less responsible for supporting the establishment of the NREN, or has any superior or inferior position with respect to the NREN.

The statement is section 102(a) that the NREN link research and educational institutions, government, and industry "in every State" is to be taken as a goal, not a requirement to be read literally. Similarly, the requirement of section 102(b) that "Federal agencies shall work with State and

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ment of high-speed networking tech- did not endorse the strategy. As a mat- merce Committee, and Senators JOHN-

VOL 137 PT 23 NO 21—25 1991 UMI

local agencies, libraries, educational institutions and organizations, private network service providers, and others in order to ensure that researchers, educators, and students have access, as appropriate, to the Network," is a goal of the legislation, not a requirement. The words "to ensure" in this provision are not to be read literally as a specific statutory requirement.

The NREN created by this legislation is intended to enable government, industry, researchers, the higher education community and others to link together on a computer network in order to exchange information and data. Although Federal agencies and departments can connect agency and department-owned or leased networks to the NREN—and even make them part of the NREN—they will retain the total discretion to connect or disconnect as may be required by agency mission requirements, or for any other reason. Thus, even if any agency's network becomes the sole means by which others are able to access the NREN, the agency will retain full discretion to disconnect from the NREN notwithstanding how it may affect the other NREN users. This is made absolutely clear in section 102(c)(7) which provides that the NREN shall "ensure the interoperability of Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy for each component network".

Although section 102(d) directs the Department of Defense, through the Defense Advanced Research Projects Agency [DARPA], to support research and development of advanced fiber optics technology, switches and protocols needed to develop the network, this not to be read as giving DARPA and exclusive role within the Federal Government for this type of research and development; nor is this provision to be read as giving DARPA a "lead" role. It simply directs DARPA to undertake certain kinds of activities.

Section 207(d) does not, nor is it intended to, modify or amend the applicability or nonapplicability of Federal contract law. This is made clear in section 207(b) by introductory phrase "In accordance with Federal contracting law. * * * " Thus, Federal contracting law will continue to apply to the procurement of all goods and services under the high-performance computing initiative, including procurement of supercomputers.

Section 208(d) does not, nor is it intended to, modify or amend the applicability or nonapplicability to title III of the act of March 3, 1933, as amended by the Buy American Act of 1988. It is merely a congressional policy statement restating existing law.

Mr. President, with these understandings by the Senate, I support the passage of the High-Performance Computing Act of 1991, S. 272 as amended by the House.

Mr. GORE. Mr. President, I rise in support of S. 272, the High-Performance Computing Act of 1991. This bill was first passed by the Senate on September 11 by voice vote. A companion bill, H.R. 656, passed the House on July 11.

The bill before us represents a House-Senate compromise which incorporates provisions of both bills. This version has bipartisan support in the House and the Senate, as well as in the administration.

The purpose of S. 272 is simple—to help ensure that the United States maintains its lead in advanced computer technology. Since World War II and the invention of the first electronic computer, the United States has led the world in developing and applying new computer technology. Our computer scientists laid the groundwork for the Information Revolution. Today, U.S. scientists and engineers generate new breakthroughs in computer design every year. Their creativity has ensured United States predominance in supercomputing and high-speed computer networking, two critical technologies transforming how research is conducted, products are designed, and business is transacted.

S. 272 would roughly double the amount of funding for high-performance computing during the next 5 years. Last year, the Federal Government spent $489.4 million on high-performance computing research and development. Under this bill, by 1996 that number would rise to approximately $1 billion each year. This investment is essential if U.S. scientists and engineers are to have the resources they need to develop and use more powerful supercomputers, more sophisticated software, and faster computer networks. Both the Europeans and the Japanese understand the incredible potential of supercomputing and are allocating hundreds of millions of dollars in an effort to catch up with the United States. And, according to a recent GAO report, High-Speed Computer Networks in the United States, Europe, and Japan, the Europeans and Japanese clearly recognize the importance of high-speed networks, and have plans and projects underway to enhance the speed and capability of these networks. In many areas, like high-speed networking and vector processor supercomputers, we may have only a 1- or 2-year lead. We must not lose that lead. This race is not winner-take-all, but it might as well be. Whoever is first to develop and effectively apply this technology will reap huge rewards in dozens of high-tech fields, from biotechnology to aerospace, from advanced materials to fusion energy. That translates directly into thousands and thousands of jobs—good jobs—which would otherwise go to our foreign competitors.

According to another GAO report, Industry Uses of Supercomputers and High-Speed Networks, U.S. companies are using supercomputing to increase their profits by millions of dollars. But that is not all that is at stake.

Supercomputing can help us better predict the weather, reduce air pollution, and improve health care.

Perhaps the most exciting part of the legislation pertains to the National Research and Education Network [NREN], a national, high-speed computer network that will connect millions of computer users at colleges, universities, Federal laboratories, libraries, hospitals, and businesses in every State. This network will be capable of transmitting billions of bits of data per second, enabling users to sit at their desks and use supercomputers thousands of miles away, access computer databases, and teleconference with colleagues. Linking powerful computers and computer-controlled research equipment to form a national colaboratory will enable researchers to work with others around the country as if they were across the hall. Creation of "Digital Libraries," huge electronic databases accessible over the network, will help students, teachers, doctors, and workers find the information they need without leaving their office.

The NREN will build on the NSFNET and other Federal, State, and private networks that make up the Internet, a research and education network which today links more than 1 million people. Today, the backbone of the NSFNET, which carries most of the network's traffic, runs at 45 megabits per second; the NREN will be at least 25 times faster and serve many more people. We will need gigabit speeds, 1 billion bits per second, to meet the rapidly growing demand for bandwidth on the network. The bill calls for deployment of a gigabit-per-second backbone by 1996. This is an ambitious goal, but without such speeds we will end up with what Dr. John Connolly, who runs the supercomputer center at the University of Kentucky, calls a graphic jam.

The NREN will enable some of America's best technical talent to experiment with high-speed networks, to develop new, exciting uses for such networks, and to demonstrate the benefits that networking can provide. In a way, the NREN is a national demonstration project that will spur the private sector investment needed to deploy a ubiquitous, fiber-optic network reaching every home, office, school, and factory in the country. Unfortunately, the private sector has not committed to building such a network because they are not convinced of its potential. The NREN will demonstrate what gigabit networks can do and generate the public demand for such services. When the general public sees what NREN users can do, they are going to want similar services in their home and office.

This bill is the first step toward meeting that need. It will fund

development of high-speed networking technology and demonstrate its utility. Equally important, it will fund development of applications for networks and train people to develop, run, and use them.

But other steps will be needed. Today's telecommunications policies are designed for copper wire networks carrying voice traffic. We have to recognize that fiber optic computer networks are fundamentally different. We need to upgrade our policies as we upgrade our technology. I know that many of my colleagues, including Senators HOLLINGS, INOUYE, and BURNS on the Commerce Committee recognize that, and I look forward to working with them to design a national tele, communications policy for the 1990's and beyond.

Without new policies we will be unable to build the information infrastructure that the United States will need to compete in the next century. It used to be that a nation's transportation infrastructure determined success in international economic competition. Nations with deep-water ports did better than nations unable to exploit the technology of ocean transportation. Canals, railroads, highways, water and sewer systems—the list is a long one—were infrastructure investments found, through experience, to provide tremendous leverage for improving a nation's competitiveness.

Today transportation is less important compared to other factors, such as the ability to move information and to increase the value of this information. At the same time, however, we are confronted with massive and rapidly multiplying quantities of information. We are forced to deal with what I call exformation—accumulated surpluses of data that we know exist but are outside our conscious awareness. Advanced networking technology developed by this bill, coupled with intelligent, forward-looking telecommunications policies, can help us sort through that information and use it to improve the standard of living of all Americans.

The bill before us today has a long history. I personally have been working for almost 15 years to advance American computer technology and build a national high-speed, fiber-optic network. I held hearings in the House long before fiber optics had really emerged from the laboratory. Five years ago, I introduced legislation requiring that the administration evaluate the potential of supercomputing and high-speed networking. The White House Office of Science and Technology Policy [OSTP] responded in late 1987 with a report entitled, "A Research and Development Strategy for High-Performance Computing." The report called for dramatically increasing funding for high-performance computing. Unfortunately, the administration did not endorse the strategy. As a matter of fact, it took the administration more than 3 years to recognize the need for such an initiative.

In the meantime, I introduced the High-Performance Computing Act, and for the last 3 years have been working to build the support, both in Congress and elsewhere, needed to get it enacted. Last year, the Senate passed the bill but unfortunately it was blocked in the House by a few key Republicans. This year, I introduced the bill for a third time. A few weeks later, the administration, in its annual budget request, endorsed the program established by the bill. Now, thanks to the support of my colleagues in the House and Senate, we are about to send the bill on to the President.

This bill is a complex one, involving many different agencies, and thus several different congressional committees. In the Senate, both the Senate Commerce Committee and the Senate Energy Committee contributed to S. 272. The Energy Committee reported S. 343, which defines the Department of Energy's part of the High-Performance Computing Program. That bill was merged with S. 272, a Commerce Committee bill that outlined the program and laid out the roles of OSTP, the National Science Foundation, the National Aeronautics and Space Administration [NASA], and the Department of Commerce. The Commerce Committee and the Energy Committee worked together to assemble a coherent, multi-agency program.

At the same time, in the House, the Science Committee and the Education and Labor Committee were working on H.R. 656, which Congressmen GEORGE BROWN, FREDERICK BOUCHER, TIM VALENTINE, And others had introduced in January. Their bill was quite similar to S. 272, but included additional provisions on the roles of the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the Department of Education. The House passed H.R. 656 on July 11. The Senate passed S. 272 unanimously on September 11. Since then, we have been working with the House to come to an agreement on a compromise version acceptable to both sides.

This is a very important bill, one that will provide huge benefits to Americans everywhere. Not surprisingly, it has broad support, from researchers, educators, librarians, and businessmen. The computer industry, the telecommunications industry, the electronic information industry, and hundreds of high-tech companies in other sectors are united behind this bill. Within the administration, dozens of scientists and engineers have worked for years to promote high-performance computing and convince their bosses and OMB to fund the High-Performance Computing Program.

Here in Congress, Senators HOLLINGS, DANFORTH, and PRESSLER on the Commerce Committee, and Senators JOHNSTON, DOMENICI, and WALLOP on the Energy Committee, have helped refine this legislation and shape the High-Performance Computing Program. Their help and support has been matched by the efforts of Representatives BROWN, WALKER, BOUCHER, and VALENTINE on the Science Committee. I thank them and my colleagues for their support of this legislation.

Mr. President, I wish to take only 30 seconds to thank my colleagues for this, the final passage of the High-Performance Computing Act which establishes a nationwide network of information superhighways. It has now cleared both the House and the Senate. It is on the way to the White House. I hope and trust the President will sign it.

Again I thank my colleagues.

Mr. JOHNSTON. Mr. President, today, the Senate is considering S. 272, the High-Performance Computing Act of 1991, which is an amended version of that bill passed by this body in September. S. 272 sets out a solid Federal research program in high-performance computing that will help this country remain competitive in the world marketplace. What we are considering today represents a compromise reached between the House and the Senate on this very important issue.

The United States has led the world in the development of high-performance computing. The technology was developed in this country and we continue to lead in this area—for now. But that lead is being challenged. Some estimate that the Japanese will dominate the supercomputer market in the 1990's. Yet, the Japanese did not enter the field of high-performance computing until 1983. Today, outside of the United States, Japan is the single biggest market for, and supplier of, supercomputers.

The United States needs an integrated, cooperative program among industry, universities and government in supercomputing. It has been estimated that a modest Federal investment in high-performance computing would result in a $200 to $500 billion increase in the Nation's gross national product over a 10-year period. Furthermore, such an investment will help us to meet the challenge of foreign competition. The legislation before the Senate today will set the programs in motion to make that happen.

The President in his fiscal year 1992 budget requested an increase of almost $150 million for an interagency research and development initiative called Grand Challenges: High-Performance Computing and Communications. That initiative is to be congratulated. It represents a significant step toward assuring a continued lead role for the United States in high-performance computing. But we can do more. We need a significant long-term com-

VOL 137
PT 23
NO 21—25
1991
UMI

mitment to a national high-performance computing program if this initiative is to be successful. This act will do that. It will commit the Federal Government to a national high-performance computing initiative for 5 years. Such a commitment will enhance significantly our nation's competitive position in the area of supercomputing.

The High-Performance Computing Act of 1991 is the result of the combined efforts of the Administration, the Senate Committee on Energy and Natural Resources, the Senate Committee on Science, Commerce and Transportation, and the House Committee on Science, Space and Technology. We have all worked closely in crafting this language.

I want to thank the members of the Commerce Committee, in particular Senator HOLLINGS and Senator GORE, who have worked so hard on this issue. Senator WALLOP and Senator DOMENICI, who serve with me on the Energy and Natural Resources Committee, have also been instrumental to this process. Without the help of my colleagues, we would not be at this critical juncture in the consideration of the High-Performance Computing Act of 1991.

There are some differences between S. 272 as originally passed by the Senate and the Act before us today. Many of the changes are stylistic rather than substantive. However, some of these changes need a note of explanation.

There are two titles to the Act. Title I directs the President to implement a national high-performance computing program, to set out the goals and priorities for Federal high-performance computing research, development, and networking activities, and to provide for coordination of those activities.

While the President will identify the activities needed to be carried out under the program, the agencies themselves will perform the activities. Nothing in this legislation gives one agency authority to direct the high-performance computing activities of any other agencies. Similarly, the agencies will be held accountable for the failure to carry out the activities set out in the program.

The coordination function is limited to identifying Federal agency high-performance computing activities, pointing out overlapping efforts, and making suggestions as to what new high-performance computing activities might be undertaken as part of the program. It is the President, however, who will decide what activities to pursue and will implement those activities through the agencies.

This approach will ensure that the Federal strategy is built on agency strengths by giving the appropriate agency the responsibility to carry out activities in areas of demonstrated capability. It also will ensure that the strengths of the other agencies and departments are integrated where appropriate. No agency is locked into a lead role or given authority over any other agency. The President may realign agency roles and responsibilities as agencies' needs or capabilities change.

Title I also establishes an advisory committee consisting of representatives from industry and the academic community to provide the Director with advice on the high-performance computing program. This provision does not, however, require the President to create an entirely new advisory body. This provision allows the President to consider existing advisory bodies to fulfill this purpose.

Title I also establishes a multigigabit-per-second national research and education computer network. This network will link government, industry, and the academic community. Computer users at universities, Federal laboratories, and industry research centers will have access to supercomputers, computer data bases, and other research facilities. The network will be unequaled anywhere in the world.

We intend that the Federal network act as a catalyst for a much larger effort by the nation as a whole. As services over the network and the number of users increase, we expect that the private sector will begin to demand more and more from the network. We expect that universities and private industry will come to rely more and more on the network and will eventually be willing to fund the network itself or at least large portions of it.

Initially, the Federal agencies and departments will work together to connect, expand, and upgrade their individual networks. Existing user communities of Federal networks will be expanded. New user communities will be brought into these networks. Network speeds and capabilities will be upgraded as the results of research carried out under this legislation come to fruition. Eventually, a national network will be in place, operating at over 1 billion bits of data per second. The network will continue to grow, becoming faster and faster, and connecting more and broader user communities. It will become much like the telephone system we have in place today.

At the same time, each agency will be free to operate its own network to meet the specific needs and missions of that agency. To the extent an agency can contribute to the national network, it can do so. To the extent individual agency mission needs require autonomy from the national network, that autonomy is preserved.

This national network can only succeed as a cooperative effort of all the interested agencies. Each of these agencies must be intimately involved in the process—now and as the network continues to develop. We do not know what the network will look like in the coming years. Technology to develop the network envisioned by this legislation is still being developed. The legislation, therefore, must allow sufficient flexibility to meet the needs of the network as it evolves. It would not be prudent to create a rigid or overly burdensome management structure at this juncture, as might occur by vesting the management of the network in a single agency. It is for that reason that the legislation before us leaves the responsibility with the President to establish and oversee the network as it evolves.

We understand that the President has already created a Federal Network Council to oversee the evolution, operation, and management of the network. The Council is composed of representatives from all of the federal agencies. The Council is advised by a panel of distinguished individuals from industry, the universities, and the Federal laboratories. We think, at least initially, that this is the proper way to begin the establishment of this network. As the process moves forward it may become apparent that new management mechanisms are needed. The legislation allows the President to adapt to these changes. At any point in the process the President can take a fresh look at the future of computer networks in the United States. The authority to structure the network as he sees fit provides the President with an opportunity to devise a network that meets national needs, now and in the future.

The legislation requires the Department of Defense, through the Defense Advanced Research Projects Agency [DARPA], to support research and development of advanced fiber optics technology; switches, and protocols needed to develop the network. This requirement is not intended, however, to create a role for DARPA in this area of research and development that is any greater than any other agency qualified to perform such research.

Title II of the act authorizes activities to be carried out under this initiative by the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Commerce, the Environmental Protection Agency, and the Department of Education. It is likely that the President will recommend other activities and roles for these and other agencies in the National High-Performance Computing Program. That would not be precluded by the act and would, in fact, be welcomed.

Section 201 authorizes activities of the National Science Foundation for the high-performance computing program. This section states that the National Science Foundation has primary responsibility for connecting colleges, universities, and libraries to the national network. Historically, the National Science Foundation has provided assistance to colleges, universities, and

the library community to meet their advanced computing needs. This does not mean, however, that other Federal agencies should no longer provide assistance to users of agency networks that are connected to the national network. Rather, an individual agency, such as the Department of Energy or the National Aeronautics and Space Administration should continue to support the user communities that need access to its network.

Similarly, the legislation provides for the National Science Foundation to serve as the primary source of information on how to access the network. The National Science Foundation should provide information to those who have nowhere else to turn for such information. Any agency, such as the Department of Energy, that provides users with information on its network should continue to provide this information, and may expand its information services.

Section 203 is based on S. 343, as reported by the Committee on Energy and Natural Resources and incorporated in the Senate-passed version of S. 272 on September 11, 1991. Section 203 establishes for the Department of Energy a strong role in the national high-performance computing initiative. The Department of Energy would be one of several equals within the high-performance computing program established by this legislation.

The Department of Energy has historically had a key role in high-performance computing. The department and its laboratories are in a position to help maintain U.S. leadership, strengthen the U.S. computing industry, and encourage deployment of high-performance computing in analyses, design, concurrent engineering, and manufacturing for U.S. industry. In the past, the Department has fulfilled this role through its support of fundamental science and through the nuclear weapons research, development, and testing program. The role of the nuclear weapons development program is changing rapidly today. The Department's contributions now include a much broader spectrum of activities from the human genome project to enhanced oil recovery. With these new applications, the Department has a significant role to play in the continued development of high-performance computing.

The department's laboratories have become the world's most demanding, sophisticated, and experienced users of supercomputers. Manufacturers of high-performance computers routinely send new prototype computers to these laboratories for testing. The laboratories help the manufacturer identify problems, find solutions for those problems, and write the unique software packages required by supercomputers.

This legislation builds on that proven relationship between industry and the Department of Energy. The Secretary is directed to establish collaborative consortia composed of national laboratories and other Federal laboratories or agencies, educational institutions, and industry. The consortia will undertake basic research and development of high-performance computing hardware, software, and networks. The consortia will carry out research directed at scientific and technical problems that require the application of high-performance computing resources.

The Department carries out extensive high-performance computing activities. Some of these activities will be part of the President's program. Some of them will not. This legislation directs the Secretary to establish high-performance computing collaborative consortia in accordance with the President's program. The consortia, or their activities, need not be part of the program but only consistent with the program.

Section 207 in title II, Miscellaneous Provisions, makes clear that classified activities are not affected by this amendment. This section also makes clear that Federal agencies may procure prototype machines commonly referred to as paper machines.

Section 208(d) does not, nor is it intended to, modify or amend the applicability of or nonapplicability of title III of the act of March 3, 1933, as amended by the Buy America Act of 1988.

Mr. President, with these understandings by the Senate, I urge my colleagues to support the High-Performance Computing Act of 1991.

Mr. JOHNSTON. Mr. President, for the understanding of the Senate of S. 272, I would like to clarify the role of the President and the White House Office of Science and Technology Policy [OSTP] in coordinating the program.

I would like to engage my colleague, Senator HOLLINGS, the chairman of the Senate Committee on Commerce, Science, and Transportation in a brief colloquy on this matter to be sure that the Senate fully understands S. 272.

The legislation before us today states that the President shall implement a national high-performance computing program and provide for coordination of the activities set out in the program. The statutory language also gives the Director of the OSTP a coordination role in the program. I want to make sure it is clear what is meant by that statutory language. Does the Senator from South Carolina agree with me that this coordination role given to the Director does not grant the OSTP the authority to tell an agency how to run its supercomputing programs or other agency activities?

Mr. HOLLINGS. Mr. President, I would like to tell my distinguished colleague from Louisiana, the chairman of the Committee on Energy and Natural Resources, that he is absolutely correct. S. 272 does not give the Director of the OSTP authority to tell an agency how to run its supercomputing programs or any other activities. The coordination role given the Director by S. 272 is that the OSTP should identify agency activities regarding high-performance computing activities, point out overlapping efforts, and make suggestions to the agencies as to what new activities might be undertaken as part of the program.

The coordination role for the OSTP Director envisioned by this act is that of helping the President to ensure that the appropriate Federal departments and agencies discuss and coordinate their activities with each other so their activities are in accordance with the program as established and implemented by the President. Actions taken by the OSTP Director to coordinate agency activities will be pursuant to the program as established and implemented by the President. At all times the Director acts at the direction of the President. Again, it is the President, and not the OSTP Director, who is responsible for the program and for the activities of Federal departments and agencies taken pursuant to the program. It is clear that the President is ultimately responsible for the program.

Mr. JOHNSTON. Mr. President, I would like to thank my colleague from South Carolina for clarifying that point. But, I would also like to ask him to what extent the OSTP will be held accountable for the failure of activities established in the President's program to be carried out?

Mr. HOLLINGS. Mr. President, the answer to the question of the Senator from Louisiana is that the OSTP Director will not be held at all accountable for the failure of agencies to carry out their activities under the program. The authority to establish and implement this program is conferred upon the President, and it is the President's responsibility to ensure that it is done. The President will decide what activities to pursue amd assure the proper implementation of these activities by the agencies and OSTP.

This act does not give the Director any authority to direct the activities of Federal departments and agencies under this program. That is reserved exclusively to the President. Each Federal department and agency is responsible and accountable for its activities taken pursuant to this Act.

In fact, the Director derives authority to coordinate programs from the Science and Technology Policy, Organization, and Priorities Act, which created OSTP. That act states that the Director of OSTP shall "assist the President in providing general leadership and coordination of the research and development programs of the Federal Government." While S. 272 gives the Director new responsibilities, such

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VOL 137
PT 23
NO 21—25
1991
UMI

as reporting to Congress on the implementation of the High-Performance Computing Program, this act does not give the Director any more authority to coordinate the program than is already provided by the Science and Technology Policy Act.

In summary, the Director facilitates; he does not dictate. It is the head of the agency, not the Director of OSTP, who decides how best to fulfill the mission of the agency.

Mr. JOHNSTON. I thank my colleague for clarifying these points with me.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 256, H.R. 848, relating to the Little Bighorn Battlefield Monument.

The PRESIDING OFFICER. The clerk will report the bill by the title.

The bill clerk read as follows:

A bill (H.R. 848) entitled the "Little Bighorn Battlefield National Monument."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1428

(Purpose: To extend for 19 months the restrictions on alienation of Settlement Common Stock of Alaska Native Corporations.)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI proposes an amendment numbered 1428.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following new title at the end of the bill:

TITLE III

SEC. 301. EXTENSION OF ALIENABILITY RESTRICTIONS ON SETTLEMENT COMMON STOCK.—Section 37 (a) of P.L. 92–203, the Alaska Native Claims Settlement Act, (43 U.S.C. 1629c(a)) is amended by striking "December 18, 1991." and inserting in lieu thereof "July 16, 1993: *Provided, however*, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.".

Mr. STEVENS. Mr President, this amendment, which I offer on behalf of myself and my distinguished colleague from Alaska, Senator MURKOWSKI, is the product of extensive consulation among the members of the Alaska congressional delegation, leaders of the Alaska Native community, and the leadership of the authorizing committees in both the House and Senate. It is intended to give Congress and the native community much needed breathing room to deal with a complex issue that bears directly on the viability of the 1971 native land claims settlement.

Congress established village and regional corporations throughout Alaska to manage assets received by natives in the settlement. Recently, a village corporation in southeast Alaska launched an effort to take over the regional corporation against the will of the regional corporation's board of directors.

This unexpected development raises difficult questions about the future of the 1971 settlement. I am particularly troubled to learn that since that news of this takeover effort broke, wall street investment bankers have contacted the Department of the Interior to gather information about Alaska's native corporations.

The Alaska Native Claims Settlement Act [ANCSA], as amended in 1987, includes provisions allowing native corporation shareholders to lift restrictions on alienation of their settlement common stock after December 18th of this year. Frankly, none of us in 1987 expected any native corporation to lift these restrictions unless there was an overwhelmingly broad consensus among its shareholders to do so.

The situation in southeast Alaska, however, raises the possibility that an outside corporation or individual, working in concert with a bare majority of a native corporation's shareholders, might effect a lifting of alienability restrictions and a subsequent takeover of the native corporation. A substantial number of the native corporation's shareholders thus could be involuntarily deprived of their heritage as Alaska Natives. This would be a particularly harsh and unjust result for the thousands of natives who depend on the use of their corporation lands to maintain their traditional subsistence hunting and fishing way of life.

Congress never intended this result, Mr. President. We never intended to put Alaska native corporations "in play."

Contested takeovers of Alaska native corporations raise profound policy questions that need to be examined in depth by Congress. We need to strike the proper balance between the right of shareholders to shape the future of their corporations and the strong congressional interest in the preservation of the native lands claims settlement.

This amendment would give the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee the time needed to undertake this task by extending for approximately 19 months the existing prohibition of alienation of settlement common stock. In addition to outright sales, that prohibition includes pledges, assignments in present or future, and any other form of alienation. A native corporation's board of directors could elect not to accept this extension by adopting a resolution to that effect by March 1st of next year.

In developing this amendment, we have consulted with the Alaska Federation of Natives [AFN] and other native organizations, including the able representatives of the southeast village corporation that prompted the current debate. AFN strongly supports the amendment. I hope that AFN will be able to develop a consensus position on takeovers, which can be presented to the authorizing committees and Congress as a whole.

Mr. President, Senator MURKOWSKI, Representative DON YOUNG, and I greatly appreciate the cooperation and help of the distinguished chairman and ranking Republican of the Senate Energy Committee and the distinguished chairman of the House Interior Committee. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1428) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 848), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1988.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1988), entitled "An Act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992".

SEC. 2. FINDINGS.

Congress finds that—

(1) the report of the Advisory Committee on the Future of the United States Space Program has provided a framework within which a consensus on the goals of the space program can be developed;

(2) a balanced civil space science program should be funded at a level of at least 20 percent of the aggregate amount in the budget of the National Aeronautics and Space Administration for "Research and development" and "Space flight, control, and data communications";

(3) development of an adequate data base for life sciences in space will be greatly enhanced through closer scientific cooperation with the Soviet Union, including active use of manned Soviet space stations;

(4) the space program can make substantial contributions to health-related research and should be an integral part of the Nation's health research and development program;

(5) Landsat data and the continuation of the Landsat system beyond Landsat 6 are essential to the Mission to Planet Earth and other long-term environmental research programs;

(6) increased use of defense-related remote sensing data and data technology by civilian agencies and the scientific community can benefit national environmental study and monitoring programs;

(7) the generation of trained scientists and engineers through educational initiatives and academic research programs outside of the National Aeronautics and Space Administration is essential to the future of the United States civil space program;

(8) the strengthening and expansion of the Nation's space transportation infrastructure, including the enhancement of launch sites and launch site support facilities, are essential to support the full range of the Nation's space-related activities;

(9) the aeronautical program contributes to the Nation's technological competitive advantage, and it has been a key factor in maintaining preeminence in aviation over many decades; and

(10) the National Aero Space Plane program can have benefits to the military and civilian aviation programs from the new and innovative technologies developed in propulsion systems, aerodynamics, and control systems that could be enormous, especially for high-speed aeronautical and space flight.

SEC. 3. POLICY.

It is the policy of the United States that—

(1) the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator"), in planning for national programs in environmental study and human space flight and exploration, should ensure the resiliency of the space infrastructure;

(2) a stable and balanced program of civil space science should be planned to minimize future year funding requirements in order to accommodate a steady stream of new initiatives;

(3) any new launch system undertaken or jointly undertaken by the National Aeronautics and Space Administration should be based on defined mission and program requirements or national policies established by Congress;

(4) in fulfilling the mission of the National Aeronautics and Space Administration to improve the usefulness, performance, speed, safety, and efficiency of space vehicles, the Administrator should establish a program of research and development to enhance the competitiveness and cost effectiveness of commercial expendable launch vehicles; and

(5) the National Aeronautics and Space Administration should promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone depletion, acid precipitation, deforestation, and smog.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR NASA.

(a) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Research and development", for the following programs:

(1) United States International Space Station Freedom, $2,028,900,000 for fiscal year 1992, of which $18,000,000 is authorized for the design and development of an Assured Crew Return Vehicle.

(2) Space transportation capability development, $679,800,000, of which $40,000,000 is authorized for propulsion technology development, and $10,000,000 is authorized for launch vehicle design studies, including single-stage-to-orbit vehicles.

(3) Physics and astronomy, $1,104,600,000, of which $3,000,000 is authorized for carrying out scientific programs which have otherwise been eliminated from the Space Station.

(4) Life sciences, $163,900,000.

(5) Planetary exploration, $299,300,000.

(6) Earth science and applications, $756,600,000, of which—

(A) $5,000,000 is authorized for the purchase of Landsat data at cost for global change research;

(B) $5,000,000 is authorized for the purchase of long-lead parts for a follow-on to Landsat 6;

(C) $1,000,000 is authorized for remote sensing data conversion;

(D) $3,000,000 is authorized for a pilot study and prototype demonstration to convert remotely-sensed aircraft and satellite data into machine readable form for global change research; and

(E) $2,000,000 is authorized for converting Landsat data collected prior to the date of enactment of this Act into a more durable archive medium.

(7) Materials Processing in space, $120,800,000.

(8) Communications, $39,400,000.

(9) Information systems, $42,000,000.

(10) Technology utilization, $32,000,000.

(11) Commercial use of space, $107,000,000.

(12) Aeronautical research and technology, $591,200,000.

(13) Transatmospheric research and technology, $72,000,000.

(14) Space research and technology, $324,800,000, of which $10,000,000 is authorized for a solar dynamics power research and technology development program, including a ground test of the technology, and $10,000,000 for a program of component technology development, validation, and demonstration directed at commercial launch competitiveness.

(15) Exploration activities, $34,500,000.

(16) Safety, reliability, and quality assurance, $33,600,000.

(17) Tracking and data advanced systems, $22,000,000.

(18) Academic programs, $64,600,000.

(b) SPACE FLIGHT, CONTROL, AND DATA COMMUNICATIONS.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Space flight, control, and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,328,900,000, of which $375,000,000 is authorized for the Advanced Solid Rocket Motor program.

(2) Space shuttle operations, $2,970,600,000.

(3) Launch services, $291,900,000, amounts of which may be expended for the Mobile Satellite launch if—

(A) the Administrator, in consultation with the Chairman of the Federal Communications Commission, determines that uncertainties with respect to the status of the American Mobile Satellite Corporation as the sole Federal Communications Commission license holder for mobile satellite services have been resolved; and

(B) at least 30 days prior to the obligation of any funds for the Mobile Satellite launch, the Administrator submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report detailing plans for reimbursement to the National Aeronautics and Space Administration for its portion of launch costs of the Mobile Satellite.

(4) Space and ground network, communications, and data systems, $920,900,000.

(c) CONSTRUCTION OF FACILITIES.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Construction of facilities", including land acquisition, as follows:

(1) Construction of Space Station Processing Facility, Kennedy Space Center, $35,000,000.

(2) Modification for Earthquake Protection, Downey/Palmdale, California, Johnson Space Center, $4,400,000.

(3) Modifications for Safe Haven, Vehicle Assembly Building, High-Bay 2, Kennedy Space Center, $7,500,000.

(4) Rehabilitation of Crawlerway, Kennedy Space Center, $3,000,000.

(5) Restoration of Shuttle Landing Facility Shoulders, Kennedy Space Center, $4,000,000.

(6) Restoration of the High Pressure Gas Facility, Stennis Space Center, $6,500,000.

(7) Construction of Addition for Flight Training and Operations, Johnson Space Center, $13,000,000.

(8) Construction of Advanced Solid Rocket Motor Program Facilities (various locations), $100,000,000.

(9) Modernization of Industrial Area Chilled Water System, Kennedy Space Center, $4,000,000.

(10) Rehabilitation and Expansion of Communications Duct Banks, Kennedy Space Center, $1,400,000.

(11) Replacement of 15 KV Load Break Switches, Kennedy Space Center, $1,300,000.

(12) Repair of Site Water System, White Sands Test Facility, $1,300,000.

(13) Replacement of Central Plant Chillers and Boiler, Johnson Space Center, $5,700,000.

(14) Modifications to X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $5,200,000.

VOL 137 PT 23 NO 21–25 1991 UMI

(15) Restoration and Modernization of High Voltage Distribution System, Goddard Space Flight Center, $7,000,000.

(16) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $17,000,000.

(17) Modernization of Main Electrical Substation, Jet Propulsion Laboratory, $5,500,000.

(18) Restoration of Utilities, Wallops Flight Facility, $3,500,000.

(19) Repair and Modernization of the 12-foot Pressure Wind Tunnel, Ames Research Center, $25,000,000.

(20) Upgrade of Outdoor Aerodynamic Research Facility, Ames Research Center, $3,300,000.

(21) Modernization of 16-foot Transonic Tunnel, Langley Research Center, $3,400,000.

(22) Modifications to the High Pressure Air System, Langley Research Center, $11,700,000.

(23) Rehabilitation of Central Air System, Lewis Research Center, $5,600,000.

(24) Rehabilitation of Icing Research Tunnel, Lewis Research Center, $2,600,000.

(25) Construction of Data Interface Facility, White Sands Test Facility, $4,000,000.

(26) Rehabilitation of Tracking and Data Relay Satellite System (TDRSS) Ground Terminal, White Sands Test Facility, $5,700,000.

(27) Repair of facilities at various locations, not in excess of $1,000,000 per project, $31,700,000.

(28) Rehabilitation and modification of facilities at various locations, not in excess of $1,000,000 per project, $34,800,000.

(29) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $750,000 per project, $12,900,000.

(30) Environmental compliance and restoration, $36,000,000.

(31) Facility planning and design, not otherwise provided for, $34,000,000.

Notwithstanding the amounts authorized in paragraphs (1) through (31), the total amount authorized by this subsection shall not exceed $430,300,000.

(d) Research and Program Management.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Research and program management", $2,422,300,000.

(e) Inspector General.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Inspector General", $14,600,000.

(f) Use of Funds for Certain Capital Items and Grants.—(1) Notwithstanding the provisions of subsection (i), appropriations authorized in this Act for "Research and development" and "Space flight, control, and data communications" may be used—

(A) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(B) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

(2) Title to facilities described in paragraph (1)(B) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each grant under paragraph (1)(B) shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

(3) None of the funds appropriated for "Research and development" and "Space flight, control, and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(g) Availability of Appropriated Amounts.—Appropriations authorized under this section for "Research and development", for "Space flight, control, and data communications", or for "Construction of facilities" may remain available until expended. Appropriations authorized under this section for "Research and program management" for maintenance and operation of facilities and for other services shall remain available through the next fiscal year following the fiscal year for which such amount is appropriated.

(h) Use of Funds for Scientific Consultations and Extraordinary Expenses.—Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(i) Use of Funds for Facilities.—(1) Except as provided in subsection (f), funds appropriated pursuant to subsections (a), (b), and (d) may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(2) Except as provided in subsection (f), funds appropriated pursuant to subsections (a) and (b) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(3) Funds appropriated pursuant to subsection (d) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

(j) CRAF/Cassini Mission.—Section 103(a)(1)(S) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (Public Law 101–611; 104 Stat. 3192), is amended—

(1) by striking "$1,600,000,000" and inserting in lieu thereof "$1,900,000,000";

(2) in clause (i), by striking the semicolon at the end and inserting in lieu thereof ", of which not more than $263,000,000 shall be available for fiscal year 1992;"; and

(3) in clause (iii), by striking "$640,000,000" and inserting in lieu thereof "$940,000,000".

(k) Total Authorizations for Fiscal Years 1993 and 1994.—There is authorized to be appropriated to the National Aeronautics and Space Administration for "Research and development", "Space flight, control, and data communications", "Construction of facilities", "Research and program management", and "Inspector General" a total amount of $15,601,000,000 for fiscal year 1993, and $16,959,000,000, for fiscal year 1994, to remain available until expended.

(l) Reprogramming for Transatmospheric Research and Technology.—The Administrator may reprogram up to $67,000,000 of the amount authorized for "Research and development" for fiscal year 1992 to use for the purposes described in subsection (a)(13). No such funds may be obligated until a period of 30 days has passed after the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of such transfer.

SEC. 5. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Appropriations authorized under section 4(c)(1) through (31)—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward by 10 percent; or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward by 25 percent, to meet unusual cost variations.

The total amount authorized to be appropriated under section 4(c) (1) through (31) shall not be increased as a result of actions authorized under paragraphs (1) and (2).

SEC. 6. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 4 (a) and (b) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 4(c) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 7. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by Congress from requests as originally made to either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 4 (a), (b), and (d); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt, by each such committee, of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts

and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 8. FACILITY MAINTENANCE OFFICE.

The Administrator shall create a Facility Maintenance Office within the Office of Management Systems and Facilities which shall plan and direct facilities maintenance management for all National Aeronautics and Space Administration sites.

SEC. 9. GEOGRAPHICAL DISTRIBUTION.

It is the sense of Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 10. PEACEFUL USES OF SPACE STATION.

No civil space station authorized under section 4(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 11. TRANSMISSION OF BUDGET ESTIMATES.

The Administrator shall, at the time of submission of the President's annual budget, transmit to Congress—

(1) a 5-year budget detailing the estimated development costs of each individual program under the jurisdiction of the National Aeronautics and Space Administration for which development costs are expected to exceed $200,000,000; and

(2) an estimate of the life-cycle costs associated with each such program.

SEC. 12. NATIONAL SCHOLARS PROGRAM FEASIBILITY STUDY.

(a) Study.—The Administrator shall conduct a study to evaluate the feasibility of initiating a National Scholars Program, as described under subsection (b), under which a select group of students would receive Federal support for education in mathematics, science, and related disciplines. The purpose of the National Scholars Program would be to help increase the number of Ph.D. recipients in mathematics, science, and related disciplines among the Nation's economically disadvantaged.

(b) Description of National Scholars Program.—Under the National Scholars Program referred to in subsection (a), the Administrator would—

(1) select economically disadvantaged high school students for participation in science programs supported by the National Aeronautics and Space Administration or other institutions where they would receive specialized instruction in mathematics and science and would learn about practical applications of mathematics and science in the programs and activities of the National Aeronautics and Space Administration; and

(2) select economically disadvantaged undergraduate and graduate students as recipients of Federal financial support for predoctoral and doctoral studies in mathematics, science, and related disciplines.

(c) Contents of Study.—The study required by subsection (a) shall address, among other matters—

(1) whether the National Aeronautics and Space Administration could adequately implement the National Scholars Program;

(2) different options for structuring the National Scholars Program, including its establishment as a pilot program;

(3) the cost of the Program, with annual cost estimates for the first 10 years of the Program;

(4) alternative funding sources for the Program;

(5) the criteria for selecting students for participation in the Program;

(6) the appropriate number of students for annual participation in the Program;

(7) the organizational location within the National Aeronautics and Space Administration at which the Program and its activities would be administered;

(8) the management of the Program;

(9) the possible ways in which the Program or its concepts can be extended to other Federal agencies, State agencies, educational institutions, and private organizations;

(10) the existence of any current public or private sector programs which are similar to the Program, the benefits and disadvantages of those similar programs, and whether a new program would unnecessarily duplicate current efforts; and

(11) the extent to which existing Federal, State, and other science education programs and activities could be used to complement or supplement the Program.

(d) Report.—Within 6 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the results of the study required by subsection (a).

SEC. 13. COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION.

Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended to read as follows:

"AUTHORIZED APPROPRIATIONS

"Sec. 24. There is authorized to be appropriated to the Secretary for fiscal year 1992—

"(1) $5,104,000 to carry out this Act; and

"(2) $20,000,000 for a program to ensure the resiliency of the Nation's space launch infrastructure, only if a statute is enacted into law to establish that program within the Department of Transportation.".

SEC. 14. NATIONAL SPACE COUNCIL AUTHORIZATION.

(a) Authorization of Appropriations.—There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,491,000 for fiscal year 1992, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

(b) Landsat Data Continuity.—It is the sense of Congress that the National Space Council, in coordination with the Committee on Earth and Environmental Sciences, should establish policy recommendations for carrying out the President's commitment to maintaining the continuity of Landsat data, including plans and programs for a successor to Landsat 6, organizational options and recommendations for acquiring Landsat data for global change research, national security, environmental management, and other governmental purposes, and options and recommendations for encouraging the use of Landsat data by commercial firms and development of the commercial market for such data. Such policy recommendations shall be transmitted in writing to Congress at the time of submission of the President's fiscal year 1993 budget.

SEC. 15. OFFICE OF SPACE COMMERCE AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce $491,000 for fiscal year 1992.

SEC. 16. AMENDMENT OF PUBLIC LAW 100–147.

Section 107(a) of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100–147; 101 Stat. 864) is amended—

(1) by inserting ", in both then year and constant dollars," immediately after "estimated cost";

(2) by inserting "assembly (including related costs);" immediately after "construction of facilities;"; and

(3) by adding at the end the following new sentence: "Each such plan shall also include the estimated cost, in both then year and constant dollars, of operations for at least the first full year of steady operations of the space station.".

SEC. 17. MULTIYEAR CONTRACTING.

Along with submission to Congress of the National Aeronautics and Space Administration fiscal year 1993 budget request, the Administrator shall—

(1) present a study which assesses the usefulness of granting similar authority as under section 2306(h) of title 10, United States Code, to the National Aeronautics and Space Administration; and

(2) recommend no less than five candidate programs to be considered by Congress for multiyear contracting.

SEC. 18. USE OF DOMESTIC PRODUCTS.

(a) Prohibition Against Fraudulent Use of "Made in America" Labels.—(1) A person shall not intentionally affix a label bearing the inscription "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act, including any subcontract under such a contract.

(b) Compliance With Buy American Act.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Administrator, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) Definitions.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 19. QUALITY ASSURANCE PERSONNEL.

(a) Exclusion of NASA Personnel.—A person providing articles to the National Aeronautics and Space Administration under a contract entered into after the date of enactment of this Act may not exclude National Aeronautics and Space Administration quality assurance

VOL 137 PT 23 NO 21—25 1991 UMI

personnel from work sites except as provided in a contract provision described in subsection (b).

(b) CONTRACT PROVISIONS.—The National Aeronautics and Space Administration shall not enter into any contract which permits the exclusion of National Aeronautics and Space Administration quality assurance personnel from work sites unless the Administrator has submitted a copy of the provision permitting such exclusion to the Congress at least 60 days before entering into such contract.

SEC. 20. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ENDEAVOR TEACHER FELLOWSHIP TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States, in tribute to the dedicated crew of the Space Shuttle Challenger, a trust fund to be known as the "National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund" (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of gifts and donations accepted by the National Aeronautics and Space Administration pursuant to section 208 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476b), as well as other amounts which may from time to time, at the discretion of the Administrator, be transferred from the National Aeronautics and Space Administration Gifts and Donations Trust Fund.

(b) INVESTMENT OF TRUST FUND.—The Administrator shall direct the Secretary of the Treasury to invest and reinvest funds in the Trust Fund in public debt securities with maturities suitable for the needs of the Trust Fund, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Interest earned shall be credited to the Trust Fund.

(c) PURPOSE.—Income accruing from the Trust Fund principal shall be used to create the National Aeronautics and Space Administration Endeavor Teacher Fellowship Program, to the extent provided in advance in appropriation Acts. The Administrator is authorized to use such funds to award fellowships to selected United States nationals who are undergraduate students pursuing a course of study leading to certified teaching degrees in elementary education or in secondary education in mathematics, science, or technology disciplines. Awards shall be made pursuant to standards established for the fellowship program by the Administrator.

SEC. 21. DRUG AND ALCOHOL TESTING.

(a) SHORT TITLE.—This section may be cited as the "Civil Space Employee Testing Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) the success of the United States civil space program is contingent upon the safe and successful development and deployment of the many varied components of that program;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the positions affecting safety, security, and national security;

(4) the use of alcohol and illegal drugs has been demonstrated to adversely affect the performance of individuals, and has been proven to have been a critical factor in accidents in the workplace;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs in increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

(c) TESTING PROGRAM.—(1) The Administrator shall establish a program applicable to employees of the National Aeronautics and Space Administration whose duties include responsibility for safety-sensitive, security, or national security functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, security, and national security, for the conduct of periodic recurring testing of such employees for such use in violation of applicable law or Federal regulation.

(2) The Administrator shall, in the interest of safety, security, and national security, prescribe regulations within 18 months after the date of enactment of this Act. Such regulations shall establish a program which requires National Aeronautics and Space Administration contractors to conduct preemployment, reasonable suspicion, random, and post-accident testing of contractor employees responsible for safety-sensitive, security, or national security functions (as determined by the Administrator) for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, security, and national security, for the conduct of periodic recurring testing of such employees for such use in violation of applicable law or Federal regulation.

(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension, disqualification, or dismissal of any employee to which paragraph (1) or (2) applies, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such employee has used, in violation of applicable law or Federal regulation, alcohol or a controlled substance.

(d) PROHIBITION ON SERVICE.—(1) No individual who is determined by the Administrator under this section to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance after the date of enactment of this Act shall serve as a National Aeronautics and Space Administration employee with responsibility for safety-sensitive, security, or national security functions (as determined by the Administrator), or as a National Aeronautics and Space Administration contractor employee with such responsibility, unless such individual has completed a program of rehabilitation described in subsection (e).

(2) Any such individual determined by the Administrator under this section to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance after the date of enactment of this Act who—

(A) engaged in such use while on duty;

(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (e);

(C) following such determination refuses to undertake such a rehabilitation program; or

(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties which such individual performed prior to the date of such determination.

(e) PROGRAM FOR REHABILITATION.—(1) The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (c) in need of assistance in resolving problems with the use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. Each contractor is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (c)(2). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any National Aeronautics and Space Administration contractor from establishing a program under this subsection in cooperation with any other such contractor.

(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the National Aeronautics and Space Administration whose duties include responsibility for safety-sensitive, security, or national security functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

(f) PROCEDURES FOR TESTING.—In establishing the programs required under subsection (c), the Administrator shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the initial confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information of employees; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(g) EFFECT ON OTHER LAWS AND REGULATIONS.—(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or other that is inconsistent with the regulations promulgated under this section.

(2) Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this Act that govern the use of alcohol and controlled substances by National Aeronautics and Space Administration employees with responsibility for safety-sensitive, security, and national security functions (as determined by the Administrator), or by National Aeronautics and Space Administration contractor employees with such responsibility.

(h) DEFINITION.—For the purposes of this section, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.

Mr. GORE. Mr. President, I am pleased to bring to the Senate the final compromise version of the fiscal year 1992 authorization bill for the National Aeronautics and Space Administration. This bill has been approved by the House of Representatives and is now ready for final passage by the Senate. Approval of H.R. 1988 will provide needed congressional guidance to the President and NASA for the U.S. Space Program for fiscal year 1992 and many years to come.

Mr. President, this is the second time the Senate will have considered and adopted legislation authorizing funds for NASA's Civil Space and Aeronautics Research and Technology Program for fiscal year 1992. On September 27 of this year, the Senate approved a very similar bill reported by the Commerce Committee. I am pleased to advise my colleagues that the present bill incorporates may of the same provisions as the earlier Senate-passed bill.

Overall, this bill authorizes $14.896 billion for NASA for fiscal year 1992. This is significantly above the amount provided earlier this year by the Appropriations Committee, but nonetheless represents a reduction of nearly $600 million from the President's request.

It is my sincere belief that enactment of this bill, which combines funding priorities for this fiscal year with a series of policy provisions, will help ensure greater success for the U.S. space program. Such support is essential, as recent disappointments, such as the flawed mirror on the Hubble space telescope and the jammed antenna on the Galileo probe to Jupiter, have focused public attention on the risky nature of our space program. By focusing our authorization bill in ways that strengthen programs such as the Mission to Planet Earth, the end result will be a much stronger, more robust space program.

Mr. President, I will ask unanimous consent that a brief summary and explanation of H.R. 1988 be included in the RECORD at the end of my statement. For the benefit of my colleagues, however, I would like to highlight several of the specific program authorization levels included in this bill.

H.R. 1988 authorizes the full $2.03 billion requested for the space station Freedom Program, of which $18 million is authorized for initial design and development of an assured crew rescue vehicle.

While the bill makes significant reductions to the proposed NASA/DOD unmanned new launch system, pending the submission of detailed launch design studies and mission needs assessments, funding was authorized for continued propulsion technology work. The bill also provides $10 million for a new program to develop and validate component technology intended to help ensure the continued competitiveness of the U.S. commercial launch industry.

We have also agreed to continue funding authority for the comet rendezvous and asteroid flyby mission. This is a reversal from the earlier Senate-passed authorization bill and reflects a compromise with our colleagues in the House. However, should the planned European contribution to this mission fail to materialize during the coming year, the issue of continued funding for the CRAF mission will certainly be revisited by the subcommittee next year.

H.R. 1988 makes a number of changes to NASA's Earth Science Program, which I believe are critical to this bill. In addition to authorizing funds for the Earth observing system and Earth probes, the bill authorizes a series of funding enhancements above NASA's budget request, including $3 million for the development of a prototype data set using aircraft remote sensing data; $2 million for recovering deteriorating Landsat data; $5 million for the acquisition of Landsat data for global change research; $5 million for the procurement of long-lead parts for a Landsat 6 follow-on; and $1 million for the conversion of classified remote sensing data to civilian use.

In an effort to establish funding priorities, we have identified these and other programs as being in need of additional, albeit modest, funding in fiscal year 1992. Of course, I am aware that this authorization bill is being considered after the President has signed into law the appropriations bill that funds NASA. The constrained budget that came from that bill, NASA has argued, has left the agency with limited flexibility to allocate scarce funds. Nonetheless, it remains the responsibility of the authorizing committees to provide policy guidance to NASA on programs that need additional funding.

As we worked with our colleagues in the House to shape this compromise bill, NASA did not object to our language authorizing additional funds for the Earth science programs I just noted or several other programs. Accordingly, it is my expectation that the programs identified in our bill will be funded in the operating plan for fiscal year 1992, now being developed by the NASA Administrator.

Mr. President, I want to touch on two provisions that have been deleted from the final bill in an effort to reach a compromise. The first was the Senate authorization for the flight telerobotic servicer, a technology program that was originally intended to provide critical assembly and maintenance to the space station. Quite simply, we had no choice in this matter, as NASA put the FTS program at the bottom of its priorities for space technology programs. That made it virtually impossible to preserve, given existing funding limitations.

I am convinced, however, that the development of automation and robotics will play a central role in NASA's future exploration activities. More importantly, it will contribute to increased human productivity in other parts of the economy. It would be a mistake to relinquish all telerobotics flight activity to other countries. In fact, recent press accounts indicate that the Japanese, through the Toshiba Corp. and the National Space Development Agency, have begun discussions with NASA about obtaining the technology developed through NASA's FTS program in order that it can be incorporated into the Japanese space program. I strongly urge NASA to take advantage itself of the component developments of FTS and explore ways in which investments in both the hardware and software can be incorporated into programs that first provide benefit to this nation.

The final bill leaves in place the current U.S. policy which prohibits the use of foreign launch capabilities for U.S. Government satellites. In the bill first developed by the House, language was adopted outlining conditions under which this policy requirement could be waived. However, now that the decision has been made to upgrade our west coast launch facility, there is no known launch opportunity that would necessitate a deviation from our cur-

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rent launch policy. Accordingly, the

Station due to the reduction in attached

gram authorization. The Committee, how-

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require testing for alcohol and to extend

NASA establish a drug and alcohol

bill will ensure that designated em-

VOL 137 PT 23 NO 21—25 1991 UMI

rent launch policy. Accordingly, the waiver language was dropped from the final bill, with continued support for our current policy on launching U.S. Government satellites.

Mr. President, before concluding, there is one last item of importance in this bill that must be highlighted. I am speaking of the requirement that beginning next year, NASA provide to the Congress projected development costs for each major mission, program, and project for a 5-year period, as well as the projected life-cycle costs of each. As I have stated several times this year, information on NASA's long-term budget profile is needed to enable the Congress to better understand how funding decisions made in the current year create a wedge which affect future funding opportunities. This data is to be submitted at the time of the President's annual budget transmittal to the Congress and is to be specific to individual programs and missions, not simply NASA's broad disciplines. I strongly urge NASA to give careful attention to the development of the long-term budget data required in this bill, as it will have a very real impact on future funding decisions related to the U.S. space program.

Mr. President, I believe this legislation will help ensure that the United States maintain its leadership in space and aeronautics. I urge my colleagues to join me in supporting the passage of H.R. 1988.

I ask unanimous consent that the explanation be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF H.R. 1988

OVERVIEW AND SUMMARY OF MAJOR PROVISIONS

The Bill provides $14.896 billion in new budget authority and amends previously provided budgetary authority to authorize a total of $15.159 billion for F.Y. 1992. This represents a reduction of $594 million from the President's request.

The Bill also provides general new budget authority for the next two fiscal years in the amount of $15.601 billion for F.Y. 93 and $16.959 billion for F.Y. 94. These authorizations represent a 5% real growth per year, accounting for an annual inflation of 3.8%, from the fiscal year 1992 appropriated level.

Specific funding initiatives include the following:

The bill provides $2.029 billion, the full request, for Space Station Freedom. Of this amount, $18 million is authorized for design and development of an Assured Crew Return Vehicle.

Up to $40 million is provided for propulsion technology studies and $10 million for vehicle design studies including single stage to orbit vehicles in order to establish a firm technology base for a possible New Launch System. The Committee intends to thoroughly review the need for and potential roles of such a New Launch System pending the availability of a substantive program plan and detailed budget submission.

The bill provides, within Physics and Astronomy, $3 million to carry out scientific programs which were eliminated from the Station due to the reduction in attached payload accommodations.

Within Earth Sciences, the bill provides $5 million for Landsat data purchases at the cost of reproduction and authorizes funding for long lead Landsat parts in order to preclude a gap in data coverage. $1 million has been made available for other remote sensing data conversion from Defense related data bases and $3 million has been provided for a pilot study with the objective of making aircraft and satellite remote sensing data available for Global Change research in machine readable form. The Committee expects Department of Energy capabilities to be brought to bear on this effort. Finally, the bill provides $2 million for the conversion of archived Landsat data into a more durable medium. The Committee places a high priority on the maintenance of a consistent and usable set of Landsat data both in the past and in the future.

Within Space Technology, the Bill provides $10 million for solar power research and technology development and $10 million for a program of component technology development, validation and demonstration directed at commercial launch competitiveness. The Committee expects that, in carring out this program, close coordination and cooperation is established with the private sector and with Agency elements responsible for the procurement of launch services for Government payloads. One major goal of this program is to reduce the cost of launch services for the Government.

Also within the Space Technology account, the Bill provides $15 million for telerobotics research in order to capitalize on the investment made in the Flight Telerobotic Servicer program. The Committee expects that NASA will incorporate the results obtained to date in developing a robust long term activity in this area, and will explore ways in which hardware and software advances from the Flight Telerobotic Servicer program can be incorporated into future telerobotics designs.

Within Space Shuttle production and operational capability, $375 million has been made available for the Advanced Solid Rocket Motor program. The Committee recognizes that this amount contains $50 million which was transferred from the Construction of Facilities account but not specifically provided for in the Appropriations bill. The Committee does not wish to restrict NASA's budget authority for Construction of Facilities and therefore would support a reprogramming for ASRM, if necessary, to meet total F.Y. 1992 requirements for the program.

Also within this general account, the Committee has provided $112 million for the Assured Shuttle Availability program. A general $10 million reduction has been applied without prejudice.

Within Launch Services, funds have been authorized for the launch of the Mobile Satellite provided that all administrative and judicial uncertainties with respect to the status of the license are resolved and a plan of reimbursement from other Federal Agencies for their share of usage.

The bill amends previously provided budgetary authority for the Comet Rendezvous/Asteriod Flyby—Cassini program to reduce the amount available for F.Y. 1992 with a concomitant increase in the total program amount made available through program completion. The Committee has taken this action in view of the severe shortfall in agency wide appropriations in F.Y. 1992 but has maintained its commitment to a full program authorization. The Committee, however, will revisit this commitment in the event that foreign participation in this program does not materialize.

Special reprogramming authority for transatmospheric research and technology has been provided within the Research and Development account in order to provide NASA the flexibility to commit sustaining funds, in combination with appropriated amounts from Department of Defense, for the continuation of the National Aerospace Plane program.

The Bill establishes a Facility Maintenance Office within the Office of Management Systems and Facilities in order to centralize programmatic authority for planning, budgeting, and carrying out an agencywide facility maintenance program.

The Bill includes a provision which requires a special 5-year budget plan for developmental programs in excess of $200 million. The programs reported in this submission must include an estimate of life-cycle costs. For the purposes of this submission, life-cycle costs must include, as a minimum, ongoing annual mission operating budgets, data analysis programs, planned hardware upgrades, and other costs that will be incurred in future years. The intent of this provision is to provide the Committee with specific information to enable prudent decisions to be made in allocating funds for the immediate fiscal year.

The Bill includes a National Scholars Program feasibility study intended to review options for increasing the number of PhD recipients among economically disadvantaged groups.

The bill authorizes for the Department of Transportation up to $20 million for a program to ensure the resiliency of the Nation's space launch infrastructure by improving the efficiency and effectiveness of launch facilities. The availability of this authority is subject to the enactment of subsequent legislation establishing a grant type program for managing and allocating these funds.

The Bill establishes a drug and alcohol testing program for all safety-sensitive, security employees working at NASA or with NASA contractors. This testing program mandates random, pre-employment, post-accident, and reasonable suspicion testing, while authorizing periodic testing. While not mandating rehabilitation for an employee who tests positive, the Bill precludes such an individual from returning to a safety-sensitive, security, or national security position until a rehabilitation program has been completed.

The Bill directs the Administrator to incorporate Department of Health and Human Services guidelines on laboratories and testing procedures. In addition, the bill mandates a series of procedural safeguards which promote individual privacy, require the confirmation of drug and alcohol tests by a scientifically recognized method capable of providing quantifiable data, require split samples that will allow samples to be retested, provide for the confidentiality of test results, and ensure that the selection of employees for testing must be by nondiscriminatory and impartial methods.

The Committee recognizes that NASA has implemented a Drug-Free Workplace Program pursuant to Executive Order 12546 and that testing for illegal use of controlled substances by NASA employees has been conducted since March, 1989. The Committee has included this provision in the Bill to codify this existing drug testing program for employees in designated positions, as well as to

require testing for alcohol and to extend these testing requirements to NASA contractors in certain positions. Enactment of this section is not intended to disturb the drug testing program already underway at NASA. Nor is it the Committee's intent to expand the testing population beyond the pool of testing designated positions already identified by NASA. NASA has done a great deal of work in the drug testing area and this language is not intended to threaten the validity or the scope of the current program.

Mr. HOLLINGS. Mr. President, the bill before us represents a final compromise with the House on the National Aeronautics and Space Administration authorization bill for fiscal year 1992. The House of Representatives passed H.R. 1988 as amended on November 7. Senate concurrence today will send this legislation to the President. I urge my colleagues to join me in supporting final passage of this bill.

Mr. President, given our current fiscal situation and projections of a Federal budget deficit for fiscal year 1992 that may reach $350 billion, there can be no doubt that spending priorities must be established. This is true not just for NASA, but for the entire Federal budget. Accordingly, during consideration of this compromise bill, we have worked to make program reductions in certain areas to help establish funding priorities for fiscal year 1992 and the remainder of the decade.

In total, the legislation authorizes $14.9 billion for NASA's space and aeronautics research and technology development programs for fiscal year 1992. When combined with the existing multiyear authorization for the CRAF and Cassini missions, the effective fiscal year 1992 program level for NASA provided by this bill is $15.1 billion, which represents a reduction of $595 million from the President's request. The bill also authorizes funding for the National Space Council, the Office of Commercial Space Transportation in the Department of Transportation [DOT], and the Office of Space Commerce in the Department of Commerce.

Mr. President, the bill before us also authorizes a total funding level for NASA for fiscal year 1993 and 1994. These authorizations were in the original House-passed bill and are intended to serve as a reference point for NASA and the Office of Management and Budget in developing budgets for the next 2 years. These authorizations, however, will not obviate the need for an authorization bill next year, as we still will need to authorize the specific program funding levels. While agreeing to the inclusion of this provision, I continue to believe that an annual authorization bill is important in our effort to maintain adequate congressional oversight of the many programs that comprise the U.S. space program.

The legislation includes a number of policy provisions that will help the effectiveness of our space program. Foremost of these is the requirement that NASA establish a drug and alcohol testing program for all safety-sensitive, security, and national security employees working at NASA or with NASA contractors. In a program patterned after the drug and alcohol testing program established for transportation safety-sensitive and security workers in the recently-enacted transportation appropriations bill—Public Law 102-143—this bill requires random, preemployment, postaccident, and reasonable suspicion testing. The bill also allows periodic testing should the Administrator of NASA determine such testing is needed.

Mr. President, NASA currently has in place a testing program in which approximately 2,300 individuals in designated safety sensitive, security, and national security positions are tested for controlled substances. This legislation codifies that testing program and extends it to require testing of these same employees for alcohol, as well as to individuals in safety-sensitive, security, and national security positions with NASA contractors.

Billions of taxpayer dollars are being invested in the development of many risky and technically complex projects for the civil space program. it is therefore incumbent upon us to do all that we can to make the space program as reliable and safe as possible. Drug and alcohol testing will serve as an invaluable tool in that regard.

The enactment of this legislation is not intended to disturb the testing for controlled substances already conducted by NASA. The agency has done a greal deal of work in this area, and H.R. 1988 is not intended to threaten the validity or the scope of the current testing program.

Of course, a testing program of this type needs safeguards that provide all possible protection to ensure the accuracy of test results and to protect innocent employees. This bill accomplishes this objective by requiring that testing follow Department of Health and Human Services [HHS] guidelines; the initial screening tests be followed up by confirmatory tests by laboratories that meet rigorous certification standards; and that the confidentiality of the test results and medical histories be protected.

With respect to alcohol testing, Mr. President, I urge NASA to work with officials at HHS and DOT in developing standards for impairment. The expertise that has been developed at these two Federal agencies will help to ensure that NASA successfully complies with the 18-month deadline required by this bill for implementing the new testing program. This is a longer period of time than was provided in the transportation appropriations law, as officials at DOT have done more work in developing an alcohol testing program for transportation workers. The alcohol testing requirements in this bill will ensure that designated employees within NASA and with NASA contractors do not drink and perform safety-sensitive, security, or national security activities.

Concerning random alcohol testing, the testing provisions in H.R. 1988 give NASA sufficient authority to develop rules to determine when testing will occur. The authority will allow NASA to require random tests centered around the time of employee performance. This legislation gives NASA ample authority to focus the rules and procedures appropriately and the ability to avail itself of the latest techniques, such as breathalyzers, to carry out the testing.

Mr. President, we have worked hard this year to ensure that those who drink alcohol or use illegal drugs are removed from jobs that can adversely affect public safety or national security. The testing program established under this legislation will further our efforts to protect that public interest. I urge my colleagues to join in final passage of this legislation.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL CIVILIAN EMPLOYEES REMEMBRANCE DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 198 designating "Federal Civilian Employees Remembrance Day" and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 198) to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 1429

Mr. MITCHELL. On behalf of Senator Akaka, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

VOL 137
PT 23
NO 21—25
1991
UMI

The bill check read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. AKAKA proposes an amendment numbered 1429:

On page 2, line 3, strike "Hawaii" and insert "Federal Civilian Employees.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1429) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 198) and its preamble are as follows:

S.J. RES. 198

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., the first wave of dive and high level bombers from the Imperial Japanese Combined Fleet attacked Hickam and Wheeler Airfields in the United States territory of Hawaii;

Whereas the first bombs fell on Ford Island at Pearl Harbor;

Whereas American fighter planes were strafed and destroyed on the ground at Pearl Harbor, Hickam Airfield, Kaneohe Naval Air Station, Bellows Airfield, Ewa Marine Corps Air Station, Schofield Barracks, and Wheeler Airfield;

Whereas the United States Pacific Fleet was devastated, but its carriers were still afloat, and Pearl Harbor's shipyards, fuel storage area, and submarine base remarkably suffered very little damage;

Whereas Federal civilian employees responded magnificently that fateful morning and met their country's call to duty with distinction and valor;

Whereas Federal civilian employees were instrumental in the remarkable salvage effort to raise and repair several of the naval vessels that were put back in action before the end of World War II;

Whereas of the 2,403 Americans killed in connection with the attack on Pearl Harbor, 68 were civilians, and of the 1,178 Americans wounded in connection with the attack, 35 were civilians;

Whereas Federal civilian employees exhibited the highest sense of patriotism and exemplary performance at Pearl Harbor and during World War II;

Whereas on December 4, 1991, ceremonies coordinated by the National Park Service will be held in the State of Hawaii to recognize the contributions of Federal civilian employees; and

Whereas we should honor these distinguished individuals during the commemoration of the fiftieth anniversary of the attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 4, 1991, is designated as "Federal Civilian Employees Remembrance Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities recognizing the important contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, and thanking such dedicated and committed individuals for their sacrifice and devotion to their country.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar Nos. 148 and 237 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNICAL CORRECTIONS IN THE JUDICIAL IMPROVEMENTS ACT OF 1990

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1284.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1284) entitled "An Act to make certain technical corrections in the Judicial Improvements Act of 1990", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. JUDICIAL COUNCILS OF CIRCUITS.

Section 332(a)(1) of title 28, United States Code, as amended by section 323 of the Judicial Improvements Act of 1990, is amended by—

(1) striking "such member" and inserting "such number"; and

(2) striking "services" and inserting "service".

SEC. 2. CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Chapter 23 of title 28, United States Code, as added by section 103 of the Judicial Improvements Act of 1990, is amended—

(1) in section 471 by striking "this title" and inserting "this chapter"; and

(2) in section 474(a)—

(A) in paragraph (1)—

(i) by striking "chief judges" and inserting "chief judge"; and

(ii) by striking "court of appeals for such"; and

(B) in paragraph (2)—

(i) by striking "a court of appeals" and inserting "a circuit may designate another judge of the court of appeals of that circuit,"; and

(ii) by striking "court to perform the chief" and inserting "court, to perform that chief".

SEC. 3. VENUE.

Section 1391(b) of title 28, United States Code, as amended by section 311 of the Judicial Improvements Act of 1990, is amended by striking "if (1)" and inserting "in (1)".

SEC. 4. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, as amended by section 312 of the Judicial Improvements Act of 1990, is amended by —

(1) striking the comma after "title"; and

(2) striking "may may" and inserting "may".

SEC. 5. APPEAL OF ABSTENTION DETERMINATIONS UNDER TITLE 11 OF THE UNITED STATES CODE.

Section 305(c) of title 11, United States Code, as amended by section 309 of the Judicial Improvements Act of 1990, is amended by striking "this title" both places it appears and inserting "title 28".

SEC. 6. OUTSIDE EARNED INCOME LIMITATIONS.

Section 502(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 7 502(b)), as amended by section 601(a) of the Ethics Reform Act of 1989 and section 319 of the Judicial Improvements Act of 1990, is amended to read as follows:

"(b) TEACHING COMPENSATION OF JUSTICES AND JUDGES RETIRED FROM REGULAR ACTIVE SERVICE.—For purposes of the limitation under section 501(a), any compensation for teaching approved under subsection (a)(5) of this section shall not be treated as outside earned income—

"(1) when received by a justice of the United States retired from regular active service under section 371(b) of title 28, United States Code;

"(2) when received by a judge of the United States retired from regular active service under section 371(b) of title 28, United States Code, for teaching performed during any calendar year for which such judge has met the requirements of subsection (f) of section 371 of title 28, United States Code, as certified in accordance with such subsection; or

"(3) when received by a justice or judge of the United States retired from regular active service under section 372(a) of title 28, United States Code.".

SEC. 7. RETIREMENT SYSTEM FOR CLAIMS COURT JUDGES.

(a) RETIREMENT OF JUDGES OF THE CLAIMS COURT.—Section 178 of title 28, United States Code, as added by section 306(a) of the Judicial Improvements Act of 1990, is amended—

(1) in subsection (f)(2)(A) by inserting "(except for subchapters III and VII)" after "chapter 84"; and

(2) in subsection (j)—

(A) in paragraph (1)—

(i) by striking "(2)" and inserting "(4)"; and

(ii) by striking "so practices law" and inserting "engages in any such activity";

(B) in paragraph (2) by striking "If" and inserting "Subject to paragraph (4), if"; and

(C) in paragraph (3) by inserting "for" after "(other than".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8339(n) of title 5, United States Code, as amended by section 306(c)(4) of the Judicial Improvements Act of 1990, is amended by inserting a comma after "United States commissioner".

(c) THRIFT SAVINGS PLAN.—(1) The section 8440b of title 5, United States Code, entitled "Claims Court Judges", as added by section 306(d) of the Judicial Improvements Act of 1990, is amended—

(A) by redesignating such section as section 8440c; and

(B) in subsection (b)—

(i) in paragraph (4)(A) by striking "subsection (d)" and inserting "subsection (c)";

(ii) by striking paragraph (7) and redesignating paragraph (8) as (7); and

(iii) by adding at the end the following:

"(8) Notwithstanding paragraph (4)(B), if any Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) retires before becoming entitled to an annuity under section 178 of title 28, and such judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e).

"(9) Notwithstanding paragraph (4)(A), if any Claims Court judge retires under circumstances making such judge eligible to make an election under section 8433(b), and such judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b).".

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by striking

"8440b. Claims Court judges."

and inserting after the last item under subchapter III the following:

"8440c. Claims Court judges."

(3) Paragraphs (8) and (9) of section 8440c(b) of title 5, United States Code (as added by paragraph (1)) shall be effective as of January 1, 1991, and shall apply to any Claims Court judge retiring on or after such date.

(4)(A) The section 8440c of title 5, United States Code, entitled "Judges of the United States Court of Veterans Appeals" is amended by redesignating such section as section 2440d.

(B) The table of sections at the beginning of subchapter III of chapter 84 of title 5, United States Code, is amended by striking

"8440c. Judges of the United States Court of Veterans Appeals."

and inserting

"8440d. Judges of the United States Court of Veterans Appeals."

(C) Section 5(b) of Public Law 102–82 is amended—

(i) by striking "8440c" and inserting "8440d"; and

(ii) by striking "(as added by subsection (a))".

(D) section 7296(f)(2)(A) of title 38, United States Code, as amended by section 5(c)(1) of Public Law 102–82, is amended by striking "8440c" and inserting 8440d".

(E) section 7297(n) of title 38, United States Code, as amended by section 5(c)(2) of Public Law 102–82, is amended by striking "8440c" and inserting 8440d".

(d) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8402(g) of title 5, United States Code, as added by section 306(e) of the Judicial Improvement Act of 1990, is amended by inserting a comma after "such chapter".

SEC. 8. NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL.

(a) MEMBERSHIP.—Section 411 of the National Commission on Judicial Discipline and Removal Act (title IV of the Judicial Improvements Act of 1990) (28 U.S.C. 372 note) is amended by striking subsections (e) and (f) and redesignating subsections (g) through (h) as subsections (e) through (f), respectively.

(b) CLERICAL AMENDMENTS.—(1) The subtitle heading for subtitle II of the Judicial Discipline and Removal Reform Act of 1990 is amended by striking "Impeachment" and inserting "Discipline and Removal".

(2) Section 409 of the National Commission on Judicial Discipline and Removal Act (28 U.S.C. note) is amended by striking "hereafter" and inserting "hereinafter".

SEC. 9. STUDY OF CRIMINAL JUSTICE ACT PROGRAM.

Section 318(c) of the Judicial Improvements Act of 1990 is amended by striking "March 31, 1992" and inserting "March 31, 1993".

SEC. 10. OTHER TECHNICAL CORRECTIONS TO TITLE 28, UNITED STATES CODE.

(a) PROCEDURE FOR REMOVAL.—Section 1446 of title 28, United States Code, is amended—

(1) by striking "petition for" each place it appears and inserting "notice of";

(2) in subsection (c)(3), by striking "petition is first denied" and inserting "prosecution is first remanded";

(3) by striking paragraphs (4) and (5) of subsection (c) and inserting the following:

"(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

"(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.";

(4) by striking "petition" each place it appears and inserting "notice"; and

(5) in subsection (d)—

(A) by striking "the removal" and inserting "removal"; and

(B) by striking out "and bond".

(b) PROCEDURE AFTER REMOVAL GENERALLY.—Section 1447(b) of title 28, United States Code, is amended by striking "petitioner" and inserting "removing party".

(c) APPOINTMENT OF CIRCUIT JUDGES.—Section 44(c) of title 28, United States Code, is amended by striking "this Act" and inserting "the Federal Courts Improvement Act of 1982".

SEC. 11. AMENDMENTS TO RULES OF CIVIL PROCEDURE.

(a) TECHNICAL AMENDMENT.—Rule 15(c)(3) of the Federal Rules of Civil Procedure for the United States Courts, as transmitted to the Congress by the Supreme Court pursuant to section 2074 of title 28, United States Code, to become effective on December 1, 1991, is amended by striking "Rule 4(m)" and inserting "Rule 4(j)".

(b) AMENDMENT TO FORMS.—Form 1–A, Notice of Lawsuit and Request for Waiver of Service of Summons, and Form 1–B, Waiver of Service of Summons, included in the transmittal by the Supreme Court described in subsection (a), shall not be effective and Form 18–A, Notice and Acknowledgment for Service by Mail, abrogated by the Supreme Court in such transmittal, effective December 1, 1991, shall continue in effect on or after that date.

SEC. 12. CONFORMITY WITH RULES OF APPELLATE PROCEDURE.

Section 2107 of title 28, United States Code, is amended—

(1) by designating the first and second paragraphs as subsections (a) and (b), respectively;

(2) by striking the third and fourth paragraphs;

(3) by designating the fifth paragraph as subsection (d); and

(4) by inserting after subsection (b), as so designated, the following:

"(c) The district court may, upon motion filed not later than 30 days after the expiration of the time otherwise set for bringing appeal, extend the time for appeal upon a showing of excusable neglect or good cause. In addition, if the district court finds—

"(1) that a party entitled to notice of the entry of a judgment or order did not receive such notice from the clerk or any party within 21 days of its entry, and

"(2) that no party would be prejudiced,

the district court may, upon motion filed within 180 days after entry of the judgment or order or within 7 days after receipt of such notice, whichever is earlier, reopen the time for appeal for a period of 14 days from the date of entry of the order reopening the time for appeal.".

Amend the title so as to read: "An Act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts.".

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 344, H.R. 3029, making technical corrections to agricultural laws.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3029) to make technical corrections to agricultural laws.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SEC. 2 TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

Sec. 101. References.
Sec. 102. Conserving use acres.
Sec. 103. Double cropping of 0/92 acres.
Sec. 104. Announcement of acreage reduction programs for rice.
Sec. 105. Corn and sorghum bases.
Sec. 106. Cover crops on reduced acreage.
Sec. 107. Cotton user marketing certificates.
Sec. 108. Malting barley.
Sec. 109. Deficiency payments for wheat, barley, and oats.
Sec. 110. Minor oilseed loan rates.
Sec. 111. Sugar.
Sec. 112. Crop acreage base.
Sec. 113. Miscellaneous amendments to the Agricultural Act of 1949.
Sec. 114. Miscellaneous amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 115. Miscellaneous amendments to the Agricultural Adjustment Act.
Sec. 116. Miscellaneous amendments to the Agricultural Adjustment Act of 1938.
Sec. 117. Section redesignation.
Sec. 118. Other miscellaneous commodity amendments.
Sec. 119. Sense of Congress regarding imported barley and oats.
Sec. 120. Payment options for winter wheat producer.
Sec. 121. Modification of milk production termination program.
Sec. 122. Cotton classing fees.
Sec. 123. Sense of Congress regarding targeted option payments.
Sec. 124. Transfer of peanut quota undermarketings.
Sec. 125. Cotton futures contracts.
Sec. 126. Report on lamb price and supply reporting services of the Department of Agriculture.
Sec. 127. Cotton first handler marketing certificates.

VOL
137
PT
23
NO
21—25
1991
UMI

TITLE II—CONSERVATION

Sec. 201. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 202. Amendment to the Soil Conservation and Domestic Allotment Act.
Sec. 203. Farms for the future.
Sec. 204. Amendments to the Food Security Act of 1985.

TITLE III—TRADE RELATED TECHNICAL CORRECTIONS

Sec. 301. Superfluous punctuation in farmer to farmer provisions.
Sec. 302. Punctuation correction in Enterprise for the Americas Initiative.
Sec. 303. Spelling correction in section 604.
Sec. 304. Missing word in section 606.
Sec. 305. Punctuation error in section 607.
Sec. 306. Typographical correction in section 612.
Sec. 307. Erroneous quotation.
Sec. 308. Punctuation correction.
Sec. 309. Date correction.
Sec. 310. Missing subtitle heading correction.
Sec. 311. Redesignation of subsection.
Sec. 312. Date correction to section 404.
Sec. 313. Date correction to section 416.
Sec. 314. Redesignation of section.
Sec. 315. Cross reference correction.
Sec. 316. Placement clarification.
Sec. 317. Punctuation correction.
Sec. 318. Elimination of obsolete cross reference.
Sec. 319. Cross reference correction.
Sec. 320. Correcting clerical errors in section 204 of the Agricultural Trade Act of 1978.
Sec. 321. Capitalization correction.
Sec. 322. Correction of error in date.
Sec. 323. Correction of typographical error.
Sec. 324. Cross reference correction.
Sec. 325. Elimination of superfluous word.
Sec. 326. Cross reference correction.
Sec. 327. Amendment to section 602.
Sec. 328. Section 407 corrections.
Sec. 329. Section 407(b) amendment.
Sec. 330. Supplemental views in annual report.
Sec. 331. Consultations with Congress.
Sec. 332. Statute designation.
Sec. 333. Correction of placement and indentation of subparagraph.
Sec. 334. Export credit guarantee program.
Sec. 335. Amendments to the Food for Progress Program.
Sec. 336. Miscellaneous amendments to the Agricultural Trade Development and Assistance Act of 1954.
Sec. 337. Reporting requirements.
Sec. 338. Sharing of United States agricultural expertise.
Sec. 339. Competitive insurance.

TITLE IV—RESEARCH

Sec. 401. Competitive, special, and facilities research grants.
Sec. 402. National Agricultural Research, Extension, and Policy Act of 1977.
Sec. 403. Rural development and small farm research and education.
Sec. 404. National Genetic Resources Program.
Sec. 405. Alternative agricultural research and commercialization.
Sec. 406. Miscellaneous research provisions.
Sec. 407. Sustainable agriculture research and education.

TITLE V—CREDIT

Sec. 501. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 502. Amendments to the Farm Credit Act of 1971.

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

Sec. 601. Federal crop insurance.
Sec. 602. Disaster relief.

TITLE VII—RURAL DEVELOPMENT

Sec. 701. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 702. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 703. Amendments to the Rural Electrification Act of 1936.
Sec. 704. Rural health leadership development.

TITLE VIII—AGRICULTURAL PROMOTION

Sec. 801. Short title.
Sec. 802. Pecans.
Sec. 803. Mushrooms.
Sec. 804. Potatoes.
Sec. 805. Limes.
Sec. 806. Soybeans.
Sec. 807. Honey.
Sec. 808. Cotton.
Sec. 809. Fluid milk.
Sec. 810. Wool.

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

Sec. 901. Certification period.
Sec. 902. Application of Food Stamp Act of 1977 to disabled persons.
Sec. 903. Categorical eligibility for recipients of general assistance.
Sec. 904. Exclusions from income.
Sec. 905. Resources that cannot be sold for a significant return.
Sec. 906. Resource exemption for households exempt under AFDC or SSI.
Sec. 907. Technical amendment on transitional housing.
Sec. 908. Notices to monthly reporting households.
Sec. 909. Performance standards for employment and training programs.
Sec. 910. Suspension of certain requirements, and study, of food stamp program on Indian reservations.
Sec. 911. Value of allotment.
Sec. 912. Prorating within a certification period.
Sec. 913. Codification of limitation on recovery of stale claims.
Sec. 914. Recovery of claims caused by nonfraudulent household errors.
Sec. 915. Demonstration projects for vehicle exclusion limit.
Sec. 916. Definition of retail food store.

Subtitle B—Commodity Distribution and Children's Programs

Sec. 921. Extension of elderly commodity processing demonstrations.
Sec. 922. Rules relating to food stamp retailers and wholesalers.
Sec. 923. Child care clarification.
Sec. 924. Homeless children's feeding projects.
Sec. 925. Reduction of Federal paperwork for distribution of commodities.
Sec. 926. Advance funding for commodity purchases.

Subtitle C—Farmers' Market Nutrition Program

Sec. 931. Purpose.
Sec. 932. Farmers' market nutrition program.
Sec. 933. Conforming amendment.

Subtitle D—Procurement of Infant Formula for WIC

Sec. 941. Definitions.
Sec. 942. Procurement of infant formula for WIC.
Sec. 943. Procedures to reduce purchases of low-iron infant formula.
Sec. 944. Incentive to encourage joint purchasing of infant formula.
Sec. 945. Technical assistance.

Subtitle E—Indian Subsistence Farming Demonstration Grant

Sec. 951. Purposes.
Sec. 952. Definitions.
Sec. 953. Indian subsistence farming demonstration grant program.
Sec. 954. Training and technical assistance.
Sec. 955. Tribal consultation.
Sec. 956. Use of grants.
Sec. 957. Amount and term of grant.
Sec. 958. Other requirements.
Sec. 959. Authorization for appropriations.

Subtitle F—Technical Amendments

Sec. 961. Technical amendments to the Food Stamp Act of 1977.
Sec. 962. Amendment relating to the Hunger Prevention Act of 1988.

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

Sec. 1001. Organic certification.
Sec. 1002. Agricultural fellowships.
Sec. 1003. Outreach and assistance for socially disadvantaged farmers and ranchers.
Sec. 1004. Protection of pets.
Sec. 1005. Critical agricultural materials.
Sec. 1006. Amendments to FIFRA and related provisions.
Sec. 1007. Grain standards.
Sec. 1008. Packers and stockyards.
Sec. 1009. Redundant language in Warehouse Act.
Sec. 1010. Perishable agricultural commodities.
Sec. 1011. Egg products inspection.
Sec. 1012. Prevention of introduction of brown tree snakes to Hawaii from Guam.
Sec. 1013. Grant to prevent and control potato diseases.
Sec. 1014. Collection of fees for collection services.
Sec. 1015. Meat and poultry inspection.
Sec. 1016. Fees for laboratory accreditation.

TITLE XI—EFFECTIVE DATE

Sec. 1101. Effective date.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) RICE.—Section 101B(c)(1)(E) (7 U.S.C. 1441–2(c)(1)(E)) is amended—

(1) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(2) in clause (i), by striking "and will not affect farm income adversely".

(b) COTTON.—Section 103B(c)(1)(E) (7 U.S.C. 1444–2(c)(1)(E)) is amended—

(1) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(2) in clause (i), by striking "and will not affect farm income adversely".

(c) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame,";

(B) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, and".

(d) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame,";

(B) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is further amended by adding at the end the following new clause:

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

(b) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is further amended by adding at the end the following new clause:

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441–2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(C) ANNOUNCEMENTS.—

"(i) PRELIMINARY ANNOUNCEMENT.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after the date of enactment of this subparagraph). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) FINAL ANNOUNCEMENT.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) CORN AND SORGHUM BASES.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) RICE.—Section 101B(e)(4)(B) (7 U.S.C. 1441–2(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(b) COTTON.—Section 103B(e)(4)(B) (7 U.S.C. 1444–2(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(c) FEED GRAINS.—Section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(d) WHEAT.—Section 107B(e)(4)(B) (7 U.S.C. 1445b–3a(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The Secretary, in carrying out subclause

"(1) PROCESSORS AND REFINERS.—All sugar- shall establish for that year appropriate allot- "after a hearing, if requested by interested par-

VOL 137 PT 23 NO 21–25 1991 UMI

(I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) ISSUANCE.—Section 103B(a)(5)(E) (7 U.S.C. 1444–2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) ISSUANCE.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(iv) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.".

(b) PREVAILING WORLD MARKET PRICE.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444–2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation under this paragraph and shall announce such determination in the Federal Register."; and

(2) by striking subsection (p) and inserting the following new subsection:

"(p) MALTING BARLEY.—

"(1) ASSESSMENT REQUIRED.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

"(2) VALUE OF MALTING BARLEY.—The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

"(3) EXCEPTION TO ASSESSMENT.—In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.".

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking "sections" and inserting "section";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) With respect to wheat, barley, and oats, the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.".

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (3), by striking "that, in the case of cottonseed, in no event less" and inserting "in no event shall the level for such oilseeds (other than cottonseed) be less"; and

(2) by adding after and below paragraph (3) the following new sentence:

"To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.".

SEC. 111. SUGAR.

(a) SUGAR PRICE SUPPORT AND MARKETING ASSESSMENTS.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking "announce the loan rate" and inserting "announce the basic loan rates for beet sugar and cane sugar";

(2) in subsection (f), by striking "Loans" and inserting "Except as provided in subsection (g), loans";

(3) by striking subsection (g) and inserting the following new subsection:

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in 9 months less the quantity of time that the first loan was in effect."; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) SUGARCANE.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(2) SUGAR BEETS.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

"(3) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable."; and

(B) in paragraph (4), by striking "collect or remit the reduction" and inserting "remit the assessment".

(b) SECURITY INTERESTS.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

"(b) SUGAR CANE AND SUGAR BEETS.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 401(e)(2).".

(c) SUGAR INFORMATION REPORTING.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) DUTY OF PROCESSORS, REFINERS AND MANUFACTURERS TO REPORT.—

"(1) PROCESSORS AND REFINERS.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including such person's purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) MANUFACTURERS OF CRYSTALLINE FRUCTOSE.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) DUTY OF PRODUCERS TO REPORT.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "data on imports," and inserting "data on production, imports,"; and

(B) by inserting "composite data on distributions of" after "sugar and".

(d) MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

"(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SUGAR ALLOTMENTS.—

"(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) PRODUCTS.—The Secretary may include any products derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part."; and

(3) in subsection (d)(4), by inserting after "the United States" the following: "(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)".

(e) ESTABLISHMENT OF MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking "from the estimated sugar consumption" and inserting "from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)"; and

(B) in subparagraph (A), by striking "(representing minimum imports of sugar for consumption in the United States during the fiscal year)";

(2) in subsection (b)(2), by striking "prevent the accumulation of sugar acquired by" and inserting "avoid the forfeiture of sugar to";

(3) in subsection (f)—

(A) in the subsection heading, by striking "SUGARCANE ALLOTMENT" and inserting "CANE SUGAR ALLOTMENTS"; and

(B) by striking "allotted among the 5 States in the United States in which sugarcane is produced" and inserting "allotted, among the 5 States in the United States in which sugarcane is produced,";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(2), adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner, establish such marketing allotments for the fiscal year or any portion of such fiscal year, or suspend the allotments, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.".

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) REDUCTIONS.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed."; and

(5) by striking subsection (h) and inserting the following new subsection:

"(h) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.".

(f) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking "after such hearing" both places it appears and inserting "after a hearing, if requested by interested parties,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) FILLING CANE SUGAR ALLOTMENTS.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.".

(g) REASSIGNMENTS OF DEFICITS.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

"(b) REASSIGNMENT OF DEFICITS.—

"(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.".

(h) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking "250 producers in such State" and inserting "250 sugarcane producers in the State (other than Puerto Rico)";

(2) in paragraph (2), by striking "establish proportionate shares for the crop of sugarcane that is harvested during" and inserting "establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugar-

tion, in the event of a natural disaster that pre-

(1) IN GENERAL.—Section 105B of the Agricul-

(A) by inserting "in a State" after "one

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cane that may be harvested on the farm for sugar or seed during"; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

"(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

"(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

"(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) VIOLATION.—

"(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) REGULATIONS.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) APPEALS.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.".

SEC. 112. CROP ACREAGE BASE.

(a) PLANTING FLEXIBILITY.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) dry peas (limited to: Austrian peas, wrinkled, seed, green, yellow, and umatilla), lentils, or mung beans.".

(b) ADJUSTMENT OF BASES.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "BASES.—The county" and inserting the following: "BASES.—

"(1) IN GENERAL.—The county"; and

(2) by adding at the end the following new paragraph:

"(2) RESTORATION OF CROP ACREAGE BASE.—

"(A) IN GENERAL.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) ELIGIBLE PRODUCER DEFINED.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) REGULATIONS.—The Secretary shall issue regulations to carry out this paragraph.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441-2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444-2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444-2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) BARLEY CALCULATIONS.—" and inserting "(bb) BARLEY CALCULATIONS.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b-3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o); and

(ii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a), by striking "Administrator of Veterans' Affairs" both places it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,";

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)"; and

(13) in section 503 (7 U.S.C. 1463), by adding at the end the following new subsection:

"(i) TEMPORARY TRANSFER OF BASES.—Notwithstanding any other provision of this section, in the event of a natural disaster that prevents producers on a farm from planting all or a portion of a program crop acreage base on a farm, the Secretary may provide for the transfer for that crop year of some or all of the crop acreage bases between farms owned or operated by the same producers, under such terms and conditions as are determined appropriate by the Secretary.".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) IN GENERAL.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

(1) IN GENERAL.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

"(1) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.".

(2) CONFORMING AMENDMENT.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f-1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c-2)" and inserting "(7 U.S.C. 1445c-3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(l) (7 U.S.C. 1314e(l))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) SECTION REDESIGNATION.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) CONFORMING AMENDMENTS AS RESULT OF REDESIGNATIONS.—

(1) PRICE SUPPORT PROGRAM.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c-2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c-3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) MARKETING QUOTAS.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358-1(e)(3) (7 U.S.C. 1358-1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) MISSING LANGUAGE.—Section 5(i)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) MISSING LANGUAGE.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) EXTRA LANGUAGE.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308-1(a)(2)) is amended by striking "0 to".

(d) AMENDMENT TO FOOD AND AGRICULTURE ACT OF 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this section shall be

VOL 137 PT 23 NO 21—25 1991 UMI

in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990.".

(e) AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) CLARIFICATION OF AMENDMENT.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "SEC." and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) USE OF PAYMENTS.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) FINDINGS.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) SENSE OF CONGRESS.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. PAYMENT OPTIONS FOR WINTER WHEAT PRODUCER.

Notwithstanding any other provision of law, if the producers on a farm were prevented from planting winter wheat in 1990 for harvest in 1991 as the result of drought, the producers shall be eligible to exercise the payment options described in section 107B(p) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(p)) for the 1991 crop of wheat, whether or not the producers timely filed a request for prevented planting credit with the Secretary of Agriculture.

SEC. 121. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

SEC. 122. COTTON CLASSING FEES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 123. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(e)(3), 1444f(e)(3), 1444–2(e)(3), and 1441–2(e)(3)), respectively.

SEC. 124. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 125. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 126. REPORTING ON LAMB PRICE AND SUPPLY REPORTING SERVICES OF THE DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry.

(b) FACTORS.—In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

SEC. 127. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444–2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388–1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b), by striking "AFFECT" and inserting "EFFECT"; and

(3) in subsection (c), by inserting "and" after "Animal".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

The Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended to read as follows:

"CHAPTER 2—FARMLAND PROTECTION

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan.

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that on or before August 1, 1991—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) STATE TRUST FUND.—The term 'State trust fund' means a trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468, in which Federal funds or eligible loans received under this chapter are deposited, or will be deposited, for use by the trust fund.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—

"(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for loans made by lending institutions to State trust funds.

"(2) ASSISTANCE.—Under the program, the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan made by lending institutions to State trust funds and shall for each such 10-year period subsidize the interest on the loans at the allowable interest rate for the first 5 years after the loan is made, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) MANDATORY ASSISTANCE TO EACH ELIGIBLE STATE TRUST FUND.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan made by lending institutions to each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan the State trust fund receives, as determined under procedures developed by the Secretary, during each of the first 5 years after the date on which each such loan is made; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each loan the State trust fund receives from any given lending institution, as determined under procedures established by the Secretary.

"(c) FUNDING.—

"(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the purchase of stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall purchase the stock within 1 day of the stock being offered by the Secretary of Agriculture.

"(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Treasury fails to comply with the requirements of this chapter or otherwise fails to provide the funding required by this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall purchase stock offered by the Secretary under subsection (c) on the day offered and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in section (b).

"(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"SEC. 1471. COMPTROLLER GENERAL REPORTS.

SEC. 309. DATE CORRECTION.

SEC. 324. CROSS REFERENCE CORRECTION.

VOL 137 PT 23 NO 21—25 1991 UMI

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under section (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) Duration of Program.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) Eligible Uses for Guaranteed Loan Funds.—

"(1) In general.—Funds guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or somé lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings, to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) Collateral for loans.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) State Use of Guaranteed Loan Funds.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the loans guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loan guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) Special Rules for the Pilot Project State.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) Provision of Loan Guarantee and Interest Assistance Agreement.—Within 30 days of the date a State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) Approval of Application.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) Amount of Guarantees.—The Secretary shall calculate the total amount of guarantees provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board) by the pilot project State, political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for the State.

"(k) Miscellaneous Provisions.—

"(1) Operation.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) Earnings.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) Accounts.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

"(b) Compliance.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) Applications.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any Funds provided by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) Annual Applications.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) Match and Maximum Amount.—

"(1) In general.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) Earnings.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) Obligations.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) Land.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) Clarification of Federal Law.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.

"SEC. 1470. IMPLEMENTATION AND EFFECTIVE DATE.

"(a) In General.—This chapter shall become effective on October 1, 1990.

"(b) Agreement with Vermont.—Not later than December 30, 1990, the Secretary shall enter into an agreement with the State of Vermont to provide Federal assistance under this chapter to the State.

"(c) Regulations.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.

"SEC. 1471. COMPTROLLER GENERAL REPORTS.

"On December 1 of each of the years 1991 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1472. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)) is amended—

(1) by striking "fall and winter"; and

(2) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

TITLE III—TRADE RELATED TECHNICAL CORRECTIONS

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title 1 and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "Agency or Private Parties" in the heading and inserting "Agencies"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) Subsection (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) Elimination of Word.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) In General.—Not later"; and

(2) by adding at the end the following:

"(b) Supplemental Views in Annual Report.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for transmission with the annual report.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

VOL 137 PT 23 NO 21–25 1991 UMI

"'(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.'".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

(a) IN GENERAL.—Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended to read as follows:

"SEC. 1110. FOOD FOR PROGRESS PROGRAM.

"(a) SHORT TITLE.—This section may be cited as the 'Food for Progress Act of 1985'.

"(b) ESTABLISHMENT.—There is established a program to be known as the 'Food for Progress Program' (hereafter in this section referred to as the 'Program').

"(c) AGREEMENTS.—The President may enter into agreements with eligible countries (as described in subsection (e)), or with private voluntary organizations, businesses, or cooperatives, to provide agricultural commodities under this section to support the democratization of the governments of the countries, the granting of individual liberties to the people of the countries, the development of a free market economy, and the promotion of economic growth and freedom within the countries.

"(d) TYPES OF ASSISTANCE.—Commodities made available under this section may be provided on a grant basis, on credit terms, or on such other terms as are determined by the President.

"(e) ELIGIBLE COUNTRIES.—To be eligible to participate in the program established under this section, a country shall, as determined by the President—

"(1) have begun the transformation of the system of government of the country from a nonrepresentative type of government to a representative democracy; or

"(2) have made commitments to introduce or expand free enterprise elements in the economy of the country.

"(f) COMMODITY CREDIT CORPORATION.—

"(1) DUTIES.—The Commodity Credit Corporation shall—

"(A) make such agricultural commodities available to the President as are determined under section 401 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731) to be available to carry out agreements entered into by the President under this section; and

"(B) finance the sale and exportation of commodities made available under this section to the extent necessary to carry out agreements entered into by the President under this section.

"(2) PURCHASE OF COMMODITIES.—The Commodity Credit Corporation may purchase commodities for use under this section if—

"(A) the Commodity Credit Corporation does not hold stocks of the commodities at the time of the purchase; or

"(B) Commodity Credit Corporation stocks at the time of the purchase are insufficient to satisfy commitments made in agreements entered into under this section and the commodities are needed to fulfill the commitments.

"(3) EXPENSES.—In connection with the Program under this section, the Commodity Credit Corporation may pay—

"(A) the cost of acquiring the commodities;

"(B) the costs associated with packaging, enrichment, preservation, and fortification of the commodities;

"(C) the processing, transportation, handling, and other incidental costs up to the time of the delivery of the commodities free on board vessels in United States ports;

"(D) the ocean freight charges from United States ports to designated ports of entry abroad;

"(E) the costs associated with transporting the commodities from United States ports to designated points of entry abroad in the case—

"(i) of landlocked countries;

"(ii) of ports that cannot be used effectively because of natural or other disturbances;

"(iii) of the unavailability of carriers to a specific country; or

"(iv) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

"(F) in the case of commodities for urgent and extraordinary relief requirements (including prepositioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

"(G) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

"(4) LIMITATION ON EXPENDITURES.—No funds of the Commodity Credit Corporation in excess of $30,000,000 (exclusive of the cost of any commodities) in each fiscal year shall be used to carry out this section unless the excess is authorized in advance in appropriations Acts.

"(5) TITLE I TRANSFERS.—Notwithstanding any other provision of law, the Commodity Credit Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to carry out this section with respect to commodities made available under such Act.

"(g) AGREEMENTS.—If the President enters into an agreement with a private voluntary organization, business, or cooperative under this section, the agreement—

"(1) shall require the organization, business, or cooperative to use any commodities provided to it under this section to carry out the purposes of this section;

"(2) may permit the organization, business, or cooperative to sell or barter any commodities provided to it under this section, and use the amounts generated through the sale or barter—

"(A) to promote the establishment and expansion of private enterprise in the recipient country;

"(B) to aid in the availability of food in the recipient country through improved agricultural research, processing, transportation and marketing systems, and instruments of production in the country; and

"(C) to help develop commercial markets for the purchase of agricultural commodities; and

"(3) shall contain such other terms and conditions as are determined necessary by the President.

"(h) MULTIYEAR BASIS.—An agreement entered into under this section may provide for commodities to be made available on a multiyear basis subject to the availability of funds and commodities.

"(i) TRANSSHIPMENT OF COMMODITIES.—An agreement entered into under this section shall prohibit the resale or transshipment of the commodities made available under the agreement to other countries, unless the resale or transshipment is authorized by the President.

"(j) DISPLACEMENT.—In carrying out this section, the President shall, to the extent practicable, avoid the displacement of any sales of United States agricultural commodities that would otherwise be made to eligible countries and avoid disrupting foreign and domestic markets for United States agricultural commodities.

"(k) RESTRICTIONS ON AGREEMENTS.—No agreement shall be entered into under this section if the agreement would result in—

"(1) the inability of the Commodity Credit Corporation to provide sufficient commodities to carry out food assistance programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or domestic commodity and disaster assistance programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or agricultural trade programs established under the Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.);

"(2) a shortage in the domestic supply of any commodities that would be required under the terms of the agreements; or

"(3) the inability of the Commodity Credit Corporation to maintain adequate carryover stocks to meet any emergency, the requirements of the Agricultural Act of 1949, or the requirements of any other Act.

"(l) REPORT OF PRESIDENT.—Not later than January 15 of each year after a year in which an agreement entered into under this section is in effect, the President shall prepare and submit, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the commodities and funds made available under this section during the previous fiscal year. The report may be combined with other reports required to be submitted to Congress under the Agricultural Trade Development and Assistance Act of 1954 or the Agricultural Trade Act of 1978.".

(b) CONFORMING AMENDMENTS.—

(1) COMBINATION OF PROGRAMS.—Section 205 of the Agricultural Trade Act of 1978 (7 U.S.C. 5625) is amended—

(A) by striking "The" and inserting "(a) BLENDED CREDIT PROGRAM.—The"; and

(B) by adding at the end the following new subsection:

"(b) FOOD FOR PROGRESS PROGRAM.—The programs authorized under this title may be used in conjunction with, and for the purposes specified under, section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o).".

(2) DIRECT CREDIT PROGRAM.—Section 201 of such Act (7 U.S.C. 5621) is amended by adding at the end the following new subsection:

"(f) REPAYMENT IN FOREIGN CURRENCIES.—The Secretary may waive the requirement in subsection (e) that payment of principal and interest be made in only United States dollars if the Secretary determines that the waiver would significantly aid in the development of the importing country as a foreign market for the commercial sale and export of agricultural commodities.".

SEC. 336. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

(a) DEBT FORGIVENESS.—The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

(b) COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.—The first sentence of section 413 of such Act (7 U.S.C. 1736g) is amended by striking "this Act" and inserting "title III".

SEC. 337. REPORTING REQUIREMENTS.

Notwithstanding any other provision of law, the Secretary of Agriculture shall not issue a final regulation to carry out section 214 of Public Law 98–180 (7 U.S.C. 509).

SEC. 338. SHARING OF UNITED STATES AGRICULTURAL EXPERTISE.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States' agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies."; and

(2) in paragraph (9), by striking "$5,000,000" and inserting "$10,000,000".

SEC. 339. COMPETITIVE INSURANCE.

Title II of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 et seq.) is amended by adding at the end the following new section:

"SEC. 206. COMPETITIVE INSURANCE.

"(a) INTERMEDIATE FINANCING AND CREDIT GUARANTEES.—In the case of any intermediate-term financing under section 201 or intermediate-term credit guarantee under section 202, of an amount of at least $10,000,000, the Secretary shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction supported by the loan or guarantee.

"(b) REFERRAL TO THE SECRETARY OF COMMERCE.—In any case in which the Secretary finds that a fair and open competitive opportunity is not available to United States insurance companies in a country with respect to which the Secretary is considering a loan or guarantee, the Secretary shall forward to the Secretary of Commerce information regarding any country that denies United States insurance companies fair and competitive opportunities. The Secretary of Commerce shall determine whether to—

"(1) refer the trade barrier to the Trade Policy Committee created pursuant to section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872); or

"(2) bring the matter before the Trade Promotion Coordinating Council, created by section 3 of Executive Order No. 11846 of March 27, 1975 (19 U.S.C. 2111 note), for consideration of a recommendation to the President that access by the country to official export credit be restricted.".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) SHORT TITLE.—Subsection (a) of section 2 of Public Law 89–106 (7 U.S.C. 450i) is amended—

(1) by inserting "(1)" before "In order"; and

(2) by adding at the end the following new paragraph:

"(2) SHORT TITLE.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) OTHER AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "RECORD KEEPING.—" and inserting "INTER-REGIONAL RESEARCH PROJECT NUMBER 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR–4 program" and inserting "IR–4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "LIMITS ON OVERHEAD COSTS.—" and inserting "RECORD KEEPING.—";

(4) in subsection (g), by striking "AUTHORIZATION OF APPROPRIATIONS.—" and inserting "LIMITS ON OVERHEAD COSTS.—";

(5) in subsection (h)—

(A) by striking "RULES.—" and inserting "AUTHORIZATION OF APPROPRIATIONS.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "APPLICATION OF OTHER LAWS.—" and inserting "RULES.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "APPLICATION OF OTHER LAWS.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)), by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "SEC. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) PROGRAMS AUTHORIZED.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "COMPETITIVE GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) RURAL DEVELOPMENT EXTENSION" and inserting "(h) RURAL DEVELOPMENT EXTENSION";

(B) by striking "(h) RURAL HEALTH" and inserting "(i) RURAL HEALTH";

(C) by striking "(h) RESEARCH GRANTS.—" and inserting "(j) RESEARCH GRANTS.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) DISTRIBUTION OF FUNDS.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) IN GENERAL.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3744) is amended—

(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) TABLE OF CONTENTS.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) PUNCTUATION CORRECTION.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) ESTABLISHMENT OF REGIONAL CENTERS.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101–624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(l) (7 U.S.C. 5843(l)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

VOL
137
PT
23
NO
21—25
1991
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(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "WITHOLDINGS" and inserting "WITHHOLDINGS";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c)(2) (7 U.S.C. 5928(c)(2)), by striking "PERIODS AND PREFERENCES.—Grants" and inserting the following: "OPERATING GRANTS.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 407. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) AMENDMENT TO SECTION 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) AMENDMENTS TO SECTION 331.—

(1) DIRECT AMENDMENTS.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) INDIRECT AMENDMENTS.—

(A) CLARIFICATION OF REPEAL.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) PAYMENT OF ACCRUED INTEREST.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) CLARIFICATION OF TECHNICAL CORRECTIONS.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) AMENDMENTS TO SECTION 331e.—

(1) IN GENERAL.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) IN GENERAL.—The"; and

(B) by adding at the end the following new subsection:

"(b) CALCULATION OF YIELDS.—

"(1) IN GENERAL.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) AFFECTED BY A DISASTER.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) APPLICATION OF SUBSECTION.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) AMENDMENTS TO SECTION 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) AMENDMENTS TO SECTION 335(e)(1).—

(1) INDIAN LANDS.—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(A) in subparagraph (D)(i), by inserting "If" and inserting "Except as provided in subparagraph (F), if";

(B) in subparagraph (D)(i)(II), by striking "such" and inserting "an"; and

(C) by adding at the end the following new subparagraph:

"(F)(i) If—

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

"(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

"(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this title; and

"(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this title to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided for in subparagraph (D), as modified by this subparagraph.

"(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

"(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

"(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

"(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this title to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

"(I) the provisions of subparagraphs (C)(i), (C)(ii), and (D), this subparagraph, and subsection (g)(6);

"(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, the fact that—

"(aa) the Secretary may foreclose on the property;

"(bb) the property will be offered for sale;

"(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property or the outstanding principal and interest of the loan, whichever is higher, but that the property may be purchased by another party; and

"(dd) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this title; and

"(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this title.

"(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

"(II) If hazardous wastes are located on the property and the Secretary is required to take remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that is in the best interests of the Federal government.

"(v) If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

"(I) the sale;

"(II) the fair market value of the property; and

"(III) the requirements of this subparagraph.

"(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

"(aa) the fair market value of the property; or

"(bb) the outstanding principal and interest of the loan.

"(II) If hazardous wastes are located on the property and the Secretary is required to take remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal government.".

(2) BORROWER-OWNER.—Section 335(e)(1) of such Act (as amended by paragraph (1)) is further amended—

(A) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (G)"; and

(B) by adding at the end the following new subparagraph:

"(G) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) AMENDMENTS TO SECTION 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) AMENDMENTS TO SECTION 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) AMENDMENTS TO SECTION 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) AMENDMENTS TO SECTION 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) AGRICULTURAL OR AQUATIC PURPOSES";

(2) by striking "(1) In general" and inserting the following:

"(1) IN GENERAL"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) LIMITATION ON LOANS FOR BASIC PROCESSING AND MARKETING OPERATIONS".

(b) AMENDMENT TO SECTION 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) AMENDMENT TO SECTION 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) AMENDMENT TO SECTION 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) AMENDMENT TO SECTION 3.7(b).—

(1) IN GENERAL.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, for the export of agricultural commodities and products from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance covers at least 95 percent of the amount loaned for the purchase of the commodities or products.

"(3) A bank for cooperatives is authorized to provide such international banking services as are customarily provided within the banking industry, to the extent the services are convenient or useful to the bank in carrying out the activities specified in paragraphs (1) and (2). The services include—

"(A) providing a full line of correspondent banking services, such as advising or confirming letters of credit covering any commodity or product without requiring financing, collections, wire transfers, or payment orders; and

"(B) issuing standby letters of credit to satisfy requirements for bid or performance bonds related to the export of agricultural commodities and products from the United States.".

(2) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) AMENDMENT TO SECTION 3.7(f).—The first sentence of section 3.7(f) (12 U.S.C. 2128(f)) is amended to read as follows: "The banks for cooperatives may make and participate in loans and commitments and extend other technical and financial assistance to—

"(1) cooperatives formed specifically for the purpose of establishing or operating water or waste disposal facilities in rural areas; and

"(2) public and quasi-public agencies and bodies, and other public and private entities that, under authority of State or local law, establish or operate water or waste disposal facilities in rural areas.".

(g) AMENDMENTS TO SECTION 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1)—

(A) by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C); and

(B) by adding at the end the following new subparagraph:

"(E) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4) of subsection (a) and subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.".

(h) AMENDMENT TO SECTION 4.9(d)(2).—Paragraph (2) of section 4.9(d) (12 U.S.C. 2160(d)(2)) is amended to read as follows:

"(2) NON-VOTING REPRESENTATIVES.—

"(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a non-voting representative to the board of directors of the Corporation.

"(B) MEETINGS.—The person designated by the Assistance Board under subparagraph (A) may attend and participate in all deliberations of the board of directors of the Corporation.

"(C) TERMINATION OF ASSISTANCE BOARD.—After termination of the Assistance Board, neither the Assistance Board nor its successor, the Farm Credit System Insurance Corporation, shall have any representation on the board of directors of the Corporation.".

(i) AMENDMENT TO SECTION 4.21.—Section 4.21 of such Act (12 U.S.C. 2209) is amended to read as follows:

"SEC. 4.21. COMPENSATION OF BANK DIRECTORS.

"The Farm Credit Administration shall monitor the compensation of members of the board of directors of a System bank received as compensation for serving as a director of the bank to ensure that the amount of the compensation does not adversely affect the safety and soundness of the bank.".

(j) AMENDMENT TO SECTION 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(k) AMENDMENT TO SECTION 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(l) AMENDMENT TO SECTION 5.17(b).—Subsection (b) of section 5.17 of such Act (12 U.S.C. 2252(b)) is amended to read as follows:

"(b) The Farm Credit Administration shall not have authority, either directly or indirectly—

"(1) to approve bylaws, or any amendments, modifications, or changes to bylaws, of System institutions; or

"(2) to approve the salary scale, compensation, or benefit or retirement plans for employees of System institutions.".

(m) AMENDMENT TO SECTION 5.19(a).—The fourth sentence of section 5.19(a) of such Act (12 U.S.C. 2254(a)) is amended by inserting after "shall include" the following: "an analysis of the compensation paid directors,".

VOL 137 PT 23 NO 21—25 1991 UMI

(n) AMENDMENT TO SECTION 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(o) AMENDMENT TO SECTION 5.58(4)(B) of such Act (12 U.S.C. 2277a–7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(p) AMENDMENTS TO SECTION 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a–14(d)(1)) is amended by striking "insured".

(q) AMENDMENTS TO SECTION 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a–2(d)) is amended by striking "subchapter 1" each place such term appears and inserting "subchapter I".

(r) AMENDMENTS TO SECTION 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b–3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(s) AMENDMENT TO SECTION 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

(t) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa–3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(u) AMENDMENT TO SECTION 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa–6) is amended by adding at the end the following new subsection:

"(g) PURCHASE OF GUARANTEED SECURITIES.—

"(1) PURCHASE AUTHORITY.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) ISSUANCE OF DEBT OBLIGATIONS.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) TERMS AND LIMITATIONS.—

"(A) TERMS.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) REQUIREMENT.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) AUTHORITY.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (i)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 ACT.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 ACT.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "SUNFLOWER SEED" and inserting "SUNFLOWERSEED"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i); and

(B) by striking "such Act" in clause (i) and inserting "such section".

(c) CLARIFICATION OF AMENDMENT.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) AMENDMENTS TO SECTION 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) AMENDMENTS TO SECTION 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "GRANTS TO BROADCASTING SYSTEMS.—The Secretary.

(d) AMENDMENTS TO SECTION 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) AMENDMENTS TO SECTION 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) AMENDMENT TO SECTION 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) AMENDMENT TO SECTION 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) MISCELLANEOUS AMENDMENTS.—

(1) IDENTICAL AMENDMENTS.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) OTHER MISCELLANEOUS AMENDMENT.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENT TO SECTION 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) AMENDMENTS TO SECTION 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(l)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) AMENDMENTS TO SECTION 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) AMENDMENT TO SECTION 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) AMENDMENT TO SECTION 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) AMENDMENTS TO SECTION 2322.—Section 2322 of such Act (7 U.S.C. 1926–1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) AMENDMENT TO SECTION 2332.—Section 2332 of such Act (7 U.S.C. 950aaa–1) is amended by striking "Federal government" and inserting "Federal Government".

(h) AMENDMENTS TO SECTION 2388(h).—

(1) AMENDMENTS.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) SPECIAL RULE.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) REPEAL OF SECTION 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) AMENDMENT TO SECTION 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) REPEAL OF SECTION 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) AMENDMENTS TO SECTION 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) AMENDMENT TO SECTION 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa–1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) RURAL HEALTH LEADERSHIP DEVELOPMENT.—The Secretary may make grants to consortia of academic medical centers and land grant colleges and universities for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) CONFORMING AMENDMENT.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or consortia (as provided in paragraph (1)(C))".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Agricultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) COTTON PROMOTION ACT.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) REPORTS.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. CERTIFICATION PERIOD.

The proviso of section 3(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)(2)) is amended by inserting after "period may be up to" the following: "(A) twenty-four months for any household that has no other source of nonexcluded income other than supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.) or retirement benefits under title II of such Act (42 U.S.C. 401 et seq.), or (B)".

SEC. 902. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 903. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 904. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "used for" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or pur-

VOL 137 PT 23 NO 21—25 1991 UMI

chase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 905. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to determine the value of a resource to be excluded under this paragraph if the State agency determines that the valuation is unnecessary and the basis for the determination is recorded.".

SEC. 906. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 907. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 908. NOTICES TO MONTHLY REPORTING HOUSEHOLDS.

Section 6(c)(2)(D) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(2)(D)) is amended—

(1) by striking "accordingly) and" and inserting "accordingly),"; and

(2) by inserting after "section 11(e)(10) of this Act," the following: "and, if the household fails to file by an extended deadline, be afforded notice consistent with section 11(e)(10),".

SEC. 909. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) In General.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes and improvements in household members' educational levels.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) Limitation.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 910. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) Suspension of Requirements.—

(1) Staggered Issuance of Coupons.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) Exemption From Monthly Reporting Systems.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) Study.—

(1) In General.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) Components.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) Consultation.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 911. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 912. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or the termination of a certified household when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 913. CODIFICATION OF LIMITATION ON RECOVERY OF STALE CLAIMS.

(a) In General.—Section 13(b) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Action to recover claims shall be taken with reasonable promptness.

"(B) The State agency shall take action on those claims for which 12 months or less have elapsed between the month an overissuance occurred and the month the State agency discovered a specific case of overissuance and may choose to take action on those claims for which more than 12 months have elapsed.

"(C) No action shall be taken on claims for which more than 6 years have elapsed between the month an overissuance occurred and the month the State agency discovered a specific case involving an overissuance.".

(b) Application.—The amendment made by this section shall not apply to the two pilot projects conducted, in conjunction with the Internal Revenue Service, to intercept Federal tax refunds to satisfy claims arising under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), initiated before the date of enactment of this Act.

SEC. 914. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 915. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

(a) In General.—Section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) is amended by striking "The" and inserting "Not later than October 1, 1992, the".

(b) Requests to Participate.—The Secretary of Agriculture shall solicit requests to participate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by April 1, 1992.

SEC. 916. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99–570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution and Children's Programs

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. RULES RELATING TO FOOD STAMP RETAILERS AND WHOLESALERS.

(a) Special Rules.—The Secretary of Agriculture shall, in issuing regulations regarding disqualification from participation or the participation of a retail store, wholesale store, or other vendor in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or the special supplemental food program for women, infants and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), minimize (to the extent consistent with section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2016)) the imposition of disqualification penalties for the store or vendor where the violation occurred in circumstances in which a program violation is not caused by a manager, operator, or owner of the store or vendor (where the violation occurred) but rather is caused by a nonmanagement employee (such as a check-out clerk, a person without final authority to hire and fire store employees, a janitor, or a bagger) working in the store or location where the violation occurred.

(b) Contrary Regulations of No Effect.—Any regulations issued in violation of this section shall be of no force and effect.

SEC. 923. CHILD CARE CLARIFICATION.

The second sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by inserting after "25 percent" the following: "of its enrolled children or 25 percent of its licensed capacity, whichever is less, and".

SEC. 924. HOMELESS CHILDREN'S FEEDING PROJECTS.

(a) In General.—Section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c) is amended—

(1) by inserting before "private nonprofit" each place it appears in paragraphs (2)(A), (2)(B), and (5)(A) the following: "State, city, local, or county governments, other public bodies, or";

(2) in paragraph (3)(A), by adding at the end the following new sentences: "The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.";

(3) in paragraph (5)(A), by striking "and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994," and inserting "and not less than $350,000 in fiscal year 1991, $550,000 in fiscal year 1992, $650,000 in fiscal year 1993, and $800,000 in fiscal year 1994,"; and

(4) by adding at the end the following new paragraph:

"(7) The Secretary shall advise each State of the availability of the projects established under this subsection for States, cities, counties, local governments and other public bodies, and shall advise each State of the procedures for applying to participate in the project.".

(b) Other Means.—The Secretary of Agriculture may conduct demonstration projects other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other effective means of providing food assistance to homeless children residing in temporary shelters.

SEC. 925. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in subsections (b)(3) and (b)(6), by striking "to needy" each place it appears and inserting "to hungry or needy";

(2) in subsection (c) by striking "to needy persons" and inserting in lieu thereof "to hungry or needy persons and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy or hungry persons"; and

(3) by adding at the end the following new subsection:

"(j) Priority System for State Distribution of Commodities.—

"(1) Soup Kitchens.—In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) Institutions That Serve Only Low-Income Recipients.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy or the hungry. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) Other Institutions.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy or hungry persons.".

SEC. 926. ADVANCE FUNDING FOR COMMODITY PURCHASES.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) is amended by inserting after section 3A the following new section:

"SEC. 3B. ADVANCE FUNDING FOR COMMODITY PURCHASES.

"(a) In General.—The Secretary may use the funds, services, and facilities of the Commodity Credit Corporation to purchase commodities for the domestic food assistance programs administered by the Secretary. Notwithstanding any other provision of law, the purchases may be made in advance of the fiscal year in which the purchases will be delivered for use in the programs. If no appropriation exists for the fiscal year of delivery, the use of funds under this section shall not exceed the appropriation amounts for the fiscal year prior to the fiscal year of delivery.

"(b) Reimbursement.—Subject to available appropriations, the Secretary shall reimburse the Commodity Credit Corporation for the amount of funds advanced under this section using funds from the appropriate domestic food assistance program account.

"(c) Settlement and Adjustment of Claims.—

"(1) In General.—Notwithstanding any other provision of law, the Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under a domestic food assistance program administered by the Secretary; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the particular domestic food assistance program.

"(2) Litigation.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Farmers' Market Nutrition Program

SEC. 931. PURPOSE.

The purpose of this subtitle is to authorize grants to be made to State programs designed to—

(1) provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruit and vegetables), from farmers' markets; and

(2) expand the awareness and use of farmers' markets and increase sales at the markets.

SEC. 932. FARMERS' MARKET NUTRITION PROGRAM.

Subsection (m) of section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended to read as follows:

"(m)(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets, as defined in the State plans submitted under this subsection.

"(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

"(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

"(B) ensure coordination of the program among the appropriate agencies and organizations.

"(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the total cost of the program which may be satisfied from State contributions that are made for similar programs.

"(4) Subject to paragraph (6), the Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which a State plan is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the State plan. In determining the amount to be awarded to new States, the Secretary shall rank order the State plans according to the criteria of operation set forth in this subsection, and award grants accordingly. The Secretary shall take into consideration the minimum amount needed to fund each State plan, and need not award grants to each State that submits a State plan.

"(5) Each State that receives a grant under this subsection shall ensure that the program for

VOL 137
PT 23
NO 21—25
1991
UMI

which the grant is received complies with the following requirements:

"(A) Persons who are eligible to receive Federal benefits under the program shall only be persons who are receiving assistance under subsection (c), or who are on the waiting list to receive the assistance.

"(B) Construction or operation of a farmers' market may not be carried out using funds—

"(i) provided under the grant; or

"(ii) required to be provided by the State under paragraph (3).

"(C) The value of the Federal share of the benefits received by any recipient under the program may not be—

"(i) less than $10 per year; or

"(ii) more than $20 per year.

"(D) The coupon issuance process under the program shall be designed to ensure that coupons are targeted to areas with—

"(i) the highest concentration of eligible persons;

"(ii) the greatest access to farmers' markets; and

"(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary that maximize the availability of benefits to eligible persons.

"(E) The coupon redemption process under the program shall be designed to ensure that the coupons may be—

"(i) redeemed only by producers authorized by the State to participate in the program; and

"(ii) redeemed only to purchase fresh nutritious unprepared food for human consumption.

"(F)(i) Except as provided in clauses (ii) and (iii), the State may use for administration of the program not more than 18 percent of the total amount of program funds in its first fiscal year of operation, not more than 17 percent of the total amount of program funds in its second fiscal year of operation, and not more than 16 percent of the total amount of program funds in each subsequent fiscal year of operation.

"(ii)(I) Each State that received Federal funding in any of the fiscal years 1989 through 1991 under the demonstration program authorized by this subsection (as it existed on September 30, 1991) may use for administration of the program not more than 18 percent of the total amount of program funds for fiscal years 1992 and 1993, not more than 17 percent of the total amount of program funds for fiscal year 1994, and not more than 16 percent of the total amount of program funds for fiscal year 1995.

"(II) On the showing by the State of substantial need, the Secretary may permit a State to use up to an additional 2 percent of the total program funds for administration of the program for any fiscal year.

"(iii) The provisions of clauses (i) and (ii) with respect to the use of program funds for the administration of the program shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements of paragraph (3).

"(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the program.

"(6)(A) Each State that received Federal funding in fiscal year 1991 under the demonstration program authorized by this subsection (as it existed on September 30, 1991) shall continue to receive benefits under this subsection, provided that the State continues to comply with the requirements established by this subsection, as determined by the Secretary.

"(B)(i) If sufficient funds are appropriated and a State provides the requisite match amount under paragraph (3), the State shall receive no less Federal funds than it spent in the prior fiscal year.

"(ii) If the sums appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which a State plan is approved under paragraph (6) the amount that the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced, except that (if sufficient funds are available) each State shall receive at least $50,000 or the amount that the State spent for the prior fiscal year if that amount is less than $50,000.

"(C) In providing funds to serve additional recipients in States that participated in the Federal program in the previous fiscal year, the Secretary shall take into consideration—

"(i) the availability of Federal funds not spent during the prior program year in the State making a request to serve additional recipients;

"(ii) documentation that justifies the need for an increase in participation; and

"(iii) demonstrated ability to satisfactorily operate the existing program.

"(D)(i) A State that has not received Federal funding under this subsection for the fiscal year prior to the fiscal year for which it is submitting a State plan, and that desires to receive a grant under this subsection, shall submit a State plan to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(ii) Each State plan submitted under this paragraph shall contain—

"(I) the estimated cost of the program and the estimated number of individuals to be served by the program;

"(II) a description of the State plan for complying with the requirements established in paragraph (5); and

"(III) criteria developed by the State with respect to authorization of producers to participate in the program.

"(iii) The criteria developed by the State as required by clause (ii)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the program.

"(E) The Secretary shall establish objective criteria for the approval and ranking of State plans submitted under this paragraph.

"(F) In approving and ranking State plans submitted under this paragraph, the Secretary shall—

"(i) favorably consider a State's prior experiences with this or similar programs;

"(ii) favorably consider a State's operation of a similar program with State or local funds that can present data concerning the value of the program;

"(iii) require that if a State receiving a grant under this section applies the Federal grant to a similar program operated in the previous fiscal year with State or local funds, the State shall not reduce in any fiscal year the amount of State and local funds available to the program in the preceding fiscal year after receiving funds for the program under this subsection;

"(iv) give preference to State plans that would serve areas in the State that have—

"(I) the highest concentration of eligible persons;

"(II) the greatest access to farmers' markets;

"(III) broad geographical area;

"(IV) the greatest number of recipients in the broadest geographical area within the State; and

"(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons; and

"(v) take into consideration the amount of funds available and the minimum amount needed by each applicant State to successfully operate the program.

"(G)(i) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of paragraph (B) shall be made available to States participating in the program that wish to serve additional recipients, and whose State plan to do so is approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for additional recipients, the unallocated amount shall be applied toward satisfying any unmet need of States that have not participated in the program in the prior fiscal year, and whose State plans have been approved.

"(ii) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of paragraph (B) shall be made available to States that have not participated in the program in the prior fiscal year, and whose State plans have been approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for new States, the unallocated amount shall be applied toward satisfying any unmet need of States that desire to serve additional recipients, and whose State plans have been approved.

"(iii) If, after the requirements of clauses (i) and (ii) have been met, funds remain unallocated, the unallocated funds shall be reallocated in the following fiscal year under the procedure established in paragraph (10)(B)(ii).

"(7)(A) The value of the benefit received by any recipient under any program for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under other Federal or State programs.

"(B) Any programs for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

"(C) If the same State agency administers both the special supplemental food program for women, infants, and children established under subsection (c) and the farmers' market nutrition program established under this subsection and similar administrative activities for both programs are combined, the Secretary shall not require that the administrative expenses of these activities be treated separately for purposes of cost accounting. Administrative expenses accrued under this subsection shall be reimbursed under this subsection.

"(8) The Secretary shall collect from each State that receives a grant under this subsection information relating to—

"(A) the number of recipients served by both Federal and State benefits under the program for which the grant is received;

"(B) the rate of redemption of coupons or vouchers distributed under the program;

"(C) the average amount distributed in coupons to each recipient; and

"(D) any other information determined to be necessary by the Secretary.

"(9)(A) The Secretary shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Education and Labor of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a compilation of the data collected under paragraph (8).

"(B) The compilation shall be submitted by May 1, 1995.

"(10)(A) There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, and $9,500,000 for fiscal year 1995.

"(B)(i) Each State shall return to the Secretary any funds made available to the State that are unobligated at the end of the fiscal year for which the funds were originally allocated. The unobligated funds shall be returned to the Secretary by February 1st of the following fiscal year.

"(ii) The Secretary shall establish procedures to reallocate funds that are returned by any State as provided in clause (i), or that are not allocated under clauses (i) and (ii) of paragraph (6)(G). Funds that remain unexpended at the end of any demonstration project authorized by this subsection (as it existed on September 30, 1991) shall be reallocated in a similar manner.

"(11) For purposes of this subsection:

"(A) The term 'coupon' means a coupon, voucher, or other negotiable financial instrument by which benefits under this section are transferred.

"(B) The term 'program' means—

"(i) the State farmers' market coupon nutrition program authorized by this subsection (as it existed on September 30, 1991); or

"(ii) farmers' market nutrition program authorized by this subsection.

"(C) The term 'recipient' means a person or household, as determined by the State, who is chosen by a State to receive benefits under this subsection.

"(D) The term 'State agency' has the meaning provided in subsection (b)(13), except that the term also includes the agriculture department of each State.".

SEC. 933. CONFORMING AMENDMENT.

Section 501 of the Hunger Prevention Act of 1988 (Public Law 100–435; 102 Stat. 1668) is repealed.

Subtitle D—Procurement of Infant Formula for WIC

SEC. 941. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.".

SEC. 942. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall, no less frequently than annually, solicit bids for a joint cost-containment contract to be entered into by infant formula manufacturers and the State agencies that elect to have the Secretary perform the bid solicitation and selection process on each such State agency's behalf. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a joint cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a joint contract for each such group. In determining the size of the groups of agencies, the Secretary shall consider whether infant formula manufacturers likely to submit bids can compete effectively.

"(iii) State agencies electing to require the Secretary to perform the bid solicitation and selection process on their behalf shall enter into the resulting containment contract and shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v) The term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be for not less than 2 years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure, to the maximum extent possible, that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(H)(i) The Secretary, in soliciting bids for contracts to be awarded under subparagraph (G), and State agencies not participating in a contract awarded pursuant to subparagraph (G), shall consider soliciting bids for each type of infant formula (such as milk- or soy-based) separately.

"(ii) In carrying out clause (i), the Secretary and State agencies shall take into account—

"(I) whether the number of manufacturers and other suppliers eligible to bid will be increased under the approach described in clause (i);

"(II) any administrative issues; and

"(III) whether the total rebates or discounts received are likely to increase under such an approach.

"(iii) State agencies deciding not to accept bids for each type of formula separately shall advise the Secretary of the basis for the decision.

"(iv) The Secretary shall report to Congress by March 1, 1994, on the decisions State agencies and the Secretary have made regarding separate bid solicitations, along with any recommendations the Secretary may have to increase competition by encouraging the participation of additional infant formula manufacturers in the program established by this section.

"(I) To reduce the costs of any supplemental foods, the Secretary shall—

"(i) encourage alternative types of contracting for the acquisition of supplemental foods, including soliciting bids for each type of infant formula (such as milk or soy-based) separately;

"(ii) promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(iii) encourage and promote the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iv) inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(v) encourage the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures;

"(III) the procedures would be consistent with the purposes of the program; and

"(vi) make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) efforts to attempt to increase competition among infant formula manufacturers through soliciting or accepting bids for each type of infant formula (milk or soy-based) separately;

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program established under this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of the person, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress and for up to 2 years from the date the bids are opened.

"(ii) The Secretary shall determine the length of the disqualification referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification

VOL 137 PT 23 NO 21—25 1991 UMI

and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.".

SEC. 943. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1993, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for which such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.".

SEC. 944. INCENTIVE TO ENCOURAGE JOINT PURCHASING OF INFANT FORMULA.

Section 17(h)(2)(A) Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iv) be designated to provide funds, to the extent funds are not already provided under subparagraph (I)(vii) for the same purpose, to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) efforts to attempt to increase competition among infant formula manufacturers through soliciting or accepting bids for each type of infant formula (milk or soy-based) separately;

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.".

SEC. 945. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

Subtitle E—Indian Subsistence Farming Demonstration Grant

SEC. 951. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are eligible individuals (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

SEC. 952. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is an eligible individual (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" shall mean a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 953. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 954. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses, training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 955. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 956. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 957. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 958. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 959. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle F—Technical Amendments

SEC. 961. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centum" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at"; and

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,

and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 962. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a–1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "applicators" and inserting "applicators".

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 1361(a)(2))—

(A) by striking ": Provided, That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as a full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w–1(c)), by striking "use" and inserting "uses".

(b) GENDER.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by strik-

"(F) If any fee prescribed by this paragraph

(B) by striking the semicolon at the end of the

"(c)(1)(A) Except as otherwise provided in this

ent temperature of no greater than 45 degrees

"(ii) REIMBURSEMENT.—The Secretary of the

VOL 137 PT 23 NO 21 — 25 1991 UMI

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) UNEXECUTABLE AMENDMENT.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100–532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) RECORDKEEPING.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i–1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) MAINTENANCE FEE.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)) is amended to read as follows:

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) REGISTRATION AND EXPEDITED PROCESSING FUND.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a–1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 17th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the"; and

(2) in section 17B(a) (7 U.S.C. 87f–2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in the first sentence of section 317(a) (7 U.S.C. 217a(a)), by striking "charging and collection, at any stockyard" and inserting "charging and collection, in transactions at any stockyard, market agency, or dealer"; and

(3) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) SHORT TITLE.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) DEFINITIONS.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1011. EGG PRODUCTS INSPECTION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) PURPOSES.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) INSPECTION OF EGG PRODUCTS.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) PROHIBITED ACTS.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) PENALTIES.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) REPORTING OF VIOLATION TO UNITED STATES ATTORNEY FOR INSTITUTION OF CRIMINAL PROCEEDINGS.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) IMPORTS.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) RELATION TO OTHER AUTHORITIES.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1012. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) IN GENERAL.—The Secretary of Agriculture shall take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) INTRODUCTION INTO HAWAII.—The Secretary shall initiate a program to prevent the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) AUTHORITY.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) CONTROL OF BROWN TREE SNAKES.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes,; after "rabbits,".

(e) IMPORTATION OF BROWN TREE SNAKES.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1013. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1014. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "For airport inspection services, the Secretary shall collect no more than $62,000,000 in fiscal year 1992 and $67,000,000 in fiscal year 1993 from airline passengers and commercial aircraft operators. Fees may only be collected from commercial aircraft operators to the extent that the Secretary estimates that the amounts referred to in the preceding sentence could not be collected from airline passengers.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) REIMBURSEMENT.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws."; and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1015. MEAT AND POULTRY INSPECTION.

(a) AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) To the extent consistent with the protection of public health, the Secretary may, under such sanitary and handling conditions as the Secretary may prescribe, through notice and comment rulemaking, exempt from the inspection requirements of this Act types of meat food products that contain meat components that have been prepared, inspected, and passed in a cured or cooked form as ready for consumption in compliance with the requirements of this Act if—

"(A) the meat component is to be further processed only by slicing, cutting, grinding, or similar mechanical functions before being placed on or in the meat food product;

"(B) the resulting meat food product would under the normal circumstance be adequately cooked prior to human consumption in a manner that protects public health; and

"(C) the resulting meat food product is to be served in public or private nonprofit institutions under such supervision as the Secretary determines will protect the public health.

"(2) The Secretary may refuse, withdraw, or modify any exemption under this subsection (in the Secretary's discretion) whenever the Secretary determines such action is necessary to effectuate the purposes of this Act.".

(b) AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) To the extent consistent with the protection of public health, the Secretary may, under such sanitary and handling conditions as the Secretary may prescribe, through notice and comment rulemaking, exempt from the inspection requirements of this Act types of poultry food products that contain poultry components that have been prepared, inspected, and passed in a cured or cooked form as ready for consumption in compliance with the requirements of this Act if—

"(A) the component is to be further processed only by slicing, cutting, grinding, or similar mechanical functions before being placed on or in the poultry food product;

"(B) the resulting poultry food product would under the normal circumstance be adequately cooked prior to human consumption in a manner that protects public health; and

"(C) the resulting poultry food product is to be served in public or private nonprofit institutions under such supervision as the Secretary determines will protect the public health.

"(2) The Secretary may refuse, withdraw, or modify any exemption under this subsection (in

VOL
137
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the Secretary's discretion) whenever the Secretary determines the action is necessary to effectuate the purposes of this Act.".

(c) PUBLIC COMMENT AND HEARING ON PUBLIC HEALTH ISSUES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall—

(A) solicit public comment through a Federal Register publication on the potential public health issues raised by granting the inspection exemptions described in the amendments made by subsections (a) and (b); and

(B) conduct at least one hearing regarding the potential public health issues raised by granting the inspection exemptions described in the amendments made by subsections (a) and (b).

(2) TESTIMONY.—The Secretary shall invite the National Academy of Sciences, food safety scientists, food industry representatives, the Food and Drug Administration, the Centers for Disease Control, public interest groups, and other scientific experts, to testify or submit testimony for the record. A transcript shall be taken of the proceedings.

(d) STUDIES OF EXEMPTIONS.—

(1) EXEMPTION FOR PRODUCTS THAT HAVE NOT BEEN HISTORICALLY CONSIDERED BY CONSUMERS AS PRODUCTS OF THE MEAT OR POULTRY FOOD INDUSTRY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall—

(A) contract with the National Academy of Sciences to conduct a study on the potential impact on consumers, on the affected industries, on public health, and on the role of the Department of Agriculture, of striking, in section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)), and in section 4(f) of the Poultry Products Inspection Act (21 U.S.C. 453(f)), the exemption for products that have not been historically considered by consumers as products of the meat or poultry food industry; and

(B) report the results of the study to Congress.

(2) OTHER EXEMPTIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(A) contract with the National Academy of Sciences to examine other exemptions regarding consumers, the affected industries, public health, and the Department of Agriculture; and

(B) report the results of the study to Congress.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective 1 year after the date of enactment of this Act.

SEC. 1016. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, without prior appropriation or apportionment, shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) AMOUNT OF FEE.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a).".

TITLE XI—EFFECTIVE DATE

SEC. 1101. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) to which the amendment relates:

(1) Section 201 (other than section 201(f)).

(2) Section 307.

(2) Section 338.

(3) Title V.

(4) Section 602(c).

(5) Section 701 (except as provided in subsection (c) of this section).

(6) Section 702.

(7) Section 703.

(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) FOOD AND NUTRITION PROGRAMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall not apply with respect to certification periods beginning before the date of the enactment of this Act.

(2) PASS ACCOUNTS EXCLUSION.—

(A) IN GENERAL.—The amendment made by section 904(3) of this Act shall be effective on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 951(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 905(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 905(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 910 of this Act shall become effective on September 30, 1991.

(4) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 918 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

(5) FARMERS' MARKET NUTRITION PROGRAM.—

(A) IN GENERAL.—Subtitle C of title IX of this Act, and the amendments made by such subtitle, shall become effective on October 1, 1991, and shall be implemented beginning on October 1, 1991.

(B) GRANT PROGRAM.—Notwithstanding section 553 of title 5, United States Code, the Secretary of Agriculture may administer subtitle C of title IX of this Act, and the amendments made by such subtitle, throughout fiscal year 1992 as a grant program under agreements with participating States and not pursuant to regulations published in the Federal Register.

AMENDMENT NOS. 1430 AND 1431

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to send to the desk two amendments en bloc, and I ask their immediate consideration; that the amendments be agreed to en bloc, the amendments being offered in behalf of Senators LEAHY and FOWLER.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 1430 and 1431) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1430

On page 321, line 9, insert after "laws." the following new sentence: "Any such reimbursement shall be subject to appropriations under clause (v)."

On page 263, strike line 14 and all that follows through line 3 on page 265.

AMENDMENT NO. 1431

At the end of section 1016 of the Committee substitute to H.R. 3029, add a new title XI as follows:

TITLE XI

SECTION 1. SHORT TITLE.

This Title may be cited as the "Recreational Hunting Safety and Preservation Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting within the boundaries of national forests and other Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) national forests comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting in national forests in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within national forests and on other Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a national forest, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(2) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) PERSON.—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a national forest;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a national forest or upon a public or private road, highway, path, trail, or other normal route of access to a national forest;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a national forest, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within national forests; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within national forests.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FOWLER. Mr. President, I rise today to introduce the Recreational Hunting Safety and Preservation Act as an amendment to H.R. 3029, the Food, Agriculture, Conservation and Trade Act Amendments of 1991.

Mr. President, as the Senate labors on this evening to complete its business before the Thanksgiving holiday, hunters across this Nation are headed into the field to take part in a recreational activity that is as American as pumpkin pie.

The deer, quail, and rabbit seasons are in full swing in Georgia, and hunters throughout my home State are enjoying the great outdoors and hoping to put a special treat on the table for their holiday meal.

But in many cases, these lawful, licensed hunters will be blocked from practicing this age-old tradition by self-styled animal rights activists employing tactics that are both illegal and dangerous.

Recently, we have seen this type of lawlessness on the rise on our Federal lands. Hunters are being attacked and harassed by demonstrators seeking to disrupt these lawful hunts.

VOL 137 PT 23 NO 21—25 1991 UMI

Presumably these zealots believe themselves to be champions of the environment and protectors of wildlife. But who are they defending against? We all know that, traditionally, lawful hunters have been a major force in conservation efforts.

We can all think of many cases in which sport-hunting organizations have led the way in efforts to preserve wildlife and wildlife habitat—forests, wetlands, waterway corridors, prairies, and other homes to native birds and animals. Lawful hunters have been important allies in our efforts to preserve and improve our natural environment, including our wildlife heritage.

Yet a handful of antihunters are organizing concerted and deliberate efforts, throughout the country, to disrupt lawful hunting activities. Their militant tactics range from verbal abuse to, increasingly, violent confrontation.

Mr. President, we should not allow this harassment to dictate our national traditions or our national environmental policies. Nor can we allow a lawful activity, but one that requires extreme safety precautions, to degenerate into a truly dangerous situation both for hunters and protestors.

We should not let ourselves be lulled into thinking that these particular confrontations are harmless, that they should be overlooked because some might find the cause of saving animals sympathetic. We cannot afford to waive respect for lawful behavior, or to condone lawlessness, on the one hand and seek to eliminate crime on the other.

The amendment I am introducing is modeled after the best features of similar laws which already exist in 41 States. I will prohibit knowing and intentional harassment of hunters on national forestlands. It provides for civil penalties, injunctive relief, and civil lawsuits.

Today, sport hunting is a highly regulated activity that is a critical component of wildlife management. Unfortunately, we have lost much of the wide open space we once enjoyed. Habitats have dwindled, and many natural predators, regrettable, have disappeared. As a result, hunting is essential to maintain healthy population levels for many species.

License fees and excise taxes from over 16 million lawful hunters generate more than $3 million a day for wildlife habitat and management. Because of these efforts, Americans enjoy increasing numbers of deer, turkey, bear, elk, upland game birds, antelope, and many nongame species.

So it is a serious mistake in my opinion to brand hunters as somehow enemies of wildlife or enemies of the environment. I also think it is most highly regrettable to see fanaticism overwhelm lawful and responsible conduct.

There is plenty of room for debate and disagreement in this country. But the firing line is not the proper forum. Let's draw the distinction between democracy and anarchy. Let's channel legitimate debate through appropriate channels.

Meanwhile, let us show our support the lawful right of hunters to their place in the great outdoors and pass this legislation today. We need to send a strong message to those who would illegally obstruct the rights of hunters today, before the hunting season is in full swing around the country. We need to make it clear today that we expect our laws to be respected—that we mean for law-abiding citizens to go about their business unmolested.

Mr. SANFORD. Mr. President, I rise to offer my strong and sincere support to the recreational hunting safety and preservation amendment to the agriculture technical corrections bill to the 1990 farm bill. Such action is long overdue, and hunter protection is an issue for which I have fought and one which I think deserves legislative affirmation. In early June of this year, I introduced, with the help of Senators BREAUX, SYMMS, COCHRAN, and HATCH, a bill which is similar in nature to the language now before the Senate.

I wish to especially thank Senator FOWLER, who has worked diligently to bring the Nation's attention to this cause, and Senator BURNS and other colleagues who have championed hunters' rights.

It is unfortunate that the tradition of responsible hunting in this country is being challenged by those who have little understanding of the sport, and those who wish to see all hunting of wildlife eliminated. The harassment of hunters and the obstruction of lawful hunts has become increasingly frequent in recent months. In 41 States it is now illegal to harass hunters; I am glad Congress is taking action to establish similar guidelines for our national forests. This amendment will protect citizens attempting to carry out a lawful hunt within a national forest.

Those persons found to have intentionally disturbed wildlife resources or abused property in order to disrupt the lawful taking of these resources may be assessed a civil penalty of not less than $1,000. If this violation involves the use of force or violence, penalties may not exceed $10,000. Funds collected from civil penalties imposed under the act will aid State wildlife restoration projects, the North American waterfowl management plan, or other wildlife enhancement programs beneficial to our national forests.

Each year many Americans enjoy the natural beauty of our national forests and help maintain controlled populations of wildlife by hunting in these unspoiled areas. What began as a trend in the New England States has recently begun to spread. From Maine to Florida to California, pheasant hunters and deer hunters alike are being trailed into the fields and woods by noisy, protesting antihunting advocates. Air horns, loud music, and shouting arguments are increasingly taking the place of otherwise uninterrupted hunts. Vandalism and the threat of physical violence are also likely to become more widespread as groups opposing hunting become larger and more active.

Each year, American hunters spend several hundred million dollars for licenses, duck stamps and excise taxes on equipment and ammunition. Much of that money is used to finance game research and management programs and to purchase important wildlife habitats that will benefit all species. The American hunter is a responsible conservationist who knows, and adds value to game species, and thereby ensures their preservation. These men and women have been instrumental in efforts which have led to dramatic increases in populations of white-tailed deer, elk, wild turkeys, wood ducks, and other species.

Mr. President, our national forests are treasures to be maintained for continuing supplies of natural resources and also for the recreational needs of our citizens. This amendment will help ensure stable and healthy populations of game animals for hunters and nonhunters alike. I hope my colleagues will join Senator FOWLER and me in supporting this measure that will protect the property and safety of hunters who abide by all Federal and State game laws in the taking of animals within a national forest.

Mr. LEAHY. Mr. President, the farm bill technical corrections legislation contains a number of technical and other small changes to the Farms for the Future Act of 1990.

In this instance I am making changes, that I think are, in a sense, totally unnecessary. All too often we in Congress are forced to amend laws we have already enacted in order to attempt to force the administration to implement laws as we had originally intended.

This was necessary since the Department has issued regulations that are contrary to the intent and purposes of the act. The Department has made it nearly impossible for the State of Vermont to benefit from the law.

Second, the law clearly requires, and the conference report on the farm bill reiterated the point, that the Department of Agriculture was to provide funding to the State of Vermont for farmland preservation. In spite of clear language requiring the Secretary to implement the program in Vermont, the Department has yet to act.

There is no question that Vermont was entitled to the funding and that the Treasury Department is required to provide the funding to the Agriculture Department to provide to Vermont. The Comptroller General of the United States has so formally ruled.

In spite of the Comptroller General's decision, and in spite of the language in the law, the Department has not implemented the law.

These changes make it once again clear that Vermont is to get funding for its own Farms for the Future Program.

WINTER WHEAT DEFICIENCY PAYMENTS TECHNICAL FIX

Mr. DOLE. Mr. President, the bill making technical corrections to the Food, Agriculture, Conservation, and Trade Act of 1990—last year's farm bill—contains a provision which is of major importance to winter wheat farmers in Kansas and elsewhere.

Because of last year's budget cuts, the deficiency payments paid out to farmers participating in the farm program will be smaller this year than in years past. Those payments are reduced by basing the deficiency payment margin on a 12-month weighted average price for wheat rather than by a 5-month weighted average price, as was the case under the 1985 farm bill. Under these provisions, wheat growers would not receive their entire deficiency payment until July of the year following the harvest of the crop rather than in December of the same crop year—as was the case over the past five years.

Mr. President, the provision which has been included in the technical corrections bill merely moves the majority of the payment back up to December payment date. Primarily for cash flow purposes, it is beneficial for farmers to have these payments made immediately preceding the time of the year at which many debt payment obligations come due.

Because the payments are transferred within the same fiscal year, this provision adds no additional cost to the Federal Treasury, nor does it violate the provisions of last year's budget reconciliation. It does put cash in the hands of producers at a time of the year when they most need it, and I thank my colleagues for their cooperation in assuring that this technical correction was made.

CORN/SORGHUM BASE TECHNICAL FIX

Mr. DOLE. Mr. President, the bill making technical corrections to the Food, Agriculture, Conservation, and Trade Act of 1990—last year's farm bill—contains a provision which is of major importance to farmers in Kansas and elsewhere.

In brief, Mr. President, this provision fixes a drafting error in the language of the 1990 farm bill which—if left alone—stands to have drastic operational consequences for producers of feed grains in Kansas and elsewhere. Under the law established by the 1985 farm bill, feed grain farmers—specifically corn and grain sorghum in my State—were able to combine the acreage planted to both corn and sorghum into one feed grains crop acreage base. Within that one base, farmers had the flexibility to plant any mix of feed grains that they desired. That flexibility is vital to these producers, who may need to alter planting decisions based upon weather conditions, pest infestations, and other natural occurring factors which play a central role in the productivity and profitability of any farming operation. It has been one managerial decision which farmers have had the luxury to make without the Government's input.

The drafting of the 1990 bill, however, directed the Secretary of Agriculture to separate these bases and disallow the flexibility of switching planting decisions from one crop to another. Nobody in the House, the Senate, or the conference committee intended for this to happen—but with a 718 page bill it is not difficult to make a few mistakes. The Department of Agriculture was very cooperative in using their discretion to allow producers to follow the 1985 law for this crop year, but a legislative fix is now needed to extend this important provision.

This provision simply reports the flexibility of the 1985 law, and allows planting decisions to remain in the hands of those who should be making them—farmers.

EC THIRD COUNTRY MEAT DIRECTIVE

Mr. DASCHLE. Mr. President, I rise today to voice my extreme concern with the European Community's actions inhibiting U.S. meat exports to the 12 nations of the Community. More than a year ago, November 1, 1990, the European Community shut off all U.S. meat imports under the guise of the third country meat directive.

Only last month, did the European Community agree to relist 14 U.S. slaughter plants as eligible for exporting meat to the Community. This action is a step in the right direction, but the progress has been painfully slow and there is a significant unresolved issue concerning the equivalency betwee United States and EC meat inspection systems.

We can no longer tolerate stalling tactics. Throughout this dispute, EC pork products have been flooding the U.S. market. The EC exported more than $325 million of pork products to the United States last year. The National Pork Producers Council estimates that since November 1990, American pork producers have lost $50 million.

Mr. LEAHY. I too concur with my distinguished colleague from South Dakota. The EC has acted unfairly. This is an important market to U.S. meat producers, and in 1990, U.S. pork and beef exports to the EC totaled $30 million.

The U.S. Trade Representative, with the support of the U.S. meat industry has initiated a 301 investigation for relief from the EC third country meat directive earlier this year.

Final resolution of this issue is dependent on the EC recognizing the equivalence of the U.S. meat inspection system, instead of requiring U.S. plants to operate identically to the EC plants.

Mr. DASCHLE. I have proposed legislation (S. 1738) to declare the EC's third country meat directive a non-tariff trade barrier and to ban EC meat imports into the United States until the EC allows U.S. meat producers full and fair access to EC markets.

I had considered offering this legislation as an amendment to the dairy and disaster assistance bill. However, as a result of meetings that began this month between United States and EC officials to resolve differences in our inspection systems, I will hold my legislation in abeyance at this time. I fully intend, however, to pursue this legislation to ban meat imports from the EC if these issues are not resolved.

In the meantime, I will personally monitor the progress of these proposed meetings, and stand ready to pass legislation should it be necessary.

Mr. LEAHY. I would offer my friend the Senator from South Dakota, my personal commitment to either pursue this issue with the administration or work for passage of this legislation if the European Community fails to make progress in this issue.

Mr. LUGAR. Mr. President, my colleagues have accurately and forcefully explained the situation regarding the European Community's third country meat directive.

While the recent agreement by the EC to relist 14 plants is indeed a step in the right direction, the constant attempts by protectionist elements in the EC to create unnecessary trade barriers to American meat exports cannot continue year after year as they have.

My colleagues and I will continue to support the administration's effort to bring this regrettable situation to a fair conclusion. If that is not possible, then the United States will have to employ remedies available under current trade law to defend the interests of our meat exporters. If those remedies are insufficient, then Congress will need to consider legislation to address the situation.

INVESTMENTS IN RURAL AMERICA

Mr. PRYOR. Mr. President, as the Senator knows some concerns have arisen over the interpretation of provisions of law in the Food, Agriculture, Conservation and Trade Act of 1990 affecting telephone companies and cooperatives that borrow from the REA [Rural Electric Administration]. I had considered offering some technical amendments to clarify current law. However, it was decided that would be unnecessary. The 1990 farm bill did not need to be amended in this technical corrections bill since current law already addressed my concerns.

However, I wanted to make sure that the Senator is in agreement with my interpretation of these provisions.

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it means that the penalty assessed

The motion to lay on the table was

Under my legislation, each member

Under current REA procedures, REA mortgages prohibit a mortgagor from: First, paying dividends on capital stock, membership or equity capital certificates (other than stock certificates dividends); second, making any other distribution to its stockholders, members or subscribers; third, purchasing, redeeming or retiring any of its capital stock, membership or equity capital certificates, or fourth, making any investment in affiliated companies, unless after such action the mortgagor's current assets will equal or exceed its current liabilities, exclusive of current liabilities incurred for addition to plant, and the mortgagor's adjusted net worth will be at least 40 percent of its adjusted assets.

Section 2356 of the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 act) creates an exception to the 40 percent rule for investments in affiliates. The previous so-called limited dividend policy restricted rural independent and smaller telephone companies from utilizing their own financial resources to expand their telephone systems and networks and from carrying on related services, much of which is done through corporations owned by a common parent.

These mortgage restrictions and policies also prohibit REA telephone borrowers from investing in the new telecommunications technologies that have not been traditionally considered telephone service, that is cellular. Section 2356 allows telephone companies to make such investments and investments in non-telephone-related rural development projects. This is the main point of this discussion—that these investments are not to be made in urban areas but in rural America.

The intent of that farm bill provision is made clear from the title of section 2356, itself. It is called: "Encouragement of Investment by Telephone Borrowers in Rural Development Projects."

Utilization of telephone company resources as long as it is properly directed is a useful way to enhance, promote, develop, and expand rural telephone companies while permitting them to meet new and rapidly changing technology. Moreover, it is important that both business and residential customers served by REA borrowers have access to the same services and technology as those available from other local exchange and long distance carriers in order to foster rural development.

Section 205(b)(2) defines a qualified telephone borrower as one whose net worth is at least 20 percent of its total assets. This provision is intended to mean that the borrower must satisfy the 20 percent rule before making the investment, not after making it.

In other words, investments in a rural development project including those made to affiliate will not be adjusted out in determining compliance with the minimum net worth rules under both existing or future REA mortgages so long as the investment is to an affiliate that provides basic telephone, cellular, microwave, BETRS, paging satellite, data transmission or other telecommunications service or engages in the sale, manufacture, maintenance, financing, programming, installation or construction of equipment to facilitate providing or improving telecommunications and related services.

These investments would need to take place in the rural communities served by the companies to take advantage of this new provision.

Section 2356 adds to title 11 (7 U.S.C. 922 et seq.) section 205(a) which provides that amounts invested in affiliates by a qualified telephone borrower shall not be considered dividends or distributions of capital so long as such investments do not exceed one-third of the borrower's net worth. It is certainly appropriate that the one-third limitation apply only to investments in rural areas made after section 2356 was adopted.

Mr. LEAHY. I agree with the Senator's assessment of section 2356 and agree that it already provides new and additional investment authority for telephone borrowers to the extent those investments serve rural America.

I do want to point out that aspects of current REA telephone law and policies need to be carefully reviewed with an eye toward possible amendments to reduce any potential for abuse. These points, the points the Senator raise, are simply a clarification of how telephone companies may further assist rural America under current law.

ELDERLY NUTRITION COLLOQUY

Mr. PRYOR. Mr. President, I am very pleased that the farm bill technical corrections amendments contain a provision extending for another year—through fiscal year 1994—the elderly nutrition pilot projects authorized under section 1775 of last year's farm bill. These pilot projects will demonstrate whether the Secretary can effectively provide entitlement commodities to nutrition programs for the elderly through the National Commodity Processing Program.

I was disappointed that the pilot projects did not get off to a fast start. However, at my request, in September of this year, Department of Agriculture staff met with several major elderly nutrition groups to discuss alternative proposals for implementing successful pilot projects. My staff informs me that the meeting was fruitful and candid, and I hope that the Department will begin to implement the pilot projects as soon as possible.

Because of the delay in implementation, it is important that authority for pilot projects be extended through fiscal year 1994. Therefore, I strongly support inclusion of the extension provision in the technical corrections bill and would urge the conferees to retain this provision in the conference report.

In addition, I strongly urge the Secretary of Agriculture to work cooperatively with the major elderly nutrition groups and all interested parties in order to implement successful pilot projects.

Mr. LEAHY. I concur with Senator PRYOR that authority for the elderly nutrition pilot projects should be extended through fiscal year 1994 and pledge to seek inclusion of this provision in the conference report on the technical corrections bill. Moreover, I join Senator PRYOR in urging the Department of Agriculture to work closely with all interested parties to assure successful implementation of the pilot projects.

WATER OR WASTE FACILITY SPECIFICATIONS

Mr. HEFLIN. Mr. President, in the Food Security Act of 1985, Congress included a provision which required the Secretary of Agriculture to take into consideration any recommendation by a loan applicant or borrower concerning the technical design or choice of materials to be used for a water or waste facility. If the Secretary rejects this recommendation, the applicant must be given a comprehensive justification, in writing, for the Secretary's determination. It is my understanding, however, that there are field offices of the Farmers Home Administration [FmHA] that have routinely desregarded this law and FmHA's own regulation.

To address this problem, I believe it would be prudent for the Administrator of the FmHA to immediately issue an administrative notice to all of FmHA's field offices noting the following: "In the approval and administration of a loan made by the Farmers Home Administration for a water or waste disposal facility, FmHA shall consider fully any recommendation made by the loan applicant or borrower concerning the technical design and choice of materials to be used for such facility. If FmHA determines that a design or materials, other than those that were recommended, should be used in the water or waste disposal facility, FmHA shall provide such applicant or borrower with a comprehensive justification, in writing, stating the reasons why alternative designs or materials were required for the project."

Mr. LEAHY. That is an excellent idea and I believe the Department should follow up on this request.

SECTION 922

Mr. LEAHY. In reference to section 922, it is my understanding that the reference to minimizing penalties does not mean that the minimum penalty possible would always be applied when a violation is caused by a nonmanagement official such as a clerk as opposed to the owner. Rather,

it means that the penalty assessed when a clerk commits a violation would be less than when an owner commits the same violation. Is this a correct interpretation?

Mr. LUGAR. Yes. In the case of food stamps, the Senator's interpretation is correct.

Mr. SIMPSON. Mr. President, I rise in support of H.R. 3029, the technical corrections bill to the 1990 farm bill. This bill does "fine-tune" previously existing provisions in the omnibus package of farm legislation which we passed last year.

The bill includes numerous provisions which assist the vast majority of our Nation's agricultural producers. Those provisons range from changing support payment dates to establishing critical programs necessary for the survival of some of our country's oldest farm industries.

I am especially pleased that S. 1935 was included as an amendment to this important bill. I introduced that bill, with Senators WALLOP, BURNS, BAUCUS, CRAIG, DASCHLE, SEYMOUR, PRESSLER, GARN, HATCH, DOMENICI, and GRASSLEY. It required the Secretary of Agriculture to evaluate the current marketing and price reporting system and followup with the establishment of a lamb price and supply reporting service based on the findings.

Lamb producers from across the country have faced the incredible challenge of determining the workings of the lamb market without adequate market information in the last 10 years. That lack of information has led to the recent decline in the industry which has forced many producers to abandon a livelihood which was an important part of their heritage.

I am optimistic that the technical corrections bill provides necessary changes for many agricultural programs. I was pleased with the efforts and complete cooperation of my fine friend and colleague Senator LEAHY. His assistance was truly invaluable and I personally thank him for including these most important lamb provisions. I would also like to thank my good friend Senator DICK LUGAR who so generously supported the lamb provisons.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I know the distinguished Senator from Pennsylvania wished to address the Senate. I believe there is a period before we are able to complete action.

So I ask unanimous consent that the Senator from Pennsylvania be recognized for 5 minutes to address the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ATTENDING PHYSICIAN

Mr. WOFFORD. Mr. President, earlier today I sought to amend the Public Health Service Act to require that Members of Congress pay the full market value for the free medical care they now receive. There were objections, and I reluctantly withdrew my amendment.

The Senate is now considering several pieces of vital legislation such as reauthorizing sections of the Public Health Service Act and I have no desire to jeopardize these important bills.

Nevertheless, I believe my bill is vitally important. I am willing to stay and work on this legislation and other matters of vital importance to working Americans such as tax relief and ways to create more jobs.

But if Congress decides to adjourn, I will be back here in January, when we reconvene, pushing for its passage. I intend to do so because the enactment of this bill will be a significant step toward putting us on the course to an affordable health insurance system for all Americans.

Today, when we who are members of Congress get sick, we can go to the office of the attending physician to get free medical care, physicals, blood tests, x rays, lab work, even prescription drugs. What we would not get is a bill.

When there is no such medical care available to the great majority of the American people, it is unacceptable for us to be an island of free service. My bill ends that. We cannot forget that while these benefits are free to us, they cost taxpayers.

By putting ourselves on the same footing as our constituents, we will more directly and personally appreciate the health care crisis facing this country.

Our present inadequate system of health care is bankrupting our families, our businesses, our communities, and our whole economy.

Let me call my colleagues' attention to a notice now circulating among our staff. The words on this notice convey the problem. Written in capital red letters it says: "Due to dramatic changes in costs and coverages, please review your current plan." Members of our staff, like most Americans today, have no ability to avoid skyrocketing health care costs. Members of Congress should not be insulated from this reality.

Under my legislation, each member would pay for medical services provided by the attending physician of the Capitol.

By paying for these services, Members of Congress would take a small but significant step that would indicate that they understand the American people's concern about the lack of affordable and available health care. By putting ourselves on the same footing as the American people we would offer a sign of hope that the Congress will soon follow with action for comprehensive health care reform.

I want to take this opportunity to note that this bill is cosponsored by Senators MIKULSKI, ROCKEFELLER, KERREY of Nebraska, WIRTH, WELLSTONE, METZENBAUM, DECONCINI, CONRAD, and LEAHY.

I hope we can soon get it passed and then proceed to develop and enact a practical and comprehensive plan for national health insurance.

Mr. President I yield the floor.

Mr. STEVENS. Before the Senator yields the floor, Mr. President, would he yield?

Mr. WOFFORD. I yield.

Mr. STEVENS. I wonder if the Senator is familiar with the fact that by Executive Order signed by President Roosevelt during World War II, Members of Congress while in Washington are deemed to be eligible for the assistance of the military physicians that are on duty in this town, and that is the basis for the availability of medical services for those of us who are long distances from our homes, from our personal physicians, and that the Capitol physician's office is run on that basis.

There are military physicians there to answer to those people who are here away from their own physicians on an emergency basis. Is the Senator familiar with that?

Mr. WOFFORD. I am.

Mr. STEVENS. I put the Senator on notice that I will ask for a hearing on the bill and oppose enactment of it until we explore what this physician's office has meant in saving lives of the Members of the Senate, Members of the House, of the staffers and visitors to the Capitol over the period of time since it has been here.

I understand what the Senator is saying concerning the availability of health care to our citizens generally, and I do support this. But I think President Roosevelt had a reason for what he did in World War II, and it should not be brushed away.

I congratulate the Senator on his recent campaign. But I intend to see to it that the services that have been available for Members of Congress and for visitors to the Capitol since the period of World War II are not brushed away as quickly as the Senator seeks to do so.

I yield the floor.

VOL 137
PT 23
NO 21–25
1991
UMI

Mr. WOFFORD. I welcome such a hearing, if the distinguished Senator from Kentucky, the chairman of the Rules Committee, can schedule it. I am aware of the good services of the attending physician, and have talked to him and would welcome such a hearing.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session, and that the Committee on Commerce, Science, and Transportation be discharged from consideration of the following nominations: Mary S. Gall, Victor Gold, Karen B. Phillips, Mary L. Azcuenaga, and Leslee B. Alexander; and nominations for permanent appointment in NOAA; and that the Committee on Rules and Administration be discharged from further consideration of the nominations of Scott E. Thomas and Trevor A. McC. Potter to be members of Federal Election Commissions.

I further ask unanimous consent that the Senate proceed to the consideration of those nominations, in addition to the following: Calendar Nos. 292, 445, and 451; and these nominations reported today by the Committee on Governmental Affairs: Francis S. Hodsoll, Edward J. Mazur, Kathleen Day Koch, H. Edward Quick, Jr., J. Same Winters, Tirso del Junco, Reggie Barnett Walton, and Emmet Gael Sullivan.

I further ask unanimous consent that the nominations be confirmed en bloc; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

Consumer Product Safety Commission

Mary S. Gall, to be a Commissioner of the Consumer Product Safety Commission.

Corporation for Public Broadcasting

Victor Gold, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

Interstate Commerce Commission

Karen B. Phillips, to be a Member of the Interstate Commerce Commission

Federal Trade Commission.

Mary L. Azcuenaga, to be a Federal Trade Commissioner.

Corporation for Public Broadcastino

Leslee B. Alexander, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

Federal Reserve

Lawrence B. Lindsey, Federal Reserve.

U.S. Attorney

Ernest W. Williams, to be U.S. Attorney.

U.S. District Court

John M. Roll, to be U.S. district judge.

Office of Management and Budget

Francis S. Hodsoll, to be Deputy Director for Management, Office of Management and Budget.

Edward J. Mazur, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

Office of Special Counsel

Kathleen Day Koch, to be Special Counsel, Office of Special Counsel.

U.S. Post Office

H. Edward Quick, Jr., to be Commissioner, Postal Rate Commission.

J. Sam Winters, to be a Governor, U.S. Postal Service.

Tirso del Junco, to be a Governor, U.S. Postal Service.

Associate Judge

Reggie Barnett Walton, to be associate judge.

Emmet Gael Sullivan, to be associate judge.

STATEMENT ON THE NOMINATION OF LAWRENCE LINDSEY

Mr. McCAIN. Mr. President, I am proud today to vote in favor of this superbly qualified nominee to the Board of Governors of the Federal Reserve.

Lawrence Lindsey is clearly qualified to serve on the Board of Governors. He received a Ph.D. from Harvard University in 1985. He won the Outstanding Doctoral Dissertation Prize for his thesis. He was an associate professor of economics at Harvard University. He served President Reagan with distinction and is presently the Special Assistant to the President for Domestic Economic Policy.

He is also the author of "The Growth Experiment: How The New Tax Policy Is Transforming the U.S. Economy." This persuasive work has been widely praised. William E. Simon, former U.S. Secretary of the Treasury, stated:

> Few revolutions have been so plagued by myth and mistruths as the Reagan Revolution in tax reform. Larry Lindsey's book sets the record straight on the enduring achievements of the Reagan experiment, which has put our economy back on the road to prosperity and sustained growth.

The support for Dr. Lindsey is bipartisan. Senator MOYNIHAN stated:

> The breadth and depth of Dr. Lindsey's knowledge, his skills and abilities make him, in my estimation, an ideal candidate for the Board of Governors.

Mr. President, I reiterate, Lawrence Lindsey is clearly qualified to serve on the Board of Governors. I applaud the President for selecting another excellent nominee.

However, I must disparage the U.S. Senate for its mishandling of this nomination. The Senate's handling of this nomination is representative of the abuse of the power to advise and consent. This nominee was not the victim of a leak or a special interest group smear campaign. This nomination appears to have been delayed for petty partisan reasons.

Thus, while the economy was in recession, the Federal Reserve Board was unable to tap the breadth and depth of Dr. Lindsey's knowledge. When the country needed a person of Dr. Lindsey's qualification, the Senate delayed.

The Senate did not delay because Dr. Lindsey was unqualified. The Senate delayed for petty partisan reasons to the detriment of the economy and the American people.

President Bush nominated Dr. Lindsey on February 27, 1991, nearly 8 months ago. Has it taken the Senate 8 months to finally realize that Dr. Lindsey is qualified? I hope not because that would clearly speak poorly of the competence of the Senate.

It is outrageous and almost Orwellian that Dr. Lindsey and the monetary policy of the United States has been held hostage for 8 months.

Mr. President, I applaud the President, chide the Senate, and strongly support this nominee. The country needed him 8 months ago, and we need him now.

He will be a powerful voice for noninflationary economic growth.

STATEMENT ON THE NOMINATION OF DR. LAWRENCE LINDSEY

Mr. SYMMS. Mr. President, today were considering the nomination of Dr. Lawrence Lindsey to the Board of Governors of the Federal Reserve. It is a testimony to our Nation's strength that we are still able to attract people like Dr. Lindsey to public service. I believe we have before us the nomination of a man who has outstanding qualifications and its my hope we can confirm him quickly.

I believe we need to confirm Dr. Lindsey without delay. The Federal Reserve Board is an immensely powerful and important institution, particularly as our economy is struggling to recover from recession. The decisions made by the Board include the setting of the discount rate, changing the Federal funds rate, setting the growth rates in the monetary aggregates, and responding to movements in the exchange rate.

These decisions can have a major impact on the how soon our economy recovers and on how strong that recovery will be. Its unfortunate the Board has been short-handed at this juncture because the Senate has so far failed to act promptly.

Dr. Lindsey's credentials are truly impressive. He graduated magna cum laude from Bowdoin College in 1976. In 1981, he earned a masters degree in economics from Harvard University and received his Ph.D. in economics from Harvard 4 years later. Not just another alchemist of the Dismal Science, his doctoral dissertation received the National Tax Association's Outstanding Thesis Award for 1985. After graduating he joined the Harvard economics faculty and was promoted to associate professor in 1988.

Since receiving his Ph.D., Dr. Lindsey has cut an impressive path in academia at Harvard, at the National Bureau of Economic Research, and at the National Tax Association. And he is one of those rare people who can write for academic publications like the Journal of Finance, the National Tax Journal, and the Journal of Public Economics as well as for the popular press.

In fact, I recently had a rare experience; if none of my colleagues have had this experience recently I recommend it. I met with Larry and I understood him. How often have you ever met with an economist and understood what he said?

Dr. Lindsey's experience extends far beyond our borders. As international affairs grow in importance, he brings an international perspective having been a consultant with the Frankfurter Institute in Germany. He worked with the Adam Smith Institute in the United Kingdom and worked with members of Prime Minister Thatcher's staff.

He assisted the Moderate Party in Sweden on their tax policy where his efforts may soon bear fruit because the Swedish people recently turned the reigns over to the Moderates, having thrown the Socialists and their failed Swedish model of government planning out of office. And, most recently, he was a consultant with the Foundation for Fiscal Studies in the Republic of Ireland.

He did not just deliver an obscure academic paper on these occasions, either. Dr. Lindsey's research was cited by Nigel Lawson, then Chancellor of the Exchequer in Great Britain, as a motivation for Britain's own reform of their income tax. Very few American economists can claim to have had such an impact on economic policy on an international scale.

Dr. Lindsey not only has outstanding academic qualifications but his policy experience is impressive as well. He served from 1981 to 1984, at the Council of Economic Advisers under Chairmen Murray Wiedenbaum and Martin Feldstein where he rose to the position of senior staff economist for tax policy.

In January 1989, he joined the Bush administration as Associate Director for Domestic Economic Policy in the White House Office of Policy Development. In January 1990, he was commissioned as a Special Assistant to the President for Domestic Economic Policy. The Federal Reserve has two very important functions in our economic system. The first, of course, is the setting of a monetary policy that will encourage economic growth and price stability. Most people who have thought about monetary policy figure they could do it as well as the Fed. I know I fall into that group. I doubt if many of us would do very well if we kept track of our predictions, just as we prefer not to keep track of our football picks come Monday morning. Setting monetary policy in today's world is incredibly difficult. And it is not made any easier by the knowledge that your mistakes are measured in lost jobs and higher inflation.

Predicting the strength of the economy is essential for determining the right levels of money growth. In fact, the hardest part about encouraging economic growth and price stability is predicting and performance of the real economy and the underlying inflationary forces.

We in Congress make the job of predicting economic growth much more difficult by constantly changing tax policies, regulatory policies, budget policies, and so forth, all of which impact on the economy.

First on this list, without question, is tax policy. When Congress changes tax policies, the economy can be affected very quickly. Some effects of a change in tax policy are felt immediately. For example, a cut in the capital gains tax results in virtually an immediate increase in asset values. The flip side is also true, as history will recall with Speaker Jim Wright's suggestion of some years ago that we consider an excise on stock transactions. The result—the stock market went into a tailspin.

Whatever the immediate effect of a change in tax policy, the full effect takes years. Currently, I am told, there is no one on the Board of Governors who has any special expertise in tax economics. There are numerous staffers, of course, but no one on the Board. There is no one, therefore, currently on the Board who can properly assess the impact of new tax policies on the economy.

I am hopeful, for example, that the Congress will be able to develop an economic recovery tax cut package to encourage investment. Dr. Lindsey's knowledge and experience will prove invaluable in making growth predictions and in setting aside the foolish ideas that an economic growth package would drive up interest rates. In case anyone has missed it, let me point out that the vast majority of proposals recently have been budget neutral even on a static basis.

In a world of self-proclaimed experts, Dr. Lindsey is a true, bona fide expert in tax policy and its economic effects. He will be a great asset to the Board as they try to take new tax policies into account when formulating their projections for growth and employment. Consequently, the Fed will be better able to adjust to the Congress' twists and turns and monetary policy will be better geared to stabilizing inflation and encouraging more rapid economic growth.

The second function of the Federal Reserve is to oversee and preserve a stable banking system. Again, Dr. Lindsey's expertise may be brought to bear immediately as a member of the Federal Reserve Board because he is been the White House's point man on banking reform and he understands the issues and the policies as well as anyone. I think his background will be invaluable in advising the other member of the Board as to how banking reform should be implemented.

Having worked in academia, overseas, and under two Presidents, Dr. Lindsey understands the formulation of economic policy and he understands the process of implementing policy. His knowledge, skills, and abilities make him a perfect candidate for the Board of Governors. We would be hard pressed to find someone with comparable experience.

Dr. Lindsey's nomination was approved by the Senate Banking, Housing and Urban Affairs Committee by a vote of 16 to 5. During his confirmation hearings before the Senate Banking Committee, Dr. Lindsey testified that he will pursue four goals while serving at the Federal Reserve:

First, to ensure economic recovery through a noninflationary, growth oriented monetary policy;

Second, to reduce the inflation rate gradually so that the Nation may come to enjoy the long term benefits of price stability;

Third, to ensure that the Federal Reserve's regulatory stance does not unnecessarily restrict credit conditions; and

Fourth, to support reform of the nation's financial system to meet the challenges of the global marketplace of the 21st century.

Dr. Lindsey has won bipartisan support and his writings have been lauded by both conservatives and liberals. Those who have worked with him have praised his receptiveness to new ideas. He does not let partisan politics get in the way of moving ahead on good policy proposals regardless where they came from.

The Nation is divided into 12 districts. One rule for the nomination of individuals to serve as a Governor of the Board of the Federal Reserve is that no district may be represented by more than Governor. This rule was established to ensure the President will select Governors to provide fair representation of the financial, agricultural, industrial, and commercial interests and geographic diversity of the country.

Dr. Lindsey was nominated to represent the fifth district which includes

VOL 137
PT 23
NO 21—25
1991
UMI

West Virginia, North Carolina, South Carolina, the District of Columbia, Maryland, and Virginia. There has been some question as to whether Dr. Lindsey has been a resident of Virginia long enough to fulfill the residency requirement.

In my opinion, reserving chairs at a central bank based on geographic considerations is an archaic practice in a modern economy. Nevertheless, those are the rules and Dr. Lindsey and his family meet those rules.

The Lindseys have lived in the fifth district for a total of 5½ years. They own a home in Clifton, VA, where they have lived since returning to Virginia to join the Bush administration. They own no real estate or personal property in any other state and vote, pay taxes and register their cars in Virginia. Dr. Lindsey was commissioned from Virginia as an officer in January 1990, when he was named Special Assistant to the President.

I do not see how any reasonable person can question whether the Lindsey's qualify as residents of Virginia. I believe, and I am sure the President of the Senate, Senator BYRD could say for sure, but I believe some people have even run for the Senate and won having lived in the state for much less time than the Lindsey's have lived in Virginia.

As I have said before, Dr. Lindsey's distinguished professional career and superior academic expertise speak for themselves. We are entering into a new world. The changes in Russia could have a tremendous impact on our economy. Our banking system is under an immense strain and will undergo reform. We are struggling with a recession and the Congress is working towards an economic recovery package. The Federal Reserve will benefit tremendously from the knowledge and experience Lawrence Lindsey brings to the Board of Governors. I urge my colleagues to confirm Dr. Lindsey without delay.

STATEMENT ON THE NOMINATION OF DR. LAWRENCE B. LINDSEY

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Dr. Lawrence B. Lindsey who has been nominated by President Bush to serve on the Board of Governors of the Federal Reserve System. He will represent the Fifth Federal Reserve District which includes South Carolina, North Carolina, Virginia, Maryland, part of West Virginia, and the District of Columbia.

On February 28, 1991, President Bush submitted Dr. Lindsey's nomination to the Senate. Dr. Lindsey testified before the Committee on Banking, Housing, and Urban Affairs on May 7, 1991, and on July 10, 1991, the committee approved his nomination by a vote of 16 to 5.

Dr. Lindsey is a magna cum laude graduate of Bowdoin College where he was elected to Phi Beta Kappa. He earned a masters degree and a doctorate in economics from Harvard University. He received the National Tax Association's Outstanding Thesis Award for his doctoral dissertation. He is a prolific author, having written more than 40 publication on economic policy, as well as a book, "The Growth Experiment."

Dr. Lindsey served at the Council of Economic Advisors from 1981 until 1984 when he joined the Harvard University economics faculty as an assistant professor. He was promoted to associate professor in 1988.

President Bush named him the Associate Director for Domestic Economic Policy in the White House Office of Policy Development in January 1989. One year later, he became Special Assistant to the President for Domestic Economic Policy.

Dr. Lindsey has both wide-ranging professional and academic experience in economics. His achievements demonstrate that he has the high qualifications required of a Governor of the Federal Reserve Board.

I join a number of others in both the public and the private sector in endorsing Dr. Lindsey. I believe that he will be an excellent addition to the Board of Governors of the Federal Reserve System and I urge his speedy confirmation by the Senate.

STATEMENT ON THE NOMINATION OF JUDGE JOHN ROLL

Mr. DECONCINI. Mr. President, I am pleased that the Senate has confirmed Judge John Roll's nomination to be U.S. district judge for the District of Arizona. I introduced Judge Roll at his Judiciary Committee confirmation hearing on November 20, 1991, and would like to share with my colleagues the statement I made before the committee regarding Judge Roll's outstanding qualifications. The following is the text of my remarks:

STATEMENT OF SENATOR DECONCINI ON THE NOMINATION OF JUDGE JOHN MCCARTHY ROLL

Mr. Chairman, it is a distinct pleasure and honor to introduce Judge John Roll to the Senate Judiciary Committee, today. As a member of the committee for the last 14 years, I have worked on hundreds of judicial nominees and chaired or attended numerous nomination hearings. One of the great honors of being on this committee is the opportunity to participate actively in the nomination process.

That honor is even greater when you know the nominee and have personal knowledge of his capabilities. Mr. Chairman, as Pima County attorney before I came to the Senate in 1977, I am proud to state that Judge Roll was one of my deputy prosecutors at that time. He is an excellent lawyer. And he will be an excellent Federal district court judge.

Judge Roll was part of our team at the Pima County attorney's office that was recognized by the National District Attorney's Association as "the National Model Office for Major Cities." One of the items I treasure most is the resolution Judge Roll and the other staff in that office gave me in recognition of my tenure as Pima County attorney. That plaque, with Judge Roll's signature on it, is hanging in my personal office, today.

Judge John Roll will bring a wealth of experience to the Federal bench. He served as deputy Pima County attorney from 1973 to 1980. From 1980 to 1987, Judge Roll was an assistant United States attorney in Arizona. Since 1987, Judge Roll has been a judge on the Arizona court of appeals. He has been a distinguished member of that court and has developed an excellent reputation.

From the time his nomination was announced, I have been contacted by numerous lawyers and other judges in Arizona regarding the quality of Judge Roll's work on the State court of appeals. They have forwarded some of the highest recommendations I have ever received for a Federal district court nominee.

Indeed, one State supreme court justice wrote me and described Judge Roll's work the following way: "Consistently thorough, well-reasoned, logical in approach and legally consistent and accurate." That Justice's only regret in Judge Roll's nomination was that the State judiciary would lose an outstanding member of its court.

These comments from his colleagues and the lawyers that appear before him are the true testament of a good judge. We all know that the quality of a person's work is more important than the positions a person holds. From my personal experience, I can think of few judges in my State that have obtained such a great level of respect and admiration on the bench in such a short period of time.

Mr. Chairman, the Federal district court in Arizona was a legacy of reputable judges. Judge Roll will replace Judge Alfredo Marquez, who had a distinguished career on the Federal district court. Judge John Roll will be an excellent replacement for that court and will continue that legacy. The Federal district court will be well served by his confirmation.

Mr. Chairman, I look forward to following Judge's Roll's distinguished career on the Federal bench. I fully support his confirmation and I am confident he will serve this country well.

I would also like to introduce to the committee Judge Roll's wife, Maureen, and their three sons—Robert, Patrick, and Christopher. They have every reason to be proud of their father, today.

STATEMENT ON THE NOMINATION OF EDWARD QUICK

Mr. PRYOR. Mr. President, I am happy to speak on behalf of the nomination of H. Edward Quick for the position of Commissioner on the U.S. Postal Rate Commission.

Mr. Quick's experience and knowledge will make his contribution on the Commission of great value not only to the Commission itself, but also to the people of this Nation who are affected by the decisions and actions of the Postal Service.

I speak from personal knowledge of both Mr. Quick and the Postal Service; I have observed and admired Mr. Quick as he served as my legislative director during the last 5 years and I have observed and had concerns about the Postal Service during my tenure as chairman of the Postal Oversight Subcommittee in the Senate.

Mr. President, I would like to take just a moment to talk about Ed Quick's proud career of public service

and 23 years of work in the U.S. Senate. I hired Mr. Quick in late 1986. At that time he was administrative assistant to one of the Senate's finest Senators and a close friend of mine, now-retired Senator Thomas F. Eagleton. Senator Eagleton had hired Mr. Quick all the way back in 1969, to be part of his Senate staff during his first year in office. Mr. Quick became one of Senator Eagleton's closest advisers and soon was named his administrative assistant.

I understand that other administrative assistants often called Mr. Quick "The Chairman," out of respect for his knowledge of the Senate, his seemingly intuitive understanding of the American electorate, and his stature among his peers.

In fact, Mr. President, I have relied on these qualities in Mr. Quick during his years of work for me. I will always remember him particularly for his tremendous work for me on my legislation regarding what I have called improving the quality of work in the Senate. His advice and counsel on this issue and many others will be greatly missed in my office as he moves onto bigger and even better things.

There are others in the Senate whom I want to recognize who have been key supporters of Ed Quick's nomination. Most notable is Senator JOHN C. DANFORTH, my good friend from the State of Missouri, who came to know Mr. Quick through Senator Eagleton and their work together on behalf of the State of Missouri. Another very notable Senator in this process is Senator TED STEVENS of Alaska. Senator STEVENS is the ranking Republican member of our Subcommittee on Federal Services, Post Office and Civil Service. His help and support have been generous and greatly appreciated.

Finally, Mr. President, let me publicly thank Ed Quick for his service not only to my office and the people of Arkansas whom I represent, but also for his service to the Senate, an institution he has been loyal to and has worked to improve for 23 years.

During his nomination hearing before the Senate Governmental Affairs Committee, Mr. Quick gave what I thought was poignant testimony.

Mr. President, I know of no one better suited for the job of Postal Rate Commissioner than Ed Quick and urge my colleagues to support this nomination.

I ask unanimous consent to have Mr. Quick's statement printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF H. EDWARD QUICK, JR., NOMINATED TO BE COMMISSIONER, U.S. POSTAL RATE COMMISSION

Thank you, Mr. Chairman.

I thank President Bush for nominating me. I especially thank those who have supported me and advocated my course with unceasing determination; you, Mr. Chairman, Senator Stevens and Senator Danforth.

I believe that I am very fortunate. I have had wonderful parents, and as you have seen, I have a wonderful family. I am also singularly lucky because I have had the great good fortune to have worked for almost 23 years in the U.S. Senate and, during that time, to have worked for 2 of the finest men to serve in that body in current time—you, Mr. Chairman, and former Senator Thomas Eagleton. They each have an acute sense of justice, are fearless advocates of the causes they believe in, and are extraordinary politicians.

Of all these qualities, I think that the last is the most admirable, particularly when politicians and, most noteworthy, members of Congress are scored and pilloried with greater gusto now than even we have come to expect as normal.

Last night I was reading about politicians in several different anthologies and reference books. Predictably, most descriptions were negative and unflattering. I did, however, come across a description of politicians early this century in the British House of Commons by F.S. Oliver which I think is apt for the situation in the Congress and the Nation today, and I'd like to read that.

He says: "If we eventually escape from our present perplexities, it will not be because theorists have discovered some fine new principle of salvation or because newspapers"—or, I might add, television—"have scolded and pointed angry fingers at this one or that, or because we, their readers or listeners, have become excited and have demanded that something must be done. It will be because these decent, hardworking, cheerful, valiant, knockabout politicians, whose mysterious business it is to manage our affairs by breaking one another's heads shall have carried on their work as if nothing extraordinary was happening and shall have jumbled something out of their contentions that will be of advantage to their country. The notion that we can save ourselves without their help is an illusion, for politics is not one of those crafts that can be learned by the light of nature without an apprenticeship."

I am proud to have worked for 2 "decent, hardworking, cheerful, valiant, knockabout politicians and to have come to know and observe many others here in the Senate—and I might add, to have come to know many fine staff members such as myself, who worked for these knockabout politicians. It has been a great education for me, and I hope that it has prepared me for the service on the Postal Rate Commission.

LABOR-HHS APPROPRIATIONS

Mr. FORD. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3839, the Labor-HHS appropriations bill, just received from the House; that no amendments to the bill be in order; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3839) was deemed read a third time and passed.

● Mr. HARKIN. Mr. President, I rise reluctantly in support of H.R. 3839, the fiscal year 1992 Labor, Health and Human Services, Education, and related agencies appropriations bill. The bill is identical to H.R. 2707 with one exception: section 514 of that bill, the language adopted by the House and Senate in identical form to prohibit the administration from implementing the gag rule, has been deleted.

The conference report on H.R. 2707 passed the Senate on November 7, by a vote of 73 to 24. The President vetoed the bill on November 19, and the House failed to override the President's veto on November 20, with a vote of 276 to 156. Earlier today, the House passed the new bill, H.R. 3839, by a vote of 359 to 56. All the report language included in House Report No. 102–121 and Senate Report No. 102–104 as modified by the conference report language included in Conference Report 102–282 apply in full to H.R. 3839; all the floor colloquies that were provided as further guidance on H.R. 2707 also apply fully to H.R. 3839.

Mr. President, earlier I said that I support adoption of H.R. 3839 reluctantly. I say reluctantly because it is a sad day for America when the President vetoes a $204.9 billion education, health, job training, and human services appropriations bill because he objects to language included in the bill guaranteeing American women full and complete medical information.

In order to preserve the gag rule the President was willing to put at risk almost $205 billion intended for maternal and child health, unemployment assistance, education funding for Pell grants and chapter I, nutrition programs for the elderly, immunization programs for children, and NIH biomedical research to help us find cures for many diseases that afflict mankind, and many other programs. It's ironic that the self-appointed Education President vetoed a bill that provides $31.9 billion for education programs, 9 percent more than last year.

Mr. President, unfortunately since the House was unable to override the President's veto, we are now forced to adopt this new legislation deleting language overturning the gag rule.

I fully supported overturning the gag rule and I continue to support overturning it. I believe the gag rule is misguided, reactionary, and inappropriate public policy. The gag rule prevents health professionals from fully informing their patients. That does not make any sense.

Why on Earth would we want to insert the Government into a doctor's examining room? Supporters of the gag rule must think women are unable to make decisions for themselves. Supporters of the gag rule must think the Federal Government should make women's most intimate and personal choices.

I find that attitude patronizing, paternalistic—and pathetic. It is ridicu-

VOL
137
PT
23
NO
21
—
25
1991
UMI

lous on its face and grossly unfair to women.

Next year we will revisit this issue. Even though the President may be able to gag the doctors in title X clinics, he will not silence American women and he will not silence this Senator. I will continue to fight for the right of American women to be informed and for the right of American women to choose.●

EDUCATION FUNDING

● Mr. LAUTENBERG. Would the distinguished chairman of the Labor-HHS-Education Appropriations Subcommittee be willing to respond to a question regarding education funding in the Labor-HHS-Education appropriations bill?

Mr. HARKIN. I would be happy to engage in a colloquy with the distinguished Senator from New Jersey.

Mr. LAUTENBERG. The Senator from Iowa included funding in the Senate Labor-HHS-Education appropriations bill for the Community Education and Employment Centers [CEEC] that were authorized in the 1991 Perkins Vocational Education Act—section 363 of Public Law 101–392. I worked hard to secure this authorization. Section 363 was based on my bill to establish CEEC's, S. 1477, which I introduced in the last Congress. It was adopted in revised form as my amendment number 1466 to the Perkins Vocational Education Act when it was considered on the Senate floor. As finally enacted, it authorized $7.5 million per year to be made to no more than five school districts. The Senator from Iowa included full funding for this program in the fiscal year 1992 Labor-HHS-appropriations Senate report and additional report language encouraging the Department of Education to demonstrate this program in an urban school district in New Jersey. The Senator also included $2 million in the national programs and demonstrations section of the Vocational Education Program to carry out two demonstrations of centers described in the CEEC authorizing legislation. In fact the Senate report language cites section 363 of Public Law 101–392 as the basis for these demonstrations.

Unfortunately, final funding for the Vocational and Adult Education Basic Grant Program did not meet the $1 billion trigger level and the $7.5 million was dropped in conference. The conferees did, however, retain the $2 million in funding for the two demonstrations.

Yet, the conferees have provided sufficient room within the $14 million appropriated for national demonstration programs to allow an initial demonstration of CEEC's in both urban and rural settings. The $2 million was retained for two demonstrations that would enable a test of the CEEC concept in rural settings. But, the problems of poverty, joblessness, and mismatches of training and job opportunities prevail in many of our urban centers. The CEEC was intended to test a broad-based approach to the educational and vocational needs of students from impoverished and disadvantaged urban backgrounds.

While a portion of the remaining $12 million for national demonstration programs has also been earmarked for other purposes, it is my understanding that funds remain for use by CEEC's in urban areas. So, my question to the Senator from Iowa is as follows: Within the $14 million appropriated for national demonstration programs, would there be funds available to demonstrate the CEEC concept in an urban area?

Mr. HARKIN. Yes; $3 million is available in the vocational education national demonstration account for three CEEC demonstration programs.

Mr. LAUTENBERG. In addition, if a New Jersey school district or districts submit a meritorious application for a CEEC demonstration, would the distinguished chairman of the Senate Labor-HHS Subcommittee encourage the Department of Education to fund such a demonstration?

Mr. HARKIN. Yes; the committee has previously noted that economically and disadvantaged students in low-income urban school districts in New Jersey would greatly benefit from the extensive services offered in these model demonstration centers. The committee has also encouraged the Department of Education to test the success of the CEEC model in an urban school district in New Jersey, where students face the same barriers to education and employment that the program is designed to address.

Mr. LAUTENBERG. I would like to thank the Senator for engaging in this colloquy and providing direction to the Department of Education with respect to a demonstration of the CEEC Program.●

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until 9 a.m. Saturday, November 23, and that following the prayer, the Journal of the proceedings be deemed approved to date; and that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. FORD. If there is no further business today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess until 9 a.m., Saturday, November 23.

There being no objection, the Senate, at 10:43 p.m., recessed until Saturday, November 23, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 22, 1991:

DEPARTMENT OF TRANSPORTATION

JERRY RALPH CURRY, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE JAMES BUCHANAN BUSEY IV.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SCOTT M. SPANGLER, OF ARIZONA, TO BE ASSOCIATE ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT (OPERATIONS), VICE C. ANSON FRANKLIN, RESIGNED.

THE JUDICIARY

ANITA A. BRODY, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 22, 1991:

FEDERAL RESERVE SYSTEM

LAWRENCE B. LINDSEY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF 14 YEARS FROM FEBRUARY 1, 1986.

EXECUTIVE OFFICE OF THE PRESIDENT

FRANCIS S. M. HODSOLL, OF VIRGINIA, TO BE DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

EDWARD JOSEPH MAZUR, OF VIRGINIA, TO BE CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

OFFICE OF SPECIAL COUNSEL

KATHLEEN DAY KOCH, OF VIRGINIA, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF 5 YEARS.

THE JUDICIARY

REGGIE BARNETT WALTON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS.

EMMET GAEL SULLIVAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS.

POSTAL RATE COMMISSION

H. EDWARD QUICK, JR., OF MARYLAND, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING NOVEMBER 22, 1996.

U.S. POSTAL SERVICE

THE FOLLOWING NAMED PERSONS TO BE GOVERNORS OF THE U.S. POSTAL SERVICE:

TIRSO DEL JUNCO, OF CALIFORNIA, FOR THE TERM EXPIRING DECEMBER 8, 2000. (REAPPOINTMENT)

J. SAM WINTERS, OF TEXAS, FOR THE TERM EXPIRING DECEMBER 8, 1999, VICE IRA D. HALL, JR., TERM EXPIRED.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FEDERAL ELECTION COMMISSION

TREVOR ALEXANDER MC CLURG POTTER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997.

SCOTT E. THOMAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997. (REAPPOINTMENT)

THE JUDICIARY

JOHN M. ROLL, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

DEPARTMENT OF JUSTICE

ERNEST WILSON WILLIAMS, OF TENNESSEE, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS.

CONSUMER PRODUCT SAFETY COMMISSION

MARY SHEILA GALL, OF VIRGINIA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF 7 YEARS FROM OCTOBER 27, 1991.

CORPORATION FOR PUBLIC BROADCASTING

VICTOR GOLD, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1996.

INTERSTATE COMMERCE COMMISSION

KAREN BORLAUG PHILLIPS, OF VIRGINIA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR A TERM EXPIRING DECEMBER 31, 1996.

FEDERAL TRADE COMMISSION

MARY L. AZCUENAGA, OF THE DISTRICT OF COLUMBIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1991.

CORPORATION FOR PUBLIC BROADCASTING

LESLEE B. ALEXANDER, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1996.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING GERRY C. MC KIM, TO BE CAPTAIN, AND ENDING RICHARDO RAMOS, TO BE ENSIGN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 15, 1991.

VOL 137
PT 23
NO 21–25
1991
UMI

HOUSE OF REPRESENTATIVES—*Friday, November 22, 1991*

The House met at 10 a.m.

The Reverend Paul E. Lavin, pastor, St. Joseph's Catholic Church on Capitol Hill, Washington, DC, offered the following prayer:

Some of us refer to God as the Compassionate and Merciful One, some of us say Adonai, some of us speak of Father, Son, and Holy Spirit.

Whatever words we use, let us take a moment to place ourselves in the presence of God.

Be with us that we may help our Nation be an image of justice, a mirror of sanctity, a protector of the truth, a refuge for the oppressed, a treasure to the poor, a hope to the wretched, and a light to the whole world.

Direct all our actions by Your holy inspiration and carry them on with Your gracious assistance that every work of this Congress may begin from You and with Your grace, be part of Your work to make our world a more just and decent place. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. TAYLOR] please come forward and lead the House in the Pledge of Allegiance.

Mr. TAYLOR of North Carolina led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE REVEREND PAUL E. LAVIN

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I rise today as a very proud representative of northern Pennsylvania, the Wyoming Valley. Father Lavin, who just gave the prayer bringing the House to order, is a native son of Wyoming Valley, the only valley in the United States that provided a name for a State in our Union.

Father Lavin reflects the family values of Wyoming Valley and Wyoming, PA. He attended grade school there. He graduated with a bachelor of arts degree from one of our finest liberal arts colleges, King's College in Wilkes-Barre, PA. He was ordained at the Washington Cathedral by Cardinal Patrick O'Boyle on May 17, 1969.

Since that time, Father Lavin has served in the Maryland area, representing many of the youth programs of that area, and then later went on to serve as the Catholic chaplain at the American University here in Washington, DC, between 1979 and 1987.

Today, Father Lavin is the 12th pastor to serve at St. Joseph's Church, the Catholic parish which serves the Capitol Hill area.

There are two distinctions in Father Lavin's life that I would like to point out to my colleagues. One, that he has concentrated his efforts on instilling in our young people a sense of community by teaching them, by example, the family values they need to be good citizens and to partake in the magnificent democratic process that we have. He knows where the investment of talent should be made and where the capital of this Nation should be best expended, with our youth.

The second thing he has done is, by taking the parish at St. Joseph's here on Capitol Hill, he knows that an awful lot of us in government need the values that he fosters. He is taking care of a second generation of kids, those of us who have the pleasure of serving in the Congress of the United States and in the legislative branch of this Government. He instills in us the values and leadership that he so ably has taught the youth of this country through the 20 years since his ordination as a priest.

Mr. Speaker, I welcome here today a favorite son of Wyoming Valley and King's College, PA, as our chaplain for today, Rev. Paul E. Lavin.

THE MERIT SYSTEMS PROTECTION BOARD ADMINISTRATIVE JUDGES PROTECTION ACT OF 1991

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I introduced a bill today, the Merit Systems Protection Board Administrative Judges Protection Act of 1991. The bill would extend to administrative judges at the Merit Systems Protection Board [MSPB] the same statutory protections as enjoyed by administrative law judges [ALJ's]. MSPB administrative judges review employment decisions of Federal agencies for approximately 2 million Federal employees. Two-thirds of the full-time Federal civilian work force depend upon the fairness and integrity of employment-related decisions rendered by 62 administrative judges at the Board.

One of the most widespread employment related problems in the Federal workplace, as documented by the MSPB upon the request of the Congress, is sexual harassment. The MSPB in response to the Congress conducted two studies of sexual harassment in 1980 and 1987. In 1987, the MSPB sent out questionnaires to 13,000 Federal employees and received 8,523 responses. In 1987, 42 percent of all women and 14 percent of all men reported they experienced some form of uninvited and unwelcome sexual attention. The total cost to the Federal Government for this non-job-related behavior is estimated at $267.3 million during the survey period of May 1985 to May 1987. These costs are based on job turnover, sick leave used, lost individual productivity, and lost group productivity due to sexual harassment.

MSPB administrative judges are responsible for hearing and deciding direct appeals from Federal employees who allege that an adverse personnel action was taken against them because of their whistleblower activities. In 1989, when the Whistleblower Protection Act was enacted, the Senate report stated that Federal employees may appeal to the MSPB and that the first review is to be by an administrative law judge and then the Board. However, administrative judges hearing these cases at the Board are not ALJ's as the act contemplated, nor do they have the protections of ALJ's under the law to ensure the impartiality and independence of their decisions.

MSPB administrative judges hear sensitive personnel cases on sexual harassment and whistleblower protections involving highly placed agency officials. In fact, the House just recently authorized the MSPB to hear appeals on misconduct cases from the Senior Executive Service. Federal employees relying upon the integrity and independence of the decisions of the MSPB administrative judges are not aware that these judges are subject to removal, suspension, and performance appraisal by their agency of their hearing and decisionmaking functions. Currently, MSPB's performance appraisal determines whether these judges receive cash awards for their work. MSPB conducts both preissuance and postissuance quality reviews of decisions issued by MSPB administrative judges. No facet of a decision is immune from review. Reviewers may include headquarters personnel who perform no hearing or decisionmaking functions. The results of these reviews may influence a judge's overall performance rating and pay.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Most Federal employees believe that they are entitled to a fair hearing before losing one of their most precious possessions, their livelihood. Unfortunately, Federal employees have less protections than we currently grant an individual applying for Social Security benefits or public assistance. A denial of Social Security benefits will trigger the right to a hearing before an administrative law judge, who cannot be intimidated or influenced because of the statutory protections guarding an ALJ's decisional independence. Federal employees are not aware that their case before the MSPB will be subject to quality review.

I believe that Federal employees should have the same protections in hearings before the MSPB on critical personnel decisions that may in fact ruin an individual's career. For these reasons, I have introduced a bill to give MSPB administrative judges the same protections as ALJ's in regard to removal and suspensions only for good cause, rotation of case assignments to ensure impartiality on the part of the decisionmaker and no performance appraisal of their adjudication functions. These protections will guard the integrity of the Merit System Protection Board in reviewing Federal employment practices and keep them free from political influence. I think this is important to the civil service system and it is not a difficult task to undertake, since extending these provisions would be budget neutral.

I urge my colleagues to join me in providing these safeguards to the process of reviewing important employment decisions in the Federal Government.

PRESIDENT'S POSITION ON ABORTION

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, on the issue of a woman's right to choose, George Bush has used his veto pen again to sustain a position which the vast majority of the American public does not share. Some people believe that the President merely opposes the use of public funds for abortions, but his position is far more extreme. There is not a single type of Federal financing for abortion in any of the choice bills that the President has vetoed.

On the gag rule, the President vetoed the right of a woman to have her doctor tell her all of her options. Not a dime of Federal money was involved to provide for an abortion.

On the defense appropriation bill, the President vetoed the right of an American servicewoman abroad to spend her own money on an abortion. Not a dime of Federal money was involved.

☐ 1110

On the D.C. appropriations bill, the President vetoed the right of the District government to use its own locally derived funds to pay for an abortion, not a dime of Federal money involved. And on international family planning, the same, not a dime involved for the use of abortions.

On choice, this is a President with an extreme position, one that is at odds with the American people and the clear majority of them.

Mr. Speaker, George Bush has used the enormous power of his veto to impose his will. It is the worst example of catering to special interests currently operating in Washington.

SMALL BUSINESSES KNOW THAT TALK IS CHEAP; BUT IT'S HOW YOU VOTE THAT COUNTS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, in a few days we will adjourn for the year. Many of us will go home to hold conferences or seminars for small business owners in our districts.

We want to show them that we understand how important they are to our local communities and to our Nation's economy.

We'll give civic club speeches extolling the virtues of small business. We'll cheer small business owners for leading the country in job creation and economic growth.

But, Mr. Speaker, when it comes to promoting small business, talk is cheap.

Saying nice things to the small business owners in our communities is fine, but it doesn't make up for the damage done by mandates, antigrowth tax policies and bureaucratic redtape forced on small business by the Democrat-controlled Congress here in Washington.

And so my colleagues, I urge you to remember as you address the civic clubs and small business organizations back home: Small businesses know that: It's easy to say that you're for small business. But it's how you vote that counts.

THE TEXTILE INDUSTRY

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, last year the President of the United States vetoed a textile bill, a textile bill that would have merely set only 1 percent growth in imports of textiles into this country.

I was in my district the other day in a store and was talking with an unemployed textile worker. And he picked up something off the counter and looked at it, it said, "Made in China." And that unemployed textile worker said to me:

> When are we going to stop this? When are we going to understand that we are giving our jobs away? When are we going to understand that one of these days, and very soon, our American workers are not going to have jobs and they are not going to be able to purchase homes and they are not going to be able to purchase automobiles? They are not going to be able to support themselves, and the economic base of this country will be gone.

President Bush, I say to you, do not veto the middle-income people in this country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Members are reminded to direct their remarks to the Chair, not to the President.

DROUGHT RELIEF

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, I am taking the floor today to express my hope that you have on your list of legislation that must be passed before our adjournment, the dire emergency supplemental appropriations bill. The House passed the supplemental on October 29, and it's currently awaiting consideration by the other body.

It is absolutely no exaggeration to say that my constituents are in dire need of this assistance, both the additional funds for FEMA disaster assistance, and the $1.75 billion in the bill for crop-loss assistance for farmers and ranchers.

In Nebraska, producers have experienced losses due to severe drought, hail, high wind, excessive rain, flash flooding, and killing frost. The State emergency board [SEB] has declared 22 counties in the State have exceeded a 30-percent loss in at least one crop enterprise, with many counties suffering across-the-board losses exceeding 30 percent.

These people are hard-working taxpayers, the foundation of our economy, and I urge this Congress, and the administration to respond to their plight. Helping them is an investment in this country, and we should not go home for turkey—or Christmas—until we have responded to the ravages of nature, and made that investment.

VOL
137
PT
23
NO
21
—
25
1991
UMI

GOVERNMENT BY VETO

(Mr. SYNAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, under Presidents Eisenhower, Nixon, Ford, and Reagan, we had divided Government, but we did not have paralyzed Government, with a Republican in the White House, and a Democratic Congress, the two political parties, must work together to solve the Nation's problems.

With President Bush, this tradition has been discarded. Rather than governing by consensus, comity, and accommodation, President Bush has used this—the veto pen—to thwart change, frustrate the will of the American people, and stop our efforts for economic recovery.

This summer, he killed our bill to send extended unemployment benefits to families whose breadwinners lost their jobs in the Republican recession. He vetoed our second bill. Only when the waters of recession lapped at the lawn of the White House, did he sign our bill. But that was after the President forced down the levels of benefits for unemployed workers.

Government by veto is not leadership, Mr. Speaker. We need cooperation, not opposition and dissent, from the one man elected by all Americans.

TERRORISM IN EL SALVADOR

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, last Saturday marked the second anniversary of the brutal slaying of six Jesuit Priests, their housekeeper, and her adolescent daughter by Salvadorean security forces at the University of Central America.

For 2 years we have watched and waited for justice to prevail in El Salvador. In an unprecedented feat, two army officers have been convicted for the atrocity. While we applaud this verdict, we know that it is not over. As long as seven subordinate members of the army—who self-confessed to the eight murders—are free, and as long as the original architects of the execution are veiled, justice has not been served in El Salvador. I urge my colleagues to continue to press for the truth in the Jesuit case as well as the other, lesser publicized cases of State-sponsored terrorism in El Salvador.

THE FSX AIRPLANE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, one of the most long-term significant decisions made since George Bush became President was his veto of the legislation which would have stopped the partnership of Japan to codevelop a new jet fighter called the FSX. The President was so dedicated to jointly develop this airplane with Japan—with new generation and new technology in connection with fighter aircraft—that he vetoed efforts, by the majority of both Houses of Congress, to stop this transfer of technology. What are the consequences of this veto?

The United States for over 50 years has been the undisputed leader in aircraft production and aerospace development. Well over 1 million jobs exist in that industry alone. Yet this veto, and the resulting joint development of the FSX fighter plane in Japan, will provide the Japanese with sensitive high technology aerospace information.

By his veto pen the President puts America in the vulnerable position of losing thousands of jobs overseas, of losing our historic and unparalleled military and civilian technology to our foreign competitors.

It is said that the pen is mightier than the sword. In the case of this George Bush veto, the veto pen has become a sword aimed right at the heart of the American aerospace industry.

YANOMAMI INDIANS RECEIVE LANDS IN BRAZIL

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I want to commend Brazil's President Collor for signing a decree to legally recognize 36,000 square miles of Brazilian forest as Yanomami territory. These people of the rain forest have faced extinction due to rapid deforestation. The Congressional Human Rights caucus has met with individuals from the Yanomami Tribe who have traveled around the world seeking protection of their rights at the expense of their personal health and safety. We send them our continued support and congratulate them on this victory.

Since the Houston summit in 1990, where the G–7 nations expressed their interest in protecting existing forests, Brazil has been working on a pilot program for sustainable use of their rain forests. The environmental benefits of conserving their unique ecosystem are clear. However, the survival of the culture and respect for the basic human rights of the forest dwellers are intrinsic to the success of the forest plan. Now, thanks to the commitment of Brazilian Environment Secretary Jose Lutzenberger and the will of President Collor, the forest plan can be received as just one part of a commitment to cultural survival in Brazil. President Collor should not be the last to recognize the rights of indigenous people.

□ 1120

PRESIDENT BUSH HAS BECOME THE "JUST SAY NO" PRESIDENT

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, President George Bush has adopted Nancy Reagan's drug policy as his domestic policy, but unfortunately just saying no will not do it anymore.

As my colleagues will accurately chronicle in later remarks, the President has left behind him a trail of disappointed disasters on our economic and domestic front. And in the words of Al Jolson, "We ain't seen nothing' yet."

The President has promised to veto help for beleaguered dairy farmers, for striker replacement legislation, to veto pending campaign finance reform and taxpayer fairness for the middle class, to veto cable TV regulation and Federal facilities environmental cleanup, and to veto national voter registration and the disaster relief bill that my Republican colleague mentioned just a few moments ago.

Yes, this Republican President has chosen to espouse the view of another Republican predecessor, Teddy Roosevelt, but he has changed it just a little. He speaks shrilly and carries a big pen. Yes, for many Americans the best, truly, is yet to come.

SUPPORT ELEVATING ENVIRONMENTAL PROTECTION AGENCY TO CABINET-LEVEL STATUS

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I am aware of the fact that the rules of the House require us to address the Chair and no one else, so, Mr. Speaker, I am addressing you and I am pleading to you, I am urging you to encourage the chairman of the Government Operations Committee to join us in taking advantage of an opportunity to elevate the Environmental Protection Agency to Cabinet-level status. I say this on a bipartisan basis.

We have worked painstakingly for many, many months to craft a bill that has been passed by the Senate, sponsored by Senators GLENN and ROTH on a bipartisan basis. That bill is now on the table, Mr. Speaker, and we can move it rapidly before the gavel comes down on this first session of this Congress.

I would point out that a broad bipartisan coalition of our colleagues in the House encourage the support of this legislation. It is endorsed by every major environmental group in America today. It is time that we gave to the environment the attention it deserves,

and elevate this Agency to Cabinet-level status.

TOO MANY WHITE HOUSE VETOES

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, at every opportunity from 1983 to 1988 the White House trumpeted "The Reagan Recovery, the Reagan Recovery." Now that we are in a Bush recession the White House is desperately trying to disown the consequences of their own economic policies.

The vetoes being talked about today demonstrate just how fully the Republicans have been in control over the past 10 years. They demonstrate how the White House has turned a Democratic majority in the Congress into a minority. They also demonstrate why no Congress since World War II has ever been able to change any President's budget by more than 2 percent.

Continuous threats of vetoes have prevented Congress from successfully challenging administration fiscal policy. On foreign aid, for instance, the Reagan-Bush White House twice threatened the Congress with the veto of foreign aid bills because the White House felt that we did not spend enough, at the same time that this White House is threatening to veto help for dairy farmers because it provides, in their view, too much help.

What we need from the White House is more vision, more cooperation, and less unilateral negativism.

PROTECTION FOR PRODEMOCRACY CHINESE STUDENTS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, today I am introducing legislation that will provide long-term protection for prodemocracy Chinese students. These students are currently protected by the President's Executive order of April 11, 1990, but this Executive order will expire.

My bill would authorize the U.S. Attorney General to adjust the status of Chinese nationals protected by the Executive order to that of permanent resident, if the President has not certified before July 1, 1993, that conditions in China permit their safe return. To be eligible for his adjustment, the dissidents would be required to:

First, apply for the adjustment of status during the 6-month period beginning July 1, 1993;

Second, have resided continuously in the United States since April 11, 1990, with exceptions for travel as authorized by Executive Order 12711; and

Third, be present in the United States when the application is filed.

The detention of dissidents Dai Qing and Hou Xiaotian by Beijing officials during Secretary Baker's recent visit to China gives reason to believe that prodemocracy Chinese nationals in the United States will face retribution if and when they return to their homeland.

It is crucial that we show our commitment to freedom and democracy by protecting these brave young men and women. Please join me and Congresswoman PELOSI in cosponsoring this important piece of legislation.

WORKING AMERICANS DESERVE ADEQUATE MINIMUM WAGE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, I am holding the symbol, unfortunately, of the present administration, and that is the veto pen. The President has used a veto pen 24 times to frustrate the American people, the vast majority of this Congress, and the vast majority of the American people in legislation that they need to address a lot of the problems in this country. Unfortunately, the only industry that appears to be growing in this Nation, thanks to the President's efforts, is the veto pen industry.

He has vetoed, for instance, on June 13, 1989, a minimum wage bill that would have provided the first increase in many years for the working poor, the people that are working, Mr. Speaker. He was pressing for capital gains for the highest income while vetoing legislation to assist the lowest income.

Middle-income persons know that they lost income in earning power over the past decade, but yet thousands of working poor fell below the poverty line. The President's response is to press for legislation that assists the upper 1 percent while vetoing legislation that protects the bottom percentages.

How does one get money for stoves, refrigerators, and cars? We give them a decent wage, not a veto.

DEMOCRATS GETTING THE MESSAGE ON POLITICAL LEGISLATION

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, it appears that the Members of the Democratic majority are visibly upset about the President's exercise of his constitutional veto power. I guess they are finally beginning to get the message. They have to stop fooling around with political legislation, legislation designed to score points for the next Presidential election, and start working with the President of the United States if we are going to get something done for the American people. That is what they are asking for.

Respected Washington Post columnist David Broder wrote a column recently and he criticized the efforts of the majority in the Congress, talking about the results of our divided government, the fact that we were not accomplishing anything, but he did not blame the President. He blamed the majority, the Democrat majority in the Congress. He said that he had spoken recently with Republicans and he believed that they were about ready to govern, that they had the answers that could provide the solutions to the problems that the American people are looking for.

I think when the American people see time after time nothing but political legislaltion coming out of this body, which the President then is forced to veto, they understand why constitutionally he was given that authority and why it is about time that the Democrat majority gets that message.

THE PRESIDENT FLIP FLOPS ON CIVIL RIGHTS LEGISLATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, on October 22, 1990, the President vetoed the civil rights bill and that was sustained by one vote in the Senate. Yesterday, almost 1 year later, he signed the civil rights bill. But then that morning he set aside a proposed Executive order that would eliminate affirmative action within the executive branch.

Like so many other domestic issues, the American people are not sure where the President stands on this issue.

There is a basic principle in this country, and it is a principle that says we believe in equality of rights and that we believe that there are no rights unless there are remedies. We cannot just talk about rights unless we are prepared to remedy wrongs.

This Nation needs now, more than ever, leadership, not ambivalence. It needs commitment, not uncertainty. It needs to appeal to the best in our people, not the worst.

Protecting the rights of the weakest among us protects the rights of all of us.

The President may be able to veto the civil rights bill. He can never veto the spirit and hope for equality and equal justice that is America.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair will remind our

VOL 137
PT 23
NO 21–25
1991
UMI

guests in the gallery that we are delighted to have them with us, but they are not to respond either positively or negatively to statements made by Members on the floor.

THE FINGER POINTERS ARE THE ONES WHO CONTROL

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, today, a day like all days, there is a lot of finger pointing here at the President by the Democrats, the same old carping, carping, carping.

But my friends, since 1954 every Speaker here has been Democrat, every chairman of the committees has been a Democrat, and every subcommittee chairman.

□ 1130

We have a good deal of applause, but why all the carping? You are in charge.

This card right here, 268 Democrats have it, 167 Republicans, 100 more Democrats than Republicans.

Do you know this veto pen that you are holding up here, do you know the President could not even buy that without your permission?

I find people are upset with the bickering. It seems that nothing works in this Government any more, just, you know, give and take.

Why do we not get together? Why do you not with your big majority in the House work with the President and let us do something positive for America for a change? Let us stop the bickering.

People put their trust and confidence in us to come here and do a job. Let us not betray that trust and confidence. Let us do what is best for America. Let us work together.

PRESIDENT WANTS TO GOVERN BY VETO

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, the President takes great pride in the fact that Congress keeps sustaining his vetoes—he wants to govern by veto, not by actually passing programs that will help the American people.

Let us look at the effect of his veto and threats to veto civil rights legislation. Last year he vetoed an important civil rights bill that would have reversed a number of Supreme Court decisions which restricted the right of workers to sue their employers for job discrimination. This year he repeatedly threatened to veto similar legislation and finally agreed to sign the bill.

His veto and threat to veto delayed action on this important subject for more than a year.

And yesterday, even as he signed the bill, he sent out mixed signals that he really doesn't support the basic thrust of the legislation.

While he did not veto the latest bill, he may have been signing it in invisible ink.

OLD-FASHIONED POLITICS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, if you are a veteran in my district in southwest Florida, you might travel over 100 miles to the nearest veterans hospital and still be turned away because your ailment is not service connected and there are no facilities available. But I can tell you about one place where the Government honors its pledge "to care for him who shall have borne the battle"—Allen Park, MI where over one-quarter billion dollars is being spent to modernize and replace a veterans hospital that already has empty beds. But what good is that? I hear the laments of our veterans who ask, "Why can't I receive the same care here in southwest Florida?" Thousands of growth State residents ask this question and so do I. We pay the same taxes as the rest of the country but we are always shortchanged on Federal resources. And it is not just veterans, most funding formulas are biased against growth States, and the current mind-set is so entrenched, so antediluvian that it cannot adjust to the changing needs of dynamic modern America. So I ask, Mr. Speaker, why cannot modern growth States ever get a fair shake? Is it just old fashioned politics?

A LEADERSHIP VOID IN THE WHITE HOUSE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, America has a right to expect leadership from her Presidents. Under difficult circumstances, Presidents are expected to pull the country together, set goals, provide solutions.

Yet while our working middle class families struggle to survive, and lose sight of an America in which children can hope for a better life than their parents, this President denies that any problems exist.

The President says he has compassion. He speaks with feeling about the need to preserve the family values that have kept America strong.

But when families said they needed leave to take care of sick children and ailing grandparents, what did President Bush do? When parents asked for leave from their jobs to care for a new infant or newly adopted child, what did President Bush do? When parents asked for leave for family emergencies, what did President Bush do?

He vetoed the bill that would have provided all those things. That was a year and a half ago, Mr. Speaker. A year and a half that families went without. Now, this year, we have finally passed a bill weak enough for the President to sign.

Mr. Speaker, this is not courage. This is not caring. This is not compassion. And it certainly is not leadership.

WHAT IS THE PROBLEM WITH THE PRESIDENCY

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, I have been listening to my colleagues talk this morning and I am trying to figure out what the problem of the Presidency is, why we have this inactivity, why we have this negativism.

At a time when the country, frankly, needs an Eisenhower, we seem to have drawn a Coolidge. Eisenhower could work with the Congress, Coolidge ignored the Congress and ignored the country; but I think it is something deeper than that. I think maybe it is crystallized best in his veto of the minimum-wage bill and in the very tepid amount that we finally gave them.

I think we have a President who does not realize that when he was elected, he was to be President of all the people, the little people as well as the big people, his supporters as well as his opponents. He is to look out for the best of all American society, not a narrow band of ideologues who somehow brought him to power.

I am afraid the country will continue on its present course until the President realizes his responsibilities to all Americans, young and old, black and white, of every race and of every religion and born to every station of life. Until the President realizes that, I am afraid that these kinds of speeches we are giving this morning will continue and the country will suffer as a consequence.

PRESIDENT NO

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the President has sent more veto messages to the Congress than he sent domestic initiatives. We should start calling him President No. President No has nothing left but the veto because his party in addition to a budget deficit also suffers from an idea deficit. Supply-side economics, the President once called it voodoo economics. It does not work. The boogie man of communism has

faded away. The GOP learned the consequences of being wrong on the choice issue. Race politics exploded in their face in the form of David Duke.

But President No still needs something to pay the rent for the ideological ax grinders. What does he use? The veto. That is great for President Bush. It gives him something to do, keeps his speechwriters working, but the politics of "no" hurts working Americans.

Take the veto of the family leave bill. The recession already has working families worried about losing their jobs. Why they have to worry about whether they will still have a job after having a baby or caring for a dying parent is beyond me.

Mr. Speaker, if President Bush continues to be President No, the American people will tell him he has no job protection next November and will veto him out of office.

U.S. PHARMACEUTICAL COMPANIES FALLING TO JAPANESE OWNERSHIP

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, how many United States pharmaceutical companies were purchased by the Japanese in 1988? The answer is zero. In 1989 the answer is once again zero. But in 1990, 19 major United States pharmaceutical companies have fallen to ownership by Japanese investors either by a direct buyout or purchase of 15 percent of the company and control of all research and development funding.

These acquired businesses are high-demand companies on the leading edge of technology ranging from biotechnology to food supplements. In many cases, Japanese firms paid two to three times the actual value of the company in the purchase price.

The trend typifies the coordinated commercial strategy employed by many of our trading partners, particularly Japan. It appears pharmaceutical is about to move up beside autos, bearings, and semiconductors as the next target to be assaulted.

This targeting has also been extended to our university campuses. Recent joint ventures between Japanese companies and the research arms of several large universities have opened the doors to our most basic and important mechanism for technology development.

WHAT IS IN A NAME?

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, what is in a name?

Last Sunday while I was watching "This Week with David Brinkley," I heard Vice President QUAYLE refer to the Governor of New York on several occasions as Mahr-io, with an exaggerated stress that seemed to this listener to be a not so subtle attempt to appeal to ethnic prejudice; for Mario, unlike J. DANFORTH, ends in a vowel. If that is the Vice President's intent, then he should be careful, for there are a lot of Marios out here in America, a lot of Theresa Marias, a lot of Guillermos, a lot of Mohammads, a lot of Ravis and Chaims, a lot of Bjorns and a lot of Lings, and a lot of Stephanos.

Put us all together and we are the mosaic of America.

So yes, J. DANFORTH, Mario does end in a vowel, but remember, so does Bubba.

STOP MILITARY AID TO EL SALVADOR

(Mr. COX of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of Illinois. Mr. Speaker, 2 years ago last Saturday, six Jesuit priests and their two women associates were brutally murdered by uniformed members of the Salvadoran military. Their only crime had been their work for a more just El Salvador. Much evidence points to the complicity of high-ranking members of the Salvadoran armed forces. At the time of the slayings, the United States-supported Government of El Salvador assured the world that the guilty parties would be brought to justice. We are still waiting for justice to be served.

Throughout the last decade, the United States Government provided massive military aid to the Salvadoran armed forces. Not surprisingly, the conflict in El Salvador escalated. At the time, President Reagan told the American people that this aid was necessary to prevent the spread of communism in Central America. Now, with communism in decline around the world, it is time to stop defining our policies by what we are against, and instead, tell the world what we are for.

Continued military aid to El Salvador will do nothing to foster the growth of democracy in Central America. If we are serious about promoting our values, we must change our focus to economic assistance. Only in a stable economic climate can democracy flourish.

Recently, Congressman JIM MCDERMOTT, who has been a true leader on this issue, and I sent a letter to the House leadership stating our goals for making significant cuts in military aid to El Salvador. The letter was signed by 55 Members who share our concerns. Unified leadership on this issue is critical if we are ever going to resolve the outstanding issues in the peace negotiations.

PENNED DOWN BY THE PRESIDENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am very proud of this House. This House, under Democratic leadership, has done all sorts of things for the hopes of Americans. And what has happened? We get them out of this House and out of the Senate under Democratic leadership, and they go to the other end of the street and they get penned down by the President of the United States.

Let me list some of those hopes: Family medical leave, America's families want that; help to mediate the Eastern Airlines strike, we wanted that; the civil rights bill, women's rights, native American businessmen having a preference when dealing with the Federal Government, sanctions against foreign companies engaged in biological and chemical warfare, intelligence reports to this Congress so we know what is going on.

Mr. Speaker, I could go on and on and on. Those things passed. We tried to make America's lives better, and the President penned them all down.

I think we are getting tired of getting penned down, and America's hopes being penned down.

The President must like poor Americans; he is doing everything he can to create more of them.

I AM ON THE RIGHT SIDE OF THE AISLE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, coming from an Irish-American Catholic family, born in Harlem, New York, Manhattan, on 110th Street; my family was Democrat when I was young. By all rights I should be sitting on the majority side.

However, because of term limitations and because of Jim Farley, the postmaster general, FDR's campaign manager the first two times around, Jim Farley, my dad's handball partner at the New York AC said, "Harry, he should not have a third term. He is going to die in office." He was only off by 89 days.

He said, "What was good enough for George Washington should be good enough for Franklin." It is too bad. But he was a great leader during the Second World War. However, my family did switch to Republican. Here I am, 21 years of age, in Florida, in pilot training at College Station, last time I ever saw a Republican Speaker up there, Joe Martin.

Now I am 58, I have five grown kids all in their thirties, eight grand-

VOL 137 PT 23 NO 21—25 1991 UMI

children. And this House has been controlled by Democrats for almost 38 years, my entire life, and we are running up a debt of $1,400,000,000 a day. I think maybe I am on the right side of the aisle. I do not know; I will debate it.

THE COLD WAR IS NOT OVER

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, the growing tensions in the Korean Peninsula show that the cold war is still at least a bit chilly. Yesterday I heard testimony from Richard Perle, the former Reagan administration official. He stated that in order to stop the development of nuclear weapons in North Korea, "The use of force is probably the only effective measure available to us."

The use of force? How about international pressure? How about dialog? How about coordinated sanctions?

Mr. Speaker, where have we heard this all before? Are Americans again being called off to wage war on foreign soil?

Yesterday I introduced legislation to encourage peace and reunification between the two Koreas and to encourage North Korea to allow international teams to inspect its nuclear facilities.

No question that the nuclear program is the largest obstacle to peace. They must allow inspections and eventually elimination of nuclear weapons. However, Mr. Speaker, we should be working to achieve the goals of unification and elimination of nuclear weapons on the Korean Peninsula, not by force but by peaceful means.

BUYING AMERICAN CARS WILL STIMULATE U.S. ECONOMY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, last night, national public radio reported that the President—to stimulate the economy—is considering incentives for those Americans who buy cars made in the United States.

Kudos to the President.

And kudos to Steven Boyd—the president of the Bank of Glen Burnie, Maryland—who has instituted a 1 percent discount on all loans made to those borrowers who buy American cars. Boyd has been deluged with calls by would-be buyers interested in his proposal.

With 6.8 percent unemployment, we need to think of our people. The greatest unemployment benefit package is one that provides jobs.

The way to stimulate the economy is jobs. Jobs for Americans. Jobs for taxpayers who pay the frieght for all those great programs that we pass in the Congress. The automobile industry is vital; stimulate it and stimulate all American manufactured goods as well, via investment tax credits for them.

If there are no jobs, there are no incomes, and no income taxes, revenue to the IRS.

We should applaud the efforts of Mr. Boyd and of the President. It is time we started concentrating on American jobs and not on the needs of our allies.

REMEMBER THE JESUITS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, 2 years have passed since Salvadoran soldiers assassinated six Jesuits and two witnesses in cold blood.

Our colleague, JOE MOAKLEY, with his staff, has tirelessly pursued this case. On Monday, he concluded that, in all likelihood, the crime was systematically planned and ordered by five officers at the highest level, none of whom have been accused or tried.

Where is the outrage about this travesty of justice? Chairman MOAKLEY's report is the best example yet of the level at which this horror originates. It starts at the top. it starts with the people who cash the U.S. check.

We cannot simply shrug our shoulders and walk away from this crime. We must remember that these men were gunned down for their beliefs by a military that kills with impunity. I hope this case will spell the end of this sad chapter in our history. We owe it to the Jesuits and thousands of others to end our military aid to El Salvador.

EL SALVADOR

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, almost 2 years ago to the day, during consideration of the foreign aid authorization bill, Members of this House gave firm notice to the Government of El Salvador that it expected justice to be carried out in the case of the executions of six Jesuit priests, their housekeeper, and her daughter, who had been murdered by the military just days before.

After almost 2 years and constant pressure, a milestone was set—two Salvadoran officers were convicted of human rights abuses for the first time. And while many hailed these convictions as a historic dent in the traditional impunity of the Salvadoran Armed Forces, a careful examination of the trial clearly demonstrates that justice has not been carried out.

Only two of the nine soldiers indicted in the murders were convicted. Among the seven acquitted were those who confessed to having pulled the triggers. They were acquitted for obeying the commands of those two officers on the scene who ordered the slayings.

Mr. Speaker, United States policy for more than 10 years has stressed the establishment of an independent and functioning system of justice in El Salvador. I for one do not consider just a system which excuses murderers who were just following orders.

Nor am I satisfied that all those responsible for these murders have been tried. Our colleague JOE MOAKLEY has recently issued a report indicating that high-ranking Salvadoran officers—unindicted coconspirators—actually conceived of, and then covered up their roles in, the Jesuit killings.

A just and peaceful resolution of the war in El Salvador requires that the full truth be established in this case.

☐ 1150

INTRODUCTION OF CAPITAL GAINS TAX CUT PROPOSAL

(Mr. DONNELLY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, today I am introducing legislation to provide a capital gains tax cut for working class Americans. In my legislation, taxpayers would have a lifetime capital gains bank of $200,000. Any taxpayer, throughout the person's lifetime, could exclude up to 50 percent of the gain on the sale of a capital asset, up to the limit in the bank, for a maximum tax rate of 15.5 percent.

The benefit would phase out as a taxpayer's income increased above $200,000. Under my bill, individuals who sold stocks saved for retirement or a second home, or elderly individuals who had a large gain in the sale of their principal residence, would benefit. Because the bill has a 3-year holding period, no short-term stock speculators would qualify.

Finally, my bill provides that taxpayers could index the cost of real estate for inflation. An inflation-induced gain is not a capital gain and should not be subject to tax.

Mr. Speaker, I make up the revenue loss by increasing the top marginal tax rate from 31 percent to 34 percent for people with incomes of more than $250,000 per year. These people saw their tax rates decline in the 1980's from 70 percent to 31 percent, while middle-class Americans saw their taxes increase over the last decade.

Mr. Speaker, there is now a clear majority of the members of the Committee on Ways and Means who would support some sort of middle-class tax relief in regard to a capital gains reduction. This much-needed shot in the arm for a dismal economy can only be accomplished if the President becomes realistic and is willing to compromise.

Mr. Speaker, I insert a summary for the RECORD.

SUMMARY OF MIDDLE-INCOME CAPITAL GAINS PROPOSAL

All individuals would have a lifetime capital gains "bank".

Bank limit would be $200,000 per person.

All individuals would be entitled to the $200,000 bank; for example each spouse of a married couple would each have a separate limit.

Any individual who sold a qualified asset could exclude up to 50% of the gain on the sale, up to the $200,000 limit.

Qualified assets would include all capital assets under present law, except collectibles.

Under the bill, the maximum tax rate on capital gains income would be 15.5% (i.e., ½ of the maximum 31% tax rate).

The full benefit would not be available in any year that a taxpayer had adjusted gross income in excess of $200,000.

In the case of a sale or exchange of real property, taxpayers would be able to index their basis in the asset to the rate of inflation.

Thus, no tax on inflation-induced gains.

Example: taxpayer buys a house for $100,000 and sells it 9 years later for $200,000. Inflation was 5% per year over the 9-year period. Basis for measuring gain is $145,000, so gain is $55,000.

A three-year holding period would apply, so that the deduction would not be available to any taxpayer who held the asset for less than three years.

Holding period would encourage long-term investments; no tax break for stock speculators.

The bill would be paid for by increasing the top marginal tax rate of 31% to 34% for individuals with taxable income in excess of $250,000.

POLLS SHOW PUBLIC REJECTS ABORTION AS FAMILY PLANNING METHOD

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, we have done what is right by the American people. Based upon the results of several nationwide polls it is clear that the majority of Americans consider it wrong to use abortion as a method of family planning.

A June poll by the Wirthlin Group revealed that a full 83 percent of Americans oppose the use of abortion as a method of birth of birth control. Simply stated, American taxpayers feel strongly, that they should not be forced to subsidize abortion advocacy of any kind.

It's time to tell the truth about the title X regulations. it is clearly an issue of taxpayer's choice. It is wrong to expect the majority of Americans who oppose abortion as family planning to support a program that makes no distinction between the two. It also provided no way for parents to have input in their daughter's decisions.

The fact is that title X was created as a pregnancy prevention program. It was intended to help poor women avoid unplanned pregnancy and plan for the arrival of each child. All discussion regarding title X makes it very clear that there was never intended to be any connection between title X activities and abortion-related activities. These regulations have corrected abuses of taxpayer dollars and restored integrity to the program.

What is most difficult to understand is why some of the Members feel that the taxpayers are somehow obligated to fund an activity that most Americans find morally wrong—the promotion of abortion as family planning. Family planning prevents pregnancy. Abortion stops a beating heart. I commend my colleagues for restoring integrity to this process.

URGING A CUT OFF OF MILITARY AID TO EL SALVADOR

(Mr. ATKINS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, 2 years ago members of the Salvadorean military viciously murdered six Jesuit priests, their housekeeper, and her 15-year-old daughter.

On September 28 of this year, a court finally delivered a long-overdue guilty verdict against two Salvadorean officers, but the soldiers who actually carried out the murders were found not guilty.

Earlier this month, thanks to the work of the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], and his investigating committee, we learned of new evidence which points to the involvement of top Salvadorean military officials in plotting the murders.

Mr. Speaker, this year the United states has spent over $300,000 per day on military aid to El Salvador. Think of it. That is $300,000 a day to bankroll murderers in the Salvadorean Army who sadistically kill unarmed priests.

These are not our values, Mr. Speaker. This is not the purpose of foreign aid. It is time to stop military assistance to El Salvador.

SUPPORT ASKED FOR LEGISLATION TO BENEFIT MIDDLE CLASS SEEKING HIGHER EDUCATION

(Mr. ANDREWS of New Jersey asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ANDREWS of New Jersey. Mr. Speaker, I have some good news and some bad news. The good news is that unlike in most areas, the President does have a higher education policy. The bad news is that that education policy says you can go to college if you are very wealthy or very lucky. It is a higher education policy that says that middle-class people can pay for Pell grants, but they cannot get them, middle-class people can pay for student loans but they cannot borrow them, and middle-class kids can watch as everybody else's kids have a chance to go to school and theirs cannot.

Mr. Speaker, we have a chance to do something about that. H.R. 3553, reported out by the committee on Education and Labor, would change that policy. I urge my colleagues to support H.R. 3553 and put the middle class back in the freshman class.

PREVENTING DISASTER IN HAITI

(Mr. HALL of Ohio asked and was given prmission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, once again, the faces of hungry children could fill our TV screens and front pages. But, I'm not talking about refugees in the Horn of Africa. Today, I am speaking of children a few miles south of Florida—in Haiti.

Even before the coup, Haiti was the poorest country in this hemisphere. Since the embargo, programs that fed 420,000 people each day now serve fewer than 20,000. The lack of fuel and the desperate security situation is making it impossible for those programs to continue any work at all. As of today, there is no fuel or food arriving in Haiti.

But Port au Prince doesn't have to be Baghdad, Mr. Speaker. If the President and international community act now, innocent children and pregnant mothers won't have to face famine and disease.

Earlier this week, several members of the Select Committee on Hunger and I wrote to President Bush to recommend that the OAS negotiate the delivery of food and emergency supplies in Haiti. The OAS could directly supervise the delivery, with distribution through relief organizations that already exist. The OAS' physical presence and the spotlight of world public opinion will ensure the supplies are used for solely humanitarian purposes.

This emergency relief operation won't violate the terms of the embargo. What's more, it could set an important precedent—in Haiti, we could prevent famine instead of addressing a tragedy after it's too late.

TEXAS CONSTITUENT SPEAKS OUT ON ISSUE OF HOMELESSNESS

(Mr. WASHINGTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. WASHINGTON. Mr. Speaker, let me say a word this morning on behalf of those who have no tongue, but not

VOL 137 PT 23 NO 21—25 1991 UMI

from me—from Andrea Lazar, who lives in the 18th Congressional District of Texas. She wrote the President:

DEAR PRESIDENT BUSH: Three weeks ago you came to Houston. Three weeks ago cold weather came to Houston. On the evening news the first story was about your coming to Houston. The second story was about the cold weather coming to Houston. They interviewed a man who said he was lucky because a friend of his gave him two blankets.

Mr. Speaker, within 24 hours President Bush raised $1 million for his 1992 campaign. Within 48 hours two Texas cities raised almost $2 million for the President's campaign.

There are hundreds of thousands of families with forgotten faces who call the streets of America home. Imagine how many homeless shelters and homes we could build with $2 million. Imagine for a minute how much progress we could make on the issue of homelessness and how many people could be helped if you spent 2 hours at a fundraiser to benefit the homeless in every American city.

Mr. Speaker, I am proud to represent Andrea Lazar in the Congress of the United States, and I associate myself with her remarks.

Mr. Speaker, the full text of her letter is as follows:

HOUSTON, TX, *November 17, 1991.*

THE PRESIDENT
The White House, Washington, DC.

PRESIDENT BUSH: Three weeks ago, you came to Houston. Three weeks ago, the first cold weather of the fall season hit Houston.

On the evening news, the first story was about your visit. The second story was about the weather—about what a surprise the cold weather was, especially for those living in the streets. One man said that he was one of the lucky ones because a friend of his gave him two blankets.

President Bush, within the span of 24 hours, you raised at least $1 million for your 1992 Presidential campaign. Over a total of 48 hours and two Texas cities, you raised close to $2 million dollars. All for your 1992 Presidential campaign.

There are hundreds of thousands of families and forgotten faces that call the streets of America "home." Can you imagine how many homeless shelters, or homes for the homeless, we could build for $2 million?

Can you imagine, for a minute, how much progress we could make on this issue—and how many people could be helped—if you spent 2 hours at a fundraising dinner to benefit the homeless in every major city in America?

To all of us, to all of the world, your priorities are outrageously clear.

ANDREA LAZAR.

PASSAGE OF TRANSPORTATION BILL WOULD HELP IN DECLINING ECONOMY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the President says that all the figures show that the economy is great and it is progressing. The only problem is that the engine will not work. The fact of the matter is that we are losing jobs. We are still losing our industries. We are losing consumer confidence, and the newest figures out on unemployment are at epidemic proportions. I ask the Members to take a look at them.

No; the engine will not go because the battery is dead. It does need a jump start, and we have a golden opportunity with the Transportation Act of 1991, with $151 billion over a 6-year period, and we would be foolish if we did not do something about it. The economic crisis is getting worse, the session is getting short, and the people are getting very impatient.

Mr. Speaker, we need this transportation bill. We need it now. Let us not go home without it.

☐ 1200

U.S. RECOGNITION IS NECESSARY TO STOP THE WAR IN CROATIA

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SENSENBRENNER. Mr. Speaker, over the last 3 days, Americans and the world have witnessed the unbelievable carnage and destruction of the city of Vukovar in eastern Croatia by Serbian insurgents and forces of the Serbia Communist government. The damage has been described as the greatest destruction to touch Europe since World War II.

In today's Washington Post, Stephen S. Rosenfeld writes on the op-ed page about the ineffectiveness of the outside world in stemming the brutal aggression of Serbia in Croatia, where it is estimated 10,000 Croatians have died in the last 5 months.

Rosenfeld suggests that a U.N.-imposed oil embargo is the last best hope for sparing the former Yugoslavia. While that may be somewhat naive, since the Serbs reportedly have a year's supply of oil to fuel its fighting machine—the fifth largest in all of Europe—it certainly is one part of the solution. The most effective answer requiring no military force or United States resources is recognition by the United States of the independence of Croatia and Slovenia. Regrettably, if the Bush administration has seen the wisdom in that approach early on, it is doubtful the destruction of Vukovar would have occurred.

Mr. Speaker, I commend Mr. Rosenfeld's column to my colleagues.

[From the Washington Post, Nov. 22, 1991]

THE LAST, BEST HOPE FOR YUGOSLAVIA

(By Stephen S. Rosenfeld)

To view the wasteland of Dubrovnik and Vukovar—representative places of the greatest destruction to touch Europe since World War II—is to invite an obligation to redouble efforts to ensure that this carnage does not go on.

These results of civil war in Yugoslavia are horrible in themselves. They also deserve to be taken as harbingers of things to come—not everywhere but in the Soviet Union and many other places where ethnic passions run strong and traditions of democratic and consensual accommodation run weak.

What is troubling is not just the thousands of deaths and the phenomenon of ethnicity aflame but the spectacle of the outside world's ineffectiveness. A deterministic view spreads that autonomous "historical" or "cultural" demons have been let loose, forces that cannot be controlled, and that others can do no more than put up a wall and wait on the theory that eventually the fire will burn out and meanwhile others will not be singed.

There is an element of realism in accepting the limitations of European and American policy in Yugoslavia. The West has now moved to impose some economic sanctions, but there is no sign that either public or official opinion is prepared to move on to put in international forces to separate the warring parties.

But there is also an element of evasion in expecting the limited pressures so far brought to bear to accomplish the large and necessary goal of bringing Yugoslavia to a new political place.

In fact, the mismatch between means and ends is recognised within the Bush administration. The president joined up with the European Community's economic sanctions well aware that these were unlikely to slow down the Serbian juggernaut in Croatia. A cutoff of strategic oil imports would have a better chance of doing the job.

But that would have to be a broad international project, not just a European one, and it would have to be undertaken through the United Nations. So far this path has been blocked by, among other things, the Soviet Union's reluctance to act in Yugoslavia in a way that might act a precedent for U.N. intervention in its own ethnic torments.

Here is where Eduard Shevardnadze's reappointment as Soviet foreign minister becomes immediately intriguing. Can this prestigious author of the "new political thinking" design and carry through a policy that makes further international action in Yugoslavia not so much threatening as helpful to other countries afflicted with ethnic strife?

The evident answer lies in the European Community's effort led by Lord Carrington to put together a package solution. This means an urgent halt to the use of force to bring about unilateral political change; in the current context this bears most heavily on the Serbs, who are on a cruel offensive against Croats. But it also means effective protection—different approaches are possible—for minorities in all republics, including Serbs who have been in peril in Croatia.

If you look just at the television pictures of the fighting, you will be drawn to the side of the Croats, the conspicuous victims. But if you reflect just briefly on the history, you will realize that Serbs' concern for fellow Serbs must be factored in. The Carrington mission has been poorly explained in this country, but this is what I take its logic to be.

The subject stirs passion, not to say cynicism. If you listen to most Yugoslavs, and to most Americans of Yugoslav descent who are active in the policy debate, you will miss the central fact that all the Yugoslav nationalities share responsibility for the current tragedy and that all must be prepared to contribute to a solution.

It has to be considered awfully doubtful that the EC's Carrington and Cyrus Vance, the United Nations' designated mediator, have any chance left to draw the parties toward a political solution. It could yet happen that the particular one-sided result that is being put into effect on the ground by Serbian arms will settle into place and will be ratified by time.

But that is to say that a prompt international oil embargo, which would most affect Serbia, is probably the best remaining way to even the odds in a bargaining context where Serbia's army now gives it literally an overwhelming advantage.

This is also probably the last best hope for sparing Yugoslavia much further agony—and for making the essential demonstration that in these hideous ethnic disputes, political will can tame history.

TIME TO END MILITARY AID TO EL SALVADOR

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, like a horrible nightmare, the killing of El Salvador goes on and on.

Except this nightmare does not end when the alarm clock goes off.

A case in point is the 1989 murder in cold blood of six Jesuit priests, their housekeeper and her 15-year-old daughter.

Two Salvadoran Army officers have been convicted of the crime.

We know who pulled the trigger, but who gave the orders?

Earlier this week, the Speaker's task force on El Salvador gave us the likely answer to that question.

The killings were planned the day before at a meeting of five senior Salvadoran officers.

They included the current minister and vice minister of defense and the then-chief of the Air Force.

Is it any wonder that the investigation is at a standstill?

Are these guys going to blow the whistle on themselves?

Of course not.

But this Congress can blow the whistle on a policy that subsidizes the killers of priests, peasants, and children.

It is time we ended military aid to El Salvador, and that is what we ought to do.

RETURN COUNTRY TO WHERE IT BELONGS

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, being a new Member of this body, I was disappointed the other day when the President vetoed the Labor-Health and Human Services bill. It amazes me how the same people who will tell a woman that she has to have a youngster that is unwanted, how they will walk past a little baby who sleeps in an abandoned car, will walk past a little baby who sleeps in an abandoned house, will walk past a mother and baby who walk down the street with nothing to eat. That amazes me.

Mr. Speaker, I would say to the President, veto sending our jobs to foreign countries; veto women and children walking the streets. Do that, and then we will return the country to where it belongs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded to direct their remarks to the Chair, not to the President.

LET US REMEMBER JOHN KENNEDY

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, 28 years ago today, President John F. Kennedy was taken from us by an assassin's bullet. This young and energetic American leader ushered in a period of great hope and great expectations.

He gave this country a sense of direction, a sense of purpose, a vision. He had a vision of this Nation as the New Frontier. President Kennedy inspired the best in all of us.

We should remember that President Kennedy said the "torch has been passed on to a new generation." In his brief Presidency, John Kennedy carried that torch with dignity.

On this day, let us remember the life and times of President John Fitzgerald Kennedy.

PEOPLE OF EL SALVADOR DESPERATE FOR PEACE

(Mr. ANDREWS of Maine asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Maine. Mr. Speaker, I am very pleased that Members of Congress—on both sides of the aisle—have recognized the horror that occurred; 2 years ago, today, when six Jesuit priests, their housekeeper and her 15-year-old daughter were brutally murdered by members of the military of El Salvador.

The full truth to this terrible crime has yet to be revealed.

It is one of the horrors of a civil war that has cost American taxpayers over $4 billion and has cost over 75,000 people, most of them innocent men, women and children, their lives.

Congressman JOE MOAKLEY should be applauded for his tireless efforts as chair of the Speaker's Task Force on El Salvador to find the truth and demand justice in the murder case of the Jesuit priests.

The administration should apply clear and strong pressure on the Salvadoran Armed Forces to immediately reciprocate the unilateral cease-fire that was recently announced by the FMLN opposition.

As a nation, we should stand foursquare behind the United Nations in its efforts to broker a final peace in this war torn nation. A peace that the people of El Salvador desperately want, need, and deserve.

And, as a Congress, we should stop the flow of American tax dollars to murder, oppression, and injustice once and for all.

REMEMBRANCE OF MURDERED EL SALVADORAN PRIESTS, HOUSEKEEPER AND HOUSEKEEPER'S DAUGHTER

(Mr. REED asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, I rise today sadly to commemorate the death 2 years ago of six Jesuit priests, their housekeeper, and their housekeeper's daughter, in El Salvador. Through the efforts of the gentleman from Massachusetts [Mr. MOAKLEY], we have found out that these dastardly crimes were perpetrated by soldiers—supposed soldiers.

Mr. Speaker, I spent 12 years in the U.S. Army. I graduated from West Point and was trained at Fort Benning. Believe me, these are not soldiers. They are gangsters in costume. We cannot continue to provide military assistance to what is not a military force.

Mr. Speaker, this is not just a case of excesses, the impardonable excesses of undisciplined troops. This was a deliberately plotted crime by the very hierarchy of the Salvadoran Army. We cannot tolerate that. As long as we tolerate this, we will not only desecrate the memory of those brave Jesuits and those two women, we will desecrate the memory of every American who served in uniform to fight for the principles we believe in, and it is not the murder of innocents, it is justice and law.

SEARCH FOR JUSTICE MUST CONTINUE IN DEMJANJUK CASE

(Mr. TRAFICANT asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the case of Ivan the Terrible is exploding. Recent documents I received through the Freedom of Information Act absolutely prove that the Justice Department had for 13 years the identity of

VOL 137
PT 23
NO 21—25
1991
UMI

Ivan as being John Ivan Marchenko. This case now warrants a full congressional investigation.

Mr. Speaker, Israel acted on this case on information and evidence they thought was reliable. The truth is it was not. Israel cannot be faulted.

We must now know where is Marchenko? Is he dead, or is he alive somewhere sweating out the ordeal of John Demjanjuk?

Mr. Speaker, this matter deserves an investigation. They have the wrong man sentenced to die in Israel. When you let one man's rights be abrogated, you threaten the rights of all Americans.

I am asking Congress now to look at the activities surrounding the case of Ivan the Terrible, the most infamous killer of the entire Holocaust.

SUPPORT JUSTICE AND PEACE IN EL SALVADOR

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, this week marks the second anniversary of the slaying of six Jesuit priests, their cook and her daughter at the University of Central America in El Salvador.

Despite an investigation, a trial, and the conviction of two Salvadoran officers, the whole truth surrounding these slayings has yet to be revealed.

My colleague, Chairman MOAKLEY, issued this week his final report regarding the murders. It provides new information supporting widespread assertions that other high-ranking Salvadoran military officials were also involved in the murders. Yet, their guilt was concealed by a conspiracy of silence by all but one member of the military testifying at the trial. They saw nothing, said nothing or lied before the court.

Mr. Speaker, the six priests and their associates dedicated their lives to peace, justice and democracy. If the United States truly wishes to pay tribute to their lives, everyone must work to ensure that U.S. policy reflects the goals and ideals these individuals gave their lives for.

Mr. Speaker, I hope my colleagues will join me in calling on President Bush to show leadership by demanding the full truth on the Jesuit case; by withholding any future financial assistance that we give to the Government until the truth is known; by supporting the United Nations in brokering peace negotiations, and by pressuring the Salvadoran military to reciprocate the FMLN's recent unilateral cease-fire. The opportunity for peace is at hand. Let us do everything we can to support it.

EL SALVADOR

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, it has been 2 years since six Jesuit priests, a housekeeper, and her daughter were brutally murdered by Salvadoran Army troops. The soldiers who invaded the UCA University campus that November night in 1989 came to murder not only the priests, but the idea of democracy and freedom in El Salvador. This was an act of unspeakable outrage. Not only did it profoundly shock us, it provoked us into action.

At the time of the murder, the United States had spent $4 billion on aid to El Salvador. More than 70,000 people had been killed. A civil war had torn El Salvador apart for over a decade.

Now, 2 years later, elections have been held in El Salvador, a trial has been held to convict those who killed the priests, and a congressional task force under leadership of Congressman JOSEPH MOAKLEY has made its final report on the conspiracy involved in planning the murder—a conspiracy which involved the highest levels of the Salvadoran Armed Forces.

There is a powerful message in this. It is that without intervention and without congressional pressure, there would have been no progress in finding some justice for those eight martyrs. This is small comfort, since there is so much more to be found out about who was also involved as well as those prosecuted, but it does help on this day of memory.

I urge my colleagues to insist that military aid to a country that cannot prevent the military's abuse of its citizens be stopped.

NO MORE MILITARY AID FOR EL SALVADOR

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, 2 years ago this week, an army squad entered the campus of the Central American University and in cold blood, murdered six Jesuit priests, their housekeeper, and her 15-year-old daughter. Two years after the massacre in El Salvador, there is now compelling circumstantial information, revealed in Chairman MOAKLEY's report, that the decision to murder these Jesuit priests was made at a meeting of the Salvadoran military's top officers.

Mr. Speaker, since these murders, the United States has provided El Salvador with $166 million in new economic support funds, as well as millions of dollars in assistance already in the pipeline. The recent continuing resolution also makes available up to $3.5 million more per month to the military in El Salvador. Yet, the full truth on the role of the military's commanders in this brutal, premeditated crime has not been uncovered, and those responsible for the decision have not been held accountable.

The Salvadoran military has acted with impunity, terrorizing and murdering civilians throughout El Salvador's civil war. Their institutionalized brutality culminated in this tragic event which destroyed the backbone of El Salvador's intellectual community. Unfortunately, the brutality has not ended.

President Cristiani is trying to bring the Salvadoran military under some control The peace process will not work unless the military cooperates. We can help. Cutting military aid will help to promote peace. Peace and justice are the best memorial we can provide for the slain Jesuit priests.

THE TRAGEDY ON AMERICA'S STREETS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, obviously we should show compassion for the situation in El Salvador and people who have been murdered there, and our policy ought to also recognize that.

The gentleman from Illinois was absolutely right a moment ago. We ought to be just as worried about the citizens who are being murdered on our streets every night. And the fact is that we have heard from the Democrats now for a period of months and weeks about how President Bush is too concerned about what goes on overseas. The 1 minutes today sound to me as though the Democrats should heal themselves. It sounds to me as though they are more concerned about what goes on in El Salvador than they are about what goes on in the streets of Washington, DC.

We need a crime bill out here, a tough crime bill that does something about the murder on our streets.

And what happened when this House had to face up to that issue yesterday about a real crime on the streets approach? The majority of the House, by almost a 2-to-1 majority, voted against having the Federal Government have mandatory penalties against people who wield guns on the streets of America.

I tell my colleagues that the American people are worried about the fact that the guns are being used against them, and they are being murdered on their own streets. And they may worry about the people in El Salvador, and they should, but they are more worried about their own families. We ought to act here.

NO MILITARY ASSISTANCE FOR EL SALVADOR

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in 1985, I received one of the greatest honors that I have ever enjoyed. I was awarded an honorary degree from my alma mater, the University of Notre Dame.

On the very same day that I was awarded that honorary degree, a degree was also received by Jose Napoleon Duarte, the former President of El Salvador and a Notre Dame graduate.

It was awkward for me, but I felt at the same time appropriately resolved in behalf of my votes to that point and my votes since then of not providing military assistance to the country of El Salvador.

I admired then and I admire today, after his death, President Duarte's great resolve and his great courage in handling his terminal illness, but I really do not believe that providing military assistance under any circumstances to that country solves the problems that plague the country.

I think we ought to cut off the aid, and then we will be able to establish peace and justice in El Salvador.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R 2076 HOUSE JOINT RESOLUTION 201

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2076 and of House Joint Resolution 201.

The SPEAKER pro tempore. (Mr. MCNULTY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, pursuant to the order of the House on Thursday, November 21, 1991, I call up the bill (H.R. 3839) making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.

The Clerk read the title of the bill.

Mr. NATCHER. Mr. Speaker, all time yielded will be for the purposes of debate only.

Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the bill I present today replaces H.R. 2707, which was vetoed by the President on Tuesday. This veto was based on his objections to the provision of the bill related to abortion counseling in family planning clinics. As Members know, the House failed to override this veto by a vote of 276 to 156. The number of votes against the override was identical to the number who voted against the conference report on November 6. As a result, we have had to start over with a new bill.

I want to emphasize that the new bill is identical to the bill vetoed by the President, with the single exception of section 514, the abortion counseling provision. Section 514 has been stricken in its entirety. All of the dollar amounts are identical to the vetoed bill and all the terms, conditions and limitations are as agreed to in the conference on H.R. 2707. The committee expects the instructions contained in the House and Senate reports and the conference report on H.R. 2707 as well as floor debates to apply to the new bill. I will insert in the RECORD at the end of my statement a table comparing the amounts provided in the new bill to those in the House, Senate, and conference versions of H.R. 2707.

It is clear that the abortion counseling provision provokes deeply held beliefs on both sides. I urge my colleagues to support this new bill. It represents the best we can do for the many important programs that are funded within it. The longer we delay in passing a second bill, the more these critical activities will be hurt.

At the present time, the programs of the Departments of Labor, Health and Human Services, and Education are funded at the rate specified in the continuing resolution. This rate is the lower of the 1991 level, or the House or Senate passed bills. Compared to the levels in the vetoed bill. The continuing resolution provides $4.6 billion less in discretionary budget authority. To cite a few examples of programs that are being shortchanged by the continuing resolution:

	Million
Chapter 1	−631
Natinal Institutes of Health	−839
Low-income energy assistance	−500
Education for the handicapped	−239
Student financial assistance	−171
Vocational education	−184

It is not right for these programs and many others like them that do so much to improve the health of our country and the education of our children to be further jeopardized while we debate the abortion counseling matter. I urge my colleagues to support this new bill. The table which I referred to earlier follows:

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

VOL 137 PT 23 NO 21–25 1991 UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
SUMMARY							
Title I - Department of Labor: Federal Funds	7,541,537,000	7,336,447,000	7,435,073,000	7,485,176,000	7,476,230,000	7,476,230,000	
Current year	(7,541,537,000)	(7,336,447,000)	(7,435,073,000)	(7,485,176,000)	(7,288,530,000)	(7,288,530,000)	
1993 advance	---	---	---	---	(187,700,000)	(187,700,000)	
Trust Funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(3,537,331,000)	(3,509,301,000)	(3,509,301,000)	
Title II - Department of Health and Human Services: Federal Funds (all years)	151,680,827,000	165,657,345,000	167,121,817,000	168,803,583,000	168,611,962,000	168,611,962,000	
Current year	(130,543,893,000)	(139,119,345,000)	(139,460,825,000)	(141,142,591,000)	(140,950,970,000)	(140,950,970,000)	
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	
Trust Funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(6,504,857,000)	(6,934,781,000)	(6,934,781,000)	
Title III - Department of Education: Federal Funds	22,883,520,000	26,580,972,000	28,266,159,000	27,416,427,000	27,774,312,000	27,774,312,000	
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(30,493,138,000)	(31,964,771,000)	(31,964,771,000)	
Title IV - Related Agencies: Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	1,070,083,000	1,057,259,000	1,057,259,000	
Current year	(761,314,000)	(776,650,000)	(776,964,000)	(786,083,000)	(782,259,000)	(782,259,000)	
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust Funds	(98,731,000)	(121,615,000)	(108,983,000)	(109,039,000)	(107,637,000)	(107,637,000)	
Total, all titles: Federal Funds (all years)	183,185,834,000	200,611,414,000	203,853,322,000	204,775,269,000	204,919,763,000	204,919,763,000	
Current year	(161,730,264,000)	(173,813,414,000)	(175,939,021,000)	(176,830,277,000)	(176,796,071,000)	(176,796,071,000)	
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,848,692,000)	(27,848,692,000)	
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust Funds	(9,998,617,000)	(10,062,899,000)	(10,559,412,000)	(10,151,227,000)	(10,551,719,000)	(10,551,719,000)	
TITLE I - DEPARTMENT OF LABOR							
EMPLOYMENT AND TRAINING ADMINISTRATION							
PROGRAM ADMINISTRATION							
Job training programs	19,884,000	21,528,000	21,528,000	21,528,000	21,528,000	21,528,000	D
Trust funds	(2,118,000)	(2,179,000)	(2,179,000)	(2,179,000)	(2,179,000)	(2,179,000)	TF*
Employment security	316,000	442,000	442,000	442,000	442,000	442,000	D
Trust funds	(12,611,000)	(13,472,000)	(13,472,000)	(13,472,000)	(13,472,000)	(13,472,000)	TF*
Financial and administrative management	13,343,000	14,502,000	14,502,000	14,502,000	14,502,000	14,502,000	D
Trust funds	(10,075,000)	(10,686,000)	(10,686,000)	(10,686,000)	(10,686,000)	(10,686,000)	TF*
Executive direction and administration	4,376,000	5,031,000	5,031,000	4,376,000	4,376,000	4,376,000	D
Trust funds	(3,870,000)	(4,047,000)	(4,047,000)	(3,870,000)	(3,870,000)	(3,870,000)	TF*
Regional operations	15,215,000	16,132,000	16,132,000	16,132,000	16,132,000	16,132,000	D
Trust funds	(24,319,000)	(26,745,000)	(26,745,000)	(26,745,000)	(26,745,000)	(26,745,000)	TF*
Apprenticeship services	16,051,000	16,553,000	16,553,000	17,000,000	17,000,000	17,000,000	D
Total, Program Administration	122,178,000	131,317,000	131,317,000	130,932,000	130,932,000	130,932,000	
Federal funds	69,185,000	74,188,000	74,188,000	73,980,000	73,980,000	73,980,000	
Trust funds	(52,993,000)	(57,129,000)	(57,129,000)	(56,952,000)	(56,952,000)	(56,952,000)	
TRAINING AND EMPLOYMENT SERVICES							
Grants to States: Block grant	1,778,484,000	1,778,484,000	1,773,484,000	1,773,484,000	1,773,484,000	1,773,484,000	D
Summer youth employment and training program	682,912,000	682,912,000	682,912,000	682,912,000	495,212,000	495,212,000	D
Advance appropriation, FY93	---	---	---	---	187,700,000	187,700,000	D
Dislocated worker assistance	526,986,000	526,986,000	576,986,000	576,986,000	576,986,000	576,986,000	D
Federally administered programs: Native Americans	59,625,000	58,690,000	59,625,000	64,000,000	63,000,000	63,000,000	D
Migrants and seasonal farmworkers	70,288,000	56,911,000	75,288,000	80,000,000	77,644,000	77,644,000	D

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
Job Corps: Operations	800,238,000	837,033,000	846,033,000	847,033,000	846,533,000	846,533,000	D
Construction and renovation	67,259,000	50,464,000	52,464,000	80,464,000	73,000,000	73,000,000	D
Subtotal, Job Corps	867,497,000	887,497,000	898,497,000	927,497,000	919,533,000	919,533,000	
Veterans' employment	9,120,000	8,792,000	9,120,000	9,120,000	9,120,000	9,120,000	D
National activities: Pilots and demonstrations	36,216,000	27,753,000	27,753,000	38,753,000	35,753,000	35,753,000	D
Research, demonstration and evaluation	12,927,000	10,000,000	10,000,000	11,927,000	10,000,000	10,000,000	D
Other	22,673,000	13,706,000	16,706,000	25,606,000	23,606,000	23,606,000	D
Subtotal, National activities	71,816,000	51,459,000	54,459,000	76,286,000	69,359,000	69,359,000	
Subtotal, Federal activities	1,078,346,000	1,063,349,000	1,096,989,000	1,156,903,000	1,138,656,000	1,138,656,000	
Total, Job Training Partnership Act	4,066,728,000	4,051,731,000	4,130,371,000	4,190,285,000	4,172,038,000	4,172,038,000	
Job training for the homeless	11,223,000	---	7,400,000	11,223,000	9,312,000	9,312,000	D
Total, Training and Employment Services	4,077,951,000	4,051,731,000	4,137,771,000	4,201,508,000	4,181,350,000	4,181,350,000	
Current year	(4,077,951,000)	(4,051,731,000)	(4,137,771,000)	(4,201,508,000)	(3,993,650,000)	(3,993,650,000)	
FY 1993	---	---	---	---	(187,700,000)	(187,700,000)	
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS							
National contracts	304,481,000	267,395,000	304,481,000	312,000,000	308,241,000	308,241,000	D
State grants	85,879,000	75,419,000	85,879,000	88,000,000	86,940,000	86,940,000	D
Total	390,360,000	342,814,000	390,360,000	400,000,000	395,181,000	395,181,000	
FEDERAL UNEMPLOYMENT AND ALLOWANCES							
Trade adjustment	269,000,000	226,000,000	226,000,000	226,000,000	226,000,000	226,000,000	M
Other activities	500,000	250,000	250,000	250,000	250,000	250,000	M
Total	269,500,000	226,250,000	226,250,000	226,250,000	226,250,000	226,250,000	
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS							
Unemployment Compensation (Trust Funds): State Operations	(1,458,435,000)	(1,510,973,000)	(1,510,973,000)	(1,510,973,000)	(1,510,973,000)	(1,510,973,000)	TF*
State integrity activities	(278,249,000)	(304,723,000)	(304,723,000)	(304,723,000)	(290,723,000)	(290,723,000)	TF*
National Activities	(6,213,000)	(6,486,000)	(6,486,000)	(6,486,000)	(6,486,000)	(6,486,000)	TF*
Contingency	(391,544,000)	(440,703,000)	(440,703,000)	(440,703,000)	(440,703,000)	(440,703,000)	TF*
Subtotal, Unemployment Compensation (trust funds)	(2,134,441,000)	(2,262,885,000)	(2,262,885,000)	(2,262,885,000)	(2,248,885,000)	(2,248,885,000)	
Employment Service: Allotments to States: Federal funds	21,177,000	22,500,000	21,177,000	22,500,000	21,838,000	21,838,000	D
Trust funds	(783,940,000)	(727,500,000)	(783,940,000)	(815,600,000)	(799,770,000)	(799,770,000)	TF*
Subtotal	805,117,000	750,000,000	805,117,000	838,100,000	821,608,000	821,608,000	
National Activities: Federal funds	3,806,000	2,200,000	2,200,000	2,200,000	2,200,000	2,200,000	D
Trust funds 1/	(56,114,000)	(72,500,000)	(85,000,000)	(80,000,000)	(80,000,000)	(80,000,000)	TF*
Targeted jobs tax credit	(19,518,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	TF*
Subtotal, Employment Service	884,555,000	844,700,000	912,317,000	940,300,000	923,808,000	923,808,000	
Federal funds	24,983,000	24,700,000	23,377,000	24,700,000	24,038,000	24,038,000	
Trust funds	(859,572,000)	(820,000,000)	(888,940,000)	(915,600,000)	(899,770,000)	(899,770,000)	
Total, State Unemployment 2/	3,018,996,000	3,107,585,000	3,175,202,000	3,203,185,000	3,172,693,000	3,172,693,000	
Federal Funds	24,983,000	24,700,000	23,377,000	24,700,000	24,038,000	24,038,000	
Trust Funds	(2,994,013,000)	(3,082,885,000)	(3,151,825,000)	(3,178,485,000)	(3,148,655,000)	(3,148,655,000)	

1/ FY 1991 total for computer operations not available for obligation until Oct. 1, 1991. House & Senate bills include $12,500,000 for computer operations, not available for obligation until 9/30/92.

2/ Includes Federal, Trust and advance Trust funds.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

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FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS...	328,000,000	236,990,000	236,990,000	236,990,000	236,990,000	236,990,000	M
Total, Employment & Training Administration.....	8,206,985,000	8,096,687,000	8,297,890,000	8,398,865,000	8,343,396,000	8,343,396,000	
Federal funds..............................	5,159,979,000	4,956,673,000	5,088,936,000	5,163,428,000	5,137,789,000	5,137,789,000	
Current year............................	(5,159,979,000)	(4,956,673,000)	(5,088,936,000)	(5,163,428,000)	(4,950,089,000)	(4,950,089,000)	
FY 1993.................................	---	---	---	---	(187,700,000)	(187,700,000)	
Trust funds................................	(3,047,006,000)	(3,140,016,000)	(3,208,954,000)	(3,235,437,000)	(3,205,607,000)	(3,205,607,000)	
LABOR - MANAGEMENT SERVICES							
SALARIES AND EXPENSES							
Labor-management relations service..................	5,733,000	5,526,000	5,526,000	5,526,000	5,526,000	5,526,000	D
Labor-management standards enforcement...............	25,238,000	26,530,000	26,530,000	26,530,000	26,530,000	26,530,000	D
Pension and welfare benefit programs.................	56,405,000	63,784,000	63,784,000	62,784,000	63,284,000	63,284,000	D
Total, LMSA....................................	87,376,000	95,840,000	95,840,000	94,840,000	95,340,000	95,340,000	
PENSION BENEFIT GUARANTY CORPORATION							
Program Administration subject to limitation (Trust Funds)..	(41,641,000)	(47,787,000)	(47,787,000)	(47,787,000)	(47,787,000)	(47,787,000)	TF
Services related to terminations not subject to limitations (Trust Funds)..........................	(27,773,000)	(25,025,000)	(25,025,000)	(25,025,000)	(25,025,000)	(25,025,000)	TF
Total, PBGC (trust funds)......................	(69,414,000)	(72,812,000)	(72,812,000)	(72,812,000)	(72,812,000)	(72,812,000)	
EMPLOYMENT STANDARDS ADMINISTRATION							
SALARIES AND EXPENSES							
Enforcement of wage and hour standards................	91,295,000	97,336,000	97,336,000	96,586,000	96,586,000	96,586,000	D
Federal contractor EEO standards enforcement..........	52,585,000	55,909,000	55,909,000	55,909,000	55,909,000	55,909,000	D
Federal programs for workers' compensation............	60,427,000	67,985,000	67,985,000	67,985,000	67,985,000	67,985,000	D
Trust funds..................................	(992,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	TF
Executive direction and support services..............	10,846,000	11,396,000	11,396,000	10,846,000	10,846,000	10,846,000	D
Total, salaries and expenses..................	216,145,000	233,661,000	233,661,000	232,361,000	232,361,000	232,361,000	
Federal funds.............................	215,153,000	232,626,000	232,626,000	231,326,000	231,326,000	231,326,000	
Trust funds...............................	(992,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	
SPECIAL BENEFITS							
Federal employees compensation benefits..............	318,000,000	188,000,000	188,000,000	188,000,000	188,000,000	188,000,000	M
Longshore and harbor workers' benefits...............	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	M
Total, Special Benefits........................	322,000,000	192,000,000	192,000,000	192,000,000	192,000,000	192,000,000	
BLACK LUNG DISABILITY TRUST FUND							
Benefit payments and interest on advances............	866,019,000	861,135,000	861,135,000	861,135,000	861,135,000	861,135,000	M
Employment Standards Admin., salaries & expenses......	28,900,000	30,145,000	30,145,000	30,145,000	30,145,000	30,145,000	M
Departmental Management, salaries and expenses........	23,171,000	25,579,000	25,579,000	25,579,000	25,579,000	25,579,000	M
Departmental Management, inspector general............	371,000	333,000	333,000	333,000	333,000	333,000	M
Subtotal, Black Lung Disablty. Trust Fund, apprn	918,461,000	917,192,000	917,192,000	917,192,000	917,192,000	917,192,000	
Treasury administrative costs (indefinite)............	756,000	756,000	756,000	756,000	756,000	756,000	M
Total, Black Lung Disability Trust Fund.........	919,217,000	917,948,000	917,948,000	917,948,000	917,948,000	917,948,000	
Total, Employment Standards Administration......	1,457,362,000	1,363,609,000	1,363,609,000	1,342,309,000	1,342,309,000	1,342,309,000	
Federal funds................................	1,456,370,000	1,342,574,000	1,342,574,000	1,341,274,000	1,341,274,000	1,361,274,000	
Trust funds..................................	(992,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	(1,035,000)	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION							
SALARIES AND EXPENSES							
Safety and health standards..........................	7,620,000	8,078,000	8,078,000	8,078,000	8,078,000	8,078,000	D
Enforcement: Federal Enforcement..............................	123,935,000	133,508,000	133,508,000	134,008,000	134,008,000	134,008,000	D
State programs...................................	63,731,000	66,344,000	66,344,000	66,344,000	66,344,000	66,344,000	D
Technical Support....................................	16,684,000	17,708,000	17,708,000	17,708,000	17,708,000	17,708,000	D
Compliance Assistance................................	37,370,000	38,942,000	38,942,000	41,942,000	40,692,000	40,692,000	D
Safety and health statistics.........................	29,116,000	30,390,000	30,390,000	30,390,000	30,390,000	30,390,000	D
Executive direction and administration...............	6,737,000	7,137,000	7,137,000	6,737,000	6,937,000	6,937,000	D
Total, OSHA....................................	285,193,000	302,107,000	302,107,000	305,207,000	304,157,000	304,157,000	
MINE SAFETY AND HEALTH ADMINISTRATION							
SALARIES AND EXPENSES							
Enforcement: Coal...	87,338,000	94,750,000	94,750,000	95,100,000	95,100,000	95,100,000	D
Metal/nonmetal...................................	35,223,000	37,718,000	37,718,000	37,718,000	37,718,000	37,718,000	D
Standards development............................	1,363,000	1,516,000	1,516,000	1,516,000	1,516,000	1,516,000	D
Assessments..	2,313,000	2,455,000	2,455,000	2,455,000	2,455,000	2,455,000	D
Educational policy and development...................	14,953,000	14,152,000	14,152,000	15,152,000	14,152,000	14,152,000	D
Technical support....................................	20,563,000	21,322,000	21,322,000	21,615,000	21,615,000	21,615,000	D
Program administration...............................	11,808,000	14,244,000	14,244,000	11,808,000	12,808,000	12,808,000	D
Total, Mine Safety and Health Administration....	173,561,000	186,157,000	186,157,000	185,364,000	185,364,000	185,364,000	
BUREAU OF LABOR STATISTICS							
SALARIES AND EXPENSES							
Employment and Unemployment Statistics...............	87,159,000	85,709,000	85,709,000	75,549,000	85,709,000	85,709,000	D
Labor Market Information (Trust Funds)...............	(51,488,000)	(50,399,000)	(50,399,000)	(48,599,000)	(50,399,000)	(50,399,000)	TF*
Prices and cost of living............................	74,336,000	85,000,000	85,000,000	80,960,000	85,000,000	85,000,000	D
Wages and industrial relations.......................	25,738,000	45,216,000	45,216,000	29,366,000	45,216,000	45,216,000	D
Productivity and technology..........................	5,699,000	6,316,000	6,316,000	6,316,000	6,316,000	6,316,000	D
Economic growth and employment projections...........	3,479,000	3,844,000	3,844,000	3,844,000	3,844,000	3,844,000	D
Executive direction and staff services...............	27,258,000	32,419,000	32,419,000	27,258,000	30,839,000	30,839,000	D
Total, Bureau of Labor Statistics..............	255,157,000	308,903,000	308,903,000	271,892,000	307,323,000	307,323,000	
Federal Funds.............................	203,669,000	258,504,000	258,504,000	223,293,000	256,924,000	256,924,000	
Trust Funds...............................	(51,488,000)	(50,399,000)	(50,399,000)	(48,599,000)	(50,399,000)	(50,399,000)	
DEPARTMENTAL MANAGEMENT							
SALARIES AND EXPENSES							
Executive direction..................................	21,419,000	27,911,000	24,911,000	21,419,000	21,419,000	21,419,000	D
Transfer from ADAMHA for employee assistance......	---	---	---	(2,000,000)	---	---	NA
Legal services.......................................	52,722,000	58,588,000	58,588,000	56,985,000	57,786,000	57,786,000	D
Trust funds......................................	(278,000)	(332,000)	(332,000)	(332,000)	(332,000)	(332,000)	TF*
International labor affairs..........................	6,572,000	7,284,000	7,284,000	7,284,000	7,284,000	7,284,000	D
Administration and management........................	20,209,000	21,812,000	21,175,000	21,812,000	21,494,000	21,494,000	D
Adjudication...	14,603,000	16,187,000	16,187,000	16,187,000	16,187,000	16,187,000	D
Promoting employment of the disabled.................	4,077,000	4,078,000	4,078,000	4,760,000	4,409,000	4,409,000	D
Women's Bureau.......................................	7,413,000	7,562,000	7,562,000	8,319,000	7,940,000	7,940,000	D
Civil Rights Activities..............................	4,338,000	4,534,000	4,534,000	4,536,000	4,534,000	4,534,000	D
Undistributed..	---	---	---	-1,600,000	---	---	D
Total, Salaries and expenses..................	131,631,000	148,288,000	144,651,000	140,012,000	141,385,000	141,385,000	
Federal funds.............................	131,353,000	147,956,000	144,319,000	139,680,000	141,053,000	141,053,000	
Trust funds...............................	(278,000)	(332,000)	(332,000)	(332,000)	(332,000)	(332,000)	

VOL
137
PT
23
NO
21
—
25
1991
UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	---------- H.R. 2707	----------	----------	New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
VETERANS EMPLOYMENT AND TRAINING							
State Administration:							
Disabled Veterans Outreach Program	(77,170,000)	(34,910,000)	(79,170,000)	(79,170,000)	(79,170,000)	(79,170,000)	TF*
Local Veterans Employment Program	(71,095,000)	(74,223,000)	(73,095,000)	(73,095,000)	(73,095,000)	(73,095,000)	TF*
Subtotal, State Administration	(148,265,000)	(109,133,000)	(152,265,000)	(152,265,000)	(152,265,000)	(152,265,000)	
Federal Administration	(21,180,000)	(20,054,000)	(20,054,000)	(20,054,000)	(20,054,000)	(20,054,000)	TF*
National Veterans Training Institute	(2,440,000)	---	(2,440,000)	(2,440,000)	(2,440,000)	(2,440,000)	TF*
Total, Trust Funds	(171,885,000)	(129,187,000)	(174,759,000)	(174,759,000)	(174,759,000)	(174,759,000)	
OFFICE OF THE INSPECTOR GENERAL							
Audit:							
Federal funds	20,693,000	20,673,000	20,673,000	20,673,000	20,673,000	20,673,000	D
Trust funds	(3,784,000)	(4,023,000)	(4,023,000)	(4,023,000)	(4,023,000)	(4,023,000)	TF'
Investigation:							
Federal funds	7,729,000	8,245,000	8,245,000	8,245,000	8,245,000	8,245,000	D
Trust funds	(310,000)	(334,000)	(334,000)	(334,000)	(334,000)	(334,000)	TF*
Office of Labor Racketeering	10,495,000	11,322,000	11,322,000	11,322,000	11,322,000	11,322,000	D
Executive Direction and Management	5,119,000	6,396,000	6,396,000	5,119,000	6,080,000	6,080,000	D
Total, Office of the Inspector General	48,130,000	50,993,000	50,993,000	49,716,000	50,677,000	50,677,000	
Federal funds	44,036,000	46,636,000	46,636,000	45,359,000	46,320,000	46,320,000	
Trust funds	(4,094,000)	(4,357,000)	(4,357,000)	(4,357,000)	(4,357,000)	(4,357,000)	
Total, Departmental Management	351,646,000	328,468,000	370,403,000	364,487,000	366,821,000	366,821,000	
Federal funds	175,389,000	194,592,000	190,955,000	185,039,000	187,373,000	187,373,000	
Trust funds	(176,257,000)	(133,876,000)	(179,448,000)	(179,448,000)	(179,448,000)	(179,448,000)	
Undistributed salaries and expenses reduction	---	---	-30,000,000	-13,269,000	-31,991,000	-31,991,000	D
Total, Labor Department 1/	10,886,694,000	10,734,583,000	10,947,721,000	11,022,507,000	10,985,531,000	10,985,531,000	
Federal funds	7,541,537,000	7,336,447,000	7,435,073,000	7,485,176,000	7,476,230,000	7,476,230,000	
Current year	(7,541,537,000)	(7,336,447,000)	(7,435,073,000)	(7,485,176,000)	(7,288,530,000)	(7,288,530,000)	
FY 1993	---	---	---	---	(187,700,000)	(187,700,000)	
Trust funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(3,537,331,000)	(3,509,301,000)	(3,509,301,000)	
TITLE II - DEPARTMENT OF HEALTH AND HUMAN SERVICES							
HEALTH RESOURCES AND SERVICES ADMINISTRATION							
HEALTH RESOURCES AND SERVICES 2/							
Health Care Delivery and Assistance:							
Community health centers	478,191,000	478,191,000	478,191,000	478,191,000	478,191,000	478,191,000	D
Transfer from "Educational excellence"	---	---	---	(49,000,000)	(49,000,000)	(49,000,000)	NA
Subtotal, Community Health Centers	(478,191,000)	(478,191,000)	(478,191,000)	(527,191,000)	(527,191,000)	(527,191,000)	
HUD health service grants	3,416,000	3,000,000	7,500,000	4,692,000	6,096,000	6,096,000	D
Targeted infant mortality initiative:							
Healthy start	25,000,000	138,659,000	69,330,000	25,000,000	40,000,000	40,000,000	D
Additional appropriation 9/30/92	---	---	---	50,000,000	25,000,000	25,000,000	D
Community health centers	---	---	69,329,000	---	10,000,000	10,000,000	D
Subtotal	25,000,000	138,659,000	138,659,000	75,000,000	75,000,000	75,000,000	
Total, Community Health Services	506,607,000	619,850,000	624,350,000	557,883,000	559,287,000	559,287,000	
Migrant health	51,723,000	51,723,000	51,723,000	53,700,000	51,723,000	51,723,000	D
Transfer from "Educational excellence"	---	---	---	(6,000,000)	(6,000,000)	(6,000,000)	NA
Subtotal, Migrant Health Centers	(51,723,000)	(51,723,000)	(51,723,000)	(59,700,000)	(57,723,000)	(57,723,000)	
Black lung clinics	3,708,000	3,708,000	3,708,000	4,000,000	4,000,000	4,000,000	D
Health care for the homeless	39,036,000	63,041,000	51,000,000	61,041,000	56,021,000	56,021,000	D
Family planning	144,311,000	150,000,000	---	162,000,000	150,000,000	150,000,000	D

1/ Includes Federal and Trust funds.

2/ Budget and House bill include delayed obligation of $86,000,000 until Sept. 19, 1992. Senate delays until 9/30/92 through 10/30/92. Conference agreement assumes a total of $125,000,000 of delayed obligations until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	---------- H.R. 2707	----------	----------	New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
National Health Service Corps:							
Field placements	42,256,000	42,256,000	42,256,000	42,256,000	42,256,000	42,256,000	D
Loans and scholarships	48,795,000	53,795,000	58,795,000	58,795,000	58,795,000	58,795,000	D
Subtotal, Natl Health Service Corps	91,051,000	96,051,000	101,051,000	101,051,000	101,051,000	101,051,000	
Hansen's Disease services (Carville)	19,792,000	19,489,000	19,489,000	19,489,000	19,489,000	19,489,000	D
Payment to Hawaii, treatment of Hansen's Disease	3,383,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	D
Home health demonstration grants	2,928,000	---	---	2,900,000	2,900,000	2,900,000	D
Alzheimer's care grants	---	---	---	5,000,000	4,000,000	4,000,000	D
Trauma care	---	---	---	10,000,000	5,000,000	5,000,000	D
Undistributed	---	---	---	-12,900,000	---	---	D
Total, Health Care Delivery & Assistance	862,539,000	1,006,862,000	854,321,000	967,164,000	956,471,000	956,471,000	
Health Professions:							
Exceptional need scholarships	9,759,000	10,400,000	9,759,000	9,759,000	9,759,000	9,759,000	D
Minority centers of excellence	14,151,000	14,920,000	27,920,000	14,140,000	24,140,000	24,140,000	D
Public health special projects	3,757,000	---	3,757,000	4,557,000	4,307,000	4,307,000	D
Health administration grants	1,554,000	---	1,554,000	1,554,000	1,554,000	1,554,000	D
Public health traineeships	3,416,000	---	3,416,000	3,416,000	3,416,000	3,416,000	D
Health administration traineeships	484,000	---	484,000	484,000	484,000	484,000	D
Preventive medicine residencies	1,654,000	---	1,654,000	1,654,000	1,654,000	1,654,000	D
Family medicine residencies	36,108,000	---	36,108,000	32,000,000	36,108,000	36,108,000	D
General dentistry residencies	3,834,000	---	3,834,000	3,834,000	3,834,000	3,834,000	D
General internal medicine and pediatrics	17,256,000	---	17,256,000	16,250,000	17,256,000	17,256,000	D
Family medicine departments	6,831,000	---	6,831,000	6,400,000	6,831,000	6,831,000	D
Physician assistants	5,021,000	---	5,021,000	5,021,000	5,021,000	5,021,000	D
Area health education centers	19,237,000	---	19,237,000	19,237,000	19,237,000	19,237,000	D
Health education and training centers	3,904,000	---	3,904,000	3,904,000	3,904,000	3,904,000	D
Health professions data analysis	1,762,000	---	1,762,000	1,762,000	1,762,000	1,762,000	D
Disadvantaged assistance	30,817,000	32,641,000	30,817,000	30,817,000	30,817,000	30,817,000	D
Disadvantaged minority health improvement	10,734,000	10,734,000	23,234,000	10,734,000	20,000,000	20,000,000	D
Minority HPSL initiative	2,928,000	15,000,000	15,000,000	14,928,000	14,964,000	14,964,000	D
Allied health grants and contracts	1,659,000	---	1,659,000	4,000,000	2,830,000	2,830,000	D
Interdisciplinary traineeships	4,392,000	---	4,392,000	5,000,000	4,696,000	4,696,000	D
Health professions spec ed initiatives	2,398,000	---	2,398,000	2,398,000	2,398,000	2,398,000	D
Geriatric centers and training	13,708,000	---	13,708,000	13,708,000	13,708,000	13,708,000	D
Pacific Basin activities (including Medical officer training)	2,440,000	---	2,440,000	2,608,000	2,560,000	2,560,000	D
Native Hawaiian health care	3,416,000	---	3,416,000	3,600,000	3,600,000	3,600,000	D
National practitioner data bank	1,926,000	5,000,000	7,000,000	5,000,000	6,000,000	6,000,000	D
User fees	---	-5,000,000	-5,000,000	-5,000,000	-5,000,000	-5,000,000	D
Nurse training:							
Advanced nurse education	12,463,000	---	12,463,000	12,463,000	12,463,000	12,463,000	D
Nurse practitioners / nurse midwives	14,639,000	---	14,639,000	14,639,000	14,639,000	14,639,000	D
Special projects	10,532,000	---	10,532,000	11,000,000	11,000,000	11,000,000	D
Traineeships	13,664,000	---	13,664,000	14,151,000	14,151,000	14,151,000	D
Nurse anesthetists	1,430,000	---	1,430,000	1,930,000	1,930,000	1,930,000	D
Undergraduate scholarships	2,380,000	---	2,380,000	2,380,000	2,380,000	2,380,000	D
Loan repayment for shortage area service	1,455,000	---	1,455,000	1,455,000	1,455,000	1,455,000	D
Nurse disadvantaged assistance	3,416,000	4,160,000	3,416,000	3,416,000	3,416,000	3,416,000	D
Subtotal, Nurse training	59,979,000	4,160,000	59,979,000	61,434,000	61,434,000	61,434,000	
Total, Health professions	263,125,000	88,055,000	301,540,000	273,199,000	297,274,000	297,274,000	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

VOL
137
PT
23
NO
21
—
25
1991
UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
MCH and Resources Development:							
Maternal & child health block grant	587,310,000	553,627,000	580,000,000	686,000,000	650,000,000	650,000,000	D
Pediatric emergency care	4,880,000	---	4,880,000	4,880,000	4,880,000	4,880,000	D
Organ transplantation	3,723,000	3,387,000	5,137,000	3,387,000	3,737,000	3,737,000	D
Health teaching facilities interest subsidies	476,000	450,000	450,000	450,000	450,000	450,000	D
Perinatal facilities	976,000	---	---	---	---	---	D
Total, Resources Development	597,365,000	557,464,000	590,467,000	694,717,000	659,067,000	659,067,000	
Buildings and facilities	1,844,000	---	---	---	---	---	D
Rural health research	4,674,000	4,139,000	4,139,000	5,000,000	5,000,000	5,000,000	D
Rural outreach grants	19,518,000	---	---	25,000,000	22,500,000	22,500,000	D
Acquired Immune Deficiency Syndrome (AIDS):							
Training of health personnel	17,029,000	17,029,000	17,029,000	17,029,000	17,029,000	17,029,000	D
Facilities renovation grants	4,029,000	4,029,000	---	---	---	---	D
Pediatric health care demonstrations	19,518,000	19,518,000	19,518,000	20,000,000	19,800,000	19,800,000	D
Ryan White AIDS Programs:							
Emergency assistance	87,831,000	87,831,000	100,000,000	122,137,000	122,000,000	122,000,000	D
Comprehensive care programs	87,831,000	87,831,000	91,819,000	122,137,000	108,000,000	108,000,000	D
Early intervention program	44,891,000	44,891,000	55,000,000	44,891,000	50,000,000	50,000,000	D
Subtotal, Ryan White AIDS programs	220,553,000	220,553,000	246,819,000	289,165,000	280,000,000	280,000,000	
Subtotal, AIDS	261,129,000	261,129,000	283,366,000	326,194,000	316,829,000	316,829,000	
Program management including AIDS	98,348,000	100,851,000	103,700,000	98,548,000	103,700,000	103,700,000	D
Total, Health resources and services	2,108,742,000	2,018,500,000	2,137,533,000	2,389,822,000	2,360,841,000	2,360,841,000	
MEDICAL FACILITIES GUARANTEE AND LOAN FUND:							
Interest subsidy program	20,000,000	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000	M
HEALTH EDUCATION ASSISTANCE LOANS PROGRAM (HEAL):							
New loan subsidies	---	21,813,000	30,000,000	30,000,000	30,000,000	30,000,000	M
Liquidating account	---	35,502,000	48,000,000	48,000,000	48,000,000	48,000,000	M
HEAL loan limitation (non-add)	(260,000,000)	(185,000,000)	(260,000,000)	---	(290,000,000)	(290,000,000)	NA
Subtotal	---	57,315,000	78,000,000	78,000,000	78,000,000	78,000,000	
Program management	1,400,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	D
Total, HEAL	1,400,000	58,815,000	79,500,000	79,500,000	79,500,000	79,500,000	
VACCINE INJURY COMPENSATION:							
Pre - FY89 claims (appropriation)	79,920,000	---	80,000,000	80,000,000	80,000,000	80,000,000	M
Post - FY88 claims (trust fund)	154,080,000	84,920,000	84,920,000	84,920,000	84,920,000	84,920,000	M
HRSA administration (trust fund)	2,500,000	2,000,000	2,500,000	2,500,000	2,500,000	2,500,000	M
Subtotal, Vaccine injury compensation	236,500,000	86,920,000	167,420,000	167,420,000	167,420,000	167,420,000	
Total, Health Resources and Services Administration	2,366,642,000	2,183,235,000	2,403,453,000	2,655,742,000	2,626,761,000	2,626,761,000	
CENTERS FOR DISEASE CONTROL							
DISEASE CONTROL 1/							
Preventive Health Services Block Grant	92,702,000	107,472,000	92,702,000	150,000,000	135,000,000	135,000,000	D
Prevention centers	4,367,000	3,949,000	4,367,000	6,000,000	5,184,000	5,184,000	D
Lead poisoning prevention	7,790,000	14,949,000	7,790,000	25,000,000	23,000,000	23,000,000	D
Sexually transmitted diseases:							
Grants	73,638,000	77,638,000	73,638,000	77,638,000	77,638,000	77,638,000	D
Direct operations	11,330,000	11,910,000	11,330,000	11,910,000	11,620,000	11,620,000	D
Subtotal, Sexually transmitted diseases	84,968,000	89,548,000	84,968,000	89,548,000	89,258,000	89,258,000	

1/ Budget and House bill include delayed
obligation of $94,000,000 until Sept. 19, 1992.
Senate bill delays obligations of $94,000,000 until
9/30/92 through 10/30/92.
Conference agreement assumes a total of
$134,000,000 of delayed obligations until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
Immunization:							
Grants	182,004,000	208,865,000	248,865,000	223,865,000	238,865,000	238,865,000	D
Additional appropriation 9/30/92	---	---	---	10,000,000	10,000,000	10,000,000	D
Direct operations	30,129,000	46,510,000	46,510,000	51,510,000	46,510,000	46,510,000	D
Vaccine stockpile	2,928,000	---	---	---	---	---	D
Adverse events reporting	2,470,000	2,470,000	2,470,000	2,470,000	2,470,000	2,470,000	D
Subtotal, Immunization programs	217,531,000	257,845,000	297,845,000	287,845,000	297,845,000	297,845,000	
Infectious disease excluding AIDS/TB	43,689,000	45,179,000	45,179,000	49,579,000	47,379,000	47,379,000	D
Tuberculosis grants	9,109,000	12,334,000	13,334,000	17,334,000	15,334,000	15,334,000	D
Chronic & environmental disease prevention	51,408,000	56,664,000	56,664,000	76,264,000	71,264,000	71,264,000	D
Breast and cervical cancer screening	29,259,000	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000	D
Injury control	24,036,000	26,066,000	26,066,000	28,066,000	28,066,000	28,066,000	D
Occupational Safety and Health (NIOSH):							
Research	86,508,000	86,508,000	86,508,000	97,886,000	95,600,000	95,600,000	D
Training	10,472,000	10,472,000	10,472,000	10,972,000	10,972,000	10,972,000	D
Subtotal, NIOSH	96,980,000	96,980,000	96,980,000	108,858,000	106,572,000	106,572,000	
National Center for Health Statistics:							
Program operations	48,301,000	48,301,000	48,301,000	48,301,000	48,301,000	48,301,000	D
Program support	3,105,000	3,105,000	3,105,000	3,105,000	3,105,000	3,105,000	D
1% evaluation funds (non-add)	(19,000,000)	(33,800,000)	(25,000,000)	(33,800,000)	(29,400,000)	(29,400,000)	NA
Subtotal, health statistics	51,406,000	51,406,000	51,406,000	51,406,000	51,406,000	51,406,000	
Epidemic services	68,714,000	78,228,000	73,714,000	79,728,000	76,000,000	76,000,000	D
Buildings and facilities	31,951,000	8,338,000	6,338,000	38,338,000	25,600,000	25,600,000	D
Program management	3,016,000	3,309,000	3,309,000	3,016,000	3,016,000	3,016,000	D
Acquired Immune Deficiency Syndrome (AIDS)	494,660,000	494,660,000	480,000,000	480,000,000	480,000,000	480,000,000	D
Total, Disease Control	1,311,586,000	1,396,927,000	1,390,662,000	1,540,982,000	1,504,924,000	1,504,924,000	
NATIONAL INSTITUTES OF HEALTH (INCLUDES AIDS) 1/							
National Cancer Institute:							
Regular program	1,676,507,000	1,772,560,000	1,793,257,000	1,788,331,000	1,792,026,000	1,792,026,000	D
Research training	37,252,000	37,670,000	37,252,000	37,252,000	37,252,000	37,252,000	D
Additional appropriation 9/30/92 1/	---	---	---	184,647,000	160,000,000	160,000,000	D
Subtotal	1,713,759,000	1,810,230,000	1,830,509,000	2,010,230,000	1,989,278,000	1,989,278,000	
National Heart, Lung, and Blood Institute	1,080,251,000	1,162,725,000	1,155,707,000	1,143,705,000	1,152,707,000	1,152,707,000	D
Research training	46,691,000	47,199,000	46,691,000	46,691,000	46,691,000	46,691,000	D
Subtotal	1,126,942,000	1,209,924,000	1,202,398,000	1,190,396,000	1,199,398,000	1,199,398,000	
National Institute of Dental Research	142,867,000	154,771,000	155,184,000	152,215,000	154,442,000	154,442,000	D
Research training	6,051,000	6,168,000	6,051,000	6,051,000	6,051,000	6,051,000	D
Subtotal	148,918,000	160,939,000	161,235,000	158,266,000	160,493,000	160,493,000	
National Institute of Diabetes, Digestive, and Kidney Diseases	590,853,000	633,863,000	643,401,000	628,442,000	639,661,000	639,661,000	D
Research training	24,419,000	24,694,000	24,419,000	24,419,000	24,419,000	24,419,000	D
Subtotal	615,272,000	658,557,000	667,820,000	652,861,000	664,080,000	664,080,000	
National Institute of Neurological Disorders and Stroke	528,398,000	569,838,000	570,010,000	570,041,000	570,033,000	570,033,000	D
Research training	13,345,000	13,517,000	13,345,000	13,345,000	13,345,000	13,345,000	D
Subtotal	541,743,000	583,355,000	583,355,000	583,386,000	583,378,000	583,378,000	

1/ Budget and House bill include delayed
obligation of $400,000,000 until Sept. 19, 1992.
Senate bill delays obligations of $606,647,000
until 9/30/92 through 10/30/92.
Conference agreement assumes delayed obligation
of $575,000,000 until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

VOL
137
PT
23
NO
21
—
25
1991
UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
National Institute of Allergy and Infectious Diseases	887,089,000	955,581,000	952,643,000	945,765,000	950,924,000	950,924,000	D
Research training	20,187,000	21,130,000	20,187,000	20,187,000	20,187,000	20,187,000	D
Subtotal	907,276,000	976,711,000	972,830,000	965,952,000	971,111,000	971,111,000	
National Institute of General Medical Sciences	667,930,000	738,292,000	728,080,000	723,078,000	726,830,000	726,830,000	D
Research training	92,080,000	94,888,000	92,080,000	92,080,000	92,080,000	92,080,000	D
Subtotal	760,010,000	833,180,000	820,160,000	815,158,000	818,910,000	818,910,000	
National Institute of Child Health and Human Development	462,584,000	503,137,000	508,289,000	507,454,000	508,080,000	508,080,000	D
Research training	16,372,000	17,447,000	16,372,000	16,372,000	16,372,000	16,372,000	D
Subtotal	478,956,000	520,584,000	524,661,000	523,826,000	524,452,000	524,452,000	
National Eye Institute	245,947,000	264,767,000	264,966,000	259,935,000	263,708,000	263,708,000	D
Research training	7,294,000	7,493,000	7,294,000	7,294,000	7,294,000	7,294,000	D
Subtotal	253,241,000	272,260,000	272,260,000	267,229,000	271,002,000	271,002,000	
National Institute of Environmental Health Sciences	230,122,000	243,472,000	244,006,000	239,967,000	242,996,000	242,996,000	D
Research training	10,906,000	11,012,000	10,906,000	10,906,000	10,906,000	10,906,000	D
Subtotal	241,028,000	254,484,000	254,912,000	250,873,000	253,902,000	253,902,000	
National Institute on Aging	313,969,000	338,664,000	352,745,000	365,393,000	362,231,000	362,231,000	D
Research training	9,783,000	9,894,000	9,783,000	9,783,000	9,783,000	9,783,000	D
Additional appropriation 9/30/92 1/	---	---	---	22,000,000	15,000,000	15,000,000	D
Subtotal	323,752,000	348,558,000	362,528,000	397,176,000	387,014,000	387,014,000	
National Institute of Arthritis and Musculoskeletal and Skin Diseases	186,393,000	197,859,000	198,123,000	198,222,000	197,648,000	197,648,000	D
Research training	6,854,000	6,938,000	6,854,000	6,854,000	6,854,000	6,854,000	D
Subtotal	193,247,000	204,797,000	204,977,000	205,076,000	204,502,000	204,502,000	
National Institute on Deafness and Other Communication Disorders	130,950,000	142,287,000	140,510,000	147,623,000	145,845,000	145,845,000	D
Research training	3,985,000	4,034,000	3,985,000	3,985,000	3,985,000	3,985,000	D
Subtotal	134,935,000	146,321,000	144,495,000	151,608,000	149,830,000	149,830,000	
National Center for Research Resources	332,589,000	318,230,000	306,534,000	314,561,000	312,554,000	312,554,000	D
Research training	2,666,000	2,745,000	2,666,000	2,666,000	2,666,000	2,666,000	D
Subtotal	335,255,000	320,975,000	309,200,000	317,227,000	315,220,000	315,220,000	
National Center for Nursing Research	35,330,000	39,247,000	38,751,000	41,488,000	40,804,000	40,804,000	D
Research training	4,392,000	4,500,000	4,392,000	4,392,000	4,392,000	4,392,000	D
Subtotal	39,722,000	43,747,000	43,143,000	45,880,000	45,196,000	45,196,000	
National Center for Human Genome Research	83,309,000	105,178,000	89,006,000	105,200,000	101,152,000	101,152,000	D
Research training	4,109,000	5,309,000	4,109,000	4,109,000	4,109,000	4,109,000	D
Subtotal	87,418,000	110,487,000	93,115,000	109,309,000	105,261,000	105,261,000	
John E. Fogarty International Center	17,519,000	19,922,000	19,922,000	19,922,000	19,922,000	19,922,000	D

1/ Budget and House bill include delayed obligation of $400,000,000 until Sept. 19, 1992. Senate bill delays obligations of $606,647,000 until 9/30/92 through 10/30/92. Conference agreement assumes delayed obligation of $575,000,000 until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
National Library of Medicine:							
Regular program	66,251,000	73,308,000	74,408,000	75,392,000	75,146,000	75,146,000	D
Medical library assistance	14,691,000	16,309,000	14,691,000	14,691,000	14,691,000	14,691,000	D
Biotechnology information	10,466,000	10,937,000	10,466,000	10,466,000	10,466,000	10,466,000	D
Subtotal	91,408,000	100,554,000	99,565,000	100,549,000	100,303,000	100,303,000	
Office of the Director	97,851,000	95,176,000	149,176,000	125,724,000	143,313,000	143,313,000	D
Buildings and facilities	168,687,000	104,125,000	108,625,000	89,485,000	103,840,000	103,840,000	D
Total N.I.H.:							
Regular program including training	8,276,739,000	8,774,886,000	8,824,886,000	8,771,486,000	8,835,405,000	8,835,405,000	
Additional appropriation 9/30/92	---	---	---	206,647,000	175,000,000	175,000,000	
Total	8,276,739,000	8,774,886,000	8,824,886,000	8,978,133,000	9,010,405,000	9,010,405,000	
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION							
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH 1/ (INCLUDES AIDS)							
National Institute of Mental Health:							
Research	455,500,000	491,754,000	491,754,000	531,754,000	505,754,000	505,754,000	D
Instrumentation grants	1,323,000	1,338,000	1,323,000	1,338,000	1,323,000	1,323,000	D
Research training	26,942,000	27,701,000	26,942,000	27,701,000	26,942,000	26,942,000	D
Clinical training	13,670,000	---	8,000,000	13,670,000	10,835,000	10,835,000	D
Community support demonstrations	24,885,000	25,880,000	24,885,000	25,880,000	24,885,000	24,885,000	D
Prevention demonstrations	4,880,000	5,075,000	4,880,000	6,075,000	5,478,000	5,478,000	D
Grants to States for the homeless (PATH)	26,153,000	43,116,000	26,153,000	43,153,000	30,000,000	30,000,000	D
Homeless services demonstrations	5,861,000	---	5,861,000	5,861,000	5,861,000	5,861,000	D
Homeless research demonstrations	---	20,000,000	---	---	---	---	D
Protection and advocacy	15,614,000	---	15,614,000	19,500,000	19,500,000	19,500,000	D
Direct operations	40,982,000	43,982,000	43,982,000	40,982,000	43,982,000	43,982,000	D
Subtotal, mental health	615,810,000	658,846,000	649,394,000	715,914,000	674,560,000	674,560,000	
National Institute on Drug Abuse:							
Research	257,896,000	284,624,000	270,000,000	275,000,000	270,000,000	270,000,000	D
Instrumentation grants	504,000	524,000	504,000	524,000	504,000	504,000	D
Research training	6,783,000	7,020,000	6,783,000	7,020,000	6,783,000	6,783,000	D
Treatment demonstrations	45,465,000	46,955,000	46,955,000	46,955,000	46,955,000	46,955,000	D
AIDS demonstrations	73,193,000	71,550,000	71,550,000	71,550,000	71,550,000	71,550,000	D
Direct operations	32,186,000	35,552,000	35,552,000	32,186,000	35,552,000	35,552,000	D
Subtotal, drug abuse	416,027,000	446,225,000	431,344,000	433,235,000	431,344,000	431,344,000	
National Institute on Alcoholism and Alcohol Abuse:							
Research	138,849,000	149,932,000	149,932,000	154,932,000	152,432,000	152,432,000	D
Instrumentation grants	575,000	581,000	575,000	581,000	575,000	575,000	D
Research training	3,542,000	3,666,000	3,542,000	3,666,000	3,542,000	3,542,000	D
Substance abuse homeless demonstrations	15,983,000	---	15,983,000	15,983,000	15,983,000	15,983,000	D
Direct operations	11,789,000	12,596,000	12,596,000	11,789,000	12,596,000	12,596,000	D
Subtotal, alcoholism	170,738,000	166,775,000	182,628,000	186,951,000	185,128,000	185,128,000	
Office for Treatment Improvement:							
Alcohol, Drug Abuse & Mental Health block grant	1,268,670,000	1,268,670,000	1,235,000,000	1,405,670,000	1,360,000,000	1,360,000,000	D
Treatment grants to crisis areas	31,296,000	32,548,000	31,296,000	35,986,000	35,986,000	35,986,000	D
Treatment improvement grants	83,363,000	86,698,000	83,363,000	83,363,000	83,363,000	83,363,000	D
Capacity expansion program 2/	---	88,000,000	---	---	---	---	D
Treatment waiting list grants reappropriation	38,545,000	---	---	---	---	---	D
Direct operations	5,209,000	7,718,000	7,718,000	5,209,000	7,718,000	7,718,000	D
Subtotal, Treatment improvement	1,427,083,000	1,483,634,000	1,357,377,000	1,530,228,000	1,487,067,000	1,487,067,000	

1/ Conference agreement assumes delayed obligations of $164,100,000 until 9/30/92.

2/ Budget proposes additional $31 million transfer from forfeiture fund.

VOL
137
PT
23
NO
21
—
25
1991
UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	---- H.R. 2707 ----			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Office for Substance Abuse Prevention: Prevention programs	112,003,000	125,505,000	112,003,000	139,500,000	130,000,000	130,000,000	D
Community youth activity program	20,162,000	---	15,162,000	4,669,000	9,918,000	9,916,000	D
Community prevention grants	99,118,000	113,852,000	99,118,000	107,183,000	99,151,000	99,151,000	D
Transfer to DOL Departmental Management	---	---	---	2,000,000	---	---	D
Training	25,986,000	25,986,000	25,986,000	20,986,000	20,986,000	20,986,000	D
Direct operations	14,200,000	16,237,000	16,237,000	14,200,000	16,237,000	16,237,000	D
Subtotal, Substance Abuse Prevention	271,469,000	281,580,000	268,506,000	284,538,000	276,290,000	276,290,000	
Treatment outcome evaluations	8,134,000	8,598,000	8,598,000	8,598,000	8,598,000	8,598,000	D
Buildings and facilities	7,775,000	7,775,000	5,000,000	5,000,000	5,000,000	5,000,000	D
Office of the Administrator	11,368,000	14,895,000	14,895,000	11,368,000	13,132,000	13,132,000	D
Total, Alcohol, Drug Abuse & Mental Health	2,928,404,000	3,048,328,000	2,917,742,000	3,175,832,000	3,081,119,000	3,081,119,000	
ST. ELIZABETHS HOSPITAL	11,711,000	---	---	---	---	---	D
Total, Alcohol, Drug Abuse & Mental Health Admin	2,940,115,000	3,048,328,000	2,917,742,000	3,175,832,000	3,081,119,000	3,081,119,000	
ASSISTANT SECRETARY FOR HEALTH							
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH 1/							
Population affairs: Adolescent family life	7,789,000	12,000,000	---	---	7,789,000	7,789,000	D
Health Initiatives: Office of Disease Prevention and Health Promotion	4,577,000	4,577,000	4,027,000	5,000,000	4,514,000	4,514,000	D
Physical fitness and sports	1,443,000	1,443,000	1,443,000	1,443,000	1,443,000	1,443,000	D
Minority health	14,470,000	15,016,000	15,016,000	15,016,000	15,016,000	15,016,000	D
National vaccine program	9,631,000	2,300,000	12,500,000	2,300,000	8,000,000	8,000,000	D
Health Service Management	21,020,000	21,220,000	21,770,000	21,770,000	21,770,000	21,770,000	D
Acquired Immune Deficiency Syndrome (AIDS)	8,238,000	8,773,000	8,773,000	8,773,000	7,503,000	7,503,000	D
Undistributed	---	---	5,789,000	---	---	---	D
Total, OASH	67,168,000	65,329,000	69,318,000	54,302,000	66,035,000	66,035,000	
RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS							
Retirement payments	95,717,000	104,303,000	104,303,000	104,303,000	104,303,000	104,303,000	M
Survivors benefits	5,926,000	6,650,000	6,650,000	6,650,000	6,650,000	6,650,000	M
Dependant's medical care	19,230,000	20,499,000	20,499,000	20,499,000	20,499,000	20,499,000	M
Military Services Credits	3,399,000	3,222,000	3,222,000	3,222,000	3,222,000	3,222,000	M
Total, Retirement pay and medical benefits	124,272,000	134,674,000	134,674,000	134,674,000	134,674,000	134,674,000	
AGENCY FOR HEALTH CARE POLICY AND RESEARCH							
Health services research: Research	25,424,000	5,329,000	25,424,000	5,329,000	26,224,000	26,224,000	D
Trust funds	(1,012,000)	(1,050,000)	(1,012,000)	(1,050,000)	(1,012,000)	(1,012,000)	TF*
AIDS	10,252,000	10,800,000	10,252,000	10,800,000	10,252,000	10,252,000	D
Program support	2,274,000	2,330,000	2,274,000	2,330,000	2,274,000	2,274,000	D
Subtotal including trust funds	38,962,000	19,509,000	38,962,000	19,509,000	39,762,000	39,762,000	
1% evaluation funding (non-add)	(13,444,000)	(39,544,000)	(13,444,000)	(34,544,000)	(13,444,000)	(13,444,000)	NA
Medical treatment effectiveness: Federal funds	57,806,000	15,824,000	57,806,000	50,824,000	63,120,000	63,120,000	D
Trust funds	(4,880,000)	(36,723,000)	(4,880,000)	(6,723,000)	(4,880,000)	(4,880,000)	TF*
Subtotal, Medical treatment effectiveness	62,686,000	52,547,000	62,686,000	57,547,000	68,000,000	68,000,000	
1% evaluation funding (non-add)	---	(10,400,000)	---	(15,400,000)	---	---	NA

1/ Budget proposes delayed obligation of $4,000,000 until Sept. 19, 1992.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	---- H.R. 2707 ----			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Total, Health Care Policy and Research: Federal Funds	95,756,000	34,283,000	95,756,000	69,283,000	101,870,000	101,870,000	
Trust funds	(5,892,000)	(37,773,000)	(5,892,000)	(7,773,000)	(5,892,000)	(5,892,000)	
Total, 1% evaluation funding (non-add)	(13,444,000)	(49,944,000)	(13,444,000)	(49,944,000)	(13,444,000)	(13,444,000)	
Total, Health Care Policy and Research (non-add)	(115,092,000)	(122,000,000)	(115,092,000)	(127,000,000)	(121,206,000)	(121,206,000)	NA
PHS travel reduction	---	---	-8,000,000	---	-8,000,000	-8,000,000	D
Total, Public Health Service: Federal Funds	15,182,278,000	15,637,662,000	15,829,491,000	16,608,948,000	16,517,788,000	16,517,788,000	
Trust funds	(5,892,000)	(37,773,000)	(5,892,000)	(7,773,000)	(5,892,000)	(5,892,000)	
HEALTH CARE FINANCING ADMINISTRATION							
GRANTS TO STATES FOR MEDICAID							
Medicaid current law benefits	48,794,085,000	56,712,895,000	56,712,895,000	56,712,895,000	56,712,895,000	56,712,895,000	M
State and local administration	2,760,865,000	3,186,254,000	3,186,254,000	3,186,254,000	3,186,254,000	3,186,254,000	M
Proposed legislation	---	-91,500,000	---	---	---	---	D
Subtotal, Medicaid program level, FY 1992	51,554,950,000	59,807,649,000	59,899,149,000	59,899,149,000	59,899,149,000	59,899,149,000	
Less funds advanced in prior year	-10,400,000,000	-13,500,000,000	-13,500,000,000	-13,500,000,000	-13,500,000,000	-13,500,000,000	M
Total, current request, FY 1992	41,154,950,000	46,307,649,000	46,399,149,000	46,399,149,000	46,399,149,000	46,399,149,000	
New advance, 1st quarter, FY 1993	13,500,000,000	17,100,000,000	17,100,000,000	17,100,000,000	17,100,000,000	17,100,000,000	M
PAYMENTS TO HEALTH CARE TRUST FUNDS							
Supplemental medical insurance	34,730,000,000	38,684,000,000	38,684,000,000	38,684,000,000	38,684,000,000	38,684,000,000	M
Hospital insurance for uninsured	559,000,000	584,000,000	584,000,000	584,000,000	584,000,000	584,000,000	M
Federal uninsured payment	46,000,000	37,000,000	37,000,000	37,000,000	37,000,000	37,000,000	M
Program management	---	116,485,000	116,485,000	96,083,000	116,485,000	116,485,000	M
Proposed legislation	---	-20,402,000	---	---	---	---	M
Total, Payment to Trust Funds	35,335,000,000	39,401,083,000	39,421,485,000	39,401,083,000	39,421,485,000	39,421,485,000	
PROGRAM MANAGEMENT							
Research, demonstration, and evaluation: Regular program, trust funds	(35,621,000)	(36,000,000)	(45,621,000)	(45,621,000)	(45,621,000)	(45,621,000)	TF*
Rural hospital transition demonstrations, trust funds	(24,398,000)	---	(21,000,000)	(25,000,000)	(23,000,000)	(23,000,000)	TF*
Essential access community hospitals, trust funds	(9,759,000)	---	(9,759,000)	(9,759,000)	(9,759,000)	(9,759,000)	TF*
Subtotal, research, demonstration, & evaluation	(69,778,000)	(36,000,000)	(76,380,000)	(80,380,000)	(78,380,000)	(78,380,000)	
Medicare Contractors (Trust Funds): Operating funds, current	(1,493,959,000)	(1,457,000,000)	(1,457,000,000)	(1,457,000,000)	(1,457,000,000)	(1,457,000,000)	TF*
Contingency reserve fund	(58,210,000)	(100,000,000)	(257,000,000)	(257,000,000)	(257,000,000)	(257,000,000)	TF
Subtotal, Contractors	(1,552,169,000)	(1,557,000,000)	(1,714,000,000)	(1,714,000,000)	(1,714,000,000)	(1,714,000,000)	
State Certification: Medicare certification, trust funds	(159,497,000)	(160,000,000)	(160,000,000)	---	(150,000,000)	(150,000,000)	TF*
Proposed legislation, user fees, trust funds	---	(-160,000,000)	---	---	---	---	TF*
Subtotal, State certification	(159,497,000)	---	(160,000,000)	---	(150,000,000)	(150,000,000)	
Federal Administration: Trust funds	(301,409,000)	(333,006,000)	(331,752,000)	(188,598,000)	(331,752,000)	(331,752,000)	TF*
Less current law user fees	(-248,000)	(-77,000)	(-77,000)	(-77,000)	(-77,000)	(-77,000)	TF*
Proposed legislation, user fees, trust funds	---	(-34,902,000)	---	---	---	---	TF*
EMERGENCY FUND	---	---	---	(306,804,000)	---	---	NA
Subtotal, Federal Administration	(301,161,000)	(298,027,000)	(331,675,000)	(188,521,000)	(331,675,000)	(331,675,000)	
Total, Program management	(2,082,605,000)	(1,891,027,000)	(2,282,055,000)	(1,982,901,000)	(2,274,055,000)	(2,274,055,000)	
Total, Health Care Financing Administration: Federal funds	89,989,950,000	102,808,732,000	102,920,634,000	102,900,232,000	102,920,634,000	102,920,634,000	
Current year, FY 1992	(76,489,950,000)	(85,708,732,000)	(85,820,634,000)	(85,800,232,000)	(85,820,634,000)	(85,820,634,000)	
New advance, 1st quarter, FY 1993	(13,500,000,000)	(17,100,000,000)	(17,100,000,000)	(17,100,000,000)	(17,100,000,000)	(17,100,000,000)	
Trust funds	(2,082,605,000)	(1,891,027,000)	(2,282,055,000)	(1,982,901,000)	(2,274,055,000)	(2,274,055,000)	

VOL 137 PT 23 NO 21—25 1991 UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
SOCIAL SECURITY ADMINISTRATION							
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	46,958,000	40,968,000	40,968,000	40,968,000	40,968,000	40,968,000	M
SPECIAL BENEFITS FOR DISABLED COAL MINERS							
Benefit payments	837,511,000	813,000,000	813,000,000	813,000,000	813,000,000	813,000,000	M
Administration	7,081,000	7,336,000	7,336,000	7,336,000	7,336,000	7,336,000	M
Subtotal, Black Lung, FY 1992 program level	844,592,000	820,336,000	820,336,000	820,336,000	820,336,000	820,336,000	
Less funds advanced in prior year	-215,000,000	-203,000,000	-203,000,000	-203,000,000	-203,000,000	-203,000,000	M
Total, Black Lung, current request, FY 1992	629,592,000	617,336,000	617,336,000	617,336,000	617,336,000	617,336,000	
New advance, 1st quarter, FY 1993	203,000,000	198,000,000	198,000,000	198,000,000	198,000,000	198,000,000	M
SUPPLEMENTAL SECURITY INCOME							
Federal benefit payments	16,184,751,000	16,105,000,000	16,105,000,000	16,105,000,000	16,105,000,000	16,105,000,000	M
Beneficiary services	32,517,000	39,100,000	39,100,000	39,100,000	39,100,000	39,100,000	M
Research demonstration	8,275,000	11,000,000	11,000,000	14,000,000	14,000,000	14,000,000	M
Administration	1,183,378,000	1,321,391,000	1,321,391,000	1,321,391,000	1,321,391,000	1,321,391,000	D
Zebley administration	232,000,000	---	---	---	---	---	D
Subtotal, SSI FY 1992 program level	17,640,921,000	17,476,491,000	17,476,491,000	17,479,491,000	17,479,491,000	17,479,491,000	
Less funds advanced in prior year	-3,157,000,000	-3,550,000,000	-3,550,000,000	-3,550,000,000	-3,550,000,000	-3,550,000,000	M
Total, SSI, current request, FY 1992	14,483,921,000	13,926,491,000	13,926,491,000	13,929,491,000	13,929,491,000	13,929,491,000	
New advance, 1st quarter, FY 1993	3,550,000,000	5,240,000,000	5,240,000,000	5,240,000,000	5,240,000,000	5,240,000,000	M
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds) 1/	(3,510,774,000)	(3,834,000,000)	(3,834,000,000)	(3,752,200,000)	(3,834,000,000)	(3,834,000,000)	TF
Zebley administration 2/	(232,000,000)	---	---	---	---	---	TF
Portion treated as budget authority	(600,150,000)	(648,000,000)	(648,000,000)	(639,800,000)	(648,000,000)	(648,000,000)	TF*
Subtotal, LAE operating level	(4,342,924,000)	(4,482,000,000)	(4,482,000,000)	(4,392,000,000)	(4,482,000,000)	(4,482,000,000)	
(Contingency reserve)	(46,385,000)	(50,000,000)	(100,000,000)	(50,000,000)	(100,000,000)	(100,000,000)	TF
Subtotal, LAE	(4,389,309,000)	(4,532,000,000)	(4,582,000,000)	(4,442,000,000)	(4,582,000,000)	(4,582,000,000)	
Total, Social Security Administration: Federal funds	18,913,471,000	20,022,795,000	20,022,795,000	20,025,795,000	20,025,795,000	20,025,795,000	
Current year FY 1992	(15,160,471,000)	(14,584,795,000)	(14,584,795,000)	(14,587,795,000)	(14,587,795,000)	(14,587,795,000)	
New advances, 1st quarter FY 1993	(3,753,000,000)	(5,438,000,000)	(5,438,000,000)	(5,438,000,000)	(5,438,000,000)	(5,438,000,000)	
Trust funds	(4,389,309,000)	(4,532,000,000)	(4,582,000,000)	(4,442,000,000)	(4,582,000,000)	(4,582,000,000)	
ADMINISTRATION FOR CHILDREN AND FAMILIES							
FAMILY SUPPORT PAYMENTS TO STATES							
Aid to Families with Dependent Children (AFDC)	11,296,000,000	12,135,000,000	12,135,000,000	12,135,000,000	12,135,000,000	12,135,000,000	M
Payments to territories	16,346,000	16,346,000	16,346,000	16,346,000	16,346,000	16,346,000	M
Emergency assistance	191,600,000	176,900,000	176,900,000	176,900,000	176,900,000	176,900,000	M
Repatriation	5,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	M
State and local welfare administration	1,448,200,000	1,512,800,000	1,512,800,000	1,512,800,000	1,512,800,000	1,512,800,000	M
Work activities / child care	317,000,000	433,000,000	433,000,000	433,000,000	433,000,000	433,000,000	M
At risk child care	150,000,000	300,000,000	300,000,000	300,000,000	300,000,000	300,000,000	M
Proposed regulatory savings	---	-38,900,000	-38,900,000	---	---	---	M
Subtotal, Welfare payments	13,424,146,000	14,536,146,000	14,536,146,000	14,575,046,000	14,575,046,000	14,575,046,000	
Child Support Enforcement: State and local administration	1,181,000,000	1,309,000,000	1,309,000,000	1,309,000,000	1,309,000,000	1,309,000,000	M
Federal incentive payments	296,000,000	332,000,000	332,000,000	332,000,000	332,000,000	332,000,000	M
Less federal share collections	-906,000,000	-1,015,000,000	-1,015,000,000	-1,015,000,000	-1,015,000,000	-1,015,000,000	M
Subtotal, Child support	571,000,000	626,000,000	626,000,000	626,000,000	626,000,000	626,000,000	
Total, Payments, FY 1992 program level	13,995,146,000	15,162,146,000	15,162,146,000	15,201,046,000	15,201,046,000	15,201,046,000	
Less funds advanced in previous years	-3,000,000,000	-3,300,000,000	-3,300,000,000	-3,300,000,000	-3,300,000,000	-3,300,000,000	M
Total, Payments, current request, FY 1992	10,995,146,000	11,862,146,000	11,862,146,000	11,901,046,000	11,901,046,000	11,901,046,000	
New advance, 1st quarter, FY 1993	3,100,000,000	4,000,000,000	4,000,000,000	4,000,000,000	4,000,000,000	4,000,000,000	M

1/ Budget, House bill, and conference agreement include delayed obligation of $80,000,000 until Sept. 19, 1992.

2/ Available FY 91-93.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
PAYMENTS TO STATES FOR AFDC WORK PROGRAMS	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	M
ENERGY ASSISTANCE PROGRAMS							
LOW INCOME HOME ENERGY ASSISTANCE: Regular program	1,340,445,000	875,000,000	950,000,000	1,094,393,000	1,014,393,000	1,014,393,000	D
Congressional emergency	---	---	---	---	80,000,000	80,000,000	D
Additional appropriation 9/30/92	74,610,000	50,000,000	50,000,000	405,607,000	405,607,000	405,607,000	D
Emergency allocation 1/	---	---	(600,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	NA
ENERGY EMERGENCY CONTINGENCY FUND	195,180,000	100,000,000	---	---	---	---	D
Total, Energy assistance programs	1,610,235,000	1,025,000,000	1,000,000,000	1,500,000,000	1,500,000,000	1,500,000,000	
Total including emergency	(1,610,235,000)	(1,025,000,000)	(1,600,000,000)	(1,800,000,000)	(1,800,000,000)	(1,800,000,000)	
REFUGEE AND ENTRANT ASSISTANCE							
Cash and medical assistance 2/	234,216,000	---	117,600,000	117,600,000	117,600,000	117,600,000	D
Additional appropriation 9/30/92	---	---	---	116,616,000	116,616,000	116,616,000	D
Social services	82,952,000	---	82,952,000	82,952,000	82,952,000	82,952,000	D
Voluntary agency program	39,036,000	---	39,036,000	39,036,000	39,036,000	39,036,000	D
Preventive health	5,631,000	---	5,631,000	5,631,000	5,631,000	5,631,000	D
Targeted assistance	48,795,000	---	48,795,000	48,795,000	48,795,000	48,795,000	D
Undistributed	---	410,630,000	---	---	---	---	D
Total, Refugee Resettlement	410,630,000	410,630,000	294,014,000	410,630,000	410,630,000	410,630,000	
STATE LEGALIZATION IMPACT ASSISTANCE GRANTS							
Current year	-566,854,000	-1,122,992,000	-1,122,992,000	-1,122,992,000	-1,122,992,000	-1,122,992,000	D
Advance funding	583,934,000	---	1,122,992,000	1,122,992,000	1,122,992,000	1,122,992,000	D
Total	17,080,000	-1,122,992,000	---	---	---	---	
COMMUNITY SERVICES BLOCK GRANT							
Grants to States for Community Services	349,372,000	---	349,372,000	370,000,000	360,000,000	360,000,000	D
Homeless services grants	33,181,000	---	25,000,000	30,181,000	25,000,000	25,000,000	D
Discretionary funds: Community economic development 3/	20,494,000	---	21,500,000	22,000,000	22,000,000	22,000,000	D
Rural housing 3/	4,099,000	---	4,099,000	4,099,000	4,099,000	4,099,000	D
Farmworker assistance 3/	3,025,000	---	3,025,000	3,025,000	3,025,000	3,025,000	D
National youth sports	10,832,000	10,832,000	12,000,000	12,832,000	12,000,000	12,000,000	D
Technical assistance	244,000	---	244,000	244,000	244,000	244,000	D
Subtotal, discretionary funds	38,694,000	10,832,000	40,868,000	42,200,000	41,368,000	41,368,000	
Community Partnerships	4,050,000	---	---	4,050,000	4,050,000	4,050,000	D
Community Food and Nutrition	2,440,000	---	5,484,000	7,000,000	7,000,000	7,000,000	D
Total, Community services	427,737,000	10,832,000	420,724,000	453,431,000	437,418,000	437,418,000	
GRANTS TO STATES FOR CHILD CARE							
Block grants to States 4/	731,925,000	731,925,000	825,000,000	825,000,000	825,000,000	825,000,000	D
FY 91 rescission	---	---	-144,925,000	---	---	---	D
Subtotal, block grants	731,925,000	731,925,000	680,075,000	825,000,000	825,000,000	825,000,000	
Licensing grants to States	13,000,000	13,000,000	25,000,000	13,000,000	---	---	D
Total, Child care grants	744,925,000	744,925,000	705,075,000	838,000,000	825,000,000	825,000,000	

1/ Available only upon submission of a formal budget request designating the need for funds as an emergency as defined by the BEA.

2/ House bill makes funding available only through 3/31/92. Conference agreement does not include termination date.

3/ Conference agreement assumes delayed obligation until 9/30/92. The Senate bill delayed obligation of $22,000,000 of Community economic development funding until 9/25/92.

4/ FY91 total makes available Sept. 7, 1991. FY 1992 request, House & Senate bills include delayed obligation of these funds until 9/19/92. House bill assumes rescission of $144,925,000 of FY91 funds. Conference agreement makes total available on 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

VOL
137
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FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	---- H.R. 2707 ----			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
PROGRAM ADMINISTRATION							
Federal Administration	76,093,000	81,000,000	81,000,000	76,093,000	81,000,000	81,000,000	D
Research & evaluation	10,735,000	6,500,000	6,500,000	13,735,000	11,500,000	11,500,000	D
Total, program administration	86,828,000	87,500,000	87,500,000	89,828,000	92,500,000	92,500,000	
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	2,800,000,000	2,800,000,000	2,800,000,000	2,800,000,000	2,800,000,000	2,800,000,000	M
HUMAN DEVELOPMENT SERVICES							
Programs for Children, Youth, and Families:							
Head start:							
Regular grants	1,951,800,000	2,051,800,000	1,963,800,000	1,951,800,000	1,951,800,000	1,951,800,000	D
Transfer from ''Educational Excellence''	---	---	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	NA
Subtotal	(1,951,800,000)	(2,051,800,000)	(2,213,800,000)	(2,201,800,000)	(2,201,800,000)	(2,201,800,000)	
Child development associate scholarships	1,397,000	1,397,000	1,397,000	1,397,000	1,397,000	1,397,000	D
Family crisis program:							
Child abuse state grants	19,518,000	19,518,000	19,518,000	21,518,000	20,518,000	20,518,000	D
Child abuse challenge grants	5,367,000	5,367,000	5,367,000	5,367,000	5,367,000	5,367,000	D
Runaway and homeless youth	35,132,000	35,132,000	35,132,000	36,370,000	35,751,000	35,751,000	D
Family violence	10,735,000	10,735,000	10,735,000	21,470,000	20,000,000	20,000,000	D
Abandoned infants assistance	12,557,000	12,557,000	12,557,000	12,557,000	12,557,000	12,557,000	D
Emergency protection grants - substance abuse	19,518,000	19,518,000	19,518,000	19,518,000	19,518,000	19,518,000	D
Subtotal, family crisis	102,827,000	102,827,000	102,827,000	116,800,000	113,711,000	113,711,000	
Dependent care planning and development	13,175,000	13,175,000	13,175,000	13,175,000	13,175,000	13,175,000	D
Child welfare services	273,911,000	273,911,000	273,911,000	273,911,000	273,911,000	273,911,000	D
Less amounts derived by transfer	-27,352,000	---	---	---	---	---	D
Subtotal, child welfare services	246,559,000	273,911,000	273,911,000	273,911,000	273,911,000	273,911,000	
Subtotal, Program for Children, Youth, and Families	2,315,758,000	2,443,110,000	2,355,110,000	2,357,083,000	2,353,994,000	2,353,994,000	
Programs for the Aging: 1/							
Grants to States:							
Supportive services and centers	290,818,000	290,818,000	290,818,000	324,000,000	317,000,000	317,000,000	D
Ombudsman activities	5,367,000	5,367,000	5,367,000	11,367,000	8,367,000	8,367,000	D
Nutrition:							
Congregate meals	361,083,000	361,083,000	361,083,000	373,000,000	367,000,000	367,000,000	D
Home-delivered meals	87,831,000	87,831,000	87,831,000	91,831,000	89,831,000	89,831,000	D
Federal Council on Aging	181,000	181,000	181,000	181,000	181,000	181,000	D
Grants to Indians	14,639,000	14,639,000	14,639,000	15,224,000	15,124,000	15,124,000	D
Frail elderly in-home services	6,831,000	6,831,000	6,831,000	7,000,000	6,916,000	6,916,000	D
White House Conference on Aging	976,000	---	---	3,400,000	2,000,000	2,000,000	D
Undistributed	---	---	---	-3,400,000	-2,000,000	-2,000,000	D
Subtotal, Aging programs	767,726,000	766,750,000	766,750,000	822,603,000	804,419,000	804,419,000	
Developmental disabilities program:							
State grants	64,409,000	64,409,000	64,409,000	71,773,000	67,706,000	67,706,000	D
Protection and advocacy	20,982,000	20,982,000	20,982,000	24,080,000	22,500,000	22,500,000	D
Subtotal, Developmental disabilities	85,391,000	85,391,000	85,391,000	95,853,000	90,206,000	90,206,000	
Native American Programs	33,376,000	33,376,000	33,376,000	34,376,000	34,126,000	34,126,000	D
Human services research, training & demonstration:							
Comprehensive child development centers	24,398,000	24,398,000	45,000,000	24,398,000	24,398,000	24,398,000	D
Transfer from "Educational excellence"	---	---	---	(20,000,000)	(20,000,000)	(20,000,000)	NA
Subtotal, Comprehensive Child Development	(24,398,000)	(24,398,000)	(45,000,000)	(44,398,000)	(44,398,000)	(44,398,000)	
Child abuse discretionary activities	14,639,000	14,638,000	14,639,000	14,639,000	14,639,000	14,639,000	D
Runaway youth - transitional living	9,939,000	9,939,000	12,000,000	12,000,000	12,000,000	12,000,000	D
Runaway youth activities - drugs	14,786,000	14,786,000	14,786,000	15,786,000	15,286,000	15,286,000	D
Youth gang substance abuse	14,786,000	14,786,000	7,100,000	14,786,000	10,943,000	10,943,000	D
Temporary childcare/crisis nurseries	11,055,000	11,055,000	11,055,000	11,055,000	11,055,000	11,055,000	D

1/ Senate bill included delayed obligation of $25,000,000 until Feb. 1, 1992. Conference assumes delayed obligation of $25,000,000 until Sept. 30, 1992.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	---- H.R. 2707 ----			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Child welfare training	3,559,000	3,559,000	3,559,000	3,559,000	3,559,000	3,559,000	D
Child welfare research	6,652,000	7,807,000	6,652,000	6,652,000	6,652,000	6,652,000	D
Adoption opportunities	12,687,000	12,687,000	12,687,000	12,687,000	12,687,000	12,687,000	D
Aging research, training and special projects	25,941,000	25,941,000	25,941,000	25,941,000	25,941,000	25,941,000	D
Social services research	2,879,000	3,879,000	7,879,000	12,879,000	10,379,000	10,379,000	D
Developmental disabilities special projects	3,025,000	3,025,000	3,025,000	3,325,000	3,248,000	3,248,000	D
Developmental disabilities university affiliated programs	13,907,000	13,907,000	15,407,000	16,407,000	16,030,000	16,030,000	D
Total, Human Services Res. Trng & demonstration	158,253,000	160,407,000	179,730,000	174,114,000	166,817,000	166,817,000	
Program direction	73,906,000	88,000,000	88,000,000	79,034,000	88,000,000	88,000,000	D
Total, Human Development Services	3,434,410,000	3,577,034,000	3,508,357,000	3,563,063,000	3,537,562,000	3,537,562,000	
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE							
Foster care	1,813,186,000	2,223,668,000	2,223,668,000	2,223,668,000	2,223,668,000	2,223,668,000	M
Adoption assistance	189,832,000	201,861,000	201,861,000	201,861,000	201,861,000	201,861,000	M
Independent living	60,000,000	70,000,000	70,000,000	70,000,000	70,000,000	70,000,000	M
Prior year claims	520,911,000	118,476,000	118,476,000	118,476,000	118,476,000	118,476,000	M
Transfer to child welfare service	27,352,000	---	---	---	---	---	M
Total, Payments to States	2,611,261,000	2,614,005,000	2,614,005,000	2,614,005,000	2,614,005,000	2,614,005,000	
Total, Administration for Children and Families	27,438,272,000	27,009,080,000	28,291,821,000	29,170,003,000	29,118,161,000	29,118,161,000	
Current year	(23,554,338,000)	(23,009,080,000)	(23,168,829,000)	(24,047,011,000)	(23,995,169,000)	(23,995,169,000)	
FY 1993	(3,883,934,000)	(4,000,000,000)	(5,122,992,000)	(5,122,992,000)	(5,122,992,000)	(5,122,992,000)	
OFFICE OF THE SECRETARY							
GENERAL DEPARTMENTAL MANAGEMENT:							
Federal funds	78,944,000	91,673,000	86,673,000	79,444,000	91,673,000	91,673,000	D
Trust funds	(22,451,000)	(22,786,000)	(19,111,000)	(22,310,000)	(22,786,000)	(22,786,000)	TF
Portion treated as budget authority	(7,899,000)	(8,215,000)	(6,890,000)	(8,040,000)	(8,215,000)	(8,215,000)	TF*
Total, Departmental management	109,294,000	122,674,000	112,674,000	109,794,000	122,674,000	122,674,000	
OFFICE OF THE INSPECTOR GENERAL:							
Federal funds	51,918,000	63,842,000	63,842,000	58,191,000	58,191,000	58,191,000	D
Trust funds	(19,202,000)	(20,476,000)	(16,363,000)	(16,333,000)	(16,363,000)	(16,363,000)	TF
Portion treated as budget authority	(23,467,000)	(26,871,000)	(21,470,000)	(21,500,000)	(21,470,000)	(21,470,000)	TF*
Total, Inspector General	94,587,000	111,189,000	101,675,000	96,024,000	96,024,000	96,024,000	
OFFICE FOR CIVIL RIGHTS:							
Federal funds	17,066,000	18,524,000	18,524,000	18,524,000	18,524,000	18,524,000	D
Trust funds	(97,000)	(99,000)	(99,000)	(99,000)	(99,000)	(99,000)	TF
Portion treated as budget authority	(3,807,000)	(3,901,000)	(3,901,000)	(3,901,000)	(3,901,000)	(3,901,000)	TF*
Total, Civil Rights	20,970,000	22,524,000	22,524,000	22,524,000	22,524,000	22,524,000	
POLICY RESEARCH	8,928,000	5,037,000	5,037,000	5,037,000	5,037,000	5,037,000	D
Total, Office of the Secretary:							
Federal funds	156,856,000	179,076,000	174,076,000	161,196,000	173,425,000	173,425,000	
Trust funds	(76,923,000)	(82,348,000)	(67,834,000)	(72,183,000)	(72,834,000)	(72,834,000)	
Total, Office of the Secretary	(233,779,000)	(261,424,000)	(241,910,000)	(233,379,000)	(246,259,000)	(246,259,000)	
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION	---	---	-116,000,000	-53,099,000	-134,349,000	-134,349,000	D
UNDISTRIBUTED TRAVEL REDUCTION	---	---	---	-9,492,000	-9,492,000	-9,492,000	D
Total, Department of Health and Human Services:							
Federal Funds	151,680,827,000	165,657,345,000	167,121,817,000	168,803,583,000	168,611,962,000	168,611,962,000	
Current year FY 1992	(130,543,893,000)	(139,119,345,000)	(139,460,825,000)	(141,142,591,000)	(140,950,970,000)	(140,950,970,000)	
FY 1993	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	
Trust funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(6,504,857,000)	(6,934,781,000)	(6,934,781,000)	

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

VOL
137
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FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
TITLE III - DEPARTMENT OF EDUCATION							
COMPENSATORY EDUCATION FOR THE DISADVANTAGED 1/							
Grants for the Disadvantaged (Chapter 1):							
Grants to local educational agencies:							
Basic grants	5,001,975,000	5,001,975,000	5,805,000,000	5,176,575,000	5,387,000,000	5,387,000,000	D
Additional appropriation 9/30/92	---	---	---	138,000,000	138,000,000	138,000,000	D
Concentration grants	555,775,000	674,775,000	645,000,000	575,175,000	596,000,000	596,000,000	D
Additional appropriation 9/30/92	---	---	---	14,000,000	14,000,000	14,000,000	D
Subtotal, grants to LEA's	5,557,750,000	5,676,750,000	6,450,000,000	5,903,750,000	6,135,000,000	6,135,000,000	
Capital expenses for private school children	36,108,000	36,108,000	38,000,000	42,108,000	40,054,000	40,054,000	D
Even start	49,771,000	60,000,000	100,000,000	54,500,000	70,000,000	70,000,000	D
State agency programs:							
Migrant	294,596,000	294,596,000	322,000,000	294,596,000	308,298,000	308,298,000	D
Neglected and delinquent	36,108,000	36,108,000	36,000,000	36,108,000	36,054,000	36,054,000	D
State administration	59,140,000	59,140,000	64,500,000	59,140,000	61,820,000	61,820,000	D
State program improvement grants	14,785,000	30,000,000	32,250,000	18,000,000	25,125,000	25,125,000	D
Evaluation and technical assistance 2/	13,175,000	17,000,000	17,000,000	13,175,000	15,088,000	15,088,000	D
Rural technical assistance centers 2/	4,463,000	4,463,000	5,000,000	5,000,000	5,000,000	5,000,000	D
Total, Chapter 1	6,065,896,000	6,214,165,000	7,064,750,000	6,426,377,000	6,696,439,000	6,696,439,000	
Migrant education:							
High school equivalency program 2/	7,807,000	8,135,000	8,500,000	8,119,000	8,310,000	8,310,000	D
College assistance migrant program 2/	1,952,000	2,034,000	2,500,000	2,030,000	2,265,000	2,265,000	D
Subtotal, migrant education	9,759,000	10,169,000	11,000,000	10,149,000	10,575,000	10,575,000	
Total, Compensatory Education programs	6,075,655,000	6,224,334,000	7,075,750,000	6,436,526,000	6,707,014,000	6,707,014,000	
Subtotal, forward funded	(6,048,258,000)	(6,192,702,000)	(7,042,750,000)	(6,408,202,000)	(6,676,351,000)	(6,676,351,000)	
IMPACT AID							
Maintenance and operations:							
Payments for "a" children	585,540,000	588,540,000	585,540,000	588,540,000	588,540,000	588,540,000	D
Payments for "b" children	136,626,000	---	136,626,000	136,626,000	136,626,000	136,626,000	D
Payments for Federal property (Section 2)	16,590,000	16,590,000	16,590,000	16,590,000	16,590,000	16,590,000	D
Payments related to decreased activity (Sec. 3e)	1,952,000	---	---	1,952,000	1,952,000	1,952,000	D
Subtotal	740,708,000	605,130,000	738,756,000	743,708,000	743,708,000	743,708,000	
Disaster assistance (Section 7)	13,663,000	---	---	---	---	---	D
Construction	26,349,000	15,000,000	26,000,000	26,000,000	26,000,000	26,000,000	D
Additional appropriation 9/30/92	---	---	---	2,000,000	2,000,000	2,000,000	D
Total, Impact aid	780,720,000	620,130,000	764,756,000	771,708,000	771,708,000	771,708,000	
SCHOOL IMPROVEMENT PROGRAMS 4/							
Educational improvement (Chapter 2):							
State and Local Programs:							
State block grants 3/	448,914,000	448,914,000	450,000,000	450,000,000	450,000,000	450,000,000	D
Evaluation	976,000	---	---	---	---	---	D
Subtotal	449,890,000	448,914,000	450,000,000	450,000,000	450,000,000	450,000,000	
National programs:							
Inexpensive book distribution (RIF)	9,271,000	9,271,000	10,000,000	10,000,000	10,000,000	10,000,000	D
Arts in education:							
Regular program	4,392,000	4,392,000	3,700,000	8,600,000	8,600,000	8,600,000	D
Initial forward funding (House only) 3/	---	---	4,900,000	---	---	---	D
Law - related education	5,855,000	---	6,000,000	6,000,000	6,000,000	6,000,000	D
Subtotal, National programs	19,518,000	13,663,000	24,600,000	24,600,000	24,600,000	24,600,000	
Total, Chapter 2	469,408,000	462,577,000	474,600,000	474,600,000	474,600,000	474,600,000	

1/ $200 million originally requested within this account for Choice Schools considered under the Educational Excellence account.

2/ Current funded.

3/ Forward funded.

4/ Many activities previously funded in this account transferred to Education Research & Improvement.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Civics education	---	---	3,000,000	3,800,000	3,800,000	3,800,000	D
Drug-free schools and communities:							
State grants 1/	497,709,000	497,709,000	497,709,000	517,617,000	507,663,000	507,663,000	D
School personnel training	23,395,000	23,395,000	23,395,000	24,331,000	23,863,000	23,863,000	D
National programs:							
Regular programs	60,914,000	60,914,000	60,914,000	63,351,000	62,133,000	62,133,000	D
Emergency grants	24,331,000	49,500,000	25,000,000	30,304,000	30,304,000	30,304,000	D
Subtotal, drug-free schools	606,349,000	631,518,000	607,018,000	635,603,000	623,963,000	623,963,000	
Strengthening teaching and administration:							
Eisenhower mathematics and science education State grants 1/	202,011,000	239,011,000	240,000,000	240,000,000	240,000,000	240,000,000	D
Christa McAuliffe fellowships	1,954,000	2,036,000	2,000,000	2,000,000	2,000,000	2,000,000	D
Other school improvement programs:							
Magnet schools, desegregation program	109,977,000	109,977,000	110,000,000	110,000,000	110,000,000	110,000,000	D
Education for homeless children & youth 1/	7,313,000	---	37,000,000	25,000,000	25,000,000	25,000,000	D
Women's educational equity	1,995,000	500,000	2,000,000	500,000	500,000	500,000	D
Training and advisory services (Civil Rights IV-A)	21,329,000	21,329,000	22,000,000	22,000,000	22,000,000	22,000,000	D
Dropout prevention demonstrations	34,064,000	29,214,000	50,000,000	35,427,000	40,000,000	40,000,000	D
General assistance to the Virgin Islands	4,366,000	4,366,000	4,500,000	4,500,000	4,500,000	4,500,000	D
Ellender fellowships/Close up 1/	4,101,000	---	4,100,000	4,500,000	4,300,000	4,300,000	D
Follow through	7,265,000	---	10,000,000	7,265,000	8,632,000	8,632,000	D
Native Hawaiian Education	6,366,000	---	6,400,000	6,400,000	6,400,000	6,400,000	D
Foreign Language Assistance 1/	4,880,000	---	5,000,000	12,000,000	10,000,000	10,000,000	D
Subtotal, other school improvement programs	201,656,000	165,386,000	251,000,000	227,592,000	231,332,000	231,332,000	
National writing project	1,952,000	---	---	3,000,000	2,500,000	2,500,000	D
School year extension study commission	976,000	---	---	---	---	---	D
Total, School improvement programs	1,464,306,000	1,500,528,000	1,577,618,000	1,586,595,000	1,578,195,000	1,578,195,000	
Subtotal, forward funded	(1,164,928,000)	(1,185,634,000)	(1,238,709,000)	(1,249,117,000)	(1,236,963,000)	(1,236,963,000)	
EDUCATIONAL EXCELLENCE / AMERICA 2000							
Educational Excellence:							
New generation of American schools	---	180,000,000	---	---	---	---	D
Merit schools	---	100,000,000	---	---	---	---	D
Governors' academies for teachers	---	70,000,000	---	---	---	---	D
Governors' academies for school leaders	---	22,500,000	---	---	---	---	D
Assistance for parental choice programs	---	200,000,000	---	---	---	---	D
Choice demonstrations of national significance	---	30,000,000	---	---	---	---	D
Alternative teacher and principal certification	---	25,000,000	---	---	---	---	D
Commission on time, study, learning, and teaching.	---	1,000,000	---	---	---	---	D
Subtotal, Educational excellence	---	628,500,000	---	---	---	---	
Vocational and Adult Education:							
Regional literacy resource centers	---	5,000,000	---	---	---	---	D
Literacy initiatives	---	5,000,000	---	---	---	---	D
Higher Education: Endowment grants for HBCUs	---	10,000,000	---	---	---	---	D
Assessment, Statistics, Research and Improvement:							
World class standards/achievement tests	---	12,400,000	---	---	---	---	D
Goals panel: National report card	---	2,000,000	---	---	---	---	D
America on line	---	5,000,000	---	---	---	---	D
Assessing workplace literacy skills	---	2,000,000	---	---	---	---	D
Statistics: Expansion of the adult literacy survey	---	1,100,000	---	---	---	---	D
Assessment: Preparing interim tests	---	5,000,000	---	---	---	---	D
Fund for the Improvement and Reform of Schools and Teaching	---	10,700,000	---	---	---	---	D
Subtotal, ASRI	---	38,200,000	---	---	---	---	

1/ Forward funded.

VOL 137 PT 23 NO 21 — 25 1991 UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
Departmental Management: Program administration	---	3,300,000	---	---	---	---	D
Head start 1/	---	---	250,000,000	250,000,000	250,000,000	250,000,000	D
Community and migrant health centers 1/	---	---	---	55,000,000	55,000,000	55,000,000	D
Comprehensive child development centers 1/	---	---	---	20,000,000	20,000,000	20,000,000	D
Consolidated funds - regular appropriations 1/	---	---	250,000,000	---	100,000,000	100,000,000	D
Consolidated funds - by transfer 1/	---	---	---	(100,000,000)	---	---	NA
Total, Educational excellence	---	690,000,000	500,000,000	325,000,000	425,000,000	425,000,000	
BILINGUAL AND IMMIGRANT EDUCATION							
Bilingual education:							
Bilingual programs	121,039,000	123,814,000	171,000,000	123,814,000	147,407,000	147,407,000	D
Support services	11,632,000	11,632,000	12,000,000	12,000,000	12,000,000	12,000,000	D
Training grants	36,066,000	36,066,000	36,000,000	36,000,000	36,000,000	36,000,000	D
Immigrant education	29,277,000	29,277,000	30,000,000	30,000,000	30,000,000	30,000,000	D
Total	198,014,000	200,789,000	249,000,000	201,814,000	225,407,000	225,407,000	
SPECIAL EDUCATION							
State grants:							
EHA grants to States part ''b''	1,854,210,000	1,976,095,000	1,976,095,000	1,976,095,000	1,976,095,000	1,976,095,000	D
Chapter 1 handicapped grants	148,861,000	125,661,000	135,661,000	148,861,000	143,000,000	143,000,000	D
Preschool grants	292,770,000	295,920,000	295,920,000	320,000,000	320,000,000	320,000,000	D
Grants for infants and families	117,108,000	128,819,000	175,000,000	175,000,000	175,000,000	175,000,000	D
Subtotal, State grants	2,412,949,000	2,526,495,000	2,582,676,000	2,619,956,000	2,614,095,000	2,614,095,000	
Special purpose funds:							
Deaf-blindness	12,849,000	12,849,000	13,000,000	13,000,000	13,000,000	13,000,000	D
Severe disabilities	7,869,000	7,869,000	8,000,000	8,000,000	8,000,000	8,000,000	D
Serious emotional disturbance	1,952,000	1,952,000	4,000,000	4,000,000	4,000,000	4,000,000	D
Early childhood education	24,202,000	24,202,000	25,000,000	25,000,000	25,000,000	25,000,000	D
Secondary and transitional services	14,639,000	14,639,000	17,000,000	19,000,000	19,000,000	19,000,000	D
Postsecondary education	8,559,000	8,559,000	9,000,000	9,000,000	9,000,000	9,000,000	D
Innovation and development	20,174,000	20,174,000	24,000,000	21,000,000	21,000,000	21,000,000	D
Media and captioning services	16,424,000	16,424,000	17,000,000	17,000,000	17,000,000	17,000,000	D
Technology applications	5,593,000	5,593,000	10,000,000	10,000,000	10,000,000	10,000,000	D
Special studies	3,904,000	3,904,000	4,000,000	4,000,000	4,000,000	4,000,000	D
Personnel development	69,289,000	69,289,000	89,800,000	89,800,000	89,800,000	89,800,000	D
Parent training	9,759,000	9,759,000	10,200,000	12,000,000	12,000,000	12,000,000	D
Clearing houses	1,525,000	1,525,000	2,000,000	2,000,000	2,000,000	2,000,000	D
Regional resource centers	6,620,000	6,620,000	7,000,000	7,000,000	7,000,000	7,000,000	D
Subtotal, Special purpose funds	203,358,000	203,358,000	240,000,000	240,800,000	240,800,000	240,800,000	
Total, Special education	2,616,307,000	2,729,853,000	2,822,676,000	2,860,756,000	2,854,895,000	2,854,895,000	
REHABILITATION SERVICES AND DISABILITY RESEARCH							
Vocational rehabilitation State grants:							
Grants to States	1,632,625,000	---	1,735,480,000	1,788,000,000	1,788,000,000	1,788,000,000	M
Supported employment State grants	29,150,000	---	29,150,000	31,065,000	31,065,000	31,065,000	M
Client assistance	8,310,000	---	8,310,000	9,141,000	9,141,000	9,141,000	M
Subtotal, State grants	1,670,085,000	---	1,772,940,000	1,828,206,000	1,828,206,000	1,828,206,000	
Special purpose funds:							
Special demonstration programs	18,368,000	---	18,368,000	25,103,000	31,103,000	31,103,000	M
Supported employment projects	10,023,000	---	10,023,000	10,423,000	10,423,000	10,423,000	M
Recreational programs	2,617,000	---	2,617,000	2,617,000	2,617,000	2,617,000	M
Migratory workers	1,060,000	---	1,060,000	1,060,000	1,060,000	1,060,000	M
Projects with industry	19,445,000	---	19,445,000	20,390,000	20,390,000	20,390,000	M
Helen Keller National Center	5,367,000	---	5,367,000	5,867,000	5,867,000	5,867,000	M

1/ To be made available on July 1, 1992.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
Independent living:							
Comprehensive services	13,619,000	---	13,619,000	14,200,000	14,200,000	14,200,000	M
Centers	27,579,000	---	27,579,000	29,000,000	29,000,000	29,000,000	M
Services for older blind	5,914,000	---	5,914,000	6,505,000	6,505,000	6,505,000	M
Protection & advocacy for severely disabled	976,000	---	976,000	1,074,000	1,074,000	1,074,000	M
Subtotal, Independent living	48,088,000	---	48,088,000	50,779,000	50,779,000	50,779,000	
Training	33,353,000	---	33,353,000	36,688,000	36,688,000	36,688,000	M
National Institute on Disability & Rehabilitation Research	58,924,000	---	58,924,000	61,000,000	61,000,000	61,000,000	M
Technology assistance	20,982,000	27,340,000	27,340,000	28,000,000	28,000,000	28,000,000	M
Evaluation	976,000	---	976,000	1,025,000	1,025,000	1,025,000	M
Subtotal, Special purpose funds	219,203,000	27,340,000	225,561,000	242,952,000	248,952,000	248,952,000	
Consolidated request, new legislation	---	1,976,040,000	---	---	---	---	M
Total, Rehabilitation services	1,889,288,000	2,003,380,000	1,998,501,000	2,071,158,000	2,077,158,000	2,077,158,000	
SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES							
AMERICAN PRINTING HOUSE FOR THE BLIND	6,136,000	6,136,000	5,500,000	6,600,000	5,900,000	5,900,000	D
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF:							
Operations	36,884,000	36,884,000	38,500,000	39,097,000	39,097,000	39,097,000	D
Endowment grant	328,000	342,000	---	342,000	342,000	342,000	D
Subtotal, NTID	37,212,000	37,226,000	38,500,000	39,439,000	39,439,000	39,439,000	
GALLAUDET UNIVERSITY:							
University programs	47,623,000	47,623,000	48,473,000	50,480,000	50,480,000	50,480,000	D
Precollege programs 1/	21,223,000	21,223,000	21,223,000	22,560,000	22,560,000	22,560,000	D
Endowment grant	976,000	1,000,000	976,000	1,000,000	1,000,000	1,000,000	D
Construction	2,440,000	1,000,000	2,500,000	2,500,000	2,500,000	2,500,000	D
Subtotal, Gallaudet University	72,262,000	70,846,000	73,172,000	76,540,000	76,540,000	76,540,000	
Total, Special Institutions for Disabled	115,610,000	114,208,000	117,172,000	122,579,000	121,879,000	121,879,000	
VOCATIONAL AND ADULT EDUCATION							
Vocational education:							
Basic grants	856,503,000	890,656,000	1,077,000,000	897,500,000	900,000,000	900,000,000	D
Additional appropriation 9/30/92	---	---	---	50,000,000	50,000,000	50,000,000	D
Community education employment centers	---	---	---	7,500,000	---	---	D
Supplemental grants, equipment	---	---	100,000,000	---	---	---	D
Additional appropriation 9/30/92	---	---	---	10,000,000	10,000,000	10,000,000	D
Community - based organizations	11,711,000	11,711,000	12,000,000	12,000,000	12,000,000	12,000,000	D
Consumer and homemaking education	33,352,000	---	38,000,000	33,352,000	35,000,000	35,000,000	D
State councils	8,783,000	8,783,000	9,000,000	9,000,000	9,000,000	9,000,000	D
Tech Prep	63,434,000	63,434,000	100,000,000	65,971,000	90,000,000	90,000,000	D
Tribally controlled post-secondary vocational institutions 2/	2,440,000	2,440,000	2,500,000	2,500,000	2,500,000	2,500,000	D
National programs:							
Research	6,831,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	D
Technical assistance, sec. 404 (d)	---	---	2,000,000	---	2,000,000	2,000,000	D
Demonstrations	12,970,000	9,000,000	12,000,000	14,000,000	14,000,000	14,000,000	D
Data systems (NOICC/SOICC)	4,880,000	4,880,000	5,000,000	5,000,000	5,000,000	5,000,000	D
Subtotal, national programs	24,681,000	23,880,000	29,000,000	29,000,000	31,000,000	31,000,000	
Bilingual vocational training	2,888,000	2,888,000	3,000,000	3,000,000	3,000,000	3,000,000	D
Subtotal, Applied technology education	1,003,792,000	1,003,792,000	1,370,500,000	1,119,823,000	1,142,500,000	1,142,500,000	

1/ Kendall Elementary and Model Secondary Schools.

2/ Senate bill and conference agreement make funding available 10/1/91.

VOL
137
PT
23
NO
21
—
25
1991
UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Adult education:							
State Programs	201,035,000	221,500,000	250,000,000	221,500,000	235,750,000	235,750,000	D
National programs	7,807,000	9,000,000	9,000,000	9,000,000	9,000,000	9,000,000	D
Literacy training for homeless adults	9,759,000	---	---	9,759,000	9,759,000	9,759,000	D
Workplace literacy partnerships	19,251,000	19,251,000	20,000,000	19,251,000	19,251,000	19,251,000	D
English literacy grants	976,000	976,000	1,000,000	1,000,000	1,000,000	1,000,000	D
State literacy resource centers	---	---	---	10,000,000	5,000,000	5,000,000	D
Prison literacy training program	---	---	---	10,000,000	5,000,000	5,000,000	D
Subtotal, adult education	238,828,000	250,727,000	280,000,000	280,510,000	284,760,000	284,760,000	
Technology education demonstrations	964,000	---	1,000,000	---	---	---	D
Commercial truck driver training	1,952,000	---	---	3,000,000	2,500,000	2,500,000	D
Total, Vocational and adult education	1,245,536,000	1,254,519,000	1,651,500,000	1,403,333,000	1,429,760,000	1,429,760,000	
STUDENT FINANCIAL ASSISTANCE 2/							
Pell Grants: Academic year 1992 - 1993 1/	5,374,282,000	5,775,121,000	5,350,000,000	5,360,000,000	5,360,000,000	5,360,000,000	D
Contingency	---	---	100,000,000	100,000,000	100,000,000	100,000,000	D
Presidential Scholarships, new legislation	---	170,000,000	---	---	---	---	D
Supplemental educational opportunity grants	520,155,000	346,945,000	570,000,000	570,000,000	577,000,000	577,000,000	D
Additional appropriation 9/30/92	---	---	---	62,000,000	---	---	D
Work-study	594,689,000	396,615,000	595,000,000	618,476,000	615,000,000	615,000,000	D
Income contingent loans	4,880,000	10,000,000	5,000,000	4,880,000	4,880,000	4,880,000	D
Perkins loans:							
Federal capital contributions	156,144,000	---	156,000,000	156,000,000	156,000,000	156,000,000	D
Loan cancellations	---	15,000,000	13,000,000	15,000,000	---	---	D
Subtotal, Perkins loans	156,144,000	15,000,000	169,000,000	171,000,000	156,000,000	156,000,000	
State student incentive grants	63,531,000	---	64,000,000	76,000,000	72,000,000	72,000,000	D
Total, Student Financial Assistance	6,713,681,000	6,713,681,000	6,853,000,000	6,962,356,000	6,884,880,000	6,884,880,000	
GUARANTEED STUDENT LOANS (LIQUIDATING)							
Contract authority to liquidate pre-1992 loan subsidies	(4,209,818,000)	(3,075,711,000)	(3,075,711,000)	(3,075,711,000)	(4,190,459,000)	(4,190,459,000)	NA
Appropriation, including shortfalls (non-add)	(5,381,422,000)	(3,105,711,000)	(3,105,711,000)	(3,105,711,000)	(4,220,459,000)	(4,220,459,000)	NA
GUARANTEED STUDENT LOANS PROGRAM							
Guaranteed Student Loans:							
New loan subsidies (contract authority)	---	2,655,636,000	2,655,636,000	2,655,636,000	2,655,636,000	2,655,636,000	M
Mandatory admin expenses (contract authority)	---	164,611,000	164,611,000	164,611,000	164,611,000	164,611,000	M
Total	---	2,820,247,000	2,820,247,000	2,820,247,000	2,820,247,000	2,820,247,000	
GSL LOAN ADMINISTRATION	34,671,000	46,433,000	46,433,000	40,000,000	45,000,000	45,000,000	D
HIGHER EDUCATION							
Aid for institutional development:							
Strengthening institutions	87,631,000	87,831,000	90,000,000	87,831,000	87,831,000	87,831,000	D
Strengthening historically black colleges & univ.	87,831,000	87,831,000	100,000,000	87,831,000	100,000,000	100,000,000	D
Strengthening historically black grad institutions	11,711,000	11,711,000	12,000,000	11,711,000	11,711,000	11,711,000	D
Endowment grants	17,462,000	7,462,000	7,500,000	7,500,000	7,500,000	7,500,000	D
Subtotal, Institutional development	204,635,000	194,835,000	209,500,000	194,873,000	207,042,000	207,042,000	
Program development:							
Fund for the Improvement of Postsec. Education	14,639,000	14,639,000	15,000,000	15,000,000	15,000,000	15,000,000	D
Minority science improvement	5,855,000	6,101,000	6,000,000	6,000,000	6,000,000	6,000,000	D
Innovative projects for community services	1,464,000	6,830,000	1,463,000	1,463,000	1,463,000	1,463,000	D
Student Literacy Corps	5,367,000	---	5,367,000	5,367,000	5,367,000	5,367,000	D
International educ & foreign language studies:							
Domestic programs	28,670,000	28,670,000	34,000,000	30,170,000	30,000,000	30,000,000	D
Additional appropriation 9/30/92	---	---	---	4,000,000	4,000,000	4,000,000	D
Overseas programs	5,855,000	5,855,000	6,000,000	6,000,000	6,000,000	6,000,000	D

1/ 1991 includes prior year shortfall and contingency.

2/ Conference agreement assumes $62,000,000 of the total is not made available until 9/30/92.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
Foreign language & area studies fellowships VI	11,342,000	11,342,000	13,000,000	13,000,000	13,000,000	13,000,000	D
Subtotal, International education	45,867,000	45,867,000	53,000,000	53,170,000	53,000,000	53,000,000	
Cooperative education	13,175,000	13,175,000	14,000,000	14,000,000	14,000,000	14,000,000	D
Law school clinical experience	5,855,000	---	8,000,000	8,000,000	8,000,000	8,000,000	D
Subtotal, Program development	92,222,000	86,612,000	102,830,000	103,000,000	102,830,000	102,830,000	
Construction:							
Interest subsidy grants, prior year construction	20,396,000	19,412,000	19,412,000	19,412,000	19,412,000	19,412,000	D
Academic facilities	4,197,000	---	---	---	---	---	D
Subtotal, Construction	24,593,000	19,412,000	19,412,000	19,412,000	19,412,000	19,412,000	
Special grants:							
Assistance to Guam	488,000	---	500,000	500,000	500,000	500,000	D
Margaret Chase Smith Library	976,000	---	---	---	---	---	D
John McCormack Institute	2,928,000	---	---	---	---	---	D
Robert A. Taft Institute	683,000	550,000	550,000	550,000	550,000	550,000	D
Magnuson Endowment	2,928,000	---	---	2,000,000	2,000,000	2,000,000	D
Model Law Center, Seton Hall University	5,367,000	---	---	---	---	---	D
Bethune-Cookman	---	---	300,000	300,000	300,000	300,000	D
Urban Community Service	---	---	---	10,000,000	8,000,000	8,000,000	D
Subtotal, Special grants	13,370,000	550,000	1,350,000	13,350,000	11,350,000	11,350,000	
Aid for students:							
Special programs for the disadvantaged (TRIO plus)	333,758,000	---	385,249,000	385,249,000	365,249,000	365,249,000	D
Additional appropriation 9/30/92	---	---	---	20,000,000	20,000,000	20,000,000	D
Consolidated undergrad outreach (proposed leg)	---	384,249,000	---	---	---	---	D
McNeir graduate outreach (proposed leg)	---	10,826,000	---	---	---	---	D
Undergraduate scholarships:							
Byrd honors scholarships	9,271,000	9,271,000	9,271,000	9,642,000	9,642,000	9,642,000	D
National science scholars	976,000	10,000,000	4,500,000	4,500,000	4,500,000	4,500,000	D
Douglas teacher scholarships	14,639,000	14,639,000	15,000,000	15,000,000	15,000,000	15,000,000	D
Subtotal, Undergraduate scholarships	24,886,000	33,910,000	28,771,000	29,142,000	29,142,000	29,142,000	
Graduate fellowships:							
Harris graduate fellowships	17,566,000	---	17,600,000	17,600,000	17,600,000	17,600,000	D
Harris public service fellowships	3,198,000	---	3,200,000	3,200,000	3,200,000	3,200,000	D
Javits fellowships	7,807,000	---	8,000,000	8,000,000	8,000,000	8,000,000	D
Graduate assistance in areas of national need	24,885,000	---	30,000,000	25,000,000	28,000,000	28,000,000	D
Minority participation in graduate education	5,953,000	---	5,826,000	5,953,000	5,953,000	5,953,000	D
National graduate fellowships (proposed leg)	---	54,107,000	---	---	---	---	D
Subtotal, Graduate fellowships	59,409,000	54,107,000	64,626,000	59,753,000	62,753,000	62,753,000	
Veterans' education outreach	2,733,000	---	2,700,000	2,733,000	2,700,000	2,700,000	D
Legal training for the disadvantaged (CLEO)	2,928,000	---	3,000,000	3,045,000	3,045,000	3,045,000	D
School, college & university partnerships	3,904,000	---	4,000,000	4,000,000	4,000,000	4,000,000	D
Total, Higher education	762,638,000	764,501,000	821,436,000	834,557,000	827,523,000	827,523,000	
HOWARD UNIVERSITY							
Academic program	153,515,000	153,515,000	153,515,000	158,515,000	153,515,000	153,515,000	D
Endowment grant	2,928,000	4,500,000	2,928,000	4,500,000	2,928,000	2,928,000	D
Research	4,616,000	4,616,000	4,616,000	4,616,000	4,616,000	4,616,000	D
Howard University Hospital	28,301,000	28,301,000	28,301,000	29,500,000	28,301,000	28,301,000	D
Emergency construction	5,855,000	---	23,600,000	2,000,000	23,000,000	23,000,000	D
Total, Howard University	195,215,000	190,932,000	212,960,000	199,131,000	212,360,000	212,360,000	

VOL
137
PT
23
NO
21
—
25
1991
UMI

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS (LIQUIDATING):							
Borrowing authority	29,277,000	---	---	---	---	---	D
Interest subsidy payments	8,449,000	3,598,000	3,598,000	3,598,000	3,598,000	3,598,000	M
Total, College Housing Liquidating	37,726,000	3,598,000	3,598,000	3,598,000	3,598,000	3,598,000	
COLLEGE HOUSING AND ACADEMIC FACILITIES PROGRAM							
New loan subsidies	---	---	---	7,539,000	7,539,000	7,539,000	D
Federal administration	---	---	---	566,000	568,000	566,000	D
Loan limitation	---	---	---	(30,000,000)	(30,000,000)	(30,000,000)	NA
Total, College Housing Program	---	---	---	8,105,000	8,105,000	8,105,000	
EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT							
Research	64,714,000	74,296,000	71,000,000	71,500,000	71,000,000	71,000,000	D
High technology demonstration program	---	---	8,000,000	---	---	---	D
Statistics	44,313,000	51,974,000	50,000,000	44,313,000	47,313,000	47,313,000	D
Assessment (NAEP)	19,211,000	26,086,000	28,000,000	20,000,000	29,900,000	29,900,000	D
Fund for Innovation in Education	27,737,000	27,737,000	19,000,000	27,737,000	24,000,000	24,000,000	D
Fund for the Improvement and Reform of Schools and Teaching:							
Grants for schools and teachers	5,284,000	1,080,000	5,284,000	5,495,000	5,495,000	5,495,000	D
Family-school partnerships	3,611,000	927,000	3,611,000	3,755,000	3,755,000	3,755,000	D
Eisenhower mathematics & science educ national program	11,711,000	14,711,000	14,000,000	18,000,000	16,000,000	16,000,000	D
(Clearinghouse non-add)	---	---	---	(6,000,000)	(3,500,000)	(3,500,000)	NA
Math Science consortium	---	---	---	15,000,000	12,000,000	12,000,000	D
National Diffusion Network	14,151,000	14,151,000	14,000,000	14,700,000	14,700,000	14,700,000	D
Blue ribbon schools	885,000	885,000	---	885,000	---	---	D
Javits gifted and talented students education	9,732,000	9,732,000	9,732,000	9,732,000	9,732,000	9,732,000	D
Star schools	14,417,000	10,000,000	---	17,404,000	17,417,000	17,417,000	D
Additional appropriation 9/30/92	---	---	---	1,000,000	1,000,000	1,000,000	D
Educational partnerships	4,233,000	4,233,000	4,233,000	4,233,000	4,233,000	4,233,000	D
Territorial teacher training	1,769,000	1,769,000	1,769,000	1,769,000	1,769,000	1,769,000	D
Leadership in educational administration (LEAD)	3,831,000	370,000	370,000	370,000	370,000	370,000	D
Midcareer teacher training	987,000	---	---	---	---	---	D
National council on educational goals	1,952,000	---	---	---	---	---	D
Innovations in teacher education, new legislation	---	20,000,000	---	---	---	---	D
Subtotal	228,538,000	260,751,000	228,999,000	255,893,000	258,684,000	258,684,000	
National board for professional teacher standards	4,880,000	---	4,880,000	4,880,000	4,880,000	4,880,000	D
Total, ERSI	233,418,000	260,751,000	233,879,000	260,773,000	263,564,000	263,564,000	
LIBRARIES							
Public libraries:							
Services	83,898,000	35,000,000	83,898,000	83,898,000	83,898,000	83,898,000	D
Construction	19,218,000	---	14,218,000	19,218,000	16,718,000	16,718,000	D
Interlibrary cooperation	19,908,000	---	19,908,000	19,908,000	19,908,000	19,908,000	D
Training 1/	651,000	---	5,000,000	5,000,000	5,000,000	5,000,000	D
Research and demonstrations	325,000	---	325,000	325,000	325,000	325,000	D
Research libraries	5,855,000	---	5,855,000	5,855,000	5,855,000	5,855,000	D
Library literacy programs	8,163,000	---	8,163,000	8,163,000	8,163,000	8,163,000	D
College library technology	3,904,000	---	3,904,000	6,404,000	6,404,000	6,404,000	D
Foreign language materials (Title V-LSCA, VI-HEA)	976,000	---	1,476,000	976,000	1,476,000	1,476,000	D
Total, Libraries	162,898,000	35,000,000	142,747,000	149,747,000	147,747,000	147,747,000	

1/ Training funds requested under Higher Education.

FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991	FY 1992	H.R. 2707			New	Mand
	Comparable	Budget Request	House Bill	Senate Bill	Conference	Bill	Disc
DEPARTMENTAL MANAGEMENT							
PROGRAM ADMINISTRATION	284,595,000	303,567,000	301,952,000	284,008,000	299,000,000	299,000,000	D
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	48,405,000	58,000,000	58,000,000	51,691,000	55,000,000	55,000,000	D
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	24,837,000	28,521,000	26,932,000	26,530,000	26,932,000	26,932,000	D
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION	---	---	-10,000,000	-3,785,000	-10,660,000	-10,660,000	D
Total, Departmental management	357,837,000	388,088,000	374,884,000	358,444,000	370,272,000	370,272,000	
Total, Department of Education	22,883,520,000	26,580,972,000	28,266,159,000	27,416,427,000	27,774,312,000	27,774,312,000	
Total including Guaranteed Student Loans	(27,093,338,000)	(29,856,883,000)	(31,341,870,000)	(30,492,138,000)	(31,964,771,000)	(31,964,771,000)	
TITLE IV - RELATED AGENCIES							
Action (Domestic Programs):							
Volunteers in Service to America:							
VISTA operations	30,287,000	35,803,000	32,693,000	34,683,000	32,688,000	32,688,000	D
VISTA Literacy Corps	4,621,000	4,930,000	4,621,000	4,930,000	4,776,000	4,776,000	D
Student Community Service	976,000	976,000	976,000	976,000	976,000	976,000	D
Subtotal	35,884,000	41,709,000	38,290,000	40,589,000	38,440,000	38,440,000	
Special Volunteer Programs:							
Drug programs	2,191,000	1,451,000	1,000,000	1,451,000	1,225,000	1,225,000	D
Older Americans Volunteer Programs:							
Foster Grandparents Program	62,946,000	62,946,000	62,946,000	65,590,000	65,590,000	65,590,000	D
Senior Companion Program	27,569,000	27,569,000	27,569,000	28,727,000	28,727,000	28,727,000	D
Retired Senior Volunteer Program	33,425,000	33,425,000	33,425,000	34,830,000	34,128,000	34,128,000	D
Subtotal, Older Volunteers	123,940,000	123,940,000	123,940,000	129,147,000	128,445,000	128,445,000	
Inspector General	976,000	1,017,000	920,000	976,000	954,000	954,000	D
Program Support	28,301,000	30,435,000	29,528,000	29,528,000	29,528,000	29,528,000	D
Total, Action	191,292,000	198,552,000	193,878,000	201,691,000	198,592,000	198,592,000	
Corporation for Public Broadcasting: 1/							
FY 1994 (current request)	253,309,000	260,000,000	253,309,000	284,000,000	275,000,000	275,000,000	D
FY 1993 satellite replacement	65,327,000	---	---	---	---	---	D
Subtotal, Corporation for Public Broadcasting	318,636,000	260,000,000	253,309,000	284,000,000	275,000,000	275,000,000	
Federal Mediation and Conciliation Service	27,037,000	28,145,000	28,118,000	29,118,000	28,118,000	28,118,000	D
Federal Mine Safety and Health Review Commission	4,189,000	4,719,000	4,357,000	4,357,000	5,143,000	5,143,000	D
National Commission on Acquired Immune Deficiency Syndrome	2,928,000	3,000,000	2,000,000	3,000,000	1,750,000	1,750,000	D
National Commission on Children	1,073,000	---	---	950,000	950,000	950,000	D
National Commission on Libraries and Information Science	732,000	911,000	750,000	911,000	831,000	831,000	D
National Commission to Prevent Infant Mortality	390,000	---	390,000	440,000	440,000	440,000	D
National Council on Disability	1,439,000	1,642,000	1,497,000	1,642,000	1,569,000	1,569,000	D
National Labor Relations Board	147,461,000	162,000,000	162,000,000	162,000,000	162,000,000	162,000,000	D
National Mediation Board	6,514,000	7,008,000	6,775,000	6,775,000	6,775,000	6,775,000	D
Occupational Safety and Health Review Commission	6,247,000	8,711,000	6,497,000	6,497,000	6,711,000	6,711,000	D
Physician Payment Review Commission (trust funds)	(3,778,000)	(4,495,000)	(4,300,000)	(4,495,000)	(4,398,000)	(4,398,000)	TF*
Prospective Payment Assessment Commission (trust funds)	(3,875,000)	(4,210,000)	(4,030,000)	(4,030,000)	(4,030,000)	(4,030,000)	TF*
Railroad Retirement Board:							
Dual benefits payments account	326,927,000	315,000,000	315,000,000	319,100,000	319,100,000	319,100,000	D
Interest payment	---	---	9,000,000	---	---	---	D
Less income tax receipts on dual benefits	-16,000,000	-18,000,000	-18,000,000	-18,000,000	-18,000,000	-18,000,000	D
Subtotal, dual benefits	310,927,000	297,000,000	306,000,000	301,100,000	301,100,000	301,100,000	
Federal payment to the Railroad Retirement Account	400,000	400,000	400,000	400,000	400,000	400,000	M

1/ FY 1991 approp. adv. in FY89 is $298,870,000.
FY 1992 approp. adv. in FY90 is $327,280,000.
FY 1993 approp. adv. in FY91 is $318,636,000.

The text of H.R. 3839 is as follows:

To carry out the activities for grants to

State allocations to administer unemploy-

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137
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FY 1992 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1991 Comparable	FY 1992 Budget Request	H.R. 2707 House Bill	H.R. 2707 Senate Bill	H.R. 2707 Conference	New Bill	Mand Disc
Limitation on administration: (Retirement)	(69,936,000)	(74,037,000)	(74,037,000)	(73,287,000)	(72,287,000)	(72,287,000)	TF*
(Unemployment)	(15,287,000)	(17,263,000)	(17,263,000)	(17,263,000)	(17,263,000)	(17,263,000)	TF*
Subtotal, administration	(85,223,000)	(91,300,000)	(91,300,000)	(90,550,000)	(89,550,000)	(89,550,000)	
(Special Management Improvement Fund) 1/	---	(13,910,000)	(3,264,000)	(3,264,000)	(3,264,000)	(3,264,000)	TF*
Total, limitation on administration	(85,223,000)	(105,210,000)	(94,564,000)	(93,814,000)	(92,814,000)	(92,814,000)	
(Inspector General)	(5,855,000)	(7,700,000)	(6,089,000)	(6,700,000)	(6,395,000)	(6,395,000)	TF*
Soldiers' and Airmen's Home (trust fund limitation): Operation and maintenance	40,581,000	42,123,000	40,581,000	42,123,000	41,352,000	41,352,000	D
Capital outlay	11,223,000	4,220,000	4,220,000	4,220,000	4,220,000	4,220,000	D
United States Institute of Peace	8,393,000	8,911,000	8,393,000	11,918,000	11,000,000	11,000,000	D
United States Naval Home (trust fund limitation): Operation and maintenance	---	10,055,000	10,055,000	10,055,000	10,055,000	10,055,000	D
Capital program	---	1,253,000	1,253,000	1,253,000	1,253,000	1,253,000	D
White House Conference on Library and Information Services	488,000	---	---	---	---	---	D
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION	---	---	---	-2,367,000	---	---	D
Total, Title IV, Related Agencies: Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	1,070,083,000	1,057,259,000	1,057,259,000	
Current year, FY 1992	(761,314,000)	(776,650,000)	(776,964,000)	(786,083,000)	(782,259,000)	(782,259,000)	
FY 1994	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust funds	(98,731,000)	(121,615,000)	(108,983,000)	(109,039,000)	(107,637,000)	(107,637,000)	
SUMMARY							
Title I - Department of Labor: Federal Funds	7,541,537,000	7,336,447,000	7,435,073,000	7,485,176,000	7,476,230,000	7,476,230,000	
Current year	(7,541,537,000)	(7,336,447,000)	(7,435,073,000)	(7,485,176,000)	(7,288,530,000)	(7,288,530,000)	
1993 advance	---	---	---	---	(187,700,000)	(187,700,000)	
Trust Funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(3,537,331,000)	(3,509,301,000)	(3,509,301,000)	
Title II - Department of Health and Human Services: Federal Funds (all years)	151,680,827,000	165,657,345,000	167,121,817,000	168,803,563,000	168,611,962,000	168,611,962,000	
Current year	(130,543,893,000)	(139,119,345,000)	(139,460,825,000)	(141,142,591,000)	(140,950,970,000)	(140,950,970,000)	
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	(27,660,992,000)	
Trust Funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(6,504,857,000)	(6,934,781,000)	(6,934,781,000)	
Title III - Department of Education: Federal Funds	22,883,520,000	26,580,972,000	28,266,159,000	27,416,427,000	27,774,312,000	27,774,312,000	
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(30,492,138,000)	(31,964,771,000)	(31,964,771,000)	
Title IV - Related Agencies: Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	1,070,083,000	1,057,259,000	1,057,259,000	
Current year	(761,214,000)	(776,650,000)	(776,964,000)	(786,083,000)	(782,259,000)	(782,259,000)	
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(264,000,000)	(275,000,000)	(275,000,000)	
Trust Funds	(98,731,000)	(121,615,000)	(108,983,000)	(109,039,000)	(107,637,000)	(107,637,000)	
Total, all titles: Federal Funds (all years)	183,185,834,000	200,611,414,000	203,853,322,000	204,775,269,000	204,919,763,000	204,919,763,000	
Current year	(161,730,264,000)	(173,813,414,000)	(175,939,021,000)	(176,830,277,000)	(176,796,071,000)	(176,796,071,000)	
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(27,660,992,000)	(27,848,692,000)	(27,848,692,000)	
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(284,000,000)	(275,000,000)	(275,000,000)	
Trust Funds	(9,998,617,000)	(10,062,899,000)	(10,559,412,000)	(10,151,227,000)	(10,551,719,000)	(10,551,719,000)	

1/ Request available for FY 1992 - FY 1996: House and Senate bill and conference agreement available for FY 1992 only.

The text of H.R. 3839 is as follows:

H.R. 3839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $73,980,000, together with not to exceed $56,952,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $3,861,338,000, plus reimbursements, to be available for obligation for the period July 1, 1992, through June 30, 1993, of which $63,000,000 shall be for carrying out section 401, $77,644,000 shall be for carrying out section 402, $9,120,000 shall be for carrying out section 441, $1,848,000 shall be for the National Commission for Employment Policy, $5,400,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $3,900,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, $187,700,000 is appropriated for part B of title II of the Job Training Partnership Act, as amended, in addition to amounts otherwise provided herein for part B of title II, to be available for obligation for the period October 1, 1992 through June 30, 1993; and, in addition, $73,000,000 is appropriated for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, as authorized by the Job Training Partnership Act, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1992 through June 30, 1995; and, in addition, $50,000,000 is appropriated for Clean Air Employment Transition Assistance under part B of title III of the Job Training Partnership Act, to be available for obligation for the period October 1, 1991 through June 30, 1993; and, in addition, $9,312,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That funds appropriated under this heading in Public Law 100–436 to continue acquisition, rehabilitation, and construction of six new Job Corps centers shall be available for obligation through June 30, 1993.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $308,241,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $86,940,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95–250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $226,250,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95–250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–491–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235 and 243–244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212 (a), (5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, $24,038,000 together with not to exceed $3,148,655,000 (including not to exceed $2,080,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1992, and of which $18,427,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1992, through December 31, 1992, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502–504 and 5 U.S.C. 8501–8523), and of which $21,838,000 together with not to exceed $799,770,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1992, through June 30, 1993, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period September 30, 1992, through June 30, 1993, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended, and of which $440,703,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1992 is projected by the Department of Labor to exceed the 3.24 million level assumed in the President's fiscal year 1992 Budget Request, based on the Administration's December 1990 economic assumptions, an additional $30,000,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund. The Appropriations Committees shall be notified immediately of any request by the Department to the Office of Management and Budget to apportion any of these funds.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1993, $236,990,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $95,340,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1992, for such Corporation: *Provided*, That not to exceed $47,787,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as nonadministrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $231,326,000, together with $1,035,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative ex-

VOL 137 PT 23 NO 21—25 1991 UMI

penses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $192,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements from Federal Government agencies unobligated on September 30, 1991, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1992.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $917,192,000, of which $861,135,000, shall be available until September 30, 1993, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $30,145,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,579,000 for transfer to Departmental Management, Salaries and Expenses, and $333,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $304,157,000, including $66,344,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $185,364,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $256,924,000, together with not to exceed $50,399,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $4,409,000 for the President's Committee on Employment of People With Disabilities, $141,053,000, together with not to exceed $332,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $174,759,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $46,320,000, together with not to exceed $4,357,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 100. (a) Notwithstanding any other provision of law, on or before December 1, 1991, the Secretary of Labor, acting under the Occupational Safety and Health Act of 1970, shall promulgate a final occupational health standard concerning occupational exposure to bloodborne pathogens. The final standard shall be based on the proposed standard as published in the Federal Register on May 30, 1989 (54 FR 23042), concerning occupational exposures to the hepatitis B virus, the human immunodeficiency virus and other bloodborne pathogens.

(b) In the event that the final standard referred to in subsection (a) is not promulgated by the date required under such subsection, the proposed standard on occupational exposure to bloodborne pathogens as published in the Federal Register on May 30, 1989 (54 FR 23042) shall become effective as if such proposed standard had been promulgated as a final standard by the Secretary of Labor, and remain in effect until the date on which such Secretary promulgates the final standard referred to in subsection (a).

(c) Nothing in this Act shall be construed to require the Secretary of Labor (acting through the Occupational Safety and Health Administration) to revise the employment accident reporting regulations published at 29 C.F.R. 1904.8.

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1992".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VII, VIII, X, XII, XIX, XXVI, and XXVII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101–527, Public Law 100–579, and the Native Hawaiian Health Care Act of 1988, $2,360,841,000, of which $450,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That of the funds made available under this heading, $125,000,000, of which $25,000,000 shall be for the Healthy Start program, shall not become available for obligation until September 30, 1992: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $19,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of guaranteed loans authorized by title VII of the Public Health Service Act, as amended, such sums as may be necessary to carry out the purpose of the program: *Provided*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $290,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $1,500,000.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $2,500,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $80,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, section 794 of title VII, XV, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,504,924,000, of which $25,600,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That of the funds made available under this heading, $134,000,000 shall not become available for obligation until September 30, 1992: *Provided further*, That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That collections from user fees may be credited to this appropriation: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further*, That in addition to amounts provided herein, up to $29,400,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,989,278,000: *Provided*, That of the funds made available under this heading, $223,446,000 shall not become available for obligation until September 30, 1992: *Provided further*, That the Director of the National Institutes of Health, within thirty days of enactment of this Act, may transfer such portion of $160,000,000 which becomes available on September 30, 1992 as she deems appropriate to other Institutes for research directly related to the prevention, treatment or cure of cancer: *Provided further*, That within the funds provided under this heading the Institute shall establish a Matsunaga-Conte Prostate Cancer Research Center.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,199,398,000: *Provided*, That of the funds made available under this heading, $54,555,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $160,493,000: *Provided*, That of the funds made available under this heading, $7,903,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $664,080,000: *Provided*, That of the funds made available under this heading, $28,457,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $583,378,000: *Provided*, That of the funds made available under this heading, $27,357,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $971,111,000: *Provided*, That of the funds made available under this heading, $45,627,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect

VOL 137 PT 23 NO 21—25 1991 UMI

to general medical sciences, $818,910,000: *Provided*, That of the funds made available under this heading, $48,104,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $524,452,000: *Provided*, That of the funds made available under this heading, $27,368,000 shall not become available for obligation until September 30, 1992: *Provided further*, That funds made available under this heading shall not be used to conduct the SHARP survey of adult sexual behavior and the American Teenage Survey of adolescent sexual behavior.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $271,002,000: *Provided*, That of the funds made available under this heading, $12,504,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $253,902,000: *Provided*, That of the funds made available under this heading, $8,846,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $387,014,000: *Provided*, That of the funds made available under this heading, $31,308,000 shall not become available for obligation until September 30, 1992: *Provided further*, That the Director of the National Institutes of Health, within thirty days of enactment of this Act, may transfer such portion of $15,000,000 which becomes available on September 30, 1992 as she deems appropriate to other Institutes for research directly related to Alzheimer's disease.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $204,502,000: *Provided*, That of the funds made available under this heading, $7,593,000 shall not become available for obligation until September 30, 1992.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $149,830,000: *Provided*, That of the funds made available under this heading, $7,486,000 shall not become available for obligation until September 30, 1992.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $315,220,000: *Provided*, That of the funds made available under this heading, $15,000,000 shall not become available for obligation until September 30, 1992.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $45,196,000: *Provided*, That of the funds made available under this heading, $2,646,000 shall not become available for obligation until September 30, 1992.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $105,261,000: *Provided*, That of the funds made available under this heading, $10,000,000 shall not become available for obligation until September 30, 1992.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $19,922,000: *Provided*, That of the funds made available under this heading, $800,000 shall not become available for obligation until September 30, 1992.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $100,303,000: *Provided*, That of the funds made available under this heading, $3,500,000 shall not become available for obligation until September 30, 1992.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $143,313,000, of which $25,000,000 shall be for the support of the women's health study and shall remain available until September 30, 1993: *Provided*, That of the funds made available under this heading, $12,500,000 shall not become available for obligation until September 30, 1992: *Provided further*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further*, That $7,500,000 of this amount shall be available for extramural facilities construction grants if awarded competitively: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to emergency activities the Director may so designate: *Provided further*, That no such appropriation shall be increased or decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $103,840,000 to remain available until expended.

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100–690, section 612 of Public Law 100–77, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $3,081,119,000: *Provided*, That of the funds made available under this heading, $164,100,000 shall not become available until September 30, 1992, of which $5,000,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

Assistant Secretary for Health

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $66,035,000, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

Agency for Health Care Policy and Research

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $101,870,000 together with not to exceed $4,880,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,012,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $13,444,000.

Health Care Financing Administration

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $46,399,149,000, to remain available until expended.

For making, after May 31, 1992, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1992 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1993, $17,100,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $39,421,485,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social

Security Act, title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101–508, and section 4005(e) of Public Law 100–203, not to exceed $2,274,055,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That $257,000,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That the use of the term "unanticipated costs" in the foregoing proviso refers only to costs associated with unanticipated workloads: *Provided further*, That the Secretary shall make a recommendation upon enactment of this Act and thereafter prior to the first day of each following quarter of the fiscal year, about the extent to which contingency funds may be necessary to be expended: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further*, That all funds collected in accordance with section 353 of the Public Health Service Act are to be credited to this appropriation to remain available until expended.

Social Security Administration

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, and section 274A(d)(3)(E) of the Immigration and Nationality Act, $40,968,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $617,336,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1993, $198,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $13,929,491,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided further*, That for fiscal year 1992 and thereafter, all collections from repayments of overpayments shall be deposited in the general fund of the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1993, $5,240,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $4,582,000,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $100,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That of the total amount provided, $80,000,000 shall not become available for obligation until September 19, 1992.

Administration for Children and Families

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $11,901,046,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1993, $4,000,000,000, to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,500,000,000, of which $80,000,000 is hereby designated by Congress to be an emergency requirement pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and of which $405,607,000 shall become available for making payments on September 30, 1992.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $300,000,000: *Provided*, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $410,630,000: *Provided*, That of the funds made available under this heading for State cash and medical assistance, $116,616,000 shall not become available for obligation until September 30, 1992: *Provided further*, That when sufficient funds have been made available to reimburse all allowable fiscal year 1991 claims for refugee cash assistance, refugee medical assistance, unaccompanied minors, and State and local administrative costs, fiscal year 1991 funds appropriated for cash and medical assistance may be used to supplement insufficient fiscal year 1990 grants to States for the programs of refugee cash assistance and refugee medical assistance.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by striking "1992" and inserting in its place "1993".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following paragraph:

"(5) For fiscal year 1993, the Secretary shall make allotments to States under paragraph (1) no later than October 15, 1992.".

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $437,418,000, of which $41,368,000 shall be for carrying out section 681(a) of the Community Services Block Grant Act, $4,050,000 shall be for carrying out section 408 of Public Law 99–425, and of which $7,000,000 shall be for carrying out section 681A of said Act with respect to the community food and nutrition program: *Provided*, That $29,124,000 made available under this heading shall not become available for obligation until September 30, 1992.

PAYMENTS TO STATES FOR CHILD CARE ASSISTANCE

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981, $825,000,000, which shall not become available for obligation until September 19, 1992. For carrying out section 402(g)(6) of the Social Security Act, no funds are provided for fiscal year 1992.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986,

hereby reduced by $9,492,000: *Provided*, That

awards under sections 14(a) and 14(b), and

to initiate programs proposed by the Presi-

VOL 137
PT 23
NO 21–25
1991
UMI

title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100–77, and section 126 and titles IV and V of Public Law 100–485, $92,500,000, together with such sums as may be collected, which shall be credited to this account as offsetting collections, from fees authorized under section 453 of the Social Security Act: *Provided*, That of the funds appropriated in Public Law 101–166 for the Commission on Interstate Child Support, $400,000 shall remain available through September 30, 1992.

SOCIAL SERVICES BLOCK GRANT

For monthly payments to States for carrying out the Social Services Block Grant Act, $2,800,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Act, the Abandoned Infants Assistance Act of 1988, section 10404 of Public Law 101–239 (volunteer senior aides demonstration) and part B of title IV and section 1110 of the Social Security Act, $3,537,562,000, of which up to $6,225,000 shall remain available until expended for information resources management: *Provided*, That of the funds made available under this heading for carrying out the Older Americans Act of 1965, $25,000,000 shall not become available for obligation until September 30, 1992: *Provided further*, That of the amounts provided under this heading $2,000,000 shall be for the White House Conference on Aging, which shall only become available for obligation upon enactment into law of authorizing legislation and shall remain available until expended.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $2,614,005,000, of which $118,476,000 shall be for payment of prior years' claims.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $91,673,000, together with $31,001,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $60,794,000, together with not to exceed $37,833,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein: *Provided*, That funds appropriated for the Office of the Inspector General are further reduced by an additional $2,603,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,524,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $5,037,000.

GENERAL PROVISIONS

Sec. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

Sec. 202. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

Sec. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Sec. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

Sec. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

Sec. 206. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

Sec. 207. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

Sec. 208. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

Sec. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

Sec. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

Sec. 211. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Sec. 212. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

Sec. 213. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funda" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

Sec. 214. Travel expenses of the Department of Health and Human Services are hereby reduced by $9,492,000: *Provided*, That the reduction for travel costs shall be from the amounts set forth therefor in the budget estimates submitted for the appropriations.

Sec. 215. During the twelve-month period beginning October 1, 1991, none of the funds made available under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State under part B or part E of title IV of the Social Security Act, by reason of a determination made in connection with any review of State compliance with the foster care protections of section 427 of such Act for any Federal fiscal year preceding fiscal year 1992.

Sec. 216. Section 499A(c)(1)(C) of the Public Health Service Act (42 U.S.C. 2891(c)(1)(C)) is amended—

(1) by striking out "9" in the matter preceding clause (i) and inserting in lieu thereof "11"; and

(2) by striking out "3" in clause (iii) and inserting in lieu thereof "5".

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1992".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $6,707,014,000, of which $152,000,000 shall become available on September 30, 1992 and shall remain available through September 30, 1993 and $6,524,351,000 shall become available on July 1, 1992 and shall remain available through September 30, 1993: *Provided*, That $5,525,000,000 shall be available for basic grants under section 1005, $610,000,000 shall be available for concentration grants under section 1006, $70,000,000 shall be available for the Even Start program under part B, of which not to exceed 2 percent shall be available for a national evaluation and not to exceed 5 percent shall be available for State administration, $308,298,000 shall be available for migrant education activities under subpart 1 of part D, $36,054,000 shall be available for delinquent and neglected education activities under subpart 3 of part D, $61,820,000 shall be for State administration under section 1404, and $25,125,000 shall be for program improvement activities under section 1405: *Provided further*, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further*, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81–815 and 81–874, as amended, $771,708,000, of which $588,540,000 shall be for payments under section 3(a), $136,626,000 shall be for payments under section 3(b), $16,590,000 shall be for Federal property payments under section 2, $1,952,000, to remain available until expended, shall be for payments for decreases in Federal activities under section 3(e), $2,000,000 for section 10, which shall become available on September 30, 1992 and remain available until expended, and $26,000,000, to remain available until expended, shall be for construction and renovation of school facilities including $10,000,000 for awards under section 10, $10,000,000 for awards under sections 14(a) and 14(b), and $6,000,000 for awards under sections 5 and 14(c): *Provided*, That none of the funds available for section 3 shall be used for payments under section 5(b)(2): *Provided further*, That funds available for section 2 may be used for payments under section 5(b)(2) of 50 percent of a local educational agency's payment for the prior fiscal year based on its entitlement established under section 2: *Provided further*, That all payments under section 3 shall be based on the number of children who, during the prior fiscal year, were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education: *Provided further*, That notwithstanding the provisions of section 3(d)(3)(A), aggregate current expenditure and average daily attendance data for the third preceding fiscal year shall be used to compute local contribution rates: *Provided further*, That notwithstanding the provisions of sections 3(d)(2)(B), 3(d)(3)(B)(ii), and 3(h)(2), eligibility and entitlement determinations for those sections shall be computed on the basis of data from the fiscal year preceding each fiscal year described in those respective sections for fiscal year 1991: *Provided further*, That none of the previous provisos related to revisions in the use of prior year data in determining payment amounts provided for under this account or related to preliminary payments shall be effective for fiscal year 1992 and preliminary payments shall be authorized on the same basis as provided for prior to the enactment of Public Law 102–103.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, without regard to sections 5112(a) and 5112(c)(2)(A), and VI of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; title IV of Public Law 100–297; title II of Public Law 102–62; and the Follow Through Act, $1,578,195,000, of which $1,236,963,000 shall become available on July 1, 1992, and remain available through September 30, 1993: *Provided*, That of the amount appropriated, $24,600,000 shall be for national programs under part B of chapter 2 of title I, $3,800,000 shall be for civic education programs under section 4609, $30,304,000 shall be for emergency grants under section 5136, up to $2,000,000 shall be available for the national evaluation of the dropout prevention demonstration program under title VI, and $240,000,000 shall be for State grants for mathematics and science education under part A of title II of the Elementary and Secondary Education Act of 1965, as amended.

EDUCATIONAL EXCELLENCE

(INCLUDING TRANSFER OF FUNDS)

For carrying out educational improvement activities authorized in law, including activities under the Head Start Act, sections 329 and 330 of the Public Health Service Act (Migrant and Community Health Centers), and section 670T of the Comprehensive Child Development Act, $425,000,000 which shall become available on July 1, 1992, and remain available through September 30, 1993: *Provided*, That the allocation of these funds, which may be transferred as necessary to other Department of Education accounts, shall be determined by the Secretary of Education in consultation with the Congress based on authorizing legislation enacted into law as of December 31, 1991: *Provided further*, That none of these funds shall be allocated to initiate programs proposed by the President in his budget amendments of June 7, 1991 unless these activities shall be specifically authorized during 1991: *Provided further*, That not less than $250,000,000 of these funds shall be transferred to the Head Start program, not less than $55,000,000 of these funds shall be transferred to the Community and Migrant Health Centers programs, not less than $20,000,000 shall be transferred to the Comprehensive Child Development Centers and $100,000,000 shall be for new America 2000 educational excellence activities, if enacted into law: *Provided further*, That the December 31, 1991 deadline for enacting new authorizations for the America 2000 initiatives may be delayed by the Secretary until April 1, 1992 if he determines that sufficient progress is being made towards final approval of such legislation except that this delay shall not apply to programs administered by the Department of Health and Human Services.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $225,407,000, of which $36,000,000 shall be for training activities under part C of title VII.

SPECIAL EDUCATION

For carrying out the Individuals With Disabilities Education Act and title I, chapter 1, part D, subpart 2 of the Elementary and Secondary Education Act of 1965, $2,854,895,000, of which $1,976,095,000 for section 611, $320,000,000 for section 619, $175,000,000 for section 685 and $143,000,000 for title I, chapter 1, part D, subpart 2 shall become available for obligation on July 1, 1992, and shall remain available through September 30, 1993.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100–407, and the Helen Keller National Center Act, as amended, $2,077,158,000, of which $31,103,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), including $6,000,000, to remain available until expended, for a grant to a hearing research center to support applied and basic research activities, which shall be awarded competitively, and $6,000,000 for grants to establish regional comprehensive head injury prevention and rehabilitation centers, which shall be awarded competitively: *Provided*, That, until October 1, 1992, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $5,900,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $39,439,000, of which $342,000 shall be for the endowment program as authorized under section 408 and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $76,540,000, of which $1,000,000

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137
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shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,500,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Stewart B. McKinney Homeless Assistance Act, $1,429,760,000 of which $3,000,000, to remain available until expended, shall be for the national assessment of vocational education, $2,500,000 shall become available on October 1, 1991, for tribally controlled postsecondary vocational institutions under title III, part H, and $60,000,000 shall become available on September 30, 1992 and remain available through September 30, 1993 and the remainder shall become available for obligation on July 1, 1992 and shall remain available through September 30, 1993: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $29,000,000 shall be for national programs under title IV, including $12,000,000 for research, of which $6,000,000 shall be for the National Center for Research on Vocational Education and $2,000,000 shall be for technical assistance under section 404(d); $14,000,000 for demonstrations and $5,000,000 for data collection: *Provided further*, That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $4,000,000 shall be for national programs under section 383, $5,000,000 shall be for literacy clearinghouse activities under section 384, $5,000,000 shall be for State Literacy Resource Centers under the National Literacy Act of 1991, and $5,000,000 shall be for prison literacy activities as authorized under section 601 of the National Literacy Act of 1991, as amended by Public Law 102–103.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $62,000,000, which shall become available on September 30, 1992 and remain available through September 30, 1993, together with $6,822,880,000, which shall remain available through September 30, 1993, and of which $100,000,000 shall only be available if such funds are necessary to pay a maximum grant of $2,400 during the 1992–1993 program year, which shall be the maximum Pell grant that a student may receive: *Provided*, That notwithstanding section 479A of the Higher Education Act of 1965, as amended, student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further*, That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further*, That notwithstanding section 411(b)(6) of the Higher Education Act of 1965, no Pell grant for award year 1992–1993 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis.

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $3,105,711,000.

GUARANTEED STUDENT LOANS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, including administrative costs other than Federal administrative costs, as authorized by title IV, part B, of the Higher Education Act, as amended, such sums as may be necessary to carry out the purposes of the program: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended. In addition, for administrative expenses to carry out the guaranteed loan program, $45,000,000. In addition to amounts appropriated in this Act for liquidation of contract authority in the "Guaranteed Student Loans (Liquidation)" account, there is also provided for payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $1,114,748,000 which shall be transferred to the Guaranteed Student Loans (Liquidation) account.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, IV, V, VI, VII, VIII, IX, X, XI–B, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, the Excellence in Mathematics, Science and Engineering Education Act of 1990, and title XIII, part H, subpart 1 of the Education Amendments of 1980, and section 140(a) of Public Law 100–202, $827,523,000 of which $24,000,000 shall become available on September 30, 1992 and of which $7,500,000 for endowment activities under section 332 of part C of title III of the Higher Education Act, $2,000,000 for section 140(a) of Public Law 100–202, and $19,412,000 for interest subsidies under part D of title VII of the Higher Education Act shall remain available until expended and $300,000 shall be for section 775, part G, title VII: *Provided*, That $9,642,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d–37(b) and 1070d–39(a)): *Provided further*, That $1,450,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements: *Provided further*, That funds appropriated for Special Programs for Students from Disadvantaged Backgrounds may be allocated notwithstanding section 417D(d)(6)(B) (20 U.S.C. 1070d) to the Ronald E. McNair Post-Baccalaureate Achievement Program.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $212,360,000, of which $2,928,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98–480), and $23,000,000, to remain available until expended, shall be for emergency construction needs.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1992, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d–2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

(LIQUIDATING)

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For the costs of direct loans, as authorized by title VII, part F, of the Higher Education Act, as amended, $7,539,000: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974 and that these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $30,000,000: *Provided further*, That obligated balances of these appropriations will remain available until expended, notwithstanding the provisions of 31 U.S.C. 1552(a), as amended by Public Law 101–510. In addition, for administrative expenses to carry out the direct loan program, $566,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out the activities authorized by section 405 and section 406 of the General Education Provisions Act, as amended; section 1562, section 2012, section 2016, and title IV of the Elementary and Secondary Education Act of 1965, as amended; part B of title III of Public Law 100–297; title V of the Higher Education Act, as amended; title IX of the Education for Economic Security Act; and section 6041 of Public Law 100–418, $258,684,000, of which $25,300,000 shall be for research centers; $35,049,000 shall be for regional laboratories including $10,000,000 for rural initiatives; $7,175,000 shall be for the Educational Resources Information Center; $976,000 shall be for field-initiated studies; $47,313,000 shall be for education statistics; $29,900,000 shall be for national assessment activities; $24,000,000 shall be for activities under the Fund for Innovation in Education, including $6,000,000 for a high technology demonstration grant, including equipment,

which shall be awarded competitively; $5,495,000 shall be for Grants for Schools and Teachers under subpart 1, and $3,755,000 shall be for Family School Partnerships under subpart 2 of part B of title III of Public Law 100–297; $14,700,000 shall be for national diffusion activities under section 1562; $16,000,000 shall be for national programs under section 2012, including $3,500,000 for the National Clearinghouse for Science and Mathematics under section 2012(d); $12,000,000 shall be for regional consortia under section 2016; $9,732,000 shall be for Javits gifted and talented students education; $18,417,000 shall be for star schools, of which $1,000,000 shall become available for obligation on September 30, 1992, and of which $4,000,000 shall be to establish a demonstration of a statewide, two-way interactive fiber optic telecommunications network, carrying voice, video, and data transmissions, and housing a point of presence in every county, which shall be awarded competitively; $4,233,000 shall be for educational partnerships; $1,769,000 shall be for territorial teacher training; and $370,000, which shall remain available until September 30, 1993, shall be for Leadership in Educational Administration.

In addition to these amounts $4,880,000 shall be available for teaching standards activities under the same terms, conditions and limitations applicable to funding made available for this purpose in fiscal year 1991.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and titles II and VI of the Higher Education Act, $147,747,000 of which $2,500,000 shall be for a biotechnology information education demonstration project under the Higher Education Act, title II, part D, $16,718,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended, and $5,000,000 shall be for section 222 and $325,000 shall be for section 223 of the Higher Education Act.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $299,000,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $55,000,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $26,932,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 306. Subsection (e) of section 1321 of the Higher Education Act of 1965 (20 U.S.C. 1221–1(e)) is amended by inserting at the end thereof the following new paragraph:

"(7) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of money, gifts or donations of services or property.".

This title may be cited as the "Department of Education Appropriations Act, 1992".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $198,592,000: *Provided*, That $32,688,000 shall be available for title I, section 102, and $1,225,000 shall be available for title I, part C.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1994, $275,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles, and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $28,118,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,357,000.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100–607, $1,750,000.

NATIONAL COMMISSION ON CHILDREN

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Children, as established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100–203, $950,000 to remain available through December 31, 1992.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345), $831,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99–660, $440,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,569,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $162,000,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the mainte-

VOL 137 PT 23 NO 21–25 1991 UMI

nance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $6,775,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,497,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $4,398,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $4,030,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $319,100,000 which shall include amounts becoming available in fiscal year 1992 pursuant to section 224(c)(1)(B) of Public Law 98–76: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $400,000, to remain available through September 30, 1993, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $3,264,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $72,287,000 to be derived from the railroad retirement accounts: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 231–231u).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $17,263,000 shall be apportioned for fiscal year 1992 from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,395,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Armed Forces Retirement Home Trust Fund, $41,352,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Armed Forces Retirement Home Trust Fund, $4,220,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,000,000.

UNITED STATES NAVAL HOME

OPERATION AND MAINTENANCE

For operation and maintenance of the United States Naval Home, to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $10,055,000, to remain available until September 30, 1993.

CAPITAL PROGRAM

For construction and renovation of the physical plant to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $1,253,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman

of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 512. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 513. (a) Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $31,991,000; salaries and expenses of the Department of Education are hereby reduced by $10,660,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $142,349,000, including $8,000,000 of funds appropriated in this Act for travel costs of the Public Health Service: *Provided*, That the reduction for travel costs shall be from the amounts set forth therefor in the budget estimates submitted for the appropriations.

(b) Notwithstanding any other provision of this Act, there are hereby appropriated an additional $214,000 for "Salaries and expenses, Occupational Safety and Health Review Commission" and an additional $786,000 for "Salaries and expenses, Federal Mine Safety and Health Review Commission".

(c) Notwithstanding any other provision of this Act, appropriations in this Act for carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 shall not become available for obligation until September 30, 1992.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992".

The SPEAKER pro tempore. Pursuant to the order of the House on Thursday, November 21, 1991, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 1 hour, and the gentleman from Michigan [Mr. PURSELL] will be recognized for 1 hour.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the bill, H.R. 3839, and that I be permitted to include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

□ 1220

Mr. PURSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is always an honor to follow the distinguished gentleman from Kentucky [Mr. NATCHER], who has been my mentor, teacher, and leader for many years.

It is almost 2 months now since October 1, the deadline for all 13 appropriations bills to be on the President's desk. I am disappointed that this bill was not completed months ago.

Mr. Speaker, this bill is a good bill. I want to thank the staff again. This is the third time we have been on the floor this year. I am just sorry that the bill did not pass last time and was not signed by the President. But today is a new day, and this is an opportunity to present a good bill, a clean bill that has so many excellent programs for all of us to support. I am sure the majority of Members of our party will support this bill. It is filled with good programs to assist the poor and the elderly, the sick and the unemployed, and programs to educate our children. These programs are expensive, but they are an investment in our future.

I would like to present some of the highlights of the bill that we did not have an opportunity to address the last time we were on the floor. In the Health and Human Services category, probably the crown jewel in the Labor-HHS appropriations bill is the National Institutes of Health. There are curently 13 institutes, and we are going to create the 14th. Senator KENNEDY called me a couple of weeks ago and told me that the Senate is going to adopt the Pursell amendment that will create the National Institute for Nursing. We look forward to this outstanding new Institute that will continue the work of the National Center for Nursing Research.

Within the Center for Disease Control in Atlanta will receive $1.5 billion, an increase of $193 million. It is actually a 15-percent increase over the last year. Why do we do this? Because of the tremendous need and the shortage of Federal dollars over the previous years for critical areas such as preventive health.

There is $298 million for immunization of our young children to prevent disease and to save lives. That is one of the important aspects of this entire appropriation bill, to save lives. Twenty-three million dollars is designated for lead poisoning prevention, a new initiative that I thank the committee for approving.

There is $50 million new for breast and cervical cancer screening, and we want to thank many women Members of Congress who supported this effort. The women's health initiative will be funded at $100 million, including $25 million for a new women's health study; $10 million for National Institutes of Health women's health grants; $30 million for the National Institutes of Health breast cancer research.

Thanks to LOUIE STOKES and other members of the committee there are some exciting new programs to address minority health concerns.

The subcommittee responded to a request from Secretary Alexander and President Bush and appropriated $100 million for the President's America 2000 Program to help with local efforts to attain our national education goals, if authorized by April 1, 1992. I want to thank the committee for that effort. The bill provides $2.3 billion for Head Start. I think this has been a joint effort on both sides of the aisle, a bipartisan effort, to insure that all children start school ready to learn.

There is $70 million for Even Start, a salute to the gentleman from Pennsylvania [Mr. GOODLING] and his able leadership over the years. It also provides in this bill $623 million for drug-free schools and communities so that every school can offer a disciplined environment that is conducive to learning, without drugs. It also includes $6.9 billion for student financial aid, an increase of $171 million.

If we look at the various student aid programs, work study, GSL, Pell grants, and all of our combined student aid programs, we see that over 6 million students in America will benefit and have the needed assistance to attend college.

So in closing, I would have preferred the Labor-HHS-Education bill that was vetoed by the President. However, I strongly support this bill.

Mr. Speaker, I look forward to a lively and informed debate on the labor, health and education needs of this Nation. America needs this bill and I recommend very highly that we support it.

Mr. Speaker, I reserve the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Appropriations Committee.

□ 1230

Mr. WHITTEN. Mr. Speaker, I rise in support of this bill. I am very proud indeed of the work of my colleagues on the Labor-HHS Appropriations Subcommittee. Our chairman, the gentleman from Kentucky [Mr. NATCHER], the ranking minority member, the gentleman from Michigan [Mr. PURSELL], and other members of the subcommittee have done a very good job indeed on a difficult bill.

This bill affects all Americans. It looks after the poor, the sick, the elderly, the unemployed, our children, and the national interest, and our committee stays within the budget ceiling.

When we are looking around the world for places to spend our money, it is absolutely essential that we start at home and take care of our own people, on whom all else depends. We have got to give our country that attention, because of our country is all that is be-

VOL 137 PT 23 NO 21—25 1991 UMI

hind our money. An educated, healthy population with adequate housing, food, and nutrition from a strong agricultural base, provides the foundation for our national strength and future.

Mr. Speaker, this bill includes funds for all phases of education, both higher and secondary, including universities, colleges and community colleges, vocational education, disadvantaged education, adult education, and historically black colleges, including Mississippi Valley State University at Itta Bena, MS.

I congratulate the gentleman from Kentucky and all my fellow members on this subcommittee for producing an excellent bill which looks after our own country.

OUR SITUATION IS SERIOUS

Let me say for the record, I truly believe we face a situation in our Nation's history more serious than any other unless it be the Revolutionary War and the great, or rather the terrible Depression of the late 1920's and 1930's, where our financial system broke down completely.

Our Nation owes a greater debt than any nation in the history of the world—$4 trillion—but not, may I say, because of our committee. For our Committee on Appropriations, since 1945, has held the total of appropriations bills $180.8 billion below the recommendation of our Presidents. It is entitlements and binding contracts, which bypass our committee's discretion, which has done us in.

WE MAY ASK, HOW DID WE GET INTO THIS FIX?

Enactment of the 1981 Tax Act has cost us over $2.4 trillion in income.

We have sustained an increase of over $1.1 trillion in our trade deficit since 1980, first, because we have given away a large share of our domestic markets and thereby destroyed many of our farmers and businesses, and second, because we have failed to retain our normal share of foreign markets.

The trade deficit by year since 1981 follows:

[In billions of dollars]

1981	34.6
1982	38.4
1983	64.2
1984	122.4
1985	133.6
1986	155.1
1987	170.3
1988	137.1
1989	129.4
1990	123.4

Our financial system is in a dangerous condition. Our money is not backed by gold and silver. It is backed only by our promise to pay, and by our country itself. I have pointed out how our promises are overextended. We need to look at what we are letting happen to our country.

We must distinguish the difference between paper money and material wealth.

We are neglecting our real wealth, the country itself, many of our dams, harbors, reservoirs, and other public structures are being neglected. In my judgment, we face a real need for a jobs bill; not only to find a place for our troops upon their return, but also for the thousands and thousands who are being laid off in all types of industry all across our country.

We need to protect and restore our country, for it is the wealth and strength of our country that we must look to in the years ahead.

We need to stop charging investment spending up to the year in which it is spent and start spending it over the useful life of the asset.

We have reached the point where we must realize we live in a competitive world. We had better quit letting our own country down in order to curry favor with other nations of the world.

APPROPRIATIONS BILL STATUS

Mr. Speaker, I would also like to point out that action on this bill brings us very close to completing the regular 1992 appropriations cycle.

The total of these bills has also once again been under the amount requested by the President, and we are within all the limits. Many Members don't know that since 1945, we have held the total of all appropriations bills $180.8 billion below the total requested by the Presidents.

Of the 13 regular bills, 10 have been signed into law. The Defense conference report, which passed the House earlier this week, and this labor-HHS bill are in the final legislative stages. The remaining bill, foreign operations, which passed the House on June 19, has been held in the Senate at the request of the President until the next session and is carried until March 31 under restrictive rates in the continuing resolution.

COMMITTEE ON APPROPRIATIONS IS DOING THE JOB

Mr. Speaker, we all can take great pride in the work of the 59 Members who serve on the Committee on Appropriations. All members of our committee put in extremely long hours and give much time and thought to the difficult decisions we must make. And they do it with little fanfare.

This year, our 13 subcommittees heard more than 5,200 witnesses in 271 hearing days of testimony which totaled over 98,000 printed pages. These hearings, which began on the day that the President's budget was submitted to Congress, February 4, are not usually exciting, but they are extensive and necessary for making the tough spending choices we must make.

This was a difficult year. When we started out in February, our staff had identified over $8.7 billion in additional immediate needs for our domestic programs that could not be met under the budget caps.

Our committee had to roll up its sleeves and make some very difficult choices to meet the needs of our country as fairly and responsibly as possible. And I believe we have succeeded.

SPENDING PRIORITIES MUST CHANGE

Mr. Speaker, I have to say that I wish we could have done more to invest in our country than what the budget summit caps allowed us to do. It is through our appropriations bills that we make the public investments in roads, bridges, harbors, airports, science, education, research and development, law enforcement, housing, environmental protection, and many other important areas that will keep our country growing and prospering into the 21st century.

The figures show we have been starving our domestic discretionary appropriations throughout the 1980's in favor of consumer spending through entitlements, which though necessary, do not add to the real wealth of our country.

Mr. Speaker, I note that it is now once again in style to talk about tax cuts to spur private investment in this country. As important as that is, we must not forget that it is just as important to the economic future of this country to have an adequate public investment base. It does little good to throw all our eggs in the private investment basket if our industries do not have a good transportation network to get their goods to market, or do not have an educated and healthy work force, or safe and drug-free workplaces, or clean water and air.

It is pennywise and pound foolish to starve the domestic discretionary budget—which is our investment budget—in favor of expanding entitlement spending or paying for additional tax cuts. We must have balance.

APPROPRIATIONS BILLS ARE SETTING NATIONAL PRIORITIES

Mr. Speaker, within the tight limits imposed on us, the Committee on Appropriations has done its best to focus the more than $720 billion in our jurisdiction on programs that meet three basic goals: First, to enhance America's economic competitiveness into the 21st century; second, to improve the quality of life for all Americans; and third, to protect America's national security.

To do this, appropriations bills continued to give priority to such important areas as: Lasting capital investments, science/civilian research and development, education, environmental protection, nutrition and health, law enforcement/drug abuse prevention, veterans programs, housing, and parks/natural resources/conservation.

I am taking the time to point these areas out because our committee looks after these programs year in and year out, whether they are in the public eye or not. Each year, we seem to have different areas in our budget that some Members and some of the media want to reward with little concern for and at the expense of other domestic programs. One year it is drug abuse, another it is the homeless, another it is education or child care. These are all worthy objectives that deserve support. My point is that we must be fair and we must have the resources to sustain a variety of very important programs—not just what is the hot topic in any given year.

Mr. Speaker, I am proud to serve on the Committee on Appropriations which recognizes these facts and does a yeoman's job to look after our country in these very difficult times.

At this point, I would like to submit for the RECORD a list highlighting some of the accomplishments in our 1992 appropriations bills.

HIGHLIGHTS OF ACCOMPLISHMENTS

DOMESTIC PRIORITIES

The "Budget Summit Agreement" limited annual growth in new discretionary budget authority for 1992 to 5.5 percent for domestic programs. It also foreclosed the option of paying for domestic increases with reductions in foreign aid or military spending. Under these constraints, the Committee on Appropriations has identified an immediate 1992 shortfall of at least $8.7 billion in fully justified domestic needs that cannot be met.

Funds available for domestic programs in 1992 were focused on the following priority areas:

Lasting Capital Investments

$18.65 billion (obligational authority) for Federal highway capital spending, an increase of $2.4 billion (+15%) over 1991, and an increase of $2.2 billion over the President's request. This will be the amount within which the FY 1992 authorized program levels will be set in the highway reauthorization bill.

$4.29 billion for FAA aviation capacity expansion and modernization programs, an increase of $399 million (+10%) over 1991.

$3.767 billion for mass transportation programs, an increase of $497 million over 1991 and an increase of $438 million over the President's request.

$3.172 billion for Corps of Engineers water resources development activities, an increase of $233 million over 1991 and $88 million more than the President's request.

$2.288 billion for Rural Electrification Administration electric and telephone loans, $493 million (+28%) more than 1991 and $861 million over the President's request.

$985 million for rural water and sewer loans and grants, $150 million (+18%) more than 1991, and $335 million over the President's request.

$257 million for the Economic Development Administration $80 million (+45%) more than 1991, and $237 million more than the President's request.

$3.40 billion for the Department of Housing and Urban Development's community development grants program, $200 million more than 1991, and $480 million above the President's request.

$823 million for Bureau of Reclamation water resource development and irrigation activities, a decrease of $66 million from 1991, but $18 million more than the President's request.

Science/Civilian Research and Development

$14.32 billion form the National Aeronautics and Space Administration, $452 million (+3%) more than provided in 1991, but $2.273 billion (+19%) more than the amount provided in 1990.

$2.578 billion for programs of the National Science Foundation, an increase of $261 million (+11%) over 1991. This includes $465 million for science education activities—an increase of $143 million (+44%) above 1991 and $75 million above the President's request.

$247 million for the National Institute of Standards and Technology, $31 million more than 1991.

$1.637 billion for research of the Department of Agriculture, including basic and applied research in the fields of livestock, plant sciences, entomology, soil and water conservation, nutrition, and agricultural engineering. This is an increase of $122 million (+8%) over 1991, and $108 million over the President's request.

$2.962 billion for energy supply, research and development activities of the Department of Energy, an increase of $435 million (+17%) over FY 1991, and $40 million more than the President's request.

$444 million for fossil energy research and development, an increase of $217 million above the President's request.

$536 million for energy conservation programs, an increase of $41.2 million (+8%) over 1991, and $211 million more than the President's request.

$218 million for Federal Aviation Administration aviation research, engineering and development programs, an increase of $13 million over 1991, and $8 million more than the President's request.

$1.731 billion for the fisheries development, weather service, marine and environmental research programs of the National Oceanic and Atmospheric Administration, $257 million (+17%) more than 1991.

Education

$31.965 billion for programs at the Department of Education, an increase of $4.871 billion (+18%) over 1991. This includes $22.873 billion for discretionary eduction programs which is an increase of $1.888 billion over 1991, and an increase of $1.120 billion above the amount requested by the President. The major increases over 1991 include $631 million for compensatory education activities under Chapter I; $139 million for vocational education; $239 million for education of the handicapped; and $171 million for student financial assistance. In addition to these increases for existing education programs, $100 million would be appropriated to carry out new education initiatives which may be authorized during 1991. The bill also fully funds the guaranteed student loan program which is expected to provide more than $11 billion in new loans to students in 1992.

$2.202 billion for Head Start, an increase of $250 million (+13%) over 1991, and $162 million over the President's request.

Environmental Protection

$6.669 billion for programs of the Environmental Protection Agency, an increase of $574 million (+8%) over 1991 and $457 million more than the President's request. This includes $2.40 billion for EPA construction grants/State resolving funds, an increase of $500 million above the President's request; $51.25 million for non-point source water pollution grants, $27.5 million more than the President's request; $37 million for asbestos in schools loans and grants, the President requested no funds for this program; and $50 million for the National Institute of Environmental Health Sciences for hazardous waste research and training, an increase of $29.2 million above the President's request.

$86 million for the Corps of Engineers regulatory program, an increase of $15 million (+21%) above 1991.

Nutrition and Health

$32.690 billion for domestic food and nutrition programs of the Agriculture Department such as WIC, Food Stamps, Child Nutrition, and emergency food assistance. This is an increase of $3.573 billion (+12%) over 1991.

$9.01 billion for biomedical research at the National Institutes of Health, $734 million (+9%) over 1991 and $236 million more than the President's request. Funds provided will support at least 6,000 new grants. This amount includes an increase of $276 million over 1991 for the National Cancer Institute. About $100 million of the NIH increase over 1991 is targeted to women's health issues, including breast and ovarian cancer, reproductive problems, heart disease, and osteoporosis. The President's budget made no similar request for women's health issues.

$75 million for grants to provide a wide range of pre-natal services in areas where infant mortality rates are very high. This is an increase of $50 million over the 1991 level.

$298 million for childhood immunization, an increase of $80 million (+37%) over 1991 and $40 million over the President's request.

$1.921 billion for AIDS research, education, and care, $106 million more than the amount expected to be spent on similar AIDS-related activities in 1991. Included in this total is $280 million for the Ryan White AIDS CARE programs, an increase of $59 million (+27%) over 1991.

$1.7 billion for Indian health needs, an increase of $128 million (+8%) over 1991, and $282 million above the President's request.

$760 million for the Food and Drug Administration, an increase of $69 million (+10%) over 1991, and $187 million over the President's request.

Law Enforcement/Drug Abuse Prevention

$11.67 billion for the Justice Department and the Judiciary for law enforcement and administration of justice, an increase of $1.143 billion (+11%) over 1991. This includes over $532 million in program increases for the war on drugs and crime and the administration of justice.

$1.472 billion for the U.S. Customs Service, an increase of $207 million (+14%) over 1991.

$475 million for the U.S. Secret Service, an increase of $64 million (+16%) over 1991.

$6.674 billion for the Internal Revenue Service, an increase of $566 million (+8%) over 1991.

$336 million for the Bureau of Alcohol, Tobacco and Firearms, an increase of $32 million (+9%) over 1991.

Veterans Programs

$32.616 billion for activities of the Department of Veterans Affairs, a net increase of $343 million over 1991, and $312 million more than the President's request. This includes a $1.267 billion (+10%) increase for veterans medical care, $316 million more than the President's request.

Housing

$9.82 billion (including $1.75 billion of recaptures in the elderly and handicapped programs) for the Department of Housing and Urban Development's annual contributions for assisted housing account, $295 million more than 1991 and $754 million above the President's request. In addition, $1.861 billion is provided for two new housing programs—HOME investment partnerships program ($1.5 billion) and Homeownership and opportunity for people everywhere (HOPE) grants ($361 million).

$2.477 billion for rural housing loans, an increase of $498 million (+25%) over 1991, and $571 million more than the President's request.

Parks/Natural Resource/Conservation

$1.4 billion for the National Park Service, $39 million more than 1991 and $125 million

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more than the President's request.

[Mr. PORTER], an outstanding member

delayed obligations that rose to $4 bil-

Park—Highwood, District III, is pres-

moving a permanent solution through

Mr. MCMILLAN of North Carolina.

VOL
137
PT
23
NO
21
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25
1991
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more than the President's request. This includes $953 million for Park Operations, an increase of nearly 9% over 1991.

$748 million for the Fish and Wildlife Service, including a $38 million increase (+8%) above 1991 for operations.

$910 million for the Bureau of Land Management, including an increase of $34 million over 1991 for operations.

$2.754 billion for Soil and Water Conservation programs of the Department of Agriculture, $427 million (+18%) more than 1991.

MILITARY SPENDING PRIORITIES

The "Budget Summit Agreement" specified that up to $291.361 billion in budget authority could be appropriated for military spending programs, an increase of $1.443 billion over the 1991 limit. The agreement also foreclosed the option of paying for domestic increases with reductions in military spending programs.

The 1992 appropriations bills provide a total of $290.936 billion in new budget authority, $750 million less than the President's request, and $425 million under the "Budget Summit" spending limit. This is in keeping with the traditions of the Committee and the Congress which have made a total net reduction of $154.5 billion in Presidential defense budget requests between 1980 and 1991. Military spending appropriations for 1992 were tailored to emphasize morale, readiness, mobility, deployability, and sustainability. Priority was given to keeping the current force ready and supplied with the proper equipment. Major highlights include:

$78.27 billion for military personnel, $21 million over 1991 and $249 million more than requested by the President.

$83.36 billion for operation and maintenance, $379 million less than 1991 and $2.04 billion under the President's request.

$39.40 billion for research, development, test and evaluation, $3.43 billion over 1991 and $180 million above the President's request.

$64.26 billion for procurement, $2.91 billion less than 1991 and $894 million more than the President's request.

$3.681 billion for environmental restoration and waste management at the Department of Energy's defense production complex, an increase of $636 million (+21%) over FY 1991.

$8.563 billion for military construction activities, an increase of $201 million over 1991, but $55 million below the President's request. This includes $759 million for two separate Base Closure Accounts.

Reallocation of funds in the President's request to enhance readiness including:

Strong National Guard and Reserve Forces:	
Personnel and Operation & Maintenance	+$500,000,000
Equipment	+1,900,000,000
Depot maintenance backlog	+468,000,000
Real property maintenance	+500,000,000
Sealift	+600,000,000
Landing Craft Air Cushion (LCAC) vessels	+238,000,000
V–22 Osprey	+625,000,000
Upgrade M1 tank	+266,000,000
Ammunition	+99,000,000
Multiple Launch Rocket System (MLRS) Rockets—maintain production line	+110,000,000
Marine Corps Intelligence—night vision enhancement	+55,000,000

Note: Rescissions of previously appropriated funds totaling $1.1 billion.

Mr. PURSELL. Mr. Speaker, I yield 7 minutes to the gentleman from Illinois [Mr. PORTER], an outstanding member on my side of the aisle.

Mr. PORTER. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I want to begin by commending my chairman, the gentleman from Kentucky [Mr. NATCHER] who has done a magnificent job with this bill. I may not always agree with the gentleman's funding priorities, but his commitment to education, his dedication to the integrity of the budgeting and appropriations process mark him, Mr. Speaker, as one of the great legislators in this Congress.

Mr. Speaker, we have wonderful staff on the committee. They do an outstanding job for Members on both sides of the aisle and I commend them for their outstanding work as well.

I also want to thank my leader, the gentleman from Michigan [Mr. PURSELL] who did an outstanding job in his first year as ranking member. His staff, Dr. Dave Recker and Kevin Kraushaar gave me and my staff tremendous help throughout the appropriations process.

Mr. Speaker, I am, obviously, disappointed that we did not override the President's veto of the original version of this bill, which included my language to delay implementation of the gag rule. I thank my chairman, the gentleman from Kentucky [Mr. NATCHER] for his forebearance. I know he does not like to add provisions to the bill that are on controversial subjects like abortion counseling. He was willing to do so in this case and was greatly behind the original bill, and the conference report, and the override attempt.

I am obviously greatly concerned that the gag rule will now be implemented, interfering as it does with basic rights of the American people to know their rights under the Constitution and interfering as it does also with the basic physician-patient relationship and the rights of a doctor to properly counsel a patient regarding their medical options.

I am also concerned that it undermines my party, my party's adherence to the principle of individual liberty which is as old as the party itself. Nevertheless, we cannot hold up this bill any longer, and it must be passed.

The bill has great implications for the future of this institution. We have appropriated $100 million for the America 2000 Program which will revitalize our failing school systems and will create a new generation of schools that will provide all Americans with the education necessary to contribute to our society and our economy.

Unfortunately, this program has not yet been authorized. We put the money in for the authorizers to come forward. There is a deadline of next April. I would urge the authorizing committee to act and bring this program forward and allow this money to be spent in revitalizing education in America.

One of the provisions of the bill that I find most troubling, however, is the delayed obligations that rose to $4 billion in this appropriations bill, more delayed obligations than in any other measure, money that is not available during the course of the fiscal year, but only on the last day when it cannot be counted or scored against the allocation. It therefore looks like money that we are committing for programs that are important to our country and that are important to the American people, but, really, the money that is not there.

I believe this process is absolutely unconscionable. I know that the President proposed some delayed obligations in his budget. We included some of them in our version of the bill, but the amount has been hugely increased in this bill, and I think it is wrong. It is a travesty on the appropriations process. It is phony money and phony budgeting designed to evade the spending caps in the budget agreement and ultimately to undermine and abrogate that budget agreement.

For example, Mr. Speaker, we have included an additional, delayed obligation $200 million increase for cancer research in the bill, money that should give hope to millions of Americans. But that $200 million is phony money. It is a promise that will not be kept next year, a promise that might never be kept, because of the outlay squeeze. This is political posturing at its worst and simply should not be tolerated.

I want to say right now, Mr. Speaker, that if we are going to do this again next year, I will not be able to support the bill.

We have to be honest with the American people. We have to set the priorities, make the hard choices that we were sent down here to do; compromise, yes, between the House and the Senate, but then live with those tough decisions.

Mr. Speaker, I also want to comment on one priority that is not addressed adequately in the bill, and that is money for impact aid. Impact aid is a program that helps those communities to educate children whose parents live on military bases, and therefore pay no property taxes to help support local schools. We have level funded this program this year. It is not adequate. It is not sufficient. There are many areas in our country where the cost of educating those children is simply being pushed on to local taxpayers without the Federal Government paying its fair share of that amount.

In my own district, we have two school districts, each of which spends about $6,000 for each child per year for education where the share of the Federal Government is less than one-third, about $1,800 in one case, about $2,100 in another.

These school districts are going bankrupt. One of them Highland

Park—Highwood, District III, is presently over $7 million in debt because impact aid is inadequate. It is petitioning to go out of existence and be absorbed by surrounding school districts. The other, North Chicago Consolidated District 187 at the Great Lakes Naval Training Center, the largest naval training center in the United States, will go bankrupt next year. They have exhausted their tax base. They are in debt as high as they could possibly go. There is no place for them to go, and the reason is that the Federal Government is not living up to its obligation to pay for the education of those children. It is not even coming close to doing so.

Maybe there are some places in the United States where the costs of educating children are so low that impact aid may be a windfall; but believe me, Mr. Speaker, in the 10th District of Illinois where we spend a lot of money to educate children and where we put education at a high priority and where costs are high, the Federal Government is falling way, way short of its obligation, and we simply must correct this in next year's bill and put this at a higher place in our funding priorities.

Mr. Speaker, this bill contains money for many, many worthy projects. I commend my chairman, the gentleman from Kentucky [Mr. NATCHER], my ranking member, the gentleman from Michigan [Mr. PURSELL], and the other members of the committee on bringing forth a bill under difficult circumstances that we can all support.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, usually it serves no useful purpose to say "I told you so," but I think it might serve a useful purpose today to say, as I said at the time we considered this bill in the full committee, when it was on the floor of the House, while the bill was in conference and after it came out of conference, it serves no useful purpose to hold this bill up with a legislative matter. The provision to delay the gag rule attached to this bill instead of moving a permanent repealer as a separate bill was the wrong tactic and has backfired, not only against those who oppose the gag rule but also against other programs in the bill.

The Commerce Committee or any other committee which would handle the repealer of the gag rule reported and we should have acted on permanent legislation, instead of the mere delay provision which held up this bill. But instead of that, those both in and out of the Congress who were interested in the gag rule or eliminating the gag rule decided to tie a temporary one-year delay onto this bill, instead of moving a permanent solution through the legislative process.

Now, no one has benefited from that procedure, and I hope they will not try that failed approach next year again. The people who were interested in getting rid of the gag rule, and I voted that way, the ones who were interested in getting rid of the gag rule merely took the pressure off the authorizing committee and the permanent legislation has not moved the bill yet.

In addition to that, even if the delay on implementation had succeeded, at most that delay would have been effective for 10½ months of fiscal year 1992 instead of 12 if it had been successful.

In addition to that, numerous other programs in this bill, are being denied the increase in funding they will receive in 1992 for six weeks of the fiscal year. The increase between 1991 and 1992 in this bill is $18 billion.

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And the increased level for those various health programs, education programs, training programs is being denied to each one of those programs for this last 6 weeks because this emotional issue that is a legislative matter was on this bill.

This is no way to legislate. This is no way to treat the Committee on Appropriations. It is no way to treat the subcommittee of the Committee on Appropriations. That issue should be taken up and brought to the floor by the legislative committee. It would take the same number of votes to pass separate permanent legislation that it did to hook an amendment onto this bill. And there were adequate votes.

That issue, separated by itself, would have passed by more than a 2-to-1 majority—we all know that—in both Houses.

So I am taking the floor today to say this is an important bill, it is a $203 billion bill. It involves programs affecting people all the way from conception until after they die; children's programs, feeding programs, training programs, college programs, Social Security, even burial benefits.

Mr. Speaker, this bill should not be hung up by one emotional issue of this kind. It should be handled in the regular legislative manner.

So I say today let us pass this bill now, we are right where we would have been if the gag rule amendment had not been hooked onto this bill 2 or 3 months ago, except that dozens of programs lost 6 weeks of increased funding which they needed from the beginning of the fiscal year rather than 6 weeks into the fiscal year. So let us pass this bill again.

Vote for the bill today.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from North Carolina [Mr. MCMILLAN], a member of the Committee on the Budget.

Mr. MCMILLAN of North Carolina. Mr. Speaker, I rise in opposition to this version of the Labor/HHS appropriations bill for fiscal year 1992, just as I have each time it has been presented to us.

Now that the language concerning the so-called gag rule has been removed, I hope that Members of this House will focus on the budget ramifications of this bill.

I might add that the authorizing committee with respect to the gag rule, the Committee on Energy and Commerce, has taken action on that legislation, and I supported it there, doing away with the gag rule.

There is a $4.2 billion fiscal time bomb just waiting to explode in our faces next year as we try to meet the very difficult domestic discretionary spending caps for fiscal year 1993. According to the CBO, our outlay caps for domestic discretionary spending for 1992 of $212 billion and $224 billion for 1993 are probably going to be revised downward due to lower inflation numbers by at least $1 billion in January and all in all for 1993 and I quote CBO on this:

> Domestic discretionary outlays might have to be cut between $4 billion and $8 billion below the baseline in fiscal year 1993 to stay within the cap.

That is before we throw in this increase from this bill today. My colleagues, that will mean a freeze in outlays between 1992 and 1993. Sure, the appropriations say this bill meets the spending targets for 1992. And congratulations are in order for meeting the most strict interpretation of the budget law and I say that out of the greatest respect for the members of the committee, the gentleman from Kentucky and the gentleman from Michigan.

But this by increasing budget authority by close to $4.2 billion on September 30, 1992, the very last day of the fiscal year, pushes at least $2 billion in outlays and possibly more in fiscal year 1993. That is a budget cul-de-sac that I thought we had put onto the trash heap of history last year when we adopted the Budget Enforcement Act. If we did not then, we should today. If you think it is tough to live by the budget disciplined of the three spending caps this year, passing this bill will only make the domestic spending caps that much tighter in 1993, to the tune of at least $2 billion in outlays.

Let me say again in order to meet the spending caps in fiscal 1993 which because of liberal accounting such as these obligational delays and inflation adjustments means domestic spending will have to be held at a virtual absolute freeze in comparison to 1992.

So we are going to have to find savings in other domestic discretionary programs to offset these. It is like the old commerical, "You can pay me now or you can pay me later." Only in this

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case the very people who support this fiscal landmine in the domestic discretionary field of battle are going to be the first ones to scream bloody murder when they have to start cutting domestic programs to meet the fiscal years 1993 caps.

I have no illusions, my colleagues, but I would hope this bill could be defeated so we could send it back to the committee to be fixed—and it does not require more than a 2-percent adjustment—and I hope the President would veto it solely for budgetary reasons.

I urge my colleagues to be aware of what they are doing and vote "no" so we can straighten this out now rather than later.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to simply take this time to engage in a colloquy with the subcommittee chairman, the gentleman from Kentucky [Mr. NATCHER].

Mr. Speaker, I want to take this opportunity to stress the importance that the conference committee placed on insuring that the Medicare contractor program be adequately funded; 36 million seniors and disabled Americans and the health care providers that participate in the Medicare Program expect to receive efficiently and timely delivered services and benefits.

As you know, the conferees were very concerned that the level of funding provided in the bill for the Medicare contractor budget was inadequate to maintain the current level of services to Medicare beneficiaries and providers. Specifically, the conferees were concerned about the Medicare beneficiary toll-free telephone service, the timely payment of Medicare bills, and maintaining current timeframes for resolving hearings and appeals, and urged the administration to make funds available from the contingency fund to prevent any disruptions in the Medicare Program.

Given those strong reservations regarding the adequacy of the Medicare contractor funding level, it would not be prudent, I am sure you would agree, for the Department to subject the Medicare contractor activity to any further reductions. This account is already $37 million below the fiscal year 1991 level, which represents a 2½-percent cut. Furthermore, we know that the number of Medicare claims is estimated to increase by 11 percent.

Specifically would you not agree it would be imprudent and inconsistent with legislative intent when implementing section 513(a) of the bill, which assigns specific dollar reductions to salaries and expenses of the Department of Labor, Health and Human Services, and Education, to reduce the Medicare contractors budget?

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the chairman.

Mr. NATCHER. I thank the gentleman for yielding to me.

Mr. Speaker, I agree with the gentleman from Wisconsin that it would be imprudent for the Department to use section 513(a) to further reduce funds for Medicare contractor activities provided for in the bill.

Mr. OBEY. I thank the chairman.

Mr. Speaker, I think it is important to make that point clear.

Mr. Speaker, in what time I have remaining I would simply like to urge that the House pass this bill as expeditiously as possible. I think it is unfortunate that this bill got involved in what in essence was an irrelevant issue because of the politicization of the title X program by the White House.

I think everyone here understood that there was absolutely nothing in those provisions that would have provided in any way, shape, or form for support for abortion services; certainly nothing which would have encouraged in any way persons to have abortions.

What was at stake here was very simply and very clearly the right of American citizens who use services provided by the Federal budget to receive full information without the censorship of the Government which is supposed to guarantee their right to information, not try to find ways to deny them that information.

Mr. PURSELL. Mr. Speaker, I yield 7 minutes to the gentleman from Florida [Mr. YOUNG], a distinguished leader on our subcommittee and a national leader on a particular program which I think he will describe to the Members of Congress today.

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Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to pay a special tribute to the gentleman from Michigan [Mr. PURSELL] and to Chairman NATCHER for the leadership they have shown on the subcommittee. They have put together a truly profamily bill. The legislation that we have before us today as an appropriation bill, I expect, touches the lives of more people directly than any other appropriation bill that we bring before this House.

Chairman NATCHER and the ranking member, the gentleman from Michigan [Mr. PURSELL] have done yeoman service and provided strong leadership, along with the tremendous staff support that we have had and support by all the members of the committee who are so dedicated to making these programs work.

Mr. Speaker, I rise in support of this bill. It spends a lot of money, but it spends the money on things that the American people need and deserve and want. This is a profamily bill.

Through the billions of dollars our subcommittee has included in the bill, we will learn more about, and hopefully cure, some of the diseases which claim millions of lives every year. Funding for all forms of cancer research, including breast, cervical, and testicular cancer are funded in this legislation. Research programs will continue to study heart and lung diseases and to determine how we can reduce the risk of heart attack and stroke. Miraculous genetic research will continue to diagnose and one day cure such childhood killers as cystic fibrosis and juvenile diabetes.

Medical research initiatives are funded to better understand the causes and potential treatments for Alzheimer's disease, hearing loss, and blindness which afflict so many older Americans.

There is $300 million in this bill, Mr. Speaker, for vaccinations. It is almost a tragedy to have to report that right here in a our Nation's Capital, in the District of Columbia, a recent Washington Post survey found that 44 percent of the children of the age at which they should be vaccinated have not been vaccinated. Mr. Speaker, following my remarks I would like to include this story so my colleagues can understand the magnitude of the problem. Measles has reared its ugly head here in the District of Columbia and throughout America because vaccinations have not been delivered to the people who need them. We included funding for the National Vaccine Program to improve vaccines and to better distribute them. These diseases are measles, mumps, whooping cough, diseases that we thought we had totally defeated but are coming back. This bill addresses that issue and provides money for the vaccine program.

This bill is also an education bill. Along with many other items relating to medical research and medical care, it also provides money for education. There is a 10-percent increase this year in discretionary spending for education, much of which will be very important to our local school districts. This bill funds math and science instruction, where we have felt for such a long time that we were not doing as well as we should. It covers vocational training and handicapped services. The Head Start Program is funded in this bill, as well as assistance for students who want to go on to college. Pell grants, student loans, and work-study programs help offset the cost of rising tuition. The National Youth Sports is also funded in this bill. It is a program that many folks have not heard about, but it is a program that children off the streets during the summer, children who have had no opportunity for any exposure to a real education. It gives them something to do in the summer, and it gives them exposure to higher education. The program has been highly successful in getting these

students to go on to more education rather than dropping out of school.

Older Americans Act programs are funded in this bill. Mr. Speaker, these include the Meals on Wheels and Congregate Care Programs, which are vital to communities such as Pinellas County, FL, which I represent. The Senior Community Services Employment Program is funded by this bill to not only provide employment opportunities for seniors, but through their work, to benefit community programs such as our schools, libraries, police, and fire fighters.

Funds to administer the Social Security Administration and the Medicare Program are all in this bill. We have included specific directions to the Secretary of Health and Human Services to ensure that Medicare claims continue to be processed in a timely manner and that the toll free telephone lines, which provide a cost effective way for beneficiaries to receive quick access to information about the program and their eligibility to services, remain operational without disruption.

Mr. Speaker, the list is long, and it goes on and on, covering the items included in this bill and funded by this bill. But I want to take the remaining time that I have to speak about another program that has been so close to my heart now for some 6 years.

Six years ago I had the opportunity, the unfortunate opportunity, to be with a young 10-year-old girl who died of a form of leukemia. It was a difficult evening as we walked out of that hospital and as I spoke with doctor Jerry Barbosa, I said, "What could we have done? What could anyone have done to save Brandy's life?"

He said, "If we could have had a bone marrow transplant for her, she probably could have lived."

I knew nothing about bone marrow transplants and did not even know what he was talking about. So I inquired. He said, "What we need in America is a registry, a central location of the names of people who are willing to be bone marrow donors for others who are going to die without a bone marrow transplant."

I said, "That doesn't sound like it should be too hard to accomplish."

When I came back to Washington, however, I found it was not as easy as I thought it is was going to be. But the Members of this House and, more specifically, the members of this Appropriation Subcommittee and the Appropriation Subcommittee on National Defense supported my every effort to establish this registry, and today I can report, Mr. Speaker, that nearly every American who needs a life-saving transplant today is able to find a donor.

Without the support of Chairman NATCHER, Chairman JACK MURTHA of the Defense Appropriations Subcommittee, our committee's ranking member JOE MCDADE, CARL PURSELL, and every member of the committee, there would be no national registry. They supported my requests for appropriations 5 years ago to establish the national registry and they have enthusiastically supported every request I have made since then to provide for the needs of the national registry, and most importantly, funding for donor education, recruitment, and testing.

The National Marrow Donor Program is different than many of the programs in this bill. It is not a program that we fund with the hope that it may lead to a cure for a disease. It is a program that works, that saves lives, and that gives patients and families hope for a disease-free life where there would have been little hope before its creation.

We have appropriated over the years a modest amount of funding for the program to cover only the most basic of costs for its establishment and operation. It is a well run and efficient program with no waste and little overhead. The return on the investment we have made in its creation and with our continuing support has meant life for hundreds of men, women, and children.

I brought two charts with me today to show the dramatic growth of this program which did not even exist 5 years ago. As you look at the charts—charts not reproducible in the RECORD—you might believe that they are the same, but they are really not. The first chart indicates the number of donors who have had their blood typed to become listed in the national registry. This chart shows 331,000-plus Americans in the register. However, this chart is several weeks old, and I am able to report that that 331,000 figure is now right at 500,000, a half million Americans who have had their blood typed to be listed in the national bone marrow registry as a possible donors to save the life of someone who needs a transplant.

With the funds we have included over the past 18 months, the national registry has more than doubled in size and we are well on our way to our goal of a national registry of at least one million donors.

The second chart shows the number of transplants we have done since this registry went into effect is 733. That is unrelated donors who have been identified for patients throughout our Nation and the world. That 733 in the last several weeks has gone up to nearly 1,000. I want to tell the Members about those thousand people. Before those thousand people had a bone marrow transplant, they had no hope for life. They had a terminal disease, and there was no hope for recovery because the disease they had was terminal. Whether it was a form of leukemia, or another form of blood cancer, or one of some 60 types of diseases that can be cured with a bone marrow transplant, without the transplant there is no hope for life.

Not all of those people made it, for one reason or another, but the vast majority of them have lived. Their donors gave them a second chance at life.

After being involved with this program for 5 years, my own daughter walked into my office one day and said, "Dad, I have leukemia." So I know first hand how it feels to have a child or someone in the family with that type of a terminal disease. The good news is that she had her transplant, she got her miracle, like so many others, and she is alive and well today.

Mr. Speaker, I just talked with some folks I know who are going through a transplant procedure in Kentucky. They had their transplant 2 weeks ago. They had a tough case, but they are doing well. They found their donor through our registry that was created here in the House of Representatives.

In St. Petersburg, FL, there is a young black American man who we searched for 3 years to find a donor. Because he was a minority, it was difficult to find him a donor because of the genetic makeup so important to the typing of the bone marrow and the blood. We finally found Grant Hartley a donor through this registry. Grant Hartley had his bone marrow transplant 2 weeks ago tomorrow. He is suffering today. He is hurting because it is not an easy procedure, but he is going to live. He has had his leukemia cured, and we believe he is going to go through this transplant successfully, with a chance for life.

One of the things we do in this program is set aside certain amounts of money for the recruiting of minority donors. With the success of our program, a Caucasian can normally find a donor today, but as I said earlier, a minority still finds it difficult to find a donor. We have provided money in this bill to expand the recruiting for minority donors.

With funds specifically earmarked for minority recruitment activities last year, we increased by more than threefold the number of minority donors in the national registry.

Because genetics play such an important role in finding a matched donor for a terminally ill patient, a black-American patient will more than likely find a donor from the black-American community. The same holds true for Hispanics, native Americans, Asian-Americans, and other minority groups. Before we kicked off this concerted minority recruitment effort last fall in St. Petersburg, FL, there was little if any hope for finding a matched donor for a minority patient.

With the dramatic increase in minority donors, we are seeing an equally dramatic increase in minority patients who are finding a matched donor and a second chance at life. The success of this effort and the entire National Marrow Donor Program was highlighted last month when we identified a

VOL 137 PT 23 NO 21—25 1991 UMI

matched unrelated donor for Grant Hartley.

Mr. Speaker, saving lives is what this program, and this entire bill, is all about. It truly is pro-family legislation that every Member of this House can proudly support.

All in all, this is a good program, Mr. Speaker, and I urge my colleagues to support this program and this bill.

The article follows:

[From the Washington Post, Sept. 12, 1991]

More Than 50 Percent Here Lack Immunizations

(By Amy Goldstein)

More than half the children age 2 and younger in the Washington area have not received proper immunizations, leaving 93,000 infants and toddlers vulnerable to preventable diseases such as measles, polio and mumps, according to a regional study.

The study, sponsored by the Metropolitan Wahington Council of Governments and issued yesterday, represents the first analysis of how many children in the region recieve the vaccines that have long been recognized as keys to good health.

The figures indicate that the 175,000 children in the area who are 2 or younger are immunized less frequently than the national average. But the District's rate of 44 percent is comparable to that of other major U.S. cities, according to local and federal health officials.

The study found wide variations among local jurisdictions in the percentage of children who received recommended vaccines for measles, mumps, whooping cough, rubella and polio.

Montgomery County children had the highest vaccination rate, 76 percent, while those in Prince William County had the lowest, with only 35 percent having received proper vaccines, the study found.

"This is a big problem," said Acting D.C. Public Health Commissioner Georges C. Benjamin, who was chairman of the regional group of health officials that worked with COG staff to prepare the report, which was based on local health departments' data.

Benjamin and other health officials said vaccines are vital because some childhood diseases can be particularly dangerous—and occasionally, even fatal—in very young children, and because unimmunized babies can readily infect adults.

The release of the COG study coincides with the start of an intensive campaign during the next several months by local health officials to increase the number of childhood vaccinations.

The campaign will make use of an infusion of vaccine provided by the federal Centers for Disease Control in Atlanta and will focus on ways to reach children of immigrants, single parents and low-income families.

The regional initiative is beginning as health officials and researchers across the country express mounting concerns about a resurgence of some childhood diseases once thought to have been virtually eliminated in the United States by vaccines.

Measles cases in particular have soared during the last two years. Nearly 28,000 U.S. cases were reported in 1990, according to federal figures. The 89 deaths attributed to the disease last year represented the highest level in two decades.

The COG study found that more than 500 children in the Washington area contracted preventable diseases last year, including about 400 who developed mumps, 78 who caught measles and 51 who had whooping cough.

Measles outbreaks have occurred recently in several counties in the Washington area.

Last April, a Howard County high school wrestler appeared responsible for the largest measles outbreak in Maryland in a decade.

The same month, six children in Prince William day-care facilities came down with the disease.

Researchers now believe that the diseases' return is caused, in part, by parents' failure to make sure their infants and toddlers get recommended vaccinations.

The disease control center advises that children, by age 2, should have received four doses of vaccine for diptheria, tetanus and whooping cough; three for polio; and one each for measles, mumps and rubella.

In Prince William, Anne Wilburn, a nurse supervisor for the county health department, said the immunization rate there has plunged in the last year from about 43 percent to 35 percent, substantially lower than the regional rate of 47 percent. Nationally, the vaccination rate is 70 percent according to a recent study.

Wilburn said the drop puzzles local health officials, who have formed a group to analyze the problem and try to reach more children. She speculated that the drop may be caused by parents who bring children to local clinics for some vaccines, but do not return for a complete series.

A Centers for Disease Control study this year of nine large cities, including the District, found that the immunization rate for 2-year-olds varies from 12 percent in Houston to 46 percent in New Orleans. The District, with 44 percent, was tied for second, the study found.

The campaign that COG is sponsoring will include a drive to increase the number of properly vaccinated 2-year-olds by 40 percent by December.

"We want to get as much vaccine as we can into these kids—it's an all-out push," said Elin Gursky, the epidemiology and disease control director for the Prince George's County health department, a leader of the campaign.

All county health departments in the area provide free vcaccinations. To help them extend their reach, the disease control center has given the local departments enough doses to vaccinate 8,000 infants and toddlers.

Health experts said they have been hindered more by parents' failure to bring their children for periodic shots than by a shortage of vaccine.

"The problem isn't that the tool is inadequate," said Roger Bernier, assistant director for science of the disease control center's division of immunization. "The problem is, we don't make use of the tool we have."

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr, Early].

Mr. EARLY. Mr. Speaker, I want to thank the chairman of our subcommittee for yielding time to me.

Mr. Speaker, I rise in strong support of this bill, and I would like to speak to one specific part of this bill, NIH.

Many Members, Mr. Speaker, state that there is a lot of money in this bill for the National Institutes of Health—$9 billion. However, as someone who has dedicated themselves to learning about the NIH and supporting the NIH, I submit to you that this level of funding is wholly inadequate.

There are over 44 clinical trials of new drugs and therapies that will not be funded because we did not provide enough money in this bill. What are these diseases? Cancer, Gaucher's disease, heart disease, asthma, multiple sclerosis, the flu, sexually transmitted diseases, and glaucoma to name a few.

With the money that we have provided in this bill, 73 percent of the research grants that have been approved by peer review panels will go unfunded because of lack of money. It is quite a paradox—we have the best and the brightest minds in the world who can do much to further medical research, but we are still unable to provide for them enough resources to do it with.

As Thomas Jefferson states: "You can promise yourself anything—but health—without which there is no happiness." The NIH is the jewel which will provide for this Nation health for this and future generations.

Medicine's past 100 years have been nothing less than miraculous.

Not only has life expectancy increased, the sheer amount of pain, discomfort and disability we must endure in our lifetime has been strikingly reduced.

We have found cures for many kinds of diseases, some of which have been erased from the face of the Earth, like polio. We have found vaccines to prevent diseases that use to kill our children, such as diphtheria and pertussis. We have engineered new cancer drugs, heart, drugs, discovered antibiotics, and transplanted organs from one person to give another person the gift of life.

We have done all of this and much, much more because of one thing—the National Institutes of Health. We have cured much disease and disability, and spared much human suffering, because of a public private partnership that we embarked on over 100 years ago when the Federal Government made the commitment to fund medical research.

It is the single most important commitment of this Member of Congress to continue this tradition and support the National Institutes of Health in this fine bill. This is the program that promises the greatest hope and wealth to all Americans—their health.

In fact, the mission statement of the NIH clearly states: "Science in pursuit of knowledge to extend health, life and reduce the burden of disease and suffering."

There is not one Member in this Chamber today whose own life has not been positively affected, or whose family has not benefited from the advances in medical research made by the NIH. I know that I have, as the father of eight children.

The National Institutes of Health is the agency that we rely on to find cures for diseases, to train our doctors, researchers and nurses, and to give us the tools to fight diseases such as AIDS, and cancer, and heart disease.

Today, the NIH is on the verge of the greatest breakthroughs in the history of medicine. Our past investment in medical research has placed in a new era—the era of molecular medicine.

Because of our advances in molecular medicine, we will be able to cure cancer, we will be able to cure cystic fibrosis; we will be able to cure genetic diseases. All of this and more is possible because of the research programs at the National Institutes of Health.

It is the NIH that has kept this Nation competitive in the international marketplace. We stand as the worldwide leader in the biological sciences because of the National Institutes of Health and every nation on the face of this earth looks to our researchers and our research efforts to set the pace.

The past investment in medical research funded through the National Institutes of Health has contributed much to the economy of this Nation. The fine work done by researchers at the NIH has given birth to the biotechnology industry. An industry which the Department of Commerce estimates will be a $2 billion industry in 1992; and a $40 billion industry by the year 2000.

Last year, the era of gene therapy was begun by the NIH. A 4-year-old child, born with an inherited illness that prevented her immune system from working, received an infusion of one billion cells into which the normal gene—that had been identified earlier because of medical research at the NIH—had been inserted. The infusion of this gene therapy took only 30 minutes, there were no side effects, and history was made quietly on the afternoon of September 14, 1990.

Scientists are calling this the fourth revolution of medicine. And this miraculous achievement represents the best of which the NIH is capable, and the culmination of year of support for the most basic of medical and clinical research.

Scientific Opportunities Within the National Institute of Allergy and Infectious Diseases That Will Not Be Funded Within the Fiscal Year 1992 Conference Level

1. The resurgence of Tuberculosis (TB) is a public health emergency that must be aggressively addressed immediately. A drug resistant strain of TB has emerged that public health officials universally agree could turn into an epidemic in immune suppressed individuals. This has been reported on recently in the New York Times. Resources are necessary for the NIAID to fund targeted drug and vaccine research to combat this threat.

2. Within the Conference allowance we will be able to provide only inflationary increases to our initiative to develop a multivalent single dose vaccine to protect children from the common diseases of childhood.

3. The incidence of AIDS in Women presents an important emerging opportunity. A Women's HIV Study is critical to determining those factors specifically related to Women that affect the progressions of HIV AIDS in this population.

4. Basic research and clinical studies to identify a vaccines for sexually transmitted diseases is an area of science with significant opportunities that will go unfunded within the Conference level for the NIAID.

5. The following clinical trials are ready to begin but will go unfunded at the Conference level. Clinical trials are of paramount importance if we are to translate the findings of basic research to clinical application.

(A) Prophylactic therapy for neonatal herpes infections.

(B) Treatment of Cryptosporidiosis with 566C80.

(C) Efficacy trial in infants for a conjugate pneumococcal vaccine.

(D) Efficacy trial of a Group B streptococcal directed IVIG in neonatal sepsis.

(E) Treatment of toxoplasmic encephalitis with azithromycin.

(F) Effect of protein-polysaccharide conjugate vaccines in pregnant women.

(G) Clinical trial to compare the efficacy of IVIG vs MAb in combination with acyclovir for the prophylaxis of CMV infections in renal transplant patients.

(H) Efficacy trial of antivirals including thymosin alpha 1 for treatment of chronic hepatitis.

(I) Clinical trial to assess the efficacy of intravenous ribavirin in severe influenza virus infections.

(J) Treatment of HIV infection with nonnucleoside analog reverse transcriptase inhibitors.

6. The development of a vaccine against HIV infection is one of the highest priorities of the NIAID. Resources are needed to develop the capacity to conduct trials on a nation-wide basis to ensure the speedy evaluation of candidate vaccines.

7. In the field of Transplantation the NIAID would like to be able to fund a nationwide study of African-American families to acquire minority specific serological tissue typing reagent. This research project would enable the NIAID to make strides in identifying those characteristics unique to African-Americans that result in a greater transplantation rejection rate than other population groups.

8. The potential exists to improve even further the diagnostic tools available to identify Lyme Borreliosis. Resources are required to expand the basic research activities related to this area.

☐ 1300

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McNulty). The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, do the rules of the House say what size type these conference reports are supposed to be printed in?

The SPEAKER pro tempore. No; they do not.

Mr. DANNEMEYER. Mr. Speaker, I have been advised this one is size 6. You almost need a magnifying glass to read it.

The SPEAKER pro tempore. The Chair would announce this measure was printed and is being considered as a regular bill (H.R. 3839).

Mr. PURSELL. Mr. Speaker, this is 6-point type. As a former printer, I would say it is half the size of a regular typewriter.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. Vucanovich].

Mrs. VUCANOVICH. Mr. Speaker, hallelujah! Hallelujah! Hallelujah! I am rejoicing over the fact that the House was finally able to put politics aside and offer a Labor-HHS-Education appropriations conference report that will benefit women, children, students and the workers of America.

Much of the discussion has been about women's rights, but what we failed to discuss were the needs of women in America. Today, we have a measure before us that addresses these needs. The conference report includes $50 million for the Breast and Cervical Cancer Control Program, which will enable States to develop effective breast and cervical cancer education programs for women and health care professionals.

In addition, $2 billion has been appropriated for the National Cancer Institute which will be used for research grants, updating research centers and the training of researchers. I have no doubt that NCI will take seriously the urging of Congress to increase attention to breast, ovarian, cervical and prostate cancer. With this dedication, I am hopeful that the NCI will come several steps closer to finding a cure for breast cancer, for which there is no cure, as well as the other cancers affecting women, men, and entire families.

Mr. Speaker, I am also pleased that the conference report appropriates $27.8 billion for the Department of Education, an increase of almost $5 billion over last year. I know many students in my district rely on the Compensatory Education Program, vocational education and special education programs, to name a few. Education is one of the most vital links between our society and the future. If we are truly serious about economic growth in our country, restoring our ability to compete with other industrial nations and providing an opportunity for all individuals to have a decent standard of living, then we must be concerned about the quality of education in our country.

Lastly, in a time of controversy about whether Congress is really helping the workers in America, I am pleased with the provisions of the bill which enhance our current job training, job corps, summer youth programs, and dislocated workers programs. I believe a better, stronger work force in America will result.

Hallelujah, Mr. Speaker, we have done it. We will pass a bill in which Congress and the President will show pride, but most importantly, it is a bill in which the citizens of America will show pride. I urge all of my colleagues to vote for the Labor-HHS-Education conference report.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. Stokes].

VOL
137
PT
23
NO
21
—
25
1991
UMI

Mr. STOKES. Mr. Speaker, I rise today to express my strong support of H.R. 3839.

This bill provides $204 billion for many of the programs which provide the fuel for an aching American economy. These programs help to ensure that Americans are healthy, educated, and employed. Every American, infants to the elderly are beneficiaries of this bill.

I want to commend the chairman Mr. NATCHER for the tenacity and commitment he has displayed in getting this bill through the Congress. It took 5 days of meetings for the House and Senate to resolve our differences in conference. Since being reported out of conference, this is the third time we have considered funding of these programs on the floor.

As we wrestle with the impact of the recession, it is time that we get this measure passed into law. Our school districts, hospitals, employment offices, universities, and many other programs need their fiscal year 1992 appropriations. The American public has waited long enough.

Specifically, this bill includes: $2.2 billion for Head Start, 13 percent more than the amount provided last year; $298 million for childhood immunization, 37 percent more than last year's level; $32 billion for education programs, $2.3 billion over the President's request and 9 percent over 1991 levels; $9 billion for National Institutes of Health biomedical research; $1.9 billion for AIDS research, education, and care, $106 million more than last year's level; $3.1 billion for alcohol, drug abuse and mental health programs; $2.3 billion for unemployment compensation operations, $114 more than last year's level; $4.6 billion for the Social Security Administration administrative expenses—$425 million more than 1991; and $1.5 billion for low income energy assistance, $475 million more than the President's request.

Mr. Speaker, passage of this bill today will provide a substantial part of the investment we need to ensure the future welfare of our Nation. From infant morality to Medicare this bill provides the broadest coverage of programs we need to move this country forward.

For these reasons, I ask my colleagues to join me in final passage of H.R. 3839.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have mixed feelings about this bill. On the one hand I am very pleased to find that we have convinced the people at Planned Parenthood that they are not going to be able to refer persons who come to their premises for abortions. They say they are not going to take $37 million in Federal funds. I would suggest that Congress may want to use that money to increase what we are spending on adolescent family life under title XX.

☐ 1410

We find these programs in Illinois, sex respect; in the State of Georgia, postmorning sexual involvement; in Operation Get Down in Michigan have demonstrated success. And the whole premise of this adolescent family life program specifically encourages teenagers to postpone sexual activities and supports adoption as a viable and honorable alternative for pregnant teens.

That is the direction I would like to see our Federal funds expended for.

With respect to the totals, Congress, the House is again living in a dream world. When we look at these totals, the last fiscal year, $183 billion plus, this fiscal year $204 million plus. That is an increase of 11.8 percent in 1 year. The increase in the national debt this year is $480 billion.

The increased interest expense this Nation will have to pay is roughly 8 percent on that total. We cannot continue down a course whereby we are permitting any program to be expanded to the tune of 11.8 percent.

It is fiction. The money is not here. We are just digging the hole deeper all the time.

These are the reasons, as I said, I have mixed feelings about the bill. I congratulate the resolution that we adopted on the funds that were going to go to Planned Parenthood, but I am very much concerned about the level, the irresponsible level of spending in this bill. No appropriations bill should be getting out of this House that spends 1992 over 1991 more than 2.4 percent.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] so much for understanding what the issue in this bill was all about. It was about free speech. It was about the very heart of the bill of rights, the first amendment.

It was about whether or not we are going to treat citizens as adults. To me on this 200th anniversary of the bill of rights, this is a shameful day.

I will vote for this bill because every program I really care about is in this bill, and the gentleman from Kentucky has helped us make so much progress on other issues. But it is with a very, very heavy heart.

For anyone who has tried to say abortions are inhumane, they are absolutely wrong.

Mr. Speaker, I think it is very important to point out that there is not one penny in here for abortions, not one penny, not even in the case of rape and incest. The issue is whether the "A" word can even be muttered in a family planning clinic that receives any Federal funding. That is why it is an issue of speech.

Will the "A" word be able to be muttered in any college that gets any Federal funding? Can the "A" word be muttered in any hospital that gets Medicare and Medicaid funds?

This can go on and on and on. And beyond the "A" word, we can move on everything else.

With Federal funds comes a gag, comes a gag. How tragic.

But let me tell my colleagues what many American women hear. What they hear is that this body thinks that if a woman even hears the "A" word, they will run right out to get an abortion. No. No. What an awful view of women.

I think the other thing that we hear is everyone seems to think that pregnancies are like a 9-month cruise. No. They can be very difficult for women. And what we are saying is the medical profession cannot even look at the woman's condition.

Mr. Speaker, this is a sad day. I am sorry that free speech is dying in front of our very eyes.

Mr. PURSELL. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, yesterday, in an Associated Press story and in a front page Washington Times story we were informed that an attempted dismemberment abortion in New York—most likely a D&E abortion—ripped the arm off an unborn baby girl—who then, miraculously, survived the abortion.

The little 3-pound girl—Ana Rosa Rodriguez—absent her right arm, is now finally getting the compassion and health care that no abortionist ever gives. In their goodness, people are rushing forward to help her. Even a fund has just been established to assist with the medical bills.

I would just note parenthetically, Mr. Speaker, can you imagine her mother or anyone trying to explain to Ana how she came to be without her right arm? Can we imagine anyone saying to that little girl: "The abortionist messed up. His primary intention was to kill you, but he failed and there was a botched abortion. You are an abortion survivor." It makes you think—or at least it should.

Mr. Speaker, interestingly, the press labeled the abortion attempt a "botched abortion" yet we all know that had the abortion been successful and her life snuffed out, little Ana Rosa Rodriguez would have been just another nameless, faceless abortion statistic. Another life down the drain. There are over 1.5 million Ana Rosa Rodriguez who lose their lives each year to abortion, Mr. Speaker. The number of deaths from abortion is staggering—over 4,000 a day.

Sadly, Mr. Speaker, one title X recipient—and this is only one of many—Planned Parenthood—performs or refers for over 200,000 abortions. That is 200,000 kids who lost their lives, and continue to lose their lives to the abortionist's knife or poison as a result of this organization. That is 200,000 little people like Ana Rosa Rodriguez. All of these kids had a face, two arms, fingers and toes, and a beating heart. Yet, now they are dead.

Mr. Speaker, on previous occasions I've taken to the well of this House to suggest that in the not too distant future, I truly believe that historians will regard America's present day abortion culture—replete with tragedies like that inflicted upon little Ana Rosa Rodriguez—with a mix of curiosity, sorrow, incredulity, and contempt.

They will wonder how a society that paid so much attention to civil rights at home and human rights abroad could have allowed—even promoted through taxpayer subsidies—the violent destruction of over 26 million children, and the number is growing, under the guise of women's rights and preserving a right to privacy.

They will wonder how the shallow, skin deep rhetoric of choice could have provided cover to so many, for so long—as if an unborn child were merely an object or property or a thing or a consumer good—rather than a baby.

They will weigh the fashionable cliches, slogans, and euphemisms proffered today by the abortion crowd against the brutal reality of aborton—dismemberment of the baby, poison shots that chemically kill the baby—and wonder how an ostensibly sane, compassionate society could have been so thoroughly fooled and deceived.

Mr. Speaker, the issue of abortion counseling and referral in the Nation's federally funded family planning clinics is yet another chapter in the larger drama of a national abortion debate.

The title X issue turns on whether or not you believe an unborn child's life to be of sufficient importance that you are willing to end the taxpayer subsidies that treat the baby with no more respect than a diseased kidney or tumor. The issue is about abortion counseling and referral—the issue is about abortion advocacy. On the positive side, the Bush title X regulations require that pregnant women be referred for prenatal care. Prenatal care nurtures life—abortion destroys it.

Thus, Mr. Speaker, the President showed genuine compassion and moral courage of the rarest kind—even at the risk of being misperceived and ridiculed—in vetoing the Labor-HHS appropriations conference report because it reversed the title X regulations.

I would note that in his challenging commencement address at Harvard in 1978, Alexander Solzhenitzyn said, "The Western world has lost its civil courage, both as a whole and separately, in each country, each government, each political party . . ."

While this sad commentary has broad application in and out of government, it certainly does not apply to the President and the pro-life Members of the House who stood by their prolife convictions. Now the legislation, chock-full of vitally important funding, can be passed and signed into law.

Mr. Speaker, as in every abortion debate that has occurred on this floor, it's interesting to observe that the pro-abortion Members insist that the issue at hand isn't abortion. There's always at least one big diversion and a string of mitigating issues. This time it's free speech.

This diversion of attention on title X was predictable. This basic strategy has been used in every debate I've seen in my 11 years here.

For example, when the Hyde amendment is debated, we are told that the issue is one of providing health care to the poor that is readily available to the rich—it's rich versus poor, class warfare—not whether the children of the poor should be victimized by lethal injection or dismemberment.

When the abortion funding restriction, in the D.C. appropriations bill is debated, we are told that this is a home rule issue.

When the abortion funding restriction in the DOD bill is debated, we are told that it is an equal access to health care issue.

When the abortion restrictions in the foreign aid bill are debated, we are told that the issue is family planning—not abortion—even though not one penny in family planning moneys are reduced by the pro-life amendments.

And on and on.

In like manner, for months the abortion industry has marketed the notion that the salient issue at hand in the title X regs—is an issue of free speech, not abortion advocacy promotion—which simply isn't true. The common thread, of course, in all these debates is the obvious attempt to divert your attention and mine from the heart-wrenching reality of abortion.

But reality—the truth about abortion has a stubborn way of re-emerging. The truth won't be denied its day. Abortion survivor Ana Rosa Rodriguez is a fresh reminder of this.

Mr. Speaker and Members, please, wake up and take a long hard look at abortion methods—dismemberment and poison shots—and join us in helping protect, preserve, and enhance both the mothers and babies of our society.

☐ 1320

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in support of H.R. 3839.

Mr. Speaker, I rise today to clarify a small, but important, issue raised in this appropriations bill.

This bill includes report language denying the request of the Department of Labor for additional funds for the Wage and Hour Division to implement and administer regulations allowing the use of semiskilled helpers on Federal and federally assisted construction subject to Davis-Bacon. The report language asserts that the prohibition rider included in section 303, Public Law 102–27, the dire emergency supplemental appropriations of 1991 which forbid the Secretary of Labor from expending any funds for the implementation of the helper regulations was permanent.

Although the report language implies that the permanence of the prohibition is a settled question, there has been considerable disagreement on this point. In an effort to resolve this question, I asked the Congressional Research Service to review this issue and advise me of its opinion. I am inserting the memorandum that CRS sent in response to my request. Briefly, the memorandum stated that there were no "words of futurity" to overcome the presumption against permanence in appropriations acts. Therefore, in the opinion of the American Law Division of CRS, the prohibition on the regulation would likely be held to be temporary.

The appropriations bill includes $1,341,274,000 in funding for the Employment Standards Administration. Among the responsibilities of the Employment Standards Administration is to make prevailing wage determinations. The Federal district court in Washington has determined that the helper regulations are consistent with the Secretary of Labor's authority to make prevailing wage determinations. Accordingly, there is no statutory restraint preventing the Department of Labor from reissuing the regulations.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, June 18, 1991.

To: The Honorable Charles Stenholm, attention: Ed Lorenzen.
From: American Law Division.
Subject: Expiration Date of Prohibition on Funds to Implement Davis-Bacon Regulations in Appropriations Act.

This memorandum is in response to your letter of June 10, 1991, concerning section 303 of Public Law 102–27, the Dire Emergency Supplemental Appropriations Act of 1991, 105 Stat. 151. This section prohibits the expenditure of funds to administer or implement certain regulations relating to the Davis-Bacon Act and to apprenticeship programs:

Sec. 303. Notwithstanding any other provision of law, no funds shall be expended by the Secretary of Labor to implement or administer the regulations published at 54 Federal Register 4234–44 (January 27, 1989) to be codified at 1.7(d), 5.2(n)(4), 5.5(a)(1)(A) and 5.5(a)(4)(iv) of title 29 of the Code of Federal Regulations or to implement or administer any other regulation that would have the same or similar effect. No funds shall be expended by the Secretary of Labor to implement or administer revisions to part 29 of title 29 of the Code of Federal Regulations published at 55 Federal Register 34868–34876 (August 24, 1990) to the extent such revisions affect apprenticeship programs in the construction industry.

Your question is whether the prohibition is permanent or will expire at the end of the fiscal year covered by the Appropriation Act.

It should be noted at the outset that the rulings of the Comptroller General are final

VOL
137
PT
23
NO
21—25
1991
UMI

and binding on officers of the Executive Branch with respect to the legality of expenditures from the United States Treasury. Accordingly, this memorandum is in the nature of an advisory opinion setting forth the factors to be considered, and the principles to be applied, by the Comptroller General in determining the scope and extent of a limitation or restriction on the use of appropriated funds.

In general, "it is well settled that Congress can amend substantive legislation by a provision in an appropriations act." 62 Comp. Gen. 54, 57 (1982). On the other hand, "[t]here is a presumption that any provision in an annual appropriation act is effective only for the covered fiscal year. . . . This is because appropriation acts are by their nature nonpermanent legislation. Thus, unless otherwise specified, the provisions of an appropriations act for a given fiscal year expire at the end of that fiscal year." 65 Comp. Gen. 588, 589 (1986). Accordingly," a provision contained in an appropriation act may not be construed as permanent legislation unless the language or nature of the provision makes it clear that such was the intent of Congress. 62 Comp. Gen. 54, 56 (1982); 10 Comp. Gen. 120, 121 (1930)." 65 Comp. Gen. 588, 589 (1986).

The Dire Emergency Supplemental Appropriations Act of 1991 makes supplemental appropriations for the "fiscal year ending September 30, 1991." Public Law 102–27, enacting clause, 105 Stat. 130, Apr. 10, 1991. The provision in question would therefore be presumed to expire on September 30, 1991.

"Permanency is indicated most clearly when the provision in question includes 'words of futurity' such as 'hereafter' or 'after the date of approval of this act.'" 65 Comp. Gen. 588, 589 (1986). The words "none of the funds appropriated by this Act or any other Act may be obligated or expended" do not constitute words of futurity in the view of the Comptroller General, but merely extend the effect to the provision to other appropriations available in that fiscal year. 65 Comp. Gen. 588, 589 (1986).

The provision in question contains no words of futurity to overcome the presumption of against permanence in appropriations acts.

The use of words of futurity is not essential where "the permanent character of the legislation is otherwise indicated." 9 Comp. Gen. 248, 249 (1929). "One indication of permanence is when the provision is of a general nature, bearing no relation to the objects of the appropriation act," 65 Comp. Gen. 588, 590 (1986). For example, if the provision restricts funding for a program which has been funded by the appropriations act itself, then it is presumed to be a nonpermanent nature.

The provision in question limits the expenditure of funds by the Secretary of Labor to implement or administer regulations pertaining to the Davis-Bacon Act. The Appropriations Act makes appropriations for the Department of Labor relating to state unemployment insurance and employment service operations, amends appropriation language pertaining to Pension Benefit Guaranty Corporation Fund, and makes available funds for veterans employment and training. The Act, however, does not appear to appropriate funds for the Davis-Bacon Act or for the offices which implement and administer that law in the Department of Labor.

This consideration is therefore ambiguous, since the provision "bears some relation to" the objects of the Act by making appropriations for the Department of Labor, but not for purposes of implementing or administering the Davis-Bacon Act. On balance, this aspect does not appear to be sufficient to overcome the presumption against permanence.

"Permanency of an appropriation act provision may also be indicated when the provision would be rendered or meaningless were it not interpreted to be permanent legislation. 62 Comp. Gen. 54, 56 (1982). This is a corollary of the rule of statutory construction that a statute should not be construed in a way which renders it wholly ineffective." 65 Comp. Gen. 588, 590 (1986). A provision will be held to be permanent where an interpretation that it is not permanent would "strip the section of any legal effect." 62 Comp. Gen. 54, 56 (1982).

The provision in question would not be rendered ineffective if it were held to be nonpermanent. It would still bar the expenditure of any funds until September 30, 1991.

The Comptroller General usually looks to the legislative history to confirm the interpretation of an appropriation act provision, but does not rely on legislative history alone to overcome the statutory presumption that provisions in appropriation acts do not constitute permanent legislation unless expressly provided otherwise. 56 Com. Gen. 588, 590 (1986). Where there are ambiguities and conflicting statements in the legislative history, that history is not conclusive in determining the intent of Congress with regard to the permanence of the provision. 56 Comp. Gen. 588, 593 (1986). Under principles of statutory construction, statements of the sponsor of a bill during deliberations on the bill are given consideration by the courts since other legislators look to the sponsor to be particularly well informed about the bill's purpose, meaning, and intended effect. 65 Comp. Gen. 352, 355 (1986).

The provision was added to the appropriations bill in committee. An amendment was offered on the floor to delete the provision from the bill, and debate ensued. 137 Cong. Rec. H1526 (Mar. 7, 1989). The sponsor of the provision, Representative Murtha, did not speak, but supporters were led by Representative Ford. Mr. Ford stated that changes in Davis-Bacon authorization legislation." He noted that legislation addressing the same issue had been adopted by the House, but that no amendments had been finally agreed upon by the Conference Committee, and that "authorizing legislation is the only appropriate vehicle for dealing with fundamental changes in the operation of the Davis-Bacon Act. I support the Murtha amendment because it protects the legislative prerogative in this important area." 137 Cong. Rec. H1528 (Mar. 7, 1989).

Mr. Ford also stated that the "Murtha amendment would simply prohibit the implementation of the proposed apprenticeship regulations as they affect the construction industry. . . . it would assure that these Davis-Bacon and apprenticeship regulations will not be permitted to take or remain in effect, in the absence of the proper approval in the course of legislative consideration." 137 Cong. Rec. H1528 (Mar. 7, 1989).

There appears to be nothing in these statements to indicate that the provision was intended to be permanent. There is no express statement that the provision was intended to be permanent, and the remarks are not inconsistent with position that the provision was a temporary measure designed to preserve the status quo until further legislative consideration could be given to the issue in the authorizing process.

During the debate, some of the statements by opponents of the provision implied that it might be more than a merely temporary measure. It was stated that if the provision were allowed to stand, "it will cost us $600 million a year every year for the next umpteen years, as it has been costing us in the past," and that it "will save $600 million a year for the next however many years until we bring this up." 137 Cong. Rec. H1526 (Mar. 7, 1989) (Statement of Mr. Stenholm).

Other statements by opponents appeared to question the provisions relationship to the underlying appropriations bill. Members were asked "to strike out a portion of this supplemental appropriation that ought not to have been inserted in the first place. It has no business here . . . This ban on Davis-Bacon helpers is no emergency, has no place in an appropriation . . ." 137 Cong. Rec. H1527 (Mar. 7, 1989) (statement of Mr. Dickinson). In a letter urging disapproval of the provision, the Secretary of Labor opposed "legislating substantive labor policy in an appropriations bill. An appropriations bill is not the appropriate vehicle for introducing significant reversals in established governmental policies." Letter from Lynn Martin, Secretary of Labor, to Joseph Moakley, Chairman, House Rules Committee, Mar. 6, 1991, reprinted at 137 Cong. Rec. H1527–28 (Mar. 7, 1989) (Statement of Mr. Pursell).

While the statements of the opponents to the provision express some concern that its effect may be permanent, the general principle of statutory construction is that views of the opponents of a bill usually are discounted; a bill opponent's disagreement with the sponsors, floor manager, or the committee report ordinarily will not be given interpretational weight. *NLRB* v. *Fruit & Vegetable Packers*, 377 U.S. 58, 66 (1964); *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384, 394–95 (1951); Costello, *Average Voting Members and Other "Benign Fictions*," 1990 Duke Law Journal 39, 54 (1990).

The legislative history of the provision in question does not appear to be clear and unambiguous enough to overcome the statutory presumption that provisions in appropriations acts are not permanent legislation unless it is clearly provided otherwise.

In summary, the Comptroller General has ruled that a provision contained in an annual appropriations act may *not* be construed to be permanent legislation unless the language and the nature of the provision make it clear that such was the intent of the Congress. Both the language (words of futurity) and the nature of the provision (no direct relation to the object of the appropriations act) should indicate the intent by the Congress to make the provision permanent legislation, and that intent should be supported by the legislative history. 65 Comp. Gen. 352, 354 (1986). Moreover, a provision will be construed to be permanent if construing it as nonpermanent would strip it of meaning. 62 Comp. Gen. 54, 56 (1982).

Applying these principles to the provision in question, it appears on balance that the Comptroller General would be likely to find that the provision relating to Davis-Bacon and apprenticeships will expire at the end of the fiscal year ending September 30, 1991. This conclusion is based on (1) the absence of words of futurity and (2) the fact that the provision, which limits expenditures by the Labor Department, does not appear to be unrelated to the purpose of the Appropriations Act, which provides funds for that Department. Further, (3) the legislative history, read in accordance with conventional standards of statutory construction, is not inconsistent with this conclusion. Finally, (4) it is not necessary to construe the provision as a

permanent law in order to give it legal effect.

VINCENT E. TREACY,
Legislative Attorney.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is one of the most important pieces of legislation this body considers every year, the funding bill for the Departments of Labor, Health and Human Services, and Education. It is, as the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] refer to it, the people's bill in the people's House. H.R. 2707, however, was a better bill. At least 276 Members of this House and arguably 353 Members of this House thought that to be the case. I believe the overwhelming majority of Americans believe that the previous bill was a better bill. I think perhaps even that the President, in his heart, believes that it was a better bill.

I am disappointed that the President remains unconvinced that government-mandated restrictions on a health care facility's responsibility to provide information, not to perform abortions but to provide information, to women on legally available options is unfair, discriminatory, and pernicious. The medical community believes that and the polls reflect that Americans believe that. Seventy-four percent of Americans opposed the gag rule upheld in Rust versus Sullivan. Sixty-three percent believe government interference in this area can seriously damage the quality of medical care in America. Seventy-eight percent favor passage of a bill permitting full discussion of options in federally financed clinics; not a procedure, but a discussion.

Yes, H.R. 2707 was a better bill, but this is a good bill. I want, if I may, Mr. speaker, to speak about one facet of this bill, our concern and the bill's protections for children.

Immunizing our children against preventable childhood diseases has for too long been too low a priority. This bill, like its predecessor, H.R. 2707, includes $298 million, or a 37 percent increase over the total appropriated last year.

Mr. Speaker, these funds will improve America's ability to take care of those children who have been left out. The United States nonwhite vaccination rate for polio is 56th in the world. This bill seeks to overcome that and similar deficits.

In 1979, Mr. Speaker, the Surgeon General set the goal of immunizing 90 percent of the nation's 2-year-olds by 1990. But by 1990, there are still 30 percent of the 2-year-olds in the richest Nation on the face of the Earth who are not immunized against diseases that we can defeat.

This is a good bill. Mr. Speaker, there are so many facets of this bill that call out for our strong support. I have said often that there are some bills which have been subjected to across-the-board cuts. This bill, I believe, should be subjected to an across-the-board increase for every program.

Mr. Speaker, the Labor-Health Committee is as bipartisan a committee as we have in the Congress. We are all advocates. Do we have our differences? yes. Are they reflected to some degree on the floor of this House? Yes.

But in providing for the education and the health care of the American people, or to quote the chairman of this committee who so eloquently states, "if you take care of the education of our people and the health of our people, we will continue to live in the strongest Nation on the face of the Earth," we all agree. That is what this bill seeks to do, and I rise proudly as a member of this committee to support this bill, notwithstanding my disappointment that we have omitted a provision that I thought was critically important, a provision allowing women to receive the same kind of medical advice that all of us who are males in this body are able to receive in terms of full disclosure and discussion of all our options in health care.

This is a good bill. let us pass it overwhelmingly.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I was going to speak on the bill from another perspective but I cannot help but come back to the old debate based on the title X free speech between doctor and patient argument just made.

It amazes me that the proponents of abortion constantly try to cloud the free-speech issue. This is not a free-speech argument. If it were a free-speech argument, advocates of abortion would not be pushing for restrictions on abortion alternatives.

I will give the Members two court cases, for instance. One is *Akron* v. *Akron Center for Reproductive Health, Inc.*, 462 U.S. at 446–49, where advocates of abortion have vigorously sought to have laws that would require physicians to counsel their patients about the risk of abortion declared unconstitutional.

In the case, *Bowen* v. *Kendrick*, 487 U.S. 589 (1988), where advocates of abortion sought to restrict recipients of Federal funds from counseling teenagers about alternatives to abortion. Where is their free-speech argument on these two cases? To illustrate my point, let me quote women who regret the counseling received from title X clinics in the public comment period for the regulation.

This is what one woman asserted: "Please indulge me a little longer to say this, they lied to me * * * I asked and she lied to me * * *."

Another woman declared:

> Since Planned Parenthood is the foremost abortion provider in the United States, they have a responsibility to tell women the truth about fetal development and subsequent risks involved in pursuing abortion as an option. I know for a fact that they do not. The baby is dehumanized as much as possible by being termed a "blob," "products of conception," or "uterine contents." Not even the term fetus is used by the counselors. The very risky surgery is then passed over as safe and harmless and there is no mention of emotional or physical aftereffects. The counselors are told that any information on fetal development is distasteful (and) should not be used to avoid making the woman feel guilty.

This is an argument over using Federal funds for Planned Parenthood to continue their abortion practices, and if the Members do not believe me, they ought to see and read one of the clinic's brochures. I happen to have one from Planned Parenthood of Houston and southeast Texas.

□ 1330

This brochure is heavily weighted with advocacy for abortion, not just abortion, unrestricted abortion.

I quote from their own brochure:

> No consent should be required from a spouse, a court, a parent or any other person or institution in order for a woman to have an abortion.

They want unrestricted abortion. This is out of Planned Parenthood's own brochure.

What they want to do is to make contraceptives easily available and establish family life education programs in schools. You ought to see these programs, and I urge, Mr. Speaker, for parents to look at these programs to go in and have girls put condoms on the fingers of boys to demonstrate how to use condoms in front of each other. It becomes even worse than that: showing films on how to accurately perform foreplay, using an adult man and an adult woman to show foreplay.

The issue has nothing to do with free speech. What it has to do with is the opportunity to continue abortion practices and have the American taxpayer pay for those abortion practices. That is the real issue, because if it was free speech, they would not try to stop people from giving the alternative view of the horrors of abortion.

Mr. Speaker, I include the following material:

[From the Federal Register, Feb. 2, 1988]

PUBLIC COMMENTS

Public comments received by the Department on the proposed regulations further demonstrate the problems inherent in "nondirective counseling" and lend weight to concerns raised by the OIG audit and GAO report. Many comments argued that the practice or nondirective counseling has been the subject of widespread abuse, with many providers foregoing any balanced discussion of options in favor of pressuring women, particularly teenagers, into obtaining abortions. Numerous comments were received from women who said that they were never presented with any favorable or neutral in-

VOL 137 PT 23 NO 21—25 1991 UMI

formation on any other option. Many of these commenters specifically mentioned experiences with particular Title X grantees or projects. A typical complaint was that the counseling that they had received was one-sided, with the fetus dehumanized as a "lump of tissue," "fetal tissue," or "uterine contents," and with no information presented as to gestational characteristics and stage of development, so that they were not given adequate information on which to make an informed choice regarding abortion. These commenters typically stated that they had experienced severe and long-lasting regret over the decision to abort, and also stated that they were given no counseling at the time they made their decision to abort as to the remorse and guilt they might later feel:

I have experienced the one-sidedness of * * *'s "counseling" and have seen the consciences of friend's (sic) shattered by what they now know was the wrong choice. Too many people are literally encouraged to use abortion as a birth control device because of its availability * * * has never discussed the alternative side with anyone I know. I don't feel guilty or presumptive calling their efforts exploitive.

"These clinics do not provide adequate information to pregnant women. There is no 'choice' involved in regard to abortion. It is the only solution offered. I know this from experience and have spoken to many women who have shared that experience.

"Please indulge me a little longer to say this, they lied to me. My third abortion required hospitalization and this was not done for the others. So I pointedly asked why? Her response. 'No—well, it's the same.' Now I have learned I submitted to a dilitation (sic) and evacuation—second trimester abortion. I never knew this until three years ago. But I asked and she lied to me. * * * The family planners holler about (and I quote from their Action Alert here in * * * N.Y.) 'Medical professionals have an obligation to give patients information and referrals on all options, and patients have a right to make an informed decision (fully informed). Where was mine?

"Since Planned Parenthood is the foremost abortion provider in the U.S., they have a responsibility to tell women the truth about fetal development and subsequent risks involved in pursuing abortion as an option. I know for a fact that they do not. The baby is dehumanized as much as possible by being termed a 'blob,' 'products of conception,' or 'uterine contents.' Not even the term fetus is used by the counselors. The very risky surgery is then passed over as safe [and] harmless [and] there is no mention of emotional or physical after affects. The counselors are told that any information on fetal development is distasteful [and] should not be used to avoid making the woman feel guilty. * * * Since my abortion, I have had 2 miscarriages.

"If I had been given proper information as to the development of my 12 week old child and if I had been presented with options to abortion rather than just abortion (given by the F.P. clinic) I would have had my baby.

"I had an abortion at the age of 16 years with the full encouragement of * * * in * * *, CA. They even called and made my first appt. to see the Dr. who would perform my abortion. There was no encouragement to consider adoption or to keep my baby. They helped me to get rid of my baby as quickly as possible.

"I was not given a complete picture of my situation. Therefore the decision I made for abortion was no decision at all. It was a coercion. Sixteen year old girls do not have the wherewithal to make such a life threatening, life changing decision especially when the choices given are so deceitfully incomplete. If I had known the reality of what I chose I would not have chosen an abortion. I killed my baby! How would you feel/react if someday several years after abortion you saw pictures of a 12 week old fetus and learned this was the picture of a perfectly formed human being. Hmmm—* * * [they] told me it was a 'blob!' I was devastated beyond all description.

"I was a seventeen year old who had just found out I was pregnant. * * * I couldn't get out of school to visit * * *, so they sent a nurse to see me. She blew my spirit down so much. * * * I expected her to help me and she wanted to destroy a little, innocent baby for convenience. She said, 'There's no way you can bring a child into this world and take care of it on your own. It isn't fair to the baby. People will speak badly of you. How can you let a baby be born with no father and no name? What about school? You can't finish 12th grade walking around pregnant. What kind of life would that be? * * *' Then she suggested an abortion. I started crying. All I could feel was why would anyone want to kill * * * her own flesh and blood * * * and why was she urging me to do this?"

FAMILY LIFE (SEXUALITY AND AIDS) EDUCATION

THE ISSUE

In Texas, 14 of every 100 females ages 15–19 will get pregnant, compared with the national rate of 11 of every 100. The average teen pregnancy rate in other developed countries is 5 of every 100 families.

U.S. girls under age 15 are at least five times more likely to give birth than young adolescents in any other developed country. Texas has the highest incidence of birth to girls 14 and under of any of the United States.

Nearly one-third of all teenagers who give birth will have another baby within the next two years.

About half the adolescents who become pregnant each year have their babies. 38% of teenage pregnancies end in abortion.*

The social, economic, and health costs associated with teenage pregnancy—greater with welfare dependency, limited educational and employment opportunities for teenage parents, school dropout, increased health risk for teenage parents and their infants—have long-term implications for state budgets and policy. Sexually transmitted diseases (STDs) take an awesome toll on the health and fertility of our young people. Added to these problems, we now have what may be the most devastating epidemic of all times—AIDS.

65% of all sexually transmitted diseases occur in people younger than 25. STDs cause severe health consequences and serious damage to the female reproductive system.

Today the AIDS virus has infected an estimated one to three million Americans. By 1991, as many as five to ten million Americans may be infected—a truly shattering number if even half of those people later develop the disease and die.

Education is a necessary first step and an essential element in any comprehensive effort directed at primary prevention of adolescent pregnancy, sexually transmitted diseases, and AIDS. Our young people not only need to know the "facts of life." They also need to learn about family life and human relationships. Our young people need self-esteem. They must learn to be competent decision-makers. They need "social resistance" to the risk-taking behaviors associated with high rates of unwanted pregnancy and disease. They need our help.

Sexuality education courses do not increase the level of sexual activity among teenagers. In fact, participation in family life education may help kids postpone sexual activity or may prevent students from becoming more liberal in their attitudes toward premarital sex.

PUBLIC OPINION

76 percent of adults surveyed in Houston favor having birth control advice and supplies distributed in schools according to a Houston Post-Rice University Survey conducted by Stephen Klineburg in 1988.

In 1986, a poll for Time by Yankelovich et al. found that 86 percent favored sexuality education in the schools.

In a Louis Harris poll in 1986, 85 percent agreed that sexuality education should be taught in public schools.

In 1986, a survey conducted by the LBJ School of Public Affairs and the University of Texas-Austin School of Social Work found that 78 percent of Texas voters believed that sexuality education should be in schools.

A Texas poll in 1987 found that 74 percent favored more education in grade school about sexually transmitted diseases, including the use of condoms.

PLANNED PARENTHOOD'S POSITION

Texas needs sexuality/family life education as a part of every young person's basic core of knowledge.

We believe that a developmentally appropriate, required program of sexuality/family life education, as an essential element beginning in kindergarten and continuing through all the years of public school education, can help reverse these tragic trends—trends affecting not only the quality of our young people's future, but in many cases the possibility of any future at all.

NOTES

*Statistics from the Texas Family Planning Association.

ABORTION

THE ISSUE

Abortion has been legal since the *Roe* v. *Wade* Supreme Court Decision in 1973. Since this decision, the Supreme Court has consistently upheld a woman's constitutional right to have an abortion in a number of other cases. More recently, the U.S. Supreme Court's *Webster* decision (1989) has given states some opportunity to restrict access to abortion.

History has shown us that women everywhere, in many circumstance of family income and education, have sought abortions—even when doing so meant risking their lives. It is crucial that abortion remain a constitutionally guaranteed right, and that services be available to all women.

Poor women do not have the same access to abortion services as more wealthy women. The Hyde Amendment denies federal funds for abortions for poor women except to save the life of the mother.

TEXAS LAW ON ABORTION

Under current Texas law regulating abortion:

Abortions must be performed by licensed physicians.

All abortions done in Texas are reported to the Texas Department of Health.

Texas Department of Health sets clinical standards for abortion providers to insure safe medical care.

Abortions are prohibited in the third trimester of pregnancy except to save the physical or mental health of the mother or in cases of severe fetal abnormality.

THE FACTS

Today, a legal abortion is five times safer than childbirth.

There were 79,213 abortions performed in Texas in 1988. The average Texas woman seeking an abortion is single, in her early twenties and pregnant for the first time. (T.D.H. statistics)

Since 1973, women have been obtaining abortions earlier in their pregnancies, when health risks are minimal. In Texas in 1988, 87% of abortions were performed in the first trimester, and .01% were performed in the third trimester.

There is no provider of abortions to poor women in Harris County. Although abortion is legal, thousands of poor women are currently denied access to them, because the Hyde Amendment denies federal funds for abortions, unless the woman's life is in danger. The Harris County Hospital District only provides abortion to save the life of the mother.

PLANNED PARENTHOOD'S POSITION

Provision of family planning services is the best way to prevent the need for abortions. In Texas in 1981, approximately 56,000 pregnancies were averted as a result of federal and state funding for contraceptive services.

The decision to have an abortion is an intensely personal decision which is best made by the woman involved, without government restrictions.

No woman should be denied abortion services solely because of her age or her economic circumstances.

Public funds should be made available to subsidize abortion services for poor women.

No consent should be required from a spouse, a court, a parent or any other person or institution, in order for a woman to have an abortion.

PUBLIC OPINION

90 percent of Americans think abortion should be available under some or all circumstances (1).

By a margin of more than two to one, Americans think that a woman who is three months or less pregnant should have the right to decide, with her doctor's advice, whether or not to have an abortion (1).

A 59 percent majority of Texans believe most women should retain the right to choose an abortion. (Houston Chronicle poll, 1989)

A 56 percent majority of Houstonians polled believe Texas lawmakers should make no changes in current Texas abortion law. (Houston Chronicle poll, 1989)

NOTES

"Public Attitudes About Sex Education, Family Planning, and Abortion in the United States," conducted for the Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, Aug.-Sept. 1985.

TEENAGE PREGNANCY

THE ISSUE

Approximately 1.1 million American teenagers become pregnant every year, more than 80 percent unintentionally (1). This situation represents a tragedy for the young people themselves and for all Americans. For the teens involved it often means having to decide between abortion or dropping out of school, leaving home, or becoming dependent on welfare. For society, it means a staggering amount of money—more than $18 billion spent in 1986 (2). In Texas the same year, $51 million was spent on deliveries, 38% of which were to teenagers, and $19 million was spent on AFDC payments to teen mothers (12). Worst of all, it presents an almost insurmountable obstacle to the creative and productive potential of our greatest asset, our youth.

THE CRITICAL FACTS

Texas leads the nation in number of births to girls 14 years of age and younger (1) (13).

Texas claims 1/10th of all of the pregnancies in the U.S. to girls 14 and under (1) (13).

Texas ranks fourth in the United States in the pregnancy rate for girls between the ages of 15 and 19 (1) (13).

83 percent of males and 74 percent of females in the United States will have had sexual intercourse by age 19 (3).

Only 33 percent of sexually active teens aged 12–17 use contraceptives every time they have sex. Over one-fourth never use them (5).

Many teens never visit family planning clinics; and of those who do, only 12 percent do so before they initiate intercourse. Most wait more than a year after first intercourse (6).

One in eight births in the United States occurs to a teenager. Teens account for 27.5 percent of all abortions annually (7).

Adolescent childbearing is one of the leading causes of welfare dependency in the U.S. (1).

U.S. TEEN PREGNANCY RATE HIGHEST IN DEVELOPED WORLD

A 1985 study found that the rate of teen pregnancy in the United States is two to seven times higher than that in other comparable industrialized nations—despite similar rates of sexual activity (8). Several factors were found to influence lower pregnancy rates in other developed countries:

rational and unambivalent societal attitudes toward sexuality and sexual development,

frank discussion of sexual issues in the family and in the media,

comprehensive, government-sanctioned school sexuality education,

widely available, confidential, low- or no-cost contraceptives.

The findings of this study provide a virtual blueprint for solutions to the adolescent pregnancy problem in America and in Texas.

PRACTICAL SOLUTIONS

Fund comprehensive sexuality education in every school district in the nation.

Help Americans accept and become comfortable with sexuality. Teens suffer from our society's dangerous hypocrisy of hyping sex through advertising and the media while repressing frankness and realism about sexuality.

Eliminate all barriers to confidential, inexpensive or free contraceptive services for teenagers who are sexually active.

Increase funding to develop new, more effective, more acceptable birth control methods.

Promote a balanced and realistic treatment of sexual topics in the media, rather than the overly romanticized sex and too frequent sexual imagery used to sell products.

PUBLIC OPINION

76 percent of Houstonians favor having birth control advice and supplies distributed in schools (14).

84 percent of American adults agree that teenage pregnancy is a serious problem (9).

Houstonians have, for years, favored sex education in schools (14).

70 percent of parents agree that their teens should be able to buy contraceptives without their knowledge (10).

82 percent of American adults believe that contraceptive advertising on television would encourage sexually active teens to use contraception (11).

NOTES

(1) The Alan Guttmacher Institute.

(2) The Center for Population Options.

(3) "Risking the Future: Adolescent Sexuality, Pregnancy, and Childbearing." National Research Council. Washington, DC: National Academy Press, 1987.

(4) Hofferth, Sandra L., et al., "Premarital Sexual Activity Among U.S. Teenage Women Over the Past Three Decades," "Family Planning Perspective," Vol. 19, No. 2, March/April 1987.

(5) "American Teens Speak: Sex, Myths, TV, and Birth Control." Conducted for Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, Sept.–Oct. 1986.

(6) Kisker, Ellen E., "The Effectiveness of Family Planning Clinics in Serving Adolescents," "Family Planning Perspectives," Vol. 16, No. 5, Sept./Oct. 1984.

(7) Henshaw, Stanley K., "Characteristic of U.S. Women Having Abortions, 1982–1983," "Family Planning Perspectives," Vol. 19, No. 1, Jan./Feb. 1987.

(8) The Alan Guttmacher Institute, "Teenage Pregnancy in Developed Countries: Determinants and Policy Implications," New York, 1985.

(9) "Public Attitudes About Sex Education, Family Planning, and Abortion in the United States." Conducted for the Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, Aug.–Sept. 1985.

(10) People magazine poll, April 1987.

(11) "Attitudes About Television, Sex and Contraceptive Advertising." Conducted for the Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, Feb. 1987.

(12) Texas Department of Human Services.

(13) National Center for Health Statistics.

TITLE XX

It has been said that the dollar spent for family planning is the most cost-effective dollar a community or government can spend. The subsequent reduction in unwanted pregnancy reduces demands on most health and human service agencies and the criminal justice system as well.

Title XX represents the Texas state commitment to insure that voluntary family planning services are available to all who seek them. The program is administered through the Texas Department of Human Services. Medical services provided include complete contraceptive care, including sterilization (except for teenagers). Across the state, women and men who qualify can receive family planning and reproductive health care from agencies which have Title XX contracts with T.D.H.S.

TITLE XX SAVES TAXPAYERS MONEY

Preventing unwanted pregnancies helps to reduce infant and maternal mortality and morbidity rates, as well as saving the taxpayer the enormous cost of supporting the woman and her child.

The taxpayers of Texas must pay approximately $8,200 to a mother and child who go on AFDC as the result of an out of wedlock birth in the first year alone. This estimate

VOL 137 PT 23 NO 21—25 1991 UMI

includes birth-related costs, AFDC and Medicaid payments, and Food Stamp allotments (1). In fact, in 1988, Texas taxpayers spent almost $21 million in AFDC payments for teenage mothers age 19 and younger (2).

By contrast, the average per client cost for Title XX family planning services to teens was only $78 (3).

TITLE XX FUTURE

Within the past year, long-overdue increases to some Title XX contracts have enabled agencies to serve more women and families in need of family planning services.

NOTES

(1), (2), (3) Texas Department of Human Resources.

(4) Texas Department of Health.

Title X

Title X of the Public Health Service Act, the federal family planning program, was enacted by Congress and signed into law by President Nixon in 1970. Title X is the major source of funding for 4,500 family planning clinics nationwide that served nearly five million poor women and teenagers in 1983, the last year for which figures are available. (In 1978, in recognition of the growing problem of adolescent pregnancy, Congress amended Title X to specifically require the provision of services to teens.) Funding for Title X services for fiscal 1988 is $136 million, decreased 15 percent from fiscal 1981.

TITLE X SERVES THE NEEDIEST

About 80 percent of clients who use Title X-funded clinics have incomes below 150 percent of the poverty level, and one-third are teens.

Title X has been crucial to the establishment and maintenance of clinics in geographical areas that are medically underserved.

TITLE X PREVENTS UNPLANNED PREGNANCIES AND THE NEED FOR ABORTION

A federally supported study found that Title X-funded services averted more than 800,000 unplanned pregnancies in a single typical year (1981)—425,000 among teens, for whom Title X is the single major source of family planning funding. If these unplanned pregnancies had occurred, they would have resulted in an estimated additional 282,000 births and 433,000 abortions. (The remaining pregnancies would have ended in miscarriages.)

TITLE X SAVES TAXPAYERS MONEY

The same study showed that, during the 1970s, each government dollar invested in family planning in any one year yielded savings of at least two dollars in health and welfare costs associated with unintended births in the following year. This cost-benefit ratio is even greater for services to teenagers—$2.90 saved for every dollar spent—since teen's pregnancies and births are more likely to be medically problematic and costly, and teen parents more likely to need public assistance.

FAMILY PLANNING PROGRAM THREAT

Until 1981, Title X enjoyed strong bipartisan support in Congress. However, the Reagan administration has launched increasingly vehement attacks on the program—including efforts to cut funding, impose crippling restrictions (such as the "squeal rule"), and even repeal title X outright. Most of the maneuvers have been blocked by Congress or the courts.

But on February 2, 1988, the Reagan administration published new restrictions that, unless overturned, will devastate the family planning program:

(1) The regulations eliminate the Title X requirement that grantees provide information on all options for dealing with an unplanned pregnancy. Instead, clinics are required to provide a pregnant woman with information on prenatal health care, as well as a list of prenatal and social service providers which "promote the welfare of the mother and unborn child." However, clinics are strictly forbidden from counseling here on the option or availability of abortion—even if the woman specifically requests such information, and even if withholding the information would endanger her health.

This "gag rule" is the most extreme anti-family planning proposal yet. It grossly contradicts not only medical ethics, but also the well-established principle of informed consent by the patient. In so doing, it violates the voluntary participation stipulated by Title X. Moreover, the proposal would violate a woman's right to choose abortion and to receive unimpeded information from her physician about abortion. A federal judge in Missouri upheld these constitutional principles in striking down a similar state law in 1987.

The regulations are clearly designed to benefit agencies that were formerly ineligible for Title X funds because they do not provide information on all options available to pregnant women. In fact, the regulations require that the list of providers furnished to pregnant women include facilities that do not offer abortion information, referrals, or services. The regulations do not acknowledge that most such agencies are ideologically biased, sometimes coercive, anti-abortion centers.

(2) The regulations require the Title X family planning services by "physically and financially separate" from privately funded abortion services offered by the same agency. The President's stated purpose of erecting a "wall of separation" between these services is baseless.

In a 1986 U.S. Supreme Court case (*Babbitt v. Planned Parenthood of Central and Northern Arizona*, 107 S.Ct. 391), the state of Arizona conceded that it could not prove that physical separation was necessary for ensuring separation of privately and governmentally funded activities. Since its inception, Title X has focused on preventive services to avert unintended pregnancies, and has barred the use of federal funds for abortion services. Repeated government audits have found no violation of this law.

International Family Planning

THE ISSUE

Half the women in the developing world do not have access to family planning services. Where such services are offered, they are being used to capacity. Where they are not yet available, millions of women and their families suffer indescribable hardship as a result of too-early and too-frequent childbearing. Illegal, often self-induced, abortion is a leading killer of women of childbearing age in the developing world. Conservative estimates indicate that as many as 200,000 women die each year from complications of illegal abortions.

Although federal funds have not been used for abortion since the passage of the Helms Amendment in 1973, the administration has recently attempted to withhold funds from any foreign agency that spends its own money on abortion activities. The administration's "Mexico City policy" (named after the city where it was announced at the 1984 United Nations International Conference on Population), bars most non-governmental foreign recipients of U.S. government family planning funds from underwriting any program that performs, advocates, refers, or counsels for abortions—even when those activities are paid for entirely with non-U.S. government funds, and are performed in countries where such activities are legal.

The policy is embodied as a clause in all new grants and cooperative agreements that the Agency for International Development (AID) signs with private domestic agencies which support foreign family planning projects.

The Mexico City policy endangers contraceptive programs that drastically reduce the need for abortion; poses additional health risks by denying women information on the availability of abortion, even in countries where abortion is legal; cuts off access to abortion where it is safe and legal; and prevents efforts to reform restrictive laws that make abortion illegal and dangerous in the developing world. The policy also violates the First Amendment rights of American citizens overseas to free speech and association.

Each year, Family Planning International Assistance (FPIA), Planned Parenthood's international program, provides contraceptive services and supplies to nearly four million individuals in 41 developing nations. Funded primarily by a cooperative agreement with AID, FPIA supports projects designed and implemented by indigenous agencies to increase access to voluntary contraception, train family planning personnel, and educate women and men about sexuality and contraception. FPIA has been rated by federally sponsored evaluators as one of the most effective, efficient, and creative of all international family planning agencies.

Despite this glowing appraisal, the administration is threatening to defund FPIA through the Mexico City policy. Planned Parenthood, whose agreement with AID was due to expire on December 31, 1987, negotiated an extension of the agreement through December 1988. Withdrawal of funds from FPIA would result in 380,000 additional unintentional pregnancies, 69,000 additional abortions, and 1,200 deaths from complications of childbirth, miscarriage, and septic abortion according to a recent study by the University of Michigan School of Public Health.

PUBLIC OPINION

Most Americans recognize the critical need for increased family planning services in developing nations and support U.S. aid for such programs. Recent polls show that:

81 percent of Americans think health service programs carried out by developing countries should include family planning (1)

78 percent of American adults favor U.S. aid for birth control in developing nations (2); by a margin of almost three to one, Americans favor aid to countries where abortion is legal (1)

In fact, a third of the American people think the U.S. should fund both family planning and abortion projects in developing nations (1)

91.5 percent of Americans polled in 1984 either did not know or incorrectly guessed the percentage of total U.S. foreign assistance allocated to family planning. When informed that the correct figure was approximately five percent, 40 percent of those who voiced an opinion thought this was too little; less than ten percent of those polled thought the allocation should be reduced (1). Yet the Reagan administration continually cut this allocation, which now stands at 1.8 percent of total foreign assistance appropriations.

By a two-to-one margin, Americans disapprove of the U.S. providing foreign assistance to developing countries to strengthen their military defense capabilities (1); yet in 1987, the U.S. government allocated 64.2 percent of its total foreign assistance budget of $13.4 billion to military and security assistance, but only 1.8 percent to family planning.

NOTES

(1) "U.S. Population Assistance to Developing Countries." Conducted for the Rockefeller Foundation by The Gallup Organization, Inc., Princeton, N.J., July 1984.

(2) "Public Attitudes About Sex Education, Family Planning, and Abortion in the United States." Conducted for The Planned Parenthood Federation of America, Inc., by Louis Harris and Associates, Inc., New York, N.Y., Aug.–Sept. 1985.

Health Care Providers

According to a study by the Boston University Schools of Medicine and Public Health, the regulations subject patients to serious health risks and providers to substantial legal liability risks. While presented by the Reagan administration as an antiabortion initiative, the regulations could in fact increase the number of abortions in the U.S. by drastically reducing access to contraceptives. Many health care providers, unwilling to compromise their medical ethics or to risk liability for negligence, may be forced to give up a major portion of their funding and to cut back on services accordingly. The brunt of such a cutback would fall heaviest on the low-income women and teens served by Title X. These clients may lose what is for most of them their only source of contraceptive information and services—treatment that will remain readily available to women who can afford private consultations.

Even without the new restrictions, Title X has not yet fully met the needs of millions of low-income women and teens: 56 percent of the nation's 9.5 million low-income women and 69 percent of the five million sexually active teens did not receive medically supervised contraceptive care in 1983. That more than half of the six million pregnancies occurring each year are unintended is clear testimony to the need for expanded services and the disastrous effects threatened by the new restrictions.

Although in October 1987 the U.S. Senate passed an amendment that would have blocked the regulations, the Conference Committee of the House and Senate later deleted the amendment in response to the threat of a presidential veto of the entire spending bill. Instead, in the report accompanying the bill, the conferees stressed the importance of making changes in the Title X program legislatively.

Lawsuits in three jurisdictions have been brought challenging the legality and constitutionality of the regulations. A federal district court judge in Denver has granted a preliminary injunction in a suit brought by Planned Parenthood, ruling that the regulations violate the intent of Congress and the constitutional rights of women and providers. Federal courts in New York City and Boston have also enjoined the regulations.

PLANNED PARENTHOOD'S POSITION

Congress and the courts should block the administration's new assault on Title X, as they have others in the past, and preserve the original intent of Title X mandated by Congress in 1970: to reduce abortions by expanding access to contraception for those who need it most.

Planned Parenthood will vigorously oppose the new regulations through all legal avenues, to ensure that comprehensive, confidential family planning services are available to all who want them, regardless of their ability to pay.

To fulfill the promise of Title X—extending services to those still unserved, particularly teens—the current funding level of $136 million must be increased at least to the 1981 level of $161 million. In addition, $10 million is needed to speed the development of new, more effective contraceptive methods, and $10 million to fund education and information programs directed at vulnerable teens to reduce their rates of unintended pregnancy and sexually transmitted diseases, including AIDS.

PUBLIC OPINION

Opposition to the new Title X regulations has been expressed by at least 36 state governments, the deans of all 25 of the nations' schools of public health, and more than 80 national medical, religious, legal, and civil rights organizations, including: the American Medical Association, the American College of Obstetricians and Gynecologists, the National Education Association, the National Council of Churches, the League of Women Voters, the American Civil Liberties Union, the National Urban League, and the Young Women's Christian Association.

Title X

Title X was signed into law in 1970. It is the only federal program specifically earmarked for family planning. It has been effective and scandal-free for over 20 years. Unfortunately, Title X has been attacked by groups and individuals opposed to federal support for contraception as well as abortion.

Title X authorizes grants to non-profit agencies for the provision of preventive services to include natural family planning and infertility services, excluding abortion.

Five million women a year receive family planning services from Title X funding.

69% of these women are white, and 8 in 10 have incomes below 150% of the poverty level.

There are 5,000 family planning sites across the country.

More than 800,000 unintended pregnancies a year are averted as a direct result of the federally funded family planning program, more than one half of them among teenagers.

More than half of these 800,000 would end in abortion.

Each dollar invested in family planning by the government yields a saving of $4.40 in health and welfare costs in the following year alone.

Sexual activity among teenagers has been increasing in the U.S. and elsewhere in the developed world for several decades. However, the availability of contraception has not caused this increase: 88% of teenagers come to family planning clinics after they have been sexually active, often for more than a year.

Western European countries with teenager sexual activity levels as high as those in the U.S. have far lower teen pregnancy rates.

Title X legislation has been used as the political trial balloon in the abortion controversy. Although Federal audits continually support the fact that Title X money has not been and is not being used for abortion, misinformation and debilitating proposed amendments draw attention to abortion and force family planning providers to spend a great deal of energy fighting the amendments.

THE TITLE X GAG RULE

The Title X "gag rule" was promulgated under President Reagan and continued by the Bush administration. The government is withholding information about abortion from title X clients. A pregnant client in a Title X program must be denied information about abortion and referral to abortion services, and can only be given referral for prenatal care. Failure to comply with this resolution will result in program defunding.

Currently, some Title X programs are protected from the "gag rule" by federal injunction as appeals make their way toward the Supreme Court.

New legislation—the Title X Pregnancy Counseling Act—would restore poor women's right to receive information about all pregnancy options.

Choice

Planned Parenthood is committed to a pro-choice position. We believe that a woman must have access to all reproductive health options—contraception, prenatal care, abortion, adoption. We believe that it is a woman's right to make reproductive choices for herself as guaranteed by the constitutional right to privacy.

We are also committed to reducing the number of abortions, recognizing that abortion is a last resort.

Family planning is the best way to reduce the number of abortions. Prevention of unintended pregnancy is the primary service offered by family planning providers. Quality reproductive health care, education and contraception are consistent services that can directly impact the abortion rate.

In 1981, more than 800,000 unintended pregnancies, 425,000 among teenagers, were averted nationally as a result of family planning providers. In Texas, an estimated 56,000 pregnancies were averted in 1981 as a result of federal and state funding for contraceptive services.

It is estimated that before legalization of abortion, 720,000 illegal abortions were performed each year. (Fam. Plann. Persp., 1976)

Poor women who would choose abortion are denied access to those services. During the year before and after the Hyde Amendment eliminated federal funding of abortion, the fertility rate among Medicaid-eligible Texas women increased 4.2% and 12% respectively. Birth rates for non-Medicaid-eligible Texas women those same years increased 1.6% and .6%.

In Texas, of reported women obtaining abortions in 1988, 55% were Anglo, 75% were single, 86% were in the first 12 weeks of pregnancy.

Those who sincerely seek to reduce the number of abortions might work actively and more effectively to:

Make contraceptives easily available.

Establish family life education programs in schools.

Increase involvement of men in family planning issues.

Support research for new and better birth control methods.

Create a better environment for our children.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, we are back again to debate the most important bill that comes before this House every year, a bill that takes into consideration the real needs of individuals in our society and families, the elderly,

VOL 137 PT 23 NO 21–25 1991 UMI

the sick, and the young who are so vulnerable today in this age in which economic advance has come to a dead standstill.

It is tragic that this President has made a decision to put all of the important programs at risk because of his inability to compromise just one iota on the whole question of letting people know what their reproductive rights are in the traditional manner in which every health provider and every patient have always been able to operate under.

We have heard a lot of talk from the other side today about abortion, but there is not one dime for public-funded abortions in this bill. In fact, in all the vetoes that have been cast by this President in the last year and others he has threatened have not been on publicly funded abortions.

The other folks are afraid just to even talk about sexuality and to deal with the reality that sometimes women's lives are seriously endangered by pregnancy. It is not always a successful event in the life of a woman. It is big Government. It is nannyism in the *n*th degree, an insult to those in our society who are women and deserve an equal chance, an equal opportunity to have a say about their lives.

I think what is really tragic is that we have not really effectively put a coalition together even now to fight for change. This fight that comes appropriately in this bill to an end today will continue in many other venues and on other legislation still to come.

The gentleman from Kentucky [Mr. NATCHER] is doing the right thing. We are not holding anybody hostage today because we differ with the President, that almost two-thirds of us here in the House and over 70 percent of us in this country, but we are letting the word go forth today that the issue will be fought in every home, in every town and village and city in this country, every State in America.

We are putting together a coalition, not just health professional groups, the people you might expect to be involved—like the American Medical Association, the American Nurses Association, the American Psychiatric Association, the American College of Obstetrics and Gynecology—but we are going to be getting the PTA's involved.

We are going to be getting the other community-based groups that are sensitive to the needs of women, and we are going to put Members of Congress from both sides of the aisle in this organization. We are going to be bipartisan. We are going to be committed. We are going to fight for the principles that this effort to repeal the gag rule embodies and when we come back to title X, when we come back to this bill again, we will have the two-thirds majority to make sure the American people have their way in the House of Representatives.

Mr. Speaker, I rise in support of H.R. 2707, the revised Labor, Health and Human Services and Related Agencies conference report.

It is indeed tragic that this President, who governs by veto, has rejected our largest domestic bill—the bill that funds basic benefits and services for American families. At the height of this Republican recession, he has put in jeopardy 205 billion dollars' worth of funding for education, from Head Start to college loans. He has risked funding for childhood immunization, the foster care and adoption assistance program, child care, Aid to Families with Dependent Children, and infant mortality initiatives. He has threatened funding for cancer research and women's health programs.

He has placed these—and more—vital programs at risk all because on the issue of choice he is wedded to the extreme position, one that is at odds with the vast majority of the American people. He has done this all because he is incontrovertibly committed to his oppressive gag rule policy, which prevents doctors in federally funded family planning clinics from even discussing abortion with their patients. This is an affront against all women. It not only denies women dependent on Federal funding the right to know all of their options but implies that they are unable, if so informed, to make sound, responsible decisions.

Even if a woman's health is seriously endangered by her pregnancy, this gag rule prevents her doctor from telling her the truth about her choices.

This restraint is even more alarming because it goes beyond interference with a woman's reproductive health care. This onerous regulation is a direct assault on our first amendment right to freedom of speech. The gag rule is unprecedented Government interference with the confidential doctor-patient relationship and has been denounced by every major medical group, including the American Medical Association and the American Nurses Association. The gag rule dictates to our Nation's medical community what they can and cannot talk about with their own patients. The gag rule blocks women knowing about their legal medical options.

For this reason, those of us here in Congress who believe in the confidentiality of the doctor-patient relationship are going to form a coalition with the medical profession in a campaign to overturn this heinous regulation. We have the support of the majority of the medical community, including the American Medical Association, the American Nurses Association, the American Psychiatric Association, the National Medical Association, and the American College of Obstetrics and Gynecology.

The President has struck a devastating blow aimed directly at American families and American women just to appease a single interest group. This is one of the worst examples of governing by special interest politics.

And now, in order to protect this crucial investment in our health care system and our families provided in this bill, Chairman NATCHER has appropriately stripped the gag rule language from his bill and brought it back to the floor of the House.

We cannot buy into the President's political game. We must have our priorities straight—even if he does not. I urge my colleagues on both sides of the aisle to support passage of the revised Labor, Health and Human Services and Related Agencies conference report. A vote for H.R. 2707 is a vote for American families and for the quality of our lives.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to my friend and top gun and leader from California, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I thank my friend and colleague for yielding me this time.

Mr. Speaker, one of the Presidential candidates in our country in two different Presidential races, who is a leader in this Nation, a liberal leader, he misread the polls, I mean that sincerely, misread loaded biased polling and switched on this life issue. I am convinced that someday he will return to the truth, because he is a Protestant Minister.

Here are his words from January 1977, before a thousand people at a pro-life gathering 4 years after Roe versus Wade. Listen to the burning truth of these words. I will jump four paragraphs ahead and then come back to the opening.

> Life is the highest human good not on its own naturalistic merits, but because life is supernatural, a gift from God. Therefore, life is the highest human good because life is sacred.

Here is his opening:

> The question of 'life' is The Question of the 20th century.

And by the way, as a footnote, that is why this issue keeps coming back in appropriations bills where it should not be fought. It should be in the authorization process, and why it is going to be with us whoever among us is longest in his career, with or without term limits, 12, 15, 25, 30 years from today, this issue will not go away because it is the question of the 20th and probably the 21st century.

Back to this Reverend, a great leader and political Presidential candidate, maybe again, probably not this year:

> Race and poverty are dimensions of the life question, but discussions about abortion have brought the issue into focus in a much sharper way. How will we respect and understand the nature of life itself is the overriding moral issue, not of the Black race, but of the human race.
>
> The question of abortion confronts me in several different ways. First, although I do not profess to be a biologist, I have studied biology and know something about life from the point of view of the natural scientist. Second, I am a minister of the gospel and, therefore, feel that abortion has a religious and moral dimension that I must consider. Third, I was born out of wedlock—

And so was his mother, by the way—

> and against the advice that my mother received from her doctor—

Early-planned parenthood types—

> and therefore abortion is a personal issue for me.
>
> From my perspective, human life is the highest good, the summum bonum. Human life itself is the highest human good and God is the Supreme good because, He is the giver of life. That is my philosophy. Everything I do proceeds from that religious and philosophical premise. Life is the highest good and therefore you fight for life, using every means consistent with that end.

And I repeat that paragraph I opened with:

> Life is the highest human good, not on its own naturalist merits, but because life is supernatural, a gift from God. Therefore, life is sacred.

That is the Reverend Jesse Jackson, January, 1977, and I know, Reverend Jackson, someday you will come back to the ringing truth of those burning and eternal words.

Here is yesterday's headline in one of the papers in town, "Failed Abortion Leaves Baby Without An Arm." That is the front page. That is a conservative newspaper.

Here is the New York Times, deep in the B section, and it is a New York issue: "Abortion Doctor Held As Baby Loses Arm."

> The flesh wound was consistent with the arm being severed. The arm was not found in the mother's womb.

It is interesting that this abortionist is also up on sex abuse charges for harassing a woman at her first checkup after an abortion.

We are discussing life issues in this bill and it is because the majority still misreads the polls. Most Americans are against most abortions. Try to contradict that. You cannot, that is a fact. That is modern history.

Mr. Speaker, I include the articles above referred to, as follows:

FAILED ABORTION LEAVES BABY WITHOUT AN ARM

(By Joyce Price)

A New York doctor has been charged with performing an illegal and unsuccessful eighth-month abortion in which, police say, the baby's right arm was sheared off just below the shoulder.

The infant, a 3½-pound girl, was born alive the day after the botched abortion. Now 4 weeks old, she is in good health except for the injury.

Dr. Abu Hayat, 61, an obstetrician-gynecologist licensed in New York since 1973, "categorically denies having performed or having attempted to perform an abortion" on the baby's mother, Rosa Rodriguez, his attorney, Jeffrey M. Rubin, said yesterday.

Dr. Hayat was charged with "second-degree abortion." He was charged last month with sexually abusing a female patient during a follow-up examination after she had an abortion at his office, police said.

Miss Rodriguez, 20, told Dr. Hayat she believed she was three or four months pregnant, said her attorney, Jeffrey Lichtman. Rather than do a sonogram, the standard method to determine gestation, Mr. Lichtman said, Dr. Hayat merely "performed a routine pelvic examination" on Miss Rodriguez and gave her "a pat on the tummy."

New York state law prohibits abortions after 24 weeks of pregnancy except in cases where the life of the mother is endangered. Mr. Lichtman said Miss Rodriguez was in her 32nd week of pregnancy and in "good health."

The abortion clinic was described as "filthy" in a report in yesterday's New York Post.

Both pro-life and pro-choice advocates expressed horror at the report.

Pro-choicers acknowledged "mistakes are made" in some abortions but said cases like this are "extremely rare," less than 1 percent.

Pro-lifers agreed that nightmare situations like the Rodriguez case are probably not common. But some charged that abortion-related deaths and serious injuries occur more frequently than most people are aware.

For example, Tim Alexander of the American Rights Coalition cited two cases this month—one in Las Vegas and one in Houston—in which young women died shortly after undergoing legal abortions.

According to a report in the Houston Post, the 17-year-old victim there was 22 weeks pregnant and started bleeding after an abortion she had in the morning. By 6:30 p.m. she was dead.

In the Las Vegas case, a 21-year-old woman who underwent an abortion died after blood collected in her stomach as a result of a perforated ulcer, according to the Las Vegas Review-Journal.

Complications are greatest in third-trimester abortions. Barbara Radford, executive director of the National Abortion Federation, said they constitute "significantly less than 1 percent" of all the nearly 1.4 million abortions performed in this country annually.

Such abortions are "performed primarily for serious health reasons and serious fetal anomalies," according to Stanley Henshaw, deputy director of research for the Alan Guttmacher Institute, a family planning research organization.

But he acknowledged that "a lot of mistakes are made about gestational age," which undoubtedly results in some third-trimester abortions performed for non-medical reasons.

Both Mr. Henshaw and Ms. Radford said they'd never heard of anyone performing an eighth-month abortion and had to believe it was not intentional. "If he'd used sonography, he would have been pretty aware of gestational age," Mr. Henshaw said.

Carol Everett of Dallas, a former participant in second- and third-trimester abortions who is now an avid pro-lifer, said Miss Rodriguez's baby undoubtedly was injured during an abortion procedure known as dilation and evacuation.

She said cases of infants surviving such abortions with missing limbs are "pretty uncommon." But she insists a lot of third-trimester abortions are being performed secretly. The average price of late-term abortions, she and others said, is about $1,500—three to five times more than the fee for abortions in the first trimester.

The American Rights Coalition has a toll-free number people can call to report abortion-related deaths and injuries. Mr. Alexander said that in the past month, he has received calls from 8 women who suffered perforated uteruses, 5 who required hysterectomies and 25 who developed infections as a result of fetal tissue left behind in an incomplete abortion.

From those reports and from newspaper stories and medical journals, Mr. Alexander estimates 200 to 300 abortion-related deaths in the United States this year, with injuries "in the thousands."

HOW WE RESPECT LIFE IS OVERRIDING MORAL ISSUE

(By the Rev. Jesse L. Jackson)

The question of "life" is The Question of the 20th century. Race and poverty are dimensions of the life question, but discussions about abortion have brought the issue into focus in a much sharper way. How we will respect and understand the nature of life itself is the over-riding moral issue, not of the Black race, but of the human race.

The question of abortion confronts me in several different ways. First, although I do not profess to be a biologist, I have studied biology and know something about life from the point of view of the natural sciences. Second, I am a minister of the Gospel and therefore, feel that abortion has a religious and moral dimension that I must consider. Third, I was born out of wedlock (and against the advice that my mother received from her doctor) and therefore abortion is a personal issue for me.

From my perspective, human life is the highest good, the summun bonun. Human life itself is the highest human good and God is the supreme good because He is the giver of life. That is my philosophy. Everything I do proceeds from that religious and philosophical premise. Life is the highest good and therefore you fight for life, using means consistent with that end.

Life is the highest human good not on its own naturalistic merits, but because life is supernatural, a gift from God. Therefore, life is the highest human good because life is sacred. Biologically speaking, thousands of male sperms are ejaculated into the female reproductive tract during sexual intercourse but only once in a while do the egg and sperm bring about fertilization. Some call that connection accidental but I choose to call it providential. It takes three to make a baby: a man, a woman and the Holy Spirit.

I believe in family planning. I do not believe that families ought to have children, as some people did where I was growing up, by the dozens. I believe in methods of contraception—prophylactics, pills, rhythm, etc. I believe in sex education. We ought to teach it in the home, the school, the church, and on the television. I think that if people are properly educated sexually they will appreciate the act and know its ultimate function, purpose and significance.

Only the name has changed.

In the abortion debate one of the crucial questions is when does life begin. Anything growing is living. Therefore human life begins when the sperm and egg join and drop into the fallopian tube and the pulsation of life take place. From that point, life may be described differently (as an egg, embryo, fetus, baby, child, teenager, adult), but the essence is the same. The name has changed but the game remains the same.

Human beings cannot give or create life by themselves, it is really a gift from God. Therefore, one does not have the right to take away (through abortion) that which he does not have the ability to give.

Some argue, suppose the woman does not want to have the baby. They say the very fact that she does not want the baby means that the psychological damage to the child is reason enough to abort the baby. I disagree. The solution to that problem is not to kill the innocent baby, but to deal with her values and her attitude toward life—that which has allowed her not to want the baby. Deal with the attitude that would allow her to take away that which she cannot give.

Some women argue that the man does not have the baby and will not be responsible for the baby after it is born, therefore it is all right to kill the baby. Again the logic is off. The premise is that the man is irresponsible. If that is the problem, then deal with making him responsible. Deal with what you are

VOL
137
PT
23
NO
21
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25
1991
UMI

dealing with, not with the weak, innocent and unprotected baby. The essence of Jesus' message dealt with this very problem—the problem of the inner attitude and motivation of a person. "If in your heart . . ." was his central message. The actual abortion (effect) is merely the logical conclusion of a prior attitude (cause) that one has toward life itself. Deal with the cause not merely the effect when abortion is the issue.

PLEASURE, PAIN AND SUFFERING

Some of the most dangerous arguments for abortion stem from popular judgments about life's ultimate meaning, but the logical conclusion of their position is never pursued. Some people may, unconsciously, operate their lives as if pleasure is life's highest good, and pain and suffering man's greatest enemy. That position, if followed to its logical conclusion, means that that which prohibits pleasure should be done away with by whatever means are necessary. By the same rationale, whatever means are necessary should be used to prevent suffering and pain. My position is not to negate pleasure nor elevate suffering, but merely in argue against their being elevated to an ultimate end of life. Because if they are so elevated, anything, including murder and genocide, can be carried out in their name.

Often people who analyze and operate in the public sphere (some sociologists, doctors, politicians, etc.) are especially prone to argue in these ways. Sociologists argue for population control on the basis of a shortage of housing, food, space, etc. I raise two issues at this point: (1) It is strange that they choose to start talking about population control at the same time that Black people in America and people of color around the world are demanding their rightful place as human citizens and their rightful share of the material wealth in the world. (2) People of color are for the most part powerless with regard to decisions made about population control. Given the history of people of color in the modern world we have no reason to assume that whites are going to look out for our best interests.

Politicians argue for abortion largely because they do not want to spend the necessary money to feed, clothe and educate more people. Here arguments for inconvenience and economic savings take precedence over arguments for human value and human life. I read recently where a politician from New York was justifying abortion because they had prevented 10,000 welfare babies from being born and saved the state $15 million. In my mind serious moral questions arise when politicians are willing to pay welfare mothers between $300 to $1000 to have an abortion, but will not pay $30 for a hot school lunch program to the already born children of these same mothers.

I think the economic objections are not valid today because we are confronted with a whole new economic problem. The basic and historic economic problem has been the inability to feed everyone in the world even if the will were there to do so. They could not produce enough to do the job even if they wanted to. An agrarian and disconnected world did not possess the ability to solve the basic economic problem. That was tragic, but hardly morally reprehensible. Today, however, we do not have the same economic problem. Our world is basically urban, industrial, interconnected, and technological so that we now, generally speaking, have the ability to feed the peoples of the world but lack the political and economic will to do so. That would require basic shifts of economic and political power in the world and we are not willing to pay that price—the price of justice. The problem now is not the ability to produce but the ability to distribute justly.

Psychiatrists, social workers and doctors often argue for abortion on the basis that the child will grow up mentally and emotionally scared. But who of us is complete? If incompleteness were the criteria for taking life we would all be dead. If you can justify abortion on the basis of emotional incompleteness, then your logic could also lead you that killing for other forms of incompleteness—blindness, crippleness, old age.

Life is public and universal.

There are those who argue that the right to privacy is of higher order than the right to life. I do not share that view. I believe that life is not private, but rather it is public and universal. If one accepts the position that life is private, and therefore you have the right to do with it as you please, one must also accept the conclusion of that logic. That was the premise of slavery. You could not protest the existence or treatment of slaves on the plantation because that was private and therefore outside of your right to be concerned.

Another area that concerns me greatly, namely because I know how it has been used with regard to race, is the psycholinguistics involved in this whole issue of abortion. If something can be dehumanized through the rhetoric used to describe it, then the major battle has been won. So when American soldiers can drop bombs on Vietnam and melt the faces and hands of children into a hunk of rolling protoplasm and in their minds say they have not maimed or killed a fellow human being, something terribly wrong and sick has gone on in that mind. That is why the Constitution called us three-fifths human and then whites further dehumanized us by calling us "niggers." It was part of the dehumanizing process. The first step was to distort the image of us as human beings in order to justify that which they wanted to do and not even feel like they had done anything wrong. These advocates of taking life prior to birth do not call it killing or murder, they call it abortion. They further never talk about aborting a baby because that would imply something human. Rather they talk about aborting the fetus. Fetus sounds less than human and therefore can be justified.

In conclusion, even if one does take life by aborting the baby, as a minister of Jesus Christ I must also inform and/or remind you that there is a doctrine of forgiveness. The God I serve is a forgiving God. The men who killed President John F. Kennedy and Dr. Martin Luther King, Jr. can be forgiven. Everyone can come to the mercy seat and find forgiveness and acceptance. But, and this may be the essence of my argument, suppose one is so hard-hearted and so indifferent to life until he assumes that there is nothing for which to be forgiven. What happens to the mind of a person, and the moral fabric of a nation, that accepts the aborting of the life of a baby without a pang of conscience? What kind of a person, and what kind of a society will we have 20 years hence if life can be taken so casually?

It is that question, the question of our attitude, our value system, and our mind-set with regard to the nature and worth of life itself that is the central question confronting mankind. Failure to answer that question affirmatively may leave us with a hell right here on earth.

ABORTION DOCTOR HELD AS BABY LOSES ARM

(By the Associated Press)

A Manhattan doctor was arrested yesterday in connection with an attempted abortion that resulted in severing the arm of a child who was born alive, the police said.

Dr. Abu Hayat of 9 Avenue A, was arrested at his clinic in the Lower East Side at 12:30 P.M., said a police spokesman, Detective Joseph Gallagher.

The arrest followed an investigation that began Oct. 27, when Rosa Rodriquez, 20 years old, gave birth at Jamaica Hospital in Queens to a girl whose right arm was missing, Detective Gallagher said.

The premature child, who was between 30 and 32 weeks old at birth, was transferred to the New York Hospital, where she was in stable condition.

The flesh wound was consistent with the arm being severed," Detective Gallagher said. "The arm was not found in the mother's womb."

The mother told the police she had gone to an abortion clinic, where "someone attempted an abortion and the arm was severed," he said.

Dr. Hayat was charged with an act of abortion, attempting an abortion in the third trimester, said Officer Andrew McInnis, police spokesman. As a result of the investigation Dr. Hayat was also charged with third-degree sexual abuse as a result of a separate incident, the police said.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, this bill deserves our vote, but it was so much better before the President and a minority of this House removed freedom from it.

What does freedom mean? Freedom means all Americans are created equal under the law. Freedom means that all of us have the right to freedom of speech and freedom of religion.

The policy of this administration on health care does violence to our freedoms. This veto was a totalitarian veto. This President has ordered the gagging of our health care workers. They can no longer tell a woman that abortion is legal in our country.

☐ 1340

Mr. Speaker, I listened to my good friend from California. I want to point out that physicians are now gagged in health care clinics, and even if a woman has been raped, that physician cannot tell her that abortion is legal in this country. The President says he is not gagging physicians. He has put out a policy that says he has not.

Ask the physicians. They say they are gagged. Who do you believe? The physicians are gagged.

Who is next? Teachers, writers, reporters, Members of Congress?

Women in health care clinics will not get equal treatment from their doctors, because their doctors are gagged. We need to stand up in this House as men and women, Republicans and Democrats, and give voice to those gagged professionals and the thousands of American women who are forced into ignorance.

This issue will not go away, because it is about the heart and soul of America. Our freedoms, our rights, our country.

We will keep it before the American people so that they understand that the party that says it wanted to get Government off the backs of the people has put itself smack in the middle of our lives.

What gives the President the right to do this? One-third of this Congress and a very cruel veto pen.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER], the chairman of the Subcommittee on Appropriations, for yielding this time to me.

I too intend to vote for this bill despite my deep disappointment that it has been gutted of a very important principle.

Mr. Speaker, I serve on the Committee on Education and Labor, and I know how important the funds are to the educational community. I have worked very hard to get special provisions in this bill with reference to women's health issues. I am concerned about labor issues and about children.

So there is no question that I must vote for this bill despite my disappointment.

But in all the years that I have practiced law and I have participated in politics, I believe there were two cardinal principles that could never be violated, and that was the right of privileged communication between a doctor and the patient and between lawyers and their clients.

We are, by yielding to the pressures that exist in our society, small minded, unthinking, unbelieving in the basic principles of our Bill of Rights, by cutting out and diminishing the protections of our law, of our common law, of our customs, of all the things that are part of our society, we are now destroying this very basic belief that what a doctor and a patient communicate to each other is privileged, is sacred, is private.

Henceforth, merely because Federal funds are going into a Planned Parent clinic, a doctor cannot exercise this freedom of having this relationship with their clients and being able to feel free that he or she, as a physician, can give the full benefit of his or her knowledge to this particular patient.

I wonder what is next. I think that all the women in this society need to think about what is next. Are they going to tell our schools, our colleges, all our other public health services that they too will be gagged next?

This is the caution that we have to carry to our constituents.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would have preferred the original bill, and I want to compliment Chairman NATCHER; he was very courageous in offering that bill.

I want to say that I am proud of the fact that every Democratic woman in the House supported the original bill and supported the repeal.

But I do want to point out that there are some things in this bill some of us have worked very, very hard on, and I am very pleased that the chairman and others saw fit to put it in.

I had asked for $50 million for research for breast cancer, and the committee put in—it is confirmed—$42 million for more research for breast cancer. That may seem like a lot of money, but I have to tell you that in the last decade when we lost 100,000 people to AIDS—and I am a big supporter of AIDS research—we lost 400,000 women to breast cancer.

Well, we know 45,000 women are going to die of breast cancer this year. We know approximately 175,000 women in the United States will be diagnosed with breast cancer. It is an epidemic, and we do not treat it as an epidemic.

We were able to get mammography coverage in Medicare, and we think we may save 4,000 lives because of that early detection.

But we do not have mammography coverage in every public and private hospital plan in this country, and that is reprehensible to me. And I believe very strongly that until we see equity toward women's health issues, we will not stop in our pursuit of getting more money for ovarian cancer, osteoporosis, cervical cancer, and other female-dominated diseases and, yes, prostate cancer, which occurs more often in men.

So, Mr. Speaker, I say thank you to the chairman, I thank him for his good effort and for the bill that we have at hand.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. I thank the gentleman for yielding this time to me.

Mr. Speaker, the reason I interrupted the gentleman from Texas [Mr. DELAY]—and I am sorry he did not have more time—but I wanted to ask him if he would, with respect to the letter that he was reading from and the materials from Planned Parenthood, that he was quoting, if he would put those in the RECORD. I think sometimes we have the feeling that there is some misconstruction being put upon such documentation, and I wonder if the gentleman would just put it in the RECORD and share that for all those who may read the RECORD.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Texas.

Mr. DELAY. I thank the gentleman for yielding to me.

Mr. Speaker, I would be glad to do that.

PARLIAMENTARY INQUIRY

Mr. DELAY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DELAY. Mr. Speaker, may I insert in the RECORD this material under the general rules during the period of my speech?

The SPEAKER pro tempore. Not with illustrations, but text may be included.

Mr. DELAY. I have no illustrations, just the text for the RECORD during my speech.

The SPEAKER pro tempore. Without objection the gentleman from Texas may insert the material in the RECORD.

There was no objection.

Mr. EMERSON. Mr. Speaker, I rise to support the passage of the Labor/HHS/Education appropriations bill. We finally have a bill that the President will sign—and it's high time. This bill is the culmination of many months of hard work by Chairman NATCHER, ranking member PURSELL, and the rest of the Appropriations Subcommittee. This is a good bill, and I commend my colleagues who worked so long and so well.

I am pleased to be able to support this bill which funds cancer and Alzheimer's research, Head Start, and impact aid; which directs the National Cancer Institute to prioritize on prostate, ovarian, breast, and cervical cancer; and which funds vocational education, chapter 1 programs, immunization programs, and energy assistance for low-income folks. It's a shame that such a good bill was held hostage for so long by abortion supporters. If abortion supporters in Congress had not insisted on using taxpayer dollars to refer women to abortion mills, this bill would have been law long ago.

☐ 1350

Let us pass the bill today, send it to the President for his signature. We have waited too long for cancer funding, for health, and for education.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise in support of the Labor-HHS conference report.

They don't call this America's bill for nothing.

As usual, Chairman NATCHER has crafted a bill on which our entire Nation relies for improving education for quality health care and for programs that will aid our families and spur our economy at this time of recession.

Every single taxpaying citizen in our Nation will be touched by this bill, and they all owe a debt of gratitude to Mr. NATCHER and the entire subcommittee for the fine work that they have done.

VOL 137 PT 23 NO 21—25 1991 UMI

It was tragic when the President ignored the pleas of American citizens who are desperately in need of assistance and vetoed this bill, which contains antirecession tonic and healing relief for our families.

But it was even more tragic when the President insisted on a policy that is illegal, immoral, and insulting to every woman in America.

That policy is the gag rule—a rule which gags free speech, deprives women and doctors of their fundamental rights, and even worse, threatens the health and the very lives of women across this Nation.

The women of America are not simply disappointed that the President continues to insist on this policy, we are enraged.

And today, as Congress approves much-needed health and education legislation, absent the antigag rule provisions, we are here to say: We are not going to forget, we are not going to forgive, and we are going to prevail.

When the President wielded his veto pen for the 24th time, it was his own doing, and it was his own undoing. He abandoned the women of America and the women of America will not stand for it.

We will fight unceasingly for our fundamental freedoms, for quality medical care, and for new leadership that does not ignore the needs of America's women.

Mr. Speaker, this bill is excellent and much needed. But it is also a milestone, a milestone by which we will mark our slow but certain progress toward overturning the President's veto and overturning the gag rule.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Speaker, I rise today in reluctant support of the Labor-HHS-Education appropriation bill. I thank the committee for their hard work to bring this bill to the floor. But I am dismayed that the bill we will approve later today limits the first amendment rights of American women and their doctors. This bill prohibits health care providers from telling the truth. And that is unconscionable.

For more than 200 years, American men and women have lost their lives defending their right to tell the truth, to speak out—as guaranteed in our Nation's Constitution.

Yet, last week, a minority of the Members of this body joined our President to tell competent, professional health care providers that they cannot tell their patients the truth. Or, they can tell their patients only a part of the truth, and then they must be silent—gagged by the very body that has sworn to "support and defend" our Constitution against all enemies, foreign and domestic. I am saddened that last week we failed to protect our Constitution from such a domestic enemy.

Mr. Speaker, many of my colleagues have tried to frame this debate as an abortion issue. But it is not. It is a free speech issue. It is about the Constitution. It is about the laws that govern our Nation. But, last week, the President and a minority of the Members of the House of Representatives severely restricted the rights of health care professionals in 4,000 title X funded clinics across the country. We told these doctors and nurses that they cannot tell the truth, they cannot give their patients all the medical options available.

But, Mr. Speaker, everyone is this Chamber knows that if a woman has money, has the funds available to pay for a private doctor, she will get all the information that affects her body. She can buy her choices. But the 4 million lower income women who depend on federally funded clinics for their health care cannot afford to buy their information, to buy the luxury of having a doctor tell them the truth. These 4 million women look to the staffs of their local health clinics for medical treatment and guidance—and what will they see? Doctors and nurses in white coats, with stethoscopes around their necks and zippers over their lips.

Mr. Speaker, this bill is the best this Congress can approve this year. But, Mr. Speaker, next year my colleagues and I will continue to work to ensure that lower income women have access to the same medical information and choices that upper income women enjoy. And we will work so that doctors and nurses can once again enjoy the freedom of speech, the freedom to tell the truth that our Constitution guarantees. And I promise that we will work to remove the gags that limits that speech and keep these professionals from telling the truth to their patients.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] for yielding, and I thank him for his leadership in bringing this legislation to the floor. The chairman of the subcommittee has served this issue very well in helping us come out of the Committee on Appropriations to the committee with the bill that was the right bill for us to pass.

Unfortunately, Mr. Speaker, the President of the United States chose to veto that bill, and from our high school Latin we know what "veto" means.

"Veto" means "I forbid," and in vetoing the bill the President of the United States said, "I forbid women to have their medical options be known to them. I forbid poor women to have the same doctor-patient relationship that women of means have. I forbid women to be able to be treated with respect by receiving information that is necessary for their personal health. I forbid women to be told the truth."

Mr. Speaker, I will support this legislation, as I have said in the beginning, but I do so with the statement that we must in next year's bill make it very clear to the American people that women have the same constitutional rights as others.

Mr. Speaker, on this floor I cannot ever recall a time when we discussed or debated men's health issues, but, when it comes to women's health issues, the women of America want their word and their thinking to be respected on it. So, let it be very clear to the women of America that, while we support this bill and all of the great things it does for our country in terms of education and health, that we will not let this matter rest, that we must rectify this situation, and we must not let any President of the United States forbid the women of America to the rights they are entitled to under the Constitution of the United States.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise in support of this very important bill, and I commend the chairman, the minority ranking member of the committee, particularly the chairman, for what he is bringing to the American public in this bill. After all, this bill handles the medical research, college loans and grants for students, so much that is important to every American man, woman, child, and family, and I commend the chairman particularly for his attempt to override the President's veto.

But while we celebrate what is in this bill, we also must lament what has been omitted because of that veto by the President. Women throughout the centuries have been held in bondage in one form or another. They have been sold off as wives or prostitutes, they have been cremated live on their husbands' funeral pyres, they have been prohibited from driving. In our own country women are no strangers to the bondage. They were denied the right to vote for too long, they were not allowed to own property or borrow money without their husbands' signature. This President wants to continue this history of bondage by keeping some women in ignorance.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Michigan [Mr. PURSELL] for yielding this time to me.

Mr. Speaker, I am filled with mixed emotions about this bill. The health of the Nation is something that we all should be concerned about. We have a lot of problems to deal with, and this bill certainly deals with a lot of them in a very positive way.

But one of the things I have been harping on this whole past year has been the budget deficit and what that is going to do to the economy of this country, and this particular bill goes $22 billion over last year. That is an increase of 11.8 percent, and, not only are we spending $22 billion more than last year, almost a 12-percent increase, but we are also, in addition, forward-funding into the next fiscal year about $4.3 billion.

□ 1400

That means that we are going beyond the budget agreement, that we are circumventing the budget agreement. This year we are going to have a 400-billion dollar deficit. At least that is what I have said time and time again, but it has been brought to my attention today that it is really going to be a 480-billion dollar deficit if we look at the true figures.

We have a $4 trillion national debt, and yet we are going $4.3 billion over this year's budget agreement into next year to make a hole we are going to have to fill later on. We cannot continue to do business like that.

Obviously, the health of the Nation is very important, but if we continue to spend beyond our means, as we have this year and in the past, if we continue to do that into the future, we are not going to have a health system and we are going to bankrupt the whole country.

So I just say to my colleagues, let us take a hard look and make priorities in spending. Let us prioritize the programs, not only in the area of health but in every area of Government. If we do not start prioritizing, if we continue throwing money at every single issue that we think is important, we will never get control of spending and the budget deficit will continue to escalate.

In 2 years we are going to have close to a 5-trillion dollar national debt. The interest on that will be $400 billion, just the interest alone, and we are not going to be able to deal with these astronomical figures. We are digging a tremendous hole for our children. They are going to have to deal with that, and I do not think the economy we are going to leave them is something they are going to be proud of, and they will certainly hold us accountable.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, we come here today to act on the Labor-HHS-Education appropriations bill. This is legislation that should be law. We have here $204 billion in vital programs for education, child support enforcement, foster care, and child care.

I really feel that we should say that the whole Nation knows that this vote was taken 2 days ago, on Tuesday, and, therefore, the record has to keep straight and we have to say that for 7 years family planning counselors were required to give their clients full information about pregnancy options, but in 1988, the Reagan administration barred health care providers in federally funded clinics from telling women what the law is in the United States of America.

This became known as the gag rule. Physicians and counselors may not tell a woman all her medical options. The ethical dilemma for health providers who have a professional responsibility to give their patients sound advice is staggering.

Mr. Speaker, I regret that we have stripped the language to overturn the gag rule from the legislation before us, but I also commend the many Members who understood that the gag rule debate was not about abortion but about the sanctity of the patient-provider relationship and freedom of speech.

Today, Mr. Speaker, we must act responsibly and pass this appropriation legislation. We all thank the gentleman from Kentucky [Mr. NATCHER] for his constant willingness to let us say what we have to say, and like the administration, we will not play games with the domestic programs of our Nation. Too many lives, too many jobs, and too many futures are at stake.

But we will be back, Mr. Speaker, because underprivileged American women deserve equal access to information.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today in strong support of H.R. 3839, the fiscal year 1992 Labor-HHS-Education appropriations bill. I commend my colleague, the esteemed chairman of the subcommittee, Mr. NATCHER, for his efforts on behalf of cancer victims.

As many of you know, there are some 44,000 deaths a year attributed to breast cancer alone. My colleagues, what makes this more tragic is that some of these deaths could be prevented with early detection and monitoring. We have already approved limited Medicare coverage for mammography screening, but more needs to be done.

This bill urges the National Cancer Institute to make breast, prostate, ovarian, and cervical cancer one of its top priorities and treat these diseases with the utmost urgency. We have added about $133 million for breast cancer research in this bill, an increase of 46 percent.

Mr. Speaker, I believe this bill represents a major commitment on the part of the Government to improve the health care needs and prevention programs for all women. This bill provides an overall increase of approximately a quarter of a billion dollars for the National Cancer Institute. However, we must continue to do more so we will hopefully reduce the number of cancer victims and improve the quality of their lives.

Mr. Speaker, it is also important to note that H.R. 3839 has wide support from those in the education community, and there is good reason for their blessing. This bill ensures that millions of disadvantaged children will be rendered vital services by providing a $1.8 billion increase in educational funding.

This bill will provide access for an additional 600,000 children who will be eligible for reading and math instruction.

Furthermore, a $171 million increase in student aid and a $52 million boost to the TRIO programs will permit more students to receive financial aid and increase access to a college education.

Mr. Speaker, the future prosperity of our country depends heavily on an educated public. This bill goes a long way in our effort toward restoring America as the world leader in all fields of education.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. FORD], who is chairman of the Committee on Education and Labor. Let me say to the gentleman that we appreciate his help, and every day during the year he does help us.

Mr. FORD of Michigan. Mr. Speaker, I thank the chairman of the subcommittee for yielding time to me, and I thank him for those kind words. It is a real pleasure to work with a Member like the gentleman from Kentucky, someone who is so strongly committed to education.

I said last week when we voted on the veto override that the President was making it difficult for me to keep my pledge to do everything I could as chairman of the Committee on Education and Labor to help him become the education President that he wants to be. I have moved education legislation out of my committee, to the dismay of a majority of my Democratic members, I might say, in a way that has left me in some difficulty over there, trying to cooperate with the President.

The gentleman from Kentucky, in his anxiety to be cooperative with the President, has put in this bill money that will be available, when we get the other body to act, to get money started out there to fund the President's education initiatives early next year.

All of that went down the tubes with the veto the other day, and it is very sad.

I agree with the Members who have been talking here about how outrageous it is to have a gag rule applied to young women of any kind any place in this country who are being denied essential information, and I pledge to join with them when we get separate legislation out here to take that issue on head-on and let people go home and

VOL
137
PT
23
NO
21—25
1991
UMI

explain their votes on that issue. The President used that as his excuse to veto this bill.

Whatever his excuse, the plain facts of life are that this bill increases expenditures for education for the next fiscal year by 9 percent. The President recommended 3.5 percent, which effectively, because of the CPI being higher than that, was a cut in the education commitment, and I cannot make him the education President by cutting funding for education.

If Members want to help him, they should vote for this bill and give him a chance to sign it and take some credit that he will have coming to him and let him take his lumps for the reason he vetoed the bill the last time.

As for the new money that is in here, I heard a Member from Indiana, I believe it was, talking about busting the budget. We amended the budget, as Members may remember, on this floor very early in this year to make room for new money in education. The Appropriations Committee came through and appropriated within the budget numbers that this House voted overwhelmingly to adopt. This money is all within the budget.

□ 1410

There will be 600,000 disadvantaged children who will not get training in reading and writing if this bill is not passed. If we go to a continuing resolution, we will not reach 600,000 people with reading and writing at a time when everybody tells us that is what we ought to be doing.

Over 3 million young people who are already seeking a college education will be placed in jeopardy with Pell grants. As many as 66,000 children that would otherwise be prepared to start school in Head Start would be denied that opportunity, because that is the difference we make. That is where the chairman put the new money that we got in the budget. I think he spent it for us wisely, and we should support the committee and support this resolution.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I intend to support the appropriations bill that provides essential funding for critical education and health care programs. I certainly join in all the commendations that have been extended to our chairman for crafting a very significant piece of legislation. But I must express my profound disappointment that it has been necessary to strip out the language that would have blocked the implementation of the gag rule.

In his insistence on preserving the gag rule, President Bush is playing with women's lives. Let us be clear: the gag rule does not present a test of one's position on abortion. What is at issue is whether a pregnant woman will be able to receive the medical information she requires in order to make an informed choice. What is at issue is whether health care providers will be required to violate the ethics of their own profession.

Mr. Speaker, under the gag rule even if a woman has been raped or is a victim of incest or finds her health seriously threatened by her pregnancy, she would not be able to hear the truth about her options. The President, in imposing this gag rule, is engaging in an act of remarkable callousness and insensitivity.

Mr. Speaker, the fight to lift the gag rule can and must continue.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. WEBER], a member of the subcommittee.

Mr. WEBER. Mr. Speaker, I rise in strong support of H.R. 2707, the Labor-Health and Human Services-Education appropriations conference report for fiscal year 1992. This is a fiscally responsible measure providing much-needed funding for programs meeting the basic needs of the American people.

I would like to take this opportunity to again thank our subcommittee chairman, BILL NATCHER, and our ranking Republican member, CARL PURSELL, for their excellent work in developing this appropriations measure. We faced an extraordinarily tough funding situation in our subcommittee this year, necessitating hard choices among worthy, competing programs and needs. With the leadership of Congressmen NATCHER and PURSELL, I believe we are bringing a balanced measure to the floor today, one that serves the American people well and makes wise use of taxpayers' dollars.

This measure puts our Nation's children first. We have provided $65 million to fund Secretary Sullivan's Healthy Start Initiative to attack the serious problem of infant mortality in our inner-city and rural areas. For every dollar we invest in prenatal care, we save 3 dollars in health care costs for low-birthweight babies. We have also included an increase of $66.8 million for childhood immunization programs, realizing that for every dollar we spend on immunizations, we save 10 dollars in health care costs.

Mr. Speaker, we do a lot for education. The first of the education goals announced at the education summit is that every child starts school ready to learn. To help realize this goal, we have provided a $250 million increase for the Head Start Program.

One of the major concerns of rural Americans is access to health care. In Minnesota and many other rural areas, severe and growing shortages of physicians, nurses, physician assistants, and allied health professionals are seriously eroding access to primary care and forcing hospitals to close. I wish to particularly express my appreciation to our chairman and ranking member and to my colleagues on the subcommittee for agreeing to increase funding for the National Health Service Corps scholarship and loan forgiveness programs by $10 million—an almost 20-percent increase. That is a big increase, but it will go to good use. These programs provide highly effective, immediate, and long-term relief to our rural communities most severely affected by health professions shortages and will help us achieve our goal of eliminating shortage areas by the year 2000.

In addition, the measure before us restores funding for other programs important to maintaining and improving access to care in rural areas, including the rural health care transition grant program, health professions education programs, and nursing education.

I am very pleased that we were able to restore funding for the Low-Income Home Energy Assistance Program and provide $1.5 billion to ensure that individuals and families will not be faced with the choice of putting food on their tables or heating their homes.

Another national priority, I have worked with my colleagues on the subcommittee and Congressman TOM COLEMAN to meet, is math and science education. The number of our talented college graduates choosing graduate studies in math and science and careers as researchers and educators is sharply declining, placing the quality of math and science education in our elementary, secondary, and postsecondary schools and our Nation's progress and international competitiveness at grave risk.

The measure before us provides a $3 million increase for the Coleman Fellowships, which provide assistance to graduate students in the sciences and math who are needy and who are planning careers in research and education.

I urge my colleagues to join me in voting for this appropriations measure. This measure merits your support. It is a fair and balanced bill which meets pressing domestic needs and makes wise use of taxpayers' dollars.

Mr. Speaker, I rise in strong support of H.R. 2707. That is a statement that I have wanted to make at other times in this process and been unable to because of my disagreement with what the subcommittee and the conference committee ultimately did on the issue of title X.

But I am pleased to be able to rise today and say that it is a continuing pleasure, really one of the hallmarks when I think of my service in this body, to be able to work with Chairman NATCHER and my good friend, the gentleman from Michigan [Mr. PURSELL], our ranking member.

This is a good bill. It is a fiscally responsible bill. I am proud of the programs that are in it. I do not intend to make mention of all of them, but I want to mention a few of them.

I think it is important to note that this measure does put our Nation's children first. We provided $65 million to fund Secretary Sullivan's Healthy Start initiative, and an increase of $66.8 million for childhood immunization programs. We are making good on the promise to put kids first.

Mr. Speaker, we also do a lot in this bill for education. The first of the education goals announced at the education summit is that every child start school ready to learn. To help realize this goal we have provided a $250 million increase for the Head Start Program, something we can all be proud of.

Speaking on behalf of a rural constituency, this bill is good for rural health care. We fund programs for rural physicians and for allied health professionals through the National Health Service Corps to try to address some of the health profession shortages that we feel—certainly across the country—but especially in rural areas.

I would also like to specifically thank the chairman and the ranking member for funding the Rural Health Transition Grant Program and the Low-Income Energy Assistance Program, important to my part of the country.

Mr. Speaker, it is a good bill. It deserves the support of the body.

I had not intended to speak one more time on the issue of the title X regulations, but as I sat and listened to the debate, the magnitude of the disinformation and misinformation spewing out on this issue has made it impossible for me not to once more address that issue.

First of all, I would like to say I must compliment the majority. In just a few days they managed to have worked magic. A few days ago we were all on this floor, and Member after Member said if we sustain the President's veto, there will be no funding for cancer research, no funding for education, the funding will be all gone.

Voila! Within hours, the majority has worked its magic. All those programs, with the snap of a finger, are back before us again. I do not know how they did it, but it was magic.

Mr. Speaker, I want to compliment the majority.

Indeed, not one nickel in any of those programs was at risk. We all knew it that day and now we can see it.

One of the finest Members of this body, the gentlewoman from Connecticut, made some reference to the history of the title X regulations. It is important when we consider this issue to remember that, but to remember a little more than that. The reason the Reagan administration suggested the title X regulation was because analysis of the implementation of these programs showed, clearly, that the title X clinics were becoming a funnel for pregnant women into abortion clinics. Up to 90 percent of the pregnant women that were walking into title X clinics were ending up in abortion clinics. That was the rationale for the title X regulations, the reason we had to put something into law, to establish a wall between the family planning programs—which we all support—which, after all, deal with women who are not yet pregnant, and the practice of abortion, which this body does not want to subsidize.

Mr. Speaker, let me also say that Member after Member has talked about the fact that doctors are gagged. I do not know how often we can come to this floor and again state the facts. The President has made clear, the Secretary of Health and Human Services has made clear, doctors are not gagged. Doctors have full freedom to discuss a woman's medical condition with her if she walks into a title X clinic.

Mr. Speaker, what we are simply doing today is the right thing. We are funding programs for women. We are funding family planning programs. We are keeping the wall of separation between family planning and abortion, and we are preventing the establishment of a nationwide taxpayer-subsidized abortion-referral system.

Mr. Speaker, I am proud to vote for the bill today.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I am envious of my colleagues who see the issue of abortion in absolute and unequivocal terms. I have struggled with this issue personally for 20 years. I am sure I will continue to struggle with it so long as I am in public life.

But the Bush gag rule goes far beyond the challenging issue of abortion. The Bush gag rule inhibits one of the most sacred ethical relationships, the relationship between a doctor and patient.

Seldom in recorded history has a government been so despotic as to stand between a patient and his doctor. Seldom has any government forced its political philosophy into a doctor's office or surgical theater.

Mr. Speaker, this debate also goes beyond the issue of abortion. If we ever should decide as a Nation or as a Congress to have national health insurance program, we must make certain that the architects of this gag rule do not dictate or inhibit the relationship between doctors and patients across the United States.

Today the Bush administration gags doctors with poor patients. Will this political victory embolden the President to extend this rule to every American?

No health reform is worth that loss of freedom or the loss of our right to a confidential and professional relationship with our doctor.

President Bush may win today, but his gag rule is a shameful display of the brutal power of Government over poor women seeking all the information they need to make an informed consent to critical medical care.

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would announce that the gentleman from Michigan [Mr. PURSELL] has 7½ minutes remaining, and the gentleman from Kentucky [Mr. NATCHER] has 7 minutes remaining.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member on the Committee of Education and Labor.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I had hoped that we would all come to the floor today and hoped the press gallery would be full, and somehow or another we would be able to get the message across to the American people that we are voting on $205 billion of the most important programs we have in this country, the most important programs that are ever funded.

Mr. Speaker, do you realize what they are going to get from what they hear again today is nothing about the fact that this is $205 billion for every program I have ever fought for as far as education is concerned, and as far as nutrition is concerned. They will know nothing about medical research. They will know nothing about cancer research. They will not know any of those things, because we are falling right into the trap they seem to want us to fall in.

Mr. Speaker, I am here to congratulate the two Members sitting out here, the ranking member from Michigan [Mr. PURSELL] and the wonderful chairman from Kentucky [Mr. NATCHER], for all of the effort they have put forth, not only this year, but over the years, to make sure that we have proper funding for education, proper funding for nutrition, proper funding for health research, and proper funding for health entities.

□ 1420

I just came back from a White House luncheon where the private foundation was funding all sorts of intergenerational programs dealing with illiteracy. I thought, as I sat there, when I think of what this subcommittee does in relationship to illiteracy and what they are doing as the private sector, joining the two together, we can beat all the problems that there are in this country if we just understand that intergenerational illiteracy is the problem that is preventing us from becoming a greater Nation than we have ever been in the past.

I just thank the ranking Member and I thank the chairman for their efforts and for standing tall to bring to Americans the kinds of things that we need in education and we need in health.

Again, I thank both of them very much.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise in very strong support of this Labor, Health and Human Services appropriations bill because of what it does include. The members of the Committee on Appropriations should certainly be commended for the work that they have done. In particular, it reflects the big heart and the strong character of the gentleman from Kentucky [Mr. NATCHER].

The bill includes $2.2 billion for the Head Start Program and extends the

VOL
137
PT
23
NO
21
—
25
1991
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program to more than 39,000 additional children. It contains $1.9 billion in funding for AIDS education and research to help fight a deadly disease which we have seen can strike anyone at any time.

It contains $1.4 billion in vocational and adult education programs, which will help unemployed Americans become more productive citizens. Finally, it reflects a recognition that women's health research, particularly in the area of breast cancer research, has been too long neglected.

We need this legislation right now more then ever before.

What I and many of my colleagues regret about this legislation is what it cannot include because of the President's opposition. This May, the Supreme Court upheld an unfair and discriminatory gag rule that the administration placed on women receiving medical counseling through family planning clinics. The Congress acted swiftly to overturn this gag rule, using this bill as a vehicle.

The President vetoed this legislation, though, solely because it would have given pregnant women dependent upon public health care providers the same professional advice and care that they would get if they could pay for private care.

We may have lost this first battle, but we will not lose the war. We rose up against this gag rule because it set separate standards of medical treatment and counseling based solely on a woman's economic status; in the other words, on her dependency upon a publicly financed health care provider.

Frankly, I agree that the passage of this legislation is, and should be, of the utmost concern of every Member of this body. But I, and over 270 of our colleagues, will not let this issue die. I plan to introduce legislation that will ensure that an individual is not prohibited from receiving all of the information about her conditions, treatment, and options, regardless of her means of payment.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I am going to vote for this bill today. I am voting for it because our economic future depends on providing our children a better education; because the hundreds of thousands of people now out of work need job training; because our seniors need better health care; and because biomedical research will save many, many lives.

Each of the provisions in this bill have a personal, human dimension; without funding for medical research, I would not be here today. With that help I was able to fight ovarian cancer and prevail.

But I cannot vote for this bill without warning this body that what we are doing today sets a dangerous precedent. In order to pass this bill we have stripped it of a provision that would protect the free speech of people who counsel women about a difficult and painful choice.

In allowing the gag rule to stand, we have abridged the freedom of speech. We have abandoned American women. We have curtailed a principle that is fundamental to what this country represents. The gag rule sets a dangerous precedent, and we should be well aware that we have purchased victory for this bill at the cost of defeat for free speech.

I stand here today to urge the silence imposed by the President be broken and this House act soon. Until then, what good we have done today will be tainted by the precedent that we have set.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in support of H.R. 3839.

Mr. Speaker, I rise today in support of the H.R. 3839, the Labor-HHS-Education appropriations for fiscal year 1991. This will benefit those Americans who need assistance the most. It will assist the elderly, the poor, America's children and the unemployed. It will help those that are unable, or in need of some assistance, to help themselves. The gentleman from Kentucky [Mr. NATCHER] calls the bill the people's bill. He is correct. But more specifically, it is the family and the children's bill. We assist the elderly through programs for the aging. We save lives with NIH funding. We protect small children with prevention block grants and childhood immunizations. We are making America stronger by giving the children an opportunity for Head Start, student loans for those students that are continuing their education ongoing to college and will provide funding for adult and handicapped education. We are focusing our attention on women's health issues by appropriating funds for breast cancer screening and including funding for increased research through the National Institutes of Health for breast and cervical cancer. There will be funds for increased research efforts to find a cure for Alzheimer's disease and other diseases. Mr. Speaker, I believe this bill is the people's bill, and strongly urge my colleagues to join with me in support of this very important legislation that is for the People.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Speaker, 2½ weeks ago the voters of Pennsylvania went to the polls to tell this Nation that adequate health care is a basic right for everyone. By supporting this Labor-HHS-Education appropriation bill, we are letting the voters of Pennsylvania and the Nation know that we have heard you loud and clear. This bill will provide funding to give dislocated workers help in putting their lives back together. It will give youths job training and summer employment opportunities, and it will offer older Americans a real chance to continue working. This bill even gives babies and children a better chance for a full, productive and healthy life. Mr. Speaker, it is time for Congress to tell the unemployed, the young and old, women and children that we care. It is time to commit to taking care of our own first and foremost.

Mr. PURSELL. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I wish I had more time to praise the gentleman from Michigan [Mr. PURSELL] and the gentleman from Kentucky [Mr. NATCHER] for the incredibly fine job they have done on this complicated legislation. But I really do not have adequate time but I certainly honor them.

I am embarrassed by hearing some of my colleagues talk about this legislation. They know so many things that just are not so. There is no gag rule on doctors. The doctor-patient relationship is unimpaired. Repeat, the doctor-patient relationship is unimpaired.

A doctor can give any advice he wants to a pregnant woman, medical advice. There is no gag rule on the doctor.

Have my colleagues not read the President's letter, the directive to Secretary Sullivan? There is no gag rule.

Health Care professionals, that is something else. Those are the receptionist, the counselors, who are largely untrained volunteers. Do my colleagues want them giving medical advice to a woman about her most sensitive condition? Do they want them practicing medicine without a license? I dare say not.

So the problem is, there is no gag rule on the doctor, the M.D., the only person qualified by education and training to give medical advice. The so called gag rule is only on nondoctors giving medical advice, where it ought to be. So please understand that.

Now, lets talk about free speech. The U.S. Supreme Court handed down a decision, Rust versus Sullivan, that said these regulations are not an abridgment of free speech. Do we care not what the Supreme Court says? Why do we come in the well and talk about the abridgment of free speech when the Supreme Court has said it is not an abridgment of free speech? So much for that.

The difficulty is, you all are fighting for the autonomy of the woman to do whatever she wants with her unborn child, her sovereignty, and that is an important issue. Yes, it is. A woman should have autonomy and sovereignty over her body.

The problem comes when we talk about an unborn child, which may be of a different gender, a different blood type, and that is not her body, it is merely attached to her body.

That pre-born child is another tiny member of the human family getting

nourishment and shelter from the mother.

What about the unborn? We on this side want to protect that tiny member of the human family. I am going to let my colleagues in on something. I have debated with myself about this, but I must tell my colleagues, the other day a Member on the Democratic side who voted to support the President the other day, and I knew what pressure he was under and I went up to him and I will not tell my colleagues his name.

I said, "Thank you very much for supporting the President. I know the pressure you were under."

And he leaned over to me and he said, "Listen, when I die and Almighty God says to me, 'Why didn't you defend the unborn,' what do I tell him? I got a call from the Speaker?"

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I want to revive a word that is rather old-fashioned. It is called conscience, conscience. Now you have to understand as we understand. It is a matter of conscience with you, the sovereignty of the woman, and I understand that. Try to understand our consciences which say that the human life of the unborn deserves respect, respect. It is not a nothing. It is not a tumor. It is not an abscessed appendix. It is a tiny member of the human family, and it ought not to be thrown away like a beer can. We respect your point of view; try to understand our point of view.

The language of civil liberties gets debased. You hide behind phrases like "choice, choice." The man that shot the woman in the car in Anacostia the other night exercised choice. He decided to shoot somebody in a car and he did. That was choice. What you mean or what you ought to mean is responsible choice, and exterminating an unborn child is irresponsible.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I just want to make clear that there are Members on this side of the aisle also that believe that a fetus is a human being and should be protected. I want to make that clear.

Mr. HYDE. I know that, and I know the gentleman is one of them, and I see several of them within my vision, and they are brave Members because they had to put up with a lot of political pressure, which is very unfortunate. Edmund Burke said a Parliamentarian owes his constituency total fidelity, but he owes his conscience to nobody, and I salute the gentleman and gentleladies on either side of the aisle for exercising their conscience.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for yielding me the time. As a former Kentuckian I express my pride in Mr. NATCHER, for his understanding and his extraordinary good work on this bill. I shall support it because there are wonderful things in this bill, and some of them I have fought for, such as the education of homeless children.

But December 15, will be the 200th anniversary of the first amendment to the Bill of Rights of the Constitution and a lot of us may be home and we may well mark it or maybe we will not. But if Members do celebrate I want them to remember that we are also the Congress that took great liberties with the first amendment and decided that it really did not matter so much. The first President in history has violated the amendment.

There is a supreme irony here to me in that within this legislation, we for the first time acknowledge that women's health has been grossly ignored, and we have included for the first time some money for breast cancer research and for ovarian cancer research, for osteoporosis, and yet in this very same bill we say, women may not be told what all of their medical rights are because, after all, they are a protected class who do not really know what is good for them.

I want all Members to recall one other thing too, and that is that the major debate this year has been over national health. I do not know about your districts, but in mine the calls are coming in. "Does this mean that now my doctor cannot tell me everything?"

I am hearing from universities, "are we going to be told if we take any Federal money what we can teach and what we can say?"

And what about museums, what about research? This has opened a Pandora's box ladies and gentlemen, make no mistake about it.

Are our poor people now on Medicaid not to be told there is a possibility of open heart transplant because the Government has decided it is too expensive and they do not want them to know about it? Or will there be people in Congress, as there are now, who decide that they alone know what is best for their fellow woman, not their fellow man, but their fellow woman, because again, once again; as it has been in the lack of research money for women, just as it has been in family and medical leave, it is the women of the United States who have been determined to be second class. We will fight another day because their injustice can not stand.

Mr. NATCHER. Mr. Speaker, I yield the balance of my time, 1 minute, to the gentleman from North Carolina [Mr. HEFNER].

The SPEAKER pro tempore (Mr. MCNULTY). The Chair advises the gentleman from Kentucky [Mr. NATCHER] that he does have the right to close debate. The gentleman from Michigan [Mr. PURSELL] still has 30 seconds remaining if he wishes to use them.

Mr. PURSELL. Mr. Speaker, I am happy to yield those 30 seconds to the gentleman from North Carolina [Mr. HEFNER].

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. HEFNER] is recognized for 1½ minutes.

Mr. HEFNER. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, this bill has been one which has had extensive debate. I am one of those who voted to override the President's veto, and I saw this as freedom of speech, and as the gentleman from Illinois made the statement that someone said to him that God would engage him in conversation, I would maintain that when we all stand before the judgment bar of God, God may take us all to task and may ask some questions about how did we vote for children, how did we vote for aid for dependent children if we are talking about the political arena. God might also ask did we support the poor, and the homeless, and those who were helpless among us other than children. God might have a lot of questions to ask us when we stand before the judgment bar of God on judgment day.

So to make a joke of this I think is absolutely beneath this debate at this particular time.

Mr. MCDADE. Mr. Speaker, I rise in support of H.R. 3839, making appropriations for the Departments of Labor, Health and Human Services and Education for fiscal year 1992, and congratulate the subcommittee chairman, BILL NATCHER, the ranking Republican, CARL PURSELL, and all the subcommittee members in bringing this bill to the floor.

We now have a bill that will be signed into law and will provide a total of $205 billion to assist America's poor, its infirm, its students, its homeless, and its elderly. Among the highlights are: $9.7 billion for college tuition assistance; $9 billion for research on cancer, heart disease, AIDS and other crippling diseases, including new emphasis on breast ovarian, and prostate cancer; $6.7 billion, an increase of 9 percent, for needy students in elementary schools; $3.5 billion, a 9 percent increase, for unemployment compensation administration, including enough funds for the new extended benefits program that Congress just passed; $2.2 billion for Head Start, an increase of 11 percent; $1.5 billion for low income energy assistance, a program that we had to fight very hard to preserve; and $900 million for black lung payments.

From Older Americans Act programs, to significant increases in lead poisoning prevention, immunizations, and prenatal care, to job training, mine safety and veterans training, and a new program for trauma care, this bill meets many, many needs, and ought to be approved overwhelmingly.

I wanted to shed some light on one objection that has been raised against this bill, the $4.5 billion in new delayed obligations that has been added to this bill. The effect of this is to allow about $1.7 billion that would otherwise be spent this year to be delayed until next year. What is needed most is context.

Spending in appropriations bills in general, and this bill in particular, does not all occur in

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of Health and Human Services to carry out

Under the bill, the Department of Education

There are those who believe I voted against

VOL 137 PT 23 NO 21—25 1991 UMI

the year in which the funding is provided. In this bill, only 43 percent of the total discretionary spending of $59 billion gets spent in the current fiscal year. This is due to a number of reasons—but in large part due to the face that program authorizations allow money to be spent out over a period that extends beyond the current fiscal year. For instance, funding for many education programs, totaling some $12 billion, by statute does not become available until July 1 of the current fiscal year and extends until June 30 of the next fiscal year.

In that context, delaying an additional $1.7 billion on top of the more than $30 billion that already will get spent in future years is a relatively small amount.

Many of the delays have programmatic justifications. For instance, rather than rescind $1 billion in State legalization grants as proposed by the administration, the committee delays making those funds available until next year, which is when States will be in need of reimbursement for their expenses. The $825 million for the Child Care Program that is delayed until September 19 carries forward a program cycle that was created last year, when first year funding was made available on the same date. The delay of $80 million in the Social Security Administration was requested by the administration because the computer modernization program is behind schedule. In this light, delayed obligations can be seen as a management tool, to match the expenditure of funds to the time frame in which they are needed.

Delaying $400 million in low income energy funds until the last day of the fiscal year was the only way the conferees could find to keep the program from suffering drastic and devastating cuts this year. In this light, the use of delayed obligations is a means to provide urgently needed funds in lieu of declaring the program a budget emergency.

Other programs, to be sure, are given increases in funding that cannot be spent until later because they are high priority programs, and there wasn't room under the tight spending caps to pay for them this year. Some of these were requested by the administration.

The impact of these delayed obligations is that there will be a small increase in the amount of discretionary funds spent in a given year that result from commitments made in previous years. A slightly lesser amount of funding in a given year will be available for those programs funded on a current year basis than would otherwise be the case, and puts those programs at greater risk. How much of a problem this will be depends on how tight the overall budget caps and the allocations for a particular subcommittee are.

Over the long term, this probably creates an incentive to continue and perhaps increase the amount of funds that are provided in the future through delayed obligations. As a trend, this does raise cautionary flags, although it probably pales in comparison to the rate at which uncontrollable mandatory and entitlement spending is increasing.

But I do not believe that the actions taken by the subcommittee in this bill are so out of line as to cause Members to oppose this bill on that basis. I intend to support the bill, and I urge my colleagues to support it as well.

Mr. GREEN. Mr. Speaker, I rise today to voice my support for the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1992. I shall vote for the bill because in addition to providing necessary funding for programs such as elementary and secondary education, student loans, breast and cervical cancer research, low-income energy assistance, child care, and job training, it contains significantly increased funding for my No. 1 priority, the Ryan White programs that provide targeted assistance to those communities most affected by the AIDS crisis. However, despite the satisfaction that I feel from the $1.9 billion that is included for AIDS programs, $280 million of which is designated for Ryan White programs, I must say that my enthusiasm for the bill will be diminished because it does not contain the provision delaying implementation of the gag rule.

The gag rule, which refers to regulations that were issued by the administration in 1988, prevents health care personnel in federally funded family planning clinics from advising a woman on all of her legal options in the event of an unplanned pregnancy. The President vetoed the original Labor-HHS appropriations bill because it included a provision overturning the gag rule and, despite the best efforts of pro-choice Members, the House was unable to muster the two-thirds majority needed to override the President's veto. This is a dangerous precedent for the Government to set and I shall remain committed to the fight to ensure that women who are dependent on the Federal Government for their health care will receive the same information from their doctors as do women who can afford private health care.

But now I wish to return to the issue of AIDS funding. Approximately 10 years ago a group of constituents brought the AIDS problem to my attention. It was clear to me, from their descriptions of the then-mysterious disease that was killing gay men, that research was needed to find out what was happening. I joined with the gentleman from California [Mr. ROYBAL], who was also beginning to see the epidemic in his community, and approached the gentleman from Kentucky [Mr. NATCHER], the chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, and the gentleman from Massachusetts, the late Mr. Conte, its ranking minority member, to tell them of the AIDS epidemic and the need for research funds.

The positive response of that subcommittee resulted in the first appropriations to investigate this epidemic and how to deal with it. We now know how the disease is transmitted and we also know some treatments for it. Unfortunately, we do not yet have a preventative vaccine or a cure, although we hope that further research will yield those results. As that research continues, we struggle to provide prevention services to slow and, I hope stop, the transmission of HIV, early intervention services for people who are HIV-positive but are not yet afflicted by the disease, and treatment for those who have full-blown AIDS. The Ryan White Act authorizes the funding for those necessary programs, and ever since its enactment I have been a strong advocate of full funding. Fiscal constraints have not allowed for full funding but with this bill we are heading in the right direction.

Once again, the gentleman from Kentucky [Mr. NATCHER] has been tremendously responsive to the call for more funding for AIDS research, education, and prevention efforts and I thank him.

Because the AIDS crisis in our urban areas is a harbinger of things to come in suburban and rural areas unless we remain committed to education, prevention and treatment efforts, I should also like to express my gratitude to the gentleman from Michigan [Mr. PURSELL] who back in June of this year accepted my invitation to visit Beth Israel Hospital in New York's 15th Congressional District to see first hand the extent of the AIDS problem in New York City. The gentleman from Michigan [Mr. PURSELL] does not have a serious AIDS problem in his district, but I believe the visit to Beth Israel had an impact on him and is reflected in the higher level of AIDS funding in this bill.

I shall vote for the Labor, Health and Human Services, and Education Appropriations bill for fiscal year 1992 because it moves us further down the road in our struggle to address effectively the AIDS problem, and I urge my colleagues to do likewise.

Ms. SNOWE. Mr. Speaker, it is with mixed feelings I vote today in favor of the Labor, Health and Human Services, Education appropriations bill.

On the one hand, this bill makes significant headway in women's health research. For decades, research has been lacking on diseases specific to women, and women have been shamelessly omitted from clinical research trials. Finally, Congress has recognized and is working to eliminate the gender inequities in medical data and services.

In this vein, the bill contains significant increases in funding for the National Cancer Institute with a directive to make research on breast, prostate, cervical, and ovarian cancer top priorities. Additionally, the bill provides $10.3 million for the National Institutes of Health Office for Research on Women's Health. And, the women's health initiative, a long-term study on women's health, received $25 million for the first year of study.

But as Congress gives with one hand, it takes away with the other. By stripping the provision that repeals the gag rule from this bill, Congress also says to women, and women only, that they are undeserving of complete and accurate medical information. While men maintain a private doctor-patient relationship, women have the Government's morality invading their medical privacy.

I will not accept regulations gagging medical information for any American woman. The fight is not over to remove these derogatory, misguided regulations. The women of this country will not tolerate second rate health care nor second-class citizenship.

Mr. SMITH of New Jersey. Mr. Speaker, today I rise in strong support of H.R. 3839, the Department of Labor, Health and Human Services, Education and Related Agencies appropriations bill. The bill has many extremely important provisions which will provide millions of Americans with improved health care, education, and job opportunities.

One of the most important aspects of the bill is the appropriation of funds to the Department of Health and Human Services to carry out medical research, maternal and child care programs, child immunizations, alcohol and drug abuse programs, mental health programs, programs for the aged, foster care, and adoption services—to name a few.

The 1992 appropriations bill contains funding increases for the majority of these services and most importantly, focuses new money on the research of breast, ovarian, and cervical cancer. Through an increase of $275,519,000 for the National Cancer Institute [NCI], H.R. 3839 directs the National Institute of Health to devote greater resources to the study of these life-threatening diseases. The NCI funding level allows for a 67-percent increase in ovarian cancer research and a 37-percent increase for cervical cancer research.

The need for increased research in these areas is overwhelming. As you may know, in recent years the incidence and rate of new breast cancer diagnoses has risen dramatically. Over 175,000 women will be diagnosed with the disease and over 45,000 women will die this year. The 1992 appropriation for the National Cancer Institute is approximately $1.989 billion. This provides for a $42 million increase for breast cancer research—a 46-percent increase over the 1991 level. Though we have a long way to go in this area, and additional funds could be effectively used, this 46 percent increase in 1992 funding is encouraging and finally begins to address the seriousness of breast cancer in our country.

This legislation, Mr. Speaker, is also vitally important to the children of America. It provides $825 million for child care, more than $2 billion for Head Start programs, close to $32 billion for education, $650 million for maternal and child health care grants, and $298 million for childhood immunizations.

I might say parenthetically that I have participated in and seen first hand the success of childhood immunization programs. In Trenton, NJ, a new program at the Henry J. Austin Health Center—Kids Night Out—was initiated this summer as a means of expanding the availability of immunizations for preschool children and children entering school. With the use of State and Federal funds, the center was able to expand its hours to increase access to the center and enable more working parents to bring their children to the health facility for immunizations and examinations.

In the area of AIDS, H.R. 3839 provides $1,921,000,000 in funding for health personnel training, renovation grants, and pediatric demonstration projects. Also funded by the bill, the Ryan White AIDS Program directs grants to areas with a high incidence of AIDS, provides community-based services, insurance coverage, and early AIDS intervention services.

In addition, H.R. 3839 appropriates $141 million over 1991 levels to conduct research on mental illness and substance addictions. The funds will be used to develop treatment and prevention programs as well as in providing direct therapy for affected individuals.

The legislation also provides an additional $17 million over the 1991 level for health care for the homeless and $193.3 million over last year's level for the Center for Disease Control [CDC]. The CDC conducts important research, training, and disease control programs, in addition to collecting important health statistics for the Nation.

Under the bill, the Department of Education receives $2.31 billion over the administration's request for compensatory education for the disadvantaged, school improvement programs, rehabilitation and education for the handicapped, vocational and adult education, student financial assistance, and guaranteed student loans.

The Department of Labor receives $7.5 billion plus $3.5 in trust funds for labor management services, training and employment services, occupational safety programs, data collection, and unemployment compensation. The unemployment compensation appropriation is $114 million more than 1991 levels.

Also very important in this bill is a 2.5 percent increase in funding for ACTION. As most of you know, ACTION is responsible for the administration of numerous volunteer programs throughout the country. Among these programs is the very successful Retired Senior Volunteer Program, Foster Grandparents, and Senior Companions. These programs draw senior citizens into the volunteer network and in turn provide essential services to individuals in need.

H.R. 3839 goes further in addressing the needs of senior citizens by appropriating $17,000,000 for a health care campaign directed at seniors using the Meals-on-Wheels programs, senior centers, and congregate meal sites.

Mr. Speaker, H.R. 3839 no longer contains abortion-related funding and instead channels our Federal funds to life-affirming programs—some of the most important programs in the nation. I support the bill and urge my colleagues to vote in support of the legislation.

Mr. LAGOMARSINO. Mr. Speaker, I rise to express my continued opposition to the Labor/HHS appropriations bill because it's devastating to the State of California. This bill denies California over $400 million in State legalization impact assistance grants [SLIAG] during fiscal year 1992.

However, I should mention that several important programs such as Heat Start, the alcohol, drug abuse, and mental health, especially mental health research, which I believe to be the key to curing this disease, and the Office of Research on Women's Health were adequately funded by the bill. I support these programs, am pleased the committee fully funded them and want to express my appreciation to the chairman and ranking member.

Unfortunately, increases in other less essential programs raised overall spending and forced the Appropriations Committee cut $1.2 billion in SLIAG money from the bill. Although the committee agreed to allocate SLIAG funds in fiscal year 1993, there is no guarantee that it will be included in the fiscal year 1993 appropriations bill. As we all know, it will be even more difficult next year to bring spending in line with the budget agreement. I am not willing to risk California's $400 million on the chance that it may be available next year.

Governor Wilson and the California Legislature planned on having the $400 million when they battled over the 1992 State budget. Because H.R. 2707 does not include SLIAG funds, this bill will automatically put California's budget $400 million in the red. California needs the money now in order to continue essential medical and education services.

There are those who believe I voted against H.R. 2707 solely because of the Porter amendment overturning the President's abortion counseling regulations. It's clear that many special interest groups would like the American public to believe this bill was only a referendum on the gag rule. That was never the case. While I opposed the Porter amendment, a vote for H.R. 2707 last week was also a vote to take $400 million from the State of California. Even though the Porter amendment has been removed from H.R. 2707 I am still going to vote against the bill. Thousands of needy Californians depend on the services provided by SLIAG funds, and I am not going to vote to take it away from them.

Mr. WEISS. Mr. Speaker, I rise in support of H.R. 3839, the Labor-HHS-Education appropriations for 1992, but I do so with a sad heart. This measure provides important funding, within the constraints of the budget agreement, for federally supported education, job assistance, and health programs. Unfortunately, due to a Presidential veto, the bill does nothing to rectify the callous and draconian gag-rule.

We are witnessing the slow death of our most cherished Bill of Rights protection, the right to speak freely. Frankly, I am disgusted that an American President, who has so consistently attacked the despotic control over acceptable speech in former Communist bloc countries, could so blithely proscribe speech here in the United States.

Whether we are talking about doctors providing critical information relating to the health of their patients, or the freedom of artists to express themselves creatively, the Bush administration and other right wing Members of Congress have staked their ground: Some speech is more protected than others. I would argue that this is a fundamentally repugnant stance that is absolutely antithetical to the principles upon which our Nation was founded.

The President claims that he was elected with a mandate to oppose abortion. In fact, the same electorate that voted in George Bush also has supported a women's right to choose by a majority. Mr. Bush's disingenuous fallback on mandates obscures the threat posed by abridging freedom of speech. The title X restrictions will have the immediate effect of placing the health of thousands of poor women in jeopardy.

For economically vulnerable women, federally funded clinics are the only affordable option when it comes to reproductive health counselling. Lest we forget, abortion is still a legal medical procedure, one that thousands of women continue to choose every year. But the gag rule further illustrates the discriminatory policies of this administration. If you have the money to afford private health care, you can be informed of your constitutionally guaranteed options. If you unfortunately rely on Government assistance for health services, your access to information is severely curtailed. By forbidding the candid discussion of abortion as an option, the President's restrictions attempt to deny the legal reality of this procedure.

The proscription of speech to achieve political ends is, quite simply, a hallmark of totalitarian government. It is one thing to deny reality—as the President has sought to do with

VOL 137 PT 23 NO 21–25 1991 UMI

the current recession, for example; it is quite another thing indeed to forbid the mention of reality—in this case that abortion is a safe and legal choice for women. I can only say that we acquiesce in this Comstockery at great peril, both to the health of our people, and to the health of our domestic principles.

Due to the very tight domestic budget and last year's ill-conceived budget summit agreement, this bill does not adequately satisfy all of our very pressing domestic needs. Nevertheless, we must support the measure before us today because it does provide monies for a broad array of essential social programs—including $9 billion for NIH, a $733 million increase which will enable expanded research for breast cancer and prostate cancer, Alzheimer's, cystic fibrosis, heart, and other diseases.

The bill also provides $825 million for the child care block grant which will add 40,000 slots for working families, a $141 million increase over fiscal year 1991 for drug abuse and mental health programs, and a $577 million increase over last year's funding for chapter 1 grants to local education agencies. I urge my colleagues to support this vital funding by overwhelmingly approving H.R. 3839.

Mr. SERRANO. Mr. Speaker, maybe to some who are more fortunate, it helps not to see the faces and identify with those who are less fortunate and downtrodden. Maybe it is easier to walk by a homeless mother and child on our streets without making eye contact with them and ignore their condition. The President vetoed this bill that would give $56 million for health care for the homeless, and $650 million for maternal and child health care.

Mr. Speaker, the President has held hostage an additional 40,000 preschoolers who would be served by added funds to the Head Start Program under this appropriation bill. The same President will not fully fund the successful Head Start Program, but claims he is the Education President. Today, the Head Start Program still serves less than half the eligible children in this Nation.

The President says he is concerned about the plight of people with AIDS, yet he continues to throw a little money at the problem while failing to take a leadership role in educating Americans about the plight of over 1 million persons infected with the AIDS virus. Mr. Speaker, maybe it is easier for the President to draft a national sports celebrity as the Nation's new leader in the battle against the deadly AIDS virus, than for the President to assume the role of a statesman.

There are those who are arrogant enough to believe that they have the right to govern what are life-giving decisions for another human being. I do not as such, and instead believe that I should respond to the needs of my constituents.

Mr. Speaker, we must look beyond this contemptible veto of such vital legislation and today pass this bill to help educate and heal the people of our Nation.

Mr. LEVINE of California. Mr. Speaker, I rise today in reluctant support of the fiscal year 1992 authorization bill for the Departments of Labor and Health and Human Services. While this legislation contains desperately needed funding for a number of important programs, it does not contain language to halt the implementation of the administration's gag rule on doctors.

It might be most useful to review at this point exactly what the regulations actually say. So let me read them to you. "In cases in which emergency care is required, the title X project shall be required only to refer the client immediately to an appropriate provider of medical emergency services." They do not say that a patient with terminal cancer will get information about abortion. They do not say that any patient will be referred to another clinic that will discuss the option of abortion with her. They leave far too much up to the whims of the administration and however, it feels about abortion on a given day.

The administration's effort to put a less onerous face on this legislation is nothing more than a smoke screen. It does not change the content or meaning of the gag rule one iota. Women still cannot be informed of their options by a title X clinic, regardless of their health condition.

The administration and its allies are asking women to rely on their compassion and understanding in the implementation of these guidelines. It is hard to believe that an administration which has refused to show any compassion even to women who have become pregnant as the result of such violent crimes as rape and incest can suddenly be trusted to do the right thing.

What these regulations have done is to force doctors and clinics to choose between receiving Federal funds and serving their clients. As a result, clinics across the country are announcing that they will no longer accept Federal funding. They are not willing to succumb to the Orwellian notions of the supporters of the gag rule. I find it among the most repugnant regulations ever promulgated by the Federal Government.

The vast majority of the public and my colleagues share that view. The administration knows that the public opposes the gag rule. That is why the supporters of the gag rule have sought to minimize its impact and to characterize it as something other than a blatant effort to stifle the ability of doctors to provide their patients with the medical advice they believe to be appropriate. The public is perceptive enough to recognize this rule as extremist and dangerous.

That is why I have cosponsored legislation to repeal the gag rule. These bills, H.R. 392 and H.R. 3090, must be passed by Congress if women are to regain the rights which they lost in the Supreme Court's ruling in the Rust versus Sullivan.

It is my hope that repeal of the gag rule will be one of the first items on Congress' agenda when we reconvene next year.

That said, there are a number of reasons to vote for this bill. Namely, it increases funding for Head Start and vocational education. Increasing the participation of young people in Head Start is vital if we are to make significant progress in improving the education of our disadvantaged children.

Similarly, in the fast changing and dynamic world of the 1990's and the 21st century, vocational education must receive greater emphasis. The $1.1 billion contained in this bill will provide critical support for these programs. We have given vocational education short shrift for too long in this country. It is my hope that the increased funding for such programs in this bill signals a long overdue change in that attitude.

Finally, this legislation contains crucial funding to fight the AIDs epidemic in this country. It is currently estimated that more than 1 million people in this country are infected with the AIDS virus. The $1.9 billion in this bill is desperately needed. My only regret is that more money could not have been included.

These are just a few of the important programs funded by this bill. They all deserve the support of the House.

The battle over the gag rule is far from over. It will resume next year. I am confident that those of us who believe in free speech and who are committed to protecting the health of women will ultimately succeed in killing this outrageous regulation.

Mr. POSHARD. Mr. Speaker, I rise in strong support of H.R. 3839, the Labor-HHS-Education appropriations bill for fiscal year 1992.

I started my career in public service as a schoolteacher. There's probably no finer profession in America, and no finer mission for this institution than to provide educational opportunities for our people. This bill addresses those needs in a meaningful way, and our investment will in return improve the quality of life for all Americans.

This bill means job training for youth and adults who need skills and a chance to make it on their own. And it obligates hundreds of millions of dollars for people who suffer from black lung, an insidious condition which is known all too well in the coal mining region of southern Illinois.

It provides financial assistance for community health centers, child care programs, vital research into the killing diseases that threaten our people, and a host of other health care programs. In southern Illinois we have a tremendous need for quality, affordable health care, and this bill meets a portion of that need.

To try and list all of the excellent programs in this bill puts me at risk of omitting one of them, for this is broad and much needed investment in our most important domestic needs. So allow me to say simply that I am proud to support this legislation because it accurately reflects my priorities and the priorities of this Nation. Providing essential health, educational and working opportunities for the American people is what we are all about. It is where we should focus our priorities. And I am pleased to say this bill rises to that challenge.

The SPEAKER pro tempore. All time has expired.

Pursuant to the order of the House of Thursday, November 21, 1991, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

MOTION TO COMMIT OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KOLBE. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. KOLBE moves to commit the bill H.R. 3839 to the Committee on Appropriations with instructions that the Committee report the bill promptly back to the House with amendments reducing the excessive use of delayed obligations.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes in support of his motion to commit.

Mr. KOLBE. Mr. Speaker, let me begin by adding to the words of praise that I have heard here today earlier from members of the committee and others for the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER], and for the ranking Republican, the gentleman from Michigan [Mr. PURSELL]. They have labored under very difficult circumstances as I think all of us know on this bill, and I think they have done very good work.

However, I rise today to oppose this bill in its present form and to urge us to commit it because I do not think in our rush to adjourn, we should adjourn leaving bad public policy in our wake, and the Labor and Health and Human Services bill, while funding vital programs, does make bad public policy. Mr. Speaker, I am not talking today about the gag rule. We have talked enough about that. My position on that is well known, and I am on the other side of the position of many of the Members on this side of the aisle.

I am talking rather, as my motion to commit suggests, about the excessive delayed obligations, the excessive forward funding that is in this bill. My motion to commit protects those delayed obligations that are necessary, and there are some in this bill that are necessary. Education is a good example of that where school districts have to know when they set their budgets next June or July, how much Federal dollars they are going to have in the coming school year, and that is why we have that forward funding in the legislation that exists. Those were in the bill. Some of those were asked for by the administration. Some of those were added by the committee. Some of them many might not have agreed with, but some of them are legitimate and needed.

But Mr. Speaker, the bill as it came out of the conference committee goes far beyond that, and it breaks the intent of the budget summit agreement that we had last year. These delayed obligations offered a political sense of false hope to those in this Nation who are suffering from a variety of social ailments. The bill seeks to offer a healing hand to those who are sick, those who seek nourishment for the hungry and those who need to help the neglected. But these delayed obligations are going to have to be paid for, and the bill for those is going to come due in fiscal year 1993. We are going to end up by hurting the people that we are trying to help, and at the same time we will deceive all Americans by ignoring the intent of last year's budget agreement and increasing the deficit.

The bill we are considering today, even under the constraints of the budget deal, received an allocation that was 14 percent higher than fiscal year 1991. Surely, surely the appropriators ought to be able to live with a 14 percent increase over even more spending. I hope so, because I do not think the American people want to do that.

My motion to commit brings some sense and some sanity back into this process. It preserves the budget agreement, an agreement we had last year. As poor as that discipline was, we ought to at least have the honesty to stick by that.

☐ 1440

We ought to have the honesty to make some of the tough choices that the gentleman from Illinois [Mr. PORTER] suggested earlier that this body needs to make.

My motion would do that, by sending it back to the committee and suggesting they take out those which are unneeded, which are unnecessary, the extensive use of these forward-funding delayed obligations, we will preserve those programs that are vital, but we will get rid of those for which we are only playing a charade. A charade is being played out on the American people by telling the Appropriations Committee, let us tell them to strike the delayed obligations, the pure and simple ignore the budget discipline, and pay lipservice to the sincerity, the promises made by Congress by our body last year to reduce the deficit.

Mr. Speaker, I urge your support for this motion to recommit.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding to me.

I think the gentleman makes an excellent point and I would like to associate myself with the gentleman's remarks.

This is a wonderful bill. There is no question about it, but the only problem with it is the funding.

We, my colleagues, are running out of accounting gimmicks. I do not know what we plan to do next year when we come back here, because we are just flatly spending money well into the future. We are violating the spirit of the budget agreement, and I think we have to at some point say "no."

Mr. Speaker, I support the gentleman on his motion to commit.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments. I think he has put his finger right on the point that this body has got to someday say "no" to the kind of budget gimmicks that we use now.

Mr. McMILLAN of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from North Carolina.

Mr. McMILLAN of North Carolina. Mr. Speaker, I would like to rise in support also of the motion to commit. None of us argues with the extreme importance of the vital programs in this $212 billion bill; but the fact is that most of it, a lot of it has to fall within the discretionary spending caps, which in this year are $212 billion according to the budget enforcement agreement and $224 billion in 1993, under the budget enforcement agreement, which is going to have to be adjusted for inflation at the end of 1991, and for economic forecasts in 1993.

Those adjustments, which total possibly $9 billion, mean that without this incremental delayed spending we virtually have to live within the discipline of a freeze.

Mr. Speaker, now is the time to face up to it, not next year.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments. I urge support for the motion to commit.

Mr. GRADISON. Mr. Speaker, I rise in support of the motion to commit offered by my colleague on the Budget Committee, Mr. KOLBE.

There has been a great deal of debate on the issue of delayed obligational authority in this bill. There is no question the continued use of budgetary gimmicks like this violates the spirit, if not the letter, of the budget agreement.

Some in this House have approached this issue from the wrong perspective, arguing that the administration requested $1.3 billion in delayed obligations in this bill. But that request, which I think was ill-advised and poor budget policy, does not absolve the Congress of its responsibility. The House increased delayed obligations to $2.9 billion. The Senate raised the ante to $3.9 billion. The conference split the difference at over $4.2 billion. The conferees cannot have it both ways, blaming the administration while taking advantage of the opening.

At some point, Mr. Speaker, the fun and games must end. The continual tinkering with the budget agreement is a precursor to its collapse after the next election, if not before. We should not be jockeying for position on the budget, promising what we cannot deliver, and continuing to point the finger at each other while the deficit grows.

The Kolbe motion to commit is reasonable and I urge my colleagues to support it.

The SPEAKER pro tempore (Mr. MCNULTY). Is there a Member in opposition to the motion to commit?

Mr. NATCHER. Mr. Speaker, I rise in opposition to the motion to commit.

Mr. Speaker, during the time that I have been a Member of Congress, I have had the opportunity to serve with eight Presidents of the United States. At all

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times, I have made every effort to get along with each of these men. President Bush sent us a budget for fiscal year 1992 containing $1,442 million in delayed obligations.

You know, during the debate on this matter several days ago, one of the best friends that I have in the House who sits on the other side of the aisle made the statement that delayed obligations might be a shell game. After that statement was made, I went over and sat with him. I like him so well, Mr. Speaker, that I decided that maybe at that particular time I should not get up and answer him.

I might say something to him that I would not like to have said next week or something he might not like that day. I showed him the amounts the President has sent us in his budget for 1992, delayed obligations of $1,442 million: health resources and services, $86 million; the Centers for Disease Control, $94 million; National Institutes of Health, $400 million; Social Security administrative costs, $80 million; low-income fuel legislation, $50 million, and child care state grants, $732 million.

That is a total of $1,442 million.

The author of this motion to commit is one of the able Members of the House. The gentleman from Arizona [Mr. KOBLE] is one of the able members of our committee. In his motion to commit, he says, that the excessive use of delayed obligations should be reduced—just reduce them a little bit.

Now, I will ask the gentleman from Arizona [Mr. KOLBE], where does the gentleman want to reduce them? Does the gentleman want to take it out of elementary and secondary education?

Does the gentleman want to take it out of higher education?

Does the gentleman want to take it out, I ask the gentleman from Arizona [Mr. KOBLE], out of the National Institutes of Health?

What about drug abuse, does the gentleman want to take it out of there?

Does the gentleman want to take it out of AIDS?

Does the gentleman want to take it out of the feeding program for the elderly?

You know, these people come in, they walk into these places where they have food. These are our people, Mr. Speaker, not foreign aid money that you send all around the world. These people are our people. They are hungry. They need help. They go in at noon to get something to eat.

I say to you, Mr. Speaker, we love them and we take care of them. Do you want to take some of it out of their program?

You know, when they talked the other day, and I am glad I did not get up and answer my friend. He is one of the ablest Members of this House, talking about delayed obligations. The President in his budget sent us $1,442 million in delayed obligations. We started our hearings with that before the subcommittee.

Mr. Speaker, I say this, I do not know where the gentleman would take it out, but I am not in favor of taking out one dollar of it, not a dollar that the President sent us, not a dollar that we added. Mr. Speaker, I respectfully request the Members of this House to turn this motion to commit down.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KOLBE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the final passage of the bill, following the vote on the motion to commit.

The vote was taken by electronic device, and there were—yeas 148, nays 276, not voting 10, as follows:

[Roll No. 416]

YEAS—148

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Beilenson
Bennett
Bentley
Bereuter
Bliley
Boehner
Bunning
Burton
Camp
Campbell (CA)
Carper
Chandler
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Cunningham
Dannemeyer
DeLay
Dickinson
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
English
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goss
Gradison
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hoagland
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Kennedy
Klug
Kolbe
Kostmayer
Kyl
Lagomarsino
Lancaster
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Luken
Marlenee
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (VA)
Pease
Penny
Petri
Porter
Pursell
Ramstad
Regula
Rhodes
Riggs
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Slattery
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Zeliff
Zimmer

NAYS—276

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hyde
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Parker
Payne (NJ)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Rinaldo
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams

Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—10

Boucher
Brooks
Crane
Doolittle
Edwards (OK)
Mrazek
Myers
Neal (NC)
Roe
Towns

☐ 1511

Mr. JENKINS changed his vote from "yea" to "nay."

Messrs. WEBER, RAMSTAD, KOSTMAYER, CONDIT, KENNEDY, PASTOR, and HUCKABY changed their vote from "nay" to "yea."

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent Mr. MICHEL was allowed to speak out of order.)

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time to again inquire of the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT] how he envisions the program unfolding for the balance of this day and possibly the weekend. Obviously we will have a vote on final passage after our exchange.

☐ 1510

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, after the consideration of this legislation on the Labor appropriation, we will have the California desert bill, which we intend to take up, and that could take 5 hours after it starts. We should be finished at about 8 or 8:30.

On tomorrow, the House will meet at noon to consider suspensions. There will be a vote on the rule, if ordered. We can try to roll the suspension votes until Monday.

On Monday, we will meet at noon. There will be no 1-minutes, and we will be taking up campaign finance. There is the possibility of a bill on Medicaid. This is the bill which we considered before. That may come back.

Then we will have the RTC legislation. We would like to take that up as well. Then, of course, we have the FDIC conference report, if necessary, the highway bill conference report, and the crime bill conference report to complete before we can leave on Tuesday night or Wednesday morning.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from new York.

Mr. FISH. Mr. Speaker, I would address a question to the distinguished majority leader.

Yesterday the crime bill conferees were appointed by the Speaker, and the minority conferees have been asking me as to when they can expect to meet. There has been no evidence yet, as I understand it, of an attempt to call the conference committee members together for the crime bill.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, it is my understanding there may be a meeting of the crime bill conference on tomorrow morning, and I am sure the chairman of the committee will be contacting the conferees or the staff will be contacting them, hopefully later today, to give them information about that.

Mr. FISH. I think it is only fair that those conferees be told before the close of legislative business today so they would know whether they have to be here tomorrow or not.

Mr. GEPHARDT. We will try to get that information to the Members.

Mr. FISH. Mr. Speaker, I thank the gentleman.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just want to make sure I understand this. The gentleman said that tomorrow there is a good possibility the only vote will be on the rule, and that votes on all the suspensions can be or will be rolled over until Monday?

Mr. GEPHARDT. Yes,

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, could we have some assurance that the foreign aid bill will not come on the calendar at any point tomorrow?

Mr. GEPHARDT. The foreign aid bill?

Mr. WALKER. Yes.

Mr. GEPHARDT. Yes.

Mr. WALKER. It would not come up at any point tomorrow?

Mr. GEPHARDT. Yes.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I might also say to the gentleman that we had a previous conversation with the majority leader and we talked about the concern Members might have of any significant piece of legislation beyond suspensions, and I agreed that I thought we ought to do as many suspensions as we possibly could. They take up a lot of time, some of them are very noncontroversial, and some Members have got to make their pitch or whatever, but then that frees up Monday and Tuesday for us to do what we have to do in order to get out of here Tuesday night.

We are going to have a meeting with the Speaker, I think, about 4 o'clock, and hopefully we will get some of the principals together on the bank legislation. Then we will get some sense of feel as to how quickly we can make that move. So there are a number of things that have to fall in place in a very limited timeframe, and we hope that the Members will be cooperative in that effort.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I apologize for asking this question again. I asked the majority leader if the votes would be rolled over until Monday. Let me ask a clearer question, because a number of my colleagues have been asking me this.

Will the votes on suspensions be rolled over until Monday?

Mr. GEPHARDT. Yes.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I did not understand this. Which is the rule that we will be voting on before Monday?

Mr. GEPHARDT. We have to have a rule for the suspensions.

Mr. WEBER. I see. And that vote cannot be rolled over; is that what the gentleman is saying?

Mr. GEPHARDT. That is correct.

Mr. WEBER. Mr. Speaker, I thank the distinguished majority leader.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Speaker, I thank the minority leader for yielding.

Could we on our side have a complete list of the suspensions so we know that there will not be anything that comes up that is not on that list prior to adjourning this evening?

Mr. GEPHARDT. Yes.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, would it be possible to ask unanimous consent to take up the rule tonight so that we will vote on the rule tonight and not have to miss any votes tomorrow?

Mr. GEPHARDT. We will check on that possibility. I do not know the answer to that question at this point.

Mr. MICHEL. Actually it requires a rule for taking up suspensions, as we would be doing tomorrow. I think quite frankly there is pretty much agreement around here to do what we have just outlined. That may be a possibility. I have not talked to the gentleman about it, and that is his call.

Mr. RUSSO. Mr. Speaker, if the gentleman will yield, it would seem to me that there is not much controversy about a rule to take up suspensions on votes which we are going to roll until Monday. So if the overwhelming majority of Members on both sides of the aisle feel that we ought to do that, even if we had to move it, we would

VOL
137
PT
23
NO
21—25
1991
UMI

only need two-thirds to do it, so why should we not do it tonight? If we are going to atay until 8:30, let us stay another half hour and make it 9 o'clock, and then we can roll everything tomorrow?

Mr. MICHEL. Mr. Speaker, let me before responding yield to the distinguished gentleman from New York [Mr. SOLOMON], who is our ranking member on the Rules. There may be some special technicality involved.

Mr. SOLOMON. Mr. Speaker, if this is a rule that is being proposed to simply set up additional suspension days, of course, that would not be controversial. However, it is my understanding that the rule may go further and give the majority the right to bring any bill to the floor at any time.

Can some Member enlighten us as to what that rule might be, or what may be possible?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, we will try to revisit this question later today when we have better information.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me again?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I would ask the distinguished majority leader, is it not true that if we were just going to take up the suspensions apropos of the question of the gentleman from Illinois, we really do not need a rule; we could simply ask unanimous consent to consider those suspensions tomorrow without a rule?

Mr. GEPHARDT. We would have to have assurances on that. We will visit that question with the minority leader.

Mr. WEBER. But procedurally, am I not correct that that procedure could work?

Mr. GEPHARDT. It might.

Mr. MICHEL. I think there is no question about that in my mind, and it is my understanding that if we were only going to be getting the kind of rule that would permit what we wanted to do tomorrow, maybe there would be another step we would want to take beyond that. The majority leader and I had a talk about that.

Then might I also inquire, what will be the convening time tomorrow?

Mr. GEPHARDT. Noon.

Mr. MICHEL. Mr. Speaker, I thank the majority leader, and I yield back the balance of my time.

□ 1520

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PURSELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 364, noes 58, not voting 12, as follows:

[Roll No. 417]

AYES—364

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff

NOES—58

Allard
Archer
Armey
Ballenger
Barton
Bennett
Boehner
Bunning
Burton
Coble
Combest
Cox (CA)
Dannemeyer
DeLay
Dornan (CA)
Dreier
Fawell
Fields
Gallegly
Hancock
Hansen
Hefley
Herger
Holloway
Inhofe
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Lewis (FL)
Lightfoot
McCandless
McCollum
McEwen
McMillan (NC)
Miller (OH)
Moorhead
Nichols
Nussle
Oxley
Packard
Pallone
Petri
Quillen
Rhodes
Riggs
Roberts
Rohrabacher
Santorum
Schaefer
Sensenbrenner
Shaw
Shuster
Solomon
Stump
Thomas (WY)
Walker
Zimmer

NOT VOTING—12

Boucher
Brooks
Crane
Doolittle
Edwards (OK)
Edwards (TX)
Johnson (CT)
Mrazek
Myers
Neal (NC)
Roe
Towns

□ 1532

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROE. Mr. Speaker, due to a meeting away from the Capitol, I was unable to be present during roll call votes No. 416, motion to commit with instructions H.R. 3839 and No. 417, final passage of H.R. 3839, Labor-HHS-Education appropriations for 1992. Had I been present I would have recorded my strong support of this legislation by voting "nay" on roll call No. 416, the motion to recommit and by voting "yes" on roll call No. 417 final passage.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS TO FILE REPORT ON H.R. 3435, RESOLUTION TRUST CORPORATION RESTRUCTURING ACT OF 1991

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs have until midnight tonight to file a report on the bill, H.R. 3435, the Resolution Trust Corporation Refinance and Restructuring and Improvement Act of 1991.

The SPEAKER pro tempore. (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3604) to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. MORRISON. Mr. Speaker, reserving the right to object, I yield to the chairman of the subcommittee to explain the bill.

Mr. VOLKMER. Mr. Speaker, H.R. 3604, authorizing the acquisition of the Greer Spring Area in Missouri, was introduced by our colleague, Mr. EMERSON, and is cosponsored by the entire Missouri House delegation. The bill represents the culmination of years of effort to acquire and protect this valuable resource, and I am pleased to bring this legislation forward at this time.

H.R. 3604 authorizes and directs the Secretary of Agriculture to acquire, on a willing-seller basis, with funds that have already been appropriated, a certain tract of land in and adjacent to the Mark Twain National Forest in Missouri. The land, encompassing nearly 7,000 acres, includes outstanding natural resources, the most significant of which is Greer Spring, the second largest spring in the State and a primary source for the Eleven Point River, a designated component of the National Wild and Scenic Rivers System.

That portion of the tract that lies within the wild and scenic river corridor will be managed by the Forest Service under the Wild and Scenic River Act. The remainder of the tract is designated as a special management area, and will be managed to protect the area's natural and scenic resources and provide public recreation, including fishing and hunting.

The bill was introduced by Mr. EMERSON on October 22 and referred jointly to the Committee on Agriculture and the Committee on Interior and Insular Affairs. Our subcommittee on Forests, Family Farms, and Energy conducted a public hearing and business meeting on November 5, and the Agriculture Committee ordered the bill reported, as amended, on November 6.

The bill has also been reported by the Interior and Insular Affairs Committee, and I appreciate the cooperation we have received from Chairman VENTO, Chairman MILLER, and the ranking members, Mr. LAGOMARSINO and Mr. YOUNG of Alaska, in getting this bill to the floor in an expedited fashion.

This acquisition and designation is supported by the administration and conservation organizations, and will contribute significantly to the protection of this invaluable resource. I have visited the site, at the invitation of Representative EMERSON, and agree that this will be an appropriate addition to the Eleven Point Wild and Scenic River and the Mark Twain National Forest.

I have worked for several years with Congressman EMERSON, who has proven tireless in this effort, in attempting to arrive at an agreeable piece of legislation. The compromise that has been struck is a workable solution, and I commend those who were involved in these lengthy negotiations for their cooperative spirit and diligent efforts.

In addition to Representative EMERSON and his staff and the current landowner, Mr. Leo Drey, a number of people have played key roles in this matter: The previous landowners, the Denning family, who preserved the area most of this century; Missouri environmental organizations; former Senator Thomas Eagleton, who played a prominent role in obtaining the necessary appropriations; and most recently river network, which has been crucial in finalizing the negotiation of this agreement.

Through the hard work of those involved, and the generosity of Mr. Drey and the Anheuser-Busch Co., who each plan significant contributions toward the purchase of this tract, the American people stand to gain a truly remarkable natural gem.

I again wish to commend my colleague from Missouri, Mr. EMERSON, for taking a leading role in bringing this legislation to fruition.

Mr. MORRISON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. EMERSON], the sponsor of the bill, and would mention that this is the culmination of a 4-year effort on the part of the gentleman from Missouri, and he introduces this with the full support of the Missouri delegation.

Mr. EMERSON. Mr. Speaker, I thank the gentleman from Washington [Mr. MORRISON] for yielding to me.

Mr. Speaker, I want to thank in particular the gentleman from Missouri [Mr. VOLKMER], chairman of the subcommittee, and the gentleman from Washington [Mr. MORRISON] for the outstanding cooperation that they and their outstanding staffs have provided throughout the extensive deliberations on this bill; also, the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs, for seeing this bill through that subcommittee expeditiously after it was reported from the House Committee on Agriculture.

I want also to pay tribute to the entire Missouri delegation and to all of the disparate elements who participated in the negotiations leading to culmination of this bill. I think this is a very good bill. I think it is a bill that is, while not the way everyone individually might have written it, I think it is a bill that is one that everyone is going to find quite amenable to live with.

Once again, I want to thank the gentleman from Missouri and the gentleman from Washington for their outstanding assistance in this matter. It is deeply appreciated by my constituency and by all Missourians.

This legislation is the culmination of more than 4 years of work among the Missouri delegation and what we have is a carefully crafted compromise before us today, strongly supported by the entire Missouri delegation, the Forest Service, the Agriculture Committee, the Interior Committee, the environmental community, and many other diverse individuals and organizations.

This issue is most important to my congressional district in southern Missouri and to Missouri as a whole. The Greer Spring tract, which includes the second largest spring in the State—is finally on its way to its rightful Federal designation as a component of the National Wild and Scenic River System and as a special management area.

Greer Spring is one of the most spectacular areas in all of Missouri and perhaps all of the Nation—indeed it is one of the crown jewels of the Ozarks. There is strong agreement among people with divergent interests about our common goals of protecting the unique beauty of this simple and untouched spring and surrounding properties. There has been a great deal of misinformation about my concerns about the shape of this legislation, and I want to make clear once and for all that my foremost concern has always been access to the river and the adjoining land by local residents. Through tireless hours, we have finally satisfactorily addressed that concern in this bill, and I now hope that the other body of this Congress will speedily take up consideration of this bill and pass it along to the President without delay.

This has been a long and arduous process for all who have been involved. I want to say once again a hearty thank you to my good friend and colleague, HAROLD VOLKMER, as well as his very capable staff for their diligent work in helping to craft this long-awaited compromise. Also, we are fortunate that several

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private entities have agreed to donate a total

What we see on the floor of the House

on Agriculture conducted a hearing and busi-

(b) AREA INCLUDED.—The special manage-

AMENDMENT IN THE NATURE OF A SUBSTITUTE

the special management area only in those

VOL 137
PT 23
NO 21–25
1991
UMI

private entities have agreed to donate a total of $1 million toward the purchase of the Greer Spring property, to reduce the cost to the Federal Government.

I am hopeful that we can keep the momentum moving forward on this legislation through the congressional process and see this legislation enacted in the very near future.

Mr. MORRISON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 3604.

This bill would direct acquisition of certain lands within the Eleven Point Wild and Scenic River, and would establish the Greer Spring Special Management Area, in Missouri, to be managed by the Forest Service.

H.R. 3604 was introduced by my former Interior Committee colleague, Mr. EMERSON, and is cosponsored and supported strongly by the entire Missouri delegation. It would provide for the acquisition of a tract of land amounting to nearly 7,000 acres that is partly within the Mark Twain National Forest and also partly within the boundaries of a segment of the Eleven Point River that is a component of the National Wild and Scenic Rivers System.

This tract, known as the Denning or Greer Spring tract, is in single ownership. The owner desires to convey it intact to the United States, with the part within the river corridor to be managed under the Wild and Scenic Rivers Act and the rest to be managed by the Forest Service in a way that restricts timber harvesting and other activities that could adversely affect the natural, scenic, and environmental values of the lands.

The bill is intended to make possible this acquisition, and the sebsequent management of the lands in this manner.

At the hearing before the Subcommittee on National Parks and Public Lands, which I chair, the administration testified in support of the bill. They did suggest some technical amendments which have been included in the bill as it is now before the House.

Mr. Speaker, this is a noncontroversial measure that would assure that a special area will be managed so that future generations can enjoy its scenic and natural characteristics. I urge its approval by the House.

Mr. MORRISON. Mr. Speaker, this measure is also endorsed by the administration.

Continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I rise in support of this measure. This truly is a Missouri effort. I commend the gentleman from northeast Missouri for his leadership as chairman, and I commend the gentleman from southeast Missouri.

What we see on the floor of the House is really the culmination of a great deal of effort, work, not weeks, but months, of the gentleman from Cape Girardeau, MO, Mr. EMERSON.

I think this is a very valid, very well-put-together piece of legislation. He is to be commended.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise today in strong support of H.R. 3604, the Greer Spring Acquisition and Protection Act of 1991. I am an original cosponsor of the bill, along with all other members of the Missouri delegation. The bill provides for the Secretary of Agriculture to acquire a 6,900-acre tract of land, known as the Dennig tract, which shall become a part of the Mark Twain National Forest. The Mark Twain National Forest already is one of Missouri's most popular and valuable natural areas, and the addition of the Dennig tract will only add to that value.

Part of the Dennig tract will be managed in accordance with the Wild and Scenic Rivers Act. The remaining land is designated as a special management area, which may be used for various recreational purposes such as fishing and hunting. In addition, the Secretary may permit appropriate timber harvests in this area. In essence, the special management area is intended to provide for various uses of the land, while at the same time maintaining the area's natural, archeological, and scenic resources.

Once again, I strongly support H.R. 3604, and I urge my colleagues also to support the bill. I commend the gentleman from Missouri [Mr. EMERSON] for sponsoring this bill and for his extensive work on it. I also commend Mr. VOLKMER, chairman of the Agriculture Committee's Forests, Family Farms and Energy Subcommittee for providing for quick consideration of the bill. Finally, I want to thank Mr. Leo Drey, who currently owns the Dennig tract, and Anheuser Busch for their financial support of the acquisition of the Dennig tract.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 3604, the Greer Spring Acquisition and Protection Act.

H.R. 3604 was introduced by my Agriculture Committee colleagues, Mr. EMERSON, Mr. VOLKMER, and Mr. COLEMAN, as well as by other members of the Missouri delegation, including the distinguished majority leader, Mr. GEPHARDT. As presented to the Members of the House today, this bill represents an excellent example of compromise and consensus building to protect a truly unique natural resource in the State of Missouri. I commend the authors for their leadership in bringing this measure to the floor.

Specifically, H.R. 3604 provides for the acquisition, subject to appropriations, of lands adjacent to the Mark Twain National Forest for the purpose of protecting the natural beauty of the area for present and future generations.

A portion of these newly acquired lands would be made part of the Eleven Point Wild and Scenic River Corridor. The remaining lands would be designated as the Greer Spring Special Management Area. All these lands are to be managed under the guidance of the USDA Forest Service in conjunction with the Mark Twain National Forest.

Mr. Speaker, the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture conducted a hearing and business meeting on November 5, 1991, and ordered H.R. 3604, as amended, favorably reported to the full committee. The Committee on Agriculture considered the bill on November 6, 1991, and approved the bill by voice vote.

It is my understanding that the administration has no objections to the bill and that H.R. 3604 would not be subject to pay-as-you-go scoring, nor would it require significant additional appropriations. Funds for the authorized land acquisition were previously appropriated.

Mr. Speaker, I recommend adoption of H.R. 3604.

Mr. MORRISON. Mr. Speaker, I encourage the House to approve this measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF THE DENNIG TRACT.

The Secretary of Agriculture (hereinafter referred to as "Secretary") is hereby authorized and directed, subject to appropriations, to acquire all of the lands, waters, and interests therein, on a willing seller basis only, within the area generally depicted on a map entitled "Dennig Tract", dated, numbered (hereafter referred to as "the map"). The map shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture. Lands acquired pursuant to this Act shall become part of the Mark Twain National Forest. The Secretary is authorized to make any minor boundary adjustments to the Mark Twain National Forest necessitated by this acquisition.

SEC. 2. ELEVEN POINT WILD AND SCENIC RIVER.

The Secretary shall manage the lands, waters and interests therein within the area referred to on the map as "The Eleven Point Wild and Scenic Corridor", (hereinafter referred to as "the corridor") pursuant to the provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). Lands acquired pursuant to section 1 of this Act within the corridor shall not be counted against the average one-hundred-acre-per-mile fee limitation of Section 6(a)(1) of the Wild and Scenic Rivers Act, nor shall such lands outside the corridor be subject to the provisions of Section 6(a)(2) of the Wild and Scenic Rivers Act.

SEC. 3. GREER SPRING SPECIAL MANAGEMENT AREA.

(a) OBJECTIVES AND ESTABLISHMENTS.—In order to provide for public outdoor recreation use, including fishing and hunting, in a natural setting, and the enjoyment of certain areas within the Mark Twain National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate resource management of those areas, there is hereby established the Greer Spring Special Management Area (hereinafter referred to as "the special management area."). The Secretary shall manage the special management area in accordance with this Act, and with provisions of law generally applicable to units of the National Forest System to the extent consistent with this Act.

(b) AREA INCLUDED.—The special management area shall consist of lands, waters, and interests therein within the area referred to on the map as "The Greer Spring Special Management Area". The Secretary is authorized to make minor revisions to the boundary of the special management area.

(c) TIMBER HARVESTING.—The Secretary shall permit the harvesting of timber within the special management area only in those cases where, in the judgment of the Secretary, the harvesting of timber is required in order to control insects or disease, for public safety, for salvage sales, or to accomplish the objectives of the special management area as described in subsection (a). To the extent practicable, timber harvesting shall be conducted only by the individual tree selection method.

(d) HUNTING AND FISHING.—The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law.

(e) MINING AND MINERAL LEASING.—Subject to valid, existing rights, lands within the special management areas are withdrawn from location, entry, and patent under the mining laws of the United States, and from the operation of the mineral and geothermal leasing laws of the United States.

(f) VEHICULAR ACCESS.—The Secretary shall construct and maintain only those roads within the special management area and corridor which are indicated on the map: *Provided*, That the Secretary shall provide access to such roads, or to timber harvesting pursuant to subsection (c), in such a manner as to minimize environmental impact.

SEC. 4. APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri [Mr. VOLKMER].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING ON SATURDAY, NOVEMBER 23, 1991

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Saturday, November 23, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

MR. VOLKMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. VOLKMER: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Greer Spring Acquisition and Protection Act of 1991".

SEC. 2. ACQUISITION OF THE DENNIG TRACT.

(a) The Secretary of Agriculture (hereinafter referred to as the "Secretary") is hereby authorized and directed, subject to appropriations, to acquire all of the lands, waters, and interests therein, on a willing seller basis only, within the area generally depicted on a map entitled "Dennig Tract", dated November 5, 1991 (hereinafter referred to as "the map"). The map, together with a legal description of such lands, shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture. The boundaries of the Mark Twain National Forest are hereby modified to include the area denoted "Dennig Property Outside of National Forest Boundary" on the map. Such map and legal description shall have the same force and effect as if included in this Act, except that the correction of clerical and typographical errors in such map and legal description may be made by the Secretary.

(b) Such modified boundaries shall be considered as the boundaries in existence as of January 1, 1965, for the purposes of section 7 of the Land and Water Conservation Fund Act (16 U.S.C. 4601–9).

SEC. 3. ELEVEN POINT WILD AND SCENIC RIVER.

The Secretary shall manage the lands, waters, and interests therein within the area referred to on the map as "The Eleven Point Wild and Scenic Corridor" (hereinafter referred to as "the corridor"), pursuant to the provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). Lands acquired pursuant to section 2 of this Act within the corridor shall not be counted against the average one-hundred-acre-per-mile fee limitation of Section 6(a)(1) of the Wild and Scenic Rivers Act, nor shall such lands outside the corridor be subject to the provisions of Section 6(a)(2) of the Wild and Scenic Rivers Act.

SEC. 4. GREER SPRING SPECIAL MANAGEMENT AREA.

(a) OBJECTIVES AND ESTABLISHMENTS.—In order to provide for public outdoor recreation use, including fishing and hunting, in a natural setting, and the enjoyment of certain areas within the Mark Twain National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate resource management of those areas, there is hereby established the Greer Spring Special Management Area (hereinafter referred to as "the special management area"). The Secretary shall manage the special management area in accordance with this Act, and with provisions of law generally applicable to units of the National Forest System to the extent consistent with this Act.

(b) AREA INCLUDED.—The special management area shall consist of lands, waters, and interests therein within the area referred to on the map as "The Greer Spring Special Management Area". The Secretary is authorized to make minor revisions to the boundary of the special management area.

(c) TIMBER HARVESTING.—The Secretary shall permit the harvesting of timber within the special management area only in those cases where, in the judgment of the Secretary, the harvesting of timber is required in order to control insects or disease, for public safety, for salvage sales, or to accomplish the objectives of the special management area as described in subsection (a). To the extent practicable, timber harvesting shall be conducted only by the individual tree selection method.

(d) HUNTING AND FISHING.—The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law.

(e) MINING AND MINERAL LEASING.—Subject to valid, existing rights, lands within the special management area are withdrawn from location, entry, and patent under the mining laws of the United States, and from the operation of the mineral and geothermal leasing laws of the United States.

(f) VEHICULAR ACCESS.—The Secretary shall construct and maintain only those roads within the special management area and corridor which are indicated on the map: *Provided*, That the Secretary shall provide access to such roads, or to timber harvesting pursuant to subsection (c), in such a manner as to minimize environmental impact.

SEC. 5. APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. VOLKMER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1540

PROVIDING FOR CONSIDERATION OF H.R. 2929, CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 279 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 279

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-

VOL 137 PT 23 NO 21–25 1991 UMI

minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except those printed in the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except that pro forma amendments for the purpose of debate shall be in order if offered by the chairman or ranking minority member of the Committee on Interior and Insular Affairs. Where the report of the Committee on Rules specifies consideration of amendments en bloc, then said amendments shall be so considered, and such amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order at any time for the chairman of the Committee on Interior and Insular Affairs to offer amendments en bloc consisting of amendments, and modifications in the text of any amendment which are germane thereto, printed in the report of the Committee on Rules. Such amendments en bloc, except for any modifications, shall be considered as having been read and shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before disposition of the amendments en bloc. Such amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments in the report of the Committee on Rules are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of House Resolution 279, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 279 is the rule providing for consideration of H.R. 2929, the California Desert Protection Act of 1991.

The rule provides 1 hour of general debate, which shall be confined to the bill, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. After general debate, the bill shall be considered for amendment under the 5-minute rule.

The rule makes in order the Interior Committee amendment in the nature of a substitute now printed in the bill as the original text for the purpose of amendment. All points of order against the substitute are waived.

Mr. Speaker, H.R. 2929 is a controversial bill and its provisions are very complex. For that reason, and to facilitate consideration of the measure, the rule makes in order the 12 amendments printed in the report to accompany the rule, including the Lewis substitute. The rule allows for consideration of all the amendments that were presented to the Rules Committee.

The amendments will be considered in the order and manner and for the amount of time specified in the report. Sixty minutes of debate time is provided for the Lewis amendment in the nature of a substitute and 10 minutes for all other amendments. Time for debate on each amendment is to be equally divided and controlled by the proponent and a Member in opposition.

The amendments are not subject to amendment except that, should the Interior Committee chairman and ranking minority member determine that more debate time is desirable, each may offer one pro forma amendment to each amendment to extend debate. Where the report specifies, amendments will be offered en bloc and are not subject to a demand for a division of the question in the House or in the Committee of the Whole.

Mr. Speaker, the rule also provides that the chairman of the Interior Committee may, at any time, offer amendments en bloc consisting of the text of any of the amendments printed in the report and germane modifications to those amendments.

The chairman's en bloc amendments, except for any modifications, shall be considered as having been read and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Interior Committee.

The rule waives all points of order against the amendments en bloc and provides that they shall not be subject to amendment, or to a demand for a division of the question in the House or the Committee of the Whole. In addition, the rule provides that the original proponents of the en bloc amendments shall be permitted to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the en bloc amendments.

All points of order against the amendments in the report of the Committee on Rules are waived.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 2929, the California Desert Protection act, seeks to protect and preserve some of the loveliest spots in the fragile California desert. I must say, Mr. Speaker, the California desert is one of the truly rich and scenic areas not only of my State, but of our entire country. Far from being a vast and useless wasteland, the rugged desert mountains and adjacent lowland terrain provide the habitat for some of this country's most unusual species of plants and wildlife.

The area is also a museum of human history—perhaps the most valuable in North America because much of it has, up until recent years, been untouched for thousands of years. Unfortunately, the desert's historical and natural treasures are now being threatened and we are seeing irreversible damage and deterioration there.

Mr. Speaker, I commend Mr. LEHMAN, the chairman of the subcommittee that developed this bill, and Mr. MILLER, the chairman of the Interior Committee, for working so diligently to seek a compromise on this legislation. We must protect and help preserve these valuable natural and historical resources for future generations.

Mr. Speaker, H.R. 2929, the result of over 15 years of active consideration, designates 76 wilderness areas on Bureau of Land Management lands in the California desert; expands the existing Death Valley and Joshua Tree National Monuments and redesignates them as national parks; establishes a new Mojave National Monument; and designates wilderness areas within the national parks and monument.

Mr. Speaker, the Rules Committee carefully crafted this rule to give the House a chance to consider all the controversies surrounding this bill, including the President's own legislative proposal for the area. I urge my colleagues to adopt the resolution so that we may proceed to the consideration of this important legislation.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very reluctant support of this rule which provides for the consideration of the California Desert Protection Act of 1991. It is not an open rule, but it does make in order all of the amendments that were submitted to the Rules Committee by November 12, which leads to the logical question, Mr. Speaker: "Why not an open rule?" As Chairman MOAKLEY explained in the Rules Committee last Thursday, we are constrained for time because the leadership would like to meet our target adjournment date, and an open rule could undermine a very tight schedule. I have no argument with the chairman on that. In fact, I think he did the best he could under the circumstances.

What troubles me is the leadership is trying to quickly ram down our

throats an extremely controversial bill that lacks even a minimum of consensus. As the gentleman from California [Mr. LEHMAN] explained so eloquently in the Rules Committee when we met last week, this is the largest, most contentious land use issue in California, and it is the top environmental issue in the State.

Mr. Speaker, the issue of wilderness designation has been under consideration for 15 years, and the Committee on Interior and Insular Affairs has been considering this specific bill since January. I agree, we need a desert protection bill, but there is no reason why we cannot consider this legislation when this Congress reconvenes early next year.

The gentleman from California [Mr. LEHMAN] admitted that a very thoughtful and comprehensive alternative introduced by our respected colleague from Redlands, Mr. LEWIS, was not even considered by the subcommittee.

Mr. Speaker, we do not even know the budget implications of this legislation. The bill circumvents the pay-as-you-go provisions of the budget agreement by setting up a mechanism to ensure that any outlays resulting from the acquisition of California State lands do not occur until after the budget agreement expires.

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In its present form, Mr. Speaker, this bill would be vetoed by the President of the United States. It is not a serious attempt to address the myriad substantive and competing land use issues affecting the California Desert; instead, the authors propose the largest Federal Government land grab in history to occur in the contiguous 48 States. It would significantly alter military training activities, water rights, hunting, and mineral exploration activities.

There is no reason why consideration of this bill cannot be postponed for a couple months. This would give the subcommittee and the full committee chairmen an opportunity to do what they acknowledge they have not done; that is to negotiate with those of us on this side of the aisle who support protecting the ecology of the desert, but have legitimate multiple land use concerns.

However, Mr. Speaker, since the leadership insists on moving forward with this bill at this time, I do reluctantly support adoption of the rule and urge my colleagues to support the more reasonable alternative embodied in the Lewis-Thomas-McCandless-Hunter substitute.

Mr. BEILENSON. Mr. Speaker, for purpose of debate only, I yield 1 minute to the distinguished gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am only going to speak to the rule now, since the rule does allow plenty of time for me and others to refute the assertions of the gentleman from California [Mr. DREIER] and others, and I will do so at the appropriate time.

I am standing up now, though, to support this rule.

Although I was originally prepared along with the chairman, the gentleman from California [Mr. MILLER] to support an open rule in committee, I fully understand the concerns of the leadership with trying to get a handle on the schedule as we move into the final days.

The rule provides that all amendments that were on file when the Rules Committee met on this issue are in order. All of the amendments of the minority have been completed protected by this procedure. Therefore, I support the rule.

I would only bring the attention of the Members to two amendments that are allowed here, the en bloc amendment that the gentleman from California [Mr. MILLER] will offer which will delete 160,000 acres around Fort Irwen, to meet the concerns of the military in that regard, and another amendment by the delegate from Guam [Mr. BLAZ] and the gentleman from Minnestoa [Mr. VENTO] will also take care of the concerns of the military with respect to overflights. All those concerns are met with those two technical amendments.

Mr. Speaker, I urge adoption of the rule.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LEWIS], who is from Redlands, CA, who has tried diligently to bring about a compromise on this very important bill and will be offering a most important substitute.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate my colleague yielding me this time, and I appreciate the patience of the Members of the House, for we will be spending a number of hours this evening going through this relatively complicated, but very important subject.

I will be speaking on this podium from the Democratic side of the aisle simply because I want it to be clearly understood that this is not a partisan issue, but rather a very, very important public policy consideration.

There are four Members of Congress whose districts are dramatically impacted by H.R. 2929. It is very important that our colleagues in the House understand that all four of us have a great deal of interest in and are concerned about the California desert and its future. We care deeply about the desert, and especially for those who live in the desert and love it.

H.R. 2929 is described as some form of a compromise. Indeed, if it is a compromise, the parties who drew up the bill, I am not sure behind what closed doors, drafted that bill without consulting any of us who represent these desert lands.

I might mention for the RECORD, for you will hear it more than once, that the four of us represent over 3,250,000 Californians. Combined, that is a population greater than the separate populations of 23 States. If our territory were put together, the geography itself would be approximately 29th in size among the States.

The bill before us, in a very basic way, violates all those tenets that relate to effective public policy development in public affairs.

The Congress in 1976, mandated a process whereby desert wilderness in California could be permanently designated.

Under what is known as FLPMA, the Federal Land Policy and Management Act, the Congress directed that there be created a public commission. That public commission was instructed to hold public hearings over a period of years. They held 4 years of public hearings with over 40,000 individual citizen comments.

At the end of the process the public commission and the BLM reviewed all that material and come forth with a plan that would make sense for all Californians who care about the desert. That was to be before the Congress by the end of this year. It came up about 3 months ago. That plan has been largely ignored by the committee. The committee has chosen to put a bill on the floor today that fundamentally violates those of us who represent the people of the desert.

Beyond the fact that this is so wildly violative of fundamental public policy and the processes that make up excellent public affairs, the bill reflects the interests of a very small and elite group of people who describe themselves as environmentalists. In my own judgment, this group has little understanding of the real environmental concerns of the people who live and work in the desert.

I do not know about you, my colleagues, but I try to pay very, very careful attention to the problems and challenges faced by my other colleagues in their districts, individuals elected to represent half a million and in some cases a million of our citizens. Those individuals know their districts best, so I focus carefully upon their concerns.

In this case, the authors of this bill have chosen, with malice aforethought, to roll right over the four of us who represent the California desert.

The SPEAKER pro tempore (Mr. MCNULTY]. The time of the gentleman from California [Mr. LEWIS] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 1 additional minute to

VOL 137
PT 23
NO 21—25
1991
UMI

the gentleman from California [Mr. LEWIS].

Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to my colleague, the gentleman from California.

Mr. DREIER of California. Mr. Speaker, the gentleman makes a very good point in stating that he and most Members of this House like to have a pattern of looking to those individuals who represent a particular area and get some input from them on what we are going to do here as it relates to that. I think it is an important point to underscore. I appreciate the gentleman pointing that out.

Mr. LEWIS of California. Mr. Speaker, I thank my colleague.

I must say, Mr. Speaker, in the dozen years that it has been my privilege to serve in the House. I have never seen a circumstance where a committee or its members would so basically violate that tenet of comity whereby a member is given a chance at least in the negotiating process to present the interests of their districts. In this case, California is being violated in a fundamental way.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from California [Mr. LEVINE], the original author of this bill.

Mr. LEVINE of California. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, as the author of the California Desert Protection Act, I rise in strong support of the rule and of the underlying legislation.

This bill is extremely important to the people of California. It is not nearly as complicated as is being presented.

There is one essential question that is before us when we deal with this legislation. That question is whether we wish or whether we do not wish to protect the fragile resources of the California desert. That is the question before us. It is a simple question. It is a clear question. It is a straightforward question. Do we protect this resource or do we not.

The California desert is a very special place. I know that any number of us who are familiar with it and who have spent quite a bit of time in it have strong feelings about it. In its 25 million acres are found an enormous diversity of wildlife and of plants, rich archaeological collections, dozens of mountain ranges, and all kinds of human activity.

Our legislation seeks to protect a portion of this for generations to come.

Mr. Speaker, the wild desert is being destroyed. Mismanagement, fly-by-night mining operations, reckless individual abuse, and poorly planned development are taking their toll.

☐ 1600

Californians want this legislation. Polls instate have consistently shown that Californians want more, not less, protection.

The State's major newspapers have editorialized in favor of the bill; 49 California cities and counties have endorsed the bill. Yet, despite this, the charges that continue to be raised against this bill, while made in good faith, are truly remarkable. And I believe in the context of this debate on the rule it is appropriate at the outset to set the record straight.

First and most importantly, this process has not occurred behind closed doors. There have been seven public hearings on this bill, three in California. The desert plan of 1980, to which my friend from California referred, has failed. There were some 40,000 comments with regard to that desert plan, the majority of which were critical of the plan.

For 5 years we have been pursuing this legislation. It was initially introduced in 1986, and we have urged our colleagues on the other side of the aisle, and a range of the interest groups who have been concerned with this legislation, to come to the table, to negotiate with us, to talk with us, to work with us. And when that has failed, we have held public hearing after public hearing.

Mr. Speaker, I was at a public hearing at my friend, Mr. LEWIS' district, that we both attended. Over 1,000 people were at that hearing.

I chaired a hearing in southern California that some 2,000 people have attended. There have been public hearings.

Mr. Speaker, I would be happy to yield, but I would like to finish my statement and then I would be happy to get into a colloquy either now or at a subsequent time. I am sure we will have numerous opportunities to discuss this.

Mr. Speaker, I let the gentleman proceed with his opening remarks, and I want to just try to set the record straight with my own.

There are several other misrepresentations that have been offered by some of the bill's opponents, and I would like to set the record straight at the outset on those because a number of people have asked me about them.

First, if one actually read the bill, they would find that with regard to military overflights, that there is no mention of any military overflights in this bill. I know my friend, the gentleman from Massachusetts, [Mr. MAVROULES] and the chairman of the Committee on Armed Services will be speaking to that later. Indeed there is nothing in this bill which would restrict overflights, and just to clarify, the administration's own overflight language will be offered in an amendment today with my support and that of Mr. LEHMAN and that of Mr. MILLER.

An amendment will be offered to this bill so that the bill will not in any way affect the proposed expansion at Fort Irwin. That will be totally eliminated by a Vento-Blaz amendment.

Third, this bill does not require the Federal Government to spend one thin dime on land purchases. While there may turn out to be some purchases subsequently, the two landowners who own the vast majority of all the inholdings have made it clear that they would prefer to exchange, not sell, their lands.

And to this end, the bill also would extend the Department of the Interior's normal authority to purchase any inholdings which are placed in a new land bank, which is then to be used to exchange these inholdings for Federal lands.

Next, only Congress can designate wilderness. The BLM's desert plan will remain in place, but they cannot designate wilderness. Congress reserved that decision for itself.

Based on the BLM's proposal, for good reason, the administration's proposal is completely inadequate. And finally, hunting is allowed in BLM wilderness, which represents over half the acreage of the bill. While hunting in the Mojave will be prohibited, the Mojave accounts for only a minute portion of hunting statewide.

Californians want what is still pristine and truly wild in the desert to remain that way. For that reason, passage of this bill will strike a major victory for environmental protection in America.

Unfortunately, up to now the BLM's record is paltry, at best. They have not been able adequately to protect the wildlife; regulations go unenforced; incompatible uses are permited.

This bill would give the Department the tools it needs to protect the desert and at the same time protect all of its historical uses.

I strongly urge my colleagues to support the rule and to support the bill.

Mr. DREIER of California. Mr. Speaker, my friend from west Los Angeles said he was going to correct the record. To really correct the record now, I yield 4 minutes to my very good friend, the gentleman from California [Mr. THOMAS], the hardworking member of the Committee on Ways and Means.

Mr. THOMAS of California. Mr. Speaker, we are going to have a long discussion. I want to focus my comments principally on the rule.

Why is it that somehow the debate must always turn on the fact that you guys are the good guys and we are the bad guys. You say H.R. 2929 saves the desert. And no other option is available.

It just get humorous when you watch the procession down to the microphone, with individuals indicating that the policy that led to H.R. 2929 was the one that was initiated 15 years ago.

If anyone will read that legislation, they will find that the route H.R. 2929

took was not the route that was designated in 1976. It was, in fact, a branch created by those who would not compromise. And what you have in front of you is a bill that still is not truly compromised. What evidence do I have of that? Take a look at the rule under which we are considering this legislation. Twelve amendments to the rule. Mr. LEVINE laid out the laborious process of consulting with various groups to make sure that his bill was broadly represented.

Then why are all of the amendments in the rule to H.R. 2929? Obviously he did not do a very good job of making sure that all of those groups were consulted prior to today.

Take a look at H.R. 3066, the substitute; not one amendment to that bill. Why? Because that is the bill that followed the process asked for and created in 1976; that is the bill that went through the public hearings; that is the bill that was examined by the administration; that is the bill that was presented to the subcommittee and the Comittee of Interior to follow the process that this Congress asked for. And that subcommittee did not even give that bill a full hearing.

People ask me, "Why do you go through this process? It is kind of like the guy who plays at a crooked roulette wheel, and they say don't you know it's crooked, and he says, yes. They say, well, why do you do it? He says, well, it's the only wheel in town."

Take a look at this rule. All of the amendments are to H.R. 2929. What is the first amendment that is made in order? It is a substitute.

Is someone telling me I do not understand the game around here, that in fact maybe the substitute is not going to pass? And that all of the amendments apply to H.R. 2929 because you are playing a game? What would happen under this rule if H.R. 3066 passed? You would have a pretty messy situation parliamentarily, would you not, because all of the amendments apply to H.R. 2929?

Do not tell me this place is not rigged; do not tell me it is not gimmicked. We are going to get into the substance of the bill, of course, but when you take a look at the way in which the rule was written and the strong appeal that there is only one choice to save the desert, please. I represent the desert. I want to save the desert, too. I do save the desert in H.R. 3066.

To stand there and tell people there is only one choice, one choice that saves the desert and the other does not in my estimation is hypocritical because either you have never been out there, you do not understand the process, or you simply want your own way.

And, of course, I understand the author, and others, of H.R. 2929 wanting their own way—a number of reasons why you would want to be out front, a number of reasons why you would not want a bill which is a true compromise from those people who work and live in the desert and who want to enjoy it scenically.

Obviously, I can understand why some of my colleagues do not want a bill that went through the process of scrutiny by the administration and the public.

I can understand why they want a bill which was written by them and which has a rule created which tells you that before we even begin, this game is fixed.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I have a little feeling that I am walking into a buzzsaw here among the California delegation.

Let me make it very clear that I am speaking as a member of the Committee on Armed Services.

Mr. Speaker, as a member of the Armed Services Committee, I would also ask that my colleagues support the adoption of amendments being offered today by Mr. VENTO and Mr. BLAZ that address the concerns of the Department of Defense regarding low-level overflights, the possible expansion of Fort Irwin, and the reauthorization of the withdrawals of China Lake Naval Weapons Center and Chocolate Mountain Aerial Gunnery Range.

With these two amendments, I am confident that the California Desert Protection Act will not infringe on the training and research mission of our Armed Forces in the California Desert.

Mr. Speaker, I request my colleagues to support this rule, the two amendments that provide for the military's concerns, and to vote for H.R. 2929.

☐ 1610

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MAVROULES] for yielding.

Although I think the Blaz amendment has some merit; it addresses some of the issues; for 21 years I operated in the military in those specific areas, and neither one of the Vento or the Blaz amendments addresses the buffer zones around Chocolate Mountains. We have had people killed in the Chocolate Mountains, and I will tell the gentleman why it is the only area in which the Navy and Air Force have to train with live ordnance.

Could the gentleman tell me what a pop-up maneuver is? These are all exercises in different things that happen in those particular areas. Neither one of these amendments addresses it.

Mr. Speaker, I will be happy to give the gentleman a piece of paper from the Secretary of Defense and all the Secretaries that show how in these areas these amendments do not help the military.

Mr. MAVROULES. Mr. Speaker, I would be delighted to have the information which the gentleman has, but I am very sure, when the amendments are offered, the gentleman from Minnesota [Mr. VENTO] and the gentleman from Guam [Mr. BLAZ], who are indeed the experts on that issue, will articulate and clarify that.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I think that we will debate that.

The SPEAKER pro tempore (Mr. MCCURDY). The time of the gentleman from Massachusetts [Mr. MAVROULES] has expired.

Mr. BEILENSON. Mr. Speaker, I yield the gentleman from Massachusetts 2 additional minutes.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MAVROULES] for yielding and for his cooperation and representation of the armed services concerns and the Committee on Armed Services' concerns in this matter.

Mr. Speaker, what we are dealing with in Chocolate Mountain, and the channel 8 and, as well, El Centro, are withdrawals, military withdrawals. As far as I know, these are exactly the withdrawals that the military has sought in terms of land. They are renewal of withdrawal. In the absence of the withdrawals and the option of the Blaz-Vento type of amendments, they would revert, and the military would have legal status that would be uncertain under the Engel Act, and so that is the purpose of this.

Obviously there are arguments over air space and other matters, but I want to point out that the amendments that the gentleman referred to with regard to these three parcels are military withdrawal areas. Obviously there are compatible, incompatible uses, but this is what the military asked for when they came before our committee. We passed these amendments without objection under the sponsorship of the gentlewoman from Maryland [Mrs. BYRON]; in 1987 sent to the Senate. The Senate did not engage and take those amendments up at that time, and the reason being that the Senators from California decided to make it a part of the overall land bill, the desert bill, in California, and I thank the gentleman for yielding.

Mr. MAVROULES. Mr. Speaker, it is also my understanding that the gen-

VOL 137 PT 23 NO 21—25 1991 UMI

tleman from Maryland [Mrs. BYRON] will address the issue when we get to the amendments.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MAVROULES] for yielding.

As a matter of fact, I am submitting to the gentlewoman from Maryland [Mrs. BYRON] the same requirements that the military, not only the Navy, but the Air Force and the Marine Corps, has as well. Mrs. BYRON has never strapped herself into it yet and knows that all of the facilities that are required——

Mr. MAVROULES. Mr. Speaker, I realize that, but I might mention to the gentleman that gentlewoman from Maryland [Mrs. BYRON] had this under consideration since 1987. So, she does have some background on that.

Mr. CUNNINGHAM. But not the background she needs.

Mr. MAVROULES. I thank gentleman from California [Mr. CUNNINGHAM].

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to my very good friend, the gentleman from California [Mr. MCCANDLESS], who represents the magnificent desert empire.

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding this time to me.

Mr. Speaker, those of us who have been involved in the other bill, 3066 and what it represents, have been characterized erroneously as people who do not care about the desert. My colleagues briefly commented about the way this all started originally, with a piece of legislation coming out of this body and from that process.

I would like to read to the House the names and professions of the 15 members of the Desert Advisory Committee appointed in February 1977 by the Secretary of the Interior. These are the gentlemen and gentleladies who spent endless hours utilizing, not only their professions, but traveling extensively in the desert and holding a multitude of hearings.

Let me start with Dr. Richard Vogl, professor of botany at California State University, Los Angeles, a specialist in vegetation. Next, Dr. Wilbur Mayhew, professor of biology at the University of California, Riverside, who represented the field of wildlife. Then, Supervisor Clayton Record of Riverside County who represented local government, Dr. Richard Jahns, professor of geology and earth science at Stanford University who represented the earth sciences, and Dean Lemon, vice president of U.S. Borax, who represented mining and mineral assets. Next, Mr. Willie Pink, a member of the Cauhilla Tribal affiliation, represented native Americans. James Burns, member of the staff of the State of California Resources Agency, represented State government. Genny Smith, an author of several books about the desert, represented Outdoor Recreation. Ron Sloan represented Outdoor Recreation in the form of off road vehicle use. Dr. Harvey Perloff represented professional land use as professor of architecture and design at the University of California at Los Angeles. Erna Schulling represented the League of Women Voters in San Bernardino County. Next, Leon Hunter, head of science and environmental education for the Barstow School System and Mr. Frank DeVore, vice president, of San Diego Gas & Electric, representing the public utilities. Then, Mr. William Lane who represented the general public as publisher of Sunset magazine.

These people met in 1980, discussed their final product in great detail, and the final product represented that 4 years of development from February of 1977 to January of 1981. They presented that project to the public as a final result. It was a consensus. The group passed on the final result and recommendation which went to the director of BLM and the Secretary of the Interior, by a vote of 13 to 0.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. HUNTER], my very able colleague and classmate from San Diego who is chairman of the Republic Research Committee and a member of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from California [Mr. DREIER], my distinguish colleague, for yielding this time to me.

Mr. Speaker, and my colleagues, this bill, the so-called desert protection bill, has been described over and over as a bill that protects, and I think it is appropriate to ask the question: Protects from whom? The South Agadones Dunes, which is a big sand dune area in my district, and again I was not consulted, the gentleman from San Bernardino, CA [Mr. LEWIS] was not consulted, the gentleman from California [Mr. MCCANDLESS] was not consulted, the gentleman from California [Mr. THOMAS] was not consulted, nor were we asked to give leadership in any of the determinations that were made as to what areas went into wilderness.

However, Mr. Speaker, I want to tell my colleagues a little bit about the dunes that are utilized by so many Americans, so many San Diegans, so many people who live in Los Angeles.

☐ 1620

Who are we protecting the desert from? We are protecting it from blue-collar Californians. We are protecting it from men and women who average about 29 years of age, with an average family income of about $29,000 a year.

What do these people want to do that is so threatening to the desert? They want to be able to get up on Saturday morning or Sunday morning and go out to the desert. Some of us may have seen the film "On Any Sunday." It is about average Americans who want to take their motorbikes or their four-wheelers or their off-road vehicles, and they want to go out and get away from the boss for a while. They want to be able to talk with their wives for 20 or 30 minutes while the kids are riding motor scooters around the dunes. They want to set their campers up, and they want to barbeque. Those are the people we are protecting the desert against.

Let us call this bill by its real name. This is the desert lockout bill, because it locks average Americans, blue-collar Americans, out, 160,000 of them who used our dunes last year for family outings. It locks them out.

Well, people can always strap a backpack on and they can go backpacking in the desert, can they not? That is the response that I have received from the Sierra Club and other organizations. I say to the Members I would like to see them strap a backpack on in 97-degree heat, not only on themselves but on their wives and on their kids, and have them trudge through the sand for 15 or 20 miles to get to that old camp site. And remember, when they get there, they have got to have water, so they have to carry water on their back, so maybe they need 20 or 30 gallons of water, weighing several hundred pounds. Well, you can put that on a 10-year-old or a 12-year-old and march out there.

I would suggest, I say to the Members, that the same arrogance and insensitivity that groups like the Sierra Club were formed to oppose has not manifested itself in many of the policy declarations and many of the decisions they have offered that they have mandated that their Members of the U.S. Congress put forth on this floor.

Let me go over the list of Americans we are locking out in this bill. Of the people who use the sand dunes in my area, about 17 percent of them are laborers, about 10 percent are professional or technical people, about 8.3 percent are mechanics or craftsmen, about 6.3 percent are farm workers, about 5 percent are service workers, and about 1 percent are the military. We are taking blue-collar Americans and locking them out of the desert, and the decisions are being made by people who can afford to fly off to New Zealand to go fly-fishing if they want to recreate, if they want to exercise, if they want to be with their families.

Mr. Speaker, this is a desert lockout bill, and this is a bill that should be soundly rejected by this House.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I am happy to yield to a gentleman who actually has flown

aircraft over the Chocolate Mountains Gunnery Range, the top gun pilot in the U.S. Navy, who can tell us from a commonsense point of view why we should not be inhibiting the Chocolates.

The SPEAKER pro tempore. (Mr. MCNULTY). The time of the gentleman from California [Mr. HUNTER] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I would just like to comment further on the comments of my friend, the gentleman from California.

I have ridden motorcycles, I have ridden three-wheelers—I have gotten rid of my three-wheeler since because it is dangerous—and I have a four-wheeler that I ride on those dunes, and literally one day after you ride over those dunes, with any kind of activity, those dunes are natural. There is half of the highway that is split, that is protected, and half that is allowed for recreational vehicles. During a wind storm of any magnitude, you can literally go back and you cannot tell the protected side from the other side. The shifting sands go back naturally, and it takes free-flowing sand to rise these recreational vehicles. So the desert is not damaged. It is protected, and it looks like it is in its natural state.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I would like to ask the gentleman a few questions about how he thinks the Chocolate Mountain Gunnery Range will be affected by the committee bill.

Mr. CUNNINGHAM. One of the things a lot of us agree on is that maybe we need a smaller military in some areas, and that we need a well-equipped and well-trained military. What H.R. 2929 does is, it takes away that last aspect, well-trained.

Although well-intentioned and with some afterthought, the Vento amendment only addresses overflights. When you overfly a specific area, you are doing it for a reason, just like in Desert Storm. Those routes are designated to simulate routes which you would use actually on a target. Those targets are the only ones in which the military, the Navy and the Air Force and the Marine Corps, can drop live ordnance, and those routes need to be changed. That does not take place under the Vento amendment.

The Blaz amendment comes close, but it still leaves us short in many areas. The Army, the Navy, and the Marine Corps, in pop-up maneuvers or any maneuver delivering live ordnance, is not protected by a buffer zone in either the Blaz or the Vento amendment, and it could get people killed. If Members support H.R. 2929, they are going to be supporting something where men and women could be losing their lives in future conflicts, and we cannot sustain that. I swore in Vietnam that I had people that caused those same——

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman's yielding.

It is my understanding that we held an oversight hearing on the actual language, and the language that will be presented in the Blaz-Vento amendment is the language requested by the Department of Defense.

Mr. CUNNINGHAM. Then why do I have a letter here from all the Secretaries of all the services stating that they do not want H.R. 2929 or this language?

Mr. VENTO. It is understood that the amendment will take care of it.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. CUNNINGHAM] has expired.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in strong support of H.R. 2929, the California Desert Protection Act.

This bill is one of the most significant pieces of environmental legislation to come before the 102d Congress. I am proud to be a cosponsor.

H.R. 2929, which will expand protection of 8.3 million acres of the California desert, carefully balances scenic, geologic, and wildlife preservations with mining, ranching, and recreational needs. It is the product of 5 years of refinement and negotiation.

I think it would be inappropriate to go any further without mentioning the names of two of my colleagues who are most responsible for bringing this bill to the point where it is now. One is my longstanding friend, the gentleman from California [Mr. LEVINE, who for a number of years has been pushing this effort, building up grass roots support, and fighting to air this critical issue in public arenas, and he has now taken a major step forward after years and years of effort.

The other Member, of course, is my friend, the gentleman from California [Mr. LEHMAN], who combines his zeal to protect this valuable area with his very talented legislative and negotiating skills.

Mr. MCCANDLESS. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. Before I finish my kind words about Mr. LEHMAN or in the middle of them?

Mr. MCCANDLESS. Whenever the gentleman would like to.

Mr. BERMAN. Let me not interrupt this peak experience.

The gentleman from California has negotiated through the obstacles of this legislation to bring this bill out of subcommittee and out of the full committee and to the full House today, once again demonstrating his skills.

Mr. Speaker, I now yield to my friend, the gentleman from California.

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman very much.

I was quite taken aback by the fact that we were comparing authorships of the two bills that are before us by the way of a rule. I took a lot of the time of my colleagues to read what I consider to be a rather impressive list of advisers and their backgrounds and disciplines who are actually authors of our bill through the Bureau of Land Management staff, and with the approval of the Secretary of the Interior, and I must say in all candor that I had to say that in response to the gentleman's comments relative to the authorship of H.R. 2929.

Mr. BERMAN. Mr. Speaker, to reclaim my time, I think it is only fair to point out that numerous scientists and academicians from universities and museums around the country have provided their professional backing to H.R. 2929, the product of this excellent negotiated proposal that is on the House floor today.

Let me conclude my remarks by making two points, simply to urge all my colleagues to support this comprehensive proenvironment bill so all Americans can enjoy and pass on for generations to come the splendor of the California desert.

Let me urge my colleagues to oppose any weakening amendments. I would like to make one comment also about my friend, the gentleman from California [Mr. LEWIS].

☐ 1630

I want to say that this excellent legislator has a somewhat flawed alternative proposal. His amendment, by failing to establish a national monument in the Mojave, leaves park quality resources subject to further disruption from mining and other such activities. It designates less than 50 percent of the qualifying BLM desert wilderness and thus protects only isolated blocks and parcels. This will further fragment the desert ecosystem and cause a tremendous loss of biological diversity.

Mr. Speaker, the amendment of the gentleman from California [Mr. LEHMAN] and the gentleman from Minnesota [Mr. VENTO] adequately addresses the concerns raised by the Department of Defense.

Mr. Speaker, I again urge Members to oppose this substitute amendment and support H.R. 2929.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

VOL 137 PT 23 NO 21—25 1991 UMI

Mr. THOMAS of California. Mr. Speaker, I understand the continued need to repeat that H.R. 2929 has been the process of a number of years of negotiations and that it certainly is a seasoned bill in which all people have had adequate access to make sure they have had their impact.

Why in the world 30 seconds ago was there a discussion over here by the gentleman from Minnesota and the gentleman from California and the gentleman from Guam regarding trying to work out the problems in terms of the various amendments if this bill has had such an adequate hearing?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the reason is that we are talking about the withdrawals of these key areas for military use which have to be extended. We are trying to accommodate the concern of the gentleman from Guam, and I am pleased that I think we are able to do that so that we can work harmoniously together.

These withdrawals I am talking about should not be an issue. There are issues beyond that in terms of the designation here that are frankly differences with regard to designation. But Members have to remember all of these areas are under study. A greater area is being managed as wilderness today than will be managed under the bill that is going to be the product of 2929.

So if one does not have problems today, I do not know why one would think they were going to have problems with less of it being designated as wilderness and some as park. I think some of the arguments are falling under their own weight.

Mr. BERMAN. Mr. Speaker, reclaiming my time, if I may, I would just suggest that I think this debate is important. I understand there is time under the rule to continue this debate. The only thing I would like to suggest is that the gentleman from California [Mr. LEVINE], the gentleman from Minnesota [Mr. VENTO], and the gentleman from California [Mr. LEHMAN], are people far more qualified to engage the worthy opponents in this discussion, to take over the mantle.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, since my name was used in the discussion of the gentleman from California [Mr. BERMAN], and since we are such good friends, I think the gentleman would want to make it clear for those who are listening that the substitute that we will be presenting later is the substitute that reflects the work of that very, very fine commission that met for over 4 years in public hearing and received some 40,000 inputs regarding the variety of mix of compromise that might make up an adequate bill.

Mr. Speaker, that substitute is not any small environmental package. It would create the largest wilderness area on the continental United States, some 2.3 million acres of wilderness as a matter of fact. It would address itself to 62 areas covering vast regions of the desert that for many, many years we have been looking to provide protection for.

But this process has held back that movement toward adequately protecting the desert regions that need protection. So clearly we will have that discussion during the general debate.

Mr. Speaker, I did not want to leave anybody with the impression that our substitute was not a highly adequate piece of legislation relative to what a commission that has significant talent and expertise thought was required for wilderness additions to the California desert.

Mr. BERMAN. Mr. Speaker, I am going to conclude my remarks by simply saying that the comments of the gentleman may reflect a product that is better than nothing, but every leading major environmentalist organization in the country believes that those amendments will gut the thrust and protection of H.R. 2929.

Mr. DREIER of California. Mr. Speaker, this has been a fascinating exchange and time has flown by. I was wondering if the Speaker could tell us how much time is left on each side?

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from California [Mr. DREIER] has 6½ minutes remaining, and the gentleman from California [Mr. BEILENSON] has 7 minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Fullerton, CA, Mr. DANNEMEYER, not quite the desert, but very close.

Mr. DANNEMEYER. Mr. Speaker, one of the most interesting books that I have read in recent times was written by the former Governor of the State of Washington and former Chairman of the Nuclear Regulatory Commission, Democrat Dixy Lee Ray. It came out a couple of years ago. She titled it "Trashing the Planet."

In it she says there are a number of, the great majority, in fact, of the environmental groups, and she names them, Audubon Society, Sierra Club, National Wildlife Federation, Wilderness Society, Nature Conservancy, and countless other groups, that are fine, decent citizens.

Then she goes on to say there are some leaders of other organizations, such as the Natural Resources Defense Council, Friends of the Earth, Earth First!, Greenpeace, Government Accountability Project, Institute for Policy Studies, and many others, that are determinedly leftist, radical, dedicated to blocking industrial progress and unraveling industrial society.

Mr. Speaker, I think it is important for us to understand, these radical organizations are behind what the House is now considering, mainly this lockout bill that is currently on the docket of the House. Miss Lee says, "They also tend to believe that nature is sacred and that technology is a sacrilege. Some environmentalists appear to be in favor of taking mankind back to pantheism or animism."

Thomas Lovejoy, tropical biologist and Assistant Secretary of the Smithsonian Institution, is quoted as saying, "The planet is about to break out with fever, indeed it may already have, and we human beings are the disease. We should be at war with ourselves and our lifestyles."

Here is Helen Caldicott, an Australian pediatrician, speaking for the Union of Concerned Scientists. She says, "Capitalism is destroying the Earth. Cuba is a wonderful country. What Castro's done is superb."

Paul Ehrlich, a Stanford University biologist, says, "We've already had too much economic growth in the United States. Economic growth in rich countries like ours is the disease, not the cure."

David Brower of Friends of the Earth is quoted as having said, "Childbearing should be a punishable crime against society, unless the parents hold a government license. All potential parents should be required to use contraceptive chemicals, the Government issuing antidotes to citizens chosen for childbearing."

Mr. Speaker, these are some of the statements of leaders of the environmental terrorists that seek to lock out the vast majority of people in my State of California.

Mr. Speaker, I support the alternative plan, the BLM plan, that would put into wilderness 2.3 million acres in the State of California. I am opposed to this plan of 4.5 million acres.

Mr. Speaker, I would like to thank the Committee on Rules for making in order two amendments that I offered. But they limited debate to 10 minutes each, clearly not sufficient to discuss the major issues involved in these amendments. For this reason I oppose the rule.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. BEILENSON. Mr. Speaker, if I may say to my friend from California, I spoke to the gentleman about the possibility of yielding some time, but I do not think the comments of the gentleman have been very helpful to the rule before us. I do not want to give the gentleman any time to speak along the same line he has been speaking.

Mr. DREIER of California. Mr. Speaker, I yield 1 additional minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I filed two proposed amendments with the Rules Committee. One was that we would require the preparation and filing of an economic impact report. I think before we lock up this quantity of land in our State we should analyze the adverse economic impact on jobs, on private property, and on businesses.

The reality is there are about 20,000 miners working on mineral claims in a portion of this land that are going to be out of a job. The unemployment rate in my State is now 7.3 percent. That is one-half a percent higher than the country.

The other amendment that I will offer will delete from this plan that is now before the House the east Mojave area, about 1.5 million acres.

This is the area that is currently being developed in mineral development that this Nation badly needs for the functioning of our economy.

Mr. Speaker, unfortunately only 10 minutes was given to each amendment. That is hardly sufficient time. For these reasons I oppose the bill.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I rise today in enthusiastic support of H.R. 2929, the California Desert Protection Act. I am a cosponsor of the bill, and as a member of the Interior Committee, I voted to report H.R. 2929 to the floor today. I share with my California colleagues their love for the untamed desert country of the American West. With much the same motivation, I have also offered legislation in the House, H.R. 1500, which would protect much of the remainder of Utah's wild desert canyons. Fittingly, on this day of such great importance to wilderness in California, the Utah BKM wilderness bill picked up its 100th cosponsor. I hope that sometime in the not too distant future, we will be able to see that issue resolved as well, through informed debate and a rational compromise.

The California Desert Protection Act is a testament to the overwhelming popularity of the preservation of our natural lands. It is a recognition that wilderness, whether or not one ever sets foot in it, is vitally important to the American soul. This bill is also an example of the power of compromise, as issue after issue has been rationally resolved. This wilderness bill demonstrates once again that preservation and economic growth are not mutually exclusive. One of America's greatest assets is its natural beauty. We are wise to recognize that and we are wise to preserve it for generations to come.

I am particularly interested in the creative solution offered to address an issue which we also face in Utah, that of the scattered State school trust lands which would be incorporated in the newly designated wilderness and park lands. Clearly, the interests of the school trust will be best served if the management of trust lands is not restricted by the requirements of wilderness management and protection. Having pockets of State-owned school lands permanently within wilderness is an obviously awkward arrangement which should be resolved. To this end, H.R. 2929 requires the Secretary of the Interior to identify those federally owned public lands which are available for exchange within California. Then the California State Lands Commission can exchange scattered State school lands within the wilderness and parks for consolidated pieces of land which could be managed trust lands in a manner which achieves maximum benefit for the school trust. This provision will afford school trust beneficiaries the opportunity to enhance the value and manageability of the trust lands by transforming scattered, disconnected sections into consolidated blocks. Likewise, Federal land management efficiency will also be greatly improved through the consolidation of public lands.

The solution to the State school lands question developed in this bill provides a model that we can look to as we resolve similar management conflicts on Utah's public lands. I commend the drafters of the legislation and the Interior Committee for working out this artful compromise.

We in the West know firsthand of the fragility of the desert landscape. This bill preserves a unique and irreplaceable ecosystem which is too easily disrupted and scarred. It preserves beautiful scenic treasures, recreational opportunities, archeological resources, unique habitat and at-risk-species.

California cannot afford to lose any more of its wilderness. Nor does it need to, for the economic potential of these lands for meaningful resource development is limited. As the population of California and America continues to grow, so will the need for areas of wilderness, for recreation, habitat protection, and solitude. The sad fact of life in late 20th century America is that wilderness, if not protected will be irredeemably lost.

The noted author, Wallace Stegner, recently graciously provided a forward for "Wilderness at the Edge," a book devoted to the Utah BLM wilderness proposal. What he wrote in that book seems apt today.

> We were born of wilderness and we respond to it more than we sometimes realize. We depend upon it increasingly for relief from the termite life we have created. Factories, powerplants, resorts, we can make anywhere. Wilderness, once we have given it up, is beyond our reconstruction.

Mr. Speaker, we have an opportunity with this bill to guarantee the integrity of the California desert wilderness for generations to come. We cannot accomplish the impossible task of reconstructing wilderness, as Mr. Stegner pointed out. So I urge my colleagues to join with me today in supporting this far-sighted effort to save a vestige of the original America by casting a vote in favor of H.R. 2929.

☐ 1640

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I guess it is pleasing to see that there is no ban on fiction on this floor. We are discussing the rule, and I do want to focus on the rule.

We will have plenty of time to debate the bill in terms of its substance and those of us who represent the areas that are being affected by this legislation will have ample time to illustrate over and over again the fact that not only were we not consulted but that the degree of arrogance on the side of those individuals who are now offering what they indicate to be a compromise can once again simply be shown not to be true by an examination of this bill.

When I discussed in my earlier testimony that this bill is a sham in terms of any serious consideration of the substitute that is the true son of the 15-year process, I heard some snickers over on that side of the aisle.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). The Chair would remind Members not to characterize the motivation of other Members of the body.

PARLIAMENT INQUIRY

Mr. THOMAS of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS of California. Mr. Speaker, under the rule, if it were to pass, and the first amendment in order under the rule, if it were to pass, are the other amendments, all of which apply to H.R. 2929, in order?

The SPEAKER pro tempore. If offered, those subsequent perfecting amendments could still be considered, since all points of order against them would have been waived under the pending resolution.

Mr. THOMAS of Californa. If offered, they could be considered. In other words, this rule was written with the idea that there was supposed to be a substitute bill for the underlying bill passed by the Committee on Interior and Insular Affairs, but if in fact that substitute is passed, all the amendments applying to the underlying bill, the bill that came out of the Committee in Interior and Insular Affairs, are considered as though they are in order anyway. And that is what I am talking about in terms of the word characterized as perhaps inappropriate in explaining behavior.

VOL
137
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23
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Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Let me respond to the gentleman from California to tell him that the situation, as he just properly described, has been told to us by the Parliamentarian and was the result of inartful drafting of the rule by the Committee on Rules, if my colleagues on the Committee on Rules do not mind my saying that.

We had not intended that to take place. We had believed and intended if the substitute of the gentleman from California [Mr. Lewis] were to be adopted, that that would be the end of it.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, does the gentleman have any characterization of the underlying bill in terms of its artful or inartful drafting as well?

Mr. BEILENSON. Mr. Speaker, of course not.

Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. Hoagland].

Mr. HOAGLAND. Mr. Speaker, I am proud to rise in support of the California Desert Protection Act.

I support the California Desert Protection Act, H.R. 2929 before us today. As one who went to college in California and who has spent considerable time exploring the deserts and rivers of the West, I am very enthusiastic about this bill. And one of the reasons I intend to vote for the California Desert Protection Act is that it addresses the protection of threatened and endangered species.

This bill calls for the designation of a new national monument in an area where threatened desert tortoise habitat is located, to be called the Mojave National Monument. The desert tortoise is threatened with extinction and may become extinct unless we act now to preserve and protect its habitat in the California desert. In just 50 years, the desert tortoise population has declined so dramatically that where there used to be 1,000 tortoises per square mile, there are now as few as 20 to 50 per square mile.

Why this drastic decline? The pressures from civilization have brought the tortoise to a perilous point in its existence: predation on young tortoises from ravens who flock to trash dumps and road kills for carrion; off-road vehicles that compact the desert soil, and crush the animal's burrow, affording the tortoise no respite during the day from the brutal desert sun; or vehicles that crush the eggs in the burrow.

Another animal fighting to survive in the harsh California desert is the desert bighorn sheep. This animal requires vast areas of wilderness land over which to roam. It cannot survive if it is confined to isolated islands surrounded by seas of development. The gene pool of any species cannot be confined to only a few individuals or the species will suffer grave consequences over time.

The desert bighorn has also suffered from cattle who forage for the same grasses and who carry diseases to which the bighorn have developed no tolerance. Mining activities have taken a toll because huge amounts of water are necessary for heap-leach mining, water that is also vital to bighorn survival.

Opponents of H.R. 2929 argue that the Bureau of Land Management plan for the California desert is enough to protect the resources while allowing multiple use of the land. In my opinion, this is simply not the case.

The fact that the desert tortoise is listed by the Department of the Interior as a threatened species is evidence that the BLM's plan is inadequate. Indeed, in 1980, when the BLM first issued its plan, the Council on Environmental Quality praised the BLM for its superlative inventory of the resources of the desert, but CEQ also criticized the plan. Quoting portions of the BLM's own environmental impact statement, the Council said, "Eight officially listed species would receive substantial impacts to their habitats, contributing to extirpations in some cases and possible extinction in others." CEQ also pointed out that the EIS found, "Of 70 special wildlife habitat areas, 71.4 percent would receive either negative or severely negative impacts."

These are just two of the creatures who have found an ecological niche in the California desert. There are many others as well. The desert offers a home to more than 750 species of wildlife alone, but of these, nearly 100 are on the brink of extinction.

We must act now to keep these and other animals from extinction and to provide protection for the unique ecosystems that still flourish in the California desert. I urge my colleagues to vote for H.R. 2929.

Mr. LEHMAN of California. Mr. Speaker, will the gentleman yield?

Mr. HOAGLAND. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Speaker, I thank the gentleman for his excellent comments here and would only say in support of them that 40 percent of the endangered desert tortoises that we find dead in the East Mojave have bullet holes in them.

PARLIAMENTARY INQUIRIES

Mr. DREIER of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DREIER of California. Mr. Speaker, I would like to ask what the procedure would be if we were to ask unanimous consent to have the Committee on Rules correct the problem that was acknowledged by the gentleman from California [Mr. Beilenson].

The SPEAKER pro tempore. The manager of the rule could offer an amendment to the rule. No one else can.

Mr. BEILENSON. Mr. Speaker, the manager of the rule is advised to advise his friend, the gentleman from California, that he has not been authorized by the Committee on Rules to offer such an amendment.

Mr. DREIER of California. Mr. Speaker, what would be the procedure then if we would like to proceed and have the Committee on Rules take that action?

☐ 1650

The SPEAKER pro tempore. (Mr. McNulty). That could be the prerogative of the manager of the rule or by a vote on the rule.

Mr. WALKER. I have a further preliminary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Would it not be possible to defeat the previous question on the rule and offer an amendment at that point to clean up the rule that the manager of the rule himself has admitted is flawed?

The SPEAKER pro tempore. If the previous question is defeated, a germane amendment to the rule would be in order.

Mr. WALKER. So, therefore, the way the House can correct it, if the gentleman from California is not permitted to do so because he does not have instructions from the Committee on Rules, the way for the House to correct a rule that we have now had an admission of a flaw is to defeat the previous question and thereby be able to offer a correction?

The SPEAKER pro tempore. An amendment to the rule would be in order if the House does not order the previous question.

Mr. WALKER. I thank the Chair.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to my friend, the gentleman from Bakersfield, CA, Mr. Thomas.

Mr. THOMAS of California. Mr. Speaker, I request the attention of the gentleman from California [Mr. Beilenson]. I want to tell my friend that I apologize for the statement that I made in terms of characterizing the behavior. Clearly, by his admission that there was a mistake and there was a misunderstanding in the drafting of the rule and Members were not aware of what they were doing, that clearly explains the way in which the rule was written.

I hope the gentleman can understand my feeling in terms of an interpretation, when we are supposed to have

been given a fair shot at something, but clearly the way it is structured it did not indicate that there was an opportunity at all because all of the other amendments were going to apply to the underlying bill anyway.

I want to apologize to the gentleman in terms of my characterization of the motivation, since he has indicated that it was in fact a mistake.

Mr. BEILENSON. Mr. Speaker, if the gentleman will yield, I appreciate what the gentleman says but this gentleman had not been offended, and I think my colleagues had not been offended by the gentleman's remarks.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Redlands, CA, Mr. Lewis.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague yielding this 1 minute.

Mr. Speaker, I rise for two purposes. First, I want to address myself to the comments of the gentleman from Nebraska. I want very much to associate myself with his remarks about the need for protecting the environment of the desert. Indeed, it is a very complex ecosystem, a tremendous challenge for all of us.

That is precisely why we reviewed all the elements of the desert and why there were 4 years of public hearings. Those elements have been taken carefully into consideration under the substitute that will be before us shortly.

Beyond that, Mr. Speaker, I want to express my appreciation to the Members of the Committee on Rules, both the presiding member from the majority side as well as my colleague, the gentleman from California [Mr. Dreier], for the cooperation they have extended to us during the process of trying to develop this rule. Indeed, they have been more than helpful as far as my interests are concerned.

The SPEAKER pro tempore. All time of the gentleman from California [Mr. Dreier] has expired. The gentleman from California [Mr. Beilenson] is recognized for 30 seconds to close debate.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 160, not voting 18, as follows:

[Roll No. 418]

YEAS—256

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slaughter
Smith (FL)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NAYS—160

Allard
Allen
Anderson
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Brooks
Carr
Crane
de la Garza
Doolittle
Gaydos
Hayes (IL)
Lloyd
Morrison
Mrazek
Myers
Quillen
Sharp
Slattery
Smith (IA)
Torricelli
Towns
Yatron

☐ 1716

The Clerk announced the following pair:

On this vote:

Mr. Torricelli for, with Mr. Doolittle against.

Messrs. PORTER, BARTON of Texas, and IRELAND changed their vote from "yea" to "nay."

Messrs. MARTINEZ, DWYER of New Jersey, HUTTO, and ORTON changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. Michel was allowed to speak out of order.)

Mr. MICHEL. Mr. Speaker, I asked for this opportunity to proceed so that I might inquire of the distinguished majority leader the program for the balance of the day and the week, as he sees it now unfolding.

Mr GEPHARDT. Mr. Speaker, will the gentleman yield?

VOL
137
PT
23
NO
21—25
1991
UMI

Mr. MICHEL. I yield to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding.

Mr. Speaker, I appreciate this opportunity to give Members more complete information about tomorrow. Again, there is the possibility of the vote on the rule for the suspensions. This rule will not only include the procedure for the suspensions but it is what we call the martial law rule that allows us to go through the rest of what we are going to do in this period before we leave.

It is a rule that I am told by members of the minority that is always opposed by the minority and I assume there will be a vote on it. There is also the possibility, although I do not know that, that there could be a vote on going to conference on the banking bill. The Senate has finished the supplemental appropriation, and we may try to go to conference on the supplemental appropriation bill tomorrow.

So we will try to get those votes, and if there are votes on the other two, and certainly the vote on the rule as soon as we can, around 12 or 1, so that if Members want to be here for those votes, they can get them out of the way.

We will roll the votes on the suspensions until Monday.

Mr. MICHEL. One further inquiry: Would the Committee on Rules be meeting on any measure that might come before it, requiring a rule in the next couple of days? For example, RTC, or something of that nature?

Mr. GEPHARDT. The Committee on Rules may well be meeting tomorrow on campaign finance or RTC.

Mr. MICHEL. Any other?

Mr. GEPHARDT. Perhaps October surprise, but I do not know that.

Mr. MICHEL. So that Members wanting to present their case before the Committee on Rules, on either one of those three, I suspect would have to be prepared to make that tomorrow.

Mr. GEPHARDT. Correct.

Mr. MICHEL. Could the gentleman tell me if that is a distinct possibility? I see the chairman of the Committee on Rules is here, and he may be able to enlighten us a little bit more on that because I think it would affect some Members if they knew they definitely were not going to be considering a rule on such-and-such that they did not have to stay the entire day to make a case before the committee, and it might help.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Massachusetts [Mr. MOAKLEY].

☐ 1720

Mr. MOAKLEY. Mr. Speaker, the Committee on Rules at the present time does not have any idea of taking up October surprise tomorrow.

Mr. MICHEL. OK; how about RTC?

Mr. MOAKLEY. Very possible, RTC.

Mr. MICHEL. And any other?

Mr. MOAKLEY. Campaign finance reform absolutely. That is all that we have on our agenda at this present time.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, is there some reason why we cannot come in earlier than noon tomorrow?

Mr. GEPHARDT. There is no particular reason. We felt that noon would be the normal time that we would meet, and we would try to get this rule out of the way, and Members would probably be free at that point.

Mr. ROSTENKOWSKI. Well, we have nothing to do at 9 o'clock in the morning.

Mr. MCEWEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. MCEWEN. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL] for yielding.

Mr. Speaker, just a further inquiry. As I understand it, the Committee on Rules has already voted out the martial law, martial rule law. Is there anything that would prevent us from considering it tonight and then have no votes tomorrow at all?

Mr. GEPHARDT. If the gentleman will yield, it would require a two-thirds vote.

I would also remind Members of what we are trying to do. Most Members have said over and over again that we want to try to get us out of here by next Tuesday night. We have a number of conferences going on, we have a number of activities that need to take place here tomorrow, and we are trying our best to get it done.

Mr. Speaker, I know Members want to be home over the weekend. I know Members want to go home on Tuesday night. I beg their patience so that we can get all of the things done that we have to get done in order to be able to get out of here on Tuesday night.

Mr. MCEWEN. Mr. Speaker, if the gentleman would yield further, as I understand it, the only vote tomorrow then is on this particular rule.

Mr. GEPHARDT. There could be a vote going to conference on the banking bill. There could be a vote going to conference on the supplemental appropriation.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, let me say to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], that on our side, as the gentleman knows, earlier today the entire conference met and adopted an economic growth package. In fact we want to come to the Committee on Rules to ask them to make it in order as a possible amendment to the RTC. It would be frankly easier on the staff if we could have that particular item considered on Monday morning, or sometime on Monday, under the martial law rule they intend to pass.

Mr. Speaker, I ask the gentleman, "You don't have any problem with bringing up the rule the same day it's reported out?" It would be more convenient on our side if it is possible to do that. If we have to, we can get it prepared by tomorrow, but, just as a practical matter, unless there is some overriding reason, it would be easier to take up the RTC from our standpoint on Monday so then we can bring in all the full details on the economic growth package.

Mr. GEPHARDT. We will take that into consideration.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague, the gentleman from Illinois [Mr. MICHEL] yielding.

Mr. Speaker, I certainly do not rise to suggest that it would be likely to have votes tomorrow, but, if we are going to have votes in the middle of the day tomorrow, it does occur to me that Members might like to know, in order not to stay here all night in the process. Once we get through an hour's general debate on the bill, I frankly would like to have the hour in which we are going to spend time on the substitute that reflects the interest of the four Members who have not had a chance to really effectively be heard on this bill whose districts are directly affected. I think that opportunity would come much better in the morning when the Members have had a chance to reasonably rest, et cetera.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, I would like to respond to what the gentleman said.

It is our intent to go forward this evening, but if it is acceptable to the minority, we can start at 10 o'clock in the morning to try to get the rule done and to get other matters done as quickly as possible.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. DREIER of California. Are we going to be in session on Sunday?

Mr. GEPHARDT. No.

Mr. DREIER of California. Not even pro forma session?

Mr. GEPHARDT. Might be a pro forma session, but we will not have votes on Sunday.

Mr. MICHEL. Mr. Speaker, if there are no further questions, I yield back the balance of my time.

(By unanimous consent, Mr. ROE was allowed to speak out of order.)

REQUEST FOR HELP

(Mr. ROE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, I would like to amplify this for the benefit of the Members. I have been speaking with my colleagues over here. We have to ask the Members to help us.

Now what we mean is that we know there is a great deal of work, as the majority leader and our distinguished ranking minority leader said. But if we call 50 million votes tomorrow, our conferees will not be able to finish our work. The Transportation Bill is of humongous magnitude, as my colleagues will appreciate, and tomorrow we are going to be meeting on the Senate side. We have been moving back and forth.

So, I just ask the Members, if I may, to give us a break tomorrow, and I say, "If you want to get out of here Tuesday, we can finish that conference report, but we need your help."

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. on tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

POINT OF ORDER

Mr. THOMAS of California. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCCURDY). The gentleman will state his point of order.

Mr. THOMAS of California. Did the Speaker pro tempore rule that the request for a vote was timely?

The SPEAKER pro tempore. Yes, the gentleman from Massachusetts [Mr. FRANK] was on his feet.

Mr. THOMAS of California. Mr. Speaker, the whole House was on its feet for 5 minutes.

The SPEAKER pro tempore. The gentleman was on his feet requesting recognition, and the House was not in order.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 269, nays 135, not voting 30, as follows:

[Roll No. 419]

YEAS—269

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barton
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaugther
Smith (FL)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (FL)
Zimmer

NAYS—135

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Pursell
Ramstad
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Ros-Lehtinen
Roth
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Wolf
Wylie
Young (AK)
Zeliff

NOT VOTING—30

Andrews (NJ)
Brooks
Carr
Clay
Crane
de la Garza
Doolittle
Gaydos
Hopkins
Huckaby
Johnston
Lloyd
Manton
Marlenee
Martin
McDade
Morrison
Mrazek
Myers
Nagle
Quillen
Rohrabacher
Sharp
Smith (IA)
Solomon
Tauzin
Torricelli
Towns
Weldon
Yatron

☐ 1744

The Clerk announced the following pair:

On this vote:

Mr. Torricelli for, with Mr. Doolittle against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO MODIFY BLAZ AMENDMENTS EN BLOC NO. 10 TO H.R. 2929, THE CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. BLAZ. Mr. Speaker, in order to save time later on, I ask unanimous consent that when the bill (H.R. 2929) is considered in the Committee of the Whole, in lieu of amendment No. 10 as printed, I be permitted to offer a modified amendment in the form of an amendment at the desk.

The SPEAKER pro tempore. The Clerk will report the modified amendment.

VOL 137 PT 23 NO 21—25 1991 UMI

The Clerk read as follows:

Modified amendment offered by Mr. BLAZ: Instead of the matter proposed to be inserted, insert the following: Page 65, after line 15, add the following new title:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) While changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragarph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified

in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management of public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary

VOL 137
PT 23
NO 21—25
1991
UMI

of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1994, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1994, unless authorized by subsequent Act of Congress.

SEC. 812. MILITARY OVERFLIGHTS.

(a) DISCLAIMER.—Nothing in this Act shall preclude low-level overflights by military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over the new units of the National Park or National Wilderness Preservation Systems (or any additions to existing units of such Systems) designated by this Act.

(b) MONITORING.—The Secretary of the Interior shall monitor the effects of aircraft overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and on visitor enjoyment of such units. The Secretary of the Interior shall actively seek the assistance of the Secretary of Defense, consistent with national security needs, to resolve concerns related to such overflights and to prevent, eliminate, or minimize the derogation of resources and values and of visitor enjoyment associated with overflight activities.

Mr. BLAZ (during the reading). Mr. Speaker, I ask unanimous consent that the modified amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Guam?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

Mr. VENTO. Mr. Speaker, I reserve the right to object, so that I may ask the gentleman from Guam whether the modification he is proposing is the same one that he and I have discussed and agreed upon earlier.

Mr. BLAZ. Mr. Speaker, will the gentleman from Minnesota yield under this reservation?

Mr. VENTO. I am glad to yield to the gentleman from Guam.

Mr. BLAZ. Mr. Speaker, I thank the gentleman for yielding, and I can assure him that this is the same modification to my amendment that he and I have worked out together. If my unanimous consent request is agreed to, my amendment would omit any provisions related to the lands around Fort Irwin, because the military's concerns about those areas have already been addressed in a previous amendment. It would have the same provisions relating to China Lake, Chocolate Mountain, and the El Centro range areas as I Mr. VENTO's amendment. And it would have the overflight language, based on the administration's testimony on Mr. VENTO's military withdrawal and overflight bill, that was worked out and agreed to in discussions between Mr. VENTO and myself earlier this week.

Mr. VENTO. Mr. Speaker, I appreciate the explanation that the gentleman has provided. I want to thank the gentleman from Guam for his cooperation with regard to this important matter. I believe that the Vento-Blaz form of the Blaz amendment fully and properly addresses both the genuinely necessary renewal of the military withdrawals of the China Lake and Chocolate Mountain areas, and the perceived need of the military for a disclaimer concerning continued overflights by military aircraft of the lands dealt with in this bill. With this modification, I can fully support the amendment, and so, Mr. Speaker, I withdraw my reservation of objection to the modification.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

Mr. WALKER. Mr. Speaker, reserving the right to object, might I inquire, under the modification that is being contemplated with this motion or with this action, who will control the amendment?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, it is the intention that the gentleman from Guam [Mr. BLAZ] will control and offer this amendment. It is a modification to his amendment which is in order by the rule.

If the gentleman would continue to yield, in the event that amendment which we have agreed to is offered and accepted, I would not offer the amendment that I am listed to offer.

Mr. WALKER. Mr. Speaker, further reserving the right to object, my concern here is that we went through an exercise just a couple of minutes ago with regard to the rule where we asked unanimous consent that the rule be corrected to correct the flaw that was obvious in the rule, that the manager of the rule said was there, and we could not get unanimous consent to do that. I see no reason for the House to give unanimous consent for something which is outside the rules process and, therefore, I object.

The SPEAKER pro tempore. Objection is heard.

MODIFICATION OF APPOINTMENT OF CONFEREES TO H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

The SPEAKER pro tempore. Without objection, the Chair announces the following appointment of conferees to H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991: Pursuant to the previous order of the House of November 6, 1991, the appointment of conferees on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, is modified by adding at the end thereof the following new paragraph:

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference: Mr. CONYERS and Mr. HORTON.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–351) on the resolution (H. Res. 294) waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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CALIFORNIA DESERT PROTECTION ACT OF 1991

The SPEAKER pro tempore. (Mr. MCNULTY). Pursuant to House Resolution 279 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2929.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Parks, and for other purposed, with Mr. BARNARD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. LEHMAN] will be recognized for 30 minutes, and the gentleman from Guam [Mr. BLAZ] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN.]

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an important day for the State of California, the culmination of years of work toward enacting sweeping legislation for the protection of the California desert. I want to at the outset acknowledge the tremendous cooperation of the Members who have been involved directly in this process over the past year:

The gentleman from California [Mr. LEVINE], my wonderful colleague and friend who has been indefatigable in pursuit of this legislation for the past few years and who has worked closely with me over the course of this year to bring this legislation to the point; the gentleman from California [Mr. MILLER], our chairman on the Committee on Interior and Insular Affairs, who worked closely with us at all times and successfully steered this bill through the full committee; the gentleman from Minnesota [Mr. VENTO], chairman of the Subcommittee on National Parks and Public Lands, who had this jurisdiction for several years, who has been a friend of the desert during that time and who has visited the area on several occasions and whose great work is also embodied in this legislation.

And I want to thank the gentleman from Guam [Mr. BLAZ], my good friend whom I have had the pleasure of working with and for whom I have great respect and with whom we both share a love of this area. He has certainly contributed an awful lot to this legislation. I know we find ourselves still with some differences, but that is not because we have both not honestly tried to work together to get a good result here. I want to commend him and thank him for his participation.

As members are aware, legislation similar to what we are considering today was first introduced in 1986. There have been six public hearings on this matter, three in California and two in the desert itself. Numerous field inspections have been undertaken by Members of this House and by staff. Over 500 witnesses have been heard in connection with this legislation. Indeed, no other land-use issue since the Alaska Lands Act has found this kind of intense congressional scrutiny.

Mr. Speaker, business as usual for the California desert is not an option any longer. Protection of the desert is imperative and this protection must begin with legislation followed by tough administrative guidelines. The California desert plan was the beginning, not the end, of a management process which continues to evolve.

The great California desert encompasses 25 million acres. The American people clearly want land use decisions concerning this property to reflect their values. They want exploitation carefully balanced with protection. They want recreation that does not unduly harm the landscape. They want the most precious and primitive and pristine areas left intact, untouched, insofar as possible, for future generations to appreciate. And they want the cruel and senseless extermination of fragile species to end now.

Contrary to what we have heard, this bill does not eliminate man's presence in the desert. It does not prohibit human activity: mining, grazing, hunting, motoring. Indeed, the desert is vast and there is room for all things in some measure. It does, however, place reasonable limits and restrictions on activities in some areas where the use at existing levels is contrary to the public interest.

We can plant new trees in the forest and hope that they may grow, but we cannot do the same in the desert. A perfect illustration of this type of problem is the scaring left by General Patton's troops 50 years ago can still be seen. The loss of habitat is irreversible. Five years is long enough for the bill to be debated. And we should not procrastinate further.

This bill designates 4.3 million acres of BLM managed land as wilderness. It redesignates the Death Valley and Joshua Tree National Monuments as national parks, enlarges them and designates areas within these expanded parks as wilderness. The bill also establishes the Mojave National Monument, designates it as a unit of the National Park System, and designates certain lands within it as wilderness. This is not the same bill that has been around for 5 years.

A total of 271,000 acres was deleted in H.R. 2929 from past desert proposals and in the en bloc amendment today, the gentleman from California [Mr. MILLER] will propose to release, to take out another 160,000 acres. Most off-road vehicles have been carefully excluded from the legislation with another 75,000 more acres of recreation trails added to the proposal which is the equivalent of 114 miles. No active mines are within any of the wilderness boundaries. Valid existing mining claims are protected in wilderness and parks. However, we have eliminated 73,400 more acres for certain mining interests.

Grazing is allowed in wilderness areas, although not generally in national parks. However, we have made an exception. We have provided that grazing in the Mojave and in the additions to Death Valley can continue for 25 years or lifetime of the permittee holder.

Hunting is, of course, allowed in the wilderness. This bill does not eliminate hunting on wilderness. It is allowed there.

It is, of course, not allowed in national parks and monuments, which is a longstanding park policy. But there is not hunting today in the Joshua Tree, and there is not hunting today in the Mojave. And this does not change that one bit.

We have provided for an exchange system here to consolidate Federal lands in many of these designated areas, while allowing private landholders in the State of California to trade out their property on a value-for-value basis.

Finally, we have solved all of the concerns that the various utilities have had with this bill by removing 27,000 acres from it.

These are just a few of the many problems we have solved and the compromises we have made from past desert bills.

My colleagues, the easy environmental issues have been solved. This decade we in Congress and the citizens of this Nation will be faced with the toughest questions yet. Can we blindly continue to use every last resource and destroy crucial habitat as if there is no tomorrow? Or, do we take the challenge that is presented to a truly ad-

VOL
137
PT
23
NO
21—25
1991
UMI

vanced society which accepts the long-term benefit over the short-term gain. Do we continue to tell other countries to stop unwise resource use, when we cannot protect our own public land? Or, do we stand before the international community, proudly and boldly as an example to all countries of the world as a nation which decided, before it was to late, to lead by example not by words.

Today you are faced with the opportunity to cast a vote that will genuinely make a difference. I ask for you to vote in favor of H.R. 2929 and against any weakening amendments. Time is running out for one of the world's great ecosystems. Let us act now to preserve indelibly this important part of our natural heritage.

Mr. Chairman, I reserve the balance of my time.

Mr. BLAZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG], the ranking member of the committee.

Mr. YOUNG of Alaska. Mr. Chairman, first let me compliment the individuals who have worked on this legislation: the gentleman from Guam [Mr. BLAZ], ranking member, and the gentleman from California [Mr. LEHMAN].

I do rise in strong opposition to this legislation. That is no surprise.

I rise not necessarily about the California desert bill. I rise in opposition to what this Congress has been doing for the last 15, 20 years.

☐ 1800

This Congress has taken land that is productive and that provides jobs for the American workingman out of production; 676 million acres of land that does not produce one nickel or dime, it produces zero. California has a terrible job climate today. This bill is going to cost jobs regardless of what the gentleman says. It is going to cost jobs, it is going to cost money, it is going to cost taxpayers money to run this.

Everytime I stand on the floor and bring this to the Congress, the people's ideas that we can have both, the Irish wilderness was brought to the floor, it cost approximately 2,000 jobs and it was not even a wilderness but it was a fine mineral deposit. It would have used about 150 acres.

The concept that we keep placating the so-called environmental movement by taking land and setting it aside is wrong, because this Nation was built on natural resources and only can continue to grow on natural resources. The fiber, the minerals, the fossil fuels, and yes, the wind power and the nuclear power, all the other powers, do not come from the sky. It means development of resources that God has given this country.

Now, the gentleman from California mentioned a while ago that we have a responsibility to the environment, and that is true. But we also have a responsibility to the people, the working men and women of this country. We are losing that responsibility. We are not providing the jobs.

It is ironic to me, as the gentleman just previously spoke, if this same Congress had been sitting when they developed the central valley project there would still be a desert there, not the ability to provide the food for the State of California and for the people of this United States.

If we had this same Congress back in the 1800's we would not have the Transcontinental Railroad. If we had the same Congress in 1933, when Franklin Delano Roosevelt was here, we would not have the Boulder Dam, the Tennessee Valley project that provides us the power and the jobs for the people.

This Congress has got its head buried in the sand. We hear a lot of presidential bashing about the economy of this Nation and about the lack of jobs. I heard these 1-minutes all from this side today talking about the lack of jobs and how the people are not employed, and yet this Congress, every day it brings a bill to the floor of the House and the Committee on Interior and Insular Affairs and takes jobs away from the people.

The spotted owl is going to cost us 35,000 jobs. This bill alone will cost more than 500 jobs, and no future jobs, regardless of what the gentleman says. I can go on with the California wilderness, the Oregon wilderness, the Idaho wilderness bill, the Washington State wilderness benefits bill, and yes, the Alaska wilderness bill, 147 million acres, and it all takes jobs from the American people.

This side cannot have it both ways. You are talking about the economy and you keep putting bills on this floor to take away the opportunity of the American people. You do not provide us with the energy that this country needs. And then they say we must do it to protect the environment. If you do not have a strong economy, your environment is destroyed.

Go to India. Go to these Third World countries and find out, because the people are underfed, unemployed, because they do not in fact have any money. They have terrible environmental damage being incurred.

We must get some balance in this Congress, get some ideas in this Congress that we can have our environment but we must not continue to put this vast amount of land aside without understanding the effect upon the economy and the people directly affected by the loss of their jobs.

I am going to support the Lewis amendment. I think that is probably more realistic. I am not excited about that as much as I should be, but this so-called compromise is a bill that creates chaos in the economy of this Nation because it takes out the opportunity for future advancement and opportunity for the working men and women.

Mr. LEHMAN of California. Mr. Chairman, I yield 5 minutes to the gentleman from California, [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, for 5 years, despite a great deal of urging by the gentlemen from California, my good friends, Mr. LEHMAN and Mr. LEVINE as well, and a great deal of input in support of this legislation from my constituents, I have withheld my cosponsorship from desert protection legislation out of respect for my colleagues who represent the affected area.

Now, Mr. Chairman, I rise in strong support of H.R. 2929. Today I am proud to list myself as a cosponsor of this important bill, introduced by my friends from California. Mr. LEHMAN and Mr. LEVINE, and of course by the gentleman from California, [Mr. MILLER], the chairman of the full committee.

The bill is really a product of more than 5 years of work by the bill's sponsors. During this period the sponsors have made every effort to reach out to the many groups affected by it, to forge compromises and to address legitimate concerns. The sponsors have in my estimation done an admirable job.

Let me briefly highlight some of the compromises reflected in the bill. Earlier proposals seeking desert protection, Mr. Chairman, called for a 10-year phaseout of grazing to accommodate existing grazing interests in the area that will become the Mojave National Monument and in a small portion of Death Valley. As brought to this floor, the measure would extend grazing phaseout periods more than twofold, to 25 years. In addition, the desert protection bill gives priority to the acquisition of livestock owner's base property on a willing seller basis only.

We have already heard questions about limited access to these lands, that access is somehow being denied to the vast majority of working Americans and their families. The Governor of my own State has argued that in this bill we are locking up the desert and that only those hardy enough to backpack will be able to enjoy it.

Mr. Chairman, I find nothing in this measure to support that contention. The bill leaves open a network of more than 33,000 miles of roads and jeep trails. Of the lands that the bill designates as wilderness, fully 85 percent are within three miles of vehicular access. Nonetheless, the sponsors have made additional compromises on this front as well. The proposal before us opens an extra 107 jeep miles in addition to those already provided in earlier versions of the bill.

The sponsors also made concessions to the concerns of the utility industry. The industry, which previously opposed the bill, now testifies that it has no objection to the measure. In addition, accommodations have been made to the mining interests in the area. The original boundaries in the desert proposal were drawn to avoid known mining claims. These boundaries were taken form information supplied by the Bureau of Mines, the Bureau of Land Management, the U.S. Geological Survey, and the State of California.

Since the introduction of the original desert proposal many additional modifications have been made. H.R. 2929 has deleted an additional 71,000 acres from wilderness and park boundaries to accommodate the concerns of the mining industry.

Finally, Mr. Chairman, of particular importance to me, the bill includes a provision that protects the financial interest of California's retired teachers fund. There are approximately 340,000 acres of California school lands scattered within the proposed desert wilderness and park areas. This represents almost 50 percent of the surface ownership of the State school lands.

Unlike other earlier versions of the bill, H.R. 2929 directs the Secretary of the Interior to enter into land exchanges with the California State Lands Commission as a means to compensate California retired teachers on a value-for-value basis for the Federal acquisition of school land assets.

So, Mr. Chairman, I think the opposition's argument that the bill is not a compromise is not accurate. Time and again the sponsors have made every effort to address the many conflicting concerns about the protection of the California desert.

I am sure tonight we will be able to work out the concerns of the Pentagon as well. So I strongly support H.R. 2929. I urge my colleagues to vote for this much needed statutory protection which has been properly compromised. It is vital and unique, a natural resource that is irreplaceable.

I know our colleagues on the Republican side mean well. I know they have gained quite a bit in their negotiating.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from California [Mr. LEWIS], my friend from the Redlands area.

Mr. LEWIS of California. Mr. Chairman, my colleague, the gentleman from California [Mr. FAZIO] and I have worked together for years, as the Members know. But I would say to my colleague that that last comment may have been communicated to him as a matter of the record, but the fact is there has not been any negotiation entered into on the part of the authors on this bill, not one moment of negotiation, even though we have heard serious requests for that negotiation.

☐ 1810

Mr. BLAZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I had hoped to speak at length on this subject, but out of respect to those particularly affected, I shall be brief.

Let me respond to the comments of the chairman, the gentleman from California [Mr. LEHMAN] earlier and say also that I really enjoyed working with the gentleman from California [Mr. LEHMAN]. I enjoyed working with the gentleman from California [Mr. PANETTA]. I enjoyed working with the gentleman from California [Mr. LEWIS], and I am particularly grateful to the gentleman from Alaska [Mr. YOUNG] for permitting me, a delegate, to manage a bill. I am grateful to the leadership on my side.

Reluctantly, Mr. Chairman, I rise in opposition to the bill. It pains me, for I was stationed in that desert, ironically at Twentynine Palms. I thought maybe the bill was named after that base, but it really was not.

Later on I shall yield to the four people from the desert who are immediately affected. I should like at this time, however, to say that I have every intention of introducing an amendment that affects the military.

The spectacular success that we enjoyed in the Persian Gulf was not due to the experience in the Arabian Peninsula, but because of the training that we had in the Mohave Desert. I have an obligation to those with whom I have served to make sure that I introduce that amendment. Whether it fails or wins, it makes no difference. I must fulfill that obligation.

Rather than take up too much time, Mr. Chairman, I shall end with this. I was somewhat disappointed and surprised that the people who are most immediately affected were apparently not consulted in the authorship of this bill. To me that oversight, intended or perhaps unintended, strikes at the very core of representation, and it would seem to me that it would displease me no end personally if I thought that someone in this body would have a bill that would literally change my district, my 8-mile wide district, without giving me the courtesy of a phone call.

So that to me is my contribution to this debate. We must ask you to give weight to those elected to represent the districts that are being considered this afternoon.

Mr. LEHMAN of California. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. LEVINE], the original sponsor of the bill.

Mr. LEVINE of California. Mr. Chairman, I thank my friend for yielding me this time.

Mr. Chairman, before I address the merits of this legislation, I want to just take a moment to thank and recognize those without whose help we would not be here on the floor today. As others have mentioned, we have worked for 5 years to craft legislation that protects California's desert and also addresses the legitimate conflicts posed by businesses and other interests who have been concerned about this legislation. H.R. 2929 is the fruit of these labors.

All of the parties involved in this debate owe the subcommittee chairman, the gentleman from California [Mr. LEHMAN] a great debt of gratitude for his thoughtful leadership and commitment, and I personally want to thank my close friend and colleague, the gentleman from California [Mr. LEHMAN] for the leadership that he has shown with regard to this issue and in particular other environmental issues as well.

I also want to thank the chairman of the full committee, the gentleman from California [Mr. MILLER] for helping to bring this bill to the floor.

I also want to thank the chairman of the Subcommittee on National Parks and Public Lands of the Committee on the Interior, the gentleman from Minnesota [Mr. VENTO] who has worked long and hard for years in terms of helping to ensure that this legislation achieved these objectives.

I want to join the gentleman from California [Mr. LEHMAN] and the ranking member, the delegate from Guam [Mr. BLAZ] for his thoughtful consideration as well.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 2929, the California Desert Protection Act of 1991. I am pleased that after years of hearings and debate on this issue, the House has the opportunity to enact legislation that will provide prudent and appropriate protection to areas of the California desert.

I commend Congressman LEVINE and Congressman LEHMAN for their leadership on this issue and also recognize Chairman MILLER for his role in facilitating the House's consideration of this important legislation. As my colleagues know, I represent a large portion of the California coastline and have worked very hard to provide adequate protection to our nation's significant and sensitive natural treasures.

The California desert is one of those national treasures. Areas protected under this bill, such as the Joshua Tree Forest, Death Valley, and portions of the Mojave Desert, are unique, fragile resources warranting strong protection from development. I am particularly pleased that Congressman LEVINE and Congressman LEHMAN were able to craft a compromise bill that will allow multiple use of the desert's resources to continue, while providing an adequate level of protection for the desert's most sensitive resources.

As chairman of the House Budget Committee, I would also like to commend the Interior Committee for the fact that the Congressional Budget Office has estimated the pay-as-you-go effects of this bill as zero for each year through 1995, for purposes of sections 252 and 253 of the Balanced Budget and Emer-

VOL
137
PT
23
NO
21—25
1991
UMI

gency Deficit Control Act. I also appreciate the committee's willingness to address a Budget Act issue related to the State school lands credit language in the bill, as part of Mr. LEHMAN's en bloc amendment.

Mr. Speaker, the authors of H.R. 2929 have labored hard to address the concerns of the desert's multiple use community and have devised a responsible compromise bill. H.R. 2929 manages to strike the often elusive balance between providing adequate protection of the desert's most sensitive resources with serving the multiple use needs of desert users. I urge my colleagues to help in this effort by offering their strong support to H.R. 2929.

Mr. LEVINE of California. Mr. Chairman, there have been a number of staff people also, and one in particular I want to pay tribute to is Betsy Ford on my staff who has labored in the vineyards for 5 years on this bill.

Mr. Chairman, the vote that we will cast today in all likelihood will be one of the most important environmental votes cast by this Congress. It is certainly one of the most important environmental votes ever taken with regard to California. That is why passage of this bill, and defeat of the weakening amendments are a top priority for 118 environmental organizations.

Passage of H.R. 2929 will create a living legacy to future generations, and it will be a vote that all of us will have been proud to cast.

I am often asked by people from other parts of the country why protecting this desert is so important. Some actually believe the desert is a wasteland, essentially devoid of life. Nothing could be further from the truth. The California desert is one of this Nation's crown jewels.

I have seen firsthand the incredible variety of wildlife that makes its home in the desert. I have sat under the desert's night sky with my own son, Adam, and seen a panorama of stars and mountain silhouettes as I had never seen before. I have seen the breathtaking wild flower blooms that cover the desert floor in the spring.

The history of the desert is extraordinary. Within the lands protected by this bill, you can find real ghost towns dating back to the 1800's, prehistoric paintings and native American village sites.

H.R. 2929 protects the very best parts of the desert. Unless Congress acts, however, this amazing landscape will be lost to developers, miners, and the mismanagement of our own government. Congress must act, and act quickly, if we are to protect the integrity of the desert and its unique character. If we fail to pass this legislation, future generations will be denied this treasure.

This bill, Mr. Chairman, represents precisely what both desert residents and all Californians want, an end to the reckless abuse of the desert.

Local endorsements speak for themselves. Forty-nine California cities and counties have endorsed the bill, far outnumbering the populations of those who have opposed it. Seven desert cities and a number of other cities support the bill, and polls consistently have shown support for this legislation.

Mr. Chairman, we have made numerous compromises in this bill, as the gentleman from California [Mr. LEHMAN] and the gentleman from California [Mr. FAZIO] have already outlined, many of which have been described earlier regarding utility concerns, mining concerns, and military concerns.

I want to emphasize for the record, Mr. Chairman, that while we have had numerous public hearings, we, and I personally have beseeched my good friends on the other side of the aisle to come to the table and negotiate with regard to this legislation; but the fact is, I do believe and the record should be clear and I refer to my very good friend for whom I have very high regard, I talked to him privately. I have written to him. I have urged him to meet and urged him to negotiate and urged him to sit down. We have sat down with numerous interests. We have had significant compromises.

What we did not compromise, Mr. Chairman, however, and what we are committed to fight are the efforts of those who simply just oppose wilderness, those who believe every last acre must be exploited and those who do not understand why we must act now to protect what is left of the desert.

The face of the desert is changing. To my colleagues from the East who have never had the chance to see it, come visit it. It is an extraordinary place. The ecological diversity and historical sites protected by my bill are second to none. The passage of this bill will strike a major victory for environmental protection in the country.

Mr. Chairman, I strongly urge an aye vote on the bill and a no vote on weakening amendments.

Mr. Chairman, I include the following correspondence and material:

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
San Francisco, CA, January 30, 1987.

Memorandum to: Director, National Park Service.
From: Regional Director, Western Region.
Subject: California Desert Protection Act.

We have completed our analysis of the proposals contained in the California Desert Protection Act per your memorandum of May 5, 1986. Our recommendations are enclosed, along with the objective resource assessment on the various provisions. Nine additional copies of the assessment are enroute under separate cover. We are making copies of the resource assessment available to BLM's California State and Desert District Office.

Let us know if any additional information is needed on these legislative proposals.

HOWARD H. CHAPMAN.

WESTERN REGION RECOMMENDATIONS ON THE CALIFORNIA DESERT PROTECTION ACT

MOJAVE NATIONAL PARK

The NPS' Management Policies require that potential new units be evaluated in terms of the following three criteria: 1. Significance, 2. Suitability/Feasibility, and 3. Management Alternatives. The Policies state that potential new areas will normally not be recommended for authorization by the Service unless all three criteria are met.

1. As indicated in the resource assessment, this unit does not fill a major natural systems gap in the System based on the National Park System Plan: Natural History. The natural region in which the proposed unit is located, the Mojave-Sonoran Desert, is an extremely large and diverse region already containing a number of parks and monuments. Mojave Desert phenomena are protected and represented in the National Park System in Joshua Tree and Death Valley National Monuments.

The proposed unit contains a rich array of highly significant natural and cultural resources. It would be difficult to find an area of similar size with as many outstanding sites. Notwithstanding the fact that the area does not fill a natural systems void in the System, we believe that the overall quality of the area and the multiple resource attractions are sufficient to meet the significance standards for new units.

2. The proposed Mojave National Park is of sufficient size and character to permit administration, protection and preservation. Although the area would be relatively difficult and expensive to administer, given its history of ranching, mining, and ORV use, it does clearly meet the suitability/feasibility criterion.

3. The NPS Management Policies state that the Service will not ordinarily recommend the addition of an area to the System if other means are available to provide for resource preservation and visitor appreciation and use.

The question of whether suitable management alternatives exist depends largely on the level of protection considered to be necessary. In the case of Mojave, BLM has indicated its intent to accomplish protection and visitor use functions through the area's management as the East Mojave National Scenic Area. While management is not nearly as preservation-oriented as some park proponents might wish, BLM has authority to protect important natural and cultural resources, and has taken steps to protect key areas. Given adequate financial and personnel resources (which it does not currently have), and a commitment to preservation and visitor use, BLM could make this an outstanding national area.

However, BLM is presently committed to management of the area on a multiple-use basis. While controls on economic uses can preserve the essential integrity of the area, at least at the current level of demands for the area's potential products, protection is not absolute and compromises must be made between resource preservation and economic activities such as mining and grazing. The extent to which BLM could protect the area in the event of major mineral discoveries is questionable.

On balance, the proposed Mojave National Park meets the three new unit criteria specified in NPS Management Policies and would be a worthy and valuable addition to the National Park System. The boundary proposed in the legislation is appropriate for the unit.

We recommend its addition to the National Park System.

JOSHUA TREE NATIONAL MONUMENT

Proposed Additions: None of the proposed additions have highly significant natural or cultural resources justifying national park status on their own merits. Nevertheless,

based on management considerations, we believe that addition of the Coxcomb Mountains and Eagle Mountain areas to Joshua Tree National Monument would be appropriate and desirable. (See Option 2 in the resource assessment for Joshua Tree.) These additions display high resource quality, are continuations of mountain systems already within the monument, and would create more easily identifiable and patrollable boundaries than now exist. The incremental management costs of these additions would be modest, but necessary to provide for adequate management.

We do not recommend the other proposed additions. They neither offer high quality resources nor would they improve the monument's manageability. Rather, because of mining and ORV activities, they could increase management problems for the monument.

National Park Status: The legislation designates Joshua Tree as a national park rather than as a national monument. We believe such designation is appropriate.

Mineral Studies: As indicated in the assessment there are a substantial number of mining claims in the proposed additions. We believe the legislation's requirement for completion of a validity study within two years would be difficult to meet at a reasonable cost. We recommend that the timetable be increased to five years.

DEATH VALLEY NATIONAL MONUMENT

Proposed Additions: We believe most of the proposed additions to Death Valley would be desirable increments. As discussed in the assessment, the proposed additions include the Eureka and Saline Valleys. These areas have inherent natural qualities of nationwide significance and would add to the range of phenomena already present in the monument.

Although not considered to be as significant in resource value, the Panamint and Greenwater areas do include important natural and cultural resources worthy of protection and having significant interpretive value. The addition of these areas would also enhance the monument's manageability through better definition of the boundary.

The remainder of the proposed additions have value to the monument primarily in better defining the boundary and thereby enhancing the monument's capability for resource protection. The Owlshead Mountains addition also provides an added buffer to incompatible military uses.

We recommend minor deletions to the proposals in three areas to eliminate potential management problems. These deletions are discussed in the assessment under Options for Boundary Revision.

The additions represent a significant increase in the scope of the unit and would add considerably to the cost of managing the monument. Increased operational funding for Death Valley National Monument would be essential.

Wilderness Designation: The proposal for designation of wilderness within the existing boundary of the monument appears to be consistent with our long-standing recommendations. A revised map reflecting minor corrections is currently being prepared and will be forwarded to you shortly. This map should be transmitted to Congress and referenced in any legislation.

National Park Status: The proposed legislation designates Death Valley as a national park rather than as a monument. We recommend this change in designation.

Mineral Studies: There are thousands of mining claims in the proposed additions. We believe the legislation's requirement for completion of a validity study within two years would be difficult to meet at a reasonable cost. We recommend that the timetable be increased to five years.

A PRELIMINARY STUDY OF THE EAST MOJAVE AREA TO DETERMINE ITS SUITABILITY FOR INCLUSION IN THE NATIONAL PARK SYSTEM

(By Desert Plan Staff, Bureau of Land Management)

GENERAL DESCRIPTION

The Eastern Mojave study area covers 1.4 million acres in what is geographically part of the Mojave Desert, yet displays many features and biota of the Sonoran Desert to the south and the Great Basin Desert to the north and east. The study area contains 16 mountain ranges, 4 dry lakes a perennial stream, innumerable washes, mesas, buttes, badlands, cinder cones, lava beds, caves, California's most complex sand dune system, alluvial fans, bajadas, and many other expressions of geologic and geographic interest. Elevations in the study area range from about 900 feet near Baker in the Mojave River sink to 7,929 feet atop Clark Mountain.

In all of the California Desert there is no finer grouping of different wildlife habitats. Over 300 species of vertebrate forms have been observed here, including some whose California breeding grounds are limited to the East Mojave.

The Eastern Mojave is also rich floristically, with over 700 species of higher plants found in the region, including 25 rare or endangered species. Many species reach their extreme range limits here.

The Eastern Mojave contains many fascinating and unique cultural resources: petroglyphs, pictographs, Indian village occupation sites and trails, the historic Mojave (Old Government) Road, abandoned U.S. Army forts and posts, abandoned mines, railroads, ghost towns, and the Kelso Depot, a magnificent two-story railroad depot built in 1904, which is still in use.

CONCLUSIONS

It is the conclusion of the Desert Plan Staff that cultural and natural resource values of the East Mojave Study Area are so diverse and outstanding that the area readily qualifies for National Park or Monument status.

LOCAL GOVERNMENTS WHICH HAVE ENDORSED THE CALIFORNIA DESERT PROTECTION ACT

15 County governments have endorsed the California Desert Protection Act.

34 City governments have endorsed the California Desert Protection Act, including the 8 largest.

COUNTY GOVERNMENTS ENDORSING THE CDPA

Santa Barbara County, Sacramento County, San Francisco County, Santa Cruz County, Santa Clara County, Napa County, San Diego County, Los Angeles County, Marin County, Alameda County, Contra Costa County, San Mateo County, Placer County, San Joaquin County, and Monterey County.

CITY GOVERNMENTS ENDORSING THE CDPA

San Francisco, Riverside, Rancho Mirage, Escondido, Santa Monica, Del Mar, Palm Desert, West Hollywood, Coronado, San Diego, Poway, La Quinta, Ventura, Ontario, Fresno, Sacramento, Redlands, Long Beach, Upland, Davis, Irvine, Desert Hot Springs, Palm Springs, Visalia, Laguna Beach, Vallejo, Fairfield, Hemet, Los Angeles, San Jose, Oakland, Salinas, Berkeley, and Yucaipa.

CANYON RESOURCES CORP.,
Golden, CO, October 1, 1991.

Hon. MEL LEVINE,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE LEVINE: We sincerely appreciate the responsiveness of you and your staff in addressing the issues we raised concerning our proposed Briggs gold mine and adjacent gold deposits in the southern Panamint Range and the possible effects on our projects of H.R. 2929, the California Desert Protection Act of 1991. Your willingness to sponsor an amendment to the legislation which alters the boundaries of the proposed Manly Peak and Surprise Canyon Wilderness areas and deletes the Middle Park Wilderness area removes a potentially critical impediment to our projects. When the Briggs mine is opened in later 1993 or early 1994, we believe it will contribute each year $20 million in wages and purchases of goods and services to the local communities and $5.5 million in direct and indirect federal, state, and local taxes. The adjacent properties freed by the amendment offer the possibility of an adjacent $600 million in payroll and purchases and $160 million in taxes.

Your willingness to listen to our specific concerns and to craft an amendment that both permits productive economic enterprise and protests extraordinarily environmental values is laudatory. You certainly have resolved favorably our company's specific concerns with the legislation. Accordingly, we are pleased to withdraw our opposition to the bill, as amended.

Sincerely yours,

RICHARD H. DEVOTO,
President.

KERR-MCGEE CORP.,
Oklahoma City, OK, October 3, 1991.

Hon. RICHARD H. LEHMAN,
Subcommittee on General Oversight and California Desert Lands, House Interior and Insular Affairs Committee, House Annex 1, Washington, DC.

DEAR MR. CHAIRMAN: I would like to take this opportunity to express Kerr-McGee Corporation's appreciation to your staff for the able assistance they provided to us regarding certain provisions of the California Desert Protection Act (H.R. 2929).

In light of the amendment you and Congressman Levine offered to H.R. 2929 on October 1, 1991, Kerr-McGee will now be able to continue development of the Ratciff Mine gold deposit located in the southern Panamint Range, Inyo County, California. As we discussed with Ms. Beller of your staff and Ms. Ford of Congressman Levine's staff, your amendment has met Kerr-McGee's specific concerns about H.R. 2929 in the southern Panamint Range. We would hope, however, that those individuals and companies who have mining interests within the areas impacted by H.R. 2929 will also avail themselves of the opportunity to work with your staff to modify the current boundaries of H.R. 2929 in order to continue with the development of such interests and their ensuing economic benefits.

Again, we thank you for your assistance in this matter.

Sincerely,

G.D. CHRISTIANSEN,
Vice President-Exploration.

CHICAGO MINING CORP.,
Chicago, IL, October 21, 1991.

Hon. MEL LEVINE,
Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE LEVINE: I am writing to sincerely thank you for your valuable

VOL 137
PT 23
NO 21–25
1991
UMI

effort in crafting H.R. 2929, the California Desert Protection Act. of 1991, into a document that fully protects the rights and interests of all concerned citizens. This nation is truly well served when fair and equitable legislation can be realized by mutually beneficial compromise. H.R. 2929, with the addition of the Lehman-Levine Amendment, can only enhance economic and environmental circumstance in the California Desert. Chicago Mining Corporation hereby withdraws all opposition to H.R. 2929, as amended.

Very truly yours,

CHARLES R. LEE,
President.

SOUTHERN CALIFORNIA EDISON CO.
Rosemead, CA, September 30, 1991.

Hon. GEORGE MILLER, RICK LEHMAN, and MEL LEVINE,
Interior Committee, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVES MILLER, LEHMAN, AND LEVINE: Southern California Edison Company has worked closely with your respective offices to resolve our concerns with HR 2929. On September 26, 1991, we presented to these offices our proposed statutory language (Attachment A hereto) that would resolve our remaining concerns with this bill, providing that acceptable report language is subsequently developed.

Attachment B is a much longer, and more specific version of statutory language as developed by Betsy Ford, staff person to Representative Levine. While we have reservations about putting Attachment B into the bill as statutory language, because we believe such detail properly belongs in report language, it nevertheless adequately addresses our concern with Title IV of H.R. 2929. If either Attachment A or B, as written, is incorporated into HR 2929, and as long as neither the bill in its entirety, as it affects Edison, nor Attachment A or B are changed, Edison removes its objections to HR 2929 as introduced.

Sincerely,

ROBERT DIETCH,
Vice President.

WILL & MUYS, P.C.,
ATTORNEYS AT LAW,
Washington, DC, October 1, 1991.

Hon. MEL LEVINE,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN LEVINE: I am authorized to advise you that the Metropolitan Water District will not object to H.R. 2929, the California Desert Protection Act, if Section 306 is amended to include the language furnished to us on September 29 by your office. I am attaching a copy of those amendments.

Sincerely,

ROBERT P. WILL,
(For the Metropolitan Water District of Southern California).

SOUTHERN CALIFORNIA GAS CO.
Los Angeles, CA, July 2, 1991.

Re California Desert Protection Act
Hon. MEL LEVINE,
Cannon House Office Building,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN LEVINE: After extensive review and discussion with Ms. Betsy Ford of your staff regarding the proposed California Desert Protection legislation, the Southern California Gas Company (SoCalGas) agrees with the proposed changes which directly affects SoCalGas facilities and if these changes are incorporated into the bill SoCalGas will remove its opposition.

The changes that were discussed and agreed upon are outlined below:

Category A—Notations on Wilderness Maps indicating pipeline right-of-ways to protect our existing pipelines and support facilities:

Notations denoting pipeline locations relative to wilderness boundaries, indicating a minimum fifty foot buffer between the central line of the pipeline and the boundaries of the wilderness:

Map Plate No. and Name

24—Clipper Mountains.
87—Providence Mountains.

While the above map corrections and amendments have been agreed upon with your staff we have not seen the official maps that will accompany the bill.

Category B—Clarifications and modification of Title IV Section 411 Utility Right-of-Way to remove ambiguities in that section and to allow for the continued ongoing operation, maintenance and upgrading of our existing pipelines and support facilities.

Title VI Section 411(b) as originally considered in draft form has been modified and it is our understanding that the following text changes have been inserted (please note that these changes to the text have been underlined):

411(b) deals with Southern California Gas Company and reads as follows: "Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way; issued, granted, or permitted to the Southern California Gas Company, which is located on lands included in the Majave National Park created under this Title, but outside lands designated as wilderness under Section 501 (3).".

Category C—Proposed Legislative Report Language defining portions of Title IV Section 411(b)

At the request of Ms. Ford, SoCalGas is submitting the following language to be included in the Legislative Committee report to assist in the definition of the term "upgrade" as used in Title IV section 411(b): "Allows for improving the capacity of an individual pipeline by looping, but not the improvement of the entire pipeline system by the installation of a new pipeline parallel to an existing pipeline. Pipeline loops are tied into the existing pipeline, so by definition construction takes place very close to the existing pipeline in the right-of-way. Disruption from such construction is confined to areas that have already been disturbed by previous pipeline construction. While a new pipeline may promote growth in areas that were previously without service, a pipeline loop only increases the carrying capacity of the existing line, thereby increasing service only to existing customers.".

OTHER SOCALGAS CONCERNS

(1) The following Wilderness Area maps boundaries were modified in the previous Congress to remove SoCalGas pipelines 235 and 6000 from the designated Wilderness Areas.

Boundaries Amended:

Map Plate No. and Name

28—Dead Mountains.
36—Granite Mountains-East.
37—Granite Mountains-West.
50—Kelso Dunes S.W.
51—Kelso Dunes—East and South Providence Mountains.
67—Newberry and Rodman Mountains.
85—Piute Mountains.
87—Providence Mountains.

(2) It is our understanding that your bill will not include Title VII Military Withdrawals. If that section is included I would like to suggest the following language allowing our continued operation and maintenance be added to Title VII Section 705 (a)(2): "(G) renewal of existing right-of-way and operation, maintenance, repair, replacement and upgrading of existing utilities located therein.".

Thank you for the opportunity you gave SoCalGas to work with your staff in order to provide input on this important legislation. If we can be of further assistance on this or other legislative matters please contact David Freer in SoCalGas' Washington office. David's phone number is 202–822–3713.

Sincerely,

LEE M. STEWART,
Vice President.

CITY HALL,
Los Angeles, CA, June 28, 1991.

Hon. MEL LEVINE,
House of Representatives,
Washington, DC.

CITY OF LOS ANGELES SUPPORT FOR THE CALIFORNIA DESERT PROTECTION ACT

DEAR MR. LEVINE: The City of Los Angeles supports your efforts to introduce legislation to protect the beauty and resources of the California Desert and appreciates your efforts to accommodate the City's concerns in your development of this bill. These concerns have been discussed over the last several years with various representatives of environmental groups and other interested parties and agreements have been essentially reached. The City has supported the bill based on assurances that the legislation would address the City's concerns pertaining to the protection of utility corridors and the Los Angeles Aqueduct system through the lands affected by the bill.

In discussing the City's concerns with your staff, we understand that the following issues will be resolved in your bill as described below. With these issues resolved, the City fully supports the bill without reservation.

Red Rock Canyon State Park Transfer: In recognition of a pending administrative land transfer between the State of California and the Federal government, the bill only transfers Federal land east of Highway 14 to the Red Rock Canyon State Park.

Buffer Zone: In order to not preclude nonwilderness activities, such as standard utility practices, up to the boundary of the wilderness area, the following language will be added to the bill:

SEC. . The Congress does not intend for the designation of wilderness areas in Section of this Act to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Boundary Adjustments: A review of the official maps which are to accompany the bill show that all conflicts between wilderness area and Mojave National Park boundaries, including the Clark Mountain Wilderness Area (WA), and utility corridors and City water and power facilities have been resolved.

Map Notations: Due to the scale of the maps, notations are to be added on the maps

to indicate the minimum distances of the wilderness area boundaries to particular features. Maps which have these notations added include Owens Peak WA and Sacatar Trail WA (Map Nos. 12, 92)—distance to Los Angeles Aqueduct System; Mojave National Park (Map No. M)—reference to Clark Mountain WA; Clark Mountain WA (Map No. 22) distance to transmission line; Hollow Hills WA (Map No. 41)—distance to transmission line; Kingston Mountains WA (Map No. 55)—distance to Kingston Mountains Road; Mesquite WA (Map No. 63)—distance to Winters Pass Road and Kingston Mountain Road; Soda Mountains WA (Map No. 106)—distance to transmission line and distance to Highway 127; and Piper Mountain (Map No. 86)—distance to road.

Further, we understand that the bill will not include any provisions regarding military withdrawals of China Lake Naval Weapons Center (NWC) or Chocolate Mountains. Should the bill be amended to include with withdrawal of China Lake NWC, we request that language be added, as was done in S21 in Section 705(g), clarifying that the Secretary of the Interior be responsible for the administration of geothermal leases and for the issuance of associated permits, rights-of-way, other authorizations and approval of required environmental impact mitigation measures within the leasehold.

The adjustments made to the WA and National Park boundaries to address the City's concerns did not consider the potential expansion of the NTC. Should the NTC be expanded to engulf the existing transmission lines and utility corridors, the presently agreed to WA and National Park boundary adjustments will need to be reevaluated. We have appreciated your attention to our concerns and are optimistic that your bill to protect the California Desert will be enacted.

Sincerely,

TOM BRADLEY,
Mayor, City of Los Angeles,
JOHN FERRARO,
President, Los Angeles City Council.

CATELLUS DEVELOPMENT CORP.,
November 13, 1991.

Hon. GEORGE MILLER,
Chairman, House Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, Catellus Development Corporation's concerns with H.R. 2929 have focused on the impact that the bill's wilderness and park designations would have on the value of some 410,000 acres of Catellus's landholdings included within those designations. The amendment which you are proposing to add to the bill goes a long way toward providing Catellus with assurance that it will be compensated for the loss of use of lands placed in the bill's park units and wilderness areas. With the addition of your amendment, we hope to be able to accommodate the public interest in having the Federal government acquire our inholdings first by attempting in good faith to reach agreement on exchanges and then if necessary, by using the property account mechanism for exchanges. We fully support the amendment and would no longer oppose H.R. 2929 if the amendment is adopted.

You and the other cosponsors of H.R. 2929 have attempted to be accommodating, and we appreciate the hard work staff has done to address Catellus's concerns.

Sincerely,

WILLIAM C. MATHESON,
Vice President,
Sales and Land Management.

STATE LANDS COMMISSION,
Sacramento, CA, October 15, 1991.

Hon. MEL LEVINE,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN LEVINE: We have reviewed the Interior Committee amendments to Section 607 of your H.R. 2929. We support the amendment and will support the bill, if amended as proposed. We appreciate the time and effort Ms. Betsy Ford has devoted to this matter, as well as, the efforts of Ms. Melanie Beller of the subcommittee and Ms. Lori Sonken of the full committee.

Cordially,

CHARLES WARREN,
Executive Officer.

CALIFORNIA RETIRED
TEACHERS ASSOCIATION,
Sacramento, CA, October 25, 1991.

Hon. GEORGE MILLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MILLER: Thank you for your letter on the recent amendments to the California Desert Protection Act (H.R. 2929) to include Section 610 of the Act. This section replaces the provisions of Section 607 which had been deleted from the bill during subcommittee action.

I am writing to provide you with a formal letter that the California Retired Teachers Association (CRTA) will support H.R. 2929 with the inclusion of Section 610. We also will request Senators Cranston and Seymour to support Section 610 when the bill is considered in the Senate.

Once again, thank you for your support of our concern and assistance in reintroducing language to protect the interests of retired teachers in state school land exchanges.

Thank you for your consideration.

Sincerely,

DAVID WALRATH.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mr. LEVINE of California. I am happy to yield to my friend, the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I believe my colleague will recall a very private meeting we had in my office in which we were discussing differences that may occur on this bill. I suggested that the very small clique of elitists that I referred to earlier who now are opposed to this bill and who initiated the process the gentleman has been involved in should sit down with me and tell me why they walked away from the table that was a public process in the first place. I asked the gentleman to get them to sit down. They refused to sit down.

Mr. BLAZ. Mr. Chairman, I yield 5 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

☐ 1820

Mrs. VUCANOVICH. Mr. Chairman, I am pleased that the Rules Committee made in order the amendment offered by my friends from California, Mr. LEWIS, Mr. MCCANDLESS, Mr. THOMAS. This amendment in the nature of a substitute would designate about 2.4 million acres of wilderness, compared with more than 8 million acres under the reported bill.

Mr. Chairman, H.R. 2929, as reported by the House Interior and Insular Affairs Committee, would blindly designate 50 of the 76 wilderness study areas as part of the Wilderness Preservation System without the benefit of complete U.S. Geological Survey and U.S. Bureau of Mines studies.

These studies are required by section 603 of the Federal Land Policy and Management Act for areas recommended for inclusion in the Wilderness Preservation System. But, these studies were not completed on these 50 areas because the administration does not recommend them for inclusion as wilderness.

Therefore, millions of acres for which we have no properly prepared mineral assessment will be withdrawn from mining activity despite the strong potential for strategic and valuable minerals.

Mr. Chairman, the process which generated this bill is greatly flawed. The administration's proposal, which Mr. LEWIS will offer as a substitute, represents years of effort and compromise.

Because the environmental lobby did not win on every single point within the compromise, these special interest groups now insist upon H.R. 2929. They want it all.

When this body, by way of the Interior Committee, embarks on one of the largest land-protection measures in history with incomplete knowledge of the mineral content of these lands, we cannot fully understand the broad and far-reaching ramifications of our actions.

Does this body believe that we should lock out multiple-use activities from 8 million acres of land without knowing what is under the ground? Apparently so. Any other approach might be wise.

Mr. Chairman, I urge my colleagues' opposition to H.R. 2929 and to the process which begat it. Let us send a message to the Interior Committee and demand a bill that is fully understood.

Mr. Chairman, at this time I would like to engage the gentleman from California [Mr. LEWIS] in a colloquy.

Mr. Chairman, we have been hearing a great deal these days about the economy from our majority colleagues here in the House. Has any analysis been done regarding the potential employment impact of H.R. 2929?

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentlewoman for yielding.

To my colleague from Nevada I say first I appreciate not only her remarks about the bill, and want to associate myself with those remarks, but the question she is asking is a very important question. The answer is simply "yes". In September 1990, the Bureau of Mines released an extensive mineral study of the 1.5 million acre east Mo-

VOL
137
PT
23
NO
21—25
1991
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jave area. That report discussed the various public land options under the park or monument alternative incorporated into H.R. 2929, the local economies stand to lose $90 million in tax revenues and 1,900 jobs—all of this as unemployment is on the rise and as State and local governments in California are increasing taxes to cover their shortfalls for the most basic of services.

Mrs. VUCANOVICH. I would ask the gentleman whether other options for balancing exist in mining with wilderness in the east Mojave.

Mr. LEWIS of California. That is the whole point of the public and open planning process created by the passage of FLPMA in 1976 and reflected in my substitute. The substitute minimizes conflicts even as it preserves unique areas. In the east Mojave, seven permanent wilderness areas totaling nearly 300,000 acres would be designated. These lines were drawn to minimize conflicts with existing mines as well as deposits that had been claimed and would likely be developed.

Tax losses in this scenario, according to the Bureau, are more likely to be somewhere around $3 million versus $90 million, and perhaps 200 jobs versus roughly 2,000 jobs.

Mrs. VUCANOVICH. I thought that the gentleman from California who chairs the subcommittee announced that all active mines had been deleted from the bill at the press conference announcing the introduction of H.R. 2929?

Is that the gentleman's understanding?

Mr. LEWIS of California. I heard the gentleman repeat that statement as well here in his testimony on the floor. That was my understanding of the announcement, but that is not what the bill does.

In fact, the east Mojave has seven active mines which would all be within the New East Mojave Monument if H.R. 2929 is adopted. During the markup of this bill, the gentleman from West Virginia, who chairs the Subcommittee on Mining and Natural Resources, referred to the proposed Mojave monument as the "Mining National Park" and congratulated the committee for its efforts to preserve large open pit mines such as the gold mine in the Castle Mountains within this area.

Mrs. VUCANOVICH. So what is the problem? The Park Service does have statutory authority to manage mines and the experience to minimize these conflicts.

Mr. LEWIS of California. The gentlewoman from Nevada, one more time, has made a very important point.

We have checked with the mining industry and the Interior Department. We have been unable to find a single instance of an open-pit heap-leach mine in the lower 48 States on lands administered by the Park Service. Moreover, it would be highly unusual to find any individual park with seven active mines. In fact, the Congress typically tries to avoid these conflicts when parks are created. That was the gentleman from California's intention but that is not what the bill does.

I must say it is these kinds of complications that require the public process that we are trying to implement with the process we will be discussing later.

Mr. Chairman, I thank the gentlewoman for yielding.

Mrs. VUCANOVICH. I thank my colleague. I urge my colleagues to oppose H.R. 2929.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 30 seconds.

I do so for the purpose of stating a clarification. The facts are as I have stated them. There are no active mines in wilderness areas in this bill. The mine which the gentleman referred to is in the park but not in wilderness area even within the park and can continue current operation.

There are none. I would further point out that, according to the U.S. Department of Commerce, there were 1,199 mining jobs in all of San Bernardino County in 1987. With the protection we have in this bill, we feel they will be protected.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. I thank the gentleman for yielding.

Let me say that I rise today in support of the amendment that will be offered by Mr. VENTO and Mr. BLAZ and also along with the amendment offered by my friend, the gentleman from California [Mr. LEHMAN], as well as support of H.R. 2929, the California Desert Protection Act.

To my colleague, the gentleman from California [Mr. CUNNINGHAM], whom I am glad to see is here in the Chamber, who questioned whether had this lady been strapped into a jet, that she might understand things a little bit better. Let me assure him that I have indeed been strapped into a jet. I have my copy of trail hook here to prove for him that that is the case.

I need not say that I have 11 trap shots and 11 cattle shots from the U.S.S. *Kennedy* on A–6's and F–14's. I also happen to be the only female who has ever flown in an SR–71 over Mach 3.2.

Having said that, I will not question his credentials, because I am well aware that he is indeed top gun.

But some, even women, have had jet fighter experience. And, yes, I have been over China Lake and I have been over Chocolate Mountain and I have been to Fort Irwin.

Having said that, we will now talk about the legislation that is before us. This bill is not perfect, but I feel it represents a sincere attempt at solving some of the ongoing differences that the committee has faced between the Department of Defense, environmental organizations and hunting groups.

For example, the amendment offered by Mr. LEHMAN would, in my opinion, improve the bill by deleting the wilderness designation for 3 years of BLM lands around Fort Irwin, something the military has requested, and allow them to remain as wilderness study areas.

As we all know, Fort Irwin is perhaps this Nation's most important and effective desert training center, as illustrated by our troops' performance in Desert Storm.

Therefore, it must be able to be maintained at this level of training without a constant concern over the future of its surrounding lands.

In addition, Mr. Chairman, during the subcommittee's consideration of H.R. 2929, the subcommittee found itself once again facing strong disagreement over the overflight language and land withdrawals. In fact, back in 1987, I introduced legislation that attempted to address this very issue with respect to Chocolate Mountain and China Lake.

I am pleased to see that my good friend and subcommittee chairman, the gentleman from Minnesota [Mr. VENTO], as well as the gentleman from Guam [Mr. BLAZ], have included some of my language into a compromise that has addressed the concerns from the Defense Department.

These issues were brought up at our hearings on November 5.

□ 1830

Mr. BLAZ. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I very much appreciate the gentleman from Guam [Mr. BLAZ], my friend, yielding this time to me. I appreciate the work that he has been doing on this bill.

Mr. Chairman, I first became aware of a wilderness problem shortly after I arrived as a Member of the Congress in 1979. Our former colleague and my friend, Philip Burton, came up to me, and looked me in the eye and said, "JERRY, you should know what wilderness is." Upon learning what wilderness is, I learned quickly that much of this issue we are discussing today crystallized some years before. My predecessor, Shirley Pettis, came to the Congress as a result of her husband's tragic death in a plane crash. Shortly after she arrived Philip Burton wandered up to Shirley on the floor, put his arm around her and said, "Shirley, your husband was carrying a measure when he was here having to do with desert wilderness in California, and it seems to me that we ought to see that that legislation is passed, and we ought to mark it in his memory." They went about their work and eventually that

became the bill that has been referred to several times already, the Federal Land Plan and Management Act, FLPMA. It was passed in 1976, and within that act all of the parties, liberals and conservatives, moderates and otherwise, environmentalists and people who are concerned about mining and grazing came together in a very complex process. FLPMA established a means whereby those conflicts could be handled. It created a public commission, the names of which were outlined earlier, reflecting a whole mix of interests in the desert, as high a quality commission as my colleagues can imagine. They had 4 years of public hearings, 40,000 individual inputs, and the BLM was instructed to come forth with a plan by the end of this year.

Mr. Chairman, they came forth about 3 months ago, and that plan has been totally ignored. It will not be ignored later as we discuss the substitute on behalf of the four Members who represent the desert. That substitute, if adopted, will create the largest wilderness area ever established in the continental United States, some 2.3 million acres of wilderness.

It is not like we are ignoring the need to protect those delicate areas of the desert. The reality is that the desert needs multiple use.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from California [Mr. LEWIS], my colleague, for yielding. I think he has made a very important point that needs to be absorbed by my colleagues on both sides.

Mr. Chairman, the Lewis substitute provides for an unprecedented wilderness apportionment. It is 2.4 million acres. This is a wilderness plan that has been, I think, labeled a plan that exploits the wilderness, that exploits our resources, that somehow allows modern commerce to run roughshod over the environment.

Am I right in understanding the gentleman's statement, that this is the biggest new introduction of wilderness lands, should the Lewis substitute pass, of all time?

Mr. LEWIS of California. Ever created in the Continental United States; that is correct.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I must mention that I appreciate the comment of the gentleman from California [Mr. HUNTER]. It is a vast area, this desert, and my own portion of the desert will hold four eastern States. Within that desert, however, my portion has Fort Irwin, the national training center for the Army, as well as the Twentynine Palms Marine Base. Those bases provided the fundamental training that allowed our troops to be so successful during the recent battle in Desert Storm.

Mr. Chairman, I think it is very important for us to note that Fort Irwin was critical in our recent success in the Middle East. General Schwarzkopf said this about this installation: "It is the best investment the Army has made in 35 years, that I have been in the Army. The reason why we did so well in Desert Storm was because every commander we had over there had some kind of involvement in NTC."

It is going to be suggested that there will be amendments later that will solve the problems that might relate to that training process. That is not the case. We will submit for the record a recent study that was done by our own Congressional Research Service. It will outline the need for coordination between Twentynine Palms and the National Training Center for the Army. If we are going to continue to be successful, we must have this capacity to train and retrain our troops, and there is room to have lots of wilderness territory and still maintain appropriate this vital facility.

Mr. McCANDLESS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

Mr. BLAZ. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, I have a lot of respect for our colleagues on the other side of the aisle and what they are attempting to do, however, I think some of the information that has come forward has somewhat been misplaced and lost in the analysis. Let us go back to the 1976 bill which the gentleman referred to and the origin of that bill.

The fact is, Mr. Chairman, that this committee, that we have talked about earlier, did its work and did it well. There is an impression that nothing has happened since that committee completed its basic work. It is something that is my understanding, I say to the gentleman from California, that we had to have the staff completion of that work, the review of the wilderness areas.

Is that the gentleman's understanding?

Mr. LEWIS of California. Mr. Chairman, that is my understanding. The gentleman from California [Mr. McCANDLESS is correct.

Mr. McCANDLESS. And that there had to be numerous types of maps, and detailed drawings, and research projects done after the general format of the committee had been completed.

Is that the gentleman's understanding?

Mr. LEWIS of California. The gentleman is correct.

Mr. McCANDLESS. And that all of that takes a little while, but the most important part of all of this is that the plan, and the wilderness aspect of it, was to be completed by 1991, and since the Congress is the only one who can designate wilderness, that is why we have reached this point.

Is that correct?

Mr. LEWIS of California. The plan was being submitted by the end of this year, and it was submitted about 3 months ago, and the plan very much reflects the original intent of the Congress.

Mr. McCANDLESS. So, this plan, as originally conceived by the legislation created in this House and then passed into law, is on schedule and has moved on in the manner in which it was intended by the original legislative act.

Mr. Chairman, is that the gentleman's understanding?

Mr. LEWIS of California. That is my understanding.

Mr. McCANDLESS. So, we have not dilly-dallied along, nor have we modified this or modified that because of some personal gain on the part of individuals or corporations that have a direct interest in the area.

Mr. LEWIS of California. I must say that all the constituents who have an interest in the desert had a chance for input in that process, including the gentleman and I. In the process by the authors of 2929, we have had no opportunity for input.

Mr. McCANDLESS. Mr. Chairman, I thank the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, I yield 1½ minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, I am proud to be a cosponsor of this bill. I sincerely believe that it will provide the California desert the protection that only this Congress can give and that these lands desperately cry for.

Mr. Chairman, one of our great Presidents, early on, had the foresight to understand the need to protect our precious, unique, natural resources. His name was Teddy Roosevelt. He believed that wilderness and wild places are sources of renewal for the soul. It is because of his efforts that we now enjoy many of the natural and splendid wonders that our Nation has to offer.

In South Carolina we have such places that offer this renewal, this refreshment of spirit, that have received protection from Congress. Among them the Congaree Swamp National Monument stands out in my mind.

Mr. Chairman, in the tradition of Teddy Roosevelt, this far-reaching legislation for the California desert would set aside large tracts of our western lands as part of wilderness areas for future generations to enjoy. Our opportunities for such action as this bill pro-

VOL 137 PT 23 NO 21—25 1991 UMI

vides, grow increasingly limited, so I am very pleased that we have it under active consideration tonight.

Mr. Chairman, the time to protect the California desert has come, right now, before it is too late. I thus enthusiastically support this legislation and urge my colleagues to vote for it.

□ 1840

Mr. BLAZ. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. THOMAS], who is the Member most affected by this bill.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Interestingly enough, I believe that I do have more acres affected by this bill than anyone else in California. I would have liked to have said that I was a vital participant in what was done with the district that I have and do represent.

I represent Edwards Air Force Base and the Naval Weapons Center at China Lake, all in Inyo County, which contains all of the California portion of the Death Valley National Monument and a number of other areas.

I am not going to go into any kind of a dialog about process. I think it has been abundantly clear here that the Members who are offering this bill have as their primary clients people who certainly are not interested in consulting with the four Members who represent the desert. It has been proven time and again that the Members who actually represent the constituents are a byproduct of this process, that the people who elected a Member from Minnesota or another Member from a different portion of California have had far more input in this process.

There is no question that the committee process we operate under here in large part dictates that, but at some point those who represent the areas would have linked to have been considered willing partners, or even unwilling partners, or partners defined in any way you want to define it.

In a discussion away from the microphone, I reminded the gentleman from California, the principal author of this bill, that we really had not talked much about it. He reminded me that in fact he did call me. When he introduced the bill, he called me to apologize that he had not let me know that the bill was going to be introduced.

Briefly, in terms of the so-called amendments to solve the defense problems, I have a letter from the Acting Secretary of Defense dated November 21 which says this pretty unequivocally about H.R. 2929:

> Adoption of amendments to H.R. 2929 expected to be offered by Congressmen Vento and Blaz would address defense concerns related to military overflight, the National Training Center, and land withdrawals, but H.R. 2929 would not address the following defense needs.

And he outlines the areas in which H.R. 2929 would still be deficient, including the Naval Weapons Center at China Lake, and he says that these defense needs would be addressed in H.R. 3066.

He goes on to say this:

> Effective training of the U.S. armed forces today depends on military facilities in California. Enactment of H.R. 3066 would assist in ensuring effective training at military facilities in California. Enactment of H.R. 2929 would degrade the effectiveness of military training.

Even with the amendments, and they urge the House of Representatives to oppose H.R. 2929. It is signed by the Secretary of the Army, Acting Secretary of Defense.

Do not let anyone have you think that these amendments, even those by the proponents of the bill at the last minute, on a bill supposedly that had been compromised over a couple of years and looked at for some time, are going to solve the problem, because they do not. H.R. 3066 does solve the problem.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, did I understand the gentleman correctly? I heard earlier that this was a great compromise on the part of the majority. Is the gentleman telling me that even though he had the most acreage, they never discussed a compromise with him or negotiated with him as a Member who represents that huge area of the desert?

Mr. THOMAS of California. The one phone call I received that I was reminded of was to apologize for not letting me know it was introduced. Then they somehow, even though I represent this area and they are my constituents, assumed that I am supposed to trail along behind these people as they make negotiations and decisions. They do not think they should discuss with us the territory.

Let me give one example.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. This is one example of how H.R. 2929 has come along. The Death Valley National Monument in H.R. 2929 places a number of BLM acres within what is now a national park.

I would yield to the gentleman from California if he wants me to yield to him, and I would ask him a question. Is he familiar with the Cottonwood Mountains?

Mr. LEWIS of California. It appears we are moving right along.

Mr. THOMAS of California. Yes, moving right along.

Is the gentleman, from his memory and experiences in the desert, familiar with the Cottonwood Mountains?

The CHAIRMAN. The time of the gentleman from California [Mr. THOMAS] has expired.

Mr. BLAZ. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I ask again, is the gentleman familiar with the Cottonwood Mountains?

Mr. LEVINE of California. I am generally familiar with the Cottonwood Mountains.

Mr. THOMAS of California. Where are they?

Mr. LEVINE of California. They are within the confines of this legislation.

Mr. THOMAS of California. They happen to be in the confines of the Death Valley National Monument. They were one of the primary reasons the northwest boundary of the national monument was placed there. They are mountains that are 9,000 feet high, with no roads across them.

The gentleman wants to put thousands of acres on the northwest portion of that mountain in the national park. They are currently under BLM. He does not want them in wilderness until BLM. BLM manages those lands out of Big Pine, 40 miles away, at an enormous savings to the taxpayers. He wants to put them in this new park, the national park, at 10 times the amount to manage that acreage, and those Park Service rangers are going to have to drive 150 miles around the base of those mountains to try to negotiate a management of lands that should be in BLM territory.

That is the kind of decision made by people who either do not know the territory or do not care about it.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. What I am trying to say is that one simple consultation with a Member who represents the area would have said, "Sure, let's work it out."

I have had that experience with Mr. Burton, from California, on wilderness when I was consulted and worked with him. We had an agreement on a map as to how we handled wilderness.

There was no consultation whatsoever here. You have created enormous drains on the taxpayer, and you should take a look at what you have done in your own bill.

Mr. LEHMAN of California. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I appreciate the gentleman's yielding time.

Mr. Chairman, we can get into this in as much detail as the gentleman wants. On the issue of process, I have two letters in my hand here. I will submit them for the record. Both of them were sent to one of the gentlemen on the other side. Both were sent to the gentleman from California [Mr. LEWIS], urging him to discuss this.

Mr. THOMAS of California. Does the gentleman have in his record a letter sent to me?

Mr. LEVINE of California. If I could have my 30 seconds, I would say to the gentleman from California——

Mr. THOMAS of California. Does the gentleman have a record that he sent a letter to me?

Mr. LEVINE of California. I would say that the gentleman from California knew about this.

Mr. THOMAS of California. Does the gentleman have in his record a letter to me?

The CHAIRMAN. The time of the gentleman form California [Mr. LEVINE] has expired.

Mr. THOMAS of California. Does the gentleman have a letter sent to me? I have a million acres in this bill. Does he have a letter to me?

The CHAIRMAN. The time of the gentleman from California [Mr. LEVINE] has expired.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong support of H.R. 2929, designating 7.5 million acres for national parks and national wilderness areas.

This is a marvelous benefit to the American people. I can see that there are some bruised noses around here. There have been questions of turf, but our real constituents are the American people, and they value these parks. They value these wilderness areas.

I was in Yosemite last year and spent several days with a wonderful Park Service officer who managed it, and he told me with great pride how in a sense that park was overutilized and overstressed and strained. Such was the popularity of our national parks and wilderness areas with the American people. He told me with great pride that a significant percentage of the visitors to Yosemite come from abroad. They come from Japan and from all over Europe, and he stressed what an attraction these national parks and national wilderness areas are to people all over the world who yearn for the richness and the inspiration of these wide open spaces that are so brilliantly maintained by the National Park Service.

As this country proceeds down the road to further growth and further process, we need to set aside these special places for the benefit of future generations so that we may preserve our Earth in its natural and unaltered state and provide parks where people can enjoy nature's beauty and wilderness areas where wildlife can run free, and where we can preserve not only flora and fauna but ecosystems.

□ 1850

There are getting to be fewer and fewer of these places. We must act to preserve those that are left, to ensure that future generations of Americans can enjoy California's rich array of natural wonders.

These bruised feelings we have heard about may be bruised tonight, but the American people will enjoy the benefits of these parks for generations to come. I am proud to be a Member of Congress and to vote for this wonderful measure.

Mr. BLAZ. Mr. Chairman, might I inquire the time remaining for both sides?

The CHAIRMAN. The Chair would like to report that the gentleman from Guam [Mr. BLAZ] has 4 minutes remaining, and the gentleman from California [Mr. LEHMAN] has 4½ minutes remaining.

Mr. BLAZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, the great conservationist Aldo Leopold said one of the greatest gifts you can have is the ability to perceive and appreciate that which is wild.

The point which we are missing here, and my friend, the gentleman from California [Mr. LEVINE] talked about having the great campfire under the stars with his children, is that in passing this desert lockout bill we are taking away the experience in the future for literally hundreds of thousands of Californians, working Californians, to drive to the desert areas where they have been in the past and have that wildlife experience.

Mr. Chairman, if you go to the South Algondones Dunes that are visited by 160,000 people, mostly off-road enthusiasts who average about $30,000 income a year, who want a place to be able to take their kids, to have a campfire, who want to return to the same place they were at last year, those people will be locked out.

Nobody on that side of that aisle can get up and explain to me how these families are now going to be able to backpack in heat that averages 97 degrees in the summertime through heavy sand dunes to get to that same little wash, that same palo verde tree, that same little niche of the wild that they have been enjoying for years and years.

This is a lockout bill. It does not lock out wealthy Californians who can fly to New Zealand to do fly fishing. My friend, the gentleman from California [Mr. LEVINE], has been extremely successful on the fundraising circuit. I wish him well, and I know he has raised millions. None of these blue collar people have been to these fundraisers, but they still count. They are Americans who need to have a place to go and recreate, and they are going to be locked out of these massive areas in my district, at least, in very large numbers; 160,000 of them will be closed off in the 45th Congressional District.

Mr. Chairman, I ask Members of this House to vote against the desert lockout bill and vote for the Lewis substitute.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise today in support of H.R. 2929, the California Desert Protection Act, and I urge my colleagues to support it.

I would like to commend the gentlemen from California, Mr. LEHMAN and Mr. LEVINE, for their diligent work in trying to forge a consensus among this measure.

We have heard statements that Government Representatives from California that represent the desert are all opposed to this. Well, I am a Congressman from California that does have significant acreage in this bill that does support this measure.

For a number of years I have had serious concerns about earlier desert bills, whether or not they afforded the protection to people that made their living on it, ranchers that grazed cattle on it, mining operations there, and I refused to come out in support of those. But we have a bill today that provides that protection for mining. It provides for a phaseout of cattle ranchers. It gives consideration to the people that are making their living off of this land that we have to consider.

Mr. Chairman, I also would like to respond to some comments of the earlier speaker, one thing this is a lockout bill. There are 5,000 acres provided for overland off-road vehicle access. There is 20,000 miles of roads for jeeps that they can partake in. That does not constitute a lockout.

Mr. Chairman, I urge Members to support this bill. This bill deserves to become law. It promises to preserve for all Californians, for all Americans, a legacy of recreational opportunity, wildlife habitat, and cultural resources of the great California desert.

Mr. Chairman, once again I commend the gentlemen from California, Mr. LEHMAN and Mr. LEVINE, and I urge all Members to support H.R. 2929.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield for just a moment about his district?

Mr. DOOLEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, the gentleman from California [Mr. DOOLEY] may know that we called him to discuss the fact that my substitute has two wilderness areas in his district that are not affected by 2929, and we did show the gentleman the courtesy to talk to him about it at least.

Does the gentleman recall that?

Mr. DOOLEY. Mr. Chairman, reclaiming my time, I do not recall at this time.

Mr. LEWIS of California. It may have been with the staff of the gentleman.

Mr. DOOLEY. I do not have a record of this in my file either.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

□ 1900

time and energy to this effort to continue work-

I pose a hypothetical question: If there are

VOL 137
PT 23
NO 21–25
1991
UMI

Mr. CUNNINGHAM. Mr. Chairman, I had to take on the only gentlewoman from Maryland [Mrs. BYRON] that had served time in a jet. The gentlewoman also tells me that she had attended Tailhook. I would like to find out the words of the gentlewoman from Maryland [Mrs. BYRON] on the Tailhook reunion.

Mr. Chairman, I step forward in strong opposition to H.R. 2929. I have a letter here which is a side-by-side account of what the costs are. I have got all the differences in the amendments of the military bills. I have letters from all the Secretaries of Defense that are opposed to 2929, from Dick Cheney, and the military will be hurt by 2929.

When I spoke about the gentlewoman from Maryland [Mrs. BYRON], I spent 21 years in the Navy as a professional. As a matter of fact, I devised some of the routes over those areas myself, I used them in 300 combat missions over Vietnam, and over the Middle East in Israel.

If 2929 goes into effect the military will be adversely affected.

The Blaz amendment, although it does try to alleviate some of these things, does not cover all the areas.

The Vento amendment is smoke and mirrors. It only addresses overflights and has no perception of what and how it will affect the military.

Mr. LEHMAN of California. Mr. Chairman, I yield 2½ minutes to the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands, who has contributed so much to this legislation.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, Last week Time magazine had a cover article that talked about the vanishing California dream. I hope that the Members will think about that in what they are talking, about, the natural environment, what was happening to California.

What is happening to this California desert I think is a pretty good example. There are 25 million acres in the California desert. It is within about a 1-hour drive to 15 million people.

What is happening to it is it is getting loved to death. Everybody likes it. They want to do everything they want to do, and that is what has been happening, to a great extent.

We have put away outside some outstanding areas and parks in Death Valley and Joshua Monument, but that is what the 1976 FLPMA Act was about in terms of bringing to this Congress and forcing us to make a decision.

It is a painful decision. It is not an easy one. We have to take some discipline upon ourselves in order to, in fact, prevent this from being loved to death, and that is what this legislation is all about.

I know my colleague has a substitute that goes all over California looking for a focus and looking to solve problems in terms of wilderness. But this issue is about the California desert. It is not about a statewide bill that he professes to endorse.

So I want to commend my colleagues from California, Mr. LEHMAN, and Mr. MILLER, and Mr. LEVINE, for taking on this issue. It is a tough issue, and it is a tough one for the local people that have to effect it.

But we went out there and talked to those people. We had hearings. We heard from hundreds of witnesses in the last Congress.

The gentlemen from California, the gentlemen that are here, all joined us at many of those hearings. We gave an opportunity for input and had that feedback so we knew what the impact was. And there was still disagreement. There is still disagreement here.

Someone I think takes the opinion that somehow if we have committee meetings, we are going to be able to resolve all of this and come up with something called truth that we can all support. Well, that is not the legislative process. It is a process of consensus, it is a process of argument.

But these areas, no one can argue that they do not deserve the wilderness designation that they receive under this bill. Two-thirds of the land in the desert remains open for a multiple of other uses. There are nine military bases and installations in these areas and hundreds of communities. Yet we still have the opportunity to take this fragment in these pristine areas, part of the Mojave Desert, part of the Sonoran Desert, and save them and try to retain the beauty of that great State and the dream that has been California, and something that I think all Americans can benefit from.

So I hope in this debate that we will keep that foremost in mind as we move forward.

Mr. Chairman, I rise in strong support of the California Desert Protection Act as reported by the Committee on Interior and Insular Affairs.

Others have noted, this is a very important and farreaching measure. It would make the largest additions to the National Park System and National Wilderness Preservation System of any bill since President Carter signed into law the Alaska Lands Act in 1980.

The lands that the bill would place into national park and wilderness status include a great diversity of priceless resources and values that eminently deserve the protection that the bill would provide. At the same time, the bill leaves open to multiple uses more than two-thirds of the public lands within the California desert.

Mr. Chairman, the two gentlemen from California, Mr. MILLER chairman of the full committee, and Mr. LEHMAN, chairman of the subcommittee with prime responsibility for this bill, deserve the thanks of the House for bringing to the floor this sound, balanced, and worthwhile bill. It deserves the approval of the House.

I have a particular interest in this bill because in past years the subcommittee on National Parks and Public Lands, which I chair, had the responsibility for conducting the hearings that laid the groundwork for the Interior Committee's actions on California desert legislation this year. We had very extensive hearings, both here and in California, and heard from literally hundreds and hundreds of witnesses concerning all the issues that are addressed in this bill and in alternative approaches.

In addition, for many years some of us have been involved with proposals to renew the authorization for military use of millions of acres of public lands in California used for many years for very important testing and training activities.

In fact, in 1987 the House passed a bill, introduced by the gentlewoman from Maryland, [Mrs. BYRON], a member of both the Interior and Armed Services Committees, that would have authorized continued military uses on these lands, but the Senate did not act on that bill.

Because this is a matter that needs to be resolved, last month I introduced a bill—cosponsored by Chairmen MILLER and LEHMAN and the gentleman from California, [Mr. LEVINE—to again authorize military use of the China Lake Naval Testing Center, the Chocolate Mountain Aerial Gunnery Range, and the El Centro Range Areas. I have also prepared an amendment, which is made in order under the rule, to add similar provisions to H.R. 2929 and to also add to this bill language clarifying the ability of the Armed Forces to continue existing low-level overflights of the lands dealt with in the bill.

The gentleman from Guam, [Mr. BLAZ], also has an interest in this matter and has filed a similar amendment. Therefore, I have worked with him to develop a Vento-Blaz amendment which could be offered on a bipartisan basis. I am glad to be able to say that we have reached an agreement and that at the appropriate point Mr. BLAZ will ask unanimous consent to modify his amendment so that the bipartisan Vento-Blaz provisions can be offered.

Even without the provisions that would be added by the Vento-Blaz amendment, this is a good bill deserving of our support. If the gentleman from Guam is permitted by unanimous consent to modify his amendment and the Vento-Blaz amendment is adopted, it will be an even better bill, and I urge the House to add such provisions, and to give overwhelming approval to H.R. 2929, the California Desert Protection Act of 1991.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, the environmental party in American politics, the unelected leaders who work in the beltway here in Washington, DC, is the influence that will cause how this Congress resolves this issue. The reality is that the political pain of Members of Congress in crossing the interests of the environmental party is far more profound than the political pain that any of us experiences in crossing the interests of the development, of the business, and of the energy segment of America.

□ 1900

That is why this bill that seeks to lock up so much of California is probably going to pass.

I have served on the Committee on Energy and Commerce for my 13 years here, and I have dealt with these Members. This environmental party has to be explained to the American public.

They have got another agenda for the country. They want to change America into a society that worships the creation, not the creator.

At a time when we need to be establishing energy independence in this country, the possibility of the Bush energy plan is being stymied because of the environmental party's obsession in obstructing the energy independence of this country.

Mr. ASPIN. Mr. Chairman, I rise in support of H.R. 2929, the California Desert Protection Act.

I believe this bill accomplishes two important goals—protecting our Nation's natural resources, while maintaining significant military activities.

As chairman of the Armed Services Committee, I recognize that our military forces must train as they will fight. The success in Operation Desert Storm demonstrated the vital importance of our facilities in the southern California desert. We clearly need to maintain adequate training and testing facilities to meet the military's needs—both today and in the future.

While the public is showing a high level of support for our military, there has been increasing awareness of our responsibilities, and a greater demand, to protect and improve our environment, and particularly our great natural resources.

H.R. 2929 and the amendments offered today to address the military needs will fulfill both goals. These amendments will withdraw 1.3 million acres of land, allowing for its continued use for military purposes. The amendments will address the issue of overflight as well.

I want to commend my colleagues on the Interior Committee, Congressmen LEVINE, LEHMAN, and VENTO for their willingness to address the military's concerns.

Therefore, I will support their amendments, and H.R. 2929.

Mr. BROWN. Mr. Chairman, as a representative for both Riverside and San Bernardino Counties, both of which have vast amounts of land included in the California desert protection proposal, I can assure you that there is a need to protect the desert of California during this session of Congress. Prolonging the process will mean one thing—further degradation of the once-pristine area.

The proposals that have been submitted provided us with an opportunity to break the deadlock and preserve for future generations our California desert. While recent efforts to preserve a greater portion of the California desert have been unsuccessful, I am hopeful that we will be able to work with the Senate and the administration to reach a compromise—to accommodate the competing interests and various users of the California desert. I urge all Members who have devoted time and energy to this effort to continue working so that we can enact a California Desert Protection Act. It has been a longtime coming, and the need to preserve this area becomes greater each year Congress fails to act.

In 1978, I introduced a bill to establish the Mojave National Park. Although this legislation was not passed, it did place pressure on the Bureau of Land Management to protect this area. It also resulted in the designation of the East Mojave National Scenic Area—the first of its kind in the country. In addition, the discussion that took place helped increase public awareness of the need for desert protection.

Over 10 years have passed, and I can assure you that today there is a much greater need to preserve our California desert than there was in the 1970's.

I can assure you that there are very real and present dangers that threaten our California desert. It is up to Congress to take the lead. It is our responsibility to offer long term protection for our California desert.

In so doing, however, we must strike a balance that will allow for the multiple use of the desert. As the Los Angeles Times recently commented, "Too much of the desert, which is remarkably fragile and takes generations to recover from human abuse, already has been exploited on the premise that it is not good for much else." It is good for much else. It is a treasure that demands protection.

The question before us is whether or not we want to move forward and act progressively. While we wait, however, the plans for making the desert a dumping ground are moving forward. Let's break the stalemate and pass a Desert Protection Act. All groups interested in protecting the desert must join together, break the impasse that has evolved over the years, and provide protection for this most precious natural resource.

Mr. DOOLITTLE. Mr. Chairman, no single issue is more volatile in California than the issue of water. Yet water is one issue in this debate of H.R. 2929 that has been largely ignored. That oversight could have a devastating impact, not just on southern California, but on the entire Western United States, where water is the key to growth and economic survival.

The sponsors of this bill have tried to lull opponents into a false sense of security by telling us not to be concerned about the water rights language in this legislation. They tell us, "it simply reserves a quantity of water to the Federal Government sufficient to fulfill the purposes of the act."

Additionally, we are told this is not the Colorado Rocky Mountains where downstream water users could be impacted, this is the California desert, and the only thing at issue are a few springs, seeps, and other surface waters that do not really matter to anyone except a few bighorn sheep, palm trees, migratory birds, and tiny fish.

Let us not be fooled. The precedent of a Federal reserved water right for millions of acres of the California desert should not be taken lightly. It is clear the purpose of this legislation is to stop growth and to stop development in and around public lands in the West. The California desert is only the first stop on a train that is barreling down the tracks toward other States and, in fact, aimed at the entire western United States.

I pose a hypothetical question: If there are so few surface water rights at issue and there are no downstream users impacted, why did the sponsors, including the chairman of the Interior Committee, the chief water rights expert in this Congress, include the language?

The answer is simple and can be stated in three words: Subsurface water rights. Picture this scenario: A few years hence, after millions of acres of wilderness are designated in the California desert, the Federal Government notices that some of its springs and seeps are drying up in a wilderness area, near Palm Springs. The language in this bill, giving the Federal Government a priority reserved water right could be used to prevent Palm Springs' landowners from drilling any new wells for water.

My colleagues could respond by saying, "So What? Palm Springs does not get to water its golf courses quite as much?" But the same legal contest of water rights could face the dozens of water districts that service the thirsty needs of millions of urban dwellers. The same threat of Federal intervention could threaten any jobs, growth and development of small towns and large cities in the entire southern California region, home to a majority of Californians. It could even affect future agricultural uses of the desert using subsurface water sources.

And if my colleagues are tempted to say again, "So what?," I would remind them that this wilderness proposal for the California desert is the first of a series of bills covering the entire Western United States that this Congress will be considering over the next several years. The precedent set here will either strengthen the hand of extremists who want to assert Federal water rights westwide as a backhanded means to stop growth, or by defeating this measure, it will reassert the historical and wise policy of States rights in this lifeblood issue.

The apparition of a westwide Federal reserved water right is real and its genesis is H.R. 2929. To ensure State control of our water and wise use of our natural resources, I urge my colleagues to support H.R. 3066 instead.

Mrs. BOXER. Mr. Chairman, I rise today in support of this important legislation. H.R. 2909, the California Desert Protection Act, will provide critical protection for this truly unique desert wilderness. It is also essential to protecting a priceless legacy of archeological, cultural, and ecological values.

The California desert, covering over 25 million acres, is a fragile ecosystem increasingly under siege. Large areas have long been extensively used for mining, grazing, and various forms of development. Without this act, further destruction of this precious resource is inevitable. Access roads, helicopter pads, quarries, and grazing animals—all have a destructive impact on the desert that time will not erase.

Further delay can only lead to continued, irrevocable degradation. I urge my colleagues to support H.R. 2909 and oppose any weakening amendments.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Lewis substitute. It is balanced. It will allow the continued training of our armed services that proved so valuable in reducing casualties in the gulf war, and which will be

VOL 137
PT 23
NO 21—25
1991
UMI

even more valuable in future conflicts as the size of our forces is reduced.

The amendment is based on 10 years of public involvement with all affected interests. And it is based on the professional expertise of all land management agencies.

And, Mr. Chairman it can become law.

Mr. ATKINS. Mr. Chairman, I rise today in support of the California desert protection bill, legislation that would designate over 4 million acres as wilderness, create a new national monument in the Mojave, and expand and redesignate Death Valley and Joshua Tree as national parks. What could be more appropriate during this 75th anniversary of the National Park Service than to add these environmentally and biologically significant units to the park system? For 75 years, the Park Service has preserved mountains, forests, rivers and streams, but never before has the Park Service protected the unique and fragile ecosystems that make up the California desert.

This environment is so fragile that the tracks left by the wagon wheels of the settlers remain an indelible mark in the landscape over 100 years later. It is home to many rare, threatened and endangered plant and animal species. It also contains many archeological treasures.

But by and large the agency with responsibility for managing the desert has failed to do so adequately. Despite the lessons learned from the remaining wagon wheel tracks, each year the desert is being destroyed at an increasingly alarming rate by the tracks created by off road vehicles. For example, a recent Department of the Interior inspector general's report calculated that an additional 600 miles of unintended new roads are carved out by rec-reationalists each year. But the inspector general also found that the BLM took few steps to protect the desert from these vehicles.

Mr. Chairman, California's burgeoning population places increasing pressures on the desert: Pressures for development, recreation, mining, and other activities, none of which the desert can sustain. The California desert protection bill is a well-crafted compromise that has been 6 years in the making. I hope my colleagues will join with me in supporting the bill and in opposing any amendments to weaken it.

One comment about the amendment proposed by Mr. MARLENEE which would allow hunting in the Mojave. What are we going to hunt there? One animal would be the rare desert bighorn sheep. Let me just say this, last month the Congress passed the Interior appropriations bill which included about $500,000 specifically for the reintroduction and restoration of the desert bighorn sheep. These funds will primarily be used in the California desert area. Under the Marlenee amendment, we would blow away this Federal investment with a few individual hunters' shotguns. I urge my colleagues to oppose this amendment and any others that weaken the protection provided in the bill.

Mr. RAHALL. Mr. Chairman, I rise as a member of the Interior Committee, and as the chairman of its Subcommittee on Mining and Natural Resources, in support of H.R. 2929.

The mining industry has made extensive claims that this legislation would bring mineral production in the California desert to a grinding halt, and that it would lockup valuable mineral resources.

The fact of the matter is that none of the active mines in the California desert conservation area would be placed within wilderness boundaries under this bill.

And, the fact of the matter is that the vast majority of mineral production in the CDCA is not for some type of critical or strategic mineral. It is for sand, gravel and stone.

Accommodations have been made. The largest gold producer, the Mesquite mine, is wholly outside of the proposal. The Mountain Pass Mine, which produces 97 percent of U.S. output of rare earths, was excluded from the boundary of the proposed Mojave National Park. There are numerous other examples.

Finally, it is true that this bill would place some mines within the boundary of the proposed Mojave National Monument.

And, as I stated during committee consideration of this measure, it is about time we recognize that we should be preserving big open pit mines for the benefit of present and future generations.

I would submit to my colleagues that mining, too, deserves the same degree of protection in our National Park System as do these other values.

I would say that the American people are clamoring, indeed, are eager, for the opportunity to load the kids into the station wagon and travel to southern California to visit the Mojave Mining Park.

Here, they will see firsthand, the machinery that is employed to move massive amounts of earth to uncover the ore body. They will hear the roar and rumble of D9's. They will inhale the rich aroma of diesel fumes on the desert air.

They will thrill at the site of cyanide drip dripping onto a leach pile. And, they will be astounded by the tailings piles soaring into the sky.

I say this, Mr. Chairman, partly in jest. The point is, though, that this legislation would not stop these mines from operating. All valid existing rights would be fully protected.

I urge my colleagues to vote for this measure.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "California Desert Protection Act of 1991".

FINDINGS AND POLICY

Sec. 2. (a) The Congress finds and declares that—

(1) the federally owned desert lands of Southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

(2) these desert wildlands display unique scenic, historical, archeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

(4) the California desert, embracing wilderness lands, units of the National Park System, other Federal lands, State parks and other State lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the Federal Government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

(C) protect and preserve historical and cultural values of the California desert associated with ancient Indian cultures, patterns of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.

TITLE I—WILDERNESS ADDITIONS

FINDINGS

Sec. 101. The Congress finds and declares that—

(1) wilderness is a distinguishing characteristic of the public lands in the California desert, one which affords an unrivaled opportunity for experiencing vast areas of the Old West essentially unaltered by man's activities, and which merits preservation for the benefit of present and future generations;

(2) the wilderness values of desert lands are increasingly threatened by and especially vulnerable to impairment, alteration, and destruction by activities and intrusions associated with incompatible use and development; and

(3) preservation of desert wilderness necessarily requires the highest forms of protective designation and management.

DESIGNATION OF WILDERNESS

Sec. 102. In furtherance of the purpose of the Wilderness Act (78 Stat. 890, 16 U.S.C. 1131 et seq.), and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), the following lands in the State of California, as generally depicted on maps, referenced herein, dated February 1986 (except as otherwise dated), are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred and ninety acres, as generally depicted on a map entitled "Argus Range Wilderness—Proposed 1", dated May 1991, and two maps entitled "Argus Range Wilderness—Proposed 2" and "Argus Range Wilderness—Proposed 3", dated January 1989, and which shall be known as the Argus Range Wilderness.

(2) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-one thousand three hundred and twenty acres, as generally depicted on map entitled "Avawatz Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Avawatz Mountains Wilderness.

(3) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand seven hundred and thirty acres, as generally depicted on a map entitled "Bigelow Cholla Garden Wilderness—Proposed", dated October 1991, and which shall be known as the Bigelow Cholla Garden Wilderness.

(4) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and within the San Bernardino National Forest, which comprise approximately thirty-nine thousand two hundred acres, as generally depicted on a map entitled "Bighorn Mountain Wilderness—Proposed", dated September 1991, and which shall be known as the Bighorn Mountain Wilderness.

(5) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-seven thousand five hundred and seventy acres, as generally depicted on a map entitled "Big Maria Mountains Wilderness—Proposed", and which shall be known as the Big Maria Mountains Wilderness.

(6) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirteen thousand nine hundred and forty acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", and which shall be known as the Black Mountain Wilderness.

(7) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately nine thousand five hundred and twenty acres, as generally depicted on a map entitled "Bright Star Wilderness—Proposed", dated May 1991, and which shall be known as the Bright Star Wilderness.

(8) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-two thousand six hundred and forty acres, as generally depicted on a map entitled "Cadiz Dunes Wilderness—Proposed", and which shall be known as the Cadiz Dunes Wilderness.

(9) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-five thousand nine hundred and seventy acres, as generally depicted on a map entitled "Cady Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Cady Mountains Wilderness.

(10) Certain lands in the California Desert Conservation Area and Eastern San Diego County, of the Bureau of Land Management, which comprise approximately fifteen thousand seven hundred acres, as generally depicted on a map entitled "Carrizo Gorge Wilderness—Proposed", and which shall be known as the Carrizo Gorge Wilderness.

(11) Certain lands in the California Desert Conservation Area and Yuma District, of the Bureau of Land Management, which comprise approximately sixty-four thousand six hundred and forty acres, as generally depicted on a map entitled "Chemehuevi Mountains Wilderness—Proposed", dated October 1991, and which shall be known as the Chemehuevi Mountains Wilderness.

(12) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on two maps entitled "Chimney Peak Wilderness—Proposed 1" and "Chimney Peak Wilderness—Proposed 2", dated May 1991, and which shall be known as the Chimney Peak Wilderness.

(13) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred fifty-eight thousand nine hundred and fifty acres, as generally depicted on two maps entitled "Chuckwalla Mountains Wilderness—Proposed 1" and "Chuckwalla Mountains Wilderness—Proposed 2", dated January 1989, and which shall be known as the Chuckwalla Mountains Wilderness.

(14) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirty-four thousand three hundred and eighty acres, as generally depicted on a map entitled "Cleg-horn Lakes Wilderness—Proposed", dated September 1991, and which shall be known as the Cleghorn Lakes Wilderness. The Secretary may, pursuant to an application filed by the Department of Defense, grant a right-of-way for, and authorize construction of, a road within the area depicted as "non-wilderness road corridor" on such map.

(15) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand acres, as generally depicted on a map entitled "Clipper Mountain Wilderness—Proposed", dated May 1991, and which shall be known as Clipper Mountain Wilderness.

(16) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty thousand five hundred and twenty acres, as generally depicted on a map entitled "Coso Range Wilderness—Proposed", dated May 1991, and which shall be known as Coso Range Wilderness.

(17) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighteen thousand six hundred acres, as generally depicted on a map entitled "Coyote Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Coyote Mountains Wilderness.

(18) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand six hundred acres, as generally depicted on a map entitled "Darwin Falls Wilderness—Proposed", dated May 1991, and which shall be known as Darwin Falls Wilderness.

(19) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-eight thousand eight hundred and fifty acres, as generally depicted on a map entitled "Dead Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Dead Mountains Wilderness.

(20) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred acres, as generally depicted on two maps entitled "Domeland Wilderness Additions—Proposed 1" and "Domeland Wilderness Additions—Proposed 2", and which are hereby incorporated in, and which shall be deemed to be a part of, the Domeland Wilderness as designated by Public Laws 93-632 and 98-425.

(21) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred acres, as generally depicted on a map entitled "El Paso Mountains Wilderness—Proposed", and which shall be known as the El Paso Mountains Wilderness.

(22) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand three hundred acres, as generally depicted on a map entitled "Fish Creek Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Fish Creek Mountains Wilderness.

(23) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-eight thousand one hundred and ten acres, as generally depicted on a map entitled "Funeral Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Funeral Mountains Wilderness.

(24) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand seven hundred acres, as generally depicted on a map entitled "Golden Valley Wilderness—Proposed", and which shall be known as Golden Valley Wilderness.

(25) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-eight thousand five hundred and fifteen acres, as generally depicted on two maps entitled "Bristol Mountains Wilderness—Proposed 1", and "Bristol Mountains Wilderness—Proposed 2", dated September 1991, and which shall be known as Bristol Mountains Wilderness.

(26) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand seven hundred and twenty acres, as generally depicted on a map entitled "Grass Valley Wilderness—Proposed", and which shall be known as the Grass Valley Wilderness.

(27) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand eight hundred acres, as generally depicted on a map entitled "Great Falls Basin Wilderness—Proposed", and which shall be known as the Great Falls Basin Wilderness.

(28) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand two hundred and forty acres, as generally depicted on a map entitled "Hollow Hills Wilderness—Proposed", dated May 1991, and which shall be known as the Hollow Hills Wilderness.

(29) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand four hundred and sixty acres, as generally depicted on a map entitled "Ibex Wilderness—Proposed", dated May 1991, and which shall be known as the Ibex Wilderness.

(30) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-five thousand and fifteen acres, as generally depicted on a map entitled "Indian Pass Wilderness—Proposed", dated October 1991, and which shall be known as the Indian Pass Wilderness.

(31) Certain lands in the California Desert Conservation Area and the Bakersfield District,

VOL 137 PT 23 NO 21—25 1991 UMI

of the Bureau of Land Management, and within the Inyo National Forest, which comprise approximately two hundred five thousand and twenty acres, as generally depicted on three maps entitled "Inyo Mountains Wilderness—Proposed", numbered in the title one through three, and dated May 1991, and which shall be known as the Inyo Mountains Wilderness.

(32) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-four thousand five hundred and fifty acres, as generally depicted on a map entitled "Jacumba Wilderness—Proposed", dated October 1991, and which shall be known as the Jacumba Wilderness.

(33) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred and twenty-eight thousand eight hundred and twenty acres, as generally depicted on two maps entitled "Kelso Dunes Wilderness—Proposed 1" and "Kelso Dunes Wilderness—Proposed 3", dated September 1991, and a map entitled "Kelso Dunes Wilderness—Proposed 2", dated May 1991, and which shall be known as the Kelso Dunes Wilderness.

(34) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and the Sequoia National Forest, which comprise approximately eighty-eight thousand two hundred and ninety acres, as generally depicted on a map entitled "Kiavah Wilderness—Proposed 1", dated February 1986, and a map entitled "Kiavah Wilderness—Proposed 2", dated May 1991, and which shall be known as the Kiavah Wilderness.

(35) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred forty-nine thousand and forty-eight acres, as generally depicted on two maps entitled "Kingston Range Wilderness—Proposed 2", dated October 1991, and "Kingston Range Wilderness—Proposed 4", dated January 1989, and two maps entitled "Kingston Range Wilderness—Proposed 1" and "Kingston Range Wilderness—Proposed 3", dated May 1991, and which shall be known as the Kingston Range Wilderness.

(36) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-five thousand six hundred and eighty acres, as generally depicted on a map entitled "Little Chuckwalla Mountains Wilderness—Proposed", dated October 1991, and which shall be known as the Little Chuckwalla Mountains Wilderness.

(37) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred and forty acres, as generally depicted on a map entitled "Little Picacho Wilderness—Proposed", dated October 1991, and which shall be known as the Little Picacho Wilderness.

(38) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and sixty acres, as generally depicted on a map entitled "Malpais Mesa Wilderness—Proposed", dated September 1991, and which shall be known as the Malpais Mesa Wilderness.

(39) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred and twenty-five acres, as generally depicted on a map entitled "Manly Peak Wilderness—Proposed", dated October 1991, and which shall be known as the Manly Peak Wilderness.

(40) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-four thousand two hundred and eighty acres, as generally depicted on a map entitled "Mecca Hills Wilderness—Proposed", dated October 1991, and which shall be known as the Mecca Hills Wilderness.

(41) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-seven thousand three hundred and thirty acres, as generally depicted on a map entitled "Mesquite Wilderness—Proposed", dated May 1991, and which shall be known as the Mesquite Wilderness.

(42) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand nine hundred acres, as generally depicted on a map entitled "Newberry Mountains Wilderness—Proposed", and which shall be known as the Newberry Mountains Wilderness.

(43) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred ten thousand eight hundred and eighty acres, as generally depicted on a map entitled "Nopah Range Wilderness—Proposed", dated May 1991, and which shall be known as the Nopah Range Wilderness.

(44) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand five hundred and eighty acres, as generally depicted on a map entitled "North Algodones Dunes Wilderness—Proposed", dated October 1991, and which shall be known as the North Algodones Dunes Wilderness.

(45) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand five hundred and forty acres, as generally depicted on a map entitled "North Mesquite Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the North Mesquite Mountains Wilderness.

(46) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-six thousand and seventy acres, as generally depicted on two maps entitled "Old Woman Mountains Wilderness—Proposed 1" and "Old Woman Mountains Wilderness—Proposed 2", dated May 1991, and which shall be known as the Old Woman Mountains Wilderness.

(47) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty-seven thousand five hundred acres, as generally depicted on a map entitled "Orocopia Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Orocopia Mountains Wilderness.

(48) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately seventy-four thousand six hundred and forty acres, as generally depicted on a map entitled "Owens Peak Wilderness—Proposed 1", dated February 1986, and two maps entitled "Owens Peak Wilderness—Proposed 2" and "Owens Peak Wilderness—Proposed 3", dated May 1991, and which shall be known as the Owens Peak Wilderness.

(49) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred acres, as generally depicted on a map entitled "Pahrump Valley Wilderness—Proposed", and which shall be known as the Pahrump Valley Wilderness.

(50) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred fourteen thousand one hundred and forty-nine acres, as generally depicted on a map entitled "Palen/McCoy Wilderness—Proposed 1", dated May 1991, and a map entitled "Palen/McCoy Wilderness—Proposed 2", dated February 1986, and which shall be known as the Palen/McCoy Wilderness.

(51) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and twenty acres, as generally depicted on a map entitled "Palo Verde Mountains Wilderness—Proposed", dated January 1987, and which shall be known as the Palo Verde Mountains Wilderness.

(52) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Picacho Peak Wilderness—Proposed", dated May 1991, and which shall be known as the Picacho Peak Wilderness.

(53) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-two thousand six hundred acres, as generally depicted on a map entitled "Piper Mountain Wilderness—Proposed", dated May 1991, and which shall be known as the Piper Mountain Wilderness.

(54) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand eight hundred acres, as generally depicted on a map entitled "Piute Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Piute Mountains Wilderness.

(55) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-eight thousand eight hundred and sixty-eight acres, as generally depicted on a map entitled "Resting Spring Range Wilderness—Proposed", dated May 1991, and which shall be known as the Resting Spring Range Wilderness.

(56) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand eight hundred and twenty acres, as generally depicted on a map entitled "Rice Valley Wilderness—Proposed", dated May 1991, and which shall be known as the Rice Valley Wilderness.

(57) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately twenty-two thousand three hundred eighty acres, as generally depicted on a map entitled "Riverside Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Riverside Mountains Wilderness.

(58) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-seven thousand seven hundred acres, as generally depicted on a map entitled "Rodman Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Rodman Mountains Wilderness.

(59) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately fifty-one thousand nine hundred acres, as generally depicted on two maps entitled "Sacatar Trail Wilderness—Proposed 1" and "Sacatar Trail Wilderness—Proposed 2", dated May 1991, and which shall be known as the Sacatar Trail Wilderness.

(60) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one thousand eight hundred acres, as generally depicted on a map entitled "Saddle Peak Hills Wilderness—Proposed", dated May 1991, and which shall be known as the Saddle Peak Hills Wilderness.

(61) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand five hundred acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the San Gorgonio Wilderness as designated by Public Laws 88–577 and 98–425.

(62) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty-three thousand two hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Wilderness Additions—Proposed", dated May 1991, and which are hereby incorporated in, and which shall be deemed to be a part of, the Santa Rosa Wilderness designated by Public Law 98–425.

(63) Certain lands in the California Desert District, of the Bureau of Land Management, which comprise approximately thirty-five thousand four hundred acres, as generally depicted on a map entitled "Sawtooth Mountains Wilderness—Proposed", and which shall be known as the Sawtooth Mountains Wilderness.

(64) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred seventy-four thousand five hundred and forty acres, as generally depicted on two maps entitled "Sheephole Valley Wilderness—Proposed 1", dated May 1991, and "Sheephole Valley Wilderness—Proposed 2", dated February 1986, and which shall be known as the Sheephole Valley Wilderness.

(65) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-four thousand four hundred and ten acres, as generally depicted on a map entitled "Slate Range Wilderness—Proposed", dated October 1991, and which shall be known as the Slate Range Wilderness.

(66) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty thousand four hundred and thirty acres, as generally depicted on two maps entitled "Soda Mountains Wilderness—Proposed 1" dated May 1991, and "Soda Mountains Wilderness—Proposed 2", dated January 1989, and which shall be known as the Soda Mountains Wilderness.

(67) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-one thousand six hundred and thirty acres, as generally depicted on a map entitled "South Algodones Dunes Wilderness—Proposed", dated January 1989, and which shall be known as the South Algodones Dunes Wilderness.

(68) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-three thousand two hundred and fifty acres, as generally depicted on a map entitled "South Avawatz Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the South Avawatz Mountains Wilderness.

(69) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand seven hundred and eighty acres, as generally depicted on a map entitled "South Nopah Range Wilderness—Proposed", and which shall be known as the South Nopah Range Wilderness.

(70) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand and fifty acres, as generally depicted on a map entitled "Stateline Wilderness—Proposed", dated May 1991, and which shall be known as the Stateline Wilderness.

(71) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-one thousand six hundred acres, as generally depicted on a map entitled "Stepladder Mountains Wilderness—Proposed", and which shall be known as the Stepladder Mountains Wilderness.

(72) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand one hundred and eighty acres, as generally depicted on a map entitled "Surprise Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Surprise Canyon Wilderness.

(73) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand eight hundred and twenty acres, as generally depicted on a map entitled "Sylvania Mountains Wilderness—Proposed", and which shall be known as the Sylvania Mountains Wilderness.

(74) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand seven hundred and twenty acres, as generally depicted on a map entitled "Trilobite Wilderness—Proposed", dated May 1991, and which shall be known as the Trilobite Wilderness.

(75) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-four thousand five hundred acres, as generally depicted on a map entitled "Turtle Mountains Wilderness—Proposed 1", dated February 1986 and a map entitled "Turtle Mountains Wilderness—Proposed 2", dated May 1991, and which shall be known as the Turtle Mountains Wilderness.

(76) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately seventy-five thousand three hundred acres, as generally depicted on a map entitled "Whipple Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Whipple Mountains Wilderness.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 103. Subject to valid existing rights, each wilderness area designated under section 102 shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

GRAZING

SEC. 104. Within the wilderness areas designated under section 102, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96–560 (16 U.S.C. 133 note).

BUFFER ZONES

SEC. 105. The Congress does not intend for the designation of wilderness areas in section 102 of this Act to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MINING CLAIM VALIDITY REVIEW

SEC. 106. The Secretary of the Interior and the Secretary of Agriculture shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within any wilderness area designated under section 102.

FILING OF MAPS AND DESCRIPTIONS

SEC. 107. As soon as practicable after enactment of section 102, a map and a legal description on each wilderness area designated under this title shall be filed by the Secretary concerned with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior, or the Chief of the Forest Service, Department of Agriculture, as is appropriate.

WILDERNESS REVIEW

SEC. 108. The Congress hereby finds and directs that lands in the California Desert Conservation Area, of the Bureau of Land Management, not designated as wilderness or wilderness study areas by this Act have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

DESIGNATION OF WILDERNESS STUDY AREA

SEC. 109. In furtherance of the provisions of the Wilderness Act, certain lands in the California Desert Conservation Area of the Bureau of Land Management which comprise eleven thousand two hundred acres as generally depicted on a map entitled "White Mountains Wilderness Study Area—Proposed", dated May 1991, are hereby designated the White Mountains Wilderness Study Area and shall be administered by the Secretary in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976.

SUITABILITY REPORT

SEC. 110. The Secretary is required, ten years after the date of enactment of this Act, to report to Congress on current and planned exploration, development or mining activities on, and suitability for future wilderness designation of, the lands as generally depicted on maps entitled "Surprise Canyon Wilderness—Proposed", "Middle Park Canyon Wilderness—Proposed", and "Death Valley National Park Boundary and Wilderness 15", dated September 1991 and a map entitled "Manly Peak Wilderness—Proposed", dated October 1991.

WILDERNESS DESIGNATION AND MANAGEMENT IN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 111. (a) In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Havasu National Wildlife Refuge, California, which comprise ap-

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proximately three thousand one hundred and

TRANSFER AND ADMINISTRATION OF LANDS

ity pursuant to this section shall be managed by

National Park Service, Department of the Inte-

ESTABLISHMENT OF THE MOJAVE NATIONAL

after the date of enactment of this title shall

VOL 137 PT 23 NO 21—25 1991 UMI

proximately three thousand one hundred and ninety-five acres, as generally depicted on a map entitled "Havasu Wilderness" and dated October 1991, and which shall be known as the Havasu Wilderness.

(2) Certain lands in the Imperial National Wildlife Refuge, California, which comprise approximately five thousand eight hundred and thirty-six acres, as generally depicted on a map entitled "Imperial Refuge Wilderness" and dated October 1991, and which shall be known as the Imperial Wilderness.

(b) Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) As soon as practicable after enactment of this section, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committees on Energy and Natural Resources and Environment and Public Works of the Senate and Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior.

TITLE II—DEATH VALLEY NATIONAL PARK

FINDINGS

SEC. 201. The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, geological, archeological, paleontological, cultural, historical and wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous Federal lands of national park caliber and afforded full recognition and statutory protection as a national park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF DEATH VALLEY NATIONAL PARK

SEC. 202. There is hereby established the Death Valley National Park, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness—Proposed", numbered in the title one through twenty-three, and dated September 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Death Valley National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 203. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 202 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

MAPS AND LEGAL DESCRIPTION

SEC. 204. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the park designated under this title with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 202. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

DISPOSITION UNDER MINING LAWS

SEC. 205. Subject to valid existing rights, the Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 206. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the additions to the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

GRAZING

SEC. 207. The privilege of grazing domestic livestock on lands within the park may continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations, by those persons holding permits for such grazing on July 1, 1991. Upon the expiration of such permits the Secretary, acting through the Director of the National Park Service, may issue to such persons new permits for such grazing, subject to applicable laws and National Park Service regulations, but all grazing of such livestock on such lands shall cease on July 1, 2016. Further, if such a permittee informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which the permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

TITLE III—JOSHUA TREE NATIONAL PARK

FINDINGS

SEC. 301. The Congress hereby finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interest;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, archeological, paleontological, cultural, historical and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous Federal lands of national park caliber, and afforded full recognition and statutory protection as a national park; and

(5) the nondesignated wilderness within Joshua Tree should receive statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF JOSHUA TREE NATIONAL PARK

SEC. 302. There is hereby established the Joshua Tree National Park, as generally depicted on a map entitled "Joshua Tree National Park Boundary—Proposed", dated May 1991, and four maps entitled "Joshua Tree National Park Boundary and Wilderness", numbered in the title one through four, and dated May 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 303. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 302 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

MAPS AND LEGAL DESCRIPTION

SEC. 304. Within six months after the enactment of this title, the Secretary shall file maps and legal description of the park designated by this title with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 302. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the

National Park Service, Department of the Interior.

DISPOSITION UNDER MINING LAWS

SEC. 305. Subject to valid existing rights, Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from the operation of the Geothermal Steam Act of 1970.

UTILITY RIGHTS-OF-WAY

SEC. 306. Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to the Metropolitan Water District pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b), which is located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. Nothing in this title shall have the effect of terminating the fee title to lands or customary operation, maintenance, repair, and replacement activities on or under such lands granted to the Metropolitan Water District pursuant to the Act of June 18, 1932 (47 Stat. 324), which are located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Metropolitan Water District, plans for emergency access by the Metropolitan Water District to its lands and rights-of-way.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 307. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

TITLE IV—MOJAVE NATIONAL MONUMENT

FINDINGS

SEC. 401. The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national park;

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the Wilderness Act; and

(5) the Mojave Desert area provides an outstanding opportunity to develop service, programs, accommodations and facilities to ensure the use and enjoyment of the area by individuals with disabilities, consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

ESTABLISHMENT OF THE MOJAVE NATIONAL MONUMENT

SEC. 402. There is hereby established the Mojave National Monument, comprising approximately one million four hundred and ninety-one thousand acres, as generally depicted on a map entitled "Mojave National Park Boundary—Proposed", dated May 1991, and ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", numbered in the title one through ten, and dated September 1991 or prior, which shall be on file and available for inspection in the offices of the Director of the National Park Service, Department of the Interior.

TRANSFER OF LANDS

SEC. 403. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 402 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

MAPS AND LEGAL DESCRIPTION

SEC. 404. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the monument designated under this title with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 402. The maps and legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

ABOLISHMENT OF SCENIC AREA

SEC. 405. The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994), and modified on August 9, 1983 (48 FR 36210), as hereby abolished.

ADMINISTRATION OF LANDS

SEC. 406. The Secretary shall administer the monument in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

DISPOSITION UNDER MINING LAWS

SEC. 407. Subject to valid existing rights, Federal lands within the monument, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 408. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the monument and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

REGULATION OF MINING

SEC. 409. Subject to valid existing rights, all mining claims located within the monument shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with the protection of the scenic, scientific, cultural and other resources of the monument, and any patent which may be issued after the date of enactment of this title shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.

GRAZING

SEC. 410. The privilege of grazing domestic livestock on lands within the monument may continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations, by those persons holding permits for such grazing on July 1, 1991. Upon the expiration of such permits the Secretary, acting through the Director of the National Park Service, may issue to such persons new permits for such grazing, subject to applicable laws and National Park Service regulations, but all grazing of such livestock on such lands shall cease on July 1, 2016. Further, if such a permittee informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which the permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the monument, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the monument and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

UTILITY RIGHTS OF WAY

SEC. 411. (a)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to Southern California Edison Company, which is located on lands included in the Mojave National Monument, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on monument resources.

(2) Nothing in this title shall have the effect of prohibiting the upgrading of an existing electrical transmission line for the purpose of increasing the capacity of such transmission line in a right-of-way identified in paragraph (1), or in a right-of-way if issued, granted, or permitted by the Secretary adjacent to the existing Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as "adjacent right-of-way"), including construction of a replacement transmission line: Provided, That—

(A) in the Eldorado-Lugo Transmission Line rights-of-way (hereafter in this section referred to as the "Eldorado rights-of-way") at no time shall there be more than 3 electrical transmission lines,

(B) in the Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as the "Mojave right-of-way") and adjacent right-of-way, removal of the existing electrical transmission line and reclamation of the site shall be completed no later than three years after the date on which construction of the replacement transmission line begins, after which time there may be only one electrical transmission line in the lands encompassed by Mojave right-of-way and adjacent right-of-way,

(C) if there are no more than two electrical transmission lines in the Eldorado rights-of-way, two electrical transmission lines in the lands encompassed by the Mojave right-of-way and adjacent right-of-way may be allowed,

(D) in the Eldorado rights-of-way no additional land shall be issued, granted, or permitted for such upgrade unless an addition would reduce the impacts to monument resources,

(E) in the Mojave right-of-way no more than 350 feet of additional land shall be issued,

granted, or permitted for an adjacent right-of- management agreement with the University of retary in the Federal Register of notice of such

from the operation of the mineral leasing laws (d) The Federal water rights reserved by this transferred to the United States at the time such

VOL 137
PT 23
NO 21—25
1991
UMI

granted, or permitted for an adjacent right-of-way to the south of the Mojave right-of-way unless a greater addition would reduce the impacts to monument resources, and

(F) such upgrade activities, including helicopter aided construction, shall be conducted in a manner which will minimize the impact on monument resources.

(3) The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Southern California Edison Company, plans for emergency access by the Southern California Edison Company to its rights-of-way.

(b) Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way; issued, granted, or permitted to the Southern California Gas Company, which is located on lands included in the Mojave National Monument, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on monument resources.

(c) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted for communications cables or lines, which are located on lands included in the Mojave National Monument, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on monument resources.

PREPARATION OF MANAGEMENT PLAN

SEC. 412. Within three years of the date of enactment of this title, the Secretary shall submit to the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives a detailed and comprehensive management plan for the monument. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the monument. Any development, including road improvements, proposed by such plan shall be strictly limited to that which is essential and appropriate for the administration of the monument and shall be designed and located so as to maintain its primitive nature of the area and to minimize the impairment of monument resources or ecological values. To the extent practicable, administrative facilities, employee housing, commercial visitor services, accommodations, and other monument-related development shall be located or provided for outside of the boundaries of the monument. Such plan shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational, and scientific programs within the monument. Such plan shall specifically address the needs of individuals with disabilities in the design of services, programs, accommodations and facilities consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

GRANITE MOUNTAINS NATURAL RESERVE

SEC. 413. (a) There is hereby designated the Granite Mountains Natural Reserve within the monument comprising approximately 9,000 acres as generally depicted on a map entitled "Mojave National Park Boundary and Wilderness—Proposed 6", dated May 1991.

(b) Upon enactment of this title, the Secretary of the Interior shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of law generally applicable to units of the National Park System.

CONSTRUCTION OF VISITOR CENTER

SEC. 414. The Secretary is authorized to construct a visitor center in the monument for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the monument.

ACQUISITION OF LANDS

SEC. 415. The Secretary is authorized to acquire all lands and interest in lands within the boundary of the monument by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the monument which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange except for lands managed by California State Lands Commission; and

(2) lands or interests therein within the boundary of the monument which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the monument or which is otherwise incompatible with the purposes of this title.

TITLE V—NATIONAL PARK WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 501. The following lands are hereby designated as wilderness in accordance with the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(1) Death Valley National Park Wilderness, comprising approximately three million one hundred eighty-three thousand four hundred and thirty-eight acres, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness", numbered in the title one through twenty-three, and dated September 1991 or prior, and three maps entitled "Death Valley National Park Wilderness", numbered in the title one through three, and dated May 1991 or prior, and which shall be known as the Death Valley Wilderness;

(2) Joshua Tree National Park Wilderness Additions, comprising approximately one hundred thirty-one thousand six hundred and eighty acres, as generally depicted on four maps entitled "Joshua Tree National Park Boundary and Wilderness—Proposed", numbered in the title one through four, and dated October 1991 or prior, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree Wilderness as designated by Public Law 94–567; and

(3) Mojave National Monument Wilderness, comprising approximately six hundred ninety-four thousand five hundred acres, as generally depicted on ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", numbered in the title one through ten, and dated September 1991 or prior, and seven maps entitled "Mojave National Park Wilderness—Proposed", numbered in the title one through seven, and dated September 1991 or prior, and which shall be known as the Mojave Wilderness.

(4) Upon cessation of all uses prohibited by the Wilderness Act and publication by the Secretary in the Federal Register of notice of such cessation, potential wilderness, comprising approximately six thousand eight hundred and forty acres, as described in "1988 Death Valley National Monument Draft General Management Plan Draft Environmental Impact Statement" (hereafter in this title referred to as "Draft Plan") and as generally depicted on map in the Draft Plan entitled "Wilderness Plan Death Valley National Monument", dated January 1988, and which shall be deemed to be a part of the Death Valley Wilderness as designated in paragraph (1). Lands identified in the Draft Plan as potential wilderness shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

FILING OF MAPS AND DESCRIPTIONS

SEC. 502. Maps and a legal description of the boundaries of the areas designated in section 501 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 501. As soon as practicable after this title takes effect, maps of the wilderness areas and legal descriptions of their boundaries shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and descriptions.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 503. The areas designated by section 501 of this title as wilderness shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provision to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE VI—MISCELLANEOUS PROVISIONS

TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK

SEC. 601. Upon enactment of this title, the Secretary of the Interior shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitled "Red Rock Canyon State Park Additions 1" and "Red Rock Canyon State Park Additions 2", dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of the California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

DESERT LILY SANCTUARY

SEC. 602. (a) There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary of the Interior shall administer the area to provide maximum protection to the desert lily.

(b) Subject to valid existing rights, Federal lands within the sanctuary, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States,

from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

INDIAN CANYONS NATIONAL HISTORIC SITE

SEC. 603.

LAND TENURE ADJUSTMENTS

SEC. 604. In preparing land tenure adjustment decisions with the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and wilderness areas designated by this Act.

LAND DISPOSAL

SEC. 605. Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture may not dispose of any lands within the boundaries of the wilderness, park, or monument designated under this Act or grant a right-of-way in any lands within the boundaries of the wilderness designated under this Act. Further, none of the lands within the boundaries of the wilderness, park, or monument designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District and any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b) or any similar acts.

MANAGEMENT OF NEWLY ACQUIRED LANDS

SEC. 606. Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government, shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

NATIVE AMERICAN USES

SEC. 607. In recognition of the past use of the parks, monument, and wilderness areas designed under this Act by Indian people for traditional cultural and religious purposes, the Secretary shall ensure access to such parks, monument, and wilderness areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of park, monument, or wilderness areas in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996) commonly referred to as the "American Indian Religious Freedom Act", and with respect to areas designated as wilderness, the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131).

WATER RIGHTS

SEC. 608. (a) With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary of the Interior and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 44 U.S.C. 666; commonly referred to as the McCarran Amendment).

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

AUTHORIZATION OF APPROPRIATIONS

SEC. 609. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

STATE SCHOOL LANDS

SEC. 610. (a) Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School Lands (hereinafter in this section referred to as "State School Lands") or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act. The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management Act of 1976.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committees a list of the following:

(1) The State School Lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, including in the following priority:

(A) Lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues.

(B) Federal lands in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for an exchange involving five thousand acres or less of Federal land or interests therein, or Federal lands valued at less than $5,000,000, the Secretary may carry out the exchange in accordance with the Federal Land Policy and Management Act of 1976.

(2) If an agreement under this section is for an exchange involving more than five thousand acres of Federal land or interests therein, or Federal land valued at more than $5,000,000, the agreement shall be submitted to the Committees, together with a report containing—

(A) a complete list and appraisal of the lands or interests in lands proposed for exchange; and

(B) a determination that the State School Lands proposed to be acquired by the United States do not contain any hazardous waste, toxic waste, or radioactive waste.

(d) An agreement submitted under subsection (c)(2) shall not take effect unless approved by a joint resolution enacted by the Congress.

(e) If exchanges of all of the State School Lands are not completed by October 1, 1995, the Secretary shall adjust the appraised value of any remaining inholdings consistent with the provisions of section 206 of the Federal Land Management Policy Act of 1976. The Secretary shall establish an account in the name of the Commission in the amount of such appraised value. Title to the State School Lands shall be transferred to the United States at the time such account is credited.

(f) The Commission may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. In the event that the balance in the account has not been reduced to zero by October 1, 2000, there are authorized to be appropriated to the Secretary for payment to the California State Lands Commission funds equivalent to the balance remaining in the account as of October 1, 2000.

(g) As used in this section, the term "Committees" means the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

EXCHANGES

SEC. 611.

TITLE VII—DEFINITION

DEFINITION

SEC. 701. For the purposes of this Act:

(1) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(2) The term "public lands" means any land and interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management.

The CHAIRMAN. No amendment to the substitute is in order except those amendments printed in House Report 102–314. Said amendments shall be considered in the order and manner specified in said report and shall be considered as read. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Said amendments shall not be subject to amendment, except that pro forma amendments for the purpose of debate shall be in order if offered by the chairman or ranking minority member of the Committee on Interior and Insular Affairs.

Where House Report 102–314 specifies consideration of amendments en bloc, said amendments shall be so considered, and shall not be subject to a demand for a division of the question.

It is in order at any time for the Chairman of the Committee on Interior and Insular Affairs to offer amendments en bloc consisting of amendments, and modifications in the text of any amendments which are germane thereto, printed in House Report 102–314. The amendments en bloc, except for any modifications, shall be considered as read and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc. Said amendments en bloc shall not be subject to amendment or to a demand for a division of the question.

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nine acres, as generally depicted on a map (32) certain public lands in the California (CDCA–262), and which shall be known as the

VOL 137 PT 23 NO 21–25 1991 UMI

The Chair will announce the number of the amendment made in order by the rule in order to give notice to the Committee of the Whole as to the order of recognition.

It is now in order to consider amendment No. 1 printed in House Report 102–314.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. LEWIS of California: Strike all after the enacting clause and insert the following:

This Act may be cited as the "California Public Lands Wilderness Act".

SEC. 2. The Congress finds that—

(1) many areas of undeveloped public land in California and one parcel in Washoe County, Nevada, administered by the Bureau of Land Management have outstanding natural characteristics that give them high value as wilderness and that can, if properly managed, serve as an enduring resource of wilderness for the benefit of the American people;

(2) it is in the national interest that these areas be promptly designated as components of the National Wilderness Preservation System in order to preserve and maintain them as an enduring resource of wilderness to be managed to promote and perpetuate their wilderness character and their specific multiple values for natural systems biodiversity, watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of present and future generations of the American people; and

(3) certain areas of public lands located in Inyo and Riverside Counties, California are appropriate for transfer from the Bureau of Land Management to the National Park Service as additions to the Death Valley and Joshua Tree National Monuments.

SEC. 3. As used in this Act—

(1) the term "public lands" shall have the same meaning as defined in section 103(e) of the Federal Land Policy and Management Act of 1976; and

(2) the term "Secretary" means the Secretary of the Interior.

SEC. 4. (a) In furtherance of the purposes of the Wilderness Act, the following public lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately fifteen thousand eight hundred and ninety-seven acres, as generally depicted on a map entitled "Owens Peak Proposal", dated June 1988 (CA–010–026), and which shall be known as the Owens Peak Wilderness;

(2) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately ten thousand seven hundred and twenty-one acres, as generally depicted on a map entitled "Sacatar Meadows Proposal", dated June 1988 (CA–010–027), and which shall be known as the Sacatar Meadows Wilderness;

(3) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately twenty eight thousand two hundred and ninety-one acres, as generally depicted on a map entitled "Southern Inyo Proposal", dated June 1988 (CA–010–056), and which shall be known as the Southern Inyo Wilderness;

(4) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately one thousand nine hundred and eighty-three acres, as generally depicted on a map entitled "Pinnacles Proposal", dated June 1988 (CA–040–303), and which shall be known as the Pinnacles Wilderness;

(5) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately seven thousand four hundred and forty-three acres, as generally depicted on a map entitled "Pit River Canyon Proposal", dated June 1988 (CA–020–103), and which shall be known as the Pit River Canyon Wilderness;

(6) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately seven thousand eight hundred and eighty-nine acres, as generally depicted on a map entitled "Tunnison Mountain Proposal", dated June 1988 (CA–020–311), and which shall be known as the Tunnison Mountain Wilderness;

(7) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately thirty seven thousand and fifty-five acres located in Lassen County, California, and five hundred and eighty-nine acres located in Washoe County, Nevada, as generally depicted on a map entitled "Skedaddle Proposal", dated June 1988 (CA–020–612), and which shall be known as the Skedaddle Wilderness;

(8) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately one thousand one hundred and sixty-one acres, as generally depicted on a map entitled "South Warner Proposal", dated June 1988 (CA–020–708), and which shall be known as the South Warner Wilderness;

(9) certain public lands in the Ukiah District of the Bureau of Land Management, California, which comprise approximately four thousand one hundred and forty-three acres, as generally depicted on a map entitled "Chemise Mountain Proposal", dated June 1988 (CA-050-111), and which shall be known as the Chemise Mountain Wilderness;

(10) certain public lands in the Ukiah District of the Bureau of Land Management, California, which comprise approximately twenty thousand two hundred and forty-eight acres, as generally depicted on a map entitled "King Range Proposal", dated June 1988 (CA–050–112), and which shall be known as the Sacatar Meadows Wilderness;

(11) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately three hundred and forty-four acres, as generally depicted on a map entitled "Agua Tibia Proposal", dated June 1988 (CA–060–002), and which shall be known as the Agua Tibia Wilderness;

(12) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-two thousand eight hundred and seventy-five acres, as generally depicted on a map entitled "Sawtooth Mountains Proposal", dated June 1988 (CA–060–024B), and which shall be known as the Sawtooth Mountains Wilderness;

(13) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifteen thousand four hundred and eight acres, as generally depicted on a map entitled "Carrizo Gorge Proposal", dated June 1988 (CA–060–025A), and which shall be known as the Carrizo Gorge Wilderness;

(14) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately four thousand three hundred and twenty-three acres, as generally depicted on a map entitled "Western Otay Mountain Proposal", dated June 1988 (CA–060–028), and which shall be known as the Western Otay Mountain Wilderness;

(15) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately six thousand seven hundred and eighty-three acres, as generally depicted on a map entitled "Southern Otay Mountain Proposal", dated June 1988 (CA–060–029), and which shall be known as the Southern Otay Mountain Wilderness;

(16) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately three hundred ninety-two thousand six hundred forty-three acres, as generally depicted on a map entitled "Saline Valley Proposal", dated June 1988 (CDCA–117), and which shall be known as the Saline Valley Wilderness;

(17) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately two thousand one hundred and fifty-four acres, as generally depicted on a map entitled "Lower Saline Valley Proposal", dated June 1988 (CDCA–117A), and which shall be known as the Lower Saline Valley Wilderness;

(18) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty five thousand seven hundred and ninety-two acres, as generally depicted on a map entitled "Little Sand Spring Proposal", dated June 1988 (CDCA–119), and which shall be known as the Little Sand Spring Wilderness;

(19) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty eight thousand three hundred and ninety-two acres, as generally depicted on a map entitled "Inyo Mountains Proposal", dated June 1988 (CDCA–122), and which shall be known as the Inyo Mountains Wilderness;

(20) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty thousand and thirty acres, as generally depicted on a map entitled "Hunter Mountain Proposal", dated June 1988 (CDCA–123), and which shall be known as the Hunter Mountain Wilderness;

(21) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately ninety thousand six hundred and twenty-six acres, as generally depicted on a map entitled "Panamint Dunes Proposal", dated June 1988 (CDCA–127), and which shall be known as the Panamint Dunes Wilderness;

(22) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fourteen thousand and seventy-

nine acres, as generally depicted on a map entitled "Wild Rose Canyon Proposal", dated June 1988 (CDCA–134), and which shall be known as the Wild Rose Canyon Wilderness;

(23) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty four thousand five hundred and thirty-six acres, as generally depicted on a map entitled "Slate Range Proposal", dated June 1988 (CDCA–142), and which shall be known as the Slate Range Wilderness;

(24) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty three thousand four acres, as generally depicted on a map entitled "Funeral Mountains Proposal", dated June 1988 (CDCA–143), and which shall be known as the Funeral Mountains Wilderness;

(25) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty two thousand eight hundred and eleven acres, as generally depicted on a map entitled "Greenwater Valley Proposal", dated June 1988 (CDCA–148), and which shall be known as the Greenwater Valley Wilderness;

(26) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventy nine thousand eight hundred and sixty-eight acres, as generally depicted on a map entitled "Nopah Range Proposal", dated June 1988 (CDCA–150), and which shall be known as the Nopah Range Wilderness;

(27) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred twenty one thousand nine hundred and twelve acres, as generally depicted on a map entitled "Owlshead Mountains Proposal", dated June 1988 (CDCA–156), and which shall be known as the Owlshead Mountains Wilderness;

(28) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty two thousand hundred and twenty-five acres, as generally depicted on a map entitled "Little Lake Canyon Proposal", dated June 1988 (CDCA–157), and which shall be known as the Little Lake Canyon Wilderness;

(29) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty six thousand one hundred and thirteen acres, as generally depicted on a map entitled "Owens Peak Proposal", dated June 1988 (CDCA–158), and which shall be known as the Owens Peak Wilderness;

(30) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirteen thousand nine hundred and eight-six acres, as generally depicted on a map entitled "El Paso Mountains Proposal", dated June 1988 (CDCA–164), and which shall be known as the El Paso Mountains Wilderness;

(31) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-nine thousand one hundred and thirteen acres, as generally depicted on a map entitled "Golden Valley Proposal", dated June 1988 (CDCA–170), and which shall be known as the Golden Valley Wilderness;

(32) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty thousand two hundred and ninety-one acres, as generally depicted on a map entitled "Newberry Mountains Proposal", dated June 1988 (CDCA–206), and which shall be known as the Newberry Mountains Wilderness;

(33) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventeen thousand six hundred and thirty acres, as generally depicted on a map entitled "Rodman Mountains Proposal", dated June 1988 (CDCA–207), and which shall be known as the Rodman Mountains Wilderness;

(34) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately eleven thousand sixty-eight acres, as generally depicted on a map entitled "Bighorn Mountains Proposal", dated June 1988 (CDCA–217), and which shall be known as the Bighorn Mountains Wilderness;

(35) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately six thousand four hundred and ten acres, as generally depicted on a map entitled "Morongo Proposal", dated June 1988 (CDCA–218), and which shall be known as the Morongo Wilderness;

(36) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately eleven thousand one hundred and sixty-nine acres, as generally depicted on a map entitled "Whitewater Proposal", dated June 1988 (CDCA–218A), and which shall be known as the Whitewater Wilderness;

(37) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-four thousand three hundred and sixty-nine acres, as generally depicted on a map entitled "Kingston Range Proposal", dated June 1988 (CDCA–222), and which shall be known as the Kingston Range Wilderness;

(38) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-one thousand seven hundred and one acres, as generally depicted on a map entitled "Cinder Cones Proposal", dated June 1988 (CDCA–239), and which shall be known as the Cinder Cones Wilderness;

(39) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-six thousand four hundred and five acres, as generally depicted on a map entitled "Kelso Dunes Proposal", dated June 1988 (CDCA–250), and which shall be known as the Kelso Dunes Wilderness;

(40) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-three thousand two hundred and thirty-two acres, as generally depicted on a map entitled "Bristol/Granite Mountains Proposal", dated June 1988 (CDCA–256), and which shall be known as the Bristol/Granite Mountains Wilderness;

(41) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-four thousand two hundred and thirty-eight acres, as generally depicted on a map entitled "South Providence Mountains Proposal", dated June 1988 (CDCA–262), and which shall be known as the South Providence Mountains Wilderness;

(42) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-nine thousand six hundred and eighty-one acres, as generally depicted on a map entitled "Providence Mountains Proposal", dated June 1988 (CDCA–263), and which shall be known as the Providence Mountains Wilderness;

(43) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-three thousand five hundred and nineteen acres, as generally depicted on a map entitled "Castle Peaks Proposal", dated June 1988 (CDCA–266), and which shall be known as the Castle Peaks Wilderness;

(44) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-four thousand eight hundred and fifty-four acres, as generally depicted on a map entitled "Fort Piute Proposal", dated June 1988 (CDCA–267), and which shall be known as the Fort Piute Wilderness;

(45) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred sixteen thousand four hundred and eighty acres, as generally depicted on a map entitled "Turtle Mountains Proposal", dated June 1988 (CDCA–307), and which shall be known as the Turtle Mountains Wilderness;

(46) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately sixty-one thousand eight hundred and fifty-three acres, as generally depicted on a map entitled "Chemehuevi Mountains Proposal", dated June 1988 (CDCA–310), and which shall be known as the Chemehuevi Mountains Wilderness;

(47) certain public lands in the Yuma, Arizona District of the Bureau of Land Management, located in California, which comprise approximately nine hundred and thirty-eight acres, as generally depicted on a map entitled "Chemehuevi/Needles Addition Proposal", dated June 1988 (AZ–050–004), and which shall be known as the Chemehuevi/Needles Addition Wilderness;

(48) certain public lands in the Yuma, Arizona, District of the Bureau of Land Management, located in California, which comprise approximately seventy-two thousand sixty-three acres, as generally depicted on a map entitled "Whipple Mountains Proposal", dated June 1988 (CDCA–312), and which shall be known as the Whipple Mountains Wilderness;

(49) certain public lands in the Yuma, Arizona, District of the Bureau of Land Management, located in California, which comprise approximately one thousand three hundred and forty-three acres, as generally depicted on a map entitled "Whipple Mountains Addition Proposal", dated June 1988 (AZ–050–010), and which shall be known as the Whipple Mountains Addition Wilderness;

(50) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventy-five thousand six hundred and sixty-five acres, as generally depicted on a map entitled "Palen/McCoy Proposal", dated June 1988 (CDCA–325), and which shall be known as the Palen/McCoy Wilderness;

(51) certain public lands in the California Desert District of the Bureau of Land Man-

VOL
137
PT
23
NO
21
—
25
1991
UMI

agement, California, which comprise approximately fifty-two thousand seven hundred and eighty-two acres, as generally depicted on a map entitled "Coxcomb Mountains Proposal", dated June 1988 (CDCA–328), and which shall be known as the Coxcomb Mountains Wilderness;

(52) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-one thousand four hundred and thirty-four acres, as generally depicted on a map entitled "Eagle Mountains Proposal", dated June 1988 (CDCA–334), and which shall be known as the Eagle Mountains Wilderness;

(53) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-seven thousand one hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Mountains Proposal", dated June 1988 (CDCA–341), and which shall be known as the Santa Rosa Mountains Wilderness;

(54) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seven thousand one hundred and ninety-nine acres, as generally depicted on a map entitled "Mecca Hills Proposal", dated June 1988 (CDCA–343), and which shall be known as the Mecca Hills Wilderness;

(55) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-eight thousand two hundred and seven acres, as generally depicted on a map entitled "Orocopia Mountains Proposal", dated June 1988 (CDCA–344), and which shall be known as the Orocopia Mountains Wilderness;

(56) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-seven thousand thirty acres, as generally depicted on a map entitled "Chuckwalla Mountains Proposal", dated June 1988 (CDCA–348), and which shall be known as the Chuckwalla Mountains Wilderness;

(57) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-one thousand four hundred and ninety-three acres, including eight hundred and ninety-one acres adjacent to the Wilderness Study Area, as generally depicted on a map entitled "Julian Wash (formerly Indian Pass) Proposal", dated June 1988 (CDCA–355), and which shall be known as the Julian Wash Wilderness;

(58) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately five thousand four hundred and fifty-five acres, as generally depicted on a map entitled "Gavilan (formerly Picacho Peak) Proposal", dated June 1988 (CDCA–355A), and which shall be known as the Gavilan Wilderness;

(59) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-five thousand seven hundred and sixteen acres, as generally depicted on a map entitled "North Algodones Dunes Proposal", dated June 1988 (CDCA–360), and which shall be known as the North Algodones Dunes Wilderness;

(60) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-six thousand one hundred and twenty-eight acres, as generally depicted on a map entitled "Jacumba Proposal", dated June 1988 (CDCA–368), and which shall be known as the Jacumba Wilderness;

(61) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifteen thousand three hundred and fifty-nine acres, as generally depicted on a map entitled "Fish Creek Mountains Proposal", dated June 1988 (CDCA–372), and which shall be known as the Fish Creek Mountains Wilderness; and

(62) certain public lands in the Carson City, Nevada, District of the Bureau of Land Management, located in California, which comprise approximately five hundred and fifty acres, as generally depicted on a map entitled "Carson Iceberg Proposal", dated June 1988 (NV–030–532), and which shall be known as the Carson Iceberg Wilderness.

(b) The acreages cited in this Act are approximate. In the event of discrepancies between acreages cited in this Act and the acreages depicted on the referenced maps, the maps shall control.

(c) The designation of the Skedaddle Wilderness Area by subsection (b)(7) shall not be construed or used to restrain current or future activities associated with the adjacent Sierra Army Depot.

SEC. 5. As soon as practicable after enactment of this Act, a map and a legal description for each designated wilderness area and area added to the National Park System shall be filed by the Secretary with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical, and cartographic errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Offices of the Director and California State Director, Bureau of Land Management, Department of the Interior.

SEC. 6. (a) Subject to valid existing rights, each wilderness area designated by section 4(a) of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) and pursuant to the rules and regulations promulgated in implementation thereof.

(b) The following lands are hereby added to the National Park System:

(1) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred and three thousand eight hundred acres, as described in the Bureau of Land Management's Monument Environmental Impact Statement, 1989, and generally depicted on maps entitled "Proposed Additions to National Park System Death Valley National Monument, 1989", are hereby incorporated in, and shall be deemed to be a part of Death Valley National Monument; and

(2) certain public lands which comprise approximately four thousand eight hundred acres, as described in the Bureau of Land Management's Monument Environmental Impact Statement, 1989, and generally depicted on a map entitled "Proposed Addition to National Park System Joshua Tree National Monument, 1989", are hereby incorporated in, and shall be deemed to be a part of Joshua Tree National Monument.

(c) Upon enactment of this Act, the lands described in subsection (b) of this section, are, by operation of law and without consideration, transferred to the administrative jurisdiction of the National Park Service. The boundaries of the California Desert District; Death Valley National Monument and Joshua Tree National Monument are adjusted accordingly. The areas added to the National Park System by this section shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

(d) The Secretary shall, within a reasonable period of time, prepare plans to manage each designated wilderness area.

(e) For purposes of this Act, any reference in the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the date of enactment of this Act.

SEC. 7. Any lands within the boundaries of a wilderness area established by this Act that are acquired by the United States after the date of enactment of this Act shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

SEC. 8. Except as otherwise provided in this Act, and subject to valid exiting rights, all Federal lands established as wilderness by this Act and all lands within wilderness areas designated by this Act which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public lands laws, including the mining, mineral leasing, geothermal leasing, and material sales laws.

SEC. 9. (a) Nothing in this Act designating lands as wilderness shall constitute or be construed to constitute either an express or implied reservation of water or water rights for wilderness purposes. The United States may acquire such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness pursuant to the substantive and procedural requirements of the laws of the States of California and Nevada as appropriate.

(b) Nothing in this Act shall be construed to limit the exercise of water rights as provided under California and Nevada State laws as appropriate.

SEC. 10. (a) Military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system.

(b) Nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities and the overflight of military aircraft over areas designated in this Act as the components of the National Wilderness Preservation System.

(c) The designation by this Act of wilderness areas in the State of California shall not restrict military overflights of wilderness areas for the purposes of military testing and training.

(d) The fact that military overflights can be seen or heard shall not preclude such activities over the wilderness areas designated by this Act.

(e) Nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities at Sierra Army Depot which is located adjacent to areas designated in this Act as components of the National Wilderness Preservation System and the fact that such demilitarization activities can be detected from within the adjacent wilderness areas shall not preclude such activities.

SEC. 11. In recognition of the past use of portions of the wilderness areas designated by this Act by Indian people for traditional cultural and religious purposes, the Secretary shall assure access to the wilderness areas by Indian people for traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an appropriate Indian tribe or Indian religious community, may from time to time temporarily close to general public use one or more specific portions of wilderness areas in order to protect the privacy of religious cultural activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes.

SEC. 12. The Congress finds and directs that all public lands in the State of California administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 and those lands not designated as wilderness by this Act are no longer subject to the requirements contained in section 603 of the Federal Land Policy and Management Act of 1976 for management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness and shall be managed for their other resource values in accordance with land management plans development pursuant to the Federal Land Policy and Management Act; or as part of the National Park System pursuant to section 6 of this Act.

SEC. 13. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The CHAIRMAN. Under the rule, the gentlemen from California [Mr. LEWIS] will be recognized for 30 minutes, and the gentleman from California [Mr. LEHMAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we have suggested on several occasions, this amendment by way of a substitute, which has been approved, is a direct reflection of that public process whereby a major cross-section of interests who are concerned about the California desert held public hearings over a period of years, spent $8 million of the taxpayers' money to analyze and resolve the conflicts involved in a controversy such as this. They were ordered by the Congress to come forth with a bill. They have come forth with a bill.

The committee has not chosen to take up the bill or consider its passage from the subcommittee or the full committee process. Because of that, we have had to essentially put that measure in a substitute, in an attempt to first make some sense out of the desert-planning process and make certain that whatever bill was passed had a chance at least to reflect the truly critical interests that lie in the California desert.

The bill that we have by way of this substitute involves 62 wilderness areas covering 2.3 million acres. As I have said several times this evening and on other occasions, this would be the largest wilderness area to be established in the continental United States, if it were to pass into law. And it reflects the need to protect many a delicate area in the California desert.

I mentioned to my colleagues that the reason that we are most intently opposed to H.R. 2929 is because it is a bill that reflects the excess of a very few in the environmental movement. They walked away from the public process and essentially took their original proposal of over a decade ago and introduced it by way of legislation in the other body.

Over the last several years, that measure has not been successful. The author of this bill, 2929, announced early in the year that he had a grand compromise that would solve some of those problems. The grand compromise makes almost no difference from that original bill and, indeed, it reflects none of the public input that we have been discussing.

As a practical fact, it is important to point up some of the difficulties of that bill in terms of excess.

In my judgment, H.R. 2929 is an ill-timed and underfunded expansion of the National Park System. H.R. 2929 creates a new 1.5-million acre national monument in the East Mojave at a time when the National Parks and Conservation Association has identified a $2 billion operations and maintenance backlog within the existing park structure as their most critical, their most critical priority.

By their own estimate, in East Mojave alone the Park Service would have to spend $16 million to acquire 116,000 acres of private land. The $16 million does not improve the properties. It merely compensates the existing owners for loss of their property interest.

It also adds 1.3 million acres to the Death Valley National Monument and 2,000 acres to the Joshua Tree National Monument, when the Park Service supports a more manageable and quality addition of 108,600 acres.

The alternative is to leave the East Mojave as a BLM management national scenic area, a designation which preserves its traditional character and heritage while creating seven permanent wilderness areas totaling 293,000 acres. That is what the Park Service wants; that is what the Department of Defense supports. They oppose H.R. 2929.

Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, I thank the gentleman for yielding time to me.

Permit me a little latitude here. I was born, raised, except for my time in school and the service, in the desert. I live in the desert and, if everything goes right, I will die in the desert.

My roots go back to 1900 when my grandfather homesteaded in this general area. I went to school in a one-room schoolhouse while living with my grandparents. I rode a horse, did not ride a bus to school. And we ate rattlesnake and rabbits and other things because things were kind of tough in those days.

I mention this to my colleagues because with all due respect to those who live in New York or some other distant place, the desert means much more to me because of what I have related than it can possibly mean to those type of people who have not had these kinds of experiences.

So when we talk about the rape of the desert or we talk about wilderness areas, I relate to those things.

I would like to share with my colleagues an experience I had with the Bureau of Land Management, when I spent 2 days going through in detail each of the wilderness areas that were being proposed by our bill and being proposed by our opponents' bill.

We looked at many of these areas. We said, yes, the study on this area says we need to have this as a wilderness area. We would fly on and here is another area and they said, well, we do not feel that this area is justified, even though it is in the other person's bill, because a road goes right through it. And if we notice down there there is a little shack, and there happened to be at that point two cars next to the shack.

My interpretation is that wilderness area is pristine, something that has not been inhabited by man, something that is as near perfect as possible, not something that has been inhabited and used and continued to be used by the public over a period of time.

Many of the areas in question in my opponents' bill meet this definition. I personally saw these on a map and looking out of the window of a helicopter. So these are some of the things I take into consideration when I think in terms of what people say about us, on that side of the aisle, do not have a sensitivity to these areas.

Let me talk a little bit about that portion of the desert that I represent, roughly in this wilderness study area about 50 miles by 200 miles. Right through the middle of that going in an east-western direction is the old Butterfield stage route, one of the main routes during the westward movement of our country. And later, as the name implies, a stagecoach route.

The wilderness area in question that is being proposed for that area is not wilderness at all. It is the part of the Butterfield stage route of great age and prominence used to a large degree by four-wheel-drive people as an outing on weekends, and many of these four-

VOL 137
PT 23
NO 21—25
1991
UMI

wheel-drive clubs are clubs that utilize the family unit as a means of recreation, as my colleague has said. They are working people, and this is their way of recreating.

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So when we talk about the naval gunnery range, we are talking about adjacent to the naval gunnery range putting in some wilderness areas that have no concept as I understand wilderness areas of meeting the necessary criteria. They have been utilized ever since the westward movement by people coming in covered wagons and later in other ways.

That is one of the problems that I have with the study and the basis upon which this particular plan is designated.

Let us talk a little bit about the Joshua Tree National Monument as it currently exists. There is a proposal to expand this monument and make it a national park. It would be certainly fine to make it a national park. The gentleman from California [Mr. LEWIS] has talked about the shortage of problems relative to that. The proposed expansion of Joshua Tree National Monument is very impractical, because a great deal of that being proposed for expansion is either currently being lived in or has been lived in at some time, and has no bearing or relationship to what is a national park or a Joshua Tree National Monument expansion is intended to try to accomplish for the benefit for the public.

We have talked about all of the land use and the attitudes and ideas and thoughts of people relative to the desert, and I must say in all candidness, this all seems to focus down to one big picture and one major magazine, motorcycles going across the desert in herds.

I beg Members to take this into consideration, that there are nuts and bolts to this that have not been considered, that are not proper with respect to the land use. And it is currently a part of this desert that all of us have enjoyed, not at the expense of the desert.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I must say I am very much interested in this recreation of history that seems to be taking place here on the floor during the last hour. I will begin my remarks by talking about the process.

I have heard from the other side that the Lewis substitute was not given a chance, the Lewis substitute was not heard, that the Lewis substitute never had an opportunity. The fact is my committee held a hearing on the Lewis substitute and on H.R. 2929. It did that at the request of the minority. Both bills were heard at the same time in committee, in September, and both had ample testimony. In fact, the Lewis substitute was in order as an amendment in the subcommittee when the subcommittee met. It was sitting at the desk, but no member of the minority sought to introduce the substitute either as an amendment or as a substitute at that time.

At the Rules Committee, the gentleman from California stated that the reason he did not do that was because he did not have the votes. Sometimes around here you do not have the votes. But that is not saying that there was not due process. Every possible opportunity was given, not just for this proposal, but over the course of the past 6 years that this bill has been around. That is right, 6 years. My colleague from California, Mr. LEVINE, and I did not have a conversation 2 months ago and decide to have a desert bill. It has been here for 6 years, and it has been examined from every possible angle. There have been six hearings, three of those hearings having been in California and 500 people have testified.

Earlier this year when I was designated by our committee to be the person on our committee in charge of this legislation I decided not to just take that proposal that had been around and run with it, but I decided as a matter of fairness and as a matter of building on the record to go ahead and question everything in the bill, and to try and find out if there were ways we could modify it that would meet specific objections. We did that, I talked to every interest in California involved in the desert. The door was always open, and the results of that process are reflected in this bill.

Last year this bill was opposed by every utility in California. Now not one single utility, major utility is in opposition to this bill. In fact, Southern California Gas expressly supports the bill. Why? Because we have gone in, and we have taken care of their problems. We have opened up the corridors. We gave them an opportunity to be heard, and we responded.

The same thing goes for the mining interests. In case after case we have accommodated mining interests in this bill, and those have gone away.

Of course we have not been able to accommodate everybody 100 percent, all of the time. That is the nature of the process. But the process has been followed meticulously.

A year ago the State teachers were opposed to this bill. Now the State teachers retirement system is in support of this bill. Why? Because we opened the door. We talked to them. We made the necessary changes and we moved forward.

We removed 271,000 acres, and in the en bloc amendment we will take another 160,000 out of that proposal. We have removed 75,000 acres for off-road vehicle use that was not included in the other bill, 114 miles. And yes, as I stated earlier and will state again now, no active mines are within any wilderness boundaries. Valid existing mining claims are protected in wilderness and parks. However, we have eliminated 73,400 more acres for certain mining interests. We have gone out of our way, whether it was with the grazing issue and the cattlemen, whether it was with the State teachers, with the utilities, the mining interests, the off-road people. I could go on and on, we have met their objections, accommodated their interests where it was in the interest of moving this bill forward, where it was in the interest of solving the problem and moving the bill forward, and that is the issue here.

The other side claims that what they want is a dialog. This bill has been around for 6 years. It has had all of those hearings. It is not dialog that the other side wants, it is delay, delay, delay.

Delay is disaster for the desert and delay stops today. Delay stops in 1 hour when we have the opportunity to vote on the Lewis amendment.

I have a great deal of respect for JERRY LEWIS. He has been a friend of mine for many years.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I have a great deal of respect for the gentleman, and that is one of the reasons I am going to keep my time.

I want to say that the gentleman genuinely believes in protecting the desert. I have no questions at all as to his motives, and I know that on these issues he knows whereof he speaks. And I certainly hope that as this process unfolds itself beyond this day, and in the final end, JERRY LEWIS and I can be standing together and supporting this bill. I hope that, but I am not going to give away everything in the meantime to get that.

Very soon, in less than an hour on this floor is the moment of truth for the desert. We are going to have to decide whether we want a plan that provides real protection, a plan that has been worked out over the years, and intensely in the last few months, or whether we want a sham, business as usual, that only protects those areas that need protection the least, and leaves unprotected the most fragile parts of the ecosystem.

Reject the Lewis amendment. Support the committee bill. It is the right thing to do for California and for our natural heritage.

Mr. LEWIS of California. Mr. Chairman, I might mention that the gentleman excluded radio and TV cameras from the district in those hearings we are talking about and did not allow the local supervisor from the district to testify. It was an open process, of course.

Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. THOMAS], who represents the California Desert.

Mr. THOMAS of California. Mr. Chairman, I guess we have inflated things around here so much that putting 2.3 million acres into wilderness is a sham, that it does not mean anything, that it is not worth anything, that H.R. 3066 represents delay.

What H.R. 3066 represents was the mandate of this Congress in 1976. What H.R. 3066 represents is the process the American people participated in.

I was at those hearings. Boy, I would have loved to have had a TV camera in there. In fact, you folks probably still have scars on your body, some of them which could be shown in places where people do look, but given the people who were there, and their resentment over what you were doing to the process, I am sure it left some scars in places that you would not allow people to look.

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Those were the hearings that we had in California. I was there. I know what the people who live and work in the desert said to you people in public hearings, but what I heard was the fact that the gentleman from Minnesota said that no one can argue with their bill.

Is that not the way it is around here? No one can argue with their definition of what is right. No one can argue with what we do with lands in your district, including not consulting you. This is not the first time it has happened to me.

I represent a district that goes from the Pacific Ocean to the Nevada border. Every time there is a wilderness bill in California, almost every time, I am involved in terms of my district and not involved in terms of an active participant. It happened just a few months ago. They said, "Well, we didn't know you represented that portion of that particular county."

There have been bills come through here where people who represent the area have not participated. But let me tell you, somebody can argue with H.R. 2929.

As I said, the Secretary of Defense said that H.R. 2929 is unacceptable. Even if you take the amendments, it is unacceptable.

In that same letter, the Secretary of the Army, the Acting Secretary of Defense, said they support H.R. 3066.

In fact, he said the reason for the extraordinary success of the U.S. Armed Forces in the desert of Iraq and Kuwait was a direct result of the extensive training in the desert of California. Victory in combat depends upon effective training. The effective training of the U.S. Armed Forces today depends upon military facilities in California.

Enactment of H.R. 3066 would assist in ensuring effective training at military facilities in California. Enactment of H.R. 2929, even with the amendments, would degrade the effectiveness of military training at those facilities, and they urge the Members to oppose, even with the amendments, H.R. 2929.

Somebody argues with it. Those people who use it for national defense argue with it. They do not argue with H.R. 3066. We put away 2.3 million acres. We did it intelligently. We did not say take a portion of wilderness represented by BLM and put it in the National Park Service, even though there is a 9,000-foot mountain range separating those two areas and no roads to traverse it.

We do not care, they say, that the National Park Service has to drive 150 miles around it to police the area, and that on average the National Park Service takes about $10.50 to police an acre, but BLM and wilderness takes about $2.50, and BLM has a station at Big Pine 40 miles away.

Now, at some point there is supposed to be a compromise. The proponents of H.R. 2929 have said they entered into that compromise, yet we are going to see a whole series of amendments that ask to make fundamental changes, and the military has said after you make those changes that you are willing to offer, H.R. 2929 is still unacceptable. H.R. 3066 is acceptable.

There are no amendments available for H.R. 3066. It went through the process. The public had input. It is just that what I heard from the chairman of this new committee was that we allowed the bill to be heard. The bill that came from the administration, that went through the process that Congress authorized, you allowed it to be heard.

I want to tell you, a couple years ago we were over on the Senate side in opposition to the Senate bill at that time, of which H.R. 2929 is a model, and before the committee we pleaded with the chairman of that committee. We said, "Senator, we don't have an alternative bill. We are waiting for the process to be completed."

That Senator said, "I have a bill in front of me, and if there isn't an opposing bill, we are going to move this bill."

You folks jumped the tracks, and I understand why you jumped the tracks.

The gentleman attended the hearings there. The gentleman from California [Mr. LEHMAN] was in Inyo County. The gentleman heard what those people had to say. A number of them were upset about what was going on. A number of them supported it, but there was a give and a take to the process, the process of give and take, everybody is culminated in H.R. 3066.

The only reason it does not stay on the same plane as H.R. 2929 is in large part because of who represents the area itself, who runs the committees in this place, and the attitude some of you have about what representation is supposed to be about.

It is the old saying, "What is mine is mine, and what is yours is mine." That is where we are going with H.R. 2929.

Please take a look at H.R. 3066, 2.3 million acres, the culmination of a public process. The military is happy, everybody is happy.

In fact, the only people who are not happy with H.R. 3066 are the people whose names are on H.R. 2929.

Mr. LEHMAN of California. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, I rise to oppose the amendment and in favor of the California Desert Protection Act.

I would like to put a human dimension, if you will, on all this. I hope that the Members will recognize that there are people in California who very much favor this act. There are people like my mother who has lived in the desert, lived in Palm Springs, loves the desert as much as anybody else who comes from that area does, and for people on the floor to characterize that those who are in favor of this bill are somehow less committed to the desert and the mountains and the people and the animals and the species that are there is simply unfair and untrue.

My father rode in those mountains and in that desert for more than 20 years. He loved it, and I am rising today in support of that in memory of my father and my mother today. She stands there in Palm Springs and expects me and expects this Congress to look to the future. She is in her eighties. Her time on this Earth is coming to an end and she expects us in the U.S. Congress to be looking out for our children and our children's future and her nephew who is in northern California, who comes to southern California to the desert, to the mountains, to camp out, to take photographs, to hike, and reveres that area. Whether it is someone in their twenties, my nephew, whether it is someone in their eighties like my mother, they love this area and they want this area protected and they want to see that the future is preserved, not for exploitation, not for those who want to take something out of the desert to make a profit out of it, but to profit all the people in terms of what is best in this country, best for the desert, best for California, best for the United States, that respects what this Congress is all about and what it should be doing.

Let us see what it does not do. It does not stop military overflights or prevent any military activities necessary to the security of the United States.

I sit on the Armed Services Committee and I can say that is true.

It does not require a large appropriation or purchase of any land or adversely impacts hunting or existing water rights. That happens to be the fact of the matter. If you want to dis-

VOL 137 PT 23 NO 21–25 1991 UMI

agree with the judgment, disagree with the judgment, but to characterize those of us who support it as in any way endangering the national security is a base canard.

What it will do is protect California's magnificent desert. It will create the Mojave National Monument. It will upgrade the national park status of the Joshua Tree and Death Valley Monuments. It will create 76 wilderness areas and protect 2,500 species of plant and animal life.

The plain fact of the matter is that support for this bill is to support what is best about preservation in national parks, what is best about environmental preservation for the future and does not endanger in any way, shape or form, nor offer the opportunity in any way, shape or, form, for anything less.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. Yes, of course, I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, the gentleman knows that the establishment of the buffer zones around Chino Lake and Chocolate Mountains are affected by H.R. 2929 and prevents the bombing and the use of the Chocolate Mountains.

Mr. ABERCROMBIE. No national security is involved in any way, shape, or form.

Mr. CUNNINGHAM. I rise today because I was able to use those routes.

Mr. ABERCROMBIE. If the gentleman has a different opinion, he is entitled to it.

Mr. CUNNINGHAM. Because I was able to use those routes.

Mr. ABERCROMBIE. If the gentleman has a different opinion, he is entitled to it.

Mr. LEWIS of California. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HUNTER].

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Mr. HUNTER. Mr. Speaker, I yield to the gentleman from California [Mr. CUNNINGHAM], my friend, the distinguished Member from San Diego and Navy top gun, to give his opinion with respect the efficiency and effectiveness of the bombing ranges that are in question under the Lehman bill.

Mr. CUNNINGHAM. Mr. Chairman, I flew 21 years using those ranges. I provided and drew up some of the training routes, know exactly how they are affected and how they are not affected.

There is not a buffer range around China Lake or Chocolate Mountain. That actually endangers people's lives.

We have lost people to Mark–82's, that is a 500-pound bomb, and Mark–83's, which is a 1,000-pound bomb. That not only affects the military, it affects civilians who want to use the camping areas around it. If that is not important to my colleague from Hawaii, saving human lives, I do not know what is.

There is an unpaved movement corridor from Fort Irwin to the Marine Corps Base at Twenty-nine Palms. This is where we test all of our latest weapons and missiles that are used out of Point Magoo and the training range. That is critical to these areas.

Mr. HUNTER. I thank the gentleman, and I will yield very briefly to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I simply want to ask the gentleman if he is aware of a letter submitted to me by the chairman of the Committee on Armed Services, who unfortunately was unable to stay. I will ask unanimous consent to include this letter in the RECORD.

In a nutshell, the letter emphasizes the importance of training in the California desert.

The CHAIRMAN. That particular request has to be made in the House.

Mr. LEVINE of California. Fine. Without submitting the letter, let me ask if the gentleman from California [Mr. HUNTER] is aware of this and if the gentleman is aware that the chairman of the Committee on Armed Services, having reviewed this bill, supports it and believes it does not compromise national security?

Mr. HUNTER. Let me reclaim my time and simply say to the gentleman, the gentleman who is talking right now is the gentleman who has flown Navy aircraft over the Chocolate Mountains, he is a top fighter pilot in the U.S. Navy, he knows what it is to have accidents with heavy ordnance. He has reviewed the proposed new wilderness areas that are adjacent to the Chocolate Mountain gunnery range, and I would rely on that gentleman before I would rely on a staff recommendation made in the House of Representatives.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield further?

Mr. HUNTER. I yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding.

Mr. Chairman, I also say to my colleague, remind him that this is the same chairman of the Committee on Armed Services, by the way, my chairman, who wants to give $1 billion to the Soviet Union out of the defense area. And this is also a Democrat-controlled committee.

Mr. HUNTER. I thank the gentleman.

Let me simply say to my colleagues we are talking once again about a lockout of middle America, middle-class people from the desert.

The gentleman from Hawaii talked about his mother being able to enjoy the desert, and he made a good point. I would like to mention a lady named Ida Little, from Imperial Valley, who is 84 years old, who gives wildflower tours in the desert. There is a difference between her and other people, young people who can carry backpacks and hoof it. She has to ride in a Jeep.

People like Ida Little are going to be locked out of the massive enclosures of wilderness. There is no way that you can go into the south Algondones dunes and enjoy that territory. People like Ida Little and literally thousands of families who have recreation in the desert cannot go fly fishing in New Zealand, cannot go surfing in Australia, but who on a Sunday or a Saturday will drive into the California desert for a little time away from their bosses, they are going to find themselves locked out by a policy that is essentially an elitist policy, a policy that is driven by people who live in condominiums in New York, San Francisco, and other places in this country who do not realize that blue-collar America needs areas to go and re-create.

They can do that now in the California desert. The Lewis alternative that reserves 2.5 million acres for wilderness certainly is a balanced alternative.

In my case, the north Algondones dunes are going to be preserved under the Lewis alternative as wilderness. All of the species will be preserved under that particular plan.

Once again, this is a lockout bill, it locks out blue-collar America, it is elitist. And at a time when we have lost 114,000 blue-collar jobs, throwing those families out of work in California, the last thing we should be doing is closing up their places where they have a little chance for recreation.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, recent hearings before Representative SIKORSKI'S subcommittee have exposed the fact that our professional land management agencies have been politicized under Reagan and Bush more so than at any time since we adopted civil service reforms earlier in this century.

Professional land managers have been silent for fear of their jobs. Instead of dispassionate, professional, evenhanded opinions, we get political documents rewritten by higher-ups, people on Vice President QUAYLE'S Competitive Council.

The administration now claims that the National Park Service does not believe the East Mojave qualifies for inclusion in the park system. It is a ridiculous and unfounded claim that flies in the face of recommendations by professional staff of both the Park Service and BLM, whose reports state unequivocally that the Mojave fully qualifies for park or monument status.

In 1979 the BLM report says:

> It is the conclusion of the desert plan staff that cultural and natural resource values of the East Mojave study area are so diverse and outstanding that the area readily qualifies for national park or monument status.

When the California Desert Protection Act was first introduced in 1986, the Park Service conducted a study to

determine if the Mojave met the criteria for inclusion in the National Park System. Based on this study, the western regional director of the Park Service submitted a detailed report to the Park Service Director, which is summarized by this statement:

> The proposed Mojave National Park meets the criteria and would be a worthy and valuable addition to the National Park System. We recommend its addition to the National Park System.

Recommend, I repeat.

Just 2 months ago that same western regional director, now retired, testified that the Park Service support of the Mojave was being misrepresented to the public and the Congress by the current administration.

Reject the substitute, reject the politicization and this warping of the views of the professional agencies.

Let us listen to the professionals and adopt the base bill.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Mr. BENNETT. Mr. Chairman, will the gentlewoman yield to me?

Ms. PELOSI. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I rise in support of this much needed legislation. I would like to share some paragraphs from a manuscript book I wrote while in the hospital at the end of World War II. These paragraphs describe the Mojave Desert where I trained in 1943 for combat in the deserts of Africa. However, we actually fought in New Guinea and the Philippines. The paragraphs I share with you are as follows:

> We arrived in the desert as the sun was setting behind the deep blue mountains in the distance. The chaplain spread the altar cloth over the hood of a jeep and we had a brief service before turning in under the stars for our first night in this once empty sea of sand, now peopled by thousands of soldiers sleeping more or less quietly side by side.
>
> Before leaving the desert I was assigned to Anti Tank Company and with them I went through the infiltration course and fired the 37 mm guns. This was in addition to the endless work in the PX's—clerking and cleaning up, purchasing and bookkeeping.
>
> One Sunday I took the greater part of the day off and went on a prospecting hunt in the mountains, looking for semiprecious stones. I borrowed the entrenching pick with which we cracked ice at the PX, and slung a desert water bag over my shoulder for drinking water. I came back with a lot of blisters, a dulled pick and no valuable stones. Anyway it was a change from the mercantile business.
>
> I was surprised to find how many things live in the desert. There were a great many different kinds of flowering cacti. One was particularly attractive with crisp yellow-green petals and bright yellow centers. There were plenty of greasewood bushes and every hundred or so acres there would be a smoke tree suggesting a short stationary column of smoke until you came up close.
>
> There were coyotes, too, and some of the boys got coyote pups for pets as well as horned toads, many other types of lizards and some snakes. There were furry gophers and pack rats. One morning I found a little kangaroo mouse that had trapped himself in a pop bottle. We had to break the bottle to get him out.
>
> On my hike to the mountains I saw several jack rabbits. They would bound ahead of me and then pause to look back at me, repeating the process over and over.
>
> The heat was terrific in the day but it was quite cold at night. When you sat down on your cot a huge cloud of dust would get up to let you have the seat. Water was scarce but we got along somehow. Of course bathing in helmets was the usual procedure for settling the dust on your body. That is about all it did.
>
> Women scarcely ever came near our camp but once I did see one under unusual circumstances. The wind had blown down the canvas from around our box latrine. A young lady came by looking for her husband's tent and she carried on quite a conversation with a soldier enthroned on the latrine, which apparently she did not recognize as such.
>
> There was majesty in the beauty of our desert—the brilliant purple of encircling mountains on a clear, early morning; full daylight's pastel colors in the distance, mostly azure-grey pink, lavender, orange and light brown; the intense blue of the peaks at dusk like something done by Maxfield Parrish; midnight's deep and sparkling sky, steel blue ranges and soft grey carpets of sand, stretching easily and endlessly in starlit and moonlit swells and shallows. What I saw reminded me of the face of an oldster who has lived fully and well through tribulations—strength, grandeur and dignified handsomeness spoke from every line, every ridge and every hollow.
>
> Our 3 months in the desert came to a close and we chugged off to a California port of embarkation. There I became a platoon leader in reality instead of mostly on paper. I was assigned the third platoon of Anti Tank Company. With the exception of guerrilla activity in the Philippines I stayed with this platoon throughout the war. They were in every way extraordinary and wonderful men.

Ms. PELOSI. Mr. Chairman, I am pleased to rise in support of the California Desert Protection Act which is before us today.

H.R. 2929 is a compromise bill that maintains the sanctity of wilderness, protects park land, and allows diverse multiple-use activities in other areas of the desert.

Legislation to protect the California desert has been proposed during the last three Congresses and we can hail its consideration on the floor today as a major success for all those who have worked to forge this unique compromise. Chairman GEORGE MILLER, Subcommittee Chairman LEHMAN, and Congressman LEVINE have accomplished what many believed to be the impossible. Their efforts to accommodate the many interests and activities in the desert, such as grazing, mining, offroad vehicle use, has resulted in a fair compromise that addresses these diverse interests.

A recent statewide poll by the Field Institute confirmed that 75 percent of Californians support greater protection of the desert environment. The public overwhelmingly supports this public land protection measure.

H.R. 2929 will preserve, as open space, park, and wilderness areas in approximately one-third of the 25-million-acre desert region of southern California.

The California desert is an incomparable landscape that is home to hundreds of species of wildlife, plant life, the world's largest Joshua tree forest and mammoth sand dunes. H.R. 2929 will create 76 new wilderness areas and add 3 million acres of desert as national park lands.

Our actions today will determine the future of the unique California desert ecosystem. By voting for H.R. 2929, we can preserve a public treasure for all time. Future generations deserve nothing less.

Mr. Chairman, I urge my colleagues to join me in voting for H.R. 2929.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of the California bill.

I think it is a good bill. It protects the fragile ecology of the desert. I live in the southern desert myself.

Mr. Chairman, I note that the substitute bill also includes part of Nevada. I was not really consulted on this. I really think we should have been consulted on this, that they should have talked to a person from Nevada before including Nevada as part of the bill.

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Mr. Chairman, I was just wondering if the Representative of southern California would tell me why Nevada, the Representative from Nevada, this was not discussed with him.

Mr. LEWIS of California. Mr. Chairman, I must respond to my colleague, the gentleman from Nevada [Mr. BILBRAY], by saying, "You may not recall, but, when we were discussing your problems relative to the San Bernardino highway system, I discussed the desert bill with you as well. It just may have been that the highway package was much more important to you. We did discuss it. I'm sorry if I didn't make the item clear at the time, but we have discussed the matter."

Mr. BILBRAY. Mr. Chairman, would the gentleman describe the areas that are included in Nevada because I do not know this area very well? Could he give me a little explanation of it?

Mr. LEWIS of California. Mr. Chairman, I would be happy to describe the area in detail, but we do not have much time. I ask the gentleman, "Why don't you just come over here, and we'll talk about it?"

Mr. LEHMAN of California. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Lewis amendment in the nature of a substitute.

This substitute has many shortcomings, both in what it would do and in what it would leave undone.

VOL 137 PT 23 NO 21–25 1991 UMI

In the desert, it would not provide sufficient protection for important wilderness areas that would be protected under the bill as reported from the Interior Committee. It also would not give national monument status to the very special and unique East Mojave area.

Over the last 4 years, the Interior Committee has very thoroughly considered and analyzed many varied proposals for future management of the public lands in the California desert area, including the administration proposals as embodied in the Lewis amendment. A particular focus in our deliberations has been what management should be provided for the East Mojave. We took account of a 1979 report by BLM that concluded that the "cultural and natural resource values of the East Mojave study area are so diverse and outstanding that the area readily qualified for national park or monument status." We took account of a 1987 conclusion by the professional staff of the National Park Service that the areas met the required criteria specified in the Park Service's management policies, and that the area would be a worthy and valuable addition to the National Park System.

On the basis of such studies and conclusions, and on the basis of very extensive hearings, including three hearings in California where we heard from hundreds and hundreds of witnesses, the Interior Committee voted for designation of the East Mojave as a national monument.

National monument status for the East Mojave is a very important part of the committee's decisions about future management of the California desert. The House should reject the Lewis amendment, which in this and other ways does not do what needs to be done for the desert.

The Lewis substitute is not just a desert bill. It is inadequate to the subject before the House. Ironically, not satisfied with the breadth of this task the Lewis substitute which would designate at least 10 wilderness areas that are not even within the California desert, and in fact are many, many miles away from it—600 acres are even in Nevada. These are areas about which regrettably there have been no hearings at all. Because the focus was the California desert. The Interior Committee should and will consider proposals for BLM wilderness areas in other parts of California, but we have not yet done so.

The House should not today rush to judgment concerning wilderness on BLM lands in California outside the desert. This substitute is misdirected. We should do all that is necessary in the desert, but we should not try to decide how to manage areas outside the desert, about which we do not yet know enough to make sound decisions.

The Lewis substitute fails both those tests. It should be rejected by the House.

Mr. LEWIS of California. Mr. Chairman, with great pleasure and delight, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I come to the well as a Representative of a Democrat district, a blue-collar, working person's district where one can drive up and down every street and see the trailers, the recreational vehicles, the Broncos, the Sierras, the off-road vehicles, the motorcross bikes, the desert dirt bikes. Every type of recreational vehicle under the Sun is in my district, the working heart of Orange County, and we love those deserts.

I have four; count them, four, off-road vehicles: two Broncos and two that are made on those islands up in the Northwest Pacific because unfortunately Harley does not make them, but I love my Honda Odysseys, and I am looking to buy a Honda Pilot. I love to go out in the desert, and I swear to my colleagues that I would not run over a California poppy, and I would suggest public thrashing for any man that would hit a Joshua tree, even dent it, out there in that beautiful Mojave Desert. I have landed a dead stick F–100 on Bicycle Dry Lake; I love that lake. I trained to be combat-ready on Cuttyback Dry Lake. I have landed emergency out at Edwards on Rogers Dry Lake. I love that area.

Mr. Chairman, I lived out there for over 2 years with my wife. Two of my children out of five are born out there, and I say to the other party quite seriously, "I'm reaching out to you. Look at this as a protection to what we're going to pass on to our prosperity, but also look at it as a family issue."

The gentleman from California [Mr. LEWIS] loves the district. He loves his district in the desert. He would not be doing something to hurt this area and doing something against the majority viewpoint.

These polls which are quoted about Americans wanting to lock up areas of north Alaska or the California desert, look at how the question is phrased. If one did not answer the way some of them are quoting, they would look like they did hate this beautiful planet that God has given us, but families enjoy these deserts.

I say to my Democratic colleagues, You're not the cheese and brie set. We don't call you country club Democrats. You are blue-collar, off-road people, not autobahn, high speed, Beemer/Mercedes types, most of you. You come with your families to California, not to climb Mt. Whitney, but to enjoy the deserts, and to go Disneyland, and to use those places where you combine family and love of the countryside.

Mr. Chairman, I submit my statement for the RECORD.

Mr. Chairman, I rise today in opposition to H.R. 2929, the California Desert Protection Act of 1991. This bill simply does not address the concerns of those who actually live, work, and recreate in the California desert, which covers about 25 million acres in the southeast quarter of the State. In fact, Mr. Chairman, the bill may not be boondoggle, but it is a dune-boggle.

This bill, in its current form, would create 3 million acres of new park land and designate millions of additional acres as wilderness. These large tracts of land are beyond even what the radical environmentalists claim is necessary. But more importantly, in laying aside these enormous amounts of land, H.R. 2929 does not take into account any of the vital issues relating to military operations in the California deserts. Indeed, H.R. 2929 directly impacts the military's ability to function in the area. As the Assistant Secretary of the Department of Defense has stated;

> H.R. 2929 is clearly a step backward when compared to previous legislative initiatives. It totally ignores the vital interests of the Department of Defense and it compromises our future, putting at risk the lives of our servicemen and women.

The following examples indicate the extent to which the California Desert Protection Act [CDPA] would affect the future military use of the area, the importance of which was most recently reflected in Operation Desert Storm and Operation Desert Shield.

In effect, the CDPA negates the proposed expansion of the National Training Center at Fort Irwin through the imposition of new park and wilderness boundaries surrounding the training center. It also would probably proscribe continued military overflights of wilderness areas. Historically, Americans have not accepted military overflights of their national parks, and public pressure has imposed limits on military overflights of wilderness areas. Thus, based on past experiences, the Department of Defense fears that H.R. 2929 could eventually preclude overflights below 3,000 feet. Such restrictions would significantly impact testing at Edwards and China Lake Air Force Bases. They would also compress needed low-level flights into smaller, more populated areas, thereby increasing risk, noise, and discomfort for residents and greater risk for pilots as a larger number of planes would be directed into a smaller flying area.

Furthermore, the California Desert Protection Act reserves for the Federal Government quantities of water in the region to fulfill the purposes of the act. Under California law, the United States, just as any other landowner, is entitled to riparian water rights and a reasonable share of the water in the groundwater basins underlying the Federal lands. The State law is more than sufficient to fulfill any and all needs which the Federal Government may deem appropriate for Federal lands in California. Yet, the proponents of H.R. 2929, for some unexplained reason, do not think this is enough. They want the Federal Government to have a paramount right to control all the ground water in the desert. The language of the bill is further ambiguous as to whether the rights to ground or surface water, or both, are being reserved. California, not the Federal Government, must maintain control over water

management and administration. Water sources are too scarce and States' rights are too important.

Finally, the California Desert Protection Act will eliminate, within 25 years, almost half of all livestock grazing in the new parks created in the desert. This runs counter to the long tradition, dating back to the 1860's in some cases, which permitted grazing in the region.

California is blessed with a wide variety of wilderness areas that are a treasure to the State. As long as these areas are treated with respect and reverence, and the needs of all sectors are taken into consideration, they should be open to all to enjoy. Surely, the best way we can give today's Californians, and all other Americans and their children, an opportunity to enjoy and benefit from this unique and remarkable resource requires that we pass truly balanced legislation.

For this reason, I will vote in favor of H.R. 3066, the Lewis California desert wilderness amendment, which is a comprehensive substitute to the California Desert Protection Act. This better desert bill, which creates 2.3 million acres of new wilderness, takes into account the interests and needs of the hundreds and thousands of other desert people along with those of the environmental organizations.

The development of this bill involved the kind of public input that should be employed when major land use decisions are made. It represents the culmination of 15 years' effort to identify areas suitable for wilderness designation in accordance with a congressionally mandated plan, and considers the concerns of all factions interested in the desert's future.

The Lewis amendment is the result of public meetings and hearings, 16 environmental impact statements, mineral surveys, and 40,000 comments reflecting the views of all who use the desert. Apparently the drafters of H.R. 2929, the California Desert Protection Act, felt no need to consider the multitude of available studies and information when creating their legislation. It is obvious that their legislation falls short of a balanced approach. For this reason, H.R. 2929 should be defeated.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Chairman, as a member of the Mining Subcommittee, I know that one of the differences between these two measures, the substitute and the committee bill, is the issue of mining, and I want to take a moment to address the body on that issue because I think there should be no misunderstanding about this matter.

In general debate it was represented by the gentlewoman from Nevada [Mrs. VUCANOVICH] that we should not pass the committee bill because the U.S. Geological Survey had not done surveys of different areas with regard to minerals, implying that there was valuable minerals there that in some way would be locked up by the committee bill.

I suggest that is not true at all. In fact, the USGS has had lots of time to do surveys of these areas. They have had years, and years, and years to do surveys, and they have not done them, and I think the reason they have not done them is that there is no reason to do them, and the suggestion that we would be taking some hasty action by passing the committee bill that would have adverse consequences for mineral resources in my opinion is ill-founded. In fact, the USGS could take years, and years and years more to get around to doing those surveys, and it would be very unfortunate.

So, Mr. Chairman, it would be very unfortunate for us to believe that we are having an adverse impact on mineral resources and to vote for the substitute for that reason.

Mr. Chairman, the California desert is very valuable. There are lots of places to run on RV's. There are lots of places to graze. There are lots of places in this country that have mineral resources. There is only one California desert, and I dare say there are a lot of families all across our country who will enjoy the desert as a park and as a monument, families who, in fact, are owners of this because it is public land, and these families all across our country have a right to see that this very valuable resource is passed on to the next generation and the generations to follow unimpaired.

That is what the committee bill would do, and I urge the Members to reject the substitute and to support the committee bill.

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Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to one of my colleagues, a member of our newest class of experts, the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in the strongest opposition to H.R. 2929, and I urge my colleagues to do the right thing and the fair thing by supporting the LEWIS substitute. A few weeks back, when we were busy rolling over the constituents of the gentleman from Kansas [Mr. NICHOLS], a situation that I know all too well, I wondered how long it would be before we would be hanging a sign on the Golden Gate Bridge or perhaps the Statue of Liberty reading, "Now entering North American National Park." It could be sooner than I expected.

At the rate we are going, by this time next year we may not have an election reform bill or a crime bill. The budget certainly is not going to be balanced, but I dare say that with very little effort we could very easily double or triple the size of our parks. At the very least, we could easily have the last piece of Alaska roped off and perhaps print some more money and then buy the gentleman from Alaska [Mr. YOUNG] a ranger's hat.

Mr. Chairman, each day we open business with a series of 1-minute speeches in which we rail about the decline of American productivity or the threat from foreign competition, and we attack deficit spending that sets new records every day, and we decry the encroachment of the Federal Government into the lives of our citizens. Yet we follow those speeches with consideration of legislation that takes more and more land out of production and puts more and more people out of work. We pass legislation that authorizes "such sums as are necessary," and we further erode States' rights. Today is no exception.

Mr. Chairman, the proponents of this legislation contend that America needs this act. They say that this is more than a California bill, but what about the needs of California's 20th District, 35th District, 37th District, and 45th District? Do we doubt the able Representatives of those districts that much? Let them represent their constituents and let us tend to the business of representing our constituents.

Mr. Chairman, If we insist on passing something, let us pass the substitute offered by the gentleman from California [Mr. LEWIS], but better yet, let us pass legislation that America does need and then go home for the year before we do any more damage.

Mr. LEHMAN of California. Mr. Chairman, I yield 9 minutes to the gentleman from California [Mr. MILLER], the distinguished chairman of the Committee on Interior and Insular Affairs, who will be making his first appearance in the well this evening.

Mr. MILLER of California, Mr. Chairman, this has been a spirited and heated debate before this Chamber, as are most of the debates that take place over legislation that is reported from the Committee on Interior and Insular Affairs, because very little that this committee does is action of an abstract nature.

Very often we consider legislation on the floor of this Congress from different committees where we do not know the impact of it for years to come. We speculate about that impact, and we are not sure what constituencies are affected or what areas are affected. That is not usually true with the Committee on Interior and Insular Affairs because, as we are tonight, we are designating lands for different uses, in many instances for uses different than they were prior to the passage of this legislation, some new, some old, some precluded, some limited, some expanded, but we affect somebody with almost everything we do.

I tried as the chairman of this committee to treat this bill differently. I tried to treat it differently to make sure that what we did not accomplish was what was talked about in our State for many years, and that was what was called an attempt to lock up the desert.

I am a backpacker, but I do not think all people who want to enjoy our natu-

VOL 137 PT 23 NO 21—25 1991 UMI

ral resources should have to backpack. I am a dirt biker, but all people who enjoy our natural resources should not have to travel by dirt bike. I ride all-terrain vehicles, but all people should not have to ride all-terrain vehicles. I choose not to ride around in a Winnebago, but people who do should have access to our parks, should have access to our monuments, and should be able to see the great assets and the great jewels of this Nation.

That is why this bill was treated differently. I did not believe that an effort to preserve the great California desert, to preserve part of our environment—and I mean our total environment—should be done in a way that we would throw people out of work or shut down going concerns, be they extracting minerals or other businesses.

I felt that we should make every effort to preserve them. We should understand that this park comes after them, and in fact, as the chairman of this subcommittee said, we did that. But for two sand and gravel mines, the rest of them were allowed to continue. For those who have perfected rights in mining, they will be allowed to continue. For those who were in the wilderness areas, they will be allowed to continue.

That is not by accident; that is by direction; because we have got to understand what the real debate is about. We have heard a great deal over the last years about the multiple use, and our friends on the Republican side of the aisle very often refer to their support of the multiple use. Multiple use means multiple use, not my use, not your use, and in this bill there is essentially no use of the land that is allowable today that is precluded.

Some are different. Some of those people who enjoy the 568,000 acres for off-the-road vehicles, those who enjoy that hobby of theirs and indulge in that family activity, as I do, will now only have 500,000 acres to enjoy. Those who want to race along the 35,000 road miles on their dirt bikes and other vehicles will now only have 33,000 miles to race along. For those who want the quiet and the peace and the opportunity to take photographs and enjoy the wonderful wilderness areas, this bill addresses their desires. And if there are problems—and believe me, the problems were not there until it was understood that this bill was going to come on the floor—with overflights and with our capabilities to train, those too will be addressed in this process.

Finally, Mr. Chairman, let me say this about this committee. I am new to the chairmanship of this committee, but those who spoke so outrageously about the process never once called my office and complained, never once asked me to intercede, never once asked me to get a witness on who was denied, if there were any, never once asked if I could help. They asked me to delay twice, and we did. We delayed those hearings at the request of the minority.

So everybody in this bill has been treated fairly. Those voices have been heard, and that is the way it is going to be in this committee. An opportunity was made for the gentleman from California [Mr. LEWIS] to offer his amendment, and he chose apparently not to do that because they believed they did not have the votes.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield for one quick question?

Mr. MILLER of California. Mr. Chairman, let me finish first, and then I will yield to the gentleman.

Before we went to the Rules committee, I talked to the gentleman from California]Mr. LEWIS], and I said, "I will request a rule, and I want you to know in advance it is moving rather quickly, so, JERRY, make up your mind what amendments you wanted now so you will have all your amendments ready in case they say they have to be put in the RECORD, because I will ask for an open rule, but because of the time they may say they have to be printed or what-have-you."

We had that discussion. In my committee I do not cut off debate. In my committee I do not ask for closed rules because I believe, with the work of my subcommittees, my chairmen, and the members of my committee, we can stand the scrutiny of this House. And this bill does that. It is not what the gentleman from California [Mr. LEWIS] would want, and I understand that. I appreciate that. It is not what many other Members would want, those who were supporting the earlier Cranston-Levine bill.

But we have worked those differences, and we will continue when we get to the amendments, to shape and modify this bill.

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Mr. Chairman, this is a terribly important bill, a terribly contentious bill, but a bill that should be passed to preserve the California desert.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just wanted to ask a question. I would like to ask the question on the mining. With the problems we have with oil and in the future, does this exclude geothermal drilling for future energy sources? When you say existing mining and look into the desert, I know in our particular area we are doing geothermal drilling. That would preclude it, as I understand it.

Mr. MILLER of California. Mr. Chairman, reclaiming my time, in the last several weeks, I have been meeting with representatives of the utilities that have a great interest in that, and they have raised no objection about that to this legislation. As late as last night they told me of their support, as have the members of the mining industry.

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman will yield further, will this prevent future exploration for geothermal? It is an important energy source.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, in putting this bill together we have excluded geothermal areas in the bill. As part of the process, we have gone over it in the past year. I am sure there may be some included, but, there again, we have tried to balance it out.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would point out in China Lake, where the substantial geothermal resources are, that is withdrawn. I might also add to the gentleman's comment, we had a hearing on the military withdrawals. No Members requested to appear before it. It was clear and evident at that time, with the sponsorship of myself and the gentlemen from California, Messrs. MILLER, LEHMAN, and LEVINE, that that amendment was going to be offered in that hearing.

I might repeat the testimony from the Department of Defense. We had a lot of other people claiming they are experts here today about things, but they said, "I am delighted to be here and have the opportunity to testify in favor of this bill. The Department of Defense is delighted with the withdrawal provisions. We have been wanting to get this settled for some time, as you know."

Mr. Chairman, he did not ask for an expansion or any additional withdrawals. I am not aware of any additional withdrawals that the Department of Defense sought.

Mr. MILLER of California. Mr. Chairman, reclaiming my time, I use this time just to simply pay my compliments to the gentleman from Guam [Mr. BLAZ] and to the gentleman from California [Mr. LEHMAN] for the work, the hours, and time that they have put in on this legislation in the committee, as well as to the gentleman from California [Mr. LEVINE] who has struggled for a number of years now to get this matter to the floor of this Congress and to have it become the law, and all of the other members of the committee that have toiled with this difficult, emotional, contentious issue. I believe they have a work product that we can all be very proud of that has been developed through a fair process.

Mr. Chairman, H.R. 2929, the California Desert Protection Act, deserves our support.

The Congress has held a longstanding interest in protecting the resources of the California desert. In 1976, we passed the Federal Land Management and Policy Act [FLMPA] which recognized the unique environmental, scenic, and economic resources of the California desert. FLMPA directed the Secretary of the Interior to prepare and implement a comprehensive long-range plan for the California Desert Conservation Area. In response, the Bureau of Land Management [BLM] released the California desert plan first in 1980, and after some revision, again in 1982.

Mr. Chairman, many people were unhappy with the BLM's final California desert plan. Many believed the plan was skewed toward mining, grazing and other consumptive uses.

Recognizing that something had to be done to protect the area's natural resources without eliminating development, Senator CRANSTON introduced the first California desert bill in 1986. Since then, companion bills in each successive Congress have been introduced by Senator CRANSTON and my colleague from California, Congressman MEL LEVINE.

Rather than prolong the debate at the expense of the natural and economic resources in the California desert area, the Committee on Interior and Insular this year created a new subcommittee specifically to address the California desert. Chaired by Congressman RICHARD LEHMAN, the Subcommittee on General Oversight and California Desert Lands has worked with Congressman LEVINE and other members of the Interior Committee to craft the bill we are considering today.

After more than 15 years of questioning, what is the best approach to managing the desert, H.R. 2929, the California Desert Protection Act answers those who said we need to achieve a balance. At the same time, as H.R. 2929 preserves natural and scenic areas for the enjoyment and education of future generations, H.R. 2929 also provides recreational opportunities, and allows mining, grazing, and other activities to continue in specific areas.

Subcommittee Chairman LEHMAN and Congressman LEVINE, the sponsor of H.R. 29292, devoted a great deal of time and effort to this legislation. There have been six hearings, including three in California, on the California desert since 1986, when Senator ALAN CRANSTON first introduced his desert protection bill. Most recently, the House Interior Subcommittee on General Oversight and California Desert Lands held a hearing September 16, 1991 on H.R. 2929 and H.R. 3066, introduced by Congressman JERRY LEWIS.

Mr. Chairman, H.R. 2929, as reported, creates a new 1.5-million-acre Mojave National Monument, and designates 4.3 million acres of Federal land in California as wilderness. In addition, H.R. 2929 adds about 1.5 million acres of land currently managed by the Bureau of Land Management to the existing Death Valley and Joshua Tree National Monuments, and the monuments are redesignated as national parks.

Many cities and counties in California, including Los Angeles, San Francisco, San Diego, Riverside, and Fresno have passed resolutions supporting the passage of H.R. 2929. In addition, the California AFL–CIO, California State Lands Commission, Sierra Club, Wilderness Society, Natural Resources Defense Council, National Audubon Society, and other environmental organizations also endorse the bill. Southern California Edison, the Los Angeles Department of Water and Power, and Southern California Gas Co. have all either expressed their support for the bill or have said they do not object to this legislation.

Mr. Chairman, I'd like to highlight a few provisions of the bill, including section 610 which is important to the retired teachers in California, and the California State Lands Commission. This provision is an innovative approach to address a serious concern raised by the California State Lands Commission.

As my colleagues may know, 3 years after California became a State, the Federal Government in 1853, gave sections 16 and 36 out of every township to California as a revenue source for public education. Today, the California State Lands Commission owns approximately 270,000 acres of land, and 53,000 acres of mineral interests within the California desert. The California State Lands Commission manages these lands for the benefit of the retired teachers in California. Once H.R. 2929 is enacted, the commission's lands will become inholdings within the park units and wilderness areas designated in the California Desert Protection Act.

When the Interior Committee considered H.R. 2929, we included section 610 to protect the investment of the retired teachers in California and address the concerns of the California State Lands Commission. Section 610 directs the Interior Secretary to negotiate a land exchange agreement with the commission. The agreement would provide for the exchange of State school lands for nonrevenue-producing Federal lands.

The Congress would be required to approve any land exchange consisting of more than 5,000 acres of Federal land or involving Federal lands valued at more than $5 million. The provision will give the Congress the opportunity to review large land exchanges to make sure taxpayers receive fair market value for their Federal lands. In addition, the provision is consistent with the BLM's objective in the management plan for the East Majove National Scenic Area to acquire 149,210 acres of inholdings, many of which are owned by the California Sate Lands Commission.

If the State continues to own inholdings as of October 1, 1996, H.R. 2929 provides the California State Lands Commission with a monetary credit account equivalent to the value of the State's inholdings. The commission may use the credits in this account to bid as any other bidder for surplus Federal property sold in California.

Mr. Chairman, I understand the Bureau of Land Management is circulating a document that suggests that the lands owned by the California State Lands Commission are worth as much as $93.2 million—more than 250 percent higher than the $35 million price tag estimated by the California State Lands Commission. Someone's wrong. I seriously doubt the California State Lands Commission's own report would deflate the price of the State's lands. I question the accuracy of BLM's numbers which I understand were prepared overnight.

Mr. Chairman, I also suggest that the BLM's report, "Inholding Acquisition Costs," is a political document being circulated by the BLM in an effort to kill H.R. 2929. If it isn't, then why weren't all members of the Interior Committee, including myself, provided a copy of the report?

As for the private inholdings, BLM's recent report says they are worth from $142.8 million to $408.1 million. In contrast, CBO's cost estimate dated January 29, 1990 says the Interior Department has estimated that the total surface value of the 550,000 acres is $70 to $80 million. Even the major private landowner in the California desert believes the BLM's numbers are high.

If we are to believe BLM's recent estimates, this means the price of real estate in the California desert increased as much as 500 percent from January 1990 to today. Mr. Chairman, I suspect the BLM is inflating the cost of the lands to support the faulty argument that we can't afford H.R. 2929. In reality, we can't afford not to pass H.R. 2929.

H.R. 2929 is a compromise in the best sense of the word. While not everyone agrees with H.R. 2929, the support we've received from environmental organizations, as well as some mining companies and people from desert communities leads us to believe that we should support H.R. 2929.

Mr. Chairman, after more than a decade of controversy, balance has become the watchword. H.R. 2929 achieves the balance we sought to find. The legislation preserves millions of acres of lands at the same time as it allows those who use the land for mining, grazing, and recreational activities to continue their pursuits in specific areas.

I encourage my colleagues to join me in supporting H.R. 2929.

Mr. PACKARD. Mr. Chairman, I appreciate the opportunity to support the amendment offered by my colleagues from California, Mr. LEWIS Mr. MCCANDLESS, Mr. THOMAS, and Mr. HUNTER.

H.R. 3066 refines some of the more troublesome aspects of H.R. 2929. Each bill addresses the challenge of preserving the desert, however, this amendment provides a balanced, viable solution. This amendment substitutes language which provides a sound environmental and economic approach to protecting and preserving our desert wilderness.

This amendment is a public oriented protection plan informed by an exhaustive study conducted by the Desert Advisory Committee. There have been 70 official meetings and public hearings, hundreds of informal meetings with a variety of interested groups and in excess of 40,000 individual public comments for the record spanning the committees' 15-year study. In other words, testimony has been heard from nearly every segment of California society.

This amendment mandates a balanced, environmentally sensitive land-use policy as opposed to arbitrary restrictions against multiple uses of the California desert.

Supporters of H.R. 2929 have claimed that if you oppose their bill you are against the desert, the wilderness, and the environment.

This is not true, my opposition to H.R. 2929 lies in the manner in which the legislation was drafted. Sufficient public comment was not or-

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dered and not sought. The public must be a participant in the process that decides how wilderness areas are chosen. As a Californian who cares deeply about our deserts, I believe this amendment is more effective in achieving a wise and safe land-use policy for our desert.

I ask that democracy be allowed to flourish in the desert. That the process of give and take between the people and the Government, which is inherent in this amendment, be allowed to take place.

I thank the Speaker and ask my colleagues to support the Lewis amendment.

The CHAIRMAN. The Chair would state that the gentleman from California [Mr. LEWIS] has 4½ minutes remaining, and the gentleman from California [Mr. LEHMAN] has 3 minutes remaining.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I rise in support of the substitute offered by the gentlemen from California, the same gentlemen who represent the desert area that we seek to protect today.

The desert of California is a stunning place. I grew up there, went to elementary school there, and still love to visit when I can. The desert's scenic beauty, its ecological significance—the desert's very importance as a natural and pristine ecosystem—is not in question today. Instead, the question is the extent of protection this desert area needs. I want to compliment my two Democratic colleagues, Mr. LEVINE and Mr. LEHMAN, for their work on behalf of the desert. They have worked to accommodate the needs and of many competing concerns. I will likely vote to support their bill, their compromise, should this substitute not pass. But I urge this body to respect the position of the four men who represent the desert area being discussed on this floor. The matter before us is about the extent of protection we give the California desert, not protection itself.

H.R. 2929 would create millions more acres of protected land than this substitute would. I'm not sure representatives from other, non-Western States quite understand how large a million acres is. We are shutting off vast areas of desert today over the objections of the men who were elected to represent the people who live there. Please, vote to support the Lewis substitute.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume for closing on this side.

Mr. Chairman, it seems to me it is important that we make a couple of fundamental points, one of which was just alluded to very effectively by my colleague from California [Mr. ANDERSON].

First I would like to indicate a very important area of support from a gentleman from California who has a long record as a very, very significant contributor to our environmental concerns in our State. Though a staunch environmentalist, California Gov. Pete Wilson thinks locking up the desert will limit access to only those hardy enough to backpack in. He noted last year that only 300 miles of trails would be retained in the proposal before us and access to over 7,000 miles would be lost.

"Some groups want to save the desert from the people," he said. "I think we should save the desert for the people."

It is very, very important that we recognize the significance of the contribution that this desert adds to our military strength, so I would read aspects of a letter that we received dated November 21, 1991:

> DEAR MR. CHAIRMAN: We oppose the California Desert Protection Act of 1991 (H.R. 2929) and support the California Public Land Wilderness Act (H.R. 3066). Adoption of amendments to H.R. 2929 expected to be offered by Congressman Vento and Blaz would address defense concerns related to military overflight, the National Training Center, and land withdrawals, but H.R. 2929 still would not address the following defense needs addressed in H.R. 3066: (1) the establishment of buffer zones around China Lake and the Chocolate Mountains; (2) an unpaved movement corridor from Fort Irwin to Marine Corps Base Twentynine Palms through the Cady Mountains; and (3) utilities through the Cleghorn Lakes required to develop the intended electronic ranges in the southeastern section of Marine Corps Base Twentynine Palms.

Mr. Chairman, I would remind Members that in its present form H.R. 2929 is very definitely on the veto list of the President of the United States. Indeed, we are long past the point where we ought to be solving the problem of the California desert. Unless we see significant compromise, that goal of all of us is not going to be attained.

Mr. Chairman, as I close, most importantly I would urge Members to recognize the fact that this is a most unusual debate we have had. Never since have been in the Congress have I seen us in a circumstance where four Members of the House who represent the people of the desert suddenly are being run over by a committee that absolutely had precommitted themselves to pass the legislation introduced and cosponsored by the chairman of the subcommittee.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I take this time to agree with my colleague from California, this has been a contentious debate, worthy of the diversity of our State, and I think it has been a good and fair fight under the rule here on the floor.

Again I want to express my appreciation to the gentleman from Guam [Mr. BLAZ] for his cooperation, to the gentleman from Minnesota [Mr. VENTO], and to the full committee chairman.

Mr. Chairman, I yield the remainder of my time to the original sponsor of this bill, the gentleman from California [Mr. LEVINE].

The CHAIRMAN. The gentleman from California [Mr. LEVINE] is recognized for 2½ minutes.

Mr. LEHMAN of California. Mr. Chairman, this debate has focused on both process and substance, and I would like to close the debate briefly by focusing on each.

On process I think the chairman of the full committee and the chairman of the subcommittee have done an excellent job of spelling out just how open this process is. Generally private communications between Members do not become a part of the discussion on the House floor, but in light of some of the misunderstandings, I do think it is important to understand and underscore that there have been extensive efforts by those of us on this side of the aisle, those of us working to see that the California desert is preserved for future generations, not only to work with a number of the interests involved, but efforts to try to work with the Members on the other side of the aisle.

Mr. Chairman, this has been done repeatedly. They have been involved in hearings. They have been involved in the process. It has been an open process.

The gentleman from California earlier raised a question about the Cottonwood Mountains. The reason I was surprised he raised it is that this has been an area that has been recommended by the National Park Service and by the BLM for inclusion in the National Park Service. I have that recommendation here.

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On the merits, Mr. Chairman, there have been three issues mentioned repeatedly by the opposition.

First, the issue of the military. And I would simply conclude this side's debate by referring to a statement that was going to be made by the chairman of the Committee on Armed Services. He gave me the statement. He was not able to stay here for the conclusion of this debate, but I simply want to quote two aspects of it.

> As chairman of the Armed Services Committee, I recognize that our military forces must train as they will fight. The success in Operation Desert Storm demonstrated the vital importance of our facilities in the Southern California desert.

And he concludes by saying he supports the bill, he believes that it is consistent with training and with our national security.

Second, the East Mojave, the gentleman on the other side of the aisle opposed East Mojave inclusion as a national monument.

Mr. Chairman, both the National Park Service staff director and the BLM staff director have proposed that the East Mojave be included in the National Park System. The Park Service

Director suggested that it "would be a worthy and valuable addition to the Park System," and the BLM Director concluded that the area readily qualifies for Park Service or monument status.

In conclusion, Mr. Chairman, I strongly urge a "no" vote on the Lewis amendment, to preserve the California desert for the people of California and the people of America. I strongly urge a "no" vote on the Lewis amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. LEWIS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 150, noes 241, not voting 43, as follows:

[Roll No. 420]

AYES—150

Allard
Allen
Anderson
Anthony
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Bunning
Burton
Bustamante
Callahan
Camp
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dingell
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Espy
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Goodling
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Johnson (CT)
Johnson (TX)
Jones (NC)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
Martinez
McCandless
McCrery
McEwen
McMillan (NC)
Meyers
Miller (OH)
Molinari
Montgomery
Moorhead
Nichols
Nussle
Olin
Oxley
Packard
Parker
Paxon
Penny
Peterson (FL)
Pickett
Ray
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Santorum
Sarpalius
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (AK)
Zeliff

NOES—241

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Browder
Brown
Bruce
Bryant
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Goss
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Murtha
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Saxton
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Thomas (GA)
Thornton
Torres
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Zimmer

NOT VOTING—43

Alexander
Andrews (NJ)
Aspin
Baker
Brooks
Broomfield
Clay
Clement
Crane
de la Garza
Dixon
Doolittle
Dorgan (ND)
Gaydos
Ireland
Johnston
Kolter
Laughlin
Lipinski
Lloyd
McDade
Michel
Morrison
Mrazek
Murphy
Myers
Neal (MA)
Pursell
Quillen
Roe
Roth
Russo
Scheuer
Smith (IA)
Solomon
Torricelli
Towns
Traxler
Waxman
Wylie
Yates
Yatron
Young (FL)

□ 2036

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Torricelli against.

Mr. ORTIZ, Mrs. ROUKEMA, and Mr. HERTEL changed their vote from "aye" to "no."

Mr. ESPY changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. LEHMAN of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BROWDER] having assumed the chair, Mr. BARNARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley Joshua Tree, and Mojave National Parks, and for other purposes had come to no resolution thereon.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 212) to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I would like to acknowledge the work of the gentlewoman from Ohio [Ms. OAKAR], the chief sponsor.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 212

Whereas visiting nurse associations have served homebound Americans since 1885;

Whereas such associations annually provide home care and support services to more than 1,500,000, men, women, children, and infants;

Whereas such associations serve 422 urban and rural communities in 45 States;

Whereas such associations adhere to high standards of quality and provide personalized and cost-effective home health care and sup-

VOL 137 PT 23 NO 21—25 1991 UMI

port, regardless of an individual's ability to pay;

Whereas such associations are voluntary in nature, independently owned, and community based;

Whereas such associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such associations ensure that individuals who are chronically ill or who have physical or mental handicaps receive the therapeutic benefits of care and support services in the home;

Whereas, in the absence of such associations, thousands of patients with mental or physical handicaps or chronically disabling illness would have to be institutionalized;

Whereas such associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, friendly visiting services, social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas, in each community serviced by such an association, local volunteers support the association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning February 16, 1992, is designated as "National Visiting Nurse Association Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Ms. OAKAR. Mr. Speaker, I would like to thank Chairman SAWYER of the Census and Population Subcommittee, as well as Mr. RIDGE, the ranking minority member, for their fine leadership and efforts on that subcommittee. I would also like to thank Chairman CLAY for his distinguished leadership on the full committee of which I am proud to be a member. Gratitude is also due to Senator BRADLEY and Senator HATCH for their companion bill, Senate Joint Resolution 124, which is under consideration by the other body. This legislation will, for the fourth year in a row, honor the truly samaritan efforts of visiting nurse associations all across our land.

My colleague, Mr. BURTON of Indiana, and I introduced House Joint Resolution 212 to designate February 16 through 23, 1992, as "National Visiting Nurse Associations Week." The VNA movement in the United States is as diverse as the Nation which it serves. Indeed, in every community in America, from inner city areas to sprawling farms, these vibrant associations involve registered nurses, nurses aides, medical specialists, counselors, therapists, and volunteers to provide quality, professional homecare to nearly 1 million of our Nation's neediest citizens—regardless of the patient's ability to pay.

Mr. Speaker, last year I had the honor of serving on the Pepper Commission, and I know well the crisis facing our citizens not only in affordability of access to health care in the United States, but also with respect to long-term care. The VNA movement is over 100 years old in America, and as health care services have evolved in our Nation over that time, so has the mission and importance of VNA's. For those with the greatest need of home care, those who can least afford it, visiting nurse associations nurse the sick back to health, administer physical or occupational therapy to those who require it, or allow the terminally ill to die quietly with dignity and compassion. Visiting nurse associations increase access to home health services for millions of Americans who might not otherwise get them. Whether it is health care, nutritional counseling, personal care, physical therapy, or social services, VNA's assume the role of care giver that once fell upon another family member. The support that VNA's provide for families suffering with a loved one's illness is immeasurable. People of all ages, races, and cultures truly benefit from the continued success of VNA's in America.

To add to the skills of talented and dedicated health care professionals, visiting nurse associations have successfully incorporated the spirit of voluntarism into their good work. Community volunteers assist VNA's wherever they can help by running errands, fundraising, delivering meals, and in general serving as an extension of the spirit that surrounds VNA's in our Nation. It is essential that Congress recognize the efforts of volunteer and not-for-profit organizations that help to reduce health costs. As a compassionate, unique method of health care delivery, VNA's certainly merit such distinction.

Today, visiting nurse associations carry on a tradition of innovation in health care. It is important to note, Mr. Speaker, that VNA's were one of the first groups to recognize the home care needs of AIDS victims. VNA's, as they have throughout their existence, remain at the forefront in many other areas as well: Maternal child care, home intravenous therapy, and respiratory care. In many cities, VNA's have developed special shelters where the homeless can receive attention they would not get otherwise. Virtually every time circumstances have conspired to create a health care need, VNA's have been the first to identify and respond to that need.

I thank my colleague Mr. BURTON for his efforts in this bipartisan legislation. By naming February 16 through 23, 1992, as "National Visiting Nurse Association Week," we extol the endeavors of these modern day samaritans to ensure that they get the appreciation and recognition they justly deserve. This resolution recognizes all the medical professionals and volunteers in each community who enable visiting nurse associations to advance their innovative and essential role in America's health care system.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD AIDS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 376) designating December 1, 1991, as "World AIDS Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Washington [Mr. MCDERMOTT] who is the chief sponsor of the resolution.

□ 2040

Mr. MCDERMOTT. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman for bringing House Joint Resolution 376, declaring December 1st, 1991 "World AIDS Day," to the floor today. Because we are adjourning before December 1—we hope—it is important to have House Joint Resolution 376 enacted before we adjourn to properly commemorate this day. I thank you for expediting this process.

December 1 will be a special day in the effort to combat the international AIDS epidemic. Around the world, there will be ceremonies and activities designed to increase awareness about the worldwide HIV/AIDS epidemic.

"World AIDS Day" has been commemorated since 1988, when the World Summit of Ministers of Health on AIDS Prevention designated December 1 to be a day to recognize the devastating impact of HIV and AIDS.

I have examined the state of the AIDS epidemic in countries in Africa and Asia, and its impact is truly frightening. This disease will be a human disaster of unprecedented proportions in some parts of the world. Most countries lack the health care resources, the educational resources, and the economic resources necessary to halt the spread of HIV.

Tragically, entire families are being destroyed by AIDS. Thousands of children have been orphaned by this disease, and are now living in poverty as street children. AIDS is threatening the social and economic structures of countries all over the world.

The theme of "World AIDS Day, 1991" is "Sharing the Challenge." I hope in the United States we will heed this message and recognize that all of us must work together to meet the many challenges AIDS poses. Many governments and organizations are dedicating resources and energy to combating the global AIDS epidemic, and it is important to acknowledge their heroic efforts.

And we must recognize all the tens of millions of people around the world whose lives have been affected by HIV and AIDS. On December 1, let us commemorate "World AIDS Day," and let

us realize that the global AIDS epidemic affects us all.

Mr. Speaker, again I thank the chairman for recognizing the importance of commemorating "World AIDS Day" by bringing House Resolution 376 to the floor today.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I would like to say to the sponsor of the resolution that I appreciate his workmanship in drafting this resolution. I support it wholeheartedly.

I would like to say, however, that this kind of resolution, while focusing attention on the issue, is certainly not going to solve the problem. We in this body need to come to grips with this problem in a very aggressive way. We need a comprehensive program to deal with the AIDS virus.

I showed the gentleman who sponsored this resolution the other day some statistical data that I received from a leading scientist in New York.

It showed that if we were to identify the people with AIDS, those infected with the AIDS/HIV, and get them on AZT in a relatively short period of time, by the years 1995 and 1996, we can cut in half the number of new infections that are anticipated.

But you cannot do that unless you know who has the virus.

You cannot get people on AZT unless they know they are infected. So the first step in a comprehensive program, I submit to my colleagues, is identifying those who are infected. I believe we have 4 million to 6 million infected. Nobody knows for sure. But one sure thing we do know is that 95 percent of the people who are infected do not know they are infected and thus they continue to infect others.

That infectivity, their contagiousness, could be cut dramatically if they got on AZT, and their lives could be extended for a longer period of time.

So we need to have a comprehensive program which consists of testing, contact tracing, psychological health, education, scientific research; we need to have also in there protecting their civil rights, their housing, their jobs, their health benefits. It has to be comprehensive program, including penalties for those who know they have the virus and continue to spread it. There are lot of those people out there.

I say to my colleague I commend him for this awareness resolution; it is very, very important. But we as a body, if we really care about the people of this country and the world, we have to come to grips with this very quickly and have a comprehensive program to deal with it. Otherwise, millions more Americans are going to be condemned to die.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for his contribution.

Continuing my reservation of objection, Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 376, legislation to designate December 1, 1991, as "World AIDS Day."

I commend the gentlemen from Washington [Mr. MCDERMOTT] for introducing this important legislation.

Mr. Speaker, the World Health Organization has designated December 1, 1991, as "World AIDS Day," a day for the exchange of information, education, and caring for the victims of AIDS.

The number of persons infected with the human immunodeficiency virus and likely to develop AIDS has reached between 5 and 10 million persons. It is estimated that in 1991 54,000 people will die from AIDS.

Recently, pediatric AIDS cases have added to this growing tragedy. Unfortunately, the majority of the cases are through maternal transmission.

Many AIDS cases occur simply because individuals did not know how to take simple steps to prevent this tragic affliction.

However, education, increased research and greater dissemination of information, and understanding will help to combat this epidemic. While these concepts are no panacea for the vast problems of AIDS, they are a step in the right direction.

Accordingly, Mr. Speaker, I urge my colleagues to join in adopting this resolution and to commit ourselves to provide substantial support for expanded medical research and education to combat this scourge on our society.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BROWDER). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 376

Whereas infection with the Human Immunodeficiency Virus (HIV) and the incidence of Acquired Immunodeficiency Syndrome (AIDS) have become a global problem of urgent proportions, with an estimated 1,000,000 AIDS cases worldwide and another 10,000,000 HIV infections;

Whereas as many as 5,000 individuals worldwide are infected with HIV every day and an estimated 40,000,000 men, women, and children will be infected with HIV by the year 2000;

Whereas 1,000,000 children have been born infected with HIV and as many as 15,000,000 children around the world will be orphaned by AIDS by the year 2000;

Whereas AIDS worldwide is primarily transmitted sexually, with 75 percent of all infections transmitted through heterosexual contact, and education and increased public awareness are the cornerstones of an effective AIDS prevention activity;

Whereas the World Health Organization, in concert with intergovernmental and nongovernmental organizations around the world, has accepted the responsibility to safeguard the health of all individuals and control the spread of HIV infection through national policies and programs;

Whereas the worldwide action necessary to stop this global epidemic must continue without compromising the medical, ethical, socioeconomic, cultural and psychological well-being of HIV-infected individuals and individuals with AIDS or slowing the momentum that has allowed those engaged in the struggle to close in on the challenges posed by HIV and AIDS;

Whereas the World Summit of Ministers of Health on AIDS Prevention, meeting in London in 1988, recognized that the widest possible dissemination and exchange of information and educational messages is vital to the success of AIDS prevention programs and thus pledged to open fully channels of communication in each society by creating the basis for the declaration of a World AIDS Day as a day of information, education, action, and commission on AIDS;

Whereas the first World AIDS Day on December 1, 1988, brought messages about the need for action, compassion, and understanding about AIDS to every country in the world; and

Whereas the theme of the 1991 World AIDS day, "Sharing the Challenge", underlines the global nature of the AIDS epidemic and recognizes that awareness can be achieved only by pooling the efforts, resources, and imagination of all individuals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1, 1991, is designated as "World AIDS Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities, with a special focus on world-wide cooperation and understanding.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GEOGRAPHY AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 201) designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to our friend from California [Mr. PANETTA], who is the chief sponsor of this resolution.

□ 2050

Mr. PANETTA. Mr. Speaker, I rise today in support of the adoption of the

Resolved by the Senate and House of Rep- tors, musicians, authors, poets, artisans, sci- public's awareness of obstacles faced by

VOL 137
PT 23
NO 21–25
1991
UMI

resolution to designate December 1–7, 1991, and November 15–21, 1992, as "Geography Awareness Week." The resolution commemorates Geography Awareness Week for the fifth and sixth consecutive years. With the approval of this resolution, the Congress will again be reaffirming its commitment for recognizing the importance of elevating geography education in our Nation's schools.

I want to thank my distinguished colleagues, Representatives BILL GREEN and DALE KILDEE, for once again joining me in introducing the resolution this year and working to ensure its consideration and passage. They have shown consistent and tireless support since Congress first designated Geography Awareness Week in 1987. At this time, I would also like to thank the chairman of the Subcommittee on Census and Population, Representative SAWYER for his interest, and without whose help we could not adopt the resolution.

During the observation of this week, States, cities, schools, and organizations such as the National Geographic Society, participate in numerous education activities designed to focus national attention on the importance of a solid geographic education. Although these efforts are helpful, our children still have a long way to go.

Past studies have clearly illustrated our students' lack of knowledge in this area. Geographic illiteracy puts our country at a disadvantage and weakens our ability to remain a nation with worldwide aspirations, and hinders us from competing effectively in the international marketplace. As we look toward the movement of a common market in 1992 and the discussions of open trade negotiations around the world, we have a responsibility to possess an understanding of other cultures and lands. In only this way can this country remain a leader in the international, political, and economic spheres.

Knowledge of geography offers perspectives and information necessary to understand ourselves, our relationship to the earth, and our interdependence with other peoples of the world. Let us continue to help our students, who are our future leaders, become aware of the world around them.

Mr. RIDGE. Mr. Speaker, I thank the gentleman from California [Mr. PANETTA].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore [Mr. BROWDER]. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 201

Whereas geography is the study of people and their planet, offering a framework for understanding ourselves, our interdependence with other peoples, our relationship to the Earth, and world events;

Whereas the United States has both worldwide involvements and influence that demand an understanding of geography, different cultures, and foreign languages;

Whereas the credibility of our Nation's foreign policy largely depends on the support of a geographically informed public, a public which understands both the locations and the significance of historic changes occurring around the globe and their impact on the United States;

Whereas an ignorance of geography, different cultures, and foreign languages places the United States at a disadvantage with respect to other nations in matters of business, politics, the environment, and global events;

Whereas, although geography as a distinct discipline has virtually disappeared from the curricula of schools in the United States, it is still being taught as a basic subject in other nations, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas our Nation's governors, in their National Goals for Education, explicitly identified geography as one of five subjects in which American students should demonstrate competency;

Whereas a perspective in geography offers a critically needed understanding of the relationship between human activity and the condition of our planet in this time of increasing environmental problems;

Whereas the first federally funded National Assessment of Educational Progress revealed a "disturbing geography knowledge gap" among 12th graders: 58 percent could locate Jerusalem on a regional map, but only 36 percent knew that Saudi Arabia is bounded by the Red Sea and the Persian Gulf;

Whereas in a 1988 Gallup Poll, 75 percent of those surveyed could not locate the Persian Gulf on a map, and fewer than half of those surveyed could name Asia as the place that Christopher Columbus was hoping to reach when he discovered the New World;

Whereas that 1988 Gallup poll also projected that 24,000,000 Americans could not identify the United States on a map of the world, 58,000,000 Americans could not tell direction on a map, and 105,000,000 Americans did not know the population of the United States;

Whereas geography is more than the study of map identification, State capitals, and country names, but geography also gives meaning to location and establishes a context for understanding the connections among peoples, places, and events;

Whereas the success of a democracy relies heavily upon an educated citizenry whose members are aware of both their influence on and connection with the rest of the world; and

Whereas national attention must be focused on the integral role that a knowledge of world geography plays in preparing citizens of the United States to assume a responsible role in the future of an increasingly interconnected and interdependent world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning December 1, 1991, and the week beginning November 15, 1992, are each designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ADOPTION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 207) to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, under my reservation I acknowledge the chief sponsor of this resolution, the gentleman from Ohio [Mr. SAWYER].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 207

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 13 years;

Whereas the Congress recognizes that belonging to a secure, loving, and permanent family is every child's right;

Whereas the President of the United States has actively promoted the benefits of adoption by implementing a federal program to encourage Federal employees to consider adoption;

Whereas approximately 36,000 children who may be characterized as having special needs such as being of school age, being members of a sibling group, being members of a minority group, or having physical, mental, and emotional disabilities are now in foster care or in institutions financed at public expense and are legally free for adoption;

Whereas public and private barriers inhibiting the placement of special needs children must be reviewed and removed where possible to assure their adoption;

Whereas the adoption of institutionalized or foster care children by capable parents into permanent homes would ensure an opportunity for their continued happiness and long-range well-being;

Whereas the public and prospective parents must be informed that there are children available for adoption;

Whereas media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will provide publicity and information to heighten community awareness of the crucial needs of children available for adoption; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and in the best interest of the public generally: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, are each designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe each week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YEAR OF THE AMERICAN INDIAN

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 217) to authorize and request the President to proclaim 1992 as the "Year of the American Indian," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of the gentleman from American Samoa [Mr. FALEOMAVAEGA], who is the chief sponsor of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 217

Whereas American Indians are the original inhabitants of the lands that now constitute the United States of America;

Whereas American Indian governments developed the fundamental principles of freedom of speech and the separation of powers in government, and these principles form the foundation of the United States Government today;

Whereas American Indian societies exhibited a respect for the finite quality of natural resources through deep respect for the Earth, and such values continue to be widely held today;

Whereas American Indian people have served with valor in all wars that the United States has engaged in, from the Revolutionary War to the conflict in the Persian Gulf, often serving in greater numbers, proportionately, than the population of the nation as a whole;

Whereas American Indians have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas it is fitting that American Indians be recognized for their individual contributions to American society as artists, sculptors, musicians, authors, poets, artisans, scientists, and scholars;

Whereas the five hundredth anniversary of the arrival of Christopher Columbus to the Western Hemisphere is an especially appropriate occasion for the people of the United States to reflect on the long history of the original inhabitants of this continent and appreciate that the "discoverees" should have as much recognition as the "discoverer";

Whereas the peoples of the world will be refocusing with special interest on the significant contributions that American Indians have made to society;

Whereas the Congress believes that such recognition of their contributions will promote self-esteem, pride, and self-awareness in American Indians young and old; and

Whereas 1992 represents the first time that American Indians will have been recognized through the commemoration of a year in their honor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1992 is designated as the "Year of the American Indian". The President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the year with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ACCESSIBLE HOUSING MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 184) designating the month of November 1991, as "National Accessible Housing Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, under my reservation I would first acknowledge our colleague, the gentleman from Illinois [Mr. MICHEL], as the chief sponsor of this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MICHEL. Mr. Speaker, I rise in strong support of Senate Joint Resolution 184 a joint resolution designating the month of November, "National Accessible Housing Month."

As the original sponsor of House Joint Resolution 326, I am proud to see this resolution come to the floor.

I want to commend my colleague, STENY HOYER, for his help in getting this legislation to this point in the process.

Senate Joint Resolution 184 focuses on the many public and private efforts in raising the public's awareness of obstacles faced by Americans with disabilities in their own homes. It highlights, in particular, the campaign now being conducted by the National Easter Seal Society and Century 21 Real Estate Corp.

Their program, entitled "Easy Access Housing for Easier Living," answers questions on how to design homes to accommodate those with disabilities.

Designing barrier-free homes from the outset can be cost-effective and is in the interest of all Americans.

Did you know that 70 percent of our citizens will suffer a permanent or temporary disability during their lifetime?

Wouldn't it be nice to know that if you do suffer such a disability, your home will still be your home, and not become an obstacle course?

Since enactment of the Americans with Disabilities Act last year, there have been many efforts to heighten the public's awareness of these problems.

This resolution recognizes not only the work of Century 21 and the National Easter Seal Society, but all who are committed to this important issue.

It is worthy bill, and I urge all my colleagues, of which 230 are already cosponsors, to support it.

Mr. RIDGE. Mr. Speaker, further reserving the right to object, I yield to our friend the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 184, legislation to designate the month of November 1991 as "National Accessible Housing Month."

And I would like to commend our distinguished minority leader, the gentleman from Illinois [Mr. MICHEL] for introducing this legislation.

Mr. Speaker, the need for accessible single family housing for our temporarily or permanently disabled Americans continues to grow at a rapid rate.

There are approximately 43 million individuals with disabilities in our Nation.

In the future it is projected that 1 out of every 3 Americans will need some form of accessible housing to compensate for a disability.

Accordingly, Mr. Speaker, I urge our colleagues to join the many private sector organizations which have launched public information programs in an effort to increase awareness of the need for accessible housing for our disabled Americans.

Mr. HOYER. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 184. I would like to thank Chairman SAWYER and the ranking member, Congressman RIDGE, for bringing this bill to the floor tonight. It has been my privilege to work with the minority leader on this resolution which designates the month of November as "National Accessible Housing Month."

In 1988 the Congress passed the Fair Housing Act amendments which clearly stated in law the policy that people with disabilities should not be discriminated against in housing. However, as we all know, in order for a

VOL 137
PT 23
NO 21—25
1991
UMI

law to be effective, it must be enforced, and the American people must be committed to its success. I am therefore, pleased that in this instance, the National Easter Seal Society and Century 21 Real Estate Corp. have joined together to promote accessible housing for people with disabilities.

As the lead House cosponsor of the Americans With Disabilities Act, I spoke often of the need for business and people with disabilities to work together to make the ADA work. The partnership between Easter Seals and Century 21 is exactly the type of commitment and cooperation that I hoped would happen throughout the Nation.

There are 43 million Americans with disabilities. And, at some time in their lives, 70 percent of all Americans will have a temporary or permanent disability that will prevent them from climbing stairs. Furthermore, many Americans are forced to leave their homes because a disability has made that home no longer accessible to them. In fact, 1 out of every 3 Americans will need housing that is accessible to them at some point in their lives.

Therefore, this resolution is of extreme importance to help spread the word regarding the need for accessible housing and to educate the American public that accessible housing is available. I am hopeful that this resolution will also inform community leaders across the Nation about the need for accessible housing and encourage them to promote its construction in their communities. In fact, I hope that communities across this Nation will take the opportunity provided by this month to promote accessible housing for all Americans.

The American people are clearly committed to the full integration of Americans with disabilities into all aspects of our Nation. It is an essential piece of the whole that accessible housing must be available. I would like to again commend Easter Seals and Century 21 for their efforts in this regard. I hope all my colleagues will support this resolution and join with me in continuing to promote partnerships which will ensure that equality for Americans with disabilities becomes a reality. For, it is only when the strengths and contributions of all Americans are utilized, that the true greatness of our Nation is realized.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 184

Whereas the Congress in the Americans with Disabilities Act of 1990 found that there are 43,000,000 individuals with disabilities in this Nation;

Whereas 70 percent of all Americans will, at some time in their lives, have a temporary or permanent disability that will prevent them from climbing stairs;

Whereas 32,000,000 Americans are currently over age 65 and many older citizens acquire vision, hearing, and physical disabilities as part of the aging process;

Whereas many older Americans who acquire a disability are forced to leave their homes because the homes are no longer accessible to them;

Whereas 1 out of every 3 persons in the United States will need housing that is accessible to the disabled at some point in their lives;

Whereas the need for accessible single-family homes is growing;

Whereas the need for public information and education in the area of accessible single-family homes is increasing;

Whereas this Nation has placed a high priority on integrating Americans with disabilities into our towns and communities;

Whereas the private sector has helped increase public awareness of the need for accessible housing, as exemplified by the national public education campaign conducted by the National Easter Seal Society and Century 21 Real Estate Corporation, entitled "Easy Access Housing for Easier Living"; and

Whereas increased public awareness of the need for accessible housing should prompt the participation of civic leaders, and representatives and officials of State and local governments, in the drive to meet this need: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1991, is designated as "National Accessible Housing Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL TRAUMA AWARENESS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution H.J. Res. 300) designating the month of May 1992 as "National Trauma Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I would like to acknowledge the work of the gentleman from Florida [Mr. LEHMAN] who is the chief sponsor of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 300

Whereas more than 9,000,000 individuals in the United States suffer traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals less than 44 years of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury often occurs without warning;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $148,500,000,000 on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment through emergency medical services and trauma systems; and

Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the month of May 1992 is designated as "National Trauma Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

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NATIONAL WASTE REDUCTION, RECYCLING AND MANAGEMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. SWIFT] is recognized for 5 minutes.

Mr. SWIFT. Mr. Speaker, last year in this country we generated 180 million tons of municipal solid waste, and that number is expected to rise to 216 million tons by the year 2000. Today, I am introducing legislation designed to address the serious problems confronting our cities and States as they search for better ways to manage the waste we have created.

This bill, the National Waste Reduction, Recycling and Management Act, will encourage reduction in the amount of waste generated in the first place, and will promote recovery and recycling of waste materials into useful products. The bill will provide a much-needed Federal leadership role in this effort, building on the expertise and responsibilities of State and local governments in solid waste management, without supplanting their traditional authorities in this area.

Today's proposal is only the first half of comprehensive legislation I intend to move

this Congress to reauthorize our Nation's basic law governing solid waste. That law, the Resource Conservation and Recovery Act, better known as RCRA, was last reauthorized in 1984 and is in need of significant revision. The second half of the reauthorization bill will be ready early next year. It is my intent then to consolidate these separate pieces into one bill, which I will introduce at the beginning of the next session and then will move to markup next spring. That second part will address the following issues: Industrial nonhazardous waste, oil and gas exploration and production waste, mining waste, waste minimization, and recycling of used oil and hazardous materials.

When I became chairman of the Subcommittee on Transportation and Hazardous Materials in February of this year, I made passage of RCRA reauthorization one of my top legislative priorities for this Congress. I remain committed to that goal, and have pursued a somewhat nontraditional approach toward its achievement.

Instead of following the common practice of immediately introducing a bill, I decided to take the unusual step of convening numerous informal meetings of the subcommittee to discuss the issues, ascertain the Members' priorities, and determine whether and where consensus could be reached. In addition, my subcommittee staff arranged and attended countless briefings on a multitude of issues. Finally, we held a series of hearings, including one field hearing, to consider some of the more important RCRA issues and to seek the advice of State and local officials on solid waste policies and their views on the role the Federal Government should play in assisting them.

When these meetings and hearings concluded in August, I directed the staff to prepare a discussion draft of a bill on the municipal solid waste issues. I circulated this staff draft late in September to all interested parties and requested general comments as well as responses to specific questions that I had. To date, we have received some 200 detailed responses to my request. Although some of the comments required more analysis on our part than we had time to complete prior to introduction—work we are continuing to do—all the comments have been extremely helpful in putting this bill together and will no doubt be of great assistance as we move forward in the legislative process. The second part of the RCRA reauthorization bill mentioned above will also be circulated for comment when the draft is ready early next year.

This bipartisan educational and information-gathering process the subcommittee has followed has been very time consuming for all concerned. However, I believe that ultimately it will greatly facilitate the legislative process, and in the long run, will save us time.

I want to especially commend my subcommittee colleagues for their hard work during this entire process. They demonstrated great patience, stamina, and perseverance. They have provided me with valuable input on both substantive issues and on our process over the past 9 months. We have worked together in a spirit of bipartisan cooperation and I want to acknowledge the invaluable help provided by the ranking minority member of the subcommittee, Congressman DON RITTER. The subcommittee's vice chairman, DENNIS ECKART, has been particularly helpful, offering guidance on important policy issues, as well as moral support. It also should be mentioned that several members of the subcommittee are currently working together to develop compromise solutions to some very difficult and controversial issues, which will be covered in the second part of our RCRA bill. I refer particularly to their work on the issues of oil and gas and mining wastes.

While some subcommittee members will not share all the conclusions that are embodied in the bill I am introducing today, I do hope they all share my view that the process we engaged in was fair and useful. Several members have separate legislative approaches on some issues addressed by my bill. In fact, I have included some of their specific proposals in my legislation. Congressman GERRY SIKORSKI has been a very active member in this process. He is currently drafting a bill that will approach some of the RCRA issues in different ways. He has contributed to my product and his other ideas will be considered in the rest of the legislative process.

I would now like to turn to the background and objectives of this bill. As I said at the outset, States and localities are attempting to respond to the current solid waste crisis—and it certainly is a crisis. In doing so, they confront a variety of problems: Landfill capacity is dwindling, some States are trying to close their borders to out-of-State waste, permitting of new landfills and incinerators and even recycling facilities is extremely difficult, and financial resources are severely strained or simply unavailable. Despite these problems, our State and local governments are doing their best to manage their garbage and they are doing it with little help from the Federal Government. Forty States have passed recycling laws and some 3,000 communities have developed recycling programs. The city of Seattle in my own home State of Washington is implementing a very progressive program. These governments are responding to a grassroots recycling movement taking place across this country. It is time for Congress, the administration, business, and industry to wake up and listen to the message the American public is sending and to join in the effort to resolve these serious problems. We cannot expect States and municipalities to go it alone and each of us has a direct responsibility to contribute to a solution.

One of the downsides of States moving ahead on their own is the proliferation of different State laws on packaging, labeling, and recycling. In my view, it is essential that the Federal Government play a constructive leadership role by providing some degree of national uniformity on these issues and expanding markets for recyclables. As the Congressional Budget Office observed in a report issued last week, "Federal Options for Reducing Waste Disposal:"

> The fact that markets for recycled materials and for trash disposal extend beyond State boundaries may warrant consideration of a Federal role in solving the Nation's trash disposal problems.

To that end, my bill includes a variety of provisions to clarify the Federal-State relationship in waste management, assist States in stimulating markets, promote source reduction in packaging, and encourage recycling.

First, to compensate States which bear the burden of managing another State's municipal solid waste, the bill authorizes States to impose differential fees on out-of-State municipal solid waste and links such authority to the approval of State solid waste management plans. One member of the subcommittee, Congressman RICK BOUCHER, is working on an alternative approach which provides some degree of local authority on the interstate transport issue. It is an innovative and very interesting proposal and he has worked very diligently on it. It will be given serious consideration by the subcommittee.

Second, the bill establishes new requirements for State solid waste management plans—capacity estimates, waste inventories, source reduction, and recycling goals, et cetera—but provides sufficient flexibility to enable States to devise plans that meet their unique needs.

Third, to clear up uncertainties regarding the standards for MSW ash management, it sets forth minimum Federal requirements for the handling and disposal of municipal solid waste incinerator ash.

Fourth, it establishes a national policy to encourage the recycling of municipal solid waste by establishing industry-wide recovery rates and creating a multiple options strategy to reduce packaging. In the staff draft, we originally included provisions on diversion and minimum content to stimulate both the supply and demand sides of the recycling equation.

States objected to the inflexible diversion requirements.

Also, we did not feel we could be assured that the application of minimum content requirements to imports could be enforced, since the technology does not exist to identify recycled fiber. This could put domestic manufacturers at a competitive disadvantage with imports. We could not rely on certification procedures or reporting requirements for foreign manufacturers.

Because of concerns voiced by States and localities on the diversion requirements and implementation problems on recycled content, this bill adopts an alternative and more flexible approach to recycling.

To address the concerns of manufacturers who need assurances of a steady supply of recyclable materials, I have included diversion targets as part of the State solid waste management planning process, requiring States to establish materials diversion and recycling rates as well as real programs to achieve these rates. To create markets for the recyclables collected by States and municipalities, I have developed a multifaceted approach. This approach features a multiple option packaging strategy along the lines of a similar proposal being considered by the Massachusetts Legislature, requires a specific recovery rate of 40 percent for the paper industry, in recognition of the significant percentage of the municipal solid waste stream that paper represents, and authorizes EPA to establish recovery rates for other appropriate materials and industries. Minimum content standards are authorized if these recovery goals are not met. Together, these recovery rates and packaging reduction options should go a long way

vertical expansion, except in certain cir-

ment, product standards for compost made

kraft, and printing and writing paper. Statu-

VOL 137 PT 23 NO 21—25 1991 UMI

in promoting both source reduction and recycling. In the event industry fails to take advantage of the flexibility provided in the bill to meet the requirements, stringent enforcement will result in the form of minimum content hammers, penalties, and, ultimately, product bans.

Fifth, to take advantage of the substantial purchasing power of the public sector, the bill expands and strengthens the current program for the procurement of recycled goods by the Federal Government. The environmental Protection Agency is required to issue additional procurement guidelines and price preferences are established for procured items containing recovered materials. The bill also clarifies and reinforces the role of the Secretary of Commerce in the development of markets for recycled products, and requires the Secretary to provide technical assistance to State and local governments in the development of markets.

Sixth, the bill establishes specific requirements to reduce toxic metals in packaging. The provisions are modeled on the proposal advanced by the Coalition of Northeastern Governors [Goneg], which has already been adopted in several States.

Seventh, the bill creates specific programs to encourage the recycling of used tires and lead acid batteries, wastes that pose particular problems. The approach we adopted regarding the collection and reuse of used tires borrowed heavily from Congressman JIM SLATTERY's bill on this subject, H.R. 3058.

Finally, to help environmentally conscious consumers get the information they need and prevent fraudulent green claims, the bill requires the establishment of standards and criteria for environmental marketing claims and sets forth the respective roles of the Environmental Protection Agency and the Federal Trade Commission in that process.

As I mentioned, the process we followed in developing this bill was unusual. Now, with introduction of the bill, we begin the normal legislative process. We will introduce a combined bill at the start of the second session, hold hearings to receive formal comment and additional suggestions on the bill, and then proceed to markup soon thereafter. Hopefully, we will be able then to take the bill to the floor in late spring or early summer. I realize this is an ambitious schedule. However, it is one we must follow in order to complete consideration of RCRA reauthorization legislation this Congress, a goal that I am convinced can be achieved with the cooperation and assistance of my colleagues.

For the benefit of my colleagues, I am inserting at this point in the RECORD a section-by-section analysis of the legislation:

SECTION-BY-SECTION ANALYSIS

Section 1. Short title. The National Waste Reduction, Recyling, and Management Act.

Section 2. Amendments to Solid Waste Disposal Act. Technical Amendments.

Section 3. Authorization. Authorizes appropriations for the fiscal years 1993 through 1998 for the purposes of carrying out the provisions of this Act.

TITLE I—STATE SOLID WASTE MANAGEMENT PLANS

Section 101. Federal Guidelines for Plans. This section makes additions to the guidelines EPA is required to issue under existing section 4002 of RCRA for the purpose of assisting states with development of solid waste management plans, including standard methodologies for measurement and economic analysis of waste management options. New guidelines will be required to be published within 6 months after date of enactment.

Section 102. Minimum Requirements for State Plans. This section amends existing section 4003 of RCRA to expand the minimum required elements for state solid waste management plans. These new requirements include: solid waste management capacity estimates and planning; waste inventory; source reduction and recycling programs; diversion programs; public education and personal training; scrap tire management; provisions for the management of specific wastes, such as household hazardous waste and yard wastes; and procurement of recycled products.

Section 103. Submission, Approval, and Implementation of State Plan. This section requires each state to develop a solid waste management plan, based on the solid waste inventory required by section 4011 and the guidelines and methodologies published by the Administrator pursuant to section 4002, that complies with the requirements of section 4003. The state must provide notice and opportunity for public comment on the plan, and must submit the plan to EPA for approval within 30 months of the date of enactment. A certification of completeness by the governor must accompany each plan submitted to EPA for approval.

EPA is required to approve or disapprove all state solid waste management plans within 6 months after plan submission. If EPA disapproves a state plan, the state may revise and resubmit the plan. EPA must then take final action on all state solid waste management plans within 42 months after the date of enactment.

EPA is required to review each approved state solid waste management plan three years after approval to determine whether the plan is being fully implemented. If the Adminstrator determines that a state is not implementing its plan, the plan is deemed disapproved. The state then loses its authority under section 4013 and any incinerator or landfill permitted after the date the plan is disapproved will be considered out of compliance with its permit.

Section 104. Waste Inventory. This section requres each state, within 18 months after the date of enactment, to identify the types and amounts of solid waste expected to be generated in the state, or transported into the state, during the planning period (ten years).

Section 105. Scrap Tire Management and Recovery. This section requires each State to include in its solid waste management plan a scrap tire management program. The state scrap tire program must address the reduction of existing scrap tires piles, with a goal of eliminating the piles by January 1, 2005, and the current and future disposal and recycling, recovery and reuse of scrap tires. The plan must include, at a minimum: a survey of existing scrap tire piles, a prohibition of permanent disposal in landfills, tire monocells, tire monofills (unless no reasonably available recycling alternative exists and the tires are shredded); a sufficient number of tire collection sites; a prohibition of operation of a collection site unless it is in compliance with regulations promulgated by EPA; a prohibition of storage of more than 3,000 tires for more than 60 days, with exceptions; and a prohibition of the commingling of new scrap tires with existing piles.

The section also requires the federal agencies, within 30 months after enactment, to develop and implement a plan for abatement of scrap tire piles on Federal lands.

Section 106. Interstate Transportation of Solid Waste. This section authorizes states, effective 6 months after date of enactment, to charge a differential fee on the disposal of out-of-state waste in the importing state. Initially, the fee may not exceed 4 times either the importing state's or the exporting state's surcharge on waste disposal, whichever is greater. Upon approval of a state's solid waste management plan, the cap rises to 8 times the applicable surcharge. After 42 months, a state may levy a fee which is up to 10 times the applicable surcharge against an exporting state which does not have an approved state solid waste management plan.

This differential fee authority expires if a state does not submit a solid waste management plan to the Adminstrator for approval within 30 months of the date of enactment or if, upon the review required 3 years after plan approval, the Administrator finds the state is not fully implementing its plan.

The section further provides that funds collected by the state under this differential fee authority must be distributed in the following manner: one-half to the local governments in whose jurisdiction the facilities accepting out-of-state waste are located; and one-half to the local governments in the state for purposes of carrying out solid waste management plan activities.

Finally, this section authorizes states, which do not choose to exercise differential fee authority, to freeze future imports of out-of-state waste. The amount of out-of-state waste to be imported may be limited to the amount currently being imported on an annual basis, or to a percentage of the total amount of waste being managed in the importing state on an annual basis.

TITLE II—FEDERAL SOLID WASTE MANAGEMENT REQUIREMENTS

Section 201. General Requirements for Solid Waste Management Regulations. This section establishes, after section 4014 of RCRA, "Part II—Federal Solid Waste Management Requirements," and requires all regulations promulgated by the Administrator under this part to provide for protection of human health and the environment.

Section 202. Municipal Solid Waste Combustor Ash Regulations. This section requires the Administrator to establish through regulation minimum federal requirements for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of municipal solid waste incinerator ash and provides generally that these activities shall not be subject to the provisions of Subtitle C.

Subsection (a) requires promulgation of the regulations within 24 months after the date of enactment of this Act and defines certain terms.

Subsection (b) establishes design requirements for the disposal of ash in landfills and monofills, but allows alternative designs if the state or Administrator determines that such alternative design will prevent contamination of groundwater at least as effectively as the design requirements set out in the subsection.

Subsection (c) would allow disposal of ash in landfills meeting an alternative design requirement to that established under subsection (b)(1), so long as the ash has been treated and is routinely tested for hazardous constituents.

Subsection (d) prohibits the disposal of ash into any landfill unit created as a result of

vertical expansion, except in certain circumstances; and in any landfill from which there is a release into ground or surface water.

This subsection further provides that, effective five years after the date of enactment of this Act, unless the Administrator determines that leachate from ash disposed in landfills presents no greater threat to human health and the environment than leachate from ash monofills, municipal incinerator ash may no longer be disposed of in landfills.

Subsection (e) requires the Administrator to establish by regulation requirements for the reuse and recycling of municipal incinerator ash, including regulations requiring treatment of the ash prior to reuse and recycling, and specifying levels of treatment necessary to protect human health and the environment.

Until regulations are promulgated, reuse or recycling of municipal incinerator ash is prohibited unless the ash is treated and tests as non-hazardous, the reuse or recycling is approved by a state system of prior approval or permitting, and the reuse or recycling minimizes release of ash to the ambient air. However, any demonstration projects which existed on or before December 31, 1991 and is operating under a state system of prior approval or a judicial consent decree will be allowed to continue.

Subsection (f) requires the Administrator, within 18 months after the date of enactment, to promulgate criteria and testing procedures for identifying potential hazardous characteristics of municipal incinerator ash, and establishes a maximum level constituting test failure. Any ash which fails in any characteristic under the criteria and testing procedure may only be disposed of in a landfill or monofill meeting the minimum requirements of subsection (b), or must be treated.

Subsections (g) and (h) establish corrective action and closure requirements for facilities regulated under this section. Subsection (i) provides for EPA approval of state programs to implement and enforce the requirements of this section.

Subsection (j) establishes effective dates and variance procedures for the regulations promulgated under this section.

Section 203. Solid Waste Storage Requirements. This section requires the Administrator, within one year after the date of enactment, to promulgate regulations for the safe storage of solid waste, including materials destined for recycling.

Section 204. Scrap Tire Management and Recovery Regulations. This section prohibits, effective 24 months after the date of enactment, disposal of whole scrap tires in landfills or monofills; operation of tire collection sites except in compliance with regulations promulgated by the Administrator; storage of more than 3000 tires for more than 60 days, except if necessary for a specific recycling, recovery or reuse project; and commingling of new scrap tires with existing tire piles. This section provides certain exemptions to the prohibitions.

States may apply to EPA for financial assistance to carry out the requirements of this section. EPA must publish guidelines for application for, and the equitable distribution of, this assistance.

The Administrator is required to report to Congress no later than 5 years after the date of enactment on the implementation of this section.

Section 205. Composting Regulations. This section requires the Administrator to establish, within 18 months of the date of enactment, product standards for compost made from source-separated organic materials and compost made from mixed municipal solid waste.

This section also requires that, no later than 24 months from the date of enactment, the Administrator establish regulations for mixed municipal solid waste composting facilities.

Section 206. Permits for Management of Solid Waste. This section requires each state to establish a permit program, for the purposes of assuring compliance with the requirements of the state solid waste management plan and that Act, within 24 months of the date of enactment.

Effective 48 months after the date of enactment, the operation of the following facilities are prohibited except in accordance with a permit: incineration units, landfills, ashfills, mixed MSW composting facilities, and materials recovery facilities.

As a condition of the permit, each MSW incinerator and mixed MSW composting facility must establish programs to divert wastes unsuitable for treatment by the facility, including glass, metals, household hazardous waste and other waste designated by the Administrator.

This section establishes a permit term of ten years, a permit fee requirement, and provisions for permits by rule.

Section 207. Reorganization of Subtitle D. Technical and conforming amendments.

TITLE III—RECYCLING

Section 301. Minimum Content Standards. This section requires that, effective in 1995, all packaging must meet one of the following requirements:

(1) Be made of a material which is recycled at a rate of 25% annually (except in the case of paper, which is governed by different provisions), increasing to 35% in 1998 and 50% in 2001; (2) be made of a material containing at least 25% post-consumer material, increasing to 35% in 1998 and 50% in 2001; (3) be designed to be refilled or reused at least 5 times and at least 50% of such packages are actually refilled or reused; (4) be reduced in weight or volume by 15 percent when compared to packaging used for the same purpose of product 5 years earlier (20 percent in the case of material substitution).

Exempted from the requirements are packaging used to provide tamper-resistant of tamper-evident seal, packages required by federal health and safety laws or regulations, flexible film which is in direct contact with food and is necessary to prevent spoilage; packages used for drugs, drug products, or medical devices; packaging which the Administrator determines to be de minimis.

This section also requires the Administrator to conduct a study to determine at what levels minimum content standards should be set for paper and other materials. This study, which should consider information submitted by manufacturers in compliance with other requirements of this section, is to be completed by December 31, 1995. The Administrator is to examine whether a credit trading system is an appropriate method of implementing a minimum content standard.

The section further establishes an industry-wide recovery rate for paper of 40% in 1995. The industry must report annually to EPA on its progress in reaching this goal. Should the industry fail to meet the recovery rate in 1995, the Administrator is required to establish minimum content standards, to be effective after 1998 for newsprint, corrugating medium tissue products, bleached packaging paper, solid unbleached kraft, and printing and writing paper. Statutorily established standards become effective in the event the Administrator fails to set minimum content standards by December 31, 1996.

The Administrator is required to set a further goal for paper recovery to be met in 2000, and may set recovery rates for other materials. Failure to meet these recovery rates will also result in the imposition of minimum content standards.

This section establishes record-keeping and reporting requirements to measure compliance, and establishes fines for violations of the minimumn content requirements. Monies collected through the levying of such fines are required to be used to fund technical assistance for state and local government solid waste management plan activities.

Section 302. Toxic Metals in Packaging. This section establishes requirements for the reduction of toxic metals in packaging.

Subsection (a) defines terms used in the section.

Subsection (b) prohibits, effective 24 months after the date of enactment, the intentional use of certain heavy metals in packaging components, and sets maximum concentration levels for those metals in packaging, based on a phased-in schedule. Subsection (c) outlines certain permissible exemptions to these requirements, sets a 6-year time limit for such exemptions, and establishes a petition procedure which may be used by those seeking an exemption.

Subsection (d) requires packaging components, as well as distributors thereof, to maintain on file certificates of compliance with the requirements of this section, and to make such certificates available to the public upon request.

Subsection (e) requires the Administrator, within 18 months after the date of enactment, to promulgate regulations implementing the requirements of this section, and to periodically review the effectiveness of these requirements.

Section 303. Batteries. This section adds a new Part IV to Subtitle D. Battery incineration and disposal, except as provided for in this section, are prohibited 6 months after enactment. EPA must promulgate the regulations required by this part as promptly as practicable; however, the failure of EPA to promulgate regulations shall not delay the effective date of these prohibitions.

Owners and operators of MSW landfills and operators of collection programs are exempt from the discard and disposal requirements under certain conditions related to inadvertent acceptance. The discard and disposal prohibitions do not apply to small sealed consumer lead-acid batteries, except if such prohibitions are made applicable pursuant to rules promulgated by EPA.

The section contains general recycling requirements, along with recycling requirements for retailers, wholesalers, auto dismantlers, curbside collection programs, and battery manufacturers; it also contains collection requirements for retailers, wholesalers, and manufacturers. Retailers must display written notices within 6 months after enactment.

The section establishes labeling requirements for lead acid batteries; eighteen months after enactment (for manufacturers) and 24 months after enactment (for any other person), the sale of a lead-acid battery not labeled in accordance with this section is prohibited. Eighteen months after enactment, States and their political subdivisions are prohibited from adopting or enforcing la-

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considered independent. The jury members' dorans, and civilian control over the military cation. Her husband declared afterward that

VOL 137 PT 23 NO 21–25 1991 UMI

beling requirements that are not identical to those described in this section; however, nothing prohibits a State or its political subdivisions from adopting or enforceing labeling or other requirements in addition to, but not inconsistent with, the requirements of this section, if compliance with these State or local requirements would not result in a violation of this section.

EPA must conduct separate studies and reports on the collection, storage, recycling, and disposal of small sealed consumer lead-acid batteries and other small sealed consumer batteries. Any person may export used lead-acid batteries for the purpose of recycling.

Section 304. Federal Procurement of Recycled Goods. This section affirms, updates and clarifies the provisions of existing Section 6002 of RCRA, relating to the procurement of recycled goods by the federal government, as well as adding new requirements to that section.

The section establishes a 10 percent price preference for procured items containing recovered materials, and requires all paper purchases by the federal government to meet the guidelines for recycled paper after 1997.

This section also requires that source reduction be a consideration when issuing guidelines. It further requires EPA to revise its paper guideline within 12 months and issue nine additional guidelines for specific products within 5 years of enactment.

Finally, this section establishes within EPA a clearinghouse to provide information to the public and procuring agencies about recycled products.

Section 305. Duties of the Secretary of Commerce. This section updates existing Sections 5002 and 5003 of RCRA, to reaffirm the duties of the Secretary of Commerce with respect to the development of markets for recycled products. The Secretary is further directed to provide assistance to state and local governments for developing expertise in marketing of recovered materials.

TITLE IV—UNDERGROUND STORAGE TANKS

Section 401. Financial Assistance for Technical Requirements. This section expands the authorized use of the LUST Trust Fund to enable states to establish financial assistance programs for the purpose of helping financially distressed small business gasoline marketers (and other non-marketers covered by 40 CFR 280.91(d)) comply with the technical requirements of the UST program.

TITLE V—OTHER PROVISIONS

Section 501. Environmental Marketing Claims. This section establishes the terms and conditions under which manufacturers and other advertisers may make environmental claims concerning products for the purpose of marketing such products.

Subsection (a) requires the Administrator to promulgate, within 24 months of the date of enactment, regulations containing standards and criteria for environmental marketing claims. Subsection (b) prohibits any person, after the effective date of such regulations, from making an environmental marketing claim except in accordance with such regulations. Subsection (c) provides that any environmental marketing claim made in violation of the regulations promulgated by the Administrator shall be subject to enforcement by the Federal Trade Commission as an unfair and deceptive trade practice.

Subsection (d) establishes an independent advisory board to make recommendations to the Administrator concerning environmental marketing claims for the Administrator to consider in promulgating the regulations.

Subsection (e) sets out specific requirements on which the environmental marketing claims regulations shall be based.

Subsections (f), (g), and (h) are miscellaneous provisions relating to the regulations and recommendations of the advisory board. Subsection (i) requires the Administrator to conduct a public information campaign for consumers.

Subsection (j) describes the relationship of state standards and requirements to the new federal environmental marketing claims regulations.

Section 502. Plastics Recycling Codes. This section requires the Administrator, within 12 months after date of enactment, to promulgate regulations requiring manufacturers of plastic containers to use codes identifying the principal plastic resin of which the containers are composed. The manufacturers' codes are required to consist of symbols and numbers specified in this section. States are prohibited from requiring different codes.

Section 503. Technical Assistance. This section requires the Administrator to provide to state and local governments technical assistance in solid waste management and resource recovery, including state solid waste management plan activities.

Section 504. Retention of State Authority. This section provides generally that nothing in this subtitle shall not be construed to prohibit states from imposing more stringent requirements than those imposed by this subtitle.

Section 505. Definitions. This section adds new definitions to Subtitle D.

Section 506. Enforcement. In general, this section gives EPA inspection and enforcement authority over solid waste management facilities subject to federal requirements, and requires EPA to give 60 days' notice to states before taking certain enforcement actions. It authorizes civil and criminal penalties of up to $25,000 a day for violations of requirements applicable to landfills and ash disposal and $5000 for other violations.

Section 507. Authority to Grant State Status to Indian Tribes for Enforcement of Solid Waste Disposal Act. This section authorizes the Administrator to treat Indian tribes as states for purposes of this Act, including the delegation of primary enforcement authority.

This section also requires the Administrator to submit a report to Congress containing recommendations for addressing solid and hazardous wastes and underground storage tanks on tribal lands; establish an inventory of hazardous waste sites and open dumps on tribal lands; and assist the Indian tribes to upgrade open dumps to comply with this Act.

CONGRESS MUST ACT FOR PEACE IN EL SALVADOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon, Mr. AUCOIN, is recognized for 5 minutes.

Mr. AUCOIN. Mr. Speaker, this year has seen dramatic strides toward peace in El Salvador. Negotiators for the Government and the FMLN have agreed on a large number of issues, and a cease-fire agreement may be reached by the end of the year. The Jesuit murder trial, despite its serious flaws, resulted in unprecedented guilty verdicts against two military officers.

Much remains to be done. To encourage peace and democracy, we must impose strict conditions on aid and ensure that aid can only be released with congressional approval. This will send a crystal clear message to the Salvadoran Armed Forces that our nation supports a peace agreement that includes full civilian control of the military. We must not allow our Nation to be a stumbling block to peace.

Today, we can dare to hope for an end to the reign of terror that has caused more than 75,000 deaths and oppressed the poorest and least powerful Salvadorans. It will take many years' hard work to establish democratic institutions and fully protect human rights, but El Salvador is on the right road.

Why did this happen? Only because Salvadorans from many groups and backgrounds recognize that their civil war cannot end with a military victory for either side. Painstaking mediation efforts by the United Nations helped. So did congressionally mandated restrictions on United States military aid. But progress resulted because Salvadorans from the Government, the FMLN, and all walks of life decided that it was time to negotiate.

This progress toward national reconciliation has occurred in spite of the Bush administration, not because of it. For more than a decade, U.S. policy has rested on the hopes of a military victory for the armed forces. There has been lip service to democracy and human rights. But, two successive administrations have failed to grasp that civilian control of the military is crucial for democracy and human rights in El Salvador.

If there is any doubt about this issue's importance, just look at the breakthrough New York Agreement that government and FMLN negotiators signed on September 25. The agreement calls for a drastic change in the armed forces' role in Salvadoran society and government. Civilian control of the armed forces is to be implemented by redefining the military mission to exclude maintenance of internal order, reducing the size of the armed forces, and establishing an ad-hoc commission to dismiss unsuitable members of the armed forces. The National Guard and Treasury Police, now a part of the armed forces, are to be abolished and replaced with a National Civilian Police [NCP] force that is not a branch of the military.

THE JESUIT MURDER TRIAL

If there was any doubt that the military has yet to be curbed, it should be erased by the trial of the soldiers accused of murdering the six Jesuit fathers, their housekeeper, and her daughter at the University of Central America [UCA]. This horrible crime took place on November 16, 1989. Thanks to the heroic efforts of many human rights advocates, the case went to trial in September of this year. On September 28, the jury found Col. Guillermo Alfredo Benavides guilty of murder and Lt. Yeshi Mendoza guilty of killing the housekeeper's daughter. Two other officers and five enlisted men were acquitted.

As important as the guilty verdict for two officers is, the trial was not a model of fairness. At the end of these remarks I would like to include an article by Father Vincent O'Keefe, S.J., who observed the trial on behalf of the Jesuit Conference of the United States. This account, published in the October 19, 1991 issue of America, demonstrates that the Salvadoran judicial system cannot truthfully be

considered independent. The jury members' identities had to be concealed to protect them from reprisals. At one point, a noisy pro-military demonstration just outside the court featured the playing of taps. The attorney for the accused seized the chance to intimidate the jury, reminding them that "so many people have been killed because of this case * * * How do we know what could happen to us when we go out of this room?"

In a recent letter to me, Salvadoran Ambassador Miguel Salaverria stated that:

> The outcome of the Jesuit case means that the old days of "business as usual" are over in El Salvador. No one is immune from criminal liability. Crimes and human rights violations are no longer being ignored or swept under the rug. The Jesuit trial showed that our criminal justice system works.

I cannot agree with the Ambassador's optimistic conclusion. As Father O'Keefe's article shows, the trial is at best a fragile beginning in the attempt to establish an effective, independent judicial system. Some privileged Salvadorans are still free to violate the law without suffering the consequences.

In a November 18 statement, Representative JOE MOAKLEY, who chairs the Speaker's Task Force on El Salvador, presented a range of evidence which strongly suggests that the Jesuit murders were ordered by high-ranking officers, including the Defense Minister, Gen. Rene Emilio Ponce. Their involvement has been concealed by a cover-up that continues to this day.

These conclusions cannot be proven in a court of law because they are based on information from anonymous witnesses who fear for their lives. Nonetheless, this theory is far more credible than the claim that Colonel Benavides acted on his own initiative.

Predictably, Representative MOAKLEY'S statement has been denounced by the Salvadoran Government and armed forces. A Government communique urged people with evidence to step forward. General Ponce issued a similar challenge and attacked "meddling in our country's domestic affairs, and to disregard for national dignity."

Does anyone believe that these witnesses could safely go public? It's no wonder they don't trust the mercy of Salvadoran justice. General Ponce and his colleagues don't understand that the real threat to El Salvador's national dignity lies in a military force that is above the law.

THE ROLE OF CONGRESS

These events confirm my belief that next year Congress must act on legislation encouraging a cease-fire and peace agreement. This legislation should:

First, state that the goals of U.S. policy are to promote a cease-fire and permanent settlement of the conflict based on the New York Agreement, to protect basic human rights and the rule of law, and to promote democracy and demilitarization in El Salvador;

Second, withdraw some $80 million in military aid that is in the pipeline waiting for delivery and return these funds to the U.S. Treasury;

Third, prohibit military aid until all those responsible for the Jesuit murders have been brought to justice, internationally recognized human rights have been extended to all Salvadorans, and civilian control over the military has been firmly established; and

Fourth, permit the transfer of future aid to the demobilization and transition fund for El Salvador to pay for demobilization and job training for ex-combatants. Funds transferred to the fund should only be disbursed after a permanent settlement is reached, and only with the approval of Congress.

By passing this legislation, Congress can ensure that the Salvadoran Armed Forces hear our message loud and clear. At stake is the chance for millions of Salvadorans to live in dignity and security. For their sake, we must not let this opportunity go by.

THE EL SALVADOR TRIAL IN THE JESUIT CASE

(By Vincent T. O'Keefe)

Three Jesuits from the United States went to El Salvador for the trial of the nine accused in the killings at the Universidad Centroamericana (UCA), Nov. 16, 1989. They were Vincent O'Keefe, S.J., former General Assistant to the Jesuit Superior General; Charles Currie, S.J., rector of the Jesuit Community at St. Joseph's University, Philadelphia; and Donald Monan, S.J., president of Boston College University. Father O'Keefe represented the Jesuit Conference (central organ of United States Jesuits); Father Currie, the Association of Jesuit Colleges and Universities; Father Monan, his own university. Father O'Keefe narrated the events to James S. Torrens of America:

The trial in the Jesuit case started once the notices got to the jurors, that is, on Thursday, Sept. 26. It was held in the Supreme Court building, San Salvador, for lack of any other adequate court facility. The Supreme Court chose its venue according to the place of the crime, the Fourth Penal District, under Judge Ricardo A. Zamora. We give Judge Zamora high marks for pressing on against delays, stonewalling and noncompliance by government, military and even the United States.

The courtroom was divided, as you can see, with ourselves in Public A, a section for "The Offended Party." José Maria (or "Chema") Tojeira, S.J., the Jesuit provincial, was at left front and Maria Julia Hernández of Tutela Legal (the human rights office of the San Salvador archdiocese) at right front. Near me was the brother of Julia Elba (Ramos), who looks just like her, a nice man.

In the middle were "The Observers," national and international. This included embassy people—for example, the French Ambassador, the Spanish; our man, Mr. William Walker, came only briefly. Also in evidence was James McGovern, aide to Congressman Joe Moakley, who kept pushing for the trial. We met some wonderful people from Amnesty International, Americas Watch and a few Uruguayans and Argentinians with experience of military terror. Two groups deserve special praise, the Lawyers Committee for Human Rights, based here in New York, which has pressed the Jesuit case and publicized it, and the Institute for the Defense of Human Rights at the UCA, once headed by Segundo Montes, S.J., and now, after his death, by a Canadian Jesuit, Michael Czerny, S.J. The Institute was a fountainhead of documents.

Section Public D was for relatives of the accused. The mother of Lieut. José Ricardo Espinoza, a graduate of the Jesuit secondary school, led family members in prayer, with their heads bowed, at the trial. At the end, catching Mr. McGovern's eye, she held up her Bible and pointed to it in token of vindication. Her husband declared afterward that the verdict was a judgment of God, not a human judgment at all.

Behind us was the press. The televised the entire trial nationally, which infuriated the military, for the soldiers, in uniform, were seen hour by hour seated in a line and looking out at the courtroom. I will never forget it, sitting eyeball to eyeball with them. The room was very hot, in the glare of television lights.

Against the front wall sat the judge, his secretary, aides for reading the documentation, and the Attorney General's people at a table. At right angles to this table you have the two prosecutors for the Jesuits, Henry Campos and Sidney Blanco. Campos and Blanco had originally led the prosecution for the Attorney General, until finding themselves forbidden to issue statements, bring perjury charges against any more of the soldiers or attend the interrogations by the Special Investigative Unit of the army. Two days after the murder, then-Attorney General Colorado had attacked the bishops of San Salvador for "this questionable ideology of the Church of the Poor," urging them to leave the country, writing to their fellow bishops and even to the Pope against them, so you can see the bias.

As for the chief defense attorney, Carlos Mèndez Flores, imaging this: On the last morning, Saturday, a group in favor of the accused and led by a colonel came marching outside the court, with chants and speeches broadcast by loudspeakers. At one awful moment, when you could hear the national anthem and then taps in the background, Flores reminded the jurors, "So many people have been killed because of this case," and he named six names. "How do we know what could happen to us when we go out of this room?" Most found that to be an open threat. Flores also kept accusing Chema, Francisco Estrada, S.J., (president of UCA) and Maria Julia of "tampering with evidence."

The jury, called the Tribunal of Conscience, were five in number, three men and two women, plus a woman alternate, chosen on the spot from a dozen persons listed and available. The judge gave them 80 questions, to be answered "Si" or "No." "Interior conviction" was the key phrase in each question; for instance, "Do you have the interior conviction that Colonel Benavides was guilty of the murder of Father Ellacuria?

They took great care to mask the jurors' identity. A wooden partition screened them from the observers and defendants. But many people had access to them, for example, a medical team and those who brought them food. The attorneys had the list of names and, while making their case, came right over to face them. Both the prosecutor and defense lawyer pressed them, "Please do your duty and answer 'Si' or 'No' to all these questions. "We were far from feeling that this whole trail took place in an objective atmosphere.

The trial finally started at noon on Thursday, Sept. 26. From then until midnight, and from 8:30 to noon the next day, the judge's aides read from the official documentation, 6,000 pages of it in 28 volumes. In monotone, at top speed, they covered about 200 pages selected by the judge. The jury did not get a look at this material, but did have a hotline to ask the judge for clarification. They also could question the accused but never did.

In view of the jurors, and the whole courtroom, was a big white board with the names of the accused and the accusations. The first item was "murders," with the number of the

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penal code and the lists of victims. Then (At least, that is what we think; we got no parking lot, 20 other fans had approached him

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Mr. PANETTA. Mr. Speaker, today I am in- of contracting parties and international envi- (A) the effect of that publication on port

VOL 137 PT 23 NO 21—25 1991 UMI

penal code and the lists of victims. Then there was "acts of terrorism." All were accused on the two above scores, but some excluded on the third, "preparatory acts of terrorism." The documents often referred to the accused by their nicknames. A call came on the hotline asking the judge to write these in, so the jurors could keep straight who was who.

On the left was "Samson," "Tomás Zarpate Castillo, with his head tilted back, his eyes hooded. He confessed to killing the two women. Actually Ascensio, the soldier who deserted and is probably in Guatemala, had to finish them off. The second man, Pérez Vasquez, killed Joaquín López y López, S.J., the oldest Jesuit, when Father López grabbed his foot. We had some sympathy for him. He never changed expression, did not seem to know exactly where he was.

Next was Lieut. Yushi Mendoza, convicted of the murder of Celina (Ramos). He saw the women there, and either gave orders to finish them off, or did not intervene. Why hold him guilty of killing the daughter and not the mother, who was trying to protect the girl with her body? Something strange about that. The fourth was the famous "Hangman," or in the Indian language *Pilijay*, Amaya Grimaldi, who handled the A.K. automatic rifle, a Soviet rifle difficult to manage. He confessed to killing Fathers Ellacuría, Martín-Baró and Montes. He is the one everybody was sure would be convicted.

Then came Lieutenant Cerritos, or "Lynx." Next Vargas, "Satan" or "Toad," who confessed to killing Juan Moreno, S.J., and Amando López, S.J. Then Colonel Guillermo Benavides. Finally, Lieut. José Espinoza, called *Toro*, "Bull," the alumnus of our Jesuits' school San Jose. He came over at a break in the proceedings to say to Father Tojeira, "Inside this uniform there's a human being who is innocent, believe me."

All but Colonel Benavides had made extrajudicial confessions to the Special Investigative Unit of the armed forces, an entity financed by the United States to correct problems in human rights. Two witnesses signed each confession, attesting to freedom from coercion. They were then accepted by Judge Zamora, confirmed by the appellate court and once more by the supreme court. When the proceedings began, those confessions were held valid, and were the key piece in the trial. Later the seven men denied them, saying they did not know what they were signing. Matter from the confessions emerged in the documentation read.

The trial, or *vista publica* ("public viewing"!), concluded about a quarter to five on Saturday evening, at which time we had to leave the courtroom. The judge was alone with the jury then, and presumably gave an instruction. Then they went into a private room. They had elected a president—we would call him a foreman—and a secretary, and in this case answered their 80 questions. A simple majority would be enough to convict, which to me is strange. By general opinion the evidence was strong that the soldiers who had confessed to the actual killing would be judged guilty. The big question then was, would the jury reach up and even get the colonel?

At 10:30 p.m. the judge called us back to hear him read out the jury's answers on each charge, without mentioning who voted how. The verdicts, reversing expectations, condemned two men, the only non-members of the Atlacatl Battalion, Lieutenant Mendoza and Colonel Benavides. Benavides had not in fact been present but as the person in charge of the area was held ultimately responsible. (At least that is what we think; we got no reasoning supporting the verdict.) They convicted the one they think gave the order, but those who carried it out were found innocent.

The jury seems to have thought, "Go for those who gave the command. Keep this under the heading of obedience." Actually they superimposed military law on Salvadoran law, which says that one is not to obey an illegal command. We spent a lot of time afterward discussing commands in wartime. Those from a background of U.S. city politics also had to ask, "Was the fix in?" The conviction of Mendoza seems hard to explain otherwise.

I asked some Salvadorans afterward, "How do you feel about this? They said, "Listen, we're very happy. Finally, there's been a breach in that impunity." I asked, "Do you think the soldiers were guilty?" And they said, "Oh, yes." Doesn't that bother you?" Oh, yes, but at least we made a dent." We were talking in this Jesuit Case, really, about tens of thousands of lives lost and people on the street who are morally afraid. So a positive first step has just been taken.

On Sunday, after the trial, many observers asked to go up to the UCA to the site of the killings. It was like a pilgrimage—they were so touched. Father Tojeira was interviewed on television this next Monday morning. He said, "We have to be happy that the Salvadoran institutions did function. This doesn't happen every day." In discussing a possible amnesty by President Cristiani, Father Tojeira chose to speak rather of pardon. Amnesty, he said, wipes out the whole thing; pardon does not. "If pardon is instituted by legal means, we would support it. After all, we are Christians."

One of the observers from the United States, an investigator into crimes against humanity who had lived a long time in Latin America, advised Father Tojeira not to jump too soon to pardon. He answered, "I'm speaking from a Salvadoran and a priest's perspective." But he also said of the trial, "This is just a step. We want to get to the complete truth." A lot of evidence still reveals that these executions were not commanded by this colonel but from higher up. The trial was forced into narrow limits by delays, lies, minimal responses, the destruction of the log in the military academy, blockage on letters rogatory by the United States.

A final note. The coincidence of a truce between the rebels and the Government should not be read to mean that now the United States should feel free to continue its military aid. By no means.

WITH ONE MORE, WE COULD HAVE A BASKETBALL TEAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, in 1960, Bill Mazeroski, a second baseman for the Pittsburgh Pirates, hit a home run in the seventh and final game to win the World Series for the Pirates over the New York Yankees.

Shortly after the game, Mazeroski was approached by a fan outside the locker room and handed a baseball. The fan told Mazeroski that he had caught the game winning home run and he wanted the Pirate All-Star to have the ball. Mazeroski was elated. He had a souvenir of his World Series heroics. By the time Mazeroski reached his car in the parking lot, 20 other fans had approached him and handed him a baseball claiming that they had caught the game winning home run and here was their ball to prove it.

Just as many Pittsburgh fans claimed to have caught the game winning home run of Mazeroski, a large number of Members of the House are not claiming that they did not support deregulation of financial institutions in 1980, and that they voted against raising the current Federal insurance on bank accounts from $40,000 to $100,000. In recent months, I have seen interviews on television, in the newspaper, and even at testimony in committee hearings where Members have boasted proudly that they voted against the legislation that raised deposit insurance in 1980, and also deregulated financial industries.

This rush to disavow the 1980 bill was brought about because many people, including leading economists, have claimed that the increase in deposit insurance is the main cause for today's banking troubles.

Mr. Speaker, the record needs to be set straight with regard to that 1980 vote.

The increase in the deposit insurance maximum was not voted on directly by either body, but rather was offered as a part of the conference committee on the legislation. I was a member of that conference, in fact, I am one of three Members still serving in the House who were on that conference committee. I was so incensed with what was done in the conference committee to raise the insurance amounts and to deregulate financial institutions, that I refused to sign the conference report, the ultimate rejection of a work product by a conferee.

When the conference report reached the House floor, only 13 Members of this body voted against the conference report, which included raising the ceiling open deposit insurance. There are only four Members currently serving in this body who were courageous enough to join nine other Members in opposing the conference report. That is a total of 13 House Members who opposed the conference report.

In addition to myself, the other three Members of this Chamber who voted with me on that historic day, or perhaps I should say infamous day, were the gentleman from Texas [Mr. PICKLE], the gentleman from Georgia, [Mr. JENKINS], and the gentleman from Indiana [Mr. MYERS].

Had all of the Members, who now claim to have voted against the conference report, done so in fact, we might well have defeated that bill, and we might well have avoided both the savings and loan scandal, and the bank bailout. But only 13 of us stood shoulder to shoulder, Mr. Speaker, and only four of us still remain in the House—ANNUNZIO, PICKLE, JENKINS, and MYERS.

It is a closed club, Mr. Speaker, We will not allow any new Members, particularly, imaginary ones.

SALMON MARKET PRODUCTION AND STABILIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA], is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing legislation prompted by the erratic sockeye salmon market. Every summer, fishermen from my district and many others go to Alaska to fish for sockeye salmon in Bristol Bay—a different species from the Snake River sockeye salmon, recently designated as an endangered species. For many of these fishermen, this is their primary or sole source of income. In the last 3 years the price received for sockeye salmon has been on a roller coaster ride from as high as $2.30 per pound; to a low of 70 cents per pound. This past summer the market was extraordinarily bad. The fishermen were offered the ridiculous price of 45 cents per pound; as a result they went on strike. Because the season for sockeye salmon is so short the fishermen had little bargaining power and finally settled for 70 cents per pound. At this price they were lucky to break even. The legislation I am introducing is designed to ensure a more stable market for sockeye salmon. The legislation provides for sanctions against any country that does not prohibit large-scale drift net fishing by its nationals and vessels of that country, enhances fisheries conservation programs, extends the Fish and Seafood Promotion Act of 1986, urges the processors and harvesters to negotiate a price prior to the season's commencement and consequently stabilizes the price received by harvesters of sockeye salmon.

We have previously taken measures to promote various commodities and to ensure that international trade agreements are not violated. International trade is necessary for a healthy economy. At the same time, however, we must ensure that international trade is fair. Additionally, I believe that both the fishermen and the Nation as a whole stand to benefit from a promotional program. Our economy is weak and we are having trouble competing on the international level in certain areas. American salmon is a commodity suffering from not being low competitiveness in the world market.

HIGH SEAS VIOLATIONS

High-seas violations have a substantial impact on the sockeye salmon market. When salmon is caught on the high seas and subsequently sold on the black market the price of our fishermen's salmon inevitably decreases. Currently, we are not doing enough to ensure that high seas large-scale drift net fishing does not occur. The plight of the salmon fishermen is too great to turn our heads to these blatant violations. This legislation denies entry of large-scale drift net fishing vessels to any place in the United States for any nation that fails to prohibit their nationals from conducting large-scale drift net fishing beyond the exclusive economic zone of any country.

My second concern is that high seas violations also have a devastating effect on the environment. Tens of thousands of marine animals and sea birds are caught in large drift nets. The legislation provides that fish and fish products of said nations will be prohibited import into the United States in order to increase the effectiveness of enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States. The legislation also requires the President to direct the U.S. Trade Representative to seek actively to take into consideration the national environmental laws of contracting parties and international environmental treaties.

SOCKEYE SALMON PROMOTION

The Fish and Seafood Promotion Act expires this year. At a time when our economy is weak and the sockeye salmon industry needs its product promoted more than ever before, it is vital that this act be extended. Competition in the salmon market is becoming more and more fierce. Both the advent of farmed fishing and the recent increased number of wild salmon has caused a glut in the salmon market. Therefore, promoting consumption of this product is crucial if the industry is to thrive. This legislation extends the Act for a much needed 2 years.

SENSE OF CONGRESS—NEGOTIATION PROCESS

My final concern is that current bargaining practices in the sockeye salmon industry put the fishermen at a significant disadvantage due to the brevity of the season. The sockeye salmon fishing season is a mere 3 to 6 weeks. This is not sufficient time for the fisherman to obtain a fair price. Fishermen are essentially forced to accept whatever price is offered if they wish to participate in the market. Processors and fishermen should be encouraged to negotiate a price prior to the season so that fishermen are not disadvantaged. Included in this legislation is a sense of Congress provision recommending that the harvesters and processors of sockeye salmon begin negotiations well in advance of the fishing season.

Mr. Speaker, these provisions are desperately needed. I invite my colleagues' review and cosponsorship of this important legislation and urge its timely adoption by the full House. For the convenience of my colleagues the text of the bill is printed below.

H.R. 3868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(A) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 10 days after the date of the enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of countries that conduct, or do not prohibit their nationals from conducting, large-scale drifnet fishing beyond the exclusive economic zone of any country.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for; and

(B) deny entry to any place in the United States and to the navigable waters of the United States to;

any large-scale driftnet fishing vessel that is registered under the laws of a country included in a list published under paragraph (1).

(3) NOTIFICATION OF COUNTRY.—Before the publication of a list of countries under paragraph (1), the Secretary of State shall notify each country included in that list regarding—

(A) the effect of that publication on port privileges of vessels of the country under paragraph (2); and

(B) any sanctions that may be imposed on that country if nationals or vessels of that country continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any country after July 1, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATION.—Not later than July 1, 1992, and periodically thereafter, the Secretary of Commerce shall—

(A) identify each country whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any country; and

(B) notify the President and that country of that identification.

(2) PROHIBITION OF IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—Upon receipt of notification of the identification of a country under paragraph (1), the President shall direct the Secretary of the Treasury to immediately prohibit the importation into the United States of shellfish, fish and fish products, and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that country.

(B) NOTIFICATION.—Not later than 15 days after the date of receipt of notification of the identification of a country under paragraph (1), the President shall notify the Secretary of Commerce and the Congress of any action taken by the President under this paragraph with respect to that country.

(3) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date of the Secretary of Commerce identifies a country under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (2) is insufficient to cause that country to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any country; or

(ii) that country has retaliated against the United States as a result of that prohibition.

((B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative finding under subparagraph (A) with respect to a country.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under this subsection is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges of sanction established under section 101 with respect to a country shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that the country has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any country.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a country, whether or not taken by fishing vessels of that country or packed, processed, or otherwise prepared for export in that country or the jurisdiction thereof.

(1) LARGE-SCALE DRIFTNET FISHING.—The term "large-scale driftnet fishing" means a

method of fishing in which a gillnet com-

the Secretary of the department in which

ing and promotion program to encourage the

UPON INTRODUCTION OF A RESO-

tleman from Georgia [Mr. GINGRICH] is

Lastly, we insisted on a program that

VOL 137
PT 23
NO 21—25
1991
UMI

method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(2) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is used for, equipped to be used for, or of a type which is normally used for—

(A) large-scale driftnet fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting "products";

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting "Products"; and

(5) in subsection (h)—

(A) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.";

(B) in paragraph (3) by inserting ", including marine mammals" after "protect the living resources of the sea";

(C) by striking paragraph (4);

(D) by redesignating paragraph (5) as paragraph (4);

(E) by striking paragraphs (6) and (7); and

(F) by adding at the end the following new paragraphs:.

"(5) The term 'International fishery conservation program' means any ban, restriction, regulation, or other measure in effect pursuant to a bilateral or multilateral agreement which is in force with respect to the United States, the purpose of which is to conserve or protect the living resources of the sea, including marine mammals.

"(6) The term 'taking' as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) in order to increase the effectiveness of enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS OF AGREEMENT.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing potential locations of vessels that are in violation of domestic laws and international agreements designed to conserve and manage the living marine resources of the United States;

(2) requirements for the use of surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. ENVIRONMENTAL TRADE NEGOTIATIONS.

(a) POLICY.—It is declared to be the policy of the Congress that the United States shall address environmental issues during multilateral, bilateral, and regional trade negotiations.

(b) NEGOTIATIONS.—In implementing the policy declared in subsection (a), the President shall direct the United States Trade Representative to actively seek to—

(1) reform articles of the General Agreement on Tariffs and Trade (referred to in this subsection as "GATT") to take into consideration the national environmental laws of contracting parties and international environmental treaties;

(2) secure a working party on trade and the environment within GATT as soon as possible;

(3) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(4) include other Federal agencies with environmental expertise during multilateral, bilateral, and regional trade negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(5) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—EXTENSION OF FISH AND SEAFOOD PROMOTION ACT AND OTHER MATTERS

SEC. 301. EXTENSION OF THE FISH AND SEAFOOD PROMOTION ACT.

(a) EXTENSION OF TERMINATION DATE OF NATIONAL COUNCIL.—Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "December 31, 1991" and inserting "December 31, 1993".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 209(d) of such Act (16 U.S.C. 4008(d)) is amended by striking "fiscal year 1991" and inserting "fiscal year 1993".

(e) SPECIAL PROGRAM FOR SOCKEYE SALMON.—Section 206(c) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(c)) is amended—

(1) by inserting "(1)" after "REFERENCES.—"; and

(2) by adding at the end of the following new paragraph:

"(2) PROGRAM FOR SOCKEYE SALMON.—Notwithstanding the prohibition contained in paragraph (1), the National Council shall carry out a consumer education and marketing and promotion program to encourage the consumption of sockeye salmon.".

(d) TRANSFER OF SALTONSTALL-KENNEDY FUNDS.—Section 2(b)(2) of the Act of August 11, 1939, commonly known as the Saltonstall-Kennedy Act (15 U.S.C. 713c–3(b)(2)) is amended by striking "fiscal years 1990 and 1991" and inserting "the fiscal years 1990 through 1993".

SEC. 302. SENSE OF CONGRESS REGARDING NEGOTIATIONS BETWEEN HARVESTERS OF SOCKEYE SALMON AND PROCESSORS.

Because of the erratic market for sockeye salmon and the short fishing season for sockeye salmon, it is the sense of Congress that harvesters and processors of sockeye salmon should begin negotiations well in advance of the fishing season for sockeye salmon regarding the price to be paid to those harvesters during that season.

IN SUPPORT OF AMENDING THE TAX REFORM

The SPEAKER pro tempore, Under a previous order of the House, the gentleman from New York [Mr. ENGEL] is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker as a cosponsor of H.R. 1414, I rise in support of the enactment of this important legislation which would correct an inequity in the Tax Reform Act of 1986.

Under the passive loss rules adopted in the 1986 Tax Reform Act, equal treatment does not exist for real estate businesses. The ownership and operation of rental real estate was deemed to be inherently passive even if the management, ownership, and operation of rental real estate were an integral part of a taxpayer's real estate business. The effect of this is to tax income from real estate operations, including sales, development, rental property, and appraisal, more heavily than is the case for business people in other industries. This occurs as a result of the fact that a real estate business with rental real estate income and loss from its rental real estate income and loss.

H.R. 1414 would allow the real estate business to deduct its losses from rental real estate against its other income. Real estate is the only industry in which the various aspects of a business, including sales, development and rental management, are not treated as one for tax purposes. Real estate should be entitled to similar treatment in order to attain a level economic playing field, which was one of the original tenets of the 1986 Tax Reform Act.

Mr. Speaker, this bill does not ask for any preferential treatment for anyone, but equal treatment for everyone. It has 322 co-sponsors. I urge my colleagues to support H.R. 1414 and thus return balance to this section of the business world.

UPON INTRODUCTION OF A RESOLUTION EXPRESSING THE SENSE OF THE HOUSE REGARDING THE EFFECTIVE DATE OF LEGISLATION REGARDING THE TAX TREATMENT OF INTANGIBLE ASSETS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on July 25 of this year, I introduced H.R. 3035, a bill to simplify the tax treatment of intangible assets. The bill is an important part of series of tax simplification initiatives I have advanced this year. H.R. 3035 is intended to eliminate much of the controversy that has long been associated with the tax treatment of intangible assets by providing a more uniform, predictable set of rules for amortizing such assets.

The Committee on Ways and Means has held 2 days of hearings on this important initiative. While some problems remain to be worked out, I have been encouraged by the public response to the bill, which has been overwhelmingly favorable. I am also gratified by the Treasury Department's position in support of the bill.

As introduced, H.R. 3035 would become effective on the date of enactment of the bill. Concern has recently been expressed to me that business transactions are being held up because of uncertainty as to when this legislation might be enacted.

To alleviate these concerns, I am today introducing a sense-of-the-House resolution, providing that in the event that intangibles legislation is enacted into law, taxpayers should be allowed to elect to apply the legislation to all acquisitions of intangible assets taking place after the date of introduction of H.R. 3035—July 25, 1991—and before its enactment.

Because it is an election at the taxpayer's choice, this sense-of-the-House resolution would not harm any taxpayer, but would instead ensure that normal business transactions are not held up while the intangibles legislation works its way through the legislative process.

Mr. Speaker, I am scheduling a markup of this resolution by the Committee on Ways and Means on Monday, November 24, 1991. I hope that it is approved by the Ways and Means Committee and passed by the House of Representatives prior to adjournment next week.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the gentleman from Georgia [Mr. GINGRICH] be allowed to proceed with my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ECONOMIC GROWTH, INVESTMENT AND JOB CREATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to speak tonight about the Economic Growth, Investment, and Job Creation Act, which is a proposal that the House Republican Conference adopted today and which I believe gives us a tremendous opportunity in the next 4 days to be able to pass a bill which would dramatically increase jobs, have a tremendous impact on housing, increase savings, and increase the opportunity for Americans to work and to save and to develop a better future.

Congressman BOB MICHEL, The Republican leader, asked Congressman MICKEY EDWARDS, the chairman of the policy committee, to develop a deficit neutral package for jobs, savings, investment, and home ownership. This was a leader's task force in jobs and economic growth.

Mr. Speaker, we took a couple of key rules. First, that we would stick by the budget agreement. That while many of us voted against it, we recognized that the President had signed it, we recognized it was important in keeping down the deficit and in keeping down interest rates, and so our first step was to say that we will only adopt a proposal which pays for itself. That is a very key principle we have fought on all year here in the House.

So I am very proud to say to my colleagues that the Economic Growth, Investment, and Job Creation Act in fact does pay for itself.

The economic growth that it creates, the opportunities that it creates, will in fact lead to sufficient increased revenue that it will enable us to say flatly that we are going to pay for what we are doing to stimulate the economy.

Our second principle was that it had to create jobs. This recession is very worrisome. We have been very concerned all summer and all fall about creating jobs.

Senator PHIL GRAMM and I introduced a bill back in July, the Gramm-Gingrich Economic Growth Act, which would have helped create jobs. We could not get our friends in the Democratic Party to bring it up. We tried on several occasions.

So we decided to work with the leader's task force on jobs and economic growth. I am very pleased to say they have developed a very powerful package, which I believe will create 1,500,000 new jobs over the next few years.

Our third goal was to have a job creation tax package that had the right kind of long-term policies, that increased savings, that increased work, that increased investment, that helped small business, that helped senior citizens, that was designed to encourage the real estate market, and that in fact would help us with the Resolution Trust Corporation's financing and make it less expensive to the taxpayer to be able to bail out the savings and loans. And we met that standard.

Lastly, we insisted on a program that would have very powerful incentives for the American family and for working Americans.

Now I want to suggest that what we have put together, the House Republican proposal, is a very important opportunity, an opportunity that I hope every one of my colleagues and every person who listens to this will take seriously.

If enough people look at this program in the next 96 hours, if enough people look seriously at what is happening in our economy and look at this opportunity to create jobs and to get us out of a recession, if enough people look at the cost of the Resolution Trust Corporation and at the real estate collapse and decide that this program will help us and will help with real estate and with housing and home building, then I believe on Tuesday we have a real opportunity to bring up and to pass the Economic Growth, Investment, and Job Creation Act.

That is the real crisis. Can we in the House in the next 4 days find the will to insist that before we adjourn and go home, that we are going to pass an economic growth proposal that will help people?

Just think of it. We are going to be voting 2 days before Thanksgiving. We are going to be voting at a time when there are 8.5 million Americans looking for work. We are going to be voting at a time when people are frightened about the economy.

Is this House really going to vote "no"? Is this House going to turn down jobs, turn down savings, turn down investment, turn down small business, turn down senior citizens, turn down home ownership, and then go home for Thanksgiving and spend Christmas break telling people, "Oh, I am so worried about unemployment I could not even stay in Congress and pass a growth package"?

I don't think so. I think if enough Americans called their Congressmen and Senators, if enough people show up and talk at congressional offices, if enough people send telegrams and faxes, I think it is just possible that the American people can force a dramatic change.

Now, we cannot get there with business as usual. We all know what business as usual is. The liberal Democrats who control the House will write a rule that will not make this in order. It will be passed through by partisan vote. We will never have a chance to get to the floor. We will never have a chance to do anything.

But when I watched Boris Yeltsin this summer, in less than 4 days he saved the entire Soviet Union from dictatorship because he reached out and aroused the Russian people. I just want to say that I believe that this proposal is important enough that every American who is worried about the econ-

VOL
137
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omy, every American who is worried about home ownership, every senior citizen who is angry about being punished by Social Security if they work, every person who wants to have a savings account without having to pay taxes on the interest, and every person in real estate and home building who knows that the 1986 Tax Act helped put them out of business or helped weaken their business, and every small business person who wants to have expensing for their small business to create jobs by investing in better equipment and better opportunities, I think if all of those folks on Saturday and Sunday and Monday and Tuesday call their Congressmen and Senators, I believe it is possible that we could on Tuesday have a dramatic impact on stopping this recession and reestablishing economic growth.

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Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Is the gentleman aware that tomorrow when we come into session that we are going to have 25 pieces of legislation before the House on a Saturday, none of which deal with economic growth, but the point that I am making is that the House is finding a way to put massive amounts of legislation on the calendar as we close out the session. And there is certainly no reason why the House could not find a reason to put the legislation that the gentleman is mentioning on the calendar as well.

The fact is that none of these ideas are particularly new and unique. The package is a culmination of a number of ideas that have been around. They have been roundly discussed. These are not concepts which are alien to most Members of Congress.

It would be entirely possible under the rules of the House in the last days to have such a package considered.

Mr. GINGRICH. If I might comment, as I understand, the Democrats will be bringing to the floor tomorrow a rule which in effect gives the Speaker the power to bring anything to this floor he wants to. So literally from the time that rule is passed on, we would be in a position at any time for the Speaker to bring to the floor this or an alternative, a Democratic economic growth package, or both of them, and allow the House to choose. Is that not correct? At any point from that time on for the rest of this session, the Speaker would be able, if he wanted to, to bring that kind of a package to the floor.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, assuming that that very bad rule passes, the gentleman is absolutely correct. As I understand the rule, the Speaker could, for example, put anything he wants on a Suspension of the Rules Calendar with only an hour's notice to the Membership. And so virtually any time during the days that followed, the Speaker could put that on the Suspension Calendar. That would require a two-thirds vote, but that is something which is possible.

There are also other techniques for going to the Committee on Rules, and they waive some of the waiting periods and things of that type for many of these issues. So there is no reason why some of these matters could not come to the floor by a more traditional means.

Mr. GINGRICH. If I also understand the gentleman, it would be possible under the House rules tomorrow to ask by unanimous consent in between, say, two of the suspensions that the next item of business might be an economic growth package?

Mr. WALKER. Mr. Speaker, I do not think it would work exactly that way. I think what the gentleman would have to do is the Speaker would declare a suspension day, which tomorrow is, and then he would have to give the House 1 hour of notice that a bill was being added to that Suspension Calendar.

Mr. GINGRICH. He could do that under the rule. But is it also true, under the rules of the House, that if the House was willing to, if the House decided that economic growth and stopping the recession was as important as one of these 25 suspensions, that in fact the House could by unanimous consent bring up the bill?

Mr. WALKER. The problem would be that, that the Speaker's clearances are still in operation, I think on the House rule.

Mr. GINGRICH. The Speaker would have to be willing to clear it?

Mr. WALKER. There would have to be the indulgence of the majority leadership and the Chair in order for that to happen.

That is not to say that it cannot happen. There is a pattern of clearance here that would permit it to take place. If those clearances were granted, then, yes, it is true that it could be brought up by unanimous consent.

Mr. GINGRICH. Just so the people understand, if they can appreciate the rules, if the Democratic leadership truly meant the speeches about unemployment and the speeches about concern for those who are out of work, they could, if they wanted to, grant unanimous consent to bring up a bill and someone can then ask that.

Mr. WALKER. Precisely. What we are seeing on the calendar for the next few days are many items that the Democratic leadership have decided that they want to bring to the floor. They are perfectly willing to bring their agenda to the floor. Their agenda includes a lot of things that would not necessarily be on my agenda, but it is what they have determined they want to bring out.

Interestingly enough, after all of the talk about unemployment, there is not an item there that is aimed at economic growth.

They say the highway bill promotes some economic growth. Indeed, getting a highway bill is important. And it will help spur the economy a little bit. But it is an add-on program to what is already going on in the country. It is not a true economic growth package.

They are not engaged in doing something to change taxes or to do the things that would provide underlying stimulus to the economy. It seems to me that what would be fair, we talk a lot about fairness around this body, would be to give the minority party an opportunity to maybe just put one item of its agenda in the waning hours of the Congress, not a whole host of them, just one item that the minority party had agreed was a part of its agenda.

It seems to me that fairness might dictate that when we are operating without rules that the minority might be given an opportunity to have some impact on the national agenda as Congress closes its doors.

Mr. GINGRICH. Let me say to my friend, I want people to understand that even though we will bring up 25 different bills on Saturday, none of them are going to relate directly to economic growth and jobs and getting out of the recession.

Mr. WALKER. I am sorry I do not have a schedule with me right now of the bills. I saw them a little earlier, the 25 bills. But a couple of them are fairly substantial bills. For example, there is a drug-testing-quality act, which is in fact a very controversial piece of legislation and is one in which the Democrats are specifically attempting to undermine the ability to do drug testing in this country. And they have decided that they are going to put that on the Suspension Calendar.

Mr. GINGRICH. If they wanted to put, say, on Monday, the Economic Growth, Investment and Job Creation Act could be put on the Suspension Calendar on Monday without any trouble. Or if they wanted to go to the Committee on Rules at any time, they could bring a rule out and bring it up, as the gentleman said, with a Republican proposal for economic growth and jobs and a Democratic proposal.

Mr. WALKER. Mr. Speaker, maybe the gentleman would be interested in some of the things we are going to take up that the Democrats regard as high-priority items.

Mr. GINGRICH. If the gentleman does not mind, I have been reminded—before we go to that, let me first outline what is in the bill because I think people have a right to know why the gentleman and I think it is so important to bring out the Economic Growth, Investment and Job Creation Act.

First of all, it directly affects senior citizens by increasing over the next 5 years the income amount an individual can earn before there is an earnings limit penalty. Right now if you earn about $9,000 and you are a senior citizen, 65 to 68, you get punished. They take money away from you if you continue to work. And every citizen knows about this.

They are all angry about it; they all know that it is unfair. This bill will increase the amount that a person can earn before Social Security stops them. I personally believe that we ought to abolish that limit. I think it is a terrible idea to stop people from working.

This is a country that ought to discourage welfare and encourage work and instead, all too often, we discourage work and we encourage welfare.

The very first item that I want to point to in the Economic Growth, Investment and Job Creation Act is that we do raise the Social Security earning limitation so it does directly help every person over 65 who wants to stay active and wants to stay busy.

Mr. WALKER. It is not true that some senior citizens, as a result of this particular tax penalty, are in about 70-percent tax bracket?

Mr. GINGRICH. The highest taxation in America is for senior citizens who continue to work. It is absolutely ridiculous. We punish our grandparents and our parents for staying busy and staying active.

Mr. WALKER. So what we are doing here is lowering the tax rate substantially for senior citizens who have decided they want to remain active?

Mr. GINGRICH. That is correct. Probably the most accurate way to describe this is a tax cut for senior citizens to encourage them to stay active, which we all know also means they are healthier. Second, we reform the passive loss rule.

This is important to anybody who is concerned about real estate. In the 1986 Tax Act, we changed the law to, in effect, be anti-real estate.

For individuals engaged in the real property business—that is individuals who spend at least 50 percent of their working time and at least 500 hours a year on real property activities—we make rental property, rental real property operation and undertakings, and activities treated just like any other business. What would we have done, when we look out there and say, "Why is real estate so sick. One of the reasons real estate is so sick is that the 1986 Tax Act actually discriminates against real estate. It makes it harder to be in business for real estate than in any other kind of business.

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We changed the passive-loss rule, and I would hope that every person who is a home builder, and every person who is in the real estate business would call their Congressman or call their Senator and insist that they vote for the Economic Growth Investment and Job Creation Act so that we could have real reform of the passive-loss rule.

Mr. WALKER. Will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Does this not relate directly to the RTC and the whole savings and loan business as well? As I understand it, if we can recapitalize real estate in this country and increase the value of real estate, one of the advantages of doing that is that savings and loans that are sick will become healthy again because a large portion of their portfolio is in real estate investments. And so if real estate goes up in value, so does the volume of the assets held by the savings and loans, which means they get healthy again, which means that we do not have to give them additional taxpayer bailout money.

The solution Congress is about to propose is to give them massive billions of dollars more in bailout money without taking care of the underlying problem of the recapitalization of real estate. It seems to me that the package that the gentleman is referring to speaks to that in the ways that it should be spoken to, by recapitalizing real estate, and thereby making the savings and loans well again.

Mr. GINGRICH. The gentleman is exactly right.

Let me just summarize very simply. We have been in a long depression in real estate values so prices are coming down. A bank or a savings and loan makes a loan to somebody, and they made it based on, let us say, a $100,000 house. Now that house is only worth $70,000 because prices are dropping. So all of a sudden there is a credit crunch, and the bank calls and says we cannot loan you any more money because your price is going down. By changing the passive-loss rules to encourage people to be in real estate, we dramatically increase the value of property. Every homeowner in America who is considering selling their house has an interest in passive-loss rules. Every taxpayer who does not want to have to bail out another S&L has an interest in passive-loss rules, and the Treasury has told us that if you pass combine passive-loss rules and a capital gains tax cut, you clearly save over $1 billion in Resolution Trust Corporation funding over the next year, and that is just the beginning. I believe there is a more dynamic effect. I believe you may well save, as much as $12 billion by combining a capital gains cut with changes in the passive-loss rules.

Mr. WALKER. Another factor is as a result of decapitalization of real estate, people who were going to use home equity loans as a way of financing major purchases have now seen their real estate value drop and so, therefore, the equity in their homes has dropped and prevented them from being able to use that device as a way of taking essentially consumer loans, which they can write off against their taxes. And so, therefore, we have decreased the capital in the consumer markets as real estate has dropped in price, and so this recapitalization of real estate would also permit more people to get home equity loans in the future, and allow them to participate more in buying largely major goods within the consumer market.

Mr. GINGRICH. Let me just summarize again. Every person who owns a house and wants to sell it, every person who is currently in real estate, every home builder, every person who works for a savings and loan or a bank and is involved in the real estate business, all of those folks, and every taxpayer who is going to get hit for the Resolution Trust Corporation bailout, all of those folks have an interest in this provision.

Mr. WALKER. And everybody who wants a home equity loan.

Mr. GINGRICH. And everybody who wants a home equity loan, that is right. All of those folks have an interest in the passive-loss provisions of the Economic Growth Investment and Job Creation Act.

The next step is we set up an apprenticeship program. It is called a LEAP program, Leading Employers Into Apprenticeship, and it is a very simple idea. We want to encourage American businesses to work directly with young people, to train them, to give them a change to learn, to develop something which has worked very, very well in Germany, and that is a direct business apprenticeship so young people get the king of education which makes it possible for them to go out in the job market and be solid enough workers and well enough trained that they are in a position to have a job that competes in the world market, so American factories can stay open, and American workers can earn a good income. And the apprenticeship program we have contained in here we believe will have a tremendous impact for young people. And I think every person who is concerned about education, and concerned about making sure that our young people have the kind of jobs in the future that lets them earn a decent living, ought to be interested in contacting their Senator or their Congressman about the Economic Growth Investment and Job Creation Act.

In addition, we have an individual retirement account with no tax on the principal and with the buildup, on the principal and the buildup when you withdraw it. It is basically called an IRA Plus. An IRA Plus is a brand new idea. It is an idea which says you put your own money into a savings account, and you will be allowed to build up all of the interest tax free.

The reason it is important is that senior citizens, as BOB WALKER said, senior citizens pay the highest mar-

VOL
137
PT
23
NO
21—25
1991
UMI

ginal tax rate in America today. And it is better for people to go ahead and pay the tax early, and then have all of the interest save up and be available without taxes.

The Treasury estimates that this idea of an IRA Plus would be so exciting and so positive that people would basically pay $13 billion to be allowed to participate, and that over the next 5 years literally millions of people would establish an IRA Plus account, and there would actually be an enormous revenue gain for the Government to have people doing that. So this allows every American to have their own individual retirement accounts, and it is a tremendous concept of an IRA, and we are very, very much committed to it, and I think that would be very, very helpful.

In addition, we allow you to take any loss you might have on the sale of your principal home as a capital loss. Current law taxes any gain you might make on your house, so if you buy a house for $20,000, and that would probably be a long time ago, but if you bought a house at $20,000 and kept it for 20 years, and now you sold it for say $90,000 because of inflation and changes in property values, you have to pay a tax on that. But let us reverse it. What if, as happened to millions of Americans in the last 10 years, what if you bought a house for $100,000 and now you are trying to sell it and it is only worth $70,000. I know somebody quite well who bought a house for $78,000, and when she sold it she sold it for $70,000. She lost $8,000. Under the current Tax Code she could not take that loss as a capital loss.

What we are saying is in a period where we have had a decline in real estate values that every American family that is forced to sell a house because they move to a new job, or they find themselves in a situation where for some reason, let us say the children have left and they no longer need a four-bedroom home, and they want to sell the house, if they are caught in the situation where they have to take a loss, under our bill, the Economic Growth Investment and Job Creation Act, we would allow them to take that as a loss, as a part of a capital loss, and that would save tax money, and would be better for them and let them keep at least a little bit of the money in their pockets that otherwise was going to go to the Federal Government.

In addition, we have a tremendous new concept called the middle income savings plan. If you earn $50,000 or less in adjusted gross income, you are going to be able, under this plan, to get $350 a year in interest tax free. It is a very important concept, and I say that DEAN GALLO of New Jersey who came up with this is exactly on target, and it is a tremendous point. You are going to be in a position, everybody who might be listening who is earning $50,000 or less has a real interest in this, and actually about $65,000 or less in gross income ought to be interested in this because what we are trying to do here, for the very first time, is reestablish the principle that if you will save we want to reward that habit, because savings is good for you, savings is good for your family, and savings is good for America. If you are a couple, you can earn $700 a year in interest tax free.

Why is that important? It is important first of all just to reestablish that basic, old-fashioned American virtue of the habit of saving. It is important to send a signal in the Tax Code every year to every young couple that you ought to save some because you get to keep the money. It is important because that savings goes into your savings and loan, or goes into your bank, and it goes into some mutual fund, and all of a sudden you are helping build America's future. You are investing in America to create new jobs to help build new houses, and you are getting wealthier, but your country is getting wealthier too. It is important to save a little nest egg, and if you have $6,000, or a couple has $12,000, that is about the amount that we are talking about, and that couple has $12,000 sitting there for a rainy day, and something bad happens, you get unemployed, you have an illness, somebody has to go to school all of a sudden, then you have the money.

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So what the gentleman from New Jersey [Mr. GALLO] has done with this terrific concept of the American savings plan is that he has created for the middle class, people who are earning $50,000, $60,000, or less, an opportunity to save while excluding their savings interest from taxation up to $700 a couple or $350 apiece.

Let me just say, it tells you a lot about the difference between the liberal Democrats and the rest of us. They have an idea they are going to give everybody 200 bucks. The gentleman from New Jersey [Mr. GALLO] has a better idea. His idea is to reward the people who do the right thing. Reward the people who save.

Frankly, giving away $200 sounds like Jimmy Carter's economics. In the long run it just disappears; but teaching people how to save, getting them to put a little bit of money away every week and every month and create that opportunity for savings and let them keep the interest on that savings without taxing, that changes a lot.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, it is also a very different concept than we have heard from the Democratic leadership that has been out on the floor talking about their economic programs over the last several nights here, because if you listen to them, what their real economic program consisted of was having Americans send money to Washington and then Washington would spend money on good things, and they talked about all these programs they have in mind that they are going to spend money for.

The fact is the program we are talking about is one where the people get to keep the money in their own pockets and if they earn money on interest, they get to keep it and we give them a tax break for having done, as the gentleman points out, the right thing. That is a much different concept than the idea that any money you make is subject to the Government grabbing it and bringing it to Washington so that we can distribute it to do good things: so it is a very, very different kind of concept than what we are hearing out of the Democratic leadership.

Mr. GINGRICH. Let me just say further, we repeal the excise tax. Repealing the excise tax, we have had heartrending speeches made out here by the gentleman from Kansas [Mr. NICHOLS], who represents Beechcraft. Beechcraft estimated that the excise tax increase killed one job for every $264 collected in taxes, literally killed a job, put a family without a breadwinner for $264 in taxes.

I believe this step alone, repealing the excise tax on boats, on aircraft, on cars and other things, that alone I believe is going to be worth over 100,000 new jobs. We do not count that in our calculation. We do not have that fit in here, but I honestly believe, based on everything we have heard, all the testimony we have been given, that that has killed a lot of jobs, and we began to discover when you talk about laying off in the boat business, you are talking about laying off the refrigerator makers who put refrigerators in the boats. You are talking about laying off the fiberglass maker. You are talking about laying off the glassmaker, the radio maker, and all of a sudden we have a good Member here who had 800 workers unemployed in Ohio because they made refrigerators that were very small that were designed for boats.

We have people in the timber industry laid off because the wood goes into boats.

All of a sudden we realized that if you do not have economic growth, if you do not have a final product to sell, you lay people off all the way up the chain through manufacturing and raw materials and transportation, and all of a sudden you may have laid off 100 people in what looked like just a simple sale at the very end.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, does the gentleman mean to

say, in my district last year where the gentleman to the left forced through that tax the gentleman mentioned a moment ago, it caused the outboard marine plants, one closed, the other two dropped their employment by 50 pecent.

Now, is the gentleman telling me that we may be able to get some of those people back to work, over 1,000 people without jobs in high-unemployed areas might be able to come back to work, rather than wondering whether or not they are going to get unemployment benefits?

Mr. GINGRICH. Let me say to my friend, the gentleman from North Carolina, if we can get enough people excited in the next 4 days, on Saturday, Sunday, Monday, and Tuesday, to contact their Congressman and their Senator, if we can get enough people to understand that we are trying to put America back to work and we could pass this on Tuesday and attach it to the Resolution Trust Corporation funding and get it through the Senate, I believe by January or February you would have people being called back to work in those plants. That is how real this opportunity is.

There are real families in western North Carolina who are going to have a tough Thanksgiving and a tough Christmas because we raised the tax last year that killed jobs.

We have an opportunity in the Economic Growth Investment and Job Creation Act, we have an opportunity right now to repeal that tax increase, to lower those taxes and to put those families back to work.

If you went home Tuedsay night and you could say to them, it is not going to turn around by Thanksgiving on Thursday, but it is going to start turning around in the next few weeks, you would have small towns in your district that would for the first time in a year see the beginning of a hopeful future.

Mr. TAYLOR of North Carolina. Mr. Speaker, if the gentleman will yield further, I would say to the gentleman that would be the best Christmas present we could give the people in western North Carolina, because those three plants, one closed, the other two reduced employment by 50 percent because of the tax of the gentleman to the left, that news that they might be able to come back to work would be worth more than any of the crocodile tears I have heard on the floor talking about blaming the President and others for employment or any of the efforts to create unemployment benefits, giving those people back their jobs, and these are modern plants, these are hard-working people, and giving those jobs back would mean more than anything else we could do.

Mr. GINGRICH. Let me just say, I think the gentleman has put his finger right on it, we are going to have a chance Tuesday night to vote to give the American people a Thanksgiving present and a Christmas present of new jobs, new opportunities, new savings incentives, new chance to buy a house, new chance to go out and save and invest, or we are going to give them a pretty bleak Christmas by failing to do our job, leaving town without having done a single thing to turn around this economy and get us out of this recession.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, let me give the gentleman one other example, because I think it helps make the same point that the gentleman from North Carolina has just made.

One of the most distinguished names in boating is headquartered in my district, Trojan Yacht. Trojan builds boats that have been known worldwide. They are considered some of the finest boats in the world. They have had an export market which is unbelievable. Just 2 years ago that plant employed 450 people. As a result of both the recession and this excise tax, employment in the plant is off 90 percent, only 43 people are still employed at that plant.

Mr. GINGRICH. Let me make sure I understand. Over 400 people in that one plant alone have been forced into unemployment because of the recession and this tax increase that we are trying to repeal?

Mr. WALKER. That is precisely right, and they are not rich people. They are blue-collar workers and so on, good, hard-working folks who because of policy stupidity in Washington find themselves in the unemployment lines.

The solution that Congress has had for that is to provide additional unemployment compensation, not to put them back to work, but provide them with additional unemployment compensation.

I have talked to a lot of those folks. They want to go back to work. They want to go back to building the finest boats in the world. They want to begin to export that product again. They want to begin to do all the things that they had done up until then to be so successful and they cannot do it because of the kinds of policies that have driven them out.

We are hoping in this bill to correct those problems. Obviously, as the gentleman says, it could be done within a few days if Congress gets a wakeup call.

Mr. GINGRICH. Let me go on. Not only do we repeal the excise tax, but we also have a brandnew idea that the gentleman from Washington [Mr. CHANDLER] has developed, which is a 50-percent capital gains exclusion if you invest in new entrepreneurial activities.

This is a tremendous idea that says we are going to give you a better tax break if you will go out and invest it in a new company, a new venture, or a new approach. We are going to encourage new startups.

Now, why is that important? It is important because the fact is big corporations shrink the total number of jobs. Little bitty companies create new jobs. If you are going to have a dynamic economy, if those 8½ million unemployed people are going to have a chance to go to work, they have to be in a position to know that somebody out there is starting a small business, a baby business, that is going to grow, the Apple Computer, the IBM, the Ford Motor Co. of the future.

What this new idea does is it gives a tremendous incentive to go out and invest to find that new entrepreneurial exciting idea, the next generation's McDonald's, the next generation's cable television, all those growth industries that we take for granted once they get big, but somebody had got to go out there early on and have the vision and the dream and the courage to get them off the ground.

In addition to that, we allow businesses, small businesses to take a larger deduction, called expensing, for machinery and other equipment.

Now, why is this important? In a very small business, you very often do not make a profit, you do not make a big enough profit to need some kind of after-tax, like a tax credit. If you are not making a big profit, you are not paying any taxes. If you are not paying any taxes, the tax credit does not help you; but you need to buy that new computer. You need to buy that new machine tool, or you need to buy that new refrigerator, something that is going to make your little business more successful, more profitable, help you grow, help you hire additional people.

What we do is increase the amount of money that you can write off in one year as an investment. We let you treat investing in new technology and investing in new machinery just like you treat other costs. When you do them, you get to write them off.

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For small businesses there is a tremendous incentive to modernize, to be competitive, to create new jobs and to be successful. In addition to that, if you already have an individual retirement account, we allow you to take your money out without penalty in order to buy your first home. And we allow your parents or grandparents to withdraw money and use them, loan them to their children or grandchildren to buy their first home.

We have, I think the number is, $150 billion or $180 billion in individual retirement accounts locked up in the United States right now, waiting for people to retire.

VOL 137 PT 23 NO 21–25 1991 UMI

What we are saying here is we are going to let you, if you have an IRA, we are going to allow you to take that money out either for yourself if you want to buy a home or to loan to your children or grandchildren if they want to buy a home.

We think this is very profamily, it rebonds economically parents, grandparents and grandchildren, very prohomebuying also, which we think is good for a stable, secure America. Homes are one of the ways that we come out of recession. Every recession since World War II has been ended because the housing industry and the auto industry led us to prosperity. This is one more step towards that prosperity.

Mr. Speaker, I yield to my friend, the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. The information that the gentleman gave us on small business, I would tell the gentleman that I communicate with 20,000 small businesses in my district. Small business creates 95 percent of the jobs. I can tell you, in the communications I have had with them they are scared to death not because of any lack of courage for investing but they are concerned about what they see coming from this Congress, mandated leave that many of them say will destroy them, the play-or-pay plan that the gentlemen to the left have been offering, and health insurance which does not consider small business, it says to them, "We are going to tax you and tax you and tax you even if you do not have the ability to play." More and more regulations they see coming from this body.

Now, the gentleman is saying that the plan he is offering is an incentive, something that would encourage, give these small businesses faith to get out and get jobs created and moving again.

Mr. GINGRICH. The gentleman is exactly right. Let me give you an example of why a lot of people should be interested in it. If you own a small business, you ought to be interested in this because it is going to be a tremendous help to you in being competitive and to make a profit. If you work for a small business, you ought to be interested in this because it is going to make your job more secure, give you a chance to get a better paycheck, and it will mean that you are going to be part of a growing company.

If you are a manufacturer, you ought to be in favor of this, or if you work for a manufacturer, because this is going to increase the amount that is bought, which is going to increase jobs.

So as you go all the way around, this concept which NANCY JOHNSON of Connecticut introduced and really developed for us is really going to help a lot of people create a lot of jobs all over America.

I yield to the gentleman.

Mr. TAYLOR of North Carolina. I would say to the gentleman, too, that whenever you create a job in manufacturing or with a small business, you generate other jobs around. If you pay that employee unemployment insurance, you help him for a short period of time, but you do not create the jobs you do when you have a manufacturing operation that is turning out other jobs and creating other materials.

Mr. GINGRICH. I say to my friend—we recently had a big fight here over 6 weeks versus 13 weeks versus 20 weeks. The gentleman and I want to create a lifetime of jobs. We would like someone in a job for 10 years; that is 520 weeks. We want to encourage somebody to have a job for 20 years; that is 1,040 weeks. Even our most liberal friends have not suggested that we have 1,000 weeks of unemployment insurance.

So what we are trying to do is give people a permanent lifetime opportunity to hold down a job, to earn a living, to buy a home, to have a savings account and an individual retirement account to do all the things that an American ought to want them to do and reward them for doing it. That is why I think that the Economic Growth, Investment and Job Creation Act is so important and why I hope people will call their Congressmen and Senators in the next 3 or 4 days, because I think Tuesday night we are going to have a chance on the floor of this House to see whether or not those people, who tell us how worried they are about the unemployed, are willing to vote to end unemployment now by creating jobs and creating growth.

Let me mention two other large parts of what we are doing. We do two things to capital gains: First, we cut it. We cut it based on how long you hold it. We encourage stability because we tell folks that if you will be in a position to hold the capital gain, to invest and to save it for at least a year, we are going to give you a little bit of a tax break. In other words, if you will take the risk of investing in a new company, if you will take the risk of having a farm or having a small business or having some timber, we are going to give you a tax incentive to do the right thing. If you hold it for 2 years, we are going to encourage you even more; if you hold it for 3 years, we are going to encourage you even more.

So all those folks who have been saying:

> You know, Americans are too shortsighted, we need the long-term vision of the Japanese, we are not patient, we are not willing to invest in the long run.

We are going to create a tax incentive to invest and to be patient, and that runs up to 3 years.

We are going to do a second thing: We are going to index capital gains for the future, so if you go out and buy a farm and 20 years from now you decide to sell that farm, you are not going to be paying tax on inflation, you are not going to be paying tax on paper money. We are going to protect you against inflation. And I think that is going to turn out over the long run to be one of the most powerful things we are doing in this bill because over the long run for farmers, for timber owners, small businesses, people are patient investors, indexing capital gains, indexing investments so you do not have to pay for inflation, that is going to turn out to be a tremendous incentive to get Americans back into the business of saving and investing and creating jobs.

I yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

You know, the argument that has been made very often on the House floor against this kind of proposal is the fact that it is a tax break for the rich. And I think the gentleman has described what is going on here very well.

What this particular provision means is that this will not be a tax break for the rich. This will not be capital gains for people who are rolling over stocks every couple of weeks.

What this is is something which helps the small businessman, the farmer and others who have a long-term investment but who at some point in their career or in their life want to sell off that investment, in many cases to retire.

The farmers in my district, for example, regard that as an important part of the whole interest in farming, that at some point you build a farm and you sell it and use the money that you make from selling the farm for your retirement.

You pay a tremendous capital gains tax under the present law.

Under the proposal we have here, first of all you would not have to pay on the inflation cost over that period of time, second, because you have held it for a long period of time the break you get on your capital gains taxes would be substantially more. So this is something that would be a real advantage to middle-class America as they seek money to retire and is not something that would simply be some kind of tax break for the rich.

This is a true incentive for savings and investment by all Americans.

Mr. GINGRICH. Let me emphasize your point for a second: For those folks who have seen the movie "The Bonfire of the Vanities" or who have read the novel, those kind of traders who make their money every day, swap stocks, swap bonds, swap the marketable securities, who are really in the hustle and bustle of Wall Street in that kind of a short kind of trader business where they do not create value really, they just create paper, those folks do not gain a dime, not a penny out of this proposal.

Now, if you are a serious investor and you go out and you invest your capital and 5 years from now you create a new

company, if you go out and you invest and buy stock in a company that is a sound company and 2 or 3 years from now you decide to sell that stock, then you make some money. But the fact is, and this may be one of our major differences with our liberal Democratic friends, in a free enterprise society, if you do not encourage somebody to do something, nothing happens.

We do not have a socialist state-owned government economy.

So one of the points is we are trying to encourage folks to go out to create new jobs and we are willing to say to them, "Yes, we are going to let you keep a little bit, and we are going to reward you if you create enough jobs."

Let me make one other point before I yield. It is estimated by very respectable economists that this one provision is worth over 1 million new jobs, 1 million new jobs.

Now, that million new jobs, I am guessing the average job now is $26,000, that million new jobs is a $26 billion increase in the gross national product in terms of money earned by people who would not have a job, if it were not for this kind of excitement, this investment and this enthusiasm to go out and create jobs.

Mr. WALKER. That is 2,000 jobs for every congressional district in the country.

Mr. GINGRICH. Exactly, 2,000 jobs for every single district.

Would that not be a tremendous Thanksgiving gift to have voted to create 2,000 jobs in every congressional district before going home?

Let me go a step further: You will see all sorts of tables in here that say what helps the rich and what helps the poor. There will not be a single table brought in by our friends of the liberal Democratic Party, not a single table which will show you the effect of those million jobs.

So they will never count $26 billion in additional income earned by Americans, by working Americans, by average everyday folks who are today unemployed but who would have a chance to earn a living.

I yield to my friend from North Carolina.

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Mr. TAYLOR of North Carolina. Mr. Speaker, the gentleman knows I am in a district with a registration about two to one Democrat to Republican with small business, small farms. Our per capita income is about 60 percent of the Piedmont area in North Carolina. One could not say that is a district of the rich or that I represent the rich in that district, and yet in the overwhelming communication I have with those small business people, they are for the capital gains. They want that opportunity that the capital gains will pass on to them, and these are not rich people, these are not wealthy people. These are average workers, average small farmers and small business owners who recognize that benefit.

I do not know where the gentlemen to the left are getting the idea that this tax is just for the rich. They have not been out talking to the average small business person in the street, and, if they did, they would find out very quickly those are the people that want that particular gain. They recognize that the wealthy people do not need this gain. As the gentleman pointed out, these folks have adequate wealth. The ones that want it are the small business people and the people who want to build a business.

Mr. GINGRICH. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, understand there is a reason for that as well, and that is that, if people do not have an incentive to invest in risk kinds of enterprises with something like fair capital gains treatment, where they put their money is into sheltered kinds of tax breaks; government bonds, for example, government bonds that finance all the spending that goes on in Washington. And so they have almost a vested interest in keeping people from putting their money into risk enterprise because, if the money goes into risk enterprise, it is less money that goes into the government bonds that helps pay for the spending here in Washington, DC.

Mr. Speaker, it is a very, very dangerous philosophy because it is the kind of philosophy again, emphasizing the fact that what the liberal Democratic establishment wants to do is pull money into Washington so that they can spend it rather than having people make determinations on their own about what is good for themselves and what is good for the country.

Mr. GINGRICH. Mr. Speaker, let me, if I might; I know my good friend from Pennsylvania has some time in a minute, and what I would like to do is summarize three things to wrap up this hour.

Mr. Speaker, I would like to first point out the key provisions; second, point out what they will do; and, third, suggest that what we desperately need is action by the people of America, because the only hope we have, the only hope we have, of passing this economic growth investment and job creation act on Tuesday is to have a tremendous outpouring of phone calls, and faxes, and telegrams, and even personal visits by people who care about America's future and want to end the recession, and they have got to do it in the next 4 days.

First, the 12 key provisions: it increases the earning limit on Social Security so that senior citizens can work without being penalized by their Government. It sets up apprenticeship programs so young people can work directly with businesses to learn faster, to learn better, to have a better job. It repeals the excise tax on boats, and aircraft, and automobiles and other things so that we can create jobs in industries that have been crippled by tax increases. It has a million-dollar income savings plan so that people whose growth income is under $50,000 can save and earn up to $350 apiece or $700 a family, tax free, from their savings interest. It sets up an IRA plus so that every American can have an individual retirement account so everyone has an incentive for savings. It allows small business to take as a direct expense, additional amounts of investment so that we are encouraging small business to be able to go out and to buy new equipment. It has a capital gains differential so that we encourage people to save, to invest, to create new jobs. It has a 50 percent capital gains exclusion, if it is a venture, if it is a new business, if it is a new undertaking, so encouraging the investment of the big companies of the future. It has perspective indexing of capital gains so, when one invests, they will know we are not going to tax them on inflation. We are only going to attach them on their real gain, and it is a tremendous incentive for people to invest. It repeals the key mistakes that were made on passive loss rules for real estate and for home building so we can encourage people to be back in the real estate industry, so we can raise the value of homes, so we can encourage people to be back increasing property values and saving us from an even bigger Resolution Trust Corp. bailout. It has no penalty on IRA withdrawal for a first-time home buyer or for a parent or grandparent who wants to take the money out to loan it to their children or grandchildren so they can buy a home. And finally it allows them, if they lose money on the sale of their home, to treat that as a capital loss so that they actually get to save a little bit of money they have lost, and they are not punished for having lost the money.

Now what do these 12 provisions of the Economic Growth Investment and Job Creations Act do? They create over a million new jobs; I believe over a 1,500,000 new jobs. They generate a tremendous amount of additional revenue for the Government that offsets any cost of doing these things. They increase home ownership, they increase savings, they increase investment, they increase the capacity of our parents and grandparents to work after 65, and they will help every person to have IRA's

How can we get it passed? I believe, given the bias of the liberal Democrats which is keeping us in a recession, which is increasing unemployment, which is weakening the economy, the only way the American people can take an action step this fall to help us end the recession, to help increase eco-

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nomic growth, is to call their Congressman or their Senator to get actively involved to do it in the next 4 days, to recognize that Tuesday, probably Tuesday evening, we are going to be asked to vote in this House on whether to slink out of town having done nothing, to go back home, to have a nice Thanksgiving while people around us are unemployed and desperately want a chance to get a job, or whether we are going to have the courage to stand up, to insist on passing a growth package, and to insist that we are going to jump start this economy and increase the number of jobs and increase the value of real estate.

Mr. Speaker, I firmly hope that every American who become acquainted with the Economic Growth Investment and Job Creation Act, every American who is worried about the economy, every American who wants to see us get ahead in this country, will call their Congressman or their Senator in the next 4 days.

THE ECONOMIC GROWTH PACKAGE: A PRIORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, earlier in the evening I had made mention of the fact that there are going to be 23 bills on the calendar tomorrow under suspension. That gives some idea, maybe, of the priorities that the Democratic leadership have put in place other than taking up an economic growth package. They are a group of interesting bills.

Mr. Speaker, the first bill is the U.S.-Flag Cruise Ship Competitiveness Act of 1991. My guess is that there are lots of unemployed Americans who will not see that as being something that directly affects them, since they cannot afford to take a cruise at the present time, and probably would prefer us to be dealing with something on economic growth.

But a few of the other bills: the technical amendments to Alaska Maritime National Wildlife Refuge boundary law is the second bill, the Flower Garden Banks National Marine Sanctuary, the Federal Debt Management Responsibility Act of 1991, the Drug Testing Quality Act, the Technical Correction in Public Law 101–549, the NTIA Organization and Authorization Act, the Pelican Island Texas Act, the Wappinger Creek in New York Act, the Tourism Policy and Export Promotion Act, a bill to permit the Secretary of Health and Human Service to waive certain recovery requirements with respect to facilities, another bill that designates the Lamprey River as a Wild and Scenic River, the Lower Merced River, the Snake River Birds of Prey National Conservation Area, Jemez National Recreation Area of New Mexico, a bill relating to White Clay Creek, a bill relating to the Chattahoochee Wilderness, the Big Thicket National Preserve in Texas, the San Carlos Indian Irrigation Project, the Oklahoma Native American Cultural Center Study, the technical amendments to Indian laws, a bill to expand the boundaries of the Stones River National Battlefield in Tennessee, and, finally, a bill regarding human rights in East Timor.

Those are a few of the items that we will be taking up tomorrow. Many of them may be matters of intense local importance or maybe even national importance, but I would suggest that certainly economic recovery is at least as important as anything which has been committed to the calendar by the Democratic leadership at this point.

Mr. Speaker, what I really wanted to talk about this evening, though, relates to conversations I have heard among Democratic leaders on the House floor over the last couple of weeks and the last several nights as they discuss their view of where the country is and what needs to be done, because I have been struck, as I have sat and listened to those discourses, that they do not seem to have any vision at all; that it strikes me that it is the same old patterns of behavior and the same old ideas; wrapped somewhat in new packages, but as ideas go they are not very imaginative or very innovative.

The reason why I think it is important to understand that they are suggesting is not good enough is to understand the nature of the times in which we live. Too often in this body we become so wrapped up in the details of what is going on that we fail to see the macroeconomic and macropolitical picture and fail to understand what is happening around us.

I admit to being guilty of that. I often get wrapped up in the rules that we are considering on the floor or some technical details or so on. I do a lot of that on the House floor in my role as an enforcer out here. But I hope that we can from time to time step back and understand something about the times in which we live, so that we can respond to the needs of the times in which we live.

I would suggest that we live in absolutely revolutionary times. I regard this time as being the most exciting period in the history of humankind to be alive. I say that because literally there are revolutions happening around us that are changing the world as we know it and the world as future generations will know it. This is a fantastic time in which to see change taking place. I would submit that mankind has not had a similar period in history since the end of the 18th century.

At the end of the 18th century we saw revolutions taking place that changed the world as men knew it then and as we have to come to understand it. There was a political revolution that took place, characterized by the American revolution, that changed for all time the way men governed themselves and the way women participated in society.

We had an economic revolution that changed us from an agrarian economy to an industrial economy. We had a cultural revolution that changed the way that men and women interacted, largely because they moved off the farms into the cities, and we built huge new cities and we developed an urban culture. We developed the middle class, a major economic and cultural revolution.

There was a technological revolution as we moved away from the idea that muscle power of human beings would drive the economy and we went to machines, and thereby created a technological revolution.

That is a time that was very, very challenging for the people that lived in it. In fact, there were two men of letters writing at that time, both of whom looked at the world a little bit differently. One of the people writing at that time was Thomas Malthus. Thomas Malthus saw the agrarian society around him, the feudal society, if you will, deteriorating, and he came to the conclusion that everybody was going to starve to death; that there was no way, with the population increasing and the feudal society deteriorating, that we were going to be able to feed the population of the future, so therefore, everyone was going to starve to death.

Thomas Malthus turned out to be wrong, because the fact is that what arose was an industrial society that permitted agriculture to be more productive, and in fact today we have agricultural surpluses in the industrial nations of the world, not people that are starving to death as the result of a lack of food.

We had another writer at that time, Adam Smith. Adam Smith saw something entirely different. Adam Smith saw the rise of a pin factory, and he wrote about it and he talked about the fact that there were going to be ways of developing new wealth, that there was going to be the rise of the middle class, that men and women would no longer derive their wealth only from the land, they would derive it from the production of goods, from the sale of goods; that we would end up having the merchant class that ultimately became the middle class that we have known.

Adam Smith turned out to be exactly right in his analysis. Thomas Malthus turned out to be wrong in his, and yet the interesting thing is that Thomas Malthus would have been regarded as the person most attuned to the history, because Thomas Malthus based his analysis on everything that we had known up until that time. He looked

back through history and saw historic patterns and suggested that if historic patterns continued to play their way out, we were in deep trouble.

Adam Smith saw something new happening. Adam Smith saw the revolution. Well, the fact is that we have many of the same kinds of analyses taking place today.

What I hear from the Democratic leadership when they come to the floor in these evenings too often is a Malthusian kind of analysis: that everything is deteriorating, that we have no chance for growth, that everything is coming apart, that jobs cannot be created, that there is no hope for growth, so therefore the only hope we have is to take the wealth that exists and try to redistribute it in ways which they regard as fair. That is probably a conclusion that one can draw if one thinks that the world of the 1990's is like the world of the 1930's, or like the world of the 1940's, or the 1950's, or even the 1960's. But it is not.

I would submit as my thesis that we live in revolutionary times not unlike those of Adam Smith and Thomas Malthus; that what we see happening around us today is revolutionary in the same sense that the revolution at the end of the 18th century took place.

We see today a political revolution taking place that has to be understood. If you look around the world, you have to know that there is a political revolution taking place. In just the last few months we have seen not only the dissolution of the Soviet empire, we have seen the dissolution of the Soviet Union itself. That is a major political revolution, but it is not the only political revolution. There are political revolutions happening in Latin America, in Africa, in Europe, in the Far East, and in the Middle East, political revolutions that largely center around a decentralization of power.

More and more we are finding that the institutions of government that have tried to become entire economies or entire ways of doing things out of one central model fail. It is much what happened in the Soviet Union. The central government, the central authority, the party became so corrupt it could no longer stand; in part it was corrupt in a personal sense, but corrupt in an overall sense. It was just deteriorating from within.

That decentralization of power that is taking place in the Soviet Union is a part of a worldwide phenomenon, a major political revolution, one that in all honesty we in this country need to be aware of, because too often the reforms that we hear discussed by some of our friends in the Democratic Party call not for decentralization of power, not for being a part of the revolution of the future, but for centralization of power. They are calling on the United States to move precisely in the same direction that has failed in other parts of the world.

For example, when they talk to us about health care these days, the most important concepts that come forward from Democratic leaderships tend to be more and more centralization of power in the health care regime, rather than finding ways to allow individuals more access and more quality in their own lives in the health care system.

I do not know that I have all the answers to health care, but I am sure that the answers given to us by the liberal Democrats are precisely opposite from where the revolution is going that is driving the world. We live in revolutionary times. They are at least two or three steps behind the political revolution.

Just as important as the political revolution is the economic revolution. The economic revolution is twofold in nature, and just as important as the change that took place at the end of the 18th century, when we moved from a feudal society, with lords of the manor who controlled the economies of their local area, and we moved from that to national economies.

□ 2210

At the same time in that period of time we moved, as I stated before, from an agrarian society, an agriculturally based society, to an industrially based society.

Two similar kinds of revolutions are taking place economically today. We are moving from national economics to a world economy. We are moving away from the idea that all national structures in the economy are the only thing that works to the idea that the world is the basis for the economy.

That is seen in many ways. The small businessman in a small town in the United States can no longer think of his competition as just being down the street or in the next town or in the next county or in the next State. He has to think about the fact that his competition may be halfway around the world. He has to begin to think in terms of the kinds of products that he has, the kind of quality in those products, the kind of productivity in his workplace. He has to make certain that he can compete not only just down the street, but halfway around the world.

That is the advent of the world economy. You have to be awfully good to participate in that kind of an economy.

In addition to moving from a national economy to a world economy we are also moving to some kind of a post-industrial economy. I do not know exactly the nature of it. I do know that it is one that is going to be very much information based. I do know that it is going to depend upon the mind as being the principle ingredient of driving the economy.

Remember I said the muscle power of human beings used to drive the economy? Then we moved to machines to replace the muscle power of human beings. Now in the new economy we are going to depend upon the mind of the human being.

That is something which has to be very scary, because you are talking about a whole new way of thinking about how wealth is created. But it is going to be a fantastic opportunity for growth of unimaginable kinds in the years just ahead.

We no longer are tied to the old business cycles that have driven us over the last several years. I hear again my colleagues who are way behind the times in the liberal Democratic ranks who keep talking about the fact that of course we are going to have a recession, and so on, and they talk about the old business cycles.

The old business cycles no longer apply. Because of the revolution of both our world economy and moving to a grand new kind of post-industrial economy, the potential is there for virtually unlimited growth into the future.

The problem is that we in Washington are perfectly capable of messing it up. We are perfectly capable of developing policies that, instead of helping people to grow and invest in new opportunities, keep them from doing so.

We have just finished discussing on the floor some of the ways in the past we did that. We are seeking in the bill that the gentleman from Georgia [Mr. GINGRICH] was describing to correct some of those things, but we have to go much further than that bill does. That is just one step.

What we have to do is rethink our policies so that everything that we are doing in Washington helps drive people toward investing in new ideas, in new concepts, in innovative kinds of technologies.

We are nowhere close to that right now. What we have done is encouraged people to put their money away and shelter it away somewhere so the Government cannot get at it. That is precisely the wrong prescription in an economy which is undergoing literally revolutionary change.

I would also submit that at the very same time the political revolution is going on and an economic revolution is going on, we also have a cultural revolution taking place, a fantastically complicated cultural revolution that is impacting on the lives of all Americans, and, in fact, all people throughout the world.

How is it manifesting itself? It is manifesting itself in part in a rise of fundamentalist religion around the world, fundamentalist religion in America, fundamentalist religion around the world.

Why is that? People see around them all this change. They are struggling with the change that is taking place and they want some kind of stability in their lives. So many of them are reaching out to religion, and even very fundamentalist kinds of religions, to give them the sense of values they need to struggle with all the change that is around them.

That is manifesting itself in the rise of religion in this country, but also in the rise of fundamentalist Islamic religion in some parts of the world. The thing is it will cause some political feedback.

See, all these revolutions interrelate. At some point some of those basic deeply held views in religion come into clash with each other and cause political problems. They cause economic problems.

But the fact is real, that one of the cultural phenomena of our time is to see a change in the religious patterns of human beings around the world as they seek to cling to values.

There is also another kind of cultural change that is taking place. In my mind it is a rise of environmentalism. Not environmentalism in the sense that we often discuss it on the floor as a political agenda, but environmentalism from the standpoint that mankind and humankind have seen themselves now a little differently than they ever saw themselves before.

We have had the chance as a result of our adventures into space to look back at this planet and understand it is a very fragile spaceship. What you have among young people and old people alike is a growing understanding there is some need on their own individual part to do something to preserve that planet for future generations.

So it is not an environmentalism manifested in all of the kinds of crazy details we sometimes see in bills that come up on the floor, it is an environmentalism based in the everyday lives of people who have made changes in the way they behave themselves in order to do some little part in order to preserve the globe around them.

That, too, ought to be encouraged. That is something where we really will get real benefits for the future, and it is a cultural change. It is an understanding that has changed in my lifetime.

We also see an intuitive understanding within culture that if the world is changing so much around us, and if we are going to have to depend upon our thought processes in order to drive the economy of the future, we need better education. So what you are seeing happen in the cultures around the world is an emphasis on education.

Sadly, in this country some of that emphasis has been simply to pour good money after bad, rather than doing a reform of the educational system that will really drive that economy of the future.

In my mind what is really needed in our educational system is more individualized education instruction. I think where the education system is failing us at the moment is the fact that we are still educating people to take part in an industrial economy.

Let us face it, we formed schools at the beginning of this century. The public school system largely arose during this century. We formed the schools at the beginning of this century to teach young people how to work in industrial factories, how to work on production lines. So we mass produced education.

We mass produced children coming out of the schools. That model no longer exists. It is invalid to the times that are changing.

What we need right now is people who are able to think for themselves, people who are able to take the knowledge base that they come with and grow from it.

What you could have in schools right now, if you wanted to do real educational reform, is individualize instructional programs. We already have them for handicapped students. Already if you are a handicapped student, you can go and get a program that is designed specifically for you, and you progress based upon your own talents and upon your own abilities.

We could do the same thing for every child in the classroom. How do you do it if you have 25 or 30 kids in the classroom? You use technology. You can use computers to help guide the child along, to give them the ability to move at their own pace. You can use interaction between students, using that same technology. You can use interactive technology that draws upon the finest minds in the world and brings them into the classroom.

You now have the ability with the information systems that we are developing to bring the top experts in every field into the classroom and utilize them. You now have the ability to tap into libraries. When you are studying World War II, you can give the young people in the classroom the real battle footage of a battle that was fought during that war, or hear the leaders of the world at that time actually talking to the students. You can bring that right to the desk in front of them. So you can tailor individual instructional programs.

Let me tell you, I am someone who is an automobile enthusiast. I was one when I was a student in school. You could have taught me many, many things in education had you tied them all to the automobile.

You could have taught me physics, you could have taught me history, you could have taught me English, you could have taught me all kinds of things if the device in front of me was telling me that it was all related to the automobile.

□ 2220

I would have spent hours poring over that and so on in order to learn that information because it was directly related to something I was interested in. We can do that for every child. And we will end up with an educational system which is more vibrant, more useful and ultimately graduate a much better class of students prepared for the world that is coming. That is a cultural revolution.

Fourthly, I would submit to my colleagues that just like at the end of the 18th century, there is a technological revolution taking place, and the technological revolution is unbelievable. I serve as the ranking Republican, the Republican chairman of the Committee on Science, Space, and Technology. I here all about these new technologies all the time. The scientists who come before us tell us that we are likely to see in the next quarter of a century five times the level of technological change that we have seen in the last century.

Think back to what the world was like in 1890 and then think how much change has taken place in that 100-year period. And then think about the fact that we are going to see five times that level of technical change in just the next 25 years. We get some idea as to how bit the change is going to be.

What kind of changes am I talking about? Well, we are in the process of designing to be built right now something called the national aerospace plane. It is an experimental airplane, the other name for it is the X–30. The interesting thing about that aircraft will be it will have new materials in it, new engines, new ways of integrating the technologies incumbent in the airplane. And the interesting thing is, it is capable of flying across the country in 15 minutes. It is capable of flying anywhere in the world in 2 hours. We are going to have to approve a technology of an airplane capable of taking off from a runway and going anywhere in the world in 2 hours and landing on another runway.

Now, what does that mean for our future? In my view what that means for our future is that it changes the world as we have known it. It means that you can have a businessman who gets up in Washington, DC in the morning and says to his wife, "Honey, I have got business in Tokyo, but do not worry about me. I will be home in time for dinner."

You might say, well, it does not sound very likely to me. Think about it. I think about my own lifetime. When I was a high school kid, we still were flying propeller-driven airplanes. We had not gone to jet airplanes yet.

If you wanted to go to Chicago from Washington, DC, it took you the better part of a day to get the flights, get out there and so on. You were not having very many people that were making a lot of trips in one day from Washington to Chicago and back.

And yet with the advent of the jet airplane, within my lifetime, I, personally, have had the experience on a couple of occasions of getting up in the morning in Washington, DC, flying to Chicago, making a speech, and flying back to Washington, DC and being back here in time for the House of Representatives to go into session at noon.

That kind of change has taken place in my lifetime. This technology will mean a similar kind of change can take place in the lifetime of others.

A few weeks ago we had a fairly heated debate on the House floor with regard to building the space station. There were a lot of things said about the merits of this and the demerits of it, but it is one of those new technologies that will change things in my belief very heavily. Within the last few days there has been an article in the New York Times about a new medical device that could be flown aboard that space station.

What the medical device will be able to do is replicate cells.

In other words, you can take one cell from a human being and have it replicated aboard this on this machine aboard the space station in weightlessness.

You might say, what does that mean? Well, what it means is we can create a new human organ. If someone has liver cancer, we could literally be able to take one cell from that liver, take it to space, create a new liver for that person, bring it back and be able to transplant it for that person. Or a kidney or perhaps an optic nerve for a blind person or they have even already worked with brain cells so that if you had brain cancer, we might be able to replace damaged parts of the brain.

Think about what that means for mankind if you are capable of doing that. But you see it takes a manned space station in order to do it. You have to have human beings there to work the machines. So you have to have a space station. You have to have a livable environment in space in order to make that work.

And that is the kind of new technology that will change the world in ways that you cannot even imagine.

Or communications. We are going to see a revolution in communications. This information-driven economy that I am talking about will be largely technologically created because it is the information flow that will make it possible. With fiber-optic cable, we will be able to have massive amounts of information moving throughout the world. And what that will mean is that people in their homes and in their schools and in their workplaces will be able to have access to information in amounts we have never known before. And the important thing is they are going to be able to process that information.

Because in addition to the communications, we are going to have a revolution in computers. Already we are microminiaturing computers to the point that in the not-too-distant future we will be able to have a computer with the processing capacity of a supercomputer, but it will be the size of a credit card that we can put in our wallets.

And think what that means then in our ability to create artificial intelligence that can be used in robots, robots that will then help improve the livelihood of people and will help make our industries more productive.

What I am saying is that not only do you have all these things happening but that also they are interacting with each other. Each of these revolutions is not a separate compartment, as I have described them here. Each of them is truly taking place, but they are interacting.

I will give a couple of examples. The technological revolution, the communications, we have already seen that impact on the political revolutions taking place. One of the reasons why many men and women around the world were able to rise up against tyrants and oppressors is because they had information, because they had fax machines that were showing them what the rest of the world was seeing.

Even when they could not get information from their own government, they found out in the midst of their revolution what was being said about them in the United States because someone faxed them the information.

The young people in Tianamen Square were understanding what the world was talking about in their revolution because there were literally faxes flowing back and forth. That level of transmission of information makes it almost impossible for tyrannical societies to continue to succeed.

And it is one reason why we see a decentralization of power. The robotic revolution that is just around the corner will certainly have a positive impact on the economies of the future.

One thing that needs to be understood and one thing which is often challenging people, and they do not understand, is how this new economy ends up creating more jobs and better jobs than those that were in the industrial economy.

As a matter of fact, many people see the industrial economy as being in trouble and think that that means that there is no hope ahead. That is the anlaysis too often we get from liberal Democrats right here in the Congress.

Nothing could be further from the truth. Just as agriculture was benefited by industry when we got machines on the farm, it made the farm more productive; information in industry will make the industries more productive.

I will give you an example. If you go to a racetrack around the country and watch automobile racing, you will see hosts of people there with computers measuring tires and looking at the tires and the tire compounds. What are they doing?

They are trying to figure out how to make better automative tires, based upon this very, very tough experience of being at high speed on a racetrack. And the information that they gather there is creating new compounds and new kinds of tires, and they are creating a much better product. It is information-driven technology that is improving industrial performance.

And we are going to see far more of that in the future. That is just one example of many, there are millions of examples of the same kind.

But that is where the technological revolution interacts with the economic revolution and the cultural revolution interacts with the technological revolution because, if, in fact, we are seeing things from space and it is changing our view of the world, that is technology having an impact on culture. And the fact is that as we become more and more interested in things like the environment, we will find that there are technological solutions to some of our environmental problems.

□ 2230

We will find that there are ways of utilizing information that will improve the environment, and also those new technologies will drive us toward a better standard of living.

Here is the problem for America in these revolutionary times: In Congress you have the single most reactionary institution in the country. And I do not say that lightly. Congress is the single most reactionary institution in the country. I assume that that is in part because Congress is so tied to special interests these days that it has to tie itself to the status quo. So when you hear leaders come to the floor and suggest that there is not much we can do, or the only thing we can do is play at the edges, or the only thing that we can do is repackage old ideas, they are really reflecting the fact that they are people incapable of dealing with revolutionary times, because what they are really saying to you is we cannot break out of the status quo because all of the special interests who finance our campaigns, all of the special interests that come out and vote are special interests that we feel tied to. And we can in no way betray them.

The fact is that the special interests tend to be those institutions that have welded themselves to the past, that they do not want real change, and they do not accept the change around them. In fact, what they want to do in most cases is black the change out, they want to erect walls to stop the change from taking place, and every time you erect one of those walls you in fact endanger our ability to be competitive in revolutionary times. And that is what you are hearing from the Democrats in the Congress. They are people wedded

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Mr. JONES of North Carolina: Committee

VOL 137
PT 23
NO 21–25
1991
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to the status quo and incapable of changing enough to meet the times in which we live.

I am afraid that in many cases I see that within my own party as well. Too often I see it in the leadership that we get from the White House. Too often I see it in the proposals that we bring forward as so-called Republican alternatives on the floor. Too often we are not visionary enough to recognize the times. The only identity we have being the minority party in the House is the fact that we do not have to be as responsive to special interest power as the Democrats do.

Some of the Republicans are. I mean some of them are very much tied to special interest too. But the fact is, as a party we are not as closed to new ideas as a party that has literally been in power in the House for 40 years and thinks that it knows how to maintain that power by keeping things pretty much as they are. We are not as tied to that on the Republican side of the aisle.

So we have a duty, it seems to me, to be somewhat more revolutionary in our thinking. We have to take this reactionary institution and try to change it. And that is what some of us do here on a regular basis. Sometimes it gets a little sticky, sometimes it gets a little tough. We sometimes probably make mistakes doing it. But one of the things I think we have an obligation to do is to try to bring about changes, because if we do not change here, if Government does not change, if institutions do not change in revolutionary times, we will become like the monarchs at the end of the 18th century and the beginning of the 19th century who failed to see the revolution around them, failed to change and were consumed by the revolution.

This country has too much to give. It is too great to allow revolution to sweep it away. Instead, we have a Constitution, a Bill of Rights, a capability not to be consumed by revolution, but to lead the revolution. That is what we ought to be doing. The vision that we have ought to understand that all of these things that are happening around us can in fact be positive, that they can create more jobs, that they can create more hope, that they can give more people the capacity to rise above their station, that people do not have to be poor any more, people do not have to be uneducated. We do not have to have deteriorating cities. We do not have to have all of these ills around us if we will simply tie ourselves to the revolution.

We can do it. There are many days I become discouraged in the Congress because what I see us doing is simply trying to protect ourselves from the winds of change rather than trying to figure out a way to ride those winds of change.

I hope there is a change in the Congress. I hope that maybe in the next session of Congress we will do better than we have done in this session, we will begin to realize that the revolution is here and that we must be a part of it.

Mr. Speaker, I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. INHOFE, for 5 minutes each day, on November 25 and 26.

Mr. RIGGS, for 5 minutes, today.

Mr. RIGGS, for 60 minutes, on November 23.

Mrs. BENTLEY, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, on November 23.

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. KOLTER, for 5 minutes, today.

Mr. SWIFT, for 5 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Ms. OAKAR, for 60 minutes, on November 25 and 26.

Mr. LIPINSKI, for 60 minutes, on November 25.

Mr. PEASE, for 5 minutes, on November 25 and 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIDGE) and to include exraneous matter:)

Mr. SENSENBRENNER.
Mr. PORTER.
Mr. GALLO.
Mr. MACHTLEY.
Mr. GILMAN in three instances.
Mr. GOODLING.
Mr. BAKER.
Mr. BLILEY.
Mr. GRADISON.
Mr. HORTON.
Mr. GREEN of New York in two instances.
Mr. GEKAS.
Mr. SOLOMON.
Ms. ROS-LEHTINEN.
Mrs. BENTLEY in three instances.
Mr. BURTON of Indiana.
Mr. MCGRATH in two instances.
Mr. COBLE.

(The following Members (at the request of Mr. MCDERMOTT) and to include extraneous matter:)

Mr. BILBRAY in two instances.
Mr. BROWN.
Mr. LANTOS in two instances.
Mr. ACKERMAN.
Mr. KOSTMAYER.
Mr. VISCLOSKY.
Mr. STARK in two instances.
Mr. ENGLISH.
Ms. OAKAR.
Mr. OWENS of New York.
Mr. BENNETT.
Mr. STALLINGS.
Mr. PETERSON of Minnesota.
Mr. LEHMAN of California.
Mr. HOYER.
Mr. FAZIO.
Mr. ASPIN.
Mr. SERRANO.
Ms. SLAUGHTER of New York.
Mr. RAY.
Mr. BRUCE.
Mr. MILLER of California in two instances.
Mr. MCHUGH in two instances.
Mr. LAUGHLIN.
Mr. RICHARDSON in two instances.
Mr. TOWNS.
Mr. DIXON.
Mr. SWETT in two instances.
Mr. LEVINE of California.
Mrs. SCHROEDER.
Mr. JOHNSON of South Dakota.

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 36 minutes p.m.) under its previous order, the House adjourned until tomorrow, Saturday, November 23, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2393. A letter from the comptroller of the Department of Defense, transmitting one report of violation that occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1517(B); to the Committee on Appropriations.

2394. A letter from the Deputy Secretary, Department of Defense, transmitting the report of the Commission on the Consolidation and Conversion of Defense Research and Development Laboratories, pursuant to Public Law 101–510, section 246(g) (104 Stat. 1521); to the Committee on Armed Services.

2395. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the President intends to exercise his authority under section 506(a) of the Foreign Assistance Act in order to authorize the furnishing of $10 million to support Senegal's deployment of peacekeeping forces in Liberia, pursuant to 22 U.S.C. 2348(c)(2); to the Committee on Foreign Affairs.

2396. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations covering the period from August through the first part of October 1991, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

2397. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Richard B. Stone, of the District of Columbia, to be Ambassador to Denmark, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2398. A letter from Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112B(a); to the Committee on Foreign Affairs.

2399. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Agency's annual report on the Program Fraud Civil Remedies Act for the year ending September 30, 1991, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

2400. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 1991 through September 30, 1991, pursuant to 2 U.S.C. 104a (H. Doc. No. 102–168); to the Committee on House Administration and ordered to be printed.

2401. A letter from the Secretary of Commerce, transmitting notice of designation for the Flower Garden Banks National Marine Sanctuary, from the National Oceanic and Atmospheric Administration, National Ocean Service, and the Department of Commerce, pursuant to 16 U.S.C. 1431 et seq.; to the Committee on Merchant Marine and Fisheries.

2402. A letter from the Secretary of Transportation, transmitting the Department's report on the potential benefits of a shipper responsibility law; to the Committee on Public Works and Transportation.

2403. A letter from the National Adjutant, the Disabled American Veterans, transmitting the report of the proceedings of the organization's 70th National Convention, including their annual audit report of receipts and expenditures as of December 31, 1990, pursuant to 44 U.S.C. 1332, and section 3 of Public Law 88–504 (H. Doc. No. 102–167); to the Committee on Veterans' Affairs and ordered to be printed.

2404. A letter from the Secretary, Department of Health and Human Services, transmitting the fifth report on tier III Federal agency drug-free workplace programs, pursuant to Public Law 100–71, section 503(a)(1)(A) (101 Stat. 468); jointly, to the Committees on Appropriations and Post Office and Civil Service.

2405. A letter from the Secretary of Labor, transmitting a draft of proposed legislation entitled, "Pension Protection in Bankruptcy Act of 1991"; jointly, to the Committees on Ways and Means, Education and Labor, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3604. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri and for other purposes; with amendments (Rept. 102–346, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3327. A bill to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department (Rept. 102–347). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1099. A bill to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. 102–348). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2431. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System; with amendments (Rept. 102–349). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 294. Resolution waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, and for other purposes (Rept. 102–351). Referred to the House Calendar.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1592. A bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit; with an amendment (Report. 102–352). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3370. A bill to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, OK; with amendments (Rept. 102–353). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interim and Insular Affairs. H.R. 2141. A bill to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes; with an amendment (Rept. 102–354, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3645. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes. (Rept. 102–355). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2263. A bill to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; with amendments (Rept. 102–356). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3282. A bill to provide for the equity of revenue availability on American and foreign cruise vessels, the regulation of gaming on vessels, penalties for gambling violations, and for other purposes; with amendments (Rept. 102–357). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3435. A bill to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; with amendments (Rept. 102–358). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3638. A bill making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge; without amendment. Committee of the Whole House on the state of the Union discharged. Referred to the Committee on Interior and Insular Affairs for a period ending not later than November 25, 1991, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(l) of rule X. (Rept. 102–350, Part, 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWIFT;

H.R. 3865. A bill to amend the Solid Waste Disposal Act to authorize appropriations for fiscal years 1993 through 1998, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ORTIZ (for himself, Mr. JONES of North Carolina, and Mr. STUDDS):

H.R. 3866. A bill to provide for the designation of the Flower Garden Banks National Marine Sanctuary; to the Committee on Merchant Marine and Fisheries.

By Mr. BARNARD (for himself, Mr. WYLIE, Mr. MCCANDLESS, and Mr. BAKER):

H.R. 3867. A bill to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PANETTA;

H.R. 3868. A bill to provide sanctions against any country that does not prohibit large-scale drift net fishing by nationals and vessels of that country, to enhance fisheries conservation programs, to extend the Fish and Seafood Promotion Act of 1986, and to stabilize the price received by harvesters of sockeye salmon; jointly, to the Committee on Merchant Marine and Fisheries and Ways and Means.

By Mr. INHOFE;

H.R. 3869. A bill to provide a uniform benefit structure for purposes of the Emergency

VOL 137 PT 23 NO 21—25 1991 UMI

Unemployment Compensation Act of 1991; to the Committee on Ways and Means.

By Mr. ASPIN (for himself, Mr. Gephardt, and Mr. Hamilton):

H.R. 3870. A bill to provide for the furnishing of emergency humanitarian assistance to the people of the Soviet Union and to assist in the conversion of the military industrial complex of the Soviet Union to civilian uses; jointly, to the Committee on Armed Services and Foreign Affairs.

By Mr. BARTON of Texas (for himself, Ms. Pelosi, Mr. Miller of Washington, Mr. Jones of Georgia, and Mr. Hobson):

H.R. 3871. A bill to provide for adjustment to permanent resident status of certain Chinese nationals; to the Committee on the Judiciary.

By Mr. BENNETT:

H.R. 3872. A bill to establish a commission to assist the Soviet Republics and nations of Eastern Europe during their transition to a market economy, democracy, and stable governments; to the Committee on Foreign Affairs.

By Mr. CONYERS:

H.R. 3873. A bill to express United States policy regarding the restoration of democratic constitutional government in Haiti, to grant temporary protected status to Haitians until such a government is restored, and to terminate the migrant interdiction agreement between the United States and Haiti; jointly, to the Committees on Foreign Affairs, Ways and Means, Merchant Marine and Fisheries, and the Judiciary.

By Mr. DIXON (for himself, Mr. Applegate, Mr. Bustamante, Mr. Clay, Mrs. Collins of Illinois, Mr. Dwyer of New Jersey, Mr. Espy, Mr. Frank of Massachusetts, Mr. Fuster, Mr. Hayes of Illinois, Mr. Jefferson, Mr. Mfume, Mr. Mrazek, Mr. Murphy, Ms. Norton, Mr. Oberstar, Mr. Owens of New York, Mr. Perkins, Mr. Rangel, Mr. Savage, Mr. Torres, Mr. Towns, Mr. Traficant, Mr. Wolpe, Mr. Washington, Mr. Ford of Tennessee, Ms. Kaptur, Mr. Evans, Mr. Frost, and Mr. Conyers):

H.R. 3874. A bill to amend the Internal Revenue Code of 1986 to promote the development and preservation of rental housing for low- and moderate-income families; to the Committee on Ways and Means.

By Mr. DONNELLY (for himself, Mr. Neal of Massachusetts, and Mr. Mavroules):

H.R. 3875. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for capital gains for middle-income taxpayers and to provide for revenue increases to fund such relief; to the Committee on Ways and Means.

By Mr. DOOLEY (for himself, Mr. Lehman of California, Mr. Herger, Mr. Condit, and Mr. Doolittle):

H.R. 3876. A bill to protect, restore, and enhance fish and wildlife habitat within the Central Valley of California, mitigate Central Valley Project impacts in order to maintain the continued orderly operation on the Central Valley Project, and for other purposes; jointly, to the Committee on Merchant Marine and Fisheries and Interior and Insular Affairs.

By Mr. ENGLISH:

H.R. 3877. A bill to provide equal access to Presidential, congressional, and judicial records; to the Committee on Government Operations.

By Mr. FORD of Michigan (for himself, Mr. Gaydos, Mr. Clay, Mr. Murphy, Mr. Kildee, Mr. Perkins, Mr. Annunzio, Ms. Collins of Michigan, Mr. DeFazio, Mr. Dellums, Mr. Eckart, Mr. Evans, Mr. Glickman, Mr. Gonzalez, Mr. Hefner, Mr. Jontz, Mr. Kanjorski, Ms. Kaptur, Mr. Kleczka, Mr. Kolter, Mr. McNulty, Mr. Murtha, Mr. Poshard, Mr. Stark, Mr. Towns, and Mr. Traxler):

H.R. 3878. A bill to provide assistance to employees who are subject to a plant closing or mass layoff because their work is transferred to another country which has low wages or unhealthy working conditions; to the Committee on Education and Labor.

By Mr. GEKAS:

H.R. 3879. A bill to apply to administrative judges of the Merit Systems Protection Board certain protections afforded to administrative law judges appointed under section 3105 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GILLMOR:

H.R. 3880. A bill to repeal exemptions from civil rights and labor laws for Members of Congress; jointly, to the Committees on Education and Labor, House Administration, and Government Operations.

By Mr. GORDON:

H.R. 3881. A bill to expand the boundaries of Stones River National Battlefield, TN, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GUNDERSON (for himself and Mr. Roberts):

H.R. 3882. A bill to amend section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act to coordinate and synchronize pesticide data requirements; to the Committee on Agriculture.

By Mr. HUNTER:

H.R. 3383. A bill to amend chapter 73 of title 10, United States Code, to provide a minimum monthly annuity under such chapter; to the Committee on Armed Services.

By Mr. JACOBS:

H.R. 3884. A bill to suspend through December 31, 1994, the duty on ioxilan; to the Committee on Ways and Means.

By Mr. LaFALCE:

H.R. 3885. A bill to amend the Toxic Substance Control Act to increase the criminal penalties, and for other purposes; jointly, to the Committee on Energy and Commerce and the Judiciary.

By Mr. LEVINE of California:

H.R. 3886. A bill to increase the achievement levels of elementary and secondary students by using high quality curricular-based learning resources; to the Committee on Education and Labor.

By Mr. McEWEN:

H.R. 3887. A bill to amend the Agricultural Act of 1949 to eliminate the loan origination fee charged a producer of oilseed crops; to the Committee on Agriculture.

By Mr. McGRATH:

H.R. 3888. A bill to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations; to the Committee on Ways and Means.

H.R. 3889. A bill to amend the Tariff Act of 1930 to increase the allowance for bona fide gifts sent from persons in foreign countries to persons in the United States; to the Committee on Ways and Means.

By Mr. MOODY:

H.R. 3890. A bill to direct the Administration of the Federal Aviation Administration to issue regulations to require individuals conducting weapon screenings of passengers in air transportation to notify law enforcement officers of discoveries of controlled substances and/or sums of money in excess of $10,000 in accordance with applicable Federal guidelines; to the Committee on Public Works and Transportation.

By Mr. RAMSTAD (for himself, Mr. Fish, Mr. Gallegly, Mr. Combest, Mr. Weber, Mr. Cunningham, Mr. Campbell of California, Mr. Sensenbrenner, Mr. Emerson, Mr. Herger, Mr. Oxley, Mr. Mazzoli, Mr. Lewis of California, Mr. Schiff, Mr. Fields, Mr. Camp, Mr. Santorum, Mr. Paxon, Mr. Stump, Mr. Coble, Mr. Miller of Ohio, Mr. Franks of Connecticut, Mr. Armey, Mr. Parker Mr. Solomon, Mr. Kyl, and Mr. Hancock):

H.R. 3891. A bill to provide life imprisonment without releases for certain criminals convicted a third time: jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. RINALDO (for himself, Mr. Hobson, and Mr. Smith of New Jersey):

H.R. 3890. A bill to amend the Internal Revenue Code of 1986 to deny the deduction for expenses paid by an employer for a group health plan if the plan discriminates against adopted children; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 3893. A bill to amend title 5, United States Code, to permit the garnishment of an annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, if necessary to satisfy a judgment against an annuitant for physically abusing a child; to the Committee on Post Office and Civil Service.

By Mr. STALLINGS (for himself and Mr. LaRocco):

H.R. 3894. A bill to prohibit the transportation of certain nuclear waste to the Idaho National Engineering Laboratory; to the Committee on Armed Services.

By Mr. STARK:

H.R. 3895. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the production or importation of asbestos; to the Committee on Ways and Means.

By Mr. VISCLOSKY:

H.R. 3896. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in Lake County or Porter County, IN; to the Committee on Veterans' Affairs.

By Mrs. VUCANOVICH (for herself, Mr. Doolittle, Mr. Stallings, and Mr. Hansen):

H.R. 3897. A bill to provide for the apportionment and distribution of the award in Indian Claims Commission docket numbered 326–k, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHEAT:

H.R. 3898. A bill to provide for the addition of the Truman farm house to the Harry S. Truman National Historic Site in the State of Missouri; to the Committee on Interior and Insular Affairs.

By Mr. ANDREWS of Maine:

H.J. Res. 380. Joint resolution designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand"; to the Committee on Post Office and Civil Service.

By Mr. BLILEY:

H.J. Res. 381. Joint Resolution designating January 16, 1992, as "Religious Freedom Day"; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Res. 292. Resolution expressing the sense of the House of Representatives with respect

to legislation relating to the amortization of goodwill and certain other intangibles; to the Committee on Ways and Means.

By Mr. GILMAN (for himself, Mr. Blaz, Mr. Solarz, Mr. Abercrombie, Mr. Leach, Mr. Lagomarsino, Mr. Faleomavaega, Mr. Smith of New Jersey, Ms. Snowe, Mr. Boehlert, Mr. McHugh, Mr. McCandless, Ms. Oakar, Mr. Levin of Michigan, Mr. Thomas of California, Mr. LaFalce, Mr. Green of New York, Mr. Horton, Mr. Regula, Mr. Saxton, Mr. Bliley, Mr. Baker, Mr. Spence, Mr. Weber, Mr. Burton of Indiana, Mrs. Johnson of Connecticut, Mr. McEwen, Mr. Ballenger, Mr. Coble, Mr. Hancock, Mr. Edwards of Oklahoma, Mr. Montgomery, Mr. Duncan, Mr. Dannemeyer, Mr. Cunningham, Mr. Huckaby, Mr. Holloway, Mr. Broomfield, Mr. Camp, Mr. Rangel, Ms. Slaughter of New York, Mr. McGrath, Mr. Ramstad, Mr. DeLay, Mr. Callahan, Mr. Dreier of California, and Mr. Aspin):

H. Res. 293. Resolution commending the people of Guam and Hawaii for the sacrifices and contributions they made during World War II; to the Committee on Interior and Insular Affairs.

By Mrs. BENTLEY (for herself, Mr. Cunningham, Mr. Packard, Ms. Kaptur, Mr. Traficant, and Mr. Blackwell):

H. Res. 295. Resolution requesting that Japan should apologize; to the Committee on Foreign Affairs.

By Mr. GALLEGLY (for himself, Mr. Gilman, Mr. Upton, Mr. Pursell, Mr. Vander Jagt, Mr. Broomfield, Mr. Sensenbrenner, Mr. Campbell of California, Mr. Cox of California, Mr. Ravenel, Mr. Hall of Texas, Mr. Lipinski, Mr. Traficant, Mr. Andrews of Texas, Mr. Miller of Washington, Mr. Eckart, Mr. Rohrabacher, Mr. Torricelli, Mr. Doolittle, Mr. Tauzin, Mr. Dannemeyer, Mr. Kyl, Mr. Dreier of California, Mr. Hyde, Mr. Rhodes, Mr. Edwards of Oklahoma, Mr. Lantos, Mr. Ackerman, Mr. LaFalce, Mr. Moorhead, Mr. Dornan of California, Mr. Smith of New Jersey, Mr. Kasich, Mr. Ritter, Ms. Molinari, Mr. Riggs, Mr. Fawell, Mr. Anderson, and Mr. Livingston):

H. Res. 296. Resolution expressing the sense of the House of Representatives regarding United States policy toward Yugoslavia; to the Committee on Foreign Affairs.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Spratt, Mr. Hyde, Mr. Pease, Mrs. Kennelly, Mr. Dingell, Mr. Moakley, Mr. Aspin, Mr. Murtha, Mr. Chandler, Mr. Broomfield, Mr. Ford of Michigan, Mr. Franks of Connecticut, Mr. Cardin, Mr. Conyers, Mr. Coyne, Mrs. Bentley, Mr. Russo, Mr. Applegate, Mr. Sawyer, Mr. Bustamante, Mr. Fawell, Mr. Murphy, Mr. Abercrombie, Mr. Cox of California, Mr. Durbin, Mr. Goodling, Mr. Luken, Mr. Ridge, Mr. Ritter, Mrs. Patterson, Mr. Stokes, Mr. Owens of Utah, Mr. Horton, Mr. Eckart, Mr. Yatron, Mr. Walsh, Mr. McNulty, Mr. Henry, Mr. McGrath, Mr. Cox of Illinois, Mr. Camp, Mrs. Meyers of Kansas, Mr. Davis, Mr. Atkins, Mr. Carr, Mr. Paxon, Mr. Towns, Mr. Bunning, Mr. Sangmeister, Mrs. Byron, Mr. McDade, Mr. Hall of Ohio, Mr. Kennedy, Mr. Foglietta, Mr. Neal of Massachusetts, Mr. Wolpe, Mr. Hunter, Mr. Gekas, Mr. Hertel, Mr. Sundquist, Mr. Gilchrest, Mr. Gaydos, Mr. McMillen of Maryland, Mrs. Morella, Mr. Santorum, Mr. Olin, Mr. Sikorski, Mr. Hayes of Illinois, Mr. Ballenger, Mr. Nowak, Mr. Porter, Mr. Sensenbrenner, Mr. Kildee, and Mr. Shays):

H. Res. 297. Resolution to urge the President to renew the voluntary restraint arrangements with Japan and Taiwan for an additional 5 years; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BROWDER introduced a bill (H.R. 3899) for the relief of Merrill L. Johnson-Lannen; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. Bereuter.

H.R. 47: Mr. Abercrombie.

H.R. 81: Ms. Norton.

H.R. 144: Mr. Roth.

H.R. 187: Mr. Flake, Mr. Traxler, and Mr. Frost.

H.R. 191: Mr. Packard, Mr. Walker, Mr. Rohrabacher, and Mr. Ritter.

H.R. 194: Mr. Dwyer of New Jersey and Mr. Kildee.

H.R. 252: Mr. Swett and Mr. Washington.

H.R. 413: Mr. Lagomarsino, Mrs. Collins of Illinois, Mr. Richardson, Mr. Packard, Mr. Roybal, Mr. Gilchrest, and Mr. McMillan of North Carolina.

H.R. 461: Mr. Kopetski, Mr. Brown, Mr. Spratt, and Mr. Johnson of South Dakota.

H.R. 519: Mr. Packard.

H.R. 565: Mrs. Unsoeld, Mr. Smith of Texas, Mr. Andrews of Maine, and Mr. Montgomery.

H.R. 606: Mr. Armey.

H.R. 643: Mr. AuCoin.

H.R. 842: Mr. Serrano, Mr. Fish, Mr. Reed, Ms. Norton, Mr. Synar, and Mr. Donnelly.

H.R. 911: Mr. Upton.

H.R. 1021: Ms. Norton.

H.R. 1048: Mr. Markey.

H.R. 1124: Mrs. Boxer and Mr. Kleczka.

H.R. 1147: Mr. Applegate, Mr. Eckart, and Mr. Allen.

H.R. 1200: Mr. Walsh, Mr. Bevill, Mr. Kolter, Mr. AuCoin, Mrs. Schroeder, Mr. Sabo, and Mr. de Lugo.

H.R. 1240: Mr. Clay.

H.R. 1300: Mr. Feighan.

H.R. 1502: Mr. Dicks and Mr. Machtley.

H.R. 1509: Mr. Mineta, Ms. Snowe, Mr. Panetta, Mr. Hayes of Louisiana, Mr. Spence, Mr. Erdreich, Mr. McNulty, Mr. Blaz, Mr. Perkins, Mr. Owens of Utah, Mr. Santorum, Mr. Costello, Mr. Geren of Texas, Mr. Holloway, Mr. Hayes of Illinois, Mr. Brown, Mr. Duncan, Mr. Livingston, Mr. McCrery, Mr. McDade, Mr. McGrath, Mr. Marlenee, Mr. Mfume, Mr. Murtha, Mr. Savage, Mr. Oxley, Mr. Spratt, Mr. Traficant, Ms. Slaughter of New York, Ms. Norton, Mr. Stenholm, Mr. McMillen of Maryland, Mr. Moran, Mr. Callahan, Mr. Gingrich, Mrs. Bentley, Mr. Kasich, Mr. McCloskey, Mr. Murphy, Mr. Rowland, Mr. Foglietta, Mr. Lowery of California, Mr. Tallon, Mr. Bevill, Mr. Dreier of California, Mr. Saxton, Mr. Coble, Mr. Jones of North Carolina, Mr. Clement, Mr. Myers of Indiana, Mr. DeFazio, Mrs. Morella, Mr. Ortiz, Mr. de la Garza, Mr. Sisisky, Mr. Franks of Connecticut, Mr. Matsui, and Mr. Martinez.

H.R. 1633: Mr. Rahall and Mr. Boucher.

H.R. 1665: Mr. Weiss.

H.R. 1703: Mr. Foglietta.

H.R. 1730: Mr. Santorum, Mr. Johnson of Texas, Mr. Gingrich, Mr. Livingston, Mr. Young of Alaska, Mr. LaFalce, Mr. Blaz, and Mrs. Lloyd.

H.R. 1736: Mr. Gillmor.

H.R. 1752: Mrs. Lowey of New York.

H.R. 1898: Ms. Pelosi, Mr. Jacobs, Mrs. Unsoeld, Mr. Lightfoot, Mr. Dellums, Mr. Lewis of Florida, Mr. Horton, Mr. Jefferson, Ms. Kaptur, Mr. Bereuter, Mr. Rangel, and Ms. Norton.

H.R. 2008: Mr. Hefley.

H.R. 2089: Mr. Lantos and Ms. Kaptur.

H.R. 2286: Mr. Armey and Mr. Walsh.

H.R. 2363: Mr. Kasich, Mr. Levin of Michigan, Mr. McNulty, Mr. Nussle, Mr. Dellums, Mr. de Lugo, Mr. Herger, and Mr. Dixon.

H.R. 2500: Mr. Brown.

H.R. 2501: Mr. Lipinski.

H.R. 2540: Mr. Smith of Florida.

H.R. 2541: Mr. Blaz.

H.R. 2598: Mr. Nussle, Mr. Andrews of New Jersey, Mr. Schiff, Mr. Ackerman, and Mr. Coleman of Texas.

H.R. 2755: Mr. Slattery.

H.R. 2811: Mr. Hastert.

H.R. 2862: Mr. Upton.

H.R. 2881: Mr. Beilenson.

H.R. 2936: Mrs. Boxer and Mr. Schiff.

H.R. 2964: Mr. McCandless, Mr. Martin, and Mr. Beilenson.

H.R. 3058: Mr. Johnson of South Dakota, Mr. Dwyer of New Jersey, Mr. Ravenel, Mr. Hughes, Mr. Poshard, Mr. Nowak, Mr. Machtley, Mr. Condit, and Mr. Payne of Virginia.

H.R. 3059: Mr. Johnson of South Dakota, Mr. Dwyer of New Jersey, Mr. Ravenel, Mr. Hughes, Mr. Poshard, Mr. Nowak, and Mr. Machtley.

H.R. 3061: Mr. Solomon.

H.R. 3070: Mr. Ray, Mr. Clement, Mr. Coleman of Texas, Mr. Bevill, Mr. Sharp, and Mr. Traficant.

H.R. 3084: Mr. Doolittle and Mr. Stearns.

H.R. 3102: Mr. AuCoin, Mr. Dixon, and Mr. Foglietta.

H.R. 3142: Mr. Young of Alaska.

H.R. 3236: Mr. Rangel and Mr. Bonior.

H.R. 3253: Mr. DeFazio, Mr. Torricelli, Mr. Russo, and Mr. Smith of Florida.

H.R. 3277: Mr. Studds, Mr. Synar, Mr. English, Mr. Saxton, Mr. Chapman, Mr. Boucher, Mr. Pallone, Mr. Brewster, and Mr. Moody.

H.R. 3282: Mr. Franks of Connecticut and Mr. Clement.

H.R. 3337: Mr. Coleman of Missouri, Mr. Dingell, Mr. Pickle, Mr. Sundquist, Mr. Ridge, Mr. McMillan of North Carolina, Mr. Lent, Mr. Shaw, Mr. Rhodes, Mr. Thomas of California, Mr. Broomfield, Mr. Traxler, Mr. Hyde, Mr. Holloway, Mr. Dornan of California, Mr. Weber, Mr. Combest, Mr. Hansen, Mr. Quillen, Mr. Smith of New Jersey, Mr. McCrery, Mr. Goodling, Mr. Grandy, Mr. Taylor of Mississippi, Mr. Darden, Mr. Jones of Georgia, Mr. Rahall, Mr. McGrath, Mr. Aspin, Mr. Spence, Mr. Hoagland, Mr. Perkins, Mr. Smith of Iowa, Mr. Schaefer, Mr. Anthony, Mr. Young of Florida, Mr. Erdreich, Mr. Montgomery,

VOL
137
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23
NO
21
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25
1991
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Mr. Dellums, Mr. Sensenbrenner, Mr. Hastert, Mr. Gekas, Mr. Young of Alaska, Mr. Hughes, Mr. Livingston, Mr. Gallegly, Mr. Berman, Mr. Herger, Mr. Callahan, Mr. Thomas of Wyoming, and Mr. Slattery.

H.R. 3373: Ms. Horn, Mr. Bryant, and Mr. Markey.

H.R. 3407: Mr. Dymally and Mr. Slattery.

H.R. 3420: Mr. Barnard, Mr. Bruce, Ms. Long, Mr. Tallon, Mr. Camp, Mr. Quillen, Mr. Nagle, Mr. Henry, Mr. Williams, Mr. Dickinson, Mr. Valentine, Mr. Vander Jagt, Mr. Johnson of South Dakota, Mr. Stenholm, and Mr. Lancaster.

H.R. 3452: Mr. Bilirakis.

H.R. 3464: Mr. Markey.

H.R. 3473: Mr. Dwyer of New Jersey. Mr. Stallings, and Mr. Swift.

H.R. 3540: Mr. Rangel.

H.R. 3553: Mr. Swift.

H.R. 3555: Mr. Pallone.

H.R. 3561: Mr. Hyde, Mr. Klug, Mr. Herger, Mr. Moorhead, Mr. Paxon, and Mr. Franks of Connecticut.

H.R. 3616: Mr. Dannemeyer.

H.R. 3627: Mr. Bunning, Mr. Rogers, Mr. Chandler, Mr. Ewing, Mr. Johnson of South Dakota, Mr. Johnston of Florida, Mr. Neal of North Carolina, Mr. Kildee, Mr. Swift, Mr. Ray, Mr. Stump, Mr. Crane, Mr. Nichols, Mr. Taylor of North Carolina, Mr. Porter, Mr. Marlenee, Mr. Ridge, Mr. Hunter, Mr. Dannemeyer, Mr. Mazzoli, Mr. Hyde, Mr. AuCoin, and Mr. Gallo.

H.R. 3649: Mr. Towns and Mr. Jontz.

H.R. 3675: Mr. Rangel, Mr. Jontz, Mr. Schumer, Mr. Waxman, and Mr. Dwyer of New Jersey.

H.R. 3706: Mr. Torricelli, Mr. Dorgan of North Dakota, Mr. Kleczka, Mr. Engel, Mr. Frost, and Mr. Paxon.

H.R. 3748: Mr. Bonior, Mr. Evans, Mr. Bryant, Mr. Dixon, Mr. Fazio, Mr. Panetta, Mr. McCloskey, Mr. Dellums, Mr. Clay, Mr. Ford of Tennessee, Mr. Espy, Mr. Frost, Mr. Serrano, Mr. Lewis of Georgia, Mr. de Lugo, Mr. Green of New York, Mrs. Morella, Mr. Price, and Mrs. Kennelly.

H.R. 3816: Mr. Fish, Mr. Grandy, Mr. Klug, Ms. Molinari, Mr. Weldon, Mr. Kolter, Mr. McCollum, Mr. Sarpalius, Mr. Gilchrest, Mr. Bevill, Mr. Johnson of Texas, Mr. Shuster, Mr. Atkins, Mr. Bereuter, Mr. Goodling, Mr. James, Mr. Marlenee, Mr. Smith of Texas, Mr. Nichols, Mr. Stearns, Mr. Taylor of North Carolina, Mr. Ridge, Mr. Blaz, and Mr. Neal of Massachusetts.

H.R. 3820: Mr. Glickman and Mr. Schumer.

H.R. 3822: Mr. Lowery of California and Mr. Lagomarsino.

H.R. 3824: Mr. Combest, Mr. Doolittle, and Mr. Hancock.

H.R. 3825: Mr. Schiff, Mr. Costello, Mr. Ireland, Mr. Poshard, and Mr. Coleman of Texas.

H.R. 3864: Mr. Chapman and Mr. Gekas.

H.J. Res. 212: Mr. Goodling, Mrs. Vucanovich, Mr. Young of Alaska, Mr. Torres, and Mr. Durbin.

H.J. Res. 244: Mrs. Bentley, Mr. Bilbray, Mr. Bilirakis, Mr. Borski, Mr. Dellums, Mr. Fazio, Mr. Ford of Tennessee, Mr. Gilman, Mr. Lipinski, Ms. Long, Mr. McHugh, Mr. Machtley, Mr. Miller of Ohio, Mr. Mrazek, Mr. Orton, Ms. Waters, Mr. Wilson, Mr. Jones of Georgia, Mrs. Boxer, and Mr. Pastor.

H.J. Res. 248: Mr. Sundquist, Mr. McMillan of North Carolina, and Mr. Allen.

H.J. Res. 272: Mr. Hayes of Louisiana, Mr. Neal of Massachusetts, Mr. Valentine, Ms. Long, Mr. Brewster, Mr. Gunderson, Mr. McMillen of Maryland, Mr. Hall of Texas, Mr. McNulty, Mr. Traxler, Mr. Saxton, Mr. Espy, Mr. Bevill, Mr. Johnson of South Dakota, Mr. Leach, Mr. Emerson, Mr. Bustamante, Mr. Stenholm, Mr. Stallings, Mr. Zimmer, Mr. Sarpalius, Mr. Neal of North Carolina, Mr. Durbin, Mr. Skeen, Mr. Wilson, Mr. Ewing, Mr. Erdreich, Mr. Tanner, Mr. Jontz, Mr. Dorgan of North Dakota, Mr. Kolter, Mr. DeFazio, Mr. LaRocco, Mr. Payne of Virginia, Mr. McHugh, Mr. Hoyer, Mr. Browder, Mr. Fascell, Mr. Coleman of Missouri, Mr. Grandy, Mr. Hastert, Mr. Laughlin, Mr. Barrett, Mr. Lightfoot, Mr. Bereuter, Mr. Levin of Michigan, Mr. Chapman, Mr. Kasich, Mr. Walsh, Mr. Poshard, Ms. Kaptur, Mr. Roe, Mr. Martinez, Mr. Thomas of Georgia, Mr. Lehman of California, Mr. Panetta, Mr. Frost, Ms. Slaughter of New York, Mr. Sangmeister, Mr. Hughes, Ms. Norton, Mr. Costello, Mr. Traficant, Mr. Roemer, Mr. Bruce, Mr. Wise, Mr. Conyers, Mr. Peterson of Florida, Mr. Gekas, Mr. Gillmor, and Mr. Evans.

H.J. Res. 290: Mr. Kennedy and Mr. Allen.

H.J. Res. 342: Mr. McMillen of Maryland.

H.J. Res. 348: Mr. Hobson, Mr. Wylie, Mr. Alexander, Mr. Oxley, Mr. Kasich, Mr. Fawell, Mr. Ramstad, Mr. Roth, and Mr. Gunderson.

H.J. Res. 352: Mr. Tauzin, Mr. Hayes of Louisiana, Mr. Fish, Mr. McCrery, Mr. Roemer, Mr. Fields, Mr. Payne of Virginia, Mr. de Lugo, Mr. McCloskey, Mr. Ritter, Mr. Poshard, Mr. LaFalce, Mr. Savage, and Mr. Edwards of California.

H.J. Res. 353: Mr. Alexander, Mr. Berman, Mr. Bilbray, Mr. Chandler, Mr. Cramer, Mr. de la Garza, Mr. de Lugo, Mr. Dixon, Mr. Dornan of California, Mr. Dymally, Mr. Emerson, Mr. Fascell, Mr. Ford of Tennessee, Mr. Gekas, Mr. Hayes of Illinois, Mr. Hayes of Louisiana, Mr. Huckaby, Mr. Jenkins, Mr. Johnson of South Dakota, Ms. Kaptur, Mr. Kasich, Mr. Kennedy, Mr. LaFalce, Mr. Lent, Mr. Livingston, Ms. Long, Mr. McDade, Mr. McDermott, Mr. McGrath, Mr. Matsui, Mr. Neal of Massachusetts, Mr. Paxon, Mr. Quillen, Mr. Rangel, Mr. Rhodes, Mr. Skeen, Mr. Smith of New Jersey, Mr. Stark, Mr. Towns, and Mr. Weldon.

H.J. Res. 358: Mr. Derrick, Mr. Jontz, Mr. Rangel, Mr. Lagomarsino, Mr. Gallegly, Ms. Slaughter of New York, Mr. Frost, Mr. Smith of Texas, Ms. Long, Mr. Poshard, and Mr. Donnelly.

H.J. Res. 364: Mr. Coughlin, Mr. Foglietta, and Mr. Ford of Tennessee.

H.J. Res. 375: Mr. Martinez, Mr. Walsh, Mr. Poshard, and Mr. Paxon.

H. Con. Res. 8: Mr. Pursell.

H. Con. Res. 58: Mr. Smith of Florida.

H. Con. Res. 119: Mr. Engel.

H. Con. Res. 194: Mr. Inhofe and Mr. Solomon.

H. Con. Res. 210: Mr. Owens of New York.

H. Con. Res. 224: Mr. Ackerman, Mr. Camp, and Mr. Frost.

H. Con. Res. 225: Mr. Paxon.

H. Con. Res. 232: Mr. Lagomarsino, Mr. Coyne, Mr. Hughes, Mrs. Meyers of Kansas, Mr. Dellums, Mr. Shaw, and Mrs. Unsoeld.

H. Con. Res. 233: Mr. Torricelli, Mr. Horton, Mr. Annunzio, Mr. Lent, Mr. Ritter, Mrs. Meyers of Kansas, Mr. Payne of Virginia, Mr. Fish, and Mr. Bereuter.

H. Con. Res. 236: Mr. Hammerschmidt, Mr. Murphy, Mr. Mfume, Mr. Marlenee, Mr. Burton of Indiana, Mr. Hughes, and Mr. Lent.

H. Con. Res. 240: Mr. Frost, Mr. Hughes, Mrs. Schroeder, Mr. Wheat, and Mr. Porter.

H. Res. 215: Mr. Hefley, Mr. Solomon, and Mr. Santorum.

H. Res. 271: Mr. Solarz, Mr. Stark, Mr. Rangel, Mr. Shays, Mr. Schumer, Mr. Roybal, Mr. Matsui, Mr. Foglietta, and Mr. Feighan.

H. Res. 284: Mr. Barnard, Mr. Mineta, and Mr. Scheuer.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 201: Mr. Boehner.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

132. The SPEAKER presented a petition of Lithuanian American Council, Inc., relative to the Republic of Lithuania; which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

LET'S END ASBESTOS SLAUGHTER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. STARK. Mr. Speaker, I was outraged by the recent Federal appeals court ruling overturning the Environmental Protection Agency ban on asbestos. Asbestors is a known killer. This cancer causing substance is responsible for between 3,000 and 12,000 deaths every year. Its use must end.

I am introducing an excise tax on the production or importation of asbestos. The tax is $150 per metric ton of asbestos. Most asbestos is valued at between $140 to $260 per ton. The size of the tax is high relative to the value of asbestos. This is intentional. The tax is meant to be punitive.

It is important to note here, that virtually all asbestos is imported from Canacda. Less than 100 U.S. jobs are tied directly to mining asbestos. This tax would have no real negative effect on U.S. jobs or the economy.

The asbestos industry is incredibly destructive. More than 21,000,000 Americans have been exposed to asbestos on the job. Estimates are that at a minimum 200,000 people will die from asbestos-related cancer before the end of the decade.

The monetary cost of asbestos is equally significant. More than a billion dollars had been spent prior 1982 by industry on asbestos-related lawsuit expenses and damages. Estimates are for asbestos-related industries to spend an additional $8 to $87 billion in the future on expenses and damages.

EPA after a decade of assessing the risks of asbestos found that asbestos poses an unreasonable risk to health. EPA rightly moved to ban asbestos. There is no use for asbestos that doesn't have a safer substitute. The National Resources Defense Council strongly supports using an excise tax on asbestos.

Asbestos is an axiom for cancer and death. It is time to end the misery caused by this industry.

INDONESIAN VIOLATION OF HUMAN RIGHTS IN EAST TIMOR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GILMAN. Mr. Speaker, on November 12th, Indonesian security forces killed approximately 60 and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor.

I am outraged and deeply concerned that unarmed mourners were attacked. Equally as disturbing are credible reports filtering out of the country that families of the dead and wounded are not being given access to their relatives. In most cases they do not know if they are dead or being tortured by the Indonesian Army.

Asia Watch informs us that, "the Indonesian Army has its own grim repertoire of torture techniques, ranging from a primitive electric shock machine—with a crank-up generator and wires which are attached around the victim's toes, fingers, ears or genitals—to the method of putting the legs of a table over the foot of a suspect and having the interrogator then sit on the table."

Mr. Speaker, Senators Pell and Wallop and Congressman Tony Hall very recently introduced a resolution expressing the sense of the Congress that the President should suspend international military educational training [IMET] funds to the Indonesian Government. These funds total $1.9 million out of the overall aid package to Indonesia of $50 million. I believe the cut off of these funds is the very least we can do to a government that appears to lack the slightest respect for the basic human rights of its citizens.

RECOGNITION OF SANDY MILLER NEVADA'S FIRST LADY AMERICAN CANCER SOCIETY COURAGE AWARD RECIPIENT

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BILBRAY. Mr. Speaker, I rise today to honor Sandy Miller, a woman who has devoted much of her life to helping those with disabilities, and the recipient of the 1991 American Cancer Society Courage Award.

As a resident of Nevada since 1951, Sandy received her Bachelors of Science and Education at the University of Nevada, Las Vegas in 1971. Since then she has been working to improve the lives of everyone around her, especially for children and the disabled.

After graduation, Sandy immediately began her charitable career at Ruby Thomas School as a teacher of the aurally handicapped and worked on the design committee for the deaf education wing. Also early in her career, she prepared legislation in support of the Advocate for Children with Learning Disabilities, and was a representative for Teachers in Politics.

Her marriage to current Governor Bob Miller in 1973 continued her pursuit of political and charitable work. For over 15 years, Sandy Miller has dedicated her valuable time to improving the Las Vegas community and the State of Nevada through service on numerous organizations: she served on the March of Dimes Board of Directors and as honorary chairwoman; was cochairman of Mothers March; worked with the PTA and Junior League and was Brownie Troop leader; and Sandy served on the Board of the Young Volunteers of Nevada, the Ben Franklin Club, the Children's Museum of Carson City, and the University of Nevada Advisory Board.

Now Sandy Miller is being honored as the recipient of the American Cancer Society Courage Award for her works towards promoting breast cancer awareness among women in the State of Nevada. Sandy was thrown a curve during her campaign to educate women about breast cancer and the importance of mammography. To make women feel more comfortable about breast cancer screenings, she publicly announced that she would voluntarily take a mammography exam. She had not taken one previously because of her family's historically low prevalence of cancer. To her surprise, the mammography discovered a lump in one of her breasts. Thankfully, however, it was later found to be benigh,

Throughout this scare, Sandy made public what she was going through. To her credit, she disregarded the possible effects of publicizing this information to make an example of herself so that the women of Nevada could learn of the vital importance of breast cancer screenings. To be sure, because of Sandy's efforts Nevada women are more knowledgeable about mammographies, more comfortable with the exam, and more enlightened than ever about the value of prevention and early detection.

Mr. Speaker, Sandy Miller's concern for the health of women and her accomplishments in educating women about breast cancer exemplifies her fortitude which makes her this year's recipient of the American Cancer Society Courage Award.

THE $70 BILLION ROBBERY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. OWENS of New York. Mr. Speaker, yesterday the House voted to give $70 billion to the Federal Deposit Insurance Corporation which is responsible for guaranteeing the money of persons who have deposits in commercial banks. The big collective official lie in Washington is that this $70 billion is merely a loan from the Treasury Department. The reality is that every sane person in Washington knows that this $70 billion will never be repaid to the U.S. Treasury.

This $70 billion is not a loan to the commercial banks. This $70 billion is a bailout of the banks. We are doing for the commercial banks exactly what has already been done for the savings and loan associations. Money that has

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 137 PT 23 NO 21–25 1991 UMI

been squandered as a result of corruption or mismanagement is now being replaced.

First we had the S&L robbery of the taxpayers. And now we have the commercial bank robbery. The S&L swindle has already cost more than $200 billion in cash and tax giveaways and within a few days will be returning to Congress to demand another $20 billion. The commercial banks are starting at the level of $70 billion but they will be back to demand more.

After many months of former FDIC Chairman William Seidman insisting that the commercial banks were in good shape, the public is suddenly being told to authorize $70 billion right away or another tidal shock wave will hit the economy. Public blackmail is the rule of the day. Members of Congress are told that they have no choice. The money is gone and it must be replaced. Taxpayers must cover the losses of the private banking industry. Taxpayers must cover the deposits of all depositors in the banks that are too big to fail.

The $70 billion is being surrendered to the FDIC without requiring that any new responsibilities be assumed by the bankers. Community reinvestment is still a joke among bankers. Redlining is still a standard practice. Misusing the money of big city depositors to finance the schemes of Sun Belt swindlers is still normal practice. An institution demanding public funds to cover its losses is unwilling to assume any significant public responsibilities.

Until there is a reasonable trade; until the banks assume public responsibilities commensurate with their demands on the Public Treasury, authorizing bailout funds is the same as submitting to robbery.

The following rap poem summarizes the tragedy of this latest holdup:

THE SEVENTY BILLION DOLLAR ROBBERY

The FDIC gang
Hit Congress with a bang:
"We demand
Seventy billion chumps
Let taxpayers take their lumps
Old Seidman is our boss
You wimps will take a loss
To hell with reform
That phony smokescreen storm
Just open up the mint
Give us back
What we already spent
Stop this legislative lag
Drop the money in our bag
Keep your hands up
With a presidential smile
Vote this robbery
In patriotic style
Or our PAC's will
Whip your tail
You fools know
We are too big to fail
We demand
Seventy billion chumps
Let taxpayers take their lumps."
The FDIC gang
Hit Congress with a bang.

ADMIRAL PAUL HODDINOTT SPEAKS AT THE KING'S DAY REGATTA, NOVEMBER 17, 1991

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BENNETT. Mr. Speaker, last weekend, there was held the 14th annual King's Day Regatta, and this was in Jacksonville, FL, my hometown. This regatta is intended to be an enjoyment by the participants, which it is; and it also commemorates the King's Day Regatta held in the same location on the St. Johns River in 1775 during the English ownership of Florida. Very importantly, this event is one with emphasis on the good relations which the United States and the United Kingdom now enjoy.

At the banquet at the Florida Yacht Club on the evening prior to the race, Rear Admiral Paul Hoddinott ably spoke in behalf of his country. He is currently Commander of the British Navy Staff, British Naval Attache and the U.K. National Liaison Representative to SACLANT.

He said:

When Congressman Bennett proposed the Kings Day Regatta, I know that he intended it to fulfill a two-fold purpose: first, to provide a day of splendid competition and recreation; and second, a reminder of the enduring nature of the links between the people of the St. Johns River and the Old Country. The British ruled here for a short time before what we knew then as the War of Colonial Insurrection and since then, apart from some unruly behavior on our part in 1812–14, relations have been strong and mutually supporting.

This has been especially so in the last 50 years, which have twice seen the U.S. government go well beyond the normal bounds of conduct for a non-belligerant nation to help out the U.K. in a tight spot.

I refer first to 1941: 50 years ago convoys of ships laden with much needed food and war material sailed from North America towards the British Isles escorted by the U.S. Navy. Although not yet at war, your President sent ships "in harms way", to use John Paul Jones memorable phrase, to provide succor to a beleaguered Britain. One ship paid the price—the USS REUBEN JAMES—torpedoed and sunk on 31 Oct. 1941, with great loss of life, six weeks before the USA entered the war. My wife and I had the great privilege a few weeks ago to meet some of the survivors of the REUBEN JAMES—and some of the widows—at a reunion in Washington. Again, in 1982, the USA provided considerable logistic, communications and intelligence support to the U.K. during the battle for the Falklands—I was there, I know how valuable that American assistance was.

But, this is not a one sided relationship: over the past decade alone, the British government was supportive in the Libyan raid, over Panama and, most recently, the Gulf.

Last year I spoke about the maritime dimension of the Gulf situation and suggested that, if and when the deciding tank and air battles were fought, we should remind ourselves that all, or nearly all, of the tanks, equipment, ammunition, and so on, were taken to Saudi Arabia by sea; that our forces would be sustained in Saudi Arabia by sea and, indeed, nearly all, have now been brought back by sea. Sea power enabled the Gulf War to be fought and won—and how well the land, sea, and air forces under the superb leadership of General Schwartzkopf conducted themselves.

But it is not out of sentiment, or even a fine sense of history that the U.K. stands shoulder to shoulder with the USA in so many international crises, but out of hard self-interest. The fact is that when the chips are down, the self-interest of the USA and the U.K. nearly always coincide.

For our part, we do not take this relationship for granted—particularly not at the present when events on the other side of the Atlantic are drawing European nations much closer together. The British government is determined that this process should not lead to any lessening of our commitment to transatlantic interests; this will not be made easy and, in the run up to the European Inter-Governmental Conference at Maastricht in December, you will see quite a lot in the papers and news programs of wrangling between the Europeans; often Britain may seem to be the odd one out, but one of the main things for which Prime Minister John Major is fighting is to retain enough sovereignty and freedom of action that we can continue to act as a truly Atlantic Nation, which, on occasion, may mean acting in ways which will not always commend themselves to all our European partners—one only has to recall the spectrum of European reaction to those crises I mentioned, Libya, Panama, the Gulf.

While shared self-interest is what motivates the UK to be with the USA in many crises, our shared heritage is, of course, an important factor; that heritage is essentially maritime in nature, and I can think of no better way of nurturing an instinct for the maritime side of life than sailing. I wish all competitors success and fun tomorrow and look forward to seeing the winners at the prize giving.

LEBANESE INDEPENDENCE DAY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. OAKAR. Mr. Speaker, I rise to commemorate Lebanese Independence Day. Forty-eight years ago today Lebanon gained her independence.

In 1941, Great Britain and the free French occupied Lebanon. In 1943, the Lebanese national pact coalition gained control of the national assembly; and Bishara al-Khoury was elected President of the Republic of Lebanon. On November 9, 1943, he and other independence leaders deleted all references to France from Lebanon's constitution and declared Lebanon's independence. On November 11, France deposed and arrested President al-Khoury and other national leaders and imprisoned them in Rashayya. The Lebanese people rose up and on November 22, 1943, France released President al-Khoury and recognized Lebanon.

Mr. Speaker, this year the 15-year civil war in Lebanon came to an end and her people started down the road to reconciliation. This summer I visited Lebanon. It was remarkable to see people travelling freely, walking around the streets, swimming in the Mediterranean,

and beginning to be able to enjoy many of the things we often take for granted. While there are areas of tremendous devastation, there is also hope and optimism. The resilient Lebanese people will rebuild their nation out of the ashes and anarchy of civil war occupation. The rest of the world will see what we who know Lebanon have always known that Lebanon is a beautiful country and a pearl of the Middle East.

H.R. 1724, PROVIDING FOR AN EXTENSION OF UNEMPLOYMENT BENEFITS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SWETT. Mr. Speaker, I rise today in support of H.R. 1724, which will extend unemployment benefits more equitably than the legislation extending benefits which was recently enacted. While the previous law provided much-needed help to those unemployed workers whose benefits have expired, it did not extend benefits equally. The previous law would have provided only 6 weeks of benefits extension for New Hampshire, while unemployed workers in other States in similar circumstances would have received 13 or 20 weeks.

Mr. Speaker, this legislation is vital to people in New Hampshire and throughout our country who would not receive 13 weeks of benefits without its passage. In New Hampshire alone, there are over 55,000 unemployed people, and thousands of people whose unemployment benefits have already expired. They are looking to Washington for help.

The extension of unemployment benefits is not a luxury to those workers who depend upon these benefits for their very existence. It is necessary to provide relief to the thousands of people in New Hampshire and the millions nationwide who are victims of the prolonged recession. These additional benefits will allow them to save their homes and keep their children fed.

Mr. Speaker, I ask my colleagues to lend a helping hand to all hard-working jobless Americans and join me in supporting this legislation.

LANCIT MEDIA PRODUCTIONS RECEIVES PRODUCTION GRANT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GREEN of New York. Mr. Speaker, Lancit Media Productions, Ltd., of Manhattan has received a $4.5 million production grant from the Corporation for Public Broadcasting [CPB] Representative BILL GREEN announced Friday. The grant, one of the largest in production history, will fund the production of the first new daily preschool series on public television since "Sesame Street" premiered 23 years ago. The series is expected to air on public television in late 1993.

The half-hour program entitled, "The Puzzle Factory," will feature a group of multicultural puppets representing the diversity of American culture and the fun and foibles of all human beings. The series is designed to encourage children to make choices, take risks, and experiment. The senior creative consultant and puppeteer will be Kevin Clash, who recently won an Emmy for his work on "Sesame Street" as Elmo, Hoots, and Natasha.

In conjunction with the series, Lancit Media Productions will join forces with CPB and KCET of Los Angeles, another recipient of a CPG grant, to create a major educational outreach component including ancillary educational materials for use by preschool day care centers, and parents. Off-air recording rights will extend the educational use of the series.

CPB is a private, nonprofit corporation that was authorized by the Public Broadcasting Act of 1967 to develop noncommercial radio and television services for the American public.

TRIBUTE TO A SONY BROADCAST UNIT IN MIAMI

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the Sony Broadcast Export Corp. unit, for the amount of jobs they have created in south Florida. In a Miami Herald article entitled, "Sony Production Units Starring in South Florida With Help of Free Zone," Larry Birger reports on the company's move from Panama to Miami. I commend the following article to my colleagues:

Japan's giant Sony Corp. Is growing in strength in South Florida, but not only because of its consumer televisions, stereos and Walkmans.

While the consumer side of the Tokyo-based electronic company attracts the public's attention, a lesser-known Sony unit based in West Dade is quietly carving out a niche for itself by exporting professional video equipment to Latin America.

Using the Miami Free Zone to avoid duties on items brought into this country, Sony Broadcast Export Corp. ships color-camera systems, betacams, microphones and color monitors manufactured in the United States and in Japan. These are sold to broadcasting stations and production houses in the Caribbean and Central and South America.

"In fewer than four years—since moving our operations from Panama to Miami—we've doubled our business," say Glenn Adamo, president of Sony Broadcast Export Corp.

Meanwhile, another Sony unit, based in Boca Raton, is gathering a head of steam. From a 170,000-square-foot plant, Sony Professional Product Co.'s 225 employees manufacture and assemble professional videotape recorders, camera accessories and those huge mixer consoles that are used in recording studios to produce the latest in popular and classical music

About 20 percent of Sony Professional's production is exported to Latin and Caribbean countries by Sony Broadcast; the remainder is sold in the United States, Europe and even in Japan.

The two south Florida units are part of Sony's vast and growing network of U.S. based operations.

THE LINEUP

Sony Broadcast is a division of Sony Corp. of America, a $5 billion sales and marketing group stretching from New Jersey to California; Sony Professional is allied with Sony Engineering and Manufacturing of America, a parallel organization that makes products that are marketed by Sony of America.

Charles Steinberg, president of Sony's engineering and manufacturing group, based in New Jersey, points out that that while about 65 percent of Sony's revenue come from consumer products, a major part—35 percent—is generated in the professional products sector.

"And our two south Florida operations are strong contributors," Steinberg says. "The Boca plant is one of our key manufacturing installations worldwide while we get tremendous mileage from exports shipped from Miami to Latin America.

Adamo, who became Sony Broadcast's president in 1989, credits a fortuitous decision by previous management to transfer operations to Miami for the turn in his company's fortunes.

"Panama's fine for consumer business which the company is still doing today." Adamo says. "But as a lot of other companies have found out, Miami is the place from which to do business if you want to export to Latio America."

He cites these reasons:

Logistical support. All the elements that are needed to export Sony products are in Miami—ease of transportation, communications, knowledge of the Latin American market by personnel.

Cost. Sony discovered that freight rates are comparable—and sometimes less—for shipments out of Miami International Airport than from other locations in the United States. Frequency and regularity of these flights also is important because they guarantee quicker and more reliable delivery.

Availability of a free zone. Sony can store its items manufactured here and in Japan. The goods, which range in price from $20,000 to $200,000, remain these duty-free until they are shipped. This saves the company millions of dollars in import and export duties each year.

Training facilities. Sony technicians stationed in other countries are brought here for training. Two weeks ago, for example. Sony brought 20 technicians to Miami for two weeks of training.

THE PANAMA MOVE

"Combining all these things makes the business of doing business with Latin America the great growth industry of the future for Miami," Adamo says.

When Sony decided to pull its exports unit out of Panama, it was employing only four people. Too small to warrant separate status, the unit was attached to the consumer products group. Now, it is a full-fledged subsidiary that employs 53 and could grow larger if demand for Sony products continues to climb.

While Adamo declines to be specific, he says Sony Broadcast exports range "in the many millions of dollars." Adamo credits the recent business revival in a number of Latin American countries for his company's ability to double sales since 1987. He again declined to give figures.

Take Mexico. Three years ago, Mexico was a basket case. Today, business is so brisk that the Miami company recently estab-

VOL 137
PT 23
NO 21—25
1991
UMI

lished a unit—Sony Professional Broadcasting de Mexico—in Miami to handle it. By April, the unit will employ 20 people.

Because Mexico has grown in importance—and there is a need to be there in person from time to time—Adamo recently decided to see if he could conduct all his business in one day by flying there in the morning and returning that night.

"No sweat at all, he says.

In Boca Raton, meanwhile, President Clint Michaelis says, demand for audio recording equipment and camera accessories hasn't lit up the charts during this recession-plagued year. But he says sales are on a par with 1990. Employment has held steady as well, at a time when plant layoffs are commonplace.

PRUNING PROCESS

Sony got into the manufacture of camera accessories and other equipment in the early 1980s, when it acquired MCI, a Fort Lauderdale-based company. Other product lines not deemed profitable were pruned. Video recording equipment was added some years later, and in April, the entire operation was moved to Boca Raton.

"We didn't move to accommodate expansion. It was done because we needed a different kind of manufacturing facility," says Michaelis.

Still, when business takes a turn for the better, he anticipates that volume will grow—and so will his product lines. But Michaelis doesn't anticipate a larger growth in employment.

In keeping with Sony's avowed goal of "local globalization"—building and distributing products for the local market with local employees—the Japanese presence is minimal in both South Florida operations.

Of the four Japanese who came to Miami when the transfer was made from Panama, only one remains. He is Hiro Matsumoto, director of marketing. A second, Kyoichi Takashiro, was transferred to the Boca company, where he is comptroller. A third now works in Europe, and the fourth returned to Tokyo.

Besides Takashiro, a handful of Japanese are on the job in Boca—all of them on the technical side of manufacturing.

"This is an American company," Adamo stresses.

I am pleased to recognize the Sony Broadcast Export Corp. and wish them much success as they grow in South Florida.

REPRESENTATIVE MILLER HONORS LEE HOWARD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MILLER of California. Mr. Speaker, it is with great sadness that I announce that Lee Howard passed away last week. I would like to take this opportunity to pay tribute to this great man whose contributions to the people of Richmond and Contra Costa County are invaluable.

As president of the Richmond chapter of the NAACP, Mr. Howard devoted his life to the fight against racism and discrimination. At 77 years old, he was still waging a battle that he began in 1938.

Prior to World War II, Mr. Howard moved from his native Mississippi to Richmond, CA where he worked as a welder at the naval shipyard. It was there that Mr. Howard witnessed discrimination in this California city firsthand as the war ended and minorities found themselves at the bottom of the list for job reassignments.

From that point on, Mr. Howard represented the NAACP in campaigns against job and housing discrimination and in movements to empower young people and initiate antidrug programs. Mr. Howard's involvement in the community included his efforts to help the Richmond unified school district's work and as a negotiator between the Richmond police force and the black community during a tense period of police brutality charges.

Whether in his capacity as a Richmond businessman, NAACP president, or fellow citizen, Lee Howard was well-known for his strong voice of reason and his endless commitment to resolution of conflict. He had a wise and sophisticated outlook illustrated by his saying, "Instead of marches and sit-ins, I think it is time for some high-level communication and persuasion. It's my belief that you can lead people easier and further and more effectively than you can push them."

The passing of Lee Howard is a great loss to our community and to the civil rights movement. We are lucky to have had such a powerful leader for so long, and he will last in our memory even longer.

INTRODUCTION OF THE ZUNI RIVER WATERSHED ACT OF 1991

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. RICHARDSON. Mr. Speaker, extensive runoff of water from the Zuni River in my district in New Mexico continues to erode the tribal lands of the Zuni Pueblo Indians, the Ramah Navajo Tribe, and the Navajo Nation. Severe damage to trust lands in this area have occurred for decades, destroying natural resources and significant archaeological sites.

Today, I am introducing legislation to address this longstanding problem. This legislation would institute an effective plan for the proper management of the Zuni watershed. The plan is based on a cooperative collaboration of the Zuni Tribe, the Ramah Band of the Navajo Tribe, the Navajo Nation, the State of New Mexico, the Soil Conservation Service, the Forest Service, the Bureau of Indian Affairs, private landholders, and other residents living within the Zuni watershed.

The plan takes a comprehensive approach to rehabilitating and managing the watershed and is comprised of several components, including a study of the portion of the Zuni River which is upstream from the Zuni Indian Reservation; recommendations for watershed protection and rehabilitation on both public and private lands; management guidelines for maintaining and improving the natural and cultural resource base on public and private lands; a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Tribe; and proposals for voluntary cooperative programs to implement and administer the plan.

This legislation also requires that the Secretaries of Agriculture and Interior and the tribes submit a report on the study and plan to Congress within 4 years after enactment.

Mr. Speaker, this legislation is a positive step toward helping all of the people living in the Zuni watershed. I urge my colleagues to join me in support.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni River Watershed Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) over the past century, extensive damage has occurred in the Zuni River watershed, including—

(A) severe erosion of agricultural and grazing lands;

(B) reduced productivity of renewable resources;

(C) loss of nonrenewable resources; and

(D) loss of water;

(2) the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation includes—

(A) Federal land;

(B) State land;

(C) Zuni Indian Trust land;

(D) Navajo Indian Tribal Trust and fee land;

(E) Ramah Band of the Navajo Tribe of Indians Trust land;

(F) individual Indian allotment lands; and

(G) private land;

(3) the Department of Agriculture, the Bureau of Indian Affairs, the Zuni Indian Tribe, the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation agree that corrective measures are required to prevent continued degradation of natural and cultural resources throughout the Zuni River watershed;

(4) with the passage of the Zuni Land Conservation Act of 1990 (Public Law 101-486), the Zuni Indian Tribe has the ability to take these corrective measures within the Zuni Indian Reservation;

(5) the implementation of a watershed management plan within the Zuni Indian Reservation will be ineffective without the implementation of a corresponding plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation;

(6) most of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation is within the Cibola National Forest or Indian Trust lands;

(7) the Secretary of Agriculture, acting through the Chief of the Forest Service and the Chief of the Soil Conservation Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, have the technical expertise to formulate a plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation on Federal, State, Indian, and private lands;

(8) an effective watershed management plan for the Zuni River watershed requires voluntary cooperation among the—

(A) Soil Conservation Service;

(B) Forest Service;

(C) Bureau of Indian Affairs;

(D) Zuni Indian Tribe;

(E) Ramah Band of the Navajo Tribe of Indians;

(F) Navajo Nation;

(G) State of New Mexico; and

(H) Private landowners; and

(9) all persons living within the Zuni River watershed will benefit from a cooperative effort to rehabilitate and manage the watershed.

SEC. 3. STUDY, PLAN, AND REPORT.

(a) STUDY AND PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Soil Conservation Service and the Chief of the Forest Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, shall—

(A) conduct a study of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation, as depicted on the map entitled "Zuni River Watershed" which shall be on file and available for public inspection in the—

(i) New Mexico State Office of the Soil Conservation Service;

(ii) Albuquerque Area Office of the Bureau of Indian Affairs; and

(iii) tribal offices; and

(B) prepare a plan for watershed protection and rehabilitation on both public and private lands.

(2) PLAN COMPONENTS.—The plan required by paragraph (1)(B) shall include—

(A) a watershed survey describing current natural and cultural resource conditions;

(B) recommendations for watershed protection and rehabilitation on both public and private lands;

(C) management guidelines for maintaining and improving the natural and cultural resource base on both public and private lands;

(D) a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Indian Tribe;

(E) proposals for voluntary cooperative programs, that implement and administer the plan required by paragraph (1)(B), among—

(i) the Department of Agriculture;

(ii) the Department of the Interior;

(iii) the Zuni Indian Tribe;

(iv) the Ramah Band of the Navajo Tribe of Indians;

(v) the Navajo Nation;

(vi) the State of New Mexico;

(vii) private landowners within the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation; and

(viii) other public or private agencies;

(F) a project plan that—

(i) outlines tasks necessary to implement the plan required by paragraph (1)(B);

(ii) recommends completion dates; and

(iii) estimates the costs of the tasks; and

(G) a monitoring plan that—

(i) outlines tasks for monitoring and maintaining the watershed; and

(ii) estimates the annual cost of performing the task.

(b) REPORT.—Not later than 4 years after the date that funds are made available for the study and the preparation of the plan as required by subsection (a)(1), the Secretary of Agriculture, the Secretary of the Interior, and the Tribes shall submit to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a written report containing—

(1) the full text of the study and the plan; and

(2) an executive summary of the study and the plan.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

NEW JERSEY PRIDE HONOR ROLL: THE MEN AND WOMEN OF PICATINNY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GALLO. Mr. Speaker, during 1991, I fought hard in Congress to keep Picatinny Arsenal in Morris County, NJ off the list of bases slated for closure. I did so because the base, with its staff of dedicated professionals who do quality work, is good for the Nation and good for the community.

Picatinny's value to the Nation is well documented, with the great success of its many high technology systems in the Persian Gulf.

The arsenal's value to the community will be highlighted on Monday, November 25, as more than 300 Picatinny employees are honored for their unselfish efforts as volunteers as part of the President's Points of Light Program.

It is a great disappointment for me to have to miss this important event at the base because of the rush to finish work in Congress before the Thanksgiving holiday.

I believe that this recognition ceremony is a very important reminder that we each can make a real difference if we are willing to volunteer our time and talents to make our communities better places in which to live.

It is also very important for the people of northern New Jersey to fully appreciate the value of this important military research and development facility to the area.

The dedicated men and women of Picatinny performed more than 72,955 hours of public service over the past year. More than one-third of those hours were devoted to local civic duties and another one-quarter of this time was specifically dedicated to emergency response activities, including volunteer firefighters and medical assistants.

Eleven representatives were chosen to participate in a special video tribute to all of the more than 300 dedicated volunteers.

Being showcased are these New Jersey residents:

Steven R. Suttles, from Wharton, who is a management analysis branch chief. His volunteer activities span 25 years and include director of education and president of the board of trustees in his church, a telephone counselor at a crisis intervention center, a scoutmaster for mentally handicapped boys, copresident of the Roxbury American Field Service Chapter, chairman of the activities committee at the Hope House AIDS Center and as a "buddy," providing companionship and counseling to PWA's—persons with AIDS.

Martin Kane, Dover, an arsenal attorney, is president of the Lake Hopatcong Historical Society. For the past 4 years he has operated its museum and conducts programs on local history for individuals, special interest groups, and elementary schoolchildren.

John Feneck, Landing, a development project officer, is the fire chief of Roxbury Fire Company No. 2 and First Aid Squad. He has been an active member of this fire company for the past 25 years.

Valerie Morgan, Lake Hopatcong, a program analyst, has been affiliated with the Literacy Volunteers of America for the past 2 years. She currently tutors basic reading on a weekly basis to a single mother of two children.

Ken Hagedorn, Sparta, a technical exhibits specialist, has been involved in a variety of activities which includes teaching basic art to children at the post child development center and counseling with his wife at a retreat center in Northern Ireland for troubled Catholic and Protestant children. He's also a member of several civil organizations and designed Desert Shield/Desert Storm label pins for fundraising in support of deployed soldiers.

Patrick Traynor, Stanhope, a safety and occupational health specialist, volunteered more than 400 hours this past year in support of deployed Persian Gulf soldiers. As a result of his volunteer work in Stanhope's American Legion Post 278, more than 11,000 letters and packages were mailed. He also assisted in establishing an arsenal "mail call" letter writing campaign.

John Howell, Hackettstown, a physical science technician, has been involved with the Big Brothers/Big Sisters Program for the past 10 years. His favorite activity with his little brothers is building model rockets. He has had a 5-year relationship with one child.

Dennis Dawley, Hackettstown, a program analyst, and his fiancee serve as a Big Couple for the Big Brothers/Big Sisters Program of Warren County. They selected a 13-year-old boy who's been abandoned by his mother at birth and is now in an institution.

Timothy M. Carey, Jr., Hopatcong, a foreign intelligence division chief, began volunteer work as a coach for his daughter's soccer team. He has served as president of the soccer club, member of the Hopatcong Planning Board, chairman of the Recreation Commission, and quartermaster of the Hopatcong VFW and Knights of Columbus.

Mark Melis, Cliffside Park, an employee relations specialist, has worked over the past 25 years to support his church in various capacities; as president of the St. Demetrios Church's Board of Trustees, chairman of various fundraising activities and sponsor of many youth activities within his parish. He also served as chairman of an art exhibit for senior citizens.

Lucinda Shumanow, Milburn, a computer programmer analyst, recently was presented with the Picatinny Handicapped Employee of the Year Award for the significant contributions she has made to improving the quality of life of the hearing impaired at Picatinny.

Although these 11 individuals were more highly visible participants in the honors presentation, they truly represent the spirit of selfless giving shown by all of the men and women honored at Picatinny.

It was very fitting that my good friend Mary Mulholland and sports great Phil McConkey were on hand to address this group of dedicated volunteers.

Mary is the 1991 Volunteer of the Year in New Jersey and has worked tirelessly for 23 years in the cause of drug rehabilitation and education.

VOL
137
PT
23
NO
21
—
25
1991
UMI

Phil has been very active in an impressive list of volunteer organizations since he retired from football.

I am very proud of all of these fine men and women because they represent the best in New Jersey and the highest values of the American spirit.

TRIBUTE TO MRS. BEATRICE B. TREVINO

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LAUGHLIN. Mr. Speaker, it gives me great pleasure to call your attention to the accomplishments and countless hours of community service Mrs. Beatrice B. Trevino has volunteered in the city of Victoria, the county of Victoria, the State of Texas.

Bea has devoted the better part of her life to serving her community. Our Lady of Sorrows Catholic Church, the Hopkins School Parent Teacher Association, the Private Industry Council, the Victoria City-County Child Welfare Services Board, the Victoria Mexican American Chamber of Commerce, and the Auxiliary to the Veterans of Foreign Wars all have at one time or another directly benefited from Bea's generosity. Bea has also successfully managed her own restaurant, the Siesta. If there were indeed a congressional medal honoring the volunteer effort of Americans worldwide it could do no better than to be named the "Beatrice B. Trevino Distinguished Medal of Service."

I do not stand here today, Mr. Speaker, Members, to simply sing the praises of a fine human being, though she undoubtedly is an incredible woman. Bea Trevino is having a birthday. And due to time constraints, I could not possibly list all her accomplishments, projects, and activities. But trust me when I say, had I listed all her charitable endeavors, you would say to me: "She cannot be as young as you say she is."

Beatrice B. Trevino was born to Octabiano Baza and Victoria Trevino on November 29, 1931. Though her husband F.C. "Kiko" Trevino passed away in 1980, Bea's 7 children and 13 grandchildren manage to occupy whatever time she has for herself. Bea's family, and with reason, is undoubtedly very proud of her. It gives me great pleasure to rise today in proud recognition of Beatrice B. Trevino.

EDUCATIONAL AID FOR MIDDLE-INCOME FAMILIES

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SWETT. Mr. Speaker, a tragedy is unfolding in our country. Our Nation's future is at risk due to the rising costs of higher education and the tremendous challenge that middle-income families face in attempting to send their children to college.

I recently received a moving letter from one of my constituents, Sherry MacKensie of Concord, NH. Sherry is a student at the University of New Hampshire who, like millions of students and their families all across America, is experiencing this serious problem. She wrote.

> Before I graduate, I must meet the ever-rising expenses at the university. I have worked full-time every summer since I was in seventh grade to save for college. Despite this, my single largest fear continues to be whether or not I will be able to pay the next tuition bill. I worked two part-time jobs while carrying a full course load including three classes in the honors program last semester. My parents are working-class people. My father has worked every day of his adult life and my mother nearly as much with the exception of caring for my brother and me.
>
> I am not unique. Most of the students I worked with at the university were in situations very similar to mine. Needless to say, middle class people like us can use as much additional assistance from the Federal Government as possible.

Sherry concluded her letter by asking my position on the Middle Income Student Assistance Act, which seeks to relieve part of the burden which the expense of a college education places on middle-income families. I need not remind you that in today's competitive world, a college education is the single most important determinant of a young person's future success.

Mr. Speaker, I told Sherry that I fully support the Middle Income Students Assistance Act, and I would hope that all of my colleagues would tell her that as well.

As you know, tuition has been rising rapidly over the past several years. In a recent study conducted by two economists in Williamstown, MA, it was shown that the enrollment of students from middle-income families has suffered a steep drop. The percentage of enrolled students from middle-income families dropped from 27 percent in 1982 to 18 percent in 1989. On the other hand, enrollment for students from wealthy families has sharply risen. The burden on middle-income families for financing a college education is enormous, and is exacerbated when families must support more than one student.

How many horror stories have we heard about families being put in the position of having to choose between providing education for their children or having to mortgage their homes? It is deplorable that families have been confronted with this most harsh choice. But, Mr. Speaker, the Middle Income Student Assistance Act can help to ensure that families will not be forced to face this choice.

This bill would increase the availability of aid for those wishing to pursue higher education, and it would reduce the hardship their families would endure. Our students and youth hold the future of this country in their hands, and every effort ought to be made to make sure that they are well-prepared to meet the challenges of tomorrow.

Mr. Speaker, in New Hampshire, middle-income families are getting squeezed out of higher education. New Hampshire needs help. New Hampshire needs this bill, and so does the rest of America. When we think about our Nation, when we think about the future, we must focus on education.

Mr. Speaker, I ask my colleagues to join me in supporting the Middle Income Student Assistance Act as an essential aid to our students—our country's future.

TAX BREAK FOR GAMES OF CHANCE

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. McGRATH. Mr. Speaker, today I am introducing legislation to exempt certain nonprofit organizations and individuals acting on their behalf from the Federal occupational taxes and excise tax imposed on games of chance.

For many years, innumerable nonprofit charitable organizations have unknowingly violated two provisions of the Internal Revenue Code. One section I am trying to modify requires each person engaged in the business of accepting wagers to register with the IRS and to pay an excise tax equal to 0.25 percent of the amount of such wagers. The IRS has utilized this statute to impose taxes on religious and charitable institutions which raise money through bazaars, raffles, and sales of so-called pull-tab tickets. The second provision that I am attempting to change imposes an occupational tax of $50 a year on each person who accepts wagers on behalf of an organization. An annual tax of $500 must also be paid by the organization.

These taxes are aimed at commercial gambling entities, and they are very unfair when imposed on short-term fund raising activities of civic and charitable organizations. Most citizens are unaware of the existence of these Federal taxes and they are not widely enforced by the IRS. A recent surge in enforcement activity has caused charitable groups in several States to pay steep fines and penalties.

Hospitals, public and parochial schools, drug and pregnancy counseling centers, medical research, and innumerable other vital services are assisted through fundraising efforts that could be construed as wagering under the Internal Revenue Code. I do not think that we should discourage or limit this type of activity through our tax laws. I also think that full and fair enforcement of existing law would likely cost more than the income produced for the Federal Treasury.

A large body of tax law already applies to nonprofit corporations, and ample protection exists to prevent abusive fundraising practices. Various State laws also control gambling activity and ensure proper accounting of proceeds of fundraising activities.

I hope that we can address this issue in the next session of Congress, and I will be seeking cosponsors and support in the months ahead from my colleagues.

HONORING DR. WILLIAM BERCK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. STARK. Mr. Speaker, I would like to join the Alameda County Office of Education in honoring Dr. William F. Berck, Alameda County Superintendent of Schools. Dr. Berck is retiring after 7 years as county superintendent and a total of 39 years in education.

Dr. Berck is being recognized for his many accomplishments and for the important leadership role he has played in education. During his outstanding career, Dr. Berck has had a tremendous impact within the field of education, where he diligently worked to improve its services and opportunities as a teacher, teaching principal, elementary principal, assistant superintendent of curriculum, and superintendent of elementary, high school, and unified school districts. In his last position, he succeeded in moving the Alameda County Office of Education from a position of financial difficulty to a financially sound organization.

One of Dr. Berck's many professional commitments included his use of humanism as a perspective and operating philosophy in interpersonal relations. There is no doubt that his implementing this philosophy led him to successfully work toward his many accomplishments. For example, by chairing a community panel and hearings, he helped resolve a local youth/city police conflict following a riot.

During Dr. Berck's professional career, he produced a five-program educational series on innovations in education while serving on the KVIE Curriculum Advisory Committee. He developed innovative and constructive procedures such as an evaluation to enhance board/superintendent communication and nonadversarial collective bargaining techniques. It is his dedication to activities such as these that has earned him admiration as a leader, an innovator, and a humanitarian.

Although more than half of Dr. Berck's career was spent as a superintendent where he served as a leader within the field of education, he also became a leader within many community associations. A few of Dr. Berck's community involvement activities include being on the board of directors of the center, Drug and Alcohol Abuse Counseling Program, a member of the Alameda County United Way Leadership Council, and chairman of the advisory board for Prison Match, Children's Center.

I am proud to honor Dr. Berck for his extraordinary service to education in California. He is to be commended for his dedication and professionalism in guiding the Alameda County Office of Education and working to improve the quality of education throughout the State. I join his many friends and colleagues in wishing him the best of luck in his retirement.

WEE DELIVER PROGRAM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GILMAN. Mr. Speaker, this past Monday, I attended the grand opening of the Pine Tree Elementary School Post Office in Monroe, NY, I was accompanied by Principal Klahn, Assistant Principal Diglio, Postmaster Burke, Mrs. Elkins, teacher coordinator Janice Condello, student postmaster Jessica Mascia, assistant superintendent Dr. Louis Ciota, superintendent Terrence Olivo, assistant superintendent of personnel Frank Moschati, school board members Eileen Monahan, Barbara Moynihan and students of Pine Tree Elementary School.

I want to commend the Pine Tree School staff and especially Janice Condello for her efforts in working with Postmaster Burke in getting the Wee Deliver Program off the ground. I know all the work that went into making this important occasion a reality will have been well worth it.

As everybody at Pine Tree Elementary School assists Postmasters Mascia and Burke in the operation of their post office, the benefits will be felt far and wide. Our students will gain even greater reading and writing skills. Their sense of community will take on new meaning. I am certain that other schools and communities will soon turn to them for advice on how to set up their own Wee Deliver Post Offices.

Modeled after an in-school postal service program developed by teachers in a Florida elementary school, Wee Deliver has become the centerpiece in U.S. Postal Services' literacy programs.

The program revolves around the creation of an in-school postal service that provides mail service between classrooms. Students learn correct addressing, spelling, and grammar in an environment that encourages increased reading and writing.

First reported in the September–October 1990 issue of Postal Life, the Wee Deliver Program generated more than 1,200 requests for information from the U.S. Postal Service.

I am very proud that our 22d District of New York, now has a Wee Deliver Program. As I travel throughout our communities the students of Pine Tree can be certain that every school I step into will soon hear of it.

My colleagues are invited to join with me in commending the Pine Tree School students and faculty for undertaking this significant learning experience.

TRIBUTE TO ELINOR GUGGENHEIMER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GREEN of New York. Mr. Speaker, I rise today to recognize my constituent and friend, Elinor Guggenheimer, who recently retired as president of the Child Care Action Campaign, a New York-based national organization focusing on child care services.

For the past 40 years, Mrs. Guggenheimer has advocated better child care and has devoted her energy by serving on many committees including the Manhattan Advisory Committee on Day Care, the New York State Advisory Committee on Day Care and the National Association for the Education of Young Children. In addition to having founded the Child Care Action Campaign, Mrs. Guggenheimer created the Day Care Council of New York, a result of her original commitment in the 1940's.

Mrs. Guggenheimer's activities have not been limited to child care, to which her other associations and honors attest. She is also a member of the Community Service Society and the International Women's Forum, honorary chairperson of the Council of Senior Centers and Services, and a former commissioner of New York City's Department of Consumer Affairs and New York City's Planning Commission. Furthermore, Mrs. Guggenheimer has been a teacher at the New School for Social Research, York College of the City University of New York, and the Columbia University Teacher's College New York City Department.

As a result of her unlimited devotion to public service, Mrs. Guggenheimer has earned national recognition. She has received awards from a great number of organizations and academic institutions, including New York League of Business and Professional Women's Woman of the Year award (1978), Ladies' Home Journal's 100 Most Important Women in the United States (1983), and honors from Vassar College, Yeshiva University, City College of New York, and Hofstra University.

At this time, I should like to join my colleagues in commending my constituent, Mrs. Elinor Guggenheimer, who has dedicated her career to public service.

BENITO ALONSO ARTIGAS, COLUMBUS HISTORIAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, we are privileged in south Florida to have an outstanding historian and writer, Benito Alonso Artigas, who has dedicated himself to questions related to the history of the discovery of America and has published two outstanding magazine articles on this very issue in the "Projecto" publication of the Latin Builders Association and in the September 1990 issue of "Miami Mensual."

I am pleased to discuss these articles here because, although they are written in Spanish, I believe they are worthy of discussion in this body.

Certainly, as we approach the 500th anniversary of the discovery of the new world, it is important to highlight the interplay between many countries and how this discovery has forever influenced countries like Cuba, which was called the most beautiful land that human eyes have seen.

We are fortunate to have Benito Alonso Artigas to interpret how historical events shaped Cuba and also answer the question which has long puzzled historians: Where are Christopher Columbus' remains?

The Miami Mensual article is entitled "Los Restos de Colon: En Santo Domingo o Sevilla?" Dr. Benito Alonso Artigas explains that the remains of Columbus were in Santo Domingo and then taken to Cuba, in the Havana Cathedral, until 1898 when, once Spain no longer ruled Cuba, they were taken to Seville, where they are now.

Dr. Benito Alonso Artigas states that other historians affirm that Columbus' remains are in a marble and bronze tomb which the Dominican Republic erected in memory of this great navigator.

Society, overseeing over 600 physicians and

States Navy and Marine Corps for their efforts

tack, which work resulted in the return to

VOL 137 PT 23 NO 21—25 1991 UMI

Dr. Alonso Artigas asserts that with the new age of computers and other high technology at hand and with the important anniversary coming up, perhaps now is the proper time to do the necessary investigations to finally conclude this intriguing historical question:

Where are Columbus' remains?

TRIBUTE TO CONCORD CITY COUNCIL MEMBER RONALD K. MULLIN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MILLER of California. Mr. Speaker, on December 11, 1991, the citizens of Concord, CA, will pay tribute to Ronald K. Mullin on the occasion of his retirement as a member of the city council. It gives me great pleasure to offer this special recognition of his contributions to Contra Costa County, CA.

Ron Mullin has had a distinguished career in public service which as spanned a decade. Mr. Mullin has served on various city and country committees, and has been active in promoting intergovernmental relations, transportation, and growth management—to name just a few of the areas of his expertise. Mr. Mullin is particularly well known for his many accomplishments in the area of transportation policy on the local, State, and national levels,

Ron Mullin began his public service when he was elected to the Concord City Council in 1982. In addition to this new position he also became a member of the League of California Cities and the National League of Cities, and was later elected to the board of directors of both organizations. Mr. Mullin served as mayor for the city of Concord from 1985 to 1987, and chaired the Contra Costa Mayors Conference, 1986.

With a special concentration on transportation issues, Mr. Mullin was active in the formation of the Contra Costa Transportation Partnership, organized with five other cities and the county board of supervisors. In 1987, through Mullin's guidance, this committee evolved into the Contra Costa Transportation Partnership Commission, later renamed the Contra Costa Transportation Authority, which he chaired from 1988 to 1991.

Mr. Speaker, I am proud to join his family and colleagues in honoring the many achievements that dominate his public service career. Ron Mullin has earned our deepest respect and admiration for his service to the city of Concord.

A TRIBUTE TO HON. ROBERT A. PASTRICK

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. VISCLOSKY. Mr. Speaker, this evening, northwest Indiana will celebrate a great man, the Honorable Robert A. Pastrick, mayor of the city of East Chicago. Tonight, at the third annual East Chicago of the year awards banquet, the Twin City Community Services will honor Mayor Pastrick as East Chicagoan of the Year.

Tonight's awards banquet is a tribute to a great individual who has dedicated over 35 years of his life to serving his community, his region, his State and his Nation. The Honorable Robert Pastrick, through his diligent work and lifelong commitment to public service, has had a direct impact on the lives of countless citizens, not only in East Chicago, but throughout all of northwest Indiana.

The illustrious Mayor Pastrick began his career in public service in 1955, when he was elected for his first term as an East Chicago City councilman. The natural chemistry that existed between Mayor Pastrick and public service was truly unique. The experience he gained as a councilman served as the catalyst propelling him to bigger and greater achievements. Mayor Pastrick effectively represented his constituents as a councilman until 1964, when he embarked upon his new role as the East Chicago City controller. He faithfully executed these duties until 1971, when he was elected to his first term as mayor. A few weeks ago, this distinguished individual was elected to an unprecedented sixth term, an outstanding achievement in and of itself.

Mayor Pastrick's resume reads like a novel. Some of his other achievements include being a member of the Democratic National Committee; a member of the executive board of the National Democratic Mayors Caucus; the Lake County Democratic Chairman; former chairman of the East Chicago Democratic Central Committee; a member-at-large of the Indiana State Democratic Central Committee; executive committee member of the Indiana Association of Cities and Towns; a member of the United States Conference of Mayors; a member of Elks, Moose, Knights of Columbus, American Legion, Kiwanis and numerous other civic and fraternal organizations; and most notably, his being married to the lovely former Ruth Ann Stolle, and the proud father of seven children and seven grandchildren.

Mr. Speaker, it is with the utmost respect for Bob Pastrick that I urge my colleagues in the House, to recognize the remarkable lifelong achievements of this selfless, dedicated and truly unique man. His achievements are a shining example that should serve as the guiding light for the future generations of Northwest Indiana.

PEARL HARBOR VETERANS HONORED

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ROHRABACHER. Mr. Speaker, on Wednesday, November 27, 1991, 600 southern California veterans will receive the congressional Pearl Harbor commemorative medal in honor of their military service in Hawaii on December 7, 1941.

This special ceremony will bring together over 1,000 people—Pearl Harbor veterans, next of kin and proud families—in a World War II hangar at the Armed Forces Reserve Center Airfield in my district. Central to the organizing of this event is Airfield Commander, Lt. Col. James Ghormley III, California Army National Guard. His cooperation and leadership has made it possible for me to stage a great event in an environment familiar to our Pearl Harbor heroes.

The story of the American service men and women who defended Hawaii against the Japanese attack on Pearl Harbor is written with the ink of bravery, courage, and sacrifice. These defenders of freedom have earned their place in history. They deserve our recognition and we owe them our thanks. In the same tradition of commitment and shared honor, Colonel Ghormley and his service men and women have made possible this special recognition event for our Pearl Harbor veterans, and a great opportunity for us to express our thanks to them.

RECOGNITION OF NICHOLAS J. (NICK) HORN AMERICAN CANCER SOCIETY COURAGE AWARD RECIPIENT

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BILBRAY. Mr. Speaker, I rise today to honor a good friend and a valuable servant to the public interest of the State of Nevada, Nicholas J. Horn, recipient of the American Cancer Award. Nick Horn has been serving the people of Nevada and the city of Las Vegas for over 14 years in various capacities and for a variety of causes. He has truly devoted himself to the betterment of the community in Las Vegas and the State.

A true westerner, Nick Horn was born on July 25, 1945 in Salt Lake City, UT and obtained his bachelor degree at the University of Utah, Ricks College and Brigham Young University. He stayed at Brigham Young to complete a masters degree in Public Administration, and then moved on to the University of Nevada, Las Vegas to graduate with a doctorate in education.

Nick began his career in public service as an Assemblyman for the Nevada legislature in 1977, earning the recognition of the "Outstanding Freshman Legislator." He has now served in the legislature for 14 years. As an Assemblyman until 1982, Nick held leadership roles as vice-chairman of the Assembly Committee on Education, chairman of the Assembly Committee on Elections, and assist majority floor leader. Nick Horn was elected to the Nevada State Senate in 1983 and continued in his role as one of the leaders of Nevada politics through various chairmanships and vice-chairmanships, and now is assistant majority leader of the Senate.

Throughout his public career Nick Horn has also dedicated his time to organizations outside of the Nevada legislature. He teaches and is a tenured professor of Business Management at the Community College of Southern Nevada, and participates in intensive weekend programs at Army and Air Force bases in California and Arizona. Nick is also executive director of the Clark County Medical

Society, overseeing over 600 physicians and health care workers. And if that is not enough, he finds time to be on the board of directors for numerous cultural and charity organizations such as the Nevada Opera Theater, United Way, Girls Club of Southern Nevada and the Boy Scouts and Explorer Exposition.

While fighting unselfishly for a better life for all Nevadans, Nick himself has been courageously fighting a battle of his own—cancer. Since the time Nick was diagnosed with cancer, he has challenged this disease with a continuous, successful and public battle. Nick has fought cancer like the only way he knows how—meeting it head-on, and educating others along the way.

Through his battle with cancer, Nick made it public knowledge that cancer can be beaten, that the battle can be won. His story provides inspiration to all others who must struggle with this disease. Mr. Speaker, I want Nevada and the Nation to know of Nick Horn, his devotion to others, his service to his State, and his courageous fight against cancer.

COMMENDING THE PEOPLE OF GUAM AND HAWAII FOR THEIR SACRIFICES AND CONTRIBUTIONS DURING WORLD WAR II

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw my colleagues' attention to a resolution I have introduced today, House Resolution 293.

Along with the gentleman from Guam [Mr. BLAZ], the gentleman from Hawaii [Mr. ABERCOMBIE], the gentleman from American Samoa, [Mr. FALEOMAVAEGA], the gentleman from Iowa [Mr. LEACH], the gentleman from California [Mr. LAGOMARSINO], I have introduced this important resolution to recognize the enormous contributions made by the peoples of Guam and Hawaii during World War II.

December 7, 1941 is a day that will live in infamy forever in the minds of Americans. However, December 8, 1941 also represents a terrible day for Americans and freedom. On that day the imperial Japanese forces attacked the territory of Guam, bombing the village of Sumay, the Piti Navy Yard, the U.S.S. *Penguin*, and the U.S.S.R.L. *Barnes*. On December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by Japanese forces.

However, one unfortunate result of these terrible attacks was the suspicion and internment of some 110,000 Americans of Japanese ancestry. This measure appropriately recognized the patriotism and loyalty of many Americans of Japanese ancestry who served during World War II in the Armed Forces of the United States. The resolution specifically recognizes the outstanding contributions of individuals of the 100th Infantry Battalion, the 44th Regimental Combat Team, and the Military Intelligence Service.

Finally, the resolution recognizes the efforts of the Navy insular force, and the United States Navy and Marine Corps for their efforts and sacrifices on behalf of United States.

Mr. Speaker, I insert the full text of House Resolution 293. At this point in the CONGRESSIONAL RECORD, and I invite my colleagues to cosponsor this measure.

H. RES. 293

Whereas on December 8, 1941, the Imperial Japanese Forces attacked the territory of Guam;

Whereas such forces bombed the marine barracks of the United States in the village of Sumay, the Piti Navy Yard, the U.S.S. Penguin, and the U.S.S.R.L. Barnes;

Whereas on December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by such forces;

Whereas the residents of Guam, particularly the resident forces of the United States Navy and Marine Corps and the local force known as the Navy Insular Force, valiantly defended the territory in the face of overwhelming opposition;

Whereas the Navy Insular Force was singled out by its commander for its defense of the Governor's Palace at the Plaza de Espana;

Whereas Guam was occupied by the enemy for 32 months, until the armed forces of the United States liberated the territory in July 1944;

Whereas, throughout the occupation, individuals on Guam were beaten or executed for remaining loyal to the United States, for aiding and providing food to imprisoned members of the armed forces of the United States, and for hiding members of the armed forces of the United States from the enemy;

Whereas the people of Guam were denied basic civil liberties and were forced to construct airstrips, dig caves, install anti-landing barriers, grow food, and raise livestock for the Imperial Japanese Forces;

Whereas the people of Guam were deprived of sufficient food, clothing, and medical care by such forces;

Whereas a number of Chamorro men were executed for refusing to reveal the whereabouts of a sailor from the United States who was hiding on Guam;

Whereas the people of Guam were forced to live in a concentration camp under inhuman conditions;

Whereas in Tinta on July 15, 1944, and again in Faha on July 16, 1944, 30 residents of Merizo, Guam, were taken into a cave and executed by members of the Imperial Japanese Forces;

Whereas on December 7, 1941, military installations of the United States in the territory of Hawaii, including Pearl Harbor, were attacked by armed forces of Japan;

Whereas among the defenders of Hawaii were the 298th and 299th Infantry Regiments, which included large numbers of Hawaii National Guardsmen who had been mobilized previously and residents of Hawaii who had been drafted in 1940 and 1941;

Whereas the 2,403 Americans killed in that attack included 68 civilian residents of Hawaii;

Whereas residents of Hawaii employed in civilian jobs at Pearl Harbor and other military installations responded courageously by manning anti-aircraft guns, fighting fires, tending to the wounded, and performing rescue operations;

Whereas individuals at Pearl Harbor Naval Ship Yard performed heroic work in raising and repairing the ships of the Pacific fleet of the United States which had sunk or sustained damage during the December 7th attack, which work resulted in the return to active service of 18 out of 21 such ships;

Whereas such individuals played a vital role in making the Pacific fleet fit to fight in subsequent battles of World War II;

Whereas the University of Hawaii Reserve Officers' Training Corps was mobilized to defend Hawaii against the threat of imminent enemy invasion, making such corps the only unit of the Reserve Officers' Training Corps to be mobilized for active duty;

Whereas the members of the such corps and other residents of Hawaii were activated into the Hawaii Territorial Guard for the purpose of defending the Hawaiian Islands;

Whereas the loyalty of Americans of Japanese Ancestry came under unjustified suspicion in the aftermath of the attack on Pearl Harbor even though many of the residents of Hawaii who assisted courageously in the defense of Pearl Harbor and other military installations on December 7, 1941, as well as many of those in uniform poised in defense of Hawaii, were Americans of Japanese Ancestry;

Whereas such unjustified suspicion resulted in the wrongful internment of some 110,000 Americans of Japanese Ancestry;

Whereas Hawaii was placed under martial law from 1941 to 1944 and its people were denied a number of fundamental constitutional rights, such as the right to petition for habeas corpus;

Whereas the imposition of martial law suspended the constitutional provisions which protected minorities, compounding the difficult situation of Americans of Japanese Ancestry;

Whereas Americans of Japanese Ancestry in the territory of Hawaii were unjustly discharged from the Hawaii Territorial Guard and removed from combat units;

Whereas such individuals, who resolved to demonstrate their loyalty, engaged in volunteer defense work by enlisting in the Varsity Victory Volunteers and similar organizations;

Whereas such individuals, when they were permitted to serve in combat units, demonstrated beyond question their loyalty by volunteering to serve in the Armed Forces of the United States in record numbers; and

Whereas such individuals compiled extraordinarily distinguished records in the 100th Infantry Battalion, the 44th Regimental Combat Team, and the Military Intelligence Service: Now, therefore, be it

Resolved, That the House of Representatives commends—

(1) the people of Guam for their patriotism, bravery, loyalty to the United States, and many sacrifices during World War II, particularly during the invasion and occupation of the territory of Guam;

(2) the members of the Navy Insular Force and United States Navy and Marine Corps for the efforts and sacrifices they made in defense of the United States;

(3) the people of Hawaii for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941; and

(4) the members of the Hawaii Territorial Guard, the Varsity Victory Volunteers, the civilian workers at Pearl Harbor Naval Ship Yard and other military installations in Hawaii, the 100th Infantry Battalion, the Military Intelligence Service, and the 442nd Regimental Combat Team for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941.

VOL 137 PT 23 NO 21—25 1991 UMI

ENVIRONMENTALISTS BACK POLLUTION PREVENTION AND INCINERATOR CONTROL ACT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. KOSTMAYER. Mr. Speaker, as we near the end of the calendar year, I want to remind my colleagues of some startling facts about the amount of solid waste Americans produce annually. In 1991 experts estimate that we will produce over 160 million tons of municipal solid waste and 500 million tons of hazardous waste.

We need to change the way we deal with the inevitable byproducts of modern life. Reduce, recycle, and reuse is a newly popular slogan. It also needs to become a part of our everyday lives.

Earlier this year I introduced H.R. 3253, The Pollution Prevention, Community Recycling and Incinerator Control Act. This legislation would fundamentally change the way that we deal with the mountains of waste we produce every year. The environmental community has lined up solidly in support of this bill, and I am happy to have included in the RECORD their letter in support of H.R. 3253.

COSPONSOR THE KOSTMAYER POLLUTION PREVENTION INCINERATOR CONTROL ACT

July 31, 1991.

DEAR REPRESENTATIVE: The undersigned organizations urge you to co-sponsor a bill to be introduced this week by Representative Peter Kostmayer, The bill is entitled "The Pollution Prevention, Community Recycling, Incinerator Control Act of 1991." The bill would establish minimum recycling requirements for glass, metal, paper and other recyclable and compostable materials and would establish goals for serious reductions of hazardous wastes through toxics use reduction (TUR) as conditions to any use of incineration. The bill also begins a moratorium on the permitting of all new municipal solid waste (MSW) incinerators through 1999 and set strict conditions for the permitting of any new hazardous waste incinerators. It will also require that the toxic ash produced by MSW incinerators be regulated and disposed of as a hazardous waste.

As communities across our nation suffer the effects of disposing of 180 million tons of garbage and approximately 500 million tons of hazardous waste each year, it is clear that strong national pollution prevention policies are urgently needed as part of the reauthorization of the Resource Conservation and Recovery Act (RCRA). To date the implementation of RCRA by the Environmental Protection Agency (EPA) has focused almost exclusively on an ultimately flawed "waste management" program rather than a pollution prevention program.

Although there are currently about 168 MSW and 1,100 hazardous waste incinerators, boilers and kilns now operating, hundreds more are proposed or under construction, making this technology the latest growing method of waste disposal. This rush to burn not only poses serious environmental and public health threats to hundreds of neighborhoods across the country, it also seriously undermines national and local recycling and TUR programs.

NSW incinerators are sold as "energy recovery" facilities, but the truth is, that even current recycling programs (representing only about 13 percent of the municipal solid waste stream) save six times the energy of incineration. The Bush Administration's National Energy Strategy, calling for a 7-fold increase in MSW incineration by 2010 would actually waste more energy than it would recover. Moreover, recycling programs are far less costly to the taxpayer than incineration. The capital costs for MSW incinerators now routinely run $100,000 for every ton of daily capacity. Detroit's new incinerator, with a capacity of 4,000 tons a day, had a capital cost of over $400 million.

Incinerators also produce highly toxic emissions and contribute to global warming. Because incinerators fail to completely destroy wastes they receive, heavy metals such as lead, cadmium and mercury are either emitted in incinerator stack gases or concentrated in ash residues. These releases also contain hundreds of other well known toxic substances such as dioxins, furans and PCBs which are also released into the environment during incineration. These emissions are not fully tested for their health effects or regularly monitored.

Incinerators also create a continued demand for more landfills because they produce tons of toxic ash which pose additional transportation, air and groundwater contamination risks. Incinerators do not entirely eliminate wastes, they merely transform wastes into toxic gases and ash which are then released into the air and groundwater.

Violations are also a serious problem with incinerators. After being fined over $3 million last year, the Chemical Waste Management, Inc.'s (CWM) Chicago facility was shut down by an explosion on February 13 due to unanticipated hazardous wastes entering the unit. In May, a joint EPA–OSHA report on 29 hazardous waste incinerators, including the CWM Chicago facility, listed 75 violations found by EPA and 320 violations found by OSHA.

Until the requirements in the Kostmayer bill are met we do not believe additional incineration capacity is warranted. By calling for a limited "time out" on the construction of new incinerators we will allow our nation to get back on track toward preventing and reducing wastes instead of continuing the hazards of managing wastes. We therefore, strongly encourage you to co-sponsor and support the Kostmayer "Pollution Prevention, Community Recycling, Incinerator Control Act of 1991."

Sincerely,

Ken Brown/Phil Clapp, Clean Water Action.
Joe Schwartz, Environmental Action.
Karen Florini, Environmental Defense Fund.
Velma Smith, Friends of the Earth.
Rick Hind, Greenpeace Action.
Carl J. Casebolt, National Council of Churches.
David Wood, National Toxics Campaign.
Linda Greer/Allen Hershkowitz, Natural Resources Defense Council.
Daniel Weiss, Sierra Club.
Richard Regan, Southwest Research & Information Center.
Jay Dee Hanson, United Methodist Church, Board of Church and Society.
Carolyn Hartmann, U.S. PIRG.

COURAGEOUS EVA FEIG BATTLES CANCER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, late September of this year Ms. Eva Feig's fears were confirmed: she was diagnosed with ovarian cancer. Ms. Feig of my congressional district is just 1 of 20,700 new cases of ovarian cancer which will be diagnosed this year. Many people are unaware of just how prevalent this disease is. But the cancer is beatable. With early detection and decisive treatment, those afflicted can regain full health.

Eva recently began her chemotherapy treatment on October 23, and it is off to a good start. She will bravely receive five more treatments, one each month. Eva's doctor is very pleased with her response to the therapy. We are confident that the treatment, as difficult as it is, will bring about recovery.

The overwhelming support of friends and family have been a great source of strength and encouragement for Eva. It is truly inspirational to see such an outpouring of compassion. Strengthened by a successful first treatment and with loving support all around, I am sure Eva will return to a long, active life.

Mr. Speaker, all women are potential ovarian cancer victims. The National Cancer Institute estimates that no less than 1 out every 70 women will be diagnosed with ovarian cancer in their lifetime. Chances of full recovery are much greater when the condition is discovered early. Many research groups are working to improve the use of ultrasound for early detection of the cancer. It is important that women avail themselves of this important test.

Mr. Speaker, the truth is that early detection is our best weapon against all forms of cancer. For women, ovarian cancer is the fifth most common form of cancer, behind lung, breast, colon, and rectal. Regular check ups which include: pap smears, mammograms, and other diagnostic tests is an important preventative medicine.

Eva Feig will beat this cancer and with early detection and treatment, many other women will, as well.

ALLOWANCE FOR DUTY-FREE GIFTS

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MCGRATH. Mr. Speaker, today I am introducing legislation to increase the allowance for bona fide duty-free gifts sent from persons in foreign countries to individuals in the United States. Current law limits such gifts to the aggregate fair retail value of $50 per recipient each day with the costs of shipping included. My bill would increase the limit to $125. Gifts of alcohol, tobacco, and perfume containing alcohol, tobacco, and perfume containing alcohol are not eligible for this special treatment under present law, and my bill makes no change in this prohibition.

The present $50 level was established in 1983. Inflation has substantially reduced the value of that exclusion. At the same time, the volume of merchandise has markedly increased. The purpose of my bill is to set a more realistic level for gifts of relatively small value, and to relieve the Customs Service of collection responsibilities, the cost of which may exceed the revenue received by the Federal Government. Customs would, of course, continue its inspection activities to prevent importation of illegal goods.

I look forward to discussion of this legislation in the next session of Congress.

THE CHILD ABUSE ACCOUNTABILITY ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mrs. SCHROEDER. Mr. Speaker, today I am introducing the Child Abuse Accountability Act of 1991.

This bill holds child abusers accountable for their actions by allowing victims access to a convicted abuser's Federal pension.

If a court awards a victim monetary damages for child abuse, an abuser often avoids payment by liquidating and skipping town. Under those circumstances, the victim is almost guaranteed he or she will not collect a penny.

To make matters worse, the Federal Government protects a child abuser's pension. Victims, who often go through hell in order to hold their abuser accountable, are shocked to find that the Federal Government refuses to pay court-ordered awards. When it comes to paying for child abuse, Uncle Sam blocks the way. Federal pensions are untouchable. This is obstruction of justice.

We are just beginning to learn the extent of child abuse and the affects it is having on individuals, families, and the Nation. For too long, abused children were afraid to speak up about this terrible crime. The pain and stigma associated with child abuse make it tough to address. But a nation that does not protect its children is a nation without a future. And a federal government that protects abusers is abetting that tragedy.

That is why we should take the lead—not stand in the way—in combating child abuse. I hope my colleagues will join me in supporting the Child Abuse Accountability Act.

INDIAN HOUSING DEMONSTRATION PROJECT ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. RICHARDSON. Mr. Speaker, recently, tribal leaders from New Mexico and across the country and officials from the Department of Housing and Urban Development [HUD] held a conference in Santa Fe, NM, to brainstorm on new approaches to address the severe shortage of housing in Indian country.

One of the main topics discussed at the conference was legislation I have been working on with the Jicarilla Apache Tribe that would give tribes more control over their own housing situation. This approach was greeted with great enthusiasm.

Today, I am introducing the Indian Housing Demonstration Project Act, which will provide Indian tribes an opportunity to more directly meet the housing needs of their members. This legislation directs the Secretary of Interior and the Secretary of Housing and Urban Development to jointly select between 5 and 10 tribes to participate in a housing demonstration project that will allow the tribes to administer their own housing programs.

Tribes would be selected on the basis of creative and innovative activities and methods they plan to use in developing, providing, and promoting housing for their people. Selected tribes must submit plans that include agreements to maintain safe housing, give preference to low-income Indian families, and carry out a program to promote alternative methods of financing.

Once a tribe's plan is approved, the tribe would be authorized to consolidate Federal housing assistance funds that the tribe currently receives from Department of Housing and Urban Development and Department of Interior Indian housing programs. Using these funds, the tribe would administer its own housing program. Grants would be provided to be used for administrative expenses incurred in carrying out the demonstration project.

This legislation is consistent with Congressional efforts to increase self governance initiatives in Indian country. Members with large Indian constituencies know it is not only important that we meet the increasing demand for additional housing on Indian reservations, but that Indian housing be managed in a way that meets the true needs of the Indian people.

The following is a letter I received from the Jicarilla Apache Tribe which outlines issues raised at the Indian Housing conference and expresses support for this legislation. Also included is the text of the Indian Housing Demonstration Project Act of 1991. I urge my colleagues to support this important legislation.

THE JICARILLA APACHE TRIBE,
Dulce, NM, November 4, 1991.

Hon. BILL RICHARDSON,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN RICHARDSON: Thank you for the insightful and encouraging remarks that you provided to the Tribal Leaders' Workshop on New Approaches to Indian Housing, co-sponsored by the Jicarilla Apache Tribe and HUD. It set the tone for what proved to be an extremely productive and exciting conference.

The importance of the issue was demonstrated by the presence of some of the most respected tribal leaders, including President Peterson Zah of the Navajo Nation, Chief Wilma Mankiller of the Cherokee Nation, Chief Phillip Martin of the Mississippi Band of Choctaw Indians, Governor Harry D. Early of the Laguna Pueblo, and President Ivan Makil of Salt River Pima-Maricopa. (A complete list of tribal officials is attached.)

There was animated discussion on the need for new approaches to address the severe housing shortages that exist on all of our reservations. The most important outcome of the conference was the strong support from the tribal leaders for the principles underlying the Tribal Self-Governance Housing Demonstration legislation you are intending to introduce. These principles included:

1. The need for greater flexibility in the existing HUD Indian Low Income Housing program so it can be more responsive to the unique cultural, economic, and geographic factors that are found on each reservation.

2. The need for tribes to tap the vast range of other federal, state, private and non-profit housing programs, rather than relying solely on the HUD Low-Income Housing program.

3. The need for tribal governments to develop a comprehensive approach to housing on reservations so there will be housing for all segments of the population—low-income, the elderly, the young Indian professionals who want to return home to help their tribes, the teachers, doctors and other skilled persons, etc. so that tribes and the Federal government can achieve their shared goal of making reservations socially and economically self-sufficient. On reservations, unlike cities, there is no private housing sector, so tribal governments must focus on all segments.

4. The need to eliminate the barriers that have been placed between tribal governments and Indian housing authorities so that tribal governments can establish offices to carry out the various tasks listed above.

The tribal leaders expressed their appreciation to you and to the Jicarilla Apache Tribe for jointly developing the proposed legislation. They urged that it be introduced as soon as possible and they promised their full support to help it become enacted into law.

On behalf of the Jicarilla Apache Tribe, and as co-chairman of the Tribal Leaders Workshop, I wish to express my appreciation to you for your ongoing commitment to Indian housing and to the principles of tribal self-governance. I look forward with great anticipation to the introduction and then enactment of the new Tribal Self-Governance Housing Demonstration Act legislation.

Sincerely yours,

LEVI PESATA,
President.

JICARILLA APACHE TRIBE AND HUD HOUSING CONFERENCE, OCTOBER 29 AND 30, 1991

TRIBAL OFFICIALS

Peterson Zah, President, The Navajo Nation, P.O. Box 308, Window Rock, Arizona 86515.

Wilma Mankiller, Principal Chief, Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Oklahoma 74456.

Phillip Martin, Tribal Chief, Mississippi Band of Choctaw Indians, P.O. Box 6010—Choctaw Branch, Philadelphia, Mississippi 39350.

Ivan Makil, President, Salt River Pima-Maricopa Indian Community Council, Route 1, Box 216, Scottsdale, Arizona 85256.

Harry D. Early, Governor, Pueblo of Laguna, P.O. Box 194, Laguna, New Mexico 87026.

Lawrence Kenmille, Vice Chairman, Confederated Salish & Kootenai, Tribal Council, Box 278, Pablo, Montana 59855.

Vernon Mestes, Vice Chairman, Cheyenne River Sioux Tribe, P.O. Box 590, Eagle Butte, South Dakota 57625.

George Nolan, Vice President, Sault Saint Marie Chippewa Tribal Council, 206 Greenough Street, Sault Saint Marie, Michigan 49783.

James Frances, Councilman, Pueblo of Laguna, P.O. Box 194, Laguna, New Mexico 87026.

Ronald Julian, Councilman, Jicarilla

retary of Housing and Urban Development

participating Indian tribe shall receive an-

(2) the extent to which the Indian tribe has

(3) INDIAN TRIBE.—The terms "Indian

aged 15 to 24 dropped out of school. The morale of our teachers is down. Support for them.

VOL 137 PT 23 NO 21—25 1991 UMI

Ronald Julian, Councilman, Jicarilla Apache Tribe, P.O. Box 507, Dulce, New Mexico 87528.

Hubert Velarde, Councilman, Jicarilla Apache Tribe, P.O. Box 507, Dulce, New Mexico 87528.

Loretta Vicenti, Councilwoman, Jicarilla Apache Tribe, P.O. Box 507, Dulce, New Mexico 87528.

Troy Wayne Poteete, Councilman, Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Oklahoma 74456.

Elveda Martinez, Tribal Administrator, Walker River Paiute Tribe, P.O. Box 220, Schurz, Nevada 89427.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Indian Housing Demonstration Project Act of 1991.

SEC. 2. AUTHORITY FOR INDIAN HOUSING SELF-GOVERNANCE DEMONSTRATION PROGRAM.

The Secretary of Interior and the Secretary of Housing and Urban Development shall jointly carry out a program under this Act to demonstrate the effectiveness of permitting Indian tribes (through the tribal government) to determine the housing needs of tribal members and the appropriate use of Federal housing assistance provided to the Indian tribe.

SEC. 3. CONSOLIDATION OF HOUSING ASSISTANCE.

(a) IN GENERAL.—Upon the selection of an Indian tribe for participation in the demonstration program under this Act—

(1) the Secretary of Interior and the Secretary of Housing and Urban Development shall authorize the Indian tribal government to consolidate assistance received by the Indian tribe under the programs under subsection (b) for use under the demonstration program; and

(2) the Secretary of Housing and Urban Development shall authorize the Indian tribal government to receive any assistance under such programs that otherwise would be provided under the programs to the Indian housing authority of the Indian tribe.

(b) INCLUDED PROGRAMS.—The programs referred to in subsection (a) shall be the following programs:

(1) The housing improvement program of the Bureau of Indian Affairs, Department of the Interior, established under part 256 of title 25, Code of Federal Regulations, pursuant to the Act of November 2, 1921 (Chapter 115; 42 Stat. 208; commonly referred to as the Snyder Act).

(2) The program for development and acquisition of public housing for Indian families under titles I and II of the United States Housing Act of 1937.

(3) The program for rental housing assistance payments for low-income Indian families under section 8 of the United States Housing Act of 1937.

(4) The mutual help homeownership opportunity program under section 202 of the United States Housing Act of 1937.

(5) The Indian housing modernization program under section 14 of the United States Housing Act of 1937.

(6) The operating subsidies program for public housing for Indian families under section 9 of the United States Housing Act of 1937.

SEC. 4. TRANSFER OF TITLE.

(a) IN GENERAL.—Subject to subsection (b), under the demonstration program the Secretary of Housing and Urban Development shall transfer to each participating Indian tribe all of the rights, titles, and interests of the United States and any Indian housing authority of the Indian tribe in any housing projects and housing units for Indian families located on Indian reservations and other Indian areas of the Indian tribe.

(b) REQUIRED REVERSION AGREEMENT.—No transfer may be made under this section unless the Secretary of Housing and Urban Development and the transferee Indian tribe have entered into an agreement providing that all of the rights, titles, and interests in housing transferred under this section to the tribe shall revert to the United States and the relevant Indian housing authorities upon—

(1) the Indian tribe terminating participation in the demonstration program under this Act (as provided in section 11); and

(2) the occurrence of such other circumstances, as the Secretary and the Indian tribe provide in the agreement.

SEC. 5. TRIBAL PLAN.

(a) REQUIREMENT.—An Indian tribe may not be selected to participate in the demonstration program under this Act unless the Indian tribe has submitted a plan in compliance with subsection (b).

(b) CONTENTS.—A plan under this section shall—

(1) contain agreements by the Indian tribe submitting the plan that the Indian tribe will—

(A) maintain any housing projects and housing units transferred under section 4 in a safe and reasonable condition;

(B) give priority in occupancy of housing assisted under the demonstration program to low-income Indian families;

(C) carry out a program to develop and promote alternative methods for financing and developing housing located on Indian reservations and other Indian areas of the Indian tribe, which shall include assisting tribal members to identify and obtain mortgage financing and other housing assistance from private and public sources; and

(D) use assistance referred to in section 3(b) that is received by the Indian tribe to provide housing located on Indian reservations and other Indian areas of the Indian tribe for Indian families in accordance with the housing strategy under paragraph (2) of this subsection;

(2) set foth a strategy describing how the Indian tribe will use assistance referred to in section 3(b) that is received by the Indian tribe, except that such use shall comply with any requirements for use of assistance received by Indian tribes under section 217(a)(2) of the Cranston-Gonzalez National Affordable Housing Act; and

(3) describe—

(A) the standards and requirements to be used by the Indian tribe for affording priority in housing assisted under the demonstration program to low-income Indian families;

(B) the standards and methods to be used by the Indian tribe to establish rent charges for rental units owned by the Indian tribe;

(C) any financial and other resources to be contributed by the Indian tribe or other entities for use in conjunction with assistance referred to in section 3(b) that is received by the Indian tribe; and

(D) the activities to be conducted by the Indian tribe in carrying out the program of the Indian tribe under the agreement pursuant to paragraph (1)(C).

SEC. 6. OPERATING SUBSIDIES.

(a) IN GENERAL.—Notwithstanding section 9 of the United States Housing Act of 1937, a participating Indian tribe shall receive annual contributions under such section 9 (to the extent amounts are provided in appropriations Acts) for each fiscal year beginning after the Indian tribe is slated to participate in the demonstration program in an amount equal to the amount of such assistance received by the Indian housing authority of the Indian tribe in the last fiscal year beginning before the Indian tribe was selected for participation, as adjusted according to subsection (b).

(b) INFLATIONARY ADJUSTMENT.—The Secretary of Housing and Urban Development shall adjust the amount received by each participating Indian tribe pursuant to subsection (a) to adjust for inflation, as the Secretary determines appropriate.

SEC. 7. WAIVER OF OTHER FEDERAL REQUIREMENTS.

Upon the selection of an Indian tribe under section 9 to participate in the demonstration program under this Act, the Secretary of the Interior and the Secretary of Housing and Urban Development shall, in consultation with each other and the participating Indian tribe, identify any provisions of Federal law, and any Federal regulations, policies, and procedures for which a waiver is necessary to enable the participating Indian tribe to implement its plan under section 5. Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Housing and Urban Development may waive any provisions of Federal law, and any Federal regulations, policies, or procedures identified, unless such Secretaries determine that the waiver will result in harm to any tenants or owners of housing units that are located on Indian reservations and other Indian areas of the Indian tribe and assisted under the programs referred to in section 3(b).

SEC. 8. APPLICATIONS.

The Secretary of the Interior and the Secretary of Housing and Urban Development shall jointly establish procedures and deadlines for Indian tribes to submit applications for participation in the demonstration program under this Act. The procedures shall require each application to include a plan under section 5. The deadline for submission of applications shall not be later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 9. SELECTION.

(a) IN GENERAL.—Not later than the expiration of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Act, the Secretary of the Interior and the Secretary of Housing and Urban Development shall jointly select (from among Indian tribes submitting applications in compliance with section 8) not less than 5 and not more than 10 Indian tribes to participate in the demonstration program under this Act, which shall include the Jicarilla Apache tribe in the State of New Mexico (but only if such tribe submits an application in compliance with section 8). No Indian tribes may be selected for participation before the deadline for submission of applications established under section 8.

(b) CRITERIA.—The Secretary of the Interior and the Secretary of Housing and Urban Development shall jointly establish criteria for the selection of Indian tribes to participate in the demonstration program under this Act, which shall include—

(1) the extent of creative and innovative activities and methods to be employed by the Indian tribe in developing, providing, and promoting housing for Indian families that is located on Indian reservations and other Indian areas of the Indian tribe; and

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(2) the extent to which the Indian tribe has made or received commitments for any financial or other resources to be used in conjunction with assistance referred to in section 3(b) that is received by the Indian tribe.

SEC. 10. GRANTS FOR ADMINISTRATIVE COSTS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, to the extent amounts are provided in appropriations Acts pursuant to subsection (c), provide a grant to each participating Indian tribe in each of fiscal years 1993, 1994, 1995, 1996, and 1997. All of the grants made under this section in any single fiscal year shall be equal in amount.

(b) USE.—Amounts from any grant made under this section shall be used by the participating Indian tribe for administrative expenses incurred in carrying out the demonstration program under this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this section $1,000,000 in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

SEC. 11. TERMINATION OF PARTICIPATION.

(a) IN GENERAL.—After the expiration of the 5-year period beginning on the date that an Indian tribe is selected to participate in the demonstration program under this Act, the Indian tribe may terminate such participation by notifying the Secretary of the Interior and the Secretary of Housing and Urban Development in writing of such termination.

(b) EFFECT.—Any waivers provided for the Indian tribe under section 7 shall cease to be effective upon termination of participation. The participation of an Indian tribe in the demonstration under this Act shall not affect the eligibility of the Indian tribe for assistance or the amount of assistance provided under the programs referred to in section 3(b) after termination of participation under this section.

(c) RECAPTURE.—The Secretary of Housing and Urban Development shall recapture, from any Indian tribe terminating participation in the demonstration program under this Act, any grant amounts received under section 10 by the Indian tribe that remain unobligated upon the termination of participation.

SEC. 12. REPORT.

The Secretary of the Interior and the Secretary of Housing and Urban Development shall jointly submit to the Congress, not later than the expiration of the 3-year period beginning on the date of the enactment of this Act, a report describing the activities carried out under this Act by participating Indian tribes and evaluating the effectiveness of such activities.

SEC. 13. DEFINITIONS.

For purposes of the Act:

(1) INDIAN AREA.—The term "Indian area." means, with respect to an Indian tribe, the area within which the Indian housing authority of the Indian tribe is authorized to provide low-income housing.

(2) INDIAN HOUSING AUTHORITY.—The term "Indian housing authority of the Indian tribe" means, with respect to an Indian tribe, the Indian housing authority (as such term is defined in section 3(b) of the United States Housing Act of 1937) that is—

(A) established by exercise of the power of self-government of the Indian tribe independent of State law; or

(B) established by operation of State law and operates to provide housing for the Indian tribe, except that such term means the Indian housing authority only to the extent such Indian housing authority acts for the Indian tribe.

(3) INDIAN TRIBE.—The terms "Indian tribe" shall have the same meaning given the term, in section 4 of the Indian Self-Determination and Education Assistance Act.

(4) PARTICIPATING INDIAN TRIBE.—The term "participating Indian tribe" means an Indian tribe that has been selected under section 9 to participate in the demonstration program under this Act.

NATIONAL EDUCATION WEEK

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SWETT. Mr. Speaker, many of us remember that day in October 1957 when we were startled by the news that the Soviet Union had sent the first spacecraft into outer space. Sputnik woke this Nation up and reminded us that we couldn't sit on our laurels—that if we were to remain players in the international arena, we had to excel in the realm of education. We had to work, not only with our hands, but with our minds. Looking back, we now recognize that Sputnik was a blessing in disguise, for it created the political will necessary to do what we needed to do to make up lost ground in the race for the moon. And it brought home to us that the quality of our educational system is a critical component of our national security.

Twentieth century civilization with its modem economy is a complex and delicately balanced mechanism. And the fuel that powers it is education. Education yields innovation, and innovation makes for competitiveness. Competitiveness sustains a dynamic economy. Without education there is no innovation, and the result is a weak economy.

Today's economic anemia directly affects working people. My State presently suffers from an unemployment rate of 7.1 percent. This 7.1 percent translates into over 55,000 men and women without a means of livelihood. In contemplating how we got into our current economic hole, and how we can climb out, we are driven inexorably back to the issue of education.

Mr. Speaker, this is National Education Week, but I believe that education is so important that every week should be National Education Week, that every year should be National Education Year. Education should be addressed effectively with actions and not just words. Our teachers should be treated with the importance they deserve.

One of the most serious problems our Nation faces as we strive for an educational system that can restore America's competitive edge is the skyrocketing costs of education. People need access to this system, and unfortunately, these high costs are becoming a deterrent to some of our best and brightest. This is not right. People should not be forced to make a choice between mortgaging their homes or providing an education for their children. It is disheartening to receive a letter from a constituent that tells you that her "single largest fear continues to be whether or not (she) will be able to pay the next tuition bill."

Mr. Speaker, just where are we heading? In 1990, 347,000 of our Nation's young adults aged 15 to 24 dropped out of school. The morale of our teachers is down. Support for them, whether in resources or in compensation, is wavering.

Shirley Rau, an educator from Idaho wrote, "There has been a lot of talk lately about education and educational reform. We have education candidates for the legislature. We have an education President. Unfortunately good intentions haven't been translated into action. American education has harbored dinosaurs for too long—digging up fossils of failed methods and breathing life into the bones of dead issues again and again.

"Classrooms of today are not much different from classrooms of yesterday. Students sit in rows facing a chalkboard at the front of the room. While technology has shaped office efficiency with computers, fax machines, and laser printers—the only indication of technological advancement in my classroom is an overhead projector.

"Educational reforms at the national level center on a national standardized test of a national curriculum. They center on choice and merit pay for meritorious teachers. What they don't address are the growing problems facing society that are reflected in our classrooms every day: Dysfunctional families, poverty, drug and alcohol abuse, unemployment, and illiteracy. Five hundred thousand children in the United States are 'displaced,' living in institutions or in group homes. This number is expected to climb to nine hundred thousand by 1992."

I am sure that Ms. Rau would agree with me that families must come together as families to ensure that our teachers can concentrate on teaching. It is our families that must foster a sense of discipline, responsibility and consideration in our youth. Teachers are being forced to fix a structure with a crumbling foundation. They are having to deal with the result of unstable home lives. I was recently in the north country of New Hampshire when a kindergarten teacher informed me that 11 students of her class of 18 are from broken homes. We must turn our attention to fixing our families. Our teachers should not have to act as pseudo-parent or guidance counselors, but rather should be able to do what they were originally intended to do * * * teach. We must enable teachers to teach.

It is thanks to teachers that progress has been, and will continue to be possible. Ms. Rau stated, "There was a time in our Nation's history when a sense of the past was important to the spirit of a community, but a commitment to the future was essential. The schools provided the one concrete link that a community had to future lives; it was the significant legacy that one generation left to another."

I salute our teachers, our public servants in educational institutions, our students and our parents that struggle to ensure that their young offspring remain students. I also salute my colleagues who strive to make education our number one priority. But as Ms. Rau stated, "We don't need education presidents or education advocates. We need education activists."

Education is not solely in the hands of lawmakers and teachers. All of us are in this together. Not only because of the obvious gains, but also because of the obvious losses resulting from its failure.

VOL 137 PT 23 NO 21–25 1991 UMI

Helen Keller said, "We can't have education without revolution. We have tried peace education for one thousand and nine hundred years * * * Let us try revolution and see what it will do now * * * this is not a time of gentleness * * * it is a time for open speech and fearless thinking * * * a time that is robust and vehement and bold."

Mr. Speaker, this week enables us to refocus on our most Important investment, our children and their educational future. Together we must once again make education our No. 1 national priority. The Nation that was first to the Moon cannot afford to be late for the 21st century.

IN HONOR OF ROMAN KALININ

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. PELOSI. Mr. Speaker, the attempted Soviet coup in August 1991 was the backdrop for a remarkable demonstration of courage and dedication to the cause of freedom. Roman Kalinin, publisher of Russia's first gay and lesbian newspaper, together with a group of gay men and lesbians worked to fight the coup by printing and distributing President Boris Yeltsin's decrees.

Roman Kalinin first learned of the coup through friends in San Francisco. From late in the evening of August 18, until the coup was defeated on August 21, Kalinin established a telephone link through Finland to San Francisco. A plan was developed to communicate with people in the Soviet Union who would have immediately become targets for intimidation and possibly death because of their sexual preference and work in the democratic movement. Fear and panic were rampant as reports surfaced of the possibility of waves of arrests. On August 20, an official demand was made for lists of people with AIDS and HIV from the Moscow AIDS clinic.

Kalinin is the publisher of TEMA, the first lesbian/gay newspaper in the Soviet Union. His publishing system and copy machine became virtually the only method available to print and distribute information against the coup leaders. For almost 60 hours, gay men and lesbians in Moscow marshaled their forces in an incredible display of courage.

Russian President Boris Yeltsin issued a list of decrees which became the document of resistance against the forces of oppression. Gay men and lesbians at the TEMA offices processed the information on the computer. Around the clock the copy machine printed the Yeltsin decrees with the logo of the well known gay newspaper on the bottom. Kalinin wanted the public to know that the gay community was working to fight the coup, even though he risked his own arrest by publicly claiming the work.

These heroes then took the printed decrees into the streets of Moscow, working with other leaders of the prodemocracy movement. The decrees were distributed throughout the city and appeared at every metro stop for confused Moscovites to read. The decrees were even handed to soldiers in the tanks aimed at the Russian Parliament building. This heroism represents an ongoing commitment to fight oppression and discrimination in the Soviet Union. They have for several years, led the fight to reduce the discrimination which is faced by gay men and lesbians throughout the Soviet Union.

They have also joined with others from around the world to provide information and educational material for the Russian people to fight the ever increasing threat of AIDS and infection from the HIV virus. Their efforts have been supported through the International Gay and Lesbian Human Rights Commission, an organization has become in just 1 year, an international gay consulate to the world. Victory in the Soviet Union provided the opportunity to open doors for lesbian/gay freedom never before dreamed of in that country.

The courage and commitment to freedom and democracy of Roman Kalinin is being honored in December 1991 when he will be named the "Man of the Year" by the Advocate, the largest national publication in America serving lesbians and gay men.

BURMA'S BRUTAL MILITARY CONTINUES TO KILL

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ROHRABACHER. Mr. Speaker, there are places in the world where the level of human suffering is beyond our ability to comprehend. Burma is one of those places. While military dictatorship has beaten the Burmese people into a temporary state of submission, I am hopeful that the gangsters in power will not be able to hold off for much longer the tide of freedom waiting to sweep over the country.

Americans are a compassionate and generous people who have always responded to help others in need. The destruction and suffering of earthquakes, volcanoes, floods, droughts, and other disasters around the world have been mitigated by the compassion of Americans. But the suffering in Burma is the result of callous and evil State policies which have killed tens of thousands and terrorized the entire nation. The suffering in Burma is man made. To better grasp this inferno on pain I commend to the attention of my colleagues the following news items.

[From the New York Times, July 10, 1991]

Burma's Fear, Burma's Corruption

(By Aung San Suu Kyi)

(Aung San Suu Kyi, the leading dissident and most popular political figure in Myanmar (formerly Burma), today will be awarded the Sakharov Prize for Freedom of Thought by the European Parliament. She will not be in Strasbourg for the ceremony because for two years she has been under house arrest in Rangoon. The previous winners were Nelson Mandela, new president of the African National Congress; Alexander Dubcek, Czechoslovakia's leader during the Prague Spring in 1968, and Anatoly Marchenko, a dissident who died in a Soviet labor camp.

What follows, excerpted, is an unpublished essay she intended to include in a volume honoring her father, U Aung San, the architect of modern Burma, who was assassinated in 1947 when she was 2 years old. Despite her party's overwhelming electoral victory in May 1990, Aung San Suu Kyi and many supporters remain in political detention. The military authorities have refused to transfer power to a civilian government despite their promise to do so.)

It is not power that corrupts but fear. Fear of losing power corrupts those who wield it, and fear of the scourge of power corrupts those who are subject to it. With so close a relationship between fear and corruption it is small wonder that in any society where fear is rife, corruption in all forms becomes deeply entrenched.

Public dissatisfaction with economic hardship has been seen as the chief cause of the movement for democracy in Burma, sparked by the student demonstrations of 1988. It is true that years of incoherent polices, burgeoning inflation and falling real income had turned the country into an economic shambles.

But it was more than the difficulties of eking out a barely acceptable standard of living that had eroded the patience of a traditionally good-natured, quiescent people; it was also the humiliation of a way of life disfigured by corruption and fear.

The students were protesting not just the death of their comrades but the denial of their right to life by a totalitarian regime that deprived the present of meaningfulness and held out no hope for the future. And because the students articulated the frustrations of the people at large, the demonstrations quickly grew into a nationwide movement.

The people of Burma had wearied of a precarious state of passive apprehension in which they were "as water in the cupped hands" of the powers that be.

Emerald cool we may be
As water in cupped hands
But oh that we might be
As splinters of glass
In cupped hands.

Glass splinters, the smallest with its sharp, glinting power to defend itself against hands that try to crush, could be seen as a vivid symbol of the spark of courage that is an essential attribute of those who would free themselves from the grip of oppression.

My father, Bogyoke Aung San, regarded himself as a revolutionary and searched tirelessly for answers to the problems that beset Burma during its times of trial.

He exhorted the people to develop courage: "Don't just depend on the courage and intrepidity of others. Each and every one of you must make sacrifices to become a hero possessed of courage and intrepidity. Then only shall we all be able to enjoy true freedom."

A revolution that aims merely at changing official policies and institutions with a view to an improvement in material conditions has little chance of genuine success. Without a revolution of the spirit, the forces that had produced the inequities of the old order would continue to pose a constant threat to the process of reform and regeneration.

It is not enough merely to call for freedom, democracy and human rights. There has to be a united determination to persevere in the struggle, to make sacrifices in the name of enduring truths, to resist the corrupting influences of desire, ill will, ignorance and fear.

Saints, it has been said, are the sinners who go on trying. So free men are the oppressed who go on trying and who in the process make themselves fit to bear the responsibilities and to uphold the disciplines that will maintain a free society.

Among the basic freedoms to which men aspire that their lives might be full and uncramped, freedom from fear stands out as both a means and an end.

A people who would build a nation in which strong, democratic institutions are firmly established as a guarantee against state-induced power must first learn to liberate their own minds from apathy and fear.

[From the Christian Science Monitor, Oct. 16, 1991]

Burma's Profile in Courage

Burma's military regime, which calls itself the "State Law and Order Restoration Council," jails anyone who dares speak out against it. Thousands of Burmese are imprisoned and threatened with torture.

These practices spring from the benighted, xenophobic philosophy of former dictator Ne Win, who stepped down in 1988 at a time of extraordinary popular turmoil, but is widely believed to maintain a firm grip on power behind the scenes.

The chief detractor of Ne Win's legacy—and Burma's chief hope for a better day—is Aung San Suu Kyi. Daughter of a founder of modern Burma, she has been under house arrest in Rangoon for more than two years. This week she received the Nobel Peace Prize—an honor that should bring Burma into the spotlight of international concern.

Though much of her life has been spent in the West, Aung San Suu Kyi's commitment to progress in her homeland has been unstinting. She returned to Burma in 1988 to care for her mother and became involved in the country's yearning for change. A new movement, the National League for Democracy, coalesced around her leadership.

But the "opening" that followed Ne Win's resignation and his legalization of parties other than his own soon closed. The military attempted to quiet Aung San Suu Kyi through house arrest in the summer of 1989. Struggling to accommodate popular opinion, the generals said they would allow a national election the following May. When May arrived, the democratic movement won 82 percent of the parliamentary seats.

The generals ignored the election results. They seemed to be betting that economic improvement would quiet the democratic urge and validate their emphasis on "discipline"—i.e., stern repression. Foreign investment is being courted; the government talks of a "free-market economy."

It won't work. On the occasion of her receiving the European Parliament's Sakharov Prize for Freedom of Thought earlier this year, a speech by Aung San Suu Kyi was published. It called for a "revolution of the spirit" to shuck off the fear bred by tyranny. The Burmese people have heard her. Their desire for freedom deserves universal support.

[From the Los Angeles Times, Feb. 28, 1991]

Burma Is on the Wrong Road

Aung San Suu Kyi. She is a symbol of both the hope and despair of Myanmar, the Asian country formerly known as Burma. Nine months after a stunning election victory, Suu Kyi, leader of the victorious National League for Democracy, remains under house arrest. The country's iron-fisted military refuses to relinquish power and figures that by keeping her out of sight, she will slip into oblivion. The world cannot let Suu Kyi be forgotten.

Her sad story illustrates that unrelenting repression of the Burmese people and the denial of their human rights. The military is contemplating putting her on trial as the world takes note of her plight: The European Community recently awarded her the Sakharov Prize. Czechoslovakia's President Vaclav Havel has nominated her for a Nobel Peace Prize. Norway as awarded her its Rafto Human Rights Prize.

Myanmar, meanwhile, has become an increasingly dismal and hopeless place. Not only has the State Law and Order Restoration Council refused to yield to those elected last May, but it also has jailed more than 50 of them. Others have fled. Even the country's revered Buddhist monks have not escaped the military crackdown. Meanwhile, Myanmar's so-called "beautification" program to clean up cities was conducted less for aesthetics than to make it hard for anti-government protesters to assemble.

Still the spirit of democracy endures. Other elected officials who managed to escape recently formed a rival government, the National Coalition Government of the Union of Burma, with Sein Win, Suu Kyi's cousin, as prime minister. They are backed by the Democratic Alliance of Burma, an organization of 21 groups fighting the military.

The U.N. Human Rights Commission received a confidential report this week in Geneva on human rights conditions in Myanmar. The international community should insist the report, which reportedly is highly critical, be made public. It would provide the basis for world sanctions against the military regime.

[From the New York Times, Oct. 30, 1991]

Burmese, in a Desperate Situation, Seek Help

To the Editor: The All Burma Students' Democratic Front of the Ye Kyaw Camp inside Burma has issued an urgent international SOS for 15,000 civilians trapped in the Burma war zone and for widespread human rights abuses. Civilian casualties among those caught in the war zone are mounting, and all face a grave danger of being killed by Burma's military government, the State Law and Order Restoration Council, in its annual dry-season offensive in a few weeks.

This SOS comes in close proximity to the third anniversary of the bloody military coup in Rangoon, Burma, on Sept. 18, 1988, in which thousands of unarmed Burmese, mostly students, were killed, and thousands more who were peacefully demonstrating for democracy were jailed. Following this coup the military government changed the name of the country from Burma to Myanmar.

I have just returned from the Burmese war zone after spending time with the Students Democratic Front. It is an armed student army fighting the State Law and Order Restoration Council in Burma.

By many accounts, the Burmese are suffering considerably more than people in Yugoslavia or South Africa, and have received far less attention and consideration.

The Burmese need help from the international community to place pressure on Burma's military government to abide by the results of the May 27, 1990, democratic elections in Burma. Despite an overwhelming election defeat, the military government has refused to relinquish power to the democratically elected National League for Democracy.

Daw Aung San Suu Kyi, the elected leader and Nobel Peace Prize winner has been under house arrest for two years, and numerous opponents of the Government have been jailed and executed without an opportunity to defend themselves. Having been to the war zone inside Burma, I am compelled to speak as loudly as I can for the 15,000 Burmese people trapped in the war zone and for those ruthlessly silenced.

The Burmese people are in a desperate situation and seek help. As individuals and governments, we have an imperative moral obligation to oppose the military government and thus avoid any appearance of its acceptance by the international community.

[From the New York Times, Oct. 15, 1991]

Message to Myanmar

By awarding the 1991 Peace Prize to Daw Aung San Suu Kyi, the inspirational leader of Myanmar's democracy movement, the Norwegian Nobel Committee gives fresh hope to a people oppressed by one of the world's ugliest remaining tyrannies.

This recognition may shame Asian nations like China and Thailand into withdrawing economic and political support from Mrs. Aung San Suu Kyi's jailers, the State Law and Order Restoration Council, or Slorc. Even if these neighboring regimes remain unmoved, Myanmar's democrats can be heartened by the examples of previous Peace Prize winners like Lech Walesa and Archbishop Desmond Tutu, whose causes passed from hopelessness toward splendid triumph.

To be heartened, Myanmar's people have to learn the news. The Slorc, which holds Mrs. Aung San Suu Kyi under house arrest, will make that as difficult as possible. So tight is its grip that her husband, now residing in the U.S., cannot be certain that his wife is even alive.

Her prestige has probably spared her. She is the daughter of the man who led the country then called Burma to independence, and she carried her party to overwhelming victory in last year's parliamentary elections. Yet thousands of others have been killed in Myanmar's struggle for democracy. And the Slorc still brazenly refuses to honor these decisive election results.

Fortunately, the world is now too small for tyrants to feel protected by the old conventions of absolute national sovereignty. The U.S., thanks in large measure to Senator Daniel Patrick Moynihan of New York, now pressures the Slorc with economic sanctions. The European Parliament, which awarded Mrs. Aung San Suu Kyi its Sakharov Prize, and now the Nobel Committee exert another kind of useful pressure.

This faith that Myanmar's people are as entitled as any other to share in the emerging new world of democracy and basic human rights will eventually be vindicated. If China and Thailand believe that too, they have it in their power to accelerate democratic change. How long will they choose to hold themselves apart from the conscience of the world?

[From the New York Times, Apr. 6, 1991]

State Dept. Can Act Against Burmese Regime

To the Editor:

As the United States debated what to do about Saddam Hussein, a frequently asked question was, "Are we to become the world's policeman? Of course, we cannot take it upon ourselves to confront every dictatorial and inhuman regime in the world, especially if they do not harm our nationals or our national interests. But some regimes are more outrageous than others, like the military mafia that rules Burma and has sought to change its sports by changing the country's name to Myanmar.

Burma's military regime made a mis-

MARJORIE WADLER CELEBRATES

I want to commend Mr. MOAKLEY, Mr. MUR-

growth and development of General Aviation

to address the small things essential to getting

bassador, Robert Strauss, offered Moscow

VOL 137
PT 23
NO 21–25
1991
UMI

Burma's military regime made a miscalculation as egregious as any of Saddam Hussein's when it permitted national elections last May for a new parliament. Government candidates suffered a humiliating defeat. The chief democratic party won more than 80 percent of the seats. But the military regime then prevented the elected parliament from convening and forming a new government. It has kept Aung San Suu Kyi, who headed the party, under house arrest and has also arrested most of her party's leadership.

We could bring down the military regime without spending a dollar or voicing a single threat. All we need do is withdraw our diplomatic recognition from the illegitimate "government" and recognize the provisional government that a group of Suu Kyi's elected colleagues have established in Burma's northern border region.

Deaccreditation by the United States would in all likelihood be followed swiftly by Canada, Australia, Britain, India and other democracies who view the military regime with repugnance, and perhaps also by the United Nations. The Burmese students and people of all classes who demonstrated for freedom and democracy by the hundreds of thousands in September 1988, only to be shot down by the thousands, would surely take to the streets again, given such a show of outside support.

The many honorable military officers who have been sickened by the brutality, corruption and mismanagement of the Ne Win clique for nearly three decades would repudiate their leadership and give their allegiance to Suu Kyi's provisional government. The provisional government has already won the support of the rebel minorities who comprise one-third of the country's population, control the strategic border regions and desire a federal republic in which they would enjoy autonomy.

Can our State Department close its eyes to this situation? Can it fail to strike this riskless and costless blow for the freedom of 40 million people?

LOUIS J. WALINSKY.

WASHINGTON, *March 22, 1991.*

(The writer, who served as chief resident economic adviser to Burma, 1953–58, is the author of "Economic Development in Burma 1951–60.")

[From the Washington Post, Oct. 20, 1991]

WHAT THE BURMESE SUFFER IN MYANMAR

The awarding of the 1991 Nobel Peace Prize to jailed Burmese opposition leader Aung San Suu Kyi is a well-deserved recognition of her fight for democracy and civil rights. She is under house arrest and may not even know she has won this prize.

However, I wonder why the free press of this country keeps changing the name of Burma to "Myanmar." This name has not been freely choosen by the Burmese people, but imposed on them by the same military junta that, according William Branigan ["Burmese Opposition Leader Wins Nobel," news story, Oct. 15], "has killed, imprisoned and tortured thousand of its citizens."

Using "Myanmar" is not a mark of respect for the people of Burma, it is a kowtow to the bloody dictators of Rangoon.

MARJORIE WADLER CELEBRATES HER 80TH BIRTHDAY

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LAUGHLIN. Mr. Speaker, on November 7, 1991, my constituent and friend, Marjorie Wadler, celebrated her 80th birthday in Wharton, TX. This weekend her friends and family gathered there to celebrate this special occasion with her.

Mrs. Wadler is a remarkable woman. In 1950, her husband passed away, and she became a single parent to three children, the youngest being only 18 months old. Six months later, she opened Margie and Lees Youth Center, a children's clothing store, which she successfully operated for over 30 years.

Mrs. Wadler was the first women in Wharton County to serve on the grand jury and the first woman to serve on the board of the Wharton Chamber of Commerce. She was also a founding member of the first chapter of Hadassah in the State of Texas.

Mr. Speaker, with your permission on behalf of the entire House, I would like to wish Mrs. Wadler a happy birthday.

SECOND ANNIVERSARY OF THE MURDERS OF SIX JESUIT PRIESTS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LEVINE of California. Mr. Speaker, last Saturday marked the second anniversary of the murders of six Jesuit priests, their housekeeper and her daughter on the campus of the University of Central America in San Salvador. Two years after these murders, the Salvadoran Government has yet to mete out justice. While two convictions were handed down by the court, the trial itself was a travesty, and strong evidence suggests that higher ranking officials were involved.

The Jesuit case highlights the substantial shortcomings of the Salvadoran judicial system. Six of the eight soldiers implicated in the murders were acquitted even though they admitted their involvement. Testimony was perjured, withheld, and destroyed; the military employed intimidation tactics on the judge and jury, and questions about other participants remain unresolved. Everything that is wrong with the Salvadoran judicial system was manifest at this trial.

Despite this travesty of justice, there may be one bright spot to the Jesuit trial. The guilty verdict fell upon the man most responsible and upon a major participant, Col. Guillermo Benavides and Lt. Yushi Mendoza. These convictions begin to lift the veil of immunity protecting military officers involved in gross human rights violations, and are a welcome sign. While Congress must demonstrate its dissatisfaction with the conduct of the trial, we must also preserve and encourage the progress that was achieved.

I want to commend Mr. MOAKLEY, Mr. MURTHA, Mr. BONIOR, Mr. TORRICELLI, Mr. MCHUGH, and the other Members who have worked so diligently to craft H.R. 3782. I am proud to be an original cosponsor of this legislation and urge consideration of this measure as expeditiously as possible.

In addition to my support for this important bill, I have authored legislation of my own. This bill complements H.R. 3782 and attempts to reconcile two divergent policy objectives: Expressing severe congressional disappointment with the conduct of the Jesuit trial and keeping the parties to the conflict negotiating in good faith.

My bill, H.R. 3669, has two components. First, it transfers $10 million from Salvador's military assistance account into the peace fund which was created to finance transition costs in the civil war's aftermath. Such a transfer was mandated by law if a thorough and professional investigation into the murders of the Jesuit priests was not conducted. Notwithstanding the ludicrous nature of the trial's outcome, all fiscal year 1991 military assistance to El Salvador was delivered.

Second, it requires that 50 percent of what is left of this year's military assistance be transferred into the peace fund if the two army officers convicted at the Jesuit trial are granted a specialized pardon of amnesty. Specialized in this context means a pardon or amnesty that is not the result of a negotiated peace argument between the Government and the rebels.

For the first time in over a decade, the parties to the conflict in El Salvador are trying to resolve their differences by direct talks and not warfare. At this critical juncture, United States policy toward El Salvador must encourage the parties to remain engaged in the peace process, support the mediating role of the United Nations, and promote absolute respect for the human rights of all Salvadorans.

Mr. Speaker, the second anniversary of the Jesuit murders would be a symbolic moment for a decisive change in United States policy toward El Salvador. Human rights observances must be a central tenet of United States policy toward El Salvador and all other countries with whom we have relations.

TRIBUTE TO STANLEY J. GREEN ON THE OCCASION OF HIS RETIREMENT FROM GENERAL AVIATION MANUFACTURERS ASSOCIATION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mrs. MORELLA. Mr. Speaker, I rise today to honor Stanley J. Green, a distinguished resident of Maryland's Eighth Congressional District, which I represent, on the occasion of his retirement next month as vice president and general counsel of the General Aviation Manufacturers Association [GAMA] located in Washington, DC. Stan was one of the founding members of GAMA, which was chartered in January 1970. Throughout the past 22 years, Stan has been a major force in the

growth and development of General Aviation both here in the United States and abroad. In his capacity as vice president and general counsel, Stan has been responsible for all legal, technical, safety, airport, airways, and operations affairs for the association. One of Stan's most notable contributions to the industry has been in leading the fight to reform the product liability system which governs General Aviation accidents cases. Throughout his time at GAMA, Stan has advocated a continuing airworthiness program to improve the safety and operations of America's aging general aviation fleet.

Over the past 20 years, Stan has been extremely active in FAA rulemaking, especially in the area of aircraft certification. He is a bona fide authority on Federal Aviation Regulation [FAR] part 23 which deals with small aircraft weighing less than 12,500 pounds, and FAR part 25 for transport aircraft. Many sections of these regulations were written singlehandedly by Stan when he was at the FAA.

When Congress passed the Clean Air Act Amendments in 1990, two of the provisions caused great alarm in the general aviation industry. One mandated terminating the production of all new lead-burning nonroad engines after 1992. Another banned the production and sale of leaded motor fuels after 1995. Since aviation fuel contains a small amount of lead to boost performance and safety, there was concern that the industry would be hurried to find a no-lead alternative. Stan began a nearly year-long campaign to organize airframe and engine manufacturers, fuel companies, the FAA, the Environmental Protection Agency, and the other aviation associations. The result of Stan's extensive efforts was a ruling by EPA that aircraft engines were already regulated under other sections of the Clean Air Act and thus not subject to the nonroad vehicle ban. Stan also helped forge a cooperative spirit between fuel producers and the aviation industry to develop and test a suitable nonlead fuel that will provide adequate power and safety for the existing fleet and for aircraft engines of the future.

Stan is married to the former Nancy Gardner of Brooklyn, NY. They reside in Silver Spring, MD, and have a daughter, Dina, and a son, Allen.

Please join me in saying thank you to Stan Green for a dedicated career of service to his country and to the general aviation community. His efforts have contributed greatly to the much improved safety record enjoyed by general aviation today. I wish Stan and his family well as he concludes an illustrious career in aviation.

BEWARE THE IDES OF DECEMBER

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ASPIN. Mr. Speaker, today more voices join the chorus warning of the potential for chaos and unrest in the Soviet Union this winter. A Washington Post editorial notes the former Soviet Union is in dreadful political and economic disarray. It endorses immediate aid to address the small things essential to getting through the winter so large things can be done later. A Washington Times article describes a Soviet newspaper report on the possibility of a second coup in December. Newly reappointed Foreign Minister Eduard Shevardnadze comments that social tension is running high.

Mr. Speaker, it is clearly in our best interest to forestall chaos. Social unrest surely would weaken command and control of the nearly 30,000 nuclear weapons in the country, raising the possibility that they could fall into the wrong hands.

Mr. Speaker, I would ask that both the Washington Post editorial and the Washington Times article be placed in the RECORD.

[From the Washington Times, Nov. 22, 1991]

BEWARE THE IDES OF DECEMBER

(By Gerald Nadler)

MOSCOW—One batch of coup plotters are in jail, but fears of a new putsch are mounting daily—fueled by the dire warnings of Soviet officials and endless speculation in an unshackled press.

The newspaper Nezavisimaya yesterday reported that a coup was set for December and could emanate from Soviet military units still in the newly independent Baltics.

The fears of a new coup come against a backdrop of joblessness and rising prices. To help alleviate the squeeze the world's leading industrial powers yesterday put off for a year payments of principal of the Soviet Union's massive debt.

Many observers believe that army colonels, faced with dismissal as part of the Defense Ministry's planned 80 percent reduction in officer ranks, will lead the charge.

"Their hands won't tremble" at shooting at the people, the newspaper warned.

The failed August coup was led by KGB and army generals and grew directly out of their fears that a new union treaty with republics and a decree to remove the Communist Party from workplaces would disintegrate the Soviet Union.

Growing unemployment and the higher prices now being posted as part of Russian President Boris Yeltsin's economic reforms are creating worker unrest that is helping foster the coup fears.

Yesterday's debt postponement involved $3.6 billion in loan payments.

The so-called Group of Seven economically advanced states also promised to lend the Soviets $1 billion to tide them over. The Soviet foreign debt stands at $70 billion.

But the first winter in the newly decentralized Soviet Union could spawn discontent that could spill into the streets. Those who fear another coup say such unrest is likely to be met by a fascist reaction or by colonels who would seize power in the name of law and order.

One day after being reappointed foreign minister, Eduard Shevardnadze warned that the danger of a new coup indeed lurks. He forewarned of the earlier putsch back in December.

"People may take to the streets with new slogans," Mr. Shevardnadze told the newspaper Komsomolskaya Pravda. "Social tension is running high in the country. The economic situation is dismal. I am afraid that disillusioned people may take to the streets, and there is no telling who will lead the crowds."

The agreement yesterday by the Group of Seven to defer loan payments came a day after the Bush administration, undoubtedly spurred by advice from its new Moscow ambassador, Robert Strauss, offered Moscow $1.2 billion in food credits. In the spring, Washington indicated, Moscow could come back for more.

"I would rather risk a couple of billion bucks out here for our country than fail to risk a couple of billion bucks and end up looking at a real fascist-type situation," Mr. Strauss told American reporters Monday.

The envoy, 73, and only three months on the job, explained in his straight-talking style how a fascist power grab could evolve.

"I think if we get too tough a winter . . . it's very easy to understand people being in the streets," Mr. Strauss said. "That's the threat out there, and there's a lot of latent animosity.

"There's an awful lot of people who'd like to swap what they have now and go back to the security of knowing what 2 rubles would buy—knowing all they have to give up would be a little freedom of speech," he said. "Out of that kind of climate demagogues are made."

The newspaper Nezavisimaya's chilling forecast of a new coup was written by Eduard Topol, a Soviet emigre author of spy thrillers. The scenario, he said, was based on what he claimed were his sources in the Baltics.

"The main actor and force of the coup will be the middle layer of the officers and professional army men who are now being demobilized in large numbers," Mr. Topol said.

"In Estonia there are more than 80,000 unemployed army officers. Deprived of their residence permits and having received six months' termination pay, they have also been informed by the Estonian leadership that they must leave the republic in six months.

"These officers—left without homes, without the possibility of eating in affordable officers' messes, unable to shop in army stores and having no prospects in Russia to where they are about to be kicked out—in December will become the main force of the coup."

Coup preparations by this officer class, whom he called the "Decembrists," were no longer relegated to the Baltics but have spread across the entire country, he said.

"The Decembrists have already established their own communications system, codes and operational plans," he said. He said the officers and professional soldiers now have nothing more to lose and are "filled with destructive energy."

"In December behind the controls of the tanks will sit not the soldiers, who in August were afraid to shoot at the people even with blanks, but a cadre of officers and Afghan veterans," he said. "They will stop at nothing."

Pyotr Filipov, a Russian republic lawmaker, told The Washington Times that the middle-class officers should be retrained with foreign help to ward off the possibility of their staging a coup.

Mr. Yeltsin and Soviet President Mikhail Gorbachev have relentlessly used the specter of a new coup to spur reforms since the collapse of the Aug. 19–21 power grab.

Almost daily, newspapers carry accounts of the treatment in jail of the 14 arrested alleged plotters. Pravda yesterday had a picture of Anatoly Lukyanov, former parliament speaker, eating at his prison table. The report said the food was better than average Soviet fare.

Another recent report in the newspaper Izvestia said former KGB Chairman Vladimir Kryuchkov has his slippers in his cell, avariciously reads newspapers and drinks his sugarless tea without complaint because those are "the rules."

VOL 137
PT 23
NO 21—25
1991
UMI

No date for what will be a sensational trial has been set, but the attorneys for the accused are slated to receive the evidence assembled by the prosecutors in December so they can start plotting their defense.

[From the Washington Post, Nov. 22, 1991]

SOVIET AID: FIRST AND NOW

The matter of aid for the Soviet Union badly needs to be hauled down to earth. Earlier this year, many Westerners were pleased to contemplate the idea of cooperating in a great plan to build a market economy. Then the focus tended to shift to the political question of whether the United States should address itself to the fading central union or the emerging new republics. Both issues are important, but they do not get to the nitty-gritty. Many large things need to be done, but the former Soviet Union is in dreadful political and economic disarray and can do them only in its own time and way. First and now, it needs to address the "small things" essential to getting through the winter. Americans too ought to be considering what needs to be done and what can be done first and now.

Of the worthy projects that informed Soviets and Americans identify, two stand out: ensuring adequate medical supplies and helping collect and destroy nuclear weapons. This doesn't mean nothing else is worth doing. The food being sent can improve thin diets. Much can be done in technical assistance and reform consultations across the board. But provision of drugs, medicines and basic medical equipment would help plug a dangerous service gap at a moment when the need is immense and the public is on the edge of panic. Helping Soviet authorities get rid of nuclear and chemical weapons—two senators analyze the proposal on the opposite page—would impart valuable momentum to a vital and lagging nonproliferation effort. These projects are urgent, feasible and important. They could make a visible difference and help reverse the alarming tendency to regard the Soviet Union as slipping beyond rescue.

Washington has had trouble addressing the Soviet scene. The pace and novelty of change there, the recession-induced focus here on domestic strains and the onset of a political season have balked formation of a reasonable program. The main thing the administration has done so far is to offer agricultural-loan guarantees that may not put food on Soviet tables for a long time and that it justifies as a bailout for American farmers. Congress failed in its recent attempt to find a political formula that would sustain transferring some Pentagon loose change to Soviet aid purposes.

Fortunately, there are signs that the urgency in Moscow is breaking through. Projects are beging sorted out with an eye both to their practical utility and their political support. In this climate it becomes possible to hope that medical supplies and nuclear weapons will gain the absolute priority they deserve.

MOROCCO IS FULLY COOPERATING WITH MINURSO

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SOLOMON. Mr. Speaker, on November 19, 1991, during debate on House Concurrent Resolution 214, which expresses the sense of the Congress on the United Nations peace plan for the Western Sahara, I spoke in opposition to the resolution. I did not have sufficient time on that occasion, however, to respond to all of the statements of my colleagues. Because some were so severe, I feel it necessary to take this opportunity to do so. I would like to address some of the inaccurate allegations made at that same time by my colleagues on the other side of the aisle. While I realize my colleagues and I approach the conflict in the Sahara from opposing points of view, and while I respect the sincerity of their opinions, I feel it is necessary to take issue with some of the statements they made for the official record of the House of Representatives.

Frankly, Mr. Speaker, I wish my colleagues had taken the time to talk to representatives of the United Nations before making their statements, rather than just talking to supporters of the Polisario. If they had, many inaccuracies in their statements could have been avoided. For example, my colleagues assert that Morocco is obstructing the United Nation's efforts to implement the peace plan, and even go so far as to assert that "it is obvious that King Hassan has no intention of allowing the election to take place under the guidelines proposed by the United Nations." The fact is, however, that the King has continued to pledge his support for the referendum, in speeches he has made to the Moroccan people and in private conversations with the Secretary General of the United Nations. In his televised speech of August 20, the King declared, "We agree to this plan and we are adhering to this plan in its depth and philosophy," adding, "We are saying this and we are stressing it: We are not against the U.N. peace plan." Indeed, as he wisely points out in the conclusion of that same speech, "There should be no reneging on this. This is not a game. One does not play with the fate of a country and the lives of people." A careful reading of this speech reveals that the King's concerns about the peace plan focused exclusively on the fact that the work of the U.N. Voter Identification Commission was behind schedule, a concern the Secretary General has since conceded was justified.

United Nations Secretary General Javier Peres de Cueller was also quoted by the French weekly Le Figaro as affirming that "Morocco has never requested a suspension or delay of the process undertaken by the United Nations." The Secretary General assured the Paris-based weekly Jeune Afrique that the ceasefire has been implemented smoothly and was holding. He affirmed that he had spoken to the King by telephone on August 26, and "the King told me what he has always said, that is, that he supported the referendum and that he expected it to be just and impartial."

Mr. Speaker, my colleagues also claim that Morocco is impeding the efforts of the United Nations Mission, or MINURSO as it is known, to install itself in the territory. As an example, they cite reports that supplies were purposely being held at Moroccan ports in order to thwart the peace plan. These delays at customs did occur, Mr. Speaker, but only at the very beginning of the U.N. deployment. They were resolved weeks ago and were purely administrative. Indeed, I would argue that it is perfectly natural for there to be logistical difficulties in establishing a facility to organize and conduct a referendum of self-determination.

Our esteemed colleague from California and author of this House resolution has himself stated for the record that the Secretary General's Special Representative for the Western Sahara, Johannes Manz, has assured him that he has seen no evidence that Morocco is obstructing the peace process.

My colleagues accuse Morocco of refusing to withdraw its troops according to the United Nations' timetable. Under the agreement, however, if Morocco's troops are withdrawn, U.N. peacekeeping forces will have to be deployed in their place. The Government of Morocco and the United Nations have agreed that until acceptable criteria for voter eligibility have been established and the actual organization of the referendum is underway, it would be a serious waste of money to deploy all the United Nations troops. In light of our own budget deficit and efforts to limit additional expenses—and let's remember here that the United States will assume approximately one-third of the costs of the referendum—and the already considerable sum budgeted for this operation, I most heartily agree with Morocco and the United Nations. Moreover, we should be grateful for this careful attention to budgetary considerations. Likewise, the personnel of the U.N. High Commissioner for Refugees and the International Committee of the Red Cross do not have a role to play in the territory until the task of identifying and registering voters begins.

Mr. Speaker, the United Nations has been aware ever since the beginning of negotiations that Morocco's position was to accept the Spanish census of 1974 only as a starting point for establishing voter eligibility for the referendum. Everyone, including the Polisario, agrees that this census was flawed, and objective observers further agree that the request to expand eligibility beyond this list is a legitimate one. The United Nations is working assiduously to come up with the definitive criteria for eligibility, hopefully by the end of this month, and both Morocco and the Polisario have their own positions on who should vote. Mr. Speaker, where I come from we call this politics. I would urge my colleagues to look at the jockeying for position going on in redistricting battles in States like New Jersey, California and Michigan, and compare that to what Morocco and the Polisario are doing, before they criticize Morocco.

Besides, rather than criticize Morocco for an alleged delay, we should be praising Morocco for allowing MINURSO troops to be deployed even though the most critical issue—who will vote—was unresolved. Surely this was a sign of extreme good faith on the part of Morocco. With regard to the accusations that Moroccan settlers are being moved into the territory to pad the voting polls in Morocco's favor, I would point out that it is my understanding that these people are all Saharaouis who originally came from this territory, and fled when Spanish troops were fighting the Moroccan resistance. These people believe with good reason that they will be eligible to vote in the referendum. Although it is impossible to say with

certainty how many of these prospective voters have entered the region, most observers agree that the claims of 170,000 are certainly exaggerated. Let us bear in mind that the United Nations has responsibility for determining voter eligibility and for organizing the voting, and has neither rejected the 120,000 candidates that Morocco has proposed for consideration nor raised an alarm about people moving into the area.

My colleagues have leveled serious accusations against Morocco but have said nothing about reports of mistreatment by the Polisario of the innocent Saharaouis in the refugee camps in Tindouf. Mr. President, I am aware of articles in the international press describing the severe conditions of these camps and efforts of the Polisario to prevent the residents from fleeing the deprivation for greater opportunities in Morocco.

Finally, I must respond to two allegations that were most upsetting to me. First, the amazing statement that napalm was used by the Moroccan army against innocent Saharaoui civilians is absolutely ludicrous and without foundation. I would caution my colleagues against making such serious charges without reliable evidence beyond the hearsay and propaganda of the Polisario. Neither the State nor the Defense Department has any evidence of this. Second, any comparison of the conflict in the Sahara to Iraq's invasion of Kuwait is a gross distortion of reality and an egregious insult of a true and trusted friend of the United States. Not only does it cheapen the savagery of Saddam Hussein's invasion, but it is an insult to the American men and women who gave their lives to defend the cause of freedom in the gulf. It is also deeply ironic, since Morocco's early commitment of troops to the defense of Saudi Arabia was one of the most important elements of the coalition against Iraqi aggression.

Mr. Speaker, as I stated on the floor of this House when House Concurrent Resolution 214 was debated, Morocco is a close and valued friend, helping us understand and advance the complicated path toward peace in the Middle East and helping us defend United States strategic interests in Africa and beyond. Allegations such as those made against Morocco the other day cannot go unanswered. I hope that my colleagues will be more careful in similar debates in the future.

THE SECOND ANNIVERSARY OF THE MURDER OF THE JESUITS

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MOODY. Mr. Speaker, on the 2-year anniversary of the murder of the Jesuits, I wanted to join many of the colleagues in the House to remember their life work and recognize that, once again, El Salvador has suffered losses it will never regain.

The murders of the Jesuits, their housekeeper and her daughter were not the first senseless, violent killings in El Salvador. They will not be the last. But in November 1989, we faced an event so callous, so violent, and cruel that we were shocked, when we thought that nothing in that tragic country could shock us again.

These six men killed were religious men—not men of war. They were intellectuals. And they were killed for the ideas they held—the idea that Salvadorans needed to come together and resolve their differences.

These were courageous individuals. Their residences had been burned or bombed before. They had received death threats. They knew their lives were in peril. But they stayed in San Salvador. They continued their religious work and they continued to speak honestly about the situation there.

I am saddened and very disappointed by the verdict in the Jesuit case. Despite 2 years of international and internal pressure, justice has not been served in this case.

We know what happened 2 years ago today. We know that members of the Salvadoran Army's elite Atlacatl battalion entered the campus, dragged the six priests from their beds, and killed them. They then killed Ms. Ramos and her daughter because they had witnessed these barbaric murders.

We know that all of this is true but we don't know who ordered these killings. Those individuals continue to hide behind the protection of their fellow officers.

We know that a large number of soldiers carried out the killings yet all but two individuals were found not guilty under the recent verdict.

We know that one man actually admitted pulling the trigger and killing Ms. Ramos and her daughter but he too was found not guilty.

We know that despite 2 years of outcry from the world community, there is no justice in El Salvador.

If the full weight of the world community cannot bring justice to the Jesuits, we can only imagine what most Salvadorans face.

I am furious that the State Department has been silent on the verdict in the Jesuit case. I am deeply disappointed that Congress has failed to act in response.

Congressman JOE MOAKLEY said it best:

> A terrible injustice has been done. The people who actually carried out the murders, who made these six respected and courageous men of God lie down in the dirt and shot them in the back of the head, the men who ordered that two women be riddled with bullets while they lay, moaning and wounded, in each others arms, have escaped justice. Where is the outrage? Where is the leadership?

By far the strongest leadership I have seen comes from Congressman MOAKLEY. He has personally invested a tremendous amount of time and energy. For him, this has been a long road. I salute his untiring efforts on behalf of El Salvador. His leadership and moral suasion was largely responsible for the landmark Moakley-Murtha legislation that helped to move the peace negotiations forward.

We all welcome the progress that has been made in the United Nations-sponsored peace talks. I am hopeful that the Government and FMLN will reach agreement in the coming months. I welcome the cease-fire announced by the FMLN and the Government's decision, in response, to stop aerial bombing and use of heavy artillery.

Our Government has a key role to play in those talks. We must consistently push both sides to make real concessions and end this war. We in Congress must demonstrate that we will not continue to fund it. I will work with Congressman MOAKLEY and other leaders in the House to take strong action on this issue when we return early next year.

LOW-INCOME HOUSING MODERNIZATION AND REVITALIZATION ACT OF 1991

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. DIXON. Mr. Speaker, today I and 29 of my colleagues in the House are introducing the Low- and Moderate-Income Housing Modernization and Revitalization Act of 1991 which is designed to make housing decent and safe and more available for low- and moderate-income families and individuals.

This legislation, modeled after the successful California program, makes permanent the low-income housing tax credit while encouraging the development of affordable, decent, safe and sanitary housing for low- and moderate-income families and individuals.

To ensure that housing for these families and individuals is available, the bill provides investment incentives to private developers to rehabilitate and construct low-cost rental housing units through a shortening of the depreciation recovery period from 27.5 years to 20 years. It also exempts from the passive loss limitation certain deductions relating to low-income housing.

To ensure that low- and moderate-income housing is decent and safe, the bill would deny the housing tax credits and deductions claimed by unscrupulous owners of low-income rental housing units who consistently violate State and local health, safety and building codes by maintaining substandard rental housing units.

Mr. Speaker, there is evidence that slumlording is still a widespread and pervasive problem in this country. A 1989 Census Bureau study reports that the Nation's housing stock occupied by persons living in poverty is 12.4 million units, of which 2.2 million units or 18 percent are substandard.

Last year was the first time that Congress made any major revisions to our housing programs since 1974 with the passage of the Cranston-Gonzales National Affordable Housing Act. I am pleased to have been part of that effort. But Mr. Speaker, despite this bipartisan effort to end the housing crunch, there remains much more to be done to ensure that every American family and individual will have a decent place to live.

New construction of housing for low- and moderate-income families and individuals is at a virtual standstill. And, scores of existing low-income housing units will continue to disappear as older buildings are destroyed and replaced with higher priced rental units and condominiums.

The city of Los Angeles continues to provide financial incentives to developers to construct new low-cost housing rental units, and to private property owners to rehabilitate existing

VOL 137 PT 23 NO 21—25 1991 UMI

housing. However, the shortage of decent housing remains, and it is projected to grow considerably in just a few short years. Los Angeles currently has an estimated shortage of 23,195 dwelling units and this gap is expected to expand to 48,722 housing units by July 1994.

Providing incentives to private developers to construct new or rehabilitate existing housing units for low- and moderate-income families and individuals has worked well in California. In 1974, California changed the State income tax code to disallow business-related tax deductions claimed by slumlords who consistently maintain substandard rental housing units. The last decade has shown that the California program has been effective and could serve as a Federal model for the rest of the Nation.

I invite each of you to join with me and the 29 original cosponsors to support this initiative. It is a positive step in promoting the development of affordable and decent housing for all Americans.

THE CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT OF 1991

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. DOOLEY. Mr. Speaker, today I have introduced, along with other Members of the California delegation, the Central Valley Project Fish and Wildlife Act of 1991. This far-reaching water legislation would restore and enhance the California environment while also ensuring an adequate water supply for use by California farmers and cities.

It is the first step toward providing a solution to the competing demands for Central Valley Project [CVP] water by California agriculture, the environment, and the cities. It is the product of months of unprecedented, intense negotiations involving legislators, farmers, and rural and urban water users of CVP water throughout the State.

It represents a consensus opinion among Californians not often allied but nonetheless concerned about the environmental and economical future of our State. Under the surface of this consensus lurks concession and sacrifice. Only through much hard work can I introduce this bill today as a united effort of agricultural and urban water users.

To date, the focus of the CVP debate has been directed at reallocation of water for fish and wildlife purposes and for urban uses—at the expense of the large agricultural segment of California's economy.

This bill recognizes that California's limited water resources are increasingly taxed by a growing State population, the need for further environmental protection, the needs of the State's world leading agricultural economy, and the ongoing drought. With those needs in mind, this bill proposes specific, targeted, balanced, and realistic solutions.

On Monday, November 18, in a debate on CVP contracts, my colleagues in the House of Representatives got a glimpse of the intensity and passion represented by matters affecting the CVP. There is much at stake.

The people immediately impacted by any reworking of the CVP are my constituents—San Joaquin Valley farm families that rely on CVP water for their crops, valley families that do business with farmers, and the agriculturally dependent economy of hundreds of valley communities.

But the consensus agreement represented by this bill extends well beyond valley farmers and communities. indeed, the entire State is affected by any reworking of the CVP, and this bill addresses those concerns.

The Central Valley Project Fish and Wildlife Act of 1991 includes provisions to:

Develop and implement immediate and long-term programs and mechanisms that provide cost-effective protection, restoration, and enhancement of fish and wildlife habitat and resources in California's Central Valley.

Create a joint Federal and State fish and wildlife advisory committee to identify and implement additional environmental measures deemed necessary to achieve these goals.

Require CVP farm contractors to develop water use management and conservation practices.

Establish guidelines and put into operation environmentally responsible and economically feasible water transfers.

Language allowing for the limited, orderly transfers of water between rural and urban users is a particular breakthrough of this legislation. The State's lengthy drought and its rapidly growing urban population have made the issue of water transfers critical to its healthy future.

This water transfer language is supported by the Association of California Water Associations, which represents farm water users throughout the State, and the massive Metropolitan Water District of Southern California.

I'm pleased that we've been able to build a consensus of support for this bill representing a wide cross section of water users in California.

This bill will not please everyone. Some Californians favor a much different approach. But this bill is a serious, thoughtful attempt to address the water issues that are of concern to all Californians.

Negotiations have begun in Washington, and I hope the introduction of this bill will clear the way for more substantive discussion over the next several weeks in California.

We still have a long way to go, and I expect that the negotiations will be tough. But the stakes for California agriculture, the environment, and cities are much too high not to make the effort.

SOUTH FLORIDA REALTORS FIGHT FOR ACCESSIBLE HOUSING

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Century 21 Corp. and the Easter Seals Foundation, along with many other concerned citizens, have joined to form a public education campaign to promote accessible housing. With the passage of the Americans with Disabilities Act last year, the issue of accessibility in public facilities, businesses and homes has been brought to the fore. Many south Florida realtors have graciously lent their support to this public interest program entitled "Easy Access Housing for Easier Living."

Mr. Speaker, the Americans with Disabilities Act of 1990 highlighted the fact that there are 43 million individuals with disabilities in the United States. Many more will be affected by inaccessible housing. No less than 70 percent of all Americans at some time in their lives, will have a temporary or permanent disability. With such an impairment, even the most basic day to day activities like climbing stairs will not be possible.

Older Americans, numbering 32 million over the age of 65, also may develop age related disabilities which require some special accommodations in housing. Accessible housing is essential to facilitate the independence many disabled Americans are capable of. The need for such housing is great.

The easy access housing for easier living plan is an effort to encourage home designs which accommodate persons with disabilities. Designing barrier free homes from the groundbreaking is an important cost saving approach. Stairs, narrow doorways and tight spaces can render a home completely inaccessible to a mildly disabled person. The easy access plan identifies many structural features which can be modestly adapted to allow free entry and mobility.

Mr. Speaker, although I do not cosponsor commemorative legislation such as "National Accessible Housing Month," I enthusiastically support the effort to promote accessible housing. This is a noble effort and many should be commended for their contributions to this public education campaign. These include: Richard C. Ritchey, south Florida Century 21 regional director; Ms. Myrna Pavilack, the vice president of the north Miami mayor's task force; and Patrick Killen of Century 21, Allstate Realty and Investments. I am confident that this effort to promote barrier-free living, will prove to be of great benefit to millions of disabled Americans.

DR. MAX VORSPAN'S 40 YEARS OF COMMUNITY SERVICE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LEVINE of California. Mr. Speaker, I rise today in honor of Dr. Max Vorspan. On January 15, 1992, Dr. Vorspan will receive the Abraham Joshua Heschel Award from the University of Judaism for 40 years of distinguished community service.

A beloved rabbi and educator, Dr. Max Vorspan has been a pioneer in many fields, especially the arts in Jewish life. Through his efforts the University of Judaism has become a renowned showplace for Jewish art, music, and theater in the community.

Now beginning his 40th year with the university, he has played a major role in the institution's growth and direction. Among the programs he helped establish are Camp Ramah

in California, the University of Judaism's Department of Continuing Education, the Platt Gallery, Smalty Sculpture Garden, Earl Warren Institute of Ethics, University Women, and the Performing Arts Festival. Perhaps he is best known throughout the community as the host of the long-lived "Commitment" television show which ran on KCBS for nearly two decades.

Dr. Vorspan is also the coauthor of "History of the Jews in Los Angeles," a copy of which was presented to Pope John Paul II on his visit to the city in 1990. He has also written numerous articles on California Jewish history for the Encyclopedia Judaica.

Beyond his interests in the arts, Dr. Vorspan has been deeply involved in the community and active in the Jewish Federation. He was the first recipient of the Federation's Annual Ezra Award for his outstanding contribution to Jewish education and knowledge.

Dr. Vorspan was ordained by the Jewish Theological Seminary from which he also received an honorary doctorate of divinity and a doctor of Hebrew literature from the University of Judaism. In 1991, he received an honorary doctorate from Hebrew Union College. Throughout his illustrious career, Dr. Vorspan has enjoyed the caring support of his wife, Sandy, and his two children, Dr. Rachel Vorspan and Rabbi David Vorspan.

It is a pleasure to share the accomplishments of Dr. Max Vorspan with my colleagues in the U.S. House of Representatives. I ask that they join me in extending to Dr. Vorspan best wishes for continued success in all of his future endeavors.

"IGNORE THE NOISE" OF THE PEACE PROCESS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. McHUGH. Mr. Speaker, the November 14, 1991, edition of The Reporter, published weekly by the Jewish Federation of Broome County, NY, contained a thoughtful editorial by editor Marc S. Goldberg. It reminds all of us who yearn for a lasting peace in the Middle East that such a peace is more likely to be a process rather than an event, and that its achievement will undoubtedly require the ability of the parties involved to engage in some selective overlooking of each other's rhetoric. I am pleased to share the editorial with my colleagues:

IGNORE THE NOISE

(By Marcs S. Goldberg)

Now that phase one of the Middle East Peace Conference is concluded, the parties involved are busy playing to their respective hard liners.

Witness, for example, the Palestinian list of 25 demands for Israel. (See page 7.) They cannot seriously expect that Israel will agree to them before negotiations proceed. At best, the document is a negotiating tool, spelling out what the Palestinians would like to see as part of an autonomy agreement. In all likelihood, however, the demands were not written for Israeli consumption, but to convince the Palestinian right-wing that the peace conference delegates had not sold out.

It is important to realize that such posturing is part of the process. What should not be lost among all the rhetoric is that the Palestinians made fundamental changes in their position at the peace conference. They expressed an openness to a five-year autonomy plan and to confederation with Jordan. One, or both, of these ideas has been at the heart of every serious peace plan considered by the Israelis.

Israel has always maintained that the main obstacle to peace with the Palestinians was that there was no credible Palestinian leadership to talk to. Before the peace conference, that claim was valid. Now, however, there has emerged a Palestinian leadership which asserts that it is open to the very formulas that Israel has insisted upon.

An opening for peace exists. If, in fact, the Israelis and Palestinians can agree on autonomy as the next step towards peace, there is now a path to follow. Expect long and hard negotiations concerning a thousand details, but there is reasonable hope that a deal can be worked out.

One of the pitfalls along the way will be the rhetoric both sides engage in for domestic consumption—particularly among their respective hardliners. Neither side should be naive enough to be completely taken in by such posturing.

SUGAR AND GATT—A CONTRADICTION

HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. PETERSON of Minnesota. Mr. Speaker, the Comite European Des Fabricants De Sucre is an organization of the sugar beet processors in the 15 countries of Western Europe. Created in 1954, it has been based in Brussels since 1989.

The president of the organization, Oswald Adriaesen, and Daniel Gueguen, the group's director general have coauthored a communication regarding the involvement of international sugar trade and the ongoing Uruguay round of negotiations under the General Agreement on Tariffs and Trade. The title, "Sugar and GATT—A Contradiction," indicates their conclusion, but they offer and recommend an alternative in the form of an International Sugar Agreement.

Without endorsing all the views expressed, or necessarily agreeing to every premise advanced, I insert this communication in the CONGRESSIONAL RECORD at this point for edification and interest on my colleagues who share my concerns about the future of our domestic sugar producing industry.

SUGAR AND GATT—A CONTRADICTION

The GATT negotiations are also a question of communication. And in this, as in other matters, there are masters * * *

To attempt, like the United States, to win credence for the idea that their deficiency payments, the main basis of the American farm support system, should be free of any form of discipline is quite remarkable. To claim, like Japan, that when it comes to agriculture everything is negotiable * * * apart from rice * * * is no less so.

The highest level of professionalism has been deployed through the media—from the United States to Australia—to relegate the EEC to the rank of the "trouble-maker in world agriculture". Read the press, look at the studies, listen to the experts, the CAP is the cause of everything: surpluses, low prices, subsidies, pollution, etc.

All this whilst conveniently forgetting US oilseed exports to the EEC and their trail of deleterious consequences for our agriculture (meat surpluses, milk lakes, butter mountains, etc.). 4,000 million dollars a year at a zero customs duty * * * Also disregarding the fact that the Community is the world's biggest importer of agricultural products. The myth of "Fortress Europe" certainly lives on * * *

So why be surprised at so many attacks on European sugar? The GATT negotiations are a soulless battlefield, a permanent power struggle.

But what is the point in being strong if the basic concepts are false, the solutions inappropriate, if nobody is sure of winning this particular battle?

THE BASIC PREMISE: A FALSE CONCEPT

To base the agricultural negotiations as a whole on the concept of world prices is an aberration.

The "GATT philosophy" regards "subsidies" as any difference between world prices and domestic prices. These "subsidies"—obstacles to trade—must be dismantled so as to bring selling prices to the ultimate consumer as close as possible to the international prices.

A fine theory overlooking the realities.

The world sugar market—residual (¼th of the production), speculative, subject to exchange rate variations and sensitive to world geopolitical events—is detached from any link with production costs.

If proof be needed, let us remember that in 1974 a pound of raw sugar was worth about 80 cents, i.e. much higher than the production costs of the least efficient producers. Less than 10 years later—at the beginning of the eighties—the market was bumping along at 3 cents, i.e. less than the price of fuel oil, very expensive at the time yet necessary for the manufacture of sugar * * *

NO IDEA OF THE CONSEQUENCES

Is it conceivable that, five years after the definition and statistical evaluation of these "subsidies" by the OECD and over four years after the Punta del Este Conference which launched the Uruguay Round, nobody has any idea of the effects that the GATT negotiations will have on the world sugar market?

What will be the impact of a reduction in internal support and external support (export refunds) on production and world prices? Nobody knows. Nobody has the slightest idea.

No specific macroeconomic model has ever been developed. What is the point, in any case? Experience shows that no macroeconomic model—and God knows there have been enough of them in the past—can predict, even in the short term, the trend in the sugar-supply balance and world prices.

To claim, like Australia, that a reduction of one million tons in the Community quota would push up world prices by 15% is not serious.

The trend in prices—and there is arithmetical proof of this—depends exclusively on the respective levels of WORLD production and WORLD consumption, with the EEC being only one of the many players involved.

EMPTY SEATS AROUND THE TABLE

As we have said, the balance on the world market depends on all the different players concerned—producers, importers, exporters, etc.

authorities but also the profession as a

So why change everything? why destroy

Speaker, please join me today in paying trib-

VOL 137 PT 23 NO 21—25 1991 UMI

But there are three notable absentees from the GATT negotiations:

The USSR: the world's largest consumer and largest importer of sugar;

Cuba: the world's biggest sugar exporter;

China, whose production and consumption levels are comparable to those of the United States.

How can anyone look to liberalize world trade in sugar when three countries of such importance are absent from the small circle of dominant countries on which everything essentially depends?

Three key countries absent, the developing countries absent! Only a quarter of production and trade would be subjected to the disciplines currently under negotiation in Geneva * * *

SUGAR: IN CONTRAPOSITION TO THE "FREE MARKET" CONCEPT

There is no free market system for sugar anywhere in the world.

The sugar regimes constitute an impressive catalogue of regulations and various forms of protection and support (over 70 different mechanisms have been identified * * *).

These mechanisms are finely adapted to each country's particular situation:

Direct or indirect subsidies for agriculture and production (Japan being the typical example with a retail selling price of 1,714 dollars a tonne * * *);

Imports prohibited by law or in practice (Australia, Mauritius, Thailand, etc.);

Export subsidies (India, etc.);

Consumption subsidies (Cuba, Mauritius, etc.);

Loans with interest-rate subsidies (Korea, USA, etc.);

Exchange rate advantages (Australia, Korea, India, Mauritius, Thailand, etc.);

Domestic prices much higher than world prices (everywhere * * *);

Finally—for Korea, the USSR, and India—sugar constitutes an ideal "fiscal foodstuff", by levying heavy taxes on consumption.

Consequently, the liberalization of world trade in sugar is nothing but a myth, especially as no study on the respective competitiveness of producers incorporates the essential parameter of per capita GNP (how can wages in the Untied States be compared with those in China? * * *).

EVERYONE HAS HIS OWN LOGIC

As we have seen, there is no one model that is valid for the sugar community as a whole. Throughout the world, every country defends its own logic. Everywhere, this individual logic is based on considerations of national interest.

Sugar is a strategic foodstuff that is strictly regulated by the authorities everywhere in the world:

Indeed, sugar is a major economic factor: 27 million hectares under cultivation around the world (i.e., half the area of France * * *), 18 million farmers, 3,400 sugar factories, 2 million workers, 70,000 million dollars turnover before tax;

Sugar provides agricultural and industrial jobs (China, India, Mauritius, Mexico). A small sugar factory—small by Western standards—of 2,000 tonnes/day in China can employ up to 100,000 beet-growers, * * *

Sugar is a "crisis product" justifying a minimum level of self-sufficiency (Japan, * * *);

It is an ideal basis for preferential exports at high prices (ACP countries such as Mauritius, Cuba, the Philippines, the Dominican Republic, etc.);

Finally, sugar brings in substantial earnings in hard currencies for cruelly destitute countries such as Brazil, Cuba, Thailand, etc.

THE FOUR PILLARS OF THE GATT

The four pillars of the GATT negotiations bear no relation at all to the realities of the sugar sector.

1. The reduction of "internal support", in other words the lowering of domestic prices, overlooks three fundamental considerations:

Can anyone explain the logic behind compensating for the substantial price reductions envisaged at the GATT by means of public subsidies paid directly to farmers to maintain their income? Who would gain what? Farmers? No. Economic efficiency? No again. Consumers? Yes, provided that we forget that they are also tax-payers and therefore, in the final analysis, pay for this direct aid.

Lowering the price of beet or cane would also detach the agricultural side from the industrial side, with no benefit for either.

Available in abundance today, sugar is not expensive in the light of the agricultural infrastructures and the industrial investments involved.

2. The reduction of external support (corresponding to export refunds) also raises enormous problems:

Lowering domestic prices whilst reducing external support leads us once again to the question of who will pay?

Failing to answer this question would come down to regarding the world sugar economy as excessively profitable—which is not the case—or agreeing to whole sections of the sugar economy in Europe and elsewhere being destroyed;

Reforming the international sugar economy on the basis of the sole criterion of maximum economic efficiency is a heresy totally disregarding the national needs and constraints that have been mentioned previously and overlooking regional disparities in the EEC and elsewhere;

Basing any reflections—and, if the negotiations succeed, any action—on the argument of "export refunds = subsidies":

Is to totally disregard the logic of the Community self-financing system which will be defended further on,

Gives world prices a reference value that they can never have in any circumstances.

3. The same applies to access to the markets. Does the 3% minimum import level that is often mentioned constitute a minimum level in itself or is it to be added to the traditional import pattern? Nobody knows. Four years after the negotiations began * * *

4. As for tarification, there are so many different countries, so many different models. And no consultation whatsoever with the professional circles. How can a tarification system—right by its very nature—adapt to the fluctuations in world exchange rates which we all know to be so substantial?

It is true that for four years and more everyone at the GATT has been reasoning in theoretical term, all the different agricultural sectors combined, without any sectoral approach or reflection. So why should we be surprised?

DEFENCE OF THE SELF-FINANCING SYSTEM

What is not heared about the self-financing system for Community sugar? Broadly speaking, that it is paid for by the consumer and not by the producer, via a policy of high internal prices.

This is not incorrect, but:

In economic terms, there are only two methods to ensure the existence and growth of the economic operators: the fiscal (the tax-payer pays) or the prices approach (the market pays) * * *

Community self-financing is fully justified by the extremely rigorous pricing policy pursued by the Community authorities; in other circumstances, it could have been criticized.

The production levies charged to European beet-growers and sugar manufacturers (between 500 million ECU and 1,000 million ECU depending on the year, i.e. a vast amount of money * * *) have been paid within the framework of a price-freeze policy that has been in force for 7 years now * * *

1 EDU = 7 FF, 42 BF, 1.2 US $.

Using its cash flow to pay such enormous contributions with frozen prices has led the European sugar industry to follow the path of growing economic efficiency, productivity gains and restructuring.

Thanks to self-financing, the European sugar industry is now, without any doubt, the most vital, most dynamic and most creative in the world * * *

PLANETARY ISSUES

Let us not be naive about it, the GATT negotiations go beyond—far beyond—the cause of sugar and even the cause of agriculture.

To be perfectly frank, it is a question of power relationships between the United States, Japan and the EEC. And the EEC is certainly not in the best position in these negotiations, which are not only difficult but of capital importance.

For sugar, we have every reason to fear the worst:

The inappropriate mechanisms that exist and the total uncertainty of any decisions on world prices rule out any certainty on the key question: "Who is going to gain, who is going to lose?"

For the EEC, the cause is being heard if the current trends are confirmed, but even Australia, the great defender of GATT, is not assured of a long-term advantage, so uncertain are the movements in world prices.

In our world, which must be internationalized, the GATT negotiations for liberalization of world trade paradoxically carry within them all the seeds of renationalization of European agriculture and over-nationalization of agriculture in other countries.

For the other agricultural sectors, the EEC has everything to fear too. Why?

The GATT concepts, initiated by the OECD, with which the EEC, totally isolated, has had to fall in line, are the very antithesis of the Community regulations, built on another logic altogether. The planned reform of the Common Agricultural Policy is the best illustration.

The work carried out by the OECD on the environment, aimed at extensive agriculture of the American, Australian or Canadian type and therefore very unfavourable for the EEC, is beginning to spread at the level of the GATT.

The programme of the next International Conference on Nutrition, to be organized in 1992 by the FAO and the World Health Organization, also contains sections on agriculture (agri-foodstuffs balances, subsidies for producers, budgetary repercussions, etc.).

These approaches are not innocent. The EEC is surrounded. Its case history is good, however. Certainly no worse than most of the others.

Our cause is suffering cruelly from a severe lack of communication. Whilst Australia publishes study after study, whilst the United States rely on armies of lobbyists, Europe remains passive, on the defensive. Who is aware of the simple fact that American agricultural expenditure is greater than that of the EEC? Who knows about the devastating effects on the Common Agricultural Policy of American oilseed imports at zero customs duty?

This lack of communication is attributable to everyone: the national and Community

authorities but also the profession as a whole, at national and community level. This situation must be remedied as a matter of urgency.

WHAT ALTERNATIVES

As we have seen, there are a number of reasons leading us to believe that sugar and GATT are diametrically opposed.

It is high time to think about other possible solutions, with one sole objective in mind: stabilizing world prices at a reasonable level through a lasting alignment of global supply with global demand.

In other words, relaunching the International Agreements procedure, knowing full well that the United States, Australia and Canada are hostile to this. Then it would be up to everyone to plead his own case, to defend his own logic. To put forward a convincing argument.

A new sugar geopolitics

It must be acknowledged that for reasons connected with their very structure, the International Sugar Agreements, and especially that in force between 1978 and 1984, have failed.

The geopolitical situation prevailing at the time has been radically transformed since then: disappearance of COMECON, opening up of Eastern Europe, uncertainty as to the future of the supply agreement between Cuba and the Soviet Union.

These fundamental developments mean that we must examine the whole situation afresh.

A new International Sugar Agreement

As we have seen, the GATT negotiations take no account of any of the specificities of sugar:

They concern only a quarter of production and trade;

They ignore the extreme sensitivity of world prices and their volatility;

They disregard the essential regional, industrial and social requirements of producers;

And they maintain a dramatic silence as to their impact. What will the consequence be for world production, for stocks, for prices? Nobody knows * * *

The only realistic solution would be to convene an International Sugar Conference with the task of examining the means likely to stabilize world prices at a balanced level for producers and consumers.

This idea has come a long way over the last year and almost all the members of the world sugar community, farmers and manufacturers alike, have gradually come to support it.

SO MANY DIFFERENT COUNTRIES, SO MANY DIFFERENT SYSTEMS BUT THERE IS COHERENCE

Despite the large number of players involved (over 100 producing countries), the world sugar balance has been globally stable for several years. Sugar is in a situation of virtual equilibrium.

The statistics reveal only very slight differences (of around 1%) between production and consumption. And more often than not these differences tend to cancel out over a succession of marketing years.

None of the major producers has ever destabilized the world market: national production and export patterns having reached their state of equilibrium * * *

Consumers enjoy reasonable prices and guaranteed supplies, sometimes threatened in the past, which it is essential to ensure for the future.

So many different countries and so many different systems. Yet today the world sugar economy is coherent.

So why change everything? why destroy everything? On whose behalf? For whose benefit?

All things considered, it is sometimes important to remain what you are. Evolution? Definitely. Revolution? Certainly not!

A TRIBUTE TO RAFAEL HERNANDEZ

HON. JOSE E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a great composer, Rafael Hernandez, on the occasion of the centennial of his birth. Rafael Hernandez, a native Puerto Rican, passed away nearly 26 years ago, but he is still very much alive to all of those people who have experienced the pleasure of listening to his music.

From the time he was a little boy, Rafael Hernandez knew that he wanted to dedicate his life to music. He learned to play the trombone, the violin, the guitar, the cornet, and the banjo, as well as studying the composition of music. By the time he was 18, Rafael Hernandez had composed a waltz entitled "Miprovisa," a piece which was later to become very popular. For a time, he lived in San Juan and played the trombone in various orchestras or bands.

Rafael Hernandez then decided to move to New York and it is there that his career as a composer began. In the mid–1920's, he began to produce his own songs, writing both the music and the lyrics. Many of his songs, such as "Lamento Borincano" and "Preciosa"—perhaps the most famous of his pieces, were patriotic in nature. They protested against the sufferings of the Puerto Rican people as a result of colonialism and extolled the great beauty of the island and its people. Rafael Hernandez also wrote many other songs; for example, "El Cumbanchero," that were not of patriotic intent but romantic, humoristic, and so forth, and grew to be extremely popular among people of all nationalities.

But Rafael Hernandez was not only a composer of songs. He also wrote musical plays as well as pieces for the piano, orchestra and chamber music. Although this aspect of his work is not as well known as his popular songs, it is just as rich in color and beauty. Rafael Hernandez also founded two musical groups, Trio Borinquen and Cuarteto Victoria, with which he traveled to South America during the late 1920's and 1930's. In 1947, he founded a symphonic orchestra for light and classical music with which he toured Puerto Rico for several years. When this orchestra had to be disbanded due to lack of Government support, Rafael Hernandez was appointed musical adviser to the government radio station.

Throughout his life, Rafael Hernandez brought much joy to many people. His compositions were not only music to which people could dance, but expressions of sentiments to which they could relate and this is still true today. Nearly 26 years after his death, Rafael Hernandez's music continues to be widely popular and a great source of inspiration. Mr. Speaker, please join me today in paying tribute to this highly talented musician who fulfilled his dream of becoming a musician and in doing so filled the lives of others with a music so beautiful it will endure forever.

TRIBUTE TO COL. TERRENCE T. HENDRICKS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GILLMOR. Mr. Speaker, space shuttle Atlantis will begin a 10-day journey on Sunday that will write another chapter in America's history of exploring the final frontier. One of the astronauts on that mission will be Air Force Col. Terrence T. Hendricks, who is a native of Woodville, OH, in my congressional district.

Terrence Hendricks has gone from growing up on a northwest Ohio farm to traveling beyond the horizon to meet the wonder of space. He is an example of the determination, skill, and patriotism, that makes my district a special place. He deserves our most enthusiastic commendation and applause for his bravery, talent, and pioneering spirit.

In 1961, when President Kennedy committed our country to landing a man on the Moon he said:

> There is no sense in agreeing or desiring that the United States should take an affirmative position in outer space, unless we are prepared to do the work and bear the burdens to make it successful.

Terrence Hendricks is one of those special people willing to bear that burden and make that sacrifice for the good of the space program.

Mr. Speaker, as a neighbor, as an Ohioan, and as a U.S. Congressman, I wish Col. Terrence Hendricks a safe journey and godspeed.

AFRICAN DEBT: A PLAN OF ACTION

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. TOWNS. Mr. Speaker, today, Africa is a source of great hope. Widespread reforms are leading to the recovery of many stalled economies and giving new confidence to the emerging private sector in Africa. Across the continent, calls for democracy have led to more open, accountable, and transparent governments. These developments have created new incentives for the African and international business communities to reexamine investment prospects throughout the continent.

At the same time, Africa's external debt stands at over $270 billion. This is nearly twice the level of a decade earlier. Scheduled service for that debt exceeds 100 percent of the continent's GDP. Many African countries are not able to pay this debt, and this burden threatens to strangle African economic and political reforms in their infancy.

The U.S. Government can act as a catalyst in this reform process by taking immediate

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watch that region with the expectation that the

TRIBUTE TO CHRISTOPHER SEAN

ment was reversed when he signed the third

VOL 137
PT 23
NO 21-25
1991
UMI

steps to reduce Africa's external debt. The administration can follow their own example of forgiving Polish and Egyptian debt to forgive significant portions of Africa debt. The highly touted "Trinidad Terms"—the British proposal which allow for forgiveness of two-thirds of official debt—provides just one example of comprehensive debt relief. Congress should also play a role by authorizing a budget that makes debt relief possible and inevitable.

Mr. Speaker, I would like to submit for the Record a recent article from the Economist that spells out the moral and intellectual arguments for African debt relief, and challenges us to do the rest.

[From the Economist, Nov. 2, 1991]

Africa's Unpayable Debts: The Case for Forgiveness Is Too Strong To Ignore

In April America persuaded the world's rich governments to write off half Poland's official debt. In May it did the same for Egypt. Meanwhile Britain proposes debt reduction for a group of mainly African countries, whose ability to repay is even weaker than Poland's or Egypt's. Sounds reasonable? Not to some American politicians. Unlike Poland, Africa's economic difficulties exercise few voters. Unlike Egypt, Africa played no role in resisting Iraq's dictator.

America's Treasury pleads that, under a new credit-reform law, Congress must make a special appropriation to cover further debt relief, and that this is time-consuming. Lame, for three reasons. The "appropriation" would be largely fictitious. Second, the poorest countries are not servicing their debts anyway, so the British proposal to cancel two-thirds of what they owe would cost creditors precious little. Indeed it might bring America extra money, since the deal would require that the remaining third of the debt should actually be serviced. Third, the British proposal dates back to September 1990. It has been aired frequently since then, including at July's G7 summit in London. The credit-reform law came into force only last month. Relief for the poorest has been nobody's priority.

This is understandable, if hardly defensible. Poland's huge debt threatened to wreck the hopes aroused by communism's collapse; Arab allies were essential to the anti-Saddam coalition. But giving favours to friends threatens a central principle of economic aid: if help is not tied to sensible economic policies, it is likely to be useless. Relief for Poland and Egypt was made formally conditional upon market reform, but both countries knew that its real impetus was political. Countries in this position usually break their economic promises. Zaire's rulers simply banked much of the aid they received during their years as cold-war asset. In 1988 Argentina squandered the first tranche of a World Bank loan of $1 billion, granted after American arm-twisting. Poland has failed to meet the conditions set for its debt-relief package.

FOLLOW BRADY, MR. BRADY

Intellectually, the case for debt reduction in Africa is water-tight. In Latin America there were once respectable reasons for doubting it. In the mid-1980s the Latin countries that first threatened to default seemed capable, granted economic reform, of increasing their exports fast enough to catch up with repayments. Debt reduction therefore seemed unnecessary. It also looked damaging. It would create a moral hazard, encouraging other countries to default, and putoff the time when the beneficiary had to live within its financial means. Lastly, debt reduction would hurt the banks, so they would be reluctant to lend to developing countries in the future.

Today none of these arguments is so convincing, least of all for Africa. Growth in the third world recovered only slowly in the 1980s, so debt burdens grew ever harder to support. Moral hazard became irrelevant as more countries fell behind with their repayments—and as it became clear that debt reduction could be successfully tied to economic reform. In recent months banks have proved willing once again to lend to Latin America's boldest economic reformers.

The weakening of the case against debt-reduction has already spawned the Brady plan, named after America's treasury secretary. In 1989 this scheme enabled Mexico to reduce its debt by $15 billion, helping to spur the economy to its present recovery. Given the will, other Latin American countries could follow. Black Africa's prospects are far grimmer. The region is hobbled by debts much heavier, in relation to economic strength, than Latin America's. Yet the Brady plan offers no help at all. It is designed to reduce commercial-bank debt, and Africa is in hock to development banks and governments.

The world's rich countries know that Africa cannot repay its debt. That is why their aid ministries have all but given up new lending in favour of straight grants. Yet they have chosen not to put their weight behind a debt-reduction scheme for the poorest countries that would match the Brady plan for the less desperate. The British proposal would fill this gap. By setting strictly economic criteria for eligibility, it would avoid the danger of political favouritism. Your shoulder please, Mr. Brady.

ADOPTION OF SURFACE TRANSPORTATION ACT STRONGLY URGED

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. JOHNSON of South Dakota. Mr. Speaker, it is absolutely imperative that the Congress conclude work on the Surface Transportation Act prior to adjourning, and I am pleased that the conferees are working through the weekend in order to resolve the differences between House and Senate versions of this vital legislation.

There are four points, however, which I wish to stress to the conferees. While no State is likely to be 100 percent satisfied with the compromises which are necessary in order to finalize this legislation, I encourage the conferees to:

Adopt the House proposal for a minimum allocation of transit funds to each State. There should be at least a one-third of 1 percent minimum allocated to each State from the transit account. I urge that flexibility be continued in order to allow these funds to be used at the greatest possible discretion of the States.

I urge conferees to reinstate the level of support program which was contained in the Senate legislation or, at the very least, eliminate the bonus from the minimum allocation and add the total funds from the bonus minimum allocation to the Core Program.

I urge that the demonstration funding for South Dakota projects be retained and that demonstration funding be equitably divided among the States on the basis of merit.

Indian and Forest Service highway funds should not be counted against any State's highway funding apportionment. Federal funds should be allocated for the public lands program to individual States which have public lands, and this should be in place of a discretionary program for this category.

CONFERENCE REPORT ON H.R. 2100

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. LANCASTER. Mr. Speaker, this conference report represents the culmination of a lot of hard work and effort to grasp the implications of the remarkable events which have taken place over the last year and to fashion an appropriate response to those changes by producing a bill which reflects those events and makes sense for the future. I congratulate Chairman Aspin for his leadership in crafting this important legislation.

As chairman of the Morale, Welfare and Recreation [MWR] Panel of the House Armed Services Committee, I am very pleased that the bill fully supports the President's request for quality of life funding, including $1.31 billion for MWR programs and $980 million for military commissaries.

I am particularly pleased that the bill included provisions which demonstrate a sense of the Congress that strategic mission shifts which result in base closures or realignments should not be a liability to the nonappropriated fund system. In this respect the bill added to the President's package the establishment of a "nonappropriated fund facility investment base closure recovery account," of which ranking minority panel member Congressmen Dave Martin and I have long been supportive. Into this fund will be deposited the proceeds from the transfer or disposal of commissary store facilities and property purchased with nonappropriated funds. Taxpayer dollars did not build those facilities: Soldier, airman, sailor, and marine dollars did. This newly established account will return those soldier, airman, sailor and marine dollars to soldiers, airmen, sailors and marines. That is an accomplishment of which we can all be proud.

Similarly, the relocation of the Army and Air Force Exchange Service Headquarters in Europe is occurring as the Munich military community closes its doors. The bill included $8 million to support that effort rather than have soldier and airman dollars pay the cost of a relocation caused by strategic decisions.

Five million dollars was added to the bill to improve quality of life for military personnel in Naples, Italy. I visited Naples last March and was appalled at the deplorable conditions under which our military personnel were living. This $5 million will go a long way to improve those conditions, and it also sends a strong message to the Navy that Congress is concerned about Naples, and we will continue to

watch that region with the expectation that the quality of life there undergoes rapid improvement. Adm. Mike Boorda has recently been selected as the Commander in Chief, Allied Force Southern Europe, and I know that he is personally interested in working toward this end upon his arrival in Naples. He will certainly have our support in this effort.

Another provision of importance to the panel is the authorization of $1 million for the Fenwick Pier demonstration project, which is designed to improve conditions for military personnel visiting Hong Kong.

I am proud of these accomplishments, as I know are the other members of the MWR panel.

As one of the four House observers to the ongoing chemical weapons negotiations in Geneva, I am also pleased that the bill includes $20 million for the procurement of long lead items for a cryofracture demonstration plant. That authorization is conditioned upon the Army's certification of its desire to build such a plant, and I urge the Army to consider the following as they consider granting that certification.

As we move closer to reaching agreement on a multilateral chemical arms control accord, the viability of our CW disposal program becomes increasingly important—specifically its ability to dispose of our stockpile within the anticipated destruction schedule. I do not believe that the Army's baseline technology alone will afford us that capability. I do believe that cryofracture has the potential to contribute much to a program composed of both baseline and cryofracture technology.

While the Army's baseline destruction technology is impressive, testing at the JACADS facility has been plagued by equipment problems and schedule slippages, and the life-cycle cost estimate has doubled from a 1988 estimate of $3.2 billion to a 1991 estimate of a whopping $6.5 billion. Cryofracture, which is also undergoing validation testing, has merit of its own and may even surpass baseline in terms of cost and efficiency.

The $20 million authorized in the conference report will provide for the acquisition and testing of the rotary kiln incinerator system for the cryofracture demonstration plant. Procurement of this kiln will allow for its thorough testing and will reduce the risk of schedule slippage during plant systemization. In this regard it behooves us to consider that by investing in this kiln in the early stages of development of a cryofracture plant, we can avoid many of the technical difficulties which have befallen the JACADS plant, difficulties which may well set back the entire chemical demilitarization program to an unacceptable degree. Congress has taken the right step in authorizing the $20 million in long lead procurement for cryofracture.

I appreciate the opportunity to speak to these important programs, and once again I commend the chairman for his leadership. I urge my colleagues to support the conference report.

TRIBUTE TO CHRISTOPHER SEAN KEENER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Christopher Sean Keener, of Montoursville, PA, as he attains the rank of Eagle Scout. Chris is the son of David and Nancy Keener.

Chris has been involved in Scouting since 1980, earning several honors and badges throughout that period of time. For his Eagle Scout project, Chris worked on a blind nature trail located at Indian Park in Montoursville. He worked under the direction of the Montoursville Lions Club and received the assistance of several fellow Scouts in his project. Chris and his coworkers designed, constructed, and mounted 25 wooden frames on poles throughout the nature trail. Visually impaired individuals will be able to utilize metal Braille plaques within the frames that explain the different points of interest on the trail. The plaques contain both the Braille and typed translations beneath the inscriptions. Because of Chris' wonderful work, the visually impaired will be able to enjoy the wonders of nature the same as other members of the community.

Chris, a graduate of Montoursville High School, currently attends Widener University in Chester, PA, majoring in electrical engineering and minoring in music. Chris has been very active in school and in his local community, and participated in his high school band and choral groups.

Mr. Speaker, I ask all of my colleagues to join me in honoring Christopher Keener on becoming an Eagle Scout, and in wishing him well on a future that I am sure will be very bright.

REQUEST FOR ECONOMIC GROWTH LEGISLATION

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to disagree with the leadership of the House of Representatives who believes that this Congress should adjourn without passing an economic growth plan. I strongly ask that this Congress not adjourn until a plan that will adequately benefit working Americans is passed.

Adjourning this Congress before such legislation is approved is irresponsible. The President cannot decide whether the economy is strong or sluggish, so it is incumbent on the majority to take the lead.

George Bush has been in the White House 3 years, and during that time the recession has worsened and the economy has grown more slowly than under any President since the Depression.

During the recent debates on the extension of unemployment benefits, President Bush said "all is well" in the economy. That sentiment was reversed when he signed the third extension bill last month. Earlier this week he said the American economy was sound and he would not introduce any new programs this year, and he called the problem one of public relations. He placed the blame for the recession on Democratic administrations and Congresses more than 20 years ago and admitted he would wait until after Congress adjourns before he announces any new programs.

The President believes the economies of other countries around the globe require assistance from the United States, but he has proved that he is unwilling to provide such assistance to the working people here at home.

I am disappointed the leadership of the House of Representatives is unwilling to reject the President's claims and has refused to bring any of the numerous economic stimulation programs to the floor.

Mr. Speaker, the people of America need our support. Last month, in my district alone, nearly 3,000 working people lost their jobs. The unemployment rate has increased from an 8-year average of 10.1 percent to 11.2 percent. This cannot lead any sane person to the conclusion we have a strong economy.

Four months after it was first introduced, an unemployment benefits extension package was finally approved, but even then it was difficult. Hopefully this stopgap measure will offer some relief to the thousands of out-of-work Americans. By passing this legislation, we are indeed acknowledging that a problem exists. Since the Administration is not taking charge, nor is the House leadership, I am calling for action. We must focus our attention on the engine that drives our economy, middle-income Americans, many of whom are living paycheck to paycheck.

These Americans cannot wait until next year, nor can we. We must debate and pass the many legislative proposals that will benefit these working Americans. Again, I request that the House of Representatives remain in session until we place before President Bush our bills that will get America moving again.

TRIBUTE TO LILLIE JACKSON VANLANDINGHAM

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. NORTON. Mr. Speaker, I would like to ask my colleagues to join me in commending Ms. Lillie Jackson VanLandingham upon the occasion of her retirement after 34 years of outstanding service to the people of the District of Columbia in their public school system.

Ms. VanLandingham has been an inspiration to thousands of young people and others in our community. Especially as a counselor, she has made an indelible contribution to guidance programs. Many students have benefited from her resourcefulness and professionalism.

The city itself has been the recipient of her concern for others. She has worked untiringly for civic, religious, and community-related causes. Her good works are an indication of her character, courage, and caring.

VOL 137 PT 23 NO 21—25 1991 UMI

Mr. Speaker, I ask that this body join me in congratulating this extraordinary Washingtonian, and, in wishing her the joyous and productive retirement she so richly deserves.

TRIBUTE TO G. BEN HUBER

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor my constituent and friend, G. Ben Huber, for his distinguished leadership in the business and civic affairs of Solano County.

Ben serves as the president of ET, Inc., one of Solano County's largest employers. He helped found the Fairfield, CA company and has been affiliated with it since 1961. ET is a recognized leader in the design, development, and production of explosive devices and systems for the aerospace industry. Some of the company's products were used in this year's Operation Desert Storm. Ben has served as a director of ET's parent company, OEA, Inc., since 1980.

Prior to his work with ET, Ben was employed as a research engineer and project leader with the Stanford Research Institute in Menlo Park, CA. He worked in the high-explosive laboratory of the Institute's Poulter Laboratories. From 1953 to 1957, he worked as a contract miner for the Anaconda Co. in Butte, MT. Ben's professional affiliations include the American Defense Preparedness Association and American Institute of Mining Engineers. He holds a bachelor of science in mining engineering from the Montana College of Mineral Science and a master of science degree in mineral engineering from Stanford University. Ben is also a 1977 graduate of Stanford's Executive Program for Smaller Companies.

Ben's leadership in the civic affairs of Solano County has been equally impressive as his work in the business arena. He was recently appointed to the San Francisco-based Bay Area Council, a public policy group whose members represent all nine Bay Area counties as well as some of the largest public and private businesses and groups in the Bay Area. Since 1986, Ben has served as a member of the Fairfield Public Improvement Corporation. A past member of the Fairfield City Council, Fairfield-Suisun Sewer District, and the Fairfield Planning Commission. Ben's tenure in these positions have coincided with the development of Fairfield as a regional retail center and the modernization of the Fairfield-Suisun waste-water treatment plant.

It would be impossible to single out the most noteworthy accomplishment during Ben's distinguished career and his involvement in civic affairs, but I know that I will always be grateful for his chairmanship of an advisory committee I established to review the closure and cleanup of a toxic waste dump in my congressional district. I organized the committee several years ago in order to bring together the various regulatory agencies overseeing the closure and cleanup process for the dump. I personally asked Ben to serve as the committee's chairman and he served with distinction for more than 3 years and recently left the committee to join the Bay Area Council. Ben endured a number of early committee meetings that were marked by heated exchanges, but he played a key role in facilitating the discussion of important issues in a nonacrimonious atmosphere. Ben took on an unglamorous, difficult position with his chairmanship of the advisory committee. I am grateful for his friendship, and his willingness to give so much of himself to his community.

CONGRESSMAN KILDEE HONORS NEW MIDWESTERN REGIONAL DIRECTOR OF PHI DELTA KAPPA, INC.

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Mrs. Jessie Muldrew, mother, role model, educator, and the newly selected midwestern regional director of the National Sorority of Phi Delta Kappa, Inc. Jessie Muldrew's selection is a source of tremendous pride for me, as her entire life has been focused on nurturing our Nation's most precious resource, our young people. As a former teacher, I know the best influence upon impressionable young minds are those that truly love young people and are willing to commit fully to their development. Mrs. Jessie Muldrew is such a person.

As midwestern regional director, Mrs. Muldrew will supervise 23 chapters in Michigan, Indiana, Ohio, Illinois, Missouri, Kansas, and Kentucky. Prior to her selection for this position, Mrs. Muldrew's record of distinguished service to the National Sorority of Phi Delta Kappa extends back over 17 years and several offices including: 2 years as dean of pledges, 2 years as first ante-basileus, 4 years as basileus, 2 years as executive advisor, 4 years as xinos advisor, 4 years as member-at-large for the Midwestern region, national constitution and by-laws chairperson and chairperson of several regional committees.

Jessie Muldrew has served as an educator for over 21 years and currently serves as principal of Garfield Elementary School. She has served as elementary representative to the Flint Congress of School Administrators and is a member of the First Association of Elementary Principals.

An active member of the Flint community, Mrs. Muldrew belongs to several civic and community organizations including the Alpha Kappa Alpha Sorority, Inc., Zeta Beta Omega Chapter of Flint and Dozier Memorial Christian Methodist Episcopal Church where she serves as director of the board of Christian education.

Mr. Speaker, it is a privilege for me to ask you and my fellow members of the U.S. Congress to join with me in honoring Ms. Jessie Muldrew. She has set the example for those seeking to guide our Nation's youth. Citizens such as Jessie Muldrew are the reasons that the United States of America is a leader among nations.

TRIBUTE TO DAVID EDWARD O'LEARY

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SMITH of Texas. Mr. Speaker, Scouting provides outstanding opportunities for young adults to accept a wide range of challenges and gain invaluable experience in meeting those challenges under the careful guidance of dedicated Scout leaders.

There is no higher award in the Boy Scouts than that of Eagle.

One of my privileges as the Representative of Texas' 21st Congressional District is to be able to join in the recognition of a Scout who has attained such an honor.

He is David Edward O'Leary, the son of Joseph E. and Linda S. O'Leary of San Antonio, TX.

This award to David says that he is capable of much and thus much can be expected from him. The lessons in commitment, persistence and hard work that he has learned in Scouting will serve him well.

In addition to Scouting, David is an honor student and an accomplished musician, having been a member of the McArthur High School marching band, the district and regional bands, and the Orchestra of San Antonio.

Currently, he is majoring in environmental sciences at Concordia Lutheran College in Austin, TX.

HUMAN RIGHTS ABUSES IN TURKEY MUST STOP

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. PORTER. Mr. Speaker, in Turkey, physical and psychological torture is common while a prisoner is in custody, and unfair trials of political prisoners occur regularly. The Congressional Human Rights Caucus has repeatedly highlighted these types of abuses. But recent occurrences have been even more troubling.

This summer, four members of the Turkish Human Rights Association in southeastern Turkey were attacked. Several were injured and the attack ended in the brutal death of the president of the People's Labour Party, Mr. Vedat Aydin. The next day at his funeral, at least 3 more people were killed and 60 injured when police shot into the funeral procession.

Mr. Speaker, I am outraged that human rights activists are being targeted by police forces in Turkey. In the face of these types of derelictions, I urged President Bush to raise human rights issues with President Ozal when they met this summer.

Independent and thorough investigations into all accounts of torture and harassment perpetrated against the human rights community and others in Turkey must be held, and these abuses must end.

LEGISLATION PROHIBITS NUCLEAR WASTE SHIPMENTS TO IDAHO

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. STALLINGS. Mr. Speaker, I am introducing today a bill that addressed a serious question facing Idahoans: Do they want the Idaho National Engineering Laboratory [INEL] to continue to be one of the Nation's premier nuclear research facilities, or do they want it to become a dumping ground for nuclear waste no one else wants?

The answer I have received from the people of Idaho is clear. Idaho will no longer be the Nation's nuclear waste safety valve. Governor Cecil Andrus is continuing his fight to keep the borders closed. I fully support his efforts and believe it was a necessary step to force the Department of Energy [DOE] to meet its responsibilities in addressing this growing nuclear waste crisis.

INEL already houses tons of nuclear waste from facilities around the country and overseas. The Energy Department recently proposed to bring in another 200-plus tons of spent nuclear fuel from Colorado's Fort St. Vrain without first complying with the State of Idaho's Environmental Protection and Health Act. A Federal judge thankfully enjoined DOE.

However, it is not altogether clear that the parade of waste into Idaho will stop. The Energy Department, sometime ago, decided that it would ship to INEL high-level radioactive waste and spent nuclear fuel from the West Valley, NY Demonstration Project. Those shipments could take place any time between today and 1994. DOE also has strongly hinted that it sees INEL as a dumping ground for nuclear waste from its own facility at Fernald, OH.

When confronted with this information, the Secretary of Energy recently assured Idaho's two Senators that DOE has no intention of shipping to INEL any waste from the West Valley Demonstration Project. Likewise, the Under Secretary of Energy similarly has pledged that DOE has no plans to ship to INEL nuclear waste from its facilities at Fernald, OH.

The administration's promises are set out in the form of letters. But with the simple stroke of a pen, the promises could someday be broken.

State officials and Idaho citizens have been very patient. Until October, 1988, we have honored each new request from DOE for increased waste storage. With each commitment for several more years of temporary storage has come a repeated promise that the waste could soon be transferred to a new Federal facility. But delay followed delay. Promises were made, but were not kept. History has taught us that there are no guarantees from the Department of Energy.

To guard against that possibility, the legislation I am introducing holds the Energy Department to its word. It ratifies the administration's promise that there will be no shipments to INEL of any nuclear waste from either the West Valley Demonstration Project or DOE's facilities at Fernald, OH.

Specifically, the bill prohibits the Secretary of Energy from transporting, or permitting to be transported, to INEL any nuclear waste from either West Valley or Fernald. The legislation also provides a mechanism to ensure that its ban is respected. It authorizes any citizen, including the Governor, to bring a civil action in Federal district court for any violation of the legislation.

The bill also mandates that an injunction shall immediately be issued for any violation. In this way, the courts need not concern themselves with legal maneuvering about where the equities lie if DOE should violate the ban—injunctive relief would be automatic and certain under this measure.

Added up, this is a bill whose purposes are simple and straightforward. I strongly urge my colleagues to support this effort that is so critical to Idahoans.

EQUAL ACCESS TO PRESIDENTIAL, CONGRESSIONAL, AND JUDICIAL RECORDS ACT

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ENGLISH. Mr. Speaker, I am introducing the Equal Access to Presidential, Congressional, and Judicial Records Act today. For 8 years I was Chairman of the Government Operations Subcommittee on Government Information, Justice, and Agriculture, and this bill addresses laws in which I have some expertise because of this chairmanship. Specifically, this bill would extend the coverage of the Freedom of Information Act and the Privacy Act of 1974 to include records not now subject to these acts from all three branches of government.

On October 24, 1991, President Bush proposed six specific reforms to enhance the public's confidence in the appointment and confirmation process. Today, I am addressing President Bush's sixth recommendation—congressional exemption from the Privacy Act of 1974. President Bush called for the repeal of the congressional exemption from the Privacy Act of 1974. My approach addresses the Freedom of Information Act as well because the Privacy Act and FOIA laws work in tandem.

However, my approach modifies the President's request. The legislation I am introducing would apply the Freedom of Information Act and the Privacy Act not only to Congress but to the Office of the President and Vice President and the Administrative Office of the United States Courts as well.

The reason for this modification is because President Bush was correct when he stated that the practice of exemption from laws "creates the appearance and reality of a privileged class of rulers who stand above the law." I agree with the President on that point. And this is the very reason I am including the Office of the President and Vice President and the Administrative Office of the United States Courts—because they too are exempt from these laws and they too should not be part of this apparent privileged class. In fact, Congress, the Federal judiciary, and the Office of the President are exempt from the Freedom of Information Act, the Privacy Act of 1974, and other labor and discrimination laws. As President Bush stated, "I would wager that the American people do not know that Congress has exempted itself from the laws private employers and the executive branch must obey." I would up the ante to wager that the American people do not know that the President and Vice President and the Federal judiciary are exempt as well.

The discussion of this issue has not been played out on a balanced playing field. This debate has been considered in a vacuum in only examining elected officials in Congress. However, the exemption's purpose was to include all elected officials. We should all be fair in this call for reform. If we are to alter the FOIA's exemption for all elected officials, then we should apply the law equally and across the board to all elected officials who are exempt. I support changing this matter now to include Congress, the President, and the courts as well.

I invite all of my colleagues, both Republicans and Democrats—and the President—to join me in this fair and evenhanded approach to Privacy Act and FOIA reform.

EXPLANATION OF AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 272, THE HIGH-PERFORMANCE COMPUTING ACT OF 1991

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BROWN. Mr. Speaker, the High-Performance Computing Act of 1991 was introduced in the House as H.R. 656 and in the Senate as S. 272. The major differences between H.R. 656, as passed by the House on July 11, 1991, and the proposed amendment in the nature of a substitute to S. 272 are as follows:

NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM

The principal features of the National High-Performance Computing Program as contained in H.R. 656 are unchanged by the amendment. The description of the contents of the program in section 101(a)(2) of the amendment is enlarged to make clear that the program is intended to address shortcomings in software development and use, to improve dissemination of data and electronic information produced by Federal agencies, to accelerate development of all aspects of high-performance computing, to support research efforts addressing grand challenge problems in science and engineering, and to expand the human resource base for high-performance computing.

In the specification of responsibilities of the Director of the Office of Science and Technology Policy [OSTP] in section 101(a)(3), the amendment eliminates the explicit requirement that the Director review the budget estimates of the agencies participating in the program and provide the results of the review to the Office of Management and Budget [OMB]. Since OMB is a participant in the planning of the

VOL 137
PT 23
NO 21—25
1991
UMI

program, OMB will be able to determine whether the budget requests of the agencies are consistent with the goals of the program. The OSTP is given general responsibility to assist OMB in the preparation of R&D budgets under the OSTP organic act.

In the statement of the characteristics of the National Research and Education Network in section 102(c), the amendment emphasizes the role of the computer, telecommunications, and information industries in development and deployment of the network. The committee intends that there be minimal Federal investment in network hardware and that the network be developed to the maximum extent by purchasing standard commercial transmission and network services. The requirement for accounting mechanisms to allow users to be charged for use of copyrighted materials available over the network is not intended to require monitoring of the contents of Information transmitted over the network. The committee expects that the providers of copyrighted materials accessible via the network would be responsible for ensuring that users are charged, as appropriate, for use of such materials.

FEDERAL AGENCY RESPONSIBILITIES

No agency is designated to manage the National Research and Education Network in the amendment. All Federal agencies involved in supporting the establishment of the network under the program are expected jointly to develop appropriate mechanisms and procedures to ensure that the characteristics of the network, as defined in the amendment—section 102(c)—are achieved.

The amendment adds the following additional responsibilities to the National Science Foundation [NSF]: First, be primarily responsible for assisting colleges, universities, and libraries to connect to the network to the extent that these entities cannot connect to the network with the assistance of the private sector; second, serve as the primary source of information on access to and use of the network; third, upgrade the NSF funded network; fourth, assist regional networks to upgrade their capabilities; and fifth, provide Federal agencies the opportunity to connect to the NSF funded network. The intention of the committee in the first item in the preceding sentence is to emphasize the central role of the private sector in providing network connections for institutions of higher education and libraries. NSF is expected to assist as necessary and in a supplementary role.

The amendment adds an authorization to the Department of Energy [DOE] to establish High-Performance Computing Research and Development Collaborative Consortia, each led by a DOE national laboratory with participation from other Federal agencies and the private sector. The amendment also requires the results of research and development activities to be transferred to the private sector in accordance with applicable law and requires an annual report to Congress on DOE activities taken to carry out this act.

The amendment requires the Defense Advanced Research Projects Agency, in accordance with the program, to support research and development of advanced fiber optics technology, switches, and protocols needed to develop the network.

BUY AMERICAN PROVISION

The amendment replaces the Buy American provisions, section 13 of H.R. 656 as passed by the House, with a new set of provisions, section 208. The amendment expends the findings to make clear that the intent of the act is to strengthen U.S. leadership in high-performance computers and associated technologies and that reciprocal competitive procurement treatment by foreign governments for these technologies ought to be vigorously pursued by the Federal Government.

The amendment requires the Director of OSTP to submit an annual report to Congress identifying any R&D contracts with non-American owned companies or with universities or nonprofit research institutions located outside the United States. The report must also identify any procurement under the act exceeding $1 million for materials of foreign origin.

The amendment requires the Under Secretary for Technology Administration in the Department of Commerce to submit to Congress a comprehensive study of the superconducter agreement between the United States and Japan. The purpose of the study is to determine whether the goals and objectives of the agreement have been met and to analyze the effects of the agreement on United States and Japanese supercomputer manufacturers.

Finally, the amendment reaffirms that the High-Performance Computing Act does not affect the applicability of the Buy American Act to procurements by Federal agencies under the program.

AUTHORIZATION OF APPROPRIATIONS

The amendment increases by a total of $5 million the authorizations for the National Institute of Standards and Technology [NIST] over the last 4 years of the 5 years authorized. The amendment provides an authorization for NIST of $4 million for fiscal year 1993, $5 million for fiscal year 1994, $6 million for fiscal year 1995, and $7 million for fiscal year 1996.

In addition to the sums authorized to DOE for purposes of the program, the amendment authorizes such sums as necessary for fiscal year 1992 to fiscal year 1996 to carry out high-performance computing activities under the act which are not part of the program but are in accordance with the program.

REPORT TO CONGRESS

The amendment includes the requirement that the Director of OSTP provide a report to Congress regarding establishment of the network. The subjects to be addressed by the report include mechanisms for meeting the operation costs of the network, the future operation and evolution of the network, mechanisms for charging commercial entities for access to the network and for billing network users for commercial services provided through the network, protection of copyrighted materials distributed over the network, and security of resources available on the network and privacy protection for users of the network.

ELEVATE EPA BEFORE ADJOURNMENT

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. HORTON. Mr. Speaker, yesterday, I joined with Congressmen BOEHLERT and SIKORSKI and officials representing four of the most respected and influential environmental organizations in the country in urging the creation for the United States what already exists for every other industrial nation in the world: an environmental protection department at the highest level of Government. The goal, articulated by each of us, is a Cabinet-level Department of the Environment. Our purpose yesterday, and mine today, is to urge the House leadership to move on legislation in place to accomplish that elevation.

The U.S. Senate, with the very capable leadership of Senate Governmental Affairs Committee Chairman JOHN GLENN and ranking minority member BILL ROTH, as approved legislation—S. 533—to elevate the Environmental Protection Agency to the Cabinet-level Department of the Environment. And President Bush, in a Rose Garden ceremony 2 years ago, in continued correspondence and efforts with both the House and Senate, has been steadfast in his support for legislation to elevate EPA.

S. 533 can be passed before Congress adjourns this year. Administrator Reilly will be Secretary Reilly. He will sit with the Cabinet and make sure environmental concerns are voiced, debated, and considered at the highest levels of our Government. More importantly, he will participate as a Cabinet-level officer of the U.S. Government in international efforts to ensure careful and considered management of our planet's land, air, and water resources. Surely the quality of our environment deserves the dignity of this elevation.

Why has S. 533 not moved in the House? Why has progress stalled on this important legislative effort? Are the issues involved really that complex? Of course they are not. The excuses are many and we know them all. Some legislators see an EPA Cabinet-elevation bill as an opportunity to address a plethora of environmental problems. Others try to cloud it in procedural concerns, as though moving a bill from the desk would violate longstanding rules of parliamentary order. Others simply do not want a Cabinet-level Department of the Environment to exist.

The House leadership has the power to create this year, this month, the U.S. Department of the Environment. It has the power. It does not require much time. The issues are clear, simple, and have been debated over the years. All that is required is for the leadership to take S. 533 from the desk, amend it to exclude extraneous provisions, and put it to a vote. It can be done today. It can be done tomorrow. It can be done in 1 or a few hours. And I would submit that our environment, our quality of life—and hence—the quality of life of our families and our families' families, would be the better for it.

Let there be no mistake where the environmental community stands on this issue. The Sierra Club, the National Wildlife Federation, the World Wildlife Fund, the Natural Resources Defense Council, the Environmental Defense Fund, and the Wilderness Society have issued public statements calling for immediate action to elevate EPA to Cabinet status. These organizations, representing hundreds of thousands of environmentally conscious Americans, want to see a clean EPA bill enacted today, tomorrow, or next week. They are not calling for additional environmental provisions as part of this bill. They are not insisting that action be delayed so EPA can be reorganized or restructured. These organizations heard the promises about enacting legislation in time for Earth Day. 1990 has come and gone. Earth Day has come and gone. Let's not let 1991 come and go without a Department of the Environment.

I was very proud to stand yesterday, with my congressional colleagues and the leaders of the most significant environmental organizations in our country, in making this simple request to the House leadership. it is not too late for that request to be heard and acted upon. Thank you.

PESTICIDE DATA COORDINATION AND SYNCHRONIZATION ACT OF 1991

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GUNDERSON. Mr. Speaker, consumers who use home and garden pesticides, including household disinfectants, share a common problem with farmers who use agricultural insecticides and herbicides, that is, the rising cost of these products.

We cannot directly control the cost of presticide manufacturing, but we can help the farmer and consumer by reducing the increased pricing associated with the cost of unnecessary and redundant testing. That is why I am introducing today, the Pesticide Data Coordination and Synchronization Act of 1991.

This bill requires that when data are required by one or more State or Federal agencies, the Administration of the Environmental Protection Agency shall coordinate and synchronize such data requests to avoid unnecessary repetition and redundancy. The legislation calls for communication and consultation concerning requirements for generation and review of specific data between State and Federal regulatory agencies, and will foster but not require uniformity.

Under this bill, States are not precluded from establishing data requirements of standards because the EPA has done so. In fact, the bill has effect only when both State and Federal governments have exercised their discretion and the result is the data requirement which, because of some variation, requires duplicative testing. Neither the State nor the Federal position is designated to prevail over the other. This bill in no way affects the authority of States to regulate pesticides.

To illustrate the need for this legislation, it is important to note that States have been adopting laws to establish programs for filling health and safety data gaps on pesticides registered within its borders. In some cases that in implementing these State laws by defining what constitutes a data gap, by establishing a list of required studies, and by creating a timetable for filling these gaps, the States will disregard the efforts of EPA to establish reregistration timetables and data call-ins to fill some of these very same gaps.

In essence, in attempting to establish their own expedited reregistration programs to fill data gaps, the States may establish their own data requirements, and those requirements can be at odds with EPA's and cause hardship for both active ingredient manufacturers and formulators of pesticides. Additionally, standards of review of existing or newly generated data may differ.

I recognize the need to fill data gaps at both the State and Federal levels. However, it is critical that data requirements among the States and EPA be coordinated and synchronized so that only one set of data needs to be generated within the same time frame. There may be a need to fill data gaps at both the State and Federal level; however it should be possible to better coordinate and synchronize data requirements so that in most cases, only one set of data and uniform tests need be generated, and the standards of review of that data are consistent.

Unnecessary repetitive and redundant testing not only consumes valuable time and resources, but also delays the closing of data gaps. Valuable time and resources which could be used to develop new data are wasted in refocusing on gaps that have already been or are in the process of being filled.

Many low-volume, low-profit specialty products, including antimicrobial products, may be discontinued because neither the registrant, the formulator, nor the State will pay for additional tests required on active ingredients. Many nonagricultural, minor use products also could disappear. Unrealistic timetables for implementing and generating these needed studies could cause some of these products to be dropped from the market.

Recently, Linda Fisher, assistance administrator for pesticides and toxic substances with the Environmental Protection Agency, issued a paper stating that review schedules for particular pesticide chemicals regulated by the EPA could be changed if such an effort was needed to further the goal of international coordination of pesticide regulation. Fisher urged participants in an international conference to seek agreement on strategies and mechanisms for coordination the national data review schedules.

If EPA is interested in gaining coordination and harmonization of international pesticide review data, it should also be supportive of coordinating and synchronizing review data among our States and the Federal Government.

With adoption of this provision, pesticide manufactures can make well-reasoned decisions as to the generation of additional data. The entire process of filling data gaps will be greatly enhanced through the exchange of information between State and Federal toxicologists and other regulatory officials.

The Pesticide Data Coordination and Synchronization Act of 1991 will help to provide less expensive agricultural and home/garden pesticides for farmers and consumers and will aid in insuring that low volume, low profit specialty products, including antimicrobial products, as well as agricultural and nonagricultural minor use pesticides, will be available wherever needed.

A TRIBUTE TO J. DOUG WELBORN AS HE ASSUMES THE RESPONSIBILITY OF THE OFFICE OF EAST BATON ROUGE PARISH CLERK OF THE COURT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BAKER. Mr. Speaker, I rise today to pay special tribute to J. Doug Welborn, the newly elected clerk of the court of East Baton Rouge Parish. Mr. Welborn was elected on November 16, 1991, and sworn into office only 4 days after he was elected. He is the only Republican to be elected to this position in over 150 years.

As clerk of court, Mr. Welborn will continue an active career of community service in the Baton Rouge area. He has served as a council member for the East Baton Rouge Metro Council for the past 11 years, dedicating his time to the revitalization of our community's economy, tourism, education, and environment. In 1982, he was appointed by the Governor to head the Amite River Drainage and Conservation Commission. He is a member of the Greater Baton Rouge Airport Authority and a member of the Capital Region Planning Commission, an organization designed to promote growth and industry.

But Mr. Welborn's service does not end there. He is also a member of the Greater Baton Rouge Chamber of Commerce, a member of the Central Area Business Association, the Fraternal Order of Police, and a board member of the Central and Eastside Fire Departments.

Mr. Welborn's involvement in community education has remained outstanding over the years. He was recognized by the East Baton Rouge Parish School Board for outstanding service as a volunteer in public schools. He is actively involved in such philanthropic programs as Read Aloud Please, Council on Youth Opportunity, the Children's Coalition, and serves as a chairmember of the Louisiana State Special Olympics.

Doug Welborn is a bright, talented young man. He faces a great challenge in breaking from the past problems that have beleaguered the clerk's office for several years, but I have the fullest confidence that Doug Welborn will restore to this office and to the people the honesty and integrity it requires.

VOL 137
PT 23
NO 21–25
1991
UMI

THE AMERICAN FRIENDSHIP LIBRARY PROJECT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. PRICE. Mr. Speaker, I rise today to call my colleagues' attention to a worthwhile project in which the citizens of North Carolina have been participating—the American Friendship Library project. The project, sponsored by the North Carolina Writers' Network, the Georgian Writers' Union, and US–USSR Bridges for Peace, formed in July 1991 when the Georgians requested American books so that they might learn more about the West. The purpose of the project is to promote peace, friendship, and understanding between the United States and the Soviet Union; by donating books. Americans can take an active role in the events which are shaping our world into a more peaceful one. The library, which is located in Tbilisi, Georgia in the Soviet Union, will enable Soviet citizens to have free access to American works of literature, incuding novels, textbooks, reference materials, and nonfiction books.

The first campaign for books has reached completion, thanks to the work of Jeffrey Gallagher of the North Carolina Writers' Network, who took on the challenge to get donations from North Carolinians for the inaugural library. I know about his efforts first-hand, for he encouraged me to donate historical and reference works on the U.S. Congress, and I was happy to do so. In 6 weeks, the excitement for the exchange yielded over 20,000 books from universities, businesses, book stores, and individuals. Because of the huge success of the initial book drive and the dramatic need for American books in the Soviet Union, the American Friendship Library project plans to establish libraries in other major cities throughout all of the Republics of the Soviet Union. As well as providing access to Western literature and texts to individuals, these libraries will establish a clearinghouse where Soviet institutions can request special collections from the West.

The North Carolina Writers' Network, the Georgian Writers' Union Bridges for Peace, and the citizens from North Carolina who have generously donated their books and their time to this project are to be commended for their contributions to world peace and understanding.

CRISIS IN HAITI

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to express my outrage at the administration's policy to resume forcible repatriation of Haitian refugees. The State Department argues that most of the Haitians are economic refugees and thus not eligible for political asylum in the United States. However, our own Government has recognized in various executive orders and official statements the brutality of the military in power, and has repeatedly condemned the coup and called for the return of President Aristide to power.

The Haitian people are fleeing for their lives. Violence and repression are now part of everyday life in Haiti since the military coup. The military forces are engaged in a campaign of terror, especially against the poorer sectors of Haitian society. Returning the refugees to the island would be sending them back to an intolerable situation of human rights abuses by the military and possible death.

Mr. Speaker, I find it unconscionable that the U.S. Government would implement such a policy with regard to refugees. I would think that our Government would have learned from history. Back in June, 1939, the ship St. Louis, packed with Jewish refugees from Europe, circled in Florida waters and eventually was denied entry into the United States. As a result of this abhorrent United States immigration policy, the ship was forced to return to Europe. We all know the tragic fate that awaited those refugees. It is incomprehensible to me why we would once again contemplate turning back any refugees, whether economic or political, fleeing any kind of persecution, and this is exactly what we are doing with the Haitian refugees.

Mr. Speaker, the United States strongly condemned the British Government when it began forcing Vietnamese boat people home from Hong Kong. I am hard pressed to find a reason for our double standard. The President maintains that there is a legal difference between the two cases. I find this argument weak and irrelevant. The fact remains that these are desperate refugees fleeing an unbearable situation and we should not deny these people safe haven in the United States. I urge the President to reinstate a reasonable immigration policy and to show humanitarian concern for the Haitian refugees.

RELIGIOUS FREEDOM DAY

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BLILEY. Mr. Speaker, today I am introducing a joint resolution designating January 16, 1992 as "Religious Freedom Day."

January 16, 1786, was the day on which the Virginia General Assembly passed "An Act Establishing Religious Freedom in Virginia." Written by Thomas Jefferson in 1777, this act marked an end to legal conflicts surrounding the quest for religious freedom; a quest that began early in the 17 century as Europeans fled their native countries in search of a life free from religious persecution.

The Statute of Virginia for Religious Freedom is an extremely innovative piece of legislation. Up until this time, the idea of a secular State was unheard of, an extreme concept that even our newly formed democracy, radical in the eyes of the world, had trouble accepting. By giving natural rights precedence over the interests of the State, the Virginia Statute for Religious Freedom not only endowed each individual with the inherent right to express their own conscience, but also drew a definite line between church and state, a line which had never been so bold in the course of prior history.

"An Act Establishing Religious Freedom in Virginia" was the "first legislature" in the words of Thomas Jefferson "with the courage to declare that the reason of man may be trusted with the formation of his own opinion." Scholars across the United States have recognized this document, not only for its invaluable assertion of the right of an individual to religious freedom, but also for its immeasurable influence on the Bill of Rights, and more specifically, the first amendment. Freedom of religion is the cornerstone from which all our other freedoms grow; the government, by establishing confidence in each individual in matters of religion establishes confidence in each individual in matters of expression. Thus, the concept of religious freedom is both fundamental and basic to the concept of freedom of speech, freedom of press, and freedom of assembly.

Along with being the author of the Declaration of Independence and the father of the University of Virginia, Thomas Jefferson specifically asked to be remembered for the Virginia Statute of Religious Freedom. He felt the act was one of his three greatest and most important contributions. Although such a basic and seemingly obvious right today, freedom of religion is fundamental to our republic, and must be recognized.

It is fitting and proper that all Americans celebrate the religious freedom which they enjoy and exercise everyday. By designating January 16, 1992, as "Religious Freedom Day," we will recall with pride the work of Thomas Jefferson which states:

> No man shall be compelled to frequent or support any religious worship, place, or ministry * * * but that all men shall be free to profess * * * their opinion in matters of religion.

TRIBUTE TO JAMES C. ROBERTSON

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly outstanding individual in mid-Michigan, Mr. James C. Robertson of the city of Gladwin.

Mr. Robertson is married to Evelyn Robertson, they have three children: Sharon, James Jr., and Joel.

Originally from West Virginia, Mr. Robertson began his service to the city of Gladwin when he was elected to the city council in 1955. He served in that capacity for 2 years. His next duty came as the treasurer of the board of education. He served there from 1961 until 1968.

In 1967 Mr. Robertson was elected as mayor of Gladwin. He has served in that capacity for 25 years, and has continued to contribute in other ways to the city and the State of Michigan.

Not only has he served the people of Gladwin well, but he has also well served the people of the State of Michigan. As a member of the League's Special Task Force of Small Cities and Villages and a member of the Governor's Small Cities Program State Advisory Committee, Mr. Robertson has assisted villages and cities statewide by advising the Governor on many issues of concern to those cities and villages.

Mr. Speaker, Mr. Robertson will be retiring from his position as mayor on November 23, 1991. I know you will join me in thanking and commending this outstanding community leader for his accomplishments and commitment to the city of Gladwin and the State of Michigan.

AMERICA WON'T WIN TILL IT READS MORE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. GOODLING. Mr. Speaker, with apologies to Fortune magazine for stealing its headline, I would like to return to a topic that I addressed several weeks ago; namely, the importance of educational achievement to the ability of this Nation to compete in the global marketplace. In those earlier remarks, I discussed my belief that the task of educational reform was really one to be borne by all Americans, as we are all stakeholders in the economic future of this country. We all need our children to achieve academically because they are our tomorrow in terms of manufacturing productivity, business leadership, and technological advances.

As we move into the information age of the 21st century, the ability to communicate one's thoughts and ideas will remain perhaps the most critical skill in both educational and professional achievement. As the economy becomes more and more international in scope, well-developed communications skills will become even a greater necessity. Thus, I am troubled by the increasing disinterest on the part of American youth and adults in the art of reading. I strongly believe, and I think the academic research would back me up, that reading exponentially improves one's ability to think logically, and creatively, to express oneself orally and in written form, and to broaden one's intellectual skills in a wide variety of subjects.

Although recent statistics indicate that some 30 million Americans have serious deficiencies in their ability to read, write, speak, and solve problems effectively, I am not referring merely to the problem of illiteracy. With the passage of the National Literacy Act of 1991, we took steps in the Congress to improve the literacy and basic skills of adults and families. I am equally troubled by the even greater number of Americans who, although by definition are literate, do not read and write well enough to be active, fully employed participants in the increasingly technical work force of the future. If we are going to sustain the preeminence we enjoy today, in the global economy of the next century, America simply must do better.

Increasing the time we, and our children, spend reading is one simple, yet effective, strategy for improving our collective ability to communicate effectively and, down the road, to compete effectively in an increasingly information driven economy. Many educators have indicated that time spent reading is one of the single greatest predictors of academic success. Just as every American has a role in school reform, every American can play a part in encouraging this Nation's youth, and its adults, to spend more time reading. Turn off the television, pick up a book, encourage the kids you know to pick up a book, read to your kids, donate your time and read to somebody else's kids, donate some new or used books to a local school or library.

This Nation cannot rely on only the best and the brightest to be economically competitive in tomorrow's world. We must be able to count on each and every citizen to be a productive participant in this country's economy in order to be a productive participant in this world's economy. Every American must turn his or her attention to providing our young people with the skills that enable them to be productive participants.

On the macro level, that may involve all Americans participating in education reform efforts. On the micro level, it may involve something as simple as talking to the youth you encounter about the value of reading. The future is now: "America won't win till it reads more."

TRIBUTE TO FRANK H. KUEHN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. VISCLOSKY. Mr. Speaker, I rise to pay tribute to Frank H. Kuehn for his many years of distinguished service with the U.S. Government. Mr. Kuehn will retire on November 30, 1991, after 37 years of service with the Veterans Administration.

Frank was born on August 31, 1924, and served in the U.S. Air Force from October 1942 to August 1945, and again from August 1950 to May 1952. In September 1954, Frank began working as an appraiser in the Loan Guaranty Division of the Veterans Division in Chicago. In October 1961, he was promoted for his outstanding performance and transferred to Detroit, MI, where he assumed the position of assistant loan guaranty officer for the Veterans Administration. He left the fine city of Detroit in 1970, for Indianapolis, where he began a 21-year reign as the loan guaranty officer.

Frank Kuehn, as a veteran with two terms of service, understands the difficulties our Nation's veterans experience in establishing a stable home life. Drawing upon his own experiences, he has served the veterans of Indiana with the utmost pride and respect. He has gone the extra mile to enable our veterans to stand with pride and dignity for being able to own their own homes. I wish that every State could have a person like Frank to serve their veterans with his undying enthusiasm.

On November 26, 1991, the friends of Frank Kuehn, together with the staff of the VA Regional Office in Indianapolis, IN, will meet at the Primo Hall in Indianapolis for a retirement testimonial and roast. I join all the friends and colleagues of Frank Kuehn, in wishing him all the pleasures of an enjoyable retirement and hope that he will be able to fulfill his dream of playing at every golf course in the State of Indiana.

Mr. Speaker, I wish Frank the best of luck in the future. He will definitely be missed by all of us.

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Brig. Gen. Theodore (Ted) R. Verdi of the Rhode Island Air National Guard on his retirement. He has dedicated his career to the preservation of freedom and has proven to be a fine leader.

Ted was born in Providence, RI, on December 14, 1931. After graduating from Mount Pleasant High School in 1949, he studied business administration at Boston University. He furthered his military education at the Squadron Officer's School in 1961, the Command and Staff College Professional Development Program in 1970, and the Industrial College of the Armed Forces in 1977. He had also completed an Air National Guard aircraft accident prevention course at the University of California in 1970 and national security management courses in 1977.

On January 8, 1951, Ted began his military career with the Rhode Island Air National Guard. He was commissioned a second lieutenant on June 24, 1954, after attending Air Force pilot training. Later that year, Ted concluded his active duty with flying proficiency in the T–6, T–28, T–33, and F–84 D/E jets. In 1968, he became a full-time civil service technician and has served continuously in the Air National Guard since that time. He flew the C–54, U–10, C–119, and HU–16 aircraft as squadron operations officer and the C–130 aircraft as deputy commander for operations. With more than 7,200 hours of flying time, he was appointed on December 5, 1980, to the positions of full-time air command and group commander, 143d Tactical Airlift Group. After serving as a command pilot, his next appointment was chief of staff, Rhode Island Air National Guard, where he remained until his promotion to Assistant Adjutant General. Concurrent with this appointment, he automatically assumed the position of Deputy Commanding General-Air, Rhode Island Air National Guard.

Ted was promoted to brigadier general and federally recognized on September 29, 1987. He was also the recipient of several prestigious decorations and awards including: the Air Force Meritorious Service Medal, 1st Oak Leaf Cluster; Air Force Commendation Medal; Aircrew Combat Ready Ribbon, 4th Device; Armed Forces Reserve Medal; Small Arms Expert Marksmanship Ribbon; Rhode Island National Guard Ribbon, Eagle and V; National Guard Ribbon.

He has also been involved with the National Guard Association of the United States, the Air Force Association, and the Kiwanis Club of Rhode Island., the East Providence and Warwick Chapters. Ted was also the president of

VOL 137 PT 23 NO 21-25 1991 UMI

the National Guard Association of Rhode Island.

Ted is married to Diana Pellegrino Verdi, formerly of Johnston, RI. They have two daughters, Dorie and Alicia, and a son, Theodore. Ted and Diana currently reside in Cranston, RI.

Brig. Gen. Theodore Verdi has honored his State and country in his service with the Rhode Island Air National Guard. I ask that my colleagues please join me in wishing Ted and his family continued health and happiness.

TENNESSEE DEPARTMENT OF SAFETY PROMOTES ORGAN DONOR AWARENESS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. CLEMENT. Mr. Speaker, I want to take this opportunity to commend the Tennessee Department of Safety and Commissioner Robert Lawson for the outstanding work they have done during the past few years in the area of organ donation awareness in the State of Tennessee.

The back of every Tennessee driver's license includes an organ- and tissue-donor card. The efforts of Commissioner Robert Lawson and his department to promote organ- and tissue-donor awareness have been outstanding. Under his leadership, the department has:

Distributed educational brochures and orange organ-donor decals;

Instituted a 24-hour, 7-day-a-week help desk to assist organ-procurement professionals in their work;

Developed an organ-donor section in the Tennessee driver's license manual;

Included an organ- and tissue-donor card on change-of-address forms;

And provided donation information on renewal forms.

The department is currently bidding on the purchase of plastic pouches to hold an organ- and tissue-donor card.

Dr. Edward Brown, executive director of the Lions Eye Bank of middle Tennessee, helped bring to my attention the outstanding record of Commissioner Lawson and the Tennessee Department of Safety and their work on behalf of organ-donor awareness.

I want to take this opportunity to salute the commissioner and his department and ask my colleagues from throughout our Nation to take notice of these efforts. If your State does not have an organ-donation procedure, I ask that you contact my office so I can put you in touch with the Tennessee Department of Safety. Their program can serve as a model for a similar effort in your State.

ROCHESTER FAMILY SENT 8 SONS TO WORLD WAR II

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, it has been almost 50 years since the bombing of Pearl Harbor on December 7, 1941, and as we approach the commemoration of this important milestone in American history, I know many veterans will be recalling their efforts during World War II and the impact the war had on their lives.

For many communities across America, in fact, World War II was all-consuming. Consider Monroe County, which I represent in upstate New York. During World War II, 40,000 residents served in the military, and 1,276 died, out of a total population of 438,000. As an editorial writer for the Gannett papers back home recently wrote: "Imagine the impact today if the same proportion (in Monroe County)—70,000 men and women—went away to war, not for a few months, but for years. Imagine the anguish, the tension, the burden of coping and worrying and waiting."

Mr. Speaker, millions of American families 50 years ago underwent such hardships. While there is no way to put a measure on such sacrifices, I believe the experience of one family in my congressional district speaks volumes for many others.

I am talking of the Fedele family, whom I represent in Rochester, NY, a family that saw eight sons serve in World War II. The brothers served in the Army, Navy, Marines and the Army Air Corps and fought in Europe, the Pacific and Africa.

Anthony Fedele enlisted in the Marines in 1939 while still a teenager and was at Pearl Harbor when war broke out. Seven of his ten brothers soon followed him into service as a result of the draft. August and Nunzio joined the Army; Sam and Joseph went into the Navy; Vincent and Patrick signed up with the Army Air Corp; and Gerald joined the Marines. Two other brothers, William and Michael, received military deferments because they were employed by defense plants. Victor, the family's youngest son, was too young for World War II, but he served in Korea. Toward war's end all eight brothers were serving in the military, and, thankfully, all survived the war.

Miraculously, only one Fedele brother, Joseph, was injured in action. He received the Purple Heart after he was hit by machine gun fire in Okinawa. Patrick suffered injuries in a plane crash during training exercises in the United States.

A reporter for the Democrat and Chronicle of Rochester recently interviewed several of the Fedele brothers about their efforts during World War II. "Don't make it sound like we were war heroes," said Sam with humility characteristic of so many veterans. "We're just common people," he added.

Mr. Speaker, as we approach the 50th anniversary of Pearl Harbor, I submit that it was the courage and conviction of soldiers like the Fedele brothers that enabled us to overcome the surprise attack and preserve the basic freedoms we so cherish—our freedom to vote, to speak our minds, to debate our Government actions, to move freely and to worship as we choose. As a child of World War II, I have tremendous respect for those who have served their country. As we remember Pearl Harbor, we must also remember the many veterans who risked their lives to make victory possible.

TRIBUTE TO THE HONORABLE D. FRENCH SLAUGHTER, JR.

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SENSENBRENNER. Mr. Speaker, on July 1, my colleagues in the House of Representatives and I learned of the unfortunate retirement of the gentleman who has honorably represented Virginia's Seventh District and the people of America the past 7 years, D. French Slaughter, Jr.

I was fortunate to have served alongside French during this tenure in the House on both standing committees on which I serve, the Judiciary Committee, and the Committee on Science, Space, and Technology. I had ample opportunity to witness the dedicated service by French to his constituents during committee markups and hearings. Many times there were others who expounded at greater length on one issue or another, but the Congress gained valuable insight from the gentleman from the Seventh District who was a student of the issues and the people affected by them. The committees on which he served are indebted to his faithful service.

Mr. Speaker, I am also confident that if on any day the constituents of Virginia's Seventh District unexpectedly appeared at a committee hearing, they would have seen the same Congressman Slaughter they saw back in their district. A gentleman. A dedicated public servant.

Mr. Speaker, French's support was critical in many of the battles waged on controversial public policy issues. My colleague steadfastly pursued legislative solutions, enduring many long hours of behind-the-scenes effort to represent and serve his constituents. They were well served.

On Tuesday, November 5, the citizens of the Seventh Congressional District made an overwhelming decision to continue the tradition of excellent representation by electing GEORGE ALLEN to fill French Slaughter's shoes. I will be happy to welcome Mr. ALLEN to the Judiciary and Science, Space, and Technology Committees and honor the position as did Mr. Slaughter with outstanding service.

Mr. Speaker, I wish my friend D. French Slaughter, Jr., the very best as he departs this institution for other pursuits. My colleagues and I will miss the congenial nature and dedicated service which French gave selflessly to this institution.

THE EMERGENCY UNEMPLOYMENT BENEFITS EQUITY ACT OF 1991

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. INHOFE. Mr. Speaker, today I have introduced the Emergency Unemployment Benefits Equity Act of 1991 to provide for a more equitable assistance to this Nation's unemployed.

My bill would amend the recently passed Federal Supplemental Compensation Act of 1991 which became Public Law 102–164. It would provide for 15 weeks of unemployment benefits for every State across the Nation regardless of unemployment rates. It would also make the Act retroactive to February 28, 1991, for every State and extend those benefits to all States through June 13, 1992.

The Emergency Unemployment Benefits Equity Act of 1991 is intended to cost the same amount or less than the legislation just passed and I would amend the bill to bring it within the guidelines of the Budget Enforcement Act of 1990, should budget projections call for additional spending.

I am pleased that the House of Representatives decided to bring those states who previously qualified for 6 additional weeks of unemployment benefits to the 13 week tier in H.R. 1724, but even that is not sufficient. My contention is that while this is much better than the original legislation, which has now become law, we need to completely eliminate the tier system.

First of all, the method by which the Department of Labor calculates State unemployment figures depends in part on the amount of benefits the State has distributed. Since the Southwest has been in a recession for 3 years longer than the rest of the Nation, Labor's calculations do not reflect the employment and economic conditions of the region.

Second, I believe that an unemployed family should receive the same amount of benefits as other families in the same situation, regardless of the region or State that they reside. An unemployed person in California, Florida or Oklahoma is in the same desperate situation as anyone else in the United States, regardless of the economic situation in the rest of the community.

Also, the extra 7 weeks of benefits that Massachusetts, New Jersey, Connecticut, Rhode Island and others receive are being paid for in part by the employers in all States. In essence, the employers in my district will be paying for the extra 7 weeks that the unemployed in Massachusetts will be receiving. That creates an inequity that employers in my district should not have to bare.

This distribution in the Emergency Unemployment Benefits Equity Act of 1991 is not only more just, but also eliminates the penalization of those States that do not qualify for the maximum number of weeks under the recent legislation.

Mr. Speaker, I invite my colleagues in this body to join me in cosponsoring this important legislation that would provide equity to all of America's unemployed.

IF ONLY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. BURTON of Indiana. Mr. Speaker, last weekend, when I was presenting an American flag at a Masonic lodge, I had the opportunity to hear a very moving speech by a high school student from my district. Tanya Zion of Markleville, IN, spoke about our rights under the first amendment, and what a tragedy it is that some people choose to use those rights to burn the American flag.

Mr. Speaker, it was refreshing to hear a young person, probably one of our future leaders, speak so eloquently about her love of our country and the rights and responsibilities we all share. I insert Tanya's speech into the RECORD for the benefit of all of my colleagues.

IF ONLY

(By Tanya Zion)

If only, if only the First Amendment didn't exist. No personal expression would be openly present in the United States. You wouldn't be able to choose the profession of your choice, there would be one main religion, or no religion at all, there would be absolutely no protesting the government, and I wouldn't be standing here speaking to you today. Luckily for all Americans we do have all of these privileges, and yes, they are privileges but with all privileges comes responsibility.

The responsibility and how people treat it is what I am going to speak about today. The First Amendment states that congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof of abridging the freedom of speech or of the press or of the people to peacefully assemble and protest the government for a redress of grievances. Now, think about this the country you and I live in is the only country ruled by the people for the people, but yet the people take advantage of everything we have. From a walk through the park, to being an active part in this nation's government and to the extreme of burning our flag. Yes, to many this seems odd, but yes, it is guaranteed to them by the First Amendment. I'm not sure what person, what citizen of this beautiful country, why they would want to burn everything this country stands for. But they do, people burn the flag to protest against the government or a certain law. But they are not burning the government or the laws, they are burning this great country you and I live in, they are burning all of the rights that guarantee them that they are not going to be executed for doing so, and they are burning the colors of the flag. The red standing for the wars fought and the blood shed to keep this country free, free forever. If only the red was to become charred. The white symbolic of purity. If only the white was to turn to gray. And the blue symbolic of the blue free sky, the sky you wake up every morning and see, you see this sky through the eyes of a free citizen not through the eyes of communism or dictatorship, you will wake up every morning and have the opportunity to see this beautiful, free sky. If only the blue was to turn to ashes.

So I ask, why do people burn this great flag? If only Congress didn't have to make the decision of whether or not it was guaranteed under the First Amendment. And to all of those flag burners I'd like to personally take the time to say if you don't like it, get out! Try burning another country's flag, try protesting another country's government and see if you don't end up six feet under and dead. They should be thankful that they have the opportunity to do so, and not press the issue. It really makes me wonder what is going through their minds while doing this. If only they were to be repeating the words that John F. Kennedy once spoke "Ask not what your country can do for you, but what you can do for your country."

But, on the other hand many people say that it is guaranteed to them by their constitutional rights, they are expressing themselves and that is guaranteed by the First Amendment. See, this is what is so unique about the country we live in. Its citizens have the right and opportunity to burn such a symbolic piece of our nation's history. If only the founders of our country were here to see everything they fought for going up in flames.

Freedom is a very wonderful thing and should be cherished by every citizen of the United States. If you value your freedom of personal expression then don't burn your freedoms. And don't burn the colors of our flag.

THE WINDSOR HOTEL IN AMERICUS, GA

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. RAY. Mr. Speaker, I rise to announce tomorrow's re-opening of the newly renovated Windsor Hotel in Americus, GA. The management of the hotel and the city of Americus have many special events planned for this historic day.

The Windsor was originally opened on June 16, 1892. An open-house allowed all of the residents of Sumter County to tour throughout the hotel. A grand ball was held that evening in the fifth floor ballroom that ran from 9 until well after midnight.

The Windsor continued to serve central and south Georgia until the early 1970's. Its victorian style and attention to detail made it known throughout the east coast as an elegant hotel and wonderful place to stay.

Tomorrow, after a 5-million-dollar renovation, the Windsor regains its elegance. Americus and Sumter County will again have this jewel of a hotel in their crown.

Mr. Speaker, I applaud everyone who has been instrumental in this historic renovation. Such a commitment and dedication to quality is admirable. In today's hustle-and-bustle world, it is events such as the grand re-opening of the Windsor Hotel that are truly appreciated.

REPEAL OF THE SOCIAL SECURITY EARNINGS TEST

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. RHODES. Mr. Speaker, the Social Security earnings test has been in existence

VOL 137
PT 23
NO 21—25
1991
UMI

since the payment of the first Social Security benefit. It has been changed since 1940, but it is no less onerous to those persons affected by it.

Social Security, when it was created in 1935, sought to achieve two goals—moving older workers out of the work force to make way for younger workers, and to partially replace lost income due to retirement. Those goals were applicable in 1935, but are not in 1991.

The original earnings test affected retired persons earning over $15. They suffered the loss of their entire Social Security benefit. Since then, the test has undergone a variety of changes. It became an annual test as opposed to monthly; the amount of earnings allowed has increased, currently it is $9,720; the amount of benefits lost has been decreased from $1 for every $2 earned over the limit, to the current loss of $1 for every $3 earned over the limit, and finally, Congress has established an exempt age of 70 years. Recently, the Older Americans Act Reauthorization was amended in the Senate to include a total repeal of the onerous earnings test. This amendment, offered by Senator JOHN MCCAIN, is identical to H.R. 967, of which I am an original cosponsor. H.R. 967 currently has 267 cosponsors.

The overwhelming support of Members, and the history of the test itself, leave many of us with the belief that the test is antiquated, inefficient, draconian, and ripe for elimination. There are currently at least 20 different proposals pending before Congress that would significantly alter or entirely eliminate the test.

Consider the current labor market in today's society. By the year 2030, there will be only two workers for every elderly citizen. The Nation's labor market lacks skilled laborers because they are forced from the work force by the artificial penalties they could face if they continued to work. The Wall Street Journal reports that 83 percent of all men and 92 percent of all women over 65 are completely out of the work force. Three out of five of these do not have any disability that would preclude them from working. If these persons have retired voluntarily and do not wish to work, that is their right; but it is also the right of those persons who wish to continue working to do so without penalty.

We take pride in pointing out the lower numbers of impoverished elderly in America, but today's seniors are facing marginal tax rates that can be as high as 122 percent. We seem to set out to punish two groups of seniors, those who have been able to keep themselves out of poverty and those whose financial situation dictate that they continue to work.

Some argue that only the rich benefit from eliminating the earnings test. I question the legitimacy of that argument. Is it right for any individual to face tax rates of 65 percent? Is it fair to preclude any individual from continuing to earn their wages, without penalization, because it does not benefit his neighbor? In fact, since investment monies are not counted as income, the earnings test hits a higher percentage of seniors who are forced to stay in the labor market. Elimination of the earnings test would benefit many more working class seniors than well-off seniors. Well-off is a relative term now, when a spouse's illness could easily cost $25,000 a year fcr nursing home care.

The complexity of the current system must also come into question. It costs the Social Security Administration [SSA] over $200 million, and 2,500 employees, a year simply to administer the earnings test. The elderly must determine what their earnings will be for the upcoming year and report that figure to the SSA which then makes any adjustment to the Social Security benefit. If any underestimation or overestimation occurs, a lump sum payment or refund is made.

Finally, the argument is made that this constitutes a raid on the Social Security trust fund, that it costs too much and should not be tampered with in any way. I disagree. In fact, no one can agree on what the actual revenue impacts would be. Some claim the elimination of the earnings test for those of retirement age and above will result in outlays of $5 billion a year. This figure does not take into account the savings that can be estimated from decreased administrative expenses, and increased old age survivors and disability insurance revenue as a result of taxation of benefits, and the increase work effort. Even this recoupment figure is subject to dispute. Depending upon the estimator and the methods that can be used to lessen the budgetary impact, such as the delayed retirement credit, recoupment figures have been judged to be as little as 10 percent and as much as 50 percent.

In closing, the question is not whether repeal is in keeping with the original intent of the Social Security system, it is not whether repeal only benefits the rich; it is not what number of elderly will reenter the work force. The crucial question is whether the Federal Government should tell a Social Security recipient he or she cannot continue to be a productive wage earning citizen without being penalized for that initiative. My answer to that question is "No." I urge the Older American Act reauthorization conferees adopt the Senate language repealing this needless and unfair earnings test.

THE FAILURE TO OVERRIDE THE LABOR-HHS-EDUCATION VETO: ANOTHER BLOW AGAINST WOMEN

HON. BERNIE SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. SANDERS. Mr. Speaker, the failure to override the President's veto on the Labor-HHS-Education appropriations bill on November 19 is a blow against the fundamental rights of every woman in this country. It is a tragedy, and I deeply regret that we failed in our override effort.

President Bush has told working and poor women that they are second class citizens—not entitled to knowing the full range of health care options available to every woman in this country. If you are a wealthy woman, you can get all the advice that you need with regard to your pregnancy. But if you are poor, and you go to a federally funded clinic, you do not have that right. Furthermore, the President has told physicians and other health care providers that they cannot practice medicine to the best of their abilities. They must limit what they can say to certain patients. This veto by the President, therefore, is an insult not only to the women involved, but to all serious health care providers. In actuality, however, it is really an insult to all Americans.

One of the implications of the President's veto is that it may force hard-pressed State governments all over this country to make up for the cutbacks that they will experience from the Federal Government if they choose not to follow this ruling. Planned Parenthood of Northern New England, for example, has made the difficult decision to forego Federal funds rather than accept restrictions on counseling at title X facilities. For my State, the gag rule means that the legislature has to choose between family planning and other essential services for low-income women and teenagers. This is a choice which should not have had to be made. In Vermont, 22,000 patients who visit Planned Parenthood's 15 Vermont community-based clinics, and 12,000 teens, parents, and professionals who are served through Planned Parenthood's educational programs, will all suffer as a result of the President's veto.

Mr. Speaker, I wish that I could say that the President's veto was simply an aberration in an overall policy which showed respect for women. Unfortunately, that is not the case. On issue after issue, the President has developed policy which is not only harmful to the needs of working people in general, but is even more harmful to the needs of working women.

Mr. Speaker, every industrialized nation, except the United States and South Africa, offers parental leave to their workers. In Europe, maternity leave is taken for granted; in America, women are taken for granted. President Bush has repeatedly blocked the attempts of Congress to provide women and their families with humane leave policies. We know that women are the primary overseers for their family's health care and the primary caretaker—both paid and unpaid—of the old, the young, the ill, and the incapacitated. We also know that nearly 56 percent of women are working today, many as single mothers. So how can the President continue to veto family leave bills? In virtually every country in Europe, women and all workers receive paid family leave benefits. Why is it, therefore, that in our country the President opposes unpaid leave?

Mr. Speaker, every industrialized nation, with the exception of the United States and South Africa, provides universal health care to its citizens. And while women make up 75 percent of heath care provided, many struggle to survive with little or no health insurance. The President has failed to present the Nation with any serious proposal to replace our broken health care delivery system. In fact, it is quite clear that he would veto any serious national health care legislation which would threaten the profits of the insurance industry, the pharmaceutical companies, and the wealthy physicians who are prospering under our current deteriorating system. Without a national health care system guaranteeing health care to all, women will be most impacted, as they are the largest population of health care providers and health care consumers.

Mr. Speaker, let us not forget that on the economic level, women are also suffering. Even the Department of Labor has been forced to recognize the existence of a glass ceiling for women and minorities in the corporate sector. Yet the administration fails to offer any new initiatives to eliminate admitted discriminatory and artificial barriers. Women continue to earn an average of 68 cents for every dollar earned by men. Men, whatever level of education they have attained, earn more than women at comparable levels. Of the 6.3 million hourly and salaried workers who earned minimum wage or less in 1987, nearly two-thirds, 63 percent, were women.

Mr. Speaker, while the entire economy continues to stumble along in a deep recession, we must not forget that women as workers, and as mothers, are suffering a much higher level of poverty in this country than men. There are 19.4 million, or 1 in 7, women in poverty in this country. There are 3.8 million female heads of families below the poverty level, or 33.4 percent of all femal-headed families. Over half of all poor families are headed by females. In fact, single women with young children constitute the most rapidly growing segment of homeless people. In the meantime, shelters are closing their doors, nutrition programs are underfunded, and food stamps are wholly inadequate because the Bush administration has turned its back on these desperate needs.

On the global front, the President sits idly by, failing to take action on the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. This convention not only defines equality between men and women, but mandates a global agenda for how this equality can be achieved. Let's face it: This President has no agenda for the advancement of women—globally or domestically. Instead, he is packing the Supreme Court with conservative hardliners who want to return to dark and grisly days of backstreet abortions.

Mr. Speaker, the President's veto of the Labor-HHS-Education appropriations bill was very wrong, just as his veto of other important legislation which represents the needs of American men and women was wrong. My hope is that millions of Americans will learn something from this experience. And that Is, that we need someone in the White House who is concerned about the needs of all the people and not just wealthy businessmen.

ROCHESTER MEDICAL PATIENTS PUBLISH POETRY, PROSE

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, Rochester, NY has long been known for its innovative, and highly skilled medical research and health care. And again, Rochester, especially Strong Memorial Hospital, is in the forefront with a creative new project entitled "Strong Writers' Program."

On November 25, 1991, at a reception in the Medical Center, patients, their families and staff plan to celebrate the publications of Waiting Room, an anthology of poetry and prose written by patients ranging from 7 years of age to 85.

This unique project is the result of many working together including The Friends of Strong, a volunteer organization within the hospital, Writers and Books, a local literary group, and two businesses, the Rochester Community Savings Bank and the Genesee Cellular One Company. The project enables patients to express their fears, hopes and concerns through the creative words they are encouraged to write. Mentors from Writers and Books work with the patients and the results have been remarkable.

As children deal with their own illnesses, or experience the death of a new friend made within the hospital, or as older men and women cope with their frailty, they have found a way to express their deepest feelings.

Let me offer one brief poem from the book. Forrest Corwin, age 9, expresses his feelings in this poem entitled "Here".

"I'm a child
in a circle
going through space
I walk through water
with my shoes off.
The Earth is clean,
but the Moon is fun
to sit on.
When I grow up
I want to be the Sun."

We can only imagine the feeling within his heart, but certainly this experience has begun tapping into the many gifts he possesses. I commend this unique program.

CALIFORNIA DESERT PROTECTION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 22, 1991

Mr. ANDERSON. Mr. Speaker, I rise in support of the substitute offered by Congressmen LEWIS of California, MCCANDLESS, THOMAS, and HUNTER; the same gentlemen who represent the desert area that we seek to protect today.

The desert of California is a stunning and immense place. I grew up there, went to elementary school there, and still love to visit when I can. The desert's scenic beauty, its ecological significance as habitat for unique flora and fauna—the desert's very importance as a natural and pristine ecosystem with important and irreplaceable geographic features—is not in question today. Instead, the question is the extent of protection this desert area needs.

We are confronted with an ideological debate with this bill; with the opponents of human use of the desert confronting those who want full access and unlimited use of the desert. H.R. 2929 is supported by environmentalists simply because it sets the largest amount of land possible aside that then can't be touched by human use. Supporting their arguments is the fact that desert species, some endangered like the desert tortoise and the bighorn sheep, are seeing their habitats degraded by too extensive use by such activities as off-road vehicle use. Supporting their arguments is the fact that the steward of most of this land, the Bureau of Land Management, has dragged its feet too long in designating certain desert areas as wilderness. Supporting their arguments is the fact that dune buggies and motorbikes can scar the landscape beyond repair. I want to compliment my two Democratic colleagues, Mr. LEVINE of California and Mr. LEHMAN, for their work on behalf of the desert. They have worked to accommodate the needs and concerns of many competing concerns. I will vote to support their bill, their compromise, should this substitute not pass.

However, I strongly urge this body to respect the position of the four men who represent the desert area being discussed on this floor. We seem to have entered an era of massive land set-asides, when the representatives of the people who live on the land are being ignored. We are talking about setting aside 4.3 million acres as wilderness, while transferring another 3 million acres of the California Desert Conservation Area into the National Park and Monument system. Before representatives from the east coast vote on this, I want them to consider just how big a million acres is. The many users of the desert: The Issak Walton League of California, sportsmen, recreational vehicle users, rockhounds, ranchers, private landowners, miners, businesses and towns who make their money off tourism and other economic activities all oppose the too extensive set-aside of land. The National Park Service, the BLM, and the full Interior Department opposes H.R. 2929. The National Park Service doesn't have enough money to manage the national parks they already have. I am not opposed to making Joshua Tree and Death Valley national parks. In fact, I find that designation an attractive idea. I simply believe we should be considering costs and actually consider whether they can be managed as national parks before we go ahead and mandate such a designation.

My greatest problem with H.R. 2929 is how the legislation treats private property. The bill would mandate the transfer of 825,000 acres of private lands to public ownership. It does so by promising to make land exchanges with the owners of the private land holdings. However, the likelihood that there is sufficient government land to complete the extent of land exchanges being discussed is small indeed. There are only 550,000 acres out there that are suitable for exchange, and many of them are either unsuitable for exchange or already committed to other purposes. Realizing this predicament, the authors of the bill inserted a provision to allow access to surplus government property in exchange for the land. I am dubious about how much surplus property the State Land Commission and a real estate holding company are willing or able to take. Finally, the bill says that if the land exchanges and the surplus equipment provisions are insufficient, the private landholders will be paid off by the Federal Government. Some estimate the cost of this provision to be in the neighborhood of $500 million. When will this Government understand that we can't continually pass bills with unknown fiscal consequences?

The desert of California needs a higher level of protection than it is afforded today. This is

VOL
137
PT
23
NO
21
—
25
1991
UMI

why I will vote for both the substitute and the product that results from the amendment process on final passage. I am far from happy with some of the extremes of this issue. We can find a level of protection which allows reasonable access to the desert for mining companies, the military, nature lovers, desert residents, and recreational vehicle users without degrading its most important features. We can set aside critical areas for sore-pressed desert animals and plant species which need additional levels of protection. Hopefully, we will find a good compromise when this bill goes to the Senate. My vote today is to push the process along.

HOUSE OF REPRESENTATIVES—*Saturday, November 23, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that the good gifts of life that You have made available to us, be received by all people with joy and gladness. May we grasp every opportunity to see life in its fullness, to observe the eternal and not the transient, to touch the substance and the purpose of living and not only the bare definitions of life. Teach us, gracious God, to use our days to fill our minds with insight and our hearts with wisdom. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania [Mr. MURTHA], please come forward and lead the House in the Pledge of Allegiance.

Mr. MURTHA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 3728. An act to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution;

H.R. 3839. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes, and

H. Con. Res. 216. Concurrent resolution concerning the use of forced labor in Chinese prisons.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 848. An act to establish the Little Bighorn National Monument;

H.R. 1776. An act to authorize for fiscal year 1992 the U.S. Coast Guard Budget; and

H.J. Res. 157. Joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the resolution (H.J. Res. 157) "Joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. HATFIELD, Mr. STEVENS. Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. GORTON, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills, a joint resolution, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 543. An act to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II; and

S. Con. Res. 77. Concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military.

The message also announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2100) "An act to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1988) "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House of Representatives to the bill (S. 272) "An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House of Representatives to the bill (S. 1284) "An act to make certain technical corrections in the Judicial Improvements Act of 1990."

THE WAIVING REQUIREMENT AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 294 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 294

Resolved, That the requirement of clause 4(b), rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to any resolution reported from that committee on or before the calendar day of November 27, 1991, to provide for the consideration or disposition of any bill, amendment thereto, or conference report thereon, on the following measures:

(A) a bill to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes;

(B) a bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes;

(C) a bill to control and prevent crime;

(D) a bill to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

(E) a joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes;

(F) a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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and provider-specific taxes by states as a source of a State's expenditures for which

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tee on Rules to amend the provision to require 1-day notice of suspension in-

it is being done is for an unknown desire, and this is what causes great con-

done it year after year. It is something that is consistently done. It is consist-

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and provider-specific taxes by states as a source of a State's expenditures for which Federal financial participation is available under the Medicaid program and to maintain the treatment of intergovernmental transfers as such a source; and

(G) a bill to provide funding for the Resolution Trust Corporation, and for other purposes.

SEC. 2. The Speaker is authorized through the calendar day of November 27, 1991 to declare recesses at any time, subject to the call of the Chair.

SEC. 3. The Speaker is authorized to entertain motions to suspend the rules through the calendar day of November 27, 1991, subject to the requirement of an announcement on the floor of the House by the Speaker or his designee at least one hour before the consideration of any motion to suspend the rules.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 294 is a rule to expedite the business of the Congress in the waning days of the session. The rule waives clause 4(b) of Rule XI against any rule which is reported from the Rules Committee on or before the calendar day of November 27, 1991 if the rule provides for consideration or disposition of a bill, conference report, or amendment on: Highways, banking, crime, unemployment, supplemental appropriations, Medicaid moratorium, or RTC funding.

The rule also authorizes the Speaker to declare recesses at any time through the calendar day of November 27, 1991 and permits the Speaker to entertain motions to suspend the rules through November 27, 1991 subject to 1 hour notification of the House by the Speaker or his designee.

Mr. Speaker, as we near the close of the session, this rule will enable us to expedite consideration of the important business of the Congress. I urge all Members to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday the distinguished majority leader aptly described this as the martial law resolution. According to my dictionary, martial law is a temporary rule imposed by military authorities on the civilian population in time of war or when civil authority has broken down.

Mr. Speaker, I do not know exactly whether the majority leader is saying by this resolution that it considers the House to be in a state of war or simply that the leadership's civil authority has been destroyed. But in either case, I strongly oppose this military edict from on high.

This is no time to suspend the civil rights and liberties of House Members for the sake of rushing to adjournment. Just because we are in the waning hours of the session is no reason to convert our parliamentary democracy into a banana republic.

When the majority leader was first describing this little resolution yesterday, he made it seem as if all we were talking about was making it possible to consider a few bills under suspension of the rules today. That did not seem all that objectionable since we were assured that we would not consider any bill which had not been noticed by last evening.

But this resolution does a whole lot more, and I hope Members will listen closely to what damage it does do to our deliberative process.

First, it waives the requirement of clause 4(b) of rule XI that now requires a two-thirds vote of the House to consider a rule from the Committee on Rules on the same day it is reported with respect to seven specific pieces of legislation.

These include the highway bill, the banking bill, the MFN/unemployment compensation fix, the crime bill, the dire supplemental appropriations bill, the Medicaid moratorium bill, and the RTC bill.

Now, this special rule applies on any day through next Wednesday, November 27.

□ 1010

I know the argument is made that the two-thirds consideration requirement for a same-day rule does not apply anyway during the last 3 days of a session, and for all intents and purposes this might be what we are talking about. But since we are not adopting an adjournment resolution, we do not know if these are the final 3 days.

That is more than a technicality, Mr. Speaker. We may well be here after Thanksgiving, regardless of whether we adopt this special martial law rule. I would submit we should come back after Thanksgiving if we have not enacted an economic growth package for our country by next Wednesday.

What especially concerns me as a member of the Committee on Rules who has begun to appreciate its creative potential is what kind of legislative chicanery can be performed by the use of a clever rule. We have the power of the Committee on Rules to self execute the passage of entire legislative substitutes, to completely change the work of our committees or of their conferees.

Is this the kind of thing we want to allow in this rush to adjournment without the benefit of even knowing what it is we intend to vote on? I certainly hope not, yet that is exactly what this resolution does and will do to the House.

It is just this kind of martial law and fast-track rule that has produced the all-time embarrassments that are slipped into legislation in the last minute of the sessions, only to be discovered later by the media and much to the discredit of us all and especially to the institution of the Congress.

The fact is that under House rule XXVIII, clause 2(a), we can consider a rule for a conference report on the same day as reported if it only waives the 3-day layover and the 2-hour availability requirements.

But this special rule would permit such a same-day rule that would do much more. It would permit waiving the scope and the germaneness rules for conference reports. Let me emphasize again. We understand how whole packages can be slipped into conference reports with the explanation of the same title. This is the bill we voted on 6 weeks ago, this is the conference committee reporting back; this rule does this. It would permit waiving the scope and the germaneness rules for conference reports.

That is where the House is most exposed to possible embarrassment, because it is when conferees slip work into their reports, provisions which may never have been considered by either House or in any committee.

Mr. Speaker, that is not all this special rule does. It also permits the Speaker to entertain motions to suspend the rules on any day from now through next Wednesday subject to just 1 hour notification. I would point out, Mr. Speaker, that I have no problem with this authority for today's suspensions. That is because they were noticed a day in advance and we were given the opportunity to discuss, I believe, except rumor has it in the last 5 minutes that an additional bill has been added that was not noticed to us last evening.

Moreover, next Monday and Tuesday are suspension days anyway under the House rules, so why does this special rule not confine itself to today? What is it intending to do Monday and Tuesday that it does not want us to know about? Could it be that Sunday's pro forma session will turn into a secret suspension day? I hope not. But this resolution does permit it.

Do we need this for next Wednesday? Not really. If the leadership intends to continue Tuesday's session into Wednesday morning, if necessary, that would still be a legislative day of Tuesday and suspensions would still be allowed under the regular House rules.

So one can only conclude, Mr. Speaker, that this provision is either not necessary beyond today or that the leadership is planning to bring up suspensions tomorrow or to hold a special new session on Wednesday after the promised departure time of sunrise.

Mr. Speaker, this makes us all very concerned. I attempted in the Committee on Rules to amend the provision to require 1-day notice of suspension instead of just 1 hour, but of course that was rejected on a party line vote. Mr. Speaker, I will give the majority leader credit for accurately describing this martial-law rule and also for observing that the minority traditionally opposes such broad and arbitrary blanket authority to the Speaker.

But this is not just a majority versus minority issue. We are talking here about whether we will continue to afford all House Members of both parties protections of House rules against legislative abuse and chicanery, or whether we will accede to this request to suspend all our rules and our better judgment and trust that nothing we will be asked to blindly vote on later on will come back to bite us and our sacred institution.

I urge rejection of this martial-law rule so we may continue to operate under deliberative and democratic rules of the House that have served us for two centuries. This rule is not only unnecessary, it is downright dangerous. It could be damaging. If we are wise, we will vote "no."

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MCEWEN. I am pleased to yield to the gentleman from New York [Mr. SOLOMON], the ranking minority member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I do not have much voice left. I am not going to take my own time, but I do want to commend the gentleman from Ohio. This is a terrible rule. This waives all scope and all germaneness considerations on conference reports from here on out. We have no idea what here on out is.

We have been debating for the last several days the bailout of the banks, and we will be debating the bailout of the RTC. We know what happened back in 1980. We passed a rule just like this one. We waived all scope and all germaneness near the end of the session. That is when we raised the deposit insurance guarantee from $40,000 up to $100,000 and let it be effectively unlimited. That is the kind of mistake we are liable to be making right here today.

This is a terrible rule. When we talk about the other body, we know they do not have any rules, nothing is germane and anything can go. But in the other body at least the Republicans are treated the same as Democrats. They can all offer nongermane amendments. Over here only the Democrats can do it, and that is exactly what we are allowing if we vote for this rule.

We ought to vote it down and let us employ the regular order of business.

Mr. MCEWEN. Mr. Speaker, I thank the gentleman. Under the rules of the House under ordinary procedures this rule is not necessary. The only reason it is being done is for an unknown desire, and this is what causes great concern. We need not expose ourselves by passing this rule. I urge my colleagues to vote "no."

Mr. DERRICK. Mr. Speaker, I have no further requests for time.

Mr. MCEWEN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I would like to ask the member of the Committee on Rules on the majority side, the gentleman from South Carolina [Mr. DERRICK], what is the origin of this term martial law? The majority leader introduced it into our dictionary last night, and I do not find it in the House rules. I do not find it in the rule itself. Maybe the gentleman from South Carolina can shed some light. What does the majority party mean by martial law?

Mr. DERRICK. Mr. Speaker, would the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from South Carolina.

Mr. DERRICK. That we want to get out of here.

Mr. DANNEMEYER. Mr. Speaker, I interpret that to mean that it is the sense of the majority that they will do anything to get out of here.

Mr. DERRICK. No. I do not know where the term came from, I would say to the gentleman from California. It is just an off-the-cuff remark, I suppose. This is something that we have done time and time and time and time again at this point in the session. Last year we had similar resolutions, and it is just a matter to try to expedite getting out of here.

Mr. DANNEMEYER. There is another item the gentleman might want to put on this list that would be considered under this martial-law rule. How about the balanced budget amendment to the Constitution? Does the gentleman think he could find it in his heart to put that on there?

Mr. DERRICK. Everything in its proper time.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, this is an interesting rule and an interesting debate. We have just had the majority party tell us that the highest single value of this Congress is to get out and go home. Regardless of what else may be needed by the national agenda, the highest single value is to get out and go home. In order to do that they are willing to impose, as they have used the term, "martial law." Martial law means military law. It means dictatorship. They are willing to impose dictatorial control in the House of Representatives in order to get their highest value, and that is to get out and go home.

That is a little frightening. As the majority has also admitted, we have done it year after year. It is something that is consistently done. It is consistently done for one reason, the majority at the end of these sessions tries to force through things that they know the House would otherwise be reluctant to pass. It is simply a majority prerogative. There is no chance for the minority to even discuss some of these matters.

□ 1020

I am wondering, since we often hear the majority party talk about fairness and we hear it discussed all the time, whether or not in this one instance—since we are going to impose martial law on the body anyway—whether or not we might allow some minority participation in setting the agenda.

Would it be possible if the minority was willing, say to vote for this particular rule, that the majority would be willing to give the minority leader of the House, the gentleman from Illinois [Mr. MICHEL], the ability to call up one bill under the regular processes of the House in the next 4 days? Could we get some agreement that the minority leader would be able to call up one bill?

The majority so far in this Congress, according to the resume of congressional activity on November 1, has so far called up 426 bills. They will call up many more in the next couple days. We will probably have close to 500 bills that will have been called up by the majority.

Could we get maybe the understanding that the minority leader could call up one bill of his choosing in the next 3 or 4 days?

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, we are working with the administration to try to get their bills, such as RTC passed, and bank legislation, and those sort of things.

The administration does not want us around here to try to pass their growth package or anything like that.

Mr. WALKER. No, I say to the gentleman from South Carolina [Mr. DERRICK], the Democrats are not working with the administration.

As a matter of fact, there are quotes and publications in the last couple days indicating that you are going to do everything possible to try to embarrass the President on issues like economic growth, on the October surprise, and a whole series of other matters that are coming before the Congress.

As a matter of fact, in your caucus the other day I am told that the Democratic leadership in that caucus said, and this is according to Members of the gentleman's own party——

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Pennsylvania has expired.

Mr. MCEWEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. WALKER. Members of the gentleman's own party in that caucus said, and I am quoting here.

Mr. Speaker, I would like to just ask to watch C-SPAN. Lo and behold, my thing and it is either a red light or a

VOL 137 PT 23 NO 21—25 1991 UMI

> The legislators said the House leaders made it clear at the caucus that they are preparing to run some legislation to the President. Let him veto it and then let his veto record be an albatross around his neck.

That is the plan of the Democratic Party in the House. You are not working with the administration. You are attempting to do anything possible to embarrass the administration, but all we are asking is a little fairness. All I am suggesting is that perhaps in the next 3 or 4 days the minority leader of the House, the person that you are supposed to work with collegially, be permitted to call one bill of his choosing to the House floor. Would that be possible?

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, I say to the gentleman from Pennsylvania [Mr. WALKER], we are not trying to embarrass the administration. We cannot find them. Where are they? Are they in town today? Are they overseas? We cannot find them. We cannot find them to embarrass them.

Mr. WALKER. The gentleman just told me a minute ago, if I can reclaim my time, the gentleman just told me a minute ago and he began naming officials that he was working with.

Now, it is one way or the other. What is the gentleman telling us? He is either working with these officials or he is not.

The point is that while they are claiming to be working with them, the fact is they are telling their people within their own caucus that what they are seeking to do is, at every corner, is to embarrass this administration.

It is not a fact that you cannot find them. They are here. The gentleman knows that and he named some of the people that he is working with.

The fact is that this is a political exercise. This rule, this particular exercise, is aimed at giving the majority party an opportunity to push their agenda, and I think in the course of the day today we will find out what that agenda is.

Your domestic agenda will become clear to America during the course of today and I think we may have some interesting tidbits there to tell what you regard as being more important than, for instance, economic growth, which I suspect the minority leader might call up if he had the opportunity to do so.

Obviously, fairness does not prevail in the House of Representatives. It is, I think, very interesting.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has again expired.

Mr. McEWEN. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. WALKER. Do I understand the gentleman that the answer is no, you will not permit the minority leader to call up a bill?

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, I have a great deal of respect for your minority leader. I know that he is in constant contact with our leadership. I am just not privy to some of those conversations, but we always accord him the greatest respect. We have been working with the administration and will try to do everything that we can to accommodate them.

There is nothing in this rule——

Mr. WALKER. You are not working with the administration. I gather the anawer to my question——

Mr. DERRICK. The gentleman asked me a question. I am trying to answer it.

Mr. WALKER. Well, I asked the gentleman for a yes or no and what I am getting is a long rambling discourse that one can only describe as obfuscation.

So I assume the answer of the gentleman is no, and that is a disappointment.

Mr. McEWEN. Mr. Speaker, I yield myself 1 minute, simply to say for those who watch how the Congress operates, many believe that because you are elected to Congress by taxpaying Americans, somehow or other you are allowed to play a part. The truth of the matter is that the Rules Committee decides what bills come to the floor, under what circumstances, how long the debate is and who can make the amendments.

What we are doing here is giving carte blanche to the Speaker so that he can call up anything at anytime and he will set the rules of debate.

What we are asking is that out of the 476 bills considered by this Congress thus far this year that the Republicans of the House of Representatives, the minority Members, the Republican Members of the House of Representatives as an act of fairness be permitted to raise one bill. Out of 476 to 1, that would be our definition of fairness, but the majority says 476 to 0 is the only definition of fairness. We feel that we are obligated, since we bear the burden of the actions of this Congress; we bear the burden for the $380 billion deficit; we bear the burden for the attempt to investigate 1979 activities of campaign candidates, at the cost of millions of dollars; we bear the burden for their political agenda, that refuses to face the fact that we need a growth package to be brought to the floor of the House in the next 72 hours. They refuse to allow it to happen.

People are unemployed in this country seeking for hope. We are not permitted to bring it to the floor, and therefore if they run the ship and they blow the whistle, we cannot support it.

Mr. Speaker, vote no on this rule.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule does not deny anyone the opportunity to debate on the floor. What it is merely trying to do is to bring this session to some orderly close.

The highway bill is included in the bill, which is a must that we need to do to get a couple million people to work with our infrastructure.

The banking bill, which of course the administration as well as I assume the minority are very interested in seeing concluded, as well as a crime bill which the majority and the minority, and I assume the administration, are interested in doing; the unemployment bill which the administration has agreed that we need after some few vetoes; the supplemental appropriations, the Medicare moratorium, and of course the RTC funding; so these are must bills that we hope to get through by the time we get out of here.

This is not restricting anyone on anything. It is a common practice that I am sure was done when the present minority was the majority and it certainly has been done at the end of every session since I have been here, and I think in a very orderly fashion.

Mr. McEWEN. Mr. Speaker, I regret to say that I have received two additional requests.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, it is becoming increasingly obvious that everything we are doing here is to enable us to slink out of town without having acted on major elements of the President's package.

Now, I just cannot believe this Congress is going to do that. I cannot believe that with the economy the way it is today, I cannot believe with major elements of the President's package, whether it is economic growth, whether it is capital gains, whether it is aid to the middle income, whether it is education, that we are going to try to slink out of town for 2 months and not act on the President's package. That is just not right. We should not do that. I urge my colleagues not to do that. That is what it looks like we are trying to do now, and I object to it strongly.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just want to commend the gentleman for his statement. If you want to see some real slinking, come up to the Rules Committee in about 25 minutes and you will see our economic growth package turned down. That is slinking.

Mr. COUGHLIN. Well, Mr. Speaker, I have never been a bomb thrower in this outfit, but I really feel like it is time we threw some.

Mr. McEWEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, I would like to just ask my very good friend, the gentleman from South Carolina, if he could tell me really the aegis of this term, "martial law."

The gentleman from Pennsylvania has very correctly said that here we are taking this kind of action, moving ahead with martial law in this House and not acting on the President's proposals; so it seems to me to be a very, very interesting and rather tragic irony that the term martial law is being used in this House and, frankly, some of the American people would probably like to see martial law imposed on certain Members of this House, probably the majority party; but I would like to ask my friend from South Carolina if he could tell me exactly how this term came about, and I am happy to yield to my friend, the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I have absolutely no idea.

☐ 1030

Mr. Speaker, it seems to me that this is a very, very sad state of affairs when we, as we are going toward the waning days of this Congress, are imposing martial law and that imposition is preventing us from being able to implement the will of the American people.

Mr. McEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. DREIER of California. Mr. Speaker, will the gentleman from Indiana [Mr. BURTON] yield to the gentleman from Pennsylvania [Mr. WALKER]?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I just want to know was it not the majority leader himself who used the term "martial law"?

Mr. DREIER of California. If the gentleman will yield, I understand that. I would like an explanation from someone on the majority side as to why we are imposing this martial law.

Mr. WALKER. So this is not just a term we are making up on this side in order to talk about this rule? This is a term that the majority leader used to describe what was coming to the floor today?

Mr. DREIER of California. Actually I heard the term first used yesterday at lunch from the Speaker when he talked about this. I was really taken aback. I just told my friend from Texas, Mr. PICKLE, about this, and he said, "martial law rule? What is that?"

Mr. WALKER. So they are conscious that they are bringing a dictatorial rule to the House floor?

Mr. DREIER of California. Exactly.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, last night I could not sleep, and I turned on my television set to watch C-SPAN. Lo and behold, my good friend BUTLER DERRICK, was on television with the Democratic leadership, talking about the inadequacies of this administration and the inadequacies as far as coming up with a growth package is concerned. He was talking about things I have been talking about here on the floor. In fact, he said we have a $400 billion deficit, a $4 trillion national debt. In fact, he sounded like me last night. I was applauding him in my living room because I thought he was addressing issues that I though were relevant.

But one of the things I say to the gentleman, Mr. DERRICK, that he and his colleagues were talking about last night was the President and the Republicans had not come up with a growth package to get this economy back on an even keel, moving forward, progressive, something that was going to stimulate a lot of new jobs. I just heard from my colleague, Mr. SOLOMON, who said that in a few minutes up in the Committee on Rules there is going to be a growth package proposed, and the Democrats want to get out of town.

I mean, you tell the American people, I say to the gentleman from South Carolina [Mr. DERRICK], you tell the American people on television last night how concerned you are about the problems, the deficit, about the economy, about the jobs, how you are concerned about the problems. Here we are going to propose a growth package that will create 1.5 million new jobs, that will bring us out of what is called the recession, head us upwards, and you want to get out of town.

Now, I would like to go home and be with my family at Christmas and New Year's like anybody else. But the problems facing the American people should be the No. 1 concern of those of us who are elected to represent them. And you folks go on television and tell everybody you are really concerned, but when there is a growth package you will not do anything about it in the Committee on Rules.

Now I challenge you and the Rules Committee, when we go up there in a little bit, to send that growth package back here to the floor so that the American people can have an up or down vote on something that will get us on an upward mode in the next few months. I challenge you and the Democrats to do that.

Now, if you do not do that, do not tell the American people that you care, because all you want to do is go home.

Mr. McEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, back in 1969 I was serving in the Oklahoma State Legislature, and my younger son, who is now an orthopedic surgeon, was visiting. You know how little kids are, they are fascinated. We had a brandnew system of voting, where you press this thing and it is either a red light or a green light. So all the bills that were coming up the day before the session was over, all conference committee reports, my little boy, who was in the 4th grade, said, "Now, how do you vote on this, daddy?" And I said, "Put a red light on."

That went on all day, and that night I went back to Tulsa for back-to-school night, and the teacher said, "Your son gave us a very interesting accounting of what life is like and what goes on in the Oklahoma State Senate and about his daddy." And I said, "Oh, yeah? What did he say?" He said, "My daddy always votes 'no' because he doesn't know what's in the bill."

I went back the next day on the last day of the session and told that story on the floor of the Oklahoma State Senate, where we did not get a chance to read any of the conference bills that came along. And do you know what the answer was? They said the majority party at that time, they said, that is all right if we do it in the Oklahoma State Senate because that is what they do in the U.S. Congress.

What we do here today may be setting the pattern for the continuance throughout the Nation of really a bad system.

The SPEAKER (Mr. MURTHA). The Chair recognize the gentleman from Ohio [Mr. McEWEN].

Mr. McEWEN. Mr. Speaker, does the gentleman have any speakers?

Mr. DERRICK. The gentleman from Ohio had advised me sometime ago he had no more speakers. I have none. I am ready: just tell me when you are through.

Mr. McEWEN. Mr. Speaker, I do not recall saying that, and that is why I reserved the balance of my time.

Mr. Speaker, I yield 4 minutes to the minority whip, the gentleman from Georgia [Mr. GINORICH].

Mr. GINGRICH. Let me say that while I think this is not a good rule and I think as a general principle giving this kind of power to the Speaker is probably not a good idea, I am prepared to vote for this rule. But in order to vote for this rule, I would ask the Democratic leadership to simply give us, out of all the bills we are going to make in order, out of all the things we are going to do in the next 4 days, to simply give us their public commitment that the Republican leader could bring up one bill.

That is, we will give the Speaker, we will vote to give the Speaker total power for 4 days to bring up anything he needs to bring up, as long as we can bring up one bill. If you will give us the commitment to bring up one bill, then we are prepared to help.

But if what you are saying is that none of the people over here, who represent millions of voters, none of the folks in America who want to bring up an economic growth package, nobody

VOL 137 PT 23 NO 21—25 1991 UMI

who is worried about the recession, nobody who cares about getting this economy started, nobody who wants to get the unemployed back to work, no one will be allowed to have even one clear, straight vote; but we have to give the Speaker a dictatorship for 4 days? Nonsense, we are not going to do it.

Now, there is already, and I understand this has been reported to the House, that there is an article, which I would certainly hope the Democratic leadership would repudiate, in National Journal Congress Daily yesterday, which says:

> One House Democrat said Wednesday that Gephardt, the majority leader, had made a statement to the closed meeting of the House Democratic Caucus and talked about letting Bush write his antigrowth veto record. The legislator said that House leaders made it clear at the Caucus that they are preparing to run some legislation to the President, let him veto it, and let his veto record be an albatross around his neck.

Let me just say I have members of my family who are unemployed—I will yield in one second—I have people whose factories have been closed. If we are being told that we are going to play the unemployment game for 3, 4, or 5 months next year, you are going to get no cooperation on this side of the House. If we cannot get one decent up or down vote on unemployment and growth and the recession before we leave here, why should we vote to give your side anything? What we are being told is you are going to stick it to us on October surprise as the last thing, you are going to run this place like a dictatorship, and we ought to engage in comity.

Mr. Speaker, I would be glad to yield to the gentleman from Missouri.

Mr. GEPHARDT. I would say to the gentleman I thank him for yielding, since he quoted me it might be useful to find out where the quote came from.

Mr. GINGRICH. Well, the quote is from National Journal, which is probably the most respected single publication in this building—that covers this building.

Mr. GEPHARDT. Well——

Mr. GINGRICH. It says, "One House Democrat." I will let you go second.

I would be perfectly happy if you wanted to assure us that there is going to be an effort. Let me just give you an example. You and I have had good conversations out here. I believe we can maybe get somewhere. I am told we will almost certainly not be able to get a clear commitment about ever getting a fair rule because it is not possible to get that kind of thing. We will be told, "You will have a rule, it will come to the floor, it will probably be king of the hill." If your side's strategy for the first 6 months of 1992 is to guarantee a recession, then I think we have an obligation every day to take you on.

Mr. GEPHARDT. Will the gentleman yield?

Mr. GINGRICH. Glad to.

Mr. GEPHARDT. Is the package that was announced yesterday the President's package?

Mr. GINGRICH. I have been told, it is in the paper this morning. I have talked with the Budget Director, they will sign the package, they will support it.

Mr. GEPHARDT. Will the gentleman yield?

Mr. GINGRICH. Glad to yield.

Mr. GEPHARDT. Is the President prepared to say that that package is his package and he wants that package to be passed before the Congress leaves?

Mr. GINGRICH. The Director of the Budget said yesterday they are supportive, the administration is supportive of our package.

Mr. GEPHARDT. You did not answer my question. My question was——

Mr. GINGRICH. I said the Bush administration is willing to——

Mr. GEPHARDT. Are they willing to sign that package, is that the President's package?

Mr. GINGRICH. They are willing to sign that package, yes.

Mr. GEPHARDT. Does the gentleman know how much the package costs?

The SPEAKER pro tempore. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

Mr. MCEWEN. Mr. Speaker, I yield myself 2 additional minutes and yield to the gentleman from Georgia.

Mr. GINGRICH. Let me just say the bill is scored by Treasury precisely as the unemployment bill was scored by Treasury when it was accepted by the Committee on Ways and Means. According to Treasury the bill is revenue neutral, it meets the budget agreement and under exactly the same rules with which we dealt with the unemployment bill, this is a budget agreement neutral bill which will create over a million new jobs. It is totally available. It includes, for example, a passive loss provision that has 322 Members of this House cosponsoring it. It includes lifting, raising the amount a senior citizen can earn, which is a bill which I believe has over 300 Members who have cosponsored it; it includes a capital gains cut, which got 264 votes in this House.

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I believe that the package that we have produced meets every single requirement, and we have 147 Members on our side who have signed a letter that they will sustain a veto of any effort to put a tax increase in this package. So, I believe in the next 4 days they have an opportunity to help us pass a package which meets the budget agreement, helps end the recession and creates a million jobs, and all we are saying is, "We will vote for your rule. We will vote to establish a legislative dictatorship under the Speaker, if you will commit to giving us one bill in the next 4 days—one, only one."

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MCEWEN. I yield to the gentleman from Missouri.

Mr. GEPHARDT. With respect, Mr. Speaker, it sounds to me like a package that would cost the budget billions of dollars, but that may be what the Congress and the President wants to do. The President may be willing to declare an emergency——

Mr. GINGRICH. Reclaiming my time——

Mr. GEPHARDT. Let me just say one other thing. Let me just say to my friend that there is no question in my mind that this package can be voted on early next year. No doubt in my mind whatsoever. And if the President wants to make a package in his State of the Union speech, that would be a good thing to do.

Mr. MCEWEN. Mr. Speaker, reclaiming my time, allow me to read from the front page of the business section today in which it says, "Director Richard Darman told reporters that President Bush would support the effort by GINGRICH and other House Republicans." That is in today's paper.

Mr. Speaker, I say to the gentleman from Missouri [Mr. GEPHARDT]. In 20 minutes we are going to the Rules Committee, Mr. Majority Leader. In 20 minutes we are going to the Rules Committee to ask permission to consider this growth package to create over a million new jobs, and we ask your permission to allow us to vote on that package some time in the next 4 days.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MCEWEN. I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I just want to make two quick points, and I say to my friend, the gentleman from Missouri [Mr. GEPHARDT], "First of all, 3 months from now is an eternity if you're unemployed and in danger of losing your house. Three months from now is an eternity if you're a business trying not to go bankrupt. Three months from now is an eternity if you are being told by this Congress, 'Have a terrible Thanksgiving, have a bad Christmas; we'll come back in January, we might bring up a bill in February or March, and then we'll probably send something to the President to be vetoed.'"

Mr. Speaker, we have a chance this week to give the people of the United States a Thanksgiving present and a Christmas present that is real, and I beg the Democratic leadership to just give us one vote, just one vote out of the next 4 days.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

The gentleman from Ohio [Mr. MCEWEN] has 30 seconds remaining, and the gentleman from South Carolina

[Mr. DERRICK] has 26 minutes remaining.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman from South Carolina [Mr. DERRICK] for yielding this time to me.

Mr. Speaker, 3 months is an eternity to someone about to lose their home? Well, 5 months is an eternity to unemployed Americans who sat through two vetoes by President Bush of an effort to extend unemployment benefits. Five months is an eternity to those families, and the fact of the matter is—regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. DURBIN] makes a point of order that the House is not in order, and he is absolutely right. If the Members would allow——

Mr. THOMAS of California. Let the historian continue. Tell us about yesterday.

The SPEAKER pro tempore. Order in the House. The time of the gentleman from Ohio [Mr. MCEWEN] has expired, except for one-half minute.

To the gentleman from Ohio [Mr. MCEWEN] the Chair will say the gentleman from Illinois [Mr. DURBIN] has the floor, and he has 30 seconds remaining.

Mr. DURBIN. Mr. Speaker, 5 months is an eternity to unemployed Americans, millions of them, waiting through President Bush's vetoes. I do not know what is in this Republican growth package that was unveiled yesterday, November 22. My guess is it will contain the same Republican formula: cut taxes on the wealthy, let it trickle down to help working families. That is not what America needs.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Of course he will not yield because he cannot debate.

Mr. MCEWEN. Mr. Speaker, is the gentleman from South Carolina [Mr. DERRICK] prepared to yield back the balance of his time?

Mr. DERRICK. No, Mr. President, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I think the pressure has gotten to some of my friends. They have got the holidays confused. Instead of Thanksgiving, they are celebrating Independence Day. Namely, they are trying to cut themselves loose politically from the Bush administration.

What we have got is a degree of frustration on the other side.

POINT OF ORDER

Mr. FRANK of Massachusetts. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRANK of Massachusetts. Mr. Speaker, I ask that the Members on the other side be instructed in minimum civility.

The SPEAKER pro tempore. The gentleman will suspend.

At the end of the session we have tempers, and we have people that get excited. The Members on the minority side had their opportunity to speak. They have used their time.

The majority now has time remaining, the Chair would say to the gentleman from New York [Mr. SOLOMON] that Members would like to be heard.

PARLIAMENTARY INQUIRY

Mr. GUNDERSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GUNDERSON. Mr. Speaker, is it not proper decorum in the House of Representatives that, if we yield to them, then they ought to return the favor and yield to us when we request?

The SPEAKER pro tempore. That is not a parliamentary inquiry, and it certainly is up to the individual whether he yields, as each Member knows.

The gentleman from Massachusetts [Mr. FRANK] is recognized.

Mr. FRANK of Massachusetts. Mr. Speaker, I would note that I got 15 seconds into my remarks and no one asked me to yield. All I heard was a lot of screaming.

But I will say to my friends——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind the Members on the floor that they should address the Chair, which is the appropriate procedure if they are requesting to be yielded to.

Mr. FRANK of Massachusetts. Mr. Speaker, I will not yield for a second because I want to get something clear.

Perhaps, Mr. Speaker, some of the Members there are asking me to yield since the other Members simply were in an unparliamentary fashion simply yelling. However, if the gentleman from Ohio [Mr. MCEWEN] gives me more time later, I will be glad to, but I got about 15 seconds out.

Mr. Speaker, I thank my colleagues for the favor they paid me of being quite so disruptive because they do not want to hear it, but this is what we are talking about:

After all this frustration and inability to get the administration to do something, they look at what is going on, and they want to cut themselves loose.

Now the gentleman from Georgia [Mr. GINGRICH] said the budget director said the President would support it, but the press secretary said the President would——

The SPEAKER pro tempore. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

Mr. DERRICK. Mr. Speaker, I yield 30 additional seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the press secretary said the President would look at it, the head of the RTC appointed by the President said he was against it, and the Treasury Secretary cannot be found.

Now we have had this problem. Maybe what we ought to do is ask Boyden Gray because, when we get all this disruption and confusion, maybe we will ask him.

I say to my colleagues, "You will have to forgive us for being a little skeptical. The half-life of the administration's statements has gotten weaker and weaker, but the key is the same. I don't think it's a serious legislative proposal when at the very end of the session Members come forward with a tax package which is clearly aimed at cutting them loose from the President's failing political ship."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Let the Chair clear up the procedure.

When Members ask somebody to yield, they should ask the Speaker: Mr. Speaker, would the gentleman yield? That is the appropriate procedure.

Mr. GUNDERSON. Mr. Speaker, would the gentleman yield?

The SPEAKER pro tempore. Would the gentleman from South Carolina [Mr. DERRICK] yield to the gentleman from Wisconsin?

Mr. DERRICK. No.

Mr. WALKER. Mr. Speaker, would the gentleman from South Carolina yield to me since I yielded to him?

The SPEAKER pro tempore. Will the gentleman from South Carolina yield to the gentleman from Pennsylvania?

Mr. DERRICK. No, not at this time.

Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I would like to ask whoever on the other side, perhaps the distinguished minority whip, the gentleman from Georgia [Mr. GINGRICH], if he could explain to us, and I am sure it will be explained at the Committee on Rules today, what the growth package contains, and the reason I ask that is because, as I read one of our respected publications, the New York Times, and I quote, "The measure would go far beyond what President Bush has proposed, but before he had seen the initiatives, Richard Darman, the Budget Director, said the White House would support them so long as they did not cost the Treasury a net loss of revenue."

Mr. Speaker, obviously we need to be able to see the provisions so we know whether it costs revenue.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, if I might, let me say, first of all, to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], that I am delighted to have a chance to

VOL 137 PT 23 NO 21–25 1991 UMI

tell him what is in the package. Let me say, first of all, that most of it started with a bill that Senator Gramm and I initially worked on directly with the Treasury which had been scored, every aspect of the package had been scored by Treasury, and it contains the following things:

☐ 1050

First, it increases the Social Security earnings limit because, as the gentleman pointed out, we will be putting all this in more detail in the Rules Committee. We did this in the Congressional Record last night, and while I am personally chagrined that the gentleman did not take the opportunity to watch Bob Walker and me, I can appreciate, with the gentleman's schedule, that it might not have been possible. Anyhow, we explained it at some length.

Mr. GEPHARDT. I am sorry that I missed it as well.

Mr. GINGRICH. First, we increase the Social Security earnings limit to allow senior citizens to earn approximately $8,000 more over the next 5 years than they do now without penalty. I believe that plan in the Hastert bill has 280 cosponsors.

Second, we have an apprenticeship provision which is H.R. 2550, which has already been developed by Congressman Fred Grandy in the Ways and Means Committee.

Third, we repeal the excise tax on boats, aircraft, et cetera, and we have been told that there will be in fact a study released in the near future indicating that that has actually cost income, that it has cost income to the Government.

Fourth, we have a middle-income savings plan offered by Congressman Dean Gallo which allows people who save and who are under $50,000 income to get $350 of interest income tax-free per person, or as a tax credit. So in fact we are offering more money for people who are willing to save than the Democratic plans we have heard about for the middle class.

Fifth, we have the IRA-plus which, as the gentleman knows, Senator Bentsen and Senator Roth introduced in the other body, which allows tax-free withdrawal at maturity and which Treasury estimates would generate $13 billion in revenue because so many people would take the exclusion.

Sixth, we allow expensing from capital investment for small business, something that Congresswoman Nancy Johnson of Connecticut has developed in the Ways and Means Committee.

We also have a capital rate differential, as advanced by the President, which clearly he will sign and which has already been costed.

We have a proposal to provide a 50-percent capital gains exclusion on venture capital investments, which was developed by Congressman Rod Chandler from Washington State of the Ways and Means Committee, which is a direct new venture, new business incentive.

We have prospective indexing of capital gains, which has already been scored by Treasury and which would mean no farmer, no small businessman, or no timber owner would pay tax on inflation.

We have a partial repeal of the passive loss rules, which is a bill Congressman Mike Andrews and Congressman Bill Thomas introduced and which has, I believe, 322 cosponsors.

We have a nonpenalty on IRA withdrawal for first-time home buyers, which the administration has signed off on and which has been scored by Treasury.

Finally, we treat a loss on the sale of a home as a capital loss. Right now, with the declining real estate values, if you sell your home and you lose money on it, you cannot take that as a capital loss, and we think that, given the current real estate environment, people who are losing money as they sell their homes should be allowed to take that off.

Those are the 12 points. We would be glad to share them with you. We would even be willing to work on a bipartisan package if you wanted to. We think it is possible in the next 4 days to pass this.

Mr. Speaker, I appreciate the gentleman's yielding, and let me just say this: I just say to the gentleman that you cannot on the one hand tell us you are going to ram through a rule on a partisan vote to have a legislative dictatorship and, on the other hand, tell us to behave. You have either got to decide you want comity, in which case you have to be willing to have comity on your side, too, or you have got to say you will try to impose a legislative dictatorship and we will try to create a rebellion, and we will see who will win. I think it will be chaos. I think that is madness.

Mr. Speaker, I appreciate the majority leader's yielding.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will allow me to continue, let me say that I appreciate the explanation, and I would simply say to the gentleman that it sounds like a plan that has many parts that many people could support.

The problem with the plan is that it does not from our viewpoint include real middle income tax relief. If we are going to be declaring an emergency, which I am sure this plan would require under the budget, an emergency of that nature, we could give each individual in the middle class a $1,000 or even $2,000 tax cut. That is something that Democrats might even get excited about.

I would simply say to the gentleman that the problem with this last-minute type of plan, one that does not bear the endorsement of the President and one that in my view would never be consistent with the Budget Act, is that it does not advance the cause to actually do something about the economy.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I will not yield at this time.

Mr. Speaker, if the President is willing and wants to have a tax cut package, an economic stimulus package, and wants to declare an emergency to do that, then I am sure the Congress can stay here and do that. I have not heard that from the President. In fact, we have heard that the President wants to do this in January in the State of the Union speech.

If that is what he wants to do, we will be more than happy to hear him. We will listen respectfully, and I will say to my friend that we will cooperate with the President and we will cooperate with Members of the minority to develop that package that will stimulate the economy and move us in the right direction. We will be happy to meet day and night in January, February, and early March in order to do that.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, let me just make two points.

First of all, I believe we can certainly get the President to sign this package or a similar package improved by our friends on the Democratic side. I believe it is possible in the next 4 or 5 days to develop a package which will be signed, and I will be glad to pursue that.

Second, I would just say to my good friend that I listened to him very intently in a series of very powerful and impassioned debates on unemployment. I would simply point out to you that to say in November to the unemployed of America that maybe in February or March, we will do something is not at all consistent with the fabulous speeches in which you correctly communicated the passion and concern you have for those who are suffering.

I would simply say that if we could in the next 4 or 5 days on a bipartisan basis reach out and do something for the country before we leave, I cannot imagine a better Christmas present for the American people, and we on our side would be very willing to work with you over the weekend to try to produce such a bipartisan package.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman. The only missing link in this is the President of the United States, the President's desire to pass this package.

Mr. THOMAS of California. Will the gentleman yield?

The SPEAKER pro tempore (Mr. Murtha). When you wish the gentleman to yield, address the Chair as follows: "Mr. Speaker, will the gentleman yield?"

Mr. THOMAS of California. Mr. Speaker, would the gentleman yield?

The SPEAKER pro tempore. The gentleman has yielded back the balance of his time.

The Chair recognizes the gentleman from Ohio.

Mr. McEWEN. Mr. Speaker, did the Chair say that the gentleman from South Carolina has yielded back his time?

Mr. DERRICK. Mr. Speaker, I reserve the right to close.

Mr. McEWEN. Mr. Speaker, does the gentleman have additional speakers at this point?

Mr. DERRICK. I have one additional speaker.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. Derrick] reserves the right to close.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. Volkmer].

Mr. VOLKMER. Mr. Speaker, I say to the Members of the House that I have been following this debate, and as I listened to it go on and on, it has become clear to me that what the gentlemen from the other side of the aisle are proposing is almost a matter of desperation, that they have seen this economy continue to erode, and we have had a President with this head in the sand saying that there was no recession.,

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. He has been saying that we are out of the recession.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from Missouri [Mr. Volkmer] yield?

Mr. VOLKMER. No, the gentleman is not going to yield. I am going to finish my statement, and then I will yield.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. VOLKMER. Mr. Speaker, we now see at the last minute of this session, when everybody knew for months that we were going to try to get out by Tuesday or Wednesday before Thanksgiving, because we did not want to have to drag this session on into Christmas, that all of a sudden we now have a proposal that is supposedly going to stimulate this economy and get everybody working tomorrow.

Well, look at this proposal. What do I see in that proposal? I think I see what many of our people have said and what the floor leader has already pointed out. There is nothing in this proposal for all of America. There is not anything in here for middle income America. It is for big, wealthy people and trickle-down economics has come down to this House. Trickle-down economics is right back again. All they want to do is give it to the wealthy and then let it trickle down to us. I say, "You don't want that, folks, because that is not going to get jobs."

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. There is a little bit in this proposal for the elderly. They throw a little bit there, but there is a whole lot in here for the wealthy.

The SPEAKER pro tempore. The time of the gentleman from Missouri [Mr. Volkmer] has expired.

Mr. VOLKMER. Mr. Speaker, may I ask for 1 additional minute.

Mr. DERRICK. Mr. Speaker, I yield 30 additional seconds to the gentleman from Missouri [Mr. Volkmer].

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Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. Murtha). The gentleman has indicated he will not yield at this time.

Mr. VOLKMER. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentleman calls of regular order. The gentleman controls the time.

Mr. VOLKMER. Mr. Speaker, we should pass the highway bill. That is going to do more jobs for America, for middle America, for the construction workers and everybody out there, than this proposal will every do for middle income America. One highway bill.

So let us go on and get it done.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman yields back the balance of his time.

Mr. THOMAS of California. Mr. Speaker, will the gentleman who controls the time yield a portion of the time that was yielded back?

The SPEAKER pro tempore. Will the gentleman from South Carolina [Mr. Derrick] yield to the gentleman from California [Mr. Thomas]?

Mr. THOMAS of California. Mr. Speaker, only the portion of time that was yielded back.

The SPEAKER pro tempore. The request is for the time that was yielded back, that he may use that time.

Mr. DERRICK. Mr. Speaker, I have not yielded any time.

Mr. Speaker, what is the time situation?

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. Derrick] has 13 minutes remaining.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is very interesting to see all of a sudden an economic package, when the President has vetoed every bread and butter issue to the American people, parental leave, minimum wage, unemployment, you name it.

Mr. Speaker, I would be willing to come back and talk about a package, if it really dealt with the needs of the American people—Mr. Speaker, the House is not in order. This is a very serious point I want to make.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. Oakar] makes a point of order that the House is not in order. The Chair requests that Members, if they wish to have loud conversations, go to the Cloakroom.

The Chair recognizes the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, instead of having a tax break for the rich, which is apparently one of the proposals, if we want to help the people in this country, let us pass national health insurance. That is what the people want. And I do not see one word about the needs of the people in this country who are suffering from a lack of access to health.

Every single issue that affects the quality of life of the American people, the President has vetoed. There is very little in this package that effects the real issues affecting the American people.

Mr. GUNDERSON. Mr. Speaker, will the gentlewoman yield?

The SPEAKER pro tempore. The time of the gentlewoman from Ohio [Ms. Oakar] has expired.

Mr. DERRICK. Mr. Speaker, I have no further requests for time. I reserve the right to close.

Mr. McEWEN. Mr. Speaker, I will consume the final 30 seconds of my time with the understanding that the gentleman from South Carolina [Mr. Derrick] will conclude debate.

Mr. Speaker, very simply, the Committee on Rules, controlled 9 to 4 in this House by Democrats, decides every bill that comes to the floor. Throughout this entire year they have controlled every bill that came to the floor. Now in the final 4 days they ask for martial law so the Speaker will not have to use the Committee on Rules, but can voluntarily on 1 hour's notice throw any bill up at any time he feels like it. This rule permits him to do that.

Mr. Speaker, in an act of fairness we ask for one thing: We ask for permission in the Committee on Rules 20 minutes from now for the Republican Members of the House of Representatives, on behalf of the President and the American people, to be given permission to consider one bill, a growth package for America. The majority leader has the capacity to give us that authority.

Mr. Speaker, short of that, I urge a "no" vote.

Mr. THOMAS of California. Mr. Speaker, will the Speaker inquire if the gentleman from South Carolina [Mr. Derrick] will yield 30 seconds?

its amendment to S. 543 and request a

UNITED STATES-FLAG CRUISE

Competitiveness Act of 1991. It was in-

VOL 137
PT 23
NO 21—25
1991
UMI

The SPEAKER pro tempore. Will the gentleman from South Carolina [Mr. DERRICK] yield to the gentleman from California [Mr. THOMAS]?

Mr. DERRICK. Mr. Speaker, I cannot do that at this time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, it has been a very interesting debate.

Mr. Speaker, in 1980, the budget deficit was $60 billion. Today it has grown to $350 billion, almost 12 years of two administrations.

In 1980, our Nation was the largest creditor nation in the world. Today we are the largest debtor nation in the world.

In 1980, our national debt was $1 trillion. It had taken us 200 years to accumulate that. Today it is around $4 trillion, in a matter of 10 years.

The average American in this country is making less in real buying power today than they were in 1980.

What I would do is ask the public, the American people, the citizens of this country, do you consider that you are better off today than you were in 1980? Do you consider that the prospects for your children and your grandchildren are better today than they were in 1980?

Here we are asked today, with some scheme that has been developed in the last day or two, to solve all these problems.

The ox is in the ditch, but you do not get the same person who put the ox in the ditch to get it out. You get somebody new.

Mr. Speaker, I move the previous question on the resolution.

PARLIAMENTARY INQUIRY

Mr. THOMAS of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS of California. Mr. Speaker, is it my understanding the gentleman from South Carolina [Mr. DERRICK] yielded back the balance of his time when he said that he would not yield at this time and we requested him to yield?

The SPEAKER pro tempore. The gentleman yielded back the balance of his time.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GUNDERSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 214, nays 127, not voting 93, as follows:

[Roll No. 421]

YEAS—214

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Jenkins
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murtha
Nagle
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swift
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wilson
Wyden
Yates

NAYS—127

Allard
Allen
Armey
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Clinger
Combest
Coughlin
Cox (CA)
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dreier
Duncan
Emerson
Ewing
Fields
Fish
Franks (CT)
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Horton
Hyde
Inhofe
James
Johnson (CT)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Santorum
Saxton
Schaefer
Schiff
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zimmer

NOT VOTING—93

Ackerman
Archer
Aspin
Atkins
Baker
Barton
Berman
Boxer
Broomfield
Callahan
Chandler
Clay
Coble
Coleman (MO)
Costello
Crane
Cunningham
de la Garza
Dellums
Donnelly
Dornan (CA)
Dwyer
Early
Edwards (OK)
Erdreich
Espy
Fawell
Feighan
Gallegly
Gaydos
Goodling
Harris
Henry
Holloway
Hopkins
Houghton
Hunter
Hutto
Ireland
Jacobs
Jefferson
Johnson (TX)
Johnston
Kennedy
Lantos
Laughlin
Leach
Levine (CA)
Lipinski
Luken
Marlenee
Mavroules
Mfume
Morrison
Mrazek
Murphy
Myers
Neal (MA)
Neal (NC)
Olver
Owens (NY)
Payne (VA)
Pickett
Price
Quillen
Ridge
Ros-Lehtinen
Roth
Roukema
Russo
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Smith (FL)
Smith (IA)
Stokes
Sundquist
Swett
Synar
Tallon
Taylor (NC)
Torricelli
Towns
Unsoeld
Upton
Waxman
Wise
Wolpe
Wylie
Yatron
Zeliff

☐ 1124

Mr. HEFLEY and Mr. LIGHTFOOT changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER S. 543, FEDERAL DEPOSIT INSURANCE REFORM

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes, be considered to have been taken from the Speaker's table and amended by striking out all after the enacting clause and inserting in lieu thereof the provisions of H.R. 3768, as passed by the House, the Senate bill passed as amended, that the House be considered to have insisted on

its amendment to S. 543 and request a conference with the Senate thereon and that the motion to instruct conferees otherwise in order at that point shall instead be in order only if offered by the minority leader or his designee on the legislative day of Monday, November 25, 1991.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

Mr. SANTORUM. Reserving the right to object, Mr. Speaker, as a new Member here in the House, this is quite foreign to me that we could ramrod things down our throats with any input from the minority or from anybody else in this House, and as long as that kind of process is going to continue and as long as we are going to be run roughshod over, as long as we are not going to get the opportunity to vote on what the American people would like to see, and that is opportunity and jobs, I object.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman realizes, of course, that this would expedite the procedures of the House and it will take an hour and a half to go to the Rules Committee and it will come back and the Members will be inconvenienced for a couple of hours because of the gentleman's objection and it will not accomplish anything from that standpoint.

Mr. SANTORUM. Mr. Speaker, I realize that this will cause some inconvenience to the majority, but what I am concerned about is the inconvenience that the majority is causing to the American public in their search for jobs.

The SPEAKER pro tempore. Objection is heard.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I take this time simply to inform the Members that we will be going to the Rules Committee and there will be a vote on that rule, I would say, in 1½ or 2 hours.

We will now go forward with the bills under suspension.

☐ 1130

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of clause 5, rule I, the Chair announces he will postpone futher proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken on Monday, November 25, 1991.

UNITED STATES-FLAG CRUISE SHIP COMPETITIVE ACT OF 1991

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3282) to provide the equity of revenue availability on American and foreign cruise vessels, the regulation of gaming on vessels, penalties for gambling violations and for other purposes, as amended.

The Clerk read as follows:

H.R. 3282

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Flag Cruise Ship Competitiveness Act of 1991".

SEC. 2. CLARIFICATION OF, AND LIMITATION ON, GAMBLING DEVICES RESTRICTION.

Section 5 of the Act of January 2, 1951 (15 U.S.C. 1175), commonly referred to as the Johnson Act, is amended—

(1) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—

(2) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"; and

(3) by adding at the end of the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in pararaph (2), this section does not prohibit the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or a segment of a voyage on waters that are—

"(A) not in the jurisdiction of any State, possession of the United States or foreign country; or

"(B) otherwise in the admiralty and maritime jurisdiction of the United States and not in the jurisdiction of any State or possession of the United States.

"(2) APPLICATION TO CERTAIN VOYAGES AND SEGMENTS.—

"(A) GENERAL RULE.—Paragraph (1) applies to the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) only if the State or possession of the United States in which the voyage or segment begins and ends has not enacted a statute that prohibits that repair, transportation, possession, or use.

"(B) VOYAGES AND SEGMENTS DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) in a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country.".

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3282, as amended, is the United States-Flag Cruise Ship Competitiveness Act of 1991. It was introduced by the gentleman from Mississippi, Mr. TAYLOR, and has been cosponsored by over 125 Members of the House.

This bill will eliminate an unfair situation in current law. At present, foreign-flag cruise ships can legally offer gambling, but U.S.-flag passenger ships are prohibited from doing so by law.

As reported by the Committee on Merchant Marine and Fisheries, this bill would legalize the repair, use, possession, and transportation of gambling devices on U.S.- and foreign-flag vessels so long as the gambling occurs beyond the jurisdiction of a State. Voyages to nowhere could occur only if the gambling activities have not been prohibited under the laws of the State from which the vessel is operating.

However, the bill does not legalize the operation of a vessel if its principal use is as a gambling establishment.

Therefore, under H.R. 3282, as amended, a dinner cruise could have gambling on board since the principal purpose of the vessel is not the operation of a gambling establishment. But it would not legalize the voyage of a vessel which is nothing more than a floating crap game.

We have a letter from the Justice Department saying that it has no objection to this type of legislation.

This bill treats all vessels, both United States and foreign flag, the same. It will help the U.S.-flag cruise industry, and it will cost the Government nothing.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3282 the U.S.-flag Cruise Ship Competitiveness Act. This legislation will permit U.S.-flag cruise vessels to offer gambling to their passengers when embarked on cruises on the high seas. Currently, foreign-flag cruise ships departing from U.S. ports are entitled to offer gambling and virtually all of them do. However, if a U.S.-flag ship departs from the same port as one of these foreign ships, it is against the law for that U.S. ship to offer gambling. This is an archaic prohibition that has limited the opportunities for growth by American interests in the profitable cruise ship trade.

H.R. 3282 changes the law so that both American and foreign-flag cruise ships will operate under the same rules regarding gambling devices on board.

By allowing U.S.-flag vessels to have gambling devices on board we will provide a major incentive to the acquisition of new vessels to the U.S.-flag fleet. The revenues received from legal gambling operations will make U.S. cruise ships more financially viable. We should see American interests proceed to design and construct new cruise ships in American shipyards to begin

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money, and over the 5-year period it colleagues like or dislike this legisla- 1950. We did not stop gambling on the

VOL 137 PT 23 NO 21—25 1991 UMI

competing with the foreign-flag operations.

In addition to providing increased ship construction opportunities for American shipyards, new U.S.-flag cruise ships will mean additional sealift capacity for carrying military troops and it will create jobs for American seafarers who are sorely needed as a result of the recent decline in our merchant marine. All of these benefits will accrue without any cost to the Federal Government as a result of the enactment of H.R. 3282.

Mr. Speaker, the Merchant Marine and Fisheries Committee has held several hearings on this matter and very carefully crafted this legislation as an amendment to the so-called Gambling Devices Act. It will allow the possession and operation of gambling equipment on U.S.-flag vessels to the same extent that gambling is currently allowed on foreign-flag vessels as one of the forms of entertainment for the passengers. This bill does not affect in any way the current prohibitions in the Gambling Ship Act, which make it illegal to operate a vessel that is principally engaged in gambling as a floating casino.

I would also like to point out to my colleagues that we have preserved in this bill the right of a coastal State to enact legislation that would prohibit gambling on a vessel that operates from a port of that State even if the vessel sails from that port out into international waters and then returns to the same port. The committee was aware that a number of coastal States have elected not to allow gambling on vessels in their waters and this legislation retains the right of States to continue to prohibit gambling.

Mr. Speaker, the prohibitions contained in the Gambling Devices Act have represented an economic barrier to the growth of the U.S.-flag cruise ship industry. The legislation we are considering today will remove that economic barrier and provide an incentive for American businesses to build ships and begin operating in this extremely lucrative cruise ship trade.

The Department of Justice supports this bill.

I urge my colleagues to join me in supporting this important piece of legislation.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, the United States-Flag Cruise Ship Competitiveness Act of 1991 would allow citizens of our country to participate in the fastest growing industry in our country; that is, the lucative cruise ship market. This year about $8 billion to $10 billion will be spent on cruise ships worldwide. Eighty percent of all people who get on a cruise ship any place in the world will be Americans.

Unfortunately, about 98 percent of that money will be spent on foreign-flag vessels because a foreign-flag vessel, foreign-owned, foreign-crewed, built in a foreign shipyard, can operate out of our shores and do something that an American-flag vessel cannot. That is, offer gaming on board as another attraction on that cruise ship. This seeks to address that inequity.

The Johnson Act was passed in about 1950, and prohibited Americans from having gaming devices on board. Unfortunately, it did not prohibit our foreign-flag competitors. Mr. Speaker, this is an effort to even the playing field, give our vessels a chance to compete.

I must confess I am disappointed that my initial efforts to change the cabotage laws, which are some of the oldest laws in the Republic, that reserve all coastwise commerce solely for American-flag vessels, is not included in this measure. But this at least lets Americans compete at a time when we are going from what was to have been a 600-ship Navy down to what is probably going to be a 400-ship Navy. This will give our American shipyards an opportunity to build cruise ships, our American merchant marine seamen an opportunity to make a living and above all allow American tourists the opportunity to sail on American-flag vessels, which are Coast Guard-inspected, which is the highest level of safety inspection in the world. So, Mr. Speaker, I want to thank the almost 140 Members of this House who have cosponsored the measure. I thank the Justice Department for their cooperation, and the gentleman from North Carolina [Mr. JONES] and the gentleman from New York [Mr. LENT], for handling the bill today.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker and colleagues, take a moment and consider what we are doing: yesterday they announced that 439,000 people filed their initial requests for unemployment compensation because they had lost their job, and here the Congress of the United States, on the Saturday as we rush to adjournment, is considering legislation under suspension of the rules which, in effect, grants the same gambling operation privileges to American ships currently provided to foreign-flag ships.

Now, I have absolutely no concern about the gentleman's bill, the merits or the demerits of it; I am not up here to in any way suggest that we ought to defeat this legislation. But I am here to suggest that the reason the American public is fed up with the Congress of the United States is because this and 20 other bills like it are more important for the Congress of the United States than some kind of an economic growth package that will give people jobs, that will give people income, that will allow them to get on the cruise ships with or without gambling.

□ 1140

That is the issue. On the Saturday before Thanksgiving are we in the House of Representatives going to try to be the people's House with the people's concerns and do something about economic growth, or are we going to pass this kind of legislation? As my colleagues know, it was suggested earlier that we ought to do something.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield for a question?

Mr. GUNDERSON. Mr. Speaker, I do not want to continue the trend of my Democratic colleagues, which is refusing to yield, but let me make one statement, and then I will be happy to yield, and that statement is in response to the discussion earlier.

People say, "Now we've discovered economic growth." Oh, my colleagues, that is not true. In 1989, in his first budget submitted in this Congress, the President asked for economic growth. He did it again in 1990. He did it again in January 1991. The problem is this Congress will not pass economic growth, which means we then have to pass unemployment compensation.

The question is: "Would you rather give a person economic growth or unemployment compensation?" I will give his unemployment comp only if we have not given him the opportunity to have a job, but that is first preference.

Mr. Speaker, I yield to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. GUNDERSON] for yielding.

I listened to the debate earlier between our majority leader, the gentleman from Missouri [Mr. GEPHARDT], and the minority whip, the gentleman from Georgia [Mr. GINGRICH]. I went back to the Joint Committee on Taxation, and I asked to have the spread sheet on those portions of the bill that they had had an opportunity to look at.

In the first year of 1992, the Joint Committee on Taxation estimated that there would be a——

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

Mr. LENT. Mr. Speaker, I yield 1 additional minute to the gentleman from Wisconsin.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. Mr. Speaker, I yield 15 seconds to the gentleman from Arkansas so that I may have 45 seconds to respond.

Mr. ANTHONY. Mr. Speaker, I went and looked. The Joint Committee on Taxation estimated that in 1992, it was not revenue-neutral. In fact, it cost

money, and over the 5-year period it cost $20 billion. There was a statement made that it would be revenue-neutral. The Joint Committee on Taxation has estimated that it is a $20 billion shortfall.

Mr. GUNDERSON. Mr. Speaker, reclaiming my time, I am delighted that the gentleman from Arkansas [Mr. ANTHONY] brings up that point because we are only using the same Treasury cost accounting for our economic growth package that the Democratic leadership chose to use for the unemployment compensation bill.

POINT OF ORDER

Mr. AUCOIN. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman will state his point of order.

Mr. AUCOIN. I make a point of order, Mr. Speaker, and I call for regular order. I understand the regular order to be the bill which is being managed by the gentleman from North Carolina [Mr. JONES].

The SPEAKER pro tempore. The gentleman from New York [Mr. LENT] had the time, and the gentleman from Wisconsin [Mr. GUNDERSON] was speaking.

Mr. AUCOIN. What is the business before the House at this moment, Mr. Speaker? Is it the bill from the Committee on Merchant Marine and Fisheries?

The SPEAKER pro tempore. The gentleman from Oregon [Mr. AUCOIN] is correct. The debate has to be related to the bill that is under consideration.

Mr. AUCOIN. What is the bill before us?

The SPEAKER pro tempore. The bill under consideration is the U.S. Flag Cruise Ship Competitiveness Act of 1991, matters related to the issues of development of a cruise ship industry.

Mr. AUCOIN. Mr. Speaker, I would make the point of order then that this debate now is not in order.

The SPEAKER pro tempore. The gentleman from Oregon [Mr. AUCOIN] is correct. The debate should relate to the issue before the body.

PARLIAMENTARY INQUIRY

Mr. GUNDERSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GUNDERSON. Mr. Speaker, is it not in order for a Member of Congress to discuss the relevance of a bill being before us at the time it is before us?

The SPEAKER pro tempore. The debate must relate to the issue before the body.

Mr. GUNDERSON. Is not discussing the relevance of scheduling this bill at this time relevant to the debate about this bill?

The SPEAKER pro tempore. The scheduling of this bill is relevant, and that can be discussed.

Mr. GUNDERSON. Mr. Speaker, that is exactly my point, that whether my colleagues like or dislike this legislation, the fact is that we are discussing a bill that allows gambling on American cruise ships instead of a whole host of far more important pieces of legislation. It is absolutely relevant to what we are doing here on the Saturday before Thanksgiving in the midst of a recession.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I certainly want to thank the gentleman from Wisconsin [Mr. GUNDERSON] for asking about the relevance of this bill at this time. When people are looking to go to work, I can think of nothing more relevant.

The gentleman from Wisconsin; I do not know if he served here then, but he might remember that during the first year of the Reagan administration the subsidy for U.S.-built merchant ships was eliminated. At that time our Nation went from building about 60 merchant ships a year to zero. First year of the Bush administration, zero; second year of the Bush administration, zero.

Mr. Speaker, this year our Nation and in our lifetime has gone from the world's greatest maritime power to where it will build one merchant ship. There is nothing more relevant to the people of south Mississippi where the biggest industry is shipbuilding and building ships, and this gives the American cruise ship industry the opportunity, the American shipbuilders the opportunity, to build cruise ships that will fly the American flag, that will employ Americans, that will pay taxes and be——

Mr. GUNDERSON. Mr. Speaker, would the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman from Mississippi [Mr. TAYLOR] yielding to me because I agree with everything he just said. But I say to the gentleman, "If you want to restore the American shipbuilding industry, don't we need to repeal the luxury tax that is putting the boat construction industry in this country out of business?"

Mr. TAYLOR of Mississippi. Mr. Speaker, this is the measure that helps the American shipbuilders compete.

Mr. GUNDERSON. I ask the gentleman, "Wouldn't eliminating the luxury tax on boats that has cost jobs all over this country in the boating industry be equally, if not more, important?"

Mr. TAYLOR of Mississippi. Mr. Speaker, I say to the gentleman, "I'm not so sure you understand the difference between a boat and a ship. This is shipbuilders."

My colleagues in the House, again I think a horrible mistake was made in 1950. We did not stop gambling on the shores of America. We just stopped Americans from participating. Since that time, 48 States have legalized gambling in one form or another. This is not a gambling bill, for or against. This is a bill to give American shipbuilders, American shipowners, and American merchant seamen an opportunity to compete.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, the bill that we are debating presently on suspension has been brought to the floor without the developed views of the administration, and I understand that we need to bring some bills to the floor now under a suspension, but we are not just operating under suspension. We are operating under martial law. Martial law means that the Speaker and the majority votes here are dictating precisely what comes to the floor, what amendments are permitted, and they are waiving the rules that permit us time to look at these things and decide whether we are for or against them. I cannot tell from looking at this bill whether it really does enhance competitiveness as alleged, but I know that what we are not debating as a result of having this bill on the floor is our growth package.

Mr. Speaker, we are taking this time on a Saturday to make sure that the Republican growth package that would repeal the Social Security earnings test and permit seniors to go to work which is sponsored by 280 Members of this House does not come to a vote. Under martial law, when the Speaker could bring this to the floor, we are getting this bill. We are not going to have a vote on cutting the penalty tax on savings and investment because we are talking about this bill that would amend the Johnson Act. The penalty tax on savings and investment is otherwise known as capital gains. This high rate of tax is costing American jobs, and this——

POINT OF ORDER

Mr. AUCOIN. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman will state his point of order.

Mr. AUCOIN. Mr. Speaker, I make a point of order that regular order of business is the bill from the Committee on Merchant Marine and Fisheries, and, as the Chair has just earlier ruled, Members must confine their remarks to the substance of the bill before them. The gentleman currently speaking is not, so I make a point of order against it on that basis.

The SPEAKER pro tempore. The gentleman from Oregon [Mr. AUCOIN] is correct.

□ 1150

completely endorsing this bill in every

The SPEAKER pro tempore. The gen-

VOL 137 PT 23 NO 21—25 1991 UMI

☐ 1150

The gentleman has raised a point of order that the discussion has departed from the issue.

Mr. DELAY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Chair is making a statement. The gentleman is out of order until the Chair has finished. After the Chair has finished, the Chair will then recognize the gentleman.

The gentleman has made a point of order that the discussion has wandered from the subject of the bill to other extraneous matters. When that point of order is raised by a Member on the floor, the Chair will rule on it. The Chair will not initiate it, but when it is raised, the Chair will rule that debate must return to the issue under consideration.

PARLIAMENTARY INQUIRY

Mr. DELAY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will raise his point of parliamentary inquiry.

Mr. DELAY. Mr. Speaker, I ask, is there not debate allowed on the point of order?

The SPEAKER pro tempore. The Chair will hear the gentleman.

The Chair recognizes the gentleman from California [Mr. COX].

Mr. COX of California. First, Mr. Speaker, I wish to speak on the point of order. Will the Chair advise whether the scheduling of the bill is germane?

The SPEAKER pro tempore. The scheduling of the bill is relevant debate, but debate on the merits of other bills not before the House is not relevant debate.

The gentleman may proceed.

Mr. COX of California. I thank the Chair.

Mr. Speaker, I will read from the bill: "This section does not prohibit the repair, transportation, or use of a gambling device on a vessel."

Now, one of the reasons I am not sure whether to vote for this bill is because I have not had time to look at it and review it. We have not had the administration's views, and yet this bill is coming to the floor under martial law, the same martial law which would permit——

The SPEAKER pro tempore. For what purpose does the gentleman from North Carolina [Mr. JONES] rise?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. COX of California. Mr. Speaker, I understand I am being recognized by the Chair.

The SPEAKER pro tempore. The gentleman from North Carolina has asked whether the gentleman will yield.

Mr. COX of California. I yield briefly, Mr. Speaker.

Mr. JONES of North Carolina. Mr. Speaker, I have in my possession a letter from the Department of Justice completely endorsing this bill in every respect. This is dated November 19, which is ample time for anybody to discover what is in the bill if they saw fit.

Mr. COX of California. Mr. Speaker, I appreciate the comments of the gentleman, and I will reclaim my time.

Mr. Speaker, this bill which amends the Johnson Act may or may not have things to commend it. I have just learned that it may or may not be endorsed by the President or objected to by the administration, but it strikes me as passing strange that in order to create jobs, particularly in this industry, in the shipbuilding industry, we are passing up an opportunity.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. COX] has expired.

Mr. LENT. Mr. Speaker, I yield an additional 30 seconds to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, to continue, I would say that we are passing up the opportunity by debating this very bill to debate instead the economic growth package approved by the entire Republican conference of this House at a time when instead martial law of this House is being used to send everybody home for 1 month or 2 months until January. The American people want this economy jump-started. They want to be able to have IRA withdrawals in order to buy a home. They want to expand IRA's with super-IRA's. They want to repeal these penalty taxes on workers who make these boats.

Let us do it, let us act now, and let us not go home.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. COX] has expired.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, so here we are in the middle of a recession. There are Members here who want to talk about issues of jobs, incentives, and growth. They want to talk about relief for our senior citizens. But what are we talking about? Gambling on ships. I say, "Isn't that wonderful?"

These are the kinds of issues we are going to be talking about all day, gambling on ships, as compared to tax relief for our senior citizens, as compared to offering IRA's for home buying, for first time homebuyers. Gambling on ships, that is what we are talking about now. We are talking about gambling on ships rather than jobs for our people, rather than action on the economy. We are talking about gambling on ships.

POINT OF ORDER

Mr. WEISS. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WEISS. Mr. Speaker, the gentleman again is engaging in debate which is not germane to the legislation.

Mr. ROHRABACHER. I thought the debate was about gambling on ships. I thought that was what is important to the Democrats.

Mr. WEISS. Mr. Speaker, the gentleman is using the gambling aboard ships as a counterpoint to legislation which is not before the body.

Mr. ROHRABACHER. Mr. Speaker, I thought we were talking about gambling on ships.

The SPEAKER pro tempore. The gentleman may proceed in order.

Mr. DELAY. Mr. Speaker, I would like to speak.

The SPEAKER pro tempore. The gentleman from California [Mr. ROHRABACHER] may proceed in order.

Mr. ROHRABACHER. Mr. Speaker, am I permitted to talk about this bill and its relevance to the issues of the day? We are here to talk about gambling on ships, as compared to jobs for the American people.

Mr. WEISS. A point of order, Mr. Speaker.

Mr. ROHRABACHER. Mr. Speaker, we want jobs for the American people, and they want to talk about gambling on ships.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Chair recognizes the point of order and has acknowledged that as long as the debate is on the issue of gambling on ships and maritime competitiveness, we are within relevant debate.

Mr. ROHRABACHER. Then, Mr. Speaker, I will proceed with my thought, which is the importance of gambling on ships as compared to the importance of creating an IRA exemption so that young couples can buy their first homes. That is something that I think we need to discuss in terms of relevant importance to different Members of this body.

Gambling on ships also seems to be more important as an issue of discussion for today than, for example, tax relief for our senior citizens who are now being taxed at a higher rate than Donald Trump. I happen to believe that gambling on ships is important to some Members of this body, and in fact it might be an important issue, but the fact that gambling on ships now has such a high priority that we can discuss that because there is martial law that insists we talk about gambling on ships rather than jobs for the American people, tax relief for senior citizens, and new homes——

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. Mr. Speaker, I would be happy to let the gentleman use his time for questions.

The SPEAKER pro tempore. The gentleman from Mississippi asks if the gentleman will yield.

Mr. ROHRABACHER. No, I will not yield.

The SPEAKER pro tempore. The gentleman will proceed in order.

Mr. ROHRABACHER. Mr. Speaker, I think that we will be discussing many issues as important as gambling on ships, and we will be discussing those issues because gambling on ships and those other items are more important to Democrats who control this body than job creation and new homes to people who cannot afford homes and tax relief for senior citizens and creating a competitive economy for America. Yes, gambling on ships and other issues that we will talk about today because we are not permitted to talk about these other issues are more important in value to this side of the aisle than to those Members on this side of the aisle.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. ROHRABACHER] has expired.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I, of course, support this legislation, which is supported by the Justice Department, a part of the administration, the Bush Presidency.

I must say that I find it mighty strange that that kind of legislation would be opposed because certain Members have concocted a plan on a Friday and suddenly they care about matters other than gambling on ships, like economic matters, and then expect that between Friday and Tuesday that legislation—never mind committees—has to be enacted into law. What positive gall that is. I cannot believe that serious legislators would, in fact, follow that kind of a course. It is an insult to the body.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. LENT].

☐ 1200

Mr. LENT. Mr. Speaker, I would just point out to the gentleman from New York [Mr. WEISS] that none of the speakers on this side of the aisle has spoken against this legislation.

Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. DELAY]

Mr. DELAY. Mr. Speaker, in fact I am for this legislation. In fact it is entitled "United States-Flag Cruise Ship Competitiveness Act of 1991." I cannot believe that I would be against competitiveness. I am not against competitiveness.

Mr. Speaker, it is amazing to me that the previous speaker said we have gall to want to pass legislation and not go home. Mr. Speaker, that boggles my mind. I hope the American people are watching this. Not only are we not allowed to bring substantive progrowth packages to the floor, like the bill we are discussing today, although this bill pales in comparison to the growth packages that we were trying to bring to the floor of the House, they are now trying to gag us, have a gag rule by raising points of order to limit the way we speak on this floor.

Mr. Speaker, that galls me. That galls me.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. DELAY. Mr. Speaker, I do not have the time right now. I do want to finish my point.

Mr. WEISS. Who has the time?

Mr. DELAY. Mr. Speaker, regular order.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from Texas [Mr. DELAY] is recognized.

Mr. DELAY. Mr. Speaker, this is a projobs bill. I can read this bill and see that jobs are going to be created by this bill. That is why I am going to be for it.

But I will tell you something, Mr. Speaker. I do not want to diminish the significance of this bill and the significance of this bill to shipbuilders and people that would work on these ships, because it is significant to those people. But I am talking about the entire United States, the economy of this country.

Mr. Speaker, this Congress and its Democrat leadership has led us into the worst morass that I have witnessed in my life on this Earth. We have the highest deficit we have ever had. We are at 25 percent of GNP in spending in this country. Mr. Speaker, we now have the highest percentage of taxes, Federal taxes, that we have ever had. Twenty percent of GNP in taxes in this country.

Mr. Speaker, not only is it 20 percent of GNP in Federal taxes, but it will be 20 percent of GNP every year. Then on top of all that, this House continues to pass spending programs. It continues to pass regulations that are piled on top of businesses.

Mr. Speaker, all we are asking is we want a growth package that we have been working on all year, not these last few days.

Mr. WEISS. Mr. Speaker, when was it introduced?

Mr. DELAY. Mr. Speaker, I introduced my bill in February. So I support this, Mr. Speaker, but I support a larger growth package, if the Democrats would just let us have a vote on it.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, might I inquire how much time remains on each side?

The SPEAKER pro tempore. The gentleman from New York [Mr. LENT] has 5 minutes remaining, and the gentleman from North Carolina [Mr. JONES] has 13 minutes remaining.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, first of all I rise in support of this bill. It is a good bill. It would allow gambling on board U.S. cruise ships, no doubt about it.

But the shipbuilding industry, and I say this with due respect to the interests of the gentleman from Mississippi, the shipbuilding interests in this country are hurting, and people in southern Mississippi are out of work. That is only tangentially related to gambling on ships. It is very much related to the state of the American economy. It is very much related to the ability of Americans to invest in shipbuilding in America.

Mr. Speaker, you can have all the gambling on ships you want, but I ask the gentleman from Mississippi, are the ships going to be built in Korea? Are they going to be built in Japan? Or are they going to be built in America?

Now, if you want them built in America, let us lend some sanity to investment. Let us look at an economic growth package that stimulates investment in American jobs. Let us create American jobs, and let us create American wealth. Because the very rich will get out there and gamble on ships, but the ships will be built in Japan, in Korea, in Germany, or in Holland.

Why? because there is very little incentive in this country to invest in anything beyond gambling casinos in Las Vegas or on ships. That is what our economic growth package is all about: creating jobs, creating incentives to investment, and creating the means for this economy to get off the ground.

The Democrats are interested in running the economy into the ground. That is the bottom line. That is the way they get elected. They give away expensive gifts without regard for who will pay for them, or for what they will do to American jobs and the American economy.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I stand here, too, in support of this bill, in support of jobs and job creation.

Mr. Speaker, the gentleman from Mississippi [Mr. TAYLOR] is exactly right. We need to come here and do things about making America competitive and creating jobs. That is why you have been seeing discussions talking about the jobs that we will create under this bill, versus the jobs that will be created under an economic growth package.

Mr. Speaker, I would like to inquire of the gentleman from Mississippi [Mr. TAYLOR], the claims have been made here on this side of the aisle that our economic growth package would create somewhere around one million new

VOL 137 PT 23 NO 21—25 1991 UMI

jobs. How many new jobs will be created by this package?

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, I am glad the gentleman from Pennsylvania [Mr. SANTORUM] has asked this question. The gentleman is probably aware that during the recent Desert Shield/Desert Storm, our Nation had to go out for lack of a merchant marine and charter 80 foreign flagships to resupply our troops, because 95 percent of what went to the desert went by sea.

Mr. SANTORUM. Mr. Speaker, reclaiming my time, I am yielding to the gentleman from Mississippi [Mr. TAYLOR] to ask a simple question: How many new jobs are created?

Mr. TAYLOR of Mississippi. Mr. Speaker, if the gentleman will yield further, the gentleman is talking about growth, sir. The gentleman is probably aware that this Committee on Merchant Marine and Fisheries and the Committee on Armed Services for 3 years straight allocated $1.2 billion for the building of fast sealift ships, but it was blocked by the administration. Our committees said they must be built in America. The administration balked at that. They did not want the ships built in America.

Mr. SANTORUM. Mr. Speaker, reclaiming my time, I asked a simple question and I, obviously, cannot get an answer from the gentleman. Maybe the gentleman does not know how many new jobs are created. We have numbers in our package that tell us how many new jobs are going to be created versus a package that we are requesting to be considering today, which obviously the gentleman does not know how many new jobs are created.

Mr. Speaker, I think it is important to talk about jobs here in the U.S. Congress, and that is why I rise today in support of this. Hopefully it will create some.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Georgia [Mr. GINGRICH].

The SPEAKER pro tempore. The gentleman from Georgia [Mr. GINGRICH] is recognized for 1 minute.

Mr. GINGRICH. Mr. Speaker, I could not help but comment as a former history teacher that under Czar Nicholas there were very strict rules. At one point in time they decided to fire a professor of philosophy and they told him he could not teach philosophy because it was dangerous. So he was assigned the job of being a math teacher, which was considered educational.

So he began each math class by saying,

In order to understand mathematics, one has to understand the philosophical framework of that class.

Mr. Speaker, I am going to try to discourage my friends from asking for purely procedural votes. Obviously some suspensions are controversial and should be voted on.

As long as we can have reasonable freedom to have a reasonable debate on the floor within the framework of the legislative dictatorship which the Democrats established an hour ago, we are prepared to not have procedural efforts and to simply go ahead with the debate.

All of these bills do relate to the American economy. Therefore, talking about the American economy within the framework of these bills strikes me as reasonable. All of these bills have some impact on jobs, and I would hope we could proceed in that cheerful, positive framework.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the house suspend the rules and pass the bill, H.R. 3282, as amended.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill, as amended was passed.

The title of the bill was amended so as to read: "A bill to amend the Act commonly referred to as the Johnson Act, to give the same treatment to the repair, transportation, possession, or use of gambling devices on certain United States-flag vessels as is given to that activity on foreign-flag vessels.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3282, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

☐ 1210

KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3638) making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge.

The Clerk read as follows:

H.R. 3638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Koniag Lands Conveyance Amendments of 1991".

SEC. 2. DEFINITIONS.

Section 1 of the Act entitled "An Act to authorize modification of the boundaries of the Alaska National Wildlife Refuge (Public Law 101-622; hereinafter in this Act referred to as the 'Boundary Act')" is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) 'Identified lands' means lands (including improvements, surface rights, and subsurface rights) designated as Tracts 1, 2, and 3 upon the map entitled 'Koniag Land Exchange,' dated September 4, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service;";

(3) by inserting after paragraph (2), as redesignated, the following:

"(3) 'Koniag Lands' means approximately 209 acres of lands (including improvements, surface rights, and subsurface rights to land) on Kodiak Island, Alaska, designated as 'Koniag Lands' on the maps referred to in paragraph (1).".

SEC. 3. LANDS TO BE EXCHANGED.

(a) Lands Exchanged to the United States.—Section 2(a) of the Boundary Act is amended to read as follows:

"(a) Lands Exchanged to the United States.—(1) If after a final value is assigned to the Identified lands and to the Koniag Lands, Koniag expresses to the Secretary in writing the intent of Koniag to enter into a land exchange with the United States, then the Secretary shall accept from Koniag a conveyance by limited general warranty deed of the Koniag Lands.

"(2) A value shall be a final value for purposes of paragraph (1) if—

"(A) the Secretary has assigned a value to the Identified lands and the Koniag Lands in accordance with section 3; and

"(B) either—

"(i) Koniag has expressed in writing its intent to forego judicial review under chapter 7 of title 5, United States Code, of the value assigned by the Secretary;

"(ii) the time limit for filing a petition for judicial review under that chapter has expired and no petition has been filed; or

"(iii) a final determination on any such petition is issued.

"(3) For purposes of this subsection, a determination is final only if all rights to appeal the determination, or to request a review, rehearing, or redetermination of the matter that is the subject of the determination, have been exhausted or have lapsed.

"(4) The Koniag Lands shall be included in the Alaska Maritime National Wildlife Refuge as of the date of the acceptance of the conveyance of those lands from Koniag.".

(b) Lands Exchanged to Koniag.—Section 2(b) of the Boundary Act is amended to read as follows:

"(b) Lands Exchanged to Koniag.—In exchange for the Koniag Lands conveyed under subsection (a)(1), the Secretary shall, subject to valid existing rights and notwithstanding any other provision of law, convey to Koniag from within the Identified lands, land selected by Koniag with a total assigned value, as determined in accordance with section 3,

equal to the sum of the value of the Koniag Lands, plus one-half of the cost of all appraisals performed under section 3. Such conveyance shall be by quitclaim deed, based upon a metes and bounds description of the land to be conveyed.".

SEC. 4. ASSIGNMENT OF VALUES.

(a) Appraisals.—Section 3(a) of the Boundary Act is amended to read as follows:

"(a) Appraisals.—(1) Not later than 60 days after the date of the enactment of the Koniag Lands Conveyance Amendments of 1991, the Secretary and Koniag shall each select an appraiser who shall independently perform an appraisal of the fair market value of the Koniag Lands and of the Identified lands.

"(2) Each appraiser selected under paragraph (1)—

"(A) shall be a member of or certified by the Appraisal Foundation, and

"(B) shall have a professional designation compatible with the valuation to be performed.

"(3) Appraisals under this subsection shall be performed in conformity with the standards of the Appraisal Foundation. Any special instruction regarding the performance of the appraisals shall be issued only upon the mutual agreement of Koniag and the Secretary.

"(4)(A) Koniag shall bear the cost of all such appraisals, but shall be reimbursed by the United States for one-half of such costs—

"(i) in land, in accordance with subsection (b)(2), or

"(ii) in accordance with subparagraph (B).

"(B) The Secretary shall pay to Koniag an amount equal to one-half of the costs of appraisals performed pursuant to this section, if—

"(i) the values assigned by the Secretary pursuant to subsection (c) are different than—

"(I) the values determined by the review appraiser pursuant to subsection (b)(2), or

"(II) the average of the values assigned to the respective lands by the appraisers if no review appraiser is required to be selected, and

"(ii) Koniag elects not to consummate the exchange.".

(b) Differences in Appraisals.—Section 3(b) of the Boundary Act is amended to read as follows:

"(b) Differences in Appraisals.—(1) If the appraisals conducted under subsection (a) for tracts of the Koniag Lands or of the identified lands differ by less than 20 percent in their assignment of values to particular tracts of those lands, then both appraisals for those particular tracts shall be submitted to the Secretary.

"(2)(A) In the event that the appraisals conducted under subsection (a) for tracts of the Koniag Islands or of the Identified lands differ by more than 20 percent in their assignment of values to particular tracts of those lands, then the Secretary and Koniag shall jointly select a third appraiser who meets the requirements of section 3(a)(2).

"(B) Such appraiser shall review the previously conducted appraisals for those tracts of land with appraisals differing by more than 20 percent, and shall assign values to those tracts, giving due consideration to the values set by the other 2 appraisers.

"(C) Such appraiser shall then submit all 3 appraisals for those tracts to the Secretary.".

(c) Technical Amendments.—The heading for section 3 of the Boundary Act is amended to read as follows:

"SEC. 3. ASSIGNMENT OF LAND VALUES.".

(d) Assignment of Value by Secretary.—Section 3 of the Boundary Act is amended by adding at the end the following:

"(c) After considering the appraisals submitted to the Secretary, the Secretary shall assign values, as appropriate, to tracts of the Koniag Lands and to the Identified lands. This assignment of value shall be considered a final agency action for purposes of judicial review under chapter 7 of title 5, United States Code.".

SEC. 5. TIMING.

(a) Conveyance of Koniag.—Section 4(c) of the Boundary Act is amended to read as follows:

"(c) Conveyance by Koniag.—Koniag shall have 180 days after the date the values are final under section 2(a)(2) in order to notify the Secretary of its intent to enter into the exchange and convey to the Secretary the Koniag Lands and to deliver to the Secretary a technically correct description of the lands to be conveyed to Koniag under section 2(b). The Secretary may extend such time for good cause.".

(b) Technical Amendment.—Section 4(d) of the Boundary Act is amended by striking "them" in the first sentence and inserting "Koniag".

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES.]

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3638 is a bill to make technical corrections to the law which authorizes changes to the boundaries of the Alaska Maritime National Wildlife Refuge.

After the enactment of H.R. 5264, introduced by Mr. YOUNG of our committee in the 101st Congress, the administration raised a constitutional question about the law.

That law provides that appraisers valuing exchange lands within Alaska are not to be appointed by the President. This may violate the appointments clause of the Constitution.

H.R. 3638 includes the administration's recommendations for technical changes that will correct any constitutional defects in the public law. The Justice Department and the State of Alaska concur with these technical changes.

If Congress approves these technical changes, the Koniag Native Corp. can get on with its land appraisals.

I urge support for the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3638 and urge its adoption.

Mr. Speaker, this bill is completely noncontroversial and is supported by the administration and those parties affected by its provisions. In brief, this bill makes technical corrections to Public Law 101-622, which was passed by the Congress last year. That law authorized a land exchange between Koniag, Inc., an Alaskan Native corporation, and the Secretary of the Interior. Unfortunately, the exchange has not been carried out because of alleged constitutional defeats in the public law. The bill we are considering today corrects those defects.

I do want to emphasize one section of the bill as it relates to current law. Section 4(d) of H.R. 3638 requires the Secretary of the Interior to assign values to the lands being exchanged. It was the clear intent of the Congress in enacting Public Law 101-622 that values be based on the information provided by the land appraisers selected by Koniag and the Secretary. That intent is not changed by this amendment. We expect the Secretary to use the appraisal information, and not assign a value higher or lower than the range of values provided by the appraisers.

Mr. Speaker, I want to thank the chairman of the Merchant Marine and Fisheries Committee, and the chairman of the Interior Committee, who also has a jurisdictional interest in this bill, for their cooperation in having this bill brought to the floor so quickly. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3638.

The question was taken.

Mr. GUNDERSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3866) to provide for the designation of the Flower Garden Banks National Marine Sanctuary.

The Clerk read as follows:

H.R. 3866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) The Secretary of Commerce shall, on January 17, 1992 (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of designation of the Flower Garden Banks National Marine Sanctuary, as described in the notice of designation submitted to the Congress on November 20, 1991; and

(2) that designation shall take effect on January 17, 1992.

will be formally established on January 17, (H.R. 3365) to amend title 31, United beginning after the date of the enactment of

VOL 137
PT 23
NO 21—25
1991
UMI

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation provides for the designation of the Flower Garden Banks National Marine Sanctuary. On November 20, 1991, the Department of Commerce submitted to my committee a notice of designation for the Flower Garden Banks Sanctuary. Under the normal statutory process, this designation would need to lay before the Congress for 45 legislative days.

However, in this instance, the administration has requested that we expedite the designation of this sanctuary. This request has been made in order that NOAA may proceed with a planned designation ceremony on January 17, 1992.

Mr. Speaker, this designation has been nearly 20 years in the making.

The Flower Garden Banks represents the northern most coal reefs in the Gulf of Mexico. It is a spectacular environment. It is used extensively by recreational fishing and diving interests. This designation is not controversial. It is supported by the oil and gas industries, the fishing industries, and the environmental community.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is really more about a matter of convenience than necessity. However, I still urge my colleagues to support the bill with the understanding that this does not set a precedent. In the future, I hope NOAA will do a better job in scheduling its ceremonies celebrating new national marine sanctuaries. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, H.R. 3866 provides for congressional approval of the Department of Commerce designation of the Flower Garden Banks National Marine Sanctuary.

The Flower Garden Banks are two coral reef banks 12 miles apart, located 120 miles off of the Texas coast in the Gulf of Mexico.

They are the northernmost coral reefs on the North American Continental Shelf, situated nearly 500 miles from the nearest major reef system at Tampico, Mexico.

At my request, the Flower Garden Banks were originally activated for sanctuary designation by congressional mandate as part of the 1988 amendments to the Marine Protection, Research, and Sanctuaries Act of 1972.

On Wednesday, November 20, the National Oceanic and Atmospheric Administration submitted their notice designating the Flower Garden Banks as this country's 10th national marine sanctuary.

Ordinarily, once NOAA has notified Congress of the designation, 45 days must lapse before final designation may be published in the Federal Register.

This bill will expedite the period of congressional review by approving the Department of Commerce designation as of January 17, 1992.

The administration has scheduled a designation ceremony on this date in Houston, TX, which a number of Members of Congress and administration officials are planning to attend.

NOAA has requested that Congress approve the Flower Garden Banks designation as of January 17, 1992, so that these ceremonies can go on as planned.

Expeditious passage of H.R. 3866 before adjournment will allow this to happen.

I would like to thank Chairman JONES for his leadership on this matter, and for working to ensure H.R. 3866's prompt consideration today.

In addition, I would like to express my thanks to the chairmen of the subcommittees of jurisdiction on this matter, Mr. HERTEL and Mr. STUDDS, and also to the honorable gentleman from Louisiana [Mr. TAUZIN] for their support and leadership on this matter.

All interested parties have expressed their support for this expedited designation. It has been cleared by the minority, and I know of no opposition to the bill.

I urge all of my colleagues to join me in supporting this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I very much appreciate the gentleman yielding because I think that there is no question this is the kind of legislation that everybody in this body wants to work together on a bipartisan, cooperative basis to pass. The only question is, should this have priority in terms of what is in front of the body at 12:20 on the Saturday before Thanksgiving as opposed to a number of other pieces of legislation that frankly are much more important.

Mr. ORTIZ. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Texas.

Mr. ORTIZ. Mr. Speaker, we are doing this at the request of the administration because they have a specific date, which is January 17, to make a dedication. This is why we are introducing this bill, and I think it is not only important to us, because we care for the environment, but for the administration as well.

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman making those remarks because, honestly, I think most Members on our side know, I try to conduct myself in a very bipartisan manner, at least 90 percent of the time. We want that cooperation.

Part of the frustration on this side of the aisle is that for 3 years the President has also asked for some kind of a bipartisan cooperation on an economic growth package.

Now, we are not even asking that the gentleman consider an economic growth package today or before we recess for the President. We are asking that we do it for the American people. And that is the issue.

Here we have before us today a list of something like 20 different suspensions that we are going to be here on on a Saturday. I am happy to work on a Saturday, like most of my colleagues. If we were not working here we would be back in our districts. So I am happy to be here, and I am happy to discuss these issues. And I am happy to be cooperative and try to make it pass.

All we are asking from the majority is that they share with us that same cooperation in trying to produce something for jobs. I think there are some 439,000 people who last month filed their first request for an unemployment compensation check.

Mr. ORTIZ. Mr. Speaker, if the gentleman would continue to yield, I would just like to add that this committee, we have worked very closely on this bill. It protects the environment, and everybody supports it. We do not have anybody against this bill.

Mr. GUNDERSON. Mr. Speaker, I do not think anybody on this side will even ask for a vote. As long as we have cooperation, we are not going to ask for votes. And we are going to discuss the relevancy of the priorities in the schedule. That is what is really the big issue, I think, on Saturday, November 23, is this more important than dealing with jobs? That is the only question.

Mr. HERTEL. Mr. Speaker, I support the final approval of the Flower Garden Banks National Marine Sanctuary. The bill before us, H.R. 3866, provides the final designation deadline for establishing the sanctuary boundaries. The Flower Garden Banks are located south of the Texas-Louisiana border at the edge of our Nation's Outer Continental Shelf, where some of our Nation's most interesting living coral reefs can be found. The East Flower Garden Bank is about 120 nautical miles southwest of Cameron, LA; and the West Bank is 110 nautical miles southeast of Galveston, TX.

With enactment of this legislation, the Flower Garden Banks National Marine Sanctuary will be formally established on January 17, 1992. This legislation will allow the National Oceanic and Atmospheric Administration to coordinate activities related to resource protection, research, and management in a fragile marine habitat for generations to enjoy.

I congratulate Mr. ORTIZ on this legislation; I am pleased to be a cosponsor of H.R. 3866; and I urge passage of this legislation by the House.

Mr. TAUZIN. Mr. Speaker, today I rise in support of H.R. 3866, the designation of the Flower Garden Banks as a national marine sanctuary.

This will be the first national marine sanctuary in the Gulf of Mexico and the 10th in the country. The Flower Garden Banks are two coral reefs located on top of two salt domes. These reefs attract many species of marine life like sea turtles, manta rays, sharks, and dolphins. This sanctuary is close enough to the Louisiana and Texas coasts to provide an excellent experience for recreational divers.

For 12 years the National Oceanic and Atmospheric Administration, the Minerals Management Service, private organizations, and the oil and gas industry have worked together in acquiring the designation of these reefs as a national marine sanctuary.

Today, I am here along with Mr. ORTIZ, the sponsor of the legislation, and other members of the House to support the bill which will exempt the 45-legislative day waiting period prior to its official designation. With this exemption, a ceremony scheduled for January 17, 1992, can be held.

I want to thank all who have been involved in this process and urge support for H.R. 3866 by this body.

☐ 1220

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3866.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3866, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FEDERAL DEBT MANAGEMENT RESPONSIBILITY ACT OF 1991

Mr. PICKLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3365) to amend title 31, United States Code, to restrict the authority of newly established Government-related corporations to borrow from the Treasury and to require an annual evaluation of the impact of public borrowing by such corporations on the public debt, as amended.

The Clerk read as follows:

H.R. 3365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Debt Management Responsibility Act of 1991".

SEC. 2. RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS.

(a) IN GENERAL.—Chapter 31 of title 31, United States Code (relating to the public debt), is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

"§3141. Limitation on use of proceeds of Treasury obligations to lead amounts to certain newly established Government related corporations

"(a) IN GENERAL.—None of the proceeds of any obligation issued under subchapter I may be used to lend any amount to a newly established Government-related corporation under any authority of such corporation to borrow from the Treasury, unless—

"(1) such corporation is a qualified corporation, or

"(2) such borrowing is approved in advance in an appropriations Act.

"(b) NEWLY ESTABLISHED GOVERNMENT-RELATED CORPORATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'newly established Government-related corporation' means any Government-related corporation which is established pursuant to any law enacted after September 19, 1991.

"(2) GOVERNMENT-RELATED CORPORATION.—The term 'Government-related corporation' means—

"(A) any corporation owned in whole or part by the Federal Government, and

"(B) any privately owned Government-sponsored enterprise.

"(c) QUALIFIED CORPORATION.—For purposes of this section, the term 'qualified corporation' means any newly established Government-related corporation which is hereafter designated in this subsection as a qualified corporation.

"§3142. Annual report on impact of borrowing by Government-related corporations on public debt

"(a) GENERAL REQUIREMENT.—The Secretary of the Treasury shall annually prepare and submit to the Congress a report setting forth the impact of the issuance or guarantee of securities by Government-related corporations (as definded in section 3141(b)(2)) on—

"(1) the rate of interest and amount of discount offered on obligations issued by the Secretary under subchapter I, and

"(2) the marketability of such obligations.

"(b) DEADLINE.—The report required by subsection (a) shall be submitted to the Congress by October 1 of the 1st calendar year beginning after the date of the enactment of this section, and by each October 1 thereafter.".

"(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 31, United States Code, is amended by adding at the end the following new items:

"SUBCHAPTER III—RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

"3141. Limitation on use of proceeds of Treasury obligations to lend amounts to certain newly established Government-related corporations.

"3142. Annual report on impact of borrowing by Government-related corporations on public debt.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. PICKLE] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. GRADISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. PICKLE].

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3365, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3365, the Federal Debt Management Responsibility Act of 1991. This legislation is needed to ensure that the potential impact on the Federal debt resulting from any authority granted to a newly established Government-related corporation to borrow from the Federal Government is carefully reviewed in light of the corporation's financial viability.

Since 1917, a number of Government-sponsored enterprises and corporations owned in whole or in part by the Federal Government have been chartered in order to carry out certain credit or program activities. By virtue of their Federal charters these Government-related corporations enjoy a variety of special advantages, including the authority to borrow billions of dollars directly from the Federal Government.

Mr. Speaker, these entities and the risks they pose to the Treasury have, until recently, been given little or no attention. They have operated in the twilight zone between the Government and private sectors. Their activities are almost unchecked by either the disciplines of the free market or of government regulation. Neither the Federal budget nor private financial statements have accounted for the risks associated with these entities.

This lack of analysis is extraordinary. Since 1970, the outstanding ob-

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amounts as public debt, and lend such

Mr. Speaker, I reserve the balance of

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VOL 137 PT 23 NO 21–25 1991 UMI

ligations of Government-sponsored enterprises alone have grown from less than $40 billion to nearly $1 trillion. These institutions have obligations exceeding the total deposits in all 2,000 federally insured savings and loan institutions. They represent some of the fastest growing financial institutions in the country, and are, at the same time among the most thinly capitalized. In addition, the number of these entities has increased in recent years. There is continuous pressure and temptation to charter more of these off-budget, quasi-governmental corporations in a manner which escapes the budget discipline that Congress has imposed on direct Federal spending programs.

The growth in the size and number of these entities represents a real risk to the U.S. Treasury and the taxpayer. It is true that the repayment of obligations of Government-related corporations typically is not legally or explicitly backed by the full faith and credit of the United States. However, because of the Federal Government's sponsorship of, and the special benefits granted to these entities, the credit markets rely on the moral obligation of the Federal Government to back the obligations of these entities. This creates an implicit Federal guarantee, which the obligations of these entities do in fact enjoy in the public securities markets. In addition, the obligations issued by these entities compete in the credit markets with the bonded debt of the United States issued by the Treasury Department.

Mr. Speaker, in recognition of the growing potential Federal liability posed by these Government-related corporations, Congress and the administration have recently conducted several studies relating to the credit, interest, management, and operations risks associated with these entities. The required report provisions of the Omnibus Budget Reconciliation Act of 1990 serve as the basis for House consideration of this legislation improving the operations and creditworthiness of these entities, and minimizing the possibility that such entities might require future Federal financial assistance.

Other committees have already reported, or are in the process of reporting, legislation to the House which would affect existing Government-sponsored enterprises. This bill would not limit the authority of any existing Government-sponsored enterprise to borrow from the Treasury. Instead, the bill would ensure that prior to granting any newly established Government-related corporation the authority to borrow from the Federal Government, the creditworthiness of such an entity, and any potential effect its operations might have on Federal debt operations, would be reviewed. If the U.S. Government is to be required to borrow such amounts as public debt, and lend such amounts to a Government-related corporation, then the Congress has both the right and the responsibility to consider the ability of that corporation to repay such borrowing before such authority is granted.

Technically, H.R. 3365 provides that bonded indebtedness of the United States cannot be issued and the proceeds lent to a Government-related corporation unless: The entity is listed in title 31, chapter 31 of the United States Code relating to issuances and uses of bonded indebtedness of the United States; or, the amounts borrowed are approved in advance in an appropriations act. This provision of the legislation would affect only newly established Government-related corporations created by Congress after the date of introduction of this bill.

The bill also requires the Treasury Department to submit a report to Congress on an annual basis regarding the impact of the issuance or guarantee of securities by Government-related corporations on the rate of interest and amount of discount offered by the Treasury on Federal bonded debt, and on the marketability of such bonded indebtedness. The purpose of this report is to provide the Congress with an annual analysis of the impact of the borrowing of Government-related corporations on the market costs of Government securities.

Mr. Speaker, I also believe that the Members should be aware that the Congressional Budget Office has reviewed this legislation and has determined that it is not expected to have an impact on the Federal budget.

Mr. GRADISON and I, with the full support of Chairman ROSTENKOWSKI and Mr. ARCHER, have worked for over 3 years to make certain that the Congress and the public have the information needed to make informed decisions about the risks and rewards associated with the operations of Government-sponsored enterprises. As our experiences in the areas of farm credit, banks, and savings and loans have shown all too clearly, it is extraordinarily costly to wait until the system is broken before trying to fix the problems. My interest in this area is based on my belief that vigilant oversight and sound regulation can prevent the need for the kind of multibillion-dollar bailouts that we have recently been forced to undertake as the result of past failures of financial institutions. It is my sincere hope that this legislation, along with other legislative proposals being advanced by other committees relating to currently existing Government-related corporations, will provide the basis for more responsible fiscal decisions with respect to these entities, and will reduce the potential risks these entities represent to the Federal Government and the American taxpayer. I urge all Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GRADISON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 2 years ago, Chairman PICKLE and I won approval of a Treasury study provision that gave the Nation its first comprehensive analysis of our Government sponsored enterprises, or GSE's as they are known.

Since that time, the Ways and Means Committee has taken an increasing interest in all forms of government and quasi-government debt. We have been particularly concerned about debt that the United States may have to stand behind even though it is not designated as full faith and credit borrowing.

The House has passed and has pending legislation to bolster the financial soundness of our current GSE's.

H.R. 3365, lays down some modest guidelines for future GSE's or Government related corporations that the Congress might create.

Most of these organizations are given a line of credit with the U.S. Treasury as part of their charter—along with other privileges that allow them to issue debt that has the appearance of Government backing.

These operations can affect both the cost and the size of our public debt on which this country already pays over $200 billion in annual interest. The committee felt new entities entitled to Treasury funds should be integrated into the debt management sections of the United States Code.

Under this bill, any new GSE or Government related corporation will not be able to draw on its Treasury credit line unless it meets one of two conditions: First it is listed in title 31 or second, it has the borrowing amounts funded in advance by appropriations. This will give the Congress an opportunity to determine the financial strength of the entity before it receives any money from the taxpayers. That is a very small requirement to ask of entities receiving billions in potential benefits.

The requirements of H.R. 3365 are quite appropriate as we determine who should have the privilege of having the Treasury and the taxpayer stand behind their corporate operations. I urge its adoption here today.

Mr. Speaker, I reserve the balance of my time.

Mr. PICKLE. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Speaker, rise in support of the Federal Debt Management Responsibility Act of 1991.

Mr. Speaker, in summation I would just remind the Members that:

First, this bill addresses issues raised by the very rapid expansion in the size and number of Government-related corporations, which currently have about $1 trillion in outstanding obligations, up from less than $40 billion in 1970.

Second, this bill does not affect any existing GSE, such as Fannie Mae, Freddie Mac, or Sallie Mae.

Third, this bill applies only to newly created entities, and only requires that prior to their being allowed to borrow from the Treasury, they either be approved in title 31, chapter 31 of the United States Code, or the borrowing is approved in advance in an appropriations act.

Fourth, that with regard to existing GSE's, we have already made some progress this year as the result of the hard work of other committees of the House which are in the process of enacting important reform legislation, some of which has already been approved by the House.

Fifth, the Congressional Budget Office has reviewed this legislation and indicated that it will not have an impact on the budget.

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased this morning to rise in support of H.R. 3365, the Federal Debt Management Responsibility Act of 1991. The Committee on Ways and Means has approved this important legislation that would provide for the review of the financial viability of a newly created Government related corporation prior to granting such entity the authority to borrow from the Federal Government.

Mr. Speaker, this legislation is an important step in providing Congress with the ability to manage the public debt. I want to congratulate Congressman PICKLE, chairman of the Subcommittee on Oversight of the Committee on Ways and Means, who has taken a very active role in this legislation, Congressman GRADISON, and other members of the Committee on Ways and Means who are concerned with the growth of potential liabilities to the United States resulting from the activities of Government-sponsored enterprises.

Mr. GRADISON. Mr. Speaker, I yield back the balance of my time.

Mr. PICKLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. PICKLE] that the House suspend the rules and pass the bill, H.R. 3365, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPEDITING CONFERENCE WITH THE SENATE ON A BANKING BILL

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 102–362) on the following resolution (H. Res. 298) to expedite a conference with the Senate on a banking bill, which was referred to the House Calendar and ordered to be printed:

H. RES. 298

Resolved, That upon adoption of this resolution the House shall be considered to have taken the bill S. 543 from the Speaker's table and to have amended the Senate bill by striking out all after the enacting clause and inserting in lieu thereof the provisions of H.R. 3768 as passed by the House. The previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to commit. After passage of the Senate bill, the House shall then be considered to have insisted on its amendment to S. 543 and to have requested a conference with the Senate thereon. The motion to instruct conferees otherwise in order at that point shall instead be in order only if offered by the Minority Leader or his designee on the legislative day of Monday, November 25, 1991. The Speaker is authorized to appoint conferees and to make additional appointments of conferees.

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 298 and ask for its immediate consideration.

The Clerk reported the resolution.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this House resolution merely facilitates the ability to go to conference on Senate bill 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

The resolution provides that upon its adoption the House is considered to have taken S. 543 from the Speaker's table, stricken all after the enacting clause and inserted the provisions of H.R. 3768 as passed by the House. The resolution provides that the previous question is ordered to final passage on the bill except for one motion to commit.

Finally, the resolution provides that the motion to instruct conferees, which would otherwise be in order at that point, shall only be in order on Monday, November 25, 1991, and only if offered by Mr. MICHEL or his designee. The Speaker is authorized to appoint conferees and to make additional appointment of conferees.

Mr. Speaker, this action is necessary to get us to conference over the weekend if we are to have any chance of completing action on the banking reform conference report in time to adjourn next week. I urge my colleagues to adopt the resolution so that we may proceed to the consideration of this legislation.

☐ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, unlike many of the rules we will have considered this weekend, this rule is not controversial. It simply permits the House to go to conference with the Senate on H.R. 3768 and allows the process to continue to move forward.

We have debated the merits of the banking bill, and it was overwhelmingly adopted by this body on a vote of 344 to 84.

We cannot adjourn until additional borrowing authority is provided to the Federal Deposit Insurance Corporation, loans that will be paid back by the industry. If we do not provide this authority, Mr. Speaker, 110 million bank depositors, widows, pensioners, and working Americans, and their life savings will be unprotected. Let us keep the process moving.

I will urge adoption of this rule, but I would like to ask, Mr. Speaker, while this rule is necessary, if we are going to appoint conferees and go to conference today, we want to make clear that we will not consider the provision regarding a motion to instruct conferees as a precedent. That motion is ordinarily in order before conferees are appointed. This rule prohibits such a motion until Monday.

It is conceivable that the conferees could be discharged before the motion to instruct conferees is even brought up, can even be brought up. I just want to make sure that this is not going to establish a precedent.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from Texas.

Mr. FROST. Mr. Speaker, I do not think anyone is suggesting that this would be a precedent. This is a remarkable, unusual situation. It is not anticipated on our side that it will be possible for the conferees to reach agreement by Monday.

Mr. DREIER of California. I thank my friend. I just wanted to be assured of that.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, since I called for the consideration of the Committee on Rules of this banking bill, I thought it was important to let everyone know that one of the reasons I did so was because I think that it is important to talk about the banking bill in the context of economic growth and how banks could benefit from that we would like to see done here on the floor of the House between now and Thanksgiving, which is the passage of a growth package which will help strengthen American banks.

What we have before us in the President's proposal—which Members of the other side are free to look at, and agree to review—is a package that will

VOL 137 PT 23 NO 21—25 1991 UMI

strengthen American banks by strengthening American industry, and strengthening the business community and the economic climate out there, and creating more jobs.

There are such things as capital gains and indexing of capital gains which will help and elevate the quality of the assets that are being held by banks. And, another thing, this is not just a probusiness and get-the-jobs-going kind of bill, it also does something for banks that I think is very interesting.

Point 12 of the plan is a middle-income savings plan. Now, what that does is it excludes up to $225 of income, of interest income, for individuals, and up to 450 dollars' worth of income exclusion for interest paid on savings accounts for married people. That is only for those people who earn up to $50,000, so this is not a tax break for the rich. This is a tax break for the low and middle class. This is a tax break for working men and women in America, and this is also a benefit to the banks, because this is an exclusion for interest savings.

Mr. Speaker, this is an exclusion for low- and middle-income people. This is an exclusion that encourages people to put money in savings accounts, in banks, which will help with the recapitalization efforts.

This is expected tomorrow, if we pass this thing, tomorrow 80 million middle income and lower income Americans will benefit from this proposal, and it is expected that once this proposal is put into effect, 138 million Americans will benefit from this proposal.

This is not a tax break for the rich. This is a tax break for the low- and middle-income people of America.

This is also a proposal that will help America's banks. This is a proposal that will tell people to start saving their money in America's banks and help with their recapitalization efforts to put them back on sound footing which will again save American taxpayers, because they will not have to be bailing out another set of financial institutions in this country.

This is a positive step for America's banking industry. It is a positive step. Economic growth is a positive step for Americans. It is something that needs to be done before we leave here for Thanksgiving so we really can say to the American public: "Thanks giving."

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, it is true that the ills of the banking industry are causing many of the economic problems that this country faces, but the ills of the banking industry are more a symptom than a cause of our economic hardship. It is a symptom of slow economic growth which results in borrowers being unable to pay back their investment. It results in the depreciation of the assets of the banks and their borrowers. It results in the depreciation of the collateral for the loans. It makes it more difficult to issue those loans with proper collateral.

What we are doing is treating a symptom. Certainly, the millions of people whose deposits are insured by the FDIC should and must be made whole.

But the question is: Are we going to do that ultimately at the expense of the American taxpayer? Because the economy will grow so slowy that it will not generate enough profits, will not generate enough loan repayments, it will not generate enough growth in capital and assets to provide for the repayment through the private sector, so that the taxpayers will have to pick up the difference.

Or will we inject some vitality in the economy so that this tremendous burden can be borne by the profits of revigorated industries, by the loan repayments of solvent individuals at all levels of income?

I think the answer is quite clear. There is no greater and easier and quicker way that we can save and restore to health the banking industry as well as the S&L industry than to adopt an economic growth package.

We have a tax system that penalizes people who wish to save. It penalizes people who wish to invest. It penalizes people who want to increase the productivity and competitiveness of American industry.

What we need is an economic growth package.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to my very able California colleague, the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule, but I guess the point that Members on our side are trying to make today is that this bill, this narrowed down bank bill, bank-bill version No. 3, does not do nearly enough to protect Americans' banks and those people who are depositors and shareholders of those banks.

We know that the bank bill will improve the safety and soundness of America's banks by increasing capital standards, requiring early intervention on the part of Federal bank regulators, doing away once and forever with this notion of forbearance. It will also improve oversight and regulation of foreign banks.

☐ 1240

We know it recapitalizes the bank insurance fund by improving borrowing authority from the Federal Reserve to the FDIC to the tune of $70 billion.

The question that has come up over and over, though, is do we ultimately run the risk of a taxpayer bailout if that loan is not repaid by the banks? The idea is that the loans will be repaid by the banks through higher premiums assessed on those banks.

The answer is quite possibly yes, if we do not do something to shore up our economy and to improve the real estate market. Our financial institutions in America, the banks, the remaining thrifts, and major insurance companies are heavily invested in the real estate market.

So therefore we need to take action on our Economic Growth, Investment and Job Creation Act of 1991, which includes within that package a number of real estate incentives.

Expanding powers for banks are not really necessary. We can postpone that debate into next year anyway.

What we need to do is pass the Economic Growth, Investment and Job Creation Act, because it will free up a tremendous amount of capital which will be infused into the American economy and into American banks.

I would point out again that the most important thing in terms of economic growth is to stimulate capital formation. Our package, the Economic Growth, Investment and Job Creation Act, does just that. Our feeling is that the problems confronting America's banks and the American economy are too severe for us simply to postpone action on those problems until next year. Our philosophy on this side of the aisle is let us deal with this issue now. Let us deal with it as this Congress in the last few days of the first session of the 102d Congress takes up the issue of both bank reform and a supplemental bailout bill for the Resolution Trust Corporation to make whole the depositors in those failed thrifts, the thrifts that are insolvent or marginally solvent.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to my very good jogging friend, the Lehigh Valley Representative, the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I know a lot of people would like to jog right out of this place as soon as they can. But we do have a problem out there that the Congress is not addressing.

I just want to say that the motion to instruct conferees on this banking bill is woefully inadequate. It is woefully inadequate because the banking bill itself is woefully inadequate. The Democrats have given us a banking bill designed for failure. It corrects neither the internal weaknesses of banking in a wholly changed economy, nor the external weaknesses of the economy.

What do banks need? Banks need people who are saving. Banks need people who are investing. Banks need people who are buying homes. Banks need people who are creating new jobs by constructing new plants. Banks need people who are buying and selling. Banks need—now listen to this—banks need economic growth.

Considering all the weaknesses the Democrats built into this banking bill, and the external weaknesses of the economy, this motion to instruct amounts to fiddling while Rome burns.

I would like to see the Democrats give us a chance to bring to the floor a series of incentives, a series of changes in our economic policy designed to create savers, investors, workers, builders, and homebuyers. If they do that, they will give banks a far better chance to survive. If they do not, they will create the kind of climate which I am beginning more and more to think is purposeful; the kind of climate in which they can criticize the President, win in 1992 on the backs of the American people, on unemployed workers, on downtrodden communities.

No; Democrats do not want economic growth at this stage. They do not want a package that brings health back to banks. They do not even want a decent banking bill. They want a corpse of an American economy with unemployed workers and downtrodden communities, so they can come along and say we will help you all with new big government programs designed for welfare instead of work.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I support the rule.

I must say, having listened to a fair dose, a generous dose of this discussion about economic growth, I think there are a lot of folks in this Chamber who over-inflate their sense of importance about what kind of growth this country might or might not have. We have a business cycle, have always had a business cycle with an expansion base and a contraction base. They have some notion that if they can just get into the engine room and grab all the dials and levers and start pulling and adjusting, they will put this country back on track.

Do you know what this country's economy rides on? The confidence of the American people.

Do you know why the American people do not have a good feeling about the future? Because of the incredible deficit that is injuring the economy of this country.

Now where does this deficit come from? Do we have a responsibility? Yes, but it comes from budgets that are reckless and dangerous that have come to us for 11 years from the White House.

He says, "Let's spend more than we take in."

For 11 years we have had deficits come down here that say let us spend over a trillion dollars more than we have in money.

Now you say, but we have an economic growth package. You know what the economic growth package is.

First, it is let us increase the deficit, and you know it.

The second is, while we increase the deficit, let us give the rich another big tax cut. You want to give people who earn over $200,000 a year an average $25,000 a year tax cut, increase the Federal deficit, and somehow you think that is going to give confidence to the American people that our economy is going to grow?

What a bunch of nonsense this is. Is this not the most tired old economic argument any of us have ever heard?

Now at the 11th hour, you have a new plan and it turns out to be old Republican economics.

Would you give this country a break, for God's sake? If you believe in something new, tell us, not just this same old nonsense that says let us give the rich another tax break.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I just want the gentleman to know the package we are talking about has been costed out. It comes out at plus $400 million, so it is not a deficit tax.

Mr. DORGAN of North Dakota. Reclaiming my time, Mr. Speaker, that is the biggest bunch of nonsense in the world, and the gentleman knows it.

Mr. WALKER. Has the gentleman costed it out?

Mr. DORGAN of North Dakota. The Treasury Department will tell you anything you want to hear. Get it scored by the Joint Tax Committee and you will find out this costs $20 billion in additional deficit.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. President, the gentleman from North Dakota has just given us a lesson in static economics and how the Democrats cannot do anything except pass $25 billion bailouts for banks, but at the same time is only willing to submit to the Joint Tax Committee, controlled exclusively by the Democrats, in order to get the analysis that the gentleman wants.

The point here is that the Treasury Department now has looked through this at length and has come to the conclusion at the Treasury Department that this is a $400 million-plus bill.

The gentleman may not like that as a conclusion, but that is the conclusion. This is the U.S. Treasury Department that has analyzed this whole thing.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield.

Mr. WALKER. Surely, I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, the gentleman has the greatest imagination in the world if he believes this is not going to cost an enormous amount of deficits for the American people.

Mr. WALKER. Well, I would tell the gentleman that he was making the same arguments in the early 1980's. The fact is that the tax cuts we produced then did in fact generate additional revenue to the Government. The problem is Congress spent every dime of it away, plus some.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, in the final hours of this session, we have voodoo economics, too, and then we are going back and we are trying to rewrite history. We did have economic growth in the last 10 years. The only problem is voodoo economics won and gave us $3 trillion of new debt.

And for God's sake, let us not in the final hour try to come up with voodoo economics, too, to rescue the Republican Party.

The country has figured out that phony tax cuts for rich people do not stimulate the economy. American workers have been left behind in the decade of the 1980's.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, the gentleman from Pennsylvania says, well, the Joint Tax Committee, that is controlled by Democrats. The fact is the Joint Tax Committee was headed by somebody from the Reagan administration until we got the new head of the Joint Tax Committee.

But the interesting thing is, the gentleman stands up and suggests that the numbers he has gotten from the Treasury Department are such wonderful sympathetic numbers.

Who runs the Treasury Department? Does the Republican administration not run the Department that has given you these convenient numbers?

Is the gentleman kidding me? Does he not understand that we are talking about increasing the Federal deficit by $20 billion to $30 billion? How are you going to put this country back on track toward economic growth by increasing the deficit so that you can give a tax cut to the rich? Is that a new economic plan? It is old Republicanism. That is what it is.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, earlier today a debate was taking place about the revenue neutrality of the growth package that is being presented.

VOL 137
PT 23
NO 21–25
1991
UMI

□ 1250

I went back to the Joint Tax Committee, and I found it was $20 billion short over 5 years. In the meantime I have gone back and found out they are now recalculating because it is a moving number, they keep adding and subtracting provisions. The new number is now $89 billion.

Mr. GEJDENSON. We are talking about $89 billion, is that correct, $89 billion short in revenue once again?

Mr. ANTHONY. That is correct, $89 billion.

Mr. GEJDENSON. There is $89 billion increase on the deficit. That is their answer once again.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am really thrown by this debate in which people are constantly trying to level this concern for the rich on our side of the aisle. When we look at the economic package which we are trying desperately to offer, I cannot help but recognize the fact that people who earn $50,000 or less are not rich as far as I can tell.

People who are seeking the opportunity to be first-time home buyers are not the rich. People who want to establish individual retirement accounts so they can plan for their retirement are not necessarily rich. And I think that is something that we need to underscore here.

Mr. Speaker, I yield 30 seconds to my friend, the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. I thank the gentleman for yielding.

The gentleman makes an excellent point. The Democrats are perfectly willing to add to the deficit when it is providing welfare; they do not want to provide jobs.

When it comes to the big banks, they are perfectly willing to give, in the bill that we are considering right now, $25 billion of bailout money to the biggest banks in the country, the very richest people in the country. Yet when we talk about economic growth and jobs for people, they all of a sudden feel as though there is a deficit problem.

There is no deficit problem, this is a bill which is a plus-$400 million, plus it would give the American people the jobs they want.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania.

Mr. SANTORUM. I thank the gentleman for yielding.

Mr. Speaker, the gentleman who just came down, the gentleman from Connecticut who said this is voodoo economics, is now up in the Rules Committee trying to pass a bill that puts more money on the Federal deficit by financing our campaigns.

Mr. GEJDENSON. The gentleman is incorrect. Will the gentleman yield?

Mr. SANTORUM. I will not.

The gentleman from Connecticut talks about voodoo economics, and he wants to have the taxpayers pay for our elections. That is wrong. And do not stand there and talk about voodoo economics and make the taxpayers pay for our elections.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Connecticut, [Mr. Gejdenson].

Mr. GEJDENSON. Mr. Speaker, I guess this is the standard problem on the other side of the aisle: They just do not get the facts straight. The facts are there are no taxpayer funds in that bill.

Mr. DREIER of California. Mr. Speaker, I just sat up in the Rules Committee and listened to the testimony that came from members of the administration committee on this proposal. We asked that Mr. Rostenkowski, chairman of the Committee on Ways and Means, be made aware of the fact that many of the provisions in this will create a tremendous cost to the taxpayers, and I think we should recognize that.

Mr. Speaker. I yield 1 minute to my friend, the gentleman from California [Mr. Thomas].

Mr. THOMAS of California. I thank the gentleman for yielding.

Mr. Speaker, if anyone will read the bill as recently amended in the Committee on Rules, there is an obligation to subsidize postage under the volunteer structure; there is an obligation for matching funds, and there has been a newly created incentive, whatever that may be—and the word around here is tax credits—and the only source left in the bill to fund it is voluntary contributions.

Yet the provision that it be under the Budget Act-neutral for 1994 and 1995 clearly creates the situation that the gentleman from Illinois' committee, and the one that I am proud to serve on, is once again going to have to be the cash cow for the project around here.

There is no question this bill requires tax dollars. Cleverly written? Of course. Fundamental requirement for new revenue? Of course.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have had an interesting discussion for the last few minutes about everything except the score of the Michigan-Ohio State game.

Mr. DREIER of California. Would the gentleman tell us what that is at this point?

Mr. FROST. I would remind the House on both sides of the aisle that what is before us is a motion that would permit the House to go to conference with the Senate on the banking bill.

I would inquire of the Chair how much time remains on both sides.

The SPEAKER pro tempore (Mr. McDermott). The gentleman from Texas [Mr. Frost] has 22 minutes remaining, and the gentleman from California [Mr. Dreier] has 13½ minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. Gunderson].

Mr. GUNDERSON. Mr. Speaker, let us talk about the motion that is in front of us under this rule. Do you know what the title of this resolution is? To expedite a conference with the Senate on the banking bill.

The whole goal around here right now is: How fast can we get out of here?

If you want to look at a dumb rule, do you know what it does? It says we are going to appoint conferees today, we are going to go to conference over the weekend, and then, oh, by the way, on Monday we will bring up a motion to instruct conferees, on Monday.

Now, you want to talk about voodoo economics? I will tell you what voodoo economics is. Voodoo economics is the bill that says we will provide $70 billion in recapitalization of the FDIC but we will not do anything about the economy. So, as a result, if the banks cannot pay back to FDIC $70 billion, we will take it out of the taxpayers' pockets.

This bill is going to end up being the new S&L bailout for the banks.

Seventy billion dollars out of taxpayer dollars, because this Congress wants to run home rather than do something about the economy.

You wonder why the American people are frustrated with the Congress? Why shouldn't they be? Economics 101 says you do not do it this way.

We ought not go to conference on this bill. We ought not be doing a conference report on the banking bill unless we are going to do something about the real problem, which is the economy.

The FDIC is only a symptom of the problem.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Massachusetts [Mr. Frank], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. FRANK of Massachusetts. Mr. Speaker, I know Members are not supposed to address the President, but if they were, the previous speaker presumably would have been saying to President Bush, "Do do that voodoo that you do so well," because the voodoo bill that he is talking about is the Bush administration bill.

So the question is: Will we do the Bush administration's voodoo? Because Secretary Brady says, and I have been on the Banking Committee, "Pass the banking bill." They never raised the tax question. I have been on the Banking Committee all the time. We have heard the administration witnesses, we

heard from the Secretary of the Treasury and his aides. They have never suggested that we should add tax breaks of various sorts to the bank bill. So if it is voodoo to do the FDIC replenishment without the banks, President Bush has apparently had a voodoo relapse, which makes me feel that what we are doing here again is this is declaration of independence day, from George, in this case, George Bush, not George III, and I guess that is why we have to listen to the Republicans today, when in the course of political events a group of people on one side want to cut the ties with the President, they got to explain it.

So here the poor President sends us a bill that says the banks are out of money, you got to pay off the depositors. So what happens? The deputy whip says it is voodoo.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. RIGGS. I thank my Banking Committee colleague for yielding to me.

I would simply point out to him this is not the administration's bank reform bill. As the gentleman well knows, the version that the administration sent us was the version that we first passed out.

Mr. FRANK of Massachusetts. I will take my time back, and I will tell the gentleman I understand that; this is not exactly what they passed.

But on the point at issue, it is exactly the same. Nothing in that bill ever suggested that we do tax breaks. The difference between the bill that we are being asked to vote on and the points that are being raised now are not those where the administration has been on that side. The administration has never said it would be voodoo to do this.

Now, maybe, maybe President Bush ad libbed that one day when John Sununu and I were not listening, maybe that slipped in, I do not know. But I do know, as far as the official administration position is concerned, at no point have they said it would be irresponsible to pass this bill without a tax break. It took some very bad poll results to get the people on the other side to think that.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. Mr. Speaker, my guess is we are hearing more doo-doo on the floor than we are voodoo, anyway.

But the fact is that this is a terrible rule, and the Members ought to focus on the fact that this is a rule being brought to us under martial law. This is exactly what you get when you declare martial law in the House because, under this particular rule, what we are trying to do is we are going to appoint conferees and then not give instructions to the conferees maybe until after the conference is over.

Now, that really does impinge upon the rights not only of the minority, folks, of the majority too. And I will tell you this is very bad practice, very bad precedent, and we are in a very dangerous situation when we decide that we are going to run, supposedly, the greatest deliberative body in the world in this way

A number of us have said over a period of months that more and more the House is turning toward dictatorial practices in order to enforce its will rather than the will of the country.

□ 1300

Mr. Speaker, this is precisely a rule in that regard. This is a rule which is truly a martial law rule, and it is——

PARLIAMENTARY INQUIRY

Mr. COLEMAN of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McDermott). The gentleman will state his parliamentary inquiry.

Mr. DREIER of California. Mr. Speaker, has the time of the gentleman from Pennsylvania [Mr. Walker] expired?

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has not expired.

Mr. WALKER. Mr. Speaker, the gentleman is making an improper parliamentary inquiry on my time. The gentleman ought to learn the rules. Maybe the gentleman is comfortable operating under martial law rule where he does not have to worry about——

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield then for a parliamentary inquiry?

Mr. WALKER. I say to the gentleman, "You're supposed to request that through the Chair."

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Speaker, I would ask a parliamentary inquiry as to whether or not motions to instruct are binding. Are motions to instruct binding? I ask the Chair that question.

Mr. Speaker, it has been inferred by the gentleman from Pennsylvania [Mr. Walker]——

Mr. WALKER. Mr. Speaker, I reclaim my time. The gentleman does not even know what he is talking about.

The problem here is that the rule that we have before us——

Mr. COLEMAN of Texas. Mr. Speaker, can I get a response to my parliamentary inquiry? The gentleman yielded to me.

Mr. WALKER. Mr. Speaker, I reclaimed my time. I have that right under the rules of the House. If the gentleman would learn the rules, maybe he would understand how to do this.

Mr. Speaker, the fact is that what we have here is a rule which is indeed a martial law rule which is impinging upon all Members of the House to have appropriate time and appropriate debate on issues of merit before this Congress. I think that this is a terrible travesty. It has nothing to do with the whole business of bringing up economic growth except that, if we are going to operate this way, there is no reason why we could not bring economic growth to the floor, and that is what the majority is refusing to do. The majority is refusing to have an economic growth package on the floor.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Texas [Mr. Coleman].

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman from Texas [Mr. Frost] for yielding this time to me.

Mr. Speaker, the problem of the gentleman's statement was that he was inferring to this House that they would be precluded from offering motions to instruct, which he well knows is not binding on the conference at all. This is a procedure, I would like to point out to my colleagues in the House, that is oftentimes utilized by those on the other side to attempt to delay. It is called a delaying tactic by some of them. Others of them in the minority also use this procedure simply to, quote, make a point, unquote, but as he well knows, it is not binding on the conferees. So, these motions to instruct are often, many times, nothing more than mere delaying tactics to try to slow down the process and the procedure of the House to do the people's business. It is totally irrelevant.

So, for the gentleman from Pennsylvania [Mr. Walker] to stand in the well of this House and suggest to the membership and to those who might be listening that in some way, motions to instruct would be precluded by this rule, first of all, is not true; second of all, second of all, so what?

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Texas [Mr. Coleman] for his point. I thank him for his point because he just has made it clear that the gentleman from Texas cares absolutely nothing about the rights of the minority. We have known that all along, but the gentleman from Texas has now made that absolutely clear.

Mr. Speaker, I am afraid his view is shared by most of the people on the other side of the aisle, so, when we on this side of the aisle react somewhat vehemently to it, understand it is well deserved.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Missouri [Mr. Volkmer].

VOL
137
PT
23
NO
21
—
25
1991
UMI

Mr. VOLKMER. Mr. Speaker, I rise in strong support of the rule, and during the debate on the rule there has been an allegation made that somehow the tax break bill for the wealthy being proposed by Members of the other side, especially the gentleman from Georgia [Mr. GINGRICH] would help the middle class. I have a study here made by the Tax Foundation, and it says that the proposal of the gentleman from Georgia [Mr. GINGRICH], the study there for family income of $30,000 would receive no tax break, for family incomes of $53,265, would receive no tax break. That means it has to be for the wealthy. That is all we know. It is the good old trickle down theory.

Mr. Speaker, I think soundly that we should not even consider it.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I thank the distinguished gentleman from Missouri [Mr. VOLKMER] for yielding.

Mr. Speaker, I wonder if the gentleman would be audacious enough to say that as a key leader of the House Committee on Agriculture that a capital gains tax reduction for American farmers would not represent a significant tax break for those people?

The SPEAKER pro tempore. (Mr. MCDERMOTT). The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I have been debating in my own mind what form of government we have. For a while I thought we had anarchy, no government. But then it seemed to me that what was being exhibited today was mob-ocracy. That is when a small mob attempts to take over and rule things, and that is what we have going on right now. We have a small mob of Republicans who have come up with a political ploy, and they are attempting to use that ploy before the American people.

My colleagues, let us explain exactly what ordinary rules and processes are in this House and how what they are attempting to do is totally circumvent those. If a group of individuals have an idea, a bill, they do not have the right to automatically bring it to the floor of the House of Representatives, not when we have 435 Members. What they must first do is introduce the bill. The second thing they must do is get hearings on the bill. Then they go before a subcommittee, a subcommittee votes on it. It then goes before a full committee, a full committee votes on it. After the full committee reports it out, then it comes to the floor of the House of Representatives for a vote.

Mr. Speaker, none of that has happened. What has happened? What has happened is that this body took three separate votes on a banking bill. We passed a banking bill. On that banking bill we received two-thirds of the votes of the Republicans and two-thirds of the votes of the Democrats. After we passed our bill, the Senate passed their banking bill. On their banking bill they added virtually every possible ornamentation they possibly could to it. Some called it a Christmas tree. It does not happen to provide what the mobocracy would have it provide.

Mr. Speaker, we are simply saying, "Let us go to conference on what the House has voted on. Let us go to conference on what the Senate has voted upon." We never have instructions to go to conference on something that neither the House, nor the Senate, have voted on. Never.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say to the gentleman from New York [Mr. LAFALCE], my very good friend, that I agree with exactly what it is that he is trying to do, but he was wrong when he talked about some sort of regular procedure here.

Mr. Speaker, the fact of the matter is we are under martial law at this moment, and that is the real tragedy.

The problem was we created a situation. I do not want to be standing here doing this, but the fact that we are under martial law has created so much anger. That is what is delaying the process of going to conference.

Mr. LAFALCE. Mr. Speaker, the only thing we are voting on now is whether to go to conference.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, this resolution I am opposed to will lead to $70 billion of more taxpayer funds that we do not even have. Talk about voodoo economics. That is voodoo Democratic economics. Instead of dealing with this pie that is static, let us make the pie bigger. Let us get a growth package. Let us help the men and women of America who are unemployed.

By the way, if my colleagues think what Ronald Reagan did was bad, then blame a good liberal Democrat because he did it first, and he did it well: John F. Kennedy who said that a rising tide lifts all boats. I say to my colleagues, "If you want to help the men and women of America, you give them help across the board, and everybody benefits. That's the action we ought to be taking."

Mr. Speaker, we ought to reject this resolution, we ought not to make the debt worse, and, as my colleagues know, we have done in the savings and loan industry, the banks are tottering on the brink, and next are pension funds and insurance companies. I urge the defeat of this rule.

□ 1310

Mr. DREIER of California. Mr. Speaker, may I ask how much time is remaining on both sides?

The SPEAKER pro tempore. (Mr. MCDERMOTT). The gentleman from California [Mr. DREIER] has 7½ minutes remaining, and the gentleman from Texas [Mr. FROST] has 16 minutes remaining.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I only want to ask one question, and I want to continue to ask it as we continue discussing the growth package. But before I do that, let me suggest that the previous speaker, my friend, the gentleman from California, mistakenly assumes, as many of those Members do, that everyone in this country has a vote. This rising tide stuff is interesting discussion, but the fact is that a lot of folks in this country are left behind by all tides.

Let me ask this question: I would like any Member there who knows the answer to answer it, and, if not, they might get their friends at Treasury who conveniently provide answers that are usually supportive of their position to get me the answer. I want to know, if this growth package is implemented, how much of a tax cut it will provide the average American family whose earnings are over $200,000 a year.

The reason I ask the question is that the country has $3.6 trillion in debt and a $400 billion deficit this year, and you are proposing very large tax cuts for the richest families in the country. I want to continue to ask the question: How much of a tax cut will this proposal offer to families whose earnings are over $200,000 a year? Does someone have the answer to that?

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding. I cannot answer his specific question, as he well knows, but I want to ask the gentleman in exchange, is the gentleman honestly proposing that it is better to do nothing at this point in time with regard to the economy? I am not making that argument. I want to know what his——

Mr. DORGAN. of North Dakota. Mr. Speaker, I reclaim my time.

I yielded to the gentleman because I expected an answer and, of course, he did not have one. I do not expect to get an answer in the next couple of days because I do not suppose they would like to give the American people the answer as to what kind of tax cuts they are proposing for the richest families

of America. If you want to give us the answer, I think you ought to go and get it so we will have it for this debate.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield four minutes to the gentleman from Georgia [Mr. BARNARD], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. BARNARD. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to use this time if for no other reason than to calm down the rhetoric of the House. It is very obvious that the purpose of this debate is for the consideration of this very necessary rule, and I think it is very unfortunate on both sides that we have distorted the issue at hand. I think this is no place at this time to debate the growth package.

There is much that has been said that I agree with, but more than what I agree with, I am wondering why this important legislation should be held hostage to this political debate. It is not necessary, and this is certainly not the finest hour of the finest day that we represent ourselves to the American people. I hate to think what the people are doing back home watching this debate on the floor.

Let us get back to what is at hand. It is very important, I say to my friends on the other side, that we acknowledge what has to be done. We have a serious issue. The bank insurance fund of this country which guarantees the deposits of some 80 million people is in serious distress. We need to replenish the bank insurance fund. We have a plan to do that. It is not a taxpayer's plan, but we have two things that need to be done. We have two bills before us. We have a very convoluted bill that has come before us from the Senate. All we are asking the Members of this House to do is to permit us to go to conference on a bill over which only the Banking Committee has jurisdiction. We will not consider any of the other stuff that is in the bill except what is in the exclusive jurisdiction of the Banking Committee of the House.

So all we are asking the Members to do in the midst of all this debate is to permit the chairman of the Committee on Banking, Finance and Urban Affairs to have conferees appointed so that we can get on with the very necessary issue of finding out where our differences are so we can bring a good bill back to this House floor.

We have passed a narrow banking bill by a vote of 344 to 84. After we had climbed that hill two other times and failed, we finally reached that pinnacle and we agreed on a narrow bank bill that would replenish the bank insurance fund and bring meaningful changes in the banking laws controlling banks. That is all we are asking the Members to do. Please do not burden us down with any more of this debate. Let us go to conference, reconcile this thing, and do what we are here to do, and that is to legislate and not have a political debate.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield just briefly.

Mr. BARNARD. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, as I have heard from the debate here and I have heard from the media reports on this bill earlier, the allegation is made that there is $70 billion of taxpayers' money to replenish the banks. I have heard the gentleman say here that there is no taxpayers' money.

Could the gentleman just clarify that for me?

Mr. BARNARD. Mr. Speaker, it is very simple. What we are permitting in this bill is to let the FDIC borrow money from the Treasury. The repayment of that money will come from the increased premiums of bank insurance assessed to the banks.

Mr. VOLKMER. Therefore, there is no taxpayer money given to the banks?

Mr. BARNARD. Not at this time.

Mr. RIGGS. Mr. Speaker, will the gentleman yield on that point?

Mr. BARNARD. I am glad to yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding. He is a very distinguished member of the Committee on Banking, Finance and Urban Affairs and has made many contributions. I understand and support the gentleman's point, but I think the concern on this side of the aisle is frankly that unless we address the underlying conditions, it is possible that America's banks could default on that loan.

Mr. BARNARD. Mr. Speaker, if I may reclaim my time, the gentleman has made that point. The gentleman has made that point time and time again this morning. I am tried of it, and I think the people are tried of it. Let us get on with the business at hand.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say that the gentleman is right. The best way for us to ensure that we do not get to the point where there is a bailout is, No. 1, to pass this economic growth package and, number two, ensure that we bring about the kind of banking reform that H.R. 6 offered.

Mr. Speaker, I yield 1 minute to the gentleman form California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, when we are looking at the banking mess, let us look at why we are in a banking mess. We are in a banking mess because liberal Democrats have controlled this House and passed tax policies that tipped this country into a recession.

We want to try to get this country out of recession. When people take a look at this debate, they might wonder if this is a Third World country. What is a Third World country? That is where you have high tax rates and an inefficient government, so you have a miserable economy. Do you know what also happens in a Third World country? They usually declare martial law so that the democratic processes cannot take place to get the country out of the miserable condition it is in.

Yes, let us handle this banking mess. Let us make sure that we do not have a mess in the real estate business, in the banking business, or any other business by making sure that we have a growth package that gives people jobs and produces the wealth so this country does not have to continue shoveling our people's money into the banks as a subsidy. We talk about helping the rich. Who is talking about that now?

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, out of deference to the gentleman from Texas who earlier was stating that Members of the House were not getting all of the scores, I think our colleagues should know that right now Michigan is over Ohio State 14 to 3.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I think the best politics for 1992 for both parties would be for us to address today in 1991 the real problem with the financial services industry, the real problem with banks, and the real problem with thrifts. The best policy for 1992 would be dealing in November 1991, with a stagnant economy and with a depressed real estate market.

The best politics in 1992 would be in November 1991 not borrowing $70 billion from the Treasury to help out the banks or not borrowing—and I might add that we will not pay it back—$80 billion from our taxpayers to bail out the RTC.

□ 1320

The best politics for 1992 would be for us to stay here and deal with an economic growth package, to deal with the causes of the problems in the banks and the thrifts, rather than the symptoms. I recommend it to my colleagues. We have got four or five more weeks. We ought to stick around and do the job. That is the best politics for both parties.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I have to change my statement because it is obvious I am closing out the debate on this resolution. I have to change my thoughts very quickly.

Mr. Speaker, what we see going on here is that the Republicans are upset that they have been put under martial

---

law, which is very dictatorial; that we

Kaptur
Murtha
Sarpalius
Hoyer
Murphy
Smith (IA)

The Chair appoints the following con-

(5) As one of the largest users of the Na-

(A) Aid in the planning and development of law, which is very dictatorial; that we have for more than a year been telling the American people that the economy was going to be in recession, a deeper and longer recession than people were telling us; that the economy in 1992 will be stagnant and flat.

Mr. Speaker, we have introduced time and time again bills for a growth package, and we are outraged that we are trying to get through this Congress without a growth package. What you have seen in the debate in this last hour is that the Democrats do not want a growth package. They would rather have nothing and borrow $70 billion for the bank bailout and $80 billion for the RTC bailout, than to address the problem of growth in our economy.

Mr. Speaker, we are outraged by it.

Mr. DREIER of California. Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. MCDERMOTT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announce that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 215, nays 91, answered "present" 1, not voting 127, as follows:

[Roll No. 422]

YEAS—215

Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Carper
Carr

Clement
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cox (IL)
Cramer
Darden
DeLauro
Derrick
Dicks
Dingell
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dymally
Eckart
Emerson
Engel
English
Espy
Evans
Ewing
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Frank (MA)

Frost
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hubbard
Huckaby
Hughes
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski

Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
LaRocco
Lehman (FL)
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McDermott
McGrath
McHugh
McMillan (NC)
McNulty
Meyers
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella

Murtha
Nagle
Natcher
Neal (NC)
Nowak
Oberstar
Obey
Olin
Ortiz
Orton
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister

Sarpalius
Sawyer
Scheuer
Schiff
Schroeder
Serrano
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Studds
Swift
Tanner
Taylor (MS)
Thomas (GA)
Torres
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Waters
Weiss
Wheat
Whitten
Wilson
Wyden
Yates
Young (AK)

NAYS—91

Allard
Allen
Armey
Barrett
Bentley
Billey
Boehner
Bunning
Burton
Camp
Campbell (CA)
Clinger
Coughlin
Cox (CA)
Dannemeyer
Davis
DeLay
Doolittle
Edwards (OK)
Fields
Ford (TN)
Franks (CT)
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goss
Gradison
Grandy
Gunderson

Hammerschmidt
Hancock
Hansen
Hastert
Herger
Hobson
Hyde
Inhofe
James
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lightfoot
Livingston
Martin
McCollum
McDade
McEwen
Miller (OH)
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Oxley
Packard
Paxon

Petri
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rohrabacher
Santorum
Saxton
Shuster
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stump
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (FL)
Zimmer

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—127

Abercrombie
Ackerman
Alexander
Archer
Aspin
Atkins
Baker
Ballenger
Barton
Berman
Boxer
Brewster
Broomfield
Callahan
Cardin
Chandler
Chapman

Clay
Coble
Coleman (MO)
Collins (IL)
Costello
Coyne
Crane
Cunningham
de la Garza
DeFazio
Dellums
Dickinson
Dixon
Donnelly
Dornan (CA)
Duncan
Dwyer

Early
Edwards (CA)
Edwards (TX)
Erdreich
Fawell
Feighan
Fish
Gallegly
Gaydos
Geren
Goodling
Harris
Hefley
Henry
Holloway
Hopkins
Houghton

Hoyer
Hunter
Hutto
Ireland
Jacobs
Jefferson
Johnson (TX)
Johnston
Kennedy
Lantos
Laughlin
Leach
Lehman (CA)
Levine (CA)
Lewis (FL)
Lipinski
Lowery (CA)
Luken
Marlenee
Mavroules
McCrery
McCurdy
McMillen (MD)
Mfume
Morrison
Mrazek

Murphy
Myers
Neal (MA)
Oakar
Olver
Owens (NY)
Payne (VA)
Pickett
Porter
Price
Pursell
Quillen
Rogers
Ros-Lehtinen
Roth
Roukema
Russo
Savage
Schaefer
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Slattery
Smith (FL)

Smith (IA)
Solomon
Stenholm
Stokes
Sundquist
Swett
Synar
Tallon
Tauzin
Taylor (NC)
Thomas (CA)
Thornton
Torricelli
Towns
Unsoeld
Upton
Washington
Waxman
Williams
Wise
Wolpe
Wylie
Yatron
Zeliff

□ 1342

Mr. RAY changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 298, the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes, is considered to have been taken from the Speaker's table and amended by substituting the text of the bill (H.R. 3768) to require the lease-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, as passed by the House.

(For text of S. 543 see proceedings of the Senate of today, Saturday November 23, 1991).

(For text of H.R. 3768 see Proceedings of the House of Thursday, November, 21, 1991 at page 33372).

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes."

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 543

The SPEAKER. Under the rule, the House is considered to have insisted on its amendment to the Senate bill, S. 543, and requested a conference with the Senate thereon.

The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Committee on Banking, Finance and Urban Affairs: Messrs. GONZALEZ, ANNUNZIO, NEAL of North Carolina, HUBBARD, and LAFALCE, Ms. OAKAR, Messrs. VENTO, BARNARD, SCHUMER, FRANK of Massachusetts, ERDREICH, CARPER, TORRES, KLECZKA, WYLIE, LEACH, and MCCOLLUM, Mrs. ROUKEMA, and Messrs. BEREUTER, RIDGE, ROTH, MCCANDLESS, and BAKER.

There was no objection.

PERSONAL EXPLANATION

Mr. SYNAR. Mr. Speaker, because of a previously scheduled event in my district to dedicate the Toppers Fire Station in Wagoner County, Oklahoma, I missed two votes. Had I been present, I would have voted "AYE" on House Resolution 294 (rollcall No. 421) and "AYE" on House Resolution 298 (rollcall No. 422).

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, constituent business in my district forced me to miss rollcall vote No. 422. Had I been present, I would have voted "nay."

NTIA ORGANIZATION AND AUTHORIZATION ACT

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3031) to provide a statutory charter, and to authorize appropriations, for the National Telecommunications and Information Administration, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NTIA Organization and Authorization Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) Telecommunications and information are vital to the public welfare, national security, and competitiveness of the United States.

(2) Rapid technological advances being made in the telecommunications and information fields make it imperative that the United States maintain effective national and international policies and programs capable of taking advantage of continued advancements.

(3) Telecommunications and information policies and recommendations advancing the strategic interests and the international competitiveness of the United States are essential aspects of the Nation's involvement in international commerce.

(4) There is a critical need for competent and effective telecommunications and information research and analysis and national and international policy development, advice, and advocacy by the Executive Branch of the Federal Government.

(5) As one of the largest users of the Nation's telecommunications facilities and resources, the Federal Government must manage its radio spectrum use and other internal communications operations in the most efficient and effective manner possible.

(6) It is in the national interest to codify the authority of the National Telecommunications and Information Administration, an agency in the Department of Commerce, as the Executive Branch agency principally responsible for advising the President on telecommunications and information policies, and for carrying out the related functions it currently performs, as reflected in Executive Order 12046.

(b) POLICY.—The NTIA shall seek to advance the following policies:

(1) promoting the benefits of technological development in the United States for all users of telecommunications and information facilities;

(2) fostering national safety and security, economic prosperity, and the delivery of critical social services through telecommunications;

(3) facilitating and contributing to the full development of competition, efficiency, and free flow of commerce in domestic and international telecommunications markets;

(4) fostering full and efficient use of telecommunications resources, including effective use of the radio spectrum by the Federal Government, in a manner which encourages the most beneficial uses thereof in the public interest; and

(5) furthering scientific knowledge about telecommunications and information.

SEC. 3. ORGANIZATION.

(a) ADMINISTRATION.—There shall be within the Department of Commerce an administration to be known as the "National Telecommunications and Information Administration".

(b) HEAD OF ADMINISTRATION.—The head of the NTIA shall be an Assistant Secretary for Communications and Information, who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 4. FUNCTIONS.

(a) IN GENERAL.—Subject to section 5, the Secretary shall assign to the Assistant Secretary and the NTIA responsibility for the performance of the Secretary's communications and information functions.

(b) COMMUNICATIONS AND INFORMATION FUNCTIONS.—Subject to section 5, the functions which the Secretary shall assign under subsection (a) include (but are not limited to) the following functions transferred to the Secretary by Reorganization Plan Number 1 of 1977 and Executive Order 12046:

(1) The authority delegated by the President to the Secretary to assign frequencies to radio stations or classes or radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke such assignments, but not including the authority to make final disposition of appeals from frequency assignments.

(2) The authority to authorize a foreign government to construct and operate a radio station at the seat of Government of the United States, but only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Commission.

(3) Functions relating to the communications satellite system, including authority vested in the President by section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)) and delegated to the Secretary of Commerce under Executive Order 12046, as follows:

(A) Aid in the planning and development of the commercial communications satellite system and the execution of a national program for the operation of such a system.

(B) Conduct a continuous review of all phases of the development and operation of such system, including the activities of the communications satellite corporation authorized in section 301 of the Communications Satellite Act of 1962 (47 U.S.C. 731).

(C) Coordinate, in consultation with the Secretary of State, the activities of governmental agencies with responsibilities in the field of telecommunications, so as to ensure that there is full and effective compliance at all times with the policies set forth in the Communications Satellite Act of 1962.

(D) Make recommendations to the President and others as appropriate, with respect to steps necessary to ensure the availability and appropriate utilization of the communications satellite system for general government purposes in consonance with section 201(a)(6) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)(6)).

(E) Help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad.

(F) Assist in the preparation of Presidential action documents for consideration by the President as may be appropriate under section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)), make necessary recommendations to the President in connection therewith, and keep the President informed with respect to the carrying out of the Communications Satellite Act of 1962.

(G) Serve as the chief point of liaison between the President and the corporation.

(4) Serving as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(5) Advising the Director of the Office of Management and Budget on the development of policies relating to the procurement and management of Federal telecommunications systems.

(6) Conducting studies and evaluations concerning telecommunications research and development and concerning the initiation, improvement, expansion, testing, operation and use of Federal telecommunications systems and advising agencies of the results of such studies and evaluations.

(7)(A) Developing and setting forth, in coordination with the Secretary of State and other interested agencies, plans, policies and programs which relate to international telecommunications issues, conferences, and negotiations.

(B) Coordinating economic, technical, operational, and related preparations for United States participation in international telecommunications conferences and negotiations.

(C) Providing advice and assistance to the Secretary of State on international telecommunications policies to strengthen the position and serve the best interests of the United States in support of the Secretary of State's responsibility for the conduct of foreign affairs.

(8) Providing for the coordination of the telecommunications activities of the Executive Branch and assisting in the formulation of policies and standards for those activities, including (but not limited to) considerations of interoperability, privacy, security, spectrum use, and emergency readiness.

VOL 137
PT 23
NO 21—25
1991
UMI

(9) Developing and setting forth telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(10) Ensuring that the views of the Executive Branch on telecommunications matters are effectively presented to the Commission and, in coordination with the Director of the Office of Management and Budget, to the Congress.

(11) Establishing policies concerning spectrum assignments and use by radio stations belonging to and operated by the United States.

(12) Developing, in cooperation with the Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources and—

(A) performing analysis, engineering, and administrative functions, including the maintenance of necessary files and databases, as necessary for the performance of assigned functions for the management of electromagnetic spectrum;

(B) conducting research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility; and

(C) conducting research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies;

(13) Conducting studies and making recommendations concerning the impact of the convergence of computer and communications technology.

(14) Coordinating Federal telecommunications assistance to State and local governments.

(15) Conducting and coordinating economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned functions.

(16) Contracting for studies and reports relating to any aspect of assigned functions.

(17) Participating, as appropriate, in evaluating the capability of telecommunications resources, in recommending remedial actions, and in developing policy options.

(18) Participating with the National Security Council and the Director of the Office of Science and Technology Policy in carrying out their responsibilities under sections 4-1, 4-2, and 4-3 of Executive Order 12046.

(19) The authority to establish coordinating committees pursuant to section 10 of Executive Order 11556.

(20) As permitted by law, establishing such interagency committees and working groups composed of representatives of interested agencies and consulting with such departments and agencies as may be necessary for the effective performance of assigned functions.

(c) ADDITIONAL COMMUNICATIONS AND INFORMATION FUNCTIONS.—In addition to the functions assigned to the NTIA by the Secretary under subsection (a), the Secretary—

(1) may assign to the NTIA the performance of functions under section 504 of the Communications Satellite Act of 1962 (47 U.S.C. 753(a)); and

(2) shall assign to the NTIA the administration of the Public Telecommunications Facilities Program (47 U.S.C. 390-393), and the National Endowment for Children's Educational Television (47 U.S.C. 394).

(d) INTERAGENCY FUNCTIONS.—

(1) AGENCY CONSULTATION.—Federal agencies shall consult with the Secretary to ensure that their conduct of telecommunications activities is consistent with the policies developed under subsection (b)(11).

(2) REPORT TO THE PRESIDENT.—The Secretary shall timely submit to the President each year the report (including evaluations and recommendations) provided for in 404(a) of the Communications Satellite Act of 1962 (47 U.S.C. 744(a)).

(3) COORDINATION WITH SECRETARY OF STATE.—The Secretary shall coordinate the performance of the functions described in subsection (b)(3) with the Secretary of State. The corporation and other concerned Executive agencies shall provide the Secretary with such assistance, documents, and other cooperation as will enable the Secretary to carry out these functions.

(e) ADVISORY COMMITTEES AND INFORMAL CONSULTATIONS WITH INDUSTRY.—To the extent the Assistant Secretary deems it necessary to continue the Interdepartmental Radio Advisory Committee, such Committee shall serve as an advisory committee to the Assistant Secretary and the NTIA. As permitted by law, the Assistant Secretary may establish one or more telecommunications or information advisory committees (or both) composed of experts in the telecommunications and/or information areas outside the Government. The NTIA may also informally consult with industry as appropriate to carry out the most effective performance of its functions.

(f) GENERAL PROVISIONS.—(1) The Secretary shall issue such rules and regulations as may be necessary to carry out the functions assigned under this Act.

(2) All Executive agencies are authorized and directed to cooperate with the Secretary and to furnish the Secretary with such information, support and assistance, not inconsistent with law, as it may require in the performance of its functions.

(3) Nothing in this Act reassigns any function that is, on the date of enactment of this Act, vested by law or executive order in the Federal Communications Commission or the Department of State, or any officer thereof.

SEC. 5. REORGANIZATION.

(a) AUTHORITY TO REORGANIZE.—Subject to subsection (b), the Secretary may reassign to another unit of the Department of Commerce a function (or portion thereof) required to be assigned to the NTIA by section 4 of this Act.

(b) LIMITATION ON AUTHORITY.—The Secretary may not make any reassignment of a function (or portion thereof) required to be assigned to the NTIA by section 4 of this Act unless the Secretary submits to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a statement describing the proposed reassignment and containing an explanation of the reasons for the reassignment. No reassignment of any such function (or portion thereof) shall be effective until 90 legislative days after the Secretary submits to such Committees the statement required by this subsection with respect to such reassignment. For purposes of this subsection, the term 'legislative days' includes only days on which both Houses of Congress are in session.

SEC. 6. SPECTRUM MANAGEMENT ACTIVITIES.

(a) REVISION OF REGULATIONS.—Within 180 days after the date of the enactment of this Act, the NTIA shall amend its regulations to improve its spectrum management activities.

(b) REQUIREMENTS FOR REVISIONS.—The amendments required by subsection (a) shall—

(1) provide for a period at the beginning of each meeting of the Interdepartmental Radio Advisory Committee to be open to the public to make presentations and receive advice;

(2) include provisions that will require major policy proposals that are not classified and that involve spectrum management to be published in the Federal Register, and that the public be permitted adequate opportunity for review and comment;

(3) include provisions that will require that major policy decisions that are not classified and that involve spectrum management be published in the Federal Register;

(4) include provisions that will require that nonclassified spectrum management information be made available to the public, including access to electronic data bases;

(5) establish procedures that provide for the prompt and impartial consideration of requests for access to Government spectrum by the public, which procedures shall include provisions that will require the disclosure of the status and ultimate disposition of any such request.

(c) CERTIFICATION TO CONGRESS.—Not later than 180 days following the date of the enactment of this Act, the NTIA shall certify to the Congress that it has complied with the provisions of this Act.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the administration of the NTIA $18,719,000 for fiscal year 1992 and $25,000,000 for fiscal year 1993, and such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "NTIA" means the National Telecommunications and Information Administration;

(2) the term "Assistant Secretary" means the Assistant Secretary for Communications and Information of the Department of Commerce;

(3) the term "Secretary" means the Secretary of Commerce;

(4) the term "Commission" means the Federal Communications Commission; and

(5) the term "corporation" means the communications satellite corporation authorized in title III of the Communications Satellite Act of 1962 (47 U.S.C. 731-735).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers H.R. 3031, the NTIA Organization and Authorization Act of 1991, which was introduced by the gentleman from New Jersey [Mr. RINALDO], my good friend and colleague, the ranking minority member of the subcommittee.

This legislation would authorize $18.7 million for fiscal year 1992 and $25 million for fiscal year 1993, for the administration of the National Telecommunications and Information Agency.

The development of the telecommunications and information industry is essential to revitalizing the American economy. In Japan right now, they are targeting 20 to 24 percent of their gross national product to come from the telecommunications hardware and software sector by the year 2000. Similarly, in Japan, in Korea, in other countries around the world, there are concerted public-private sector programs which are in place and are working toward the goal of becoming the dominant world forces in telecommunications.

This is going to be a huge chunk of the gross national product, not only of our country but of the world. Unfortunately, we have not been as advanced in terms of our ability to coordinate and to ensure that there is a coherent vision of what we want to extract from this very important telecommunications sector.

The NTIA, as a part of the Department of Commerce, is at the cutting edge of our Government's, our Nation's attempt to give us a voice, to give us a plan as to what we are going to do. It was created in 1978. It has responsibility in international communications and information policy.

However, the NTIA was never given statutory authority by Congress, and has historically been subject to attempts at reorganization or even, believe it or not, elimination. To address this problem, this legislation would provide clear statutory authority for the NTIA, ensuring a permanent footing with other advisory agencies of the executive branch. The statutory organization provided through this legislation would not grant any new authority to NTIA, but it would guarantee its existence. Rather, as I said, we are just codifying existing structure.

In crafting the bill we have worked with the administration to answer some of the concerns which they raised about earlier versions. I think that we have addressed these questions. I feel confident that this legislation serves well the interests of this House in maintaining the NTIA as a critical voice in areas of telecommunications policy.

As the telecommunications industry increasingly becomes one of the core industries in our country, it is critical that we have at least one organization whose full-time mandate is the planning for where our country should be going in this very, very critical long-term industrial objective, and that is why I recommend this legislation to the House today.

I cannot at this point end my opening comments without praising the gentleman from New Jersey [Mr. RINALDO], whose long and hard work on this legislation has made it possible for us to bring a bipartisan piece of legislation to the floor today. We have worked with him, as well as with the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and the gentleman from New York [Mr. LENT], the ranking minority member, and I think we have put together a package here, working with all the other members of our committee, which will serve our country in the long term.

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Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support H.R. 3031, the NTIA organization and authorization bill. The bill provides authorizations of $18.7 million and $25 million for fiscal years 1992 and 1993, respectively.

The NTIA plays a crucial role in advising the administration on matters affecting telecommunications policy. For example, the NITA uses its expertise to issue recommendations for regulatory change. In addition, the NTIA conducts comprehensive studies of changes in the telecommunications marketplace. One such study, titled "Telecommunications in the Age of Information," was recently released. This NTIA study has been and will be an invaluable source to the Subcommittee on Telecommunications and Finance as it proceeds with consideration of important infrastructure-related issues. Overall, the study is a very useful tool. In reauthorizing the NTIA, Congress can ensure that it will have the benefits of other studies in the future.

The NTIA also plays an important role in the international telecommunications arena. Along with the FCC and the State Department, the NTIA is a member of a tripartite delegation that represents U.S. interests in international telecommunications negotiations.

In addition to reauthorizing the NTIA, H.R. 3031 would provide the NTIA with statutory authority. Prior to 1978, telecommunications policy in the executive branch was spearheaded by two agencies: the White House Office of Telecommunications Policy and the Department of Commerce's Office of Telecommunications.

In 1978, the Carter administration issued an Executive order that combined the functions of both of those agencies into one agency, the NTIA. Recently, the NTIA has been subject to an internal attempt to reorganize it. Had that attempt succeeded, the importance of the NTIA might have ultimately been downgraded within the Commerce Department.

The NTIA has been an effective voice within the executive branch for formulating and advancing U.S. telecommunications policy. This amendment will guarantee that it remains that way.

Mr. Speaker, I would like to commend Messrs. DINGELL, LENT, and MARKEY for their leadership on this issue. I, again, urge my colleagues to support the legislation that I am offering today.

Mr. MARKEY. Mr. Speaker, I presently have no further requests for time, and I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LENT], the ranking minority member of the full committee.

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 3031, the NTIA organization and authorization bill, and urge my colleagues to do the same. The bill provides for authorization of $18.7 million and $25 million in fiscal years 1992 and 1993, respectively.

The authorization levels are reasonable increases for an agency that has been an important voice within the executive branch for formulating telecommunications policy.

I also strongly support the language which codifies the 1978 Executive order which created the NTIA. The NTIA has existed since its creation without statutory authority. In fact, there have been efforts in the past to reorganize the agency in a manner that would have seriously downgraded it.

For example, under one reorganization plan, the NTIA would have lost its direct access to the Secretary and instead would have reported through the Under Secretary for Technology. This amendment will give the NTIA the statutory authority it needs and deserves.

Once again, I urge my colleagues to join me in supporting H.R. 3031.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first of all, I want to commend the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], and the ranking member, the gentleman from New Jersey [Mr. RINALDO].

This is a good bill. It deserves our support. It basically deals with an agency that is doing an excellent job in trying to bring some cohesion and coordination to the very fragmented telecommunications segments all over this country that are growing by leaps and bounds, but that are also extremely dependent on investment.

I am speaking as someone who has sponsored a bill to stimulate the formulation of telecommunications infrastructure I am talking about the possibilities of a telecommunications highway of the future, fiber-optic in nature, connecting the satellites and other non-wire-line systems. The potential is enormous.

NTIA, the National Telecommunications Administration, gives us some ability to coordinate our efforts.

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capital to start these industries and

tive with the rest of the world and have

Mr. RINALDO. Mr. Speaker, if the

Kansas [Mrs. MEYERS] heard one of the

Mr. Speaker, I yield such time as he

VOL 137 PT 23 NO 21—25 1991 UMI

Now, all of this is for naught unless we can supply this industry, unless we can supply the community out there, the business people and employers, with investment, with capital. I mean, we are talking about the industries I mentioned, and we are talking about computers, talking about the new personal communications networks, we are talking about cable, and we are talking about investment.

Our bill, the Republican bill to promote economic growth, has a series of investment incentives in startup, in capital formation—incentives to save, so that small business and medium-size business can really get some of these new technologies off the ground.

This is where the jobs are going to come from. You can have, and I will close, you can have all the telecommunications policy you want, but if you do not have investment capital out there, you do not have growth; you do not have jobs.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF.]

Mr. SCHIFF. Mr. Speaker, I rise also in support of H.R. 3031.

I have the privilege of serving on the Telecommunications Oversight Committee of the Committee on Government Operations, and I know the difficulties we have still after the breakup of AT&T, having a coordinated telecommunications policy.

I think the NTIA can add greatly to resolving their problems. However, I would also add, like the previous speaker did, that telecommunications is part of a strong economy, but if we are going to develop a telecommunications industry in this country, a stronger telecommunications industry, they must have the purchasers of their equipment. That means taking measures to develop small business and medium-size business and large business that will use the equipment and use the services which is why, I believe, we should also be considering further growth legislation on the House floor.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to come to the well and commend the efforts of the chairman and the ranking member on bringing this bill to the floor and seeing that it is swiftly acted upon.

I wish we could be doing the same thing today, as we have mentioned before, with an economic growth package.

What we are talking about here is high technology, venture capitalism at its finest, in the area of high-technology industries. These are usually very small companies that start out with seed capital and venture capital, and then which need some investment capital to start these industries and take them and grow with them.

This is an important, vital part of not only increasing communications capabilities within this country but it is an important part of just a whole small-business growth related here in this country.

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It is crucial that we look at these small businesses, these venture capitalists and do something to help their industry.

There is, oddly enough, in this economic growth package that we have been talking about today something specifically targeted for these very small, very important industries in our country, the venture capitalists. There is a 50-percent capital gains startup reduction for the sale of a startup venture held for 5 years.

Now, that is a very important part of this proposal which gets directly at the heart of an industry which is going to make us competitive with the rest of the world. In fact, we are far out in front in the area of this type of technology with most countries around the world, and we need to do something here on the House floor today or sometime before we leave for Thanksgiving to encourage that kind of capitalism, to give our competitive edge back to American industry so we can compete with Japan, so we can compete with Germany. This economic growth package not only, as I have spoken before, does it do things for the middle class in the area of giving them a deduction for interest on their savings accounts——

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Pennsylvania has expired.

Mr. RINALDO. Mr. Speaker, I yield 30 additional seconds to the gentleman.

Mr. SANTORUM. Not only, Mr. Speaker, does it do something for the middle class which is absolutely important, in fact I would not be here supporting this package if this did not do substantive tax relief for middle income Americans, but it also directly pinpoints targets, specific targets, industries in this country which will make us competitive with the rest of the world.

If there is anything I am hearing from the people back home is that they are sick and tired of losing the economic battle to Japan and Germany.

This proposal, this growth package, will help our competitiveness, and I urge its adoption before we leave here for Thanksgiving.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

As I understand what we are doing here is trying to make our information systems in this country more competitive with the rest of the world and have a coordinated policy that will assure that.

I think that is probably a very, very wise investment for our future. There is no doubt that the rising economy of the future is going to be some kind of postindustrial economy and it is going to be at least partially information based, if not wholly information based. This is something which should contribute to that in a policy sense.

So I hope that this is the kind of action that we will continue to take that focuses on what the real economic drivers of the future are, where jobs are going to be created in the future; but it seems to me that you need more than creating an agency to coordinate policy. You need to have fundamental values within society that move us in the appropriate direction, and since the gentlemen here on the floor are people who are really the experts in this field, I just have a couple questions.

For example, in the economic growth package that has been talked about earlier today, one of the things which is in there is expensing of capital investments. This is an idea, for instance, that would allow up to $10,000 of expensing of certain depreciable business assets, such as machinery and other equipment for small- and medium-sized businesses.

Now, when you are talking about information technology, would that not indeed add to the ability of a business to be created and to be sustained that is in the information field?

Mr. RINALDO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. RINALDO. My initial reaction, Mr. Speaker, would be that it certainly would be very helpful.

Mr. WALKER. Mr. Speaker, I thank the gentleman, because it is important to recognize that while we may do this component of an information society, it does not do us any good if we do not provide the capital in society in order to move forward. This particular part of the growth package would assure that those businesses that are getting into the information field can in effect purchase capital, expense it against their taxes, and thereby create jobs. It seems to me that is an appropriate kind of step to take, one that evidently we are going to be prevented from taking in this session of Congress.

What about this particular provision. We would encourage entrepreneurial investments by excluding by taxation 50 percent of the profit from any sale of investment held for more than 5 years. Does it not strike the gentleman that if in fact you get small entrepreneurial firms out there that grow to the point that entrepreneurs want to get out and allow them to create, allow them to grow, that this would also help people get interested in going into this brandnew field?

Mr. RINALDO. Mr. Speaker, if the gentleman will yield, I think the gentleman is absolutely correct; but I think the gentleman has to bear in mind that while it would help and it would help in the telecommunications field, the responsibility for the recession, for what is taking place and for the downturn, really in my view rests with this Congress.

When we passed the Tax Reform Act in 1986, which I can say without any hesitation I am proud that I did not vote for, we based that legislation on the faculty premise that every deduction was a loophole.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. RINALDO. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. RINALDO. We built it on the faulty premise that every deduction was a loophole. I was in favor of getting rid of loopholes. We got rid of the loopholes. But when we got rid of every single deduction, we also got rid of all the incentives for growth, for job creation, and for moving this economy forward again. I think that is what we really should address, putting some of those incentives back into the Tax Code where they belong so that the entrepreneurial spirit in this country can again rev up the engines of our economy.

Mr. WALKER. Mr. Speaker, as the gentleman knows, we do that in this particular economic growth package by the reform of passive loss rules that was one of the major things that we did wrong in 1986, and with things like the 50-percent capital gains exclusion on venture capital.

So it seems to me this is precisely going in the direction that would improve our ability to continue to move ahead in this very, very important economy of the future; namely, the information economy.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to my colleague, the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding to me.

I would like to add that when the Democrats couch the investment debate in terms of tax breaks for the rich, and couch this whole debate in a rich versus poor, class warfare context, they create more poor. They do not allow people to get rich. They stem the tide of economic growth and they create exactly the kind of stagnant economy that this economic growth package seeks to emerge from.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his observations.

Mr. Speaker, one of our colleagues a little while ago, the gentlewoman from Kansas [Mrs. MEYERS] heard one of the Democrats on the floor say, "What is in your package for the middle class?".

She said, "I have an answer for that. A job."

She said that what is in this package is 1½ million jobs for Americans, which means that what they get is really almost like winning the lottery out of this package. They get a $25,000 a year job, which means they can sustain their families. That is something very important to get out of the package and that is something of which we ought to be well aware.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has again expired.

Mr. RINALDO. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, for the middle class, there is the IRA plus.

For the middle class, there is no penalty for IRA withdrawal for first-time home buyers. I mean, that is what we need to help get this real estate market off its back.

For the middle class, there are interest and dividend exemptions on their taxes up to a certain level. These exemptions are available to the middle class only, not the rich.

I just wanted to make very clear that there are a whole host of pro-middle-class aspects to this; but the gentleman is absolutely right. If the economy as a whole does not improve, you could have all the little Federal program giveaways that the Democrats are interested in, and they will do nothing. If people are unemployed, they are really in trouble, and the Government programs only provide subsistence at that point. We need jobs.

Mr. WALKER. Welfare for people who are unemployed and deficit spending is not exactly what is going to get this economy going.

Mr. RINALDO. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I just want to say that when I took the floor I knew this was an important bill, but its significance, as evidenced by the debate, transcends even my fondest imagination.

PARLIAMENTARY INQUIRY

Mr. MARKEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman may state his parliamentary inquiry.

Mr. MARKEY. Mr. Speaker, can the Chair remind me again which bill is before the House at this point?

The SPEAKER pro tempore. The subject of the bill is the NTIA Organization and Authorization Act.

Mr. MARKEY. Mr. Speaker, I thank the Chair. I forgot.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, since I have been a cosponsor and a prime sponsor of some of the legislation that is included in your growth package, I think it is only fair that I speak today so that we do not rewrite history.

There has been a great deal of criticism in this body about the actions we have taken back in 1986.

Well, some of the Members I know were not there in 1986, so I want to explain to you so that you will not be saying that is the people on this side of the aisle that did something to you in the 1986 tax package.

In 1986, the Ways and Means Committee brought to this floor, which was supported by this side of the aisle and that side of the aisle, a tax bill that reduced the top rate from 50 percent to 37 percent, if I recall correctly.

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But it left the differential in capital gains, it left the differential in capital gains in the bill. It did not do anything with passive losses. This side of the aisle did not do anything with it. We left it just like it was.

We left the IRA's in. Now, these are the three things that are in your growth package.

When we passed the bill, we sent it over to the other body, and the chairman of the committee of the other body was a Republican. And the Republican President supported a Republican chairman of the Committee on Finance to change what? To do what? To lower the rate below the 37 down to 33 and do away with capital gains differential. And that is what they did in the other body. And the chairman of the other committee, who was a Republican, from the other side of the aisle, brought the passive loss rules that the gentleman is complaining about. They put them in the bill. And they did away with the IRA's.

Now let us not rewrite history. I just want to tell you, if we are going to debate the growth package, where it started. It is not the fault of this institution here. It came from the other body.

So you ought to commence your complaints with the Republican leadership that was in power at that time, with a Republican President that insisted that we do the things that you now complain about.

Mr. RINALDO. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I think the gentleman from Georgia [Mr. JENKINS], a very distinguished member of the Committee on Ways and Means, makes a compelling argument for immediately enacting our economic growth package. Without laying blame at the feet of anyone as to what hap-

VOL 137 PT 23 NO 21—25 1991 UMI

pened in the past—and there were plenty of votes on both sides of the aisle to do away with loopholes, and Democrats were just as enthusiastic as Republicans—let us admit we may have made a bit of a mistake. Let us take what we have on the table here on this side of the aisle and correct some of the problems that the gentleman from Georgia so eloquently described, and then go forward and start creating jobs and incentives so that the NTIA, this very able agency in the Department of Commerce, with jurisdiction over telecommunications, headed very ably by Mrs. Janice Obuchowski, has some business and industry and jobs to deal with when they are making policy.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume just to again praise the gentleman from New Jersey [Mr. RINALDO].

Telecommunications is absolutely the cutting edge issue of the next generation. The Japanese are working with their secretary of posttelecommunications, as are the Germans, the Koreans, and others. In many ways this issue is raised in the context of a tragedy which has come across our country in the 1980's, which is that the total private debt in our country has risen from $4.4 trillion in 1981 of $9.6 trillion today.

That $9.6 trillion of private debt, which unfortunately is directly related to tax policies which were on the books, to banking policies which did not properly monitor the dispensing of credit in our economy throughout the 1980's, has left our economy without the discretionary income today or the willingness on the part of the private sector to further indebt themselves, which has given the Japanese, given the Germans and given others a real competitive advantage.

The microcosmic, although I would have to say that is probably not the right word, but the best example is probably the RTC, which we are going to be voting on in the next couple of days. The RTC is really another word for a funeral home. It is a funeral home for every failed commercial real estate tower, every condo, every hostile takeover that went awry, every junk bond that the unwilling taxpayer unknowingly became a cosignator to.

So the money instead of going into telecommunications, instead of going into biotech, went into these seductive deals, that big-time bankers, working with their Federal regulators, were able to pass by and, now, through to the taxpayers.

So this terrible, terrible debt definitely is a burden; $9.6 trillion debt, as you know, dwarfs the $3 trillion worth of public debt which we have run up. It is the hidden story in our economy.

The tax policies drove it; the regulators turned a blind eye, and we now will reap the whirlwind through the next decade.

NTIA is an agency, small agency, a glimmer of hope that we can work with to perhaps give a new direction to our country to invest in the kinds of industry that will produce the jobs in the next generation because otherwise we are going to be looking over our shoulders at the Japanese, at the Germans and others as they come up to us and pass us by.

We are still first, no question about it. But with the debt we have saddled the private sector with in the 1980's, without getting any new productivity out of it, we are facing the prospects of them becoming first, second and by the year 2000, third.

I am afraid that without some serious addressing of the private sector debt, represented by the RTC and the BIF fund that we vote here today and over the weekend that we will never see the full blooming of the telecommunications industry to the extend I would have hoped possible.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Kansas.

Mr. SLATTERY. I thank the gentleman for yielding.

I, too, would like to join in commending the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] for bringing this legislation before us today.

I would also like to draw my colleagues' attention to another piece of legislation which, in my judgment, is very important. For those who are concerned about creating jobs in this country, I think it will go a long way toward helping create jobs in the telecommunications manufacturing industry, and that is House Resolution 1527, which will empower the regional Bell operating companies in this country to get involved in the business of manufacturing telephone equipment.

Under existing law, as the gentleman knows, the telephone companies are barred from such activity. The legislation that I have introduced has been joined by nearly 100 other colleagues in cosponsoring, and it would change that, it would make clear that our telecommunications giants can in fact compete against the global giants in the manufacturing of telephone equipment.

I hope that before this session of the Congress ends, we will be able to advance that legislation. I know the gentleman from Massachusetts and the gentleman from New Jersey are interested in this. I look forward to working with them.

Beyond that, if the gentleman would yield further, there has been a lot of talk today about economic growth incentives for the economy and that sort of thing. One of the things that has not been discussed very thoroughly out on the floor in this regard is what has happened to interest rates in the last year or 18 months.

I would submit to my colleagues that the dramatic drop in interest rates is going to provide this economy more economic growth stimulus, which is desperately needed, than all of the economic growth legislative changes that have been talked about here on the floor.

Just so my colleagues understand, you know when you drop the interest rates 2 percentage points, on $10,000, that is $200 a year. On $100,000 that is $2,000 a year. On $1 million, a 2 percentage point drop in the interest rate amounts to a $20,000 incentive, or a reduction in the cost of money.

It is an enormous stimulus. I think when you look at what effect it has on just a $50,000 home mortgage, a 2-point drop in the interest rate is $1,000 in the pockets of all of those home buyers every year. I submit to my colleagues that that kind of economic stimulus is going to provide more encouragement for growth in our economy than all of the proposals that have been discussed on the floor of the House today.

So I happen to be optimistic about next year's economy, with these lower interest rates, and they have been the lowest in a decade. I hope the entrepreneurs of this country are going to, hopefully, take advantage of these lower interest rates, make the investments that we desperately need to create the jobs that are needed in this economy to get our country moving again.

So I do not think we can overlook the cost of capital when we talk about stimulating this economy. The cost of capital today is at the lowest point it has been in more than a decade. Hopefully, it will really stimulate the economy after the first of the year.

I think we have to take that in consideration as we talk about economic growth policy changes.

I again thank my friend from Massachusetts for his leadership, and my friend from New Jersey for bringing this legislation to the floor today, and I look forward to working with both of them in advancing 1527 and similar legislation after the first of the year.

Mr. MARKEY. Mr. Speaker, reclaiming my time, just to make this point on the banking bill, which is constantly referred to here, perhaps the vehicle to deal with this economic growth package: We are meeting with the Secretary of the Treasury, and were, until 10 or 10:30 last night. He is often times referred to as the chief economic representatives of the President of the United States, in this instance, George Bush. I can tell you that in a day long negotiation with the Secretary of the Treasury, he never raised this economic growth package.

I do not know whether that means that the President does not know any-

thing about it or that he does not support it, but just for the record, it was never mentioned as part of the banking bill negotiation all late last night or today. And in fact, we find it quite curious that it is raised on the final weekend, if it is such an important message, and that the Secretary of the Treasury would not mention it.

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So, Mr. Speaker, we appreciate very much the unrelated subjects that were raised by many of the Members here today. But they have nothing to do with the NTIA, and, as far as we can tell on negotiations or conversations with high ranking administration officials, they are meant to in any way impinge upon other business which the Committee on Energy and Commerce is working on.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding to me.

First of all, I want to commend him. He is an excellent leader of the Subcommittee on Telecommunications and Finance, and I truly enjoy working with him, and we have a lot of interests in common, one of which though is not the way the banking bill came out of this Democratic controlled House.

The Democratic-controlled House, for all America to hear, has absolutely gutted a decent banking bill that was sent up by the administration. It has gutted banking reform. It has brought to——

Mr. MARKEY. Mr. Speaker, I want to reclaim my time. I thank the gentleman from Pennsylvania [Mr. RITTER]. I appreciate that very much.

Again these are unrelated subjects. The banking bill will be brought out here on the floor. We can have a debate on the banking bill. The Democrat position is that, without safeguards, without firewalls, without protections for investors, for the depositors, for taxpayers, we are going to see 1 trillion dollars' worth of taxpayer money bailing out hostile takeover, junk bond deals, all the rest of the crazy financial chicanery that went on in the 1980's when credit became a narcotic in the hands of the Federal regulators and bankers of this country's S&L presidents.

So, Mr. Speaker, that is a subject for another day. That day is coming up in another 48 hours.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3011, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TOURISM POLICY AND EXPORT PROMOTION ACT OF 1991

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3645) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the International Travel Act of 1961 (22 U.S.C. 2121 and following).

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States,

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product,

(3) travel and tourism expenditures last year were approximately $327 billion;

(4) in 1990, the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly,

(5) 39 million international visitors spent approximately $52.8 million in the United States last year,

(6) travel and tourism services ranked as the largest United States export in 1989,

(7) many local communities with significant tourism potential are unable to realize the economic and employment opportunities that tourism provides because they lack the necessary local resources and expertise needed to induce tourism trade,

(8) increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors,

(9) foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border,

(10) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States,

(11) exporting those goods and services which United States industry can produce at a comparative cost-advantage, such as travel and tourism services, will be in the Nation's long-term strategic interest, and

(12) the emergence of democratic governments in the formerly Communist nations of Eastern Europe provides new opportunities for United States firms engaged in both the inbound and outbound tourism markets.

SEC. 3. POLICY CLARIFICATIONS.

(a) NATIONAL TOURISM POLICY.—

(1) Section 101(b)(1) (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;".

(2) Section 101(b) (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (6) through (16), respectively, and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which—

"(A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and

"(B) have the potential necessary to support and sustain an economy based on tourism;

"(5) promote increased and more effective investment in international tourism by the States, local governments, and cooperative tourism marketing programs;".

(b) DUTIES OF SECRETARY OF COMMERCE.—

(1) Section 201 (22 U.S.C. 2122) is amended—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively,

(B) in paragraph (3), as so redesignated, by striking out "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;",

(C) by inserting immediately after paragraph (1) the following:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;", and

(D) by striking out "and" at the end of paragraph (6) (as so redesignated), by striking out the period at the end of paragraph (7) (as so redesignated) and inserting "; and", and by adding after such paragraph (7) the following:

"(8) advise and provide information and technical assistance to United States firms seeking to facilitate travel to and from the emerging democracies of Eastern Europe and compile statistics regarding such travel.".

(2) Section 202(a)(9) (22 U.S.C. 2123(a)(9)) is amended by striking out "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 (22 U.S.C. 2123) is amended by adding at the end the following:

"(e) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501

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onstrates to the satisfaction of the Secretary "(1) the number of written inquiries re- velopment who shall be drawn from, and

VOL 137 PT 23 NO 21-25 1991 UMI

and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEAL.—Section 203 (22 U.S.C. 2123a) is repealed.

(e) TOURISM POLICY COUNCIL.—

(1) Section 302(b)(1) (22 U.S.C. 2124a(b)(1)) is amended—

(A) by redesignating subparagraphs (H) and (I) as subparagraphs (O) and (P), and

(B) by inserting immediately after subparagraph (G) the following:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;

"(L) the Commissioner of the Immigration and Naturalization Service;

"(M) the President of the National Railroad Passenger Corporation;

"(N) the Commissioner of Customs;".

(2) Section 302(d) (22 U.S.C. 2124a(d)) is amended by adding at the end the following:

"(4)(A) Every year, upon designation by the Secretary in accordance with subparagraph (B), up to 3 Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

SEC. 4. TOURISM TRADE DEVELOPMENT.

(a) ANNUAL PLAN.—

(1) Section 202(a)(15) (22 U.S.C. 2123(a)(15)) is amended by striking out "marketing" and inserting in lieu thereof "tourism trade development".

(2) Section 202 (22 U.S.C. 2123), as amended by section 3(c), is amended by adding at the end the following:

"(f)(1) The Secretary's tourism trade development efforts shall focus on markets which have the greatest potential for increasing travel and tourism export revenues.

"(2)(A) The Secretary shall carry out a generic promotion program which shall be the only direct marketing activity in which the Secretary shall be engaged under this Act. In addition to generic promotion, the Secretary shall carry out tourism trade development efforts pursuant to subparagraphs (B) through (E).

"(B) By March 31 of each year, the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 6 months after the notice is published.

"(C) Within 3 months after the notice is published under subparagraph (B), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in subparagraph (B). The selection shall be announced by publication in the Federal Register.

"(D)(i) At the same time the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions of States, cooperative tourism marketing programs, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. The Secretary shall award grants to carry out proposals submitted under this subparagraph. Such grants shall be awarded no later than 6 months after the notice is published under subparagraph (B).

"(ii) The total amount of grants awarded under clause (i) by the Secretary shall—

"(I) in fiscal year 1993, be not less than 35 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year, and

"(II) in subsequent fiscal years, be not less than 40 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

"(E)(i) During the 12-month period described in subparagraph (B), the Secretary shall carry out generic advertising and other tourism trade development efforts directed at the markets selected under subparagraph (C).

"(ii) To reinforce the efforts carried out under clause (i), the Secretary shall establish tourism trade development offices in foreign locations appropriate for the markets selected under subparagraph (C).

"(3) The Secretary shall evaluate the effectiveness of the efforts carried out under paragraph (2)(E) and, not later than one year after the end of the 12-month period described in subparagraph (B), shall report to Congress on the results of the evaluation.".

(b) ADVISORY BOARD.—

(1) Section 303(a)(3) (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking out "and",

(B) in subparagraph (B), by striking out "one shall be a representative of the States who is" and inserting in lieu thereof "two shall be representatives of the States who are" and by striking out the period at the end and inserting in lieu thereof "; and", and

(C) by adding at the end the following:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) (22 U.S.C. 2124b(b)) is amended by striking out "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years in the aggregate".

(3) The first sentence of section 303(f) (22 U.S.C. 2124b(f)) is amended—

(A) by striking out "and" and inserting in lieu thereof a comma, and

(B) by inserting immediately before the period at the end the following: ", and when the plan is submitted to the Congress, shall send to the Congress by separate communication the comments of the Board on the plan".

(c) CONFORMING AMENDMENTS.—

(1) Section 204 (22 U.S.C. 2123b) is amended by striking out "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 303(f) (22 U.S.C. 2124b(f)) is amended—

(A) by striking out "Marketing" and inserting in lieu thereof "Trade Development", and

(B) by striking out "marketing" and inserting in lieu thereof "tourism trade development".

SEC. 5. TOURISM TRADE BARRIERS.

Title II is amended by adding at the end the following:

"SEC. 205. (a) For calendar year 1991 and each succeeding calendar year, the Secretary shall—

"(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports,

"(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1), and

"(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

"(b) On or before March 31, 1992, and March 31 of each succeeding calendar year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).".

SEC. 6. ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS.

Title II, as amended by section 5, is amended by adding at the end the following:

"SEC. 206. (a) The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States.

"(b) The Secretary shall, within one year of the date of the enactment of this section, report to the Congress on efforts undertaken under subsection (a) to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.".

SEC. 7. GRANTS FOR LOCAL, STATE, AND REGIONAL TOURISM.

Title II, as amended by section 6, is amended by adding at the end the following:

"SEC. 207. (a)(1) The Secretary may make grants to cooperative tourism marketing programs under the authority of section 202(f) and this subsection.

"(2) To be eligible for a grant under paragraph (1) a cooperative tourism marketing program shall, at a minimum—

"(A) involve the participation of—

"(i) two or more States, or

"(ii) one or more States and one or more local governments,

"(B) be established for the purpose of increasing the number of foreign visitors to the region in which such States or local governments are located, and

"(C) have a written regional tourism marketing plan which includes advertising, publication of promotional materials, or other promotional or market research activities designed to increase the number of foreign visitors to such region.

"(b) A grant made under subsection (a) may be used for the purpose of—

"(1) promoting or marketing to foreign visitors or potential foreign visitors the tourism and recreational opportunities in the region for which such grant is sought,

"(2) targeting foreign visitors to develop or enhance their interest in tourism and recreational opportunities in such region, or

"(3) encouraging the development by such cooperative tourism marketing program of regional strategies for international tourism promotion and marketing.

"(c) A grant may be made under subsection (a) if the applicant for the grant demonstrates to the satisfaction of the Secretary that the grant will be used for a purpose described in subsection (b) and that—

"(1) such cooperative tourism marketing program for which the grant will be made will increase the travel of foreign visitors to the region for which the grant is sought,

"(2) such program will contribute to the economic well-being of such region,

"(3) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions in such region, and

"(4) such program will focus its efforts on those countries identified by the Secretary under section 202(f) as having the greatest potential for increasing travel and tourism export revenues in the applicable fiscal year.

"(d) In connection with a grant under subsection (a), a cooperative tourism marketing program may enter into agreements with individuals and private profit and nonprofit businesses and organizations who will assist in carrying out the purposes for which such grant is made. Such an agreement shall be disclosed in any application for a grant under subsection (a) and such an application may be approved by the Secretary only if the Secretary finds that such agreement meets all applicable legal requirements and is consistent with the purposes of this Act.

"(e) The Secretary may issue such rules and guidelines as may be necessary to carry out subsections (a) through (d).

"(f)(1) In fiscal years 1993 and 1994, the Secretary shall undertake on an annual basis at least 5 demonstration projects in geographically distinct regions of the United States with underutilized tourism potential to help develop tourism marketing programs in such region.

"(2) Demonstration projects under paragraph (1) shall use such resources as the Secretary shall make available to help identify and develop potential tourism attractions that the Secretary determines may be of interest to foreign tourists. In connection with such a project, the Secretary shall work with local units of government and other public and private entities to develop specific plans of action to—

"(A) identify local opportunities for inducing foreign tourism,

"(B) identify those foreign countries where there may be a significant interest in potential tourism attractions, and

"(C) develop and promote specific tourism marketing programs directed at likely foreign tourist groups using such resources both in this country and abroad as the Secretary may have available.

"(3) The expenditures for demonstration projects under paragraph (1) year shall in fiscal years 1993 and 1994 be not less than 3 percent of the amount appropriated in such fiscal year to the Secretary to carry out this Act.".

SEC. 8. PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

Title II, as amended by section 7, is amended by adding at the end the following:

"SEC. 208. (a) Beginning with the tourism trade development plan for fiscal year 1992 which is submitted to Congress under section 202(a)(15) and annually thereafter, the Secretary shall set forth in such plan the goals of the United States Travel and Tourism Administration, established under section 301, for the applicable forthcoming fiscal year, including quantifiable measures on which such Administration's performance can be evaluated. At a minimum, such goals shall include—

"(1) the number of written inquiries regarding the possibility of foreign travel to the United States expected to be generated by the efforts of the Secretary and of other persons receiving grants under this title,

"(2) the number of tour packages for foreign visitors to the United States expected to be sold in connection with the efforts of the Secretary and of other persons receiving grants under this title, and

"(3) the number of tourists from countries identified under section 202(f) expected to visit the United States destinations being promoted in such countries (including the number of international arrivals expected at gateway airports) in connection with the efforts of the Secretary and of other persons receiving grants under this title.

"(b) Beginning with the tourism trade development plan for fiscal year 1993 which is submitted to Congress under section 202(a)(15) and annually thereafter, the Secretary shall report in such plan the degree to which the goals set forth in the plan for the prior fiscal year have been attained. At a minimum such report shall include—

"(1) the number of written inquiries regarding the possibility of foreign travel to the United States actually received by the Secretary and by other persons receiving grants under this title,

"(2) the number of tour packages for foreign visitors to the United States actually sold in connection with the efforts of the Secretary and of other persons receiving grants under this title, and

"(3) the number of tourists from countries identified under section 202(f) that actually visited the United States destinations being promoted in such countries (including the number of international arrivals expected at gateway airports) in connection with the efforts of the Secretary and of other persons receiving grants under this title.

"(c) The Secretary shall collect from persons receiving grants under this title such information as may be necessary to enable the Secretary to comply with subsections (a) and (b). The Secretary may condition the making of any such grant on the agreement of the recipient to provide such information to the Secretary at such times and in such manner and form as the Secretary deems appropriate.

"(d) The Secretary shall, from time to time, conduct—

"(1) surveys of foreign tourists visiting the United States from countries identified under section 202(f), and

"(2) advertising effectiveness studies in such countries,

to evaluate the effectiveness of the program described in section 201(1).".

SEC. 9. COORDINATION.

Section 301 (22 U.S.C. 2124) is amended by adding at the end the following

"(c) The Under Secretary of Commerce for Travel and Tourism shall continue to seek the assistance of the United States and Foreign Commercial Service as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

SEC. 10. ADMINISTRATION.

(a) DEPUTY UNDER SECRETARY.—Section 301(a) (22 U.S.C. 2124(a)) is amended—

(1) by striking out the third and fourth sentences,

(2) by inserting "(1)" and "(a)", and

(3) by adding at the end the following:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development,

"(B) directing and managing field operations,

"(C) directing program evaluation research and industry statistical research,

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in development of strategies for expansion of tourism trade,

"(E) developing a new program to provide financial assistance in support of non-Federal tourism trade development activities that complement efforts by the Secretary under section 202(f), and

"(F) perform such other functions as the Under Secretary may assign.".

(b) REGIONAL OFFICES.—Section 301(b) (22 U.S.C. 2124(b)) is amended to read as follows:

"(b)(1) There shall be 3 regional offices of the United States Travel and Tourism Administration which shall be based in, and responsible for, the following respective geographical areas:

"(A) Europe and Africa.

"(B) Asia and the Pacific Region.

"(C) North America, South America, and the Caribbean region.

"(2) Each such regional office shall monitor and direct the activities of—

"(A) the tourism trade development offices within the region as established under section 202(f), and

"(B) the country offices within the region that are responsible for mature markets.

For purposes of this paragraph, the term 'mature market' means a market in which the United States receives either more of the long-haul, outbound tourism traffic than any other country or as much of such traffic as reasonably can be expected under the circumstances.".

(c) LIMITATION ON CERTAIN EXPENDITURES.—Section 301 (22 U.S.C. 2124), as amended by section 9, is amended by adding at the end the following:

"(d) The expenditures for administrative expenses, including salaries and other overhead expenses, and for demonstration programs authorized under section 207, shall not exceed—

"(1) in fiscal year 1993, 45 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year, and

"(2) in subsequent fiscal years, 40 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.".

SEC. 11. TOURISM DEVELOPMENT STUDY.

(a) REQUIREMENT TO ASSEMBLE INFORMATION.—The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.

(b) STUDY.—The Secretary of Commerce shall conduct a study regarding—

(1) economic effects associated with the public identification and promotion of scenic travel as a tourist attraction,

(2) techniques for incorporating scenic travel into tourism development programs,

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall transmit to the Congress a report on the information assembled under subsection (a) and the results of

VOL
137
PT
23
NO
21
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25
1991
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the study conducted under subsection (b), including any recommendations based on that study.

SEC. 12. MONTHLY STATISTICAL REPORT.

Not later than January 1, 1992, the Secretary of Commerce shall publish on a monthly basis the statistical report on United States international travel receipts and payments published in the document known as "The Survey of Current Business", prepared by the Bureau of Economic Analysis within the Department of Commerce.

SEC. 13. TRAVEL BY DISABLED PERSONS.

The Secretary of Commerce shall, within 18 months of the date of the enactment of this Act, report to the Congress on activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons.

SEC. 14. RURAL TOURISM DEVELOPMENT FOUNDATION.

(a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—

(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors,

(2) development of educational resources to assist in private and public rural tourism development, and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—

(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first 2 years shall consist of 9 voting members, and

(ii) thereafter shall consist of those 9 members plus up to 6 additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within 6 months after the date of enactment of this Act, appoint the initial 9 voting members of the Board and thereafter shall appoint the successors of each of 3 such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least 1 shall have experience in resource conservation, at least 1 shall have experience and expertise in financial administration in a fiduciary capacity, at least 1 shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least 1 shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least 1 shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of 6 years, except that—

(i) initial terms shall be staggered to assure continuity of administration,

(ii) if a person is appointed to fill a vacancy occurring before the expiration of the term of the person's predecessor, that person shall serve only for the remainder of the predecessor's term, and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditures other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(h) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(i) ADMINISTRATION.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(j) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(k) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(l) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(m) DEFINITIONS.—As used in this section—

(1) the term "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)),

(2) the term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)),

(3) the term "local government" has the meaning given that term in section 3371(2) of title 5, United States Code, and

(4) the term "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(n) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) (22 U.S.C. 2123(a)) is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

SEC. 15. STATISTICAL REPORTS.

(a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of the enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the Secretary's efforts under section 201(8) of the International Travel Act of 1961, including statistics regarding the inbound and outbound tourism trade between the United States and emerging democracies of Eastern Europe. Such statistics shall include the number of inbound and outbound tourists, receipts from, and expenditures by, such tourists and number of tourists traveling into and out of Eastern Europe on American carriers.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

Section 304 (22 U.S.C. 2126) is amended—

(1) in the first sentence, by inserting immediately before the period the following: ", not to exceed $18,000,000 for fiscal year 1993, not to exceed $19,000,000 for fiscal year 1994, and not to exceed $20,000,000 for fiscal year 1995", and

(2) by striking out the last two sentences.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, the list I have before me indicates that this particular issue is being taken up out of order that was given to the minority. Does that mean that we are now moving the bills around?

The SPEAKER pro tempore. These next several bills are all within the jurisdiction of the same committee. The committee has made this change in the order with the concurrence of the leadership.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Further, Mr. Speaker, I would suggest this was cleared with the minority of the committee prior to bringing up the legislation.

Mr. WALKER. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, we were assured that we were going to be given notice, not only within the committees, but on the House floor, of these kinds of changes and of these kinds of situations. I was not familiar with that.

Mr. Speaker, I do not see a particular problem with it, but it would be helpful if we could take things up in the order that they were put on the calendar.

The SPEAKER pro tempore. The Chair would state to the gentleman from Pennsylvania for his information that, as far as the Chair is aware, this is the only change that has been made.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I would say again that it was expressly discussed and cleared with the ranking Republican of the full committee and the ranking Republican of the subcommittee. The other side was informed.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I would just like to affirm that. The gentleman from Washington [Mr. SWIFT] is absolutely correct. The chairman of the subcommittee did inquire of me if I had any objection to taking this bill from No. 10 and considering it as No. 8 for whatever reason, and I indicated I had no problem with that. We have a number of other bills on the calendar that we will be handling, so I did want to say to my colleague, the gentleman from Pennsylvania [Mr. WALKER], that perhaps I should have advised him, but I did make that modification.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I would echo the comments of the ranking member, the gentleman from New York [Mr. LENT]. I think we both neglected to advise our colleague, the gentleman from Pennsylvania [Mr. WALKER], on this matter.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3645, the Tourism Policy and Export Promotion Act reauthorizes the U.S. Travel and Tourism Administration and attempts to focus the agency's efforts more on helping areas of the country with underutilized tourism potential promote themselves more effectively.

The Committee on Energy and Commerce reported this legislation on November 7 by voice vote.

Travel and tourism is one of our country's most significant export products, and is also one of the Nation's largest employers. However, there is much more to the United States than New York or Walt Disney World. Every State has a host of cultural and recreational events that reveal the rich variety of American culture. Many of these areas want to develop their tourism base, but lack the financial or technical wherewithal to promote themselves effectively to foreign visitors. USTTA has the technical knowledge to assist these areas. Through its foreign contacts, USTTA can then serve as a conduit through which promotional materials can be distributed to foreign tour vendors.

H.R. 3645 contains a number of initiatives developed in response to criticisms voiced about USTTA. These include reorganizing the foreign offices by establishing three regional offices, creating a career civil servant Deputy Under Secretary, limiting the amount

VOL 137 PT 23 NO 21—25 1991 UMI

of money that USTTA can spend on overhead expenses, creating a Rural Tourism Development Foundation, and establishing a financial assistance program for States and localities. I believe that these initiatives will enable USTTA to better utilize its limited resources to assist areas of the United States that want to promote tourism, and urge that the House pass this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3645, legislation to reauthorize the U.S. Travel and Tourism Administration, part of the Department of Commerce.

I would like to commend my chairman, the gentleman from Washington [Mr. SWIFT], for his leadership in bringing this bill out and his leadership on this whole subject.

Mr. Speaker, the legislation is aimed at ending the lengthy lapse in the statutory authorization of USTTA. It represents a great deal of effort on a bipartisan basis in the Committee on Energy and Commerce, particularly by our chairman, the gentleman from Michigan [Mr. DINGELL], our subcommittee chairman, the gentleman from Washington [Mr. SWIFT], and the committee's ranking member, the gentleman from New York [Mr. LENT].

Helping to promote foreign tourism in the United States is a major factor in our international trade balance and plays an important role in our domestic economy. Last year, foreign tourism in the United States produced a $5 billion surplus in favor of the United States. There are not many industries these days that can make that claim. USTTA gives us some coordination, some cohesion on a national level and an international level, in a marketplace that is increasingly national and global.

As a cosponsor of the legislation, I am particularly encouraged by its emphasis on the development of regional tourism. It is the thematic or historical unity of a region, not the artificial constraints of State lines, that attracts foreign visitors. They want to experience the history and culture of a whole area.

In my own region, the Lehigh Valley of Pennsylvania, this regional approach has resulted in the successful creation of an internationally acclaimed, world-class musical event known as Musikfest. When dealing with a festival like Musikfest, or Mayfair and the Celtic Classic which are also in my district, the market is regional, it is national, it is international, and the cohesion given by USTTA can be very helpful.

As we try to foster growth, productivity, and prosperity in our economy, Mr. Speaker, we need to remember that the very same attractions that add to the tourist appeal also improve the quality of life and the economic development potential of a region.

□ 1430

This legislation, we hope, encourages and assists other regions to adopt broad, cooperative marketing, and to develop strategies to attract additional foreign visitors. The U.S. Tourism Administration can make a very important contribution to the effective marketing of the United States as an international tourist destination.

In this field as in so many others, we are competing in a global marketplace where the quality of the product and the effective marketing of that product are essential. H.R. 3645 is an important step toward the effective marketing of the United States as a first-class international vacation site. It is an effective tool to bring States together in regional focus, and to give individual tourist attractions national exposure.

Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I rise in support of H.R. 3645, legislation to reauthorize the U.S. Travel and Tourism Administration. This is the part of the Department of Commerce that is responsible for promoting foreign tourism to the United States in overseas markets.

The task of USTTA is an important one: Foreign tourism not only gives this country a $5 billion trade surplus each year; it also creates thousands of jobs. In fact, on average the foreign tourist spends seven times as much in the United States as a domestic tourist.

Tapping the vast potential market for tourist visits to the United States is USTTA's central mission. This legislation is intended to focus the agency on emerging markets, and to give additional emphasis to efforts to promote regional tourism development in the United States. Although there are some issues yet to be worked out with the other body and with the administration, I believe that we have an excellent chance, for the first time in almost a decade of reauthorizing USTTA.

Finally, Mr. Speaker, I want to acknowledge the diligent efforts of our Chairman, Mr. DINGELL, our transportation subcommittee chairman, Mr. SWIFT, and our subcommittee ranking member, Mr. RITTER, in fashioning this legislation and moving it promptly through the Energy and Commerce Committee. Those of us from the New York area are especially conscious of the tremendous economic value of foreign tourism, and I urge the prompt approval of this legislation as a way to generate even more such prosperity.

Mr. RITTER. Mr. Speaker, will the gentleman yield to me?

Mr. LENT. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, the gentleman mentioned foreign tourism, and I would like to have my colleagues and the American people know that the overall expenditures of foreign tourists in the United States amounts to some $23 billion. It is an enormous market, and, of course, New York is one of the major beneficiaries.

Mr. Speaker, I yield 8 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would ask the Members to excuse me for raising the questions I did about the scheduling before. However, when we are operating under dictatorial powers here, those of us who are not part of the tyrrany would like to at least know where we stand along the way.

I do have a couple of things, though, that are included in this bill that I think we need to focus on here. I see by the bill that travel and tourism receipts make up over 6.7 percent of the U.S. gross national product. That is a fairly substantial amount of gross national product that is in this area.

My guess is that this is an area of the economy that would be very susceptible to the need for economic growth, and that if in fact we could produce these kinds of growth incentives in society, there is the potential in this particular area to increase the amount of money that is flowing in this part of the economy.

It is also interesting to note in the committee bill that the travel and tourism industry is the second largest retail and service industry in the United States. The one thing we know about retail and service industries is that they tend to be very individualized kinds of operations. They tend to depend upon entrepreneurial activity. They tend to have single proprietorships in many instances. So we have the kind of economy here which does need a number of the things that are in the economic growth package that has been discussed fairly widely on this floor.

For example, it seems to me that some of those sole proprietorships in this business would be very interested in the capital gains tax structure because it would in fact provide them with the financial base that they need in order to be far more active in the economy. It seems to me that there are a couple of other things that would also fit with this.

For example, I look at our growth bill and I see that we have a social security earnings limitation provision that allows older people to continue to work and continue to earn without being faced with up to a 70 percent

marginal tax rate. What would it mean to cut it back? A lot of those people are also people who have the wherewithal to travel and an interest in travel. They are people who, if you give them a little bit of additional resources, are likely to use that in travel and tourism, and all of a sudden we provide some incentives in the bill that spread way beyond the direct application to those individuals.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, the gentleman is absolutely correct. Taking the earnings limit off our senior citizens would provide them with some very direct income, very important middle class levels of income, I might add to my colleagues on the other side, and, of course, senior citizens are wont to travel not just as tourists, but visiting their children who may live across the country, and visiting their grandchildren.

I just want to add one other thing. The single most climatological factor, so to speak, to this industry of travel and tourism is the state of the economy. If the economy is stagnant, the first thing people cut back on is travel and tourism.

I might add that this is a $327 billion chunk of the American economy. I misspoke before. When international visitors come and spend here, they do not spend $23 billion, they spend nearly $50 billion.

The state of the economy is crucial, and economic growth is crucial. If we do not get the economy flat off its back, Lord knows where this $327 billion industry and all those jobs at all income levels is going to be next year.

Mr. WALKER. Mr. Speaker, if the gentleman will allow me to reclaim my time, the fact is that I have heard a number of reports recently that one of the industries hardest hit by the present economic downturn has been the hotel industry and the restaurant industry, that the restaurant industry in most of our major urban areas is struggling at the present time, and that they are really in need of some economic stimulus out there. So this economic stimulus package that we would like to see voted on before Congress goes home would in fact provide them with some chance that relief would be just over the horizon, that relief would begin for that industry early next year.

I noticed another thing in our economic package that seems to apply also. We repeal the excise tax on boats, aircraft, passenger vehicles, and so on. This is another area where people are in fact willing to spend money that then gets multiplied. For example, people who buy a boat very often use it to travel. They use it to travel up and down the Chesapeake Bay and visit ports of call on the Chesapeake Bay. They become tourists with it. They move boats to other parts of the country in the winter and in the summer, and this helps increase the flow of travel. People who have aircraft tend to move around on weekends. They spend long weekends, and that increases the travel industry. When those industries are flat on their backs, what it means is that people are not buying the vehicles that ultimately allow them to become tourists and thereby expand that economy.

So the fact is that the multiplier effect is very much a part of what we are talking about here, and while this bill we have before us is an important contribution, the fact is that a real economic growth package would be an even better contribution to tourism.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Pennsylvania.

Mr. LENT. Mr. Speaker, the gentleman has made some excellent points about this so-called 10 percent luxury tax. I remember when we passed this tax some time ago in this body, we were told that it was going to be "let's tax the rich," that it was going to be a tax on wealthy people who pay $50,000 and $100,000 for automobiles and boats.

□ 1440

Well, the people that are complaining to me about the 10 percent luxury tax are not the millionaires who would ordinarily buy those boats and buy those expensive automobiles. They are the people who were in the service industry for those boats and for those cars. I am talking about the people that work on boats, that are mechanics, that pump fuel, that do work around boat yards on Long Island where I represent and other areas.

Mr. Speaker, this is a tax that has not really affected the wealthy, which was the concept, but we have basically broken the back in this country of the boat building industry and the automobile industry, particularly at the high end of the line, because of this tax. We are hurting not the wealthy. They simply keep their Mercedes Benzs' another year or two. We are hurting the salespeople and the mechanics.

Mr. WALKER. Mr. Speaker, reclaiming my time, the gentleman is absolutely right. The Trojan Boat Co. is in my district. It used to employ 450 people. Now they employ 43 people. Most of those people are blue collar people. I guarantee you they are not traveling, are not tourists, at the present time. They are not spending their money. They cannot afford to, because the stupid policy of the Congress has forced them out of work. We have a chance in the economic growth package to end that stupid policy, and that is another reason we ought to vote on it before we leave town.

Mr. RITTER. Mr. Speaker, I thank the gentleman for his excellent contribution.

I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I think it is fascinating that we are permitted to talk about tourism here today. Indeed, tourism is an important part of our economy. Those of us who live in California certainly would not deny that.

But what is even more fantastic and astounding is we are unable then to talk about other fundamentals of the American industry. We can single out tourism and some of the other single-out issues we are going to be doing here in the next few hours, but we are not able to pay attention to the fundamentals of the general economy.

Yes, tourism is important. But what are we going to do, attract a bunch of tourists from overseas so they can come over and look at our unemployed people? The fact is we can talk about tourism, but we cannot talk about a package that includes some sort of means for young people to buy their first home. We can talk about tourism, but we cannot talk about tax relief for our senior citizens, who, if they go back to work, are being taxed at a rate higher than Donald Trump.

Yes, we can talk about tourism, but we cannot talk about incentives for job creation and the building of new businesses in our general economy.

Yes, we can talk about tourism, but we cannot talk about a general stimulus to economic growth and American competitiveness that will see to it we just do not have a bunch of Japanese tourists coming out to California to take a look at our unemployed aerospace workers.

What we need to do is tackle the serious problems that are fundamental to our economy, rather than hitting at these periphery issues. We are not able to do that because the liberal Democrats who control this body want to go on vacation. They would rather go on vacation, talk about periphery issues, than get down to some of the hard core issues that are going to make the lives of our people better and are going to make sure that those people who are being put out of work have hope for a new job and maybe hope to keep their old job.

Mr. RITTER. Mr. Speaker, I thank the gentleman for his contribution. There is no doubt the gentleman is making some excellent points.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might just say that this very large industry, this U.S. travel and tourism industry, which is one of the major employers in the United States and one of the major revenue producers, is flat on its back because of a stagnant economy.

Until we deal with the economic growth issues, even staunch support of

the Treasury is so immersed in trying

Chair, on behalf of the President pro

World, and the flight of some United States

VOL 137 PT 23 NO 21—25 1991 UMI

the reauthorization of USTTA will not make our tourism industry healthy. Economic growth will. People going back to work will.

Until such time, the tourism industry in this country is going to have a lot of the same troubles that other industries and other worker have.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman just recently said that they were unable to talk about the growth package. It seems to me we have done nothing but talk about it all day long.

The process that we are involved in here with the Suspension Calendar is to take up bills of something less than earth-shattering importance, though they have importance in themselves. They are what we do while the important legislation that this Congress must deal with before we can adjourn is being dealt with in conference.

It has been said on this floor today we are doing this instead of important things. I would call to the body's attention something said by Woodrow Wilson, who before he was President was a political scientist, particularly an expert in the workings of the House.

He said, "The House in session is the House on display. The House in committee is the House at work."

I would suggest to a very large measure what we are witnessing here on the floor today is the House on display. The real vital business of the House of Representatives, in fact the entire Congress this weekend, is going on in committee, and that will ultimately work its way to the floor.

The legislation we are dealing with now is legislation that is being done simultaneous with the legislation that must be passed before we can recess.

The argument of some of my colleagues is that they have not been permitted to bring up a package they say will solve the economic problems, a package whose details were revealed last night. It is a package that apparently the Secretary of the Treasury was unaware of when he was discussing these very issues with members of our committee last week. It is a package that we do not have clear—in fact, we have heard no word whatever from the President of the United States.

It is a package deemed to have such high importance here that they say it must be dealt with this weekend, but it is a package that was not brought up in time to go through the normal legislative process that all legislation goes through. It is a package, in fact, the likes of which I have seen at the end of most sessions of Congress that I have served in, something that arrives at the very last minute so that partisan debate can be made and positions can be achieved that can be debated then for the next 2 or 3 months when we are out of session.

Mr. Speaker, one of the things that I think is greatly disturbing the American people, I hear it all the time, is they say, "You people don't ever attend to the public's business. All you do is sit there and squabble with each other."

Well, I sometimes will tell people in town meetings and so forth that some of that squabbling is absolutely legitimate. There are honest differences between the two parties and honest debate about those differences which is appropriate and should not be dismissed as merely squabbling.

Then I point out there is some that is just squabbling, and I think we have seen a good share of that today.

But what the public does not see is the enormous amount of cooperation that goes on within this body between Republicans and Democrats. I would suggest that in the subcommittee that brings this legislation before you you can see that kind of bipartisan cooperation.

I have nothing but the highest regard for the gentleman from Pennsylvania [Mr. RITTER] and the gentleman from New York [Mr. LENT] in terms of the cooperation they have given to me as chairman of the committee in the issues that have come before us, some of which are controversial.

I do not suggest we always agree, but I have found working with these two gentlemen that they are never disagreeable, and we have never had to be disagreeable about any of those legitimate differences.

I think it is important for the American public to know that a great proportion, the vast majority of the work of this House, goes on with Republicans and Democrats like the gentleman from Pennsylvania [Mr. RITTER] and the gentleman from New York [Mr. LENT] and myself, and others, in trying to accommodate each other's genuine concerns, being sure that everyone is treated fairly, and that the issues are dealt with in a fashion so that the legislation we ultimately pass will work.

☐ 1450

That, too, goes on in this institution all of the time. And that, too, I think the American public too rarely sees because it is not so dramatic when we are sitting here working together as it is when someone is shouting and waving their arms on the floor.

I think we, too, need to say that we do work together, the majority of the work we do here we try to accommodate legitimate differences. We try to find compromises that will work for both of us, and most of the time we are successful.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I hope the gentleman does understand that there is some resentment on our side of the aisle when literally, even according to the majority leader, martial law is declared in the last few days of the session. That is when comity does break down. There are a lot of us who do work together. I do so on my committee as well.

I think we produce good legislation. The gentleman is absolutely correct. When we get down to the final days here and martial law is declared, then there is some view on at least this side of the aisle that the membership is not being treated as fairly as the gentleman had indicated.

Mr. SWIFT. Mr. Speaker, reclaiming my time, I thank the gentleman for the remarks.

It seems to me that there comes certain times of the year in which someone is always upset about how they are being treated. They will find one reason or another.

I suggest that the term martial law was one that the majority leader used in jest. And it simply goes to prove again that politicians should be very careful about ever trying to be humorous. What we have here is not martial law. It is not dictatorial powers.

What we have is a standard rule that is adopted at the end of every session of Congress, which gives the majority standard authority to deal with suspensions, recess authority. It allows the Committee on Rules to bring rules not on everything but on five specific bills. There is nothing unusual about this at all.

A great deal of the rhetoric that we have heard today is simply end-of-session nonsense and nothing more.

Mr. Speaker, I yield back the balance of my time.

Mr. RITTER. Mr. Speaker, I ask unanimous consent to reclaim the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

I would like to say that I have the greatest respect for the gentleman from Washington [Mr. SWIFT]. He is a gentleman in the truest sense of the word. We in the Congress call each other gentlemen all the time. Sometimes we do not believe it. But with the gentleman from Washington, it is believable. It is real, and we do work together with comity in the committee.

I simply would like to comment on a few of the remarks he made. He said that the Secretary of the Treasury was unaware of the package as of last night. That is simply not true. It did not come up because the Secretary of

the Treasury is so immersed in trying to get some kind of minimalist banking bill passed.

The President is very much aware of the economic growth package. The President has said that he would support this economic growth package, that he would sign it if it came before him.

The gentleman from Washington made some very good points, and it is true that a lot of the work in this House is conducted in committee. Of course, the public rarely sees the work in committee, although with C–SPAN it gets to see a lot more than it once did.

I am going to say that some very serious anti-economic growth initiatives have come out of committee on the way to the floor, or in the committee and without getting to the floor, in this session. One of these is the banking bill, which was emasculated in my own committee, the Committee on Energy and Commerce, on its way to the floor.

The Senate Committee on Education rejected the President's education goals and a program to achieve those goals. The Senate in committee essentially has abandoned the President's energy package.

Both in the full House and in committee, the President's economic growth initiatives have been rejected time and again.

It is with some frustration that we in the minority take to the floor trying to come up with something to put people back to work.

Yes, it is the end of the session. But just because it is the end of the session and people want to go home, we can't abandon unemployed workers in our community.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. RITTER] has expired.

The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 3645, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion tom reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3029. An act to make technical corrections to agricultural laws.

The message also announced that, pursuant to Public Law 101–628, as amended by Public Law 102–166, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican leader, appoints Howard Coffin, of Vermont, to the Civil War Sites Advisory Commission.

TOURISM POLICY AND EXPORT PROMOTION ACT OF 1991

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 680) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so simply to find out what it is we are doing.

I assume that what we are doing here is substituting the language of the House bill for the Senate bill; is that correct?

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, that is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) travel and tourism expenditures last year were approximately $327 billion;

(4) in 1990 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(5) 39 million international visitors spent approximately $52.8 billion in the United States last year;

(6) travel and tourism services ranked as the largest United States export in 1990, with a United States travel trade balance of more than $5.2 billion;

(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States; and

(8) although the trade deficit is shrinking, imports continue at record levels and, therefore, export expansion must remain a national priority.

STATISTICAL REPORT

SEC. 3. (a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

TOURISM TRADE BARRIERS

SEC. 4. (a) ANALYSIS AND ESTIMATES.—For calendar year 1992 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1993 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS

SEC. 5. (a) FINDING.—The Congress finds that foreign tourists entering the United

VOL 137 PT 23 NO 21—25 1991 UMI

States are frequently faced with unnecessary delays at points of entry at the United States border.

(b) Action By Secretary.—The Secretary of Commerce shall, in coordination with other Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States and to ensure that the international processing standard of the International Civil Aviation Organization is met.

(c) Report.—The Secretary of Commerce shall, within one year after the date of enactment of this Act, report to the Congress on efforts under this section to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.

TOURISM TRADE DEVELOPMENT

Sec. 6. (a) Annual Plan.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended by striking paragraph (15).

(b) Tourism Trade Development Efforts.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary's tourism trade development efforts shall focus on the markets which have the greatest potential for increasing travel and tourism export revenues.

"(2)(A) Generic advertising and other tourism trade development efforts carried out by the Secretary in any calendar year after calendar year 1993 shall be planned and implemented pursuant to subparagraphs (B) through (E).

"(B) By March 31 of each year, the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 2 years after the notice is published.

"(C) Within 1 year after a notice is published under subparagraph (B), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in subparagraph (B). The selection shall be announced by publication in the Federal Register.

"(D)(i) At the same time that the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. Subject to the requirements of subsections (c) and (d), the Secretary is authorized to provide financial assistance to carry out proposals submitted under this subparagraph, and such assistance shall be provided no later than two years after the notice is published under subparagraph (B). In addition to financial assistance, the Secretary may provide technical assistance.

"(ii) The expenditures in a fiscal year to issue requests for proposals and provide financial assistance under clause (i) shall not exceed 10 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

"(E)(i) During the 12-month period described in subparagraph (B), the Secretary shall carry out generic advertising and other tourism trade development efforts directed at the markets selected under subparagraph (C).

"(ii) To reinforce the efforts carried out under clause (i), the Secretary shall establish tourism trade development offices in foreign locations appropriate for the markets selected under subparagraph (C). The Secretary may reassign personnel from existing foreign offices to such tourism trade development offices.

"(3) The Secretary shall evaluate the effectiveness of the efforts carried out under paragraph (2)(E) and, not later than 1 year after those efforts are completed, shall report to Congress on the results of the evaluation.

"(4) The Secretary may make adjustments to the deadlines and time limitations imposed in this subsection if necessary to ensure the effectiveness of tourism trade development efforts.".

(c) Advisory Board.—(1) Section 303(a)(3) of the International Travel Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking "and";

(B) by amending subparagraph (B) to read as follows:

"(B) at least two shall be representatives of the States who are knowledgeable of tourism promotion; and"; and

(C) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) of the International Travel Act of 1961 (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years overall".

(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended by striking "and shall advise" and all that follows except the period at the end.

(d) Technical Amendments.—(1) Section 201(6) of the International Travel Act of 1961 (22 U.S.C. 2122(6)) is amended by inserting "and the use of other United States providers of travel products and services" immediately before the period at the end.

(2) Section 202(a)(12) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(12)) is amended by inserting "and the use of other United States providers of travel products and services" immediately before the semicolon at the end.

(e) Conforming Amendments.—(1) Section 202(A)(5) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(5)) is amended to read as follows:

"(5) May provide financial assistance under subsection (e) to States and political subdivisions thereof, regional governmental entities, and appropriate nonprofit organizations and associations;".

(2) Section 202(c) of the International Travel Act of 1961 (22 U.S.C. 2123(c)) is amended—

(A) in the first sentence—

(i) by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "subsection (e)"; and

(ii) by striking "under this clause";

(B) in the second sentence by striking "paragraph" and inserting in lieu thereof "subsection"; and

(C) in the third sentence by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

(3) Section 202(d) of the International Travel Act of 1961 (22 U.S.C. 2123(d)) is amended by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "subsection (e)".

COORDINATION

Sec. 7. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that the services of the United States and Foreign Commercial Service continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM DEVELOPMENT FOUNDATION

Sec. 8. (a) Findings; Establishment of Foundation.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) Functions.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) Board of Directors.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such

voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) Compensation and Expenses.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) Acceptance of Gifts, Devises, and Bequests.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) Investments.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) Use of Federal Services and Facilities.—The Secretary of Commerce may, on request and without requiring reimbursement, make available services and facilities of the Department for the use of the Foundation.

(h) Perpetual Succession; Liability of Board Members.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(i) Contractual Power.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(j) Administration.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(k) Exemption From Taxes; Contributions.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contribution, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(l) Liability of United States.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(m) Annual Report.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(n) Definitions.—As used in this section, the term—

(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(4) "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(o) Assistance by Secretary of Commerce.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)), as amended by section 6(a) of this Act, is further amended by adding at the end the following new paragraph:

"(15) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

POLICY CLARIFICATIONS

Sec. 9. (a) National Tourism Policy.—(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"

(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (5) through (15), respectively; and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".

(b) Duties of Secretary of Commerce.—(1) Section 201(2) of the International Travel Act of 1961 (22 U.S.C. 2122(2)) is amended by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational,

VOL 137 PT 23 NO 21—25 1991 UMI

currency exchange, meal, and package tour services required by the international market;".

(2) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123), as amended by section 6(b) of this Act, is further amended by adding at the end the following new subsection:

"(f) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEALS.—Sections 203 and 204 of the International Travel Act of 1961 (22 U.S.C. 2123a and 2123b) are repealed.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by striking subparagraph (E);

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) by redesignating subparagraphs (H) and (I) as subparagraphs (M) and (N); and

(D) by inserting immediately after subparagraph (F), as so redesignated, the following new subparagraphs:

"(G) the Secretary of Agriculture or the individual designated by such Secretary from the Department of Agriculture;

"(H) the Chairman of the Tennessee Valley Authority;

"(I) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(J) the Administrator of the Small Business Administration;

"(K) the Commissioner of Customs;

"(L) the Attorney General or the individual designated by the Attorney General from the Immigration and Naturalization Service;".

(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Each year, upon designation by the Secretary of Commerce in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

ADMINISTRATION

SEC. 10. Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—

(1) by striking the third and fourth sentences;

(2) by designating the remainder of the existing text as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development, who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development;

"(B) directing and managing field operations;

"(C) directing program evaluation research and industry statistical research;

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in the development of strategies for expansion of tourism trade;

"(E) developing a new program to provide financial assistance in support of non-Federal tourism trade development activities that complement efforts by the Secretary under section 202(e); and

"(F) performing such other functions as the Under Secretary may assign.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. (a) IN GENERAL.—Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended to read as follows:

"SEC. 304. For the purpose of carrying out this Act, there is authorized to be appropriated an amount, not to exceed $21,000,000 for the fiscal year ending September 30, 1993, not to exceed $24,000,000 for the fiscal year ending September 30, 1994, and not to exceed $27,000,000 for the fiscal year ending September 30, 1995.".

(b) FUNDS FOR FOUNDATION.—Of the funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a), there are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1993, 1994, and 1995 not to exceed $500,000 to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(2) provide administrative services for the Rural Tourism Development Foundation.

TOURISM HEALTH STUDY

SEC. 12. (a) STUDY.—The Secretary of Commerce shall undertake to enter into arrangements with the Institute of Medicine of the National Academy of Sciences to conduct a study of the current knowledge of the health benefits of travel for domestic and international tourists.

(b) REPORT.—In entering into any arrangement with the Institute of Medicine for conducting the study described under subsection (a), the Secretary of Commerce shall request the Institute of Medicine to submit, not later than 18 months after the date of enactment of this Act, to the Secretary a report on the results of the study. The report, immediately upon its receipt, shall be transmitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

TRAVEL BY DISABLED PERSONS

SEC. 13. The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons.

MOTION OFFERED BY MR. SWIFT

Mr. SWIFT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. SWIFT moves to strike all after the enacting clause of S. 680 and to insert the text of H.R. 3645 as passed by the House.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, I simply want to point out to the House that when the minority is put under the kind of restrictions that the rule earlier today put us under, it is then assumed that the minority will sit still for a whole series of these kinds of unanimous-consent requests in order to facilitate the work of the House and that we are supposed to just roll over and allow these things to take place, despite the fact that we are given no rights in the process whatsoever.

I am not going to object to this, but I think the majority is on very thin ice when they suggest to us that we have no rights but, of course, they can go ahead and do anything they want with regard to efficiency in the House of Representatives.

We had a statement out here earlier today that the single highest priority of the House at the present time is to get out of here and go home. I would suggest that if in fact that is the single highest priority, and I would hope that that is not the case, but if that is the single highest priority, they jeopardize, it seems to me, their ability to do those things when in fact what they do is make the minority into legislative eunuchs.

I am not going to object, as I said, at this point, but this is a good example of the kind of place where the minority could, in fact, exercise its rights and cause a great deal of mischief in the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT].

The motion was agreed to.

The Senator bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3645) was laid on the table.

PELICAN ISLAND, TX

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1104) to declare certain portions of Pelican Island, TX, nonnavigable, as amended.

The Clerk read as follows:

H.R. 1104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS.

(a) AREA TO BE DECLARED NONNAVIGABLE.—Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions, are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet pass the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 seconds west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 seconds west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 seconds west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the City of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15,171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) AREAS EXCLUDED FROM DECLARATION OF NONNAVIGABILITY.—Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit "B" of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this sub-

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CITY OF GALVESTON,

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vately held or owned by the City of Gal- owned property leaves a great deal of land in owns more than one-half of the acreage of

VOL
137
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section, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly referred to as the "Rivers and Harbors Appropriation Act of 1899" (33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969.

(d) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within 5 years after issuance of any permits required to be obtained under subsection (c) then the declaration of nonnavigability for such area or part thereof shall expire.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

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GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1104, the bill presently under consideration.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1104 would preserve the rights of property owners on Pelican Island by preventing the U.S. Government from seizing portions of the island to use as dumping sites for dredging spoils from Galveston Bay. Currently, the Government could take such actions on Pelican Island without being required to compensate the landowners for their losses. By declaring the affected portions of the island nonnavigable, this bill would prevent these takings from occurring, and would dispel a cloud that has been hanging over the titles to the land in question.

This bill will help preserve property values on Pelican Island, promote economic development, and bolster Galveston's tax base. It has a large number of supporters in Galveston, including the city and Port of Galveston, Texas A&M University, the local State representative and senator, and owners of property on Pelican Island.

The Subcommittee on Transportation and Hazardous Materials adopted a series of technical amendments that corrected drafting inaccuracies in the original text. The Committee on Energy and Commerce ordered H.R. 1104 reported on November 7, by voice vote. I urge the House to pass this legislation. Mr. Speaker, I will insert letters of support for this legislation in the RECORD.

Mr. Speaker, I insert the following correspondence for the RECORD:

CBI INDUSTRIES, INC.,
Oak Brook, IL, October 15, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that your Subcommittee will soon be conducting mark-ups on H.R. 1104, a bill to declare certain portions of Pelican Island, Texas, nonnavigable. This bill was introduced by Mr. Brooks of Texas.

CBI Industries, Inc., through its subsidiary, Chicago Bridge and Iron Company, is an owner of a tract on Pelican Island that would be affected by the bill. We strongly support this bill as being in the best interest of the City and County of Galveston, and of their citizens.

You should know that we have participated in discussions with the Corps of Engineers over the past year or so concerning this bill and have offered them reasonable options to meet all of their concerns regarding the effects of this bill.

I commend you for scheduling this legislation for your Subcommittee's consideration and urge your support for this important bill.

Very truly yours,
BUEL T. ADAMS,
Vice President and Treasurer.

PORT OF GALVESTON,
Galveston, TX, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Board of Trustees of the Galveston Wharves owns considerable acreage in three separate tracts on Pelican Island. One of these tracts has improvements and is engaged in the movement of cargo in waterborne commerce. The remaining two tracts of approximately 100 and 185 acres is being held for future development and port use.

H.R. 1104 will not lead to any obstruction of navigation nor will it hinder the government's dredging operations. Each of these points have been discussed by the port with the U.S. Corps of Engineers.

We strongly support H.R. 1104 and believe that its passage is vital to the economic development of the port, the city and the citizens of Galveston.

Very truly yours,
DOUG J. MARCHAND,
General Manager,
Port Director, Port of Galveston.

CITY OF GALVESTON,
OFFICE OF THE MAYOR,
Galveston, TX, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT: In my capacity as Mayor for the City of Galveston, I write this letter of support for the legislation introduced by Congressman Jack Brooks that will relinquish the federal Government's claim of navigational servitude to those portions of Pelican Island that are privately held or owned by the City of Galveston.

I would like to emphasize the following key points:

(1) Extinguishing the government's navigational servitude is vital to the economic health and development of the City of Galveston and its citizens.

(2) There has been an overwhelming show of support for Congressman Brooks and this legislation, with resolutions from the County, the City, the GEDC and the Wharves Board have been active participants in the negotiation and drafting process.

(3) The City, County and School District have limited tax bases because of all the government operations in the Galveston area that do not pay property taxes.

(4) H.B. 1104 will absolve or free all non-federally owned real property on Pelican Island from potential claims by the Corps of Engineers, making it easier to develop and expand the kind of industrial tax base upon which our local governments rely.

(5) H.R. 1104 will not lead to any obstruction of navigation because the property we are talking about is all "fast lands," which means the land is high and dry.

(6) H.R. 1104 will not hinder the government's dredging operations because more than one-half of the acreage of Pelican Island is owned by the federal government and is an active dredge spoils dump now. In addition, the language of the bill provides the key rights-of way and easements that the Corps of Engineers have requested in order to maintain their dumping operations on the government owned land.

(7) The owners of the private property, the City and the Wharves Board have been in active negotiations with the Corps of Engineers on this issue for more than two years. We have granted every request the local Corps office has made. We have satisfied every requirement that they have insisted upon.

In closing, let me emphasize that we feel that passage of H.R. 1104 is in the public interest of Galveston, and that it is important to future economic development in our area. We solicit your support for this legislation.

Sincerely,
BARBARA K. CREWS,
Mayor.

SENATE CHAMBER,
Austin, Texas 78711, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand the Navigational Servitude Bill (H. 1104) by Congressman Jack Brooks is to be considered for mark-up by the Subcommittee on Transportation and Hazardous Substances during the week of October 28. The bill will relinquish the federal government's claim of navigational servitude to portions of Pelican Island in Galveston County, Texas, that are privately held or owned by the City of Galveston.

Approval of this legislation will enhance economic development of Galveston County and broaden the property tax base for local governments and school districts, but will not obstruct navigation or disrupt federal dredging operations. Also, the bill provides for rights-of-way and easements requested by the U.S. Corps of Engineers.

H. 1104 is supported by the leaders of Galveston County, the City of Galveston and the Galveston Chamber of Commerce, and I would join them in urging favorable consideration by the subcommittee.

Respectfully,
CHET BROOKS.

CAPITOL OFFICE
Austin, TX, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington DC.

DEAR CONGRESSMAN SWIFT: I am writing to express my strong support for H.R. 1104, by Congressman Brooks, which will relinquish the federal government's claim of navigational servitude to those portions of Pelican Island, Galveston, Texas that are privately owned.

This legislation is critical to the economic growth of Galveston County, Texas because it will allow for the development of Pelican Island for industrial purposes. This proposal is essential to expanding the sluggish economy of Southeast Texas.

Likewise, under Congressman Brook's bill, the right-of-way and easements which the Corps of Engineers requires to maintain dredging operations will be preserved. Consequently, the Corps dredging activities are unaffected by the bill.

Pelican Island is an ideal location for many marine related activities along the coast. Furthermore, easy access to the Gulf of Mexico makes such projects environmentally responsible while minimizing the impact on Corps activities.

As State Representative for Galveston County, I strongly urge you to support this legislation.

Sincerely yours,
MIKE MARTIN.
State Representative.

GALVESTON CHAMBER OF COMMERCE,
October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT: I am writing to let you know of our support for H.R. 1104 by Congressman Brooks. This bill would relinquish the federal government's claim of navigational servitude to those portions of Pelican Island that are privately held or owned by the City of Galveston. Pelican Island is in the Galveston city limits and passage of this legislation is extremely important to our community.

Galveston is proud to be the home of the University of Texas Medical Branch, Texas A&M University at Galveston, Galveston College, the U.S. Army Corps of Engineers and many other government operations. However, we are also the home of one of the largest concentrations of public housing in the country. Roughly ten per cent of the population of Galveston resides in public housing. This large concentration of government owned property leaves a great deal of land in Galveston off of the tax rolls. In addition, the lack of an industrial tax base is causing an ever increasing burden upon the small businesses and individual homeowners in this community.

H.R. 1104 will free all non-federally owned land on Pelican Island from potential claims by the Corps of Engineers, making it easier to develop and expand our industrial tax base. The land in question is near the Galveston ship channel and is an area that would be appropriate for such development.

Galveston is an island and as such, we have a very limited land mass upon which to grow. This release of land from navigational servitude is supported by the City, the Chamber and our Economic Development Corporation. I hope you will be able to support our efforts on this critically important issue.

Sincerely,
ARMIN M. CANTINI,
Chairman of the Board.

TEXAS A&M UNIVERSITY AT
GALVESTON,
Galveston, TX, October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Texas A&M University at Galveston owns and occupies over 100 acres on Pelican Island. H.R. 1104 would relinquish the Federal government's claim of navigational servitude to those portions of Pelican Island that are held by non-federal entities. We strongly support H.R. 1104 and believe that its passage is critical to the future development of Texas A&M University at Galveston as well as to future positive economic development in the area surrounding our university.

Sincerely,
WILLIAM J. MERRELL,
President.

GALVESTON CHAMBER OF COMMERCE,
October 25, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT, This letter is being in support of H.R. 1104 introduced by Congressman Jack Brooks (D-TX). Essentially, H.R. 1104 will relinquish the federal government's claim of navigational servitude to those portions of Pelican Island that are privately held or owned by the City of Galveston.

The City of Galveston, the Galveston Chamber of Commerce, the Galveston Economic Development Corporation (GEDC), and the Port of Galveston have all actively participated in the process facilitating this amendment. Galveston has a disproportionately high number of government operations which do not pay property taxes, therefore, limiting the tax base supporting the City, County, and School District. The release of all non-federally owned real property from potential claims by the U.S. Army Corps of Engineers will foster development and expand the city's industrial tax base.

The repercussions of H.R. 1104 to the Corps will not be detrimental to their efforts. The resolution will not obstruct navigation because the property in question is all "fast lands", nor will it hinder dredging operations. The federal government currently owns more than one-half of the acreage of Pelican Island, some of which is already being used as dredge spoils dump.

Local government entities, as well as owners of private property, have been actively negotiating this measure for over two years and to date, every request of the local Corps office has been satisfied. Congressman Swift, this ruling is critical to the economic health and development of the City of Galveston and your support on this issue is deeply appreciated.

Yours very truly,
J. WILLIAM LAUDERBACK,
President.

THE WOODLANDS CORPORATION,
The Woodlands, TX, October 28, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your consideration of H.R. 1104 by Congressman Jack Brooks (D-Tx.) H.R. 1104 is a very important piece of legislation for the City of Galveston, Texas and the surrounding area.

Since 1988 the City of Galveston, the Galveston Wharves Board, the Galveston Economic Development Council (GEDC) and the owners of private property on Pelican Island have been negotiating with the U.S. Army Corps of Engineers about the Corps' claim of a right of navigational servitude over the non-federally owned property on Pelican Island. H.R. 1104 is the result of those negotiations.

In fact, it was the Corps' suggestion that we pursue a legislative solution to this situation. Later, the Corps told community leaders that they could never support such legislation. However, the Corps told those same leaders that if our situation satisfied certain general criteria and if certain specific details were worked out, that the Corps would not raise an objection to a declaration of nonnavigability.

As a private property owner on Pelican Island, we have participated in these discussions with the Corps. We strongly believe that we have met all of the Corps' general policy criteria, and that we have satisfied all of the Corps' demands regarding issues specifically related to Pelican Island.

With regard to the Corps' general policy, the declaration of non-navigability does not obstruct either the current or any anticipated navigation channel. The property described in H.R. 1104 is all fast land. No navigational channel would be impacted. The project would not interfere with current or projected needs of navigation, since the only need involved is for a place to dump dredge spoil material that is generated by the Corps' continuing operations in the Galveston Ship Channel. The northern portion of Pelican Island is an active spoils disposal area. Federally owned property on Pelican Island comprises the majority of the acreage on the island. In addition, local governments and the Corps are working together to devise a plan to use spoil material to replenish the beaches along the Gulf side of Galveston Island. Therefore, it is obvious that there are a number of reasonable and perhaps less expensive alternatives available to the Corps besides exercising any right of navigational servitude that they may claim.

The declaration of non-navigability in H.R. 1104 is limited to non-federally owned fast lands that have been created by lawful means. If H.R. 1104 is passed, all non-federally owned property covered by the declara-

VOL
137
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1991
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tion would still be subject to all applicable federal laws before further development could occur.

Development of the non-federally owned property on Pelican Island would serve a substantial public purpose because it represents a substantial majority of the developable property in the tax bases of local governments that rely on property taxes. The City of Galveston is the site of a large concentration of Federal and State institutions and operations. As a consequence, a significant portion of the real property in the Galveston area is not subject to local property taxes. Therefore, those who attempt to expand the tax base by attracting new businesses or residents to the Galveston area are operating at a significant disadvantage. That disadvantage becomes almost insurmountable should the Corps claim a right to repossess all developed and developable private property on Pelican Island. We believe that preserving and enhancing the economic health of the City of Galveston is a useful public purpose.

In addition to meeting the Corps' policy criteria, the groups negotiating with the Corps have conceded to each one of the Corps' operational demands. The Corps demanded that dredge pipeline easements be expanded from 20 feet to 100 feet. They got it. The Corps demanded some assurance they could continue to use certain private property as a disposal area. A six-year extension of that agreement is available to the Corps, despite the fact that the Corps is currently in violation of the contract under which they currently use in the area. The Corps demanded for assurances that an offshore easement would be available to them for their assembly and disassembly operations. They got that as well.

H.R. 1104 represents the result of two years of good faith negotiations by the City, the Wharves Board, the GEDC and the owners of private property on Pelican Island. We embarked on this legislative mission at the suggestion of the Corps. We have satisfied their general policy guidelines, and granted them all of the operational concessions that they have requested.

We believe that H.R. 1104 is vital to the economic health and development of the city of Galveston. There has been overwhelming support for Congressman Brooks and his efforts in this regard. We strongly urge you and the Subcommittee on Transportation and Hazardous Materials to support H.R. 1104. We strongly urge the full Energy and Commerce Committee to support its passage, and to send it to the floor of the House of Representatives with an unanimous endorsement.

Again, thank you for your consideration of H.R. 1104. Your support of this legislation and your continuing efforts to enact it into law will be greatly appreciated by the people of Galveston.

Sincerely,

JOHN E. WATSON.

COUNTY OF GALVESTON,
October 31, 1991.

Hon. AL SWIFT,
Chairman, Subcommittee on Transportation and Hazardous Substances, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT: Galveston County is an urban coastal community. Most such communities have more than their share of economic, environmental, and ecological concerns.

Our concern for the environment cannot be sustained in an atmosphere of declining economic capacity. Part of my responsibility as County Judge of Galveston County is to express these concerns. Another part of my job is to work to ensure that the local economy is strong enough to support a high level of environmental consciousness.

I feel that Galveston County needs H.B. 1104 to free up the constraints on Pelican Island.

Pelican Island has long been identified as a potential industrial area in the midst of extremely sensitive ecological environments. Economic development in Galveston County and in the City of Galveston must be allowed the opportunity to utilize Pelican Island.

I have been made familiar with all of the elements of H.B. 1104 through conversations with George Mitchell's people and the correspondence of Galveston's Mayor Barbara Crews.

The development of Pelican Island economically is at least partially dependent on Congressional approval of H.B. 1104 and I urge you to join with the citizens of Galveston County in supporting this important legislation.

Sincerely,

RAY HOLBROOK.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I merely want to acknowledge the bipartisan efforts of our committee leadership, our chairman, Mr. DINGELL, our Transportation Subcommittee chairman, Mr. SWIFT, and our ranking subcommittee member, Mr. RITTER, in moving this legislation expeditiously. I support this measure to clear up the land title ambiguity on Pelican Island due to its current technical status as navigable waters, and I urge its prompt approval.

Mr. Speaker, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, this is a good piece of legislation and it talks about economic development and freedom of titles and clarification of who owns what land. But I was listening to debate in the previous suspensions and I happened to think the gentleman from Washington [Mr. SWIFT] is a great Congressman and does an excellent job. I would suggest, though, that this body has a responsibility to stop the bickering on both sides. We are in the minority and they are in the majority. There is frustration on our side, but I have suggested publicly and in other forums that it is time that this House takes the responsibility of leading this Nation by sitting down and developing a package of production of growth and opportunity.

I serve on the Committee on Interior and Insular Affairs, and I work well with my chairman, but I have sat on that committee for 19 years and in that 19 years they have passed one bill out of that committee that provides jobs. That was the Alaskan pipeline bill. They have not had any hearings on the development of oil in Alaska other than what has already been developed, and in fact I hope that the audience today and my colleagues realize one-half of our national trade deficit is the importation of oil. Every barrel of oil, every gallon that we spend money from our Treasury, from our taxpayers to buy that oil deprives us of economic opportunity.

The energy bill that was discussed in the other body and which we hope we will discuss in this body will create very quickly 750,000 new jobs. We talk about jobs bills and the highway bill, a growth bill. If we have an energy bill, an energy policy that the President has brought down to us, we will help create those jobs that the working people of this Nation need. The Members have heard me suggest before that energy is that secret to economic growth.

The gentleman from Washington [Mr. SWIFT] is very fortunate that he has the Columbia River Dam and he is provided with power and growth for this area. Some of the Members in the South with the TVA projects, and yes, some in California with the Hoover Dam, those are projects that were created and built when a crisis of recession occurred under FDR, and the Democrat Party did that.

Yet I do not see any legislation that creates true jobs. I see, yes, the desire for compensation which I voted for, unemployment. But we must start thinking, as the House of the people to lead this Nation, about a growth package. The cornerstone of a growth package is the development and widest use of our natural resources. There are no other real dollars, no other real dollars in our society. Services that consume and distribute do not create new dollars. The Federal Government does not create new dollars.

As I have said, as I have sat on that committee, one bill has passed out that created jobs. That is not the way this body should be operating. We operate at the will and whim of the environment community that cares less about the working people of America.

It is time we get our act together, Mr. Speaker, and start thinking of where the real dollars are coming from. It is from that public land that is available to the public itself for their well-being as well as their environmental well-being.

Mr. LENT. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding the time to me.

Mr. Speaker, I endorse what the gentleman from Alaska has just said. It is why some of us were very disappointed to hear a statement attributed to the House majority leader on the whole business of growth that appeared in the National Journal's Congressional Daily. It was said in that particular publication that the majority leader indicated that the only thing they were going to do on growth next year was to come up with packages that the President would have to veto.

I quote from what National Journal said:

> The legislator said that the House leaders made it clear at the caucus that they were preparing to run some legislation to the President, let him veto it and then let his veto record be an albatross around his neck.

Talking about growth packages.

That is the reason why we are concerned that if we allow this issue to go over until next year, we may well find that we will have the same kind of scenario as we have had on the unemployment bill; namely, that we were more interested in playing politics and having the President veto bills than we were in actually getting a bill that the President would sign and get the checks flowing.

I think it is interesting to look at this particular bill as well. If I understood the gentleman from Washington [Mr. SWIFT] in introducing this bill, what he suggested was that this bill is principally concerned with assuring that the property values in Galveston and Pelican Island are increased by declaring certain portions of the island nonnavigable.

I am certain that will be very important to the people of that area, but the fact is that if we look around the country, not just in Galveston and on Pelican Island but around the country, people are suffering massive real estate losses at the present time. They find their properties depreciating in value rather than appreciating in value. We need to do something about that as a country. We need to be doing something not just at Pelican Island, we need to be doing something in all 50 States.

So Congress in the last day or the last days of the session comes here to help the people on Pelican Island. What about the people that do not live on Pelican Island? What about the people in the rest of the country, outside of Galveston, who are also suffering real estate losses?

In the economic growth package that we have forward we have a couple of things that would help them. For example, we are going to help the real estate industry with the reform of the passive loss rules. That will allow the real estate industry to begin to recover. It will allow the savings and loan industry to get back on its feet. It will allow the banking industry to get back on its feet, and allow people once again to see appreciation in their property rather than depreciation.

Beyond that, we seek to help some of those people who have seen their property values depreciate by allowing the loss on the sale of a principal residence to be treated as a capital loss. Right now if you bought a home for $75,000 and have to sell it for $70,000 the fact is that you get a $5,000 loss that you cannot write off against your taxes. You take the loss yourself.

Now, under the bill that we would bring forward people would be allowed to write that loss off against their taxes. We would protect middle-class America in this way, and it seems to me that if we are going to discuss losses for Pelican Island we ought to also be discussing the losses around the rest of the country, and we ought to be doing something to assure that all of America gets the appropriate treatment with regard to their property concerns.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, the gentleman made some very good points on this question of the impact of gains and losses when one sells one's house. What I am running into up on Long Island is constituents who bought their homes many years ago, perhaps bought a house let us say 15 or 20 years ago for $50,000 and that house is today worth $150,000.

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That is pure capital gain. If that person sells the house because they have lost the job and are unable to maintain the payments on that house and they are going to sell that house and move down to, say, an apartment where their rent is maybe $600 or $700 a month, they face the prospect of paying a $30,000 or $40,000 tax on that gain between $50,000 and $150,000.

The tax in New York is roughly 40 percent. You pay 30 percent Federal and 10 percent New York State income tax at the marginal level. So that provision in there ought to even be expanded so that anyone, and I believe it is in the Republican tax package, so expanded as to permit or to alleviate the impact of capital gains taxes on a homeowner who is selling a home, sometimes something that is only done once or twice in a lifetime, and it is in order to step down and live perhaps in a smaller house, a bungalow or an apartment, perhaps leave New York State, as most of my constituents do the minute they get a chance to retire, because the real estate taxes, the income taxes, the sales taxes are so high, and they move to Florida.

Mr. WALKER. One thing we do to deal with that in the bill is that we allow prospective indexing on capital gains, so that as value is added to the property that you may have, you end up at the close of the sale not having to pay taxes on the inflation that took place, and that would certainly help the kinds of people the gentleman is talking about who are now paying tremendous taxes on inflationary gains during the previous time of owning the home.

Mr. LENT. Mr. Speaker, I yield myself 1 minutes.

Mr. Speaker, I thank the gentleman.

Mr. Speaker, I am always offended when I read the efforts on the part of our Republican party to reduce our tax breaks for the rich. That is baloney.

The average person who is selling a stock, a bond, turning in a pension fund on leaving one job or taking another, or selling a home is very often impacted with very high capital gains taxes, and they really ought to be taxed at a much lower level than ordinary income, and they are presently taxes as if they were ordinary income. So if that person who realizes a $100,000 gain on the sale of a home, in order to move to Florida, in order to retire, in order to move into a little one-bedroom apartment, that person has to pay a capital gains tax which is exactly the same as ordinary income tax, and that can amount to $30,000 or $40,000.

A lot of people, particularly young people who are perhaps, you know, buying a little too high, are very much surprised when they discover to their chagrin that they owe $30,000 or $40,000 to the State of New York and to Uncle Sam when all they did was sell their home to move into cheaper quarters.

Mr. SWIFT. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in strong support of H.R. 1104, legislation, I introduced to waive the Federal Government's right of navigation servitude over portions of Pelican Island in Galveston, TX.

This bill is vital to the economic future of Galveston, as it will protect the city's property tax based, help attract development necessary and essential to produce new jobs for area residents.

The bill is strongly supported by the city of Galveston and a broad coalition of election State representatives, Pelican Island property owners, local organizations, seeking and dedicated to spur economic growth.

Over the past few years, the Galveston district office of the Corps of Engineers has been analyzing various options for a future site for depositing the spoils from its dredging operations in Galveston Channel. In a preliminary report issued in 1988, the corps indicated that one likely option would involve acquiring the site by asserting the right of navigational servitude over privately owned properties on Pelican Island. Derived from the commerce clause of the Constitution by the courts, the right of navigation servitude permits the Federal Government to use, regulate, or compel the removal of obstructions in navigable waters without liability under the fifth amendment for taking.

The right might even be asserted to permit the uncompensated taking of lands, such as portions of Pelican Island, that are now fast lands due to the deliberate filing and natural accretion, but which were once the site of navigable waters.

The prospect of a Federal assertion of navigation servitude created a number

VOL 137 PT 23 NO 21 — 25 1991 UMI

of serious problems for both the city of Galveston and property owners on Pelican Island. In effect, a dark cloud now hangs over the title to the lands on that island. This cloud erodes the value of pelican Island properties for ad valorem tax purposed, hampers efforts to attract sorely needed economic development. Under these conditions, any current owner of property on Pelican Island would think twice before investing a dime in improvements, and any prospective owner would most likely seek a safer investment elsewhere.

Passage of the bill will provide clear title to properties on Pelican island, open the way for further economic development. However, while the bill waives the right of navigation servitude, it does not waive the important Federal environmental requirements, such as the Federal Water Pollution Control Act and the National Environmental Policy Act.

The bill specifically states, where applicable, that these and other important statutes and regulations remain in place.

Mr. Speaker, this legislation is not unique. On over 60 separate occasions, dating back to 1894, the Federal Government has waived its right of navigation servitude over certain specific waterways and lands.

The bill is carefully balanced and a prudent proposal to provide the certainty needed for beneficial development of Pelican Island while protecting important Federal interests.

I would urge my colleagues to support this bill.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER]

Mr. ROHRABACHER. Mr. Speaker, so we have heard today that actually this work is just pro forma; it is just taking place. It does not mean anything. This is just what always happens at the end of the session, and that the Republicans have no reason to complain that their growth package is not able to get to the floor.

Well, I think there is some reason for concern that we can have a bill on the floor concerning Pelican Island, and we cannot have a bill on the floor giving tax relief to our senior citizens. There is something wrong with that.

Now, how many of you know someone from Pelican Island? Well, I know a lot of senior citizens who need tax relief. The people on Pelican Island, yes, they need to have something done to cure their property values. Well, I will tell you, there are a lot of American young people out there who are going to buy their first home, and they are concerned about trying to come up with that downpayment.

We have a growth package that will let them use their IRA's to buy their first home. I think a lot more people know couples in that situation than know people who live on Pelican Island.

The fact is that we cannot get a vote on those things. We cannot get them here.

We are now told that that is because all the work is being done in the committee. Well, let me note that almost everything that is in our growth package has been an item that has been blocked in committee by the very same liberal Democrats who control this House, who will not let it come to the floor.

We have had proposals about the IRA, and we have had proposals for tax relief for senior citizens. We have had these tax incentives for the creation of new jobs and businesses. But these things get blocked in committee.

The fact is that the liberal Democrats who control this body cover these issues on the floor.

Instead, what do they do? They declare martial law. Martial law for what purpose? So that we can get these important items done and get them voted on and get them talked about and debated and done and passed to help create jobs, to save our people who are unemployed? No. They declare martial law so they can go on vacation. Is that not great?

I am sure that really makes the American people feel good that right now that we have declared martial law so that we can get these things through, but we cannot talk about a general job-creating, economy-expanding proposal that the Republicans would like to talk about right now.

☐ 1520

This is not nit-picking. This is fundamentals.

You know, I have been here for 3 years. The first 2 years I was here, all I saw was the liberal Democrats who control this body doing everything they could to box in the President of the United States in order to force him to accept a tax increase; so finally he did. He accepted the tax increase in exchange for having spending limits on the other side.

Now we hear things on the other side, little scams like forward funding to get around the agreements that were made by this side in order to get the President to agree on a tax increase, when all that gave us was a recession. It gave our people joblessness, and it is about time we do something about it rather than talking about Pelican Island.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding me this time.

Little did I know when I woke up this morning that I would be here in the well of the House of Representatives talking about Pelican Island, TX. I have never been to Pelican Island, TX. I have never heard of Pelican Island, TX.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, the gentleman would love it.

Mr. SANTORUM. I am sure I would, I say to the distinguished chairman, I am sure I would love it; but I am concerned about the people on Pelican Island, too. The people on Pelican Island I am sure are here through the vehicle of television who would love to see an economic growth package passed to improve their property values, to eliminate that boat tax that would allow them to use their marinas more. They would like to see America starting to get back on track, it is good politics.

As the gentleman from Pennsylvania [Mr. RIDGE] said earlier, it is good politics.

I have been in the well a few times today, and I do not do so lightly. It is good politics. It is good policy to bring up this growth package. It is a balanced package. This is not the tired old Republican growth package as it has been described that was trotted out here at the last minute. This is a package that reaches out to the people across the aisle and says, listen, we have heard the message. We understand that there is a need for middle-class tax relief. It is in here. We understand the need for looking after senior citizens. It is in here.

We understand the need for getting the economy back on track and creating jobs. It is in here.

This is an honest attempt to reach out and say, please, before we give up this year, before we say that it is more important to go home for Thanksgiving and have a nice month off, before we do that, let us consider the plight of the people in America. Let us consider the plight of the people who want jobs, of the senior citizen who wants to go back to work but because of the high tax of Social Security cannot.

Let us consider the plight of someone who would love to open up a savings account and get some money back from the Federal Government to encourage him to do that.

This is not a savings account for everybody. This is for low- and middle-income people.

This is an attempt to reach out. Please give us the opportunity to at least let it be heard. Let the American public, the people in the galleries and watching on C–SPAN, let them hear what is in here. Let them have a chance to find out whether the people's body is going to do what the people of this country want, which is to get this country back moving and growing again.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is in the motion offered by the gentleman from Washington [Mr. SWIFT] that the house suspend the rules and pass the bill, H.R. 1104, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WAPPINGER CREEK, NEW YORK

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3495) to declare certain portions of Wappinger Creek in Dutchess County, NY, as nonnavigable waters, as amended.

The Clerk read as follows:

H.R. 3495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF NONNAVIGABILITY FOR WAPPINGER CREEK, DUTCHESS COUNTY, NEW YORK.

Wappinger Creek, in Dutchess County, New York, is declared to be nonnavigable waters of the United States from mile 0.0 at the mouth of Wappinger Creek at the Hudson River to the dam located approximately 2.1 miles upstream.

SEC. 2. APPLICATION OF FEDERAL LAW.

Any bulkheading, filling, or other physical development, including permanent structures and marina facilities, in the area described in section 1 is subject to all applicable Federal law and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly referred to as the Rivers and Harbors Appropriation Act of 1899)(33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3495, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, this bill will permit Metro-North Commuter Railroad to maintain the Wappinger Creek Bridge as a permanently closed structure. At one time this drawbridge needed to be in operating condition to allow barge traffic to pass through it; however, that need no longer exists.

The bridge has not been opened since the last 1970's. Its operating mechanism has been severely damaged and would require a major financial investment on the part of Metro-North to put it in proper operating shape. Requiring the bridge to be opened could severely disrupt commuter train schedules, and could also have a negative impact on a wildlife sanctuary located upstream.

We have received letters of support for H.R. 3495 from the New York State Department of Transportation, Dutchess County, Amtrak, Metor-North, the Audubon Society, and the Nature Conservancy.

The Subcommittee on Transportation and Hazardous Materials adopted a bipartisan amendment that permits the Federal Government to enforce all applicable laws in the area declared nonnavigable. The Committee on Energy and Commerce ordered this bill reported on November 7, by voice vote. I urge that the House adopt this legislation. Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the author of this bill, I want to pay my respects to the gentleman from New York [Mr. FISH] for bringing this matter to our attention and to acknowledge his able and helpful assistance in moving this bill expeditiously through the Energy and Commerce Committee, as well as the assistance that I received from our chairman, the gentleman from Michigan, our Transportation Subcommittee Chairman, the gentleman from Washington, and our subcommittee ranking member, the gentleman from Pennsylvania.

I introduced this bill to avoid possible disruption of rail service and financial hardship for the rail passenger carriers who operate along the bank of the Hudson River. Every day, over 30,000 commuters and hundreds of Amtrak passengers cross the Wappinger Creek Bridge on their way in or out of New York City from the Hudson Valley. Some 70 trains a day, run by Amtrak, Metro-North, and Conrail, use the bridge daily.

This bridge, built as a drawbridge just after the turn of the century, is no longer mechanically functional. No commercial facilities exist upstream from it anymore, and no one has sought to have it raised in more than a decade. Yet technically, because the creek is legally classified as navigable waters, the legal requirement for a functioning drawbridge remains in effect.

Unless the railroads are relieved of this requirement, at least $6 million of scarce transportation funds must come from New York or Federal taxpayers to rebuild a drawbridge capacity that no one needs. And that does not count the continuing cost of manning and maintaining the bridge, and the horrendous disruption of rail travel that opening the bridge would cause.

That is why I introduced this bill to reclassify Wappinger Creek as non-navigable waters. The bill has the strong support of Amtrak, of the New York State Transportation Department, and of the New York Metropolitan Transportation Authority, the operator of the Metro-North Commuter Railroad. This bill was considered and approved by the Energy and Commerce Committee pursuant to its jurisdiction over inland waterways, as set out in House rule X, clause 1(h)(10). However, because this bill affects the status of the bridge for purposes of Coast Guard regulation and safety measures, we also consulted the Committee on Merchant Marine and Fisheries, where I serve as ranking member of its Merchant Marine Subcommittee. Through the cooperative efforts of that committee's chairman, Mr. JONES, the ranking member, Mr. DAVIS, the subcommittee chairman, Mr. TAUZIN, and the subcommittee ranking member, Mr. FIELDS, we were able to fashion a technically improved version of the bill.

Even after the legal status of the bridge has been changed by this legislation, the Department of Transportation's Federal Railroad Administration will continue to have complete safety jursidiction over the bridge as a railroad structure, including the condition of its track. Thus, there will be no gap in Federal safety authority over the bridge.

Mr. Speaker, I urge the prompt approval of this legislation.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

As I understand this bill, what we are really attempting to do here is maintain a railroad commuting line into New York City for essentially middle-income people who are out in the suburbs and have to commute in to New York City every day. The bill certainly seems to have merit, if that is what we are attempting to do.

☐ 1530

Those people are obviously folks who have a great deal of interest in some of the other things that we have been discussing here. For example, I would guess that there are a number of people who are in the city, for example, right now who are thinking someday about maybe buying a nice, small home out in the suburbs so that they can commute into the city each day, who would be appreciative of a way of getting the money to buy their home.

For example, in the economic growth package that we are attempting to bring to the floor before the end of the session, suggests that individuals should be able to draw down their IRA funds so that they can use that money to buy that first home and do so without withdrawal penalty.

case-by-case review by the Secretary transfer to a Governor real property stance, we can take actions with re-

VOL 137 PT 23 NO 21—25 1991 UMI

It seems to me an awful lot of those folks who are riding that rail back and forth each day across the Wappinger Creek would like that opportunity, if not for themselves, for their children, or there are people who are not now commuting who would maybe prefer to be commuting from their own home somewhere out in the suburbs, who would prefer to have that kind of a piece of the Tax Code.

I would hope that we would think not only of the people that ride across the Wappinger Creek but all across America who are in similar circumstances who would also appreciate the opportunity to get into the home market for the first time, something that is being denied to them right now.

There is another thing in here that it seems to me those people might want to reflect upon while they are riding that commuter rail across Wappinger Creek into New York City; an awful lot of them would love to have an opportunity to save more money for their families. These are not people probably for the most part who are high-income people. They are probably people who are making salaries that are very middle income oriented.

In the economic growth plan that we seek to bring before the House, we look at taxpayers with adjusted gross incomes of up to $50,000 as people who ought to be given additional incentives to save.

What we say in the package is that we will exclude from taxation a limited amount of interest income over the next couple of years.

Specifically, for single taxpayers we would give them $350, or for a dual-income family they can get up to $700 of tax-free interest on their savings. That would also provide them with some incentives to be more economically active and would obviously benefit the economy as a whole.

So, while doing something of this kind absolutely—and I am talking about the bill now before us—absolutely helps those middle-income people continue to have the train to ride back and forth to New York for their job, we think it is important to take up a bill that first of all will allow them to keep the job by keeping the economy growing again and, second, assure that they have some ability to save and some ability to buy homes.

My guess is as they ride across the Wappinger Creek, they would prefer the Congress to do that rather than spending its time on issues that are not quite as essential.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 3495, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERMITTING SECRETARY OF HEALTH AND HUMAN SERVICES TO WAIVE CERTAIN RECOVERY REQUIREMENTS WITH RESPECT TO FACILITIES

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1891) to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes, as amended.

The Clerk read as follows:

S. 1891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa–12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. 2. USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS ON RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 1891 is to permit the Secretary of Health and Human Services to waive, for good cause, the recovery rights of the United States to funds provided entities under the Community Mental Health Centers Act for remodeling, construction or expansion of facilities. The legislation was passed unanimously by the Senate. The amendment approved by the committee includes a provision authored by the gentleman from Georgia [Mr. ROWLAND] which provides limited authority to the Attorney General to permit the transfer and use of forfeited real property for scenic or historic preservation.

There is special urgency to the consideration of this legislation. The passage of S. 1891 in the Senate was intended to assist efforts in Beaufort, SC, to improve the delivery of community mental health services. The Coastal Empire Mental Health Center proposed to construct a new community mental health center on donated land and with funds obtained through the sale of their existing facility to a local hospital desiring to expand. For construction of the hospital expansion to proceed, it is necessary for the community mental health center to receive a good cause waiver of U.S. recovery rights from the Department of Health and Human Services. The Department has expressed sympathy with the South Carolina proposal but is not permitted under existing law to grant the waiver.

Mr. Speaker, under current law, community mental health centers which received Federal construction funding are obligated to provide services within their community for a 20-year period. In the event the center fails to provide services for the specified period, the Federal Government is entitled to recover Federal construction funds plus interest. The Public Health Service Act authorizes a good-cause waiver at the discretion of the Secretary when the facility "ceases to be used by a community mental health center in the provision of comprehensive mental health services." The act (42 U.S.C. 300aaa–12) does not authorize a waiver of Federal recovery when a community mental health center's [CMHC] facility is sold or transferred to an entity that does not plan to use it as a CMHC. This is the case even when the proceeds of a proposed sale are to be used to construct a new facility that will improve the quality and availability of community mental health services.

S. 1891 will provide the Secretary of Health and Human Services authority similar to that which governs recovery for hospitals under the Hill-Burton Program (42 U.S.C. 291i(d)). The committee expects that waivers will only be granted when the proceeds from a sale or transfer of a facility are to be used to construct or acquire a new mental health facility. Furthermore, the granting of a waiver is limited to a case-by-case review by the Secretary and should not be granted unless the Secretary determines that the waiver would result in an improved level of care to the mentally ill.

In addition, the legislation grants the Attorney General limited authority to transfer to States the title of forfeited real property which is of historic or recreational value. The legislation amends the Controlled Substances Act to authorize the Attorney General to grant the request of a Governor that forfeited real property be deeded to States desiring to preserve such land for public use. States would be required to maintain the property for this purpose in perpetuity. Title would revert back to the United States in the event the property was used otherwise.

The legislation is critically important to permit the preservation of a 36-acre, heavily forested track of land located in Cobb County, GA. Title to the land is currently held by the Department of Justice and a public sale for development has been postponed pending action by Congress. Georgia Gov. Zell Miller has written the Attorney General citing the property as unique and expressing the State's desire to preserve the land as a park or nature preserve. Passage of the legislation is necessary to preserve the property for public use.

Current law is inflexible on this subject. When real property is determined to be of no value to the Federal Government, the Attorney General is required to put the property up for sale. While this may be appropriate action for the disposition of forfeited cars, speedboats or houses, in those limited circumstances when a natural area is suitable for use as a State park or wildlife preserve, Federal law should possess the flexibility to deter to a greater public interest. The interests of a State in preserving natural areas for public benefit—particularly the benefit of young people seeking recreational alternatives to the streets—should take priority over whatever temporary monetary advantage might be achieved by selling such property to private interests.

Mr. Speaker, the amendment is a modest but vitally important proposal that will assist Georgia and other States to preserve their natural heritage.

I urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objection to the consideration of this bill. It addresses two very narrow situations that require legislation.

The first grants a waiver that would permit the Coastal Empire Mental Health Center in Beaufort, SC to expand its services.

The second provision authorizes the Attorney General, upon request, to transfer to a Governor real property that has been forfeited under the Controlled Substances Act so that such land can be preserved for public use. States would be required to maintain the property for this purpose in perpetuity. Title to the land would revert back to the United States in the event the property was used otherwise.

This section is designed to facilitate the transfer of title of certain lands in Cobb County, GA, to the Governor of that State to create a county nature park.

I know of no objection to this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my good friend who has been enormously interested in this legislation the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, S. 1891 contains legislation which I introduced in October with my colleague from Georgia, BUDDY DARDEN. This legislation will amend the Controlled Substances Act with regard to the purchase of seized property which is suitable for use as public land.

A tract of land was recently seized by the Drug Enforcement Agency during a drug arrest in Cobb County, GA, by the Drug Enforcement Agency. This land is heavily forested with old growth trees and native azaleas and has outstanding springs, waterfalls, and other natural resources.

Gov. Zell Miller of Georgia has requested that Cobb County be given the opportunity to acquire this land for use as a county park. The Governor has undertaken an initiative called Preservation 2000, a plan to acquire land for public use in the State. He also has encouraged county governments to acquire lands for public use.

This legislation is required to allow transfer of the land to Cobb County. The bill would provide that, in cases in which a chief executive officer of a State submits a request to the Attorney General regarding criminally forfeited land which is appropriate for use as a public area, the Attorney General may transfer title of the property to the State. This language was accepted as an amendment to the crime bill on the floor of the House last month, but swift action is needed to ensure that the property will be preserved. I appreciate the cooperation of the chairman of the full Energy and Commerce Committee, JOHN DINGELL, and the Subcommittee on Health in the Environment, HENRY WAXMAN, in helping us to bring this legislation to the floor.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, again what we are proving with this bill is that we can act on behalf of public land. In a narrow instance, we can take actions with regard to public property. What is not clear is that Congress is not willing to act on issues relating to the property value decline that many Americans are suffering all over the country. We have a crisis in this country that has led to multimillion-dollar taxpayer bailouts.

The reason we are having to bail out savings-and-loans is that we have had a rapid depreciation in real estate values. The assets held by savings and loans are largely real estate, and they have been badly abused as agencies and as institutions because of the lack of property values.

☐ 1540

Mr. Speaker, the same thing with our banks. Their real estate assets in decline have led to a major financial problem to our banks, and the taxpayers are being asked, to the tune of billions, and billions and billions of dollars, to bail out those institutions.

Now we have an opportunity to do something about, not only that, but also the declining property values that people find themselves faced with. We do have an opportunity to pass legislation that, with a capital gains tax cut, with a revision in passive loss rules, with first-time home buyers incentives, with middle income savings plans and with properly treating losses on principal residences, that we can begin the job of improving property values in this country.

Mr. Speaker, we ought not just think in narrow terms of what we have to do about property being traded between the State governments and the Federal Government. We ought to be thinking about the properties of all Americans. If we could bring to the floor a real economic growth bill in the next few days, what we could get is some help for property owners all across the country who find themselves in desperate straits. We could help those people who may have to sell their properties at a loss by giving them a chance to write that loss off. We could give those people who are going to sell their properties in order to go into retirement a chance to get appropriate capital gains tax treatment. We can help those young home owners or young couples who want to become homeowners to get the money that they need in order to invest in that home by cashing in their IRA's with penalty.

Mr. Speaker, we can do a number of things to help, and we could reform the passive loss problems in real estate that would help recapitalize the industry. Those are the kinds of programs that ought to be considered here.

This very narrow bill is certainly something that is appropriate for Congress to do. The question is whether or not it is the highest priority item for Congress to do. The highest priority before we go home should be to create a climate for economic growth. I hope we can do so.

Mr. DARDEN. Mr. Speaker, I rise in strong (H.R. 3012) to amend the Wild and Sce- nized for 20 minutes, and the gen-

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ly with the remarks that have been White Clay Creek Study Act of 1991. atively undisturbed natural areas still

VOL 137 PT 23 NO 21—25 1991 UMI

Mr. DARDEN. Mr. Speaker, I rise in strong support of S. 1891. This bill has bipartisan support and is essential in assuring the continued operation of certain medical facilities. However, not only does this bill address certain inequities in medical facilities regulation, but an amendment to this bill approved by the Committee on Energy and Commerce enhances our Drug Enforcement and Environmental Protection Program.

This amendment, which my colleague Representative ROWLAND and I also were able to include in the crime bill, would allow the Attorney General to give States authority over property confiscated as the result of criminal activity if that property is suitable for recreational or historic preservation purposes.

While this provision may seem insignificant in comparison to the major issues to be decided this week, it is crucial to States such as Georgia, where rapid growth has resulted in both an increase in criminal activity and the elimination of much of our open spaces. The Justice Department's Asset Forfeiture Program has as its primary goal the enhancement of cooperation between Federal, State and local officials. I can think of no better encouragement than the use of property confiscated from criminals in the insidious drug trade than for the benefit of communities plagued by this type of activity.

This proposal does not seek the wholesale confiscation of private property. This is property already owned by the Federal Government as the result of criminal activity and subject to appropriate disposition. Allowing this land to be used for parks would be of lasting benefit both to the environment and to the public. This bill, which includes the asset forfeiture language, is reasonable and responsible, and I urge my colleagues' support.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL] that the House suspend the rules and pass the Senate bill, S. 1891, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1891, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

WHITE CLAY CREEK STUDY ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3012) to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

The Clerk read as follows:

H.R. 3012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "White Clay Creek Study Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the White Clay Creek watershed is one of only a few relatively undisturbed areas remaining within one of the most densely populated areas in the country;

(2) the Creek and several of its tributaries were placed on the Nationwide Rivers Inventory List by the National Park Service for initially meeting the criteria of the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(3) the concerns and interests of those people who live, work, and recreate within the watershed will be reflected in the development of a study and management plan by the Secretary of the Interior pursuant to this Act; and

(4) the conservation of the watershed, and its outstanding natural, cultural, and recreational values, is important to the residents within the watershed and to the residents within the surrounding suburban and urban areas of Delaware and Pennsylvania.

SEC. 3. STUDY RIVER DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following new paragraph:

"(112) WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The headwaters of the river in Pennsylvania to its confluence with the Christina River in Delaware, including the East, West, and Middle Branches, Middle Run, Pike Creek, Mill Creek, and other main branches and tributaries as determined by the Secretary of the Interior (herein after referred to as the White Clay Creek).".

SEC. 4. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"(11)(A) The study of the White Clay Creek in Delaware and Pennsylvania shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph.

"(B) In carrying out the study, the Secretary of the Interior shall prepare a map of the White Clay Creek watershed in Delaware and Pennsylvania, and shall develop a recommended management plan for the White Clay Creek. The plan shall provide recommendations as to the protection and management of the White Clay Creek, including the role the State and local governments, and affected landowners, should play in the management of the White Clay Creek if it is designated as a component of the National Wild and Scenic Rivers System.

"(C) The Secretary shall prepare the study, including the recommended management plan, in cooperation and consultation with appropriate State and local governments, and affected landowners.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3012 is a bill introduced by the gentleman from Delaware [Mr. CARPER] and my Interior Committee colleague from Pennsylvania [Mr. SCHULZE]. It would amend the Wild and Scenic Rivers Act to require a study of White Clay Creek, in Pennsylvania and Delaware, for possible inclusion in the National Wild and Scenic Rivers System.

White Clay Creek rises in Chester County, Pennsylvania, and joins the Christiana River in Delaware. Its watershed is unusual because it is relatively undisturbed, even though it is in one of the Nation's most heavily populated areas. White Clay Creek and several of its tributaries were identified as suitable for further study in the National Park Service's 1982 nationwide rivers inventory.

Under the bill, the National Park Service would study the entire watershed, including some tributaries not included in the 1982 inventory. At our hearing, the administration testified that they had no objection to studying these additional stream segments.

So far as I am aware, H.R. 3012 is not controversial. At our hearing, the administration testified in support of the bill. They did note that they believed some of its language was redundant, because it reiterates some of the provisions of the Wild and Scenic Rivers Act related to coordination with State and local governments and others. However, I believe that it does no harm to have these provisions included in the bill, since they merely reiterate the study process that the National Park Service will follow in any event.

The Interior Committee approved H.R. 3012 bill without amendment. I know of no opposition to it, and I urge its passage by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are about to consider a number of bills that have come out of the Committee on Interior and Insular Affairs, and I think I should point out to those who are listening and watching that I agree very strongly with the remarks that have been made by my colleagues on this side of the aisle about the importance of having an economic development package of legislation, and I would hope that we will be allowed to vote on that before we go home. I think that certainly is more important than getting out of here for Thanksgiving.

On a personal note, I would remind those who do not know, and that is probably almost everybody that is listening, that one of the items in that package is the allowance of use of IRA funds for first-time home buyers. I introduced that legislation about 10 years ago. We are still waiting for the House to take it up, and I think it would be very helpful, not only to those who are waiting and who would like to buy a home and are unable to come up with the funds for a down payment, but it would be very helpful to the economy as well by promoting construction of homes and all that goes with that.

But, Mr. Speaker, as I say, we do have a number of bills before us today. They are important bills, they should be considered, and I hope that we will get on with doing that.

Mr. Speaker, I rise in support of H.R. 3012, a bill to designate about 100 miles of streams in the White Clay Creek watershed for study under the Wild and Scenic Rivers Act. During our hearing on this measure, we learned that the National Park Service has determined that about 23 miles of White Clay Creek was potentially suitable for designation under the Wild and Scenic Rivers Act. It is my understanding that the balance of the river miles included in this study are largely small tributaries which probably do not have the outstanding resource values to qualify for designation under the Wild and Scenic Rivers Act.

A major issue associated with White Clay Creek protection is enhancement of water quality, since this stream and its tributaries serve as a water source for large metropolitan areas. While I believe that designation of an entire watershed for study under the Wild and Scenic Rivers Act is unprecedented, I do not object to this study bill because absent a study of this scope, the needs of the proponents of this measure are unlikely to be met.

However, I would have to review any future designation of White Clay Creek under the Wild and Scenic Rivers Act very carefully to ensure that any such designation is fully consistent with the requirements under the act.

I urge my colleagues to join me in supporting this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware [Mr. CARPER] who is the sponsor of this measure.

Mr. CARPER. Mr. Speaker, today I rise in strong support of H.R. 3012, the White Clay Creek Study Act of 1991. Let me express to both the gentleman from Minnesota [Mr. VENTO] and to the gentleman from California [Mr. LAGOMARSINO] my deep appreciation for their support in, not only this legislation today, but also for expediting its consideration. I also want to thank the gentleman from Pennsylvania [Mr. SCHULZE] for joining me as a principal cosponsor of this bill and for helping us to guide it through the Committee on Interior and Insular Affairs.

The White Clay Creek Study Act, as has been indicated earlier, would authorize the National Park Service to evaluate the eligibility of the White Clay Creek for designation as part of the National Wild and Scenic Rivers System. In addition to a study, the bill would authorize the National Park Service to prepare a management plan for the creek and several of its tributaries.

The White Clay Creek watershed is roughly equidistant between the cities of Philadelphia and Baltimore, and is approximately 20 miles from the city of Wilmington. The headwaters of the creek are in Chester County, PA. They drain a watershed of pastures, cultivated croplands, and forest land. The creek flows south through an 1,800-acre bi-State preserve to Carpenter State Park and then east through the city of Newark to Churchman's Marsh, where it and the Red Clay Creek meet the Christina River, a tributary of the Delaware River.

During the late 1960's, a dam and reservoir were proposed for the White Clay Creek to meet projected water demands for New Castle County. The Dam was to be 1 mile upstream from the city of Newark and expected to flood 1,400 acres. To facilitate the reservoir's construction, more than 2,000 acres of White Clay Creek land were purchased by the Du Pont Co. during the 1970's.

The reservoir proposal, however, ran into stiff opposition from local residents in both Delaware and Pennsylvania. Organizations like the Coalition for Natural Stream valleys, the White Clay Watershed Association, and Citizens for White Clay Creek arose to oppose the reservoir in an effort to protect the natural, recreational, and cultural values within the watershed. Their efforts combined with revised water-use projections resulted in the termination of the project in the early 1980's.

In 1984, the Du Pont Co. announced that it would donate 1,700 acres to the State of Delaware and to the Commonwealth of Pennsylvania "to be developed, operated, and maintained as a bi-State park." Since that donation, both Delaware and Pennsylvania have increased their acquisition of land within the watershed. Today, I believe that the White Clay Creek watershed represents one of only a few large relatively undisturbed natural areas still remaining between Philadelphia and Baltimore.

The watershed provides relief from the pressures of urban living through an extensive network of trails on which to bike or walk. It also provides some of the best trout fishing in the area and contains a rich diversity of plant and animal life, including several State and federally recognized threatened and endangered species.

In January 1981, the area's outstanding natural, recreational, and cultural values were officially recognized by the National Park Service when several segments of the White Clay Creek were identified as potential candidates for wild and scenic river designation in the nationwide rivers inventory.

The White Clay Creek has already benefited from a number of studies, including one by the National Park Service in 1984, on what is now the White Clay Creek preserve. The 1984 report described this section of the watershed as "a unique area that should not be lost."

I believe that the comprehensive study that we call for in our legislation would complement the 1984 park service study and build on what has been discovered by the various organizations involved with protecting and understanding the White Clay Creek watershed.

Passage of the White Clay Creek Study Act will not only allow the park service to conduct a comprehensive study of the creek and several of its tributaries, but it will also provide the States and local communities with the expertise and resources necessary to effectively guide future growth.

Mr. Speaker, I believe that the White Clay Creek watershed is a resource worth protecting, not only for the constituents of my State but also for the constituents of other Middle Atlantic States as well.

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Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, today we have had a lot of discussion on important items, like gambling on boats, property values on Pelican Island, and now White Clay Creek. Later we will hear about the Big Thickets National Preserve in Texas and about other very important items.

I am not saying that I oppose any one of these particular items being proposed here today. I am not. What I am suggesting and what the Republicans are suggesting is that it speaks volumes of us, of this institution, that we are here discussing gambling, boats, property values on Pelican Island, White Clay Creek, and Big Thicket National Preserve at a time when investment funds around this country are drying up, at a time when job creation

VOL
137
PT
23
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21—25
1991
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is already like a dry river bed, and when the jobless people of this country are thirsting for employment and are in desperate circumstances and there is an alternative to speaking about Pelican Island and gambling boats, when we could be speaking about job creation, we could be speaking about an economy-expanding package that the Republicans would like to talk about.

Instead of talking about property values on Pelican Island, we could be talking about tax relief for senior citizens, we could be talking about a means of providing our young people with buying their first home, we could be talking about incentives for job creation, we could be talking about a stimulus to economic growth.

But instead we are talking about these items, these items which in and of themselves are fine, but at a time when our people are struggling to find a way to make ends meet, at a time when people are worried that their jobs will not be around tomorrow, we keep talking about these nonsensical items which would not be important that much in terms of jobs and economic growth to our overall economy.

Mr. Speaker, we have a growth package that has been proposed to this body. Instead of having any serious consideration of it, we are told that we have to talk about gambling boats, property values on Pelican Island, et cetera. We have proposed a growth package which will help people provide jobs and stimulate the economy. Instead, what we have from the other side, from the liberal Democrats who control this body, is a declaration of martial law so that they can go on vacation. At a time when more and more American citizens are facing unemployment benefits, it is time for this body to go on vacation.

Mr. Speaker, I think that this shows the priorities and the values on this side of the aisle, on that side of the aisle, and that the American people should take that into consideration.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3012.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

LOWER MERCED RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2431) to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System, as amended.

The Clerk read as follows:

H.R. 2431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF THE LOWER MERCED RIVER.

Section 39(a)(62) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(62)) is amended—

(1) by striking "The main stem" and inserting in lieu thereof "(A) The main stem";

(2) by striking "paragraph" wherever it appears and inserting in lieu thereof "subparagraph"; and

(3) by adding the following at the end thereof:

"(B) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum normal water surface elevation of Lake McClure (elevation 867 feet mean sea level), consisting of approximately 8 miles, as generally depicted on the map entitled 'Merced Wild and Scenic River', dated April 1990. The Secretary of the Interior shall administer the segment designated under this subparagraph as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of the Mountain King Mine to the point of maximum normal water surface elevation of Lake McClure. With respect to the segment designated by this subparagraph, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.".

SEC. 2. STUDY OF THE NORTH FORK OF THE MERCED RIVER.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)), is amended by adding the following new paragraph at the end thereof.

"( ) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced River.".

SEC. 3. WITHDRAWAL FROM MINERAL ENTRY.

In the case of those segments on the main stem of the Merced River and on the South Fork Merced River which are designated as components of the wild and scenic river system pursuant to the Wild and Scenic Rivers Act and administered under that Act as recreational or scenic, all public lands within the authorized boundaries of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

SEC. 4. SAXON CREEK PROJECT.

To the extent permitted by, and in a manner consistent with, section 7 of the Wild and Scenic Rivers Act (16 U.S.C. 1278), and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in Bureau of Land Management right of way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the "Saxon Creek Project" to assure an adequate supply of water from the Merced River to Mariposa County.

SEC. 4. EXCHEQUER PROJECT.

Nothing in this Act shall be construed as affecting the authority of the Federal Energy Regulatory Commission to relicense Project No. 2179 (the New Exchequer Project) within the boundaries of such project set forth in the license for such project in effect on the date of enactment of this Act, or as precluding the holder of such license from operating Lake McClure reservoir at a maximum normal water surface elevation of 867 feet above mean sea level before or after any such relicensing.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 2431.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3431 is a bill introduced by the gentleman from California [Mr. CONDIT] that would designate a portion of the Merced River for inclusion in the National Wild and Scenic Rivers System, and require a study of the north fork of the Merced River for possible similar designation in the future.

The river segments covered by the bill have many outstanding characteristics that have led the Bureau of Land Management and the Forest Service to recommend adoption of this bill.

This bill is not a new proposal, Mr. Speaker, but rather a matter on which the House acted during the last Congress. In fact, the Senate passed a Merced River bill as well, but unfortunately they added some unrelated matters and acted too late in the session for a resolution of the differences.

As was brought out at the hearing of the Subcommittee on National Parks and Public Lands on H.R. 2431 this fall, the only thing that has changed is that a question has been raised about the possible effects, someday in the future, on relicensing of an existing project located at the end of the river segments covered by the bill. The bill as introduced included language, in section 5, addressing that question.

Mr. Speaker, I believe that such language is unnecessary. However, recognizing that there is disagreement about some of the specific facts

involved, I reluctantly agreed to inclusion of such a provision in the bill this year. Accordingly, while the bill was being considered in subcommittee, I worked with the bill's sponsor, Mr. CONDIT, and other interested parties to develop an amendment that was later adopted by the Interior Committee and is included in the bill now before the House.

That amendment revised section 5 of H.R. 2431, to specify what, in any event, would be the case—namely, that the designation of the river segment involved will not preclude future relicensing of the new exchequer project or the continued operation of Lake McClure with a maximum normal-surface elevation of 867 feet above mean sea level, as is now the case.

It is my understanding that as so amended, the bill is satisfactory to all parties. Designation of the river segments involved here was recommended by the Bureau of Land Management and is supported by the administration. I urge that the House approve H.R. 2431.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2431. This bill, which Mr. CONDIT has brought before this body, represents an excellent example of cooperation among diverse interest groups. It is all too often that our subcommittee is forced to make a black or white choice between development and preservation. These choices are usually forced upon our committee because one party to a dispute adopts an all-or-nothing strategy, and succeeds in elevating the issue to a congressional level.

Unfortunately, the committees of Congress are rarely the best place to make such decisions. Rarely do congressional committees have adequate time or knowledge to devote to a single topic, as in the case of the Lower Merced River designation where local people have been working on the issue for about 5 years. In this particular case, a diverse group of local interest have come together and developed a solution which meets all of their needs and I commend Mr. CONDIT for providing the opportunity for this locally based initiative to succeed. This measure is also significant in that it illustrates the flexibility inherent in the Wild and Scenic Rivers Act. This act was never intended by its authors to be an absolute preservation statute, but only designed to protect certain outstanding remarkable resource values of certain river segments.

I recognize that on some issues of national importance or intense polarization, our subcommittee will have to step in. I hope that we in Congress can learn from this measure that micromanagement of Federal lands from Capitol Hill should be the avenue of last resort, not the place where the issue should be first heard.

This bill, which designates 8 miles of the Merced River, is very similar to a measure which passed both Houses last year and I strongly urge my colleagues to join the administration in supporting this measure.

Mr. VENTO. Mr. Speaker, I want to thank the gentleman from California [Mr. LAGOMARSINO] for his cooperation.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. CONDIT], the sponsor of this measure.

Mr. CONDIT. Mr. Speaker, I would like to take this opportunity to thank the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands, for his assistance in bringing this bill to the floor. He has been quite understanding and helpful with me and some of the constituency groups in my district, and I certainly appreciate that.

I would also like to thank my colleague from California [Mr. LAGOMARSINO] for his help, and also the subcommittee staff.

Mr. Speaker, I am pleased that the 102d Congress is taking action today on H.R. 2431, legislation that I introduced to designate 8 miles of the Merced River as wild and scenic. The House passed similar legislation last year. Unfortunately, in the last hours of the 101st Congress we were unable to have the Senate pass identical legislation.

This bill will complete the action taken by the 100th Congress. At that time, 71 miles of the Merced River were designated as wild and scenic and a study was authorized to be conducted on 8 remaining miles from Briceburg to the Lake McClure reservoir.

These 8 miles were not initially included in the designation in order to allow Mariposa County to complete a proposal for a water system that would be compatible with the requirements of the Wild and Scenic Rivers Act. The county has designed a project that will be compatible and the county board of supervisors unanimously supports my legislation.

This bill also addresses the concerns of the Merced Irrigation District. The district was concerned about the effect of this bill on their FERC license. The language included in the H.R. 2431 clearly states that the designation of the river does not in any way interfere with the operation of the new exchequer project as currently licensed and the operation of Lake McClure Reservoir at an elevation of 867 feet.

I am pleased that the committee report to accompany the bill addresses the issue of alternative transportation in Yosemite National Park. There is an effort underway in Mariposa County to rebuild the railroad within Yosemite National Park. The proposed railroad would run along the Merced River. I believe that alternative modes of transportation in the park are necessary and hope that Congress will work with local and State organizations to facilitate these changes.

I believe that the unique beauty of the Merced makes it a prime choice for inclusion in the Wild and Scenic Rivers System. The action we are taking today will ensure that the beauty of the river will be preserved for generations to enjoy.

I urge my colleagues to support passage of H.R. 2431.

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Mr. VENTO. Mr. Speaker, I thank the gentleman for his excellent statement and work on this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2431, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2141) to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The public lands managed by the Bureau of Land Management in the State of Idaho within the Snake River Birds of Prey Area contain one of the densest known nesting populations of eagles, falcons, owls, hawks, and other birds of prey (raptors) in North America.

(2) These public lands constitute a valuable national biological and educational resource since birds of prey are important components of the ecosystem and indicators of environmental quality, and contribute significantly to the quality of wildlife and human communities.

(3) These public lands also contain important historic and cultural resources (including significant archeological resources) as well as other resources and values, all of which should be protected and appropriately managed.

(4) A military training area within the Snake River Birds of Prey Area, known as the Orchard Training Area, has been used since 1953 by reserve components of the Armed Forces. Military use of this area is

VOL 137 PT 23 NO 21–25 1991 UMI

currently governed by a Memorandum of Understanding between the Bureau of Land Management and the State of Idaho Military Division, dated May 1985. Operating under this Memorandum of Understanding, the Idaho National Guard has provided valuable assistance to the Bureau of Land Management with respect to fire control and other aspects of management of the Orchard Training Area and the other lands in the Snake River Birds of Prey Area. Military use of the lands within the Orchard Training Area should continue in accordance with such Memorandum of Understand (or extension or renewal thereof), the to extent consistent with section 4(e) of this Act, because this would be in the best interest of training of the reserve components (an important aspect of national security) and of the local economy.

(5) Continued management and protection of the area should be accomplished by the Secretary of the Interior, acting through the Bureau of Land Management, under a management regime that—

(A) emphasizes management, protection, and enhancement of raptor habitat and protection of the other resources and values of the area;

(B) provides for continued military use, consistent with the requirements of section 4(e) of this Act, of the Orchard Training Area by reserve components of the Armed Forces;

(C) addresses the need for public educational and interpretive opportunities;

(D) allows for diverse appropriate uses of lands in the area to the extent compatible with the maintenance and enhancement of raptor populations and habitats and protection and sound management of other resources and values of the area; and

(E) demonstrates management practices and techniques that may be useful to other areas of the public lands and elsewhere.

(6) There is established near the conservation area a facility, the World Center for Birds of Prey operated by The Peregrine Fund, Inc., where research, public education, recovery, and re-establishment operations exist for endangered raptor species. There is also established at Boise State University a raptor study program which attracts national and international graduate and undergraduate students.

(7) Bureau of Land Management and Boise State University, together with other State, Federal, and private entities, have formed the Raptor Research and Technical Assistance Center to be housed at Boise State University, which provides a unique adjunct to the conservation area for raptor management, recovery, research, and public visitation, interpretation, and education.

(8) Consistent with requirements of sections 202 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1732), the Secretary has developed a comprehensive management plan and, based on such plan, has implemented a management program for the public lands included in the conservation area established by this Act.

(9) Additional authority and guidance must be provided to assure that essential raptor habitat remains in public ownership, to facilitate sound and effective planning and management, to provide for effective public interpretation and education, to ensure continued study of the relationship of humans and these raptors, to preserve the unique and irreplaceable habitat of the conservation area, and to conserve and properly manage the other natural resources of the area in concert with maintenance of this habitat.

(10) An ongoing research program funded by the Bureau of Land Management and the National Guard is intended to provide information to be used in connection with future decisionmaking concerning management of all uses, including continued military use, of public lands within the Snake River Birds of Prey Area.

(11) The public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, and there is reason to believe that appropriate protection and sound management of ratpor habitat and the other resources and values of these lands would not preclude continuation of this use, subject to appropriate terms and conditions.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "conservation area" means the Snake River Birds of Prey National Conservation Area established by section 3.

(3) The term "raptor" or "raptors" means individuals or populations of eagles, falcons, owls, hawks, and other birds of prey.

(4) The term "raptor habitat" includes the habitat of the raptor prey base within the conservation area as well as the nesting and hunting habitat of raptors.

(5) The term "Memorandum of Understanding" means the Memorandum of Understanding #ID–237, dated May 1985, between the State of Idaho Military Division and the Bureau of Land Management.

(6) The term "Orchard Training Area" means that area generally so depicted on the map referred to in section 3(b), and as described in the Memorandum of Understanding.

(7) The term "Impact Area" means that area which was used for the firing of live artillery projectiles and is used for live fire ranges of all types and, therefore, poses a danger to public safety and which is generally so depicted on the map referred to in section 3(b).

(8) The term "Artillery Impact Area" means that area within the Impact Area into which live artillery projectiles are fired, which is generally described as that area labeled as such on the map referred to in section 3(b).

(9) The term "the plan" means the comprehensive management plan developed for the conservation area, dated August 30, 1985, together with such revisions thereto as may be required in order to implement this Act.

SEC. 3. ESTABLISHMENT OF NATIONAL CONSERVATION AREA.

(a) Purposes and Establishment.—In order to provide for the conservation, protection, and enhancement of raptor populations and habitats, and the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area, there is hereby established the Snake River Birds of Prey National Conservation Area.

(b) Area Included.—The conservation area shall consist of approximately 482,457 acres of federally owned lands and interests therein managed by the Bureau of Land Management as generally depicted on the map entitled "Snake River Birds of Prey National Conservation Area", dated November 1991.

(c) Map and Legal Description.—As soon as is practicable after enactment of this Act, the map referred to in subsection (b) and a legal description of the conservation area shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map shall have the same force and effect as if included in this Act; except that the Secretary may correct clerical and typographical errors in such map and legal description. Such map shall be on file and available for public inspection in the office of the Director and the Idaho State Director of the Bureau of Land Management of the Department of the Interior.

(d) Withdrawals.—(1) Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal (except as provided in paragraph (3)) under the public land laws; and from entry, application, and selection under the Act of March 3, 1877 (Ch. 107, 19 Stat. 377, 43 U.S.C. 321 et seq.; commonly referred to as the "Desert Lands Act"), section 4 of the Act of August 18, 1894 (Ch. 301, 28 Stat. 422; 43 U.S.C. 641; commonly referred to as the "Carey Act"), the Act of July 3, 1890 (Ch. 656, 26 Stat. 215; commonly referred to as the "State of Idaho Admissions Act"), section 2275 of the Revised Statutes, as amended (43 U.S.C. 851), and section 2276 of the Revised Statutes, as amended (43 U.S.C. 852). The Secretary shall return to the applicants any such applications pending on the date of enactment of this Act, without further action.

(2) Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from location, entry, and patent under the mining laws of the United States and from operation of the mineral and geothermal leasing laws.

(3) If the Secretary determines that it would further the purposes for which the conservation area is established, the Secretary, pursuant to section 206 of the Federal Land Policy and Management Act of 1976, may exchange public lands either within or outside the boundaries of the conservation area for non-Federal lands within such boundaries.

SEC. 4. MANAGEMENT AND USE.

(a) In General.—(1)(A) As soon as possible after the date of enactment of this Act, the Secretary shall make such revisions in the plan as required in order to implement this Act.

(B) Thereafter, the Secretary shall review the plan at least once every four years and shall make such revisions as may be necessary or appropriate.

(C) In reviewing and revising the plan, the Secretary shall provide for appropriate public participation.

(2) Except as otherwise specifically provided in subsections (d), (e), and (f) of this section, the Secretary shall allow only such uses of lands in the conservation area as the Secretary determines will further the purposes for which the conservation area is established.

(b) Management Guidance.—After each review pursuant to subsection (a), the Secretary shall make such revisions as may be needed so that the plan and management program to implement the plan include, in addition to any other necessary or appropriate provisions, provisions for—

(1) protection for the raptor populations and habitats and the natural and environmental resources and values associated therewith, and for the scientific, cultural, and educational resources and values of the public lands in the conservation area;

(2) identifying levels of continued military use of the Orchard Training Area compatible with paragraph (1) of this subsection;

(3) interpretive and educational opportunities for the public;

(4) a program for continued scientific investigation and study to provide information to support sound management in accordance with this Act, to advance knowledge of raptor species and the resources and values of the conservation area, and to provide a process for transferring to other areas of the public lands and elsewhere this knowledge and management experience;

(5) such vegetative enhancement and other measures as may be necessary to enhance prey habitat;

(6) the identification of levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be consistent with the protection, maintenance, and enhancement of raptor populations and habitats and the other purposes for which the conservation area is established; and

(7) assessing the desirability of imposing appropriate fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, in addition to any uses for which fees are currently imposed, to be used to further the purposes for which the conservation area is established.

(c) Visitors Center.—The Secretary, acting through the Director of the Bureau of Land Management, is authorized to establish, in cooperation with other public or private entities as the Secretary may deem appropriate, a visitors center designed to interpret the history and the geological, ecological, natural, cultural, and other resources of the conservation area as well as the management of the conservation area and the biology of the raptors and their relationships to man.

(d) Visitors Use of Area.—The Secretary may provide for visitor use of the public lands in the conservation area to such extent and in such manner as the Secretary considers consistent with the protection of raptors and raptor habitat, public safety, and the purposes for which the conservation area is established. To the extent practicable, the Secretary shall make available to visitors and other members of the public a map of the conservation area and such other educational and interpretive materials as may be appropriate.

(e) National Guard Use of the Area.—(1) Pending completion of the ongoing research concerning military use of lands in the conservation area, or until the date five years after the date of enactment of this Act, whichever is the shorter period, the Secretary shall permit continued military use of those portions of the conservation area known as the Orchard Training Area in accordance with the Memorandum of Understanding, to the extent consistent with the use levels identified pursuant to subsection (b)(2) of this section.

(2) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall review the management plan and make such additional revisions therein as may be required to assure that it meets the requirements of this Act.

(3) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall submit to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of the results of such research.

(4) Nothing in this Act shall preclude minor adjustment of the boundaries of the Orchard Training Area in accordance with provisions of the Memorandum of Understanding.

(5) After completion of the ongoing research concerning military use of lands in the Orchard Training Area or after the date five years after the date of enactment of this Act, whichever first occurs, the Secretary may continue to permit military use of such lands, but only to the extent the Secretary, on the basis of such research, determines such use is compatible with the purposes set forth in section 3(a). Any such use thereafter shall be permitted only in accordance with the Memorandum of Understanding and the requirements of subsection (b)(2) of this section.

(6) The Secretary shall require that military units involved maintain a program of decontamination in accordance with the memorandum of Understanding.

(7) Nothing in this Act shall be construed as by itself precluding the extension or renewal of the Memorandum of Understanding, or the construction of any improvements or buildings in the Orchard Training Area so long as the requirements of this subsection are met.

(f) Livestock Grazing.—The Secretary may permit continued use of lands in the conservation area for domestic livestock grazing in accordance with the Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly referred to as the "Taylor Grazing Act"), section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), and other laws applicable to such use of the public lands, but only to the extent that the Secretary determines such use is compatible with the purposes for which the conservation area is established.

(g) Cooperative Agreements.—The Secretary is authorized to provide technical assistance to, and to enter into such cooperative agreements and contracts with, the State of Idaho and with local governments and private entities as the Secretary deems necessary or desirable to carry out the purposes and policies of this Act.

SEC. 5. ADDITIONS.

(a) Acquisitions.—(1) The Secretary is authorized to acquire lands and interests therein within the boundaries of the conservation area by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency, except that such lands or interests owned by the State of Idaho or a political subdivision thereof may be acquired only by donation or exchange.

(2) Any lands located within the boundaries of the conservation area that are acquired by the United States on or after the date of enactment of this Act shall become a part of the conservation area and shall be subject to this Act.

(b) Purchase of Lands.—In addition to the authority in section 318(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748) and notwithstanding section 7(a) of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 4601–9(a)), monies appropriated from the Land and Water Conservation Fund may be used as authorized in section 5(b) of the Endangered Species Act of 1973 (16 U.S.C. 1534(b)), for the purposes of acquiring lands, waters, or interests therein within the conservation area for administration as public lands as a part of the conservation area.

(c) Study.—The Secretary shall evaluate the desirability of adding to the conservation area public lands adjacent to the area, and shall report to the Congress concerning the results of such study at the same time a report is submitted pursuant to section 4(e)(3).

SEC. 6. OTHER LAWS AND ADMINISTRATIVE PROVISIONS.

(a) Other Laws.—(1) Nothing in this Act shall be construed to supersede, limit, or otherwise affect administration and enforcement of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or to limit the applicability of the National Trails System Act to any lands within the conservation area.

(2) Except as otherwise specifically provided in this Act, nothing in this Act shall be construed as limiting the applicability to lands in the conservation area of laws applicable to public lands generally, including but not limited to the National Historic Preservation Act, the Archaeological Resources Protection Act of 1979, or the Native American Graves Protection and Repatriation Act.

(3) Nothing in this Act shall be construed as by itself altering the status of any lands that on the date of enactment of this Act were not managed by the Bureau of Land Management.

(4) Nothing in this Act shall be construed as prohibiting the Secretary from engaging qualified persons to use public lands within the conservation area for the propagation of plants (including seeds) to be used for vegetative enhancement of the conservation area in accordance with the plan and in furtherance of the purposes for which the conservation area is established.

(b) Release.—The Congress finds and directs that the public lands within the Snake River Birds of Prey Natural Area established as a natural area in October 1971 by Public Land Order 5133 have been adequately studied and found unsuitable for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976. Such lands are hereby released from further management pursuant to section 603(c) of such Act and shall be managed in accordance with other applicable provisions of law, including this Act.

(c) Existing Administrative Withdrawal Terminated.—Public Land-Orders 5133 dated October 12, 1971, and 5777 dated November 21, 1980, issued by the Secretary are hereby terminated.

(d) Water.—The Congress finds that the United States is currently a party in an adjudication of rights to waters of the Snake River, including water rights claimed by the United States on the basis of the reservation of lands for purposes of conservation of fish and wildlife, and that consequently there is no need for this Act to effect a reservation by the United States of rights with respect to such waters in order to fulfill the purposes for which the conservation area is established.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect all water rights claimed by the United States in the Snake River adjudication now pending in the district court of the State of Idaho in which the United States is joined under the McCarran Amendment (section 208 of the Act of July 10, 1952; 66 Stat. 560; 43 U.S.C. 666).

(3) Nothing in this Act shall be construed as effecting a relinquishment or reduction of any of the water rights held or claimed by the United States within the State of Idaho or elsewhere on or before the date of enactment of this Act.

(e) Enforcement.—Any person who violates any regulation promulgated by the Secretary to implement the provisions of this Act shall be subject to a fine in accordance with applicable provisions of title 18, United States Code, imprisonment of not more than 1 year, or both.

VOL 137 PT 23 NO 21—25 1991 UMI

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important bill that the gentleman from Idaho [Mr. LAROCCO], an able and new member of the Committee on Interior and Insular Affairs has sponsored, and it has a large number of cosponsors on the bill, including the gentleman from Idaho [Mr. STALLINGS], his colleague.

It would designate about one-half million acres of public land in Idaho, the Snake River Birds of Prey National Conservation Area, to be managed by the BLM. And the gentleman from Idaho [Mr. LAROCCO] has done a masterful job crafting this measure for the House, worked closely with the staff.

Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. LAROCCO] to explain the bill.

Mr. LAROCCO. Mr. Speaker, the legislation before the House today—the Snake River Birds of Prey National Conservation Area—creates a national conservation area in Idaho which is truly unique to our Nation. H.R. 2141 grants statutory protection to an area which has been the focus of administrative withdrawal since 1971.

The break of the ice dam on Lake Bonneville some 12,000 to 15,000 years ago, cut deep channels through the basalt rock creating sheer cliffs along the Snake River. These cliffs tower nearly 400 feet providing excellent nesting areas for golden eagles, red-tailed hawks, northern harriers, and many other species of raptors.

In fact, there are over 600 pairs of raptors, making it the largest nesting concentration of raptors in North America. The site is so spectacular that in 1984, the World Center for Birds of Prey was built nearby to take full advantage of the resource.

In addition to the magnificent raptor resource, the Snake River Canyon, within the area, contains some of the oldest native American archeological sites in Idaho. Over 200 sites have been recorded, including numerous outstanding petroglyphs.

During our field hearing in Idaho, and inspection of the area, the gentleman from Minnesota and the Interior Committee staff were able to see these resources firsthand. We also heard from interests ranging from ranchers and farmers to scientists and conservationists.

To provide for protection of raptors and their habitat while at the same time guaranteeing continued historic land uses posed a significant challenge. I believe that the legislation before the House today has met that challenge, just as Idaho Gov. Cecil Andrus did when he first designated protection for the area in 1980 as Secretary of the Interior.

We have worked with everyone from conservationists and biologists, to the Idaho National Guard, to the water users, to the cattlemen and Idaho Farm Bureau to make this a balanced, thoughtful piece of legislation. We have designated grazing, National Guard training, and visitor access as specific uses provided in the legislation. Furthermore, the administration supports this legislation.

To demonstrate the dialog that I have had with the Idaho Cattle Association, and Owyhee Cattlemen's Association, as well as the Idaho Farm Bureau, I will insert correspondence with these groups into the RECORD.

To further assure some of my constituents about the effects of this bill on agriculture, I ask the gentleman from Minnesota to engage in a colloquy.

Some of my constituents have raised a question about the possible effects of this bill on agricultural or other uses of non-Federal lands in this part of Idaho. Does the chairman share my understanding that there is nothing in this bill that would impose any new or additional restrictions or requirements on such uses of lands that are not owned by the United States?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LAROCCO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentleman from Idaho is absolutely correct. The bill speaks only to the management of the public lands located within the boundaries of the new national conservation area. The bill does not impose any new or additional restrictions of any lands not owned by the United States, other than whatever restrictions may apply under other State or Federal law or the orders that have been issued in terms of the preservation of these areas by the former Secretaries Morton and Andrus.

Mr. LAROCCO. In closing, I want to offer my deep appreciation for the work the gentleman from Minnesota [Mr. VENTO] has undertaken as a personal interest in this fine legislation.

I would also like to thank the gentleman from California [Mr. LAGOMARSINO] for his support through this legislative process as well as the gentleman from California [Mr. MILLER], chairman of the full Committee on Interior and Insular Affairs, to these gentlemen for all their help and assistance in this endeavor. I am glad to see that this area will have permanent protection.

Mr. Speaker, I include for the RECORD the correspondence to which I referred.

HOUSE OF REPRESENTATIVES
Washington, DC, November 19, 1991.

BILL MCBRIDE,
President, Owyhee Cattlemen's Association,
Marsing, Idaho.

DEAR BILL: In the letter that was faxed to my office on November 18, the Owyhee Cattlemen's Association listed 14 concerns with H.R. 2141, my legislation designating the Snake River Birds of Prey Area. I will attempt to address your concerns with the bill, which was reported favorably by the House Subcommittee on National Parks and Public lands on November 14.

1. Section 1,1: Page 1, Line 12. The wording "and indicators of environmental quality" must be stricken. This statement is not valid on a site specific basis (with regard to SRBOPA) by any scientific measure and it is not within the scope of this bill to establish such a precedent. This language must be removed.

Response: This is included in the findings section. It is not intended to set policy, but states a broadly accepted fact that predators, at the top of the food chain, can be indicators of environmental quality.

2. Section 1,3: Page 1, Line 15. Delete this section. These resource values are properly managed under existing Federal Law. They are not of such significance that they should be specifically addressed by additional law.

Response: There are currently laws that provide for protection of cultural resources, just like there are laws in place to provide for grazing, such as FLPMA and the Taylor Grazing Act. At the field hearing in Idaho, Dr. Tom Green of the Idaho State Historical Society stated, "We think the proposed legislation should acknowledge that significant archaeological and historic sites occur within the Birds of Prey area." He pointed out that there are 114 archaeological and historic sites, representing 10,000 years of "historical use."

3. Section 1,5 (D): Page 3, Line 11. The finding should be changed to reflect that multiple uses consistent with the original purpose of the act will be allowed. As written it allows for arbitrary interpretation of "appropriate" use. On page 3, line 11 change "appropriate" to "multiple" and on line 14 place a period after habitats and drop the remainder of the sentence.

Response: The bill provides for a management plan for a specific area. While it is true that not every use that is consistent with "multiple use" language is allowed under "appropriate use" language. i.e. mining, this change was made to allow us to define specific uses. Those specific statutorily defined permitted uses include visitor use, National Guard use, and grazing.

4. Section 1,9: Page 5, Line 2. "Use" has been changed to "properly manage" which completely changes the meaning. We suggest "properly manage use of" which restores the original meaning and intent of your bill and includes the new language.

Response: See response to #3 above.

5. Section 1,11: Page 5, Line 18. Since this is a finding section, the addition of "subject to appropriate terms and conditions" is redundant. the fact that grazing and raptors have very successfully co-existed for such a long time is evidence of appropriate terms and conditions. This statement adds nothing to the bill of this finding. To avoid any future mis-interpretation of this finding it should read as follows: "The federal lands of the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century. Such use has and does contribute significantly to the local and state economy. Grazing use of the area, governed by applicable Federal law and grazing regulations, has demonstrated it's compatibility with the Birds of Prey. Grazing of the SRBOPA should continue to the extent compatible with the purpose of this Act."

Response: No finding on grazing was included in the original bill. The finding was requested during the field hearing in Boise. It reads: " The public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, and there is reason to believe that appropriate protection and sound management or raptor habitat and the other resources and values of these lands would not preclude continuation of this use, subject to appropriate terms and conditions."

This statement accomplishes essentially the same thing as your proposed language. Furthermore, the language included in the finding establishes an explicit recognition of historic grazing activity, which is unique for a National Conservation Area.

6. Section 2, 4: Page 6, Line 9. Add "within the SRBOPA." Since "raptor habitat" is used in different context throughout this document, there should be no doubt that the term does not apply to adjacent private, state, and federal lands.

Response: In full Interior Committee mark-up on Wednesday, November 20, I will offer an amendment to include the language that you offered. On page 6, line 8, after the words "raptor prey base" I will amend the legislation by inserting "within the conservation area."

7. Section 3 (a): Page 7, Line 17 & 18. Need to be removed. We are confident that grazing use of the area is and will remain compatible with the original purpose. We do not know how future administrators may interpret compatibility with the original purpose. We do not know how future administrators may interpret compatibility of use with regard to scientific, cultural, and educational resources. Again we feel that there are numerous laws which already direct adequate protection and management of these other resources. Removal of these two lines would restore the original purpose of the legislation which we support.

Response: You state above, "we are confident that grazing use of the area is and will remain compatible with the original purpose." You are correct. The language pertaining to scientific, cultural, and educational resources is one of the fundamental reasons why this legislation is established.

8. Section 4, 2: Page 10, Line 6. Any use of the area which is consistent with the original purpose of the act should be allowed. Not just those uses which further the original purpose of the Act. Unknown and unforeseen compatible future uses should not be excluded simply because they do not further the original purpose of the Act. This limitation is in conflict with the intent of section 1,5 (D) which was intended to provide for diverse multiple use of the area.

Response: Subsection (b) requires reviews by the Secretary be pursuant to subsection (a). Subsection (a) specifically provides for exceptions of "subsections (d), (e), and (f)." As you know, subsection (f) is the grazing finding. Additionally, the language that is in the current legislation is the general standard language for National Conservation Areas.

9. Section 4, (b), 1: Page 10, Lines 16–18; Section 4, (b), 1: Page, 11, Lines 13–16. Language contained in these sections expand the purpose of the act beyond to original intent and should be changed to maintain the focus on Birds of Prey and their Habitat rather than other unidentified and undocumented values. There are numerous laws which provide for appropriate protection and management of all resource values on the Federal lands. These references to such other values should be stricken.

Response: Again, as in point #7, there are scientific, cultural, and educational resources within the boundary of the SRBOPA that deserve protection.

10. Section 4, 2, (b), 7. The statement "in addition to any fees currently required" indicates that the secretary has the discretion to increase grazing fees or any other fee without regard to the laws currently governing assessment of those fees. We understand that this concern has been addressed with a language change, however we have not seen that change.

Response: The language does not concern grazing fees which are completely unaffected by this legislation. It refers to the possibility of fees for certain recreational uses such as bike or boat races. The Management Framework Plan would have to be amended to charge such a fee. I have made it absolutely clear at every step of the way, that my legislation cannot, and does not, affect grazing fees.

In the bill reported by the Subcommittee, I changed the language to address this concern. The new language now reads: "assessing the desirability of imposing appropriate fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, in addition to any uses for which fees are currently imposed to be used to further the purposes for which the conservation area is established."

11. Section 4 (f): Page 14, Line 7. Change "may" to "shall" and after grazing on line 9 insert "and related management actions including but not limited to Animal Damage Control and all activities necessary for carrying out proper and practical grazing management programs." On line 14 strike "but only" and "that the secretary determines." On line 15 change "purposes" to "purpose." Again accpetance of this language is dependent upon restoring the original purpose of the legislation.

Response: It is not in the interest of grazers to overly define the term "grazing." Under current language, grazing implies a broad definition that already covers the suggested changes. Concerns such as animal damage control activities may be more appropriately addressed in the Committee Report.

12. Section 5(c): Page 15, Line 22. The bill provides for study of additional land for inclusion in the SRBOPA. Your letter of October 4, 1991 indicated that definitive studies had established the current area as adequate. Again there are management alternatives in place such as ACEC designation which could extend special management to adjacent Federal Lands without including them in the SRBOPA. This paragraph must be removed.

Response: This legislation provides no authority to either the Congress or the Secretary that either party did not previously have.

13. Section 6(d): Page 17, Line 17. The Sovereignty of the State of Idaho with regard to water law and water rights must be protected. Any establishment of Federally Reserved water rights is not acceptable and must not be included in the bill. We understand that new suitable language has been drafted, however we have not seen such language at this time.

Response: I couldn't agree more. After much negotiation carefully worded water rights language has been included to protect Idaho's water. The language has been approved by the Office of the Idaho Attorney General, the Idaho Department of Water Resources, and the Idaho Power Company.

The issue of water rights was resolved by the following language: Section 6, subsection (d) Water.

(1) The Congress finds that the United States is currently a party in an adjudication of rights to waters of the Snake River, including water rights claimed by the United States on the basis of the reservation of lands for purposes of conservation of fish and wildlife, and that consequently there is no need for this Act to effect a reservation by the United States of rights with respect to such waters in order to fulfill the purposes for which the conservation area is established.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect all water right claimed by the United States in the Snake River adjudication now pending in the district court of the State of Idaho in which the United States is joined under the McCarran Amendment (section 208 of the Act of July 10, 1952; 66 Stat. 560; 43 U.S.C. 666).

(3) Nothing in this Act shall be construed as effecting a relinquishment or reduction of any of the water rights held or claimed by the United States within the State of Idaho or elsewhere on or before the date of enactment of this Act.

14. Advisory Groups. We believe the advisory group provided for in your original draft of this bill should be restored and it should provide for both farming and livestock interest participation.

Response: The original language included an advisory committee, but it has been dropped at the request of the drafting committee as adding another layer of bureaucracy. However, I understand grazing interests are currently well-represented in the management of the Birds of Prey Area. The grazing advisory board has eight members. Also, the current Advisory Council for the Birds of Prey Area includes members representing livestock interests.

In sum, while this response may not answer each and every concern, I have tried to reply as completely and promptly as possible. If you have additional concerns, I will try to respond to them.

Throughout this entire legislative process, from the drafting, to the hearings, to the mark-up, I have tried diligently to provide all possible assurances for current uses of the area, while at the same time requiring accountability for proper management of raptors and raptor habitat.

It is my firm belief that my substitute bill accomplishes these twin goals. However, I will continue to refine it at the full Committee mark-up scheduled for November 20. In this effort, I look forward to working with you on this and other legislation of mutual interest.

VOL 137 PT 23 NO 21—25 1991 UMI

You can be assured that the issue of grazing fees will be revisited next year, and that I will be in your corner, fighting hard, just as I did this year.

With best wishes,

Sincerely,

LARRY LAROCCO,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 22, 1991.

Mr. JIM YOST,
Director, Public Affairs, Idaho Farm Bureau Federation, Boise, ID

DEAR JIM: In response to you letter of November 18, 1991, I want to clarify some misunderstanding about H.R. 2141, legislation designating the Snake River Birds of Prey National Conservation Area.

In your letter, you state you will support the legislation provided the following two conditions are met:

"1. Recognized agricultural practices, such as grazing, dryland and irrigated farming with integrated pest management controls (which may include spraying) are protected with specific language.

"2. That all beneficial uses of water for the Birds of Prey Area adhere to the State of Idaho Water Doctrine. That the water rights be applied for from the Department of Water Resources and that the Snake River Adjudication Process be followed. This must be explicitly written into the legislation."

As you are aware, "agricultural practices" are not permitted on Bureau of Land Management lands, and this legislation will do nothing to change that. Furthermore, H.R. 2141 in no way affects the agricultural practices on in-holdings or on surrounding lands. According to the Idaho BLM, pest management controls on BLM lands will not change because of this legislation.

However, to further clarify that nothing in H.R. 2141 would impact agricultural practices, I plan to offer the following colloquy on the floor of the House of Representatives during consideration of this bill:

Mr. LAROCCO: Mr. Speaker, some of my constituents have raised a question about the possible effects of this bill on agricultural or other uses of non-Federal lands in this part of Idaho. Does the chairman share my understanding that there is nothing in this bill that would impose any new or additional restrictions or requirements on such uses of lands that are not owned by the United States?

Mr. VENTO: The gentleman from Idaho is absolutely correct. This bill speaks only to the management of the public lands located within the boundaries of the new national conservation area. The bill does not impose any new or additional restrictions on the use of any lands not owned by the United States, other than whatever restrictions may apply under other State or Federal law.

In addition to agricultural practices, grazing is protected as well. The three uses of the area which were specifically protected by the legislation are National Guard use, visitor use, and livestock grazing. The legislation (Secs. 1, 11) makes the following specific finding:

"The public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, and there is reason to believe that appropriate protection and sound management of raptor habitat and the other resources and values of these lands would not preclude continuation of this use, subject to appropriate terms and conditions."

While H.R. 2141 does not extend grazing rights beyond those currently authorized under current law such as FLPMA, the Taylor Grazing Act, and the Public Rangelands Improvement Act, it also does not limit the rights of grazers.

As to the second issue of water rights, I worked closely with the Idaho Water Users Association, the Deputy Attorney General for Natural Resources, and the Idaho Water Resources Board to protect Idaho's water. You can be assured that I would never jeopardize Idaho's water. In fact, I have fought all attempts in Congress to even consider the possibility.

With these clarifications, I hope that the Idaho Farm bureau can support this legislation which was reported unanimously by the House Interior Committee.

Sincerely,

LARRY LAROCCO,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 18, 1991.

Mr. M. DAN HAMMOND,
President, Idaho Cattle Association,
Boise, Idaho

DEAR DAN: As promised, this letter responds further to your letter of November 13 regarding H.R. 2141 to make permanent the Snake River Birds of Prey Area.

The concerns which you raise are among a number of issues which I and my staff have been discussing with Betty Munis during the past few months since my bill was introduced. They include the following:

1. Ecosystem and indicators of environmental quality. Concern: Does this set a new system for removing cattle from an area? Could it be used as a test for health of the ecosystem?

Response: This is included in the findings section. It is not intended to set policy, but states a broadly accepted fact that predators, at the top of the food chain, can be indicators of environmental quality. The request for this language came from the raptor experts—one of the few language changes made for them.

2. Protection of cultural resources. Concern: There are already current laws providing for protection of cultural resources. This implies additional protection.

Response: There are currently laws that provide for protection of cultural resources—just like there are laws in place to provide for grazing, such as FLPMA and the Taylor Grazing Act. At the field hearing in Idaho, Dr. Tom Green of the Idaho State Historical Society stated, "We think the proposed legislation should acknowledge that significant archaeological and historic sites occur in the Birds of Prey area." He pointed out that there are 114 archaeological and historic sites, representing 10,000 years of "historical use."

3. Recognize BLM as "best and appropriate manager." Concern: It would help to have assurance that management of this area will continue under BLM, and it won't become a "wildlife refuge" managed by the U.S. Fish and Wildlife Service—or worse yet, a National Park.

Response: The language appropriately states, "Continued management and protection of the area should be accomplished by the Secretary of Interior, acting through the Bureau of Land Management * * *."

4. The extent consistent with the maintenance and enhancement of raptor populations and habitats * * *. Concern: Environmental groups will use this "consistent" test to remove cattle from the area.

Response: At the request of the Idaho Cattle Association, the term "consistent" has been changed to "compatible." To provide clarity and assurance to all user groups, including grazing interests and the Idaho National Guard, "compatible" will be clearly defined in report language. Grazing is one of three uses that only have to be "compatible," and does not have to pass the harder test of "furthering the purpose." All NCAs in the past years have had a purpose for establishment, and it is important to be compatible with that purpose—the reason for designation.

Further, the term "multiple use" has not been used in an NCA designation for some time, but the term "diverse appropriate uses" was added to help alleviate concerns of the Idaho Cattle Association

5. Need to "define" prey base and habitat. Concern: It would be helpful to list those species that make up the prey base and be more specific.

Response: It may be possible to add language defining "habitat" and "prey base."

6. The finding on "grazing" is unacceptable. Concern: The language gives no certainty.

Response: No finding on "grazing" was included in the original bill. The finding was requested during the field hearing: It reads: "The public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, and there is reason to believe that appropriate protection and sound management or raptor habitat and the other resources and values of these lands would not preclude continuation of this use, subject to appropriate terms and conditions."

Additionally, the bill references the Taylor Grazing Act as well as FLPMA which is what provides the basis for grazing management on the Birds of Prey Area. This bill continues the present level of grazing without change. This is the intent of the bill, and I have made certain that the legislative history reflects this intention.

7. Purposes. Concern: The purposes are too broad.

Response: The language is similar to that in other NCAs. The focus has been narrowed by consolidating "historical" into "cultural" and making the "natural and environmental resources" only those that relate directly to "raptor populations and habitats."

8. No need for a special section on public participation. Concern: This provides just another chance for the public to be involved.

Response: The BLM always provides for public participation in their planning process. This just reaffirms that the process exists.

9. Further the purpose. Concern: Would be too hard of a standard to meet.

Response: Grazing is one of three uses that does not have to further the purposes for the area. According to the BLM, the language does not pose a threat to grazing.

10. Archaeological resources: not necessary.

Response: See number two above.

11. Language "hints on expansion" of the area. Concern: Language states, "a program for continued scientific investigation and study to provide information * * * and to provide a process for transferring to other areas of the public lands and elsewhere this knowledge and management experience."

Response: This language has nothing to do with expansion. It concerns the transfer of technology.

12. Vegetative management. Concern: There needs to be an opportunity to manage vegetation for livestock grazing not just birds.

Response: BLM is now evaluating seedings to determine if they are the kind needed to promote the prey base. BLM now plants created wheatgrass to protect the soil from wind erosion, as well as the seeding of grass to feed livestock. This is a good example of how "compatible with enhancement of the purposes" is designed to work. BLM can plant seed for livestock forage in one area while enhancing another area for the prey base. It is beneficial to the livestock interests.

13. Ignores different plans that are currently in place. Concern: Don't duplicate or override the current plans.

Response: BLM has assured us the language does not duplicate or override any current plans. The "Management Framework Plan" (MFP) covers the entire resource area of about 2.5 million acres. The next tier is the "Activity Plan," which covers the Birds of Prey Area—an area of about 480,000 acres. The "Allotment Management Plans" which cover grazing under the Activity Plan, are developed in consultation with the permittees. Livestock grazing will continue to be authorized within limits described in the Management Framework Plan.

14. Need to set optimal raptor population levels. Concern: The optimal level will always be raised so more prey base will be needed and, consequently, more land will be unavailable for grazing and the BOP area will have to be expanded.

Response: When the BLM measures the health of the ecosystem relative to the raptors the 1975 raptor inventory is used as a standard. If the agency finds it is consistent with that inventory, then they are managing the habitat to the benefit of raptors.

Further, most of the nest sites on the area are occupied. Managers have tried to introduce peregrine falcons, but the birds' territories provide a natural limit to raptor populations.

If there is a need to identify "optimal levels," it would be appropriate to do this in the plan. I understand the 1985 version of the plan identifies the 1975 levels as optimal. A goal of the plan states, "Perpetuate the nesting raptor populations at or above the minimum population levels determined for each species between 1975 and 1981." Because the research project ended in 1981, there is no additional information on which to base population levels.

15. Assessing desirability to impose appropriate fees. Concern: This appears to be a device that could be used to remove livestock grazing by increasing required fees to an unjustifiable level.

Response: The language does not concern grazing fees which are completely unaffected by this legislation. It refers to the possibility of fees for certain recreational uses such as bike or boat races. The Management Framework Plan would have to be amended to charge such a fee. I have made it absolutely clear at every step of the way, that my legislation cannot, and does not, affect grazing fees.

In the bill reported by the Subcommittee, I changed the language to address this concern. The new language now reads: "assessing the desirability of imposing appropriate fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, in addition to any uses for which fees are currently imposed to be used to further the purposes for which the conservation area is established."

16. Only to extent consistent. Concern: Not enough assurance.

Response: The term, "may continue" is the language from the Taylor Grazing Act. It allows for grazing on public land, which is currently a discretionary action. With this bill, grazing interests will have the same security and certainty as now. The bill is not designed to take away any assurance. Because it can be argued that grazing is both compatible and beneficial, then there should be little discomfort with this language.

17. We don't want a fence around the impact area.

Response: The language referring to a fence has been removed at the request of the Idaho Cattle Association and the Idaho National Guard.

18. The Secretary is authorized to acquire land * * *. Concern: "Appears to mandate acquisition."

Response: This is commonly used language is such legislation. It plainly states the Secretary can use his authority to acquire land. It does not require purchase, just authorizes it. As Idaho BLM Director, Del Vail, stated at the field hearing, it is BLM's policy not to condemn lands for natural resource management.

19. Want a list of all birds listed as endangered.

Response: I will obtain this list, but because it changes, it cannot be written into legislation. There are no endangered raptor species that nest in the Birds of Prey Area. The bald eagle is an occasional user in the winter.

20. Requiring a study to add the area.

Response: Idaho's BLM representatives have stated that expansion of the area would be very low priority, but they agree to the study authority.

21. Reconfigure the advisory committee.

Response: The original language included an advisory committee, but it has been dropped at the request of the drafting committee as adding another layer of bureaucracy. However, I understand grazing interests are currently, well-represented in the management of the Birds of Prey Area. The grazing advisory board has eight members. Also, the current Advisory Council for the Birds of Prey Area includes members representing livestock interests.

22. Recognize state land management laws.

Response: I have been assured that when the BLM develops plans for the district and resource area, it follows both State and county ordinances.

23. Water rights language.

Response: After much negotiation, carefully worded water rights language has been included in the bill to protect Idaho's water.

The language, located in section 6 of the bill, has been approved by the Office of the Idaho Attorney General, the Idaho Department of Water Resources, and the Idaho Power Company. You can be assured that I would never jeopardize Idaho's water. In fact, I have fought all attempts in Congress to even consider the possibility.

In sum, while this response may not answer each and every concern, I have tried to reply as completely and promptly as possible. If you have additional concerns, I will try to respond to them.

Throughout this entire legislative process, from the drafting, to the hearings, to the mark-up, I have tried diligently to provide all possible assurances for current uses in the area, While at the same time requiring accountability for proper management of raptors and raptor habitat.

It is my firm belief that my substitute bill accomplishes these twin goals. However, I will continue to refine it at the full Committee mark-up scheduled for November 20. In this effort, I welcome and appreciate your constructive criticism, and I look forward to working with you and Betty Munis on this and other legislation of mutual interest.

You can be assured that the issue of grazing fees will be revisited next year, and that I will be in your corner, fighting hard, just as I did this year.

With best wishes,

Sincerely,

LARRY LAROCCO
Member of Congress.

Mr. VENTO. Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2141, introduced by Mr. LAROCCO, which would provide permanent protection to the 480,000-acre Snake River Birds of Prey National Conservation Area.

Because this area is shared by many diverse users including cattlemen, the military and recreationists, it has been a great challenge to strike a legislative compromise that is acceptable to these users yet still protects the area's resources.

Although there were originally concerns at the subcommittee markup on this legislation, a thorough examination of many Members lead us to the conclusion that the gentlemen from Idaho had done a good job of trying to accommodate most of these concerns by the time the bill reached full committee.

I understand there are still concerns in Idaho among the livestock industry about the bill before us today. I am certain those folks will work with Idaho's two Senators to get their concerns addressed.

The water rights language is reasonable and adequate to protect the legitimate interests of the Federal Government. It should be a good precedent.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I also rise in support of this legislation. I am familiar with the endangered species in the Snake River area, having lived there for a brief time after my tour in Vietnam.

I just spent some time with some of the constituents of the gentleman from Idaho and friends who are mutual friends. Let me just take this opportunity to say that I think we should be working at this hour for another endangered species, and that is the working men and women of America whose jobs are on the line right now, who are looking to Congress to pass an economic growth and jobs package before we leave for our Thanksgiving/Christmas vacation.

I just want to say to my colleagues that the Republicans of this House have passed an economic growth and jobs package that will accrue to every blue-collar working family in America. It pains me to say that we have enough time to work, although they are sub-

VOL 137
PT 23
NO 21—25
1991
UMI

stantial measures and they do deserve consideration, before we can pass an economic growth package. And instead of passing that package, we can work on technical amendments to the Alaska maritime; national wildlife refuge boundary law. We can work on the Flower Garden Banks National Marine Sanctuary. We can do the Drug Testing Quality Act. We can do the technical corrections in public law.

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We can do Pelican Island of Texas, Wappinger Creek of New York, but we cannot seem to reach out to that American family that is sitting at the table right now in their home trying to figure out whether or not those of us in Congress are going to work for an economy that is going to give them an opportunity to send their kids to school, to buy that car that they need, and to continue to make their mortgage payments.

So let me just ask the Democrat majority one last time to go to work on an economic growth and jobs package, to swallow their pride, work with the President, work with the Republicans, but let us not leave home without doing that. This is our home. This is where we should be during this vacation working on that package.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsilvania [Mr. Walker].

Mr. WALKER. Mr. Speaker, the gentleman from California has made an excellent point. It is not so much the question of whether or not this particular bill has merit but what the priority of our opportunities should be in the House to deal with legislation.

In this particular case it is my understanding that the priority here is kind of self-defined, rather than real. For example, it is my understanding that there are about 480,000 acres that are involved in this particular bill, all of which are presently protected under an agreement signed by the Secretary of the Interior back in 1980, so therefore, there is absolutely no urgency for this bill whatsoever. Beyond that it is my understanding, having just checked with the Senate, that there is absolutely no companion bill to this in the Senate, so this is not something which has to be urgently moved at the end of this legislative session.

It is certainly not as urgent as the plight of American working families who find themselves out of a job. It is certainly not as desperate as the person who finds himself with a home he has just sold and lost money on and cannot write off the losses on their taxes. It is certainly not as desperate as the plight of American savings and loans, that as real estate has collapsed, so has the savings and loans, and the taxpayers are being forced to bail them out. It is certainly not as desperate a plight as we find in American communities where main streets are beginning to shut down because people cannot afford to go to the retail store and buy their Christmas gifts.

We have a desperate economic situation in America that needs to have some corrective action taken by Congress and instead we are doing bills that do not have necessarily the same amount of urgency connected with them. I would certainly hope that before we leave town, whether it be 2 days from now or 2 weeks from now, that we will deal with the desperate economic straits of America, deal with those people out there who are suffering, and do something to get economic growth started again.

Mr. JONES of North Carolina. Mr. Speaker, I support H.R. 2141, a bill to establish the Snake River Birds of Prey National Conservation Area within the State of Idaho.

The bill deals primarily with an area under the control of the Bureau of Land Management. As amended, it more clearly addresses the historic and cultural values of the lands, military use, domestic livestock grazing, and mining concerns. It also requires that all appropriate committees within Congress be provided a report about ongoing research efforts that take a look at how military activities within the conservation area affect the birds of prey, the lands they live on, and the smaller animals they hunt.

Within H.R. 2141, section 5(c) discusses a study area related to the proposed BLM lands. Because it is not within nor adjacent to the proposed BLM conservation area, it is my understanding that the Deer Flats National Wildlife Refuge, which lies along the Snake River in the State of Idaho, will continue to be managed by the U.S. Fish and Wildlife Service under the National Wildlife Refuge Administration Act.

The Merchant Marine and Fisheries Committee shares joint jurisdiction over this bill. We ordered the bill reported on November 23. We have been pleased to act swiftly together with the Committee on Interior and Insular Affairs to accommodate our colleague, Mr. LaRocco of Idaho.

Mr. VENTO. Mr. Speaker, H.R. 2141, a bill introduced by the gentleman from Idaho [Mr. LaRocco] has a large number of cosponsors including the other gentleman from Idaho [Mr. Stallings]. It would designate about 482,450 acres of public lands in Idaho as the Snake River Birds of Prey National Conservation Area, to be managed by the Bureau of Land Management [BLM].

The lands dealt with in H.R. 2141 have been recognized for many years as a unique and outstanding area with special characteristics that have made it a nesting area for a great number and diversity of raptors.

To protect these characteristics from adverse impacts, in 1971 Secretary of the Interior Rogers C.B. Morton set aside some of the lands covered by the bill as the Snake River Birds of Prey Natural Area. In 1976, the Federal Land Policy and Management Act of 1976 required that this and the other existing natural areas managed by the Bureau of Land Management be studied for possible wilderness designation.

Further research demonstrated that it was necessary to take additional steps to more fully protect the special values of the area. Therefore, in 1980 Secretary of the Interior Cecil Andrus enlarged the protected area by withdrawing additional lands that are the habitat of the various species that are the prey of the raptors.

H.R. 2141 would put a statutory capstone on this structure of protection. While the bill was being considered in committee, Mr. LaRocco worked very diligently, with the Interior Committee and with all the affected parties, to address the concerns and questions that had arisen, so that today we are able to bring before the House a sound bill that provides for proper and balanced management of the lands involved.

In committee, the bill was revised to make it similar to previously-enacted bills designating national conservation areas, but with differences that reflect the particular history of this area.

All the public lands within the conservation area boundaries established by the bill were included in the withdrawals by Secretaries Morton and Andrus. Under the bill, they would be withdrawn from all forms of mineral and geothermal exploration and development.

The bills's provisions for management of these lands specifically include provisions for protection of the cultural and other resources, in addition to the resources directly associated with the populations and habitat of the birds of prey and the various species which provide a source of food for the birds.

This is in keeping with other national conservation area legislation, and also reflects the fact that the area possesses notable historic, archeological, and other resources, as was made evident at the hearings and field inspection held by the Subcommittee on National Parks and Public Lands.

The general standard for management would be similar to that applied to other national conservation area—protection, conservation, and enhancement of the area's resources and values.

As in other NCA legislation, for the most part the only uses of the birds of prey area that would be permitted would be those that further those purposes. However, in recognition of some unique factors involved here, the bill specifically exempts from that requirement three particular uses—military activities, grazing, and visitor use.

Grazing and visitor use could continue, so long as those uses are compatible with the purposes for which the conservation area is established, which of course is a less-demanding standard than a requirement that they actually further those purposes.

Concerning military use, the bill recognizes that a part of the lands involved, known as the orchard training area, have been used by National Guard units for more than 35 years for training and other activities, and that there have been substantial investments made in recent years in terms of facilities to support these activities.

Military use of these public lands is being carried out under a memorandum of understanding between the Idaho National Guard and the BLM. This memorandum of understanding—or MOU—was signed in 1985, and by its own terms remains in effect until the year 2015—but either party may terminate it before then by providing 1 year's notice to the other party.

If the military use was by the National Armed Forces, FLPMA would preclude BLM from authorizing this use through such a MOU. However, the administration takes the position that because the National Guard is a State agency, not an agency of the National Government, a MOU is sufficient. This distinction is something that the House has considered before, in connection with a BLM reauthorization bill passed by the House in the last Congress. (Unfortunately, the Senate did not complete action on that measure.)

In my opinion, however sound it may be as a strict legal matter (and I have my doubts), in terms of land management the distinction between military uses by the Federal Armed Forces and the National Guard is not a sound one.

I have recently introduced a bill that—among other things—would close this loophole in the public land laws. However, that is a matter to be addressed on another occasion, and I think that we should recognize the situation that exists on the lands covered by this bill and address it in a way that strikes a sound balance between the importance of this area for conservation and for military activities.

I believe that the bill does strike such a balance, and that its provisions fully address most concerns about military use of this area. Whatever may be decided about the larger question of the policies that should generally apply to National Guard use of public lands, I believe that as far as can now be known, the provisions of this bill should be adequate to govern future military use of the lands covered by this bill.

Mr. Speaker, there is currently underway a research program, funded by both the BLM and the National Guard, that is intended to develop information concerning the impacts of continued military use of the Orchard Training Area, and to provide data for use in connection with future management of the lands within the conservation area.

The expectation is that this research program will be finished in time for BLM to use its results in decisionmaking in early 1996.

The bill would require the Secretary to permit continued military use of the Orchard Training Area, under the existing memorandum of understanding, until the research program is completed, or for 5 years after the enactment of the bill, whichever comes first. This actually gives the National Guard greater certainty than they have now, because during this period the National Government could not exercise its right to terminate the memorandum of understanding on a year's notice.

After this period, military use could continue, but only if the Secretary of the Interior, on the basis of the results of the research program, determines that this use is compatible with the purposes of the conservation area.

At all times, military use will occur only at levels that are compatible with protection for raptor populations and habitat and other resources and values of the conservation area.

I believe that this is a very responsible approach, and I think that Mr. LaRocco is to be commended for striking this very sound balance, which was worked out in discussions among the gentleman from Idaho, the Interior Committee, the BLM, and the Idaho military division.

The Interior Committee hearings have shown that both BLM and the National Guard anticipate that the research program probably will produce information that will support a determination that under proper regulation continued military use of the training area will be compatible with the purposes of the national conservation area, and I know of no reason to conlude otherwise.

One other area in which this bill differs from previous bills designating national conservation areas is concerning water. Here again, the difference reflects different facts.

This bill recognizes that we are dealing with a situation in which the lands concerned have been previously withdrawn, within a watershed in which the United States has not already asserted claims for water rights. In fact, the United States has already become a party, in accordance with the McCarran amendment, in an adjudication of rights to the waters of the Snake River.

This bill, therefore, does not include a reservation of water rights for the national conservation area. Instead, in section 6(d), it has a finding stating the current situation, a directive that the executive branch protect the rights to Snake River water the National Government is claiming, and language to make it clear that nothing in the bill is to be read as reducing any water rights in Idaho the United States now holds or claims.

I think that these provisions are appropriate in view of the particular, possibly even unique facts involved here.

Mr. Speaker, I believe H.R. 2141 does an excellent job of addressing the various policy questions that were raised during the National Parks and Public Lands Subcommittee's consideration of this important bill. Again, I congratulate the gentleman from Idaho [Mr. LaRocco] for his persistence and his hard work on this bill, and I urge the House to give it overwhelming approval.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDermott). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 2141, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

JEMEZ NATIONAL RECREATION AREA IN NEW MEXICO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2502) to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) Purpose and Establishment.—In order to conserve, protect, and restore the recreational, ecological, cultural, religious, and wildlife resource values of the Jemez Mountains, there is hereby established the Jemez National Recreation Area (hereinafter in this Act referred to as the "recreation area"), to be administered by the Secretary of Agriculture (hereinafter the Secretary).

(b) Area Included.—The recreation area shall be comprised of approximately 100,000 acres of lands and interests in lands within the Santa Fe National Forest as generally depicted on the map entitled "Jemez National Recreation Area-Proposed" and dated October, 1991. The map shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, Washington, D.C. The Secretary may from time to time make minor revisions in the boundary of the recreation area to promote management effectiveness and efficiency in furtherance of the purposes of this Act.

(c) Map and Description.—As soon as practicable after enactment of this Act, the Secretary shall file a map and legal description of the recreation area with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 2. ADMINISTRATION.

(a) In General.—The Secretary shall administer the recreation area in accordance with this Act and the laws, rules, and regulations applicable to National Forest System lands in manner that will further the purposes of the recreation area. Management of the natural resources within the recreation area shall be permitted only to the extent that such management is compatible with and does not impair the purposes for which the recreation area is established. Recreational activities within the recreation area shall include (but not be limited to) hiking, camping, hunting, fishing, skiing, backpacking, rock climbing, and swimming.

(b) Management Plan.—The Secretary shall, no later than five years after the enactment of this Act, develop a management plan for the recreation area as an amendment to the Santa Fe National Forest Land and Resource Management Plan to reflect the establishment of the recreation area and to conform to the provisions of this Act; provided, that nothing in this Act shall require the Secretary to revise the Santa Fe National Forest Land and Resource Management Plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974.

(c) Cultural Resources.—In administering the recreation area, the Secretary shall give particular emphasis to the preservation, stabilization, and protection of cultural resources located within the recreation area in furtherance of the Archaeological Resources Protection Act of 1979 and the National Historic Preservation Act.

VOL 137
PT 23
NO 21—25
1991
UMI

(d) Native Americans.—In recognition of the past use of portions of the recreation area by Indian peoples for traditional cultural and religious purposes, the Secretary shall protect religious and cultural sites and provide access from time-to-time to those sites by Indian peoples for traditional cultural and religious purposes. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 (42 U.S.C. 1991) (commonly referred to as the "American Indian Religious Freedom Act"). The Secretary, in accordance with such Act, upon request of an Indian tribe or pueblo, may from time to time temporarily close to general public use one or more specific portions of the recreational area in order to protect the privacy of religious activities and cultural uses in such portion by Indian peoples. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes.

(2) In preparing and implementing management plans for the recreation area, the Secretary shall request that the Governor of the Pueblo of Jemez and the chief executive officers of other appropriate Indian tribes and pueblos make recommendations on methods of—

(A) assuring access to religious and cultural sites;

(B) enhancing the privacy and continuity of traditional cultural and religious activities in the recreation area; and

(C) protecting traditional cultural and religious sites in the recreation area.

(e) Wildlife Resources.—In administering the recreation area, the Secretary shall give particular emphasis to the conservation and protection of wildlife resources, including species listed as sensitive by the United States Forest Service, within the recreation area and shall comply with applicable Federal and State laws relating to wildlife, including the Endangered Species Act of 1973.

(f) Hunting.—The Secretary shall permit hunting and fishing on lands and waters under the jurisdiction of the Secretary within the recreation area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife management or public use and enjoyment. Except in emergencies such designation by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(g) Timber Harvesting.—The Secretary may permit timber harvesting in the recreation area for commercial purposes, including (but not limited to) vigas, latillas, the gathering of fuelwood, and for purposes of public safety, recreation, wildlife, and administration, insofar as the harvesting is compatible with the purposes of the recreation area. Nothing in this Act shall be construed to affect the timber sales under contract on the date of enactment of this Act. Nothing in this Act shall be construed to effect the Los Griegos timber sale in the Los Griegos Diversity Unit number 0322 as shown on the West Half Diversity Unit map of the Santa Fe National Forest dated November 1991; except that the Secretary shall manage such sale using uneven aged management including the individual tree selection method.

(h) Grazing.—The Secretary may permit grazing within the recreation area in accordance with regulations prescribed by the Secretary. Riparian areas will be managed in such a manner as to protect their important resource values.

(i) Transportation Plan.—(1) Within 1 year after the date of enactment of this Act, the Secretary shall prepare a transportation plan that provides for the most efficient use of existing roads and trails to accomplish the purposes of this Act. The plan shall provide for a comprehensive trails system that provides for dispersed recreation while minimizing impact on significant archaeological and religious sites.

(2) The Secretary shall construct, and close roads within the recreation area only in accordance with such plan.

(j) Recreational Facilities.—The Secretary shall provide for recreational facilities within the recreation area. Such facilities shall be constructed so as to minimize impacts on scenic beauty and the natural character of the recreation area.

(k) Visitor Facilities.—The Secretary shall establish establish a visitor center and interpretive facilities in or near the recreation area for the purpose of providing for education relating to the interpretation of cultural and natural resources of the recreation area.

(l) Power Transmission Lines.—In accordance with Federal and State laws and regulations, the Secretary may permit a utility corridor for high power electric transmission lines only when the Secretary determines that—

(1) there is not a feasible alternative for the location of such corridor;

(2) damage to the recreational and scenic quality of the recreation area will not be significant;

(3) it is in the public interest that such corridor be located in the recreation area; and

(4) a plan to minimize harm to the resources of the recreation area has been developed.

(m) Scientific Investigations.—The Secretary may permit scientific investigations within the recreation area upon the Secretary's determination that such investigations are in the public interest and are compatible with the purposes of this Act.

SEC. 3. ACQUISITION OF LAND.

(a) State Lands.—Lands, and interests in lands, within the boundaries of the recreation area which are owned by the State of New Mexico, or any political subdivision thereof, may be acquired only by donation or exchange.

(b) Offers to Sell.—In exercising the authority to acquire property under this Act, the Secretary shall give prompt and careful consideration to any offer made by any person owning property within the boundaries of the recreation area established under this Act to sell such property.

SEC. 4. MINERALS AND MINING.

(a) Limitation on Patent Issuance.—(1) Notwithstanding any other provision of law, no patents shall be issued after the date of May 30, 1991 for any location or claim made in the recreation area under the mining laws of the United States.

(2) Notwithstanding any statute of limitations or similar restriction otherwise applicable, any party claiming to have been deprived of any property right by enactment of paragraph (1) may file in the United States Claims Court a claim against the United States within 1 year after the date of enactment of this Act seeking compensation for such property right. The United States Claims Court shall have jurisdiction to render judgment upon any such claim in accordance with section 1491 of title 28, United States Code.

(b) Withdrawal.—Subject to valid existing rights, after the date of enactment of this Act, lands within the recreation area are withdrawn from location under the general mining laws and from the operation of the mineral leasing, geothermal leasing and mineral material disposal laws.

(c) Reclamation.—No mining activity involving any surface disturbance of lands or waters within such area, including disturbance through subsidence, shall be permitted except in accordance with requirements imposed by the Secretary, including requirements for reasonable reclamation of disturbed lands to a visual and hydrological condition as close as practical to their premining condition.

(d) Mining Claim Validity Review.—The Secretary of Agriculture shall undertake and complete within 3 years after the date of enactment of this Act an expedited program to examine all unpatented mining claims, including those for which a patent application has been filed, within the recreation area. Upon determination by the Secretary of Agriculture that the elements of a contest are present, the Secretary of the Interior shall immediately determine the validity of such claims. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(e) Public Purpose.—The Secretary may utilize mineral materials from within the recreation area for public purposes such as maintenance and construction of roads, trails, and facilities as long as such use is compatible with the purposes of the recreation area.

SEC. 5. ADJOINING LANDS.

The Secretary may from time to time evaluate lands adjoining the recreation area for possible inclusion in the recreation area and make recommendations to Congress, including but not limited to, that area authorized for study by Section 5 of Public Law 101-556, known as the Baca Location Number 1.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. Vucanovich] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2502, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2502 was introduced by my colleague on the Interior Committee from New Mexico, Mr. Richardson, and would establish the Jemez National Recreation Area within the Santa Fe National Forest in New Mexico. The national recreation area would encompass 100,000 acres of the Jemez Mountains that include steep canyons with brilliantly colored rimrocks and rich biological diversity. The largest elk herd in New Mexico migrates through the area and the mountains are home to many Federal and State-listed threatened, endangered, and sensitive species.

The Jemez also contains one of the highest densities of archeological and cultural sites in North America, estimated at approximately 15 sites per square mile and totaling approximately 30,000 sites. Large, ancient Pueblo Indian village sites are particularly abundant with the largest of the sites containing over 1,800 rooms. Many of these sites have been nominated and placed on the National Register of Historic Places.

Easy access and scenic surroundings make the Jemez a popular public recreational area. National forest figures show that almost 300,000 people a year visit the Jemez Mountains. Within the area is the east fork of the Jemez River, 11 miles of which have been designated as a National Wild and Scenic River.

Without this legislation, many of the impressive resources of the Jemez Mountains could be lost. A pumice mining company has applied to patent its mining claims. If the patents are approved, national forest lands in the very heart of the proposed national recreational area could be mined and subdivided with little regard for the priceless wildlife, cultural, scenic, and recreational values of the Jemez. Some may wish to make a fashion statement with their pumice-stone-washed jeans, Mr. Speaker, but I don't think any civil libertarian would claim a first amendment right to do so based on the ripoff of the American people's public land heritage. The American people's only compensation for the loss would be the mere $2.50 per acre that the company would be required to pay. While the bill does protect valid existing rights, it also protects the area from activities such as patenting that could significantly degrade the resources for which the area is being designated.

Mr. Speaker, because there is overwhelming popular support by the people who live in the area for this designation, because the area has resources of national significance, and because these resources face an immediate threat, I urge my colleagues to support this bill.

Mr. Speaker, to explain the bill in more detail and to speak for it, I yield such time as he may consume to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Speaker, I thank the chairman for his kind words.

Mr. Speaker, H.R. 2502 is the culmination of a long process that began at the grassroots level in northern New Mexico. This legislation establishes the Jemez National Recreation Area in the Jemez Mountains of the Santa Fe National Forest. I would like to thank my colleagues, Mr. Vento, the chairman of the National Parks and Public Lands Subcommittee, and Mr. Miller, the chairman of the Interior Committee, for their hard work and assistance in bringing this bill to the floor.

The protection of the Jemez Mountains has long been one of my top environmental priorities. In 1989, as a result of concerns expressed by local citizens who were alarmed about the impact of pumice mining on the east fork of the Jemez River, I introduced and successfully passed legislation designating the east fork of the river as wild and scenic. However, many New Mexicans continued to express apprehension about the threat of extensive pumice mining activity throughout the Jemez Mountains, with good reason. As you may know, pumice is used to stone wash blue jeans.

The volcanically formed Jemez Mountains is a combination of mountains and valleys, mixed conifer and deciduous trees, streams, small ponds, and steep canyons with brilliantly colored rimrocks. The Jemez are one of the richest areas of biological diversity in the Southwest. The largest elk herd in New Mexico migrates through the area and the mountains are home to many Federal and State listed threatened, endangered, and sensitive species including the peregrine falcon, goshawk, Jemez Mountain salamander, meadow jumping mouse, Mexican spotted owl, and the wood lily.

Santa Fe National Forest lands in the Jemez contain one of the highest densities of archeological and cultural sites in North America, estimated at approximately 15 sites per square mile and totaling approximately 30,000 sites. Large, ancient Pueblo Indian village sites are particularly abundant with the largest of the sites containing over 1,800 rooms. Many of these sites have been nominated and placed on the National Register of Historic Places. The Towa speaking Indians were the first inhabitants of the Jemez Mountains, and their descendants, the Jemez Pueblo Indians, regard these mountains as the breath of life of their existence. Today, the Pueblo actively uses numerous religious sites in the Jemez.

Easy access and scenic surroundings make the Jemez a very popular public recreation area. National forest figures show that over 300,000 people a year visit the Jemez Mountains for camping, hiking, fishing, hunting, backpacking, rock climbing, and cross country skiing.

Support for protecting the Jemez continued to build among local citizens. In March 1990, I appointed a citizens committee to develop a proposal to create a national recreation area [NRA] in the Jemez. Representatives from environmental organizations, timber companies, and concerned citizens held several meetings and worked diligently to produce a viable NRA proposal.

In August 1990, the Interior and Insular Affairs Subcommittee on Oversight and Investigations held a field hearing in La Cueva, NM, to discuss management alternatives on the Santa Fe National Forest, including the NRA proposal. The testimony reflected widespread support in the community for this effort, and included a petition with over 12,000 signatures in favor of establishing an NRA in the Jemez. The Jemez Pueblo also testified in support of NRA legislation.

In May 1991, I introduced H.R. 2502 to establish the Jemez National Recreation Area. The response from a majority of New Mexican's was very positive. On July 25, 1991, in a hearing before the Interior Subcommittee on National Parks and Public Lands, compelling testimony was given by New Mexicans including Henry Oat of the East Fork Preservation Coalition, Sam Hitt of Forest Guardians, and local resident Tom Lyttle on the genuine threat that exists to the Jemez. In addition, the Forest Service testified in support of designating a national recreation area in the general area proposed by this bill. The Jemez Indian Pueblo, through many of its elected representatives, voiced strong support for this legislation. As a result of this testimony and extensive consultation with local citizens, the Jemez Pueblo, and the Forest Service, many positive changes were made to the bill throughout the subcommittee and full Interior Committee markup process, resulting in the legislation we have before us today. The Forest Service played an active role in developing this legislation.

H.R. 2502 will provide protection for approximately 100,000 acres of some of the most beautiful land in the country. The boundaries were expanded to include the Virgin Mesa area, which include the most impressive cultural resource sites in the Jemez mountains. The expansion also encompasses the Jemez River corridor, including the popular and scenic Canon de San Diego. By including the corridor in the recreation area, we have added seven additional Forest Service recreation sites.

The legislation directs the Forest Service to develop a comprehensive management plan for the recreation area that addresses issues relating to native Americans, cultural resources, wildlife, recreation, mining, and visitors. Because the Jemez mountains are considered sacred by the Jemez Pueblo, I included language in the bill that protects the Pueblo's right to access to the area for religious and cultural activities.

At the request of many members of the citizens committee, traditional practices such as grazing, hunting, and timber harvesting will be allowed to continue. With the exception of the Los Griegos timber sale, timber harvesting

VOL 137 PT 23 NO 21–25 1991 UMI

must be consistent with the purposes of the recreation area. Los Griegos is a fiscal year 1993 sale, and local mills are operating in expectation of having this timber available. However, the sale can only be harvested through the selective logging method.

This legislation withdraws the lands within the recreation area from mining, but protects the rights of those with existing mining operations. They will be allowed to continue. However, under the bill they will be required to reclaim the land to a condition as close as possible to its hydrological and visual premining condition. Mining provisions in the bill also provide for a more efficient, expedient process for the Secretary of Agriculture to review mining claims in the area. In addition, no patents shall be issued after May 30, 1991. This will protect access and availability of public lands in the Jemez to the over 300,000 citizens who visit there annually. Finally, the bill will provide much needed recreational and interpretive facilities, as well as a visitors center.

Mr. Speaker, it is critical that we look to the future and protect areas like the Jemez for our children and our children's children. This legislation will do just that. I urge my colleagues to join me in this effort.

Mr. Speaker, I insert the attached documents in the RECORD.

NEW MEXICO MINING ASSOCIATION,
Albuquerque, NM, November 19, 1991.

Hon. BILL RICHARDSON,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN RICHARDSON: This letter confirms that Copar Pumice Mining Company is not a member of the New Mexico Mining Association. This question was raised at the hearings held in Santa Fe, NM, on Congressman Rahall's H.R. 918. We testified at that time that Copar was not a member. There has been no change in status since the May 3, 1991, hearing.

If Copar Pumice Mining Company were ever to approach the NMMA regarding membership, we hope that it would signal a desire to work in a cooperative manner with you and your office. This cooperative and positive relationship is clearly the policy and intent of the NMMA.

Sincerely,

CHARLES E. ROYBAL,
Executive Director.

[From the Albuquerque Journal, July 26, 1991]

HOUSE PANEL WEIGHS JEMEZ PROTECTION BILL

(By Richard Parker)

WASHINGTON.—A 2-year-old feud between New Mexico's sole Democrat in the U.S. House and an Espanola mining executive continued Thursday as a House panel considered a bill that would create a national recreation area in the Jemez Mountains.

The measure, sponsored by Rep. Bill Richardson, D-N.M., would establish a 70,000-acre federal recreation area in the mountains. Richardson told the House Public Lands Subcommittee the bill is aimed at preserving the mountains' unique forests and wildlife.

But he also said it is aimed at foreclosing any future mining claims in the mountains and prohibiting existing claims from being patented. The measure also would impose new legal burdens on miners to return land they've mined to its original state.

Richardson said, "There is significant mining activity throughout the area that threatens the prestigious Jemez Mountains. As a result, there is overwhelming public sentiment to establish a comprehensive policy to protect the Jemez."

No vote was taken on the bill Thursday.

Richardson's bill is the second he has introduced to block the mining activities of Copar Pumice Co., headed by Espanola executive Richard Cook. In 1989, Congress passed the other measure, which barred Copar's mining along the East Fork of the Jemez River.

Cook, whose company has applied for patents to get ownership of 1,700 acres of federal land, told the panel the legislation "is fundamentally unfair" because it would impose new burdens on him to restore mined land. He said the bill would require such extensive restoration that mining would be unprofitable.

The company currently restores land that it mines under an agreement with the U.S. Forest Service, but not to the extent that the bill would demand, Cook said.

Cook also charged that a coalition of New Mexico environmentalists is behind the bill and isn't representative of the 50 workers he employs at his pumice mines in the mountains. He said that while Anglo environmentalists are fighting his mining operation, predominantly Hispanic families are dependent on the jobs.

"And they are not represented here because they could not afford to come," he said. "They are tired of all the rules and regulations."

The bill, Cook said, could "mark the end of all mining and logging in the Jemez Mountains, not just Copar's."

Three environments testified on behalf of the bill, saying the U.S. Forest Service is allowing companies such as Copar to exploit the mountains.

"Unfortunately, not all is well in paradise," said Henry Oat, director of the East Fork Preservation Coalition. "In recent times, mining, logging and grazing have taken a heavy toll on the Jemez Mountains."

Oat singled out Cook's company as the single largest threat to the mountains.

In an interview, Cook said environmentalists have tied up his company's patent applications for the next two years through court action that has cost him more than $200,000.

"The only solution a miner has today is to buy the land," Cook said.

Panel Chairman Rep. Bruce Vento, D-Minn., said the only major stumbling blocks to passing the legislation are the new requirements the bill would impose on miners to restore land. The requirements are based on restoration law for coal miners.

Richardson plans to try to get the House to pass the bill before Congress' scheduled adjournment in October.

[From the Albuquerque Journal, Nov. 21, 1991]

JEMEZ RECREATION AREA GIVEN PANEL APPROVAL

A U.S. congressional committee Wednesday approved legislation to designate almost 100,000 acres in the Jemez Mountains as a national recreation area—a move that would prohibit mining interests from getting ownership of any land in the area if it becomes law.

Rep. Bill Richardson, D-N.M., has pushed the legislation to create the area primarily to keep Española businessman Richard Cook and members of his family from getting ownership of thousands of acres of federal land they have applied to get under provisions of federal mining law.

Attempts to reach Cook for comment after business hours on Wednesday were unsuccessful. He has stated in the past he opposes removing that much federal land in the area from public use.

The House Interior and Insular Affairs Committee approved legislation to set aside a recreation area on Wednesday. The legislation will now head to the floor of the House for a vote, and must still gain Senate approval and the president's signature before it becomes law.

According to a news release from Richardson's office, the bill withdraws about 100,000 acres in the Jemez from any future mining claims and prohibits anyone holding current claims from converting them to outright ownership under federal mining law after May 30, 1991.

The bill would also require that any land mined must be returned to its premining condition, the release states. The bill also calls for the federal government to take a hard look at any pending mining claims and states that if any claim is determined to be invalid, it will be declared null and void.

Current federal mining law allows people with valid mining claims to convert them to ownership under certain conditions for as little as $2.50 an acre.

"This legislation accomplishes my goal of maintaining the integrity of the Jemez Mountains for all New Mexicans," Richardson said. "Congress must act to protect the interests of the over 300,000 people that visit the Jemez each year for fishing, hiking, hunting and other recreational purposes."

Richardson's legislation would not affect traditional uses of the Jemez Mountains, according to a news release. Timber harvesting, grazing, hunting and fishing would continue in the area: The bill also includes provisions that respect and preserve the rights of Native Americans, he said

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[From the Santa Fe New Mexican, Nov. 21, 1991]

THE JEMEZ BILL: MINING CLAIMS OR THE CONDOS?

(By Beth Schwinn)

WASHINGTON.—A bill that would create a 100,000-acre recreation area in the Jemez Mountains and bar further mining claims in the region was approved Wednesday by the House Interior and Insular Affairs Committee.

Under the bill, existing mining claims in the Jemez National Recreation Area would be honored but no new patents could be issued, said Rep. Bill Richardson, D-N.M., who sponsored the bill.

The legislation would effectively halt operations at an existing 1,520 acre pumice mine above the Jemez River. The mine excavates pumice, the mineral used for making stonewashed jeans. If the bill doesn't become law and the controversial pumice claim were awarded a federal patent, the land parcel would become privately owned.

Espanola-based Copar Pumice Co. applied two years ago for the patent under an 1872 federal mining law. The company has been mining the site for the past two and a half years.

Copar's owner, Richard Cook of Espanola, said that if he isn't awarded a patent because of the bill, he will file suit against the federal government for $300 million.

"This pumice site is good for 100 years," said Cook.

Richardson's bill stops the federal government from issuing mining patents on the National Recreation Area land, retroactive to May 30 of this year. The bill does contain a provision allowing injured parties to file suit in the U.S. Claims Court within a year after the legislation's enactment.

"Bill Richardson has said time and again we've got to bring industry and jobs into northern New Mexico," said Cook, who noted that he employs 50 people at the pumice mine. Cook said he will have to fire those people if he doesn't get the patent.

But Richardson said the land itself is more important.

"I hope we don't view this as a mining versus a non-mining issue," Richardson said "because it isn't. We have one person (Cook) who has enraged people because he persists in wanting to claim patent."

Richardson said he has sought a consensus form timber interests, recreational users, American Indians and others, who say that if Cook is allowed to mine his claim it would detract from other uses of the land. Limited timber harvesting, grazing and hunting would be allowed to continue under the bill.

The area to be protected would include the East Fork of the Jemez River in the Santa Fe National Forest. It would encompass land which Indians consider sacred and culturally significant sites such as an ancient Indian pueblo with 1,800 rooms.

On average, there are 15 significant archaeological and cultural research sites per square mile within the proposed area, said Rep. Bruce Vento, D-Minn.

"What this individual (Cook) is trying to do is proceed with a land grab of 1,500 acres to the consternation of 300,000 people," Richardson said.

The General Accounting Office last year reported that some miners in the West have used the 1872 law to get cheap land for condominiums.

Cook has denied that he has plans to develop the Jemez area for real estate.

The measure must pass the House and the Senate and be signed by President Bush before it becomes law. There is no Senate version of the bill.

[From the Sun-News, Las Cruces (NM), Nov. 12, 1991]

ESPANOLA MAN'S CLAIM WORRIES RICHARDSON

SANTA FE.—An Espanola businessman's effort to gain title to a tract of public land in the Jemez Mountains has run into opposition from critics who say he has disregarded the environment in the past.

Rep. Bill Richardson, D-N.M., has sponsored a measure that could thwart Richard Cook's attempt to buy 1,520 acres in the Santa Fe National Forest for millions of dollars under estimated market value.

Cook in 1988 staked mining claims on more than 10,000 acres of the Jemez range and opened a pumice mine over the opposition of environmentalists.

He now is trying to convert 1,520 acres worth of claims into private property under a legal procedure called "patenting."

"I find that very troublesome," Richardson said.

Under the General Mining Law of 1872, public land on which a mining claim is located can be patented for $2.50 an acre—the going price 100 years ago but criticized as unrealistically low today.

Cook's patent application is pending before the U.S. Bureau of Land Management. If it's approved, Cook would be able to buy the land for $3,800. The acreage's fair-market value has been estimated at $20 million to $30 million.

Richardson and others say they are troubled by the prospect that Cook, who has a record of run-ins with the government, could so cheaply become sole owner of a large chunk of land in the heart of a popular and environmentally sensitive area.

Richardson is trying to push a bill through Congress that would create a 70,000-acre national recreation area in the Jemez Mountains. The bill would ban the issuance of new patents on mining claims in the recreation area, which surrounds the land Cook wants to patent.

Henry Oat of the East Fork Preservation Coalition, a group opposed to Cook's pumice mine, said, "Everywhere he goes he leaves a legacy of destruction and devastation. The bottom line for him is profit."

Cook has said he will go to court to protect his patenting right.

"I haven't done anything illegal," he said recently, defending his environmental record.

"Anyone who does business today will be cited by the EPA and other regulatory agencies," he said. "It's unfair and unnecessary to single me out."

The U.S. Environmental Protection Agency fined Cook $2,500 in 1988 for violations of the federal Clean Water Act in dredging operations connected with an asphalt, sand and gravel and concrete plant called Espanola Transit Mix.

Cook agreed in an out-of-court settlement this summer to pay the New Mexico Environment Department $50,000 after he was charged with air quality permit violations at the same plant.

Cook also ran into trouble with state environmental regulators who said he dumped debris in arroyos from two road construction projects in 1989—one near Pilar and the other near Abiquiu.

John Geddie, state Environment Department spokesman, said the dumping constituted a public nuisance and violated state water quality regulations and possibly state solid waste regulations.

Cook agreed to clean up the material.

He was cited by the EPA in August 1989 for violating the Clean Water Act after a settling pond near the Espanola Transit Mix plant overflowed and discharged pollutants into the Rio Grande, killing a sizeable number of fish.

Cook contended the discharge contained no pollutants, which he said came from nitrate-laden fertilizers used by farmers upstream of the pond.

The EPA backed off when the discharge stopped.

Cook, 65, is involved in mining, housing, road construction and other ventures.

His numerous businesses provide about 200 jobs in the economically depressed region, making him one of the largest private employers in northern New Mexico.

"He's a businessman, and his interest is in making money," said James Wood of the Army Corps of Engineers, which has had several run-ins with Cook over gravel-dredging operations. "He just hasn't considered the environmental laws very much in the course of his work."

Cook critized the government regulators he's come up against.

"A lot of inspectors write citations just to justify their jobs," he said. "They've gone way overboard with regulations. You can't run a business and keep up with this crap."

SAVE THE JEMEZ

Rep. Bill Richardson plans to sponsor a bill to dedicate land in the Jemez Mountains as a National Recreation Area to protect it from mining. People concerned abut the area's future should lobby the congressman to make sure his measure protects a large enough area.

The immediate cause for concern is Espanola businessman Richard Cook's application for ownership of 1,700 acres of federal land near the Valle Grande, land now administered by the Forest Service. If that application goes through, the federal Mining Act of 1872 will allow Cook and members of his immediate family to pay $2.50 an acre for outright ownership, removing that land from the public domain. Cook's company, Copar Pumice, already operates a mine on the Forest Service land, which he has applied to buy.

The proposal to create a National Recreation Area of any size, which would include land suitable for mining, has drawn the expected opposition of Copar.

After some initial public meetings, a citizens' committee Richardson appointed suggested setting aside 9,000 acres surrounding the site Copar is mining. While this would solve the immediate problem—destruction of beautiful public land by mining and patent claims for 1,700 acres—it won't keep the mountains safe for other pumice mining operations. Because 20,000 acres have been claimed for pumice mining in the Jemez, legislation intended to stop the mining or patent applications should encompass at least this much. Rather than gerrymandering parcels, it makes sense to create a large, usable section of national recreation land. The government will still allow timber harvesting and livestock grazing.

Discussions of possibilities for the Jemez National Recreation Area are still preliminary. Now is the time for residents concerned about the damage mining will do to this area to talk to Richarson's office—or the rest of New Mexico's congressional delegation, about the National Recreation Area. The final legislation—or lack of any change—will shape the Jemez for years to come. Those who don't make their preference known have no right to complain.

ESPANOLA MAN'S PROBLEMS OVER ENVIRONMENT NOT NEW

(By Keith Easthouse)

Richard Cook, a wealthy Espanola businessman who is trying to gain title to 1,520 acres of public land in the Jemez Mountains inside Santa Fe National Forest, has a history of charges accusing him of violating environmental laws.

Cook's problems with government regulators stretch back to 1977, but it is only in recent years that regulators actually have imposed financial penalties on Cook.

In 1988, the U.S. Environmental Protection Agency fined him $2,500 for violations of the federal Clean Water Act in dredging operations connected with an asphalt, sand and gravel and concrete plant called Espanola Transmit Mix.

This summer, in an out-of-court settlement, Cook agreed to pay the New Mexico Environment Department $50,000 after he was charged with air quality permit violations at the same plant.

Cook, a 65-year-old silver-haired Espanola native, is involved in mining, housing, road construction and other ventures; has extensive commercial holdings in the Espanola area; and is perhaps the richest man in Rio Arriba County.

Among his commercial holdings are the office buildings of the U.S. Forest Service in Espanola and Taos; the Espanola Magistrate

VOL 137
PT 23
NO 21—25
1991
UMI

Court building; the Espanola Police Department office; and the building housing the Gas Company of New Mexico. He also is part owner of Valley National Bank.

This past summer, he applied for a permit with Santa Fe County that would have let him mine gravel on a 100-acre tract of land in La Cienega over 10-year period. But the proposed mine met with fierce opposition from La Cienega residents who feared that it would bring traffic congestion and dust pollution to the area.

Cook has backed off on the project at least for the time being, and says he may use 500 acres he owns in the area for housing instead.

The Espanola businessman has drawn the ire of environmentalists and government regulators over the years for what they say is his unwillingness to abide by government regulations, particularly environmental standards.

"He's a businessman, and his interest is in making money," said James Wood of the U.S. Army Corps of Engineers, which has had several run-ins with Cook over gravel-dredging operations. "He just hasn't considered the environmental laws very much in the course of his work."

Attention has focused sharply on Cook since 1988, when he staked mining claims on more than 10,000 acres of the Jemez range, and opened a pumice mine over the opposition of environmentalists.

He now is trying to convert 1,520 acres worth of claims—all in the Santa Fe National Forest—into private property under an entirely legal procedure called "patenting."

Under the General Mining Law of 1872, public land on which a mining claim is located can be patented for $2.50 an acre—the going price 100 years ago but criticized as unrealistically low today.

Cook's patent application is pending with the U.S. Bureau of Land Management. If it is approved, he would be able to buy the 1,520 acres for $3,800. The acreage's fair-market value has been estimated at $20 million to $30 million.

The prospect that Cook, with his record of run-ins with government regulators, could so cheaply become sole owner of a large chunk of land in the heart of a popular and environmentally sensitive recreation area has alarmed several people, most notably Rep. Bill Richardson.

"I find that very troublesome," Richardson said in a recent telephone interview from his Washington office. "I feel that he's defying environmental law (with his patent application) and has hurt the mining industry."

Richardson is trying to push a bill through Congress that would create a 70,000-acre national recreation area in the Jemez Mountains. If the bill passes, it would ban the issuance of new patents on mining claims in the recreation area, which surrounds the land Cook wants to patent, and thus would thwart his attempt.

Cook has said he will go to court to protect his patenting right. "I haven't done anything illegal," he said in a recent telephone interview from his Espanola home.

Cook defended his environmental record, saying that "Anyone who does business today will be cited by the EPA and other regulatory agencies. It's unfair and unnecessary to single me out," he added, referring to this article.

Cook also attacked the government regulators who have been his nemesis.

"A lot of inspectors write citations just to justify their jobs, to keep the bureaucracy going," he said. "They've gone way overboard with regulations. You can't run a business and keep up with this crap."

There is no disputing that Cook has done much good for the Espanola area. His numerous businesses provide approximately 200 jobs in an economically depressed region, making him one of the largest private employers in the northern half of the state.

Richardson said he had mixed feelings about Cook, "I personally don't dislike Cook, and he has supported some good community efforts in the Espanola area," Richardson said. "But what has concerned me is that he's very lax when it comes to thinking about the environment. He needs to assess quality of life issues better."

Environmentalists had stronger words for Cook.

"Everywhere he goes he leaves a legacy of destruction and devastation," said Henry Oat of the East Fork Preservation Coalition, a group opposed to Cook's pumice mine, which is operated by the Copar Pumice Co. of Cuyamungue. "The bottom line for him is profit. The cost of continuing the way he does business is cheaper than abiding by environmental laws."

Environmentalists believe Cook's record suggests that he avoids regulation for as long as he can get away with it.

A possible case in point is his long history of problems with the Corps of Engineers, which regulates dredging operations in waterways—operations Cook frequently uses to supply sand and gravel to his Espanola Transit Mix plant.

According to Wood, a biologist based in Albuquerque who works in the corps' regulatory branch, the corps discovered in 1977 that while conducting such a dredging operation, Cook was stockpiling fill material—dirt, sand and gravel—in a wetland near the Rio Grande to let it drain before trucking it away.

Though there is nothing illegal about stockpiling fill material, a permit from the corps is needed—which Cook didn't have. That placed him in violation of the Federal Clean Water Act.

The pollution concern, according to Wood, was that the fill material, over time, could leach into the river, reducing water clarity and possibly smothering fish.

But when Cook applied for the permit the Corps told him he needed, it was not approved because of problems with the way the project was being conducted, Wood said. Nonetheless, Cook continued to stockpile fill material in the wetland, Wood added, and, while personally courteous, was slow in responding to questions and requests from the Corps about the project.

At one point, Wood said, the Corps consulted with the U.S. Attorney's Office in Albuquerque about taking legal action against Cook. But it was decided to continue using persuasion instead.

Eventually, Cook was given what Wood called an "after the fact" permit in 1981.

Since then, according to Wood, Cook was found in violation of the Clean Water Act in similar dredging operations in the Rio Grande in 1980, 1986 and 1987.

Wood said Cook took so long to remove the fill material in 1986—despite repeated warnings from the corps—that by the time of the 1987 violation, the corps simply told Cook he was out of compliance and forwarded the matter to the EPA.

In 1988, the EPA fined Cook $2,500 for repeated violations of the Clean Water Act. According to EPA records, Cook paid the fine in January 1989. Cook said he does not remember the fine or the violations Wood cites. "I don't know what he's referring to," Cook said.

Cook said he did recall the first violation in 1977. "We didn't know we were supposed to have a permit, but when we were notified about it, we got one," he said.

The corps vs. Cook battle may not be over. Wood said the corps has recently received complaints about another Cook dredging operation in the Rio Grande but has yet to investigate.

"If it turns out it's another violation, we won't spend time working with Mr. Cook again," Wood said. "We'll send it directly to the EPA, which has told us informally that if Mr. Cook is in violation again, the financial penalty this time will be a lot more serious."

Last summer, Cook agreed to pay a very serious fine indeed—$50,000 to the state Environment Department after it accused him of violating the conditions of a state air quality permit issued to Espanola Transit Mix in 1989. The settlement is the largest ever collected in New Mexico for such a violation.

Cook's settlement agreement to pay the state did not admit the charge. Instead, he said, he agreed to pay "because it is cheaper than going to trial."

In several notices of violation in 1989, state inspectors said the plant failed to send emission samples to a laboratory as required by state law. Cook said accurate samples could not be taken because of moisture in the smokestacks. There have been no charges of lack of compliance by the plant since pollution-control and monitoring equipment was installed in 1989 and 1990.

Cook also has run into trouble with state environmental regulators who said he dumped debris in arroyos from two road construction projects in 1989—one near Pilar, the other near Abiquiu.

According to John Geddie, a state Environment Department spokesman, the dumping violated state water quality regulations and possibly state solid waste regulations, and constituted a public nuisance.

Under pressure from the state, Cook agreed to clean up the material.

He maintains that in the case of the Pilar project, somebody else trucked off the debris. "I didn't have anything to do with where that was dumped," Cook said. "But it was our road project, so we cleaned it up because we didn't want to get cited."

As for the Abiquiu project, Cook said a contractor dumped the material in an excavation pit on land Cook owned. "It was my ground," Cook said. "I didn't think I needed anything to dump there."

Cook had yet another run-in with the EPA in August 1989, when he was cited for violating the Clean Water Act after a settling pond near the Espanola Transit Mix plant overflowed and discharged pollutants into the Rio Grande, killing a sizable number of fish.

Cook said the water from the pond is sprayed on gravel to keep dust down, and contains no pollutants. He said the pollutants came from nitrate-laden fertilizers used by farmers upstream of the pond, which is fed by an irrigation ditch. "The nitrates caused algae to grow rapidly and turned them bright green," Cook said. "The nitrates cut off oxygen to the fish."

The EPA backed off when the illegal discharge stopped.

Environmental attorney Grove Burnett of Glorieta for a time represented the owners of homes in a Cook subdivision in Abiquiu who were angry because, they said, Cook had unilaterally amended covenants and built a gravel pit in the middle of the subdivision.

Burnett said the action was "flagrantly and totally illegal" but that his clients decided against bringing the matter to court. Cook said there was nothing wrong with what he did.

"Not as long as I owned over 50 percent of it," he said.

[From the Santa Fe Reporter, Nov. 13–19, 1991]

The Silver Fox: Richard Cook—Savvy Businessman or "Environmental Outlaw"?

(By Glenn Hunter)

Over the years, Española businessman Richard Cook has made many thousands of dollars building roads in northern New Mexico. The owner of several enterprises providing the likes of dirt, gravel, asphalt and concrete—the raw material of the road-building trade—Cook has served both as a subcontractor working for other firms and as a "prime" contractor dealing directly with the state Highway Department. His most recent project in the latter capacity involves a $1.2 million realignment of state Route 399, just south of Española in northernmost Santa Fe County.

Little wonder, then, that Cook jumped at the chance this year to become involved in construction of the Santa Fe Bypass—a series of projects that eventually will let traffic flow around the capital city's western perimeter, relieving congestion along St. Francis Drive and Cerrillos Road. Once it is completed, the bypass also will serve as a route for trucks taking radioactive waste from Los Alamos National Laboratory to the Waste Isolation Pilot Plant near Carlsbad.

In June, Cook asked Santa Fe County for permission to mine dirt and gravel for this new roadway on 100 acres of land he owns near the little village of La Cienega, close by The Downs at Santa Fe. Shortly afterward, however, his plans ran into strong opposition spearheaded by La Ceinega resident Stuart Stein. When Stein, a lawyer, and other La Cienega residents argued that such a mine would generate dust, noise and increased traffic in a traditionally rural area, county Land Use Administrator Gilbert Chavez effectively blocked Cook's application, at least temporarily.

Then, last week, Cook's Santa Fe planning consultant, former City Councilor David Schutz, said he was preparing a revised request to mine gravel for the bypass on the La Cienega land—an application that he expected to submit to Chavez soon.

"As far as I'm concerned, Richard Cook is an environmental outlaw," Stein said angrily, steering his Range Rover along an arroyo near the proposed mine site not long ago. "He's using his ability to get a contract from the state to blackmail the county into letting him dig stone here.

"The whole valley would be able to see the smoke and dust, and everybody living here would have to dodge his 60-ton trucks," Stein went on. "What Cook does may technically be legal. But he has no respect for the land, the air and the water—or for the people."

By now, such talk should come as little surprise to Cook, an opportunistic, hard-charging merchant/developer whose activities have drawn criticism from several New Mexico communities—and from state and federal regulators—particularly since the mid-1980s. Building over the years on a lumber and hardware business started by his parents in the early part of this century, Cook has parlayed interests in real estate, banking, mining and construction into a personal empire estimated at $50 million to $150 million in Rio Arriba County alone.

Among his many enterprises are Cook's True Value Home Center, Española Transit Mix, and Copar Pumice Co., all headquartered in Española, and Associated Asphalt and Materials here in Santa Fe. Cook also owns at least part of more than 540 undeveloped acres near The Downs, as well as industrial property with an assessed value of at least $3.2 million at Agua Fria Street and Siler Road. Other of his many real estate properties are leased to various offices of the city of Española and to the U.S. Forest Service, which pays him at least $200,000 annually in rent.

"He has so many companies, I don't think he knows himself how many he has," said Española Mayor Richard Lucero. "I believe he's one of the wealthiest men in New Mexico, but he's so darned private you'd never know it."

Contacted by phone about an interview for this article, Cook seemed to fulfill Lucero's characterization in declining the request. "I try to keep a low profile, but that's been difficult lately because of the kinds of projects I've become involved in," he said. "I don't know if I need any more advertising."

By far the most controversial of Cook's projects involves his claim to some 10,000 acres in the heart of the Jemez Mountains, east of Bandelier National Monument. In 1988 and 1989, Cook filed an operating plan with the Forest Service under provisions of the 1872 General Mining Law to begin mining for pumice on 33 of these acres, and for a "patent" on a total of 1,700 acres. The 1872 law allows private companies to patent public land—in other words, to obtain clear title ownership—after paying just $2.50 per acre, the going price when the law was written 119 years ago. This means that Cook could pay just $4,200 or so for the private use of public land in the Jemez with an estimated market value of $25 million to $35 million.

Mindful of this possibility, Rep. Bill Richardson introduced legislation in May that would establish a national recreation area in the Jemez, withdrawing the area from any future mining claims, including Cook's, in the process. The businessman has sharply criticized Richardson's bill, claiming it is "fundamentally unfair" to more than 50, primarily Hispanic families who depend on his Jemez mining operation. "We have done nothing wrong and are in compliance with all state and federal law and regulations," Cook said last summer.

While that may be true, a Santa Fe environmentalist contends the Jemez legislation is needed to prevent the despoiling of an area with one of the richest habitats in the Southwest. "Though Cook is definitely within his legal rights, there are certain ethics that I think a businessman should have," said Henry Oat, the president of a two-year-old group called the East Fork Preservation Coalition, which filed suit in district court challenging Forest Service approval of Cook's mining plan. "Clearly, Cook doesn't have any ethics or conscience as a businessman. He's taking advantage of a loophole in the Mining Law, and we contend that he shouldn't."

If Oat, Stein and other critics believe that such actions denote a lack of ethics, it's clear that Richard Cook's defenders consider them merely to be the aggressive tactics of a smart, risk-taking businessman. According to childhood acquaintances, Cook learned business at an early age by working in the mercantile store begun by his father—who'd arrived in Española in a covered wagon with $10 in his pocket—and his mother, who was also a schoolteacher.

One of those acquaintances, former state Land Commissioner Phil R. Lucero, recalled that, "As a youngster, Dick would always be working at the store while the rest of us were out playing. He and his brother were very serious-minded people, and they both were taught to work by their father. So they became good businessmen."

After attending Santa Fe High School and college in Colorado, Cook returned to Rio Arriba County, where he helped to start the Valley National Bank, providing the Española State Bank with competition for the first time. He also took over operation of the family lumber and hardware operation, eventually becoming the sole source in Española for both commodities, and for cement as well.

"That heavy stuff can make quite a few bucks," Lucero said. "Today, Dick is in big business."

In fact, Cook's business acumen and enormous wealth have made him "very powerful" in Northern New Mexico, Mayor Richard Lucero said. "He's very private, very rich, very conservative—and a tough, shrewd businessman," Lucero observed. "If you can't deal with a tough shrewed businessman, you don't want to deal with Richard Cook. And I admire that.

"At the same time, I can't say that Cook has really been a community-minded individual, because that's not his nature," the mayor went on. "His motivation seems to have been to produce more for Richard Cook. I think that is what thrills him."

But other of Cook's associates, like Valley National board Chairman W.H. Sultemeier and Pat Perraglio, the owner of Española's Chamisa Realty, point to Cook's activities on behalf of the city's volunteer fire department, the local 4-H club and the Española Plaza project. Referring to Cook as "the Silver Fox," Sultemeier said the businessman works 15 hours a day and does "all his own thinking," right down to figuring the computations on bids for state road-building projects.

Such hard work and self-discipline have made Cook "a winner" in business, Perraglio said. "By staying extremely well-informed, Richard has the ability to buy property that other people don't recognize as valuable, at a very reasonable price. Then he develops it and makes a great deal of money," added Perraglio, who serves as a broker for many of Cook's real estate transactions. "Even so, he approaches business as a game, not necessarily to make money. And he knows better than most of us what's good for our community. Without people like him, we'd still be a little hick town."

Despite such plaudits, Cook and his associates have consistently run into opposition over their various enterprises, and—occasionally—into trouble with the law:

In June, Cook avoided a trial in district court by agreeing to pay $50,000 to the state Environment Department for violating air-quality laws at his Española Transit Mix Co. It was the largest settlement the department's Air Quality Bureau has even made. According to a memo from the bureau's Gian Bacigalupa, Cook's company discharged unacceptable levels of air contaminants, including lime used in its asphalt processing, in 1988 and 1989. Lime and gravel dust, which also was discharged, can aggravate lung and heart disease. Since 1990, the company has apparently complied with the state regulations.

Last year, the state Environmental Improvement Division cited the businessman and his Española Mercantile firm for dump-

VOL 137 PT 23 NO 21—25 1991 UMI

ing construction and demolition waste on his property near the Santa Fe River's San Isidro crossing, off lower Agua Fria Street. A letter to Cook from the divisions's Solid Waste Section said the violation appeared to have occurred "on a watercourse or a 100-year floodplain." According to a state spokesman, Cook agree to stop the dumping and to restrict access to the site in the future.

In 1988, the U.S. Environmental Protection Agency fined Española Transit Mix $2,500 for violating a federal law that prohibits putting fill materials into waterways without a permit. The EPA charged that Cook's firm had dredged gravel from the Rio Grande, then stockpiled it in a channel of the river near San Juan Pueblo. Cook later restored the site, avoiding a larger fine.

A lawsuit filed in 1987 by the state Attorney General's Office charged Perraglio, Cook's realty associate, and a company called El Llano in connection with an allegedly illegal subdivision in the La Mesilla area, near Española. A lawyer with the Attorney General's Office said a contempt hearing in the case has been scheduled for Dec. 13 in district court here.

During the 1980s, Cook sold land in Española's La Vista del Rio subdivision, whose soil was so unsettled that several of the houses that subsequently were built began to crack and even to split in half, forcing the low- and moderate-income inhabitants to evacuate. While explanations for the fiasco ranged from an excess of septic tanks in the area to inadequate compaction of the sandy, unstable soil, Cook denied any responsibility, saying he had advised the builder, E.W. Freeman, to construct the homes on a sturdier foundation. Freeman later disappeared.

At least twice during the last decade, northern New Mexicans successfully organized to stop Cook from pursuing gravel-mine operations in the midst of their largely rural communities. The first protest occurred in Lamy, where environmental lawyer Gove Burnett helped thwart Cook's plan to mine the historic Lamy Hill area on the settlement's south side.

The second successful challenge came in Abiquio. There, residents of Cook's Plaza Blanca subdivision say, he illegally altered the subdivision covenants to mine gravel for a job in connection with a highway project. "We finally shut him down, but it was quite a thing," said Santa Fe art dealer Frank Croft, who owns property in the subdivision. "There was machine oil dropped, lots of raw asphalt, and the operation was very noisy—it ran 24 hours a day. Cook had no respect for the landowners up there. He's totally ignorant about the landscape."

Back in La Cienega, meanwhile, the county's Gilbert Chavez said he raised the issue of Cook's $50,000 air-quality fine with Schutz, Cook's local agent, in discussing their June application for the bypass gravel mine. "I told Schutz, 'Hey, this doesn't look good,'" Chavez reclled, "I said, 'I'm going to look at that case in Española, and make sure that whatever happened there doesn't happen here.'"

Not long afterward, Cook's people came back to Chavez with yet another request—this time to subdivide a 176-acre tract of land in the same area, most likely for a residential development.

Cook also has offered to donate some of his La Cienega property to the city of Sante Fe for a new municipal golf course, reportedly asking the city to install utilities for the area in return.

The offer outraged Stein, the La Cienega activist-attorney. "When Cook met with some of us on the mining issue over the summer, we asked him, 'Mr. Cook, what will you do for our community?' and he said, 'Nothing.' Then we learned that he was willing to donate land to the city for a golf course.

"All he had to say was, 'I'll donate 30 acres of my property to La Cienega for a ball field or a swimming pool.' That would have been neighborly. Instead, Cook proposes to crush rocks while people tee off," Stein said with disgust. "It's an insult."

More than likely, Richard Cook would call it smart business.

PUEBLO OF JEMEZ

Mr. Chairman and members of the subcommittee, my name is Jose R. Toledo, Governor of the Pueblo of Jemez. Our Pueblo is located in north central New Mexico, Sandoval County. We have a population of approximately 2,800 members who reside on the Pueblo. The Pueblo is located in the Jemez River Valley, 30 miles away from the Copar Pumice Company's mining activity in the Jemez Mountains which this legislation H.R. 2502 addresses. Our ancestors once occupied the vast Jemez mountains. The Jemez mountains are filled with archeological ruins and religious sites of the Jemez Pueblo which after hundreds of years hold great religious significance and plays a vital part in the religious practices and beliefs of my Pueblo members.

The Pueblo of Jemez supports H.R. 2502, introduced by the Honorable Congressman Bill Richardson, in its entirety and more specifically Section (2) of the bill which addresses the preservation and protection of cultural resources located within the recreation area. This legislation is intended to protect the archeological and religious area. This legislation is intended to protect the archeological and religious sites which is foremost in the cultural beliefs of my Pueblo people. The Pueblo for years has used this area for religious practices but has continuously been fighting to preserve these sites from destruction by developers such as Copar Mining Company. This legislation will afford the Pueblo the guaranteed protection of the area and it assures them the continued and exclusive use of it's cultural and religious sites.

The Pueblo supports the consultation requirements in Section 2(C)(2) because it mandates the federal agencies such as the U.S. Forest Service—Department of Agriculture, consult with Indian tribes in preparing and implementing management plans for the recreation area. Such interaction between an Indian tribe and a federal agency in the past years has been practically nonexistent. This interaction or results therefrom would create a better environment in the Jemez mountain, preserving the cultural and religious sites for the Pueblo while affording the general public to enjoy the Jemez mountains in it's pristine state.

Thank you for your time and consideration.

TESTIMONY OF HENRY OAT, PRESIDENT AND DIRECTOR OF THE EAST FORK PRESERVATION COALITION

Mr. Chairman and Members of the Subcommittee: I am Henry Oat, President and Director of the East Fork Preservation Coalition (EFPC). The EFPC is a non-profit corporation based in Santa Fe, New Mexico, whose purpose is to preserve and protect the recreational, wildlife, scenic, and cul- tural resource values of the Jemez Mountains in New Mexico. Members and supporters of the coalition include: The Sierra Club, the Audubon Society, the Wilderness Society, Lighthawk, New Mexico Citizens for Clean Air and Water and Save the Jemez. I am here today to speak on all of their behalf.

I am here today to speak in support of H.R. 2502, a Bill to establish the Jemez National Recreation Area in the State of New Mexico. The EFPC has been instrumental in helping create and gain support for this proposed legislation. The EFPC was formed in November, 1989 out of a growing concern over the management of the Jemez Mountains on the Santa Fe National Forest. A marked increase in extractive-commodities based uses over the last 10 years has alarmed the thousands of people who use this area for recreation. The EFPC and Save the Jemez have currently received over 16,000 signatures on a petition supporting the following actions: (1) Permanent designation of the eat Fork region as a National Recreation and Wild and Scenic River Area; (2) Cessation of strip-mining, clear-cutting, and other destructive development of this Area; (3) Withdrawal of the East Fork region from current and future mining claims and patents; (4) Immediate restoration and reclamation of strip-mined land within this Area; (5) Repeal of the obsolete patenting provisions of the 1872 Mining Act; (6) Revision of New Mexico's State mining laws to require reclamation of all mines on private and public lands. The EFPC has received hundreds of letters of concern and support for the protection of the Jemez from all over the Southwest and as far away Austria and Tasmania.

During the last year and a half, the EFPC has worked with numerous citizens' groups, local area residents, and citizens committee appointed by Congressman Richardson to prepare a draft for the proposed Jemez National Recreation Area. We feel that the current Bill, H.R. 2502, has more than adequately taken into account all of the uses of the national forest lands in the proposed 70,000 acre NRA, economic and non-economic. Our goal for this legislation is to continue to provide for the sustained local economic uses of the forests resources, while at the same time, protecting the recreational, wildlife, Ancient Forest, and cultural resource values of this area, recognizing that the vast majority of people use the Jemez Mountains for recreation.

The Jemez Mountains have long been prized by the citizens of Albuquerque, Santa Fe, Los Alamos, Espanola and surrounding communities for their exceptional recreational opportunities, their wildlife values, and their scenic beauty. Residents and tourists alike are drawn to the Jemez Mountains due to their spectacular scenery, abundant wildlife, plentiful waters, numerous hot springs, and ancient archeological ruins. Congress has recently recognized the national importance of the natural resources of this area by including the East Fork of the Jemez River in the Wild and Scenic River System. According to the National Forest Service, the East Fork is the most popular recreation area in the Jemez Mountains. National Forest Service figures show that almost 300,000 people a year stop and use the Jemez Mountains for camping, hiking, fishing, hunting, backpacking, rock climbing, and cross country skiing. At Bandelier National Monument, which adjoins the proposed NRA, the National Park Service expects the number of visitors to approach 400,000 people this year. With the rapid growth of populations in Albuquerque and Santa Fe, an even greater demand will be placed on the Jemez Mountains for recreational opportunities.

Human habitation of the Jemez Mountains is believed to date back almost 4,000 years. Many archaeologists consider the Jemez Mountains as one of the most prolific areas in the Southwest for ancient Indian cultural resource sites. This is evidenced by the major archaeological finds at nearby Bandelier National Monument, Jemez Monument, and Puye Cliffs. The proposed NRA contains thousands of ancient cultural resource sites, identified yet unexcavated. Peoples of the Jemez Pueblo consider this region to be sacred. The proposed NAR contains many of their significant religious shrines and sites.

The Jemez Mountains encompass one of the richest diversities of wildlife habitats in the Southwest. The largest elk herd in New Mexico migrates through this area. The proposed NRA is important wildlife habitat for a number of Federal and State listed Endangered and Threatened Species: Peregrine Falcon, Goshawk, Jemez Mountain Salamander, Meadow Jumping Mouse, Mexican Spotted Owl, and the Wood Lily.

The crown jewel of the Jemez Mountains is the valles caldera or Valle Grande. This is one of the largest caulderas in the world and is "recognized as the most significant example locality of the valle-type resurgent cauldron and ash-flow tuff cooling unit of its kind in the entire world." (Draft EIS, Proposed Ojo Line Extension Project, Bureau of Indian Affairs, 1985, DOI 84–48, Page III–14.) With its broad expanses of valle meadows and montane grasslands surrounded by forested cauldera rim peaks and secondary domes, the Valle Grande is truly one of the most breathtaking vistas in the entire Southwest.

Unfortunately, not all is well in paradise. In recent times, mining, logging, and grazing have taken a heavy toll on the Jemez Mountains. We believe that under the current Santa Fe National Forest service management, the "Multiple Use" mandate is not being met, and that an inordinate emphasis is being placed on these extractive and commodity-based interests. Recreational, wildlife, Ancient Forest, and cultural resource values have increasingly taken a back seat to unsustainable economic demands placed on the forest.

Recent timber sales have violated the Santa Fe National Forest Plan and NEPA, resulting in erosion on steep slopes, logging through stream courses, and a mysterious doubling of the harvest size. Logging practices in the Jemez have also resulted in widespread ruination and destruction of numerous cultural resource sites.

The most notable example of abusive timber harvesting occurred in 1989, on the Los Utes Timber sale. This is substantiated in "The Final Report of Los Utes Timber Sale Assistance Trip and Review" by the Southwestern Regional Office of the National Forest Service. The Report noted, among other things, that 1) The project was not in compliance with the forest plan; 2) The Forest Service failed to incorporate NEPA requirements into the sale contract and comply with them on the ground; 3) Inadequate sale administration and failure to comply with those requirements that did exist in the contract and/or the EA; 4) Inadequate oversight and management throughout the life of the project.

In 1989, timber harvesting on the Santa Fe National Forest resulted in a deficit of $1.5 million.

Due to the extremely large appropriations the Forest Service budget receives for road building to facilitate timber harvesting, the road density in some areas of the proposed NRA has become higher than in the nearby city of Los Alamos.

Grazing along the East Fork of the Jemez River has resulted in extreme degradation of water quality. This was noted three years ago when the Environmental Improvement Division found elevated ammonia levels and phosphate levels 400 times above the allowable limit. This is further evidenced by high concentrations of algae in this otherwise unpolluted high mountain river. Although the main source of pollution occurs on private land, any grazing on National Forest Lands along the river corridor can only worsen the problem.

Grazing is often incompatible with recreational uses. Trails are often littered with cow pies and cows detract from the wild like nature of many areas. Cattle can also pose a threat to humans. Last summer while hiking on the East Fork trail, my passage was blocked by two bulls fighting in the middle of the trail. Many families with small children use this area for hiking and picnicking. This type of bovine behavior poses a threat to their safety.

Last year, the East Fork of the Jemez River was designated by Congress as a Wild and Scenic River. We find the degradation of the East Fork and its corridor due to grazing to be inconsistent with the purposes for which this area was designated. We would ask that H.R. 2502 be amended to eliminate grazing from the Wild and Scenic river corridor of the East Fork. This action would only affect two permittees who use this area rotationally. One of the permittees is a wealthy real estate developer whose main source of income is clearly not ranching.

The most glaring abuse and destruction of the Jemez Mountains is occurring under the 1872 Mining Law. For the past two years, citizens groups and area residents have become increasingly alarmed at the vast number of pumice mining claims filed for in the Jemez. These claims now cover between 15,000 to 20,000 acres on National Forest Land.

Since 1987, Richard Cook, President of Copar Pumice Co. and his family have claimed over 10,000 acres in the heart of the Jemez Mountains for pumice mining under the 1872 Mining Law. In August 1988, Copar Pumice Co. filed an Operating Plan with the U.S. Forest Service to begin mining on 33 acres along the East Fork of the Jemez River. Although the claimants consistently assured the public and the Forest Service that they had no intention of patenting their claims, the threat of patenting was used to insure a speedy approval of their Operating Plan. On September 29, 1989 the claimants subsequently filed for patent on 1,700 acres in the East Fork area. Many of these claims adjoin or fall within the Wild and Scenic corridor for the East Fork of the Jemez River.

The Operating Plan was unsuccessfully administratively appealed by many environmental groups through the Forest Service. We are now seeking to overturn the Forest Service's approval of the Operating Plan in a suit pending in US District Court. Recently US District Court Judge, Harold Bratton, remanded the Environmental Analysis for the Copar Operating Plan back to the Forest Service. We are currently waiting for the judge's decision.

Under the 1872 Mining Law, pumice that is 2" in size or larger and possesses "special and unique" properties that are reflected by a higher market value may be considered a "locatable" mineral and therefore claimable. Pumice that is 2" in size or smaller is considered a "common variety" material and is not claimable under the 1872 Mining Law, yet the U.S. Forest Service has found it within their power to lower the figure for locatable pumice to ¾."

Over the last 6 to 7 years, the demand for "locatable" or "block" pumice, as it is called, has been fueled by the garment industry. It uses the pumice to soften fabric and impart bleach which results in the "stone-washed" look in denim clothing and which has become a clothing fad. We are not willing to give up the most popular recreation area in the Jemez to a short lived clothing fad. During a trip to El Paso, Texas, two weeks ago I visited a number of garment finishers who process stone-washed jeans. All of the companies I contacted said that they refuse to buy pumice from Copar Pumice Co. The reason for this is that they are extremely sensitive to the environmental impacts of pumice mining in New Mexico. This is a result of a nationwide "boycott stone-washed jeans" movement that was instituted by a number of environmental groups.

There is serious question as to the validity of the claimants' mining claims. In an interview with the Associated Press, Mr. Cook stated that only 10% of the pumice being mined at the Jemez site was going for a "locatable" use that reflects a higher market value, i.e., stone-washed jeans. The majority of the pumice, 90%, is being sold for "common variety" purposes such as building materials. Common variety pumice is not claimable under the 1872 Mining Law but is being sold to Copar by the Forest Service. Under the Santa Fe National Forest Plan, the sale of common variety pumice would not be allowed in this area.

Many claims for land have been made under the 1872 Mining Law, but Mr. Cook's claim for patent on 1680 acres of National Forest Land for pumice mining has to be one of the most outrageous and unconscionable land grabs ever attempted in the history of the law. We find it appalling that under the 1872 Mining Law, the economic gain of four individuals takes precedence over the recreational use of this area by literally hundreds of thousands of people and that public land valued at approximately $25,000,000 could be given away for the nominal sum of $4,250. This is a sham that flies in the face of democracy.

The proposed legislation before us today would not prohibit Copars' ability to mine on their valid mining claims within the NRA. What it does seek to do is retain this immensely valued 1680 acres of high quality recreation land within the public domain.

In his testimony before the House Interior and Insular Affairs Subcommittee on Oversight and Investigations, Mr. Cook stated that "the proposed NRA threatens to further retard the economic advancement for the citizens of this region and in fact, threatens to raise the specter of increased unemployment." This statement is totally without merit. U.S. Bureau of Mines' figures show that employment in pumice mines and mills for the entire U.S. was 55 persons in 1989, with 20 people employed in New Mexico. Only a handful of people are employed by Copar on a fulltime basis, none of whose jobs would be threatened by the proposed NRA. Pumice mining in New Mexico is not a major industry, in fact it has been in decline for the past 10 years. Direct taxes on pumice production in New Mexico for 1988 was only $8,228. (these figures and information on the pumice industry are available in the letter of Protest—Cook Mineral Patent Application, written by Donna Smith PhD in Mineral Economics, entered for the record)

VOL 137 PT 23 NO 21—25 1991 UMI

Mr. Cook's claim that the present proposal "threatens to take property interest from us" is also unwarranted, as there is serious question as to the validity of these mining claims and that property interest does not occur until the patent is issued.

The claimant states in his testimony that "the proposal (the NRA) operates on the assumption that Copar and other mining companies are not responsible citizens who would operate their businesses in conformance with reasonable enlightened business policies." and further states "I believe I reflect the general practice of modern day mining operations and I can assure this Committee and citizens that Copar will continue to act as a responsible citizen taking proper steps to safeguard this area and its particular value commensurate with the utilization of the multiple resources in this area." Mr. Cook's actions, through his businesses, prove contrary to these statements. EPA, (Region VI, 214/655–2260) filed Administrative Order (Docket No. VI–88–002) on January 26, 1988 against the Espanola Transit Mix Co., Richard Cook, President, for Clean Water Act Section (404) repeated violations of unpermitted discharge of pollutants into the waters of the U.S., and Rio Grande, Rio Arriba County. Previous Cease and Desist Orders by the U.S. Army Corps of Engineers on unauthorized fill in Rio Grande and wetlands near Espanola occurred on April 27, 1977; November 17, 1977; February 17, 1981; June 3, 1986; October 26, 1987. As reported on December 24, 1989, the EPA fined Mr. Cook and Espanola Transit Mix $2,500 and was informed that further violations would incur greater penalties. On August 25, 1989, EPA second Administrative Order Docket No. VI–89–623 citing Espanola Transit Mix for violation of Federal Clean Water Act for discharge of pollutants. This discharge resulted in a large fish kill. As reported on June 29, 1991, Espanola Mercantile Co., owner Richard Cook, was fined $50,000 for violating air-quality laws and regulations at the company's plant in 1988 and 1989. This is the largest settlement the Air Quality Bureau of the state Environment Department has made (see article submitted for the record).

Mr. Cook is not presently a member of the New Mexico Mining Association. In a conversation with an officer of the association, he stated that they would not want him as a member.

I present these facts and statements not to attack Mr. Cook or his businesses, but to point out the potential threat that exists to our National Forest Lands in the Jemez Mountains. We believe that this highly valued recreation area is in danger of becoming a pumice mining district. Given the current foreseeable future market for pumice, the 1,680 acres claimed for patent represent more pumice than could be mined and sold in two lifetimes. It is our belief that it is possible that the claimants plan residential or resort development for this area.

We respectfully petition Congress to designate this 70,000 acre area of the Jemez Mountains as a National Recreation Area. For far too long the recreational, cultural resource and wildlife values have been neglected. It has taken many long hours and the work of hundreds of individuals to bring this legislation before Congress. It saddens and angers me that citizens have to go to such great lengths to protect and preserve an area of our public lands, of which, the highest, best, and vast majority use is clearly not for commodity based-extractive purposes.

We believe that National Recreation Area status is warranted for this area in order to provide specific management directives to the U.S. Forest Service to protect and preserve all of the forest values for present and future generations.

I would like to thank you for the opportunity to appear before you today. This concludes my testimony, Mr. Chairman, and I would be happy to answer any questions that you or other members of the Subcommittee might have.

STATEMENT OF SAMUEL M. HITT, DIRECTOR FOREST GUARDIANS

We are pleased that this subcommittee has focused its attention on the Jemez mountains of north central New Mexico. We join the many that have long been concerned that the unique values of this special area have gone unrecognized.

The special scenic and cultural significance of this area has prompted at least five unsuccessful attempts since the turn of the century to create a National Park in the Jemez mountains. The concern for nearly one hundred years has been the protection of the abundant cultural resources on the Pajarito Plateau which in some areas are more numerous than those found in many well-known in some areas are more numerous than those found in many well-known southwestern National Parks, (see Rothman, H. 1988. Bandelier National Monument: An Administrative History. Southwest Cultural Resource Professional Paper #14, Santa Fe, N.M.)

We are not here today to propose that a National Park be established in the Jemez mountains. Instead, we are seeking minimum protection for a very special area that many Congressmen and Senators in the past have recognized as worthy of preservation.

Today the area being proposed for a national recreation area contains three developed campgrounds, a Wild and Scenic River, a proposed National Scenic Highway and is bordered on the east by the heavily used Bandelier National Monument as well as the Dome Wilderness.

The proposed recreation area is already one of the most heavily used recreation areas in the southwest and its use is increasing. The Forest Service estimates that 300,000 people camp, hike, fish, hunt, backpack, rock climb and cross-country ski in this area every year.

Nearby Bandelier National Monument is overwhelmed with visitors. According to Park Service figures use has more than doubled over the past ten years with a record breaking 400,000 visitors expected this year alone.

In addition to being a high use recreation area, the Jemez mountains rival any area in the nation for providing refuge for rare and sensitive species of wildlife.

The Jemez mountains support the largest population in the northern part of its range of the extremely rare Mexican spotted owl (Strix occidentilis lucida). The total population of Mexican spotted owls is only one quarter that of the better known northern spotted owl which has been listed as threatened by the U.S. Fish and Wildlife Service.

Forest Service sponsored research has documented the recent disappearance of half the spotted owl population in the Jemez mountains. It is thought that the loss of its highly diverse habitat through logging and fire are responsible for this precipitous decline. Researches warn that local extinction is likely. (see Johnson and Johnson. 1990. Status of the Spotted Owl in the Jemez Mountains Santa Fe National Forest, contract #43–8379–0–0443.)

The northern goshawk (Accipiter gentilis) is another top of the food web indicator species at serious risk of local extinction. Today there are only about a dozen goshawks pairs known to exist in the entire Jemez with two of those in the proposed recreation area. The new Forest Service goshawk protection standards have been roundly criticized by New Mexico and Arizona wildlife agencies, independent scientists as well as the Forest Service's own goshawk expert because they allow habitat destruction to continue at historical levels.

The Jemez mountain salamander is found no where else on the planet but a few scattered pockets ringing the unique Valley Grand caldera. Its center of origin is thought to be within the proposed recreation area. This salamander has been described as the most critically endangered vertebrate species in the southwestern mountains by state biologists.

There are only two known populations of spotted bat (Euderma maculatum) in New Mexico according to the U.S. Fish and Wildlife Service and one of these populations is found within the proposed recreation area. Little is known about the needs of the spotted bat but old growth forests may provide essential foraging habitat.

Several rare plants also occur in the area proposed for a national recreation area including the southern most extension ever recorded of Canadian dogwood.

Large sections of the area being considered for national recreation area status are also within the feeding zone of the peregrine falcon listed as endangered under the federal Endangered Species Act.

Despite these recreational and wildlife values, much of this unique area is scheduled for large scale commercial logging. Logging over the past fifty years in the Jemez has blanketed a nearly roadless area with a spider web of logging roads and skid trails.

The Santa Fe National Forest Plan calls for nine timber sales that will log 33 million board feet of lumber and construct or reconstruct 68 miles of road in this proposed recreation area. At least one logging activity is planned to be initiated in the area every year through 1997. Such intensive logging promises to degrade the environmental attributes which make this area special.

The first and largest of these logging operations is the controversial Bonito timber sale which calls for logging on steep slopes. The introduction of steep slope logging, where the last large trees remain in the Jemez, has been the most controversial forest management issue in the northern part of the state for over ten years. The Bonito provides habitat for all the rare species discussed above.

There are other threats to the area. A high-voltage powerline with ten story tall towers will cross the Jemez just east of the proposed recreation area. This will fragment wildlife habitat and impair scenic quality.

Most significantly, 1700 acres of public land in the heart of this proposed recreation area are about to be transferred to private ownership under the antiquated 1872 Mining Act. The bill before you today would halt this plunder and recognize that the loss of these special lands does not serve the public interest.

This bill, however, does not stop large-scale commercial logging, ban powerlines or restrict grazing. We propose at a minimum that livestock be kept from the East Fork of the Jemez Wild and Scenic River corridor, that high voltage powerlines not be permitted to cross the recreation area and that logging be restricted to small timber sales that benefit local communities.

Mr. Chairman, we pledge our strong support and cooperation in efforts to create a truly meaningful national recreation area in the Jemez mountains. Thank you for the opportunity to testify on behalf of this proposal today.

TESTIMONY OF THOMAS W. LYTTLE

Mr. Chairman, and members of the committee, my name is Thomas Lyttle and I would like to thank you for the opportunity to testify today in support of H.R. 2502, and the establishment of the Jemez National Recreation Area. I hold a Masters degree in Geology/Geochemistry, currently reside in the Jemez Mountains within the borders of the proposed recreation area, and I strongly support its establishment.

The Jemez Mountains represent a unique resource for both New Mexico and the nation. Those fortunate enough to live in the Jemez enjoy what I believe to be some of the most spectacular scenery and pleasant living conditions that can be found anywhere. We enjoy clean air and water, diverse species of wildlife, and an abundance of places to hike, ski, and generally enjoy the outdoors. I feel it to be of utmost importance that this area be managed with an emphasis on preservation and protection, for the enjoyment of and use by the public at large.

The Jemez already represent an important recreation area both for in-state residents and out-of-state visitors. I suspect, there is not a single guide book to New Mexico that does not list the Jemez as a scenic area for recreation. In addition, the Jemez Mountains represent a spectacular volcanologic feature which provides an invaluable "field laboratory" for geology students from around the country.

I cannot emphasize strongly enough that residents of the Jemez do not support land use restrictions that deny judicious use to either those who make their living in the area, or to those who intend to visit. I believe this attitude is evidenced by the recommendations of the Citizens' Committee chartered by Congressman Richardson, which form the basis for the points you see before you in H.R. 2502. We attempted to structure a compromise that would allow residents of the mountains continued enjoyment of their way of life, people who make a living in the mountains a continued income, and those who wish recreation continued access to places for hiking, swimming, snowmobiling, cross-country skiing, and fishing.

I personally became concerned for the future of the area when significant tracts of land were claimed and patent applications filed for pumice mining. The land in question is some of the most scenic and accessible in the mountains. Furthermore, I do not believe that mining of pumice in this area is justifiable in order to meet any demonstrable economic demands. A protest to this effect, and against the mining claims, has been filed with the Bureau of Land Management, explaining our concerns, given the current economics of the pumice market. A copy of that protest is being filed as part of my testimony here today. Pumice mining denies access to the land to all other users, changes the character of the areas mined, and in my opinion is not a judicious use of the land.

As a result of even the existing limited mining activities, we have observed a disturbing increase in the heavy truck traffic in the area. Area residents originally moved to these mountains and people currently visit the area for its scenic and pristine nature. Unfortunately, everyone must now concern themselves with avoiding tractor-trailer rigs on narrow two lane mountain roads rather than enjoying the scenery.

Finally, I am deeply concerned with preservation of the quality of the environment in the Jemez. In our area, the water derived from wells currently requires minimal to no treatment in order to meet safe drinking water standards. That level of water quality is an indication of the pristine character of the area which is at risk should significant mining activity be allowed. The Jemez River, a portion of which has been declared a Wild and Scenic River, attracts fishermen and hikers all season long. One can only anticipate continuing deleterious impacts should escalation of destructive land use be allowed.

In conclusion, I believe the Jemez Mountains are an example of a uniquely beautiful and, so far relatively undeveloped area, that is in need of protection and preservation: The area is historically significant to the local Native Americans, the local residents, those who make their living logging and grazing, and to those people who currently use the area for recreation. I must believe an increase in the number and severity of competing uses for the land is inevitable. I, therefore, urge you to pass H.R. 2502 to establish the Jemez National Recreation Area in order to provide the appropriate level of protection to this unique and beautiful area.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today because of concerns I have with one section of H.R. 2502. Let me make myself clear, I am not opposed to the establishment of the Jemez National Recreation Area in New Mexico. I respect the judgment of the Member representing the district in which the NRA would be created. Mr. RICHARDSON has made a persuasive case for setting aside these public lands because of their special values.

Mr. Speaker, I am the ranking member of the Mining and Natural Resources Subcommittee of the Interior Committee. In my view, section 4 of the amendment in the nature of a substitute adopted by the committee, prejudices the private property rights of unpatented mining claimants. In committee, I offered a simple amendment to cure this problem, but as is often the case in the Interior Committee, Mr. Speaker, the minority position was rebuffed.

My amendment would have made changes to the text of the original bill introduced by Mr. RICHARDSON, by replacing the offending section with language suggested by the Secretary of Agriculture in a letter to the subcommittee chairman Mr. VENTO. Now, because the committee refused to listen to the administration's concerns we are about to pass yet another Public Lands Subcommittee bill that is dead on arrival in the Senate. Perhaps H.R. 2502 can be resuscitated in the other body, but I am sure that the lifesaving measures necessary to do so will include removal of the provisions denying vested property rights under the mining law.

Mr. Speaker, I won't go into the details of my criticism. I think the minority views to the committee report on this bill will suffice to alert Members. The majority tries to paint this issue as the simple trade-off of giving up the fashion statement of stone-washed jeans in order to protect the environment. That makes for a clever sound bite, but it completely begs the question of why property rights granted under the mining law are being taken without compensation.

Mr. Speaker, I will not ask for a recorded vote on this bill, but I cannot support it until the provisions of section 4 are revised to recognize the legitimate interests of mining claimants.

Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, my colleagues, I certainly rise in very, very strong support of this particular piece of legislation.

However, it saddens me that once it is passed, in spite of our activity with regard to this piece of legislation and our concern for national recreation areas in New Mexico, because of our inability to bring an economic recovery and growth package to the floor, we have got too many people out there who are going to have too much free time on their hands because they are unemployed, and too poor to enjoy the beauty and the bounty of the recreational areas around this country.

I know that during the course of the debate in this Chamber, both publicly and privately during the past couple of months, it has become pretty clear that our friends on the other side of the aisle have been beseeching the President to ignore his constitutional responsibilities overseas, to come back home to America, to return to this country and to take care of business here. I think back on the 9 years or plus that I have served in this Chamber and am reminded that there are many of my colleagues on the other side of the aisle who probably never once have cast a vote for a single defense dollar, who never once have supported either this President or his predecessor in building up the defense posture that enabled us to preside over the dismantling of the Soviet Union.

This is the same party that has had many of its Members never once supporting the defense buildup of this President or his predecessor, that want that President to ignore the very unstable situation over in the Soviet Union and come home. This is the same President who is trying to deal with a very unstable Eastern Europe, as he is constitutionally mandated to, and our colleagues on the other side of the aisle want the President to come home.

Our colleagues on the other side for the past couple of months have said:

> Mr. President, we understand that you and this country and the leaders of the world and

VOL 137 PT 23 NO 21—25 1991 UMI

the peoples of the world expended billions of dollars in the Middle East, we defused a potentially very dangerous situation not only to that part of the world but to the entire world, to the entire globe, we spent billions of dollars, we lost hundreds of American lives, thousands were killed in that effort, and now you have an opportunity to do something to utilize what little leverage we have in that region of the world.

But my colleagues on the other side want him to ignore his constitutional responsibilities and come home.

We have had some very interesting 1-minute speeches the past couple of days in response to the President's announced trip to the Pacific Rim. Clearly it is an area of great concern to this country. But for export-led growth, there would be no GNP growth in this country. It certainly was appropriate for the President to consider going to the Pacific Rim.

Our economy is in trouble. We want people to go back to work, to enjoy these recreational areas that we are spending so much time on here on the floor here in Washington, DC, but our colleagues on the other side of the aisle want the President to ignore his constitutional responsibilities to promote economic growth, to deal with our allies across the seas and come home.

Ladies and gentlemen, the President is home. He has been back in this country for months and weeks. He is here today. He is going to be here for most of November. He is going to be here for most of December. That is where we should be.

If we are truly interested in taking care of the people in this country, if we are truly interested in giving them more than the half a loaf of bread that we gave them when we passed the unemployment compensation measure, then we ought to stay here and entertain the ideas that my colleagues on this side of the aisle have in their economic recovery and growth package and entertain whatever other ideas my colleagues on the other side of the aisle have with regard to economic growth.

I think it is a rather cruel hoax during the past couple of months for this Chamber to be fostering its concern for the unemployed. It is one thing to extend them unemployment compensation benefits, and I certainly supported it. A lot of my colleagues on this side of the aisle did, and I am grateful for the support of my colleagues on the other side of the aisle.

But you did not give them a loaf of bread. You gave them a doughnut. There is a big hole in the middle of that doughnut, because the bottom line is next getting an extension of unemployment benefits; those men and women who everybody professes to care so very much about who are unemployed, and they have been unemployed, and if they are getting an extension of unemployment benefits, they have been unemployed for a long time.

□ 1630

How convenient and how nice and how thoughtful and how compassionate it is for the Congress of the United States to extend unemployment compensation benefits for the unemployed that will tide them over during our recess. What a magnanimous gesture on our part. How wonderful we are, how compassionate and caring and concerned and considerate we are.

I do not think that is enough, because these men and women want to go back to work.

The SPEAKER pro tempore (Mr. McDERMOTT). The time of the gentleman from Pennsylvania has expired.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. RIDGE. We know full well, Mr. Speaker, that the only way they are going to get back to work is if we address the problems in the economy as reflected by the increasing unemployment rate, reflected in the trouble with our banks, reflected in the trouble with our thrifts, if we deal with that problem today in November 1991.

Mr. Speaker and my colleagues, I think that many people in this Chamber who have been disturbed and unhappy with what is going on in the White House, and I guess the White House can look up to this end of the street and be very disturbed with what Congress is doing, and frankly I think the American people are a little disappointed in both institutions.

I clearly think that we have an opportunity, more important than an opportunity, a responsibility to stay around this town a little longer.

My Democratic colleagues have wanted the President to stay home. He is here. We are here and you are here. We extended unemployment compensation benefits until after the first of the year. That is not enough. We have got to jump-start this economy. It is our responsibility to do so.

We have two measures here on the floor that we have debated in the past couple days. One is to let the bank insurance fund borrow money from the Treasury up to $70 billion, and the other is to borrow another $80 billion from the taxpayers to let the RTC close some more thrifts. We know we are just treating symptoms. We are not treating causes. We are not dealing with banks or thrifts that are mismanaged or being operated fraudulently. We are dealing with institutions that are crippled because of the economy.

It will be a lot easier, a lot cheaper and a lot better, not only for those institutions, but for the people of this country if instead of just milking the cash cow, the taxpayers, actually we claim we are going to borrow the money, but everybody in this Chamber knows we are not paying it back, we deal with $150 billion today, but we know for the next 30 years it will be close to half a trillion dollars, that is just too expensive to ignore.

We have but to stay here. We have got to do something about this economy.

My Democratic colleagues across the other side of the aisle, the President is home. He is here in this country. Yes, he is right here. We are here, too. Let us stay here and send him down the economic growth and recovery package.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2502, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LAMPREY RIVER STUDY ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1099) to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers Systems, and for other purposes as amended.

The Clerk read as follows:

H.R. 1099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lamprey River Study Act of 1991".

SEC. 2. STUDY RIVER DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following new paragraph:

"( ) LAMPREY, NEW HAMPSHIRE.—The segment from the southern Lee town line downstream to the confluence with Woodman's Brook at the base of Sullivan Falls in Durham.".

SEC. 3. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end thereof the following new paragraph:

"(11) The study of the Lamprey River, New Hampshire, shall be completed by the Secretary of the Interior and the report thereon submitted not later than 3 years after the date of enactment of this paragraph.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1099, a bill introduced by the gentleman from New Hampshire [Mr. ZELIFF] would amend the Wild and Scenic Rivers Act to require a study by the National Park Service of a segment of the Lamprey River, in New Hampshire, for possible inclusion in the National Wild and Scenic Rivers System.

At the hearing before the Subcommittee on National Parks and Public Lands on the bill, there was strong support for this proposal. The administration did not oppose the bill, but the National Park Service said they would like to study more of the river than the segment specified in the bill.

Of course, nothing prevents the National Park Service from studying additional portions of the river. But meanwhile, the Federal Energy Regulatory Commission has issued a decision—now under appeal—approving the application for a small hydroelectric project on the part of the river covered by the bill. Legislation mandating a study of the relevant segment would have the effect of staying a final decision on the project pending the completion of the study and a period for congressional decisionmaking. Therefore, the Interior Committee decided to go ahead and approve the bill as introduced.

Again, this would not stop the National Park Service from studying more of the river. In fact, enactment of the bill would facilitate a larger study by holding off a FERC decision that could preclude designation of at least part of the river, and remove some of the rationale for the study of the rest.

The Interior Committee has approved H.R. 1099 without controversy or amendment, and I urge its approval by the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this measure which would designate 9.5 miles of the Lamprey River for study under the Wild and Scenic River Act. As you have heard, this river does contain outstanding characteristics which have been previously identified by the National Park Service when they placed portions of this river on their nationwide river inventory in 1982.

During testimony on this measure, the administration indicated they would not be likely to support designation of an isolated 9.5-mile section of river and therefore encouraged the scope of the congressional study to be expanded. I certainly agree with their conclusion that we should not designate short, unmanageable sections of river. Therefore, it seems logical that the administration consider studying a longer stretch of stream; especially since the administration has stated that a study of additional stream miles would cost no additional funds. We should not be using the Wild and Scenic River Act simply to preclude dams, but rather to designate segments of river which fully meet the criteria under the act.

I know that the gentleman from New Hampshire [Mr. ZELIFF] has worked very closely with local persons in the development of this proposal, and I commend him for his efforts in that regard. I urge my colleagues to join me in support of this proposal and I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 1099, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1099, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CHATTAHOOCHEE NATIONAL FOREST PROTECTION ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3245) to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chattahoochee National Forest Protection Act of 1991".

SEC. 2. WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131–1136), the following lands in the State of Georgia are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 7,800 acres, as generally depicted on a map entitled "Blood Mountain Wilderness—Proposed", dated October 1991, and which shall be known as Blood Mountain Wilderness.

(2) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 16,880 acres, as generally depicted on a map entitled "Chattahoochee Headwaters Wilderness—Proposed", dated July 1991, and which shall be known as Mark Trail Wilderness.

(3) Certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 1,160 acres, as generally depicted on a map entitled "Brasstown Wilderness Addition—Proposed", dated July 1991, and which is hereby incorporated in and shall be part of the Brasstown Wilderness as designated by section 2(2) of the Georgia Wilderness Act of 1986 (100 Stat. 3129).

(b) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

SEC. 3. NATIONAL SCENIC AREA.

(a) DESIGNATION AND PURPOSES.—For the purposes of protecting and enhancing the natural beauty, special ecological features, watershed integrity, mature-forest habitat, scenic recreation opportunities and other distinctive values of certain lands in Georgia, the lands in the Chattahoochee National Forest, Georgia, which comprise approximately 7,100 acres, as generally depicted on a map entitled "Coosa Bald Scenic Area—Proposed", dated July 1991, are designated as a national scenic area and shall be known as the Coosa Bald National Scenic Area (hereafter in this section referred to as the "scenic area").

(b) ADMINISTRATION.—(1) Subject to valid existing rights, the Secretary shall administer the scenic area in accordance with the laws, rules, and regulations applicable to the National Forest System in such a way as to further the purposes of this section.

(2) The Secretary may permit additional road construction in the scenic area in furtherance of the purposes for which the scenic area is established. Except as provided in this section, the Secretary may not conduct timber harvesting in the scenic area. The Secretary may remove timber in the scenic area in furtherance of this section, but only in a manner which does not impair the purposes for which the scenic area is established. Salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or are in imminent danger from insect or disease attack, is authorized to maintain forest health. Timber harvesting is authorized to provide for visitor safety.

(3) By virtue of this designation alone, the Secretary need not change patterns of public access or closure on existing permanent national forest development roads. At his discretion, however, the Secretary may open or close such existing roads for public use for reasons of sound resource management.

(4) Nothing in this section shall prevent the completion of existing timber sales under contract.

VOL 137
PT 23
NO 21—25
1991
UMI

(5) The scenic area is hereby withdrawn from the operation of all laws pertaining to mineral leasing.

(6) The Secretary may also permit, in his discretion, the continued maintenance of existing wildlife openings, in cooperation with the State of Georgia and other Federal, State, and private cooperators, and may permit new wildlife openings in furtherance of the purposes for which the scenic area is established.

(7) The Secretary shall protect, enhance, and promote the public's opportunities for primitive and semiprimitive public's opportunities for primitive and semiprimitive experience in the scenic area.

SEC. 4. RECREATION AREA.

(a) DESIGNATION AND PURPOSES.—For the purposes of ensuring the protection of certain natural, scenic, fish and wildlife, historic and archaeological, wildland and watershed values, and providing for the enhancement of the recreation opportunities associated with these values, certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately 23,330 acres, as generally depicted on a map entitled "Springer Mountain National Recreation Area—Proposed", dated October 1991, are hereby designated as a national recreation area and shall be known as Springer Mountain National Recreation Area (hereafter in this section referred to as the "recreation area").

(b) ADMINISTRATION.—(1) Subject to valid existing rights, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forest in such a way as to further the purposes of this section. Except as provided in this section, the Secretary may not conduct timber harvesting in the recreation area. The Secretary may remove timber in the recreation area in furtherance of this section, but only in a manner which does not impair the purposes for which the recreation area is established. Salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or are in imminent danger from insect or disease attack, is authorized to maintain forest health. Timber harvesting is authorized to provide for visitor safety.

(2) Nothing in this section shall prevent the completion of existing timber sales under contract. The Secretary may permit additional road construction in the area in furtherance of the purposes for which the recreation area is established.

(3) By virtue of the designation under this section, the Secretary need not change patterns of public access or closure on existing permanent national forest development roads. At his discretion, however, the Secretary may open or close such existing roads for public use for reasons of sound resource management.

(4) Lands within the recreation area are hereby withdrawn from the operation of all laws pertaining to mineral leasing.

(5) The Secretary may permit, in his discretion, the continued maintenance of existing wildlife openings, in cooperation with the State of Georgia and other Federal, State, and private cooperators, and may permit new wildlife openings in furtherance of the purposes for which the scenic area is established.

(6) The Secretary shall protect, enhance, and promote the public's opportunities for primitive and semiprimitive recreation in the recreation area.

(7) Designation by this section shall not interfere with rights of access to privately held lands.

SEC. 5. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 6. SAVINGS CLAUSE.

Privately held lands within the areas designated by this Act will not be administered as wilderness, a national scenic area, or a national recreation area, as appropriate, unless such lands are acquired by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3245, the Chattahoochee National Forest Protection Act was introduced by Mr. JENKINS with the bipartisan cosponsorship of all the members of the Georgia delegation. The bill designates 26,000 acres of wilderness in two new areas as well as an addition to an existing wilderness area. It also designates a 7,000-acre national scenic area and a 23,000-acre national recreation area. All designations are within the Chattahoochee National Forest in northern Georgia.

The proposed wilderness lands contain some of the highest peaks in Georgia, stretches of the Appalachian National Trail, rare plant species and streams with quality trout fishing. The proposed Coosa Bald National Scenic Area has outstanding scenic quality. The Forest Service has recognized the uniqueness of the Coosa Bald area and within the proposed boundaries has administratively designated a scenic area, a botanical area, and a zoological area.

The proposed Springer Mountain National Recreation Area is already very popular with recreationists, and includes Springer Mountain, which is the southern terminus of the Appalachian Trail.

Included in the bill is language which we worked out with the Agriculture Committee which would prohibit large commercial timber sales in the national recreation area and national scenic area. Some limited timber harvesting would be allowed for public safety, salvage and sanitation, and wildlife openings. The bill also includes provisions for both the scenic area and recreation area that states that the Secretary may remove timber in the scenic or recreation area "in furtherance of this section, but in a manner which does not impair the purposes for which the scenic area—or recreation area—is established." It is our intent that these provisions allow the Forest Service to do a limited amount of timber harvesting to enhance the scenic area or recreation area such as cutting trees for campgrounds, trails, facilities and scenic vistas, but that they do not allow large commercial timber sales such as those that occur on general national forest lands.

This legislation is the result of efforts on the part of conservation and business interests, local government officials, and other interested citizens of the area. I wish to commend Representative JENKINS for his longstanding interest and work on this matter. I also wish to commend my colleague, Representative DARDEN, for all his help in enabling the Subcommittee on National Parks and Public Lands to hear this legislation on October 17, 1991. Mr. VOLKMER, chairman of the Subcommittee on Forests, Family Farms and Energy, has worked hard on this legislation as well and I appreciate his efforts and cooperation.

I urge my colleagues to support this bill and protect the natural beauty and unique natural resources of the mountains of northern Georgia.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3245 which has been described in detail, would designate approximately 26,000 acres of new wilderness and create another 30,000 acres of scenic and recreational areas on the Chattahoochee National Forest.

Although H.R. 3245 is supported by all 10 members of the Georgia House delegation, our hearing on this bill indicated opposition from the forest products industry and even the Atlanta Journal has editorialized against it.

At the subcommittee hearing on the bill, we learned that a vast amount of hardwood timber from the Chattahoochee Forests ends up in North Carolina because of that State's excellent manufacturing facilities. As a result, North Carolina would be greatly affected by any timber supply problems caused by this legislation.

Consequently, Mr. TAYLOR of North Carolina offered an amendment at full committee to reduce the bill's impact on the hardwood timber supply in his State. At a time when some rural counties in western North Carolina have unemployment rates exceeding 30 percent, one would have expected the Taylor amendment to prevail. Unfortunately, it was defeated on a straight party line vote.

However, I am cautiously optimistic that the other body will be more successful in amending this bill to bring the sort of sensible balance between employment and environmental protection that Mr. TAYLOR sought.

I thank Mr. JENKINS and the entire Georgia delegation for their hard work on this bill.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS].

☐ 1640

Mr. JENKINS. Mr. Speaker, I appreciate the opportunity, as the sponsor of the Chattahoochee National Forest Protection Act, to speak to the House today and ask that the House suspend the rules and pass this bill, H.R. 3245.

I would like to point out that the entire Georgia delegation in the House, both Republican and Democrat, cosponsored this bill. Full hearings were held in the House in the Committee on Interior and Insular Affairs and the Committee on Agriculture.

Located on the lower end of the Appalachian Mountains chain, the lands of north Georgia and the Chattahoochee National Forest are those on which the Cherokee Indians lived and hunted. Within the areas I have included in this bill are some of the highest peaks in Georgia, the headwaters of the Chattahoochee River, more than 30 miles of the Appalachian Trail and its rugged approaches and numerous other trails, and some of the most scenic and outdoor recreationally attractive mountainous lands in the state.

The uniqueness of the area, however, creates somewhat of a paradox.

The Chattahoochee National Forest in north Georgia and the urbanization of the metropolitan Atlanta area are meeting quickly. Major transportation corridors access the mountains and their flora and fauna. As development has moved closer, the demands on the forest have increased. It is imperative that we have the foresight to act now, not 10 years from now, to plan for the use and prevention of the abuse on this forest.

What attracts those seeking recreation or those looking for a new home are the scenic beauty and the natural resources which sustain that beauty and provide life forces for much of the State. We are not looking just or protect the natural resources here. We are looking at a balance to protect these resources and the economic stability of the area. They do not have to oppose each other. In fact, they can exist in tandem, one working with and for the other.

The President's 1992 budget initiative for our Nation's forests emphasized three areas:

First, improving recreation, recreational fisheries, and wildlife-watching facilities;

Second, Managing National Recreation Areas and other Congressionally designated special areas; and

Third, providing forest interpretation and education.

The bill I have before you will fit into the plan proposed for the national forest—America's great outdoors—particularly where it emphasizes recreation management on lands adjacent to urban areas and on specially designated areas such as the national recreation areas and where it addresses high demand areas such as urban forest, scenic byways and specially designated recreation areas.

Tourism is the second largest industry in Georgia—$9.6 billion in 1990. The northeast Georgia mountains' cut of that tourism pie was $848 million. Even with the worldwide decline in travel last year, the northeast Georgia mountains attracted an increase of 3 million tourism dollars over 1989.

Aside from the obvious sightseeing activities associated with the mountains across several seasons, the region has promoted and provided multiple uses and options for a wide range of the tourism market. Continued hunting, fishing, hiking on the numerous trails, camping, swimming, canoeing, and exploration and interpretation of local history depend on the maintenance of this area.

The five areas and the designations selected in this bill would provide protection and focus on the multiple attractions necessary in the forest for the tourism market.

The national recreation area created in this bill would be the first in Georgia to be managed by the National Forest Service. The land proposed for designation of the Springer Mountain National Recreation Area is located adjacent to a wildlife management area and a park managed by the State of Georgia. The State also plans to build a walk-in lodge accessible by connector hiking trails adjacent to this area. The Forest Service has indicated its wishes to build a developed campsite within the proposed area.

The area includes part of the Toccoa River over which a natural bridge passes and Rock Creek Lake. Also within its boundaries are portions of the Benton MacKaye Trail and the beginning of the Appalachian Trail which traverses approximately 2,140 miles from Georgia to Maine.

The Springer Mountain area already is being heavily used but needs a recreational-oriented management plan. The qualities of the area, the adjoining State-managed lands, and its proximity to metropolitan Atlanta lend it toward a premier Forest Service managed recreation area.

In addition to the 23,330 acres proposed for the Springer Mountain National Recreation Area within Dawson, Fannin, Gilmer, and Lumpkin Counties, the bill designates a national scenic area and three areas totaling 25,840 acres to be set aside as wilderness. These areas include:

Coosa Bald Scenic Area—7,100 acres, located in Union County with 4,287 feet of the high point of Coosa Bald as its centerpiece, it contains trails, rare tree stands, and the headwaters for a native brook trout stream, and is located adjacent to the Blood Mountain Wilderness Area;

Blood Mountain Wilderness Area—7,800 acres, located in Lumpkin and Union Counties, the area includes Blood Mountain, one of the highest peaks in Georgia at 4,467 feet, which cannot be reached by road and also includes wild trout streams and 11 miles of the Appalachian Trail;

Addition to Brasstown Wilderness Area—1,160 acres, it also lies completely in Union County and boasts three wild trout streams and the scenic slopes of Brasstown Bald; and

Mark Trail Wilderness Area—16,880 acres, located in White, Union, and Towns Counties, it contains 15 miles of the Appalachian Trail and the crest of the Blue Ridge with 16 peaks rising more than 3,500 feet. The headwaters of the Chattahoochee River are in this proposed wilderness area.

The proposed scenic area, the two wilderness areas, and an addition to an existing wilderness all fit into the multipurpose plan for the tourism market and existing forest management.

Several groups representing that tourism market and three chambers of commerce in the area have voted to endorse the bill because of the protection it will provide and the economic impact on the area. Several groups testified or submitted remarks for the record in the hearings held in the House.

During the 2 years prior to the introduction of this bill, I met with many groups of people and agencies who have interests in the Chattahoochee National Forest and its uses. Those who have had input into this legislation have had different opinions on what lands should and should not be included and how they should be treated.

I would like to point out here that I appreciate the cooperation of the Forest Service and various governmental agencies and other groups in developing this plan.

Earlier this year, I sent out a postal patron mailing to the residents of my district seeking their opinions on a proposal for protection of the five areas included in this bill. Of the more than 4,000 who returned the questionnaires, an overwhelming 75 percent either favored the plan as proposed or more lands and stricter designations.

Opposition to this bill has come mostly from timber interests. However, I worked closely with the forest supervisor of the Chattahoochee and his staff in determining what effect the designations in this bill would have on timber harvesting quotas in the Chattahoochee National Forest.

No private lands are included in this bill; therefore, timber harvesting on

VOL 137
PT 23
NO 21—25
1991
UMI

private lands in north Georgia will not be affected. Of the some 750,000 acres in the Chattahoochee National Forest, the Forest Service classifies 556,710 acres as suitable timber land. However, the Forest Service does not open all those acres for timber harvesting nor does it think commercial harvesting on all those acres is feasible.

Of the 38,057 acres classified as suitable for timber production in this proposal, the Forest Service considers most of the 14,185 acres to be disignated as wilderness as "too steep or rough to be economically harvested." As a matter of fact, over the past 5 years, timber harvesting has occurred on only 841 acres within all five areas included in this bill. And the Forest Service has indicated that it can meet the volume it offers for sale annually with the timber base it has classified outside these areas.

For those of you not familiar with the Northeast Georgia mountains and the effect this region's natural resources has on Georgia and the States below it, I would like to emphasize that the headwaters of the Chattahoochee River are located in the proposed Mark Trail Wilderness Area. The path of the Chattahoochee River flows from here through Atlanta and west Georgia, joining two other rivers feeding into the Apalachicola Bay and its famous oyster beds.

Management on the upper end of the Chattahoochee can affect the drinking water of three-fourths of the population of Georgia and impact the economies of three States—Georgia, Alabama, and Florida—in the Apalachicola-Chattahoochee-Flint River Basin.

Protecting the natural resources in the northeast Georgia mountains, as you can see, is not just a regional issue. Nor is this just some environmental utopian dream. The issues involved are real economic ones affecting the majority of the population in northeast Georgia and the adjoining regions.

I would like for you to keep in mind three points while considering this legislation:

First, the rapidly changing urban areas around our national forest, and in this case, the Chattahoochee National Forest;

Second, the economic impact now and for the future on the loss of the tourism industry to this region if the national forests are not properly managed; and

Third, the economic and ecological impact this region has on adjoining areas and what effect mismanagement of the national forests will have.

I thank Members for consideration of this bill, and I urge them to give their vote for H.R. 3245.

Mr. VOLKMER. Mr. Speaker, I rise in support of H.R. 3245. This bill provides for the protection of about 56,000 acres of land in the Chattahoochee National Forest in Georgia, through designations as wilderness, a national scenic area, and a national recreation area.

The Agriculture Committee's subcommittee on Forests, Family Farms and Energy conducted a hearing on this bill on November 5, 1991. The information we received indicates the designations are appropriate for the areas, particularly in light of the important role recreation and tourism play in the economy of the region. The numerous mountain streams, rock outcroppings and rich wildlife habitat, and the miles of forest trails—including significant stretches of the popular Appalachian trail—are certainly deserving of the protection they will receive under this legislation.

Our subcommittee approved H.R. 3245 on November 5, and the Agriculture Committee ordered the bill favorably reported on November 6.

I commend the leadership of the bill's sponsor, the gentleman from Georgia [Mr. JENKINS], in putting together this package. The gentleman has shown a high level of concern, both for the views of the people of the region, and for the resources of the forest, and has worked for at least 2 years developing this proposal and considering public comments. It is clearly this thoughtful, reasoned approach that has resulted in a bill that the entire Georgia delegation, on both sides of the aisle, has been willing to cosponsor.

In approving these designations, the Committee on Agriculture has considered their impact on types of activities that would no longer be allowed in the areas, particularly commercial timber harvests. The committee believes these impacts will be minimal in the context of the 750,000-acre Chattahoochee National Forest, and are justified on the basis of the need for protection of resources and public recreation opportunities.

Tourism is an important facet of the economic structure of the area. H.R. 3245 provides direction for the Forest Service to aid in the continued viability of this industry through management of the forest resources that have proven popular to persons from outside the region as well as those who live in the immediate area.

The Committee on Agriculture supports this bill, and urges its approval by the House.

Mr. DARDEN. Mr. Speaker, I would like to express my strong support for the legislation under consideration H.R. 3245, and, I would like to take this opportunity to commend my friend and colleague, Representative ED JENKINS for his careful and thoughtful attention to this issue. For several years, Representative JENKINS has tried to develop legislation which reflects both a commitment to the preservation of these pristine natural resources and a realistic understanding of the needs and capabilities of the communities affected by this type of designation. The result, I believe, is a well-crafted, thoughtful, and effective bill which provides for the designation of certain areas in the north Georgia mountains as wilderness, a scenic area and a recreation area.

North Georgia has been the target of greatly increased development over the last decade, and the mountains especially are threatened with encroachment. As elsewhere in the Southeast, Georgia's population has increased significantly, and many have chosen to settle in the metro Atlanta and north Georgia areas. While we in Georgia welcome these new residents, we remain concerned about the effects on our natural and scenic resources. Already we have seen the development of water problems similar to those experienced in the west. The metro Atlanta area has developed air quality problems, and previously forested lands have been sacrificed for housing and office space. Without careful planning and management, our most precious lands could be lost to future generations.

North Georgia's mountains possess a unique and natural beauty unparalleled, I believe, elsewhere in the country; their heavy use testifies to their importance both in providing recreational opportunities and in assuring economic security for this area through the tourist industry. Without the effort to assure their protection, I am afraid their pristine qualities would be destroyed, and perhaps our quality of life and financial security along with them.

Again, I commend my friend and colleague, ED JENKINS, for his leadership in introducing this legislation, and I note that H.R. 3256 has the strong support of the entire Georgia delegation. Every effort was made to assure that residents of the areas to be protected were consulted, and every indication is that this legislation enjoys wholehearted support among those who live in the affected areas.

I was fortunate in being able to chair the hearings on this bill on Chairman VENTO's behalf, and I believe the committee has fully addressed all concerns. I appreciate Chairman VENTO's and Chairman MILLER's timely consideration of H.R. 3245, and I look forward to its enactment by the full House today.

Mr. MILLER of California. Mr. Speaker, again I commend the gentleman from Georgia [Mr. JENKINS] and the Georgia delegation on their leadership and their work on this legislation.

Mr. GINGRICH. Mr. Speaker, I rise in support of H.R. 3245, the Chattahoochee Forest Protection Act.

As my colleagues know, before being elected to Congress, I was a professor at West Georgia College in Carrollton, GA. One of the courses I taught was environmental studies. So, I have a deep concern and understanding for the protection of our natural resources.

Protecting the resources of the mountains of Georgia also has a direct influence on the people of my district. The mountains of North Georgia are the headwaters for the Chattahoochee River that flows through the city of Atlanta, through my district and all the way to the Gulf of Mexico. So, protecting the natural resources in the Chattahoochee National Forest directly affects millions of people in Georgia, Alabama, and Florida.

The State of Georgia has been very fortunate over the past 10 years. The influx of new people to the State has been astounding, but growth does not come without disadvantages. One is the continued expansion of our urban areas into our rural countryside. We need to work now to protect these valuable areas, and H.R. 3245 is an important step for us to take. That is why I urge my colleagues to join me in supporting H.R. 3245.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise today in support of H.R. 3245, the Chattahoochee Forest Protection Act of 1991. The Committee on Agriculture approved this bill on November 6, 1991.

This bill provides that approximately 26,000 acres of the Chattahoochee National Forest will be designated as wilderness. These lands are to be treated in accordance with the purposes of the Wilderness Act, and will become part of the National Wilderness Preservation System. All of the lands are to be managed in accordance with the Wilderness Act, and will become part of the National Wilderness Preservation System.

The bill also provides for the designation of about 7,100 acres of the Chattahoochee National Forest as the Coosa Bald Scenic Area, and about 23,330 acres as the Springer Mountain Recreation Area. Both of these designations should enhance the protection given these valuable natural resources, while at the same time allowing recreational and other uses in these areas.

The entire Georgia delegation, both Republicans and Democrats, cosponsored this bill. I commend it to my colleagues, as well.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 3245, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3245, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BIG THICKET NATIONAL PRESERVE ADDITION ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1592) to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit, as amended.

The Clerk read as follows:

H.R. 1592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Big Thicket National Preserve Addition Act of 1991".

SEC. 2. ADDITIONS TO THE BIG THICKET NATIONAL PRESERVE.

(a) ADDITIONS.—Subsection (b) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698), hereafter referred to as the "Act", is amended as follows:

(1) Strike out "map entitled 'Big Thicket National Preserve'" and all that follows through "Secretary of the Interior (hereafter referred to as the 'Secretary')" and insert in lieu thereof "map entitled 'Big Thicket National Preserve', dated October 19, 1990, and numbered 20031 C, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and offices of the Superintendent of the preserve. After advising the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, the Secretary of the Interior (hereafter referred to as the 'Secretary') may make minor revisions of the boundaries of the preserve when necessary by publication of a revised drawing or other boundary description in the Federal Register. The Secretary".

(2) Strike out "and" at the end of the penultimate undesignated paragraph relating to Little Pine Island-Pine Island Bayou corridor unit.

(3) Strike out the period in the ultimate undesignated paragraph relating to Lance Rosier unit and insert in lieu thereof a semicolon.

(4) Add at the end thereof the following:

"Village Creek Corridor unit, Hardin County, Texas, comprising approximately 5,309 acres;

"Big Sandy Corridor unit, Hardin, Polk, and Tyler Counties, Texas, comprising approximately 4,818 acres;

"Canyonlands unit, Tyler County, Texas, comprising approximately 1,476 acres;

"Sabine River Blue Elbow unit, Orange County, Texas, comprising approximately 3,592 acres; and

"Addition to the Lower Neches River Corridor unit, Orange and Jasper Counties, Texas, comprising approximately 750 acress.".

(b) ACQUISITION.—(1) Subsection (c) of the first section of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve: *Provided*, That the Secretary may acquire scenic easements on privately owned undeveloped lands located within the boundaries of the Village Creek Corridor, Big Sandy Corridor, Canyonlands, Blue Elbow, or Lower Neches River unit: *Provided further*, That privately owned undeveloped lands located within any such unit may be acquired only with the consent of the owner: *Provided further*, That the Secretary may acquire lands owned by commercial timber companies only by donation or exchange: *Provided further*, That any lands owned by the State of Texas, or any of its political subdivisions may be acquired by donation only.".

(2) Add at the end of the first section the following new subsections:

"(d) Within 60 days after enactment of this subsection, the Secretary and the Secretary of Agriculture shall identify lands within their jurisdictions located within the vicinity of the preserve which may be suitable for exchange for commercial timber lands within the preserve. In so doing, the Secretary of Agriculture shall seek to identify for exchange national forest lands that are near or adjacent to private lands that are already owned by the commercial timber companies and are of sufficient size and configuration for commercial timber use. Such national forest lands shall be located in the Sabine National Forest in Sabine County, Texas, in the Davy Crockett National Forest south of Texas State highway 7, or in other sites deemed mutually agreeable. In exercising this exchange authority, the Secretary of the Interior and the Secretary of Agriculture may utilize any authorities or procedures otherwise available to them in connection with land exchanges, and which are not inconsistent with the purposes of this Act. The values of the properties so exchanged shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the respective Secretary as circumstances require. Such exchanges shall be completed as soon as possible, but no later than two years after the date of enactment of this subsection.

"(e) With respect to the 37 acre area owned by the Louisiana-Pacific Corporation or its subsidiary, Kirby Forest Industries, Inc., on Big Sandy Creek in Hardin County, Texas, and now utilized as part of the Indian Springs Youth Camp (H.G/King Abstract 822), the Secretary shall not acquire such area without the consent of the owner so long as the area is used exclusively as a youth camp.".

(c) PUBLICATION OF BOUNDARY DESCRIPTION.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a detailed description of the boundary of the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and the addition to the Lower Neches River unit of the Big Thicket National Preserve.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of such Act is amended by inserting at the end thereof the following new sentence: "Effective upon date of enactment of this paragraph, there is authorized to be appropriated such sums as may be necessary to carry out the purposes of subsections 1(c) and 1(d).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1592, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1592 is legislation introduced by Representative CHARLES

VOL 137
PT 23
NO 21—25
1991
UMI

WILSON to expand the Big Thicket National Preserve in the State of Texas.

Often referred to as the biological crossroads of North America, the Big Thicket area of southeast Texas contains a diverse multitude of temperate, subtropical, prairie and woodland flora and fauna. The area includes more than 300 bird species, over 100 species of trees, a broad spectrum of mammals and reptiles, and distinct plant life including 40 species of wild orchids, some of them found nowhere else.

The Big Thicket National Preserve was established in 1974 to protect the remnants of this complex biological ecosystem. It consists of 12 distinct units and river corridors comprising approximately 85,000 acres. H.R. 1592 would add 5 new units totalling approximately 15,937 acres to the Big Thicket National Preserve. These additions are the Village Creek corridor unit, the Big Sandy corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and an addition to the Lower Neches corridor unit. These additions would link or expand existing units and add a new area to the preserve. Legislation similar to H.R. 1592 has passed the House in two previous sessions of Congress, but these measures were not acted on by the Senate.

The Interior Committee adopted an amendment in the nature of a substitute which made several modifications of the bill as introduced. It provides that the Secretary may acquire scenic easements on undeveloped lands within the boundaries of the preserve. Fee simple acquisition of lands within the boundaries of the preserve can only be acquired with the consent of the owner. Approximately 10,700 acres or two-thirds of the lands to be added to the preserve are to be acquired by an exchange between three commercial timber companies and the Forest Service. This is an unusual means of acquiring lands for a national park unit, but I believe it is justified because of the tremendous natural resource values of the lands to be included within the park and because it can substantially reduce the land acquisition costs associated with this expansion.

Mr. Speaker, H.R. 1592 as amended is an important natural resource initiative which is long overdue. It deserves the support of the Members of this body and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1592 which would expand the Big Thicket National Preserve in Texas. Since this bill has already been fully explained, I would just like to make a few comments.

I applaud Mr. WILSON and Mr. VENTO for the visionary approach in this bill whereby we expand a national park service unit through land exchanges rather than through purchase. At a time when over one-third of the Nation's land is owned by the Federal Government, those of us on this side of the aisle (and others who are concerned about private property) are delighted to use this approach which results in no net gain of Federal land ownership.

In fact, we hope that passage of this bill in its current form increases the likelihood that the Subcommittee on National Parks and Public Lands will hold a hearing early next year on bills by Mr. THOMAS of Wyoming and Mr. BREWSTER which would implement a policy of no net gain of Federal land ownership.

I am concerned that the Interior Committee passed version of H.R. 1592, unlike the version introduced by Mr. WILSON, allows certain scenic easements to be acquired without the consent of the owner. I understand this provision is objectionable to Senator GRAMM and could jeopardize the compromise he has reached with Mr. WILSON on this issue. However, I am cautiously optimistic that all interested parties can work out a legislative agreement in the second session of the 102d Congress.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Speaker, I would like to engage the gentleman from California [Mr. MILLER] in a brief colloquy.

Before that I would like to make a short statement of principle here. As the gentleman from California says in his statement, by all environmental principles and by all environmental standards and certainly by all the leading environmental groups in the United States, this area has been chosen and has been designated as an area of ecological importance, vastly so, and has even been designated by the United Nations—I do not recall the exact designation—as an area worthy of study and worthy of preservation.

But, as the gentleman noted in the passage of the bill from his committee, as he particularly noted that this is an unusual way to establish a park by exchanging Federal land from the Forest Service to the Park Service, I would like to just relate a small amount of history of this.

First, what we have is something that needs preserving in the Big Thicket. But, secondly, there have been objections raised by the Forest Service. I just want the record to reflect that one reason that these objections were not taken more seriously by me and, I believe, by the committee, is the fact that if the land remains in the Forest Service, it will all be clear-cut anyway, as is the practice in Texas. So, by swapping this land from the Forest Service to the Park Service, we are preserving at least 14,000 acres of Federal land from being clear-cut.

Mr. Speaker, I would like to point out to the House that the timber companies have been most cooperative in this and have paid taxes for the 6 years that we have been on this endeavor. They have paid taxes on the land, have preserved it and have not cut it.

I do expect that the Forest Service is going to be somewhat difficult in arranging for these transfers. I would like to establish with the chairman that it is the intent of the committee and the intent of the legislation that the owner of the private land do receive full value for the land that they are swapping, from the Forest Service, no acre by acre, but the highest and best value.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Speaker, the gentleman correctly states the intent of the legislation. The bill does in fact state that. It is our expectation that these exchanges would be completed within 2 years, recognizing the urgency to protect this area and its unique qualities.

We think this is the right way to go about it.

Mr. WILSON. One other point is that, as the chairman probably knows—I am not sure how the national forest is in California, but I know how it is in the South—the national forests, as it appears on the map, appears as a solid entity, but in reality it is a spotted and checkered ownership. The land that the commercial timber companies are swapping here is contiguous land that is economically viable. So I think it is only fair that we can expect the Forest Service will trade similar lands that are economically viable and not try to trade off cats and dogs that are not part of any larger tract.

Mr. MILLER of California. Again, if I may respond to the gentleman from Texas, he again states that is the intent of this legislation, that is what the bill says. We recognize the cooperation we are receiving from the private owners in this swap, and we would expect, as the gentleman so eloquently put it, that they not end up with cats and dogs but that they do end up with economically viable tracts of forest land.

Mr. WILSON. I thank the chairman very much.

The Big Thicket National Preserve was authorized by Public Law 93–439 on October 11, 1974. The preserve consists of 12 units and totals approximately 86,000 acres.

At the time of passage in Congress, there were differences between the House and Senate versions of the legislation with the Senate

supporting a bill containing 100,000 acres and the House supporting a smaller version. In order to obtain passage, a compromise was agreed upon consisting of approximately 85,000 acres.

I was a party to that compromise, but over the years a convincing case has been made for increasing the size of the preserve to the amount originally included in the Senate version, particularly with regard the Village Creek and Big Sandy Creek corridors. Village Creek is one of the most beautiful creeks in east Texas and the addition of these two creek corridors is very important to the protection of the three units they join.

In developing the legislation to add five units to the preserve, we have made every effort to protect the private landowners and at the same time provide the protection needed for the preserve. Key provisions of the legislation are as follows:

First, privately owned lands used for noncommercial residential purposes (homesteads) will not be affected.

Second, timber company lands may be acquired only by donation or exchange for U.S. Forest Service lands. The values of the land exchanges shall be approximately equal, based on the highest and best use value, with differences being made up through cash payments.

Third, lands owned by the State of Texas or any of its subdivisions may be acquired by donation only.

Fourth, privately owned undeveloped lands (inholdings) are those with no owner in residence. For the lands in this category located within the Village Creek corridor unit, Big Sandy corridor unit, Canyonlands unit, Sabine River Blue Elbow unit, or the addition to the Lower Neches River unit may be acquired only with the consent of the owner.

Fifth, scenic easements may be acquired by the Secretary of Interior within the Village Creek corridor unit and the Big Sandy corridor unit. The scenic easements will be provided from the center of the creek for a distance of 300 feet to protect that portion of the creek area from development detrimental to the values of the preserve, such as clearcutting, subdividing or construction. The easements may be obtained by donation or purchase, but the land will not be transferred to the Federal Government and remains the property of the private owner.

I believe this to be a good bill and one that is needed, and urge your support for its passage.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 1592, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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STONES RIVER NATIONAL BATTLEFIELD BOUNDARY CHANGE

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3881) to expand the boundaries of Stones River National Battlefield, TN, and for other purposes.

The Clerk read as follows:

H.R. 3881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STONES RIVER NATIONAL BATTLEFIELD BOUNDARY CHANGE.

The Act entitled "An Act to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes", approved December 23, 1987 (101 Stat. 1433), is amended as follows:

(1) In the first sentence of section 1(a) strike "numbered 327/80,001, and dated March 1987" and insert "numbered 327/80,004B, and dated November 1991".

(2) In section 1(b), insert "(1)" after "LANDS.—", and add at the end thereof the following:

"(2)(A) Before acquiring any lands under this Act where the surface of such lands has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, the Secretary shall prepare a report on the potential hazardous substances associated with such lands and the estimated cost of restoring such lands, together with a plan of the remedial measures necessary to allow acquisition of such lands to proceed in a timely manner, consistent with the requirements of subparagraph (B). The Secretary shall submit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

"(3)(A) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed 25 years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever is later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner.

"(B) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

"(C) This paragraph applies only to owners who have reached the age of majority.

"(D) As used in this paragraph, the term 'improved property' means a detached, year-round noncommercial residential dwelling, the construction of which was begun before the date of enactment of this paragraph, together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.".

(3) Section 2 is amended to read as follows:

"SEC. 2. AGREEMENT.

"The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, containing each of the following provisions—

"(1) If the city agrees to acquire sufficient interest in land to construct a trail linking the battlefield with Fortress Rosecrans, to construct such trail, and to operate and maintain the trail in accordance with standards approved by the Secretary, the Secretary shall (A) transfer to the city the funds available to the Secretary for the acquisition of such lands and for the construction of the trail, and (B) provide technical assistance to the city and to Rutherford County for the purpose of development and planning of the trail.

"(2) The Secretary shall agree to accept the transfer by donation from the city of the remnants of Fortress Rosecrans at Old Fort Park, and following such transfer, to preserve and interpret the fortress as part of the battlefield.

"(3) In administering the Fortress Rosecrans, the Secretary is authorized to enter a cooperative agreement with the city of Murfreesboro, Tennessee for the rendering, on a nonreimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

(4) Redesignate section 3 as section 4, and insert the following new section after section 2:

"SEC. 3. PLANNING.

"(a) PREPARATION OF PLAN FOR REDOUBT BRANNAN.—The Secretary shall, on or before February 1, 1992, prepare a plan for the preservation and interpretation of Redoubt Brannan.

"(b) UPDATE OF GENERAL MANAGEMENT PLAN.—The Secretary shall, on or before March 31, 1993, update the General Management Plan for the Stones River National Battlefield.

"(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to the city and to Rutherford County in the development of zoning ordinances and other land use controls that would help preserve historically significant areas adjacent to the battlefield.

"(d) MINOR BOUNDARY REVISIONS.—If the planning activities conducted under subsections (a) and (b) of this section show a need for minor revisions of the boundaries indicated on the map referred to in section 1 of this Act, the Secretary may, following timely notice in writing to the Committee on Interior and Insular Affairs of the United

VOL
137
PT
23
NO
21
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25
1991
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States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and providing an opportunity for public comment, make such minor revisions by publication of a revised boundary map or other description in the Federal Register.".

The SPEAKER pro tempore (Mr. McDERMOTT). Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Battle of Stones River, fought December 31, 1862 to January 2, 1863, near Murfreesboro, TN, was according to President Abraham Lincoln a "hard-won victory."

Congressman BART GORDON has introduced H.R. 3881 to provide additional protection to the existing Stones River National Battlefield by enlarging its boundaries. As introduced, H.R. 3881 includes all the provisions of H.R. 2370 which passed the House on September 24, 1991, as well as the amendments to H.R. 2370 that were reported to the Senate. This bill adds 322 acres to the Battlefield, provides for the National Park Service to enter into a cooperative agreement with the city of Murfreesboro concerning Fortress Rosecrans and makes several other minor changes. The bill uses a different map reference to delete 24 acres from the proposed park additions. The new bill also makes minor changes in the approach the National Park Service must take concerning potential hazardous substances located within the lands being added to Stones River National Battlefield. The Secretary is prohibited from acquiring any lands that have become contaminated with hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act.

H.R. 2370 is being held up in the Senate for reasons unrelated to Stones River National Battlefield. In the interest of expediting protection of this battlefield, I urge adoption of H.R. 3881.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3881, a bill to substantially expand the existing Stones River National Battlefield by over 300 acres. The gentleman from California [Mr. MILLER] has already explained the historic events which took place at this battlefield, as well as the bill before Members today. Mr. Speaker, the bill before us is identical to one passed by this body earlier this session, except for some perfecting amendments added in the other body.

I would just like to commend the bill's sponsor, Mr. GORDON, for bringing forward to this committee a comprehensive measure which attempts to fully address all of the boundary issues at this park. All the lands proposed for acquisition were directly related to action on the battlefield and most have been proposed for acquisition in the past by the National Park Service.

The administration has generally supported this measure except for transfer of responsibility for management of fortress Rosecrans and any requirements that contaminated or otherwise highly altered lands be acquired. It is not the intention of this measure to force the National Park Service to acquire any lands which are contaminated or unsuitable for park designation. The boundary as contained in this bill reflects only the maximum acquisition boundary and should not be construed to mean that the National Park Service must acquire all lands contained within it.

I would like to thank the chairman for advancing this important bill which will go a long way toward protecting one of the numerous civil war battlefield sites within the National Park Service which is threatened by urban development.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Speaker, as the gentleman from California [Mr. MILLER] pointed out, the battle at Stones River was fought between December 31, 1862, and January 2, 1863. There were approximately 83,000 people involved in this battle. Unfortunately there were 23,000 casualties, resulting in opening up a wide swath for the Union troops to invade further into the South. It also developed or resulted in Fortress Rosecrans, the largest earthen fort of the Civil War, being developed there in Murfreesboro.

As the gentleman from California [Mr. MILLER] and the gentleman from California [Mr. LAGOMARSINO] pointed out, this bill, H.R. 3881, is very similar to a bill that passed this House earlier in the year. For that reason I will not belabor the facts other than to say it is only a small, minor variation that is changed.

Mr. Speaker, I want to thank the gentleman from California [Mr. MILLER] and the gentleman from Minnesota [Mr. VENTO] for moving legislation forth on this, and certainly the ranking minority member, the gentleman from California [Mr. LAGOMARSINO]. Murfreesboro, TN, is located in one of the 50 fastest growing counties in the Nation, and for that reason the property around Stones River is threatened with encroachment daily. It is important to move forward, and those gentlemen have helped in expediting this, and I want to thank them once again.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 3881.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

SAN CARLOS INDIAN IRRIGATION PROJECT DIVESTITURE ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1476) to provide for the divestiture of certain properties of the San Carlos Indian irrigation project in the State of Arizona, and for other purposes as amended.

The Clerk read as follows:

H.R. 1476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Indian Irrigation Project Divestiture Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) To provide water for irrigating, first, land allotted to Pima Indians on the Gila River Reservation and, second, other lands in public or private ownership which, in the opinion of the Secretary of the Interior, could be served without diminishing the supply necessary for the Indian lands, Congress, by the Act of June 7, 1924, authorized construction of Coolidge Dam and creation of San Carlos Reservoir on the Gila River in Arizona.

(2) The Secretary, through the San Carlos Irrigation Project administered by the Bureau of Indian Affairs, operates Coolidge Dam and approximately one hundred irrigation wells to provide water to SCIP lands on the Gila River Reservation and to the SCIP lands outside the reservation which is within the San Carlos Irrigation and Drainage District.

(3) A hydroelectric power system was developed at Coolidge Dam pursuant to the Act of March 7, 1928, as amended, to generate power incidental to the use of San Carlos Reservoir for storing irrigation water. The system's primary purpose was to provide

power for irrigation pumping on SCIP lands and for BIA agency and school purposes and for irrigation pumping by Apache Indians on the San Carlos Reservation.

(4) SCIP's transmission and distribution system, which has been extended to domestic and commercial users on SCIP lands and to other homes and businesses not on SCIP lands, currently provides service within portions of Pinal, Pima, Maricopa, Graham, and Gila Counties covering approximately 3,000 square miles.

(5) Unexpectedly low and erratic Gila River flows into San Carlos Reservoir since 1928 have limited power generation at Coolidge Dam, causing SCIP to secure additional power through contracts with the Western Area Power Administration, the Salt River Project, and Arizona Public Service Company to meet its customers' needs. Since October, 1983, when a flood damaged the switchyard at Coolidge Dam, no power has been generated at the dam.

(6) Much of SCIP's power system needs modernization, with some facilities over sixty years old, well past their design life. However, Federal budgetary and administrative policies have impaired long-range, consistent planning and construction necessary for efficient SCIP operation and maintenance and for timely replacement of obsolete or worn out facilities.

(7) Under current repayment terms, the shared obligation of the San Carlos Irrigation and Drainage District and the Gila River Indian Community to repay the United States for construction of SCIP's hydroelectric power system and certain improvements thereto will not be met until after the year 2010.

(8) The Gila River Indian Community, the San Carlos Apache Indian Tribe, and the San Carlos Irrigation and Drainage District have petitioned the Congress to authorize the Secretary to divest the United States of ownership and responsibility for SCIP's electric power transmission and distribution systems, to settle the outstanding debt owned by the United States in connection with the construction of those systems, to apportion equitably among them SCIP's allocation of Federal power resources, and to take such other actions as necessary to carry out divestiture.

(9) On September 15, 1989, the Gila River Indian Community and the Arizona Public Service Company, and the San Carlos Irrigation and Drainage District, the Arizona Public Service Company, Trico Electric Cooperative, Inc., and Electrical District No. 2 of Pinal County, Arizona, signed Statements of Principles by which divestiture would be implemented between and among them subsequent to enactment of Federal enabling authorities as provided in this Act. The same entities subsequently signed extensions of the Statements of Principles, as amended.

(b) PURPOSE.—The purpose of this Act are—

(1) to authorize the Secretary to divest the United States of ownership of the electric transmission and distribution system of the San Carlos Irrigation Project;

(2) to provide for the settlement of the debt obligations owed to the United States by the Gila River Indian Community and the San Carlos Irrigation and Drainage District in connection with the construction of the electric transmission and distribution system;

(3) to provide for the reallocation of power resources currently allocated to SCIP from Federal hydroelectric power sources;

(4) to provide funds for the disposal of hazardous waste materials associated with those areas and components of the SCIP electric system transferred to the Gila River Indian Community and the San Carlos Apache Tribe and with those areas and components retained by the Secretary;

(5) to facilitate the implementation of divestiture in an orderly and economic manner, consistent with the desire and intent of the parties to the Statements of Principles and with due regard for the rights and interests of current SCIP employees; and

(6) to assist the Gila River Indian Community and the San Carlos Apache Tribe in their efforts to achieve greater self-determination and economic self-sufficiency.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Arizona Public Service Company" means an electric utility corporation organized and existing under the laws of the State of Arizona;

(2) the term "Arizona Corporation Commission means the entity established by Article 15 of the Arizona Constitution to regulate and supervise public service corporations in the State of Arizona;

(3) the term "Arizona Power Authority" means the entity established under Arizona law to receive and market Arizona's allotted share of power generated at Hoover Dam;

(4) the terms "Electrical District No. 2" and "ED2" mean Electrical District Number 2, an electrical district organized under the laws of the State of Arizona;

(5) the terms "Gila River Indian Community" and "GRIC" mean the governing body of that community of Pima and Maricopa Indians organized pursuant to section 16 of the Act of June 18, 1934 (25 U.S.C. 476) and occupying the Gila River Reservation in Arizona;

(6) the term "preference power" means electric power provided to municipalities, other public corporations or agencies, cooperatives, and nonprofit organizations pursuant to this Act of June 17, 1902 (32 Stat. 388), and amendments and supplements thereto, commonly referred to as Reclamation Law;

(7) the term "present value" means the economic value of a present cash payment utilizing the discount rates and methodology established by the Secretary pursuant to section 5301 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–268);

(8) the term "San Carlos Apache Tribe" and "SCAT" mean the governing body of that tribe of Indians organized pursuant to section 16 of the Act of June 18, 1934 (25 U.S.C 476) and occupying the San Carlos Reservation in Arizona;

(9) the terms "San Carlos Irrigation Project" and "SCIP" mean the project authorized pursuant to the Act of June 7, 1924 (43 Stat. 475), expanded pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs;

(10) the terms "San Carlos Irrigation and Drainage District" and "SCIDD" mean an irrigation and drainage district organized under the laws of Arizona;

(11) the term "SCIP electric system" means all electric transmission and distribution facilities, including existing associated easements, owned by the United States on behalf of SCIP and administered by SCIP's Power Division, except Coolidge Dam, the electric generating facilities within the dam's powerhouse, the lines connecting the powerhouse with the switchyard, together with such switchyard located on land withdrawn for Coolidge Dam;

(12) the term "Secretary" means the Secretary of the Interior;

(13) the term "Statements of Principles" means the document entered into by the Arizona Public Service Company, the San Carlos Irrigation and Drainage District, Trico Electric Cooperative, Inc., and Electrical District No. 2 on September 15, 1989, as amended and extended on January 14, 1991, and the document entered into by the Arizona Public Service Company and the Gila River Indian Community Utility Authority on September 15, 1989, as amended and extended on March 8, 1991, setting forth agreements among the respective parties concerning divestiture of SCIP assets both on and off reservation; and

(14) the terms "Trico Electrical Cooperative" and "TRICO" mean the Trico Electrical Cooperative, a corporation organized under the laws of the State of Arizona.

SEC. 4. DIVESTITURE.

(a) IN GENERAL.—Notwithstanding the Act of September 22, 1961 (25 U.S.C. 15), the Secretary is directed to transfer the SCIP electric system and associated assets in accordance with the provisions of this Act no later than December 31, 1992.

(b) TRANSFER TO GRIC.—The Secretary shall transfer to the GRIC all right, title, and interest of the United States in and to that portion of the SCIP electric system located on the Gila River Reservation, including the 5.6-mile section of 69–KV transmission line from Coolidge Substation to the reservation.

(c) TRANSFER TO SCAT.—The Secretary shall transfer to SCAT all right, title, and interest of the United States in and to that portion of the SCIP electric system located on the San Carlos Apache Reservation.

(d) TRANSFER TO SCIDD.—Subject to the requirements of section 5(d), the Secretary shall transfer, as is, to SCIDD all right, title, and interest of the United States in and to those portions of the SCIP electric system not transferred under subsection (b) or (c) or otherwise transferred or reserved under subsection (a), (e) or (f), expressly disclaiming all warranties, expressed or implied, including the implied warranties of merchantability and fitness for a particular purpose.

(e) TRANSFER OF ASSOCIATED ASSETS.—The Secretary shall negotiate an agreement with GRIC, SCAT, and SCIDD providing for the transfer to GRIC, SCAT, and SCIDD of all right, title, and interest of the United States in and to all associated assets of the SCIP electric system not transferred under subsections 4(b), 4(c), and 4(d) of this section, including but not limited to vehicles, tools, hardware, spare parts, poles, transformers, meters, conductors, and other electric system components. The Secretary shall distribute these assets in a manner that reflects the proportionate number of miles of distribution lines to be transferred to GRIC, SCAT, and SCIDD (including lines provided to SCAT under sections 5(a)(2) and 5(a)(3) of this Act) and retained in accordance with the implementation of the Statements of Principles.

(f) RETENTION OF FACILITIES BY THE UNITED STATES.—The Secretary shall retain ownership of the electric generating facilities located in the powerhouse and switchyard at Coolidge Dam, including lines from the powerhouse to the switchyard.

(g) OPERATION AND MAINTENANCE.—Upon completion of the transfer of the SCIP electric system and associated assets as provided in this Act, the Secretary shall have no responsibility for the operation, maintenance, and repair of such system and associated assets, or for the electric generating facilities within the Coolidge Dam powerhouse.

VOL 137
PT 23
NO 21—25
1991
UMI

SEC. 5. ALLOCATION OF FUNDS.

(a) IN GENERAL.—The Secretary shall allocate all funds credited to the SCIP Power Division as of September 30, 1991, as adjusted for activity between September 30, 1991, and the effective date of this Act, including cash and temporary investments managed by the Bureau of Indian Affairs, customer deposits and customer advances held by the Treasury of the United States, reservations for line extensions and installation services, reservations for replacement, funds obligated for future power purchases, unreserved and unrestricted funds, trade and other accounts receivable, and accrued interest income, as follows:

(1) to GRIC, SCAT, and SCIDD, all customer deposits and all customer advances held by the Treasury of the United States, in amounts corresponding to the actual deposits and advances made by the customers who shall be located within the respective areas to be served by GRIC, SCAT, and SCIDD as of the effective date of this Act, together with such information necessary to enable GRIC, SCAT, and SCIDD to credit such deposits and advances to the appropriate customer accounts.

(2) To SCAT, such sums as may be necessary (not to exceed $1,200,000) to be used for construction of a 21KV transmission line from Peridot, Arizona, to the community of Bylas on the San Carlos Apache Reservation.

(3) To SCAT, such sums as may be necessary (not to exceed $160,000) to purchase all right, title, and interest in the electric system presently owned by the Arizona Public Service Company within the exterior boundaries of the San Carlos Apache Reservation and extending from the western boundary of said reservation easterly to the town of Cutter, Arizona.

(4) To a SCIP employee severence fund, to be established by the Secretary, not to exceed $750,000, solely for the purpose of providing severance pay to SCIP Power Division employees eligible for such pay under applicable Federal law and regulations, except that within 180 days after the effective date of this Act, any funds remaining in the severance fund shall be transferred to GRIC.

(5) to a SCIP reserve account, to be established and administered by the Secretary, $4,000,000, to be retained by the Secretary until October 1, 1995, at which time the Secretary shall, first, deposit into the environmental Protection Account established pursuant to section 6 an amount equal to the present value of the SCIP electrical system debt obligation owed by GRIC and its allotted landowners as of September 30, 1991, and second, transfer the balance remaining in the account to GRIC. Prior to October 1, 1995, the Secretary may, in his discretion and pursuant to this authorities under Public Law 93-638 (25 U.S.C. 450 et seq.), make available to GRIC and SCAT the funds not retained for deposit into the Environmental Protection Account for use in electric system expansion and rehabilitation on their respective reservations and for expenses associated with providing electric service on such reservations.

(6) To GRIC, any funds remaining after the allocations set forth in the preceding paragraphs (1), (2), (3), (4), and (5) to be used for electric system expansion and rehabilitation on the Gila River Reservation and for expenses associated with providing electric utility services on such reservation.

(b) ACCOUNTING PENDING DIVESTITURE.—From the date of enactment of this Act through the date of allocation of funds as provided in this section and section 10, the Secretary shall ensure that on cash, temporary investments, or other funds are transferred from the SCIP Power Division to the SCIP Irrigation Division or to other Bureau of Indian Affairs managed projects, accounts, funds, or activities, and no Power Division funds shall be reserved or obligated for other than routine repairs and maintenance of the SCIP Power Division utility plant and for operation of the Power Division.

(c) GRIC DEBT RESOLUTION.—Deposit into the Environmental Protection Account of the amount specified in subsection (a)(5) shall constitute full satisfaction of the SCIP electric system debt owed by GRIC or its allotted landowners and shall be cause for the Secretary to cancel any liens against allotted lands of any member of GRIC or against tribal lands within SCIP in connection with such debt.

(d) SCIDD DEBT RESOLUTION; AGREEMENT.—As a condition precedent to the transfer of the SCIP system and other assets as provided in section 4(d), the SCIDD shall enter into an agreement with the Secretary. Such agreement shall provide that—

(1) SCIDD will pay the Secretary an amount equal to the present value of the SCIP electric system debt obligation owed by SCIDD to the United States as of September 1, 1991; such amount to be paid from the proceeds of SCIDD's sale to the Arizona Public Service Company of various system assets as prescribed by the Statement of Principles entered into by SCIDD;

(2) the total amount to be paid by SCIDD under the agreement shall be paid to the Secretary in annual installments of not less than $479,000 for the fiscal years beginning with the fiscal year in which this Act takes effect (as provided in section 10) and ending with fiscal year 1995;

(3) SCIDD disclaims any right, title, or interest in SCIP Power Division funds to be allocated pursuant to subsection (a), except for such funds as may be credited to SCIDD pursuant to subsection (a)(1); and

(4) payment by SCIDD to the Secretary of the present value amount specified in paragraph (1) shall constitute full satisfaction of the SCIP electric system debt owed by SCIDD.

(e) DEPOSIT INTO ENVIRONMENTAL PROTECTION ACCOUNT.—The Secretary shall deposit the funds paid by SCIDD pursuant to subsection (d)(1) into the Environmental Protection Account established under section 6.

(f) SCAT DEBT RESOLUTION.—The Secretary shall waive any debt for electrical service (not to exceed $165,000) which SCIP claims is owed by the San Carlos Apache Tribal Utility Authority or SCAT as of September 1, 1991.

SEC. 6. ENVIRONMENTAL PROTECTION ACCOUNT.

The Secretary shall establish an account, to be administered by the Bureau of Indian Affairs, to fund such efforts as may be necessary and appropriate to dispose of hazardous waste materials associated with those areas and components of the SCIP electric system transferred to GRIC and SCAT and with those areas and components retained by the Secretary. Beginning on October 1, 1991, funds deposited into this account pursuant to section 5(a)(2) and 5(e) shall be used to carry out the purposes of this section until exhausted. Any funds remaining in the account after October 1, 2005, shall revert to the general fund of the United States Treasury. The Secretary shall be responsible for any hazardous waste disposal required by this section not covered by the funds deposited pursuant to sections 5(a)(5) and 5(e).

SEC. 7. FEDERAL POWER REALLOCATION.

(A) REALLOCATION OF RESOURCES.—Upon the request of the Secretary, the Secretary of Energy shall enter into such agreements as are necessary to reallocate SCIP's allocation of Federal power resources—capacity and energy—as provided in this section.

(b) SUCCESSORS IN INTEREST.—The Secretary of Energy shall treat GRIC, SCIDD, and SCAT as successors in interest to SCIP in reallocating SCIP's allocation of capacity and energy from the Parke Davis Project (the two projects consolidated by the Act of May 28, 1954 (Chapter 241; 68 Stat. 143)) and the Colorado River Storage Project (43 U.S.C. 620 et seq.), including capacity and energy available pursuant to the Memorandum of Understanding numbered 14-06-300-2632 and Memorandum of Understanding numbered DE-MS65-80WP 39041 between the Western Area Power Administration, Department of Energy, and the Bureau of Indian Affairs, Department of the Interior, and any other agreement to provide preference power to SCIP prior to December 31, 1992.

(c) PROPORTIONS ASSIGNED.—The SCIP allocations of winter and summer capacity and energy shall be assigned to GRIC, SCIDD, and SCAT in accordance with the proportions set forth in the table included in the report of the Senate Select Committee on Indian Affairs on this Act.

(d) RATES.—Preference power—capacity and energy—shall be delivered to GRIC, SCAT, and SCIDD pursuant to the allocations provided for in this section at the rate established for preference power as determined in accordance with ratemaking procedures established by the Department of Energy.

(e) BOULDER CANYON PROJECT.—The Bureau of Indian Affairs shall assign its contract with the Arizona Power Authority for capacity and energy from the Boulder Canyon Project (43 U.S.C. 617 et seq.; 45 Stat. 1057) in accordance with the proportions referred to in subsection (c) and the Secretary shall request the Arizona Power Authority to take all necessary actions required to effectuate such assignment in accordance with the contract dated as of September 15, 1986, between the Arizona Power Authority and the SCIP.

(f) LONG-TERM POWER SUPPLY; RATES.—The Secretary shall enter into an agreement with GRIC and SCIDD to provide a long-term power supply to the irrigation wells and pumps installed by SCIP to provide water to SCIP lands on and off the lands of GRIC. The rate for the electricity supplied by GRIC and SCIDD shall be based on the average cost per kilowatt hour for power purchased by GRIC and SCIDD from the Parker-Davis Project and marketed by the Western Area Power Administration, plus an allowance for the cost of operating and maintaining the transmission and distribution systems of GRIC and SCIDD, including administrative costs and reserves, as long as such power is made available to GRIC and SCIDD in quantities sufficient to meet SCIP's pumping requirements. The rate shall be reviewed and adjusted annually to reflect any changes in the average cost of power purchased by the Parker-Davis Project and the actual costs incurred by GRIC and SCIDD to operate and maintain the transmission and distribution systems.

SEC. 8. FEDERAL EMPLOYEES.

(a) ELECTION TO CONTINUE CERTAIN BENEFITS.—Any Federal employee at SCIP whose position is terminated by reason of this Act who, within thirty days of such termination, is employed by the San Carlos Apache Tribal Utility Authority or the Gila River Indian

Community Utility Authority is entitled, if the employee and the respective authority so elect, to the following:

(1) To retain coverage, rights, and benefits under subchapter I of chapter 81 (relating to compensation for work injuries) of title 5, United States Code, and for this purpose employment with the tribal authority shall be deemed employment by the United States. However, if an injured employee, or his dependents in case of his death, receives from the tribal authority any payment (including an allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the tribal authority, or other benefit of any kind) on account of the same injury or death, the amount of that payment shall be credited against any benefit payable under subchapter I of chapter 81 of title 5, United States Code, as follows:

(A) Payments on account of injury or disability shall be credited against disability compensation payable to the injured employee.

(B) Payments on account of death shall be credited against death compensation payable to dependents of the deceased employee.

(2) To retain coverage, rights, and benefits under chapter 83 (relating to retirement) or chapter 84 (relating to Federal employees' retirement system) of title 5, United States Code, if necessary employee deductions and agency contributions in payment for coverage, rights, and benefits for the period of employment with the tribal authority are currently deposited in the Civil Service Retirement and Disability Fund (pursuant to chapter 83 or chapter 84 of title 5, United State Code) and, if appropriate, the Thrift Savings Fund (pursuant to section 8432 of title 5, United States Code,) and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under section 8332 or 8411 of title 5, United States Code. Days of unused sick leave to the credit of an employee under a formal leave system at the time the employee leaves Federal employment to be employed by a tribal authority remain to his credit for retirement purposes during covered service with the tribal authority.

(3) To retain coverage, rights, and benefits under chapter 89 (relating to health insurance) of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal authority are currently deposited in the Employee's Health Benefit Fund (pursuant to section 8909 of title 5, United States Code), and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 89 of title 5, United States Code.

(4) To retain coverage, rights, and benefits under chapter 87 (relating to life insurance) of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal authority are currently deposited in the Employee's Life Insurance Fund (pursuant to section 8714 of title 5, United States Code), and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 87 of title 5, United States Code.

(b) AGENCY CONTRIBUTIONS.—During the period an employee is entitled to the coverage, rights, and benefits pursuant to subsection (a), the tribal authority employing such employee shall deposit currently in the appropriate funds the employee deductions and agency contributions required by paragraphs (2), (3), an (4) of subsection (a).

(c) PRIORITY PLACEMENT.—The Secretary shall establish and maintain a Departmental Priority Placement Program for SCIP employees serving in competitive positions under career or career-conditional appointments who have satisfactory levels of performance and who receive a notice of involuntary separation as a result of divestiture of the SCIP electric system pursuant to the provisions of this Act. Employees must apply in writing for placement into the program not later than thirty calendar days after receipt of notice of involuntary separation. Employees shall be entitled to be placed on a priority basis into vacant positions outside the competitive area from which they are separated, at the same grade or level they last held in the agency and for which they are qualified, based upon the availability of such positions.

(d) DEFINITIONS.—For the purposes of this section—

(1) the term "employee" means an employee as defined in section 2106 of title 5, United States Code;

(2) the term "agency" means the Bureau of Indian Affairs; and

(3) the term "involuntary separation" means any separation from agency employment against the will and without the consent of the employee.

(e) REGULATIONS.—The Secretary may prescribe regulations necessary to carry out the provisions of this section and to protect and assure the compensation, retirement, insurance, leave, reemployment rights, and such other similar civil service employment rights as he finds appropriate.

SEC. 9. MISCELLANEOUS.

(a) EFFECT ON EXISTING RIGHTS.—Nothing in this Act shall—

(1) affect any right of the City of Mesa, Arizona, to deliver electric service to lands currently owned by the City of Mesa in Pinal County, Arizona; or

(2) be construed as having any effect on the right of any Arizona incorporated rural electric cooperative to seek to provide electric service pursuant to existing Federal or State law.

(b) APPROVAL BY ARIZONA CORPORATION COMMISSION.—Approval by the Arizona Corporation Commission of the allocation of electric service areas and systems as set forth in the Statements of Principles shall constitute recognition and confirmation of the financial viability and territorial integrity of the signatories to the Statements of Principles within the meaning of the provisions of the Rural Electrification Act of May 20, 1936, as amended, (7 U.S.C. 901 et seq.; 49 Stat. 1363; 63 Stat. 948).

(c) EXISTING OBLIGATION OF THE UNITED STATES.—Nothing in this Act shall affect any obligation of the United States to SCAT to provide power at the rate of 2 mils per kilowatt hour for irrigation pumping and agency and school purposes pursuant to the Act of March 7, 1928 (45 Stat. 200, 210).

(d) SCIP IRRIGATION DIVISION.—The Secretary is authorized to expend not more than $1,200,000 from funds credited to the SCIP Irrigation Division to acquire not more than ten acres of land and to acquire or construct such facilities as may be necessary and appropriate to provide for the efficient maintenance, operation, and administration of the SCIP Irrigation Division.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Transfer of SCIP facilities and assets to GRIC, SCAT, and SCIDD under section 4 and allocation of funds under section 5 shall not take effect until such time as the Secretary issues a statement of findings that—

(1) the Arizona Corporation Commission has approved, pursuant to Arizona law, the allocation of electric service areas and systems as set forth in the Statements of Principles;

(2) the Secretary has entered into an agreement with GRIC, SCAT, and SCIDD providing for the division of assets as provided in section 4(e);

(3) the Secretary has entered into an agreement with GRIC and SCIDD providing for a long-term power supply to SCIP pumps as provided in section 7(f);

(4) all agreements necessary for the reallocation of preference power as required by section 7 have been executed and the Bureau of Indian Affairs has assigned its contract with the Arizona Power Authority to GRIC, SCAT and SCIDD in accordance with the terms of such contract and the proportions prescribed in section 7;

(5) the Arizona Public Service Company has terminated its existing wholesale power agreement with SCIP and released SCIP from paying any termination charges under such agreement; and

(6) SCIDD has entered into the agreement with the Secretary as required in section 5(d).

(b) REVERSION IF REQUIREMENTS NOT MET.—Unless all of the conditions and requirements set forth in subsection (a) have been met by December 31, 1992, all contracts entered into pursuant to this Act shall be null and void, the United States shall retain ownership and control of the SCIP electric system and all associated funds and assets as it did before the date of the enactment of this Act, and any preference power reallocation made pursuant to section 7 of this Act shall revert back to the SCIP under the same terms and conditions that existed prior to the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1476 reflects more than 4 years of negotiations between the Interior Department, the Gila River Indian Community, the San Carlos Irrigation and Drainage District, the San Carlos Apache Tribe, and other local parties to develop solutions to the many problems surrounding the divestiture of the San Carlos Indian Irrigation Project Electrical System.

VOL 137
PT 23
NO 21—25
1991
UMI

H.R. 1476 is sponsored by the Congressman KOLBE and provides for the divestiture of Federal ownership and control of the electrical transmission and distribution system of the San Carlos Indian Irrigation project in central Arizona. H.R. 1476 authorizes the Secretary of the Interior to transfer the electric system to the Gila River Indian Community and the San Carlos Apache Tribe and several Arizona utilities, consistent with a series of agreements entered into between and among them.

It settles the debt owed to the United States in connection with construction of the electrical system and provides that the Secretary retains ownership of the electric generating facilities at Coolidge Dam. The bill reallocates the Federal power among the three entities.

The bill allocates the funds to enable the three entities to credit customer deposits and advances to the appropriate customer accounts. It provides funds to construct and acquire certain transmission lines to improve service on the San Carlos Apache Reservation. It provides funds to be used by the Gila River Tribe to rehabilitate the electric system on the Gila River Indian Reservation.

The bill addresses several concerns raised by the administration. First, it earmarks funds for the cleanup of hazardous waste on system lands for which the United States will retain responsibility. Second, it establishes an employee severance fund to provide severance pay to eligible electric system employees. Third, it earmarks funds for the relocation of the facilities of the irrigation division of the project. Finally, the bill provides for the accomplishment of these objectives without any new authorization of Federal appropriations.

I urge my colleagues to support this divestiture.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with everything the gentleman from California [Mr. MILLER] has said. I support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE], the author of the bill.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 1476, the San Carlos Indian Irrigation Project Divestiture Act of 1991.

The goal of this bill is simple: removal of the Federal Government from the electric utility business in southern Arizona. But achieving this goal has been anything but simple. In fact, no piece of legislation I have been associated with 7 years in Congress has been as complex or met as many roadblocks as this legislation. We set out to divest the Federal Government of SCIP's electric utility and transmission system 7 years ago. In 1985, discussions began in Congress about the significant problems encountered in the condition, reliability, and management of the San Carlos irrigation project electric system. These problems led the Gila River and San Carlos Apache Indian Tribes as well as the San Carlos Irrigation and Drainage District to request the assistance of Congress to transfer to them ownership and management responsibilities for the SCIP distribution and transmission system.

In April 1987, I introduced a bill to accomplish divestiture. Hearings were held and all parties supported the concept of divestiture. However, it was clear that a number of issues had to be resolved before divestiture could proceed. The hearing raised issues concerning the allocation of electric system assets, settlement of the power system debt and the reallocation of SCIP's Federal power allocations, among others.

Some 3 years later, in July 1990, another hearing was held on divestiture. The bill, H.R. 4117, satisfied each of the issues raised at the 1987 hearing. However, three new issues were raised by the BIA: First, the feasibility of electric generator repair at Coolidge Dam; second, the adequacy of funds for environmental cleanup of hazardous waste from SCIP operations; and third, the cost of constructing new irrigation facilities.

We agreed not to pursue divestiture legislation until BIA had time to study these issues. The BIA ordered studies on the three issues, which were completed earlier this year. These studies make clear the generator repair would not be feasible; that the cost of the environmental cleanup will be less than the funds available from debt payments; and the SCIP irrigation division administration and maintenance facilities could be found for less than $1 million. Accordingly, the final obstacles to divestiture have been removed.

The result is the bill before us today. A joint House-Senate hearing was held on H.R. 1476 and its Senate counterpart on October 29. And markups were held in the Senate November 15, and in the House on November 20.

For almost 7 years now, issues about divestiture have been raised and considered by Congress and the Executive, in Arizona and in Washington. Concerns have been expressed from several sources. Questions have been raised at every turn. And those involved have had countless opportunities to be heard. This is as it should be. But it is equally true that the parties to divestiture have responded by satisfying each and every issue.

As a result of their efforts, the legitimate questions have been answered, the genuine issues resolved, and the real concerns satisfied.

This process, although slow and tortuous at times, has worked. The result is a bill which I believe everyone can support with enthusiasm. Mr. Speaker, the result of years of refining, amending, and perfecting the divestiture are evident in this legislation.

The process has indeed worked. But in the zeal to satisfy the process, it is easy to lose sight of the merits of this important bill—merits that are self-evident and beyond question.

The system was begun nearly 70 years ago for the Gila River Indian Community and the San Carlos Irrigation and Drainage District. Together those two groups still owe about $9 million for the cost of constructing the system. Both system users, it should be noted, are completely dissatisfied with the management of the system by the Bureau of Indian Affairs.

The San Carlos Apache Tribe is similarly dissatisfied with the operation of the system. The tribe claims it has never received the benefits promised to them by Congress, and would like to operate that portion of the system that is on their reservation.

Federal Indian policy is abundantly clear that if the tribes desire to operate their own electrical systems—or any other program, for that matter—then, in the name of self determination, they should be allowed to do so.

It logically follows that if the tribes, rather than BIA, operate their own electrical systems, there is no reason for the BIA, whose very purpose is to serve native Americans, to operate an off-reservation electrical system to serve nonnative Americans.

In addition, the nonreservation residents of Pinal County served by the project have repeatedly complained about unreliable service and mismanagement to the SCIP system by the BIA.

Two recent audits of the project, the first in 65 years, confirm the claims of the tribes and non-Indians. The audits makes painfully clear that the system has labored under decades-long mismanagement and neglect.

H.R. 1476 will correct these problems. The central Arizona communities will enjoy a significantly more reliable and certain electrical system. The Department of Interior will be rid of a system that has outgrown its original purpose. The Gila River and San Carlos Apache tribes will have the opportunity to pursue their rights of self-determination and economic self-sufficiency.

Moreover, this bill will settle debt obligations of the two principal clients of the San Carlos project: the San Carlos Irrigation and Drainage District and the Gila River Indian Community. The money received from these debt settlements will be used to establish an environmental protection account. This account will be available to solve problems that may arise associated with the disposal of transformers or

equipment which contain hazardous materials.

I would also like to say a few words about the project employees. Approximately 50 people whose jobs are related to the power system may be affected by divestiture. We pledge to make sure they are treated fairly.

Their services will continue to be a valuable resource and I am confident they will have opportunities to use their abilities. We have included in the bill language that will provide a variety of post-divestiture opportunities and benefits to them. This legislation is not intended to reflect on their work. The SCIP employees are dedicated and capable professionals.

In closing, I would like to thank the distinguished chairman of the Interior Committee, GEORGE MILLER, Congressman NEIL ABERCROMBIE, and my colleagues from the Arizona House and Senate delegation, especially Congressman JAY RHODES and Senator JOHN MCCAIN for their support and efforts on behalf of this legislation. I would also like to pay tribute to the many groups that have made this bill possible. Without the perseverance and hard work of the Gila River Indian Community, the San Carlos Apache Tribe, the San Carlos Irrigation and Drainage District, Arizona Public Service Co., electrical district two, TRICO Electrical Cooperative, and Pinal County there would be no divestiture.

Mr. Speaker and members of this body, I ask for your favorable consideration. And know that in so doing, the Indian population the project was designed to serve, the irrigation district, the electric consumers of eastern Pinal County, and the taxpayers of America will all be better off.

□ 1700

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me rise in strong support of this initiative. My colleague from Arizona [Mr. KOLBE] has been working on this for quite some time now. I would like to associate myself with his remarks, particularly with regard to his reminder that in a very small but very significant way this indicates a problem that we have with our economy today and points the way I think for us to deal with some of the problems we have with our economy.

There are some very important lessons in this piece of legislation. Right now we are not doing a very good job in the Congress of the United States vis-a-vis trying to deal with the men and women, large corporations, small corporations, businessmen and businesswomen everywhere in their effort to create products, to provide services, and, in the process of doing so, to provide employment to people of this country.

Mr. Speaker, let us face it: There is no question about it, the private sector does it much better, much more effectively, than government does.

This legislation would take an old, inefficient, bureaucratized system and turn it over to the private sector to do some good in the community, in a community that needs and deserves a service, and that is certainly something I think the Congress of the United States ought to be doing now, doing today.

Mr. Speaker, during the course of the debate and the discussion we have from time to time in terms of stimulating the economy it is very often said, particularly from our colleagues on the other side of the aisle, that any kind of catalyst, any kind of economic stimulus involving a change in the Tax Code or a tax break is just simply the Republicans on this side of the aisle trying to appease the rich, trying to cut the taxes, cutting marginal rates, in order to take care of people who already have too much money as far as our colleagues on the other side of the aisle are concerned and who should not be given any kind of tax breaks whatsoever.

I think that sadly, that rhetoric is as false as it is misleading and certainly is very unfortunate. It is pretty clear that most of the jobs created in this country today are created by small businessmen and small businesswomen.

It is also pretty clear that we have done very little or nothing in this Chamber during the past couple of years to encourage them to engage in the kind of activities that they do very well, and that is create products, offer services, and put men and women to work.

Mr. Speaker, I think it would be helpful as we have discussed the transfer of power from the Government to the private sector in this particular piece of legislation for the Congress of the United States to engage in a similar debate at least to the extent of dealing with the belief I hope we all share that this Congress, through concerted action, hopefully bipartisan action, could help ease the pain that exists out there today in the communities that we represent, in the homes and the families that we represent, because there is enormous pain out there.

Mr. Speaker, we have a lot of people who are struggling. We have a lot of people who are unemployed. I think it is incumbent upon us before we recess to accept the responsibility of trying to do something about that pain, to ease that pressure, to discuss, to debate, and, hopefully, to decide on some kind of stimulus to economic growth, to economic recovery.

More importantly, to those concepts of growth and recovery, let us just put people back to work. If you have ever driven by a welfare office or stopped at an unemployment line and talked to the people, you find out that many of them have had jobs for 10 or 15 or 20 years, and you know they do not want to be in either location. They are not comfortable there, they are not happy there. They took a look around their own community and still have some friends and relatives who are fully employed.

These people do not want benefits. They are grateful for the unemployment extension, but what they would like more than an extension of benefits is a job.

We went through that very difficult, very divisive, very controversial debate over unemployment compensation. It was a good debate, it was a healthy debate. We finally reconciled our differences and we extended unemployment benefits.

But how ironic that we are going to extend them probably long enough for us to take a recess and come back, and when we come back, in the intervening 8 to 10 weeks, we will have done nothing to give these people an opportunity perhaps to take a walk from the unemployment line back into the employment line, where they certainly want to go.

The economy is stagnant. We know that. I would like to think that at least we would agree that, depending on how Congress acts or fails to act, we have a positive or adverse influence on that economy.

We do have a Tax Code. You can point to both positive and adverse influences of the Tax Code. It generates all kinds of conduct.

I know that my colleagues on the other side of the aisle would prefer to move the debate and change the Tax Code in one direction. Clearly we have some ideas of how to move it in our direction.

But the point is not to avoid the responsibility, but to debate it, discuss it, and try to reach a consensus. Because, as I said before, giving these people unemployment compensation just is not enough.

□ 1710

We are accountable for our actions, and I am pleased that I supported the unemployment compensation from the outset, but in this case half a loaf is not better than none because ultimately these unemployment compensation benefits are going to run out.

We have a stagnant economy. It is on its knees. There are a lot of barometers for the problems that we have in the economy.

I think two of the measures that we have discussed during the past couple of days that we are going to discuss in the next couple of days are probably as good and strong evidence of the troubled economy as anything else.

We have already put $80 billion into the RTC or the Resolution Trust Cor-

VOL 137 PT 23 NO 21—25 1991 UMI

poration for the thrifts. We are looking to put $50 to $70 million more into the bank insurance fund. These institutions are in trouble in large measure not because of any mismanagement or because of any fraud, but in large measure because 50 or 60 percent of their assets are in real estate.

Real estate markets are undervalued. Real estate is underappreciated.

The economy is very, very sluggish. At no time has anybody ever discussed the possibility of Congress acting in a way to stabilize the real estate market, put value back into real estate and potentially avoid, avoid the necessity of going back to the taxpayers to the tune of $80 billion for the RTC and $50 billion for the bank insurance fund. This is in present dollar values. Consider what our children and grandchildren are going to be paying on the sums that will be borrowed over the next 30 years. We are talking a sum that is close to half a trillion dollars.

It seems to me just those two pieces of legislation alone, understanding that one of the root causes of those symptoms, one of the primary problems with those institutions is a weak economy and the cost of treating that symptom is several hundred billion dollars, would warrant our attention, our attention to stick around this town, at least for the next couple of weeks, to debate, to discuss and hopefully decide on a proper course of action to deal with economic recovery and growth.

There is a lot of jockeying for position these days around here, and we look to a Presidential primary season in the spring and an election campaign next fall.

I said it earlier today, but I truly believe it. The best politics for the White House, the best politics for Congress, the best politics for the Republican Party and the best politics for the Democratic Party for 1992, is dealing with the troubled economy. People are out of work and there is a need to stimulate growth and opportunity, not next year but right now.

The best politics for 1992, would be to put people back to work today or certainly as soon as possible. The best politics for 1992, would be to discuss, decide, debate, and then decide, hopefully we could reach a consensus as to the best way to jump-start this very sluggish economy.

Those men and women do not want to be in the welfare lines or the unemployment lines. They want to go back to work. I do not think they want to wait for us to come back to work in January or February before they have an opportunity to return to the kind of employment, the good employment, good benefits, health care insurance, and the like that so many other people in this economy enjoy.

I am going to encourage my colleagues to think twice before we recess on Tuesday; I encourage my colleagues to think twice before we pack up and head home.

A lot of us will be going home, celebrating Christmas, hopefully opening some presents with our friends and family. And a lot of people we represent will be opening one of their last unemployment checks.

We could have done something before we went home, and we did not. I think we will be held accountable for that. I think the best politics for next year is to take care of this year's problems today here and now.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, I rise in support of the resolution. I think the resolution is just one symptom of the greater problem that we have in this country today, and that is the unadulterated nonsense that we have had to listen to from the other side through the course of the afternoon about the U.S. economy.

First of all, the reason why our Republican friends have pulled out this latest stunt is because their own President's Cabinet is in disarray. We do not even know who is governing our country, whether it is Boyden Gray, C. Boyden Gray, John Sununu, Jim Baker, or George Bush. So the President has retreated off to Camp David, and the Republicans in the House have shown up with their latest version of voodoo economics, a growth package.

Yesterday in the Wall Street Journal the National Institute of Business Economists said that the capital gains approach, the cut that the Republicans want to give, will not even spur the economy as they suggest. Of course, it did not even address the yawning deficit that their growth package would engender.

But when we listen to them, it is almost as though we hear a mantra over and over and over again. It is simple-minded nostrums to deal with complex problems.

The first thing is to blame the Democrats for everything. Forget the fact that they have controlled the White House for 11 years, the Senate of the United States for 6 years, the fact that every Presidential veto has been sustained. Ignore all of that, and if we cannot blame the Democrats in the House or Senate, resurrect Jimmy Carter.

So for mismanaging the economy, we now get the Republican Members of the House offering a growth package, and the latest gambit is to keep us in to enact the President's growth package, but we do not know a couple of things.

First of all, we do not know how much it is going to cost. We do not know whether it breaks the Budget Act, and we also do not know, and probably the most important thing, we do not know, we do not know whether the President of the United States supports their effort to keep us in to do this. We do not even know that. They do not know that. The President has not said.

Mr. RIDGE. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding to me.

I did not realize that the gentleman was that concerned or that interested in a package sent up from the President of the United States.

Mr. DOWNEY. Mr. Speaker, does the President support our staying in enacting the gentleman's package? Does he support it? And can the gentleman tell me how much it is going to cost?

Mr. RIDGE. Mr. Speaker, if the gentleman will continue to yield, I will tell him that it is not the function of the Republican Party, as it is looking to promote this particular economic package at this instance, to do anything other than promote what it thinks is proper as a group of legislators.

Mr. DOWNEY. Mr. Speaker, does the President support the growth package of the gentleman and the Republican minority? Yes or no? It is a simple question.

Mr. RIDGE. Mr. Speaker, I cannot speak for the President on this issue. I can speak for myself, and I can speak for my Republican colleagues.

The President cannot cast a vote in this Chamber, as the gentleman knows full well. And if the gentleman wanted to ask rhetorical questions, we have got several weeks now when he could ask as many questions as he cares to.

We can engage in the kind of debate he is trying to avoid now.

Mr. DOWNEY. Mr. Speaker, reclaiming my time, I would like to address the non-answer the gentleman gave me to the question.

He has courageously said that the Republican Members here of the House have come forward with their own plan and could care less about whether or not the President, the President of their own party, supports it.

Let me make a couple of points. The package that the gentleman has offered us, while George Bush was Vice President of the United States, passive losses, IRA, capital gain differentials, were eliminated by the other body when it was in the hands of the Republican Party. The Vice President of the United States, then George Bush, wanted that to happen. He wanted to see passive losses ended. He wanted to see IRA's eliminated. He wanted to see the capital gains rate differential eliminated.

We did those things. Now 5 years later, as President of the United

States, unbeknownst to him, as he sweats out the problems of his Cabinet, his cheerful minority here in the House has come up with a plan of its own to deal with the problems of the economy that the Wall Street Journal and others say will not even make a difference if we do enact it.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think it is interesting that after 3 years of George Bush as President, for the first time in modern history, perhaps ever, we see him dealing with this economy by offering people capital losses on the decline in the value of their personal residence, something unheard of in good portions of this country. But after 10 years of growth with the Republican administration, with these massive deficits, they now have to put a safety net underneath homeowners who are losing value at a rather record rate.

The fact of the matter is that it is a testimony to the kind of policies that they have, that they have followed.

□ 1720

The gentleman was speaking about unemployment insurance. After 13 weeks of unemployment, having tried that economic policy, they are going to try permanent tax cuts to the wealthy that will go on not for 13 weeks or 13 months but on into perpetuity, should they have their way. So we will start another decade with trickle-down economics.

Mr. DOWNEY. My good friend, the gentleman from Pennsylvania [Mr. RIDGE], who has been a supporter of the unemployment compensation plan all throughout that, I do not mean for this to apply to him. I had something to do with the crafting of all the pieces of legislation dealing with unemployment. They came before my subcommittee, which I am temporary chairman of. At every step of the way, from its earliest inception, other Members of the gentleman's side said, "This is unnecessary, we do not need to do it. We are coming out of the recession." Every single time it was offered up, and the gentleman was one of the exceptions, the majority of the Members of his side did not want to see even the extension of unemployment benefits go forward. The President vetoed the second bill that declared an emergency and would not even sign the first bill we sent to him. It was only after the grave nature of the American economy became clear to him and his advisers and more Members from the Republican side that we did that.

Mr. RIDGE. Mr. Speaker, this will be the last time I interrupt to ask the gentleman to yield one more time.

Mr. DOWNEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, I very much appreciate the courtesies the gentleman is extending to me. I know the gentleman had worked on and had been a member of the Committee on Ways and Means for several terms.

Do we at least agree that depending upon what the Congress of the United States does or does not do to different elements of the Tax Code, that depending on where we choose to make modifications or changes, we can influence either positively or adversely different kinds of economic conduct? Does the gentleman agree that at some point in time if we are serious about moving the economy forward, jumpstarting the economy, if we agree that the economy is stagnant, that a debate on the best way to encourage savings, to encourage investment in capital goods, which will mean unalterably that we are going to have to make some changes to the Tax Code, we are going to have to be engaged in that kind of debate, unless you disagree that the Tax Code changes can stimulate that kind of economic activity? But I hope we do agree at least that that debate will occur, should occur, and if we do it right we can have a positive influence on the economy and hopefully put some of these people that the gentleman and I are both concerned about, who are unemployed, back to work.

Do we agree that the Tax Code can stimulate that kind of economic activity?

Mr. DOWNEY. I agree with the gentleman's basic premise that the Tax Code does those things.

Mr. RIDGE. Would the gentleman then agree that it would be better to start working on it now rather than later?

Mr. DOWNEY. Yes. And I would further agree that the only way it is going to get done is if we have at some point some interest on the part of the White House in a broad array of programs. If they be tax plans, so be it. He needs to say something about that. If he is not prepared to do that it puts us in the position of thinking, and forgive me if I am a little cynical in my thinking about that, that the day or two before we go out for Thanksgiving recess, unbeknownst to him, the minority Members here want to do something that appears frankly to be somewhat political.

I agree with the gentleman's basic point, that the Tax Code and other devices of Government can serve to stimulate the economy and hopefully create jobs. I hope we have the debate over GORE and DOWNEY providing a tax break to middle-income families, which is what I would do first before I would ever consider capital gains breaks or IRA's or other things like that.

If the gentleman wants to see people helped, and I do, and I want to use the Tax Code to do it, and I was one of the first ones to do it, but I want to see families who are hard pressed get the help first directly. The way to do that in my mind is to convert the personal exemption to a $800 refundable credit which would provide an enormous break for middle-income families.

That is what I would do first. After that if it were up to me and we have the money to pay for it, and I might add that I have raised taxes on the wealthier individuals to pay for that, I would want to see an investment tax credit of some sort targeted as an incremental investment tax credit to stimulate business investment. That is how I would do it.

I agree with the gentleman we should have the debate about that, but let us be fair. Let us at least let the White House get their act together and have a coordinated approach at least on your side before you then say to us, "Okay, now is the time to step forward, and if you were really interested in this we would be staying." The White House does not want us to stay, the gentleman knows that, because the White House does not have a plan. The gentleman may have a plan, but they do not have a plan. Before we enact one we have to get a Presidential signature.

Mr. RIDGE. Mr. Speaker, would the gentleman yield?

Mr. DOWNEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for the courtesy of yielding. Since we agree on the basic premise that alterations to the Tax Code can stimulate the kind of activity that we both want to see, and we may differ in part and we probably agree in part on what is the best way of doing that, doesn't the gentleman think it is incumbent upon us, however, in a bicameral legislature, this is one of the two Chambers in the legislative body, to at least try to air these differences, debate these matters now? Why do we not send our own package on down?

Mr. DOWNEY. I have no problem with debating this, and I hope, frankly, if we decide to stay, if the President indicates he wants us to do it, that we will come right back here after the Thanksgiving recess and do that. If he does, I am willing, more than willing, happy, frankly, to put together a tax package that is, first, within the boundaries of the 1990 Budget Act, and second, focuses its attention on the people who need the help the most; namely, the middle-income people.

If we can do that, then I am with the gentleman.

Mr. RIDGE. Mr. Speaker, I very much appreciate the courtesies the gentleman has extended to me. I guess I differ a little bit from his point of view in terms of trying to wait until somebody downtown nods.

I think quite frankly that is not normally the approach that my friend on the other side of the aisle takes. I do

VOL
137
PT
23
NO
21
—
25
1991
UMI

not think he spends too many moments in this Chamber or in his office waiting for the President to send up an initiative to discuss. I know he himself has been a very creative and aggressive legislator and does not normally wait for anybody when he has a good idea.

The point is that the gentleman has some ideas, we have some ideas, and maybe if we had the exchange now we can reach a consensus and send the ideas downturn.

Mr. DOWNEY. Conceivably. I would hope that the gentleman would be talking about the White House, because ultimately we need the President's signature on whatever we do to enact it into law. If he is not supportive of this from the beginning I think we will be spending a lot of time giving the people the impression of action without its reality. That I do not think we should do.

Mr. RIDGE. Mr. Speaker, I appreciate the courtesies the gentleman has extended to me, and I look forward to continuing the debate.

Mr. DOWNEY. Mr. Speaker, I always enjoy working with the gentleman.

Mr. MILLER of California. Mr. Speaker, as we return to the San Carlos Indian irrigation project bill, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 1476, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

OKLAHOMA NATIVE AMERICAN CULTURAL CENTER STUDY

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3370) to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, OK, as amended.

The Clerk read as follows:

H.R. 3370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall carry out a comprehensive study to—

(1) determine the feasibility of establishing a cultural center in Oklahoma City, Oklahoma, for the purpose of showcasing the historical culture of the Native American heritage that is a significant part of Oklahoma's history; and

(2) identify potential sites for such center in the Oklahoma City area.

(b) FACTORS CONSIDERED.—In identifying potential sites for the center under subsection (a)(2), the Secretary shall consider—

(1) the relevance of the site to the tribal history of the Native American tribes in Oklahoma; and

(2) the suitability of the site for attracting the greatest number of visitors.

(c) CONSULTATION.—The study shall be conducted in consultation with the Indian tribes and organizations of Oklahoma and appropriate agencies of the State of Oklahoma.

SEC. 2. REPORT.

Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing a detailed statement of the findings and conclusions of the study carried out under section 1. Such report shall include—

(1) recommendations regarding the establishment of such a center; and

(2) a site plan and preliminary design documents for each potential site identified by the study.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated not more than $200,000 for the purposes of carrying out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3370, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3370 sponsored by Representative ENGLISH authorizes the Secretary of the Interior to carry out a study to make recommendations to the Congress regarding the feasibility of establishing a Native American Cultural Center in Oklahoma City.

Oklahoma has 36 tribes and 252,000 Indian people making it the State with the largest Indian population.

Oklahoma City is the State capital and a city with the fourth largest Indian population in the United States.

The committee held a hearing on this matter on October 22, and at that time we heard from tribes and Indian organizations. The committee considered the bill on November 20, and amended it to broaden the scope of consultation to all tribes and Indian organizations in Oklahoma. The committee also reduced the authorization level to $200,000.

I urge my colleagues to support this bill.

☐ 1730

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3370 is a bill to direct the Secretary of the Interior to carry out a study and make recommendations to Congress regarding the feasibility of establishing a Native American Cultural Center in Oklahoma City, OK. Although I do not rise in opposition to this bill, the bill raises a couple of concerns worth noting.

At the outset, I want to thank the chairman for the amendments to the bill that he offered, and that we supported, in committee. These amendments improved the bill significantly. The first amendment decreased the funding authority for the study from $450,000 to $200,000. The second amendment made it clear that the study would be conducted in consultation with affected Indian tribes and organizations in Oklahoma.

If this bill is enacted into law, I suggest that oversight for the study might be more appropriately done by the National Park Service rather than the Bureau of Indian Affairs. Studies of this sort do not fall squarely within the statutory missions of the Bureau of Indian Affairs, and do fall within the expertise of the Park Service.

Much concern was expressed by Members in the hearing on this bill about the door we are opening up by approving such a study. There are many States in this country with significant populations of American Indians and I am concerned about the policy implications associated with approving this bill. I do not believe Congress is prepared to approve studies for all similarly situated States and yet it hardly seems fair to approve one and not others. In addition, approval of a study phase misleads the affected constituencies into believing that Congress will be committed to carrying out the eventual study recommendations.

Finally, I note that the administration has issued a statement of administration policy opposing passage of H.R. 3370.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 3370, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO VARIOUS INDIAN LAWS ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the Senate bill (S. 1193) to make technical amendments to various Indian laws, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment with an amendment.

The Clerk read as follows:

At the end of the Senate amendment, add the following:

SEC. 7. AMENDMENTS TO SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT.

The Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (Public Law 100-512) is amended in sections 7(a), 7(d), 10(a)(1)(A), 10(a)(1)(B), and 12(b), by striking out "December 31, 1991" and inserting in lieu thereof "June 30, 1992".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1193, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1193 is the technical amendments to Various Indian Laws Act of 1991.

The bill contains two amendments to the Indian Gaming Regulatory Act. First, pursuant to requests from the tribes in Wisconsin and Montana and the governments of the two States, it allows for an extension of the grace period for the tribal operation of certain video games in Wisconsin and Montana.

This allows for additional time to negotiate tribal-state gaming compacts within those states.

Second, pursuant to a request from the administration, the bill provides for a reauthorization of the National Indian Gaming Commission through the end of fiscal year 1993.

The bill also amends the Indian Land Consolidation Act to allow the Cherokee Nation of Oklahoma to accept less than 10 percent of the appraised value for the sale of certain lands to mutual help home buyers.

The legislation amends the Crow Allotment Act of 1920 to clarify the Interior Secretary's responsibility to maintain sound conservation practices on certain leased lands.

The measure also provides a technical amendment to the National Affordable Housing Act which provides that the State of Hawaii can disburse certain HUD funds and allows the Department of Hawaiian Homelands to obtain community development block grant funds.

I am offering an amendment on behalf of my colleague from Arizona, Mr. RHODES, which allows for a 6-month extension to the Salt River water settlement. The committee supports the additional time and encourages this settlement to move forward.

Mr. Speaker, this measure is noncontroversial and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1193, a bill containing technical amendments to certain Indian statutes. I also concur in the Senate amendment and support the House amendment thereto.

The chairman has adequately explained S. 1193 and I would like to touch on just a couple of noteworthy provisions in the bill.

I am pleased that we have finally reached agreement on the extension of the funding authorization for the National Indian Gaming Commission through fiscal year 1993, and I would like to express my appreciation to the chairman of the committee for agreeing to the Senate amendment on this point. Stability in the commission's funding authority over the next 2 fiscal years is crucial to assure that the Commission is not hampered in its ability to enforce and implement the provisions of the Indian Gaming Regulatory Act as intended by Congress.

The House amendment would extend for 6 months the deadline for completing the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988. This 6-month extension is necessary because of recent and unexpected difficulties in completing by December 31, 1991, the acquisition by the United States of the rights to 22,000 acre-feet of annual consumptive use of water from the mainstream of the Colorado River in the State of Arizona, as provided for in section 7 of the 1988 Settlement Act.

The United States has contracted for the purchase of the subject lands within the Wellton-Mohawk irrigation and drainage district. However, potential litigation involving one of the parcels to be acquired has cast doubt within the past few days as to whether the purchase of this parcel can actually be completed by the end of this year as required by the act.

Although the parties to the Salt River Pima-Maricopa Indian community water rights settlement agreement are continuing their diligent efforts to complete this final purchase, it is likely that the purchase of this one parcel may not be completed by December 31. If an extension is not provided and if this last contingency to the settlement is not completed by December 31, 1991, the authority and approval of this settlement will expire.

The technical amendment extending this deadline will assure the integrity of the settlement efforts and satisfaction of Federal trust obligations to the Salf River Pima-Maricopa Indian community.

Finally, I note that the administration has issued a statement of administration policy that supports passage of S. 1193.

I urge my colleagues to support S. 1193, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment with an amendment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DOWNEY). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and agree to the House amendment to the Senate amendment, to the House amendment to the Senate bill, S. 1193.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the House amendment to the Senate amendment to the House amendment was agreed to.

A motion to reconsider was laid on the table.

CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS BY INDONESIAN MILITARY

Mr. HALL of Ohio. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 240) condemning the massacre of East Timorese civilians by the Indonesian military, as amended.

The Clerk read as follows:

H. CON. RES. 240

Whereas on November 12, 1991, Indonesian military forces in Dili, East Timor, opened fire on a funeral procession for a youth who had been killed by Indonesian troops on October 28, 1991, killing an estimated 75 to 100 civilians and injuring many more;

Whereas up to 300 members of the funeral procession were detained immediately after the incident and several dozen remain in detention;

Whereas Indonesian soldiers killed a New Zealand national and beat several foreign journalists who were observing the procession, including two Americans (one from The New Yorker and one from Pacifica Radio);

VOL
137
PT
23
NO
21
—
25
1991
UMI

Whereas the commander of the Indonesian Armed Forces has expressed regret about the killings, and the Government of Indonesia has established a national commission of inquiry to conduct a thorough investigation of the killings;

Whereas since the Government of Indonesia invaded East Timor in 1975 tens of thousands of East Timorese have perished as a direct result of war-related killings, famine, and disease;

Whereas international human rights organizations and the Department of State's Country Reports on Human Rights Practices for 1990 report evidence of human rights violations in East Timor by Indonesian officials, including arbitrary arrests, torture and mistreatment under detention, extrajudicial killings, and denial of the fundamental right of expression; and

Whereas the United States and Indonesia have a close bilateral relationship, and United States economic and military assistance for Indonesia exceeded $50,000,000 for fiscal year 1991: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the Congress—

(1) condemns the recent, indiscriminate killings of civilians by Indonesian military forces on East Timor; and

(2) urges the Government of Indonesia to bring to justice those members of the Indonesian military responsible for the killings.

(b) It is the sense of the Congress that—

(1) the provision of assistance for Indonesia under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) should be contingent on the Government of Indonesia conducting a thorough and impartial investigation of these killings and prosecuting those responsible for them;

(2) the President should seek the immediate introduction of a resolution in the United Nations General Assembly instructing the United Nations Commission on Human Rights to appoint a Human Rights Rapporteur on East Timor;

(3) the President should encourage the Government of Indonesia to facilitate the work of international human rights and humanitarian organizations seeking to monitor conditions in East Timor; and

(4) the United States should work with the United Nations and the Government of Indonesia, the Government of Portugal, and other involved parties, to develop policies to address the underlying causes of the conflict in East Timor.

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from Ohio [Mr. HALL] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 240, the resolution condemning the massacre of East Timorese civilians by the Indonesian military. As the sponsor of the original version of this resolution, I want to thank the Foreign Affairs Committee, particularly the gentleman from New York [Mr. SOLARZ], the gentleman from Florida [Mr. FASCELL], and the gentleman from New York [Mr. WEISS], a member of the committee, for bringing this amended East Timor resolution to the floor. I also commend the committee's minority members for their cooperation.

Quite frankly, I would like us to take stronger action. I believe we should immediately cut aid to Indonesia, starting with the $1.9 million we are providing in international military education and training [IMET] aid.

But I am pleased this resolution at least says that IMET should be conditioned on Indonesia's prosecuting those who slaughtered unarmed civilians. It is a step in the right direction and an overdue message for the Indonesians: We will not look the other way while you butcher the people of East Timor.

During the 12 years I have been involved in this issue, the Indonesians have downplayed every one of their atrocities and human rights violations in East Timor that the world community discovered. They have no shame.

About the latest killings, the Indonesian military commander in East Timor is saying that machinegunning a crowd of mourners for 10 minutes is not excessive. It is time to say enough to such barbaric conduct—especially when we are paying for it with our tax dollars.

It is sad that it takes a massacre like this and the savage beating of two American reporters for East Timor to rate global outrage. Countless horror stories have been smuggled out of East Timor for years, but they've largely fallen on deaf ears.

But today we are in a changing world. The cold war is ending, the United Nations is taken more seriously, and impossible political changes are now possible.

So if Iraq cannot get away with invading Kuwait, why should Indonesia get away with invading East Timor? And if the Soviet Republics can be independent, why cannot East Timor?

Year after year, my colleagues and I call attention to Indonesian repression in East Timor. But these human rights violations are like the outer skin of an onion. After you peel away the layers of abuses, at the core you find the central injustice: The Timorese have never had a chance to determine their own future.

By passing this resolution, the House is telling the Indonesians and the world that we care about the Timorese. We want action that will finally end their suffering, which means self-determination for East Timor.

May this latest tragedy lead to justice for East Timor. And may passage of this resolution lead to our unqualified commitment to that justice.

□ 1740

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on my behalf and that of the ranking Republican on the Foreign Affairs Committee, the gentleman from Michigan [Mr. BROOMFIELD], I wish to express my strong support for this resolution and our commendation to the gentleman from Ohio [Mr. HALL]. This resolution will send a strong message to the Indonesian Government that the United States is very concerned about the recent events in East Timor.

The death of an estimated 75 to 100 civilians as a result of indiscriminate firing by Indonesian military forces cannot be ignored. It is imperative that the Indonesian Government investigate this incident thoroughly and bring to justice those responsible for the killings.

Ever since Indonesia annexed East Timor in 1975, the State Department and independent observers have reported serious human rights abuses. The United States has repeatedly urged the Indonesian Government to improve conditions there, and the overall situation has improved as the insurgency waned.

Nevertheless, serious violations of the rights of assembly and expression, as well as torture and extra-judicial killing, have continued. Indonesia's announcement that it is forming a commission headed by a supreme court justice to investigate this matter is a positive step. And I, hope that this commission will be allowed to proceed without hindrance from members of the armed forces or the Government. Any attempt to cover up the facts and/or protect the guilty will not go unnoticed or unanswered.

Once this tragedy is investigated and those responsible are brought to justice, I hope that the Government of Indonesia will make a concerted effort to respect and protect the rights of the people of East Timor. Without respect for human rights, economic and social development will not address the underlying causes of political conflict there.

I urge my colleagues to support this important resolution.

Mr. HALL of Ohio. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, first of all, I would like to thank the gentleman from California [Mr. LAGOMARSINO] for the work he has done and his patience in staying this afternoon, and especially the work of my friend and colleague, the gentleman from Ohio [Mr. HALL].

East Timor is literally and figuratively on the other side of the world, and since 1975, when this former Portuguese colony was annexed by the Indonesians, until the present time, the estimates are that some 600,000 people have died as a result of slaughter by the Indonesian security forces or forced starvation.

My sense of this is that given the atrocities on that side of the world and the fact that there are no great oil deposits at stake, there are not East-West confrontations that take place, the fact that Indonesia is a friend of the United States, it is as though this problem does not exist and that these people have died and the whole world has been silent.

The gentleman from Ohio [Mr. HALL] has for more than a decade tried to point out the tragedy of the Timorese people, without anyone paying attention.

I, among other Members of the Congress, and I have been in the Congress since 1975, have not paid much attention to Timor and what has happened there, until it personally struck home.

Amy Goodman, who was a producer for the Pacifica DAI radio network was, along with Allan Nairn, a reporter for the New Yorker magazine, two of the Western reporters who witnessed the massacre on November 12. What Ms. Goodman, who is not only a personal friend for more than 20 years and her family, a friend of my family as well, recounted to me was an unspeakable horror. Here was a funeral procession with men, women, and children, and the Indonesia security forces systematically moving in and shooting these people down.

Amy and Mr. Nairn were both there in a vain attempt to try to staunch the flow of blood. They felt by interposing themselves between the security forces and the people, with westerners witnessing this massacre, they might be able to prevent it. Both of them were knocked to the ground by soldiers wielding M-16's that had been given to them by the Government of the United States.

Ms. Goodman had the good sense to retain her American passport and as the soldier's aimed their guns at her, she waved and said, "American, American."

She and Mr. Nairn were spared, while the Indonesian security forces shot and killed the New Zealand press person that was lying next to her.

Both through cunning and guile, bloodtorn and weary, they managed to escape Indonesia, but not without witnessing this slaughter of some 120 individuals.

As the gentleman from Ohio [Mr. HALL] mentioned, the general on the scene subsequently stated that firing machine guns for 10 minutes into an unarmed funeral cortege was somehow not excessive violence.

Ms. Goodman has related to me that the people who witnessed the tragedy who had not been killed are being rounded up by the Indonesian security forces. I do not know what fate awaits them, but I would hope that the passage of this resolution will in some way indicate to the Indonesian Government that enough is enough.

I agree with the gentleman from Ohio [Mr. HALL]. This resolution does not go far enough. If it were up to me, all military and domestic aid to that country would be cut off forthwith until the Indonesian Government found within their hearts and heads the need to fulfill the U.N. resolutions that call for giving back the Timorese people their country and their Government and at least recognizing a modicum of human rights.

It is my hope that in the Ways and Means Committee and the Trade Committee on which I serve that we could also look at limiting the general system of preference on trade and tariffs to this country as well.

I would hope that my children, who are little, will not turn around to me someday and say, "While you were in Congress, Dad, Pol Pot killed 2 million Cambodians and the Indonesian Government killed several hundred thousand Timorese. What were you doing? What were you saying? What role did you play in attempting to stop this senseless and brutal slaughter?"

Mr. Speaker, I thank the gentleman for yielding to me; but most importantly, I thank him for his steadfastness and his courage and his conviction that these people, none of whom I have ever met, who inhabit a part of the world 12,000 miles from here, deserve a certain level of peace and security that they have not known for the last 17 years.

I hope that this resolution is the beginning of our great country exercising the necessary effective moral leadership to bring this slaughter to a halt.

Mr. Speaker, I urge my colleagues to strongly support the adoption of this concurrent resolution.

Mr. HALL of Ohio. Mr. Speaker, I just want to thank the gentleman from New York for an excellent statement and certainly for his tremendous support for this resolution.

Mr. DOWNEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. WEISS. Mr. Speaker, I would like to thank Chairman DANTE FASCELL and the other members of the Foreign Affairs Committee on both sides of the aisle for supporting this important resolution.

The bipartisan support that this resolution has received demonstrates a common belief that the gravity of the action taken by the Indonesian security forces warrants a strong response by the United States Government. Although the level of our response can never in any way make up for the loss of so many lives in East Timor, it can be strong enough to prevent the indiscriminate loss of more lives at the hands of the Indonesian military.

This violent episode, as you know, is not the sole act of aggression by the Jakarta government. Since Indonesia forcefully annexed the nation in 1975, over 100,000 East Timorese have died as result of war-related killings, famine, and disease. International human rights groups continue to report about Indonesia's sanctioned human rights abuses. And even the State Department has reported on Indonesia's repressive policies in East Timor.

But the United States response to Indonesia's human rights violations has historically been luke warm. It has been so tepid that United States assistance has continued to flow to Indonesia at an unfettered rate of over $50 million a year. That is more aid than is sent to any single African country and certainly more than most Asian countries receive.

The unfortunate incident of November 12, however, gives the United States an opportunity to reassess our policy toward Indonesia. It gives us the chance to raise the scrutiny of human rights in East Timor and to act swiftly and effectively to respond to the killings. But this opportunity can also be wasted if we continue to act slowly and deliberately, using only diplomatic language to convey our message. Because then we only rubberstamp the nefarious deeds of an already insulated Idonesian military.

The Hall resolution, on the other hand, is the vehicle by which the administration can express its outrage in concrete terms. It calls on the President to make the IMET Program contingent on an investigation into and prosecution of the individuals responsible for the killings. It urges him to seek an immediate appointment of a U.N. rapporteur on human rights for East Timor. And it encourages the President to arrange a multilateral solution to the conflict.

Mr. Speaker, these are but the minimum actions we should be taking against the Indonesian Government. And if the President is serious about his commitment to global security, democratization, and the fundamental rights of all, then he will listen to what we do here today and take a firm stand against Indonesia's abuses in East Timor as well. But if he is only paying lipservice to these noble ideals, then he will continue to watch Indonesia systematically destroy a once peaceful nation.

The Government of Indonesia has announced that it deeply regrets the incident. It has announced that it will pursue a thorough investigation of the killings through a national commission of inquiry. And I would consider this a big step forward. But I remain cautiously optimistic. The more recent statements by the Indonesian military command temper my optimism and lead me to believe that an impartial investigation and subsequent trial may never take place.

I hope therefore that the President will also remain cautiously optimistic. I hope that he will reassess United States policy toward Indonesia and keep the Government's feet to the fire on human rights. It is clear that a tough stand is needed on human rights in Indonesia, and it is obvious that a tough stand on East Timor is long overdue.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Concurrent Resolution 240, condemning the massacre of East Timorese civilians by the Indonesian military, and I commend the gentleman from Ohio, the distinguished chairman of our Select Committee on Hunger, Mr. HALL, for his expeditious and outstanding work on this measure.

On November 12, 1991, Indonesian security forces killed 20 to 60 and injured as many as 100 people when they fired on a Roman Catholic funeral procession which demonstra-

VOL 137 PT 23 NO 21—25 1991 UMI

tors were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor.

As if that despicable and barbaric act was not enough, Indonesian soldiers also beat several foreign journalists, including two Americans who were observing the procession.

Mr. Speaker, in 1975, in clear contravention of international law, Indonesia illegally invaded East Timor and annexed the territory of that nation without any regard for the rights of self-determination enjoyed by the East Timorese. In addition, Indonesia's record of human rights violations in East Timor is enough to make one incensed: Torture, arbitrary arrest, as well as repression of freedom of expression, continue to be hallmarks of Indonesian rule over East Timor.

For the last 20 years, the Untied States and the Government of Indonesia have maintained close bilateral relations, including a program of economic and military assistance which totaled $50 million in fiscal year 1991.

This resolution expresses the sense of Congress that the President should suspend immediately all international military educational training programs [IMET] to the Indonesian Government, as well as order the United States Ambassador to immediately visit East Timor in order to investigate the atrocities being committed there by Indonesian authorities.

The resolution also calls upon the United Nations to take certain measures, including calling for the publication of a report by the U.N. Special Rapporteur on Torture to be made available to the General Assembly.

Mr. Speaker, hopefully, this resolution is a first step in putting an end to the despicable conditions in East Timor. I urge its full support by this body.

Mr. YATRON. Mr. Speaker, I am strongly in favor of House Concurrent Resolution 240, which condemns the November 12 shooting of civilians by Indonesian troops in Dili, East Timor. According to eyewitness accounts and international human rights organizations such as Asia Watch, Indonesian troops opened fire on a peaceful funeral procession for a Timorese youth who had been killed by security forces 2 weeks earlier. Seventy-five to 100 civilalns were killed and many more were wounded. We have reports that about 300 people were detained immediately after the incident and that about 50 people are still in detention.

This incident is a serious step backward for the Indonesian Government that had made some positive gains in East Timor over the past 2 years. During this time incidents of violence on the island decreased, although some still occurred, and international organizations and journalists were allowed into the area. The November 12 killings demonstrate that the Indonesian Government has not broken its pattern of violence and abuse in East Timor which has existed since the island was annexed in 1975.

Mr. Speaker, it is important that the House send a message that the November 12 killings were indiscriminate and unprovoked. This resolution also sets forth that United States international military education and training assistance should be contingent on the Government of Indonesia conducting a thorough and impartial investigation of the incident and that those who were responsible for the killings should be held accountable for their actions.

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of House Concurrent Resolution 240 which condemns the Indonesian Government for the vicious massacre of civilians in East Timor on November 12. I also rise to commend the distinguished chairman of the Select Committee on Hunger who has been tirelessly working to bring world attention to the tragic human rights abuses which plague East Timor.

Since 1975, Indonesia has brutally enforced its illegal occupation of East Timor. This occupation flies in the face of International law. For years, Chairman HALL has worked to highlight Indonesia's abuse of East Timor. It has taken this terrible tragedy to make the world take notice.

Eyewitness accounts from American journalists Allan Nairn and Amy Goodman attest to the brutality of the Indonesian occupation. For 10 minutes, Indonesian soldiers bombarded a crowd of peaceful mourners who were attempting to place flowers on the grave of a youth who was killed by Indonesian troops on October 28. These soldiers would have killed Mr. Nairn and Ms. Goodman if the journalists had not waved their American passports above their heads. Perhaps the Indonesian soldiers realized that their weapons were made in America and that killing Americans would threaten the future of United States military aid to Indonesia.

Well, it is time for all of us to declare that we will not allow American generosity to be used to perpetuate human rights abuses. This resolution will put the United States Congress on record as forcefully condemning Indonesia's despicable record in East Timor. It is my firm belief that we should go further, that we should immediately suspend military aid to Indonesia. We must do everything possible to stop the massacres in East Timor from continuing. It is a travesty for U.S. tax dollars to be supporting these abuses. It should be brought to an end today.

Mr. Speaker, it is estimated that 200,000 people have been slaughtered as a result of the occupation of East Timor. Enough is enough. I urge my colleagues to pass House Concurrent Resolution 240, and I urge the administration to go one step further and suspend military aid to the perpetrators of this injustice.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Ohio [Mr. HALL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 240, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 77) condemning the massacre of East Timorese civilians by the Indonesian military, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring), That—

(a) FINDINGS.—The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50 million in fiscal year 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor, the American ambassador to Indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Raporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

MOTION OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HALL of Ohio moves to strike all after resolving clause Senate Concurrent Resolution 77 and insert in lieu thereof the text of House Concurrent Resolution 240 as agreed to by the House and insert before the resolving clause the preamble contained in such House concurrent resolution.

The motion was agreed to.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A similar House concurrent resolution (H. Con. Res. 240) was laid on the table.

GENERAL LEAVE

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3750, HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No 102–365) on the resolution (H. Res. 299) providing for the consideration of the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns and for other purposes, which was referred to the House Calendar and was ordered to be printed.

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MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LENT] is recognized for 5 minutes.

Mr. LENT. Mr. Speaker, today, the Republican leader and I are introducing H.R. 3900, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991.

The National Governors' Association and the administration have reached an agreement which culminates intensive negotiations for the past few weeks to resolve the problem of provider-specific taxes and donations in the Medicaid Program. This legislation represents their agreement. Currently, approximately 40 Governors are supporting the agreement. Mr. Speaker, this legislation provides the means for the long-awaited agreement to become law.

In terms of provider taxes, the legislation replaces the obra 90 provider-specific tax provisions with language stipulating that Federal money will be available only if the tax uniformly applies to all providers in a class, and to all the health-related business of the providers. A class of providers would be, for example, all hospitals, all physicians, or all nursing homes in the State. A tax on all business of providers would include taxes such as a gross revenues tax, a tax based on inpatient days, or a head tax on all patients.

And unlike the current financing scams, these taxes would in fact be bona fide taxes on all providers. These taxes would be truly redistributive. Tax revenues would flow from rich hospitals to public hospitals that serve the poor. And this legislation would forbid hold harmless arrangements in which States rebate the tax revenue directly back to the providers, after the State has received the Federal matching payments.

In addition to the requirement that these taxes be bona fide taxes, the legislation also provides a percentage limit on their use. For purposes of calculating Federal matching, total revenues from these broad-based providers taxes may not exceed 25 percent. This provision ensures the integrity of the Medicaid Program by guaranteeing financial participation of both the States and the Federal Government.

The legislation prohibits the States from receiving Federal payments for revenues obtained from donations by or on behalf of providers. An exception to this rule is created for donations for moneys related to personnel costs for workers in hospitals and clinics who determine Medicaid eligibility of beneficiaries. The total amount of donations permitted under this exception may not exceed 10 percent of the State's total Medicaid administrative expenses.

Several States have raised concerns about the impact of the Health Care Financing Administration [HCFA] regulation on intergovernmental transfers. This bill provides that States may continue to use funds transferred to the State from counties, cities, or other governmental entities as the State share of Medicaid expenditures. The use of such transfers would, however, be disallowed if the source of the funds was donations or taxes that would not otherwise be recognized as the non-Federal share under this legislation.

This bill also places an upper payment limit on Medicaid disproportionate share payments. The total of all such disproportionate share payments in fiscal year 1993 and in any future year would not exceed 12 percent of the total Medicaid expenditures in that year.

Finally, all States would have a transition period to October 1, 1992, to enact broad based provider-specific tax plans.

Mr. Speaker, this is a reasonable compromise which has been agreed to by the administration and the National Governors' Association. It restores the basic tenet of the Medicaid Program—which is shared financial responsibility between the Federal Government and the States. We urge its expedited consideration.

Mr. MICHEL. Mr. Speaker, I am pleased to introduce this legislation on behalf of Mr. LENT, the ranking Republican of the Energy and Commerce Committee, and myself. The administration and the National Governors' Association have reached an agreement on the use of provider-specific taxes and donations to fund the Medicaid Program. My own Governor, Jim Edgar of Illinois, supports this agreement. This legislation represents the administration/NGA agreement. It is now our duty in Congress to see that this agreement, which has required lengthy discussions and tremendous compromise, be enacted into law.

Mr. Speaker, during consideration of H.R. 3595, the Medicaid moratorium amendments, the minority attempted to offer as an amendment the tentative agreement between the NGA and the administration. While the amendment was ruled to be nongermane, much of the opposition to it was that a final agreement had not yet been reached and a significant portion of the Governors still had reservations. That is not the situation today. A final agreement has been reached and nearly every governor is supporting it. Given that this obstacle has been removed, Members should have no opposition to at least putting this legislation to a vote. I strongly urge consideration of this legislation.

At this point in the RECORD I am including a summary of the bill.

SUMMARY

PROVIDER-SPECIFIC TAXES

This bill replaces the OBRA 1990 provider-specific tax provisions with language which allows only bona fide broad-based provider-specific taxes. These taxes would have to be uniformly applied to all health care providers (such as hospitals or doctors) in a class.

Examples of board-based taxes include a gross receipts tax on all revenues, a tax on net operating revenues, a tax based on all inpatient days, a head tax on all patients, or a tax on all beds of a hospital. And only taxes

VOL
137
PT
23
NO
21
—
25
1991
UMI

that apply to all providers in a class at the same rate and on the same tax base would be considered to "uniformly" apply to all providers.

Furthermore, a state could not guarantee or otherwise agree with providers that all or a portion of the tax would be returned to them. These provisions, however, would not prevent use of the tax to reimburse providers for Medicaid services. But they would prevent states from holding providers harmless for the costs of the tax in any manner.

For purposes of calculating federal matching payments, total revenues from these broad-based provider taxes could not exceed 25 percent of the state share of Medicaid during fiscal years 1993–1995. Any state in which the revenues from provider donations and provider-specific taxes were in excess of 25 percent in state fiscal year 1992 based on the state's Medicaid program and state plan amendments submitted to HCFA by September 30, 1991, would be permitted to use broad-based provider-specific taxes up to that fiscal year 1992 percentage, instead of 25 percent. This would apply whether or not the donation and provider-specific taxes used in fiscal year 1992 met the standards of the proposal.

DONATIONS

Under this bill, states would not receive federal matching funds for revenues obtained from donations by or on behalf of providers. However, there would be an exception for donations for direct costs related to initial eligibility processing and outreach. For any state, the total amount of donations permitted under this provision may not exceed 10 percent of the total administrative expenditures for Medicaid in a state.

DISPROPORTIONATE SHARE PAYMENTS

With respect to disproportionate share payments, the prohibition in existing law on limiting federal payments for Medicaid disproportionate share payments would be repealed. A separate upper payment limit would be calculated for Medicaid disproportionate share payments. The total of all such payments in fiscal year 1993 and in any future year will not exceed 12 percent of total Medicaid expenditures in that year.

Any state whose disproportionate share payments in federal fiscal year 1992 exceeded 12 percent of total Medicaid expenditures in that year would be entitled in subsequent years to receive federal matching payments up to the total amount of such payments in federal fiscal year 1992 that were pursuant to plans in place on or submitted to HCFA by September 30, 1991. This limit would remain in effect until payments in that state fell below the specified percentage cap of 12 percent, at which time the state would be entitled to increase payments in proportion to total Medicaid program growth.

Any state whose percentage of disproportionate share payments is less than 12 percent in fiscal year 1992 will be entitled in subsequent years to federal matching payments for additional payments as follows:

(1) The level of federal fiscal 1992 disproportionate share payments would be increased by the same percentage as the increase in total Medicaid program expenditures in that state for the year in question; and

(2) The state will receive an allocated share of the disproportionate share growth factor derived from those states who disproportionate share payments remain above the 12 percent cap.

EFFECTIVE DATES

The effective date for the donation and provider-specific tax prohibitions would be October 1, 1992 for programs in effect or in state plan amendments as of September 30, 1991. For those states with a fiscal year ending between July 1 and October 1, 1992, the effective date would be January 1, 1993. For those states whose legislatures do not have a regularly scheduled session in 1992, the effective date would be July 1, 1993.

For the period of January 1, 1992, to the effective date, donations and provider-specific taxes not meeting the requirements of a broad-based tax covered are acceptable up to the amount included or specified in state budget documents, submissions to HCFA, or legislation in existence on September 30, 1991.

RHOBIA TAYLOR DEVOTED LIFE TO SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ], is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, Rhobia Taylor, whose personal and professional concerns encouraged working women for generations, epitomized the very best in public service. She was the first regional administrator of the southwest office of the Department of Labor's Women's Bureau at Dallas, a capacity in which she served for 27 years. Prior to this role which capped her outstanding career, Ms. Taylor was for 11 years a consultant in nursing service for the U.S. Public Health Service in New York, headed special events for the National Institute of Health at Bethesda for 5 years, did public relations and recruitment for the U.S. Cadet Nurse Corps, and held several other public service posts.

Washington journalist and fellow Texan Sarah McClendon called Ms. Taylor "the greatest public servant I ever knew." Ms. McClendon continued: "She wanted so much to serve and to make conditions better."

As the first Regional Administrator of the Southwest Women's Bureau, Ms. Taylor helped set the agency's direction. Under her leadership, the Bureau focused on upgrading the skills and improving the employability of thousands of women. She campaigned to put more women on the Private Industry Councils which determine the distribution of funds for the Job Training Partnership Act programs, and she championed the involvement of underskilled women in the programs established by this act. She helped launch a highly successful project in Brownsville, TX, aimed at improving the job skills of Hispanic women in border communities.

At the time of her death in the fall of 1990, Ms. Taylor was working on a project with Texas Woman's University to honor and trace the history of the Women's Bureau in the southwest. The agency works to upgrade women's skills and improve their chances of finding work.

During 1989 and 1990, Ms. Taylor interviewed 34 prominent women and men about the changing role of women over the past 25 years, said Elizabeth Snapp, director of Libraries for Texas Woman's University. The tapes and transcripts were completed in October 1990, and are a part of the Woman's collection at TWU.

Ms. Taylor was the first woman representative to the Federal Executive Board, and she received the Department's Distinguished Career Service Award.

A native of Texas, Ms. Taylor attended the Houston public schools and received an undergraduate degree from Mary Hardin-Baylor College, where she was named outstanding alumna. She did graduate studies at Columbia University, American University, and the University of New York.

Ms. Taylor was an accredited correspondent for the Dallas Morning News at the U.N. International Women's Conference in Mexico City in 1975, and was active in the Association of Women Entrepreneurs of Dallas, Inc., Federally Employed Women, Executive Women in Government, and Women in Communications, Inc., from which she received a Lifetime Achievement Award.

Sherrie Moran, Director of Public Affairs for the Dallas Regional Office of the Women's Bureau, wrote:

> Rhobia achieved recognition in her life for her many acts of public service, but she will be remembered most for her many private acts of friendship. Rhobia collected friends in the way others collect great works of art and she treasured them as one would Georgia O'Keeffe's magnificent flowers.

She continued:

> Many of her friends were women who, during their years of friendship, were breaking out of old, traditional patterns of what it was to be a woman. They valued Rhobia as someone who nurtured their bold new visions for themselves.

Rhobia Taylor, 1908–90, had no immediate survivors.

Mr. Speaker, let me add that I am one of those who is beholden and hold and cherish her memory and ever will because I am a witness to the great service she performed for her country.

AMERICA NEEDS AEROSPACE INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, it is a sad day when both the European and American papers are running numerous stories that McDonnell Douglas, our largest military contractor, is so strapped for cash that it has to sell 40 percent of the company for $2 billion to a foreign company.

This is happening at a time when we are concluding GATT negotiations where it is reported that we are succeeding in backing down Government

subsidies by all of our major trading partners for large segments of their economies.

But, Mr. Speaker, not for the Airbus, McDonnell Douglas' chief competitor, nor for the Government-backed and owned Thomson CSF defense contractor—nor for any of the other foreign government owned or subsidized and certainly protected aerospace and defense producers.

It was reported to me—just today—that when an officer of McDonnell Douglas was questioned about this sale, he shot back one word—"Airbus!"

He then complained bitterly about the U.S. Government's position on international competition: "It is our guys out there going it alone against government-backed targeted projects. Even their foreign embassies are working as sales agents and industrial espionage centers supporting every effort to get business.

"We're good, but we can't compete against whole nations. No American company can!"

The U.S. Government with its policy of free trade is in effect exposing American companies to impossible odds in doing business and competing for foreign markets—or for that matter in doing business right here in the United States.

The tragedy of this policy is our aerospace company, McDonnell Douglas went to Taiwan where the Government is eager to support a fledging aerospace industry. This industrial giant signed an agreement with a company, Taiwan Aerospace, which is only 7 weeks old on paper. Additionally, parts for the plane will be built in Taiwan, which means Americans will lose jobs.

Within the last few weeks, it was reported that McDonnell Douglas went to the Department of Defense and asked for a $1 billion loan to help it through a cash squeeze, and finally withdrew its request after a period of time. The company, faced with the termination of some fighter contracts and the possibility of cost overruns on the Air Force C–17, had to act quickly, but selling itself to foreign buyers is not a good answer for the American people.

The September 1991, report of the Aerospace Research Center entitled "The U.S. Aerospace Industry in the 1990's—A Global Perspective," states that "The U.S. aerospace industry is one of the fundamental sources of America's economic strength and world leadership." Today, the U.S. market share has fallen from a high of 79 percent in 1970, to 60 percent. The aerospace industry still left a trade surplus of $27.2 billion for the United States last year.

I know the aerospace industry is talking about global markets, but it seems the United States could do better for its leading exporter than it has.

When McDonnell Douglas goes to Taiwan, we will lose technology and hard working Americans who take pride in the aerospace industry will lose their jobs. Perhaps we could keep this industry if government policymakers had a strategy to foster technology instead of trumpeting the free market and no industrial policy.

The Aerospace Reports states, instead of a coherent approach to technology development and technology export issues as they impact on international competitiveness, the United States pursues a path that is an ad hoc blend of U.S. Government and private industry initiatives.

The end result of this policy is a private initiative of McDonnell Douglas selling 40 percent of its company to a foreign government-backed company so Taiwan can become competitive in the aerospace industry.

What is interesting to me is the story that McDonnell Douglas is continuing to search for other partners in the Asian countries. Remember, the first stories about the sale reported that Mitsui was buying 40 percent of the company for $10 billion. It seems to me that Taiwan is getting quite a bargain for $2 billion.

Taiwan Aerospace is 70 percent owned by the Government and the private backers are Taiwan's industrial conglomerates. According to the Financial Times they include:

> Evergreen Marine, which owns the world's largest container shipping fleet; Yueloong Motor, which has built Nissan cars in Taiwan for 30 years; Tatung, a machinery and consumer electronics maker; Pacific Electric Wire & Cable, the industrial group; the textiles-based Hualong Group; and Formosa Plastics, Taiwan's largest private enterprise. China Steel, which is being privatised, is to join the consortium next year.

I know that American Government policymakers tout free enterprise and no industrial policy, but it seems to me that the conglomerates involved in Taiwan Aerospace are certainly part of an industrial policy for Taiwan.

The reason for the sale was spelled out in the Financial Times, and it was most revealing of our flawed government policy which has thrown first one business then the other to foreign competition.

A security analyst, Mr. Ko explained,

> * * * that the mutual attraction with McDonnell Douglas was a matter of timing. If it were 10 years earlier I don't think we could get McDonnell Douglas to listen to us. If it were a decade later, maybe Taiwan Aerospace would be strong enough not to need to work with others. We are in infant and they are in need of financial assistance and low-cost production.

Mr. Ko explained that Taiwan Aerospace wants "technology and does not aim merely to turn out parts and subassemblies on an original equipment manufacture basis like thousands of other so-called high-technology Taiwanese companies."

Apparently the Taiwanese expect to extract every last bit of industrial information from us. Just what does it mean to transfer technology to another country?

Now how can we continue to be a leader in aerospace if we continue to sign away our technology and continue to help build foreign companies as we have done since World War II with memorandums of understanding. Through our MOU's we have built up a defense industry in Europe to compete with us, now we are doing it in our domestic industries as well.

We need to do everything possible to bring McDonnell Douglas home. As it continues to shop other Asian countries for more partners or contractors, we need to explore what can be done in the United States.

Right now McDonnell Douglas is holding talks in South Korea, Indonesia, and Singapore, and I believe Japan is still not counted out. In the last few years American aerospace companies have helped Japan, South Korea, and Taiwan to build military fighter planes.

We have now become dependent on foreign sources for many of our military parts. Remember that Japan boasted that America's Patriot missile was accurate because of chips from Japan and, that the United States was dependent on Japan for most of the chips used in military equipment in Operation Desert Storm? Now we are adding another chapter to the story of foreign dependence by losing the commercial sectors of our aerospace industry.

Boeing is already working with three Japanese partners in building its next airliner, the 777. Airbus, the European aerospace consortium, is talking to the Japanese about participating in building a superjumbo jet seating more than 600 passengers.

These plans and the international deals all sound attractive, but the American people are left out of the equation. What happens to our jobs and industries?

Just the names of the conglomerates and what they make in Taiwan Aerospace shows the industries affected by such a large loss in the aerospace industry. Planes are fabric, steel, electronics, plastics, glass, composites, rubber, and the list continues and spells jobs. American jobs.

All you need to do to understand what these industries mean to the United States is read the unemployment figures with 6.8 percent of the people unemployed nationally and some States have figures running higher than that.

How can we lose these jobs and more of the industries involved in aerospace when our States and counties are running deficits and having to cut back on services to their constituents?

How do we support our cities, some of whom are declaring bankruptcy. These companies will be paying reduced

VOL
137
PT
23
NO
21
—
25
1991
UMI

taxes, or in some cases no taxes, to the government nor will the people who are unemployed be paying a large tax bill to the government.

Today we have 1 out of every 10 Americans on food stamps—more than anytime in our history. Our economy is slumping and middle-class executives are increasingly standing in the unemployment line.

I agree with Senator BINGAMAN and the 28 other Senators signing a letter to the President that the McDonnell Douglas deal "may not be in the national interest." That is an understatement.

With the loss of the commercial aerospace the United States will ultimately lose whole industries. It is time for we in Congress and for every policymaker in government to get their act together and do whatever we can to make McDonnell Douglas competitive and keep jobs in the United States.

That is the least the American people should expect from us—for they are the ones receiving the raw deal when American companies, technology and jobs are lost overseas. Let's stand up for the American people, keep McDonnell Douglas and its technology for America, and stop this fire sale.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. LAGOMARSINO) to revise and extend his remarks and include extraneous material:)

Mr. LENT, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. KANJORSKI.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 2629. An act to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian."

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 10 minutes p.m.), the House adjourned until Monday, November 25, 1991, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various committees of the United States House of Representatives concerning the foreign currencies used by them during the third quarter of 1991, pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1991

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Tom Bevill	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/8	United States		291.85						291.85
Military transportation							8,358.50				8,358.50
Hon. Joseph McDade	8/16	8/19	Sweden		909.00						909.00
	8/19	8/20	Norway		398.00						398.00
	8/21	8/23	Denmark		404.00						404.00
Commercial transportation							5,365.09				5,365.09
Hon. John Murtha	8/3	8/4	Panama		125.00						125.00
	8/4	8/5	Bolivia		151.00						151.00
	8/5	8/6	Peru		55.00						55.00
	8/6	8/7	Colombia		157.00						157.00
Military transportation							2,800.00				2,800.00
Hon. John Myers	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/9	United States		226.70						226.70
Military transportation							8,358.50				8,358.50
Hon. Nancy Pelosi	8/31	9/2	Hong Kong		378.00						378.00
	9/2	9/5	China		583.00						583.00
	9/5	9/6	Hong Kong		252.00						252.00
Commercial transportation							4,636.00				4,636.00
Hon. Harold Rogers	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/9	United States		195.48						195.48
Military transportation							8,358.50				8,358.50
Hon. David Skaggs	8/5	8/6	Thailand		126.00						126.00
	8/6	8/7	Laos		59.00						59.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1991—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	8/7	8/8	Cambodia		142.00						142.00
	8/8	8/10	Vietnam		284.00						284.00
Military Transportation							19,610.18				19,610.18
Hon. David Skaggs	9/4	9/5	Austria		211.00						211.00
	9/5	9/6	Estonia		255.00						255.00
	9/6	9/7	Lithuania		255.00						255.00
	9/7	9/8	Georgia		178.00						178.00
	9/8	9/10	Russia		574.00						574.00
Military Transportation							4,959.54				4,959.54
Hon. Lawrence Smith	10/18	10/24	Greece		800.00						800.00
Commercial transportation							7,308.10				7,308.10
Hon. Neal Smith	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/9	United States		190.37						190.37
Military transportation							8,358.50				8,358.50
Sally Chadbourne	8/26	8/29	Japan		1,131.00						1,131.00
	8/29	9/1	China		404.00						404.00
	9/1	9/4	Singapore		639.00						639.00
	9/4	9/5	New Guinea		249.00						249.00
	9/5	9/8	Western Samoa		528.00						528.00
	9/8	9/9	United States		96.23						96.23
Military Transportation							8,358.50				8,358.50
Elizabeth Dawson	8/11	8/13	Belgium		428.00		—		—		428.00
	8/13	8/17	Germany		636.00		—		—		636.00
Commercial transportation							5,419.00		46.00		5,465.00
Sandra A. Gilbert	8/3	8/4	Panama		125.00		—		—		125.00
	8/4	8/5	Bolivia		151.00		—		—		151.00
	8/5	8/6	Peru		133.00		—		—		133.00
	8/6	8/7	Colombia		157.00		—		—		157.00
Military transportation							2,800.00				2,800.00
Dennis M. Kedzior	8/16	8/19	Sweden		909.00		—		—		909.00
	8/19	8/20	Norway		398.00		—		—		398.00
	8/21	8/22	Denmark		404.00		—		—		404.00
	8/23	8/26	England		759.00		—		—		759.00
Commercial transportation							5,365.09				5,365.09
Frederick Mohrman	8/3	8/4	Panama		125.00		—		—		125.00
	8/4	8/5	Bolivia		151.00		—		—		151.00
	8/5	8/6	Peru		133.00		—		—		133.00
	8/6	8/7	Colombia		157.00		—		—		157.00
Military transportation							2,800.00		—		2,800.00
Mark W. Murray	8/10	8/16	Costa Rica		1,032.00		—		—		1,032.00
	8/16	8/21	Guatemala		840.00		—		—		840.00
Commercial transportation							678.00		—		678.00
John Osthaus	8/26	8/29	Japan		1,131.00		—		—		1,131.00
	8/29	9/1	China		404.00		—		—		404.00
	9/1	9/4	Singapore		639.00		—		—		639.00
	9/4	9/5	New Guinea		249.00		—		—		249.00
	9/5	9/8	Western Samoa		528.00		—		—		528.00
	9/8	9/9	United States		90.21						90.21
Military transportation							8,358.50				8,358.50
Juliet Pacquing	8/8	8/11	Florida		312.00		306.00				618.00
	8/12	8/14	Hawaii		378.00		—		—		378.00
	8/15	8/18	Korea		609.00		—		—		609.00
	8/18	8/22	Philippines		728.00		—		—		728.00
	8/22	8/25	Thailand		528.00		—		—		528.00
	8/25	8/28	Saudi Arabia		—		—		—		—
	8/28	8/30	United Arab Emirates		338.00		—		—		338.00
Commercial transportation							6,888.00		—		6,888.00
Terry Peel	8/29	9/5	China		2,000.00		—		—		2,000.00
	9/6	9/8	United Kingdom		520.00		—		—		520.00
Commercial transportation							7,557.00		—		7,557.00
John Plashal	8/3	8/4	Panama		125.00						125.00
	8/4	8/5	Bolivia		151.00						151.00
	8/5	8/6	Peru		133.00						133.00
	8/6	8/7	Colombia		157.00		—		—		157.00
Military transportation							2,800.00		—		2,800.00
Donald E. Richbourg	8/16	8/19	Sweden		909.00		—		—		909.00
	8/19	8/20	Norway		398.00		—		—		398.00
	8/21	8/22	Denmark		404.00		—		—		404.00
	8/23	8/26	England		759.00		—		—		759.00
Commercial transportation							5,365.09				5,365.09
Kevin Roper	8/16	8/19	Sweden		909.00						909.00
	8/19	8/20	Norway		398.00						398.00
	8/21	8/22	Denmark		404.00						404.00
	8/23	8/24	United Kingdom		506.00						506.00
Commercial transportation							5,365.09				5,365.09
William Schuerch	8/26	8/28	Romania		336.00						336.00
	8/28	8/29	Albania		113.00						113.00
	8/29	8/30	Switzerland		231.00						231.00
	8/30	9/4	Bulgaria		1,385.00						1,385.00
	9/4	9/6	England		520.00						520.00
Commercial transportation							7,058.00		146.40		7,204.40
C. William Smith	9/3	9/7	Panama		528.00						528.00
Commercial transportation							836.15				836.15
Deborah Weatherly	8/5	8/9	Canada		550.00						550.00
Commercial transportation							981.00				981.00
Robert V. Davis	9/6	9/8	United Kingdom		605.00				13.00		618.00
Commercial transportation							6,537.00				6,537.00
Committee total					46,564.84		155,585.33		205.40		202,355.57
Appropriations, Surveys and Investigation Staff:											
Richard H. Ash	9/7	9/13	Germany		1,121.75		3,970.00		564.26		6,627.01
	9/13	9/17	England		688.50						
	9/17	9/20	Scotland		125.00						
	9/20	9/25	England		157.50						
George Carter Baird	8/3	8/6	Spain		508.00		3,483.99		125.00		4,638.24
	8/6	8/9	France		521.25						

VOL 137 PT 23 NO 21–25 1991 UMI

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1991—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Carl F. Bogar	9/20	9/29	Korea		1,642.25		2,492.00		57.95		4,192.20
Charles T. Booth	9/20	9/29	Korea		1,642.25		2,492.00		19.80		4,154.05
Theodore J. Booth	9/7	9/11	Spain		645.00		4,340.00		91.00		6,642.50
	9/11	9/13	Italy		226.00						
	9/23	9/17	Greece		581.25						
	9/17	9/21	Turkey		759.25						
Albert J. Boudreau	8/3	8/8	China		628.00		4,870.00		78.69		6,081.69
	8/8	8/10	Hong Kong		505.00						
Daniel J. Doherty	7/1	7/3	Puerto Rico		332.88				38.05		370.93
Ludovico R. Giordano	7/1	7/3	Puerto Rico		318.95				12.60		331.55
Charles V. Gorsey	8/17	8/24	Germany		882.25		3,829.49		9.60		4,721.34
Carroll L. Hauver	9/7	9/13	Germany		1,144.50		3,939.00		241.84		6,423.84
	9/13	9/17	England		688.50						
	9/17	9/19	Scotland		200.00						
	9/19	9/20	England		210.00						
William P. Haynes, Jr	9/7	9/11	Spain		645.00		4,574.00		142.50		6,928.00
	9/11	9/13	Italy		226.00						
	9/13	9/17	Greece		581.25						
	9/17	9/21	Turkey		759.25						
Robert W. Lautrup	8/12	8/17	Norway		972.00		3,041.00		86.00		4,099.00
Susan E. Lloyd	8/3	8/7	Mexico		637.75		3,181.00		49.50		4,593.25
	8/7	8/13	Chile		725.00						
Dennis K. Lutz	8/3	8/6	Spain		557.50		3,762.00		102.80		5,128.55
	8/6	8/10	France		706.25						
Frank T. Lyons	9/7	9/11	Spain		645.00		4,574.00		179.00		6,964.50
	9/11	9/13	Italy		226.00						
	9/13	9/17	Greece		581.25						
	9/17	9/21	Turkey		759.25						
Dale F Martell	9/20	9/29	Korea		1,561.00		2,492.00		28.60		4,081.60
James J. O'Kane	9/20	9/29	Korea		1,561.00		2,492.00		45.67		4,098.67
Robert H. Pearre, Jr.	8/4	8/7	Mexico		508.75		3,144.00		53.10		4,443.35
	8/7	8/13	Chile		737.50						
Evan Reese	9/20	9/29	Korea		1,642.25		2,492.00		60.00		4,194.25
Robert J. Reitweisner	7/13	7/18	Panama		656.50		804.30		62.00		1,522.80
Terry H. Sullivan	7/13	7/18	Panama		669.00		804.30		32.60		1,505.90
R.W. Vandergrift, Jr.	8/3	8/8	China		616.00		4,870.00		1,114.20		7,105.20
	8/8	8/10	Hong Kong		505.00						
	9/5	9/8	England		522.00		6,320.00		348.12		7,780.62
	9/8	9/10	Germany		590.00						
Lawrence P. Walsh	8/17	8/24	Germany		882.25		3,829.49		55.40		4,767.14
Thomas F Ward	9/20	9/29	Korea		1,561.00		2,270.00		34.00		3,865.00
B. Alan Weaver	8/12	8/16	Norway		799.00		3,760.19		127.23		5,697.17
	8/16	8/24	Germany		1,010.75						
L. Michael Welsh	8/12	8/16	Norway		799.00		3,248.99		138.18		4,698.92
	8/16	8/21	Germany		512.75						
	9/20	9/29	Korea		1,561.00		2,492.00		31.80		4,084.80
Vernon Westbrook	9/20	9/29	Korea		1,642.25		2,270.00		51.70		3,963.95
Kennedy L. Wilson	9/7	9/13	Germany		1,144.50		3,939.00		242.77		6,424.77
	9/13	9/17	England		688.50						
	9/17	9/19	Scotland		200.00						
	9/19	9/20	England		210.00						
Committee total					42,130.08		93,776.75		4,223.96		140,130.79

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE L. WHITTEN, Chairman, Nov. 8, 1991.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Gerry Sikorski	8/23	8/30	Switzerland		1,141.00		3,752.00		35.89		4,928.89
	6/29	7/3	Japan		1,030.00		2,963.00				3,993.00
Roy J. Rowland	8/5	8/7	Great Britain		506.00						506.00
	8/7	8/9	France		470.00						470.00
	8/9	8/11	Italy		582.00						582.00
	8/11	8/12	Romania		218.00						218.00
	8/12	8/15	Germany		447.00						447.00
Returned per diem					−153.87						−153.87
Local transportation									132.96		132.96
Commercial air fare							7,925.80				7,925.80
Debra Jacobson	9/15	9/21	Poland		650.00		1,062.00		350.00		2,062.00
Jack Chesson	8/7	8/11	France		940.00						940.00
	8/11	8/20	United Kingdom		2,277.00						2,277.00
	8/20	8/22	Germany		430.00						430.00
Commercial air fare							3,971.80				3,971.80
John Sheik	8/7	8/11	France		940.00						940.00
	8/11	8/20	United Kingdom		2,277.00						2,277.00
	8/20	8/21	Germany		430.00						430.00
Commercial air fare							3,971.80				3,971.80
David Finnegan	8/26	8/30	Switzerland		852.00		3,271.90				4,123.90
Charles Ingebretson	8/26	8/30	Switzerland		852.00		3,271.90				4,123.90
David Finnegan	9/16	9/19	Africa		438.00		6,264.10				6,702.10
Jessica Laverty	9/16	9/19	Africa		438.00		6,264.10				6,702.10
Committee total					14,764.13		42,718.40		518.85		58,001.38

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2406. A letter from the Secretary of Health and Human Services, transmitting a report entitled "Rural Health Care Transition Grant Program," pursuant to 42 U.S.C. 1395ww note; to the Committee on Energy and Commerce.

2407. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the 25th 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99–93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

2408. A letter from the Chairman, Federal Maritime Commission, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3245. A bill to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes; with an amendment (Rept. 102–345, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2141. A bill to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes; with an amendment (Rept. 102–354, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes; with an amendment (Rept. 102–359). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1476. A bill to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes; with an amendment (Rept. 102–360). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2502. A bill to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes; with an amendment (Rept. 102–361). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. H.R. 298. Resolution to expedite a conference with the Senate on a banking bill (Rept. 102–362). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2977. A bill to authorize appropriations for public broadcasting, and for other purposes; with an amendment (Rept. 102–363). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. H.R. 3161. A bill to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, to amend laws relating to Federal procurement, and for other purposes; with an amendment (Rept. 102–364). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. H.R. 299. Resolution providing for the consideration of H.R. 3750, a bill to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes. (Rept. 102–365). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MICHEL (for himself and Mr. LENT):

H.R. 3900. A bill to amend title XIX of the Social Security Act to clarify the treatment of voluntary contributions and provider-specific taxes to obtain Federal financial participation under the Medicaid Program and to limit aggregate payment adjustments under the program for disproportionate share hospitals; to the Committee on Energy and Commerce.

By Mr. RHODES:

H.R. 3901. A bill to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; to the Committee on Interior and Insular Affairs.

By Mr. OBERSTAR (for himself, Mr. ROE, Mr. HAMMERSCHMIDT, Mr. MINETA, and Mr. CLINGER):

H.R. 3902. A bill to provide for the appointment of Maj. Gen. Jerry Ralph Curry, U.S. Army, retired, as Administrator of the Federal Aviation Administration; to the Committee on Public Works and Transportation.

By Mr. SAXTON:

H.R. 3903. A bill to amend the Internal Revenue Code of 1986 to provide for a reduction in individual income tax rates; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself, Mr. RANGEL, Mr. DINGELL, Ms. OAKAR, Mr. MATSUI, Mr. MCCLOSKEY, Mr. HAYES of Illinois, Ms. WATERS, Mr. SAVAGE, Mr. DURBIN, Ms. PELOSI, Mr. MILLER of California, Mr. BACCHUS, Mr. PETERSON of Florida, Mr. HUBBARD, Mr. TORRES, Mr. PASTOR, Mr. ENGEL, Mr. MANTON, Mr. ANNUNZIO, Mr. GORDON, Mr. FROST, Mr. FASCELL, Mr. DORGAN of North Dakota, Mr. GEJDENSON, Mr. FAZIO, Mr. NEAL of North Carolina, Mr. MARKEY, Mr. ROSE, Mr. PERKINS, Ms. LONG, Mr. ROYBAL, Mr. SKAGGS, Mr. GONZALEZ, Mr. CARPER, Mr. BILBRAY, Mr. SISISKY, Mr. LAFALCE, and Mr. VOLKMER):

H.R. 3904. A bill expressing the sense of the House of Representatives that the President should submit to the 102d Congress a proposal for reforming the health care system of the United States; to the Committee on Energy and Commerce.

By Mr. THOMAS of Wyoming:

H.R. 3905. A bill to amend the Historic Preservation Act to authorize appropriations for the Advisory Council on Historic Preservation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. THOMAS of Wyoming (for himself, Mr. GUNDERSON, and Mr. ALLARD):

H.R. 3906. A bill to require the Secretary of Agriculture to submit a report on, and establish a system for, lamb price and supply reporting services in the Department of Agriculture; to the Committee on Agriculture.

By Mr. PEASE:

H. Con. Res. 247. Concurrent resolution expressing the sense of the Congress that the United States should not enter into any international agreement, or approve any international report, that would impair the authority of the United States to enforce and strengthen environmental, labor, agricultural, and public health and safety standards; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 960: Mr. SOLOMON.

H.R. 1234: Mr. SMITH of Florida.

H.R. 1245: Ms. MOLINARI and Mr. ORTON.

H.R. 1565: Mr. STEARNS.

H.R. 2071: Mr. HERGER, Mr. APPLEGATE, and Mr. STEARNS.

H.R. 2126: Mr. WEISS.

H.R. 2229: Mr. OXLEY and Mr. ANTHONY.

H.R. 2230: Mr. OXLEY and Mr. ANTHONY.

H.R. 2385: Mr. SPENCE.

H.R. 2695: Mr. JONES of North Carolina and Mr. SWETT.

H.R. 2824: Mr. MACHTLEY.

H.R. 2838: Mr. WOLPE, Mr. MAZZOLI, Mr. BERMAN, and Mr. PICKETT.

H.R. 2872: Mr. MILLER of Ohio and Mr. DIXON.

H.R. 3030: Mrs. BENTLEY, Mr. MARLENEE, Mr. MONTGOMERY, Mr. TAYLOR of North Carolina, Mr. SHARP, and Mr. LIGHTFOOT.

H.R. 3417: Mr. TOWNS and Mrs. VUCANOVICH.

H.R. 3518: Mr. LEWIS of Florida and Mr. DINGELL.

H.R. 3569: Mr. SOLOMON:

H.R. 3639: Mr. JOHNSTON of Florida.

H.R. 3730: Mr. KOLTER, Mr. TOWNS, and Mr. PRICE.

H.R. 3770: Mr. CAMPBELL of California, Mr. BAKER, Mr. BALLENGER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. GEKAS, Mr. GILLMOR, Mr. GRADISON, Mr. GRANDY, Mr. HASTERT, Mr. HAMMERSCHMIDT, Mr. HENRY, Mr. HERGER, Mr. HOPKINS, Mr. HOUGHTON, Mr. INHOFE, Mr. JAMES, Mr. KYL, Mr. LENT, Mr. LIGHTFOOT, Mr. MILLER of Washington, Mr. RAMSTAD, Mr. RIDGE, Mr. RIGGS, Mr. RITTER, and Mr. SHAW.

H.J. Res. 224: Mr. BILBRAY, Mr. BROWDER, Mr. ERDREICH, Mr. TAYLOR of Mississippi, Mr. HUBBARD, Mr. HALL of Texas, Mr. STENHOLM, Mr. MONTGOMERY, Mr. VALENTINE, Mr. HAYES of Louisiana, Mr. CAMPBELL of Colorado, Mr. LANCASTER, Mr. BREWSTER, Mr. ANTHONY, Mr. ENGLISH, Mr. RAY, Mr. HUCKABY, Mr. JENKINS, Mr. PENNY, Mr. ROWLAND, Mr. BEVILL, Mr. LAROCCO, Mr. GUARINI, Mr. BARNARD, Mr. HARRIS, Mr. VOLKMER, Mr. PAYNE of Virginia, Mr. PETERSON of Florida, Mr. CONDIT, and Mr. ORTON.

H.J. Res. 372: Mr. STOKES, Mr. PANETTA, Mr. WEISS, Ms. KAPTUR, Mr. DAVIS, Mr. KA-

VOL
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SICH, Mr. HORTON, Mr. GINGRICH, Mr. WAXMAN, Mr. TAYLOR of Mississippi, Mr. VENTO, Mr. VOLKMER, Mr. FAWELL, Mr. LAROCCO, Mr. FALEOMAVAEGA, Mr. ZIMMER, Mr. RICHARDSON, Mr. STAGGERS, Mr. TALLON, Mr. SHAYS, Mr. OWENS of New York, Mr. WHEAT, Mr. EARLY, Mr. SCHIFF, Mr. SIKORSKI, Mr. SOLARZ, Mr. SERRANO, Mr. ENGEL, Mr. TORRES, Mr. VISCLOSKY, Mr. INHOFE, Mr. SWETT, Mr. REED, Mr. CARPER, Mr. LAUGHLIN, Mr. SMITH of Texas, Mr. KANJORSKI, Ms. DELAURO, Mr. MARTIN, Mr. ROWLAND, Mr. YATRON, Mr. SOLOMON, Mr. SMITH of Iowa, Mr. SANGMEISTER, Mr. WASHINGTON, Mr. MURPHY, Mr. PACKARD, Mr. MOORHEAD, Mr. KLECZKA, Mr. FAZIO, Mr. HYDE, Mr. KLUG, Mr. ROBERTS, Mr. LEACH, Mr. MFUME, Mrs. LOWEY of New York, Mr. EVANS, Mr. FASCELL, Mr. PICKLE, Mr. HUTTO, Mr. PASTOR, Mr. MARTINEZ, Mr. LAFALCE, Mr. NEAL of North Carolina, Mr. PARKER, Mr. LANTOS, Mr. WYDEN, Mr. GUNDERSON, Mr. LOWERY of California, Mr. HUBBARD, Mr. HAYES of Illinois, Mr. HALL of Texas, Mrs. BENTLEY, Mr. BLILEY, Ms. PELOSI, Mr. BACCHUS, Mr. MCHUGH, Mr. HEFNER, Mr. JACOBS, Mr. HERTEL, Mr. COX of Illinois, Ms. SLAUGHTER of New York, Mr. DREIER of California, Mr. SARPALIUS, Mr. HASTERT, Mr. GORDON, Mr. DICKS, Mr. BEILENSON, Mr. HOAGLAND, Mr. YATES, Mr. BUSTAMANTE, Mr. DOOLEY, Mrs. BYRON, Mr. SAWYER, Mr. OBEY, Mrs. PATTERSON, Mr. SKAGGS, Mr. ECKART, Mr. MOLLOHAN, Mr. WYLIE, Mr. SISISKY, Mr. MAZZOLI, Mr. ANDREWS of Maine, Mr. ARCHER, Mr. RIDGE, Mr. DARDEN, Mr. GREEN of New York, Mr. ORTON, Mr. PALLONE, Mr. PAXON, Mr. RIGGS, Mr. GILLMOR, and Mr. JEFFERSON.

H. Res. 284: Mr. ANDERSON, Mr. HYDE, Mr. MONTGOMERY, and Mr. NATCHER.

H. Res. 293: Mr. THOMAS of Wyoming, Mr. INHOFE, Mr. HASTERT, Mr. PICKLE, Mr. CARPER, Mr. HOCHBRUECKNER, Mr. BEILENSON, Mr. KOSTMAYER, Ms. COLLINS of Michigan, Mr. REED, Mr. ROYBAL, Mr. HAYES of Illinois, Mr. BENNETT, Mr. MCDERMOTT, Mr. BLACKWELL, Mr. AUCOIN, Mr. OXLEY, Mr. HOBSON, Mr. SCHAEFER, Mr. LOWERY of California, Mr. ROGERS, Mr. WALSH, Mr. ROBERTS, Mr. COUGHLIN, Mr. BARRETT, Mr. WOLF, Mr. PENNY, Mr. MARKEY, Ms. DELAURO, Mr. WHEAT, Mr. HALL of Ohio, Mr. BONIOR, Mr. SERRANO, Mr. SCHEUER, Mr. DERRICK, Mr. JONTZ, Mr. COLEMAN of Texas, Mr. ROWLAND, and Mrs. SCHROEDER.

SENATE—*Saturday, November 23, 1991*

(Legislative day of Wednesday, November 20, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY WIRTH, a Senator from the State of Colorado.

The PRESIDING OFFICER. The prayer will be offered by Dr. James D. Ford, Chaplain, U.S. House of Representatives, Washington, DC.

PRAYER

The Chaplain, Dr. James D. Ford, Chaplain, U.S. House of Representatives, Washington, DC, offered the following prayer:

Let us pray:

Teach us, gracious God, to remember You in our prayers and petitions not only at times of conflict and distress or at the moments of anxiety and frustration, but to speak daily to You from the depths of our hearts and from the center of our being. O God, You have blessed us with every good gift of life and love and with all the opportunities of friendship and fellowship. Remind us at the dawn of the morning until the fading light of day to hear Your still small voice and joyfully celebrate Your blessings to us and to all people. In Your name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 23, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE SCHEDULE

Mr. MITCHELL. Mr. President, under the agreement reached last evening, the Senate will now proceed to the Defense appropriations conference report under a time limitation which provides for a maximum number of 5 hours of debate on that bill. I indicated last evening that the vote would occur when all the time is used or yielded back but in any event not prior to noon. So, a vote on that bill will, therefore, occur sometime between noon and 2 p.m. depending on how much of the maximum 5 hours permitted for debate is actually used.

Upon disposition of that bill the Senate will proceed to consideration of the CFE Treaty. There is no time limitation. We have been unable to obtain a time limitation on debate, and I am advised that there may be considerable debate on that matter. It is an important matter, of course, deserving of full consideration by the Senate.

I intend to remain in session today until we do complete action on that and, therefore, the Senate will undoubtedly be in session throughout the day and perhaps into the evening depending upon progress of debate.

I also indicated last evening that the possibility of other matters coming before the Senate exists and that remains the case. I will be meeting with the Republican leader and with the Senators on both sides of the aisle throughout the day in an effort to determine how best to proceed so as to enable us to complete the business on which we must act prior to adjournment. And it is possible that there will be other measures before the Senate during the day today.

Mr. President, I note the presence of the distinguished Senator from Hawaii, the manager of the bill which will now be before the Senate.

I, therefore, yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1992—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on H.R. 2521 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 18, 1991.)

The ACTING PRESIDENT pro tempore. The time for debate on the conference report is limited to 5 hours divided and controlled as follows: One and a half hours each for Mr. NUNN and Mr. WARNER, 45 minutes each for Mr. INOUYE and Mr. STEVENS, and 30 minutes for Mr. SASSER.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, on behalf of the managers on the part of the Senate in the committee on conference on the fiscal year 1992 Defense appropriations bill, I am pleased to present to the Senate our recommendations for fiscal year 1992 funding of the programs and activities of our Government in support of our Nation's defense and security.

The bill before the Senate provides $269.9 billion in budget authority and $275.4 billion in outlays for fiscal year 1992 defense spending. These amounts approximate the committee 602(b) allocations of budget authority and outlays to the Subcommittee on Defense Appropriations. We are within, approximately, $500 million of our budget authority total—in other words, we are below the amount designated for the committee—and $25 million of the allowance for outlays. We have spent less than what we were designated.

This conference agreement is in tune with our times and it is in touch with reality. At a time when the Soviet threat appears to be receding, we make appropriate adjustments. At a time when it is difficult to be certain that all threats have, indeed, been removed, we fund the basic elements of our national strength and we preserve the vitality of our Nation's Armed Forces. And, as we look to a future where America will undoubtedly turn inward and reduce spending for military programs, we finance investments in research and development, and, we fund procurement of systems which will preserve our Nation's strength with a smaller Army, a smaller Air Force, and a smaller Navy and Marine Corps.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL 137 PT 23 NO 21–25 1991 UMI

So now if I may proceed first to title I, military personnel.

TITLE I: MILITARY PERSONNEL

The bill before the Senate fully funds the President's request for military personnel. The recommendation fully funds active duty personnel end strength at the budgeted and authorized level—a reduction of 106,358 from fiscal year 1991. I would like to repeat that again. This bill reduces the active duty personnel end strength by 106,358 from fiscal year 1991. For the Guard and Reserve, we add back 67,796 from the budgeted reduction. As we all recall, the President of the United States had proposed the reduction of 107,526 in National Guard and Reserve end strength; we reduced it by 40,030. In other words from the President's budget reduction we added back 67,496.

We also protect the Guard and Reserve Force structure. Section 8067, a general provision, prohibits any reduction in the force structure allowance of the Army Guard and Reserve below specified numbers.

Mr. President, several of my colleagues have come to me expressing concern about the actions taken by the conference committee on the National Guard and Reserves. I believe it might be helpful if I tried to put the actions of the appropriations conference agreement in context with the actions of the authorization conference agreement. Both of these agreements, as my colleagues are aware, have been adopted by the House. And the Senate has now passed the authorization agreement.

Under bill language contained in the authorization conference agreement, end strength levels for each of the Guard and Reserve components are mandated.

End strength levels refer to the number of people in the Guard or Reserve on the last day of the fiscal year, September 30, 1992. To put it another way, the authorized end strength level places a ceiling on the number of people in the Guard and Reserve during a given fiscal year.

The concerns that have been expressed to me principally involve the Army National Guard and the Army Reserve. Let me use the Army National Guard as an example to illustrate the point I am trying to make.

The authorization agreement mandates an Army Guard end strength of 440,000 men and women, plus the possibility of a 2-percent increase for a total of 448,800. So under the authorization conference agreement, the Army Guard strength could go as high as 448,800. However, nothing—I repeat nothing—is contained in the authorization conference agreement which would prevent the Department of Defense from drawing Army Guard end strength down to any figure it chooses. Army Guard strength under the authorization bill could be anywhere from 448,800—2 percent above the authorized end strength—or 50,000, or 60,000, or 70,000 below that level.

Theoretically, if the DOD lost its mind, it could go all the way down to zero. In other words, the authorization conference agreement set a ceiling but not a floor.

The appropriations conference, on the other hand, sets a floor on Army Guard end strength, and that floor is 440,000, the authorized end strength. Our conference agreement says that the Department of Defense may not draw Guard end strength below 440,000, except that the Secretary of Defense may vary that end strength by no more than 2 percent. The Department of Defense could reduce Army Guard end strength by an additional 8,800 under the end strength funded in the appropriations bill. But DOD could not reduce end strength any further. Unlike the authorization bill, the appropriations conference agreement floor would prevent further reductions and as such we establish a minimal force size. To put it another way, we protect the Guard.

Mr. President, the appropriations conference agreement also addresses force structure allowances. Under our agreement, there is a floor on Army Guard and Army Reserve force structure allowances. The Department may not reduce force structure allowance for the Army Guard below 450,000 and for the Army Reserve below 310,000 and for the other Reserve components below the end strength levels supported by the Appropriations Act. Again, we have given the Secretary of Defense a little flexibility. Our agreement will allow him to vary force structure allowances by the same percentage that he has varied—increased or reduced—end strength.

This is one of the most difficult issues that we confronted in conference. No one here wants to reduce Guard and Reserve Forces, and yet, as the active components are reduced and elements are eliminated, it is difficult to justify keeping the Guard and Reserve at their current level. We did, however, want to avoid large reductions at this time, especially since the Department of Defense does not appear to have a coordinated plan to make these reductions.

In the report which accompanies the conference agreement, we have directed the Department of Defense to provide the Committees on Appropriations with a listing of all units scheduled to be reduced, realigned or inactivated in fiscal year 1992 and a similar listing for fiscal year 1993. Where appropriate, the lists are to include active units which these Guard and Reserve units support.

The authorization conference agreement also requires an assessment of the structure and mix of Active and Reserve Forces through the mid- to late-nineties, with an interim report due by May 1, 1992. I hope, and believe, that the two reports will make it possible for all of us to make informed decisions when we consider the fiscal year 1993 authorization and appropriations bills.

Mr. President, I know that there are Senators who will disagree with the position the conferees have taken on the Guard and Reserves. Nonetheless, I stand before you and the Senate, and I say without reservation—we protected the Guard.

TITLE II: OPERATION AND MAINTENANCE

For the operation and maintenance title, various pricing and fact-of-life adjustments enabled us to take $1.8 billion out of the request. We have put this money to good use.

We have increased Army training funds by $150 million; we have enhanced readiness by providing an increase of $400 million for depot maintenance—that is repair and maintenance of equipment, long, long overdue; and we have provided a $500 million fund to meet the requirements for facilities maintenance at Army, Navy, and Air Force installations.

Under the O&M title, we have also provided funds to really begin the environmental cleanup of our Nation's defense installations, we provide $1.2 billion, not just for studies and research but for cleaning up the mess left behind by a century of neglect. In this regard, we also provide $105 million in Navy operation and maintenance funding to support Navy operations and to help clean up environmental pollution in Antarctica.

The bill also addresses Coast Guard operations. We provide $189 million in support of Coast Guard drug interdiction and defense related operations.

TITLE III: PROCUREMENT

Mr. President, the bill which the committee has recommended makes a prudent investment in the military hardware and related equipment necessary to preserve a strong defense establishment.

NAVY

For the Navy, we provide funds for 1 SSN-21 *Seawolf* attack submarine, 5 DDG-51 Aegis destroyers, 3 MHC Minehunters and 24 of the LCAC landing craft.

Mr. President, it is clear that our Nation needs to revitalize its fleet of attack submarines. The committee is concerned, however, that the *Seawolf*—the SSN-21 class—may be too expensive. Under current plans, only one per year is to be constructed. At one submarine per year, we can never sustain our goal of 60 or 70 submarines. Therefore, the Navy is now starting to look at a follow-on to the *Seawolf*, the SSN-21, the so-called *Centurion*. At this juncture I think it is well for us to note that while we are providing funds for one submarine, the Soviet Union, with all its economic ills and problems, will be providing funds for nine submarines.

Therefore, the Navy is now starting to look at a follow-on, as I said, to the SSN-21, the so-called *Centurion*. The committee has provided advance procurement funds for submarine construction, but has withheld the obligation of these funds until the Secretary of the Navy reports on his review of the submarine program and his determination as to where the future lies—with the *Centurion*, or some other submarine.

We address the problems of Navy air by funding procurement of 39 F/A-18 aircraft. We also provide substantial amounts in R&D funding for an advanced version of the F/A 18, the E/F version.

ARMY

For the Army, we are recommending the procurement of a new training helicopter—it will save money to buy rather than lease a new training helicopter, and we recommended procurement of 47 additional UH-60 Blackhawk utility helicopters. We also fund 24 AHIP helicopters, as authorized.

A number of Members have expressed an interest in the MLRS rocket. We recommend funding of 36,000 rockets and 44 launchers. This year, in addition to procurement for the Regular Army, we are recommending the appropriation of $110 million for procurement of MLRS for the National Guard. This amount was not requested, but I believe the Guard can and should take on additional roles in the future of our Nation's defense.

We provide additional funding to meet the increased cost of procurement of the 60 M1A2 tanks funded in fiscal year 1991 and we provide funding to upgrade the M1 tank to the M1A2 tank—as you know, the M1 is the tank which did so well in the recent war in the desert. It outgunned the Russian T-72 tank and outmaneuvered it as well. In fact, the M1 outmaneuvered its own support vehicles, so, in R&D, we provide funds for support vehicles in the Armored Systems Modernization Program, while deferring development of the so-called Block III tank.

AIR FORCE

For the Air Force, we provide in excess of $1 billion for the procurement of 48 F-16 aircraft, with advance procurement for an additional 24 to be procured in fiscal year 1993.

We begin to meet the requirements for airlift by funding four C-17 air transport aircraft. The budget had requested funding for six, but the contractor has experienced delays and we believe $1.5 billion is sufficient to meet production requirements for four aircraft.

Mr. President, I know all Senators are interested in what we are proposing for the B-2. We provide the same funding levels as included in the authorization bill, a total of $2.8 billion in procurement and $1.6 billion in R&D. The fences and restrictions in the authorization bill govern the obligation of these funds.

TITLE IV: RESEARCH AND DEVELOPMENT

In the research and development accounts, we provide funding for investment in the future of America's Armed Forces. We are not unaware that defense budgets will decline—and decline sharply—in the next 3 years. Accordingly, we have been careful to avoid initiation of R&D programs which are unaffordable in the future.

NAVY

We do provide ample resources to those R&D programs which have been identified as required investments. For example, we provide $350 million for the Navy's F/A 18 E/F program. This airplane will provide the solution to the Navy's midterm problems in the area of attack aircraft.

ARMY

Under Army R&D, one of the largest expenditure's will be for the armored systems modernization program. Because of the committee's concern with the need to get on with the development of new artillery—a need which was underscored in Desert Storm, where Iraqi artillery had greater range than anything we had in the field—we have provided funds to accelerate development of the new howitzer while slowing the development of the Block III tank.

AIR FORCE

The R&D programs in the Air Force are numerous, and very costly. Nonetheless, we support them because we believe air superiority and the importance of strategic and tactical bombing was unquestionably demonstrated in the gulf war. Communications, intelligence, and control of the air over the battlefield are vital to the success of our Armed Forces.

For the Air Force, we provide: $900 million for Milstar Satellite communications; and $376 million for the C-17 transport aircraft.

We also provide: $442 million for ICBM modernization; $145 million for Titan space launch vehicles, and, $1,563 million for continued R&D on the B-2 bomber.

DEFENSE AGENCIES

It is under Defense agencies that we find the largest of the R&D programs, the strategic defense initiative. As you know, the Defense authorization bill restructures this program and provides increased emphasis on ground-based systems. As authorized, we provide $4.15 billion for the SDI Program.

CONCLUSION

Mr. President, those are the principal recommendations for funding.

As you know, the Defense appropriations bill carries a large number of general provisions—over 100—which cover a variety of subjects. I will not review all of them; most have been carried in our bill for a number of years.

Mr. President, in a recent, special briefing before the Appropriations Committee, Gen. Colin Powell, the Chairman of the Joint Chiefs of Staff, spoke frankly and candidly about his fears for the future of America's Armed Forces.

He expressed his concern that measures to keep the Guard and Reserve at current levels, or to prohibit the managed reduction of the regular force, will lead to a top heavy structure of aging military personnel.

He expressed his concern that reductions in procurement and research and development could erode the qualitative edge our service men and women have on the battlefield. A qualitative edge which will grow ever more important as we reduce the number of men and women under arms.

General Powell expressed his concern that we would build a hollow force with outmoded equipment and overage soldiers.

Mr. President, we must not allow that to happen. We must manage reductions in force levels and defense spending. We all know these reductions will come over the next several years. We, on the Defense Appropriations Subcommittee have begun to make them.

Mr. President, that concludes my remarks. I am pleased to yield the floor to my distinguished colleague, my dear friend whose wisdom and humor have made my life much easier and my work more productive, the senior Senator from Alaska, TED STEVENS, the ranking minority member of the Subcommittee on Defense Appropriations.

Mr. President, I yield the floor at this moment.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am grateful to my good friend from Hawaii. It is difficult to keep one's good humor in dealing with this bill but I think we should try to do that today.

Let me start off briefly with just a couple of comments. I yield myself 5 minutes, Mr. President, and I yield my good friend, the distinguished Senator from Arizona [Mr. MCCAIN] 20 minutes, and reserve the remainder of the time for later comments today.

The Senate, in its wisdom, has divided jurisdiction over this subject between two entities of the Senate: One, the Senate Armed Services Committee, which has some 50 staff; the other is the Defense Appropriations Subcommittee, chaired by my good friend from Hawaii. I was the chairman of this subcommittee for 6 years, and we have worked together for some 20 years.

We have 10 staff on the majority side. They are basically nonpartisan. And I have one professional assistant on this subcommittee, Mr. Cortese, who sits beside me. We have a total, in other words, of 14, of our administrative staff, 14 working with us, and there are

VOL 137 PT 23 NO 21—25 1991 UMI

50 working with the Armed Services Committee.

We are going to witness today a battle between the staffs, because when our bill, the Defense Appropriations Committee bill, left the Senate, it was almost tracking the defense authorization bill. The Senators who represent the Armed Services Committee and went to conference with the House on the defense authorization bill met with 102 Members of the House; some 13 Members of the Senate did that.

The bill that they brought back to the Senate, and we just approved yesterday as a conference report, was substantially different from the bill that we tried to fund with the Senate-passed appropriations bill. In conference, we tried to keep up with their conference, those of us who were on the Appropriations Committee, but it was almost impossible to do so because the changes in that bill were so rapid, so varied, and the final version, as I indicated, was very little like the original product that left the Senate.

We met as a subcommittee with the subcommittee of the House Appropriations Committee, some 13 of us, meeting with 19 other Members. There is no overlap between the Appropriations Committee or the Armed Services Committee, House or Senate. So we had to do as best we could to fashion a bill to meet the objectives of the Senate, keeping in mind the bill that we took to the conference tracked the original authorization bill but the bill they brought back here did not look like anything they took to conference themselves.

We are going to be railed against once again, and this Senator is getting a little tired of it. The authorization committee in the Senate, I will note, micromanages the Department of Defense and now they are trying to micromanage another entity of the Senate.

This conference report that is before the Senate now complies with the 602 limits for budget authority and outlays for the Department of Defense. We have funded the major items of the defense bill that was brought back by the Armed Services Committee, notwithstanding their peregrinations and notwithstanding the varied amounts in their bill as compared to the original bill.

We have, as the Senator from Hawaii has indicated, I think maintained the significant initiatives of the Armed Services Committee, including the Warner initiative on SDI, which is significantly different from the President's budget, significantly different from the recommendations of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. We maintained the progress on the new F-22 advance attack fighter for the Air Force, the E/F version of the F-18 and the V-22 for the Marine Corps, notwithstanding various disagreements in the Pentagon and in the White House and, I might add, here with some other Members of the Senate. But we have tried to track the desires of the Armed Services Committee to the maximum extent possible.

The difficulty I have with the criticisms that the Senate is going to hear today is that in trying to work out an agreement with the House Members in this conference of ours on appropriations, we had to make significant concessions on small items. They are very small items. Take, for instance, the university items before us today. I personally had over 200 letters from Members of the Senate that if we had been able to accede to their request would have totaled more than $10 billion.

We were not able to accede to all those requests, but the ones from the Armed Services Committee we did accede to, and we did get our colleagues in the House to agree to.

The interesting thing is the Armed Services Committee has forced us to fund what we call federally funded research and development centers. Those centers have increased $600 million since 1985. They spend the same kind of money as these universities that the people will complain about today. They are, in effect, consultants for the Department of Defense, and so are the universities.

I do not totally defend the process by which we end up with these universities and their allocations today, but they are equally sound to the FFRDC's, the federally funded research development companies, that spent in total $1.6 billion this year of taxpayers' money to consult with those who should be making our defense policy.

I commend to the Armed Services Committee the task of reducing that expenditure as they try to reduce the expenditures by our universities.

Mr. President, I hope to be able to respond to others, but I think we have reached an acceptable balance for 1992 with our counterparts in the House.

I particularly want to commend the chairman, Mr. MURTHA, and the ranking member, Congressman MCDADE, who have worked with us. And I again thank my good friend from Hawaii for all his patience in trying to work out this matter.

I myself had to author an amendment to delete an item that I personally first brought to the Senate 10 years ago to try and find a way to provide women in Armed Services with some form of consideration when they do have the problem of facing abortion. I had to author that amendment to delete from this bill that section in order that we might get a bill to bring back to the Senate this year because there was such stern opposition to it in the House.

That was not a pleasant duty, and I do thank those who understood the circumstance. I am sure I will have to answer to that for years to come. But this bill is an important bill. It is a bill that must continue the support for our Armed Services and, as I indicated, I look forward to the dialog today.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MCCAIN addressed the Chair.

Mr. INOUYE. Mr. President, may I yield myself just 30 seconds?

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that during consideration of this conference report, the following people, Charles Cook, John Young, and Stacy McCarthy, be granted floor privileges.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Arizona is yielded 20 minutes.

Mr. MCCAIN. Mr. President, if it is agreeable to my distinguished friend from Alaska, acting in behalf of Senator WARNER, I yield myself such time as deemed necessary from his time. Is that agreeable to the Senator from Alaska?

Mr. STEVENS. It is my understanding, Mr. President, that the Senator wanted 20 minutes of my time. I yielded that to him. He may have it if he wishes.

Mr. MCCAIN. I thank my friend from Alaska. Mr. President, let me preface my remarks with by noting the high esteem, regard, and affection which I hold for the distinguished chairman and the ranking Republican member of the Defense Appropriations Subcommittee. One of the greatest privileges that I have had serving in this body is knowing and appreciating the skills, talent, and dedication of these two individuals, and I know that they would not perceive my remarks as in any way a criticism of them.

What I am going to criticize today is a system which has become more and more flawed and more and more disgraceful. Most important, it has become a great disservice to the taxpayers of my State and this Nation.

Our current system for reviewing the defense budget cries out for reform, and at the end of my remarks, I will make several recommendations. We cannot, however, wait to reform the system. We are faced with a fiscal year 1992 Defense appropriations bill which programs over $6 billion in unauthorized and/or noncompetitive expenditures. This can be broken down into $3.3 billion in 17 accounts or $4.9 billion in 170 lines at the line-item level with all due respect to my dear friends, Senator INOUYE and Senator STEVENS, I have to register not only my feeling of strong disagreement with such waste but that of the people I represent.

I am going to vote against this bill. I am going to do so even though the bill has many strong features, many features which I was privileged to work on over the entirety of last year. Nevertheless, a point of principle is involved, and so is the interest of the American taxpayer. It is no secret that each of us is here to represent his or her constituents. It is no secret that the Congress makes a host of changes in every appropriations bill. Many of these changes are, in fact, changes that aid our national security. The defense budget is prepared and submitted to Congress nearly 10 months before we take final action.

There are many areas of controversy that need to be debated as time goes on. There are many shifts in the overall budget situation, our strategic posture, and military requirements. All of us see many lobbyists in uniform, as well as in civilian clothes. No one can object if some objections are made to suit State and local interests.

We all know that the Federal Government is anything but infallible and that small changes in the total Federal budget can have a devastating impact on a given community. We exist as a body because our Founding Fathers knew that we could only build a national consensus around the fair representation of regional interests and a concern for the people, as well as national policy.

I think it is appropriate in this context to mention that my friend from Alaska just stated the defense authorizers micromanage the defense establishment I believe that remark to be unfair. Our obligation is to ensure that the defense budget meets the Nation's needs and those of the American people, not to be act as a rubber stamp for the Pentagon or the executive branch. As an authorizing committee under the leadership of our chairman, Senator NUNN, we have for years attempted to avoid micromanagement. I admit that the criticism of the Senator from Alaska is sometimes accurate. We are not perfect. We do micromanagement from time to time. However, I would suggest that clearly, under the structure of the Senate, the authorizing committee is required to make the kind of decisions it makes in the authorization bill. I will quote the law in just a minute. But again, I repeat, I am not attacking the appropriations bill because the authorization bill is at issue. I am doing so because of its impact on public policy.

Mr. President, I believe in a strong national defense. I believe in a competitive United States. I believe in a peace dividend. In lowering taxes, and in getting the Federal deficit under control, I believe there must be sharp limits on midnight raids on the Treasury. The law is clear. And I will repeat it more than once during the course of this debate. It says:

> No funds may be appropriated for any fiscal year, or to or for the use of any armed force or obligated or expended (for procurement, R&D, etc.) unless funds therefore have been specifically authorized by law.

"Unless funds therefore have been specifically authorized by law." The Armed Services Committee also has a longstanding agreement with the appropriators that the Senate Armed Services Committee sets the ceiling for defense expenditures, and they establish the floor. We have agreed to a process of checks and balances on unnecessary defense spending where we do not reverse each other's policy decisions and no one legislates on the appropriations bill.

But, Mr. President, as I said earlier, the defense appropriations bill adds $3.3 billion in 17 accounts at the account level. It adds $4.9 billion in 170 lines at the line-item level. It legislates unnecessary spending for universities, military depots, and museums by ending a legal requirements for competition. This adds about $350 million to the total.

The bill also mandates that a single contractor—a single contractor—get a noncompetive extension of a contract for CHAMPS services worth over $1 billion. In short, we are talking about changes that total at least $6.3 billion. To my friends in Arizona, $6.3 billion is a great deal of money. I want to emphasize that some parts of this $6.3 billion may include very valuable and, indeed, justified items in them. But the fact is, the law states:

> Unless funds, therefore, have been specifically authorized by law, no funds may be appropriated for any fiscal year.

Mr. President, we cannot turn a blind eye to this kind of unnecessary spending at a time when Americans all over this country are experiencing economic hardship and uncertainty. We cannot turn a blind eye at a time when we are making massive cuts in defense spending in our forces. We live in a world where real defense spending by the Department of Defense has already been cut from $349 billion in fiscal year 1986 to $278 billion today. We live in a world where real defense spending will drop below $245 billion by the mid-1990's. We live in a recession where Americans need tax reduction and deficit reduction and honest competition to stimulate the economy.

We cannot afford to shift over $6 billion in defense funds from high-priority military needs to areas which often serve local or special interests. We cannot, after 6 straight years of cutting the defense budget, treat it as a pool of resources that neither enhances our security nor reduces the burden on the taxpayers. We cannot ignore the needs and sacrifices of our men and women in uniform.

Let me emphasize this latter point. Mr. President, one that I wrestled with—along with the chairman, the ranking member, Senator WARNER, and Senator GLENN on the Manpower and Personnel Subcommittee—is how we could properly compensate those men and women who served in the military, who volunteered for service, and who will be involuntarily separated or forced to leave military service voluntarily years before they planned to do so. This will include well over 300,000 men and women and at least some who risked their lives in Desert Storm. One of our biggest difficulties in providing such compensation was finding the funding to provide them with the benefits which they deserve and which many have risked their lives, to earn.

Frankly, Mr. President, a lot of this $6.36 billion I am talking about could better be spent on giving the American men and women who serve in our military better benefits, including pay raises in keeping with the rises in civilian salaries, which we have not done over several years.

Let me now address the issue of how this money will be spent if the Defense appropriations bill passes.

I have a long list of the detailed addons that contribute to this $6 billion figure, and I will request that they be added to my statement at the end of my remarks. Once again, I do not dispute that some are justified. I make no claim for perfection on the part of the authorizing committee, but I cannot help but touch on a few of these items. They include:

The sum of $20 million in gasoline truck engines to keep one firm alive at a time the Army has a more than 10-year surplus of such engines, and is converting to multifuel engines.

The sum of $175 million in upgrades for the F-14 whose nature is undefined, but which seem to be designed to subsidize an engine manufacturer and which will create a fourth configuration of the F-14, rather than attempt to solve the Navy's real fighter development problems.

The sum of $35.5 million for 155mm artillery rounds. This may even be a good idea. We are short on ammunition, but why 155mm rounds and not all the other shortfalls.

The sum of $8 million to subsidize a manufacturer of tactical trailer and dolly sets.

The sum of $100 million for the SSN-21 *Seawolf*—a submarine that now lacks a stand off weapon and new torpedo and whose cost seems to be climbing well above $2 billion.

The sum of $91 million for the AN/SSQ-95 sonobouy at a time when the Navy is dropping ASW from first to seventh priority.

What seems to be over $80 million for special and black programs which now seem to have black budgets.

The sum of $221 million more in black money for a classified ship air defense program.

The sum of $35 million for unspecific range improvements—which often translate into local improvements.

The sum of $356.5 million above the increase we made as authorizers for

VOL
137
PT
23
NO
21—25
1991
UMI

still more C–130's—a plane that is constantly being thrust on the National Guard without any regard for the Guard's overall priorities and the need for a modern total force concept. Further, there is another $42.6 million for C–130 modifications.

Mr. President, the fact is that the law says that these grants to universities will be competed for on a merit basis. We have seen this earmarking grow and grow and grow over the years. We have to return to fair competition for these universities. Otherwise, it will be difficult for me and any other Member of Congress to tell the universities in my State to go ahead and compete if the money is going to be awarded on a noncompetitive basis.

The sum of $600 million more for sealift, where we already have $1.275 billion waiting to fund a program that does not yet have any obligations.

The sum of $238 million for LCAC landing craft, to double the number from 12 to 24, although the Authorization Act questioned the need for 12 and the appropriations bill does not fund an LSD–49 call amphibious landing ship that was both requested and authorized.

The sum of $149 million for a TAGOS ocean surveillance ship which cannot actually fund a full ship, and in spite of the fact the same manufacturer is likely to have to submit claims and cost overruns for the first two ships.

The sum of $60 million for a field artillery ammunition vehicle that the Army does not want, and that will keep a single manufacturer in business.

The sum of $114 million in university set-asides that subsidize certain schools without any competition, without any concern for academic excellence, and without any concern for the taxpayer—often making gifts of $10 to $29 million of the taxpayer's money to a given school.

The sum of $146 million in other institutional set-asides, including $37 million for the Letterman Army Hospital at the Presidio, and $22 million for a single public school at Fort Irwin. Incidentally, some people have already asked if their children will be eligible for a $22 million public school. They might even settle for the $10 million school at Fort Bragg.

These set-asides include $25 million for an Arctic region supercomputer. Further, there is another unexplained $60 million add-on for supercomputers elsewhere in the bill—total procurement—Defense agencies. All the universities in my State want one too. They, however, are trying to get one the old-fashioned way. They are trying to compete for one. Then we have a $11 million, I believe, in museums.

I think museums are an enormous contribution to our culture, to our heritage and our appreciation of the service and sacrifice of our men and women who have served in the military. But we face critical fiscal constraints. Is it justified to spend $11.7 million for a military museum? I think it is a legitimate question.

The sum of $55 million to satisfy a private manufacturer's claim for cost overruns on TAGS 39/40 ships built during 1989 and 1990 that it could never get through the law. Let me take a moment to discuss this claim in more detail. As a result of actions whose source and nature is not clear to me, the defense appropriations bill would provide $55 million to a single firm, the Baltimore Marine Division of Bethlehem Steel for cost overruns on two TAGS 39-class ocean surveying ships. This $55 million would be given to Bethlehem Steel even though the taxpayers have already paid $196.7 million for these ships. It would be given although the Department of Defense did not request it, although the money is not authorized, and although the money was not included in the House or Senate defense appropriations bills.

The $55 million of the taxpayers' money would be given away although none of the merits claimed have been decided by the proper courts and boards, and such claims are pending. Bethlehem Steel has already filed requests for equitable adjustments with the Navy, requested extraordinary relief from the Secretary of the Navy, and filed suit in the U.S. claims court.

If this is the kind of precedent we are going to follow, does that mean that we provide $3.1 billion to meet the claims of McDonnell Douglas and General Dynamics for overruns on the A–12? Do we give Lockheed $400 million for its claim on the P–7? Do we give Grumman its claims for its entitlements on stock options? Do we give Peterson Builders its claim on the mine countermeasure ships? Do we give McDonnell Douglas another $200 million for its claims on the C–17?

Why should we bypass every normal claim in court and legislative procedure for one firm and not another? We need peace dividends, we need defense, not waste. We need to give Americans a fair chance to compete, not special interest subsidies.

In fact, let me point out that few States will really benefit from this kind of unnecessary spending. Any given item may seem attractive, but each takes away money from the competitive and efficient. Each adds money to one part of a State, but usually at the cost of taking taxpayers' dollars from another. Each deprives those who compete of their just reward, and each encourages those who politick.

Mr. President, that is why I support my colleagues in the Senate Armed Services Committee so strongly in voting against this bill.

I understand that the Senate will probably pass this bill, although I will urge my colleagues to defeat it. If it does, I hope that the President will veto it. If the President does not veto it, I will urge the Secretary of Defense to seek rescissions on every expenditure that he feels is not necessary whether they are in the appropriations bill or the authorization bill.

Mr. President, I hope that at some point in time we can reform this process and comply with our own laws. There has been a great deal of criticism from time to time about the members of the executive branch, and justified criticism, and certain actions taken against individuals who have failed to obey the law. We too, however, are clearly at blame. We are concentrating on 1-year or line item or input expenditures. We are failing to look at strategic requirements, the needs of given roles and missions, and the need for long-term stability in creating cost-effective programs. We are ending this year's budget cycle with more than $6.3 billion in unauthorized expenditures. Expenditures that cry out for a line-item veto. This is a legislative initiative I have strongly pursued in the past, and which this bill indicates is a vital necessity. It is an initiative that I will pursue in the future.

It is my understanding, Mr. President, and I would be glad to be educated by my more informed colleagues, that the law regarding these expenditures is very clear: No funds may be appropriated for any fiscal year to or for the use of the Armed Forces or obligated or expended unless funds therefore have been specifically authorized by law.

Let me conclude by saying that I do appreciate the outstanding and dedicated work of the members of the Appropriations Committee. I want to state again that some of the areas that I have remarked upon as being unnecessary or unauthorized spending may prove to be fully justified. But the fact is that they were not authorized, and they involve very large sums of money. I think that it is time that we look at the budget review system. It has clearly gotten out of hand, particularly given the coming cuts in the defense budget. We are going to have to make more and more difficult decisions and more and more cuts. We need a system that gives priority first to our national security requirements and, second, to the men and women who man the military.

Mr. President, I ask unanimous consent that the aforementioned list of detailed add-ons be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Unappropriated authorizations

	Millions
9 F–18 aircraft	202
4 F–117 aircraft	560
21 Trident II missiles	140
1 LSD–41 amphibious ship	245
6 MX test missiles	255
SICBM	115
Precompetitive technology	40
Critical technology centers	50
Manuf. extension program	50
13 UH–60 helicopters	83
9 HH–60 helicopters	165
Standard missiles	83
Marine Corps MLRS	95
F–18 R&D	64
Advanced cruise missile R&D	80
Balanced technology initiative	35

Unauthorized appropriations account levels

O&M, Navy Reserve	0.9
O&M, Marine Corps Reserve	.8
O&M, Army National Guard	1.0
O&M, Air National Guard	5.0
Rifle practice	1.0
Humanitarian assistance	2.0
Drug interdiction	30.0
Weapons and Tracked combat vehicles	103.8
Army ammunition	6.7
Shipbuilding	787.5
Missile procurement, Air Force	30.6
Procurement, Defense agencies	11.8
Guard and Reserve equipment	816.7
Coast Guard	188.7
Corporate information management	710.3
Mount Pinatubo claims	150.0
Real property maintenance	500.0
Account subtotal	3,346.8
O&M, Defense agencies	7,755.4

Earmarks in fiscal year 1992 DOD appropriations bill/report

	Millions
University set-asides:	
Prostate research at Walter Reed	2.0
Neuroscience R&D at Louisiana State	10.0
Marywood College, PA	10.0
University of Texas at Austin	6.0
Northeastern University	6.0
Texas Regional Institute for Environ. R&D	5.0
Kansas State University	7.7
University of Wisconsin	1.6
Boston University	29.0
Medical College of Ohio	.25
University of South Carolina	.5
George Mason University	.75
Monmouth College, NJ	2.3
University of Minnesota	10.0
University of St. Thomas, MN	.5
Brandeis University	2.0
New Mexico State University	3.0
Penn State University	5.0
Illinois Institute of Technology	2.0
Monterey Institute for International Studies	6.8
St. Francis College, PA	2.5
Oregon Graduate Institute, HDTV research	1.3
Subtotal	114.2

Earmarks in fiscal year 1992 DOD appropriations bill/report

	Millions
Other institutional set-asides:	
National Center for Manuf. Sciences	30.0
U.S.-U.S.S.R. Joint seismic research	5.7
Mississippi Resource Development Corp	1.0
Letterman Army Hospital, Presidio, CA	37.0
Maryland Hospital Association	.3
Fort Irwin public school construction	22.0
Fort Bragg public school construction	10.0
Post traumatic stress centers, Pennsylvania and Hawaii	0.6
National Biomedical Research Foundation	10.0
Army Environmental Policy Institute	4.5
Arctic regional supercomputer	25.0
Subtotal	145.1
Museums:	
Naval Undersea Museum, Keyport, WA	2.1
National D-Day Museum Foundation	4.0
Airborne and SOF Museum Foundation	4.0
Restoration of U.S.S. *Blueblack*, Oregon	1.6
U.S.S. *Bennington* transportation to Vermont	
Subtotal	11.7

Unauthorized programs

	Millions
Bradley advance procurement	50
Field artillery ammo. vehicle	60
F–14 upgrades	175
AV–8B modifications	40
Slam missile	130
Tagos surtass ship	149
Tags 39/40 (ship claim)	55
Sealift	600
LCACS	238
Army truck engines	20

SASC sub	Line	PE	Program	Amended fiscal year 1992 request	Conference: Change to request	Conference: Authorized	Appropriation Conference versus Request	Fiscal year 1992 Appropriation Conference	Unauthorized appropriation
D	2	61102A	Defense research sciences	179,363		179,363	11,500	190,863	11,500
D	21	62720A	Environmental quality technology	18,984	10,000	28,984	10,750	29,734	750
D	27	62786A	Logistics technology	31,552		31,552	2,800	34,352	2,800
D			Simulation facility				8,000	8,000	8,000
	30A		MPIM technology				7,000	7,000	7,000
D	32	63002A	Medical advanced technology	22,245	1,500	23,745	4,500	26,745	3,000
D			Laser burn treatment				1,000	1,000	1,000
D			Prostate disease research				2,000	2,000	2,000
D			Breast cancer research				25,000	25,000	25,000
D	34	63004A	Weapons and munitions advanced tech	40,865	8,500	49,365	15,000	55,865	6,500
C	49	63322A	Tractor cage	20,966		20,966	4,000	24,966	4,000
	59b		Multi-purpose weapon				6,000	6,000	6,000
C	71	63713A	Army data distribution system	19,534		19,534	3,000	22,534	3,000
C	77	63757A	Forward area air defense (FAAD) system	97,387		97,387	10,000	107,387	10,000
C	81	63801A	Aviation—Adv dev	13,828		13,828	1,100	14,928	1,100
C	85	63805A	Combat service support computer system	24,635		24,635	4,000	28,635	4,000
C	95	64270A	EW development		(7,000)		(53,537)		46,537
C	96	64321A	Joint Tactical Fusion Program	130,775	−21,500	109,275	−15,500	115,275	6,000
C	114	64746A	Automatic test equipment development	11,232		11,232	7,000	18,232	7,000
C	119	64769A	Tractor helm	66,973	35,000	101,973	36,400	103,373	1,400
C	122	64801A	Aviation—eng dev	12,517		12,517	1,500	14,017	1,500
C	132	64813A	Tractor pull	16,762	−16,762			16,762	16,762
C	150	23801A	Missile/air defense product improvement	53,042		53,042	5,000	58,042	5,000
		Total R.D.T & E Army							179,849
D	27	63712N	Generic logistics R&D technology demons	13,829		13,829	600	14,429	600
S	33	63794N	C3 Advanced technology	1,373		1,373	15,000	16,373	15,000
C	55	63231N	Navy advanced tactical fighter				2,000	2,000	2,000
P	67	63504N	Advanced submarine ASW development	31,232		31,232	9,000	40,232	9,000
P	69	63512N	Shipboard aviation systems	11,440		11,440	4,400	15,840	4,400
P	92	63612M	Marine Corps mine/countermeasures sys-adv d				16,800	16,800	16,800
P			Ship self defense				221,000	221,000	221,000
P	124	64212N	Lamps	30,215		30,215	4,000	34,215	4,000
P	129	64219N	Airborne ASW developments	25,843	−17,533	8,310	−6,000	19,843	11,533
P	130	64221N	P–3 Modernization Program	41,144	17,603	58,747	41,500	82,644	23,897
P	149	64367N	Tomahawk	28,815		28,815	4,000	32,815	4,000
P	158	64507N	Navy standard signal processors	9,266		9,266	11,100	20,366	11,100
P	163	64524N	Submarine combat system	270,272	−27,300	242,972	−3,000	267,272	24,300
P			Centurion				23,000	23,000	3,000
C	172	64603N	Unguided conventional air-launched wpns	8,389		8,389	2,400	10,789	2,400
P	194	64704N	Fixed distributed system—eng	229,154	−20,000	209,154	9,069	238,223	29,069
P	202	24229N	Surface Combatant ordnance and missiles	28,428	−1,200	27,228		28,428	1,200
P	203	24311N	Undersea surveillance systems	72,594	−3,700	68,894		72,594	3,700
P	204	24313N	Ship-towed array surveillance systems	17,622		17,622	6,300	23,922	6,300
C			Improved tactical air-launched decoy				17,000	17,000	17,000
S			Laser communications				10,000	10,000	10,000
S	999		Intelligence and communications classified	678,821	16,335	695,156	16,815	695,636	480
D			Total R,D,T & E Navy						420,779
D	33	63401F	Advanced spacecraft technology	17,914	5,000	22,914	10,000	27,914	5,000

VOL 137 PT 23 NO 21—25 1991 UMI

SASC sub	Line	PE	Program	Amended fiscal year 1992 request	Conference: Change to request	Conference: Authorized	Appropriation Conference versus Request	Fiscal year 1992 Appropriation Conference	Unauthorized appropriation
D	37	63605F	Advanced weapons technology	57,152		57,152	4,400	61,552	4,400
D	39	63723F	Civil and environmental engineering tech	12,036		12,036	1,000	13,036	1,000
S	50	64240F	B-2 advanced technology bomber	1,563,072	−200	1,562,872		1,563,072	200
S	69	12424F	Spacetrack	20,124		20,124	14,500	34,624	14,500
C	92	64218F	Engine Model Derivative program (EMDP)	1,022		1,022	3,000	4,022	3,000
C	106	64270F	EW development	215,221	−17,250	197,971	−15,150	200,071	2,100
S	106a		B-1B RWR		−9,800	−9,800			9,800
C	108	64327F	Hardened target munitions	7,183		7,183	6,000	13,183	6,000
C	120	64740F	Computer resources management technology	8,419		8,419	9,000	17,419	9,000
S	194	64408F	Advanced launch system	147,744	−97,744	50,000	−92,744	55,000	5,000
D	209	65894F	Real property maintenance—RD&E	105,123	−4,000	101,123	−2,000	103,123	2,000
S	215	35!44F	Titan space launch vehicles	143,915		143,915	1,500	145,415	1,500
			Excimer laser				15,000	15,000	15,000
			Total R,D,T & E Air Force						78,500
D	1	61101E	Defense research sciences	88,290	12,800	101,090	25,300	113,590	12,500
D			Military nursing research				1,000	1,000	1,000
D	3	61103D	University research initiatives	87,373	95,000	182,373	138,600	225,973	43,600
D	7	62109H	Superconductive magnetic energy storage		20,000	20,000	40,000	40,000	20,000
D	10	62227D	Medical free electron laser	20,000		20,000	3,600	23,600	3,600
D	12	62702E	Tactical technology	117,900	3,000	120,900	9,000	126,900	6,000
D	15	62712E	Materials and electronics technology	62,036	81,000	143,036	125,500	187,536	44,500
P	32	63569E	Advanced submarine technology		45,000	45,000	75,000	75,000	30,000
S	58	63741D	Air defense initiative	273,000	−109,000	164,000	−66,000	207,000	43,000
S	66	63710D	Classified Program—C31	5,300		5,300	5,000	10,300	5,000
C	68	63715D	AIM-9 Consolidated program	43,781		43,781	18,558	62,339	18,558
C	73	21135K	Cinc C2 initiatives				1,803	1,803	1,803
C			Mobile offshore base		1,000	1,000	3,000	3,000	2,000
P	79	1160404BB	Special operations tactical systems dev	194,290	12,800	207,090	14,000	208,290	1,200
S	92	35159I	Defense reconnaissance support activ	52,876	22,000	74,876	30,000	82,876	8,000
S	999		Intell & communications classified	1,226,759	44,406	1,271,165	48,941	1,275,700	4,535
D	99b		FCIMS programs		21,500	21,500	27,000	27,000	5,500
D	111	65116D	General support to C3I				15,000	15,000	15,000
			Total R,D,T & E Defense agencies						265,796
D	1	64940D	Central test & eval investment develop	125,527	−35,600	89,927	−32,200	93,327	3,400
			Total developmental test						3,400
			Total RDT&E						948,324

SASC sub	P-1 line	Item	Amended fiscal year 1992 request		Conference change to request		Conference fiscal year 1992 authorization		Appropriations Conference 1992 +/− Req	Appropriations Conference 1992 amount	Unauthorized programs
			Quantity	Amount	Quantity	Amount	Quantity	Amount			
C		C-23 MODS							8,000	8,000	8,000
C		External fuel tanks							5,000	5,000	5,000
C	34	Aircraft survivability equipment		48,035				48,035	1,500	49,535	1,500
		Total aircraft procurement Army		1,667,700		115,900		1,783,600	25,100	1,692,800	14,500
C	2	Bradley advance proc (CY)							50,000	50,000	50,000
	7a	FAASV							60,000	60,000	60,000
C	19	Production base support (TCV-WICV)		73,287		−10,300		62,987	−7,287	66,000	3,013
C	24	Grenade launcher, auto, 40MM, MK19-3			1,066	16,600	1,066	16,600	17,600	17,600	1,000
		Total procurement of W&TCV, Army		839,100		168,200		1,007,300	271,996	1,111,096	114,013
R	35	Proj, Arty, 155MM, HE, M107							35,500	35,500	35,500
R	44	Fuze, artillery, elec time, M762				20,500		20,500	22,000	22,000	1,500
		Total ammunition Army		1,249,800		112,600		1,362,400	119,280	1,369,080	37,000
C	1	Tactical trailers/dolly sets		8,311				8,311	25,000	33,311	25,000
C	42	Eac communications		27,574				27,574	13,200	40,774	13,200
C	43	Mod of IN-SVC equip (EAC COMM)		16,209		−4,000		12,209		16,209	4,000
C	103	Integrated family of test equip (IFTE)		48,048				48,048	14,000	62,048	14,000
C	111	Production base support (C-E)		1,000				1,000	11,500	12,500	11,500
C	158	Medical support equipment		84,893				84,893	5,000	89,893	5,000
		Total other procurement Army		3,163,800		−81,999		3,081,801	−100,001	3,063,799	72,700
C	3	EA-6B/REMFG (electronic warfare) prowler		98,434		−5,000		93,434		98,434	5,000
P	5	AV-8B (V/STOL) harrier PY savings				−40,000		−40,000	40,000	40,000	80,000
C	21	E-2C (early warning) Hawkeye	6	500,908		−30,000	6	470,908		500,908	30,000
C	30	A-6 series		5,485				5,485	16,000	21,485	16,000
C	35	F-14 series		53,562				53,562	175,000	228,562	175,000
P	44	H-1 series		118,201				118,201	15,000	133,201	15,000
P	45	H-2 series		108,202				108,202	8,000	116,202	8,000
C	59	Common ECM equipment		101,414				101,414	18,000	119,414	18,000
C	63a	Common ground equipment PY savings				−38,000		−38,000			38,000
		Total aircraft procurement, Navy		7,114,800		−25,000		7,089,800	−166,180	6,948,620	385,000
C	8	Harpoon/SLAM		37,803				37,803	130,000	167,803	130,000
C		Rockeye PIP		37,803					4,000	4,000	4,000
		Total weapons procurement, Navy		4,581,300		139,560		4,720,860	−18,679	4,562,621	134,000
P	5	SSN-21	1	1,527,725		−100,000	1	427,725		1,527,725	100,000
P	17	Tagos surtass ships							149,000	149,000	149,000
P		Tags 39/40							55,000	55,000	55,000
P	21	Sealift							600,000	600,000	600,000
P	22	Service craft		15,468				15,468	20,000	35,468	20,000
P	24	LCAC landing craft	12	265,902			12	265,902	238,098	504,000	238,098
		Total shipbuilding and conversion, Navy		8,493,200		−127,410		8,365,790	660,087	9,153,287	1,162,098
P	40	Standard boats	326	19,940			326	19,940	2,000	21,940	2,000
P	47	Modernization support		786,159				786,159	93,000	879,159	93,000
P	49	AN/SPS-48		20,354				20,354	24,250	44,604	24,250

SASC sub	P-1 line	Item	Amended fiscal year 1992 request		Conference change to request		Conference fiscal year 1992 authorization		Appropriations Conference 1992 +/− Req	Appropriations Conference 1992 amount	Unauthorized programs
			Quantity	Amount	Quantity	Amount	Quantity	Amount			
P		Enhanced modular signal processor							91,200	91,200	91,200
P	74	AN/SSQ-95							12,000	12,000	12,000
C	190	Meteorological equipment		33,008		−3,400		29,608	−2,200	30,808	1,200
P	248	Amphibious equipment		86,049				86,049	6,000	92,000	6,000
		Total other procurement, Navy		6,471,200		21,155		6,492,355	−38,737	6,432,463	229,650
R	16	155MM HE ADAM		40,200				40,200	40,200	80,400	40,200
P	48	TOW							30,000	30,000	30,000
P	65	Tactical air oper module (TAOM)							27,000	27,000	27,000
		Total procurement, Marine Corps		1,039,400		85,237		1,124,637	40,551	1,079,951	97,200
C	5	F-15 E		169,657				169,657	335,300	504,957	335,300
P	12	C-17 advance procurement (CY)		222,424		−100,000		122,424	−50,000	172,424	50,000
P	14	C-130H	8	245,479			8	245,479	44,521	290,000	44,521
		LC-130H							92,000	92,000	92,000
C	30	F-15		294,537				294,537	2,500	297,037	2,500
C	31	F-16		250,985				250,985	3,000	253,985	3,000
C	63	Classified projects		56,254		−10,392		45,862	12,000	68,254	22,392
R	66	APAF spares and repair parts		984,465		−387,500		596,965	−380,500	603,965	7,000
C	70	Other production charges		445,331		101,720		547,051	102,419	547,750	699
R		OBOF deny milcon capital budget				−1,200		−1,200	3,500	3,500	4,700
		Total aircraft procurement, Air Force		11,115,500		−478,569		10,636,931	−703,150	10,412,350	562,112
C	11a	AGM-65D Maverick PY savings				−100,000		−100,000			100,000
S	46	Special programs		2,419,740		−239,400		2,180,340	−189,400	2,230,340	50,000
C	999	Classified programs		32,594				32,594	9,806	42,400	9,806
		Total missile procurement, Air Force		5,600,000		−395,117		5,204,883	−364,550	5,235,450	159,806
R	13	MK-87 Inert/BDU-50							13,800	13,800	13,800
C	100	Air traffic ctrl/land sys (Atcals)		14,135		−14,135				14,135	14,135
C	129	Range improvements		51,665				51,665	35,000	86,665	35,000
C	151	TV equipment (AFRIV)		4,047				4,047	500	4,547	500
C	175	Base procured equipment		33,485				33,485	2,500	35,985	2,500
S	187	Intelligence production activity		62,888		−29,086		33,802	−28,369	34,519	717
		Total other procurement, Air Force		8,058,100		135,909		8,194,009	10,004	8,068,104	66,652
R	23	Other major equipment, DLA							10,000	10,000	10,000
S	999	Classified programs		465,965		86,520		552,485	95,727	561,592	9,207
S		Classified program							15,400	15,400	15,400
C		Joint simulation office-PY savings				−60,000		−60,000			60,000
		Supercomputers							42,000	42,000	42,000
P	45	C-130 modifications		101,663		12,900		114,563	55,500	157,163	42,600
P	51	Patrol boat, coastal		2,605				2,605	1,600	4,205	1,600
P	67	Classified programs		124,264				124,264	4,999	129,263	4,999
		Total procurement, defense agencies		2,089,600		149,429		2,239,029	161,226	2,250,826	185,806
C	2	Communications electronics							15,000	15,000	15,000
P	8	Miscellaneous equipment				10,000		10,000	15,000	15,000	15,000
P	9	AN-SQT-1 trainers							10,000	10,000	10,000
P		C-130T							114,000	114,000	114,000
P	13	HH-60H upgrade kits							45,000	45,000	45,000
P		MIUW vans							15,000	15,000	15,000
		P-3 upgrades							20,000	20,000	20,000
P	21	KC-130T aircraft							67,000	67,000	67,000
P	22	AH-1W Cobra aircraft							71,000	71,000	71,000
C	25	C-130 aircraft			8	200,000	8	200,000	348,000	348,000	148,000
C	43	C-26 aircraft							3,000	3,000	3,000
C	45	MLRS rockets							48,000	48,000	48,000
C	47	Communications electronics							15,000	15,000	15,000
C	47a	Squad engagement training devices							10,000	10,000	10,000
		Sincgars radios							35,000	35,000	35,000
C	TCT upgrade								8,200	8,200	8,200
C	AH-1 MODS C-nite								15,000	15,000	15,000
C	50	C-130 aircraft			12	309,800	12	309,800	337,300	337,300	27,500
C	53	C-26 aircraft							18,000	18,000	18,000
C	54	MH-60G helicopters							35,000	35,000	35,000
C	62	TAC air control improvements/MCE				50,000		50,000	95,000	95,000	45,000
		Total Guard and Reserve									769,700
		Total procurement									3,990,237

Earmarks in fiscal year 1992 DOD appropriations conference report

[Total: $335,000,000]

University Set-Asides:	
In bill language:	
Walter Reed Army Institute of Medical Research, Center for Prostate Research	2.0
Louisiana State University, Neuroscience Center of Excellence	10.0
Marywood College, PA	10.0
University of Texas at Austin	6.0
Northeastern University	6.0
Texas Regional Institute for Environmental Studies	5.0

Earmarks in fiscal year 1992 DOD appropriations conference report—Continued

[Total: $335,000,000]

Kansas State University	7.7
University of Wisconsin	1.6
Boston University	29.0
Medical College of Ohio	.25
University of South Carolina	.5
George Mason University	.75
Monmouth College, NJ	2.3
University of Minnesota	10.0
University of St. Thomas, MN	.5
Brandeis University	2.0

Earmarks in fiscal year 1992 DOD appropriations conference report—Continued

[Total: $335,000,000]

New Mexico State University	3.0
In statement of managers:	
Pennsylvania State University	5.0
Illinois Institute of Technology, Instrumental Factory for Gears	2.0
Monterey Institute of International Studies	6.8
St. Francis College, PA, Physician Assistant Program	2.5
Oregon Graduate Institute, HDTV Research	1.3

VOL 137 PT 23 NO 21—25 1991 UMI

Earmarks in fiscal year 1992 DOD appropriations conference report—Continued

[Total: $335,000,000]

Other Institutional Set-Asides:	
National Center for Manufacturing Sciences	30.0
Incorporated Research Institutions for Seismology, U.S.-U.S.S.R. Joint Seismic Research	5.7
Mississippi Resource Development Corp. National Center for Physical Acoustics	1.0
Letterman Army Hospital, Presidio, CA	37.0
Maryland Hospital Association, health care demonstration project	.3
Silver Valley Public School District, CA public school construction at Fort Irwin	22.0
Cumberland City School District, NC public school construction at Fort Bragg	10.0
2 post-traumatic stress disorder treatment centers, Hawaii and Pennsylvania	.6
National Biomedical Research Foundation	10.0
Army Environmental Policy Institute	4.5
Museums:	
Naval Undersea Museum Foundation, Keyport, WA	2.1
National D-Day Museum Foundation	4.0
Airborne and Special Ops Museum Foundation	4.0
Oregon Museum of Science and Technology, restoration of U.S.S. Blueblack	1.6
U.S.S. Bennington "accoutrements", transportation from China Lake to Vermont	(?)
Other Set-Asides:	
Memorial Day celebration	.35
Capitol Fourth project	.35
Oregon Department of Economic Development (chemical decontamination around Umatillo)	.35
Nye County, NV (economic assistance following F-177 move out of Tonapeh)	1.0
Charleston Harbor management plan (economic assistance)	.5
Kaneohe, HI, stock enhancement	.75
Arctic region supercomputer	25.0
Manhattan, KS, airport study	.25
Inventory of DOD-owned property in Hawaii	.75
Memphis Naval Complex, TN, facilities restoration	(?)
Forth Riley, KS, railyard work	6.8
Reintemments in Hawaii	.3
Forth Bragg, NC, mental health care demonstration project	14.0
Babcock and Wilcox, PA, to clean up submarine facility	30.0
National Presto Industries, WI, cleanup	7.0
Sunflower, KS, ammo plant cleanup	10.0
Possible Set-Aside:	
Space launch reimbursement (Amount No. 200)	20.0

Mr. McCAIN. Mr. President, I yield the remainder of my time.

Mr. STEVENS addressed the Chair.

Mr. McCAIN. I thank my friend from Alaska for allowing me this time from his allotted time.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself whatever time I use.

My comments to my friends are with regard to the university competitions. There are no competitions for federally funded research development corporations. Those are specified, authorized by the Armed Services without regard to competition.

Second, the Armed Services Committee included $560 million to restart production of the F-117, the stealth fighter, notwithstanding that it was not requested.

The Air Force specifically came to us, Senator INOUYE and me, and asked our committee not to fund that initiative in conference. It was unneeded and a waste of defense funds.

As far as the TAGS vessel, those funds are available in this bill subject to the determination of the Secretary of the Navy that the claims are justified. We have not funded unjustified claims.

I really find the great difficulty I have with the comments of my friend from Arizona is that most of the items the Senator has mentioned are items that came to our subcommittee from members of the Armed Services Committee while we were in conference. They were requested from us. We could not tell whether they were authorized in the Armed Services bill or whether they were personal requests of the member. We proceed to fund them to the extent of our ability. Now we are being lashed for having done so.

I think the procedure is wrong. I would remind the Senate that in 1984 I suggested that the Armed Services Committee become the subcommittee for the Appropriations Committee for the purpose of dealing with this bill. The Senate refused to do that.

As long as we have to deal with different Members of the House, to try to accommodate the wishes of the Senate, we cannot come up with a bill that goes to the keynote fashioned by the Armed Services Committee. Furthermore, Mr. President, I am compelled to say I would not want to fund the keyhole fashion by the Armed Services Committee. They have not been, in my judgment, other than micromanaging the bill.

I intend to bring before the Senate today sometime the 1991 authorization bill and the 1991 authorization bill report, which would fit easily into the palm of my hand.

And then let us take the one from this year, the authorization bill and the report that accompanied it, and then the report that accompanies the conference report on the Armed Services Committee—they weigh 10 pounds. The Armed Services Committee is not only micromanaging the bill, the Department of Defense, but as I said before, they are trying to micromanage the appropriations process; every single nut and bolt that the Department of Defense must buy this year is line itemed now in the authorization bill.

If we deviate one single speck from it, those 50 staff members over in the Armed Services Committee are running out and telling somebody in the press that we are spending money that is not authorized.

This process cannot work in that way. I hope that perhaps the Armed Services Committee would agree that next year they will work with the same number of staff we work with, which is 14. If they did, that is one more than on both of our committees. The Armed Services Committee has 13. We have 13. Why do we need 50 staff members wandering around there causing trouble all of the time? If they had just 13 or 14, I think this issue would not come up every year.

I reserve the remainder of my time.

THE REGIONAL CENTER FOR SOFTWARE ENGINEERING, MANUFACTURED AND MANAGEMENT TECHNOLOGY

Mr. DURENBERGER. Mr. President, I want to bring to my colleagues' attention an important initiative which has been developed by an institution of higher education in St. Paul, MN. The University of St. Thomas has developed an innovative proposal—the Regional Center for Software Engineering, Manufacturing and Management Technology—to assist the Department of Defense in enhancing national security and domestic industrial competitiveness through the development and transfer of critical technologies to American industry.

According to both a May 1991 Department of Defense "Critical Technologies Plan" and a March 1991 report compiled by the National Critical Technologies Panel [NCTP]:

> Because of the pervasive nature of (critical) technologies, the strong international and technological challenges faced by U.S. producers in this technology area tend to cascade throughout the economy, * * * (Additionally), [m]aintaining state-of-the-art capabilities in information technologies will, without question, determine the economic performance of increasing numbers of segments of the U.S. manufacturing and service sectors.

To achieve the dual goals of ensuring our national security and economic competitiveness, attention needs to be directed to improving technology transfer, the transformation of theoretical advances into practical and applied technologies. Addressing this need is the underlying premise supporting the proposal for the center. Specifically, the center will concentrate on applied research and computing technology, with a primary focus on software engineering, manufacturing systems engineering and management of technology-intensive operations and organizations. It is this technology that ultimately defines sophisticated defense weapons systems and enables the integration and control of complex and versatile manufacturing systems.

The mission and focus of the center would provide the foundation for a partnership involving the Department of Defense, the university and industry. It would also provide an important resource to those industries that have been, and will continue to be, primary contractors for our national defense. The university has strong industry ties, and its technology programs are unique among universities and colleges in the United States. Existing programs fill critical need, and Federal support for the center would allow for the expansion of those programs as well as the development of new ones.

There are two major factors which, in my opinion, reflect the university's unique capabilities to assist the Federal Government in advancing this critically important initiative. First, is the expertise of the university's faculty, the majority of whom are hired because of their demonstrated ability to relate theory to application and their heavy involvement in private sector research projects at nationally renowned corporations such as 3M, Honeywell, and Cray, which have their headquarters in Minnesota.

In addition to the expertise of its faculty, the university has extensive experience and a proven track record in developing academic programs to meet the needs of both civil- and defense-oriented corporations. The Master of Software Design and Development [MSDD], the largest graduate program in software design and development in the country, and master of Manufacturing System Engineering [MMSE] Programs in the university's graduate school of technology are highly successful because of their emphasis on applied research and their ties to high-tech industries. Currently, there are nearly 5,000 students enrolled in the university's graduate school programs.

The integration of academia and private sector expertise is a unique and essential component of the entire program. It has made it possible for MSDD students to solve real world software problems in tandem with leading researchers at national corporations. MMSE students work in the university's manufacturing research laboratory, and in corporate laboratories, to solve problems and develop ideas which will revitalize and invigorate America's manufacturing sector. These experiences provide an opportunity to improve both quality and productivity by applying in the workplace the theory learned in the classroom.

With the university's proven track record, highly trained faculty, and a dedicated student body, I believe the Regional Center for Software Engineering, Manufacturing and Management Technology provides the Department of Defense with a tremendous opportunity to strengthen both the technological capabilities and national security interests of the United States.

Mr. INOUYE. Mr. President, how much time do I have left?

The PRESIDING OFFICER (Mr. FORD). The Senator from Hawaii has remaining 20 minutes, 6 seconds.

Mr. INOUYE. I am pleased to yield 10 minutes to the president pro tempore.

Mr. BYRD. Mr. President, I commend the distinguished chairman of the Defense Subcommittee, Mr. INOUYE and the distinguished ranking member, Mr. STEVENS, for their excellent work on this mammoth bill. Under their leadership, the Defense Subcommittee has done a remarkable job of maintaining a responsible level of spending for our country's security, and at the same time, incorporating various adjustments which reflect the changing reality of the international environment.

Mr. President, the pressure to reduce defense spending, due to several key developments, is growing and will continue to mount. Three major events or trends are now at work affecting our national security requirements and the kind and level of resources which we need to dedicate to national security over the next few years.

First, the Soviet empire has crumbled, and the Soviet Union itself has disintegrated as a viable nation state. Whatever collage of political and economic entities finally emerges into some semblance of stability will not resemble the beast that has died.

Thus, the primary focus of nearly everything of consequence that we have done in the national security arena; that is, the presence of a virulent centralized adversary which threatened our survival, and challenged our basic interests, allies and friends everywhere in the world, has ceased to exist.

Thus, the international framework driving our Defense budgets, our alliances, and our worldwide network of commitments is obsolete. Nothing has yet replaced it, but the international scene will be different, hopefully less hostile, and less threatening to our country.

Second, the American economy is in very difficult shape. All major indices of economic health are in the red zone: Our basic competitiveness, savings and investment rates, trade and budget deficits, employment, and the state of our infrastructure. We must attend to our domestic needs, and shift our priorities and our resources accordingly.

Third, our allies and our former adversaries from World War II have all become healthy economic powers who can more or less take care of themselves and pursue their own interests. We rebuilt the world for half a century, and the West is strong and safe. While America will remain an international leader, the world is now more a collection of healthy Western nation states, and unhealthy and recovering Eastern former Communist nations.

The time has come, therefore, to attend to our domestic problems and reemphasize domestic priorities. Over the next couple of years, we must shift our resources toward our own country and our own people.

The defense and foreign operations budgets of the next few years must come down, but in an orderly and sensible way, so that our forces remain fit to fight, even though they will be somewhat smaller in overall size. Big new weapons systems must be curtailed, or they will gobble up most of our defense resource. We must shift our manpower toward a larger percentage of Reserve and National Guard Forces, since they are less expensive, and since we have seen a graphic demonstration of their capabilities in the sands of the Middle East during the Desert Storm operation.

All these trends have begun in the bill that is before us, and I commend the managers for their successful work in this difficult, uncertain, and rapidly changing environment.

Mr. President, this bill also contains a provision which funds the implementation of a plan proposed by the CIA for the consolidation of nearly two dozen Washington area facilities. The language of the provision is identical to that contained in the fiscal year 1992 intelligence authorization measure, and it has been included in this bill at my request.

The language pays due attention to the procedures needed for a responsible and careful selection procedure in connection with the consolidation. I fully agree with the need to have in place such procedures.

I hope that these language provisions will address the criticisms that have been leveled at the CIA and some at me personally.

I think it is important to try to answer some of the questions that have been raised over the course of the past year. This consolidation proposal was not the product of a "back-room deal." It was not developed in secrecy. It does not circumvent the proper procedures. In point of fact, the consolidation proposal is the product of nearly 5 years of planning, feasibility studies, and careful analysis on the part of the CIA and its management consultants.

The idea for a consolidation plan originated with the CIA back in 1987. The agency recognized then the drawbacks to having offices scattered in many locations. In an attempt to address concerns regarding cost, security, and efficiency, efforts were begun to look for land to accommodate relocating these offices and also to address future needs.

In late 1990, the CIA contracted with the real estate consulting firm, Legg-Mason, for the purpose of conducting a site survey and feasibility study. At that time, the Agency gave the consulting firm specific criteria, which included a 75-minute non-rush-hour commute, locations west of the Potomac River and southwest of Interstate 270, and physical needs such as access to utilities. The original survey included a slice of Jefferson County, WV. Unfortunately, Legg-Mason erroneously and unilaterally altered the CIA's criteria and, in so doing, eliminated portions of the geographic area proposed by the CIA, including West Virginia.

In putting together the survey, Legg-Mason arbitrarily changed the criteria, inadvertently, I am sure, but arbitrarily changed the criteria with respect to computing time and assumed the drive was to be made in 75 minutes during rush hours.

After realizing this mistake, the Agency then directed Legg-Mason to go back and review locations that had been wrongly eliminated by virtue of

VOL
137
PT
23
NO
21
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25
1991
UMI

the change in the criterion with respect to non-rush-hour traffic. As a result of that review, a suitable site in Jefferson County was identified and is now part of the CIA proposal.

The consolidation will affect CIA employees in two directorates: science and technology, and administrative.

The CIA, in assessing the needs of its employees in the spring of 1991, determined that the population could be divided into two segments. The science and technology directorate interacts frequently with headquarters' staff at Langley, but not every day, and travels frequently, so the employees need access to a major airport.

The administrative directorate encompasses more light industrial functions, including a printing plant and computers, and would house a larger number of machines than people.

In comparing land costs, the CIA noted that land in Prince William County, VA, costs in the neighborhood of $100,000 or more per acre, while land in the Charles Town, WV, area costs approximately $10,000 per acre.

CIA staff determined that it would make more sense economically to split the consolidation into two compounds, and on May 24, 1991, the CIA's management committee approved the two-site proposal. Then-Director William Webster agreed to the recommendation on June 19, 1991.

The consolidation from 21 leased offices into two compounds will improve security, operating efficiency, and intelligence-gathering abilities, and will also provide tremendous economic benefits.

The CIA has estimated the cost of the consolidation to be $1.2 billion. But that is a comprehensive, 20-year figure that takes into account inflation, about $300 million; operations and maintenance of buildings as they come on line, about $200 million; security and communications, $192 million; and construction and land acquisition, $445.5 million. It should be noted that it is most unusual for an agency to incorporate the added costs of infrastructure, such as I have mentioned, into a proposal of this kind. Most often a consolidation price tag would only include the costs of construction. The CIA really should be commended for being forthcoming and upfront about the overall costs of their consolidation plan.

More significant than the outlays are the cost savings that this consolidation will result in for the American taxpayer. By the year 2006, the total savings to taxpayers will be $500 million to $600 million as compared to the cost if the CIA continued its current lease system. By the year 2010, the consolidation will pay for itself.

Contrary to fears that have been expressed over the welfare of CIA employees that may be affected by the consolidation, the proposal is designed to improve working conditions of CIA employees. According to the CIA, many of the Agency's employees are currently laboring in substandard working conditions. The General Services Administration recommends 125 square feet of space per employee. The CIA has people working in 70 to 80 square feet of space. Headquarters at Langley are overcrowded.

The CIA estimates that 3,200 employees would be located at the Prince William County site, and 2,200 at the Jefferson County site. Most of the CIA's employees currently live in Virginia, between Leesburg, Manassas, and Falls Church, and the Agency has determined that the employee population is shifting south and west. The consolidation proposal will give CIA employees an opportunity for a reverse commute to work.

Mr. President, we have heard claims of employee commutes in excess of 4 hours. Those are exorbitant claims. I have driven from the McLean area of CIA headquarters to Charles Town, WV, many times. The distant is under 60 miles. It has taken me no longer than 75 minutes on any occasion, driving at moderate speed, to reach Charles Town from where I live in McLean just across the highway from the CIA headquarters and no longer than 75 minutes to return therefrom.

West Virginia has a great deal to offer in terms of a lower cost of living, one of the lowest crime rates in the Nation, affordable housing and attractive real estate prices. The eastern panhandle is a rapidly growing part of the State that offers many opportunities for education, employment, and entertainment for its residents. Above all, West Virginians are known for their friendliness and solid values, and those qualities make West Virginia an ideal location for living and raising a family.

So, it may be that some employees would choose to move to the eastern panhandle of West Virginia. In that event, let them be reassured that they will not have to uproot, sell their current homes, pull their children out of school, have their spouses quit their jobs, and disrupt their lives overnight. According to the CIA, the earliest that anyone would be relocated would be in the 1997 to 1998 timeframe. Completion of the consolidation is not expected until 2003 to 2004, so employees would have, on average, 8 to 12 years to make this transition.

This is not something new for CIA employees. According to Agency officials, the CIA operates in somewhat the same fashion as the military, and assigns personnel to a variety of duty stations throughout their careers. Moreover, the Agency assures me that it works with employees who have any problems with relocating to a specific location. With such a long lead time, and an attrition rate of approximately 5 percent a year, the CIA is confident that it will be able to manage the consolidation smoothly and with little unforeseen disruption to the lives of its employees.

I am confident that the CIA proposal is a good one and that it is in the best interests of the American taxpayer.

Lastly, I commend the staff of the subcommittee for its long, hard, and outstanding work: Richard Collins, Steve Cortese, Richard D'Amato, Rand Fishbein, Charles Houy, Jay Kimmitt, Peter Lennon, Mary Marshall, Jane McMullan, David Morrison, Mavis Masaki and Mazie Mattson, Dona Pate, and the able detailee support group that has worked with them throughout the year, Charles Cook, Stacy McCarthy, and John Young.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I will yield myself a few minutes.

Mr. President, I sincerely thank my colleagues, Senator STEVENS and Senator INOUYE, for their diligent effort in reaching agreement on the conference report to accompany H.R. 2521, the fiscal year 1992 DOD Appropriations Act. In general, this bill reflects the similar actions of the Armed Services Committee on a defense program for the current fiscal year. As the ranking Republican member of the Senate Armed Services Committee, I understand the difficulty of negotiating the thousands of items contained in defense bills, and I commend my colleagues on the Appropriations Committee for their successful negotiation of a good bill.

However, I wish to bring to the attention of the Senate my serious concerns about certain provisions in the conference report—concerns which are generally shared by my colleagues on the Senate Armed Services Committee.

First, this conference report sets aside over $400 million for grants to dozens of specifically identified colleges and universities, private and public institutions, public school districts, museums, local governments, and other organizations. In some cases, in order to ensure that these amounts are provided directly to the institutions and agencies named in the bill, all competitive contracting procedures relating to these "earmarks" are waived in a separate provision of the bill. In many cases, the programs for which funds are set-aside are in no way related to national security needs, and often the purpose of the program is not described in even a general way.

Let me take a moment to point out to my colleagues a few of the programs which cause me concern: $32 million for two separate public school districts for the purpose of building public schools at local military bases; individual grants to 15 colleges and universities to conduct some form of unspecified research, described in the conference report as "laboratory and other efforts associated with research, development, and other programs of major importance to the Department of Defense." I must note that, in this area, $750,000 is set-aside for a university in the State of Virginia; $6.8 million for a grant to an institute of international studies, for which no purpose is specified; almost $12 million to establish four specific new military museum foundations in several States; $2 million for a prostate research center in the Washington Metropolitan Area and $10 million for a Neuroscience Center of Excellence at a southern university; and a physician assistant program at a northeastern college, and research into high-definition television at a west coast institute.

These are but a few examples of the types of programs for which defense funds are earmarked in this conference report. I have a more comprehensive list of the set-aside provisions in the bill, and I ask unanimous consent that the entire list be included in the RECORD at this time.

The earmarking of defense funds, particularly for activities with little demonstrable relationship or utility to national security, is a practice which the Armed Services Committee has actively opposed for many years, and we have made our views well known to our colleagues on the Appropriations Committee. The Congress enacted into law a requirement that such DOD contracts for these research activities be awarded competitively, but the conference report specifically waives that competitive requirement for these earmarked programs.

Mr. President, I firmly believe that noncompetitive grants of unspecified research and other contracts to universities, institutes, and other organizations flies in the face of past actions of the Senate and contradicts standing law which requires that such contracts be awarded competitively to ensure the lowest price and the highest quality product. At a time when declining defense budgets are forcing the administration and the Congress to make difficult choices among truly meritorious defense programs, I find it completely unacceptable that defense dollars are diverted to projects that have not been reviewed or requested by DOD, may not serve any national security purpose, and could not apparently withstand the scrutiny of competition. I and my colleagues will continue to work to resolve this issue to ensure that defense funds are spent only for the highest priority defense programs and in the most cost-effective manner.

Mr. President, another issue of concern is the continuing practice of appropriating funds for defense programs in excess of the amounts authorized. We have fought the issue, too, for many years, and we have sometimes won these fights.

This year, we have identified 170 line items where the amount appropriated for the program exceeds the amount authorized; these excess appropriations amount to almost $5 billion. I must note that some of these add-ons, indeed, may prove after further study to be meritorious defense programs, but some are clearly not justified on the merits of the programs.

For example, the conference report contains an additional $600 million for sealift, but the DOD has not yet expended almost $1.3 billion appropriated for this program over the last few years. I do not question that additional sealift capability is required, but it is also clear that the program does not at this time require an additional $600 million in unrequested, unauthorized funding.

The conference report also funds 31 C–130 aircraft, which is 11 more than the number authorized, for a total of $357 million more than the amount authorized. All of these aircraft are designated for the Guard and Reserve components.

The conference report contains $238 million for an additional 12 LCAC ships, which is 12 more than necessary to fulfill 100 percent of the total requirement for these ships.

The conference report adds funds to several programs which were not even included in the President's budget request, such as $60 million for the Field Artillery ammo support vehicle, $149 million for TAGOS Surtass ships, $91.2 million for an enhanced modular signal processor system, $27 million for the Tactical Air Operations Module Program, $42 million for supercomputers, over $700 million for Guard and Reserve equipment, and many research and development programs.

Mr. President, the Armed Services and Appropriations Committees have a long-standing agreement that appropriated amounts must be specifically authorized. The inclusion of large amounts of excess appropriations in this conference report violates, at a minimum, the spirit of our agreement. The members of the Armed Services Committee intend to ensure that any meritorious program for which appropriations exceed the authorized level will be authorized. But we will also review each of these programs and work to ensure that any excess appropriations designated for programs which do not meet the test of national security are not expended for that purpose.

Mr. President, these are serious concerns that I and my colleagues have raised today. Chairman NUNN and I have discussed these issues with the members of the Armed Services Committee, and we are continuing to explore a number of options to address our very serious concerns.

Mr. President, yesterday, the Senate passed the fiscal year 1992 dire emergency supplemental appropriations bill for Operation Desert Storm as well as various other domestic programs. The managers of the bill and the leadership of the Senate characterized the bill as a dire emergency requiring immediate action by the Congress, even though the legislation had been received in the Congress almost 6 months earlier. To be honest, I know, and I believe the majority of my colleagues, as well as the managers of the bill will agree, that there is little, if anything, in that bill which could be fairly characterized as an emergency legislation. However, in order to conclude Senate action, the manager of the bill undertook to cut off debate by moving to third reading of the bill, while knowing that more than 70 amendments, coming from both sides of the aisle, remained to be offered to the legislation.

I and my colleagues on the Armed Services Committee had intended to offer amendments to that supplemental appropriations bill to address the concerns I have discussed here today. Obviously, these amendments would have been strenuously opposed by the authors of the DOD appropriations conference report.

Mr. President, the only reason that we proposed to amend the supplemental bill rather than the DOD appropriations conference report is that this conference report is not open to amendment. I find it quite interesting that this conference report—which was returned to the Senate with earmarks, unauthorized appropriations, and other legislative provisions which were in neither the Senate or House bill going into the conference—is the only appropriations conference report this year that includes not one single amendment in disagreement. Since there are no amendments possible to this conference report, we had no option but to offer amendments to some other bill in order to raise these important issues.

Mr. President, I am very troubled with the manner in which substantive debate on the supplemental appropriations bill was cut short and the bill was subsequently passed. I and my Armed Services Committee colleagues continue to have serious concerns about many of the provisions in this conference report, and we have been denied the opportunity to present our concerns to the Senate. Therefore, I regret that I am unable to support the fiscal year 1992 DOD appropriations conference report.

I urge my colleagues to defeat this legislation and to require the Appropriations Committee to reconsider their recommendations in the areas I have discussed today.

Mr. WARNER. I am presently in the highway conference, and just learned of these remarks by my distinguished chairman. We worked together on this. Not having had the benefit of his earlier remarks, I wish to engage in a brief colloquy.

VOL 137 PT 23 NO 21—25 1991 UMI

My recollection is that the chairman and I have worked long on this consolidation project, and when a time came that there was a question raised about the CIA's procedures, we worked out a draft bill which was included in the Senate Intelligence Committee of which I am a member. We further refined this bill in conference and reached an agreement that was acceptable to the chairman of the House Intelligence Committee; is that not correct?

Mr. BYRD. That language was worked out with the chairman of the House committee and the chairman of the Senate committee, the Intelligence Committees, and the Senator from Virginia and I were consulted thereon.

Mr. WARNER. And my recollection was that that language was agreeable to all parties involved.

Mr. BYRD. That is my recollection. And it was at my request that the identical same language be placed in the DOD appropriations bill which we are now discussing.

Mr. WARNER. And in drafting that language the Senator from West Virginia and the Senator from Virginia explicitly put in provisions to protect the interests of Government procedures to involve the GSA and all of the other protective mechanisms that are associated with an Agency or Department of the Federal Government acquiring new lands and new facilities.

Mr. BYRD. Those procedures are specified therein. They were agreeable to the Senator from Virginia [Mr. WARNER] and myself, and they are also included in the DOD appropriations bill, and they will, I am sure, go far in answering and allaying criticisms that have been leveled at this consolidation proposal.

Mr. WARNER. Mr. President, also I would like to add at this time that I was a member, as I say, of the Senate Intelligence Committee—of course that is a matter of record—but I also participated very actively throughout the entire day when the conference was held between the Senate conferees on the intelligence bill and the House conferees, and the subject of this consolidation consumed, as it should have, a considerable portion of that debate. I think I was completely responsive to all inquiries, as was Chairman MCCURDY of the House Intelligence Committee, and Chairman BOREN of the Senate Intelligence Committee. The three of us responded to a number of inquiries, not from the Senate side, but from the House side, and at the conclusion, of course, the conferees accepted the provision and it is now becoming a matter of law.

Thereafter ensued a number of articles relating to what happened. And in reading those articles the facts and conclusions stated therein do not comport to my recollection of what transpired in the conference, nor do some of these articles comport with the clear English language contained in the conference report.

I am pleased to see that the chairman and I agree, and I will have an opportunity later to put in the RECORD details of interpretation of the events leading up to the conference, the conference and the conference report now going to the President. It is my intention early this coming week to work with CIA officials and see if for any reason the provisions of the statute are interpreted by them in a manner inconsistent with my interpretation and the interpretation of the distinguished Senator from West Virginia.

But it is clear that the projects are going forward, and the articles which said that the projects are not going forward are factually incorrect. A typical copy of press report is attached to the end of my remarks, with the headline reading "House Kills CIA Move to W. Va." This misleading press must be corrected for the benefit particularly of CIA employees.

I thank the Chair, and I thank my distinguished colleague.

I rise today to stress my support for and provide information on the proposed consolidation of the nearly two dozen CIA offices into two facilities, one in Prince William County, VA, and the other in Jefferson County, WV, near the Virginia/West Virginia border. There has been considerable press covering congressional viewpoints to date. I have not participated, since I believed a more proper time to comment should await final action by both Houses and public disclosure of a conference report. That time has arrived.

To set the record straight, let me make the following point. In this Senator's judgment, the bill language in the Intelligence authorization conference report does not, I repeat, does not "halt the CIA consolidation plan"; rather, it provides for the continued, orderly progress of the basic consolidation plan announced by Director Webster. CIA will, as I believe it always has, follow appropriate and well-established guidelines. These procedures were worked out among the conferees, of which I was one, and have the support of the chairman and vice chairman of both Intelligence Committees, as well as Senator BYRD and myself.

What, then, does the bill actually do? There is authorized and appropriated $10 million available within 60 days after the CIA fulfills a series of conditions. An additional $20 million is also authorized subject to reprogramming actions by the appropriate committees in both Houses. Finally, $500,000 is available immediately to maintain the availability of the property at both sites.

The conditions which must be met in order to secure the funding include a certification that written procedures are in effect and that the consolidation process was in accordance with such procedures; a written opinion by the GSA Administrator that the plan will result in cost savings and will conform to local government regulations; a certification by the OMB Director that the plan has been reviewed and approved by the administration for funding in fiscal year 1991 and is consistent with the fiscal year 1990 budget agreement; a certification that if any improper procedures have been followed, corrective actions will be implemented; and a report that includes a site evaluation and assesses budgetary and personnel changes that may impact on the CIA's plan.

Mr. President, having reviewed in detail the CIA consolidation plan and the reasoning behind it, I am confident that CIA can meet these conditions expeditiously, and thus satisfy any residual concerns about the proposed consolidation. In short, the funds have been authorized, the conditions can be met, and the consolidation plan, as originally decided upon by CIA, will continue apace.

Let me now turn to the substantive arguments for consolidation. Neither proponents nor opponents doubt the need for consolidation. The current set of facilities are inadequate, and operationally inefficient. There are too many, they are too costly, and some do not meet the agency standards for safety and security. The proposed consolidation will save taxpayers money. As Richard Kerr, the CIA Deputy Director notes, "We estimate that by the year 2010 the amount we would save in costs associated with continuing to lease, renovate, and supplement rented buildings would cover the full cost of construction and outfitting the proposed new government-owned facilities." This amounts to roughly $700 million. The consolidation will greatly improve the working conditions of employees.

The decision for two sites also is documented. For those individuals—scientists, technicians, and administrative personnel—who require traditional office space, travel frequently to various agencies and departments in the Washington metropolitan area, and who must maintain day-to-day contact with CIA headquarters, the Prince William site serves the purpose. For those individuals involved in maintenance, storage, printing, and other support services, and who thus do not need to travel frequently or maintain day-to-day contact with CIA headquarters, an outlying area, such as Jefferson County, WV, is a cost-effective choice. The cost of purchasing land and doing business in such an outlying area is less.

Next, I should like to address the process undertaken by CIA. I will simply quote a couple of statements made by the president of Legg-Mason, a highly reputable realty firm chosen to identify and evaluate sites for the CIA consolidation, and whose performance in

this task even the critics have not challenged. Mr. Kleinpaste, the president, states, "it is my strongly held belief that you [CIA] have already conducted one of the most thorough and effective site selection competitions ever undertaken." He further states: "I have told you [CIA] previously how impressed I am with the diligence, care and eithics which you and your staff have brought to this site selection process."

Finally, let me touch on the interests of the State of Virginia, and its citizens employed by the CIA. I simply note that an increasing number of CIA employees already live in the extended suburbs of Virginia—that is, Prince William, Loudoun, and the western, northern, and southern part of Fairfax Counties. This area would be encircled by the three facilities. With the Prince William site within 30 minutes driving time of CIA headquarters and with the Jefferson County site within the 75 minute driving-time criteria, the CIA consolidation offers CIA employees an opportunity to remain in the immediate vicinity of the greater metropolitan area. They may seek housing in the less congested and more affordable areas of the proposed new facilities. At present the State of Virginia is the primary beneficiary of the very positive local economic impact of the CIA; under this proposal Virginia will still be the primary beneficiary.

Ultimately, however, the test of the CIA plan should be whether it enhances the agency's ability to perform its mission for U.S. national security into the next century. I believe it will.

In conclusion, Mr. President, the conference report ensures that the CIA consolidation will go forward.

There being no objection, the press report was ordered to be printed in the RECORD, as follows:

[From the Alexandria Journal, Nov. 21, 1991]

HOUSE KILLS CIA MOVE TO W. VA.—BYRD BID FOR AGENCY SCUTTLED

(By Chet Lunner)

The House of Representatives swiftly approved by voice vote yesterday a measure that effectively stops the move of 6,000 CIA workers from Langley to Prince William County, Va., and West Virginia.

"There was not even a vote," said a pleased Rep. Frank Wolf, R-Va., a key player in the fight to block the move.

The intelligence agency move was proposed under a bill drafted by Sen. Robert Byrd, D-W. Va., chairman of the Senate Appropriations Committee.

"It'll stop the West Virginia move," Wolf said of the measure, agreed to by Senate and House conferees on the overall intelligence authorization bill.

Wolf said he hopes the studies called for in the bill will eventually result in a consolidation of offices near the main Langley CIA campus.

"This [would have been] the most expensive relocation in the history of the country," Wolf said of the Byrd plan.

Byrd's plan met with furious opposition from congressional and administration officials who were not involved in the decision. The language in the new intelligence bill severely restricts any future CIA moves.

The bill requires CIA plans to pass through a series of hearings, studies and approvals inside and outside Congress.

"It's very tight," Wolf said.

The plans also would be reviewed by four congressional committees: House and Senate intelligence and defense appropriations panels.

"If any of those four say 'no,' it's dead," Wolf said.

Mr. BYRD. Mr. President, I thank my friend and I appreciate deeply his cooperation during this entire effort. I also thank him for the cooperation that he extended liberally during the time that we were discussing the highway bill and the Byrd amendment thereto. It was because of that fine cooperation on his part in part that we were able to enact the highway bill, the conference on which he is now attending.

Mr. WARNER. I thank the distinguished Senator from West Virginia.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, what is the time allocation?

The PRESIDING OFFICER. An hour and a half each for Mr. NUNN and Mr. WARNER. Mr. WARNER just used approximately 4 minutes of his hour and a half. The Senator from Georgia has 1½ hours.

Mr. NUNN. I thank the Chair.

Mr. President, the defense appropriation bill is a big bill with many complex provisions. In the short hours that remain in this session of the 102d Congress, the Armed Services Committee met several times since the appropriations conference report was completed to initially review this important piece of legislation, but I must confess we are still unable to analyze the entire report because of its complexity and length.

There is not a bill or conference report that cannot be improved. We all know that. There are items in our own defense authorization conference agreement on which I would have preferred a different outcome. There always are, there always will be. And I know Senator INOUYE and Senator STEVENS feel they did the best they could with the defense appropriation conference report. I know how hard both of them worked on this legislation and I know how hard their staffs worked. And I know that both of them and their staffs are dedicated and absolutely committed to a strong and capable national defense. So I want to make that absolutely clear up front. I admire both of them. I feel both of them are very valuable Members of the Senate. I think they are very valuable people.

Mr. President, the conference report does, however, contain a number of items that I simply cannot support. These are problems that cannot be fixed on this bill because this appropriation conference report is not amendable.

Several days ago, I indicated to both Senator INOUYE and Senator STEVENS, as well as Senator BYRD, the chairman of the full Appropriations Committee, the problems that our committee had with this legislation and our hopes that some of these problems could be corrected.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter that the Armed Services Committee sent, after a number of meetings, to Senators INOUYE and STEVENS outlining our concerns and our intention to try to eliminate some of the problems we had with the conference report. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
Washington, DC, November 21, 1991.

Hon. DANIEL INOUYE,
Chairman, Subcommittee on Defense Appropriations, Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. TED STEVENS,
Ranking Minority Member, Subcommittee on Defense Appropriations, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR DANNY AND TED: Congratulations on the conclusion of the conference on the defense appropriations bill. We understand the complexity of the process and the pressures you faced in crafting a bill that meets our defense needs in this difficult fiscal environment.

The Armed Services Committee met this morning to discuss the Conference Report on the FY 1992 Defense Appropriations Bill. You were invited, as always, and members of your staff were present during this discussion. We have only had a few days to review the conference report, so our assessment is necessarily provisional. It is clear there are many solid provisions on which we all agree. The conference report parallels in most regards the most difficult and controversial issues in the budget request and our authorization conference.

Nonetheless, the Committee has serious reservations over certain elements of the conference report. More important, those reservations go to the heart of our longstanding agreement that outlines the working relationship we have established between our Committees.

Our agreement stipulates that each committee will refrain from reversing the policy initiatives of the other committee, and that the Appropriations Committee will honor the Senate rule that prohibits legislating on an appropriation bill. In this regard, the Committee is very concerned over the continued practice of earmarking funds for certain colleges, universities and other institutions, especially where such earmarkings were not included in either the original House bill or the Senate amendment. More importantly, the Committee strongly objects to the provision in the conference report that waives statutory requirements for merit review and open competition. Apart from constituting flawed policy, this practice flatly contradicts our agreement with your Committee. There are other instances

VOL
137
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23
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21
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25
1991
UMI

in the conference report where the appropriations conference waives or reverses actions in the pending authorization bill or in previous authorization acts. We object to these reversals, and find them inconsistent with our agreement.

Our agreement with your Committee also stipulates that the Armed Services Committee will not legislate obligation "floors" and the Appropriations Committee will avoid breaching authorization "ceilings." We have scrupulously adhered to this principle. This year, as in previous years, we have eliminated all obligation floors in our bill, opposed all obligation floors in the House bill, and eliminated any floors that members or staff of the Appropriations Committee brought to our attention.

As we review the Appropriations Conference Report, however, we find 18 accounts in the bill totalling $11 billion that breach authorization ceilings or establish new accounts that were never authorized in the first place. Some of these breaches are technical in nature. For example, your decision to consolidate medical funding DOD-wide, representing $8 billion of the $11 billion, is more of a technical financing issue. But there are other areas that total over $3 billion that we must study more closely. In terms of programs, projects and activities, there might be as many as 170 items totalling over $4.9 billion that exceed the authorization. In any event, our agreement with you stipulates that any appropriations that breach the authorization ceiling be subsequently authorized. We find nothing in the Conference Report that makes it clear that a subsequent authorization is required for these accounts.

We wish to emphasize that we may not necessarily oppose certain decisions that resulted in appropriations that breach authorization ceilings. In previous instances, we have subsequently reviewed them and agreed with many of your decisions. But we do insist that the appropriations conference adhere to the same agreement that we observe in our conference.

As is frequently the case, however, the hour is late and the options available to you and to us are limited. The conference report has been adopted in the House and is not subject to amendment. We are forced either to oppose the conference report—which we find painful because of the considerable merit in the bill—or to find other means to reestablish the balance struck in our agreement with you. We are taking this opportunity, however, to let you know that we do have strong reservations with certain elements of your bill and will seek to work with you and with others to eliminate those concerns.

Sincerely,

Sam Nunn, Chairman; John W. Warner, Ranking Minority Member; J.J. Exon; Carl Levin; Connie Mack; Richard Shelby; John McCain; Tim Wirth; Malcolm Wallop; John Glenn; Strom Thurmond; Jeff Bingaman; Bill Cohen; Alan J. Dixon; Al Gore; Trent Lott, Dan Coats; Bob Smith.

Mr. NUNN. Mr. President, I had hoped to correct some of these problems with two amendments last evening to the supplemental appropriation bill, but this, of course became impossible when all amendments were precluded.

Since these problems areas have not been corrected, I regret that I cannot in good conscience vote for the conference report in its current form. This will be the first defense appropriations bill I have ever opposed since I have been in the Senate. I do so with regret. I do so with sadness. I need to, I think, explain to my colleagues some of the reasons for my decision.

First, there are numerous earmarkings for defense research money for special projects at specific universities and colleges. What makes this most objectionable is the explicit direction by the conferees to waive existing Federal statutes that require these types of awards to be made on the basis of a fair and open competition. In fact, the appropriation conference report specifically prohibits competition for $94.6 million in funding that is directed in 16 colleges and universities in 12 States. The conference report includes a provision that specifically exempts these specific universities and the earmarked funding for each from Federal statutes that the Senate adopted only 3 years ago requiring fair and open competition in these areas.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a compilation of the earmarkings and set-asides that are in the conference report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EARMARKS IN FISCAL YEAR 1992 DOD APPROPRIATIONS BILL/REPORT

UNVERSITY SET-ASIDES FOR WHICH COMPETITION IS PROHIBITED

1. Neuroscience research at Louisiana State University ($10.0m).
2. Marywood College, Pennsylvania ($10.0m).

All the bill says about this grant is that it is to be used for "laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense."

This same language is then used in the bill to describe all of the following grants:

University of Texas at Austin ($6.0m).
Northeastern University ($6.0m).
Texas Regional Institute for Environmental R&D (5.0m).
Kansas State University ($7.7m).
University of Wisconsin ($1.6m).
Boston University ($29.0m).
Medical College of Ohio ($250,000).
University of South Carolina ($500,000).
George Mason University ($750,000).
Monmouth College, New Jersey ($2.3m).
University of Minnesota ($10.0m).
University of St. Thomas, Minnesota ($500,000).
Brandeis University ($2.0m).
New Mexico State University ($3.0m).

OTHER UNIVERSITY SET-ASIDES

1. Penn State University ($5.0m).

The only explanation for this grant is report language that says it is for "life-cycle by networking critical manufacturing technologies."

2. Monterey Institute for International Studies ($6.8m).

No explanation of its purpose in either the bill or the report.

3. St. Francis College, Pennsylvania ($2.5m).
4. Oregon Graduate Institute ($1.3m).

OTHER INSTITUTIONAL SET-ASIDES

1. Mississippi Resource Development Corporation ($1.0m).
2. Maryland Hospital Association ($300,000).
3. National Biomedical Research Foundation ($10.0m).
4. Arctic Region Supercomputer at the University of Alaska ($25.0m).
5. Consortium for International Earth Science Information Network ($1.0m).
6. Oregon Department of Economic Development ($350,000).

OTHER EARMARKS

1. Memorial Day Celebration ($350,000).
2. Capitol Fourth Project ($350,000).
3. Cleanup of National Presto Industries in Wisconsin ($7.0m).
4. Fish stocking in Hawaii ($750,000).

The report explains that this earmark is to "initiate a feasibility study to improve existing nursery ponds for mullet culture and to establish a mullet larvae hatchery."

Mr. NUNN. Mr. President, I do not know if this list is complete that I have because we have not had a chance to study every small provision in the appropriation bill. I will in a moment reference those particular set-asides, but I do not make the statement here that they are exclusive because there may be others that we have not found. Frequently, earmarkings are indirectly implied by reference to report language. It is a little bit like those Russian dolls that contain smaller dolls inside. You keep finding more earmarkings as you keep reading and looking behind the provisions. We have not had the opportunity to evaluate the merits or demerits of the earmarks that are in this bill.

I want to make it clear my remarks are not aimed at any one earmark. It may very well be that is a project we will really need for our defense effort. If it is, however, it seems to me, it would be able to withstand the competitive provisions that all our other universities have to compete with.

The appropriation conferees must believe that the 16 university projects for $94.6 million are of such questionable value to the Defense Department, however, that the bill has exempted these projects from any form of competition or merit review or in that they alone are interested in this $94.6 million.

The effect of this general provision is to wipe competition and merit review off the books of this project. It exempts these earmarks from the process Congress established several years ago to ensure that the awards are made on the basis of merit and that all qualified institutions are allowed to compete. But, most of all, the competition produces the best results for the taxpayers. That is why we have it—to choose the best for this kind of work, and this kind of work is important.

These competition statutes were the result of several years of floor debates and votes on this issue by the Senate itself. The Senate has spoken on this at least on two occasions after a vigorous debate and rollcall votes. These efforts were led by Senator DANFORTH, Senator BINGAMAN, and myself, and others to ensure all colleges and universities have an equal opportunity to compete

and offer their talents to provide the very best research possible for our defense effort.

Yet these statutes are waived in order to ensure funding for a series of what, I assume, must be a questionable projects in the minds of the sponsors. otherwise why waive competition? I do not believe this process is in the best interest of the taxpayer or the Department of Defense or the U.S. Senate. And I again add, some of these projects may be very valuable and maybe the universities named are the best for that particular research. But if they are, why not let them be chosen like others are chosen, on their merit?

Mr. President, no other college or university in our Nation is allowed to compete to work on these projects. No matter how competent any other college or university or institution might be, there is no flexibility on the part of the Government to get the most out of the investment.

Mr. President, I ask unanimous consent that a list of the 38 States where colleges and universities cannot compete for these defense funds that were earmarked for 16 institutions in 12 States.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATES WITH UNIVERSITIES THAT ARE PROHIBITED BY SECTION 401 FROM COMPETING FOR UNIVERSITY RESEARCH FUNDINO

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho.

Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada.

New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wyoming.

Mr. NUNN. Let me just read the list: Louisiana State University, $10 million; Marywood College, PA, $10 million; University of Texas at Austin, $6 million; Northeastern University, MA, $6 million; Texas Regional Institute for Environmental Studies, $5 million; Kansas State University, $7.7 million; University of Wisconsin, $1.6 million; Boston University, $29 million; Medical College of Ohio, $0.25 million; University of South Carolina, $0.50 million; George Mason University, $0.75 million; Monmouth College, NJ, $2.3 million; University of Minnesota, $10 million; University of St. Thomas, St. Paul, MN, $0.50 million, Brandeis University, $2 million; New Mexico State University, $3 million. I ask unanimous consent that this list be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Attachment 1

List of universities exempted by section 401

	Millions
Louisiana State University	10
Marywood College, PA	10
University of Texas at Austin	6.0
Northeastern University	6.0
Texas Regional Institute for Environmental Studies	5.0
Kansas State University	7.7
University of Wisconsin	1.6
Boston University	29
Medical College of Ohio	.25
University of South Carolina	.50
George Mason University	.75
Monmouth College, NJ	2.3
University of Minnesota	10
University of St. Thomas in St. Paul, MN	.50
Brandeis University	2.0
New Mexico State University	3.0
Total	94.6

Mr. McCAIN. Will the Senator from Georgia yield for a question?

Mr. NUNN. Yes.

Mr. McCAIN. Does the distinguished chairman know for what purpose those grants are awarded to those universities or is it just that they are awarded to the universities?

Mr. NUNN. I really have to say to my friend I cannot tell by reading the conference report what the purpose is.

I would like for my colleagues who have been listening or have aides listening to this debate this morning to understand that this $94.6 million makes ineligible universities in 38 States.

Here are the States that do not get to compete for this $96 million: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, and Wyoming.

I would say Senators representing those States should take a close look at this and ask if they believe that their own universities should be able to compete or whether they conclude, as obviously the Appropriations Committee conferees did, that no other university shall be allowed to compete in this procedure.

This legislative provision eliminating competition, which is a legitimate provision on an appropriations bill, was not in either the House or the Senate bills when they were originally considered. There was no opportunity to debate this extraordinary procedure. And now it is impossible to amend it or eliminate it. At this point we have no other choice but to look for another vehicle, probably in the next session, to deal with this provision. Mr. President, it is provisions like this and situations that the Senate faced yesterday evening that makes the line-item veto attractive to many people.

I have, myself, not come to that conclusion. But I must say if we continue this practice I think there are going to be an awful lot of people who have not favored the line-item veto in the past who may very well reach a different conclusion.

MUSEUMS

Mr. President, in another area, this bill also puts the Defense Department again in the business of funding museums with defense funds. Last year's defense appropriation bill contained funds for a children's science museum in New Jersey and a parliament building in the Solomon Islands. This year's conference report contains funds for four new museums. They all appear to be much more defense related than a couple last year: $4 million to build a National D-Day Museum in New Orleans, LA; $4 million to build an Airborne and Special Operations Museum at Fort Bragg, NC—an installation already hosting a museum honoring the Green Berets, and another commemorating the 82d Airborne Division. It is a wonderful base. It is an installation, however, that already has a museum honoring the Green Berets; $2.1 million for a Naval Undersea Museum at Keyport, WA; and $1.6 million to refurbish a submarine, the USS *Blueback*, for the Oregon Museum of Science and Industry in Portland, OR.

Mr. President, I do not want to in any way denigrate the importance of the specific valor displayed by our fighting forces at D-Day, or the importance and dedication of our airborne, special operations, or submarine communities.

On the contrary, I am an enthusiastic supporter of all these missions. Within my own State of Georgia, there are important military bases supporting the Trident sea launched ballistic missile force at Kings Bay Naval Submarine Base, and special forces units at both Fort Benning and Hunter Army Airfield. Any of these installations would make excellent locations for museums commemorating the heritage of these proud forces. I am sure that if I scoured the history books, I could also find a suitable Georgia location to house the memorabilia of the great victory of D-Day, and I am sure other Senator could find suitable locations in their own States.

I have been personally involved in the development and support of an important museum in middle Georgia, the Robins Museum of Aviation, which is located on Robins Air Force Base. This institution commemorates not only the local and State aviation history, but also the development of logistics support for military aviation. I know from firsthand experience how these museums act as a catalyst for community involvement with and support for adjacent military bases, and how they can be centers of education for our young people. I also appreciate how military museums can support and complement regional tourist indus-

VOL 137 PT 23 NO 21—25 1991 UMI

tries. I also know how much work it is to raise private funds for museums because that's how the museum at Robins was built with private funds. And we have had several fundraisers in that respect.

In short, Mr. President, I support military museums, and believe that the four new museums which are selected for support in the Defense appropriations bill would probably fulfill many positive functions.

The question, Mr. President, is not whether museums are worthy institutions but, rather, whether they should be built with defense dollars and, if defense funds are available, whether they should be used for existing museums picked out by certain Members of Congress or whether they should be used for supporting the existing museums that already are being funded and already have a substantial amount of visitors going to those museums.

For many years we have seen numerous private proposals to establish new military museums. We have had proposals in our committee in the past for construction of new museums. We have consistently turned those down. Each new museum initiative cites the value of preserving the heritage of the mission or event which it seeks to commemorate. Inevitably, as these proposals mature, they run into the reality of raising the funds to capitalize the facilities. It is then that we see legislative initiatives to have the Federal taxpayer finance these centers, often using funds allocated to the defense of our country.

Where do we draw the line on these worthy ventures, Mr. President? In the Military Construction Authorization Act for Fiscal Year 1985, the Armed Services Committees debated long and hard on this one. We drew the line by limiting each service to one museum which would be constructed with appropriated funds. Even in these limited situations, the conferees urged joint public and private capital funding.

Today there are numerous other military museums which receive modest levels of appropriated operating support from their associated military bases. But actual construction of museums has generally been limited to one official museum for each service. The official Navy and Marine Corps museums are at the Washington Navy Yard. The official Air Force museum is located at Wright Patterson Air Force Base in Ohio, and was built with a combination of private and public funds.

I believe that this is an appropriate balance—one official, federally capitalized museum for each military service. The proliferation of other military museums, supported by local communities would make the demands on ever more scarce defense funds intolerable if they were also eligible for appropriated fund support for capitalization.

As of this moment, before we pass this bill, we have a pretty good policy. Not perfect. Certainly there are exceptions. But we have a pretty workable policy, an equitable policy regarding the capitalizing of military museums. The conference report on the fiscal year 1992 Defense appropriations bill ignores this policy and asks us to open the floodgates to funding all sorts of museums.

Mr. President, I am a realist. There is nothing that can be done on this bill to fix this problem. But I can see it coming. Next year we will have more museums. If we are going to open up the Department of Defense budget for museums, every Member of Congress will want a piece of the action. Why build museums the old-fashioned way, by raising private funds? There is a lot easier way—let the taxpayer do it. Mr. President, if this practice continues, I will no longer try to prevent the members of the Armed Services Committee from promoting their own museums and earmarks.

I can see it now. San Francisco, a city that prides itself on its fine food, can host the national museum on MRE's, "meals ready to eat." Buffalo, one of the cities with the greatest annual snowfall, can become the museum to house the famous Schwarzkopf sand boot. The New York garment industry can open a museum with the old Air Force uniforms that are being discarded. All of this can be accomplished the easy way, with taxpayer money, while at the same time we give out involuntary pink slips to people who are having to leave the military.

LEGISLATING ON AN APPROPRIATIONS BILL

Mr. President, there are other serious problems with this conference report. One of the fundamental premises of the legislation process is the separation of the authorization and the appropriations process. The Senate embodies this principle with Senate rules that prohibit legislating on an appropriations bill.

My colleagues should be disappointed by the specific examples of legislating on this appropriations bill. I already mentioned the waiver of the Competition in Contracting Act and the waiver of merit review, both of which are specified in title 10, United States Code. These are two instances where the law of the land is waived on an appropriations conference report.

But there are other areas of concern. Section 8137 of the bill amends section 2208 of title 10 by adding an entirely new authorization for government depots to team up with private contractors to compete with other private contractors. Mr. President, this provision has potentially far reaching consequences. Depots, which do not have to amortize their buildings, would be allowed to join private companies to compete against other private companies that do have to amortize their investments. That could be a sweet deal for private companies that team up with depots.

This could constitute a de facto government subsidy to one private firm to compete against another private firm. There might be a good reason to do this. I do not prejudge it. It might be possible to develop rules and guidelines to avoid the obvious potential pitfalls. This provision might have the beneficial outcome of putting more workload in Government depots, although potentially at the expense of private enterprises. But we have no idea if that will be done. This provision was not in either appropriations bill when passed and has never been the subject of hearings or any rigorous review. And it is clearly, clearly legislation on an appropriations bill which emerged from the conference.

This is not the only instance of substantive legislation in this conference report. Section 8064 legislates timetables for actions involving several military installations taking place under the base closure and realignment process. This is a very unfortunate precedent. We established the base closure process to be independent of individual, parochial interests, which we all have. We all represent individual parochial interests, and we always will. That is the nature of the process. But we managed to keep it separate until now.

Senator DIXON, I understand, will have more to say on this provision. He has been very involved in drawing up the base closing report and in protecting it, and this now undermines the all-or-nothing concept. I know Senator DIXON, the Senator from Illinois, who has been very, very involved in this, will explain that in more detail.

Unfortunately, as I said earlier, there is little that can be done on this bill. It comes to the Senate with no possibility of amendment, and at this late hour, none of my colleagues would welcome the prolonged deliberations that these legislative provisions deserve.

Mr. President, I want to say a word about the F-117 Stealth aircraft, and I want to thank Senators INOUYE and STEVENS for supporting that aircraft in the Senate bill. It was dropped in the conference.

Mr. President, I predict we will see the day when we regret this missed opportunity. The F-117 was the super star of Desert Storm. This tiny fleet of aircraft conducted the lion's share of the strategic bombing in the war. No other aircraft in the Air Force's inventory provides the unique combination of precision accuracy and survivability as does the F-117.

Unless the Air Force starts operating the B-2—and I know the individual occupying the Chair now shares my hope that that will be a reality, but it is a big question mark, and I think we all have to understand that—unless we have the B-2, the F-117 will be the only Stealth attack aircraft in the Air Force inventory for the next 20 years.

If we get into a conflict again—and I hope and pray we do not—but if we go to war again, whether it is someplace in Northeast Asia, whether it is in the Middle East, wherever it is, everybody in this body knows that one aircraft will be indispensable to our operations, and that is the F-117. If we have any kind of war in the near term, the F-117 will be the one aircraft, the only one that I know of, that we will need more of. We will need it. We have 56 of those aircraft. We used every one of them in the Persian Gulf war.

By contrast, we have now 1,800 F-16's. We used 15 percent of the F-16's in the Persian Gulf war. That is a superb aircraft. There is no doubt about it being a superb aircraft. In our own conference report on the authorization, we were required to add back 48 F-16's. I am not sure what the appropriators did on that, but I do want to thank the appropriators, Senators INOUYE and STEVENS for, in the Senate bill, backing what I think is an essential move now, particularly as a hedge against the B-2, and that is to begin producing a small additional number of F-117's which can be used for reconnaissance, or can be used for an attack role, as they have been used.

I am disappointed the conference report was not able to bring that back. I know the House conferees opposed it, and I know the Senate conferees supported it. Despite my disappointment, Mr. President, I understand that the Appropriations Committee has every right to fund programs at levels below those authorized. That is their right.

In this instance, while I disagree with the outcome, I am disappointed with the outcome, I cannot fault the Appropriations Committee on any procedural ground, and I do not oppose the conference report because of this omission.

Mr. President, I should also point out that this bill contains substantial funds that exceed the levels contained in the authorization bill at both the account level as well as the program, project, and activity level.

Mr. President, the law requires—as Senator MCCAIN, the Senator from Arizona, made very clear in his earlier, I thought, superb presentation—the law requires that the defense appropriations be authorized. There are a number of accounts in the defense appropriations conference report that exceed the levels authorized in the authorization conference report, in violation of the explicit requirement in law that funds may not be appropriated unless they are specifically authorized in law.

These accounts are the large lines in the bill where funds for such things as O&M, shipbuilding, and Guard and Reserve equipment are carried. The chairman and ranking member of the defense subcommittee have acknowledged that they are over the authorized level for some accounts.

Mr. President, we know and recognize that when both the Armed Services and Appropriations Committees are marking their bills to the same funding total in the budget resolution, the Appropriations Committee will not fund every program we authorize, and that inevitably there will be areas where they exceed our authorization ceiling. I know that some of that is inevitable. I understand it.

But the agreement between the committees, which is an explicit agreement in writing, and the requirement also in law is that when they do exceed authorized levels, they make these accounts subject to authorization. Unfortunately, that was not done in this conference report.

So we did not have, unfortunately, a carrying out of the explicit written agreement between the authorizers and the appropriators.

Mr. President, the exact wording of our agreement, which has been signed off on by the leaders on both sides, and all the members of the committee know about it—on our committee, at least—the exact wording is:

> The Committee on Appropriations agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization, and further agrees not to appropriate funds for programs specifically terminated in the authorization bill. The Committee on Armed Services agrees not to include obligation floors in the authorization bills.

Mr. President, let me give just a small recitation of the accounts that are exceeded: Operation and maintenance, Navy Reserve, $0.9 million; operation and maintenance, Marine Corps Reserve, $0.8 million; operation and maintenance, Army National Guard, $1 million; operation and maintenance, Air National Guard, $5 million; National Board for the Promotion of Rifle Practice, $1 million; humanitarian assistance, $2 million; drug interdiction, $30 million; weapons and tracked combat vehicles, $103.8 million; Army ammunition, $6.7 million; shipbuilding, $787.5 million; missile procurement, Air Force, $30.6 million; procurement, Defense agencies, $11.8 million; Guard and Reserve equipment, $816.7 million; Coast Guard, $188.7 million; Mount Pinatubo claims, $150 million; real property maintenance, $500 million.

Mr. President, in addition, the Appropriations Committee transferred $8 billion of medical program funding from the services to the Office of the Secretary of Defense, so the operation and maintenance Defense agencies account exceeds the authorized amount by $7.775 billion for this account.

I understand fully that this is a technical change, so I do not include that $7 billion in my comments in terms of complaint.

Mr. President, the distinguished managers of the bill, Senator INOUYE and Senator STEVENS, have pointed out that many of these accounts exceed the authorized amount by only a small amount. That is true, Mr. President.

However, the requirement in law does not say only large unauthorized amounts need to be subject to authorization. It does not say that. It says unauthorized amounts. Some of the unauthorized appropriations, such as those for shipbuilding and guard and reserve equipment, are very large. The managers have pointed out that these funds support worthy projects that some or all of the members of the Armed Services Committee may think is a good idea. That may well be.

But, Mr. President, once again, the requirement is not that the good ideas need no authorization. The requirement is that all appropriations must be authorized by law. And, as I said, we understand that cannot always be done in a conference atmosphere. Taking that into account, we asked the appropriators to agree, and they did agree explicitly in writing, that when the accounts are exceeded, there will be a provision saying they are subject to further authorization by law. We felt that was a good compromise. We reached that compromise, facing reality several years ago, but that compromise is in no way adhered to in this report.

Mr. President, let me explain why the requirement for an authorization is crucial to the authorizing committee. And I hope other authorizing committees that are not involved in this debate this morning will understand that, in effect, our authorizing committee is making a stand for all authorizing committees today.

Mr. President, our agreement is that authorizations are ceilings and not floors. We do not compel the Appropriations Committee to fund programs we authorize. We cannot write floors into law, because that has the effect of compelling. We would like to many times. We understand that authorizing bills are ceilings, but not floors. Many times, we would like to change that, because we have projects that we believe are absolutely crucial.

But if the Appropriations Committee can come in under the authorized level, which they can and should, but if they can do that, and they can also exceed the authorized level, then clearly there is no point in having an authorization. If we are not a ceiling—we know we are not a floor—if we are not a ceiling, what are we, the authorizers?

I am certain that there are those who would support this. But I think there is a growing sentiment that at some point, we are going to have to address this fundamentally.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. NUNN. I will be glad to yield.

Mr. STEVENS. Mr. President, I have in my hand—and I would like to ask the Senator a question about this—the 1971 Authorization Act that was pre-

VOL
137
PT
23
NO
21—25
1991
UMI

sented to the Senate by Senator Stennis on February 2, 1970. And for aircraft, it says for the Army, $292,100,000; for the Navy and Marine Corps, $2,416,700; for the Air Force, $3,255,500,000.

That is the authorization for aircraft. In the Senator's bill that was brought to the floor as a conference report this year, there are some 25 pages of authorization for aircraft. The detail and the acquisition for aircraft under the authorization bill replaces 2 lines, 2 lines. The Senator says that this must be authorized by law.

Until just recently the authorization was a general authorization. And that authorization was followed up by hearings by the Appropriations Committee, and the Appropriations Committee would fund those requests that came in the budget or not fund them. The Armed Services Committee established a ceiling. Now the Armed Services Committee establishes levels line by line. Now, is it the Senator's position that the Armed Services Committee should also provide the detail for the appropriations process and that we cannot deviate from that?

Mr. NUNN. I say to the Senator from Alaska everything he is saying was absolutely the fact when the Senator from Alaska and others signed the written agreement which I just recited, which was explicit, which took this into account, and which was a commitment, I thought, by all of us to try our best to adhere to it. I say further to my friend from Alaska that we have exactly the same accounts that the appropriators have.

Mr. STEVENS. No. No. We have exactly the same accounts that the authorization committee has because we have no alternative under the Senator's approach. The question that I am asking the Senator is: Why should the Senator have two functions, authorizations and appropriations, if we have no alternative other than to either fund or not fund precisely what the other committee tells us to do when we are dealing with a different group in the House than the Senator deals with in the House when he goes to conference?

Mr. NUNN. I just recited very clearly to the Senator from Alaska that we understand the practicalities and we provided in a written agreement, which the Senator signed, that any appropriations above the authorization would be made subject to authorization. That was what the Appropriations Committee committed to in writing, but it has not been fulfilled. I would say further to the Senator, is he concluding that we should not have both the authorizing and appropriations committee? I would say the Senator from Georgia has reached exactly the same conclusion.

Mr. STEVENS. Mr. President, this Senator has reached that conclusion. I would like to ask the Senator another question. The Senator's committee and our committee received the budget. The Armed Services Committee does not track the budget. It writes up its own budget, right? And when we get to the point of signing a letter, as we did, we agreed to track the authorizing bill. We did. When we left this Senate, the Senator gave us a letter thanking us for our cooperation, an historic act of cooperation between the two committees. The Senate appropriations bill this year tracked the authorization bill. When we got to conference, the Senator changed the authorization bill. I have it right here. As a matter of fact, it happens to be 718 pages long as it was delivered to us the night before we finished the conference. Now, we have an appropriations report that is 211 pages long and deals with the same subject. But my question to the Senator is. Does the Senator believe that we ought to have tracked this, this 718-page bill that we received 18 hours before we finished?

Mr. NUNN. If the Senator will check with the staff, he will find that staff had 99 percent of that for several days, in fact a good many days, before we finished formally our report. The committee staff worked together very closely, and I think they will acknowledge to the Senator from Alaska that that is the case.

Mr. President, may I finish my remarks.

Mr. STEVENS. May I just ask two more questions and I will retire.

The Senator asked us to have our staffs track it. In the 1970's, the authorization committee had 19 members of staff. In 1981, they had 36 members of staff. To date, they have 50 members of staff. Our staff has decreased on the Appropriations Committee. The Armed Services Committee staff has increased. Is not this sort of a staff battle now?

Mr. NUNN. If it was a staff battle, I would not be standing here on the floor of the Senate. I do not fight staff battles.

Mr. President, may I finish my remarks.

Mr. STEVENS. My second question—I had a second question.

Mr. NUNN. I have the floor. I would like to finish my remarks.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. STEVENS. The Senator was in order, Mr. President.

The PRESIDING OFFICER. The Senator will be in order, and the Chair asks, please, that the Senator from Alaska address the Chair properly. I hope that we can keep a civilized atmosphere on the floor of the Senate.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia has the floor. Does the Senator from Georgia yield further to the Senator from Alaska?

Mr. STEVENS. I thought the Senator yielded for two questions, Mr. President.

The PRESIDING OFFICER. I admonish the Senator from Alaska once again. The Senator from Georgia has the floor. If the Senator from Georgia wishes to yield to the Senator from Alaska, without losing his right to the floor, he has that right. The Senator from Alaska has no right to the floor at this moment.

What is the pleasure of the Senator from Georgia?

Mr. NUNN. Mr. President I would like to finish my remarks, but I see the Senator from Alaska is very compelling in his urge to ask the second question, so I will be glad to yield to him for a second question.

The PRESIDING OFFICER. Does the Senator from Georgia yield without losing his right to the floor?

Mr. NUNN. I yield without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Georgia was recognized and yielded to the Senator from Alaska without the Senator from Georgia losing his right to the floor.

Mr. STEVENS. I am pleased to have the guidance of the Chair. I was going to ask a question with the Senator not losing his right to the floor if I asked the question. I will not ask the question in view of the attitude of the Chair.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I will not go into the details of some of the points that Senator MCCAIN made very well, but I would agree with him on his points about the air cushion landing craft vehicles which were added at the same time we cut the ship that carried them, the LSD, and do not really have any ship to carry the ones we are now building because of that.

Mr. President, I would also like to point out that there are items in here that certainly affect my State of Georgia, and, like every Senator, I am very interested in those. The C–130 aircraft are built in Georgia. Contrary to what some people believe, the F–117's are not built in Georgia, have no relationship to Georgia whatsoever. The B–2 has no relationship to Georgia. But, the C–130 does. Our authorization bill has 28 of those C–130's. That is above the budget request. There is tremendous pressure from our colleagues and from the Guard forces around the country because these are their favorite aircraft. They perform a tremendous function. And everyone knows they are a great aircraft. It is the best tactical aircraft in the world. The Appropriations Committee has added 42 instead of 28. Now, I agree with that. I agree with that, but I do not believe it ought to be in here without being made subject to authorization, even though it is a program I favor.

Mr. President, these are just a few examples in the appropriations conference report where there are over 170 items that exceed the level set in the authorization act. Some of these, probably a large number, are sound recommendations and stand up to scrutiny and our committee will likely approve them. Some of them we cannot, I suspect. I believe that these appropriations in excess of authorization require the Armed Services Committee to take action to provide the authorization required in law and deny it where it is not needed. We will certainly turn to that task next year to the best of our ability.

Mr. President, I want to close my remarks by stepping back from the details of this conference report and looking more philosophically at what is happening. We are all spending our last days of this session in a pressure cooker environment, rushing to complete big, complex, detailed, and very important bills within a few hours. This conference report is replete with special exemptions and waivers from standing law. In my view, this is not how the process is supposed to work.

We have Senate rules that prohibit legislating on appropriations bill, and yet we have legislation on this bill that was never included in either appropriations bill in the first place. This is not my view of how the process is supposed to work.

All of these examples have one thing in common. They reflect the breakdown in the legislative process. Last year, Senator BYRD delivered a landmark speech on the workings of the Congress, and he spoke of the breakdown of legislative process, and I quote Senator BYRD: "I do not want to see the legislative process perverted here. This is exactly what we are doing when we attach authorizing measures to appropriations bills."

Mr. President, the problems we face transcend the immediate problems we face in this conference report. These are just examples. They go to the heart of the current way we function in the Congress.

Mr. President, there have to be fundamental changes made in the way we operate. With regret, Mr. President, with sadness, and again with my own sincere thanks—and I mean this sincerely—to the Senator from Hawaii and the Senator from Alaska for the thousands of hours they and their staffs put in. I know they are absolutely dedicated to our national security, as I have said. We agree far more than we disagree, but as a matter of principle I will oppose this conference report.

Several Senators addressed the chair.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Virginia.

Mr. DIXON. Mr. President, I wonder if the Senator from Virginia will yield to accommodate me about a matter.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. I would like to hear the question first and perhaps yield the floor.

Mr. DIXON. May I advise my friend from Virginia and my other colleagues on the floor, that at 11:20 I have a window to do a speech to a soybean conference back in my State. I have a statement I very much would like to make that will not take that much time. If I could be accommodated now, so that I could then go utilize that window to accommodate farm groups in my State that are concerned about this disastrous drought that we have, I would then return prior to 12.

Would my colleague mind if I took not more than 10 minutes to say what I would like to say at this point?

Mr. WARNER. Mr. President, I would like to accommodate our good friend, a very valued member of the Armed Services Committee at this time.

Mr. DIXON. I thank my colleague.

Mr. WARNER. I expect that the time will be coming from that of the Senator from Georgia.

Mr. NUNN. I will be glad to yield the Senator 15 minutes.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois. The time to be charged to the time allocated to the Senator from Virginia.

The Senator from Illinois.

Mr. DIXON. Mr. President, I am very disappointed that the conference report on the fiscal year 1992 Defense appropriations bill contains a legislative provision that would alter the current timetable for actions involving several military installations impacted by the base closure and realignment process. This is a very unfortunate precedent.

The provision I am referring to is section 8064. This section says that:

> The Secretary of Defense shall ensure that at least 50 percent of the Joint Service Missile Mission is in place at Letterkenny Army Depot by the time Systems Integration Management Activity and the Depot Systems Command are scheduled to relocate to Rock Island Arsenal. This provision is in no way intended to affect the move of the 2.5- and 5-ton truck maintenance mission from Letterkenny Army Depot to Tooele Army Depot.

The statement of managers accompanying the conference report goes on to say:

> It is not the intention of the conferees to impede the realignment of the Systems Integration Management Activity and Headquarters, Depot Systems Command but to ensure that the Army's plan to establish the Joint Missile Service at Letterkenny Army Depot is implemented.

The problem, Mr. President, is that this provision does interfere with the Army's current plans to implement the recommendations of the Base Closure and Realignment Commission which have been approved by Congress with respect to relocating two missions from Letterkenny Army Depot to Rock Island Arsenal, and the consolidation of missile maintenance work from several locations to Letterkenny.

Army officials indicate that under their current implementation plan—the plan which was the basis of the Secretary of Defense's recommendation to the Base Closure and Realignment Commission—the Systems Integration Management Activity and the Depot Systems Command at Letterkenny Army Depot are scheduled to move to Rock Island Arsenal in fiscal year 1994.

Missile maintenance workload from several Army, Navy, and Air Force depots is scheduled to be consolidated at Letterkenny Army Depot during fiscal years 1996 and 1997. Acceptance of this work at Letterkenny will require new facilities at the receiving site, and careful coordination of the shift of workload to preclude adverse readiness imparts on several critical missile systems.

So under the provision in this fiscal year 1992 Defense appropriations bill, Army officials say they will have to either slow down the moves from Letterkenny Army Depot to Rock Island Arsenal, or speed up the move of missile maintenance workload from other depots to Letterkenny Depot.

Why is this a matter of importance, Mr. President? Cannot the Army simply accelerate its missile transfer plans? Perhaps; the Service has not determined what it would require to make these moves sooner. The principal issue, I believe, is the precedent this provision sets. I would like to place this provision in the context of the overall base closure process.

The Defense Base Closure and Realignment Acts of 1988 and 1990 were based upon a compact between the legislative and executive branches which said that both branches would be bound, short of complete rejection, to the base closure and realignment recommendations of an independent commission. Both Congress and the President were linked to an all-or-nothing choice of the Commission's recommendations. In both 1989 and 1991, the other body decisively rejected resolutions of disapproval of the Commission's closure and realignment recommendations. In both cases, no Senator ever moved a resolution of disapproval. So in each instance, the Senate tacitly approved the Commission's recommendations.

Despite substantial disagreements with the 1989 recommendations, the all-or-nothing compact was kept. Once it approved the package of recommendations, Congress did not attempt to interfere with its implementation.

The 1991 process, while not perfect, was a substantial improvement over its

VOL 137 PT 23 NO 21–25 1991 UMI

predecessor. Congress and the President again approved the Commission's base closure and realignment recommendations.

Despite painful closures experienced in each of these rounds by members of the Armed Service Committees, these committees were careful during deliberation over this year's National Defense Authorization Act to do nothing to taint the base closure process or weaken the all-or-nothing compact.

Members of these committees had good reason to attempt to interfere with these closures. My own State of Illinois saw the closure of two major bases in the 1989 process: Chanute Air Force Base and Fort Sheridan. In the 1991, Rock Island Arsenal received a substantial reduction of employment.

Other committee members in both bodies experienced very controversial closures. The States of Indiana, Michigan, Massachusetts, Colorado, South Carolina, Maine, Arizona, Florida, New Hampshire, New Jersey, and Pennsylvania, to name a few, were all confronted with base closures. These actions substantially impacted local communities represented by influential Members on both sides of the aisle.

Despite these politically unpopular actions, not one member on the Senate Armed Services Committee attempted to weaken the all-or-nothing compact by imposing legislation to block or delay the recommendations of the Defense Base Closure and Realignment Commission, or the timing of the implementation of these recommendations.

To the contrary the National Defense Authorization Act this year made several changes to strengthen the process to ensure that the 1993 and 1995 closure cycles would be even more open, fair, and equitable.

In this process, we did clarify the legislative intent regarding the exclusion of the civil works activities of the Corps of Engineers from the base closure process. This was a position supported by Secretary of Defense Cheney. While this clarification in effect excluded from closure certain Corps of Engineers offices, this was a policy issue, not one driven by particular Member interest. It reiterated a position outlined to the Commission by the Armed Services Committees' leadership before these functions were ever recommended for closure, that the civil works functions of the Corps of Engineers were outside the scope of the base closure statute.

Mr. President, section 8064 in this bill, while not blocking any action recommended by the 1991 Base Closure and Realignment Commission, affects the timing of realignment actions approved by the Base Closure and Realignment Commission. And in doing so, it weakens, for the first time, the Congress' resolve to live with a balanced base closure process. It suggests that the Congress is willing to break, for the first time, its all-or-nothing compact with the executive branch.

Section 8064 does this by directing the Secretary of Defense to complete at least half of the planned realignment of depot level missile work to Letterkenny Army Depot by the time that installation is due to transfer two management headquarters to Rock Island Arsenal.

I should reiterate, Mr. President, that even with the relocation of these activities to Rock Island in my State, this installation will experience a net loss of personnel.

Mr. President, by supporting the legislation in section 8064, this Congress, once again, unfortunately, appears to be attempting to block or to otherwise interfere with or micromanage the agreed-upon base closure and realignment process through subsequent legislation.

This is not a signal we should be sending to the executive branch, which must make difficult recommendations in light of a declining force structure, declining over the next 5 years from 2,100,000 to 1,600,000.

It is not the signal we should be sending to our colleagues who also experience difficult base closures. This is not the signal we should be sending to the American people whose communities are often severely impacted by these difficult decisions.

Congress and the executive branch have worked together to attempt to assure all impacted parties that the base closure process is fair, with no undue advantage to anybody.

Section 8064, while not directly blocking a base closure or realignment recommendation, gives the appearance of doing so and, in my view, is a step in the wrong direction. Provisions like 8064 weaken the perception of fairness and the balance between the legislative and executive branches. They are ill-advised and should be avoided in the future.

Mr. President, this is the first precedent in a long line of what I think will be bad examples of compromising what the base closure commission does.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to accommodate other Members. As yet, I have not had an opportunity to deliver my remarks. And, at the same time, I have obligations in the conference on the highway report.

What is the desire of the various Members?

Mr. GLENN. Ten minutes.

Mr. WARNER. On my side of the aisle, are there others who desire to speak?

Mr. McCAIN. Five more minutes.

Mr. WARNER. At an appropriate time I will come in and try to——

Mr. BINGAMAN. I would like about 5 minutes, Mr. President.

Mr. WARNER. Five minutes. Very well. I will yield the floor and allow the Senator from Ohio to proceed.

The PRESIDING OFFICER. Does the Senator from Georgia yield time to the Senator from Ohio?

Mr. NUNN. Mr. President, I yield 10 minutes to the Senator from Ohio.

Mr. WARNER. May I inquire? The Senator from Virginia has what time remaining?

The PRESIDING OFFICER. Eighty-four minutes remaining.

Mr. WARNER. I misinterpreted the Chair's remark. Eighty-four.

The PRESIDING OFFICER. Yes.

Mr. WARNER. As I understand it, the Senator from Alaska, as an accommodation to the Senator from Arizona, allocated time to the Senator from Arizona. I ask unanimous consent that that time be restored to the Senator from Alaska, and it will come out of the time allocated by the Senator from Virginia, thereby reducing the 84 to how many minutes?

Mr. McCAIN. Sixty-four minutes.

The PRESIDING OFFICER. The Senator is correct.

Without objection, it is so ordered.

Mr. GLENN. Mr. President, I rise wearing two hats here today; one, as a member of the Senate Armed Services Committee and the other as chairman of the Governmental Affairs Committee.

It involves an amendment I would have proposed yesterday, had the parliamentary situation been a little bit different on the supplemental. But that opportunity is gone, and so we will not have the opportunity to vote on the amendment I would have proposed.

The amendment would have had the affect of prohibiting a mandated, noncompetitive extension of the current CHAMPUS reform initiative contract. And, two, to prohibit a mandated expansion of the CHAMPUS reform initiative that I feel should rather have been done on the merits.

The reason I say I represent Governmental Affairs on this also is that we have done a lot of work through the years on the Federal acquisition regulations and the Competition in Contracting Act. I think we can point to savings under those acts that would literally save us tens of billions of dollars through the years.

Mr. President, the CHAMPUS reform initiative—and CHAMPUS stands for civilian Health and Medical Program of the Uniformed Services—provides for a contract for the delivery of civilian medical care to the families of military personnel, military retirees, and their eligible dependents in the States of California and Hawaii. It is not a small bill. It is an annual cost to the Department of Defense of about $800 million. The current 5-year contract expires February 1, 1993. DOD already has published in the Commerce Business Daily announced plans for a new request for proposal for another 5-year contract to be awarded competitively.

The current contractor for CRI, Foundation Health Corp., located in California, has been lobbying, of course, for the noncompetitive extension of the contract.

Mr. President, I do not blame them. That is fine. I do not fault them for that, for wanting a noncompetitive extension, because contracts are profitable, I presume. Otherwise they would not want to continue them.

I will go further to say CHAMPUS beneficiaries have expressed general satisfaction for the health care services they receive. I fully support the program, and I believe CRI should continue to be the mode of civilian health care delivery for people in California and Hawaii. I think it has been an excellent program. I, too, want to see it expanded. I am not opposed to it.

CRI has proven to be not only effective, from the standpoint of patient satisfaction, but in holding down cost. Depending on cost-benefit analyses, a case could be made for the expansion of CRI in other States.

Mr. President, my problem is not with the concept of CRI, but with the procurement of CRI services as proposed in the Defense appropriations conference report. It would noncompetitively extend the current CRI contract for 1 year. It would overturn a provision in the Defense authorization conference report we just passed that would ensure that the CRI contract would be renewed competitively.

In fact, what we put in the Defense authorization conference report was in reaction to a provision in the House defense appropriations bill that would mandate noncompetitive extension of the existing CRI contract.

Let me give credit. Our Senate appropriators, including Senator INOUYE and Senator STEVENS, initially supported the Defense authorization conference provision, but in the give-and-take of the appropriations conference, they had to give on this particular point.

So I am sorry that this had to occur because I think fair procurement policy and the experience we have had with competitive bidding would indicate that we should have gone that direction. But that is what happens in conferences.

Mr. President, current Federal procurement statutes require competition for the award of Federal contracts, and they may sole source these things only under very limited circumstances that are very specifically prescribed by law. Obviously, the Department of Defense saw no circumstances that led it to think that sole sources of this would have been any advantage because it has already announced its intention to issue an RFP for competitive bidding.

If we allow a noncompetitive 1-year extension of the current CRI contract, I believe we are turning a blind eye to the contracting regulations.

I mentioned the Competition in Contracting Act and the Federal acquisition regulations. We would be singling out for special treatment a company that just happens to be in the district of a senior member of the House Appropriations Committee. In doing so, we would be excluding other companies who may be equally or more competent in providing the needed services.

Mr. President, aside from fairness, there is the issue of cost. Requiring a noncompetitive extension of the current CRI contract could potentially cost taxpayers millions of dollars. There are other companies who could compete for, and possibly win, a competitive contract that could result in lower cost and equal or even better health care delivery to CHAMPUS beneficiaries.

Mr. President, for those reasons, I regret I did not have the opportunity to obtain a vote in favor of a more fair and open competition covered by the amendment that I would have submitted yesterday.

Mr. President, briefly, involving a very different subject, I want to take just a couple minutes to remark on the amendment we passed yesterday as part of the supplemental that would provide for abortion services in U.S. military hospitals overseas. I think that is a very important issue, but I do not know what the President's view is on this. I heard a rumor that he will automatically veto a bill that has that type of provision in it.

Mr. President, open access to abortion services is the law of the land in this country. It was not until June 1988 that there was a Department of Defense specific restriction on this when there was a memo sent out by Assistant Secretary of Defense for Health Affairs Mayer that said there could be no further consideration, no further activity, like that in any U.S. military hospital overseas, no matter what, even though the recipients of these services were prepaying the costs themselves. And I might note there were very, very few such procedures being conducted.

Mr. President, what Dr. Mayer obviously was taking into account in his memo was President Reagan's views, his personal ideological views, but not those views shared by most Americans, since about 63 percent of Americans polled indicate that they do not object to abortions.

So, really it is a matter of fairness for our people in the military. We have certain health care standards in this country. We take care of our military people here, and that includes access to abortions.

I would say to my Senate colleagues, if it was your daughter or your wife in the military in some hospital in a Third World country where some of our military people are stationed, would you want your wife or your daughter going into one of those hospitals? I have been in some of them, and they did not come up to American standards. Many are dirty, infection rates are higher, and AIDS rates are higher in many of those countries. Would you as a military spouse or parent not want your wife or daughter to be treated in a well equipped, staffed, and managed American hospital there overseas?

I think I know your answer before I even ask the question. It is not a matter of cost to the Government, since the individual perpays the cost. It is a matter of fairness. It saves the rights of American service personnel and their female dependents from what could be looked at as an imposition of Presidential ideology.

Are individual rights going to prevail, or are preferences of a particular President? Abortion in this country is legal. That has not changed. There are no taxpayer dollars involved in providing this service in U.S. military hospitals overseas, because the person would pay for these services, as they did prior to the 1988 DOD memo.

Mr. President, I would say that our military people overseas are there to protect our freedom. Yet we seem to be unable, because of Presidential fiat, to let those same people who are out there protecting our freedom to have the medical freedom that every woman has inside the continental United States. To me, that is just not fair.

So I would hope that President Bush would avail himself of this opportunity to correct an inequity by not opposing this provision now in the supplemental. I note that we have an increasing number of women in the military, and after the newly mandated Presidential Commission on Women in the Military gets finished with its assessments a year from now, I have no doubt we are going to have women filling even more roles in our military and in increasing numbers.

So what I say is let American law prevail in this issue, and let it follow American women wherever they go in the military all over this world. They are not always where they can get good medical help. So let American laws prevail. Let the Constitution of the United States prevail. Let the compassion that people normally show in this regard prevail. Let respect for our servicewomen prevail as they represent us all around this world. Let sanity prevail.

I would urge that President Bush not veto anything because of this provision. But when the law changes in this country, if it ever does, then we will reflect that change in the military. But the law right now permits abortions in this country—and I would hope that we would have the women who represent us in the military have the same right by extending medical services to them in U.S. military medical facilities overseas, as we outlined yesterday.

VOL
137
PT
23
NO
21—25
1991
UMI

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Alaska.

Mr. STEVENS. Mr. President, I regret the last occasion when I was on my feet that the Presiding Officer indicated that I was out of order, and I want to call the Senate's attention to rule XIX, paragraph 2, that restrains any Senator, including the Chair, from imputing to a Senator conduct unbecoming a Senator. And I further call to the attention of the Chair that a Senator that is called to order by the Chair may appeal the ruling of the Chair and the appeal would be subject to debate, unlimited debate.

This Senator does not appreciate being called to order when he is not out of order.

Mr. President, it is regretful that I hear that the members of the Armed Services Committee will vote against this bill for the first time. Should that happen, this Senator denounces the agreement we entered into before. Every member of the majority of the Armed Services Committee in the House voted for this bill. Every member on the majority side. To have the majority on this side now say they are going to vote against this bill because it was entered into in good faith with members of the other body after serious negotiation to me transgresses the agreement we had.

We said we would do to the best of our ability what we could to live up to the authorizing committee. We did not say that we pledged to bring back as a matter of rote every single item the authorization committee entered into in a conference that was with different Members of the House.

Again, I repeat to the Senator from Georgia that this was delivered, the tables that are contained in this report that is 718 pages were delivered to me in the afternoon of Thursday. We completed our agreement with the House on Friday. This Senator almost got no sleep on Thursday night because this very able staff member as he went back to work with the staff almost all night gave me a series of things to read over to be prepared for the conference the next day.

It is a matter of fact that we have tried to do our best to work with the Armed Services Committee. I hope we can continue. But for this Senator, it will be determined by whether these Senators carry out their threat to vote against this bill. This bill is a good faith compliance with the agreement we had with the Armed Services Committee.

Let me point out, for instance, the conversation that just took place concerning our announcement that the university grants under this bill are not subject to competition.

If one looks at page 500 of the Armed Services Committee report, you will find this statement: Because FFRDC's are largely exempt from the requirements of the Competition and Contracting Act, placing work at the FFRDC's tends to be both more rapid and less burdensome. But the FFRDC's cannot be allowed to exploit unfair competitive advantages."

In other words, the creation of the Armed Services Committees, the FFRDC's, are already not subject to competition and yet we are criticized for making the universities not subject to competition.

That was not our idea. That came from the House. Everyone here knows it came from the House. With the FFRDC's, the Senate Armed Services Committee insisted that the House go back up to the level of $1.6 billion. We have reduced the FFRDC's down in negotiation to $1.453 billion.

We have brought them down. Now, we have brought them down because we did include the money, almost $100 million, for the universities. But neither of them are subject to the competition requirements of the law.

I do believe that the problem in dealing with the separate Members of the House is they have different goals, as we have separate goals. But we signed an agreement in the past, in 1986. To my memory, it said, to the best of our ability we would comply with the agreement that we would try to track one another's bill.

This Senator once again now is disturbed about the continuing feeling that the members of the Armed Services Committee somehow or other think they could have done a better job in the conference with the House Members we met with. Maybe next year we ought to switch and see if we can improve the bill. There are 20 of us. There are 20 Armed Services Committee people. Maybe we should switch and let us negotiate with the House Armed Services Committee and let them negotiate with the House Appropriations Committee.

I am not being facetious. The problem is we negotiate with different people from different States who have different priorities, and each of us have come back with a different bill than the Senate approved in the first instances. Those two bills, by definition, almost track one another.

I think Members of the Senate who are criticizing this bill now—and it is not perfect. There are a great many things in there that we argued against and, very reluctantly, at the last minute, agreed that we would work out some sort of compromise in order to bring the Senate a bill this year that I think is a very vital bill to preserve the defenses of this country.

But, Mr. President, above all I want to ask the members of the Senate Armed Services Committee to reconsider their threat. Because if every member of the House Armed Services Committee that they met with, and the conferees come back with their conference report on the majority side, can support this bill and did, then I wonder why there is this feeling by the Senate Armed Services Committee that we brought back an imperfect product.

Mr. McCAIN. Mr. President, as acting manager for Senator WARNER, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator may proceed for 5 minutes.

Mr. McCAIN. Mr. President, I would like to respond just briefly to the Senator from Alaska on the issue of the FFRDC's. He read from the Defense Authorization Act concerning the lack of competition in FFRDC's. Specifically:

> Because FFRDC's are largely exempt from requirements of the Competition in Contracting Act, placing work at FFRDC's tends to be both more rapid and less burdensome * * *.

Let us also keep in mind the committee also said:

> * * * but FFRDC's cannot be allowed to exploit unfair competitive advantages. The conferees note again the sizable growth—23 percent—in manning levels at FFRDC's since the historic peaks of the defense budget in 1985, and declare their intentions to work with the Department to develop a long-term plan to provide stable reductions in FFRDC manning in future years, commensurate with the needs of DOD for such services and the level of defense spending.
>
> Finally, the Department of Defense is enjoined from creating additional FFRDC's, unless such additional FFRDC's are authorized in law.

So I think it is important for us to recognize here, Mr. President, that comparing the FFRDC's and the expenditures earmarking for universities is clearly apples and oranges. Contracts awarded by FFRDC's are exempt from the Competition in Contracting Act.

However the agencies situated in the Department of Defense contract with such organizations on the basis of agency requirements, not on the basis of congressional earmarking of projects for specific institutions.

In fact, the defense authorization report, as I just mentioned, in language explicitly endorsed by the Defense Appropriations "Statement of Managers," placed a series of limitations on man-year levels at all the FFRDC's to prevent unreasonable growth in these institutions. And I might add, only three FFRDC's have a specific authorization in the Defense authorization bill. The rest are funded by the agencies based on work to be performed. So it is important to recognize that there are some significant differences here.

Also, Mr. President, I want to point out a need for reform that I have mentioned earlier, and which this discussion highlights and emphasizes.

Three years ago, we began this process of reform with an amendment to

the authorization act that I drafted, and that required that the justification for the budget submission be explained in an annual net assessment by need, a budget where expenditures can be related to their impact on national security and where the budget data are organized under a clear definition of roles and missions. We need a budget that shows how expenditures will shape viable programs by role and mission over a period of at least 5 years, and which shows the need for continuity and stability by the Joint Chiefs of Staff which allows the authorizing committee and the appropriators to better authorize and fund our Nation's security and our defense forces.

In fiscal year 1991 we amended the authorization act to require a budget submission that showed how the budget would be spent by role and mission and over a period of at least 5 years. This new form of submission must begin in fiscal year 1993.

If we get a clear definition of how money is to be spent by role and mission, and over time, from the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, I think we may be able to avoid the kind of micromanagement which we all decry. I think we may be able to achieve better synchronization between the authorizing and appropriating committees. Our goal should be to advise and consent on the overall level of defense spending and to work with the administration in forging effective forces for each role and mission at the least possible cost. We can only do this if we have budget data that allow us to do this.

This will not, however, end the need for a stable agreement between the authorizers and the appropriators. I would like to say to my friend from Alaska that I do not quite understand the logic of destroying the present agreement if one or more or all members of the authorizing committee do not agree with the product.

I would suggest that if agreements require that all parties vote for any piece of legislation that comes out of such an agreement, that would be binding on Members of this body in such a way which I think would prevent this Senator from entering into any such agreements in the future.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

Mr. NUNN. Mr. President, I yield to the Senator from Nebraska 10 minutes.

The PRESIDING OFFICER. The Senator from Georgia yields 10 minutes to the Senator from Nebraska.

Mr. EXON. I thank the Chair and I thank my colleague, the chairman of the Armed Services Committee.

First let me start out by saying, Mr. President, that the references made to my friend and colleague from Alaska while this Senator from Nebraska was in the Chair were only an attempt by this Senator as Presiding Officer of the Senate to abide by the rules of the U.S. Senate which provides that the Chair will do everything within its power to see that debate flow freely in the U.S. Senate and that the ongoing heated discussions that take place are done in a manner in accordance with the rules.

There are times when the Chair must take action to make sure that those rules are applied. Certainly the Chair had no intention of being unduly harsh on any Member of the Senate on either side of the aisle.

The Senator from Nebraska in 13 years here has been in the Chair on many, many occasions and I believe that most would agree that I have been fair to all Senators, regardless of their political affiliation, in trying as best I could, to make sure that the debate is handled in the Senate in a way that is entirely proper.

If I offended anyone, I apologize. I was only trying to do and carry out the duties as I saw them as an occupant of the Chair during the last hour or so.

Mr. President, we are here engaged in a typical clash between appropriators and the authorizing committees. This is not the first or the last time on the Senate floor that we are going to have sharp differences of opinion. And I guess the only way we resolve these is to state our views, try and make them clear, and have a clear-cut explanation of why we are, many of us, opposing this particular appropriation conference report. It has nothing to do whatsoever with personalities. It, rather, has to do with regard to the mechanics in the future workings of the U.S. Senate.

Ever since the establishment of the Budget Committee, before this Senator came to the U.S. Senate, there has been this ongoing problem with the authority of the Budget Committee, the authority of the appropriating committee, and the authority of the authorizing committees. And I suspect until that matter is better resolved than it has been thus far, these kinds of clashes will continue to take place.

I also want to say from the beginning that I have the highest respect for the Appropriations Committee, its leadership, and especially the leadership of the Senator from Hawaii and the Senator from Alaska, who are the ranking member and chairman of the subcommittee of Appropriations having to do with national defense. Certainly, with regard to the Senator from Alaska and the Senator from Hawaii, I salute them for their understanding. I salute them for the cooperation, generally, that we have had over the years. And I think that they try just as hard as we do in the authorizing committee to do what is best and fair overall.

There has never been a perfect bill passed in the U.S. Senate. I suspect most would agree, at least, this measure is far from a perfect one. The numbers indicate, however, that with about a third of the Senate—approximately 33 Members of the 100-Member body—serving on the Appropriations Committee, the largest committee by far of any of the committees in the Senate, I guess I would have to say that all that the appropriators need on each and every bill of this type is 17 defections from the rest of the Senate that serves on authorizing committees to get their way.

So there is no question but what the Appropriations Committee remains, in my opinion, the most powerful committee as far as getting their will, more than any other committee of the Congress.

Having said that, I have some serious reservations about the speed with which we are moving. Always as is the case when we come up against deadlines, as we are right now, and so many of these important matters come down to deadlines. Not only do we have a deadline on this Defense appropriations bill, but certainly within the next few hours sometime, we are going to have brought forth from the authorizing committee the highway bill, which has been under intense negotiations between the House and Senate now for, lo, these many weeks and even months.

I suspect we may have another rather heated debate when the highway bill comes up. I do not know whether or not it will take the same general character of this debate. But I suspect it is always difficult to work out the differences between the Senate and the House bills. It is an especially difficult proposition, trying to work them out hurriedly, if not expeditiously, as we rush to adjournment.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. EXON. I was allotted 10 minutes. Has 10 minutes expired?

The PRESIDING OFFICER. The Chair corrects itself. The Senator from Nebraska has 5 minutes remaining.

Mr. EXON. I thank the Chair. I may have to ask for some additional time.

Mr. President, just let me say I think it would be wise for us to vote down the appropriations measure, which would mean we would not, very likely, finish our activity before Thanksgiving. But, coming, up, is an arbitrary date when we would all like to leave and carry on other important business. Setting all that aside, our first responsibilities, Mr. President, I suggest, are to remain here as long as is necessary up until Christmas or thereafter, to complete our work in an orderly fashion before we adjourn.

Mr. President, I am in opposition to the supplemental appropriations bill to eliminate a fiscal year 1992 Defense ap-

VOL
137
PT
23
NO
21—25
1991
UMI

propriations bill provision mandating that $25 million in fiscal year 1991 Strategic Environmental Research and Development Program [SERDP] funding be set-aside for an Arctic region supercomputer center.

Last year, I joined Senators NUNN, GORE, BINGAMAN, and other of my Armed Services Committee colleagues to establish a program to substantially increase the defense department's contributions to countering major environmental threats, such as global warming and hazardous waste cleanup, facing the United States and world. The Defense community has a great amount of resources, equipment and expertise not presently available in the commercial sector which can aid in this fight to save our environment.

The sum of $150 million was appropriated for the SERDP in fiscal year 1991 with the condition that $25 million be noncompetitively directed to the State of Alaska for the establishment of an Arctic region supercomputing center. Because this mandate was contained in report language, the Department of Defense was able to rightfully ignore the provision. But in this year's fiscal year 1992 Defense appropriations, however, the Alaska set-aside was again stated, this time as bill language.

The resources of this fledgling research and development program are too scarce for it to be the victim of this type of raid. The Statute creating the SERDP sets forth an independent procedure by which worthy programs are selected and funded. The Alaska supercomputer and its center are not a product of this merit-based process. The earmarking of this $25 million to one State, to one program, is an egregious example of Pork-Barrel politics at the expense of the integrity of the SERDP itself. This is not good government and, if allowed to continue, it will handicap our Nation's ability to direct scarce funding to our growing environmental problems.

Mr. President, I urge my colleagues to reject this conference report for several reasons, including the ones that I have just enumerated.

This bill also fences funds contained in the fiscal year 1992 Defense appropriations bill for the construction of four new military museums.

Mr. President, it seems to me in these very, very difficult times of cutting back on defense, we cannot go about creating a whole series of new museums. It simply does not make sense.

These four new museums mandated in the Defense appropriations bill and totaling $11.7 million represent collectively the illegitimate twin of the noncompetitive earmarking of university grants also contained in the 1992 Defense appropriations bill.

None of these museums were funded in the Senate-passed version of the bill, and none of these funds have been requested by the military services. Perhaps these four museums are warranted and perhaps their locations are appropriate. But we will never know and 46 States will be automatically excluded from the running. The four new museums are just the most recent examples of how a small group of Congressmen attempts to subvert the proper, competitive establishment of such institutions. I urge my colleagues to not be part of these parochial, pork-barrel games and vote against the conference report.

This is not the first time this battle against pork-barrel spending has been joined. In the whole, it comes up time and time again. It will come up time and time again in a whole series of areas.

Each year, the Senate Armed Services Committee drafts a Defense authorization bill which ignores the siren call to load up the bill with earmarked funding for universities in particular congressional districts or to fund other dubious, rigged, noncompetitive projects. And each year, under the strong guidance of committee chairman, Senator NUNN, and ranking minority member, Senator WARNER, we have achieved this goal of not earmarking these types of funding.

Mr. President, I ask for 4 minutes of additional time.

Mr. BINGAMAN. How much time remains to the Senator from Georgia?

The PRESIDING OFFICER. The Senator from Georgia has 16 minutes remaining.

Mr. BINGAMAN. Mr. President, I ask the Senator from Nebraska if he could do with 2 minutes. We have three or four other Senators waiting on the floor wishing to speak during that 16 minutes remaining.

Mr. EXON. I would certainly agree with that, so long as those of us who have not had a chance to speak on this do not have to yield to other Senators who have already spoken.

Mr. BINGAMAN. We will be glad to allocate the time in that way, if the Senator requests.

I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator from New Mexico yields 2 additional minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, what we have been attempting to do in the Armed Services Committee is strike a blow, if you will, for government, good government. However it is with equal regularity that the Defense appropriation have been undercut, which gives some leeway properly to the appropriator, but yet they have kind of filled in these, changed it around for university set-asides.

This year's bill contains $95 million in university set-asides and earmarks spread over 13 States that are purposely and wrongfully, in my opinion, not intended to meet the rigors of competition, competition based on merit, competition based on cost, competition based on even more simply whether the program is deserving of taxpayers' dollars.

It is clear that the Congress should not be in the business of directing scarce funds on a preferential basis to the universities in the States of the selected few Senators and Congressmen. The American people expect more of their elected officials. They deserve a higher standard [illegible] accountability at a time when our Federal deficit is running wild, devouring the budget, at a time when social services are being squeezed by the forces of a worsening domestic economy. And $95 million in the earmarked university funding may not amount to much when compared to the overall defense budget or the entire Federal budget, but its the most significant and it is the most symbolic thing that we are doing wrong.

It is significant because the $95 million is a great deal of money even by those standards of those here in Congress. It is symbolic because it is affront I suggest to a basic pillar of good government and the trust with which the American people have placed in us and in this great institution.

In conclusion, simply let me say I have no personal involvement in this or criticism of the bill with regard to the strategic programs. I have worked very closely with the Senator from Alaska and the Senator from Hawaii. I have no basic complaint with the agreements and arrangements that they came to as incorporated in this bill, except the fact that I might add I think we are spending more money on the strategic defense initiative than is justified under the circumstances.

Just let me say that it is not because of any particular program that I reluctantly will oppose this bill. It is the overall thrust of the measures that have been outlined as wrong by myself and other members of the Armed Services Committee.

Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, I yield myself 4 minutes.

Mr. EXON. Mr. President, I ask the Senator from New Mexico whether or not the Senator from New Mexico has previously spoken on this subject.

Mr. BINGAMAN. The Senator from New Mexico has not spoken on this subject, I will respond.

Mr. EXON. I have no objection.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I am going to follow the lead of the chairman and ranking member of the Armed Services Committee in voting against the conference report.

This is the first time that I have voted against a conference report on the Defense appropriations bill in the

years that I have been in the Senate, and I do so not so much because of the substance of that report but as a reflection of my strong belief that the process that we need to follow has broken down.

I do believe that, in the past, the bill was presented to the Senate floor in a way—with the exception of last year—the bill was presented to the Senate floor in a way that made it subject to amendment. I think in 1988, Senator NUNN was able to eliminate, and Senator DANFORTH with him, a series of porkbarrel university projects because the bill at that time was subject to amendment. Others have been able to at least get a hearing for their differences on the bill because it was subject to amendment. Unfortunately, because of the success that occurred in 1988 in eliminating some of the provisions, we find that now the bill comes back to us—it did last year, it does again this year—in a way that makes it unamendable. Accordingly, our ability to have input, our ability to amend, our ability to meaningfully oppose particular provisions is eliminated.

Others have spoken about the specific problems of the bill. Let me just cite a few of those. Clearly, there is a problem with university set-asides. Mr. President, let me just cite a particular instance that I experienced a few months ago where a president of a leading university in this country mentioned that he felt that the earmarking of funds for particular universities had become so prevalent in the Defense bill that he had no alternative but to essentially do as the Romans do when in Rome. He felt that he, as many other presidents probably have also previously decided, that in order to protect the interests of his university, he would have to go the now-accepted route of hiring a lobbyist in Washington to look out for the university's research budget, to urge, through that lobbyist, that funds be included in the Defense appropriations conference report. That is where they are included, I call to my colleagues' attention, because that is a place where they are not subject to amendment. There is no effort being made on the floor to strike those because that would not be within the procedures of the Senate. This conference report is not subject to amendment. We have no option but to vote up or to vote down on it.

Mr. President, I feel that the Senate can only function well where there is an opportunity for all Members to state their views, to offer their amendments, to deliberate issues on the Senate floor. The great thing that distinguishes this institution from other institutions, not only in this country but worldwide, is that we do have a right of amendment. That right has been denied us in this case. The bill that comes to us is not subject to amendment.

Mr. President, I will conclude by saying that it is with regret that I have to vote against this conference report. I hope very much that the procedural problems that are causing me to do that can be remedied before this process, once again, goes forward next year.

Mr. President, the Senator from Michigan has requested 5 minutes. He has not previously had a chance to speak on this bill, and I yield him 5 minutes of the time the Senator from Georgia has been allocated.

Mr. STEVENS. Mr. President, before the Senator from Michigan speaks, it was called to my attention that the dialog I had with the Senator from Georgia was charged partially against his time. I would like to give 10 minutes back to the Senator from Georgia so that there will not be an imbalance.

The PRESIDING OFFICER. The Senator has that right. The Chair is assuming that time would be taken from the time of the Senator from Alaska.

Mr. STEVENS. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Michigan is recognized.

Mr. LEVIN. I thank my friend from New Mexico. Mr. President, I will try to do this in less than 5 minutes so I can yield back time for others.

First, let me thank the members of the Appropriations Committee and their staffs because the bill contains so many good things and they have extended so many courtesies that that is the first thing I want to say to them, to acknowledge what they have done in this bill which contains so many positive things.

I am an authorizer, and I look at the world that way, and I know that they understand that. The improvements that this bill contains, as I said, are many. I am glad that they removed funds for MX missiles, which are unnecessary and were not requested. I am glad the appropriators have reduced funds for mobility for the small ICBM, a program that the President terminated in September. I am glad that the appropriators reduced funds for Trident II missiles that were not requested. I applaud their reducing funds for the advance cruise missile, a nuclear missile which has had considerable problems in development.

I am troubled by a number of aspects of this bill. Others have spoken about them. And whether one votes for or against the appropriations bill from an authorizing point of view, there are a number of troubling aspects to this bill.

First is the waiver of the Competition in Contracting Act.

Mr. President, one of the things that does concern me is the waiver of the Competition in Contracting Act. That is an act that I have had a great deal of input in and helped to write. That act is being waived so that competitive procedures need not be used for grants and award contracts in institutions of higher learning. I think it is a significant mistake to do that. That waiver of competition is opposed by associations of universities, and I want to just name a few that feel strongly that we should have competition for grants and awards to universities: The American Association of Universities strongly supports competitive procedures. The National Association of State Universities and Land Grant Colleges and many individual university presidents have spoken out about the importance of this. I know the appropriators are in a difficult position when they go to conference. I know this is not their idea, but the problem is it comes back to us unamendable. It was added in conference, and it represents a significant departure from what we must be all about in our universities.

Second, there are many unauthorized appropriations in this bill, and, again, I know that many of these were imposed by the House of Representatives in conference. But, nonetheless, there was an understanding that, to the extent possible, we would avoid any unauthorized appropriations which are not later subject to authorization. That provision that unauthorized appropriations be subject to later authorization was not added in this bill, and that represents a significant undermining of the authorization process. All Members of this body who are members of authorizing committees must be concerned by this development.

So, there are items in this bill that are deeply troubling to me on principle and, I think, must be resolved somehow by the leadership of this body. Conflict is going to occur in a legislative process. That is always the way it has been, it is always the way it is going to be. But there are now some basic conflicts which are again surfacing between the authorizing and the appropriations process which I believe the leadership of this body must attempt to resolve. The authorizing committee, being the Armed Services Committee, sets ceilings for expenditure. The appropriators set floors. When that basic approach is deviated from significantly, we have then undermined either the appropriating process or the authorizing process. And when we authorize on appropriations bills, when we waive the Competition in Contracting Act on an appropriations bill, we have deviated significantly from a process which has allowed us of function smoothly.

So I would hope that the leadership of this body would try to pull us together after this session is over to find a way that we can avoid the kind of process conflict into which we are all plunged.

Again, I want to end by thanking my friends on the Appropriations Committee. I particularly want to thank Sen-

VOL 137 PT 23 NO 21—25 1991 UMI

ator INOUYE, who has labored so mightly with so many of us to make possible so many projects that we feel and he feels are important in many of our States. And I want to end as I began with a note of gratitude to him and the other appropriators. I thank the Chair.

Mr. STEVENS. Will the Senator yield for just a moment on my time?

Mr. LEVIN. I think my time is up.

Mr. STEVENS. I have time. I yield to the Senator 2 minutes to answer my question.

When the Senate passed this authorization bill, the Senate level of university research initiatives was $107 million. When the conferees from the Senate Armed Services Committee came back from their conference with the House it was $182 million. That is exactly what happened to the appropriations. What is the difference?

Mr. LEVIN. The difference is that the Competition in Contracting Act was waived.

Mr. STEVENS. It was waived by the Armed Services Committee on the FFRDC's.

Mr. LEVIN. I do not believe that we waived the Competition in Contracting Act, and I stand subject to correction on this.

Mr. STEVENS. Look at page 500 of your report, I would say to the Senator.

Mr. LEVIN. I believe that the Competition in Contracting Act has not been applied to other FFRDC's and other legislative actions, including the legislative action of the authorizers. That is a legislative bill.

But FFRDC's have not been subject, as I understand it, to the Competition in Contracting Act which is one of the reasons we have problems with FFRDC. And the last thing we ought to do is extend that further and then say because FFRDC's are not subject to competition the way others are, that we therefore should waive the Competition in Contracting Act for universities. I believe we have made a mistake.

Mr. STEVENS. I just yielded the Senator 2 minutes.

Mr. LEVIN. If I could continue my answer to the Senator from Alaska.

Mr. STEVENS. I yielded the Senator 2 minutes. I have limited time; he has limited time. I will be happy to yield him another 2 minutes to answer a question, if he wants to do it. But the question is this: House members of the Appropriations Committee tell us those Armed Services Committee people, they have an initiative and they put it up to peer review. They are basically people from the State where the peer review grants are awarded; we want some of these university grants for our districts, and we yielded to them as you yielded to the ones in your conference.

Now, why is it that the Armed Services Committee people on our side are going to vote against this bill when the Armed Services Committee people on the other side, particularly on the majority side—there were some conservatives who did not vote for it and will not vote for a bill like this, but why is it that Senators are united now to vote against the bill when each one came to me and asked me to support additions to this bill, including the Senator from Michigan?

Mr. LEVIN. I thank my friend from Alaska. What I have tried to seek consistently with the appropriating committee—and I again thank the appropriaters for their cooperation—is items which have been authorized by the authorizers. That is No. 1.

No. 2, we have not waived CICA before in an appropriating bill as far as I know. CICA is here being waived for universities and the universities, the associations of universities do not want waiver of CICA. They do not want to abolish competition. And the reason given by them is because they want fairness for all universities and States.

If I can now direct my answer to the first question of my friend from Alaska, I agree with the Senator. I think some States and some universities have been left out by the competition process, and that is why it was attempted in an authorizing bill to provide that a minimum amount of money for research and development grants would go to smaller universities.

But all smaller universities then ought to be able to compete for those funds. We should not just say that we are going to waive the Competition in Contracting Act so we can give grants to certain universities that have been omitted from the competition process or from the peer review process. If that peer review process has not worked well, we should amend the peer review process or do what we have done in other bills, which is to require that a minimum amount of money go to universities which have been left out of the process. But process is key, just as it is on this floor. And that is what we have tried to restore.

Mr. STEVENS. The Chair is watching my time, I say to my friend.

The PRESIDING OFFICER. The Senator has used the 2 minutes.

Mr. STEVENS. I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, from the time allotted to Senator WARNER, which I am authorized by him to allocate, I yield myself 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I thank the Chair.

This is a difficult time, it is clear, and you see the tensions that this dispute has raised. The reason tensions are raised is that the process has now completely collapsed. There is no means by which, whether in the Armed Services appropriations, authorization or budget or any other committee's appropriations, authorization or budget we can any longer make sense, whether it is economic, whether it is philosophical or whether it is just pure accounting sense.

There are too many says. There are now three says. There is the authorization say, budget say, and appropriations say.

What has happened now and why the tensions are so great is that the authorization process has become irrelevant, at least so far as the Senate Armed Services Committee is concerned. We are reduced by the statements of the managers of the appropriations bill to saying, "Gee, thank you, daddy." "Look in the bill, you have some nice things in there." "Gee, thank you, daddy." "But hush, child, don't you dare express any reservations about what you thought was your obligation."

Mr. President, I am one who will right now say to the distinguished Senator from Hawaii and the distinguished Senator from Alaska, "Thank you, daddy." There are some nice things in there for Wyoming, for which I asked, which the committee authorized—in fact, authorized a little bit more than was appropriated, but we got something. "Gee, thank you, daddy." But that is now our role and it is not an appropriate role.

There is no structure, Mr. President, when three committees exist. What happens then, as has been demonstrated on this floor, is that pride now becomes more important than principle, seniority more important than pride, and local economies more important than national force structure, pride or principle.

The pork now, Mr. President, is more important than the pig.

Too many says means that there is no circumference or boundary around, in this instance, the needs of America's military force. There is no budget pie; there is only a pile. And you can throw on a piece, take off a piece; it does not change the shape of the pile.

What is important, Mr. President, is somehow or another we get to a process within this body where there is a circumference; and that in order to argue a piece out of the budget pie, you must find some other satisfactory insertion to go into that pie so that the shape essentially does not change.

When you have nothing but a pile, there is no shape, there are no means by which anybody can render a judgment. That is why seniority becomes more important, that posture on the committee becomes more important; that the right sort of committee becomes more important than the whole philosophical view.

So when, Mr. President, we hear a threat to abandon the agreement, it is

a hollow threat. We really do not count anymore in the process other than being able to express our gratitude if the appropriators condescend to follow our priorities. And clearly I do, as do others, have that gratitude. But we no longer have a meaningful role in the authorizing committee in shaping America's military forces, any role except that of supplicant, a beggar coming to those who hold the real power.

Our role in the Armed Services Committee now has been reduced to approving nominees of the President, promotions of military officers, to give comment on treaties like the one we are about to consider, but not to approve or disapprove it, to pass a Persian Gulf resolution to go to war with forces over which we had little or no say in shaping or producing.

So what now happens, Mr. President, is that we are faced with a conference report of the Appropriations Committee. It is unamendable. We now have two roles left to us. One is to comment, and having included, "Gee, thank you, daddy," to say what frustrates us, and vote against it—nothing else is left to us by way to shape this document.

Mr. STEVENS. Mr. President, will my good friend yield for a moment?

Mr. WALLOP. On the Senator's time without losing my right to the floor.

Mr. STEVENS. I call attention to the report of the DOD authorization bill which was presented to the floor, all 718 pages. It was unamendable. It was unamendable, exactly as ours is unamendable, because that is the only way we can get a bill.

Mr. WALLOP. I say to my friend from Alaska, that it is unamendable except by the Appropriations Committee which has just amended it. That is what brings us into the argument in which we now find ourselves. They amended it at will.

So the role of the Armed Services Committee is just as what I said it was; the role of supplicant and grateful beggar, if we get the few crumbs offered to us for those things for which we ask.

And I have absolutely the greatest respect for the Senator from Alaska, and the Senator from Hawaii. They are, I know, patriots. And they are, I know, among the few of those of us in the Senate who have actually stood up for the defense priorities and the purposes which the Senate Armed Services Committee has authorized in legislation. Lord knows where we would be without the two of them: That I absolutely will stipulate.

But nonetheless, on a whole variety of little areas we authorizers simply no longer have any say. In competition with our priorities, for example, we have in here $300,000 for the Maryland Hospital Association, clearly one of America's critical defense needs. You could go on and ridicule many more such pork barrel items.

I do not mean to ridicule anything but the process itself which has now become so corrupt that neither the appropriaters nor authorizers nor the Budget Committee really have a coherent role except to play with a pile. There is no longer any boundary line against which the changes are measured.

That is not to fault the Appropriations Committee. It is a frustration beyond reach of the authorizing committee. We really do no longer have anything else to do.

What I am saying today is the Congress of the United States, through its Budget Act and appropriations process, now is totally sick. It does not work.

The Senator from Alaska well knows that we are now in the idiotic posture that sales of the assets of the United States that would bring multimillions of dollars to the Treasury of the United States do not count as money. That is where we are. We have a process that has no economic sense, no accounting sense, no philosophical sense, no sense whatsoever, and that is why we are engaged in prodigal discussions where the pork has become more important than the pig.

That is not the fault of the Senator from Hawaii, or Georgia, or Virginia, or Alaska, or Wyoming, or anywhere else. It is what we have allowed ourselves to lapse into. It brings us in rage and frustration to the floor right now where those of us who thought we had a role find ourselves having none.

Mr. President, I yield the floor and the time that I have yielded myself in this heavy note of frustration. This is an irresponsible process engaged in by a now irresponsible body. If we do nothing else in the year in front of us without politics involved, we ought to see if there is not a better way.

Mr. President, I yield the floor.

Mr. SIMON. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Would a point of order rest against an appropriations matter where the appropriations exceed the authorization?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that there is no Senate rule nor precedent that would provide for such a point of order.

Mr. SIMON. I thank the Chair.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. I want to ask a question if I could get 30 seconds.

Mr. BINGAMAN. Mr. President, I yield 30 seconds or a minute to the Senator from Arkansas.

Mr. PRYOR. Mr. President, if I could get the attention of the distinguished Senator from Alaska, Senator STEVENS, who appears to be managing this bill, I have one question that would be answered with a yes or no answer. Are there items in this appropriations bill on the Department of Defense that are not authorized by the Armed Services Committee, the authorization committee?

Mr. STEVENS. The answer is yes.

Mr. PRYOR. Mr. President, I thank the Chair. I thank the Senator from Alaska.

The PRESIDING OFFICER. Who yields time.

Mr. WALLOP. Mr. President, I yield myself 30 more seconds out of time allotted to Senator WARNER.

Mr. President, the amendment which I would have proposed if this bill were amendable would have restored two critical features to an important initiative the Senate Armed Services Committee undertook this year.

One of the major features of our bill for fiscal year 1993 was a program to enhance modernization within the Marine Corps.

As a result of several trips to the gulf by members of our committee, after-action reports from the services, and testimony from ground commanders following the war in the Persian Gulf, the committee pulled together a number of modernization initiatives carefully structured to improve areas of the Marine Corps where they had not kept pace with the other services.

These measures were enthusiastically adopted by members of the Senate Armed Services Committee and readily agreed to by conferees in the Senate-House Defense authorization conference.

These enhancements focused on armor, fire support, night fighting capabilities, tactical intelligence and mine detection, and clearance.

Together, the appropriations bills of the Senate and the House included the modernization enhancements for the Marine Corps which our committee had recommended.

Unfortunately, the outcome of the appropriations conference did not include two critical aspects of this modernization package—the multiple-launch rocket system [MLRS] for the Marines and Naval ship-to-shore fire support.

Our committee recommended in the committee report that the Marines should begin to receive in fiscal year 1993 the MLRS with which the Army is already equipped.

This system proved especially effective for the Army during the war in the gulf.

In fact, Marine Corps units were supported by Army National Guard MLRS artillery units during Marine operations in Saudi Arabia and Kuwait.

The amendment which I would have proposed would have restored the 9 MLRS launchers the Senate and the DOD Senate-House conference had originally authorized plus the 10,000 rockets that were authorized.

Mr. President, another critical area we addressed in this initiative is the

VOL 137
PT 23
NO 21—25
1991
UMI

fire support provided by the Navy for Marine Corps amphibious attacks and operations ashore.

We are now in the process of phasing out of the Navy the last remaining battleship.

I wish that we could afford to keep at least two of these ships in service, but the Navy has concluded that the personnel and operating costs are just too high.

Under these circumstances, we must devise new, cost-effective ways to provide the vital ship-to-shore fire support which our Marines are sure to need at some point in the future.

My amendment would have restored $4 million for studies by the Navy and the Institute for Defense Analysis to determine the best alternatives for both the near term and the future for this type of fire support.

Both rocket and gun systems were to be considered in these essential analyses.

I hope the Navy will find a way to conduct these studies anyway within the funds provided for fiscal year 1993.

Mr. President, I am prohibited from offering an amendment on this bill. I hope that my colleagues on the Appropriations Committee will support these initiatives next year in the appropriations process.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, an outside observer listening to this debate might be inclined to recall the line from Shakespeare in Romeo and Juliet, where one of the characters says: "A plague on both your houses."

Here we are with a deficit that will reach $362 billion in 1992, with a recession that has millions of Americans desperately searching for work, but who can find none, which is now stretching into its 17th month, with a Soviet empire that has dissolved, collapsed, and in danger of turning inward and devouring itself, and we are standing here conducting what is essentially a turf war over which Senate committee's military spending is going to be protected.

The simple fact is that both of these bills spend too much. Oh, yes, I understand, both bills do conform to the budget agreement. But let us be honest about it. This budget agreement relative to military spending is a relic of a bygone age, put together at a time when the country was in a state of high anxiety, facing what we thought might be a war in the Middle East. But today this is a new world. And I defy anyone to justify spending $290 billion on military, with the economy in this country in the condition it is in today.

According to the Congressional Budget Office, that $290.3 billion in budget authority that is contained in this bill before us is some $4.7 million above last year's budget authority level in nominal dollars.

That is just one evidence, one measure of how out of touch with the world we live in this whole debate is that we are engaged in today. As I stand here. approximately—it is very difficult to get a precise figure—500,000 U.S. troops are deployed overseas in 136 foreign bases, in 20 foreign countries, supported by 200,000 to 300,000 civilian employees, all overseas; about 25 percent of our total active duty forces, outside of this country, serving on foreign soil; 300,000 troops in Europe, supported by almost an equal number of civilian employees and dependents.

What does that say about a country that is in desperate condition with regard to its balance of trade and balance of payments? Supporting this massive military establishment abroad, for what?

To be sure, the administration proposes to cut that number in Europe by 150,000 in the mid-1990's. But we have to ask ourselves, what are those troops doing there now? Who are they defending? Who are they defending against?

The General Accounting Office says—and the Comptroller General appeared before our Budget Committee and testified—that we are spending over $1 trillion—a figure that boggles the mind—on the acquisition and development of over 100 major weapons systems that were conceived and designed in the days of the cold war, which is now over. Half a trillion dollars of that $1 trillion remains unspent. But, again, that is one-sixth of the yearly gross national product of this country.

I ask my colleagues, what threat is there that justifies that kind of spending? Is it paranoia that drives it?.

Congress is recognizing the problem, to some degree. We have gone on record now against the MX missile. We have had a growing opposition to the B-2 bomber, but that weapon system, like so many, in like Hydra in the Greek mythology. If you cut off one head of the serpent, it grows another.

But we are still nowhere near a true recognition of what kind of cuts are required to bring our defense budget into conformity with reality, into conformity with international reality, Mr. President, and the fiscal reality this country faces today in 1991.

Let us look at what we are doing with one system: Strategic defense initiative.

I see the distinguished Senator from Arkansas [Mr. PRYOR], on the floor. He has long been critical of our spending in this area. But in this one area, strategic defense initiative, star wars, here is a system that we spent over $24 billion for, and as far as I can ascertain, we have received nothing for it. Now we are adding $1 billion to last year's spending level on this level, bringing it up to almost $5 billion, and we are on the road toward spending $10 billion to $30 billion in additional dollars in some new variation, a new variation that has never been adequately analyzed, nor even fully debated in this body.

There is a refreshing element to this discussion, though, and let me point it out. Some of the documentation from the Armed Services Committee refers candidly to spending in the appropriations bill that is unauthorized and, conversely, to authorize programs that the appropriators chose not to fund.

So that laymen can understand what we are discussing here, these are programs that one highly defense-protective committee or another judges to be unnecessary for protecting this country's security.

The Armed Services Committee—made up of distinguished Senators, experts in the field of national security and weapons systems and military spending, et cetera—has authorized some 2 billion dollars' worth of programs and weapons systems that have been judged unnecessary by the Defense Appropriations Committee, made up of equally distinguished and energetic and learned Senators in the field of national defense, weapons acquisition, et cetera.

The Defense Appropriations Committee has appropriated some $3.4 billion for programs and projects judged unnecessary by the authorizing committee.

So what we have before us today, and really what we are arguing about, is some $5 billion worth of military spending that one committee of defense experts—the Armed Services Committee—or the other committee of defense experts—the Appropriation Subcommittee—contends is unwarranted.

An unbiased observer might say, well, OK, stop right here, argue no further. You are both right. Let us cut the programs the authorizers do not want, and let us cut the programs the appropriators do not want, and then let us put that $5 billion into something that the Nation can agree that it truly needs, such as either reducing these massive budget deficits or, if we do not want to do that, let us put it into our deteriorating education system.

Just this morning I heard, as I was getting up, on National Public Radio, the sad story of a town in Massachusetts where they are cutting the number of teachers in the school system by one-third.

The sizes of the classes are going up from 30 to 50 students. It is being repeated all across this country because we do not have the funding to finance education. Yet the administration comes before the country with some sort of slick public relations medicine show calling it "Education 2000" and saying in 2 years we are going to have the best math students and total literacy all cross this country. Absolute poppycock.

Why do we not put this $5 billion into an egregious health care system that leaves 37 million Americans with no health care whatsoever in this country?

Let us just look at some of the unappropriated authorizations. What that means is that the experts on the Armed Services Committee said that we need it. There are four F-117 Stealth fighters that cost one-half billion dollars. They were not requested by the administration. They did not want them. The Air Force said they did not want them. But they are in the authorization bill, anyway. I wonder why.

There is $115 million in the authorization bill for a small intercontinental ballistic missile program. Who are we going to use that against? It is a program that even the President says is no longer needed in his dramatic call for reducing nuclear weapons.

Let us look at the other side of the coin. Let us look at the unauthorized appropriations. In it there are $787 million for shipbuilding, much of it for ships behind schedule and over budget, and $117 million to upgrade the F-14 Tomcat airplane, an aircraft the Secretary of Defense has repeatedly attempted to cancel over the past 2 years.

So I would just sum it up by saying this, Mr. President. This is a debate that confirms what virtually everybody else has already recognized. We are funding defense programs and projects that are no longer warranted. They are not needed. The two committees can agree that some of these things are not needed. We cannot afford it.

Mr. President, I think we need to put some reality into this debate here. And it is my hope that this debate will lead us next year into a more rational disposition of the very limited fiscal resources this country has. I think we now know that our resources are not infinite. In my view that means we will have to reduce defense spending substantially below the levels charted out by the President and charted out by the budget agreement itself.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Tennessee has 18 minutes remaining.

Mr. SASSER. Mr. President, I yield 5 minutes to the distinguished Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I rise in opposition to the conference report. I have great respect for Senator INOUYE and Senator STEVENS. But, for a variety of reasons, I think it is a mistake to move ahead. Part of it is provincial, real candidly.

Part of this conference report is to say we are not going to move some people from Pennsylvania to the Rock Island Arsenal that were called for in the base closing commission. We have already in the State of Illinois been hurt substantially by base closings.

But it is much more than that. Part of it is we have $3.4 billion in appropriations above the authorization, as the chairman of the Senate Budget Committee has so eloquently pointed out.

I just had a discussion with the Senator from Arkansas [Mr. PRYOR]. We are going to consider putting in a new rule in the Senate that you cannot appropriate for what has not been authorized. It would be a very practical way of getting ahold of things a little more around here.

But it is just unrealistic. When Senator SASSER, with whom I agree on everything but one issue, talks about $4 billion that we have spent on star wars, when we have schools that are inadequately funded, something is wrong in terms of how we are facing the future.

I am just reading the rough draft of a manuscript right now by the distinguished economist Lester Thurow. The book will be out in a few months. And let me tell you that book is going to stir some people, if we have any common sense at all about what has happened, where we are, and where we are headed if we do not change our habits. And we are just drifting along as though there were no crisis. That is what has happened.

I just saw this week a press release from the Pentagon saying that by the end of 1995 we are going to reduce our troops in Western Europe by 50 percent. By the end of 1995. Now, if we had all kinds of money and we were just overflowing, we had no trade deficit, maybe that would make sense.

If we can move so many troops for Desert Storm and if we recognize we have an economic storm here at home, why cannot we get half those troops out by the end of 1992?

I think it is totally irrational for us just to continue to drift, and that is what this appropriation does again; it continues to drift.

I hope we turn it down. I hope, at the very least, if then the Appropriations Committees come back and just eliminate everything that is not authorized we will save $3.4 billion. That is a substantial sum. We will have at least made a little progress. And my hope is we can get a majority in this body to vote against this conference report and then come back, and this will be one step down a road to fiscal common sense.

Mr. President, I yield back the remainder of my time to Senator SASSER.

Mr. DOMENICI. I wonder if the Senator from Wyoming would yield a few moments to the Senator from New Mexico.

Mr. WALLOP. I am happy to yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, that is extremely generous of the Senator because he is yielding his time, and I do not believe I agree with his position and I think he knows that.

Mr. President, let me talk to a couple of points that Senator SASSER raised in the few moments that I have. First of all, the chairman of the Budget Committee would have the Senate believe that the defense number, that is the cap, came from the budget agreement of last year. The truth of the matter is it was approved by the U.S. Senate twice, not last year or the year before, but this year.

The U.S. Senate voted for an authorization bill and an appropriations bill before conference, both of which had the number that we are talking about today. So I do not think we really should be arguing that the defense number is a vestige of the past unless we really believe that the overwhelming vote twice by the U.S. Senate for these numbers is also a vestige of the past. Perhaps some would conclude that it is.

My second point, with reference to authorization and appropriation, I surely hope that everyone knows that there are many things done that are not authorized because rule 16 provides for the Appropriations Committees to move the adoption of certain levels of funding without authorization.

Let me suggest if that was not the case we would have no foreign aid, I say to the distinguished chairman, who by coincidence is on the floor. More years than not we had no authorization for foreign aid and we appropriated it.

Rule 16.2 of the U.S. Senate envisions exactly what is occurring here today. It occurs when we fund the Department of Energy, for which there is no current authorization; exactly the same when we funded Justice Department.

I say to my good friend, who is worrying about this issue—I see him there—the entire Justice Department is without authorization. And would it not be interesting if you could indeed say we will have no Justice Department because there is no authorization?

Beyond that there are many more, and the rules of the United States Senate clearly contemplate as one of the methods of appropriating what the Government of the United States needs is by the Appropriations Committee finding it necessary.

If I read the rule right, there are three reasons and three ways that you can appropriate. One is if it is authorized. There is another one. And the third one envisions exactly this because it says the Appropriations Committee may move the funding even if it is not authorized, and that is because it may be needed. That is because indeed you may not have everything authorized.

That may be the wisdom of somebody that knew that we have a very confused system and we ought not fail to

VOL 137
PT 23
NO 21—25
1991
UMI

fund something because of the confusion. I believe that is the case.

I do not think we ought to kill an appropriation bill for defense at this late date.

I do not think at this late date, over this kind of issue, we ought to kill the defense appropriations bill. For those who do not want this much spent on defense, they have a very valid reason to vote no. For those who want to vote against it because of the technical arguments made here today, I do not believe that should be the case. For those who say it breaks the budget, let me suggest that is absolutely wrong. It might be that you do not choose to spend the money this way, but it does not break the budget.

Clearly, it is within the budget. And I submit that that same problem is the case in every appropriations bill. We are not spending it exactly where somebody wants, but it is within the budget. Nobody seeks to change those bills because they have projects or programs that are not authorized.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Will one of the managers yield me 1 minute?

Mr. NUNN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 10 minutes.

Mr. NUNN. I yield 2 minutes to the Senator from Arkansas.

Mr. PRYOR. Mr. President, my name has been brought into the debate a couple of times. I would like to respond to rule 16.2 that the distinguished Senator and my friend from New Mexico has just mentioned. Rule 16.2, Mr. President, has now been superseded by something that takes precedence over the rules of the U.S. Senate, as august as this body might be, and that is the law of this land.

I would like to quote title X, section 114, which is today the current law on authorization of appropriations.

Once again, title X, section 114, subsection (a), and I urge my friend from New Mexico to listen to this, because it says:

> (a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for [procurement, R&D. etc.] unless funds therefore have been specifically authorized by law.

That is the law of this land. And what we are doing today by appropriating unauthorized funds to the extent of $3.3 billion is not only illegal, it is wrong. And the Senator cited the Justice Department and the Energy Department, which lumbered along here for years with no authorization. Perhaps that is what is wrong with those two departments. There was never any oversight; never any questions. And that is what is happening today in many of these defense expenditures.

Mr. President, I think without question that a questioning of the parliamentary situation of this and perhaps a point of order might well lie under citing title X, section 114, and I may get to it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. SASSER. Mr. President, I yield 10 minutes to the distinguished Senator from Colorado, and reserve the remainder of my time, which I think would be about 3 or 4 minutes.

The PRESIDING OFFICER. The Senator would be correct. The Senator has 13 minutes remaining.

The Senator from Colorado is recognized for 10 minutes.

Mr. WIRTH. Thank you, Mr. President.

I thank the distinguished chairman of the Budget Committee, and I am proud to be a member of the Budget Committee. I thank him for yielding me some of his time.

Mr. WIRTH. Mr. President, we are in a situation today where the American public is looking at us askance. The American public is looking with great skepticism at what we do in the U.S. Senate, on what goes on in the other body at the other end of the Capitol, and in the administration, and in Washington overall. For a variety of reasons, they are saying, "You just don't get it."

And they are right. What are we debating here is another reflection of the fact that we are collectively pointing out to the American public that "We just don't get it." The context that we are talking about are tens—in fact, hundreds of billions of dollars. We are here, Mr. President, talking about close to $300 billion; in fact, in this bill, $275 billion and, in addition, $15 billion in the Department of Energy in defense programs. We are talking about a $290 billion defense appropriation.

Mr. President, people who are not familiar with the ins and outs say: Well, how much is this $290 billion? Compared to what? Is this a lot; is this a little bit? What is this compared to?

I think we have to put that, first of all, into context. And, Mr. President, I have a chart that I think helps a great deal to do that.

What this chart points out, Mr. President, is that the peacetime average in the United States since World War II, when the cold war was on, the peacetime average that we spent was almost $240 billion; a little less than that. In 1991 dollars, same-year dollars, everything adjusted for inflation, we are talking about the same numbers. Since 1945, when the cold war was on, we have spent $235 billion to $240 billion.

We spent more than that during the Korean war. There was a bump-up here. We spent more than that during the war in Vietnam. And then we had that massive ramp-up in the last decade. But the peacetime cold war defense budget was $235 billion to $240 billion.

Mr. President, the cold war is over. The cold war is over. We spent $235 to $240 billion at the height of the cold war. With Brezhnev in the Kremlin and the Soviets in Afghanistan, we spent $235 to $240 billion. And today, we are talking about $290 billion. That is the context in which we are operating, Mr. President. "We just don't get it."

This chart is a dramatic illustration of the fact that we are now way up here; we are way above even the peacetime cold war average, and the cold war is over. That is what this debate should be all about.

Mr. SASSER. Will the Senator yield?

Mr. WIRTH. Yes; I yield to the distinguished Senator from Tennessee.

Mr. SASSER. If I understand what the Senator is telling us here, you are saying these are in constant 1991 dollars, the same dollars, 1991 dollars?

Mr. WIRTH. In 1991 dollars.

Mr. SASSER. So the cold war average was $235 billion?

Mr. WIRTH. That is right.

Mr. SASSER. And now that the cold war is over, we are spending $290 billion in constant 1991 dollars?

Mr. WIRTH. That is right.

Mr. SASSER. So we are in essence spending about what?

Mr. WIRTH. $55 billion more.

Mr. SASSER. $55 billion more, with the cold war being over, than the cold war average?

Mr. WIRTH. That is correct. For the peacetime cold war average, there was a bump-up during the Vietnam war. But without the conflict going on—we are just in a state of cold war—we are now spending $55 billion a year more, same dollars, than we were at the height of the cold war.

Now, that is the context in which this debate must occur, and that is the context with which the American public ought to measure the performance of this institution and the performance of their Government.

Why is that? Because the American public knows—and apparently "we don't get it," because we are locked into these budget ceilings, and the cold war is over—the American public knows that out there, right on the homefront, in our own backyard, we are facing very, very significant problems. Middle-class kids cannot go to college anymore. Higher education is becoming the purview of the privileged few. You cannot afford to buy a new house.

People in this country know that they do not have access to the opportunities we once had. And yet, what are we doing? With this accelerated budget, we are building an advanced tactical fighter to face the Soviet stealthy threat. If you believe the Soviet Union is embarked upon the building of Stealth aircraft which we have to encounter with the next generation, then

you ought to support this budget. I do not think so.

They know that one quarter of the kids in the country eligible for Head Start are enrolled. The other three quarters are not. We do not have the money for that. Yet we are building B-2 bombers at almost a billion dollars a copy. The costs of enrolling all of those kids in Head Start is the cost of a B-2 bomber. The cost of enrolling every eligible kid in Head Start—and we know that is the greatest education program with the greatest return—the cost of that is two B-2 bombers.

We know about the child immunization programs. We could immunize every child in the United States, 100 percent of those immunized, for more than a decade for less than the cost of one Seawolf submarine.

These are the kinds of choices that we in the United States have to make and we are not doing it. That is why the American public is saying to us: "You don't get it"; and we do not.

In addition to the very clear budget choices, as well—that we have, Mr. President—as very clear signals and messages and crying and yearning and begging from the American public to change what we are doing here, in addition to that there are a set of new frontiers out there that we have not even begun to address.

The distinguished chairman of the Armed Services Committee, Senator NUNN, along with Senator GORE and others, began a program of looking carefully at a whole new set of national security challenges related to the environment—global climate change, the destruction of the ocean, the hole in the ozone, the population issue—a whole set of issues that are a lot more of a threat to us than the new Soviet stealthy airplane. I am sure that that is true. Yet that environmental money was cut in half by one project earmarked in here and we had to beg, borrow, and steal just to get a small allocation of money for these issues related to this new international global environmental threat. We just do not get it.

The examples, over and over again, Mr. President, ought to be the ones that are talked about. The American public is saying to us, change your priorities.

We are building nuclear weapons in my own backyard in Rocky Flats, CO; a nuclear weapons plant right on the edge of the city of Denver.

They are saying to us we have to have a whole lot of new W-88 warheads for the Trident. To meet what threat? The President of the United States called for "radical changes in the nuclear postures of both sides" in his September 27 speech. Where is the radical change? This is incremental, not radical, change. This is incrementalism from what we were doing before.

My final point in the remaining time is the military abortion issue. We have debated on any number of occasions the military abortion provision. Women are treated as second-class citizens in the military. We have debated that over and over again. That provision was dropped out in conference. The argument was made that severe House opposition dropped this out. The House voted, by a vote of 220 to 208, to include the provision to treat women in the military the way women are treated elsewhere in our society. The House voted for that by a majority of 220 to 208; not severe House opposition. We voted on this floor last night with 57 votes in the U.S. Senate, more than a majority of the U.S. Senate, to treat women in the military the way women are treated elsewhere. Yet it got dropped—I believe in a very disgraceful fashion—in this appropriation bill. There is no reason for that. The American public is saying to us, You just don't get it. And they are right. I hope we will vote down this appropriations bill.

I thank the distinguished chairman of the Budget Committee for yielding me his time.

DEFENSE AND NEW BUDGET REALITIES

Mr. WIRTH. Mr. President, the fiscal year 1992 Defense appropriations before the Senate conforms to the caps contained in last year's budget agreement. Along with Department of Energy defense programs, we will spend $290 billion on defense this fiscal year. Those caps and that budget agreement, however, are obsolete.

This bill puts us on spending path that will impoverish vitally needed programs for Americans here at home. As Dr. Reischauer, Director of CBO, testified before the Senate Budget Committee on July 16, continued adherence to the administration's proposed defense plan and the budget agreement targets will require us to reduce spending on domestic discretionary programs in fiscal year 1994 and fiscal year 1995.

There is no rationale for sustaining these high defense budgets, Mr. President, in light of the dramatic changes in the world and pressing needs at home. Last year's budget agreement was fashioned in light of the collapse of the Warsaw pact. Since that time, we have witnessed the effective collapse of the Soviet Union.

A new political reality dawned on September 27 when George Bush embraced radical reductions and fundamental changes in our nuclear posture toward the Soviet Union. The President called for "radical changes in the nuclear postures of both sides." He validated deep cuts and unilateral moves. Noting that the "Soviet nuclear stockpile now seems less an instrument of national security and more of a burden," President Bush conceded that our security is now based on cooperation with the Soviets rather than containment.

In that speech, the President also stated that "changes that allowed us to adjust our security strategy a year ago have greatly accelerated." At the same time, however, his administration continues to cling to the defense budget levels agreed last year as if nothing has changed. Secretary Cheney touts the fact that he plans to cut the defense budget by 22 percent by fiscal year 1996—and that further reductions are impossible.

Under the administration plan, however, we will still be spending more on defense in 1995 than we were in 1980. In 1980, we spent $243 billion counted in 1992 dollars. We will spend $290 billion this year. In 1995, under current plans, we will allocate $264 billion for national defense. This is $20 billion more than the pre-Reagan defense budget.

The projected defense budget for 1995 is also significantly higher than the peacetime cold war average for defense spending—approximately $240 billion in 1992 dollars. We will still be spending more on defense in the mid-1990's than we did when the Soviets were in Afghanistan and Brezhnev was in the Kremlin. The world has changed and so must we.

We hear from the administration that we cannot possibly afford to cut defense any further. We hear that by 1996 we will only be spending 3.6 percent of GNP on defense, as if somehow defense had become an entitlement program. We hear that there is an irreducible minimum below which we cannot go.

This is nonsense. We must make choices. We must decide priorities. We must allocate finite resources among competing claims. Defense is an insurance policy. The risk has been radically reduced. So too should the premium. So too should the kind of insurance we buy.

I believe we can and should cut defense spending significantly below the Bush administration 5-year plan. The distinguished chairman of the Senate Budget Committee, Senator SASSER, has argued that we could prudently cut another $100 billion in budget authority and $70 billion in outlays from the 1993-97 defense budget. This translates into a 6-percent cut from the President's proposed build-down of the defense budget through fiscal year 1997.

The CBO has analyzed the programmatic impact of a defense budget reduction of this magnitude. The first and most obvious area for cuts is in strategic nuclear forces, beginning with the elimination of the B-2 bomber—saving $8 billion over the next 4 years. We should move rapidly toward a world in which we deploy the absolute minimal number of nuclear weapons necessary for deterrence.

CBO has estimated that we could save $26 billion in strategic budget authority by planning for a strategic nuclear force of 6,000 warheads—rather

VOL 137 PT 23 NO 21—25 1991 UMI

than the 10,000 permitted by START. Six thousand warheads is twice the number most strategic analysts agree would be necessary for deterrence of attack upon the United States. Why do we need to proceed with expensive programs, such as the W–88 silo-busting warhead for Trident? This year, we shall spend nearly $500 million to resume operations at the Rocky Flats nuclear weapons plant for the sole purpose of manufacturing more W–88 warheads. Rather than building more warheads, we should focus our efforts on reducing nuclear forces in tandem with those of the Soviet Union.

We must also make changes in our conventional force posture. The Defense Department claims that American security in the 1990's requires a irreducible minimum force. This level just happens to be the forces left in place after the administration proposed defense reductions are implemented: 1.6 million Americans on active duty in 12 Army divisions, 15 Air Force wings, and 12 aircraft carrier battle groups—in addition to 1 million reservists. This force is considered by the Bush administration to be the minimum capability necessary to deal with undefined future threats to American interests in the Middle East, East Asia, Central America—anywhere and everywhere.

Cutting conventional forces beyond the Bush plan is both possible and prudent. We can do so through deeper manpower reductions and cuts in procurement. We should place many planned new starts such as the advanced tactical fighter, on hold and cancel troubled programs, such as the Seawolf submarine. There is little rationale for building weapons designed in the 1980's for a Soviet threat of the 1990's. We should rely on proven weapons platforms—F–15, F–18, *Los Angeles*-class submarines—with appropriate upgrades, rather than on new starts to deal with undefined threats.

Defense reductions will cause pain—among the dedicated men and women who are separated from service and for the many companies and workers who would have built defense systems we can no longer afford. We must face up to these choices. We can avoid the pain of further defense cuts—but at a great cost to our economic and social wellbeing.

Mr. President, as we reduce defense spending, we must take special care to maintain a viable defense industrial and technology base—so important to our defense and to our national economy. I have spent a great deal of time chairing a task force—staffed by the Defense budget project and the Henry Stimson Center and with a very capable membership, including Martin Marietta CEO Norm Augustine—on this subject. That task force has made several key recommendations on preserving the defense industrial base as we cut defense spending. I ask unanimous consent that a statement of that task force be entered in the Record at this point.

General Powell has explained that "we no longer have the luxury of a threat to plan for. What we plan for is that we are a superpower." America must remain engaged in the world. We must continue to lead, but we need not—nor can we afford, nor should we—assume the full burden of international security. We must learn from the coalition success of Desert Storm and assure a more equitable sharing of the burden of security.

President Bush was absolutely correct in bringing together broad international support for Desert Storm. Future conflicts will almost certainly demand such international support. Rather than sizing our forces and shaping our policies to act unilaterally—as the Bush administration proposes—we should engage more actively in plans for coalition defense against plausible threats to American interests. We have already done so successfully in Europe and Northeast Asia. We need to build on that model of collective security, not turn our backs on it.

Finally, Mr. President, we must begin to think of ourselves as a superpower not in terms of military prowess alone, but in terms of our economic vitality—a far more important criteria than our ability to deploy expeditionary forces abroad. And our status as an economic and social superpower is in serious jeopardy.

Record deficits—$362 billion for the current fiscal year alone—threaten long-term growth. Crumbling infrastructure, poor educational achievement, inadequate health care undermine America's economic future—and with it our ability to do all the things we hope to achieve at home and as a leader in the world of the next century.

What good will our forces be to the Nation if we go broke buying them or have to pass the hat to deploy them? How sustainable is American international leadership if we are weak and divided here at home?

The end of the cold war provides a new opportunity—a responsibility—to refocus our energies on the sources of American pride and power. We must seize that opportunity and meet our responsibility to lead, to shape priorities. This session of the 102d Congress is almost over, but I look forward to a vigorous debate in the next session on these issues.

Before concluding, Mr. President, I would like to add my voice to that of Senator Nunn and others in expressing concern over noncompetitive earmarks in the Defense appropriations bill. We have been through this before, and sadly we are here again arguing against so-called university pork. I am also deeply concerned that over half of the moneys appropriated in this bill for the Strategic Environmental Research and Development Program [SERDP] have been earmarked for a project in Alaska. A supercomputer for Arctic research may be meritorious, Mr. President. So too may be the many proposals that will be unfunded by the SERDP because of this earmarking. We must find some way to avoid these earmarks in the coming session. We do not have the resources to squander.

A final note on the military abortion provision. I thought that I heard the distinguished chairman of the Defense Subcommittee say this morning that the abortion provision was dropped in conference due to "severe House opposition." Mr. President, that provision was passed by a rollcall vote of 220 to 208 in the House, and I am disappointed that this effort to provide simple fairness to servicewomen and military dependents was dropped by the conferees.

Mr. President, I ask unanimous consent that a CBO study on defense spending options be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Task Force on Defense Spending, the Economy and the Nation's Security, Sept. 17, 1991]

Statement: Preserving the Defense Industrial Base

The sustained decline in U.S. defense spending since fiscal year (FY) 1985 has raised concerns about the future of the nation's defense industrial and technology base. The resulting decline in demand for defense goods and services is likely to divert U.S. industrial and technological resources away from the defense market, with the risk of leaving the United States with a weakened defense industrial and technology base which is less capable of meeting future U.S. national security needs.

The end of the Cold War and growing federal budget deficits have combined to place strong downward pressure on U.S. defense budgets. According to current projections, the U.S. defense budget will decline by 31.7 percent in constant dollars between FY 1985 and FY 1996. This ongoing decline has meant lower demand for goods and services, with defense procurement projected to fall 48 percent, and research and development spending (R&D) projected to fall 23 percent over the same time period. While this decline in DoD demand has not been felt equally across the many industrial sectors supplying the defense market, it has caused a reduction in the number of firms receiving defense contracts.

New international realities and declining levels of defense spending demand a reassessment of U.S. defense industrial base policy. We believe that the federal government should, among other activities, define policies which will help preserve and strengthen the base through greater integration with the dynamic, innovative, and market-driven national commercial industrial base. Declining defense spending levels have illuminated the weaknesses in current DoD industrial base policy and planning, weaknesses which may compromise the ability of the defense industrial and technology base to meet U.S. national security needs in an era of declining defense budgets. If the United States is to maintain a technologically advanced, cost-effective, and mobilizable defense industrial and technology base in an era of declining demand for defense goods and services, DoD will have to review and change policies which have traditionally inhibited the flow of government funded basic research discoveries, innovative dual-use technologies, advanced commercial technologies, process improvements, effective management systems, and human resources between the defense and commercial sectors of the U.S. economy.

As we identified in our July 30, 1990 *Statement on adjusting to Lower Defense Budgets*, we believe that an integrated defense industrial base, combining, to the greatest degree possible, the industrial and technological strengths of defense and commercial work, will assist the United States in maintaining its superiority in a military systems and technology while enhancing the survivability of modern and economically competitive defense industrial base. This conclusion has been widely supported by the findings of groups such as the defense Department's Defense Science Board, the Center for Strategic and International Studies, the Carnegie Commission on Science, Technology and Government, and the Office of Technology Assessment, among others, which addressed the needs of the defense industrial and technology base and identified possible federal approaches to preserving and strengthening its capabilities.

Given the diverse nature of the firms and industries supplying DoD, it is our belief that greater defense/commercial integration can, will and should spring primarily from decisions made by firms in the private sector. The challenges for the federal government are to ensure that this market-driven transition does not result in the loss of vital domestic capabilities and technologies which the market may undervalue and to facilitate the transition by eliminating existing federal policy obstacles to greater integration. Thus, we feel that the public sector also has a role to play in facilitating the industrial transition to lower levels of defense spending and must take clear and decisive steps in two areas:

(1) To define the basic security challenges to the United States, and the resulting requirements for a viable U.S. defense production and research base; and

(2) To facilitate the private sector transition, where feasible, to an integrated defense industrial and technology base by removing the public policy barriers which inhibit interaction between the defense and commercial sectors of the economy.

DEFINING DEFENSE PRODUCTION AND RESEARCH BASE REQUIREMENTS

With the decline in some elements of the Soviet Union's military power, it has proven difficult to focus federal attention on new and emerging threats to U.S. national security and the industrial base resources necessary to meet these potential treats. In order to design effective defense industrial base policy, the Congress and DoD must seek to define better a set of threat contingencies, or "stress" cases, to which the defense industrial and technology base will need to respond. Such an effort will also require an assessment of current strengths and weaknesses in the base and its ability to mobilize and respond. Policy makers must also plan future DoD procurement and research budgets in ways that reflect these security requirements and provide some resource predictability for planners within the production (manufacturing and services) and research base.

To evaluate the existing capabilities of the defense industrial and technology base, policy makers will require better information than is currently available on the composition of the base at the prime and subcontracting levels; bottlenecks in research, production and supply; and the potential costs (in terms of price, time, efficiency, and preparedness) of various production and research funding decisions currently being made on major DoD programs. In addition, attention must be directed toward measuring and identifying the effect of foreign supplied goods and technologies on the defense industrial base and its ability to meet U.S. National security objectives in a time of crisis.

PROVIDING THE INCENTIVES FOR DEFENSE/COMMERCIAL INTEGRATION

Current DoD acquisition and cost recovery policies constitute a significant barrier to greater defense/commercial integration. We urge the Congress and DoD to modify defense acquisition, military specification and contractor oversight policies in order to meet the following six goals:

(1) To encourage greater contractor investment in cost-saving technologies and process improvements within the base, thus making firms more efficient and competitive in the commercial market;

(2) To bring greater realism and stability to development and production funding over the long-term, allowing firms to anticipate demand, plan accordingly and limit the risk associated with contracting in a declining market;

(3) To lower the overhead costs associated with defense production, making defense contracting more appealing to the private sector and opening up DoD procurement to greater numbers of commercial producers;

(4) To reduce the risk associated with developmental contracts, raising the potential return on R&D investments and encouraging the dual-use application of defense technologies, thus making such contracts more rewarding and appealing to firms in both sectors;

(5) To ensure continued private sector investment in defense-related R&D, thus leverging greater investment in dual-use and commercially-oriented R&D by defense contractors; and

(6) To support the creation of stronger links between the defense/government research sector and the commercial sector, thus helping to promote the transfer and commercialization of technologies from federal laboratories.

These goals can be advanced through a careful review and revision of existing DoD policies, including:

Expanding process improvement programs such as the Manufacturing Technology program (MANTECH) and the Industrial Modernization Incentives Program (IMIP);

Implementing multi-year procurement planning and budgeting, and applying selectively second source contracting for major weapons systems and other large procurement programs;

Reviewing and eliminating many military standards and specifications (MILSPECS) to allow DoD and contractor use of appropriate commercial products and technologies;

Restricting contractor oversight and auditing requirements when a firm's historical performance warrants it;

Avoiding the use of fixed-price contracts for developmental efforts and ensuring full contractor cost recovery for research and development efforts;

Granting contractors greater proprietary data and technical rights on DoD funded research projects;

Enhancing support for the Independent Research and Development (IR&D) R&D cost-recovery program, lifting IR&D cost ceilings and streamlining the cumbersome and costly technical review process, thus letting market forces determine contractor investment;

Placing greater emphasis on the funding of technology base programs;

Using technology base funding and the support of the Defense Advanced Research Projects Agency (DARPA) to support the development of dual-use technologies; and

Institutionalizing closer collaboration between DoD and the military services, as well as between DoD and other federal agencies that are involved in technology development, such as the Departments of Energy, Commerce and Agriculture, NASA and the National Institute for Science and Technology (NIST).

The members of the Task Force who endorse this statement are listed below. While each of the signatories supports the broad thrust and overall recommendations contained in the statement, they may not necessarily agree with every specific phrase.

Senator Tim Wirth, Colorado, Task Force Chairman.

Dr. Gordon Adams, Director, Defense Budget Project.

Mr. Norman Augustine, President, Martin Marietta Corporation.

Dr. Barry Blechman, Chairman, Henry L. Stimson Center.

Representative Tom Campbell, California.

Governor John Carlin, former Governor, State of Kansas.

Governor Richard Celeste, former Governor, State of Ohio.

Dr. Robert Costello, Hudson Institute.

Mr. Sandy McDonnell, Chairman Emeritus, McDonnell Douglas Corporation.

Dr. William J. Perry, Chairman, Technology Strategies and Alliances.

Mr. Harold Palmer Smith.

Mr. Preston Townley, President, The Conference Board.

Dr. Murray Weidenbaum, Washington University.

Mr. J. Fred Weintz, Jr., Limited Partner, Goldman Sachs and Co.

Mr. Earle Williams, President, BDM International Corporation.

Mr. Charles Zracket, The MITRE Corporation.

[CBO Staff Memorandum]

Implications of Additional Reductions in Defense Spending, October 1991

In view of the worsening outlook for the deficit and the evolving situation in the Soviet Union, some Members of Congress have raised the possibility of making cuts in defense spending that are greater than those planned by the Administration and required by the Budget Enforcement Act of 1990. This Congressional Budget Office (CBO) staff memorandum, prepared at the request of the Chairman of the Senate Budget Committee, examines two defense spending paths. The Chairman specified the main aspects of each alternative. The first alternative would reduce national defense budget authority to $275 billion by 1997, compared with about $305 billion under the Administration's plan. The second scenario would lower the national defense budget to $250 billion by that same year. In keeping with CBO's mandate to provide neutral and nonpartisan analysis, this memorandum discusses the implications of these two alternatives but makes no recommendations about their desirability.

This memorandum was prepared by R. William Thomas under the supervision of Robert

VOL
137
PT
23
NO
21—25
1991
UMI

F. Hale, Barbara Hollinshead, Raymond J. Hall, William P. Myers, Amy Plapp, and Lisa Siegel of CBO's Budget Analysis Division prepared the estimates of defense costs under the supervision of Michael A. Miller. Questions regarding the force implications of these cuts may be addressed to William Thomas at 226-2900; budgetary questions should be addressed to Barbara Hollinshead at 226-2840.

INTRODUCTION AND SUMMARY

The Soviet military threat continues to recede. The collapse of a strong central government in the Soviet Union seems to reinforce earlier judgments by intelligence professionals that Soviet conventional military forces no longer represent an immediate threat to the security of the United States and Europe. Ratification of the Conventional Forces in Europe (CFE) Treaty will confirm a momentous reduction of armaments in the European theater, the area where the two most costly wars of the twentieth century have begun. The leaders of the United States and the Soviet Union have recently signed the Strategic Arms Reduction Talks (START) Treaty, the first such accord to mandate reductions in strategic warheads. Moreover, each head of state has since ordered the elimination of thousands of tactical nuclear weapons and proposed even more significant steps to limit strategic forces.

At the time, the deficit outlook for the United States has deteriorated. The Congressional Budget Office (CBO) predicts that in 1992 the deficit will reach $362 billion. Although the deficit is expected to decrease in the years beyond 1992, it will remain substantial through the decade if no further deficit reduction measures are adopted. Because of the magnitude of the projected deficit, the Congress is constrained in its ability to commit additional resources to social needs, such as health care, education, research, and investment in public infrastructure. Indeed, spending for nondefense activities would actually have to be reduced in real terms in 1994 and 1995 if the Congress approves the defense budget the Administration proposed while also complying with the limits last year's budget agreement set.[1]

One way to reduce the federal deficit or to provide more resources for nondefense spending is to impose heavier cuts on defense spending than those proposed by the Administration. This Congressional Budget Office staff memorandum examines two alternative defense budget paths that were specified by the Chairman of the Senate Budget Committee. The first of these would reduce national defense budget authority to $275 billion by 1997, and additional reduction of about $30 billion, or 10 percent, beyond the cuts the Administration proposed. The second alternative would achieve a national defense budget of $250 billion by 1997, an additional reduction of about $55 billion, or 18 percent (see Table 1). In the first scenario, active-duty military personnel would be reduced by 90,000 a year, while the second envisions a decrease of 110,000 a year.

TABLE 1.—ALTERNATIVE NATIONAL DEFENSE BUDGETS

TABLE 1.—ALTERNATIVE NATIONAL DEFENSE BUDGETS—Continued

[In billions of current dollars]

	1992	1993	1994	1995	1996	1997	Total 1993–97
Administration's budget projection[1]							
Budget authority	290.8	290.9	295.0	297.9	300.3	304.9	1,489.0
Outlays	298.2	292.8	289.9	291.4	295.8	294.6	1,464.4
Alternative I:							
Budget authority	290.8	287.8	288.3	286.4	281.4	275.0	1,418.9
Outlays	298.2	291.6	286.5	284.1	281.8	270.4	1,414.4
Alternative II:							
Budget authority	290.8	284.0	278.9	271.7	261.4	250.0	1,346.1
Outlays	298.2	289.7	280.4	273.2	265.7	249.3	1,358.3

[1] As reestimated by CBO. Estimates for 1994 and beyond exclude the change in accrual accounting for retirement costs proposed by the Administration and thus exceed figures reported by the Administration by about $3 billion. Outlay estimates reflect CBO assumptions about timing of outlays.

Source: Congressional Budget Office.

Alternative I, which reduces defense spending to $275 billion by 1997, would save a total of $70 billion of budget authority, or 5 percent of the Administration's projected funding for the 1993–1997 period. Savings in outlays would total $50 billion over the same period. Two-thirds of the reduction in budget authority—nearly $47 billion from 1993 through 1997—would be drawn from the investment appropriations. This represents 7 percent of the investment spending planned by the administration for the five-year period. A reduction of this size could mean canceling one or two major modernization programs and delaying several others. By 1997, under the across-the-board cuts assumed in this memorandum, the active-duty military would be about 12 percent smaller than the Administration's base force. The forces that would remain, however, would be able to maintain their training and operating tempos at current rates and would not lack equipment.

Alternative II, which achieves a $250 billion national defense budget by 1997, would reduce defense budget authority below the Administration's plan by $143 billion, or 10 percent, in the 1993–1997 period. Of this amount, $86 billion—almost twice the amount in Alternative I—would be cut from investment programs the Administration plans. Savings of this magnitude could require canceling several major acquisition programs and delaying others. Military forces would be nearly one-fifth smaller than the Administration's planned base force by 1997 under this alternative The forces that would remain might, because of the investment reductions, need to continue to operate older equipment longer than planned, but they would retain the funding necessary to maintain readiness at current levels.

Although this memorandum addresses implications of the alternative budget cuts on military forces, personnel and readiness, and investment, it does not attempt to determine whether the defense forces that would be retained under the smaller budgets would be adequate to meet U.S. security needs.

THE ADMINISTRATION'S PROPOSED DEFENSE REDUCTIONS

The Administration's plan for reducing the military establishment calls for cutting the number of active-duty military personnel to 1.63 million by 1997, a 21 percent reduction from the 1990 level of 2.07 million, with selected reserve forces reduced by almost the same percentage. Table 2 specifies the forces that are planned for 1997, the final year of DoD's Future Years Defense Program (FYDP). The Administration refers to these forces as the "base force." Twelve active Army divisions would remain in the base force, down from 18 in 1990, while the 10 existing National Guard divisions would be consolidated into six. Air Force tactical fighter wings would be reduced from 36 to 26, with all but one of those that would be eliminated being taken from the active component. The number of active and reserve Navy combatant ships would be reduced to 448, down from 545 in 1990. Twelve aircraft carriers would remain in the base force, together with 11 active and two reserve air wings.

TABLE 2—PROPOSED MILITARY FORCE REDUCTIONS

	1990	Base force[1]	Percentage reduction
Active forces:			
Ground Forces:			
Army divisions	18	12	33
Marine brigades	9	[2] 7	22
Naval Forces			
Aircraft carriers	13	12	8
Carrier air wings	13	11	15
Ships[3]	545	448	18
Air Force			
Tactical fighter wings	24	15.5	35
Strategic Forces			
Land-based ICBMs	1,000	550	45
Sea-launched ballistic missiles	608	432	29
Strategic bombers (PAA)	228	181	21
Reserve forces:			
National Guard divisions	10	6	40
Marine brigades	3	3	0
Carrier air wings	2	2	0
Tactical fighter wings	12	11	8

[1] Forces planned for 1997 by the Administration.

[2] Estimated by Congressional Budget Office based on U.S. Marine Corps personnel reduction.

[3] Includes reserve forces ships.

Source: Statement of General Colin Powell before the House Appropriations Committee, Subcommittee on Defense, September 25, 1991, except as noted.

Note: ICMB=intercontinental ballistic missiles.

Budgetary implications

The Administration's changes in military forces, together with changes in investment spending, would result in military budgets substantially lower in real terms than that of 1990. In the President's national defense budget, as reestimated by CBO, national defense budget authority (expressed in constant 1992 dollars) would decline by 21 percent between 1990 and 1995, with an additional reduction of 6 percent planned for 1995 and 1997.

The reduced level of budget authority for 1992 and 1993 complies with the limits imposed by the Budget Enforcement Act of 1990. The act limits overall discretionary expenditures beyond 1993 but does not impose separate limits on defense or other budget categories. The Administration's budget proposals for 1994 and 1995 suggest that both defense and nondefense discretionary expenditures would be reduced in real terms in order to comply with the limits in the act.

ALTERNATIVE I. A REDUCTION TO $275 BILLION BY 1997

The first alternative examined in this memorandum sets the target level of national defense budget authority at a nominal level of $275 billion in 1997, about 10 percent below the Administration's proposed budget figure of $305 billion.[2] Reductions in active-duty personnel under Alternative I would amount to 90,000 people in each year between 1993 and 1997. This would leave 1.44 million people on active duty in 1997, compared with about 1.63 million under the Administration plan.

CBO makes several other assumptions in this memorandum about the nature of the additional reductions. It assumes that the

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[1] See testimony of Robert D. Reischauer before the Senate Budget Committee, July 18, 1991.

[2] The Administration estimates the Department of Defense's total obligational authority in 1997 at $288 billion. CBO projected 1996 data for other elements of the national defense budget (chiefly Department of Energy defense programs) to arrive at the $305 billion figure.

number of selected reserve personnel will not be reduced by more than the Administration has proposed, which is consistent with the spirit of recent Congressional action. Indeed, the House and Senate have not even accepted all of the Administration's proposed cuts in reserve forces for 1992.

In order to avoid reducing funds available for activities related to readiness, money in the operation and maintenance appropriation (which pays for many day-to-day operating costs) is assumed to be reduced in proportion to reductions in spending for personnel. After spending reductions for personnel and for day-to-day operating activities are calculated, all remaining savings would be achieved by reducing spending for investment. The various categories of investment funds (procurement; research, development, test, and evaluation; military construction; and defense investment by the Department of Energy) are assumed to be reduced in proportion to their current budget shares. Finally, to avoid imposing precipitous budgetary cuts, reductions are assumed to begin in 1993 and to increase gradually through 1997.

Budgetary savings

Budgetary savings would be substantial under Alternative I. Compared with the Administration's plan, the alternative would reduce defense budget authority by about $30 billion, or 10 percent, in 1997 and by a total of about $70 billion, or 5 percent, over the 1993–1997 period (see Table 3). Savings in the investment appropriations equal $47 billion in 1993–1997. Thus, the investment appropriations contribute about two-thirds of the total savings in budget authority, but make up only 44 percent of overall spending in 1993–1997. Operating savings of $23 billion make up the balance of the total savings in budget authority.

TABLE 3.—REDUCTIONS BELOW THE ADMINISTRATION'S BUDGET UNDER ALTERNATIVE I

[In billions of dollars]

	1993	1994	1995	1996	1997	Total
Operating appropriations:						
Military personnel	0	0.1	0.8	2.8	6.4	10.0
Operation and maintenance	0	.1	.9	3.1	7.2	11.3
Other	.1	.2	.4	.5	.7	1.9
Subtotal	.1	.4	2.0	6.4	14.4	23.2
Investment appropriations:						
Procurement	1.6	3.3	5.4	7.1	9.0	26.5
Research, development, test and evaluation	1.0	1.9	2.7	3.4	4.1	13.1
Military construction	.1	.3	.5	.6	.7	2.3
Atomic energy	.3	.6	1.0	1.4	1.7	4.9
Subtotal	3.0	6.3	9.5	12.5	15.5	46.8
All appropriations:						
Budget authority	3.1	6.7	11.5	18.9	29.9	70.0
Outlays	1.1	3.3	7.3	14.0	24.2	50.0

Source: Congressional Budget Office.

Note: All data are shown as reductions budget authority, except for the final line, which shows outlay reductions. Numbers may not add to totals because of rounding.

Alternative I would also result in substantial reduction in defense outlays. Compared with the Administration's plan, outlays would be reduced by about $50 billion during the 1993–1997 period. Reductions in the investment appropriations produce $29 billion, or 58 percent of this amount, as compared with $21 billion, or 42 percent, from reduced operating and support outlays.

The budgetary reductions under Alternative I would be substantially larger than those the Administration proposed. Alternative I would result in an average real decline in total national defense budget authority over the 1993–1997 period of about 5 percent a year, compared with an average annual real decline of 3 percent under the Administration's defense plan. By 1997, the $275 billion national defense budget would be about 33 percent smaller in real terms than the budget in 1990, compared with a reduction of 26 percent under the Administration's plan.

The $275 billion budget would, after adjustment for inflation, approximately equal defense budgets in the mid-1970s, when defense spending fell to its lowest level since 1950. However, the budget under Alternative I would considerably exceed the level of defense spending during the 1947–1950 period, between World War II and the Korean conflict.,

Reduction in numbers of forces

DOD has many ways to reduce its active-duty military forces to accommodate the additional reduction in active-duty military personnel assumed in Alternative I. To illustrate one possible outcome, Table 4 shows reductions in numbers of forces, assuming that, compared with the Administration's plan, the number of active forces in each service is reduced below the Administration's proposed level by 12 percent, the same percentage by which overall active-duty personnel are reduced. There are no additional cuts in reserve forces beyond those proposed by the Administration. The method used to generate the force cuts under Alternative I assumes that additional cuts are made proportionately by each military service and that support functions (for example, training, medical care, and administration) are reduced in proportion to cuts in combat forces.

TABLE 4.—REDUCTIONS IN ACTIVE-DUTY MILITARY FORCES UNDER ALTERNATIVE I BY 1997, ASSUMING PROPORTIONAL CUTS

	Administration's Base Force	Alternative I	Reduction
Army divisions	12	10⅔	1⅓
Carrier battle groups	12	10 or 11	1 or 2
Navy ships	448	396	52
Air Force tactical fighter wings	15½	13½	2
Active Marine Corps brigades	7	6	1

Source: Congressional Budget Office.

An additional cut of 12 percent in Army forces would result in the elimination of about one and one-third divisions (four combat brigades) together with their supporting forces. This would leave the Army with fewer than 11 active divisions. The reduction of Navy personnel could result in the elimination of one or two carrier battle groups (leaving 10 or 11) and the loss of 52 combatant and support ships (leaving 396). The Air Force would have to reduce its 15.5 tactical fighter wings by 2, leaving 13.5, and make concomitant reductions in airlift, strategic bombers, and tanker forces. The active component of the Marine Corps would lose one more brigade, reducing each of the three active Marine Expeditionary Forces to a two-brigade unit by 1997.

The across-the-board pattern of reductions could be altered if disproportionately large reductions were made in certain categories of forces. Table 5 illustrates some possibilities. For example, if a decision were made to eliminate three tactical fighter wings, rather than the two wings that were eliminated under the across-the-board cuts, then savings in operation and support costs would increase by $2 billion in 1993–1997. Those savings could be used to minimize reductions in other types of units, whose operation costs are also shown in Table 5.

TABLE 5.—SAVINGS UNDER ILLUSTRATIVE OPTIONS THAT REDUCE OPERATION AND SUPPORT SPENDING

[In billions of dollars of budget authority and thousands of persons]

Force(s) eliminated	Average annual savings	Total savings in 1993–97	Reduction in personnel
Heavy army division (Europe) (3 brigades)	2.4	12.0	46
Active round-out division in U.S. (2 brigades)	1.8	8.8	34
Marine expeditionary brigade	1.0	5.0	20
Aircraft carrier battle group	1.1	5.6	19
Carrier air wing	.4	2.0	6
10 Attack submarines	.4	1.8	5
Tactical fighter wing	.4	2.0	6
50 Minuteman missiles	.1	.5	1
20 B–52 bombers	.3	1.7	5
1 Poseidon submarine	.1	.5	1

Source: Congressional Budget Office.

Note: Annual savings in operation and support costs and personnel include direct, indirect, and overhead figures. Savings for the period 1993–1997 assume that the reduction is implemented in 1993.

More far-reaching changes could also be made in some types of forces. Some observers have proposed that, in the wake of improvements in relations between the United States and the Soviet Union, the two superpowers should seek significant reductions in their nuclear weapons. If such reductions could be achieved within a few years, reductions in conventional military forces could be even smaller than those proposed in Alternative I while still achieving the required budgetary savings.[3] The implications of making deep strategic cuts in the context of the overall budget limits set by Alternative I are presented in the Appendix.

Effects on personnel and readiness

Under Alternative I, active-duty personnel would be reduced by 90,000 a year, compared with the Administration's proposed annual reductions averaging 52,000 in the 1993–1997 period. In view of the smaller size of the military under the alternative, the services could further reduce the numbers of new personnel they bring in. Relying exclusively on cuts in enlistments, however, would unbalance the military's grade structure. In the short run, promotions would be slowed and senior personnel would be forced to perform the work of more junior personnel; in the longer run, a shortage of people qualified to fill leadership roles could develop.[4] Therefore, the services probably would involuntarily separate even more personnel than under the Administration's plan. Alternatively, the Congress could enact an early retirement plan or other monetary incentive designed to increase the number of voluntary departures. The savings shown for this alternative, however, implicitly assume that additional losses represent involuntary separations and that no new separations benefits are made available.

Reducing the size of the military at a faster pace may add to the burden the services bear during the transition, but should not affect readiness of the forces that remain after the drawdown is complete. As units are eliminated, personnel who still have tours of duty to complete will need to be reassigned, perhaps physically moved, and often retrained for new jobs. Transferring equipment or preparing it for storage will absorb time that might otherwise be spent on training activities. Thus, some loss in overall military readiness is likely during the transition

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[3] See testimony of Robert D. Reischauer before the Senate Committee on Foreign Relations, September 25, 1991, for estimates of savings from reducing strategic forces.

[4] For a more complete discussion of personnel issues, see Congressional Budget Office, "Managing the Reduction in Military Personnel," July 1990.

VOL 137
PT 23
NO 21–25
1991
UMI

period. The larger cuts that Alternative I imposes could exacerbate these problems. However, once this transition period is past, the day-to-day operating funds available to a typical unit will remain unchanged from current levels and training and activities related to readiness could continue largely intact.

Changes in investment

Alternative I would cut $15.5 billion from DoD's investment program in 1997 and a total of $46.8 billion for those programs in 1993 through 1997 (see Table 3). CBO assumes that cuts in procurement, research and development (R&D), military construction, and defense investment programs in the Department of Energy are proportional. Thus, procurement cuts would amount to $9 billion in 1997 and $26.5 billion in the 1993–1997 period. Research and development cuts would amount to $4.1 billion in 1997 and $13.1 billion over the five-year period. These numbers are, of course, only representative of the magnitude of the cuts required. The actual mix of procurement and R&D cuts could vary to reflect the priorities of the Congress and the Administration.

Investment savings of these magnitudes could be accomplished by delaying a number of acquisition programs. Alternatively, the Administration and the Congress could accomplish most of the reduction by terminating or scaling back a few large programs. Table 6 lists some examples of specific reductions, together with potential savings.

TABLE 6.—SAVINGS UNDER ILLUSTRATIVE OPTIONS THAT REDUCE INVESTMENT SPENDING

[In billions of dollars of budget authority]

Option	Reduction
Reduce funding for modernization of armored systems [1]	2.3
Cancel C–17 airlift aircraft [2]	19.4
Terminate production of new B–2 bomber	20.9
Reduce spending for strategic defense initiative [1]	20.3
Cancel national aerospace plane [1]	1.4
Cut development and testing of nuclear warheads by one-third [1]	13.0
Cancel F–22 program [2]	11.8
Cancel aircraft carrier purchase	4.2
Cancel SSN–21 submarine program [2]	17.3

[1] 1993–94 compared with the administration proposals.

[2] For a discussion of pros and cons, see Congressional Budget Office, "Selected Spending and Revenue Options," June 1991.

[3] Some of the savings might have to be devoted to purchases of other systems to meet mission needs.

Source: Congressional Budget Office.

Note: These options are presented as illustrations, not as recommendations.

ALTERNATIVE II. A REDUCTION TO $250 BILLION BY 1997

Alternative II would achieve a national defense budget of $250 billion by 1997. Reductions in the number of active-duty personnel would be set at 110,000 a year, leaving the 1997 active-duty level at 1.34 million persons.

The assumptions made in analyzing Alternative II are generally the same as those used in analyzing the first alternative, with one important exception. Under Alternative II, it is assumed that the number of selected reserve personnel would be reduced about 22 percent below the Administration's proposal. Thus, by 1997, selected reserve forces would total about 700,000 people under this alternative, as opposed to the 906,000 in the Administration's plan (see Table 7 for details).

TABLE 7.—ALTERNATIVES FOR REDUCING SELECTED RESERVE PERSONNEL

[In thousands]

	1990 level	Base force and alternative I	Alternative II
Army National Guard	347	321	250
Army Reserve	299	230	180
Navy Reserve	149	118	90
Marine Corps Reserve	45	35	30
Air National Guard	117	119	90
Air Force Reserve	81	82	60
Total	1,128	905	700

Sources: Office of the Assistant Secretary of Defense (Reserve Affairs) for 1990 and Base Force; Congressional Budget Office for Alternative II.

Budgetary savings

Under Alternative II, reductions in budget authority below the Administration's proposed level would amount to about $55 billion or 18 percent in 1997, and would total $143 billion or about 10 percent in the 1993-1997 period (see Table 8). The resulting budgets would be smaller than all budgets since 1950, but still about 10 times larger than pre-World War II military budgets.

TABLE 8.—REDUCTIONS BELOW THE ADMINISTRATION'S BUDGET UNDER ALTERNATIVE II

[In billions of dollars]

	1993	1994	1995	1996	1997	Total
Operating appropriations:						
Military personnel	0.5	1.8	3.7	7.0	12.0	24.9
Operation and maintenance	.5	2.0	4.1	8.0	13.5	28.2
Other	.2	.5	.7	1.0	1.2	3.6
Subtotal	1.2	4.4	8.5	16.0	26.7	56.8
Investment appropriations:						
Procurement	3.1	6.3	10.0	13.0	16.4	48.7
Research, development, test, and evaluation	1.9	3.7	5.0	6.3	7.4	24.2
Military construction	.2	.6	.9	1.1	1.4	4.2
Atomic energy	.6	1.2	1.8	2.5	3.0	9.1
Subtotal	5.8	11.7	17.6	22.9	28.1	86.1
All appropriations:						
Budget Authority	7.0	16.1	26.1	38.9	54.8	142.9
Outlays	3.0	9.5	18.1	30.1	45.5	106.1

Source: Congressional Budget Office.

Note: All data are shown as reductions in budget authority, except the final line, which shows outlay reductions. Numbers may not add to totals because of rounding.

Outlay reductions under this alternative would total $106 billion in the 1993–1997 period. Reductions in 1994 and 1995 would be about three-quarters of those needed to avoid any real reductions in nondefense spending while still complying with last year's budget agreements.[5]

Changes in numbers of forces, personnel, and readiness

The additional 100,000 active-duty personnel eliminated under Alternative II would require somewhat larger cuts in active-duty forces than the cuts under Alternative I. If cuts in the military services were made as they were in Alternative I, each service would be reduced about 18 percent more than it would be under Administration plans. For the Army, this would result in the elimination of two divisions (six combat brigades) from the active component, leaving 10 divisions (see Table 9). Four combat brigades would be eliminated from the Army's reserve components, leaving fewer than five National Guard division. The reduction in Navy personnel could result in the elimination of two carrier battle groups (leaving 10) and the loss of about 80 combatant and support ships from the 448-ship fleet in the base force. The Air Force would be reduced to 12.5 tactical fighter wings in the active component and about 8.5 in the reserved component. Although the active component of the Marine Corps could retain three divisions, each with two brigades, the reserve division would lose one of its three brigades.

TABLE 9.—REDUCTIONS IN MILITARY FORCES UNDER ALTERNATIVE II BY 1997, ASSUMING PROPORTIONAL CUTS

	Administration's base force	Alternative II	Reduction
Active forces:			
Army divisions	12	10	2
Carrier battle groups	12	10	2
Navy ships	448	368	80
Air Force tactical fighter wings	15½	12½	3
Marine Corps brigades	7	6	1
Reserve forces:			
National Guard divisions	6	4⅔	1⅓
Tactical fighter wings	11	8½	2½
Marine Corps brigades	3	2	1

Source: Congressional Budget Office.

Because it cuts more personnel and forces, this alternative would make the transition to a smaller force more difficult. For example, involuntary separations of career military personnel might increase by about 100,000, compared with those necessary under the Administration's plan. Faced with this increase, the Congress might feel it necessary to increase incentives for voluntary separation in order to ease this burden. Once this transition period passed, however, the readiness of the remaining units should not be adversely affected.

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[5] For a more complete discussion of this issue, see testimony of Robert F. Hale before the Senate Budget Committee, July 16, 1991.

Effects on Investment

Reductions in investment spending would be substantial under Alternative II. Investment funding in 1997 would be reduced by $28 billion, a reduction of 21 percent below the Administration's proposal (see table 8). The total reduction of $86 billion through 1997 would represent a cut of 13 percent in the Administration's planned investment spending for that period. Assuming the proportional cuts that are used in analyzing these alternatives, procurement programs would have to be reduced below the Administration's request by $16.4 billion (21 percent) in 1997 and research and development appropriations by $7.4 billion (21 percent).

Achieving these substantial additional cuts in investment would require canceling a number of the larger defense procurement and research programs and slowing acquisition of other weapon systems. Reductions in minor procurement would also be required.

The cutbacks that would occur under this example could increase shortfalls in spending for procurement over the long run. During the next decade or so, the Administration plans to equip many military units with new and expensive weapons. CBO estimates that under the Administration's plan, procurement budgets in the next decade would have to rise substantially above levels planned for the mid-1990s.[6] The additional reductions in funding for procurement under this alternative could exacerbate this problem. However, further reduction in numbers of forces under this alternative would reduce long-term procurement needs. Reductions in procurement might also prompt the services to hold down the cost of new weapons, thus helping to minimize shortfalls in procurement funding over the long run.

Near-term effects of Alternative II on the defense industrial base may be of even greater concern. Procurement budgets have fallen sharply in recent years, the legacy of large budgets in the 1980s combined with the reductions in forces and tight budgets expected in the 1990s. Coupled with the high prices of many new weapons, the lower procurement budgets of the 1990s will eliminate the purchase of many types of arms. The predictable result: the industrial base for weapons production will shrink, perhaps jeopardizing the ability of the United States to produce weapons in large quantities later in the 1990s or in the next decade, should that be needed. The substantial reductions in procurement under Alternative II could heighten concern over this problem.

OTHER APPROACHES

Other approaches to cutting defense spending are certainly possible. The pattern of reductions laid out in the two alternatives presented above limits the pace of cuts in personnel, leaving the balance of cuts to come out of spending for investment. Within each category, the alternatives assume proportionate cuts in individual appropriations. The Congress, however, has many other options if it determines that additional cuts in defense spending are appropriate. It could cut only active forces, or both active and reserve forces. It could reduce the appropriation for day-to-day operating costs (operation and maintenance) beyond those cuts assumed here, either by mandating additional efficiencies in day-to-day operations or by limiting funds for training and support.

Within the investment accounts, the Congress could follow the lead of the Administration and favor research and development funding by making larger reductions in procurement appropriations at a time when the services enjoy equipment surpluses. Conversely, it might seek additional cuts in research and development appropriations, restoring them to their historical balance with procurement spending. Planning future defense budgets will require careful consideration of the nation's military priorities and may depend, as well, on how the world political situation evolves.

APPENDIX

A DEEPER CUT IN STRATEGIC FORCES

Recent days have seen dramatic proposals by Presidents Bush and Gorbachev to eliminate land-based tactical nuclear warheads and to negotiate major reductions in strategic warheads. Smaller reductions in spending for conventional forces would be possible if the Administration and the Congress were to agree to a schedule and program for such strategic reductions. This Appendix describes one illustrative example.

The example, which constitutes a third alternative, postulates that the United States would reduce strategic nuclear warheads to a total of 6,000 by 1997, as compared with the approximately 10,500 strategic warheads it would possess under the START treaty limits. The Soviet Union would also limit its warheads to 6,000.

The resulting strategic force, although smaller than current forces, would still provide the United States with substantial ability to absorb a first-strike attack and retaliate against a wide variety of targets. The United States would retain a triad of delivery systems, consisting of 97 B–1 and 30 B–2 bombers, 18 Trident ballistic missile submarines, and land-based missiles. But under this approach, a number of current Administration initiatives to modernize forces would be terminated or scaled back. In particular, the option assumes that the small intercontinental ballistic missile program would be terminated, only 30 B–2 bombers would be bought, and that fewer Advanced Cruise Missiles and D5 Trident missiles would be purchased than current Administration proposals specify. This illustrative example also assumes that the United States and the Soviet Union agree to reduce the number of strategic warheads to 6,000 in time to begin making the cuts in 1993. If they were to agree later, savings would be smaller in the 1993–1997 period.

This alternative would draw a much greater share of its overall savings from strategic programs than would Alternative I. Reductions in strategic programs, compared with the Administration's plan, would save $26.3 billion over the 1993–1997 period, leaving about $44 billion to be achieved through cuts in conventional force programs (see Table A–1). Only some $24 billion would be saved from operating budgets over the five-year period.

TABLE A–1. REDUCTIONS BELOW THE ADMINISTRATION'S BUDGET UNDER ALTERNATIVE III

[In billions of dollars]

	1993	1994	1995	1996	1997	Total
Operating appropriations:						
Strategic forces	0.7	0.9	1.2	1.5	1.6	5.9
Conventional forces	0.	0.	.8	4.9	12.8	18.5
Subtotal	.7	.9	2.0	6.4	14.4	24.4
Investment appropriations:						
Strategic forces	2.8	1.8	2.2	6.9	6.7	20.4
Conventional forces	0.	4.0	7.3	5.6	8.8	25.7
Subtotal	2.8	5.8	9.5	12.5	15.5	46.1
All appropriations:						
Budget authority	3.5	6.7	11.5	18.9	29.9	70.5
Outlays	1.6	3.6	7.2	13.9	24.3	50.5

Source: Congressional Budget Office.

Note: All data are shown as reductions in budget authority, except for the final line, which shows outlay reductions.

Conventional force reductions would still be necessary to meet the overall target for reducing military personnel set in Alternative I. Strategic force reductions provide relatively little savings in personal and operating costs. This alternative, however, would delay the schedule for implementing the conventional force reductions described in Alternative I by about two years, thus giving the Congress and the Administration more time to assess international developments before initiating the process of reducing conventional forces below the Administration's base force level.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. NUNN. I yield the Senator from Tennessee 5 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. GORE. My thanks to my distinguished chairman, my colleague, the Senator from Georgia.

What we are hearing here today is that this process has begun to break down in serious ways. It needs attention. We cannot fix it here today. But what happened yesterday and what happens with this bill here today serves notice on the Senate that, as the new session begins in January, we really have to think about some major changes in the way the process works.

I say this with regret because, in many ways, the process has worked in that the personal relationships between the authorizers and the appropriators are very good and strong, and on a number of issues the appropriators have been very responsive to members of the authorizing committees.

In my own case, I would like to note my appreciation for the fact that the appropriators moved toward the authorizing bill on the issue of the small ICBM and mobility in a way which preserves this option and confronts the administration with an opportunity to make a major strategic choice wisely which can save money and move us and the Soviet Union toward a stable balance.

I also want to acknowledge the grain of truth in what my colleague from New Mexico said earlier about the fact that a lot of agencies and departments get money appropriated when they are not authorized. That is true. The breakdown really began in the willingness of Congress, beginning some years ago, to allow agencies and major parts

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[6] See, for example, Testimony of Robert F. Hale before the Subcommittee on Projection Forces and Regional Defense of the Senate Armed Services Committee, June 14, 1991.

VOL 137 PT 23 NO 21–25 1991 UMI

of the Government to continue operating without being authorized. But that has not been the case with the Pentagon. It has not been the case with the Armed Services Committee.

I hold no brief here that our chairman is more able than any other chairman in either body of Congress. But he is pretty able. And we who serve on that committee have tried very hard to make sure that there is an authorizing bill every year that pays careful attention to every detail that has to be authorized. And where the process is working, for the Congress to then sanction an action that ignores the work that has been put in is wrong. I think it is unfortunate that to that extent cooperation between defense authorizers and appropriators has broken down.

Those of us who have worked hard on the authorizing legislation are left with the feeling that this year, the process has not done justice to our labors. We are also left with the feeling that precedents are being set which make it increasingly difficult—perhaps even impossible—to justify what we are all doing as a rational and, somehow, coherent process.

If we are spending too much money overall—and I believe we are—then why not put the burden back on the appropriators to find an authorizing bill before appropriating? That will, over time, cut down on what is approved and authorized and appropriated overall.

Let me just give two concrete examples of what leaves me feeling dissatisfied and inclined to vote against the bill before us. I have worked hard for the last 2 years on the Strategic Environmental Research and Development Program. Senator NUNN and I have brought this forward, and others on the committee worked to improve it. The program is designed to stimulate and finance innovative research into environmental issues with a view toward helping the Departments of Defense and Energy better handle their environmental challenges. Other aspects of the program are aimed to promote data exchange across the barriers between the defense establishment and the private sector in areas of environmental concern.

To manage this process, our legislation created a carefully balanced governing council of officials from both DOD and DOE, backed up by a science advisory board drawn broadly from the community of nongovernmental experts. We worked hard to devise a system that would look hard for good programs to back, that would make well-considered choices in an atmosphere as objective as we could make it.

Now let us look at the outcome of the process. This year's appropriations bill takes $25 million out of the total $150 million appropriated for SERDP, and mandates that it will be spent at one particular institution for one particular kind of research that has not been peer reviewed, has not been examined by any of the members of this science advisory council, and has no backing from the SERDP governing council.

The question of the merit of this directed application is not an issue here, nor are the intentions of the principal sponsor of this particular project at issue here. I am sure that one could find some merit. I know that those enthusiastic about it believe it is merited, but it ought to compete. It ought to be considered along with the other projects that need priority attention. What bothers me is that this proposal did not have to compete against others, was never evaluated against others, and will go forward at the expense of all other possibilities.

Now, the second example. I worked hard for 2 years to get data from the intelligence community made available to environmental scientists when the national security data is scrubbed out of it. I have worked very carefully with the chairman of the Intelligence Committee, Senator BOREN, with our counterparts in the Intelligence Committee in the other body, with Senator NUNN and the staffs of the Commerce Committee, the Armed Services Committee, and the Intelligence Committee.

In fact, just 2 days ago, I conducted another lengthy roundtable session with intelligence experts and environmental scientists. Now I find in this bill there is allocated $1 million to a consortium for an Earth science information network designed to do precisely this. And to this hour, the combined efforts of the Intelligence Committee staff, the Armed Service Committee staff, and the Commerce Committee staff have been unable to find out where the Earth science information network is, who it is, what it is, who sponsors it. We do not know.

When members of an authorizing committee put 2 years' worth of work in trying to solve a complex set of problems for the benefit of this country, and then in the dead of night the work is partially undone and steered toward a mysterious location which the Intelligence Committee, the Armed Services Committee, and the Commerce Committee cannot even find yet, then the process had broken down. In spite of all the efforts that have been made to cooperate, which are appreciated, overall the process is not working. As a result, I will stand with my chairman, Senator NUNN, and I will vote against this bill.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

FUNDS APPROPRIATED TO KANSAS STATE UNIVERSITY, SALINA CAMPUS

Mr. DOLE. Mr. President, I commend the chairman and ranking member of the Defense Appropriations Committee, Senator INOUYE and Senator STEVENS, for their hard work and enduring commitment to our national security. The process of building down our forces while ensuring that our vital interests are secure in this uncertain world is a formidable task. This bill strikes the difficult balance between limited resources, an uncertain security environment, and preservation of our industrial base, and yet, it will keep America strong.

Further, I wish to thank the distinguished chairman and ranking member for their thoughtful consideration and recognition of the leadership displayed by Kansas State University, and particularly the college of technology at the Salina campus in the field of aerospace. It is my understanding that this bill appropriates a grant of $7.7 million to Kansas State University at Salina to purchase equipment and to administer comprehensive professional pilot, aviation maintenance, and avionics training programs.

Mr. INOUYE. The distinguished Republican leader is correct. This bill, as outlined in the conference report, specifically appropriates a grant of $7.7 million for the Salina campus of Kansas State University. These funds are for the purposes stated by the Republican leader. I wish to add that Kansas has long stood at the forefront of world aviation. This is due to the high level of skill and commitment of that great State's work force and to the educators and administrators of Kansas universities and colleges. Kansas has led the Nation in providing state-of-the-art training and educational programs such as this one. Kansas State University is to be commended for this forward thinking and innovative approaches to aerospace engineering, education, and training.

Mr. STEVENS. Mr. President, I agree with the distinguished chairman's characterization of the leadership role that Kansas plays in America's aerospace and defense industry. I want to add that Kansas State University has invested heavily in the ability to extend its fine educational and training services nationwide through satellite transmission. It is my understanding that the Strategic Air Command and the Kansas National Guard are keenly interested in utilizing the educational and training services represented in this grant. I strongly encourage their fullest participation and recommend that all of the military services make the maximum use of this cost effective, state-of-the-art approach to education and training.

Finally, let me note that a full description of the intended use of this $7.7 million grant is not detailed in this report. I would ask the distinguished Republican leader if he wishes, for the record, to outline the program for which these funds will be utilized.

Mr. DOLE. I thank the managers of this bill for their comments. I would

like to provide a brief description of the program that for which this grant is intended. It is my understanding that $7.7 million is to be disbursed by the Department of Defense to Kansas State University. The funds will be used to purchase aircraft, single engine and multiengine flight simulators, equipment for composites and electronics laboratories, turbo engines for laboratory use, a turbine thrust cell, a painting and stripping station, computer hardware and software, avionic stations and associated equipment, a nondestructive ultrasound testing laboratory, and for administrative purposes. Further, it is my understanding that this is a one-time appropriation and that course curriculum and configuration control of this equipment will be the sole responsibility of Kansas State University unless otherwise provided for by the Department of Defense.

Mr. INOUYE. Mr. President, the distinguished Republican leader's understanding of the nature of this appropriations grant to Kansas State University is consistent with my own and reflects the intent of this bill and conference report.

Mr. STEVENS. Mr. President, I agree with my colleague, the distinguished chairman.

Mr. DOLE. Mr. President, I would like to conclude my remarks by commending Jon Wefald, president of Kansas State University and his fine staff, Mel Chastain, Larry Pankratz, Tom Cornelius and others whose superb leadership and tireless efforts will build this program into one of the premier aviation programs in the country. It has been a long time since that day in the early 1960's when, as a junior Congressman from the Kansas First Congressional District, I was notified that Schilling Air Force base in Salina, Kansas, and in my district, was to be closed. I recall trying to get the assistance of then Senators Pearson and Carlson. But, I could not get through to discuss this terrible event. After numerous attempts to get through, Frank Carlson's administrative assistant finally returned my call. I explained that Schilling Air Force Base was going to close and asked what could be done about this. The response provided this junior Congressman with a tough political lesson. The young man on the phone said, "Congressman DOLE, we don't announce base closings in this office, just base openings".

It has been a little over 30 years since I had to make that announcement to the people of Salina. But, I am delighted to announce this base opening—at the very same location.

SHARED FLEXIBLE COMPUTER INTEGRATED MANUFACTURINO FACILITY

Mr. DOMENICI. Mr. President, the conference report, in amendment numbered 97, includes the following provision, "* * * not less than $3 million of the funds appropriated in this paragraph [Research, Development, Test and Evaluation, Defense Agencies] shall be made available as a grant only to the New Mexico State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense."

I would like to take a moment to clarify the importance of this appropriation.

This country's defense capabilities are maintained, in large part, by civilian contractors to the Department of Defense. These contractors, be they large corporations working on multibillion-dollar procurement contracts, or smaller companies with just a few employees, provide essential manpower, materials, and manufacturing know-how that have helped to keep this country's military the most technologically advanced in the world. I believe it is vitally important that we support this correlation between our industrial and manufacturing base and our military might.

Mr. INOUYE. I certainly concur in this sentiment.

Mr. DOMENICI. I thank the chairman. The funding in the bill will help to ensure that we maintain this country's preeminence in the manufacturing of defense and commercial components. The $3 million is to be coordinated by the National Center for Manufacturing Science and provided to the Shared Flexible Computer Integrated Manufacturing Facility at New Mexico State University. This facility will work with small- and medium-sized companies to share resources, technology, personnel, and the most advanced manufacturing equipment. This facility will train personnel so they become familiar with state-of-the-art machine tool technology. These activities will provide opportunities for smaller domestic manufacturers to contribute to the Nation's defense manufacturing base.

Mr. STEVENS. Mr. President, I join Senator DOMENICI in his support for this endeavor. I certainly support efforts that coordinate our commercial and military industrial efforts.

Mr. DOMENICI. Mr. President, I want to thank the chairman and ranking member for their support of this initiative.

Mr. STEVENS. Mr. President, I have in my hand an article entitled "Peer Review: Treacherous Servant, Disastrous Master." It is from the Technology Review for October 1991, a very pertinent article. Let me just quote in part:

> Peer review, out of control, makes science a jungle where politics rules and fraud is tolerated.

Another quote:

> Peer review suggests trial by a jury of one's peers, a jewel in the crown of Western democracy—surely an excellent model. But it takes more than a jury to have a fair trial. A lynch mob is also a peer panel. Rules and procedures—jury selection, rules of evidence, the requirement that evidence be heard in public—and a judge to interpret and enforce them are necessary if fallible people are to render fair decisions.

Another quote:

> Peer review resists investigation. Only insiders know the details of each decision. They may not tell the truth, and the technical background needed to extract the facts is hard for outsiders to learn. Lacking the omniscience of Orwell's Big Brother, we must be content with horror stories of reviewing gone wrong.

Another quote:

> The Federal Government uses a variety of ways to decide how to fund science. Department of Defense managers can fund whomever they like, without having to get advice.

A whole series of reviews of the processes of peer review.

I ask unanimous consent this be printed in the RECORD, and I call it to the attention of anyone who wants to talk any more about peer review.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Technology Review, Oct. 1991]

PEER REVIEW: TREACHEROUS SERVANT, DISASTROUS MASTER

(By Charles W. McCutchen)

"Peer review, out of control, makes science a jungle where politics rules and fraud is tolerated."

Science has become a profession: grants and research contracts are what it lives on. Whereas a rich dilettante like Lord Rayleigh could retire to his country estate and do acoustics or whatever else he wanted, modern scientists must sing for their supper. They do not sing to their patron, the U.S. taxpayer. They sing to other scientists, who wield over them the power of professional life and death via peer review.

Peer review, the evaluation of a specialist's work by others in the same field, is an inevitable consequence of specialization. Example: though anyone can tell if a bridge design is truly bad—the bridge collapses—it makes sense to have other engineers check the plans before the bridge is built. Science uses peer review to determine which projects to pay for and which articles to publish, and, recently, to judge cases of alleged misconduct.

Peer review suggests trial by a jury of one's peers, a jewel in the crown of Western democracy—surely an excellent model. But it takes more than a jury to have a fair trial. A lynch mob is also a peer panel. Rules and procedures—jury selection, rules of evidence, the requirement that evidence be heard in public—and a judge to interpret and enforce them are necessary if fallible people are to render fair decisions. Specialist peer review is fraught with biasing influences. Specialists compete with one another and, at the same time, fight collectively for their profession.

Peer review is at best a treacherous servant, but scientists often forget that a jury trial is more than a jury, and act as if the use of peers automatically sanctifies the resulting decisions. Establishment scientists have been treated well by peer review; scientific administrators use it. Both want to believe in it, and the need engenders beatification by faith. "Peer review is the distin-

VOL 137
PT 23
NO 21—25
1991
UMI

guishing characteristic of science," they say. "It makes science what it is."

They are right—in a way. Every scientist is an informal peer reviewer. A scientist's work affects science only if others accept it. But formal review of grant applications, manuscripts, and fraud allegations also makes science what it is, and here human failings can yield improper decisions whose practical consequences and poor ethics propagate throughout science.

Peer review resists investigation. Only insiders know the details of each decision. They may not tell the truth, and the technical background needed to extract the facts is hard for outsiders to learn. Lacking the omniscience of Orwell's Big Brother, we must be content with horror stories of reviewing gone wrong. Though such stories do not directly reveal the frequency of mistakes, they show which human failings are involved, and thus the likelihood of trouble and how to reduce it.

PEER REVIEW AND GRANT GIVING

The federal government uses a variety of ways to decide how to fund science. Department of Defense (DOD) managers can fund whomever they like, without having to get advice. They do not compete for contracts with the scientists they might choose. Instead, they shine in the success of the programs they manage, and should something go wrong in a program, the manager is responsible. These are all good features. Unfortunately, managers are subject to agency politics.

As consultant to a small firm, I watched the Navy fail to give a fair hearing to our best idea, Sea Knife, a fast boat of strange but simple shape that rides smoothly in rough water. We decided that the Navy's small-boat people would not admit that a craft by outsiders might be better than theirs. But having figured a way around this obstruction, we were funded to build Wavestrider, a faster though rougher-riding and more complicated boat. We got unrelated contracts to explore far-out and ultimately unsuccessful forms of marine propulsion. I think these were funded because they threatened no powerful group within the Navy.

At the National Science Foundation (NSF), too, managers make the final funding decisions but with the advice of peer reviewers. Managers benefit from the peers' specialized knowledge but have the authority to correct for peer bias. As at the Defense Department, should something go wrong, the program manager is responsible. For years, George Koo Lea, director of the fluid mechanics program, supported Van Chao Shein Mow, now of Columbia University, for work that was never novel and true at the same time. Workers in his field, the lubrication of animal joints, who disagreed with the professor had trouble getting funded by NSF.

At the National Institutes of Health (NIH), where I have worked since 1964 in biomechanics, optics, and fluid mechanics, peer reviewers effectively make the final decisions; managers are nearly powerless. In each discipline, a peer panel—the study section—evaluates grant applications. By secret ballot, each panel member gives an application a numerical score, and these scores largely decide its fate. An upper, advisory council can fund projects slightly out of the order of their scores without attracting comment, as can program managers. But when whistleblower Robert Sprague, a grantee for many years, did well in the study section but lost out at the advisory council, the event made news.

Since peer review puts a scientist's future at the mercy of competitors, is it any wonder that career issues are a respected, if unadmitted, influence on decisions? Would we not expect mutual assistance pacts to be accepted facts of life? Should we be surprised that politics is especially ripe in disciplines funded by NIH, where the power of scientists over one another is essentially unchecked? Van Mow receives three-fourths of all NIH support of research in joint lubrication and still accomplishes little. For years, those with contrary views received none. Support for research on lubricin, the lubricating chemical in joints, ceased in 1982.

Since power over grants confers power elsewhere. dissent in joint-lubrication research appears only in unrefereed publications such as conference reports and public lectures or in journals of distant fields. Timothy Harrigan and his then supervisor, MIT biomedical engineer Robert Mann, made an important contribution to the theory of how cartilage in joints deforms. Refused by the Journal of Biomechanics, it was accepted by Archives of Rational Mechanics.

If NIH grant administrators made the final funding decisions, they could be called to account for permitting cronyism. But peers are the ultimate authority, and because they exercise this power in secret, no one is accountable. This unaccountability makes the NIH system attractive to management. When a Professor Mow seems to have an inside track, NIH blandly declares that his success shows that his colleagues think well of him. Whoever gets funded, NIH can say the decision was out of its hands. However deserving Dr. X from Rep. Y's district may be, administrators can say they have no way of influencing X's funding. Privately, NIH officials admit there is politics in study sections but say it is a price worth paying to insulate grants in biomedical science from national politics. The cost was surrendering control of funding to scientific politicians.

NIH has one potential lever. The executive secretaries of study sections, who are NIH employees, appoint section members and could use that power to suppress the politics. Although members, who serve for four years, cannot succeed themselves, they expect a large say in the choice of their successors. A section secretary could threaten, "If you misuse your power, your successor will not be from your faction." But such action would require support from NIH management, because section secretaries are not famous scientists. The support would not be given, since NIH conceals this power of appointment. The handbook describing the study sections says that their members are "selected by the NIH" but supplies no details. The impression given is that peer review is above the vulgar mechanics of the appointing process. Without support from above, an executive secretary would need great courage to stop a determined cabal from controlling NIH funding in a discipline.

So cronyism proceeds. In 1976, Mow and Peter Torzilli published two spectacularly erroneous papers on joint lubrication. NIH knew experts held the papers to be nonsense. They predicted such a rapid flow of fluid through the porous joint cartilages that viscous losses would have generated heat 100 million times faster than mechanical work was being done on the joint. Yet Torzilli replaced Mow when the latter left the Orthopedics and Musculoskeletal Diseases Study Section in 1984.

INHERENT FAILINGS OF THE PROJECT GRANT SYSTEM

Politics is particularly bad in biomedical research because biomedical scientists directly control the flow of money that supports their disciplines. But even without politics, today's grant system, in which scientists propose future research projects to an agency, would be bad. The system gained its popularity after World War II when there were fewer scientists and most projects were funded. But even in those flush times, the Office of Naval Research, Atomic Energy Commission, and National Science Foundation all refused Donald Glaser when he asked for funds to develop the bubble chamber, later the standard device for observing particles in high-energy physics.

The great ideas in science in the next few years will be those not yet thought of. The system ought to select people likely to think them, but, alas, it is inherently biased against such speculation. Granting agencies want certainty, and reviewing peers fear unexpected discoveries by their competitors. As NIH puts it in a pamphlet for grant applicants, "Reviewers prefer limited clear goals that can be realistically approached; rather than broad, multiple questions or vague goals the entertainment of which is open to doubt."

The caution of officialdom displays itself in a 1940 report from the Gas Turbine Committee of the National Academy of Sciences: "Even considering the improvement possible . . . the gas turbine could hardly be considered a feasible application to airplanes mainly due to the difficulty in complying with the stringent weight requirements." Thus did great men, including engineer-fluid dynamicist Theodore von Kármán, evaluate the turboprop and jet engine.

The project grant system ignores the range of human talents. As well as inflicting anguish on inventive people, it has no official niche for promoters, people who make enterprises go, people like Vladimir Zworykin who persuaded RCA to spend its money developing television. The grant system does not eliminate such promotership; it just perverts it. Promoters pretend to be great and impossibly active scientists to get money in promoter-scale quantities. They sign every manuscript from their laboratories and accumulate reputations earned by the work of others.

The grant system disrupts the chains of authority and loyalty between scientists and universities. Each university scientist is like a pirate ship raiding the U.S. Treasury. The university provides docking space; in return, the scientist provides for his or her keep, and preferably more, out of grants. To the scientist, the university is a leech; to the university, the scientist is a prima donna. In the middle of these cross purposes, students are supposed to be taught.

PEER REVIEW OF JOURNAL ARTICLES

When peers referee journal articles, they perform a valuable service. They find mistakes and sometimes fraud, and they form a trial readership whose reactions show what to change to hold a reader's attention. A referee who knows the field can clarify what is and is not novel in a manuscript. Competent reviews take hours or days of hard work and are a tribute to those who do them.

Unfortunately, the power of referees, usually anonymous, permits self-interest, jealousy, revenge, and other unworthy motives to influence decisions. Dozens, probably hundreds, of letters to the editor over the years show that nastiness in reviewing contributes to a general unpleasantness in the publication process and in science as a whole.

Reviewing weeds out good manuscripts as well as poor ones. Frederick Lanchester's 1894 circulation theory of how wings lift, Chandra Bose's photon statistics in 1924, Enrico Fermi's theory of beta decay in 1933, Herman Almquist's discovery of vitamin K_2 in 1935, Hans Krebs's citric-acid cycle in 1937, and Raymond Lindeman's trophic-dynamic concept in ecology in 1941 all were turned down at least once. Charles Fourier and Gregor Mendel had trouble getting published. We will never know how many deserving manuscripts remained unpublished.

The time and energy spent fighting to be published are lost forever. Lindeman died before his article appeared, and the delay Almquist suffered may have cost him a share in a Nobel Prize. The discoveries by Fermi, Almquist, Krebs, and Lindeman were held up only for a short time, but the circulation theory of lift was delayed over a decade.

My experience has been similar. Since Lord Rayleigh's time, it has been known that the wave nature of light spreads the image of a point source into a blur whose shape on the focal plane is described by the two-dimensional Fourier transform of the lens aperture. The image projected by a square lens is a diamond-shaped array of checkerboard squares. I realized that a Fourier-transform relation between aperture and image also holds true in three dimensions. When I attempted to publish this fact in the *Journal of the Optical Society of America*, referees rejected it. The editor kindly published it in response to my plea. This relation is now the starting point for calculating the three-dimensional resolving power of confocal scanning microscopes.

This evidence is anecdotal, so, by current convention, those who find it uncomfortable can ignore it. But in 1977 Michael Gordon wrote in the *New Scientist* that Henry G. Small of the Institute of Scientific Information had found "a significant negative correlation between referees' evaluations of [highly-cited chemistry] papers and the number of citations the papers subsequently received." Low citation scores followed high opinions by referees, and vice versa.

The inability of peer reviewers to judge good papers should be no surprise. A discovery is usually a better-than-his-or-her-average product of a brighter-than-average (or perhaps simply unusual) scientist; the resulting paper will likely be reviewed by an ordinary scientist, operating at an ordinary degree of inspiration, and possessing human imperfections. Truly novel papers may not be understood. Those understood will be envied and perhaps rejected with one excuse or another. In 1844, J. J. Waterston tried to publish a paper that anticipated by several years the kinetic theory of Clerk Maxwell and Ludwig Bolzmann. A referee pronounced it "nothing but nonsense, unfit even for reading before the [royal] society."

These famous examples of rejected discoveries end with World War II. With the rise of grant-supported science, few manuscripts are unembellished reports of discoveries. A discovery is too valuable to reveal in a journal article until it has been used in grant applications. By the time most discoveries are published, they are already on the rumor circuit, and the papers announcing them include data generated in work the grants paid for.

It is follow-up papers that most scientists write and that referees are most likely to approve. A paper starkly describing something new looks strange and will be treated like the proverbial ugly duckling. An example: theoretical treatments of a plate planing on the surface of water like a surfboard demand that a sheet of fluid be ejected forward from under the plate. I found this not so in practice. Instead, there is a tumbling mass of foam where the plate meets the water. When I tried to report this in the Journal of Fluid Mechanics, none of the four referees disputed my findings, and three complimented my work. But the four were unanimous that my manuscript could not be published in the journal. One said my account was too sketchy even for a grant application. So far as I know, official fluid dynamics has not yet acknowledged the phenomenon, though my article is now Appendix D in Planing by Peter Payne.

Publications can lead to jobs and research support; NIH hired me as a result of my publications on joint lubrication. By denying publication to unadorned discoveries, refereeing obstructs this career channel and drives innovators to the granting agencies and ultimately to the establishment. A deadening uniformity is enforced. Dilettantes are squeezed out, not because they are bad scientists but because they do not belong to the union. This is a major loss. A Parisian gardener was the first to reinforce concrete with steel. Lanchester, inventor of the circulation theory of lift, was a mechanical engineer, not a fluid dynamicist. The inventor of the traveling wave amplifier was trained as an architect, and two musicians invented Kodachrome.

Adding to the number of scientists by drawing from the fat middle of the bell curve of ability may retard rather than accelerate progress. As reviewing peers, the new recruits may silence and starve better scientists out of science. This happened to Douglas Kenyon, who once calculated the flow of water though joint cartilage. He now works for the Marathon Oil Co., and calculates the flow of petroleum through rock.

I call the cooperation of referees with the establishment an "evolved conspiracy." Referees, doing what their personal devils make them do, force innovators into the arms of the establishment, and the establishment is happy with this fact. Were it unhappy, changes would be made.

MISUSING PRIVILEGED INFORMATION

Reviewing of journal articles and grant applications gives reviewers the intellectual pleasure of interacting with authors and proposers, as well as education that, I suspect, has led to more advances than generally realized. These rewards are legitimate. Some rewards are not.

An obvious misuse of privileged information is rejecting or delaying a competitor's paper. The anonymity of referees ordinarily renders this untraceable. In 1978 Vijay Soman and Philip Felig rejected an article on anorexia by Helena Wachslicht-Rodbard and others to ensure priority for an article of their own. The action was detected only because the offenders plagiarized the reviewed article, and their manuscript was sent to Wachslicht-Rodbard for review.

Under cover of anonymity, reviewers can steal ideas from grant applications and manuscripts. There have been many private complaints by apparent victims. Theft is hard to prove, but it is known that the composition of the first material that was superconducting at the temperature of liquid nitrogen was leaked from a paper that Maw-Kuen Wu et al. submitted to Physical Review Letters; the leak was revealed because yttrium was wrongly called ytterbium in the manuscript. This error turned up on the grapevine.

A few proved cases do not show that stealing is common. But the rewards are large, especially now that professors must win grants to get tenure and promotions. It is bad form for victims to complain in public. Indeed, it is half-accepted that big fish will appropriate the success of little fish. Jocelyn Bell's discovery of pulsars won a Nobel prize for her superiors but not herself. There was an outcry but not of the size the injustice deserved, nor did the superiors seem embarrassed.

PEER REVIEW AND FRAUD

The current attempt to deal with scientific fraud is science's first brush with formal self-regulation. Self-regulation of any profession runs afoul of collective self-interest and pack loyalty. When disciplinary committees operate in secret, these influences have full rein. Need I enlarge on the ineffectiveness of the disciplining of doctors by doctors?

Though a few fraud cases are famous, most investigations have been ineffective: a top HIH administrator told me that no university can bring itself to use the word "misconduct." He exaggerated. A very few small fry have been found guilty—for example, the unfortunate Lonnie Mitchell of Coppin State College in Baltimore. He had his grant application prepared by a professional writer who plagiarized someone else's application that Mitchell had provided as a model. Alas, the plagiarizee reviewed Mitchell's proposal.

The vast majority of scientists who stand accused before a university bar of justice are exonerated. Tim Beardsley recently reported in Scientific American that the accused was found guilty in only 16 of 110 cases completed by the Office of Scientific Integrity (OSI) since it took over as NIH's fraud squad in early 1989. According to Lyle Bivens, head of the Office of Scientific Integrity Review (OSIR), which oversees OSI for the Department of Health and Human Services (HHS), NIH has reversed only one university exoneration. At face value, this says that most fraud charges are baseless, but we have only the word of the universities and OSI that this is true. Details of the exonerations, including the names of accuser and accused, are secret. (I am suing HHS under the Freedom of Information Act in an attempt to lift this secrecy.) Where secrecy has been penetrated, exonerations have been found to be mistaken. Both the University of Wisconsin and OSI declared James Abbs innocent of Steven Barlow's charge that he had forged an illustration for a journal article by making a smoothed tracing of a figure in an article co-authorized by Abbs and Barlow. Neurology has published a letter to the editor in which I demonstrated the relationship between the figures. Abbs's published response gave no satisfactory explanation of the resemblance.

A little-known case is revealing. The University of Medicine and Dentistry of New Jersey, and later OSI and OSIR, all told Gene L. Trupin that he was wrong in claiming that Barbara Fadem had stolen his research. OSI and OSIR ignored obvious signs of trouble. Just one example: in defending herself and other members of the university faculty against a lawsuit by Trupin, Fadem said that a journal article he and she co-authored proved that Trupin knew certain facts when the article was submitted. Court records show the facts in question were added to the article at the proof stage, 10 months after the date of submission. OSI knew about this dodge at the time it found Fadem innocent. It also knew that the suit was settled out of court in 1988 with a $60,000 payment to Trupin.

As long as NIH's watchdog is blind to evil when it wants to be, is it any wonder scientists learn that ethical pliability is a professional necessity, and find it prudent to discover that what looks like fraud is a "scientific disagreement," an "error," or "sloppiness"?

VOL
137
PT
23
NO
21
—
25
1991
UMI

One might think a determined whistleblower could force OSI to conduct a real investigation. Not so. Once OSI receives an accusation, it tells the whistleblower little or nothing. As the whistleblower who got the Abbs case reopened I was volunteered no information: OSI's predecessor office did not tell me to prepare a 10-minute presentation, but I was never summoned to make the presentation, nor told it was called off. Meanwhile, OSI's impenetrable secrecy encouraged Abbs to complain that this constitutional rights to due process were being trampled. He sued and won on a technicality. DHHS is both appealing the verdict and, as the judge required, going through the steps laid out by the Federal Administrative Procedures Act.

Universities routinely use peer panels to investigate and judge fraud. This shifts responsibility but does not get justice done. A powerful accused scientist or pack solidarity can frighten a panel into seeing no evil. The panel that the University of Wisconsin convened to investigate Abbs's alleged faking ignored blatant inconsistencies in his submission. For example, Abbs falsely claimed that accuser Steven Barlow had displaced one record before comparing it with the other. The public gaze might shame a panel out of doing a whitewash, but panels operate in secret. Incredibly, in its filing under the Administrative Procedures Act, DHHS proposes that determinations of guilt no longer be printed in the Federal Register. Secrecy, secrecy, ever more secrecy.

Secrecy gives full rein to subterranean forces, and a major scientist can bring great force to bear. Panels at MIT, Tufts, and NIH all said, wrongly, that no misconduct was involved in a paper co-authored by Thereza Imanishi-Kari, Nobel laureate David Baltimore, and others. It is a matter of record that Baltimore used both a letter-writing campaign and professional lobbyists in an unsuccessful attempt to get Congress to halt Rep. John Dingell's (D-Mich.) investigation of that matter. (It was Rep. Dingell's investigation that finally forced NIH to mount a real investigation of its own.)

Media interest in the Baltimore affair is more than instinctive celebrity chasing. Fake work impedes progress much more if a major scientist is involving than otherwise, because others must pretend to agree with it if they want jobs or grants. I know of no attempt by other scientists to duplicate the precise experiments in the Baltimore affair. Scientists supposedly delight in providing one another wrong, but they hesitate to embarrass someone with power and the willingness to use it.

Because no one at NIH is accountable for the decision to fund Professor, no one feels betrayed, no one is angry or ashamed if X commits fraud. So NIH washes its hands of the matter and passes off the consequent cover-up as political realism. As an official in the Department of Health and Human Services said to me about OSI: "They have to compromise." Expedient exonerations are excused as being for the good of science. If the public got the idea that a lot of fraud exists, the argument goes, it might not support research. The whistleblowers is, figuratively, given a loaded pistol and told to do the proper thing.

According to the New York Times, retired Harvard microbiologist Bernard Davis believes it would have been better had the Baltimore affair been dropped. The biomedical science establishment would rather let fraud continue than have it publicized, a policy that will keep fraud going forever. Concealment requires that the sinners keep their funding. Abbs and his laboratory received millions in government support after the initial brushing off of the complaint against him. So long as such scientists are protected and fed, their species will multiply.

By not using its control over who gets funded, NIH has given up the power that would go with being paymaster. Despite signing $7 billion a year in checks for research, NIH was unwilling or unable to prevent MIT's whitewash of Imanishi-Kari, Wisconsin's of Abbs, and numerous similar instances.

Were NIH to invoke its power of the purse, a university might say it was applying improper influence, a confrontation NIH evidently fears. James Wyngaarden, ex-director of NIH, and Joseph E. Rall, ex-deputy director for intramural research, have both said that universities have run ineffective investigations, but NIH has never punished—or even tongue-lashed—them for doing so. Nor has it said that running a bogus investigation is unethical. Yet unless NIH greatly expands OSI, the agency will depend on university investigations of fraud.

Compare NIH with NSF, where managers make the final decision about who gets funded. With responsibility comes accountability—for such odd decisions as siting the National Earthquake Engineering Research Center in Buffalo, N.Y., rather than in California. One can also question the reasons for moving the National Magnet Laboratory from MIT to Florida State University. But whatever one may think of them, these decisions show that NSF has power. If NSF wanted a university to investigate a fraud, the school would remember the movability of laboratories before doing a whitewash. Perhaps this power is reflected in the apparent lack of fraud in the parts of science NSF funds.

TAMING A FRACTIOUS HORSE

Reform the grant system: Suppose politics could be eliminated from NIH study sections. Suppose DOD and NSF program managers were all smart and incorruptible. The project grant system would still be a time-destroying Moloch, demanding and reviewing long applications, most of which are not funded, and it would still sponsor sure things rather than imagination. Block grants to universities would be better. The schools would decide who to support however they wished, using any system they wished, from despotism, to democracy. Universities have made good choices in the past. The University of Michigan found the initial, essential money for Donald Glaser's bubble-chamber research.

Each year, universities would go to the federal government and argue for support. Let them bring citation scores, rumors of Nobel Prizes almost awarded, whatever they want. Out of this free-for-all, a formula would emerge, no doubt with loopholes and exceptions, and the negotiators would return home exhausted and tell the troops how they made out. The mutual dependence of scientists and brass would develop the loyalty upward and downward that makes institutions bearable to their members.

Under the block-grant system, everybody in a university would be in the same lifeboat and would benefit collectively from one another's success. Still, researchers would continue to compete within the school, so to dull the teeth of university politics, perhaps 10 percent of federal support should remain as grants to individuals.

No-fault publication: Specialist journals should never reject. If scientists are worth paying, they are worth hearing from. A referee who thought a paper wrong could try to argue the author out of publishing it, invoke a six-month cooling-off period, impose a length limit of a page or two, and have signed comments published along with the paper. If no-fault publication results in a flood of garbage, it shows that scientists are creating garbage. Better we learn about this than conceal it.

General-circulation journals like Science and Nature would still reject most manuscripts they receive. Their editors, not reviewers, should make the final decision. Editors are the filter that catches reviewer misbehavior. Essay-form reviews can be windows into a reviewer's motives, and having one reviewer from outside the specialty under review is a wise precaution against discipline politics.

Editors of all journals should ask reviewers to be as kind as possible, and authors should know the identity of writers of adverse reviews. A referee whose identity is known is less likely to steal from a paper, reject or delay it for professional advantages, or be pointless nasty. On the other hand, favorable reviews should be anonymous to discourage reviewers from trying to curry favor with authors. There is no way to keep them from informing authors privately, but the rule would remind them it is unethical.

Fraud: The fraud problem reflects the ethics at the top of biomedical science. By not retaining for itself final authority over funding decisions, NIH left this power unguarded for ambitious scientists to pick up. With power came arrogance and the feeling that rules were for lesser beings. The cure is obvious. End the carving of their own cake by biomedical scientists, and the steamy politics will dry up.

If funding is not reformed, the scientific establishment will remain the problem, and the solution must come from elsewhere. John Dingell cannot interest himself in every fraud case, so the public's sense of fair play must be enlisted as a force for justice. Whistleblower and accused should know everything that occurs at every stage of an investigation so they can object and, if necessary, complain in public. The final conclusions of all fraud investigations should be made public.

If a peer panel has to make the final decision, as it might in cases of fraud, only extraordinary measures will yield justice. Because panel members are specialists judging fellow specialists, Precautions beyond those in jury trials are needed to counter the effects of politics and pack loyalty. Accused and accuser, or their advocates, must have the right to question panel members in public about decisions before they become final. Unless these or very similar reforms are instituted, OSI should be closed, because it cannot yield justice.

Using peer review is like riding a fractious horse. One must understand its bad habits and never let it forget who is boss. Kept under control, peer review can yield good advice. Given its head, it will hurt people, serve the interests of the reviewing peers, and warp the institutions that use it. Where possible, peers should not make the final decisions but should advise the decision makers, who can filter peer self-interest from peers' recommendations. As a fractious horse is only as good as its rider, peer review is only as good as the program managers and editors who use it, but these people are visible and can be called to account for their decisions.

(Charles W. McCutchen emerged from Cambridge University in 1957 with a doctorate in nuclear physics and a gadgeteering outlook. Introduced to joint lubrication by the New Scientist, he discovered the physical principle that accounts in part for the low friction of animal joints. Long interests in boats and model airplanes induced self-education in fluid dynamics. He found that the trout tail is a self-cambering hydrofoil, and that the seeds of ash and tulip trees rotate as Flettner rotors as well as spin around their heavy ends like maple seeds. Later, he used shadowgraphs of thermally stratified water to render visible the wake of a swimming tropical fish. In 1980, he published a warning in the Journal of Aircraft that the pitching motion of unstable airplanes should be controlled from the front. Several new and proposed fighters follow this practice.

(McCutchen has experienced reviewing both as reviewee and reviewer. Getting published was not a problem in nuclear physics or its instrumentation. At the other extreme, he found the Journal of Fluid Mechanics uncrackable.

(Seeing his own theory of joint lubrication displaced by what he calls politically enforced nonsense gave McCutchen a strong interest in the influence of scientific politics upon funding and in scientific misconduct in general. His friendship with NIH fraud busters Ned Feder and Walter Stewart introduced him to many instances of fraud, including the Abbs case touched on in this article.)

Mr. STEVENS. Mr. President, I ask my friend from Hawaii, does he desire some of my time? How much time do I have left?

The PRESIDING OFFICER (Mr. GORE). The Senator from Alaska has 12 minutes remaining.

Mr. STEVENS. I give all but 2 minutes to my good friend from Hawaii who must manage the bill and answer these allegations.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I thank my friend from Alaska for his generosity.

Mr. President, the Senator from Georgia placed into the RECORD a copy of a letter that he and other Members of the authorization committee addressed to Senator STEVENS and myself. So, Mr. President, I ask unanimous consent that a reply by Senator STEVENS and myself, together with an analysis of the briefing prepared by the Armed Services Committee and the slide presentation be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, November 22, 1991.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

The Hon. JOHN W. WARNER,
Ranking Minority Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SAM AND JOHN: We thank you for your letter of congratulations regarding the conclusion of our conference on the Defense Appropriations bill. We appreciate the support that you offered to us when our bill was brought before the Senate for consideration.

We are disappointed that you cannot fully endorse our conference agreement. I am sure you understand that no conference agreement ever fully satisfies any member or either body. All parties must be willing to compromise to reach accord. While there are items in your conference with which we are not in complete agreement, such as the funding level and stipulations involving the B-2 bomber, we none the less supported this policy decision of your Committee in our conference and have voted in favor of your conference report on the floor.

You can be assured that the Senate conferees struggled hard to uphold Senate positions, particularly those of import to the Committee on Armed Services, including the overall funding level for SDI, the initiative on a limited ABM site and the termination of the F-14 remanufacturing program.

We are concerned that the members of the Armed Services Committee may not be fully aware of the agreement of the two committees. The agreement calls for both committees to try to avoid reversing the policy decisions of each other, recognizing that, because the House is not a party to this agreement, neither committee can guarantee outcomes which are determined in concert with the House.

We are more disturbed that the description of unauthorized appropriations may be overstated. From the review of our staff, most of the $3.3 billion described as over authorization represent decisions that have been previously approved by the Senate and were not opposed by the Armed Services Committee. These include $600 million for sealift, $188 million for the Coast Guard, and $150 million for claims resulting from the volcano at Mt. Pinatubo. Additionally, the $710 million noted as over authorization for corporate information management and $500 million for real property management are merely reallocations of funds authorized in the Defense Authorization Act. Together these represent more than two thirds of the funds cited in your letter.

The remaining funds are primarily modest amounts, except those for National Guard and Reserve Equipment. While we recognize that these funds have not been specifically authorized, we believe it is an appropriate reallocation of savings identified in our conference; one which, we believe, will be supported by the Senate, to continue to vigorously support modernization of our National Guard and Reserve forces.

With the assistance of our staff, we reviewed the briefing charts used by the Armed Services Committee to explain the differences between our two committees and we have prepared a memo on that subject. To aid in your understanding of the specific proposals in the conference report, we have attached a copy of this memo for your review.

We hope that this letter and the attached memo will serve to alleviate your concerns about our conference agreement, and trust that this explanation willl allow you to support our conference report.

Sincerely,
DANIEL K. INOUYE,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate.
TED STEVENS,
Ranking minority Member, Subcommittee on Defense, Committee on Appropriations, U.S. Senate.

MEMORANDUM

To: Senator SAM NUNN, Senator JOHN WARNER.
From: Senator DANIEL K. INOUYE, TED STEVENS.
Date: November 22, 1991.
Re: Commentary on briefing slides presented in November 22, 1991, Senate Armed Services Committee meeting on the FY 1991 Defense appropriations conference report.

Our analysis makes reference to the briefing slides used in the meeting. We have attached a copy of them and will refer to them in order.

Slide 1—This slide quotes existing statute on the requirement for authorization prior to the obligation or expenditure of funds.

Slide 2—This slide presents a synopsis of the memorandum of agreement between the Armed Services Committee and the Appropriations Committee. Clearly, the parties to the agreement understood that, in point of fact, the agreement could not be regarded as binding, because the House counterpart committees would not be bound by the agreement. The conditional aspect of the agreement is recognized in the actual text of the agreement. To wit:

"6. Both Committees pledge to try to avoid reversing the policy directions of the other committee."

"7. The Committee on Appropriations agrees to try to avoid the incorporation of legislative provisions in annual Defense Appropriations Bills * * *"

We would note, therefore, that the agreement is, essentially, a pledge to make a good faith effort to maintain comity between the two committees. On this point, there can be no question. The Defense appropriations subcommittee has made a concerted effort to support and advance the policies and the positions of the Armed Services Committee throughout the year and in conference. We have shared our markup notes prior to subcommittee markup, we have supported Armed Services Committee positions on the floor both in support of your bill and in our bill. Indeed, from our perspective, comity between the two committees this year has been at its highest point in recent years.

To repeat, the appropriations subcommittee on Defense has worked assiduously to support armed services positions both on the floor and in conference. The bill which the Senate Defense Subcommittee managed on the floor conformed to the Senate passed authorization. In conference, however, the Senate conferees had to yield to the House on several issues to achieve an overall agreement.

In this regard, it should, perhaps, be noted that several Senators on the authorization committee had written to Chairman INOUYE advocating positions held by the House and which, as it happens, were often at odds with those of the Senate passed authorization.

Slide 3—This slide presents an overview of the "problems" the Armed Services Committee has with the FY 1992 Defense appropriations conference report.

The first bullet asserts that the appropriations conference provides $3.3 billion in 17 accounts in excess of authorization. We will address this assertion when we comment on the more detailed slides which follow.

The second bullet asserts that there is "significant 'legislating'" in the appropriations bill. The first assertion is that the bill waives title 10 requiring competition on university grants. That is accurate. The underlying legislation in title 10 requires that, for a grant to be made to a specific college or university, the provision of law making the grant must specifically waive the competition requirement. We have done so. We have followed, with precision, the process established by your committee and required in law.

VOL 137
PT 23
NO 21—25
1991
UMI

The assertion is also made that an amendment to allow military depots to become subcontractors to commercial defense contractors is "significant" legislation. The amendment was accepted in conference as part of a compromise agreement involving programs of interest to both Senate and House conferees. It is doubtful that overall agreement could have been reached without this or a similar compromise.

The third bullet asserts that the conference agreement reverses policies established by the authorization committees. It is true that the conference agreement allowed the non-competitive extension of a CHAMPUS contract. However, Senate conferees were successful in resisting an effort by the House to both extend and significantly expand the CHAMPUS contract. Because of Senate action, meaningful competition will occur in the expansion of the CHAMPUS reform initiative to New Mexico, Nevada, Arizona, and the tidewater area of Virginia. We tried to uphold the policy, but we were unable to get the House to agree to the recompetition of a contract which had been won through competition in previous years.

On the suggestion that the appropriations conferees reversed certain program directions it can be said that we did, in fact, allow side-by-side testing of radar warning devices for the B-1B bomber. This was in contravention of authorization direction, but we did not regard it as a significant departure since it was allowed in last year's appropriation.

On the question of the P-3B aircraft, we did not reverse authorization. This is, simply, a misstatement of fact.

The slide correctly indicates there was a problem in the classified portion of the conference agreement, but as soon as it was brought to the attention of the Senate conferees, we moved to correct the error.

Slide 4—This slide discusses possible courses of action. We will not comment on these other than to suggest that perhaps there should have been some discussion of how the Armed Services Committee might work more closely with the appropriations committee to avoid a recurrence of problems. Throughout the past year, the Defense appropriations subcommittee staff has attempted to engage the Armed Services Committee staff in discussions which might lead to enforceable criteria on grants to colleges and universities. We would welcome an opportunity to move these discussions forward.

Slide 5—This slide discusses "university set-asides." It is inaccurate and fails to note that at least four university grants are authorized, another is in the statement of managers and may be competed, and several were put in by Senate conferees at the behest of members of the Armed Services Committee. Among the latter are:

Senator DIXON—Illinois Institute of Technology.

Senator KENNEDY—New England Consortium for Photonics Research.

Senator KENNEDY—Northeastern University.

Senator GLENN—Medical College of Ohio.

It should also be noted that the item which leads the armed services list of university set-asides, "Prostate research at Walter Reed," is not a university set-aside. The program funds valid health research at the Walter Reed Army Institute of Research.

Slide 6—This slide presents information on other "set-asides." As with the previous slide, it is inaccurate and fails to note that, of $146.1 million in appropriations on the list, $87.2 million is authorized, $37 million is in the budget request and authorized, and $25 million is in for the release of prior year funds.

As for the museums, a total of $11.7 million in appropriated funds is provided for four museums all of which are also supported by private contributions. It is interesting to note that in the conference agreement we provide appropriated funds in support of private museums. In other instances, private organizations support museums on military installations. For example, a museum at Warner Robbins Air Force Base in Georgia is supported by private contributions, but land and facilities (valued at in excess of $1.3 million) is provided by the Air Force for use by the private organization.

Slide 7—This slide portrays appropriations accounts which are said to exceed authorization. For the Guard and Reserve operation and maintenance account, we admit that we exceed authorization by $7.7 million. These accounts total $7,361,200,000. It cannot, reasonably, be said that the appropriations conference exceeded the authorization level in any meaningful way.

We did provide $1 million above authorization for the National Board for the Promotion of Rifle Practice. We funded the account at the Senate authorized level. The House did also. The amount was not in our conference.

We did provide $2 million in excess of authorization for humanitarian assistance by the Military. It is puzzling that those who proposed $1 billion in aid to the Soviet Union would now object to a $2 million increase for humanitarian assistance programs of the U.S. Military.

On the Army ammunition account, we were hard pressed to keep the level as low as we did. Many Senators, most notably Senator DIXON of the Armed Services Committee wrote to the Defense subcommittee requesting increases in funding for Army ammunition. We are $6.7 million over authorization in this $1,369,000,000 account.

For National Guard and Reserve equipment we did exceed authorization, but one may well ask, if we are able to achieve savings in other areas, are we wrong to put additional funds into the Guard which has been underfunded for years and is in need of modernization if it is to meet the challenges of the future. Even at the appropriations level, the account is some $638 million blow the amount provided to the Guard last year.

By the way, of this $816 million over authorization, $354 million is for C-130 aircraft and $129 million is for MH 53 helicopters. Both items are of great importance for Senators and Congressmen.

The $710.3 million for the "corporate information management" program funds a Defense Department initiative which we hope will save money in the procurement and management of computer appropriations accounts into one to improve management and our oversight. That is our job.

The same reasoning applies to the real property maintenance account.

As an aside, let me note that funding for shipbuilding, the real property maintenance account all passed the Senate—without complaint from the authorization committee—at higher levels than emerged from conference.

Slide 8 This slide purports to depict programs which were funded in excess of the authorized level. We will not comment on all of them, but we will note that the Senate conferees had to accept House positions on these items—in part to reach an overall agreement, in part to protect items of particular interest to Senators. For example, Senator DIXON favors the AV-8B aircraft, Senator MACK favors the Tagos Surtass ship, and we would have lost funding for the tri-service stand-off attack missile (of interest to Senator NUNN) had we not accepted the House favored stand-off land attack missile.

The inclusion of on item is particularly disturbing. Senator GLENN, a member of the Armed Services Committee, wrote to the Defense Subcommittee enlisting our support for procurement of truck engines because, without funding for these additional truck engines, yet another plant in his State would be closed. Therefore, he asked that we give "fullest consideration to including language directing the Army to purchase additional Hercules multi-fuel engines in this year's Defense appropriations legislation." We did so. We acted to support a fellow Senator and a member of your committee, who was faced with a particularly difficult situation, and now we are criticized for doing so.

Slide 9—This slide lists unappropriated authorizations. Since the appropriations committee is not required to fund all authorized programs and is, indeed, fulfilling its responsibilities to the Senate by examining programs and determining the proper level of funding, it is unclear what factual point the Armed Services Committee wished to establish in this slide.

CURRENT LAW ON AUTHORIZATION OF APPROPRIATIONS

Title 10, section 114.

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for [procurement, R&D, etc] unless funds therefore have been specifically authorized by law.

MEMORANDUM OF AGREEMENT BETWEEN ARMED SERVICES AND APPROPRIATIONS COMMITTEES

Avoid reversing other committee's policy decisions.

Avoid legislating on appropriations bill.

Authorizations are ceilings—subsequent authorization required if appropriations exceed authorization.

Authorizations do not establish obligation floors.

Authorizations should avoid financing restrictions on flexibility of appropriations.

PROBLEMS WITH FY 92 DEFENSE APPROPRIATIONS CONFERENCE REPORT

Substantial unauthorized appropriations:

$3.3 B. in 17 accounts at account level (excludes $8.0 B. consolidation of medical funds); and

$4.9 B. in 170 lines at line item level.

Significant "legislating" in the appropriation bill:

Waive title 10 requiring competition on university grants; and

Amend title 10 to permit military depots to become subcontractors to commercial defense contractors

Policy reversals:

Noncompetitive extension of $1.0 B.+ CHAMPUS contract;

Reverses certain program direction (e.g., B-1B, P-3B); and

Classified programs.

POSSIBLE COURSES OF ACTION

Oppose appropriations conference report on Senate floor.

Address issues on subsequent legislation (e.g., fiscal year 1992 supplemental appropriations bill).

Report out supplemental authorization bill.

Encourage DOD to submit rescissions.

Earmarks in Fiscal Year 1992 DOD Appropriations Bill/Report

University set-asides:	*Millions*
Prostate research at Walter Reed	$2.0
Neuroscience R&D at Louisiana State	10.0
Marywood College, Pennsylvania	10.0
University of Texas at Austin	6.0
Northeastern University	6.0
Texas Regional Institute for Environment R&D	5.0
Kansas State University	7.7
University of Wisconsin	1.6
Boston University	29.0
Medical College of Ohio	0.25
University of South Carolina	0.5
George Mason University	0.75
Monmouth College, New Jersey	2.3
University of Minnesota	10.0
University of St. Thomas, Minnesota	0.5
Brandeis University	2.0
New Mexico State University	3.0
Penn State University	5.0
Illinois Institute of Technology	2.0
Monterey Inst. for International Studies	6.8
St. Francis College, Pennsylvania	2.5
Oregon Graduate Institute, HDTV Research	1.3
Subtotal	114.2

Earmarks in Fiscal Year 1992 DOD Appropriations Bill/Report

Other institutional set-asides:	*Millions*
National Center for Manuf. Sciences	$30.0
US-USSR joint seismic research	5.7
Mississippi Resource Development Corp	1.0
Letterman Army Hospital, Presidio, CA	37.0
Maryland Hospital Association	0.3
Fort Irwin Public School Construction	22.0
Fort Bragg Public School Construction	10.0
Post Traumatic Stress Centers, PA & Hawaii	0.6
National Biomedical Research Foundation	10.0
Army Environmental Policy Institute	4.5
Arctic Region Supercomputer	25.0
Subtotal	146.1
Museums:	
Naval Undersea Museum, Keyport, Wash	2.1
National D-Day Museum Foundation	4.0
Airborne & SOF Museum Foundation	4.0
Restoration of USS Blueblack, Oregon	1.6
U.S.S. *Bennington* Transportation to Vermont	
Subtotal	11.7

Unauthorized Appropriations Account Levels

	Millions
O&M, Navy Reserve	$0.9
O&M, Marine Corps Reserve	0.8
O&M, Army National Guard	1.0
O&M, Air National Guard	5.0
Rifle practice	1.0
Humanitarian assistance	2.0
Drug interdiction	30.0
Weapons & tracked combat vehicles	103.8
Army ammunition	6.7
Shipbuilding	787.5
Missile Procurement, Air Force	30.6
Procurement, Defense Agencies	11.8
Guard and Reserve Equipment	816.7
Coast Guard	188.7
Corporate Information Management	710.3
Mount Pinatubo Claims	150.0
Real Property Maintenance	500.0
Account subtotal:	3,346.8
O&M, Defense Agencies;	7,755.4

Unauthorized Programs

	Millions
Bradley Advance Procurement	$50
Field Artillery Ammo. Vehicle	60
F-14 Upgrades	175
AV-8B Modifications	40
SLAM Missile	130
Tagos Surtass Ship	149
Tags 39/40 (Ship Claim)	55
Sealift	600
LCACS	238
Army Truck Engines	20

Unappropriated Authorizations

	Millions
9 F-18 Aircraft	$202
4 F-117 Aircraft	560
21 Trident II Missiles	140
1 LSD-41 Amphibious Ship	245
6 MX Test Missiles	255
SICBM	115
Precompetitive Technology	40
Critical Technology Centers	50
Manuf. Extension Program	50
13 UH-60 Helicopters	83
9 HH-60 Helicopters	165
Standard Missiles	83
Marine Corps MLRS	95
F-18 R&D	64
Advanced Cruise Missile R&D	80
Balanced Technology Initiative	35

Mr. INOUYE. Mr. President, I have been in this Chamber since 9 this morning, and I have been showered with nearly 3 hours of painful criticism. It has not been one of my happier days. But I believe the concerns of my colleagues are deserving of my response.

First of all, this may sound trite, but I do so with all seriousness. This Congress of the United States is two bodies: The U.S. Senate and the U.S. House of Representatives. The chairman of the Armed Services Committee spoke eloquently of an agreement that is in existence between the Defense Subcommittee and the Armed Services Committee. Yes, we did sign this agreement and we did so with all solemnity, and we have done our best to live up not only to the letter but to the spirit of that agreement.

In fact, I recall not too long ago, about September 26, when I had the privilege of debating the defense appropriations measure and just before its passage, the chairman of the Armed Services Committee stood to commend the work that Senator STEVENS and I had performed on this measure. And if my recollection is correct, most, if not all, of the members of the Armed Services Committee voted for the passage of the defense appropriations bill.

We were commended because we lived up to the letter and the spirit of the agreement. But I am certain that all of us realize that this agreement does not affect the Members of the House. Our bill had over 200 statutory differences with the House and about 400 differences in report language. So, obviously, we had to go into conference to iron out our differences.

If the Members of this body expected the conferees on the part of the Senate to return with the identical bill that we passed, then something is wrong with our dreaming mechanism. No such thing will ever happen. It is a give and take process. We have to accept propositions made by the House that may be personally objectionable, but we bite our tongues. We insist that the House agree upon amendments that we have in our bill that may be unacceptable to them, but they take it.

It is not an easy process. We sat in conference for over 3 days. We came forth with a measure which was not amendable. I agree with that. It was like the authorization bill; it was returned here unamendable.

Why did we work towards this unamendable bill? Because my colleagues wanted an unamendable bill. The leadership wanted an unamendable bill. Time was passing. All of my colleagues wanted to go home. If we had an amendable bill, we would be here until Christmas. The House has an unamendable bill; we have an unamendable bill.

The second criticism: That we have unauthorized amounts in this measure. Mr. President, I plead guilty. Yes, we have amounts that are unauthorized. In fact, there are $397 million worth of unauthorized dollars in this bill requested by members of the Armed Services Committee. We were asked to accommodate our colleagues in the Armed Services Committee. I will not mention names. One member said he needed $20 million to re-engine the 2½-ton trucks. They are still in good use.

They were not authorized. We accommodated that member.

Another said we need research and development at universities, $35 million. We accommodated that member.

Another member spoke of the procurement of radios which proved so effective in Desert Storm, radios that men carried in combat. That was $35 million, unauthorized.

Then we appropriated $40 million for special operations, unauthorized again, Mr. President.

And one of the members wanted $61 million for ships. They were not authorized but requested by the Navy. We were convinced they were important. We appropriated the funds.

Another member of the committee requested $149 million for ships that the Navy wanted but not authorized. We appropriated $149 million.

And one member came up with a very reasonable amount, just $5 million for research. We did our best to get that, and he got $5 million.

One member of the committee wanted the remanufacturing of a certain sophisticated aircraft that goes upwards instead of horizontally. That was $40 million.

VOL 137 PT 23 NO 21—25 1991 UMI

Another wanted some money, $1.5 million, for artillery fuses. We assisted in that—a total of $397.7 million.

These were in our bill which the House accepted. We in turn as part of the bargain accepted $11 million worth of museums. They were not in our bill, but they were in the House bill. These are museums to honor those men and women who served on submarines.

One called for the transfer of a ship from one State to another so that that ship can be made into a museum—from Washington to Oregon.

Another called for $150 to transfer a ship's bell from the west coast to the east coast, and we are complaining about that because it was not authorized.

They wanted a museum for the airborne troops.

Now, these are not horrendous amounts. The total amount is $11 million, and I plead guilty. They are not authorized. But they take our unauthorized $397 million. So they can go back to their constituents and say, "You see, they were not authorized but I got it for you."

But all of these Members are now going to vote against the measure because we put in $11 million for museums, for submariners, for the 82d Airborne, for the ship in Washington to be shipped over to Oregon, and the bell from the west coast to the east coast.

Then we come to universities. Some of the universities were authorized, in fact over half were authorized. Yes, I plead guilty. The others were not, but they were in a general account of research and development that was authorized. The amount involved, Mr. President, over a $274 billion budget, it is less than one-tenth of 1 percent, and this is the area of concern that my colleagues have been telling us all morning.

I wish I could come forward and accommodate all. Title X, incidentally, is the law of the land, as my friend from Arkansas stated, and so the Defense Department is well aware of title X. If that project is not authorized, as they will always do, they pick and choose. We will get a list of rescissions. They will not spend the money. So we are not violating any laws.

We realize that these amounts are subject to authorization. But, Mr. President, you know and I know that if this bill passes and is signed into law, though it is not authorized, Members will call upon the Secretary of Defense and say, "Look, we want you to spend this money. It's very important for the security of this country."

Mr. President, I agree with one and all that the cold war with the Soviet Union is over. I wish, as chairman of the committee, we could cut defense by 90 percent. That is what happened after World War II, Mr. President. They cut it down by 90 percent because euphoria was all over the world. Peace was upon us.

Then in June of 1950, the North Koreans looked at us and said, "Aw, Americans have no stomach for war. They have given up." They crossed that border. The only thing we had were cooks, stevedores, and clerks in Japan to stem that force. The first 10,000 casualties were unnecessary. They were casualties because they were not equipped and they were not trained.

Then take Desert Storm, the war of which America seems to be so proud. I think we should remind ourselves that in January of 1990, General Schwarzkopf was ready to be retired and the central command was ready to be terminated. Why? Because policymakers said peace is in the Middle East. "We don't need General Schwarzkopf. We don't need the central command."

That was the national policy. And in that same month our Department of Commerce was ready to establish a trade fair in Baghdad to sell the Iraqis computer technology, aerospace technology. It is a good thing that this subcommittee was alert to all of this. And remember colleagues in this body who stood up and sang the praises of Saddam Hussein, suggesting that he visit us, to speak to us as a man of peace? Well, this committee did not fall for that. Even if the cold war was over, we knew that there were trouble spots.

Who can tell me as to what will happen in North Korea? I do not want to gamble with the lives of Americans. I would rather spend and save lives than gamble and lose lives.

The bill is not a perfect bill, Mr. President. We are not suggesting it is, but we have tried our best, absolutely our best. I think we came forth with a measure that lived up to the expectations of this body.

Finally, I want to point out a few things about the criticisms of unauthorized amounts. For example, they mentioned the number $3.3 billion and they cited $600 million for Sealift, not authorized. In September, this body voted for $2 billion in Sealift, and in conference we reduced it to $600 million. All of us voted for that.

Then we were told that we went $710 million above authorization for certain management initiatives. We authorized that. What we did is we put them all together to get better efficiency.

Then we were told that we overspent $500 million in real property maintenance. Every command had a real property maintenance. Now we put it under one office so we know how it is spent. We are saving money.

We were told that we spent $188 million for the Coast Guard, and yet this body in September approved $318 million for that. We reduced that amount.

Mr. President, we appropriated $150 million to assist our men in the Philippines, and assist the military in the Philippines to evacuate as a result of Mount Pinatubo. The Senate had approved $289 million. We reduced that amount. Technically, they were not authorized, but this body voted for it. If that is not authorization, I do not know what is. It passed the Senate almost unanimously.

Now we are told because we appropriated $11 million for museums, which was not authorized because we spent about $50 million for universities that was not authorized, they are going to vote against it. If that is the will of the Senate, so be it.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

THE U.S.S. "LEXINGTON"

Mr. SHELBY. Mr. President, would the distinguished chairman of the subcommittee please yield?

Mr. INOUYE. I am happy to yield to my colleague from Alabama, Senator SHELBY.

Mr. SHELBY. I thank the chairman. I would like to take this opportunity to discuss with him a provision in the conference report on H.R. 2521, which directs the Navy to evaluate the feasibility of returning the U.S.S. *Lexington* to Quincy, MA, for conversion to a museum. The language goes on to state that the Navy shall work with the Massachusetts Commonwealth and the city of Quincy to perform this evaluation. I am concerned about the effect this provision could have on the evaluation the Navy is currently performing on applications made by the cities of Mobile, AL, Corpus Christi, TX, and Quincy, MA, regarding the conversion of the U.S.S. *Lexington* into a floating museum. Does this provision in any way preclude the Navy from evaluating all sites on an equal basis?

Mr. INOUYE. I understand the concern of the Senator from Alabama. I would like to take this opportunity to assure you that this language is not meant to direct the Department of the Navy in any way.

Mr. BENTSEN. If the distinguished chairman would continue to yield,

Mr. INOUYE. I am pleased to yield to my friend from Texas.

Mr. BENTSEN. I thank the chairman for his courtesy. I would also like to express my concern about this provision in the conference report on the Defense appropriations bill. The cities of Corpus Christi, Mobile, and I am sure Quincy have made serious bids on the *Lexington*. This is an effort that has gone on for over 6 months. Each city brings unique qualifications to this competition. However, I fear that this provision could pressure the Navy into making a decision based on congressional influence rather than on the qualifications of the bidders?

Mr. INOUYE. I assure the Senator that this language is not intended to prejudice this competition in any manner. The committee expects the Navy to be objective in its conclusions.

Mr. GRAMM. Would the chairman of the Defense Subcommittee yield to me for a question?

Mr. INOUYE. I will certainly yield to the distinguished Senator from Texas.

Mr. GRAMM. I thank the chairman. Mr. President, the city of Corpus Christi, TX, also has a special connection to the U.S.S. *Lexington*. This great Texas city would have been the final duty station for the "Lady Lex" as she carried out her mission of training future naval aviators. Her berth next to the Texas State Aquarium will result in hundreds of thousands of visitors to this historic Navy carrier. Is it the chairman's understanding that the ongoing Navy evaluation of potential sites for the U.S.S. *Lexington* meets the requirement for the feasibility study outlined in the conference report?

Mr. INOUYE. The answer to my friend's question is yes. The Navy is currently involved in a feasibility study that certainly meet the criteria outlined in this provision.

Mr. HEFLIN. I ask if the chairman would yield to me also on this important issue.

Mr. INOUYE. I am delighted to yield to the senior Senator from Alabama.

Mr. HEFLIN. I thank the chairman. Mr. President, the Senator from Texas points out that the competing cities bring unique qualifications to this competition. The city of Mobile, in my home State of Alabama is the home of the battleship, U.S.S. *Alabama* and the attack submarine U.S.S. *Drum*. It has 27 years of experience in maintaining these museums. Mobile is an ideal location and has proven it can perform this activity. I am particularly concerned by the language that states that the Navy has until May 1, 1992, to provide the results of the evaluation as well as a plan that includes a delivery schedule, total costs, and sources available to fund the conversion to and operation of this museum. Would the distinguished Senator explain the intent of this language, and the extent of the Navy's obligation?

Mr. INOUYE. The Navy is responsible for the delivery schedule and should provide an estimate of the annual maintenance costs the cities can expect. It is wholly the cities' responsibility to inform the Navy of sources available to fund the delivery, conversion to and operation of the *Lexington* as a museum. After evaluating the merits of the three competing cities' proposals and making their decision, the Navy has until May 1, 1992, the provide each of the cities with an explanation of their respective proposal, and a formal explanation of the criteria used by the Navy in making their selection. This provision does not, however, preclude the Navy from reaching a decision on this important matter at any time between now and May 1, 1992.

Mr. SHELBY. If the Senator will yield, I thank the distinguished chairman for his patience and his response. I also want to thank my colleagues for their attention to this matter of vital importance to our constituents.

Mr. STEVENS. What is the time remaining, Mr. President?

The PRESIDING OFFICER. Senator WARNER controls 46 minutes, Senator STEVENS controls 2 minutes, Senator SASSER controls 3 minutes.

Mr. STEVENS. Mr. President, there seems to be no one wishing to claim time at this time.

I suggest the absence of a quorum, and ask that it be taken from Mr. WARNER to start with, for 5 minutes, and we will see what happens.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have been informed that it would be agreeable with Senator WARNER, instead of using the time in the quorum call, that I use that 5 minutes. So I ask to be recognized for the balance of the 5 minutes of his time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska has 3 minutes remaining.

Mr. STEVENS. Mr. President, the real problem about this unauthorized appropriations question is that those of us who represent the Senate on this conference agreed there are unauthorized items, items that were not addressed in the Armed Services Committee authorization conference report, but they were, in fact, in the Senate bill when the Senate bill went to conference.

That is the problem that we face. We go to conference as Senate conferees to defend the bill passed by the Senate. Now we have come back with a substantial portion of what was in that bill, and because the authorization committee changed this bill in conference, we are now told that we were wrong and we brought back unauthorized items.

That is so because some of these items are items that do get out of control.

Take for instance the unauthorized item that is listed in terms of the DOD medical programs. Those funds support all military hospitals, clinics, and the CHAMPUS program. The Armed Services Committee obviously does not oppose the total amount. The consolidation, however, was brought about by this conference report.

That was endorsed by the Department of Defense, it was included in the House-passed bill. The administration urged our committee to recede to the House position because they felt this approach would improve both the quality of health care provided to the military and the costs of such services.

Our committees have disputed over the appropriate level of funding for these programs for several years. But we also have another dispute. That is in the National Guard and Reserve. Almost half of the difference in the National Guard and Reserve equipment funding supports the acquisition of C–130 aircraft for the Wyoming and Ohio National Guards and reservists who we believe needed these new items.

Of the five accounts identified by the Armed Services Committee totaling $1.15 billion, 64 percent, or $3.3 billion of the amount they identified, were included in the Senate-passed appropriations bill. The Senator from Hawaii has already indicated Sealift, Coast Guard, and the corporate information management.

I am particularly concerned about the Mount Pinatubo claims. The great disaster in the Philippine led the Senate to pay $281 million for claims in damages and relocation costs due to the volcanic eruption in the Philippines. That was reduced to $150 million. Yet this great disaster, which we must pay for, was not included in the DOD authorization bill. This is one of the items that is listed as being overages in that 36 percent that we are over of the appropriations bill because we are in unauthorized items.

I really think the worst one is the real property maintenance item. That is listed as being identified again in the staff document from the Armed Services Committee as being something that is unauthorized.

The Senate-passed bill included $1 billion in additional funds to address the backlog of real property maintenance. Because of the lack of funds, we reduced that one-half billion dollars.

Mr. President, I think there are a lot of people in the Senate that are getting disturbed by the charge regarding the unauthorized appropriation accounts, a charge which has been leveled by the staff from the Armed Services Committee. Actually, our conference report reduced the funding for those items they have specifically indicated. An those items were in our Senate bill when we passed the bill. I think the charge is unfairly leveled and, Mr. President, if this bill goes down because of that charge, we will not get another bill this year. We will get a continuing resolution, and we will be facing this bill next year. We will be facing this bill next February or March and, in the meanwhile, the defense of this country will be severely hampered, in my judgment.

I reserve the remainder of my time.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I yield myself 5 minutes out of the time allocated to Senator WARNER.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

VOL 137
PT 23
NO 21—25
1991
UMI

Mr. COATS. Mr. President, although the substantial majority of provisions in this conference report are balanced and responsible, I think the merits of the bill before us are overshadowed by a very fundamental flaw. In addition to serving the national security interests of the United States, this conference report has been used as a vehicle for serving numerous special interests at the expense of the American taxpayer and, unfortunately, at the expense of U.S. national security.

For that reason, I am regrettably compelled to vote against this conference report when it comes to a vote shortly.

I want to make it clear, Mr. President, that I do not fault any member of the Appropriations Committee for this problem. I am convinced that this is a systematic problem that now plagues the appropriations process whereby provisions are added during conference that were never debated or approved by the Senate or the authorizing committee.

Today, as so many times before, the Senate is faced with a conference report packed full with special interest items, leaving many of us with no recourse other than to vote against the entire report. I am not going to take the time to enumerate the special interest items contained in this report, or the unauthorized items contained in this report. Previous speakers have done that at length. I simply want to state that an established procedure, codified in law and in Senate procedures, of the past has been thrown to the wind.

This conference report waives the legal requirement to have competition in awarding university research grant. It exceeds, by several billion dollars, the authorized level for some 170 line items in the defense budget. It funds numerous other special item projects that were neither requested by the administration nor authorized by this Congress.

Mr. President, as many Members here know, I have, along with Senator McCAIN, pursued in the last 3 years, the concept of line-item veto. We call it enhanced rescission. It is a modified form of the line-item veto process. I have not pursued that because I thought it was the perfect instrument, that it was a means of achieving the kind of fiscal discipline we need to run a fiscally sound budget process or balance the budget. I realize it is a partial step. But I have advocated it and urged the Senate to endorse it, because it is one very substantial way that we can gain some control over what I see as an appropriations process that simply has very little discipline.

As I and Senator McCAIN have offered that in the past, others have come to the floor, who are the opponents of our attempts, and have indicated that, well, if we are dissatisfied with items in appropriations bills, we ought to come forward at the time those bills come before the Senate and express our dissatisfaction and offer amendments to remove items that we do not feel meet the test of authorization, or simply were added to satisfy particular members of the Appropriations Committee.

But, as so often is the case, we find ourselves in this exact situation that we are in today—with items added in conference, after the appropriations bill has come through the Senate—with very little or actually no other recourse except to vote for or against the whole bill.

In voting against it, we vote against many items we feel are important to our national security. In voting for it, we have to swallow the inclusion of many items that we feel are simply unnecessary, which have been deliberated on and rejected by the authority committee or—in many cases that we face here today—never even discussed, never even raised, never even debated.

So we go home to our constituents and they say: we noticed that the university of such and such, or the museum at fort so and so got an appropriation. You are on the Armed Services Committee, Senator COATS. How come we do not get appropriations for our particular universities or museums?

Then we try to explain—if it is explainable—the process of authorizing and appropriating, and how each take place on a separate track, and why being on the authorizing committee does not put a particular Representative or Senator in a position to make decisions on the Appropriations Committee that perhaps violate the decisions of the authorizing committee.

People back at home scratch their heads and say:

> I would never run a business that way. You can never run a household that way. What an arcane, ancient, unworkable system you have instituted in the U.S. Congress to deal with decisions relative to our national security and the way in which you spend our tax dollars.

Would it not make better sense to combine the two efforts so that those who were making the decisions about what was best for our national security were also the same people who were making decisions about how much we should spend? And should we not have a system whereby items of expenditure are debated as to their merit, and discussed, and vetoed on by members of the committee that are charged with making a determination as to whether this was a wise expenditure of money, or whether it was a necessary item to protect our national security?

So the enhanced rescission, or line-item veto, process that Senator McCAIN and I have offered year after year—and we intend to do that again in the next session—simply makes a point that we need to gain some control over a process here that puts all of us in this position, on one of the waning days of this Congress, with no other choice but up or down on the whole bill. It does the very same for the President.

We think line-item veto is, as I said, certainly not perfect. It may be a blunt instrument, but apparently the only instrument available to us at this particular time, absent significant congressional reform in terms of the way we make the decisions.

Mr. President, I do not take pleasure in voting against the defense appropriations report. I support a strong defense and believe that this bill, for the most part, solidly funds our national security requirements. Unfortunately, if we do not draw a line on the practices that are part of this bill before us today, I am concerned that in the future scarce funds for defense will increasingly be decided not on the basis of what is in the best interest of the taxpayer or the national security, but whether or not the particular Member sits on the Appropriations Committee.

At some point, if we continue this process, I am concerned that our military readiness will be in jeopardy. I think today is time to draw the line. As I said, I think this is a systemic problem. I do not fault any member of the Appropriations Committee. I fault the process. I think we need to send the signal loud and clear that the current process needs to be changed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. How much time remains, Mr. President?

The PRESIDING OFFICER. Senator WARNER controls 31 minutes; the Senator from Alaska controls 2 minutes; and the senior Senator from Tennessee controls 3 minutes.

Mr. NUNN. Mr. President, I do not know what the Senator from Alaska would like do at this point, but I think we can wind it up a little early, if the Senator from Hawaii and the Senator from Alaska would like to do that. I do not have time remaining, but the Senator from Virginia has authorized me, in absence of anyone managing the bill on that side, to deal with his time.

So I would suggest to my friends from Hawaii and Alaska that we could wrap this up a little early if they would like to summarize it.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll, and the time will be charged equally.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SIMON. Mr. President, I ask unanimous consent to proceed for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ZAIRE

Mr. SIMON. Mr. President, this morning's New York Times, on the editorial page, has an op-ed piece by Dr. William Close, who at one point was the personal physician of President Mobutu of Zaire. That is a condensation of a larger letter to me, as chairman of the Senate Subcommittee on African Affairs, that outlines in some detail what is happening, and why the United States has to do whatever it can in the way of leveraging pressure for a change in Zaire to avoid massive bloodshed.

I ask unanimous consent to print Dr. Close's letter to me in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARBLETON, WY,
November 17, 1991.

Hon. PAUL SIMON,
Chairman, Subcommittee on African Affairs, U.S. Senate, Washington, DC.

DEAR MR. SIMON: In 1960, King Baudouin handed the Belgian Congo back to the Congolese and their new prime minister, Patrice Lumumba. Two days later the army mutinied for the promised benefits of independence and more pay and the country exploded into a collection of regional governments. Col. Joseph Mobutu—an officer with some training as a journalist—took over. Lumumba escaped from house arrest but was caught and later assassinated. Mobutu enlisted the few university graduates available and, as young "technocrats," they kept the government going. Then, under the protection of the United Nations and with the encouragement of Western powers, an elected government was formed by Cyrile Adoula, a labor leader from a small tribe, therefore acceptable to most in the country.

Unfortunately for the Congolese people the country was (and still is, potentially,) one of the wealthiest in Africa. A third of the size of the United States, the Congo—now known as Zaire—mines diamonds, gold, uranium, copper, as well as strontium, germanium, and cobalt—especially valuable to the arsenals of superpowers. I call these riches "unfortunate" because the Congolese found themselves and their country coveted targets in the cold war struggle between the USA and the USSR. The efforts of the Adoula government were handicapped when the mineral-rich southeastern province of Katanga (Shaba) tried to break away from the central government. And, soon after, rebels backed by China and Cuba devastated two thirds of the country killing most of the Congolese who could read and write. Reenter, in 1965, Colonel Mobutu who took control of the government again. He remains in power to this day.

After crushing the rebellion and welding together the regions into the semblance of a nation, President Mobutu encouraged foreign investments and the Congo/Zaire began a decade of growth and success. He was widely acclaimed as a smart politician, and Americans were proud of the fact that he had been aided by many different US Government agencies and big business.

I travelled to the Belgian Congo with a missionary organization in 1960, arriving just before independence. When the mutiny broke out there was a massive exodus of Europeans. I too tried to leave but couldn't: the roads to the airport had been blocked. So, looking for someway to help, I drove over to the 1500 bed Hospital des Congolais. An old Belgian was the only surgeon left. I offered to help him and when, a week later, he had to escort a wounded police commissioner back to Europe, I found myself the only surgeon in the hospital. My assistant was a Belgian nun. We had no lab and did our own gas-oxygen-ether anesthesia. We averaged 350 operations a month. During most of that first year, there were only three doctors for the whole hospital.

After a year and a half, I was appointed chief doctor for the Congolese Army by President Mobutu. I also became his personal physician. Five years later, he asked me to run the city hospital. With the help of doctors recruited from the United States, Canada, and Europe, I renovated and staffed the hospital, turning it into a national referral center of over 2000 beds. Our occupancy rates often reached 120%. Until recent events in Zaire, that hospital—renamed "Mama Yemo" after the President's mother—was one of the biggest centers in Africa for patients with AIDS: it is now destroyed.

By the end of 1976 I had been overseas for 16 years and was ready to come home. Things were getting sticky with the president. Among other things, we needed additional money to buy protein-rich food for the hundreds of children in our pediatric division. Since extra-budgetary expenses were prohibited—even back then the country's economy was in disarray—I suggested to the president that he ground a flight of Italian jets scheduled for the independence day parade and use the fuel money to buy food. Following a sharp exchange, he snatched up the telephone and called the governor of the national bank. I collected the money, and the jets buzzed his grandstand on the following day. Then a couple of months later, he insisted I rehire a doctor I had fired for corruption. It became more and more difficult to see the president, and it seemed clear to my wife and me that our ability to continue constructive work in the country had come to an end. We returned to the United States, and I became a village doc in the Rocky Mountains.

Then one morning a month ago I awoke to the news that the army in Zaire had again mutinied and that civilians in Kinshasa (Zaire's capital) had joined in the pillaging. Belgian and French troops were flown in to protect their own citizens and to evacuate them. It had taken Mobutu 15 years to return the country to the chaos of the sixties and worse. Now the infrastructure is destroyed, the people are starving and sick, and "peace" is being kept not by the United Nations but by thugs from the president's special detachment. Civil war may follow, provoked by Mobutu's strong-arm men and his intransigence before the forces for democracy. As he recently pronounced to the world press: "La démocratie, c'nest moi!"

France and Belgium have publicly withdrawn support from Mobutu. The House and Senate have called upon the U.S. Government to do the same, but our Administration's leadership has chosen to stay silent about a dictator whom some apparently still consider a friend. Certainly during the cold war, the Gulf war, and more recently in the Angolan conflicts, Mobutu was a useful ally. His corruptibility was an asset to us as it was to international entrepreneurial companies out for a quick buck. Now that the country is without an effective government, without banks, food, or medicines, and now that all the expatriate technical experts have been evacuated along with the Belgian and French troops, "our friend" Mobutu has become an embarrassment to us and a deadly threat to his own people. Although clear pronouncements from Congress and fuzzier intervention from the State Department have called for real distance between ourselves and Mobutu, the continued silence of our Administration's policymakers remains an enigma. Our lack of leadership in dissociating ourselves from "our man in Kinshasa" three weeks ago when the Belgian and French troops were still there has increased violence throughout Zaire. But some in high government positions still think Mobutu will share power. Others even believe that if he no longer controls the army, finances, and the mines, that civil war will break out. The fact is that the longer Mobutu clings to power the more brutality and repression will spread. Those still loyal to him in the presidential special detachment cannot quiet the miserable thousands in the capitol's teaming slums for long. Fear battles anger and frustration as food, medicine and, this week, fuel supplies run out. The national treasury has been raped for years by Mobutu. Last week the national currency soared from 44,000 to 57,000 for one dollar overnight: On October 1 the exchange rate was $1=Z 21,000.

The U.S. Government needs to dissociate itself from Mobutu. This message must come from the White House since the world is aware of the long-standing relationship between Presidents Bush and Mobutu—a relationship which Mobutu has distorted and exploited. The U.S. Government should clearly state that it would support the establishment of a transitional government which represents the major political parties and the critical interests of the people. The U.S. Government should strongly oppose any Zairian military intervention in the process of democratization, committing itself only to the support of an international peacekeeping force if so requested by the legitimate government or by a legitimate national conference.

Finally, through the years, I remember a number of patients rushed to my clinic near the presidential estate in Kinshass with wounds raked across their bodies like razor slashes. Mobutu kept a leopard called Mimi in his private zoo. Mimi allowed only the president to caress her. I sewed up all others who even tried, including one of his daughters. Eventually a barrier was built to keep people at a distance from the cage.

The spots on Mobutu's leopard hat will neither change nor fade. He can no longer be petted and, indeed, must now be isolated where he can terrorize those within his reach no more. It will take years for Zaire to recover from its present wounds. Old friends have a duty to send a message to Zaire that we no longer condone his mauling of the people.

Respectfully yours,
WILLIAM T. CLOSE, M.D.

Mr. SIMON. Mr. President, if no one else seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

VOL 137 PT 23 NO 21—25 1991 UMI

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1992—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 1½ minutes remaining, the senior Senator from Tennessee has 2½ minutes remaining, and the Senator from Virginia has 27 minutes remaining.

Mr. STEVENS. Mr. President, I ask unanimous consent that we yield to the chairman of our Appropriations Committee 5 minutes.

The PRESIDING OFFICER. From whose time?

Mr. STEVENS. From the combined time that is left.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, I have listened to the debate today with a great deal of concern. I have heard what I would characterize pretty much as a general assault upon the Appropriations Committee of the U.S. Senate. I understand the feelings of Senators who have expressed themselves today, and I sympathize with some of those feelings.

I would like to say that, if we have problems between the authorizers and the appropriators, then we ought to sit down together and try to work out those problems and not take it out on this bill. This bill has required many hours of thought and labor on the part of members of the Subcommittee on Appropriations for the Department of Defense and on the part of staff. There have been conferences with the House of Representatives. I am a conferee. It was not possible for me to attend the conferences except in one instance only.

There has been an allusion to an agreement. Has that agreement been put in the RECORD?

I ask unanimous consent that the entire agreement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. I have tried in good faith to live up to that agreement. I do not think anybody questions that. I am sure they do not. And I am sure that Senator INOUYE, Senator HATFIELD, and Senator STEVENS have tried to live up to that agreement.

I think we have to remember, however, that that agreement was just among us Senators. It did not include the Members of the House of Representatives or even our counterparts in that body. Consequently, when our conferees go to conference with the House, our conferees try in good faith to live up to the letter and the spirit of the agreement. But we are only half, one body as against the other. We cannot force the House Members to conform to our own internal agreement. Consequently, if we get a bill out of conference, sometimes we have to give a little and take a little, and we may have to take something we do not like.

So I hope that Senators will apply a little bit of mercy to our conferees in recognition of that fact. We cannot bludgeon the Members of the other body; we cannot shove that pile of papers under their noses and say, "There is the agreement. You have to stick to it." They do not have to do so. They do not have to live up to that agreement.

There are those who have expressed concerns that matters were added in conference that were in neither bill. Well, that has been going on around here for a long, long time. As long as those matters are not entirely irrelevant to either bill, the conferees have a wide latitude in adding matters to bills that do not go to the conference in either bill. And that is done not just where appropriators are concerned. That is done, I venture to say, in most of the committee conferences that take place here between these two bodies.

This bill is important to the Nation. I want Senators to contemplate what will happen if they vote this conference report down. It is my understanding that all the members, or most of the members, of the Armed Services Committee, with the exception of myself, will vote against this conference report. They have a right to do that. And there will probably be other Members who will vote against the conference report for other reasons. They do not like it because we are spending, they say, too much money on defense or because some language was taken out that they helped put into the bill by way of an amendment on the Senate floor.

But let me say this. I have been saying that we need to reduce the spending for defense, we need to spend more money on the infrastructure of this country.

The PRESIDING OFFICER. The 5 minutes allocated to the President pro tempore has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. I went to the budget summit. And it was ROBERT BYRD who stood in that summit and led the fight for more money for infrastructure, both physical and human. There are some others in this body who did not want to reduce defense spending at the summit. I felt then and I feel now that we can stand some reductions in defense spending.

I do not approve of everything in this conference report. There are some things I would rather not have in it. I do not know everything that is in it. Only a few Senators really know that. But, I am going to vote for it, I urge the Members of this Senate to vote for this conference report. Let us not take it out on this conference report because we do not like something that happened in the conference.

I have explained that no man is master of any other man. And the Senate conferees are not masters of House conferees. They cannot lash the Members of the House, as the Persian Kings could lash their soldiers going into battle. We cannot do that. We have to do with what we have and do the best we can. Let us not take it out on this bill.

Now, what will happen if we vote this conference report down? I want Senators to think about that. We have both party leaders here hoping—and all Senators, I think most Senators, want likewise—to adjourn sine die next Tuesday—before Thanksgiving.

If we vote this conference report down, we may not adjourn next Tuesday. It is going to take some longer time.

What are our alternatives? One is a continuing resolution. I do not know how that would work out. Some of those Senators who want more cuts made in this bill than we were authorized to spend last year for some particular weapons system, may not find a continuing resolution to their liking. Or, we can insist on our amendments, ask for another conference and appoint conferees. They may be the same conferees but we have to appoint them again.

So those are the alternatives, as I see it. We have to go back to conference and have all this to do over again. And the next conference report may not be any more to our liking than this one is.

I say, my friends, we are taking quite a responsibility on ourselves. If we, out of some kind of pique—and we may be justified in having a pique—but if we, out of some kind of pique, say we are going to vote against this conference report because of thus and so, I hope we will rethink that position.

As I say, if there is some problem here, let us sit down and try to resolve it between the authorizers and the appropriators.

Let me add this. I daresay—I cannot show for a fact—but I imagine a good many of the items in this bill that are not authorized were put in there at the

request of Members of the Senate who are not on the Appropriations Committee. I know that happens in appropriations. Senators come to me, they come to other subcommittee chairmen on the Committee on Appropriations and say I want this, I want that, and we try to help them, if the items can be justified. They are not necessarily authorized by any particular law but very few Senators in this body can stand up and say to me that they have never asked me to put anything in the Interior appropriations bill. Very few Senators can say that. There may be some. I will not say all of them have. But we all do these things.

And not only that, but we put in items that the Members of the other body requests. I have had Members of the other body call me on the telephone: Please help me on this item on the bill; I need this, I need that. And we try to be of service because, after all, we think we are spending money for the good of the country, to up-build the country, to enhance the welfare and the standard of living of the American people, to enhance the economy. The same is probably true of this bill. And that is the way I look at it.

We spend money in this country; it is a heck of a lot better than sending it overseas.

But we all try to accommodate. Now you say you want to take it out on the Appropriations Committee. Let those who say that, search their minds and their hearts and try to remember whether or not they have ever asked the Appropriations Committee to do something for them. Think about it. And you will be back again. You will be asking again. The Appropriations Committee does not have the staff to deal adequately with the executive branch. We have less than 90 members on our total staff, yet we have to deal with the budget across the board. And our subcommittees have even fewer members.

I am just not going to sit still and see this assault made on the Appropriations Committee without saying something in return to try to lay the record straight.

Finally, Mr. President, there is no general prohibition—I have heard some things said on the floor today that I think ought to be corrected for the record—there is no general prohibition in the Standing Rules of the Senate or the precedents against making appropriations for a project or a program in the absence of an authorization. Such a point of order might lie against a particular amendment offered by an individual Senator. Points of order in the Senate regarding items of appropriations in excess of authorizations may be made against an amendment when that amendment is pending. It may be made. It is merely a majority vote, and so the Senate may vote otherwise. But Senators have that opportunity if they want to make a point of order.

In the instant case, however, there is no amendment pending. We have a conference report. I have heard it said, "I may make a point of order against this conference report." Well, budgetary discipline is provided by the Congressional Budget Act. The Constitution of the United States gives the Senate the authority to determine its own rules and, as such, the Senate may establish procedures that are inconsistent with provisions in the statutes because the Congress enacts the statutes. And if Congress wants to enact a statute today that is not in conformity with a statute that was enacted yesterday, Congress can do that. The section of the United States Code that was cited earlier is arguably a restriction on the agencies that have received appropriated funds for which there is no authorization.

(Ms. MIKULSKI assumed the chair.)

Mr. BYRD. Madam President, I have here that statute that was quoted in part. I am not sure it was read in its entirety.

I ask unanimous consent that it be included in its entirety.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

§114. Annual authorization of appropriations

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons;

(5) procurement of naval torpedoes and related support equipment;

(6) military construction;

(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);

(8) procurement of ammunition; or

(9) other procurement by any armed force or by the activities and agencies of the Department of Defense (other than the military departments);

unless funds therefor have been specifically authorized by law.

(b) In subsection (a)(6), the term "military construction" includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies), any activity to which section 2807 of this title applies, any activity to which chapter 133 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.

(c) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $1,070,000,000.

(d) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.

(e) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.

(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

(g) The Secretary of Defense shall submit to Congress not later than April 1 of each year, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget to support programs, projects, and activities of the Department of Defense.

(Added Pub. L. 93–155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 612, § 138; amended Pub. L. 94–106, title VIII, § 801(a), Oct. 7, 1975, 89 Stat. 537; Pub. L. 94–361, title III, § 302, July 14, 1976, 90 Stat. 924; Pub. L. 96–107, title III, § 303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–342, title X, § 1001(a)(1), (b)–(d)(1), Sept. 8, 1980, 94 Stat. 1117–1119; Pub. L. 96–513, title I, § 102, title V, § 511(4), Dec. 12, 1980, 94 Stat. 2840, 2920; Pub. L. 97–222 §2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97–86, title III, § 302, title IX, §§ 901(a), 902, 903, Dec. 1, 1981, 95 Stat. 1104, 1113, 1114; Pub. L. 97–113, title I, § 108(b), Dec. 29, 1981, 95 Stat. 1524; Pub. L. 97–214, § 4, July 12, 1982, 96 Stat. 170; Pub. L. 97–252, title IV, § 402(a), title XI, §§ 1103, 1105, Sept. 8, 1982, 96 Stat. 725, 738, 739; Pub. L. 97–295, § 1(3), (4), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98–525, title XIV, § 1405(2), Oct. 19, 1984, 98 Stat. 2621; Pub. L. 99–145, title XII, § 1208, title XIV, § 1403, Nov. 8, 1985, 99 Stat. 723, 743; renumbered § 114 and amended Pub. L. 99–433, title I, §§ 101(a)(2), 110(b)(1)–(9), (11), Oct. 1, 1986, 100 Stat. 994, 1001, 1002; Pub. L. 99–661, div. A, title I, § 105(d), title XIII, § 1304(a), Nov. 14, 1986, 100 Stat. 3827, 3979; Pub. L. 100–26, § 7(j)(1), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100–180, div. A, title XII, § 1203, Dec. 4, 1987, 101 Stat. 1154.)

Mr. BYRD. Madam President, I thank Senators for their courtesy in allowing me to speak for these few minutes. I do not speak out of anger or out of rancor. I think however, we are on the verge of doing something that will be very hurtful to the institution, and that Senators will come to regret.

I hope that Senators will rethink their position if they have decided to vote against this conference report on the basis of some of the arguments that have been made today. And, as I say, if there are problems between the authorizers and appropriators, let us sit down and try again to resolve those problems. But do not let us vote

VOL 137 PT 23 NO 21–25 1991 UMI

against this conference report for that reason only. We are going to be here several days if we do that, and the American people, more than ever, will wonder—will wonder if we still retain our senses.

EXHIBIT 1

AGREEMENT BETWEEN THE ARMED SERVICES AND APPROPRIATIONS COMMITTEES

To improve the working relationship between the Committees on Appropriations and Armed Services:

1. The Chairman and Ranking Member of each full Committee shall be considered ex officio members of the other full Committee.

The Chairman and Ranking Member of the Committee on Armed Services shall also be considered ex officio members of the Committee on Appropriations Subcommittee on Defense.

The Chairman and Ranking Member of the Subcommittee on Defense shall also be designated to be ex officio members of the Armed Services Committee.

2. Ex officio members may participate in all meetings, hearings and markups of the respective committees and subcommittees through the legislative process, but may not vote.

3. Amendments on behalf of the respective committees may be offered by ex officio members if such amendments have been authorized by a majority vote of the members of the respective committees.

4. Committee staff shall make all markup materials available to ex officio members prior to subcommittee and full committee markups of annual and supplemental authorization and appropriation bills.

5. Designated staff from each committee will be admitted to all subcommittee and full committee markups and included in all conference meetings on annual and supplemental authorization and appropriation bills.

6. Both committees pledge to try to avoid reversing the policy directions of the other committee.

7. The Committee on Appropriations agrees to try to avoid the incorporation of legislative provisions in annual Defense Appropriations bills whether such initiatives are offered during the Committee markups, the Senate floor or during the House-Senate Conference on such bills, and the Armed Services Committee shall join in such resistance.

8. The Committee on Appropriations agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization, and further agrees not to appropriate funds for programs specifically terminated in the authorization bill. The Committee on Armed Services agrees not to include obligation floors in authorization bills.

9. The Armed Service Committee will resist statutory proposals that restrict the flexibility of the Appropriations Committee in making financial adjustments using prior year funds. However, nothing contained herein shall restrict the Armed Services Committee or any member thereof from opposing the appropriation of funding at a level above account levels or for unauthorized programs, projects or activities.

The purpose of this agreement is to improve the working relationship between the Committees on Appropriations and Armed Services. Nothing contained in this agreement shall be construed to restrict the rights and prerogatives of any Member of either Committee.

Committee on Armed Services:
SAM NUNN,
Chairman.
JOHN WARNER,
Ranking Member.
Committee on Appropriations:
ROBERT C. BYRD,
Chairman.
MARK O. HATFIELD,
Ranking Member.
DANIEL K. INOUYE,
Chairman, Subcommittee on Defense.
TED STEVENS,
Ranking Member, Subcommittee on Defense.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Madam President, I yield such time to the Senator from Georgia as he may require, first making the parliamentary inquiry: The Senator from Virginia has about 21 or 22 minutes remaining?

The PRESIDING OFFICER. The Chair wishes to advise the Senate that Senator WARNER has 23 minutes remaining of the time that he controls. Senator STEVENS of Alaska has 1 minute in the time that he controls. And Senator SASSER of Tennessee, 2 minutes for the time that he controls.

Mr. WARNER. Madam President, I yield such time as the Senator from Georgia may require.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. I thank the Chair. I thank my friend from Virginia.

Madam President, let me say first in response to the Senator from West Virginia, that I will always be glad to sit down with him, the Senator from Hawaii, the Senator from Alaska, the Senator from Virginia and others to try to see if we can make this process work. We have been trying for about 5 years now.

When the Senator from West Virginia took over the Appropriations Committee, one of the first things we did—I cannot think of anyone more cooperative in terms of trying to work these matters out than the Senator from West Virginia—we did sit down, we did negotiate, we did get our staffs involved, we did talk about the ramifications of the differences between appropriations and authorization.

We came on the floor and the Senator from West Virginia clearly agreed with the position I had taken that appropriations bills should respect the ceilings of authorization bills, and that the authorization process was a ceiling; that the appropriation process was a floor. In other words, the appropriators have every right to cut any program they choose to that is in the authorization. And yet they are not supposed to, according to the custom and according to what I read as the law—they are not supposed to go over the authorization.

So we ended up with an agreement. The agreement is right here, and I am glad the Senator from West Virginia said it should be put in the RECORD in toto, and I agree with that.

It could not be clearer. It was—every word was negotiated. It has been signed by Senator BYRD, Senator HATFIELD, Senator INOUYE, Senator STEVENS and myself and Senator WARNER.

And I understand the conferences. I understand we cannot bind the House. We get in our conference each year and we have floors on the House side. We have minimum expenditures that are mandated in the House bill. We had at least 15 to 20 floors this year that would have precluded the appropriators from going below that amount because it would have been automatic in law. They can always come along perhaps later and repeal that law. That would have been against the spirit of our agreement.

The Senator from West Virginia and I had an explicit understanding that we would not undermine their floor position, their ability to cut our bill, and they would not undermine our ceiling. If the Appropriations Committee can cut what we authorize, then we certainly are not a floor and we should not be. But if the appropriators can go above what we authorized in accounts and in broad categories, then we are not a ceiling either. If an authorization committee is not a ceiling and not a floor, then that committee has no reason for existence. We might as well abolish the authorizing committees, put everybody on the Appropriations Committee, have one gigantic Appropriations Committee, and then we would all be in there together and we would be making decisions together.

Madam President, the exact language that we believe should be adhered to that was explicitly agreed to in this written agreement that is now going to be part of the record, paragraph 8 says:

> The Committee on Appropriations agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization, and further agrees not to appropriate funds for programs specifically terminated in the authorization bill. The Committee on Armed Services agrees not to include obligation floors in authorization bills.

That is the exact language.

Madam President, we had some 15 or 20 floors in this bill from the House. We told them something very simple, I say to my friend from West Virginia.

We told the authorization conference, the House conferees, who had the floors in their bill that we would not bring back floors in this bill in our authorization bill because it would breach the agreement, and we would just not do it. We would not bring back that kind of breach of the agreement. We insisted that the House drop all their floors, their minimum expenditure provisions in the bill. We have adhered explicitly to that agreement since the day this agreement was signed.

Madam President, what we ask the appropriators to do is nothing that would be mission impossible. We do not say you basically have to come back and never exceed an authorization. We know that, by the nature of accomplishment, is impossible. What we do ask is for them to live up to the agreement which they signed which says the "Committee on Appropriations agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization."

In reading this conference report, there is nothing in there that says these unauthorized appropriations are made subject to further authorization. That was the whole agreement that we had, that we would be able to come back with a subsequent bill, take a look at the unauthorized appropriations and then make our judgment on it. Frankly, we approve most of them. We find reasons most of the time that the appropriators are correct. But that is the agreement we had, and I have to say it has not been lived up to.

Madam President, I have to say also that there is nobody in this body, and we can stipulate this for the record, that has not written the Appropriations Committee or contacted them and asked for some project for their own State. We can stipulate that. I would say anyone who has never talked to the appropriators and asked for anything for their own State is probably not representing their own State very well.

But I would also say that I do not believe that we forfeit our right to determine how to vote as U.S. Senators on the appropriations bill or a final conference report of an appropriations bill because we have tried from time to time to protect our State and to get certain funds for our State. The only place you can get those funds is through the appropriations bill. We are not going to be put in the position, I do not believe, in this body that we disqualify ourselves to judge the merits of an appropriations bill if we have ever asked for any help for our State. I do not think anyone intends to insinuate that.

Madam President, I will close my remarks by saying that I am not lobbying people to vote against this bill. I have stated my views on the floor. Everyone will make their own decision. I expect this conference report would be agreed to like most other conference reports. It is an important bill. There is no doubt about that. But I cannot support the bill because I cannot support the earmarkings of defense funds for specific university projects that are outside the competitive process. I cannot support taking $94.6 million and saying that 38 of our States cannot compete because the appropriations conference decided that these universities would get this money and there would be no competition. And remember, I say to my colleagues, remember that the Competition in Contracting Act, which is explicitly waived in this bill, gives the Secretary of Defense the right to make a sole-source award if there are unique reasons for doing so. If the University of Texas or the University of Georgia or the University of West Virginia is the only university that can perform a certain function, they have every right in the Department of Defense to have a sole-source contract. But the only reason I can figure out you want to make sure there is no competition is because that university must not be the best one around. Why else would you not be willing for that university to compete?

So, Madam President, I cannot support the earmarkings of defense funds for specific university projects outside of competitive procedures. I know that is done in other appropriations bills. It has been done in other appropriations bills. But I do not believe anybody believes it is a good idea, and I think we would be making a very bad mistake to begin doing it in defense appropriations. But we are if we agree to this conference report.

Madam President, I cannot support the inclusion of legislative provisions which specifically negate and overhaul and break new ground on an appropriations bill, and we have several of those in this bill which I have enumerated. I cannot support the beginning of another long line of people and military bases coming up and saying: "We want a museum." I cannot support the beginning of that precedent which is going to come back to haunt us, and that precedent is clear and present in this bill. I cannot support $3.3 billion in appropriations at the account level that exceed the authorization level which are not made subject to authorization in accordance with the explicit written agreement that we have with the appropriators.

Madam President, as I have said earlier, this will be the first defense appropriations bill I vote against, and I do so with great reluctance and great sadness. I also will repeat what I said at the outset. You will never find the Senator from Georgia not willing to sit down and try to work something out. I suspect so far in the last 5 years I have spent about a hundred hours sitting down and trying to work things out in this vein. And that is exactly what we thought we had worked out when we signed this piece of paper with the appropriators.

Madam President, I will vote against this conference report.

Several Senators addressed the Chair.

Mr. BYRD. Will the Senator yield for a question?

Mr. NUNN. I will be glad to, if I have further time from my friend from Virginia.

Mr. WARNER. Madam President, the Senator has the time.

Mr. BYRD. Madam President, I have two questions. One: As the bill was written when it passed the Senate before it went to conference, did the distinguished Senator from Georgia, the chairman of the Armed Services Committee, did he at that time have any problem with that bill insofar as the agreement was concerned?

Mr. NUNN. I will say to my friend from West Virginia, no, I did not. I thought that the bill was in compliance with our agreement at that time, and I will say in further response to him, we basically stated in this agreement we signed that we are not talking about simply a Senate bill, we are talking about what comes back from the conference.

Mr. BYRD. The Senator says that, but the Senator also knows that we cannot control the House Members. I have said this. I do not need to repeat it. The point I am making is that when this bill left the Senate and went to conference, it had not, in the words of the distinguished Senator from Georgia, broken any agreement.

Mr. NUNN. The Senator is correct.

Mr. BYRD. So that whatever is in this conference report that is not in conformity with that agreement was put in there by the conferees.

Mr. NUNN. The Senator is correct.

Mr. BYRD. I would say our Senate conferees perhaps did the best they could. I would want to think they did the best they could.

Now, the agreement does not say that if a bill leaves the Senate and meets the requirements of the agreement, if it comes back otherwise in the conference report, we are to be held responsible, the Senate is to be held responsible, the committee is to be held responsible, and the conference report should be opposed. Is the Senator saying that members of the Appropriations Committee are bound by this agreement to oppose the conference report because, in the conference, Senators had to agree with some things with the House that do not conform to this agreement—and we have already stipulated, I guess we have, that the House Members are not bound by this agreement—is the Senator saying that the agreement applies, that we who were signatories of the agreement, myself being one, are bound in conscience to vote against this conference report because it does not conform to the requirements of this agreement which only applied to the Members of the Senate? And the Senator has already agreed that when this bill went to conference, it met these requirements.

Mr. NUNN. I say to the Senator from West Virginia that I do not think anyone is bound to vote against this conference report. I exercise my rights as a Senator to vote against the conference report, and I say why. I do not say the Senator from West Virginia has a duty to vote against this conference report.

VOL 137 PT 23 NO 21—25 1991 UMI

I do say I do not think the appropriators who negotiate for the House Appropriations Committee are any more tenacious, any more diligent, any tougher in adhering to their position than the authorizers from the House. We knock out the floors in the House bill because we insist on doing so.

The Senator from West Virginia and I have talked about that on many occasions. He has brought to my attention a couple times where we inadvertently had floors in our bill, and we have gone back and taken them out. I think the Senator from West Virginia will be the first person on the floor to protest against an authorization bill that had floors in it.

And so I am saying to him there is no one who has an obligation to vote against this report. But I do believe the appropriators have an obligation to do their very best to live up to the agreement in the conference. They will not always succeed. They will not always succeed. But I do not believe, I would have to say, that there has been a very vigorous effort by appropriators to put in the conference report when the ceilings are exceeded the very simple sentence that would say, "This unappropriated amount is subject to further authorization."

That is all that is required to live up to this agreement—one simple sentence. But it has not been put in this conference report. I do not believe much time was spent trying to negotiate that agreement. I hope the Senator from Alaska and the Senator from Hawaii will correct me if I am wrong, but my guess is that the subject was not brought up at the conference.

Mr. BYRD. Madam President, will the distinguished Senator yield for another question.

Is the Senator telling me that we are expected to wrench out of the House conferees their agreement to such language in a conference report? They have to take back to their House the same conference report we have to bring back to the Senate. Is he expecting us to exact that pound of flesh from the House conferees?

Mr. NUNN. I would say I have the same expectations of the appropriators that the appropriators have of us in not having floors in our bill. And I also would say we discussed that very specifically when we drew up that agreement where that is exactly what the appropriators agreed to do.

Mr. BYRD. The words say "will try."

Mr. NUNN. Did the appropriators try?

Mr. BYRD. Ask them.

Mr. NUNN. If they tried, I would like to know about it. I do not gather there was much effort to put in that very simple sentence. I may be wrong. If that was the subject of intense negotiation, I would like to know about it.

Mr. BYRD. Madam President, will the Senator take another question.

Mr. NUNN. I will be glad to.

Mr. BYRD. Does the able Senator really mean to tell this Senator that he thinks the House, which is not bound by this agreement, would agree to that sentence in the conference report that is taken back to the House?

Mr. NUNN. I would say it would be just as likely they would agree with that as the House Armed Services Committee would agree to drop all their floors which they felt very strongly about and which they dropped.

Mr. BYRD. Well, the distinguished Senator from Georgia is assuming that they would. I do not think we have any right to assume that.

On final question I would like to ask the distinguished Senator. And I do not mean for this question to be unfair. I think he knows that I have urged that we stay with the agreement.

Mr. NUNN. I know that.

Mr. BYRD. Does he know that?

Mr. NUNN. Yes, I know that, and I appreciate that.

Mr. BYRD. Would he be willing to say, if he thinks so, that members of the Appropriations Committee have broken faith—those of us who signed this agreement—have broken faith with this agreement?

Mr. NUNN. When the Senator from West Virginia uses the word "faith," that gets into subjective judgment. What I say is the agreement itself is broken and everyone has to examine their own conscience about whether faith has been broken. I do not accuse any Senator of breaking faith. What I do say is that the agreement itself has been broken.

Mr. BYRD. Madam President, will the Senator yield to me for 1 minute?

Mr. NUNN. Yes, I will be glad to.

Mr. BYRD. Madam President, my conscience is clear. I do not think faith has been broken by Senate conferees. And I do not think the agreement has been broken. The agreement applies to Senators, and the Senator from Georgia has already indicated that when this bill went to conference, it met with his approval so far as the agreement is concerned.

Mr. NUNN. Is that a question?

Mr. BYRD. No, I did not say it was to be a question. I asked the Senator if he would yield to me for a minute.

Mr. NUNN. Yes, I will be glad to.

Mr. BYRD. We speak of our consciences. The Senator feels good in his conscience; I feel good in mine. I am going to support my Appropriations Committee. The conferees worked hard. I think they did their best. And I will not imply that they broke faith or that they did not try. But when this bill left this body, it met with the agreement. We cannot be responsible for the House, and we cannot insist to the point of futility that a conference report be written to satisfy ourselves when we cannot get House conferees to agree with everything we want. If we do that, may I say to my friend from Georgia, there will be a good many bills that will die in conference.

Mr. NUNN. I say to my friend from West Virginia, I understand his point, but I would also say if the agreement does not apply to conferences, it has no effect. There is no reason in struggling all year long to live up to something in the Senate and then as soon as we get to conference drop the principle altogether.

I hope that there was a real effort. I hope there was a real effort. And if there has been, then fine. I make no judgment about anyone's good faith here. I am not talking about good faith. I am talking about the agreement itself and the process itself. I think all of us in the Senate are probably coming to a conclusion slowly but surely that the process itself is badly flawed; that we ourselves are going to have to correct that process. I think we either have to put everybody on the Appropriations Committee or we need to abolish the authorizing committees or we need to combine the two and abolish the Budget Committee or find some way to get three layers down to two layers.

I just read the other day the proposal of the Senator from Kansas [Mrs. KASSEBAUM] which says that we ought to have a leadership committee that would take the place of the Budget Committee. Senator INOUYE from Hawaii has cosponsored that. The leadership committee would be composed of the ranking member and the chairman of each one of the committees, including authorizers, and that would substitute for the Budget Committee. And then what we would have is the authorizing and Appropriations Committees merged with the subcommittees moving into the authorizing committees and then that committee would do both the authorizing and the appropriating. We would cut one whole layer out of the process.

I know it has to be studied carefully. But the Senator from Kansas, Mrs. KASSEBAUM, has a very good idea. The Senator from Hawaii has cosponsored that.

It is absolutely absurd to go through the budget process, authorizing process, and the appropriating process. It is absolutely absurd to come on the floor and debate a defense bill twice and have two conference reports and to have to go through this over and over again. The process itself is absurd, and I think all of us had better start examining whether we want to continue to be a part of a process that is so apparently flawed and, in my opinion, is not producing the kind of results the American people have every right to demand.

So this goes far beyond this particular bill. It goes to the process the Senate is going through now, and I think all of us need to examine our own feelings about this in the months and weeks to come.

I yield the floor. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I stand foursquare with the Senator from Georgia, my chairman, Mr. NUNN, on this matter and will vote no for the first time against the Defense appropriations bill.

Mr. INOUYE addressed the Chair.

Mr. WARNER. I yield the remainder of my time.

The PRESIDING OFFICER. The Senate will come to order. It is very difficult for the Chair to hear because of conversations on the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia had 1 minute and 13 seconds remaining. The Senator from Alaska has 1 minute remaining. The Chair advises the Senator from Tennessee he has 2 minutes remaining.

Does the Senator from Alaska seek recognition?

Mr. SASSER. Madam President, I yield back the remainder of my time.

THE DEFENSE CONFERENCE REPORT

Mr. LEAHY. Mr. President, I oppose attempts by the Senate Armed Services Committee to scuttle the Defense appropriations conference report.

My chairman from Hawaii knows that he and I are united in providing a strong defense for our Nation, but that we do disagree on our support for several programs. Our differences, however, do not affect my admiration for his leadership on the Appropriations Committee.

Mr. President, while I disagree with many of the provisions and the level of spending in the Defense Appropriations Act, I want to make it clear that I strongly oppose the efforts by the members of the Senate Armed Services Committee.

The authorizing committee has objected to provisions in the Defense appropriations bill that are insignificant compared to what really is happening around here.

Yesterday, we authorized billions of dollars for star wars and the B–2 bomber. We have put ourselves on course to deploy an antiballistic missile system that will cost our Nation tens of billions of dollars. The defense budget is nearly $300 billion.

And what issues do the Armed Services Committee choose to complain about in the appropriations conference report? Provisions that amount to less than 1 percent of the Defense budget.

They have even taken aim at the $150 it will cost the Navy to transport the bell of the U.S.S. *Bennington* from California to Bennington, VT.

So Mr. President, I would have much more sympathy for the authorizers if their bill had actually differed considerably from the appropriations conference report. I say next year, let us go after the B–2 again. Let us ground star wars. Let us discover the peace dividend. But today, I say approve the appropriations report and leave our sacred bell alone.

FISCAL YEAR 1992 DEFENSE APPROPRIATIONS BILL CONFERENCE REPORT ON H.R. 2521

Mr. DOMENICI. Mr. President, I rise in support of the conference report accompanying H.R. 2521, the Department of Defense appropriations bill for fiscal year 1992.

This bill provides $269.9 billion in budget authority and $176.1 billion in new outlays for the Department of Defense in fiscal year 1992.

When outlays from prior-year budget authority and other adjustments are taken into account, the conference agreement totals $269.9 billion in budget authority and $275.4 billion in outlays for fiscal year 1992.

I commend the conferees for producing a bill within the subcommittee's section 602(b) allocation and that consistent with the budget agreement.

This bill funds a number of worthwhile programs within the Department of Defense.

I am pleased to note that one of these programs is SDI, which is funded at $4.15 billion, representing the highest level of funding in the history of the SDI Program.

I think the events in the Persian Gulf last winter and in the Soviet Union last summer underscore out need for missile defenses.

While I am pleased with the overall funding level for SDI I must note a concern I have with the new focus on near-term technologies over follow-on technologies.

This is something we will have to think more about in the months and years ahead.

Mr. President, this bill marks the culmination of my first year as a member of the Defense Appropriations Subcommittee.

It has been a great pleasure for me to work with the distinguished subcommittee chairman and ranking member, Senator INOUYE and Senator STEVENS. I have enjoyed working with them on this very complex bill, and I look forward to my participation in the year's to come.

I also wish to thank them for the consideration and courtesy they have extended to me, and to my staff, during this past year.

The committee staff they have assembled is both professional and dedicated, and it is a pleasure to work with them.

I also want to express my appreciation to my fellow conferees for their support of a number of ongoing projects and programs important to my home State of New Mexico.

I particularly want to thank my colleagues for their overwhelming support for funding in the amount of $30 million to pay claims authorized in the Radiation Exposure Compensation Act of 1990. Recognition of these claims is long overdue, and the funding in this bill will make significant progress in paying these much-needed benefits.

I urge the adoption of the conference report.

U.S.S. "LEXINGTON"

Mr. HEFLIN. Mr. President, most Members are probably not aware that for the last few months three cities, Mobile, AL, Corpus Christi, TX, and Quincy, MA, have been locked in a competition to receive the U.S.S. *Lexington*, a recently retired aircraft carrier. I was pleased that this competition has been conducted fairly, with each city wanting to be judged on the merits of their proposal.

But now, just days before the Secretary of the Navy is to make his decision, some persons in the House attempted to tilt the playing field and give an unfair advantage to Quincy. Behind the closed doors of the conference committee, they managed to slip in the report a paragraph that, had it gone unnoticed, might have been construed as directing the Navy to send the *Lexington* to Quincy.

Mr. President, I see this move as a slap in the face to the people of Alabama and to all others who have worked so hard on this project. Should Alabama win the competition, the *Lexington* will be placed beside the historic U.S.S. *Alabama* and U.S.S. *Drum* in Mobile's Battleship Park. This park stands as a monument to our Nation's armed services and veterans, and through years of hard work, the park has grown to become Alabama's No. 1 tourist attraction. In fact, I think it is fair to say that the Battleship Park has also become a monument to the hard work and patriotism of the people of Alabama. Mr. President, I cannot sit still and let the proud addition of the U.S.S. *Lexington* be stolen from us.

The distinguished managers of this bill, Senators INOUYE and STEVENS, also feel that this should be a fair competition, and earlier entered into a colloquy with me to clarify the intent of the *Lexington* language. They agreed that the proposals of the three cities should be judged on their merits, and the Navy should work equally with each of the competitors.

I believe the floor action of the Senate will convince the Secretary of the Navy that it is the intent of Congress that fairness should prevail and that his decision should be entirely on the merits. I firmly believe that the merits of the decision are clearly with Mobile.

VOL 137
PT 23
NO 21—25
1991
UMI

Mr. THURMOND. Mr. President, I want to compliment Senator INOUYE, the chairman of the Subcommittee on Defense Appropriations, and Senator STEVENS, the ranking member, for their efforts in getting this Defense appropriations conference report to the floor. In my judgment, this report reflects their strong commitment to this Nation's defense and support for our men and women in uniform.

Mr. President, although in many areas this is a good bill, I am disappointed that the report contains almost $11 billion for 18 accounts that breach authorization ceilings or are new accounts that were not authorized by the Armed Services Committee. These appropriations were included in the bill despite a longstanding agreement between the Appropriations and Armed Services Committees to avoid this situation. In addition, these appropriations contradict title 10, section 114(a) which states: "No funds may be appropriated for any fiscal years to or for the use of any armed force or obligated or expended for [procurement, R&D, etc.] unless funds therefore have been specifically authorized by law."

As the senior member of the Armed Services Committee, I am aware that the problem of unauthorized appropriations has existed for quite some time. However, over the past years, these unauthorized appropriations have grown in numbers and scope. In this conference report, the Armed Services Committee has identified at least 170 programs for which $4.9 billion was appropriated, but which are not authorized. What is most ironic is that many of these programs were at one time or another considered by the Armed Services Committee, but deemed not high enough in priority in view of the drawdown in the force structure and budget.

Mr. President, I know my colleagues will agree with me that the United States and the Defense Department must encourage our academic institutions to maintain a strong research program. The university research initiative and similar programs sponsored by the Federal Government are essential in this endeavor.

Without Federal funding, our colleges and universities could not devote the resources to those multidisciplinary fields of research which are essential to our Nation, both in defense and commercial applications.

To receive the most benefit from the dollars committed to these research programs, we must ensure that there is competition. Competition fosters initiative and innovation, both of which are critical to research.

The bill before us takes away that competition by earmarking $94.6 million for 16 universities including $500,000 for my State. This is in contradiction to the Competition in Contracting Act and deprives other colleges and universities the opportunity to compete for the precious research and grant dollars.

Earmarking, although politically beneficial, is not in the best interest of scientific research of our Nation and I urge my colleagues to reject it.

Mr. President, I hope that both the chairman and ranking member of the Defense Appropriations Subcommittee will work with the Armed Services Committee to resolve these problems. Since the conference report can not be amended, I would urge them to go on record as encouraging the Secretary of Defense to seek authorization before he obligates any of the funds that are appropriated, but not authorized.

Finally, as the ranking member of the Subcommittee on Strategic Forces and Nuclear Deterrence, I am dismayed that the conferees on the Appropriations bill deleted funding for the 6 MX test missiles. These missiles were critical to test the reliability of the MX missiles currently deployed. Because of these cuts, some experts estimate, the Nation will have to begin to retire our deployed MX missiles earlier, rather than later in the century.

Mr. President, this conference report represents a great deal of hard work and commitment by the members of Defense Appropriations Subcommittee. It has its shortcomings, but it is the bill that funds our Nation's defense for the next year and I therefore reluctantly will vote for it.

Thank you, Mr. President.

Mr. PELL. Mr. President, yesterday I voted with considerable misgivings for the Defense authorization bill for fiscal year 1992. I stated at the time that it seemed beyond belief to me that we were voting for a bill which authorized $2 billion more than the amount authorized for the current fiscal year, notwithstanding the fact that the major threats to our national security seem to have evaporated.

Today, we are being presented with an appropriation bill which provides $3.4 billion more than yesterday's bill authorized. And it would appropriate some $2 billion more than was appropriated for the current fiscal year. Again, we are going in the wrong direction, only more so. And, unfortunately, from my point of view, this bill just goes too far.

In addition to the question of the magnitude of defense expenditures, I also want to state my complete agreement with the Senator from Georgia [Mr. NUNN], and others who have spoken here today, on the need to maintain the integrity of the authorization process. The appropriation process is supposed to flow from the duly constituted authority of the authorizing committees and we should draw the line now to make sure that this principle is adhered to.

When I cast my vote for yesterday's bill, I did so primarily out of parochial interest in assuring that provision was made for the third Seawolf submarine, the production of which is of such paramount importance to the economy of my State. My vote today in no way should suggest that my concern in this regard has diminished. But I am mindful that the Senate has spoken its will conclusively in support of this program by a 90 to 10 vote when the appropriation bill was before us earlier this year. If the conference report is rejected, I urge that prompt action be taken to return the DOD appropriation to us in acceptable form.

ANTARCTIC LOGISTICS

Ms. MIKULSKI. I understand the DOD appropriations conference report earmarks $105 million for the logistical and environmental activities associated with the U.S. Antarctic Program. The balance of the budget for this program—a total of $88 million—has already been appropriated in the VA, HUD, and Independent Agencies Appropriations Act for fiscal year 1992 to the National Science Foundation. When these bills are taken together, we have provided a total of $193 million for this program. This equals the President's request for this program.

As I am sure the Senator from Hawaii knows, this is a very important program—not only for research purposes, but also because it serves as the way in which the Nation exercises its active and influential presence on this vital continent. It is my understanding that the administration's policy—as expressed in various National Security Council memorandums, a Presidential memorandum, and other administration reports—with respect to the management and budgeting for this program is that NSF is to be the lead agency to ensure that the program is managed as a single package.

I would like to ask the distinguished chairman of the Defense Appropriations Subcommittee, with the funds in the defense bill being provided directly to the Defense Department and $88 million already appropriated to the NSF, how can we ensure that the program is managed as a single, unified operation?

Mr. INOUYE. I appreciate the question from the Senator from Maryland, and the chair of the VA, HUD, and Independent Agencies Appropriations Subcommittee. I want to say at the outset that I share with the Senator from Maryland the concern about the need to have this national program operate in a well-coordinated fashion.

In this bill, we have provided $105 million for U.S. Antarctic logistics support. Of this amount, $75 million is for the budget request for personnel, air operations, surface transportation, Antarctic Continent operations, United States and New Zealand operations, and major construction and procurement.

In addition, we have provided $30 million, consistent with the administration's position, to support the continuation of the President's safety, environmental, and health initiative in the Antarctic. I am well aware of the critical safety and environmental requirements that must be addressed in the future and expect the administration will respond to maintain and strengthen this Nation's active and influential presence in the Antarctic through this initiative.

It is my own view that the Navy is to use these funds consistent with the budget request and Presidential Memorandum 6646 which, as the distinguished Senator from Maryland knows, designates the National Science Foundation with overall management responsibility for U.S. activities in the Antarctic. It is my expectation that the Navy will coordinate its activities closely with the NSF to provide the support necessary to meet Antarctic Program objectives.

Let me say to the Senator, it is my intent to work with the administration to see that these funds are made available to the NSF as quickly as possible so that this complex program is managed as effectively and efficiently as possible.

In that way, it will allow the program to be operated with NSF as the lead agency managing the program so that the National Science Foundation can maintain its active and influential presence in the Antarctic.

As the Senator from Maryland knows, to provide the funds for the Antarctic activity, we were required to rescind a total of $75 million in domestic budget authority. Of that amount, $5 million is to come from NSF's research and related activity. The remaining $70 million, in whole or in part, from either or both of the following two sources: NSF and unobligated funds from the assisted housing programs in HUD. I would expect that the administration's proposed programmatic allocation of the rescission be submitted to the committee as part of the respective agencies' fiscal year 1992 operating plans.

Mr. STEVENS. I want to add my voice to the comments just made by the chairman of the Defense Appropriations Subcommittee. This is an important national program that needs to be managed as a single package.

Ms. MIKULSKI. I appreciate the chairman's explanation and the remarks of the Senator from Alaska. Given the unique nature of this program, I want to join with the Senator from Hawaii and the Senator from Alaska in urging the administration to consolidate the appropriated resources from the DOD bill with those appropriated to NSF in the VA, HUD, and Independent Agencies Appropriations Act. I also want to associate myself with the statement by the Senator from Hawaii regarding the administration's submittal of its operating plans as the vehicle for addressing the rescission. I look forward to working with the chairman and other Senators to encourage this to happen as expeditiously as possible.

FAST SEALIFT PROGRAM

Mr. JOHNSTON. Mr. President, as I understand it, the legislation proposed by the House supporting the Fast Sealift Program required that all fast sealift vessels be constructed in private U.S. shipyards. The conference report now before the Senate changes that requirement and provides that 15 percent of the funds appropriated for the Sealift Program may be utilized by the Department of Defense to acquire ships constructed in foreign shipyards.

Was it the intention of the conference that the funds now set aside for the acquisition of the ships constructed in foreign shipyards may be spent to acquire existing ships heretofore built in foreign shipyards as well as brand new, state-of-the-art vessels that citizens of the United States might now build, with a substantial investment of private funds for commercial utilization, under contract with the Navy?

Mr. INOUYE. Yes. As the conference report states, no more than 15 percent of the funds available to the Department of Defense for sealift may be used to acquire ships constructed in foreign shipyards. This provision is broad enough to authorize the Navy to acquire precisely the type of sealift vessels it needs, whether those vessels be newly constructed or previously used. However, any necessary conversion work must be done in a U.S. shipyard.

Mr. JOHNSTON. With reference to the 85-percent balance of Fast Sealift Program funds still reserved for the construction or conversion of sealift vessels in private U.S. shipyards, do I correctly read the conference report to state that, under existing law, the Defense Department is not precluded from contracting with U.S. citizens for the construction of sealift ships the Navy needs, and to share the cost of construction with those private citizens who will operate the vessels commercially with U.S. crews until they are needed for military use?

Mr. INOUYE. Yes. That was the intention of the conference. The conference report authorizes the Defense Department to consider a CRAF-like program such as the Senator describes for sealift.

GUARD AND RESERVE END STRENGTH

Mr. FORD. Mr. President, as cochairman of the Senate National Guard caucus, I am deeply concerned about the large reductions that the Department of Defense has proposed for the Selected Reserve end strengths, particularly for the Army National Guard and the Army Reserve. It is the feeling of the caucus that sufficient and compelling justification has not been provided for these reductions and that they have been developed not on the basis of force structure but rather on a share-the-pain budget approach. Consequently, the caucus has worked hard this year to forestall cuts it believes are disproportionate and completely unjustified.

Thanks to the great cooperation of our colleagues on both the Armed Services and the Appropriations Committees, the efforts of the caucus have been largely successful. I am concerned, however, about language relating to the selected Reserve in section 8067 of the conference report that is now before us, and am wondering if the chairman of the Defense Subcommittee could clarify the intent of this provision.

Mr. INOUYE. I am happy to respond to my distinguised colleague from Kentucky, but I wish first to pay tribute to his unrelenting defense of the selected Reserves. His continued strong and effective leadership in this area is greatly appreciated by this Senator and the men and women who proudly serve this country in the Guard and Reserves.

Now to section 8067. As the conference report clearly states, the conferees believe that during a period of decreasing Defense budgets, it makes sense to put more, not less, force structure in the Reserve component. The conferees were concerned that the Department of Defense would, because of mounting budget pressures, unilaterally decide to reduce the Reserve component end strength below the authorized levels established within the fiscal year 1992 authorization bill. There is, as the Senator knows, no floor on end strength in the authorization bill. The Department could reduce end strength well below the authorized amount.

In order to prevent this undesired outcome, the conferees propose to put into law an end strength floor, below which the Department can not go in fiscal year 1992. The conference did provide the Department a small measure of flexibility by allowing reduction below the fully authorized end strength levels of up to 2 percent—2 percent, and no more. Unlike the authorization bill, the appropriations bill establishes a minimum level. Furthermore, I would note that this conference report fully funds the authorized end strength levels for the Reserve components and any further reductions are not necessary to meet budget constraints.

Mr. FORD. A paramount objective of the Senate Naional Guard caucus this year has been to diminish the effect of final cuts in end strength on the Army Guard Reserve. Is it the intent of the Defense Subcommittee that these reductions be accomplished through attrition and reduced accession, rather than through involuntary separation?

Mr. INOUYE. If the Department does make additional end strength cut, it is the desire of this Senator that reductions be made through attrition and reduced accessions. Having fully funded

VOL 137 PT 23 NO 21—25 1991 UMI

the authorized end strength, I can see no justification for involuntary separations and can state that the committee would take a dim view of any attempts by the Department to do so.

Mr. FORD. The conferees have included a reporting requirement which asks the Defense Department to provide to the subcommittee a listing of all units being reduced, realigned, or inactivated in fiscal year 1992 by March 15 of next year. I hope there will be no inactivations on that list, but would also like to know if the subcommittee and other interested Members of the Senate will be given adequate time to review the list before the Department takes any action on it.

Mr. INOUYE. In my view, the intent of the managers is that the Department provide a complete listing of any proposed reductions, realignments, or inactivations to Congress before any action is taken. We would expect this list to be received well in advance of any action by the Department.

Mr. FORD. Is it also the understanding of the subcommittee that reductions are to be distributed evenly throughout the Army Guard and Reserve, thereby avoiding disproportionate cuts in any State or region? I am specifically concerned about preserving historic National Guard units in Connecticut and Massachusetts.

Senator DODD has worked very hard on behalf of those units in his State which have such an important link with our past, and would like to speak on their behalf at this time.

Mr. DODD. I thank the Senator from Kentucky for giving me this opportunity to address the issue of potential cuts in the National Guard. And let me also take this opportunity to thank the Senator from Kentucky for his efforts and the efforts of his staff to make sure that my office was kept abreast of the latest developments on this important issue. The selfless generosity of the Senator from Kentucky has not gone unnoticed.

I must say, Mr. President, that the issue of the National Guard is one that I feel very strongly about. I served in the Army Reserve myself, some time ago, and I know from firsthand experience the importance and enduring value of our Nation's Guard and Reserve. There is certainly no component of our Armed Forces that provides more service to the Nation at a lower cost than the National Guard.

In Connecticut, however, we have an additional cause for concern. Many of the Army National Guard units in my State date back to the pre-Revolutionary War era. In fact, three units of the 43d Brigade—the 102d Infantry, the 169th Infantry, and the 192d Field Artillery—trace their lineage back to the year 1672. These units have taken part in nearly every major conflict the United States has fought.

To sever this fragile link with the past would be an incomprehensible mistake, in my view. That is exactly what the Quicksilver plan would have done. And that is why, as I understand it, the authorizing committees sought to ensure that end strength would be held at 440,000—and why language in their conference report stated the expectation that an equivalent force structure allowance would be maintained.

I look forward to hearing from the Senator from Hawaii exactly what the committee's intention was in regard to the preservation of historical units and the equitable distribution of cuts in the National Guard.

Mr. INOUYE. I would like to assure the Senator from Connecticut that I am very sensitive to his concerns about potential cuts to historical units and pledge to him my support to ensure that these units are not eliminated in any proposed force structure reduction. We should not and can not lose our link to the honorable past symbolized by these units in Connecticut. I repeat that the statement of the managers mandates a report to Congress before any force structure reduction or adjustments are made by the Department.

Mr. DODD. I thank the chairman for his explanation and assurances and compliment him on his foresight in providing a legislated floor which protects Reserve component end strength in fiscal year 1992.

Mr. FORD. I thank the chairman for his clarification on this matter. We appreciate the action of the appropriations conferees in establishing a floor beyond which end strength and force structure cannot be reduced, even though we do not necessarily agree with the levels which may be reached as a result of this conference report. We would appreciate working with the subcommittee next year to see that an appropriate, mutually agreed-upon floor is established in the fiscal year 1993 bill.

NEUROSCIENCE CENTER

Mr. MACK. Mr. President, we refer to the statement of manager's language within the Defense agencies RDT&E section of the fiscal year 1992 DOD conference report on appropriations pertaining to the Neuroscience Center. This language reiterates the intent of Congress as previously stated in the fiscal year 1990 and fiscal year 1991 DOD authorization bills. I take this opportunity to again express my great enthusiasm for this project which provides $18 million for a collaborative spinal cord injury, paralysis, neuroscience research, education, and training facility and I reiterate that the Federal contribution should constitute no more than one-third of the total cost of the biomedical complex in which this facility would be located. Having worked with the Department of Defense for the last 3 years on this funding, I feel confident DOD understands the intent of Congress.

Mr. KASTEN. I am happy to support the comments made by my friend and colleague, Senator MACK. We have worked together for some time on funding for such a facility. Indeed, this provision reinforces the language contained within the last two DOD authorization bills.

Mr. STEVENS. I concur with my colleagues and am happy to lend my support to this provision.

Mr. INOUYE. Spinal cord injury is a highly technical and very important field of medical research. It is without hesitation that I support the thoughts expressed by my colleagues.

Mr. SANFORD. Mr. President, the role of the U.S. Congress in helping to mold what is our total national security structure is one of the most important functions of the institution. It is here where the merits of defense programs and strategies are debated and where the world events that change the course of history can be folded into those strategies and debates. I support the conference report of the Defense appropriations bill for fiscal year 1992 because we have debated the merits of its content and the great magnitude of events in Eastern Europe, the Soviet Union, the Middle East, and the fiscal constraints right there in our own country have been factored into this final form.

I stated earlier for the record my support for the Defense authorization bill which passed this Chamber 2 days ago. I took note of the tremendous amount of work that went into that legislation. No less effort went into the legislation now before this body. As with the authorization conference report, the appropriations conference report is an essential element to our national security arrangement. Also, as with the authorization report, the appropriations report has in it sections that are of exceptional importance to North Carolina.

The North Carolina Air National Guard will finally receive aircraft to modernize its current fleet composed of the oldest and least efficient of C–130's in the Air Guard and Reserve. The appropriations conferees noted the importance of the Guard and Reserve by including language that states that more not less resources should be directed toward them. Our force structure should continue to reflect this philosophy.

It must be noted that the hardware provided for in the appropriations bill is important to all of the services based in North Carolina. There are, however, sections that affect industry, small businesses, and colleges and universities. Small businesses adversely impacted by the large deployments from Desert Storm and Desert Shield will have made available to them loans to assist in their recoveries. The jobs and services these businesses provide cannot be lost in our current economic environment.

There are civilians that work at Cherry Point Marine Corps Air Station that stood to lose their jobs due to an A–76 cost study to go to a private contractor for facility maintenance, utilities, and motor transport services. While all of the jobs would not be lost, Federal benefits that many of those employees had worked for for close to 20 years would have been lost. Both Houses strongly agreed on this measure.

North Carolina takes exceptional pride in hosting tens of thousands of soldiers, sailors, marines, and airmen at their respective bases and posts but it has few major defense contractors. AT&T facilities in Burlington and Greensboro NC, do, however, make a significant contribution to our national defense with work on systems for the U.S. Navy's antisubmarine warfare community. Funds for the enhanced modular signal processor are provided for in this bill.

The airship and aerostat industry is a key component not only within the military, but it is also a key component to the U.S. Customs Service in the continuing war on drugs. Facilities in northeastern North Carolina make these airships and aerostats for the military and the Customs Service. This bill continues to provide funds for these systems so valued by the Department of Defense, the Department of the Treasury, and the Department of Transportation.

It has been noted during debate on this legislation of how significant Fort Bragg is to our national security. The men and women who serve there are provided for more than adequately by this appropriations bill. The education of their children is also provided for with a section that would help to support a public school on military property that would primarily serve dependents of military and Department of Defense personnel. It must not be forgotten that Fort Bragg is the birthplace and home of the Airborne. The Congress has provided funds to make note of this by showcasing the Airborne and special operation's contribution to past, present, and future American military operations in a consolidated facility on post at Fort Bragg.

Mr. President, I do wish to take note of the objections to this legislation by some Members of the Senate, especially the chairman of the Armed Services Committee, Mr. NUNN. During my time here in the Senate he has been most accommodating to me in meeting the interests of our Armed Forces as those interest pertain to North Carolina. It is not an easy decision for me to support this legislation. Along with agreeing with the senior Senator from Georgia on most defense issues, I support wholly his opposition to earmarks for colleges and universities in appropriations bills.

It is my hope that future differences of opinion between authorizers and appropriators will not manifest themselves so late in the process as to threaten the actual passage of these measures. Solutions to such disagreements need to be immediate. I was greatful to hear this opinion also of the chairman of the Appropriations Committee, Senator BYRD. He too has been most accommodating to the interest of the people of North Carolina. I so much appreciate his efforts. Under his leadership and that of the chairman of the Armed Services Committee, I feel confident future discord will be eliminated. I will vote for the Defense appropriations conference report ever mindful of the debate surrounding it and ask that my colleagues do the same.

Mr. MACK. Mr. President, I feel it is incumbent upon me to explain my opposition to the Defense appropriations conference report, since there are many elements in it which I strongly support.

I fought hard for the continuation of the F–14 Tomcat in the Senate Armed Services Committee and the authorization conference. My belief in the need for the F–14, both as world-class fighter and possible bridge to the Navy's next generation attack plane, is a matter of record. Unfortunately, those efforts were unsuccessful. I applaud the appropriators for their decision to spend $175 million to upgrade F–14's now in the fleet.

Similarly, I worked diligently to see an additional T–AGOS ship built next year at Tampa Shipyards. While that proposal was turned down by the Armed Services Committees, I was delighted that the appropriators agreed to fund $149 million for the new ship.

Furthermore, the appropriators agreed to fund a spinal cord injury research facility, which the University of Miami will have the opportunity to compete for. I am confident that the Miami proposal is so strong that it will win that competition.

The appropriators also allotted vital additional funds to improve Eglin air Force Base's test range in the Gulf of Mexico.

The appropriators demonstrated great wisdom in their conference with the House by insisting on fully funding the Strategic Defense Initiative Program developed by Senate Armed Services Committee. We are now poised to take the first steps toward providing the American people with the same kind of security from the terror of ballistic missiles that our troops in Desert Storm had. Such protection is our right. Under this plan, for the first time, we will have it.

In short, there is much to like about this Defense appropriations conference report. I wish I could have supported it. However, an important line of jurisdiction was crossed by the appropriators which called into question the very purpose of the Armed Services Committee. Indeed, the role of authorizing committees in general is sternly challenged. Therefore, I had no choice but to oppose this worthy bill.

Mr. STEVENS. Madam President, in 1984 I suggested a revision of the Senate so that we would recognize the fact that there are 100 of us dealing with 450 people in the other body. That is exactly what the Senator from Georgia is doing now. I lament the fact that Senator INOUYE and I are managers of the bill. But, once again, in bringing this appropriations bill to the floor, the time that has been consumed here today has been consumed two-thirds by the authorizing committee and one-third by those who brought the bill to the floor.

I urge that the bill be approved, and again I point out to the Senate that if it is not approved we will be operating under a continuing resolution until March 15.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii, the chairman of the Defense Appropriations Committee.

Mr. INOUYE. I urge adoption of the conference report.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Is all time yielded back?

Mr. STEVENS. Parliamentary inquiry. I ask the Chair: Did the agreement that we entered into pertain to time on a motion to reconsider?

The PRESIDING OFFICER. The agreement is silent on that.

Mr. STEVENS. Pardon?

The PRESIDING OFFICER. The agreement was silent on the debatable motion. A motion otherwise debatable would be decided without debate.

Mr. STEVENS. I am sorry. A motion otherwise debatable if this bill were to be defeated, and is a motion to reconsider, is there time for the debate of that motion or not?

The PRESIDING OFFICER. There would be no time to debate the motion.

The question is now on agreeing to the conference report. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. BROWN] and the Senator from Utah [Mr. GARN] are necessarily absent.

On this vote, the Senator from Utah [Mr. GARN] is paired with the Senator from Colorado [Mr. BROWN].

If present and voting, the Senator from Utah would vote "yea" and the Senator from Colorado would vote "nay."

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

VOL
137
PT
23
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21
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25
1991
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The result was announced—yeas 66, nays 29, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—66

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Boren
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Cochran
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Glenn
Gorton
Graham
Gramm
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pressler
Reid
Rockefeller
Rudman
Sanford
Seymour
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Wofford

NAYS—29

Bingaman
Bradley
Coats
Cohen
Conrad
Dixon
Exon
Gore
Grassley
Kohl
Levin
Mack
McCain
McConnell
Metzenbaum
Nunn
Pell
Pryor
Riegle
Robb
Roth
Sarbanes
Sasser
Simon
Smith
Wallop
Warner
Wellstone
Wirth

NOT VOTING—5

Breaux
Brown
Garn
Harkin
Kerrey

So the conference report was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Who seeks recognition?

Mr. DIXON. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator will please suspend. The Senate is not in order.

Mr. LEAHY. Order, Mr. President.

The PRESIDING OFFICER. The Senate is not in order.

The Chair requests those Senators carrying on conversations not formally recognized by the Chair please take them to the cloakroom.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Florida is recognized for up to 5 minutes as if in morning business.

Mr. GRAHAM. Thank you Mr. President.

SURFACE TRANSPORTATION CONFERENCE COMMITTEE

Mr. GRAHAM. Mr. President, as we are working through our agenda on the floor there are several conference committees meeting on important matters. One of those is the Conference Committee on Surface Transportation.

This is an issue of great concern to all Members of the Congress and the people that we represent. It is an especial issue of concern to the approximately 20 States which, for the last several decades, have been described as the donor States. These were the States which, during the time that we have been building our Interstate System, have been sharing substantial amounts of their contributions to the Federal highway trust fund with other States in order to be able to complete a National Interstate System.

We have explained to our citizens why it was necessary for them to make that contribution as a Nation, and they have been very generous and understanding for the better part of a half century in doing so. Now, Mr. President, the Interstate System is essentially complete.

That great effort, which started under President Eisenhower, is now entering its very last stages, a great national accomplishment. We believe, therefore, that it is time for the Congress to reexamine the priorities, the standards, the sense of obligation of all of the States toward the future of America's transportation system. And thus we are deeply interested in the decisions that are going to be made in the next few hours or days relative to the next 6 years of distributing what will be approximately $150 billion of Federal funds for the transportation-related programs.

In that regard, Mr. President, we are concerned about the fact that at this point it has been difficult to get a clear picture, a clear understanding of the direction the conference committee is likely to take. I am very pleased that the representative of the Senate, the chairman of the Senate conferees for purposes of the Surface Transportation Act, the senior Senator from New York, has agreed to meet with representatives of the donor States and, I am certain, with any other Senator who would be so interested.

I would like to use this opportunity to extend a broad invitation and request for interests by Senators so that we can have a clear understanding of what likely direction the conference committee will take, and that that understanding will be based on statistics, analysis of policy, rather than the almost hourly rumors that have been the basis of our information the past several days.

So, Mr. President, I wish to make these remarks in order to underscore the great significance of this decision to the Nation. The President and our leadership have described this highway bill as being one of the key building blocks of a national economic policy, not only for recovery from this immediate period of recession but also building a stronger, more competitive America for the future.

I agree with the importance being focused on this legislation. We want to be certain the funds are distributed based on the present and future needs of America, not a continuation of a policy of the past which was oriented toward a different goal; that is, the now-realized goal of completing the National Interstate System. This is a matter of deep concern and interest to all Members of the Congress and to all of our citizens.

I look forward to the opportunity of becoming, with my colleagues, more knowledgeable as to what is in this proposal. I hope that with that knowledge we cannot only help shape the final conference report that will be before us but be in a position to enthusiastically support that conference report. I hope that we would not reach a situation in which, during the last days of the session, we would be faced with a contentious disagreement as to whether the conference report in fact represented what is important and appropriate for the future of America. I believe the steps that have been taken by our distinguished colleague from New York will contribute toward the avoidance of that type of unfortunate, last-hour clash.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired. Who seeks recognition?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Does the distinguished junior Senator from Florida wish to address the Senate on the same subject?

Mr. MACK addressed the Chair.

Mr. MITCHELL. How much time would the Senator from Florida like?

Mr. MACK. No more than 3 minutes.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Florida be recognized for 3 minutes, following which time I be recognized.

The PRESIDING OFFICER. Without objection, the Senator from Florida [Mr. MACK] is recognized for up to 3 minutes.

SURFACE TRANSPORTATION CONFERENCE

Mr. MACK. Mr. President, my purpose for rising is to add my thoughts and comments to my colleague from

Florida with respect to the Surface Transportation Act. It is a very important measure for the Nation. It is a very important measure for the States.

I cannot let this opportunity go by without voicing some very strong concerns about what appears to be happening. As my colleague from Florida indicated, we do not have the exact figures, but it appears from the last information we have that somewhere around 88 cents per $1 will be coming back to the State of Florida, where the average, under the proposal, appears to be around $1.23. Florida, therefore, is going to be somewhere around 47th to 48th in rate of return.

It was not more than just a few weeks ago that Members of the various States stood on this floor to complain about what was happening to the extension of unemployment benefits, and the unfairness of those dollars. I must suggest that if an agreement cannot be reached, there are those of us who feel we must stand up and say that cannot happen again.

Florida received something like 53 cents out of every $1 that it sent to Washington in 1990, and in 1991 it is suggested around 61 cents. The State of Florida must have an opportunity to receive more funds than what is being proposed.

The problem can be addressed if a true minimum allocation of at least 90 percent can be fully funded—let me underscore that—fully funded, based on apportionments, allocations and demonstration projects. Currently the minimum allocation fund needs to be boosted to ensure proper funding of the Bentsen minimum allocation plan.

I must add again that if an agreement cannot be reached to accommodate all States, as we did during the unemployment extension bill, Senators must be prepared to stay in session to discuss the bill at length.

I thank the Chair.

UNIVERSAL ACCESS TO HEALTH CARE—NOW

Mr. DIXON. Mr. President, I rise to appeal to my colleagues and to President Bush to enact a Universal Access to Health Care Program before the end of this 102d Congress.

Our health care system is critically ill. We must find a cure. That cure will not be found in the continued application of more bandages to repair its many ailments. The diagnosis requires comprehensive surgery.

Some of the major symptoms are as follows:

Thirty-seven million Americans have no health insurance coverage;

Another more than 50 million Americans are underinsured. Two-thirds of the underinsured are full-time, hard-working taxpayers with incomes above the poverty level.

Spiraling health insurance rates have forced many employers to cut back on their health care spending. This has caused a reduction in health care coverage;

Throughout this country, many financially troubled hospitals and trauma centers have closed their doors;

Many physicians, hospitals, and other health providers will no longer treat the uninsured and underinsured; and

An increasing number of American families have to choose between receiving health care and buying food or paying the rent.

Mr. President, this is a disgrace for any industrialized Nation. And yet our health care system is the most expensive in the world. We spend more per person on health care than any other developed country—an average of $2,500 per year. In fact, the General Accounting Office estimates that in 1992, the United States will spend $707 billion on health care. The problem, however, is that our current health system is not a good value for that huge expenditure. We must halt this financial drain on our own pocketbooks, as well as on our national economy. And, we have to get much better value for the money we spend.

The American public is crying out to the President and Congress—no more increases in health care costs—give us reform.

Under our failing health care system, insurance rates have escalated so fast that they are out of reach for not only the working but also many middle-income families. Everyday, I hear from middle-income retirees who thought that they had prepared sufficiently for a comfortable financial retirement. However, these folks tell me how they are having to lower their standards of living on order to pay for the drastic rise in insurance premiums, and the escalating costs of medications, hospital bills, and physician fees.

In many inner-city areas, emergency rooms are crowded with uninsured and underinsured patients waiting to receive health treatment. In many rural and inner-city areas, uninsured and underinsured families wait to receive health care at the limited number of financially troubled hospitals that have not yet closed their doors.

Mr. President, over the years, Congress has attempted to respond to our health care crisis. As an example, in 1983 we changed the way Medicare reimburses hospitals. In more recent years, we reformed the way Medicare reimburses physicians and other health care providers. During the last Congress, we expanded Medicaid eligibility for pregnant women, children, and other groups. We provided refundable tax credits for health insurance premiums for qualified children. And during the last Congress we authorized States to continue to purchase health coverage for certain low-income workers.

Mr. President, although these and other provisions were enacted, far too many American families continue to be uninsured and underinsured, and health care costs keep rising.

Approximately 20 bills have been introduced during this Congress to provide health care reform. I pledge my support to legislation which will make health care accessible and affordable to all. It must offer preventive treatment and care. It must reduce administrative expenses. And the legislation must be economically realistic and fair to our small businesses.

During this 102d Congress, let us start on a legislative agenda to address the issue of affordable long-term care. I pledge my support for legislation which emphasizes immediate action to provide home and community-based services for the elderly and disabled, as well as support for family caregivers.

Mr. President, last week, Senator MITCHELL announced that beginning in early December, he and other Democratic Senators will hold a series of field hearings around the country on health care reform. One of the hearings will be in the city of Chicago in late January or early February. While we know what the health care problems are, the hearings will primarily provide more input in the shaping of solutions.

I will work with the Democratic leader and others in developing and shaping an alternative solution to our critically ill health care system and will give that legislation my full support for introduction in the spring and for immediate enactment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE [CFE] (TREATY DOC. NO. 102-8)

Mr. MITCHELL. Mr. President, as in executive session I ask unanimous consent that the Senate proceed to consideration of Executive Calendar No. 16, that the treaty be advanced through its various parliamentary stages up to the presentation of the resolution of ratification; that the committee-reported conditions and declarations be considered agreed to except committee-reported condition No. 5, and that only two conditions be in order: One offered by Senator COHEN to condition No. 5, limited to 2 hours equally divided; one offered by Senators SMITH

VOL
137
PT
23
NO
21—25
1991
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and WALLOP, to the resolution of ratification; that Senator COHEN be recognized to offer his condition today under the time agreement stated above, and that following the disposition of the Cohen condition, there be 3 hours remaining to be equally divided in the usual form, for debate on the Smith-Wallop condition and general debate on the resolution of ratification today.

I further ask unanimous consent that notwithstanding any provision of rule XXII and solely for the purpose of completing action on this treaty, at 1 p.m. on Monday, the Senate resume executive session and the resolution of ratification, and there be 1 hour equally divided between the majority manager and Senator SMITH or their designees, to be followed immediately by the vote on the Smith-Wallop condition and the adoption of the resolution of ratification without any intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, this agreement having been agreed upon by the Senate there will now be 2 hours of debate on a condition to be offered by the senior Senator from Maine, following which there will be a vote on that condition. Therefore, Senators should expect to vote at approximately 5:15 today, on the condition offered by the senior Senator from Maine, should all the time be used. Should any time be yielded back the vote could, of course, occur before that.

Several Senators addressed the Chair.

Mr. STEVENS. Will the Senator yield?

Mr. MITCHELL. I yield.

Mr. STEVENS. If there is another disposition of the amendment of the Senator from Maine prior to the expiration of time, could we ask that Senators be notified? Some of us are going to be away from the building now. It is possible, I understand, there may be another disposition of this amendment prior to the vote. If that is the case I would like to be notified.

Mr. MITCHELL. Yes; we will notify all Senators of any disposition.

The PRESIDING OFFICER. Under the previous order, the clerk will report the treaty and then will report the amendment.

The treaty will be stated.

The legislative clerk read as follows:

Treaty Document No. 102-8, Treaty on Conventional Armed Forces in Europe [CFE]. Reported with conditions and declarations.

The PRESIDING OFFICER. Under the previous order the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and contest to ratification of the Treaty on Conventional Armed Forces in Europe (CFE), with protocols on existing types (with annex), aircraft reclassification, reduction, helicopter recategorization, information exchange (with annex), inspection, the Joint Consultative Group, and provisional application; all signed at Paris on November 19, 1990 (Treaty Doc. 102-8), provided that the Senate's advice and consent to ratification of the CFE Treaty is subject to the following conditions, which shall be binding upon the Executive, and the following declarations, which express the intent of the Senate:

(a) CONDITIONS.—

(1) TREATY-LIMITED EQUIPMENT.—The United States shall regard actions inconsistent with the Statement by the Union of Soviet Socialist Republics, dated June 14, 1991, resolving a dispute concerning the application of the Treaty's principal counting rules in Article III, as equivalent under international law to actions inconsistent with the CFE Treaty.

(2) DATA.—Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—

(A) continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990; and

(B) seek to obtain additional reductions of equipment in Treaty-limited categories in the event the President determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990.

(3) EQUIPMENT EAST OF THE URALS.—The United States shall regard militarily significant actions inconsistent with the Statement by the Representative of the Union of Soviet Socialist Republics to the Joint Consultative Group, dated June 14, 1991, with respect to certain equipment in Treaty-limited categories located outside of the Atlantic to the Urals area, as potentially warranting a United States response pursuant to Article XIX; and, in the event of such actions, the President shall report to the Senate concerning the appropriate United States response.

(4) SOVIET EQUIPMENT TEMPORARILY IN THE BALTICS.—The United States shall regard actions inconsistent with the Statement of the Chairman of the Joint Consultative Group on October 18, 1991, with respect to the inclusion in the reduction liabilities set forth in the Treaty of equipment owned by the Union of Soviet Socialist Republics and temporarily located on the territory of Estonia, Latvia, or Lithuania, as equivalent under international law to actions inconsistent with the CFE Treaty.

(5) AREA OF APPLICATION AND NEW STATES.—If in the future a new state is formed in the "area of application" that existed on the date of Treaty signature and such state declines to accept the obligations of the Treaty, the President—

(A) shall consult with the Senate regarding the effect on the Treaty of such developments;

(B) shall, if he determines that such state's holdings, or potential holdings, of equipment in Treaty-limited categories are of such military significance as to constitute a changed circumstance affecting the Treaty's object and purpose, and if he decides not to invoke the withdrawal right under Article XIX, request the depositary to convene, in accordance with paragraph (2) of Article XXI, an extraordinary conference to assess the viability of the Treaty and to determine if an amendment is needed to accommodate the changed circumstance, or undertake other appropriate diplomatic steps; and

(C) shall, if he has made the determination described in paragraph (B), submit for the Senate's advice and consent any change in the obligations of the states parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature.

(b) DECLARATIONS.—

(1) ACCESSION TO THE CFE TREATY.—The Senate urges the President to seek the accession to the Treaty by any new state that may in the future be formed in the land area that constituted the "area of application" on the date of Treaty signature.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) in the resolution of ratification approved by the Senate on May 27, 1988, with respect to the INF Treaty.

(3) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intent to approve international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the Treaty Power as set forth in Article II, Section 2, Clause 2 of the Constitution.

(4) COMPLIANCE ISSUES AND FUTURE STRATEGIC ARMS TREATIES.—The Senate declares that it will take into account, as part of its consideration of the START Treaty, whether—

(A) the SS-23 missiles of Soviet origin that the President has determined constitute a probable violation of the INF Treaty have been dismantled in accordance with procedures consistent with such Treaty; and

(B) the large phased-array radar located at Krasnoyarsk, which constitutes a violation of the 1972 ABM Treaty, has been dismantled in compliance with such treaty.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I hope very much that the Senate will give an overwhelming endorsement today to the ratification of the Conventional Forces in Europe Treaty.

The Committee on Foreign Relations gave careful consideration to this treaty in hearings beginning this summer, clarified certain matters in the resolution of ratification and voted the treaty favorably reported in a unanimous vote on Tuesday. The majority's work on the treaty was undertaken by the chairman of the Subcommittee on European Affairs, the Senator from Delaware [Mr. BIDEN], who worked closely with the committee's ranking minority member, the Senator from North Carolina [Mr. HELMS]. Both deserve our

commendation and thanks for a job well done.

It is appropriate that this treaty precedes the Strategic Arms Reduction Treaty, which the Senate will consider next year. The committee has already held three hearings on START since the presidents of the United States and the Soviet Union signed that treaty last summer. The President is expected to submit START shortly, and I will chair hearings on that treaty early in the next session.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, the proposed Conventional Forces in Europe [CFE] Treaty has been largely overtaken by events, because of the Soviet unilateral military withdrawal from Eastern Europe, the fall of communism in Eastern Europe, the dissolution of the Warsaw Pact, and the ongoing collapse of the former Soviet Union itself.

But there are some important benefits to the CFE Treaty. The key effect of the treaty is that it codifies the former Soviet Union's military withdrawal from Eastern Europe, it reduces the major armament holdings in Soviet European-based forces by more than half, it destroys a large quantity of these weapons, it places one-fifth of the remaining weapons in storage, and finally, it distributes the rest of the Soviet armaments geographically under ceilings. These reductions will improve substantially the military balance that currently exists among the various countries of Eastern and Central Europe. The CFE Treaty will greatly reduce the threat of a surprise conventional attack on NATO, and it nullifies the Brezhnev doctrine.

The Chairman and I have joined in proposing a resolution of ratification which contains five conditions and four declarations intended to rectify the flaws in the CFE Treaty. We have worked closely with the bipartisan leadership of the Senate, and Armed Services Committee, and the Intelligence Committee, and consulted closely with the administration. I wish to thank Chairman PELL and Senator BIDEN for their constructive cooperation throughout the CFE process.

Mr. President, as the Senate considers its advice and consent to the proposed CFR Treaty, we must be aware of the fact that the Soviets have already violated it. Moreover, there is a major conceptual flaw in the Treaty. These related facts require a condition to the resolution of ratification regarding the data provided by the former Soviet Union. This condition, which is condition No. 2 in the Committee Resolution of Ratification, requires some discussion, and that will happen.

Mr. President, the Senate Committee on Armed Services deferred to the Senate Intelligence Committee on the issue covered by condition No. 2, but the Intelligence Committee decided not to take a position on this issue or to make any recommendation. Thus, condition No. 2 is the only way for the Senate to address this issue.

This conceptual flaw concerns the fundamental obligation of the CFE Treaty, and it has two elements.

The fundamental obligation of the CFE Treaty is the obligation to reduce conventional forces. The first element in this conceptual flaw arises from the Soviet declaration of false data on their conventional forces when they signed the treaty exactly 1 year ago, on November 19, 1990. Second, it stems from the fact that some officials in the executive branch mistakenly I think, propose to use this false Soviet data as the baseline to calculate the Soviet obligation to reduce its forces. I vehemently disagree with the executive branch on this point.

The precise terms of the CFE Treaty are explicit on how to calculate the Soviet obligation to reduce their conventional forces. In the event that the data provided by the Soviets at the time of signature is found to be false, then data on Soviet forces actually in the treaty zone derived from United States intelligence must be used to calculate the Soviet reduction obligation.

According to unclassified, authoritative testimony to the Committee on Foreign Relations, the fact of gross Soviet data falsification at the signing of the CFE Treaty is indicated by conclusive evidence from United States intelligence-U.S. national technical means of verification. United States intelligence has collected smoking gun evidence proving conclusively that at least about 4,000 Soviet pieces of treaty-limited equipment were in the treaty zone at signature, but were not declared by the Soviets. In addition, due to the fact that subsequently the Soviets slightly corrected their CFE data provided at the time of signature, they have in effect admitted in diplomatic channels that their data declared at treaty signature was indeed false. Moreover, authoritative testimony to the committee indicates that the magnitude of the Soviet data falsification violation is militarily significant.

Mr. President, President Bush is required by law to report to Congress every year by December 1—about 9 days from now—on Soviet noncompliance with arms control treaties. Indeed, I am advised that such a report on the Soviet violation of the CFE Treaty at signature by providing inaccurate data is already being prepared. Thus the President's report on the Soviet CFE data falsification is impending.

The clear fact that the Soviets provided false data on the day of signature of the CFE Treaty, which is about to be confirmed by an impending Presidential report, means that the Soviets violated their obligation under the CFE Treaty to provide accurate data at signature. Thus the Soviets have violated the CFE Treaty even before it is ratified.

Mr. President, one of our colleagues on the Committee on Foreign Relations at the Committee markup conceded that the Soviets has falsified their data significantly, even agreeing that there was smoking gun evidence of this fact. He even agreed that this false Soviet data declaration at signature constituted a technical violation of the CFE Treaty, and he supported my condition No. 2 on data as the best solution to the problem.

I agree that it is a violation, but it much more than a technical violation. It is a fundamental violation. But my colleague argued that the magnitude of the Soviet data falsification is not ultimately resolvable. I would urge my colleagues to read the national intelligence estimate on the monitoring of the CFE Treaty. It is no secret that the NIE's best estimate, based upon United States national technical means of verification, is that the Soviets clearly provided inaccurate data, and failed to declare about 18,000 pieces of equipment that were in the zone at signature.

Thus, the fact that the Soviets lied has been clearly established, and all that remains is for the Senate to enact an effective condition solving this problem.

As one Senator who has been deeply concerned with Soviet violations of arms control treaties over the years, I am more than a little bit alarmed that the Senate is being asked to vote its advice and consent for the President to ratify the CFE Treaty only about 2 weeks before an impending report to the Senate will confirm that the Soviet data falsification at signature constituted fraud in the inducement and also a clear violation of the treaty.

As a matter of principle, the Soviets should not be allowed to benefit from this attempted fraud. Indeed, a basic principle of both domestic law and international law is that a party to a contract or a treaty should not benefit from fraud. Yet, if this false Soviet baseline data is used for the reduction calculation, the Soviet obligation to reduce will be minimized; it will be cut to about half of what it should be.

Unfortunately, most officials in the executive branch nevertheless advocate using this fraudulent Soviet data in order to calculate this minimized Soviet reduction obligation. The executive branch wants to accept the false Soviet data apparently because it believes that extensive further diplomatic efforts would be required to achieve Soviet compliance with their full obligation to reduce. And the unspoken premise of the executive branch is that these additional negotiations might still fail to achieve full Soviet compliance.

Now I agree that one way to solve this problem would be to delay Senate

VOL 137
PT 23
NO 21–25
1991
UMI

advice and consent to the CFE Treaty until the President reports on December 1 on the Soviet data falsification violation at signature, and takes appropriate steps to achieve compensating Soviet reductions. Another option for the Senate would be to condition its advice and consent to the treaty, or the treaty's entry into force, on the receipt of the Presidential report and a further Presidential assurance that the United States had obtained adequate compensation for the Soviet data falsification at signature.

There are several other defects in the treaty that the Senate might also want to correct, such as inserting the new name of the former Soviet Union into the treaty everywhere the old name appears in the treaty. Just last week the rump State Council of the former Soviet Union approved the Nation's new name, the "Union of Sovereign States." Moreover, we could change Gorbachev's new title to "President of the Union of Sovereign States." Even the State Department has advocated these changes in the treaty.

Finally, there is another possible reason for Senate delay. On December 1 the Ukraine Republic plans to vote on its independence from the former Soviet Union. The Ukrainian vote in favor of independence is expected to be overwhelming. The Senate could wait and see what effects Ukrainian independence, and the dissolution of the Red army to form a new Ukrainian national guard, might have on the viability of the CFE Treaty.

Unfortunately, Mr. President, all of the above options would certainly delay the advice and consent vote beyond this session, and could even kill the treaty. Although I believe that the CFE Treaty is largely overtaken by events—such as the dissolution of the Warsaw Pact and the former Soviet Union—the treaty still does have some merit. CFE does repeal the Brezhnev doctrine on the subjugation of Eastern Europe, and therefore it protects the newly won sovereignty of the former members of the Warsaw Pact in Eastern Europe. Moreover, it protects the sovereignty of the Baltic States, and it encourages the further dissolution of the Soviet empire.

The Senate can solve the problem of the inaccurate Soviet data, and the Senate must solve this problem. I believe that the solution is simple, and it is proposed as condition No. 2 in the resolution of ratification proposed by the Committee on Foreign Relations.

The false data that the Soviets declared at signature is technically not a legal part of the treaty, and it was not part of the formal and official CFE Treaty documents originally sent to the Senate. The Soviet data has still not been officially and formally sent to the Senate. Therefore, the Senate should require, as a condition of its advice and consent to ratification, that the false Soviet-declared data should not be used to calculate the Soviet reduction obligation.

In the event that the impending Presidential report confirms a Soviet violation of the obligation to declare accurate data at treaty signature—a violation which testimony shows has already occurred—the correct interpretation of the CFE Treaty clearly requires that data on the number of pieces of Soviet Treaty-limited equipment actually present in the treaty zone of application at signature must be derived from Unites States national technical means of verification. The treaty's provisions explicitly indicate quite clearly that this data on Soviet forces derived from United States national technical means of verification should instead be used as the baseline to calculate the Soviet reduction obligation.

The precise provisions of the CFE Treaty require that United States national technical means of verification be used to verify all Soviet locational and numerical declarations, to validate all Soviet data, and most significantly, to calculate the Soviet reduction obligation in order to ensure compliance.

Using this data obtained from United States national technical means of verification results in a Soviet reduction obligation that is almost double the obligation based on the false Soviet data.

The Senate should not allow the Soviets to benefit from their attempted fraud. But unless the Senate fixes this conceptual flaw by attaching a condition to its resolution of ratification consenting to the CFE Treaty, the Senate will be approving the erroneous use of deliberately false Soviet data in order to calculate a minimized Soviet reduction obligation.

A grave matter of principle is therefore at stake for the Senate in addressing this major conceptual flaw in the proposed CFE Treaty. The Soviets have clearly violated the treaty even before its ratification by providing false data. The Senate should avoid approving a resolution of ratification which implies acceptance of this fraudulent Soviet data which violated the treaty. The United States must have the political will to interpret the CFE Treaty in accordance with its precise terms, to calculate properly the Soviet reduction obligation, and to enforce full Soviet compliance. Unless the Senate demonstrates this political will by approving a condition fixing this conceptual flaw, the Senate will be an accomplice in a major Soviet deception, and the proposed CFE Treaty could fail to achieve its intended objectives.

Here is the proposed Senate condition No. 2 on data:

(2) Data. Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—

(a) continue to seek clarification of those holdings of treaty-limited equipment as of November 19, 1990; and

(b) seek to obtain additional reductions of equipment in treaty-limited categories in the event the President determines that actual holdings of treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990.

This condition No. 2 on data to the resolution of ratification will solve the problem of Soviet violation of the CFE Treaty at signature. "Actual holdings of Treaty-limited equipment" by the former Soviet Union at treaty signature would be determined by United States national technical means of verification.

This chart on the Soviet obligation for conventional force reduction under the CFE Treaty illustrates the major conceptual flaw in the CFE Treaty. The chart shows the magnitude of the attempted Soviet fraud. It shows that the Soviet-declared fraudulent data is a maneuver designed to cut their obligation to reduce their conventional forces almost in half.

The maximum number of treaty-limited equipment allowed under the treaty is 53,650. The Soviets have declared that they have 19,670 items over that number, items they would have to eliminate. But our national technical means of verification indicate that the Soviets had about 18,000 more pieces of treaty-limited equipment in the treaty zone at signature that they did not declare.

Therefore, the Soviet obligation to reduce is not 19,670, but actually in excess of 37,670, almost twice as large an obligation as they have admitted. This is a fundamental inaccuracy which must be addressed in the resolution of ratification.

Condition No. 2 requires the President to make a finding on whether the declared data is inaccurate. This would occur anyway by law on December 1, and would be based upon U.S. national technical means. As I said, I am confident that he will make such a finding. If he finds such a violation, then condition No. 2 requires him to seek compensation through additional reductions of equipment.

Some argue that this additional obligation to reduce has already been addressed by the Soviets to a certain extent in a side-agreement signed on June 14 which is not part of the treaty. But this agreement does not go far enough, and unless it is addressed within the treaty itself, it allows the Soviets to get by with fraud.

I think that condition No. 2 places the proper framework on the central obligation of the treaty, the obligation to reduce equipment based on real numbers, not on false declarations. With this condition and the other conditions and declarations, I am prepared to support the treaty.

The Senate should act to prevent the Soviets from succeeding in this deception. Condition No. 2 to the resolution of ratification can correct this Soviet fraud. Finally, Mr. President, I ask unanimous consent that my additional views to the Committee on Foreign Relations report on the CFE Treaty be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Additional Views of Senator Jesse Helms on the Proposed CFE Treaty

MAJOR CONCEPTUAL FLAW IN THE PROPOSED CFE TREATY

Summary: There is a major conceptual flaw in the proposed Conventional Forces in Europe—CFE—Treaty which requires a condition with regard to the declared data provided by the Soviet Union. This condition, which is Condition No. 2 in the Committee resolution, require some additional analysis in depth.

This conceptual flaw concerns the fundamental obligation of the proposed CFE Treaty, and it has two elements.

The fundamental obligation of the proposed CFE Treaty is the obligation to reduce conventional forces. The first element in this conceptual flaw arises from the Soviet declaration of false data on their conventional forces. Secondly, it stems from the fact that some officials in the Executive Branch mistakenly propose to use this false Soviet data as the baseline to calculate the Soviet obligation to reduce its forces.

The precise terms of the CFE Treaty are explicit on how to calculate the Soviet obligation to reduce their conventional forces. In the event that the data provided by the Soviets at the time of signature is found to be false, then data on Soviet forces derived from U.S. Intelligence must be used to calculate the Soviet reduction obligation.

According to unclassified testimony to the Committee, the fact of gross Soviet data falsification at the signing of the CFE Treaty is indicated by conclusive U.S. intelligence evidence. In addition, due to the fact that subsequently the Soviets slightly corrected their CFE data provided at the time of signature, they have in effect admitted in diplomatic channels that their data declared at Treaty signature was false. Moreover, the President is required by law to report to Congress every year by the First of December on Soviet non-compliance with arms control treaties, and such a report on the Soviet data falsification in the CFE Treaty is already being prepared. Finally, testimony to the Committee indicates that the magnitude of the Soviet data falsification is militarily significant.

The fact that the Soviets provided false data on the day of signature of the CFE Treaty, which shortly will be confirmed by a Presidential Report, means that the Soviets violated their obligation under the CFE Treaty to provide accurate data at signature. Thus the Soviets have violated the CFE Treaty even before it is ratified.

As a matter of principle, the Soviets should not be allowed to benefit from this attempted fraud. Indeed, a basic principle of both domestic law and international law is that a party to a contract or a treaty should not benefit from fraud. Yet if this false Soviet baseline data is used for the reduction calculation, the Soviet obligation to reduce will be minimized—it will be cut to about half of what it should be.

Unfortunately, most officials in the Executive Branch nevertheless advocate using this fraudulent Soviet data in order to calculate this minimized Soviet reduction obligation. The Executive Branch wants to accept the false Soviet data apparently because it believes that extensive further diplomatic efforts would be required to achieve Soviet compliance with their full obligation to reduce. And the unspoken premise of the Executive Branch is that these additional negotiations might still fail to achieve full Soviet compliance.

But the Senate must solve this problem. This solution is simple, and is proposed as Condition No. 2 in the Committee resolution.

The false data that the Soviets declared at signature is technically not a legal part of the Treaty, and it was not part of the formal and official CFE Treaty documents originally sent to the Senate. It still has not been formally sent to the Senate. Therefore, the Senate should require, as a condition of its advice and consent to ratification, that the false Soviet-declared data should not be used to calculate the Soviet reduction obligation.

In the event of the impending Presidential Report confirming a Soviet violation of the obligation to declare accurate data at Treaty signature—a violation which has in fact already occurred—the correct interpretation of the CFE Treaty clearly requires that data on the number of pieces of Soviet Treaty-Limited Equipment actually present in the Treaty zone of application at signature must be derived from U.S. National Technical Means of verification. The Treaty's provisions explicitly indicate quite clearly that this data on Soviet forces derived from U.S. National Technical Means of verification should instead be used as the baseline to calculate the Soviet reduction obligation.

The precise provisions of the CFE Treaty require that U.S. National Technical Means of verification be used to verify all Soviet locational and numerical declarations, to validate all Soviet data, and most significantly, to calculate the Soviet reduction obligation in order to ensure compliance.

Using this data obtained from U.S. National Technical Means results in a Soviet reduction obligation that is almost double the obligation based on the false Soviet data.

The Senate should not allow the Soviets to benefit from their attempted fraud. But unless the Senate fixes this conceptual flaw by attaching a Condition to its resolution of ratification consenting to the CFE Treaty, the Senate will be approving the erroneous use of deliberately false Soviet data in order to calculate a minimized Soviet reduction obligation.

A grave matter of principle is therefore at stake for the Senate in addressing this major conceptual flaw in the proposed CFE Treaty. The Soviets have violated the Treaty even before its ratification by providing false data. The Senate should avoid approving a resolution of ratification which implies acceptance of this fraudulent Soviet data which violated the Treaty. The United States must have the political will to interpret the CFE Treaty in accordance with its precise terms, to calculate the Soviet reduction obligation, and to enforce full Soviet compliance. Unless the Senate demonstrates this political will by approving a Condition fixing this conceptual flaw, the Senate will be an accomplice in a major Soviet deception, and the proposed CFE Treaty could fail to achieve its intended objectives.

Here is the proposed Senate Condition No. 2 on Data:

"(2) Data.—Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—

(a) continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990; and

(b) seek to obtain additional reductions of equipment in Treaty-limited categories in the event the President determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990."

This Condition to the Resolution of Ratification will solve the problem of Soviet violation of the CFE Treaty at signature.

The following chart on the Soviet obligation for conventional force reduction under the CFE Treaty illustrates the major conceptual flaw in the CFE Treaty. The chart shows the magnitude of the attempted Soviet fraud. It shows that the Soviet-declared fraudulent data is a maneuver designed to cut their obligation to reduce their conventional forces almost in half. The Senate should act to prevent the Soviets from succeeding in this deception. The Condition to the Resolution of Ratification can correct this Soviet fraud. *End Summary.*

INTRODUCTION: SHORT EXPLANATION OF SOME DETAILS OF CFE'S CONCEPTUAL FLAW

A. U.S. national intelligence estimates show that the Soviets declared false CFE data

According to unclassified testimony to the Committee derived from National Intelligence Estimates, U.S. Intelligence has conclusive evidence that the Soviet Union deliberately falsified its declared data on the day of signature of the CFE Treaty, November 19, 1990.

The Acting Director of Central Intelligence testified publicly to the Committee on Foreign Relations on July 17, 1991, that:

"[W]hen the Soviets tabled their figures on Treaty-Limited Equipment holdings as of 19 November, 1990, there were *major discrepancies* between those figures and our most recent estimates available at that time . . . We have *confirmed* that some of the weapons being moved east of the Urals did not arrive at their destination until a month or so after signature . . . We also *know* that a number of items that the Soviets claimed to have eliminated by 19 November were still in the zone."

These public intelligence judgments based upon our National Intelligence Estimates clearly indicate that the Soviets deliberately falsified their initial data declaration at Treaty signature. It should be re-emphasized that these unclassified judgments are derived from the classified National Intelligence Estimates.

Since the signing of the CFE Treaty on November 19, 1990, the Soviets have even admitted their data falsification in diplomatic channels, when confronted with them by U.S. negotiators, thus confirming that the deliberate falsification occurred.

The Chief U.S. CFE negotiator, Ambassador James Woolsey, even termed this false Soviet data declaration flagrant "fraud." This assessment of fraud can only be interpreted to mean that Ambassador Woolsey believes that the Soviets violated their obligation under the CFE Treaty to declare accurate data at Treaty signature. Moreover, the

VOL
137
PT
23
NO
21—25
1991
UMI

Executive Branch is already preparing a non-compliance report for the President to deliver to Congress in December, 1991, on the Soviet CFE data falsification. The Presidential Report is required because the Soviet data declaration was clearly inaccurate, and the Soviets clearly violated their obligation to declare accurate data upon signing the CFE Treaty.

The intelligence evidence that the Soviets grossly under-declared their forces at the time of Treaty-signature is conclusive. There is "smoking gun" evidence that thousands of pieces of Soviet Treaty-Limited Equipment were present in the zone of Treaty application and yet were not declared on the day of signature.

Indeed, our best intelligence indicates that the Soviets had about 18,000 pieces of Treaty-Limited Equipment (TLE) inside the zone of application that they did not declare at the time of Treaty signature. Originally, just after CFE Treaty signing on November 19, 1990, U.S. Intelligence concluded that the "major discrepancy" between U.S. evidence and the Soviet data declaration was as large as a Soviet under-declaration of 35,000 to 40,000 pieces of TLE. But after a thorough restudy of all the U.S. evidence collected during 1990, which is described in more detail below, U.S. Intelligence concluded that the "major discrepancy" was about 18,000 pieces of un-declared TLE.

Within this block of 18,000 pieces of un-declared Soviet TLE, there is conclusive, "smoking gun" evidence of about 4,000 undeclared pieces of TLE within the zone on the signature date.

Indeed, the Chief U.S. CFE negotiator has testified publicly that about 4,000 un-declared pieces of TLE were clearly still inside the zone on the date of signature, and that a total of about 18,000 TLE are estimated to have been in the category of un-declared but inside the zone on date of signature.

Ambassador Woolsey, the U.S. Chief CFE negotiator, testified to the Committee in open session on July 25, 1991, as follows:

"* * * We believed, based on information that had been provided to us by the Intelligence Community, that there were * * * data problems * * * with respect to the aircraft, there was approximately 1,000 aircraft * * * that the Soviets * * * did not declare. And we raised this issue in the Joint Consultative Group, and after discussions there they *increased* their notified holdings by between 100 and 200 aircraft. There were still 800 or so aircraft that they did not notify * * *. There was also about 1,000 pieces of ground * * * based equipment which we believe * * * [with] reasonably good confidence were not declared properly * * *. Now in addition to this approximately *800* or so aircraft and *800* or so pieces of ground equipment, there are another, let us say in the *very low thousands*, pieces of equipment that, I believe it is fair to say we believe we have some evidence to suggest were not destroyed in time and/or alternatively did not get out in time, that is, were not destroyed by November 19th or did not get out by November 19th."

Thus we have public testimony from the U.S CFE negotiator to the Committee that there is hard evidence that at least about 4,000 Soviet pieces of TLE were clearly in the zone of Treaty application, but were not declared.

The evident Soviet purpose in their data falsification was to avoid having to destroy the full 18,000 un-declared pieces of TLE in the zone. In the months following the signature date of November 19, 1990, all of these 18,000 pieces of un-declared TLE have evidently been removed from the CFE Treaty zone of application, and by being East of the Urals, they are now immune from destruction under the Treaty.

Testimony to the Committee from the Chairman of the Joint Chiefs of Staff, quoted in detail below, also shows that the magnitude of this deliberate Soviet data falsification is so large that it must be regarded as "militarily significant."

B. Soviet violation of CFE obligation to provide accurate data

Testimony therefore shows that the Soviets have committed a militarily significant, fundamental violation that goes to the heart of their most significant obligation of the Treaty, even before the Treaty is ratified. The gross Soviet data falsification at signature is a violation of the CFE obligation to provide accurate data. Moreover, the obligation to reduce TLE is the central obligation of the Treaty, and the data upon which this obligation is based is the cornerstone of the central obligation. Since the data (either declared by a State Party to the Treaty or derived from U.S. National Technical Means) is so important to calculating the central obligation of the Treaty—the reductions, the Soviet data falsification could be viewed as defeating the object and purpose of the Treaty.

Indeed, this gross Soviet data deception is more than "bad faith" or simple "fraud." Under international law, it is "fraud in the inducement" to sign the CFE Treaty, that is to say fraud intended to induce the other party to accept unequal terms. Thus Soviet "fraud in the inducement" could give the United States the right to refuse to ratify the Treaty, or to withdraw from it.

C. What is the correct method for calculating how much the Soviets must reduce?

The proposed CFE Treaty, of course, requires the NATO group of nations and the former Warsaw Pact group of nations to reduce their conventional forces to agreed-upon levels equal for each group. The Soviet obligation is to reduce its forces along with its former Warsaw Pact allies to the agreed level.

The question then arises—what is the starting point for calculating the Soviet obligation to reduce? Is this starting point the level of forces which the Soviets declared at Treaty signature, or is it the level which U.S. National Technical Means of verification detected that the Soviets actually had in the zone on the day of signature?

Most officials in the Executive Branch are seeking to minimize the Soviet obligation to reduce. These officials hold that the Soviet reduction obligation should be calculated from the level of forces that the Soviets declared at Treaty signature. Under this method of calculation, the Soviet obligation to reduce would be only 19,670 pieces of Treaty-Limited Equipment. The probable reason for this attempt to minimize the Soviet reduction obligation is the presumed difficulty of the diplomatic effort it would take to achieve Soviet compliance with their full reduction obligation.

However, this Soviet-declared data is not a legal and integral part of the CFE Treaty; in fact, this Soviet-declared data has not even been officially and formally submitted to the Senate with the Treaty as part of the official documents included in the Treaty; and finally, U.S. Intelligence has established that it is grossly inaccurate.

The correct interpretation of the CFE Treaty, according to its precise provisions to be quoted below, shows that Soviet-declared data is only a supplement to the data gathered by U.S. National Technical Means of verification for calculating the Soviet reduction obligation.

The Treaty's terms precisely state and that U.S. National Technical Means of verification are required for "validation" of the Soviet-declared data. Moreover, there are locational and numerical constraints in the Treaty that can only be verified by National Technical Means. Finally, the Treaty explicitly states that U.S. National Technical Means of verification are to be used for "ensuring verification of compliance with the provisions of the Treaty." This means that U.S. National Technical Means of verification must be used to calculate the compliance obligation—the Soviet obligation to reduce.

In a circumstance in which the Soviets have clearly violated their obligation under CFE to provide accurate data at Treaty signature, only U.S. National Technical Means of verification can establish the baseline of how many pieces of Soviet TLE were in the zone on the day of Treaty signature. This view was provided in answer to one of my questions which was agreed to by an interagency group.

In sum, the Treaty clearly establishes that the Soviet obligation to reduce must be calculated from data on Soviet forces actually in the zone of application on the date of Treaty signature, as established by U.S. National Technical Means of verification.

Under this correct method of calculation, the Soviet reduction obligation would be the sum of the 19,670 pieces of Treaty-Limited Equipment *plus* the 18,000 pieces that the Soviets did not declare, or a total of 37,670 pieces—almost *twice* as much.

Thus we must almost *double* the Soviet reduction obligation.

A fundamental principle of both civil and international law is that a contracting party should not be able to benefit from false declarations in a contract or a treaty. This principle's practical effect in this case is that if we know from U.S. National Technical Means of verification that Soviet-declared data is grossly false, then we must use our own NTM data on actual Soviet forces in the zone in order to calculate the Soviet obligation to reduce.

D. Senate should not approve use of fraudulent Soviet data

The Committee and the Senate must resolve the related problems of the grossly inaccurate Soviet-declared data, and how to calculate the Soviet reduction obligation.

Otherwise, if the Senate does not solve this problem, the Senate will face the anomaly of having to vote to approve the grossly inaccurate Soviet-declared data being erroneously used to calculate the fundamental obligation of the Treaty. A Senate vote for the CFE Treaty, in the *hope* that on-site inspections (after ratification) can solve the data problem, would be like buying a "pig in a poke," or consummating a deal without knowing what we are getting into.

There is an acceptable way to solve the Senate's problems with the CFE Treaty, in the form of Senate Condition No. 2 to the Resolution of Ratification, which will be proposed during Committee mark-up on the Treaty. *(End Introduction.)*

I. BACKGROUND TO THE PROBLEM WITH THE SOVIET-DECLARED CFE DATA: LONG HISTORY OF SOVIET DATA FALSIFICATION IN SALT, MBFR, AND INF

Russian President Boris Yeltsin recently stated that the Soviet Union has provided false data in arms control negotiations. Yeltsin recently told a group of 72 Senators and also a press conference at the White House in June, 1991, according to two transcripts and two translations, that Soviet hardliners falsified the numbers of Soviet weapons systems, and engaged in deception, throughout the last thirty years of arms control treaty negotiations with the West. Yeltsin's assessment is consistent with the facts of Soviet data deception in arms control negotiations long known to U.S. Intelligence.

In September, 1988, then-Soviet Foreign Minister Eduard Schevardnadze finally admitted that the Soviet Krasnoyarsk radar was a clear violation of the SALT I ABM Treaty. Schevardnadze also conceded that for years the Soviets has falsely denied their violations of arms control treaties to the world, thereby authoritatively conceding the magnitude of Soviet arms control falsification and deception.

Presidential reports to Congress since 1984 have confirmed several cases of Soviet data falsification and deception in SALT I, SALT II, and the INF Treaty.

A. Problems with Soviet data, case one: In SALT I the Soviets declare false intentions, capabilities, and data, and these are part of the agreement

There is a long history of Soviet data falsification and deception, dating back to the first strategic forces arms control agreements signed in 1972. This history suggests that the Soviet Union has engaged in "fraud in the inducement" since arms control involving strategic forces began.

In the SALT I Interim Agreement of 1972, the Soviets falsely declared that they did not intend to replace light ICBMs with heavy ICBMs, when in fact they had precisely such intentions and later proceeded to execute them.

Moreover, the Soviets falsely declared that they needed to be compensated for the short range of their SLBMs, by being allowed a higher total of SLBMs, when in fact they had already developed a long-range SLBM to overcome their "geographical asymmetry."

Finally, the Soviets declared a false number of the submarines that they then possessed. This false number was used in the negotiations and in the agreement to calculate a favorable weapons "replacement" quota for them, increasing their advantage in submarines and SLBMs.

The President's General Advisory Committee on Arms Control concluded in 1984 that the Soviet negotiating deception resulting in the Soviet replacement of light ICBMs with heavy ICBMs, when SALT I's Article II prohibited such replacement, was a circumvention of SALT I which defeated its object and purpose.

A fourteen year-old CIA study also confirmed that the Soviets falsified their number of submarines, and hid the long range of an SLBM designed to overcome their "geographical asymmetries" until after the agreement entered into force.

Thus there is official confirmation that the Soviets negotiate deceptively in SALT I, provided some false information on their intentions and capabilities, and provided some false data.

The United States agreed to this false Soviet-declared data at the time, it was included in the agreement, and the United States therefore in effect became a complicit party to the Soviet data deception.

B. Problems with Soviet data, case two: False Soviet data is agreed to by the U.S., and is made part of SALT II Treaty

In the SALT II Treaty of 1979, the Soviets declared much more data on their strategic forces, and this data declaration was in the form of a "Memorandum of Understanding" which was linked directly to the Treaty. In fact, it was considered to be tantamount to a protocol to the Treaty. Moreover, the United States stated in this "Memorandum of Understanding" that it "agreed" with this Soviet-declared data. This "agreed" Soviet-declared data was sent to the Senate as an official part of the unratified SALT II Treaty.

However, it later turned out that the Soviet-declared SALT II data was false in several ways. The eight Presidential Reports to Congress on Soviet Non-compliance with Arms Control Treaties beginning in 1984, together with the Defense Department series begun in 1981 entitled *Soviet Military Power*, have officially confirmed the following Soviet SALT II data falsifications:

—The Soviets failed to declare about 50 to 200 mobile SS–16 ICBMs that were probably deployed at the time, and in effect falsely declared that they had zero mobile ICBMs;

—The Soviets failed to declare that about 200 of their AS–3 cruise missiles carried on their 100 older Bear bombers had a range of more than 650 kilometers, and therefore they falsely declared that they had "zero" heavy bombers equipped for cruise missiles capable of a range in excess of 600 kilometers, when they actually had at least 100 such bombers;

—The Soviets falsely declared in a statement that was made an integral part of the Treaty that their 400 intercontinental Backfire bombers did not have intercontinental range or radius capability, did not have inflight refueling capability, and would not be produced at a rate in excess of 30 per year, in order to exclude all Backfire bombers from counting in the Treaty. Yet all these Soviet Backfire data declarations turned out to be false.

Thus the United States had another bad experience with including Soviet-declared data in the SALT II Treaty, because the Soviets falsified some of their data. Moreover, the United States made the mistake of "agreeing" with the Soviet-declared data that later turned out to be false. In effect, the United States again became a complicit party to the Soviet data deception.

C. Problems with Soviet data, case three: Soviets declare false INF data, but it is not made part of the INF Treaty

The fact that we later discovered that in SALT II the Soviets falsified data that was part of the Treaty and which the United States "agreed" to had an important effect. Ever since SALT II, the United States has been reluctant to agree to the accuracy of Soviet-declared data or to including Soviet-declared data in arms control treaties.

In the case of the 1987 INF Treaty, the Soviet-declared data was *not* agreed to by each side, and it was not included in the Treaty. But the Soviet-declared data was nevertheless sent to the Senate as if it was part of the Treaty, even though it was not a legal and integral part of the Treaty. And during the ratification process the state Department vigorously defended the accuracy of the Soviet-declared INF data, even though the Treaty said that only the Soviets were responsible for the accuracy of their own data.

Just as happened in SALT I and SALT II, later it turned out that the Soviets had again falsified some of their INF data. The State Department was embarrassed by the discovery later that some Soviet-declared INF data was false, because the State Department had repeatedly vouched for its accuracy in public when advocating the Treaty. But defending the accuracy of Soviet-declared data again turned out to be a losing proposition. These Soviet falsifications of their data declared for the INF Treaty have been confirmed by several National Intelligence Estimates and Presidential Reports to Congress on Soviet Non-compliance with Arms Control Treaties.

The most important unclassified examples of Soviet INF data falsification, and there are many more than those listed below, are the Soviet failures to declare:

—At least 120 Soviet-controlled SS–23s covertly deployed in Eastern Europe, which President Bush termed showed Soviet "bad faith" in the INF negotiations, which the U.S. INF negotiator termed "deceit and mendacity" during the negotiations, and which President Bush recently stated constituted a "probable violation" of the INF Treaty;

—The true dimensions of their SS–20 missile second stages, SS–20 canisters, end caps for the SS–20 Re-entry Vehicles, and SS–23 missiles;

—About 85 Treaty-Limited Items of INF missiles and equipment detected at the time of INF Treaty signature at non-declared sites;

—At least 300 or more covert Soviet SS–20 launchers and missiles which had probably been produced at the time of INF Treaty signature.

D. Conclusion: The Soviets continued to falsify data whether the data was included in the treaties or not

We have not yet mentioned the fourth case, the 1973–1989 aborted negotiations on the Mutual and Balanced Force Reductions, in which the main obstacle to agreement was longstanding Soviet falsification of their force data.

According to press reports, a spy for the CIA who later defected to the West, Polish Army Colonel Roman Kuklinski of the Polish General Staff, has given the United States voluminous documentary evidence of the systematic data deception that the Soviet General Staff engineered throughout the MBFR negotiations.

According to several reports, a U.S. Intelligence study, reportedly based upon Colonel Kuklinski's evidence, stated:

"We believe Soviet officials *deliberately under-stated* the number of Warsaw Pact military servicemen in Central Europe that would be subject to an MBFR agreement."

Thus we have four major case studies of Soviet data deception—SALT I, SALT II, INF, and MBFR.

In sum, we have the following history of false Soviet-declared arms data:

—In the case of the SALT I Agreement, some Soviet-declared data was false, it was part of the agreement, the United States agreed to it and therefore became a complicit party to the Soviet data deception;

—In the case of the SALT II Treaty, some Soviet-declared data was false, it was part of Treaty, the United States agreed to it and therefore again became a complicit party to the Soviet data deception;

—In the case of the INF Treaty, some Soviet-declared data was false, it was not part of the Treaty, the State Department nevertheless defended its accuracy, but in ratifying the Treaty which depended on this non-integral data for the implementation of the Treaty, the United States yet again became a complicit party to the Soviet data deception;

—In the MBFR negotiations, we know that the Soviets systematically falsified their data, and this deliberate falsification became the main reason for the failure of the negotiations;

VOL 137
PT 23
NO 21—25
1991
UMI

—In the cases of the SALT I Agreement, the SALT II Treaty, and the INF Treaty, the partly false Soviet data was sent to the Senate.

The Executive Branch has thus "agreed" to partly false Soviet-declared data in SALT I, SALT II, and even in the INF Treaty. And the United States Senate has repeatedly become a complicit party to Soviet data deception by ratifying or approving these Agreements and Treaties.

A good case can be made that the Soviet data falsification was so significant that the Soviet Union engaged in "fraud in the inducement" in SALT I, SALT II, MBFR, and the INF Treaty.

There are reports that the Soviets have also again falsified some of their declared data in the proposed START Treaty, as a 65 page CIA study points out.

In view of this history, the Senate should be aware of the non-legal status of the Soviet-declared CFE data, and whether or not it is accurate. In the most recent case—the INF Treaty—on May 26, 1988, the Senate gave its advice and consent for the President to ratify a Treaty which used for its compliance and implementation Soviet-declared data that can now be demonstrated to be partially false.

In the case of the proposed CFE Treaty, the Senate would be wise to avoid a situation in which it gives its advice and consent for the President to ratify a treaty which either makes use of false Soviet-declared data, or depends upon false Soviet-declared data for compliance and implementation. Otherwise, the Senate could even yet again a fourth time become a complicit party to Soviet data deception.

II. THE PROBLEM WITH THE SOVIET-DECLARED CFE DATA

A. U.S. intelligence detects 18,000 Soviet undeclared TLE

As noted, according to public, unclassified testimony and press reports, U.S. National Technical Means of verification have detected about 18,000 *more* pieces of Soviet Treaty-Limited Equipment—TLE—in the Treaty zone of application at date of Treaty signature on November 19, 1990, than the Soviets declared. This inescapable conclusion was reached after an intensive re-study by U.S. Intelligence of all the evidence of Soviet forces in the CFE zone during 1990. Further, we have seen that the original "data gap" was as large as 35,000 to 40,000 pieces of Soviet undeclared TLE. Finally, as further noted, there is hard evidence of this Soviet under-declaration of data. The only discernible purpose for this under-declaration is to minimize the Soviet obligation to reduce.

Within this block of 18,000 undeclared TLE, there is positive, conclusive evidence that a batch of about 4,000 combat aircraft TLE and ground TLE were not declared by the Soviets, even though they were clearly in the zone at the time of Treaty signature. The evidence in these cases is "smoking gun" quality—hard evidence from U.S. National Technical Means of verification on the day of Treaty signature. These 18,000 pieces of Soviet undeclared TLE, including the 4,000 "smoking guns," are clearly a violation of the CFE Treaty.

As noted, this judgment of the magnitude of undeclared Soviet TLE—18,000 pieces including the 4,000 "smoking guns"—is thus based upon hard intelligence evidence and sound analytical methodologies. An intensive re-study of all the evidence on Soviet forces in the CFE zone of application throughout 1990 was conducted by U.S. Intelligence.

One methodology reportedly entailed macro-counting Soviet equipment in the 900 or more "Objects of Verification" in the Atlantic to the Urals zone. The second methodology reportedly entailed micro-counting Soviet equipment being stockpiled and stored at scores of Soviet military depots East of the Urals. These two "macro-micro" methodologies can be compared to counting first the "bean pods" in the military bases inside the Treaty zone (because most Soviet equipment there is under cover inside sheds), and then counting the "beans" themselves in mostly open storage concentrations in the depots East of the Urals.

The Intelligence Community is thus confident that this hard evidence and the two counting methodologies show that the Soviets grossly under-declared their data by about 18,000 pieces of TLE, and that the Soviet purpose in this was clearly to minimize their reduction obligation. This Soviet purpose is confirmed by the strong likelihood that all of this undeclared Soviet TLE has probably been moved East of the Urals by now, where it will not have to be reduced under the terms of the Treaty.

B. Legal status of Soviet CFE data

What is the legal status of this Soviet-declared CFE data? In the case of the CFE Treaty, the Senate has not even formally and officially been sent the Soviet-declared CFE data, surely because the State Department does not believe that it is legally part of the CFE Treaty or that it is an integral part of it.

Indeed, Ambassador Woolsey has authoritatively told Committee staff that he does not regard the Soviet-declared CFE data to be a legal and integral part of the CFE Treaty. But there seems to be a more fundamental reason why the Senate has not been formally and officially sent the CFE data that the Soviets declared at signature. Perhaps the real reason that the Soviet-declared data was not sent was because the State Department does not once again want to have to vouch for the accuracy of false Soviet-declared data, especially Soviet-declared data which this time is so grossly and deliberately inaccurate. Thus the Senate should also be cautious with regard to the Soviet-declared CFE data.

There is thus an anomalous situation with regard to the CFE Treaty. Unlike the INF Treaty, which simply banned all the types of INF missiles and the missiles themselves that were declared, (as it turned out we have confirmed that the number of Soviet INF missiles was falsely under-declared), there is a more fundamental problem with the Soviet-declared CFE data. The Soviet-supplied CFE data is not part of the Treaty, even though the Executive Branch believes that this data must be used to calculate the key obligation of the CFE Treaty.

C. Should the Senate agree to use deliberately and grossly false Soviet-declared data in CFE?

But is it reasonable to use a set of data which is not legally and integrally part of the CFE Treaty, and which was not officially and formally furnished to the Senate, in order to calculate the fundamental Soviet obligation of the Treaty—the Soviet reduction obligation?

More significantly, is it reasonable to use this data for such a calculation even when we clearly know it to be grossly and deliberately inaccurate?

The CFE Treaty contains numerical and locational constraints on "Treaty-Limited Equipment" or TLE. The Treaty is also supposed to be monitored by National Technical Means of verification. Indeed, the numerical and locational constraints on the TLE contained in the Treaty can only be verified by National Technical Means. Moreover, even the CIA has stated that verification of the baseline data is crucial to having parity after the reductions, and National Technical Means of verification are the only means to verify the Soviet baseline data.

Thus this Soviet under-declaration of 18,000 pieces of Treaty-Limited Equipment goes to the heart of the fundamental Soviet obligation under the Treaty—the obligation to reduce to equal levels of forces for the groups of nations.

Finally, as is discussed in more detail below, the Chairman of the Joint Chiefs of Staff has testified to the Committee that illegal TLE numbering more than 15,000 pieces would be a "military significant" violation.

The Soviets thus have under-declared their CFE data on November 19, 1990, by at least 18,000 pieces of TLE, which is a military signficant amount.

This "data gap," or under-declaration problem is therefore an important case of Soviet "fraud in the inducement" to the CFE Treaty, a violation at the signature of the Treaty serious enough to allow the United States to withdraw from the Treaty or refuse to ratify it. This Soviet data fraud must be considered as part of the problem of calculating the Soviet reduction obligation under the terms of the Treaty.

III. CALCULATION OF THE SOVIET OBLIGATION TO REDUCE

According to Ambassador James Woolsey, the U.S. chief negotiator, and also to most other Executive Branch officals, the way to calculate the Soviet obligation to reduce is to simply subtract the allowed Soviet TLE holdings contained in the Treaty's statement of permitted holdings at the end of the 40 month period from the Soviet data declared at Treaty signature. The result is supposed to be the total number of TLE that the Soviets are obligated to destroy. The State Department and most other Executive Branch officials agree with this method of calculating the Soviet obligation to reduce.

Using this methodology, the Soviets would have to reduce by 19,670 pieces of TLE.

Thus it can be argued that the Soviet data declaration at Treaty signature is the most important input, indeed, the only input, for calculating the Soviet reduction obligation. But this Soviet-declared data is not a legal, integral part of the Treaty; it has not even been officially and formally furnished to the Senate; it is clearly grossly false; and a proper interpretation of the Treaty shows that it cannot be the only input into the calculation.

A. The Soviet data declaration not formally and officially sent to the Senate

Moreover, the fact that the Senate does not even officially and formally have the Soviet data declaration is significant, and needs re-emphasis.

The Soviet-declared data has not even been formally and officially sent to the Senate as part of the CFE Treaty. The Soviet data was only sent informally and unofficially to the Committee on Foreign Relations long after the Treaty itself was submitted to the Senate, and it was only sent because of repeated staff requests for it.

If the Senate does not officially have the Soviet-declared data, then the Senate cannot calculate the Soviet reduction obligation under the proposed Treaty, even using the method suggested by Ambassador Woolsey and most Executive Branch officials. But

even if the Soviet-declared data had been formally and officially sent to the Senate, it is not regarded by the Executive branch to be an integral or legal part of the Treaty.

In sum, if the Soviet data declaration is not before the Senate and is not legally an integral part of the Treaty, and is deliberately and grossly false, then clearly there must be another input for calculating the Soviet obligation to reduce. We must seek to interpret the Treaty to determine the proper method of calculating the Soviet reduction obligation.

B. U.S. NTMs are the main input into the calculation

A fundamental principle of both civil and international law is that a contracting party should not be able to benefit from false declarations in a contract or a treaty. This principle's practical effect in this case is that if we know from U.S. National Technical Means of verification that Soviet-declaration data is grossly false, then we must use our own NTM data on Soviet forces in the zone at signature in order to calculate the Soviet obligation to reduce.

The top official in the Executive Branch with explicit responsibility for verification believes that what follows is a description of the proper, correct method for calculating the Soviet reduction obligation.

A full and careful study of the relevant provisions of the proposed CFE Treaty shows that the correct method for calculating the Soviet CFE reduction obligation is as follows:

For full compliance with the intended reduction obligations, a State must:

Provide complete and accurate data on the numbers of all of its armaments and TLE that are in the zone of the Treaty, and their location, as of the dates of signature and entry into force. The quantity of such TLE that must be declared as a state's reduction obligation and reduced by the Treaty-specified procedures by 40 months after entry into force of the Treaty must not be less than: the difference between the *higher* of the *actual number* of TLE present in the zone at the date of signature or entry into force, and the state's declared maximum holdings.

Three provisions of the CFE Treaty provide the basis for this conclusion that data on Soviet TLE *actually present* in the zone at the date of signature or entry into force are the main determinant of the Soviet obligation to reduce. These three provisions are as follows:

(1) There are locational and numerical data declarations and constraints in the Treaty, which can only be verified by U.S. National Technical Means of verification.

For example, Sections II. and III. of the Protocol on Notification and Exchange of Information state that:

"each State Party shall provide to all other States party information on—*overall numbers* and the *numbers by type* of its holdings of battle tanks, armored combat vehicles, and artillery limited by the Treaty in each of the areas [of application of the Treaty] * * * each State Party shall [also] provide to all other States Parties the following information—the designation and peacetime location * * * specifying the *geographic* name and *coordinates* [of its] battle tanks, armored combat vehicles, artillery, combat aircraft, and attack helicopters * * *"

This Treaty language clearly implies that U.S. National Technical Means of verification will be used to validate the Soviet data declaration.

(2) Soviet data declarations are not intended to be used for implementation and compliance all by themselves. U.S. National Technical Means of verification specifically are to be used to *validate* Soviet data.

For example, Article XIII .3 of the Treaty states that:

"Each State Party shall be responsible for its own information; receipt of such information and of notifications shall not imply *validation* or acceptance of the information provided."

This Treaty language clearly means that U.S. National Technical Means of verification are required to validate the Soviet data declaration.

(3) Finally and most significantly, U.S. National Technical Means of verification are clearly intended to be the main source of data on Soviet forces covered by the Treaty, for purposes of implementation and *compliance*.

Article XV of the Treaty states:

"For the purpose of ensuring verification of compliance with the provisions of the Treaty, a State Party shall have the right to use national or multinational technical means of verification * * *"

Thus the precise provisions of the CFE Treaty require that U.S. National Technical Means of verification be used to verify all locational and numerical declarations, to validate all data, and most significantly, to calculate the reduction obligation in order to ensure compliance. In sum, these provisions of the CFE Treaty clearly indicate that U.S. National Technical Means of verification showing evidence of *actual* Soviet TLE holdings in the zone at the time of signature and entry into force must be the fundamental determinant of the Soviet reduction obligation.

C. Even the CIA states that baseline verification is vital for parity

Moreover, even the Intelligence Community stated in a document dated October 17, 1990, that "baseline verification" is one of the three main verification tasks of the CFE Treaty.

The Intelligence Community emphasized, regarding baseline verification, that:

"We must be confident that the starting figures, from which the required reductions in TLE will be calculated, are *correct*. Otherwise there is no assurance that reductions will result in *parity*."

Thus even this Intelligence Community statement also strongly implies that U.S. National Technical Means of verification will be used as an important input into determining the Soviet obligation to reduce.

Using the correct methodology to calculate the Soviet reduction obligation thus would add the 18,000 pieces of Soviet undeclared TLE to the 19,670, resulting in a total Soviet obligation to reduce 37,670 pieces of TLE. This is almost a *doubling* of the Soviet obligation to reduce.

D. The magnitude of the Soviet under-declaration

As noted, according to press reports and to open testimony, the Soviet have clearly under-declared their CFE data on the date of Treaty signature by about 18,000 pieces of TLE.

This "data gap" or under-declaration problem is therefore an important case of Soviet "fraud in the inducement" to the CFE Treaty. More significantly, this Soviet misbehavior goes to the heart of the fundamental obligations of the CFE Treaty.

The next question is whether the 18,000 pieces of TLE, of which the 4,000 "smoking gun" cases are only a part, are "militarily significant."

E. JCS chairman says more than 15,000 illegal TLE are "militarily significant"

On July 16, 1991, the Chairman of the Joint Chiefs of Staff, General Colin Powell, testified to the Committee as follows:

"* * * Senator Helms, 15,000 treaty-limited pieces of equipment that had been covertly infiltrated back into the ATTU [Atlantic to the Urals zone of the CFE Treaty] in violation of this Treaty, that indeed is *militarily significant*."

Now General Powell was speaking hypothetically of the infiltration of illegal TLE into the zone, but what is important here is the level of illegal TLE, whether infiltrated or covert or undeclared, that is assessed as "militarily significant." If 15,000 illegal TLE that are infiltrated are assessed as "militarily significant," then it is reasonable to conclude that 15,000 covert or undeclared TLE would also be "militarily significant."

Finally, because the prevailing Executive Branch calculation of the Soviet reduction obligation has the Soviets reducing by about 19,670 pieces of TLE under the Treaty, if 18,000 undeclared TLE is *not* "militarily significant," then the ostensible 19,670 TLE reduction is also not "militarily significant." Thus if 18,000 pieces of TLE are not militarily significant, then the entire CFE Treaty may therefore not be "militarily significant." And if CFE is not militarily significant, then it may be judged to be irrelevant.

But the most logical and correct interpretation, based upon General Powell's testimony, is that the Joint Chiefs of Staff assess both 18,000 pieces of TLE and 19,670 pieces of TLE as being militarily significant.

IV. CONCLUSION: SOVIET VIOLATION OF CFE AT THE OUTSET

In conclusion, here is how we must describe the false Soviet data declaration gap at Treaty signature:

(1) The Soviets have deliberately tried to minimize their reduction obligation by systematically falsifying their data at the date of signature by 18,000 pieces of TLE;

(2) This gross Soviet falsification was intended to save the Soviets from destroying about 18,000 pieces of TLE, almost as many as the 19,670 TLE that the prevailing Executive Branch methodology has calculated that they will have to destroy under the Treaty;

(3) The gross Soviet falsification of their declared data at signature is "fraud in the inducement," and is a violation of their obligation to provide accurate data at Treaty signature;

(4) The JCS Chairman, General Powell, has testified to the Committee that illegal Soviet TLE above 15,000 is "militarily significant," and thus this Soviet data falsification which would save the Soviets from destroying 18,000 pieces of TLE is a "militarily significant" number.

In sum, the Soviets have already violated the CFE Treaty in a militarily significant way:

—The Soviets have minimized their reduction obligation by deliberately falsifying their data at the date of signature by about 18,000 TLE, despite their Treaty obligation to provide accurate data;

—This Soviet falsification saves the Soviets from destroying about 18,000 TLE;

—The JCS Chairman, General Powell, has testified to the Committee that illegal Soviet TLE above 15,000 is "militarily significant," and thus this Soviet data falsification saving about 18,000 Soviet TLE from destruction is militarily significant.

Thus by violating their CFE Treaty obligation to provide accurate data at signature, the Soviets have already violated the CFE

VOL
137
PT
23
NO
21
—
25
1991
UMI

Treaty in a militarily significant way, even before ratification.

Finally, use of the correct methodology to calculate the Soviet obligation to reduce would almost *double* the number of pieces of Soviet TLE required to be dismantled by adding in the 18,000 Soviet undeclared pieces of TLE to the 19,670, resulting in an obligation to reduce 37,670 pieces of TLE.

V. SENATE CONDITION TO CFE RESOLUTION OF RATIFICATION

The United States has been deeply worried about the potential of the Soviet Union to circumvent the CFE Treaty with the 57,300 or more TLE that they have withdrawn behind the Urals prior to the entry into force of the Treaty. The United States has therefore tried to get the Soviets to agree to further reductions of their forces beyond the Urals, outside the Treaty. This was the purpose behind the Soviet statement of June 14, 1991.

On June 14, 1991, the Soviet Union made the following "political commitment." The Soviets stated that between 1991 and 1995, they would:

"* * * destroy or convert into civilian equipment no less than 6,000 battle tanks, 1,500 armored combat vehicles, and 7,000 pieces of artillery from among the conventional armaments and equipment in the Treaty-limited categories beyond the Urals * * *"

These additional, pledged reductions would total 14,500 pieces of TLE. The United States would be notified about the timing and location of these reductions, and the United States would use National Technical Means of vertification to observe these reductions, rather than on-site inspections.

This is thus a Soviet political commitment to reduce a total of 14,500 pieces of TLE, or about 25 percent of the 57,300 Soviet pieces of TLE that they have admitted withdrawing behind the Urals in 1989, 1990, and 1991. It is significant that a total of 14,500 pieces of TLE is approximately equivalent to the 18,000 pieces of TLE that U.S. Intelligence believes was undeclared at signature.

In sum, it would be possible to solve the inter-related Soviet data falsification problem and the problem of establishing the correct methodology for calculating the Soviet reduction obligation, by conditioning the Senate's advice and consent to the resolution of ratification to say that the Soviet political commitment to dismantle these 14,500 pieces of TLE are an approximate equivalent to the 18,000 under-declaration, and are thus an adequate compensation to the United States for the Soviet under-declaration.

PRESIDENT BUSH CONFIRMS SOVIET VIOLATION OF INF TREATY

Mr. HELMS. Mr. President, my critique of the INF Treaty in 1988 was based upon my assessment that the Soviets had engaged in negotiating deception to preserve covert INF missile forces, that the Soviets had falsified their declared data on the numbers of their INF missiles, and that they had illegally retained banned INF missiles as covert forces.

As I stated in April, 1988, during the debate over the INF Treaty:

> * * * The Soviets failed to declare their actual inventory of INF missiles in 1987, and they did not act in good faith. The INF Treaty is therefore not a "global ban on INF missiles," as was claimed in 1987 by its supporters.

In January 1990 a local newspaper in Eastern Germany published a story about Soviet-origin SS–23 missiles being covertly deployed at a military base nearby. In February, 1990, United States intelligence national technical means of verification reportedly detected some Soviet covert SS–23's at this eastern German base.

In April 1990, the Soviets finally admitted that they had covertly provided SS–23 missiles banned by the INF Treaty to three Eastern European nations. The Soviets covertly provided at least 72 SS–23 INF missiles to East Germany, Czechoslovakia, and Bulgaria. The Soviets covertly controlled these SS–23 INF missiles and their nuclear warheads.

But according to a Soviet report to the United Nations, a total of at least 120 banned SS–23's of Soviet origin are still unaccounted for, are not dismantled, and they violate the INF Treaty.

In March 1990, the former Chief U.S. INF negotiator, Ambassador Maynard Glitman, termed this Soviet covert SS–23 deployment "deceit and mendacity," and he added that "deceit and mendacity" had characterized Soviet private and public behavior before, during, and after the INF Treaty negotiations. But at the time of the INF Treaty ratification hearings, I do not recall any testimony from Ambassador Glitman, or from any other executive branch witness, about Soviet "deceit and mendacity," although I asked about Soviet deception.

In August 1990 the Senate unanimously passed a Helms amendment to the fiscal year 1991 Defense authorization bill requesting that before the United States signed a Start Treaty with the Soviets, a Presidential report be sent to the Senate on whether the covert Soviet SS–23's in Eastern Europe violated the INF Treaty.

A similar Helms amendment to the fiscal year 1992 Defense authorization bill again requesting a supplemental report from the President on the SS–23 violation was also passed unanimously by the Senate in July 1991.

In June 1991, Russian President-elect Boris Yeltsin publicly attacked Soviet falsification and deception in all arms negotiations. The U.S. Chief CFE negotiator, Ambassador James Woolsey, also has accused the Soviets of fraud in the CFE negotiations. President Bush agreed with Ambassador Glitman on Soviet bad faith in the INF negotiations, and the President characterized the Soviet covert SS–23's as an act of bad faith in his February 1991 report to Congress on Soviet noncompliance with arms control treaties.

The United States has long had strong evidence that the Soviets controlled both the covert SS–23's, and also their nuclear warheads, which were covertly deployed in Eastern Europe.

Mr. President, I ask unanimous consent that a supplemental report from the administration on SS–23 missiles in Eastern Europe, dated September 19, 1991, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, September 19, 1991.

Hon. JESSE HELMS,
Ranking Republican, Committee on Foreign Relations, U.S. Senate.

DEAR SENATOR HELMS: On behalf of the administration, I am transmitting a Supplemental Report on SS–23 Missiles in Eastern Europe.

In the February 1991 Report to Congress on Soviet Noncompliance with Arms Control Agreements, the United States examined the question of SS–23 missiles discovered in former non-Soviet Warsaw Pact (NSWP) countries. The United States has received additional information since that Report was written. This new evidence permits the United States to update the finding.

The United States has found that the Soviet Union had understandings that constituted what amounted to an undisclosed program of cooperation. Thus, the United States has reaffirmed its previous finding that the Soviet Union negotiated in bad faith. The United States further found that the Soviet Union has probably violated the Elimination Protocol of the Treaty by failing to eliminate in accordance with Treaty procedures, re-entry vehicles associated with and released from programs of cooperation.

The Administration views the SS–23 issue as the most serious question to arise in the years of INF Treaty implementation. As our analysis continues, the Administration is committed to keeping the Congress fully informed of our findings.

Sincerely,

STEPHEN R. HANMER, Jr.,
Acting.

SUPPLEMENTAL REPORT TO CONGRESS ON SS–23 MISSILES IN EASTERN EUROPE,

September 18, 1991.

The President's February 1991 Report to Congress on Soviet Noncompliance addressed whether SS–23 missiles located in three Eastern European countries are accountable as being in Soviet possession at any time after November 1, 1987 or were third party systems. This is a supplement to that Report, providing an updated finding on the issues of programs of cooperation and negotiating behavior. The United States will continue to seek evidence from all parties involved regarding the transfer and possession of these systems and is continuing to study the issue of possible unaccounted for SS–23 missiles, which this supplemental Report does not address.

I. PREVIOUS FINDING

In the February 1991 President's Report, on the question of possession and fraud, the President found that:

"Based upon the evidence available to date, the United States Government cannot make a judgment that Soviet actions with regard to the transfer of SS–23 missile systems constitute a violation of the INF Treaty. Neither does the available evidence absolve the Soviet Union from responsibility. In any case, Soviet failure to inform the United States of the existence of SS–23 missile systems in the GDR, Czechoslovakia, and Bulgaria during the negotiations and in the interim period preceding the GDR announcement, constitutes bad faith. As such the Soviet Union bears political responsibility to facilitate the destruction of this entire class of Soviet-produced missiles. The United States has concerns about the very existence of these systems and will continue to seek evidence from all parties involved to made a definitive judgment regarding possession. The U.S. objective is the destruction of this class of weapon system which was banned by the INF Treaty."

New evidence obtained since that report was prepared permits the United States to update this finding.

II. BACKGROUND

During the INF Treaty negotiations, the Soviet Union never said that it had transferred, either because of an existing pattern or program of cooperation or for any other reason, Soviet-origin shorter-range missiles to any country.

Paragraph 9, Section II, of the Elimination Protocol required that "during the last fifteen days, a Party shall withdraw to its national territory reentry vehicles which, by unilateral decision, have been released from existing programs of cooperation and eliminate them during the same timeframe in accordance with the procedures set forth in this section." The INF Treaty, however, does not define the term "programs of cooperation" (POC).

A program of cooperation is understood for purposes of the INF Treaty to be an arrangement between parties to the POC involving a missile manufactured by the supporting party and owned by the supported party, and a warhead manufactured, owned, and provided by the supporting party. This arrangement would commit the supported party to provide the missile for use with the supporting party's warhead and would commit the supporting party to provide the warhead. A POC can additionally include arrangements for some or all of the following:

Proposals approved by heads of government;

Commitments to supply nuclear warheads;

Technical information and training to employ the missile are provided to the supported party by the supporting party;

Maintenance and security of the missile is provided by the supported party;

Maintenance and final security of the warhead is provided by the supporting party.

Evidence now indicates that these countries each fielded 24 SS–23 missiles that would be employed in accordance with Soviet military planning. These countries were supplied with connecting sections and training equipment related to nuclear employment. The United States has confirmed that the connecting section is only used to mate a nuclear warhead to the SS–23 missile. Security measures used with regard to the SS–23 units were extensive and went beyond those in place for other forces.

When the United States has pressed the Soviet Union to provide information related to the SS–23 missiles, the Soviet Union has told the United States that it should seek information from the owners of these missiles—the former GDR, Czechoslovakia, and Bulgaria. However, the Soviet Union insisted that these countries observe contractual obligations associated with the transfer of the SS–23 missiles. This has effectively impeded the United States' ability to obtain information from these countries.

III. FINDING

The United States believes that the Soviet Union had understandings that Soviet manufactured SS–23 missiles transferred to at least one of the East European countries could be mated with Soviet nuclear reentry vehicles. Within the common meaning of the term, these understandings constituted what amounted to an undisclosed program of cooperation.

With respect to the SS–23s, the United States reaffirms its previous finding that the Soviet Union negotiated in bad faith.

The Soviet Union was required to eliminate, by May 31, 1991, any reentry vehicles unilaterally released from programs of cooperation. Although we have no evidence that the Soviet Union has retained SS–23 reentry vehicles, neither have they notified us of the destruction of any SS–23 reentry vehicles previously associated with programs of cooperation under this provision. The existence of a POC creates a strong presumption that allowances were made within the warhead stockpile system to provide reentry vehicles for missiles associated with POCs. The United States therefore believes that the Soviet Union has probably violated the Elimination Protocol of the Treaty by failing to eliminate in accordance with Treaty procedures, re-entry vehicles associated with and released from programs of cooperation.

The Soviet Union has impeded United States efforts to gain information that might resolve this issue. The United States will continue to seek evidence from all parties involved regarding the transfer and possession of these systems; to press the new authorities in Moscow to give a full accounting of this issue and to eliminate any remaining re-entry vehicles formerly associated with and released from programs of cooperation; and to press for destruction of the remaining SS–23 missiles.

Mr. HELMS. Mr. President, this supplemental report reaffirms President Bush's finding that the Soviets engaged in bad faith in the INF Treaty negotiations, but it finds for the first time that the Soviet covert SS–23 deployment in eastern Europe probably violated the INF Treaty.

I would point out, however, that there is even more evidence proving conclusively that the Soviets controlled the 120 covert SS–23's in Eastern Europe and their nuclear warheads. I am advised that this additional new evidence will be contained in the next Presidential Report to Congress on Soviet noncompliance with arms control treaties, due by law on December 1, 1991.

Mr. President, on July 17, 1991, the Acting Director of Central Intelligence, Mr. Richard Kerr, testified in public to the Committee on Foreign Relations on monitoring the CFE Treaty. In his unclassified testimony, the Director of Central Intelligence stated specifically that under the INF Treaty:

> * * * The detection of a single proscribed [INF] weapon [is] a violation [of the INF Treaty] once the reductions period is completed."

Well, I must agree with the acting DCI, Mr. Richard Kerr. The 3-year INF reduction period was over on May 31, 1991, and after that date, all United States and Soviet INF missiles and all their support equipment, anywhere in the world, were supposed to be completely destroyed. But there is still newer evidence of Soviet control of the 120 covert SS–23's, and this new evidence will prove conclusively that the Soviets violated the INF Treaty with their covert SS–23 deployment. In his December 1, 1991, report to Congress on Soviet violations, I believe that this new, conclusive evidence will allow the President to find that the Soviet covert SS–23's are an unqualified violation of the INF Treaty.

Mr. President, we should recall that former Secretary of State George Shultz stated during the INF Treaty ratification hearings to the Committee on Foreign Relations that the United States would react strongly to any Soviet violations of the INF Treaty. But the United States has not reacted strongly to the Soviet violation of the INF Treaty. The Soviet SS–23 violation is thus certain to become an issue in the impending START ratification debate.

Mr. President, I have some additional comments related to the CFE Treaty.

Kommunist, the ideological journal of the Communist Party of the Soviet Union, had a very interesting statement in the edition signed to press on April 5, 1991. Kommunist stated:

> Thanks to this transfer of armaments [East of the Urals before the CFE Treaty was signed], unprecedented in peacetime (and even in wartime), we will not only have about one third of all armaments remaining in Europe under the Paris [CFE] Treaty, but we will also keep a quantitative advantage in land armaments over NATO, China, and Japan combined.

I wonder whether the Soviet Union subverted the CFE Treaty by maintaining its military superiority under the CFE Treaty.

This same edition of Kommunist also claims that Soviet defense spending will rise by at least 26 percent in 1991. But this rise in Soviet defense spending is inconsistent with the Soviet force reductions we envisage occurring under CFE.

It would seem that the United States is reducing its defense budget by about 25 percent over the next 5 years, when there is evidence that the Soviets may be increasing their defense budget by at least 25 percent over the same 5 years.

On January 3, 1991, Moscow's Komsomolskaya Pravada stated that:

> When the [CFE] Treaty was signed, it was praised and supported by none other than Marshal D. Yazov. This was natural. Another thing was strange: to hear a contrary opinion from his very mouth a bit later during the work of the 4th Congress of the Peoples' Deputies. * * * High officials of the Ministry of Defense also responded negatively to the document at a closed meeting which recently occurred with the editors of military publications. Just where are they [the Soviet military] speaking the truth—in Paris or in Moscow?

This statement in Komsomolskaya Pravda suggests that at least some elements in the Soviet military oppose the CFE Treaty. I am advised that as recently as October 1991, after the recent coup attempt, that the Soviet

VOL 137 PT 23 NO 21—25 1991 UMI

General Staff is still resisting the CFE Treaty.

There is thus a legitimate question, given the Soviet under-declaration of data and their reopening of CFE's article three, about whether the Soviet military is likely to implement the CFE Treaty faithfully.

Finally, Russian President Boris told a group of 72 Senators on June 19, 1991, that Soviet hardliners falsified the numbers of Soviet weapons systems in arms control negotiations.

Yeltsin stated to Senators:

> In the past, the Soviet Union used false statistics in arms negotiations. This must not be repeated.

Later the same day, Yeltsin met with the Secretary of Defense, and he reportedly said much the same thing.

My distinguished colleague, Senator MALCOLM WALLOP, and I wrote a letter on June 25, 1991, to Defense Secretary Cheney, asking some questions about Yeltsin's statement on Soviet falsifications and deceptions in arms control negotiations.

The Soviets have the following track record of negotiating deception in arms control treaties:

Five cases of negotiating deception in SALT I of 1972;

Six cases of negotiating deception and data falsification in SALT II of 1979; and

Three cases of negotiating deception and data falsification in the INF Treaty of 1987.

Moreover, it is well known that the 1972–88 mutual balanced force reduction treaty negotiations finally could not be consummated because of deliberate, systematic Soviet data falsification.

This same problem has recurred in the 1990 CFE Treaty data.

Finally, as I have mentioned before, the Chief U.S. Negotiator of the INF Treaty, Ambassador Maynard Glitman, stated in March 1990, that the Soviets had engaged in "deceit and mendacity both inside and outside, privately and publicly, during and after the INF negotiations."

And President Bush accused the Soviets of "bad faith" in the INF negotiations in his February 1991 Report to Congress on Soviet Arms Violations.

Thus, unfortunately, there is much independent evidence supporting Yeltsin's attack on the manifold lying and deception of the Soviet Union in the SALT I, SALT II, INF, MBFR, CFE, and START negotiations.

AMENDMENT NO. 1432 TO CONDITION NO. 5

(Purpose: To permit continued adherence to the Treaty by the United States under changed circumstances)

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized.

The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Maine [Mr. COHEN] proposes an amendment numbered 1432.

Mr. COHEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In the language proposed to be inserted by the Committee amendment, strike subparagraph (C) of condition (5) and insert in lieu thereof the following:
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> "(C) shall, if he has made the determination and decision described in subparagraph (B)—
>
> "(i) submit for the Senate's advice and consent any change in the obligations of the states parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature; or
>
> "(ii) if no such change in the obligations of the states parties is agreed to by all states parties but the President determines nonetheless that continued adherence to the Treaty would serve the national security interests of the United States, seek the Senate's advice and consent to such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.".

Mr. COHEN. Mr. President, for the benefit of my colleagues, first, let me say I do not seek to delay this treaty. Some have suggested that perhaps several of us are trying to hold up the CFE Treaty. That is clearly not the case since I support the treaty, and I am aware of no effort being made in any way to delay this, and I am not trying to embarrass the administration or the Secretary of State in any way. My goal is simply to reaffirm what I believe to be the constitutional powers and responsibility of the Senate.

The administration's first, second, and, I must say, last line of defense is always that any amendment or condition attached to a treaty resolution of ratification is unconstitutional, per se. We heard this argument in a different form during the ABM debate. My colleagues may recall when we debated the INF Treaty, there was considerable discussion dedicated to the question of whether or not the administration was bound by the common understanding that occurred or was reached back in 1972 during the debate on the ABM Treaty, and that the view of the Reagan administration was that it was not bound by any such understanding.

I might suggest this is not too different from Justice Scalia's view that Congress does not think very seriously about issues and, indeed, when it does bother to think about issues, it should not be taken very seriously. I suggest that that particular view of Justice Scalia's is not very different, a difference of degree only, from the one that is often articulated by the administration when it comes to foreign policy.

My colleagues may recall that the administration has taken the position, particularly with respect to covert actions, even though this may be an instrument to achieve a legitimate foreign policy objective, that the President has the constituional power to withhold notice to the oversight committees at his sole discretion as to what is a reasonable timeframe. He would not even have to report to the Big Eight or, indeed, the Big Four; that would be solely at his discretion.

More recently, we saw the attitude reflected during the debate on the Persian Gulf resolution. There was some sentiment expressed within the White House that the administration did not even have to come to Congress to get a resolution or declaration of approval since the President had the inherent constitutional power to commit our forces to combat.

Many of us felt very strongly that that was clearly in contravention of the expressed wording of the Constitution. Fortunately, the administration ultimately agreed that it should come forward and seek the advice and consent, as such, of the Congress.

Too many, I think, have a view that the Senate, in particular, has a minor role in the field of foreign policy and that we are a nuisance that must be tolerated or, indeed, intimidated. Advice and consent in their view is "Let us just skip the advice, and you just stamp your consent and do not think about the issues and do not interfere with the work of serious-minded experts." I do not share that view and it is my hope that a majority of my colleagues will reject the view as well.

Mr. President, I am going to discuss briefly two issues that are of concern to me. Senator HELMS a moment ago outlined some of his questions about the Soviet behavior with respect to data exchange, and then I want to talk briefly about the Senate's role in advice and consent.

Soviet holdings in the covered area, the so-called ATTU, the Atlantic to the Urals region, as of July 1988, according to Eduard Shevardnadze was as follows: They had 41,580 tanks; 57,800 armored combat vehicles; 42,400 artillery pieces; and 9,400 combat aircraft.

I am just giving a partial listing. There were helicopters that I have not referred to as of yet.

Then about 16 months later, at the time the treaty was initiated, the Soviets declared that they had only 20,694 tanks; 29,628 armored combat vehicles; 13,828 artillery pieces; and 6,445 combat aircraft. In other words, the Soviets had asserted they removed nearly half of its tanks, half of its armored combat vehicles, and two-thirds of its artillery from the area that was designed to be covered by this treaty.

Then within 90 days, as they were allowed to do, they were allowed to make modifications to amend those particular declarations.

And, lo and behold, after being confronted by the United States and other parties to the treaty, the Soviet Union

declared its revised holdings in an upward fashion as follows: They said they had 31 more tanks, 262 more armored vehicles, 110 more artillery pieces, 166 more combat aircraft.

Mr. President, the first action, removing from Europe large amounts of equipment prior to signature of the treaty in order to avoid eliminating it, clearly contravened the entire objective of the treaty, itself. The objective of the treaty was in fact to reduce these weapons systems, to destroy and dismantle them, not to move them over the Urals. Yet that is precisely what the Soviets did.

Their explanation was that these 50-odd-thousand pieces of treaty-limited equipment were moved east of the Urals and they were incorporated in the Soviet forces there or stored for future use.

Indeed, the express wording of the treaty did not bar their movement, but that action clearly contravened the understanding of the negotiators. As a matter of fact, the Soviet Union's own treaty negotiators were kept pretty much in the dark by the Soviet military as to what was taking place.

In addition to that, the Soviets more boldly transferred, and did not declare, about 5,457 pieces of ground TLE, or treaty-limited equipment, to their coastal defense, naval infantry, strategic rocket forces, and civil defense. The Soviet contention that this equipment was not covered by the treaty was clearly at odds with the treaty and its failure to declare the equipment was a clear violation of the terms of the agreement.

They have made some concessions then. They have agreed to destroy a number of items, some 14,500 TLE located east of the Urals, a fraction of the over 57,000 that they admit to have moved out of the region.

We still have great discrepancy in terms of the declarations they made of the number of items that were in this region when the treaty was signed. The range is quite broad. I might say it is classified. The exact numbers are classified.

I would concede that the numbers are not militarily significant, but I do want to take the floor today to articulate the principle that we should not be negotiating treaties with a country that starts off by, No. 1, trying to evade and circumvent the terms of the agreement or the treaty and No. 2, then boldly makes a data declaration that is clearly false and further states that it is not bound by the clear language of the treaty.

I think this does not bode well for the future when we are talking about other significant agreements that pertain to our strategic relationship such as START I and II. And so I raise this solely to call attention to my colleagues that we have to be much more serious minded in dealing with these kinds of discrepancies rather than simply passing over them and saying it is militarily insignificant.

I might also point out—I see the Senator from Georgia on the floor—Senator NUNN, Senator LUOAR, Senator BOREN, Senator BRADLEY, and others are concerned about humanitarian relief for the Soviet Union. There are people who could be facing starvation in the Soviet Union this winter. Many of us are concerned about how we can be of assistance to relieve the prospect of mass hunger and riot and anarchy that could afflict that country. But it tells you something about the mindset of the Soviet military and something about how they set priorities that they would save weapons at the cost of food. And the audacity of the Soviets to circumvent the CFE treaty limits is even more astounding given that the movement of this equipment from Europe to Asia required the diversion of fuel and rail stock desperately needed by the Soviets to collect and bring in the record 1990 harvest to market.

I just want to quote one Soviet commentator who defended the Soviet military. He said:

> The military, in an effort to rectify, if only slightly, the mistakes of the [Soviet Union's] diplomats, organized the swift transfer beyond the Urals of thousands of tanks and guns and other equipment—at least there it would not have to be destroyed. It is unfortunate, of course, that all of this coincided with a record harvest occupying badly needed rail cars and making the job of transport more difficult. But who was to blame for that? First and foremost, the Foreign Ministry, which was rushing full steam ahead toward a treaty.

What they are saying basically is that the Soviet people prefer guns over butter and, given the choice of moving food and harvest to the marketplace and to the homes of the people of the Soviet Union, they chose to move weapons in order to circumvent the CFE treaty.

Mr. President, I suggest that we have to be very cautious in our future dealings not with an administration headed up by Brezhnev or Chernenko or Andropov, but one that is headed up at this time at least by President Gorbachev and President Yeltsin of the Russian Republic.

Mr. President, now I want to turn to the amendment that I have submitted at the desk.

From October 1985 until May 1988, the Senate's treaty making powers underwent an unprecedented assault. The point at issue was whether the Executive was bound to the common understanding of the meaning of the ABM Treaty that existed between the Executive and Senate in 1972 when the Senate gave its advice and consent to ratification and upon which the Senate had based its advice and consent.

Notwithstanding the authoritative representations that the Nixon administration had provided to Senate committees during the ratification hearings as to the meaning of the ABM Treaty, the Reagan administration argued that it could unilaterally adopt a new meaning related to the issue of ABM systems and components based on so-called other physical principles.

The Reagan administration's reasoning to justify its position shifted continuously, and not without contradiction. It engaged in what lawyers refer to as pleading the alternative. My client was not at the scene of the crime. If he was, he did not commit assault. If he did commit the assault, he was provoked and acted only in self-defense. And even if he was not acting in self-defense, he was suffering from temporary insanity.

The Reagan administration argued variously that authoritative representations on the treaty's meaning regarding the specific issue had not been made by the Executive. If authoritative representations had been made, they were made to Senate committees—not to the Senate—and, therefore, they did not reflect the understanding of Senate, per se. And even if these authoritative representations did reflect the understanding of the Senate at the time of ratification, the Senate's understanding of the treaty's meaning was not determinative and essentially irrelevant.

I joined Senator NUNN and other Members of this body and fought a bruising battle to defend the prerogatives of the Senate, as well as the integrity of the ABM Treaty, against this assault. Our unequivocal position, subsequently affirmed by the Senate and acquiesced in by the Reagan administration, was that when the Senate bases its advice and consent to a treaty upon certain understandings with the Executive as to the meaning of the treaty, those understandings cannot be unilaterally altered by the Executive.

During our consideration of the INF Treaty in 1988, the Senate insisted on defending its prerogatives by adopting a condition to the resolution of ratification regarding treaty making powers. This condition reaffirmed the principle, as stated in the Foreign Relations Committee report on the INF Treaty that:

> The meaning of a treaty is to be determined in light of what the Senate understands the treaty to mean when it gives its advice and consent.
>
> For the United States, the meaning of the treaty that the President ratifies is the meaning on which there existed a meeting of the minds between the President and the Senate at the time of Senate consent.

By proceeding with the ratification of the INF Treaty, the Reagan administration accepted this condition.

The CFE resolution of ratification now before the Senate specifically reaffirms, in one of its declarations, this INF Treaty condition.

Now, in the interest of time, Mr. President, I am going to simply ask

VOL
137
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23
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25
1991
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unanimous consent to have printed in the RECORD a number of statements that were made during the period of the ABM reinterpretation debates and the INF Treaty floor debate by Senator NUNN and Senator BYRD about the meaning of the Senate's role and expression of its powers under the Constitution as it pertains to advice and consent of treaties.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Senator BYRD. Senators have a responsibility to be very careful when they approve a treaty and make it the supreme law of the land, that they have an adequate understanding, a very clear understanding as to what they are voting to approve. (CONGRESSIONAL RECORD S2810, March 23, 1988.)
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> The constitutional framers did not intend for the words "advice and consent" to be symbolic. They meant for those words to be substantive, to have meaning. This amendment establishes and provides that there will be no reinterpretation after the Senate and Executive both agree, through shared understandings, as to what the treaty means—that there be no reinterpretation without further action and approval by the Senate thereof. (CONGRESSIONAL RECORD S6727, May 26, 1988.)
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> It shakes me a little bit when Senators reduce the constitutional role of this institution to partisan terms. I believe that every Senator first, last, and always ought to stand for this institution and its role under the Constitution, and we ought to carefully and zealously guard that role against any erosion from any quarter, from any party. (CONGRESSIONAL RECORD S6783, May 26, 1988.)
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> Senator NUNN. Because the Senate is an equal partner with the President in the treatymaking process, we have a direct, constitutional interest in ensuring that treaties are accurately presented and faithfully upheld. (CONGRESSIONAL RECORD S6773, May 26, 1988.)
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> Treaties are, if you believe the Constitution, the law of the land. But the administration says, "Leave that up to us boys. Don't you get involved in all those nitty-gritty things about what the Constitution means." (CONGRESSIONAL RECORD S6359, May 13, 1987.)
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> (A) treaty is the supreme law of the land. It is not just a piece of paper. * * * If we make a mistake in passing a bill, that can be fairly easily rectified simply by passing another bill repealing the first law. But when it comes to a treaty, if we make a mistake, we had better know it before we enter into its ratification. (CONGRESSIONAL RECORD S5267, May 9, 1988.)

Mr. COHEN. The amendment I am offering would address the situation in which the Ukraine or Russia, for example, decided to opt out of the CFE Treaty. Such a situation would be militarily significant and would constitute a change in circumstance. The Bush administration has suggested that in such a situation, it might withdraw from the CFE Treaty. As the CFE negotiator, Ambassador Woolsey, testified, "The Treaty won't work without the Ukraine in it." However, another option would be to negotiate changes in the Treaty to "make it work" notwithstanding the militarily significant changed circumstances.

The condition approved by the Foreign Relations Committee requires that if the President decides not to withdraw in response to such a situation, he shall make an effort to negotiate such changes. And it also requires, as is obviously appropriate, that any substantive change in the treaty be submitted to the Senate for its advice and consent.

What the condition does not address is what happens if the President is unsuccessful in negotiating the necessary treaty amendments. Given the multilateral nature of the treaty regime, this is not difficult to imagine.

Clearly, if the Ukraine or Russia were to opt out of the treaty, the treaty would no longer be the treaty to which the Senate had given its advice and consent. In such a situation, if the President wishes to continue adhering to the treaty, he should be required to come back to the Senate for its advice and consent. Otherwise, the United States would, in effect, be bound to a different treaty without the advice and consent of the Senate.

The Restatement of the Law, Foreign Relations Law of the United States, a well-respected if not an authoritative document, states that "the power of the President to terminate an international agreement does not imply the authority to conclude a new one in its place."

Amplifying on this point, the Foreign Relations Committee, in its report on the INF Treaty, noted that "Were the President to amend an agreement on his own, he would in effect be terminating an old agreement and entering into a new one."

The same is true if the Ukraine or Russia were to opt out of the CFE treaty: this would amount to a substantive alteration of the treaty. And continued adherence would amount to entering into a new agreement—something which requires the advice and consent of the Senate.

OBJECTION: WORDS, NOT MEANING, ARE WHAT COUNTS

One potential objection to the amendment that I have heard is that the "area of application" of the treaty is defined as "the entire land territory of the States Parties in Euope from the Atlantic to the Urals," and the "States Parties" include the U.S.S.R., but not the Ukraine, Russia, or Byelorussia.

Accordingly, goes this argument, if the Ukraine—or Russia for that matter—secedes from the U.S.S.R. and opts out the treaty, the "area of application" would not have changed in so far as the words of the treaty are concerned, since the U.S.S.R. will still be a "States Party"—it just won't include the territory of the Ukraine, or Russia, or whatever the case may be! In other words, the term "area of application" does not refer to a particular piece of real territory, but rather means whatever territory is associated at any given time with whomever is included under the term "States Parties."

This sophistry is not only substantively ridiculous, it is also contradicted by the ratification record. I would note that the treaty's definition of the term "area of application" [Article II.1(B)] states that: "In the case of the U.S.S.R., the area of application includes all territory lying west of the Ural River and Caspian Sea."

Under this argument, opponents of my amendment would claim the area of application had not changed even if, in the case of a truncated U.S.S.R., it included only a small fraction of the territory west of the Ural River and Caspian Sea. This is patently absurd. While the words, "area of application," would remain unchanged, the meaning of those words would have been substantially altered.

I would also note that during the ratification hearings, the administration clearly stated that for "purposes of the treaty the Soviet military districts identified in the treaty referred to "defined pieces of territory" delineated by the boundaries of those districts as of the date of signature, notwithstanding the likelihood that the borders of those military districts will be redrawn.

The military districts are not defined in article II, so they are not exactly analogous to the term "area of application." But, it is more than a little curious that the concept of military districts is tied to "defined pieces of territory" that do not change even if the borders of the districts change, whereas the concept of the "area of application" is asserted to have no relationship whatsoever to "defined pieces of territory." This is even more curious since the administration's article-by-article analysis discusses the definition of the term "area of application" by referring to a Soviet map that delineates both the eastern edge of the area of application and the borders of the Soviet military districts.

Perhaps this is merely a curiosity and is not determinative on the question I am addressing, but I thought it worth bringing to the Senate's attention.

In any event, the argument that the words "area of application" would not be changed if the Ukraine or Russia were to opt out of the treaty ignores the fact that the meaning of the words would change—and change significantly.

The simple and undeniable fact is that the meaning of the treaty would no longer be that to which the Senate had given its advice and consent.

To continue to adhere to the treaty would, to use the words of the Foreign Relations Committee report on the INF Treaty, "in effect, be terminating an old agreement and entering into a new one." And this simply cannot be done without the advice and consent of the Senate.

OBJECTION: AMENDMENT JEOPARDIZES TREATY

Another potential objection that I have heard from one Senator who supports the CFE Treaty is that the adoption of my amendment would somehow endanger the CFE Treaty.

Let me first state that I strongly support the CFE Treaty. There should be no question on that.

Such concerns about the amendment, to the extent that they exist, seem to stem from the view of the White House counsel that the amendment is somehow unconstitutional because it intrudes on the President's prerogatives. This is not a situation with which the Senate is unfamiliar. White House counsel as is well known, has a rather expansive view of Presidential prerogatives and a rather restrictive view of Senate and congressional prerogatives.

Every year when the Armed Services Committee produces a defense bill, for example, we are provided a laundry list of provisions that are asserted to be unconstitutional, usually including numerous report requirements. Seldom, if ever, does the Senate alter our bill in response, notwithstanding intimations that, absent changes, the bill might never be enacted. This is a wolf howl we have heard too often and which, accordingly, has lost much of its credibility.

The notion that the President would not proceed with ratification of this treaty if my amendment is adopted is without merit. The President is as committed to this treaty as anyone. He is personally responsible for its most important contents, which resulted from his bold initiative of May 1990. The notion that he would need to come back to the Senate in the event that the treaty's meaning is transformed by the Ukraine's opting out cannot possibly be perceived as so objectionable that he would abandon the treaty.

Indeed, everything we have heard from the administration in recent days is that this treaty is so important we cannot dare delay its approval.

I should also note that my amendment strictly addresses relations between the Executive and the Senate. It would impose no obligation of any other party to the treaty, nor even require notice to any other party. There is no possibility that this amendment or the underlying condition adopted by the Foreign Relations Committee could be killer provisions, nor is there any basis on which they reasonably could be perceived as being killer provisions.

If anything, the fact that a few have expressed such concerns supports the view that this amendment is needed. I say that because such concerns seem to reflect the view that the treaty is so important that all other considerations be set aside. That is precisely the attitude that I fear could happen if the Ukraine were to opt out and the President unable to negotiate a fix in an unwieldy, multilateral regime. In that situation, a President—not necessarily this President—might share the view that the treaty is so important we would need to live with it, even though it was no longer the CFE Treaty as we now know it.

It is argued that no President would reach such a conclusion—that he would instead certainly withdraw from the treaty. But the fact that some believe that treaty is so important that all other considerations should be set aside, in my view, justifies my concern that a similiar view could prevail in the future. And that is why I want to ensure that, in such a circumstance, the Senate's prerogatives are protected.

The lesson of recent years—most notably the ABM Treaty reinterpretation debate—is that the Senate cannot base its advice and consent to treaties on the good intentions of a specific administration, nor can the Senate entrust the protection of its prerogatives to the Executive.

Now, to illustrate the point of my amendment Mr. President, just look at this map. If, for example, the Ukraine were to say that we are now independent and we do not believe we are bound by the terms of this treaty, if you pull the Ukraine out, that is the size of the gaping hole that is left in terms of what area is covered by the terms of the treaty.

One can go further and take out Byelorrusia, if they should opt out, and that is what we are left with. And, of course, if the Republic of Russia, itself, should pull out, then the entire thing would collapse, Obviously.

But leaving this kind of a gap and still saying that we have an agreement with the territory of the U.S.S.R., it seems to me to be patently absurd.

Now, the Foreign Relations Committee recognized this. And what the Foreign Relations Committee did was to attach a condition.

FIFTH CONDITION AS ADOPTED BY FOREIGN RELATIONS COMMITTEE

Under section (A) of the fifth condition approved by the committee, if any newly formed state opts out of the treaty, the President is required to consult with the Senate.

If the President determines that the new state's holdings of treaty-limited equipment are of such military significance as to constitute a change circumstance affecting the treaty's object and purpose, and if he decides not to withdraw from the treaty, section (B) requires one of two actions. Either the President shall call for a extraordinary conference of treaty parties to assess the viability of the treaty and determine if a treaty amendment is needed to accommodate the new circumstance. Or, the President shall undertake other unspecified "appropriate diplomatic steps."

Section (C) requires that any change in the treaty's obligations that result, regardless of the mechanism the President pursues under section (B), shall be submitted to the Senate for its advice and consent unless it is a minor matter of an administrative or technical nature.

COHEN AMENDMENT TO COMMITTEE'S FIFTH CONDITION

My amendment would leave untouched the fifth condition as adopted by the committee, but it would add a new provision to section (C).

This new provision would state that if the President is unable to negotiate changes to make the treaty work, but he believes that it is nonetheless in the U.S. interest to still participate in the treaty, he must obtain the Senate's advice and consent to continued participation since the treaty would no longer be the treaty to which the Senate had given its original advice and consent.

UKRAINE, RUSSIA, BYELORUSSIA NOT EXPLICITLY CITED

Mr. President, I should note that condition 5 as adopted by the committee does not explicitly refer to the Ukraine, Russia, or Byelorussia, and my amendment would not change that aspect of the amendment.

The reason that it is not necessary to explicitly cite them is that the ratification process has clearly established a common understanding that if any one of these three Republics opts out of the treaty, that would be of such military significance as to constitute a changed circumstance. And that changed circumstance is what triggers sections (B) and (C) of the fifth condition.

BUSH ADMINISTRATION ON OPTING OUT BY UKRAINE, RUSSIA, BYELORUSSIA

During the ratification process, authoritative statements by administration officials made a distinction between a decision to opt out of the CFE Treaty by Russia, the Ukraine, or Byelorussia, on the one hand: and, on the other hand, opting out by one of the other small Soviet Republics in the Atlantic to the Ural [ATTU] region, such as Georgia, Armenia, Azerbaijan, or Moldavia.

In the latter case, in which one of the smaller states opted out, the administration testified it probably would be a matter of secondary concern, so long as treaty-limited equipment under the control of central authorities remain subject to the treaty, as has been provided for in the case of the Baltic republics.

In the former case involving the Ukraine, Russia, or Byelorussia, however, the administration clearly indicated that a decision to opt out of the treaty by any of these countries would amount to a militarily significant changed circumstance and would seriously bring into question the continued validity of the treaty. Accordingly, section (B) of the fifth condition would be invoked.

In written response to a question from Senator BIDEN, Secretary of State Baker stated:

VOL 137
PT 23
NO 21—25
1991
UMI

> In order to safeguard the integrity of the treaty regime, it almost certainly would be necessary for all three of these Republics—Russia, Ukraine, and Byelorussia—as they are likely to retain significant amounts of equipment in treaty categories, to participate in CFE.
>
> If these republics should become independent states and choose not to participate in the treaty, the United States and its allies would consider an appropriate response. The treaty contains mechanisms for withdrawal should this be necessary.

Similarly, in a written response to a question from Senator WARNER, Under Secretary of State Bartholomew stated:

> It is the position of the administration that, in order to maintain the integrity of the treaty regime, an independent Ukraine holding significant amounts of equipment in treaty categories would almost certainly need to be a CFE participant * * * Should an independent Ukraine nevertheless refuse to participate in the Treaty, the appropriate U.S. response would depend on the precise circumstances at the time. A decision to withdraw, e.g., would always be an option.

Again, in a hearing before the Senate Intelligence Committee on November 13, Ambassador Woolsey stated further:

> [Non-participation in the treaty regime by an independent Ukraine] fundamentally would call into question the viability of the treaty. * * * The treaty won't work without the Ukraine in it.

And in a letter to Senator BIDEN dated November 22, 1991, Secretary Baker stated:

> In all likelihood, the emergence of an independent Ukraine or Byelorussia that declined to participate in the CFE Treaty would indeed result in the President's determining that a "changed circumstance" had occurred. There is always the possibility that such a state would decide to hold no or only minimal amounts of equipment in treaty categories, in which case the military significance criterion specified in the Senate condition might not be met. We consider this very unlikely, however, and thus expect that the President would, indeed, determine that a "changed circumstance" had occurred.

In summary, the Bush administration's clear and consistent statements during the ratification process indicated that if the Ukraine or Byelorussia opt out of the CFE Treaty, this would be of such military significance as to constitute a changed circumstance, which would trigger section (B) of the fifth condition adopted by the Foreign Relations Committee.

In its report, the committee states that its intent is that this the fifth condition would be triggered if either the Ukraine or Byelorussia opted out or if Armenia, Georgia, and Azerbaijan were all to opt out.

I am not aware that the administration addressed the last case, in which the three Transcaucasian Republics all decided to opt out. Accordingly, I would hesitate to say that there exists a common understanding on that matter between the Executive and the Senate. But in the case of the Ukraine and Byelorussia, the record is clear.

In the case of Russia, the administration at times seemed to want to not focus on the possibility. A written response by Secretary Baker to Senator BIDEN stated:

> For the Russian republic to "become an independent state," i.e. to withdraw from the union, would mean the disintegration of the union as we know it. We do not expect this to happen. However, if the union did completely disintegate, the Russian republic presumably would assume the international obligations of the former U.S.S.R.

However, other administration statements—such as Secretary Baker's other testimony I cited—certainly indicate that Russia's nonparticipation in the treaty would constitute a changed circumstance, and that would trigger sections (B) and (C) of the fifth condition.

Mr. President, let me emphasize, I would seek to impose no obligation on any other party to this treaty. We do not have to seek the consent of any of the other parties. We do not even have to notify them. This simply applies to th powers of the U.S. Senate. We are giving our consent today, based upon a representation as to the area that is covered by the terms of the treaty. If there is going to be a fundamental alteration of that understanding, a fundamental alteration of which areas are covered, it seems to me it follows not only logically but constitutionally that the President must come back to us and seek our advice and consent.

I know, for example, that this was the position that was articulated by the Senator from Delaware, who serves on the Foreign Relations Committee. I know that he has done extensive research, and his staff has done extensive research examining the constitutional basis for the Senate's role and responsibilities. I believe that he would agree to the merit of the position that I am articulating here today.

Mr. BIDEN. Will the Senator yield for 10 seconds?

Mr. President, on the merits, there is no question in my mind, absolutely none, that from a constitutional standpoint, the Senate has the authority to insist on the provision that the Senator is proposing.

Indeed, I drafted a provision along similar lines and I concluded not to move forward after encountering administration resistance. I felt it was important to get this done promptly; and I regard as highly unlikely the eventuality that is covered by the provision.

But I think the Senator has done good work on this. I think he is absolutely, positively right on the constitutional point. I disagree with him only in terms of facilitating this legislation, and measuring it against the prospect that his concern would in fact become a reality.

But on the merits, he is dead right. At some point, if the Senator from Maine will entertain it, I would like to propose to him a potential compromise that I hope would accommodate all he is seeking.

But I thank him for yielding to me.

Mr. COHEN. Mr. President, I thank the Senator from Delaware for his comments and his support of the constitutional position that I have outlined.

I would simply point out that up until this day or this moment, the administration has taken the position that there is no constitutional requirement for the President to return to the Senate to seek its advice and consent, even if there is a material change, and especially if the President is unable to get agreement by the states party to this treaty.

Mr. BIDEN. Will the Senator yield for another moment? Mr. President, not only has the administration taken that position; they have taken it one step further. They have argued that the Senate has no constitutional authority—no authority—to do what the Senator from Maine is suggesting.

And on that score, I believe they are dead wrong, from the constitutional point of view.

Mr. COHEN. I thank the Senator for his comments.

Mr. President, let me just reverse it the other way. Let us suppose that the administration came to the Senate today, and said: We have negotiated a treaty with the Soviet Union, except that the Soviet Union looks like this. It has a big hole here now, because the Ukraine has declared its independence and it has opted out. And we have Byelorussia declare its independence; it has opted out. We still have Russia there, at least temporarily. We would like you to ratify this treaty. We have a big hole here. There are a lot of weapons that we are concerned about. But we think, in the interest of the other 21 nations who agreed to this treaty, that we ought to go forward.

Do you think that the Senate is going to be rushing to give its advice and consent to go forward under these circumstances? I suggest to you, the answer is no—a resounding no. We are giving consent if the pieces are all there; if the pieces remain intact. If perchance, due to some circumstance in the future, one of these pieces should pull out, we think that is a fundamental change in the nature of the security relationship as it impacts upon Europe itself.

Right now, the Senator from Delaware has said it is very remote that the Ukraine would consider pulling out and not going along with this particular treaty. I agree.

But I must tell you that there is a great deal of instability right now. We are not too sure exactly what is going to happen in the Ukraine. We are not too sure who is going to be in charge in the Republic of Russia, depending upon what happens this winter.

I think that countries such as the united Germany are also examining options that they might have, depending upon that instability and how it spreads throughout what remains of the Soviet Union.

So I do not think we can make any categorical assumptions today, given the great instability and the potential for anarchy spreading throughout the Soviet Union, as to what this map might look like 6 months from now or 6 years from now.

That is the reason I have simply said if it does change, that the President, and if he goes to this group of 22 and comes back having been unable to reach an agreement and he wishes to remain in the treaty, then he has to seek our advice and consent. The administration in response has been, "absolutely not." So, Mr. President, I, at this particular moment, intend to pursue the issue unless an acceptable compromise can be reached.

I will reserve the remainder of my time at this time.

Mr. SPECTER. Will the Senator yield for a question?

Mr. COHEN. Yes.

Mr. SPECTER. If the Senator's amendment is adopted, would that require the President, the executive branch, to go back and renegotiate the treaty?

Mr. COHEN. The condition that was attached by the Senate Foreign Relations Committee requires the following: If one of the big Republics should pull out, the President can withdraw. If he decides not to withdraw he is then required to go to this group of 22 and see if he cannot renegotiate some changes in the treaty that take into account the change in political and geographical circumstances. If he reaches an agreement with that group, he is required to come back and seek advice and consent. That is what the Foreign Relations Committee has done.

I simply add one refinement to it. Under the committee's condition if he cannot get such agreement, if they say, "We do not like it, but we are not in agreement with trying to renegotiate it," at that point, he can say, "I intend, unilaterally, to keep us in that agreement."

Under my amendment, after failing to negotiate an acceptable agreement with all of the nations, he would have to come back, and say to the Senate: Ladies and gentlemen, this is our situation; there has been a material change—something that in the ratification process I represented to you would constitute a material change—and I cannot get agreement with the other nations, but I still think it is in our interest to stay in this treaty. I would like to have your consent to that understanding.

Mr. SPECTER. Mr. President, I have one additional question either of the Senator from Maine or the Senator from Delaware.

Is it required, with the condition imposed by the committee in the current treaty, that the executive branch go back and get agreement from the other parties?

Mr. COHEN. I will try to answer. He has two options. He can either unilaterally withdraw; he can terminate our involvement under those circumstances, or he can go back and try to negotiate.

Mr. SPECTER. My question goes to the point and the issue raised by the Senator from Delaware as to whether there is going to be a delay here. A treaty has been agreed to. It has been submitted to the Senate. My question goes to the point as to whether what the committee has done will require resubmission to the parties, or whether what the Senator from Maine has done would require resubmission to the parties on the issue raised by the Senator from Delaware on getting it done.

Mr. BIDEN. Mr. President, the answer to the Senator's question is, unequivocally, no. If this passes as written by the committee, meaning the Senate consents to ratification with the conditions that presently are at the desk, there is no requirement whatsoever that the President renegotiate anything at all with any of the other 21 nations. None.

Mr. SPECTER. What would occur if the amendment of the Senator from Maine is adopted?

Mr. BIDEN. The same thing. No requirement. If the amendment of the Senator from Maine is adopted, there would be no requirement for the President to do anything with regard to the Soviet Union or any nation before ratifying the treaty.

Mr. SPECTER. Then why, if I may ask the Senator from Delaware, having agreed with the substance of what the Senator from Maine wants to do, does he disagree on the basis of expediting the conclusion of ratification?

Mr. BIDEN. For a very simple reason. And that is a very good question. When I sat down with the administration, Senator PELL having asked me to perform some of the responsibility relating to this, I sat down with the administration and tried to work out the various conditions that the Senator from Maine, and the Senator from Rhode Island, and the Senator from Delaware, and the Senator from Georgia, and the Senator from North Carolina, all thought were important. As we sat down to do that, the administration resisted any conditions at all.

In fairness to them, they had not contemplated, when this was being negotiated, disintegration of the Soviet Union. And after that occurred they believed that they were fully capable, under the terms of the treaty, without any conditions as proposed, to handle any exigencies that would occur—and they are occurring, by the way. But we wanted to make sure that they did certain things and, under certain circumstances, that they were required to come back. They were very reluctant, like all chief executives, to acknowledge that the Senate's role.

After torturous negotiations, led by Senator HELMS' staff and mine, we got to the point where they finally acknowledged the inevitable: that there is a Constitution, we are part of it. I am being a little facetious, but it is almost that bad. We got down to the point where we were concerned that there might be some Members of the Senate, in the waning days of this session, who would prevent us from getting to final ratification if, in fact, we attached additional conditions.

I want to clarify one point. When I said to the Senator from Maine that there was a remote pssibility, the remote possibility was not that the Ukraine might not federalize, nationalize federal troops, nationalize what are now part of the Soviet Army, nationalize the 6,500 "Soviet tanks" that are on Ukrainian soil. That is very possible. That is very possible, although they assert to us that the likely new leadership—the election has not taken yet—has asserted to the President, and to those of us who have met with him, that they will not do that. But that is possible. The remote possibility I was referring to is that if the Ukraine did that, that any President would say, notwithstanding the fact that the Ukraine now has 6,500 "Russian and Soviet Union tanks" under their possession, we are going to ignore that and say "business as ususal," and not expect the Ukraine to accept obligations, and then if they did not, to say, well, OK. That is what I consider remote, that any President would accede to remaining in the treaty after attempting—and failing—to renegotiate the terms of it with the Ukrainians and with the other parties. Can you imagine the President saying, well, I failed, and there are 6,000 Soviet tanks in the Ukraine, and they're not covered in the treaty but the good old United States is going to stay in the treaty anyway." That is what I think is remote.

Let me return to the question of conditioning our consent. This is from the Hill to the White House. That is the action we are talking about now. We can bind the President to anything we want to. We could say, constitutionally, Mr. President, we will accede to this treaty if every 2 years you bring it back to us. We will accede to this treaty if you put it in a blue binder and it has red stars on the cover, but not unless you do that. None of that requires the President to go renegotiate with other parties.

The White House is reluctant to acknowledge our constitutional authority to do what the Senator from Maine wishes to do. But since the possibility of a President remaining in a treaty that is overwhelmingly against our interest is very remote, I propose that we compromise with him on something we do not have to constitutionally com-

VOL 137
PT 23
NO 21—25
1991
UMI

promise on, but that we do so as a matter of comity, without giving up the constitutional point. We can accomplish, I believe, the same end the Senator wishes to accomplish.

I would propose the following to my friend from Maine: Strike on line 9, "the Senate's advice and consent" and in lieu thereof put "a Senate resolution of support."

Mr. COHEN. Mr. President, let me respond to my colleague from Delaware. First, since the administration does not want to set any precedents in terms of resolving this perennial constitutional dispute between the executive and the congressional branches, let me indicate that if I were to agree to this modification, it would be very clear that the Senate makes no statement concerning a surrender of its constitutional prerogatives. We would have to reserve that particular battle for future treaties in other types of agreements that called for Senate advice and consent.

Second, could I inquire as to whether or not this particular proposal is agreed to or is acceded to by a reliable authoritative spokesman for the administration?

I do not want to go through this again, as we went through the reinterpretation of the ABM Treaty in which we were told that the representations made to the Senate committee were not by those in positions of authority, and that the representations were, even if authoritative to the committee, were not authoritative to the Senate itself.

So, at a future time if we should have either President Bush, or President Harkin, or President Cuomo, they would feel compelled to abide by the understanding reached with this administration, that they agree that, under those remote circumstances that the Senator referred to, the President would be duty bound to return to the Senate to seek its support for a resolution of support which I suspect would be interpreted to mean a majority vote as opposed to a two-thirds vote.

Mr. BIDEN. I would be happy to respond, and I would also like to know what future President Rudman thought about this. But I will ask him later.

Let me say that, as usual, the Senator from Maine puts his finger on the crux of the problem. With regard to whether or not we are yielding a constitutional point, the answer to that question is we are not yielding a constitutional point.

We set forth, in connection with the INF Treaty, a clear statement of principles about the President's latitude in interpreting and his inability to "reinterpret" treaties. We made it clear, as a result of the fight over the reinterpretation of the ABM Treaty, that Presidents cannot unilaterally reinterpret treaties. We wanted to make it clear that future Presidents, Cuomo, Rudman, et al., cannot reinterpret treaties.

Mr. COHEN. The Senator and I are in complete agreement on that.

Mr. BIDEN. But it is one thing to fight against the President acting unconstitutionally as did President Reagan when he sought to reinterpret ABM. That was a constitutional fight when it happened, and it was a fight the Senate needed to wage.

But here we are in a position where we already established the principle that treaty reinterpretation is not permissible. And we are making clear, since the President can't reinterpret the treaty, what he has to do instead. And the President would be bound to do it. So, we would not have to worry about President Rudman making a deal to send 6,500 tanks from the Ukraine to New Hampshire which, since he used to drive one of these things, he might consider doing.

All kidding aside, all future Presidents would be bound by all of the conditions that already are in the resolution at the desk. This would be an additional condition and equally as binding on a future President.

Mr. COHEN. I thank the Senator for his clarification of these issues and, Mr. President, the reason I have taken the floor to raise it is that I think in the past we have been too willing to surrender those constitutional powers, which I believe that we have, and that we seem not to be able to communicate with the administration to find any flexibility in their adamant position that the Senate has a very narrow, limited role.

So under the assurances given to me by the Senator from Delaware, I am prepared to offer a modification to my own amendment which I now send to the desk.

Mr. BIDEN. Before the Senator does that, if the Senator will withhold, let me give him further reassurance.

In the Resolution of Ratification, which is at the desk, it reads as follows:

> The Senate affirms the applicability to all treaties of the constitutionally based principle of treaty interpretation set forth in condition 1 of the Resolution of Ratification approved by the Senate on May 27, 1988, with respect to the INF treaty.

So, we speak explicitly to the question of whether or not a future President can unilaterally reinterpret this and other treaties.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. BIDEN. Surely.

Mr. WALLOP. Is the language that Senator BIDEN read, seeking to condition Presidential behavior on other existing treaties or just Presidential behavior with regard to this treaty?

Mr. BIDEN. The principle applies to all treaties. But that is not what we are talking about. We only have one treaty before us, so what we are doing is we are making it clear on the treaty before us the principle that was established in connection with the INF treaty is applicable to this treaty as well.

The Senator from Wyoming and I might argue whether or not it applies to all treaties. I suspect we would. But stating those generally valid principles by way of emphasizing that they apply to this treaty.

Mr. WALLOP. I would say to my friend that this treaty before us reaches far enough without reaching into all other Presidential prerogatives. I appreciate the narrowing of the words as I heard them read the first time.

Mr. BIDEN. If I could have figured out a way to ensure that all treaties in the future are implemented according to those principles, I would have.

I do not want to mislead anybody. As long as the Senator from Delaware is in the Senate and as long as I am on the Foreign Relations Committee, and as long as there are treaties that come before us, I will attempt to uphold those principles.

Mr. SPECTER. Will the Senator from Delaware yield for a question?

Mr. BIDEN. I am delighted to.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Maine has the floor.

Mr. COHEN. I yield.

Mr. SPECTER. I thank the Senator from Maine.

When the Senator from Delaware offers the interpretation that striking the language of advice and consent from the amendment and inserting instead the Senate resolution of support, does the Senator from Delaware have any agreement by the administration that that is the same?

Mr. BIDEN. I never got to answer that.

With the permission of the Senator from Maine, I would like to answer that question, if I can.

Mr. COHEN. I yield to the Senator from Delaware.

Mr. BIDEN. The answer is, yes, the chief negotiator of this treaty, Mr. Woolsey, has agreed to this language, although as a practical matter, it would not matter whether or not they agreed to the language. It is irrelevant from the legal standpoint whether or not they agree. That is not relevant to whether or not the President is bound by the condition.

Mr. SPECTER. If the Senator from Maine would yield for one further question?

Mr. COHEN. I yield for one question.

Let me also indicate that Ambassador Woolsey has indicated to us that he would not give such an assurance to the Senator from Delaware unless he had the support of the administration giving that assurance. So he is not only speaking on behalf of himself but the administration.

Mr. SPECTER. The additional question I have to the Senator from Dela-

ware relates to his statement that deleting the advice and consent and inserting the Senate resolution of approval of support would have the same effect. The question that I have is whether either has any effect as a matter of law.

There is a constant argument with the executive branch and the Senate as to what authority the Senate has. And when the Senator from Delaware makes his declaration that as long as he is in the Senate many things will occur, that situation will change if he became the President, which might be a more likely possibility than the Presidency of Senator RUDMAN.

I compliment the Senator from Maine for what he is doing here and the Senator from Delaware. These are very, very important considerations. But the recurrent question which is in my mind that I state for either of the Senators on their feet is whether this amounts to anything in terms of obligating the President. The cases in the field are very muddled as to justiciability and what happens anywhere.

But if there is agreement by the President, and then we have to assume or presume agreement by succeeding Presidents, at least there is agreement by the President that they will follow the intent of the Senator from Maine, and with the change in the language the Senator from Delaware articulates that the result will be the same, that they will come back and require the same set of actions and that would satisfy me.

Mr. BIDEN. Mr. President, I am using up all of the time of the Senator from Maine. If I could, on my time for 3 minutes, respond to that, and then yield the floor back to the Senator from Maine, if I may.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware for 3 minutes.

Mr. BIDEN. I say to my friend from Pennsylvania, I held extensive hearings on the constitutional powers of the President relating to the treaty-making clause of the Constitution. The Senator from Pennsylvania is correct. There is precious little case law on this issue.

But there is no question among major constitutional scholars, starting with probably the most notable in this area of foreign relations law, Prof. Louis Henkin, that the Senate can place binding conditions upon its advice and consent.

But there is also no denying that any President of the United States can precipitate a constitutional crisis. Any President of the United States can come along and say, "I don't believe that is what the treaty means. I don't believe that, I am not going to abide by that provision," and precipitate a constitutional crisis.

The least important factor here is that a President promises something. No President can bind the next President by what he says. But he can bind the Executive permanently by what he does—if he ratifies a treaty pursuant to our conditioned consent. We bind all future Presidents by stipulating the conditions, and the President binds his successors by defacto accepting the conditions when he acts on the conditioned consent.

So although it is helpful to know that the President agrees with this, the main reason it is helpful is so that we do not have five Senators standing up objecting to it. That is all its value is. It is of no legal value; none whatsoever. It is of significant political value so we get this thing passed. But it is of no consequence in terms of the record, in terms of a future President, and in terms of how a court would construe the interpretation of these provisions relative to a future President.

There is no question that we can attach to that resolution of ratification whatever conditions we wish. The President does not have to accept them. The President cay say, "OK, if that is what you are going to make me do, I am not going to ratify the treaty. We are not going to place the treaty into effect. We are out. I am not going to do it." Or the President can say, by his actions in ratifying the treaty, "I accept the conditions laid down here."

None of these conditions require the President to go out and renegotiate something with any other nation. But, once he puts this treaty in effect, after we consent to ratification—we are not ratifying—he makes it the law of the land. Once he does that, he is bound, and future Presidents are bound.

And unless a President is deciding to retire very rapidly after that, one is not likely to do that. And I know of no precedent in American history where a President has been unwilling—the closest we have ever come, closest we have ever come is a showdown on broad-narrow interpetation of ABM.

I yield the floor.

Mr. NUNN. Mr. President, what is the time allocation? I have not been informed. Is this on the Cohen amendment?

Mr. COHEN. I think the Senator from Delaware has used all of the time of the Senator from Maine.

Mr. BIDEN. I beg your pardon? How much time does the Senator from Delaware have?

The PRESIDING OFFICER. Eighty-three minutes and twenty seconds.

Mr. BIDEN. Three minutes?

The PRESIDING OFFICER. Eighty-three minutes.

Mr. BIDEN. I yield whatever time the Senator from Georgia would like.

Mr. NUNN. I do not need much time.

I thank the Senator from Maine [Mr. COHEN] for his leadership in this. I also thank the Senator from Delaware for, I think, a superb job of guiding this treaty through the Senate—which I anticipate will happen.

I favor this treaty. I think the resolution of ratification reported by the Foreign Relations Committee on November 19 should be approved.

On November 18, 1991, the Armed Services Committee reported its views and recommendations on this treaty in the form of a letter to the Foreign Relations Committee, which has jurisdiction over treaties.

Mr. President, I ask unanimous consent that the Armed Services Committee report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. In preparing our report to the Foreign Relations Committee, Senator WARNER and I consulted with all members of the committee on the recommendations and proposed conditions identified in the committee's letter. With the exception of the additional views that certain Members appended to the letter, the letter can be said to reflect the corporate view of the committee on this treaty. The recommended conditions contained in the additional views carry the approval only of those Senators who signed the additional views.

In its report to the Foreign Relations Committee, the Armed Services Committee concludes that the CFE Treaty "promotes the national security interests of the United States, our allies in NATO, and the emerging democracies of Eastern Europe." There are numerous reasons why we reached this determination.

First, measured by military criteria, the treaty is demonstrably and overwhelmingly favorable to the United States and its NATO allies. Under the equipment cascading plan developed by General Galvin, the Supreme Allied Commander in Europe, the United States can meet its reduction obligations under CFE by transferring older equipment to allies, who will in turn transfer their even older equipment to other allies. As a result of this cascading, the United States will have to destroy no equipment as a result of the treaty. Let me repeat that. The United States will not be required to destroy any equipment under this treaty.

In some areas, such as combat aircraft, the CFE ceilings are set so high compared to current United States and allied inventories that we could actually increase our holdings and still remain within the bounds of the agreement. Excluding the over 10,000 pieces of military equipment acquired by Germany following its absorption of the former German Democratic Republic, NATO will have to destroy only a few thousand weapons to reduce its holdings to treaty levels.

By comparison, the Soviet Union must destroy almost 22,000 items of combat equipment under the terms of the treaty. In addition, the Soviets

VOL 137
PT 23
NO 21–25
1991
UMI

have pledged to eliminate another 16,000 pieces of equipment in partial compensation for the tens of thousands of weapons they rushed out of the CFE region prior to or shortly after treaty signature. In sum, then, the Soviet Union will destroy about 38,000 weapons under or in relation to CFE, NATO will destroy a few thousand mostly older weapons, and the United States will destroy none. That is truly an astonishingly asymmetrical outcome—an outcome Senators should keep firmly in mind as we consider any proposed condition that might have the effect of impeding or even derailing ratification.

Second, it is important to note that our negotiators, led by our supremely talented and experienced Ambassador, Mr. R. James Woolsey, were able to adjust many aspects of the treaty text in midnegotiation to reflect the dramatic developments that occurred in 1990 in the Soviet Union and Eastern Europe. As a result, the CFE Treaty evolved to a significant degree from the strict bloc-to-bloc parity accord that had originally been envisioned to a far more pluralistic concept of security and stability in Europe. For example, Soviet troops cannot be stationed under the treaty on the territory of any nation in Eastern Europe unless that nation consents. Hungarian, Czech, or Polish inspectors can conduct onsite visits to declared Soviet equipment sites on Soviet soil west of the Ural Mountains. And if one of the former Wasaw Pact allies of the Soviet Union should decide to formally withdraw from the Group of Six and petition to join NATO's Group of Sixteen, article XXI of the treaty provides a mechanism for adjusting the accord to reflect this changed circumstance.

The military significance of these features, in tandem with the zonal structure of the agreement and the so-called sufficiency rule, is profound. Not only is what remains of the Soviet Union's once formidable short-warning attack posture sharply reduced quantitatively, it is removed geographically well to the east. As a result, this once canonical threat—a threat that drove NATO's conventional and nuclear defense posture and budgets for decades—is virtually eliminated.

Were a reactionary regime to come to power in the Soviet Union at some point in the future intent on reasserting its influence and/or control over Eastern Europe or intent on again threatening the security of Western Europe, it would likely conclude rather quickly that such ambitions were impossible within the terms of the CFE Treaty. For example, the 13,150 tanks the Soviets are allotted under the Group of Six's CFE apportionment would not have to confront the 20,000 tanks allowed NATO under the agreement, they would also have to deal with the 6,850 tanks deployed under the accord by the emerging democracies of Eastern Europe. Thus using a crude static comparison in tanks, a hypothetical future Soviet regime that returned to Brezhnev-era foreign policies would have to comtemplate a highly disadvantageous 1-to-2-attack ratio in tanks if that regime were intent on aggression against Western Europe. Indeed, the 13,150 Soviet tanks would have first to defeat Eastern Europe's 6,850 tanks before they could even engage NATO's 20,000-tank force.

Clearly, then, the CFE Treaty will erect significant barriers against the resurrection of a clear and present Soviet invasion threat against NATO. In all likelihood, a future Soviet regime intent on pursuing such designs would, as preconditons, have to abrogate the treaty and then methodically rebuild its conventional war fighting capabilities if it were to again achieve a position of preponderance. These developments would in turn provide the United States and its allies with unequivocal warning of the growing danger and allow the alliance time to reconstitute its conventional and theater nuclear deterrent postures.

Third, the CFE Treaty will put in place a far-reaching verification and inspection regime that will further enhance the transparency of military developments within the Soviet Union. As previously mentioned, an important aspect of this verification regime is that it will allow Eastern European nations to conduct inspections on Soviet soil and thereby build confidence in their state-to-state relations.

Finally, the CFE Treaty will establish a foundation for a continuing dialog and consultation within its 22 States Parties on security issues. Through its implementation arm, the so-called Joint Consultative Group, as well as the extraordinary conferences which can be convened pursuant to article XXI, the accord constitutes a flexible mechanism for adapting to developments and changed circumstances as they arise in Europe in the months and years ahead.

For all these reasons, the Armed Services Committee recommend that the Foreign Relations Committee report the treaty favorably to the Senate. The committee did not, however, believe that there were no issues of serious concern associated with this treaty. Many Members felt the treaty had been largely overtaken by political developments in Europe and this was of decreased relevance. Many Members were disturbed that the Senate was being asked to enter into a contractual relationship with the Soviet Union when the continuing disintegration of central authority and sovereignty in that nation has yet to run its full course. And all Members were concerned by the discrepancies in the Soviet Union's data declaration of November 19, 1990.

For these reasons, the Armed Services Committee did not recommend that the treaty be approved unconditionally. Rather, we recommended that the treaty be approved subject to three specific conditions. The first two conditions recommended by the committee concern the legal status of the side agreements that deal, respectively, with the naval infantry dispute and the question of Soviet forces still in the Baltic nations. The third recommended condition concerns the implications of Ukrainian independence for the viability of the treaty. I will not explain these three amendments in my remarks today, since they are discussed at some length in the Armed Services Committee report. I would say, however, that in my judgment the conditions addressing these three subjects contained in the resolution of ratification reported by the Foreign Relations Committee is consistent with the three conditions recommended by the Armed Services Committee.

Mr. President, as evidenced by the additional views attached to our letter, although the Armed Services Committee was largely in agreement with regard to the CFE Treaty, a split did occur within our ranks on two points.

First, eight members of the committee—Senators WARNER, THURMOND, COHEN, WALLOP, LOTT, COATS, MACK, and SMITH—recommended a stronger condition on the data discrepancy issue than that contained in the resolution of ratification reported by the Foreign Relations Committee. The Foreign Relations Committee-proposed condition would require the President to continue U.S. efforts to account for and/or eliminate these discrepancies. The condition proposed by eight members of the minority side of the Armed Services Committee would prohibit the President from entering the CFE Treaty into force until the Soviet Union had accepted the United States intelligence community's estimate of Soviet equipment holdings in the CFE zone as of November 19, 1990, and agreed to destroy the equipment that it had previously undercounted.

In the body of its report to the Foreign Relations Committee, a majority of the members of the Armed Services Committee agreed that this is an issue of serious concern. However, since the Armed Services Committee had not held a hearing on this subject but had instead only participated in the Intelligence Committee hearing on the matter, the majority of members on the Armed Services Committee deferred to the Intelligence Committee in making recommendations to the Foeign Relations Committee on an appropriate condition on this subject.

In its November 18, 1991, letter to the Foreign Relations Committee, the Intelligence Committee stated:

> We endorse continued efforts to arrive at an accurate accounting of what TLE the Soviet Union had in the ATTU on November 19, 1990, and to gain agreement to destruction obligations proceeding from such an accounting.

This is the approach incorporated in condition two in the resolution of ratification that is now before the Senate.

Mr. President, I believe it is evident that the Soviet Union undercounted the treaty-limited equipment it had in the CFE zone on November 19 last year. I believe we should continue vigorous United States efforts to get an accurate count and to persuade the Soviet Union to take appropriate actions to reflect these revised levels. I do not, however, believe that we should hold the entry into force of this treaty hostage to getting the Soviets to accept current United States intelligence estimates. Such a requirement, in my view, is disproportionate to the benefits we will achieve in terms of Soviet equipment destruction if the treaty is entered into force. I also believe that establishing such a rigid requirement would also ignore the fact that the Soviet Union has already said in so many words that it recognizes that it undercounted its equipment holdings and has already committed to destroy equipment now stored east of the Urals in what amounts to compensation for this error.

Mr. President, I do not intend to go further into the data discrepancy matter in my remarks today. I would, however, recommend that my colleagues find a moment to read the transcript of the classified November 13, 1991, testimony on this subject to the Intelligence Committee by Mr. Doug MacEachin, Chief of the Arms Control Intelligence Staff at the CIA. I would also commend to the attention of my colleagues the excellent statement on this subject made in open session during the treaty markup in the Foreign Relations Committee by the senior Senator from Indiana [Mr. LUGAR].

Mr. President, I ask unanimous consent that the November 19 statement by Senator LUGAR be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NUNN. The second disagreement over proposed CFE conditions that emerged within the Armed Services Committee concerns the so-called second vote issue on CFE ratification. Let me explain what we do agree on and what we do not agree on. We all agree that should the Ukraine or any other large Soviet republic with sizable military forces or a significant military potential become independent and foreswear the CFE Treaty, an extraordinary and fundamentally changed circumstance would be created. Should these events transpire, the condition reported by the Foreign Relations Committee requires a number of actions: The President must consult with the Senate; he must convene an extraordinary conference of the CFE states pursuant to article XXI or undertake other appropriate diplomatic steps to collectively assess the situation; he must submit any material changes in our obligations under the treaty or in relation to the treaty that result from this conference or these diplomatic undertakings to the Senate for approval; and if no changes are made in our obligations and he elects not to withdraw the United States from the treaty, he must tell the Senate why. That is what we all agree upon.

The proposed condition by eight Republican members of the Armed Services Committee would go one step farther. It might go so far as to specify that if, notwithstanding the emergence of a heavily armed and independent Ukraine that remains outside the CFE regime, the President makes no changes in the treaty and elects not to withdraw the United States from the treaty, then he must nonetheless withdraw the United States from the treaty unless he resubmits the treaty to the Senate and the Senate votes to sustain his decision to keep the United States within the treaty.

Mr. President, I have consistently fought long and hard for the prerogatives of the Senate under the Constitution in the area of treatymaking. While I have not reached a decision on the merits of the condition now before the Senate, I would point out that should the scenario addressed by the Senators' proposal ever materialize, the Senate would have recourse available to it in the absence of this proviso. In the case of CFE, as in the case of any treaty, the Senate can act if it believes that the United States should not remain within a treaty despite the President's determination to keep the United States in that treaty. For example, the Senate could pass a resolution expressing the sense of the Senate that the United States should withdraw from that treaty. Failing all else, the Senate, in concert with the House, could pass a bill that, as domestic legislation, would take precedence over and in effect vitiate the treaty. It may be, however, that if modified as suggested by Senator BIDEN, the condition proposed by Senator COHEN would be acceptable.

Mr. President, before I conclude my remarks I would like to take note of an insightful article that appeared in the November 3, Washington Post. The op-ed was written by two former senior Senate staffers, Alton Frye, who was formerly chief of staff to Senator BROOKE, served as a close consultant to Senators COHEN and BAKER, and is now the Washington director of the Council on Foreign Relations; and Jeffrey H. Smith, a Washington attorney who was formerly general counsel of the Armed Services Committee under me.

In the article, Mr. Frye and Mr. Smith tackled a very difficult question; namely, how can the United States preserve the basic framework of international security arrangements and arms control agreements as the Soviet Union undergoes momentous change? I believe it is very much in our interest to protect the gains we have made over so many years. Many of these gains have been codified in various agreements that must be honored by the Soviet Union and any successor states or breakaway republics. In particular, the authors address questions about how to preserve the Soviet obligations under existing agreements such as the Nonproliferation Treaty, the U.N. Charter, and the Conference on Security and Cooperation in Europe.

They urge—and I wholeheartedly agree—that the United States and its allies make clear that we will not recognize or trade with any Soviet successor, government, or republic state unless it formally accepts its treaty obligations under these agreements. They also urge the United States to assist the Soviets and the republics with technical measures to assure strict command and control arrangements over Soviet nuclear weapons and they suggest that the recent initiative taken by Presidents Bush and Gorbachev to further reduce nuclear weapons be codified in agreements that fit within existing verifications schemes. They also argue that we should insist that any break away republics not exceed a pro rata allocation of the quotas assigned to the Soviet Union for conventional military hardware under the CFE Agreement.

Finally, and this is particularly germane to our proceedings today, they urge rapid ratification of CFE and START, despite the fluid situation in Moscow. They point out, quite correctly, that unless these agreements are ratified, and made applicable to any republics that may break away, the United States will have no formal legal agreement which we can use to try to constrain any future Soviet militarism, should it raise its head again.

Mr. President, I think this is a piece that deserves close attention of the Senate. I am very pleased that two of our distinguished former staffers have written this thoughtful piece and I request that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, November 18, 1991.

Hon. CLAIBORNE PELL,
Hon. JESSE HELMS,
Hon. JOSEPH R. BIDEN, Jr.,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATORS PELL, HELMS, AND BIDEN: The Committee on Armed Services has completed its review of the Treaty on Conventional Armed Forces in Europe (CFE) and has concluded that the Treaty promotes the

VOL 137 PT 23 NO 21—25 1991 UMI

national security interests of the United States, our allies in NATO, and the emerging democracies of Eastern Europe. The Committee recommends that the Committee on Foreign Relations report the Treaty favorably to the Senate, subject to certain conditions.

First, the Committee believes that the CFE resolution of ratification should condition the Senate's advice and consent on its understanding that the June 14, 1991 side agreement resolving the naval infantry dispute has the same legal force and effect as the Treaty itself. In a February 5, 1991 letter to Secretary Baker, the Chairmen and Ranking Minority Members of the Armed Services Committee and the Senate Select Committee on Intelligence urged the Administration not to submit the CFE Treaty to the Senate until the naval infantry dispute and certain other post-signing discrepancies were resolved. In a March 7 reply, Secretary Baker stated that the Soviet interpretation of the application of the Treaty to naval infantry units "flatly contradicts the language of the Treaty and has no basis in the negotiating record." Secretary Baker's letter also stated: "This is an issue of priciple, a clear-cut case of the Soviet Union failing to fulfill a Treaty obligation. We have repeatedly made clear to Soviet officials, at very high levels, that they should abandon this wholly unsupportable position."

Notwithstanding its original demand that the Soviet Union recant its unacceptable interpretation of Article III, the Administration elected to deal with this problem through the mechanism of a side agreement that establishes obligations outside the framework of the Treaty. While that approach will result in Soviet equipment holdings under CFE at the same level as if they had never asserted that naval infantry equipment was exempt, the decision to resolve this dispute through a separate side agreement has the disadvantage of leaving the Soviet Union in disagreement with the 21 other CFE signatories over the interpretation of a key provision in the Treaty. As noted in the State Department's Article-by-Article Analysis of the Treaty: ". . . it should be noted that the Soviet Union, in contrast to the other 21 Signatories to the Treaty, does not subscribe to the analysis of the scope of Article III counting rule described above."

It is highly unusual for an administration to submit a treaty for advice and consent by the Senate with an open acknowledgement that the parties are in disagreement over a fundamental point of treaty interpretation. This anomoly is only tolerable to the Senate due to the corrective effect of the June 14, 1991 side agreement; however, this makes it all the more important that the Senate act within the resolution of ratification to ensure that the side agreement is afforded the same legal force and effect as the Treaty. A condition making this explicit will help guarantee that any Soviet action inconsistent with or in violation of the June 14, 1991 side agreement is treated by the United States with the same gravity as any Soviet action inconsistent with or in violation of the Treaty.

The June 14, 1991 side agreement raises another point of concern to the Committee: The Executive Branch's continuing practice of using legally binding side agreements and political commitments to establish obligations outside the framework of an arms control treaty. President Bush's July 9 letter of transmittal for the CFE Treaty describes the June 14 side agreement on naval infantry as "associated with, but not part of, the Treaty." The practice of relying upon agreements and commitments outside the framework of treaties began with the Soviets' "political commitment" on Backfire bomber issues in SALT II, was repeated in the case of various definitional and verification issues in INF, and has now been repeated with regard to a variety of issues related to CFE and START. The Committee believes that the practice of relegating "too hard to solve" negotiating issues to side agreements, rather than resolving them within the confines of the treaty proper, threatens to detract from the Senate's role under the Constitution as a co-maker of treaties. Absent a change in approach, the Committee believes that it is necessary for the Senate to attach conditions to the resolution of ratification that predicate the Senate's advice and consent to arms control treaties upon the understanding that the various side agreements have the same legal force and effect as the treaties.

Second, the Committee recommends that the CFE resolution of ratification also condition the Senate's advice and consent on its understanding that the October 18, 1991 side agreement dealing with the accountability and inspectability of Soviet forces in the independent Baltic nations has the same legal force and effect as the Treaty. The Committee recognizes that this side agreement responds to a development (the Soviet Union's formal recognition of Baltic independence) that arose well after the Treaty was signed. Nonetheless, the Committee would note that the Administration chose to address this development through the mechanism of a side agreement that established obligations outside the framework of the Treaty, rather than as an amendment or protocol to the Treaty that would have required formal approval by the Senate. As with the naval infantry side agreement, failure to affirm the legal force and effect of this side agreement in the resolution of ratification would detract from the Senate's Constitutional role in the treaty-making area.

Third, the Committee recomends that the resolution of ratification include a Condition addressing the possibility that the Ukraine or some other republic of the formerly Soviet Union with large military forces or a significant military potential might achieve independence and elect not to be bound by or accede to the Treaty or for other reasons remain outside the CFE regime. In response to a quesiton we submitted in advance of our first hearing, Secretary Baker stated:

It is the view of the Administration that in order to safeguard the integrity of the Treaty regime, it almost certainly would be necessary for Ukraine and Byelorussia, if they were not bound as part of the USSR or any successor state, and retained significant amounts of equipment in Treaty categories, to accede to CFE.

During our November 4 hearing, Ambassador Woolsey testified that should such a scenario play out, it would provide grounds for U.S. withdrawal from the Treaty: "Certainly a country the size of the Ukraine, if it had substantial military forces, could, I would think, also be regarded as a fundamental change of circumstances under the Treaty, the old doctrine of 'rebus sic stantibus.' "

The Committee recognizes that there have been many signals emanating from the Ukraine, including the October 30 Kiev communique between the Ukraine and Russia, indicating that the Urkaine intends to observe the CFE Treaty. Nonethless, many issues remain unsettled, including the quesiton of which current CFE state or states in the Group of Six would yield entitlements of Treaty-Limited Equipment (TLE) to the Ukraine to establish Ukrainian TLE allotments in the event the Ukraine joins CFE as a sovereign state.

The Committee believes the uncertainties in the current situation are such that the resolution of ratification should include a Condition requiring certain actions in the event former republics become independent and decline to be bound by the CFE Treaty or, assuming that they are not bound under international law in the absence of any action on their part, decline to accede to the Treaty. In such a Condition, such developments with respect to the Ukrainian, Belorussian or Russian republics would be recognzized as a military signficant changed circumstance—a point that was acknowledged in our hearings by numerous Adminstration witnesses.

In the event of such developments with these three republics, the Condition should require the President to consult immediately with the Senate as to whether the United States should exercise its withdrawal rights under the Treaty. If, after such consultation, the President elects not to exercise withdrawal, the Condition should, at a minimum, require him to request the Treaty Depository to convene an extraordinary conference of the States Parties pursuant to Article XXI, with representatives of the new state in question invited, to assess the continued viability of the Treaty and whether amendments are necessary and appropriate to deal with these changed circumstances.

If, following such a conference, the new state in question still refuses to accede to or be bound by the Treaty, the Condition should require the President to immediately transmit to the Senate any amendments agreed to during such conference, or if no such amendments have been agreed to, a recommendation as to whether the United States should continue to be bound by the Treaty or to withdraw from the Treaty and his explanation of his reasons for such recommendation.

Finally, we would note that we have reviewed the draft legislation on CFE "cascading" that has been negotiated between the House Foreign Affairs Committee and the Defense Department, and we have no objection thereto assuming it is not amended. We recognize that this CFE implementing legislation, which would amend the Arms Export Control Act to permit certain specified weapons transfers within NATO for the purpose of modernizing our allies equipment, is under the jurisdiction of your committee, but we would recommend that you act on this matter before the Senate adjourns.

We have consulted with all Members of the Committee on the recommendations outlined above and no objection has been raised. However, certain Members of the Committee have identified in the attached Additional Views other proposed Conditions, including one on the issue of the Soviet declaration of TLE in the area of application on November 19, 1990—a declaration that is disputed by U.S. intelligence. While the other Members of the Committee agree that this is an issue of serious concern, they have deferred to the Senate Select Committee on Intelligence in making recommendations to your Committee on an appropriate Condition on this subject.

Sincerely,

SAM NUNN,
Chairman.
JOHN W. WARNER,

Ranking Minority Member.

ADDITIONAL VIEWS OF SENATORS WARNER, THURMOND, COHEN, WALLOP, LOTT, COATS, MACK, AND SMITH

We agree with the Committee's letter report on the Conventional Armed Forces in Europe (CFE) Treaty and endorse the recommended conditions to any Senate approval of ratification of the CFE Treaty in at least the specific areas addressed in the letter. We believe, however, that further recommendations are necessary to protect the Senate's constitutional prerogatives in the Treaty-making process and to assure future U.S. national security interests.

Specifically, the inaccuracy of Soviet data declarations of Treaty Limited Equipment (TLE) in the area of application at the time the CFE Treaty was signed on November 19, 1990 is a serious concern. While the Administration has attempted to resolve this issue, significant differences still exist between the Soviet data declaration and U.S. intellligence estimates of the number of Soviet TLE in the area of application. These differing estimates range in the thousands of pieces of TLE above the amount included in the Soviet declaration.

We believe this discrepancy represents a significant question about Soviet probility and good faith with respect to their obligations under the terms of the CFE Treaty. While the Administration has expressed its intention to continue to work to achieve a resolution of this data dispute, it has not yet been able to do so. The June 14, 1991 resolutions of the Article III dispute and the issue of Soviet equipment transferred to locations east of the Urals do not resolve this issue.

We do not believe this is necessarily an issue over the military significance of the unreported Soviet equipment, and we make no judgment as to the military significance of this equipment or which U.S intelligence estimate of unreported TLE is most accurate. Instead, we believe there is a very important principle associated with this issue with respect to maintaining the integrity of the arms control process, particularly as it might set a dangerous precedent for START. Consequently, we believe this issue must be resolved before the United States assumes responsibility for its obligations under the terms of the Treaty.

In order to resolve this issue in a manner consistent with U.S. national security interests and what we view as the national interests of the other State Parties to the Treaty, we propose the following reservation to the CFE Treaty which should be included in the resolution of ratification. The reservation would read as follows:

"Whereas, data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall not be bound by the terms of the Treaty unless and until—

(A) the President has certified to the Senate his best estimate of the amounts and types of equipment holdings of the Union of Soviet Socialist Republics in the Atlantic to the Urals area of application on November 19, 1990;.

(B) the President has certified to the Senate that the Union of Soviet Socialist Republics has agreed that the Soviet equipment holdings described in (A) are the amounts and types of equipment holdings in the Atlantic to the Urals area of application on November 19, 1990; and

(C) the President has certified to the Senate that the Union of Soviet Socialist Republics has agreed that it will destroy such amounts and types of equipment as required by the Treaty based on the amounts and types certified pursuant to clause (A) either as required by the Treaty or, if such equipment is no longer in the Atlantic to the Urals area, in accordance with destruction procedures similar to those provided for in the Treaty."

Additionally, while the Committee letter suggests a general condition designed to deal with the possibility of the Russian, Ukrainian, or Belorussian Republics becoming independent and not agreeing to the Treaty, we believe we should provide our views on a specific reservation designed to deal with this situation.

We believe that the resolution of ratification should provide for very specific procedures to be followed in the event that the Ukrainian, Belorussian, or Russian Republics were to become independent and not agree to be bound by the terms of the Treaty. Administration officials consistently testified that, if such a circumstance should arise, it would amount to a militarily significant changed circumstance and would seriously bring into question the continued validity of the Treaty. While we recognize the possibility exists that other Soviet republics might well become independent in the future and might, for whatever reason, not agree to be bound by the provisions of the CFE Treaty, it is less likely that such situation would amount to militarily significant changed circumstances.

Therefore, we suggest that the Foreign Relations Committee include in the resolution of ratification two conditions dealing with the creation of new states in the Treaty area of application: one condition applicable with respect to the Ukrainian, Belorussian, and the Russian Republics, and another condition applicable with respect to the creation of new states in any other area. Furthermore, we suggest that the Foreign Relations Committee include a condition relating to creation of new states in the Ukrainian, Belorussian, or the Russian Republic that might go so far as to mandate U.S. withdrawal unless the President resubmits to the Senate for its advice and consent the Treaty or amendments to the Treaty which are designed to deal with the changed circumstances.

John Warner, Dan Coats, Bob Smith,
Strom Thurmond, Bill Cohen, Connie
Mack, Malcolm Wallop, Trent Lott.

ADDITIONAL VIEWS OF SENATORS SMITH, WALLOP, AND MACK CONCERNING THE CFE TREATY

We, as members of the Armed Services Committee, have reviewed the Treaty of Conventional Armed Forces in Europe (CFE), and share the view of our colleagues that, with the inclusion in the Resolution of Ratification of certain conditions to the Senate's advice and consent, the Treaty would promote U.S. national security interests. In our opinion, however, further clarification on a variety of issues is needed before the Senate discharges its constitutional prerogatives.

We recognize that the Administration considers prompt ratification of CFE an urgent priority. It is neither our wish nor intent to prevent timely disposition of this matter. However, the Warsaw Pact dissolution and subsequent disunion of the USSR are extraordinary transformations which have injected great uncertainty into the legal, political, and military foundations of the Treaty. We are concerned that precipitant consideration, prior to resolution of technical discrepancies, and ongoing political proceedings among the Group of Six, particularly the former Soviet Union, could severely undermine the Senate's province and contribution to the ratification process.

For instance, with respect to treaty limited equipment (TLE) within the ATTU zone, there exist significant disparities between U.S. intelligence estimates and the Soviet data declaration provided at the time of Treaty execution. Although numerical estimates of unreported TLE differ among elements of the intelligence community, there is consensus that some TLE, and quite possibly a substantial amount, was not reported. Under-reporting of TLE would significantly diminish Soviet reduction obligations under the Treaty, and could prove to be militarily significant. Yet, to our knowledge, this matter remains unresolved. In our opinion, ratifying CFE prior to resolution of data base discrepancies would imperil Treaty efficacy and set a dangerous precedent for consideration of the Strategic Arms Reduction (START) Treaty.

Furthermore, the abortive August 1991 coup has triggered unprecedented political and military discord within the former Soviet Union. Rising nationalism and sovereignty claims among the republics have eroded internal symmetry, and shifted the power balance within the Group of Six. At present, it is unclear how these developments will transform the Soviet political and military framework, and whether the individual republics will, in fact, accede to the Treaty. Both Secretary Baker and Ambassador Woolsey have affirmed that Treaty viability hinges on participation by the republics, particularly Russia, Ukraine, and Belorussia. We share this view, and believe it would be premature for the United States to act on the Treaty prior to the impending referendums on independence in Ukraine and Belorussia.

Moreover, we are concerned that, in the wake of the Warsaw Pact dissolution, the bipolar structure of the Treaty may actually jeopardize the long term security interests of emerging East European democracies, such as Poland and Czechoslovakia. Its merits note that many East European nations have expressed interest in affiliating with NATO. It is not inconceivable that, in the future, these nations may determine a need to augment their armed forces in response to unforeseen regional security threats. However, within the existing bloc-to-bloc Treaty structure, larger TLE holders, such as the Russian republic or some other former Soviet state system, could exercise a de facto veto over such augmentations by refusing to lower their own equipment allocations. We believe this matter warrants consideration.

The fundamental objective of the Treaty has always been to eliminate the massive disparity between NATO and Warsaw Pact force levels, and to reduce the threat of surprise attack or large scale offensive action against Western Europe. This imperative has been largely accomplished, irrespective of CFE, through the demise of the Warsaw Pact and disunion of the USSR. Nonetheless, we believe that, with the inclusion of certain conditions, the Treaty would retain a degree of flexibility and efficacy necessary to promote U.S. and NATO security interests.

In our opinion, the national security interests of the United States, and our NATO allies, would be best served by resolving the

VOL 137 PT 23 NO 21–25 1991 UMI

aforementioned issues *prior* to ratification. While we understand the Administration's desire to secure prompt approval of the accord, it should be noted that formal transmittal and subsequent Senate action were unduly delayed because of Soviet Article III violations. Given present uncertainties regarding the legal, political, and military foundations of the Treaty, we recommend the Senate defer action until these questions are resolved. However, should the Senate elect to proceed with ratification at this time, we believe the suggested conditions of the Republican Armed Services Committee members should be wholly incorporated to condition Senate advice and consent.

MALCOLM WALLOP.
BOB SMITH.
CONNIE MACK.

EXHIBIT 2

DATA DISCREPANCY ISSUE

(By Richard G. Lugar)

Mr. Chairman: It has been clear for months that the data discrepancy issue would be a thorn in our side as we considered the CFE Treaty. Of the three major post-signature issues, this one was given initially the least attention by the Administration.

I agree that it constitutes a problem area. But I also believe that it is not ultimately resolvable, and certainly cannot be resolved through a condition on the resolution of ratification.

The data describing Soviet holdings of equipment in the zone, submitted by the Soviet delegation on November 19, 1990, diverged significantly from U.S. intelligence estimates, raising questions both about our ability to monitor the Treaty's provisions effectively and about some major Soviet cheating. The Soviets reported thousands of fewer items of equipment in the zone of application than our estimates would lead us to expect, and thus the amount of equipment that they will have to destroy in order to reach Treaty-mandated levels was also lower than we expected. In addition, we discovered undeclared equipment at several sites.

The Intelligence Community experienced great difficulty during the Fall of 1990 in estimating accurately how much Soviet equipment was in the zone. The huge amount of equipment moved by the Soviets east of the Urals prior to Treaty signature accounts for much of the discrepancy. As of mid-1988, U.S. estimates roughly matched what the Soviets acknowledged they had at the time. By early 1989, the Soviet unilateral force reductions and withdrawals from Central Europe had begun. By early 1990, the pace and size of the Soviet withdrawal of equipment from the zone increased to the point that the Intelligence Community, while recognizing the scope and direction of the Soviet effort, was unable to identify all of the units in the Treaty zone from which equipment was being withdrawn. Richard Kerr, Deputy Director of the Central Intelligence Agency, admitted in testimony that the Intelligence Community essentially lost its place and was unable to keep up the data base. A thorough review of all the available evidence since Treaty signature had narrowed the gap significantly.

Some fear that there may have been thousands of pieces of equipment that the Soviets did not declare and may have left in the zone illegally to avoid destroying them. But if there were a substantial amount of undeclared equipment in the zone, most of it had been withdrawn or is being destroyed. Though there are a number of "smoking guns" we have raised with the Soviets, we have little meaningful evidence to back up the bulk of our suspicions. For this reason, the problem cannot be completely resolved.

Deputy Director Kerr testified that the Intelligence Community believes that the figures submitted by the Soviets on November 19, 1990, reflect what they intended to have in the zone when the Treaty entered into force, if not before. Thus, the Intelligence Community believes that the Soviets were not necessarily trying to violate the Treaty in order to avoid their destruction liability, but simply failed operationally to carry out by Treaty signature all of the withdrawals or destruction of equipment that they intended. Kerr characterized Soviet failure to declare all of their equipment in the zone at Treaty signature as a "technical violation".

There is a fundamental philosphical disagreement about whether most of the discrepancy should be characterized as "undeclared" equipment. Most Administration experts believe that, while we can legitimately continue to press the Soviets for full resolution of our concerns, for the most part we cannot prove that the Soviet declaration is wrong. Others, however, place the burden of proof on the Soviets. They argue that the U.S. position should be that the Soviets failed to declare these thousands of pieces of equipment unless they, the Soviets, prove that the equipment was not in the zone at Treaty signature.

Moreover, there is a tendency to confuse the nature and basis of our estimates of Soviet equipment with those of the Soviet declaration of data. Intelligence estimates and Soviet data declarations are apples and oranges. In an ideal world, they would be identical. But in the real world, there will inevitably be discrepancies. For example, the Intelligence Community's estimate in the Fall of 1990 was not a "snap-shot" of the zone on the date of signature. But that is precisely what the Soviet data declaration was supposed to have been. An estimate, by definition, uses incomplete information and analytical assumptions to develop a model of what the force should look like—it has never been possible to precisely count and document every piece of equipment.

When it signed the Treaty, the Administration believed that, to meaningfully affect the strategic balance, there would have to be Soviet cheating on a huge scale, which could be detected. But, as a political matter, the view that large-scale Soviet cheating could be detected was drawn into question as a result of the data discrepancy issue.

The simple response is that we can monitor the Treaty effectively. First, we will be monitoring not primarily pieces of equipment, but "militarily significant change" in the zone. The standard of "military significance" focuses on fighting force. Equipment by itself is not a direct military threat. It must be part of cohesive units of trained personnel and a large amount of support equipment. This factor makes significant change easier to detect and increases warning time.

In addition, when the Treaty is implemented, we and our allies can use the tools provided by the Treaty—on-site inspection and notifications—to enhance greatly our monitoring capability. We will be able to check out our estimates by going to specific sites for a close-up look, and we will be able to compare our estimates with what the Soviets tell us about their forces. The Soviets will be less likely to falsify their declarations intentionally because of the fear of being discovered through on-site inspections or other means. But on-site inspections can only be undertaken once the Treaty is implemented.

The intelligence problem behind the data discrepancy issue was likely unique. The Intelligence Community has learned from its errors; the Treaty will improve our monitoring capability greatly; and the risk of a recurrence of the problem should be virtually eliminated.

When the Treaty is implemented, the Intelligence Community may also get a better grip on the question of equipment illegally in the zone. But since so much of the equipment has been removed from the zone or destroyed, we are unlikely to ever get a true picture of Soviet holdings in the zone at Treaty signature.

Thus, Mr. Chairman, I think it important that the Committee call attention to the problem in the resolution of ratification, and I think the language contained in the Committee draft does so in a firm yet reasonable way. But together, more stringent language designed to "solve" the data discrepancy issue—an issue that is unresolvable—could only endanger the Treaty.

EXHIBIT 3

[From the Washington Post, Nov. 3, 1991]

DEALING WITH THE UN-SOVIET UNION

(By Alton Frye and Jeffrey H. Smith)

The move to independence by the Ukraine and other former Soviet republics has created grave international security problems. The parliament in Kiev contemplates an army of 400,000 men or more, larger than Germany's will be. Russian President Boris Yeltsin has said his government may need an army. Other newly independent republics also talk of separate forces.

In several regions where Soviet nuclear weapons are deployed, there are strong hints the weapons could become bargaining chips for the republics in future talks with Moscow. The prospect of multiplying armies and proliferating fingers on the nuclear trigger demands sober action by the United States.

President Bush's unilateral initiatives on nuclear weapons are an attempt to turn the dangers arising from Soviet fragmentation into opportunity. Bush acted within the context of numerous agreements negotiated over the years with the Soviet Union, including the Nuclear Non-Proliferation Treaty (NPT) the acts of the Conference on Security and Cooperation in Europe (CSCE), the Anti-Ballistic Missile Treaty (ABM) and the as-yet unratified Strategic Arms Reduction Treaty (START) and Conventional Forces in Europe Treaty (CFE).

It is essential that the new republican governments adhere to these deals—and that the further nuclear reductions promised by Soviet President Mikhail Gorbachev in response to Bush's cutbacks take place.

The Soviet Congress of Peoples' Deputies has pledged that all international agreements and obligations will be "unswervingly observed in the transitional period" and has urged secessionist republics to join the NPT and CSCE. This fell short of the traditional principle that successor governments accept their predecessors' international legal obligations. (To this day, for example, the United States and some former British colonies respect an extradition treaty dating from the years of empire.)

In the START agreement, the Soviet Union declared more than 20 deployment, production and other sites outside Russia as subject to the treaty's limits. The Ukraine's legislature has acknowledged central authority over nuclear forces on its territory and proclaimed its intent to become a nuclear-free zone by the mid-1990s. At the same time,

leaders in Kiev are pressing for a future role regarding nuclear weapons in Russia. These pressures, and similar efforts in Kazakhstan and Byelorussia, make the first priority for the United States to firm up commitments to maintain effective, responsible control over nuclear systems deployed outside Russia.

Except for the central government or Russia, if it assumes control of Soviet nuclear forces, the United States should treat all governments that emerge in the territories of the old Soviet Union as "non-nuclear weapons states" within the meaning of the NPT. Any nuclear weapons that remain on their territory should do so only in an alliance relationship with the central government or Russia comparable to the basing agreements for U.S. nuclear systems in NATO or elsewhere.

Republics defined as non-nuclear-weapon states are obligated under the treaty not to acquire nuclear explosives. But the central government (or Russia) is required by START to carry out reductions and enforce other treaty strictures on intermediate nuclear forces and anti-ballistic missile defenses.

Complications abound. For some ABM Treaty provisions, for instance, it may be necessary to grandfather the successor republics in which ABM radars or other facilities are installed. The only Soviet ABM test range permitted under the treaty, Sary Shagan, is located in Kazakhstan, as is the major Soviet missile test and space launch complex at Baikonur. Only if other republics agree will the Soviet Union's nuclear successor (Gorbachev's or Yeltsin's government) be able to exercise its ABM treaty rights.

The unratified START and CFE treaties pose different considerations. START would remove thousands of strategic weapons. The Soviets continue to modernize their vast arsenal, the gravest threat ever faced by the United States. We cannot miss the opportunity to reduce that peril.

Equally, CFR is vital to America and her allies. Its provision for redeployment and destruction of massive amounts of conventional equipment—tens of thousands of tanks, armored vehicles, artillery and helicopters—should guarantee that the turn toward stability at lower force levels in Europe is irreversible.

These treaties are the framework for mutual predictability and for correcting Soviet military excesses. They also are indispensable to relieving some of our own defense burdens.

Given such momentous stakes, U.S. policy must be precise and explicit:

International agreements: The United States and its allies should make clear that apart from the Baltics, they will not recognize or trade with any Soviet successor government or republic government or support its participation in the United Nations unless it formally accepts treaty obligations to prevent nuclear proliferation and to honor other international convenants.

Nuclear weapons: Washington should insist on firm evidence that strict command-and-control arrangements govern Soviet nuclear weapons. Preferably, these should be moved to Russia, but Ukrainians and others who favor non-nuclear status for themselves are not keen to enhance Moscow's nuclear monopoly. Because the United States maintains nuclear weapons in other countries, it cannot easily press that demand. Moreover, there is concern about moving weapons during periods of instability.

Bush's concern for the "physical security" of weapons points the way. Washingon should offer technical assistance and equipment to bolster command and control wherever Soviet nuclear weapons are located, including help in installing two-key systems for all weapons. One idea worth pursuing would be to add post-launch destruct mechanisms, used on test rockets, to all ballistic missiles.

Short-range nuclear weapons: The matching pledges by Bush and Gorbachev to eliminate short-range ground-launched nuclear weapons and to remove nuclear weapons from surface ships should be codified and confirmed. Reciprocal unilateral reductions will build more confidence if the two sides fit them into existing verification schemes.

Force limits: The United States and its allies should declare that under no circumstances should any military forces deployed by the separate republics exceed a pro rata allocation of the quotas assigned to the Soviet Union by the conventional force reduction accord. The onus is on the successor governments to satisfy the so-called transparency requirements—restraints on military maneuvers, mutual observation and inspection procedures—of the CSCE accords and to move forward with CFE force reductions. We should not wait for the dust to settle in the intra-Soviet bargaining to send that message loud and clear.

Treaty ratification: The United States should ratify CFE and START expeditiously. Although the situation in Moscow is fluid, the risks of delay are greater than the risks of proceeding now. Unless CFE and START are brought into force, there will be no effective limits on any new leadership inclined toward militarism.

Despite uncertainty about which post-Soviet governments will be accountable for particular obligations, the political flux in the former Soviet republics invites creative action by the U.S. Senate to tie the new regimes to accords that are so critical to American security.

Problems will surely arise in the implementation of such complex agreements but they can be resolved through the mechanisms for clarification and enforcement contained in the treaties. Shaping the international obligations of the new republics is now the crucial objective. American approval of CFE and START could be decisive in locking them into the reductions process. For that purpose "wait-and-see" is worthless. The moment calls for "commit-and-constrain."

AMENDMENT NO. 1432 TO CONDITION NO. 5, AS MODIFIED

Mr. BIDEN. Will my colleague yield?

Mr. NUNN. Mr. President, as I sense it—and I have not been here for this whole debate—but has there been an agreement to modify the Cohen amendment?

Mr. BIDEN. I say to the Senator, yes. The Senator is about to send up his modification, I believe.

Mr. COHEN. I believe I had sent the modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment (No. 1432), as modified, is as follows:

In the language proposed to be inserted by the Committee amendment, strike subparagraph (C) of condition (5) and insert in lieu thereof the following:

"(C) shall, if he has made the determination and decision described in subparagraph (B)—

"(i) submit for the Senate's advice and consent any change in the obligations of the state parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature; or

"(ii) if no such change in the obligations of the states parties is agreed to by all states parties but the President determines nonetheless that continued adherence to the Treaty would serve the national security interests of the United States, seek a Senate resolution of support to such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.".

Mr. NUNN. Mr. President, I did discuss this briefly with the Senator from Maine, the Senator from Delaware, and Ambassador Woolsey. I think this is a good modification. I think it is a very sound approach. It addresses circumstances we are not sure of now and cannot be sure of.

The Senator from Maine makes an absolutely valid point that if the Ukraine decides to form a very large army and does not become part of the CFE Treaty, it could make an enormous difference in the balance of power. I think those circumstances would warrant both the President taking another look at the treaty and the Senate of the United States taking another look.

The reason I think this is an improvement is that I could foresee if you had a two-thirds requirement you might have some real difficulty. The way this condition is now modified it is clear it would require a majority vote and it would be a resolution of support or resolution, I assume, of disapproval of the President's decision. Is that the correct interpretation?

Mr. COHEN. That is correct. A resolution of support for a President declaring this in our interests to stay in. He can pull out unilaterally. He does not need our consent to do that although under the Goldwater case that still might be the possibility of someone questioning whether the President can unilaterally terminate a treaty. That was discussed in Goldwater versus Carter. And, of course, the Supreme Court said that is a political question, go back and fight it out within the Executive. That is where the question rests.

Mr. NUNN. I believe this is a real improvement and contribution to the treaty itself and I certainly will support this.

I believe it is preferable to the original language. I believe I understood the intent of the original language but under certain circumstances it seems to me the results of what would be required would be a little bit vague.

For instance, it will take a two-thirds vote to approve the CFE Treaty Monday. But if the Ukraine decided to form their own army and then they did not adhere to the CFE Treaty, and made it clear they would not, and the

VOL
137
PT
23
NO
21—25
1991
UMI

President said, "Notwithstanding that, I am going to stay in the treaty," then the Senate of the United States would have to act.

I was a little bit puzzled under the original language whether the President of the United States would have to have a two-thirds vote to stay with the treaty then or whether it would take two-thirds of the Senate to get out of the treaty or to force the President out of the treaty.

So I think this is a preferable approach.

I could also have envisioned under the original language—let us assume 60 percent voted and said the President is correct, we want to stay in the treaty. That would not be two-thirds.

So, really, in effect, you could have the failure of getting two-thirds, basically, overrule the President in his determination, whereas, in approving the treaty in the first instance two-thirds were required.

In other words, what I was concerned about is whether 35 percent or 40 percent could undo what it had taken two-thirds of the Senate to ratify.

Maybe I missed something in the original proposal and maybe there was an explanation for it. But that did give me concern. But I am fully in accord with what I understand to be the Cohen amendment as it has now been modified.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that a letter to me dated November 22 from Secretary Baker outlining in detail the administration of and support of all of the other conditions that are in the treaty worked out by myself and Senator HELMS and Senator PELL, under Senator PELL'S leadership on our side, be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, November 22, 1991.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Subcommittee on European Affairs, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The unanimous recommendation of the Foreign Relations Committee that the Senate give its advice and consent to the Treaty on Conventional Armed Forces in Europe (CFR) was very gratifying. I appreciate your and the Committee's efforts on behalf of this landmark agreement. The reductions, limitations and military transparency it will bring about will put security relations in Europe on a new and positive basis and significantly enhance stability there. This has become more important than ever in these uncertain times.

I understand, however, that amendments to the Resolution of Advice and Consent reported by the Foreign Relations Committee may be offered when the Treaty goes to the Senate floor. One which reportedly is being considered would require, under certain circumstances, the resubmission of the Treaty in its entirety for Senate advice and consent. That would be unprecedented and unconstitutional and therefore wholly unacceptable to the Administration.

Another potential amendment would deal with the CFE data issue along the lines proposed by minority members in their section of the Armed Services Committee's report on the Treaty. Quite frankly, such a reservation would make it impossible for the United States to ratify the Treaty because the conditions specified could never be fulfilled. The Treaty would never go into effect, and its many benefits would never be realized.

I understand as well that, despite the careful crafting of the language of the condition on new states, there is some concern in the Senate that important changes in Treaty obligations could occur which would not be submitted to the Senate for its advice and consent. I would like to reassure you that the Administration intends to implement the condition adopted by the Foreign Relations Committee in good faith and in the spirit in which it was negotiated. Specifically, we will implement the condition as follows:

(a) In all likelihood, the emergence of an independent Ukraine or Byelorussia that declined to participate in the CFR Treaty would indeed result in the President's determining that a "changed circumstance" had occurred. There is always the possibility that such a state would decide to hold no or only minimal amounts of equipment in Treaty Categories, in which case the military significance criterion specified in the Senate condition might not be met. We consider this very unlikely, however, and thus expect that the President would, indeed, determine that a "changed circumstance" had occurred.

(b) If, in order to accommodate such a changed circumstance resulting from the emergence of a new state, Treaty participants were to agree to a "change in the obligations" through a legally-binding side agreement, rather than a Treaty amendment, the Administration would submit such agreement to the Senate for advice and consent, just as it would an amendment to the Treaty.

(c) The Administration would not agreee to such a "change in the obligations" solely through administrative or technical changes to the Treaty.

As Acting Secretary of State Eagleburger noted in his letter of November 19, the Resolution already approved unanimously by the Foreign Relations Committee contains a sound and workable approach to dealing with these complex issues. I urge you and the entire Senate to proceed with its advice and consent based on the Resolution as it now stands.

Sincerely,

JAMES A. BAKER III.

Mr. COHEN. Will the Senator yield?

I want to clarify for the record. Earlier I indicated Ambassador Woolsey had stated that he would not speak unless he had the support of the administration. It was another administration official who made that representation, that if Ambassador Woolsey came and supported the modification language that I have now submitted to the clerk, that he would be acting on behalf of the administration.

Mr. BIDEN. Mr. President, it is further my understanding from our staff conversations that Ambassador Woolsey in fact does support this modification. And a point that Senator HELMS made to me, which is very important that it be restated: When I was going through what authority the Senate had and did not have relative to treaties, I left out a very important one, and Senator HELMS pointed it out to me. That is that the Senate, if it desired—and it does not—but if it desired, it could require the President to go back and renegotiate any portion or all of the treaty. It could do that. It could do that. It could say "We will pass this treaty conditioned only upon you getting the Russians to agree to the following two points and change paragraph 7 and 9 to thus and so."

We could do that. That is not what we are doing here. That is not what we are doing here. And, again, I want to make it clear the administration—directly through the representation in a letter which is now in the RECORD, from Secretary Baker—has gone into detail and agreed to and is supportive of all the conditions that are in the ratification instrument and Ambassador Woolsey has verbally acknowledged that the amended amendment, the modified amendment of the Senator from Maine, is also acceptable to the administration.

I know there are a lot of Senators trying to catch planes.

Before I yield the floor, let me ask of my colleagues from Maine, would it be his desire to seek a rollcall vote on this?

Mr. COHEN. It is not. I do not seek a rollcall vote. I am not aware of anyone on my side who is seeking a rollcall vote.

Mr. BIDEN. I know of no one on our side. I, obviously, am not the leader. I do not have the authority to free people up. I know there are a lot of people knocking on our door asking whether or not they could catch their planes.

I do not know what I would do, but I tell you I do not think there is going to be a rollcall vote. We may be able to pass this very quickly.

Before we do pass it, maybe we could move to third reading of the modified amendment and pass it and then continue this discussion so Senators would be assured that there was not going to be a rollcall vote and they could catch their planes.

Would anyone object to that?

Mr. SPECTER. Mr. President, that is agreeable to this Senator, and I will make a few comments on this, asking unanimous consent that they be printed prior to the voice vote.

Mr. BIDEN. Mr. President, I move——

Mr. COHEN. Will the Senator withhold the request for a moment?

Mr. JEFFORDS. Mr. President, the CFE Treaty is a landmark agreement which enhances the security of all signatory nations. It is the foundation for a new order in Europe. It shuts the door on the cold war and opens the way

to an era when cooperation can replace competition.

By requiring dramatic cuts in Soviet conventional armed forces, the CFE Treaty enhances the security not only of Western European nations but also of the emerging democracies in Eastern Europe which now can turn their attention to building new societies without fear of being overrun.

I fully support the CFE Treaty and will vote for it.

I also will vote in favor of the amendment offered by my friend from Maine. If there is one thing certain about the Soviet Union's future it is that nothing is certain. It is important to recognize that we are not sure who we are dealing with there. We cannot tolerate a situation in which a Soviet republic with large holdings of treaty-limited equipment does not accede to the treaty. The Senate must be able to have a say in such a case.

The CFE Treaty is a remarkable achievement. The Cohen amendment makes it an even stronger guarantee of U.S. security. Will the Senator from Delaware allow me to ask just one question?

Mr. BIDEN. Surely.

Mr. JEFFORDS. The Senator from Maine, Mr. Presient, I would like to direct my question to the Senator from Maine on his original amendment that I had agreed to support. Now that it is changed, I would like to know the significance of the change and, in particular, if we were to pass a resolution not supporting the President, as to the ramifications or legal authority or power, if any, that it has.

Mr. COHEN. Mr. President, let me respond to my colleague from Vermont. The change has been brought about by an agreement reached with the administration. Frankly, my purpose was to assert the Senate's prerogative and constitutional authority to require the administration to seek the advice and consent of a significant change in our original understanding. To the extent that the administration is at least willing at this time to say we will return to the Senate and ask for a resolution of support, that achieves my objective; namely, that the administration will come back to us.

The understanding was reached in order to avoid a major controversy or debate that was just articulated by Senator NUNN and I suspect will be commented on further by the Senator from Pennsylvania; namely, whether or not we would have to have a two-thirds approval or resolution of approval or resolution of disapproval if the President should come back.

That could take up considerable time. It might forestall the resolution, the final passage of this treaty for some time. So in an effort to strike a compromise, I agreed to the modified language which will achieve my objective, and that is a recognition on the part of this administration if there were such a fundamental change, the President would come back and seek our advice in the sense that he would seek a resolution of approval for us to stay in the treaty. So it achieves my objective and I think it would preserve at least the prerogatives of the Senate.

Now what is its legal implication? I suspect it is more of a political obligation. This administration is not going to commit on this treaty or any other treaty that it is surrendering any of its perceived constitutional powers. That is a matter that will have to be fought out on each and every treaty that comes before this body.

The only way to resolve that is, in fact, to have a political confrontation, as we had during the INF Treaty, over the interpretation of the ABM language. So I suggest to my friend from Vermont that it is more of a political statement than a legal one.

Mr. JEFFORDS. I thank the Senator for the answer, and that is my understanding. I also believe, then, if the President did not come back, it still would only be a matter of political aspects of us being able to point that fact out and to bring, through moral persuasion or otherwise, upon the President to at least explain his actions or to come back in some way to us; is that correct?

Mr. COHEN. If the unfortunate thing should occur and we see the disintegration of the Soviet Union and one of the major Republics forming its own army and not agreeing to the terms of this treaty, and if the President were to either not disengage from the treaty, nor seek to modify it with the other nations, and not come back to the Senate, I would say that President is, indeed, troubled politically in terms of future relationships and future battles, and a number of conditions certainly would be imposed in various and sundry ways.

Second, with respect to binding future Presidents, the Senator from Delaware already indicated we cannot do that. A future President can come back and say, "I disagree with that interpretation." That in itself would precipitate another political confrontation, a constitutional crisis, as such.

So basically what this President is doing is saying, "I intend to be bound by the understanding reached under this modified condition" and that is all we can ask of this President at this time.

Mr. BIDEN. Mr. President, may I respond to the Senator's question as well?

Mr. JEFFORDS. I would appreciate the response.

Mr. BIDEN. I want to make a clear distinction here. There are political requirements a President has and there are legal requirements, and sometimes a legal requirement, in effect, imposes a political requirement.

The President, when Senator COHEN'S amendment condition is passed, will be legally bound—legally bound—to come back to the Senate. He will be legally bound. But a President, on matters of dispute between the President and the Congress, can ignore a legally binding requirement, but only at his political risk.

As the Senator from Pennsylvania points out, there is precious little case law in this area, but there is a legally binding requirement once we pass this treaty with the Cohen condition on it that the President come back and say, A, the Ukraine is now independent; B, they choose not to stay in the treaty; C, they have *x* number of tanks or any other treaty-covered equipment; D, they present a threat to us; and E, it does not matter to me, I am going to stay in, anyway.

That is what has to happen before we get to the Cohen condition. They are the antecedent events that must occur. If he gets to that point, he then, under the law of the land—this treaty becomes the law of the land—he is required to come back and say: "Senate, I want to stay in the treaty and I do not want to renegotiate anything. Is it OK?"

He has to come up and ask us that and we have to pass a resolution either saying it is OK or it is not OK.

If we say it is not OK, he can still do it. But he will have paid a big political price for doing it.

In contrast, if he negotiates an amendment to the treaty, in that circumstance, he has to come up to the Senate and get two-thirds of the Senators to say that is OK, Mr. President, to change it that way, binding the United States that way. Otherwise there is no new agreement concerning the Ukraine or whatever other republic may have caused the changed circumstance.

That is a legally binding requirement that the President cannot ignore under the law; he cannot ignore that. But what he is required to do under the Cohen amendment condition is different. He must simply come up and ask for a vote. He is legally required to do that. Once we vote, he is not legally bound by the vote.

But the Senator from Maine and I understand that it is unlikely politically that the President would ignore that vote. If 51 or more Senators vote no to staying in, the political pressure on that President would be overwhelming.

That is the value, in my view, of the Senator from Maine seeking to deal with this gray area. We have never dealt with this area before, to the best of my knowledge.

Mr. SPECTER addressed the Chair.

Mr. JEFFORDS. Mr. President, I would just like to conclude, if I may. I thought it was important that we being it out, so we all understand the impli-

VOL
137
PT
23
NO
21—25
1991
UMI

cations of what we are doing here. And I appreciate the clear understanding which has been given me by both the Senator from Maine and the Senator from Delaware.

We are moving into a very difficult time when we are not sure who we are dealing with, and thus I believe it is very important that we are careful as to—that we know exactly the kinds of problems we are getting into and the kinds of solutions that we have arrived at.

I would conclude by commending the Senator from Maine, and I will support him on the amendment.

I yield the floor.

Mr. BIDEN. Mr. President, I would like to make a unanimous consent, if my colleagues will allow. I ask unanimous consent that the Senate be in order to vote on the amendment of the Senator from Maine at this time, notwithstanding the time agreement.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object, I had sought recognition earlier and I think I had recognition but yielded to the Senator from Vermont.

Mr. BIDEN. I will withhold, if the Senator likes.

Mr. SPECTER. I would like to make a very brief comment.

Mr. BIDEN. I withhold the UC.

The PRESIDING OFFICER. On whose time is the Senator speaking?

Mr. SPECTER. I seek time from the distinguished Senator from Delaware.

Mr. BIDEN. Surely. The Senator may take the time he wants.

Mr. SPECTER. When I say a brief comment, it will be 3 minutes.

Mr. President, I wish it was clear, as the Senator from Vermont stated. I do not believe that on this record there is very much which is clear. But I want to compliment, again, the Senator from Maine and the Senator from Delaware for providing what is a very useful debate to express the view of the Senate that if there is change in the republics involved, with the withdrawal of major ones like the Ukraine or others, that this is a matter which the President ought to bring back to the Senate.

When the Senator from Delaware says that it is legally binding, I have to respectfully disagree with him on the proposition that you cannot take it to court and get it enforced.

The area of treaty ratification responsibility is an extraordinarily complicated one, and on the current state of the law, there is very little, if anything, you can take to court and get enforced. That depends upon the constituency of the court. And there is a Justice Powell concurrence in the Goldwater case which suggests there are some issues which can be resolved in court.

But the practical impact is, I think, a profound one. I think on the face of the treaty, which is a good treaty, where you bind the U.S.S.R., the Union of Soviet Socialist Republics—that is still its name, Republics in plural—where you have a given number, including the Ukraine—for example, if the Ukraine is out, there would be a solid position that the treaty is not binding anymore because the republics are not the same. And it is material with the Ukraine being out on the very good chart which the Senator from Maine has.

We have had a lot of discussion here today, Mr. president. I think it is important to assert the constitutional role of the Senate. And just for a brief comment, I agree with much of what the Senator from Maine has said today. I do not agree with an earlier comment about the ABM Treaty with respect to narrow and broad, not because of the lack of standing of the Senate, or a new meaning to "other physical principles," but because my view of the ABM Treaty is that on the three critical factors—the negotiating record, the ratification record, and the subsequent practices of the parties—I come to a different conclusion than does the Senator from Maine in saying that it is a broad interpretation.

But I thank my colleagues for the discussion today, and I think it is very useful. But I do not believe there is anything very clear or anything very legally binding.

I thank the Chair and yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I was going to respond to my colleague from Delaware by saying we have the situation, I believe, under the terms of this condition as now modified, that the President is, in fact, legally bound to come to the Senate under the conditions which the Senator from Delaware outlined. But that for enforcement purposes, we have grave difficulty, I think, in bringing it into a court of law. The Supreme Court might very well say this is not a justiciable issue; this is a political thicket into which the Court will not step, and you go fight it out on another constitutional basis or battle between the executive and congressional branch. That, in all likelihood, would be the situation.

So while it may be a legal obligation in terms of its enforcement, it would be political in nature. And so that is the difficulty in trying to articulate what is legal and what is not.

The Restatement of the Foreign Relations Law of the United States recognizes this principle. It says:

> There is no authoritative doctrine indicating limits on the price the Senate can exact as a condition for its consent. * * * A condition relating to the treaty before it and having plausible relation to its adoption or implementation is presumably not improper and if the President proceeds to make the treaty, he is bound by the condition.

So he is bound by the condition. Now, how do we enforce it? Well, we might enforce it on the next item that would come before the Senate that the President had some interest in. That may be one way of doing it.

Second, I want to respond briefly to the comments made by the Senator from Delaware. He indicated that no President under these circumstances, where the Ukraine is out, would ever ignore the implications of that, and say: "I want to stay in."

Now, the Senator from Wyoming may get up and talk about what we have just waived in terms of thousands of pieces of equipment that the Soviet Union had, in fact, left in these areas bound by the treaty on the date of signature, and which we have decided to waive because we have come to the judgment that it is militarily insignificant under the circumstances. I believe that it is perhaps militarily insignificant, but I think the principle that we have established by doing it is very dangerous as it pertains to future agreements.

But here we have a case where we have thousands of weapons which were not counted, that should be counted, that we have simply given precatory language inserted in the treaty as such: We urge the President to continue to seek to resolve this. But here we had a decision made to waive that and continue to go forward with the terms of the treaty.

So I do not rule anything out in the future. I would not say that anything is impossible. What I want to ensure is that if one of these circumstances should occur, where one of the major Republics in fact opt out of the treaty, the President is duty bound to come back to us. If he chooses not to do so, he has precipitated a crisis, and the Senate would then act accordingly.

Mr. President, I have no further need for time, and I would at the appropriate point, if the Senator from Delaware is finished, urge adoption of my amendment.

Mr. BIDEN. I reinforce the point my friend from Maine made, our friend from Pennsylvania is a fine lawyer, but he is dead wrong on the law. He is confusing the ability to enforce—the ability to enforce—with legality. And there is a distinction with a difference.

But I yield back the remainder of my time.

Mr. COHEN. I urge adoption of the amendment.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment, as modified.

The amendment (No. 1432), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the condition, as amended.

The condition, as amended, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, could I inquire of the chairman now, under the unanimous-consent agreement, as I understand it, time is now to be divided, I think it is—is it 3 hours today?

Mr. BIDEN. I think it is 2 hours today.

I would ask the Chair, what does the unanimous-consent agreement call for on the next item?

The PRESIDING OFFICER. Three hours on the Smith-Wallop amendment.

Mr. BIDEN. Is it 2 hours today, or 3 hours today and 1 hour on Monday?

The PRESIDING OFFICER. Three hours today, plus an hour on Monday.

Mr. BIDEN. I thank the Chair.

Mr. WALLOP. Could I further ask the Chair. As I understood it, the phrasing of the unanimous consent said that 3 hours today was equally divided, but it was on the Smith-Wallop amendment and general debate. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WALLOP. Did that agreement assert itself as to who was in charge of the time?

The PRESIDING OFFICER. Senators SMITH and WALLOP control half, Senator BIDEN controls the other half.

Mr. WALLOP. Under those circumstances, does the majority leader seek recognition.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I thank my colleague.

Mr. President, I am advised that the Senate has just adopted a modified condition offered by the distinguished Senator from Maine that was to be the subject matter of the vote which was to occur at or about 5:15 p.m. That matter now having been disposed of, there will be no further rollcall votes today.

The Senate will, however, remain in session for the purposes of debate pursuant to the agreement as referred to in the colloquy between the Senator from Wyoming and the Senator from Delaware.

There will be votes on Monday. Under the agreement already obtained, there will be at least two votes at 2 p.m. There may be votes on Monday prior to and subsequent to that depending upon what occurs with respect to other business that we are attempting to resolve now or during the course of the day.

So Senators should be aware that they must be present on Monday. At least two votes are now scheduled for 2 p.m. The possibility of votes prior to that and subsequent to that continues to exist.

We will have a final announcement in that regard before the end of the day, or actually, it will be sometime this evening when this debate concludes.

Mr. COHEN. Would it be possible to assure any of us that the votes on Monday will not proceed prior to 2 o'clock? I have postponed a trip back to Maine as it is, and I still plan to go tomorrow. I will get back here by 2, but prior to that time it will be difficult.

Mr. MITCHELL. Mr. President, it is, of course, my desire to accommodate every Senator and, in particular, my colleague from Maine. We may be able to do that. I will try very hard to do that. But I am not able to say that now, for this reason: We are trying to finish by Tuesday. So Monday will be the next-to-the-last day of the session. We have still a fairly substantial number of matters to try to dispose of.

I assure my colleague I will do the very best I can. But I am not able at this moment to make that commitment. I will have to discuss it further with the Republican leader and with other Senators as well.

I thank my colleague, Mr. President. I thank the Senator from Wyoming for his courtesy.

I yield the floor.

Mr. WALLOP. Mr. President, will the Senator from New Hampshire yield 15 minutes to the Senator from Wyoming?

Mr. SMITH. I yield 15 minutes.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Does the Senator from New Hampshire offer a condition at this time?

Mr. WALLOP. Mr. President, I would say it is not the obligation of the Senator to offer that at this time. It is for general debate or debate upon the condition.

Mr. SMITH. If it please the Chair, we can offer it now. The vote, by agreement, is not until Monday.

The PRESIDING OFFICER. The agreements with time constraints require that they be offered.

Mr. WALLOP. Will the Chair restate that?

The PRESIDING OFFICER. The agreements with time constraints require that they be offered.

Mr. WALLOP. Mr. President, that does not constrain the agreement; it merely constrains the time this afternoon for debate on it, general debate on the agreement, does it not?

The PRESIDING OFFICER. If there is no objection, time will run on the agreement. The Senator from New Hampshire controls an hour and a half.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Parliamentary inquiry. Mr. President, did you say that the amendment, did you make some ruling on the amendment being offered now or on Monday?

The PRESIDING OFFICER. If there is no objection, we can run time without the condition being offered. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. SMITH. I yield to the Senator from Wyoming whatever time he desires.

Mr. WALLOP. Mr. President, I thank the Senator. I will say there is nothing devious about this delaying introducing the amendment, no strategy, no tactic is this. We are waiting for it to reach a final form. It is my understanding that it will be introduced here shortly.

Mr. President, one of the problems that we always have with arms control is that despite the best intentions of the negotiators, the democratic nations that enter into them, and their negotiators, they become political documents and not military documents. The Secretary of State last night as much as verified that to me when he told me that the reason this Congress and this country ought not to wait until the compliance report due December 1st is in is because the United States is supposed to lead. Already other nations have entered into this agreement.

But I would say that if it was anything but a political document and if it really was a military document, we would at least take time to understand whether or not the requirements under the agreement and the protocols have been or are likely to be met. But the Secretary of State deems the military requirements to be essentially irrelevant and so, too, is this Senate about to deem them.

I would just say there are several things the Senator from Maine mentioned. I will get to that in a minute. But one of the things this treaty does not talk anything about is completely ignoring the history of Europe; the possibility that peacekeeping forces might have to be put into place between traditional rivalries, Germany and Russia, with Poland in the center, and Czechoslovakia, Hungary, and yet there is nothing in this treaty which permits them to be put in place in violation of the numerical limits that would be stationed in any of those lands.

If you are serious about the history of Europe and you are serious about the potential of instability in those newly released lands of the Warsaw Pact, you might just pause to consider what would happen if traditional rivals on either side threatened the peace or security of somebody in between. But that is not what we are doing here. What we are doing is making a political statement.

If it was more than a political document and insisted on some military

VOL 137
PT 23
NO 21–25
1991
UMI

relevance, we might have noticed that the notice required—under the terms of the treaty, prior to the movement of troops—that it would, if it existed in January, have prevented us from the buildup in the gulf. But it does not have a military relevance, and so, according to the Secretary of State, the United States must do this without asking these kinds of questions.

Mr. President, these CFE negotiations began in March 1989 with a mandate to eliminate the disparities in conventional force levels in Europe, in order to strengthen stability, security, et cetera, and to eliminate the capability of any nation to launch surprise attacks.

At that time, Mr. President—it seems hard to remember—the Soviet-Warsaw Pact forces—there was a Warsaw Pact in 1989, but it seems hard to remember—enjoyed a significant numerical advantage over the conventional forces of NATO.

We were told that a CFE treaty to be negotiated under the mandate agreed to by NATO and the Warsaw Pact would require the destruction of almost 120,000 of the weapons that were there, including, Mr. President, 100,000 Soviet weapons, to create a balance of conventional forces between NATO and the Warsaw Pact.

But that is not the case under the treaty that is in front of us. Under this treaty, and a related legally binding side agreement, the Soviets will only have to destroy about 23,400 pieces of equipment instead of 100,000, less than a quarter of the amount estimated when the negotiations began. It is for several reasons.

As soon as the negotiations began, the Soviet Union began the move massive amounts of equipment to locations east of the Ural Mountains, outside the area of application of the treaty limitations. By their own count, the Soviets moved 57,300 pieces of treaty limited equipment, called TLE's, out of the area of application of the treaty since January 1989, and some before signature last November 19, but a portion of it after the treaty was signed, in direct violation of the treaty provisions and the protocol.

That has been the experience of arms control. Yet, we go back like lemmings to the sea. The Soviets are today in violation of the agreements that they undertook under this treaty.

The Secretary of State says, no matter, we can ignore them. Mr. President, we ignore them here, we ignored them in INF, we ignored them in SALT II, and we ignored them in SALT I and the ABM Treaty. And if they are of no significance to us. we will ignore them in START II, whether or not they are of significance to us.

That is going to be the basis upon which the Senator from New Hampshire and I wish to offer our amendment.

As soon as CFE negotiations began, there were massive amounts of Soviet equipment moved to locations east of the Ural Mountains, and outside of the area of the treaty limitations. Now what happened when those things went out of the treaty zone? It falsified the required declaration of equipment holdings in the treaty zone at signature on November 19. In addition, the Soviets did not include over 3,700 pieces of TLE equipment and claimed the equipment had been redesignated as naval infantry, coastal defense, or strategic forces units and was therefore not covered by the conventional forces treaty.

That was serious enough to attract our attention and that has been, in one way or another, short of resolved, brushed under the carpet.

Finally, the Soviets deliberately understated the total amount of the treaty-limited equipment in the zone on November 19 of this year, again to avoid destroying large numbers of equipment under the treaty. It could amount to as many as 18,000 pieces of equipment, according to some intelligence experts.

The Soviets have stated their data declaration reflected what they had intended to have in the zone at the time of the signature but they have just not been able to be in compliance. They then proceeded to continue to move the equipment out of the zone after the treaty was signed, in violation of the treaty itself.

Those items were supposed to be destroyed, were they not? So they understate them, and then say, we could not get around to destroying it. Instead of destroying them, they take them out of the zone, and that is militarily signicant.

So now that we see is that under the treaty, the Soviets will only have to destroy about 23,000 pieces of equipment instead of 100,000, including the naval, infantry, and coastal defense equipment. Even including the additional 14,500 older pieces of equipment east of the Urals, which the Soviets promised to destroy sometimes over the next several years, the total Soviet destruction requirement is left at half of the amount that was expected by the negotiators. Less than half, Mr. President. Yet, the negotiators, the administration, and the Secretary tell us that it was not military significant.

If it was not, one has only to add, why was it negotiated in the first place? If it was military insignificant, it is an irrelevant exercise is it not, even that we complete this treaty? If none of the numbers mean anything, there was no point in negotiating them. If there was a point in negotiating them, there is a point in seeing to it that they are complied with under some set of circumstances. But, no, we did not do that, because this is a political document and not a military document.

On the very day the treaty was signed, the Soviets submitted a false statement to all other signatories, not the United States by itself, but to all other signatories. While a deliberate understatement of holdings in the conventional categories limited by the CFE treaty may or may not be that significant, any discrepancy, I say again, in the data of a future declaration would certainly be a matter of grave concern.

What reason, may I ask, would the Soviets have to think there is any particular requirement that we might hold them to under anything they negotiated, if we are so quickly willing to forget these CFE violations?

Yet American government continues down this road, always pursuing the illusory dream that this time, with this treaty, we can finally reach utopia. In the immortal words of Dr. Johnson, our unflagging pursuit of arms control through such treaties represents "the triumph of hope over experience."

I don't intend to take the Senate's valuable time belaboring further details of the treaty. It is a complex document, full of arcane legalisms and convoluted matters of international law that could take hours to discuss fully. In any case, I believe the treaty to be largely irrelevant. Its fundamental purpose has always been to eliminate the massive imbalance in conventional forces between NATO and the Soviet bloc, and thereby reduce the possibility of a surprise attack or aggression against our European allies. But that goal has for the most part been accomplished by the strength and resolution of America and her allies, and by the march of recent history—not by CFE. The end of the Warsaw Pact and the collapse of the Soviet empire make a conventional war threat against Europe essentially bizarre.

Despite that fact, the administration is in great haste to have this treaty ratified. I cannot help but recall the words of French Gen. Pierre Bosquet, watching the gallant but foolish charge of the Light Brigade at Balaclava in 1854. "C'est magnifique, mais ce n'est pas la guerre," He said. "It is magnificant, but it is not war."

CFE may appear magnificent to the theologians and disciples of arms control, Mr. President, but it is no treaty. It is a form of magical incantation that we chant to soothe ourselves. It is an exercise in solipsism, something we do exclusively to and for ourselves, that has little relation to the objective world. As something we do simply to satisfy our own inscrutable inner longings, CFE is without seriousness. It is strictly a political document, a public relations confidence game. The Secretary of State has said as much when pleading for the haste to ratify not for our stature. When we should be leading, we are now eight. Has any Senator heard a more profoundly strategic concept of politics not policy.

If we were serious, Mr President, we would not approach the problem of conventional forces this way. For if reducing or eliminating weapons is so important, then why would we ignore the discrepancy in the accounting of treaty-limited equipment? The Soviet-reported TLE data have been shown by United States intelligence to be considerably—and consistently—understated. Were we serious, would we not want this matter resolved, prior to ratification? Of course but only if military considerations held at least equal sway to political ones.

The treaty's sponsors tell us Soviet violations are "militarily insignificant." Perhaps so, Mr. President. I repeat, there is little likelihood of a Soviet conventional attack on Western Europe. But while these discrepancies may be militarily insignificant, they are significant for what they reveal about the arms control process.

Mr. President, I am far more concerned about the process that brought us to this point than I am about the obvious deficiences in this treaty. CFE may well be largely irrelevant. But the flawed process that produced it, and our inability to change our behavior in the last quarter century, may well spawn other flawed treaties that do matter, treaties which may indeed have a profound impact on our security—START, for example.

CFE is further evidence of a bankrupt process, Mr. President. We have pursued arms control blindly and doggedly, the process has now become an end in itself. We have lost sight of its goal, of the national interests that we purport to serve by following the treaty road. We have totally confused means and ends. We have made sacred icons of arms treaties. We genuflect before the altar of the religion of arms control. But if this religion has failed, if SALT I, SALT II, and especially the ABM Treaty have fallen short of their promise and in fact have made the world less secure, then a false god is worshipped.

Mr. President, it troubles me that the White House is asking the Senate for a blank check in ratifying this treaty. There are major unresolved issues—the data discrepancy, the question of new states or successor states—that ought to be resolved before we ratify—if we are serious, that is.

The issue of successor states especially is no trivial matter. After all, with whom are we making this treaty? With the so-called Soviet Union, which no longer exists? With fifteen constituent Republics? With five Republics? Just trust us, says the Secretary of State—we will fix all that later.

I believe in the Constitution, and I strongly support the President's role in treaty-making and foreign policy. He is the Chief Executive, the Commander in Chief; his treaty prerogatives surpass those of the Senate. And this Senate's conduct is not so exemplary that I would want to see its treaty-making role elevated at the expense of the executive. But the President is setting a dangerous precedent in asking the Senate for an open-ended consent to the treaty. The President may indeed have the preeminent treaty-making prerogative, but I am sorry to say he—or more accurately his State Department—has exercised it badly.

I suspect some in the administration know this. The President's men are well aware that many critical issues in the treaty remain unresolved. Yet they demand adamantly that we ratify it simply on its promise that they will be resolved after that fact. They castigate those who want it delayed until the outstanding issues are settled. Mr. President, this is the behavior of embarrassed men, of timid men who want to rush this severely flawed treaty through the Senate before full public scrutiny reveals its weaknesses.

One might ask, Mr. President: since the treaty is not a document with a military rationale; and since, as I have already acknowledged, the threat of conventional war in Europe has largely faded anyway, why make such an issue over it? Why not let the administration have its political triumph, hollow though it may be? Why not give the acolytes of arms control another innocuous icon for their devotions?

The answer is simple, Mr. President. What is ultimately at stake here is not merely conventional arms in Europe, or the political fortunes of the administration, or the constitutional powers of the Senate. What is at stake is the truth.

If we ratify a CFE Treaty so manifestly deficient, one clearly negotiated in bad faith by the Soviets, one that dismisses, glosses over, or conceals so many unresolved issues, then I submit, Mr. President, the Senate is simply colluding in a lie to the American people.

(Mr. BRYAN assumed the Chair.)

Mr. WALLOP. Mr. President, as I have demonstrated, there are major unresolved issues in the CFE Treaty. These are issues of importance, if you believe that arms control treaties ought to have some relevance to armaments and arms control.

Mr. President, I guess I view the Secretary of State and the President as setting a dangerous precedent in asking the Senate for an open-ended consent to this treaty. There is a report, I point out, that is due on December 1 on Soviet compliance. The report could tell us of the nature of the threat that may be arrayed against us and the nature of the instability that could be caused by it. But we have decided to proceed and ignore that report.

So, I have no doubt but what the Senate will ratify the treaty. It always ratified arms control treaties. But I would say that treaties are not panacea to the problems of instability in the world. I shall be voting against the resolution and in doing so will be hoping to do more than just criticize. I truly do not relish the constant role of critic of arms control. But in speaking against this resolution let me assure my colleagues that a safer and more secure Europe is indeed possible, is indeed desirable, and could indeed be achieved, but not through this treaty.

It will never result from exercises in self-delusion and magical incantation. Peace and stability do not come if we focus merely on arms and ignore the deeper factors which breed conflict.

Mr. President, let me conclude by saying that arms do not drive nations to acts of aggression. Men do. Treaties control neither men nor arms. If the history of this century has taught us nothing else, it has taught us that they do not control arms.

Treaties control neither men nor arms. Democracy, Mr. President, and governments of laws can control men. When men can change laws enjoy liberty and personal property treaties are unnecessary and so too are arms. When the opposite exists free people arm themselves, but sadly, Mr. President, free people also believe the incantations of leaders who tell them they are safe, when indeed at times they are not and cannot be made safe by the mere expressions of treaties or hopes.

Mr. President, may I say that I thank my friend from New Hampshire and am a proud cosponsor of the condition of which he will shortly be the principal sponsor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. Mr. President, I was somewhat taken aback by the rush to bring this treaty to the floor of the Senate, as was previously mentioned by my colleague from Wyoming. The constitutional role of the Senate in treaties is very clear with respect to advise and consent. And I resent efforts to usurp the Senates' prerogatives.

It took some 15 years to reach the culmination of this treaty, and it seems to me that we ought to be able to fully debate it here in the Senate without having to feel rushed within an abbreviated time limit.

Frankly, it was a struggle to get the opportunity to debate this treaty at all. There were many who did not want to debate it, which is something that I have a difficult time understanding. But he that as it may, we have entered an agreement here where we can debate the treaty for a few hours. But considering the significance of the accord and the constitutional responsibility that we have in the Senate I am somewhat puzzled, as a former teacher of the Constitution, as to why there would be so much reluctance on the part of many in the administration and some here in

VOL 137
PT 23
NO 21–25
1991
UMI

the Senate to allow us to exercise that constitutional prerogative.

In any case I am for the opportunity to debate it, and believe the nation's interests are promoted by doing so.

I also intend to lay down an amendment on behalf of Senator WALLOP and myself, which I feel is very important.

Mr. President, I would point out at the beginning of my remarks, that I am not necessarily opposed to the CFE Treaty. What I am opposed to is rushing helter-skelter to judge this accord before we have considered all the information that we should have at our disposal.

Let me just comment generally on the treaty. It is a watershed event. It is an accord with 22 signatories and is something we sought for some 15 years through the MBFR negotiations, and the CFE talks. Without question, it will eliminate a fundamental cause of tension and instability in Europe.

Mr. President, this treaty will not only end Soviet conventional superiority in the European theater, I think it will reverse it.

But I think it is also important to point out that the treaty has been overtaken by events. In fact, you might compare the treaty and events in Europe to a horse race in which suddenly one horse moved out ahead of the other, that horse in this case being the unfolding of events, the falling of the Berlin Wall, and the rapid domino effect of the fall of communism.

It is interesting that years ago the domino theory was emphasized to explain how countries succumbed to communism. I do not know anyone who expected the domino theory to be applied to countries falling away from communism. That is what has happened, and it is certainly welcome.

But even before this treaty was signed, the Soviet Union was forced to begin withdrawing thousands of tanks, artillery pieces, and other armored weaponry from Eastern Europe.

This occurred in part because of Soviet unilateral reductions and in part because of bilateral agreements, with Hungary, Poland, Czechoslovakia, and Germany. However, I would also emphasize this was occurring because the Soviet defense establishment sought to avoid the destruction requirements of the CFE Treaty itself.

We do not know which of those three conditions was most important in the minds of the Soviet planners. But we do know that Soviet capabilities remain robust in any event.

This treaty will not require the Soviet Union to destroy some 100,000 pieces of equipment as administration officials predicted. More than half of this equipment has been moved out of the treaty zone and only a fraction of it will be destroyed.

Now some say "why dwell on the fact that the West was unable to require the destruction of Soviet forces retreating from Eastern Europe and from the cold war? Either way, the equipment is no longer there, so its not a threat." Well, the fact is that by removing the equipment, the Soviets substantially reduced their destruction obligation, which would allow them to reconstitute the threat rather easily in the future.

And what about verification? The treaty does provide on site inspection to confirm compliance. But as we know from experience, onsite inspection and verification has not been one of the bulwarks of Soviet cooperation.

We must insist on full verification of compliance because without it the treaty is useless.

Mr. President, I ask unanimous consent to print in the RECORD at the end of my remarks the additional views of Senators SMITH, WALLOP, and MACK concerning the CFE Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SMITH. Mr. President, in spite of the worthwhile objectives of the treaty, I think our national interests would be best served by slowing this process down. I realize that many of my colleagues do not agree, but it is better to err on the side of caution. I see absolutely no reason, why this treaty has to be approved or ratified by the U.S. Senate within the next 2 or 3 days. If anybody has a good reason, I have not heard it. Let me be clear; that does not mean that I am opposed to the treaty. It means that I am opposed to ratifying the treaty before we have the information at hand that we need to make an informed judgment.

Mr. President, the basic premise of any arms accord should be to further the U.S. national security interests. That must be the primary objective. Yet, all too often, we end up ratifying treaties and perpetually binding ourselves to them when prudence would suggest that we do otherwise. This is certainly the case with the 1972 Anti-Ballistic Missile Treaty, which is basically an obsolete relic of the mutual assured destruction era, but continues to compel blind and unfailing adherence by the United States, even though it contradicts our national securities interests.

Against this backdrop, over the past several months I have worked very closely with my colleagues on the Armed Services Committee to examine the CFE Treaty and determine whether it advances our national security.

And while I have concluded that the treaty could, with the inclusion of certain conditions to advise and consent, promote our security interests, I believe that further clarification on a variety of issues is needed before the Senate discharges those constitutional prerogatives.

And again, I repeat, we have had to fight just to get a few hours to discuss those issues.

Mr. President, as my colleagues know, the CFE negotiations were an outgrowth of the largely unsuccessfully mutual and balanced force reduction talks of the 1970's and 1980's. Unlike the MBFR talks, which centered primarily on manpower reductions, the CFE negotiations targeted equipment holdings in the area between the Atlantic Ocean and Ural Mountains. The fundamental objective of the negotiations was to eliminate the massive disparity between NATO and Warsaw Pact force levels, and to reduce the threat of surprise attack or large-scale offensive action against Western Europe.

The treaty was signed by the 22 NATO and Warsaw Pact states on November 19, 1990. According to the terms of the treaty, each group of States is permitted to keep in the treaty area a maximum of 20,000 tanks, 30,000 armored combat vehicles, 20,000 artillery pieces, 6,800 combat aircraft, and 2,000 attack helicopters. Clearly, the reduction obligations of the Warsaw Pact, also known as the Group of Six, exceed those of the NATO Group of Six within the zone. Nonetheless, new issues have arisen which call into question the veracity of Soviet data, and inject great uncertainty into the legal, political, and military foundations of the treaty.

First, and perhaps foremost, it has become evident that the Soviets lied about the quantity of treaty limited equipment within the treaty zone. Although numerical estimates of unreported equipment differ among elements of our intelligence community, it is clear that a substantial quantity numbering in the thousands was not reported at the time of the treaty execution.

This intentional deception—and it was intentional—occurred after the Soviets had already conducted a massive transfer of some 57,000 pieces of equiment out of the treaty zone to avoid accountability. These actions substantially diminished the Soviet reduction obligations, and sent a clear message that the Soviets negotiated the CFE Treaty in bad faith.

Furthermore, Mr. President, following formal signing of the treaty, the Soviets recategorized three regular army divisions near the Baltic and Black Seas as naval infantry units for coastal defense. This reinterpretation by the Soviets represented a blatant attempt to exempt these forces from treaty ceilings. Although the United States and other states parties flatly rejected the Soviet action, incredibly, a compromise was struck which allowed the Soviet Union to withdraw nearly 50 percent of the equipment to territories out the treaty zones.

Frankly, that is an outrage. The United States should not have participated in a compromise on this matter. By doing so, we legitimized a flagrant violation rewarded the Soviets for reneging on a legally binding commitment.

What about the future? What are the implications for START and other treaties? What message have we sent the Soviets?

What we have told them is, "We don't have a problem with cheating. We are not going to make you answer for it. Go ahead, you will get away with it." That is a pretty sad satement of U.S. resolve.

Mr. President, a critical issue in our deliberations is the current status of the U.S.S.R., if it even still exists. The abortive August 1991 coup has triggered unprecedented political and military discord within the former Soviet Union. Amid rising nationalism and competing sovereignty claims, it is unclear what type of coalition will emerge and whether the Republics will, in fact, accede to the treaty. These are critical, yet unanswered questions.

Both Secretary Baker and Ambassador Woolsey have affirmed that treaty viability hinges on participation by the Republics, particularly the Ukraine, Russia, and Byelorussia. In fact, in a hearing before the Select Committee on Intelligence, when asked about the effect of nonparticipation by an independent Ukraine, Ambassador Woolsey stated: "It fundamentally would call into question the viability of the treaty * * *. The treaty won't work without the Ukraine in it." This is a very sobering statement, indeed.

If it will not work without the Ukraine, why do we not defer action until we know whether the Ukraine will participate in the treaty.

Why are we hastily moving to ratify the accord prior to the upcoming referendums on independence—in both the Ukraine and Byelorussia? It makes no sense.

I know there is pressure—pressure from the administration, and pressure from my colleagues in the Senate—but international law on this matter is highly ambiguous.

To say the least, there is no definitive precedent concerning the legal obligations of successor states, like Russia, Byelorussia, and the Ukraine. At last check, the administration had propounded three separate theories concerning the liabilities incurred by independent entities of a former state party.

Some within the administration believe ratification of the treaty by the U.S.S.R. would be binding on its Republics until they became independent states, which could happen either when the U.S.S.R. recognized their independence, as in the case of Baltics, or when the Republic in question met the requirements for statehood under international law.

However, it is not clear whether such seceding states would be obligated under international law to abide by CFE after they became independent if they did not indicate their intention to be bound. Some precedents support the view that a seceding state is entitled to a clean slate as matter of law while other precedents indicate that treaty obligations remain binding on such a state.

There are divergent interpretations, and they are not very clear.

The Vienna Convention on Secession of States, to which neither the United States nor the Soviet Union is a signatory or a party, takes the position that, as it was in former colonies, where a part of a state breaks away to form a new state, treaty relations continue and the new state does not have the option to pick and choose which treaties it will adhere to.

On the other hand, the third restatement on foreign relations law take the position that in such a situation a new state has the right to a clean slate, that is to decide which of the treaty obligations of its parent state it will accept and which it will not accept.

The administration has taken a view that the Baltic States are entitled to a clean slate. But in that case, the United States never recognized the forcible incorporation of the Baltic States into the Soviet Union in the first place.

The point being, Mr. President, there is absolutely no definitive precedent concerning the legal obligations of successor states. And that is, in itself, a reason why we ought to slow down, take a deep breath, and seek further clarification before we ratify.

The impression I get is that the administration is saying "Trust us, you ratify the treaty and we will work out the details."

Mr. President, I spent a lot of time teaching the Constitution. That is not how the process should work. That is not advise and consent.

On a great many issues, I am very confortable deferring to the administration. But in this case, the Senate's constitutional obligations are clear. And when we are dealing with constitutional obligations of advice and consent, rash action merely for appearance sake undermines the process and the product. It is irresponsible for us to ratify this accord without a clear understanding of exactly who is bound by the treaty and what their legal obligations are.

Moreover, I am concerned that in the wake of the Warsaw Pact dissolution, the bipolar structure of this treaty may actually jeopardize the long-term security interests of emerging East European democracies such as Poland and Czechoslovakia.

As my collegues know, many East European nations have expressed interest in affiliating with NATO. It is not inconceivable that in the future these nations may determine a need to augment their armed forces in response to unforeseen regional security threats. They may want to join NATO, as well.

However, within the existing bloc-to-bloc treaty structure, larger equipment holders such as the Russian Republic or some other former Soviet state system, could exercise a de facto veto over such augmentation by refusing to lower their own equipment allocations. This scenario benefits neither the West or the emerging East European democracies.

Mr. President, I am aware that the administration considers prompt ratification of CFE an urgent priority. Indeed, I have discussed it personally with Secretary Baker. But I have yet to hear a good reason why, other than for appearances, we ought to rush to ratify this treaty now.

On the contrary, there exist a variety of serious and compelling reasons for the Senate to defer consideration. And these involve national security, first; constitutional prerogative, second; and precedent, third. These are not simply appearances; but important issues of precedent, constitutional prerogative, and national security.

While the resolution of ratification reported out of the Foreign Relations Committee attempts to address these issues, in my opinion the recommendations fall short, far short. The national security interests of the United States and our NATO allies would best be served by resolving these issues prior to ratification, not after ratification.

Given present uncertainties in the legal, political, and military foundations of the treaty, the responsible course of action would be for the Senate to temporarily defer action until the various transformations have played out and data discrepancies have been resolved. To hastily rush this treaty through without the benefit of thoughtful debate and clarification of these issues would undermine the Senate's constitutional jurisdiction and, in my opinion, set a terrible, terrible precedent for future treaties.

Mr. President, I would like to say at this point, as I near conclusion of my remarks, that if there are no other Senators who wish to speak on my side, I will be happy to yield back my time. So I would serve notice if there are Senators who wish to speak, they may want to come to the floor. Otherwise it is my intention to yield back the time in deference to the Chair and to my colleagues, who might be otherwise inconvenienced on this Saturday afternoon.

Mr. President, in conclusion I want to reiterate the following points.

No. 1, the Soviets have blatantly lied—just as they have done in the past, about their equipment holdings from the very start.

No. 2, data discrepancies, about what equipment and weaponry they had in the treaty zone have yet to be resolved.

No. 3, the Soviet Union is dissolving. We do not even know who we signed the treaty with. We do not know who will accede the treaty in the future. Is it the Soviet Union? Or is it the Union

VOL 137 PT 23 NO 21—25 1991 UMI

of sovereign States? Will Byelorussia? Will the Ukraine? Will Russia? How do you enforce a treaty when you do not know who the participants are? It is unclear what type of confederation will emerge and whether the individual republics will accede to the treaty.

No. 4, the administration has provided no definitive guidance on successor State obligations in international law, as I have already indicated. And until these issues are resolved, it would be irresponsible and dangerous for the Senate to act on this treaty.

Mr. President, I yield the floor.

EXHIBIT 1

ADDITIONAL VIEWS OF SENATORS SMITH, WALLOP, AND MACK CONCERNING THE CFE TREATY

We, as members of the Armed Services Committee, have reviewed the Treaty on Conventional Armed Forces in Europe (CFE), and share the view of our colleagues that, with the inclusion in the Resolution of Ratification of certain conditions to the Senate's advice and consent, the Treaty would promote U.S. national security interests. In our opinion, however, further clarification on a variety of issues is needed before the Senate discharges its constitutional prerogatives.

We recognize that the Administration considers prompt ratification of CFE an urgent priority. It is neither our wish nor intent to prevent timely disposition of this matter. However, the Warsaw Pact dissolution and subsequent disunion of the USSR are extraordinary transformations which have injected great uncertainty into the legal, political, and military foundations of the Treaty. We are concerned that precipitant consideration, prior to resolution of technical discrepancies, and ongoing political proceedings among the Group of Six, particularly the former Soviet Union, could severely undermine the Senate's province and contribution to the ratification process.

For instance, with respect to treaty limited equipment (TLE) within the ATTU zone, there exist significant disparities between U.S. intelligence estimates and the Soviet data declaration provided at the time of Treaty execution. Although numerical estimates of unreported TLE differ among elements of the intelligence community, there is consensus that some TLE, and quite possibly a substantial amount, was not reported. Under-reporting of TLE would significantly diminish Soviet reduction obligations under the Treaty, and could prove to be militarily significant. Yet, to our knowledge, this matter remains unresolved. In our opinion, ratifying CFE prior to resolution of data base discrepancies would imperil Treaty efficacy and set a dangerous precendent for consideration of the Strategic Arms Reduction (START) Treaty.

Furthermore, the abortive August 1991 coup has triggered unprecedented political and military discord within the former Soviet Union. Rising nationalism and sovereignty claims among the republics have eroded intenal symmetry, and shifted the power balance within the Group of Six. At present, it is unclear how these developments will transform the Soviet political and military framework, and whether the individual republics will, in fact, accede to the Treaty. Both Secretary Baker and Ambassador Woolsey have affirmed that Treaty viability hinges on participation by the republics, particularly Russia, Ukraine, and Belorussia. We share this view, and believe it would be premature for the United States to act on the Treaty prior to the impending referendums on independence in Ukraine and Belorussia.

Moreover, we are concerned that, in the wake of the Warsaw Pact dissolution, the bipolar structure of the Treaty may actually jeopardize the long term security interests of emerging East European democracies, such as Poland and Czechoslovakia. It merits note that many East European nations have expressed interest in affiliating with NATO. It is not inconceivable that, in the future, these nations may determine a need to augment their armed forces in response to unforeseen regional security threats. However, within the existing bloc-to-bloc Treaty structure, large TLE holders, such as the Russian republic or some other former Soviet state system, could exercise a de facto veto over such augmentations by refusing to lower their own equipment allocations. We believe this matter warrants consideration.

The fundamental objective of the Treaty has always been to eliminate the massive disparity between NATO and Warsaw Pact force levels, and to reduce the threat of surprise attack or large scale offensive action against Western Europe. This imperative has been largely accomplished, irrespective of CFE, through the demise of the Warsaw Pact and disunion of the USSR. Nonetheless, we believe that, with the inclusion of certain conditions, the Treaty would retain a degree of flexibility and efficacy necessary to promote U.S. and NATO security interests.

In our opinion, the national security interests of the United States, and our NATO allies, would be best served by resolving the aforementioned issues *prior* to ratification. While we understand the Administration's desire to secure prompt approval of the accord, it should be noted that formal transmittal and subsequent Senate action were unduely delayed because of Soviet Article III violations. Given present uncertainties regarding the legal, political, and military foundations of the Treaty, we recommend the Senate defer action until these questions are resolved. However, should the Senate elect to proceed with ratification at this time, we believe the suggested conditions of the Republican Armed Services Committee members should be wholly incorporated to condition Senate advise and consent.

MALCOLM WALLOP.
BOB SMITH.
CONNIE MACK.

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR] is recognized.

Mr. LUGAR. May I ask the distinguished Senator from New Hampshire whether I might have 25 minutes that have been allocated to him?

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 45 minutes.

Mr. SMITH. I yield 25 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 25 minutes.

Mr. LUGAR. Mr. President, I believe that the committee has discharged its responsibilities with respect to the CFE Treaty in a most commendable way.

We had a good series of hearings with administration witnesses and private citizens. General Galvin provided the committee with his insights on the military implications for NATO of the treaty, and General Powell did the same with respect to U.S. national security interests.

I thought that our hearings with members of the U.S. intelligence community, both open and closed, were particularly instructive. I particularly appreciated the way in which the intelligence community worked with Senators to sort out some of the problems associated with the data issue.

And last, I was most pleased with the way in which committee staff worked with individual Members and with the administration in developing appropriate language for the resolution of ratification. Ambassador Woolsey may have decided that it was easier to negotiate the treaty with 21 other nations than to work out acceptable language with the Senate on the resolution of ratification, but we appreciated his efforts on the side of the administration.

The way in which the committee has dealt with the CFE Treaty augurs well for timely but thorough consideration of the START Treaty during the next session of the Congress.

Most of the committee hearings on the CFE Treaty were held prior to the failed coup attempt in the Soviet Union in August. Since that time, what has been at issue is not the overwhelming merits of the treaty but rather its relevance. As we have witnessed the disintegration of the Soviet Union, the utility of the treaty regime as a predictable and stabilizing element in the newly emerging security order has become apparent.

But this treaty is also a living document, containing sufficient flexibility in its mechanisms to accommodate the changes that will accompany the sorting out process inside the U.S.S.R. Indeed, it is my hope that Senate consent to the ratification of this treaty will provide added incentive to the participants in the CFE 1–A talks as they seek to supplement treaty-mandated equipment limitations with personnel and military manpower limitations.

DATA DISCREPANCY ISSUE

Mr. President, I think it important that a record be established with respect to one of the more controversial issues that has arisen during consideration of the CFE Treaty.

It has been clear for months that the data discrepancy issue would be a thorn in our side as we considered the CFE Treaty. Of the three major postsignature issues, this one was given initially the least attention by the administration.

I agree that it constitutes a problem area. But I also believe that it is not ultimately resolvable, and certainly cannot be resolved through a condition on the resolution of ratification.

The data describing Soviet holdings of equipment in the zone, submitted by

the Soviet delegation on November 19, 1990, diverged significantly from United States intelligence estimates, raising questions both about our ability to monitor the treaty's provisions effectively and about some major Soviet cheating. The Soviets reported thousands of fewer items of equipment in the zone of application than our estimates would lead us to expect, and thus the amount of equipment that they will have to destroy in order to reach treaty-mandated levels was also lower than we expected. In addition, we discovered undeclared equipment at several sites.

The intelligence community experienced great difficulty during the fall of 1990 in estimating accurately how much Soviet equipment was in the zone. The huge amount of equipment moved by the Soviets east of the Urals prior to treaty signature accounts for much of the discrepancy. As of mid-1988, United States estimates roughly matched what the Soviets acknowledged they had at the time. By early 1989, the Soviet unilateral force reductions and withdrawals from Central Europe had begun. By early 1990, the pace and size of the Soviet withdrawal of equipment from the zone increased to the point that the intelligence community, while recognizing the scope and direction of the Soviet effort, was unable to identify all of the units in the treaty zone from which equipment was being withdrawn. Richard Kerr, Deputy Director of the Central Intelligence Agency, admitted in testimony that the intelligence community essentially lost its place and was unable to keep up the data base. A thorough review of all the available evidence since treaty signature has narrowed the gap significantly.

Some fear that there may have been thousands of pieces of equipment that the Soviets did not declare and may have left in the zone illegally to avoid destroying them. But if there were a substantial amount of undeclared equipment in the zone, most of it has been withdrawn or is being destroyed. Though there are a number of smoking guns we have raised with the Soviets, we have little meaningful evidence to back up the bulk of our suspicions. For this reason, the problem cannot be completely resolved.

Deputy Director Kerr testified that the intelligence community believes that the figures submitted by the Soviets on November 19, 1990, reflect what they intended to have in the zone when the treaty entered into force, if not before. Thus, the intelligence community believes that the Soviets were not necessarily trying to violate the treaty in order to avoid their destruction liability, but simply failed operationally to carry out by treaty signature all of the withdrawals or destruction of equipment that they intended. Kerr characterized Soviet failure to declare all of their equipment in the zone at treaty signature as a technical violation.

There is a fundamental philosophical disagreement about whether most of the discrepancy should be characterized as undeclared equipment. Most administration experts believe that, while we can legitimately continue to press the Soviets for full resolution of our concerns, for the most part we cannot prove that the Soviet declaration is wrong. Others, however, place the burden of proof on the Soviets. They argue that the United States position should be that the Soviets failed to declare these thousands of pieces of equipment unless they, the Soviets, prove that the equipment was not in the zone at treaty signature.

Moreover, there is a tendency to confuse the nature and basis of our estimates of Soviet equipment with those of the Soviet declaration of data. Intelligence estimates and Soviet data declarations are apples and oranges. In an ideal world, they would be identical. But in the real world, there will inevitably be discrepancies. For example, the intelligence community's estimate in the fall of 1990 was not a snapshot of the zone on the date of signature. But that is precisely what the Soviet data declaration was supposed to have been. An estimate, by definition, uses incomplete information and analytical assumptions to develop a model of what the force should look like—it has never been possible to precisely count and document every piece of equipment.

When it signed the treaty, the administration believed that, to meaningfully affect the strategic balance, there would have to be Soviet cheating on a huge scale, which could be detected. But, as a political matter, the view that large-scale Soviet cheating could be detected was drawn into question as a result of the data discrepancy issue.

The simple response is that we can monitor the treaty effectively. First, we will be monitoring not primarily pieces of equipment, but military significant change in the zone. The standard of military significance focuses on fighting force. Equipment by itself is not a direct military threat. It must be part of cohesive units of trained personnel and a large amount of support equipment. This factor makes significant change easier to detect and increases warning time.

In addition, when the treaty is implemented, we and our allies can use the tools provided by the treaty—on-site inspection and notifications—to enhance greatly our monitoring capability. We will be able to check out our estimates by going to specific sites for a closeup look, and we will be able to compare our estimates with what the Soviets tell us about their forces. The Soviets will be less likely to falsify their declarations intentionally because of the fear of being discovered through on-site inspections or other means. But on-site inspections can only be undertaken once the treaty is implemented.

The intelligence problem behind the data discrepancy issue was likely unique. The intelligence community has learned from its errors; the treaty will improve our monitoring capability greatly; and the risk of a recurrence of the problem should be virtually eliminated.

When the treaty is implemented, the intelligence community may also get a better grip on the question of equipment illegally in the zone. But since so much of the equipment has been removed from the zone or destroyed, we are unlikely to ever get a true picture of Soviet holdings in the zone at treaty signature.

I discussed this issue during markup of the treaty before the Senate Foreign Relations Committee. Subsequent to those remarks, the new Director of the CIA, Bob Gates, corresponded with me in order to restate the intelligence community's view on the so-called data discrepancy issue.

I ask unanimous consent that Director Gates' letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DIRECTOR OF
CENTRAL INTELLIGENCE,
Washington, DC, November 21, 1991.

Hon. RICHARD G. LUGAR,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: As the Senate considers the CFE Treaty, I would like to restate the intelligence community's view of the data discrepancy issue. The Foreign Relations Committee heard testimony on this subject from Acting DCI Kerr in July of this year. It was also addressed in closed session before the Senate Select Committee on Intelligence and is incorporated in their report to the Foreign Relations Committee. Let me say at the outset, I believe your statement during the Foreign Relations Committee's November 18 consideration of the treaty captures the essentials of this issue.

The intelligence community believes the figures provided by the Soviet Union on November 19, 1990 reflect the amount of treaty-limited equipment they intended to have in the Atlantic-to-the-Urals zone—if not on or shortly after treaty signature, certainly by the time the agreement entered into force. As you know from the testimony of intelligence community witnesses, prior to treaty signature the Soviets embarked on a massive reduction program, including both destruction of equipment at sites within the treaty zone and removal of equipment from the zone to locations east of the Urals.

Our evidence clearly shows they failed to meet the goals of that ambitious effort. We have unambiguous evidence of the presence in the zone on the treaty signature date of roughly 1,500 pieces of treaty-limited ground force equipment and combat aircraft which were not included in the Soviet data declaration. This was mainly older model equipment, stored in the open, and in the weeks and months following treaty signature we saw much of it in the process of being destroyed.

VOL 137 PT 23 NO 21—25 1991 UMI

> When challenged by United States and NATO representatives to explain these specific discrepancies, the Soviets have acknowledged the fact that this equipment was still in the zone at the time of signature, but claimed it was no longer in service and, in effect, was derelict at the time the treaty was signed. This is generally consistent with our evidence, although the Soviets did still have an obligation to report it.
>
> There is substantial circumstantial evidence that there were up to a few thousand additional unreported pieces of equipment still in the zone at treaty signature. Some of these were in the process of being destroyed, and others appear to have been part of the amount moved to the east but which did not clear the zone until shortly after treaty signature. The actual amount of late shipments may have been higher, but evidence is lacking.
>
> We think the pattern of evidence for all of this is more indicative of a failure to fully implement the destruction and shipment plans on schedule than of a deliberate effort to deceive. Nearly all of the activities I have described were carried out in the open with no discernible efforts at concealment or deception.
>
> As you are aware, there was also—at the time of signature—a sizeable discrepancy between the intelligence community's most recent detailed estimates of the numbers and locations of Soviet equipment in the treaty zone and the data declared by the Soviets. The intelligence community had anticipated that at least some such discrepancy would occur as a result of the turbulence and dislocation produced by the U.S.S.R.'s pretreaty reduction efforts. For example, while we were able early in the process to detect and assess the general order of magnitude of the movement east of the Urals, there was an unavoidable time lag in our ability to identify and confirm the sites inside the treaty zone from which the equipment had been drawn.
>
> A detailed review of the sites at which the Soviet declaration showed difference from what had been held in the earlier intelligence estimate was able to turn up at least some evidence to support the Soviet claims for about half of the differences. For the remainder, the available evidence could neither support nor disprove the Soviet declaration.
>
> Continuing collection and analysis has enable us to confirm that the bulk of the equipment withdrawals from the treaty had, in fact occurred within 1 and 2 months of the treaty signature date. But whether they had actually been completed by the treaty signature date is something we cannot confirm or refute. Given the nature of the circumstances under which the Soviet drawdown occurred, it is unlikely that we will obtain evidence to narrow the time frame any further.
>
> If I may be of any further assistance in meeting your needs for information regarding the CFE treaty, please let me know.
>
> Sincerely,
>
> ROBERT M. GATES,
> *Director of Central Intelligence.*

Mr. LUGAR. Let me touch on the highlights of the Gates' letter.

The Intelligence Community believes the figures provided by the Soviet Union on November 19, 1990, reflect the amount of treaty-limited equipment they intended to have in the Atlantic-to-the-Urals zone—if not on, then shortly after treaty signature, and certainly by the time the agreement entered into force. Prior to treaty signature, the Soviets embarked on a massive reduction program, including both destruction of equipment at sites within the treaty zone and removal of equipment from the zone to locations east of the Urals.

Director Gates writes:

> Our evidence clearly shows they failed to meet the goals of that ambitious effort. We have unambiguous evidence of the presence in the zone on the treaty signature date of roughly 1500 pieces of treaty limited ground force equipment and combat aircraft which were not included in the Soviet data declaration. This was mainly older model equipment, stored in the open—and in the weeks and months following treaty signature, we saw much of it in the process of being destroyed.

Mr. President, when challenged by United States and NATO representatives to explain these specific discrepancies, the Soviets have acknowledged the fact that this equipment was still in the zone at the time of signature, but claimed it was no longer in service and, in effect, was derelict at the time the treaty was signed. This is generally consistent with the evidence of the United States intelligence community, although the Soviets did still have an obligation to report it.

Mr. President, there is also substantial circumstantial evidence that there were up to a few thousand additional unreported pieces of equipment still in the zone at treaty signature. Some of these were in the process of being destroyed, and others appear to have been part of the amount moved to the east but which did not clear the zone until shortly after treaty signature. The actual amount of late shipments may have been higher, but evidence is lacking.

On this point, Director Gates' conclusion is instructive:

> We think the pattern of evidence for all of this is more indicative of a failure to fully implement the destruction and shipment plans on schedule than of a deliberate effort to deceive. Nearly all of the activities I have described were carried out in the open, with no discernible efforts at concealment or deception.

Mr. President, there was also—at the time of signature—a sizable discrepancy between the intelligence community's most recent detailed estimates of the numbers and locations of Soviet equipment in the treaty zone and the data declared by the Soviets. The intelligence community had anticipated that at least some such discrepancy would occur as a result of the turbulence and dislocation produced by the U.S.S.R.'s pretreaty reduction efforts. For example, while the intelligence community was able early in the process to detect and assess the general order of magnitude of the movement east of the Urals, there was an unavoidable time lag in the intelligence community's ability to identify and confirm the sites inside the treaty zone from which the equipment had been drawn.

A detailed review of the sites at which the Soviet declaration showed differences from what had been held in the earlier intelligence estimate was able to turn up at least some evidence to support the Soviet claims for about half of the difference. For the remainder, the available evidence could neither support nor disprove the Soviet declaration.

Director Gates' conclusion bears importantly on an amendment proposed for consideration in the minority part of the additional views of the Senate Armed Services Committee report to the Senate Foreign Relations Committee, Director Gates writes:

> Continuing collection and analysis has enabled us to confirm that the bulk of the equipment withdrawals from the treaty (zone) had in fact occurred within 1 or 2 months of the treaty signature date. But whether they had actually been completed by the treaty signature date is something we cannot confirm or refute. Given the nature of the circumstances under which the Soviet drawdown occurred, it is unlikely that we will obtain evidence to narrow the time frame any further.

Mr. President, let me reiterate my earlier conclusion in a most succinct way: The data discrepancy issue is a product of sloppy execution on the part of the Soviet Union rather than a case of willful misconduct. When challenged by United States negotiators, the Soviets admitted that they blew it, both operationally with regard to the withdrawal and destruction of equipment and procedurally with respect to the reporting obligations concerning derelict equipment.

I think it important that the Foreign Relations Committee called attention to the problem in the resolution of ratification reported out of committee. And I think that the language contained in the resolution of ratification recommended by the committee does so in a firm yet reasonable way.

But, Mr. President, attempts to craft tougher, more stringent language in condition form designed to solve the data discrepancy issue—an issue that is unresolvable—could only endanger the treaty, a tready that, by all accounts, is overwhelmingly in the interest of the United States.

Mr. President, I thank the Chair and I thank the distinguished Senator from New Hampshire for giving me this time.

Mr. PELL. Mr. President, I would like to offer a few general comments.

The CFE Treaty will end the substantial numerical disparity which has existed for decades between East and West. That balancing of forces, taken together with the sovereignty changes in Eastern Europe and the decisions by the two leaders in September and October to dramatically reduce tactical nuclear weapons will mean that we and

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our allies and former adversaries can cooperate, rather than confront, and seek mutual solutions, rather than devoting so much energy and money dealing with the military threat in Europe has essentially evaporated.

In this new situation massive nuclear arsenals as the guarantors of peace and stability are much more widely perceived as unnecessary. While we must retain reasonable defenses, we can take advantage of the reductions required in START and look ahead to opportunities to reduce the arsenals to a small fraction of their present size and to bring about other arms control in the period ahead.

News reports constantly remind us that there are serious threats to peace in the world, many of them growing. Specific and urgent concerns include the continual spread of weapons of mass destruction and the means to deliver them.

Saddam Hussein of Iraq has been hurt, but he remains on the scene. There will be other Saddam Husseins in the future. Malevolent and meretricious leaders will be scheming to threaten and bully others. Recent arms control successes, such as the START and CFE Treaties will help, as will such steps on recently enacted legislation establishing sanctions on nations that use chemical and biological weapons and on companies that engage in illicit sales supporting chemical and biological weapons programs. We must be vigilant and steadfast in our efforts.

Mr. President, the CFE Treaty is an important part of the continuum of arms control. The CFE Treaty codifies the destruction of a very considerable amount of conventional military equipment, some 37,000 Soviet pieces of treaty-limited equipment, called TLE, and some 10,000 Eastern European TLE and 10,000 German Democratic Republic TLE. This gives a total of almost 60,000 TLE that will be destroyed pursuant to the CFE Treaty. In addititon, as a result of the treaty, the Soviets have moved massive amounts of equipment from the Atlantic-to-the-Urals region, reducing the Soviet levels of equipment from about 150,000 in January 1989 to the treaty-limited level of 53,000 in 1995. This reduction of some 100,000 pieces of Soviet equipment in the ATTU region is greater than the total of 76,000 possessed by NATO. By contrast, NATO will destroy only about 2,000 TLE, without counting the equipment of the former German Democratic Republic. The United States will transfer, in a process called cascading, about 3,000 TLE to other NATO nations, thus accomplishing worthwhile reductions and allowing our allies to improve qualitatively within the ceilings.

Because of the shifts in military equipment, the time NATO would have to react to a major Soviet buildup has been greatly increased, from a matter of days or weeks to a year or more. The minimum distance that Soviet Forces would need to travel from its western border to Berlin will now be about 500 miles. The distance to Berlin for the large amount of TLE east of the Urals will now be about 2,500 miles, the distance from Washington, DC, to California.

The treaty also opens up the most industrialized portions of Soviet territory to an extensive verification regime of routine and challenge inspections. The transparency created through data declarations, notifications and on-site inspections, along with U.S. national technical means, should greatly enhance confidence in the ability to determine compliance to the CFE.

I have in my hand the Soviet military declaration which contains the unit-by-unit structure, and the listing of the locations of each of the 73,000 TLE that the Soviets declared. This is a significant document. When the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, testified before the committee, he stated:

> I can tell you that as Commander of the V Corps in Germany 5 years ago, I would have paid a fortune for such a document such as this which tells me where those forces are. But even more importantly, with this information, we are now also, with the treaty, able to visit many of these units, look at much of the equipment, and to verify on site throughout this entire region, the accuracy of the information being provided to us.

Yes, this is an amazing document, none of us could have predicted that this stabilizing information would be so accessible to the military leaders of all the 22 CFE nations.

In the remaining time allotted to me, I would like to address three issues. Two of these are addressed in the resolution of ratification, namely the data issue and the issue of the SS–23's from the INF Treaty. In addition, I would like to discuss the verifiability of the treaty.

SOVIET TLE MOVED FROM THE ATTU AFTER NOVEMBER 19, 1990

There has been a considerable discussion about the Soviet equipment that left the ATTU region after November 19, 1990. Administration witnesses testified before the committee that there was a great deal of confusion as the Soviets moved some 70,000 TLE from the ATTU region, a force about the size of all of NATO's holdings. The administration has described the movement of this equipment as an Oklahoma land rush.

Richard Kerr, the Acting Director of Central Intelligence testified:

> The massive shift took place so rapidly that we were unable to identify all the units in the treaty zone from which the equipment was withdrawn. * * * At this time, our best judgment is that the Soviet November 19 figures reflected what they intended to have in the zone when the treaty entered into force—if not before. * * * We have confirmed that some of the weapons being moved east of the Urals did not arrive at their destination until a month after the date of signature.

The very able CFE negotiator, Ambassador James Woolsey testified that about 4,000 to 5,000 Soviet TLE above those declared were probably in the ATTU on November 19. About 1,500 of these were older aircraft, such as Mig-21's and Beagle bombers, or older T–10 tanks (built in about 1945) and the Soviets may well have been unaware of their actual locations. In several cases, the United States had to tell the Soviets where to look for these TLE. A further undeclared 3,000 or so TLE may also have been in the treaty zone on November 19, 1990, but this can not actually be proven. On June 14, 1990, the Soviets made a politically binding, unilateral statement that stated that they would destroy an additional 14,500 TLE of those that had been transferred to east of the Urals. Thus, the Soviets will have balanced the violation, of the equipment departing after November 19, 1990, with the unilateral destruction of 14,500 TLE, plus the destruction of 3,738 TLE pursuant to the article III dispute. No one is exactly sure that all the extra 4,000 to 5,000 TLE were actually in the ATTU on November 19, 1990. This is the best estimate made by the Government, based on reasonably good evidence.

It has been charged that substantially larger amounts of TLE than were declared might have been in the ATTU on November 19, 1990. There is no compelling evidence that one can confirm or negate such a charge. Gen. John Galvin, Supreme Allied Commander, Europe stated:

> In fact, out of the 57,000 plus 10,000 plus 7,000, there are about 18,000 pieces of equipment that we have not been able to specifically note. Part of that is because there is covered storage and we are not able to look into buildings, and part of it is simply that that is a great deal of equipment scattered over the whole Soviet Union, and it is hard to say what is what. This is, of course, a very strong argument for the treaty itself and for the verification regime that we will work with the treaty. The Soviets moved that equipment there, and I have asked differed Soviet leaders, such as General Moiseyev, why. His answer has been, it is a question of a management problem that we have had in trying to figure out what equipment we are going to need for a reorganized, smaller Soviet military.

It is the opinion of all adminstration experts that we shall probably never really know the answer on the possibility of a violation of an undeclared total of an additional 18,000 TLE in the ATTU on November 19. The intelligence community simply could not keep up with the flow of equipment, and they cannot confirm or negate the charge of a violation of an additional 18,000 TLE. On-site inspections will be able to tell us what is in the ATTU after the treay enters into force, but they will not tell us when these 18,000 TLE left the zone. Because this issue

VOL
137
PT
23
NO
21—25
1991
UMI

involves much detail, we cannot really address the facts here. However, for the record, I am attaching some tables of data on the Soviet declarations. In addition, a classified appendix to the committee report is available for Senators to read in S–407.

VERIFIABILITY

All of the intelligence agencies testified in closed session on the ability of the monitoring regime to determine if the other State Parties are in compliance with the provisions of the CFE Treaty. In all cases, the administration witnesses stated that the CFE Treaty was verifiable.

When the executive branch testified that the CFE Treaty was effectively verifiable and that the ratification of the CFE Treaty was in the national interest, they took into account a number of factors: The definition of a militarily significant violation of the CFE Treaty as determined by the Joint Chiefs of Staff; the ability to monitor and detect such a violation; and the time it would take NATO and the United States to respond effectively to the additional militarily threat. In the closed hearings and in classified documents, the executive branch has explained in some detail their reasoning behind the finding that the CFE Treaty is verifiable. The classified appendix to the CFE Report (Ex. Rept. 102–22) contains a staff analysis on these issues.

Various circumvention situations and scenarios were examined in terms of military significance, monitorability, and timely warning. When the Senate votes on the CFE Treaty, they will also be asked to make a collective judgment on all of these issues together. These judgments on verifiability of the CFE Treaty by the executive branch and the Committee on Foreign Relations were not made on the basis of any one provision as the basis for successful monitoring and verification. Rather, each provision is seen as part of an interlocking web of constraints that are designed either to deter cheating through the chance of detection, through the expense of clandestine facilities, and to make its timely detection likely.

The Senate Select Intelligence Committee has also examined the verifiability of the CFE Treaty. In a letter to the committee of November 18, the chairman, the Senator from Oklahoma [Mr. BOREN] and the ranking minority member, the Senator from Alaska [Mr. MURKOWSKI] stated:

> We also believe that U.S. intelligence is justified in having high confidence that it could detect any violation of the treaty in which the Soviets attempted to move large quantities of TLE (i.e., thousands of pieces of equipment) as whole divisions, combat wings, or partial units back into the ATTU in a short period of time—weeks to months. U.S. intelligence would detect such cheating well before it reached the levels identified by the Joint Staff as militarily significant. Similarly, the formation of new combat ready divisions within the ATTU from covert production facilities would also be detected before it reached militarily significant levels by the Joint Staff's criteria.

THE INF EXPERIENCE

Because the committee added a declaration on the SS–23 missiles covered by the Intermediate Nuclear Forces [INF] Treaty, I would like to add some background information. The INF experience with on-site inspections has generally been regarded as favorable. The two sides have removed a total of some 1,846 Soviet INF missiles and 846 U.S. INF missiles. Because 654 of the Soviet missiles were the three-warhead SS–20's, the number of removed warheads for the Soviets was far greater for the Soviets with 3,154 warheads than for the United States with 846 warheads.

In response to a question for the record by the committee, the On-Site Inspection Agency stated that in fewer than 1 percent of the 653 INF inspections were there any significant problems. On July 25, Gen. Robert Parker, the Director of the On-Site Inspection Agency testified that "the Soviets have been very cooperative in ensuring that the aspects of the [INF] treaty have been implemented."

On the other hand, one serious problem did take place during the 3-year destruction period. The Soviets had three undeclared programs of cooperation [POC] with three of the former Warsaw Pact nations, which contained 72 SS–23 missiles. Unfortunately, the Reagan administration steered clear of discussions in the negotiation that would have put the Soviets on the spot with regard to any such missile transfers to Eastern nations then allied with them in order to not to bring the issue of West German Pershing I missiles into the negotiations. As a result, the German missiles were handled separately in tandem with INF, and the missiles in the hands of Soviet allies were not dealt with at all in INF.

It is not known exactly how high in the Soviet bureaucracy the issue on the SS–23 programs of cooperation rose in the Soviet policy process. Because of the great confusion of the late 1980's in the Soviet Union, it is possible that the highest level of Soviet leaders did not focus on the already-transferred SS–23 missiles in the three former Warsaw Pact nations. On balance, because the INF Treaty helped pave the way for other Soviet reductions and because of the relative small size of the undeclared SS–23 force, the problem should be put into context. When one does this calculation, it is clear the United States bears a certain responsibility for not being sufficiently alert to this possible problem, that the Soviet Union should have fully disclosed the presence of the SS–23's on the soil of these nations, and that it is a problem that can be resolved.

Mr. President, I ask unanimous consent the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABULAR DATA ON TLE REMOVED FROM THE ATTU

TABLE 1.—Soviet Statement on Unilateral Reduction of Ground TLE from the ATTU

	Into storage	To units	Total
Tanks	8,400	8,000	16,400
ACV's	4,700	11,200	15,900
Arty	23,400	1,600	25,000
Total	36,500	20,800	57,300

Table 2.—Soviet TLE removed from the ATTU. Column (1) is the Soviet TLE in the ATTU in July 1988, numbers agreed to by both sides; (2) is the November 19, 1990 Soviet declaration, as amended in February 1991 of TLE in the ATTU; (3) is the Soviet TLE moved from the ATTU prior to November 19, 1990, obtained from (1) minus (2); (4) is the June 1991 Soviet statement of the movement of 57,300 to east of the Urals; and (5) is "other," the sum of the statements of 10,900 destroyed in the ATTU or exported from the ATTU, and 8,900 MT-LB APCs converted to "Look-Alikes;" and (6) is the sum of "June 1991" and "Other."

	July 1988	November 1990	Early move
Tanks	41,580	20,725	20,855
ACV's	57,800	29,890	27,910
Artillery	42,400	13,938	28,462
A/C	9,400	6,611	2,789
Helos	1,150	1,481	0
Total	152,330	72,645	79,011

	June 1991	Other	Total
Tanks	16,400	4,100	20,500
ACV's	15,900	12,300	28,200
Artillery	25,000	3,400	28,400
A/C		2,789	2,789
Helos			0
Total	57,300	22,589	79,889

Table 3.—Total TLE Removed from the ATTU: The total amount of the five kinds of Soviet TLE taken out of the ATTU between January 1989 and 1995, after destruction under CFE is completed, is a total of the following entries:

TLE moved/destroyed/converted from ATTU before November 1990	80,000
TLE to be reduced by CFE	19,689
TLE to be destroyed pursuant to Article III dispute	3,738
Total Soviet TLE moved out of ATTU, destroyed, or converted	103,000

In addition, the other members of the WTO will also reduce their TLE by the following amount:

TLE reductions for former WTO members, B/C/H/P/R	10,149
TLE reductions for the German Democratic Republic	10,675
Total TLE from the six former non-Soviet WTO members	21,000

Combining the reduction numbers for the Soviets with those of the other six former WTO members, we obtain:

Soviet TLE moved out of ATTU, destroyed, or converted	103,000
Six former non-Soviet WTO members TLE destroyed	21,000
Total WTO TLE moved out of ATTU, destroyed, or converted	124,000

TABLE 4.—TLE To be reduced

Soviet CFE declarations	19,689
June 1991 Article III declaration	3,738
Soviet declaration of June 1991, E of Urals	14,500
Soviet destruction/export prior to November 1990	10,900
Soviet conversion of MT–LB's to "Look-Alikes"	8,900
Total Soviet TLE destroyed or converted	57,700

To this amount, we will now add the TLE of the six other former WTO members:

B/C/H/P/R former WTO nations	10,139
GDR equipment now owned by FRG	10,675
Total TLE destroyed by non-Soviet WTO nations	21,000

Combining the TLE that will be destroyed or converted, we obtain: 57,700 + 21,000 = 79,000 destroyed (or converted).

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1433

Mr. SMITH. Mr. President, under the unanimous-consent agreement, I at this point would like to offer an amendment on behalf of myself and Senator WALLOP. I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Hampshire [Mr. SMITH], for himself and Mr. WALLOP, proposes an amendment numbered 1433.
>
> Add after Condition (a)(5)(C), the following condition:
>
> "(6) U.S. OBLIGATION TO THE TERMS OF THE TREATY—The United States shall not be bound by the terms of the Treaty unless and until the Congress has received, pursuant to public law 99–145, the President's Soviet Noncompliance with Arms Control Agreement report and the President has certified through the report that the Soviet Union is not in violation or probable violation of the terms of the CFE Treaty and protocols thereto.".

Mr. SMITH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, just a little over a year ago, on November 19, 1990, the Conventional Forces in Europe Treaty was signed by 22 nations in Paris. In the 12 months since signature, a great deal has occurred in the world, particularly in the Soviet Union. Inevitably these events have colored the way we view this treaty today.

A year ago, this treaty was seen as a tremendous accomplishment. Yet, today, in the aftermath of the August Soviet coup, the treaty somehow seems anticlimatic. Some of my colleagues have even suggested that the treaty is irrelevant.

But, I would argue that the CFE Treaty is not irrelevant. And, I don't think that we should minimize the achievement of this agreement. When we began the CFE negotiations in March 1989, we had hopes of positive changes in the Soviet Union, but we could not and did not predict the dramatic developments in Eastern Europe and the Soviet Union that were to follow. I would like to remind my colleagues—those who with the aid of hindsight have downplayed the significance of this treaty—that when this treaty was being negotiated, our proposed terms seemed radical, almost unachievable.

Yet, today before us, we have a treaty which will limit the Soviet Union to 13,300 tanks in the Atlantic to Urals area, when at one time it had more than three times that amount. This treaty will also limit the Soviets to no more than 13,700 pieces of artillery, and 20,000 armored combat vehicles.

Our negotiator, Ambassador Jim Woolsey, did a superb job of negotiating a verifiable treaty which will codify the elimination of the overwhelming Soviet conventional advantage in Europe. He managed to forge an agreement that is characterized not only by strict limits on numbers of equipment, but also on deployment. The geographic zones established by this treaty will reenforce the numerical limitations on conventional forces. Moreover, Soviet reductions will be achieved through the verifiable destruction of equipment in the treaty zone. This is not a treaty which moves the threat—it eliminates the threat.

And, let us not forget that while it is hard enough negotiating such a complex treaty just with the Soviets, Ambassador Woolsey had another 20 nations to negotiate with. Sure, some of them are our allies, but negotiating with your friends can at times be as tough as negotiating with your adversaries.

In my view, the CFE Treaty establishes a stable security frame work in Europe at a time when the situation in parts of Eastern Europe, as well as the Soviet Union are very uncertain. For the first time in over four decades, the West will no longer need to prepare to defend against a surprise conventional attack on Western Europe.

While I believe that the CFE Treaty will contribute positively to our Nation's security, I recognize that it has its flaws and will not necessarily accommodate, without significant changes, potential future developments in the Soviet Union.

As such, I commend the Committee on Foreign Relations for including in the resolution of ratification a condition which addresses the potential for new states on the territory of the Soviet Union. I believe we all recognize that this is a very real possibility, and I certainly appreciate the action they take. I think we all recognize that there is a very real possibility that the Soviet Union, with whom this treaty was negotiated, may look very different in the future and may indeed be dissolved into a number of independent states. Condition No. 5, as crafted by the Foreign Relations Committee, takes this possibility into account and preserves the Senate's constitutional role in the treatymaking process.

I would like to commend the distinguished chairman of the European Subcommittee, Senator BIDEN, the distinguished ranking Republican on the Foreign Relations Committee, Senator HELMS, and the distinguished chairman, Senator PELL, for their efforts in drafting the conditions that are part of this resolution of ratification. I know that they and their staffs worked hard to incorporate the views of other Senators, as well as the administration.

I also want to commend the work done by the Armed Services and Intelligence Committees. Both committees held hearings which explored, in detail, the potential impact of changes in the Soviet Union on the CFE Treaty.

I think that all of my colleagues support the conditioning of Senate advice and consent to the treaty on the understanding that the June 14, 1991, side agreement has the same legal force as the treaty itself, and that actions contrary to that and other Soviet statements will be considered inconsistent with the CFE Treaty.

While I understand that the administration, and Secretary Baker, in particular, worked hard to resolve the interpretation dispute with the Soviets regarding article III of the treaty, as well as the problem of Soviet movement of equipment east of the Urals, I am uncomfortable with the increasing trend of resolving fundamental treaty matters via statements or agreements that are not part of the treaty, and thus do not require the advice and consent of the Senate. In my view, these matters should be taken up within the confines of the treaty—in other words as an amendment or protocol to the treaty.

Another area of serious concern to me is the question of discrepancy in Soviet data. In my view, we must have confidence in data submitted by the Soviets in accordance with arms control agreements or we will not be able to have confidence in the integrity of that agreement.

Prior to treaty signature, the Soviets moved thousands of pieces of equipment east of the Urals. However, according to the Director of Central Intelligence, Robert Gates, there is substantial circumstantial evidence that

VOL 137 PT 23 NO 21—25 1991 UMI

there were indeed several thousand unreported pieces of equipment in the zone at the time of treaty signature. But, his analysis is that this was, "indicative of a failure to fully implement the destruction and shipment plans on schedule" rather than a "deliberate effort to deceive," since Soviet equipment movements were carried out in the open. He notes also that the intelligence community had anticipated that at least some discrepancies would occur as a result of the turbulence and dislocation that resulted from this effort to reduce equipment in the zone prior to treaty signature.

The bottom line, according to Mr. Gates, is that although we could confirm that the bulk of equipment withdrawn by the Soviets occurred within 1 or 2 months of treaty signature, given the nature of the circumstances under which the Soviet drawndown occurred, it is unlikely that the United States will obtain evidence to narrow the time frame any further.

Mr. President, I realize that this is inconclusive, and I wish it weren't—but, I am not an intelligence expert. So I am going to rely on Robert Gates' judgment on this very complicated issue.

On balance, I believe that the Conventional Forces in Europe Treaty is in the national security interest of the United States and worthy of the Senate's support. I, therefore, urge my colleagues to vote in favor of the resolution of ratification.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Does the Republican leader yield the floor?

Mr. DOLE. I yield the floor.

Mr. SMITH. Mr. President, I have no further requests for time on my side, and I just want to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I would just use a few moments of the time—I have not used any—and I will be very brief.

Mr. President, this amendment, obviously well-intended, is nonetheless a killer amendment, plain and simple. If the Senate adopts this amendment, we can quite frankly kiss the CFE Treaty goodbye.

Obviously, this issue is complicated by the question of classification, but I can say this: The intelligence community simply cannot certify exactly how many tanks, armored combat vehicles, and artillery were in the Atlantic to the Ural zone at the time of the treaty signature. I repeat: Such a classification simply cannot be made, not possible, no way, no possibility of them being able to certify with any degree of certainty. All the intelligence community can do is develop an estimate. And I repeat again and again, an estimate. All it is capable of doing is estimating how much equipment was in the zone at the date of the treaty signature.

Mr. President, the supporters of this amendment, in my view, simply underestimate or do not understand the difference between evidence and estimates. We are confident that a small number of pieces of Soviet equipment were not declared.

The CIA has told the committee openly that the number is about 800. These are the so-called smoking guns. There is a somewhat larger number of undeclared equipment that was probably in zone at the time of the treaty.

But, Mr. President, the Bush administration is seeking to obtain additional reductions of this amount, as well they should, and that is exactly what the committee condition that is before the Senate requires.

So much for the smoking guns.

But this agreement goes much farther. This amendment proposed goes much further. It requires the administration to make a determination it cannot reasonably make beyond the smoking guns. The reason such a determination cannot be made is obviously difficult to discuss in open session.

But we all know that Soviet forces in Eastern Europe have undergone enormous changes, and it is precisely at such a time when a typical model for estimating Soviet equipment would not be too accurate. It is in that circumstance that the typical model no longer has much relevance, the model by which the agencies, intelligence communities would be used to be able to have a reasonable estimate. In other words, the amendment would require us to hold the Soviet side accountable for estimates about which we may not have much confidence.

The basic issue is this: Do we want a treaty? Do we want to ratify this treaty so that 23,000 Soviet tanks and other equipment will be destroyed? Or do we want to vote for an amendment that will kill the treaty and never see these 23,000 pieces of equipment destroyed?

Before answering it, I hope my colleagues will remember that the United States will not be required to destroy any equipment as a consequence of this treaty. This is what I would call a good bargain, Mr. President. The result of the treaty will be that the United States will destroy no equipment, and the Soviet Union will destroy 23,000 pieces of equipment. That is a good bargain by any standard.

Mr. President, to me, this is not a close call. Let us ratify this treaty. Let us trust President Bush to secure the additional reductions if we have the evidence. But let us not permit a bad intelligence treaty, a bad intelligence estimate to kill a good treaty.

Mr. President, I know of no other Democrat or Republican seeking to speak in opposition to the treaty this afternoon. And it is my understanding that there is 1 hour, evenly divided, on Monday to discuss this issue, one-half hour under the control of the Senator from Delaware.

The PRESIDING OFFICER. The Senator is correct.

Mr. BOREN. Mr. President, I am pleased to support the Senate's advice and consent to ratification of the CFE Treaty. Political and military relations in Europe are changing rapidly, and this treaty will help ensure that they evolve in a manner consistent both with U.S. interests and with the interests of world peace.

CFE is both a disarmament treaty and an arms control treaty. It will require the Soviet Union to destroy or convert over 23,000 tanks, armored combat vehicles and artillery. Another 12,000 pieces of Eastern European equipment will also be destroyed, as well as 10,000 items once owned by East Germany.

By 1995, when all that is done, Soviet military equipment in Europe will be reduced to roughly two-thirds the amount of NATO equipment in the region. Regional subzones will ban the massing of this equipment in those areas that NATO commanders have viewed as most threatening. The continuing data exchange and onsite inspection requirements imposed by the treaty, will work to prevent violations and to reassure all countries that no nation is preparing to take aggressive action.

Mr. President, the CFE negotiations began when the cold war was not quite over, and the treaty was designed primarily to prevent a general war between the Warsaw Pact and NATO. The Warsaw Pact no longer exists. NATO itself is in search of a new mission. But the fact is that this treaty will also perform important functions in the evolving new world order. The limitations on Soviet—or Russian—armaments in Europe will provide important reassurance to the Baltic States and to any newly independent states that may emerge from among the current Soviet Republics. Those limits and the right to participate in onsite inspection of Soviet or Russian forces will be, in turn, a strong incentive to newly independent states to accede to the treaty as well, thereby allowing them to enjoy the economic benefits of lower defense spending.

The CFE Treaty will be part of the structure of the new Europe. Adherence to it will be a major way in which new states can demonstrate their peace-loving nature and be welcomed into European statehood. Ratification by the United States will be a token of our continuing commitment to NATO and European security, even as that security changes from a matter of cold war alliances to one of cooperation in the peaceful settlement of disputes. So I urge all of my colleagues to join me in supporting ratification of this treaty.

As chairman of the Select Committee on Intelligence, I would also like to call my colleagues' attention to the fact that our committee has reviewed the implications of CFE for arms control monitoring. My friend, the distinguished Senator from Alaska, FRANK MURKOWSKI, who serves as vice chairman of the committee, and I recently sent a letter to Chairman PELL and Senator HELMS summarizing our findings in this regard, and I ask unanimous consent that this letter be inserted in the RECORD.

Mr. President, we found that U.S. intelligence will be able to monitor the destruction or conversion of treaty-limited equipment in Europe with high confidence. We are less certain at this point in time regarding equipment that the Soviet Union has pledged to destroy east of the Ural mountains, but the CFE Treaty countries plan to work out measures to make such destruction visible to our national technical means of verification.

We also believe that U.S. intelligence should be able to detect any violation of the treaty of military significance, specifically, involving combat ready units well before it would endanger NATO forces. We are less sure regarding small-scale violations, or even larger violations if they merely involve the covert movement or storage of equipment. As a result of the committee's review of the treaty, we are urging the U.S. intelligence community to vigorously develop monitoring strategies to detect any small-scale violations that might affect the military balance among States and Republics in Eastern Europe.

One issue that has prompted particular attention among Members of the Senate is the manifestly incorrect declaration of equipment holdings that the Soviet Union provided when the treaty was signed on November 19, 1990. The vice chairman and I discussed the relevant intelligence on that issue a classified attachment to our letter to the Foreign Relations Committee. I understand that the attachment is among the materials available to my coleagues in room S–407.

Without getting into classified material, I would just like to make a couple of personal points on this issue. First, we all agree that the Soviet declaration was grossly in error. Some of that has been corrected through the legally binding agreements reached on June 14, 1991, between the Soviet Union and the other CFE parties.

Second, we all know that some of the equipment in question has since been destroyed, while most of it has shown up belatedly at storage areas east of the Ural mountains. The Soviet Union has agreed to destroy some of this equipment and to store the rest of it in a manner that is not conducive to the quick formation of offensive forces.

The vice chairman and I endorse continued efforts to arrive at an accurate accounting of what equipment the Soviet Union had in Europe on November 19, 1990. We also endorse efforts to gain agreement to Soviet destruction obligations proceeding from such an accurate accounting. Speaking for myself, I support the reservation on this subject that thas been proposed by the Foreign Relations Committee.

But personally, Mr. President, I do not believe that United States intelligence will ever be able to give us a precise count of what equipment the Soviets had west of the Urals on that day. I believe that it would be unwise to force the President to propound such a number. The result would be an invitation to come up with some unsupported figure, rather than an encouragement to pursue this issue in a reasonable manner with the Soviets. And we should remember that the data discrepancy problem was the product not of Mr. Gorbachev and Mr. Shevardnadze, but rather—as far as we can tell—of the very Soviet military that attempted last summer to overthrow the Gorbachev government.

Finally I would note that we on the Intelligence Committee did find some areas in the CFE Treaty that could result in compliance disputes down the road. The report of the Foreign Relations Committee cites these concerns, as well as some others that they noted. I hope that U.S. diplomats will make it a priority, with the other States Parties to this Treaty, to work out in advance whatever procedures and definitions are needed to avoid such disputes.

In my view, Mr. President, this is a fine treaty. I am delighted to support it. But experience has proven that no treaty is perfect. We on the Intelligence Committee have reviewed these matters and submitted our findings so that the Senate will have the benefit of full information as we cast our votes on advice and consent to ratification. I again invite my colleagues to read both our letter to the Foreign Relations Committee, which is contained in their report, and the classified attachment to our letter, which is available in room S–407.

Finally, Mr. President, I want to note the extraordinary efforts of my good friend and fellow Oklahoman, Ambassador Jim Woolsey in negotiating this treaty. He is truly among our best and brightest. Jim has always come forward to serve our Nation and Presidents of both political parties. His distinguised career is well known to my colleagues, but we would be remiss if we did not thank him for the contribution he has made in bringing this historic treaty forward for ratification by the U. S. Senate.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, November 18, 1991.

Hon. CLAIBORNE PELL,
Chairman,
Hon. JESSE HELMS,
Ranking Minority Member,
Committee on Foreign Relations, U.S. Senate,
Washington, DC.

DEAR SENATOR PELL AND SENATOR HELMS: In order to assist the Committee on Foreign Relations and the full Senate in their consideration of whether to advise and consent to the ratification of the Treaty on Conventional Armed Forces in Europe (CFE), the Senate Select Committee on Intelligence has undertaken a thorough review of the ability of U.S. intelligence to monitor the compliance of the signatories with the provisions of that Treaty. In particular, the Committee has addressed issues surrounding the interpretation and implementation of the Protocol on Inspection, the effectiveness of the onsite inspection regime, the counterintelligence and security implications of the Treaty, and the ability of U.S. intelligence to detect politically and militarily significant violations of the Treaty.

The Committee began its work in March, 1989, with the beginning of the CFE negotiations. Both members and staff received regular briefings on the objectives and progress of the negotiations. The Committee's arms control staff also visited the negotiators in Vienna immediately prior to signing of the Treaty to keep abreast of the final details. Staff counterintelligence specialists visited military units in Germany to review preparations for CFE inspections. The Committee held eight on-the-record staff briefings and reviewed hundreds of documents and answers to questions. It also held two closed hearings, where it received testimony from senior officials within the Departments of State and Defense, the Intelligence Committee, and the Arms Control and Disarmament Agency.

In anticipation of the Treaty, the Committee wrote to Judge Webster, the then-Director of Central Intelligence, and General Colin Powell, Chairman, the Joint Chiefs of Staff, requesting a National Intelligence Estimate on the ability of U.S. intelligence to monitor Treaty compliance. The Committee requested that Chairman Powell identify for the Intelligence Community those levels of cheating that he would consider militarily significant, and asked the Intelligence Community to assess its monitoring capabilities in light of the Chairman's concerns. The Estimate provided to the Committee and a subsequent Memorandum to Holders of the Estimate have been, in our view, highly useful and relevant.

The Committee also received several briefings on the problems associated with the Soviet data submitted at the time of Treaty signature on November 19, 1990. Based on the Committee's assessment of the issue, we, along with other members of the Senate, wrote to Secretary Baker and urged him not to send the Treaty forward for Senate consideration until these issues were resolved. We believe that the prompt action of the Senate helped to contribute to the June 14 agreements which have allowed the Senate to proceed with the Treaty ratification process.

This letter reflects the views of the Chairman and Vice Chairman of the Committee as they pertain to the subjects discussed below.

MONITORING JUDGMENTS

We believe that by a combination of onsite inspection, National Technical Means

VOL 137 PT 23 NO 21—25 1991 UMI

and cooperative measures, U.S. intelligence will be able to monitor the destruction or conversion of Treaty-limited equipment (TLE) in the Atlantic to the Urals (ATTU) region with high confidence. For the 14,500 pieces of equipment to be destroyed or converted east of the Urals and not subject to on-site inspection (pursuant to a political agreement of June 14, 1991), the ability of U.S. intelligence to minotor Soviet compliance will depend upon the form of cooperative measures that the Soviet Union has pledged to undertake to make the destruction visible to national technical means of verification. The specific cooperative measures are yet to be agreed upon by the signatories.

We also believe that U.S. intelligence is justified in having high confidence that it could detect any violation of the Treaty in which the Soviets attempted to move large quantities of TLE (i.e., thousands of pieces of equipment) as whole divisions, combat wings, or partial units back into the ATTU in a short period of time—weeks to months. U.S. intelligence would detect such cheating well before it reached the levels identified by the Joint Staff as militarily significant. Similarly, the formation of new, combat ready divisions within the ATTU from covert production facilities would also be detected before it achieved militarily significant levels by the Joint Staff's criteria.

While we believe that U.S. intelligence will detect any cheating that could threaten NATO forces (e.g., activity associated with combat ready units) before it becomes militarily significant, it will be more difficult to detect the covert transport and storage of equipment that is not integrated into combat units and to accurately characterize it as a CFE Treaty violation in a timely manner.

For example, the continued inability to resolve the issue of differences between the Soviet declaration of TLE holdings in the ATTU when the CFE Treaty was signed and the U.S. Intelligence Community's figures on Soviet holdings illustrates how difficult it can be to understand suspicious activity and to determine whether it is actually a violation. The Intelligence Community has detected numerous examples of equipment that appeared to have been improperly omitted from the Soviet data declaration. But even a year later, uncertainties remain regarding the amount of TLE that was improperly omitted and the possible impact of such omissions on the Soviet Union's equipment destruction obligations. It should be noted, however, that a major source of these ambiguities was the large-scale dislocation of Soviet forces as a result of equipment withdrawals and reductions preceding Treaty signature. Had the information exchange and on-site inspection provisions of the CFE Treaty been in place at the time, the Intelligence Community would have been better able to track the specifics of these changes.

The data discrepancy issue is discussed in detail in the classified attachment to this letter. We endorse continued efforts to arrive at an accurate accounting of what TLE the Soviet Union had in the ATTU on November 19, 1990, and to gain agreement to destruction obligations proceeding from such an accounting.

The movement of TLE east of the Urals underscores the fact that the CFE Treaty does not apply to the Asian portions of the Soviet Union. This puts a burden on U.S. intelligence to guard not only against the covert reinsertion of Soviet equipment into the ATTU region, but also against a force buildup east of the Urals that could threaten either a breakout from the Treaty or an aggressive movement on the U.S.S.R.'s eastern or southern borders. We will urge the Intelligence Community to devote whatever resources are needed to accomplish this task.

We must also emphasize that U.S. intelligence will have difficulty detecting small-scale violations of the Treaty. Such violations would not pose a significant military threat to NATO, but are politically significant for two reasons. First, they can weaken, over time, the integrity of the Treaty regime, thus paving the way for larger-scale violations. Second, such violations may, in fact, be militarily significant to a small, neighboring state whose TLE allocation is not large. With the end of the Cold War, the territorial integrity of many such states—from Poland, Hungary and the Czech and Slovak Republic to the Baltic states and possible new states in the Soviet Union—could potentially become an element of U.S. national interest sometime in the future. We therefore will urge the U.S. Intelligence Community to vigorously develop monitoring strategies and allocate resources to monitor compliance with small-scale violations in potential trouble areas.

COMPLIANCE ISSUES

The Treaty imposes two regimes—a disarmament regime lasting forty months after entry into force, and an arms control regime which regulates the distribution of this lower level of forces in perpetuity. Overall, we believe that the Treaty and related protocols are well-crafted and create a useful on-site inspection regime which will help to deter cheating and, in concert with National Technical Means, to detect it if it occurs. Nevertheless, we believe that, given the complexity of this Treaty and its protocols, there are likely to be compliance issues regarding interpretation which, though not of a magnitude to require changes to the Treaty or conditions to the resolution of ratification, should be brought to your attention for consideration in the report accompanying the resolution of ratification.

First, the definitions and provisions in paragraph 1 of Article II regarding armored combat vehicles include several gaps that could result in compliance disputes. For example, armored ambulances and armored vehicles that are not intended to transport troops, such as armored communication vans or ammunition trucks, are not limited. Furthermore, paragraph 2 of Section I of the Protocol on Existing Types permits certain lightly armored vehicles (the MT-LB) to be "exceptionally modified" into armored personnel carrier look-alikes (the MG-LB-AT) at locations other than reduction sites, rendering them no longer subject to Treaty limits, although paragraph 32 of Section VI of the Protocol on Inspection does provide for visual inspection of the interior of such a vehicle from outside the vehicle.

Second, the counting rules in Article III that except certain otherwise Treaty-limited equipment (TLE) are not well-defined. Equipment may be excluded if it is in the process of manufacture or manufacturing related testing; used exclusively for purposes of research and development; part of historical collections; awaiting disposal; awaiting export or re-export,; held by organizations designed and structured to perform in peacetime internal security functions; or in transit within the ATTU for no longer than seven days. In the absence of further definitions, all these rules invite monitoring difficulties or compliance disputes.

Third, the ability of any state party to increase its TLE in the Atlantic-to-the-Urals (ATTU) zone during the 40-month reduction phase is unrestricted. In most instances such changes would be reportable within five days if they exceeded a unit's reported holdings for a category of TLE by 10 percent or more, pursuant to Article XIII and to subparagraph 1(B) of Section VIII of the Protocol on Notification and Exchange of Information. There is no obligation, however, for TLE produced in the zone and attached to units that are not a "permanent change in the organizational structure of . . . forces within the area of application" pursuant to subparagraph 1(A) of Section VIII to be reported until the next annual report on holdings. Although non-permanent units may be interpreted to be those units in transit through the zone and thus subject to the seven-day transit rule, this is not made explicit in the Treaty or Protocol text. Thus, the discovery of an undeclared unit with TLE in the ATTU zone during the reduction phase may or may not indicate a violation has taken place. It could be a non-permanent unit, and the length of time it can stay in the ATTU without being reported could be as long as a year.

Aside from strict Treaty interpretation issues, we note that the pace and quantity of reductions required by the Treaty, the lack of restrictions on units and TLE in the ATTU zone during the reduction phase and the many notification requirements suggest that this phase of the Treaty's implementation will be confusing. In our view, information overload is likely to occur during the reduction phase and may reduce the effectiveness of notifications and inspections, although the experience gained through the INF Treaty and the lengthy period of preparation and planning for CFE will help to offset likely information exchange, logistic and coordination problems.

The level of confusion during the reduction phase will depend in part on the future status of Soviet republics that have recently become independent or are seeking new status. The Baltic states, which have not signed the CFE Treaty and therefore are now outside the ATTU region, continue to host TLE on their territory which the Soviets have agreed to limit according to the terms of the Treaty. Arrangements must be made to insure that the inspection provisions of the Treaty will be adequately implemented in cooperation with the Baltic states; we understand that such arrangements are forthcoming. Decisions taken by the Ukraine, however, particularly with respect to the creation of its own military, may complicate or delay implementation of the inspection regime and of data exchanges.

Finally, we note that the Treaty text does not discuss the status of U.S. or other NATO-member forces deployed to the territory of a member of the Group of Six at the latter's request. Such a deployment would be subject to the Treaty ceilings for the subzone to which forces are deployed, as well as for the whole ATTU region. Consequently, the flexibility of NATO countries to move forces into the recipient state without abrogating the Treaty would depend on whether they could do so without exceeding the subzone ceilings. This would not be a problem if the forces were already in the subzone (e.g., being deployed from Germany to Poland). To move forces into the subzone, however, would require that the total already in the subzone be less than its prescribed ceiling. If such leeway did not exist, it could be achieved by reducing some other forces within the zone. Any force deployed onto the territory of a member of the Group of Six would also be subject to on-site inspections by other CFE signatories.

TREATY IMPLEMENTATION

Compared to other arms control treaties, the implementation and security costs for the CFE Treaty will be relatively small. Because the CFE Treaty covers only the territory from the Atlantic to the Urals, the United States will not be required to host any on-site inspections on its own territory. Because the number of objects of verification declared by the Soviet Union was much lower than had been anticipated, the number of on-site inspections that the United States will conduct on Soviet territory will be significantly reduced.

The On-Site Inspection Agency projects costs of $16 million in fiscal year 1992, $12 million in FY 1993, and significantly lower costs beginning in FY 1996. Total Executive Branch costs directly attributable to CFE implementation and security should be about $25 million per year in the early years of the Treaty.

Some officials have questioned whether the U.S. Government would be able to field sufficient numbers of on-site inspection personnel with the needed linguistic capabilities and/or substantive background. The Director of the On-Site Inspection Agency assured the Committee that sufficient numbers of linguists have been found and trained for the inspection role, and that sufficient numbers of substantive experts have been identified and are available for service on inspection teams.

COUNTERINTELLIGENCE AND SECURITY

As with the INF and TTBT agreements, inspections under the CFE Treaty will allow foreign governments access to U.S. facilities and personnel that were previously denied on national security grounds. Unlike earlier bilateral Soviet-U.S. inspection regimes, however, CFE may give such access to the governments of various countries whose future military objectives are uncertain. While the Cold War threat of a conventional NATO-Warsaw Pact war is gone, U.S. military capabilities and activities in Europe will continue to require substantial protection against disclosure to foreign governments of information not required for verification of compliance with the Treaty. The Gulf War demonstrated that U.S. and allied forces in Europe may be called upon to deter conflicts and conduct military operations worldwide. Security for the most sensitive capabilities deployed in Europe remain integral to U.S. military strength.

We are satisfied that the relevant inspection provisions are appropriately balanced to meet U.S. security needs as well as verification requirements. The parties are allowed to restrict access to buildings with doors narrower than two meters, to shroud sensitive features of weapons systems, and to declare "sensitive points" that may not be inspected. The executive branch plans to exercise these rights so as to limit disclosure of sensitive information that is not necessary for verification of compliance.

In addition, we found that the Executive branch is preparing effective security countermeasures to protect sensitive facilities as permitted by the Treaty. Commanders of military installations must have operational security (OPSEC) safeguards that are tested by mock inspections, and Army and Air Force counterintelligence units in Europe will assist the commanders. The Committee has been assured that, despite overall drawndowns and restructuring of U.S. forces, the Defense Department's counterintelligence components will maintain resources in Europe needed to deal with attempts by foreign governments to exploit the CFE inspection process for intelligence purposes contrary to U.S. interests.

Sincerely yours,

DAVID L. BOREN,
Chairman.
FRANK MURKOWSKI,
Vice Chairman.

Mr. MURKOWSKI. Mr. President, I rise today in support of the Senate's advice and consent to ratification of the CFE treaty.

As a member of both the Senate Foreign Relations Committee and the Select Committee on Intelligence, I had the opportunity to review the treaty from several perspectives. All in all, it is a remarkable accord. When ratified by all parties and brought into force, it will accomplish what was unthinkable only a few years ago—consensual agreement that no single State will dominate Europe from the Atlantic to the Urals; and in arms control regime that renders major offensive war between east and west next to impossible.

The geographic scope and complexity of the arms control architecture created by this treaty is unprecedented. Huge quantities of equipment will be identified; thousands of sites will be inspected; substantial movements of equipment will be monitored; and volumes of information will be exchanged and processed as treaty-limited equipment in the eastern bloc is moved and destroyed.

During our deliberations in both the Foreign Relations and Intelligence Committees, the questions were asked, "How will this treaty, whose foundations were laid during the cold war, have relevance in a vastly changed Europe that continues to quickly evolve? How will continuing changes in the political structure of the Soviet Union affect this treaty and compliance by emerging new nations?"

We don't know with certainty what will transpire in Ukraine, Byelorussia, or any of the Soviet Republics. But this treaty creates an architecture for peace and stability by introducing an element of predictability to this otherwise chaotic environment. We believe there are clear incentives for these emerging new nations to participate in and accede to the treaty, and we hope and trust that they will do so.

The Senate Select Committee on Intelligence, on which I serve as vice chairman, also took a careful look at the burdens this treaty will impose on our intelligence services. We looked at compliance and verification issues in detail. We explored issues involving the interpretation and implementation of inspection protocols; the effectiveness of the on-site inspection regime; the implications of the treaty on counterintelligence and security; and our ability to detect militarily significant violations.

We found that, through a combination of on-site inspection, national technical means and cooperative measures, we can monitor the destruction and conversion of treaty limited equipment in the Atlantic to the Urals [ATTU] region with high confidence.

We believe we can detect any large scale, militarily significant cheating should it occur.

With respect to equipment moved or destroyed east of the Urals that is not covered by the treaty, the Soviets have pledged to make "east of Urals" destruction visible to national technical means, although specific cooperative measures have not yet been agreed upon.

While we did outline some concerns, I do not believe they are of sufficient magnitude to require changes to the treaty or conditions to the resolution of its ratification.

I know the chairman of the Intelligence Committee and my good friend, Senator BOREN, has already asked that the letter that he and I sent to Chairman PELL and Senator HELMS summarizing our committee's findings be placed in the RECORD, and I would invite all Senators to read it and the classified attachment available in room S–407.

Mr. President, this is a treaty worthy of our advice and consent, and I urge my colleagues to support its ratification.

Mr. COATS. Mr. President, although the CFE Treaty was negotiated at a time when the military and geopolitical situation in Europe was radically different than it is today, I am satisfied that this agreement can be adopted to the current environment. I agree that there are compelling reasons for ratifying the treaty. It will place a ceiling on armament holdings in Europe and create a legal framework that will help prevent the resumption of largescale military confrontation. The treaty's verification provisions also will contribute to openness and transparency in military affairs, and hopefully bolster mutual trust.

While I intend to support ratification of the CFE Treaty, I must express some grave reservations about the way the treaty was concluded and presented to the Senate. I believe that there are several unresolved issues that should be settled, if not before ratification then certainly before the United States is bound by the Treaty.

In particular, I am concerned about two issues. First, the data discrepancy between actual and declared Soviet holdings of treaty limited equipment at the time of treaty signature; and second, the procedure by which the United States responds to the emergence of independent countries in the former Soviet Republics who refuse to become parties to the CFE Treaty.

The resolution of ratification reported by the Foreign Relations Committee addresses these concerns in general terms, but I believe that the Senate must be more specific in conditioning its ratification of the CFE

VOL 137 PT 23 NO 21—25 1991 UMI

Treaty. These concerns were addressed in a letter to the Foreign Relations Committee sent by the Republican Members of the Senate Armed Services Committee on November 18, 1991.

This letter urged the Foreign Relations Committee to adopt two additional conditions. First, a provision that would require the President to certify the actual amount of Soviet treaty limited equipment at the time of treaty signature, gain Soviet agreement with this estimate and, most important, get a Soviet commitment to destroy all equipment that was in excess of this level. Second, we recommended that the Foreign Relations Committee adopt a condition relating to the creation of new States in Russia, Byelorussia, and Ukraine—that if such States do not accede to the CFE Treaty the United States would either withdraw from the treaty or resubmit it for Senate ratification.

Mr. President, let me briefly discuss these two issues. While I am deeply concerned with both, the data discrepancy problem troubles me the most. On November 19, 1990, the day the CFE treaty was signed, the Soviet Union possessed in the treaty area of application substantially more treaty limited equipment than they had declared. Estimates of the actual discrepancy range from several thousand to tens of thousands of pieces of treaty limited equipment. The precise amount is less important than the fact that the Soviet Union attempted to cover up a treaty violation the very day the treaty was signed. Perhaps more important is the fact that the significance of this issue has been minimized by the United States.

I realize that the Soviet Union has made a unilateral political commitment to destroy equipment east and west of Urals to compensate for their excess possession. According to the Foreign Relations Committee report on the CFE Treaty: "Thus, the Soviets will have, at least, agreed to make amends." Making amends, however, is not really the issue. At stake here is not whether we get the Soviets to destroy some amount of equipment. This equipment may in fact not even be militarily significant. At stake is the integrity of the treatymaking and treaty-ratification process. By sweeping aside concerns about the data discrepancy issue we would be setting a terrible precedent for future arms control agreement. While a discrepancy in conventional equipment may be of little military consequence, a similar discrepancy relating to nuclear weapons certainly would be. To the extent that we are willing to allow a data discrepancy issue to go unsettled prior to ratification of the CFE Treaty, we will be in a worse position to deal with similar issues before start ratification.

Mr. President, I understand that Senator SMITH will offer an amendment on Monday to insert a condition to the CFE resolution of ratification similar to the one recommended by the Republican members of the Armed Services Committee. I will support this amendment and hope that the Senate will pass it. In considering this amendment the Senate must take into account that the data discrepancy issue arose only after the Soviets transferred some 57,000 pieces of treaty limited equipment from the area of application between January 1989 and November 1990. Also the Soviets transferred large amounts of equipment into naval and other units and claimed that it was exempt from the treaty. In other words, in anticipation of signing the CFE Treaty, the Soviets did everything within their power to circumvent the reductions that CFE would impose. With this as background, it seems even more unbelievable that the Soviet Union would then lie about their equipment holdings at the time of treaty signing. Thus I will support an amendment to settle the data discrepancy issue and require the Soviets to come into compliance with this understanding.

Mr. President, I am also concerned about the so-called successor State issue. In particular, the possibility that an independent Ukraine, Russia, or Byelorussia might refuse to become a party to the CFE agreement and thereby create a new and unexpected situation in Europe.

I acknowledge that the Foreign Relations Committee has already included a condition on this issue in its resolution of ratification. I have no argument with this condition, although I do believe that it should be strengthened to protect the Senate's treaty ratification role. The Foreign Relations Committee's condition states that if a new country emerges from a Soviet Republic and does not join the CFE Treaty, the President of the United States shall consult with the Senate, evaluate the new situation and consider whether treaty amendments are needed and submit such changes to the Senate for ratification.

The amendment offered today by the Senator from Maine [Mr. COHEN] addresses this issue. Specifically, this amendment would state that even if the CFE Treaty is not amended in response to the emergence of a new country that refuses to join the treaty, the Senate must provide its advice and consent as to whether the United States should remain a party. This provision would protect the Senate's ratification prerogative if changed circumstances alter the underlying assumptions of the treaty.

I do not believe this added condition is unreasonable or unconstitutional, as the administration has argued. If indeed a new situation emerges in Europe due to the independence of a large Soviet Republic such as the Ukraine, I believe that the Senate should review the continuing relevance of the CFE Treaty. Hence, I will vote to support the addition of this condition.

Mr. President, I support ratification of the CFE Treaty. As I said at the outset, however, I believe that we should settle the data dispute prior to ratification. Also, some additional time would help clarify many questions relating to successor States, especially the Ukraine, which will soon be holding an independence referendum.

I understand the administration's desire to have this important agreement ratified as soon as possible, but I also believe that it is more important to settle outstanding questions before the Senate renders its advice and consent. Since it is clear that we will not wait on these matters, I hope we will adopt the condition proposed by the Senator from Maine today and the condition by the Senator from New Hampshire on Monday.

SENATE ADVICE AND CONSENT TO RATIFY THE CONVENTIONAL ARMED FORCES IN EUROPE (CFE) TREATY

Mr. WARNER. Mr. President, I rise in support of Senate advice and consent to ratify the Conventional Armed Forces in Europe Treaty. The CFE Treaty represents the culmination of many years of negotiations on reducing conventional forces in Europe. While the CFE process itself was relatively short by almost any standard for arms control treaties, the genesis of the treaty can be traced back to the mutual and balanced force reductions, or MBFR, negotiations which started nearly 20 years ago in 1973. These arduous discussions lasted for over 15 years and ended formally in February 1989 as the CFE negotiations were about to begin. While no treaty resulted from the MBFR negotiations, they served as an important building block for the CFE process which began in March 1989 and ended with the signing of the CFE Treaty in Paris after less than 2 years of intense negotiations in Vienna.

Mr. President, this historic undertaking was accomplished with the very able talents of U.S. Ambassador James Woolsey. The Nation owes him a great deal of thanks for this important and historic document which awaits Senate approval.

Mr. President, the CFE Treaty is the first conventional arms control agreement since World War II. It was intended to significantly eliminate the overwhelming Soviet numerical advantage in conventional armaments that has existed in Europe since World War II, and the treaty still holds the promise of doing so. The problem we face today, however, is the fact that today's Europe bears no resemblance to the Europe which existed when the CFE mandate was drafted over 2 years ago. The military alliance structure which was present in 1989 is no longer in place in Eastern Europe. The dramatic

events of the past 2 years have caused some to raise serious questions that the CFE Treaty was structured in another era—the cold war. Indeed, some of the former members of the Warsaw Pact have indicated a desire to become members of the NATO alliance.

Mr. President, this very question about the relevance of the CFE Treaty in a few European environment was a main issue that I pursued during the Senate Armed Services Committee hearings on the military implications of the CFE Treaty. First, my primary objective was to better understand how the CFE Treaty will contribute to maintaining, if not further strengthening, stability during the next few years in light of the historic changes we have seen in the security structure of Europe. And second, I felt it was important to better understand how the treaty will contribute to, and not detract from, building a new stable security structure, one that addresses the growing emergence of ethnic and nationalist tensions in Europe, as opposed to the ideological tensions of the former bloc alliance system.

In this regard, administration witnesses testified that the CFE Treaty was even more urgently needed in this emerging European security environment because of the limits it places on existing states and the limits it may potentially impose on prospective emerging states like Soviet Republics such as the Ukraine and Belorussia. The administration also assured the committee that the CFE Treaty is extremely flexible and can be adapted to deal with the emerging European state structure and any new sources of tension and conflict. Secretary Bartholomew stated in our hearing that:

> We believe, in fact, that the [CFE] Treaty is more advantageous to the U.S. and to all involved in the more fluid situation existing today than ever before. * * * In our view, we would be far better off during these unsettled times if CFE were in force—providing an internationally-recognized framework of contraints on military activities and a forum for addressing questions and disputes.

Mr. President, I accept administration assurance about the relevance and relative importance of the CFE Treaty even though the treaty and its mandate were formulated based on a very different security environment. On this basis and having received assurances on a number of other issues which are discussed below and based on the acceptance of the Foreign Relations Committee's five proposed conditions, I encourage strongly Senate advice and consent to ratification of the CFE Treaty.

In providing my strong support for the CFE Treaty, I wish to express a concern over recent suggestions by some that the treaty is a vital arms control agreement, and that the very treaty itself is the anvil upon which a new security structure will be forged. This suggestion has been made primarily with the recalcitrant Republics of the former Soviet Union in mine—Republics which have indicated a desire to maintain national armies, independent of central government control. I do not doubt the general merits of this argument, but I am concerned that those who make it may be overstating the ability of the treaty alone to forge a stable security structure.

Arms control has a very important place in national security planning. But we must be careful not to place arms control agreements above prudent military force capabilities and sound alliance planning. Arms control agreements which merely regulate levels of military equipment do not prevent conflicts or wars. We learned from our experiences during the interwar period that naval arms control agreements, like the 1922 Washington Treaty, the 1930 London Treaty, and the 1935 Anglo-German Naval Agreement, did nothing to halt the march of war in Europe. In other words, arms control agreements cannot stop a leader whose intention is to use armed force to implement foreign policy objectives. At best, arms control agreements limit or regulate the options of military planners which, in turn, may preclude the use of force as an option. But again, as history has shown, leaders intent on using force to implement foreign policy objectives find ways to circumvent or ignore arms control treaties when such treaties stand in the way of their objectives.

Mr. President, much has changed in Europe. European security requirements and threats are emerging from traditional sources of tension and conflict, such as the longstanding ethnic and nationalist disputes that have been the cause of wars in Europe for centuries. With this emerging European security structure in mind, and after careful review of the treaty itself, the Senate Armed Services Committee determined that the CFE Treaty is in the U.S. national security interest and that of our European allies and friends. I supoort that conclusion. But my support must be tempered by an important caveat, that is, the forging of a new security structure cannot be accomplished by the CFE Treaty alone. Security in Europe, and indeed the world, requires a commitment to a credible military force posture that deters aggression, but at the same time is also capable of defeating aggression should that deterrent force fail.

Mr. President, I am concerned about the trend in our Nation, and in Europe, to reduce defense spending to levels that, in my opinion, could bring into question the credibility and effectiveness of our military forces. The collapse of the Warsaw Pact and dramatic changes in the Soviet Union do not obviate the need for a credible defense posture. The emergence of a multipolar world and the Persian Gulf war, in particular, have shown that the world is becoming less, not more, stable than the bipolar security structure of just a few years ago. For these reasons, we must not only negotiate and implement effective arms control agreements, but also maintain credible military forces capable of dealing with the new security structure that is emerging from the ruins of the cold war.

Mr. President, in expressing my general support for and caveats to the CFE Treaty, I also wish to address two specific issues that were raised in the additional views attached to the Armed Services Committee's letter report to the Foreign Relations Committee, which were signed by the vast majority of the Republican members. Before addressing these additional views, I want to state my strong support for the committee's letter report on the CFE Treaty which I signed with Senator NUNN on behalf of the members of the committee. The committee's endorsement for Senate approval of the CFE Treaty was qualified with three recommended conditions to the resolution of ratification, and these recommended conditions are included in the Foreign Relations Committee's resolution of ratification, which is before us today.

Mr. President, the Republican additional views, with which I am associated, express our serious concerns on two issues. Both of these issues are addressed in the five conditions attached in the Foreign Relations Committee proposed resolution of ratification, but we do not believe they go far enough in protecting both Senate prerogatives in the treatymaking process and the national security interest of the United States. These two areas of concern deal with, first, serious discrepancies in the Soviet declaration of the amount of their treaty-limited equipment, or TLE, located in the territory covered by the treaty at the time the treaty was signed on November 19, 1990, and second, whether the continued viability of the treaty would be in question if republics within the former Soviet Union were in the future to achieve independence and not accede to the obligations of the CFE Treaty.

Mr. President, while the Foreign Relations Committee included a condition that directed the President to continue to seek clarification on the discrepancies in declared Soviet TLE and to seek additional reductions in Soviet military holdings, this is, for all practical purposes, only a declaration of U.S. position, not a condition that will require any action to protect U.S. national security interest. The issue, Mr. President, is that significant differences still exist between the Soviet data declaration at the time the treaty was signed and United States intelligence estimates of the number of actual Soviet TLE in the territory covered by the treaty. The United States intelligence community has not yet

VOL 137
PT 23
NO 21–25
1991
UMI

reached a consensus on the actual number of TLE in the area limited by the treaty, but these differences range from the low thousands above the number the Soviets declared at the time the treaty was signed to tens of thousands. This equipment includes tanks, artillery, and armored combat vehicles—critical military hardware necessary for conducting war.

Mr. President, we believe that this discrepancy raises a significant question about the probity and good faith of Soviet negotiators. While the administration has expressed its intention to continue to work to achieve a resolution of this data dispute, it has not been able to do so in the year since the treaty was signed. In raising this issue, however, I make no judgment as to the military significance of this equipment or which U.S. intelligence estimate of unreported TLE is most accurate.

For me, Mr. President, the issue is one of principle and precedent. In short, if we ignore this significant discrepancy in the Soviet declaration, we will only undermine the integrity of the arms control process. While the data discrepancy ranges in thousands of tanks, artillery, and armored carrier vehicles, the military significance of this discrepancy is debatable. But if a proportional percentage of strategic nuclear ballistic missiles were at issue, the military significance would be unquestionable. In other words, if we do not take seriously this issue, we will only encourage future parties to treaties to falsify data declarations, and retain equipment that is otherwise slated for destruction. This is a dangerous precedent.

For this reason, I believe it is important for the United States to resolve the data discrepancy question before the United States assumes responsibility for its obligations under the terms of the CFE Treaty. Our additional views included a draft condition to the treaty that would serve to protect U.S. national security interest in this regard.

Mr. President, our second concern relates to the prospect of Soviet Republics, like the Ukraine and Belorussia, becoming independent states while at the same time not acceding to the terms of the treaty. While I do not believe that it is important for all states in Europe to be party to the treaty, it is critical that certain states, that currently have large military holdings or could potentially acquire such military holdings, must be party to the treaty. In testimony before the Armed Services Committee, administration officials testified that:

> It is the view of the Administration that in order to safeguard the integrity of the Treaty regime, it almost certainly would be necessary for Ukraine and Belorussia, if they were not bound as part of the USSR or any successor state, and retained significant amounts of equipment in Treaty categories, to accede to the CFE Treaty.

I agree with this assessment. But as I stated above, the CFE Treaty was negotiated with the bloc-to-bloc security structure of the cold war in mind. With the dramatic changes that have taken place in Europe, particularly in the Soviet Union since the failed coup in August, the very future of the former Soviet Union is in question. While we have received assurances from certain Ukrainian officials of their intent to accede to the term of the treaty, we cannot be sure an independent Ukrainian would do so, given the uncertain course of events in that region.

For this region, Mr. President, we believe that the resolution of ratification should provide for very specific procedures to be followed in the event that the Ukraine, Belorussia, of the Russian Republic were to become independent and not agree to be bound by the terms of the treaty. We believe that the condition attached to the Foreign Relations Committee's resolution of ratification does not go far enough in the regard to protect Senate prerogatives given the administration's testimony that such a situation would constitute a changed circumstance from that which exists now as the Soviet debates its advice and consent to the treaty.

Mr. President, it is my understanding that a possible amendment on secessor states along the lines of the one recommended in our Additional views will be proposed today. I intend to support that amendment, for I believe that the Foreign Relations Committee's condition does not satisfy our concerns on this issue.

Mr. President, I wish to conclude with a restatement of my support for the CFE Treaty. While I have certain concerns and questions about the treaty given the historic changes that have taken place in Europe where this treaty applies. I accept administration assertions that the treaty will serve to help mediate the further evolution of the State and security structure in Europe. Thank you, Mr. President.

Mr. BIDEN. In light of the fact there is no one else seeking recognition, I am prepared to yield back the balance of the time that was allotted for debate on this subject under my control for today.

The PRESIDING OFFICER. The Senator has that right.

Mr. BIDEN. I yield back the time.

Mr. DOLE. Is time yielded back on this side?

The PRESIDING OFFICER. That is correct.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The minority leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 2035 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

STATEMENT ON NO. 1409 SPECTER-DOMENICI AMENDMENT

Mr. LEVIN. Mr. President, I am a strong and long-time supporter of individual retirement accounts. One of the reasons why I voted against the Tax Reform Act of 1986 was that it greatly reduced the availability of IRA's. I am a cosponsor of legislation to restore the full availability of IRA's.

However, I could not support the amendment before us last night offered by Senator SPECTOR. First, it creates the one year illusion that the money withdrawn from the IRA is tax free. In fact, this amendment offers the prospect of an "April 15 surprise" for the next 4 years. If, for example, an individual withdraws $10,000 for the purchase of a home and spends all of that money in the year it is withdrawn, he will have to find thousands of dollars from some other source over the next several years to pay the taxes owed on the amount withdrawn.

Second, I am concerned that this amendment could lead to substantial and sudden withdrawals from financial institutions at a time when we are making efforts to restore the financial industry to health. As a result, instead of creating confidence, this amendment could be counterproductive and lead to further uncertainty in the economy.

SPEEDING BANK CLOSINGS

Mr. DECONCINI. Mr. President, the October 30, 1991, Wall Street Journal carried a letter to the editor which I commend to my colleagues. Written by Joan Conway Waller of Dallas, it responds to a Wall Street Journal commentary piece on September 23, 1991 on speeding bank closings. Ms. Waller raises some interesting concerns about this approach to saving our banking system and I urge the administation and the House and Senate Banking Committees to consider the issues she raises. I ask unanimous consent that the entire text of this letter to the editor be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 30, 1991]

Letters to the Editor

AUDITOR, SPARE THAT BANK!

Your Sept. 23 Outlook column stated that faster bank closings will cut Federal Deposit Insurance Corp. losses. The conventional widsom, which you repeated, is that the earlier the FDIC closes a troubled bank, the less cost the taxpayers have to bear. In many cases, this is not true, I am an attorney, and I practice primarily in the regulatory area of bank law. Many of my clients are troubled banks, which come to me when they cannot be saved, and I have seen a number of them fail. Therefore, my evidence is empirical, although I deny that I am an empiric.

In many instances, a troubled bank will have had a change of management in the three years before the bank fails, usually precipitated when the board discovers the extent of the bank's problems. Therefore, the management in place when the bank fails is not the management that created the bank's problems. Usually new managers spend their time working out the bank's problem assets by collecting loans and selling off foreclosed real estate. Capital continues to decline before failure, as the bank recognizes losses. If the bank manages to cover its overhead, before provisions for losses, then the problem loans and real estate are being handled by the private sector, and we taxpayers do not have to pay the salaries of government employees to manage these assets. However, most failing banks not only cover their overhead, but also make enough money to pay some, although not all, of the losses they will face on their bad loans and foreclosed real estate.

When a bank in this condition is closed, the FDIC typically tries to transfer all liability for deposits as well as all assets to an assuming bank. However, during the examination that leads to the closure of the bank, the bank's assets are written down to "fire-sale" values. I have seen examiners cynically write off loans that are *current* in their payments and tell the bank "you can take [payments as] a recovery to your loan loss reserve" during an examination when the examiners know they will force a failure. When the bank fails, these loans are shown on the bank's books at artifically low values. In addition, the winner in the FDIC's bid process usually acquires the assets at a discount. In Texas, discounts of 20% to 30% are not uncommon, so the winning bidder pays only a fraction of book value for assets that already have been written down below their true value. Who pays for this double discounting? The FDIC, and ultimately the taxpayers.

The FDIC guarantees that it will suffer a loss every time it closes a bank. Doesn't it make sense to work with banks to keep them open if they have good management? Management certainly has a lot more incentive, and usually more experience, than the government employees who would take over trying to collect the bank's bad loans and sell its real estate.

Time and again, we see demonstrated the fact that private industry does a better, faster or less expensive job than the government. In light of that, it amazes me that newspapers continue to swallow the FDIC's claim that only by giving it more money and letting it step in earlier will the taxpayers be saved even greater losses. While statistics can be manipulated to support this claim, empirical evidence and common sense prove otherwise.

JOAN CONWAY WALLER.
DALLAS.

TECHNICAL CORRECTIONS TO FARM BILL—H.R. 3029

Mr. DURENBERGER. Mr. President, I rise in support of H.R. 3029 which will provide many important and significant changes to the 1990 farm bill.

I would especially like to commend Chairman LEAHY and the ranking member, Senator LUGAR, for their work on this bill. The efforts of the chairman and ranking member, as well as other members of the committee, to resolve the many highly technical issues surrounding exemptions of products from meat and poultry inspection requirements must be recognized.

The provisions for exemptions from inspection in this bill avoid the technical errors that are present in the House approved legislation. Furthermore, the House legislation—which only concerns meat-topped pizza—is too narrow in scope.

It would be short sighted for only a pizza exemption to be authorized by this legislation, as was authorized in the House. If we were to exempt pizza alone, the Senate would later have to consider burrito amendments, egg roll amendments, and others.

The provision in this bill directs the Department of Agriculture to assess the public health implications when considering exemptions from inspection. Based on those considerations, exemptions from inspection may be granted when the Secretary determines that the public health would not be jeopardized.

In those cases where the Department determines that exemptions from inspection requirements may be granted without any increased risk to public health, those noninspected facilities that manufacture product for resale must comply with good manufacturing practices established pursuant to 21 C.F.R. 110 et seq. Failure to apply those public health protections would pose a threat to public health and warrant revocation of the inspection exemption authorized herein. I believe this is fair.

This provision is a good one and will benefit everyone in the food and nutrition industry. It is supported by the Community Nutrition Institute, Consumer Federation of America, National Consumers League, Public Voice for Food and Health Policy, Consumers Union, Center for Science in the Public Interest, American Association of Meat Processors, American Meat Institute, International Food Service Distributors Association, National American Wholesale Grocers Association, National Association of Meat Purveyors, National Food Brokers Association, National Frozen Food Association, National Frozen Pizza Institute, and Western States Meat Association.

I strongly encourage my colleagues on the Senate Agriculture Committee to insist upon acceptance of the Senate language regarding exemptions from meat inspection.

I would also like to commend the Committee for their work on high moisture corn loans. The failure to authorize these loans in the 1990 farm bill has caused a great deal of concern in Minnesota and I am pleased that this problem has been corrected.

Again, I would like to reiterate my support for this bill.

THE GAG RULE

Mr. GORTON. Mr. President, yesterday the Senate passed for the second time the 1992 Labor, Health and Human Services, and Education appropriations. For nearly 6 months I have worked as a member of the Senate Appropriations Labor, Health and Human Services, and Education Subcommittee to complete this massive spending bill which includes funding for such important programs as the National Cancer Institute, the Corporation for Public Broadcasting, lead poisoning prevention, the Job Corps, and chapter 1 education. However, this bill is slightly different from the original appropriations bill we passed just a couple of weeks ago. The difference is the absence of a provision which would have prohibited funds for the Department of Health and Human Services to carry out the gag rule.

Last spring the U.S. Supreme Court in Rust versus Sullivan upheld the 1982 regulations prohibiting title X family planning clinics from counseling on abortion. The Senate responded by passing S. 323, the Pregnancy Counseling Act of 1991. That bill, sponsored by Senator CHAFEE would reverse the decision by the Court and allow health care providers at title X clinics to continue the long tradition of nondirective counseling. I supported that legislation and commend Senator CHAFEE for his efforts.

In addition to the Pregnancy Counseling Act of 1991, I opposed the gag rule during consideration of this appropriations bill. By not providing funds for the Department of Health and Human Services to enforce this regulation, the provision in the earlier bill would have effectively repealed the gag rule. Despite threats of a Presidential veto, I stood by the first appropriations bill because it contained this important provision.

On Monday, however, the President followed through with his threat to veto the bill. Despite efforts by those of us who oppose the gag rule to compromise with the administration, the bill was returned to the House of Representatives with a veto message clearly stating that the gag rule was the basis for nonsignature. This Senator deeply regrets that the veto occurred and that the House failed to override by 12 votes on Tuesday. I have stated

VOL 137
PT 23
NO 21–25
1991
UMI

several times to my constitutents that I would have supported a similar veto override effort in the Senate were it necessary.

Of the three counseling options: prenatal care, adoption, and pregnancy termination, I obviously find the last the most tragic and undesirable. However, as long as abortion remains a legally protected right, it should not be the role of the Federal Government to censor discussion of that right. I will continue to work with Members of the Senate and the administration to overturn the gag rule. I must respect and protect the professional duty of health care professionals to disclose fully, in a nondirective fashion, the legal and medical options to a woman requesting information.

Health care professionals who dedicate their lives to serve others, and women whose lives depend on their advice, deserve freedom to discuss their difficult decisions.

HOUSE IS HOLDING UP CONFERENCE ON OLDER AMERICANS ACT

Mr. McCAIN. Mr. President, on November 12 the Senate adopted the Older Americans Act reauthorization bill and appointed conferees in the hope that this important legislation might be conferenced and signed into law before Congress recesses for the year. It is of great concern to this Senator, who is a sponsor and strong supporter of the Older Americans Act reauthorization bill, that the House appears to be holding up final action on this critical legislation for our Nation's seniors by not appointing its conferees.

As my colleagues know, the Older Americans Act provides for a number of programs that are essential to the livelihood of our Nation's most vulnerable elderly. It provides for an array of programs on which millions of older Americans depend—vital services including nutrition programs, seniors centers, community and social services, legal services, nutrition and health promotion programs, and care for frail and homebound seniors. In addition, the act provides job opportunities and protects the basic rights of seniors.

While current law certainly will continue if the reauthorization bill is not signed into law before the end of the year, the effect of this bill's delay will be very serious. For example, delay blocks an additional $70 million in funding for the commodities program that is the nutritional life-line for low-income seniors. Delay also blocks a critical new home health care program that was to have served as an alternative to institutional care. And, delay blocks the critical new elder rights program that was to tackle the tragedy and disgrace of elderly abuse.

Mr. President, this reauthorization bill is critical to improving the lives and well-being of millions of older Americans. It is unconscionable, in my view, that this legislation is being held up as a result of the House not appointing conferees.

Perhaps the fact that House conferees have not been appointed is an oversight, but I fear it is instead a ploy to avoid having to deal with the Senate's proposal to repeal the last bastion of age discrimination—the Social Security earnings test.

Mr. President, this proposal was adopted unanimously in the Senate and enjoys the support of a majority in the House. What's more, just as is the case with the Older Americans Act reauthorization bill, this proposal enjoys the support of seniors all over this country and of virtually all of our Nation's major seniors organizations. Accordingly, Mr. President, it is my sincere hope that the House will soon appoint its conferees so that we can complete consideration of this critical legislation and sent it to the President for his signature before we recess for the year.

JULIE JOHNS TO BE HONORED BY 1991 NATIONAL CARING AWARD

Mr. DOMENICI. Mr. President, it is my pleasure to announce that 17-year-old Julie Johns of Albuquerque has been named one of America's most caring people by the National Caring Institute. Johns will be honored with the 1991 National Caring Award at a ceremony in Washington DC, in December.

I am very pleased that Julie has been recognized for her selflessness and commitment to reaching out and helping others. This is not only a special award because Julie has been recognized as one of the most caring people in America, but it is also very special because these awards mark the formal beginning of the Hall of Fame For Caring Americans in Washington DC.

My congratulations go out to Julie. Johns was recognized for her work of almost 4 years with abused and abandoned children. While a freshman at Albuquerque Academy, Johns volunteered with Casa Angelica, a home for children who have severe cerebral palsy. As a volunteer with all Faiths, a receiving home for children whose parents are incarcerated, Johns tutored, conducted therapy, organized, and participated in holiday events and parties.

During her senior year, Johns completed a 6-week internship with Peanut Butter and Jelly, a therapeutic preschool for developmentally disabled children and their parents. Johns is currently a freshman at Vanderbilt University in Tennessee.

Twenty-one Americans were chosen by the Caring Institute among hundreds of people nominated. Twelve adults and nine young people were selected.

Recipients of the award will be honored at a ceremony in Washington DC, on December 5. The ceremony will also be the dedication of the Frederick Douglass Museum: the Hall of Fame for Caring Americans. The museum is the former Capitol Hill residence of Frederick Douglass.

Each of the recipients will receive a bronze statuette specifically designed for the purpose by the sculptor Frank Eliscu, probably best well known for having designed the Heisman trophy.

Julie is a very special and exceptional individual. She represents a high standard of social responsibility and is thereby a role model for the community.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,443d day that Terry Anderson has been held captive in Lebanon.

THE COMMITTEE REPORTED BILL TO H.R. 3029

Mr. LEAHY. Mr. President, I ask unanimous consent that a joint statement prepared by myself and Senator LUGAR be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REGARDING THE COMMITTEE REPORTED BILL TO H.R. 3029 FOOD, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

The Committee on Agriculture, Nutrition, and Forestry of the Senate did not prepare a committee report to the bill reported on November 21, 1991, the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991", due to the short time remaining in the 1st session of the 102d Congress. Instead, the following statement reflects the intent of the Committee on the purposes and interpretation of the amendments which shall guide the Administration, in particular, the Department of Agriculture, in their implementation of the provisions contained in the Committee reported bill and additional guidance on other items contained in the Food, Agriculture, Conservation, and Trade Act of 1990 ("FACT Act").

The Committee reported bill contains a number of revisions and additions to the bill reported by the Committee on Agriculture of the House of Representatives. The amendments are largely technical or minor in their changes to the programs of the FACT Act. The subject areas of this bill include the agricultural commodities, conservation, trade and food aid, research, credit, crop insurance, Federal disaster assistance, rural development, agricultural promotion, food and nutrition, and miscellaneous technical corrections to agricultural authorities.

Cover Crops on Reduced Acreage. The Agricultural Act of 1949, as amended by the FACT Act, requires producers who participate in an acreage reduction program to plant an annual or perennial cover crop on fifty percent of the acreage that is required to be removed from production. Section 106 of this bill amends this cover crop provision by allowing voluntary annual or perennial covers to be maintained on these lands instead of having to establish such cover. The 1949 Act includes an exemption from this requirement for arid areas (including summer fallow areas), as determined by the Secretary, and this exemption is retained.

The Committee recognizes that the final seeding dates established by the Department for these cover crops in 1991 achieved a balance between the important goals of protecting soil and water resources and wildlife protection, while allowing farmers the flexibility to deal with weed control and other agronomic problems in their fields. The Committee believes the Department should continue to make similar determinations in 1992 and beyond, and achieve this same balance between these objectives.

Limited rainfall in certain geographical areas of the country, and especially in the Great Plains region, prevents producers from planting for harvest a crop in successive crop years. Instead, a portion of land must lie fallow each year for the primary purpose of conserving both topsoil and subsoil moisture. The subclause exempting arid and summer fallow areas from the cover crop planting requirement recognizes this common agronomic practice, and provides relief from the provision for areas where such a requirement may contradict prudent farming decisions.

The Committee intends that the 1991 determination of such arid areas shall apply to crop years 1992 through 1995.

Peanut Quota Fall Transfers. Section 358b(a) of the Agricultural Adjustment Act of 1938, as amended by section 803 of the FACT Act, permits so-called fall leasing of unfilled quota from one qualifying farm to another, provided sufficient acreage had been planted on the transferring farm to have produced under normal circumstances 90 percent of the basic farm quota. Previously, the law required plantings that under normal circumstances would have produced the quota of the transferring farm. The change was made to give greater flexibility to the program and to assure adequate production of quota peanuts to meet domestic needs. Certainly, it was the intent that producers be allowed to take full advantage of the fall leasing provision.

The Department, however, in regulations issued pursuant to the FACT Act, has placed a new restriction [7 C.F.R. 279.212(e)(iii)(B), 56 Fed. Reg. 16219, 38320] on fall transfers not intended by the FACT Act. The regulatory restriction, under certain circumstances, will not permit the fall transfer of unmarketed quota. The new regulations creates a particular hardship for many farmers who, because of last year's severe drought, were not able to produce their normal crops. The restriction could also work to limit the supply of peanuts for domestic food consumption in short crop years, such as 1990.

The change made by the Congress in the FACT Act relating to fall transfers did not intend any such restriction or limitation as the Department prescribed by regulation. The technical amendment to peanut title contained in section 124 of this bill would require the Department to revise the regulations by removing the limitation provided under 7 C.F.R. 729.212(e)(iii)(B) so as to bring the regulations into conformity with the FACT Act and the intent of Congress.

Integrated Farm Management. Section 201 of this legislation makes changes involving "traditionally underplanted acres" as they relate to the Integrated Farm Management (IFM) provisions of the FACT Act. The Committee intends that an IFM program participant may elect to assign traditionally underplanted acres, other than 0/92 acres, to the participant's "triple base" acres. This is the same treatment accorded producers with traditionally underplanted acres who are in the wheat, feed grain and other commodity programs, and it is the Committee's intent that producers receive the same treatment in this regard whether or not they enroll in the IFM program. Traditionally underplanted acres shall result in reduced payments only to the extent that total payment acres would otherwise exceed the net of total permitted acres minus traditionally underplanted acres.

The Committee also calls attention to the definition of "legume" and "grass" in the IFM provisions. It is the intent of the Committee that resource-conserving legume and grass crops include the full range of such crops used for soil building and nitrogen fixating purposes. It is further the intent of the Committee that such crops may be harvested for seed from permitted and setaside acres, except for bean crops. The Committee also intends that participants be permitted to incorporate existing cropland stands of perennial crops into the IFM farm plans.

Farms for the Future. In section 203, the legislation makes changes to the "Farms for the Future Act of 1990."

The Committee believes that under the terms of the FACT Act, USDA already has the authority to implement this program. However, the program was not implemented to provide funds to Vermont even though the Comptroller General has concluded that the State is entitled to the funds.

The changes in this legislation were made because the Department has issued draft regulations that are contrary to the intent and purposes of the Act.

The law requires, as the Conference Report on the FACT Act stated, that the Department of Agriculture was required to provide funding to the State of Vermont for farmland preservation. These changes make it clear that these funds are to be provided to the State of Vermont.

Alternative Agricultural Research and Commercialization Center. The intent of Section 1663(a)(2) of the FACT Act was to require the Secretary to establish regional centers once a fiscal year appropriation threshold of $5,000,000 was reached for the Alternative Agricultural Research and Commercialization Center. However, the statutory language was unclear, allowing an incorrect interpretation that the establishment of each of the regional centers would require an appropriation of $5,000,000 thus requiring that $30,000,000 be appropriated before six regional centers could be established. Section 405 of this bill clarifies the law to ensure that once $5,000,000 is appropriated, the Secretary shall establish at least two, but not more than six, regional centers. In addition, it will allow established regional centers to continue operating in years in which less than $5,000,000 is appropriated.

FmHA and Lands on Indian Reservations. Section 610 of the Agricultural Credit Act of 1987 (7 U.S.C. 1985) was included because Congress intended to prevent Indian-owned land on a reservation from passing out of Indian ownership as a result of any action by the Secretary pursuant to a lien held by the United States under a Farmers Home Administration (FmHA) loan or loan guarantee. It was the intent of Congress that all such land that an Indian borrower-owner is forced to relinquish title to be placed in FmHA's inventory and disposed of as provided for in that section. However, the Committee has been informed that the intent of this provision has not been achieved because the provision did not make it clear that the Secretary is to place all such land into inventory, not just administer, pursuant to section 610 of the 1987 Act, that land which happens to end up in inventory. As a result, it appears that the Secretary is selling Indian reservation land at foreclosure sales or encouraging or assisting in such sales prior to foreclosure.

To halt such sales, Section 501(f) of this bill requires the Secretary to take real property into inventory by accepting a borrower-owner's offer to voluntary convey or by bidding the higher of the fair market value of the property or the outstanding principal and interest of the loan at the foreclosure sale, if the delinquent borrower-owner is an Indian tribe or member of the tribe and if the real property is located within an Indian reservation. It provides an exception to that requirement if there are hazardous wastes located on the property. In that case, the Secretary shall accept a voluntary conveyance or bid the higher of the fair market value of the property or the outstanding principal and interest of the loan at a foreclosure sale only if it is the best interest of the Federal government.

The Committee does not intend this exception to allow FmHA to circumvent the intent of this provision, which is to retain as much Indian reservation land within Indian ownership as possible. Thus, the Committee expects this exception to be rarely used, and only when there are significant hazardous wastes on a property, and the cost of cleaning up those wastes is significant in comparison to the fair market value of the property. For example, it is not the Committee's intent for the Secretary to determine that it is not in the best interest of the Federal government to accept a voluntary conveyance or bid at a foreclosure sale because there is a buried gasoline storage tank on the property, or a pile of rubber tires, pesticide jugs or batteries.

Packers and Stockyards. Section 1008 provides that auction businesses that sell cattle by video or satellite would be authorized to collect branding inspection fees. The terms 'market agency' or 'dealer' shall not include a feedyard buying or selling livestock on its own account or on behalf of a customer.

APHIS User Fees. Section 1014 of the bill authorizes the Secretary to use any funds collected from international air passengers to be used to fund commercial aircraft inspections. This may allow the proposed commercial aircraft inspections. This may allow the proposed commercial aircraft inspection fee to be significantly reduced. When actual passenger collections lag behind costs, the Secretary may still have to implement an aircraft arrival fee based on existing aircraft arrival data (currently 246,000 per year).

The industry and the Animal and Plant Health Inspection Service (APHIS) disagree over what is the correct traffic estimate. Because of this disagreement, the Committee believes APHIS should consider using the figures of an independent agency not having an economic interest in this matter such as the Immigration and Naturalization Service (INS). The Committee recognizes that the Customs Service and the Department of Transportation currently uses INS traffic figures when estimating incoming international traffic. The Committee urges APHIS to review its traffic estimate procedure to determine why there is such a large discrepancy between APHIS and INS figures.

The Committee also emphasizes that it is the responsibility of APHIS to fully collect user fees from all carriers in a timely manner. Implementing an aircraft inspection fee due to collection difficulties merely results

VOL
137
PT
23
NO
21
—
25
1991
UMI

in paying carriers subsidizing nonpaying carriers. The Committee is concerned that U.S. carriers could end up subsidizing foreign carriers, thereby reducing the economic competitiveness of domestic carriers.

AID Subcontractors. Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended by 1501 of the FACT Act, applies to freight agents used by the Agency for International Development (A.I.D.) under titles II and III without regard to whether the agent is engaging as a prime contractor or a subcontractor. The statute speaks of a single contract covering the services of freight agents, broadly described, which include both freight forwarders and charter brokers. This interpretation is consistent with A.I.D. practice.

GSM Export Credit Guarantees. The Committee is concerned about incidents where state trading enterprises (and former state trading enterprises) in nonmarket economies have failed to honor existig contracts with United States individuals and businesses. In light of such incidents, some members of the Committee believe that GSM export credit guarantees, made available to counties where a state trading enterprise (or former state trading enterprise) has failed to honor existing contracts or agreements with United States individuals and businesses should carefully be reviewed and considered.

Horse Protection. The Committee is aware that the National Horse Show Commission and APHIS are jointly developing written guidelines for inspections at horse shows, exhibitions, sales, and auctions. The Committee supports this improvement to the enforcement of the Horse Protection Act and urges the Department to work with the horse industry to make other necessary improvements to the enforcement program before the start of the 1992 show season.

Cost Estimate. Congressional Budget Office final cost estimates of the bill were not available at this time. The Congressional Budget Office has prepared a preliminary cost estimate of the bill, which indicates that the bill will not add to the Federal deficit, and will result in no change in direct spending.

LABOR-HHS APPROPRIATIONS BILL

Mr. CHAFEE. Mr. President, I supported the Labor-HHS appropriations bill approved by the Senate last night, but I did so with some reservation. Last week, we sent this bill to the President with a provision that would have delayed implementation of the gag rule for 1 year. The gag rule, as we all know, refers to 1988 HHS regulations which prohibit federally funded family planning clinics from providing any information to pregnant women about pregnancy termination, even when they ask for such information. The President vetoed this bill and the House failed by 12 votes to override the veto. In the interest of ensuring that the many programs in the Labor-HHS bill are funded, the measure before us no longer contains this critical delay of the gag rule. This is unfortunate.

Ever since this gag rule was imposed, I and many of my colleagues in the House and the Senate, have devoted a great deal of time and attention to trying to have it removed. I introduced legislation to overturn the regulations, and this measure was approved twice, once in the form of an amendment to the title X reauthorization legislation, and once a free-standing bill. Both the House and the Senate have approved, by large majorities, the provision which would delay implementation of the regulations, to give us time to try to work out a solution to this problem.

Since July of this year, I have been negotiating with representatives of the administration to try to reach some sort of acceptable compromise on this issue. After 4 months, we reached an agreement that I thought was fair. It was not optimal from my perspective, but after all, that is what compromise is all about. Unfortunately, that agreement was not acceptable to all parties in the administration, and thus we were unable to avoid the veto confrontation.

The President has assured me that he does not want to interfere with the free speech right of doctors, and that he does not want to impose any sort of gag on doctors. Pursuant to this objective, he issued a memorandum on November 5 to the Secretary of Health and Human Services, which says that the regulations will allow a woman to receive complete medical information about her condition from her physician. Secretary Sullivan, in turn, sent a memorandum to Dr. James Mason, Assistant Secretary for Health, instructing him to implement the regulations in accordance with the principles outlined in the President's memorandum. I ask unanimous consent that both of these documents be entered into the RECORD, immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. There has been a great deal of debate about the effect, if any, of these memorandums on the implementation of the regulations. Some say that they are completely extra-legal, and therefore have no effect—the gag rule is still intact. Others say that doctors will be able to discuss any topic freely with their patients—the gag has been removed for doctors. Looking just at the memos, there is some uncertainty as to what the result of the President's actions are.

The President has stated publicly and privately that his intention is, and I am quoting here, "to allow patients and doctors to talk about absolutely anything they want." The President so stated in a press conference on November 8 when he was in Rome. I ask unanimous consent that the contents of this press conference be entered into the RECORD, immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CHAFEE. I am heartened by this statement. But I must also point out that it is not consistent with the regulations, which specifically prohibit free discussion about pregnancy termination. It is my hope that those responsible for implementation of these regulations will enforce them in the spirit of the President's remarks. This will at least solve part of the problem.

But I must point out that there is still much at issue. While doctors may be allowed to talk freely with patients, it is clear that other health care professionals such as nurses, physician assistants and trained clinicians are still gagged. It is well-known that the title X program relies heavily on these other medical professionals. While there is always a medical director of the clinic who is responsible for the program, that doctor is rarely available to counsel women.

Most often, when a woman comes into a family planning clinic, she sees a nurse or a physician assistant, not a doctor. By allowing only doctors to provide information to women, the administration is telling us that these other professionals are not capable of providing basic information to women about health care. This is an insult to these professionals who are a critical component in the provision of quality and affordable health care services for low-income women and their families.

In addition, the memorandum reinforces the regulations' prohibition on referral for pregnancy termination services. The regulations make it very clear that the women are to be referred only for prenatal care to full service health care providers. That full service provider may also provide pregnancy termination services, but it also may not provide such services.

I would point out that in my home State of Rhode Island, there is only one full service health care provider that also provides pregnancy termination services. That provider is Women and Infants Hospital in Providence, but they only provide pregnancy termination services when there are severe medical circumstances, not first trimester, uncomplicated pregnancy termination services. Under these regulations, a woman in Rhode Island who asks where she can go to terminate her pregnancy would be referred to Women and Infants Hospital. She would go over there and only to find out she cannot have her pregnancy terminated there. So she would have to go to yet another place. This is cruel. Why should these women be sent on a wild goose chase?

These issues remain unresolved. We may have resolved the issue for physicians, but clearly, that is not enough. The gag is still intact for the majority of health care providers in title X clinics, and poor women still will not get full information about what their legal and medical options are and where they can go for services.

So, I voted for the measure last night because I want to see these programs

funded. But, I will be back with my legislation to overturn the gag rule when we reconvene in January. I will continue to bring this issue before the Senate until we can ensure that low-income women get the same quality of health care services that other women rightfully expect and receive from private health care professionals. A women who asks a medical question, whether she is rich or poor, deserves an honest answer. This is a simple and basic concept, and one that I intend to see carried out.

EXHIBIT 1

TRANSCRIPT OF PRESS CONFERENCE OF THE PRESIDENT, NOVEMBER 8, 1991

Q: Mr. President, those House and Senate leaders you just referred to got a bill passed in both houses this week which overturned your ban on abortion counseling and family planning clinics. Will you veto that, and why?

President BUSH. You know, the argument—this is a domestic issue here. The argument was the gag rule, the keeping patients from talking to their doctors about any array of options. That was the argument. That was the debate. You go back and look at the clips and look at some of the stories that were written, it is the patient-doctor relationship that people were arguing about. They were saying you are gagging doctors from giving a patient any solution they wanted.

That has been resolved by a directive from me to the secretary of HHS so it is no longer the question. Now they've got—somebody has some other ideas on that. But I will veto the legislation and get the veto sustained, and I already have taken care of quote, the gag rule, unquote, about which this was about.

Now, there are some other aspects of it on abortion where I have a difference with the Congress, a standing difference with them.

But on the gag rule, it is important to note that matter has been resolved. And clearly, under my directive, they can go ahead, patients and doctors can talk about absolutely anything they want, and they should be able to do that.

But let's not lose sight of what the argument was a few months ago when this first came out. It was the prohibition of a person to talk—the alleged prohibition of a person to talk to a doctor on—about abortion, or about having a doctor recommend abortion. That matter has been resolved.

So therefore, I think with that underway I will then go ahead and veto the bill and hope that it is sustained.

Q: Mr. President, you said that your ideas for an economic growth package are on the Hill and they won't do anything about them, the Democratically controlled Congress.

If that's the case, are you saying you can't do anything to help with the recession right now, you're helpless?

President BUSH. I think we're—I think you see these interest rates down, I think that will help tremendously. I think avoiding breaking the budget agreement will help.

* * *

EXHIBIT 2

THE WHITE HOUSE,
Washington, November 5, 1991.

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

Throughout the debate about the relationship of the Title X family planning program and abortion counseling, some have raised questions about the regulations dealing with services offered to pregnant women.

We must ensure that the confidentiality of the doctor/patient relationship will be preserved and that the operation of the Title X family planning program is compatible with free speech and the highest standards of medical care.

In order to clarify the purpose and intent of these regulations, I am directing that in implementing these regulations you ensure that the following principles, inherent in the statute, are adhered to:

1. Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.
2. Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated.
3. If a woman is found to be pregnant and to have a medical problem, she should be referred for complete medical care, even if the ultimate result may be the termination of her pregnancy.
4. Referrals may be made by Title X progress to full-service health care providers that perform abortions, but not to providers whose principle activity is providing abortion services.

I am determined to assure the integrity of the Title X program in its mission to provide family planning services to low-income individuals; adherence to this guidance will produce this result.

GEORGE BUSH.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, November 19, 1991.

To: James O. Mason, M.D., Assistant Secretary for Health.
From: The Secretary, Louis W. Sullivan.
Subject: Implementation of the Title X Regulations.

On November 5, 1991, the President expressed to me his decision that, in implementing the Title X regulations, the Department of Health and Human Services should adhere to the following four principles:

1. Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.
2. Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated.
3. If a woman is found to be pregnant and to have a medical problem, she should be referred for complete medical care, even if the ultimate result may be the termination of her pregnancy.
4. Referrals may be made by Title X programs to full-service health care providers that perform abortions, but not to providers whose principal activity is providing abortion services.

My General Counsel has advised me that the directive contained in the President's memo of November 5, 1991, is fully consistent with all relevant statutory and regulatory authorities. Accordingly, I direct you to interpret and enforce the Title X regulations in accordance with the four principles that President Bush has articulated. Moreover, before issuing interpretations or program instructions relating to Title X, you should obtain assurance from the General Counsel that your guidance is consistent with this directive.

I am committed to preserving the confidentiality of the doctor-patient relationship and ensuring that the operation of the Title X family planning program is compatible with free speech and the highest standards of medical care. I know that I can count on you and the entire Public Health Service to assist me with this mission.

ADDITIONAL REMARKS OF SENATOR GORE ON FINAL PASSAGE OF S. 272, HIGH-PERFORMANCE COMPUTING ACT

Mr. GORE. Mr. President, yesterday, the Senate approved without objection a House-Senate compromise version of S. 272, the High-Performance Computing Act. I would like to take a few minutes to discuss the difference between the version of S. 272 approved by the Senate on September 11 and the bill passed last night. For the most part, S. 272 and the House version of the bill, H.R. 656, were quite similar and the compromise is not radically different from the legislation approved previously by the Senate.

One of the most obvious differences between the House and Senate versions was that the House bill contained several so-called buy America provisions that would have made it more difficult for Federal agencies participating in the High-Performance Computing [HPC] Program to make procurements from foreign companies. Both the U.S. Trade Representative and Dr. Bromley, the Director of the Office of Science and Technology Policy, have written letters saying they would suggest to the President that he veto the bill if this language was included in the final version of the bill.

Since the Senate bill did not include these provisions, and because of opposition to the provisions in both the Senate and the administration, in the final version of the bill the buy America provisions were substantially softened. Rather than requiring congressional approval of any procurement from other than an eligible American company, the compromise bill would require an annual report listing all procurements over $1 million from foreign countries and all research grants to foreign institutions. In addition, the Technology Administration of the Commerce Department is required to report on the implementation of the United States-Japan supercomputer agreement. Lastly, there is a language making clear that nothing in the bill changes the applicability of the Buy American Act to procurements made under the HPC Program.

The buy America provisions added to S. 272 in the House do raise an important issue—how Federal procurements can be used to advance U.S. technology. Other countries have a clear policy whereby the Government uses its procurement dollars to stimulate homegrown industry. In many cases, if a given product is available in the home market, the Government would buy it, even at a substantially higher

VOL 137 PT 23 NO 21—25 1991 UMI

price. In other cases, the situation is less black and white, but the effect is the same—Government dollars directly or indirectly assist domestically owned firms.

In many cases, U.S. supercomputer companies have benefited from the early purchase of new models of supercomputers by Government agencies. Often, these new systems have hardware and software bugs that need to be fixed, and by working with researchers at the national labs, the NSF supercomputer centers, and elsewhere, these companies have been able to debug and upgrade their systems. Section 207(b) of the bill encourages such arrangements.

Many idealogues in the administration argue that the Federal Government should not make any distinction between United States and foreign firms—ever. In many high-technology fields that makes no sense whatsoever. Federally funded researchers need to do more, not less, to assist the U.S. high-technology industry. In addition, if a Federal agency is using supercomputers to develop software for designing the next generation of figher aircraft, for national security reasons it is best if the supercomputers used are American-made so that the software designers can freely discuss problems they might be having with the hardware. And they can work together on modifications that would make their software run more effectively. If the supercomputer is foreign-made, it is much more difficult for U.S. researchers to share their software and their technology.

The final version of S. 272 will provide Congress with a clearer picture of how procurements are being made under the HPC Program. The report called for in the bill will clearly identify procurements of foreign supercomputers and other technology. It will allow the Congress to determine whether monies authorized by the bill are helping U.S. high-technology industry to the maximum extent feasible. This is an important issue, one that, as chairman of the Science, Technology, and Space Subcommittee, I hope to explore in hearings next year.

There are a number of other significant differences between the Senate version of S. 272 and the final version. The House and Senate bills differed in the way they authorized funding for the HPC Program. The House authorized both existing and new programs—a total of almost $3 billion during the next 5 years—while the Senate bill authorized only new, additional funding—a total of $1.019 billion. It is worth noting that neither bill authorizes funding for the Defense Advanced Research Projects Agency at the Defense Department, which over the next 5 years will total over $1 billion. For fiscal year 1992, DARPA requested a total of $232.2 million for high-performance computing research and development. When both existing programs and the new initiative authorized by this bill are added together, funding for the High-Performance Computing Program will total over $4 billion for fiscal years 1992–96.

In the compromise bill, we used the House's approach and authorized both new and existing programs. In addition, the compromise includes language stating that the funding would be out of existing authorizations, which would include current and future NASA or NSF authorization bills, for instance.

Another important addition to the bill were House provisions authorizing high-performance computing efforts at the Department of Education, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration. Although these agencies are not the largest contributors to the HPC Program, each will play an important role. NOAA, and especially the National Weather Service, have been pioneers in using supercomputers for weather forecasting and climate prediction. EPA researchers have developed state-of-the-art computer models of the formation and transport of smog. And the Department of Education has begun to develop new ways to use computers and networks in education. Although the Senate version of S. 272 did not include provisions on the Department of Education for jurisdictional reasons, I was glad we could incorporate such provisions in the final version. Some of the most exciting applications of advanced computing are in education, and the Department of Education has a key role to play.

There are many, many minor changes that have been made to the bill that passed the Senate in September. Three new definitions were added under section 4. The definition of "high-performance computing" was added to make clear that the HPC Program is to accelerate development and application of all types of leading edge computers, as well as high-speed computer communications technology. At several of the hearings held on S. 272, witnesses testified that computing and communications had actually merged. In many cases, it is now difficult to determine where the computer ends and the network begins.

The word "Network" refers to the National Research and Education Network, a national computer network connecting millions of computers around the country. It is worth noting that there are many different ways to define a network.

There is the physical definition. Using that definition, the network is defined as an assembly of connected cables or optical fibers.

There is the bureaucratic definition. In that case, you delimit networks according to who controls them. So, an agency's network is defined as those communications links that the agency can turn off if it wishes.

And there is the functional definition. A network is defined as all the communications links that link one computer to all the other computers with which it can communicate. That is a practical, easy to understand definition, and it is the one assumed in this bill.

So the National Research and Education Network, as defined by the bill, will consist of hundreds, even thousands, of smaller subnetworks. These subnetworks will be controlled and paid for by more than a dozen Federal agencies, by the States, by colleges and universities, and by the private sector. Each subnetwork will use compatible communications protocols and equipment so that traffic from one network can be transmitted via other networks. In this way it will be like the national telephone network, which consists of subnetworks run by hundreds of local phone companies and long-distance carriers, all interconnected.

It is worth noting that the NREN will rely largely on the existing physical network of telephone cables. In many cases, the same fiber optic cable that carries telephone conversations will be carrying NREN traffic. The NREN will not require installing a wholly new fiber optic network.

It is also important to note what the NREN does not include. When the bill refers to the Network it is referring to the communications links and servers transmitting data between computers attached to the network, but not to the computers themselves.

Section 101 of S. 272 instructs the President to implement the National High-Performance Computing Program, lays out the goals and components of the program, defines the role of the Director of OSTP in carrying out the program, and mandates that the President establish an advisory committee on high-performance computing. There were only minor changes made to this section. The bill that passed the Senate stated that "The President shall establish and, though the Director of OSTP, coordinate a National High-Performance Computing Program." The final version reads, "The President shall implement" the Program, and "The Director shall provide for interagency coordination of the Program." The language is basically equivalent. Under the bill, the Director, though the Federal Coordinating Council for Science, Engineering, and Technology [FCCSET], which he chairs, will work with the agencies to ensure that OMB is presented with a comprehensive, balanced annual research funding request. In that way, the agencies themselves, and the people who know their programs best, will do the difficult work of setting priorities for the program and deciding the

role of the participating agencies. This is much preferred to having each agency submit funding requests that duplicate or fail to take into account other agencies' programs.

This was one of the main reasons that the Congress created the Office of Science and Technology Policy in 1976. More and more, scientific and technical problems are so complex and broad that they cannot be addressed by one agency alone. Global change is an excellent example. Understanding the entire Earth system will require NASA satellite programs, university research funded by the National Science Foundation, oceanographic research funded by the National Oceanic and Atmospheric Administration, as well as programs at many other agencies. For more than 2 years, OSTP and FCCSET have been coordinating Federal global change research programs. The Committee on Earth and Environmental Sciences of FCCSET has prepared budget crosscuts showing how the different agencies' global change research programs relate to each other and contribute to the U.S. Global Change Research Program. Working together, the members of FCCSET have identified ways for researchers from their agencies to work together more effectively. They have succeeded in making the whole greater than the sum of the parts. The result has been a more cost-effective, more successful program.

Section 102 of the bill instructs NSF, the Defense Department, the Energy Department, the Commerce Department, NASA, and other agencies to support establishment of the NREN. It also makes clear that by 1996, parts of the network are to be capable of transmitting data at rates of at least one gigabit per second. Today, the fastest portions of the NSFNET and the Internet operate at 45 megabits per second. This represents a 30-fold increase in just 2 years. Even with this increase, the current network is fast becoming saturated; for the last 2 years, the amount of traffic on the NSFNET has grown at 10–15 percent per month. We need gigabit technology to deal with this ever increasing demand for bandwidth from the research, education, and business communities.

In the final version of the bill, section 102, which lists the characteristics of the Network, includes some small changes to the Senate's version of the bill. One provision states that the Network shall "link existing Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy within each component network." This means that the various networks must use compatible communications protocols and hardware. However, the bill makes clear that if a network provider determines it no longer wishes to be connected to the NREN, is has the option of disconnecting from the NREN.

This subsection of the bill also makes clear that most of the NREN will be built and run by the private sector. Much of the traffic on the NREN will be carried by lower-speed links which could be purchased from the private sector. On the other hand, the highest-speed links of the NREN are to be capable of transmitting data at a rate of billions of bits per second. At least initially, such high-speed networks will be experimental and will not be commercially available. In that case, the hardware and communications software needed will be developed and provided by industry and federally funded researchers at universities and government laboratories.

Title I of the bill also includes a provision on the key role that the Defense Advanced Research Projects Agency [DARPA] will play in developing gigabit networking technology for the NREN. DARPA has been developing computer networking technology for more than 25 years and is lead agency for developing NREN technology under the HPC Program. DARPA will also play a key role in developing the next generations of supercomputers. Even though DARPA will receive more funding for the HPC Program than any other agency, for jurisdictional reasons, S. 272 does not authorize funding for DARPA.

Title II of the bill defines the roles of the agencies participating in the HPC Program. Aside from the addition of provisions on the role of NOAA, EPA, and the Department of Education, and the new section 208 on fostering U.S. competitiveness, only minor changes were made to this title.

The language on NSF's role in the program makes clear NSF's prominent role in the program and the Network. NSF and DARPA account for more than two-thirds of the funding for the program. NSF is funding computing research at hundreds of colleges and universities throughout the country and manages NSFNET, the largest component of the Internet.

Section 203, which describes the Energy Department's role in the HPC Program and instructs the Secretary of Energy to establish collaborative consortia for high-performance computing research and development. These consortia will be like that being planned at Oak Ridge National Laboratory and involving the University of Tennessee and other universities, as well as industry. Unlike the Senate version of the bill, the final version includes specific authorizations for DOE, based on administration estimates.

Another significant change was made in section 204. The authorizations for the National Institute of Standards and Technology were somewaht reduced. Even with the reductions, authorizations for NIST rise from $3 million in fiscal year 1992 to $7 million in fiscal year 1996. This additional funding is essential if NIST is to carry out the responsibilities under the act for computer security, networking standards development, and basic and applied measurement research.

Once again, I thank my colleagues for their support of S. 272. I hope that this explanation clarifies some of the new language included in the final version of the High-Performance Computing Act.

SALUTE TO SENATOR ROTH

Mr. DOLE. Mr. President, this past week as we considered the unemployment bill, we witnessed a striking example of how well this system can work. We witnessed not only how it works when both sides of the aisle come together to resolve difficult legislative issues—but we also witnessed how one Senator can make a difference.

Of course, those who watched the process unfold last Thursday evening—and on into Friday—know that I am talking about BILL ROTH, the distinguished senior Senator from Delaware.

Last week's objective was to get an unemployment bill passed. Senator ROTH agreed with that objective, but he was not about to let it go through until he was satisfied that his home State of Delaware received its fair share of unemployment benefits.

I want to salute Senator ROTH for his dedication and for his key role on producing the compromise bill.

He is a solid legislator who is respected on both sides of the aisle on many issues.

Mr. President, I have to believe that this Thanksgiving a lot of unemployed Delawareans are going to be thankful for the leadership of BILL ROTH.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRENGTHENING EDUCATION FOR AMERICAN FAMILIES ACT

Mr. MITCHELL. Mr. President, I have discussed with the distinguished Republican leader our interest in proceeding to consideration of S. 2, that is the education bill now on the calendar. I believe it to be an important bill, and hope that we can proceed to it.

And accordingly I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 69, S. 2, a bill to strengthen education for American families.

The PRESIDING OFFICER. Is there objection?

VOL 137 PT 23 NO 21—25 1991 UMI

Mr. DOLE. Mr. President, reserving the right to object—and I shall object—but I want to concur with the statement of the majority leader. This is an important bill. There are negotiations underway even as we speak, I believe, with the Education Department, Secretary Alexander, members on the Labor-Education Committee.

But I, having said that, am constrained to object at this time. But I would hope that by next year, early next year, we will be in a position to pass this bill very quickly.

Therefore, I object.

Mr. MITCHELL. Mr. President, I am disappointed at the objection, and I will now state my intention to make a motion to proceed to the bill and to file a cloture motion on that motion to proceed prior to the end of this session of this Congress.

So that the first order of business when the Senate reconvenes on, as it now expected, January 21, 1992, will be a vote on a cloture motion on a motion to proceed to the education bill. I think it is of great importance. I regret that we cannot deal with it in this session, in view of the objection just made. But I want to state that I intend it have the highest priority and, therefore, it will be the first order of business on the very first day that the Senate is back in session next year.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 471 and 472.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

NUCLEAR REGULATORY COMMISSION

E. Gail de Planque, of New Jersey, to be a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30,1995.

ENVIRONMENTAL PROTECTION AGENCY

Herbert Tate of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

STATEMENTS ON THE NOMINATION OF HERBERT TATE

Mr. CHAFEE. Mr. President, I rise today in support of the confirmation of Mr. Herbert H. Tate, Jr., to the position of Assistant Administrator for the Office of Enforcement at the U.S. Environmental Protection Agency.

The position to which Mr. Tate has been nominated is an important one. The Environmental Protection Agency's Office of Enforcement is critical to the coordination of effective and efficient enforcement actions against violators of the environmental laws we pass. Laws passed to protect our environment, our health, and the health of our children.

Many of these environmental laws are complex. Their enforcement requires a working knowledge of separate and detailed laws on air, water, toxic substances, and solid wastes. But, perhaps most importantly, at a time when resources are in short supply, effective enforcement of these laws requires an ability to coordinate the myriad requirements applicable to all of our natural resources so that each suit filed by the EPA achieves the greatest amount of environmental benefit possible.

I have no doubt that Herb Tate is up to the task. Having spent nearly 5 years as the county prosecutor for New Jersey's largest county, Herb is accustomed to handling a large and difficult case load under the pressures of an ever-shrinking budget.

I am confident that Herb Tate will fulfill the responsibilities of his new position with distinction to the benefit of the EPA, the public and the environment.

Mr. LAUTENBERG. Mr. President, I rise to support the nomination of Herbert Tate to be the Assistant Administrator for Enforcement of the Environmental Protection Agency.

Mr. Tate is a fellow New Jerseyan who would bring to the position legal experience in both the private and public sectors. Of particular importance, he was the Essex County prosecutor where he managed a staff of 420, a budget of $18 million and 30,000 cases a year.

Herb Tate would be the first Assistant Administrator for Enforcement at EPA with prosecutorial experience. This experience clearly will be put to the test quickly at EPA. All too often over the past decade, Congress has labored hard to craft tough environmental laws, only to see the administration fail to enforce them. Herb Tate testified before the Senate Environment Committee that he would vigorously enforce the law.

Herb Tate made a number of specific commitments to enforce our laws.

We have seen some recent improvements in EPA's Superfund settlement efforts. EPA needs to keep the pressure on to get polluters to pay for high quality cleanups.

We need to be sure that in moving to settle cases with polluters, EPA does not settle for less than the level of cleanup that the public deserves.

We need to be sure that the EPA uses all the tools at its disposal—and we have given them some pretty good ones—to force polluters to cleanup.

Herb Tate testified about his commitment to prevent the compromising of cleanup quality, and to use aggressively Superfund's unilateral enforcement tools.

He also testified about his commitment to enforcing the Emergency Planning and Community Right to Know Act. That law is providing the people of this country the facts on what is being emitted into the environment, and it is creating incentives for industry to reduce pollution. It is critical that we take all necessary steps to enforce the law's reporting and emergency planning.

And EPA's clean water enforcement record needs significant improvement. The EPA IG says EPA is collecting penalties which are less than the economic benefit of violations. We are creating an incentive to pollute. This must stop. Herb Tate testified before the Environment Committee that he supported collecting penalties at levels which were at least as great as the economic benefit of the violation.

The Public Interest Research Group found that EPA frequently ignores violations, even when patterns of chronic violation appear. We need mandatory minimum penalties to stop these repeat offenders. Herb Tate promise to consider such penalties.

EPA's own statistics show that 12 percent of large factories are in significant violation of the act. It is inexcusable that 19 years after enactment of the Clean Water Act, so many large factories are still polluting our waters. Herb Tate committed to bringing all major facilities into compliance as quickly as possible.

And we see an OMB which is bottling up a congressionally mandated report to improve clean water enforcement. Herb Tate promised to review the causes of the delay and ensure that EPA was in compliance with legislation mandating this report.

The problems with clean water enforcement show what Mr. Tate will be up against, and how important it is that he succeed.

Our environmental laws are only as good as the administration's enforcement efforts. We need an Assistant Administrator for Enforcement at EPA who will move aggressively to stop providing incentives to pollute, to end chronic violations and to eliminate the level of significant violators. Herb Tate has promised to do the job.

Herb Tate has not only a huge responsibility, but also a major challenge. Herb Tate's testimony and record before the Environment Committee indicates that he is prepared for the challenge. So I support the nomination of Herb Tate to this important office. And I plan to work closely with Herb Tate to ensure that our environmental laws are enforced vigorously.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of calendar Nos. 311, 312, 313, and 314; that the committee substitute amendments and the committee amendments, where indicated, be agreed to, en bloc; that the several bills be deemed read a third time and passed; and that the motion to reconsider the passage of these items be laid upon the table, en bloc; that any statements relating to these calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF RESTRICTIONS ON CERTAIN LANDS

The bill (S. 807) to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for a period of not more than 70 years, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF RESTRICTION.

Notwithstanding the Act of January 23, 1909 (chapter 37, 35 Stat. 589), the Secretary of the Interior shall execute such instruments as may be necessary to allow the Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease for use other than as a cemetery, for a period of not more than 70 years, any portion of the land described in the first section of that Act, excluding the tract of land granted to Salt Lake City, Utah, pursuant to the Act of April 3, 1952 (66 Stat. 36), so long as such additional use will not prevent future use for cemetery purposes.

FISHLAKE NATIONAL FOREST ENLARGEMENT ACT

The Senate proceeded to consider the bill (S. 1182) to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fishlake National Forest Enlargement Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Certain public lands presently managed by the Bureau of Land Management (hereafter in this Act referred to as the "BLM") are adjacent to the Fishlake National Forest and are logical extensions of the forest.

(2) Those public lands are isolated and disconnected from other BLM lands and have been identified through the land use planning process of the BLM as suitable for transfer to the Forest Service.

(3) The Forest Service currently manages much of the livestock grazing on those public lands by cooperative agreement with the BLM.

(4) Administration of those public lands as part of the Fishlake National Forest would allow for more efficient and economical management by both the Forest Service and BLM.

SEC. 3. TRANSFER.

(a) IN GENERAL.—Effective on the date of enactment of this Act, jurisdiction over public lands designated on the map referred to in subsection (b), comprising approximately 10,172.89 acres is hereby transferred to the Secretary of Agriculture. Such lands shall be added to and administered as part of the Fishlake National Forest.

(b) MAP AND LEGAL DESCRIPTION.—The lands subject to this Act are those lands identified on a map entitled "Fishlake National Forest Enlargement", **[**dated and**]** *dated March 16, 1989, and* filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture and the Director, Bureau of Land Management, Department of the interior. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture in consultation with the Secretary of the Interior.

(c) BOUNDARY.—(1) The boundary of the Fishlake National Forest is hereby modified **[**to include the lands transferred by subsection (a).**]** *as indicated on the map referred to in subsection (b).*

(2) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601—9), the boundary of the Fishlake National Forest, as modified by this Act, shall be considered to be the boundary of theat national forest as of January 1, 1965.

SEC. 4. RIGHTS AND PERMITS.

(a) VALID EXISTING RIGHTS.—Nothing in this Act shall affect valid existing rights of any person under any authority of law.

(b) AUTHORIZATIONS TO USE LANDS.—Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorizations shall be administered by the Secretary of Agriculture. Any renewal or extension of such authorizations shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

So the bill (S. 1182) was deemed read the third time and passed, as follows:

S. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SEC. 2. FINDINGS.

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(c) BOUNDARY—(1) The boundary of the Fishlake National Forest is hereby modified as indicated on the map referred to in subsection (b).

(2) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Fishlake National Forest, as modified by this Act, shall be considered to be the boundary of that national forest as of January 1, 1965.

SEC. 4. RIGHTS AND PERMITS.

(a) VALID EXISTING RIGHTS.—Nothing in this Act shall effect valid existing rights of any person under any authority of law.

(b) AUTHORIZATIONS TO USE LANDS.—Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorizations shall be administrated by the Secretary of Agriculture. Any renewal or extension of such authorizations shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

BONNEVILLE SALT FLATS PRESERVATION STUDY ACT

The Senate proceeded to consider the bill (S. 1184) to direct the Secretary of the Interior to conduct a study to de-

VOL 137 PT 23 NO 21—25 1991 UMI

termine the nature and extent of the salt loss occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources threatened by such loss, which has been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The part of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bonneville Salt **[**Flat**]** *Flats* Preservation Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Bonneville Salt Flats, Utah, is a unique natural national treasure;

(2) an unexplained salt loss from the salt flat crust is occurring at Bonneville Salt Flats; and

(3) this salt loss is causing irreparable damage to Bonneville Salt Flats, which is placing at risk numerous public resources, including scenic, historic, economic, and recreational resources.

SEC. 3. STUDY.

Not later than two years after the date **[**of the enactment of this Act,**]** *funds are made available*, the Secretary of the Interior *(hereinafter "the Secretary")* shall conduct a study to determine the nature and extent of the salt loss from the salt flat crust occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources (including scenic, historic, economic, and recreational resources) threatened by such salt loss. In conducting the study, the Secretary shall consider whether to *recommend that the Congress* designate the Bonneville Salt Flats as a national recreation area or a national conservation area. Within ninety days after the completion of the study, the Secretary shall submit **[**a report to the Congress concerning such study, together with recommendations, if any, of the Secretary.**]** *a report concerning the study, together with any recommendations, to the Congress.*

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 for fiscal years 1992 and 1993 to carry out this Act.

So the bill (S. 1184) was deemed read the third time and passed, as follows:

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bonneville Salt Flats Preservation Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Bonneville Salt Flats, Utah, is a unique natural national treasure;

(2) an unexplained salt loss from the salt flat crust is occurring at Bonneville Salt Flats; and

(3) this salt loss is causing irreparable damage to Bonneville Salt Flats, which is placing at risk numerous public resources, including scenic, historic, economic, and recreational resources.

SEC. 2. STUDY.

Not later than two years after the date funds are made available, the Secretary of the Interior (hereinafter "the Secretary") shall conduct a study to determine the nature and extent of that salt loss from the salt flat crust occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources (including scenic, historic, economic, and recreational resources) threatened by such salt loss. In conducting the study, the Secretary shall consider whether to recommend that the Congress designate the Bonneville Salt Flats a national recreational area or a national conservation area. Within ninety days after the completion of the study, the Secretary shall submit a report concerning the study, together with any recommendations, to the Congress.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 for fiscal years 1992 and 1993 to carry out this Act.

RELEASE OF RESTRICTIONS ON CERTAIN LAND

The Senate proceeded to consider the bill (S. 1183) to reduce the restrictions on the lands conveyed by deed to the city of Kaysville, UT, and for other purposes, which has been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

That section 2 of the Act of June 8, 1926 (44 Stat. 708), is amended by striking the word "States." at the end of the first sentence, and inserting in lieu thereof the following: "States, except that the following shall not apply to those lands upon which communications facilities were located as of November 1, 1991, or prevent reasonable ingress and egress for the repair, maintenance, or improvement of such facilities, nor shall the foregoing prohibit the use of the lands described in section 1 for recreational purposes, so long as such recreational use is consistent with the protection of the watershed and water supply system of the city.".

NATIONAL FAMILY CAREGIVERS WEEK

NATIONAL POLICE OFFICER AND FIREFIGHTER RECOGNITION WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged, en bloc, from further consideration of the following joint resolutions: Senate Joint Resolution 225 designating "National Police Officer and Firefighter Recognition Week," and House Joint Resolution 125 designating "National Family Caregivers Week," and that the Senate proceed, en bloc, to their immediate consideration; that the joint resolutions be deemed read three times and passed, en bloc, and the motion to reconsider be laid upon the table; and that the preambles be agreed to; further, that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 125) to designate the week beginning November 24, 1991, and the week beginning November 22, 1992, each as "National Family Caregivers Week," was deemed read the third time and passed.

The preamble was agreed to.

So the joint resolution (S.J. Res. 225) to designate February 3, 1992, through February 9, 1992, as "National Police Officer and Firefighter Recognition Week," was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 225

Whereas police officers and firefighters throughout the United States maintain a diligent and constant watch over our nation's communities;

Whereas police officers and firefighter unselfishly serve to preserve the domestic security of the United States on a daily basis; and

Whereas police officers and firefighters heroically display the spirit of true public service through the performance of life-threatening deeds for the protection of the citizens of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 3, 1992, through February 9, 1992, is designated as "National Police Officer and Firefighter Recognition Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities recognizing all police officers and firefighters in the United States.

JOINT RESOLUTION INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 99

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 99, a joint resolution designating November 24–30, 1991 and November 22–28, 1992 as "National Family Caregivers' Week," the Senate companion to House Joint Resolution 125, and that the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 124, "National Visiting Nurse Associations Week," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 124) to designate "National Visiting Nurse Associations Week for 1992.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 124), with its preamble, is as follows:

S.J. RES. 124

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to more than 1,500,000 men, women, children, and infants;

Whereas such Associations serve 422 urban and rural communities in 45 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support, regardless of an individual's ability to pay;

Whereas such Associations are voluntary in nature, independently owned, and community based;

Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical or mental handicaps receive the therapeutic benefits of care and support services in the home;

Whereas, in the absence of such Associations, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas in each community serviced by such an Association, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 16 through February 22, 1992, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOUNT RUSHMORE COMMEMORATIVE COIN ACT AMENDMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 108, a bill to make a technical amendment to the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress, and the Senate proceed to its immediate consideration; that any statements with respect to this legislation be inserted at an appropriate place in the RECORD; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 108) was deemed read the third time and passed is as follows:

S. 108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION OF SURCHARGES.

Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be promptly paid by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

SEC. 2. RETROACTIVE EFFECT.

If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act.

Mr. PRESSLER. Mr. President, S. 108 amends the Mount Rushmore Commemorative Coin Act to allow specified surcharges to be paid to the Mount Rushmore National Memorial Society to assist its efforts at renovating our shrine of democracy. Mount Rushmore National Memorial celebrated its 50th anniversary with a formal dedication by President Bush on July 3, 1991. On July 16, President Bush signed into law the Mount Rushmore Commemorative Coin Act, which directs the Secretary of the Treasury to mint a set of commemorative coins in recognition of Mount Rushmore's golden anniversary. This coin act provides that 50 percent of the total surcharges received from the sale of the coins shall be used to improve and renovate the monument.

At the time this legislation was enacted, it was anticipated the amount of surcharges received from the sale of the coins would total approximately $17 million. Up to the present time, however, total surcharges received have amounted to only $11.5 million; and 50 percent of such surcharges are to be retained by the Treasury. The act further provides that coins may not be issued beyond this calendar year.

The National Park Service has estimated the cost of the renovations will total approximately $36 million. The projected amount of total surcharges is far short of that required from this source of funds if work on the monument is to continue as planned. Most of these funds are to be raised through private sources, but the proceeds from the coin surcharge are essential for the overall project. Without that funding source, the renovation work would be jeopardized.

In view of these developments, it is critical that S. 108 be adopted by the Senate. My legislation would permit the coin surcharge funds held by Treasury to be used for continuation of the work at Mount Rushmore. I urge my colleagues to support this effort. The people of South Dakota, the Mount Rushmore Society, and our State's congressional delegation have been united in this effort.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 346

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers House Joint Resolution 346, approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics, the statutory time limitation be reduced to 1 hour, with the time equally divided and controlled between the chairman and ranking member of the Finance Committee; that when the time is used or yielded back, the Senate without intervening action or debate proceed to vote on the resolution; that immediately upon disposition of House Joint Resolution 346, the Senate companion measure, Senate Joint Resolution 215, be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 349, 350, and 351; that the committee amendments where appropriate be agreed to; that the resolutions be agreed to; that the bills be deemed read a third time and passed and the motions to reconsider laid upon the table en bloc; that the preamble, where appropriate, be agreed to; that any statements relating

VOL
137
PT
23
NO
21—25
1991
UMI

to these calendar items appear at the appropriate place in the Record; and that the consideration of these items appear individually in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPRISONMENT AND TRIAL OF DR. NGUYEN DAN QUE

The concurrent resolution (S. Con. Res. 78) regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam, was considered, and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. Con. Res. 78

Whereas the normalization of relations with the Socialist Republic of Vietnam and the potential lifting of the economic embargo depend in part on that nation taking certain steps related to the recognition of certain human rights;

Whereas Dr. Nguyen Dan Que is a nonviolent advocate for human rights and democracy in the Socialist Republic of Vietnam;

Whereas Dr. Nguyen Dan Que's right to free expression is guaranteed by Article 19 of the Universal Declaration of Human Rights;

Whereas Dr. Nguyen Dan Que has been imprisoned for 12 of the last 13 years and has for 14 years suffered from ill health;

Whereas Dr. Nguyen has finally been charged with treason and trying to overthrow the Vietnamese government;

Whereas Dr. Nguyen is scheduled to go on trial November 29, 1991; and

Whereas numerous international human rights organizations have called for the release of Dr. Nguyen: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Dr. Nguyen Dan Que should be accorded a fair and impartial trial as is his right under Articles 10 and 11 of the Universal Declaration of Human Rights;

(2) to ensure fairness and impartiality during his impending trial, international observers should be permitted access to all court proceedings and evidence; and

(3) if Dr. Nguyen is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

Sec. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the following persons: the Permanent Representative of Vietnam to the United Nations, the Speaker of the Vietnamese National Assembly, the Foreign Minister and the Prime Minister of the Socialist Republic of Vietnam, as well as the Secretary of State and the President of the United States.

WITHDRAWAL OF SOVIET TROOPS FROM THE BALTIC STATES

The resolution (S. Res. 196) expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet Armed Forces from the Baltic States and undertake discussions with the governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. Res. 196

Whereas the rightful independence of the Baltic States of Lithuania, Latvia, and Estonia from the Union of Soviet Socialist Republics has been recognized;

Whereas more than 100,000 Soviet military personnel continue to maintain a presence in the Baltic States; and

Whereas the continued presence of Soviet troops threatens the peace and independence of the Baltic States: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should call upon the President of the Union of Soviet Socialist Republics to begin immediately a prompt withdrawal of Soviet armed forces from the Baltic States and to undertake discussions with the governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal.

Mr. HATCH. Mr. President, I am pleased that the Senate has acted in an expeditious manner and adopted Senate Resolution 196 by unanimous consent. This sense-of-the-Senate resolution calls on the Soviet military to begin an immediate withdrawal of forces from the Baltic States, and undertake the appropriate discussions to facilitate that prompt withdrawal. In this effort, I was joined by Senators Bradley, DeConcini, McCain, Grassley, Dole, Kasten, Pressler, D'Amato, Lugar, Garn, Dixon, Dodd, and Adams.

Mr. President, this resolution demonstrates clearly that my colleagues in the Senate are strongly concerned about the continuing presence of large-scale offensive forces in the Baltic States and the highly destabilizing nature of these units. The Soviet Union has stationed approximately 135,000 troops in the Baltics, and unfortunately, they seem to be making themselves right at home.

The Soviets have maintained military installations in the Baltics since the end of World War II, and many thousands of troops have reportedly been sent to the Baltics after departing from East Europe. In addition, the Soviet military establishment in the Baltics appears to be playing some of its old games. On November 15, for example, Soviet military leaders stationed in the region proposed that military property in Latvia, Lithuania, and Estonia be privatized and sold to pay for the resettlement of Soviet troops. This tense situation has been exacerbated by reports filed by Estonian officials this week, which assert that the Soviets violated an agreement regarding the withdrawal of two paratroop units from Estonia. One unit has reportedly not moved and the other was redeployed to another base in Estonia. Such incidents are symptomatic of the far larger problem, that of Soviet forces violating the territorial integrity of the Baltics.

Mr. President, I hope that the Soviet leadership takes notice of Senate Resolution 196, because it not only complements the political and military objectives of the CFE agreement, but signals this Chamber's unswerving commitment to Baltic sovereignty.

FREEDOM OF EMIGRATION AND TRAVEL FOR SYRIAN JEWS

The concurrent resolution (H. Con. Res. 188) concerning freedom of emigration and travel for Syrian Jews, was considered and agreed to.

The preamble was agreed to.

MEASURE PLACED ON CALENDAR—H.R. 26

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 26, a bill to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 3576 regarding the reservation of assistance under the HOME Investment Partnerships Act for certain insular areas, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1434

(Purpose: To amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas, extend time for a certain jurisdiction to submit a CDBG statement, and to clarify the authority of the Secretary of Housing and Urban Development regarding low-income housing covenants)

Mr. MITCHELL. Mr. President, on behalf of Senator Riegle, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. Mitchell], for Mr. Riegle, for himself and Mr. Cranston, proposes an amendment numbered 1434:

Strike all after the enacting clause and insert the following:

SECTION 1. RESERVATION OF ASSISTANCE.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) Insular areas.—

"(A) In general.—For each fiscal year, of any amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to the insular areas an amount that reflects—

(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B).

"(B) Specific criteria.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) Transitional provisions.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 216(6)(A).".

SEC. 2. DEFINITIONS.

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "the Marshall Islands" and inserting "the insular areas"; and

(2) by adding at the end the following new paragraph:

"(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.".

SEC. 3. EXTENSION OF TIME TO SUBMIT CDBG STATEMENT.

Notwithstanding any other provision of law, the City of Petersburg, Virginia is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1)) in connection with a grant to the City of Petersburg under title I of such Act of fiscal year 1991.

SEC. 4. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay closing of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.".

Mr. RIEGLE. Mr. President, I offer this technical amendment which refines a provision that has recently passed the House.

This amendment will accomplish three things, First, it will ensure that insular areas including the U.S. Virgin Islands, Guam, Northern Mariana, and American Samoa are able to participate in the HOME Investment Partnerships Program. HOME was enacted last year as part of the National Affordable Housing Act and is designed to spur the creation of affordable housing opportunities for low-income people.

Second, the amendment would provide a one-time waiver to the city of Petersburg, VA, to submit its required final statement of community development objectives under the Community Development Block Grant [CDBG] Program. Due to extenuating circumstances, the city failed to meet a required deadline. Although HUD would like to give the city an extension of the deadline, existing law prohibits such action.

Third, the amendment includes legislative language to carry out already established congressional intent that the Low-Income Housing Tax Credit Program and the Farmers' Home section 515 program work together. The amendment removes the possibility of misinterpretation by Farmers' Home that could frustrate the ability of these two programs to work together.

This last provision is of great importance to affordable housing in rural areas. In August, the Michigan Office of the Farmers' Home Administration halted the approval of section 515 multifamily loans that were combined with the low-income housing tax credit. A Farmers' Home lawyer interpreted current law in a way that created a conflict between the tax credit and regulations for the section 515 program.

As a result, hundreds of low-income housing units in rural areas have been thrown into question. The Department's actions have already resulted in a major interruption in the ability of the State and local jurisdictions to provide low-income housing to people in rural areas in Michigan. Farmers' Home actions have also threatened to prevent projects from closing across the nation. Housing opportunities for hundreds for families could be jeopardized as loans are left uncommitted, tax credits go unused, and project development is stalled.

Last month, language was included in the fiscal year 1992 Agriculture Appropriations Act that was designed to clear up the problem. Astonishingly, however, Farmers' Home lawyers are choosing to ignore this congressional directive. They claim the language was not explicit enough to require them to change their obstructive practices. Farmers' Home actions are in direct conflict with congressional intent to provide more affordable housing in rural areas.

This amendment will make it crystal clear that Farmers' Home must allow the tax credit and section 515 program to work together. This amendment will allow State housing finance agencies across the nation to resume their efforts to provide affordable housing to people in rural communities.

Mr. President, this amendment has no budgetary impact and has been cleared by Members on both sides of the aisle. I urge my colleagues to join me in support of this amendment to H.R. 3576.

Mr. CRANSTON. Mr. President, I want to thank the distinguished chairman of the full committee, Senator Riegle, for his efforts in bringing this measure to the floor for consideration.

This is a technical amendment to H.R. 3576, a measure recently passed by the House. Both the House-passed bill and the amendment offered today amend the National Affordable Housing Act—enacted by Congress last year by a wide margin. The amendment allows the United States Virgin Islands, Guam, Northern Mariana, and American Samoa, to receive collectively a share of funding under the HOME Investment Partnerships Program.

The HOME Investment Partnerships Program—a major component of the National Affordable Housing Act—is designed to foster a network of partnerships among the Federal Government, States, local communities and the private sector to expand the supply of affordable housing.

HOME Program funds are allocated to States and local communities throughout the country on the basis of a formula. This formula evaluates each jurisdiction's share of need among for an increased supply of affordable housing. In the case of the insular areas, however, two factors combined to make them ineligible under the HOME Program. This amendment seeks to correct the two problems.

First, although the National Affordable Housing Act included the insular areas as eligible jurisdictions for participation in the Home Program, it identified them individually. As a consequence, when the formula was applied to each of the areas individually, their small size precluded them from meeting the minimum allocation level established in law. the amendment allows the insular areas to be considered as a collective unit, for purposes of allocation of funds for the HOME Program.

Second, the full range of data used in the formula for the allocation of funds is not available for the insular areas.

VOL 137 PT 23 NO 21—25 1991 UMI

This amendment recognizes this fact by providing the Secretary of HUD the flexibility to establish a formula for the insular areas based on the available data for these areas.

Mr. President, the Home Program is designed to help address affordable housing needs wherever they exist. This amendment will ensure that the insular areas receive their fair share of funding under the HOME Program.

This amendment also provides a one-time waiver of existing law to allow the city of Petersburg, VA, to submit its final statement of community development objectives. The submission of the final statement is a prerequisite to the receipt of Community Development Block Grant [CDBG] Program funds. Due to several factors, including personnel changes in the city administration, the city of Petersburg missed the established deadline by 30 days. Although the city requested a waiver of the deadline from the Department of Housing and Urban Development, existing law and regulations for the CDBG program preclude HUD from providing the waiver through administrative action.

Mr. President, this amendment has no budget impact and has been cleared by both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 1435 TO AMENDMENT NO. 1434

(Purpose: To permit the citizens of St. Charles Parish, Louisiana, to appeal a flood elevation determination)

Mr. MITCHELL. Mr. President, in behalf of Senator BREAUX, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. BREAUX, for himself and Mr. JOHNSTON, proposes an amendment numbered 1435 to amendment No. 1434:

At the appropriate place, insert:

SEC. . Notwithstanding the time limit set forth in section 1363(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(c) and (d)), St. Charles Parish, Louisiana, may file an appeal with the Director of the Federal Emergency Management Agency with respect to certain flood elevation determinations for the area in and near the Ormond Country Club States located in St. Charles Parish, Louisiana, not later than June 1, 1992.

Mr. BREAUX. Mr. President, the amendment that we have offered to this legislation would grant St. Charles Parish, LA, approximately 180 days to appeal a decision by the Federal Emergency Management Agency [FEMA] that would have a drastic affect on local communities.

Under the National Flood insurance Program, a community has 90 days to appeal any changes in base flood elevation determinations by FEMA. On August 29, 1991, FEMA issued a new flood insurance rate map for parts of St. Charles Parish which will require new structures to be built at a new minimum base flood elevation of 8–9 feet. The current base flood elevation for the area is approximately 2 feet.

The parish has worked to submit an appeal to FEMA using data that was provided to them on June 27, 1991. Missing from the data was information from the Army Corps of engineers that is, I am told, vital to the parish's appeal. The Corps of Engineers was responsible for assembling the report upon which FEMA's decision is based. It is my understanding that the needed information was turned over to the parish at the end of this week. The statutory period for filing an appeal runs out on November 27, 1991. FEMA maintains that it has no legal authority to extend the deadline. The circumstances make it impossible for the parish to file a complete appeal before the end of the statutory deadline.

The new base flood elevation requirements will have a serious impact on the area's future development and it would be patently unfair to cause such a disruption without the local community having an adequate amount of time to present a complete appeal.

Our amendment would simply give the parish the time it needs to make use of the completed data from the corps.

I want to thank the chairman of the full Banking Committee, Senator RIEGLE, and the chairman of the Housing Subcommittee, Senator CRANSTON, for their assistance in this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1435) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment, as amended.

The amendment (No. 1434), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 244, H.R. 794, establishing the Silvio Conte National Refuge.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 794) to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[TITLE I—SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

[SEC. 101. SHORT TITLE.

[This title may be cited as the "Silvio O. Conte National Fish and Wildlife Refuge Act".

[SEC. 102. FINDINGS.

[The Congress finds and declares the following:

[(1) The late Silvio O. Conte's many contributions to fish and wildlife conservation merit establishing a national fish and wildlife refuge in his honor.

[(2) The Connecticut River and its riparian lands are unique environmental resources which provide habitat for significant anadromous, migratory, and resident fish; migratory waterfowl; and other wildlife species, including such threatened or endangered species as the shortnosed sturgeon, bald eagle, Puritan tiger beetle, dwarf wedge mussel, Jesup's milk vetch, and piping plover.

[(3) The Federal Government has spent over $600,000,000 to clean up the Connecticut River and improve the quality of its fish and wildlife habitat, resulting in the reestablishment or improvement of the populations of many species such as the Atlantic salmon, American shad, bald eagle, and peregrine falcon.

[(4) The Connecticut River Valley is home to over 2,000,000 people, and environmental education and natural resource based recreation opportunities that are of great value.

[(5) The environment of the Connecticut River Valley is under enormous stress as a result of increased pressure from commercial and industrial development.

[(6) The environmental degradation of the Connecticut River and its riparian lands would result in the permanent loss of unique social, educational, and environmental assets and would devalue the significant Federal investment made to clean up the river.

[SEC. 103. DEFINITIONS.

[For the purposes of this title—

[(1) the "Advisory Committee" means the Silvio O. Conte National Fish and Wildlife Refuge Advisory Committee established under section 107;

[(2) the term "affected States" means the Commonwealth of Massachusetts, Vermont, New Hampshire, and Connecticut;

[(3) the term "refuge" means the Silvio O. Conte National Fish and Wildlife Refuge established by section 104;

[(4) the term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service;

[(5) the term "selection area" means the lands, waters, and interests therein of the Connecticut River basin from its source to the sea including its tributaries and watersheds; and

[(6) the term "Service" means the United States Fish and Wildlife Service.

[SEC. 104. ESTABLISHMENT OF REFUGE; SELECTION OF LANDS.

[(a) ESTABLISHMENT OF REFUGE.—There is hereby established the Silvio O. Conte National Fish and Wildlife Refuge, consisting of the lands, waters, and interests therein designated pursuant to subsection (c).

[(b) PURPOSES.—The purposes of the refuge are—

[(1) to conserve, protect, and enhance the Connecticut River Valley populations of Atlantic salmon, American shad, river herring, shortnosed sturgeon, bald eagles, peregrine falcons, osprey, and other native species of plants, fish, and wildlife;

[(2) to encourage the natural diversity of plant, fish, and wildlife species within the refuge and to provide for their conservation and management;

[(3) to protect species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

[(4) to preserve and enhance the water quality of aquatic habitat within the refuge;

[(5) to fulfill the international treaty obligations of the United States relating to fish and wildlife; and

[(6) to provide opportunities for scientific research, environmental education, and recreational activities, to the extent compatible with the other purposes stated in this subsection.

[(c) SELECTION OF LANDS.—Within two years after the date of the enactment of this Act, and after consulting with the Advisory Committee, appropriate State and local officials and private conservation organizations, the Secretary shall—

[(1) define and designate the refuge boundaries, including all subunits, within the selection area; and

[(2) prepare a detailed map depicting the refuge boundaries designated under paragraph (1), which the Secretary shall keep on file and available for public inspection at the offices of the Service, and publish notice in the Federal Register of such availability.

[(d) REVISIONS.—The Secretary may make such minor revisions in the boundaries of the refuge defined and designated under subsection (c)(1) as may be appropriate to carry out the purposes of this title or to facilitate the acquisition of property within the refuge.

[SEC. 105. ACQUISITION.

[The Secretary may acquire for inclusion in the refuge, by purchase, gift, or lease, such areas of land and waters, or interests therein (including permanent conservation easements) within the boundaries defined and designated under section 104(c), as the Secretary determines to be suitable for the purposes of this title. All land, waters, and interests so acquired shall be part of the refuge.

[SEC. 106. ADMINISTRATION.

[(a) IN GENERAL.—The Secretary shall administer all lands, waters, and interests therein acquired under section 105 in accordance with—

[(1) the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and the Refuge Recreation Act (16 U.S.C. 460k–460k-4); and

[(2) the purposes of the refuge, as set forth in section 104(b).

[(b) USE OF OTHER AUTHORITY.—The Secretary may utilize such other statutory authority as may be available to the Secretary for the conservation and development of fish and wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education, as the Secretary considers appropriate to carry out the purposes of the refuge as set forth in section 104(b).

[SEC. 107. SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ADVISORY COMMITTEE.

[(a) ESTABLISHMENT AND FUNCTIONS.—There is hereby established a committee to be known as the "Silvio O. Conte National Fish and Wildlife Refuge Advisory Committee" (hereinafter referred to as the "Advisory Committee") which shall advise the Secretary on matters relating to the—

[(1) identification of areas of special concern within the selection area, the conservation of which by cooperative agreement would further the purposes for which the refuge is established;

[(2) identification of activities within or related to the selection area that may adversely affect the purposes for which the refuge is established;

[(3) provision of education outreach and informational programs; and

[(4) establishment of cooperative agreements with private landowners, Federal, State, and local governments or agencies, and conservation organizations, with respect to wise use and management of areas of special concern and the conduct of activities identified under paragraphs (1) and (2) of this section.

[(b) MEMBERSHIP; TERMS.—The advisory committee shall be composed of 15 members, each appointed by the Secretary for a term not to exceed 2 years, as follows:

[(1) 4 members, including 1 from each of the affected States, to be recommended by the Governor of each State as representing the cities or towns bordering the Connecticut River and its tributaries;

[(2) 4 members, including one from each of the affected States, to be recommended by the Governor of each State as representing State agencies with responsibility for conservation or water quality programs;

[(3) 4 members, including 1 from each of the affected States, to be appointed from recommendations made by the Governor of that affected State; who shall represent nonprofit conservation organizations or citizens groups with a direct interest in the purposes of the refuge;

[(4) 1 member of the Long Island Sound Management Conference;

[(5) 1 member from the Department of the Interior; and

[(6) 1 member from the Department of Commerce.

[(c) QUALIFICATIONS.—Members of the Advisory Committee shall have expertise or demonstrated interest in fish and wildlife conservation matters.

[(d) CHAIRMAN.—The Secretary shall designate 1 member of the Advisory Committee to be its Chairman.

[(e) VACANCIES.—Any vacancy in the Advisory Committee shall be filled in the same manner in which the original appointment was made.

[(f) COMPENSATION.—A member of the Advisory Committee shall not receive any compensation for service on the Committee.

[(g) MAJORITY VOTE.—The Advisory Committee shall act by affirmative vote of a majority of the members thereof.

[(h) TERMINATION.—The Advisory Committee shall function during the two years necessary for the Secretary to establish the refuge boundaries, and shall cease to exist after that time.

[SEC. 108. INTERPRETATION AND EDUCATION CENTER.

[The Secretary is authorized to construct, administer, and maintain, at an appropriate site near or within the refuge, an aquatic resources and wildlife interpretation and education center, along with administrative facilities, to provide an opportunity for the study and enjoyment of aquatic resources and wildlife in its natural habitats.

[TITLE II—FISH HABITAT CONSERVATION ACT

[SEC. 201. SHORT TITLE.

[This title may be cited as the Fish Habitat Conservation Act.

[SEC. 202. FINDINGS.

[(a) Fishery resources are integral components of, and play an essential role in, ecosystems where they occur. Self-sustaining fish populations are far more biologically desirable than those substantially dependent on artificial production systems. Fish have specific habitat requirements that are essential for them to complete their life cycle.

[(b) Despite statutory mandates, regulations and programs to control harvest and prevent environmental degradation, destruction of fish habitat has played, and continues to play, a significant role in the decline of fish populations. Some fish populations are so depleted as to warrant protection under the Endangered Species Act.

[(c) The United States Fish and Wildlife Service has authority to acquire fish habitat to protect or manage it, to provide recreational opportunities, and for other purposes under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j) and the Refuge Recreation Act (16 U.S.C. 460k–460k-4) among other statutes, but has rarely used that authority.

[SEC. 203. PURPOSE.

[The purpose of this title is to protect, restore and conserve important fish habitat.

[SEC. 204. DEFINITIONS.

[For the purposes of this title—

[(1) the term "fish" means any freshwater, diadromous, and estuarine organism, other than a marine mammal or bird, and includes finfish, shellfish, crustaceans and other aquatic organisms, and the egg, spawn, spat, larval and other juvenile stages of all such organisms;

[(2) the term "fish habitat" means any area, landward of mean low tide, and adjacent wetlands, on which fish depend, directly or indirectly, to carry out their life processes, and includes—

[(A) any area used by fish for spawning, incubation, nursery, rearing, food supply, or migration; and

[(B) any area adjacent to the aquatic environment if such adjacent area—

[(i) contributes elements, such as the input of detrital material or the promotion of planktonic and insect populations providing food, which make fish life possible;

[(ii) protects the quality of water supplies on which fish are dependent; or

[(iii) protects the aquatic environment;

[(3) the term "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service; and

[(4) the term "System" means the National Wildlife Refuge System administered

VOL 137 PT 23 NO 21–25 1991 UMI

under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

[SEC. 205. FISH HABITAT CONSERVATION PLANS

[(a) In General.—The Secretary shall develop within one year after the date of enactment of this Act, and thereafter periodically review and revise, a national fish habitat conservation plan which shall specify the types of fish habitat which should be given priority with respect to Federal, State, and other acquisition. This plan shall identify types of fish habitats of concern, criteria for establishing acquisition priorities for each fish habitat type, and guidance for developing regional fish habitat conservation plans. The Secretary shall also develop, and periodically review and revise, regional fish habitat conservation plans that identify specific fish habitat to be acquired; determine whether Federal acquisition of specific areas is appropriate; identify, where appropriate, modifications in the management of fish habitat to help achieve the purposes of this title; and establish priorities for each region.

[(b) Consultation.—The Secretary shall develop the plans required by subsection (a) after consultation with the following:

[(1) the Secretary of Commerce;

[(2) the chief executive officer of each State fisheries agency, and other appropriate representatives of each State;

[(3) Indian tribes; and

[(4) other interested entities that are knowledgeable about fish conservation.

[(c) Factors To Be Considered.—The Secretary, in identifying fish habitats to be included in the plan required by subsection (a) and in establishing the basis for priorities for acquisition of those areas, shall consider—

[(1) the estimated cumulative loss, current rate of loss, and the threat of future losses of each fish habitat type;

[(2) the contribution of each fish habitat type to—

[(A) fishery resources;

[(B) commercial fisheries;

[(C) recreational fishing and other outdoor recreation; and

[(D) maintenance of biodiversity; and

[(3) other areas or concerns the Secretary considers appropriate.

[SEC. 206. IDENTIFICATION AND ACQUISITION OF FISH HABITAT.

[(a) In General.—Not later than 6 months after the date of enactment of this Act, the Secretary shall begin identifying and acquiring in accordance with this title lands, waters, and interests therein that are appropriate for inclusion in the National Wildlife Refuge System for the purpose of protecting important fish habitat. Upon the completion of the fish habitat conservation plans prepared under section 205 of this title, the identification of lands to be acquired for the conservation of fish habitat shall be based on those plans.

[(b) Acquisition Priorities.—In setting land acquisition priorities for the United States Fish and Wildlife Service, the Secretary shall give equal consideration to fish habitat as is given to other types of habitat, and shall modify the United States Fish and Wildlife Service Land Acquisition Priorities System Application Manual accordingly.

[SEC. 207. ADMINISTRATION OF ACQUIRED LANDS, WATERS AND INTERESTS.

[(a) In General.—All lands, waters, and interests therein acquired by the Secretary pursuant to this title—

[(1) shall be included in existing national wildlife refuges or shall be established by the Secretary as new units of the System, and in each case, shall be known as a "National Fish and Wildlife Refuge"; and

[(2) shall be administered as part of the System by the Secretary in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and the Refuge Recreation Act (16 U.S.C. 460k–460k–4).

[(b) Fish Habitat Protection Purposes.—The purposes of any unit of the System in which are included any lands, waters or interests therein acquired pursuant to this title shall include the following, which shall be in addition to any other purposes of the unit:

[(1) the conservation and enhancement of fish, wildlife, plants and their habitats;

[(2) preservation and enhancement of the water quality of aquatic habitats;

[(3) protection of species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1513 et seq.);

[(4) conservation of migratory birds;

[(5) management of corridors for the migration and dispersal of fish, wildlife and plants;

[(6) fulfillment of the international treaty obligations of the United States with respect to fish and wildlife; and

[(7) provision of opportunities for scientific research, environmental education, and recreational activities, to the extent compatible with the other purposes of this subsection.

[(c) Commercial Fishing.—The Secretary shall not acquire, pursuant to this title, lands, waters, or interests therein on which occur commercial fishing activities which would be incompatible with the purposes set forth in this section.

[SEC. 208. ANNUAL REPORT.

[On the date on which the President submits a budget to the Congress each year pursuant to section 1105 of title 31, United States Code, the Secretary shall submit to the Congress a report—

[(a) listing all the lands, waters, and interests therein identified in the fish habitat conservation plans prepared pursuant to section 105 of this title—

[(1) for the acquisition of which amounts are included in the President's budget; or

[(2) which have been acquired; and

[(b) listing those areas of fish habitat which the Secretary believes are appropriate for inclusion in the System, but which may not be acquired under this title.

[TITLE III—COASTAL WETLANDS GRANTS

[SEC. 301. COST-SHARING FOR STATE COASTAL WETLANDS GRANTS.

[(a) Federal Share.—Section 305(d)(1) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954(d)(1)) is amended by striking "from which the principal is not spent" and inserting in lieu thereof "consisting of monies from a recurring source".

[(b) Effective Date.—This amendment shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.]

TITLE I—SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

SECTION 101. SHORT TITLE.

This title may be cited as the "Silvio O. Conte National Fish and Wildlife Refuge Act".

SEC. 102. FINDINGS.

The Congress finds and declares the following:

(1) The late Silvio Conte was a long-time champion of the preservation of natural resources, including the Connecticut River, shepherding through Congress legislation meant to restore the river and its wildlife to health.

(2) The Connecticut River and its riparian lands are unique environmental resources which provide habitat for significant anadromous, migratory, and resident fish; migratory waterfowl; and other wildlife species, including such threatened or endangered species as the shortnosed sturgeon and bald eagle.

(3) Federal, State, and local governments have spent over $600,000,000 to clean up the Connecticut River and improve the quality of its fish and wildlife habitat, resulting in the reestablishment or improvement of the populations of many species such as the Atlantic salmon, American shad, bald eagle, and peregrine falcon.

(4) The Connecticut River valley is home to over two million people, and accordingly the river and riparian lands are of great value for environmental education and natural resource based recreation.

(5) The Connecticut River valley is threatened with spoilation, removal from public access, and ecological downgrading and is a significant source of energy and means of commerce for New England.

(6) Despoiling the Connecticut River and its riparian lands will result in the permanent loss of unique social, educational, and environmental assets and will devalue the significant Federal, State and local investments made to clean up the river.

SEC. 103. DEFINITIONS.

For the purposes of this Act—

(1) the term "affected States" means the Commonwealth of Massachusetts, and the States of Vermont, New Hampshire, and Connecticut;

(2) the term "refuge" means the Silvio Conte National Fish and Wildlife Refuge established under section 106 of this Act;

(3) the term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(4) the term "selection area" means the lands and waters of the Connecticut River basin, including the main stem of the river and its tributaries from its source at Fourth Connecticut Lake to Long Island Sound.

SEC. 104. PURPOSES.

The purposes for which the refuge is established are—

(1) to conserve, protect, and enhance the Connecticut River valley populations of Atlantic salmon, American shad, river herring, shortnosed sturgeon, bald eagles, peregrine falcons, osprey, black ducks, and other native species of plants, fish, and wildlife;

(2) to conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species and the ecosystems upon which these species depend within the refuge;

(3) to protect species listed as endangered or threatened, or identified as candidates for listing, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.);

(4) to restore and maintain the chemical, physical, and biological integrity of wetlands and other waters within the refuge;

(5) to fulfill the international treaty obligations of the United States relating to fish and wildlife and wetlands; and

(6) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access to the extent compatible with the other purposes stated in this section.

SEC. 105. SELECTION OF LANDS.

Within three years after the date of the enactment of this Act, the Secretary shall—

(1) consult with appropriate State and local officials, including those representing State government natural heritage inventory agencies, the Long Island Sound Management Conference as established under the National Estuary Program, private conservation organizations, and other interested parties in designating the refuge boundaries;

(2) define and designate the refuge boundaries, including all subunits, within the selection area that would fulfill the purposes set forth in section 104 of this Act; and

(3) prepare a detailed map depicting the refuge boundaries designated under paragraph (2), which the Secretary shall keep on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

SEC. 106. ACQUISITION AND ESTABLISHMENT OF REFUGE.

(a) Acquisition.—To the extent authorized under the Fish and Wildlife Act of 1956 (16 U.S.C. 742f–a–5), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460k–4–11), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715–715s), the Emergency Wetlands Resources Act of 1986, as amended (16 U.S.C. 3901 et seq.), the North American Wetlands Conservation Act (16 U.S.C. 4401–4413), and other existing laws, the Secretary may acquire for inclusion in the refuge by purchase or donation such lands and waters or interests therein (including permanent conservation easements) within the boundaries defined and designated under section 105 of this Act. All lands, waters, and interests therein so acquired shall be part of the refuge.

(b) Establishment.—When sufficient property within the boundaries defined and designated under section 105 of this Act have been acquired to constitute an area that can be effectively managed as a refuge, the Secretary shall establish the refuge, to be named the "Silvio Conte National Fish and Wildlife Refuge," by publishing a notice to that effect in the Federal Register and publications of local circulation.

(c) Boundary Revisions.—The Secretary may make such minor revisions in the boundaries of the refuge defined and designated under section 105 of this Act as may be appropriate to carry out the purposes of this Act or to facilitate the acquisition of property within the refuge.

(d) Interim Report to Congress.—Within one year of the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works in the United States Senate and the Committee on Merchant Marine and Fisheries in the United States House of Representatives a report describing those lands and waters that the Secretary proposes to acquire under the Fish and Wildlife Act of 1956 (16 U.S.C. 742f–a–5), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460k–4–11), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715–715s), the Emergency Wetlands Resources Act of 1986, as amended (16 U.S.C. 3901 et seq.), the North American Wetlands Conservation Act (16 U.S.C. 4401–4413), and other existing laws for inclusion in the refuge at a subsequent time. The Secretary also shall include in the report an estimate of the total number of acres of lands or waters or interests therein that may be acquired for inclusion within the refuge boundaries under the authority of this Act and other existing laws and the approximate cost of such acquisition.

SEC. 107. ADMINISTRATION.

(a) In General.—The Secretary shall administer all lands, waters, and interests therein acquired under section 106 pursuant to—

(1) the provisions of the National Wildlife Refuge System Administration Act of 1966 (U.S.C. 668dd–668ee) and the Refuge Recreation Act (16 U.S.C. 460k–460k–4); and

(2) the purposes for which the refuge is established, as set forth in section 104 of this Act.

(b) Outreach and Education.—The Secretary shall work with, provide technical assistance to, provide community outreach and education programs for or with, or enter into cooperative agreements with private landowners, State and local governments or agencies, and conservation organizations to further the purposes for which the refuge is established, as set forth in section 104 of this Act.

(c) Use of Other Authority.—The Secretary may utilize such other statutory authority as may be available to the Secretary for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education, as the Secretary considers appropriate to carry out the purposes of the refuge as set forth in section 104 of this Act.

SEC. 108. SILVIO CONTE NATIONAL FISH AND WILDLIFE REFUGE ADVISORY COMMITTEE.

(a) Establishment and Functions.—Within three months after the date of enactment of this Act, the Secretary shall establish a committee to be known as the "Silvio Conte National Fish and Wildlife Refuge Advisory Committee" (hereinafter referred to as the "Advisory Committee") which shall assist the Secretary on community outreach and education programs that further the purposes of the refuge.

(b) Membership; Terms.—The Advisory Committee shall be composed of fifteen members, each appointed by the Secretary within three months of the date of enactment of this Act for a term not to exceed three years, as follows:

(1) four members, including one from each of the affected States, to be recommended by the Governor of each State as representing the cities or towns bordering the Connecticut River and its tributaries;

(2) four members, including one from each of the affected States, to be recommended by the Governor of each State as representing State agencies with responsibility for conservation or water quality programs;

(3) four members, including one from each of the affected States to be appointed from recommendations made by the Governor of that affected State, who shall represent nonprofit conservation organizations or citizen groups with direct interest in the purposes of the refuge;

(4) one member of the Long Island Sound Management Conference; and

(5) two members to be designated by the Secretary, including one who represents the energy and commerce interests associated with the Connecticut River.

(c) Chairman.—The Advisory Committee shall elect one member of the Advisory Committee to be its chairman.

(d) Vacancies.—Any vacancy in the Advisory Committee shall be filled in the same manner in which the original appointment was made.

(e) Compensation.—A member of the Advisory Committee shall not receive any compensation for service on the committee.

(f) Majority Vote.—The Advisory Committee shall act by affirmative vote of a majority of the members thereof.

SEC. 109. INTERPRETATION AND EDUCATION CENTER.

The Secretary is authorized to construct, administer, and maintain at appropriate sites within the refuge, not more than four aquatic resources and wildlife interpretation and education centers, known as Silvio Conte National Fish and Wildlife Refuge Education Centers, along with administrative facilities, to provide opportunities for the study, understanding, and enjoyment of aquatic resources and wildlife in its natural habitats.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act.

[TITLE IV] *TITLE II*—MORRIS K. UDALL NATIONAL WILDLIFE REFUGE

SEC. 401. REDESIGNATION OF BUENOS AIRES NATIONAL WILDLIFE REFUGE.

(a) Redesignation.—The Buenos Aires National Wildlife Refuge, located in the State of Arizona, is redesignated and shall be known as the "Morris K. Udall National Wildlife Refuge".

(b) References.—Any reference in a law, regulation, map, document, paper, or other record of the United States to the national wildlife refuge referred to in subsection (a) of this section is deemed to be a reference to the "Morris K. Udall National Wildlife Refuge".

[TITLE V] *TITLE III*—CULEBRA NATIONAL WILDLIFE REFUGE

SEC. 501. HEADQUARTERS FACILITY FOR CULEBRA NATIONAL WILDLIFE REFUGE.

The headquarters facility and residence for the Culebra National Wildlife Refuge may be constructed on lands leased from the Commonwealth of Puerto Rico on a long-term basis.

[TITLE VI—PUBLIC SAFETY ON NATIONAL WILDLIFE REFUGES

[SEC. 601. PUBLIC SAFETY ON NATIONAL WILDLIFE REFUGES.

[The Director of the Fish and Wildlife Service shall ensure that efforts to conserve and manage wildlife populations on national wildlife refuges are conducted with full regard to public safety.]

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

Mr. LIEBERMAN. Mr. President, the late Congressman Silvio Conte once said that there were two big events that he dreamed of: the Red Sox winning the World Series, and the salmon returning to the Connecticut River. We cannot legislate a victory for the Red Sox, but by passing this bill today, we have taken an enormous step toward granting Mr. Conte's wish.

The establishment of the Silvio Conte National Fish and Wildlife Refuge is a fitting tribute to a man who for most of his congressional career led the fight to restore the Connecticut River to health. This refuge would be comprised of critical habitat areas along the length of the river and within its watershed. The Connecticut River, 400 miles long and stretching from Vermont and New Hampshire through Massachusetts and Connecticut to Long Island Sound, is considered by many to be the backbone of New England. It is significant also as the only major river in North America without an industrialized city at its mouth.

My interest in this bill came initially from my concern for the health of Long Island Sound. The Connecticut River provides the sound with 70 to 80 percent of its freshwater. And because the river is tidal freshwater for 40 miles in Connecticut, it has spawned a wetlands complex of international significance, providing habitat to an astonishing array of rare and endangered plant and animal species. The bill we pass today is nearly identical to the one I intro-

VOL
137
PT
23
NO
21—25
1991
UMI

duced earlier this year, and it will provide critical protection for many of the species we hope to see flourish: the bald eagle and peregrin falcon, the important shad and salmon populations, the whorled begonia and golden club.

This bill is important in another way. Recognizing the hard work and commitment of local organizations such as the Connecticut River Watershed Council and the Nature Conservancy, the Connecticut River Advisory Committees established by the State legislatures of Vermont and New Hampshire, the Long Island Sound Study, and the significant contributions made by the power interests along the river, the bill establishes an advisory committee to assist the Director of the U.S. Fish and Wildlife Refuge. I am very pleased to note that the U.S. Fish and Wildlife Service has been receptive to this notion, and has already begun to work with and listen to the local organizations and State governments already involved in protecting the Connecticut River, as well as meeting with local landowners who may find their property within the boundaries of the refuge. Director John Turner has shown, I think, a tremendous sensitivity to our New England tradition of home rule, and I think that all of us who have worked so hard to see Sil Conte's dream become a reality owe Mr. Turner our gratitude.

Finally, Mr. President, I would like to note that this bill has served to unite New England in a way that should also serve as a tribute to Mr. Conte. The entire New England delegation to the U.S. Senate supports this bill. And some of Sil Conte's other friends in the Senate, Senators COCHRAN, JOHNSTON, AKAKA, SPECTER, PRYOR, GORE, and D'AMATO also joined as cosponsors of my original bill. I am hopeful that our colleagues in the House will act quickly upon receipt of this bill and that before the end of this session President Bush, another supporter, will sign the Silvio Conte National Fish and Wildlife Refuge Act into law.

Mr. KERRY. Mr. President, I rise today in support of H.R. 794, the Silvio O. Conte National Fish and Wildlife Refuge Act, the last bill introduced by Sil Conte.

Throughout his life, Silvio Conte worked to preserve and protect our Nation's, and the globe's, precious and fragile environment. He was a leader on many issues in Massachusetts, but took a special interest in preserving our Nation's natural treasures. Sil was an avid fisherman and knew the true enjoyment that was possible from recreational activities on our scenic rivers and streams. As is reflected in his work, Sil believed the Connecticut River Valley to be of singular importance. This broad valley bridges four New England States and provides diverse recreational opportunities to millions of people. The river's watershed is home to innumerable species of animals, including our endangered national symbol—the beautiful bald eagle.

This bill will establish the Silvio O. Conte National Fish and Wildlife Refuge. The refuge, only the second of its kind in the nation, will consist of blocks of land from all across the Connecticut River basin designated by the Secretary of the Interior as having unique national qualities. Together, these sections of land will provide a vital refuge for wildlife across the Northeast. The bill also directs the Secretary to establish a plan for the protection of fish habitats. I believe this effort is critical in these days of rapidly deteriorating water quality and harmful development. Additionally, the bill will amend the Coastal Wetlands Planing, Protection and Restoration Act to allow an increase in the percentage of funds for coastal wetlands preservation that the Federal Government may provide.

Finally the legislation establishes up to four aquatic resources and wildlife interpretation and education centers that will be aptly known as the Silvio Conte National Fish and Wildlife Refuge Education Centers. It seems appropriate that the first center be located along the Connecticut River in western Massachusetts, in Sil Conte's congressional district. I know my colleagues and the Fish and Wildlife Service agree. I also hope that the cooperative spirit between the interested Federal, State, local, and private nonprofit entities that brought this legislation to final passage today will continue as we begin to develop the educational centers. During this time of deep fiscal constraints at all levels of government, a creative partnership to finance these centers is crucial to our success.

The many components of this bill constitute important actions toward the preservation and enhancement of our environment and the ability of our citizens to enjoy its use. In addition, I believe that the passage of this bill and the creation of this exceptional wildlife refuge is a fitting tribute to my beloved colleague, Mr. Conte. Sil Conte worked diligently over the past 30 years to preserve our environment. The Silvio Conte Refuge will be a lasting and noble acknowledgment of his labors. For these reasons I ask my colleagues to join me in supporting this legislation.

Mr. SMITH. Mr. President, I strongly support the passage of legislation to establish the Silvio O. Conte Connecticut River National Wildlife Refuge, H.R. 794. Like many of my colleagues, I have more than one reason to urge quick passage of this important bill.

First, in the 6 years I spent as a Member of the House of Representatives, I came to know Silvio quite well. Not only was he one of the most respected Members of the House, but he was known as a true champion for the people of western Massachusetts. Yet, Silvio was not only fiercely dedicated to protection of the natural resources of Massachusetts, but he also strongly supported preservation efforts throughout New England.

Clearly, Silvio's passing has left a real void in Congress. I can think of no better tribute to his years of hard work and dedication than to name this wildlife refuge in his name.

Second, I believe that this legislation will ensure the protection of one of our Nation's most important and historical riverways. This river, which has its source in northern New Hampshire, flows over 400 miles from my home State until it spills into the Long Island Sound. The wildlife refuge which is established by this legislation will actually comprise a chain of refuges dotting the riverbanks of New Hampshire, Vermont, Massachusetts, and Connecticut.

Not only has the Connecticut River served as an important source of commerce and industry, but more importantly, the river and its adjoining lands provide a vital habitat for anadromous fish, endangered species, migratory waterfowl, and other wildlife species. The intention of this legislation is to protect a select amount of habitat areas which serve a particularly vital function in the continued health and preservation of these species.

When I first became acquainted with this legislation, I have to admit that I was concerned about the potential for the widespread Federal purchase of private landholdings in New Hampshire. Due to the diligent efforts of Senator LIEBERMAN and his staff, my concerns about this legislation have been satisfied. Further, I received a letter from the Director of the Fish and Wildlife Service, John Turner, stating that "private property rights within the proposed refuge are protected." He went on to state that "our longstanding acquisition policy is to work only with willing sellers within approved boundaries as funds become available * * * Landowners are under no obligation to sell their property to the service."

Mr. President, I believe that this bill is in the best interests of the people of New Hampshire, the people of New England, and the Nation as a whole. I urge my colleagues to support its adoption.

I ask unanimous consent that the letter of Mr. Turner be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC.

MR. GEORGE W. MOULTON,
MR. TOM LAURITSEN,
BRIDGES FOR TOMORROW,
Charlestown, NH.

DEAR MR. MOULTON AND MR. LAURITSEN: I have received a copy of your letter of July 9 to Senator Lieberman regarding the proposed Silvio O. Conte National Fish and Wildlife Refuge. We have a genuine and sincere interest in this project because we believe it has such enormous potential benefits—both environmental and economic—for the people of the Connecticut River Valley, so I would like to take this opportunity to provide the following assurances on the three important concerns you have expressed.

First, I agree that it is essential to recognize and respond to local concerns in order to have the Refuge come to fruition. Therefore, to ensure that your Joint River Commissions are fully involved in the decision-making process as a focal point for local concerns in the northern half of the Valley, I have instructed my Regional Office staff to continue to work with your two Commissions to assure that you are a part of this process.

Second, private property rights within the proposed Refuge are protected. Our longstanding acquisition policy is to work only with willing sellers within approved boundaries as funds become available. Over the past ten years, less than two-percent of such acreage was obtained through court action, while less than one-half-of-one-percent of the ownerships were acquired through the use of condemnation. We recognize the possible social and economic impacts of acquiring private property by exercising the Federal right of eminent domain, so we do our utmost to avoid using that approach. I wish to underscore this point: Landowners are under no obligation to sell their property to the Service.

Third, the same is true of conservation easement. The sale or donation of such an easement—which may regulate land use—is entered into willingly by a landowner, and any concerns must be resolved to the landowner's satisfaction before the easement is executed. And, of course, if a landowner does not want to sell an easement to the Service, the land will not be subject to any additional restrictions. The mere inclusion of property within the boundary of a refuge does not give the Service any authority whatsoever over how that property is managed or used.

Again, I want to assure the Commissions that we will do everything we can to affect a positive, productive, and cooperative atmosphere in which we can create this refuge together. Indeed, the authorizing legislation now before the Congress provides for full public participation in determining the boundaries of the new refuge, and all landowners will have an opportunity to participate.

The Service looks forward to working with your Joint River Commissions to enact and implement this legislation. If you have further questions or comments, please contact me or Regional Director Ronald Lambertson, at One Gateway Center, Newton Corner, Massachusetts 02158, (617) 965-5100.

Sincerely,

JOHN F. TURNER,
Director.

Mr. JEFFORDS. Mr. President, I rise in strong support of H.R. 794, the Silvio O. Conte National Wildlife Refuge Act. I am an original cosponsor of the Senate version of this legislation and am pleased to see that the Senate has seen the importance of acting quickly on this bill.

As my colleagues know, this bill would begin the process of creating a national wildlife along the Connecticut River in honor of my late good friend, Silvio O. Conte. No one devoted more time and effort to preserving the integrity of the Connecticut River than Silvio Conte.

During his service in the House of Representatives, Silvio Conte took on a tremendous task to repair the damage that the Connecticut River has incurred through 200 years of abuse and neglect. He saw Atlantic salmon were disappearing—this remarkable resource, which once abundantly ran freely through the river, was gone. Pollution had ravaged the river, and development was destroying its shorelines. Once the principle natural resource for New England, the Connecticut River was dying in the hands of neglect and mismanagement.

Silvio Conte set out to reverse this process, and the signs of his unyielding efforts can be seen today. The river is cleaner today, and the Atlantic salmon have returned. He fought hard to get fish ladders placed along the river, and these ladders were the first step in bringing the Atlantic salmon back. He was responsible for initiating the Connecticut River Atlantic Salmon Compact, an agreement between Vermont, Massachusetts, New Hampshire, Connecticut, and the Federal Government to promote the restoration of the Atlantic salmon run into the Connecticut River basin. In 1983, he directed through Congress the legislation required for the compact to take effect and to authorize the participation of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service in the compact.

Mr. President, Silvio Conte's efforts can be felt in my home State of Vermont. He was instrumental in establishing the first and only salmon hatchery on the Connecticut River in Bethel, VT. This hatchery has played a vital role in restoring the Atlantic salmon runs to the Connecticut River.

Silvio Conte's efforts must be continued, and I commend the junior Senator from Connecticut, Senator LIEBERMAN, for carrying on these efforts. With the establishment of this refuge, we can be sure that Silvio Conte's efforts were not in vain. We can be sure that the Atlantic salmon will not again disappear. We can be sure that the Connecticut River will no longer be abused and neglected.

As Silvio Conte realized long ago, this Connecticut River and its watershed are too valuable to be destroyed. As the largest river in New England, it is the lifeblood of our natural resources. I am happy to support this important piece of legislation to establish this national wildlife refuge. I am proud at the same time to be able to bestow this well deserved honor on Silvio Conte by having the refuge named the Silvio Conte National Wildlife Refuge.

I urge my colleagues to support this important piece of legislation.

AMENDMENT NO. 1436

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senators BURDICK and CHAFEE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BURDICK, for himself and Mr. CHAFEE, proposes an amendment numbered 1436.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, strike lines 13 through 25, insert in lieu thereof the following, and re-designate titles II and III and the sections therein accordingly:

SEC. 109. INTERPRETATION AND EDUCATION CENTER.

(a) IN GENERAL.—The Secretary is authorized to construct, administer, and maintain at appropriate sites within the refuge, or pursuant to subsection (b) cooperate in the construction, operation and maintenance at an appropriate site, not more than four aquatic resources and wildlife interpretation and education centers, known as Silvio Conte National Fish and Wildlife Refuge Education Centers, along with administrative facilities, to provide opportunities for the study, understanding, and enjoyment of aquatic resources and wildlife in its natural habitats.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized:

(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with state and local governments and other public and private entities;

(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

(3) to interpret the Connecticut River's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. ESTABLISHMENT AND TERMS OF SILVIO O. CONTE MEMORIAL SCHOLARSHIP FUND.

(a) IN GENERAL.—In recognition of Silvio O. Conte's longstanding contribution and devotion to the conservation of our Nation's natural resources, and his life-long commitment to education, the Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, is authorized to

VOL 137
PT 23
NO 21 — 25
1991
UMI

enter into an agreement with the National Fish and Wildlife Foundation, hereinafter referred to as the Foundation, and the University to Massachusetts/Amherst, hereinafter referred to as the University, to establish the Silvio O. Conte Memorial Scholarship Fund. The purpose of the agreement is to encourage students to enter the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology by establishing a scholarship fund at the University.

(b) TERMS OF AGREEMENT.—Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301–6308), the agreement authorized under subsection (a) of this section shall direct that the University shall:

(1) establish the Silvio O. Conte Memorial Scholarship Fund for the purpose of awarding scholarships for a period not exceeding three years to eligible candidates in advanced degree programs in the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology;

(2) invest funds provided by the Director, the Foundation and any other contributors in interest-bearing accounts;

(3) award scholarships annually utilizing the interest generated from such investment accounts minus the amount equal to inflation;

(4) match the scholarship awards with inkind contributions of equal value, such as waivers of tuition or fees or the provision of other financial aid;

(5) establish eligibility criteria based upon financial needs, academic achievement, and potential contribution of the profession;

(6) announce the availability of the scholarship in a manner which ensures that it is widely distributed and that minority and socially-disadvantaged candidates are made aware of the opportunity;

(7) upon request by the Director, make available the investment accounts for his inspection; and

(8) prepare and provide to the Director annually a report regarding the expenditures from the investment accounts which shall include the number of scholarships awarded, the amount of each scholarship, and the share of each scholarship provided by the University.

(c) AUTHORIZATION.—The Director is authorized to make a one-time contribution of up to $50,000 to the University to establish the Silvio O. Conte Memorial Scholarship Fund.

(d) TERMINATION OF AGREEMENT.—At such time as the parties agree to terminate the agreement authorized under subsection (a) of this section, the principle and interest in the account shall be deposited in the Migratory Bird Conservation Fund.

SEC. 202. WILDLIFE INTERPRETATION AND EDUCATION CENTER.

Title II of Public Law 100–610 is amended by adding at the end the following new section: "Section 208. Wildlife Interpretation and Education Center.

"(a) The Secretary is authorized to construct, administer, and maintain at an appropriate site, a wildlife interpretation and education or visitor center.

"(b) The Secretary is authorized—

"(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with state and local governments and other public and private entities;

"(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

"(3) to interpret the Pettaquamscutt Cove region's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.".

Mr. CHAFEE. Mr. President, I offer this amendment in recognition of the significant contribution former Congressman Silvio O. Conte made to the conservation of our Nation's fish and wildlife. I can think of no more fitting tribute to this champion of the natural environment than to establish a scholarship at the University of Massachusetts in his honor dedicated to training professionals in the areas of fish and wildlife conservation and natural resources policy.

Under this amendment, the Department of the Interior and the National Fish and Wildlife Foundation will make a small initial contribution which the university will be required to invest in interest-bearing accounts to fund the scholarships. The university is required to match all scholarship awards with inkind contributions of equal value to the award. The restrictions of OMB Circular A110 and A133 shall not apply to any interest earned on Federal funds provided for this program. This is necessary to allow the University of Massachusetts to award scholarships with funds from accrued interest to eligible candidates in fish and wildlife conservation advanced degree programs and will ensure that the program will continue to provide scholarship benefits in the future.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1436) was agreed to.

Mr. MITCHELL. Mr. President, I mov to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1437

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senator SANFORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. SANFORD, proposes an amendment numbered 1437.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the appropriate place in the bill the following new section:

SEC. . COST-SHARING FOR STATE COASTAL WETLANDS GRANTS.

(a) FEDERAL SHARE.—Section 305(d)(1) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954(d)(1)) is amended by striking "has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces." and inserting in lieu thereof—

"has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:"

"(A) a trust fund from which the principal is not spent; or

"(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees."

(b) EFFECTIVE DATE.—This amendment shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.

Mr. SANFORD. Mr. President, I rise to offer an amendment to the Silvio Conte National Fish and Wildlife Refuge Act, S. 821. This amendment is of great importance to me and of concern to preservationists in other coastal States as well.

The Conte Refuge Act was significantly altered after its referral from the House. Specifically, I was concerned about the elimination of langauge passed by the House which extended favorable Federal matching fund support of 75 percent, under the National Coastal Wetlands Conservation Grants Program, to those States with trust funds, "consisting of moneys from a recurring source." Prior to the inclusion of this language by the House, only two States would have been eligible to receive the 75 percent Federal matching share. Only Michigan and Minnesota have trust funds qualifying under the original wetlands grant language; such language requires that States have funds "from which the principal is not spent."

My amendment to S. 821 will roughly replace, and clarify, the coastal wetland grants title that was stricken from H.R. 794, while also maintaining the original Coastal Wetlands Act langauge. My intent, as was that of involved House Members, is to allow States with recurring sources of funding dedicated to the acquisition of wetlands to receive the 75 percent Federal/25 percent State cost-share. My amendment should allow eight additional States to be eligible for the favorable Federal match. Each of these eight States has an annually recurring fund derived from either a real estate transfer tax, a cigarette tax, a tax check off or, as is the case in North Carolina, a license plate fee.

To avoid any misunderstanding as to what State funding mechanism might qualify as a recurring source, my amendment requires that a State have a fund "consisting of moneys from a dedicated recurring source." I certainly want to make it clear to my colleagues that my amendment does not apply to those States that might annually appropriate moneys for wetlands acquisition but do not have a dedicated source of funding for this purpose.

I understand that the National Coastal Wetlands Conservation Grants Program was designed to encourage States to establish dedicated funding sources in order to purchase coastal wetlands and open areas. My amendment is entirely consistent with this intent.

The grants program also gives priority to "coastal wetlands conservation projects in maritime forests on coastal barrier islands" (16 U.S.C. 3954(b)(2)). In my home State of North Carolina, authorities have recently filed for such a grant proposal to protect a substantial tract of rare evergreen maritime forest on the coastal barrier island of Bald Head. The plant community located here has a global rank of G–2, which means that 20 or fewer such communities remain in the world. Without a 75–25 cost share through the Wetlands Grants Program, conservation officials tell me that this fragile natural treasure, under threat of development, may well be lost forever. Critical projects may hang in the balance in the other States affected by my amendment, States that have made a long-term commitment to wetlands acquisition.

Mr. President, I am pleased that my amendment has been accepted as an appropriate part of S. 821. I am grateful to Senator LIEBERMAN, who has worked hard to bring this worthy piece of legislation to the floor, and Senators CHAFEE, BAUCUS, and others, who have been kind enough to agree to this amendment language.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1437) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1438

(Purpose: To delete Title II of the bill which proposes to change the name of the Buenos Aires National Wildlife Refuge to the Morris K. Udall National Wildlife Refuge)

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senator DECONCINI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. DECONCINI, proposes an amendment numbered 1438.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, strike lines 1 through 13.

Mr. DECONCINI. Mr. President, I am offering an amendment that will strike title II of this legislation. This title redesignates the Buenos Aires National Wildlife Refuge in Arizona as the Morris K. Udall National Wildlife Refuge. This title was included in the bill that was sent over from the House.

In the past, Mo has strongly indicated to me his reluctance to have things named after him indiscriminately. I have consulted with Mo's family, and it was concluded that it would be a better course of action to wait on renaming this refuge or anything else for that matter, until the family is better able to be involved in this process.

The Buenos Aires Refuge is something that I know Mo feels very strongly about. In fact, had it not been for his leadership, it never would have been established. Therefore, the House action in this regard is commendable. However, in deference to the wishes of Mo and his family, I think we should postpone action on this proposal at this time. Therefore, I ask that my amendment be adopted.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1438) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I rise today to express my support for H.R. 794, the Silvio Conte National Fish and Wildlife Refuge Act. This bill was originally introduced by the late Representative from Massachusetts. The bill has been properly amended to name the wildlife refuge after him to make it a living example of his legacy. Sil Conte was a friend of mine. He had good humor and a heart of gold. I worked closely with him for many years in the appropriations process and learned quickly that Silvio Conte cared deeply for the people of this country, always stood his ground, and fought like the devil for the causes in which he believed.

One of those causes was the environment. Like Silvio Conte, I came from a part of the country with a great outdoors tradition. In New Hampshire, like western Massachusetts, hunting, fishing, and just being outside is a way of life for many people. And so Sil and I shared common ground in both our personal enjoyment of the outdoors and our belief that they must be managed properly so that future as well as present generations might enjoy them.

Shortly before his death, Silvio Conte introduced legislation to protect the fish and wildlife habitat along the Connecticut River, a river that flows 410 miles and traverses four of the New England States from its headwaters in New Hampshire to New York's Long Island Sound. For 32 years, Silvio Conte worked on similar protection efforts. As a member of the Migratory Bird Conservation Commission, he played a critical role in the acquisition of 80 national wildlife refuges covering some 3 million acres of wetlands and other wildlife habitat throughout the Nation. It is, therefore, fitting that legislation of this nature will stand as a living memorial in his name. In this regard, I am proud to be a part of the enactment of H.R. 794.

Since coming to the Senate, I have strongly supported efforts to protect our Nation's natural resources. In New Hampshire specifically, I have worked on a number of Wild and Scenic Rivers study and designation bills. These successful measures have increased public awareness of these resources and encouraged cooperative efforts in maintaining clean rivers for recreational as well as commercial use. The establishment of a national wildlife refuge on the Connecticut River will help preserve critical habitat and assist the hundreds of volunteers who have been working to protect the river under both the New Hampshire and the Vermont river protection programs. The New Hampshire Connecticut River Valley Resource Commission, as well as the Vermont Connecticut River Watershed Commission, have jointly coordinated these local efforts to preserve the river. In addition, Governor Gregg, a number of conservation organizations, and commercial interests in my State have supported this bill.

Mr. President, specifically, H.R. 794 would require the Secretary of Interior within 3 years, in consultation with State and local officials and the residents of the region, to define and designate the boundaries of a national wildlife refuge within the lands and waters of the Connecticut River basin. The Secretary would also be required to establish an advisory committee to assist the Fish and Wildlife Service with community outreach and education programs that would further the purposes of the refuge. The Secretary must also establish four aquatic resources and wildlife interpretation and education centers. It should be noted that the Fish and Wildlife Service has existing authority to establish a refuge without Congress enacting enabling legislation. However, the acquisition of such lands and waters must proceed through existing statutes. In other words, the Secretary's acquisition authority is not expanded under this legislation. It is worth noting that until land is acquired through the appropriate channels, approved by Congress, the Service has no power to manage the land within the refuge area.

VOL
137
PT
23
NO
21—25
1991
UMI

As much as I support the concept behind this legislation, I do have certain reservations about the advisory committee, in particular, the make up of the committee. However, this does not prevent me from supporting the measure.

The Connecticut River and its tributaries are a unique environmental resource which provide habitat for significant anadromous, migratory, and resident fish, migratory waterfowl, and other wildlife species, including species such as the bald eagle and shortnosed sturgeon which are listed under the Endangered Species Act. One of the reasons that the Connecticut is so beautiful is that it is the only major river in the country without a city at it's mouth. In recent decades the Connecticut has been recognized as something even more vital—the ecological thread that ties New England together. Although the Federal Government has put millions of dollars into cleaning up the river over the years, it is still threatened with spoilage and ecological downgrading. In this respect, I believe, as Mr. Conte did, that this legislation will further the local protection efforts to protect this vital resource in the Northeast. Accordingly, Mr. President, I rise to support this legislation and encourage my colleagues to support it as well.

Mr. KENNEDY. Mr. President, I rise in support of this bill to establish the Silvio Conte National Fish and Wildlife Refuge. Enactment of this legislation would be a fitting tribute to Sil Conte's lifelong efforts to protect and preserve our Nation's precious natural resources.

Sil Conte had a particular interest in the Connecticut River Valley, which supports a delicate ecosystem of fish, birds and other wildlife, such as endangered bald eagles. The last bill that Sil introduced in Congress was designed to ensure the protection of this critical habitat—and do so in a way that more people could enjoy its natural beauty.

The bill before us today will carry out the vision Sil Conte had for the Connecticut River, and will help honor one of the finest and most beloved legislators this Nation has even known. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 794), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The text of S. 543, a bill to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, as passed by the Senate on November 21, 1991, is as follows:

S. 543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—BANK INSURANCE FUND RECAPITALIZATION

Sec. 101. FDIC borrowing authority.
Sec. 102. Recapitalizing the Bank Insurance Fund.
Sec. 103. GAO audit of recapitalization schedule.
Sec. 104. Emergency guarantee.

TITLE II—DEPOSIT INSURANCE REFORM

Sec. 201. Full faith and credit.
Sec. 202. Improving capital standards.
Sec. 203. Accounting and auditing reform.
Sec. 204. Annual examinations.
Sec. 205. Prompt corrective action.
Sec. 206. Standards for safety and soundness.
Sec. 207. Conservatorship and receivership amendments to facilitate prompt corrective action.
Sec. 208. Backup enforcement authority of FDIC.
Sec. 209. Capital maintenance commitments.
Sec. 210. Pass-through insurance coverage.
Sec. 211. Brokered deposits.
Sec. 212. Risk-based assessments.
Sec. 213. Risk-based reinsurance.
Sec. 214. Real estate lending standards.
Sec. 215. Restricting risky bank activities.
Sec. 216. Safeguards against insider abuse.
Sec. 217. Protecting depository institutions from abusive transactions with affiliates.
Sec. 218. Interbank liabilities.
Sec. 219. Reducing risk to payment system.
Sec. 220. Least-cost resolution.
Sec. 221. Early resolution.
Sec. 222. Federal Reserve discount window advances.
Sec. 223. Cross-guarantee liability.
Sec. 224. Granting deposit insurance.
Sec. 225. Disclosure by insured depository institutions and the Federal banking agencies.
Sec. 226. Consent to be bound by the Federal Deposit Insurance Act.
Sec. 227. Depository institutions lacking Federal deposit insurance.
Sec. 228. Uninsured wholesale banks.
Sec. 229. Study and report on core banking.
Sec. 230. Priority of claims.
Sec. 231. Sense of the Senate.
Sec. 232. Disclosure of certain information.
Sec. 233. Utilizing private sector.
Sec. 234. Sense of the Senate.

TITLE III—INTERSTATE BANKING AND COMBINATIONS

Sec. 301. Interstate banking.
Sec. 302. Conversion of banks to branches.
Sec. 303. Amendments to Federal Deposit Insurance Act and the Act entitled "An Act to Provide for the Consolidation of National Banking Associations".
Sec. 304. Acquisition of new interstate branches by national and State banks.
Sec. 305. Community Reinvestment Act evaluation of banks with interstate branches.
Sec. 306. State tax compliance.
Sec. 307. Use of names in host State.
Sec. 308. Consideration of displaced work force.
Sec. 309. Attorney General's determination on competitive factors.
Sec. 310. Regulations to prohibit branching for deposit production.

TITLE IV—JAMES MADISON-BILL OF RIGHTS COMMEMORATIVE COIN ACT

Sec. 401. Short title.
Sec. 402. Coin specifications.
Sec. 403. Sources of bullion.
Sec. 404. Issuance of coins.
Sec. 405. Sale of coins.
Sec. 406. Financial assurances.
Sec. 407. Distribution of surcharges.
Sec. 408. Audits.
Sec. 409. General waiver of procurement regulations.

TITLE V—CONSUMER PROTECTION

Subtitle A—Truth in Savings and Investments

Sec. 501. Short title.
Sec. 502. Findings and purpose.
Sec. 503. Definitions.
Sec. 504. Disclosure of yields and terms of accounts.
Sec. 505. Account schedule.
Sec. 506. Disclosure requirements for certain accounts.
Sec. 507. Distribution of schedules.
Sec. 508. Periodic statements.
Sec. 509. Payment of interest.
Sec. 510. Regulations.
Sec. 511. Administrative enforcement.
Sec. 512. Civil liability.
Sec. 513. Credit unions.
Sec. 514. Review of disclosure requirements for open-end management investment companies.
Sec. 515. Effect on State law.
Sec. 516. Effective date of regulations.

Subtitle B—Fair Lending Enforcement

Sec. 521. Short title.
Sec. 522. Appraisals.
Sec. 523. Consumer compliance programs.
Sec. 524. Enforcement of Equal Credit Opportunity Act.
Sec. 525. Home Mortgage Disclosure Act.

Subtitle C—Basic Financial Services Accounts

Sec. 531. Study and report on utilizing the United States Postal Service to provide Government check cashing services.
Sec. 532. Study and report on direct deposit program for Federal recurring payments.
Sec. 533. Government return of electronic payments.

Subtitle D—Miscellaneous

Sec. 551. Home Equity Loan Consumer Protection Act amendments.

Sec. 552. Directive to relieve regulatory burden.
Sec. 553. Expedited Funds Availability Act amendmenta.
Sec. 554. Truth in Lending Act amendment.
Sec. 555. Homeownership amendments.
Sec. 556. Discussion of lending data.
Sec. 557. GAO report on data collection under interstate branching.
Sec. 558. Notice of branch closing.
Sec. 559. Study and report on community lending.

TITLE VI—FOREIGN BANK SUPERVISION AND REGULATION

Subtitle A—Foreign Bank Supervision Act

Sec. 601. Short title.
Sec. 602. Regulation of foreign bank operations.
Sec. 603. Conduct and coordination of examinations.
Sec. 604. Supervision of foreign banks' representative offices.
Sec. 605. Reporting stock loans.
Sec. 606. Cooperation with foreign supervisors.
Sec. 607. Penalties.
Sec. 608. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 609. Penalties for failure to comply with agency subpoena.
Sec. 610. Clarifying managerial standards in the Bank Holding Company Act of 1956.
Sec. 611. Standards and factors in the Home Owners' Loan Act.
Sec. 612. Authority of Federal banking agencies to enforce consumer statutes.
Sec. 613. Criminal penalty for violating the International Banking Act of 1978.

Subtitle B—Regulation of Foreign Banks and Subsidiaries

Sec. 621. Amendments to the International Banking Act of 1978.
Sec. 622. Study and report on subsidiary requirements for foreign banks.

Subtitle C—Fair Trade in Financial Services

Sec. 631. Short title.
Sec. 632. Effectuating the principle of national treatment for banks and bank holding companies.
Sec. 633. Effectuating the principle of national treatment for securities brokers and dealers.
Sec. 634. Effectuating the principle of national treatment for investment advisers.
Sec. 635. Investigation and report on financial interdependence.
Sec. 636. Conforming amendments specifying that national treatment includes effective market access.

TITLE VII—BANK POWERS

Sec. 701. Short title.
Sec. 702. Limitations on certain nondeposit marketing activities in retail branches of FDIC-insured depository institutions.
Sec. 703. Limitations on certain nondeposit marketing activities in retail branches of federally insured credit unions.
Sec. 704. Insurance activities of national banks.
Sec. 705. Interstate insurance agency activities of banking subsidiaries of bank holding companies.
Sec. 706. Safeguards for sale of insurance.
Sec. 707. Insurance underwriting in bank restricted.

TITLE VIII—THRIFT-TO-BANK CONVERSIONS

Sec. 801. Short title.
Sec. 802. Streamlining conversion procedures.
Sec. 803. Retention of existing in-State branches by savings associations that convert to national banks.
Sec. 804. No recapture of thrift reserves on conversion.

TITLE IX—FINANCIAL INSTITUTIONS ENFORCEMENT IMPROVEMENTS ACT

Sec. 901. Short title.

Subtitle A—Termination of Charters, Insurance, and Offices

Sec. 911. Revoking charter of Federal depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 912. Terminating insurance of State depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 913. Removing parties involved in currency reporting violations.
Sec. 914. Unauthorized participation.
Sec. 915. Access by State financial institution supervisors to currency transactions reports.
Sec. 916. Restricting State branches and agencies of foreign banks convicted of money laundering offenses.

Subtitle B—Nonbank Financial Institutions and General Provisions

Sec. 921. Identification of financial institutions.
Sec. 922. Prohibition of illegal money transmitting businesses.
Sec. 923. Compliance procedures.
Sec. 924. Nondisclosure of orders.
Sec. 925. Improved recordkeeping with respect to certain international funds transfers.
Sec. 926. Use of certain records.
Sec. 927. Suspicious transactions and financial institution anti-money laundering programs.
Sec. 928. Report on currency changes.
Sec. 929. Report on bank prosecutions.
Sec. 930. Anti-money laundering training team.
Sec. 931. Money laundering reporting requirements.

SUBTITLE C—MONEY LAUNDERING IMPROVEMENTS

Sec. 941. Jurisdiction in civil forfeiture cases.
Sec. 942. Civil forfeiture of fungible property.
Sec. 943. Administrative subpoenas.
Sec. 944. Procedure for subpoenaing bank records.
Sec. 945. Deletion of redundant and inadvertently limiting provision in 18 U.S.C. 1956.
Sec. 946. Structuring transactions to evade CMIR requirement.
Sec. 947. Clarification of definition of financial institution.
Sec. 948. Definition of financial transaction.
Sec. 949. Obstructing a money laundering investigation.
Sec. 950. Awards in money laundering cases.
Sec. 951. Penalty for money laundering conspiracies.
Sec. 952. Technical and conforming amendments to money laundering provision.
Sec. 953. Preclusion of notice to possible suspects of existence of a grand jury subpoena for bank records in money laundering and controlled sustance investigations.
Sec. 954. Definition of property for criminal forfeiture.
Sec. 955. Expansion of money laundering and forfeiture laws to cover proceeds of certain foreign crimes.
Sec. 956. Elimination of restriction on disposal of judicially forfeited property by the Treasury Department and the Postal Service.
Sec. 957. New money laundering predicate offenses.
Sec. 958. Amendments to the Bank Secrecy Act.

TITLE X—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

Sec. 1001. Short title.
Sec. 1002. Asset conservation and deposit insurance protection.

TITLE XI—MISCELLANEOUS

Subtitle A—Presidential Insurance Commission

Sec. 1101. Short title.
Sec. 1102. Findings.
Sec. 1103. Establishment.
Sec. 1104. Duties of the Commission.
Sec. 1105. Membership and compensation.
Sec. 1106. Powers of Commission.
Sec. 1107. Staff of Commission; experts and consultanta.
Sec. 1108. Report.
Sec. 1109. Termination.
Sec. 1110. Authorization of appropriations.

Subtitle B—General Provisions

Sec. 1121. Credit unions.
Sec. 1122. Strengthening Federal banking agencies' authority to remove persons guilty of misconduct.
Sec. 1123. Emergency liquidity.
Sec. 1124. Disclosure of Securities Investor Protection Act coverage.
Sec. 1125. Hiring and compensation authority of Securities and Exchange Commission.
Sec. 1126. Limitation on securities private rights of action.
Sec. 1127. Conversions during moratorium.
Sec. 1128. Qualified thrift lender test.
Sec. 1129. Consumer lending by Federal savings associations.
Sec. 1130. Noncontrolling investments in banks and bank holding companies by certain investment funds.
Sec. 1131. Limiting liability for foreign deposita.
Sec. 1132. Certain wrongfully withdrawn deposits treated as insured deposits.
Sec. 1133. Providing services to insured depository institutions.
Sec. 1134. Study and report on reimbursing financial institutions and others for providing financial records.
Sec. 1135. Removing cost limitation on construction of Federal Reserve bank buildings.
Sec. 1136. $1 coins.
Sec. 1137. Purchased mortgage servicing rights.
Sec. 1138. Credit card interest rates.
Sec. 1139. Restatement and reorganization of section 5136 of the Revised Statutes.
Sec. 1140. Sense of the Senate regarding the repeal of the luxury excise tax on boats.
Sec. 1141. Act not to affect application of Internal Revenue Code.
Sec. 1142. Community development authority of national banks.
Sec. 1143. Immunity.

VOL 137
PT 23
NO 21—25
1991
UMI

Sec. 1144. Creditability of service.
Sec. 1145. Delegated processing.
Sec. 1146. Low-income housing covenants.
Sec. 1147. Examination and supervision fees for national banks and savings associations.
Sec. 1148. Interagency sharing of information.
Sec. 1149. Application of State law for insurance purposes.
Sec. 1150. Additional whistleblower protections.
Sec. 1151. Real estate loan portfolios.
Sec. 1152. Sense of the Congress regarding the credit crunch.
Sec. 1153. Reports of information regarding safety and soundness of depository institutions.
Sec. 1154. Technical corrections to the Federal Deposit Insurance Act.
Sec. 1155. Discrimination against reorganized debtors.
Sec. 1156. Real estate appraisal procedures.
Sec. 1157. Sanction for financing the use or acquisition of chemical or biological weapons.
Sec. 1158. Sanction for financing Chinese slave labor.
Sec. 1159. Employment Retirement Income Security Act
Sec. 1160. Sense of the Congress regarding competitive solicitation of resolution proposals.
Sec. 1161. Real estate.
Sec. 1162. United States policy toward Yugoslavia.
Sec. 1163. Credit card sales.
Sec. 1164. Special insured deposits.

TITLE XII—WORLD CUP USA 1994 COMMEMORATIVE COIN ACT

Sec. 1201. Short title.
Sec. 1202. Denominations.
Sec. 1203. Sources of bullion.
Sec. 1204. Design.
Sec. 1205. Sale of coins.
Sec. 1206. Issuance of the coins.
Sec. 1207. General waiver of procurement regulations.
Sec. 1208. Distribution of surcharges.
Sec. 1209. Audits.
Sec. 1210. Coinage profit fund.
Sec. 1211. Financial assurances.

TITLE XIII—WHITE HOUSE COMMEMORATIVE COIN ACT OF 1991

Sec. 1301. Short title.
Sec. 1302. Coin specifications.
Sec. 1303. Sources of bullion.
Sec. 1304. Selection of design.
Sec. 1305. Sale of coins.
Sec. 1306. Issuance of coins.
Sec. 1307. General waiver of procurement regulations.
Sec. 1308. Distribution of surcharges.
Sec. 1309. Audits.
Sec. 1310. Coinage profit fund.
Sec. 1311. Financial assurances.
Sec. 1312. Authorization of appropriations.

TITLE I—BANK INSURANCE FUND RECAPITALIZATION

SEC. 101. FDIC BORROWING AUTHORITY.

(a) TREASURY LOANS.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended—

(1) by striking subsection (b); and

(2) by striking all that precedes the last sentence of subsection (a) and inserting the following:

"SEC. 14. BORROWING AUTHORITY.

"(a) TREASURY LOANS.—

"(1) AUTHORITY TO BORROW FOR INSURANCE COSTS.—The Corporation is authorized to borrow from the Treasury, and the Secretary of the Treasury (hereafter referred to as the 'Secretary') is authorized and directed to make loans to the Corporation, in accordance with this section and subject to the limitations contained in section 15(c).

"(2) LOAN PURPOSES.—The Corporation may borrow from the Secretary under paragraph (1) only such amounts as are necessary, in the judgment of the Board of Directors—

"(A) to cover losses to the Corporation incurred in protecting depositors;

"(B) to cover administrative costs associated with resolving insured depository institutions; or

"(C) to cover such other costs as may be necessary to meet the Corporation's obligations under this Act.

"(3) PRIORITY FOR REPAYMENT OF LOSS BORROWING.—

"(A) IN GENERAL.—The Corporation shall apply amounts raised by semiannual assessments on members of a deposit insurance fund in the following order of priority:

"(i) Repaying as scheduled any borrowings under this subsection by that fund.

"(ii) Providing for the fund's expected operating expenses and any losses incurred by the fund in protecting depositors.

"(iii) Accumulating a cash reserve for the fund (which shall consist of cash and other liquid assets), except as provided in subparagraph (B).

"(B) ACCELERATED REPAYMENT REQUIRED.—After a fund's cash reserve reaches $5,000,000,000, all of the fund's assessment income in excess of amounts required under clauses (i) and (ii) of subparagraph (A) for that fund shall be used for accelerated repayment of borrowings under this subsection consistent with minimizing costs to that fund.

"(4) INTERIM RULE.—Until a risk-based assessment system becomes effective, if the Corporation has borrowings outstanding under this subsection on behalf of any deposit insurance fund or the reserve ratio of that fund remains below the designated reserve ratio, the semiannual assessment rate for that fund shall be not less than that in effect on July 15, 1991.

"(5) TERMS.—The Secretary shall make a loan under paragraph (1) only—

"(A) in accordance with a written agreement between the Secretary and the Corporation that—

"(i) sets forth a schedule for repaying the loan over a period not to exceed 15 years from the date of the loan; and

"(ii) provides that the loan shall bear interest at the current market yield (as of the date of the loan) on outstanding marketable obligations of the United States of comparable maturities; and

"(B) if the Secretary determines in writing that income to the fund on behalf of which the loan will be made will be sufficient to repay the loan in accordance with the agreement.

"(6) LIMIT ON TOTAL BORROWING FOR INSURANCE COSTS.—In no case shall the Corporation's aggregate outstanding loans under paragraph (1) exceed—

"(A) $30,000,000,000 at any time before the date on which the Bank Insurance Fund has first achieved the designated reserve ratio, as determined under section 7(b)(1), for any complete semiannual assessment period after December 31, 1991;

"(B) $10,000,000,000 at any time after the date described in subparagraph (A); and

"(C) $5,000,000,000 on behalf of the Savings Association Insurance Fund at any time.

"(7) PUBLIC DEBT STATUS.—All loans and repayments made under this subsection shall be treated as public debt transactions of the United States.

"(8) APPORTIONMENT OF LIABILITY.—A loan to the Corporation under paragraph (1) is a liability of a deposit insurance fund to the extent that the loan is used on behalf of that fund.

"(b) FEDERAL FINANCING BANK LOANS.—

"(1) AUTHORITY TO BORROW FOR WORKING CAPITAL.—The Corporation is authorized to borrow, and the Federal Financing Bank is authorized and directed to make loans in accordance with this subsection to the Corporation on behalf of the Bank Insurance Fund or the Savings Association Insurance Fund on terms prescribed by the Federal Financing Bank.

"(2) PURPOSES.—The Corporation, in any capacity, may borrow from the Federal Financing Bank under paragraph (1) only to—

"(A) directly or indirectly acquire, retain, maintain, liquidate, dispose of, or improve the assets of an insured depository institution, in the course of the Corporation's resolution activities; or

"(B) provide temporary liquidity to insured depository institutions, to the extent otherwise authorized by statute.

"(3) LIMITATION ON BORROWING FOR WORKING CAPITAL.—Aggregate loans to the Corporation under paragraph (1) may not exceed $45,000,000,000 at any one time on behalf of the Bank Insurance Fund.

"(4) REPAYMENT OF BORROWING.—Borrowing under this subsection shall be repaid by the sale of assets of failed institutions. In the event that the proceeds from the sale of assets are insufficient to repay an amount borrowed under this subsection to fund the acquisition of such assets, the amount of the shortfall shall be funded through borrowing under subsection (a), and shall be repaid through semiannual assessments in accordance with section 7(b).

"(5) EFFECT ON OTHER ENTITIES.—This subsection does not affect the eligibility of any other entity to borrow from the Federal Financing Bank.

"(c) APPROPRIATIONS.—".

(b) LIMITATION ON TOTAL OUTSTANDING OBLIGATIONS.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5), (6), and (7) and inserting the following:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—The Corporation may not issue any note or similar obligation, and may not incur any liability under a guarantee or similar obligation, if the aggregate amount of the Corporation's outstanding obligations on behalf of either the Bank Insurance Fund or the Savings Association Insurance Fund would exceed the sum of—

"(A) the amount of cash held by the Corporation for that fund;

"(B) 90 percent of the Corporation's estimate of the fair market value of assets held by the Corporation for that fund (other than assets described in subparagraph (A)); and

"(C) the aggregate amount of outstanding loans to the Corporation under section 14(a) on behalf of that fund.

The Corporation's estimate of fair market value under subparagraph (B) shall be based on the most recent audit of the Corporation by the Comptroller General, subject to any adjustments described in paragraph (3) or (4), and taking into account any transaction occurring since the date of the audit.

"(6) OBLIGATION DEFINED.—For purposes of paragraph (5), the term 'obligation' means—

"(A) any guarantee issued by the Corporation, other than deposit guarantees;

"(B) any loans made to or notes issued by the Corporation under section 14; and

"(C) the expected cost of any other note, bond, or contract for which the Corporation has a direct or contingent liability for any amount.".

(c) CONFORMING AMENDMENT DEFINING DEPOSIT INSURANCE FUND.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(y) DEPOSIT INSURANCE FUND.—The term 'deposit insurance fund' means the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be.".

SEC. 102. RECAPITALIZING THE BANK INSURANCE FUND.

(a) IN GENERAL.—SECTION 7(B)(1)(C) OF THE FEDERAL DEPOSIT INSURANCE ACT (12 U.S.C. 1817(B)(1)(C)) IS AMENDED TO READ AS FOLLOWS:

"(C) ASSESSMENT RATES FOR BANK INSURANCE FUND MEMBERS.—

"(i) IN GENERAL.—If the reserve ratio of the Bank Insurance Fund equals or exceeds the fund's designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund as appropriate to maintain the reserve ratio at the designated reserve ratio.

"(ii) SPECIAL RULES FOR RECAPITALIZING UNDERCAPITALIZED FUNDS.—If the reserve ratio of the Bank Insurance Fund is less than the designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(I) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(II) in accordance with a schedule promulgated by the Corporation under clause (iii).

"(iii) RECAPITALIZATION SCHEDULES.—For purposes of clause (ii)(II), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for the Bank Insurance Fund, culminating by the end of the period determined under clause (iv) in a reserve ratio that is equal to the designated reserve ratio.

"(iv) DATE FOR ACHIEVING DESIGNATED RATIO.—A schedule promulgated under clause (iii) shall provide for achieving the designated reserve ratio by the end of the period beginning on the date on which the schedule becomes effective and ending not later than the earlier of—

"(I) 15 years after that effective date, or

"(II) the number of years (rounded to the nearest whole number) after that effective date, determined as follows:

$$15 \times \left(1 - \frac{\text{reserve ratio}}{\text{designated reserve ratio}} \right)$$

"(v) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under clause (iii), but such amendments may not extend the period determined under clause (iv).

"(vi) PROCEDURE FOR EXTENDING SCHEDULE.—If, during the period determined in clause (iv), when the Bank Insurance Fund's reserve ratio is being restored to the designated reserve ratio, the Corporation determines that maintaining assessments at levels sufficient to achieve the designated reserve ratio by the end of that period would significantly increase losses to the fund or would significantly impair the availability of credit, the following procedures shall apply:

"(I) REPORT REQUIRED.—The Corporation shall submit a report to the Congress that—

"(aa) sets forth a revised schedule of semiannual target reserve ratios for that fund, culminating in the achievement of the designated reserve ratio; and

"(bb) provides a detailed justification for the revision.

"(II) REQUIREMENT FOR CONGRESSIONAL CONSIDERATION.—The proposed revised schedule of semiannual target reserve ratios shall not be implemented unless the Congress, not later than 60 calendar days after receiving the report, enacts a joint resolution approving the proposed revision.

"(vii) PROCEDURES FOR EXPEDITED CONGRESSIONAL CONSIDERATION.—

"(I) JOINT RESOLUTION DEFINED.—For purposes of this clause, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 7(b)(1)(C) of the Federal Deposit Insurance Act, the Corporation may implement revisions to the schedule of semiannual target reserve ratios, culminating in the achievement of the designated reserve ratio for the Bank Insurance Fund, as proposed in the report submitted to the Congress on ________________.', with the blank space being filled with the appropriate date.

"(II) INTRODUCTION.—On the day on which a report is submitted to the House of Representatives and the Senate under clause (vi)(I), a joint resolution with respect to the revised schedule specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on Banking, Finance and Urban Affairs, for himself and the ranking minority member of the Committee, or by the Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(III) REFERRAL TO COMMITTEE.—Any joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee and any joint resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(IV) DISCHARGE FROM COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution and of any other joint resolution introduced with respect to the same matter.

"(V) EXPEDITED FLOOR CONSIDERATION.—Any such joint resolution shall be considered in the Senate in accordance with section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(VI) JOINT RESOLUTION RECEIVED FROM OTHER HOUSE.—In the case of a joint resolution described in this clause, if, before the passage by one House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(aa) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(bb) the vote on final passage shall be on the joint resolution of the other House.

"(VII) COMPUTING TIME PERIODS.—In computing the 60-day period referred to in clause (vi)(II) and the 30-day period referred to in subclause (IV), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

"(viii) SPECIAL ASSESSMENT TO RECOVER LOSSES ON FOREIGN DEPOSITS.—

"(I) IN GENERAL.—This paragraph shall apply if—

"(aa) the Corporation incurs a loss with respect to an insured depository institution; and

"(bb) persons with foreign deposits at the institution receive more than they would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities.

"(II) SPECIAL ASSESSMENT REQUIRED.—The Corporation shall, as soon as practicable, recover the difference between—

"(aa) the amount that persons with foreign deposits at the institution received, and

"(bb) the amount that the Corporation estimates those persons would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities,

by imposing 1 or more special assessments on all members of the deposit insurance fund of which the institution was or is a member, in proportion to the foreign deposits held by those members at the beginning of the semiannual period containing the relevant date. The Corporation shall base the estimate required by item (bb) on the estimated loss that the Corporation will incur in the resolution actually undertaken with respect to the institution. Any calculation under this subparagraph shall be in the Corporation's sole discretion.

"(III) TIMING OF SPECIAL ASSESSMENTS.—

"(aa) IN GENERAL.—Special assessments under subclause (II) shall begin not later than the semiannual period beginning 90 days after the date on which the aggregate amounts calculated under subclause (II) (with respect to all institutions that were or are members of the deposit insurance fund), and not yet assessed, exceed $1,000,000.

"(bb) INTEREST ON DELAYED ASSESSMENTS.—Any amount calculated under subclause (II) and not yet assessed shall bear interest at the daily average yield on 3-month Treasury obligations.

"(IV) DEFINITIONS.—For purposes of this paragraph:

"(aa) CAPITAL CATEGORIES.—The terms 'adequately capitalized' and 'significantly undercapitalized' have the same meanings as in section 37 of the Federal Deposit Insurance Act.

"(bb) FOREIGN DEPOSIT.—The term 'foreign deposit' means any obligation of an insured depository institution described in subparagraph (A) or (B) of section 3(l)(5).

"(cc) RELEVANT DATE.—The term 'relevant date' means the date on which the earliest of the following occurs with respect to an insured depository institution:

VOL 137 PT 23 NO 21 — 25 1991 UMI

"(AA) The institution is significantly undercapitalized, and has advances from a Federal Reserve bank outstanding for more than 5 consecutive days (without subsequently becoming adequately capitalized).

"(BB) The Corporation initiates assistance under section 13(c) with respect to the institution.

"(CC) A receiver or conservator is appointed for the institution.".

(b) Assessment Rate Changes.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) Rate changes.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment. The Corporation may establish and, from time to time, adjust the assessment rates for such institutions.".

SEC. 103. GAO AUDIT OF RECAPITALIZATION SCHEDULE.

Section 17(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(d)(1)) is amended—

(1) by inserting "(A) Funds Audit.—" before "The Comptroller General" and appropriately indenting that subparagraph; and

(2) by adding at the end the following:

"(B) Recapitalization audit.—As part of the audit required by subparagraph (A), the Comptroller General shall perform an audit of the Corporation's compliance with any recapitalization schedule promulgated under section 7(b)(1)(C) that is in effect at the time of the audit.".

SEC. 104. EMERGENCY GUARANTEE.

(a) Guarantee Authority for Repayment of State Borrowings.—Upon the written request of the State of Rhode Island and the Providence Plantations (hereafter referred to as the "State of Rhode Island") or the Depositors Economic Protection Corporation (hereafter referred to as the "Corporation"), established by the State of Rhode Island, the Secretary of the Treasury (hereafter referred to as the "Secretary") may guarantee the repayment of borrowing by the Corporation in an amount not to exceed $180,000,000, to assist in the repayment of depositors at certain State-chartered banks and credit unions in the State of Rhode Island that are in receivership and that were not federally insured at the time they were placed in receivership.

(b) Limitations on Guarantee Authority.—The Secretary may only guarantee Corporation borrowing under this section if the guarantee provided under subsection (a) has no cost to the United States Government, taking into account the guarantee fees assessed and collected under subsection (e).

(c) Borrowing Eligible for Guarantee.—The Secretary may guarantee only Corporation borrowing under this section that—

(1) occurs not more than 1 year after the date of enactment of this Act;

(2) will mature not later than 10 years after the date of such borrowing; and

(3) is scheduled to be repaid in equal installments of principal during the last 5 years of the repayment term of such borrowing.

(d) Security and Rating Requirements for Guarantee.—

(1) In general.—The Secretary may not guarantee the repayment of any Corporation borrowing under this section unless the amount of the borrowing for which the guarantee is requested is fully secured—

(A) by the Corporation's grant in favor of the United States, as collateral for such borrowing, of a first mortgage lien on, and prior perfected security interest in, sufficient performing assets held or controlled by the Corporation, and any proceeds from the sale of such assets, so that the appraised market value of such pledged assets is equal to an amount that is not less than 2½ times the principal amount of such borrowing at the time of such borrowing; and

(B) by an irrevocable pledge by the Corporation of any revenue from the State of Rhode Island's sales tax which is dedicated to the Corporation under the laws of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State of Rhode Island or the Corporation issued before the date of enactment of this Act for the purpose described in subsection (a), to the payment of the principal of, and interest on, such borrowing.

(2) Investment grade rating.—The Secretary may not guarantee the repayment of any Corporation borrowing under this section unless each proposed borrowing has received the highest investment grade rating by a nationally recognized statistical rating organization.

(e) Additional Terms and Conditions.—In addition to security requirements under subsection (d), the Corporation shall be required to agree to the following terms and conditions in connection with the guarantee by the Secretary provided under this section:

(1) Pledge of certain income for repayment.—For each fiscal year of the Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from or attributable to the assets pledged to the United States under subsection (d)(1), in excess of the amount necessary to pay the interest or principal and interest on any Corporation borrowings guaranteed under subsection (a) that is payable in such fiscal year, shall be deposited into a sinking fund or defeasance fund maintained by the Corporation irrevocably pledged and dedicated to the repayment of the principal of such guaranteed borrowings in the inverse order of the maturity of such principal installments.

(2) Assessments and collection.—The Secretary shall assess and collect from the Corporation, in connection with the guarantee provided under subsection (a), not less frequently than annually, a guarantee fee computed daily at a rate that is not less than one-half of 1 percent per year on the outstanding principal amount of the guaranteed borrowing. All funds received by the Secretary in payment of such fees shall be paid into the general fund of the Treasury.

(f) Authority To Prescribe Additional Terms and Conditions.—The Secretary may establish such additional terms and conditions in connection with the provision of a guarantee under this section as the Secretary may deem appropriate.

(g) Budget Status.—Notwithstanding the emergency need for the guarantee provided under this section, this section is subject to the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Budget Enforcement Act of 1990).

TITLE II—DEPOSIT INSURANCE REFORM

SEC. 201. FULL FAITH AND CREDIT.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) is amended to read as follows:

"SECTION 1. ESTABLISHMENT.

"(a) In General.—There is hereby created a Federal Deposit Insurance Corporation (hereinafter referred to as the 'Corporation'), which shall insure the deposits of banks and savings associations in accordance with this Act.

"(b) Full Faith and Credit of the United States.—The full faith and credit of the United States is pledged to the Corporation's obligation to pay insured deposits under this Act.".

SEC. 202. IMPROVING CAPITAL STANDARDS.

(a) Periodic Review of Capital Standards Generally.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) Periodic Review of Capital Standards.—Each appropriate Federal banking agency shall, in consultation with the other Federal banking agencies, biennially review its capital standards for insured depository institutions to determine whether those standards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the deposit insurance funds, consistent with section 37.".

(b) Review of Risk-Based Capital Standards.—

(1) In general.—Each appropriate Federal banking agency shall revise its risk-based capital standards for insured depository institutions to ensure that those standards—

(A) take adequate account of—

(i) interest-rate risk;

(ii) concentration of credit risk; and

(iii) the risks of nontraditional activities; and

(B) reflect the actual performance and expected risk of loss of multifamily mortgages.

(2) International discussions.—The Federal banking agencies shall discuss the development of comparable standards with members of the supervisory committee of the Bank for International Settlements.

(3) Deadline for prescribing revised standards.—Each appropriate Federal banking agency shall—

(A) publish final regulations in the Federal Register to implement paragraph (1) not later than 18 months after the date of enactment of this Act; and

(B) establish reasonable transition rules to facilitate compliance with those regulations.

(4) Definitions.—For purposes of this subsection, the terms "appropriate Federal banking agency", "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) Conforming Amendment Defining Federal Banking Agencies.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(z) Federal Banking Agencies.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

SEC. 203. ACCOUNTING AND AUDITING REFORM.

(a) Accounting Reform.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(p) Accounting Reform.—

"(1) Objectives.—Accounting principles applicable to insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the economic condition of those institutions; and

"(B) facilitate effective supervision of insured depository institutions, including prompt corrective action to resolve troubled institutions' problems with no loss or minimal loss to the deposit insurance fund.

"(2) Improvino accounting principles applicable to insured depository institutions.—The Federal Financial Institutions Coordination Council, in consultation with the Securities and Exchange Commission, shall facilitate the development of accounting principles for insured depository institutions that meet the objectives set forth in paragraph (1).

"(3) Stringency.—Each appropriate Federal banking agency—

"(A) shall prescribe accounting principles applicable to insured depository institutions that are no less conservative than generally accepted accounting principles; and

"(B) may prescribe accounting principles that are more conservative than generally accepted accounting principles as appropriate to facilitate effective supervision of insured depository institutions, including prompt corrective action to resolve troubled institutions' problems with no loss or minimal loss to the deposit insurance fund.

"(4) Securities and exchange commission's authority.—Paragraphs (2) and (3) shall not be construed as affecting the Securities and Exchange Commission's authority under the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934.".

(b) Improvements in Financial Management.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) Annual Report on Financial Condition and Management.—

"(1) Report required.—Each insured depository institution shall annually submit to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State) a report that contains—

"(A) the information required to be provided by the institution's management under subsection (b);

"(B) the information required to be provided by an independent public accountant under subsections (c) and (d); and

"(C) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the institution's financial condition and management.

"(2) Report to be publicly available.—Annual reports required under paragraph (1) shall be made available for public inspection.

"(b) Management's Responsibility for Financial Statements and Internal Controls.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the institution's chief executive officer and chief accounting or financial officer, that—

"(A) states the management's responsibility for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with designated safety-and-soundness laws; and

"(B) assesses, as of the end of the institution's most recent fiscal year—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with designated safety-and-soundness laws.

"(c) Internal Control Evaluation and Reporting Requirements for Independent Public Accountants.—

"(1) In general.—An insured depository institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in the internal control report required under subsection (b)(2).

"(2) Attestation requirements.—Any attestation under paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) Annual Independent Audits of Financial Statements.—

"(1) Audits required.—The Corporation, in consultation with the Federal banking agencies, shall prescribe regulations requiring each insured depository institution to have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) Scope of audit.—In auditing any insured depository institution under this subsection, an independent public accountant shall determine and report on whether the institution's financial statements—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) Depository institution subsidiaries of holding companies.—The requirements for an independent audit under paragraph (1) may be satisfied for an insured depository institution that is a subsidiary of a holding company by an independent audit of the holding company.

"(e) Detecting and Reporting Violations of Designated Safety-And-Soundness Laws.—

"(1) In general.—An independent public accountant shall apply procedures agreed upon by the Corporation to determine objectively the extent to which any insured depository institution or depository institution holding company has complied with designated safety-and-soundness laws.

"(2) Attestation requirements.—Any attestation required under paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) Form and Content of Reports and Auditing Standards.—

"(1) In general.—The scope of each report by an independent public accountant under this section, and the procedures followed in preparing such report, shall satisfy generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) Consultation.—In implementing this subsection, the Corporation shall consult with the other Federal banking agencies.

"(g) Improved Accountability.—

"(1) Independent audit committee.—

"(A) Establishment.—Each insured depository institution shall establish an independent audit committee consisting only of members of the board of directors of the institution who—

"(i) are not officers, employees, or major shareholders of the institution; and

"(ii) meet any additional requirements established by the Corporation.

"(B) Duties.—The independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for reports issued and audits made under subsections (b)(2), (c), and (d).

"(C) Criteria applicable to committees of large insured depository institutions.—The audit committee of each insured depository institution that the Corporation determines to be a large institution shall—

"(i) include members with banking or related financial management expertise;

"(ii) have discretion to retain independent legal counsel, at the institution's expense; and

"(iii) not include any large customers of the institution, as determined by the Corporation.

"(2) Review of quarterly reports of large insured depository institutions.—

"(A) In general.—The Corporation may require an independent public accountant retained by any insured depository institution that the Corporation determines is a large institution to conduct a review of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) Report to audit committee.—The independent public accountant shall provide to the audit committee of the insured depository institution a report on any review conducted under subparagraph (A). The audit committee shall provide copies of any such reports to the Corporation, the appropriate Federal banking agency, and (in the case of a State depository institution) the appropriate State bank supervisor.

"(C) Limitation on notice.—Any reports under subparagraph (B) shall be made only for the information and use of the insured depository institution, the Corporation, the appropriate Federal banking agency, and any State bank supervisor that received the report.

"(3) Qualifications of independent public accountants.—

"(A) In general.—No insured depository institution shall retain an independent public accountant to perform services under this section unless the independent public accountant—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, the appropriate Federal banking agency, and (in the case of a State depository institution) the appropriate State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) Reports on peer reviews.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) Enforcement actions.—

"(A) In general.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may, upon a showing of good cause, remove, suspend, or bar an independent public accountant from performing audit services under this section.

"(B) Joint rulemaking.—The Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) Notice if accountant's services terminate.—An independent public accountant who ceases to perform services for an insured depository institution under this section shall promptly notify the Corporation in accordance with such rules as the Corporation shall prescribe.

VOL
137
PT
23
NO
21–25
1991
UMI

"(h) Exchange of Reports and Information.—

"(1) Report to the independent auditor.—

"(A) In general.—Each insured depository institution that has retained an independent auditor to conduct an audit of the institution under this section shall provide the auditor a copy of the institution's most recent report of condition and most recent report of examination.

"(B) Additional information.—In addition to the copies of the reports required to be provided under paragraph (1), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with the institution and any written agreement between the institution and any appropriate Federal banking agency or any appropriate State supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of a civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) Reports to banking agencies.—

"(A) Independent auditor reports.—Each insured depository institution shall provide to the Corporation, the appropriate Federal banking agency, and (in the case of a State depository institution) the appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report not more than 15 days after receiving any such report, qualification, or letter from the institution's independent auditors.

"(B) Notice of change of auditor.—Each insured depository institution shall notify the Corporation, the appropriate Federal banking agency, and (in the case of a State depository institution) the appropriate State bank supervisor if the institution's independent auditor resigns or is dismissed, or if the institution engages a new independent auditor. Such notice shall—

"(i) state the reasons for the change; and

"(ii) be provided not more than 15 calendar days after the change occurs.

"(i) Requirements for Insured Subsidiaries of Holding Companies.—Any insured depository institution that is a subsidiary of a holding company may satisfy the requirements of this section, other than any audit requirements established under subsection (d), if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution's total assets, at the beginning of the fiscal year, are less than $5,000,000,000; or

"(B) the institution—

"(i) had total assets, at the beginning of the fiscal year, of not less than $5,000,000,000, nor more than $9,000,000,000; and

"(ii) when most recently examined by the Corporation or the appropriate Federal banking agency, had a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system).

"(j) Exemption for Small Depository Institutions.—If an insured depository institution's total assets at the beginning of a fiscal year do not exceed the greater of $150,000,000 or such amount (exceeding $150,000,000) as the Corporation may prescribe by regulation, this section shall not apply with respect to that institution during that fiscal year.

"(k) Designated Safety-and-Soundness Laws Defined.—For purposes of this section, the term 'designated safety-and-soundness laws' means statutes and regulations relating to safety and soundness that are designated under this section by the Corporation or the appropriate Federal banking agency.".

(c) Effective Date.—The requirements established by the amendment made by subsection (b) shall apply with respect to fiscal years of insured depository institutions that begin after December 31, 1992.

SEC. 204. ANNUAL EXAMINATIONS.

(a) In General.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) Annual On-Site Examinations of All Insured Depository Institutions Required.—

"(1) In general.—The appropriate Federal banking agency shall, not less than once during each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

"(2) Examinations by corporation.—Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted a full-scope, on-site examination of the insured depository institution.

"(3) State examinations acceptable.—The examinations required by paragraph (1) may be conducted in alternate 12-month periods, as appropriate, if the appropriate Federal banking agency determines that an examination of the insured depository institution conducted by the State during the intervening 12-month period carries out the purpose of this subsection.

"(4) 18-month rule for certain small institutions.—Paragraphs (1), (2), and (3) shall apply with '18-month' substituted for '12-month' if—

"(A) the insured depository institution has total assets of less than $100,000,000;

"(B) the institution is well capitalized, as defined in section 37;

"(C) when the institution was most recently examined, it was found to be well managed, and its composite condition was found to be outstanding; and

"(D) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

"(5) Certain government-controlled institutions exempted.—Paragraph (1) does not apply to—

"(A) any institution for which the Corporation is conservator; or

"(B) any bridge bank none of the voting securities of which is owned by a person or agency other than the Corporation.

"(6) Consumer compliance examinations excluded.—For purposes of this subsection, the term 'full-scope, on-site examination' does not include a consumer compliance examination, as defined in section 41(b).".

(b) Effective Date.—The amendment made by subsection (a) shall become effective 1 year after the date of enactment of this Act.

(c) Transition Rule.—Notwithstanding section 10(d) of the Federal Deposit Insurance Act (as added by subsection (a)), during the period beginning on the date of enactment of this Act and ending on December 31, 1993, a full-scope, on-site examination of an insured depository institution is not required more often than once during every 18-month period, unless—

(1) the institution, when most recently examined, was found to be in a less than satisfactory condition; or

(2) 1 or more persons acquired control of the institution.

SEC. 205. PROMPT CORRECTIVE ACTION.

(a) Establishing System of Prompt Corrective Action.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 37. PROMPT CORRECTIVE ACTION.

"(a) Resolving Problems To Protect Deposit Insurance Funds.—

"(1) Purpose.—The purpose of this section is to resolve the problems of insured depository institutions—

"(A) with no loss or minimal loss to the deposit insurance fund; and

"(B) when loss cannot be avoided, at the least possible long-term loss to the deposit insurance fund.

"(2) Prompt corrective action required.—Each appropriate Federal banking agency shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

"(b) Definitions.—For purposes of this section:

"(1) Capital categories.—

"(A) Well capitalized.—An insured depository institution is 'well capitalized' if it significantly exceeds the required minimum level for each relevant capital measure.

"(B) Adequately capitalized.—An insured depository institution is 'adequately capitalized' if it meets the required minimum level for each relevant capital measure.

"(C) Undercapitalized.—An insured depository institution is 'undercapitalized' if it fails to meet the required minimum level for any relevant capital measure.

"(D) Significantly undercapitalized.—An insured depository institution is 'significantly undercapitalized' if it is significantly below the required minimum level for any relevant capital measure.

"(E) Critically undercapitalized.—An insured depository institution is 'critically undercapitalized' if it fails to meet any level specified under subsection (c)(3)(A).

"(2) Other definitions.—

"(A) Average.—

"(i) In general.—The 'average' of an accounting item (such as total assets or tangible equity) during a given period means the sum of that item at the close of business on each business day during that period divided by the total number of business days in that period.

"(ii) Agency may permit weekly averaging for certain institutions.—In the case of insured depository institutions that have total assets of less than $300,000,000 and normally file reports of condition reflecting weekly (rather than daily) averages of accounting items, the appropriate Federal banking agency may provide that the 'average' of an accounting item during a given period means the sum of that item at the close of business on the relevant business day each week during that period divided by the total number of weeks in that period.

"(B) Capital distribution.—The term 'capital distribution' means—

"(i) a distribution of cash or other property by any insured depository institution or company to its owners made on account of that ownership, but not including—

"(I) any dividend consisting only of shares of the institution or company or rights to purchase such shares; or

"(II) any amount paid on the deposits of a mutual or cooperative institution that the appropriate Federal banking agency determines is not a distribution for purposes of this section;

"(ii) a payment by an insured depository institution or company to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests, including any extension of credit to finance an affiliated company's acquisition of those shares or interests; or

"(iii) a transaction that the appropriate Federal banking agency determines, by order or regulation, to be in substance a distribution of capital to the owners of the insured depository institution or company.

"(C) Capital restoration plan.—The term 'capital restoration plan' means a plan submitted under subsection (e)(2).

"(D) Company.—The term 'company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(E) Compensation.—The term 'compensation' includes any payment of money or provision of any other thing of value in consideration of employment.

"(F) Relevant capital measure.—The term 'relevant capital measure' means the measures described in subsection (c).

"(G) Required minimum level.—The term 'required minimum level' means, with respect to each relevant capital measure, the minimum acceptable capital level specified by the appropriate Federal banking agency by regulation.

"(H) Senior executive officer.—The term 'senior executive officer' has the same meaning as the term 'executive officer' in section 22(h) of the Federal Reserve Act.

"(I) Subordinated debt.—The term 'subordinated debt' means debt subordinated to the claims of general creditors.

"(c) Capital Standards.—

"(1) Relevant capital measures.—

"(A) In general.—Except as provided in subparagraph (B)(ii), the capital standards prescribed by each appropriate Federal banking agency shall include—

"(i) a leverage limit; and

"(ii) a risk-based capital requirement.

"(B) Other capital measures.—An appropriate Federal banking agency may, by regulation—

"(i) establish any additional relevant capital measures to carry out the purpose of this section; or

"(ii) rescind any relevant capital measure required under subparagraph (A) upon determining (with the concurrence of the other Federal banking agencies) that the measure is no longer an appropriate means for carrying out the purpose of this section.

"(2) Capital categories generally.—Each appropriate Federal banking agency shall, by regulation, specify for each relevant capital measure the levels at which an insured depository institution is well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized.

"(3) Critical capital.—

"(A) Agency to specify level.—

"(i) Leverage limit.—Each appropriate Federal banking agency shall, by regulation, specify the ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized.

"(ii) Other relevant capital measures.—The agency may, by regulation, specify for 1 or more other relevant capital measures, the level at which an insured depository institution is critically undercapitalized.

"(B) Criteria for specifying level.—

"(i) In general.—The level specified under subparagraph (A)(i) shall be high enough so that the problems of insured depository institutions can be resolved with no loss or minimal loss to the deposit insurance fund by carrying out subsection (h) when the institution becomes critically undercapitalized.

"(ii) Limits.—The level specified under subparagraph (A)(i) shall require tangible equity in an amount—

"(I) not less than 2 percent of total assets; and

"(II) except as provided in subclause (I), not more than 65 percent of the required minimum level of capital under the leverage limit.

"(C) FDIC's concurrence required.—The appropriate Federal banking agency shall not, without the concurrence of the Corporation, specify a level under subparagraph (A)(i) lower than that specified by the Corporation for State nonmember insured banks.

"(d) Provisions Applicable to All Institutions.—

"(1) Capital distributions restricted.—An insured depository institution shall make no capital distribution if, after making the distribution, the institution would be undercapitalized.

"(2) Management fees restricted.—An insured depository institution shall pay no management fee to any person having control of that institution if, after making the payment, the institution would be undercapitalized.

"(e) Provisions Applicable to Undercapitalized Institutions.—

"(1) Monitoring required.—Each appropriate Federal banking agency shall—

"(A) closely monitor the condition of any undercapitalized insured depository institution;

"(B) closely monitor compliance with capital restoration plans, restrictions, and requirements imposed under this section; and

"(C) periodically review the plan, restrictions, and requirements applicable to any undercapitalized insured depository institution to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.

"(2) Capital restoration plan required.—

"(A) In general.—Any undercapitalized insured depository institution shall submit an acceptable capital restoration plan to the appropriate Federal banking agency within the time allowed by the agency under subparagraph (D).

"(B) Contents of plan.—The capital restoration plan shall—

"(i) specify—

"(I) the steps the insured depository institution will take to become adequately capitalized;

"(II) the levels of capital to be attained during each year in which the plan will be in effect;

"(III) how the institution will comply with the restrictions or requirements then in effect under this section; and

"(IV) the types and levels of activities in which the institution will engage; and

"(ii) contain such other information as the appropriate Federal banking agency may require.

"(C) Criteria for accepting plan.—The appropriate Federal banking agency shall not accept a capital restoration plan unless the agency determines that—

"(i) the plan—

"(I) complies with subparagraph (B);

"(II) is based on realistic assumptions, and is likely to succeed in restoring the institution's capital; and

"(III) would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed; and

"(ii) if the insured depository institution is undercapitalized, each company having control of the institution has—

"(I) guaranteed that the institution will comply with the plan until the institution has been adequately capitalized on average during each of 4 consecutive calendar quarters; and

"(II) provided appropriate assurances of performance.

"(D) Deadlines for submission and review of plans.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 30 days after the institution becomes undercapitalized; and

"(ii) require the agency to act on capital restoration plans expeditiously, and generally not later than 30 days after the plan is submitted.

"(E) Guarantee liability limited.—

"(i) In general.—The aggregate liability under subparagraph (C)(ii) of all companies having control of an insured depository institution shall not exceed an amount equal to 5 percent of the institution's total assets at the time the institution became undercapitalized.

"(ii) Certain affiliates not affected.—This paragraph does not require—

"(I) any company not having control of an undercapitalized insured depository institution to guarantee, or otherwise be liable on, a capital restoration plan; or

"(II) any person other than an insured depository institution to submit a capital restoration plan.

"(3) Asset growth restricted.—An undercapitalized insured depository institution shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

"(A) the appropriate Federal banking agency has accepted the institution's capital restoration plan;

"(B) any increase in total assets is consistent with the plan; and

"(C) the institution's ratio of tangible equity to assets increases during the calendar quarter at a rate sufficient to enable the institution to become adequately capitalized within a reasonable time.

"(4) Prior approval required for acquisitions, branching, and new lines of business.—An undercapitalized insured depository institution shall not, directly or indirectly, acquire any interest in any company or insured depository institution, establish or acquire any additional branch office, or engage in any new line of business unless—

"(A) the appropriate Federal banking agency has accepted the insured depository institution's capital restoration plan, the institution is implementing the plan, and the agency determines that the proposed action is consistent with and will further the achievement of the plan; or

"(B) the Board of Directors determines, upon a vote of three-fourths of all members,

VOL 137
PT 23
NO 21—25
1991
UMI

that the proposed action will further the purpose of this section.

"(5) Discretionary safeguards.—The appropriate Federal banking agency may, with respect to any undercapitalized insured depository institution, take actions described in any subparagraph of subsection (f)(2) if the agency determines that those actions are necessary to carry out the purpose of this section.

"(f) Provisions Applicable to Significantly Undercapitalized Institutions and Undercapitalized Institutions That Fail To Submit and Implement Capital Restoration Plans.—

"(1) In general.—This subsection shall apply with respect to any insured depository institution that—

"(A) is significantly undercapitalized; or

"(B) is undercapitalized and—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (e)(2)(D); or

"(ii) fails in any material respect to implement a plan accepted by the agency.

"(2) Specific actions authorized.—The appropriate Federal banking agency shall carry out this section by taking 1 or more of the following actions:

"(A) Requiring recapitalization.—Doing 1 or more of the following:

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will be adequately capitalized after the sale.

"(ii) Further requiring that instruments sold under clause (i) be voting shares.

"(iii) Requiring the institution to be acquired by a depository institution holding company, or to combine with another insured depository institution, if 1 or more grounds exist for appointing a conservator or receiver for the institution.

"(B) Restricting transactions with affiliates.—

"(i) Requiring the institution to comply with section 23A of the Federal Reserve Act as if subsection (d)(1) of that section (exempting transactions with certain affiliated institutions) did not apply.

"(ii) Further restricting the institution's transactions with affiliates.

"(C) Restricting interest rates paid.—

"(i) In general.—Restricting the interest rates that the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located, as determined by the agency.

"(ii) Retroactive restrictions prohibited.—This subparagraph does not authorize the agency to restrict interest rates paid on time deposits made before (and not renewed or renegotiated after) the agency acted under this subparagraph.

"(D) Restricting asset growth.—Restricting the institution's asset growth more stringently than subsection (e)(3), or requiring the institution to reduce its total assets.

"(E) Restricting activities.—Requiring the institution or any of its subsidiaries to alter, reduce, or terminate any activity that the agency determines poses excessive risk to the institution.

"(F) Improving management.—Doing 1 or more of the following:

"(i) New election of directors.—Ordering a new election for the institution's board of directors.

"(ii) Dismissing directors or senior executive officers.—Requiring the institution to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the institution became undercapitalized. Dismissal under this clause shall not be construed to be a removal under section 8.

"(iii) Employing qualified senior executive officers.—Requiring the institution to employ qualified senior executive officers (who, if the agency so specifies, shall be subject to approval by the agency).

"(G) Requiring change of auditor.—Requiring the institution to retain a new independent auditor.

"(H) Requiring prior approval for capital distributions by bank holding company.—Prohibiting any bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Board of Governors of the Federal Reserve System.

"(I) Requiring divestiture.—Doing one or more of the following:

"(i) Divestiture by the institution.—Requiring the institution to divest itself of or liquidate any subsidiary if the agency determines that the subsidiary is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(ii) Divestiture by parent company of nondepository affiliate.—Requiring any company having control of the institution to divest itself of or liquidate any affiliate other than an insured depository institution if the appropriate Federal banking agency for that company determines that the affiliate is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(iii) Divestiture of institution.—Requiring any company having control of the institution to divest itself of the institution if the appropriate Federal banking agency for that company determines that divestiture would improve the institution's financial condition and future prospects.

"(J) Requiring other action.—Requiring the institution to take any other action that the agency determines will better carry out the purpose of this section than any of the actions described in this paragraph.

"(3) Presumption in favor of certain actions.—In complying with paragraph (2), the agency shall take the following actions, unless the agency determines that the actions would not further the purpose of this section:

"(A) The action described in clause (i) or (iii) of paragraph (2)(A) (relating to requiring the sale of shares or obligations, or requiring the institution to be acquired by or combine with another institution).

"(B) The action described in paragraph (2)(B)(i) (relating to restricting transactions with affiliates).

"(C) The action described in paragraph (2)(C) (relating to restricting interest rates).

"(4) Senior executive officers' compensation restricted.—

"(A) In general.—The insured depository institution shall not do any of the following without the prior written approval of the appropriate Federal banking agency:

"(i) Pay any bonus to any senior executive officer.

"(ii) Provide compensation to any senior executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the 12 calendar months preceding the calendar month in which the institution became undercapitalized.

"(B) Failing to submit plan.—The appropriate Federal banking agency shall not grant any approval under subparagraph (A) with respect to an institution that has failed to submit an acceptable capital restoration plan.

"(5) Discretion to impose certain additional restrictions.—The agency may impose 1 or more of the restrictions prescribed by regulation under subsection (i) if the agency determines that those restrictions are necessary to carry out the purpose of this section.

"(g) More Stringent Treatment Based on Other Supervisory Criteria.—

"(1) In general.—If the appropriate Federal banking agency determines (after notice and an opportunity for hearing) that an insured depository institution is in an unsafe or unsound condition or, pursuant to section 8(b)(8), deems the institution to be engaging in an unsafe or unsound practice, the agency may—

"(A) if the institution is well capitalized, reclassify the institution as adequately capitalized;

"(B) if the institution is adequately capitalized, require the institution to comply with 1 or more provisions of subsections (d) and (e), as if the institution were undercapitalized; or

"(C) if the institution is undercapitalized, take any 1 or more actions authorized under subsection (f)(2) as if the institution were significantly undercapitalized.

"(2) Contents of plan.—Any plan required under paragraph (1) shall specify the steps that the insured depository institution will take to correct the unsafe or unsound condition or practice. Capital restoration plans shall not be required under paragraph (1)(B).

"(h) Provisions Applicable to Critically Undercapitalized Institutions.—

"(1) Activities restricted.—Any critically undercapitalized insured depository institution shall comply with restrictions prescribed by the appropriate Federal banking agency under subsection (i).

"(2) Payments on subordinated debt prohibited.—

"(A) In general.—A critically undercapitalized insured depository institution shall not, beginning 30 days after becoming critically undercapitalized, make any payment of principal or interest on the institution's subordinated debt.

"(B) Exceptions.—The Corporation may make exceptions to subparagraph (A) if—

"(i) the appropriate Federal banking agency has taken action with respect to the insured depository institution under paragraph (3)(A)(ii); and

"(ii) the Corporation determines that the exception would further the purpose of this section.

"(C) Limited exemption for certain subordinated debt.—Until July 15, 1996, subparagraph (A) shall not apply with respect to any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after July 15, 1991.

"(D) Accrual of interest.—Subparagraph (A) does not prevent unpaid interest from accruing on subordinated debt under the terms of that debt, to the extent otherwise permitted by law.

"(3) Conservatorship, receivership, or other action required.—

"(A) In general.—The appropriate Federal banking agency shall, not later than 30 days after an insured depository institution becomes critically undercapitalized—

"(i) appoint a receiver (or, with the concurrence of the Corporation, a conservator) for the institution; or

"(ii) take such other action as the agency determines, with the concurrence of the Corporation, would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

"(B) Review of other action.—If a conservator or receiver is not appointed for the insured depository institution, the agency shall review its action under subparagraph (A)(ii) not less often than every 90 days and determine (with the concurrence of the Corporation) whether that action better achieves the purpose of this section than the appointment of a conservator or receiver.

"(C) Appointment of receiver required if other action fails to restore capital.—

"(i) In general.—Notwithstanding subparagraphs (A) and (B), the appropriate Federal banking agency shall appoint a receiver for the insured depository institution if the institution is critically undercapitalized on average during the calendar quarter beginning 270 days after the date on which the institution became critically undercapitalized.

"(ii) Exception.—Clause (i) does not require the appropriate Federal banking agency to appoint a receiver for an insured depository institution if—

"(I) on average during the calendar quarter described in clause (i), the institution has tangible equity in an amount not less than 60 percent of the level specified under subsection (c)(3)(A)(i), or the institution has submitted a plan in compliance with the requirements of subsection (e)(2) or section 5(t)(6)(A)(ii) of the Home Owners' Loan Act, the appropriate Federal banking agency has approved the plan, and the institution is in compliance with the plan;

"(II) the institution had significant operating earnings during that calendar quarter and the preceding calendar quarter;

"(III) the institution has made significant progress in correcting other deficiencies; and

"(IV) the Corporation determines that the appointment of a receiver would not further the purpose of this section.

"(i) Restricting Activities of Critically Undercapitalized Institutions.—To carry out the purpose of this section, each appropriate Federal banking agency shall, by regulation or order—

"(1) restrict the activities of any critically undercapitalized insured depository institution; and

"(2) at a minimum, prohibit any such institution from doing any of the following without the appropriate Federal banking agency's prior written approval:

"(A) Entering into any material transaction other than in the usual course of business, including any investment, expansion, acquisition, sale of assets, or other similar action with respect to which the depository institution is required to provide notice to the appropriate Federal banking agency.

"(B) Extending credit for any highly leveraged transaction.

"(C) Amending the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Making any material change in accounting methods.

"(E) Engaging in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Paying excessive compensation or bonuses.

"(G) Paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas.

"(j) Certain Government-Controlled Institutions Exempted.—Subsections (e) through (i) (other than paragraph (3) of subsection (e)) shall not apply—

"(1) to an insured depository institution for which the Corporation or the Resolution Trust Corporation is conservator; or

"(2) to a bridge bank, none of the voting securities of which are owned by a person or agency other than the Corporation.

"(k) Review Required When Deposit Insurance Fund Incurs Material Loss.—

"(1) In general.—If a deposit insurance fund incurs a material loss with respect to an insured depository institution on or after July 1, 1993, the inspector general of the appropriate Federal banking agency shall—

"(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall—

"(i) ascertain why the institution's problems resulted in a material loss to the deposit insurance fund; and

"(ii) make recommendations for preventing any such loss in the future; and

"(B) provide a copy of the report to—

"(i) the Comptroller General of the United States;

"(ii) the Corporation (if the agency is not the Corporation);

"(iii) in the case of a State depository institution, the appropriate State banking supervisor; and

"(iv) upon request by any Member of Congress, to that Member.

"(2) Material loss incurred.—For purposes of this subsection:

"(A) Loss incurred.—A deposit insurance fund incurs a loss with respect to an insured depository institution—

"(i) if the Corporation provides any assistance under section 13(c) with respect to that institution; and—

"(I) it is not substantially certain that the assistance will be fully repaid not later than 24 months after the date on which the Corporation initiated the assistance; or

"(II) the institution ceases to repay the assistance in accordance with its terms; or

"(ii) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(B) Material loss.—A loss is material if it exceeds the greater of—

"(i) $25,000,000; or

"(ii) 2 percent of the institution's total assets at the time the Corporation initiated assistance under section 13(c) or was appointed receiver.

"(3) Deadline for report.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event (except with respect to paragraph (1)(B)(iv)) as follows:

"(A) If the institution is described in paragraph (2)(A)(i), during the 6-month period beginning on the earlier of—

"(i) the date on which the institution ceases to repay assistance under section 13(c) in accordance with its terms, or

"(ii) the date on which it becomes apparent that the assistance will not be fully repaid during the 24-month period described in paragraph (2)(A)(i).

"(B) If the institution is described in paragraph (2)(A)(ii), during the 6-month period beginning on the date on which it becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(4) Public disclosure required.—

"(A) In general.—The appropriate Federal banking agency shall disclose the report upon request under section 552 of title 5, United States Code, without excising—

"(i) any portion under section 552(b)(5); or

"(ii) any information about the insured depository institution under paragraph (4) (other than trade secrets) or paragraph (8) of section 552(b).

"(B) Exception.—Subparagraph (A) does not require the agency to disclose the name of any customer of the insured depository institution (other than an institution-affiliated party), or information from which such a person's identity could reasonably be ascertained.

"(5) GAO review.—The General Accounting Office shall annually—

"(A) review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) verify the accuracy of 1 or more of those reports.

"(6) Transition rule.—During the period beginning on July 1, 1993, and ending on June 30, 1997, a loss incurred by the Corporation with respect to an insured depository institution—

"(A) with respect to which the Corporation initiates assistance under section 13(c) during the period in question, or

"(B) for which the Corporation was appointed receiver during the period in question, is material for purposes of this subsection only if that loss exceeds the greater of $25,000,000 or the applicable percentage of the institution's total assets at that time, set forth in the following table:

"For the following period:	**The applicable percentage is:**
July 1, 1993–June 30, 1994	7 percent
July 1, 1994–June 30, 1995	5 percent
July 1, 1995–June 30, 1996	4 percent
July 1, 1996–June 30, 1997	3 percent.

"(l) Implementation.—

"(1) Regulations and other actions.—Each appropriate Federal banking agency shall prescribe such regulations (in consultation with the other Federal banking agencies), issue such orders, and take such other actions as are necessary to carry out this section.

"(2) Written determination and concurrence required.—Any determination or concurrence by an appropriate Federal banking agency or the Corporation required under this section shall be written.

"(m) Other Authority Not Affected.—This section does not limit any authority of an appropriate Federal banking agency, the Corporation or a State to take action in addition to (but not in derogation of) that required under this section.

"(n) Judicial Review.—

"(1) Jurisdiction and venue.—

"(A) Filing of petition.—A person aggrieved by an action of an appropriate Federal banking agency under this section may obtain review of that action by filing, not later than 10 days after receiving notice of the agency action, a written petition requesting that the action be modified, terminated, or set aside.

"(B) Place for filing.—A petition filed pursuant to this subsection shall be filed in

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the United States Court of Appeals for the District of Columbia Circuit or the United States court of appeals for the circuit containing the home office of the insured depository institution whose condition is the basis for the agency action.

"(2) PERSON AGGRIEVED DEFINED.—For purposes of this subsection, a 'person aggrieved' by the action of an appropriate Federal banking agency under this section—

"(A) means any insured depository institution or company with respect to which action is taken under this section, and any company having control of that institution or company; and

"(B) includes any person dismissed pursuant to an order under this section requiring an insured depository institution to dismiss a director or senior executive officer.

"(3) SCOPE OF REVIEW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), action taken by an appropriate Federal banking agency under this section shall be modified, terminated, or set aside only if the court finds on the record on which the agency acted that the agency's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) ALTERNATIVE REVIEW OF CERTAIN AGENCY ACTIONS.—This subsection does not prohibit a person aggrieved by an order of an appropriate Federal banking agency appointing a conservator or receiver for an insured depository institution from pursuing any judicial review of the order that is otherwise available.

"(4) EXPEDITED REVIEW REQUIRED.—The United States courts of appeals shall expedite the review of petitions complaining of agency action under this section.

"(5) INJUNCTIVE RELIEF NOT AVAILABLE.—The commencement of proceedings for judicial review under this subsection shall not operate as a stay of any action taken by the appropriate Federal banking agency. No court shall have jurisdiction to stay, enjoin, or otherwise delay agency action taken under this section.

"(6) JURISDICTION WITHDRAWN.—Except as provided in this subsection, no court shall have jurisdiction over action taken by an appropriate Federal banking agency under this section.

"(o) TRANSITION RULES FOR SAVINGS ASSOCIATIONS.—

"(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

"(A) IN GENERAL.—In implementing this section, the appropriate Federal banking agency (and, to the extent applicable, the Corporation) shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

"(B) REPORTS.—Subparagraph (A) does not require reports under subsection (k).

"(2) ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2), (f), and (h) shall not apply before July 1, 1994, to any insured savings association if—

"(A) before the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991—

"(i) the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

"(ii) the Director of the Office of Thrift Supervision had accepted the plan;

"(B) the plan remains in effect; and

"(C) the savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.".

(b) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) shall, after notice and opportunity for comment, promulgate final regulations under section 37 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than 240 days after the date of enactment of this Act, and those regulations shall become effective not later than 270 days after that date of enactment.

(c) OTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) ENFORCEMENT ACTION BASED ON UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following:

"(8) UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY AS UNSAFE OR UNSOUND PRACTICE.—If an insured depository institution receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the appropriate Federal banking agency may (if the deficiency is not corrected) deem the institution to be engaging in an unsafe or unsound practice for purposes of this subsection.".

(2) CONFORMING AMENDMENTS RELATING TO FEDERAL BANKING AGENCIES' ENFORCEMENT AUTHORITY.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended—

(A) in the first sentence of paragraph (1), by inserting "or under section 37" after "section"; and

(B) in paragraph (2)(A)(ii), by inserting ", or final order under section 37" after "section".

(d) CONFORMING AMENDMENT TO SECTION 5(t)(7) OF THE HOME OWNERS' LOAN ACT.—Section 5(t)(7) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(7)) is amended—

(1) in subsection (A), by inserting "under this Act" before the period; and

(2) in subsection (B), by inserting "under this Act" after "imposed by the Director".

(e) TRANSITION RULE REGARDING CURRENT DIRECTORS AND SENIOR EXECUTIVE OFFICERS.—

(1) DISMISSAL FROM OFFICE.—Section 37(f)(2)(F)(ii) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to—

(A) any director whose current term as a director commenced on or before the date of enactment of this Act and has not been extended—

(i) after that date of enactment, or

(ii) to evade section 37(f)(2)(F)(ii); or

(B) any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(i) after that date of enactment, or

(ii) to evade section 37(f)(2)(F)(ii).

(2) RESTRICTING COMPENSATION.—Section 37(f)(4) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(A) after that date of enactment, or

(B) to evade section 37(f)(4).

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective 270 days after the date of enactment of this Act.

SEC. 206. STANDARDS FOR SAFETY AND SOUNDNESS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 38. STANDARDS FOR SAFETY AND SOUNDNESS.

"(a) OPERATIONAL AND MANAGERIAL STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards relating to—

"(A) internal controls, information systems, and internal audit systems, in accordance with section 36;

"(B) loan documentation;

"(C) credit underwriting;

"(D) interest rate exposure;

"(E) asset growth; and

"(F) compensation, fees, and benefits, in accordance with subsection (c); and

"(2) such other operational and managerial standards as the agency determines to be appropriate.

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards specifying—

"(A) a maximum ratio of classified assets to capital;

"(B) minimum earnings sufficient to absorb losses without impairing capital; and

"(C) a minimum ratio of market value to book value for publicly traded shares of the institution or company; and

"(2) such other standards relating to asset quality, earnings, and valuation as the agency determines to be appropriate.

"(c) COMPENSATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

"(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

"(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees or benefits; or

"(B) could lead to material financial loss to the institution;

"(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

"(A) the combined value of all cash and noncash benefits provided to the individual;

"(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

"(C) the financial condition of the institution;

"(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

"(E) for postemployment benefits, the projected total cost and benefit to the institution;

"(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

"(G) other factors that the agency determines to be relevant; and

"(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation.

"(e) FAILURE TO MEET STANDARDS.—

"(1) PLAN REQUIRED.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that an insured depository institution or depository institution holding company fails to meet any standard prescribed under subsection (a), (b), or (c) the agency shall require the institution or company to submit an acceptable plan to the agency within the time allowed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—Any plan required under subparagraph (A) shall specify the steps that the institution or company will take to correct the deficiency. If the institution is undercapitalized, the plan may be part of a capital restoration plan.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide institutions and companies with reasonable time to submit plans required under subparagraph (A), and generally require the institution or company to submit a plan not later than 30 days after the agency determines that the institution or company fails to meet any standard prescribed under subsection (a), (b), or (c); and

"(ii) require the agency to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

"(2) ORDER REQUIRED IF INSTITUTION OR COMPANY FAILS TO SUBMIT OR IMPLEMENT PLAN.—If an insured depository institution or depository institution holding company fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the appropriate Federal banking agency, the agency, by order—

"(A) shall require the institution or company to correct the deficiency; and

"(B) may do 1 or more of the following until the deficiency has been corrected:

"(i) Prohibit the institution or company from permitting its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the institution or company may increase from one calendar quarter to another.

"(ii) Require the institution or company to increase its ratio of tangible equity to assets.

"(iii) Take the action described in section 37(f)(2)(C).

"(iv) Require the institution or company to take any other action that the agency determines will better carry out the purpose of section 37 than any of the actions described in this subparagraph.

"(3) RESTRICTIONS MANDATORY FOR CERTAIN INSTITUTIONS.—In complying with paragraph (2), the appropriate Federal banking agency shall take 1 or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

"(A) the agency determines that the insured depository institution fails to meet any standard prescribed under subsection (a)(1) or (b)(1);

"(B) the institution has not corrected the deficiency; and

"(C) either—

"(i) during the 24-month period before the date on which the institution first failed to meet the standard—

"(I) the institution commenced operations; or

"(II) 1 or more persons acquired control of the institution; or

"(ii) during the 18-month period before the date on which the institution first failed to meet the standard, the institution underwent extraordinary growth, as defined by the agency.

"(f) DEFINITIONS.—For purposes of this section, the terms 'average' and 'capital restoration plan' have the same meanings as in section 37.

"(g) OTHER AUTHORITY NOT AFFECTED.—The authority granted by this section is in addition to any other authority of the Federal banking agencies.".

(b) REGULATIONS REQUIRED.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate final regulations under section 38 of the Federal Deposit Insurance Act (as added by subsection (a) of this section) not later than March 1, 1993.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of—

(1) the date on which final regulations promulgated in accordance with subsection (b) become effective; or

(2) July 1, 1993.

SEC. 207. CONSERVATORSHIP AND RECEIVERSHIP AMENDMENTS TO FACILITATE PROMPT CORRECTIVE ACTION.

(a) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER; CONSISTENT STANDARDS FOR NATIONAL, STATE MEMBER, AND STATE NONMEMBER BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended to read as follows:

"(5) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER.—The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

"(A) The institution's assets are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) Substantial dissipation of assets or earnings due to—

"(i) any violation of any statute or regulation; or

"(ii) any unsafe or unsound practice.

"(C) An unsafe or unsound condition to transact business.

"(D) Any willful violation of a cease-and-desist order which has become final.

"(E) Any concealment of the institution's books, papers, records, or assets, or any refusal to submit the institution's books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) The institution is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business.

"(G) The institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the institution to become adequately capitalized (as defined in section 37(b)) without Federal assistance.

"(H) Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings;

"(ii) weaken the institution's condition; or

"(iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

"(I) The institution, by resolution of its board of directors or its shareholders or members, consents to the appointment.

"(J) The institution ceases to be an insured institution.

"(K) The institution is undercapitalized (as defined in section 37(b)), and—

"(i) has no reasonable prospect of becoming adequately capitalized (as defined in that section);

"(ii) fails to become adequately capitalized when required to do so under section 37(f)(2)(A);

"(iii) fails to submit a capital restoration plan acceptable to that agency within the time prescribed under section 37(e)(2)(D); or

"(iv) materially fails to implement a capital restoration plan submitted and accepted under section 37(e)(2).

"(L) The institution—

"(i) is critically undercapitalized, as defined in section 37(b); or

"(ii) otherwise has substantially insufficient capital.".

(b) CONFORMING AMENDMENT TO AUTHORITY TO APPOINT RECEIVER FOR NATIONAL BANK.—Section 1 of the Act of June 30, 1876 (12 U.S.C. 191) is amended to read as follows:

"SECTION 1. The Comptroller of the Currency may, without prior notice or hearings, appoint the Federal Deposit Insurance Corporation as receiver for any national banking association if the Comptroller determines, in the Comptroller's discretion, that—

"(1) 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist; or

"(2) the association's board of directors consists of fewer than 5 members.".

(c) CONFORMING AMENDMENT TO THE BANK CONSERVATION ACT.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended to read as follows:

"(a) APPOINTMENT.—The Comptroller of the Currency may, without prior notice or hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller of the Currency determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.".

(d) CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 5(d)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)) is amended—

(1) by striking subparagraphs (A) through (D) and inserting the following:

"(A) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR INSURED SAVINGS ASSOCIATION.—The Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exists"; and

(2) by redesignating subparagraphs (E) through (I) as subparagraphs (B) through (F), respectively.

(e) ADDITIONAL PROVISIONS RELATING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 11(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(9)) is amended to read as follows:

"(9) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR

VOL
137
PT
23
NO
21
—
25
1991
UMI

or receiver for insured State depository institution to carry out section 37.—

"(A) In general.—The appropriate Federal banking agency may appoint the Corporation as sole receiver (or, subject to paragraph (11), sole conservator) of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that—

"(i) 1 or more of the grounds specified in subparagraphs (K) and (L) of paragraph (5) exist with respect to that institution; and

"(ii) the appointment is necessary to carry out the purpose of section 37.

"(B) Nondelegation.—The appropriate Federal banking agency shall not delegate any action under subparagraph (A).

"(10) Corporation may appoint itself as conservator or receiver for insured depository institution to prevent loss to deposit insurance fund.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that—

"(A) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(B) the appointment is necessary to reduce—

"(i) the risk that the deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(ii) any loss that the deposit insurance fund is expected to incur with respect to that institution.

"(11) Appropriate Federal banking agency shall not appoint conservator under certain provisions without giving Corporation opportunity to appoint receiver.—The appropriate Federal banking agency shall not appoint a conservator for an insured depository institution under subparagraph (K) or (L) of paragraph (5) without the Corporation's consent unless the agency has given the Corporation 48 hours notice of the agency's intention to appoint the conservator and the grounds for the appointment.

"(12) Directors not liable for acquiescing in appointment of conservator or receiver.—The members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

"(A) the appointment of the Corporation or the Resolution Trust Corporation as conservator or receiver for that institution; or

"(B) an acquisition or combination under section 37(f)(2)(A)(iii).

"(13) Additional powers.—In any case in which the Corporation is appointed conservator or receiver under paragraph (4), (6), (9), or (10) for any insured State depository institution—

"(A) subject to subparagraph (B), this section shall apply to the Corporation as conservator or receiver in the same manner and to the same extent as if that institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver;

"(B) the Corporation shall apply the law of the State in which the institution is chartered insofar as that law gives the claims of depositors priority over those of other creditors or claimants; and

"(C) the Corporation as receiver of the institution may—

"(i) liquidate the institution in an orderly manner; and

"(ii) make any other disposition of any matter concerning the institution, as the Corporation determines is in the best interests of the institution, the depositors of the institution, and the Corporation.".

(f) Conforming Amendment to the Federal Reserve Act.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) Authority To Appoint Conservator or Receiver.—The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(9) of the Federal Deposit Insurance Act.".

(g) Effective Date.—The amendments made by this section shall become effective 270 days after the date of enactment of this Act.

SEC. 208. BACKUP ENFORCEMENT AUTHORITY OF FDIC.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) Authority of FDIC To Take Enforcement Action Against Insured Depository Institutions and Institution-Affiliated Parties.—

"(1) Recommending action by appropriate Federal banking agency.—The Corporation, based on an examination of an insured depository institution by the Corporation or by the appropriate Federal banking agency or on other information, may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any insured depository institution or any institution-affiliated party. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

"(2) FDIC's authority to act if appropriate Federal banking agency fails to follow recommendation.—If the appropriate Federal banking agency does not, before the end of the 60-day period beginning on the date on which the agency receives the recommendation under paragraph (1), take the enforcement action recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the Corporation's concerns, the Corporation may take the recommended enforcement action if the Board of Directors determines, upon a vote of its members, that—

"(A) the insured depository institution is in an unsafe or unsound condition;

"(B) the institution is engaging in unsafe or unsound practices, and the recommended enforcement action will prevent the institution from continuing such practices; or

"(C) the institution's conduct or threatened conduct (including any acts or omissions) poses a risk to the deposit insurance fund, or may prejudice the interests of the institution's depositors.

"(3) Effect of exigent circumstances.—

"(A) Authority to act.—The Corporation may, upon a vote of the Board of Directors, and after notice to the appropriate Federal banking agency, exercise its authority under paragraph (2) in exigent circumstances without regard to the time period set forth in paragraph (2).

"(B) Agreement on exigent circumstances.—The Corporation shall, by agreement with the appropriate Federal banking agency, set forth those exigent circumstances in which the Corporation may act under subparagraph (A).

"(4) Corporation's powers; institution's duties.—For purposes of this subsection—

"(A) the Corporation shall have the same powers with respect to any insured depository institution and its affiliates as the appropriate Federal banking agency has with respect to the institution and its affiliates; and

"(B) the institution and its affiliates shall have the same duties and obligations with respect to the Corporation as the institution and its affiliates have with respect to the appropriate Federal banking agency.

"(5) Requests for formal actions and investigations.—

"(A) Submission of requests.—A regional office of an appropriate Federal banking agency (including a Federal Reserve bank) that requests a formal investigation of or civil enforcement action against an insured depository institution shall submit the request concurrently to the chief officer of the appropriate Federal banking agency and to the Corporation.

"(B) Agencies required to report on requests.—Each appropriate Federal banking agency shall report semiannually to the Corporation on the status or disposition of all requests under subparagraph (A), including the reasons for any decision by the agency to approve or deny such requests.".

SEC. 209. CAPITAL MAINTENANCE COMMITMENTS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(q) Commitments To Maintain the Capital of Insured Depository Institutions.—

"(1) In general.—Any commitment made to any of the Federal banking agencies to maintain the capital of an insured depository institution may be enforced under this Act.

"(2) Other authority not affected.—The authority granted by paragraph (1) is in addition to any other authority of the Federal banking agencies.".

SEC. 210. PASS-THROUGH INSURANCE COVERAGE.

(a) Restricting Certain Pass-Through Insurance Coverage.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended—

(1) by striking "(m)(1)" and inserting the following:

"(m) Insured Deposit.—

"(1) In general.—";

(2) in paragraph (1), by striking "except trust funds which shall be insured as provided in subsection (i) of section 7 of this Act";

(3) in the last sentence of paragraph (1), by striking "and subsection (i) of section 7 of this Act"; and

(4) in paragraph (2), by inserting "Deposit in branch of foreign bank.—" after "(2)".

(b) Insurance of Deposits.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(a) Insurance of Deposits.—

"(1) In general.—

"(A) Deposits insured.—The Corporation shall insure the deposits in all insured depository institutions as provided in this Act.

"(B) Amount insured.—The net amount of any depositor's insured deposits at any insured depository institution shall be $100,000."; and

(2) in subsection (a), by adding at the end the following new paragraphs:

"(8) Pass-through insurance restricted to interests in tax-qualified retirement plans and certain irrevocable trusts.—

"(A) In general.—Deposits may not be insured on a pro rata or pass-through basis except that—

"(i) in the case of a plan meeting the requirements of section 401(a) or 403(b)(9) of the Internal Revenue Code of 1986 that includes a trust exempt from tax under section 501(a) of that Code and is a type of plan that was eligible to receive pro rata or pass-through insurance coverage as of July 15, 1991, or a plan meeting the requirements of section 457 of that Code, deposits may be insured on a pass-through basis with respect to each participant in the plan in an amount equal to the lesser of the present value of the vested accrued benefit of such individual participant or $100,000, unless such deposit arises under a contract between an insured depository institution and an employee benefit plan, and the contract expressly permits benefit-responsive withdrawals or transfers;

"(ii) in the case of deposits of an irrevocable trust established pursuant to a statute or written trust agreement (other than a tax-qualified retirement plan or irrevocable trust described in clause (i)), the deposits may be insured on a pass through basis with respect to each known beneficiary of the trust whose interest is noncontingent in an amount not to exceed the lesser of the present value of the beneficiary's noncontingent interest or $100,000;

"(iii) in the case of a custodial account held on deposit in an insured depository institution if—

"(I) the principal or beneficiary does not control where the funds are deposited;

"(II) the account is not maintained for investment purposes; and

"(III) the account is not maintained principally for the purpose of increasing insurance coverage,

the custodial funds shall be insured in an amount not to exceed $100,000 for each principal or beneficiary represented; and

"(iv) in the case of a custodial account maintained by a deposit broker or its agents at an insured depository institution, the custodial funds shall be insured in an amount not to exceed $100,000 for each principal or beneficiary represented in each capacity in which the principal or beneficiary places the deposit through the deposit broker.

"(B) Special rules.—For purposes of this section—

"(i) amounts described in clauses (i), (iii), and (iv) of subparagraph (A) shall not be taken into account in determining the net amount due any participant, principal, or beneficiary, as appropriate, but

"(ii) amounts described in subparagraph (A)(ii) shall be taken into account in determining the net amount due any beneficiary.

"(C) Definitions.—For purposes of this paragraph—

"(i) Benefit-responsive withdrawals or transfers.—The term 'benefit responsive withdrawal or transfer' means any withdrawal or transfer of funds deposited at an insured depository institution that—

"(I) occurs during a period for which the institution has guaranteed by contract to pay the plan 1 or more rates of interest; and

"(II) is made to pay benefits provided by an employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance without substantial penalty or adjustment.

"(ii) Employee benefit plan.—The term 'employee benefit plan' has the same meaning as in section 3(3) of the Employee Retirement Income Security Act of 1974 and includes any plan described in section 401(d) of the Internal Revenue Code of 1986.

"(9) Restrictions on pass-through insurance for deposits of trusts.—Notwithstanding paragraph (8)(A)(ii), deposits described in that paragraph may not be insured on a pro rata or pass-through basis—

"(A) if the trustee or an organizer of the trust solicits persons to transfer funds into the trust;

"(B) if interests in the trust are sold to beneficiaries;

"(C) if there are more than 10 settlors or grantors of the trust; or

"(D) in such other circumstances as the Board of Directors may prescribe.".

(c) Conforming Amendment.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) [Reserved].".

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 1993, except that such amendments shall not apply to any specific time deposit made before July 15, 1991, until the stated maturity of the time deposit.

SEC. 211. BROKERED DEPOSITS.

(a) In General.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (a), by striking "troubled institution" and inserting "insured depository institution that is not well capitalized and does not have a CAMEL rating of 1 or 2";

(2) in subsection (c)—

(A) by inserting "which is adequately capitalized and has a CAMEL rating of 1 or 2" after "insured depository institution"; and

(B) by adding at the end "Any waiver granted under this subsection shall be effective for not more than 90 days. Any application for renewal of the waiver for an additional 90-day period shall be deemed to be granted unless the Corporation denies the application not more than 15 days after receiving the application.";

(3) in subsection (d), by striking all after "unsound practice;" and inserting the following:

"(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

"(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.";

(4) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively, and inserting after subsection (d) the following:

"(e) Restriction on Interest Rate Paid.—Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

"(1) the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or

"(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution's normal market area.";

(5) in subsection (f), as redesignated, by striking "troubled"; and

(6) by striking subsection (h), as redesignated.

(b) Notification and Recordkeeping.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 the following:

"SEC. 29A. DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING.

"(a) Notification.—

"(1) In general.—A deposit broker, as defined in section 29(g), shall not solicit or place any deposit with an insured depository institution, unless such deposit broker has provided the Corporation with written notice that it is a deposit broker.

"(2) Termination of deposit broker status.—When a deposit broker referred to in paragraph (1) ceases to act as a deposit broker it shall provide the Corporation with a written notice that it is no longer acting as a deposit broker.

"(3) Form and content.—The notices required by paragraphs (1) and (2) shall be in such form and contain such information concerning the deposit solicitation and placement activities of a deposit broker as the Corporation may prescribe as necessary or appropriate to carry out the purposes of this subsection.

"(b) Records.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to maintain separate records relating to the total amounts and maturities of the deposits placed by such broker for each insured depository institution during specified time periods. Such regulations shall specify the format in which and the period for which such records shall be preserved, as well as the time period within which the deposit broker shall furnish to the Corporation copies of such records (or designated portions thereof) as the Corporation may request.

"(c) Periodic Reports.—

"(1) In general.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to file with the Corporation separate quarterly reports relating to the total amounts and maturities of the deposits placed by such broker for each depository institution during the applicable quarter. Such regulations shall specify the form and content of such reports, as well as the applicable reporting period.

"(2) Designated agent.—The Corporation may designate another entity as its agent for the purpose of receiving and maintaining reports under this subsection. If the Corporation designates such an agent the Corporation may, through its agent, prescribe and collect an appropriate quarterly fee from each deposit broker that filed reports with the agent during the applicable quarter, in an amount sufficient to defray the Corporation's cost of retaining the agent and to reflect the proportionate amount of the deposits placed with insured depository institutions by each broker during the applicable quarter.".

(c) Deposit Solicitation Restricted.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

"(h) Deposit Solicitation Restricted.—An insured depository institution that is undercapitalized, as defined in section 37, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

"(1) in such institution's normal market areas; or

"(2) in the market area in which such deposits would otherwise be accepted.".

(d) Deadline for Regulations.—The Corporation shall promulgate final regulations

VOL 137
PT 23
NO 21—25
1991
UMI

to carry out the amendments made under subsections (a), (b), and (c) not later than 150 days after the date of enactment of this Act, and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit.

SEC. 212. RISK-BASED ASSESSMENTS.

(a) Risk-Based Assessment System.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)), as amended by section 102, is amended to read as follows:

"(b) Assessments.—

"(1) Risk-based assessment system.—

"(A) Risk-based assessment system required.—The Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) Private reinsurance authorized.—In carrying out this paragraph, the Corporation may—

"(i) obtain private reinsurance covering not more than 10 percent of any loss the Corporation incurs with respect to an insured depository institution; and

"(ii) base that institution's semiannual assessment (in whole or in part) on the cost of the reinsurance.

"(C) Risk-based assessment system defined.—For purposes of this paragraph, the term 'risk-based assessment system' means a system for calculating a depository institution's semiannual assessment based on—

"(i) the probability that the deposit insurance fund will incur a loss with respect to the institution, taking into consideration the risks attributable to—

"(I) different categories and concentrations of assets;

"(II) different categories and concentrations of liabilities, both insured and uninsured, contingent and noncontingent; and

"(III) any other factors the Corporation determines are relevant to assessing such probability;

"(ii) the likely amount of any such loss; and

"(iii) the revenue needs of the deposit insurance fund.

"(D) Separate assessment systems.—The Board of Directors may establish separate risk-based assessment systems for large and small members of each deposit insurance fund.

"(E) Foreign deposits.—In carrying out this paragraph, the Corporation shall take into account the special assessment procedure for foreign deposits under paragraph (6).

"(2) Setting assessments.—

"(A) Achieving and maintaining designated reserve ratio.—

"(i) In general.—The Board of Directors shall set semiannual assessments for insured depository institutions—

"(I) to maintain the reserve ratio of each deposit insurance fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio as provided in paragraph (3).

"(ii) Factors to be considered.—In carrying out clause (i), the Board of Directors shall consider the deposit insurance fund's—

"(I) expected operating expenses,

"(II) case resolution expenditures and income,

"(III) the effect of assessments on members' earnings and capital, and

"(IV) any other factors that the Board of Directors may deem appropriate.

"(iii) Minimum assessment.—The semiannual assessment for each member of a deposit insurance fund shall be not less than $1,000.

"(iv) Designated reserve ratio defined.—The designated reserve ratio of each deposit insurance fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

"(B) Independent treatment of funds.—The Board of Directors shall—

"(i) set semiannual assessments for members of each deposit insurance fund independently from semiannual assessments for members of any other deposit insurance fund; and

"(ii) set the designated reserve ratio of each deposit insurance fund independently from the designated reserve ratio of any other deposit insurance fund.

"(C) Notice of assessments.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment.

"(D) Priority of financing corporation and funding corporation assessments.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation under section 21 of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(E) Minimum assessments.—The Corporation shall design the risk-based assessment system for any deposit insurance fund so that, if the Corporation has borrowings outstanding under section 14 on behalf of that fund or the reserve ratio of that fund remains below the designated reserve ratio, the total amount raised by semiannual assessments on members of that fund shall be not less than the total amount that would have been raised if—

"(i) section 7(b) as in effect on July 15, 1991 remained in effect; and

"(ii) the assessment rate in effect on July 15, 1991 remained in effect.

"(F) Transition rule for savings association insurance fund.—With respect to the Savings Association Insurance Fund, during the period beginning on the effective date of the amendments made by section 212(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 and ending on December 31, 1997—

"(i) subparagraph (A)(i)(II) shall apply with 'as provided in paragraph (3)' omitted; and

"(ii) subparagraph (E) shall apply with 'if section 7(b) as in effect on July 15, 1991 remained in effect.' substituted for 'if—' and clauses (i) and (ii).

"(G) Special rule until the insurance funds achieve the designated reserve ratio.—Until a deposit insurance fund achieves the designated reserve ratio, the Corporation may limit the maximum assessment on insured depository institutions under the risk-based assessment system authorized under paragraph (1) to not less than 10 basis points above the average assessment on insured depository institutions under that system.

"(3) Special rule for recapitalizing undercapitalized funds.—

"(A) In general.—Except as provided in paragraph (2)(F), if the reserve ratio of any deposit insurance fund is less than the designated reserve ratio under paragraph (2)(A)(iv), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(i) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(ii) in accordance with a schedule promulgated by the Corporation under subparagraph (B).

"(B) Recapitalization schedules.—For purposes of subparagraph (A)(ii), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for that fund, culminating by the close of the period determined under subparagraph (C) in a reserve ratio that is equal to the designated reserve ratio.

"(C) Date for achieving designated ratio.—A schedule promulgated under subparagraph (B) shall provide for achieving the designated reserve ratio not later than the earlier of—

"(i) 15 years after the date on which the schedule is implemented, or

"(ii) that number of years (rounded to the nearest whole number) after the date the schedule is implemented, determined as follows:

$$15 \times \left(1 - \frac{\text{reserve ratio}}{\text{designated reserve ratio}} \right)$$

"(D) Amending schedule.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B), but such amendments may not extend the date specified in subparagraph (C).

"(E) Application to SAIF members.—This paragraph shall become applicable to Savings Association Insurance Fund members on January 1, 1998.

"(F) Expedited procedure for extending schedule.—

"(i) In general.—If, during the period, determined in subparagraph (C), when a fund's reserve ratio is being restored to the designated reserve ratio, the Corporation determines that maintaining assessments at levels sufficient to achieve the designated reserve ratio by the end of that period would significantly increase losses to the fund or would significantly impair the availability of credit, the following procedures shall apply:

"(I) Report required.—The Corporation shall submit a report to the Congress that—

"(aa) sets forth a revised schedule of semiannual target reserve ratios for that fund, culminating in the achievement of the designated reserve ratio; and

"(bb) provides a detailed justification for the revision.

"(II) Requirement for congressional consideration.—The proposed revised schedule of semiannual target reserve ratios shall not be implemented unless the Congress, not later than 60 calendar days after receiving the report, enacts a joint resolution approving the proposed revision.

"(ii) Procedures for expedited congressional consideration.—

"(I) Joint resolution defined.—For purposes of this clause, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 7(b)(3)(F) of the Federal Deposit Insurance Act, the Corporation may implement revisions to the schedule of semiannual target reserve ratios, culminating in the achievement of the designated reserve ratio for the

________________ Fund, as proposed in the report submitted to the Congress on ________________.', with the first blank space being filled with the name of the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate, and the second blank being filled with the appropriate date.

"(II) Introduction.—On the day on which a report is submitted to the House of Representatives and the Senate under clause (i)(I), a joint resolution with respect to the revised schedule specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on Banking, Finance and Urban Affairs, for himself and the ranking minority member of the Committee, or by the Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(III) Referral to committee.—Any joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee and all joint resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(IV) Discharge from committee.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution and of any other joint resolution introduced with respect to the same matter.

"(V) Expedited floor consideration.—Any such joint resolution shall be considered in the Senate in accordance with section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(VI) Joint resolution received from other house.—In the case of a joint resolution described in this clause, if, before the passage by one House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(aa) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(bb) the vote on final passage shall be on the joint resolution of the other House.

"(VII) Computing time periods.—In computing the 60-day period referred to in clause (i)(II) and the 30-day period referred to in subclause (IV), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of adjournment of the Congress sine die.

"(4) Semiannual period defined.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

"(5) Records to be maintained.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's semiannual assessments. No insured depository institution shall be required to retain those records for that purpose for a period of more than 5 years from the date of the filing of any certified statement, except that when there is a dispute between the insured depository institution and the Corporation over the amount of any assessment, the depository institution shall retain the records until final determination of the issue.

"(6) Special assessment to recover losses on foreign deposits.—

"(A) In general.—This paragraph shall apply if—

"(i) the Corporation incurs a loss with respect to an insured depository institution; and

"(ii) persons with foreign deposits at the institution receive more than they would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities.

"(B) Special assessment required.—The Corporation shall, as soon as practicable, recover the difference between—

"(i) the amount that persons with foreign deposits at the institution received, and

"(ii) the amount that the Corporation estimates those persons would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities,

by imposing 1 or more special assessments on all members of the deposit insurance fund of which the institution was or is a member, in proportion to the foreign deposits held by those members at the beginning of the semiannual period containing the relevant date. The Corporation shall base the estimate required by clause (ii) on the estimated loss that the Corporation will incur in the resolution actually undertaken with respect to the institution. Any calculation under this subparagraph shall be in the Corporation's sole discretion.

"(C) Timing of special assessments.—

"(i) In general.—Special assessments under subparagraph (B) shall begin not later than the semiannual period beginning 90 days after the date on which the aggregate amounts calculated under subparagraph (B) (with respect to all institutions that were or are members of the deposit insurance fund), and not yet assessed, exceed $1,000,000.

"(ii) Interest on delayed assessments.—Any amount calculated under subparagraph (B) and not yet assessed shall bear interest at the daily average yield on 3-month Treasury obligations.

"(D) Definitions.—For purposes of this paragraph:

"(i) Capital categories.—The terms 'adequately capitalized' and 'significantly undercapitalized' have the same meanings as in section 37 of the Federal Deposit Insurance Act.

"(ii) Foreign deposit.—The term 'foreign deposit' means any obligation of an insured depository institution described in subparagraph (A) or (B) of section 3(l)(5).

"(iii) Relevant date.—The term 'relevant date' means the date on which the earliest of the following occurs with respect to an insured depository institution:

"(I) The institution is significantly undercapitalized, and has advances from a Federal Reserve bank outstanding for more than 5 consecutive days (without subsequently becoming adequately capitalized).

"(II) The Corporation initiates assistance under section 13(c) with respect to the institution.

"(III) A receiver or conservator is appointed for the institution.".

(b) Certified Statements and Payment Procedures.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended to read as follows:

"(c) Certified Statements; Payments.—

"(1) Certified statements required.—

"(A) In general.—Each insured depository institution shall file with the Corporation a certified statement containing such information as the Corporation may require for determining the institution's semiannual assessment.

"(B) Form of certification.—The certified statement required under subparagraph (A) shall—

"(i) be in such form and set forth such supporting information as the Board of Directors shall prescribe; and

"(ii) be certified by the president of the depository institution or any other officer designated by its board of directors or trustees that to the best of his or her knowledge and belief, the statement is true, correct and complete, and in accordance with this Act and regulations issued hereunder.

"(2) Payments required.—

"(A) In general.—Each insured depository institution shall pay to the Corporation the semiannual assessment imposed under subsection (b).

"(B) Form of payment.—The payments required under subparagraph (A) shall be made in such manner and at such time or times as the Board of Directors shall prescribe by regulation.

"(3) Newly insured institutions.—To facilitate the administration of this section, the Board of Directors may waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes insured.".

(c) Regulations.—To implement the risk-based assessment system required under section 7(b) of the Federal Deposit Insurance Act (as amended by subsection (a)), the Federal Deposit Insurance Corporation shall—

(1) provide notice of proposed regulations in the Federal Register, not later than December 31, 1992, with an opportunity for comment on the proposal of not less than 120 days; and

(2) promulgate final regulations not later than July 1, 1993.

(d) Authority To Prescribe Regulations and Definitions.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(f) Authority To Prescribe Regulations and Definitions.—Except to the extent that authority under this Act is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may—

"(1) prescribe regulations to carry out this Act; and

"(2) by regulation define terms as necessary to carry out this Act.".

(e) Conforming Amendments.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 5(d)(3)(B)—

(A) by striking "average assessment base" and inserting "deposits"; and

(B) by striking "shall—" and all that follows through "(iii) shall be treated" and inserting "shall be treated";

VOL 137 PT 23 NO 21—25 1991 UMI

(2) in section 7(a)(5) by striking "and for the computation of assessments provided in subsection (b) of this section";

(3) in section 7 by amending subsection (d) to read as follows:

"(d) CORPORATION EXEMPT FROM APPORTIONMENT.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority."; and

(4) in the last sentence of section 8(q) by striking "upon" and inserting "with respect to".

(f) TRANSITION TO NEW ASSESSMENT SYSTEM.—To carry out the amendments made by this section, the Corporation may promulgate regulations governing the transition from the assessment system in effect on the date of enactment of this Act to the assessment system required under the amendments made by this section.

(g) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this section shall become effective on the earlier of—

(1) 180 days after the date on which final regulations promulgated in accordance with subsection (c) become effective; or

(2) January 1, 1994.

SEC. 213. RISK-BASED REINSURANCE.

(a) RISK-BASED REINSURANCE PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Federal Deposit Insurance Corporation (hereafter referred to as the "Corporation") shall establish a pilot program to assess the viability of using a system of reinsurance to assist the Corporation in establishing risk-based assessment rates.

(2) PROGRAM DESCRIPTION.—Under the pilot program established in accordance with paragraph (1) the Corporation shall be required to obtain reinsurance from eligible reinsurers, which shall provide reinsurance to the Corporation for a percentage of the insured risks, not to exceed 10 percent, posed by the participating banks to the Corporation.

(3) PROGRAM PARTICIPATION.—

(A) IN GENERAL.—The Corporation shall select not more than 50 bank holding companies that have not less than $1,000,000,000 each in aggregate assets at the time of selection for participation, the banking affiliates of which would be the participating banks in the pilot program.

(B) ADDITIONAL REQUIREMENTS.—The Corporation shall establish any additional criteria for the selection of participating banks that it determines appropriate for the protection of the insurance funds and the public interest.

(4) ELIGIBLE REINSURERS.—

(A) IN GENERAL.—For purposes of this section, an eligible reinsurer shall include any qualified insurer that—

(i) meets appropriate criteria (including capital standards that, in the Corporation's judgment, will ensure that the reinsurer will be able to pay claims when called upon to do so) prescribed by the Corporation, subject to the requirements of any applicable State laws, for the qualification of reinsurers to offer risk-based reinsurance; and

(ii) meets any other criteria that the Corporation determines appropriate for the protection of the insurance funds and the public interest.

(B) INSTITUTION AFFILIATION.—Notwithstanding any other provision of law, a reinsurer may be an affiliate of a bank holding company or a savings and loan holding company, except that an insurance affiliate of such holding company may not offer reinsurance coverage for an affiliated bank.

(5) REINSURANCE ASSESSMENTS.—Under the pilot program, the Corporation shall be solely responsible for paying reinsurance charges to participating reinsurers on behalf of each participating bank from each such bank's overall assessment under section 7(b) of the Federal Deposit Insurance Act.

(6) ANNUAL REPORT TO CONGRESS.—The Corporation shall submit a report to the Congress annually on the progress of the pilot program established under paragraph (1).

(7) CORPORATION'S DISCRETION TO IMPLEMENT NATIONAL REINSURANCE SYSTEM.—Upon the termination of the pilot program established under this section, the Corporation may, by vote of the Board of Directors of the Corporation, implement a reinsurance system for all insured depository institutions under section 7A of the Federal Deposit Insurance Act, if the Corporation determines, and reports in writing to the Congress, that—

(A) a reinsurance system would be viable for insured depository institutions;

(B) reinsurance rates established under a reinsurance system can be at least as effective in measuring the relative risk to the deposit insurance funds posed by the insured depository institutions which would be covered by the system as any risk-based assessment system established under section 7(b) of the Federal Deposit Insurance Act, particularly the risks posed by profitable institutions that are adequately capitalized (as defined in section 37 of the Federal Deposit Insurance Act, as added by section 205);

(C) the Corporation can adequately measure and monitor the financial health of reinsurers; and

(D) it is in the public interest to implement a reinsurance system to assist the Corporation in establishing deposit insurance assessments for large insured depository institutions.

(8) IMPLEMENTATION DATE; DURATION.—The pilot program established under paragraph (1) shall be implemented not later than the effective date of the risk-based assessment system established by the Corporation under section 7(b) of the Federal Deposit Insurance Act, and shall terminate 3 years after such effective date.

(b) RISK-BASED REINSURANCE FOR LARGE INSTITUTIONS.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 7 the following new section:

"SEC. 7A. RISK-BASED INSURANCE FOR LARGE INSTITUTIONS.

"(a) PURPOSE.—The purpose of this section is to establish a risk-based deposit insurance assessment rate system through reinsurance coverage for a percentage of the insured risk of large bank or large savings association failures, not to exceed 10 percent.

"(b) COVERED INSTITUTIONS.—For purposes of this section, the term 'covered institution' means a member of a deposit insurance fund that the Corporation finds, in accordance with regulations implementing this subsection—

"(1) has total assets of more than $1,000,000,000 on December 31, 1991, or thereafter; or

"(2) is owned by a bank holding company or a savings and loan holding company, respectively, that has total assets of more than $1,000,000,000 on December 31, 1991.

"(c) RISK-BASED ASSESSMENTS.—

"(1) TRANSITION PERIOD ASSESSMENTS.—After a covered institution enters into a reinsurance agreement under subsection (g), but prior to the date determination described in paragraph (2), each covered institution shall pay a deposit insurance assessment that is—

"(A) equal to the assessment determined under section 7(b); or

"(B) determined by scaling up the premium established by a reinsurance agreement under subsection (g) and applying that scaled-up rate to the institution's average assessment base,

whichever, in the judgment of the Corporation, better reflects the inherent risks of the institution, subject to adjustments authorized by subsection (d).

"(2) RISK-BASED REINSURANCE ASSESSMENTS.—After the Corporation determines that—

"(A) a sufficient number of covered institutions, as determined by the Corporation, are covered by reinsurance agreements; and

"(B) the risk-based premium based on scaling up the assessments charged under a reinsurance agreement, subject to adjustments under subsection (d), provides risk assessments that differentiate between banks according to risk at least as effectively as under the risk-based formula in section 7(b),

each covered institution, except for those that are not yet required to obtain a reinsurance agreement under the phase-in schedule established under subsection (e)(1), shall pay a deposit insurance assessment that is determined by scaling up the premium rate established by the reinsurance agreement under subsection (g) and applying that scaled-up rate to the institution's average assessment base, subject to adjustments authorized by subsection (d). A covered institution that fails to obtain a reinsurance agreement in a timely manner under the phase-in schedule established under subsection (e)(1) shall have its insurance assessments determined under the provisions of subsection (j)(1).

"(d) BANK INSURANCE FUND ADJUSTMENTS.—The Corporation shall make proportionate adjustments, under procedures established by regulation, to each covered institution's total deposit insurance assessment upwards or downwards, as necessary to ensure to the extent practicable and consistent with the public interest that all such assessments, in the aggregate, are sufficient to maintain the deposit insurance fund at or above the designated reserve ratio required by section 7(b)(1)(B), or to restore the deposit insurance fund to the designated reserve ratio within a reasonable period of time.

"(e) PHASE-IN SCHEDULE AND AMOUNT OF REINSURANCE.—

"(1) PHASE-IN SCHEDULE FOR OBTAINING REINSURANCE AGREEMENTS.—

"(A) ESTABLISHMENT; PUBLICATION.—The Corporation shall—

"(i) establish a timetable designed to ensure that, by the end of the phase-in period and to the maximum extent practicable, all covered institutions have obtained reinsurance under this section; and

"(ii) publish such timetable in the Federal Register.

"(B) CRITERIA.—The timetable established under subparagraph (A) shall—

"(i) require some covered institutions to begin to obtain reinsurance not later than 1 year following the end of the reinsurance pilot program established under section 213(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, if the Corporation recommends establishing a reinsurance system for setting risk-

based premiums for certain institutions under the provisions of section 7A of the Federal Deposit Insurance Act;

"(ii) require all covered institutions to obtain reinsurance contracts over a period of not less than 5 years or not more than 10 years after such date, unless the Corporation determines that a shorter or longer period would be in the public interest; and

"(iii) provide ample opportunity for the development of a competitive reinsurance market.

"(C) NOTIFICATION.—The Corporation shall notify each covered institution not less than 1 year before the institution will be required to obtain reinsurance.

"(2) LEVEL OF REINSURANCE.—The Corporation shall, in accordance with paragraph (3), establish a uniform reinsurance level that is not less than 3 percent nor more than 10 percent of the insured deposits of each covered institution.

"(3) CRITERIA FOR SETTING LEVEL OF COVERAGE.—For purposes of paragraph (2), the Corporation shall establish a level of reinsurance coverage that is sufficient to ensure—

"(A) that the assessment rates charged by reinsurers can be accurately scaled up to reasonably reflect the total insured risk of failure presented by each covered institution; and

"(B) that, over the transition period, there is a reasonable likelihood that enough reinsurance capacity is available to support a competitive reinsurance market.

"(4) PHASE-IN.—

"(A) IN GENERAL.—The Corporation shall—

"(i) require reinsurers to provide the level of reinsurance established under paragraph (2) not later than 5 years after the phase-in period under subsection (d)(1) begins; and

"(ii) establish interim reinsurance levels applicable during the 5-year transition period described in clause (i).

"(B) VARIATIONS.—The Corporation may permit variations from the phase-in schedules established under paragraph (1) and this paragraph if—

"(i) a substantial change in a covered institution's circumstances hinders the institution from complying with the phase-in schedule established under paragraph (1); or

"(ii) a covered institution cannot obtain reinsurance coverage at the specified time due to lack of market availability.

"(f) ELIGIBLE REINSURERS AND REINSURANCE CONTRACTS.—

"(1) IN GENERAL.—For purposes of this section, an 'eligible reinsurer' shall include any qualified insurer that—

"(A) meets appropriate criteria (including capital criteria that, in the Corporation's judgment, will ensure that the reinsurer will be able to pay claims when called upon to do so) prescribed by the Corporation, subject to the requirements of any applicable State laws, for the qualification of reinsurers to offer risk-based reinsurance to covered institutions;

"(B) offers reinsurance terms that reflect a risk-based approach to pricing; and

"(C) meets any other criteria that the Corporation determines appropriate for the protection of the insurance funds and the public interest.

"(2) INSTITUTION AFFILIATION.—An eligible reinsurer may be an affiliate of a bank holding company or a savings association holding company, except that an insurance affiliate may not offer reinsurance to an affiliated bank or savings association.

"(3) TERMS OF REINSURANCE CONTRACTS.—

"(A) The Corporation is authorized to establish general terms and conditions for reinsurance contracts, including, but not limited to, the length of such contracts, the amount of information pertaining to the reinsured institution held by the Corporation that the reinsurer will have access to, the frequency of price changes permitted, and the conditions for termination; and

"(B) The Corporation must approve all reinsurance agreements negotiated pursuant to subsection (g).

"(g) REINSURANCE AGREEMENTS.—

"(1) NEGOTIATIONS.—Eligible reinsurers shall negotiate directly with covered institutions to establish—

"(A) the price of reinsurance for that portion of the insured risk covered by the reinsurer; and

"(B) the rights of the reinsurer to review documents maintained by the covered institution in order to assess risk and determine the price.

Any agreements negotiated under this paragraph are subject to the approval of the Corporation under subsection (e)(3)(B) of this section.

"(2) INSURANCE FOR UNINSURED DEPOSITS.—An eligible reinsurer may offer insurance coverage for deposits that are not federally insured to any bank or savings association, whether or not it is covered by reinsurance with this section.

"(h) REINSURANCE REQUIREMENTS.—

"(1) COMPLIANCE EXTENSIONS.—If the Corporation finds that—

"(A) there is a substantial shortage of private sector reinsurance capacity at any time after the end of the phase-in schedule established under subsection (e)(1); or

"(B) because of a significant period of financial stress, it is required in the public interest;

the Corporation is authorized to suspend the requirement for a covered institution to obtain reinsurance for periods of 6 months. During such 6-month periods, deposit insurance assessments for all covered institutions shall be made in accordance with section 7(b). The Corporation shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance and Urban Affairs of the House of Representatives each time it uses its authority under this subsection, setting forth the reasons for such use.

"(2) REINSURANCE PREMIUMS.—If the Corporation—

"(A) finds that the risk-based premium based on a reinsurance agreement charged a covered institution is significantly less than the premium that would be charged under the section 7(b) risk-based formula; and

"(B) believes that the reinsurance agreement-based assessment does not with reasonable accuracy reflect the inherent insured risks of the covered institution,

the premium for such institution shall be assessed under the section 7(b) risk-based formula. The Corporation shall give a covered institution whose premium would be changed under this paragraph and the reinsurer involved an opportunity to comment on the Corporation's findings not less than 30 days before changing the premium assessment for such covered institution. The Corporation shall return the premium charged any covered institution to the level based on scaling up the assessment charged under the reinsurance agreement, subject to adjustments authorized by subsection (d), if the Corporation finds that subparagraph (B) no longer applies.

"(i) PAYMENTS.—The premium negotiated between a covered institution and a reinsurer in accordance with subsection (g) shall be paid by the Corporation to the reinsurer on a payment schedule established by the Corporation. Such schedule shall provide that covered institutions shall promptly pay, and reinsurers will promptly be paid for, any premium increases during the term of a reinsurance agreement. Assessments under this section shall be paid by the institution to the Corporation in accordance with subsections (b)(2) and (c) through (h) of section 7.

"(j) FAILURE TO OBTAIN REINSURANCE.—

"(1) ASSESSMENT PENALTY.—Except as provided in subsection (k), upon the failure of a covered institution to obtain reinsurance or renew a reinsurance agreement as required under this section, the Corporation shall make a deposit insurance assessment on the institution that is at least 8 basis points higher than the deposit insurance assessment rate that would be charged that institution under the section 7(b) risk-based formula, or equal to the highest assessment rate charged any covered institution with reinsurance having the same rating under the Uniform Financial Institutions Rating System (hereafter 'CAMEL rating') derived from an evaluation of an institution's capital adequacy, asset quality, management, earnings, and liquidity, whichever is higher.

"(2) SPECIAL EXAMINATION.—For a covered institution that is subject to treatment under paragraph (1), the Corporation shall—

"(A) conduct an immediate full-scope examination of the institution; and

"(B) make adjustments to the institution's CAMEL rating, if appropriate.

"(3) TERMINATION OF INSURANCE.—After the transition period in subsection (e)(1) has ended, the Corporation shall not provide deposit insurance to any covered institution that is unable to obtain reinsurance for more than 2 consecutive years, unless reinsurance requirements are suspended under subsection (h)(1).

"(k) EFFECTIVE DATE.—This section shall become effective on the date the Corporation, under the procedures established in section 213(a)(7) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, reports to the Congress that it is prepared to begin implementing a national reinsurance system.".

(2) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(A) by redesignating paragraphs (9) through (14) as paragraphs (10) through (15), respectively; and

(B) by inserting after paragraph (8) a new paragraph as follows:

"(9) shares of any company, the activities of which are limited solely to providing reinsurance in accordance with the requirements of section 7A of the Federal Deposit Insurance Act;".

SEC. 214. REAL ESTATE LENDING STANDARDS.

(a) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(u) REAL ESTATE LENDING.—

"(1) UNIFORM REGULATIONS.—Not more than 9 months after the date of enactment of the Comprehensive Deposit Insurance and Taxpayer Protection Act of 1991, each appropriate Federal banking agency shall adopt uniform regulations prescribing standards for extensions of credit that are—

"(A) secured by liens on interests in real estate; or

"(B) made for the purpose of financing the construction of a building or other improvements to real estate.

VOL 137 PT 23 NO 21—25 1991 UMI

"(2) Standards.—

"(A) Criteria.—In prescribing standards under paragraph (1), the agencies shall consider—

"(i) the risk posed to the deposit insurance funds by such extensions of credit;

"(ii) the need for safe and sound operation of insured depository institutions; and

"(iii) the availability of credit.

"(B) Variations permitted.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies may differentiate among types of loans—

"(i) as may be required by Federal statute;

"(ii) as may be warranted, based on the risk to the deposit insurance fund; or

"(iii) as may be warranted, based on the safety and soundness of the institutions.

"(3) Effective date.—The regulations adopted under paragraph (1) shall become effective not later than 15 months after the date of enactment of the Comprehensive Deposit Insurance and Taxpayer Protection Act of 1991. Such regulations shall continue in effect except as uniformly amended by the appropriate Federal banking agencies, acting in concert.

"(4) Loan-to-value ratios applicable if regulations not adopted as required.—The following provisions shall become effective 15 months after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 if the Federal banking agencies fail to adopt uniform regulations under paragraph (1) within the period specified in that paragraph:

"(A) In general.—An insured depository institution shall not extend credit secured by real property if the extension of credit would exceed the following percentage of the appraised value of that property:

"(i) 1- to 4-family dwelling.—95 percent, if the extension of credit is to finance the purchase of, or to refinance outstanding indebtedness on, property improved by a completed 1- to 4-family dwelling.

"(ii) Completed structure.—80 percent, if the property is improved by 1 or more completed structures and—

"(I) none of the structures is a completed 1- to 4-family dwelling; or

"(II) the extension of credit is not described in clause (i).

"(iii) Improved property.—70 percent, if the property is improved but has no completed structure.

"(iv) Undeveloped property.—65 percent, if—

"(I) the property is undeveloped; and

"(II) the extension of credit is not an extension of credit to an active farming operation secured by agricultural land.

"(B) Exceptions.—Subparagraph (A) does not apply to any extension of credit on which the principal and interest are insured or guaranteed by a Federal agency, a federally related entity, or a State or local housing finance agency, as defined in regulations of the appropriate Federal banking agency.

"(C) Regulatory authority.—The appropriate Federal banking agency may adjust the limitations in subparagraph (A) if the agency determines that the limitation that would otherwise apply—

"(i) is unreasonable and limits safe and sound extensions of credit; or

"(ii) does not sufficiently curtail unsafe and unsound practices.".

(b) Conforming Amendment.—Section 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by striking "such terms," and all that follows through the period and inserting "section 18(u) of the Federal Deposit Insurance Act and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.".

SEC. 215. RESTRICTING RISKY BANK ACTIVITIES.

(a) In General.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. BANK ACTIVITIES.

"(a) FDIC May Restrict Risky Bank Activities.—The Corporation may, by regulation or order—

"(1) prohibit or restrict any activity of an insured bank that poses a significant risk to the deposit insurance fund;

"(2) require that activities not prohibited under this section be conducted through a subsidiary; and

"(3) impose such other restrictions and requirements as the Corporation determines to be necessary to prevent a significant risk to the deposit insurance fund.

"(b) Exercise of State-Authorized Powers Exceeding the Powers of a National Bank.—

"(1) In general.—An insured State bank shall not, directly or indirectly, engage as principal in any activity that is not permissible for a national bank unless—

"(A) the State bank is adequately capitalized, as defined in section 37; and

"(B) the Corporation has, by regulation or order, determined that engaging in that activity—

"(i) would pose no significant risk to the deposit insurance fund; and

"(ii) would be consistent with the purposes of this Act.

"(2) Exception for well-capitalized banks.—Paragraph (1) does not prohibit an insured State bank from engaging as principal, directly or indirectly, in an activity not permissible for a national bank if—

"(A) the bank is well-capitalized, as defined in section 37;

"(B) the bank has filed with the Corporation a notice describing the activity;

"(C) the Corporation has not, before the expiration of the 90-day period beginning on the date on which the notice is filed, determined that engaging in that activity—

"(i) would pose a significant risk to the deposit insurance fund; or

"(ii) would be inconsistent with the purposes of this Act.

"(c) Equity Investments by State Banks.—

"(1) In general.—An insured State bank shall not, directly or indirectly, acquire any equity investment of a type or in an amount that is not permissible for a national bank.

"(2) Exceptions.—Paragraph (1) does not prohibit an insured State bank from doing any of the following:

"(A) Community development investments.—Acquiring or retaining investments designed primarily to promote the public welfare, including low- and moderate-income communities or families (such as by providing housing, services, or jobs).

"(B) Investments through separately capitalized subsidiaries.—Acquiring an equity investment of a type or in an amount that is not permissible for a national bank if all of the State bank's investments in and extensions of credit to the subsidiary are deducted from the bank's capital.

"(C) Risk retention.—Acquiring not more than 10 percent of a corporation that only—

"(i) provides directors', trustees', and officers' liability insurance coverage, or bankers' blanket bond group insurance coverage for insured depository institutions; or

"(ii) reinsures such policies.

"(D) Savings bank life insurance.—Acquiring shares of a savings bank life insurance company, if the insured State bank is organized under the laws of Connecticut, Massachusetts, or New York.

"(E) Bankers' banks.—Acquiring or retaining shares of a depository institution if—

"(i) the institution engages only in activities permissible for national banks;

"(ii) the institution is subject to examination and regulation by a State bank supervisor;

"(iii) 20 or more depository institutions own shares of the institution, and none of those institutions owns more than 15 percent of the institution's shares; and

"(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the institution's officers and employees) are owned only by the institution.

(F) Corporate equity securities.—Acquiring common and preferred shares listed on a national securities exchange and shares of an investment company registered under the Investment Company Act of 1940, in an aggregate amount not exceeding 50 percent of the bank's capital, if the bank was engaged in investing in such securities as of September 30, 1991. A bank shall not acquire common or preferred shares of any issuer (other than a registered investment company) if, after the acquisition, the bank's investment in shares of that issuer would exceed 10 percent of the bank's capital.

"(d) Corporate Debt Securities Not of Investment Grade.—

"(1) In general.—An insured bank shall not, directly or indirectly, acquire any corporate debt security not of investment grade.

"(2) Accounting.—An insured bank retaining any corporate debt security not of investment grade shall account for that security as if the security were held for sale.

"(3) Exception.—Paragraphs (1) and (2) do not apply with respect to any corporate debt security acquired outside of the United States to the extent permitted by regulation or order of the Board of Governors of the Federal Reserve System under section 25 or 25A of the Federal Reserve Act.

"(4) Definition.—The term 'corporate debt security not of investment grade' has the same meaning as in section 28(d)(4).

"(e) Activity Defined.—For purposes of this section, the term 'activity' includes acquiring any investment.

"(f) Other Authority Not Affected.—This section does not limit any authority of an appropriate Federal banking agency or a State to impose more stringent restrictions.".

(b) Effective Date.—Section 24 of the Federal Deposit Insurance Act (as added by subsection (a)) shall become effective upon the date of enactment of this Act, except that subsections (b) and (c) of section 24 shall become effective 2 years after that date of enactment.

(c) Transition Rule for Investments in Corporate Equity Securities.—

(1) In general.—Notwithstanding section 24(c) of the Federal Deposit Insurance Act (as added by subsection (a))—

(A) during the 2 years following the date of enactment of this Act, an insured State bank or subsidiary of an insured State bank may acquire or retain corporate equity securities to the extent permitted by State law on May 14, 1991;

(B) during each of the 3 years following the effective date of section 24(c), each insured State bank and each subsidiary of an insured State bank shall reduce by not less than one-third the corporate equity securities that—

(i) it held on that effective date; and

(ii) are of a type or in an amount not permissible under section 24(c); and

(C) during the first 5 years following the effective date of section 24(c), an insured State bank or subsidiary of an insured State bank may acquire or retain any investment in any publicly traded index of corporate equity securities, to the extent permitted by State law on May 14, 1991.

(2) Accounting treatment.—In calculating compliance with paragraph (1)(B), corporate equity securities held for investment by insured State banks and subsidiaries of insured State banks shall not be required to be marked to market.

(3) Study and report.—

(A) Study required.—The Comptroller General shall conduct a study regarding investments in corporate equity securities by insured State banks and their subsidiaries. Such study shall examine—

(i) the extent to which insured State banks and their subsidiaries have invested in corporate equity securities;

(ii) the risks and returns on those investments;

(iii) their contribution to profitability;

(iv) the extent to which States limit the types and amounts of such investments; and

(v) whether such investments are consistent with the purposes of this Act.

(B) Report required.—Not later than 18 months after the date of enactment of this section, the Comptroller General shall transmit to the Congress a report regarding the results of the study described in subparagraph (A), along with recommendations for such legislative or administrative actions as the Comptroller General deems appropriate.

(d) Savings Bank Life Insurance Grandfather Rights.—Section 5(i)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(i)(4)) is amended by adding at the end the following:

"(C) Any Federal savings association that acquires, or that results from the conversion of, a savings bank chartered by a State that by State law authorizes its State chartered savings banks to sell or underwrite savings bank life insurance may sell or underwrite such insurance to the same extent that any savings bank chartered by that State may do so under State law.".

SEC. 216. SAFEGUARDS AGAINST INSIDER ABUSE.

(a) Recodification of Current Law Restricting Extensions of Credit to Insiders.—Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) is amended to read as follows:

"(h) Extensions of Credit to Executive Officers, Directors, and Principal Shareholders of Member Banks.—

"(1) In general.—No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), and (6).

"(2) Preferential terms prohibited.—A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

"(A) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank; and

"(B) does not involve more than the normal risk of repayment or present other unfavorable features.

"(3) Prior approval required.—A member bank may extend credit to a person described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) only if—

"(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

"(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

"(4) Aggregate limit on extensions of credit to any executive officer or principal shareholder.—A member bank may extend credit to any executive officer or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes. For purposes of this paragraph, section 5200 of the Revised Statutes shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

"(5) [Reserved.]

"(6) Overdrafts by executive officers and directors prohibited.—

"(A) In general.—If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

"(B) Exceptions.—Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

"(i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; and

"(ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

"(7) [Reserved.]

"(8) Executive officer, director, or principal shareholder of certain affiliates treated as executive officer, director, or principal shareholder of member bank.—For purposes of this subsection, any executive officer, director, or principal shareholder (as the case may be) of any bank holding company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

"(9) Definitions.—For purposes of this subsection:

"(A) Company.—

"(i) In general.—Except as provided in clause (ii), the term 'company' means any corporation, partnership, business or other trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

"(ii) Exceptions.—The term 'company' does not include—

"(I) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act); or

"(II) a corporation the majority of the shares of which are owned by the United States or by any State.

"(B) Control.—A person controls a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

"(i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;

"(ii) controls in any manner the election of a majority of the company's directors; or

"(iii) has the power to exercise a controlling influence over the company's management or policies.

"(C) Executive officer.—A person is an 'executive officer' of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

"(D) Extension of credit.—A member bank extends credit by making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which a person becomes obligated (directly or indirectly, or by any means whatsoever) to pay money or its equivalent to the bank.

"(E) [Reserved.]

"(F) Principal shareholder.—The term 'principal shareholder' means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. For purposes of paragraph (4), if a member bank has its main banking office in a city, town, or village with a population of less than 30,000, the preceding sentence shall apply with '18 percent' substituted for '10 percent'.

"(G) Related interest.—A 'related interest' of a person is—

"(i) any company controlled by that person; and

"(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

"(H) Subsidiary.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(10) Board's rulemaking authority.—The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this subsection.".

(b) Requiring Depository Institutions To Follow Normal Credit Underwriting Procedures When Extending Credit to Insiders.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)), as amended by subsection (a), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.".

(c) Applying to Directors the Limit on Loans to One Borrower.—Section 22(h)(4) of the Federal Reserve Act (12 U.S.C. 375b(4)), as amended by subsection (a), is amended—

(1) by inserting ", DIRECTOR," after "AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER"; and

(2) by inserting ", director," after "A member bank may extend credit to any executive officer".

(d) Limiting Depository Institution's Aggregate Extensions of Credit to Insiders.—

VOL 137
PT 23
NO 21—25
1991
UMI

(1) In general.—Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)), as amended by subsection (a), is amended to read as follows:

"(5) Aggregate limit on extensions of credit to all executive officers, directors, and principal shareholders.—

"(A) In general.—A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

"(B) More stringent limit authorized.—The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

"(C) Board may make exceptions for certain banks.—The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.".

(2) Conforming amendment.—Section 22(h)(1) of the Federal Reserve Act (12 U.S.C. 375b(1)), as amended by subsection (a), is amended by inserting "(5)," after "(4),".

(e) Prohibiting Insiders From Accepting Unauthorized Extensions of Credit.—Section 22(h)(7) of the Federal Reserve Act (12 U.S.C. 375b(7)), as amended by subsection (a), is amended to read as follows:

"(7) Prohibition on knowingly receiving unauthorized extension of credit.—No executive officer, director, or principal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this subsection.".

(f) Applying Uniform Rules to All Companies Controlling Depository Institutions.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)), as amended by subsection (a), is amended by striking "bank holding".

(g) Applying Safeguards to Insider Transactions With Depository Institution's Subsidiaries.—Section 22(h)(9)(E) of the Federal Reserve Act (12 U.S.C. 375b(9)(E)), as amended by subsection (a), is amended to read as follows:

"(E) Member bank.—The term 'member bank' includes any subsidiary of a member bank.".

(h) Applying Uniform Rules to All Principal Shareholders.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(9)(F)), as amended by subsection (a), is amended by striking the last sentence.

(i) Limiting Savings Associations' Extensions of Credit to Executive Officers.—Section 11(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1468(b)(1)) is amended by striking "Section 22(h)" and inserting "Subsections (g) and (h) of section 22".

(j) Preventing Savings Associations From Making Preferential Extensions of Credit Through Correspondent Institutions.—Section 106(b)(2)(H)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(H)(i)) is amended by inserting ", a savings bank, and a savings association (as those terms are defined in section 3 of the Federal Deposit Insurance Act)" after "mutual savings bank".

(k) Limiting State Nonmember Bank's Extensions of Credit to Executive Officers; Clarifying the Prohibition on Preferential Extensions of Credit to Insiders.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended to read as follows:

"(j) Restrictions on Transactions With Affiliates and Insiders.—

"(1) Transactions with affiliates.—

"(A) In general.—Sections 23A and 23B of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(B) Affiliate defined.—For the purpose of subparagraph (A), any company that would be an affiliate (as defined in sections 23A and 23B) of a nonmember insured bank if the nonmember insured bank were a member bank shall be deemed to be an affiliate of that nonmember insured bank.

"(2) Extensions of credit to officers, directors, and principal shareholders.—Subsections (g) and (h) of section 22 of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(3) Avoiding extraterritorial application to foreign banks.—

"(A) Transactions with affiliates.—Paragraph (1) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch.

"(B) Extensions of credit to officers, directors, and principal shareholders.—Paragraph (2) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch, but shall apply with respect to the insured branch.

"(C) Foreign bank defined.—For purposes of this paragraph, the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978.".

(l) Effective Date.—The amendments made by this section shall become effective upon the earlier of—

(1) the date on which final regulations under subsection (m)(1) become effective; or

(2) 150 days after the date of enactment of this Act.

(m) Regulations.—

(1) In general.—The Board of Governors of the Federal Reserve System shall, not later than 120 days after the date of enactment of this Act, promulgate final regulations to implement the amendments made by this section, other than the amendments made by subsections (i) and (k).

(2) Limiting extensions of credit to executive officers.—The Federal Deposit Insurance Corporation and Director of the Office of Thrift Supervision shall each, not later than 120 days after the date of enactment of this Act, promulgate final regulations prescribing the maximum amount that a nonmember insured bank or insured savings association (as the case may be) may lend under section 22(g)(4) of the Federal Reserve Act, as made applicable to those institutions by subsections (k) and (i), respectively.

(n) Existing Transactions Not Affected.—The amendments made by this section do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of those amendments.

(o) Reporting of Credit by Executive Officers and Directors.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.

SEC. 217. PROTECTING DEPOSITORY INSTITUTIONS FROM ABUSIVE TRANSACTIONS WITH AFFILIATES.

(a) Amendments to Section 23A of the Federal Reserve Act.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by striking "per centum" each place it appears and inserting "percent";

(2) by adding at the end of subsection (a) the following new paragraph:

"(5) No bank holding company shall permit an insured depository institution that it controls to engage in any covered transaction if the amount of the covered transaction exceeds 5 percent of the institution's capital stock and surplus, unless not less than 5 days prior notice is provided to the Board and the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, if different.";

(3) in subsection (b)(1)(D), by amending clause (ii) to read as follows:

"(ii) any investment company, commodity pool, or other company engaged in substantially the same activities as an investment company or commodity pool for which a member bank or any affiliate is an investment adviser as defined in section 2(a)(20) of the Investment Company Act of 1940, or a commodity trading adviser as defined in section 2(a)(1)(A) of the Commodity Exchange Act, or performs activities substantially equivalent to those of an investment adviser or commodity trading adviser; and";

(4) in subsection (b)(2)(A), by inserting "and of which the member bank owns at least 80 percent of the voting stock" after "member bank";

(5) in subsection (b)(5), by inserting "that is principally engaged in deposit taking or lending activities" after "trust company";

(6) in subsection (b)(7)—

(A) in subparagraph (D), by striking "or" at the end thereof;

(B) in subparagraph (E) by inserting "to, or" after "standby letter of credit,"; and

(C) by inserting after subparagraph (E) the following new subparagraphs:

"(F) the assumption by a member bank of a liability of any affiliate, whether directly or through the transfer of the affiliate to the member bank; or

"(G) any other financial arrangement that the Board by regulation determines to be substantially equivalent to a transaction described in this paragraph;";

(7) in subsection (c)(1)—

(A) by inserting "to, or" after "letter of credit issued"; and

(B) by striking "at the time of the transaction";

(8) in subsection (c)(4)—

(A) by inserting "the member bank or" after "issued by"; and

(B) by inserting "to, or" after "letter of credit issued"; and

(9) in subsection (d)(5), by inserting ", if the company provides services solely to affiliated member banks" before the semicolon.

(b) Amendments to Section 23B of the Federal Reserve Act.—Section 23B(b)(2) of

the Federal Reserve Act (12 U.S.C. 371c-1(b)(2)) is amended by inserting "officers, directors, or employees of" after "of the bank or".

SEC. 218. INTERBANK LIABILITIES.

(a) Reducing Systemic Risks Posed by Large Bank Failures.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 22 the following new section:

"INTERBANK LIABILITIES

"Sec. 23. (a) Purpose.—The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

"(b) Aggregate Limits on Insured Depository Institutions' Exposure to Other Depository Institutions.—The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

"(c) Exposure Defined.—

"(1) In general.—For purposes of subsection (b), an insured depository institution's 'exposure' to another depository institution means—

"(A) all extensions of credit to the other depository institution, regardless of name or description, including—

"(i) all deposits at the other depository institution;

"(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

"(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

"(B) all purchases of or investments in securities issued by the other depository institution;

"(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

"(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

"(2) Exemptions.—The Board may, at its discretion, by regulation or order, exempt transactions from the definition of 'exposure' if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

"(3) Attribution rule.—For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

"(d) Insured Depository Institution.—For purposes of this section, the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(e) Rulemaking Authority; Enforcement.—The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 8 of the Federal Deposit Insurance Act.".

(b) Transition Rules.—The Board shall prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act (as added by subsection (a)).

(c) Effective Date.—The amendment made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 219. REDUCING RISK TO PAYMENT SYSTEM.

(a) Findings and Purpose.—The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions, directly and through clearing organizations;

(2) the efficient processing of those transactions is important to a smoothly functioning economy;

(3) those transactions can be processed most efficiently by netting obligations among financial institutions, consistent with applicable contracts;

(4) netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) to ensure that those netting procedures are effective, they must be recognized as valid and legally binding even if a financial institution participating in the procedures is closed.

(b) Bilateral Netting.—

(1) Netting contract to be enforced.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted under any applicable netting contract.

(2) Limit on obligation to make payment.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution arising under a single netting contract shall be equal to its net obligation under that contract to that other financial institution (and no such obligation shall exist if there is no net obligation).

(3) Limit on entitlement to receive payment.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution arising under a single netting contract shall be equal to its net entitlement under that contract with respect to that other financial institution (and no such right shall exist if there is no net entitlement).

(4) Failed financial institution is entitled only to its net entitlement.—Any net entitlement of a failed financial institution shall be paid to the failed financial institution under the applicable netting contract.

(c) Clearing Organization Netting.—

(1) Netting contract to be enforced.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted under any applicable netting contract.

(2) Limit on obligation to make payment.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract.

(3) Limit on entitlement to receive payment.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract.

(4) Failed financial institution is entitled only to its net entitlement.—Any net entitlement of a failed member shall be paid to the failed member under the applicable netting contract. The failed member shall have no recognizable claim against any member of the clearing organization for any amount based on the covered contractual payment entitlements other than the failed member's net entitlement.

(d) Preemption.—No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, and no other provision of Federal or State law shall limit or delay application of the netting provisions of an otherwise enforceable netting contract under subsections (b) and (c).

(e) Definitions.—For purposes of this section:

(1) Broker-dealer.—The term "broker-dealer" means a company that is registered or licensed under Federal or State law to act as a securities broker or dealer.

(2) Clearing organization.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization that provides clearing, netting, or settlement services for its members, and—

(A) that is registered as a clearing agency under the Securities Exchange Act of 1934 (12 U.S.C. 78q-1(b));

(B) that performs clearing functions for a contract market designated under the Commodity Exchange Act (7 U.S.C. 1); or

(C) in which all members other than the clearing organization are financial institutions or other clearing organizations.

(3) Covered clearing obligation.—The term "covered clearing obligation" means an obligation, subject to a netting contract, of a member of a clearing organization to make a payment to another member of a clearing organization.

(4) Covered contractual payment entitlement.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract, from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of that clearing organization.

(5) Covered contractual payment obligation.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract, to another financial institution; and

(B) a covered clearing obligation.

(6) Depository institution.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b));

(C) a corporation chartered under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.); or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.).

(7) Failed financial institution.—The term "failed financial institution" means a financial institution that—

(A) has failed to satisfy a covered contractual payment obligation when due;

VOL
137
PT
23
NO
21
—
25
1991
UMI

(B) is the subject of insolvency, liquidation, bankruptcy, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) has failed to satisfy a covered contractual payment obligation when due;

(B) is the subject of insolvency, liquidation, bankruptcy, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker-dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term "futures commission merchant" means a company that is registered under Federal law to engage in the business of selling futures or options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which a financial institution's or member's covered contractual payment entitlements exceed its covered contractual payment obligations after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which a financial institution's or member's covered contractual payment obligations exceed its covered contractual payment entitlements after netting under a netting contract.

(14) NETTING CONTRACT.—The term "netting contract" means an agreement (including the rules of a clearing organization) between 2 or more financial institutions or members that—

(A) is governed by the laws of the United States or any subdivision thereof or any State;

(B) provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to those obligations or entitlements) among the parties to the agreement; and

(C) is not precluded by Federal banking, securities, or commodities laws.

(15) PAYMENT.—The term "payment" means a payment of United States dollars, another currency, or a composite currency, including a payment to liquidate an unmatured obligation.

(f) OTHER PAYMENT SYSTEMS NOT AFFECTED.—This section shall not affect the enforceability of a netting arrangement of any payment system not subject to this section.

SEC. 220. LEAST-COST RESOLUTION.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end the following new subsection:

"(l) LEAST-COST RESOLUTION REQUIRED.—

"(1) IN GENERAL.—The Corporation shall not, directly or indirectly, do any of the following with respect to any insured depository institution except to satisfy the Corporation's obligations to that institution's insured depositors at the least possible long-term cost to the deposit insurance fund:

"(A) Take any action under subsection (f)(1), (i)(3), (m), or (n) of section 11.

"(B) Take any action under subsection (c) or (k).

"(C) Expend any money from a deposit insurance fund, other than to pay for examination, supervision, and administration costs.

"(D) Assume or guarantee any liability.

"(2) DETERMINING LEAST-COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible long-term cost to the deposit insurance fund, the Corporation shall comply with the following provisions:

"(A) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(i) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(ii) document that evaluation; and

"(iii) retain the documentation for not less than 5 years.

"(B) ECONOMIC CONDITIONS AND FINANCIAL STABILITY.—The Corporation shall not consider how the transaction would affect economic conditions or financial stability except insofar as the effects would result in quantifiable costs to the deposit insurance fund.

"(C) SPECIAL ASSESSMENTS ON FOREIGN DEPOSITS.—The Corporation shall not consider the proceeds of any special assessment on foreign deposits.

"(D) FOREGONE TAX REVENUES.—The Corporation shall treat Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, as if they were revenues foregone by the affected deposit insurance fund.

"(3) SYSTEMIC RISK.—

"(A) EMERGENCY ADVANCES BY TREASURY.—If, upon the written recommendation of the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of its members), the Secretary of the Treasury (in consultation with the President) determines in writing that—

"(i) the Corporation's compliance with paragraph (1) with respect to an insured depository institution would have serious adverse effects on economic conditions or financial stability; and

"(ii) an advance under this subparagraph would avoid or mitigate such adverse effects, the Secretary may advance to the Corporation the amount necessary to avoid or mitigate those effects.

"(B) FUNDS ADVANCED ARE NOT RESTRICTED BY PARAGRAPH (1).—Any action taken using funds advanced by the Secretary of the Treasury under subparagraph (A) is not an action taken under any subparagraph of paragraph (1).

"(C) REPAYMENT OF ADVANCES.—The Corporation shall recover the loss to the insurance fund, less any loss recovered through a special assessment on foreign deposits, arising from advances with respect to an insured depository institution under subparagraph (A) expeditiously from 1 or more special assessments on the members of the deposit insurance fund of which the insured depository institution is a member, equal to the product of—

"(i) an assessment rate established by the Corporation; and

"(ii) the amount of each member's average total assets during the semiannual period, minus the sum of—

"(I) the amount of the member's average total tangible equity;

"(II) the amount of the member's average total subordinated debt; and

"(III) the amount of the member's average total deposits that are deposits described in subparagraph (A) or (B) of section 3(l)(5).

"(D) INTEREST ON ADVANCES.—Advances under subparagraph (A) shall bear interest at a rate to be determined by the Secretary of the Treasury.

"(E) DOCUMENTATION REQUIRED.—The Secretary of the Treasury shall—

"(i) document any determination under subparagraph (A); and

"(ii) retain the documentation for review under subparagraph (F).

"(F) GAO REVIEW.—The Comptroller General of the United States shall review and report to the Congress on any determination under subparagraph (A), including—

"(i) the basis for the determination;

"(ii) the purpose for which the advance was used; and

"(iii) the likely effect of the determination and advance on the incentives and conduct of insured depository institutions and uninsured depositors.

"(G) NOTICE.—The Secretary of the Treasury shall provide written notice of any determination under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and each notice shall describe the basis for the determination.

"(4) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to do anything prohibited by paragraph (1) or (2), unless the provision of law expressly amends this subsection.

"(5) PUBLIC DISCLOSURE REQUIRED.—

"(A) IN GENERAL.—The Corporation shall disclose documents referred to in paragraph (2)(A)(ii) upon request under section 552 of title 5, United States Code, without excising—

"(i) any portion under section 552(b)(5); or

"(ii) any information about the insured depository institution under paragraph (4) of section 552(b), other than trade secrets, or paragraph (8) of that section.

"(B) EXCEPTION.—Subparagraph (A) does not require the Corporation to disclose the name of any customer of the insured depository institution (other than an institution-affiliated party), or information from which such a person's identity could be reasonably ascertained.

"(6) CLAIMS SETTLEMENT PROCEDURES.—The Corporation, in consultation with the other Federal banking agencies, shall establish procedures for resolving the claims of uninsured depositors and creditors other than depositors against a depository institution for which the Corporation has been appointed receiver. Such procedures shall—

"(A) ensure that insured depositors will have access to all insured funds as expeditiously as possible;

"(B) provide uninsured depositors and creditors other than depositors with early access to not more than 90 percent of the value of that portion of their claims that the Corporation determines is supported by the assets of the institution;

"(C) maintain the safety and effectiveness of the payment system; and

"(D) protect the stability of the deposit insurance system.

"(7) DISCRETIONARY DETERMINATIONS.—Any determination under this subsection shall be in the sole discretion of the Corporation or the Secretary of the Treasury, as the case may be. No court shall have jurisdiction to stay, enjoin, restrain, or otherwise delay action taken under this subsection or jurisdiction over any claim relating to any act or omission of the Corporation or the Secretary with respect to any determination under this subsection.".

(b) STUDY AND REPORT ON FDIC PAYMENTS ON UNINSURED DEPOSITS AND NONDEPOSIT LIABILITIES.—

(1) STUDY.—The Director of the Congressional Budget Office (hereafter referred to as the "Director") shall conduct a study on the effects of a reduction in payments by the Federal Deposit Insurance Corporation used to satisfy the obligations of depository institutions on the uninsured deposits of such institutions and to creditors of such institutions other than depositors. The study shall—

(A) include consideration of—

(i) any estimated savings accruing to the Federal deposit insurance funds as a result of such reduction;

(ii) the long-term benefits to insured depository institutions and the Federal deposit insurance funds of increased market discipline as a result of such reduction; and

(iii) any other relevant information on the effects of such reduction; and

(B) include an estimate of the total savings that would have accrued to the Federal deposit insurance funds during the years 1988 through 1991 if such payments by the Federal Deposit Insurance Corporation had been reduced by 10 percent.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Director shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the Director's findings and conclusions resulting from the study conducted under paragraph (1).

SEC. 221. EARLY RESOLUTION.

(a) IN GENERAL.—It is the sense of the Senate that the Federal banking agencies should facilitate early resolution of troubled insured depository institutions whenever feasible if early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with section 13(l) of the Federal Deposit Insurance Act (as added by section 220).

(b) GENERAL PRINCIPLES.—In encouraging the Federal banking agencies to pursue early resolution strategies, the Senate contemplates that any resolution transaction under section 13(c) of that Act would observe the following general principles:

(1) COMPETITIVE NEGOTIATION.—The transaction should be negotiated competitively, taking into account the value of expediting the process.

(2) RESULTING INSTITUTION ADEQUATELY CAPITALIZED.—Any insured depository institution created or assisted in the transaction (hereafter the "resulting institution") and any institution acquiring the troubled institution should be adequately capitalized, as defined in section 37 of the Federal Deposit Insurance Act (as added by section 205).

(3) SUBSTANTIAL PRIVATE INVESTMENT.—The transaction should involve substantial private investment.

(4) CONSOLIDATION.—The transaction should involve consolidation to the maximum extent consistent with section 13(l).

(5) CONCESSIONS.—Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

(6) QUALIFIED MANAGEMENT.—Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems.

(7) FDIC'S PARTICIPATION.—The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

(8) STRUCTURE OF TRANSACTION.—The transaction should, insofar as practical, be structured so that—

(A) the Federal Deposit Insurance Corporation—

(i) does not acquire a significant proportion of the troubled institution's problem assets;

(ii) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

(iii) limits the Corporation's assistance in term and amount; and

(B) new investors share risk with the Corporation.

(c) REPORT.—Two years after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to Congress analyzing the effect of early resolution on the deposit insurance funds.

SEC. 222. FEDERAL RESERVE DISCOUNT WINDOW ADVANCES.

(a) REDESIGNATING SECTIONS 10(a) AND 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 10(a) (12 U.S.C. 347a) as section 10A; and

(2) by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATIONS ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as redesignated by subsection (a)) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as critically undercapitalized under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any critically undercapitalized depository institution—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercap- italized depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of that 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS LOSS.—The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

"(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

"(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

"(C) FEDERAL RESERVE TO PAY OBLIGATION.—The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

"(D) REPORT.—The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(B) CRITICALLY UNDERCAPITALIZED.—The term 'critically undercapitalized' has the same meaning as in section 37 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is undercapitalized, as defined in section 37 of the Federal Deposit Insurance Act; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating

VOL 137 PT 23 NO 21—25 1991 UMI

system) as of the most recent examination of such institution.

"(E) Viable.—A depository institution is 'viable' if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

"(i) is not critically undercapitalized;

"(ii) is not expected to become critically undercapitalized; and

"(iii) is not expected to be placed in conservatorship or receivership.".

(c) Board's Authority To Examine Depository Institutions and Affiliates.—Section 11 of the Federal Reserve Act is amended by adding at the end the following:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) Effective Date.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of enactment of this Act.

(e) Conforming Amendments Redesignating Sections 13a, 25(a), and 25(b) of the Federal Reserve Act.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 13a (12 U.S.C. 348–52) as section 13A;

(2) by redesignating section 25(a) (12 U.S.C. 611–31) as section 25A; and

(3) by redesignating section 25(b) (12 U.S.C. 632) as section 25B.

SEC. 223. CROSS-GUARANTEE LIABILITY.

(a) In General.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended—

(1) by amending the caption of the subsection to read as follows:

"(e) Liability of Commonly Controlled Depository Institutions and Controlling Companies for Losses to Corporation.—";

(2) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) Liability established.—Any insured depository institution, any subsidiaries of that insured depository institution, and any controlling company shall be liable for any loss incurred by the Corporation, or any loss that the Corporation reasonably anticipates incurring, after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991—

"(i) in the case of an insured depository institution or any subsidiaries of that insured depository institution, in connection with—

"(I) the default of a commonly controlled insured depository institution; or

"(II) any assistance provided by the Corporation to a commonly controlled insured depository institution in danger of default; and

"(ii) in the case of a controlling company, in connection with—

"(I) the default of an insured depository institution controlled by such controlling company; or

"(II) any assistance provided by the Corporation to an insured depository institution in danger of default controlled by such controlling company.";

(3) by redesignating subparagraphs (B) and (C) of paragraph (1) as subparagraphs (C) and (D), respectively, and inserting the following after subparagraph (A):

"(B) Limit on liability.—The aggregate liability of all controlling companies of an insured depository institution, other than insured depository institutions and subsidiaries of insured depository institutions, shall be not more than 5 percent of the insured depository institution's total assets at the time of the default or assistance described in subparagraph (A)."; and

(4) by adding at the end the following:

"(10) No liability for certain affiliates.—No affiliate of an insured depository institution, other than a controlling company or a commonly controlled depository institution (and any subsidiary of such insured depository institution), shall be liable, directly or indirectly, under this subsection.

"(11) Liability not to be construed as capital maintenance commitment under title XI.—No liability under this subsection shall be deemed to be a commitment to maintain the capital of an insured depository institution under any provision of title 11, United States Code.

"(12) Transfer within one year of default or assistance.—

"(A) Presumption.—Any transfer by a controlling company of an insured depository institution of assets to any affiliate that is not an insured depository institution, not more than 1 year before the insured depository institution controlled by such company defaults or receives assistance, shall be presumed to be an attempt to evade liability under this subsection and shall be invalid.

"(B) Rebuttability.—If a controlling company described in subparagraph (A) transferred such assets on terms and under circumstances that would satisfy the standards of section 23B of the Federal Reserve Act as if the controlling company were a member bank, such transfer shall not be invalid under subparagraph (A).

"(C) Regulations.—The Corporation may prescribe regulations to administer and carry out this paragraph."; and

(5) in paragraph (9)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by striking "Commonly controlled defined.—" and inserting "Definitions.—

"(A) 'Commonly controlled'.—"; and

(C) by inserting at the end the following:

"(B) 'Controlling company'.—For purposes of this subsection, the term 'controlling company' means any company having control of an insured depository institution.

"(13) Presumptive safe harbor for certain partially owned subsidiaries.—Except as otherwise provided by the Corporation, no subsidiary of an insured depository institution shall be liable under this subsection if the insured depository institution and its affiliates do not, in the aggregate, directly or indirectly control more of the subsidiary's voting shares, or have a greater aggregate ownership interest in the subsidiary, than does any 1 company not affiliated with the insured depository institution.

"(14) Insured depository institution subsidiaries.—For purposes of this subsection, other than paragraph (1)(A) the term 'insured depository institution' includes any subsidiary of an insured depository institution.".

(b) Conforming Amendments.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended—

(1) in subparagraph (D) of paragraph (1), as redesignated, by inserting "and controlling company" after "insured depository institution";

• (2) in subparagraph (E) of paragraph (1), as redesignated—

(A) by inserting "or controlling company" after "insured depository institution"; and

(B) by striking "institution" and inserting "insured depository institution or controlling company";

(3) in paragraph (2)(A)(ii)—

(A) by striking "commonly controlled insured depository institution" and inserting "insured depository institution or controlling company"; and

(B) by striking "commonly controlled depository institution's" and inserting "insured depository institution or controlling company's";

(4) in paragraph (2)(A)(iii) by striking "commonly controlled depository institution" and inserting "insured depository institution or controlling company";

(5) in paragraph (2)(B)(i)—

(A) by inserting "or controlling company" after "insured depository institution";

(B) by striking "such institution's" and inserting "such insured depository institution's or controlling company's"; and

(C) by inserting "controlled or" before "commonly controlled";

(6) in paragraph (2)(B)(ii)—

(A) by inserting "or controlling company" after "insured depository institution";

(B) by striking "such institution's" and inserting "such insured institution's or controlling company's"; and

(C) by inserting "controlled or" before "commonly controlled";

(7) in paragraph (2)(C)—

(A) by inserting "or controlling company" after "insured depository institution"; and

(B) by inserting "or controlling company" after "the depository institution" each place such term appears;

(8) in paragraph (2)(D)—

(A) by inserting "or controlling companies" after "depository institutions" each place such term appears; and

(B) by inserting "or controlling company" after "depository institution" each place such term appears;

(9) in paragraph (3)(B), by inserting "or controlling companies" after "commonly controlled depository institutions" each place such term appears in clauses (ii) and (iii);

(10) in paragraph (4)—

(A) by inserting "or controlling company" after "insured depository institution" each place such term appears;

(B) by inserting "or company's" after "institution's"; and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(11) in paragraph (5), by striking the catchline and inserting "(5) Exemptions.—";

(12) in paragraph (5)(A) by inserting "or controlling company" after "insured depository institution";

(13) in paragraph (5)(B)—

(A) by striking "and all other" and inserting ", all other";

(B) by inserting "and all affiliated controlling companies" after "such depository institution"; and

(C) by striking "regard to" and inserting "using the exemption contained in";

(14) in paragraph (7), by striking "Any depository institution shall not be treated as commonly controlled" and inserting "An affiliate shall have no liability";

(15) in paragraph (7)(A), by striking "1 depository institution controls another" and inserting "control was acquired";

(16) in paragraph (7)(B)—

(A) by striking "the controlling bank and all other insured depository institution affiliates of such controlling bank" and inserting "all insured depository institution affiliates"; and

(B) by striking "regard to" and inserting "using the exemption contained in"; and

(17) in paragraph (8), by inserting "or controlling company" after "depository institution" the first place such term appears.

(c) Existing Liability Not Affected.—The amendments made by this section do not affect any rights of the Corporation under section 5(e) of the Federal Deposit Insurance Act, as in effect on the day before the date of enactment of this Act.

(d) Clarifying General Application of Definitions of Affiliate and Subsidiary.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (w)—

(A) by striking paragraphs (4) and (5); and

(B) by redesignating paragraph (6) as paragraph (5); and

(2) by adding at the end the following new subsections:

"(aa) Subsidiary.—The term 'subsidiary'—

"(1) means any company that is owned or controlled directly or indirectly by another company; and

"(2) includes any service corporation owned in whole or in part by an insured depository institution or any subsidiary of such a service corporation.

"(bb) Affiliate.—The term 'control' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.".

SEC. 224. GRANTING DEPOSIT INSURANCE.

(a) In General.—Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended to read as follows:

"SEC. 4. ATTAINING INSURED STATUS.

"(a) Insurance Pursuant to Certification by Other Federal Banking Agency.—

"(1) In general.—Any eligible depository institution shall become an insured depository institution when all of the following subparagraphs are satisfied:

"(A) Application.—The Corporation receives an application from the institution.

"(B) Certificate.—The Corporation receives from the certifying agency a certificate stating that—

"(i) the institution—

"(I) is authorized to transact the business of banking, in the case of a national member bank;

"(II) is a member of the Federal Reserve System, in the case of a bank described in subclause (II) or (III) of paragraph (2)(A)(ii); or

"(III) is authorized to transact business as a savings association, in the case of a Federal savings association; and

"(ii) the certifying agency has considered the factors enumerated in section 6, and determined that insuring the institution's deposits under this Act is in the public interest.

"(C) No denial.—Either—

"(i) any period for denying insurance referred to in paragraph (3)(D) expires; or

"(ii) the Corporation notifies the institution or the certifying agency in writing that the Board of Directors will not deny insurance under paragraph (3).

"(2) Denial of insurance by corporation.—

"(A) In general.—The Board of Directors may, upon a vote of a majority of all members, deny insurance to any eligible depository institution if the Board determines that insuring the institution's deposits under this Act is not in the public interest.

"(B) Standard applicable.—In determining whether to deny insurance under subparagraph (A), the Corporation—

"(i) shall consider the factors described in paragraphs (1) through (6) of section 6; and

"(ii) shall give due deference to the certifying agency's determination with respect to those factors.

"(C) Notice required.—If the Board of Directors denies insurance under subparagraph (A), the Corporation shall promptly notify the certifying agency, giving specific reasons for the denial.

"(D) Deadline for denial.—The Board of Directors may deny insurance under subparagraph (A) only during the 120-day period beginning on the date on which subparagraphs (A) and (B) of paragraph (1) are satisfied, or such additional periods as the Corporation may prescribe by order.

"(3) Definitions.—For purposes of this subsection:

"(A) Eligible depository institution.—The term 'eligible depository institution' means any depository institution that—

"(i) is engaged in the business of receiving deposits, other than trust funds; and

"(ii) is described in any of the following subclauses:

"(I) A national bank that is authorized to transact the business of banking.

"(II) A noninsured national nonmember bank that becomes a member of the Federal Reserve System.

"(III) A noninsured State bank that becomes a member of the Federal Reserve System (whether as a State bank or a national bank), except pursuant to section 9B of the Federal Reserve Act.

"(IV) A Federal savings association that is authorized to transact business as a savings association.

"(B) Certifying agency defined.—The term 'certifying agency' means—

"(i) the Comptroller of the Currency, in the case of a national bank;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a depository institution described in subclause (II) or (III) of subparagraph (A)(ii); and

"(iii) the Director of the Office of Thrift Supervision, in the case of a Federal savings association.

"(b) Insurance for Interim Depository Institutions.—

"(1) Interim federal depository institutions.—Any interim Federal depository institution that will not open for business shall become an insured depository institution when the appropriate Federal banking agency issues the interim Federal depository institution's charter.

"(2) Interim state depository institutions.—Any interim State depository institution that will not open for business shall become an insured depository institution upon approval by the appropriate Federal banking agency.

"(c) Continuation of Insurance.—

"(1) In general.—Any depository institution that was an insured depository institution on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 shall continue to be an insured depository institution after that date of enactment.

"(2) Charter conversion.—Any depository institution that results from any of the following transactions shall continue to be an insured depository institution:

"(A) The conversion of an insured Federal depository institution to—

"(i) a State depository institution; or

"(ii) a Federal depository institution.

"(B) The conversion of an insured State depository institution to—

"(i) a Federal depository institution; or

"(ii) a State depository institution.

"(3) Merger or consolidation.—Any depository institution that results from the merger or consolidation of insured depository institutions, or from the merger or consolidation of a noninsured depository institution with an insured depository institution, shall continue to be an insured depository institution.

"(4) Federal reserve membership.—Any insured depository institution that becomes a member of the Federal Reserve System, or any insured State bank that becomes a national member bank, shall continue to be an insured depository institution.".

(b) Conforming Amendments.—

(1) Section 5.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(A) in subsection (a)(1), by striking "(1) National and state nonmember banks; state savings associations.—";

(B) in subsection (a), by striking paragraphs (2) through (7);

(C) in subsection (b)(6), by adding "and" at the end; and

(D) in subsection (b)(7), by striking "and" at the end; and

(E) in subsection (b), by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively.

(2) Section 6.—Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively.

SEC. 225. DISCLOSURE BY INSURED DEPOSITORY INSTITUTIONS AND THE FEDERAL BANKING AGENCIES.

(a) Reports of Financial Condition by Insured Depository Institutions.—

(1) In general.—Section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended—

(A) by striking "(3)" and inserting the following:

"(3) Quarterly reports.—

"(A) In general.—"; and

(B) by inserting after subparagraph (A) the following:

"(B) Additional information.—In accordance with regulations prescribed by the appropriate Federal banking agency, the report of condition required by subparagraph (A) shall, in the case of banks with total assets of more than $1,000,000,000, also contain—

"(i) to the extent feasible, estimates of the aggregate market value of assets and liabilities and the resulting estimated net worth and supporting data and assumptions used in preparing the estimates; and

"(ii) disaggregated reports of assets, including participation in highly-leveraged transactions, holdings of noninvestment grade securities, commercial and industrial loans by sector, and other assets as specified by the appropriate Federal banking agency.

"(C) Report on securities holders and nonbanking activities.—Each depository institution shall submit to the appropriate Federal banking agency, concurrently with the report required by subparagraph (A), a report containing—

"(i) the names of the holders of more than 5 percent of the insured institution's equity securities and the maximum amount of securities held by each such holder during the preceding quarter; and

"(ii) a description of activities conducted by the institution and its subsidiaries that are not permitted for national banks, with data on the magnitude of the activity.

"(D) Public access to reports.—Each appropriate Federal banking agency shall make reports required under this subsection available to the public upon request pursuant to section 552 of title 5, United States Code. The provisions of paragraphs (4) and (8)

VOL 137 PT 23 NO 21–25 1991 UMI

of section 552(b) of such title shall not apply to any such request. For the purpose of this subparagraph, beginning 75 days after the reporting date for such reports, section 552(a)(6)(A) of such title shall apply with respect to statistical information contained in those reports by substituting 'five' for 'ten' and section 552(a)(6)(B) shall not apply.".

(2) EFFECTIVE DATES.—The appropriate Federal banking agency shall promulgate final regulations requiring insured depository institutions to submit quarterly reports containing the information described in the amendments made by paragraph (1) effective for quarterly reports submitted for the quarter ending March 31, 1993.

(b) DISCLOSURE GUIDELINES.—The Federal Financial Institutions Coordination Council, in consultation with the Securities and Exchange Commission, shall facilitate the development of disclosure guidelines to carry out section 7(a)(3) of the Federal Deposit Insurance Act, as amended by subsection (a).

(c) REPORTS BY FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by—

(A) redesignating subsections (b) through (g) as subsections (c) through (h); and

(B) inserting after subsection (a) the following new subsection:

"(b) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—Each of the Federal banking agencies shall submit an annual report to the Congress which shall contain, for all insured depository institutions for which the agency is the appropriate Federal banking agency—

"(A) estimates of the number and aggregate assets of institutions likely to fail during each of the 2 years following submission of the report and of the costs to the deposit insurance funds as a result of such failures, and supporting data and assumptions used in preparing the estimates;

"(B) a report on the conduct by institutions and their subsidiaries of activities not permitted for national banks or for bank holding companies, by State and Federal charter status;

"(C) a list of all cease-and-desist orders, supervisory agreements, and capital restoration plans entered into in the previous 12 months, and an analysis of the extent of compliance with outstanding orders, agreements, and plans; and

"(D) a report on the number and aggregate assets of institutions that are insolvent and insured depository institutions that are—

"(i) critically undercapitalized;

"(ii) significantly undercapitalized;

"(iii) undercapitalized;

"(iv) adequately capitalized; and

"(v) well capitalized,

assigning each institution to the single capital category that best describes the institution in accordance with the definitions established under section 37(b).

"(2) METHOD OF FILING.—Reports required by this subsection shall be submitted to the Congress in accordance with the requirements of subsection (a)(2) and shall be made available to the public.".

(2) EFFECTIVE DATE.—The reports required pursuant to the amendments made by paragraph (1) shall be filed annually, not later than June 1 of the following year.

(d) INSURANCE FUND REPORTS.—Section 17(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)(1)) is amended by—

(1) striking "and" at the end of subparagraph (E);

(2) striking the period at the end of subparagraph (F), and inserting a semicolon; and

(3) inserting after subparagraph (F) the following:

"(G) information pertaining to failed depository institutions, including—

"(i) the name and total assets of each insured depository institution that failed during the 12-month period preceding submission of the report, including those that received assistance under section 13(c), and the actual or estimated cost of resolution or assistance to each such depository institution;

"(ii) for each failed institution, the location by State, the State or Federal charter status, and Federal Reserve System membership status;

"(iii) a breakdown of the number and aggregate assets of all failed institutions by region, State or Federal charter status, and Federal Reserve System membership status; and

"(iv) a description of concentrations of liabilities and assets of failed institutions, including a breakdown by State or Federal charter status, and Federal Reserve System membership status;

"(H) the number and aggregate assets of depository institutions on the problem bank list or any similar list that identifies institutions that may fail or require assistance or resolution within the foreseeable future, by State or Federal charter status and Federal Reserve System membership status, at the time of submission of the report;

"(I) an estimate of the number and aggregate assets of institutions that are likely to be included on the problem bank list or other list described in subparagraph (H) in each of the 2 years following submission of the report, by State or Federal charter status and Federal Reserve System membership status, and supporting data and assumptions used in preparing the estimate; and

"(J) the estimated resolution and assistance costs which are likely to be expended in each of the 2 years following submission of the report,

including an explanation of all data and assumptions used in developing estimates required by this paragraph.".

(e) CONFIDENTIAL ACCESS TO INFORMATION BY CBO; GAO AND CBO REVIEWS AND REPORTS.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

"SEC. 39. REVIEW OF ESTIMATES; CONFIDENTIAL ACCESS TO CERTAIN INFORMATION.

"(a) IN GENERAL.—The Comptroller General and the Congressional Budget Office shall review the estimates by the Corporation under subparagraphs (I) and (J) of section 17(a)(1) and by the appropriate Federal banking agencies under section 17(b)(1)(A).

"(b) ACCESS TO INFORMATION.—To carry out subsection (a), each appropriate Federal banking agency shall, upon request, provide the Director of the Congressional Budget Office—

"(1) the agency's internal rating system and each institution's rating; and

"(2) a list, identifying individual insured institutions, of those institutions which the agency believes may fail within the foreseeable future or which the agency believes may require assistance or resolution.

"(c) SAFEGUARDS AGAINST DISCLOSURE.—The provisions of subsections (c) and (d) of section 714 of title 31, United States Code, shall apply to any information provided in response to a request made by the Director of the Congressional Budget Office under subsection (b), except that for the purpose of this section any reference in such subsections to the Comptroller General or the General Accounting Office shall be deemed to be a reference to the Director of the Congressional Budget Office.".

(2) CRIMINAL PENALTIES FOR DISCLOSURE BY CBO EMPLOYEES.—Section 1906 of title 18, United States Code, is amended—

(A) by inserting "or a Congressional Budget Office employee with access to information obtained under section 39 of the Federal Deposit Insurance Act" after "title 31" the first place it appears; and

(B) by inserting "or to which information obtained under such section 37 pertains" after "title 31" the second place it appears.

(3) REVIEWS AND REPORTS.—Section 17(g) of the Federal Deposit Insurance Act (12 U.S.C. 1827(g)), as redesignated by subsection (b)(1)(A), is amended—

(A) by inserting "(1)" after "(g)"; and

(B) by adding at the end the following:

"(2) The Comptroller General shall review the oversight of insured depository institutions by the Federal banking agencies to determine whether reports of conditions under section 7(a) require information to reasonably reflect the condition of institutions. The Comptroller General shall include in each report under paragraph (1) the results of such review and any recommendations to improve the reports so that—

"(A) the information required reasonably reflects the condition of depository institutions; and

"(B) the information provided facilitates regulatory actions, including prompt corrective action.

"(3) Each report under paragraph (1) shall also contain—

"(A) an audit of the failure estimates contained in the most recent reports under subparagraphs (I) and (J) of subsection (a)(1); and

"(B) an audit of the failure estimates contained in the most recent reports under subsection (b)(1).".

(f) THRIFT CALL REPORTS.—Section 5(v) of the Home Owners' Loan Act (12 U.S.C. 1464(v)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) PUBLIC DISCLOSURE.—Reports required under paragraph (1) and all information contained therein shall be available to the public upon request.";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(g) FDIC ANNUAL AUDIT.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by striking subsections (e) through (h), as redesignated under section 219(b), and inserting the following:

"(e) AUDIT.—

"(1) IN GENERAL.—An annual audit of the financial transactions of the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, administered and maintained by the Corporation, shall be conducted, and reports on such audit shall be issued, in accordance with sections 9105 and 9106 of title 31, United States Code.

"(2) RECAPITALIZATION AUDIT.—An audit of the Corporation's compliance with any recapitalization schedule promulgated under subsection (b)(1)(C) that is in effect at the time of the audit required under paragraph (1) shall be made as part of such audit.

"(f) REPORT OF AUDIT.—A copy of the report on each audit conducted under subsection (d) shall be provided to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the time that it is provided to the Corporation.".

(h) GOVERNMENT CORPORATION TREATMENT.—Section 21A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(2)) is amended by striking "9105, 9107," and inserting "9107".

(i) RTC AUDIT COSTS.—Section 21A(k)(1)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441(k)(1)(A)) is amended by adding at the end the following: "The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this paragraph, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General shall be deposited in the Treasury as miscellaneous receipts.".

(j) RESOLUTION FUNDING CORPORATION AUDIT.—Section 21B(i)(2)(C) of the Federal Home Loan Bank Act (12 1441b(i)(2)(C)) is amended by inserting "or an independent external auditor" after "Comptroller General".

(k) ADDITIONAL REPORTS.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) IN GENERAL.—In addition to the reports required under subsections (a), (b), and (c) of this section, the Corporation shall submit to the Congress not later than October 31 of each year, the annual report on the activities and efforts of the Corporation.

"(2) CONTENTS OF REPORT.—Each annual report required under paragraph (1) shall include the following information with respect to the Corporation's assets and liabilities and to the assets and liabilities of institutions for which the Corporation serves as a receiver or conservator:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during such period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

SEC. 226. CONSENT TO BE BOUND BY THE FEDERAL DEPOSIT INSURANCE ACT.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) (as amended by section 201) is amended by adding at the end the following new subsection:

"(c) INSURED DEPOSITORY INSTITUTIONS CONSENT TO BE BOUND BY THIS ACT.—By becoming or remaining insured under this Act, an insured depository institution consents to be bound by this Act and by other Federal statutes relating to the safety and soundness of insured depository institutions.".

SEC. 227. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURER; DISCLOSURE BY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 40. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURERS.—

"(1) AUDIT REQUIRED.—Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing procedures and generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

"(2) PROVIDING COPIES OF AUDIT REPORT.—

"(A) PRIVATE DEPOSIT INSURER.—The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) DEPOSITORY INSTITUTION.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) DISCLOSURE REQUIRED.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) PERIODIC STATEMENTS; ACCOUNT RECORDS.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured; and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) ADVERTISING; PREMISES.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) ACKNOWLEDGMENT OF RISK.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) EXCEPTIONS FOR INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) ELIGIBILITY FOR FEDERAL DEPOSIT INSURANCE.—

"(1) IN GENERAL.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank, including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) AUTHORITY OF FDIC AND NCUA NOT AFFECTED.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) DEFINITIONS.—For purposes of this section:

"(1) APPROPRIATE SUPERVISOR.—The 'appropriate supervisor' of a depository institution means the agency primarily responsible for supervising the institution.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) LACKING FEDERAL DEPOSIT INSURANCE.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) PRIVATE DEPOSIT INSURER.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) ENFORCEMENT.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.".

(2) EFFECTIVE DATES.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ", and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

(C) subsection (e) shall become effective 2 years after that date of enactment; and

(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

(3) CONFORMING AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) VIABILITY OF PRIVATE DEPOSIT INSURERS.—

(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 40 (a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

(A) describe the insurer's—

(i) underwriting standards;

(ii) resources, including trends in and forecasts of assets, income, and expenses;

(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

(3) DEFINITIONS.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

SEC. 228. UNINSURED WHOLESALE BANKS.

(a) VOLUNTARILY TERMINATING INSURED STATUS.—

(1) SECTION 8 DESIGNATIONS.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in the section heading, by inserting "**involuntary**" after "**sec. 8.**"; and

(B) in subsection (a)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively.

(2) VOLUNTARILY TERMINATING INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. VOLUNTARILY TERMINATING STATUS AS INSURED DEPOSITORY INSTITUTION.

"(a) IN GENERAL.—Except as provided in subsection (b), an insured bank may, in accordance with regulations of the Corporation, voluntarily terminate its status as an insured depository institution if the institution provides written notice of its intent to terminate its insured status—

"(1) to the Corporation, not less than 6 months before the effective date of the termination; and

"(2) to its depositors, not less than 6 months before the effective date of the termination.

"(b) EXCEPTION.—The option to terminate insured status under subsection (a) shall not be available to—

"(1) an insured savings association;

"(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978; or

"(3) any institution described in section 2(c)(2) of the Bank Holding Company Act of 1956.

"(c) ELIGIBILITY FOR INSURANCE TERMINATED.—A depository institution that voluntarily elects to terminate its insured status under subsection (a) shall not receive insurance any of its deposits or any other assistance authorized under this Act after the period specified in subsection (e)(1).

"(d) INSTITUTION MUST BECOME UNINSURED STATE MEMBER BANK OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any institution that voluntarily terminates its status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is an uninsured State member bank under section 9B of the Federal Reserve Act.

"(e) EXIT FEES.—

"(1) IN GENERAL.—Any institution that voluntarily terminates its status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of contingent and other liabilities of the relevant deposit insurance fund.

"(2) PROCEDURES.—The Corporation shall, by regulation, prescribe procedures for assessing any exit fee under this subsection.

"(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

"(1) TRANSITION PERIOD.—The insured deposits of each depositor in an insured bank on the effective date of the voluntary termination of the institution's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months nor more than 2 years, within the discretion of the Corporation. During that period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of the termination, shall be insured by the Corporation, and no early withdrawal penalties shall be charged on insured deposits with a term that exceeds the transition period provided by the Corporation under this paragraph.

"(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1), a depository institution shall—

"(A) continue to pay assessments required under this Act as if it were an insured depository institution;

"(B) be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act; and

"(C) if the depository institution is closed due to an inability to meet the demands of its depositors, be subject to the same powers and rights of the Corporation with respect to the institution as in the case of an insured depository institution.

"(g) ADVERTISING.—

"(1) IN GENERAL.—An insured bank that voluntarily terminates its insured status under this section shall not advertise or hold itself out as having insured deposits, except that it may advertise the temporary insurance of deposits under subsection (f) if in the same connection, it shall also state with equal prominence—

"(A) that additions to deposits and new deposits made after the effective date of the termination are not insured; and

"(B) the date on which all insurance will terminate, as determined under subsection (f)(1).

"(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by an insured bank after the effective date of the voluntary termination of its insured status under this section shall include a conspicuous notice that the instrument is not insured under this Act.

"(h) NOTICE REQUIREMENTS.—

"(1) NOTICE TO THE CORPORATION.—The notice to the Corporation of an institution's intent to terminate its insured status required under subsection (a) shall be in such form as the Corporation may require.

"(2) NOTICE TO DEPOSITORS.—The notice to depositors of an institution's intent to terminate its insured status required under subsection (a) shall be—

"(A) at such depositor's last address of record with the institution; and

"(B) in such manner and form as the Corporation finds to be necessary and appropriate to protect depositors.".

(3) APPROPRIATE FEDERAL BANKING AGENCY.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended by inserting "and any uninsured State member bank" before the comma.

(b) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—

(1) EXEMPTION.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(j) SPECIAL EXEMPTION FOR HOLDING COMPANIES OF UNINSURED BANKS.—

"(1) EXEMPTION.—Except as provided in paragraph (2), if all of a bank holding company's subsidiary depository institutions are uninsured State member banks, as provided in section 9B of the Federal Reserve Act, that bank holding company may, notwithstanding subsection (a), acquire or retain direct or indirect ownership or control of—

"(A) shares of securities firms;

"(B) shares described in paragraphs (1) through (7) and (9) through (14) of subsection (c); and

"(C) shares of any company, the activities of which the Board, by regulation or order, has determined to be—

"(i) closely related to banking under subsection (c)(8); or

"(ii) financial, and appropriate for a bank holding company that is subject to this subsection.

"(2) SAVINGS PROVISION.—In the case of a bank holding company having control of any bank that voluntarily terminates its insured status under section 8A of the Federal Deposit Insurance Act, paragraph (1) shall not apply before the date on which all of the deposits of such bank cease to be insured in accordance with the transition period described in section 8A(f)(1) of the Federal Deposit Insurance Act.

"(3) APPROVAL REQUIRED.—

"(A) IN GENERAL.—The acquisition or retention of shares referred to in paragraph (1)(B) shall be subject to the same requirements, including any applicable Board approval or review, as would be applicable to a bank holding company that does not own any uninsured State member banks;

"(B) NONBANKING ACTIVITIES.—

"(i) PRIOR NOTICE REQUIRED.—No acquisition may be made under subparagraph (A) or (C) of paragraph (1) unless the company has provided the Board not less than 60 days prior written notice of the transaction, and during that period, the Board has not disapproved the transaction.

"(ii) EXTENSION FOR NEW ACTIVITIES.—Notwithstanding clause (i), in any case involving an activity for which the Board has not yet made a determination under paragraph (1)(C), the Board may extend the disapproval period for not more than an additional 90 days.

"(4) LIMITATION ON AFFILIATION OF UNINSURED STATE MEMBER BANKS AND OTHER DEPOSIT-TAKING INSTITUTIONS.—No uninsured State member bank may be an affiliate of—

"(A) any bank, other than an uninsured State member bank;

"(B) any savings association;

"(C) any institution described in section 2(c)(2); or

"(D) any institution that accepts initial deposits of $100,000 or less, other than—

"(i) on an incidental basis; and

"(ii) if the deposits—

"(I) are not insured under the Federal Deposit Insurance Act; and

"(II) are not more than 5 percent of the institution's total deposits.".

(2) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 184) is amended—

(A) by adding at the end the following:

"(n) UNINSURED STATE MEMBER BANK.—For purposes of this Act, the term 'uninsured State member bank' means any institution that is an uninsured State member bank in accordance with section 9B of the Federal Reserve Act."; and

(B) in subsection (c)(1), by adding at the end the following:

"(C) An uninsured State member bank.".

(c) EXEMPTIONS FOR NONINSURED BANKS AND THEIR AFFILIATES.—

(1) MCFADDEN ACT.—Section 5155(h) of the Revised Statutes (12 U.S.C. 36(h)) is amended by adding at the end the following: "For purposes of this section, such terms shall not include banks that have voluntarily terminated their insured status under section 8A of the Federal Deposit Insurance Act, effective upon the expiration of the transition period provided for in subsection (f)(1) of such section.".

(2) BANKING ACT OF 1933.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended by adding at the end the following: "This section does not prohibit any officer, director, partner, employee, or individual described in the preceding sentence from serving at the same time as an officer, director, or employee of an uninsured State member bank, as defined in section 9B of the Federal Reserve Act.".

(3) INSURED BANKS.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: "This subsection does not apply to an uninsured State member bank that is controlled by a company that controls no banks other than uninsured State member banks.".

(d) UNINSURED STATE MEMBER BANKS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

"SEC. 9B. UNINSURED STATE MEMBER BANKS.

"(a) APPLICATION FOR MEMBERSHIP AS UNINSURED STATE MEMBER BANK.—

"(1) APPLICATION REQUIRED.—Any bank organized under the general laws of any State, or incorporated by special law of any State, may apply to the Board of Governors of the Federal Reserve System to subscribe to the stock of the Federal Reserve bank organized within the district where the applying bank is located as an uninsured State member bank. Such application shall be treated as an application under, and shall be subject to, section 9.

"(2) APPROVAL OF MEMBERSHIP.—No bank may become an uninsured State member bank unless—

"(A) the Board has approved an application by the bank, under such regulations and subject to such restrictions or requirements as the Board may prescribe, to be an uninsured State member bank; and

"(B) in the case of a bank that is insured under the Federal Deposit Insurance Act, the bank has met all requirements under that Act for voluntary termination of deposit insurance.

"(b) GENERAL REQUIREMENTS APPLICABLE TO UNINSURED STATE MEMBER BANKS.—

"(1) FEDERAL RESERVE ACT.—Except as otherwise provided in this section, uninsured State member banks shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks, except that an uninsured State member bank may terminate membership under this Act only with the Board's prior written approval, and on terms and conditions that the Board determines are appropriate to carry out this Act.

"(2) PROMPT CORRECTIVE ACTION.—An uninsured State member bank shall be deemed to be an insured depository institution for purposes of section 37 of the Federal Deposit Insurance Act except that—

"(A) the relevant capital levels and capital measures for each capital category shall be those specified by the Board for uninsured State member banks under subsection (c);

"(B) the provisions applicable to well-capitalized insured depository institutions shall be inapplicable to uninsured State member banks;

"(C) the provisions authorizing or requiring a receiver to be appointed for an institution shall not apply to an uninsured State member bank, and the Board is authorized or required (as the case may be) to terminate the uninsured State member bank's membership in the Federal Reserve System; and

"(D) for purposes of applying section 37 of the Federal Deposit Insurance Act to uninsured State member banks, all references in that section to the appropriate Federal banking agency or to the Corporation shall be deemed to be references to the Board.

"(3) ENFORCEMENT AUTHORITY.—Subsections (j) and (k) of section 7, subsections (b) through (n), (s), (u), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to an uninsured State member bank in the same manner and to the same extent as they apply to State member insured banks.

"(4) INTERNATIONAL LENDING SUPERVISION ACT.—For purposes of the International Lending Supervision Act, an uninsured State member bank shall be deemed to be a banking institution and the Board shall be the appropriate Federal banking agency for the bank and all of its affiliates.

"(5) BANK MERGER ACT.—An uninsured State member bank shall be subject to the Bank Merger Act in the same manner and to the same extent as if the uninsured State member bank were a State member insured bank.

"(c) SPECIFIC REQUIREMENTS APPLICABLE TO UNINSURED STATE MEMBER BANKS.—

"(1) LIMITATIONS ON DEPOSITS.—

"(A) MINIMUM AMOUNT.—Pursuant to regulations of the Board, no uninsured State member bank shall receive initial deposits of $100,000 or less, other than—

"(i) on an incidental basis; and

"(ii) if such deposits are not more than 5 percent of the institution's total deposits.

"(B) NO DEPOSIT INSURANCE.—Deposits at an uninsured State member bank are not insured deposits under the Federal Deposit Insurance Act.

"(C) ADVERTISING AND DISCLOSURE.—The Board shall prescribe regulations pertaining to advertising and disclosure by uninsured State member banks to ensure that such a bank notifies each depositor that deposits at the uninsured State member bank are not insured or otherwise guaranteed by the United States Government.

"(2) SPECIAL CAPITAL REQUIREMENTS APPLICABLE TO UNINSURED STATE MEMBER BANKS.—

"(A) MINIMUM CAPITAL LEVELS.—

"(i) IN GENERAL.—The Board shall, by regulation, adopt capital requirements for uninsured State member banks. The capital levels for uninsured State member banks shall be sufficiently higher than the capital levels for State member insured banks—

"(I) to account for the status of uninsured State member banks as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

"(II) to provide for the safe and sound operation of the uninsured State member bank without undue risk to creditors or other persons, including Federal Reserve banks, engaged in transactions with the bank.

"(ii) RELEVANT CAPITAL MEASURES.—The relevant capital measures for uninsured State member banks shall be the relevant capital measures described in section 37(c) of the Federal Deposit Insurance Act, except that the Board may specify different relevant capital measures applicable to uninsured State member banks than those applicable to insured depository institutions, as the Board determines appropriate to carry out this Act.

"(iii) MINIMUM LEVERAGE RATIO.—The minimum ratio of tangible equity to total assets of uninsured State member banks shall be not less than 150 percent of the corresponding ratio for insured State member banks.

"(B) CAPITAL CATEGORIES FOR PROMPT CORRECTIVE ACTION.—

"(i) IN GENERAL.—For purposes of applying section 37 of the Federal Deposit Insurance Act, the Board shall, by regulation, establish, for each relevant capital measure specified by the Board under subparagraph (A)(ii), the levels at which an uninsured State member bank is adequately capitalized, undercapitalized, and significantly undercapitalized by reference to the relevant minimum capital levels established for uninsured State member banks.

"(ii) CRITICAL CAPITAL LEVEL.—The Board shall, by regulation, establish the critical capital level for uninsured State member banks for purposes of section 37 of the Federal Deposit Insurance Act. The ratio shall not be less than 150 percent of the corresponding ratio for insured State member banks.

"(3) NONINTEREST-BEARING DEPOSIT.—Each uninsured State member bank shall maintain on deposit at the Federal Reserve bank in the district in which the member bank is located, a noninterest-bearing deposit in such amount of the uninsured State member bank's total deposits as the Board may prescribe. That deposit shall be in addition to any reserve, clearing balance, or liquidity requirements otherwise applicable to the uninsured State member bank.

"(4) ADDITIONAL REQUIREMENTS APPLICABLE TO UNINSURED STATE MEMBER BANKS.—In addition to any requirements otherwise applicable to State member banks or otherwise applicable under this section, the Board may, by regulation or order, for uninsured State member banks—

VOL 137 PT 23 NO 21—25 1991 UMI

"(A) establish a special discount rate above the rate applicable to insured depository institutions;

"(B) limit transactions with affiliates to prevent an affiliate from gaining access to, or the benefits of, credit (including overdrafts) from a Federal Reserve bank;

"(C) establish special clearing balance requirements;

"(D) limit the availability and use of credit, and on the frequency of borrowing, from a Federal Reserve bank, including limitations or prohibitions on overdrafts at a Federal Reserve bank;

"(E) limit or condition the use of payment or payment-related services obtained from any Federal Reserve bank; and

"(F) establish any additional requirements that the Board determines to be appropriate or necessary to—

"(i) promote the safety and soundness of the uninsured State member bank, or

"(ii) protect creditors and other persons, including Federal Reserve banks, engaged in transactions with the uninsured State member bank.

"(5) EXEMPTIONS FOR UNINSURED STATE MEMBER BANKS.—The Board may, by regulation or order, exempt any uninsured State member bank from any provision applicable to a State member bank that is not an uninsured State member bank, provided that the Board finds that such exemption is not inconsistent with—

"(i) promoting the safety and soundness of the uninsured State member bank, and

"(ii) protecting creditors and other persons, including Federal Reserve banks, engaged in transactions with the uninsured State member bank.

"(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed to limit the Board's authority over member banks under any other provision of law, or to create any obligation for any Federal Reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

"(d) CONSERVATORSHIP AUTHORITY.—The Board may appoint a conservator to take possession and control of an uninsured State member bank to the same extent and in the same manner as the Comptroller of the Currency is authorized to appoint a conservator for a national bank under section 203 of the Bank Conservation Act.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'uninsured State member bank' means a bank whose application to become an uninsured State member bank has been approved by the Board of Governors of the Federal Reserve System under this section; and

"(2) the term 'State member insured bank' means a State member bank, the deposits of which are insured under the Federal Deposit Insurance Act.".

SEC. 229. STUDY AND REPORT ON CORE BANKING.

(a) CONGRESSIONAL COMMISSION ON CORE BANKING.—The Speaker of the House of Representatives and the Majority Leader of the Senate, in consultation with the Minority Leaders of the House and the Senate, shall appoint a Congressional Commission on Core Banking (hereinafter referred to as the "Commission") to review all major policy issues regarding core banking in order to assist the Congress in evaluating the potential effect of core banking proposals.

(b) MEMBERSHIP.—The Commission shall consist of 9 members, 5 to be appointed by the Speaker of the House of Representatives, and 4 to be appointed by the Majority Leader of the Senate. The Commission shall include—

(1) 1 representative each from the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation;

(2) 1 representative of organizations whose members consist of depository institutions insured by the Federal Deposit Insurance Corporation;

(3) 1 representative of consumer and public interest groups whose members are customers of such institutions;

(4) 3 independent banking experts; and

(5) 1 representative of the private sector who shall be designated Chairman of the Commission.

(c) PURPOSE OF THE COMMISSION.—The Commission shall evaluate the potential effect of core banking proposals on—

(1) the health and profitability of banks;

(2) limiting the scope of deposit insurance;

(3) the Bank Insurance Fund;

(4) credit availability;

(5) risk-taking;

(6) the flow of funds through banks, lending and loan losses, and deposit and loan spreads;

(7) industry consolidation; and

(8) institution size.

(d) CORE BANKING PROPOSALS DEFINED.—For purposes of this section, the Commission shall examine core banking proposals that include—

(1) limits on the interest rates that may be paid on deposits;

(2) limits on loans to 1 borrower that are more stringent than the limits under current law;

(3) net exposure limits; and

(4) changes in the bank holding company structure necessary to implement core banking.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to the President and the Congress with recommendations regarding core banking proposals.

(f) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 230. PRIORITY OF CLAIMS.

(a) IN GENERAL.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(s) PRIORITY OF CERTAIN CLAIMS.—

"(1) IN GENERAL.—Subject to paragraph (2), in any proceeding brought by the Corporation, any claim acquired under this section or section 12 or 13 against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other person employed by or providing services to an insured depository institution shall have priority over any claim against that person by a depositor, creditor, or shareholder of the insured depository institution other than a claim by another Federal agency or the United States.

"(2) NOTIFICATION.—

"(A) IN GENERAL.—If the Corporation receives written notice that a depositor, creditor, or shareholder of an insured depository institution has asserted a claim in a proceeding described in paragraph (1), a claim of the Corporation shall not have priority under paragraph (1) unless the Corporation—

"(i) not later than 180 days after receiving the notice (or if the Corporation acquires its claim after receipt of the notice, not later than 180 days after acquiring the claim)—

"(I) files with the court a statement that the Corporation intends to pursue its claim; and

"(II) diligently pursues that claim; and

"(ii) files suit not later than 1 year after receiving the notice (or, if the Corporation acquires its claim after receiving the notice, not later than 1 year after acquiring the claim), unless the court extends that period in accordance with subparagraph (B).

"(B) REQUESTS FOR EXTENSIONS.—

"(i) IN GENERAL.—At the Corporation's request, the court shall extend the period for the Corporation to file suit, unless the court finds that granting the extension would result in prejudice to a person's ability to prove the person's claim that would outweigh any harm to the Government resulting from denial of the extension.

"(ii) CONSIDERATION OF CORPORATION'S DILIGENCE.—In making a finding under clause (i), the court shall consider the Corporation's diligence in investigating its claim.

"(3) EFFECT OF PRIORITY.—

"(A) IN GENERAL.—The Corporation's priority shall apply to—

"(i) the prosecution of any suit, claim, or cause of action; and

"(ii) the execution of any judgment resulting from that claim.

"(B) LIMITATION.—Paragraph (1) does not give the Corporation priority as to an asset adjudicated to be unavailable to satisfy any judgment resulting from the Corporation's claim.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to any claim of a depositor, creditor, or shareholder commenced before the date of enactment of this Act.

SEC. 231. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) one of the primary purposes of banking legislation is to restore the confidence of the American public in the soundness and equity of the United States banking system;

(2) public confidence in the soundness of the Bank Insurance Fund has been shaken by a Congressional Budget Office estimate that by the close of 1993, bank failures among large banks will cost the insurance fund approximately $15,000,000,000, compared to a $5,000,000,000 cost for the failures among small banks;

(3) public confidence in the equity of the deposit insurance system has been shaken by the too-big-to-fail policy—a policy which granted less Federal protection to the depositors in smaller banks, such as the Freedom National Bank in Harlem, than to depositors in larger banks, such as the Bank of New England;

(4) public confidence in the soundness and equity of the deposit insurance system has been shaken by the United States Government's practice of covering foreign deposits with Federal deposit insurance but not assessing those deposits with deposit insurance premiums;

(5) this practice has resulted in smaller community banks being charged deposit insurance premiums on a higher percentage of their deposit base than their larger competitors;

(6) foreign deposits are not insured deposits under the Federal Deposit Insurance Act; and

(7) this Act take important steps to address the too-big-to-fail policy and to end the unauthorized coverage of unassessed foreign deposits.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any final banking legislation should make it clear that foreign deposits are not covered by deposit insurance unless those deposits are assessed for that coverage.

SEC. 232. DISCLOSURE OF CERTAIN INFORMATION.

(a) PUBLIC AVAILABILITY OF EXAMINATION INFORMATION.—

(1) IN GENERAL.—Each appropriate banking agency shall make available to the public copies of reports of all examinations of each failed depository institution that received funds, as defined in subsection (e), or of a holding company of such institution, that was performed by that banking agency or its predecessor, during the 5-year period preceding the transfer, failure, or receipt of funds. Each appropriate banking agency other than the National Credit Union Administration Board shall consult with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation prior to making such reports available to the public.

(2) DELAY OF PUBLICATION.—

(A) THREATS TO SAFETY OR SOUNDNESS OF INSTITUTION.—If the appropriate banking agency makes a determination in writing that release of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may initially delay release of the examination report for a reasonable period of time, not to exceed 12 months from the date of the transfer, failure, or receipt of funds described in subsection (e). Such determination may be renewed on an annual basis.

(B) ONGOING INVESTIGATIONS.—If the appropriate banking agency or the Resolution Trust Corporation determines in writing that release of a portion of an examination report would hinder an ongoing investigation of alleged negligence, or of other activity that would give rise to either administrative or civil proceedings, the portion of the examination report directly pertaining to the alleged negligence or other activity, may be withheld from release during the investigation, until a notice of charges is issued, a complaint is filed, or for a period not to exceed 24 months from the date of the transfer, failure, or receipt of funds described in subsection (e), whichever is earlier.

(C) DELAY PENDING CRIMINAL INVESTIGATION.—If the appropriate banking agency and the Attorney General of the United States or the attorney general of a State, in the case of a State-chartered depository institution, jointly determine that release of a portion of an examination report would hinder an ongoing investigation of alleged criminal activity, the portion of the examination report directly pertaining to the alleged crime may be withheld from release until the termination of such investigation, the issuance of an indictment, or for a period of not to exceed 5 years from the date of the transfer, failure or receipt of funds described in subsection (e), whichever is earlier. The Attorney General of the United States or of a State shall provide the Comptroller General of the United States with access to information regarding any such criminal investigation, and shall identify any law enforcement agencies or resources assigned to the investigation.

(3) EXCLUSION OF OPEN INSTITUTIONS.—

(A) OPEN INSTITUTIONS.—This subsection shall not apply to any open insured depository institution and shall not be construed to require disclosure to the public of any report of examination of any open insured depository institution.

(B) AFFILIATED SOLVENT INSTITUTIONS.—In connection with the release of an examination report of a holding company of a failed institution, nothing in this subsection shall be construed as requiring the release of any examination report information regarding any solvent depository institution that is also a subsidiary of such holding company.

(b) PROHIBITION OF CONFIDENTIAL SETTLEMENTS.—Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in subsection (e) shall be made available to the public.

(c) APPLICABILITY.—The requirements of subsection (a) shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation;

(2) to any member of the Bank Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in subsection (e), the Bank Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance;

(3) to any member of the Savings Association Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in subsection (e), the Savings Association Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance; and

(4) to any insured credit union that has failed and received funds, if during either the fiscal year in which the credit union failed or the fiscal year in which the credit union received funds, as defined in subsection (e), the National Credit Union Share Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance.

(d) REMOVAL OF CUSTOMER INFORMATION FROM EXAMINATION REPORTS.—In making available reports of examinations under subsection (a), the appropriate Federal banking agency shall excise the following:

(1) NONINSTITUTION-AFFILIATED PARTIES.—The names and all other identifying information for all persons who are not institution-affiliated parties of an insured depository institution.

(2) INSTITUTION-AFFILIATED PARTIES.—The names and any information related to an institution-affiliated party that is not relevant to the relationship between the insured depository institution and the institution-affiliated party.

(3) OPEN INSTITUTIONS.—The names and all other identifying information pertaining to open insured depository institutions.

(4) EXAMINERS.—Any reference to the examiners and other banking agency employees involved in the examination of the insured depository institution.

(5) WHISTLEBLOWERS.—All references to persons or entities that have provided information in confidence to a banking agency which may be utilized to pursue a civil or criminal action.

(e) DEFINITIONS.—For purposes of this section—

(1) an insured depository institution has "failed" if the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or National Credit Union Administration Board—

(A) has been appointed as receiver or liquidator for such institution; or

(B) has exercised the power to provide assistance under section 13(c)(2) of the Federal Deposit Insurance Act or the analogous powers under section 21A of the Federal Home Loan Bank Act.

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the National Credit Union Administration Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any Federal Reserve bank that lends for more than 30 days while the insured depository institution is critically undercapitalized within the 1-year period prior to the failure of the insured depository institution whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that such term includes an insured credit union, as defined in section 101 of the Federal Credit Union Act; and

(4) the term "appropriate banking agency" means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration Board, and, in the case of a State-chartered depository institution, the appropriate State depository institution regulatory agency.

(f) ADDITIONAL DISCLOSURES BY FDIC, NCUA AND RTC.—

(1) BORROWERS.—Within 6 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in subsection (e), the Federal Deposit Insurance Corporation, National Credit Union Administration, or the Resolution Trust Corporation, as appropriate, shall make available to the public the name and loan balance of any borrower who—

(A) was an executive officer, director, or principal shareholder of the institution, or a related interest of any such person, as such terms are defined in section 22(h) of the Federal Reserve Act (12 U.S.C. 375b); and

(B) at the time that the receiver was appointed, was more than 90 days delinquent on a loan.

(2) TRANSACTIONS.—Within 12 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in subsection (e), the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation shall make available, and update periodically thereafter, a list of pending and settled lawsuits brought by such agency involving transactions (other than those listed in paragraph (1)), that caused a material loss to such institution or to the deposit insurance fund.

(g) GAO AUDITS.—The Comptroller General shall selectively audit examination reports made available to the public by the appropriate Federal banking agencies under subsection (a), and disclosures made by the Federal Deposit Insurance Corporation, National Credit Union Administration, and Resolution Trust Corporation under subsection (f), to

VOL 137 PT 23 NO 21-25 1991 UMI

assess compliance with the requirements of those subsections. The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this subsection.

SEC. 233. UTILIZING PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management of and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services are practical, efficient and cost effective recognizing all of the costs inherent in such contracts.".

SEC. 234. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) as the number of failed institutions and assets in liquidation managed by the FDIC and RTC has grown, the Legal Division's case load of legal matters has expanded to about 100,000;

(3) the FDIC and RTC are the largest purchasers of legal services in the United States today;

(4) two recent studies by Price Waterhouse and Altman & Weil on behalf of the FDIC have concluded that—

(i) the FDIC and RTC may spend more than $1,000,000,000 this year on legal fees and expenses yet there is ineffective oversight or management of these expenses;

(ii) outside counsel are generally not selected on a competitive basis;

(iii) the FDIC and RTC have not instituted policies to insure that tasks are assigned to the firm best able to perform them in a cost-effective manner;

(iv) the FDIC generally pays hourly rates rather than arranging less costly fixed rate contracts;

(v) outside attorneys spend significant amounts of time performing tasks which do not require attorneys' skills; and

(vi) the FDIC and RTC have allowed persons and firms whose activities contributed to the decline of the banking and thrift industries to contract with and profit from the activities of the FDIC and RTC; and

(5) These practices undermine the faith of the American taxpayers in the use of taxpayer dollars to finance the cleanup of the banking and thrift industries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the FDIC and RTC should take immediate steps to ensure that outside counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and RTC should not contract with persons or firms whose activities contributed to the decline of the banking or thrift industries.

TITLE III—INTERSTATE BANKING AND COMBINATIONS

SEC. 301. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(1) by striking "(d) Notwithstanding any other provision of this section, no" and inserting the following:

"(d) STATE BOUNDARIES.—

"(1) IN GENERAL.— Except as provided in paragraph (2), no"; and

(2) by adding at the end the following:

"(2) APPROVALS AUTHORIZED.—

"(A) ACQUISITION OF EXISTING BANKS.—Beginning 1 year after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, the Board may approve an application under this section to permit a bank holding company that is adequately capitalized and adequately managed to acquire any voting shares of, interest in, or all or substantially all of the assets of an existing bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later.

"(B) EXISTING BANKS.—For purposes of this paragraph, a bank that does not open for business and has been chartered solely for the purpose of acquiring any voting shares of, interest in, or all or substantially all of the assets of an existing bank shall be deemed to be an existing bank and to have been in existence for the same period of time as the bank to be acquired for purposes of subparagraph (A).

"(C) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application under subparagraph (A), the Board shall consider the applicant's record of compliance with applicable Federal and State community reinvestment laws.

"(D) STATE LAW.—A transaction approved under subparagraph (A) may occur without regard to whether such transaction is permitted under the law of the State in which the bank to be acquired is located.

"(3) CONCENTRATION AND OTHER LIMITS.—

"(A) IN GENERAL.—The Board may not approve an application under paragraph (2)(A) if—

"(i) the applicant controls, or upon completion of the acquisition would control, more than 10 percent of the insured depository institution assets of the United States, as determined under regulations of the Board;

"(ii) the applicant controls, or upon completion of the acquisition would control, 25 percent or more of the insured depository institution deposits in the State in which the bank to be acquired is located, as determined under regulations of the Board, except that a State may waive the applicability of this subparagraph; or

"(iii) the acquisition will result in the applicant directly or indirectly controlling a bank that has been in existence for a shorter period of time than is prescribed by the law of the State in which such bank is located in effect on the date the application is filed with the Board, only if such State law—

"(I) does not prescribe a period of more than 5 years: *Provided*, That, a law in existence on the date of enactment of the Comprehensive Deposit Insurance and Taxpayer Protection Act of 1991 which prescribes a period of more than five years shall be deemed to provide a period of five years; and

"(II) does not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(B) EQUAL APPLICATION OF LAW.—In the case of a State referred to in subparagraph (A)(iii) that has in effect on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 a law that specifies a time period described in subparagraph (A)(iii) applicable to out-of-State banks, such State law shall apply to in-State banks until such time as the State either repeals such law or amends such law to apply equally to in-State and out-of State banks.

"(C) NO EFFECT ON ANTITRUST LAWS.—Nothing in this paragraph shall be construed to affect the applicability of Federal or State antitrust laws that do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the same meaning as in section 37 of the Federal Deposit Insurance Act; and

"(B) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

SEC. 302. CONVERSION OF BANKS TO BRANCHES.

(a) IN GENERAL.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) INTERSTATE COMBINATIONS.—

"(1) IN GENERAL.—

"(A) COMBINATIONS AUTHORIZED.—Subject to paragraphs (6) and (7), on or after June 1, 1993, a bank holding company having subsidiary banks located in more than 1 State may combine 2 or more of such banks into a single, resulting bank by means of a merger, consolidation, or other transaction.

"(B) SURRENDER OF CHARTER AFTER COMBINATION.—On the date on which a combination authorized by this paragraph becomes effective, the charters of the banks (other than that of the resulting bank) that have been combined in accordance with subparagraph (A) into the resulting bank shall be surrendered to the regulatory authority that issued the charters.

"(C) EFFECT OF STATE PROHIBITION OF COMBINATIONS.—If, during the period beginning on June 1, 1993, and ending on the expiration of 3 years after the date of enactment of this subsection, a combination authorized by subparagraph (A) is effected in a State that elects to prohibit interstate combinations under paragraph (6), then that State may require such branch to be promptly converted back into a bank as it existed prior to such combination.

"(2) APPLICABILITY.—A combination under paragraph (1) may only be effected in the case of a merger, consolidation, or other transaction that is undertaken—

"(A) by a bank holding company that is adequately capitalized and adequately managed; or

"(B) by a bank holding company, subject to all other provisions of this subsection, that is critically undercapitalized if—

"(i) the transaction is approved as part of a capital restoration plan required under section 37 of the Federal Deposit Insurance Act;

"(ii) such plan contains not less than 1 element in addition to the transaction; and

"(iii) the transaction will result in a demonstrable and material improvement in the financial condition of the bank holding company.

"(3) ACTIVITIES OF THE RESULTING BANK.—

"(A) ADDITIONAL BRANCHES.—Following any combination effected under paragraph (1), the resulting bank may establish, acquire, and operate additional branches at any location where the resulting bank or a combined bank could have established or acquired and operated a branch under the applicable Federal or State law if it had not been a party to such combination.

"(B) INTRASTATE BRANCHING.—Except as expressly provided in this subsection, nothing in this subsection shall be deemed to amend, repeal, or preempt, either expressly or by implication, any Federal or State law relating to the establishment, acquisition, or operation of intrastate branches by national or State banks.

"(C) CONDITIONS.—Prior to granting approval to effect a combination under paragraph (1), the appropriate Federal banking agency shall consider the bank's rating under the Community Reinvestment Act of 1977 and the views of the appropriate State bank regulatory authorities regarding the bank's compliance with applicable State community reinvestment laws.

"(D) IMPOSITION OF SHARES TAX BY HOST STATES.—In order to assure that an out-of-State bank contributes a fair share to a host State's revenues, if any branch of an out-of-State bank established pursuant to paragraph (1) or subparagraph (A) of this paragraph continues in operation, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by any host State or political subdivision thereof based upon an allocation of net income, capital or net worth, and other factors employed in computing such value pursuant to an allocation method adopted by the host State's taxing authorities, if such method does not unconstitutionally discriminate against out-of-State banks or bank holding companies.

"(4) ACTIVITIES OF BRANCHES.—A State bank that establishes a branch or branches in accordance with paragraph (1) or subparagraph (A) of this paragraph may not conduct any activity at such branch or branches located in the host State that is not permitted for banks chartered by the host State.

"(5) APPLICABLE LAW.—

"(A) IN GENERAL.—

"(i) NATIONAL BANK BRANCHES.—Any branch of a national bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a national bank having its main office in that State.

"(ii) STATE BANK BRANCHES.—Any branch of a State-chartered bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a bank chartered under the laws of such State and having offices only in such State.

"(B) FILING REQUIREMENT.—

"(i) IN GENERAL.—A host State may require any bank having its main office in another State that wishes to establish a branch within the host State as a result of a combination authorized by paragraph (1) to comply with filing requirements that—

"(I) are not discriminatory in nature; and

"(II) are similar in their effect to those that are imposed on a corporation having its main office in another State that is not engaged in the business of banking and that seeks to engage in business in the host State.

"(ii) FAILURE TO COMPLY.—The host State may preclude any bank referred to in clause (i) from establishing or operating a branch within the host State as the result of a combination authorized by paragraph (1) if that bank or its branch materially fails to comply with the filing requirements established by the host State.

"(6) STATE ELECTION TO PROHIBIT INTERSTATE COMBINATIONS.—

"(A) IN GENERAL.—Paragraph (1) does not apply to a bank holding company, the principle place of business of which is located in a State that has enacted, during the period beginning on January 1, 1990, and ending on the expiration of 3 years after the date of enactment of this subsection, a law that applies equally to all out-of-State national and all out-of-State State banks and that expressly prohibits interstate branching or the interstate combinations authorized under paragraph (1).

"(B) EFFECT OF PROHIBITION.—A bank located in a State that has in effect a prohibition described in subparagraph (A) may not be combined, and shall have no authority to be combined under paragraph (1), with a bank located outside of that State.

"(7) STATE ELECTION TO PERMIT INTERSTATE COMBINATIONS.—

"(A) COMBINATIONS PRIOR TO JUNE 1, 1993.—A combination under paragraph (1) may be undertaken before June 1, 1993, if each of the States in which 1 or more banks that are to be combined into a single, resulting bank is located either has in effect on the date of enactment of this subsection or enacts prior to June 1, 1993, a law expressly permitting interstate combinations by national and State-chartered banks. A State described in the preceding sentence may impose other conditions on the branch of the resulting bank located in that State if—

"(i) the conditions do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies; and

"(ii) the imposition of the conditions is not preempted by Federal law regarding the same subject.

"(B) COMBINATIONS AFTER JUNE 1, 1993.—A State that originally elected to prohibit interstate combinations as described in paragraph (6) may elect at any later time to permit interstate combinations authorized under paragraph (1) if such State enacts a law expressly permitting interstate combinations by national and State-chartered banks.

"(8) LIMITATIONS.—Nothing in paragraph (1) affects the applicability of Federal or State antitrust laws that do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(9) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection limits in any way the right of a State to—

"(A) determine the authority of State banks chartered in that State to establish and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the meaning given such term by section 37 of the Federal Deposit Insurance Act;

"(B) the term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(C) the term 'combined bank' means any bank participating in a combination under paragraph (1), other than the resulting bank;

"(D) the term 'critically undercapitalized' has the same meaning as in section 37 of the Federal Deposit Insurance Act;

"(E) the term 'host State' means the State in which a bank establishes or maintains a branch other than the State in which the bank has its main office and is engaging in the business of banking;

"(F) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(G) a bank shall be deemed to be 'located' in the State in which it was chartered or, in the case of a national bank, the State in which its main offices are located; and

"(H) the term 'resulting bank' means a banking subsidiary of a bank holding company that has resulted from a transaction effected under paragraph (1) involving the combination of 2 or more subsidiary banks of the bank holding company located in 2 or more States.".

(b) TAXATION.—

(1) STATE FRANCHISE OR OTHER NONPROPERTY TAXES.—The amendments made by this section and section 301 do not in any way affect, limit, impair, or preclude the right of any State or political subdivision of a State to impose a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax as provided by section 3124 of title 31, United States Code.

(2) STATE METHODS OF TAXATION.—Subject to the provisions of subsection (h)(3)(c) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended by section 302, nothing in this section or section 301 shall be construed to either—

(A) prohibit or restrict any State or political subdivision of a State from applying any tax or method of taxation to a State bank or a national bank or branch thereof when such tax or tax method is otherwise permitted by or permissible under either the Constitution of the United States or any other Federal law; or

(B) allow any State or political subdivision of a State to apply any tax or method of taxation to a State bank or national bank or branch thereof when such tax or tax method is otherwise prohibited or restricted by either the Constitution of the United States or any other Federal law.

(c) CONFORMING AMENDMENT TO THE NATIONAL BANK ACT.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended in the first sentence by striking "A national banking association" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, a national banking association".

SEC. 303. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND THE ACT ENTITLED "AN ACT TO PROVIDE FOR THE CONSOLIDATION OF NATIONAL BANKING ASSOCIATIONS".

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) in the first sentence of paragraph (1), by striking "No State" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, no State";

(2) by adding at the end the following:

"(3) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—A host State bank supervisory or regulatory authority may examine a branch chartered by a State other than that host State that resulted from a combination effected under section 3(h) of the Bank Holding Company Act of 1956 for the purpose of determining compliance with host State laws regarding banking, taxation, community reinvestment, fair lending, consumer protection, and permissible activities and to ensure that the activities of the branch—

VOL 137 PT 23 NO 21—25 1991 UMI

"(i) are conducted in a manner that is consistent with sound banking principles; and

"(ii) do not constitute a serious risk to the safety and sound operation of the branch.

"(B) Enforcement.—In the event that a host State bank supervisory or regulatory authority determines that there is a violation of the law of the host State concerning the activities being conducted by the branch of a State bank or that such branch is being operated in a manner not consistent with sound banking principles or in an unsafe and unsound manner, such host State bank supervisory or regulatory authority may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch in question were a bank chartered by that host State.

"(C) Cooperative agreement.—The State bank supervisory or regulatory authorities from 1 or more States are authorized to enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(D) Federal regulatory authority.—

"(i) Interstate agreements.—Nothing in this subsection limits in any way the authority of the appropriate Federal banking agency to examine any bank or branch of a bank for which the agency is the appropriate Federal banking agency.

"(ii) Review of interstate agreements.—If the appropriate Federal banking agency determines that the States have failed to reach an agreement under subparagraph (C), or that such an agreement fails to adequately protect the Federal Deposit Insurance Fund, the appropriate Federal banking agency shall not defer to State examinations of the out-of-State branches.

"(4) Definition.—For purposes of this subsection, the term 'host State' means the State in which a bank establishes or maintains a branch, other than the State in which the bank is chartered and engaging in the business of banking.".

(b) National Banking Associations.—The Act entitled "An Act To provide for the consolidation of national banking associations", approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended—

(1) in the first sentence of subsection (a) of the first section, by inserting ", or in any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "located in the same State";

(2) by inserting before the period at the end of subsection (d) of the first section ", except that the applicability of State law to an interstate acquisition or interstate combination undertaken in accordance with section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of those sections";

(3) in the first sentence of section 2(a), by inserting "or in any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "located within the same State,";

(4) in the sixth sentence of section 2(d), by inserting before the period ", except that the applicability of State law to the transaction undertaken pursuant to section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of those sections"; and

(5) in paragraph (4) of section 3, by inserting "or within any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "within the same State,".

SEC. 304. ACQUISITION OF NEW INTERSTATE BRANCHES BY NATIONAL AND STATE BANKS.

(a) Acquisition of New Interstate Branches by State Banks.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following:

"(3) Acquisition of new interstate branches.—

"(A) In general.—Notwithstanding any other provision of law, a host State may, expressly by statute and not merely by implication, permit all out-of-State national and State banks that are adequately capitalized and adequately managed to establish a branch in the host State other than by merger, consolidation, or other similar transaction. Such branch shall be operated in accordance with section 3(h) of the Bank Holding Company Act of 1956 and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section.

"(B) Definition.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes a branch under subparagraph (A).".

(b) Acquisition of New Interstate Branches by National Banks.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following:

"(d) Interstate Branching by National Banks.—

"(1) Approvals authorized.—Notwithstanding any other provision of law, the Comptroller of the Currency may approve an application under this section for a national bank to establish a branch in a State other than the State in which its principle place of business is located if the host State expressly permits, by statute and not merely by implication, all out-of-State national or State banks that are adequately capitalized and adequately managed to establish such a branch. Such branch shall be operated in accordance with section 3(h) of the Bank Holding Company Act of 1956, and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section.

"(2) Definition.—For purposes of this subsection, the term 'host State' means the State in which a national bank establishes a branch under paragraph (1).".

SEC. 305. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) In General.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding the following subsections:

"(d) Institutions With Interstate Branches.—

"(1) State-by-state evaluation.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c) of this section; and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) Multistate metropolitan areas.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency may prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c) of this section. If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) Content of state level evaluation.—A written evaluation prepared pursuant to paragraph (1)(B) of this subsection shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) of this section separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(4) Definitions.—For purposes of this section:

"(A) Domestic branch.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution with the ability to accept deposits located in any State.

"(B) Metropolitan area.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area identified by the appropriate Federal financial supervisory agency.

"(C) State.—The term 'State' has the same meaning as provided in section 3(a) of the Federal Deposit Insurance Act.".

(b) Separate Presentation.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended by adding at the end the following sentence: "A written evaluation shall contain the information required by subparagraphs (A) and (B) presented separately for each metropolitan area in which an insured depository institution maintains one or more domestic branch offices.".

SEC. 306. STATE TAX COMPLIANCE.

Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended by adding at the end the following:

"(C) Notwithstanding subparagraph (A), lawfully authorized auditors, examiners, and other representatives acting on behalf of the State agency or agencies charged with the administration and collection of taxes imposed by such State or political subdivision thereof, may, to the extent necessary, review the books, records, and accounts of a depository institution, chartered under Federal law which has its main office or any branch located in that State, to determine any State or local tax liability and to ensure

compliance with the tax laws of the State or political subdivision thereof.".

SEC. 307. USE OF NAMES IN HOST STATE.

(a) Bank Holding Company Act of 1956.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended by section 302, is amended by adding at the end the following:

"(i) Use of Names in Host State.—

"(1) In general.—A bank holding company that seeks, directly or indirectly, to acquire or establish a bank in a host State shall provide the Board with the name or names under which the bank will operate in the host State.

"(2) Prohibition against same or similar names.—A bank holding company may not operate a bank in a host State if the proposed name of the bank is—

"(A) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(B) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(3) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the Board shall revoke permission of a bank holding company to operate a bank in a host State if the bank holding company uses or changes the name of, or uses an additional name for any of its banks in the host State, and the new or additional name is described in subparagraph (A) or (B) of paragraph (2). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(4) Definition.—For purposes of this subsection, the term 'host State' means the State in which a bank holding company establishes or acquires a bank other than the State in which the operations of the bank holding company's banking subsidiaries were principally conducted on July 1, 1996, or the date on which the company became a bank holding company, whichever is later.".

(b) National Banks.—Section 5155(d) of the Revised Statutes (12 U.S.C. 36(d)), as added by section 304, is amended by adding at the end the following:

"(3) Use of names in host state.—

"(A) In general.—A bank that seeks, directly or indirectly, to acquire or establish a branch in a host State shall provide the Comptroller of the Currency with the name or names under which the branch will operate in the host State.

"(B) Prohibition against same or similar names.—A bank may not operate a branch in a host State if the proposed name of the branch is—

"(i) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(ii) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(C) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the Comptroller of the Currency shall revoke permission of a bank to operate a branch in a host State if the bank uses or changes the name of, or uses an additional name for any such branch in the host State, and the new or additional name is described in clause (i) or (ii) of subparagraph (B). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(D) Definition.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes or acquires a branch other than the State in which the bank has its main office and is engaging in the business of banking.".

(c) Federal Deposit Insurance Act.—Section 18(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(3)), as amended by section 304, is amended by adding at the end the following:

"(C) Use of names in host state.—

"(i) In general.—A bank that seeks, directly or indirectly, to acquire or establish a branch in a host State shall provide the appropriate State regulatory authority with the name or names under which the branch will operate in the host State.

"(ii) Prohibition against same or similar names.—A bank may not operate a branch in a host State if the proposed name of the branch is—

"(I) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(II) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(iii) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the appropriate State regulatory authority may revoke permission of a bank to operate a branch in a host State if the bank uses or changes the name of, or uses an additional name for any such branch in the host State, and the new or additional name is described in subclause (I) or (II) of clause (i). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

SEC. 308. CONSIDERATION OF DISPLACED WORK FORCE.

It is the sense of the Senate that in reviewing proposed mergers and acquisitions, the appropriate Federal regulator consider the impact on employees of the existing and proposed institutions, including whether the institutions plan to provide reasonable notice to employees well in advance of any layoffs, whether the institutions plan to make any effort to ensure that laid-off employees receive priority in filling future vacancies, whether the institutions will provide specific severance benefits for laid-off employees, and whether and for how long benefits such as health and life insurance and pensions will be continued for laid-off employees.

SEC. 309. ATTORNEY GENERAL'S DETERMINATION ON COMPETITIVE FACTORS.

(a) Attorney General's Report.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end the following: "In every case, before acting on any application described in subsection (a), the Board shall give notice of the application to the Attorney General. The Attorney General shall provide a report on any application that presents significant issues regarding competitive factors. The Board shall consider any report by the Attorney General on the competitive factors involved in the transaction, unless the Board finds that it must act immediately in order to prevent the probable failure of the institutions involved in the transaction that is the subject of the application. Any report shall be furnished not later than 30 calendar days after the date on which it is requested, or not later than 10 calendar days after such date if the Board advises the Attorney General that an emergency exists requiring executive action.

(b) Bank Holding Company Act Amendment.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(i) Report to the Congress on Approvals of Anticompetitive Transactions.—The Board shall submit a report to the Congress on the day on which any merger or transaction is approved under this section that includes a justification for approving any merger or acquisition, or any portion thereof, that the Attorney General has determined in the report required under subsection (c) may have an anticompetitive effect in any market or for any product. The Board's justification shall include the information, data, facts, assumptions, and other factors upon which the Board relied in approving the merger or acquisition notwithstanding the determination of the Attorney General.".

(c) Federal Deposit Insurance Act Amendment.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

"(12) Report to the congress on approvals of anticompetitive transactions.—The responsible agency shall submit a report to the Congress on the day on which any merger or transaction is approved under this subsection that includes a justification for approving any merger or acquisition, or any portion thereof, that the Attorney General has determined in the report required under paragraph (4) may have an anticompetitive effect in any market or for any product. The responsible agency's justification shall include the information, data, facts, assumptions, and other factors upon which the Board relied in approving the merger or acquisition notwithstanding the determination of the Attorney General.".

SEC. 310. REGULATIONS TO PROHIBIT BRANCHING FOR DEPOSIT PRODUCTION.

Not later than 180 days after the date of enactment of this Act, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate regulations to prohibit any person from using any authority to engage in interstate branching primarily for the purpose of deposit production.

TITLE IV—JAMES MADISON-BILL OF RIGHTS COMMEMORATIVE COIN ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "James Madison—Bill of Rights Commemorative Coin Act".

SEC. 402. COIN SPECIFICATIONS.

(a) Five Dollar Gold Coins.—

(1) Issuance.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) Design.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this title. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) One Dollar Silver Coins.—

(1) Issuance.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall—

VOL 137 PT 23 NO 21—25 1991 UMI

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) Design.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this title. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) Half Dollar Silver Coins.—

(1) Issuance.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) Design.—The design of the half dollar silver coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) Inscriptions.—All coins minted and issued under this title shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) Design Panel.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) Legal Tender.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 403. SOURCES OF BULLION.

(a) Gold.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) Silver.—The Secretary shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 404. ISSUANCE OF COINS.

(a) Five Dollar Coins.—The five dollar coins minted under this title may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) One Dollar Coins and Half Dollar Coins.—The one dollar and half dollar coins minted under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) Commencement of Issuance.—The coins authorized and minted under this title may be issued beginning on January 1, 1993.

(d) Termination of Authority.—Coins may not be minted under this title after December 31, 1993.

SEC. 405. SALE OF COINS.

(a) In General.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) Bulk Sales.—The Secretary shall make any bulk sales of the coins minted under this title at a reasonable discount.

(c) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) Surcharges.—All sales of coins minted under this title shall include a surcharge of $30 per coin for the five dollar coins, $6 per coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. 406. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) Reports to Congress.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the committee on Banking, Finance, and Urban Affairs of the House of Representatives and the committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this title during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994. All remaining funds from the sale of the coins authorized under this title shall be deemed as surcharges and promptly be transmitted according to section 407 of this title.

SEC. 407. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. 408. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section 407 of this title. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section 407 of this title shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. 409. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

TITLE V—CONSUMER PROTECTION

Subtitle A—Truth in Savings and Investments

SEC. 501. SHORT TITLE.

This subtitle may be cited as the "Truth in Savings and Investments Act".

SEC. 502. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that uniformity in calculating and disclosing the yields and basic terms of savings accounts and investment accounts would—

(1) better enable consumers to make informed decisions among savings and investment options; and

(2) increase competition among depository institutions and investment companies.

(b) Purpose.—The purpose of this subtitle is to require—

(1) standardization of the method of calculating yields which are payable on accounts and investments; and

(2) the clear and uniform disclosure of the key costs associated with such accounts and investments,

so that consumers can make meaningful comparisons among the competing claims of depository institutions and investment companies.

SEC. 503. DEFINITIONS.

For the purposes of this subtitle—

(1) Account.—The term "account" means an account offered other than for a business purpose to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds. Such term includes a demand account, time account, negotiable order of withdrawal account, credit union share, share certificate, and share draft account.

(2) Annual percentage yield.—The term "annual percentage yield" means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method that the Board shall prescribe by regulation.

(3) Board.—The term "Board" means the Board of Governors of the Federal Reserve System.

(4) Depository institution.—The term "depository institution" has the same meaning as in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(5) Interest.—The term "interest" includes a dividend paid with respect to a credit union share, share certificate, or share draft account which is an account under paragraph (1).

(6) Multiple rate account.—The term "multiple rate account" means an account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

SEC. 504. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS.

(a) In General.—Except as provided in subsection (c), an advertisement, announcement, or solicitation initiated by any depository institution, or by any other entity, relating to any account—

(1) may not include a reference to a specific rate of interest payable on amounts held in such account, or to a specific yield or rate of earnings on amounts so held, other than a reference to the annual percentage yield; and

(2) shall, if it contains a reference to the annual percentage yield, state the information described in subsection (b) in a clear and conspicuous manner.

(b) Information Required To Be Disclosed if Annual Percentage Yield Is Used.—The information required to be disclosed by subsection (a)(2), to the extent applicable, is the following:

(1) The period during which such annual percentage yield is in effect.

(2) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(3) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(4) A statement that regular fees or other conditions could reduce the yield.

(5) A statement that a penalty shall be imposed for early withdrawal.

(c) Broadcast and Electronic Media and Outdoor Advertising Exception.—The Board may, by regulation, exempt—

(1) advertisements, announcements, or solicitations made by any broadcast or electronic medium,

(2) any outdoor advertising display not on the premises of the depository institution, or

(3) any advertising display on the premises of the depository institution or other entity offering the account or investment,

from any disclosure requirements described in paragraph (3) or (4) of subsection (b) if the Board finds that any such disclosure would be unnecessarily burdensome.

(d) Misleading Descriptions of Free or No-Cost Accounts Prohibited.—No advertisement, announcement, or solicitation made by any depository institution or by any other entity may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions are limited during such period; or

(2) any regular service or transaction fee is imposed.

(e) Misleading or Inaccurate Advertisements Prohibited.—No depository institution or other entity shall make any advertisement, announcement, or solicitation relating to an account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 505. ACCOUNT SCHEDULE.

(a) In General.—Each depository institution shall maintain a schedule of fees, charges, yields, and other terms applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Board shall specify, by regulation, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) Information on Fees and Charges.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charges, or penalties (or the method by which such amounts will be calculated), and the circumstances under which any such amounts will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) Information on Yields.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how such minimum balance is calculated.

(6) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(7) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from, or the closing of, the account will not be paid by the depository institution or credited to the account by reason of such withdrawal or closing.

(8) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

The information described in paragraphs (1), (3), and (4) shall be provided for each period during which a different annual rate of simple interest is in effect (or, if applicable, the method for computing such information).

(d) Other Information.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) Style and Format.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to give consumers the ability to readily understand the terms of the accounts offered.

SEC. 506. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall by regulation prescribe such modifications in the disclosure requirements under this subtitle relating to annual percentage yields as may be necessary to carry out the purposes of this subtitle in the case of—

(1) accounts with respect to which the determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 507. DISTRIBUTION OF SCHEDULES.

(a) In General.—Any schedule required under section 505 shall be—

(1) made available to any person upon request; and

(2) provided to any potential customer before an account is opened or a service is rendered,

beginning not more than 6 months after the regulations issued by the Board take effect.

(b) Notice to Current Account Holders.—For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within 6 months after the regulations issued by the Board take effect, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

(c) Distribution in Case of Certain Initial Deposits.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 505(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account not later than 10 days after the date of the initial deposit.

(d) Distribution of Notice of Certain Changes.—If—

(1) any change is made in any term or condition which is required to be disclosed in

VOL
137
PT
23
NO
21—25
1991
UMI

the schedule required under section 505(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect. This subsection does not apply to changes in annual percentage yields of variable rate accounts.

(e) DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 508. PERIODIC STATEMENTS.

For any account for which a depository institution provides a periodic statement, the depository institution shall provide to each of its account holders on or accompanying each periodic statement a clear and conspicuous disclosure of—

(1) the annual percentage yield;

(2) the amount of interest earned; and

(3) any fees or charges imposed.

SEC. 509. PAYMENT OF INTEREST.

(a) DETERMINATION OF BALANCE ON WHICH INTEREST IS CALCULATED.—Except as provided in subsection (c), interest shall be calculated on the principal balance in an interest-bearing account at a depository institution by using—

(1) the average daily balance method, which is the sum of each day's closing balance divided by the number of days in the period, or

(2) the day of deposit to day of withdrawal method, as defined by the Board.

Each agency referred to in section 511 shall, in connection with its examination functions, examine the accuracy of depository institutions' balance calculations.

(b) DATE BY WHICH INTEREST MUST ACCRUE.—Interest on accounts that are subject to this Act shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

(c) SPECIAL RULE FOR CREDIT UNIONS.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) calculates the accrual of interest or dividends by a method other than the method described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of interest payment policy in the manner required by section 605(e) of the Expedited Funds Availability Act.

(d) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this subtitle.

(e) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (d) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SEC. 510. REGULATIONS.

(a) IN GENERAL.—The Board, after consultation with each agency referred to in section 511(a) and after providing public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this subtitle. The regulations may contain any classification, differentiation, or other provision, and may provide an exception for any class of accounts which, in the judgment of the Board, may be necessary or proper to carry out the purposes of this subtitle, to prevent circumvention or evasion of the requirements of this subtitle, or to facilitate compliance with the requirements of this subtitle.

(b) MODEL FORMS AND CLAUSES.—

(1) IN GENERAL.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this subtitle. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.—Nothing in this subtitle may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this subtitle if the depository institution—

(A) uses any appropriate model form or clause published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this subtitle; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.—The Board shall adopt model disclosure forms and clauses after giving appropriate notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 511. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this subtitle shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act, by the Office of Thrift Supervision in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of Federal credit unions; and

(4) the Federal Trade Commission Act, by the Federal Trade Commission in the case of State-chartered credit unions.

The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS SUBTITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this subtitle shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each agency may exercise, for purposes of enforcing compliance with any requirement imposed under this subtitle, any other authority conferred on such agency by law.

(c) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to issue regulations under this subtitle does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this subtitle.

SEC. 512. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution or other entity offering an account that fails to comply with any requirement imposed under this subtitle or any regulation prescribed under this subtitle with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the total amount of an award in a class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this subtitle if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a depository institution's obligation under this subtitle is not a bona fide error.

(d) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 511 for any failure to comply with any requirement imposed under this subtitle with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder.

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this subtitle shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this subtitle with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this subtitle with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 511.—This subsection shall not limit or otherwise affect the enforcement power under section 511 of any agency referred to in subsection (a) of such section.

SEC. 513. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this subtitle shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this subtitle, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 514. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES.

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 66. REVIEW OF DISCLOSURE REQUIREMENTS FOR YIELDS AND TERMS.

"Not later than January 1, 1993, and annually thereafter, the Commission and the Board of Governors of the Federal Reserve System shall consult with each other (and with any other agency they deem appropriate) to review the regulations prescribed under this Act and the Securities Act of 1933 and the regulations prescribed under the Truth in Savings and Investments Act to assure that such regulations are providing consumers the ability to compare savings and investments options effectively. If at any time as a result of such review, either the Commission or the Board finds that its regulations are not providing consumers the ability to compare savings and investments options effectively, the Commission or the Board, as the case may be, shall modify its regulations to assure that consumers have such ability.".

SEC. 515. EFFECT ON STATE LAW.

(a) IN GENERAL.—The provisions of this subtitle do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist.

(b) BALANCE ON WHICH INTEREST IS CALCULATED.—The provisions of this subtitle shall supersede any provisions of any State law relating to the determination of the balance on which interest is calculated to the extent such State law specifies the manner for determining the balance on which interest is calculated.

SEC. 516. EFFECTIVE DATE OF REGULATIONS.

The Board shall issue regulations to carry out this subtitle in final form not later than 9 months after the date of enactment of this Act. Such regulations shall take effect not later than 6 months after publication in final form.

Subtitle B—Fair Lending Enforcement

SEC. 521. SHORT TITLE.

This subtitle may be cited as the "Fair Lending Enforcement Act of 1991".

SEC. 522. APPRAISALS.

Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 523. CONSUMER COMPLIANCE PROGRAMS.

(a) FDIC.—The Federal Deposit Insurance Act is amended by adding at the end the following:

"SEC. 41. CONSUMER COMPLIANCE PROGRAM.

"(a) ESTABLISHMENT REQUIRED.—Each appropriate Federal banking agency shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the head of the agency.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CONSUMER COMPLIANCE EXAMINATION.—The term 'consumer compliance examination' means an examination of an insured depository institution to determine the extent to which such institution is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(2) CONSUMER COMPLIANCE EXAMINER.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(c) CONSUMER COMPLIANCE EXAMINATIONS.—

"(1) FREQUENCY.—The appropriate Federal banking agency shall conduct on-site consumer compliance examinations of each insured depository institution. Beginning not later than January 1, 1995, the agency shall conduct such an examination of each institution not less than once every 2 years, or as frequently as the agency conducts a regular on-site safety and soundness examination of each institution, whichever is less frequent.

"(2) CONDUCTED BY CONSUMER COMPLIANCE EXAMINERS.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. Each appropriate Federal banking agency may consider the size of the

VOL 137 PT 23 NO 21—25 1991 UMI

depository institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination each appropriate Federal banking agency shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(3) EXAMINATION UPON REQUEST UNDER CERTAIN CIRCUMSTANCES.—Any bank holding company or savings and loan holding company which controls an insured depository institution which determines that a consumer examination of such depository institution may be appropriate to expedite an application or notice for a deposit facility described in section 803(3) of the Community Reinvestment Act of 1977 may request in writing the appropriate consumer compliance program to conduct an examination of the depository institution pursuant to paragraph (1).

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities established by subsection (c), the head of each consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending and community reinvestment laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) EFFECTIVE DATE.—The establishment of separate consumer compliance programs in each of the agencies shall be completed no later than January 1, 1993.

"(f) REPORTS.—Each consumer compliance program shall prepare a description of its activities which shall be included in the agency's annual report to the Congress.".

(b) NATIONAL CREDIT UNION ADMINISTRATION.—Title I of the Federal Credit Union Act is amended by adding at the end the following:

"SEC. 130. CONSUMER COMPLIANCE PROGRAM.

"(a) ESTABLISHMENT REQUIRED.—The Board shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the Board.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CONSUMER COMPLIANCE EXAMINATION.—The term 'consumer compliance examination' means an examination of an insured credit union to determine the extent to which such credit union is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(2) CONSUMER COMPLIANCE EXAMINER.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(c) CONSUMER COMPLIANCE EXAMINATIONS.—

"(1) FREQUENCY.—The Board shall conduct on-site consumer compliance examinations of each insured credit union. Beginning not later than January 1, 1995, the Board shall conduct such an examination of each insured credit union not less than once every 2 years, or as frequently as the Board conducts a regular on-site safety and soundness examination of the institution, whichever is less frequent.

"(2) CONDUCTED BY CONSUMER COMPLIANCE EXAMINERS.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. The Board may consider the size of the institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination the Board shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from members or the public.

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities established by subsection (c), the head of the consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws;

"(6) make recommendations to the Board concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) EFFECTIVE DATE.—The establishment of a separate consumer compliance program shall be completed no later than January 1, 1993.

"(f) REPORTS.—The consumer compliance program shall prepare a description of its activities which shall be included in the Board's annual report to the Congress.".

(c) STATE CREDIT UNIONS.—Section 204 of the Federal Credit Union Act is amended by adding after the second sentence a new sentence to read: "The Board shall conduct consumer compliance examinations as set forth in section 130 of State chartered insured credit unions only if the appropriate State supervisory agency has not established an examination program similar to that described in section 130.

SEC. 524. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following: "Each of the agencies referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a) of this title. Each of such agencies is authorized to refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has violated section 701(a) of this title.".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following:

"(k) Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a) has reason to believe that a violation of this title has occurred, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, and that the alleged violation would be a violation of the Fair Housing Act, and the agency does not refer the matter to the Attorney General pursuant to subsection (g), it shall—

"(1) notify the Secretary of Housing and Urban Development of the violation; and

"(2) notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 525. HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1, 1992.

Subtitle C—Basic Financial Services Accounts

SEC. 531. STUDY AND REPORT ON UTILIZING THE UNITED STATES POSTAL SERVICE TO PROVIDE GOVERNMENT CHECK CASHING SERVICES.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study examining current fees and practices of check cashing outlets and the potential for enhancing the access of low-income individuals to government check cashing services through the United States Postal Service.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall provide the Congress with a report regarding the results of the study described in subsection (a), along with any recommendations for Federal or State legislative or administrative action.

SEC. 532. STUDY AND REPORT ON DIRECT DEPOSIT PROGRAM FOR FEDERAL RECURRING PAYMENTS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to assess the benefits and costs to the Federal Government of utilizing direct deposit versus paper checks to accomplish government payments. In conducting the study, the Comptroller General shall—

(1) consider the administrative cost savings, if any, to be accomplished through the utilization of direct deposit, such as reduced paperwork and personnel involvement, streamlined and cost-effective operations, and reduced postage expenses;

(2) consider the loss in interest earnings to the Federal Government as the result of the earlier relinquishment by the Government of directly deposited funds, using data on major beneficiary programs that utilize recurring Federal benefits payments;

(3) compare the relative costs and benefits to the Federal Government of direct deposit versus paper check payments of Government benefits; and

(4) identify societal costs and benefits of direct deposit with respect to safety, risk of loss to the individual and the Government, convenience, reliability, and timeliness of payments.

(b) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report containing the results of the study described in subsection (a), along with any recommendations for legislative and administrative action that should be taken.

SEC. 533. GOVERNMENT RETURN OF ELECTRONIC PAYMENTS.

Section 3712(a) of title 31, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "or that an electronic funds transfer has been acquired by an unauthorized party" after "If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement";

(B) by inserting "or may reclaim the amount of such electronic funds transfer from the receiving institution or the unauthorized party that acquired the benefits" after "guarantee of endorsements";

(C) by inserting "for payments issued before January 1, 1995" after "date of payment" in subparagraph (A);

(D) by striking "or" at the end of subparagraph (A);

(E) by redesignating subparagraph (B) as subparagraph (C); and

(F) by inserting after subparagraph (A) the following:

"(B) the expiration of the 180-day period beginning on the date of payment for payments issued on or after January 1, 1995; or";

(2) in paragraph (2)—

(A) by striking the following:

"(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce" and inserting the following:

"(2) CIVIL ACTIONS.—

"(A) 1 YEAR LIMIT.—Except as provided in subparagraph (B), the United States may bring a civil action—

"(i) to enforce";

(B) by striking the period at the end of subparagraph (A) and inserting "; or

"(ii) against the institution receiving an electronic funds transfer of a Government benefit that has been acquired by an unauthorized party or against the unauthorized party that acquired the benefit, not later than 1 year after the electronic funds transfer is received by the receiving institution.";

(C) in subparagraph (B)—

(i) by striking "(B)" and inserting the following:

"(B) 3-YEAR EXTENSION.—";

(ii) by striking "an endorser"; and

(iii) by striking "against the endorser" and inserting "to the party against which it may bring a civil action under subparagraph (A)".

Subtitle D—Miscellaneous

SEC. 551. HOME EQUITY LOAN CONSUMER PROTECTION ACT AMENDMENTS.

(a) MARGIN DISCLOSURE REQUIREMENT.—Section 127A(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1637a(a)(2)(A)) is amended by inserting after "rate will be computed" the following: ", including a statement of any margin that applies under the plan,".

(b) TERM CHANGED AFTER APPLICATION.—Section 137(d) of the Truth in Lending Act (15 U.S.C. 1647(d)) is amended by inserting after the first sentence the following new sentence: "If a creditor discloses different margins tied to the creditor's criteria for determining the consumer's creditworthiness, the failure to offer the consumer the lowest margin disclosed in connection with creditworthiness constitutes a changed term.".

(c) EFFECTIVE DATE.—Regulations implementing the amendments made by subsections (a) and (b) shall become effective on October 1, 1992.

SEC. 552. DIRECTIVE TO RELIEVE REGULATORY BURDEN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each appropriate Federal banking agency, in consultation with individuals representing depository institutions, consumers, community groups, and other interested parties, shall—

(1) review the policies, procedures, and recordkeeping and documentation requirements used by the agency to monitor and enforce compliance with designated consumer laws;

(2) determine whether those policies, procedures (including examination procedures), and requirements are unnecessarily burdensome for insured depository institutions;

(3) identify any revisions of those policies, procedures (including examination procedures), and requirements that could reduce burdens on insured depository institutions without in any respect diminishing either compliance with or enforcement of designated consumer laws; and

(4) implement any such revisions.

(b) INNOVATIVE ARRANGEMENTS.—Each appropriate Federal banking agency, in consultation with individuals representing depository institutions, consumers, community groups, and other interested parties, shall identify, and disseminate information regarding, innovative arrangements that can assist insured depository institutions in meeting their obligations under the Community Reinvestment Act of 1977 and other consumer laws, including the use of centralized loan pools to serve the credit needs of low- and moderate-income neighborhoods and families.

(c) REPORT.—Each appropriate Federal banking agency shall submit to the Congress a report describing the actions taken under subsections (a) and (b) not later than 1 year after the date of enactment of this Act.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms "insured depository institution" and "appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(2) the term "designated consumer laws" means the Community Reinvestment Act of 1977, the Electronic Fund Transfer Act, the Equal Credit Opportunity Act, the Expedited Fund Availability Act, the Fair Housing Act, the Home Mortgage Disclosure Act of 1975, the National Flood Insurance Act of 1968, the Real Estate Settlement Procedures Act of 1974, the Right to Financial Privacy Act of 1978, and the Truth-in-Lending Act.

SEC. 553. EXPEDITED FUNDS AVAILABILITY ACT AMENDMENTS.

(a) AVAILABILITY OF CASH DEPOSITS.—Section 603(a) of the Expedited Funds Availability Act (12 U.S.C. 4002(a)) is amended—

(1) in paragraph (1)(A), by striking "staffed by individuals employed by such institution";

(2) in paragraphs (2)(B)(ii) and (2)(C)(ii), by striking "and is staffed by individuals employed by such institution";

(3) in paragraph (2)(F)—

(A) by striking clause (i); and

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(4) by adding at the end the following:

"(3) EXTENSIONS.—In the case of a deposit subject to paragraph (1)(A) or (2) of this subsection that is deposited in a facility that is not staffed by individuals employed by such institution, the Board may, by regulation or order, extend the time by which such funds must be available for withdrawal by 1 business day if the Board determines that, operational constraints imposed by the location of the facility make it unreasonable to expect the receiving depository institution to make the funds available for withdrawal as provided in paragraph (1)(A) or (2).".

(b) ATM DEPOSITS.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(1) in paragraph (1)(C), by striking "the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act" and inserting "September 1, 1994"; and

(2) in paragraph (2)(D), by striking "the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act" and inserting "September 1, 1994".

(c) SAFEGUARD EXCEPTIONS.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "(a)(2)," after "subsection";

(2) in subsection (c)(1), by striking "(F)" after "subsections (a)(2)";

(3) in subsection (d), by inserting "(a)(2)," after "subsections";

(4) in subsection (f)(1)(A)(i), by striking "day" and inserting "time period within which"; and

(5) in subsection (f), by adding at the end of paragraph (2) the following:

"(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

"(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.".

VOL
137
PT
23
NO
21
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25
1991
UMI

(d) LOSS ALLOCATION.—Section 611(f) of the Expedited Funds Availability Act (21 U.S.C. 4010(f)) is amended—

(1) by inserting "or other entities participating in the payments system, including the States and political subdivisions thereof on which checks are drawn," after "depository institutions"; and

(2) by inserting "finance charges, reasonable attorneys' fees, and other expenses related to the check," after "amount of the check giving rise to loss or liability,".

SEC. 554. TRUTH IN LENDING ACT AMENDMENT.

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end the following:

"(7) Credit transactions involving a consumer whose average annual income is more than $200,000 or whose net assets exceed $1,000,000 at the time of such transaction if the consumer—

"(A) receives an oral explanation and a clear and conspicuous written explanation of the consumer's right to disclosure under this title; and

"(B) signs a waiver of his or her right to such disclosure.

The Board shall prescribe the form and content of explanations and waivers required by this paragraph.".

SEC. 555. HOMEOWNERSHIP AMENDMENTS.

(a) ESTIMATES OF REAL ESTATE SETTLEMENT COSTS.—Section 5(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(d)) is amended by striking the last sentence and inserting "Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3-day period.".

(b) ADJUSTABLE RATE MORTGAGE CAPS.—Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(d)(2)) is amended by striking "any loan" and inserting "any consumer loan".

SEC. 556. DISCUSSION OF LENDING DATA.

(a) PUBLIC SECTIONS OF COMMUNITY REINVESTMENT ACT REPORTS.—Section 807(b)(1)(B) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)(B)) is amended by inserting "and data" after "facts".

(b) OTHER COMMUNITY REINVESTMENT ACT AMENDMENTS.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended—

(1) in subsection (a)(1), by striking "depository institutions regulatory agency" and inserting "financial supervisory agency";

(2) in subsection (b)(1)(A)—

(A) by striking "depository institutions regulatory agency's" and inserting "financial supervisory agency's"; and

(B) by striking "depository institutions regulatory agencies" and inserting "financial supervisory agencies"; and

(3) in subsection (c), by striking "depository institutions regulatory agency" each place such term appears and inserting "financial supervisory agency".

SEC. 557. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that implementing the interstate branching provisions contained in title III of this Act results in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 558. NOTICE OF BRANCH CLOSING.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(r) NOTICE TO CUSTOMERS OF BRANCH CLOSING.—

"(1) IN GENERAL.—An insured depository institution that proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) including a notice in—

"(i) at least 1 of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.".

SEC. 559. STUDY AND REPORT ON COMMUNITY LENDING.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to—

(1) determine whether there are regulatory impediments to sound bank lending in low- and moderate-income neighborhoods and inner cities;

(2) assess whether the risk-based capital standards discourage sound lending for multifamily housing;

(3) evaluate the policy implications of giving banks direct incentives for sound lending in low- and moderate-income neighborhoods and inner cities, through Bank Insurance Fund assessments, risk-based capital standards, other bank regulatory policies, lending from the Federal Home Loan Bank System, or tax policy incentives;

(4) determine whether the underwriting policies of the secondary market agencies could be revised to encourage bank lending in low- and moderate-income neighborhoods and inner cities; and

(5) recommend legislative or regulatory changes to encourage sound, profitable lending in low- and moderate-income neighborhoods and inner cities.

(b) CONSULTATION.—The Comptroller General shall consult with State and local governments, nonprofit developers, community groups, financial institutions with experience in community lending, State housing finance agencies, and others with expertise in community lending.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report containing the findings from the study under subsection (a).

TITLE VI—FOREIGN BANK SUPERVISION AND REGULATION

Subtitle A—Foreign Bank Supervision Act

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Act of 1991".

SEC. 602. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsections:

"(e) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without obtaining the prior approval of the Board.

"(2) POLICY CONSIDERATIONS.—In acting on an application under paragraph (1), the Board shall not make the size of the foreign bank the sole determinant factor and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country.

"(3) REQUIRED STANDARDS FOR APPROVAL.—The Board may not approve an application under paragraph (1) unless it determines that—

"(A) the foreign bank engages directly in the business of banking outside the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; and

"(B) the foreign bank has furnished to the Board the information it needs to adequately assess the application.

"(4) ADDITIONAL STANDARDS.—In acting on any application under paragraph (1), the Board may consider—

"(A) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(B) the financial and managerial resources of the foreign bank, including its experience and capacity to engage in international banking and the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank;

"(C) whether the foreign bank has provided the Board with adequate assurances that it will make available to the Board such information on the operations or activities of the foreign bank and any of its affiliates that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal banking statutes; and

"(D) whether the foreign bank and its United States affiliates are in compliance with applicable United States law.

"(5) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraphs (2), (3), and (4), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(f) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State supervisory agency or the Office of the Comptroller of the Currency, may order a foreign bank that operates a branch or agency or commercial lending company subsidiary in

the United States to terminate the activities of such branch, agency or subsidiary if the Board finds that—

"(A) the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; or

"(B)(i) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(ii) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Financial Institutions Supervisory Act of 1966.

However, in making its findings under this paragraph, the Board shall not make size the sole determinant factor and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country.

"(2) DISCRETION TO DENY HEARING.—The Board may take the action described in paragraph (1) without providing an opportunity for a hearing if it determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall become effective within 120 days of its issuance or such longer time period as the Board may direct.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or commercial lending company subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) ENFORCEMENT OF ORDERS.—The Board may in its discretion apply to any United States district court within a jurisdiction in which any office or subsidiary of the foreign bank against which the Board has issued an order under paragraph (1) is located, for the enforcement of any effective and outstanding order issued under this section, and the United States district courts shall have jurisdiction and power to order and require compliance therewith.

"(6) CRITERIA RELATING TO FOREIGN SUPERVISION.—Not later than 1 year after the date of enactment of this subsection, the Board, in consultation with the Secretary of the Treasury, shall develop and publish criteria to be used in evaluating the operation of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis. In developing such criteria, the Board shall allow reasonable opportunity for public review and comment.

"(g) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank against which the Board has issued an order under subsection (e) or (f) may obtain a review of such order in the United States Court of Appeals within any circuit wherein such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing in the court, within 30 days after the entry of the order of the Board, a petition praying that the order be modified or set aside.

"(2) PROCEDURES FOR JUDICIAL REVIEW.—A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, as appropriate, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28.

"(3) SCOPE OF JUDICIAL REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm, modify or set aside the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper. The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) EXCLUSIVE JURISDICTION.—Judicial review of any order issued under subsection (e) or (f) shall be exclusively as provided for in this subsection. No other court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order under this section, or to review, modify, suspend, terminate, or set aside any such order.

"(h) CONSULTATION WITH STATE BANK LICENSING AUTHORITY.—The Board shall request and consider any views of the appropriate State bank licensing authority or the Comptroller of the Currency with respect to an application or action under subsection (e) or (f).

"(i) LIMITATIONS ON POWERS OF STATE BRANCHES AND AGENCIES.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, a State branch or State agency may not engage in any type of activity that is not permissible for a Federal branch unless—

"(A) the Board has determined that such activity is consistent with sound banking practice; and

"(B) in the case of an insured branch, the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the deposit insurance fund.

"(2) SINGLE BORROWER LENDING LIMIT.—A State branch or State agency shall be subject to the same limitations with respect to loans made to a single borrower as are applicable to a Federal branch or Federal agency under section 4(b).

"(3) OTHER AUTHORITY NOT AFFECTED.—This section does not limit the authority of the Board or any State supervisory authority to impose more stringent restrictions.".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) PRIOR APPROVAL REQUIRED.—

"(1) APPROVAL OF AGENCY.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Board and the Comptroller of the Currency shall include any condition imposed by the Board under section 7(e)(1) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by striking "(h) A foreign bank" and inserting the following:

"(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

(2) by adding at the end the following new paragraph:

"(2) NOTICE TO AND COMMENT BY BOARD.—The appropriate Federal banking agency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting "(1) COMPETITIVE FACTORS.—" before "The Board shall" the first time it appears;

(3) by inserting "(2) BANKING AND CONVENIENCE AND NEEDS FACTORS.—" before "In every case";

(4) by inserting "(4) TREATMENT OF CERTAIN BANK STOCK LOANS.—" before "Notwithstanding"; and

(5) by inserting after paragraph (2) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board may disapprove any application under this section if the company or companies fail to provide the Board with adequate assurances that they will make available to the Board such information on the operations or activities of such company or companies and any affiliate of such company or companies that the Board deems necessary to determine and enforce compliance with this Act, or, in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended—

(A) by inserting "affiliate," after "the terms" the first time it appears; and

(B) by inserting " 'securities affiliate'," before "and 'subsidiary' ".

(2) REPRESENTATIVE OFFICE DEFINED.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101) is amended by inserting at the end of the following new paragraph:

"(15) 'representative office' means any office of a foreign bank located in any State of the United States that is not a Federal branch, Federal agency, State branch, State agency or subsidiary of a foreign bank.".

SEC. 603. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Bank Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES AND AFFILIATES.—

"(A) IN GENERAL.—The Board may make examinations of each branch or agency of a foreign bank, of each commercial lending company or bank controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, and of any other office or affiliate of a foreign bank conducting business in the United States or any territory or dependency of the United States. The cost of such examinations shall be assessed against and paid by such foreign bank or company, as the case may be.

VOL 137 PT 23 NO 21 — 25 1991 UMI

"(B) COORDINATION OF EXAMINATIONS.—The Board shall seek to coordinate its examinations under this paragraph with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State supervisory authorities, including requesting, when the Board deems appropriate simultaneous examinations of all offices of a foreign bank and its affiliates operating in the United States. Nothing in this subparagraph shall be construed to prevent the Board from conducting any examination under subparagraph (A) that it deems appropriate.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination. In connection with such examination, the Board shall review the worldwide capital level of the foreign bank in order to determine whether the financial resources of such bank or company, including the capital level, are equivalent to those of a domestic bank holding company that would be permitted to engage in the activities the foreign bank conducts in the United States. Any determination that the foreign bank meets the capital equivalency requirement shall be made after consultation with the Secretary of the Treasury. An examination by the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the appropriate State supervisory authority may be used to satisfy the requirements of this subparagraph.

"(D) EFFECT OF FAILURE TO MAINTAIN EQUIVALENT CAPITAL.—If the Board finds at any time that any foreign bank does not have the required level of capital—

"(i) to engage in securities activities, the foreign branch or agency shall be treated as an insured depository institution under section 10(d) of the Bank Holding Company Act of 1956 in the same manner as an affiliated insured depository institution that becomes undercapitalized; and

"(ii) to engage in interstate banking operations, the Board shall—

"(I) review the operations of the foreign bank in the United States to determine whether the conditions for termination in subsection (f)(1)(C) are met or requirements for increasing capital or improving management should be imposed; and

"(II) to the extent that requirements imposed under subclause (I) can only be adequately verified if banking activities are carried out in a domestic banking subsidiary, require the foreign bank or company controlling the foreign bank to conduct all its banking activities in the United States through such a subsidiary."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Office of the Comptroller of the Currency shall coordinate examinations of the Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) of this Act and, to the extent possible, shall participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under section 7(c)(1) of that Act.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—Section 10(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)) is amended by adding at the end the following new sentence: "The Board of Directors shall coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978 and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board of Governors under that section.".

SEC. 604. SUPERVISION OF FOREIGN BANKS' REPRESENTATIVE OFFICES.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards for approval set forth in section 7(e) and may impose any additional requirements that are necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the same standards, procedures, and requirements as apply under, and subject to judicial review as provided in, section 7(f).

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 605. REPORTING STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate thereof that has credit outstanding to any person or group of persons secured or to be secured by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for the insured depository institution if such extensions of credit by the financial institution and its affiliates, in the aggregate, are secured or to be secured by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' shall include—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that provides credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' shall include any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) TIMING AND CONTENT OF REPORT; COPY TO APPROPRIATE AGENCY FOR THE LENDING FINANCIAL INSTITUTION.—The report required by this paragraph shall be a consolidated report on behalf of the financial institution and all of its affiliates, and shall be filed in writing within 30 days of the time the financial institution or any of its affiliates believes that the 25 percent level referred to in subparagraph (A) has been met or exceeded. The report shall indicate the number and percentage of shares securing each relevant extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any of its affiliates. A copy of the report shall be filed with the appropriate Federal banking agency for the financial institution. Each appropriate Federal banking agency may require any additional information necessary to carry out its supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and its affiliates shall not be required to report a transaction under this paragraph if the person or group of persons has disclosed the amount borrowed from the financial institution and its affiliates and the security interest of the financial institution and its affiliates to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956 or the Savings and Loan Holding Company Act, or any other formal application that is filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and its affiliates shall not be required to report a transaction involving a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more or where the stock is that of a newly chartered bank prior to its opening.".

SEC. 606. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if such disclosure—

"(1) is determined to be necessary or appropriate by such agency; and

"(2) would not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Prior to disclosure of any information to a foreign authority, the United States agency shall obtain as necessary the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.

"(c) INFORMATION OBTAINED FROM FOREIGN SUPERVISORS.—The Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency shall not be compelled to disclose information obtained from a foreign supervisor if—

"(1) the foreign supervisor has in good faith determined and represented to such United States agency that public disclosure of such information would violate the laws applicable to that supervisor, and

"(2) the United States agency obtains such information pursuant to—

"(A) such procedure as the United States agency may authorize for use in connection with the administration or enforcement of the banking laws; or

"(B) a memorandum of understanding.

For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 607. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.), as amended by section 606, is amended by adding at the end the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any branch, agency, other office, or subsidiary of a foreign bank that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING.—The foreign bank, branch, agency, other office, or subsidiary of a foreign bank, or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such foreign bank, branch, agency, other office, or subsidiary, or person submits a request for a hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)) shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) with respect to a foreign bank, or branch, agency, other office, or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States) shall not affect the jurisdiction or authority of the appropriate Federal banking agency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such foreign bank or branch, agency, other office, or subsidiary of a foreign bank (whether such date occurs before, on, or after the date of enactment of this section).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the appropriate Federal banking agency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the appropriate Federal banking agency pursuant to this Act, within the time period specified by the agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the appropriate Federal banking agency may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, whichever is less, for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraphs (1), (2), or (3) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subsection (a) of this section (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, against which any penalty is assessed under this subsection shall be afforded an agency hearing if such foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)) shall apply to any proceeding under this subsection.".

SEC. 608. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking the heading and replacing it with "ENFORCEMENT.—";

(2) by inserting "(1)" before "In"; and

(3) by adding at the end the following new paragraph:

"(2) POWERS RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.—

"(A) IN GENERAL.—In the course of or in connection with an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as appropriate, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or to cause to be taken depositions, and to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum.

"(B) RULEMAKING AUTHORITY.—The Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall have the authority to issue rules and regulations to effectuate the purposes of section 13(b)(2)(A).

"(C) SUBPOENA POWER.—The attendance of witnesses and the production of documents provided for in this subsection may be required by subpoena or subpoena duces tecum from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

"(D) JUDICIAL REVIEW.—Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for the enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to require compliance therewith.

"(E) WITNESS FEES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid to witnesses in the district courts of the United States.

"(F) SERVICE OF PROCESS.—Any service required under this subsection may be made by

VOL 137 PT 23 NO 21—25 1991 UMI

registered mail, or in such other manner reasonably calculated to give actual notice as the agency may by regulation or otherwise provide.

"(G) Attorneys' fees.—Any court having jurisdiction of any proceeding instituted under this Act may allow to any party that succeeds in having an agency order modified or set aside such reasonable expenses and attorneys' fees as it deems just and proper.

"(H) Penalties for not complying for each day that such failure or refusal continues.—Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $10,000 for each day that such failure or refusal continues, or to imprisonment for a term of not more than 1 year, or both.".

SEC. 609. PENALTIES FOR FAILURE TO COMPLY WITH AGENCY SUBPOENA.

(a) Bank Holding Company Act.—Section 5(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(f)) is amended in the last sentence by striking "$1000" and inserting "$10,000 for each day that such failure or refusal continues".

(b) Federal Deposit Insurance Act.—Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended in the last sentence by striking "$1,000" and inserting "$10,000 for each day that such failure or refusal continues".

SEC. 610. CLARIFYING MANAGERIAL STANDARDS IN THE BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end of paragraph (2) (as redesignated by section 602(d)) the following new sentence: "Consideration of the managerial resources of a company or bank shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

SEC. 611. STANDARDS AND FACTORS IN THE HOME OWNERS' LOAN ACT.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (1), by inserting after subparagraph (B) the following:

"Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(2) in paragraph (2)—

(A) by inserting after the second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(B) by striking "or" at the end of subparagraph (A);

(C) by striking the period at the end of subparagraph (B) and inserting a comma; and

(D) by inserting after subparagraph (B) the following new subparagraphs:

"(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this Act, or

"(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

SEC. 612. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES.

(a) Amendments to the Home Mortgage Disclosure Act.—

(1) Maintenance of records and public disclosure.—Section 304(h) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) the Office of the Comptroller of the Currency for national banks and Federal branches and Federal agencies of foreign banks;"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;".

(2) Enforcement.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured State branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(B) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(b) Amendment to the Truth in Lending Act.—Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(c) Amendment to the Fair Credit Reporting Act.—Section 621(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(d) Amendment to the Equal Credit Opportunity Act.—Section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(e) Amendment to the Fair Debt Collection Practices Act.—Section 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(f) Amendment to the Electronic Fund Transfer Act.—Section 917(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(g) Amendment to the Federal Trade Commission Act.—

(1) Definitions.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following new paragraph:

"'Banks' means the types of banks and other financial institutions referred to in section 18(f)(2)."

(2) Enforcement.—Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) Enforcement.—Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, banks operating under the code of law for the District of Columbia, and Federal branches and Federal agencies of foreign banks, by the divisions of consumer affairs established by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks and banks operating under the code of law for the District of Columbia), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the division of consumer affairs established by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other banks referred to in subparagraph (A) or (B)) and insured State branches of foreign banks, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(B) by adding at the end the following:

"The terms used in this paragraph that are not defined in the Federal Trade Commission Act or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(h) Amendment to the Expedited Funds Availability Act.—Section 610(a) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

SEC. 613. CRIMINAL PENALTY FOR VIOLATING THE INTERNATIONAL BANKING ACT OF 1978.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.), as amended by sections 606 and 607, is amended by adding at the end the following:

"SEC. 17. CRIMINAL PENALTY.

"Whoever, with the intent to deceive, to gain financially, or to cause financial gain or loss to any person, knowingly violates any provision of this Act or any regulation or order issued by the appropriate Federal banking agency under this Act shall be imprisoned not more than 5 years or fined not more than $1,000,000 for each day during which a violation continues, or both.".

Subtitle B—Regulation of Foreign Banks and Subsidiaries

SEC. 621. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) Section 5.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) State Not Required to License Branches and Agencies of Foreign Banks.—Nothing in this Act shall be construed to require a State to maintain laws or procedures for the establishment or operation of a State branch or a State agency by a foreign bank.".

(b) Section 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsection (b) as subsection (b)(1);

(2) by designating the last undesignated paragraph as paragraph (2); and

(3) by adding at the end the following new subsection:

"(c) Retail Deposit-Taking by Foreign Banks.—

"(1) In general.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to accept or maintain deposit accounts having balances of less than $100,000, a foreign bank shall—

"(A) establish 1 or more banking subsidies in the United States for that purpose; and

"(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

"(2) Exception.—Deposit accounts with balances of less than $100,000 may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.".

(c) Section 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(j) Guidelines on Equivalence of Foreign Bank Capital.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly publish in the Federal Register and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Supervisory committee of the Bank for International Settlements, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to

VOL 137
PT 23
NO 21–25
1991
UMI

the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under section 5(a), subsection (k), and this subsection.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).

"(k) Equivalent Capital and Other Financial Requirements.—

"(1) Approval required.—No foreign bank may engaged in the activities described in section 5(a)(5) without obtaining the prior approval of the Board.

"(2) Determination required.—The Board shall disapprove an application under paragraph (1) unless it determines that the financial resources of such bank or company, including the capital level, are equivalent to those of a domestic bank holding company that would be permitted to engage in such activities in accordance with section 3(d) of the Bank Holding Company Act of 1956, after consultation with the Secretary of the Treasury regarding capital equivalency.

"(3) Criteria for determination.—In making the determination in paragraph (1), the Board shall—

"(A) take into account differences in domestic and foreign accounting standards; and

"(B) assure that competitive equivalence between domestic and foreign banks is maintained.

"(4) Requirement for a separate subsidiary.—If the Board, taking into account differing regulatory or accounting standards, finds that adherence to capital requirements equivalent to those imposed on a domestic bank holding company under section 3(d) of the Bank Holding Company Act of 1956 can be verified only if banking activities are carried out in a domestic banking subsidiary within the United States, it may only approve an application under paragraph (1) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.".

SEC. 622. STUDY AND REPORT ON SUBSIDIARY REQUIREMENTS FOR FOREIGN BANKS.

(a) In General.—The Secretary of the Treasury (hereafter referred to as the "Secretary"), in consultation with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General, shall conduct a study of whether foreign banks should be required, as a general rule, to conduct banking operations in the United States through subsidiaries rather than branches. In conducting the study, the Secretary shall take into account—

(1) differences in accounting and regulatory practices abroad and the difficulty of assuring that the foreign bank meets United States capital and management standards and is adequately supervised;

(2) implications for the deposit insurance system;

(3) competitive equity considerations;

(4) national treatment of foreign financial institutions;

(5) the need to prohibit money laundering and illegal payments;

(6) safety and soundness considerations;

(7) implications for international negotiations for liberalized trade in financial services; and

(8) the tax liability of foreign banks.

(b) Report Required.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the results of the study under subsection (a). Any additional or dissenting views of participating agencies shall be included in the report.

(c) Change in Policy.—If the participants in the study under subsection (a) agree that, in furtherance of the objectives set out in the study, foreign banks should be required to conduct their activities in the United States through a domestic banking subsidiary, the Board of Governors of the Federal Reserve System is authorized to implement the requirement by regulation. If individual participants expressing additional or dissenting views under subsection (b) conclude that changes in law or policy are needed to further the objectives set out in the study, those participants shall submit legislative proposals to the Congress within 30 days of the submission of the report under subsection (b).

Subtitle C—Fair Trade in Financial Services

SEC. 631. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1991".

SEC. 632. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"SEC. 18. NATIONAL TREATMENT.

"(a) Purpose.—This section is intended to encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries, and thereby end discrimination against United States banks and bank holding companies.

"(b) Reports Required.—

"(1) Contents of report.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States banks and bank holding companies—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) Submission of report.—

"(A) In general.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) Most recent report defined.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) Negotiations Required.—

"(1) In general.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect,

to ensure that such country accords national treatment to United States banks and holding companies.

"(2) Negotiations not required.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) Discretionary Sanctions.—

"(1) Secretary's determination.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States banks or bank holding companies.

"(2) Action by agency.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, any Federal banking agency—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and other reports under subsection (b)(1) among the factors the agency considers in evaluating any application or notice filed by a person of that foreign country; and

"(B) may, in consultation with the Secretary, deny the application or disapprove the notice.

"(3) Review.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) Preventing Existing Entities From Being Used To Evade This Section.—

"(1) In general.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) Exception.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) State-supervised entities.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency, after consultation with the State bank supervisor—

"(i) may include the determination under subsection (d)(1) and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and other reports under subsection (b)(1) of this section among the factors the agency considers in evaluating the application; and

"(ii) may issue an order disapproving the activity in question based upon that determination and in consultation with the Secretary of the Treasury.

The period for disapproval under clause (ii) may, in the agency's discretion, be extended for not more than 45 days.

"(4) Federal approval.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) Informing state supervisors.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) Effect on other law.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) National Treatment Defined.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) Person of a Foreign Country Defined.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) Exercise of Discretion.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; or

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 633. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 36. NATIONAL TREATMENT.

"(a) Purpose.—This section is intended to encourage foreign countries to accord national treatment to United States brokers and dealers that operate or seek to operate in those countries, and thereby end discrimination against United States brokers and dealers.

"(b) Reports Required.—

"(1) Contents of report.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States brokers and dealers—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) Submission of report.—

"(A) In general.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) Most recent report defined.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) Negotiations Required.—

"(1) In general.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States brokers or dealers; and

"(B) with respect to which no determination under subsection (d)(1) is in effect,

to ensure that such country accords national treatment to United States brokers and dealers.

"(2) Negotiations not required.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(d) Discretionary Sanctions.—

"(1) Secretary's determination.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States brokers or dealers.

"(2) Actions by commission.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, the Commission—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and paragraph (1) of this subsection among the factors the Commission considers (i) in evaluating any application filed by a person of that foreign country, or (ii) in determining whether to prohibit an acquisition for which a notice is required under paragraph (3) by a person of that foreign country; and

"(B) may, in consultation with the Secretary, deny the application or prohibit the acquisition.

"(3) Notice required to acquire broker or dealer.—

"(A) In general.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, no person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(i) the Commission has been given notice 60 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission requires by rule or order; and

"(ii) the Commission has not prohibited the acquisition.

"(B) Commission may extend 60-day period.—The Commission may, by order, extend the notice period during which an acquisition may be prohibited under subparagraph (A) for an additional 180 days.

"(C) Effective date.—The requirements of subparagraph (A) shall apply to any acquisition of control that is completed on or after the date on which the determination under paragraph (1) is published, irrespective of when the acquisition was initiated.

"(4) Review.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) National Treatment Defined.—A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(f) Persons of a Foreign Country Defined.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country; or

VOL 137 PT 23 NO 21—25 1991 UMI

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(g) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Commission, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(ii) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 634. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

The Investment Advisers Act of 1940 (12 U.S.C. 80b-1 et seq.) is amended by adding at the end the following new section:

"SEC. 223. NATIONAL TREATMENT.

"(a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States investment advisers that operate or seek to operate in those countries, and thereby end discrimination against United States investment advisers.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States investment advisers—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States investment advisers; and

"(B) with respect to which no determination under subsection (d)(1) is in effect, to ensure that such country accords national treatment to United States investment advisers.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States investment advisers.

"(2) ACTIONS BY COMMISSION.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, the Commission—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and paragraph (1) of this subsection among the factors the Commission considers (i) in evaluating any application filed by a person of that foreign country, or (ii) in determining whether to prohibit an acquisition for which a notice is required under paragraph (3) by a person of that foreign country; and

"(B) may, in consultation with the Secretary, deny the application or prohibit the acquisition.

"(3) NOTICE REQUIRED TO ACQUIRE INVESTMENT ADVISER.—

"(A) IN GENERAL.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, no person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 60 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission requires by rule or order; and

"(ii) the Commission has not prohibited the acquisition.

"(B) COMMISSION MAY EXTEND 60-DAY PERIOD.—The Commission may, by order, extend the notice period during which an acquisition may be prohibited under subparagraph (A) for an additional 180 days.

"(C) EFFECTIVE DATE.—The requirements of subparagraph (A) shall apply to any acquisition of control that is completed on or after the date on which the determination under paragraph (1) is published, irrespective of when the acquisition was initiated.

"(4) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(f) PERSONS OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country; or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(g) EXERCISE OF DISCRETION.—In exercising discretion under this section—'

"(1) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Commission, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(ii) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 635. INVESTIGATION AND REPORT ON FINANCIAL INTERDEPENDENCE.

Subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5341 et seq.) is amended by adding at the end the following new section:

"SEC. 3605. INVESTIGATION AND REPORT ON FINANCIAL INTERDEPENDENCE.

"(a) INVESTIGATION REQUIRED.—The Secretary of the Treasury, in consultation and coordination with the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System, the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), and any other appropriate Federal agency or department to be designated by the Secretary of the Treasury, shall conduct an investigation to determine the extent of the interdependence of the financial services sectors of the United States and foreign countries whose financial services institutions provide financial services in the United States, or whose persons have substantial ownership interests in United States financial services institutions, and the economic, strategic, and other consequences of that interdependence for the United States.

"(b) REPORT.—The Secretary of the Treasury shall transmit a report on the results of the investigation under subsection (a) within 2 years after the date of enactment of this section to the President, the Congress, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and any other appropriate Federal agency or department as designated by the Secretary of the Treasury. The report shall—

"(1) describe the activities and estimate the scope of financial services activities conducted by United States financial services institutions in foreign markets (differentiated according to major foreign markets);

"(2) describe the activities and estimate the scope of financial services activities conducted by foreign financial services institutions in the United States (differentiated according to the most significant home countries or groups of home countries);

"(3) estimate the number of jobs created in the United States by financial services activities conducted by foreign financial services institutions and the number of jobs created in foreign countries by financial services activities conducted by United States financial services institutions;

"(4) estimate the additional jobs and revenues (both foreign and domestic) that would be created by the activities of United States financial services institutions in foreign countries if those countries offered such institutions the same competitive opportunities (including effective market access) as are available to those countries' domestic financial services institutions;

"(5) describe the extent to which foreign financial services institutions discriminate against United States persons in procurement, employment, providing credit or other financial services, or otherwise;

"(6) describe the extent to which foreign financial services institutions and other persons from foreign countries purchase or otherwise facilitate the marketing from the United States of government and private debt instruments and private equity instruments;

"(7) describe how the interdependence of the financial services sectors of the United States and foreign countries affects the autonomy and effectiveness of United States monetary policy;

"(8) describe the extent to which United States companies rely on financing by or through foreign financial services institutions, and the consequences of such reliance (including disclosure of proprietary information) for the industrial competitiveness and national security of the United States;

"(9) describe the extent to which foreign financial services institutions, in purchasing high technology products such as computers and telecommunications equipment, favor manufacturers from their home countries over United States manufacturers; and

"(10) contain other appropriate information relating to the results of the investigation under subsection (a).

"(c) DEFINITIONS.—As used in this section, the term 'financial services institution' means—

"(1) a broker, dealer, underwriter, clearing agency, transfer agent, or information processor with respect to securities, including government and municipal securities;

"(2) an investment company, investment manager, investment adviser, indenture trustee, or any depository institution, insurance company, or other organization operating as a fiduciary, trustee, underwriter, or other financial services provider;

"(3) any depository institution or depository institution holding company (as such terms are defined in section 3 of the Federal Deposit Insurance Act); and

"(4) any other entity providing financial services.".

SEC. 636. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE VII—BANK POWERS

SEC. 701. SHORT TITLE.

This subtitle may be cited as the "Depositor Protection and Anti-Fraud Act of 1991".

SEC. 702. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FDIC-INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

"(h) REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) PROHIBITION ON SELLING CERTAIN INSTRUMENTS.—No financial institution may permit any evidence of indebtedness of, or ownership interest in, that institution or any affiliate to be sold or offered for sale in any of the following:

"(A) A domestic branch of that institution at which insured deposits are accepted.

"(B) That institution's head office, if it accepts insured deposits and is located in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any of the following:

"(A) A deposit in a financial institution.

"(B) A means of payment to a third party, such as a traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by financial institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940.

"(D) A sale of instruments in large dollar amounts to a sophisticated investor.

"(E) A sale of instruments pursuant to converting a financial institution from mutual to stock ownership if that conversion has been approved by the appropriate Federal banking agency and, where applicable, any appropriate State agency.

"(3) REGULATORY EXEMPTIONS.—The Commission may by regulation provide exemptions from paragraph (1) if it finds at a minimum—

"(A) the exemption is in the public interest;

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured deposit because of the manner in which it is sold or offered for sale, or for any other reason; and

"(C) sales of the evidence of indebtedness or ownership interest would be subject to the sales practices rules or standards of self-regulatory organization.".

(b) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Commission shall promulgate final regulations to administer and carry out the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effective date of final regulations promulgated by the Commission under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

SEC. 703. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FEDERALLY INSURED CREDIT UNIONS.

(a) IN GENERAL.—Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end the following new subsection:

"(j) REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED CREDIT UNIONS.—

"(1) PROHIBITION ON SELLING CERTAIN INSTRUMENTS.—No insured credit union may permit any evidence of indebtedness of that credit union or any evidence of indebtedness of, or ownership interest in, any affiliate of that credit union to be sold or offered for sale in any of the following:

"(A) A domestic branch of that credit union at which insured shares are accepted.

"(B) That credit union's head office, if it accepts insured deposits and is located in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any of the following:

"(A) An insured share in an insured credit union.

"(B) A means of payment to a third party, such as a traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by federally insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940.

"(D) A sale of instruments in large dollar amounts to a sophisticated investor.

"(3) REGULATORY EXEMPTIONS.—The Board shall by regulation provide exemptions from paragraph (1) if it finds at a minimum:

"(A) the exemption is in the public interest;

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured share because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale

VOL 137 PT 23 NO 21—25 1991 UMI

on terms (including price) no less favorable for shareholders than for persons similarly situated who are not shareholders;

"(D) the seller or offeror institutes and follows procedures to determine before selling or offering to sell the instrument whether the instrument is appropriate for the purchaser;

"(E) no broker or a dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1) of like kind or similar principal amount; and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured credit union.

"(ii) An affiliate of the insured credit union.

"(iii) An employee of the insured credit union or any of its affiliates, or any person under the direction or control of the insured credit union or any of its affiliates.

"(4) Affiliate defined.—For the purposes of this subsection, the term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.

"(5) Annual reports required.—The Board shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between the Board's regulations under this subsection and the regulations adopted by the Securities and Exchange Commission under section 15(f) of the Securities Exchange Act of 1934. The report shall explain the reasons for any such differences, and shall be published in the Federal Register.

"(6) Effect on SEC authority.—Nothing contained in this subsection supersedes or limits the jurisdiction or authority conferred on the Securities and Exchange Commission, and no exemption from the provisions of this subsection shall affect the applicability of any of the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act, or the rules and regulations thereunder.".

(b) Regulations.—Not later than 210 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate final regulations to administer and carry out the purposes of this section.

(c) Effective Date.—The amendment made by subsection (a) shall become effective immediately upon the effective date of final regulations promulgated under subsection (b), but in no event later than 300 days after the date of enactment of this Act.

SEC. 704. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) Repeal of Obsolete Provision.—Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers vested by law in national banking associations" and all that follows through "filing his application for insurance.".

(b) New Provision for Insurance Activities of National Banks.—The Revised Statutes are amended by adding the following new section after section 5136A (12 U.S.C. 24):

"SEC. 5136B. INSURANCE ACTIVITIES OF NATIONAL BANKS.

"(a) In General.—A national bank may not provide insurance as agent or broker except pursuant to this section or section 5136 of the Revised Statutes.

"(b) Authority for National Banks To Engage in Insurance Activities Permitted for State Banks.—

"(1) In general.—A national bank or any of its branches may provide insurance as agent or broker in the same manner and to the same extent that a bank chartered in the State in which the national bank or branch is located is permitted to provide insurance as agent or broker.

"(2) Subsidiaries of national banks.—A subsidiary of a national bank that is located in the same State as the national bank may provide insurance as agent or broker in the same manner and to the same extent that a subsidiary of a bank chartered in that State is permitted to provide insurance as agent or broker.

"(3) Bank chartered in the State defined.—For purposes of paragraph (1), the term 'bank chartered in the State' does not include any organization that is excluded from the definition of 'bank' in section 2(c)(2) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)).

"(c) Authority for National Banks To Engage in Insurance Agency Activities in Small Towns.—

"(1) In general.—A national bank may provide insurance as agent or broker in any small town in which the bank or any of its branches is located.

"(2) Limitations on permissible customers.—Insurance provided pursuant to paragraph (1) in a small town in which a national bank or branch is located may only be provided to—

"(A) an individual who is a resident of or employed in the small town;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the small town;

"(C) a person who is engaged in business in the small town and has a business office in such town, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the small town, or

"(ii) services or products provided in or from the small town; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the small town; or

"(ii) personal property that is principally located or used in the small town.

"(3) Guarantees prohibited.—No national bank that provides insurance pursuant to paragraph (1) may—

"(A) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

"(B) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

"(4) Compliance with state law.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(5) Small town defined.—For purposes of this subsection (c), the term 'small town' means—

"(A) any place with a population not exceeding 5,000 (as shown by the preceding decennial census); and

"(B) any contiguous rural area, including rural communities, within 7.5 miles of the borders of a place described in subparagraph (A), except to the extent such contiguous rural area includes any part of an incorporated city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

"(d) Authority of National Banks To Continue Certain Agency Activities.—

"(1) In general.—A national bank or branch providing insurance pursuant to the provision repealed in section 771(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 may continue to provide insurance as agent or broker from any place in which the national bank or branch was located on May 1, 1991, if—

"(A)(i) the national bank or branch was actually providing insurance from that place as of May 1, 1991;

"(ii) the insurance insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991; and

"(iii) the insurance is provided only in the contiguous region to the place in which the national bank or branch is located, except that such insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991; or

"(B) the insurance is provided as agent or broker to an individual to whom insurance was actually provided by the national bank as of November 21, 1991.

"(2) Limitations on permissible customers.—Insurance provided in a contiguous region by a national bank or branch pursuant to paragraph (1) may only be provided to—

"(A) an individual who is a resident of or employed in the contiguous region;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the contiguous region;

"(C) a person who is engaged in business in the contiguous region and has a business office in such contiguous region, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the contiguous region, or

"(ii) services or products provided in or from the contiguous region; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the contiguous region; or

"(ii) personal property that is principally located or used in the contiguous region.

"(3) Contiguous region defined.—For purposes of this subsection, the term 'contiguous region' means the county in which the national bank or branch is located and any county bordering on the county in which the national bank or branch is located, except for—

"(A) any incorporated city or town with a population exceeding 30,000 (as shown by the preceding decennial census); or

"(B) any metropolitan area, as determined by the Office of Management and Budget.

"(4) Compliance with state law.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(e) State Defined.—For purposes of this section, the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(c) National Bank Insurance Activities That Are Incidental to Banking Activities.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), as redesignated by this section, is amended by adding at the end the following: "A national banking association may engage in activities pursuant to this paragraph that constitute providing insurance as principal, agent, or broker, but only if such activities were lawfully engaged in by one or more national banks before May 1, 1991. For the purposes of the previous sentence, activities were not lawfully engaged in before May 1, 1991, to the extent that they are finally adjudged as unlawful under laws in effect on May 1, 1991. A national banking association providing insurance pursuant to this paragraph shall comply with the laws governing the provision of insurance of the State in which such banking association is located, unless such State law is preempted by Federal law.".

(d) Prohibition on Misrepresentation and Notice to Customers.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) Misrepresentation of Guarantees and Customer Disclosure.—

"(1) Misrepresentation of guarantees.—It shall be unlawful for any person selling or offering to sell insurance in accordance with section 771 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 or other authority to represent or imply in any manner whatsoever that such insurance—

"(A) is guaranteed or approved by the United States or any agency or officer thereof; or

"(B) is insured under this Act.

"(2) Customer disclosure.—

"(A) In general.—An insured depository institution shall prominently disclose in writing to the institution's customers pursuant to regulations prescribed by the appropriate Federal banking agency, that insurance products offered, recommended, sponsored, or sold by the institution—

"(i) are not deposits;

"(ii) are not insured under this Act;

"(iii) are not guaranteed by the insured depository institution; and

"(iv) are not otherwise the obligation of the insured depository institution.

"(B) Prohibition on joint marketing activities.—No insurance products may be offered, recommended, or sold on the premises of an insured depository institution or to customers of the institution as part of joint marketing activities unless the person marketing such insurance products prominently discloses to its customers in writing, in addition to the disclosures required in subparagraph (A), that such person is not an insured depository institution and is separate and distinct from the insured depository institution with which it shares marketing activities.

"(3) Enforcement.—The provisions of this subsection shall be enforced in accordance with section 8.

"(4) Regulations.—The appropriate Federal banking agencies shall promulgate regulations to implement this subsection not later than 1 year after the date of enactment of this subsection.".

SEC. 705. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following new section:

"SEC. 13. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES.

"(a) In General.—No bank holding company may permit any subsidiary bank to provide insurance as agent or broker beyond the borders of the State in which the subsidiary bank is principally located, unless—

"(1) the statutes of the host State expressly authorize a bank principally located in another State to provide insurance in such host State, by language to that effect and not merely by implication;

"(2) the insurance is provided through a branch of the subsidiary bank, so long as the branch—

"(A) is located in the State in which the insurance is provided;

"(B) is otherwise authorized by State or Federal law to provide such insurance; and

"(C) is engaged primarily in banking activities, not insurance activities;

"(3) the insurance is provided pursuant to subsection (d) of section 5136B of the Revised Statutes, except that such insurance may not be provided—

"(A) in any place in the host State that is more than 7.5 miles from the place in which the national bank or branch is located; or

"(B) any incorporated cities or towns with a population exceeding 12,500 (as shown by the preceding decennial census);

"(4) the insurance—

"(A) insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the subsidiary bank or any subsidiary of that bank was providing as of May 1, 1991, beyond the borders of the State in which the subsidiary bank is principally located, and

"(B) is not provided pursuant to a statute enacted by a State after May 1, 1990;

"(5) the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by the bank holding company and any subsidiary (including the subsidiary bank) in the event of the death, disability, or involuntary unemployment of the debtor; or

"(6) the insurance is placed on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(b) Application.—The restrictions of subsection (a) shall not apply to any non-bank subsidiary of a bank.

"(c) Definitions.—

"(1) Place in which insurance is provided.—For purposes of this section, the place in which insurance is provided includes the place in which an individual who purchases such insurance is domiciled.

"(2) Principally located defined.—For purposes of this section, the State in which a bank is principally located is—

"(A) the State in which the bank is chartered; or

"(B) if the bank is a national bank, the State in which the bank has its main office.

"(3) Host state defined.—For purposes of this section, the term 'host State' means a State in which a bank provides insurance other than the State in which the bank is principally located.

"(d) No Affect on Bank Holding Company Insurance Activities.—Nothing in this section shall be deemed to affect the ability of a bank holding company to engage, directly or indirectly, in insurance activities that are permissible under sections 4(a)(2) and 4(c)(8).".

SEC. 706. SAFEGUARDS FOR SALE OF INSURANCE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting the following new section at the appropriate place:

"SEC. ____. SAFEGUARDS FOR SALE OF INSURANCE BY INSURED INSTITUTIONS.

"(a) Prominent Disclosure That Insurance Products Are Not Federally Insured.—Pursuant to regulations issued by the Corporation, an insured depository institution shall prominently disclose in writing to each of its customers that insurance products sold, offered, or recommended by the insured depository institution are not deposits and are not insured by the Corporation, and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

"(b) No Favoring of Captive Agents.—No insured depository institution may, directly or indirectly—

"(1) require as a condition of providing any product or service to any customer, or any renewal of any contract for providing such product or service, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer, agent, or broker;

"(2) in connection with a loan or extension or credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution; or

"(3) impose any discriminatory requirement on any insurance agent who is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such institution.

"(c) No Solicitation of Certain Insurance Before Providing Loan Commitments.—

"(1) In general.—No insured depository institution may, directly or indirectly, solicit the purchase of any insurance required under the terms of any proposed loan or extension of credit from such insured depository institution to a customer before the customer has received a written commitment with respect to such loan or extension of credit.

"(2) Exception for insurance required for credit agreement.—Nothing in this section shall prevent an insured depository institution from placing insurance on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(d) Restrictions on Use of Nonpublic Customer Information.—

"(1) In general.—No insured depository institution may use, directly or indirectly, any nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer.

"(2) Exception for credit-related insurance.—For purposes of paragraph (1), the term 'insurance' does not include insurance—

"(A) provided to assure the repayment of the outstanding balance due on an extension

VOL
137
PT
23
NO
21—25
1991
UMI

of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) provided on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(C) provided to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit.

"(3) Records of customer consent.—Any insured depository institution that obtains the consent of any customer to disclose nonpublic customer information shall maintain appropriate records or other evidence of such consent.

"(4) Definitions.—

"(A) Customer defined.—For purposes of this section, the term 'customer' means any person who, after January 1, 1992, establishes a credit relationship with an insured depository institution.

"(B) Nonpublic customer information defined.—For purposes of this section, the term 'nonpublic customer information' means information obtained from an individual by an insured depository institution in connection with a loan or extension of credit, but does not include—

"(i) customers' names and addresses (unless a customer has specified otherwise);

"(ii) information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business; or

"(iii) information that is customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions that do not provide insurance.

"(5) Additional restrictions.—The Corporation may, by regulation or order, prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, and avoid conflicts of interest or other abuses.".

SEC. 707. INSURANCE UNDERWRITING IN BANK RESTRICTED.

(a) In General.—Section 24 of the Federal Deposit Insurance Act (as added by section 211(a) of the Act) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) Insurance Underwriting.—

"(1) In general.—No insured State bank or any of its subsidiaries may provide insurance as principal except to the extent that a national bank may lawfully provide insurance as principal.

"(2) Continuation of existing activities.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on November 21, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(3) Exception for certain federally reinsured crop insurance.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, that was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

(b) Effective Date; Transition Rule.—

(1) Effective date.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

(2) Transition rule.—An insured State bank or subsidiary of an insured State bank that, as of the date of enactment of this Act, was lawfully engaged in any activity prohibited by this section may continue to engage in that activity during the period ending one year after that date of enactment.

TITLE VIII—THRIFT-TO-BANK CONVERSIONS

SEC. 801. SHORT TITLE.

This title may be cited as the "Thrift-To-Bank Conversion Act of 1991".

SEC. 802. STREAMLINING CONVERSION PROCEDURES.

(a) Amendment to the National Bank Act.—Section 5154 of the Revised Statutes (12 U.S.C. 35) is amended to read as follows:

"SEC. 5154. ORGANIZATION OF SAVINGS ASSOCIATIONS OR STATE BANKS AS NATIONAL BANKS.

"(a) Conversion Authority.—A savings association or State bank, as defined in section 3 of the Federal Deposit Insurance Act, including a bank or savings association owned in mutual form, may be converted into a national bank if—

"(1) the institution has capital sufficient to entitle it to become a national bank under applicable provisions of law; and

"(2) such conversion—

"(A) is approved by the vote of not less than 51 percent of the total outstanding votes of the institution's shareholders or members;

"(B) would not be in contravention of any applicable Federal or State law; and

"(C) is approved by the Comptroller of the Currency (hereafter in this section referred to as the 'Comptroller').

"(b) Post-Conversion Rights, Duties, and Authorities.—After the conversion of a depository institution into a national bank in accordance with subsection (a)—

"(1) the directors of the depository institution may continue to be directors of the national bank until others are elected or appointed in accordance with applicable Federal law;

"(2) the directors of the institution may execute the articles of association and organization certificate by a majority of the directors of the depository institution, and such certificate shall declare that the owners of 51 percent of the capital stock or 51 percent of the total outstanding votes, as the case may be, have authorized the directors to make such certificate and to convert the depository institution into a national bank; and

"(3) a majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a national bank.

"(c) Share Amounts After Conversion.—The shares of a depository institution that converts to a national bank in accordance with this section may continue to be for the same amount each as they were before the conversion.

"(d) Stockholder and Employee Rights.—When the Commission has given to a converting depository institution a certificate that the provisions of this title have been complied with, the converted depository institution, and all of its stockholders, officers, and employees shall have the same powers and privileges, and shall be subject to the same duties, liabilities, and regulations, in all respects, as have been prescribed under Federal law for institutions originally organized as national banks.

"(e) Retention of Assets.—The Commission may, in its discretion and subject to such conditions as it may prescribe, permit a depository institution that converts to a national bank under this section to retain and carry, at a value determined by the Commission, such of the assets of the converting depository institution that do not conform to the legal requirements relative to assets acquired and held by national banks.

"(f) Inclusion of 'National' in Institution's Name.—The name of an institution resulting from a conversion under this section shall include the word 'national'.".

(b) Amendment to the Home Owners' Loan Act.—Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended—

(1) by redesignating paragraph (4) as paragraph (8); and

(2) by inserting after paragraph (3) the following new paragraphs:

"(4) Conversion of federal or state savings association to national bank.—

"(A) In general.—A Federal savings association or a State savings association may convert into a national bank if such conversion—

"(i) is agreed to by a vote of members or security holders, in person or by proxy, at a special meeting called to consider such action, as specified by section 5154 of the Revised Statutes; and

"(ii) complies in all other respects with the requirements of section 5154 of the Revised Statutes and any regulations issued thereunder.

"(B) Notice.—Notice of the meeting referred to in subparagraph (A)(i) shall be given in accordance with paragraph (3)(A)(iii).

"(C) Effective date.—A conversion under this paragraph shall be effective on the date that all the provisions of this Act and section 5154 of the Revised Statutes are fully complied with, and upon the issuance of a certificate of authority to commence banking by the Comptroller of the Currency in accordance with section 5169 of the Revised Statutes.

"(D) Regulatory authority.—The Comptroller of the Currency may prescribe such rules or regulations applicable to a national bank that results from the conversion of a Federal savings association or a State savings association under this paragraph, including any requirement that the resulting national bank assume and maintain any liquidation account obligations of the converting institution, that the Comptroller of the Currency determines to be appropriate.

"(E) Approval requirements.—

"(i) In general.—Except as provided in clauses (ii) and (iii), no approval is required under this section for the conversion of any savings association into a national bank, other than the approval of the Comptroller of the Currency, as prescribed by section 5154 of the Revised Statutes.

"(ii) Exception.—If a mutual savings association converts into a national bank, approval by the Comptroller of the Currency shall be required for that aspect of the conversion which relates to the conversion of the institution to the stock form of ownership.

"(iii) State savings association conversions.—Approval of a State savings association conversion to a national bank under this paragraph, shall be subject to any applicable laws of the State in which the home office of the State savings association is located.

"(5) Conversion of federal savings association to state bank.—

"(A) In general.—A Federal savings association that is adequately capitalized (as defined in section 37 of the Federal Deposit Insurance Act) may convert into a State bank organized pursuant to the laws of the State in which the home office of such Federal savings association is located if—

"(i) the State permits the conversion of a Federal savings association into a State bank; and

"(ii) such conversion—

"(I) is determined upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, as specified by the law of the State in which the home office of the Federal savings association is located, and

"(II) complies in all other respects with the requirements of such State law for the conversion of a Federal savings association into a State bank.

"(B) Notice.—Notice of the meeting referred to in subparagraph (A)(i) shall be given in accordance with paragraph (3)(A)(iii).

"(C) Effective date.—A conversion under this paragraph shall be effective upon the date that all the provisions of this Act shall have been fully complied with, and upon the issuance of a new charter by the State in which the savings association is located.

"(D) Regulatory authority.—The appropriate State regulatory authority may prescribe such rules or regulations applicable to a bank that results from the conversion of a Federal savings association, including any requirement that the resulting bank assume and maintain any liquidation account obligations of the converting institution, that such regulatory authority determines to be appropriate.

"(E) Approval requirements.—

"(i) In general.—Except as provided in clause (ii), no approval shall be required for the conversion of any Federal savings association into a State bank other than the approval of the appropriate State regulatory authority of the State in which the home office of the Federal savings association is located.

"(ii) Exception.—If a Federal mutual savings association converts into a State bank, approval by the Office of Thrift Supervision shall be required for that aspect of the conversion which relates to the conversion of the institution to the stock form of ownership.

"(6) Conversions by state savings associations to state banks.—

"(A) No approval for conversion.—Except as provided in subparagraph (B), no approval shall be required under this subsection for the conversion of a State savings association, as defined in section 3(b)(3) of the Federal Deposit Insurance Act, into a State bank other than the approval of the appropriate State regulatory authority of the State in which the home office of the State savings association is located.

"(B) Conversion to stock form of ownership.—If a State mutual savings association converts to a State bank under this paragraph, approval by the Comptroller of the Currency shall be required for that aspect of the conversion which relates to the conversion of the institution to the stock form of ownership.

"(7) Definition of state bank.—For purposes of paragraphs (5) and (6), the term 'State bank' shall have the same meaning as in section 3(a)(2) of the Federal Deposit Insurance Act.".

(c) Safeguards on Certain Savings Banks.—

(1) In general.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) Safeguards on Certain Savings Banks.—The following provisions shall apply to any insured savings bank resulting from a conversion under section 5(i)(5) of the Home Owners' Loan Act and any savings bank that is a direct or indirect successor to that savings bank:

"(1) Risky activities.—Section 28 shall apply to the savings bank in the same manner and to the same extent as if the savings bank were a savings association.

"(2) Loans to one borrower.—Section 5200 of the Revised Statutes shall apply to the savings bank in the same manner and to the same extent as if the savings bank were a national bank.

"(3) Separate capitalization required for certain subsidiaries.—

"(A) In general.—In determining compliance with any applicable capital standards, all of the savings bank's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings bank's capital.

"(B) Exceptions.—

"(i) Agency activities.—Subparagraph (A) does not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

"(ii) Mortgage banking subsidiaries.—Subparagraph (A) does not apply with respect to the savings bank's investments in and extensions of credit to a subsidiary engaged solely in mortgage banking activities.

"(C) Transitional rule.—

"(i) Inclusion in capital.—Notwithstanding subparagraph (A), if a savings bank's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings bank may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

"(I) the savings bank's investments in and extensions of credit to the subsidiary on April 12, 1989; or

"(II) the savings bank's investments in and extensions of credit to the subsidiary on the date as of which the savings bank's capital is being determined.

"(ii) Applicable percentage.—For purposes of clause (i), the applicable percentage is as follows:

"For the following period:	The acceptable percentage is:
Prior to July 1, 1992 ..	75
July 1, 1992–June 30, 1993	60
July 1, 1993–June 30, 1994	40
Thereafter	0.

"(iii) FDIC's discretion to prescribe lesser percentage.—The Corporation may prescribe, by order, with respect to a particular savings bank, an applicable percentage that is less than the percentage prescribed by clause (ii) if the Corporation determines, in its sole discretion, that the use of the greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the bank's being in an unsafe or unsound condition.

"(4) Transactions with affiliates.—The savings bank may not engage in any transaction that would be prohibited under section 11(a)(1) of the Home Owners' Loan Act if the savings bank were a savings association.

"(5) Parent company subject to bank holding company act of 1956.—Section 10(*l*)(1) of the Home Owners' Loan Act does not apply with respect to the savings bank.".

(2) Conforming amendment to home owners' loan act.—Section 10(*l*)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(*l*)(1)) is amended by striking "other provision of law," and inserting "provision of the Bank Holding Company Act of 1956, but subject to section 18(t)(5) of the Federal Deposit Insurance Act,".

SEC. 803. RETENTION OF EXISTING IN-STATE BRANCHES BY SAVINGS ASSOCIATIONS THAT CONVERT TO NATIONAL BANKS.

Section 5155(b) of the Revised Statutes (12 U.S.C. 36(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1) the following:

"(2) A national bank resulting from the conversion of a Federal or State savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) may retain and operate as a branch any office that was a branch of the savings association immediately prior to conversion if such office—

"(A) is located in the same State in which the national bank has its main office; and

"(B) was lawfully and continuously operated by the savings association as a branch for a period of not less than 2 years prior to such conversion.

"(3) Notwithstanding paragraph (2), a national bank resulting from the conversion of a Federal or State savings association that was, prior to such conversion, a subsidiary of a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956), may not retain and operate as a branch any office that would otherwise not be permitted for a national bank.".

SEC. 804. NO RECAPTURE OF THRIFT RESERVES ON CONVERSION.

(a) In General.—It is the sense of the Congress that it would be in the public interest to enact legislation as follows: Notwithstanding any other provision of law to the contrary, a domestic building and loan association, mutual savings bank, or cooperative bank to which section 593 of the Internal Revenue Code of 1986 applies which becomes a bank within the meaning of section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) and continues to meet the requirements of section 7701(a)(19)(C) of the Internal Revenue Code of 1986 shall not be required to treat as income for Federal income tax purposes any amounts previously deducted by such institutions under section 593 of such Code because it ceases to meet any other requirement of section 7701(a)(19) of such Code.

(b) Conforming Tax Legislation.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a draft of amendments to the Internal

VOL
137
PT
23
NO
21—25
1991
UMI

Revenue Code of 1986 necessary to reflect the provisions of subsection (a).

TITLE IX—FINANCIAL INSTITUTIONS ENFORCEMENT IMPROVEMENTS ACT

SEC. 901. SHORT TITLE.

This title may be cited as the "Financial Institutions Enforcement Improvements Act".

Subtitle A—Termination of Charters, Insurance, and Offices

SEC. 911. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A)(i) CONVICTION OF TITLE 18 OFFENSES.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Office of the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Office of the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Office of the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the bank, Federal branch, or Federal agency maintained at the time of the conviction, according to the review of the Comptroller of the Currency, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the bank or its holding company. If the institution is a Federal branch or Federal agency (as those terms are defined under section 1(b) of the International Banking Act of 1978) of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller of the Currency shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A)(i) CONVICTION OF TITLE 18 OFFENSES.—If a Federal savings association has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director of the Office of Thrift Supervision a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director of the Office of Thrift Supervision shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director of the Office of Thrift Supervision may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Office of Thrift Supervision shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the association has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the association maintained at the time of the conviction, according to the review of the Director of the Office of Thrift Supervision, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the savings association or its holding company. The Office of Thrift Supervision shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1)(A) CONVICTION OF TITLE 18 OFFENSES.—If a credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited

under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(4) whether there will be any losses to the credit union share insurance fund; and

"(5) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) DEFINITION.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section.".

SEC. 912. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A)(i) CONVICTION OF TITLE 18 OFFENSES.—If an insured State depository institution, including a State branch of a foreign institution, has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; TERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense punishable under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the institution maintained at the time of the conviction, according to the review of the Corporation, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such institution or its holding company. If the institution is a State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (v)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(u) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If an insured State credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After written notification from the Attorney General to the Board of Directors of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the credit union share insurance fund; and

"(E) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

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"(B) publish notice of the termination of the insured status of the credit union.

"(4) Deposits uninsured.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) Successor liability.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) Definition.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection.".

SEC. 913. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-Insured Institutions.—

(1) Violation of reporting requirements.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) Specific violations.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution-affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove such party from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) Felony charges.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution. A copy of such notice shall also be served upon the depository institution.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) Credit Unions.—

(1) Violation of reporting requirements.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) Specific violations.—Whenever the Board determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution-affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) Felony charges.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

SEC. 914. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 915. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

SEC. 916. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7(d) of the International Banking Act of 1978 (12 U.S.C. 3105(d)) is amended to read as follows:

"(d) Proceedings Related to Conviction for Money Laundering Offenses.—

"(1) Notice of intention to issue order.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary,

"(B) any State agency,

"(C) any State branch which is not an insured branch,

"(D) any State commercial lending subsidiary, or

"(E) any director or senior executive officer of any such foreign bank, agency, branch, or subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (f).

"(2) Definitions.—For purposes of this subsection—

"(A) Insured branch.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) Money laundering offense defined.—The term 'money laundering offense' means any offense under section 1956, 1957, or 1960 of title 18, United States Code, or punishable under section 5322 of title 31, United States Code.

"(C) Senior executive officers.—The term 'senior executive officers' has the meaning given to such term by the Board pursuant to section 32(f) of the Federal Deposit Insurance Act.".

Subtitle B—Nonbank Financial Institutions and General Provisions

SEC. 921. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) In General.—Chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following:

"§ 5327. Identification of financial institutions

"By January 1, 1993, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in subparagraphs (H) through (Y) of section 5312(a)(2) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate State financial institution supervisory agencies for supervisory purposes.".

(b) Civil Penalty.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following paragraph:

"(7)(A) The Secretary may impose a civil penalty on any person or depository institution, within the meaning of section 5327, that willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

(c) Chapter Analysis.—The chapter analysis for chapter 53 of title 31, United States Code, is amended by adding at the end the following new item:

"5327. Identification of financial institutions.".

SEC. 922. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) In General.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to—

"(1) the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws;

"(2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims and the award of compensation to informers with respect to such forfeitures;

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(c) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) Chapter Analysis.—The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

SEC. 923. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

SEC. 924. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) Nondisclosure of Orders.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.".

SEC. 925. IMPROVED RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

(a) In General.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following paragraph:

"(2) Transfers of funds.—

"(A) In general.—Before October 1, 1992, the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') in consultation with State banking departments shall jointly prescribe such final regulations as may be appropriate to require insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks, or other similar instruments to maintain records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks, or similar instruments;

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) Factors for consideration.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) Availability of records.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

(b) Conforming Amendments.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

VOL 137
PT 23
NO 21–25
1991
UMI

(1) in the first sentence of subsection (c), by striking "the Secretary shall" and inserting "the regulations prescribed under subsection (b) shall";

(2) in subsection (d), by striking "regulations of the Secretary" and inserting "regulations issued under subsection (b)";

(3) in subsection (e), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require";

(4) in subsection (f), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require"; and

(5) in subsection (g), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require".

SEC. 926. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 927. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or the regulations thereunder" after "section 5313(a)" each place it appears.

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require financial institutions to report suspicious transactions relevant to possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution that voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution not subject to the provisions of section 1103(c) of the Right to Financial Privacy Act of 1978, or officer, employee, or agent thereof, that makes a voluntary disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI-MONEY LAUNDERING PROGRAMS.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum—

"(1) the development of internal policies, procedures, and controls,

"(2) the designation of a compliance officer,

"(3) an ongoing employee training program, and

"(4) an independent audit function to test programs.

The Secretary may promulgate minimum standards for such programs.".

SEC. 928. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 929. REPORT ON BANK PROSECUTIONS.

(a) IN GENERAL.—The Attorney General, after obtaining the views of all interested agencies, shall determine to what extent compliance with the Money Laundering Control Act (18 U.S.C. 1956 and 1957), the Bank Secrecy Act (31 U.S.C. 5322), criminal referral reporting obligations, and cooperation with law enforcement authorities generally, would be enhanced by the issuance of guidelines for the prosecution of financial institutions for violations of such Acts. Such guidelines, if issued, shall reflect the standards for anti-money laundering programs issued under section 5318(h) of title 31, United States Code.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall transmit to the Congress a report on such determination.

SEC. 930. ANTI-MONEY LAUNDERING TRAINING TEAM.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

(b) AUTHORIZATION.—There is authorized to be appropriated not more than $1,000,000 to carry out this section.

SEC. 931. MONEY LAUNDERING REPORTING REQUIREMENTS.

(a) OBJECTIVE.—The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions. The President shall report annually to Congress on bilateral and multilateral efforts to meet this objective. This report shall be submitted with the report required under section 481(e) of the Foreign Assistance Act of 1961.

(b) CONTENTS OF REPORT.—The report shall include—

(1) information on bilateral and multilateral initiatives pursued by the Department of State, the Department of Justice, and the Department of the Treasury, and other Government agencies, individually or collectively, to achieve the anti-money laundering objective of the United States;

(2) information on relevant bilateral agreements and on the actions of international organizations and groups;

(3) information on the countries which have ratified the United Nations Convention on Illicit Traffic in Narcotic Drugs and Other Psychotropic Substances and on measures adopted by governments and organizations to implement the money laundering provisions of the United Nations Convention, the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and similar declarations;

(4) information on the extent to which each major drug producing and drug transit country, as specified in section 481 of the Foreign Assistance Act of 1961, and each additional country that has been determined by the Department of the Treasury, the Department of Justice, the Department of State, and the Office of National Drug Control Policy, in consultation, to be significant in the fight against money laundering—

(A) has adequate mechanisms to exchange financial records in narcotics money laundering and narcotics-related investigations and proceedings; and

(B) has adopted laws, regulations, and administrative measures considered necessary to prevent and detect narcotics-related money laundering, including whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including large currency transactions;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets; and

(vi) addressed the problem of international transportation of illegal-source currency and monetary instruments;

(5) details of significant instances of noncooperation with the United States in narcotics-related money laundering and other narcotics-related cases; and

(6) a summary of initiatives taken by the United States or any international organization, including the imposition of sanctions, with respect to any country based on that country's actions with respect to narcotics-related money laundering matters.

(c) SPECIFICITY OF REPORT.—The report should be in sufficient detail to assure the Congress that concerned agencies—

(1) are pursuing a common strategy with respect to achieving international cooperation against money laundering which includes a summary of United States objectives on a country-by-country basis; and

(2) have agreed upon approaches and responsibilities for implementation of the strategy, not limited to the conduct of negotiations to achieve treaties and agreements.

Subtitle C—Money Laundering Improvements

SEC. 941. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.".

SEC. 942. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property, it shall not be—

"(A) necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture;

"(B) a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 2 years from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds deposited by a financial institution (as defined in section 20 of this title) into an account with another financial institution unless the depositing institution knowingly engaged in the offense that is the basis for the forfeiture.".

(b) RETROACTIVE APPLICATION.—The amendments made by this section shall apply retroactively.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 943. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§985. Administrative subpoenas

"(a) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(1) administer oaths and affirmations;

"(2) take evidence; and

"(3) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records that the Attorney General deems relevant or material to the inquiry.

A subpoena issued pursuant to subsection (a) may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(b) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this section. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(c) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under subsection (b) not later than 5 days after the date of service.

"(d) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"985. Administrative subpoenas.".

SEC. 944. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 945. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 946. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "No person"; and

(2) by adding at the end the following:

"(b) No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 947. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 948. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by insert-

VOL 137 PT 23 NO 21—25 1991 UMI

ing ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 949. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 950. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 60501 of title 26, United States Code" after "criminal drug laws of the United States".

SEC. 951. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 952. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer".

(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 953. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 60501 of title 26, United States Code".

SEC. 954. DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE.

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c),".

SEC. 955. EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

(a) IN GENERAL.—Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "(ii) kidnaping, robbery, or extortion, or (iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978" after "Controlled Substances Act)".

(b) RETROACTIVE APPLICATION.—All amendments to the civil forfeiture statute, section 981 of title 18, United States Code, made by this section and elsewhere in this Act shall apply retroactively.

SEC. 956. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 957. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon: ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 958. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears;

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

TITLE X—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Asset Conservation and Deposit Insurance Protection Act of 1991".

SEC. 1002. ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION.

(a) CERCLA AMENDMENTS.—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by inserting after section 126 the following new section:

"SEC. 127. ASSET CONSERVATION.

"(a) LIABILITY LIMITATIONS.—

"(1) IN GENERAL.—The liability of an insured depository institution or mortgage lender under this Act or subtitle I of the Solid Waste Disposal Act for the release or threatened release of petroleum or a hazardous substance at, from, or in connection with property—

"(A) acquired through foreclosure;

"(B) held, directly or indirectly, in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution or such mortgage lender by a removal, remedial, or other response action undertaken by another party.

"(2) SAFE HARBOR.— An insured depository institution or mortgage lender shall not be liable under this Act or subtitle I of the Solid Waste Disposal Act and shall not be deemed to have participated in management, as described in section 101(20)(A), based solely on the fact that the institution or lender—

"(A) holds a security interest or abandons or releases its security interest in the collateral before foreclosure;

"(B) has the unexercised capacity to influence operations at or on property in which it has a security interest;

"(C) includes in the terms of its extension of credit covenants, warranties, or other terms and conditions that relate to the borrower's compliance with environmental laws;

"(D) monitors or enforces the terms and conditions of the extension of credit;

"(E) monitors or undertakes one or more inspections of the property;

"(F) requires the borrower to cleanup the property prior to or during the term of the extension of credit;

"(G) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the property;

"(H) restructures, renegotiates, or otherwise agrees to alter the terms and conditions of the extension of credit;

"(I) exercises whatever other remedies at law or in equity may be available under applicable law for the borrower's breach of any term or condition of the extension of credit; or

"(J) declines to take any of the actions described in this paragraph.

"(b) ACTUAL BENEFIT.—For the purpose of this section, the actual benefit conferred on an institution or lender by a removal, remedial, or other response action shall be equal to the net gain, if any, realized by such institution or lender due to such action. For purposes of this subsection, the 'net gain' shall not exceed the amount realized by the institution or lender on the sale of property.

"(c) EXCLUSION.—The limitations on liability provided under subsection (a)(1) and (a)(2) shall not apply to any person that has caused or significantly and materially contributed to the release of petroleum or a hazardous substance that forms the basis for liability described in subsection (a)(1) and (a)(2).

"(d) ENVIRONMENTAL ASSESSMENTS.—

"(1) DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to implement this section. Such regulations shall include requirements for insured depository institutions to develop and implement adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit that involves a security interest in such property. The regulations may provide for different types of environmental assessments in order to account for different levels of risk that may be posed by different classes of collateral. Failure to comply with the environmental assessment regulations promulgated under this subsection shall be deemed to be a violation of a regulation promulgated under the Federal Deposit Insurance Act.

"(2) MORTGAGE LENDERS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations that are substantially similar to those promulgated under paragraph (1) to assure that mortgage lenders develop and implement procedures to evaluate actual and

potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) FINAL REGULATIONS.—Final regulations required to be promulgated pursuant to paragraph (1) shall be issued within 180 days after the date of enactment of this section.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'property acquired through foreclosure' or 'acquires property through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or mortgage lender—

"(A) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(C) through any other formal or informal manner by which the insured depository institution or mortgage lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its security interest.

Property is not acquired through foreclosure if the insured depository institution or mortgage lender does not seek to sell or otherwise divest such property at the earliest practical, commercially reasonable time, taking into account market conditions and legal and regulatory requirements.

"(2) The term 'mortgage lender' means—

"(A) a company (other than an insured depository institution) that—

"(i) is regularly engaged in the business of making extensions of credit secured, in whole or in part, by property to nonaffiliated parties, and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final regulations under that subsection become effective;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that is regularly engaged in the business of buying and selling mortgage loans or interests therein, if such Association, Corporation, or entity requires institutions from which it purchases mortgages (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final regulations under that subsection become effective; and

"(C) any person regularly engaged in the business of insuring or guaranteeing against a default in the payment of an extension of credit to nonaffiliated parties, secured in whole or in part by real property, and extended by a mortgage lender (as such term is defined in subparagraph (A) of this paragraph), or an insured depository institution.

"(3) The term 'fiduciary capacity' means acting for the benefit of a nonaffiliated person as a bona fide—

"(A) trustee;

"(B) executor;

"(C) administrator;

"(D) custodian;

"(E) guardian of estates;

"(F) receiver;

"(G) conservator;

"(H) committee of estates of lunatics; or

"(I) any similar capacity.

"(4) The term 'extension of credit' includes lease transactions that are functionally equivalent to a secured loan.

"(5) The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act, and shall also include—

"(A) a federally insured credit union;

"(B) a bank or association chartered under the Farm Credit Act of 1971; and

"(C) a leasing company that is an affiliate of an insured depository institution (as such term is defined in this paragraph).

"(6) The term 'release' has the same meaning as in section 101(22), and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(7) The term 'hazardous substance' has the same meaning as in section 101(14).

"(8) The term 'security interest' includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a creditor under the terms of an extension of credit to secure the repayment of money, the performance of a duty or some other obligation.

"(f) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party.

"(g) EFFECTIVE DATE.—This section shall become effective upon the date of its enactment, except that it shall not affect any administrative or judicial claims that have been formally filed as of such date.".

(b) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 42. ASSET CONSERVATION.

"(a) GOVERNMENTAL ENTITIES.—

"(1) BANKING AND LENDING AGENCIES.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property (including any right or interest therein) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

"(B) in connection with the provision of loans, discounts, advances, guarantees, insurance or other financial assistance; or

"(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

"(2) APPLICATION OF STATE LAW.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying any State law, or any rights, actions, cause of action, or obligations under State law, except that liability under State law shall not exceed the value of the agency's interest in the asset giving rise to such liability.

"(3) LIMITATION.—The immunity provided by paragraph (1) shall not apply to any entity that has caused or significantly and materially contributed to the release of petroleum or a hazardous substance that forms the basis for liability described in paragraph (1).

"(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

"(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

"(B) is or was affiliated with or related to a party described in subparagraph (A);

"(C) fails to agree to take reasonable steps necessary to remedy the release or threatened release in a manner consistent with the purposes of applicable environmental laws; or

"(D) causes or materially and significantly contributes to any additional release or threatened release on the property.

"(5) FEDERAL OR STATE ACTION.—Notwithstanding paragraph (4), if a Federal agency or State environmental agency is required to take remedial action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), such subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of such remedial action. However, any such reimbursement shall not exceed the full fair market value of the property following completion of the remedial action.

"(b) LIEN EXEMPTION.—Any property transferred pursuant to subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of petroleum or a hazardous substance known to exist at the time of the transfer.

"(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (a)(1).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'Federal banking or lending agency' means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration, in any of their capacities, and their agents;

"(2) the term 'hazardous substance' has the same meaning as in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; and

"(3) the term 'release' has the same meaning as in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Noth-

VOL
137
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23
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25
1991
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ing in this section shall be construed to create any liability for any party.".

TITLE XI—MISCELLANEOUS

Subtitle A—Presidential Insurance Commission

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Presidential Insurance Commission Act of 1991".

SEC. 1102. FINDINGS.

The Congress finds that—

(1) the property and casualty insurance, life insurance, health insurance, and reinsurance industries play a major and vital role in the capital formation and lending in the United States economy;

(2) at the end of 1989, life and health and property and casualty insurers combined controlled just under $1,800,000,000,000 in assets invested in the United States;

(3) these insurer assets represented slightly less than 18 percent of the financial assets of all non-governmental financial intermediaries in the United States;

(4) of total United States assets, insurers controlled—

(A) 50.7 percent of all United States held corporate and foreign bonds;

(B) 32.1 percent of all tax-exempt bonds;

(C) 13.8 percent of United States Treasury securities;

(D) 18.2 percent of Federal agency securities;

(E) 12.2 percent of mortgages;

(F) 14.7 percent of corporate equities;

(G) 10.3 percent of open market paper; and

(H) 12 percent of all other United States assets; and

(5) a Presidential commission should be established to carry out the duties described in section 1104.

SEC. 1103. ESTABLISHMENT.

There is established a Presidential Commission on Insurance (hereafter in this subtitle referred to as the "Commission").

SEC. 1104. DUTIES OF THE COMMISSION.

(a) In General.—The Commission shall assess the condition of the property and casualty insurance, life insurance, and reinsurance industries, including consideration of—

(1) the present and long-term financial health of the companies in such industries and the importance of that financial health to other aspects of the national economy, including the impact on other financial institutions;

(2) the effect of the decline of real estate values and noninvestment grade bond holdings on the financial health of the companies in such industries;

(3) the effect of current and projected guaranty fund assessments, under different insolvency scenarios, on the financial health of the companies in such industries;

(4) the effect of residual markets on the competitiveness of voluntary insurance markets and on the financial health of the companies in such industries;

(5) the causes of company insolvencies in the last 5 years;

(6) the effect of State and Federal liability systems, including with respect to long-term liability, on insurance industry solvency and the appropriateness of the present allocation of Federal and State responsibilities in the underlying liability systems;

(7) the effect of State regulation of companies in such industries with respect to—

(A) solvency (including the quality and consistency of regulation and the adequacy of insurance regulatory resources);

(B) consumer protection and competition (including pricing, product development, the adequacy of information to consumers, the transfer by companies of the policies of individual policyholders between companies, and any other relevant matters);

(C) reinsurance (including the authority of State regulators to regulate offshore reinsurers doing business in the United States); and

(D) the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance;

(8) the efficiency of the present system for liquidation of insolvent insurance companies;

(9) the adequacy of State and Federal civil and criminal enforcement authority and activity; and whether any State law or regulatory action inhibits competition or efficiency or impairs insurer solvency;

(10) the condition of current State guaranty funds, including consideration of—

(A) the adequacy of assured payout to policyholders, including an assessment of the sufficiency of existing State guaranty associations to guarantee all policyholders payments, up to the limits of coverage under the funds, under a variety of industry insolvency scenarios;

(B) the effect of proposed changes in these funds by the National Association of Insurance Commissioners, including consideration of the timeliness with which such changes are likely to be adopted and implemented;

(C) the capability of a post-insolvency assessment system to meet large insolvencies in a timely manner;

(D) the effect on policyholders of differences in the amount of liability coverage offered by the funds from State to State and of differences in eligibility rules from State to State; and

(E) the appropriateness of the extent of protection provided to individual policyholders and corporate policyholders;

(11) the effect of Federal, State, and local taxes on the solvency of companies in such industries, and the effect of State tax-offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios; and

(12) whether there are some forms of catastrophic risks that deserve special insurance treatment.

(b) Report.—On the basis of the Commission's findings under subsection (a), the Commission shall submit the report required by section 1108.

SEC. 1105. MEMBERSHIP AND COMPENSATION.

(a) Number and Appointment.—The Commission shall be composed of 25 members, including—

(1) the Secretary of the Treasury;

(2) the Secretary of Labor;

(3) the Secretary of Transportation;

(4) the Secretary of Commerce;

(5) the Chairman of the Federal Trade Commission;

(6) the Attorney General of the United States;

(7) 5 Members of the United States House of Representatives appointed by the Speaker of the House of Representatives from the committees of appropriate jurisdiction, of which 3 shall be appointed upon the recommendation of the Chairmen of such committees and 2 shall be appointed upon the recommendation of the Minority Leader;

(8) 5 Members of the United States Senate appointed by the President pro tempore of the Senate, of which 3 shall be appointed upon the recommendation of the Chairmen of the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, and 2 shall be appointed upon the recommendation of the Minority Leader; and

(9) 9 members, who are not Federal employees, who have expertise in insurance, financial services, antitrust, liability law and consumer issues, at least 1 of whom has expertise in State regulation of insurance, at least 2 of whom has expertise in the business of insurance and at least 2 of whom have expertise in consumer issues, to be appointed by the President.

(b) Designees.—An appropriate designee of any member described in paragraphs (1) through (8) of subsection (a) may serve on the Commission in the place of such member and under the same terms and conditions as such member.

(c) Consultation by the Secretary of the Treasury.—The Secretary of the Treasury shall consult with—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Chairperson of the Federal Deposit Insurance Corporation; and

(3) the Chairman of the Securities and Exchange Commission,

with respect to all financial and other matters within their respective jurisdictions that are under consideration by the Commission.

(d) Eligibility.—No member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government may be appointed to be a member of the Commission pursuant to paragraph (6) of subsection (a).

(e) Terms.—

(1) In general.—Each member shall be appointed for the life of the Commission.

(2) Vacancy.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(f) Compensation.—

(1) In general.—Members of the Commission appointed pursuant to subsection (a)(6) shall be compensated at a rate equal to the annual rate of basic pay for GS–18 of the General Schedule.

(2) Travel expenses.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) Quorum.—

(1) Majority.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Approval of actions.—All recommendations and reports of the Commission required by this subtitle shall be approved only by a majority vote of a quorum of the Commission.

(h) Chairperson.—The President shall select 1 member appointed pursuant to subsection (a)(6) to serve as the Chairperson of the Commission.

(i) Meetings.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 1106. POWERS OF COMMISSION.

(a) Hearings and Sessions.—The Commission may—

(1) hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate; and

(2) administer oaths or affirmations to witnesses appearing before the Commission,

for the purpose of carrying out this subtitle.

(b) Powers of Members and Agents.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subtitle.

(c) Subpoena Power.—

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(1) In general.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) Administrative aspects of subpoena.—

(A) Attendance or production at designated site.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) Fees and travel expenses.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) No liability for other expenses.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(3) Confidentiality.—Information obtained under this section which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Commission determines that the withholding thereof is contrary to the national interest. The provisions of the preceding sentence shall not apply to the publication or disclosure of data that are aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(4) Failure to obey a subpoena.—

(A) Application to court.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) Jurisdiction of court.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) Failure to comply with order.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(5) Service of subpoenas.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(6) Service of process.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) Obtaining Official Data.—

(1) Authority.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this subtitle.

(2) Procedure.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this subtitle.

SEC. 1107. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) Staff.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) Applicability of Certain Civil Service Laws.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(c) Experts and Consultants.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS–18 of the General Schedule.

(d) Staff of Federal Agencies.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this subtitle.

SEC. 1108. REPORT.

Not later than January 31, 1993, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 1124.

SEC. 1109. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the report required by section 1128.

SEC. 1110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 to carry out the purposes of this subtitle.

Subtitle B—General Provisions

SEC. 1121. CREDIT UNIONS.

(a) Full Faith and Credit.—Section 201 of the Federal Credit Union Act (12 U.S.C. 1781) (hereafter referred to in this section as the "Act") is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Full Faith and Credit of the United States.—The full faith and credit of the United States is pledged to the obligation to pay to pay insured accounts under this title.".

(b) Investment in Other Financial Institutions.—

(1) Central credit unions.—

(A) In general.—Section 107(7) of the Act (12 U.S.C. 1757(7)) is amended—

(i) by striking subparagraph (G); and

(ii) by redesignating subparagraphs (H) through (K) as subparagraphs (G) through (J), respectively.

(B) Effective date.—This amendment shall take effect 1 year from the date of enactment of this section.

(2) Deposits.—Section 107(8) of the Act (12 U.S.C. 1757(8)) is amended to read as follows:

"(8) to make or maintain—

"(A) deposits in national banks, or in banks or institutions the accounts of which are insured by the Federal Deposit Insurance Corporation, and

"(B) in the case of Federal credit unions or credit unions authorized by the Department of Defense operating suboffices on American military installations in foreign countries or trust territories of the United States, demand deposit accounts in banks located in those countries or trust territories, if such banks are correspondents of banks described in subparagraph (A) subject to such regulations as may be issued by the Board;".

(3) Corporate credit unions.—Section 120(a) of the Act (12 U.S.C. 1766(a)) is amended—

(A) in the second sentence by striking "central credit union chartered by the Board" and inserting "Corporate credit union as defined by the Board"; and

(B) by adding the following sentence at the end: "The Board shall by regulation establish (i) limits on loans and investments by a corporate credit union to a single obligor, and (ii) minimum capital requirements for corporate credit unions.".

(c) Strengthening National Credit Union Share Insurance Fund.—Section 202 of the Act (12 U.S.C. 1782) is amended—

(1) in subsection (c)(1)(A), by striking clause (ii) and redesignating clause (iii) as clause (ii);

(2) by amending subsection (c)(2) to read as follows:

"(2)(A) At such times as the Board prescribes (but not more than twice in any calendar year), each insured credit union shall pay to the fund a premium charge for insurance in an amount stated as a percentage of insured shares. The percentage shall be the same for all insured credit unions.

"(B) Premium charges assessed during a calendar year shall not, in the aggregate, exceed one-twelfth of 1 percent of insured shares, except upon a unanimous vote of the Board members.

"(C) The Board may assess a premium charge only if—

"(i) the equity level of the fund is less than 1.3 percent of the aggregate amount of the insured shares in all insured credit unions; and

"(ii) the premium charge does not exceed the amount necessary to restore the fund to that level.

"(D) If the equity level of the fund is less than 1.2 percent of the aggregate amount of the insured shares in all insured credit unions, the Board shall, subject to subparagraph (B), assess a premium charge in such an amount as the Board determines to be necessary to restore the fund to and maintain the fund at that level.

"(E) If the equity level of the fund is not less than 1.2 percent of the aggregate amount of the insured shares in all insured credit unions, the Board may assess a premium charge only—

"(i) upon a unanimous vote of the Board members; and

"(ii) in an amount not exceeding one-twelfth of 1 percent of insured shares.";

(3) by striking subsection (c)(3) and inserting the following:

"(3) If any loans to the fund from the Federal Government and the interest thereon have been repaid and the fund exceeds the normal operating level at the end of an insurance year, the Board shall effect for that insurance year a pro rata distribution to in-

VOL
137
PT
23
NO
21
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25
1991
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sured credit unions of the maximum possible amount that does not reduce the fund below the normal operating level.";

(4) in subsection (h)—

(A) by amending paragraph (2) to read as follows:

"(2) the term 'normal operating level' when applied to the fund, means an amount of fund equity as established by the Board and equal to not less than 1.2 percent and not more than 1.5 percent of the aggregate amount of the insured shares in all insured credit unions;";

(B) by redesignating paragraph (3) as paragraph (5); and

(C) by inserting after paragraph (2) the following:

"(3) the term 'available assets level', when applied to the fund, means an amount, determined as the sum of cash and unencumbered investments (as authorized pursuant to section 203(c) and carried at market value) minus direct liabilities of the fund and contingent liabilities for which no provision for losses has been made, stated as a percentage of the aggregate amount of the insured shares in all insured credit unions;

"(4) the term 'equity level' means the amount of fund capitalization (including insured credit unions' 1 percent capitalization deposits and the fund's retained earnings balance) stated as a percentage of the aggregate amount of the insured shares in all insured credit unions; and"; and

(5) by adding at the end the following:

"(i) MONITORING AND PUBLISHING ASSET LEVEL.—The Board shall closely monitor, and publish at least semiannually, the available asset level of the fund.".

(d) MINIMUM CAPITAL REQUIREMENT.—

(1) IN GENERAL.—Section 116(a) of the Act (12 U.S.C. 1762(a)) is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", then (C) 3.5 percent of gross income until the regular reserve is equal to 7 percent of the total outstanding loans and risk assets"; and

(B) by adding at the end the following new paragraph:

"(4) A credit union in existence for more than 5 years and holding reserves and undivided earnings equal to less than a minimum capital level stated as a percentage of total assets and established by regulation of the Board, shall be subject to a formal written supervisory agreement with the Board. Such agreement shall include an operating plan to reach the minimum capital level within a period established by the Board. In establishing minimum capital levels under this paragraph, the Board shall consider the differences among credit unions, and shall give recently formed credit unions a reasonable time in which to build capital through retained earnings.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective on January 1, 1993.

(e) LOAN TO ONE BORROWER LIMIT.—

(1) IN GENERAL.—Section 107(5)(A) of the Act (12 U.S.C. 1757(5)(A)) is amended—

(A) in clause (viii), by inserting "and" after the semicolon; and

(B) in clause (ix), by striking the semicolon and all that follows through the end of clause (x) and inserting a period.

(2) LOAN PROVISIONS.—Section 107(5) of the Act (12 U.S.C. 1757(5)) is amended by adding at the end the following new subparagraph:

"(F)(i) Loans must be approved by the credit committee or a loan officer, but no loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to such member in an aggregate amount exceeding the greater of—

"(I) $100,000,

"(II) 20 percent of the credit union's reserves and undivided earnings, or

"(III) 1.5 percent of the credit union's assets.

"(ii) In calculating compliance with the limits in subclauses (I) through (III) of clause (i), any loan on which the United States, its agencies, or any State has fully guaranteed the principal and interest shall be disregarded, and with respect to any other loan guaranteed by the United States, its agencies, or any State, one-half of the portion guaranteed shall be disregarded.

"(iii) In the case of loans by a credit union for farming or fishing purposes to persons deriving their livelihood primarily from farming or fishing, where the membership of the credit union substantially consists of such persons, clause (i)(III) shall apply with '3 percent' substituted for '1.5 percent'.".

"(iv) The Board may, by regulation, establish other limits for certain credit unions or classes of loans, consistent with protecting the share insurance fund.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall become effective 180 days after the date of enactment of this Act.

(f) AMENDMENT TO AUTHORIZE NCUA BOARD TO PLACE FEDERALLY INSURED, STATE-CHARTERED CREDIT UNIONS INTO LIQUIDATION.—Section 207(a)(1) of the Act (12 U.S.C. 1787(a)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting the following after subparagraph (A):

"(B) Notwithstanding any other provision of this Act or other law, the Board shall have power and jurisdiction to appoint itself as liquidating agent of any State-chartered credit union insured under this title, and close such credit union, if it determines that the credit union is insolvent or bankrupt. In such cases, the Board shall have the power and duties specified in this section applicable to liquidations of Federal credit unions.

"(C)(i) Except as provided in clause (ii), the authority conferred by subparagraph (B) shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered credit union that the grounds specified for such exercise exist.

"(ii) If such approval has not been received within 30 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by unanimous vote of the Board.".

(g) CENTRAL LIQUIDITY FACILITY; REDUCED BORROWING AUTHORITY AND PROHIBITIONS ON LOANS OR GUARANTEES TO PRIVATE SHARE INSURERS.—Section 307(a) of the Act (12 U.S.C. 1795f(a)) is amended—

(1) in paragraph (4)(A) by striking "twelve" and inserting "2";

(2) by striking paragraph (16); and

(3) by redesignating paragraphs (17) and (18) as paragraphs (16) and (17), respectively.

(h) STRENGTHENING REMOVAL AND PROHIBITION AUTHORITY.—Section 206(g)(1) of the Federal Credit Union Act (12 U.S.C. 1786(g)(1)) is amended to read as follows:

"(g) REMOVAL AND PROHIBITION AUTHORITY.—

"(1) AUTHORITY TO ISSUE ORDER.—The Board may serve upon an institution-affiliated party a written notice of the Board's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any insured credit union, if the Board determines that—

"(A) the institution-affiliated party has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(IV) any written agreement between such credit union and the Board;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured credit union or business institution; or

"(iii) committee or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty; and

"(B)(i) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(I) such insured credit union or business institution has suffered or is likely to suffer financial loss or other damage that may have a significant effect on the financial condition of that credit union;

"(II) the interests of the credit union's members have been or could be prejudiced in a manner that may have a significant effect on the financial condition of that credit union; or

"(III) such party has received financial gain or other benefit by reason of such violation, practice, or breach; or

"(ii) such violation, practice, or breach—

"(I) involves personal dishonesty on the part of such party; or

"(II) demonstrates willful or continuing disregard by such party for the safety or soundness of such insured credit union or business institution.".

(i) REPEAL OF AUTHORITY TO BORROW FROM FARM CREDIT BANKS.—Section 107(9) of the Act (12 U.S.C. 1757(9)) is amended—

(1) by inserting a semicolon after "paid-in and unimpaired capital and surplus"; and

(2) by striking all that follows the semicolon.

(j) EFFECTIVE DATE.—The amendment made by subsection (c)(2) shall become effective on July 1, 1992.

SEC. 1122. STRENGTHENING FEDERAL BANKING AGENCIES' AUTHORITY TO REMOVE PERSONS GUILTY OF MISCONDUCT.

Section 8(e)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(1)) is amended to read as follows:

"(e) REMOVAL AND PROHIBITION AUTHORITY.—

"(1) AUTHORITY TO ISSUE ORDER.—The appropriate Federal banking agency may serve upon an institution-affiliated party a written notice of the agency's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any insured depository institution, if the agency determines that—

"(A) the institution-affiliated party has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such depository institution; or

"(IV) any written agreement between such depository institution and such agency;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured depository institution or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty; and

"(B)(i) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(I) such insured institution or business institution has suffered or is likely to suffer financial loss or other damage that may have a significant effect on the financial condition of that institution;

"(II) the interest of the insured depository institution's depositors have been or could be prejudiced in a manner that may have a significant effect on the financial condition of that institution; or

"(III) such party has received financial gain or other benefit by reason of such violation, practice, or breach; or

"(ii) such violation, practice, or breach—

"(I) involves personal dishonesty on the part of such party; or

"(II) demonstrates willful or continuing disregard by such party for the safety or soundness of such insured depository institution or business institution.".

SEC. 1123. EMERGENCY LIQUIDITY.

Section 13 of the Federal Reserve Act (12 U.S.C. 343) is amended in the third paragraph by striking "of the kinds and maturities made eligible for discount for member banks under other provisions of this Act".

SEC. 1124. DISCLOSURE OF SECURITIES INVESTOR PROTECTION ACT COVERAGE.

(a) DISCLOSURE OF PROTECTIONS.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

"(i) DISCLOSURE OF SECURITIES INVESTOR PROTECTION ACT COVERAGE.—

"(1) IN GENERAL.—It shall be unlawful for any broker or dealer required to be registered under this Act, or for any person associated with such broker or dealer (other than a natural person or financial institution), to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security by any customer in contravention of the rules and regulations prescribed under this subsection.

"(2) DISCLOSURE RULES.—The Commission shall, by rule, set forth standards for the disclosure by brokers and dealers required to be registered under this Act, and persons associated with such brokers or dealers (other than a natural person or financial institution), to customers of information concerning coverage under the Securities Investor Protection Act of 1970 (hereafter referred to as 'SIPA'). The rules of the Commission shall require every broker or dealer required to be registered under this Act—

"(A) to provide each customer with a written notification of SIPA coverage that discloses—

"(i) the current Securities Investor Protection Corporation (hereafter referred to as 'SIPC') membership status of such person; and

"(ii) a general description, prescribed by SIPC, of the operation of SIPA, the method and extent of customer protection provided under SIPA, the property that is protected under SIPA, and a statement indicating that SIPA does not protect against a decline in the market value of securities; and

"(B) to include conspicuously in any periodic statement sent to a customer regarding a securities transaction—

"(i) a clear statement as to the current SIPC membership status of such person; and

"(ii) any other information regarding SIPA coverage that the Commission finds necessary or appropriate in the public interest or for the protection of investors.

"(3) EXEMPTIONS.—The Commission, as it determines consistent with the public interest and the protection of investors, may exempt, by rule or order, any person or class of persons, or any transaction or class of transactions from the requirements of this subsection.

"(4) DEFINITIONS.—The Commission shall, by rule, define the terms used in this subsection, except that—

"(A) the term 'customer' shall not include a broker, a dealer, a municipal securities dealer, or other such persons as the Commission shall provide in such rule; and

"(B) the term 'security', for purposes of and as used in this subsection, shall not include any security as the Commission shall provide in such rule.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of 1 year after the date of enactment of this Act or the effective date of rules and regulations prescribed by the Commission to implement the amendment made by subsection (a).

SEC. 1125. HIRING AND COMPENSATION AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION.

(a) AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended to read as follows:

"(b) APPOINTMENT AND COMPENSATION OF STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Commission shall fix the compensation and number of, and appoint and direct, employees of the Commission. Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51, subchapters III and VIII of chapter 53, and chapter 54 of title 5, United States Code.

"(2) ADDITIONAL COMPENSATION AND BENEFITS.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Commission, the Commission shall seek to maintain comparability with the Federal bank regulatory agencies. For the purpose of this paragraph, the term 'Federal bank regulatory agency' means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration Board.".

(b) CONFORMING AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking "or" after the semicolon;

(B) in subparagraph (D), by inserting "or" after the semicolon; and

(C) by adding at the end the following:

"(E) the Securities and Exchange Commission;".

(2) Section 5373 of title 5, United States Code, is amended—

(A) in paragraph (3), by striking "or" after the semicolon;

(B) in paragraph (4), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(5) section 4(b) of the Securities Exchange Act of 1934.".

(c) EFFECTIVENESS OF AMENDMENTS.—The authority provided under subsections (a) and (b) of this section may be exercised at any time following the expiration of 180 days from the date of enactment, provided that the Chairman of the Commission shall in connection with such exercise certify in writing, with explanation, to the President and the Congress, after consultation with the Director of the Office of Personnel Management, that—

(1) the Securities and Exchange Commission, with the assistance of the Office of Personnel Management, has attempted to solve the Commission's difficulties in recruitment and/or retention of high-quality personnel through use of the flexibilities provided by the Federal Employees Pay Comparability Act of 1990; and

(2) despite such attempt, the Securities and Exchange Commission is faced with continuing or serious difficulties in recruitment and/or retention of high-quality personnel.

SEC. 1126. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

(a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation for any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that was commenced on or before June 19, 1991, shall be the limitation provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action arising under section 10(b) of the Securities Exchange Act of 1934 that commenced on or before June 19, 1991—

(1) which was dismissed as time barred subsequent to June 19, 1991; and

(2) which would have been timely filed under the limitation provided by the laws applicable in the jurisdiction, including principles of retroactivity, as they existed on June 19, 1991,

may be refiled and reinstated (including any disposition) not later than 60 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

(c) DEFINITIONS.—The terms used in this section shall have the same meanings as in the Securities Exchange Act of 1934.

SEC. 1127. CONVERSIONS DURING MORATORIUM.

(a) IN GENERAL.—Section 5(d)(2)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(C)) is amended—

(1) in clause (i), by striking "deposits of each" and inserting "deposits of the transferor".

(2) by striking "or" at the end of clause (ii);

(3) by striking the period at the end of clause (iii) and inserting "; or" and

(4) by adding at the end the following:

"(iv) in the case of a transaction described in clause (ii), (iii), or (iv) of subparagraph (B), the resulting or assuming bank or savings association agrees to make pro rata insurance premium payments to both the Bank Insurance Fund and the Savings Association Insurance Fund at the applicable assessment rates in effect for each Fund, with—

"(I) the percentage of deposits subject to assessment by each Fund equal to the per-

VOL
137
PT
23
NO
21
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25
1991
UMI

centage of the combined deposits assessable by such Fund at the time of the conversion transaction, as determined by the Corporation, and

"(II) the same percentage used to apportion any losses between the 2 funds arising from any failure of the combined institution.".

(b) FEES.—Section 5(d)(2)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(E)) is amended by inserting ", other than a conversion described in subparagraph (C)(iv)," before "shall pay".

(c) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—If, under section 5(d)(2)(C) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this Act.".

SEC. 1128. QUALIFIED THRIFT LENDER TEST.

(a) REDUCING TEST FROM 70 PERCENT TO 65 PERCENT.—Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) is amended by striking "70" and inserting "65".

(b) INCREASING AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.—Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) is amended by striking "10 percent" and inserting "20 percent".

(c) INCREASING THE PERCENTAGE OF QUALIFYING CONSUMER LOANS.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) is amended by striking "5 percent" and inserting "10 percent".

(d) FEDERAL HOME LOAN BANK STOCK.—

(1) IN GENERAL.—Section 10(m)(4)(C)(ii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the end the following:

"(VI) Shares of stock issued by any Federal home loan bank.".

(2) DOUBLE-COUNTING NOT PERMITTED.—Section 10(m)(5) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(5)) is amended by adding at the end the following:

"(C) In determining the amount of a savings association's qualified thrift investments, the same asset shall not, directly or indirectly, be counted more than once.".

(e) MONTHLY AVERAGING PERMISSIBLE FOR CERTAIN SAVINGS ASSOCIATIONS.—Section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)) is amended by adding at the end the following:

"(8) MONTHLY AVERAGING PERMISSIBLE FOR CERTAIN SAVINGS ASSOCIATIONS.—If a savings association has total assets of less than $1,000,000,000, paragraph (1)(B) shall apply with 'monthly' substituted for 'daily or weekly'.".

(f) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)) is amended by adding at the end the following new paragraph:

"(8) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—For purposes of this subsection, if, under section 5(d)(2)(C) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, any asset acquired from the bank that is not a qualified thrift investment shall not be treated as a portfolio asset of the savings association during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may, with respect to not more than 30 percent of the total assets acquired from the bank that are not qualified thrift investments, extent the 2-year period described in subparagraph (A) for not more than 1 year if the Director determines that the extension if consistent with the purposes of this Act.".

SEC. 1129. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

Section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended in the second sentence by striking "30 percent" and inserting "35 percent".

SEC. 1130. NONCONTROLLING INVESTMENTS IN BANKS AND BANK HOLDING COMPANIES BY CERTAIN INVESTMENT FUNDS.

(a) IN GENERAL.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

"(q) QUALIFIED INVESTOR.—The term 'qualified investor' means an investment company (whether or not registered under the Investment Company Act of 1940), investment partnership, endowment, pension fund, or any other company that the Board determines by order or regulation to be principally engaged in investing, that is not controlled by any company other than a qualified investor or a limited adviser as permitted in this Act.

"(r) LIMITED ADVISER.—The term 'limited adviser' means a company that—

"(1) has been determined by the Board, by order or regulation, to be principally engaged in investing and providing investment advice;

"(2) acts as an adviser to one or more qualified investors in connection with any investment by such qualified investor or investors in a bank or bank holding company;

"(3) does not, directly or indirectly, own or control for its own account 10 percent or more of any class of voting shares of the bank or bank holding company and does not, directly or indirectly, have power to vote, in any capacity, 25 percent or more of the voting shares of the bank or bank holding company;

"(4) does not have a direct or indirect economic interest in the bank or bank holding company equal to 25 percent or more of the profits of the bank or bank holding company or of the profits due to one or more qualified investors in connection with an investment in the bank or bank holding company;

"(5) does not have any director, officer, partner or employee in common with the bank or bank holding company and does not have any representative serving in any such capacity at the bank or bank holding company;

"(6) does not advise the bank or bank holding company regarding any management or policy decision, whether on behalf of a qualified investor or otherwise; and

"(7) does not have any significant business relationship with the bank or bank holding company, and no other company that is an affiliate of the adviser has any significant business relationship with the bank or bank holding company.".

(b) EXCEPTION FOR INVESTMENTS BY QUALIFIED INVESTORS.—Paragraph (5) of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended by adding at the end the following new subparagraph—

"(G) QUALIFIED INVESTORS.—

"(i) Except as provided in clause (ii), no qualified investor is a bank holding company solely by virtue of its ownership or control of voting shares of a bank or bank holding company if the qualified investor—

"(I) directly or indirectly, owns, controls or has power to vote less than 25 percent of the shares of any class of voting securities of the bank or bank holding company, and less than 25 percent of the total equity of the bank or bank holding company;

"(II) is and remains at all times a passive investor in the bank or bank holding company, and does not participate in the management or operations of the bank or bank holding company, except that a qualified investor that is permitted under subclause (IV) to have director representation at a bank or bank holding company shall not be in violation of this subclause by virtue of having a representative serve as a director of the bank or bank holding company;

"(III) does not have any significant business relationship with the bank or bank holding company, and no other company that is an affiliate of the qualified investor has any significant business relationship with the bank or bank holding company; and

"(IV) does not have any director, officer, partner or employee in common with the bank or bank holding company and does not have any representative serving in any such capacity at the bank or bank holding company, except that a qualified investor that owns or controls less than 15 percent of the voting shares of a bank or bank holding company may have no more than one representative serving as a director of the bank or bank holding company.

"(ii) Notwithstanding clause (i), a qualified investor is a bank holding company if the Board determines, after notice and opportunity for hearing, that the qualified investor exercises a controlling influence over the management or policies of a bank or bank holding company.

"(H) LIMITED ADVISERS.—

"(i) Except as provided in clause (ii), no company is a bank holding company solely by virtue of its role as adviser to one or more qualified investors in connection with the acquisition of shares of a bank or bank holding company if—

"(I) the company is and remains a limited adviser with respect to the investment;

"(II) the qualified investors advised by the adviser, and the limited adviser, do not, directly or indirectly, own, control, or have power to vote, in the aggregate, 25 percent or more of any class of voting shares of the same bank or bank holding company of 25 percent or more of the total equity of such bank or bank holding company; and

"(III) in the case of a limited adviser that advises any number of qualified investors that, including the limited adviser, seek to own, control, or have power to vote, in the aggregate, 25 percent or more of any class of voting shares of the same bank or bank holding company or 25 percent or more of the total equity of such bank or bank holding company—

"(aa) each qualified investor advised by the adviser retains the right to vote and dispose of the shares the investor acquires in the bank or bank holding company;

"(bb) the limited adviser does not communicate in any way with the management or other shareholders of the bank or bank holding company regarding the management or policies of the bank or bank holding company;

"(cc) following the acquisition of shares by the qualified investors, the limited adviser does not provide any advice to, or communicate in any manner with, the qualified investors, or any person that holds an interest in any of the qualified investors, regarding any matter related to the shares or the management or policies of the bank or bank holding company; and

"(dd) following the acquisition of shares by the qualified investors, the limited adviser does not, directly or indirectly, own, control or have power to vote 5 percent or more of any class of voting securities of the bank, bank holding company or any qualified investor in the bank or bank holding company.

"(ii) Notwithstanding clause (i), a limited adviser is a bank holding company if the Board determines, after notice and opportunity for hearing, that the limited adviser, or any investor advised by the adviser, exercises a controlling influence over the management or policies of a bank or bank holding company.".

SEC. 1131. LIMITING LIABILITY FOR FOREIGN DEPOSITS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601) is amended by adding at the end the following:

"11. Limitations on liability.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection, or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SOVEREIGN RISK.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

"(t) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State.".

(c) EXISTING CLAIMS NOT AFFECTED.—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this Act.

SEC. 1132. CERTAIN WRONGFULLY WITHDRAWN DEPOSITS TREATED AS INSURED DEPOSITS.

(a) IN GENERAL.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following:

"(3) WRONGFULLY WITHDRAWN DEPOSITS.—In its capacity as conservator or receiver of a depository institution, the Corporation shall treat as an 'insured deposit' any deposit at the institution at any time prior to the Corporation's appointment as conservator or receiver—

"(A) which was, through the negligence or misconduct of the institution or any of its employees, permitted to be wrongfully or fraudulently withdrawn by a person other than the depositor, without the knowledge or consent of the depositor; and

"(B) for the recovery of which the depositor has diligently sought private relief against the perpetrator of the wrongful withdrawal, and would have received relief from the institution that had permitted the wrongful withdrawal, but due to acquisition of the institution by the Corporation, the institution is unable to satisfy the judgment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any wrongful or fraudulent withdrawal of deposits occurring after January 1, 1987.

SEC. 1133. PROVIDING SERVICES TO INSURED DEPOSITORY INSTITUTIONS.

Section 21A of the Home Owners' Loan Act (12 U.S.C. 1441a) is amended by adding at the end the following:

"(q) CONTINUATION OF OBLIGATION TO PROVIDE SERVICES.—No person obligated to provide services to an insured depository institution at the time the Resolution Trust Corporation is appointed conservator or receiver for the institution, shall fail to provide those services to any person to whom the right to receive those services was transferred by the Resolution Trust Corporation after August 9, 1989, unless the refusal is based on the transferee's failure to comply with any material term or condition of the original obligation. This subsection does not limit any authority of the Resolution Trust Corporation as conservator or receiver under section 11(e) of the Federal Deposit Insurance Act.".

SEC. 1134. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) STUDY REQUIRED.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act (12 U.S.C. 3415). The study shall also include analysis of the effect of allowing nondepository licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) REPORT.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

SEC. 1135. REMOVING COST LIMITATION ON CONSTRUCTION OF FEDERAL RESERVE BANK BUILDINGS.

The ninth paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 522) is amended to read as follows:

"No Federal Reserve bank shall have the authority hereafter to enter into any contract or contracts for the erection of any building of any kind or character, or to authorize the erection of any building without the prior approval of the Board of Governors.".

SEC. 1136. $1 COINS.

(a) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the first sentence by striking "dollar,"; and

(2) by inserting after the fourth sentence, the following: "The $1 coins authorized under subsection (a)(1) shall be golden in color, shall have an unreeded edge, shall have tactile features on the surface that aid the visually handicapped to differentiate the $1 coin from other circulating coins, and shall be minted and fabricated in the United States. The $1 coin should have similar metallic anticounterfeiting properties as existing United States clad coinage.".

(b) CHRISTOPHER COLUMBUS $1 COIN.—Section 5112(d)(1) of title 31, United States Code, is amended by striking the sixth sentence and inserting the following: "The obverse side of the $1 coin shall have a design symbolizing the 500th anniversary of the discovery of the New World by Christopher Columbus.".

(c) CIRCULATION DATE.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Treasury shall place into circulation $1 coins authorized by section 5112(a)(1) of title 31, United States Code, in accordance with the amendments made by subsections (a) and (b).

(d) SEIGNIORAGE.—Seigniorage from production of $1 coins referred to in subsection (a) shall be used to offset the reverse seigniorage resulting from the destruction of Susan B. Anthony $1 coins in Government storage. Additional seigniorage from production of $1 coins referred to in subsection (a) shall be used to retire the national debt.

SEC. 1137. PURCHASED MORTGAGE SERVICING RIGHTS.

(a) IN GENERAL.—Notwithstanding section 5(t)(4) of the Home Owners' Loan Act, each appropriate Federal banking agency shall determine, with respect to insured depository institutions for which it is the appropriate Federal regulator, the amount of readily marketable purchased mortgage servicing rights that may be included in calculating such institution's tangible capital, risk-based capital, or leverage limit, if—

(1) such servicing rights are valued at not more than 90 percent of their fair market value; and

(2) the fair market value of such servicing rights is determined not less often than quarterly.

(b) DEFINITION.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 1138. CREDIT CARD INTEREST RATES.

(a) Section 107 of the Truth in Lending Act (15 U.S.C. 1606) is amended by adding at the end thereof the following:

"(f) The annual percentage rate applicable to an extension of credit obtained by use of a credit card may not exceed by more than 4 percentage points the rate established under section 6621(a)(2) of the Internal Revenue Code of 1954, as determined by the Board.".

VOL
137
PT
23
NO
21
—
25
1991
UMI

(b) Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following:

"(c) A card issuer shall clearly and conspicuously disclose on initial applications for a credit card—

"(1) the annual percentage rate applicable to extensions of credit by means of that credit card or means for determining that rate; and

"(2) any annual or other fee imposed for the issuance or use of that credit card.".

(c) This section shall have an effective date of January 1, 1992.

SEC. 1139. RESTATEMENT AND REORGANIZATION OF SECTION 5136 OF THE REVISED STATUTES.

(a) Restatement and Reorganization of Section 5136 of the Revised Statutes.—

(1) In general.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended to read as follows:

"SEC. 5136. CORPORATE POWERS OF NATIONAL BANKS.

"(a) General Powers.—Upon filing articles of association and an organization certificate, a national bank shall become, as of the date of the execution of the organization certificate, a corporation which shall have, in the name designated in that certificate, the following powers:

"(1) Corporate seal.—To adopt and use a corporate seal.

"(2) Succession.—To have succession from February 25, 1927, or from the date of the execution of the organization certificate (if that date is later than February 25, 1927) until—

"(A) such time as the bank is dissolved by an act of shareholders owning not less than ⅔ of the stock of such bank;

"(B) the franchise is forfeited—

"(i) by reason of violation of law; or

"(ii) by a general or special Act of Congress; or

"(C) the bank's affairs are placed in the control of the Federal Deposit Insurance Corporation, as receiver, and finally wound up by that Corporation.

"(3) Contracts.—To enter into contracts.

"(4) Litigation.—To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the national bank in any court of competent jurisdiction.

"(5) Officers.—To elect or appoint directors to the bank's board of directors and, by that board of directors, to—

"(A) appoint a president, vice president, cashier, and other officers;

"(B) define the duties of officers;

"(C) require bonds of those officers and fix the penalty of those bonds; and

"(D) dismiss any officer at the pleasure of the directors and appoint another to fill the position.

"(6) Bylaws.—To prescribe, by the board of directors, bylaws not inconsistent with law regulating the manner in which—

"(A) stock of the bank may be transferred;

"(B) the directors of the bank are appointed or elected;

"(C) the officers of the bank may be appointed;

"(D) the property of the bank may be transferred;

"(E) the general business of the bank may be conducted; and

"(F) the privileges granted to the bank by law may be exercised and enjoyed.

"(7) Banking powers.—To exercise, by the board of directors or officers or agents authorized by that board and subject to any other provision of law, all such incidental powers as shall be necessary to carry on the business of banking, including the following:

"(A) Discounting and negotiating promissory notes, drafts, bills of exchange, and other evidence of debt.

"(B) Receiving deposits.

"(C) Buying and selling exchange, coin, and bullion.

"(D) Loaning money on personal security.

"(E) Obtaining, issuing, and circulating notes according to the provisions of this title.

"(8) Contributions.—To contribute to community funds or charitable, philanthropic, or benevolent instrumentalities conducive to the public welfare, such sums as the board of directors may determine to be expedient and in the interests of the national bank if that bank is located in a State the laws of which do not expressly prohibit State banking institutions from contributing to such funds or instrumentalities.

"(9) Investment in tangible personal property.—To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis. The investment may not exceed 10 percent of the national bank's assets.

"(b) Banking Powers Related to Securities Activities and Commercial Paper.—

"(1) Securities underwriting prohibited.—Except as otherwise provided in this subsection or any other provision of law, no national bank may underwrite any issue of securities.

"(2) Buying and selling securities as agent for customer.—Except as otherwise provided in this section or any other provision of law, no national bank may purchase or sell any security unless the purchase or sale is made—

"(A) for the account of a customer;

"(B) by the bank—

"(i) upon the order of the customer; or

"(ii) in the bank's capacity as trustee, executor, administrator, custodian, managing agent, or guardian of estates with respect to the account of the customer; and

"(C) without recourse.

"(3) Exceptions.—

"(A) Bank securities and bank investments for the bank's own account.—Paragraph (2) shall not apply to the purchase or sale by a national bank of—

"(i) any security of which the national bank is the issuer; or

"(ii) any investment security or other security which the bank is purchasing or has purchased in accordance with subsection (c).

"(B) Issuance and sale of certain GNMA guaranteed securities.—Notwithstanding paragraph (2) or any other provision of this section, a national bank may issue and sell securities that are guaranteed by the Government National Mortgage Association under section 306(g) of the National Housing Act.

"(C) Bank-eligible securities.—Paragraphs (1) and (2) shall not apply with respect to any bank-eligible security, subject to the limitations contained in subsection (c)(3)(B).

"(c) Banking Powers Related to Purchasing Investment Securities for the Bank's Own Account.—

"(1) Limited authority to buy for bank's own account for investment.—Except as provided in paragraphs (2) through (10), a national bank's authority to purchase investment securities or other securities for the bank's own account under this section shall be subject to the following limitations:

"(A) Corporate stock.—Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation.

"(B) Maximum investment amount for securities issued by any single issuer.—The total amount of investment securities held by the bank (for the bank's own account) which were issued by any 1 person, or for which such person is the obligor, may not exceed at any time the amount which is equal to the sum of—

"(i) 10 percent of the capital stock of the bank which is actually paid in and unimpaired; and

"(ii) 10 percent of the bank's unimpaired surplus fund,

except that this subparagraph shall not require any bank to dispose of investment securities lawfully held by the bank on August 23, 1935.

"(2) Bankers' banks.—

"(A) Acquisition of shares allowed.—Notwithstanding paragraph (1), a national bank may purchase for the bank's own account shares of an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) or a bank holding company (as defined in section 2(a) of the Bank Holding Company Act of 1956), if—

"(i) the outstanding shares of the bank or company are owned exclusively (except to the extent of directors' qualifying shares required by law) by depository institutions (as defined in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) or depository institution holding companies; and

"(ii) the bank or company, and all subsidiaries of the bank or company, are engaged exclusively in providing services for other depository institutions and officers, directors, and employees of those depository institutions.

"(B) Maximum investment amount.—The total amount of stock held by any national bank in any bank or holding company referred to in subparagraph (A)—

"(i) may not exceed, at any time, the sum of—

"(I) 10 percent of the national bank's capital stock; and

"(II) 10 percent of the national bank's paid in and unimpaired surplus fund; and

"(ii) may not include more than 5 percent of any class of voting securities of that bank or company.

"(3) Bank-eligible securities.—

"(A) In general.—Notwithstanding paragraph (1), a national bank may purchase or sell bank-eligible securities for the bank's own account.

"(B) Maximum investment amount in the case of certain securities.—The total amount of bank-eligible securities described in subparagraph (N), (O), (P), or (Q) of subsection (d)(2) that may be held by a national bank at any time—

"(i) in connection with being an underwriter of those securities or buying and selling, as principal, those securities under subsection (b); or

"(ii) for the bank's own account,

shall not exceed an amount equal to the sum of 10 percent of the capital stock of the national bank actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.

"(C) Special rule for certain commitments.—For purposes of subparagraph (B), any bank-eligible securities referred to in that subparagraph as to which any national bank is under a commitment shall be deemed to be held by the national bank.

"(4) Mortgage related securities.—

"(A) In general.—Notwithstanding paragraph (1), a national bank may purchase for the bank's own account—

"(i) securities offered and sold pursuant to section 4(5) of the Securities Act of 1933; or

"(ii) mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934).

"(B) Regulations.—Any purchase by a national bank of securities under subparagraph (A) shall be subject to such limitations and restrictions as the Comptroller of the Currency may prescribe by regulation, including regulations concerning—

"(i) the minimum size of the issue (at the time of initial distribution) with respect to any such security; and

"(ii) a minimum aggregate sales price with respect to any such security.

"(5) Safe-deposit business.—

"(A) Acquisition of shares allowed.—Notwithstanding paragraph (1), a national bank may, in connection with the bank's carrying on the business commonly known as the 'safe-deposit business', purchase the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business.

"(B) Maximum investment amount.—The total amount of stock held by any national bank in any corporation referred to in subparagraph (A) shall not exceed an amount equal to the sum of—

"(i) 15 percent of the capital stock of the national bank actually paid in and unimpaired; and

"(ii) 15 percent of the bank's unimpaired surplus fund.

"(6) National housing corporations.—Notwithstanding paragraph (1), a national bank may—

"(A) purchase for the bank's own account shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968; and

"(B) invest in a partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of that Act.

"(7) State housing corporations.—

"(A) Acquisition of shares and other investments allowed.—Notwithstanding paragraph (1), a national bank may—

"(i) purchase for the bank's own account shares of stock issued by any State housing corporation incorporated in the State in which the national bank is located; and

"(ii) invest in loans and commitments for loans to any such corporation.

"(B) Maximum investment amount.—The total amount of stock held by a national bank in any corporation referred to in subparagraph (A) and the amount of investments in loans and commitments for loans to such corporation by the bank shall not exceed an amount equal to the sum of—

"(i) 5 percent of the national bank's capital stock actually paid in and unimpaired; and

"(ii) 5 percent of the bank's unimpaired surplus fund.

"(8) Agricultural credit corporations.—

"(A) Acquisition of shares and other investments allowed.—Notwithstanding paragraph (1), a national bank may purchase for the bank's own account shares of stock issued by a corporation organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including breeding, raising, fattening, or marketing livestock.

"(B) Maximum investment amount.—Unless the national bank owns at least 80 percent of the stock of an agricultural credit corporation described in subparagraph (A), the total amount of stock held by the national bank in any such corporation shall not exceed an amount equal to 20 percent of the unimpaired capital and surplus of the national bank.

"(9) Qualified Canadian government obligations.—

"(A) In general.—A national bank may deal in, underwrite, and purchase for its own account qualified Canadian Government obligations, to the same extent that it may deal in, underwrite, and purchase for its own account obligations of the United States or general obligations of any State or of any political subdivision thereof.

"(B) Definitions.—

"(i) Qualified Canadian government obligations.—For purposes of this paragraph, the term 'qualified Canadian Government obligations' means any debt obligation which is backed by Canada, any Province of Canada, or any political subdivision of any such Province to a degree which is comparable to the liability of the United States, any State, or any political subdivision thereof for any obligation which is backed by the full faith and credit of the United States, the State, or the political subdivision. The term includes any debt obligation of any agent of Canada or any such Province or any political subdivision of such Province if—

"(I) the obligation of the agent is assumed in the agent's capacity as agent for Canada or the Province or the political subdivision; and

"(II) Canada, the Province, or the political subdivision on whose behalf the agent is acting with respect to the obligation is ultimately and unconditionally liable for the obligation.

"(ii) Province of Canada.—For purposes of this paragraph, the term 'Province of Canada' means a Province of Canada and includes the Yukon Territory and the Northwest Territories and their successors.

"(10) Additional limitations prescribed in regulations.—The authority of a national bank under this section to purchase investment securities for the bank's own account shall be subject to such additional limitations and restrictions as the Comptroller of the Currency may prescribe by regulation.

"(d) Definitions.—

"(1) Investment securities.—For purposes of this section, the term 'investment securities' means marketable obligations, evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, and/or debentures commonly known as investment securities under such further definition of the term 'investment securities' as may by regulation be prescribed by the Comptroller of the Currency.

"(2) Bank eligible security.—For purposes of this section, the term 'bank-eligible security' means any of the following investment securities:

"(A) Obligations of the United States.

"(B) General obligations of any State or any political subdivision of any State.

"(C) Obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969.

"(D) Obligations issued—

"(i) under authority of the Federal Farm Loan Act; or

"(ii) by the thirteen banks for cooperatives, any bank for cooperatives, or the Federal Home Loan Banks.

"(E) Obligations insured by the Secretary of Housing and Urban Development under title XI of the National Housing Act.

"(F) Obligations insured by the Secretary of Housing and Urban Development pursuant to section 207 of the National Housing Act, if the debentures to be issued in payment of those insured obligations are guaranteed as to principal and interest by the United States.

"(G) Obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association.

"(H) Mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act.

"(I) Obligations of the Federal Financing Bank.

"(J) Obligations of the Environmental Financing Authority.

"(K) Obligations or other instruments or securities of the Student Loan Marketing Association.

"(L) Such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949) as are secured by an agreement between the local public agency and the Secretary of Housing and Urban Development in which the local public agency agrees to borrow from the Secretary, and the Secretary agrees to lend to that local public agency, moneys in an aggregate amount which (together with any other moneys irrevocably committed to the payment of interest on those obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of those obligations, which moneys under the terms of the agreement are required to be used for those payments.

"(M) Such obligations of a public housing agency (as defined in the United States Housing Act of 1937) as are secured—

"(i) by an agreement between that agency and the Secretary of Housing and Urban Development in which the agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the agency, prior to the maturity of those obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on those obligations) will suffice to pay the principal of those obligations with interest to maturity thereon, which moneys under the terms of that agreement are required to be used for the purpose of paying the principal of and the interest on those obligations at their maturity;

"(ii) by a pledge of annual contributions under an annual contributions contract between that agency and the Secretary of Housing and Urban Development if that contract contains the covenant by the Secretary which is authorized by section 6(g) of the United States Housing Act of 1937, and if the maximum sum and the maximum period specified in that contract pursuant to such section 6(g), shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on those obligations; or

"(iii) by a pledge of both annual contributions under an annual contributions contract containing the covenant by the Secretary of Housing and Urban Development which is authorized by section 6(g) of the United States Housing Act of 1937, and a loan under an agreement between that agency and the Secretary in which the agency agrees to bor-

VOL 137 PT 23 NO 21–25 1991 UMI

row from the Secretary and the Secretary agrees to lend to the agency, prior to the maturity of the obligations involved, moneys in an amount that (together with any other moneys irrevocably committed under the annual contributions contract to the payment of principal and interest on those obligations) will suffice to provide for the payment when due of all installments of principal and interest on those obligations, which moneys under the terms of the agreement are required to be used for the purpose of paying the principal and interest on those obligations at their maturity.

"(N) Obligations issued by the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation.

"(O) Obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes, which are at the time eligible for purchase by a national bank for its own account.

"(P) Obligations issued by the Tennessee Valley Authority.

"(Q) Obligations issued by the United States Postal Service.".

(2) Rule of construction.—The amendment made by paragraph (1)—

(A) may not be construed to make any substantive change in the meaning of any provision of section 5136 of the Revised Statutes (as in effect on the day before the effective date of the amendment); and

(B) shall not affect any regulation prescribed, any order issued, any interpretation provided, or any action taken before the effective date of the amendment under or pursuant to that section (as in effect on the day before that date).

(b) Technical and Conforming Amendments.—

(1) Federal reserve act.—The 20th paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by striking "paragraph 'Seventh' of" and inserting "subsections (b), (c), and (d) of".

(2) National housing act.—Section 514 of the National Housing Act (12 U.S.C. 1733) is amended by striking "paragraph seventh of" and inserting "subsections (b) and (c) of".

(3) International banking act.—Section 4(g)(1) of the International Banking Act of 1978 (12 U.S.C. 3102(g)(1)) is amended by striking "paragraph 'Seventh' of" and inserting "subsection (c) of".

SEC. 1140. SENSE OF THE SENATE REGARDING THE REPEAL OF THE LUXURY EXCISE TAX ON BOATS.

It is the sense of the Senate that—

(1) the luxury excise tax on boats has imposed an unfair burden on boat workers, manufacturers, and retailers;

(2) the luxury excise tax on boats has caused the loss of up to 19,000 jobs in the boat building industry and thousands more in the retailing industry;

(3) middle-class workers and small businesses, not the wealthy, are harmed by the tax;

(4) the luxury excise tax on boats is costing the Government more in lost income tax receipts, payroll tax receipts, additional unemployment compensation, and compliance and enforcement costs than the revenue generated by such tax on boats;

(5) the luxury excise tax forces small business people to become tax collectors and enforcers for the Internal Revenue Service;

(6) the luxury excise tax on boats is harming one of America's strongest domestic industries and aiding our foreign competitors;

(7) the luxury excise tax on boats is contributing to the depth and severity of the recession and helping ensure that economic recovery will be more difficult; and

(8) the Congress should immediately adopt legislation to repeal the luxury excise tax on boats.

SEC. 1141. ACT NOT TO AFFECT APPLICATION OF INTERNAL REVENUE CODE.

Any reference in the Internal Revenue Code of 1986 to a bank holding company shall not include any bank holding company that—

(1) engages (directly or indirectly) in any activity that was not permitted, and that the Board of Governors of the Federal Reserve System could not have permitted, under the Bank Holding Company Act of 1956 as in effect on the day before the date of enactment of this Act; or

(2) owns or controls (directly or indirectly) shares of any company if the holding of those shares was not permitted, and could not have been permitted by the Board of Governors of the Federal Reserve System, under the Bank Holding Company Act of 1956 as in effect on the day before the date of enactment of this Act.

SEC. 1142. COMMUNITY DEVELOPMENT AUTHORITY OF NATIONAL BANKS.

Section 5136 of the Revised Statutes (12 U.S.C. 24), as amended by section 716, is further amended by adding at the end of subsection (a) the following new paragraph:

"(10) Community development.—To make investments designed primarily to promote the public welfare, including low- and moderate-income communities or families (such as by providing housing, services, or jobs). The national bank may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. The Comptroller shall limit a bank's investments in any 1 project and a bank's aggregate investments under this paragraph. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 1143. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1144. CREDITABILITY OF SERVICE.

(a) Chapter 83.—Section 8332 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(b) Chapter 84.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(c) Applicability.—The amendment made by this section shall apply with respect to any individual who transfers to a position in which he or she is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, on or after October 1, 1991.

SEC. 1145. DELEGATED PROCESSING.

(Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1713, note) is amended in the first sentence, by inserting before the period "or other individuals and entities expressly approved by the Department of Housing and Urban Development".

SEC. 1146. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as specified in such covenant described in subparagraph (B) of section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay approval of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.".

SEC. 1147. EXAMINATION AND SUPERVISION FEES FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) In General.—Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the fourth undesignated paragraph and inserting the following:

"The Comptroller of the Currency is authorized to impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of his or her office. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.";

(2) by striking "In addition to the expense of examination" and all that follows through "to cover the expenses thereof.".

(b) Technical Amendment.—Section 5240 of the Revised Statutes is amended in the second undesignated paragraph (12 U.S.C. 481)—

(1) by striking the second sentence;

(2) by striking the third sentence and inserting "If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this section or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.";

(3) in the fourth sentence, by inserting "or from other fees or charges imposed pursuant to this section" after "assessments on banks or affiliates thereof"; and

(4) in the fifth sentence—

(A) by inserting ", fees, or charges" before "may be deposited"; and

(B) by inserting "or of other fees or charges imposed pursuant to this section" before the period.

(c) Assessment Authority of the Office of Thrift Supervision.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) Examination of Savings Associations.—The cost of conducting examinations of savings associations pursuant to section 5(d) shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

"(b) Examination of Affiliates.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.";

(2) by amending subsection (k) to read as follows:

"(k) Fees for Examinations and Supervisory Activities.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.".

SEC. 1148. INTERAGENCY SHARING OF INFORMATION.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) Privileges.—

"(1) In general.—The transfer or use of any information by, between, or among—

"(A) any appropriate Federal banking agency;

"(B) the Resolution Trust Corporation;

"(C) the Farm Credit Administration;

"(D) the Farm Credit System Insurance Corporation; or

"(E) the National Credit Union Administration,

and any other agency of the Federal Government, in any capacity, shall not constitute a waiver of any privilege applicable to such information.

"(2) Definition of privilege.—For purposes of this subsection—

"(A) the term 'agency of the Federal Government' has the same meaning as in section 6 of title 18, United States Code; and

"(B) the term 'privilege' includes any work product, attorney-client, or other privilege recognized under Federal or State law that is available to an agency of the Federal Government.".

SEC. 1149. APPLICATION OF STATE LAW FOR INSURANCE PURPOSES.

Section 5136A(c)(4) of the Revised Statutes, as added by section 771, is amended to read as follows:

"(4) Compliance with state law.—A national bank or branch and any State bank or branches providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.".

SEC. 1150. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) Additional Coverage Established Under Federal Deposit Insurance Act.—

(1) In general.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) In General.—

"(1) Employees of depository institutions.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution.

"(2) Employees of bankino agencies.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency that employs such employee.".

(2) Technical and conforming amendment.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) Definition.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) Federal Banking Agency Defined.—For purposes of subsection (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Office of Thrift Supervision.".

(b) Additional Coverage Established Under Federal Credit Union Act.—

(1) In general.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) In General.—

"(1) Employees of credit unions.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) Employees of the administration.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union or the Administration;

"(B) any director, officer, or employee of any credit union; or

"(C) any officer or employee of the Administration.".

(2) Technical and conforming amendment.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(c) Coverage for Employees of RTC and RTC Contractors.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC and RTC Contractor Employee Protection Remedy.—

"(1) Prohibition against discrimination.—The Corporation and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation in such corporation's capacity as manager of the Corporation or any personnel referred to in subsection (b)(9)(B)(ii)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Attorney General, or any appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation or such person or any director, officer, or employee of the Corporation or the person.

"(2) Enforcement.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) Remedies.—If the district court determines that a violation has occurred, the court may order the Corporation or the person that committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) Limitation.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corpora-

VOL 137 PT 23 NO 21—25 1991 UMI

tion, the Attorney General, or any appropriate Federal banking agency.".

SEC. 1151. REAL ESTATE LOAN PORTFOLIOS.

No Federal financial regulatory agency shall criticize an investment or a loan made by a federally insured depository institution or consider the loan to be nonperforming solely because the loan is made to or the investment is in commercial, residential, or industrial property, unless the loan or investment may affect the institution's safety and soundness.

SEC. 1152. SENSE OF THE CONGRESS REGARDING THE CREDIT CRUNCH.

(a) Findings.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date, the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade from dramatic changes in tax rules.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) immediate and carefully coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors, and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate bad debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) foster a balanced regulatory environment among supervisors and examiners in the field with respect to commercial, multifamily and single-family real estate by ending market-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) promote a rational tax system for real estate owners and operators.

SEC. 1153. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) Reports to Appropriate Federal Banking Agencies.—

(1) In general.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) Exceptions.—

(A) Intelligence information.—

(i) In general.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

(ii) Procedures for receipt of intelligence information.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence information.

(B) Criminal investigations; safety of government investigators.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) Grand jury investigations; criminal procedure.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) Procedures for Receipt of Reports.—

(1) In general.—Within 90 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) Procedures related to each report.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to aragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) Definitions.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 1154. TECHNICAL CORRECTIONS TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3(q)(2)(E), by striking "Depository Institutions Supervisory Act" and inserting "Financial Institutions Supervisory Act of 1966";

(2) in section 7(a)(8), by striking "the the" and inserting "the";

(3) in section 7(*l*)(7), by striking "the value of";

(4) in section 7(m)(5)(A), by striking "institution" the second time it appears;

(5) in the third sentence of section 8(a)(7), by striking "the period" the first time it appears;

(6) in paragraphs (3) and (4) of section 8(b), by striking "subsection (u)" and inserting "subsections (u) and (v)";

(7) in section 8(b)(6)(F), by inserting "appropriate" before "banking";

(8) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(9) in section 8(g)(2), by striking "depository institution" each time it appears and inserting "bank".

(10) in section 8(o), by striking "board of directors" each time it appears and inserting "Board of Directors";

(11) in section 8(r)(2), by striking "therof" and inserting "thereof";

(12) in section 11(a)(2), by striking the designation "(b)" and inserting the designation "(B)";

(13) in section 11(c)(6)(B), by striking "Owner's" and inserting "Owners'";

(14) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(15) in section 11(d)(8)(B)(ii), by inserting "provide" after "disallowed,";

(16) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(17) in section 11(e)(12)(B), by striking "directors or officers" and inserting "directors' or officers'";

(18) in section 11(i)(3)(A), by striking "or" the last time it appears and inserting "of";

(19) in section 11(q)(1), by striking "decided" in the second sentence and inserting "held";

(20) in section 13(f)(6)(A), by striking "has in default" and inserting "is in default";

(21) in section 13(i), by redesignating paragraphs (11) and (13) as paragraphs (10) and (11), respectively;

(22) in section 18(k)(4)(C)(ii), by striking "Board" and inserting "Corporation";

(23) in section 30(e)(1)(A), by striking "venders" and inserting "vendors";

(24) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors"; and

(25) in section 34(a)(1)(A)(iii), by striking "and" and inserting "or".

SEC. 1155. DISCRIMINATION AGAINST REORGANIZED DEBTORS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, United States Code, if, after confirmation of a plan of reorganization, such corporation would not otherwise be highly leveraged.".

SEC. 1156. REAL ESTATE APPRAISAL PROCEDURES.

(a) Extension of Effective Date.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended—

(1) by striking "July 1, 1991" and inserting "January 1, 1993"; and

(2) by striking paragraph (2) and inserting the following:

"(2) State requirements.—No State may require that appraisals in connection with federally related transactions be conducted by State certified or licensed appraisers prior to the date contained in paragraph (1).".

(b) Waiver Based on Shortage of Appraisers.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(1) by inserting "(1) In general.—" before "Subject to the approval of the Council";

(2) by inserting at the end of the first sentence the following: "or that there are other relevant reasons for such action";

(3) by striking the last sentence and inserting the following: "A waiver may be granted upon the motion of the State, a Federal agency, or a unit of general local government."; and

(4) by adding at the end the following:

"(2) Timing.—The Appraisal Subcommittee shall determine whether to grant a request by an agency, State, or unit of general local government for a waiver under paragraph (1) not later than 60 days after such request is submitted.

"(3) Duration.—A waiver granted under this subsection shall remain in effect for a period of 1 year.

"(4) Duplicative requests for waiver.—If a State is granted a waiver under this subsection, the Appraisal Subcommittee is not required to consider similar requests by units of general local government.

"(5) Regulations Relating to Waivers.—The Appraisal Subcommittee shall promulgate and implement regulations to carry out this subsection not later than March 31, 1992.".

(c) De Minimus Exception.—

(1) In general.—Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(A) by inserting "(a) In General.—" before "In determining"; and

(B) by adding at the end the following:

"(b) De Minimus Exception.—The Federal financial institutions regulatory agencies shall exempt from the requirement for an appraisal by a State certified or by a State licensed appraiser—

"(1) any 1- to 4-unit single family residential transaction having a value of $100,000 or less; and

"(2) any other transaction having a value of $200,000, or less;

except that such agencies may establish a different value for the purposes of paragraph (1) or (2) if such agencies determine that unique economic conditions, geographic considerations, or other factors make such action appropriate.

"(c) Home Equity Loans.—The Federal financial institutions regulatory agencies shall establish and implement a separate de minimus standard applicable to home equity loans not later than 6 months after the date of enactment of this subsection.".

SEC. 1157. SANCTION FOR FINANCING THE USE OR ACQUISITION OF CHEMICAL OR BIOLOGICAL WEAPONS.

Section 81 of the Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by amending subsection (c)(1) to read as follows:

"(c) Sanctions.—

"(1) Description of sanction.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, that—

"(A) the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3); and

"(B) the foreign person is prohibited from conducting business in the United States if the foreign person is a bank, financial institution, or insurer, or any subsidiary thereof, and if the President determines that the foreign person knowingly and materially contributed to the efforts of any foreign country, project, or entity described in subsection (a)(2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.".

SEC. 1158. SANCTION FOR FINANCING CHINESE SLAVE LABOR.

(a) Sanction.—A foreign person which is a bank, financial institution, or insurer, and any parent, subsidiary, affiliate and successor entity of that foreign person, shall be prohibited from conducting business in the United States if the President determines that on, or after the date of enactment, the foreign person has knowingly and materially contributed to the efforts of the People's Republic of China, to develop, produce, market, transport, or sell goods produced by forced or prison labor within the meaning of section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307).

(b) Termination of Sanction.—A sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a) has ceased to aid or abet efforts by the People's Republic of China to develop, produce, market, transport, or sell goods produced by forced or prison labor.

(c) Waiver.—

(1) The President may waive the application of a sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which the sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(d) Definition.—For purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

SEC. 1159. EMPLOYMENT RETIREMENT INCOME SECURITY ACT.

Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

SEC. 1160. SENSE OF THE CONGRESS REGARDING COMPETITIVE SOLICITATION OF RESOLUTION PROPOSALS.

(a) In General.—It is the sense of the Congress that in order to minimize the cost to the Insurance Fund, the FDIC when resolving troubled insured depository institutions, should vigorously solicit competing proposals from a wide spectrum of potentially interested acquirers and investors and, in so doing, should use a competitive bidding framework that affords a fair and impartial opportunity for participation by qualified and interested acquirers and investors and that is designed to produce the lowest-cost transaction with respect to each particular institution.

(b) Documentation.—The FDIC should document its evaluation of proposals by qualified acquirers or investors. Such documentation should include, but is not limited to—

(1) reducing all last offers to comparables;

(2) comparing all last offers using the same principles;

(3) describing the assumptions used to compare, accept and/or reject any offer or last offer;

VOL 137 PT 23 NO 21 — 25 1991 UMI

(4) stating the reason(s) for cessation of negotiations with any potential acquirer or investor, if any; and

(5) stating why the final agreement is the best obtainable by the FDIC.

SEC. 1161. REAL ESTATE.

(a)(1) The Senate believes that the responsibility to establish national banking policy should rest with the Congress and not Federal financial regulatory agencies.

(2) The Senate believes that this responsibility is especially true with regard to whether insured depository institutions, in particular, bank holding companies, should be permitted to engage in real estate brokerage.

(3) The Federal Reserve Board may, pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)), permit bank holding companies to engage in those non-banking activities which are "reasonably related to the business of banking or are a proper incident thereto".

(4) The Senate believes that real estate activities, other than those expressly approved for national banks pursuant to the National Bank Act, may not be directly related to the business of banking or incidental to banking, for purposes of the Bank Holding Company Act.

(5) Congress believes that Congress, not the regulatory avenue should determine whether or not bank holding companies should be permitted to engage in real estate brokerage.

(b) It is the sense of the Senate that Congress, not the Federal Reserve Board should determine whether or not real estate brokerage is "closely related to banking" for section 4(c)(8) of the Bank Holding Company Act of 1956.

SEC. 1162. UNITED STATES POLICY TOWARD YUGOSLAVIA.

(a)(1) Since attacks against the people and territory of the Republic of Croatia by armed forces responding to direction from the Republic of Serbia are continuing despite numerous cease-fire agreements negotiated under the auspices of the European Community.

(2) Since losses of life, property, and displacement of persons have already reached grievous levels and are continuing to rise as the result of continued violation of cease-fires.

(3) Since attacks against the Republic of Croatia represent an effort to change post-war borders by force.

(4) Since it is a fundamental principle essential for the future peace of Europe that borders not be changed by force.

(b) The sense of the Senate that, if the Croatian Government adheres in good faith to the terms of cease-fires negotiated by the European Community, and if those parties now conducting military operations against the Republic of Croatia refuse to comply immediately with the terms of such cease-fires, the policy of the United States should be—

(1) to consult promptly with the EC, with other countries on a bilateral basis, and with the United Nations on the question of recognizing, upon request, those Republics such as Slovenia and Croatia that have declared their sovereignty and independence and have agreed to cooperate with EC efforts;

(2) to take whatever steps are needed under existing legal authorities to bring the United States into conformity with sanctions and other punitive measures agreed to by the EC for its own members and recommended by them for others, and to take action parallel to those proposed by the EC for applying "positive compensatory measures" to be applied to those parties that "cooperate in a peaceful way towards a comprehensive political solution on the basis of EC proposals";

(3) to offer humanitarian assistance to those republics that require such assistance on an emergency basis in light of conflict taking place on their territories;

(4) to place the Republic of Serbia on notice that continued military action will cause the United States to support EC efforts to call for mandatory United Nations Security Council measures as a response to an act of aggression;

(5) to require of all authorities a clear and binding commitment to protect the rights of minorities living within the borders mutually recognized by the republics and provinces of Yugoslavia in 1974 and to seek formal commitment on their part to accept international inspection and, if necessary, arbitration, to protect those rights; and

(6) to lend strong support to all EC and other international activities aimed at bringing about a restoration of peace and respect for the principle that territorial disputes shall not be settled by the use of violence.

SEC. 1163. CREDIT CARD SALES.

Section 11 of the Federal Deposit Insurance Act is amended by adding a new paragraph (14) to subsection (e) as follows:

"(14) CREDIT CARD SALES.—

"(A) NOTIFICATION.—Any insured depository institution shall notify the Corporation in writing prior to entering into any agreement relating to the sale of credit card receivables, if the institution is:

"(i) not in compliance with the minimum applicable core capital requirements; or

"(ii) not adequately capitalized as defined in section 205 of the Comprehensive Deposit Insurance Return and Taxpayers Protection Act of 1991.

"(B) WAIVER BY THE CORPORATION.—After receipt of the written notice required in subparagraph (A), the Corporation, in its sole discretion and upon such terms and conditions as it may prescribe, may waive its right to repudiate the agreement if the Corporation determines that such a waiver is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

"(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the ability of the Corporation to otherwise waive its rights to repudiate any agreement or lease under this section.

"(D) NO BREACH OF DUTY.—In granting any waiver of its right to repudiate a contract or lease, including any waiver granted under subparagraph (B), the Corporation, in any capacity, shall not be liable to any person for any damages as a result of such action nor shall any court have jurisdiction to enjoin, restrain or affect the exercise of such powers by the Corporation.

"(E) EFFECT OF WAIVER ON SUCCESSORS.—Where the Corporation has waived its right to repudiate pursuant to subparagraph (B), any restriction contained or incorporated by reference in a sales agreement on the manner in which any customer or any list of customers of the selling institution may be solicited or otherwise dealt with shall be binding upon a receiver or conservator of the institution and the Corporation shall require any entity which subsequently purchases or acquires such selling institution, or substantially all of the assets or liabilities of such institution, to assume, and agree to be bound by, such restrictions on the manner in which any such customer or lists of customers of the selling institution may be solicited or otherwise dealt with, as if the acquiring entity were the selling institution: *Provided, however*, That nothing herein shall be read to inhibit or restrict such subsequently acquiring entity's ability to offer any service or product to any group of prospective customers as identified without use of or reference to any such prior customer status or list, or to require such entity to discontinue or restrict any of its preexisting customer relationships. Nothing herein shall apply to a transaction in which the Corporation arranges for a depository institution to purchase only insured deposits.

"(F) CREDIT CARD CUSTOMER LIST.—Notwithstanding any other provision of this paragraph (14), if any consummated agreement reached at arms length relating to the sale or transfer of credit card receivables by an insured depository institution provides for the sale of the exclusive use of any credit card customers list of the selling institution, the Corporation shall prohibit the use of such list by any person other than as provided by the terms of such previous agreement as part of any transaction undertaken pursuant to sections 11 or 13 of this Act.

"(G) FRAUDULENT TRANSACTIONS EXCLUDED.—No provision of this paragraph shall be construed to interfere with the Corporation's rights to repudiate any contract undertaken with the intent to hinder, delay or defraud the institution, the creditors of such institution or the Corporation.".

SEC. 1164. SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York that—

(1) were deposited by a charitable organization, as such term is defined by New York State law; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be considered to have been insured deposits, as such term is defined in section 3 of the Federal Deposit Insurance Act.

TITLE XII—WORLD CUP USA 1994 COMMEMORATIVE COIN ACT

SEC. 1201. SHORT TITLE.

This TITLE may be cited as the "World Cup USA 1994 Commemorative Coin Act".

SEC. 1202. DENOMINATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 1203. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 1204. DESIGN.

(a) DESIGN REQUIREMENTS.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation on the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(d) DESIGN COMPETITION.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the enactment of this title. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 1205. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) WORLD CUP COMMUNITIES.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) INTERNATIONAL SALES.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

SEC. 1206. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(c) BUREAU OF THE MINT.—Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 1207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 1208. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to the Organizing Committee. Such amounts shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with ten percent of such funds to be made available through the United States Soccer Federation Foundation, Inc. for distribution to institutions providing scholastic scholarships to qualified students.

SEC. 1209. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 1208.

SEC. 1210. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 1211. FINANCIAL ASSURANCES.

(a) NOT NET COST.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1202 shall not result in any net cost to the Federal Government.

(b) PAYMENT ASSURANCES.—No coin shall be issued under this act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE XIII—WHITE HOUSE COMMEMORATIVE COIN ACT OF 1991

SEC. 1301. SHORT TITLE.

This title may be cited as the "White House Commemorative Coin Act of 1991".

SEC. 1302. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall issue not more than 500,000 one dollars coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the 200th anniversary of the laying of the cornerstone of the White House. On each such one dollar coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words, "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 1303. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 1304. SELECTION OF DESIGN.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 1305. SALE OF COINS.

(a) SALE OF COINS.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to their issuance. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 1306. ISSUANCE OF COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title—

(1) shall be issued beginning not later than May 1, 1992; and

(2) may not be issued after November 1, 1993.

(b) PROOF AND UNCIRCULATED QUALITIES.—The coins authorized under this title shall be issued in uncirculated and proof qualities, except that not more than 1 facility of the Bureau of the Mint may be used to strike any particular quality.

SEC. 1307. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out this Act. Nothing in this section relieves any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 1308. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins in accordance with section 5 shall be promptly paid by the Secretary to the White House Endowment Fund (hereafter referred to as the "Fund")—

(1) to supplement the Fund for an endowment to be used as a permanent source of support for the White House collection of fine art and historic furnishings; and

(2) to be used for the maintenance of the historic public rooms of the White House.

SEC. 1309. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Fund as may be related to the expenditure of amounts paid under section 1308.

SEC. 1310. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized to be paid to the Fund under section 1308 from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 1311. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1302

VOL
137
PT
23
NO
21
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25
1991
UMI

shall not result in any net cost to the Federal Government.

(b) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured under the Federal Deposit Insurance Act or the National Credit Union Act.

SEC. 1312. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

MESSAGES FROM THE HOUSE

At 9:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announced that the Speaker has made the following modification in the appointment of the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes:

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference: Mr. CONYERS and Mr. HORTON.

ENROLLED BILL SIGNED

At 12:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2629. An act to amend the Small Business Act to assist the development of small business concerns owned and controlled by women.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 3:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian".

The message also announced that the House has passed the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses, and appoints Mr. GONZALES, Mr. ANNUNZIO, Mr. NEAL of North Carolina, Mr. HUBBARD, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. BARNARD, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. ERDREICH, Mr. CARPER, Mr. TORRES, Mr. KLECZKA, Mr. WYLIE, Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. BEREUTER, Mr. RIDGE, Mr. ROTH, Mr. MCCANDLESS, and Mr. BAKER as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3031. An act to provide a statutory charter, and to authorize appropriations, for the National Telecommunications and Information Administration, and for other purposes;

H.R. 3365. An act to amend title 31, United States Code, to restrict the authority of newly established Government-related corporations to borrow from the Treasury and to require an annual evaluation of the impact of public borrowing by such corporations on the public debt;

H.R. 3866. An act to provide for the designation of the Flower Garden Banks National Marine Sanctuary;

H.J. Res. 201. Joint resolution designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 300. Joint resolution designating the month of May 1992 as "National Trauma Awareness Month"; and

H.J. Res. 376. Joint resolution designating December 1, 1991, as "World AIDS Day."

At 4:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 680) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes; with amendments, in which it requests the concurrence of the Senate:

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1104. An act to declare certain portions of Pelican Island, Texas, nonnavigable.

ENROLLED JOINT RESOLUTIONS SIGNED

At 6:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian".

MEASURES PLACED ON THE CALENDAR

The Committee on Banking, Housing, and Urban Affairs was discharged from the further consideration of the following bill, which was placed on the calendar:

H.R. 26. An act to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2130. An act to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 23, 1991, he had presented to the President of the United States the following enrolled bills:

S. 1563. An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes; and

S. 1568. An act to amend the Act incorporating The American Legion so as to redefine eligibility for membership therein.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 461. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 102–230).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 549. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System (Rept. No. 102–231).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 606. A bill to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 102–232).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1552. A bill to amend the Wild and Scenic Rivers by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 102–233).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 1770. A bill to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes (Rept. No. 102–234).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S.J. Res. 23. A joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920 (Rept. No. 102–235).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 543. A bill to establish the Manzanar National Historic Site in the State of California, and for other purposes (Rept. No. 102–236).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 990. A bill to authorize additional appropriations for land acquisition at Monacacy National Battlefield, Maryland (Rept. No. 102–237).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 2370. A bill to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes (Rept. No. 102–238).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3387. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes (Rept. No. 102–239).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 476. A bill to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 102–240).

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3595. A bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

Mr. BENTSEN. Mr. President, I would like to file a measure that was approved by the Finance Committee on Friday, November 22—a committee amendment, in the nature of a substitute, to H.R. 3595, the Medicaid Moratorium Amendments of 1991.

Mr. President, I ask unanimous consent that the text of the amendment and an explanatory statement be printed in the RECORD following my remarks.

Yesterday, the Finance Committee also reported another measure, without recommendation, to implement an agreement reached between the administration and the National Governors' Association regarding State sources of funding for the Medicaid program. Final language for that bill is not yet available, but I will file it on behalf of the committee as soon as it is available.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Moratorium Amendments of 1991".

SEC. 2. MORATORIUM ON THE ISSUANCE OF FINAL REGULATIONS AND ON THE USE OF DONATIONS AND PROVIDER-SPECIFIC TAXES BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID.

(A) MORATORIUM ON ISSUANCE OF FINAL REGULATIONS.—

(1) DELAY IN CHANGES IN REGULATIONS CONCERNING DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647) is amended by striking "December 31, 1991" and inserting "April 1, 1992".

(2) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—Such section is further amended by—

(A) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(B) by adding at the end the following new subsection:

"(b) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—The Secretary shall not issue any regulation prior to April 1, 1992, that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public funds as a source of State share of financial participation under title XIX of the Social Security Act, including the treatment of such funds as a source of State share of financial participation under such title notwithstanding the fact that the public agency contributing the funds provides services under the State plan under such title.".

(3) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—Such section is further amended by adding at the end the following new subsection:

"(c) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall not issue any regulation prior to April 1, 1992, regarding standards for qualification as a disproportionate share hospital or payment adjustments for such hospitals under title XIX of the Social Security Act".

(b) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—

"(1) DETERMINATIONS OF FEDERAL MATCHING PAYMENTS DURING MORATORIUM PERIOD.—

"(A) IN GENERAL.—For purposes of determining the amount to be paid to a State under section 1903(a)(1) of the Social Security Act for the period of January 1 through March 31, 1992, the total amount expended during such period as medical assistance under the State plan shall be reduced by the amount determined under subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount determined under this subparagraph shall be such amount of revenues from provider-specific taxes and provider donations as exceeds the sum of—

"(i) the total amount of any revenues received by the State (and by any units of local government in the State) during such period from provider-specific taxes pursuant to State or local legislation as enacted or adopted on or before November 22, 1991; plus

"(ii) the total amount of any revenues received by the State (and by any units of local government in the State), from provider donations under donation programs in effect on September 30, 1991, that do not exceed 25 percent of such revenues received in Federal fiscal year 1991.

"(2) MORATORIUM ON STATE TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—For the period of January 1, 1992, through March 31, 1992, a State may not—

"(A) designate as a disproportionate share hospital any hospital that is not so designated pursuant to a State plan amendment that was submitted on or before September 30, 1991; or

"(B) change the formula or rates upon which Federal reimbursement is based for disproportionate share hospitals during such period.".

(c) RELATED PROVISIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(e) RELATED PROVISIONS.—

"(1) MORATORIUM ON REVISIONS OF ESTIMATED AMOUNTS.—In estimating under section 1903(d)(1) of the Social Security Act the amount to which a State will be entitled for a quarter under subsections (a) and (b) of section 1903 of such Act for a quarter beginning on January 1, 1992, and ending on and including March 31, 1992, the Secretary may not withhold any amounts estimated to be expended during the quarter (or reduce any amount so estimated pursuant to section 1903(d)(2)(A) of such Act) solely because the amounts are attributable to provider donations, intergovernmental transfers, or provider-paid taxes.

"(2) PROHIBITION ON PENALTIES AND OTHER REGULATORY ACTIONS PERTAINING TO PERIOD OF MORATORIUM.—The Secretary may not assess a penalty or take any compliance, disallowance, or other regulatory action against a State under or pursuant to title XIX of the Social Security Act on the basis of the State's use of provider donations, intergovernmental transfers, or taxes (whether or not of general applicability) paid by, assessed against, or received from an individual or entity providing medical assistance under the State plan under such title to receive Federal matching funds under such title for quarters beginning on or after January 1, 1992, and ending on or before April 1, 1992.".

(d) DEFINITIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (c), is further amended by adding at the following new subsection:

"(f) DEFINITIONS.—For purposes of this section—

"(1) 'donation' means any voluntary payment, in cash or in kind, including any gift, contribution, presentation, or award;

VOL 137 PT 23 NO 21—25 1991 UMI

"(2) 'health care provider' means any individual or entity that furnishes health care items or services for which it receives remuneration;

"(3) 'provider' includes any—

"(A) health care provider;

"(B) corporation, partnership, association, or organization formed by or on behalf of health care providers;

"(C) person who has an ownership or control interest (as defined in section 1124(a)(3) of the Social Security Act) in a health care provider;

"(D) employee, spouse, parent, child, or sibling of an individual described in subparagraph (A) or (C); and

"(E) individual or entity that is a major customer or supplier of a health care provider;

"(4) 'provider donation' means a donation by or on behalf of a provider;

"(5) 'provider specific tax' means a tax assessed under State or local law whose applicability is limited to health care providers or health care services (a tax is limited to health care providers or health care services if no other entity, item, or activity is subject to the identical tax); and

"(6) 'tax' means any mandatory payment imposed by a State or unit of government subordinate to a State, including any assessment, fee, charge, or duty.".

(e) Budgetary Treatment.—

(1) No sequestration.—Notwithstanding any other provision of law, there shall be no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of the provisions of (and amendments made by) this Act.

(2) No assumption with regard to regulation.—The budget submitted pursuant to section 1105 of title 31, United States Code, shall be prepared in a manner that does not assume any effects (including potential effects) on Federal expenditures resulting from the issuance of any regulation that relates to—

(A) provider-specific taxes;

(B) provider donations;

(C) intergovernmental transfers; and

(D) standards for qualifying as a disproportionate hospital or payments for such hospitals under title XIX of the Social Security Act, and

that is not a final regulation by the submission date of such budget.

Amend the title so as to read: "An Act to provide for a moratorium on the issuance of final regulations and on the use of donations and provider-specific taxes by States to receive Federal matching funds under medicaid."

Committee Amendment to H.R. 3595. the Medicaid Moratorium Amendments of 1991

The Committee amendment (in the nature of a substitute) to H.R. 3595, would do the following:

(A) MORATORIUM ON ISSUANCE OF FINAL REGULATIONS

A moratorium would be imposed on HCFA's issuance of final regulations on the States' use of provider donations until April 1, 1992.

A moratorium would be imposed on HCFA's issuance of final regulations on the States' use of provider-specific taxes until April 1, 1992.

A moratorium would be imposed on HCFA's issuance of final regulations on the States' use of intergovernmental transfers until April 1, 1992.

A moratorium would be imposed on HCFA's issuance of final regulation on payments to or designation of disproportionate share hospitals until April 1, 1992.

(B) FREEZE ON STATE DONATION AND TAX REVENUES

For the period from January 1, 1992 to April 1, 1992, States would be prohibited from increasing the amount of the State share of Medicaid expenditures derived from voluntary donations above one-fourth of the amount derived from such donations during FY 1991 pursuant to programs in effect on September 30, 1991.

For the period from January 1, 1992 to April 1, 1992, there would be no Federal matching for the State share of Medicaid expenditures derived from taxes on any type of Medicaid provider that were not established pursuant to State or local legislation as enacted or adopted on or before November 22, 1991. There could be no additional types of entities taxed or increase in the tax rate during the moratorium.

For the period from January 1, 1992 to April 1, 1992, States could not designate as a disproportionate share hospital any hospital that is not so designated pursuant to a state plan amendment submitted on or before September 30, 1991, or change the formula or rate for determining reimbursement to disproportionate share hospitals.

(C) RELATED PROVISIONS

Prohibition on penalty actions related to moratorium period HCFA would be prohibited from taking any disallowance, penalty, compliance, or other action to recover Federal matching funds paid to a state solely because the State's expenditures on which the matching funds were based were paid for with revenues derived from voluntary donations, provider-specific taxes, or intergovernmental transfers. The prohibition would apply for State expenditures made during the period of the moratorium.

Prohibition on revision of estimated amounts with respect to the moratorium period, HCFA would be prohibited from reducing quarterly expenditure estimates submitted by the States or from withholding amounts paid in quarterly grants to the States solely because the expenditures would be paid for with revenues derived from voluntary donations, provider-specific taxes or intergovernmental transfers.

(D) BUDGETARY TREATMENT

No sequestration would be imposed under Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of the provisions of (and amendments made by) this Act.

The Office of Management and Budget would be prohibited from assuming, for purposes of the President's FY 1993 budget baseline, any effects or potential effects on Federal expenditures resulting from any regulation that is not a final regulation relating to provider-specific taxes, voluntary donations, inter-governmental transfers, disproportionate share payments, or designation of disproportionate share hospitals until Title XIX.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 2032. A bill to amend the Alaska Native Claims Settlement Act to settle claims arising from the contamination of transferred lands, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. DASCHLE:

S. 2033. A bill to expand the exclusion of services of election officials and workers from social security earnings; to the Committee on Finance.

By Mr. McCAIN:

S. 2034. A bill to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; to the Select Committee on Indian Affairs.

By Mr. DOLE:

S. 2035. A bill to amend the Federal Election Campaign Act of 1971 to tighten the prohibition of fraudulent misrepresentation of campaign authority; to the Committee on Rules and Administration.

By Mr. KASTEN:

S. 2036. A bill to improve the access of all individuals to health care and long-term care and to provide cost control through the reform of procedures relating to medical malpractice, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 2032. A bill to amend the Alaska Native Claims Settlement Act to settle claims arising from the contamination of transferred lands, and for other purposes; to the Select Committee on Indian Affairs.

ANCSA LAND TRANSFER EQUITY ACT OF 1991

• Mr. MURKOWSKI. Mr. President, this year marks the 20th anniversary of the Alaska Native Claims Settlement Act. ANCSA, as it is commonly referred to, granted Alaska's Natives 44 million acres of land in Alaska and monetary compensation for the loss of title to their ancestral lands.

Enactment of this legislation in 1971 was a watershed event for the State of Alaska and Alaska Natives. The land grants and compensation contained in ANCSA are unprecedented. This law created business corporations based on existing Alaska Native communities instead of the old-style reservation system. These Alaska Native corporations became responsible for investing their monetary compensation and managing their lands and natural resources to the benefit of their all-Native shareholders. It set up a system whereby Alaska Natives could determine their own successes.

Many in Congress thought ANCSA would fail when it was passed 20 years ago. The settlement was a unique and untried model. Since 1971 the bill has been amended 38 times in efforts to fine tune it.

NEED FOR LEGISLATION

Mr. President, I rise today to introduce legislation that will fine tune this dynamic law once again. The ANCSA Land Transfer Equity Act of 1991 will correct a longstanding situation that has inhibited the ability of many of these Native corporations to realize

the full value of their lands as was intended by Congress.

Native corporations have already received title to 34 million acres of their original 44 million acre entitlement. Unfortunately, it has come to light that the Federal Government has transferred parcels of land to Native corporations that are contaminated with hazardous and toxic materials.

Mr. President, the Federal Government entered into a contract with Alaska Natives when ANCSA was enacted and the Federal Government has violated this contract by transferring land with hazardous waste on it. That was not supposed to be part of the deal. The whole point of ANCSA was to provide Native corporations with the means to provide for their people. The burden of hazardous waste liability seriously undermines the intent of this law and places great financial hardship on Alaska's Natives.

IMPACT ON NATIVE LANDS

Native corporations in Alaska are just starting to discover the size and scope of hazardous wastesites on lands transferred by the Federal Government. The Shee Atika Native Corporation in Sitka, AK, received the old Fort Ray site on the Alice and Charcoal Islands. There are 15 old transformers containing PCB-laden oil on the site and many of the buildings on the site are unusable due to asbestos contamination.

Twenty-two sites contaminated with hazardous waste are already listed on a preliminary Bureau of Land Management report. Old lighthouses, old Army and Navy sites, old mining sites, old Bureau of Indian Affairs schools, old canneries, and other problems make up the list. All of these sites contained this contamination before the land was transferred to the Native corporation.

LEGISLATION

Mr. President, my legislation will address this situation in a simple and equitable manner.

An affected Native corporation will be required to notify the Secretary of the Interior of contaminated sites. Within 1 year of notification, the Secretary is required to reach a settlement with Native corporation under which the Government either removes the hazardous substances or replaces the land with other contaminant-free lands of equal value. If the Native corporation contributed or generated hazardous wastes, they would be responsible for their actions.

CONCLUSION

The purpose of ANCSA is to come to fair and just settlement of all aboriginal land claims by Native groups of Alaska. Transfers of contaminated lands could hardly be construed as fair or just. The Department of Interior has indicated that they have some problems with my bill, however, they have not yet advised me of specific concerns or if, as I believe they should, even agreed that this is a serious problem. I believe that it is time to address this issue and I believe this is a fair way to satisfy Native corporations' rights and the Federal Government's responsibility under ANCSA. I look forward to working with the Department to resolve this issue and hope we can accomplish what is in the best interest of both the Department and the Alaska Native corporations.•

By Mr. DASCHLE:

S. 2033. A bill to expand the exclusion of services of election officials and workers from Social Security coverage; to the Committee on Finance.

EXPANSION OF EXCLUSION OF ELECTION OFFICIALS AND WORKERS FROM SOCIAL SECURITY COVERAGE

• Mr. DASCHLE. Mr. President, I rise today to introduce legislation to increase the Social Security exemption for election officials and election workers employed by State and local governments.

When Congress passed the Omnibus Budget Reconciliation Act of 1990, it extended Social Security requirements to include all election officials who earn $100 or more annually. These workers must be a member of a retirement plan operated by the State or local government or be required to pay the full Social Security tax.

Most election officials will exceed this $100 limit in just 2 days. Election officials in South Dakota and throughout the country are remarkably dedicated individuals who work 14- to 16-hour days while earning only minimum wage. The average election official in Minnehaha County, SD, earns approximately $120 to $225 a year, depending on the number of elections held. It is estimated that very few election officials anywhere in the country will actually earn more than $500 per year.

Many election supervisors anticipate the imposition of the Social Security requirements on election officials will have severe consequences for recruiting. It is expected that the reduction in income coupled with the requirement to fill out additional paperwork will deter many from serving in the election process. Moreover, retired volunteers, who make up a large portion of the work force, may fear that working on election day will jeopardize the benefits they currently receive from Social Security.

I have been informed by the secretary of state in South Dakota and numerous county auditors that the Social Security tax on election officials will not only negatively effect recruitment, but it will also increase the overall cost of administering elections. According to county auditors, Minnehaha County employs over 300 election officials on election day and, because their income is so near minimum wage, it pays both the employer and the employee share of the Social Security tax. This is estimated to cost Minnehaha County $10,000 in 1992. For more populated counties, the additional cost could reach well over $100,000. Moreover, counties will also face additional costs in accounting and paperwork required to implement the Social Security tax for election officials.

As a result, I am introducing a bill that will increase the Social Security exemption for election officials and election workers employed by State and local governments from $100 to $500. If counties in South Dakota and throughout the country are expected to continue recruiting an ample number of qualified individuals as election officials, it is imperative that we raise their Social Security exemption to $500. By so doing, we ensure the integrity of the election process and eliminate any undue administrative costs incurred by our counties that are responsible for its implementation.•

By Mr. McCAIN:

S. 2034. A bill to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; to the Select Committee on Indian Affairs.

ENVIRONMENTAL CLEANUP AT THE PHOENIX INDIAN SCHOOL

Mr. McCAIN. Mr. President, today, I'm introducing legislation which will require the Secretary of the Interior to remove asbestos bearing buildings and infrastructure constructed by the Federal Government on the Indian school property located in Phoenix, AZ.

Pursuant to the provisions of the Arizona-Idaho Conservation Act—Public Law 100-696—the Indian school property will be transferred from Federal ownership through a land exchange and purchase agreement.

Consummation of the agreement will provide significant benefits to the city of Phoenix, through the acquisition of important parkland and economic development; to the Federal Government, through the acquisition of land to expand the Big Cypress National Preserve; to Arizona's Native American population, through the creation of an Indian education trust fund; and to needy veterans, through the construction of a State veterans nursing home facility.

The only remaining obstacle to the finalization of this vital exchange and its associated benefits is a question over who will clean up asbestos within Federal buildings located on the Indian school property.

Mr. President, under the laws of this Nation, asbestos is considered to be a hazardous substance. In the case of the Indian school buildings, the Federal Government was responsible for putting the asbestos in place. By any measure of fairness, the Government should also be responsible for removing it.

VOL
137
PT
23
NO
21—25
1991
UMI

I remind my colleagues, remediation of asbestos is a commitment we have made at military bases which will be closed or realigned. We have the same obligation as we transfer land held by the Department of the Interior.

I'm disappointed that the Secretary of the Interior does not appear to agree with that analysis. The Department refuses to remove asbestos from the Federal buildings on the Indian school property. While I hope that ongoing discussions with the Secretary will produce a fair and equitable resolution, until such time as we can resolve this matter, this legislation is necessary.

Clearly, accepting Federal responsibility for asbestos removal at the Indian school site is fair and in the national interest. Proper removal of asbestos will avoid potential Federal liability should the material cause sickness or injury. In addition, if the cleanup issue is not resolved and the land transfer and purchase agreement is vacated, the significant national benefits I mentioned previously will be lost. Recovering those losses will cost us a price far in excess of what would be required to complete the asbestos cleanup.

I hope that the Secretary will fully consider the implications of the Department's reluctance to accept responsibility. An unyielding adherence to an unfortunate policy threatens the public good.

We have an historic opportunity to create a large park and economic development for a major city, to protect vital wetlands, to provide significant resources for Indian education, and to construct facilities to care for aging veterans. Seizing that opportunity, as we must, requires the highest level of flexibility and cooperation, not reckless brinkmanship.

Again, this legislation will require the Secretary to demolish unwanted Phoenix Indian School buildings and remove asbestos from those structures and infrastructure which will remain on the site. Doing so will eliminate a health hazard, fulfill a Federal responsibility, and secure this important exchange and the many associated benefits for all concerned.

My colleague Congressman RHODES is introducing a companion bill in the House. I urge both the House and Senate to act expeditiously on this important matter.

By Mr. DOLE:

S. 2035. A bill to amend the Federal Election Campaign Act of 1971 to tighten the prohibition of fraudulent misrepresentation of campaign authority; to the Committee on Rules and Administration.

PROHIBITION OF FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

Mr. DOLE. Mr. President, the 1992 Presidential election campaign is now underway. Candidates are spreading out through the States, money is being raised, and, if 1988 is any indicator, many Americans who think they are contributing to a candidate are being hoodwinked.

This is a lesson that I have learned the hard way. During my 1988 Presidential campaign, many Americans received a mailing from a group calling themselves Americans for Dole. The mailing urged its readers to take their place in history, and to send a check to Americans for Dole at P.O. Box 90271 in Washington, DC.

At the bottom of the letter, in very small type, no doubt unnoticed by the addressee, many of whom are elderly, was a disclaimer saying that Americans for Dole was "not authorized by any candidate or candidates' committee."

Those were about the only words on the letter that were truthful, Mr. President. Neither myself nor my committee authorized or had anything to do with Americans for Dole; nor did my campaign receive any of the reported $4 million they received from contributors who thought their money would go to support my campaign.

You see, Mr. President, Americans for Dole was really an effort to deceive Americans for someone else's gain. I have seen heartbreaking videotapes of elderly people, convinced they were giving to someone they respected, only to learn that they had fallen into a fundraising fraud. It is not right, and it ought to stop.

The scam did not stop with Americans for Dole. In fact, just a few P.O. boxes down from what many were led to believe was my campaign address was an organization called Americans for Bush.

And this group sent out an eloquent four-page letter urging Americans to help then Vice President Bush.

Again, small type on the bottom explains that the committee is not authorized by any candidate or candidate's committee.

With the number of Presidential candidates in the Democratic Party, you can bet that groups out to make a quick buck will soon be preying upon the American public once again.

Mr. President, it is my belief that, before the end of the year, Congress can send a bill to President Bush which would take a major step in putting these fly-by-night operations out of business.

So, I am introducing legislation to do just that. My bill would amend the Federal Election Campaign Act of 1971 by requiring anyone representing that they are soliciting or accepting a contribution on behalf of a candidate or political committee to actually pay any contribution received to the candidate or committee, and to inform them of the name of the contributor.

This proposal is similar to others that have been debated in Congress in recent sessions, but I was concerned that they did not go far enough. I was concerned that those sending misleading mailings would simply point to the small disclaimers at the bottom of their letters and say that these disclaimers mean they should be let off the hook.

Therefore, my legislation also requires that any such disclaimer will not be admissible in evidence in a legal proceeding unless the disclaimer is printed in the same size and given the same prominence as the most prominent display of a candidate's or political committee's name.

Mr. President, this is not a partisan proposal. Democrats, as well as Republicans, have been bilked—and will continue to be bilked—unless something is done.

We ask ourselves, "why are the American people so cynical about politics these days?"

Just look at some of these scams, and you will know the reason why.

Mr. President, my legislation is simple and straightforward. I believe it will get the job done and restore a little bit of respectability to the political process.

Mr. President, I send the bill to the desk and ask for it as an appropriate referral.

Mr. President, I might say that I have discussed this amendment with the distinguished chairman of of the Judiciary Committee, Senator BIDEN, and others, and there is still maybe some way to include it in some bill yet this year because, sure as I am standing here, there are going to be Americans for Senator HARKIN, Americans for KERREY, Americans for Wilder, and all the time they will be raking in the money; the candidates will never see it and a lot of well-intentioned people are simply being ripped off by someone and they ought to be severely penalized.

By Mr. KASTEN:

S. 2036. A bill to improve the access of all individuals to health care and long-term care and to provide cost control through the reform of procedures relating to medical malpractice, and for other purposes; to the Committee on Finance.

ACCESS TO HEALTH CARE FOR ALL AMERICANS ACT

• Mr. KASTEN. Mr. President, I rise today to introduce a strategy to address the serious health care problems facing my State and the rest of the country.

Action needs to be taken soon to address soaring health care costs which are depriving people of adequate health care. Health care costs are already eating up 12 percent of our gross national product, and this figure is jumping rapidly. Up to 37 million Americans are without health care insurance.

The magnitude and complexity of this problem requires that Congress, the administration, and the American people work aggressively to form a consensus on how to move ahead. While many of us can agree that an overhaul of America's health care system is needed, we are divided over the solution and realize that comprehensive reform is not achievable during this Congress.

I believe strongly that there are certain actions we can take immediately to expand the access and availability of health care and control the escalating costs. Before the 102d Congress concludes, Congress should take action on small employer insurance market reform and on certain cost control measures in the area of medical malpractice and managed care.

Mr. President, I would hope that we will not wait until next year to extend the current tax deduction for health insurance costs of self-employed individuals and farmers. I would prefer that we pass legislation which I have sponsored the last two Congresses that increases permanently this deduction from 25 to 100 percent. But at the very least, if Congress is not going to afford the self-employed the same treatment given to large employers then it should extend the current deduction scheduled to expire at the end of this year.

Earlier this year, I joined with Senator BENTSEN, Senator DURENBERGER, and others in cosponsoring legislation to address the availability and cost of health insurance offered to small business owners. As ranking member of the Senate Small Business Committee, I hear often from small business owners in my State and across the country about the skyrocketing premiums which are hindering them from offering health insurance to their employees or else forcing them to drop coverage. This legislation is similar to a bipartisan small business initiative that overwhelmingly passed the Wisconsin State Assembly and is working its way through the State senate.

The GOP Health Care Task Force proposal, S. 1936, sponsored by Senator CHAFEE and the other members of the task force, including myself, contains similar small business health insurance language. This bill also contains needed cost control measures, such as medical malpractice reform and managed care initiatives. While I have reservations about certain provisions of the bill, I believe that this proposal provides an important contribution to the ongoing debate.

The legislation I am introducing today builds on these efforts. It contains four titles: Small employer market reform; cost control proposals; rural health improvement initiatives; and long-term care incentives.

SMALL EMPLOYER INSURANCE REFORM

Between 31 and 37 million Americans are without health insurance and in Wisconsin, approximately 500,000 residents lack coverage—65 percent of the uninsured are employed by small firms. According to surveys conducted by small business groups while small employers want to offer health care coverage they often simply can't afford it. A 1991 survey conducted by the Metropolitan Milwaukee Association of Commerce found that 80 percent of the respondents cited rate increases of up to 80 percent in the last year.

Several factors drive up the cost of health insurance policies: Expensive State mandates, unequal tax treatment, and certain insurance practices. My bill would establish basic health insurance policies that insurers would be required to offer—policies which would be free from State mandates. In addition, self-employed individuals and farmers would be allowed to deduct 100 percent of their health care costs—the same tax treatment offered to large businesses. This legislation would also establish Federal standards governing the sale of health insurance to small firms.

COST CONTROL CONTAINMENT

Managed care plans offer the hope of controlling runaway health care costs. Instead of reimbursing providers retrospectively on a fee-for-service basis, these plans allow employers and insurers to contract prospectively with providers and therefore exercise greater control over health care expenditures.

This bill would require the Secretary of Health and Human Services to develop standards for managed care plans that insurers would be required to meet. In addition, this legislation would preempt State antimanaged care laws for plans that meet these standards.

For years, I have fought for product liability reform in order to reduce the destructive impact excessive liability costs have on our economy. In keeping with these efforts, this bill contains medical malpractice reform provisions to reduce the cost of malpractice premiums and defensive medicine. The cost of medical liability is estimated to cost $15 billion annually and is estimated to account for roughly 15 percent of total expenditures on physician services.

RURAL HEALTH CARE INITIATIVES

Unfortunately, the quality of rural health care is reaching a critical point in Wisconsin. According to the University of Wisconsin's Office of Rural Health, almost 1 in 5 Wisconsin residents live in health professional shortage areas, with less than 1 medical professional for every 3,500 residents. People do not have ready access to primary care and must travel as much as an hour to reach the nearest doctor.

This legislation addresses the access problem by expanding the National Health Service Corps, which is staffed by health providers who agree to serve in exchange for financial assistance with their educational expenses. After their education, they agree to practice in a health professional shortage area.

In addition, my bill increases funding for area health education centers which have proven to be effective in providing education and clinical instruction in underserved areas.

LONG-TERM CARE

Finally, this legislation addresses the long-term care crisis we are facing in this country. My bill would provide senior citizens and other Americans with tax-based assistance to purchase long-term care insurance. It would also allow individuals to roll over funds held in IRA's to long-term care insurance without penalty

Mr. President, this legislation contains proposals that Congress could enact now to provide immediate relief to the uninsured and medically underserved people in this country. I hope that Congress and the administration will be able to work together next year on these initial steps to improve the access and affordability of health care for this country.•

ADDITIONAL COSPONSORS

S. 644

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 644, a bill to amend the Budget Enforcement Act of 1990 to allow offsetting transfers among discretionary spending categories.

S. 1725

At the request of Mr. DIXON, the names of the Senator from Virginia [Mr. WARNER], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1886

At the request of Mr. MCCONNELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

SENATE JOINT RESOLUTION 99

At the request of Mr. GLENN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 99, a joint resolution designating November 24-30, 1991, and November 22-28, 1992, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 125

At the request of Mr. PACKWOOD, his name was added as a cosponsor of Sen-

VOL
137
PT
23
NO
21—25
1991
UMI

ate Joint Resolution 125, a joint resolution to designate October 1991 as "Polish American Heritage Month."

AMENDMENTS SUBMITTED

TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE

COHEN EXECUTIVE AMENDMENT NO. 1432

Mr. COHEN proposed an amendment to condition No. 5 of the resolution of ratification to Treaty Doc. No. 102–8, the Treaty on Conventional Armed Forces in Europe, as follows:

In the language proposed to be inserted by the Committee amendment, strike subparagraph (C) of condition (5) and insert in lieu thereof the following:

"(C) shall, if he has made the determination and decision described in subparagraph (B)—

"(i) submit for the Senate's advice and consent any change in the obligations of the states parties under the Treaty that is designed to accommodate such circumstances and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature; or

"(ii) if no such change in the obligations of the states parties is agreed to by all states parties but the President determines nonetheless that continued adherence of the Treaty would serve the national security interests of the United States, seek the Senate's advice and consent to such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.".

SMITH (AND WALLOP) EXECUTIVE AMENDMENT NO. 1433

Mr. SMITH (for himself and Mr. WALLOP) proposed an amendment to the resolution of ratification to Treaty Doc. 102–8, supra, as follows:

Add after Condition (a)(5)(C), the following condition:

"(6) U.S. OBLIGATION TO THE TERMS OF THE TREATY.—The United States shall not be bound by the terms of the Treaty unless and until the Congress has received, pursuant to public law 99–145, the President's Soviet Noncompliance with Arms Control Agreement report and the President has certified through the report that the Soviet Union is not in violation or probable violation of the terms of the CFE Treaty and protocols thereto.".

RESERVATION OF CERTAIN HOUSING ASSISTANCE

RIEGLE (AND CRANSTON) AMENDMENT NO. 1434

Mr. MITCHELL (for Mr. RIEGLE, for himself and Mr. CRANSTON) proposed an amendment to the bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. RESERVATION OF ASSISTANCE.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—

"(A) IN GENERAL.—For each fiscal year, of any amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to the insular areas an amount that reflects—

"(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B).

"(B) SPECIFIC CRITERIA.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) TRANSITIONAL PROVISIONS.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 216(6)(A).".

SEC. 2. DEFINITIONS.

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "the Marshall Islands" and inserting "the insular areas"; and

(2) by adding at the end the following new paragraph:

"(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.".

SEC. 3. EXTENSION OF TIME TO SUBMIT CDBG STATEMENT.

Notwithstanding any other provision of law, the City of Petersburg, Virginia is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1)) in connection with a grant to the City of Petersburg under title I of such Act for fiscal year 1991.

SEC. 4. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay closing of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.".

BREAUX (AND JOHNSTON) AMENDMENT NO. 1435

Mr. MITCHELL (for Mr. BREAUX, for himself and Mr. JOHNSTON) proposed an amendment to amendment No. 1434 proposed by Mr. MITCHELL (for Mr. RIEGLE) to the bill H.R. 3576, supra, as follows:

At the appropriate place, insert

SEC. . Notwithstanding the time limit set forth in section 1363(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(c) and (d)), St. Charles Parish, Louisiana, may file an appeal with the Director of the Federal Emergency Management Agency with respect to certain flood elevation determinations for the area in and near the Ormond Country Club Estates located in St. Charles Parish, Louisiana, not later than June 1, 1992.

SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE

BURDICK (AND CHAFEE) AMENDMENT NO. 1436

Mr. MITCHELL (for Mr. BURDICK, for himself and Mr. CHAFEE) proposed an amendment to the bill (H.R. 794) to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes, as follows:

On page 26, strike lines 13 through 25, insert in lieu thereof the following, and redesignate titles II and III and the sections therein accordingly:

SEC. 109. INTERPRETATION AND EDUCATION CENTER.

(a) IN GENERAL.—The Secretary is authorized to construct, administer, and maintain at appropriate sites within the refuge, or pursuant to subsection (b) cooperate in the construction, operation and maintenance at an appropriate site, not more than four aquatic resources and wildlife interpretation and education centers, known as Silvio Conte National Fish and Wildlife Refuge Education Centers, along with administrative facilities, to provide opportunities for the study, understanding, and enjoyment of aquatic resources and wildlife in its natural habitats.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized:

(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with state and local governments and other public and private entities;

(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

(3) to interpret the Connecticut River's aquatic and wildlife resources in the context to the region's cultural, geological, and ecological history.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. ESTABLISHMENT AND TERMS OF SILVIO O. CONTE MEMORIAL SCHOLARSHIP FUND.

(a) IN GENERAL.—In recognition of Silvio O. Conte's longstanding contribution and devo-

tion to the conservation of our Nation's natural resources, and his life-long commitment to education, the Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, is authorized to enter into an agreement with the National Fish and Wildlife Foundation, hereinafter referred to as the Foundation, and the University of Massachusetts/Amherst, hereinafter referred to as the University, to establish the Silvio O. Conte Memorial Scholarship Fund. The purpose of the agreement is to encourage students to enter the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology by establishing a scholarship fund at the University.

(b) TERMS OF AGREEMENT.—Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301–6308), the agreement authorized under subsection (a) of this section shall direct that the University shall:

(1) establish the Silvio O. Conte Memorial Scholarship Fund for the purpose of awarding scholarships for a period not exceeding three years to eligible candidates in advanced degree programs in the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology;

(2) invest funds provided by the Director, the Foundation and any other conributors in interest-bearing accounts;

(3) award scholarships annually utilizing the interest generated from such investment accounts minus the amount equal to inflation;

(4) match the scholarship awards with in-kind contributions of equal value, such as waivers of tuition or fees or the provision of other financial aid;

(5) establish eligibility criteria based upon financial needs, academic achievement, and potential contribution of the profession;

(6) announce the availability of the scholarship in a manner which ensures that it is widely distributed and that minority and socially-disadvantaged candidates are made aware of the opportunity;

(7) upon request by the Director, make available the investment accounts for his inspection; and

(8) prepare and provide to the Director annually a report regarding the expenditures from the investment accounts which shall include the number of scholarships awarded, the amount of each scholarship, and the share of each scholarship provided by the University.

(c) AUTHORIZATION.—The Director is authorized to make a one-time contribution of up to $50,000 to the University to establish the Silvio O. Conte Memorial Scholarship Fund.

(d) TERMINATION OF AGREEMENT.—At such time as the parties agree to terminate the agreement authorized under subsection (a) of this section, the principle and interest in the account shall be deposited in the Migratory Bird Conservation Fund.

SEC. 202. WILDLIFE INTERPRETATION AND EDUCATION CENTER.

Title II of Public Law 100-610 is amended by adding at the end the following new section:

"Section 206. Wildlife Interpretation and Education Center.

"(a) The Secretary is authorized to construct, administer, and maintain at an appropriate site, a wildlife interpretation and education or visitor center.

"(b) The Secretary is authorized—

"(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with state and local governments and other public and private entities;

"(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

"(3) to interpret the Pettaquamscutt Cove region's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.".

SANFORD AMENDMENT NO. 1437

Mr. MITCHELL (for Mr. SANFORD) proposed an amendment to the bill H.R. 794, supra, as follows:

Add at the appropriate place in the bill the following new section:

SEC. . COST-SHARING FOR STATE COASTAL WETLANDS GRANTS.

(a) FEDERAL SHARE.—Section 305(d)(1) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954(d)(1)) is amended by striking "has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces." and inserting in lieu thereof—

"has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:"

"(A) a trust fund from which the principal is not spent; or

"(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax checkoffs, or motor vehicle license plate fees."

(b) EFFECTIVE DATE.—This amendment shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.

DECONCINI AMENDMENT NO. 1438

Mr. MITCHELL (for Mr. DECONCINI) proposed an amendment to the bill H.R. 794, supra, as follows:

On page 27, strike lines 1 through 13.

ADDITIONAL STATEMENTS

NEW PHYSICIAN FEE SCHEDULE

• Mr. CRAIG. Mr. President, as this session of the Congress draws to a close, many problems remain unresolved. One problem, that I am very concerned about is the new physician fee schedule. The final regulations for the new fee schedule will not be out until Monday, November 25, leaving no time for any problems to be resolved prior to implementation in January.

I have received numerous letters from senior citizens in my State sharing their problems about finding a doctor, because they are on Medicare. Health care providers in Idaho are on the low end of the reimbursement scale already. Therefore, any further reduction only enhances the access problem for seniors in my State.

Mr. President, I have also received many letters from doctors who are outraged at the continual cuts in reimbursements, and fed up with the paperwork hassles of Medicare. Some of those letters have been from doctors who say they simply cannot afford to take new Medicare patients. Idaho has a shortage of health care providers. The problems that have occurred with the new physician fee schedule have only aggravated this situation. Not only do we have the worst doctor-to-patient ratio in the Nation, but now some of those doctors are limiting or refusing to take Medicare patients. Our rural doctors work long hours and cover large, under-served areas. The Government cannot expect them to continue to participate in a program that continues to cut reimbursements while piling on additional paperwork hassles.

Mr. President, I met with Dr. Wilensky to discuss various aspects of the regulations. Let me take a moment to say that I greatly appreciate her efforts in trying to resolve the problems in the preliminary regulations. We discussed various concerns that doctors from Idaho had expressed to me, to include the behavioral offset which is the most onerous problem to the doctors—especially for those who have no control of their patient flow and depend on referrals. It is my understanding, after our conversation, that in order to keep the fee schedule budget neutral, HCFA is required to keep the behavioral offset at 6 percent. It frustrates me that because of budget rules, the intent of Congress cannot be carried out and now we must look at legislative ways of resolving remaining problems.

Legislation has been introduced, S. 1810, which addresses a number of the problems that were highlighted in the proposed regulations. I support the intent of this legislation but have grave reservations about its cost. Mr. President, after a long and careful review of this bill I have decided not to cosponsor S. 1810 at this time. Not only is the cost of the bill almost $6 billion, but no offset has been found in the budget, and this flaw prevents the legislation from moving. Therefore, it is no solution. I agree with the message the bill is sending, but I cannot cosponsor this bill without an offset to cover the price tag.

Mr. President, it is my hope that when the final regulations are published, most of the problems with the new fee schedule will be resolved. However, should that not be the case, this Senator will be looking for solutions that can win passage, and are fiscally responsible.•

S. 1942—THE REGULATORY REVIEW SUNSHINE ACT

• Mr. GLENN. Mr. President, the Committee on Government Affairs, of which I am chairman, is responsible for overseeing the process by which the ex-

VOL 137 PT 23 NO 21—25 1991 UMI

ecutive branch implements law. The committee has a long and proud record, going back many years, of making sure that process is as open and fair as possible. The Federal Advisory Committee Act and the Government in the Sunshine Act are two excellent examples of how this committee has contributed to greater openness and accountability in the executive branch.

In 1980, Congress created OMB's Office of Information and Regulatory Affairs [OIRA], through enactment of the Paperwork Reduction Act [PRA]. The act gave OIRA the responsibility of reducing the Government paperwork burden and increasing the efficiency of Government information activities.

The arrival of a new administration created a new set of priorities for OIRA. President Reagan issued Executive orders 12291 and 12498 which gave OIRA major responsibility for regulatory review. The 1980 act did not anticipate these Executive Orders and therefore did not establish procedures for public participation in OIRA regulatory review.

Members of the committee recognized the importance of shedding light into the shadows of OIRA regulatory review. In 1982, Senator RUDMAN and LEVIN proposed a floor amendment that would have brought the light of day to OIRA regulatory review. In 1986, an administrative agreement was reached in conjunction with reauthorization of the Paperwork Reduction Act that required partial public disclosure of the OIRA process.

That agreement did not pull the curtain back far enough. In 1989, Senator BINGAMAN introduced legislation to reauthorize the Paperwork Reduction Act that contained extensive sunshine provisions to cover regulatory review. Those provisions were in the legislation reported out by this committee on June 7, 1990.

When the administration threatened a veto of the legislation, we negotiated a compromise with them to put regulatory review procedures in an Executive order to be issued upon passage of the PRA. Well, as many know, this bipartisan agreement was killed in the waning moments of the session by a series of anonymous Republican rolling holds.

I was satisfied with last year's compromise agreement and I wanted to move the legislation when the Senate reconvened early this year. But when I went to reintroduce our compromise, the administration backed away from its support.

In addition, I learned this year that at the same time we were negotiating with the administration on regulatory review procedures for OMB, the White House was establishing the Council on Competitiveness as the new overseer of agency rulemaking.

On April 17 of this year, Senators LEVIN, KOHL, and I wrote the Vice President inquiring as to the Council's role in regulatory review. We received a response back from Al Hubbard, Executive Director of the Council, that included only fact sheets and press releases on the Council. The three of us then sent another letter requesting that our original inquiry be properly answered.

However, it was not until October 22, after Senator LEVIN and I met with Vice President Quayle and alerted him of our October 24 hearing, that we received a response to our questions addressed some 6 months before. Even then, that response did not fully answer our questions.

The committee held hearings on regulatory review on October 24 and November 15. Both times we invited a representative of the Council to testify. Both times we were refused.

I heard just the other day that the Council's Deputy Director, David McIntosh, recently spoke before the Chamber of Commerce on the Council's role in regulatory review. There is some irony in the fact that while Mr. McIntosh is willing to speak before the Chamber of Commerce, he is not willing to do so before a Senate committee.

It is clear to me that the council has taken the scepter of regulatory review from OMB. It is also clear to me that the Council has not respected this committee's repeated requests for information about its participation in agency rulemaking.

In response to repeated stonewalling by the administration, I introduced legislation, S. 1942—the Regulatory Review Sunshine Act, on November 7 that would open up the Council and OMB's regulatory review activities to the public eye. The committee marked up the bill on November 22 and reported it out by a vote of 8 to 3.

I have been burned twice by the administration and certain Republicans on regulatory review. I want to move this bill to the Senate floor as expeditiously as possible. The issues of openness and accountability resonate powerfully with the American public and they deserve a response to the Council's secretive decisions on rules that literally impact thousands of lives.●

S. 243, THE OLDER AMERICANS ACT REAUTHORIZATION AMENDMENTS OF 1991

● Mr. BROWN. Mr. President, I rise today to express concern about the status of S. 243, the Older Americans Act Reauthorization Amendments of 1991. The Senate passed S. 243 on November 12 and appointed conferees. In the past 11 days, the House of Representatives has not acted to appoint conferees.

The programs reauthorized by this act are crucial to the well-being of millions of older Americans. It is important that the House appoint conferees to meet with Members of the Senate to resolve the remaining two points of difference which exist on this bill—the McCain amendment on Social Security earnings test repeal and the Brown amendment to secure continuation of the toll free lines for Medicare beneficiaries and providers.

It is my hope that a conference on S. 243 will be held before we adjourn.●

W.S. WHITE, JR., CHAIRMAN OF AMERICAN ELECTRIC POWER CO., RETIRES

● Mr. GLENN. Mr. President, an internationally recognized leader in the electric utility industry, W.S. White, Jr., is retiring from his position as chairman of the American Electric Power Co. at the end of this year.

Mr. White is the sixth chairman of the board in the 85-year history of American Electric Power, an office he has held since 1976. He also served as chief executive officer of AEP and all its subsidiary companies from 1976 until the end of 1990. Under his direction, the Columbus, OH, headquartered American Electric Power has been a valuable corporate citizen of Ohio and the six other States that comprise the operating area of the AEP system.

In 1984, Mr. White became the first American to be elected president of CIGRE, the Paris-based International Conference on Large High-Voltage Electric Systems. CIGRE fosters the technical exchange of new information on literally every aspect of research, development and operation of high-voltage transmission systems throughout the world.

Mr. White's international credentials were again recognized in 1989, when he was named by President Bush to a Presidential delegation to Poland in order to assist in its economic reform and to support its transition to a democratic government.

In 1989, Mr. White received the James H. McGraw Award for Electric Utilities from Electrical World magazine. According to the citation, Mr. White received the honor "for the continued leadership he provides for his company and the utility industry; for his championing of innovation; and for his high standards." In addition, the award stated, "Under his leadership, AEP has continued and extended the company's long-held reputation for innovation in technical and management areas."

Under Mr. White's leadership, AEP has achieved another international first by successfully converting the Wm. H. Zimmer Generating Station near Cincinnati, OH, from a nuclear to a coal-fired facility, using a high percentage of the equipment intended for the original nuclear plant. This was accomplished ahead of schedule, under budget, with the most modern pollution abatement equipment so the plant meets the very stringent environment requirements set by the Clean Air Act of 1990.

With his direction, AEP has also become a national leader in the development of clean coal technology. AEP is demonstrating the capability of its pressurized fluidized bed combustion [PFBC] process at its Tidd PFBC demonstration plant near Steubenville, OH. This method has the capability of burning high-sulfur coals while eliminating 90 percent of the sulfur dioxide emissions and approximately half of the nitrogen oxide emissions.

During his years as chairman, American Electric Power [AEP] has constructed and placed in service four 1,300-kilowatt generating units—including the one at Zimmer—that are the largest and most efficient coal-fired units in the world. During that time, AEP has also completed its 2,022-mile network of 765,000-volt transmission lines, and now operates more miles of 765,000-volt lines than all other U.S. electric utility companies combined.

A member of the National Academy of Engineering, Mr. White is also president of Ohio Valley Electric Corp., and its subsidiary, Indiana-Kentucky Electric Corp. Together, these two utilities, which are owned by a consortium of electric utilities in the Midwest, supply all of the electric energy requirements of the U.S. Department of Energy's uranium-enrichment plant at Piketon, OH.

A native of Norfolk County, VA, Mr. White is a U.S. Navy veteran of World War II and an electrical engineering graduate of Virginia Polytechnic Institute and State University. He earned a master's degree from Massachusetts Institute of Technology, where he was a Sloan fellow.

In addition, Mr. White has been particularly active in civic and community affairs in his home city of Columbus, OH, where he has served as general chairman of the United Way Campaign; director and member of the executive committee of the Columbus Area Chamber of Commerce, and a director of the Riverside Methodist Hospital. He is also chairman of Greater Columbus Convention Center Board of Trustees, a trustee of Battelle Memorial Institute, a director of the Bank of New York, and a director of Methodist Theological School of Ohio.

Mr. White's dedicated 43-year career with the AEP system has been highlighted by many significant contributions to the reliability and dependability of our Nation's electric energy supply. His contributions also extend to the enhancement of international developments in the supply of electric energy. His leadership, expertise, and good counsel will be missed and Mr. White is deserving of our Nation's gratitude for his efforts on behalf of our country's electric utility industry.●

WE MUST REFLECT THE CHANGING WORLD

● Mr. KERRY. Mr. President, in the past 2 years, we have seen tumultuous changes in the world order that few, if any, would have predicted a year or two in advance of their occurrence. The cold war, and the confrontation of the two nuclear superpowers, which had the Iron Curtain as its symbolic and actual focal point, is over.

The Eastern European nations that had been captive satellites of the Soviet Union rapidly experienced democratic spontaneous combustion.

The much-feared Communist bulwark, the Soviet Union, has ceased to exist as a meaningful entity, destroyed by the centrifugal forces of individual liberty, revulsion over totalitarian abuses, and disgust and impatience with the abject failure of the state-controlled economic system to provide an acceptable standard of living for its people.

Mr. President, for 40 years our fear of Soviet expansionism was arguably the most significant force in determining how this Nation would spend a substantial portion of its gross national product. While those expenditures had some beneficial spinoff effects for civilian America, in the largest measure what we spent for increasingly expensive and complex armaments represented amounts we could not spend to improve our standard of living, and to combat social problems and meet human needs.

In previous years, many felt that the ultimate course of the changes in the Soviet Union was uncertain. But it is now clear—following the abortive coup in the summer—that the changes in the Soviet Union are irreversible, and that the Soviets no longer possess the will to threaten or harm the United States.

To be sure, there are still thousands of nuclear weapons and a sobering conventional arsenal located on the territory of the former Soviet Union. It is vital that we do all we can to hasten the disposal and deactivation of as much of this weaponry as possible. And, while it remains in existence and useable, we cannot, and must not, become complacent and dismiss the harm it could wreak should circumstances change dramatically among the Republics of the former Soviet Union.

Nonetheless, the great majority of close observers of the Soviet system and culture agree that the cold war is now a relic. It is a wonderfully appealing prospect—a joyous prospect—that our nation finally can cease the investment of massive resources—financial, intellectual, and other—in defending against the Soviet threat. To be sure, we continue to have—and will have for the foreseeable future—very significant national security needs. The world is an uncertain place, and can pose significant threats. Saddam Hussein aptly demonstrated this reality. We must be ready and equipped to deal with such threats. But the nature of that threat, and the nature of the force structure and armaments we must have to be ready for it—and, further, to deter those who would challenge the interests of the United States or the principles of international relations and conduct it values and honors—is very different today than it was even a year ago.

Mr. President, the Defense appropriations bill on which we voted today is, in many respects, a relic even as we vote on it. The Federal budget process necessarily entails significant lead time. It is a sheer impossibility to develop and enact a nearly $300 billion budget in a brief period of time. It is equally impossible to turn an ocean liner on a dime. The fact is that the dramatic events to which I earlier referred altered the world's fabric—after the complexion of this bill had already been determined.

If we were just beginning to write this bill today, rather than many months ago, I am fully confident it would be a different bill. But as much as I wish this institution and this and other bills could be instantly reflective of major changes in the world, it would be entirely unrealistic and unreasonable to insist that be the case. Insistence on the impossible is certain to be disappointing.

Unquestionably the Senate's Subcommittee on Defense, its distinguished chairman, Mr. INOUYE, and ranking Republican, Mr. STEVENS, and its capable staff, and the full Appropriations Committee, worked diligently to produce this bill. They deserve our appreciation and the Nation's appreciation for the effort they have invested.

And some of the changes in this bill from last year are appealing. While the bill could not, in fact, be turned on a dime, in many key respects it acknowledges that change is occurring and begins to make adjustments. Funding is reduced for the MX missile and eliminated for Tomahawk nuclear cruise missiles. Funding is reduced for research and development on kinetic energy antisatellite weapons. No additional B–2 bombers will be procured unless both Houses of the Congress affirmatively vote for such procurement.

The bill also has some important assistance for Massachusetts at a time when my State is in difficult economic shape and so many people are out of work or underemployed, or at risk.

The bill includes $6 million for Northeastern University to build an Advanced Materials Research and Development Center. The center will be extremely important for United States defense needs, especially fighter aircraft, weapons programs, and logistical support systems.

Most of the over $30 million necessary to build the center is going to

VOL 137 PT 23 NO 21—25 1991 UMI

come from the university and private sources even though it will be extremely useful to the national interest. But, in order to insure that it gets built it needs this Federal support as well.

The bill also includes $2 million to fund the Center for Complex Systems at Brandeis University in Waltham, MA. This center has previously received Federal appropriations of $7 million. The university expects to offer several million in a matching grant to complete the project.

Researchers at the center specialize in basic and applied brain research, which has application to medical problems such as Alzheimer's disease, drug addiction, and learning disabilities. Their study of the brain involves multidisciplinary efforts in neurosciences, linguistics, computer science, psychology, chemistry, and physics. At the center, Brandeis has included more relevant disciplines under one umbrella than any other institution attempting to work on the brain and nervous system.

The bill also provides $15 million for the Woods Hole Oceanographic Institution to refurbish two WHOI research vessels and get them out of dry dock. The vessels are operated jointly by the WHOI, the Office of Naval Research [ONR], and Scripps Oceanography Institute in La Jolla.

These ships are vital to oceanographic research and will greatly enhance U.S. capabilities in the fields of biological, physical, and chemical oceanographic research.

And the bill also includes $29 million for Boston University to build a research facility.

Thus, on balance, I believe the work of the committee warrants support as it finishes the process begun a year ago, especially given the committee's willingness to take advantage of Massachusetts' special resources to strengthen our long-term national research capabilities.

While I am therefore supporting this bill, it is essential that the Congress recognize, and with respect to defense expenditures, that the Armed Services Committees and the Defense Appropriations Subcommittees in particular recognize, that the world has changed. As work begins in the near future to fashion the fiscal year 1993 defense authorization and appropriations bills, recognition of the changing world order must be reflected in those bills.

Business as usual no longer can be accepted, and this Senator no longer will accept it.

Mr. President, we have no need for additional strategic nuclear weapons or delivery systems. We have more than enough tactical nuclear weapons and delivery systems. Next year's defense bills must so reflect.

While I have always supported and will continue to support reasonable research and development efforts to be certain our defense know-how remains second to none, we have no further need for applied research aimed at creating a star wars system to defend against a Soviet nuclear attack that will never come—a system, I might add, that could not have been workably implemented in any event. The 1993 bills should so reflect.

We have reason to celebrate, Mr. President—because of the sweeping and welcome changes we have witnessed in the Soviet Union and Eastern Europe in the past 2 years, because the world is a safer place as a result, and because we can now reduce the share of our national wealth we invest in national security programs and reinvest some of that wealth in ways that will improve the health, the education, and the living standards of our people while reducing, as well our overwhelming national debt.

Today is the line of demarcation. This Defense appropriations bill is the last in a long line. Within it can be seen signs of the tremendous changes that can and must come in future years.•

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. CRANSTON]. Without objection, it is so ordered.

ADJOURNMENT FOR 10 SECONDS

Mr. MITCHELL. Mr. President, I now move that the Senate stand in adjournment for 10 seconds; that upon reconvening, the Journal of the proceedings be deemed approved to date; the call of the calendar be waived; that no motions for resolutions come over under the rule; and that the morning hour be deemed to have expired; and that the time for the two leaders be waived.

The motion was agreed to, and at 7:05 and 36 seconds p.m. on Saturday, November 23, 1991, the Senate adjourned until 7:05 and 46 seconds p.m., the same day.

AFTER ADJOURNMENT

SATURDAY, NOVEMBER 23, 1991

The Senate met at 7:05 and 46 seconds p.m., pursuant to adjournment, and was called to order by Hon. ALAN CRANSTON, a Senator from the State of California.

MEDICAID MORATORIUM AMENDMENTS ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 353, H.R. 3595, Medicaid Moratorium Amendments Act of 1991.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 353, H.R. 3595, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion to proceed to H.R. 3595, the Medicaid Moratorium Amendments of 1991.

George Mitchell, Lloyd Bentsen, Paul Simon, Pat Leahy, Alan Cranston, Edward Kennedy, Al Gore, Daniel P. Moynihan, Claiborne Pell, Wendell Ford, Dale Bumpers, Frank R. Lautenberg, Kent Conrad, Jim Sasser, Max Baucus, and Daniel K. Inouye.

MOTION TO PROCEED TO H.R. 3595 WITHDRAWN

Mr. MITCHELL. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 3807

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers Calendar No. 342, H.R. 3807, the Conventional Forces in Europe Treaty Implementation Act of 1991, that it be considered under the following limitations:

That no motion to commit be in order; that the only first-degree amendments in order to the bill be the following, with relevant second-degree amendments in order to the Nunn-Lugar-Boren amendment and the Boren-Cohen and others amendment.

And the first-degree amendments are: a Nunn-Lugar—Boren authorizing amendment subject to appropriations regarding $500 million for dismantling nuclear weapons in the Soviet Union, subject to verification; a Boren-Cohen and others amendment regarding emergency military airlift to Soviet Union for humanitarian purposes; a Cranston-Pell amendment regarding nuclear weapons enhancing security through the promotion of democracy in the Soviet Union; and a Danforth amendment regarding TWA [PBGC]; and further that this agreement may be vitiated by the majority leader after consultation with the Republican leader prior to 10 a.m., on Monday, November 25.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, NOVEMBER 25, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. Monday, November 25; that following the prayer, the Journal of Proceedings be deemed approved to date; the time for the two leaders be reserved for their use later in the day; and the Senate proceed immediately to the consideration of Calendar No. 342, H.R. 3807, an act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, et cetera, to NATO member countries in conjunction with implementation of the CFE Treaty; that at 12 noon, H.R. 3807 be temporarily laid aside, the Senate have 1 hour of debate on the motion to invoke cloture on the motion to proceed to H.R. 3595, the Medicaid Moratorim Amendments of 1991, immediately preceding the 1 hour of debate from 1 p.m. to 2 p.m. reserved under the previous order for debate on the CFE Treaty; and that the votes in relation to the matters just listed occur in the following order at 2 p.m. on Monday;

First, the Smith condition to the resolution of ratification of the CFE Treaty; second, adoption of the resolution of ratification of the CFE Treaty; and, third, waiving the mandatory live quorum under rule XXII, on the motion to invoke cloture on the motion to proceed to H.R. 3595.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, NOVEMBER 25, 1991, AT 10 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, and if the distinguished Republican leader has no further statement, I ask unanimous consent that the Senate stand in recess until 10 a.m. Monday, as under the previous order.

There being no objection, the Senate, at 7:15 p.m., recessed until Monday, November 25, 1991, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 23, 1991:

NUCLEAR REGULATORY COMMISSION

E. GAIL DE PLANQUE, OF NEW JERSEY, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF 5 YEARS EXPIRING JUNE 30, 1995.

ENVIRONMENTAL PROTECTION AGENCY

HERBERT TATE, OF NEW JERSEY, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

VOL
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EXTENSIONS OF REMARKS

A CELEBRATION OF PUERTO RICAN HERITAGE MONTH

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 23, 1991

Mr. SERRANO. Mr. Speaker, I rise today on the occasion of the celebration of Puerto Rican Heritage Month. In the last century, Puerto Rico has played a particularly significant role with regard to the United States. It is the many contributions that Puerto Rico has made to our Nation throughout the past 100 years that I would like to celebrate today.

While the United States has been developing these close ties with Puerto Rico, New York City has been a principal beneficiary. Puerto Ricans settled primarily in New York City and it is there that most of their successes and contributions have come to fruition.

In 1910, there were only 500 Puerto Ricans living in New York. Today there are 1 million. The great majority arrived shortly after World War II. Like so many of our poor people at that time, my family left its beloved island in search of a better life in New York. This was a major decision and the transition from life in Puerto Rico to the world of New York City was not easy. It was quite different from the immigration of foreigners in the preceding century. By the time Puerto Ricans started to arrive, the institutions originally set up to assist new arrivals adapt to life in New York City had begun to disappear, due in part to the passage of legislation earlier in the 20th century severely restricting immigration. Thus the New York City to which Puerto Ricans journeyed in the late 1940's and early 1950's was, in many respects, a much less welcoming city than it had been a century earlier.

But regardless of the difficulties with which they were faced, our Hispanic forefathers were determined to pursue the goals and seek the opportunities of which they had dreamed. And in this process, they made their own unique contributions that helped render New York City the brilliant mosaic of which today's New Yorkers are justifiably proud.

They revived the latent multicultural spirit by bringing with them the traditions of a culture brimming with gaiety and color. People of different nationalities and languages had lived in New York City for many years, but English still dominated unchallenged. Puerto Ricans learned and spoke English, but unlike the other newcomers, they never abandoned their native Spanish. They in fact chose to retain their total cultural heritage and most especially their beloved music. Latino music is today extremely popular in New York City and elsewhere in the Nation as a result.

Loyalty and respect for their Puerto Rican heritage has helped make New York a much more international city than it was 50 years ago. The Puerto Rican presence has also created a productive relationship between New York and all of Latin America. As the principal commercial center of the United States, New York City has benefited substantially from increased trade with its southern neighbor nations. Similarly, as an important cultural center, New York City has experienced heightened travel by Latin Americans to the city.

One thing is certain. Puerto Ricans have established that people can continue to observe and maintain their heritage without conflicting with their role as loyal American citizens. Consider the thousands of patriotic Puerto Ricans who served faithfully and selflessly in the gulf war. And consider the many Puerto Ricans who have merged the interests of their heritage and the interests of the United States in the service of the general public: Angel Cordero, Chi Chi Rodriguez, and Roberto Clemente in sports; Jose Feliciano, Tito Puente, and Tony Orlando in music; Rita Moreno, Jose Ferrer, and Raul Julia in drama, a number of distinguished individuals in public service organizations and a host of appointed and elected officials at all levels of government.

For nearly a century, Puerto Ricans have actively participated in the historical evolution of the United States, maintaining a perfect balance in their loyalty to their roots and their loyalty to the Nation to which they inadvertently became attached. In maintaining this balance, Puerto Ricans have helped to transform this great Nation of ours—perhaps that is their most important contribution. They revived multiculturalism in a nation that was becoming fearful of diversity. They encouraged the development of a nation that would be proud of all of its people, with the language, culture and history those people brought with them in their search for a better life. Puerto Ricans opened doors not just for other Puerto Ricans, but for all minorities and for generations to come. It is thus with joy and great pride that I rise today to celebrate the contributions Puerto Ricans have made to the United States and the honor of being a member of this exceptional community of people.

NEW TRADE RULES FOR A NEW WORLD ORDER

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 23, 1991

Mr. PEASE. Mr. Speaker, I am today introducing legislation calling for the rules of international trade to be updated and amended to allow the United States and all other trading nations to uphold threshold environmental, labor, and public health and saftey standards, especially when other multilateral organizations have brought into force international agreements spelling out such standards.

The United Nations has established a deadline of June 1992 for the halting of driftnet fishing by all Nations in order to protect endangered dolphins. In the absence of effective multilateral cooperation and enforcement, the United States enacted, through the Marine Mammal Protection Act [MMPA], a ban on tuna imports from countries whose fishing fleets persist in using driftnets.

Mexican tuna fishermen still use driftnets and Mexico brought a formal complaint under the General Agreement on Tariffs and Trade [GATT] seeking to have United States law nullified on the grounds that it violates several GATT provisions. Regrettably, a three-nation GATT panel in mid-August reached a preliminary judgment that the MMPA is not in keeping with existing GATT provisions. If President Bush simply folds our tent in this challenge and asks the Congress to amend or repeal the MMPA, then a very short-sighted and harmful GATT precedent will have been set that militates against an open trading system that promotes international respect for environmental, labor, and public health and safety standards as well as commercial and investment standards.

There is another way to go. When drafting its report the three-nation GATT panel reached two very important preliminary findings. They found the current wording of article XX of the GATT to be so fuzzy pertaining to when member nations may adopt national laws to "protect human, animal, or plant life or health or to preserve exhaustible natural resources" to be useless. Instead, they relied upon drafting history from 1948, long before environmental challenges like global warming or ozone depletion became apparent. Also, they concluded that if GATT member nations want to be allowed, under certain circumstances, to adopt trade laws to protect human, plant, or animal life, scarce resources, or environmental standards, then "it would be preferable to do so not by interpreting article XX, but by amending or supplementing the provisions of the GATT or waiving obligations thereunder".

The legislation I am sponsoring today seeks to build upon the important openings presented last August by the GATT panel's preliminary findings in the complaint brought against the United States in the tuna-dolphin case.

First, it calls upon U.S. negotiators at the GATT to simply defer any consideration of the report submitted to the GATT Council that declares the U.S. Marine Mammal Protection Act not to be in keeping with article XX of the GATT until the Uruguay round of multilateral trade negotiations is concluded. After 6 years of contentious, protracted negotiations, the Uruguay round has certainly reached its climax. There are two outs in the bottom of the ninth inning, so to speak, and the conclusion of this trade round is very near. It is unrealistic for environmental groups and others in the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

United States and abroad to expect the complex and controversial issues that have been brought into focus by the tuna-dolphin dispute to be effectively resolved during what little time remains in this GATT round.

Second, my legislation, at the same time, emphatically calls upon President Bush to initiate and complete negotiations to amend article XX to make crystal clear that differences in environmental, life, or health protection standards and worker rights policies of producers will be taken into serious consideration in determining justifiable exceptions to the general obligations of GATT member nations, especially when other multilateral organizations such as the United Nations or the International Labor Organization have concluded binding international agreements to uphold certain threshold environmental, health and safety standards and fundamental worker rights. The GATT must be brought into concert with other requirements of international law.

Third, my legislation states that the U.S. Congress will not support implementing legislation for any free trade agreement that impairs U.S. authority to uphold, strengthen, and enforce existing laws and standards that protect fundamental worker rights as well as environmental, labor, consumer, agricultural, and public health and safety standards. Since any free trade agreement between the United States and any foreign country goes well beyond GATT obligations in furtherance of trade and investment liberalization, it makes sense to bind the signatory countries to respect for such rights and standards within the terms of the agreement itself and the corresponding implementing legislation. In so doing, our free trade agreements can point the way for the GATT to be updated to promote global respect for internationally recognized rights and standards in the conduct of trade and investment.

Mexico has done the United States, in particular, and the international community, as a whole, a service by complaining to the GATT about the MMPA. Many more policymakers and activists in America and around the world, who were previously asleep, have awakened now to the need to negotiate free trade agreements and to revise the GATT to make certain that trade and investment dynamics in the emerging new world order promote respect for the environment and for mobility of capital.

CORVALLIS DOES IT AGAIN

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 23, 1991

Mr. KOPETSKI. Mr. Speaker, Corvallis has done it again. Recently, the Honorable R. Charles Vars, mayor of Corvallis, OR, declared November 24, 1991, as a "Community Day of Fasting and Celebration." I realize most of my colleagues have never been to Corvallis but Mr. Speaker I want my colleagues and this country to know Corvallis is a community with a conscience, a community that cares for its neighbors and a community I am proud to represent. At this point, I would like to enter into the RECORD the proclamation, "A Community Day of Fasting and Sharing."

PROCLAMATION: A COMMUNITY DAY OF FASTING AND SHARING, NOVEMBER 24, 1991

Whereas, In a substantially Christian population, this is the season to donate food to feed the community's hungry and the 1991 Community Holiday Food Drive began November 13 and runs through November 27; and

Whereas, Monetary donations are needed to provide turkeys, chickens and perishables to fill an estimated 1,000 holidays baskets (as compared to 1984, when about 400 baskets were given), with most of the baskets going to families who have employed members who cannot meet their monthly costs of living due to increased housing and medical costs; and

Whereas, An average of 82 families show up every day at the emergency food pantries which distribute food boxes which feed families for three days and the number of hungry families seeking help is up 15 percent over 1990, with an increase in requests from people working for low wages and no benefits and from those with temporary jobs; and

Whereas, There are 18 pantries as well as three soup kitchens and seven shelters that serve meals; and

Whereas, Any Community Holiday Food Drive funds remaining after baskets are delivered and expenses paid will be turned over to Linn-Benton Food Share.

Now, Therefore, I, R. Charles Vars, Jr., Mayor of Corvallis, Oregon, do hereby proclaim Sunday, November 24, 1991, to be A Community Day of Fasting and Sharing in the City and urge all citizens to join together in a day of going without eating and to contribute the money saved through fasting to the Community Holiday Food Drive (in care of Town & Country Realty, 455 Tyler Street) or to Stone Soup, the community soup kitchen (in care of Saint Mary's Catholic Church, 501 NW 25th Street).

FXI TRUCKING COMPANY HONORED FOR STRONG FAMILY TRADITION

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 23, 1991

Mr. KANJORSKI. Mr. Speaker, I am pleased to bring to the attention of my colleagues a remarkable family-owned company which makes its home in my district and provides 480 jobs to the community. Friedman's Express, Inc., in Wilkes-Barre, PA, may very well be the oldest continually family-owned trucking business in the United States.

Friedman's Express, Inc., or FXI, was founded by Simon Friedman in 1910. Emigrating from Russia a few years earlier, Simon began with nothing more than a wheelbarrow which he used to pick up goods at the train station and deliver to local merchants. Soon, he had enough money to purchase a horse and wagon and open a small warehouse. As demand for his services grew, Simon expanded his operation and eventually motorized the business. As his business grew, so did his family. Before long, Simon had the help of two sons, Harry and Norman.

At the same time, three brothers were operating a trucking firm in New York City known as Rapid Delivery Service. Simon met these brothers, Joseph, Leonard, and Harry Frank, while on a trip to New York. The four men agreed to merge Rapid Delivery with Friedman's Express. This joint venture expanded their freight business service throughout Pennsylvania, New York, and New Jersey.

Today, FXI is a multimillion dollar operation and has 21 service centers located throughout the Middle Atlantic States and southern New England. The company continues to prosper under the leadership of Simon Friedman's grandson, Daniel Friedman, president and CEO. Leonard Frank's son, Morton Frank, is secretary-treasurer and Morton's son, Alec Frank, serves as administrative vice president.

Mr. Speaker, it is no small feat that this third generation business has survived more than 80 years of economic change and upheaval. I am pleased to commend these two families of entrepreneurs for their success and am sure that the future members of the Friedman and Frank families will continue to reap the benefits of carrying on the family business.

CONGRATULATIONS FIFTH DISTRICT ATHLETES

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 23, 1991

Mr. KOPETSKI. Mr. Speaker, each fall as school begins again, millions of Americans participate in fall athletic activities. This is true all across our country, from Salem, MA to Salem, OR in my district. These activities add to the academic atmosphere and the sense of community that we all take pride in.

Today, I rise to congratulate all Fifth District residents who participated in and supported fall athletic activities. These include the individual athletes, their families, the coaches, the school administrators and teachers, the cheerleaders, the bands, the booster clubs, the officials, and the community supporters.

Mr. Speaker, recently in Oregon the playoffs began for fall athletics. I would like to congratulate those teams from my district who qualified for the playoffs. In women's volleyball; Clackamas High School, South Albany High School, Corvallis High School, Lake Oswego High School, Estacada High School, Molalla High School, Silverton High School. In men's soccer; Lakeridge High School, Lake Oswego High School, Corvallis High School, and Gervais High School. In women's soccer; West Linn High School, Crescent Valley High School, Lake Oswego High School and Gladstone High School. In men's football; Oregon City High School, McNary High School, Milwaukie High School, North Salem High School, Lakeridge High School, Silverton High School, Salem Academy and St. Paul School. I would also like to congratulate my alma mater, Pendleton High School, for qualifying for the football playoffs.

Mr. Speaker, in recognizing athletic excellence I do not want to overlook the importance of academic achievement. I challenge each student athlete in my district to duplicate and exceed their athletic achievements in the classroom. True excellence begins in the classroom.

VOL 137 PT 23 NO 21—25 1991 UMI

SENATE—*Monday, November 25, 1991*

(Legislative day of Saturday, November 23, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore, Mr. BYRD.

The PRESIDENT pro tempore. The Senate will be led by the Reverend Dr. Richard C. Halverson today, as we give praises to the living Lord.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

O the depth of the riches both of the wisdom and knowledge of God! how unsearchable are his judgments, and his ways past finding out! For who hath known the mind of the Lord? Or who hath been his counsellor? Or who hath first given to him, and it shall be recompensed unto him again? For of him, and through him, and to him, are all things: to whom be glory for ever. Amen.—Romans 11:33–36.

God of creation, as we anticipate Thanksgiving, help us appreciate what motivated our forebears to set aside this day to celebrate their gratitude to God for protection, provision, and prospects for those who had survived the ordeal of settling a new continent. Grant that this spirit of thanksgiving will pervade Capitol Hill this week. It certainly will not hinder Your servants from completing their business, and it may help.

Be glorified by our gratitude, O God our Father.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has already been approved and the time for the leaders reserved?

The PRESIDENT pro tempore. The majority leader is correct.

Mr. MITCHELL. Mr. President, under a previous order, printed on page 2 of today's calendar, the Senate will now proceed to consideration of H.R. 3807, the Conventional Forces in Europe Treaty Implementation Act of 1991.

There will be only five amendments in order to this legislation, pursuant to the order, and they are printed in the calendar. We will be debating that legislation and one or more of those amendments for a period of 2 hours.

At noon on today, there will then be 1 hour of debate on the motion to proceed to H.R. 3595, the Medicaid moratorium amendments of 1991.

Mr. President, the Senate, then, at 1 p.m., will turn to 1 final hour of debate on the CFE Treaty itself and the remaining condition to that treaty.

At 2 p.m. the Senate will vote, first on the remaining condition to the treaty, then on the treaty itself, and then on the cloture motion on the motion to proceed to the Medicaid Moratorium Act.

We do not know which of the amendments to the CFE Treaty Implementation Act will be offered this morning. There may be votes on one or more of those amendments as well.

We are continuing our efforts to complete action on the business before us prior to Thanksgiving and, therefore, Senators can expect a long Senate session today and tomorrow, with votes possible at any time during the day, evening, or night.

Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, pending the attendance of our distinguished managers of the treaty, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The PRESIDENT pro tempore. Would the Senator withhold that request momentarily.

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

The PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the consideration of H.R. 3807, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armed combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. Will the Senator from South Carolina now repeat his request.

Mr. HOLLINGS. Mr. President, pending the attendance of the managers of the treaty here, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from South Carolina is recognized for 5 minutes.

LET'S GET REAL

Mr. HOLLINGS. Mr. President, this country is in trouble and we need to go to work. We all know what the trouble is. We have been on a 10-year binge of spending, deregulating and getting rid of the Government. Now we have wrecked the economy.

Let me emphasize spending. When you borrow from yourself, you spend. We have been engaging in a polemic around here, one charging, "tax and spend," the other charging, "borrow and spend." But the truth is, we have been spending with abandon because we have been rewarded at the ballot box for not paying the bill. "Read my lips" has been the cry while we ravished the trust funds and quadrupled the national debt. With election time nearing, the balanced budget amendment babble begins again—even the line item veto which we have been championing to no avail. Now the leader of this off budget, rape-the-trust funds procedure has finally confessed. In the debate on providing unemployment compensation where supposedly we had some $50 billion in the unemployment trust and needed only $6½ billion for extended benefits, the distinguished Senator from Texas, Mr. GRAMM, stated:

> . . . we are going to have Members here who will hold up a chart that shows all this money that we are supposed to have in this unemployment trust fund. But let me note that we have already spent that money on something else and now we want to spend it again.

So the unemployment trust is gone and what did we do? We taxed the people who had already paid for the benefit a second time. By way of emphasis, at the end of the decade we will owe the Social Security trust fund one trillion dollars. And we will be taxing the same people a second time in order to pay benefits. There is no trust. There is no fund. We get by with bumper sticker quips, pointing fingers at each other. The people are not so much angry because we have not paid a restaurant bill or because we are overdrawn at the bank. They are angry because we have not paid their bill; because we have depleted all the trust funds and now blindly set about buying their vote once again by mailing everybody $300 we do not have. The country is broke. We do not have any money to do anything. In the meantime, this fiscal recklessness has the interest costs eating us alive. Just to keep the doors open, just to pay the interest cost—not the debt, not the deficit, just the carrying charges—the first thing we did this morning at 8 o'clock and the first thing we are going to do each morning, except Sunday, in the United States is go to the bank, borrow another billion—billion I said—and add it to the debt. And we have the audacity to tell the American people, "The recession is over." "We are headed in the right direction." We chant such nonsense as, "The deficit is only a small percentage of the GNP." "Don't worry, we owe it to ourselves." Thomas Jefferson warned 200 years ago: "I, however, place the economy among the first and most important of Republican virtues, and public debt as the greatest of the dangers to be feared."

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, it is too late to play the game of "budget reform," "summit agreements" while swigging the political elixir of "growth." There was a cry aboard ship in World War II: "When in danger, when in doubt, run in circles, scream and shout." The White House and the Congress are running in circles crying "tax cut, tax cut," and once again Washington is ready to take another swig of "Old Deficit Barleycorn." There is a drug problem, all right. Deficit spending.

Let us get real. First we must put our financial house in order; next, jump-start the economy; finally, position America for competition in the production and trade war.

It will not be easy, but at the same time it is not so radical. One I have been harping on for 10 years: Freeze this year's budget for next year. Any mayor caught in these hard times would call in his city council and say we do not want to cut services or fire the policemen—let us just take this year's budget for next year. If we do that at the Federal level, excluding Social Security and other COLA recipients, we immediately save $36 billion.

Next, let us cut the Washington bureaucracy 10 percent—the White House, the Congress, and the various departments. We did that when President Reagan took office and it did not hurt a thing. At that time, we exempted the Defense Department. This time we can cut 5 percent from Defense, saving another $15 billion. Now with $51 billion saved, this is $51 billion we do not have to borrow. So we save another $2 billion in interest costs, cut spending $53 billion and the people will know we are serious. The financial markets will know we are serious. Long-range interest rates will drop, and we can fix responsibility—I know the distinguished Chair is not for this one—but we can fix responsibility with a line-item veto.

Now that we have saved $53 billion, we can afford some initiatives not just for a jump-start but for a new battery to propel this economy. We begin by encouraging savings and investment. People are not worried about spending and consuming. They are worried about saving and investing. They are worried about a job. A $300-tax cut with a $300-tax increase to another segment of the population is no stimulant. And a $300-tax cut for middle America is not going to jump-start a $5.6 trillion economy. This is the same old game of buying the vote with deficits. The way to create jobs is to give business and industry incentives so they can invest, so they can hire, and give people jobs. Next, restore the individual retirement account which was repealed in the 1986 Tax Reform Act. Restore passive restraints for real estate, restore investment tax credits, accelerated depreciation and capital gains. Just as Europe fortifies itself for the trade war with incentives to production, we take incentives from American industry and remove ourselves from the playing field.

Finally, we must sober up from the delusion that we are in charge of the global economy. For 45 years now, the United States deemed that its responsibility was to democratize and free market the world. With the fall of the wall and the breakup of the Soviet Union, with Europe and the Pacific rim taking the democratic route, democracy is prevailing. But the capitalization of these economies has been far from free. Recovering economically on a fast track, both Europe and the Pacific rim have used their governments to a fare-thee-well. In the United Kingdom, a car must contain 50 percent domestic content; in France, it takes a year to inspect an imported car; in Korea, the domestic industry must first agree to license imports; and in Japan, there is no idea of abandoning the Kereitsu system of taking over world markets. In the meantime, we have saddled our domestic industry with the burden of developing a high standard of living. Our competition subsidizes their industry for market share. We tax our industry for a minimum wage, the environment, safety, Social Security, health care, and plant closing notice ad infinitum. Our competition sacrifices these concerns in order to gain economic power. In the face of this sacrifice our call for "fair trade" is considered one of weakness, or a sick call. We must support and protect our standard of living. And we must have confidence in our capitalistic system. Market forces do operate. Government policies are fundamental to the market. Our high standard of living cannot be maintained with policies and diplomacy. The big banks, the multinationals and the retailers all who have been crying "free trade" while making a killing at the expense of our economic strength must be put to rout. We are in a production and trade war. America's industry must be protected from prison labor from China, child labor from Thailand, monopolistic practices of Korea and Japan, slave wages and pollution from Mexico, and dumping below cost from every country. These assaults on our industrial backbone, these assaults on our economic security will continue and grow so long as we permit them to work. We must put a stop to them by making them cost. The United States is the most sought after market. We need to use this position of strength—reciprocity, said Cordell Hull—and make it to the economic interest of our trading partners. Then we can do business. Then can we start rebuilding our United States.

One last point, Mr. President. Let us once and for all stop this sing-song in Washington that the American worker has got to get more productive. At the State level, we sing this regularly—and should. At home we know that we are not going to attract industry unless we beef up our education, our technical skills, and provide an economic environment for industrial investment. This is the principal task of every Governor. The Governors and State legislatures are out there digging, working, opening up overseas offices, traveling, soliciting, and paying the bill. We do not need the Washington politician to tell us about productivity. In fact, Washington should know that the most competitive, the most productive industrial worker in the world is the United States industrial worker. Year before last, the Baldridge Award for quality work, for the most productive industry in the United States went to a South Carolina textile industry—Milliken.

The same year that the President vetoed this, the industry was saying it was not competitive, and was not productive.

Mr. President, what is not producing, what is not competing, what is totally confused is our Central Government. One of the signers of our Declaration of Independence was Stephen Hopkins of Rhode Island. Hopkins was a diligent worker and contributed to this great document. But when the time came for signing—he was bedridden with Parkinson's disease—the doctors in Providence counseled him not to leave his bed because it would cost him his life. But in the dark of night with the assistance of two of his sons, he left his bedside, boarded a ship in Providence, and arrived in Philadelphia on July 2, 1776. Seated at the table and ready to sign, he stated "My hand is not steady, but my heart is strong."

Mr. President, today America's hand is not steady, but our heart is strong.

I yield the floor.

I thank the distinguished Chair.

Mr. President, I suggest the absence of a quorum.

VOL 137 PT 23 NO 21—25 1991 UMI

The PRESIDENT pro tempore. The absence of a quorum has been stated. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, what is the business before the Senate?

The PRESIDENT pro tempore. The business before the Senate is H.R. 3807, the Conventional Forces in Europe Treaty Implementation Act of 1991.

Mr. BIDEN. Thank you very much.

Mr. President, first, I will make a few comments on the underlying bill—the so-called cascading legislation. And then I would like to turn promptly to the key issue of the Nunn-Lugar amendment, pertaining to legislative authorization which I regard as critically important.

Mr. President, we are acting on the underlying bill at the behest of Secretary of Defense Cheney and the Bush administration.

This implementing legislation for the CFE Treaty is designed to minimize the impact of the treaty on United States equipment in Europe. If we pass this legislation, the United States will not be required to destroy any tanks or other equipment as a result of the treaty.

I repeat, if we pass the bill, the CFE Treaty will not require the United States to destroy any equipment, of course, we will reduce our forces, but by choice, not by legal requirement.

Without this legislation, the United States would be required to dismantle according to treaty procedures about 2,000 battle tanks, 400 armored vehicles, and 100 artillery pieces.

Instead, with the authority contained in the legislation, the United States can transfer to allies on the flanks—Turkey, Greece, Spain, and Portugal—all the equipment we would have to destroy and more.

Improving the military capability of the flank countries has been a longstanding goal of the United States. In testimony before the committee, General Galvin, NATO's Supreme Allied Commander urged us to pass this legislation in order that the flank countries modernize their equipment in the way that General Galvin has been seeking for some time.

Mr. President, some of my colleagues may wonder whether our NATO allies will pay for this equipment. The answer is no, but I hope my colleagues will appreciate that if these countries don't agree to take this equipment we will have to destroy the equipment. Since Greece, Portugal, Spain, and others know that it is cheaper for us to give them this equipment, I dare say they are smart enough to avoid paying for it, and it would cost $40 million for us to destroy this equipment according to treaty procedures.

In other words, Mr. President, without this legislation, the United States will be flushing $40 million down the drain, while forgoing a chance to modernize NATO's military forces in a way that General Galvin has been urging.

I trust my colleagues will join me in urging the passage of this legislation, lest we forego an important military modernization and waste $40 million.

THE MOST COST-EFFECTIVE NATIONAL SECURITY EXPENDITURE IN AMERICAN HISTORY

Mr. President, the so-called cascading legislation will provide the authorities necessary to facilitate timely U.S. implementation of the CFE Treaty. It is itself noncontroversial.

The key issue for the Senate today is whether we will add a further authorization—the Nunn-Lugar amendment—under which the President could reallocate one-sixth of 1 percent of the Defense budget to provide technical assistance in the former Soviet Union.

But let us be clear: Assistance is a misnomer.

This authority would target U.S. defense resources at the prompt, safe dismantlement of nuclear and chemical weapons in the Soviet arsenal. And if that can be done successfully, it would constitute nothing less than the most cost-effective national security expenditure in American history.

I commend the chairman of the Armed Services Committee, and this is not a passing courtesy. He has preserved to ensure that the United States meets the opportunity and challenge now before us.

I have been—and will continue—working with him in that regard, for the purpose is compelling.

We suddenly find ourselves in the historical transformation to a world without communism, a goal for which the American people labored and sacrificed for a half century. The policy of containment worked, but the transition—from communism to what follows it—will be uncertain and profoundly perilous.

We need a new American policy—based on new precepts to see us through that transition. We need a policy geared to promote a safe and orderly destruction of the very military juggernaut we successfully contained.

A long-standing defense policy of threat containment must be replaced by an active policy of threat reduction.

The Nunn-Lugar amendment is the first step in the creation of that new policy.

There should be no doubt about the urgent need for this amendment. The collapse of the Soviet Empire has unleashed long-suppressed forces of ethnic rivalry and nationalism across the length and breadth of that vast domain.

Amidst these unpredictable forces, the disintegrating Soviet Empire is bequeathing a dangerously perverse legacy: A vast nuclear arsenal—some 27,000 nuclear weapons—centered in Russia but dispersed among three other major constituent Republics—Ukraine, Byelorussia, and Kazakhstan—which may or may not choose to remain affiliated with the Russian Republic.

A major focus of uncertainty is the Ukrainian Republic. On December 1, 6 days from now, the Ukrainian people will vote in a referendum that will surely register overwhelming support for independence.

Regardless of that vote and others, we can predict with no confidence whatsoever the political, economic, and military relationships that will develop among the former constituent Republics once they have expressed and confirmed their own separate sovereignties.

In Ukraine as elsewhere, the outcome will emerge from a mix of conflicting forces: Centrifugal forces of nationalism, fed by pride and bitterness over past wrongs, and centripetal forces pulling the Republics back together in a confederation that could yield practical benefits of trade and cooperation among regional neighbors.

The outcome is unknowable. What we do know is that amid this jumble of forces are thousands of nuclear weapons, and also highly lethal chemical weapons, which are far from isolated or immune from the political strife now underway.

Just 5 days ago, the Soviet Defense Ministry in Moscow felt it necessary to issue a formal warning that the Union Army will defend its equipment and installations—by force, if necessary, against attacks by independence-minded groups and Republic governments.

Making clear that such episodes have already occurred, the Soviet Defense Ministry declared that these attempts "cannot be tolerated any longer."

"In certain areas," according to the defense ministry "military equipment and property of army units have been stolen. Only the restraint of army officers has made it possible to avoid bloodshed and numerous victims."

Mr. President, we in this body may not instinctively sympathize with those in Moscow who are struggling to hold the former Soviet Union or its army together, far from it.

But we must also face squarely the likely consequences of a wholesale disintegration of the Soviet Armed Forces. The clear likelihood is civil war.

We cannot know if that will occur. I pray it will not, but until all elements of the Soviet arsenal are dismantled or

brought under rigid and reliable controls, the menace created by Soviet communism will not have been laid to rest and the world will remain at risk.

The severity of this risk is compounded by the large cadre of scientific experts—literally thousands of scientists—who have built and serviced the Soviet nuclear arsenal.

With Soviet state employees being fired in droves, these scientific skills, unless they are quickly engaged in constructive activity, could become available to the highest bidder at home or abroad.

The resultant danger presents a specter we have feared since the first atomic blast at Alamogordo, a specter we simply cannot ignore: a nuclear weapons capability in the hands of a group or a government—within the former Soviet Union or outside it—that is willing to use that capability.

I can easily empathize with the Senator from Georgia when he complains of the misrepresentations he experienced concerning his initiative on the DOD authorization. I empathize because of my own experience in promoting so-called seed legislation over the last 18 months, in an effort to help convert the Soviet Empire to free-market democracy.

Winston Churchill counseled magnanimity in victory. What I have been advocating in the seed legislation and what Senators NUNN, LUGAR, and others of us are advocating today is nothing so grand as magnanimity.

What we are seeking is the continued, purposeful pursuit of American national security interests.

Indeed, if I had a criticism of the Nunn-Lugar language, it would be to say that I find it illogical to create a list of what are called exclusions—reasons that could disqualify the Soviet side from receiving this misleadingly labeled assistance.

My view is that if we have an opportunity to dismantle the Soviet nuclear arsenal, we should seize it, regardless of any issues that might arise about human rights violations, or arms control treaty violations, and anything similar.

We are not assisting the Soviet Union. We are assisting ourselves. History would mark it as one of mankind's most tragic follies if, at this juncture—this ironic coincidence of victory and danger—we failed to act decisively to help eliminate the Soviet nuclear arsenal that has for so long threatened our very survival.

Officials in what remains of the Soviet Central Government—and officials in the Republics—are now literally begging for American help in beginning the dismantlement process.

They too sense the danger. And they know they lack the skill and resources to deal with the problem.

It is a remarkable feature of the cold war, in which both superpowers expended hundreds of billions to develop and deploy nuclear arms of incredible complexity and sophistication, that neither superpower acquired a substantial body of expertise in how to dismantle and safely dispose of nuclear weapons, once created.

But this gap in knowledge is even greater on the Soviet side. And the gap is compounded by the enormous expenditures that would be involved in such wholesale conduct of a highly complicated technological process.

Indeed, a high-ranking aide to President Gorbachev recently told United States authorities that, given their existing capabilities, the Soviet military would require 40 years to dismantle the Soviet nuclear arsenal.

Some might reasonably ask, will the Soviets disarm unilaterally? The answer is that beyond a certain point they will not.

At some stage in the arms reduction process, new bilateral agreements between Washington and Moscow, or multilateral agreements involving other powers such as Britain, France, and China—would almost surely be necessary.

But such agreements are not the first order of business. The first priority is to get the arms reduction process started, focusing on weapons the elimination of which has already been negotiated or unilaterally pledged.

President Gorbachev has already declared a unilateral action under which the Soviet military will destroy all its nuclear artillery shells, nuclear mines, and nuclear warheads for tactical surface-to-surface missiles, as well as a large percentage of its nuclear anti-aircraft missile warheads, tactical nuclear weapons on ships, and gravity bombs carried by land-based naval aircraft.

Additionally, President Gorbachev declared that the Soviet reductions under the newly signed START treaty, covering strategic-range weapons, would be carried, by unilateral action, to a level 1,000 weapons below the START-mandated ceilings.

Thus, through decisions and agreements already reached, Moscow has on its immediate agenda the destruction of fully one-half of its current nuclear arsenal.

Moreover, President Gorbachev has called for early negotiation of a START 2 treaty that would cut the current START levels sharply, so that the reductions begun under START 1 would continue without interruption to just a few thousand at most, the precise level to be determined by negotiation.

We have an important longer range task to negotiate those lower levels, but our urgent task is to help the Soviet Union get the reduction started and to accelerate the process of actual weapons elimination.

Mr. President, the question before the Senate—the question put to the Senate by the Nunn-Lugar amendment—is whether, having won the cold war, we will now join with our former adversary to eliminate the armageddon arsenals to which the cold war gave genesis. Or do we do nothing, hoping the Soviet arsenal will somehow safely disappear without our involvement?

To defeat the Nunn-Lugar amendment would, in my very strong belief, be a reckless gamble with history.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Under the order entered on Saturday, November 23, only the following first-degree amendments are in order:

A Nunn-Lugar-Boren authorizing amendment, subject to appropriations, regarding $500 million for dismantling nuclear weapons in the Soviet Union, and subject to verification;

A Boren-Cohen, et al., amendment regarding emergency military airlift to Soviet Union for humanitarian purposes;

A Cranston-Pell amendment regarding nuclear weapons security;

A Dole-Levin-Lugar, et al. sense-of-the-Senate amendment regarding enhancing United States security through the promotion of democracy in the Soviet Union;

A Danforth amendment regarding TWA [PBGC].

No motion to recommit is in order, and the only relevant second-degree amendments in order will be those that are in order to the Nunn-Lugar-Boren amendment and the Boren-Cohen, et al. amendment.

The PRESIDENT pro tempore. The Senator from Georgia [Mr. NUNN] is recognized.

Mr. NUNN. I thank the Chair for the explanation.

Mr. President, I rise today to propose an amendment. I understand from the Chair this amendment is in order on behalf of myself and Senator LUGAR.

The PRESIDENT pro tempore. The amendment is in order.

AMENDMENT NO. 1439

(Purpose: To provide for the use of Department of Defense resources for destroying Soviet nuclear and other weapons)

Mr. NUNN. Mr. President, I send to the desk an amendment on behalf of myself; Mr. LUGAR, Mr. BOREN, Mr. DOMENICI, Mr. PELL, Mr. BIDEN, Mr. HELMS, Mr. CHAFEE, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. EXON, Mr. LEVIN, Mr. BINGAMAN, Mr. GORE, Mr. CONRAD, Mr. GRAHAM, Mr. WIRTH, Mr. LIEBERMAN, Mr. MACK, Mr. DOLE, Mr. KERRY, Mr. GORTON, and Mr. MCCONNELL.

The PRESIDENT pro tempore. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself, Mr. LUGAR, Mr. BOREN, Mr. DOMENICI, Mr. PELL, Mr. BIDEN, Mr. HELMS, Mr. CHAFEE, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. EXON, Mr. LEVIN, Mr. BINGAMAN, Mr. GORE, Mr. CONRAD, Mr. GRAHAM, Mr. WIRTH, Mr.

VOL 137 PT 23 NO 21—25 1991 UMI

Lieberman, Mr. Mack, Mr. Dole, Mr. Kerry, Mr. Gorton, and Mr. McConnell, proposes an amendment numbered 1439.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 7, below line 6, insert the following:

TITLE II—SOVIET WEAPONS DESTRUCTION

Part A—Short Title

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

Part B—Findings and Program Authority

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(A) Findings.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among emerging political structures of the territory of the former Soviet Union that is not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know how outside of the territory of the former Soviet Union that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union and its former and present republics, and (B) to assist in the prevention of weapons proliferation.

(b) Exclusions.—United States assistance in destroying nuclear and other weapons under this title may not be provided to any nation, Soviet republic, or former Soviet republic unless the President first certifies to the Congress that the potential recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements or is designed to replace destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) In General.—Notwithstanding any other provision of law, the President, consistent with the findings stated in the preceding section, may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C using funds appropriated for the Department of Defense for fiscal year 1992.

(b) Type of Program.—The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics (including those which may gain independence after the enactment of this Act) to (1) destroy nuclear weapons, (2) transport, store, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon Untied States technology and United States technicians.

Part C—Administrative and Funding Authorities

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) Funding.—(1) The President may, to the extent provided in appropriations Acts, transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, such amounts as may be provided in appropriations Acts, not to exceed $500,000,000, for reducing the Soviet nuclear threat under part B.

(2) Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed Forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) Department of Defense.—Notwithstanding any other provision of law, the Department of Defense shall serve as the executive agent for any program established under part B.

(c) Reimbursement of Other Agencies.—The Secretary of Defense may reimburse other departments and agencies of the United States under this subsection for costs of participation, as directed by the President, only in a program established under part B.

(d) Charges Against Funds.—The value of assistance from existing stocks and inventories of the Department of Defense or any other Federal department or agency may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) Determination by Director of OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Part D—Reporting Requirements

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to Congress a report on the proposed obligation. Each report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal years 1992 and 1993, the President shall transmit to Congress a report on the activities to reduce the Soviet nuclear threat carried out under part B. Each such report shall set forth, for the preceding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which spent.

(2) The source of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of departments and agencies other than the Department of Defense in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

Mr. NUNN. Mr. President, Senator Lugar and I are on the floor today to offer an amendment that will provide for the use of Department of Defense resources to assist the Soviet Union and its republics to destroy nuclear weapons, chemical and other weapons. No one would have imagined 2 years ago, 3 years ago, 5 years ago, 10 years ago that Soviet authorities would ask the United States to give our assistance in helping them transport, store safely, and then destroy on the order of 15,000 nuclear weapons over the next several years.

That includes, as the Senator from Delaware has already said so articulately, all Soviet nuclear artillery shells, all Soviet nuclear mines, all nuclear warheads for Soviet tactical ballistic short-range missiles, hundreds of Soviet nuclear warheads for surface-to-air missiles, hundreds of Soviet tactical nuclear weapons based at sea, hundreds of nuclear gravity bombs carried by Soviet land-based naval aircraft, several thousand Soviet strategic nuclear weapons whose destruction is required by START, 1,000 Soviet strategic nuclear weapons that President Gorbachev has pledged to destroy beyond those whose destruction is required by START.

Mr. President, I am convinced that we are at a critical moment in history. The Senate from Delaware has done a spendid job of guiding through the Senate the CFE Treaty, which I anticipate will pass with a resounding vote sometime today. This is major legislation. I consider this amendment that we have just sent to the desk a very important amendment, perhaps, as the Senator from Delaware has said, one of the most important amendments in terms of our national security, indeed the security of the world, that has been before this body in many years.

The reason I say that is that we are given an opportunity now to help not only destroy specific weapons but to help engage Soviet technicians and scientists who are going to be working on this project themselves in something constructive. We are on the verge of either having the greatest destruction of nuclear weapons in the history of the world or the greatest proliferation of nuclear weapons, nuclear materials, and scientific know-how on how to make these weapons, as well as chemical weapons, ballistic missiles, even biological weapons the world has ever seen.

Our duty, as I see it, and our opportunity is to do everything we can to make sure that we take advantage of this opportunity and do everything we can to discourage the proliferation danger that we may be engaged in at the moment and that will grow in the months and years ahead unless we do something constructive now.

This legislation embodies a new approach to enhancing our national security, an approach which fits a dramatically new national security environment. This amendment proposes to use a small part of our $291 billion defense budget—in fact, considerably less than one-half of 1 percent of the overall budget—for a cooperative program with the Soviet Union and its republics to reduce the Soviet military threat at its source, within the Soviet Union itself.

Mr. President, Senator Lugar and I believe that the basic premise of the amendment is that the former Soviet Union, still a nuclear superpower, is coming apart at the seams. The danger of proliferation of existing weapons, weapons materials and weapons know-how is growing as both the Soviet economy and traditional Soviet control mechanisms lose effectiveness. Soviet leaders are anxious to destroy nuclear and chemical weapons and have asked our help. We should act now, and this amendment will allow us to do so.

The amendment I am proposing is the product of extensive consultations with colleagues on both sides of the aisle. It provides discretionary authority and funding for a program to assist the Soviets to transport, store, safeguard and destroy nuclear, chemical and other weapons. It would also authorize assistance in establishing verifiable safeguards against weapons proliferation. This assistance could involve planning and resolving technical programs associated with weapons destruction and proliferation. It could also involve funding for critical short-term requirements related to weapons destruction. In that regard, the amendment specifies that such assistance should to the extent feasible utilize U.S. firms and U.S. technicians.

Funds for this program would come from transfers from existing Department of Defense accounts.

The actual expenditure, which would be capped at $500 million, would be totally discretionary. Similarly, all program activities would be totally discretionary.

And I know we have occupying the Chair today the chairman of the Appropriations Committee. I make it abundantly clear to the chairman of the Apprregister Committee in the Chair at the moment that this is subject to appropriations and would have to be appropriated by the Appropriations Committee also, and we certainly hope that that would be done in the closing hours of the Congress.

In short, Mr. President, this provision gives the administration the authority and the funding to protect our most basic security interests by helping the Soviets to destroy some 15,000 tactical nuclear weapons and tons of chemical weapons. Cooperation with Soviet authorities on destroying nuclear and chemical weapons should not be postponed. The benefits of responding are too great, the dangers of inaction too severe.

The program foreseen by this amendment cannot completely eliminate the dangers posed by Soviet weapons and weapons know-how. It can, however, provide focus and priority to the destruction of a large part of these weapons. It can also, most importantly, engage Soviet weapons experts and underscore the importance of preventing the export of weapons and weapons expertise to the Saddam Husseins and the Mu'ammar Gadhafis of the Third World.

The dangers of inaction, Mr. President, are both real and immediate. I recently entered into the Record the conclusions of a just-published study by the Harvard University Center for Science and International Affairs on "Control of the Nuclear Arsenal in a Disintegrating Soviet Union." Let me just highlight the key conclusion of the study, which is that the profound changes underway in the Soviet Union pose three types of dangers:

First, the ultimate disposition of nuclear weapons among emerging political structures on the territory of the former Soviet Union may not be conducive to weapons safety or to international stability;

Second, there is a danger of seizure, theft, sale or use of nuclear weapons or components; and

Third, there is a danger that any weakening of control over weapons or components could result in transfers outside of the territory of the former Soviet Union, fueling nuclear proliferation worldwide.

If these dangers seem abstract, just imagine the depth of international concern if Yugoslavia, also plagued with domestic turmoil, had thousands of nuclear weapons and tons of chemical weapons located throughout its territory. Mr. President, we should consider carefully the recent declaration of a Russian nationalist leader who received 6 million votes in last June's Presidential elections in Russia and from all reports probably would do even better today. He recently told a Western news correspondent that he would be President of Russia in 6 months, after the failure of Yeltsin's economic reform plan. As this Russian nationalist leader put it:

> I will—then—introduce an economic blockade to force the Baltic region to return to Russia. I would use military means to solve the problem of Kazakhstan. Against the Ukraine I would use some military means and some economic measures.

While the dangers are real, so is the opportunity for the greatest reduction of weapons of mass destruction in history. Nonetheless, United States assistance to the former Soviet Union in this amendment is not a blank check. With this in mind, the amendment specifies that no assistance be provided unless the President first certifies to Congress that the potential recipient is committed to do the following:

Making a substantial investment of its own resources to dismantle or destroy nuclear, chemical, and other weapons;

Foregoing any military modernization program that exceeds legitimate defense requirements or is designed to replace destroyed weapons of mass destruction;

Foregoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

Facilitating U.S. verification of weapons destruction carried out under this provision.

I think this is an important addition that has been suggested by the Senator from North Carolina [Mr. Helms] which is now a part of our amendment.

Complying with all relevant arms control agreements, including START, CFE, and the Non-Proliferation Treaty; and

Observing internationally recognized human rights, including the protection of minorities.

Mr. President, some criticized an earlier version of this legislation as ill-considered because, allegedly, according to the critics, it would help a potential adversary and, allegedly, according to the critics, they said it was ill-timed because it would use U.S. taxpayer money that should be applied to more pressing problems here at home. Mr. President, let me make it clear this is money from the Defense Department, not from domestic sources. I believe both criticisms are without merit.

This amendment would help a still dangerous former adversary to become significantly less dangerous and less adversarial to us and to our allies. It is

VOL 137 PT 23 NO 21—25 1991 UMI

far from a blank check. To me it is not foreign aid, it is self-defense.

The criticism that the funds for assisting Soviet weapons destruction would be better spent at home in my view seriously underestimates the wisdom of the American people. The American people will understand that by making a limited, carefully conditioned investment today, we will clear the way for much larger reductions in defense spending tomorrow. After all, our multibillion-dollar defense budget exists primarily to deter the very threat that this amendment will enable us to reduce, not only in the Soviet Union but most important, Mr. President, to avoid proliferation of these systems throughout the world.

I cannot think of a better way to help the American people than reducing the potential military threat that we will have to face in the years ahead—not just in the former Soviet Union but potentially around the world.

As the auto mechanic on television used to tell us, holding a new oil filter in one hand and a huge bill for engine overhaul in the other, we can pay now for modest preventative measures, or we can pay later for major, expensive defense and deterrence programs.

Mr. President, the American people, I believe, will understand that if we let this historic opportunity pass, we may soon confront new threats from an unprecedented proliferation of weapons and weapons know-how. This is an opportunity squarely in our vital interests. This is an opportunity we must not miss.

Mr. President, I ask unanimous consent that Senator JOHN KERRY of Massachusetts be added as an original cosponsor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I thank the Chair, and I thank my friend from Indiana for his leadership on this amendment. His vigorous support of this concept has brought a great deal of support to the concept from both sides of the aisle. And I am delighted he is a cosponsor.

Mr. LUGAR addressed the Chair.

The PRESIDENT pro tempore. The Senator from Indiana [Mr. LUGAR] is recognized.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Georgia, the chairman of the Armed Services Committee. It has been a real pleasure to work with him and to work with our colleagues to fashion a very strong bipartisan amendment that he has proposed in our behalf this morning.

Mr. President, great dangers are posed to nuclear safety and stability in the Soviet Union by the profound changes in that disintegrating entity, as Senator NUNN has so accurately described.

Our amendment represents one effort to come to grips, on an emergency basis, with a problem whose severity and lethal consequences can only grow.

These dangers are threefold and very clear:

First, the process of devolution of political authority that is taking place in the Soviet Union creates the danger that the ultimate disposition of nuclear weapons in the new political system will not be conducive to their safety or to international stability.

Second, there is a danger of seizure, theft, sale, or use of nuclear weapons or components during the period of transition, particularly if a widespread disintegration of the custodial system should occur.

Third, there is a danger that any weakening of control over weapons and components could spill outside the territory of the former Soviet Union, fueling nuclear proliferation worldwide.

All three of these dangers warrant immediate consideration of the sources of United States influence to achieve preferred outcomes as the Soviet Empire dissolves and its nuclear weapons complex devolves to the successor states.

Nonstrategic nuclear weapons within the former Soviet Union are a source of major concern because of their great number and variety and because they are more widely dispersed among the republics than strategic weapons. Moreover, the system of procedural and technical safeguards that has prevented unauthorized seizure or use of these weapons for over 40 years offers no guarantees in the face of widespread social disorder of the kind on the horizon in the Soviet Union. Thus, removal of these weapons to central storage and ultimately destroying them is of critical importance.

Leaders of the Soviet Union and of individual republics have stated a willingness to destroy thousands of strategic and tactical nuclear weapons that fall outside existing or prospective arms control regimes. President Gorbachev has announced that the Soviet Union would destroy its nuclear artillery shells and mines, its nuclear warheads for tactical surface-to-surface missiles, as well as part of its stockpiles of nuclear antiaircraft missile warheads, tactical nuclear weapons on board ships, and nuclear bombs carried by land-based naval aircraft.

At the republic level, Ukrainian officials have called for the destruction in place of strategic nuclear weapons that otherwise could be retained, and the Russian President has urged the central authorities to eliminate strategic weapons permitted under START as opposed to transporting them to Russian soil.

In recent conversations here in Washington, Soviet officials have pointed to nearly 15,000 nuclear weapons that they would like to destroy with our help. In response to Gorbachev's proposal for joint activities involving "technologies and procedures for the dismantling of nuclear explosive devices," President Bush suggested that the two countries explore cooperative ventures designed to implement the storage, transportation, dismantling, and destruction of nuclear weapons and to enhance existing arrangements for the physical security and safety of nuclear weapons.

The chairman of the Armed Services Committees in both Houses made an effort to address the issue. The reactions in both Houses were such that provisions dealing with the problem were stripped from the conference report. But that political response to a growing strategic danger does not absolve the Congress from its responsibilities. The problem will not wait until January of next year.

Soviet and republic leaders have come to recognize that these nuclear weapons are a greater threat to them than to any potential external adversary.

But nuclear weapons do not simply fade away; they must be disabled, they must be dismantled, they must be destroyed. But as the chairman of the Senate Armed Services Committee pointed out on the floor last week and today, the dismantling and destruction of nuclear weapons require two things currently unavailable to Soviet and republican leaders—technology and resources. In addition to technical know-how, the Soviets desperately need centralized nuclear storage facilities, transportation networks, dismantling plants.

We can either seize the opportunity for cooperative efforts in this field now or witness a quantum leap in the proliferation of weapons of mass destruction in the next few years. The time to establish an antiproliferation regime is now and an appropriate place to start again is with the former Soviet Union and its republics, seemingly willing partners in destroying weapons before they can proliferate.

The United States is not in a position to call the shots either as to the dissolution of the Soviet Union and eventual forms of successor states, or as to the devolution or dispersal of Soviet nuclear forces among them. But the United States does have some important leverage if its preferences and influences are identified early and acted upon quickly and coherently.

Mr. President, Senator NUNN and I hosted a breakfast last Thursday morning involving 16 Members of the Senate on this issue. There was a remarkable consensus that we needed to rise above the so-called 30-second sound bite mentality and work to initiate emergency legislation to deal with the nuclear dangers associated with the disintegration of the Soviet Union.

The amendment before the Senate this morning represents the product of the labors of some 20 Senators. It was encouraging to witness such a group pool its efforts to produce this legislation.

Mr. President, this amendment is narrow in its focus. It contains appropriate conditions that must be met and Senator NUNN has outlined those in his address this morning, before our assistance in this matter will be forthcoming. It addresses a specific and pressing matter—the need to assist in the dismantling and destruction of Soviet nuclear weaponry before political and economic circumstances undermine further the Soviet nuclear command and control system. It covers not only the nuclear weapons themselves but associated issues involving storage of materials and transportation of nuclear weapons.

And last, Mr. President, I want to emphasize two points:

This is not foreign aid; our amendment is part of a national security package.

This amendment provides discretionary authority to the President to utilize appropriate funds to implement this program.

Mr. President, I understand that a delegation headed by the Soviet Deputy Minister of Atomic Power and Industry will be in Washington this week for consultations. This ministry has responsibility for both production and dismantlement of nuclear weapons. Passage of this amendment would constitute a major agenda item for that delegation in its talks, and discussions concerning implementation of the amendment could commence immediately.

Mr. President, the danger of a form of nuclear meltdown exists inside the former Soviet Union, as the Soviet nuclear command and control system is subjected to the stresses and strains of political, economic, and social disintegration. Combined with an equally ominous Soviet "nuclear fire sale," designed to replenish Soviet coffers with hard cash from the highest bidders on the open market, without adequate safeguards, these tendencies and trends only heighten concerns regarding the consequences of instability inside the U.S.S.R.

The obvious advantage of substantial Soviet denuclearization is that it would eliminate a major portion of the nuclear threat to United States security and survival, as well as that of its allies. The nuclear problem in the Soviet Union is one without precedent and therefore without settled guidance. It calls for the initiation of specific auction now.

Soviet officials have recognized the problem and they have asked for help. The question is: Will we recognize the problem and respond accordingly.

Mr. President, I ask my colleagues to support the amendment and to answer the question in the affirmative.

The PRESIDENT pro tempore. The Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. I thank the Chair.

First, Mr. President, I want to extend my gratitude to the chairman of the Armed Services Committee, Senator NUNN, for the persistence he has shown. The wisdom of this amendment is, I believe, manifestly clear. But it took a tremendous amount of persistence on the part of our chairman to put together a bipartisan coalition in support of this amendment. I felt so badly about the fact that it was dropped from the defense authorization bill that I decided I would vote against that bill principally for that reason, that a similar amendment to this one was dropped because it did not have adequate support at that time.

Our chairman has been extraordinary in his persistence. He always is. It is reflected in this amendment as well as any effort that he has made. I also want to thank, of course, our friend from Indiana, Senator LUGAR, for his work on this amendment. It makes this a bipartisan amendment and that is critical to its adoption and critical to its support by the American people.

Mr. President, this is obviously a step which is taken in America's security interest. It is a step to respond to Soviet appeals for technical assistance in securing their nuclear warheads and to assist them in storing and dismantling those warheads.

These are revolutionary times around the world, and we just cannot allow ourselves to hold onto old, outmoded notions about what makes us more secure. It is time for a little new thinking in this body as to how to prevent security threats to our country before they develop.

This amendment attempts to prevent the wholesale proliferation of nuclear weapons and weapons technology to more parties within the former Soviet Union and to countries outside of that region who would pay dearly to get their hands on these weapons. What could be more clearly in America's security interest? This is not a handout to the Soviet Union. It is America using a strong hand to prevent nuclear proliferation which could threaten us, our people here in America.

After the billions of taxpayers' dollars that we have spent and are still spending to buy nuclear weapons to counter Soviet nuclear weapons, this investment, at the discretion of the Appropriations Committee and the discretion of the President, directly helps to control and dismantle Soviet weapons. That is a modestly targeted, cautious investment in America's security.

Our people understand that renewal at home will not happen if we have to face a newly aggressive military adversary with nuclear weapons in one or more of the former Soviet republics or if we have to face an Iran or an Iraq that has bought nuclear weapons from the Soviets. Our people understand; they know this is not a foreign aid package. This is an American security package targeted toward the security of our own people. I hope the Senate will give this a very strong bipartisan vote. It deserves it.

Mr. President, I have spoken out for their approach repeatedly over the past few months. It is time now to pass this measure and to make this very modest crucial investment for Soviet nuclear disarmament and against nuclear proliferation.

Again, I want to thank our chairman and Senator LUGAR, both, for the energy that they have displayed, for their creativity that they have shown in putting together an amendment which I now believe is going to command broad bipartisan support in the Senate.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, I wish to join with my three previous colleagues in supporting and lauding this amendment. Since 1945, this Nation has spent some $4 trillion on its national security, primarily in providing for a strong national defense. In the view of this Senator, Mr. President, that money has been wisely and well spent. The dividends which it has paid are evident not only in the growth and security of this Nation during that more than 45-year period, but in the fact that it succeeded in its most significant goal, which was the prevention of a nuclear conflict, of a nuclear holocaust.

In addition, that tremendous expenditure on the part of the United States has so broken the back of the Soviet Union and of its form of societal and economic organization that union can now no longer properly be called a union and is in a free fall, a disintegration not only in economics but in social cohesion and in the control over its defense forces.

So what was a concern a relatively few years ago for possible massive Soviet attack, either on Western Europe or perhaps even a nuclear war, now has resolved itself into overwhelming concerns over who controls the tens of thousands of nuclear weapons in the Soviet Union; can they be seized by splinter groups or by terrorists; can they be sold in order to meet some of the desperate crises in the Soviet Union?

To the credit of the leaders of both the Soviet Union and its principal republics, that group is as concerned with these potentialities as we are and is crying out for help in gaining control over its own nuclear weapons and, most particularly, over its destruction.

For 1992, the United States will be spending something over $250 million

VOL 137
PT 23
NO 21–25
1991
UMI

on its national security through the Department of Defense. This amendment represents less than one-fifth of 1 percent of that amount in return for which we will come far closer to the destruction of literally thousands of those nuclear weapons in the Soviet Union than we can in any other fashion.

Mr. President, this amendment is not one which ignores our domestic needs. It is not foreign aid. It is a true grand bargain and is perhaps as effective a way to spend a share of our budget for national defense as any which could possibly be adopted.

I wish to join my other colleagues in congratulating the distinguished chairman of the Armed Services Committee, and my friend, the senior Senator from Indiana, for their persistence in pursuing this goal and their persistence in putting together a broad cross-section of Republicans and Democrats in this body for an imaginative and constructive idea which will contribute significantly to the national security of this Nation as well as to the potential of a future, more peaceful Soviet Union or set of successor States.

Mr. NUNN. Mr. President, will the Senator yield just for a brief comment?

Mr. GORTON. I will be delighted to.

Mr. NUNN. Mr. President, I want to thank the Senator from Washington for his very valuable support on this amendment. He told me last week he is in favor of this. He helped our colleagues in working this on both sides of the aisle. I thank him for his support.

I also want to thank the Senator from Michigan for his support. He has been invaluable and absolutely superb from the very beginning. He has been very much a part of it. I thank both my friends.

Mr. GORTON. I appreciate the comments of my distinguished colleague, and I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The junior Senator from Minnesota [Mr. WELLSTONE] is recognized.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I am quite sure that in the months to come, it is kind of like the winds and the tides. The focus in our country will be, to be sure, on domestic issues, domestic needs, domestic problems, economic recovery and jobs, education, and health care: A new American order, if you will. But I want to argue today on the floor of the Senate that what happens in what used to be called the Soviet Union, whether or not the forces for democracy triumph in that part of the world or not, is going to crucially affect the lives, the quality of the lives or lack of the quality of the lives of our children and grandchildren as anything that is happening in the world.

So I rise for just a minute or two to commend Senator NUNN and Senator LUGAR for their leadership on this amendment. I cannot think of anything that we could do that would be more important than enabling the Soviet Union to dismantle their nuclear weaponry. I think it is a national security issue. I think it is so important that we not sit on the sidelines and I hope that, above and beyond this amendment, there will be other amendments agreed to today and that we will be moving forward in the months to come to establish a positive working relationship with the country.

It is all very much up in the air right now, Mr. President. Cold winter sets in in what was my father's country, what used to be called the Soviet Union. This could be such a better world if the forces for democracy are able to triumph. There are so many good people there to support, and this amendment is an important step in the right direction, and I am very proud to support it.

I think there are some other amendments that are going to be very important as well and, as I said before, I look forward to the time when we help this country dismantle its nuclear weaponry. That is first and foremost, when we establish a relationship of economic assistance where we think about human talent and the kind of cross-fertilization that we can have of Americans going to that country, to the different republics and vice versa.

Right now we have a prohibition on the Peace Corps being active in what used to be called the Soviet Union. I hope, next session, to offer an amendment or introduce a bill to make sure we can send the Peace Corps to that part of the world. It is fine to focus on our own country, but I say to my colleagues, Senator NUNN and Senator LUGAR, that they have done a great service for both our parties, for the Congress and for the people in the country.

I thank the Senators for this amendment. I am so pleased it is now before the floor of the Senate and very proud to support it.

Mr. SARBANES addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Maryland [Mr. SARBANES] is recognized.

Mr. SARBANES. Mr. President, I rise in very strong support of this amendment. I congratulate Senators NUNN and LUGAR for developing it and for pressing forward with it.

I ask unanimous consent I be added as a cosponsor of the amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, this issue is not really a question of helping somebody overseas as opposed to helping our own people. This is helping ourselves. I cannot think of a clearer instance where we have the opportunity to advance our own fundamental interests than with this proposal that is before us.

What this proposal seeks to accomplish is in effect to speed up the dismantlement of Soviet weaponry. In other words, to assist them in stepping down their level of nuclear weaponry.

What could be more in America's interests or to our advantage—not only our interest and advantage, but the whole world's interest and advantage—than accomplishing this objective. This is a very carefully worked out amendment, and I commend the authors of this proposal, Senators NUNN and LUGAR, for the skill which they have shown.

First of all, they have indicated the types of dangers about which we are concerned as far as nuclear safety and stability are concerned. These include the disposition of this weaponry amongst the various political structures in the territory of the Soviet Union, the possible danger of seizure, theft, sale, or the use of these nuclear weapons or components, or the transfer of such weapons outside the territory of the Soviet Union.

There is one other danger that is possible, and that is what we saw in August; we had coup and the possibility of a reversion, then—at least we were apprehensive about such a prospect—to the old Soviet Union, so to speak. That danger has not been totally and completely removed. So another danger, of course, is that something of that sort, a radical reversion to the past, could take place, and then this weaponry would still be in their arsenal. It clearly is in our interests to get this weaponry out of the arsenal of the Soviet Union, and to do it as quickly as possible.

Another condition being proposed here, which I think is very important, is that before we provide any assistance in destroying nuclear and other weapons, the President has to certify to the Congress that certain Soviet Republic, or former Soviet Republic has to make a substantial investment of its own resources for these purposes. In response, we are going to take some of the money from our defense budget, in effect, to reduce the weaponry of the other side—we are going to take some of that money, and very directly help in reducing the weaponry of the other side. This means that then we can look to a future where we do not have to make the same kind of investment in weaponry on our side.

We are going to bring their level of nuclear and other weaponry down. One of the reflections of the care of this amendment is that the President, before he can move ahead to use this authority—and it is a discretionary authority—must certify to the Congress that the potential recipient is committed, one, to making a substantial investment of its own resources for dismantling or destroying. So it is not going to be in lieu of the recipient providing resources.

The Soviets and the republics have limited resources; but we want them to move more quickly. We want to accomplish this objective as soon as is humanly possible, but they must make a substantial investment of their own resources. They must forgo any military modernization program that exceeds legitimate defense requirements or is designed to replace destroyed weapons of mass destruction. Think about it. What a significant condition that is in terms of assuring ourselves that there is not going to be some other commensurate buildup in military capability. The recipient must forgo any use of fissionable or any other components of destroyed nuclear weapons, in new nuclear weapons.

In addition, they must facilitate our verification of weapons destruction. They must comply with all relevant arms control agreements and they must observe internationally recognized human rights, including the protection of minorities.

Mr. President, I think this is an enormously and positively constructive amendment. It has been very carefully developed. It gives us an opportunity to take a very significant step to speed up the timetable that this weaponry will be destroyed.

I think it is a very wise commitment of the limited amount of money that is called for in this bill—which is money that is in the defense budget, as I understand it. It is money in the defense budget that would be used for the purpose of assisting the adversary or the potential adversary destroy their own weaponry. It is a very imaginative proposal, and I am very strongly in support of it.

I urge my colleagues to support this very significant proposition.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I commend the Senator from Maryland, not only for his remarks this morning, but also because when this proposal was under a great deal of fire, the Senator from Maryland personally told me that we should continue the fight. He has been a leader in this area, and I am very grateful to him for his remarks.

Mr. SARBANES. Mr. President, I thank the Senator from Georgia for his kind statements. I must say that he has been interested in this for a long time as has Senator LUGAR and Senator BIDEN, who has chaired a number of hearings in the Foreign Relations Committee on this subject and who is managing the CFE Treaty. We are all in agreement that this represents a major step in helping to achieve a very important result.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, I was going to stand to see if anyone was going to seek recognition on the issue. I see our friend from Wyoming is here, so I will refrain and yield the floor.

The PRESIDENT pro tempore. The Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, I thank the Chair. If I could, I would like to engage either the Senator from Georgia or the Senator from Indiana in a series of questions about this amendment.

I begin by saying, Mr. President, that I do not know anybody who is not interested in finding a way to eliminate any proliferation of nuclear weapons, to eliminate any unnecessary threat, or do any of the sort of noble deeds that are contemplated by this amendment. What I am curious to determine is if anybody can determine if that is going to be the result of it.

I think you begin by an understanding of the basic economic fact that money is fungible, that money provided for an act here relieves the obligation for money from some other place to perform the requirements of that act.

The Soviets, to the extent that they exist anymore, have undertaken these obligations to destroy their weapons. I understand the whole series of findings, that President Gorbachev has requested Western help in dismantling nuclear weapons and that there are changes underway. We, of course, would have had to have been dead for the last couple of years not to understand that.

And the third is that it is in the national security interests of the United States. Those are all givens and obvious and acceptable.

The exclusions—this is where I would like to direct some questions, through the Chair, to the Senator from Indiana. It says:

> The United States' assistance in destroying nuclear and other weapons under this title may not be provided to any nation, Soviet Republic, or former Soviet Republic unless the President first certifies to the Congress that the potential recipient is committed to, (1) making a substantial investment of its resources to dismantle or destroy such weapons.

Could the Senator explain who defines "substantial" and who otherwise might be able to question whether it is substantial or not?

Mr. LUGAR. Mr. President, I respond to the distinguished Senator from Wyoming by saying that the President of the United States will have to make this determination. My presumption is the President of the United States will certify that substantial investment resources have been made.

The purpose of the exclusion is an obvious one, and that is, although we believe it to be in the best interest of the United States to see the weapons destroyed, in fact the Gorbachev-Bush understanding was that both of our countries would move in a very concerted way toward these destructions. And we believe that the Soviets, or the entities that may be their successors, ought to fulfill that idea. We will have to make a determination—at least I would say "we" and in behalf of the President. He can make the determination as to whether, in fact, the Soviet effort is a substantial one.

Mr. WALLOP. Mr. President, may I ask either of the authors if they have a definition of what constitutes substantial? It is a vague word at best, and it has grave meaning when applied to something as serious as this.

Mr. LUGAR. Mr. President, in response to that, on my own—the distinguished Senator from Georgia may have an additional thought—clearly, we have outlined that the problem is twofold, and that is that the Soviets lack the resources, and they lack sufficient expertise either in quantity or quality to do the job. As a result, the presumption of this amendment is that we will have to supply a good bit of both.

I simply go back to my earlier thought, and that is the President of the United States—in our interest, the United States' interest—will have to make a determination of what the term "substantial" means.

Mr. WALLOP. I say to my friend, we just have been through the Gates hearings, in which everybody was talking about politicizing intelligence judgments. I am suggesting that the inadvertent effect of this is we emphasize the word "substantial." Some will suggest that substantial has not been quite achieved and others will suggest that it is substantial; and why not let the President act?

It seems to me that the authors of the amendment might be able to provide us with at least their view of what constitutes substantial.

Mr. NUNN. I say to the Senator from Wyoming, if the Senator will yield—Mr. President, I will say that one of the things that is paradoxical is that one way of looking at it is that the Soviets continue to modernize their nuclear forces. That is, I am sure, a matter of concern to the Senator from Wyoming. It is a matter of concern to me.

I also have had enough conversations with a number of people in the Soviet Union coming from different aspects and a number of people in the Russian Republic, including democratic reformers, to conclude that one of the reasons they are continuing to do this, No. 1, is because they do not know anything else to do; No. 2, they have a view to the amount of employment involved; No. 3, they do not really know how to convert their military industry now; No. 4, the West has not been very assertive in going in and giving them advice on conversion, although I believe that effort is picking up.

It is my view, based on the conversations I have had, that, we are going to see by the spring of this next year a very large—and I mean by "substan-

VOL 137 PT 23 NO 21—25 1991 UMI

tial" the word "large"; substantial, to me, is a synonym—a very large cutback in Soviet efforts on modernization of forces because, primarily, the republics are cutting off the money.

I believe that the President has to have discretion in this respect.

I do not believe that Congress can write a word in that is more meaningful than "substantial." We believe, those of us who authored this amendment, that it is manifestly in our interest to help destroy those tactical nuclear weapons and those that the Soviets are willing to destroy, even if there is some continued military production going on. But I hope that it will be on a down scale, and my definition on "substantial" would be a significant reduction from where we are now in terms of our intelligence analysis.

I believe that in January, or February, or March, or April of next year we should see—for the President to move forward in this area—significant reductions from the level of production activities going on now. I think the President will have to make that determination.

It is also my view, though, that it could vary from one republic to the other. The Senator I think would agree with the way this is constructed. It does not go through the Central Government necessarily, although that is not excluded. It could go to Kazakhstan if Kazakhstan were meeting those conditions and willing to have us help them, assist them in the storage and destruction.

It could go to the Ukraine. If the Ukraine decides, after voting and if they do declare themselves independent, if they decide they want to undertake at that moment to get rid of a lot of those weapons or most of them, it might go to the Ukraine.

So, there could be a discretion here for the President to distinguish between Russian republic, the Ukraine, Kazakhstan, or other republics that might have tactical nuclear weapons. So we do give the President discretion.

But my own definition, depending on the republic, would be that we would see some continued scaleback from the production activities we have seen in the last year or two. I believe that is going to happen. I think it is already happening.

I really do not believe that the intelligence has yet quite caught up with the resource allocation, because resources are being taken away from the center. The production committees in charge of production have been dismantled. There are hundreds of thousands of people who were in defense who are now out looking for jobs. There are a lot of other factories and plants there that are on the verge of closing down.

None of us know how this is going to all play out. But it is my view that if we wait until we get the intelligence community coming over and saying this production facility is down, this one is down, this one is down, and this one is down, they also might be telling us at the same time, "We have seen evidence of nuclear scientists going to Libya, we have seen evidence of nuclear material going to North Korea, we have seen intercepted shipments of nuclear material and chemical material going into Iraq."

I do not want that news to come at the same time. So it is my view we had better get out in front of this. This is one time when the Congress of the United States should have some faith and confidence in the President of the United States.

I believe the President of the United States and the Secretary of Defense are not going to use their discretion in this respect unless they have received it and unless these general conditions have been met. I think that we should all have confidence in that respect. I do myself have confidence in that respect.

I say to my friend from Wyoming that this is a long answer. The way I view this—the Senator and I have worked together on the SDI issue this year—I view this as SDI up close. This is the ability to basically destroy an awful lot of weapons with a hammer, so to speak, rather than with an interceptor missile. This is a chance to really do something very positive in that respect. So that is the way I view it. That it my general approach to it.

Mr. WALLOP addressed the Chair.

Mr. BIDEN. If the Senator will yield, I want to make a point on the same point. I will take only 30 seconds. There is already a substantial cut, as the Senator knows. He sits on the Intelligence Committee. There is already a significant change in weapons production, from the year before, of tanks and nuclear material, et cetera. This is an inevitability. It is impossible to look down the road and see how anything, even the present level, can be sustained, let alone increased.

Mr. WALLOP addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. One of the things that worries the Senator from Wyoming is that, while it is improbable—improbable—I do not think it impossible to look down the road and see even sustaining the level, I do not want the taxpayers of the United States to subsidize that probability, which is one of the things that is worrying the Senator from Wyoming.

I say again that money is fungible, resources are fungible, that devoted to one thing relieves pressures on it from some other place. It is an obligation that this Nation has, which brings me to the second part of it.

The President certifies to the Congress the potential recipient is committed to forgoing any military modernization program that exceeds legitimate defense requirements.

Who is to determine what is a legitimate defense requirement? The President of the United States? Is it the Republic? Or is it the Soviet Union?

Mr. NUNN. The President of the United States would have the duty and discretion to make that determination.

Mr. WALLOP. I say again, Mr. President, that we have seen such a politicization of intelligence, just through the nomination and confirmation of the Director of Central Intelligence, that this worries me, because the President can be criticized for doing everything or nothing under the terms of this. And the second part of that clause is that the potential recipient is committed to forgoing, as I said, "any military modernization program that exceeds legitimate defense requirements * * *"

Mr. President, here is where it bothers the Senator from Wyoming: "* * * or is designed to replace destroyed weapons of mass destruction."

Why should we be willing to pay them to replace destroyed weapons of mass destruction?

Mr. NUNN. Mr. President, I say to the Senator that I think the way it is intended to be worded—and perhaps it can be sharpened—is that they are forgoing any kind of replacement of destroyed weapons.

If you read it, it says:

> Foregoing any military modernization program that exceed legitimate defense requirements or is designed to replace destroyed weapons of mass destruction.

So the words "forgoing any military modernization program," that is designed to replace destroyed weapons of mass destruction. That is exactly the Senator's point, that things intended to get to.

Mr. WALLOP. I say, Mr. President, that it perhaps could use a little wordsmithing. It can be read in either direction. It would sound as though the taxpayer would be obliged to perhaps fund a legitimate defense requirement. That would include——

Mr. NUNN. I say to the Senator, would he feel better if we had this read: "Forgoing any military modernization program that exceeds legitimate defense requirements and foregoing the replacement of destroyed weapons of mass destruction?"

Mr. WALLOP. I think that is a stronger statement and less debatable.

Mr. NUNN. Mr. President, I ask to so modify the amendment, and I send the modification to the desk.

The PRESIDENT pro tempore. The amendment is so modified.

The modification is as follows:

> (3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union and its former and present republics, and (B) to assist in the prevention of weapons proliferation.

> (b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to any nation, Soviet republic, or former Soviet republic unless the President first certifies to the Congress that the potential recipient is committed to—
>
> (1) making a substantial investment of its resources for dismantling or destroying such weapons;
>
> (2) forgoing any military modernization program that exceeds legitimate defense requirements and foregoing the replacement of destroyed weapons of mass destruction;
>
> (3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;
>
> (4) facilitating United States verification of weapons destruction carried out under section 212;

The PRESIDENT pro tempore. Does the Senator wish his modification to be read?

Mr. NUNN. Yes.

Mr. WALLOP. Mr. President, perhaps that would be wise. I am sure it reflects what the Senator just said.

The PRESIDENT pro tempore. The clerk will read the modification.

The legislative clerk read as follows:

> On page 3, line 19, after the words "defense requirements" on line 18, strike "or is designed to replace" and insert in lieu thereof, "and forgoing the replacement of destroyed weapons of mass destruction."

The PRESIDENT pro tempore. The Senator from Wyoming has the floor.

Mr. WALLOP. Mr. President, I am still wandering through this area of the fundamentals of economics, and I say that I share the goals of the Senators. That is not a problem to me. But I wonder why, in this instance, through one, two, and perhaps three, we would not be paid to, rather than pay for this destruction.

Mr. LUGAR. Mr. President, if I could respond by saying that the dilemma is clearly that the Soviet Union is committed to the destruction of these weapons. But the timetable in which the 15,000 weapons we mentioned are to be destroyed would be a matter of the fungibility. The question is, is it in the best interest of the United States to facilitate that destruction? In our judgment, it is.

Let me respond to the thought raised by the Senator in an earlier question by saying that the moneys must finally be identified by the President. He must determine the rates at which they are expended and, furthermore, as opposed to being fungible with the Soviet Union, it may be that the President will want to contract with the contractors of the United States for this destruction.

I understand the Senator's point, that the Soviet Union might finally get around to doing this, or its successors, over the course of the years, and therefore they might finally pay the money without our having to lift a finger. I simply say to the distinguished Senator that we believe it is in our interest to accelerate it. That is in the discretion of the President, too.

Mr. WALLOP. Mr. President, I thank the Senator from Indiana. I must say that I think there can be two views on that. I hold another, which is that the intelligence still indicates strong continued modernization of Soviet strategic weaponry, in particular, but no particular reduction of their efforts in conventional nuclear weapons.

So what worries me is that the taxpayer is being asked to foot a bill that ultimately will be directed, or could ultimately be directed against him. So when the whole purpose has been to relieve the taxpayer of that threat, the consequence may be the opposite. That is why I am trying to find some means by which the Senate, at least, could feel assured that this was going to be the case. I do not see it.

Mr. LUGAR. If the Senator will yield, Mr. President, I see no possibility that American taxpayers would be building armaments on behalf of the Soviet Union. The purpose of the amendment is clearly destruction of weapons. I understand the Senator's point that relief of this cost of destruction could lead, if there were funds in the central government or the republics, to the production of other weapons through the fungibility issue. I am simply——

Mr. WALLOP. If I may say, Mr. President, I am not suggesting that it would lead to it. I am suggesting that it relieves this necessity of stopping it. It is, today, going on. I am sure the Senator would agree with me that the intelligence indicates that there is a modernization program of substantial portions still going on in nuclear strategic weaponry.

Mr. LUGAR. Mr. President, the Senator from Georgia has affirmed that point in his comment. He made the point that observation also indicates that it is winding down in large part through lack of funds in the Soviet Union, either for destruction of what they have built in the past, or if they are building anything more. Clearly, the President has to be clear-eyed in observing that process.

Mr. WALLOP. Mr. President, a third requirement is that they would be forgoing any use of fissionable or other components of destroyed nuclear weapons and new nuclear weapons.

May I ask either of the sponsors how we propose to determine that?

Mr. LUGAR. Mr. President, if the Senator will yield, I would simply indicate that our ability to be on the ground literally watching and participating in the destruction of Soviet nuclear weapons gives us a much better observation point historically for verification than we ever had before. That really has to be the way we make that determination.

Mr. WALLOP. Again, I would say that perhaps a particular way of doing this would be for the United States to acquire the fissionable material, take title to it, and remove it from the Soviet territory, and, in fact, oversee a relatively simple separation of parts of nuclear weapons. But the more important point is that it still is not an answer, that while we hope they will stop building or modernizing their strategic arsenal, they are not. Until they are absolutely not, I do not see that the taxpayer is really doing anything but, in fact, subsidizing that modernization.

The PRESIDENT pro tempore. The Chair will call to the attention of the Senator from Wyoming [Mr. WALLOP], the order of Saturday which requires that at the hour of 12 o'clock noon, H.R. 3807 be temporarily laid aside for a 1-hour debate on a motion to proceed to H.R. 3595.

Mr. BIDEN. Mr. President, I ask unanimous consent that we be able to continue this debate for another 30 minutes.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. EXON. Mr. President, reserving the right to object, and I shall not object, the Senator from Nebraska has been waiting to speak on this very important matter. I think the extension is a good request. I wish to have put in the unanimous-consent request to include 5 minutes at a minimum set aside for the Senator from Nebraska.

The PRESIDENT pro tempore. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object, and I do not, I think it shall depend upon how long the answers are to the questions I have yet to proffer whether we can get to that moment. I think they will not be that long but I have two more questions which I wish to address. If the Senator is willing to take his chances on that, I am certain that he will be obliged. I do not know how long Senators are going to take to respond.

Mr. EXON. Mr. President, reserving the right to object, I have not had a response from the managers of the bill to the request of the Senator from Nebraska.

Could I be assured of 5 minutes before the vote on the measure presently pending?

Mr. NUNN. Mr. President, I say to the Senator from Nebraska and the Senator from Wyoming there is no time agreement, so there is no reason the Senator cannot have whatever time he desires either between now and 12:30 if the unanimous consent goes in effect, or if we do not dispose of the amendment by 12:30, the other matter will be disposed of before this matter.

The PRESIDENT pro tempore. Is there objection?

Mr. SIMON. Mr. President, reserving the right to object, just an inquiry, and I shall not object.

The PRESIDENT pro tempore. The Senator reserves the right to object.

Mr. SIMON. When we finish with the Medicaid situation will we then return

VOL
137
PT
23
NO
21
—
25
1991
UMI

to this amendment; is that the sequence?

The PRESIDENT pro tempore. The Senate would then proceed to the consideration of the CFR Treaty.

Mr. SIMON. At what point will we return to this amendment, then?

The PRESIDENT pro tempore. There is nothing included in the order that deals with that situation. The Chair will state, however, there are three rollcall votes scheduled back-to-back beginning at 2 o'clock, the last of which deals with the cloture. If cloture is invoked, of course, under the rule, then the Senate will remain on the matter of cloture to the exclusion of all other business until the time under the cloture rule has expired or the matter has been disposed of.

Mr. SIMON. With the cloture vote that does change the situation. I have no objection, Mr. President.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Delaware that there be 30 additional minutes? The Chair hears none.

Without objection, it is so ordered.

The Senator from Wyoming retains the floor.

Mr. WALLOP. Mr. President, I thank the Chair, and I assure my friend from Nebraska I do not think we have a whole lot more. But one of the problems I have had on last Friday and last Saturday with the CFE Treaty is that before we are even about to enter into that, it is known that the Soviets are not in compliance with it. The Secretary of State has as much as confirmed it. Intelligence briefings have as much as confirmed it. The proponents of the treaty have as much as confirmed it.

Now I want to check with my distinguished friends from Georgia and Indiana as to how serious they are about the condition No. 5, which is complying with all relevant arms control agreements. It has not been the habit of this country to insist on compliance.

Are they talking, may I ask either of them, of full compliance or short of compliance, or compliance that is not threatening? What is the basic criteria which they wish to have attached to this commitment?

Mr. NUNN. Mr. President, I would say to my friend from Wyoming that if the language says the President first certifies to the Congress that the potential recipient is committed to—the key words "committed to"—complying with all relevant arms control agreements, I believe those words speak for themselves. The President would have to make that determination that the individual republic that is going to be engaged in this kind of cooperative effort to destroy weapons is committed to arms control agreements.

For instance, if the Ukraine becomes independent in December when they vote, then I think it is enormously important for the President to, basically, make it clear to them that not only is this particular section dependent on the Ukraine being willing to sign up with this treaty we have before us now, the CFE Treaty, but also even if the provision were not to pass the food aid that is already in the pipeline is subject to that. If we have people in the republics that are violating the arms control agreement or indicating they are not committed to them, then I think the President has an obligation here, under this section, to not cooperate with them in other programs. I hope he would apply that as a general principle in other areas.

I would say food aid we are sending over there now. The President announced another $1½ billion the other day. As the Senator indicates that is fungible also.

Mr. WALLOP. I agree.

Mr. NUNN. That relieves them in certain other areas. I happen to agree with them. But the Senator's basic point on the food aid would also lie. So this is a discretion to the President of the United States as we often give the President in terms of arms control, and he would make this judgment, which will be a judgment based on intelligence assessment.

Mr. WALLOP. I thank the Senator from Georgia.

But I would say that according to the February 1991 Presidential Report on Soviet Noncompliance With Arms Control Treaties, that they remain in violation with the ABM Treaty, and the Biological and Toxic Weapons Convention, and I am certain that this is a criteria. They are as well, though, they are not yet bound by this, in violation of the terms under the CFE Treaty.

The problem the Senator from Wyoming has now and has always had with arms control is that it is a matter of convenience for a democracy and a President, a Congress or no one else dares let convenience stand in the way of compliance.

I do not accuse anybody of any specific intention in this. I am only reciting that the history, Mr. President, of arms control is that it is very inconvenient when we find whoever we have these agreements with in violation of them and wish to do other business. Every time we wish to do other business, we set aside the very concerns over which we entered into these theoretically binding agreements in order to get on with the next little piece of convenience, more often than not, a matter of domestic political reaction rather than international security.

So, may I direct one final question to the Senator from Georgia through the Chair: The other arms control agreements are pretty serious but the one in particular is a violation of the 1972 Biological and Toxic Weapons Convention and we have determined that they have maintained an active offensive program since the thirties. But now we have determined an unclassified statement that they are in violation of that.

Does the Senator believe that being in violation of that or of the CFE Treaty would be sufficient to cause the President to pause in the delivery of this?

Mr. NUNN. I would say to my friend from Wyoming——

The PRESIDENT pro tempore. The Senator will please address his responses through the Chair.

Mr. NUNN. Mr. President, I would say to my friend from Wyoming that I hope the President would consider these matters and consider them very carefully. I also hope that perhaps some of the republics that may find they have certain plants going on and production going on, they may not fully be aware of that, they, the republics as opposed to the central government, may very well decide that they would like under this provision to cooperate with us in destroying some of that basic weaponry including possible biological. If that is the case, this provision may help cure the problems that the Senator from Wyoming is concerned about.

It would be a paradox if we had a republic take over and find that biological weapons were being produced in contravention of various agreements and treaties over the years and then basically did not have the wherewithal, the technology, to be able to get rid of those because we did not have the foresight to provide for the President having discretion for this kind of program.

I would also say the Krasnoyarsk radar, it is my understanding that that is being dismantled. It has not been completed. I think the Senator is correct on that. So the key words here are "committed to" and the key to this is the President himself would have the discretion under this, and we would expect him to consider all of those things the Senator from Wyoming has enumerated.

Mr. WALLOP. Mr. President, I thank the Senator from Georgia. Let me conclude by saying that I understand what it is that they are trying to do and I think that the goal is laudable. It strikes the Senator from Wyoming it is a particular time for prudence. And the problem that we have in our democracies—and Lord knows we would not trade them for the systems against which we have been deployed since the end of World War II—that the words "committed to" and others are words of convenience for democracies dealing with domestic reactions at home. They are no binding words.

The words of this amendment are substantial and legitimate and designed to and committed to complying with relevant arms control agreements. And the problem is that each of those is peculiarly vulnerable to subjective judgments in the political

arena. I say to my friend they are peculiarly vulnerable to subjective judgments in the political arena from both sides, the right as well as the left.

I mean, we have all seen it, saying you know that you were soft on the enemies or you are not soft enough. If you, in fact, read the op-ed pieces of the last several days, you see precisely whereof the Senator from Wyoming speaks.

I have heard that this is a time when we ought to take a risk for peace. Mr. President, I would conclude by saying the American public has taken their risk for peace and I think they have done it rather well and, in fact, circumstances that the world sees now are the direct results of the steadfastness of the United States of America and her allies arrayed and allied against the forces of communism. And we have not come so far yet, Mr. President, in the judgment of the Senator from Wyoming, that we ought to risk using American taxpayer dollars to subsidize Soviet behavior, which is in their interest as well as ours, while Soviet behavior which is only in their interest continues on even though it may be abated.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, we are not asking the American public to take a risk for peace. We are asking the American public to avoid a risk. We are not taking any risk. I find the reasoning of my friend from Wyoming, which is always compelling, a bit confusing when he speaks about whether or not the Soviets will abide by the arms control agreement.

Let me reduce it to terms that people who do not deal in arms control, as we do all the time, I think would understand. It is a little like my saying: Look, you have got a gun pointed at my head. You may blow my brains out. And you do not know how to unload that gun. But I am not going to show you how to unload that gun. Do you know why? Because you promised me that you were going to get rid of that dynamite you had in your garage and you did not. So I am going to teach you a lesson. I am not going to help you unload that gun which you have pointed at my head.

Now is that not brilliant reasoning? My goodness, we get so caught up in this sort of lingering ideological conflict that no longer has much relevance that we sometimes suggest we act against our own interest.

There is no risk here, Mr. President. Would any man or woman in the world not help a felon unload a gun pointed at them because the felon was going to continue to commit another crime or because the felon may come back with a new weapon the next day?

There is an immediate concern, as the Senator from Georgia has pointed out. They are going to do something with these weapons, Mr. President. They do not have the money to transport them. They do not have the money to put them in storage. They do not have the money to keep them out of the hands of people they are concerned about.

If only they could get the money, Mr. President, they could be transported. I am sure the Iraqis would pay to transport some of them. I am sure the Libyans would pay to transport some of them, as well.

But, Mr. President, we are not asking the American people to take a risk. We are asking them to avoid a risk. As we lawyers say, let us argue an alternative. Let us assume everything the Senator from Wyoming states is correct; that the Soviets continue to be bad guys; they do not abide by agreements; they are continuing their weapons programs. So, to teach them a lesson, we are not going to dismantle nuclear and chemical weapons that they either do not know how to dismantle or do not have the wherewithal to dismantle because we would rather spend money on producing exotic systems that would dismantle them in flight at much greater threat to the American people.

If the Senator from Indiana and the Senator from Georgia succeed here—and it comes as no surprise to the Senator from Wyoming, I do not think we had to put any of these conditions in here. I did not do that. I am just a supporter of the legislation. I do not think we need any of the conditions at all.

We have a chance here, Mr. President, to help get rid of in excess of 10,000 nuclear warheads, whether they are nuclear mines or shells or beyond. And we are going to sit here and say: No, we are not going to do that. We are going to teach you a lesson. We will take our money and spend it other places. You dismantle them.

One other point I might add, even if they had the money, Mr. President, they do not have the technology. They do not know how to do it as well as we do.

And one last point, you have in these republics, Mr. President, a new awakening to their environmental fragility, and the environmental damage that is already done.

There is an old joke my grandfather used to tell. He used to say: Talk about an oxymoron—I am from the Federal Government, and I am here to help you.

Americans out there understand that, with the Federal Government not very much in vogue these days.

Can you imagine, you are living in the republics, and the central government leadership comes to you and says: Hey, we are going to destroy chemical weapons on your territory. Trust us; we know how to do it.

On the other hand, Mr. President, what we do know is, if the folks over there know that American technology and Americans are helping them, ironically enough in the Soviet Union and its constituent republics, our technicians and our environmental experts will have even greater credibility than they do here.

So, for all those reasons, I sincerely hope that the Senator from Wyoming, although some substantive elements of each of the individual arguments he makes have some merit, they fall under their own weight, in my humble opinion, when measured against the risk we are being asked to avoid—avoid—avoid—not take.

I see my friend from Nebraska is here. I know he has been seeking recognition.

Mr. President, before I yield the floor, I ask unanimous consent that the vote on the Nunn-Lugar amendment occur upon the return to legislative session, immediately following the disposition of the resolution of ratification of the CFE treaty.

Mr. WALLOP. Mr. President, that has been cleared on the Republican side, without objection.

The PRESIDENT pro tempore. Is there objection?

Mr. SIMON. Reserving the right to object, Mr. President; I will not. I want to make sure I get 3 minutes in here to talk on the Nunn amendment briefly.

Mr. BIDEN. I promise the Senator, Mr. President, I promise the Senator he will get 3 minutes to talk on the Nunn amendment, and I will stay here and listen; and everyone else will, too, I am sure.

Mr. SIMON. That is a double pleasure, and I thank the Senator.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. Is there objection to the request? Would the Senator from Delaware include the Senator from West Virginia [Mr. BYRD], in that request, for not to exceed 5 minutes?

Mr. BIDEN. Surely.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears no objection. It is so ordered.

The Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I am going to be very brief in my remarks in support of what I think is a tremendously important amendment, probably best known as the Nunn amendment. I have attended several meetings in this regard. Out of those meetings has come the Nunn-Lugar amendment, which is before us.

While there are not a great number of Senators on the floor now, and even fewer members of the press in the press gallery, I think this is a tremendously important amendment that needs adoption. And I hope it will receive an overwhelming vote of approval.

I started out by saying what I have said in defense of this type of an

VOL
137
PT
23
NO
21
—
25
1991
UMI

amendment previously on the floor of the U.S. Senate.

While there are some legitimate concerns, and some legitimate concerns expressed here—and I think some good questions have been asked, and I hope satisfactorily answered—the fact of the matter, I think, is best summed up by a statement this Senator made on the Senate floor in this regard way back on November 7, on page S 16184, where I said:

> Mr. President, let me take a few moments, if I can, to try to put into some logical perspective what looks like a new firestorm breaking out in the U.S. Senate and the House of Representatives with regard to the defense authorization bill.

There was debate ongoing at that time with regard to a similar but not exact proposal that came out of the conference between the House and the Senate on the defense authorization bill. What we are doing here, and what we tried to do then, which was stripped out of the defense authorization bill, is merely to give the President of the United States, the Commander in Chief, some tools that he can work with if he sees fit.

I think we have to trust the President of the United States, as I do, to use any money that he thinks should be expended, to spend it wisely, and to not spend it if he thinks it would not be wise or in the national security interests of the United States.

I have simply been astonished during the last 3 weeks at the views expressed on the Senate floor, which are extremely isolationist in nature. And I think probably it is the greatest understatement that I have ever made when I said that I felt rampant isolationism has emerged, and there is a lack of long-range view as to what really is in the national security interests of the United States. So much so that sometimes, in contemplating this, I wondered if some Members unthinkingly had been so much consumed with isolationism since the recent Pennsylvania elections, that maybe we could even consider going back to that old principle or theory that the world, indeed, is really flat instead of round.

The bill we have before us is one which allows the President to exercise some jurisdiction. Certainly, Mr. President, anyone who has been reading the widespread articles in the press of recent days, the television features and interviews that have shown very knowledgeable people, including our very distinguished Ambassador to the Soviet Union, should recognize that as of today, there is a major crisis of catastrophic proportion taking place in the Soviet Union.

I simply say that a hungry bear who has lost control of his nuclear devices is a very dangerous bear. I think the President knows that. I think those of us who look beyond the horizon and beyond political expediency know that.

Whatever we do here, it generally "costs the taxpayer" something. I feel that the national security interests of the United States and the taxpayer will be served very dramatically in the longrun if the President of the United States is given the authority and the tools to move speedily in a whole series of areas.

I once again salute Senator Nunn for bringing this up originally in the defense authorization bill. I salute him and Senator Lugar and others for their leadership now. I hope we have the wisdom to eliminate shortsightedness and political expediency, to pass the bill that is before us.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, the Senator from Virginia would like to make a unanimous-consent request to have no more than about 3 or 4 minutes, for purposes of having a colloquy with the Senator from Wyoming, relating to the amendment the Senator from Wyoming and the Senator from New Hampshire [Mr. SMITH], are going to bring up, in the hopes they could accept a recommendation from the Senator from Virginia. It is in the form of an amendment.

I ask unanimous consent now if I might proceed for no more than 4 minutes.

Mr. NUNN. Will the Senator withold that for 30 seconds?

Mr. WARNER. Yes.

Mr. NUNN. Mr. President, I say to the Senator from Nebraska that I appreciate his comments and leadership. I noted a few moments ago, we are spending $4 billion on SDI, and I think we have a very important consensus on SDI.

The way I view this amendment now pending, it is SDI up close. It is SDI up close because we have an opportunity to destroy some 15,000 weapons in cooperation with the Soviet Union, plus a lot of chemical weapons.

I thank the Senator for his leadership. He has been a strong supporter and proponent of this from the very beginning. I thank him for his words of support. I thank the Senator from Virginia.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Virginia that there be 5 minutes during which he may engage in a colloquy with other Senators? The Chair, hearing no objection, the Senator is recognized for 5 minutes for that purpose.

Mr. WARNER. I thank the Chair and thank all Members present.

First, I would like to associate myself with the amendment of the Senator from Georgia. I am a cosponsor. And I likewise associate myself with the Senator from Nebraska, [Mr. EXON] and his remarks. We have been part of the working group together for some time. I think you might say I was one of the first to support the version of the amendment way back in the Senate Armed Services Committee.

Mr. NUNN. I say to the Senator from Virginia, if he will yield, he has been a supporter of this amendment. He supported it back when the fire was hot and there were people against it and felt very strongly against it. I thank him for that support and am delighted he is a cosponsor.

Mr. WARNER. I thank the Senator from Georgia. I think, like so many other things in life, it is distilled to where I hope it will be accepted by a majority of the Senate.

Mr. President, turning to the amendment which is sponsored by the Senator from Wyoming and the Senator from New Hampshire, as I view this, in consultation with the negotiators of the treaty and others, I recommend that they take into consideration an amendment which would provide as follows, and I shall read it:

> Add after Condition (a)(5)(C), the following condition:
>
> "(6) PRESIDENTIAL CERTIFICATION ON SOVIET COMPLIANCE.—Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in a report to ______ whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto."

It seems to this Senator and others that that would enable the President's report to refer to that point in time as when the report is made. I think there would be certain advantages to that.

I now yield the floor—I will not yield the floor, because I have 5 minutes, but I yield to the Senator from Wyoming.

The PRESIDENT pro tempore. Does the Senator from Virginia yield the floor?

Mr. WARNER. Mr. President, I am not sure of the parliamentary situation.

The PRESIDENT pro tempore. The Senator yields to the Senator from Wyoming.

Mr. WARNER. For a question and answer.

Mr. WALLOP. Mr. President, I say to the Senator from Virginia that in all probability the Senate would get a more honest report with this than with the language suggested by Senator SMITH. It is necessary to point out, however, that it requires no response on the part of the President other than to give a report. If he reports that they are in violation, there is nothing that slows down the process of ratification of the treaty. It will, I think, verify what is the view of Senator SMITH and my view that this is a political document and not a military strategic document because the President will have no choice but to certify that they are in violation or probable violation of certain of the undertakings that they have on this and yet we will not then

be able to slow down the process of completing these arrangements between our countries.

But I will say, in all honesty, I think we would get a report that was closer to the truth if the President and his people were not forced to act on the contents of that report. My inclination is to suggest or to hope that Senator SMITH would see it that way, too. I point out that this is essentially his amendment and he has a choice in that.

Mr. WARNER. Mr. President, I thank the Senator from Wyoming, and I thank the Senator from New Hampshire [Mr. SMITH]. I hope, by the time the amendment is presented to the Senate for further debate, that this matter will be included. I yield the floor and I thank the Chair.

Mr. SIMON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I ask unanimous consent that I may proceed for 3 minutes on the Nunn-Lugar amendment.

The PRESIDENT pro tempore. There being no objection, the Senator may so proceed.

Mr. SIMON. Mr. President, first, I ask unanimous consent to be listed as a cosponsor of the amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I commend our colleague from Georgia, Senator NUNN, Senator LUGAR for their leadership on this. There is a tendency right now in our country to look inward, understandably, because of the overwhelming problems that we have in each of our States. But we also have to be aware of the rest of the world, and if, after spending literally trillions of dollars to take care of this Communist menace, we have now, through surgery and through a variety of ways, that has been taken out of the body politic, we have to be careful how we move. For us to permit the Soviets to have a situation where they can sell weapons, nuclear weapons, chemical weapons, biological weapons to Third World countries is inviting disaster.

Second, it seems to me, beyond that, showing an interest in what is taking place in the Soviet Union is in our best interest. We do not want a left-wing dictatorship ultimately to be replaced by a right-wing dictatorship. The security interests of the United States is best served when we have free countries. It is interesting that historically no two self-governing nations have ever attacked each other.

World stability and U.S. security is tied in with that. I think the Nunn-Lugar amendment is clearly in the best interest of the United States, and I hope we follow through on it very, very quickly. I yield the floor, Mr. President.

Mr. NUNN. Mr. President, I thank the Senator from Illinois for his support and encouragement back when this amendment was under great fire. I recall very well his encouragement to continue on this.

Mr. President, I ask unanimous consent that the Senator from Kentucky, Mr. MCCONNELL; the Senator from New York, Mr. MOYNIHAN; and the Senator from Virginia, Mr. WARNER, be listed as original cosponsors.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. I thank the Chair and thank my friend from Texas.

MEDICAID MORATORIUM AMENDMENTS OF 1991—H.R. 3595

MOTION TO PROCEED

The PRESIDENT pro tempore. Under the previous order, H.R. 3807 is temporarily laid aside. There will now be 1 hour debate on the motion to proceed to H.R. 3595. Who seeks recognition?

Mr. BENTSEN. Mr. President, it is important that the Senate proceed to the consideration of the Finance Committee amendment to H.R. 3595, the Medicaid Moratorium Amendments of 1991. The committee ordered this amendment to be reported out last Friday with only one dissenting vote. The substance of the committee amendment is a 90-day moratorium limiting the administration's authority to issue controversial regulations on State mechanisms for financing the Medicaid Program. The bill would also prohibit States from expanding the financing mechanism that issued during that period of the moratorium.

In effect, what we are trying to do, Mr. President, is to put on a bilateral freeze. In all candor, I would rather the Governors and the administration work out their differences and finally resolve that. We reported out of the committee without recommendation that part of it. The reason it was reported out without recommendation is that we did not know the final terminology. So I am offering to the Senate in effect a dual procedure as we go over the language of the agreement between the National Governors Association and the administration.

The problem is if you do not accept one of these, then we are stuck with the regulation proposed, and that is a very serious problem for many of the States across the country. So in these closing days I do not want to see that finally being the result. That is the reason as chairman of the committee I propose the dual procedures.

The regulation in question was issued only 3 weeks ago and as many of my colleagues know who have been very involved in this process—the Senator from Florida, the Senator from Connecticut, the Senator from West Virginia—almost every Member of this body is concerned about the regulation. There have been very contentious negotiations between administration officials and representatives of the Nation's Governors. The negotiations have been constructive in that they have resulted in a draft agreement that is under review by parties to the discussions.

However, the time is short and implementation of the administration NGA proposal to supersede the earlier regulations requires legislative approval. Unless we act on the NGA and the administration proposal, or on the 90-day moratorium approved by the committee, the regulation goes in effect January 1. I think you would have chaos in the Medicaid Program in approximately 40 of the States in this country.

I and many people have urged Secretary Sullivan to withdraw the regulation, to work with us to enact early next year any legislation that might be needed. However, the administration is adamant in its refusal to withdraw the regulation and make it imperative that the Congress take action before we adjourn for the year.

I hope Senators will think that through and see what that means, what we face in the States, what we face with the providers. If Senators will allow us to move to the consideration of H.R. 3595, Members will have the opportunity then to vote on the 90-day moratorium proposal approved by the Committee on Finance. That measure being fully amendable could also serve as the vehicle for consideration of the NGA administration proposal.

But at this late hour failure to move to the consideration of H.R. 3595, as amended, will effectively stalemate any further legislative action, thereby allowing regulation to go into effect with all the results and chaotic conditions you are going to have with the providers and all of the poor folks who are going to be turned aside.

Let me take a few minutes to describe the problem facing States if we fail to act. First, since the regulation arguably violates congressional intent because it restricts severely States' ability to use provider-specific revenues to raise their Medicaid matching funds, States face ambiguity in attempting to determine which Federal requirements to follow in operating their programs.

Second, the rule's effective date of January 1 falls in the middle of most States' fiscal years. I know that is true in the case of the State of the majority leader and apparently most States across the Nation.

Thus States that relied on the provider-specific taxes in preparing their budgets will be unable to raise the revenues they need to keep current policies going. Since most State legislatures will not meet before the rule's effective date, they will not have a chance to conform their laws to the rule or find an alternative financing source before that rule takes effect.

VOL 137
PT 23
NO 21—25
1991
UMI

Speaking for the administration, HCFA Administrator, Dr. Gail Wilensky, has acknowledged that the rule if allowed to go into effect will be disruptive, and that is a very mild term as to what will actually happen.

In the Finance Committee meeting last week, representatives of GNA, State legislators, counties, children's hospitals, public hospitals, as well as the children's defense fund expressed grave concerns about the rule's effect on the ability of States to maintain needed health care services for 25 million women, infants, children, elderly, and disabled who are allowed Medicaid for their health care. If we fail to stop this regulation but instead wait to act until after it has gone into effect in January, a tax increase or Medicare veterans services and other entitlement program cuts of nearly $6 billion—$6 billion—will be required in order to offset the savings from the regulation that we expect the President to assume in his budget for fiscal year 1993.

Mr. President, I urge my colleagues to vote to proceed to this measure. It is the only way to prevent the detrimental effects of the regulation from going into effect on January 1. If we fail to proceed, then we risk sending State Medicaid programs into chaos and jeopardizing access to care for the most vulnerable members of our society, the pregnant women, the infants, the children, the elderly, and the disabled individuals who rely on Medicaid for their health and their long-term care.

I urge my friends who would resist this to fully understand and appreciate the consequences if we do not proceed.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Maine.

Mr. MITCHELL. Mr. President, there originally had been 1 hour scheduled for debate on this subject, and as the Members of the Senate now know that time was reduced to accommodate additional time for debate on the implementing legislation with respect to the CFE Treaty.

In view of the number of persons who have requested the opportunity to speak, I would like to suggest to the distinguished manager, the chairman of the Finance Committee, or raise the question whether or not it would be desirable instead of having the vote on the cloture motion immediately following the last vote in sequence, as is now scheduled, to permit a period of debate in that time to make up for the time lost now so that Senators who wish to do so can speak.

Mr. BENSTEN. If I understand the majority leader, he is talking about getting back to the original hour agreed to, that amount of time.

Mr. MITCHELL. That is correct.

Mr. BENSTEN. I am pleased to do that. I see some of my colleagues on the floor and I am sure there will be more. They ought to be given a chance to express themselves. So I agree with the request.

Mr. MITCHELL. Mr. President, since I intend to make a statement now that will use up much of the time period, I am going to ask the staff to clear and attempt to clear with our Republican colleagues adding an addition 45 minutes immediately prior to the cloture vote, which would give those Senators present an opportunity to be heard immediately prior to the vote, if that is agreeable to the Senators concerned, rather than going directly to the vote.

I am trying to accommodate the Senators who are here. It is important to them and their States. Is that agreeable? Is there a Senator who would prefer not do that, who would prefer to have the vote immediately, with further debate after the last vote this evening?

Mr. ROCKEFELLER. Mr. President, if the Senator from Maine will yield, I assume the majority leader is talking about discussion before the motion to proceed but not in any way is the majority leader suggesting the curtailing of debate after the motion to proceed on the matter of the moratorium.

Mr. MITCHELL. The Senator from West Virginia is correct. What I am suggesting has nothing to do with what occurs after the vote. Under the original agreement, there was to be 1 hour for debate prior to the vote on the cloture motion on the motion to proceed. Because of events which have occurred that were not foreseen; namely, a longer time was used for debate on another subject, only about 15 or 20 minutes will have been available. I am suggesting that we add 45 minutes prior to the vote to restore the substance of the original agreement. This has no effect on what happens after the vote.

Mr. ROCKEFELLER. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Maine was recognized.

Mr. DURENBERGER. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes; I yield.

Mr. DURENBERGER. Having participated with the chairman of the Finance Committee in both the presentation of the moratorium resolution and the alternative, let me say that I think it would be most appropriate to give us least that hour, and to have it comes, just before the vote I think will give everyone the time and the opportunity to consider their objections and hopefully the argument made by the chairman of the Finance Committee in favor of letting us go ahead and argue this issue on the merits and to pass that moratorium agreement as well. I would be pleased to provide that.

Mr. MITCHELL. Mr. President, what I am going to now do is make my statement on the subject during which time I have asked the staff to prepare a cloture agreement, and give notice to the Republican leader and to see if it can be cleared on that side. I think it is something that will be cleared. I hope it will be. I will therefore upon the completion of my statement propound the motion. That will give the Senators the opportunity to be heard in a little while.

Mr. President, I rise today to support the motion to proceed to the Medicaid Moratorium Amendments of 1991, which will delay the issuance of final regulations on the use of donations and provider-specific taxes by States to receive Federal matching funds under Medicaid from January 1, 1992 until April 1, 1992.

On September 12, the Bush administration issued an interim final rule that will prohibit States from using revenues from voluntary donations, provider-specific taxes, and intergovernmental transfers to pay for their Medicaid programs.

The implementation of this regulation will cause fiscal chaos and result in a serious erosion of the Medicaid Program in many States, including Maine. Health care services to poor women, children, and the elderly will be jeopardized if these regulations go forward.

I repeat my previous call upon President Bush to withdraw these regulations. They violate both the statute and the intent of the Omnibus Budget Reconciliation Act of 1990.

The use of provider-specific taxes was clarified in that act. It allows States to use revenues from taxes applied to hospitals or other health care providers as part of the State share for Federal matching payments. That reconciliation bill made one exception: Matching funds are not available for costs attributable to provider-specific taxes in cases where States reimburse hospitals and other facilities on a cost basis. The administration's September 12 rule expands this exception into a broad prohibition of the use of most revenues from provider-specific taxes. If implemented it would cause real hardship in many States including the State of Maine.

Since the September 12 rule was issued there has been a great deal of confusion about the impact of the regulations on individual States. The administration admitted that the regulations were unclear and confusing and promised to issue a clarification. On October 29, a clarification was issued, but the impact of the regulations in the States continues to be unclear.

For the last several weeks the National Governors Association and the administration have been trying to reach a compromise on this issue. The status of that effort is unclear. Several States have serious problems with the legislative language of the proposed agreement.

The administration argues that State donation and tax programs have the

potential to undermine a basic premise of the Medicaid Program, that funding be shared through a Federal match of State moneys.

The Governors argue that the Federal Government has no authority to dictate to a State government how it may raise State revenues to be used in meeting Federal matching funds requirements.

There are some abuses in some States which should be corrected. However, the administration is trying to gain a broad-based prohibition against all tax plans in States. This goes far beyond what is needed to deal with the problem and clearly violates the congressional intent contained in the 1990 Reconciliation Act.

The administration, the States and the Congress are equally concerned about the rising costs of the Medicaid Program. But we must also be concerned about the legitimate need to provide access to basic health care for our Nation's poorest citizens through the Medicaid Program.

HCFA Administrator Gail Wilensky made the following statement in an October 16, 1991 letter to Representative WAXMAN:

> I know that many States, for the most part, have been using the increased Federal funding to support legitimate and often necessary expansions to their Medicaid Programs.

In the past 5 years, the number of Maine Medicaid recipients and their costs have grown dramatically; in just the past 18 months, due to a severe downturn in the State's economy, the number of Medicaid recipients has grown over 25 percent, more than 36,000 additional Maine citizens.

Maine's Medicaid Program expenditures have doubled since 1986. The State's share of spending in the Medicaid Program has risen 35 percent in proportion to overall general fund expenditures in the same period.

The Maine Department of Human Services, working with HCFA region I, developed a provider specific tax plan as a responsible way to meet the health care needs of Maine's most vulnerable citizens.

The result of the HCFA regulation will be to prevent use of Maine's tax plan after January 1, 1992, even though it was developed in consultation with HCFA. The financial impact of the interim final regulation jeopardizes over $62 million in fiscal year 1992 and creates a shortfall of over $48 million in the State's fiscal year 1993 budget. Clearly, it is in the best interest of all to continue to work toward a compromise among the Governors, the administration and the States, but time is running out.

Given the short time remaining before January 1, the Congress cannot assume that these negotiations will result in an acceptable agreement before the end of the year. It is therefore necessary that Congress enact a moratorium to delay these regulations in order to give the Governors and the administration more time to resolve the matter.

As we work to delay the administration's regulations we must we cognizant of the budget implications of such a delay and of a possible agreement in the next few months.

Chairman BENTSEN and others have been working with the Office of Management and Budget to develop acceptable language which will protect both the Congress and the administration during the period of the moratorium. It is my understanding that differences still exist between the administration and the Congress on this issue. Because I am concerned about the impact of the expiration date of the Finance Committee-passed moratorium on my State and other States, I have reserved the option of offering an amendment to this moratorium which would extend the deadline until June 30, 1992. That will coincide with the end of the fiscal year in the State of Maine and many other States. Last Thursday, during the Finance Committee markup of this legislation, I asked the administration to provide me with an analysis of the budget implications of delaying the date of the Finance Committee-passed moratorium from April 1, 1992, until June 30, 1992.

The response on this question from the administration is unclear.

Last week, the House overwhelmingly passed legislation which would prevent HCFA from implementing the September 12 rule by extending the moratorium until September 30, 1992. While the Congressional Budget Office scores this legislation at zero cost, the Office of Management and Budget scored the bill at $1.5 billion a few weeks ago and recently increased its estimate of the cost to $5.8 billion.

If an acceptable compromise is not reached very soon, legislation will be necessary to delay the implementation of the rule until such a compromise can be reached.

If we are to continue to provide basic health care services under the Medicaid Program to our Nation's most vulnerable citizens, the Medicaid Moratorium Amendments of 1981 must be enacted by the Senate and a compromise reached with the House before our scheduled adjournment this week.

I urge my colleagues to vote to proceed to this important legislation.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I am going to propound a unanimous-consent request, which I understand has been cleared on the Republican side of the aisle. I am advised by staff that the Republican leader has approved this.

I now ask unanimous consent that immediately upon the disposition of H.R. 3807, the CFE implementing legislation, that there be 45 minutes for debate on the motion to invoke cloture on the motion to proceed to H.R. 3595, the Medicaid moratorium legislation, with the time controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTOR ACT OF 1991

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 543.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the House insist upon its amendments to the bill (S. 543) entitled "An Act to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.
>
> *Ordered*, That Mr. Gonzalez, Mr. Annunzio, Mr. Neal of North Carolina, Mr. Hubbard, Mr. LaFalce, Ms. Oakar, Mr. Vento, Mr. Barnard, Mr. Schumer, Mr. Frank of Massachusetts, Mr. Erdreich, Mr. Carper, Mr. Torres, Mr. Kleczka, Mr. Wylie, Mr. Leach, Mr. McCollum, Mrs. Roukema, Mr. Bereuter, Mr. Ridge, Mr. Roth, Mr. McCandless, and Mr. Baker be the managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I now move that the Senate disagree to the House amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. SASSER, Mr. CRANSTON, Mr. GARN, Mr. D'AMATO, Mr. GRAMM, and Mr. BOND; from the Environment and Public Works Committee for title X only: Mr. BURDICK, Mr. LAUTENBERG, Mr. MITCHELL, Mr. CHAFEE, and Mr. DURENBERGER; from the Labor Committee for consideration of section 1159 only: Mr. KENNEDY, Mr. METZENBAUM, and Mr. HATCH, conferees on the part of the Senate.

Mr. ROTH. Mr. President, the bill S. 543, the Comprehensive Deposit Insurance Reform and Taxpayers' Protection Act, as reported from the Banking Committee, contained an amendment which I offered whose purpose was to help both taxpayer and tax collector by imposing some stability in the area of State taxation of interstate branching. It was my concern that the new fact patterns Congress was creating by allowing banks to branch interstate would become the predicate, perhaps the pretext, on which precedents in the area of permissible State taxation

VOL 137 PT 23 NO 21—25 1991 UMI

would be relitigated. If so, the unsettling effect would dissuade banks from exercising their new branching authority. And as in any interstate taxation case, if one State is able to increase its revenues, that creates political pressure for other States involved with the same taxpayer to give tax credits. It was my concern that the legislation might somewhat inadvertently create many tax winners and losers among the States.

Recognizing that a change in corporate form from a bank to a branch may legitimately carry tax consequences, I sought a more limited scope for my neutrality principle. It seems to me entirely fair and impartial to suggest that the very fact of a conversion of a bank into a branch in the host State should not affect the tax status of another bank that did not branch into the host State. That clearly is true where the other bank is completely unrelated. But what about banks commonly owned by a bank holding company? It seemed to me, unlearned as I am in the specialty of State taxation, that there might be a problem, that is, that the conversion of a bank into a branch could serve as a basis for the host State to tax another part of the same bank holding company not previously taxed.

Mr. President, I have a chart that helps to clarify the issue. In example No. 1 a bank holding company in State A owns a bank subsidiary in State B which in turn owns a bank subsidiary in State C. The bank holding company also owns a bank subsidiary in State D. In example No. 2, all facts are the same except that in State C there is a branch in lieu of a bank. The bank is whether that difference has significance in the tax treatment of a bank subsidiary in State D.

Since I proposed my amendment, I have received an unwanted education in State taxation. Tax lawyers representing taxpayers and tax collectors have led me to conclude that the presence of a branch in the taxing State A, as compared with the presence of a bank, has no real tax significance when determining whether there is a nexus to tax another bank—the one in State D—not involved in branching which is part of the same bank holding company. I should note that the Multistate Tax Commission has been particularly emphatic in making that point. I ask unanimous consent that a letter from the Multistate Tax Commission be printed in the RECORD.

If there is no basis for different tax treatment of the bank in State D depending on whether there is a bank or a branch in State A, and that is what they tell me, then I see no need for my amendemnt. While my amendment has none of the mischievous purposes that have been wrongly attributed to it, it is the better course that it be removed from the bill for two reasons. First, whatever language is used to convey the meaning of my amendment, it must be remembered that State taxation is a very complicated matter and courts may misinterpret my words. Second, the area of State taxation is not one often addressed by Congress. There may be several reasons for this. Respect for the doctrine of federalism is one which is important to this Senator.

In the present parliamentary situation, my amendment has been superceded by the Senate's decision to accept Senator FORD's substitute for the Banking Committee's version of title III, the title dealing with interstate branching. The Senate's decision, therefore, obviated the need for me to strike my tax language.

Although the Multistate Tax Commission, in its letter, recommends that "no other language should be substituted" for mine, language which the Commission had offered me in our earlier discussion does now appear in title III. Section 302(b)(2) seems to embrace the principle of federalism that a State may do what is not prohibited by Federal law, including the Constitution. That seems to me the obvious intent. But that is not exactly what it says.

Article VI of the Constitution tells us that Congress can pass laws pursuant to the Constitution that have the effect of being the supreme law of the land. Thus a Federal statute may limit a State activity just as may the Constitution.

However, section 302(b)(2) says that nothing in the various provisions referred to shall be construed to restrict a State tax or method of tax "permitted by or permissible under either the Constitution of the United States or any other Federal law * * *"

Literally, this cannot be so. Congress by statute cannot amend article VI. While some State activity may be permitted by or permissible under the Constitution, that is not the end of a State's inquiry. It must also determine whether the activity is permitted by or permissible under Federal law. It must do both—not "either," as the section seems to suggest. Where the Constitution is silent on a subject and thereby permissive, one is still obliged to determine what other Federal law says.

The section would be literally correct if the section referred to a State tax or method of taxation that was not prohibited (rather than permitted) by either the Constitution or other Federal law. But as it now is written, it does not comport with the requirements of the Constitution. The letter from the Multistate Tax Commission advises that State taxation amendments have been "misconstrued by the courts" and that "all language carries certain risks." With language such as that in section 302(b)(2), it is easy to understand why.

Thank you, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MULTISTATE TAX COMMISSION,
NOVEMBER 13, 1991.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate,
104 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR ROTH: This letter is in response to your request for our opinion regarding the need for statutory language to address certain State taxation issues you believe may arise upon the enactment of title III (interstate branching) of S. 543, the comprehensive banking reform legislation.

Having received your most recent draft of statutory language, a copy of which is enclosed for reference, we believe there are three distinct issues raised. First, in the absence of any Federal prohibition in the bill, the State laws of taxation and existing Federal laws will continue to apply to banks and whatever branches they may establish. There is not need for new Federal authorization of State taxation in this areas, except as to State taxation of Federal obligations and state visitorial powers which are addressed in separate provisions of S. 543.

Second, your draft language also prohibits State taxation which is discriminatory, otherwise unconstitutional, or unlawful. Such a prohibition appears redundant to us. What is unlawful is unlawful. The constraints of the Constitution—the due process and commerce clauses—are effective without statutory support. Further, States are constitutionally and/or statutorily prohibited from discriminating against national banks as opposed to State banks or against out-of-state banks as opposed to domiciliary banks. Discriminatory taxation is, therefore, a form of unconstitutional or unlawful taxation as you yourself suggest by using the word "otherwise" before the word "unconstitutional." Thus the above prohibition would appear unnecessary.

The third issue concerns the tax treatment accorded two similar fact patterns which differ only through the presence in the taxing State of a branch in lieu of a bank. In the first situation, a bank holding company in State A owns a bank subsidiary in State B which in turn owns a bank subsidiary in State C; in addition, the bank holding company owns a bank subsidiary in State D. In the second situation, in State C there is a branch present in place of the bank subsidiary. State C uses separate entity formula apportionment, not combined reporting. The remaining factors are identical.

Having discussed the purpose of your amendment with your staff, we understand your purpose to be to insure that the tax treatment by State C of the subsidiary in State D be the same regardless of whether the economic presence in State C is through a branch or a subsidiary. For our part, we do not understand how there would be different tax treatment by State C of the subsidiary in State D. Absent industry's description to us of an operational circumstance where this issue would be raised in the context of modern banking practices, we cannot conceive of an argument for dissimilar treatment. In our opinion, your amendment addresses a nonproblem and is, therefore, unnecessary.

In sum, we believe that all three facets of your amendment are unnecessary. While some might suggest that unnecessary amendments are harmless, we would take vigorous exception. It has been our unfortunate experience to see State taxation amendments misconstrued by the courts. So all language carries certain risks. Where the amendment is unnecessary, the risk is imprudent. Moreover, out of respect for federalism, Congress seldom seeks to limit State taxation authority. Such efforts should not be undertaken lightly. For those reasons, in response to your request, it is our opinion that it is preferable that the bill be silent regarding your concerns. The Roth amendment, as it currently appears in the form of two sentences in both Sections 302 and 303 of S. 543, should be removed from the bill and no other language should be substituted in place of those sentences.

We thank you for the opportunity to express our views and wish to express our appreciation for the cooperation of your staff.

Sincerely,

DAN R. BUCKS,
Executive Director.

Enclosure.

ROTH AMENDMENT—OCTOBER 11, 1991

Any branch, located in the host State, established or acquired under subparagraph (A) shall be subject to State laws of taxation except that no State may impose any tax on any such branch which is discriminatory in purpose or effect or otherwise unconstitutional or unlawful. The fact that an out-of-state bank has a branch in a host state shall not provide any greater or lesser basis for the host state to impose a tax on any other bank, or subsidiary of a bank holding company, that has not branched into the host state, than would exist if such out-of-state bank had a bank subsidiary in the host state.

Mr. MITCHELL. Mr. President, am I correct that under the prior order the Senate will now resume debate on the CFE Treaty, and the pending Smith-Wallop condition thereto?

EXECUTIVE SESSION

TREATY OF CONVENTIONAL ARMED FORCES IN EUROPE

The PRESIDING OFFICER. The Senate will go into executive session to consider the resolution of ratification on the Treaty of Conventional Armed Forces in Europe.

The clerk will report the resolution.

The assistant legislative clerk read as follows:

Treaty Document No. 102-8, Treaty on Conventional Armed Forces in Europe [CFE].

The Senate continued with the consideration of the treaty.

Pending: Smith-Wallop executive amendment No. 1433, to establish U.S. obligation to the terms of the treaty.

The PRESIDING OFFICER. The pending question is the amendment offered by the Senator from New Hampshire, Mr. SMITH, to the resolution. The time between now and 2 p.m. is equally divided and controlled in the usual form.

Who yields time?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

The PRESIDING OFFICER. The Chair wishes to notify the Senator from New Hampshire and other Senators that the time between now and 2 p.m. is equally divided and controlled in the usual form.

Mr. SMITH. How much time is remaining, Mr. President?

The PRESIDING OFFICER. The Senator has approximately 25 minutes.

Mr. SMITH. Mr. President, I yield such time as I may consume for myself.

Mr. President, during debate on the CFE Treaty this past Saturday, Senator WALLOP and I offered what I believe is a very important amendment. For those of my colleagues who may have not had the opportunity to review that amendment, let me say that is it very simple and straightforward.

It says that the United States shall not be bound by the terms of this treaty, unless and until the President submits to Congress his annual report on Soviet noncompliance, and certifies in the report that the Soviet Union is not in violation or probable violation of the CFE Treaty.

That is the amendment, Mr. President. It is neither lengthy nor is it complicated, but it cuts directly to a core issue in our consideration of this treaty: Whether the Soviets are violating the accord before it even enters into force. That is the question.

As my colleagues know, I have some very strong concerns over the manner in which the Senate is executing its advice and consent role on CFE. They involve issues of national security, constitutional prerogative, and precedent.

While the Foreign Relations Committee, I believe, has made a good-faith effort to address some critical issues, the committee-reported resolution of ratification simply falls short, in my view. Mr. President, the Smith-Wallop amendment focuses the Senate's attention on both substance and precedent. The amendment would condition Senate advice and consent to ratification on Soviet compliance with the treaty.

Frankly, I cannot imagine how anybody could oppose this amendment. Without compliance, a treaty is worth no more than the paper it is written on. If the Senate is expected to ratify an arms accord, the very least we should demand is that it is complied with. What is happening in the Senate, Mr. President, is that we are saying that regardless of whether the Soviets adhere to the conditions of the treaty, we are still going to rubber-stamp that agreement; this Senate is going to ratify the CFE Treaty, whether the Soviets comply or not.

I would say at this point, Mr. President, that the historical record is replete with Soviet treaty violations. I am not going to go into them all. But we certainly know that the ABM Treaty, SALT I, SALT II, the Geneva Protocol on Chemical Weapons, the Helsinki Final Action, the Biological Weapons Convention, the Limited Test Ban Treaty, and the Intermediate Range Nuclear Forces Treaty [INF] have all been violated by the Soviets.

So this is nothing new. Each year the President is required to submit to Congress a formal report on Soviet noncompliance with arms control agreements. The report assesses Soviet treaty obligations and provides a valuable perspective on the efficacy of verification regimes. The report is due on December 1—Mr. President. That is not very far away.

I understand that if we recess for the year and come back after the holidays, several weeks time will have passed. But surely the Senate, in advising and consenting to this treaty, ought to be interested in reviewing that report prior to ratification.

That is the point of my amendment.

Should we ratify a treaty before we find out if the Soviets are already cheating, and what those violations are? And make no mistake, they are violating it. And, yet, we are saying: Let us ratify it anyway; do not worry. Well, that is a dangerous precedent. It is a dangerous precedent for the Strategic Arms Reduction Treaty ratification process and all future treaties, as well.

The Smith-Wallop amendment states that the United States will not be bound by the CFE Treaty unless the President submits the Soviet noncompliance report, and in it certifies that the Soviets are not in violation of the accord. I believe that action by the Senate in this regard would be very important, because it would send a message to the Soviets that we will not accept violations. Abide by the treaty, or the United States will not be bound by it. That is the issue.

Undoubtedly, some of my colleagues will probably say that this is an amendment designed to kill the treaty. That is just not the case. I am not opposed to the CFE Treaty. What I do oppose is hastily rushing consideration purely for appearances' sake. This treaty, Mr. President, off and on, has taken some 15 years to put together. Events have taken place in the last 2 years that none of us could ever have dreamed would happen—positive events. Perhaps those events moved faster than the treaty. I think it is pretty obvious they did.

I do not think that the proposed treaty is responsible for the positive developments such as the fall of the Berlin Wall, the Warsaw Pact dissolution, and now the breakup of the Soviet Union. We know it is not.

Nonetheless, if the Senate's will is to ratify the accord prior to Thanksgiving, which it is apparently, we owe it to national security and our constituents to hedge U.S. obligations

VOL 137 PT 23 NO 21–25 1991 UMI

under the accord to a certification that the Soviet Union is honoring their commitments. That is all I am asking.

Mr. President, the intent of this amendment could not be clearer. If it is adopted, I hope the administration would not exploit some legal loophole to circumvent what is obviously intended through the certification. The process by which the Senate has considered the CFE Treaty is wrong. The constitutional advise-and-consent process has been severely undermined here by both hasty and superficial consideration of the accord.

To speak out against hasty approval is not to speak out against the treaty. It is not to speak out against those who have worked for years to formulate this accord. It is not to speak out against the administration. It is not to speak out against those in this Senate who strongly support the treaty.

It is simply saying let us find out what the violations are, and demand that the Soviets clear up those violations before we consent to ratification. What is wrong with that?

A report is due on December 1, days away. If we wait, true, we cannot ratify this treaty until January, perhaps February. But what will we have lost? A couple more months, after 15 years?

The Senator from Delaware said last Saturday—or hinted—that the intent of the sponsors of the amendment was to kill the treaty. Again, this is not true. The intent is to make the treaty worth something; to give it legitimacy and meaning.

This amendment does nothing to delay or prevent ratification. It merely sends the message that the United States will not be bound by the accord until the President certifies that the Soviets are not already cheating. In my view, this is the minimum which the Senate should insist upon in providing its advice and consent to the treaty and exercising its constitutional prerogatives.

To do otherwise is simply irresponsible and, I believe, damaging to our institution and damaging to the concept and precedent that it would set for advice and consent.

Mr. President, at this time, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, when we were last here a half hour ago, the Senator from Virginia had proferred a potential compromise. Is there any word from the sponsors on their inclinations, if not the final disposition?

Mr. SMITH. May I ask the Senator from Delaware, has he approved that and will he accept it?

Mr. BIDEN. I have not seen the language.

Mr. SMITH. Let me see if I can find it. Does the Senator have a copy of it?

Mr. BIDEN. I now have a copy.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. BIDEN. I yield the floor.

Mr. WALLOP. Just an observation: I think that Senator WARNER from Virginia is on his way over to discuss that with both the Senator, as the distinguished manager of this bill, and with the Senator from New Hampshire, who had only just seen it.

Mr. BIDEN. Maybe I should withhold any further discussion of that potential compromise, until it is appropriate to speak more generally to the amendment as it now is proposed by the Senator from New Hampshire.

Mr. WALLOP. Mr. President, if the Senator will yield, what is the time situation? May I inquire of the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has 15 minutes and 51 seconds.

Mr. WALLOP. Will the Senator yield 5 minutes to the Senator from Wyoming?

Mr. SMITH. I yield 5 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, once again I return to the floor to suggest that this is more in the nature of a political document than a document that has any military significance. It will be touted and embraced by the administration and those who espouse it as having military significance, but, if it did, the amendment that has been offered by the Senator from New Hampshire and myself would have been adopted. If it made a military difference to the United States, it would surely make a military difference to the United States to know whether or not the party with whom we are entering into this agreement would be in compliance. It cannot be argued, Mr. President, that this treaty has consequence to the American people in terms of our military safety or our allies' and at the same time be argued that it is of no consequence whether the other side is in compliance.

Now, there is disagreement in the intelligence community on the issue, but everyone agrees that the treaty limited equipment that was in the zone at the time of signature of the treaty. And the estimates range from several thousand to some 18,000 pieces.

The Senator from Delaware stated that the lower range was some 800 pieces of treaty-limited equipment. That is simply not true. That is not the lower range. And were we to have a classified session, other Senators could assure themselves of that.

The problem, Mr. President, is that this treaty is probably, because of the passage of time, already irrelevant. It is certainly relevant to ask the question whether the principal entity with whom we enter this treaty exists any longer, namely, the Soviet Union. But if the argument is made that they do exist, then somebody has to make an argument, Mr. President, that the purpose of these treaties is to comply the terms with them. Neither party can trust the other party's will unless both parties are willing to do that.

Now, the treaty that is going to be relevant is arriving in the Senate probably next year early, namely, the START Treaty. And if the precedent set here today is that it does not make any difference how lawful the behavior of either party is to the treaty, then, Mr. President, the Senate is abdicating its rightful role in the process. And that is what I think is the worry that the Senator from New Hampshire and I have.

Again, I say, it cannot be argued that there is military significance to this treaty and at the same time argue that it makes no difference whether or not they are in compliance. I wish that my friend from Delaware and I could debate this issue in front of the full Senate in classified session because the figures are significant, I will say to the Senate. They are not militarily insignificant unless the whole thing is militarily insignificant.

One begins to have the idea when one sees that the amendment we will be voting on later also requires that the people of the United States pay to dismantle the weapons that were constructed to destroy them. We will be asking, now, the taxpayers of the United States to pay for the dismantlement of those, at the same time that a modernization program is going on.

Mr. President, until the Senator from Virginia arrives with his suggestion, I yield the floor and hope that the manager might use some time on their side so that we might be able to discuss that proposal when he arrives.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, while both the Senator from New Hampshire and the Senator from Delaware have different perspectives in deciding whether or not the proposal that is being suggested by our friend from Virginia here is acceptable, I would like to speak to a few points that have been made thus far.

In the resolution of ratification that is at the desk now, condition 2 relates to data and the data discrepancy. It says:

> Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—
>
> (A) continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990; and
>
> (B) seek to obtain additional reductions of equipment in Treaty-limited categories in the event the President determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990.

The purpose of that is to accomplish the end being sought by the Senator from New Hampshire. But let me read from a letter that I received just this morning from the President of the United States. It is dated November 25, 1991.

> DEAR MR. CHAIRMAN: I am pleased that the Senate will vote on the CFE Treaty today and appreciate what you and your colleagues on the Foreign Relations Committee have done to bring the Treaty to this point. After months of work by the Foreign Relations, Intelligence and Armed Services Committees, the CFE Treaty is on the verge of being approved by the Senate.
>
> Unfortunately, the positive results of years of work could be lost if the Senate approves an added condition such as that to be voted upon today that ties U.S. compliance with the Treaty to the Soviet data problem. Such a condition could not be implemented and would cause this complex, multilateral—and extremely advantageous—Treaty regime to collapse.
>
> A key element of the dispute over Soviet underreporting was their failure to count ground-based equipment assigned to the Navy. In resolving this issue, we also dealt with Soviet withdrawals of equipment beyond the Urals. Ultimately, after seven months of negotiation, in which President Gorbachev and I were directly involved, all 22 Treaty participants reached a legally-binding agreement that the Soviets would reduce some 3,700 more pieces of equipment now in the CFE zone, and a political commitment that they would reduce 14,500 additional pieces beyond the Urals.
>
> These June agreements did not, of course, resolve all outstanding data questions. But it was the view of all CFE Treaty signatories that there was sufficient progress to make it possible to proceed toward ratification and implementation. Indeed, your Committee, in its analysis of the data issue, saw in the 14,500 reduction an effort by the Soviets to "make amends."
>
> I take the issue of Soviet underreporting very seriously, and work on these issues continues in Vienna. Our dialogue with the Soviets, especially since the August coup, has been encouraging. But we would destroy all these efforts, and indeed the Treaty as a whole, if the Senate imposed a unilateral U.S. solution to this complex issue. The condition already recommended by your Committee gives me a way to continue work on remaining data questions within the 22-nation framework.
>
> I sincerely hope that the Senate will consent today to this vital Treaty based on the Resolution of Ratification as it now stands.
>
> Sincerely,
>
> GEORGE BUSH.

I did say to my colleague from New Hampshire in the discussion we had last week that we could not afford to wait. And my good friend from New Hampshire a moment ago stated that we waited this long, what difference would 2 months make which is the amount of time the Senate would be out of session, before we are able to reconsider this resolution of ratification?

I suggest that, in light of what has happened in the last 2 months, Lord only knows what is going to happen in the next 2 months. We have a circumstance now where all of the 22 nations have agreed to the details of the resolution that is before the Senate. Not the conditions, but the details that they were required to sign onto.

And further, we have a clear understanding on the part of the Republics which may become independent nations, that it is their intention to be bound by the conditions of this treaty. And we put in a condition dealing with the prospect for a republic becoming an independent nation.

My concern is, if we let this languish for 2 months, we in fact do not have any idea what the lay of the land will be, come February; come mid-February, or March, or whenever we would get back to this treaty if we were to delay. The end result of this is, as we are dealing with an attendant piece of legislation, the so-called cascading legislation, would require the Soviet military to destory thousands and thousands of pieces of equipment of dire consequence to us, when in fact we will not have to destroy any at all.

To wait for that bargain to be remade, for it to be altered so that the conditions of the Senator from New Hampshire would be met, would put us in such a position, that we would be operating at our own risk because of the rapidity with which the Soviet Union is disintegrating and with which the rest of Eastern Europe is emerging.

I see my friend from Virginia is on the floor, the architect of this potential compromise. In order to accommodate his schedule and all of ours, I will yield the floor at this moment.

The PRESIDING OFFICER. Who yields time to the Senator from Virginia?

Mr. WARNER. Parliamentary inquiry, the time allotted to each side remaining is what?

The PRESIDING OFFICER. The Senator from New Hampshire has 11 minutes and 23 seconds, and the Senator from Delaware has 14 minutes and 57 seconds.

Mr. WARNER. Mr. President, I wonder if—I make a proposal that such time as I may take, 3 or 4 minutes, be allocated equally between the two sides?

Mr. BIDEN. That is fine. Up to 4 minutes. Equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank all Senators present here, particularly the sponsors of this amendment and the distinguished Senator from Delaware. I do suggest a proposal. It is one that has basically been structured with the consultations of the Senator from New Hampshire and the Senator from Wyoming. I shall read it. But before doing so I would like to give some background.

As I examined this amendment and the work by the Senators from Wyoming and New Hampshire, their work is consistent with what this body has repeatedly done time and time again in the area of compliance with the treaties with the Soviet Union. It is not really breaking any new ground, except that we have done it first in bills which eventually became statutory law. Now it is a question of treaty.

So I think there is a certain consistency that can be achieved. I suggest the following language might well be that vehicle to achieve consistency between the actions taken by this body in recommending to the President for his signature, which became law, certain statutes and now the treaty. I will read it.

The amendment would read:

> Add after Condition (a)(5)(C), the following condition:
>
> (6) Presidential Certification on Soviet Compliance. Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in the President's Soviet Noncompliance With Arms Control Agreements Report, required pursuant to Public Law 99–145, whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto.

I believe this modification would allow the Senate to register its very deep concern about the possibility of Soviet violation of this CFE Treaty at the time of signature relating to the date, while at the same time recognizing changes that have occurred since that time.

Mr. President, I ask unanimous consent to expand my remarks, and I yield the floor.

Mr. WALLOP. Could I direct a question to the Senator from Virginia?

The PRESIDING OFFICER. Who yields time?

Mr. SMITH. I yield 2 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, this contains additional language over that which was discussed prior to lunch. I might inquire of the Senator, what was it the law citation requires?

Mr. WARNER. Public Law 99–145.

Mr. WALLOP. It requires?

Mr. WARNER. It is the annual report.

Mr. WALLOP. It is the same annual report that is due on December 1?

Mr. WARNER. That is correct.

Mr. WALLOP. And which never arrives until sometime in June?

Mr. WARNER. It is correct it is due December 1.

Mr. WALLOP. That is the report, the only report the Senate would receive with regard to Soviet compliance or noncompliance with this amendment?

Mr. WARNER. Under the proposal of the Senator from Virginia, Mr. President, that would be the only report.

Mr. WALLOP. I ask the Senator if he thought that the administration and others might suggest that that report—time is of the essence with regards to that report. Whereas the other ones might be less so. That is one of the rea-

VOL 137
PT 23
NO 21—25
1991
UMI

sons why the Senator's first suggestion to us was acceptable. But if we have to wait for all other chemical and toxic weapons, it really sort of takes away the basis.

Mr. WARNER. The Senator makes an observation. He is correct, in my personal judgment. The amendment that the Senator is recommending to be two sponsors is—the Senator from Virginia's amendment—it does not imply this meets all of the judgments that are present in the administration at this time. I have spoken to several of the principles and I believe there is a consensus that this would be helpful. But I am not representing that this is an administration amendment.

The PRESIDING OFFICER. The 2 minutes of the Senator from Wyoming have expired.

Mr. WALLOP. Could I have 1 additional minute?

Mr. SMITH. I yield to the Senator from Wyoming, 2 additional minutes.

Mr. WALLOP. What I would like to try to achieve is you get this report separated out from the report on arms control compliance, so that at least it was a report to the Senate. Keep in mind this does not require any responsive behavior on the part of the administration. Even if they say they are in compliance with no part of it we will still have authorized the ratification and I assume they will have already ratified that as a treaty. So keep in mind it does not ask us to back out of the treaty or take any other action other than to report to the Senate the status of compliance with regard to this treaty and its protocol.

Could we try to find a way? Does the Senator think we could separate that piece out?

Mr. WARNER. Mr. President, I am open to suggestion. I suggest the two principal sponsors see if they can reconcile their views on that point. I am merely trying to resolve this in such a manner that the amendment would garner greater support in the Senate.

I think with some modification in that vein, the amendment would.

Mr. WALLOP. Still on the time yielded to me, I inquire of the Senator from Delaware if he has any information to work toward a resolution that would be satisfactory to that side?

Mr. BIDEN. I apologize for not being able to answer immediately. That is what we are trying to do right now.

But I am disinclined at the moment to accept the compromise. I know you are not offering it, but if you could give me at least another moment, that is what I am considering right now. I am trying to make sure I understand everything.

Mr. WALLOP. Could I suggest the absence of a quorum with the time to be charged to both sides?

Mr. BIDEN. I object to that, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. BIDEN. I object only for the following reason, I say to my friend. We have only 12 minutes left. The Senator from Tennessee has a good 40 minutes of questions for me. We are going to try to get it in in 7 minutes. I do not know how that is possible if we let the quorum call run.

Mr. SMITH. May I suggest the Senator from Delaware take a little time with his side and discuss it.

Mr. WARNER. Will the Senators forebear and give me 30 seconds?

As I examine this, I believe the recommendation—and it is a recommendation. I am, under parliamentary procedure, not able to send an amendment to the desk, so it is up to the two sponsors. But I believe the language that is now being discussed with the Senator from Virginia would go directly to that concern expressed, in the letter from the White House, by the President which "ties U.S. compliance with the treaty to the Soviet data problem." That is the purpose of the language of the Senator from Virginia.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 7 minutes to my distinguished friend from Tennessee.

Mr. GORE. Mr. President, there are a lot of legitimate questions about what we are doing. Before I put some of them I would like to compliment the distinguished manager of this matter for his patience and diligence and understanding of these questions. Most of the debate and discussion relating to the Senate's action with respect to the CFE have centered about essentially constitutional questions. I would like to make sure we understand what we might be getting into in the extremely likely event that the Ukraine does, in fact, declare itself to be independent.

I tried to reduce my uncertainties to questions and they are sincerely meant. I have come to the floor in search of knowledge on these points. In light of the short amount of time that we have, I would like to have an elaborated answer for each of these questions for the record. I would like to just put them aside and explain my understanding of them and why I think the Senate should proceed to ratify this treaty in spite of the tremendous uncertainty that surrounds it.

I do think that the Senate's amendment makes it possible to ratify the treaty, uncertainties notwithstanding. But based on what I take to be a great deal of ambiguity about the situations we may find ourselves in after the Ukraine announces its independence, I hope that we all realize that there is a difference between ratifying a treaty and being able to sustain a treaty. It may very well be, in fact I think it is in the best interest of the United States of America to ratify this treaty, for the Senate to do so. But whether or not it can be sustained will depend upon how we react to the events we are going to see unfold after the Ukraine's announcement of independence.

We have to be absolutely clear that there are limits to how far we can tolerate being yanked around as a result of protracted maneuvering and disagreement between the Ukraine and the rest of the former Soviet Union. They have to realize that the stakes are very high, and interfering with this treaty's operation will carry with it the risk of severely damaging all other forms of U.S. cooperation. Frankly, I would feel better if that point were made pretty forcefully by the President.

One set of questions involves the United States view of the obligations held by the Ukraine at the moment it declares its independence. Will it be bound even though it is not a party to the treaty? And if that is our assertion, how solidly based is that in international law? If it is based on the Vienna Convention, does the fact that the United States has not ratified that convention complicate our reliance upon it?

I will invite the distinguished floor manager to respond for the RECORD. But let me state that it is my understanding, having searched for the answers to these questions, that there is no clear and definitive answer available, and we are asked to vote on this even though there is uncertainty about such important points as these.

I do believe, let me repeat, that it is nevertheless in our interest and in the country's interest to ratify this treaty. But, again, the way the Ukraine and the rest of the former Soviet Union interprets these questions and the way we interpret these questions and answer them will determine whether or not this treaty is sustainable.

The next set of questions are as follows: Is the Senate's amendment saying any future state formed in the region covered by the treaty is expected to accept the obligations of the treaty? And if that is the case, then when is the Ukraine considered to be a state? When it declares itself to be one? When the United States officially recognizes it? When all of the CFR signatories recognize it?

Again, these questions, important as they seem to be, have not yet been answered and remain shrouded in uncertainty.

Is it irresponsible for the Senate to go forward and ratify this while these questions remain unanswered?

Under normal circumstances, I would say, yes, that is irresponsible. But the world is changing so rapidly, perhaps as rapidly in the former Soviet Union as in any other part of the globe, that a choice to withhold ratification would be a worse option. And so again we come to this distinction between the extent to which a treaty is ratifiable and the extent to which it is sustainable after ratification.

I would simply say, as one Senator, I would like to serve notice that I believe it is in the best interest of the United States not just to ratify it but to review its sustainability afterwards in light of the way we, the Ukraine, and the rest of the former Soviet Union respond to these expected developments.

Finally, suppose the Ukraine states that it is ready to accept the obligations of the treaty but continues to assert its intention to form a 400,000-man army and suggests that the Soviets or the Russian Republic absorb that by reducing their forces accordingly. At what point do we consider the treaty to be actually breached? Do we wait until the actual number of troops by our count exceed overall totals? Is it correct that under the treaty there could be a period of as long as 30 months before a material breach could be declared?

To that latter question, it is my understanding that the answer is yes, there could be a period of as much as 30 months before a material breach could be declared. The answers to the other questions in this set of questions will be up to the Ukraine and the rest of the former Soviet Union.

But, Mr. President, it is of no small consequence when a new nation the size of France with an army that might be larger than that of Germany's is suddenly an independent nation. These questions remain; they represent significant uncertainties. In my view again, to close, we should ratify this treaty in spite of them and then constantly monitor it to see that it is sustainable afterwards.

I hope the floor manager will respond to these questions in more detail for the RECORD.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Delaware.

Mr. BIDEN. How much time does the Senator from Delaware have?

The PRESIDING OFFICER. The Senator has 5 minutes 19 seconds remaining.

Mr. BIDEN. Let me say to my friend from New Hampshire and my friend from Wyoming with regard to the potential compromise offered by the Senator from Virginia, both my staff and I have been in contact with the White House. The only condition upon which they would be willing to accept the proposal being put forward by the Senator from Virginia is as I believe the Senator from Wyoming was informed. If the language was changed to report to the Senate whether or not the Soviet Union is in violation, as opposed to the language that was proposed which includes that report in the President's Soviet noncompliance, et cetera. I just ask whether or not the proponents of the amendment would be willing to accept that. If not, I think we should just vote on the amendment.

Mr. SMITH. Mr. President, I yield 2 minutes to the Senator from Wyoming. How much time do I have?

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes remaining.

Mr. WALLOP. Just 1 minute will suffice.

I would say that the reason for the language is twofold: One is that there is no reason for an entirely new reporting mechanism. The Congress lays enough bureaucracy on the administration and the Government, and second, a mere report can be a letter from the President saying, "I think they are probably in compliance."

That is not what is sought here. We are seeking a specific report. I am speaking for myself. The Senator from New Hampshire is the offeror of the amendment.

Mr. BIDEN. I ask my friend from New Hampshire what his disposition is. Again, I am not trying to encourage him to accept this. I just wish to know what it is.

Mr. SMITH. I have consulted with Senator WALLOP and with Senator WARNER and am prepared to accept the language that Senator WARNER suggested which includes certification. My preference would be, if that is not acceptable to the Senator, to go ahead, I would want the certification language as suggested by the Senator from Virginia.

Mr. BIDEN. Mr. President, on my time, I am not merely speaking for myself. It is unusual for me to be speaking on behalf of the administration. But in this case I am speaking in support of the administration. They feel very strongly that such language would be very damaging. They would not accept the language. So when our time is expired, I would suggest we vote the Senator's amendment.

Mr. SMITH. Mr. President, it is my understanding that the Senator has the right to object to a unanimous consent to modify the amendment. If I were to offer to modify the amendment as suggested by Senator WARNER.

Mr. BIDEN. I would object.

Mr. SMITH. Would the Senator object?

Mr. BIDEN. Yes; I would object to that modification on behalf of the administration.

Mr. SMITH. Under those circumstances, I have no choice but to remain with my original amendment. I sincerely regret that the Senator from Delaware would object to that. I think at this point, Mr. President, just to get it on the record, I am going to offer the modification in an effort of good faith, and if the Senator chooses to object, he has that right.

Mr. President, I ask unanimous consent that I may now modify my amendment with the modification which is at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Mr. President, on my own behalf but also on behalf of the administration, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SMITH. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 3 minutes and 48 seconds remaining.

Mr. SMITH. I yield another minute to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I regret that. Let me just say categorically that the amendment was not a departure from tradition. The report that is required under it is a certification. The administration is indulging in absolute pettifoggery by thinking that they have some kind of constitutional loss here if they have to certify that the people they are asking the Senate to enter into an agreement and a treaty with are in compliance with the terms of that treaty.

Mr. President, it is absolutely untrue to say that this is a killer amendment, and it is especially untrue to say that a report such as suggested in the unanimous consent of the Senator from New Hampshire merely requiring the administration to certify the status between the two parties, requiring no response or reaction to them, they could have said they are in violation. We certify they are in violation of everything and done nothing about it, is a killer amendment. It requires no Soviet behavior. It requires no behavior on the part of the administration with regards to the treaty, only the report to be certified as to the status.

The PRESIDING OFFICER. The Senator's additional minute has expired.

Mr. BIDEN. Mr. President, how much time does the Senator from Delaware have?

The PRESIDING OFFICER. The Senator from Delaware has 3 minutes and 28 seconds remaining.

Mr. BIDEN. Mr. President, I know if is not really the time he needs, but I yield 30 seconds to my friend from Oklahoma, who has much more to say about this and other matters, but I need to reserve 3 minutes.

Mr. BOREN. I thank my colleague from Delaware.

Mr. President, we will soon be voting on the sequence of votes on the Nunn-Lugar amendment. I strongly support that amendment. What we have learned from intelligence sources and from briefings of all of those with strong expertise in the Soviet Union is that there is a genuine threat of the proliferation of nuclear weapons; those weapons falling into the wrong hands if we do not begin to work together cooperatively right now.

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. BOREN. Therefore, I hope my colleagues will join me in voting for that amendment.

VOL 137
PT 23
NO 21—25
1991
UMI

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, after further consultation with the administration, I would ask whether my friends could live with the following language, and that is that "the President shall certify in a report to" so it would contain the word "certify" and it would be a report.

Mr. SMITH. Will the Senator please repeat that.

Mr. BIDEN. Yes. I will read the whole thing:

> Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in a report to the Senate whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto.

Mr. SMITH. The Senator said report. Would he accept Presidential Report on Soviet Noncompliance?

Mr. BIDEN. I say, Mr. President, no. The administration would not accept that language. We will say "certify in a report" but not specify which report. The administation will certify through a report transmitted to the Senate containing only this information.

Mr. WALLOP. Could the Senator say what the information is?

Mr. BIDEN. I do not know what the information is.

Mr. WALLOP. Not what it will be but what information is required in the report?

Mr. WALLOP. Whether or not the Soviets are in violation or probable violation.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, since this is a highly unusual circumstance, I ask unanimous consent that we have an additional 5 minutes, pushing the entire vote process back 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask the Senator whether I could have 1 minute of the remaining time.

Mr. BIDEN. I will be delighted to yield 1 minute of time.

Mr. DOMENICI. Mr. President, on Tuesday or Wednesday of last week, when Senator NUNN came to the floor to discuss the very issue that is in the Nunn-Lugar amendment, I came to the floor and indicated then that I supported that approach, and today I want to repeat that. For those who think this is a foreign aid issue, I submit it is a domestic issue of the highest magnitude and I say if you do not do something like that, just wait and see; when those weapons become dangerous because they are in the hands of the wrong people or are even on the market somewhere, or their managers are on the market somewhere to produce more proliferation, wait and see if it is not right in the front rooms of every home in America where they begin to ask, "What is this all about?"

I think that makes it a very serious domestic issue, and I compliment those who started that issue. I was an original cosponsor. I am pleased to be and I hope it passes overwhelmingly today.

I thank the Senator for yielding.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, how much leader time do I have?

The PRESIDING OFFICER. The Senator's 10 minutes of leader time has been reserved.

Mr. WALLOP. Mr. President, will the majority leader yield for a quick inquiry?

Mr. MITCHELL. Certainly.

Mr. WALLOP. We would like, we think, to be able to modify this amendment with the agreement from the Senator from Delaware. Could we be assured enough time to see if that would be the case?

Mr. BIDEN. Mr. President, how much time does the senior Senator from Delaware have remaining?

The PRESIDING OFFICER. The Senator from Delaware has 2 minutes and 36 seconds remaining.

Mr. MITCHELL. Mr. President, might I suggest that I will make my statement and Senators can continue their discussions and perhaps we will be in position to do that upon completion of that time.

Mr. President, in light of developments in Eastern Europe and the former Soviet Union, some have argued that the Treaty on Conventional Forces in Europe has become an anachronism.

In some respects it has been overtaken by the startling pace of political change, but it remains an important benchmark and building block for ensuring the future security of the European continent.

I commend President Bush, Secretary of State Baker, and former CFE negotiators James Woolsey and Stephen Ledogar for achieving this significant treaty.

Signed last November by the members of NATO and the now-defunct Warsaw Pact, the treaty was submitted to the Senate by the administration this July. It has been the subject of hearings and debate in the Senate Foreign Relations Committee. The Intelligence and Armed Services Committees also conducted hearings and submitted their views to the Foreign Relations Committee. There has been a thorough review of the many aspects of the treaty's provisions and their ramifications.

The CFE Treaty was designed to reduce the conventional armies of the opposing forces of NATO and the Warsaw Pact. It aimed to reduce the likelihood of a conventional Soviet attack on Western Europe and to lessen the threat of war on the continent.

Yet, as we all know, the Warsaw Pact has dissolved itself.

Most of the Communist nations against whom the West armed are now on their way to becoming democracies.

Soviet troops have left or have begun leaving East European territory.

Some East European countries would like to joint the European Community and even NATO.

The Soviet Union itself remains a Union more in name than in fact. Many of the republics have begun assuming independence. The Baltic States are free.

The Soviet Government is preoccupied with winning a war against economic decline, not a war against the Western powers it now seeks to emulate.

The Treaty on Conventional Forces in Europe is an historic document that exemplifies the enormity of these changes.

The very signing of a treaty involving 22 nations, tens of thousands of arms, and 2½-million square miles is in and of itself an accomplishment. The treaty's massive cuts in weapons both spurred and reflect the positive transformation of Eastern Europe.

Moreover, the agreement's verification and transparency measures are themselves valuable and set an important precedent for further arms control measures.

The CFE Treaty will require the destruction of thousands of weapons in order for both sides to reach equal levels of weaponry. Although it obviously forces the far greater burden of destruction on the countries of the East, its limits on conventional arms may now seem too high given the pressures for disarmament in those formerly Communist countries.

But the ratification of the CFE Treaty by all parties will provide additional assurance of adequate warning of any arms buildup and an effective block against any country's ability to launch a large-scale attack.

The treaty was signed a year ago. Continuing political turbulence among the nations of Eastern Europe has since raised possible complications for the treaty as drafted.

I am pleased that the Senate Foreign Relations Committee has added to the resolution of ratification conditions that anticipate some of these eventualities.

Specifically, I commend the committee and the senior Senator from Maine, my colleague Senator COHEN, for anticipating the possibility that an emergent state might decline to accept the obligations of the treaty.

It is important to recognize that a newly independent state could ignore responsibility for upholding the CFE Treaty's provisions, thereby upsetting the stability and transparency of arms that the treaty is designed to ensure.

It is also critical that the Senate be involved in the decision whether or not to stay in the treaty or to renegotiate its provisions under such circumstances.

I am satisfied that the resolution of ratification adequately protects both the security interests of the United States and the Senate's role in the event that a potentially militarily significant state might choose to abrogate the treaty.

I also support the resolution of ratification's conditions that several treaty-related assurances, known as side agreements, be considered to have the same legal force as the treaty itself.

It is important for preserving both the constitutional powers of the Senate and the integrity of the treaty process to insist on this point.

The executive branch cannot make freestanding agreements to resolve problems inherent in the treaty and then expect Congress to ignore the relevance and legal standing of these agreements. To have any relevance, side agreements must have the same weight and binding quality as the provisions of the treaty itself.

It is therefore important that the resolution of ratification clarifies this point regarding both the Soviet statement of June 14, 1991, and that of October 18, 1991.

I believe that the most important aspect of CFE is the baseline it establishes for additional arms control and confidence-building measures. CFE is a building block for future steps toward a stable and peaceful security regime for Europe.

The CFE Treaty represents both the end of an era and the beginning of a new phase in arms control and security regimes.

It was a result of the cold war and a divided continent.

It will be implemented in the context of a new Europe in which integration and mutual advantage—rather than suspicion and conflict—can be the guiding principles.

The new era offers great possibilities for Europe, the Soviet Union, and the United States to move toward a more far-reaching and permanent concept of arms control.

President Bush's unilateral arms reductions, and the subsequent unilateral initiative by Soviet President Gorbachev, demonstrate that the new climate of cooperation can yield great dividends in moving toward reduced arms.

Now is the time to press forward and realize the full potential of this new period in bilateral relations.

The administration has said it will shortly send the already signed START agreement regarding strategic arms to the Senate for consideration.

But the administration has been silent on what it once termed START II, a follow-on agreement to make even deeper cuts in the bulk of the two nations' nuclear arsenals.

Equally disappointing has been President Bush's silence in the face of new Soviet offers to negotiate more comprehensive arms control agreements.

President Gorbachev has called for negotiations to halt the production of all weapons-grade fissionable materials.

The great environmental hazard of nuclear production facilities, the excess plutonium, and highly enriched uranium available from retired warheads, and the lack of a need for even more nuclear warheads, all make this a compelling goal.

I hope President Bush will agree to at least explore this offer from President Gorbachev.

President Gorbachev has renewed his offer to negotiate a comprehensive test ban. The Soviet Union has now instituted a unilateral 1-year testing moratorium.

It has been longstanding U.S. policy to pursue a halt to nuclear testing. Now is the time to renew this commitment. I plan to join in introducing legislation to require a 1-year mutual testing moratorium as a step toward this goal.

Finally, President Gorbachev has pledged to unilaterally reduce Soviet strategic forces to 5,000 warheads. This is 1,000 fewer than the agreed upon 6,000 START-accountable limit. Gorbachev also proposed to begin negotiations on further reductions to approximately half of the 6,000 accountable warhead START limit. This is an offer that also deserves immediate attention.

It is unfortunate that President Bush has yet to respond to any of the Soviet President's new arms control initiatives.

The possibility to achieve such far-reaching agreements may not always exist.

I believe it is in our interest to explore them now.

I am pleased that the Senate today will fulfill its constitutional responsibility by providing its advice and consent to ratify the Conventional Forces in Europe Treaty.

I hope that the treaty will not just be a benchmark of the progress that has been made in enhancing European security.

I hope the CFE Treaty will serve as a catalyst, spurring the administration to work vigorously to realize the enormous opportunities before us today.

Mr. President, I reserve the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that a section of the committee report dealing with data discrepancy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

F. Data Discrepancy

The administration told the committee in July that some of the equipment the Soviets claimed had been withdrawn from the ATTU by November 19, 1990, had, in fact, not been removed by that data. Evidence of destruction in the ATTU and information available on holdings now located east of the Urals indicates that nearly all the TLE in question is now no longer present in the ATTU, but the baseline OSIs could, of course, prove otherwise.

In July, Senator Biden asked Ambassador Ronald Lehman, Director of ACDA, about the amount of TLE withdrawn from the ATTU after November 19, and about the general conditions of the Soviet departure from the ATTU. Ambassador Lehman testified that "it would appear that what the Soviets have given us is their projection of what they expected to have in the zone at the time * * * we are continuing to pursue this issue in the JCG." A week earlier, Richard Kerr, the Acting Director of Central Intelligence, stated: "At this time, our best judgement is that the Soviet 19 November figures reflected what they intended to have in the zone when the Treaty entered into force—if not before."

Senator Biden then followed up with further questions on the actual amount of unreported TLE that was still in the ATTU on November 19, and "about the efficiency and the capability of the Soviets to either, (A) move; (B) know whether it was moved; and (C) know where it was in transit."

Ambassador Woolsey responded as follows: "* * * we believed based on information that has been provided to us by the intelligence community that there were problems, * * * concrete data problems with a somewhat smaller level of equipment * * * there were approximately 1,000 aircraft, much of it in storage at air fields, looking to us as if it were older aircraft, that the Soviets did not try to hide, but did not declare. And we raised this issue in the Joint Consultative Group and after discussions there, they increased their notified holdings by between 100 and 200 aircraft. There were still 800 or so aircraft that they did not notify. Now some of that aircraft appeared to have been in the process of being destroyed at the beginning of the period (and) * * * much of it has been destroyed since. * * * There were also * * * on the order of 800 pieces—of ground-based equipment, which we have * * * [with] reasonably good confidence [determined] were not declared properly and we continue to raise that issue in the Joint Consultative Group * * *."

Ambassador Woolsey also mentioned possible further undeclared ground equipment "in the very low thousands." This "several thousand" TLE did not actually arrive at destinations east of the Urals until after November 19, 1990, but it cannot be proven to have been in the ATTU on that date.

By observing the date of arrival, one can estimate how many of these late-arriving TLE may have still been in the ATTU on November 19, 1990, and that number is about 3,000.

Also, some destruction of older tanks and aircraft in the ATTU appears to have been underway on November 19, but not completed until after that date. The Soviets

VOL 137 PT 23 NO 21 — 25 1991 UMI

have agreed that about 800 to 1,000 aircraft were in the ATTU on November 19, but they assert that these aircraft were older and did not meet the definition of "aircraft" in the Treaty. It now appears that some 1,500 additional older tanks and aircraft have been or are being destroyed.

As part of their June 14, 1990, unilateral political commitment, the Soviets declared that they would destroy "an additional 6,000 battle tanks, 1,500 armored combat vehicles and 7,000 pieces of artillery from among the conventional armaments and equipment in the Treaty-limited categories beyond the Urals." Thus, the Soviets will have, at least, agreed to make amends. The unilateral destruction of 14,500 TLE, plus the reduction of 3,738 TLE pursuant to the Article III dispute (in addition to the reduction obligations under the Treaty already accepted by the Soviets), is clearly welcome.

Other observers have suggested that there may have been as many as 18,000 more pieces of equipment in the zone on November 1990 than the Soviets declared. Based on open and closed testimony by the intelligence agencies, it seems fair to conclude that we will never be able to confirm whether 18,000 extra TLE were in the ATTU on November 19, 1990.

In light of the importance of this issue to committee members, a summary of available classified information will be available to all Senators in S. 407 during the consideration of the Treaty by the full Senate. Thereafter, the summary will be retained in the committee's files.

COMMITTEE CONDITION

Senators Biden and Helms both expressed concern over the data discrepancy issue. In response to questions from Senator Biden, representatives from the intelligence community confirmed that "we have found some undeclared equipment in the zone." Intelligence community representatives confirmed that this number is about 800. Furthermore, the intelligence community stated that it "cannot negate the possibility" that additional equipment was moved out of the zone after the date of treaty signature.

The committee condition makes clear that a discrepancy does exist between U.S. estimates and Soviet declarations. The condition goes on to require that the United States "shall continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990."

Perhaps most important, the committee condition states that the United States "shall seek to obtain additional reductions of equipment in Treaty-limited categories in the event the President determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990."

In other words, the committee strongly believes that if the Soviet Union did fail to declare equipment, such equipment should be treated as if it were covered by the agreement. Although most administration officials believe that the treaty calls for calculating destruction requirements on the basis of each state's declaration, the committee believes that if Soviet declarations are lower than actual holdings, the United States should seek to obtain additional reductions. The Soviet Union should not be permitted to benefit from incorrect data declarations.

Mr. BIDEN. Mr. President, today, the Senate takes up the CFE Treaty. This treaty has been a long time in the making. Indeed, this historic treaty was signed in Paris by 22 nations 1 year ago this week. If the Senate acts in the coming days, the United States will help lead the West and the East in shaping a new Europe.

In my view, ratification of the CFE Treaty will mark a watershed in American and European history. It will eliminate a fundamental cause of tension in Europe since the end of World War II: The huge numerical advantage of Soviet conventional forces.

Ending this superiority will serve to eliminate a threat to the security and prosperity of Western Europe and Eastern Europe, and it will eliminate a fundamental cause of the nuclear arms race.

In short, this treaty's ratification will set the first foundation stone for a new and more secure Europe.

As far as numbers are concerned, this treaty overwhelmingly serves American security interests. That fact was emphasized over and over again in our hearings. Secretary of Defense Cheney made this point. Chairman of the Joint Chiefs, General Powell, said it. Each of the Chiefs of the four services said it. And General Galvin, the Supreme Allied Commander in Europe, said it.

These distinguished officers explained that this treaty will required the former Soviet Union to destroy 23,000 tanks, armored vehicles, artillery pieces, and other equipment. Meanwhile, if we proceed with planned transfers of equipment to our NATO allies, the United States would not be require to destroy any equipment as a result of the treaty.

Such a ratio of Soviet to United States reductions—23,000 to 0—has never before been accomplished in arms control and probably never will be again.

This fact bears repeating: The former Soviet Union must destroy 23,000 pieces of conventional equipment and the United States none. The committee report details at great length the military advantages of this treaty. But I think this ratio—23,000 to 0—speaks for itself.

Let me say to my colleagues that this fact cannot be overemphasized. Because it is this fact that convinced me to recommend Senate consent to the treaty despite the uncertain political situation in the former Soviet Union.

While President Mikhail Gorbachev retains some power as head of the new Union Government in Moscow, clearly the fate of the treaty now lies in the hands of the leaders of Russia, Ukraine, Belorussia, Armenia, Azerbaijan, and Georgia.

I am optimistic that leaders of the three most important republics—Russia, Ukraine, and Belorussia—will choose to accept the obligations of the treaty. Indeed, I would note that the new Director of Central Intelligence has advised the committee that he believes these republics will join the treaty.

The classified rationale for this judgment is available to all Senators in S. 407.

But it is possible that new states will be formed in the former Soviet Union, and that those new states will not join the treaty regime.

Because the treaty imposes no real constraints on the United States, I would argue that the downside risk of new states refusing to join the treaty regime is virtually nil.

The question of whether large republics—like Ukraine—join the treaty is an important one. Therefore, the committee developed, in close consultation with the administration, a condition that sets up a flexible procedure for such a circumstance.

What the condition does is this. If a large republic with a substantial army becomes independent and chooses not to join the treaty, three things happen:

First, the administration will consult with the Senate as to the how the United States should proceed;

Second, if the President chooses not to withdraw from the Treaty, he will call for an extraordinary conference to discuss the effect on the treaty of this new circumstance;

And third, if any changes are made to accommodate the new circumstance, the President, will forward those changes to the Senate for its advice and consent.

In my view, this condition resolves the problem of Senate consent to a treaty when the other main party—the former Soviet Union—may soon disappear. I hope my colleagues will agree.

The resolution of ratification also protects the prerogatives of the Senate by making clear that several side agreements will be deemed as equivalent to the treaty in their legal significance.

Finally, let me say a word about verification. I asked all the Joint Chiefs of Staff whether the Soviet Union had any incentive to cheat on this agreement. Their answer was no. We heard testimony from all the Joint Chiefs on this issue, from all the intelligence agencies, and from the Secretary of Defense. Each assured the committee that this treaty is effectively verifiable.

The reasons why we can effectively verify this treaty are laid out in extensive detail in section 5 of the committee report and I will not repeat them here.

I urge all my colleagues to examine the report. If they do, they will see that militarily significant violations cannot occur without our intelligence community knowing about them well before they become dangerous. In short, this threshold verification test has been met.

Mr. President, let me point out to my colleagues that before the committee markup I received a letter from an unprecedented array of former Cabinet

and top officials: Three former Secretaries of State, six Secretaries of Defense, three Chairman of the Joint Chiefs of Staff, three Directors of Central Intelligence, two National Security Advisers, and five Directors of the Arms Control and Disarmament Agency.

Their letter urges us in the strongest possible terms to act favorably on this treaty.

In other words, if we vote yes for this treaty, we will be in pretty solid company. I ask unanimous consent that this unprecedented letter of support be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. BIDEN. In closing, let me say that by acting now we will be helping to create a new, more stable European security order, where Soviet Republics can become independent and still use this treaty to join the European security regime which the other Nations of Europe have already joined.

I hope and expect my colleagues to agree.

(EXHIBIT 1)

THE ARMS CONTROL ASSOCIATION,
Washington, DC, November 18, 1991.

Hon. JOSEPH R. BIDEN, JR.,
Chairman, Subcommittee on European Affairs, Committee on Foreign Relations, Washington, DC.

DEAR SENATOR BIDEN: In response to your request on behalf of the Senate Foreign Relations Committee, I am transmitting a statement endorsing the Conventional Armed Forces in Europe [CFE] Treaty and urging the Senate to act promptly in providing its advice and consent to ratification of the Treaty. The statement has been agreed to by 33 former senior U.S. government officials and military officers who have had special knowledge and responsibility relating to the subject matter of the treaty.

I hope you will find this statement useful in the committee and Senate action on this very important treaty.

Sincerely yours,

SPURGEON M. KEENY, JR.,
President & Executive Director.

STATEMENT ON THE CONVENTIONAL ARMED FORCES IN EUROPE [CFE] TREATY FOR THE SENATE FOREIGN RELATIONS COMMITTEE

We, the undersigned, believe that the Conventional Armed Forces in Europe [CFE] Treaty, concluded last year between the 22 nations of NATO and the former Warsaw Pact, will make a substantial contribution to the continuing security interests of the United States and its Western allies and should be ratified as soon as possible.

Recent events in the Soviet Union, including and subsequent to the failed hardline coup, have not only underscored the dangers of delay in implementing the CFE Treaty but have demonstrated the importance of having in place a structured set of obligations on the successor state or states of the Soviet Union. The CFE Treaty will require the successor state(s) to make deep, asymmetrical cuts in European-based conventional weapons to levels that will essentially eliminate the threat of a conventional attack on Europe. The existence of a formal Treaty with extensive on-site verification provisions will also provide an unprecedented degree of access to, and information about, military activities on the territory of the Soviet Union west of the Urals.

In the face of an uncertain political future, the security interests of the United States will be much better served under the Treaty than without it. Nothing will be gained by delaying the ratification process. Moreover, if ratification is delayed, the rapidly evolving political situation might require the Treaty's renegotiation which would be far more difficult than adapting an existing Treaty to subsequent political changes.

For these reasons, we urge the United States Senate to act expeditiously to provide its advice and consent to ratification of the CFE Treaty.

Hon. Harold Brown, Hon. Zbigniew Brzezinski, Hon. McGeorge Bundy, Gen. William F. Burns, Hon. Frank C. Carlucci, Hon. William E. Colby, Adm. William J. Crowe, Hon. Lloyd N. Cutler.

Amb. Jonathan Dean, Amb. Ralph Earle II, Gen. Andrew J. Goodpaster, Gen. David C. Jones, Hon. Max M. Kampelman, Hon. Spurgeon M. Keeny, Jr., Hon. Melvin R. Laird, Hon. Robert S. McNamara, Gen. Edward C. Meyer.

Gen. Robert E. Pursley, Amb. Stanley R. Resor, Hon. John B. Rhinelander, Hon. Elliot L. Richardson, Amb. Rozanne L. Ridgway, Hon. Eugene V. Rostow, Hon. Dean Rusk, Hon. James Schlesinger.

Hon. George P. Shultz, Amb. Gerard C. Smith, Gen. W.Y. Smith, Adm. Stansfield Turner, Hon. Cyrus R. Vance, Gen. John W. Vessey, Amb. Paul C. Warnke, Gen. John Wickham.

Mr. BIDEN. Mr. President, I ask unanimous consent that a collection of reports prepared by the British-American Security Council on European Arms Control, chronicling crucial developments in the CFE negotiations, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Basic Reports on European Arms Control,
Nov. 4, 1991, No. 18]

FUTURE CSCE ARMS CONTROL AGENDA BEGINS TO TAKE SHAPE

The broad outlines for arms control negotiations among the 38 CSCE member states are beginning to emerge after a series of consultations within NATO. NATO leaders are expected to make a general statement of support for post-CFE talks at their summit in Rome this week, but diplomats are pointing toward the CSCE Helsinki review conference in March 1992, where a more concrete set of goals will be adopted. Preliminary discussions have focused on the establishment of a set of permanent "security forums," in which various subjects can be addressed. The future negotiations are usually referred to as "post-Helsinki arms control" or "Security Forum 38."

In an interview, a Pentagon official described a four-forum format being discussed within the administration:

An arms control forum to follow through on the agenda of the CFE IA and CSBM talks;

An "information dialogue" forum would cover new possible transparency measures to open up budget and force planning data to international scrutiny;

A forum on non-proliferation would harmonize national regulations on export control;

And a forum on regional arms control would sponsor talks among sets of neighbors.

The Pentagon official stressed that each of the forums was designed with "separate terms of reference." Under this conception, the arms control forum would develop limits and measures (with attendant verification inspections) that would apply to the Atlantic-to-Urals region of Europe whereas the information dialogue would extend to U.S. based Forces. Eager for inspections of Soviet territory East of the Urals, France and the U.K. would like the option of inspections of U.S. territory held open.

The Charter of Paris signed by CSCE heads of state a year ago called for "new negotiations on disarmament and confidence and security building open to all participating states." The CFE agreement only covers the 22 members of the NATO and the erstwhile Warsaw Pact. One of the first tasks of SF-38 is expected to be the extension of certain CFE and CFE IA provisions to the neutral and non-aligned states.

The CFE IA negotiations currently underway in Vienna will set national ceilings on the troop levels. While little progress has been made in these talks so far (see below), negotiators feel the CFE IA structure could be a good model for further limits on equipment levels. Rather than compelling countries with small forces to cut, the Pentagon officials pointed out, such discussions could focus on the major military powers. While the limits themselves would be national, the talks could have the aim, he suggested, of reducing the overall number of certain armaments (tanks, artillery) to a lower level.

The German foreign ministry is developing proposals on a broad range of arms control ideas. A German diplomat, in an interview, urged "cooperative measures" such as more regular liaison between military officers and "operational" arms control regimes that would govern the readiness level of forces.

WHAT ABOUT THE UKRAINE?

Moves toward sovereignty by the Ukraine have raised questions about the impact on arms control of the changes in the Soviet Union. As the USSR's second most populous republic, the Ukraine is home to roughly 1.5 million troops and 6,000 tanks. The government of the Republic has promised to abide by the provisions of the CFE Treaty; it has also called for the formation of a 450,000 troop Ukrainian army.

Government leaders in the newly and would-be sovereign republics are unexperienced in such technical foreign policy issues as arms control. As the Pentagon official put it, "when new leaders in the Ukraine talk about honoring obligations, they don't know what that means." The official is in Kiev with a U.S. delegation this week to discuss these issues.

The Ukraine's plans to form such a large army may prompt concerns among its neighbors; the Republic shares borders with Poland, Czecho-Slovakia, Hungary, Romania, the Soviet Republic of Moldavia, and the Russian Federation. Under a provision of CFE negotiated at the eleventh hour, Poland, the CSFR, Hungary, and Romania will be able to conduct on-site inspections of units in the Ukraine.

The Pentagon official pointed out that a security forum for regional arms control could also help address such concerns. "You need structures to allow the Eastern countries to start arguing with each other," he said.

CFE IA OFF TO A SLOW START

The CFE IA talks have made little progress toward an agreement limiting per-

VOL 137 PT 23 NO 21—25 1991 UMI

sonnel levels of the 22 CFE signatories. Negotiators are still working on establishing the scope and definitions for the talks. Positions vary widely over what kinds of forces should be counted under an agreement. The Soviet delegation has insisted on a narrow definition covering only troops in units with CFE-limited equipment. According to its chief negotiator in Vienna, Ambassador Istvan Gyarmati, Hungary is calling for the inclusion of "anything that has a conventional war-fighting capability," including border guards and other internal security forces exempted from CFE. Dr. Gyarmati, characterized the current discussions as "a talk shop, not a negotiation." But he was nonetheless confident that an agreement would be reached in time for the Helsinki summit.

[BASIC Reports on European Arms Control, Sept. 23, 1991, No. 17]

No Major Adjustments to CFE Required by Changes in U.S.S.R.

The Bush administration is urging the speedy ratification of the CFR Treaty without modifications. Content to accept the guarantee of the Soviet central authority. Administration officials want to put the Treaty into force before individual republics take a more independent line. "If we don't ratify, and [instead] wait to see what the final political structure of this part of the world is, we will doom the Treaty," said a Pentagon official in an interview.

Soviet republics have so far offered strong support for CFE. The 10 republics that are forming a confederation have authorized the center to coordinate arms control and other aspects of foreign policy. The Pentagon official is eager to pocket these commitments; he expressed a desire to "get everybody who's anybody to say they love the Treaty."

Administration officials are willing to wait until after treaty ratification for details of how the Treaty's numerical limitations would be apportioned among the republics. Referring to the equipment allotments agreed among the former members of the Warsaw Pact, a State Department official said, "you might need an intra-republic understanding the way you had a group of six understanding."

CONFEDERATION SEEN AS "SUCCESSOR STATE"

According to this source, State Department lawyers who looked in to the implications for the Treaty of the changes in the Soviet Union concluded that the central authority for the confederation could be considered a "successor state." The official said, "If the confederation of sovereign states subscribes to the Treaty obligations of the the USSR, you can go ahead and assume the limits apply."

The Bush administration is wrestling with the issue of whether the newly independent Baltic states should be encouraged to sign the CFE Treaty. Some in the government feel such a move would necessarily prolong links between the Baltics and the USSR. But others are concerned that if the Baltics are left out of the Treaty regime, it would set a bad precedent for republics with larger forces on their territory.

[Basic Reports on European Arms Control, Aug. 20, 1991, No. 16]

Senate Hearings Delve Into CFE Details

Between July 11 and July 25, the Senate Foreign Relations Committee held four hearings on the ratification of the Treaty on Conventional Armed Forces in Europe. Much of the discussion focused on the accuracy of the data presented by the Soviet Union in mid-November when the CFE Treaty was signed. There is still substantial confusion over how much equipment the USSR moved out of the Treaty zone by November 18 and how much was left within the Atlantic-to-the-Urals (ATTU) area. The Soviet military is suspected of understating the size of their holdings in the ATTU at that time.

WITNESSES PROVIDE WIDE RANGE OF DATA DISCREPANCY ESTIMATES

Estimates of the discrepancy provided during the hearings ranged from 1,680 to 18,000 pieces of treaty-limited equipment. A State Department official explained that the various estimates rested on different levels of evidence: "There are the smoking guns, the warm barrels, and what we would come up with if we had to do a bottom line best estimate."

Chief U.S. negotiator Ambassador James Woolsey discussed the figures for which there is the strongest evidence. He said there were roughly 880 aircraft, much of it apparently awaiting destruction, "that the Soviets did not try to hide, but did not declare." Woolsey said another 800 pieces of ground equipment were in the ATTU but not disclosed in the data exchange. Testifying separately, CIA officials explained that they observed 800-1,000 pieces of equipment arriving at storage depots behind the Urals in mid-December. From this they inferred that it has been moved after the data was presented. In addition to these weapons, Ambassador Woolsey also spoke of equipment—numbering in the "low thousands"—that "we have some evidence to suggest were not destroyed in time and/or alternatively did not get out in time."

In his testimony General John Galvin, NATO's Supreme Allied Commander, explained that the 18,000 figure represents the unaccounted-for portion of the equipment the USSR claims to have withdrawn (57,000), destroyed (10,000), or converted (7,000). "We, with our ability to overfly the Soviet Union with satellites and to do other things with our intelligence systems, have not been able to account for every single one of these pieces of equipment. There are about 18,000 pieces of equipment that we have not been able to specifically note," Galvin said. A Pentagon official pointed out, in an interview, that his figure also matches the discrepancy between the Soviet data and Western calculations of Soviet strength in 1988.

General Galvin, however, explained that the actual figure may be significantly lower. He said much of the transferred equipment is kept in covered storage—where it cannot be readily observed—and that it is distributed widely within the Soviet Union. The NATO commander also argued that the confusion over Soviet data is "a very strong argument for the treaty, itself, and for the verification regime that will work with the treaty."

The Pentagon official portrayed the Administration's decision to proceed in spite of the data questions as a judgement call: "The cheating is real and it is troubling. We figured if we could get the limits in place and cover everything by working out the Article III problem, that would put them in a tremendous force structure bind and would be worth it." He said the real test would be future compliance with the agreement. "We'll have to watch them every day to see how they're living up to the Treaty limits and the political declarations. If this [the discrepancy] is one blip, and they live up to those obligations, then we made a good bet," he said. He also pointed out that the decision was based in part on the high regard for Gorbachev.

The performance of the intelligence community in this area has come under scrutiny since early leaks last winter put the data discrepancy as high as 40,000. Senator Helms charged that senior administration officials applied pressure for the estimates to be revised: "I am told the word went out to the U.S. intelligence analysts that this gap was just a little bit embarrassing and that the intelligence people ought to get rid of this gap by what they call 'creative re-analysis.'" Testifying on behalf of the intelligence community, Deputy CIA Director Richard Kerr offered a candid assessment of its efforts: "We essentially lost our place as they [the USSR] began to move and draw forces out and were unable to keep that database up to date."

QUESTION OF BALTIC STATUS IN TREATY DISCUSSED

A number of senators pressed the issue of how CFE treats the Baltic republics. Under the Treaty, forces in the Baltics are counted under the Soviet Union's allotted equipment entitlements, prompting concern that this amounts to tacit acknowledgment that the republics lie within the Soviet Union. Secretary of State James A. Baker III took issue with this interpretation: "This treaty does in no way alter or reduce our position that we do not recognize the incorporation of the Baltics into the Soviet Union."

Chairman of the Joint Chiefs General Colin Powell explained how the Treaty handles this issue—and how any secession would affect CFE: "The holdings [in the Baltics] are owned by the Soviet Union. They own the entitlement, and whether the individual seceding republics would ask that the Soviets move the equipment that's in that particular republic to somewhere else within the Soviet Union [is] a matter between the republic government and the government of the Soviet Union."

Even before the current coup—which is apparently aimed at quashing the aspirations of breakaway republics—senators were concerned that the Treaty permits a buildup in the Baltics. Senator Helms raised the question of whether armored combat vehicles (ACVs) belonging to the Soviet Strategic Rocket Forces that have been exempted could be used to crack down. Administration witnesses reassured the committee that very few such ACVs were in the Baltics. Steven Lilly-Weber of the Institute for Defense and Disarmament Studies in Cambridge said that according to their calculations, the regional limits in the CFE Treaty would prevent rather than permit a buildup in the Baltics.

NATO CHIEF ASSESSES MILITARY CAPABILITY OF WITHDRAWN FORCES

General Galvin assessed the military threat from the forces moved East of the Urals. He said only one-third (or roughly 20,000) of the withdrawn equipment is being kept in a usable condition. The rest, Galvin said, "was parked . . . [in] the closest place that could be found to park it. It was not put there because somebody was going to exercise it, preserve it, take care of it, worry about it."

Galvin pointed out that even the 20,000 systems that are being maintained are not organized into military units and are not associated with any troops. According to the General, reintegrating this equipment into a capable force would be a large task. "What you would have to do is you would have to organize the people and train the people . . . We would not be talking about weeks; we would be talking about months."

The NATO commander also gave details of the Alliance's "cascading" program, through which excess U.S. and other weapons are transferred to Norway, Denmark, Portugal, Spain, Greece, and Turkey so that they can upgrade their forces. Galvin said 2,000 tanks (mostly M-60s), 600 ACVs (M-113s), and 180 8-inch artillery pieces would be shifted.

SENATE EXPECTED TO ATTACH CONDITIONS

According to a Senate Foreign Relations Committee staffer interviewed after the hearings, Committee members plan to express their views on the Treaty by attaching a number of conditions to the Senate's resolution of consent to ratification. He said there would probably be conditions on the Baltics, Article III, and equipment East of the Urals.

Secretary Baker, predictably, denied the need for any conditions. But he left the door open, saying, "talk to the experts . . . and if you still have a problem, we're prepared to sit down and try and work through it with you."

STATEMENT OF THE REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE JOINT CONSULTATIVE GROUP

[The following is a politically binding declaration covering equipment East of the Urals. It was presented alongside the USSR's legally binding statement on issues raised under Article III (see issue #15 of BASIC Reports). The numbers given here replace figures presented in a table in the last issue.—Editor]

In order to promote the implementation of the Treaty on Conventional Forces in Europe of November 19, 1990, (the Treaty) I have been instructed by the Government of the Union of Soviet Socialist Republics to state the following.

1. The Union of Soviet Socialist Republics will, during 1991–1995, destroy or convert into civilian equipment no less than 6,000 battle tanks, 1,500 armoured combat vehicles and 7,000 pieces of artillery from among the conventional armaments and equipment in the Treaty-limited categories beyond the Urals, in addition to the numbers of armaments subject to destruction and conversion specified in the Statement of the Government of the Union of Soviet Socialist Republics of (date of Statement) concerning obligations outside the framework of the Treaty.

These armaments will be destroyed or converted under procedures that will provide sufficient visible evidence, which confirms that they have been destroyed or rendered militarily unusable. Advance notification and information will be provided to the States Parties to the Treaty regarding the locations and numbers of battle tanks, armoured combat vehicles and pieces of artillery undergoing destruction or conversion.

Elimination of armaments in the Treaty-limited categories will also be carried out subsequently as their operational and service life is expended.

2. The Union of Soviet Socialist Republics, in the period between January 1989 and signature of the Treaty on November 19, 1990, in connection with activities related to unilateral reductions of the Soviet armed forces, the withdrawal of Soviet troops from countries of Eastern Europe and adaptation of the armed forces to the new defensive doctrine, withdrew beyond the Urals the following numbers of conventional armaments and equipment in the Treaty-limited categories: 16,400 battle tanks, 15,900 armoured combat vehicles and 25,000 pieces of artillery.

Of these numbers of armaments and equipment, 8,000 battle tanks, 11,200 armoured combat vehicles and 1,600 pieces of artillery have been turned over to military units and subunits in the eastern Soviet Union for the purpose of re-equipping them and supplementing their armaments.

Another part of the conventional armaments and equipment in the Treaty-limited categories, which have been transferred beyond the Urals (8,400 battle tanks, 4,700 armoured combat vehicles and 16,400 pieces or artillery), has been placed in storage. In addition, 7,000 pieces of artillery are being used for replacement and repair.

These stored conventional armaments and equipment withdrawn beyond the Urals will be used up in the process of replacing obsolete armaments and equipment that have expended their established operational and service life and, in the eastern Soviet Union, also in supplementing units.

With respect to the armaments and equipment transferred beyond the Urals before signature of the Treaty that have been placed in storage or are used for replacement and repair beyond the Urals, upon entry into force of the Treaty information will be provided to all States Parties about the locations and numbers of battle tanks, armoured combat vehicles and pieces of artillery at such locations as of July 1, 1991. Armaments in each of these categories (battle tanks, armored combat vehicles and pieces of artillery) will be stored separately.

3. The conventional armaments and equipment in the Treaty-limited categories withdrawn beyond the Urals prior to signature of the Treaty will not be used to create a strategic reserve or operational groupings, and will not be stored in a way permitting their rapid return to the area of application of the Treaty, that is, such armaments and equipment withdrawn beyond the Urals will not be stored in sets for military formations.

Military formations and units deployed within the area of application of the Treaty will be organized in line with the Soviet defensive doctrine and taking into account the sufficiency levels of armaments established by the Treaty for a single State.

Note.—News of the hard-line coup in Moscow broke as BASIC Reports was going to press. The State Emergency Committee claiming power promised to honor all international accords and treaties, and President Bush said the ratification of CFE should go forward. All interviews quoted in this issue were conducted before the coup.

[BASIC Reports on European Arms Control, June 17, 1991, No. 15]

CFE Disputes Resolved: Ratification Will Proceed

Final resolution of lingering CFE controversies was achieved Friday when Soviet representatives in Vienna presented a set of binding promises on forces which have been at the center of a seven-month dispute with the other Treaty signatories. The 22 signatory nations will now go ahead with ratification proceedings, which were held up by the disagreement.

The Soviet declarations were worked out during several rounds of high-level U.S.-Soviet consultations since the Treaty was signed in November. The compromise was concluded at a June 1 meeting in Lisbon between Secretary of State Baker and Foreign Minister Alexander Bessmertnykh, but major progress was achieved during an earlier visit to Washington by Chief of the General Staff Mikhail Moiseyev.

The negotiators skirted a laborious legal debate over whether the language of the Treaty covers ground forces under naval command. Instead they focused on practical measures to protect the integrity of the Treaty's limits. A State Department source explained in an interview that the declaration "brings the Soviet Union into practical conformity with all the ceilings and subceilings."

The Soviet Union's legally binding statement (reprinted on pp. 3–4) specifies how it will comply with these ceilings and prevent any similar controversies over interpretation. To compensate for equipment in its coastal defense and naval infantry units, the USSR will cut tanks by 933, armoured combat vehicles (ACVs) by 1,725 and its artillery by 1,080.

U.S.S.R. WILL BE ALLOWED TO MOVE MORE EQUIPMENT EAST

A compromise agreed by the U.S. allows the Soviet Union—contrary to the provisions of the CFE Treaty—to carry out half of these reductions (or 1,500) outside the Atlantic-to-the-Urals (ATTU) geographic area covered by the treaty. This provision will enable the Soviet military to preserve some of its most modern armaments, rather than destroy it. The USSR is expected to move newer pieces of equipment to units East of the Ural Mountains and destroy or convert an equivalent number of obsolete pieces. NATO has a similar program (referred to as "the cascade") under which it has shifted arms from modern armies such as the U.S. to less well-equipped forces like Turkey. Commenting on the concession made by the U.S., a Pentagon source said, "their [the Soviet military's] whole world fell in, and these are minor adjustments in comparison."

Destruction and conversion carried out East of the Urals will not be subject to the same on-site inspection rights provided in the treaty, but will be observable by U.S. spy satellites. In its declaration, the USSR said it would destroy such equipment, "in accordance with procedures which provide sufficient visible evidence that [it has] been destroyed or rendered militarily unusable. The States Parties to the Treaty shall be notified in advance, giving the location, number and types of conventional armaments and equipment to be destroyed or converted."

The statement's language on coastal defense and naval infantry equipment was couched in a way that allows the Soviet military to save face on the treaty interpretation dispute. It pledges that the level of Soviet equipment in regular army units will be lower than the Treaty ceilings—with the difference equalling the holdings of the naval infantry and coastal defense units. Those units will, according to the Soviet declaration, not grow beyond their current level. Under this formula, all the equipment is effectively counted, but the Soviet Union is able to keep at least a separate rhetorical accounting of the forces it claimed wasn't covered by the Treaty.

The third controversial category, strategic rocket forces, was also capped at the current level (1,701 ACVs) and was excluded from Treaty limits under an exemption in the agreement for internal security forces. Ethnic tensions within the Soviet Union have prompted concerns over the security of the Soviet strategic nuclear arsenal.

In order to prevent any similar controversies, the USSR stated that aside from the agreed exceptions, all other forces "irrespective of assignment" would be counted. This language was crafted to insure that new types of military commands were not created to shield forces from treaty limits. As a U.S. official put it, "the Boy Scouts won't get tanks."

Any inspections of the naval infantry or coastal defense units would fall under the

VOL
137
PT
23
NO
21—25
1991
UMI

"challenge inspection" provisions of the treaty, rather than the somewhat stricter rules for "declared sites." The naval infantry units had already been considered undeclared sites in the Treaty, and the coastal defense divisions were given this status under the new compromise.

SEPARATE STATEMENT COVERS EQUIPMENT ALREADY BEHIND URALS

The Soviet declaration resolving the interpretation dispute was presented at a special meeting called by France, which used a Treaty clause providing for "extraordinary conferences." At a special session of the Joint Consultative Group on the same day, the USSR tabled a separate set of promises covering equipment that had been moved East of the Urals before the Treaty was signed. Because these armaments are not covered by treaty limits, the second declaration is considered politically (rather than legally) binding.

Between 1988 and November 1990, the Soviet Union shifted slightly less than 60,000 tanks, ACVs and artillery guns behind the Urals. Roughly 11,000 of these weapons have since been destroyed or converted. On Friday the USSR promised to destroy or convert an additional 14,500 armaments: 6,000 tanks, 7,000 artillery, and 1,500 ACVs.

According to the Defense Department source, the Soviet military has already placed 29,100 pieces of equipment in storage—much of it in the open, where it can be seen. [The USSR has provided detailed data on the disposition of equipment East of the Urals. The Soviet statement presented in Vienna Friday promises that none of the equipment moved East will be stored in unit sets or used to create new large formations. Another U.S. official explained, "they won't store it in ways where guys can jump in it and drive off." This pledge conforms with a longstanding Soviet policy that forces from Europe will not be used for a military build up in the Asian portion of the country.

VISIT BY SOVIET MILITARY CHIEF PAVED WAY FOR AGREEMENT

On May 19–21, General Mikhail A. Moiseyev, chief of the Soviet General Staff, visited Washington for a round of meetings with senior Bush administration officials. The visit was taken as sign of how stubborn the Soviet military had been on the CFE disputes. The Foreign Ministry usually handles such negotiations, but the Kremlin decided to have the General Staff deal directly with the U.S. administration.

Early in the discussions with an American delegation headed by Undersecretary of State Reginald Bartholomew, however, the Soviet General showed new flexibility. Reflecting on the meetings, the Pentagon official said, "the Moiseyev visit was more productive than I ever expected. . . . He came and right in the beginning made a concession on the principle [of counting the naval infantry equipment]." In March the Soviet Union agreed to count coastal defense equipment but held out on naval infantry.

The General's visit did not, however, resolve the dispute. While in Washington, Moiseyev complained that if he was going to make additional reductions, it would be difficult to comply with Treaty ceilings for active unit equipment in the ATTU and in the Flanks region. He requested that new, higher limits be set (with increases of 100–200 tanks and artillery and 750 ACVs). The U.S., unwilling to renegotiate provisions of the Treaty, rejected this proposal. At the Lisbon ministerial, the position was withdrawn, and the USSR said it would cut the 750 ACVs by using a procedure in the Treaty for conversion to look-alikes.

Resolution of the CFE disputes will clear the way for progress on the CFE IA follow-on talks. At their Copenhagen meeting on June 7, NATO foreign ministers promised to table a new proposal on personnel limite by the end of the current round in Vienna.

[BASIC Reports on European Arms Control, April 8, 1991, No. 14]

BUSH ADMINISTRATION READYING CFE COMPROMISE

The Bush administration is preparing a response to Soviet proposals on controversies that have blocked ratification of the CFE Treaty, according to U.S. officials. At the center of the dispute are Soviet ground forces, under naval command, that the USSR argues fall outside the treaty's limits.

The U.S. government is clearing the way for a compromise by shifting its focus from the legal to the numerical dimensions of the dispute. Earlier statements by officials have insisted that the Soviet Union abandon its legal interpretation of the treaty. But senior policy makers are now developing compromise measures that would bring the controversial forces into line with the numerical limits in the treaty. One U.S. official described the administration's approach in an interview, saying "there are issues of principle involved . . . [but] there may be practical solutions around that might have the same effect."

There are three main types of forces at issue—coastal defense, naval infantry, and strategic rocket guards. (A small number of arms in civil defense units are also in discussion.) The USSR has insisted that none of the equipment associated with such units is covered by the Treaty. Moscow bases its case for the exemption of naval units on the CFE negotiations mandate, which excludes naval forces from the talks. The Treaty does, however, cover all ground equipment deployed within the Atlantic to the Urals, and there is no treaty language distinguishing ground equipment in naval units from those assigned to the army. Article III of the Treaty does list seven clearly defined exceptions for other categories.

In a political agreement outside the treaty text, the parties set separate ceilings for land-based naval aircraft and land-based naval helicopters. The Soviet Union had originally insisted on keeping these systems unconstrained, but a compromise was negotiated by the U.S. and Soviet foreign ministers themselves. The USSR was thus allowed special treatment for its aircraft, and the U.S. insured that these systems were capped. A Pentagon source drew a parallel between these provisions and the proposals being developed which he said would "take everything that's under dispute and work it in a way analogous to land-based naval aircraft."

The Soviet position on these issues is a refinement of a proposal first presented by Foreign Minister Alexander Bessmertnykh during a January Washington ministerial. Bessmertnykh promised that the equipment in these categories would not be increased. In mid-March, the Kremlin offered to withdraw forces equaling the holdings of the coastal defense units from the ATTU. A March 25 letter from President Gorbachev promised that the withdrawals would be taken from the same regions where the controversial units are, which would bring the levels into compliance with both the overall and geographic subregion ceilings. The prospect of a buildup in the northern and southern flanks of the USSR was a strong concern of Norway and Turkey during the talks. Testifying at a Senate hearing, Ronald Lehman, director of the U.S. Arms Control and Disarmament Agency, highlighted this point: "the issue of the flanks was very vigorously negotiated."

According to the administration officials, the U.S. will press for similar assurances on the other disputed categories. A Pentagon official said "we need coastal defense and naval infantry [marines] treated the same." There is speculation that strategic rocket forces will be frozen but not compensated by withdrawals. These forces have aroused less concern because they are widely scattered and do not possess the most capable equipment.

NAVAL SHIFT CLAIMED PART OF GENERAL RESTRUCTURING

Commenting on the naval ground forces issue in an interview, a Soviet diplomat said "I wonder why these questions weren't discussed in the negotiations." The diplomat claimed that the Soviet military began restructuring its coastal defense units in 1989. This claim raises questions about whether the Soviet military, as has been charged, suddenly begun the restructuring to create an issue that could scuttle the Treaty. The diplomat also told of military plans to make the controversial units, which had been switched from an army command, more clearly oriented to shore defense. The divisions are located near major naval bases at Kalingrad, Murmansk, and Sevastapol. The diplomat said that like units in Soviet Asia, the divisions would have fewer tanks, and their artillery would be stationary.

The Soviet proposals to withdraw equipment do not include an offer to destroy the systems as would be required under the Treaty. The difficulty of meeting the three-year destruction timeline is often cited as a reason for the massive movement of weapons East of the Urals. The 5,457 pieces of equipment being debated comprise roughly 6% of Soviet forces West of the Urals.

DATA AND WITHDRAWN EQUIPMENT NO LONGER STUMBLING BLOCKS

Two other issues that had been cited by the Bush administration as stumbling blocks are no longer seen as obstacles. A dispute over the accuracy of Soviet data was downgraded in February when it was revealed that U.S. intelligence estimates had overstated the size of Soviet forces. Secretary Baker acknowledged the mistake in a letter on CFE to Senator Joseph Biden (D–DE): "It now appears that the magnitude of these discrepancies may be less than we had originally believed." The administration is also taking a more relaxed attitude toward the question of what will happen to Soviet equipment moved out of ATTU before the treaty took effect. While this withdrawal was perfectly legal, some in the U.S. government had wanted solid assurances that the arms would not be used to build up elsewhere. A U.S. government source said, "We have gotten lots of information, and it seems to add up now. And we have assurances about what they're going to do. They're not building up in Asia or creating new units. We've gotten about as much as we can."

If President Bush sends President Gorbachev a counterproposal, as he is expected to do, it will be the first major U.S. move toward compromise since these issues first arose in November. A Pentagon official expressed some frustration at having to negotiate new provisions after the treaty has been signed. But the source was also glad the

treaty will not be sacrificed over these issues: "In the end I'd rather have the agreement."

[BASIC Reports on European Arms Control, Feb. 19, 1991, No. 13]

CFE RATIFICATION STALLED BY DISPUTES WITH U.S.S.R.

Disputes between the Soviet Union and the other CFE signatories have indefinitely delayed ratification of the treaty. Meanwhile the schedule of the forum where these issues are being discussed has also been left open-ended in the hope that the differences can still be resolved. Last Sunday (February 17) marked the end of a 90-day period during which countries were supposed to submit revisions in their data for the size of their forces, but the Joint Consultative Group, which was set up to review compliance and interpretation questions, will remain in session.

There are three main areas of controversy. The one that has aroused the most concern involves a Soviet claim that three of its motorized rifle divisions near the Baltic and Black Seas have been reassigned to Naval command and are thereby exempt from treaty limits. The Soviet position is widely seen as a move to dramatize the lack of constraints on naval forces, which the Soviet military has pressed for and the United States has opposed.

While the CFE Treaty does not cover naval forces, it does limit all ground equipment deployed within the Atlantic-to-the-Urals (ATTU). Article III of the Treaty lists six exceptions for equipment not deployed with military units and one covering paramilitary forces. The Treaty sets separate ceilings for land-based naval aircraft and helicopters; there is no treaty language specially treating naval units with ground equipment. Soviet Foreign Minister Bessmertnykh proposed negotiating ceilings on such units during his late January meetings in Washington. There is concern that allowing the exemption of the three "shore defense divisions" would set a precedent for further "resubordination" of ground units.

According to a Western European negotiator, Chief Soviet CFE Representative Oleg Grinevsky acknowledges ongoing debate in Moscow and, "hints that there are problems of interpretation within the Soviet government." The rigid Soviet positions are widely seen as reflecting military discomfort with CFE, but the Western diplomat said other Soviet officials are "not unsympathetic to the interpretation of the other countries."

Giving his own assessment of the issue, the diplomat said that "from a clearly legalistic standpoint, you can not say that it is a clear breach of contract. It is a debatable thing." While the diplomat was careful not to paint the Soviet Union into a corner, he affirmed the case against the resubordination loophole, pointing out that the negotiating record is clear on the point.

The second issue concerns the fate of Soviet arms moved east of the Urals and therefore out of the area covered by the Treaty. These forces are not legally covered by the agreement, but the U.S. and its allies are asking the Soviet Union to provide a detailed plan for what will be done with the systems. In October, then Soviet Foreign Minister Eduard Shevardnadze gave rough figures for tanks that had already been destroyed, or were slated to be converted or exchanged for Far Eastern forces that would in turn be destroyed.

The one dispute on which the sides have narrowed their differences is the accuracy of Soviet data for its forces in the ATTU.

U.S. LOWERS ESTIMATE OF U.S.S.R. LEVELS

On February 2 The Manchester Guardian reported that the U.S. had reduced its estimate of the size of the Soviet force. In December the Bush administration accused the USSR of understating its holdings by 40,000, but in late January the figure was lowered to under 10,000. The Guardian reported that the earlier charge was based on information collected in early October rather than after the November 19th date on which the Treaty took effect.

A former U.S. official who dealt with these issues acknowledged the difficulty in an interview with BASIC Reports. Referring to the massive withdrawals of Soviet forces, this source said "we simply did not have the capability to track the changes as they were happening."

Since raw intelligence typically takes a few weeks to analyze, there is some question over why the U.S. was so quick to base its accusation on the higher figure. Wishing to keep these issues from becoming too politically charged, the administration has sought to downplay the disputes. Officials refrain, for instance, from portraying the controversies as violations.

A State Department source explained, "we want to give them room to pull back and admit they were wrong and do it with some dignity." This attitude underlies the patient approach to the data revision deadline: "there's nothing really magical about the 17th," said the official.

NEW DATA FAILS TO RESOLVE ISSUE

Ambassador Grinevsky presented limited revisions to the Soviet data on February 14. The USSR raised the figures for their equipment holdings by a total of 700—including 160 combat aircraft, 150 attack helicopters, 30 tanks, 250 armored combat vehicles, and 110 artillery. The revisions leave a large gap between Soviet and U.S. reckonings.

According to a Pentagon source, the forces added to the data fall into a different category than those comprising the bulk the data discrepancy. This official says the U.S. has identified Soviet army units with more treaty-limited equipment (TLE) than they are listed in the data as having. The 700 TLE in the new data, however, are in paramilitary units the USSR now recognizes come under the treaty.

Officials are reluctant to specify the size of the alleged discrepancy, (which they place between 3–10,000) in part out of a desire not to reveal the intelligence methods on which the charges are based. The data controversies center on the amount of equipment that was in the ATTU on November 19 when the Treaty was signed. There is also concern that withdrawal of equipment since November may circumvent the Treaty. But a Western diplomat said it is hard to resolve data disputes without the Treaty's verification provisions, which only take effect after ratification: "once [the USSR] has removed the evidence by removing the equipment from the ATTU, there is not much that can be done."

FOLLOW-ON TALKS OPEN

Meanwhile, the first plenary meeting of the CFE IA follow-on talks was held on February 14. The substantive agenda of CFE IA is held up by the disputes with the USSR, but it was seen as symbolically important to begin them formally. A State Department official explained in an interview the desire to "make it clear that we're not walking away from the process and want to go forward."

Most analysts predict that it will take an intervention by President Gorbachev to shift the Soviet positions on the disputed issues. In early February President Bush sent a letter on these issues to the Soviet leader.

GERMANS ALSO REVISE DATA

The German delegation also presented new figures in Vienna. The original German data counted forces not covered by the treaty; most of the new numbers are, therefore, lower. Another reason for the revisions is that the November figures for East German forces were estimates. The total reduction was 922 TLE.

Roughly 130 pieces of equipment in research and development at military test sites were removed; the Treaty only covers forces deployed with military units. 42 artillery pieces fall into this category. Of 130 tanks removed from the accounting, 61 were test models, and the rest were miscounted GDR equipment. The aircraft count was reduced by 46 (30 in R&D, 14 due to error, and 2 destroyed in accidents since November).

Germany took 600 Soviet-made BTR–40 from the GDR off the list, claiming they are look-alikes. 99 BO–105 helicopters were also removed because that variety is not considered an attack helicopter. Germany added 20 objects of verification.

[BASIC reports from Vienna—A regular update on the CFE and CSBM negotiations from the British American Security Information Council, Dec. 17, 1990, No. 12]

HIGH LEVEL DISCUSSIONS FOCUS ON SOVIET FORCE DATA

With the CFR Treaty negotiated and signed, officials have now focused on differences over the data exchanged in Vienna on November 18th, the day before the agreement was signed in Paris. The U.S. and its NATO allies have raised questions about the accuracy of Soviet data. If the differences are not resolved in the coming weeks, Senate consideration of the Treaty for ratification could be delayed. (Data for all countries is given on pp. 2–4.)

The low Soviet figures presented in Vienna are only partially explained by the massive withdrawal of forces to the Eastern USSR; territory beyond the Ural Mountains is not covered by the Treaty. Pentagon sources told BASIC Reports that the USSR has more forces in the Atlantic-to-the-Urals (ATTU) area than it acknowledges in the data.

U.S. and Soviet officials have met to discuss this issue twice since the Paris summit. Chief U.S. CFR negotiator James Woolsey led an American delegation to Moscow December 6–7, and Woolsey talked about the matter with Soviet officials at the December 10–12 ministerial in Houston. The problem was also taken up at in the Joint Consultative Group, a body established by the Treaty to discuss compliance issues, which ended 3 weeks of meetings on December 13.

None of these meetings yielded significant progress. Pentagon officials point to the stubbornness of the Soviet military; one said "there was no interest on the part of the General Staff to move at all." Expressing his hope that the question would be settled soon, another Pentagon official said "it isn't a good idea to make this a big political issue." The Treaty itself provides for the revision of data within 90 days (or before February 18), but officials point to the next Joint Consultative Group meeting, which opens January 19, or the possibility of a U.S.-Soviet ministerial within the next month.

In contrast to the apparent hard-line of the Soviet military, representatives of the foreign ministry have acknowledged inaccuracies in the data (attributing them to error)

VOL 137 PT 23 NO 21—25 1991 UMI

and promised to correct them. The Soviet defense and foreign ministries had difficulty coordinating their positions in the closing months of the CFR talks, and there is speculation that Gorbachev is building closer political ties to the military. In response to the suggestion that the Soviet military may be trying to undermine the Treaty, a Soviet diplomat said "it's just the difficulty of handling the restructuring of forces." The diplomat provided a figure for Soviet artillery holdings that was slightly higher (by 168) than the official data exchange. (The reason for the difference was unclear.)

Another explanation offered by a Defense Department official is that the Soviet military is trying to claim credit in advance for withdrawals from Eastern Europe not yet carried out. Referring to the low tank figure in the data, the official said the Soviet army "had every intention of taking out 20,000 tanks [from the ATTU] by the time the treaty was signed, but they didn't make the deadline. They gave us data that reflects a projection rather than actual holding." According to this source, the discrepancy in each category is in the thousands and in some cases is over 10,000. The only category in which the Soviet data is described as accurate is attack helicopters. The American charges are based on the surveillance of Soviet forces by U.S. intelligence agencies carried out in late November.

"NAVAL" FORCES AND APC LOOK-ALIKES AT ISSUE

The data dispute is focused in part on three Soviet divisions that the USSR calls "shore defense divisions." Since the CFR Treaty does not limit naval forces, the Soviet Union argues that these divisions are not covered by treaty limits. A Pentagon official claims, however, that the units are motorized rifle divisions within the normal structure of Soviet land forces. The official says, "they are located where they have always been."

The issue of limits on naval force has been highly charged; naval arms control has been resisted by the U.S. military while it is known to be a priority of the Soviet military. The two sides resolved a dispute over limiting land-based aircraft in the Soviet Navy by setting a politically binding ceiling outside the formal treaty.

Another data issue centers on the MT-LB armored personnel carrier. The Treaty contains a paragraph describing how this vehicle can be transformed into a non-combat look-alike, which would not be counted under treaty ceilings. The two sides differ over how many MT-LBs currently in the Soviet arsenal be counted as look-alikes and how many are still combat-capable. The Soviet diplomat said 12,800 are look-alikes used for towing artillery and as ambulances.

WHITHER THE WITHDRAWN SYSTEMS?

The CFE Treaty requires the Soviet Union to destroy any equipment being removed from the ATTU to reach the treaty ceilings. That equipment would have to be destroyed within three years of the Treaty's entry into force. Neither of these requirements applies to equipment that was already beyond the Urals when the Treaty was signed. The USSR acknowledges having accelerated its withdrawal of equipment behind the Urals in the final months before Treaty signature. But Soviet officials resist the charge that they are trying to avoid destroying their arms, claiming instead that they would have had difficulty carrying out all of their destruction on the Treaty's 3-year timeline.

Even though equipment that had already been moved to the Eastern USSR by November 18 is not legally covered by the CFE Treaty, the United States is seeking assurances that these forces will present no threat. In an October 13 letter, Soviet Foreign Minister Eduard Shevardnadze detailed Soviet intentions for the 20,000 tanks it had planned to withdraw. 4,000 had already been converted, destroyed, or exported. Another 8,000 tanks are slated for future destruction or conversion—mostly to fire-fighting equipment. The other 8,000 were being moved to the Far Eastern part of the USSR to replace aging weapons that will in turn be destroyed. A Soviet diplomatic source said that 500 artillery pieces from Europe have also been destroyed and that 16,400 artillery pieces have been moved to the Asian Soviet Union, along with 4,700 armored combat vehicles.

U.S.S.R. EXPLAINS LOW VERIFICATION SITE FIGURES

One of the elements of the Soviet data that most surprised Western officials was the short list of objects of verification provided. In early October, Soviet officials told U.S. counterparts that the USSR had 1,560 such sites, but the data lists only 895. The issue is important because the number of on-site inspections a country is required to host is based on the number of objects.

A Soviet diplomat explained why the figure is so low. According to this source, Eastern and Western negotiators agreed in the final weeks of the talks that 120 Soviet regiments and battalions in Eastern Europe would not be counted as objects because all of their treaty-limited equipment (TLE) had already been removed. The USSR also claims that an additional 80 sites were removed from the list due to withdrawal of forces from Eastern Europe.

The diplomat also said that 100 training centers were discounted; these sites are said to have less than 30 total TLE or less than 12 items of any one category. In restructuring of its forces, the USSR claims to have removed all TLE from its chemical and communications and control units, thereby eliminating 360 objects of verification.

Acknowledging that many of these changes had indeed been made, a Pentagon official commented that "we'll probably have to live with the object of verification numbers." The issue is understood to be of greater concern to some of the United States' NATO allies.

NATIONAL DECLARATIONS AND RESIDUAL MAXIMUM LEVELS

	Declared	Residual
OOV		
Belgium	53	
Canada	12	
Denmark	618	
France	286	
Germany	45	
Greece	109	
Iceland	0	
Italy	158	
Luxembourg	0	
Netherlands	99	
Norway	56	
Portugal	61	
Spain	90	
Turkey	120	
United Kingdom	228	
United States	164	
Total NATO	1,947	
Bulgaria	84	
CSFR	250	
Hungary	55	
Poland	118	
Romania	167	
U.S.S.R	895	
Total WTO	1,569	
Tanks:		
Belgium	359	334
Canada	77	77
Denmark	419	353
France	1,358	1,306
Germany	7,133	4,166
Greece	1,725	1,735
Iceland	0	0
Italy	1,912	1,348
Luxembourg	0	0
Netherlands	913	743
Norway	205	170
Portugal	146	300
Spain	854	794
Turkey	2,888	2,795
United Kingdom	1,198	1,015
United States	5,904	4,006
Total NATO	25,091	19,142
Bulgaria	2,416	1,475
CSFR	3,035	1,435
Hungary	1,345	835
Poland	2,850	1,730
Romania	2,851	1,375
U.S.S.R	20,694	13,150
Total WTO	33,191	20,000
APC:		
Belgium	833	N/A
Canada	277	N/A
Denmark	316	N/A
France	2,692	N/A
Germany	6,072	N/A
Iceland	0	N/A
Italy	3,591	N/A
Luxembourg	0	N/A
Netherlands	749	N/A
Norway	81	N/A
Portugal	812	N/A
Spain	1,142	N/A
Turkey	1,554	N/A
United Kingdom	2,553	N/A
United States	3,545	N/A
Total NATO	25,065	N/A
Bulgaria	1,771	N/A
CSFR	2,929	N/A
Hungary	1,219	N/A
Poland	928	N/A
Romania	2,566	N/A
U.S.S.R	11,334	N/A
Total WTO	20,747	N/A
AIFV:		
Belgium	236	731
Canada	0	169
Denmark	0	210
France	817	1,635
Germany	3,264	3,282
Greece	96	1,719
Iceland	0	0
Italy	0	2,220
Luxembourg	0	0
Netherlands	718	718
Norway	53	153
Portugal	0	292
Spain	0	1,078
Turkey	0	2,121
United Kingdom	339	1,335
United States	2,202	2,337
Total NATO	7,725	18,000
Bulgaria	148	1,110
CSFR	1,430	1,430
Hungary	494	1,020
Poland	1,391	1,700
Romania	139	500
U.S.S.R	17,692	12,250
Total WTO	21,294	18,000
HACV:		
Belgium	213	133
Canada	0	0
Denmark	0	0
France	616	535
Germany	262	135
Greece	65	75
Iceland	0	0
Italy	0	0
Luxembourg	0	0
Netherlands	0	0
Norway	12	0
Portugal	77	77
Spain	117	117
Turkey	0	93
United Kingdom	301	335
United States	0	0
Total NATO	1,663	1,500
Bulgaria	91	100
CSFR	0	103
Hungary	7	85
Poland	58	107
Romania	430	105
U.S.S.R	602	1,000
Total WTO	1,188	1,500
ACV:		
Belgium	1,282	1,099
Canada	277	277
Denmark	316	316
France	4,125	3,820
Germany	9,598	3,446
Greece	1,639	2,534
Iceland	0	0
Italy	3,591	3,339
Luxembourg	0	0
Netherlands	1,467	1,080
Norway	146	225
Portugal	259	430
Spain	1,259	1,588
Turkey	1,554	3,120
United Kingdom	3,193	3,176
United States	5,747	5,372
Total NATO	34,453	29,822
Bulgaria	2,010	2,000
CSFR	4,359	2,050
Hungary	1,720	1,700
Poland	2,377	2,150
Romania	3,135	2,100
U.S.S.R	29,628	20,000
Total WTO	43,229	30,000
Artillery.		
Belgium	376	320
Canada	38	38
Denmark	553	553
France	1,330	1,292
Germany	4,644	2,705
Greece	1,941	1,878
Iceland	0	0
Italy	2,222	1,955
Luxembourg	0	0
Netherlands	838	607
Norway	532	527
Portugal	334	450
Spain	1,373	1,310
Turkey	3,202	3,523
United Kingdom	636	636
United States	2,601	2,492
Total NATO	20,620	18,286
Bulgaria	2,474	1,750
CSFR	3,485	1,150
Hungary	1,047	840
Poland	2,300	1,610
Romania	3,819	1,475
U.S.S.R	13,828	13,175
Total WTO	26,953	20,000
Combat aircraft:		
Belgium	191	232
Canada	45	90
Denmark	106	106
France	700	800
Germany	1,064	900
Greece	480	650
Iceland	0	0
Italy	584	650
Luxembourg	0	0
Netherlands	196	230
Norway	90	100
Portugal	96	160
Spain	252	310
Turkey	589	750
United Kingdom	842	900
United States	704	784
Total NATO	5,939	6,662
Bulgaria	387	235
CSFR	369	345
Hungary	110	180
Poland	654	460
Romania	407	430
U.S.S.R	6,445	5,150
Total WTO	8,372	6,800
Attack helicopters:		
Belgium	0	46
Canada	12	13
Denmark	3	12
France	429	352
Germany	357	306
Greece	0	18
Iceland	0	0
Italy	169	142
Luxembourg	0	0
Netherlands	91	69
Norway	0	0
Portugal	0	26
Spain	28	71
Turkey	0	43
United Kingdom	368	384
United States	279	518
Total NATO	1,736	2,000
Bulgaria	44	67
CSFR	56	75
Hungary	39	108
Poland	29	130
Romania	104	120
U.S.S.R	1,330	1,500
Total WTO	1,602	2,000

Notes: 1. Residual Holdings shown are for 1994. 2. The actual Soviet declared total for ACVs is 29,348. This appears to be an incorrect addition of their APC, AIF and HAVC declarations. 3. Polish data is stated to be valid for January 1, 1991, not treaty signature.

[Basic Reports From Vienna, a Regular Update on the CFE and CSBM Negotiations From the British American Security Information Council, Nov. 8, 1990, No. 11]

VERIFICATION REGIME TAKING SHAPE

The area of the CFE Treaty requiring the largest amount of last-minute negotiation, according to officials involved in the talks, is the Treaty's verification regime. During meetings in Washington to prepare for the early-October New York ministerial, U.S. and Soviet officials resolved differences over the conceptual framework for verification.

The two sides had been using different methods to calculate the number of on-site inspections that a country would be required to host (its so-called passive quota). They disagreed over what unit of measurement would be used to determine the quota. The West had resisted the Soviet concept of "objects of verification", feeling the USSR was trying to protect its bases from full inspection by dividing them into "objects."

But at the Washington meetings, Soviet negotiators provided clarification and reassurance. According to a Soviet diplomat who took part, "anything contiguous to an object can be inspected, except for another object [which would count as a separate inspection under the quota]." The Soviet official elaborates that "you can look at the whole site (or division) within which a regiment lies, but you have to use another inspection to look at another regiment." The diplomat recounted that negotiators needed to use donuts in their meetings to demonstrate these concepts.

Having agreed on the conceptual framework, the sides still need to set quotas. The inspections will be divided chronologically into four periods: baseline, implementation, closeout, and duration. Baseline inspections will verify the starting point levels from which a country will be reducing and will last 120 days. The next phase will observe the reductions taking place over 3 years to determine whether they are on schedule. Closeout inspections, also lasting 120 days, are meant to ensure that countries have reached the ceilings mandated by the treaty. Inspections for the duration of the treaty will monitor compliance until the accord is no longer in effect.

Countries will be required to host inspections of a certain percentage of its objects during each of these periods. According to an American military official, the U.S. is proposing 20 percent of objects be inspected during the baseline period; 10 percent annually during implementation; 15 percent during closeout; and 15 percent annually for the duration. The official said there are 1,930 Soviet objects. According to an Eastern diplomat the only figure with which the USSR differs is the baseline quota for which they suggest 15 percent. The difficulty will now come in convincing the NATO allies to accept these quotas; the major West European allies have resisted intrusive verification since early in the negotiations.

A variety of other technical issues still need to be worked out. Many of these stem from the adoption of Soviet concepts. A U.S. official who is enthusiastic about the shift to the Soviet approach commented that "we still got what we want, but it's in rubles instead of dollars. All of the other concepts—like team days—need to be converted from the one currency to the other." "Team days" refers to the amount of time inspectors will have to conduct each inspection.

COMMENDATION OF MEMBERS OF THE ADMINISTRATION

Mr. President, before we vote on this treaty, I want to pay tribute to those members of the administration who made the treaty possible. These are the public servants we never hear about. These are the people who worked day and night for the last several years negotiating with the Soviet Union, with our NATO allies, and with the East European nations, to write the language of this treaty. Sometimes these men and women also had to fight against the recalcitrant bureaucracy in Washington.

These men and women deserve our praise, our respect, and our thanks. At the risk of omitting some, I would like to at least name a few: Ms. Janet Andres, a fine and highly professional Foreign Service Officer; Bill Parsons, a capable and determined lawyer in the Arms Control and Disarmament Agency; and three other highly competent administration officials: Craig Chellis from the National Security Council, Doug Maceachin from the Central Intelligence Agency, and Tom Graham from the General Counsel at ACDA.

Finally, Mr. President, I want to acknowledge the critical role of Ambassador Jim Woolsey, who is known to many of us for his consummate skills, knowledge, and capability.

Without his skill in working with the committee, and without his understanding of the constitutional role of the Senate, Speedy action on this treaty would not have been possible.

It was Ambassador Woolsey who was able to overcome the almost impassable channels of communication which the administration has set up between the Foreign Relations Committee and the State Department.

Let me not put too fine a point on it, Mr. President. If we had relied solely on those channels, we would still be waist deep and sinking in the quicksand of controversy. There were key issues to resolve—issues involving considerable complexity—and only by setting up direct channels of communication were we able to resolve these issues in a timely manner.

I commend Secretary Baker and General Scowcroft for designating Ambas-

VOL
137
PT
23
NO
21—25
1991
UMI

sador Woolsey to speak for the administration on this matter. If they had not, I do not believe the committee would have voted unanimously for the treaty, and I do not think the full Senate's deliberations would have gone as smoothly as they have.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes, 3 seconds.

Mr. SMITH. Mr. President, I ask unanimous consent that Vicki Stack, a health fellow on the staff of Senator DOLE, be granted the privileges of the floor during the consideration and votes concerning H.R. 3595, the Medicaid rules bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1433, AS MODIFIED

Mr. SMITH. Mr. President, I ask unanimous consent that I may now modify my amendment with a modification which I believe is at the desk and has been agreed to between the Senator from Delaware and myself.

Mr. BIDEN. Reserving the right to object, will the Senator ask for a rollcall vote on this amendment?

Mr. SMITH. It is not my intention.

Mr. BIDEN. On the condition that there will be no rollcall vote, I will not object.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1433), as modified, is as follows:

Add after Condition (a)(5)(C), the following condition:

"(6) PRESIDENTIAL REPORT ON SOVIET COMPLIANCE.—Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in a classified and unclassified report to the Senate whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto."

Mr. SMITH. Mr. President, I would like to have the modification read into the Record, as there has been considerable debate over the specific language. I want to make certain that everybody understands what the amendment is.

The PRESIDING OFFICER. The clerk will read the modification.

The assistant legislative clerk read as follows:

Add after Condition (a)(5)(C), the following condition:

"(6) PRESIDENTIAL REPORT ON SOVIET COMPLIANCE.—Within 30 days of the Senate's approval of the resolution of ratification, the President shall certify in a classified and unclassified report to the Senate whether or not the Soviet Union is in violation or probable violation of the terms of the CFE Treaty and protocols thereto."

Mr. SMITH. Mr. President, I think we have concluded the debate from our side. The purpose of my amendment was to advise my colleagues in the Senate, before they offer their advise and consent, that the Soviets have been in violation and likely remain in violation of the treaty at precisely the same time that we are approving ratification. I find this situation extremely disturbing, and our failure to adequately address this matter reflects poorly on the integrity of this institution. I yield the floor.

Mr. BIDEN. Mr. President, how much time does the Senator from Delaware have?

The PRESIDING OFFICER. Forty-eight seconds.

Mr. BIDEN. Mr. President, I want to make it clear that the administration has agreed to this compromise. They think that it makes sense as it has been compromised. I also thank Senator PELL, the chairman of the full committee, for his leadership on this entire CFE Treaty debate. I, again, compliment Ambassador Woolsey for an incredibly fine job in the interest of the United States. I also want to thank Jamie Rubin and John Ritch of my staff for their efforts, and Dave Sullivan of Senator HELMS' staff for his fine efforts.

The PRESIDING OFFICER. All time has either expired or been yielded back. Under the previous order, the question is on agreeing to the Smith-Wallop amendment, as modified.

The amendment (No. 1433), as modified, was agreed to.

Mr. ADAMS. Mr. President, I rise today to support ratification of the Conventional Armed Forces in Europe [CFE] Treaty. This landmark agreement took almost 20 years to negotiate. It marks a great step forward in arms control agreement and verification. The treaty will greatly improve international security.

We are in the midst of an extremely fluid situation. The Soviet Union continues to struggle with its identity. The Republics continue to weigh their need for sovereignty against their need for independence. Such volatility makes verifiable arms control measures imperative.

The CFE Treaty is not perfect. We are all aware of Soviet attempts to move equipment beyond the Urals. Outside the geographic area governed by the treaty. We know that there have been discrepancies regarding the actual count of Soviet equipment to be destroyed or converted.

No one can say with certainty how emerging states in the U.S.S.R. might fit into the arms control agreement we are considering today.

These are legitimate areas of concern. The resolution before us addresses each of these concerns.

The conventional force gap in Europe has been eliminated. Furthermore, both the United States and the Soviet Union have drastically cut their nuclear arsenals, including tactical weapons in the European theater. United States troops are no longer needed as a nuclear tripwire intended to discourage a nuclear attack on Western Europe.

The resolution of ratification was approved unanimously by the Committee on Foreign Relations last week. It includes a list of Soviet actions that the Senate would consider to contravene the treaty. These conditions are based on specific Soviet statements made after the treaty was negotiated. The administration must adhere to these conditions in implementing the agreement.

The resolution also includes language addressing the possibility of new states arising on Soviet territory.

Ratification of the CFR will make a significant contribution to international security as well as to the strengthening of multilateral regimes. The concrete benefits strongly outweigh the risks of potential cheating and the emergence of new states that may or may not choose to adhere to the treaty. The language of the treaty, combined with the Senate conditions, enable us to deal with those contingencies should they arise.

Mr. President, there is a domestic component of this treaty beyond the international security implications. I have expressed my deep concern about the amount of money this Nation continues to spend on outdated and unnecessary weapons systems. I do not make these remarks lightly. I am as committed as any Member of this body to a strong and effective national defense.

But once again, I must ask my colleagues: Has nothing changed over the course of the last year? Whether it is exotic weapons systems that are over budget and do not work, or $65 billion to keep U.S. troops in Europe, we are wasting vital resources.

We have a national debt of $3.7 trillion. The deficit this year will be nearly $279 billion. We have been in a recession for 2 years. More than 8 million Americans are out of work, out of savings, and out of patience. We cannot afford to continue to prepare for world conflicts which are simply not possible.

I support and will vote to ratify the Conventional Forces in Europe Treaty. This treaty is a positive step—in my opinion only a first step—in changing our defense posture to reflect the present state of the world.

Mr. DIXON. Mr. President, we are considering an historic treaty today. For over 20 years the United States has pursued efforts to reduce military tensions in Europe. This included efforts to significantly reduce armaments deployed by the Warsaw Pact countries and members of the NATO alliance. The CFE Treaty accomplishes this goal.

The treaty will not only help to reduce the likelihood of war between the East and West, it will also put a halt to the conventional arms race between the superpowers. The treaty also has significant implications for the Soviet

Union because it will indicate to Soviet leaders that the United States is very serious about ending the arms race and that it poses no threat to the Soviet Republics.

By ratifying the treaty we are also sending a signal to Eastern Europe and the rest of the world that political and ideological differences can be resolved peacefully without resort to armed conflict. Another benefit that will result from the treaty will be that the European Community may now assume a greater responsibility for the defense of Europe. This factor should reduce the amount of money we spend on European defense affairs.

The CFE Treaty is also very complementary to our efforts of reducing strategic arms as well. The President has undertaken a broad range of arms control initiatives and this is one of the most important treaties that we will ratify in this decade.

In the past, the Soviet Union and Warsaw Pact countries had a very significant advantage with regard to conventional force strength. The Soviets had more tanks, armored personnel carriers, artillery pieces, and troops in the region. It has cost the United States and our European allies billions of dollars to be prepared to defend against this threat. With the ratification of the CFE Treaty, this major imbalance will no longer exist, and cost savings will realistically be achieved.

The treaty will provide for limits on force levels in each country and will limit both sides to 20,000 tanks, 30,000 armored personnel carriers, 20,000 pieces of artillery, 6,800 combat aircraft, and 2,000 attack helicopters. These levels should provide both sides with a feeling of security but will give neither side an advantage against the other.

Most importantly, the treaty would prevent any single country from having more than one-third of the total forces on each side and it contains vital verification provisions. It will cause the dramatic action of requiring the Warsaw Pact countries to destroy or remove 54,000 units of military equipment while the allies will only be required to do this with 16,000 pieces of equipment. These cuts are a result of the political changes in the Soviet Union and the new political situation in Eastern Europe. From a military point of view, this treaty is unprecedented. We all know full well the historic instability that has plagued European relations. This treaty will help to ensure that stability will be the new world order and not instability. This will then be the rule as we enter the next century.

While there are many positive aspects about the treaty, there are also some potential pitfalls ahead. We do not know exactly what will happen in the Soviet Union with regard to the Soviet Republics. It is possible that certain non-Russian Republics may not agree to the terms of the treaty. However, if this does occur, it does not mean that the NATO countries will be threatened. More than assuredly it would cause some discomfort within the Soviet Union. However, I firmly believe that the administration and the Senate have the latitude to deal with this type of circumstance as it arises in the future.

The major benefits of the treaty more than outweigh any possible negatives. The implications for world security and peace are tremendous and ratification by the Senate will send a very powerful message to the world that peace and security in Europe are no longer just goals—but are truly the new realities.

Mr. THURMOND. Mr. President, on November 19, 1990, when the Conventional Forces in Europe Treaty was signed, it was a historic event. The treaty marked, in the words of Secretary of State Baker, "a fundamental shift away from the cold war to a Europe whole and free. Not only is it an essential foundation for the new Europe, but it will be a bulwark against a return to cold war dangers and animosity."

Now almost a year later, the events in the Soviet Union, Eastern Europe, and in this country have diminished the euphoria that accompanied the signing of the treaty. There is a question about the relevance of the treaty now that the Warsaw Pact has disintegrated and the Soviet Union is fracturing as a nation. In addition, our own budgetary problems are forcing us to make decisions that may have a significant impact on both the equipment and manpower forward deployed in Europe.

Although I support the ratification of the treaty, there are two issues which have the potential of significantly impacting on future arms agreements and the success of this treaty. The first, and in my judgment, the most important issue is that of the inaccuracy in the data provided by the Soviet Union on the treaty limited equipment in area of application at the time the treaty was signed in 1990. The administration has attempted to resolve the differences with the Soviet Union, however, substantial differences still exist between what the Soviets say and what our intelligence agencies estimate. I am advised that the range in these estimates is in the thousands of pieces of treaty limited equipment above the amount included in the Soviet declaration.

Prior Soviet violations of agreements, such as the INF Treaty and the ABM Treaty radar violation, which were acknowledged by the past two administrations, should raise grave concerns in regard to this treaty. It is unfortunate that this treaty, for which everyone has such great expectations, will go into effect with doubts on the validity of the base data. I expect that the provisions in the resolution of ratification will force the administration to resolve this data difference before the Nation assumes its obligations under the Conventional Forces in Europe Treaty.

Mr. President, my second concern is the applicability of the Conventional Forces in Europe Treaty to follow on states. This concern is heightened by the current situation in the Soviet Union. The central government is at the verge of collapse and the Republics are declaring their independence on a daily basis. Republics, such as the Ukraine, have military forces that are greater than those of Germany. Yet there is a question on whether these new states, such as the Ukraine, Belorussia, or Russia, will be bound by the treaty. Although I understand that these Republics have indicated that they would comply with the treaty, I believe it is important that there be a strong statement requiring the President to review the treaty in case they do not comply. Senator COHEN's amendment to the resolution of ratification, which I supported, provides sufficient assurances to resolve this concern.

Mr. President, in his testimony on the CFE Treaty, Admiral Jeremiah, the Vice Chairman, Joint Chiefs of Staff, told the Armed Services Committee:

> * * * that no responsible military officer can see any advantage in delaying. To the contrary, delaying U.S. ratification only delays the advantages that will be gained when the treaty comes into force. If we fail to promptly ratify we will fail to set the leadership example needed to encourage potential successor states to the Soviet Union to enter the new European security and stability order.

Mr. President, I support ratification of this treaty and urge my colleagues to join me in giving it their support.

Mr. LEVIN. Mr. President, this treaty is overwhelmingly in the United States' security interest.

Mr. President, the CFE Treaty is a historic accomplishment that would have been absolutely unimaginable just a few years ago. The American people should be proud of our Nation's role in this achievement and of the results: A stunning reduction in military forces that could threaten our national interests in Europe and the establishment of a political process that renders such military forces entirely unnecessary.

Mr. President, it is true that the treaty has, in some senses, been overtaken by political events in Europe during the last 18 months. It was conceived and negotiated when there was still a Soviet Union and a Warsaw Pact, and before the process of democratization took root in Eastern Europe.

It is not, however, irrelevant. Indeed, it is exactly what is needed at this mo-

VOL 137
PT 23
NO 21—25
1991
UMI

ment to guarantee that the positive events in Europe are not reversed by a return of armaments that are unwanted, unneeded, and destabilizing. The CFE Treaty represents a long-awaited farewell to some arms at least.

But given the extraordinary changes and developments in Europe over the last 2 years, we must go beyond the CFE Treaty. We must not, Mr. President, let the CFE Treaty be the end of military reductions or security improvements in Europe or elsewhere. If we are to harvest the rewards of increased security and democratization we must do more.

NATO has just unveiled a new strategic concept that changes dramatically the focus of this military alliance to the political and economic sphere. The new concept declares that the Soviet military threat has disappeared and that the greatest risks now come,

> * * * from the adverse consequences of instabilities that may arise from the serious economic, social and political difficulties, including ethnic rivalries and territorial disputes, which are faced by many countries in Central and Eastern Europe.

Mr. President, this political transformation of NATO is both appropriate and necessary. NATO recognizes the need of having regular, direct high-level dialog and interaction between itself and the nations of the former Warsaw Pact. The North Atlantic Cooperation Council was recently established for exactly that purpose. The security of NATO, and of U.S. interests in Europe, are now inextricably linked with the security of all nations in Europe. The situation requires an unprecedented level of cooperation.

But it also requires that the United States not retain the vestiges or burdens of the cold war. That would be politically unwise and economically unaffordable. We should seek to reduce our military manpower in Europe to the low level consistent with the new political and military situation there.

Mr. President, if there is no military threat to NATO there is also no need to keep a huge fighting force stationed in Europe. We should remove those U.S. forces from Europe that are not considered essential and let the European nations provide for a greater share of their own defense responsibilities. This will permit a considerable reduction in the costs of keeping hundreds of thousands of personnel in Europe while maintaining security at an appropriate level.

The current U.S. plan is to reduce our military forces in Europe to a level of 150,000 by the year 1995. Next year alone we will bring back over 55,000 of our troops. Mr. President, I believe we should continue that pace of withdrawals for several years and continue to reduce to a level well below 100,000. At that level we should be able to keep the vanguard of a fighting force in place with the ability to reinforce it as necessary.

Mr. President, lest anyone be concerned that such a withdrawal would be precipitous, let me reassure my colleagues that our allies in Europe are also planning to make significant reductions in their military forces and defense spending. This is mandated by the new situation in Europe. We can be sure that the result will be much lower levels of forces than at present, thanks in part to the CFE Treaty and to the follow-on CFE 1A negotiations that aim to produce an agreement on manpower limitations by March of next year.

So, Mr. President, as we ratify the CFE Treaty, let us also look forward to the new security possibilities in Europe and make appropriate changes to our force structure and defense budget. That is the way to assure a healthy U.S. economy which is the bedrock of our security.

Mr. KERRY. Mr. President, a vote consenting to ratification of the Treaty on Conventional Armed Forces in Europe may be the easiest vote I am called upon to cast this year.

The proposed treaty meets nearly every test a nation could reasonably ask an arms control agreement to meet. It reduces the risk of war; it lowers the level of armaments; it requires far greater sacrifices on the part of other treaty signatories than it does of the United States; it is verifiable; and it sets a valuable precedent for future negotiations.

The central provisions of the treaty are well known. It applies to the 16 members of NATO and the 6 members of the former Warsaw Pact. Geographically, it will limit armaments from the Atlantic Ocean to the Ural Mountains. It applies to five major categories of conventional weapons, including battle tanks, armored vehicles, artillery, combat aircraft, and attack helicopters. The treaty limits the number of weapons any country subject to the treaty may have in any one category, a limitation that requires substantial reductions only from the Soviet Union. Those weapons that remain must be distributed in a manner that will make offensive military actions more difficult. No nation is permitted to station forces on the territory of another nation without the permission of the host government. Finally, both sides are required to place roughly 20 percent of their ground weapons in designated permanent storage sites, thereby reducing further the capability for surprise attack.

The treaty includes the most far-reaching verification and inspection provisions in the history of arms control. On-site inspections, exchanges of information, and notification requirements are all included.

Europe, under CFE, will bear little resemblance to the Europe even of 4 or 5 years ago. Instead of a NATO force vastly outnumbered by massive, heavily equipped, and threateningly deployed forces from a united Warsaw Pact, we will see a total Soviet withdrawal of forces from Eastern Europe; we will see an aggregate reduction in non-NATO forces in Europe of more than 50 percent; we will see large quantities of armaments destroyed, others put in storage, and still others deployed in less threatening ways. We will see, in short, an end to the threat of a major surprise attack in Europe by any side, not simply for a short period of time, but for as long as the provisions of the treaty are observed.

It has become a cliche to suggest that the CFE has already been overtaken by events. Certainly, the major aspirations of the Western signators of the treaty were realized with the overthrow of Communist regimes in eastern Europe and the Soviet decision to begin unilateral withdrawals of equipment and troops. Certainly, the stark cold war division between NATO and Warsaw Pact nations that lies at the center of CFE is now obsolete. Certainly, the liberation of Lithuania, Latvia, and Estonia was not anticipated when CFE negotiations began. Certainly, the erosion of Federal control throughout the Soviet Union has accelerated dramatically over the past 3 months. Certainly, the Europe of the 1990's will differ enormously from the Europe of the cold war whether CFE is ratified or not. But none of these facts leads us to the conclusion that CFE is unneeded or unwise or irrelevant to our security or to our goal of building a more peaceful and stable world.

If the events of the past several years prove anything, it is that the world can change dramatically, unpredictably, and with astonishing speed. Just as the Europe of today differs markedly from the Europe of yesterday, so may it differ from the Europe of tomorrow. We can hope—even believe—that the road ahead for Europe will be largely peaceful, but we cannot assume it and we cannot take it for granted.

Implementation of the CFE will establish legal rules governing the size and deployment of armed forces that are designed specifically to minimize the likelihood of war. Any future government anywhere in Europe that disregards these rules will be quickly identified and subjected to the kind of scrutiny and pressures that potentially aggressive behavior demands. The governments of newly independent states—in Belorussia or Ukraine, for example—will understand that accession to CFE will help them to achieve full acceptance within the family of nations. Remaining hardline elements within the Soviet military will understand that their capacity to intimidate others through the use and threatened use of force is dwindling rapidly and will soon fade away. And the United States will have the assurances we need to reduce the deployment of our

own forces in Europe, thereby saving taxpayers an estimated $10 to $15 billion a year.

Ratification of this treaty was delayed by disagreements between our Government and the Soviet Government over weapons-counting, the number of weapons to be destroyed, and the categorization of three Soviet infantry divisions. In each instance, the United States position was correct and, in each case, the Soviets either accepted the United States position or offered a compromise that was acceptable to the administration. These issues were settled through a side agreement on June 14 of this year and are incorporated in the resolution of ratification as if they were part of the treaty itself. In other words, Soviet failure to live up to the terms of the side agreement will be interpreted by the United States as failure to live up to the CFE Treaty, and will prompt the same United States response.

The independence of the Baltic States raised another important question that has since been resolved. Because substantial amounts of Soviet military equipment remain on Baltic soil, it was necessary to clarify that this equipment would be included in the Soviet totals under CFE. This clarification was included in a statement by the CFE joint consultative group on October 18, 1991. Again, the resolution of ratification makes it clear that this agreement will be considered as if it were part of the treaty itself.

Ratification and implementation of the CFE Treaty will help ensure that the post-cold war world is, in fact, more stable and secure than the balance of terror it has replaced. The treaty constitutes, however, only one step along that road. We must work to persuade newly independent Republics, especially Ukraine, to accede to the treaty. We must go forward with efforts to limit nuclear arms, through formal treaty and voluntary action. We must maintain sensible limits on the deployment of antiballistic missile systems. We should negotiate a verifiable agreement further limiting or banning nuclear tests. And we should continue working with the international community to control nuclear proliferation, to ban chemical and biological weapons, and to regulate trade in advanced conventional arms. In all of these areas, the principles of reduced armaments, verification, and consultation that are at the heart of the CFE agreement will stand us in good stead.

Mr. President, this treaty is a good treaty. The resolution to provide our advice and consent was carefully worked out by the Committee on Foreign Relations, in consultation with the administration and with other appropriate committees of the Senate. The rapidly changing times have perhaps reduced the urgency of our need for this treaty, but they have not altered its capacity in the long term to serve our Nation, and our world, exceedingly well.

Mr. ROTH. Mr. President, the ratification of the Conventional Armed Forces in Europe Treaty may appear to some to be a pointless undertaking. After all, the press of events has already led many CFE signatories to reduce their conventional forces below levels laid down in the treaty.

Moreover, since the treaty was signed by its various parties, several new European nations have come into being. Lithuania, Latvia, and Estonia all may choose to establish armed forces of their own. Meanwhile, some of the former Soviet Republics are moving toward full sovereignty and Ukraine, in particular, is discussing the possibility of its own armed forces.

Clearly, any treaty which presumes to stabilize levels of conventional forces in Europe will have to take these new nations into account.

However, none of these factors, in my opinion, fundamentally undercuts the rationale for ratifying the CFE Treaty. That treaty may not constitute the final step toward military stability, but it certainly does constitute a very useful first step. Let us not forget that this is the first—the very first—time that we have managed to negotiate any type of agreement limiting the size of conventional forces in Europe. Certainly, more needs to be done, but that should not lead us to overlook the value of this primary treaty.

In addition, Mr. President, I should remind my colleagues that, while most of Europe is now at peace, that region has twice been the cockpit of war in this century. The breakup of the Soviet Empire, while it is broadly welcomed, could easily facilitate the reemergence of the ethnic conflicts which, in the past, have fueled the build up of large military forces and, ultimately, broad military conflicts. Anyone who believes that a repetition of these sorry events is impossible would do well to consider the current situation in Yugoslavia. That type of situation could spread. In short, Mr. President, this CFE Treaty might, in the present context, appear to allow for an unnecessarily high level of forces, in coming years it could act as a vital brake on nations with aggressive attentions on their national agenda.

In closing, Mr. President, I believe that we should all congratulate the men and women who have spent so many hours, so many late nights, negotiating this treaty. So often, when we consider these treaties, we credit the Ambassadors with the honors of success. This is perfectly correct, but the Ambassador is only the head of a team, a team which, in this case was drawn from the ranks of the Armed Forces, the State Department, the Arms Control and Disarmament Agency and our various intelligence agencies. All of these men and women deserve our heartiest congratulations for their successful negotiations of this treaty. The Senate's ratification of this CFE Treaty will constitute an appropriate recognition of their work.

Mr. HATCH. Mr. President, while the Conventional Forces in Europe [CFE] agreement is an important treaty that will be augmented by a fairly comprehensive onsite verification regime, it should be noted that this accord is far from perfect. I have two specific problems with the current accord.

First, the Soviet Union has traditionally violated arms control agreements, both in spirit, and in fact, and the Senate should not have any illusions about the Soviet penchant for cheating on this occasion. With respect to the CFE agreement, the accuracy of Soviet data declarations of TLE in the area of application on November 19, 1990, is still a serious issue, and raises questions about the ability of the Soviets to negotiate in good faith. This data CFE discrepancy problem was and remains a serious concern of mine, and a number of my colleagues. The Senate Foreign Relations Committee inserted a provision in the Senate resolution of ratification, which goes a long way in addressing this important problem. However, I also support the Wallop-Smith provision that requires tougher provisions on data discrepancy. While the administration has crafted an extensive onsite verification regime, in conjunction with our NATO allies, we should resolve the numerical differences in data submitted by the Soviets as soon as possible. I further believe that the Bush administration should pursue this data discrepancy problem vigorously in future negotiations with Soviet leaders, because it is a subject that should not be overlooked permanently by the administration for reasons of political expediency.

A second concern of mine is that this agreement does not pay enough attention to the current deployment of Soviet troops in the Baltics, which is in the range of 135,000 troops. While the Soviets have started to remove and disengage some units from East Europe, the Soviet Military Establishment seems a bit too well entrenched in the Baltics. In my opinion, Soviet forces in the region constitute a clear violation of Baltic sovereignty. This prompted me to introduce Senate Resolution 196, expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet Armed Forces and undertake discussions with the Governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal. This bipartisan resolution passed on November 23, 1991, and illustrates the concern in the Senate over Soviet troops in the Baltic States.

Mr. President, these are important reservations and criticisms of the CFE

VOL 137 PT 23 NO 21–25 1991 UMI

agreement. However, after a great deal of deliberation, I have decided to support the overall ratification of the CFE Treaty. While I believe that the Wallop-Smith amendment would send a strong signal to the Soviets, I would contend that the conditions and various declarations attached in the resolution of ratification are sufficient to justify support for this treaty. I also believe that the CFE Treaty is still a useful accord, and that the agreement should be ratified for two reasons.

First, the CFE agreement is politically significant because it codifies, in treaty form, the removal of Soviet offensive forces from East Europe. The geographic proximity and preponderance of Soviet forces on the European continent during the last four decades represented the most fundamental challenge to the security of the United States and to our NATO-European allies. It also provided the Soviet Union with the ability to impose authoritarian control over East European States. CFE Treaty implementation could therefore help promote political stability on the European continent through explicit declarations and numerical limits on Soviet force deployments in the region.

Second, the CFE agreement is militarily important because it will require substantial unilateral reductions in Soviet military forces and improve the transparency of Soviet military operations from the Atlantic to the Urals [ATTU]. NATO defense planners sought to eliminate the disparities that existed between the West and the Soviet Military Establishment and the CFE agreement focuses on the disposition of military equipment in five separate categories: tanks, armored combat vehicles, artillery, combat aircraft, and helicopters. These five categories were not chosen at random. NATO officials targeted a specific weapons systems, in which the Soviets had maintained a distinct numerical advantage, and that could be utilized in future Soviet offensive operations. The CFE agreement will help to reduce highly destabilizing military asymmetries in these categories. Soviet treaty limited equipment [TLE] in the ATTU region will decline from a figure of about 152,000 in 1988 to 53,000 under CFE. The Soviets will be forced to scrap 20,000 tanks and artillery pieces alone, whereas NATO reductions would be minimal.

Mr. President, in conclusion, I reiterate my support for CFE ratification due to its political and military importance, but fervently hope that the specific problems dealing with data discrepancy, and Soviet forces stationed in the Baltics, are resolved by all parties in the near future.

Mr. GLENN. Mr. President, I rise in support of Senate advice and consent to ratification of the Treaty on Conventional Armed Forces in Europe. While the collapse of the Warsaw Pact and the fragmentation of the Soviet Union have diminished the significance of this historic agreement, it is still a formidable achievement in arms control, virtually eliminating the threat of a surprise attack by the Soviet Union against our allies in Western Europe.

As a member of both the Senate Select Committee on Intelligence and the Senate Armed Services Committee which have held hearings on this treaty, I have concluded that our national interest would be served by ratifying CFE. In particular, I concur with the Senate Select Committee on Intelligence's conclusion that U.S. intelligence should be able to detect any militarily significant violation of this treaty.

Mr. President, I believe that this treaty must be examined in the context of the unique international environment in which it is being ratified. The last several years have seen an extraordinary transformation in United States-Soviet relations. We have witnessed the conclusion of the INF Treaty, the CFE Treaty, START, the liberation of Eastern Europe, the democratization of the Soviet Union, and indeed, the end of the cold war. However, with these positive developments have come problems as well.

There is no question that the fragmentation of the Soviet Union and the dissolution of the Warsaw Pact raise unique issues for the CFE Treaty. For example, treaty implementation will be impacted by such uncertainties as who will ultimately exercise command and control authority over Soviet forces and how treaty obligations will be shared within the new union as well as with the former republics that are gaining their independence.

Some may argue that it would be prudent to delay implementation of the CFE Treaty until we have a better idea of what national entities and alliances replace the Soviet Union. I believe, however, that on balance, it is best to act expeditiously to ratify this agreement. As turmoil rises in what remains of the Soviet Union, implementation of the CFE agreement will provide us with a useful, legally binding framework to closely monitor changes in the Soviet military that are certain to accompany the political changes taking place.

In short, I believe that enactment of the CFE Treaty will provide a useful measure of predictability and stability to an inherently unpredictable and unstable situation—the dissolution of the Soviet Empire. As Secretary of State Baker has recently state: "* * *[w]e need the CFE regime in place as a framework for security decisions during this time of dramatic political transformation."

Mr. President, I support the CFE Treaty and urge my Senate colleagues to do the same.

Mr. RIEGLE. Mr. President, the Treaty on Conventional Forces in Europe, the result of lengthy negotiations, represents a successful entry of arms control into conventional armaments.

Until Lithuania, Latvia, and Estonia gained their independence, I was seriously concerned that the inclusion of the Soviet Baltic Military District, which included the three Baltic Republics, in the area of application of the treaty, could encroach upon the longstanding United States policy of nonrecognition of Soviet sovereignty over the Baltic States. Which the failed coup in the Soviet Union, however, the fate of the Baltic States took a wonderful turn as they regained their lost independence.

As sovereign nations which had not ratified the CFE Treaty, Estonia, Latvia, and Lithuania no longer were parties to the treaty and their territories were no longer considered part of the area of application (art. II, sec. B). Thus, there was a serious question as to whether the Soviet Union would reduce its forces in the territory of the newly sovereign Baltic Republics. On October 18, 1991, this issue was laid to rest.

In a legally binding agreement, the Soviet Union, the United States, and the other parties to the CFE Treaty agreed that while Estonia, Latvia, and Lithuania were not parties to the treaty, the Soviets would follow the reduction targets in the treaty as if Baltic territory was part of the area of application.

I ask unanimous consent that the statement of the chairman of the Joint Consultative Group of October 18, 1991, be placed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE CHAIRMAN OF THE JOINT CONSULTATIVE GROUP

1. I hereby record that:

(a) The States Parties to the Treaty on Conventional Armed Forces in Europe of 19 November 1990, hereinafter referred to as the Treaty, acknowledge that in view of the sovereignty of Estonia, Latvia and Lithuania, the area of application defined in Article II of the Treaty does not include the territories of Estonia, Latvia and Lithuania.

(b) I have today received a statement from the Representative of the Union of Soviet Socialist Republics as follows:

"In order to fulfill the legally-binding obligations of the Treaty on Conventional Armed forces in Europe and of the agreements entered into by the States Parties on 14 June 1991, the Union of Soviet Socialist Republics shall treat all its conventional armaments and equipment in the categories defined in Article II of the Treaty present, on or after 19 November, 1990, on the territories of Estonia, Latvia and Lithuania as subject to all provisions of the Treaty and associated documents. In particular, conventional armaments and equipment in the categories limited by the Treaty shall be notified as part of Soviet holdings and shall count towards the Soviet reduction liability. This statement shall be legally binding and shall have the same duration as the Treaty."

(c) I have also received statements from the representatives of the Kingdom of Belgium, the Republic of Bulgaria, Canada, the Czech and Slovak Federal Republic, the Kingdom of Denmark, the French Republic, the Federal Republic of Germany, the Hellenic Republic, the Republic of Hungary, the Republic of Iceland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Poland, the Portuguese Republic, Romania, the Kingdom of Spain, the Republic of Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America that, in accordance with the legally-binding statement made by the Union of Soviet Socialist Republics, all Soviet conventional armaments and equipment in the categories defined in article II of the Treaty present, on or after 19 November 1990, on the Territories of Estonia, Latvia and Lithuania shall be treated as subject to all provisions of the Treaty, its associated documents and the legally-binding commitment entered into by the Union of Soviet Socialist Republics on 14 June 1991. In particular, conventional armaments and equipment in the categories limited by the Treaty shall be notified as part of Soviet holdings and shall count towards the Soviet reduction liability.

(d) The States Parties acknowledge that arrangements for inspection of the abovementioned conventional armaments and equipment on the territories of Estonia, Latvia and Lithuania will require the consent and cooperation of those States.

2. This Chairman's statement, recording the above legally binding agreement among the States Parties, which will not be considered a precedent, will be recorded in the Journal, transmitted to the Depositary and deposited together with the instruments of ratification.

Undersecretary of State Reginald Bartholomew, testifying on November 4, 1991, before the Senate Armed Services Committee, described the agreement:

> The parties to the Treaty agreed to a legally binding statement establishing that Soviet equipment in the Baltics is subject to all provisions of the Treaty, that it will be notified as part of Soviet holdings and will count toward the Soviet reduction liability. It also established that the Baltic states were fully sovereign and the inspections on their territories could only take place by their consent.

While much was solved by this legally binding agreement, I was also concerned that the limits on Soviet force levels in Estonia, Latvia, or Lithuania would be seen by a future Soviet Government not as restrictions, but as ceilings up to which it was permitted to keep its forces. This is not the case. On November 20, I asked the State Department whether the CFE Treaty or the October 18, 1991 agreement give the Soviet Union permission to keep treaty limited equipment [TLE] in the independent Baltic Nations. Assistant Secretary of State of Legislative Affairs Janet Mullins explicitly answered no.

Moreover, Assistant Secretary Mullins confirmed that the Soviet Union may only keep TLE or other military equipment in Estonia, Latvia, or Lithuania if those countries explicitly consent. She stated:

> As sovereign states, Lithuania, Latvia, and Estonia have the right under international law to request and have removed any and all Soviet forces stationed on their territory without their explicit permission.

Mr. President, I ask unanimous consent that Secretary Mullins' cover letter, the questions I posed for the record on November 20, 1991, and the answers of Assistant Secretary Mullins be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, November 22, 1991.

DEAR SENATOR RIEGLE: Enclosed please find responses to the questions you addressed to the Administration concerning the Treaty on Conventional Armed Forces in Europe (CFE) and the Baltic States.

We of course stand ready to respond to any further queries you may have.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

QUESTIONS FOR THE RECORD POSED BY SENATOR RIEGLE—NOVEMBER 20, 1991

Question. Does the CFE Treaty or the legally binding agreement of October 18 relating to the Baltic States extend or imply permission for the Soviet Union to keep TLE or other military forces in Lithuania, Latvia or Estonia?

Answer. Neither the CFE Treaty nor the legally binding agreement of October 18, 1991, relating to the Baltic States extend or imply permission for the Soviet Union to station Treaty-limited armaments and equipment or other military forces in Lithuania, Latvia, or Estonia.

Subparagraph 1(a) of the October 18 agreement makes clear that the Baltic States are sovereign states and that they are located outside of the Treaty's area of application. Furthermore, subparagraph 1(d) of the agreement provides that any inspections of Soviet forces on Baltic territories must have the content and cooperation of the Baltic States. These legally binding provisions serve to highlight that the CFE Treaty Signatories, including the Soviet Union, recognize the Baltic countries as independent, sovereign states. As sovereign states, Lithuania, Latvia and Estonia have the right under international law to request and have removed any and all Soviet forces stationed on their territory without their explicit permission.

Question. In response to a question by Senators Nunn and Warner, Undersecretary Reginald Bartholomew stated: "Conversations with Baltic officials to date have indicated that the continued presence on their [Baltic] territory of Soviet forces remains one of the greatest concerns. They are seeking complete withdrawal as soon as possible. . . . Any actions taken in conjunction with ratification and implementation of the CFE Treaty should ensure the sovereignty of these nations."

Is it the policy of the United States that the Soviet Union may keep TLE or other military forces in the sovereign nations of Lithuania, Latvia, or Estonia only if Lithuania, Latvia, or Estonia consents to the presence of TLE or other Soviet military forces on its territory?

Answer. Yes. It is a principle of customary international law that, with certain exceptions (e.g., as part of a United Nations Security Council enforcement action carried out in accordance with Chapter VII of the UN Charter), no nation may station forces on another nation's territory without the permission of that nation. The United States supports this principle.

Finally, according to Assistant Secretary Mullins, the CFE Treaty and the October 18 agreement "serve to highlight that the CFE Treaty signatories, including the Soviet Union, recognize the Baltic countries as independent, sovereign states."

Mr. President, the CFE Treaty is an important step forward in the history of arms control and the security of Europe. It goes a long way toward cementing the momentous changes the world has witnessed in Europe by reducing armaments to their lowest levels in nearly half a century. With the assurance that neither the CFE Treaty nor the legally binding agreement of October 18, 1991, permit the Soviets to keep military forces in Estonia, Latvia, and Lithuania, I wholeheartedly support the CFE Treaty and will vote to ratify it on the Senate floor.

The PRESIDING OFFICER. Under the previous order, the question now occurs on the adoption of the resolution of ratification with declarations and conditions of the Executive Calendar No. 16, Treaty Document 102–8. The Chair informs the Senators that the yeas and nays have not been ordered.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA], and the Senator from Illinois [Mr. DIXON] would each vote aye.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 90, nays 4, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—90

Adams
Baucus
Bentsen
Biden
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Breaux

VOL 137
PT 23
NO 21–25
1991
UMI

Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—4

Craig
Smith
Symms
Wallop

NOT VOTING—6

Akaka
Dixon
Harkin
Helms
Kerrey
Pryor

The PRESIDING OFFICER. On the resolution of ratification, the yeas are 90, the nays are 4. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate now returns to legislative session.

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

> A bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia, Mr. BYRD, is recognized for a period of time up to 5 minutes.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. The Senator from West Virginia has the floor. Senators who desire to converse are encouraged to retire to the cloakrooms to do so, so the Senator from West Virginia who has the floor may be heard.

The Senator may proceed.

Mr. BYRD. Mr. President, the Senate is not in order. I hope the time is not being charged against me.

The PRESIDING OFFICER. The Senator is correct. Time is not being charged to him until the Senate is in order.

Mr. BYRD. Mr. President, I thank the Chair.

The distinguished Senator from Georgia has developed an important, far-reaching proposal which should be considered on an urgent basis. I sat in the Chair earlier today and listened to the debate on the proposal and I was very much persuaded to support that proposal. The Soviet nuclear weapons inventory is vast, mindless, and dangerous. In some cases, I understand that the integrity of the command-control system may be in question, and the security of the weapons cannot be guaranteed.

We cannot afford to leave opportunities for the black market sale of such weapons to terrorist organizations, unreliable nations, and thereby set into motion nightmare scenarios of blackmail and threats that could ensue from the diversion of these weapons.

Mr. SARBANES. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate is not in order. The Senator from West Virginia retains the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland, and I thank the Chair.

The amendment pending by Mr. NUNN, Mr. LUGAR, and Mr. BOREN, I believe, gives the Soviet Union an opportunity to use our help to destroy these weapons and reduce the threat of proliferation and instability. It provides an opportunity to take weapons that may exist in areas where compromise or diversion might occur, and transport them to secure sites.

The issue of nuclear proliferation is an extremely worrisome one in the present circumstances of instability present in the areas of the Soviet Union and its former and present Republics.

This is a question of vital practical importance and I commend the vision of the Senators from Georgia, Oklahoma, and Indiana, for offering the proposal.

Mr. President, I also found appealing the argument that this could hasten the day when we could see a further considerable, very considerable reduction in our own defense appropriations which I think is important, extremely important, as we look across the country and see the deteriorating infrastructure in our own country.

Now, originally the amendment would, in essence, have constituted an earmark on Defense Department funds. But that language has been changed now so that the appropriations process would be followed.

I would like to ask the distinguished Senator from Georgia, in view of the fact that we are nearing the end of the session, that there is only one appropriations bill that will go to the President other than the foreign operations bill, and that will not be until February, probably—there is only one appropriations bill still available for action and that is the supplemental appropriations bill which passed the Senate last Friday night and will be going to conference—I would like to ask the distinguished Senator if he would comment on the urgency of this matter from the standpoint of the appropriation of the money not to exceed $500 million; and whether or not this is a matter that can or ought to wait until next year. Or is it so urgent that action should be taken now, before Congress adjourns?

Mr. NUNN. Mr. President, first I thank the Senator from West Virginia for his support of this concept. Second, I would say in response to his question, I believe this is urgent. That is the reason, in spite of opposition when I first introduced this concept, I kept trying, because I do not know whether we will be able to accomplish the same things next February-March that as we might accomplish in the next 4, 5, 6, or 8 weeks.

We believe it is most urgent. We wrote a letter to the Senator from West Virginia and the Senator from Oregon stating it is most urgent and requesting that funding for this be allowed in the supplemental appropriations bill which the Senator has alluded to. So I would certainly agree that it is urgent.

I would say in further response, Mr. President, to the Senator from West Virginia, that the reason that original legislation was worded the way it was, was because I had intended to have it as an amendment to the supplemental appropriations bill. And the Senator is certainly correct, it is an amendment to another bill which is not an appropriations bill. The wording should be changed. And when the Senator suggested that, I agreed to that. I thought it was a good suggestion. But it is subject to an appropriation, and that means if it is put on the appropriations bill I think that adds to the urgency of the appropriations bill.

The PRESIDING OFFICER. The Chair informs the Senator from West Virginia the 5 minutes under the previous consent order has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Will the Senator yield at that point for just one item?

Mr. BYRD. Yes.

Mr. STEVENS. Mr. President, those of us on the arms control observer group hosted a group of the Soviet scientists who came to this country looking for assistance in the dismantling of the weapons they have already agreed

to dismantle. They were led by the Deputy Minister of Atomic Energy and Industry, and they made a very, very compelling case that they do need assistance, technical assistance and financial assistance.

I would state to the Senator from West Virginia, the distinguished chairman, that I would be happy to join with him in seeking to amend the supplemental to achieve the goal that is sought by the Senator from Georgia. There is no disagreement, I think, among those of us who have served on the observer group that this is a very compelling matter that ought to be dealt with before we recess.

Mr. BYRD. Mr. President, I take it that the administration supports this?

Mr. DOLE. We do not yet know.

Mr. STEVENS. Mr. President, I am sorry to say I do not know of that. I did notify those in the administration that I would normally contact concerning this, and exposed them to those Soviet scientists. But I do not know whether there is an administration position on the matter. I just know that this Senator reached the conclusion that it is an issue that should be supported and we should act before we recess.

Mr. LEAHY. May the Senate be in order, please?

Mr. BYRD. May I say to the distinguished Senator from Georgia I have not yet received the letter. Would he produce it? I would like to show it in the RECORD at this point.

Mr. NUNN. I would be glad to. In fact, I just signed it. It is on the way. Senator LUGAR and I joined together in that letter and I will put it in the RECORD.

Mr. MOYNIHAN. Will the Senator yield?

Mr. BYRD. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I certainly hope we will do this. The Senator from Alaska is absolutely correct. In this rarest of possible moments, the people of the Soviet Union see their nuclear arsenal as a threat to themselves, to their internal stability.

They have been sending this signal for at least 6 months. Thanks to the Senator from Georgia and others, we are responding.

I thank the Senator from West Virginia. This is rare—the rarest conceivable moment.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I now have the copy of the letter that has just been delivered to me and I ask unanimous consent that letter, with the approval of the Senator from Georgia and the Senator from Indiana, Mr. LUGAR, be included in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 25, 1991.

Hon. ROBERT C. BYRD,
Chairman.
Hon. MARK O. HATFIELD,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR ROBERT AND MARK: Later this afternoon, we hope the Senate will give overwhelming approval to an amendment concerning U.S. assistance in destroying Soviet nuclear weapons that we and 24 other Senators have offered to H.R. 3807, the "Conventional Forces in Europe Treaty Implementation Act of 1991." We have attached a copy of the amendment.

Sec. 221 of the amendment provides as follows:

"(a) FUNDING. (1) The President may, *to the extent provided in appropriations Acts*, transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, *such amounts as may be provided in appropriations Acts*, not to exceed $500,000,000, for reducing the Soviet nuclear threat under part B." (emphasis added)

We would respectfully request that you consider action to provide the appropriations authority and funding required to implement this critical program. In our view, the deteriorating situation in the former Soviet Union is of such urgency that we could well miss an historic opportunity to reduce the Soviet threat if, prior to adjournment sine die later this week, we do not complete the process of providing the President with full legislative authority to conduct this program. We would, therefore, urge you to incorporate relevant appropriations authority and funding in the course of your on-going conference on H.J. Res. 157, the Dire Emergency Supplemental Act.

Sincerely,

SAM NUNN,
RICHARD G. LUGAR,
U.S. Senators.

Mr. BYRD. Mr. President, I yield to the Senator from Oklahoma.

Mr. BOREN. Mr. President, I simply want to engage and join in this colloquy. I agree with the comments made by the Senator from Georgia in response to the comments of our distinguished President pro tempore that the matter is urgent. Without going into any classified matters on the floor, I say to my colleagues that we are investigating significant warnings from the intelligence community about the instability of the Soviet Union and the dangers of the proliferation of weapons.

And, in addition to that particular problem, there will be a second amendment that will be offered by myself and Senator COHEN, and also Senators NUNN and LUGAR, immediately following the disposition of this amendment, which will provide the President with emergency airlift capability to go to pinpoint locations in the Soviet Union where there is social and political unrest.

I say to my colleague from West Virginia, this also would need to be considered in the same fashion. We met with Mr. Primakov, Mr. Yakovlev, and others this week and last week from the Soviet Union. There is an extreme threat that food shortages could bring about a social and political disruption that would simply be beyond the ability of the current Government to control. This could actually cause a change of Government in the Russian republics or the Soviet Union, as well, if not dealt with.

So these two matters, I simply say to my colleague, I believe, having listened to the evidence both from the Republics and Soviet sources, word coming through diplomatic sources, Ambassador Strauss and former Ambassador Matlock, and what I have been hearing from the intelligence community over the last several days, in particular, we face a very urgent situation and that we need to, before we go out of session, give the tools necessary to the President, both on the issue of proliferation, and also on the issue of emergency supplies, the transportation capability for emergency supplies to prevent a breakdown of order in key locations, particularly in the Capital City and elsewhere, in the weeks that we will not be in session.

So I was very pleased to hear the comments of my distinguished colleague from West Virginia. I can only underline that I believe this is the gravest of situations and one that we will fail to heed at our peril. I would urge that appropriate action be taken on both of these amendments if they are, indeed, both adopted by the Senate later today.

Mr. BYRD. Mr. President, I thank my friend from Oklahoma.

Mr. President, I do not know what the sentiments of the House conferees will be on the supplemental appropriations bill, as to whether or not they will be supporting this amendment. But I think that we ought to take advantage of the opportunity at this point to at least lay the matter before them.

I would like at the conference to know what the position of the administration is, whether or not it is supportive of this amendment, and if it is agreeable with the distinguished Senator from Georgia and others, I would like to offer an amendment to the Nunn-Lugar-Boren amendment.

It is my understanding that an amendment in the second degree, if such amendment is relevant, is in order under the order that was entered. And my amendment, which I would offer—I will be happy to show to the Senator from Georgia, if he would like to offer it himself—it is a sense-of-the-Senate amendment. It reads as follows:

> At the end of the pending amendment, add the following: It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for FY 1992, should consider providing the necessary authority for the Secretary of Defense to obligate these funds in the conference agreement.

Mr. President, I think with that language, it would be a matter for the

Mr. GORE. Will the Senator yield?

VOL 137 PT 23 NO 21–25 1991 UMI

conferees; they could consider it. I would be hopeful that they would agree to it, and I would do whatever I could do in the conference to persuade others to agree to the amendment. It is a needed situation of persuasion.

I hesitate to sit here supinely and see the last opportunity go by to fund this amendment, in the event the Senate agrees to it. And I take it there is overwhelming support for the Nunn, and others, amendment here. I would not want it to be said that the amendment was adopted, but 2 months went by and nothing was done for lack of an appropriation.

The PRESIDING OFFICER. The Chairs informs the Senator from West Virginia that time has expired.

Mr. BYRD. Mr. President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, if I could say in response to the Senator from West Virginia, I am delighted with his support. It is enormously important. It is a true emergency. I believe this second-degree amendment would not only be acceptable, but I welcome it as an amendment to our amendment.

I also say in response to the Senator from West Virginia that the administration knows about this amendment. I have sent copies of it to the State Department, Defense Department, down to the White House, and the National Security Council; I talked to most of the high-level officials in the executive branch about it. I am not trying to speak for them, but I believe I know their position. Their position is they have no opposition, but I have not had an affirmative support position from them on this.

I believe if there is a resounding vote on the floor of the Senate, the administration will join in supporting it. That is my belief.

Mr. BYRD. Does the Senator wish me to yield to him?

Mr. BOREN. Yes.

I say to the Senator from West Virginia, before I send to the desk a second amendment that will be offered in line with the original amendment, it will make the modification that he has suggested in the first amendment so that the two will track in terms of the appropriations language.

Mr. BYRD. Will the Senator visit with me about that modification? I am not familiar with his second-degree amendment.

Mr. BOREN. I will be happy to do that.

AMENDMENT NO. 1440 TO AMENDMENT NO. 1439

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. NUNN, myself, and other Senators who wish their names added.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD], for himself and Mr. NUNN, proposes an amendment numbered 1440 to amendment No. 1439.
>
> At the end of the pending amendment, add the following:
>
> It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for FY 1992, should consider providing the necessary authority for the Secretary of Defense to obligate these funds in that conference agreement.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I wonder if I may use 2 minutes of my leader's time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. DOLE. Mr. President, I support the Lugar-Nunn amendment. I also support the second-degree amendment offered by the distinguished chairman of the Appropriations Committee. I am not certain what the administration position is.

I think it is fair to say at this point, President Bush is getting a little tender from being beaten up for trying to be of help to people who are in need overseas, and I hope this debate and this vote may end some of that unfair criticism. If he is going to be criticized now for spending any of this $500 million, if it is appropriated, after Congress, particularly the Senate, goes on record substantially in favor of it, then I think that would certainly be unfair criticism. I think it is time we called a time out.

There are certain foreign policy needs and foreign policy considerations, and I think it is unfair to say if you live anywhere else but in America, President Bush will help you; if you live in America, you are out of luck. That is not the case, but that has been some of the rhetoric we have been hearing from some Members on the other side and some Members in the other body.

So I intend to support the amendment. I do want to say for the President, if we want to be responsible, then it ought to be complete responsibility.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not want my constituents in West Virginia to labor under any misunderstanding that this is an amendment to provide aid for other countries in the usual sense. I voted against foreign aid for a good many years, for the most part, and probably will again. I do not look upon this particular amendment as a foreign aid amendment.

I just want to say that for the record, so there will be no misunderstanding among my constituents in West Virginia. I see this as an amendment that is offered to enhance the security of the United States of America, to prevent the proliferation of nuclear weapons, and to usher in the day when not only the Soviet Union will be spending less money on defense, but more important, or as importantly, the day when we ourselves will be spending less money on defense and more money on infrastructure, both human and physical.

Mr. SARBANES. Will the Senator yield?

Mr. NUNN. Will the Senator yield?

Mr. BYRD. I yield to Senator NUNN.

Mr. NUNN. As one of the principal authors of the amendment, I say I completely agree with the Senator's interpretation. I do not consider this aid. I think this is in the direct security interests of the United States.

Mr. BYRD. I yield to the Senator from Maryland.

Mr. SARBANES. I point out, as the Senator indicated, a failure, in fact, to destroy these weapons may require us to spend more in the defense budget—well beyond this figure—than would otherwise be the case.

This is an opportunity to lower the level of armaments of our adversary and, therefore, is a very important national security measure.

Mr. BYRD. I agree with the Senator.

Mr. BUMPERS. Will the Senator yield? Does the Senator have additional time?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. BUMPERS. I ask unanimous consent I be allowed to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I strongly support the Nunn proposal and the amendment of the Senator from West Virginia for all the obvious reasons that have just been made by the Senator from Maryland. That is, here is a chance where the United States may very well receive a 100-percent dividend on its investment. I intend to support the sense-of-the Senate resolution of the Senator from Kansas when it comes up.

I want to tell you this little story, and you think about it. In 1980, I told the Nevada County Cattlemen's Association in Arkansas that I would never vote for another grain embargo against the Soviet Union short of war; it was a mistake. An 80-year-old cattleman in the back stood up. He said, "You know, Senator, I've always said that a fat, happy Russian is a lot less threat to us than a starving Russian. And I think we ought to send them anything we can afford to send if it's to eat." The resolution of the Senator from Kansas goes in that direction.

The PRESIDING OFFICER. The Senator's minute has expired.

Mr. BUMPERS. I thank the Senator.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia controls 26 seconds.

Mr. GORE. Will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. GORE. With the clarification provided by the President pro tempore and the Senator from Georgia that this is not aid in the traditional sense, nevertheless, I would like to say I agree with the remarks of the Republican leader that should the President decide to proceed with the spending of the money authorized by this measure, he should not fairly be subject to partisan criticism of the kind which occasionally is levied elsewhere and has been fair, in my opinion. But with respect to this matter, the President should not fear such partisan criticism.

The PRESIDING OFFICER. The time allocated has expired. The question is on agreeing to the Byrd amendment.

The amendment (No. 1440) was agreed to.

AMENDMENT NO. 1439, AS AMENDED

Mr. DOLE. Mr. President, I am pleased to join in cosponsoring the Lugar-Nunn amendment, as well as the Boren-Cohen amendment which will be offered later. I want to take this opportunity to comment briefly on both amendments.

Recently, we've had a lot of rhetoric on foreign aid, in general, and aid to the Soviet Republics, in particular. Most of the rhetoric has been highly partisan, and not particularly helpful.

We could all probably do some finger pointing about who is responsible for the politicization of these issues. My own view is that President Bush has gotten a very bad rap, and has been the subject of some very cheap shots.

But I think it is time to put all of that behind us, and for all of us to begin taking a rational and informed look at the national interest.

It is very much in our national interest for the Soviets to dismantle large numbers of weapons of mass destruction.

The Lugar-Nunn amendment would provide authority for the President to expend a very modest sum from the defense budget to help the Soviets rapidly and safely dismantle those weapons. It also has, built in, all the appropriate safeguards and conditions.

It is also very much in our national interest to help prevent a food or energy crisis in the Republics of the former Soviet Union this winter. Nothing would jeopardize the achievements of Boris Yeltsin and his democratic allies more than widespread public disorder—food and energy riots—even as the fledgling democratic governments are faced with the tough, bite-the-bullet problems of moving from a Communist to a democratic, free-market system.

The Boren-Cohen amendment would provide the President standby authority to utilize our airlift capacity to meet real emergencies in the former Soviet Union; to provide urgently needed food and medical supplies on a timely basis.

Both of these amendments—as their principal cosponsorship suggests—are bipartisan in nature. Both of these amendments are very much in the national interest.

Both of these amendments—as well as the amendment the distinguished Senator from Michigan, Senator LEVIN, will be offering later—represent an important turning point in our consideration of the issue of aid to the Soviet Union. The amendments put the national interest first, where it must be.

They advance the national interest in important ways.

They do the right thing, in a moral and humanitarian sense.

And they put us back on the track of bipartisanship—where we should be when we are talking about helping people in real need, and advancing the national interest of the United States.

I commend the principal sponsors—they have taken an important initiative; I am happy to cosponsor both amendments; and I urge all Senators to vote for them.

Mr. CHAFEE. Mr. President, we have spent tens of billions of dollars since World War II on strategic weapons systems designed to deter nuclear war. Now, at a fraction of the cost, we have the opportunity to help the Soviet Government actually destroy many of the nuclear weapons we have feared for so long. I certainly hope that we will give the President the resources and authority necessary to seize this historic opportunity.

As a member of the Senate Intelligence Committee, I have been carefully considering the future of the Soviet Republics and the impact of events there on our intelligence and defense posture. I must say that I have become increasingly concerned about the prospects for unrest, rebellion, and even civil war among the Soviet Republics.

All of us have seen grim photographs in the papers depicting the recent fighting in Yugoslavia. I hope that this will not prove to be a portent for the future of the Soviet Republics, but the parallels are both obvious and ominous. In both cases, a patchwork quilt of ethnic and religious groups was held together for decades by an oppressive Communist regime. Now that these regimes have been discredited and lost power, long-suppressed animosities and irridentist claims are gathering momentum in an environment of instability, uncertainty, and economic hardship. As tragic as the consequences in Yugoslavia have been, the potential for a disaster in the Soviet Union is far greater. As my colleagues know, there are an estimated 30,000 nuclear weapons in the Soviet Union. The Soviet Union also possesses far more chemical weapons than any other nation. Today, the forces that control these weapons are riven by ethnic strife and torn in their loyalties between the republics in which they reside and the Soviet general staff and the central government.

The Soviet Government recognizes these problems and appears to be taking some steps to consolidate and improve security over nuclear and chemical weapons. But they have told U.S. officials—and I believe them—that when it comes to dismantling and destroying these dangerous weapons, they are lacking in both resources and expertise. This amendment does not require the President to provide assistance to Soviet authorities, but it makes available up to $500 million of DOD funds so that he can respond to Soviet requests if he determines that it is in our national interest to do so. The amendment also stipulates, however, that such assistance can only be provided if the Soviets are themselves heavily investing in this process, are in compliance with relevant arms control agreements, and are not simultaneously engaged in nuclear weapons modernization.

As my colleagues know, I have consistently supported efforts to reduce funding for the strategic defense initiative. In my view, cooperative arrangements such as this, between the United States and our former Soviet adversary. offer a far more effective and inexpensive means of reducing the risk of the accidental or unintended launch of nuclear missiles. I hope the President will succeed in making arrangements with either the Russian Republic or Soviet central government to destroy tactical nuclear weapons, as provided for by this amendment. I also hope the administration will purse negotiations to further reduce the risk of nuclear war through the installation of mechanisms to ensure greater control over nuclear missiles and make possible their destruction in the event of an accidental launch.

In closing, Mr. President, I would simply like to observe that I do not believe the American people will complain about the expenditure of Defense Department funds for this purpose. Although President Bush has been castigated by some for spending too much time on foreign affairs, I think the American people recognize that the collapse of the Soviet Union is not an event that we can prudently ignore. The President needs and deserves the flexibility to respond to the mounting crisis in that vast land, and this amendment will help to give him that flexibility.

In sum, I think this is a very timely and worthwhile amendment. If we can help Soviet authorities destroy the thousands of tactical nuclear weapons in their arsenal, that strikes me as a tremendous bargain that will help ameliorate the danger of nuclear proliferation and nuclear war. I think the President needs and deserves the authority to seize this unique opportunity, and I urge my colleagues to support this amendment.

Mr. MACK. Mr. President, I am an original cosponsor of the Nunn-Lugar

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amendment for one simple reason: we supplies of food. A major reason for will help our food assistance reach

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VOL 137 PT 23 NO 21—25 1991 UMI

amendment for one simple reason: we have the opportunity to actually reduce the number of Soviet nuclear weapons, and thus their threat to Americans. This is a legitimate aim of U.S. defense spending.

As the Soviet Union undergoes dramatic political change, we have a unique chance, and perhaps a limited window of opportunity, to effect equally profound change in their nuclear posture. Leaders of the central Soviet Government and the individual republics have expressed willingness to guarantee the control and destruction of many nuclear warheads and have asked for help from the United States. They need our expertise and money to make good on their promises of reduced threat. We owe it to ourselves to make that investment.

Moreover, the specter of Societ nuclear weapons falling into irresponsible hands also now rears its ugly head. The danger of theft or sale of these terrible weapons to terrorist states is real. Controlling and safeguarding them until they can be destroyed are immediate priorities.

Thus, we must now take bold steps to help our former enemy ease his finger from the trigger, put down his weapon and rejoin the company of civilized nations.

A moment ago, I defended this plan as a legitimate defense expenditure. Consider the billions, even trillions of dollars we have spent to counterbalance Soviet strategic nuclear missiles in the last half century. We can now spend $500 million and, in return, actually eliminate some of the weapons aimed at our own heart.

We have pared down and focused the scope of this amendment, and thereby made it workable and worthwhile. We have eliminated the retraining of soldiers and workers in Soviet military industrial complex. We have eliminated humanitarian aid. We have constrained the Soviet Union from replacing destroyed weapons, building more conventional military equipment than the absolute minimum that its own national defense requires, and reneging on the arms control agreements which it has already signed. The President must certify to Congress that the Soviets have met these obligations and more before any money can be spent.

Furthermore, any spending under this amendment is absolutely discretionary for the President: he and Secretary of Defense Cheney will make the judgment of how much, if any, we should appropriately spend on Soviet nuclear reduction to help guarantee America's freedom and safety.

For these reasons I have cosponsored the Nunn-Lugar amendment.

Mr. GORTON. Mr. President, the greatest obstacle to a peaceful transition to representative governments within the emerging democratic republics will be the availability of adequate supplies of food. A major reason for current food shortages is the poor itself on helping others to become self-sufficient. Thus, we should assist these emerging democracies to develop an infrastructure and food distribution system that will reduce crop losses from spoilage.

Agricultural reform and the development of permanent, modern infrastructure will take many years. Nonetheless, we believe that we can start this process now through the use of an important and economical tool: the portable grain storage silo.

Presently, the Soviet Union does not have adequate storage capacity for its crops. The Foreign Agricultural Service reports that Soviet storage capacity can accommodate only 68 percent of an average crop. This lack of proper storage wastes both foreign food assistance and crops grown in the Soviet Union. The European Bank for Reconstruction and Development estimates that 28 percent of the Soviet Union's grain crops are lost each year because of spoilage.

The existing Soviet grain storage system was designed to accommodate a centralized command economy. Its large facilities are not well distributed throughout the countryside, and Soviet farmers do not trust their operation. Given the massive need for additional storage capacity and the present difficulty and expense of creating the infrastructure necessary to support permanent silos, the United States should directly provide or finance the purchase of portable grain storage silos.

These storage facilities have four major benefits: First, portable silos can be put into service very quickly. They require minimal site preparation and infrastructure development. With rapid deployment of portable silos, we can reduce crop losses during this critical political transition period and enable the people to be better fed throughout the coming year. Second, portable silos are significantly less expenseive than conventional grain storage systems. Thus, our assistance will be used more productively. Third, these storage facilities can be used in coming years in different geographic areas to address changing needs. For example, they can be relocated from areas with weak crops to areas with bumper crops, or they are installed to lesser developed areas. Finally, the American people deserve our best efforts to spend their tax dollars wisely on aid programs. These storage facilities are vital in making the food distribution system work efficiently and in preventing waste of food. In fulfilling these functions, they buttress the case for a rational food assistance program.

In summary, the United States should provide, as part of its assistance package to the Soviet Union and the emerging democratic republics, portable grain storage silos. Such a step will help our food assistance reach more people, decentralize Soviet agriculture, and reduce food spoilage now and in the future.

Mr. LIEBERMAN. Mr. President, I want to salute the fine work done by Senator NUNN in launching an initiative to assist Soviet military authorities to dismantle many of their nuclear weapons. The Soviets have approximately 27,000 nuclear warheads and some of those may fall into the wrong hands if the Government's authority breaks down. We have to assist the Soviets in reducing their numbers as quickly as possible. I am therefore, proud to join as a cosponsor of the amendment offered by Senator NUNN.

Key Soviet and Republic leaders have also asked us to help them reduce their elephantine military-industrial complex, which is still eating away at the Soviet economy, devouring as much as 25 percent of the gross national product. Its giant factories are still producing weapons that are no longer needed, for a war that will not be fought. As long as the Soviets continue to channel inordinate resources into their military-industrial complex, they will not be able to raise the living standard of their people, and if their standard of living does not improve, the chances of chaos will increase.

Under President Boris Yeltsin's economic reform plan, there is finally a willingness to shake off this albatross from the Communist past. We can help President Yeltsin in ways that involve modest financial expenditures, but invite a major financial return. For once the Russians come to grips with their military production behemoth and begin to reduce their defense expenditures, we can procede with own efforts to cut the defense budget.

In addition to providing assistance in dismantling their nuclear warheads, the United States should encourage exchanges with Soviet Government officials that will be involved in this process. Many American defense companies have already started down this painful road and have much to teach their Soviet counterparts. We must also reach out to Soviet military officers. If large numbers of these officers are discharged, as they almost certainly will be, they could form a disgruntled group of political activists bent on promoting authoritarian political parties. We need to establish exchanges between United States and Soviet military officers to promote the American principles of civilian control over the military, legislative oversight, and private market economies.

We should also extend existing investment support programs to American firms that want to invest in former Soviet defense facilities that are going down the difficult but essential path toward civilian production.

Mr. President, it is in our national interest to provide assistance to the

Soviets in order to transform their military-industrial complex. We do not want political chaos to occur in a country with thousands of nuclear warheads. Nor do we want tens of thousands of military engineers trying to market their skills to radical Third World states like Iraq and North Korea. It would be a terrible irony if the fall of communism actually increased the dangers of proliferation as Soviet nuclear scientists left their native land out of economic desperation.

The alternative to this nightmare is slow but steady economic progress toward a market economy that produces competitive, commercial goods. We cannot lead this effort, but we can assist it. The Russia of Boris Yeltsin wants to join the democratic free market world. They have been freed from the burden of the Communist Party and the Communist security apparatus. We must now help them to grapple with one of the last holdovers of the Communist system, its military-industrial complex.

Mr. NUNN. Mr. President, I ask for the yeas and nays on the Nunn-Lugar amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BINGAMAN). The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "aye."

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The result was announced—yeas 86, nays 8, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—86

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—8

Brown
Craig
Nickles
Pressler
Seymour
Smith
Symms
Wallop

NOT VOTING—6

Akaka
Dixon
Harkin
Helms
Kerrey
Pryor

So the amendment (No. 1439), as amended, was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the bill?

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I will very shortly send an amendment to the desk on behalf of myself, Senator COHEN, Senator NUNN, Senator DOLE, Senator LUGAR, Senator PELL, Senator MURKOWSKI, Senator RUDMAN, Senator BRADLEY, Senator LEVIN, Senator DANFORTH, Senator CHAFEE, Senator CRANSTON, and Senator LIEBERMAN, which will provide authority for the President, in emergency circumstances, to utilize our military airlift capability to provide emergency supplies, whether it is food, medicine, or other supplies, to locations in the Soviet Union or other Republics of what has previously been known as the Soviet Union, on an emergency basis.

Mr. President, we have been receiving, as I indicated briefly during the discussion of the previous amendment, very clear warnings that the situation inside both the Russian Republic, and other parts of the previous Soviet Union, is deteriorating at a very rapid rate. I am often in a situation, after some crisis occurs, of answering this question: Why did the intelligence community not warn us that we were facing a very dangerous situation and a possible crisis?

Mr. President, for obvious reasons, I cannot go into detailed classified information on this floor. But I want to make it very clear to my colleagues that the Intelligence Committee has been briefed by the intelligence community about the situation in the Soviet Union and its various Republics, and that we have been told that the situation there is very unstable, and potentially dangerous.

Mr. President, we have also heard from those observers inside the Soviet Union—keen observers, who have been right time and time again—that there is a very real possibility of an emerging dictatorship again within those territories. There is a possibility that even the Government of Mr. Yeltsin and the Russian Republic, and that of Mr. Gorbachev in the central government, could be changed by force or social disorder during the next few weeks and months, especially if there were to be a hard winter and a severe shortage of food and medicine.

I saw indications, in terms of the ability of the Soviet Union to produce needed medical supplies, and in some cases we are now projecting that they will only be able to produce 1 percent of certain items necessary for medical services in their country.

We have heard from the distinguished American economist, Mr. Samuelson, and from the Soviet Union, like Mr. Popov, and others, that the gross national product of the Soviet Union this year will decline by some 30 percent. By comparison, in the worst year of the Great Depression, the American GNP declined by a maximum of 8 percent.

We are seeing a catastrophic, a catastrophic breakdown in what has been the Soviet Union in the past. Those observers, including Mr. Yakavlev and Mr. Shevardnadze who issued the warning prior to the attempted coup by Mr. Kryuchkov and others that such a coup attempt would take place—and they were absolutely right in those predictions—are among those who once again sounded the alarm to us about what could happen in the Soviet Union.

We were visited this last week by Mr. Primakov who has just been made head of the external part of the intelligence service, what was the KGB, previously a diplomat in the Soviet Union, and Mr. Stankevich, the vice mayor of Moscow, who indicated again to us that they are gravely concerned about the possibility of social and political disintegration even in the Russian Republic during these winter months that will soon be upon us.

Our former Ambassador from the United States, Matlock and current ambassador from the United States, Mr. Strauss, have also sent us a very strong warning signal about what could take place.

We know there has been a shortage of food, even to military units, and there is no doubt about morale in military units—it has been widely reported in the news media, both in written reports and in televised reports, that the moral within the Soviet military is at an all-time low, that there are hundreds of thousands of military personnel returning from Eastern Europe and other locations to inside what was the Soviet Union where they have no place to live. Some are being quartered in tents. And, again, there is very little food for them and for their families.

Mr. President, without being overly alarmist—and we hope this situation will not develop—I must say candidly with my colleagues that it is not beyond question that there could be a breakdown of social order brought on

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of the Budget Act and budget agree-

we entered into last year. And I was

I yield the floor to the Senator from

VOL 137 PT 23 NO 21—25 1991 UMI

by a shortage of food and medicine and other necessary supplies that could in fact bring down the current government which is struggling to be friendly to the United States and end the arms race, willing to enter into such negotiations and technical exchanges as were spoken about on this floor as we considered the Nunn-Lugar amendment to bring about the destruction and dismantling of nuclear weapons that threaten the United States.

There is a possibility that other factors in the next few weeks, especially during the time that we are out of session, other factors could make it impossible for those leaders to stay in power or even begin that process of the dismantling of nuclear weapons that are aimed at the United States.

Mr. President, this is not a foreign aid issue. This is a national security issue. We are not talking about any country in the world. We are talking about the Soviet Union. We are talking about the Republics like the Russian Republic and other former parts of the Soviet Union where there are still 30,000 nuclear warheads, at least 12,000 of which can hit the United States of America.

Mr. President, I think we would underestimate the intelligence of the American people if we were to say we are afraid to take action to protect their security because we think they might not understand the reason why we would want to reach out to preserve social and political order in key cities in the Soviet Union and the Russian Republic during this winter.

We have spent hundreds of billions, into the trillions of dollars, on the arms race. If we have an overthrow of the Government now in power in the Soviet Union and the central government and in the Russian Republic and other key Republics, reformers who are committed to a process of partnership, a reduction of weaponry and end to the arms race with the United States, and see them replaced by dangerous nationalistic, ethnic governments with a dislike for all outsiders, including the United States, again in alliance with those elements within the military which are most hard line and in the previous establishment, we could again have a very dangerous situation.

In 1930—and let us not forget it—the world was threatened not by a Communist, not by a person who called himself a Communist, but by someone who called himself an anti-Communist nationalist. Just because Adolph Hitler did not march under the Communist banner does not mean he was not a threat to the rest of the world.

In many ways the conditions we now face in this world are more like the conditions we faced in the 1930's than the conditions we faced in the 1970's and 1980's.

We would be derelict in our duty in terms of our responsibility to protect the American people and the national security interests of this country if we do not, on a bipartisan basis, give the President the authority to move with our military transport capability to bring emergency supplies to pinpoint locations in Eurasia where trouble might erupt so we can help preserve political stability.

When we talk about costing the American taxpayers, when we talk about making it difficult to meet our needs at home for the homeless, for those who need education, for those who need other help in our own society, I need not remind my colleagues what will happen to our ability to deal with those needs at home if we are once again threatened by a successor government in the Russian Republic or the Soviet Union which controls this vast nuclear arsenal and which might well reignite the arms race.

It is a very, very dangerous situation, Mr. President. All of us should face this situation with our eyes wide open. It would, again I say, be foolish, and it would really be a dereliction of duty for us not to give the President standby emergency authority to move supplies to critical points that would be necessary to preserve order and social and political stability this winter inside the Soviet Union and the Russian Republic.

That is exactly what this amendment does. It does not appropriate any dollars as of this moment. It simply authorizes the President to move to use our military capabilities and other capabilities to transport emergency supplies if an emergency does develop. It requires that the President would have to give prior notice to the relevant committees of Congress on an emergency basis. It provides that while we are giving him this authority today, he should have to declare an emergency himself. He would be accountable for his actions under this provision. He would be required to declare an emergency in order to make such a transfer. He would have to report back within 10 days and on an ongoing basis any transfers which he made under this emergency power.

Mr. President, I urge my colleagues to join with the Senator from Maine, me, and several other colleagues who have offered this and will offer this amendment very shortly so that we can have a very strong show of support for decisive action if an emergency does indeed develop. We are all too often reacting. We wait until it is too late because we do not know if a political consensus is present to take a certain kind of action.

But for once, being armed with warnings that have already come to us from our own experts in our own Government, from the keenest observers inside the Soviet Union itself, from our own intelligence community, that we face a very serious situation, let us put emergency powers in place now to protect the national interests of the United States if this situation should develop.

Mr. President, as I said, I will send the amendment forward just shortly. We are making one or two small technical changes in it so we make sure we conform with both the Appropriations Act and the Budget Act.

I will yield the floor. But first, before I yield, let me first yield for a question from the distinguished chairman of the Budget Committee.

Mr. SASSER. Will the Senator yield for a question here of the amendment itself and how it would be funded?

Mr. BOREN. I yield.

Mr. SASSER. Now, as I understand it, we have not heard from the President as of this time and the President has taken no position one way or the other with regard to this amendment.

Mr. BOREN. The Senator is correct in the formal sense. Let me say that I have had discussions with several of the President's advisers, including the National Security Adviser, on this matter. It is my belief—and without any authority to speak for them in a formal sense—that if the Congress were to give this emergency power to the President to respond in this kind of situation, it certainly would not be resisted by the White House, and I think that the President would be prepared to use it if such an emergency did develop.

Mr. SASSER. As I understand the amendment that will shortly be offered by the distinguished Senator from Oklahoma, he does direct in the amendment that in the event the expenditure is made, the funds will come out of the 050 or Department of Defense account, and that this expenditure can only be made upon the President declaring an emergency and expending the funds, directing the expenditure of the funds out of that account.

Mr. BOREN. The Senator is correct on all of the matters he just raised. Yes, it would come out of the defense accounts. Again, we view this not as a foreign aid question, but as a national security question. We are talking about preserving the national security of the United States. I think it would be appropriate if it did come out of the defense accounts. It would not be competing, therefore, with any other domestic programs, for example. But in order that we make certain we do not set a precedent that we would regret later, I very much admire the work of the distinguished chairman and his colleagues on the Budget Committee to make sure that we are responsible for a budgetary point of view.

I know that my colleague on many occasions has resisted efforts to undo the budget agreement, to stay with it, to be fiscally responsible. We would require that the President would have to declare an emergency under the terms

of the Budget Act and budget agreement, so that the funds would be expended in this way. So it would take, in essence, action by both branches of Government.

We would in advance, since we are not going to be in session, be saying that we consent in advance to a declaration of an emergency by the President. But he would still be required to make that declaration.

So you would have, in essence, a dual declaration of both branches of Government of a state of emergency as required by the Budget Act to make this kind of exception.

Mr. SASSER. Mr. President, just to make the point crystal clear, you can differentiate between the amendment that the Senator from Oklahoma will offer shortly and those amendments that were offered earlier to transfer funds from defense to domestic spending or to international spending. You can make a difference here or differentiate between those amendments that were defeated earlier this year and the amendment of the Senator from Oklahoma, in that the spending is to be directed out of the DOD account, but can only be expended out of that account if and when the President acts jointly with the Congress in declaring this an emergency.

Mr. BOREN. Mr. President, the Senator is absolutely correct. I think we can draw that distinction. It would require the Presidential declaration of emergency, in addition to the action by the Congress, which we would be taking today. And also, I think, again, it is very clearly not a matter of transferring defense funds to a nondefense use. I think we would all be in this situation that if we were to stand by and, let us say, rioting and a breakdown of order took place in certain key cities in the Soviet Union, the military did not respond, and the government was replaced by a government hostile to the United States, now controlling all of those nuclear weapons, I think the American people would say: Why did you not look after our national security needs?

So I think there is a very clear distinction here. This is a national security issue, the gravest of national security issues. The funds would come within the defense budget itself, and would not be transferred out of defense to some other area of Government. And it would require this Presidential declaration of emergency.

Mr. SASSER. Mr. President, just let me say this to my friend from Oklahoma. I do not disagree with the considerations that are driving the offering of this amendment. I think that the Senator from Oklahoma makes a clear and convincing case for his amendment on policy considerations.

My earlier reservations were premised on the fact that this might do damage to the budget agreement that we entered into last year. And I was vigilant to the notion of keeping intact the fences between defense spending, domestic spending, and international spending. As I said earlier, a number of Senators have offered amendments to try to take funds from the defense accounts and put them into domestic spending accounts, including the distinguished Senator from New Jersey, Mr. BRADLEY, who I see is now on the floor.

But in this instance, what we are doing is keeping the budget agreement intact, as I understand it, by requiring the President and the Congress to declare an emergency. And that is the difference between the amendment offered by my friend from Oklahoma and previous amendments offered on prior days that would have sought to use defense money for another purpose.

Mr. BOREN. Mr. President, I thank the Senator from Tennessee. He is absolutely right. I understand the great pressure under which he has been operating all through this session. He has had the responsibility of keeping the budget agreement intact, and making sure that the provisions of the Budget Act are followed.

We all know that is a very difficult task, to make sure that Congress behaves in a way that is budgetarily responsible. I salute him for that. I respect him for that. I think virtually in every case this Senator has supported the chairman of the Senate Budget Committee in holding that line and it has been a very hard one to hold.

I would say, I think here we have a clearly different proposal that in no way would set a precedent that would give a green light to those kinds of transfers that would not meet this kind of test. I think, both from the point of view of substance and the point of view of procedure, by here requiring the President to enter into a declaration of emergency, and by us with this action, in essence, giving our concurrence to this declaration, so this would also be an action by this body declaring an emergency, I think we have clearly set forth a very different procedure.

So on both procedure and substance, I think we are very clearly not setting a precedent that would violate the position that the Budget Committee and many of us have taken, throughout the remainder of the session.

I thank the chairman of the Budget Committee for calling this matter to my attention, and for helping us technically make sure that we did not set a precedent that we would later regret from a budgetary point of view.

Mr. President, I will send the amendment to the desk very shortly. I now yield to the principal cosponsor, who served with me for so many years as vice chairman of the Senate Intelligence Committee, and I am privileged to have him as a cosponsor.

I yield the floor to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, will the Senator yield for just a minute?

Mr. COHEN. Yes.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, as in Executive Session, I ask unanimous consent that the President be notified of the Senate's action on the CFE Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleague.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I will be very brief. I see the Senator from New Jersey is also on the floor. He played a major role in this entire effort. I know he wants to speak, as do several other Members.

Let me say first to my colleague from Oklahoma that when the minority leader mentioned that some Members of this body, and indeed, some in the other body, were charging the Bush administration with neglecting domestic affairs in favor of international or foreign affairs, my colleague and friend from Oklahoma has not been among them.

He has, throughout his career in the Senate, attempted—and I believe been successful in that attempt—to act in the best interests of this country, especially in the field of foreign policy. He has been one of the true leaders in every bipartisan effort, not only to establish a sound intelligence community, but a sound national defense, on a completely bipartisan basis. I believe that is the way in which he approaches this particular issue.

Mr. President, several years ago, I conceived of a fictional account in which the Soviet Union began to disintegrate, President Gorbachev was thrown out of office, Boris Yeltsin was removed violently by members of the KGB, and a new leader emerged who was authoritarian in nature, who said that: "We tried democracy; we tried capitalism. And look what it got us. It brought anarchy, food riots, and very little else."

And those forces who were driven back by the democratic aspirations of the reformers returned with a vengeance. They promised order; they promised security; they promised food. And there was only one thing they had to sacrifice and that was liberty.

Well, we can see from today's headlines and unfolding news accounts, that fact is not very far away from fiction. Now it may be Mr. President, that some of the realities that are being influenced upon the Russian people and the Soviet people's today has been a case of self-infliction.

can be but one appropriate designation ficient attention to domestic matters. I sions about the internal situation and

VOL 137
PT 23
NO 21—25
1991
UMI

The other day, I believe on Saturday, I quoted from one Soviet commentator who supported what the Soviet military has done with respect to the equipment located in Europe. That commentator commended the military generals who, in fact, succeeded in circumventing the CFE Treaty by removing from Europe well over 50,000 pieces of equipment before the Treaty was signed in order to circumvent the provisions of the treaty. If not the provisions, certainly the spirit. The quote was:

> It is unfortunate, of course, that all of this coincided with a record harvest occupying badly needed rail cars and making the job of transport more difficult. But who was to blame for that? First and foremost, the Foreign Ministry, which was rushing full steam ahead toward a treaty.

So, what they were saying is, "Thank God we have the military officers here to put a halt to what the Foreign Ministry is trying to do by signing treaties with the United States. We need guns; we do not need butter."

So they had a record harvest a year ago. That harvest has never made it to the marketplace because they were so busy trying to circumvent the CFE Treaty they did not take the harvest to the marketplace. So some of that is self-inflicted.

Nonetheless, Mr. President, I do not know anyone, Republican or Democrat, who wants to see the kind of hardships that are not too far away from the Soviet peoples unfold in that way. The chairman of the Intelligence Committee and perhaps Senator BRADLEY may wish to elaborate on this. But there are potentially health problems coming this winter, be it in the form of the spreading of diphtheria, tuberculosis. We talk about an AIDS epidemic in this country. I think they are on the verge of experiencing an AIDS epidemic that will make ours pale by comparison because they do not have the capacity to even manufacture the necessary needles for their hospitals and they are reusing them over and over again. We are going to see an AIDS epidemic, I think, that is going to shock not only the Soviet Union but this country as well.

Mr. President, I said I would not take much time, and I do not intend to. I am going to yield the floor in just a moment. I think this particular provision is absolutely essential. I think it is actually more important than the one we just passed to help the Soviets dismantle their nuclear, biological, and chemical weapons. I believe this is more imperative because it is more pressing. It may take weeks, months, maybe even years to achieve the other. There is not much time before help is going to have to be given to the people of the Soviet Union in order to prevent the kind of catastrophe that we see looming on the horizon. So I hope we will have strong bipartisan support.

I commend the chairman once again and also the Senator from New Jersey and the Senator from Michigan, who is not on the floor right now but who I know will be speaking on this issue, and I hope we have a very broad level of support for this amendment.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 1441

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself, Mr. COHEN, Mr. NUNN, Mr. DOLE, Mr. LUGAR, Mr. PELL, Mr. MURKOWSKI, Mr. RUDMAN, Mr. BRADLEY, Mr. LEVIN, Mr. DANFORTH, Mr. CHAFEE, Mr. CRANSTON, and Mr. LIEBERMAN, proposes an amendment numbered 1441.

Mr. BOREN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"SEC. . AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of hostile, anti-American leaders in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union and its republics.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, shall be authorized during fiscal year 1992 to transfer sufficient funds from those appropriated to the Department of Defense for fiscal year 1992 to the extent provided in the Appropriations Act, not to exceed $200 million, in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, as determined by the President. Any funds which are transferred pursuant to this provision shall be drawn from the Operations and Maintenance or working capital accounts of those funds appropriated to the Department of Defense for fiscal year 1992. The Congress designates all funds in this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds in this section shall be available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this provision to the emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) PRIOR NOTICE.—Before any funds are transfered for the purposes as authorized in section (b), the President shall notify the Committees on Armed Services of the Senate and House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(d) REPORTS TO THE CONGRESS.—Within ten days of directing the Secretary of Defense to transfer funds pursuant to subsection (a), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, which shall at a minimum, set forth—

(1) the amount of funds transferred under this section, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the type and purpose of such assistance; and

(4) the locations, organizations, and political institutions to which the assistance was delivered.

(e) It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for FY 1992, should consider providing the necessary authority for the Secretary of Defense to obligate these funds in that Conference Agreement.

Mr. BOREN. Mr. President, this is the amendment which I have just been discussing. It has also been discussed by my colleague from Maine and also by the Senator from New Jersey. This is the amendment which would allow for the President to have emergency authority to transfer Department of Defense funds, up to a maximum amount of $200 million, to provide emergency airlift transportation of supplies necessary in the event of crisis within those areas that have previously been under the designation of the Soviet Union. As I have indicated, we could very well face that kind of situation this winter.

I appreciate very much the kind comments just made by my colleagues. And I want to thank my colleague from Maine for the comments which he made about my efforts, the efforts of this Senator to approach these kinds of problems in a bipartisan fashion.

This is no time for partisan politics. As the Senator from Indiana and I said on the floor last week, it is time for us, when it comes to the vital national security interests of the United States, to call a truce on partisan politics. This is no time to be trying to be scoring political points by one side of the aisle against the other or by one party against the other, even though it is the season in which we are going to be approaching a Presidential campaign. We are dealing here with a matter of great importance to the national security interests of the United States. And when you face a situation like that, there

can be but one appropriate designation for all the Members of the Senate and all of those charged with policymaking responsibility for this country, whether they are in the legislative branch or the executive branch, and that designation must be American. We must put aside politics and look at what is in the best interest of this country.

And, clearly, if we were to have a situation develop, one in which the United States could have played a part in trying to sustain in power a government in the Soviet Union or in the Russian Republics or elsewhere in that land mass favorable to the United States, one which controls thousands of nuclear weapons, and we stood on the sidelines and did nothing only to see that Government replaced by one which would want to reignite the arms race and threaten the security of this country, the citizens who sent us here to act as their trustees would demand to know of us why we were not alert to the danger, why we did not listen to the clear warnings that have already been given to us, why we did not look after their interests.

Mr. President, that is why it is my hope that this amendment will be adopted by a very large majority. It is in the national security interests of the people of the United States. It deserves to be supported in a bipartisan way, strongly, on both sides of the aisle and to be implemented decisively by the President of the United States without regard to political considerations if this kind of emergency situation does indeed develop.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. SIMON). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Will the Senator yield?

Mr. BOREN. I will be happy to yield.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before my distinguished friend from Oklahoma leaves the floor, I have a question that I was curious about. In this matter, is it correct to assume that the President and the administration is requesting this or is this something that we have just decided to offer them?

Mr. BOREN. Mr. President, I say to my colleague, in the formal sense, I am not prepared to say this is something that the President has requested. I am not authorized to speak for the administration. I have had numerous conversations with members of the administration, including the National Security Adviser, the Director of Central Intelligence, and others, about this matter.

I think we have all understood that we have been into a political situation over the last several weeks in which there has been a lot of discussion about whether the President was paying sufficient attention to domestic matters. I think this debate, and certainly this Senator does not disagree with some of the points that have been made. We have to take care of our own at home if we are going to help anyone in the world. I think it has created something of a climate where both those in the Congress and the White House have been hesitant to act.

This Senator, the Senator from Indiana, the Senator from Maine, and many others, have come to the floor to say let us not confuse this with the debate about foreign aid or paying attention to other countries versus paying attention to the needs at home. This is a national emergency and we ought to view it as that. It is dealing with our national security. We are not talking about any country, we are talking about a country that has 30,000 nuclear warheads.

Mr. President, I will say this. In my discussions, I feel certain, this is certainly not opposed by the White House. I think that certainly if this situation did develop as an emergency that the President undoubtedly would declare an emergency, he would be required to do so; that in essence they would have to have both branches of Government working together. We would be giving them the authority by our action today. He would have to come forward and join us and say, "I need to activate this authority. I find there is an emergency existing." That way there would be a partnership effort by the Congress, by a bipartisan action of the Congress and the President for us to move forward.

I had hoped that the President would explicitly say that he authorized us to say that he requested this authority. He is not in a position to say that yet.

Mr. DODD. Let me ask an additional question of the distinguished chairman of the Intelligence Committee.

Just out of curiosity, what is left of the Soviet Union—I am not quite sure who I ought to make the request of as to who might make the request, whether it is Mr. Yeltsin, President Gorbachev, or someone else. Has there been any indication at all from the potential beneficiary of this that they are seeking this kind of assistance as well? Normally we get some sort of request for aid.

Mr. BOREN Yes; I can say to my colleague, I think it is pretty clear that they do request this kind of assistance and would be very reassured by this kind of an emergency authority for the President. I had discussions about 10 days ago with Mr. Yakovlev who, as you know, is the personal representative of President Gorbachev. He also is the chairman of the democratic reform movement in the Soviet Union. I also had conversations last week with Mr. Primakov and the vice mayor of Moscow, Mr. Stankevich all of whom have come to Washington to have discussions about the internal situation and their needs.

I explicitly asked those three, among others, from the Soviet Union and the Russian Republic who have visited with us, if they felt that if such an emergency developed and we gave this kind of authority to the President, would they be prepared to make such a request, including the granting of use of Soviet and Russian republic air space to move our military transport to key locations where there was grave need?

They said they had no doubt that the authority would be given. They felt it was a certainty the authority would be given, the permission would be given. And if that kind of circumstance developed, they also indicated to us there was no small possibility, there was certainly a serious possibility that these kinds of conditions could occur, that they would welcome this authority be given to the President and that they had no doubt whatsoever that the authority would be utilized and permission would be given.

So I wish that I were in position to say, and it is somewhat frustrating for this Senator not to be able to say that in the formal sense I can say to you I know the President of the United States and the administration want this authority. I wish I could say to you in the formal sense, and it is a little bit difficult now with the situation in the Soviet Union that there has been a formal request, but I think I can tell you that in the informal conversations that have occurred, there is not opposition, but there is general support for this, both in the executive branch and in the Soviet Union, the Russian Republic and other key locations.

Mr. DODD. If my colleague will yield further, I assume, Mr. President, that a request was made of the administration to make a request or at least to indicate their support of this; is that the case? And if so what has been the response? I mention this to my colleague purposely, Mr. President, because I am inclined to be supportive of this and it makes some good sense, but I also went through—I remember watching the last couple of weeks when the issue was up about money being included in the defense authorization bill that there were members of the administration who indicated their support of that program, the minute anyone raised any questions about it they sort of proverbially headed for the hills on this issue.

They may be a bit skittish but before we all buy into this, I would feel a lot more comfortable if the Secretary of Defense, or the Secretary of State, if not the President, would say we like what you are doing here. It has our imprimatur approval.

I see the Senator from Maine here.

Mr. BOREN. If I could yield to my colleague from Maine and then I want

to make a comment following his com-

they accuse me of being preoccupied

Let me say to my colleague from

VOL 137 PT 23 NO 21—25 1991 UMI

to make a comment following his comment to your question.

Mr. COHEN. If the Senator would yield, let me respond to my colleague from Connecticut. He raises a legitimate point: Why has not the administration expressed its enthusiastic support for this particular measure?

This had its genesis, this was part of a larger measure that was fashioned by the Senator from Georgia several weeks ago during the consideration of the DOD authorization bill. At that time, it came to the attention of the full committee at the last moment with very little notice to or participation by the minority, and there were objections because of the scope of the proposal. It dealt not only with the dismantlement of the nuclear, chemical, and biological weapons, with transportation of needed medical and other types of necessities, but also helping to convert military installations into more commercial factories, to train scientists and military officers, and so on. So it was quite broad in scope and was drafted with very little participation by the minority.

At that time, there were conversations between the chairman of the Armed Services Committee and members of the administration and, again, there was some hesitancy there because the administration was being beaten day after day after day in this body and elsewhere about its alleged preoccupation—I say alleged preoccupation—with foreign policy and not domestic policy. So there was an inclination to back away.

Now as a result of the scope of the amendment that was originally drafted by the Senator from Georgia and the reluctance on the part of the minority of the Armed Services Committee to fully support it, Senator NUNN, Senator BOREN, and others went back to the drawing board and said let us get very specific and very narrow. As a result, Senator NUNN, LUGAR, BOREN, and others brought the measure before the Senate earlier today that would deal with the dismantlement of the nuclear materials.

With respect to this amendment addressing the transportation of medication and food and the transport of other types of humanitarian relief, this was brought about by the leadership of the Senator from Oklahoma, with my support. I believe he is correct in defining this as a national security interest.

Just as you have legitimate questions as to why the administration has not expressed its enthusiastic support for this, I think the Senator should have the assurance because of the bipartisan nature of this initiative, with Senator BOREN, myself and others, he should have no fear that the administration tomorrow or the next day is going to turn around and point an accusatory finger at this body and say: "Look what they are doing down there; they accuse me of being preoccupied and then they foist this off on to me. I will not touch it." The Senator should have little fear of that particular possibility because there is strong bipartisan support. And were that to take place, I think that he will find us being very, very vigorous and vocal in our expression in response.

So I think the Senator can rest assured that this initiative is coming from the Senate.

Mr. DODD. Yes.

Mr. COHEN. It is coming from the Senate on a bipartisan basis. If the administration chooses to ignore it, I say it will do so at its peril. If they then seek to point an accusatory finger at the Senate or the House, I think you will find many people defending the actions of this body.

Mr. DODD. Mr. President, if I may further inquire. I appreciate very much the response of my colleague from Maine to the question. I am not even asking for enthusiastic support. I would feel a little more comfortable if they were at least indicating some support.

The question that also comes to my mind as I read the amendment—and I supported the last amendment and intend to support this one as well, but it struck me in looking at this one particularly—the last one, it seems to me, because we are talking about dismantling missiles, we may be charting new territory, new ground there. But does not this authority exist in law already? My point would be is that it seems to me emergency authority like this under the Budget Act is already given to the President if he wanted to utilize it, and our action really is not necessary.

Mr. COHEN. There is a limitation. I was under the same impression as the Senator from Connecticut. There is a dollar limitation in terms of the use of the military aircraft, I am told. I think the total is $13 million.

Mr. BOREN. The Senator is correct. After Operation Comfort and other operations which have taken place this year, while there is a general authority for the President as Commander in Chief, obviously, to commit military resources, there is a real question as to whether or not there is sufficient funds.

So perhaps even more important than the granting of authority under this amendment is the granting of the right to, without additional action by us, declare an emergency and transfer up to $200 million to carry this out. Because if we did get into a really serious situation, obviously, the small amount that is perhaps now available simply would not be sufficient. When we think about the kinds of expenditures we are talking about here compared to the $3 trillion we have spent on the arms race, obviously, we are talking about a wise expenditure of funds.

Let me say to my colleague from Connecticut, I share his frustration about the political situation that we have had. I share his frustration that we have not been able to get a clear cut, formal, as I say, statement from the administration on this matter after a lot of informal consultation.

I, myself, have had consultations with numerous people within the administration on this matter. I have not had anyone speak a discouraging word to me about it. I had hoped that we could have had a bipartisan meeting of the leadership, and Senator LUGAR and I proposed that last week, of the congressional leadership, both sides of the aisle, those particularly interested in foreign policy and national security down to the White House to discuss this matter. I was told such a meeting would probably take place. I held my schedule open for it for several days. It has not taken place. I think we are in this—and that is disappointing to me, having been a Senator that time and time again has tried to behave in a bipartisan fashion. I think my credentials are clear on that. They are so clear that sometimes colleagues on my side of the aisle wonder if I am not too bipartisan. So I am disappointed in the fact, to be candid about it, that the White House has not entered into this kind of formal setting of negotiation or a formal statement about this amendment and the amendment that immediately preceded it that we just adopted.

But I think we have to set that aside when you understand there are bruised feelings, as the Senator from Maine has said. We are all human beings and we all understand the political risks that are involved.

I would simply say to my colleague, I think there comes a time, no matter what others may do in this body or what others may do in the White House or anyplace else, we have to set aside political considerations and say, all right, whether we have a formal word from the President or we do not have a formal word or whether we have a formal endorsement by the congressional leadership on each side of the aisle or we do not, this is right for the United States and we are simply going to be responsible enough to go ahead and do what is right for this country.

When I go home the thing I hear most often from my constituents is a statement that goes something like this: With all of the terribly important problems facing this country, with the terrible economic problems here at home, with the dangers that confront us in the world, why cannot you people in Washington stop playing party politics, partisan politics, personal politics, quarreling like a group of children, and get down to really do the work of the country and concentrate on not who gets the credit or the blame but doing what is right for the country.

I think that they are absolutely right in making that point. I think that that is the perception. It is not exactly an incorrect perception. It is my hope that today we will prove to our constituents that we can do something for a change, not because it has a political content but because it is right, it is right for their national security interests, it is right in terms of protecting them and the next generation of Americans that we hope will not have to involve themselves in an arms race or a cold war with another hostile superpower.

So I would say to my colleague I understand his frustration, the frustration that I read between the lines of his questions. This is a frustration that I share. It is a frustration I know my colleague from Maine shares because he has conducted himself time and time again in a bipartisan fashion on this floor. I would simply say this is an opportunity for all of us to simply do what is right for the national interests of this country, step forward and do it.

I do not have any doubt but what the President would utilize that authority if we put it in place. I think he would. I have no doubt but what those on the receiving end, be it in the Russian Republic or other Republics of what was the Soviet Union would be readily agreeable to accepting—in fact, pleading to accept—whatever would be required in terms of permissions for it to be delivered because we really do have the safety and stability of the government at stake which controls these weapons of mass destruction. We do not want them to fall in the wrong hands. We have heard all the discussion before about the dangers—if there is a collapse of political authority, people simply taking weapons to some other location in other countries, selling this technology. There are all sorts of things that can happen when order breaks down and when people are desperate. I think for the sake of our own people and the security of the whole world, we simply do not want to allow that to happen if we have any way to prevent it.

Mr. COHEN. Will the Senator yield?

Mr. DODD. I will be glad to yield.

Mr. COHEN. Let me make one other point.

I think what has changed has been the tone and the attitude, certainly, here on Capitol Hill in the last several weeks. Two weeks ago, it was quite different and there was legitimate fear, I might say, on the part of the White House and Members on this side of the aisle that this was something of a Trojan horse that was being wheeled into the White House. That $1 billion the number that was being contemplated at that time, was a substantial amount of money certainly, but in terms of the scope of the problems facing the disintegrating Soviet Union and all of the health problems associated with it as well, it was not going to make a very significant dent in those problems. And that there was some calculation, or at least perceived calculation that they were giving the President the authority to use up to $1 billion to deal with these problems. It was not nearly enough to cope with them. And then if he decided to do something and failed, he would be accused of not being aggressive enough; if he did not use it at all, he would be accused of failing to have recognized the handwriting on the wall, that it was not a forgery.

So there was apprehension, given the tone that existed up here a couple weeks ago. That has changed. As a result of that change, I think you will see a corresponding change at the White House itself and among the Members on this side of the aisle.

Mr. DODD. I thank the Senator.

Mr. President, if I could reclaim my time, I thank my colleagues from Oklahoma and Maine for their responses to the questions. I commend them as well for fashioning and putting together this proposal, Mr. President. I say that in all sincerity. I think it is an extremely worthwhile effort.

I guess I am just lamenting a bit, Mr. President, in the sense that I wish we could achieve sort of the same sense of bipartisanship on some of these other issues we face around here that involve our own economic difficulties.

There are those who want to demagog on these issues and suggest somehow that these dollars could end up being better used here at home, and one could make the case I suppose of where the authority here of the $200 million could be applied—I assume, as I look around the Chamber here, Georgia, Oklahoma, Maine, or any other State for that matter, and that argument could always be made.

I guess the frustration people sometimes feel is that when you see us go through a 4-month debate about unemployment benefits—granted, it involved more money than this, substantially more than this—we end up sort of in a gridlock and yet often a matter like this where obviously it is extremely important, things seem to move much more smoothly. And there is I think the fear—it may be unwarranted but nonetheless the fear people express that when it comes to trying to resolve some of the questions that affect the economic condition domestically, we seem to be incapable of getting out of our own way.

Yet when it comes to sometimes dealing with the legitimate foreign policy crises—this is certainly one—it would be a great historical tragedy if at the exact moment in history when communism fell and Marxism collapsed and there was the opportunity to nurture the tender roots of democracy from what remains in the Soviet Union, and we failed to step up. I agree with those who are making that case.

So I am just using this opportunity as a suggestion that there are additionally some pretty serious problems at home, without stating the obvious. My hope is this message of comity we are reaching in a foreign policy matter might spread out on other issues as well and an effort would be made to achieve some sense of comity as we try to address some of these other issues.

I would also feel much more comfortable with the administration for them to at least indicate their support for this particular effort. It seems to me not a great deal to ask for them to support, at least conceptually, what we are trying to do, what the Senator from Georgia has crafted, and others. I hope that will be forthcoming. I suspect it may be.

The Senator from Oklahoma and the Senator from Maine are correct. It may be because of a feeling some tenderness about the accusations that have been leveled in terms of the administration's failure to focus at least as much attention.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. DODD. Let me finish my thought, and then I will yield.

My perception is not that people object to something like this. They really do not. It is that sense that sometimes they are not given the same amount of consideration and effort and time.

That is I think what grates on some people's nerves—that they do not understand the importance of trying to help out, and play an active leadership role when it comes to the plight of people around the globe that are suffering.

That is something that I find Americans are generally supportive of. It is not their opposition to that. It is the failure to understand why we are not doing more in these other areas.

I do not want to belabor this point. It is a well-crafted amendment. I think it does what its authors designed it to try to achieve. Again, I hope the President will step up and join with us in this effort because clearly that will really be supportive, as I stated to my colleague from Georgia, as I raised the point earlier.

Mr. NUNN. Mr. President, I just would like to thank the Senator for supporting this very important provision, and I am delighted the Senator from Oklahoma and Senator from Maine have taken a lead on this amendment. I vigorously support it. I will make a statement in a moment giving the reasons that I do support it.

But I also will say I share the frustration of the Senator from Connecticut that there has been no White House leadership on this matter or on the earlier amendment.

As I said in the earlier debate, someone asked if I believe the White House was going to support this, and I said once we passed it overwhelmingly I think they will. But it is a little late.

VOL 137
PT 23
NO 21 — 25
1991
UMI

Because if we had waited on the White House, there would not be this kind of a decision, and I think that is regrettable.

I think the message at least goes to the White House that we need leadership in foreign policy. I am not one of those who believes that it is either domestic policy or foreign policy that the White House has to lead on, that Congress has to lead on. It is both. They are interrelated.

I think it is a bad mistake for people in the Democratic Party, while legitimately criticizing the White House for inactivity on the domestic side—I think it is a mistake to frame the debate so it appears that when the President does take a leadership position on foreign policy it is automatically criticized. I do not agree with that.

I think we have to get across the point that the President has to lead on both foreign and domestic policy. Domestic issues are critical now. There is no doubt about that. Unemployment—the need to take initiatives, short-term, and fundamentally to address the long-term economic issues.

On all of those we have not seen the leadership that we desire from the White House. But it is not going to cure those problems for the White House to also sit on its hands on foreign policy. That is not going to help anybody. I am afraid that is what is going on now.

It seems to me that on the Democratic side we need to make it clear that what we want is the President to lead the country on critical matters of the economy, and domestic policy, but we also want him to lead on foreign policy. He has done that until recently. But I have dealt with the administration on this amendment for the last 3 weeks, and we have a traumatized situation, to put it mildly.

Everyone I have talked to in the administration—and I have talked to many of them—basically is in favor of this initiative individually, but collectively the best they have been able to muster is they do not oppose it. That is really not leadership.

We have managed to reach a consensus here in the Senate which has been demonstrated I think on that last vote, after a great deal of struggle and some leadership on both sides of the aisle. The Senator from Maine, the Senator from Indiana—there are many Republicans who join in this and many Democrats who join in.

But we did not pass it because the White House was involved. We passed it with a very inactive and inert White House. And I hope by passing both of these measures today we will be sending a signal to the White House that in spite of the fact we are going into an election season, in spite of the fact there is going to be inevitable criticism on the domestic side, that does not mean we do not trust the President to lead our country as he has done in so many cases in foreign policy so well. We want him to continue to be vigorous in foreign policy. We would like to have vigorous domestic leadership as well.

I hope that is the message we can get across because it is not one or the other. It is both. I thank the Senator from Connecticut for making that point.

Mr. LEAHY. Will the Senator yield?

Mr. DODD. I am glad to yield.

Mr. LEAHY. Mr. President, I find we are in an interesting situation. I first would say while the Senator is on the floor, I commend him, and the Senator from Oklahoma, the Senator from Maine, the Senator from Indiana, the Senator from Georgia, and others who are working on this issue.

But I find the present situation both extraordinary and in some ways troubling. By troubling, I mean the colloquies I heard back and forth. We have yet to hear from the White House that this is really what they want.

I hope we are not being led down the primrose path. We will do what we feel is necessary to lower the threat of nuclear weapons on the soil of the Soviet Republics, and show the humanitarian side of the United States to try to keep people from going hungry.

But I look at the price tags of these initiatives. It is strange to me that on an issue where you are talking about several hundred millions of dollars to remove nuclear warheads and reduce the nuclear threat, that we have to take the extraordinary step, we collectively in the Congress, to do that. But yet with the stroke of the pen the administration has sent $4 billion in foreign aid to the Soviet Union in the form of agricultural credits that will never be repaid, to buy food, much of which, as the New York Times and others pointed out yesterday, will lay rotting on the docks or will go on the black market. It will never reach the people that it is intended to help.

I recall being criticized by a Member on the other side of the aisle when I was asking for minor amounts for the agricultural program on the supplemental. The issue was raised that I support foreign aid. I happen to be the chairman of the subcommittee that must handle all the money for foreign aid. My colleague blasted back that I was offering a dairy amendment and I support foreign aid. I note, however, that he is one of the people who cosponsored this amendment.

Are we being led down a primrose path here? What I am saying, Mr. President, on a matter so critically important that it might involve starving people on the one hand and nuclear weapons on the other, that maybe there should be a postcard from the White House saying it is a good idea.

I ask unanimous consent that an op-ed piece by Leslie Gelb in Sunday's New York Times be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The New York Times, Nov. 24, 1991]

THE U.S.: A PATHETIC NATION?

(By Leslie H. Gelb)

With the trillions spent to win the cold war, it will be pathetic if the U.S. fails to find $1 billion to combat famine and the danger of nuclear chaos in the Soviet Union.

Famine in Soviet cities this winter could kill the Soviet democratic experiment, and there is only one way to prevent starvation. That is by loading up U.S. military aircraft with food, flying to cities and overseeing the distribution. But aside from a few Democratic Representatives such as Les Aspin and Lee Hamilton, Washington sits on its hands.

The spread of Soviet nuclear weapons could present the greatest threat to world peace, and there is only one way to guard against their misuse, theft or sale. That is a crash joint effort by U.S. and Soviet specialists to secure them. But apart from an encouraging bipartisan group of senators joined by Mr. Aspin and Mr. Hamilton, Washington shows no urgency.

The risks of inaction and delay are clear and grave. Yet legislators, fearful of being accused of helping Soviets at the expense of Americans, shrink from doing what they know is right. And President Bush, who above all understands what must be done, is also frozen by such accusations and remains inexcusably silent.

The one thing Mr. Bush has done—his now $4 billion "food aid" program—raises serious questions about his competence and motives. Senator Patrick Leahy is not alone in charging that the President "is playing a deceptive game with American taxpayers."

The Bush $4 billion plan sounds good. It provides U.S. credit guarantees for the Soviets to borrow money from banks to purchase American grain. Marlin Fitzwater, the White House spokesman, said the program "is aimed at alleviating food shortages and other dire humanitarian consequences . . . this winter."

But much of the grain won't even reach Soviet seaports in time to make a difference this winter. Much of what does arrive is bound to rot on the docks or find its way into the black market, if past experience with Soviet distribution is any guide. Most of the cargo is feed grain, destined for farms and animals, not people. This grain will help sustain livestock. But it will do very little to alleviate hunger in Soviet cities now.

This is no secret. Which is why Mr. Leahy and many others see the $4 billion as aimed more at raising American farm incomes than at helping needy Soviets.

Mr. Leahy is also rankled by what he sees as Mr. Bush's budgetary sleight of hand. The President is not asking Congress to appropriate $4 billion, and says the Soviet Union is creditworthy and will pay its bills. Mr. Leahy argues that there is little chance the Soviets will find the cash, and that the American taxpayer will eventually have to pick up the tab. The Senator is by all odds correct.

Here another fundamental issue is joined. If the $4 billion is essentially a gift to the Soviet Union and mainly a boon to American farmers, and if it won't do much to relieve famine this winter, why spend it at all? Or why not use the money to provide emergency relief for needy Americans?

Put this way, the Leahy stance is not frivolous or isolationist. Politicians could say in

honesty that they would rather use the funds for America's emergencies than make a grand, but largely ineffectual gesture abroad.

But the choice should not be between a questionable food aid effort and American domestic priorities. It ought to be between those priorities and a food relief program that can work.

Mr. Aspin has put together a list of already-bought and ready-to-go foodstuffs, including $165 million in free food already allocated by Mr. Bush, and tons of food leftover from the Persian Gulf war. Europe is also loaded with excess stocks.

What is needed is transportation and reliable distribution inside the Soviet Union. U.S. forces fed the Kurds after the gulf war and could do it again on a much larger scale. They are also ready to help their counterparts gather and destroy Soviet nuclear weapons. The $1 billion needed for these vital talks would come from existing Pentagon funds, not new money.

A nation loses its soul and spirit if it cannot act to protect its most basic interests and values. Soulless and spiritless we will enter our future if we fail to do what we can to forestall new dangers and dictatorship in the Soviet Union.

Mr. LEAHY. That article expresses many of my views, Mr. President. We have done one extraordinary thing this afternoon by a sense-of-the-Senate resolution. We have, in effect, taken a supplemental appropriations bill already approved by the Senate and amended it while it is floating somewhere down the corridor toward a conference committee.

We just approved a sense-of-the-Senate resolution to amend it. It is extraordinary. I wish we had thought of it before. We ought to probably do that more often. It certainly does away with a sense of finality when something goes out of here.

My second point is whether we are going to get into a position where if the President wants to do something in foreign aid, he is going to be criticized by Democrats.

I happen to be one Democrat who stood out here, in a very lonely fashion with a very major issue, supporting the administration on foreign aid. I have done this over and over again. The President would not have passed any of these foreign aid issues without very substantial Democratic support. We have stood up for him time and time again, and helped him on some very difficult issues where sometimes even Members of his own party abandoned him.

I am also concerned that we can find money immediately for the Soviet Union, or what is left of it, and at times, we are told there is no money for much smaller but equally significant programs here in the United States. When sponsors of domestic assistance such as dairy are criticized, for even supporting the President's budget on foreign aid, we are getting ourselves tied into some political knots that may take a long time to unsnarl, Mr. President.

I just warn my colleagues. We saw it last week when I offered the dairy legislation. I was criticized for supporting the President's budget on foreign aid. But yet, here, the same people come forward with amendments like this. I may vote for this amendment. But we need a plan before spending millions in the Soviet Union.

The President just approved $4 billion in foreign aid to the Soviet Union in the form of agricultural credits. I say it is foreign aid because nobody really thinks they have the creditworthiness to pay this money back. We sent it in a sort of a "shovel it over there in a hurry, because you do not have to vote on it" attitude. There was no plan about where it is going to go, who gets it, or what is done in return. There are no market reforms, distribution reforms, and the expertise along with it.

A number of commentators, Republican and Democrat alike, have pointed out that it means there will be a lot of food wasted, a lot of U.S. taxpayer money wasted, without accomplishing significant goals.

Again, I commend the sponsors of this. I know they are concerned with stability, world peace, and humanitarian reasons. I commend them for doing the work.

But let us hope that, in the weeks between the time we go out of here and the time we come back, the administration will seek the same kind of bipartisan help they have sought before and received from this body. We need to work out a plan to see where our tax money is going to be spent, we must ensure that it is spent in the best way to achieve world peace and humanitarian purposes.

Mr. DODD. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I want to address the issue being discussed here. The Senator from Connecticut and I stood on this floor together to fight for the extension of unemployment insurance benefits. We pointed out at that time that the President had found it in his perspective to define emergencies overseas in order to provide assistance, to meet these critical situations, but he could not declare an emergency here at home in order to help unemployed Americans.

We said the time that we supported the President when he came to us earlier in the year and said: There is an emergency overseas, and we need to provide some help.

So it was not a question of our not recognizing the emergency overseas and the need to respond to the emergency. The problem was the President's refusal to recognize an emergency at home. Can we only deal with one problem on the agenda at a time?

The Senator from Georgia is absolutely right. This administration is traumatized in recognizing what serves the national interests. Clearly, if we can bring down the level of nuclear weaponry in the Soviet Union, we are serving the national interest. The question is, does the President have the capacity to bring a vision that recognizes both—the need to deal with a rapidly changing world and the economic needs of our own citizens.

At the time that we fought for the extension of unemployment insurance benefits to millions of deserving Americans it was not my position that the President should not have found an emergency overseas in order to provide some needed assistance. It was my position that, having done that, having been supported by the Congress in doing that, he ought to have the vision to recognize that there was an emergency here at home, and he needed to provide some assistance here as well.

Frankly, the problem here at home, in terms of the economy, is that we have a President and a national administration who will not even recognize that there is a problem. Everyone says, what is the administration's proposal? They say to the Democrats: What is your proposal? Well, the majority leader has put out an economic growth package and enunciated a proposal. But, in my own view, the first proposal that we should have, the first hurdle that has to be crossed, is for the President of the United States and the administration to recognize that there is a serious economic problem in this country. How are you going to deal with a problem if you will not even recognize that there is one?

On September 22, Budget Director Richard Darman stated on national television: "I think the economy turned in May."

He continued to maintain that position throughout the summer and fall. On October 30, he told the Washington Post that the economy was recovering. He said: "I think it will stay up. It is not coming up as strongly as we would want."

On November 1, the initial claims for unemployment dipped slightly. The Secretary of Labor said in a statement that the new data were "a positive sign that the country's economic recovery continues to move ahead."

Last week, the initial unemployment claims were the highest they have been since last spring, almost 500,000. It is anticipated that they will drop back down a little bit in the coming week. On November 8th the President said: "I am not prepared to say we are in a recession."

The Secretary of the Treasury stated much the same thing, saying that. "We are coming out of a recession."

Meanwhile, the people out in the country know far better what is the reality. They know they are facing a recession. When Secretary Brady was asked on a recent news program, about

VOL 137 PT 23 NO 21—25 1991 UMI

what kind of measures the administration had, he responded:

> I am not going to jump start the President's State of the Union legislation, but it will be dynamic. It will portray change, and it will address the problems before the country at the time.

The State of the Union Message is coming at the end of January. That prompted David Broder to say, "If there is a need for a stimulus package next January or February why isn't there a need for one now?"

The question is not whether we should do something of the sort that has been proposed here today by the very able Senator from Georgia and the Senator from Oklahoma, which clearly serves our national interest, or whether to address these pressing problems at home. The question is do we have the capacity to do both of these things when our national interest is at stake? Why will not the administration come forward and say, "We think this is a good idea; we need to move on this"? That is what one would call leadership. Yet they are not even able, once this initiative had been proposed, to support it publicly.

On November 20, the President told a group of businessmen the following:

> Some fundamental points to a good recovery. We ought to get it in perspective. Inflation is down, interest rates are way down, personal debt is down, inventories are down, quality is up, and exports are up.

First of all, inventories are not down. Inventories are up over recent months. They are down from what they used to be, but they are going back up. The rate of export growth has slowed from the beginning of this year. Personal debt is up, even though the rate of growth has declined substantially.

We had an article this morning on Michael Boskin, the chairman of the Council of Economic Advisers. A friend of his says his philosophy on economic policy is: "Don't just do something; stand there."

That is what we are up against here. I do not make any apologies. I came out on the floor and was strongly critical of the administration because they would not declare an emergency to pay unemployment insurance benefits. I said at the time that I had supported the President earlier in the year when he came to the Congress and asked for an emergency declaration in order to send some help overseas because I thought the case warranted our doing so.

But, at least let us treat Americans equally. That is really the issue. Let us at least treat them equally. I think we have an opportunity here to serve our national interest—a very important national interest. Our fundamental national security interests are going to be served by this proposal. I do not make any apologies for supporting this proposal and at the same time saying there is something missing with the national administration that not only has not submitted an economic package but will not even recognize that there is an economic problem.

To the credit of the Republican leader, whom I see on the floor, he recognized the unemployment insurance benefit problem back in the summer. My perception of it, and maybe I am wrong, is that the Republican leader, Senator DOLE, of Kansas, was trying all along to drag the administration along to recognize a problem which he perceived. The administration kept saying, no, there is no problem. It is like you saying to someone, "You have to do something about this. What is it you are going to do?" They say, "Oh no, no problem."

Mr. President, there is a problem. There is a problem in the Soviet Union with respect to dismantling these nuclear weapons which the Senator is trying to address by his amendment. But also there is a problem here at home with respect to the economy, which the administration ought to address. In fact, in this situation they are not addressing either one of them—the problem in the Soviet Union and our domestic problem at home. Talk about being traumatized. They are not addressing either one of them. They do not have the capacity to come to us on the nuclear weapons problem in the Soviet Union and say, "Yes, this is a real opportunity to do something," and they do not have the perception to recognize a problem here at home and try to do something about the economy. All the President says is, "The economy is recovering." Meanwhile people out on the street say, "What planet is he living on? Does he realize what is happening here at home? Why doesn't he address this problem here at home?"

So I want to commend the Senator for offering his amendment. I support his amendment, and I do so while at the same time saying to the President he needs to recognize the problems here at home as well. He is not recognizing either one of these problems. As I understand it, the administration's position on these amendments is, "We do not oppose them." That is about it. Is that correct? I do not think they can get beyond that. Their position essentially on the economy here at home is that there is not a problem, we are coming out of this recession. Bear with us because at January, we are going to give you some kind of economic package.

Mr. DODD. Mr. President, if I could reclaim the time, and I will yield the floor here. I know others want to speak on this matter.

I thank my colleague from Maryland. I will just say, in conclusion, Mr. President, I hope that we might even before this discussion ends, which I presume it will in the next few minutes or so, we might hear from the administration there would be an effort. Obviously, it will not happen. We have to take leadership and decide to do this. If that is the case, I will support it. But nonetheless——

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. DODD. I wish to finish a thought and I will yield the floor. I have been standing here for an hour.

There is a need here, it seems to me, and the authors of this amendment have done a good job, I say to my colleagues from Maine and Oklahoma, and others, who are sponsors of this amendment. It would, I think, make a lot more sense to have some indication of support. Maybe that will be forthcoming after the amendment is adopted, but certainly it will be vitally helpful to achieve that.

I just say, in conclusion, that there is a concern out there that we are not addressing aggressively enough, Mr. President, the concerns of people in this country, and I think you need to do both. As the Senator from Maryland indicated, that leadership requires that you pay attention to both if you are going to be truly a great nation.

So I commend again the authors of the amendment. My intention is to support it, with the regret that the administration is being silent on this, and I hope that silence does not continue for long. Leadership is required in this matter as well.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I rise in strong support of the Boren-Cohen amendment.

Congressman ASPIN and I had hoped to put a similar provision before the Senate, in connection with the conference report on the Defense authorization bill. I felt then, and I continue to feel, that it is in our national security interests to help avert social instability in a nuclear superpower that is crisscrossed with fault lines of potential domestic crisis.

I do not favor using Department of Defense funds to purchase food and medicine. Other Government and private programs exist for that purpose. I do favor authorizing the administration to use Department of Defense funds for the transportation and distribution of emergency humanitarian assistance to the Soviet people, should the President find this to be in our national interests.

As it ably demonstrated during Operation Provide Comfort on behalf of the Kurds in northern Iraq, the Department of Defense has unique logistic capabilities. Our military services have excellent commanders and well-trained, highly motivated men and women who can do the job well.

The provision we are now considering would provide the clear authority, and adequate funding, to make possible the transportation of emergency humanitarian assistance to the peoples of the

former Soviet Union. Some related authorities and funding exist in current law. But I believe it wise to give the President unambiguous authority and adequate discretionary funds specifically for this purpose.

I believe it is wise because throughout the territory of the former Soviet Union—a country undergoing political, economic and ethnic strife—sit tens of thousands of nuclear weapons and tons of chemical weapons. Throughout the territory of the former Soviet Union are military units filled with disaffected, poorly paid, and poorly housed officers and soldiers.

Ethnic tensions have produced a swelling number of refugees from areas of ethnic strife. Heightened unrest caused by widening shortages of food and medicine is a real possibility, particularly during the coming winter months. Such shortages could spark civil turmoil and even armed violence. They could lead to weakened control and physical security of the 30,000 nuclear weapons and the tons of chemical weapons on the territory of the former Soviet Union. They could bring to power nationalistic, authoritarian, militaristic leaders for whom such weapons are symbols of power and prestige.

The Boren-Cohen amendment affords us the opportunity to diminish this danger by getting humanitarian assistance where it is most needed in the former Soviet Union in a timely fashion. The failed coup of August 1991 improved the prospects for democracy, economic transformation, and a less threatening Soviet defense policy. However, without Western assistance, there is a real possibility that these prospects could disintegrate into a heightened threat to Western national security interests.

The amendment gives the administration flexibility to respond effectively to an emergency Soviet need for humanitarian aid. It amounts to prudent insurance against a serious risk that could put into question the security of nuclear and chemical weapons. This amendment is in the national security interests of the United States and our allies. It merits our support, and I urge its adoption.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized

Mr. BOREN. Mr. President, I know others want to speak. I believe this has been cleared by the leadership on both sides of the aisle.

I ask unanimous consent that the vote on or in relationship to the Boren-Cohen amendment occur immediately on completion of the debate on the Dole amendment, which will begin just momentarily, with no second-degree amendments in order to the Boren-Cohen amendment, and that, upon disposition of the Boren-Cohen amendment, the Senate without any intervening action or debate, vote on or in relation to the Dodd-Bradley et al. amendment, and, further, that the vote on or in relation to the Boren amendment occur at 5 o'clock today.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I am not certain how much debate the Boren amendment had, an hour and half. I think Senator LEVIN would like a few minutes. It is his original idea, and I am happy to join as cosponsor.

Mr. BOREN. Five-thirty. I think it can be terminated briefly.

The PRESIDING OFFICER. There is a unanimous-consent request from the Senator from Oklahoma. Is there objection?

Mr. DOLE. If I could reserve 15 minutes on that Levin-Dole amendment, I do not think it will take much time. I think Senator LEVIN did want to make remarks.

The PRESIDING OFFICER. Is there objection to the request? The Republican leader has suggested that 15 minutes should be reserved for the Dole-Levin amendment.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Is there unanimous consent before the body?

The PRESIDING OFFICER. There is a request from the Senator from Oklahoma.

Mr. BIDEN. Would the Senator mind restating the request?

The PRESIDING OFFICER. The Senator from Oklahoma can apparently modify his request if he could restate that.

Mr. BOREN. Mr. President, I ask unanimous consent that the vote, as I mentioned before, on or in relation to the Boren-Cohen amendment occur immediately upon completion of the debate on the Dole amendment; that there be, not be exceed—well, let me just say with no second-degree amendments in order to the Boren-Cohen amendment; that, upon disposition of the Boren-Cohen amendment, the Senate, without any intervening action or debate, vote on or in relation to the Dole-Levin-Bradly amendment; further, that the vote in relation to the Boren amendment occur no later than 5:15.

Mr. BIDEN. I object.

The PRESIDING OFFICER. There is objection.

Mr. BOREN. Mr. President, I think there are others seeking recognition on the debate. So I will just withdraw the request and, hopefully, be able to renew when I understand the reason for the objection.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. I simply would conclude the debate. As far as I know, on our amendment, I do not know others wishing to speak on this amendment.

Mr. President, I understand the comments and frustrations that have been expressed on both sides. Certainly, this Senator understands the need to take care of the domestic agenda and the need for us urgently to come together in a bipartisan way to work on serious problems that confront us. As I said during the debate on the unemployment bill, which I consistently supported since it has been several times through this Chamber, I am acutely aware of the problems we face at home. Even in my own small home community in Oklahoma, two or three weekends ago, when I was there, I saw people standing out in the ice and snow, which occurred earlier than any other year since 1911 in my State this year, begging for an opportunity to work for food and shelter for their families. We need to work on all these problems, and we need to come together in a bipartisan way to do it. We need leadership from the White House and bipartisan leadership from the Congress. The problems are serious, and we need to set aside politics even in an election year to deal with them.

Mr. President, I simply say that the issue here that we are dealing with is one of grave importance to this Nation, as I said in the beginning. It is a national security issue. This amendment does not transfer any funds out of domestic programs or programs to take care of domestic need.

This amendment would authorize, if the President declares an emergency, if he joins the Congress in declaring an emergency, it would authorize the President of the United States to deal with an emergency inside those areas that have previously been called the Soviet Union, if it is necessary to do so to preserve social and political stability there.

If we were to have a breakdown of order because of a dire shortage of food and medical supplies or other necessities, we could have a collapse of the political structure as well very shortly thereafter. We have been told that by observers in our own Government. We have been told that by those whose opinion we respect within the Soviet Union. We have been told that by our intelligence community.

I need only remind my colleagues that those governments now in power which are seeking a new cooperative, constructive, friendly relationship with the United States, seeking to join with us in ending the arms race, in the destruction of nuclear weapons, I need only warn my colleagues and say to them again that if the wrong people came to power in those localities, they would then assume control of those weapons of mass destruction.

This is simply a threat that we cannot ignore. The American people understand it. The American people would rightfully hold us accountable if we did not have an emergency plan in

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At the appropriate place in the bill, add

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control instead of open markets, and to

This action and the plan which it

VOL 137 PT 23 NO 21–25 1991 UMI

place to prevent that kind of political collapse from occurring which would lead again to that kind of military threat.

So, Mr. President, I would urge that the amendment be agreed to.

I see the distinguished minority leader on the floor. I think he is prepared to offer his amendment.

I would simply ask unanimous consent that the vote on the Boren-Cohen amendment occur immediately upon the conclusion of the debate on the Dole-Levin, et al, amendment, and that the vote on the Boren-Cohen amendment occur upon completion of the debate on the Dole amendment without intervening motions or amendments, and that the vote on the Dole-Levin, et al, amendment would then occur immediately following the vote on the Boren-Cohen amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I rise as an original cosponsor of the resolution to be offered by Senators DOLE, LEVIN, myself and others. Mr. President, imagine a country split apart by tumultuous political upheaval, fracturing into new, unformed entities, without capital, without the means to generate it, and without the institutions to absorb and multiply it.

This country needs help. If its parts yearn to be democratic and free, they deserve the help of those who can give it. Such aid would be of benefit to both the giver and the recipient, for democratic nations fuel each others' freedoms and perpetuate peace and stability far beyond the sum of their individual contributions.

So stand the former Soviet Union and the United States. The collapse of Soviet communism, one of the most significant political developments of this century, has created untold opportunity for both the United States and for the people of the former empire. These opportunities, however, are not only being missed at this time, they are being substituted for by policies which may do more harm than if nothing were done at all.

The administration's approval of new grain credits to the Soviet Union defies logic. President Bush wants to guarantee loans to a country that does not exist, to be repaid by banks that do not exist, so that food can be distributed by a distribution system that does not exist. Of course, these loans would be backed by American taxpayer dollars. But they also do not exist.

Mr. President, the emerging republics of the Soviet Union need help. But even they do not really exist yet. And therein lies the challenge for our Government. If the United States is to respond to the collapse of communism, it must be guided by the realization that we are in the business of creating, not fine tuning. The Soviet republics, fractured, poor, unformed, most need what America can best offer, our expertise in the formation and growth of political economies.

Helping to create and sustain political economies in the republics will require a multilateral effort, channeled through existing international institutions—the IMF, World Bank, and the like. It will require scores of international experts working directly with the nascent republics to facilitate the emergence of market economies through the creation of trade, banking, taxation, legal, and other systems. It will require multilateral loans, aiming not at American agribusiness profit margins but at the establishment of vital currency stabilization funds. It will require whatever technical assistance can be delivered to those Republics that commit themselves to market economies, minimal barriers to interrepublic trade, and full integration to the world economic and political community.

And, yes, it will require humanitarian assistance, especially, when necessary. We have to be prepared to prevent a catastrophe in the short term, this winter, with food and medicine directed to the areas of greatest need. But we will invite a catastrophe in the long term if the range of our vision is as narrow and ill-conceived as the administration's embrace of grain credits. We can help the people in the republics without dumping billions of American dollars on their former repressive government.

This resolution, the resolution to be introduced by Senators DOLE, MITCHELL, LEVIN, BOREN, COHEN, myself and others, is, in my view, a plan to do that. But, above all else, it represents our call for the long-term vision that is needed to grasp the historic opportunities that are before us. It is imperative that President Bush formulate the plan called for in this resolution.

Several Senators address the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AMENDMENT NO. 1443

(Purpose: To express the sense of the Senate that the President should promptly consult with Congress for the purpose of preparing a comprehensive plan entitled "International Investment for Democracy" that would assist the Soviet Republics to avoid social chaos and achieve economic and political stability)

Mr. LEVIN. Mr. President, I send an amendment to the desk on my behalf, along with Senators MITCHELL, DOLE, BRADLEY, LUGAR, NUNN, DOMENICI, BOREN, and LIEBERMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. MITCHELL, Mr. DOLE, Mr. BRADLEY, Mr. LUGAR, Mr. NUNN, Mr. DOMENICI, Mr. BOREN, and Mr. LIEBERMAN, proposes an amendment numbered 1443.

At the appropriate place in the bill, add the following new section:

SEC. . POLICY TOWARD THE FORMER SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union is undergoing a transformation which opens the possibility of democracy, the development of free markets, new individual freedoms, and integrating the former Soviet republics into the global economy;

(2) if that transformation is not successful, there is a real threat of economic and social collapse, the emergence of totalitarian, security-threatening states, and the proliferation of nuclear weapons, components, and weapons technology;

(3) the national security interests of the United States are best served by stable, democratic societies and free markets in these republics;

(4) the economic interests of the United States are best served by the full integration of the Soviet republics, either individually or collectively, into world markets;

(4) the transformation into working democracies with open market economies is mostly the responsibility of these republics themselves, but the rest of the world can make significant contributions to this effort, linking those contributions to a well-planned reform program; and

(6) the success of structural reforms can best be facilitated by the immediate, coordinated actions of the United States, other nations, and international institutions such as the International Monetary Fund, the International Bank for Reconstruction and Development (also known as the "World Bank"), the European Bank for Reconstruction and Development, and the United Nations which have the skills and resources to assist that transformation without increasing the direct exposure of the United States Government to the debt of Soviet republics.

(b) POLICY.—It is the sense of the Congress that—

(1) it should be the goal of the United States policy toward the former Soviet Union to help the Soviet republics to avoid social chaos and achieve economic and political stability;

(2) that goal can best be achieved by facilitating the transformation of the Union of Soviet Socialist Republics into stable democratic states with free market economies and clearly defined economic and constitutional relationships with each other, binding agreements to minimize tariffs and other barriers of inter-republic trade, full integration into the world economic and political community, and manageable debt burdens;

(3) the President immediately should begin consultation with Congress and should promptly prepare and transmit to Congress a comprehensive plan entitled "International Investment for Democracy" that would assist the Soviet republics to avoid social chaos and achieve economic and political stability by articulating step-by-step actions that should be taken by such republics, acting together or individually, and the supporting actions that should be taken in response by the United States and other nations through international institutions;

(4) the International Investment for Democracy plan should include expeditious action—

(A) to provide prompt humanitarian assistance when necessary to prevent life-threatening shortages of food and urgently needed medical supplies;

(B) to combat the proliferation of nuclear weapons, components, and weapons technology, and to facilitate safe control, storage, and dismantlement of nuclear weapons;

(C) to provide technical assistance to facilitate the emergence of a market economy;

(D) to facilitate a dramatically increased number and intensity of contacts between Americans in the private sector and citizens of the Soviet Union;

(E) to help Russia and other Soviet republics to draft laws, establish political and legal structures, and build institutions that facilitate open, democratic, market societies; and

(F) to articulate clear conditions under which a currency stabilization fund could be used to facilitate the goals in paragraph (1), and, at the appropriate time, encourage international institutions to establish such a fund with contributions from leading industrial nations;

(5) assistance should be provided to republics that are establishing viable political, legal, and economic structures, including free and open markets, that agree to minimize barriers to inter-republic trade and that, individually or collectively, agree to participate in macroeconomic stabilization programs designed by international institutions and the delivery of such assistance must be fully consistent with the sovereignty, laws, and independence of participating republics;

(6) bilateral programs within this plan should efficiently pursue the goals of paragraph (1) and minimize the cost to the taxpayer and the debt exposure of the United States Government; and

(7) where currency and debt stabilization programs further the goals in paragraph (1), they should be provided through existing international financial institutions, rather than through direct United States Government assistance.

Mr. LEVIN. Mr. President, first, let me thank the cosponsors of this amendment. We have a very broad bipartisan coalition that supports this amendment, and I think that support is a very significant portion of the amendment, as well as the language that is in it.

Those cosponsors include Senator MITCHELL, Senator DOLE, Senator BRADLEY, Senator LUGAR, Senator NUNN, Senator BOREN, Senator LIEBERMAN, and Senator LEAHY.

I particularly want to express my gratitude to Senator BRADLEY who has spoken a little earlier this afternoon on this amendment, who has worked so hard on this issue for so many months. Our offices, together with a number of other offices of Senators I have mentioned, have been able, now, to put together an amendment which represents a broad, bipartisan approach to an issue very critical to American security.

What we seek here is urgent action to protect American security through a comprehensive, coordinated plan, crafted by the President and Congress together to help preserve democracy in the Republics of the former Soviet Union.

It has been 3 months since the August coup in the Soviet Union. When that coup failed, we all hailed the victory of Democrats over the forces who wanted to turn back to Central State control instead of open markets, and to repression instead of freedom.

But the failed coup was part of a chain of events that could lead to a larger failure. Chaos is on the rise in the fledgling Republics of the former Soviet Union. Food shortages, hyperinflation, ethnic unrest, violent nationalism—all in a land where 30,000 nuclear weapons are still located.

It is time to work together to do what we reasonably can do to help stem that chaos and the security threat it poses for the people of the United States.

This amendment says the goal of United States policy toward the former Soviet Union is that the Republics avoid social chaos and achieve economic and political stability. The people of those Republics must do the lion's share of the work, just as they are doing the suffering. But we and our allies can help them avoid new dictatorships which would threaten us. We can help those Republics transform into stable democratic states with free market economies, and clearly defined economic and constitutional relationships with each other.

Our amendment urges the President to promptly consult with Congress to prepare a comprehensive plan for achieving this goal, an "International Investment for Democracy" that would lay out step-by-step actions the Republics could take and the supporting actions that the United States and other nations would take in response.

Some elements of the plan can be bilateral: humanitarian assistance to prevent life-threatening shortages of food and urgently needed medical supplies; technical assistance to prevent nuclear weapons proliferation and facilitate safe control, storage, and dismantlement of those weapons; and expertise in establishing political, legal, and economic structures.

Other elements should be multilateral, with the majority of contributions from other nations, and coordinated by the international institutions with expertise and experience.

For instance, this amendment says the comprehensive plan should articulate clear conditions under which a currency stabilization fund could be established with contributions from leading industrial nations, and the conditions a Republic must meet in order to use such a fund. The potential for such a currency stabilization arrangement could provide a powerful incentive for Republics to institute economic reforms and survive the transition from a Communist state to a free economy.

The amendment is a statement about the importance of bipartisanship in this critical area of policy.

The amendment is a bipartisan attempt to take real action and prevent chaos in the Soviet Republics, before it is too late. It is not a giveaway. And it is not an attempt to divert attention from serious problems at home.

This action and the plan which it urges be put into place is truly in America's own interest. And to act in our own self-interest does not mean we need to be self-centered. Yes, it is long overdue that we put our own house in order. I believe that deeply, and it has been neglected. But putting our house in order does not mean building a fence, or pulling down the blinds to shut out the world. We have to be engaged in the world to enhance our own security.

The American people understand how important it is for our own security that we prevent a return to totalitarian dictatorships in the former Soviet Republics. Many of us have donned a soldier's uniform to protect this country's freedom—some bear the scars of battles fought to stop dictators. As taxpayers, we have spent trillions of dollars to fight the cold war. Now we can certainly muster a tiny fraction of those resources to participate in an international investment for democracy that protects the gains freedom has made in the land of our former adversary so it does not collapse into a new dictatorship.

We are not talking about giveaways. We are talking about an investment in our own security. And, in some important areas, we really can do a lot with very little. Programs to promote bilateral trade, investment, and business between American companies and enterprises in the Soviet Republics can be initiated efficiently and inexpensively—but they can yield great results.

Peace Corps volunteers can help people help themselves. A volunteer managers corps can share the expertise of American businesses directly with a new generation of entrepreneurs in the former Soviet Republics. Let us get judges and lawyers over there to help set up property laws and fair judicial systems. Let us get our technicians and laboratory scientists over there to actually take apart the nuclear warheads that have been pointed at us. Let us get our Commerce Department to analyze Soviet enterprises the way they do in other countries, so American companies can identify joint venture opportunities.

But let us not just watch and hope that this all happens. We need a comprehensive plan, a coordinated effort designed by the administration and Congress together, and we need it urgently. We do not need a Marshall Plan in terms of dollars. We do need the breadth of vision that the Marshall plan reflected.

The odds are tragically against democracy surviving in the Soviet Republics through this winter and beyond. Our own ambassador to the Soviet Union, Robert Strauss, is warning us about the surge of popular discontent. "There's an awful lot of people who'd like to swap what they have

VOL 137 PT 23 NO 21—25 1991 UMI

now and go back to the security of knowing what two rubles would buy—knowing all they have to give up would be a little freedom of speech. * * * out of that kind of climate, demagogues are made." Ambassador Strauss added that without some kind of help we could "end up looking at a real fascist-type situation."

A recent KGB report said that emerging social conditions are ripe for "a fascist coup."

Newly reinstalled Foreign Minister Eduard Shevardnadze warned that dictatorship may return, and he is the one who accurately predicted the August coup. You can hear the conditions that breed fascism in the voices of the Soviet people:

A woman standing in line for boots in the snow says "My optimism is running out. It is down to zero * * * I have no future."

A woman and her child waiting in line for food says: "My kitchen is empty, my kids are hungry." She wonders aloud about the new leaders of her country, "have we made a mistake?" We all ought to be haunted by those words. We should tell her strongly, as strongly as we can, that whatever contribution we can reasonably make that will be efficiently and effectively delivered, "You have not made a mistake."

A 63-year-old man, waiting in the snow to buy bread says, "We are not living * * * we are dying from within."

A Moscow engineer says, "We just want to live our normal lives * * *."

Let us remember what normal lives were in the Soviet Union and how that normalcy threatened the West.

Yet we go to the stores and we see that the shelves are empty. People at my job say the government gave us freedom of speech and took away the food."

In yesterday's Washington Post, we read the assessment of Ella Yudrina, the deputy head of a Moscow city district organization responsible for food supplies. She says:

> There is a time factor. The people who made the coup are still sitting out there and waiting, waiting until things get bad.

Mr. President, let us heed those kinds of warnings from our Ambassador, from Eduard Shevardnodze, and others. We should end the mischaracterizations when it is our future security that is the issue. We should end the arguing about jurisdiction between congressional committees and end the competition between the Departments of State and Defense and others about who should be in charge of this effort. We should come together, now, and assemble a comprehensive plan to help preserve the Soviet Republics as democracies, and foster them as allies and peaceful members of the family of nations, and to prevent them from falling back into the hands of repressive dictators who will threaten our security, and cost us trillions more.

If we squander the opportunity—if we fail to join together and take action now—we will never forgive ourselves.

Let us pass this amendment; let us get to work immediately with the President on this plan. It is an essential element of the larger task of getting our own house in order and keeping our own house in order.

The Chairman of the Joint Chiefs of Staff, Colin Powell, said recently that it is in our national security interest to see that democracy prevails in the former Soviet Union and that the causes of civil unrest be addressed.

The new NATO doctine—this is a formally adopted doctrine now by NATO, our own alliance—says that the biggest risks for the alliance now come "from the adverse consequences of instabilities that may arise from the serious economic, social and political difficulties, including ethnic rivalries and territorial disputes," in the Soviet Union.

We have a window of opportunity we never expected this quickly. But it can close as quickly as it opened.

These events may take place a long way from here. But they affect us drastically, as drastically as Hitler affected us when he burned down the German parliament, and as drastically as Stalin affected us when he signed a pact with Hitler. Those events took place thousands of miles away also, but what seems a long distance away sometimes can affect us very fundamentally and be manifested at home.

There are tens of thousands of nuclear weapons at stake which could be scattered around the world, from Libya to North Korea, if Soviet collapse and chaos lead to nuclear proliferation. The American people understand that, and we should not be so blinded by fear of political attacks that we cannot see what they see.

Mr. President, let me close by again thanking the cosponsors of this amendment for all the help that they have provided in crafting it, for bringing it to the floor; again, particularly, the Senator from New Jersey, Mr. BRADLEY. I want to thank the Democratic leader, Mr. MITCHELL, for cosponsoring this; Mr. DOLE, Mr. LUGAR, and all the other cosponsors of this.

It has been a long process in drafting this amendment. I do hope the amendment can be adopted and we can then, on a bipartisan basis, get on with adopting a bipartisan plan in America's interest.

Mr. DOLE. Mr. President, before I get into my statement on the amendment, which will take only a few moments, I want to say that I am a bit disappointed by the last moments of debate on the Boren amendment.

We started this morning with an effort to forge a bipartisan approach to some important foreign policy issues. Senator NUNN, who was the author of the first amendment we dealt with; and Senator BOREN, who authored the amendment we just debated—made that point.

I made it, too, in a statement I put in the RECORD on those two amendments.

And I thank those Senators for their good faith effort at bipartisanship.

But now—even as we debate these bipartisan initiatives—we have had to sit through a series of new potshots on President Bush. That is just not the way those of us who have entered into this effort envisioned that it would go.

The ground rules for some seem to be—Republicans join us, and hold their partisan fire; but we are free to keep throwing the bombs at President Bush.

Well, that is not the way the game is played. We are not going to play it very much longer that way. We will find out whether we are going to have partisanship or whether we are going to settle down and do the business of the Senate.

So I hope all of us, on both sides of the aisle, can get back to the spirit that we claimed to be embracing when we started this debate. We are either going to have bilateral rhetorical disarmament or we are going to continue a partisan rhetorical arms race.

We are either going to be bipartisan—or we are not. And we cannot be selective.

People were jumping up this morning saying this is not an aid program, so I am going to vote for this, but I am not going to take anything away from anybody in America.

Well, nobody wants to take away anything from anyone in America. But I have said on this floor time and time again, the Soviet Union, or former Soviet Union, is pretty important to all Americans, and if there is a collapse, or if there is another coup, or if there are riots, or if somebody brings up and causes a lot of problems, the $2, $3, $4, $5 billion we may invest now may save us $10, $20, $30, $40, $50 billion later on next year.

I know some of us who come from farm States are accused, well, they vote for that because that helps the price of rice, or the price of wheat, or the price of something. I must tell you that many farmers in the United States share the same views of a majority of other Americans. We want to be paid back. We have extended credit guarantees to the Soviet Union. What does that mean? That means if they do not pay back their loans on the first $2 billion we are going to pay about 98 cents on the dollar, and the last $2 billion of export credit guarantees we are going to pay 100 cents on the dollar, we the taxpayers. So we want to be paid back. And I think we have made that clear.

So I just suggest that when I hear statements, or read statements, or watch TV, and somebody says, "If you live in America, President Bush doesn't care about you. But if you live anywhere else in the world just call him

up, he will send you a check, or he will send you anything he wants," that we can play that game for so long. But it is not responsible.

I am hoping now we are getting back on a bipartisan track and we are addressing this concern because it does affect the interests of every American. I suggest that we are doing the responsible thing, and I hope we will continue.

IN AMERICA'S INTEREST

Mr. President, I am pleased to join Senator LEVIN as an original sponsor of this important amendment.

As I noted in our discussion of earlier amendments to this bill, the issue of aid to the so-called former Soviet Union has been obscured by a blizzard of political rhetoric.

In a pell-mell pursuit of partisan advantage, the national interest has been left far behind. Now we are trying to regain it. And I commend those who are doing that.

Tragically, in the process, we have run the risk of losing a historic opportunity to advance the national interest of the United States.

Just a few short weeks ago, free men everywhere rejoiced as a revolution of freedom swept across the Soviet Union.

Here in this country, we celebrated not only because freedom won, and tyranny lost—though that, in itself, is cause for celebration.

But we celebrated, too, because the new reality in the former Soviet Union brought so many important concrete and potential benefits to the United States, and to the American people: A reduced threat of Soviet aggression; improved prospects for even further arms reductions; slashing of Soviet support for Kremlin clients such as Castro's Cuba; enhanced Soviet cooperation in managing regional crises; and dramatically expanded prospects for mutually beneficial investment and trade relations.

But, even as the celebrations continued in Moscow, here in Washington, and around the world—harsh reality also began to set in.

The fact is, we cannot take for granted that the experiments in freedom and free markets in the former Soviet Union will succeed.

We cannot take for granted that Boris Yeltsin's government in the Russian Republic, or any of the other fledgling democratic governments, will survive and prosper.

We cannot take for granted that we in the United States will enjoy any of the substantial benefits I have just outlined, over the long haul.

Freedom has won its first "battles" in the Soviet Union; but a hard winter of ongoing struggle lies ahead.

And—while the outcome of the struggle will largely be up to the people of Russia and the other Republics to decide—there is a big American stake, and a potential American role, in determining the outcome.

It is very important to us how this game comes out, and we cannot afford to just stand on the sidelines and hope for the best.

We should do what we can to bolster the forces of freedom, to help them survive and prosper, for one very simple reason—it is in our interest, the American interest, to do so.

From that perspective, those things we can do to help represent not only "aid," in the traditional sense, but an "investment," in a very real sense—an investment in America's security, economic opportunities, and overall national interest.

That is why this bill calls for a program of "international investment in democracy." Because modest, well-thought out, and well-managed programs of support for freedom and free markets in the former Soviet Union are the best and most cost-effective long-term investment we can make in America's well-being.

Now, do not get me wrong, and do not misread this resolution. Since August, I have been debunking the notion advanced by some that we ought to start writing out "big bucks" checks to anyone in the former Soviet Union. We can not afford to do that, and it would not make much sense.

That is not what we are talking about in this amendment.

This resolution does not—repeat not—call for some kind of new multibillion dollar "Marshall plan for Moscow."

Instead, it mandates the formulation of a six-part package of low-cost/high-impact programs, aimed at real and urgent needs; and tied to concrete, identifiable benefits to the United States.

Specifically, the package would include:

First, of course, is urgent humanitarian assistance, of the kind envisioned in the Boren-Cohen amendment we will deal with soon; and in the President's proposed food credit guarantee package announced last week.

Second, support to dismantle nuclear weapons and missiles, such as we have mandated in the Nunn-Lugar amendment. We have had that vote earlier today.

Third, technical assistance to help develop free markets.

Fourth, support for expanded contacts between the private sectors and people of the United States and the Republics of the former Soviet Union.

Fifth, advisory assistance in developing democratic institutions and legal systems.

And, sixth, an analysis of the Soviet financial situation, aimed at producing a gameplan for the establishment, and utilization of any currency stabilization support deemed effective and affordable.

The amendment also makes it clear that any of this aid would be conditioned on a continuation of progress toward democracy and free market economies.

The amendment mandates an American strategy coordinated with our allies, and depending on them to bear their fair share of any costs.

Finally, the amendment strives to take this whole issue beyond the partisan pot-shotting that so many have been engaged in. It urges the President to engage in prompt, quiet, comprehensive dialog with the Congress—aimed at formulating a national strategy, in the national interest, on this very important issue.

Mr. President, this amendment says a lot in a relatively few words.

More important, it says the right things—in a clear and straightforward way.

It outlines a very comprehensive, solid, and sensible strategy.

It is a strategy I believe the President will welcome, in important part because it represents support for just the kind of approach he has already been pursuing.

So I commend the distinguished Senator from Michigan, Senator LEVIN, for his leadership on this issue. I commend his colleague from New Jersey, Senator BRADLEY, who has made important contributions to this amendment.

And I urge all Senators to join us in passing the amendment at the earliest opportunity.

Mr. NUNN. Mr. President, I want to congratulate the Senator from Michigan for this initiative. What he has done is recognize we are indeed at a historical moment in history. I do not know if this is the most important event of this century in terms of developments in the Soviet Union, but it certainly is the most important series of events we have seen in the Soviet Union and Eastern Europe since World War II.

When one considers, the chemical weapon component, the nuclear weapon component, the opportunity for destruction of weapons of mass destruction is before us, and also the unprecedented danger of proliferation, a greater danger of proliferation than ever faced before in the history of mankind.

Our role in the Senate is to start a process in this country, and hopefully the Western world, to recognize both the opportunity and the dangers and to basically take advantage of the opportunity and diminsh the dangers.

The Senator from Michigan and the Senator from Kansas and others who have sponsored this amendment have basically come up with an amendment which urges the President to understand the historical nature of where we are, and to come up with a comprehensive plan to deal with this situation.

We started on that today. But it has a long way to go, and it is going to be a matter of years; it is not going to be a matter of weeks or months.

I congratulate the Senator from Michigan for his leadership in this re-

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tempt to do so, attempt to exercise

Mr. BUMPERS. Mr. President, re-

to this problem. They are looking for

VOL 137 PT 23 NO 21—25 1991 UMI

spect. I am a cosponsor, I believe, of the amendment. I believe it is a very important message to the President, as we said a few minutes ago, that we really need leadership from the White House. We need leadership and we need a comprehensive approach to it which we can begin to address as a Nation, and hopefully to join together with our allies in the world.

Mr. BIDEN addressed the Chair.

Mr. LEVIN. Mr. President, I am going to yield the floor. If I could just thank our friend from Georgia before the manager is recognized.

His amendment today, I believe, was a courageous step. It was the first step, critical step, in addressing what is really an opportunity we never thought we could have this quickly, and now we have to take full advantage of that opportunity. The tenacity and courage of the Senator from Georgia in pressing forward his amendment is an important step on this road. I thank him again for his efforts and for his remarks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN], is recognized.

Mr. BIDEN. Mr. President, I compliment the Senator as well for urging this plan. But I must tell you, I am frustrated. The Foreign Relations Committee 2 years ago suggested this. The Foreign Relations Committee 2 years ago held extensive hearings. It was suggested that no one could expect this a year ago. We did expect it a year ago, and we drafted legislation a year ago called SEED II. It did and does authorize the President to be able to do everything that is mentioned here and more: exchange programs of all kinds, technical assistance constituting Western-style financial systems between bank and stock markets, advice on creating an agricultural extension service, agricultural distribution system, business centers to promote United States business in the Soviet republics, promotion of sister institution activities between United States colleges, United States libraries, and other institutions.

The reason I am frustrated, Mr. President, is because it is as if we all of a sudden discovered this. My criticism is, with all due respect to this administration, it has no foreign policy. We are behind the curve on everything.

Mr. DOLE. Gulf crisis.

Mr. BIDEN. The Senator said the gulf crisis. We still have a crisis. The guy named Saddam Hussein is still there, so obviously we have a continuing crisis.

The point I want to make here is that we are in a circumstance whereby the authority the President needs to be able to do all we say we want him to do we have already passed out of this body. But there is continued resistance to giving the President that authority.

I would respectfully suggest that the one way we are going to get a plan out of the President is when, in fact, the President knows he is authorized to do everything that has been asked for and more. And then he cannot fail to come up with a plan, because he cannot suggest that he does not have the authority to do the things we are all saying need to be done.

And lastly, if my friend from Kansas, the minority leader, will listen to this, I believe it will satisfy him a bit. I think it is time the Democrats also stop talking about whether or not the President should be involved in these foreign policy matters. What we should be discussing is the foreign policy matters. What we should be discussing is the point Senator SARBANES made. There is much to be done abroad, much to be done that is not being done, much in which the administration should take the lead. However, there is much to be done a home.

So I ask unanimous consent that at this moment, at the end of my comments, the entire SEED II bill be printed in the RECORD.

I will cease and desist discussing this any longer, except to say it has been frustrating. For 2 years—2 years now—I have been meeting with the administration. Secretary Eagleburger signed off a year ago on all this. We agreed on it. Several of my colleagues delayed progress on it. Then, finally, our colleagues agree upon it. And then the administration was responsible for the delay. At last our colleagues and the administration agree upon it. Now we act as though we have discovered something new today.

This needs to be acted upon and needs to be acted upon urgently. I hope that we finally will get all of our colleagues, the administration, and the House on board to do what everyone is acknowledging needs to be done, because the Senator from Kansas and the Senator from Michigan are absolutely right: Time is of the essence. And it does not lend itself to us suggesting that there is any benefit or lack thereof in one party or another suggesting what ought to be done.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3595

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to H.R. 3595, the Medicaid moratorium bill, occur at a time today or tomorrow to be determined by the majority leader after consultation with the Republican leader.

The PRESIDING OFFICER. Is there objection? Hearing none, that will be the order.

Mr. DOLE. I was going to ask the majority leader if he might give us some indication, if we could wrap this measure up fairly soon, what might happen the next few hours?

Mr. MITCHELL. Mr. President and Members of the Senate, I remind Senators that we are here on the day before we expect to adjourn for the year. It is imperative that we complete action on this measure, on which we have now spent most of the day, and I would hope that the votes which are scheduled, I believe on two amendments, can occur promptly.

There will then follow a period for debate on the Medicaid moratorium bill, but I do not intend that that vote occur immediately, because we want to try to finish the unemployment insurance bill, which is of vital importance to virtually every Member of the Senate. And following on that, the Soviet MFN bill.

I will be meeting with the Speaker, the majority leader, and the minority leader of the House, along with the distinguished Republican leader of the Senate, in approximately an hour in an effort to assess the progress we have made and to determine what steps are necessary to complete action on the several important measures before us to adjourn by Wednesday morning.

We have made a good bit of progress, but we have a number of items that we are right on the verge of completing but we have to get done.

I hope very much that we will be able to complete action quite promptly on this bill. This bill has been debated all day. Senators have been acting as though this is the second day of the session rather than the next-to-the-last day of the session.

We do have to have a period of debate on the Medicaid moratorium bill; 45 minutes are scheduled.

A lot of Senators are interested in that. That is a critical matter on which we must act, and we want to try to act, if possible, this evening on the unemployment insurance bill and on the Soviet MFN; perhaps later this evening vote on the cloture motion on the motions to proceed to the Medicaid moratorium bill, or tomorrow under the authority just granted to me following consultation with the Republican leader.

Mr. DOLE. That would still leave, just so nobody thinks tomorrow is a piece of cake, the highway bill, the crime bill, the RTC, and the banking bill, just to name four major ones.

Mr. BUMPERS. And a supplemental appropriations.

Mr. DOLE. And a supplemental appropriations, which may or may not survive.

Mr. MITCHELL. Mr. President, that is correct. It is going to be extremely difficult, under the best of circumstances, for us to complete action on all the measures that we have and adjourn prior to Thanksgiving. It will become impossible if we have to debate every measure for a full day. There are just too many measures and not enough days.

So I urge my colleagues, unaccustomed as we may be on brevity, to attempt to do so, attempt to exercise self-restraint during this period so we can get all of these measures done beforehand and are able to leave by Thanksgiving.

Mr. DOLE. If I could just mention one other matter, I think once we get to the Medicaid problem, it could take several hours. So I do not want to leave anybody under the impression that it will be just 45 minutes; it is going to take several hours unless we can reach some accommodation. The sooner we can dispose of this matter, which is very important—I want to congratulate everyone for their contributions—it will take some time once we get to Medicaid.

Mr. MITCHELL. Mr. President, I do not want to leave the impression that by mentioning several things here the distinguished Republican leader or I have established an exclusive list and that nothing else will be considered. There may well be other things. The Finance Committee reported out legislation to extend the expiring tax provisions, and there may be other things.

So I do not want to create an incorrect impression that by mentioning several important things we intended to establish that as an exclusive list.

Mr. DOLE. Mr. President, we have also been notified by the Labor Department that unless we complete action on the unemployment bill tonight, there are about 200,000 unemployed people in 18 States who are going to have great difficulty getting their reachback. So it is very important that we complete action on that tonight. I think that can be done by a voice vote. I do not know of any objection.

But I just say to all of my colleagues, some who represent one of those 18 States, we hope to do that this evening.

Mr. MITCHELL. I want to yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to ask the majority leader if he previously sought a time agreement on this amendment.

Mr. MITCHELL. I have not. But is there any problem with proceeding to a vote right now? I think this would be the best time.

Mr. BUMPERS. As soon as I get my 10 minutes, I am ready to vote.

Mr. DOMENICI. I need 2 minutes.

Mr. LEVIN. Senator WOFFORD wanted a minute; DOMENICI wanted 2; BUMPERS wanted 7 or 8. About 15 minutes should do it, equally divided.

Mr. DOMENICI. I do not need 2.

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 15 minutes more debate on this amendment, with the time equally divided under the control of Senator LEVIN or Senator DOLE and Senator BIDEN; that the time be equally divided and controlled by Senators DOLE and LEVIN.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, reserving the right to object, I just a moment ago said I would like to have about 6 or 7 minutes. The time is going to be controlled by Senator DOLE and Senator BIDEN? No objection.

Mr. DOLE. I reserve 3 minutes on this side and 12 minutes to the Senator from Delaware.

The PRESIDING OFFICER. There being no objection, without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I expect we will have a vote in 15 minutes on this, and then that will be followed by a vote immediately on the—Boren will be first and then this amendment, and I hope we do not need a vote on final passage, that no Senator will request it, so we get moving on these other things.

I want to repeat. We have to pass this unemployment insurance bill. We have to get to that. That is a matter that is of critical importance to hundreds of thousands of people all over this country. We have to get that done.

I thank my colleagues. I yield the floor.

Mr. SASSER. Mr. President, I support the motion to proceed.

The interim final regulation that is now on the books and will take effect on the 1st of January, cannot be allowed to go forth.

Many States, including Tennessee, have severe problems in financing their Medicaid programs. If this regulation is not blocked, there will be fiscal chaos in Tennessee and many other States. State legislatures will be thrown into disarray as they seek to revise their Medicaid matching programs in very short order.

The fiscal situation in my own State of Tennessee is instructive. Tennessee now maintains a $2.3 billion Medicaid Program. Yet, if the current regulations are allowed to go into effect on January 1, 1992, Federal Medicaid payments to Tennessee could be cut by some $380 million in the first 6 months of 1992. This would mean that the State legislature would have to come up with a $380 million tax plan levied on Medicaid providers, taxpayers in general, or both.

The Tennessee Legislature and other legislatures around the country should not be put under the gun to rush forward with new tax legislation which they may not well be able to afford.

Moreover, thousands of low-income women, pregnant women, and children would likely lose their eligibility for Medicaid and see their services cut. Many hospitals may revise their Medicaid admissions procedures, further curtailing access to Medicaid services. Therefore, taxpayers, Medicaid beneficiaries, and Medicaid providers all have a major stake in not permitting these final regulations to go into effect.

Mr. President, States are now trying very hard to find an equitable solution to this problem. They are looking for alternative funding means to finance their Medicaid programs.

States are making an effort, but they are under tremendous fiscal pressure. To date State governments have raised taxes by some $25 billion in 1990 and 1991, and they still have had to cut State spending by some $7 billion in 1991. Clearly State fiscal coffers are bare and they have very little leeway to raise additional taxes to support a higher proportion of medical spending, a good deal of which has been mandated by Federal law.

We simply cannot solve this problem by regulation. The remedy to this Medicaid financing dispute must be through the legislative process.

But we need more time to arrive at that legislative solution. And we cannot put States at such fiscal risk during that process.

Mr. President, we have all heard that a legislative solution may be at hand. The National Governors Association and the administration believes that they have found a solution. But a number of States have still said they want to take a look at the detailed legislative language of this compromise before they sign on, hence the need for a legislative moratorium.

It may take a little longer to bring everyone on board, but in the meantime we need to proceed with this legislation. We have to give the States, the administration, and the Congress, a chance to work things out.

Mr. President, I want to make it clear that the National Governor's Association compromise seems to have many constructive elements. The Governor of Tennessee, the Honorable Ned Ray McWherter, has indicated that he supports such a compromise in this broad outline. But most of us have only seen that compromise in draft form and I think we all need a little more time to digest it.

We may be able to carefully study the Governor's compromise later—maybe even before we adjourn. It may be even possible to legislate the compromise in very short order. But only if we move forward with this motion to proceed.

I urge all my colleagues to vote for the motion to proceed. We need to get this issue solved before we recess in order to avert fiscal chaos in the Medicaid Program beginning in January 1992.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 7 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the distinguished floor manager very much.

First, I want to say this is really not a debate. This has been a time for Senators to make statements, which in my opinion have been extremely eloquent, extremely well reasoned. I can remem-

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the investment in a few years, there

U.S. Senator of knowing you did every-

Nothing in his treaty will heal the

Senator NUNN was then saying. At that

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VOL
137
PT
23
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1991
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ber during the debate in January on Desert Storm, I thought that was the best debate I had ever heard in the Senate, and, whether you were for going to war immediately or not, most of the American people, even those who disagreed, for example, the people on my side, found that debate to be edifying and in the highest traditions of the U.S. Senate.

Here we have an issue that I just heard Senator LEVIN and Senator NUNN discuss with what I thought was acute perception about what we are really doing here.

Bear in mind those who may have some fear of their own rhetoric or especially the rhetoric of others or those who are terrified by the prospects of a 30-second spot, that what we are doing here is calling on the President, if you seek cover, to submit a proposal to the Congress using all the financial resources of various world organizations and possibly the resources of the United States to make certain that what is a very distinct possibility does not occur. To call on George Santayana, once more—as has been done thousands of times on this floor—that is, those who cannot remember the past are condemned to repeat it. This is a classic case. Do you not remember studying that Hitler came to power in 1932 as a result of economic chaos in Germany, where it took a wheelbarrow full of German marks to buy a loaf of bread? Do you not remember a dictatorship flying of the hammer and sickle in 1917 capitalized on the tremendous economic disparity in what had been or became the Soviet Union, then Russia?

Mr. President, what we are saying here is that this is a sense-of-the-Senate resolution and we ought to support it unanimously. There are some people who simply cannot acclimate themselves to the end of the cold war. I said on the Senate floor many years ago that, if the Soviet Union were to agree to unilaterally disarm and let the New York Times editorial board watch the whole thing, there would be a lot of people in this body voting no.

The Senator from Georgia has already offered an extremely meaningful proposition for us to help the Soviet Union dismantle their war machine, particularly their nuclear weapons. He was in a meeting with me the other day with a high-ranking Soviet official. This is what they want more than anything else. Even they are frightened of the proliferation of their own weapons because of the volatility and the instability of the republics of the Soviet Union.

For every nuclear weapon we can help them dismantle, you think about what we have done for ourselves. If I were to offer the Members of this body, Mr. President, an opportunity to make a $5 investment and tell them that this is a little bit dicey, but it holds the possibility of returning $100, $200 on the investment in a few years, there are not many people here who would not take advantage of that. And consider the fact that in 12 years we have spent $3 trillion on the cold war, and it is over—the most monumental event of this century, and maybe ever, has occurred, and here we are having a very difficult time acclimating ourselves to that reality.

Mr. President, we have an opportunity to make an investment with an unbelievable return. The Senator from Michigan has appropriately said trillions. Incidentally, the Soviet Union bankrupted themselves staying up with us—I hesitate to use the word "bankruptcy" for us, but we do have a $3.5 trillion debt to show for a lot of things, not the least of which is the cold war.

Those who do not seize the moment deserve their fate.

So not to take advantage of the chance of a century, and maybe forever, would be the height of irresponsibility. It may be, as one Senator said to me a moment ago, that ethnic strife is too deep in the Soviet Union, they cannot make it.

Look at Yugoslavia. Most people never realized the ethnic differences that were so deep and so pervasive in Yugoslavia, and now that country is being literally destroyed before our eyes because of it.

Maybe that is what will happen to the Soviet Union. Maybe the Russians will be fighting the Ukrainians, or the Kazakhstanis will be fighting the Uzbeks.

I think that is the big danger in that part of the world. It may be that they may not make it, and it may be that if we put a few billion in, or if the President comes with us on a very bold initiative on our part to try to make certain that the Soviet Union heads into a free market, into a democracy, into a viable economic entity that will in fast be buying our goods a few years from now, that will be allowing American entrepreneurs to assist them. Think about the unprecedented opportunities that present themselves.

Make no mistake about it, there are certainly dangers. The danger is, as our Ambassador to the Soviet Union points out, no matter what we do, he said he feared a fascist future for the Soviet Union.

We all know there is always some charlatan coming down the pike looking for this kind of opportunity—you see it happening in a few States in this country—seizing on the discontent and the malaise of the people. And that certainly can happen there.

Mr. President, I just wanted to say to my colleagues, and I think this is going to pass with a very healthy margin, but there is one thing for sure. If we can get together with the President to do the things this resolution calls for, and the Soviet Union still does not make it, you will have the satisfaction as a U.S. Senator of knowing you did everything you knew to do; that you were rational, thoughtful, and you tried to prevent it. If you do nothing for this country, historians have a right to hold you responsible.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I think we have 3 minutes. I yield myself 3 minutes out of what Senator DOLE has reserved.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I rise in support of the Conventional Force in Europe Treaty and its implementing legislation.

As we look back over the past decade we see concrete signs that the world is steadily moving toward democracy. Around the globe, people are resisting and peacefully overthrowing repressionist governments. Nowhere has this revolution, this surge toward democracy, been more dramatic than in Europe. We have witnessed Germany's joy as the Berlin Wall fell, and that divided country reunited in a commitment to democratic principles. We are witnessing the courage reunited in a commitment to democracy and a free market economy. We are witnessing the countries of Bulgaria, Czechoslovakia, Romania, Hungary, Yugoslavia, and Albania make the same transition.

The United States is offering aid to these transitional countries. While technical advice and monetary aid is of great assistance, nothing can facilitate the rush toward democracy more than the ratification of and adherence to the Conventional Forces in Europe [CFE] Treaty. This treaty ends the military standoff that has existed in Europe for the last 40 years. At the height of the cold war over 80,000 tanks and 5 million ground troops faced off against each other. With the CFE Treaty, the tanks are reduced to 20,000 each.

There have been many unilateral gestures to reduce the tensions in Europe. The Soviet Union has withdrawn its forces from Hungary and Czechoslovakia, and has agreed to withdraw from Germany by the end of 1994. The United States has announced its plans to withdraw 50,000 air and ground troops from Europe. The CFE Treaty codifies these withdrawals and provides each side with tremendous insight into the other's military structure and composition. The transparency of forces has been unheard of till now.

THE HORRORS OF ETHNIC STRIFE OVERSHADOW CFE

As we vote today on the CFR Treaty, we are shadowed by the horrors of ethnic strife—some call it a new thirty years war—that is spreading throughout the lands of the country we know as Yugoslavia. We cannot take too much pride in the CFR Treaty as we recall the ongoing atrocities of Vukovar and Dubrovnik.

Nothing in his treaty will heal the million families that include persons of mixed Croatian, Serbian ancestry. When one parent has to choose between remaining with spouse and child to face almost certain death or abandoning his or her family to seek refuge with fellow nationals, the surviving members of that family will never be the same. That is what is happening now in the nation we once called Yugoslavia. And there is nothing in this treaty that will necessarily end the use of conventional forces in Europe in civil war.

Implementation of the CFE Treaty may reduce the number of European tanks, artillery, planes, and warships that could be used against fellow Europeans. It could discourage the Russian Federation, Ukraine, Armenia, the Czech and Slovak Federated Republic, Romania, Bulgaria, and the Central Asian republics from following the terrible path of civil war undertaken by Serbia and Croatia. Those would be unanticipated benefits of this treaty, for it was negotiated in a bygone era.

This CFE Treaty, like the once famous Washington Naval Treaty of 1922, addresses yesterday's problems. Just as that treaty could not anticipate the aircraft carriers that dominated the Second World War, this CFE Treaty does not address the use of conventional forces—much less nuclear forces—within nation states that are breaking apart. Ethnic strife, more than anything else, is today's security threat to Europe and, less directly, to the United States.

THE SIGNIFICANCE OF THIS TREATY

This treaty will not contribute to a significant reduction in the United States defense budget. CFE compliance and verification costs, could range from $25 to $75 million per year, and will be absorbed within the defense budget. The equipment reductions we need to make in compliance with the CFE Treaty are relatively minor. The Congressional Budget Office estimates the treaty will yield no direct savings in addition to those resulting from NATO restructuring and United States unilateral withdrawals from Europe.

However, we all would agree that the significance of the CFE Treaty is not its budget impact. This treaty does not lead us into the end of the cold war. It is a symbol—a gravestone marking the end of the superpower standoff. This treaty cannot ensure stability within countries facing ethnic unrest. This treaty cannot do much to alleviate the unemployment and poverty that threaten Eastern Europe as it wrestles with the harsh realities of a free market economy. Ratification of this treaty, does not solve these immense problems. It is just a legal instrument assuring adherence to weapons reduction already underway.

THE NUNN PROPOSAL

Mr. President, I spoke on the Senate floor last Tuesday in support of what Senator NUNN was then saying. At that point in time, there were few people supporting his Soviet aid proposal. I was very pleased to join him then. I am proud to be a co-sponsor today.

I do not think that because we have problems at home, we ought to be paralyzed.

We have some weaknesses with reference to our social fiber and perhaps, as some would say, with reference to our economy, the production of goods and services and wealth for our people.

We have some weaknesses with reference to our social fiber and perhaps, as some would say, with reference to our economy, the production of goods and services and wealth for our people. Nevertheless I do not think we ought to hide from the reality that in winning the cold war, we have taken on a special responsibility. Instead of hiding, we ought to be glad to undertake a program of support for democracy and free market economies in Russia and the other former Soviet republics.

SOME HISTORY

Just think how much better the world is today than when we began serious disarmament across the board. Just think of today's world as compared with 10 years ago, as compared with the months and years after the Cuban missile crisis when Khrushchev decided to match us, and we got into an incredible nuclear armament competition. And even though America and the Soviet Union never used them, we greatly weakened each country in terms of our fiber and capability for the future, because we spent untold amounts of money on that cold war.

Obviously, the world then was at a crossroad. We could have gone their way and all lost our freedom, or we could have forced others to go our way and expected the world to share our freedoms. All of a sudden, out of the blue, it fell our way. Now we understand that that was not an accident. That occurred because the American people, the taxpayers, average citizens, and a few leaders, decided we were going to peacefully, and sometimes not so peacefully, meet and contain Marxist-Leninism.

Truman is a good example. He was the first American President to put out the challenge. He spent a lot of money, when we had the Berlin blockade, and he had to deliver food and fuel to Berlin in American airplanes. Think of every one since then. Those were tough decisions, loaded with danger.

What do we have today? Several choices: whether or not we want to put something together to help Russia, Ukraine, and the others with our tremendous capabilities. A decision to organize, put something together with the other free countries, to help meet some—not all, but some—of the needs of the Soviet peoples. Decisions about how to balance a Soviet government with new republican governments as they move toward freedom and toward completely different styles of living than they have lived under since they had their first revolution in 1917–18.

Frankly, I never did hide from the Nunn proposal, so I am not worried about what my constituents will say. I have been suggesting to my friends in little old New Mexico for 6 or 7 months that America had a real opportunity, and we better not shrink from it.

MORE AMERICAN PRESENCE IS NEEDED

Frankly, we ought to have more American presence in the Soviet Union right now, because they look up to Americans. Sure, you can send the Japanese in, but right now they are saying we want to know what the Americans are going to do.

They are not asking for billions of dollars. Why would we not do what Senator NUNN proposed? I say to my good friend from Georgia, who came to the Senate with me 19 years ago, we will have the most ludicrous situation in our 19 years if we hide from the Russian opportunity. We will have had a chance to befriend the Soviet Union and help their people. If we don't they will end up our enemies, because we in Washington dropped the ball and decided that we better come home now—home to America. Two weeks ago we were ready to hide out and had decided we really cannot afford to help Russia and the others. If we had taken that route, we would have demonstrated that we do not have the leadership capability. That would have been absurd.

THE DOLE-LEVIN RESOLUTION

This resolution says to our President, you start down that path on working with the former Soviet Union, and, if I read it right, we will be with you, and we will help you. It says the President and the legislative branch together will begin to move in the direction of leading the free world to begin to help the ex-Soviets in discrete but compatible ways. I think we need a major American presence, so that Russians, Americans, Turkamen, et cetera know we are there. We can keep better tab on things outside of Moscow, and understand events. The expanded presence can assist Americans who want to join. They can tell us where things are going and where things are needed. In that regard, I think the sooner the President exercises some of these authorities the better.

I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware controls the remaining time.

Mr. BIDEN. I yield the Senator from Pennsylvania 1 minute.

Mr. WOFFORD. Mr. President, I salute the Senator from Michigan, not just for his eloquence and wisdom, but for his practical and thoughtful initiative along with that of the Senators from Kansas, Georgia, and Oklahoma, and the other cosponsors of this resolution.

Ford Lautenberg Riegle

This legislation which I am now in-

United States' own inventories of fissile ma-

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I hope we will pass this resolution from a comprehensive bipartisan response to the challenge of a historic change in the Soviet Union. How to respond to that challenge is one of the great problems facing this country. So today let us take this initiative, and tonight, and tomorrow, and the days ahead, let us show the same kind of initiative and comprehensive bipartisan response to the critical problems of our domestic economy which also call for action.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 1 minute to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, when my father was 17 years old, he left Russia, a Jewish immigrant, because of the Czar's suppression. Then there was a revolution. And he thought he would go back. And his family told him never to come back because the Bolsheviks took over. He never saw his family again. We know that part of history.

And then there was a cold war. I love languages, but I do not speak Russian, because my father was terrified to speak Russian in our home during the McCarthy era.

Then there was all of the money spent on the weapons of death and destruction. We have a chance now—a real chance—to end that.

What is happening in the Soviet Union, or what used to be the Soviet Union, I will say one more time on the floor of the Senate today, crucially defines the quality or lack of quality of the lives of our children and grandchildren, and I think all of God's children.

I believe that the Senator from Michigan, Senator LEVIN, and Senator DOLE's sense-of-the-Senate resolution is so important.

And I want to just finish up by echoing the words of Senator LEVIN.

It is not a question of a Marshall plan. We may not have the resources for a Marshall plan. It is a question of the spirit, the breadth, and the vision of a Marshall plan. There are so many steps that we can take that can make a huge difference. This sense-of-the-Senate resolution points in that direction.

The PRESIDING OFFICER. The Senator from Delaware has 2 minutes and 21 seconds remaining.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senators BUMPERS, SIMPSON, and COHEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, this outpouring of support is heartening because I think the Senator from Michigan and the Senator from New Mexico who just spoke made very clear what is at stake. I would hope, having listened to all of this, when we return in February and we come forward with specific legislation, not a resolution, authorizing and seeking appropriations for implementing what we say we believe, I hope at that time there will be equally as much enthusiasm for doing what clearly must be done in the naked self-interest of the people of Delaware, of Michigan, of Connecticut, of this entire Nation.

I compliment my friend from Michigan on his initiative, and I yield back the remainder of the time, but before I do that, I yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, I have one other unanimous consent. Mr. President, I ask unanimous consent that Senator WELLSTONE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank my friend from Delaware for his support, and if I may say in 30 seconds, I believe this kind of coming together in a bipartisan way is a critical step toward what the Senator from Delaware has just outlined, which is the fact that we must go and should go in our own interest. I thank him for his support.

Mr. BIDEN. I yield back the remainder of time and am ready to vote.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1441

The PRESIDING OFFICER. Under the previous order, the Senate will return now to the amendment offered by the Senators from Oklahoma and Georgia.

The question is on agreeing to the amendment. On that question the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "aye."

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—87

Adams
Bancus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gore
Gorton
Graham
Gramm
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—7

Glenn
Grassley
Kasten
Roth
Seymour
Smith
Thurmond

NOT VOTING—6

Akaka
Dixon
Harkin
Helms
Kerrey
Pryor

So the amendment (No. 1441) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1443

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Michigan.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "aye."

Mr. SIMPSON. I annnounce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—87

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon

Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—7

Craig
Gramm
Grassley
Nickles
Smith
Symms
Wallop

NOT VOTING—6

Akaka
Dixon
Harkin
Helms
Kerrey
Pryor

So the amendment (No. 1443) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I commend the Senator from Georgia [Mr. NUNN] and the Senator from Indiana [Mr. LUGAR] for putting together the bipartisan initiative to help the Gorbachev government bring about the destruction of the Soviet nuclear weapons arsenal.

Banishing the threat of nuclear devastation has been one of the most overriding goals of my entire public career.

The dramatic changes in the Soviet Union in the past year have, for the first time, made this a real possibility.

One of the most pressing problems that faces us now is how to make sure the weapons already in existence—particularly in the Soviet Union—are eliminated.

Tragically, just as we are politically on the threshold of ending the nuclear arms race, the economic problems besetting the Soviet Union could well impede the actual elimination of nuclear weapons the Soviets have already agreed to render useless.

For the past several months, I have been working on proposals to help assure that economic barriers do not stand in the way of finally eliminating the nuclear threat which has hung over us for so many decades. In addition, I am troubled by the prospect of dangerous and growing stockpiles of weapons-usable fissile materials which might be reused or sold on an uncontrolled world market.

Last week, the distinguished chairman of the Foreign Relations Committee, the Senator from Rhode Island [Mr. PELL], who is on the floor to my right, and I introduced legislation, the Nuclear Warhead Security and Plowshares Act of 1991, designed to address this problem.

This legislation which I am now introducing in amendment form would provide a way for the United States and Soviets to work together to gather, dismantle, and safeguard the materials in nuclear weapons that have been rendered surplus by the START Agreement and recent unilateral arms reduction efforts.

AMENDMENT NO. 1444

(Purpose: To eliminate a critical threat to nuclear nonproliferation efforts by safeguarding dangerous weapons usable materials from United States and Soviet warheads)

Mr. CRANSTON. Before saying more, Mr. President, I send to the desk this amendment I am discussing on behalf of myself, the Senator from Rhode Island [Mr. PELL], the Senator from Washington [Mr. ADAMS], and the Senator from Minnesota [Mr. WELLSTONE].

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California [Mr. CRANSTON] for himself, Mr. PELL, Mr. ADAMS, and Mr. WELLSTONE, proposes an amendment numbered 1444.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new Title:

"TITLE .—ELIMINATION OF WEAPONS-USABLE FISSILE MATERIALS

SECTION 1. SHORT TITLE.

This title may be referred to as the "Nuclear Weapons Security and Plowshares Act of 1991".

SEC. 2. PURPOSES.

The purposes of this Act are:

(1) to strengthen United States agricultural interests while meeting urgent food needs in the Soviet Union;

(2) to help to consolidate democratic and free market reform in the Soviet Union; and

(3) to eliminate a critical threat to nuclear nonproliferation efforts by safeguarding dangerous weapons-usable materials from United States and Soviet warheads.

SEC. 3. POLICIES TO REINFORCE NUCLEAR NONPROLIFERATION.

(a) DETERMINATION OF PURCHASE PRICE OF SOVIET FISSILE MATERIALS.—The Congress urges the President, in consultation with concerned allies, to determine a fair and equitable price for the purchase of diluted uranium equivalent to the volume of Soviet fissile materials which have been made redundant through unilateral reductions and arms control agreements.

(b) COLLECTION, DILUTION, AND SAFEGUARDING OF SOVIET FISSILE MATERIALS.—The Congress further urges the President to consult with the leadership of the Soviet Union for the purposes of establishing a procedure for the collection, dilution, and safeguarding of fissile materials from dismantled weapons.

(c) MUTUAL REDUCTION IN INVENTORIES AND IMPLEMENTATION OF SAFEGUARDS.—It is the sense of the Congress that it should be the policy of the United States Government that any reduction of the Soviet stockpile of fissile material for weapons should be accompanied by a parallel decrease in the United States' own inventories of fissile materials used in nuclear weapons, and by implementation of appropriate safeguards on such materials.

(d) PROPOSED AGREEMENT WITH IAEA.—It is the sense of the Congress that the President should initiate talks with the President of the Soviet Union and the Director-General of the International Atomic Energy Agency (IAEA) to seek agreement that the mutual and verifiable destruction and storage of nuclear warheads, including on-site and challenge inspections, will be subject to mutually agreeable and comprehensive verification;

(2) to discuss the advisability and feasibility of an agreement to place all civilian fissile materials possessed by the United States and the Soviet Union under IAEA or equivalent bilateral safeguards, including such materials that have been permanently transferred from weapons uses.

SEC. 4. PROVISION OF AGRICULTURAL AND OTHER ESSENTIAL COMMODITIES FOR SOVIET FISSILE MATERIALS.

(a) EXCHANGE OF AGRICULTURAL COMMODITIES FOR SOVIET FISSILE MATERIALS.—The President shall provide to the Soviet Union—

(1) surplus agricultural commodities owned or controlled by the Commodity Credit Corporation which are available for disposition under section 416(b) of the Agricultural Act of 1949, or

(2) agricultural commodities or other essential commodities purchased at market prices.

in exchange for Soviet fissile materials of equivalent value.

(b) FINANCIAL ASSISTANCE FOR SOVIET DEVELOPMENT BANKS.—In addition to the commodities provided under subsection (a), the President shall provide 25 percent of the monetary value of the Soviet fissile materials acquired under such subsection to the Soviet republics in the form of financial assistance which shall be available only for the establishment of regional and local development banks.

(c) REIMBURSEMENT OF COMMODITY CREDIT CORPORATION.—The President shall reimburse appropriations for the Commodity Credit Corporation for commodities provided under subsection (a).

(d) SUPERSEDING EXISTING LAW.—Any agricultural commodity or financial assistance provided under this section to the Soviet Union or to any Soviet republic shall be provided notwithstanding any other provision of law.

SEC. 5. STORAGE SAFEGUARDING, USE, AND ELIMINATION OF FISSILE MATERIALS.

(a) REPORTS.—Not later than 180 days after the date of enactment of this Act, with respect to paragraphs (1) and (2), and not later than one year after such date, with respect to paragraph (3), the Secretary of Energy shall submit a report to the Congress setting forth—

(1) a plan for the safeguarded storage and dilution of enriched uranium acquired under this Act;

(2) a plan for the safeguarding of plutonium in facilities in the Soviet Union and in the United States; and

(3) the findings of the study conducted under subsection (b):

(b) STUDY ON PLUTONIUM STOCKS.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study on United States and Soviet Union plutonium stocks and safe and effective means to store and ultimately dispose of such inventories and the

The Soviet Union today faces a very

later, which have taken 70 years before

volved in the consideration of the

VOL 137 PT 23 NO 21—25 1991 UMI

plutonium accumulating in spent civilian-power reactor fuel.

SEC. 6. POLICY REGARDING NEGOTIATION OF BILATERAL AGREEMENT.

It is the sense of the Congress that the Secretary of State should explore with the Soviet Union an agreement not to produce highly enriched uranium of separated plutonium.

SEC. 7. TRANSFER OF FUNDS CUT OF DEPARTMENT OF DEFENSE ACCOUNTS.

The Secretary of Defense shall transfer to the President out of such accounts of the Departments of Defense as he may designate during fiscal years 1992 through 1996 such funds as may be necessary to carry out the purposes of section 4:

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) the term "agricultural commodity" includes any edible agricultural commodity grown in the United States;

(2) the term "nuclear weapon state" has the same meaning given to such term by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(3) the term "safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A) (5) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(4) the term "Soviet Union" included all successor states to the Soviet Union; and

(5) the term "weapons-usable nuclear material" means (a) any uranium that is enriched to more than 20 percent in U-235 or U-233, or both, or (3) (B) any mixture of plutonium isotopes containing less than 88 percent Pu-238.

Mr. CRANSTON. Mr. President, I believe that our amendment is entirely complementary to the purposes pursued by the Senators from Georgia and Indiana with their approach. By adopting this proposal, the first four of the five concerns raised by the exclusion section of the Nunn-Lugar amendment would be taken care of.

Adoption of this amendment would give the cash strapped Soviet Union the possibility of investing its own resources to dismantle or destroy its weapons of mass destruction.

Our amendment would also substantially reduce any modernization program designed to replace or upgrade nuclear weapons, rendering their warheads useless and available only for peaceful purposes.

It would also ensure that the fissionable and other components of destroyed nuclear weapons would not reappear in new nuclear weapons—a key issue left open by the Nunn-Lugar proposal.

And finally, it would go a long way to assure Soviet compliance with relevant arms control agreements, providing as it does for mutually verifiable compliance under international safeguards.

I was pleased to give my strong support to the Nunn-Lugar initiative, but I also want to make it clear that enactment of this initiative should not be the end of our efforts in this area.

I believe that much more will need to be done, not only to ensure the dismantlement of the Soviet nuclear arsenal, but to ensure that nuclear weapons-grade material does not make its way into the black market for potential reuse by outlaw nations or renegade terrorist groups.

Our amendment would make the uranium harmless by requiring the mixing of the 90 percent enriched uranium with normal uranium. Both the uranium and plutonium would be placed under safeguards.

The second key part of the amendment is that the Soviet Union and the Republics would receive United States agricultural commodities in return for accepting this plan.

If enacted, this legislation could provide a needed next step to current arms reduction agreements that call for the elimination of some nuclear delivery systems but do not require the dismantling of warheads or safeguarding of nuclear weapons materials.

Actions by Western governments to offer trade credits for purchases of food based on the commercial value of Soviet weapons-grade uranium diluted to civilian reactor-grade could eliminate a critical threat to nonproliferation efforts and consolidate democratic and free-market reform.

Mr. President, this proposal allows the United States to use the commercial value of uranium derived from Soviet weapons to offset the cost of sending food to the people of the former Soviet Union, but also includes an incentive for the Soviet Republics, which have made it clear that they, too, want a say in nuclear weapons policy.

An additional 25 percent of the commercial monetary value of Soviet fissile materials acquired under the provisions of this bill would be given to the Republics in the form of financial aid. These moneys would be earmarked for the creation of regional and local development banks.

This amendment also expresses the sense of Congress that reductions in the Soviet weapons-usable fissile stockpile should be accompanied by a parallel decrease in our own inventories, and by implementation of bilateral, multilateral, or international safeguards on these materials.

It is the intention of this amendment to help stabilize the transfer of Soviet weapons uranium to civilian use through the United States Department of Energy, and also to focus attention and provide resources for safely storing and ultimately disposing of plutonium inventories.

Funds for carrying out the provisions of the amendment would come from unobligated Department of Defense moneys.

As we are well aware, the Soviet Union is in desperate need of food aid. The centralized economy has fallen apart and no new system has emerged to replace it.

The Republics are facing a grave economic depression characterized by food shortages, declining exports and lack of foreign currency.

Further, the small size of the middle class, the lack of autonomous civil and economic institutions, and the existence of a parasitic administrative caste makes reform in the Soviet Union a difficult challenge.

It is definitely in the United States' best interest to help speed reform along and to promote stability in a country that still controls half the world's nuclear potential.

Last week, when we introduced our bill, Senator PELL noted the chilling words of Dr. Valeri Davydov, of the Soviet Institute of U.S. and Canada Studies, as he described one recent near-tragedy involving the Soviet nuclear arsenal;

> There was at least one incident, in Azerbaijan in which a band of rebels briefly broke into an installation at which nukes were stored. That is why a majority of experts underlined the necessity to destroy the tactical nukes and welcome the new Bush proposals on arms control.

As our own envoy to Moscow, Ambassador Robert Strauss, has just remarked, "I'd rather risk a couple of billion bucks out here for our country * * * than fail to risk a couple of billion bucks and end up looking at a real fascist type situation."

Mr. President, this amendment provides for both United States security and economic interests, while at the same time helping the former Soviet Union on its path to democracy and the benefits of the free market.

I yield the floor at this point.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I am very pleased to be a cosponsor of the Nuclear Warhead Security and Plowshares Act of 1991, and congratulate the Senator from California, Mr. CRANSTON, for his initiative in introducing this legislation, and thank him, all of us, for the initiatives he has taken over the years in arms control matters, and the leadership he has shown in that field.

What we are talking about today is to avoid a recurrence of history. Let's think back to the time of the original Russian revolution, the Kerensky, Menshevik revolution, which at that time was ignored and frozen out by the rest of the world. By not helping and ignoring the first stage of that revolution, the rest of the world opened the doors for the second stage, the Lenin-Bolshevik revolution of the early 1920's. If we ignore what is going on in the Soviet Union today, we could see the same thing happen. A harder, tougher, and more a forbidding group could take over Russia; whereas if we helped this present Russian Government, helped them in what they are doing, we would be better off in the long run.

The Soviet Union today faces a very real challenge that this bill addresses. I cosponsored the Nunn-Lugar bill amendment because of the present uncertainties in the Soviet Union. It is clear we should assist the destruction of the weapons because it is in our interest and their interest to disable them.

However, the Cranston bill goes further. It would help ensure that the highly enriched uranium and the plutonium these weapons contain would not be placed on the international market or otherwise be diverted. After the CFE Treaty has passed the Senate today, the administration submitted the START Treaty to the Senate. It has just arrived and the unprinted START Treaty and the section-by-section analysis are about 2 feet thick, and the printed treaty is about 300 pages long. So we can see a busy month or two ahead.

If ratified, START would lead to the elimination of several thousand warheads. The START Treaty, taken together with the unilateral decisions of Presidents Bush and Gorbachev to eliminate many tactical nuclear warheads will lead to the elimination of additional thousands of warheads, possibly as many as 10,000 or so.

These warheads contain 200 tons of highly enriched uranium and 50 tons of highly toxic plutonium. Because of the uncertain relationship between the Soviet Union's Central Government, the remaining 12 Republics and various ethnic groups, there is a significant possibility that these weapons or the nuclear materials could become items of commerce on the black market. If these nuclear weapons fall into the hands of dictators or terrorists, the world could be held hostage to criminals.

This bill would make the uranium harmless by requiring the mixing of the 90-percent enriched uranium with normal uranium. Both uranium and plutonium would be placed under safeguards. Soviet officials have stated that the Soviets will not be able to dismantle their weapons, at best, before the turn of this century. A decade or more is too long a time for the vast amounts of material to be in an uncertain state.

The second key part of this bill is that the Soviet Union and the Republics would receive American agricultural commodities in return for accepting this plan. This makes a lot of sense to me, and it tremendously benefits all involved.

I repeat, by way of background, to think back in history as Santayana said, "Those who ignore the lessons of history are condemned to repeat them."

In 1919–20, we ignored what was going on in Russia that precipitated from the Menshevik origins of that revolution to the Bolshevik revolution a few years later, which have taken 70 years before it could rot away.

I also would thank the Senator from Delaware, Mr. BIDEN, for taking on the load of managing the CFE Treaty and the subsequent cascade legislation, and compliment him on his skillful handling. I much appreciate his help, and look forward to continuing to benefit from it, working together through the years.

I yield the floor.

Mr. BIDEN. Mr. President, I would like to speak very briefly to the Cranston amendment and suggest at least two things about the amendment.

First of all, the Cranston-Pell amendment is an extremely innovative notion dealing with an area and a concern that is critical to the interests not only of the United States but of the world.

I can assure the Senator, because the chairman of the full committee is a cosponsor of this, that I do not have the slightest doubt in my mind that the Senate Foreign Relations Committee will give this its full and urgent attention if, in fact, it is withdrawn upon our return to the Senate.

The Senator has touched upon a concern of grave concern, of significant interest, to this Nation and has offered an approach that is truly innovative. But I would respectfully suggest that it would be better handled with the committee directing its attention to this issue upon our return and, possibly, if the chairman of the full committee wished to, prior to us returning, reconvening the Senate.

Mr. PELL. I think I prefer to wait until we reconvene.

Mr. BIDEN. In whatever manner the chairman of the full committee would like to proceed, I am just merely chair of one of the subcommittees as the Senator from California is. But I participate and I will be involved in any way that the chair would like me to be, but I think it is an extremely innovative idea, addressing the concern of no greater consequence to this country at the moment, and I compliment him for raising this issue.

Mr. CRANSTON. Mr. President, I thank the manager of the bill for his kind words and for his recognition of the importance of this approach, for his commitment to working with the chairman of the full committee, Senator PELL, and myself, to bring this idea to fruition as early as possible in the next session of Congress.

I think, therefore, that we should withdraw the amendment, pursuant to that advise, but keep it before the body as a freestanding bill and endeavor to work it over, make whatever changes are in order, and bring it before the full Senate as early as possible in the next session of Congress.

Time cannot be wasted on this important matter. I understand also that the Budget Committee wants to be involved in the consideration of the measure, and we will be consulting with it, as well as the Foreign Relations Committee, as we prepare for action early next year.

I thank the distinguished chairman of the committee for his partnership in this effort and, with his help and that of the Senator from Delaware, I am very confident that we can move this along in the next session.

For those reasons, I will now withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 1444) was withdrawn.

Mr. PELL. Mr. President, I look forward to working with the Senator from California with this project and once again thank him for his leadership of many years on matters of disarmament and arms control.

Mr. BIDEN. Mr. President, I will take only 30 more seconds. We mentioned innovation. And in the context of the Senator from California, in arms control there has been no Member of the Senate who has been as effective, as persistent, and prescient when it came to issues relating to arms control, and what was likely to happen than the Senator from California. I think it is appropriate at the moment that I recognize that fact. I look forward to continuing to work with him.

Mr. CRANSTON. I thank the Senator from Delaware very much, and I also thank the Senator from Rhode Island very much.

Mr. BIDEN. Mr. President, I said prescient. I meant the Senator knew what he was doing for a long time.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon disposition of H.R. 3807, the CFE implementing legislation, that the Senate then proceed to Calendar No. 347, House Joint Resolution 346, on which there will be 30 minutes of debate with the time equally divided and controlled between Senators BENTSEN and PACKWOOD; that when the time is used or yielded back, the joint resolution to be temporarily laid aside, and that the Senate then proceed to the consideration of H.R. 1724, the MFN-unemployment insurance supplemental conference report, with 30 minutes to debate on that conference report, with the time equally divided and controlled between Senators BENTSEN and PACKWOOD; that when all the time is used or yielded back on H.R. 1724, the Senate without intervening action or debate proceed to vote on adoption of the conference report on H.R. 1724; that upon disposition of the conference report, the Senate without intervening action or debate proceed to vote on House Joint Resolution 346; and that upon disposition of House Joint Resolution 346, the Senate companion joint resolution, Senate Joint Resolution 215 be indefinitely postponed.

VOL
137
PT
23
NO
21
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25
1991
UMI

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, we have had no request for rollcall votes on either of these two measures. If there is not a request for rollcall vote, it is my intention that they will be adopted by voice vote.

Furthermore, I understand from the staff—and I ask the managers, the distinguished chairman of the Judiciary Committee—whether I am correct, that there is no request for a rollcall vote on final passage of the pending matter, H.R. 3807, the CFE implementing legislation.

Mr. BIDEN. That is my understanding, Mr. President. I know of no one who has thus far asked for, and I hope they will not ask for, a vote on final passage.

Mr. MITCHELL. I inquire of the distinguished Republican leader whether he has any requested rollcall votes on any of the three measures to which I have referred?

Mr. DOLE. No requests on this side at this time. Somebody might drop in, but I do not know of anyone. We hope we can voice vote these. We have a number of members on both sides busily engaged in conferences, others are on official business, and it would certainly expedite the evening if we could voice vote these three measures.

Mr. MITCHELL. Mr. President, in whatever form they are disposed of, it is my intention upon the disposition of all three matters which I now hope will occur within approximately an hour, to then proceed to the debate on the cloture motion on the motion to proceed to the Medicaid Moratorium Act; that under the order now in effect there will be 45 minutes for debate on that measure; and the majority leader, after consultation with the Republican leader, has authority to set the time for that cloture vote at any time today or tomorrow.

The distinguished Republican leader and I will be meeting during the next hour with the House leadership to assess where we are with respect to the progress toward adjournment prior to Thanksgiving.

I hope to be in a position to announce the decision on the Medicaid cloture vote at approximately the time that these measures are disposed of and the Medicaid debate beginning which I expect to be sometime in about an hour or perhaps a little later.

But in any event, we will go to the Medicaid moratorium debate following the disposition of the three matters to which I have referred—the pending bill, the CFE implementing legislation, the unemployment insurance/MFN legislation to which I earlier referred, and the House joint resolution which also will be disposed of. The distinguished chairman of the Finance Committee will be managing both of those matters.

The PRESIDING OFFICER. Are there further amendments to the bill?

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, "Shall the bill pass?"

So the bill (H.R. 3807), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Later this evening, we will be considering the trade agreement to provide most-favored-nation status for the Soviet Union. That agreement was signed in June 1990 when the country was called the Union of Soviet Socialist Republics. Since then, we have witnessed the decentralization of economic and political power to the republics. In fact, it is no longer possible to speak of the Soviet Union. The nation no longer exists.

Yet, we are ratifying a trade agreement with the Soviet Union as if nothing has happened. In fact, much has changed. The Baltic States are independent nations and will have their own separate MFN. Many Republics have declared their independence. In Ukraine, there will be a referendum on December 1, 1991, and I anticipate that the vote will overwhelmingly be in favor of independence. President Gorbachev has said that without Ukraine, there can be no union; yet, we are voting on a trade agreement with that union.

It is clear that in this case, the granting of MFN has more political than economic implications. When he had hearings on this issue in September, the witnesses said that our trade with the Soviet Union was not likely to grow far beyond the $4 billion level where it was last year in the short-term. But they emphasized that the agreement was an important step toward the normalization of the relations with the Soviet Union and thus had positive political consequences.

What are those consequences? As I see them, they are validation of the existence of a center, validation of something that no longer exists. The Deputy Assistant Secretary of State, Curtis Kamman, told the Finance Committee in September that "We believe that this agreement, others like it concluded by the Soviet Union, will be an element encouraging the Soviet Republics, whatever their ultimate political relationship may be, to cooperate on economic issues. This, we believe, is in the interest of the Soviet Republics and their peoples as well as of the United States and United States business."

Well, Mr. President, I believe that it is in the interest of the United States, United States business and, most importantly, the people of the United States that the Soviet Union complete its transformation into a stable, democratic, free market—the Soviet Union being not the former Soviet Union, but the Republics that used to compose that Soviet Union. I believe that the economic changes that are necessary are much more likely to take place in the Republics than the center.

Mr. President, I find it very ironic that we are now granting MFN to the Soviet Union, because in July, just before the failed coup, I introduced legislation that would have granted the Baltic States MFN status separately from the Soviet Union. This action was intended to ensure that establishing an economic relationship with the Soviet Union would not damage the Baltic States' struggle for independence.

The administration, in response to this effort on my part, refused to assert the Baltic States' rights to a separate MFN, even though there were existing in-force MFN treaties between each of the Baltic States and the United States, and even though we never recognized the incorporation of the Baltic States into the Soviet Union.

The administration said that the Baltic States could not have MFN because they did not control their borders and could not regulate trade within their customs territory. They were de jure states under American and international law, but not de facto ones, the administration argued, and we could not grant MFN status to a de jure state.

Mr. President, I am, of course, very glad that with the recognition of Estonian, Latvian, and Lithuanian independence, those nations will soon be granted MFN, and that this agreement with the Soviet Union will have no validity on their territories.

In other words, we are granting MFN to the Soviet Union and, at the same time, granting MFN to the Baltic States. Only one MFN will apply to each territory. The Baltic State's MFN will apply on the Baltic's territory.

Mr. President, only a few months later—after this episode, after being told you could not grant MFN status to the Baltic States, because it was only a de jure state at the time, and laying out the criteria they laid out—we are being asked to approve a trade agreement with something called the Union of Soviet Socialist Republics.

It seems to me that the argument the administration used to deny MFN to the Baltic States now applies to the Soviet Union. The Soviet Union is a de jure state, not a de facto state. The Soviet Union that is being granted MFN cannot, for example, effectively determine its borders. Does the customs territory of the Soviet Union include Ukraine, Moldavia, Georgia, Armenia? Will goods shipped out of the port of Odessa, in a country called Ukraine, be subject to the MFN tariffs? Unanswered.

The Soviet Union cannot effectively determine trade laws. Economic decisions are being made at the republic level. Both Ukraine and Russia have, in recent weeks, outlined plans to privatize the economy, establish sound convertible currencies, and regulate external economic relations. It is not even clear what Soviet political institution will ratify this agreement. In September, Mr. Kamman told the Finance Committee that "the Soviet of the Republics, or upper chamber of the newly created Supreme Soviet, is now charged with ratifying international treaties of the U.S.S.R. I would anticipate that this body would be responsible for ratification of the trade agreement." That was in September, when there was a theoretical possibility that this body would have some real authority in the future. As we approach December, it has become clear that not only is there no real power vested in the Soviet of the Republics, there is not even full representation, since many Republics did not send delegates to participate in this body.

So, Mr. President, I voted against this trade agreement in the Finance Committee, and, although I will not ask for a rollcall vote today, I cannot support a trade agreement whose most significant immediate impact is to encourage the existence of a potemkin central government in the Soviet Union. I cannot support an agreement between the United States and a nation that only exists in the minds of a handful of economists and politicians in Moscow. I cannot support a trade agreement that is based on the notion of a central structure that no longer exists. I cannot support an agreement that ignores the Republics. I cannot support a trade agreement that is not in the interests of the American people, who deserve to see the transformation of the former Soviet Union completed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MOST-FAVORED-NATION STATUS FOR THE PRODUCTS OF THE UNION OF SOVIET SOCIALIST REPUBLICS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of House Joint Resolution 346, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 346) approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Under the previous order, there are 30 minutes to be equally divided between the Senator from Texas, Mr. BENTSEN, and the Senator from Oregon, Mr. PACKWOOD.

Mr. BENTSEN. Mr. President, I yield 5 minutes to myself.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President. This resolution would approve the extension of most-favored-nation treatment to the Soviet Union and the trade agreement the President forwarded to us earlier this fall.

Unquestionably, the political relationship between the United States and the Soviet Union has changed dramatically. I think it is high time that our economic relations also began to reflect those changes. Granting MFN to the Soviets—and approving this trade agreement—is an important step in that direction.

For the Soviets, MFN will be the first step in normalizing our commercial relations. It will not be a panacea for the Soviet Union, but it should help that country integrate its economy more with the West—and at least provide some encouragement to those free market reformers who are taking some painful steps toward economic reform.

At the same time, our companies will benefit from improved access to the Soviet market. And while I am under no illusion that there are great sales opportunities in the Soviet Union at this time, our companies want to position themselves to do business there once the Soviet economy gets back on its feet. Let me assure you that our Japanese and European competitors are doing just that.

This trade agreement will make it easier for American firms to conduct their routine business. It should make it easier for them to put on trade shows, hire employees, find and lease office space and even participate in drafting and reviewing proposed regulations that might affect their business. And the Soviets committed in this agreement to make significant improvements to their intellectual property laws: In fact, any of these improvements are already in place.

Of course, the situation in the Soviet Union is still uncertain. We do not know which of the Republics will ultimately participate in the economic community. And we do not know at this point what that economic community will ultimately look like. And it's true that the party that negotiated this trade agreement with us in June 1990 is not the same party that's on the other side of this trade agreement now.

But in my view, this uncertainty is not a reason for us to continue to deny MFN to the Soviet Union. It is, however, a reason for us to insist that the administration consult with us regularly and closely on the operation of this trade agreement and any problems that may arise.

For that reason, I wrote Secretary of State Baker last month proposing that we establish a consultative mechanism to monitor the agreement. The State Department has agreed—and I expect to be hearing often and in detail from the administration about what is going on in the Soviet Union, and what that means for the operation of this agreement.

Our companies are willing to live with some uncertainty. They want to get on with their business—to start to explore the opportunities that might exist in the Soviet republics. And I do not think we should stand in their way.

I want to pass on to you the comments of my good friend Bob Strauss—our former trade negotiator and now our Ambassador in Moscow. He wrote to urge this body to move quickly on the agreement. He said that he knows that there has been a lot of debate in Washington about the ability of this country to influence events in the Soviet Union in a positive way, and that there's some reluctance to spend the taxpayers' dollars to do so. But his conclusion was this: Approving this agreement will not cost the taxpayers a cent, and it will improve trade opportunities for American business as well as for the Soviets.

That is a pretty persuasive argument, and that is why I believe that we should move quickly to approve this agreement.

The PRESIDING OFFICER. The Chair will note that under the previous order, the time has been allocated to the Senator from Oregon, which is now under the control of the Senator from Kansas.

SOVIET AND BALTIC MFN

Mr. DOLE. Mr. President, in the course of the evening, if all goes as planned, we will complete action on legislation providing MFN to both the so-called former Soviet Union, and the Baltic States.

These actions are very important, both symbolically and substantively.

Symbolically, nothing will send a clearer signal that the United States wants to welcome these nations into the community of democratic and free market nations. The Baltics, of course, are already there—to the great satis-

faction of all of us. Many of the Repub- join in approving these measures, cases have been resolved since that

SURFACE TRANSPORTATION ACT INTERNATIONAL ANTITRUST business practices and their impact on

VOL 137 PT 23 NO 21—25 1991 UMI

faction of all of us. Many of the Republics of the former Soviet Union are there, too, or firmly on the road to being there.

Certainly one of the central elements of the revolutions that have swept these countries and Republics has been the determination, at long last, to do away with decades of bankrupt Communist economics—and substitute free market principles and practices. So it is fitting that one of the important first steps we take in responding to the revolutionary changes we have seen is to fully normalize trade relations, through the granting of MFN.

But, as I said, these actions are not only important symbolically, but substantively, too.

The remarkable forward strides taken in the Baltics and the former Soviet Union are not irreversible. As so many of us commented in our debate on several amendments to the CFE implementing legislation, the Baltics and the Soviet Republics face a very hard winter; and even if they get through this winter with their democractic revolutions intact and on track—they still face a long, tough road of full transition to stable democracy and fully developing free market economies.

They're going to have to bite the bullet of austerity—and the only way they're going to be able to sell that to their long suffering people is if they can also offer a credible prospect for longer term stability, growth and reasonable prosperity.

They can't do that unless their economies grow, both domestically and in terms of their relations with other economies around the world.

In short, to survive in the short run, and to develop and prosper in the longer run, the Baltics and the Soviet Republics will need rapidly expanding trade with the United States and the rest of the industrialized West. So providing MFN is one of the best, soundest, and most cost-effective ways we can help these fledgling democracies. It also happens to be one of the best ways we can help America.

Free and fair trade among free market economies is, by definition, mutually beneficial—or else it wouldn't happen in the first place. Providing MFN is an essential step in establishing the environment for rapidly expanding free and fair trade.

Mr. President, earlier today the distinguished majority leader, Senator MITCHELL, and I met with the Foreign Minister of the Russian Republic, Mr. Kozyrev. While expressing great appreciation for the actions of the Senate earlier today in passing the Nunn-Lugar, Boren-Cohen, and Levin-Dole amendments—he also stressed how important it would be to his Republic, and his President, President Yeltsin, for the Senate to act this evening to extend MFN.

I am pleased that we are at that point now. And I hope all Senators will join in approving these measures, which truly represent a two-fer. Because passage will do a great deal to benefit the Baltics and the Republics of the former Soviet Union—and will, at the same time, bring great long-term benefit to the United States.

Mr. DOLE. Mr. President, I underscore my agreement with the chairman of the Finance Committee, and indicate this is no panacea. But there has been a sea of change in the former Soviet Union the past several months, and it seems to me that this may be of benefit, not in the immediate future, but in the near future and in the years to come. And it is certainly a step in the right direction.

I have no further requests for time on this side of the aisle. I am prepared to yield back.

Mr. BENTSEN. I have no further request for time on this side, and I yield back the remainder of my time.

Mr. PELL. Mr. President, I rise to support the extension of MFN status to the Soviet Union. This afternoon, a consensus emerged in the Senate that the United States has a stake in helping the Soviet Union and the republics to avoid social chaos and achieve economic and political stability, and we passed several measures toward achieving that goal.

I believe that by extending MFN treatment to the Soviet Union, the United States will take one more step to help the Soviet Union in its transition to a market-based economy. For example, through increased Soviet exports to the United States, the Soviet Union will generate the hard currency necessary for the Soviet Union to import more goods and improve its productivity and standard of living.

As Ambassador Strauss recently pointed out, the implementation of the trade agreement with the Soviet Union "will not cost the taxpayers a cent, and it will enhance trade opportunities for American business as well as for Soviets." Mr. President, I believe that this is a compelling reason for us to support the extension of MFN to the Soviet Union.

NO MFN TO SOVIET UNION

Mr. DECONCINI. Mr. President, while I did not demand a rollcall vote, I want to register my opposition to the resolution to extend MFN to the Soviet Union. I have two main reasons for doing so:

First, I cannot, in good conscience, vote for extending MFN to the Soviet Union when there has been virtually no movement on resolving longstanding emigration cases. Both Presidents Gorbachev and Yeltsin had every opportunity during the September Moscow CSCE human rights meeting to let these refuseniks go, once and for all, yet they took virtually no action. In September, we presented case lists personally to both Soviet and Russian officials in Moscow and virtually no cases have been resolved since that time. How can we responsibly deal, let alone consider extending aid, with governments that still deny citizens the right to leave based on knowledge of computer or other technology that was obsolete 20 years ago?

There are more than 90 families on the Helsinki Commission's case list. Those families represent hundreds of individuals. If Gorbachev and Yeltsin are really serious about abolishing cynical Soviet emigration practices once and for all they would pick up the phone and tell OVIR to issue everyone on our list an exit visa within 24 hours. I will be more receptive to MFN when that happens. I would favor extending MFN to whatever successor state or union that may emerge from what we have known as the U.S.S.R. as a result of negotiations between the center and those republics that choose to stay within a union. But frankly, I am at a loss to understand how we can extend MFN to a union which is yet to be defined.

The action proposed in this measure is ill-timed given the upheaval in what remains of the former Soviet Union. It is inappropriate given continued human rights abuses as I have mentioned. Finally, it fails to recognize the new political realities of an empire which no longer exists.

I implore my colleagues in the Congress not to forget about the refuseniks who are still waiting for the Kremlin to apply democracy to them.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BENTSEN. Mr. President, notwithstanding the previous order, I ask unanimous consent that we now proceed to passage of the resolution.

The PRESIDING OFFICER. Without objection, the vote occurs on passage of House Joint Resolution 346.

The joint resolution (H.J. Res. 346) was ordered to a third reading, read the third time, and passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, Senate Joint Resolution 215 is indefinitely postponed.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR. Mr. President, I ask unanimous consent to speak as in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION ACT

Mr. SEYMOUR. Mr. President, as we know, the Surface Transportation Act remains with the conference committee. I would like to speak for a moment as one of the donor States, along with other States who fall in the same category.

As we know, donor States are those whose citizens and taxpayers who have paid more in gas tax than they have received in return. In fact, you go to the bottom line of my State of California, Mr. President, in 1989 alone, California exported $437.7 million to recipient States. And since we have many donor States under this unfair and inequitable formula, we in California have paid out over $5 billion to other States.

Now as the conference committee winds down its work, we, as other donor States, are finding it most difficult to get any information from the conference committee as to what the new formula might be. We had hoped that, in fact, the donor States, including California, might be the recipient of 90 cents on the dollar as opposed to what I last heard, Mr. President, which was 84 cents on the dollar—not dollar for dollar, not 95 cents on the dollar, but merely 90 cents. The last word we had was perhaps we will receive 90 cents on the dollar for 75 percent of all appropriations in that bill which, if you mathematically work that out, may be somewhere around two-thirds.

So, Mr. President, I merely rise to add my voice to Senators from other donor States, including Texas, Florida, Missouri, and others, to say that I am hopeful that having waited all day today to get a computer printout as to what machinations or formulas might be included in the conference report, should that come soon now from the conference committee, that we might at least be able to look at those numbers to understand just what kind of status our States will be in. I am hopeful that it is going to be positive news.

On the other hand, as the hours go by and the inability to get this kind of information so we can see what is in that bill, I cannot help but tell you I feel more like the mushroom, that is, somebody who has been kept in the dark and covered with fertilizer. I would hope that soon now we will hear from the conference committee and have concrete data and numbers so we can see how our States will fare.

Thank you, Mr. President.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to address the Senate for 7 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

INTERNATIONAL ANTITRUST ENFORCEMENT

Mr. GRASSLEY. Mr. President, I am concerned that American companies have to live within our antitrust laws but most of our foreign companies do not play by the same rules. So I rise today to voice my concerns about the fact that American companies are competing in American markets with foreign companies that do not have to follow the same rules of free competition.

It has been 101 years since Congress decided that trust should not be allowed in our society. They agreed at that time that large horizontally integrated affiliations of companies with monopoly or oligopoly power for a given market was bad for our economy and bad for a society. So Congress passed the Sherman Act, having concluded that excessive concentration of economic power was, in fact, harmful to competition and to American consumers.

Since the Sherman Act was passed in 1890, the Federal courts and Congress have together developed a veritable common law of antitrust. It is a rich system of principles of competitiveness designed to protect and sustain the rigorously competitive free market economy that is the foundation of our society.

The free market philosophy that motivated the authors of American antitrust law is as valid today as it was 100 years ago. But many in other countries do not seem to agree. While a number of industrialized and developing countries have laws intended to promote competitiveness, in most nations the law is tolerant of monopolies and restraints of trade—particularly if it improves their ability to compete in the international arena. I am particularly concerned about the Japanese, but not just the Japanese. The Japanese have had an antitrust code similar to ours since the end of World War II, but it is rarely enforced, while in the United States we have scores of cases each year.

I doubt that the authors of the Sherman Act contemplated an economy as internationally linked as the one we now have. The trusts that were the subject of public concern in the late 19th century were the first corporate organizations that transcended State boundaries.

One hundred years later ours is truly an international economy. Our markets are flooded with goods and services manufactured by foreign companies and their U.S. subsidiaries. My concern is that those goods benefit from unfair trade practices overseas, practices which would be illegal under American law if conducted within our borders, and which give foreign companies an unfair advantage in our markets.

For example, the Finance Committee recently held hearings on Japanese business practices and their impact on American markets. Similar hearings were held in the House last year. We were informed that the Japanese economy is dominated by highly integrated and collusive economic structures, called Keiretsus. Keiretsus include highly vertically integrated operations, in which every link in the chain of production, from the miners of the metals to the manufacturers of components to the retailers, are represented in an enterprise. They also include horizontally collusive arrangements among companies that produce the same product, such as auto manufacturers. The effect of such collusion can be the exercise of market power to allocate markets and control prices, which harms both American and Japanese consumers and competitors.

We also heard from the mid-America group, which is concerned that the Keiretsus structure is being imported into the United States automobile industry by Japanese subsidiaries. It has strong evidence that Japanese-owned manufacturers engage in collusive arrangements with downstream dealers, controlling the parts market. The FTC has been investigating these allegations, and I will be very interested to see the result of their inquiry. I applaud the FTC for their investigation.

While these companies have unfair advantages in American markets due to anticompetitive conduct in their home countries, those same anticompetitive practices often operate to exclude American—and other "foreign"—companies from the competitors' native market.

Such practices are not limited to Japan. Many nations tolerate collusion and concentration among their domestic industries. Often, the government endorses such practices, mindful that control on competition at home makes it easier to develop an export strategy for competing in international markets.

When Americans criticize such practices, they are usually told that the difference in nations' economic structures reflects differences in culture. That may be. But if we are going to have a truly international economy, we need to have international standards of competitiveness. With that goal in mind, the United Nations General Assembly in 1980 resolved to pass a restrictive business practices code. The administration has been working hard in this arena, and recently entered into an antitrust cooperation agreement with the European Economic Community. The Justice Department's Antitrust Division has been working with a number of other countries on the development of domestic competitiveness codes similar to our antitrust laws. I applaud such efforts.

However, I think we all recognize that it will be years before international standards of competitiveness

VOL 137 PT 23 NO 21—25 1991 UMI

are implemented and consistently enforced. There has been talk of an international antitrust code since as early as 1948, when the ill-fated Havana Charter was put together. So I have concluded we should not hold our breath waiting for other nations to impose on themelves the same antitrust restrictions we imposed in 1890.

For that reason, I urge my colleagues to join me in pushing for stricter enforcement of the antitrust laws on foreign enterprises that compete in American markets. If our foreign competitors understand the depth of our commitment to the principles of competitiveness that our own companies adhere, perhaps they can be convinced to adopt and follow similar laws in their own jurisdictions. If they choose to compete in our marketplace, they must understand that they have to play by the local rules. Participants in our marketplace must not be allowed to profit from collusive practices and exercises of market power that restrain free trade.

In the coming months, I plan to consider a number of approaches to this issue.

I will urge Attorney General Barr to follow his instinct to implement a more aggressive international antitrust policy, bringing suit against foreign companies that engage in unfair trade practices that have a direct effect on American companies and consumers.

I will look into codifying existing principles of law allowing private litigants to challenge anticompetitive conduct by foreign companies, including the possibility of clarifying by statute the rules of extraterritorial subject-matter jurisdiction and personal jurisdiction over foreign traders in U.S. markets, and expanding the rules of foreign discovery.

I will urge the FTC to continue its aggressive investigation of the business practices of foreign subsidiaries operating in the United States.

I will investigate the creation of a new cause of action, which would build on the nexus between the trade laws and the antitrust laws. Currently, American law treats foreign anticompetitive conduct in a piecemeal fashion. The antitrust and trade laws are inconsistent, and enforced by different agencies without sufficient coordination. We should consider clarifying in our law the principle that goods sold in the United States must not benefit from unfair business practices overseas which would be illegal if done in the United States. American consumers and companies should be able to challenge such conduct in court, utilizing the court's injunctive power to fashion exclusionary remedies where appropriate, as well as money damages.

It is time that we stop allowing our free and competitive markets to be infiltrated by sellers who engage in practices back home that would be illegal under our laws, giving them an unfair advantage in our markets. This is not protectionism. It is promoting competition by ensuring that our longstanding antitrust principles are not eroded by the globalization of our economy.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask that I be able to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDED UNEMPLOYMENT INSURANCE

Mr. KENNEDY. Mr. President, in just a few moments the Senate will consider the legislation to provide extended unemployment benefits to millions of our fellow citizens.

With this legislation, Congress marks the end of a long struggle to provide extended unemployment benefits to deserving men and women across America. It has taken us far too long to accomplish this goal, but we have persevered, and the American people are the beneficiaries.

These extended unemployment benefits are essential, but they represent the minimum that the Federal Government should do. The economy is still mired in recession, and this recession comes at the end of a long period of economic stagnation for the majority of the American people.

In recent weeks, new claims for unemployment insurance have risen to a 7-month high, and many analysts fear that unemployment will continue to rise in the months ahead. America's trade deficit is now at its highest level in 8 months, and has been growing for the last 3 months; 62 percent of last month's trade deficit is with one country—Japan.

Business failures continue to rise by 51.5 percent in the first 7 months of this year, with 17 consecutive months of increases. Across the United States, there were more business failures in the first 7 months of this year than in all of 1989.

This grim economic news comes against a backdrop of a continuing "squeeze" on the middle-class and working Americans; 44 percent of all family income goes to the top 20 percent of families, and that gap has widened throughout the 1980's. Parents cannot afford to send their children to college. More and more families fear the loss of their health insurance if they lose their job.

In Massachusetts, we have lost 275,000 jobs—10 percent of our jobs—in the last 2 years. That is the worst loss of employment since the Great Depression. Our people, and people throughout the Nation, need a comprehensive program to bring this economy back to health, and to make the benefits of economic growth available to all Americans, not just the wealthy few.

In response to America's economic difficulties, some of our Republican colleagues have advocated a so-called growth package, with emphasis on the so-called. Their package is nothing more than the same tired old capital gains tax cut that would give two-thirds of the benefits to those with incomes over $200,000, and do nothing to get this economy growing.

We have seen the result of these trickle-down economics. The message is always the same: reward the rich, and the economy will grow. But we have had these policies for almost 12 years, and the results are plain to see: rising deficits, increasing inequality, more and more benefits targeted on the wealthy, and more and more taxes shifted onto the middle-class and working Americans.

A true plan for economic growth and prosperity must include real tax relief for the middle class, increased investments in infrastructure, a world-class education and job training system, and an end to the credit crunch that is choking our small businesses. That is what America's economy needs, and that is what the American people need.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, when does the time start to run on the employment bill?

The PRESIDING OFFICER. The conference report has not been laid before the Senate. The time will begin to run as soon as the conference report is laid before the Senate. At that time there will be half an hour evenly divided.

Mr. DOLE. Mr. President, I am pleased to see that we are taking action on the unemployment compensation bill. We received several calls about it today, about the delay, and I am glad to report that the Labor Department and States will be able to proceed very shortly. At least that is my hope.

Mr. President, I would like to take a moment to address a technical issue which has been the subject of controversy during the debate. I am referring to the use of the insured unemployment rate, the IUR versus the use of the total unemployment rate, or TUR.

The distinguished chairman of the Finance Committee, Senator BENTSEN, brought the issue to our attention. I feel that we need to understand how these statistics are developed.

To begin with, the unemployed are helped by three programs. First there is a regular State program. Under this program, each State covers 100 percent of the benefit payments. That means States pay unemployment benefits, not the Federal Government. Each State determines who is covered, the duration of the program, the level of bene-

fit payments, and the tax rates to fund the program.

The Federal Government is limited to providing the funding for administrative grants, general oversight of timeliness and accuracy of payments, and assuring conformity with Federal requirements.

We have never used the total unemployment rate as a measure for unemployment benefits. It is an untargeted measure, a broad measure that includes those who have little work experience and those who voluntarily quit their jobs.

The TUR comes from a Census Bureau sample of households. The question these households are asked is quite simple: Who is not working in your household right now? This approach gives data on all aspects of the unemployed.

For example, a student could be included in this count if he or she has decided to take a semester off. I do not believe we intend that these students would enter into our decisions to extend unemployment benefits.

The IUR, on the other hand is a measure taken from State records. The rate reflects those who are actually receiving benefits. It is a ratio of the number of workers receiving benefits to the number of workers that a State insures. This is the only measure that we have ever used. It is the only measure we have found reliable, to date, for this purpose. This does not mean that we should not, and cannot, consider other measures or modifications.

In my bill, which did not pass, I asked for a study on the use of the IUR versus TUR. I am writing the Secretary of Labor, Secretary Martin, to ask for such a study. I hope that my colleagues, the distinguished chairman of the Finance Committee at this time, Senator BENTSEN, and ranking member, Senator PACKWOOD, will join me in my request.

We hope to have that letter available for signature, if not tonight, sometime tomorrow.

ANDEAN TRADE INITIATIVE

Mr. President, also in reference to the unemployment bill, when we finally agreed in the Senate to send over a separate resolution, it was amended by the House. It then included five trade provisions. One was the so-called Andean trade initiative. It is an initiative which President Bush requested some time ago.

As we all know, President Bush has declared the war on drugs to be an urgent national priority. Daily we face the heavy toll of personal and economic loss. Everybody is tired of the violence, the crime, the addiction, and the corruption caused by illegal drugs and drug trafficking.

So the Andean trade initiative was very important with reference to the war on drugs. The Andean countries are Boliva, Colombia, Peru, and Ecuador. For all the world's cocaine production, the Andean countries' coca leaf production is what Saudi Arabia is to oil. It is estimated Americans are spending $17½ billion a year on cocaine.

The Andean effort proposed by President Bush was a modest effort, and with it we have the opportunity to help the Andean countries invest in lawful products. In an effort to make certain that even though it covers 6,100 products, the administration also sought not to have an adverse impact on American producers. Such items as textiles, footwear, petroleum, and petroleum products were not included. These items tend to cause the most controversy in these types of agreements.

I think what concerns me, and as I said to the chairman of the Finance Committee, I have had no contact from anyone in the administration with reference to this provision—except I did discuss it with the OMB Director Secretary Darman, who was working on the unemployment bill. But the President did meet with the Presidents of the Andean countries, and did make a promise to accelerate access to U.S. markets in an effort to give them some other hope for income other than cocaine, drugs.

The President participated in the drug summit and urged us back in October of 1990 to support his efforts. And since that time, Ambassador Hills, U.S. Trade Representative, and Bob Martinez, Director of Office of national drug control policy, reminded us of the urgency in a letter this past July.

And, following action by the House Ways and Means Committee, there was a motion by Congressman CRANE from Illinois to instruct the conferees to insist that the Senate accept the Andean Trade Preference Act. The vote was 416 to zero.

I am not certain what will be the final outcome, but there will be another conference here in February. I would just say that what I think the administration is concerned about is we would go to that conference empty-handed after a year and a half or 2 years. I hope that, if it is not going to be resolved this evening, it will be resolved early next year, not just with hearings—anybody can have a hearing; not just with a markup—but some promise to make certain that the provision gets swift consideration by the House and the Senate.

Mr. President, as I have said to the distinguished chairman of the Finance Committee, we are prepared to act on unemployment tonight, with or without the Andean provision. It is not something that would hold up the unemployment bill. I made that statement to Senator BENTSEN, and I will make it now publicly.

If we do not complete action on the unemployment bill, I am told there are about 200,000 unemployed individuals in 18 States who will not receive their benefits. In other words, they will be delayed. They will get them finally, but they will wait until we act, because they have already exhausted their benefits. They desperately need our help.

Eighteen States and the Virgin Islands were provided 6 weeks of benefits without reachback. The Senate action we took provides reachback now, to bump those States up to 13 weeks. The Labor Department completed processing the agreements of each State with the Federal Government on Saturday, November 16. That has been over a week. Those States without reachback have not notified their respective unemployed, and are awaiting our action.

So I am pleased that this is going to be before us this evening. I hope the House will act yet this evening, so that there will not be one more delay in getting employment benefits to unemployed workers in America.

Again, I want to commend my colleagues on both sides of the aisle for finally coming to grips with a very sensitive issue. The question at the start has not been benefits, not even the duration of benefits. The question at the start is paying for it. Now we are going to pay for it. That is the only serious question President Bush ever raised: Should we add to the deficit $6.2 billion or more; or should we pay for it?

Once there was a consensus that we ought to pay for it, and not charge it up to future generations, or other workers who may not be unemployed at this time, or their children, then it was very easy. It was a matter of figuring out the duration; how much money we could raise to pay for it.

I believe after the debate in the Senate, and after consideration by the House, we have a fair agreement.

I urge my colleagues to support the conference report. To me, it is very important.

MOTION TO PROCEED TO MEDICAID BILL

Mr. DOLE. Mr. President. as I understand, after we complete action on the unemployment insurance bill, there is going to be debate on a motion to proceed to Medicaid, bill number H.R. 3595. I do not know of any reason to have a cloture vote. There is no request on this side, any longer for a cloture vote.

It is also my understanding that representatives at HHS are working directly with Governors and Senators and Members of Congress to try to work out any differences or any problems some States may have.

So I am prepared to indicate that, on this side of the aisle, we do not need a cloture vote. We do not need any more votes at all this evening.

I hope that we can just move to proceed to H.R. 3595, and hopefully work out our problems, and pass that bill; if

VOL
137
PT
23
NO
21
—
25
1991
UMI

not tonight, if a rollcall is required, have that rollcall vote tomorrow morning.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

THE UNEMPLOYMENT BILL

Mr. CONRAD. Mr. President, I wanted to express my very strong support for the unemployment benefits bill that we have before us this evening.

The occupant of the chair will recall that when this Chamber was presented with a formula a week ago that some of us protested very strongly. We protested strongly because the formula that was being presented was not fair. It was a formula that did real injustice to the workers in many of the States, including mine, who were already given the least number of weeks of additional benefits.

And then were asked to take a further cut; and also we were told that the benefits would not apply retroactively to our States, while it did apply retroactively to other States.

Mr. President, we were told we were going to take an additional cut in order to give additional benefits to other States that already had more. That was wrong. That was unfair.

So for 2 days, we engaged in strenuous debate, both on and off the floor, in an attempt to get a formula that was fair to all of the workers in the country.

I am pleased to see that we have now accomplished that goal. And the formula that is before us tonight is fair. It will mean that 3,800 workers in my State and some 200,000 workers around the country are going to be treated more fairly than under the formula we were presented with 1 week ago.

Mr. President, I want to thank all of those who participated in the effort to get this result.

I can remember very well the Senators from Arkansas, Senators PRYOR and BUMPERS; the Senators from Oklahoma, Senators BOREN and NICKLES; the Senator from Kentucky, Senator FORD; the Senator from Wisconsin, Senator KASTEN, and so many others who participated. I would be remiss if I left out Senator ROTH, who objected at a critical point, in order for us to achieve the result that is before us this evening. Mr. President, I want to also thank the majority leader, who showed great patience as we struggled over this issue. And, certainly, I thank Senator BENTSEN and the ranking member, Senator PACKWOOD, Senator DOLE, the Republican leader, as well, who participated in those negotiations.

The result, for my State, is that instead of having only 6 weeks and no retroactive benefits, tonight our workers will get retroactive benefits, as will workers in every other State, and we will get 13 weeks of additional coverage instead of only 6.

Mr. President, the fight we waged a week ago needed to be fought, because the result as it was presented to us had been cooked in a room in which those who baked the cake, cut the cake and put it on their plate. That provided a result that was simply unfair.

Mr. President, there is one other item I want to mention. I believe Senator DOLE touched on it, and that is simply this: The program is legislatively effective on November 17. Technically, people who are eligible for extended benefits for the week of November 17 through 22 needed to file by Friday, November 22. However, since the legislation had not passed, eligible unemployed in North Dakota and 18 other States could not be notified to apply in a timely fashion.

I might indicate to those who are on the floor that the Senator from Colorado represents a State that is also in this category, as is the occupant of the chair, the Senator from North Carolina. I notice, also, my colleague from Wyoming. His State is also affected, as is the State of the Senator from Utah. All of those States are among the 18 who are in this catch 22 category.

I have been informed by the staff of the Finance committee that the Labor Department has indicated that they are giving instructions to those States that they are to make certain that the workers qualify and are provided the benefits intended by this Congress.

Mr. President, I hope that message is being sent loud and clear to the affected States. We are not going to find a situation in which workers are told, well, Congress meant for you to be included, but there are technicalities that preclude it and prevent it. That would be wrong. So, Mr. President, I hope the record is very clear that the workers in these States, including North Carolina, Colorado, Wyoming, Utah, and in my own State of North Dakota, do qualify even though there has been some delay in providing these benefits.

Mr. President, let me conclude by, again, thanking all of my colleagues who stood and fought last week when we needed to wage the fight in order to achieve a more fair result. I thank the Chair and yield the floor.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I wanted to take a few minutes to praise the extraordinary work and bravery of Senator CONRAD. This becomes an institution where, at times, there are reward structures of various sorts, and there are some where if you go along, you are successful and do not rock the boat. And there are times, as well, where it is absolutely essential to take a piece of dynamite, put it in there, light it, and watch it go off and be prepared to do so.

Last week, the Senator from North Dakota did exactly that. And the citizens of his State should know what a wonderful, wonderful job he did, with the power of the institution arrayed against him. He stood up almost with a lone voice and said, "This is wrong." He knew what was in this piece of legislation. He found out what was in there, and he found out how the cake had been made, how the cake had been baked, and who was cutting it up and who was going to get the cake and the frosting, and where the crumbs were going to go. And his State was going to get a few crumbs. My State was going to get a few crumbs, and a number of other States were going to get a few crumbs. The State of the occupant of the chair, I believe, was getting a few crumbs. It was wrong. This was one of the midnight specials, almost, coming up here, and the Senator from North Dakota took the top off of that can, opened it up, and it was pretty lousy inside. It was not a cake at all.

I thank him both on behalf of the citizens of his State, who probably do not know about this, and citizens of my State, who also have the same reachback benefits and longer benefits, and who, through no fault of their own, became unemployed. He led that battle and did it very well.

The occupant of the chair currently has the most thankless job in the institution, and that is chairing the Ethics Committee. He also takes on a job that demands this kind of standing up and saying no. You have to do that from time to time here. We see evidences of that. We saw it the day before yesterday, and I hope we stick to it on another example of a choice issue, where people for the most part would rather that issue go away. But we are going to keep bringing it up until the right thing is done.

The right thing was the issue related to the equal treatment of women. Finally, the Senate passed that on a vote of 57 to 40 last week. I hope that stays in the conference report on the dire emergency supplemental appropriation. If it does not, we will be back with another example of that, on which the distinguished occupant of the chair and the Senator from North Dakota have joined me, the issue of disclosure. We have these enormous amounts of taxpayer money being spent for the savings and loan institutions, $216 billion being spent, and you cannot find out where the money went. You cannot find out, because it is a lot more convenient not to have that information out. It is a lot more convenient for the regulators to say this is classified. But that amendment now is part of the banking bill that passed in the Senate, and I hope the conferees keep that in, so we can find out what these settlements were, we can find out who made out with the cake in that circumstance rather than having it being hushed up and private business; $216 billion of public funds have been spent, and you cannot find out where. Why not? If this does not stay in the conference report, we are going to come back and bang on that as well, even though that makes a number of people extremely uncomfortable.

Mr. CONRAD. If the Senator will yield, I just wanted to thank my colleague from Colorado for his kind words and also to say to him that I found, in the 5 years that I have served in this Chamber, that the Senator from Colorado has never been afraid to stand up. And this issue of disclosure, I believe, is one of the most important issues that we have before this Chamber in the dying days of this session. It is something that the American public ought to demand. We ought to know where has the money gone? How has it been spent? What are the deals that have been made?

I believe, on the basis of some of the initial audit reports that I received last week, people would be pretty shocked at what is happening, not only in terms of the deals that are being made, kinds of expenditures that are being made, but in terms of the legal fees. We received some audits last week that showed absolutely outrageous legal fees now, a billion dollars a year in just legal fees, to clean up this mess. And when you start lifting up the rocks and seeing where it is going and how it is being spent, you find some remarkable things, double billing, $250,000 to one firm, overcharged on photocopying expenses, $80,000, one firm; and on and on it goes.

Thank goodness there are some people, like the Senator from Colorado, who stand up and say we insist that all of this be revealed for the American people to make a judgment.

I thank my colleague.

Mr. WIRTH. I thank the distinguished Senator from North Dakota. I had not intended to get into this mutual praising situation, but sometimes it gets pretty lonely on these issues and it is nice to have kindred experiences.

We had another example of this, as the distinguished Senator from North Dakota will remember, only yesterday on the issue of the military appropriations bill. Here we were happily going on as if it is the height of cold war, spending $290 billion on a defense program when the peacetime average for the cold war is $235 billion. We are spending $290 billion, and the peacetime average is $235 billion. We are spending $55 billion more on defense than we were at the height of the cold war.

I mean that does not make any sense to me. And I will tell the Senator I do not think it makes any sense to the American public. It certainly does not make any sense to my constituents. And what we have to do is continue to come back even though you got this sort of enormous bow wave mowing down of all the contractors and all the momentum for spending all this money, and I say, "Stop, we have to change."

Mr. CONRAD. Mr. President, will the Senator yield on that point?

Mr. WIRTH. I am happy to yield to the Senator from North Dakota.

Mr. CONRAD. Mr. President, I had not intended to carry on this discussion further, but the Senator from Colorado makes the point that I wanted to make the other day on the floor with respect to the expenditures in the military budget.

I do not know how many people noticed last year that the Germans announced they were going to spend billions of dollars over the next several years paying to keep the Soviet troops in what was Eastern Germany, because there was no place for them to go back in the Soviet Union; no housing, no jobs. So they are going to spend billions of dollars—Germans keeping Soviet troops in Germany. At the very time they are spending billions to keep the Soviet troops there, we are spending tens of billions to protect them against those Soviet troops.

If that is not the height of irrationality, I do not know what is.

Mr. WIRTH. Maybe an even higher irrationality is the fact that we are in this budget about to build an advanced tactical fighter, to be a stealth fighter, and the purpose of that fighter, as the distinguished Senator from North Dakota knows, is to fend off the developing Soviet stealth threat, because the Soviet Union which no more is developing, is putting a vast amount of money which they do not have, with technicians who are rapidly leaving the country, using materials which have not been developed, to build a fighter which they are not going to do.

We are building, going to spend tens of billions of dollars to counter the Soviet advanced tactical fighter which is not there, do not have money, and so on.

Now we learn from our own Central Intelligence Agency that they missed the boat on the breakup of the Soviet Union, by about probably $100 billion. I think their budget is about $30 billion a year. They missed it by about 3 years, by about $100 billion. We could have saved a lot of that money and also saved a great deal of money if we would just say, stop, to the advanced attack fighter, or the *Sea Wolf* submarine, or the B–2 bomber.

As the distinguished occupant of the chair, who is a wonderful educator knows, for two B–2 bombers, the cost of two B–2 bombers, we could fully fund all of the eligible Head Start kids in the country. We know that Head Start is the most effective educational program we have ever had. The most effective—and yet one child in four who is eligible is enrolled in Head Start. Three out of four are not. The cost of enrolling those other three out of four, the best investment this country can make, preventative medicine dealing with these kids, the cost of enrolling those three out of four is the cost of two B–2 bombers.

Now, Mr. President, the facts of this suggest to me that we in the Senate have a very, very significant job to do. And that job to do is say we have to change the course. We have the responsibility. We are being asked by our constituents to come in here, as the Senator from North Dakota did on the unemployment insurance deal, and say we have to bake this cake in a different way. We have to make this different wedge. We have to change the temperature. We have to change the configuration. We have to change the budget. We have to do it differently.

Finally, Mr. President, a final example of this was brought up by the distinguished Senator from Pennsylvania, Senator WOFFORD. Senator WOFFORD brought up in his recent successful campaign a very interesting vignette related to health care. He had an ad when he stood in front of a chair and said that if some Member of the Senate gets sick he comes in and gets paid-for health care. Nobody else has that particular access to health care.

I paraphrased the ad very badly, but it was a very powerful ad related to a sense of insulation that often exists here.

The health care issue is obviously one that the country is feeding on, the country is concerned about, the country is more and more concerned about each passing day, and asking us to move on it.

I think we have to show, as the distinguished Senator from Pennsylvania suggested, that we are willing not only to move on that but to show that we are willing to put our money where our mouth is. The Senator from Pennsylvania has suggested that all Members of the United States Senate have our health care covered as most Americans do; if we have health insurance buy that health insurance—not to become a free entity. That I know is very controversial among many of our Members, but I think this is probably as interesting a vignette or maybe a metaphor for all of the items that I have been talking about.

I think we should all be serious about supporting the legislative initiative of the Senator from Pennsylvania on health care for members of the United States Senate, just as I think we were finally successful in turning around the unemployment insurance under the leadership of the Senator from North Dakota, just as last week, or yesterday, we finally made the right decision on the choice issue, and that has to

stay in the conference report. That was

things in there that concern me about

to the administration, the message

I have been telling farmers that it is

agreed to as the only thing certain.

I hope when we reconvene after this up-

VOL 137 PT 23 NO 21—25 1991 UMI

stay in the conference report. That was the issue related to the treatment of women in the military.

It is also just as on the disclosure issue, we now have gotten that in the banking bill, and let us hope the banking conferees keep that in so the American public will know as the budget priority we made a little bit of progress this past year. We have a long way to go.

Mr. President, I again thank the Senator from North Dakota for the job that he did on unemployment insurance, and many others joined in, but he was the person leading the way. He was right in there. He got hammered off the bat doing what he did, but he did a terrific job. And I initially got up to speak just simply to thank him and make sure that the people of North Dakota know what a job he has done.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

UNEMPLOYMENT COMPENSATION

Mr. GRASSLEY. Mr. President, I hope that we are able to get the unemployment compensation bill before the Senate, hopefully even this evening, and get it passed because there are 16,000 Iowans who are unemployed and their benefits have run out, and without this legislation they will not benefit from the previously so-called compromise that has passed the Senate and now is being signed by the President.

That compromise would not covered these 16,000 Iowans. It would cover Iowans who are employed today, and when their unemployment runs out they would get additional weeks of unemployment. But for those 16,000 Iowans who have run out of unemployment and have not been able to establish a new record for unemployment compensation, the legislation that has been signed by the President would do no good.

So, for all of us who made an effort to make that point when the original compromise came up 10 days ago, we are thankful that we had the leadership accept the reasonableness of our arguments and for the legislation that will soon be before this body to help Iowans who would not otherwise be covered, actually all people in all 50 States who would not otherwise be covered. We are glad that that has come forth.

We look forward to it being passed shortly, and being signed by the President.

THE URUGUAY ROUND

Mr. GRASSLEY. Mr. President, I want to remind my colleagues that there is some very delicate negotiations going on right now in the existing Uruguay round discussions on the GATT compromises. There are a lot of things in there that concern me about agriculture, whether or not agriculture will be adequately defended, our interests adequately protected by our negotiators on this round.

We have been told many times throughout the course of 1991 by Carla Hills, our special Trade Representative, that agriculture would not be sold out for the benefit of an agreement on services and intellectual property rights, and other things that are being negotiated there. I take her at her word. I do not have any question about her sincerity or her desire to do that.

But I guess I am also fearful that, as we get down to the late hours of negotiating on this round, that maybe things that have been thought reasonable to expect for agriculture may not come out as originally projected, and for the sake of an agreement, people, even though that there is not bad faith intended, may end up with an agreement in agriculture that may not be good for America.

So I compliment Senator BENTSEN because, just this past week, he had before the Senate Finance Committee, hearings on the progress of the Uruguay round. The success or failure of the talks that are proceeding now are going to have a significant effect on all segments of the U.S. economy, not just agriculture.

Over the last couple of weeks, the press has begun to report significant movement toward agreement in all areas, after President Bush's personal intervention. One can doubt the stimulating effect a fair agreement will have on the world economy, and I hope our deams will not be trashed yet again by intransigence on behalf of the European Community, particularly with regard to agriculture.

With regard to agriculture, indications are that several issues have yet to be resolved. The major controversies include:

Subsidy levels, both internal and export;

Base years from which to make cuts when they come about;

Rebalancing of tariffs among commodities;

Minimum access commitments;

Export subsidies measurements, dollars and quantities.

Farm commodity and agribusiness groups are concerned that the administration will become so enamored with agreements in services and intellectual properties, that it will let agriculture go without significant reductions in competitors' programs.

Some of the comments that I have read in various articles in which the authors are monitoring the GATT negotiations give credence to this fear.

Although I note with approval that the two Senators with the most responsibility in monitoring the GATT negotiations, Senator BENTSEN and Senator PACKWOOD, have reiterated, in a letter to the administration, the message that no agreement is better than a bad agreement.

Based on what I have seen and heard discussed in the media, I remain skeptical of how far the EC has moved in relation to the U.S. position, particularly on agriculture.

For instance, the EC would like to use a more favorable base period—1986—from which to measure cuts and to define cuts in subsidies in terms of cash amounts. The United States should hold to its position of using an average of the period of 1986–1988, during which United States supports dropped from $27 billion to $9 billion, while the EC supports climbed to $30 billion.

In a similar vein, the EC wants to base export subsidy cuts in terms of budgetary outlays rather than in quantity of produce shipped. However, because of currency fluctuations, the EC will be able to meet its commitment without significant actual reductions. Thus, the United States is properly pushing for export cuts to be measured by a formula combining budget outlays and quantities of commodities in international trade.

Rebalancing and minimum access commitments are closely linked. Because of the threat to corn gluten and other commodities, I and many other Members of the Senate have held that rebalancing of tariffs among commodities would be an unacceptable compromise. The EC wishes to assuage this by guaranteeing base levels of imports of corn gluten from the United States I feel it is likely that this floor would, in fact, also be a ceiling. I think that is a very legitimate fear.

I have several more concerns. First of all, much of the movement has been done by the United States. This has reduced the level of required subsidy cuts that it is demanding from 75–90 percent to 30–35 percent. The EC has given in to a shorter time frame—down from 10 years to 5 or 6. While we would not likely need to make further substantive cuts in the United States farm programs, we should refrain from celebrating over the EC's newfound willingness to seriously negotiate for a change.

To a degree, this discomfort revolves around the emphasis of the stories in the popular press; "breakthrough in agricultural tied to movement in services and intellectual property."

That is, Mr. President, agriculture, it seems to me, rather than being a linchpin to a successful GATT round, is becoming a secondary factor, a throwaway concession to enable a larger agreement to be reached.

That is a fear that I previously spoke to, that Mrs. Hills has promised us would not happen. But when I see the specialized media covering GATT speaking otherwise, then I begin to worry, and I want to call the attention of my colleagues to it.

I have been telling farmers that it is difficult to conceive of an agreement being reached in other areas that would be so beneficial to the country that it would outweigh a bad agreement in agriculutre. I still stand by that assessment, although it may become necessary to remind the administration of our commitment to success in the agriculture sector and our willingness to vote against any agreement which does not allow for U.S. farmers to exploit.

I might say to my colleagues here in this body, if they think that our opinion on what ought to be done at GATT is unimportant to negotiators, both American and foreign, who are negotiating there, I think they should take heed of rumors that I picked up from American business people following the negotiations over there on-site—that the opinion of people in Congress is carrying a much larger voice over there than even the opinion of the administration. Because they know that, constitutionally, the Congress has control over foreign trade and they know that we have to approve whatever agreement is arrived at. And, that what the administration says might get through Congress is one thing, but what has a majority vote here in Congress is quite another thing.

So I think I should remind my colleagues of—not CHUCK GRASSLEY'S point of view—but what I report to you from businessmen on the scene over there following the negotiations, the views of us in the Congress are sought and analyzed and considered to a greater degree than maybe most of us here in the Congress would appreciate.

A third major concern is that we may be signing off on something that calls for further cuts to be discussed in the future. That is further cuts in agricultural subsidies. I am not sure that is even worth putting on paper. One need only to look at the EC actions on oilseeds to see that they will use every opportunity to stonewall, delay, obfuscate, and divide.

They fought the formation of the original GATT panel, then took their time in deciding, finally, to accept its ruling against the oilseeds regime, then delayed coming up with a plan which is completely unacceptable—then somehow allowed for the convening of a new GATT panel—which gives the stamp of approval to further delays. The burden of proof is on the EC to show that they really intend to sit down in 5 or 6 years to negotiate further cuts.

That, Mr. President, directly relates to the fact that originally we were proposing 75- to 90-percent cuts over a 10-year period of time. We have reduced that down to 30- to 35-percent cuts. The EC has come down to 5 or 6 years for those cuts to take place, telling us they will negotiate further cuts later on. I think we take what is on paper, agreed to as the only thing certain. Any promise of further cuts at this time, I have to say, I am suspicious will happen.

Mr. ROTH. Mr. President, this is an important victory for two concerns: First, it is a victory for the men and women who through no fault of their own find themselves unemployed and in real need of these extended benefits. For these people, what we have done today will make their Thanksgiving a little brighter, their home life a little more secure, and their self-confidence to find employment a little stronger.

The second victory, I believe, is a victory for the parliamentary process itself. With this extension of unemployment benefits, Members of this distinguished body did nothing short of stopping a runaway freight train. We retied its load in a more equitable manner, and then put the train on the right track.

By restoring equity and fairness to a bill that grossly favored some States over others in the distribution of unemployment benefits, we proved that this body is capable of laying aside special interest politics and legislating in a way that does what is right and not what is politically expedient. We showed that people come before politics. And I thank all my colleagues who came toether, with the assistance of our distinguished leadership, to rework the bill.

As we received it from the House, the bill to extend unemployment benefits was unfair. It offered some States up to 20 weeks of extended benefits while offering others only 6 weeks. It offered some States full retroactivity—or reachback—by which the unemployed of those States could become eligible for extended benefits as long as their benefits expired any time after February 28, 1991—other States were completely denied any reachback. The unemployed in these disadvantaged States could not receive any extended benefits unless their regular benefits expired after November 17.

Under the bill as it came to us from the House, some States were receiving up to 333 percent more than other States—as if a distinction or judgment had been made between the value of the unemployed in States like Maine and Massachusetts and those in States like Delaware and North Dakota.

Today the bill is fair. We can return home this Thanksgiving and tell our neighbors—especially those who are unemployed—that they are being treated with equal concern as those suffering similar economic setback in other parts of our country. We can tell them honestly that the bill is fair. And we can use this experience as an example of how the system is working here in Washington.

This body can lay special interest politics aside and come together to do what is in the best interest of America. I hope when we reconvene after this upcoming adjournment—I hope when we get down to the business of improving America's economic future, of strengthening America's competitive edge in the global economic community—I hope that when we turn our attention to real tax reform and health care legislation—we will remember what we were able to do with the extension of unemployment benefits.

I hope—like we have now—that on those other important issues we can come together to do not what is politically expedient—or what places one group at an advantage over another—but that we can come together and do what is right.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today—at long last—Tom Sutherland returns to the United States. We rejoice with the Sutherland family as they prepare to spend their first Thanksgiving together in six years.

But our joy is not complete. Terry Anderson, Joseph Cicippio, and Alann Steen remain captive in Lebanon. In fact, today marks the 2,445th day that Terry Anderson has lived as a hostage. Mr. President, I call on the hostage holders to release the men they continue to hold, and I ask unanimous consent that an Associated Press article reporting Tom Sutherland's remarks upon his release be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUTHERLAND PLEADS FOR RELEASE OF AP JOURNALIST TERRY ANDERSON

DAMASCUS, SYRIA.—Freed U.S. hostage Thomas Sutherland pleaded for the release of Terry Anderson, the longest-held hostage in Lebanon, who he said served as an inspiration to his fellow captives.

"Without Terry Anderson, I couldn't have made it for 6 years," Sutherland told a news conference shortly after being freed November 18.

He said Anderson, chief Middle East correspondent for The Associated Press, was in good health and good spirits. "He's taken to

VOL 137 PT 23 NO 21—25 1991 UMI

writing poetry, which he hopes to publish," Sutherland added.

Terry Waite, the Church of England envoy freed with Sutherland, said one of his captors had said he expected Anderson and the two other American hostages, Joseph Cicippio and Alann Steen, to be freed soon.

Anderson's sister, Peggy Say, said she was "thrilled" for the families of Sutherland and Waite, but no longer questioned why it seemed her brother would be the last American released.

"I don't think it's attributable to any specific reason other than my feeling that God has a job for him to do and that is to help the others endure and survive, and when that job is over with, he will come home," she said from her home in Cadiz, Ky.

Anderson, 44, was kidnapped in mostly Muslim west Beirut on March 16, 1985 by the fundamentalist Islamic Jihad movement.

His daughter was born and his father and a brother died during his captivity. Iranian-backed Shiite Muslim leaders in Lebanon have said that Anderson was considered the kidnappers' most valuable prisoner and would likely be the last freed.

Both Sutherland and Waite were kept in the same windowless room with Anderson. Over the years, at least seven other hostages had spent time with him.

Waite talked about the hostages being chained to a wall 23 hours and 50 minutes every day. "We've been under shellfire constantly," Waite said. "To be under shellfire when you are chained to the wall is not pleasant."

Sutherland said that when he last saw Anderson he was no longer manacled. "But he is still in a room that has very little fresh air and no daylight whatsoever."

Sutherland, dean of agriculture at the American University of Beirut, said Anderson was an inspiration to his fellow prisoners.

"I would just simply say to all of the friends of Terry Anderson: he is a man of whom all of you can be proud," he said.

Sutherland disclosed that Anderson has begun to write poems.

"How he does it I don't know, but he kept all of them in his head," Sutherland said. "You'll undoubtedly have a chance to read some of them sometime."

He added: "He's a man who never should have been kidnapped. He was, as I hope some of the rest of us were * * * doing his very best for the world and for Lebanon, reporting objectively about what was happening in Lebanon. And they never should have picked him up. They never should have picked any of us up."

IN HONOR OF CHARLES WOLFF

Mr. DIXON. Mr. President, on November 8 the State of Illinois and the United States lost a great man—a man made great not only by his achievements, but also by his legendary devotion to his fellow man. This selfless devotion makes him a role model for all of us, Mr. President.

His name was Charles Wolff. Charles died after a long bout with cancer on November 8 at the young age of 44. I rise today to pay tribute to his legacy.

Charles Wolff was a true renaissance man. His career was marked by tremendous accomplishments in both government and the private sector. All of these achievements are characterized by a lifelong devotion to improving the political process, accountability in government and helping the less fortunate.

Charles worked as a special assistant to my predecessor, U.S. Senator Adlai Stevenson III, D-Ill., from 1973 to 1979. After a stint as a Special Assistant for Intergovernmental Affairs at the U.S. Commerce Department in 1979 and 1980, Wolff returned to Illinois.

Over the next decade, Wolff established himself as a friend of good government, education, and health care in Illinois and the Nation. He served as head of the Chicago-based Roosevelt Center for American Policy Studies analyzing domestic policy in America from 1982 to his death.

Wolff continued his lifelong interest in education and became a member of the University of Illinois' board of trustees in 1987. He was elected president of the board in 1989 and oversaw many exciting and challenging advances in the university system at his alma mater.

Throughout the eighties, Wolff also served as a political adviser to the presidential bid of Arizona Governor Bruce Babbitt, and advised former Vice President Walter Mondale and my colleagues Senator ROBERT KERREY and BILL BRADLEY. All of them have attested to his honesty and their admiration for his compassion and devotion to the causes of the less fortunate in our great country.

Somehow, Charles Wolff found time for yet another endeavor. Along with philanthropist Richard Dennis, Charles raised millions of dollars to provide shelters for victims of domestic violence and to programs assisting people with AIDS.

In the years prior to his death, Charles devoted more and more time to the issue of health care. Charles realized the direct correlation between a strong America and an America that provides basic health care programs to all its citizens. Charles worked tirelessly for the poor of Chicago and was integral in the reopening of the Mile Square Neighborhood Health Center which provides care to Chicago's impoverished West Side.

When Charles Wolff died on November 8, all Americans, from Senators to students to the poor, lost a friend. We will all miss him very much. My condolences go out to his wife Sheryl, his son Matthew, and his daughter Abigail.

H.R. 3595—THE MEDICAID MORATORIUM AMENDMENTS

Mr. COATS. Mr. President, the Health Care Financing Administration's recent ruling, effective January 1, 1992, would be a severe blow to the capability of health professionals in my State of Indiana to provide important medical services to children, the poor, and the elderly.

Indiana hospitals face extreme financial difficulty because of the substantial amount of charity and uncompensated care they provide. For this reason, Indiana's General Assembly passed legislation, in 1991, which puts in place a limited tax on certain disproportionate share hospitals. This financing mechanism generates additional resources to meet the needs of pregnant women, child care programs, and other Medicaid services for citizens from my State without adequate health care.

Mr. President, we simply cannot pass the buck on Medicaid. Funding must be shared by both Federal and State governments. I am a cosponsor of the 1-year moratorium offered by my colleague from Kentucky, Senator MCCONNELL.

I rise today in strong support of the Bentsen amendment which provides a window of opportunity—a responsible 90-day bilateral moratorium—to work out a reasonable compromise on the Federal matching requirement for provider-specific funds.

This provides needed time for State legislators to work out ways to eliminate the abuse found in some State provider donation programs and would not unduly penalize States who have well-fashioned Medicaid plans.

Time, on this issue, is of the essence, the Bentsen approach will provide time for State legislatures, who would not meet before the deadline set forth by HCFA, to work out the right financing mechanisms. The Bentsen amendment will allow for reform without sending State Medicaid systems into financial chaos.

NOMINATION DISCHARGED FROM COMMITTEE AND PLACED ON THE CALENDAR—ARNOLD R. TOMPKINS

Mr. LIEBERMAN. As in executive session, I ask unanimous consent that the nomination of Arnold R. Tompkins to be chief financial official of the Department of Health and Human Services be discharged from the Committee on Governmental Affairs and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session, and that the Committee on Commerce, Science and Transportation be discharged of the following nomination: James B. Busey IV, to be Deputy Secretary of Transportation.

I further ask unanimous consent that the Senate proceed to its immediate consideration; that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF TRANSPORTATION

James B. Busey IV, to be Deputy Secretary of Transportation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a treaty.

(The treaty received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1891) to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the concurrent resolution (S. Con. Res. 77) condemning the massacre of East Timorese civilians by the Indonesian military; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 1193) to make technical amendments to various Indian laws; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian irrigation project in the State of Arizona, and for other purposes;

H.R. 1592. An act to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit;

H.R. 2141. An act to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes;

H.R. 2431. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System;

H.R. 2502. An act to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3245. An act to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a native American cultural center in Oklahoma City, OK;

H.R. 3495. An act to declare certain portions of Wappinger Creek in Dutchess County, New York, as nonnavigable waters; and

H.R. 3881. An act to expend the boundaries of Stones River National Battlefield, TN, and for the other purposes.

At 2:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. BEVILL, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. FAZIO, Mr. HEFNER, Mr. MCDADE, Mr. MYERS of Indiana, Mr. MILLER of Ohio, Mr. PURSELL, Mr. GREEN of New York, and Mr. SKEEN as managers of the conference on the part of the House.

The message also announced that, pursuant to the provisions of section 141(a) of Public Law 101–649, the Speaker appointed the following individuals from private life to the Commission on Legal Immigration Reform on the part of the House: Mr. Bruce A. Morrison, of New Haven, CT; and Mr. Warren R. Leiden of McLean, VA.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2100. An act to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes;

H.R. 2521. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 3728. An act to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution;

H.R. 3839. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes; and

H.J. Res. 125. Joint resolution to designate the week beginning November 24, 1991, and the week beginning November 22, 1992, each as "National Family Caregivers Week."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

At 8:29 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 794) to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes.

The message further announced that the House has passed the bill (S. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Select election campaigns, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2263. An Act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; and

H.R. 3327. An Act to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department.

At 8:40 p.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1776) to authorize for fiscal year 1992 the U.S. Coast Guard Budget; with an amendment, in which it requests the concurrence of the Senate.

At 10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, annouced that the House has passed the following joint resolution, without amendment:

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101-549.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2280) to amend title 38, United States Code, to extend and improve veterans' health care programs; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1688. An act entitled the "Omnibus Insular Areas Act of 1991";

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes; and

H.R. 3359. An act to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1027), and for other purposes.

MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on November 23, 1991, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3031. An act to provide a statutory charter, and to authorize appropriations, for the National Telecommunications and Information Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second time by unanimous consent, and placed on the calendar:

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 2431. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System; and

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

The PRESIDENT pro tempore [Mr. BYRD] reported that on today, November 25, 1991, he had signed the following enrolled joint resolutions, which had previously been signed by the Speaker of the House:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian."

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, November 25, 1991, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 184. Joint resolution designating the month of November 1991, as "National Accessible Housing Month";

S.J. Res. 207. Joint resolution to designate the period commencing on November 24, 1991, and ending on November 30, 1991, and the period commencing on November 22, 1992, and ending on November 28, 1992, each as "National Adoption Week"; and

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2197. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report on a violation of law involving the obligation or expenditure of funds in excess of an apportionment or a subdivision of an apportionment; to the Committee on Appropriations.

EC-2198. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report of the Commission on Consolidation and Conversion of Defense Research and Development Laboratories; to the Committee on Armed Services.

EC-2199. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the ninth report on United States Costs in the Persian Gulf Conflict and Foreign Contributions to Offset Such Costs; to the Committee on Armed Services.

EC-2200. A communication from the Under Secretary of Commerce (Oceans and Atmosphere), transmitting, pursuant to law, a notice of designation for the Flower Garden Banks National Marine Sanctuary; to the Committee on Commerce, Science, and Transportation.

EC-2201. A communication from the Acting Assistant Secretary of Energy (Fossil Energy), transmitting, pursuant to law, a report describing Strategic Petroleum Reserve planning criteria; to the Committee on Energy and Natural Resources.

EC-2202. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to November 21, 1991; to the Committee on Foreign Relations.

EC-2203. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the twenty-fifth 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico; to the Committee on Foreign Relations.

EC-2204. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential determination relating to assistance to Senegal; to the Committee on Foreign Relations.

EC-2205. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the establishment of a Beringian Heritage International Park; to the Committee on Foreign Relations.

EC-2206. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report under the Program Fraud Civil Remedies Act for fiscal year 1991; to the Committee on Governmental Affairs.

EC-2207. A communication from the Chairman of the Nuclear Waste Technical Review Board, transmitting, pursuant to law, a report on the internal controls and financial systems in place during fiscal year 1991; to the Committee on Governmental Affairs.

EC-2208. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, the annual audit report of the Corporation under the Inspector General Act Amendments for fiscal year 1991; to the Committee on Governmental Affairs.

EC-2209. A communication from the General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Labor Relations Board, for the period April 1 through September 30, 1991; to the Committee on Governmental Affairs.

EC-2210. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-260. A resolution adopted by the City Council of Seattle, Washington, relative to the development of a national long range energy policy; to the Committee on Energy and Natural Resources.

POM-261. A petition from a citizen of Belle Mead, New Jersey relative to foreign aid; to the Committee on Foreign Relations.

POM-262. A resolution adopted by the City Council of Pembroke, North Carolina supporting the application of a resident to the United States Air Force Academy; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 39. A bill to amend the National Wildlife Refuge Administration Act (Rept. No. 102–241).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1577. A bill to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes (Rept. No. 102–242).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2927. A bill to provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes. (Rept. No. 102–243).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1944. A bill to amend the Public Health Service Act to strengthen the Nation's health promotion and disease prevention activities, and for other purposes (Rept. No. 102–244).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 3322. A bill to designate the Wellston Station facility of the United States Postal Service in St. Louis, Missouri, as the "Gwen B. Giles Post Office Building".

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. 2037. An original bill to amend title XIX of the Social Security Act to clarify the treatment of voluntary contributions and provider-specific taxes to obtain Federal financial participation under the medicaid program and to limit aggregate payment adjustments under the program for disproportionate share hospitals.

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. 2042. An original bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

• Mr. BENTSEN. Mr. President, one dozen tax provisions are due to expire at the end of this year. These provisions, among other things, encourage research and development, promote the construction of low-income housing, improve the availability of mortgages, and help the employment prospects of those with special employment needs. It is to prevent the imminent expiration of these provisions that the Finance Committee unanimously reported a bill today on an emergency basis. Not only are these important provisions that can provide a sorely needed economic stimulus, extension at this time avoids the disruption and uncertainty in the affairs of taxpayers that occurs if the provisions are allowed to expire only to be later extended retroactively.

Under this bill, the expiring provisions would be extended for 6 months, through June 30, 1992. The revenue loss from this action would be entirely financed by one provision, a provision that would require large corporations to pay their tax liabilities more currently during the course of the year. Specifically, the proposal would require large corporations—those with over $1 million in taxable income—to pay estimated taxes based on 95 percent of the current year's tax liability, instead of 90 percent as current law allows. This provision would be phased in gradually over 5 years and sunsetted after 1996.

Another markup to extend the expiring provision occurred today in the Ways and Means Committee. A bill identical to the Finance bill was reported out, without amendment. In so doing, the two committees have complied with an agreement to have identical bills without amendments. Now we must turn to action on the Senate floor. Senator DANFORTH has obtained signatures from a super majority of the Senate to oppose any amendments to a bill extending the 12 expiring provisions. If just one amendment is adopted, then the deal is off both with the House and, I believe, on the Senate floor, and we can proceed no further. The expiring provisions would then have to expire. For this reason, the extension of these provisions must be accomplished by unanimous consent or not at all. There is no opportunity for conference on this bill—the House and Senate bills must remain identical. I am sure amendments could be offered that many of us, including myself, would want to vote for in the abstract. But to adopt an amendment in this context would mean that the bill will fail.

I ask for unanimous consent that the full text of the bill and a committee explanation be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Extension Act of 1991".

(b) AMENDMENT OF 1986 CODED.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Title I—6-Month extension of Certain Expiring Tax Provisions

SEC. 101. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to the taxpayer's first 3 taxable years beginning after August 1, 1989, and on or before August 1, 1992.

"(B) REDUCTION.—Notwithstanding subparagraph (A), in the case of the taxpayer's first taxable year beginning after August 1, 1991, this subsection shall only apply to qualified research and experimental expenditures incurred during the first 6 months of such taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 102. RESEARCH CREDIT.

(a) EXTENSION.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "December 31, 1991" each place it appears and inserting "June 30, 1992", and

(2) by striking "January 1, 1992" each place it appears and inserting "July 1, 1992".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 103. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for educational assistance for the employee shall be taken into account in determining the amount excluded under section 127 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 104. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for coverage for the employee, his spouse, or his dependents, under a qualified group legal services plan for periods before July 1, 1992, shall be taken into account in determining the amounts excluded under section 120 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 105. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 1991.

SEC. 106. ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

Subparagraph (B) of section 48(a)(2) (relating to energy percentage) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

SEC. 107. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) Paragraph (1) of section 42(o) is amended—

(A) by striking ", for any calendar year after 1991",

VOL
137
PT
23
NO
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25
1991
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(B) by inserting before the comma at the end of subparagraph (A) "to any amount allocated after June 30, 1992", and

(C) by striking "1991" in subparagraph (B) and inserting "June 30, 1992".

(2) Paragraph (2) of section 42(o) is amended—

(A) by striking "1992" each place it appears and inserting "July 1, 1992",

(B) by striking "December 31, 1991" in subparagraph (B) and inserting "June 30, 1992",

(C) by striking "December 31, 1993" in subparagraph (B) and inserting "June 30, 1994", and

(D) by striking "January 1, 1994" in subparagraph (C) and inserting "July 1, 1994".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 108. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "June 30, 1992".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1991.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after December 31, 1991.

SEC. 109. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 1991.

SEC. 110. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992—

(A) only amounts paid before July 1, 1992, by the individual for insurance coverage for periods before July 1, 1992, shall be taken into account in determining the amount deductible under section 162(l) of the Internal Revenue Code of 1986 with respect to such individual for such taxable year, and

(B) for purposes of subparagraph (A) of section 162(l)(2) of such Code, the amount of the earned income described in such subparagraph taken into account for such taxable year shall be the amount which bears the same ratio to the total amount of such earned income as the number of months in such taxable year ending before July 1, 1992, bears to the number of months in such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 111. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 112. CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.

Subparagraph (B) of section 57(a)(6) (relating to appreciated property charitable deduction) is amended by adding at the end thereof the following new sentence: "In the case of a contribution made before July 1, 1992, in a taxable year beginning in 1992, such term shall not include any tangible personal property."

TITLE II—MODIFICATION TO CORPORATE ESTIMATED TAX PROVISIONS

SEC. 201. TEMPORARY INCREASE IN AMOUNT OF CORPORATE ESTIMATED TAX PAYMENTS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installment) is amended by adding at the and thereof the following new paragraph:

"(3) TEMPORARY INCREASE IN AMOUNT OF INSTALLMENT BASED ON CURRENT YEAR TAX.—In the case of any taxable year beginning after 1991 and before 1997—

"(A) Paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting for '90 percent' each place it appears the current year percentage determined under the following table:

"In the case of any taxable year beginning in—	The current year percentage is:
1992	93
1993 or 1994	94
1995 or 1996	95.

"(B) Appropriate adjustments to the table contained in subsection (e)(2)(B)(ii) shall be made to reflect the provision of subparagraph (A)."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 6655(e) is amended by striking "modified by subsection (d)(2)" and inserting "modified by paragraphs (2) and (3) of subsection (d)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

COMMITTEE EXPLANATION OF S. 2042—THE TAX EXTENSION ACT OF 1991

I. GENERAL REASONS FOR CHANGE

In order to minimize the disruption to individuals and businesses by the expiration of certain tax provisions at the end of 1991, the Committee believes it appropriate to enact a short-term extension of expiring provisions. A modification to the manner in which corporations make estimated tax payments is adopted to finance the cost of this short-term extension.

II. DESCRIPTION OF TAX PROVISIONS EXPIRING IN 1991

1. Allocation and apportionment of research and experimental expenditures (sec. 101 of the bill and sec. 864(f) of the Code)

Present law

Foreign Tax Credit and Source Rules

Under the Code, each item of income is assigned either a U.S. source or a foreign source. The foreign tax credit for foreign taxes paid on foreign source income is limited to the amount of U.S. tax otherwise payable on foreign source income. The foreign tax credit is not available against U.S. tax on U.S. source income. (This is known as the foreign tax credit limitation.) A shift in the source of income from foreign to U.S. may increase net U.S. tax for some taxpayers by reducing the foreign tax credit limitation.

In determining foreign source taxable income for purposes of computing the foreign tax credit limitation, and for other tax purposes, taxpayers are required to apportion expenses between foreign source income and U.S. source income (Code secs. 861–864). A shift in the apportionment of expenses from U.S. source to foreign source gross income decreases foreign source taxable income. This decrease may increase U.S. tax by reducing the foreign tax credit limitation.

Research and Experimental Expense Allocation Regulation

Treasury regulation section 1.861–8 (promulgated in 1977) sets forth detailed rules for allocating and apportioning several categories of expenses, including deductible research and experimental expenditures ("research expenses"). The regulation provides that research expenses are ordinarily considered definitely related to all gross income reasonably connected with one or more of 32 product categories based on two-digit classifications of the Standard Industrial Classification ("SIC") system. Research expenses are not traced solely to the income generated by the particular product which benefited from the research activity. Instead, these expenses are associated with all the income within the SIC product group in which the product is classified.

The Treasury regulation contemplates that taxpayers will sometimes undertake research solely to meet legal requirements imposed by a particular governmental entity with respect to improvement or marketing of specific products or processes. In some cases, such research cannot reasonably be expected to generate income (beyond de minimis amounts) outside that governmental entity's jurisdiction. If so, the deductions allowable for such associated research expense are allocated solely to gross income from the geographic source that includes that jurisdiction.

After research expenses incurred to meet legal requirements are allocated under the above rule, any remaining research expenses are generally apportioned to foreign source income based on the ratio of total foreign source sales receipts in the SIC product group with which the expenses are identified to the total such worldwide sales receipts in that product group (the "sales" or "gross receipts" method). In computing this fraction, sales by a party controlled or uncontrolled by the taxpayer may be taken into account if the party can reasonably be expected to benefit from the research expense. However, the regulation provides that a taxpayer using the sales method may first apportion at least 30 percent of research expense remaining after allocation to meet legal requirements exclusively to income from the geographic source where over half of the taxpayer's research and development is performed.

Thus, for example, a taxpayer that performs 50 percent or more of its research and development in the United States may automatically apportion at least 30 percent of its remaining research expense to U.S. source income. A taxpayer can choose to apportion to the geographic source where research and development is performed a percentage of research expense significantly greater than 30 percent if the taxpayer establishes that the higher percentage is warranted because the research and development is reasonably expected to have a very limited or long-delayed application outside that geographic source.

Alternatively, subject to certain limitations, a taxpayer may elect to apportion its research expense remaining after any allocation to meet legal requirements under one of two optional gross income methods. Under these optional methods, a taxpayer generally apportions its research expense on the basis

of relative amounts of gross income from U.S. and foreign sources. If a taxpayer makes an automatic place-of-performance apportionment, the taxpayer may not use either optional gross income method.

The basic limitation on the use of the optional gross income methods is that the respective portions of a taxpayer's research expense apportioned to U.S. and foreign source income using these methods can not be less than 50 percent of the respective portions that would be apportioned to each income grouping using a combination of the sales and place-of-performance apportionment methods.

If this 50-percent limitation is satisfied with respect to both income groupings, the taxpayer may apportion the amount of its research expense that remains after allocation under the legal requirements test ratably on the basis of foreign and U.S. gross income. If the 50-percent limitation is not satisfied with respect to one of the income groupings, then the taxpayer must apportion to that income grouping 50 percent of the amount of its research expense which would have been apportioned to that income grouping under the sales and place-of-performance methods. A taxpayer electing an optional gross income method may be able then to reduce the amount of its research expense apportioned to foreign source income to as little as one-half of the amount that would be apportioned to foreign source income under the sales method.

For example, consider a taxpayer with $110 of U.S.-performed research expense and equal U.S. and foreign sales. Assume that $10 of the research expense is to meet U.S. legal requirements and is allocated to U.S. source income. Of the remaining $100, 30 percent ($30) is exclusively apportioned to U.S. source income under the automatic place-of-performance rule and the remaining $70 is divided evenly between U.S. and foreign source income, using the sales method. Thus, under this method $35 would be allocated to foreign source income and $75 would be allocated to U.S. source income. Under the optional gross income methods, the $35 of research expense allocated to foreign sources can be reduced as much as 50 percent, to $17.50. This can occur, for example, if the foreign sales were made by a foreign subsidiary that did not repatriate earnings to the U.S. corporation, and thus a disproportionately high fraction of the U.S. corporation's income is from U.S. sources.

The optional gross income methods apply to all of a taxpayer's gross income, not gross income on a product category basis.

Statutory Allocation of Research and Experimental Expenses

The Economic Recovery Tax Act of 1981 (ERTA) provided that, for a taxpayer's first two taxable years beginning within two years after the date of its enactment (August 13, 1981), all research and experimental expenditures (within the meaning of sec. 174) paid or incurred in those years for research activities conducted in the United States were to be allocated or apportioned to income from sources within the United States (sec. 223 of ERTA).

This two-year moratorium was effectively extended for two additional years by the Tax Reform Act of 1984 (the "1984 Act"). Under section 126 of the 1984 Act, for taxable years beginning generally after August 13, 1983, and on or before August 1, 1985, all of a taxpayer's research and experimental expenditures (within the meaning of sec. 174) attributable to research activities conducted in the United States were to be allocated to sources within the United States for purposes of computing taxable income from U.S. sources and taxable income from sources outside the United States.

One reason Congress cited for enacting the original two-year moratorium was that some foreign countries do not allow deductions under their tax laws for expenses of research activities conducted in the United States. Taxpayers argued that this disallowance caused U.S.-based research to be disadvantaged. First, U.S.-based research expense is deemed to be allocated to a foreign country which may not recognize that such amount is deductible as an expense. The allocation of this U.S.-based research expense to foreign sources had the effect of reducing the foreign tax credit of U.S. taxpayers. Because those taxpayers could take their deductions if the research occurred in the foreign country, taxpayers argued that there was an incentive to shift their research expenditures to those foreign countries whose laws disallow tax deductions for research activities conducted in the United States but allow tax deductions for research expenditures incurred locally.

Accordingly, Congress concluded that the Treasury Department should study the impact of the allocation of research expenses under the 1977 regulation on U.S.-based research activities and on the availability of the foreign tax credit. Pending the outcome of the study, Congress concluded that expenses should be charged to the cost of generating U.S. source income, regardless of whether such research was a direct or indirect cost of producing foreign source income.

On the ground that a reduction in research and development might adversely affect the competitive position of the United States, the 1983 Treasury report recommended the two-year extension of the moratorium that was ultimately enacted by Congress to consider further the results of the Treasury study.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (the "1985 Act") extended the moratorium on the application of the research and experimental expense allocation rules of the 1977 regulation generally for one additional taxable year beginning after August 1, 1985, and on or before August 1, 1986.

The Tax Reform Act of 1986 (the "1986 Act") permitted the moratorium on application of the research expense allocation rules in regulation section 1.861–8 to expire. However, for taxable years beginning after the August 1, 1986, and on or before August 1, 1987, application of the regulation was liberalized by the 1986 Act in three respects, which were intended by Congress to provide an additional tax incentive to conduct research in the United States while Congress analyzed whether any additional permanent incentive was necessary.

The first liberalization under the 1986 Act was that for the specified one-year period, 50 percent of all remaining amounts allowable as a deduction for qualified research and experimental expenditures (that is, research and experimental expenditures within the meaning of section 174 that are attributable to activities conducted in the United States) after allocation of legally required research expenses could be apportioned to U.S. source income and deducted from such income in determining the amount of taxable U.S. source income. The 1986 Act thus had the effect of increasing the automatic place-of-performance apportionment percentage for U.S.-based research expense from 30 percent to 50 percent.

The 1986 Act further provided that, for the specified one-year period, the portion of those amounts allowable as a deduction for qualified research and experimental expenditures that remained after any legal requirements allocation and the 50 percent automatic place-of-performance apportionment were apportioned either on the basis of sales of gross income. Thus, the 1986 Act's second effective liberalization of the regulation was to allow the automatic place-of-performance apportionment temporarily to taxpayers who elected to apportion expenses using the optional gross income method, rather than only to taxpayers that used the standard sales method of apportionment. Third, the 1986 Act had the effect of temporarily suspending the regulatory rule that prohibits taxpayers from using the optional gross income method to reduce allocation of research expense to foreign source income by more than 50 percent of the amount that would be allocated to foreign source income under the sales method.

The temporary modifications made by the 1986 Act to the research expense allocation rules in regulation section 1.861–8 applied for purposes of computing taxable income from U.S. sources and taxable income from sources outside the United States. The modifications applied only to the allocation of expenditures for research and experimental activities conducted in the United States, and only for the purposes of geographic sourcing of income; the modifications did not apply for other purposes, such as the computation of combined taxable income of a FSC (or DISC) and its related supplier. Also, the modifications did not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of depreciable or depletable property to be used in connection with research or experimentation.

The Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") further modified, again on a temporary basis, the rules for sourcing research expenditures. These modifications were effective only for the first four months of a taxpayer's first taxable year beginning after August 1, 1987 (treating all applicable expenditures in that taxable year as if they were incurred ratably over the year). Under the 1988 Act, the treatment of research and development expenditures incurred to meet certain legal requirements was unchanged. After applying the legal requirements rule, however, the 1988 Act modifications provided that 64 percent of the U.S.-based research expenses remaining to be allocated and apportioned were allocated to U.S. source income and 64 percent of the remaining foreign-based research expenses were allocated to foreign source income. The remaining research expenditures treated as having been incurred during this four-month period were allocated and apportioned either on the basis of sales or gross income. However, if the gross income method of apportionment was utilized, the amount apportioned to foreign source income could be no less than 30 percent of the amount that would have been apportioned to foreign source income had the sales method been used.

Generally, for the remainder of a taxpayer's first taxable year beginning after August 1, 1987 (and for subsequent taxable years), the rules set forth in regulation section 1.861–8 were applicable with respect to sourcing research and experimental expenditures.

The Omnibus Budget Reconciliation Act of 1989 (the "1989 Act") extended, again on a temporary basis, the rules for sourcing research expenditures that were contained in

VOL 137
PT 23
NO 21–25
1991
UMI

the 1988 Act. The 1989 Act also codified these statutory allocation rules in section 864(f) of the Internal Revenue Code. As codified in 1989, these rules were effective only for the first nine months of a taxpayer's first taxable year beginning after August 1, 1989, and before August 2, 1990 (treating all applicable expenditures in that taxable year as if they were incurred ratably over the year). Under the 1989 Act, for the remainder of a taxpayer's first taxable year beginning after August 1, 1989, and before August 2, 1990 (and for subsequent taxable years), the rules set forth in regulation section 1.861–8 would have applied with respect to sourcing research and experimental expenditures.

The Omnibus Budget Reconciliation Act of 1990 (the "1990 Act") further extended the statutory allocation rules that were codified in the 1989 Act. Under the 1990 Act, the rules of section 864(f) apply to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991.

President's budget proposal

Under the President's fiscal year 1992 budget proposal, the statutory R&D allocation rules of section 864(f) would be extended for one year, so as to apply to all R&D expenses paid or incurred in taxable years beginning after August 1, 1991 and on or before August 1, 1992.[1]

Explanation of provision

The bill temporarily extends the period for application of Code section 864(f), which provides statutory allocation rules that supersede the Treasury's research and experimentation expense allocation regulation for purposes of determining the source of taxable income. Following the period for which the statutory allocation rules are made applicable by the bill, the Treasury regulation would again apply.

Effective date

The provision is effective for research expenses paid or incurred during the taxpayer's third taxable year beginning after August 1, 1989, and on or before August 1, 1992. In the case of the taxpayer's first taxable year beginning after August 1, 1991, however, the statutory allocation rule would apply only to research expenses paid or incurred during the first six months of that year.

2. Tax credit for qualified research expenditures (sec. 102 of the bill and sec. 41 of the Code)

Present law

General Rule

A 20-percent tax credit is allowed to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit will not apply to amounts paid or incurred after December 31, 1991.

A 20-percent tax credit also applies to the *excess* of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for university basic research *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.[2]

Computation of Allowable Credit

Except for certain university basic research payments, the credit applies only to the extent that the taxpayer's qualified research expenditures for the taxable year exceed its base amount. The base amount for the current year is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years.

If a taxpayer both incurred qualified research expenses and had gross receipts during each of at least three years from 1984 to 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenses for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (such as "start-up" firms) are assigned a fixed-base percentage of .03.

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Relation to Deduction

Deductions for qualified research expenditures allowed to a taxpayer under sec. 174 or any other provision are reduced by an amount equal to 100 percent of the taxpayer's research credit determined for that year.

Legislative background

The research credit initially was enacted in the Economic Recovery Tax Act of 1981 as a credit equal to 25 percent of the excess of qualified research expenses in the current year over the average of qualified research expenses in the prior three taxable years. The research credit was modified in the Tax Reform Act of 1986 which (1) extended the credit through December 31, 1988, (2) reduced the credit rate to 20 percent, (3) tightened the definition of research expenditures eligible for the credit, and (4) modified the university basic research credit.

The Technical and Miscellaneous Revenue Act of 1988 extended the credit for one additional year, through December 31, 1989. The 1988 Act also reduced the deduction allowed under section 174 for qualified research expenses by an amount equal to 50 percent of the research credit determined for the year.

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months (by prorating qualified expenses incurred before January 1, 1991). The 1989 Act also modified the method for calculating a taxpayer's base amount and further reduced the deduction allowed under section 174 for qualified research expenses by an amount equal to 100 percent of the research credit determined for the year.

The Omnibus Budget Reconciliation Act of 1990 extended the research credit through December 31, 1991 (and repealed the special rule to prorate qualified expenses incurred before January 1, 1991).

President's budget proposal

The President's fiscal year 1992 budget proposal would make permanent the 20-percent research tax credit for qualified research expenditures and university basic research payments.

Explanation of provision

The tax credit for qualified research expenditures (including university basic research payments) is extended for six months (i.e., for qualified expenses incurred through June 30, 1992).

3. Exclusion for employer-provided educational assistance (sec. 103 of the bill and sec. 127 of the Code)

Present law

An employee's gross income and wages for income and employment tax purposes do not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts are paid or incurred pursuant to an educational assistance program that meets certain requirements (sec. 127). This exclusion, which expires for taxable years beginning after December 31, 1991, is limited to $5,250 of educational assistance with respect to an individual during a calendar year.

In the absence of the section 127 exclusion, an employee generally would be required to include in income and wages, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless the cost of such assistance qualified as a deductible job-related expense of the employee.

Legislative background

The section 127 exclusion was first established on a temporary basis by the Revenue Act of 1978 (through 1983). It subsequently was extended, again on a temporary basis, by Public Law 98–611 (through 1985), by the Tax Reform Act of 1986 (through 1987), by the Technical and Miscellaneous Revenue Act of 1988 (through 1988), by the Omnibus Budget Reconciliation Act of 1989 (through September 30, 1990), and by the Omnibus Reconciliation Act of 1990 (through 1991). Public Law 98–611 adopted a $5,000 annual limit on the exclusion; this limit was subsequently raised to $5,250 in the Tax Reform Act of 1986. The Technical and Miscellaneous Revenue Act of 1988 made the exclusion inapplicable to graduate-level courses. The restriction on graduate-level courses was repealed by the Omnibus Reconciliation Act of 1990, effective for taxable years beginning after December 31, 1990.

Explanation of provision

The exclusion from income for employer-provided educational assistance is extended through June 30, 1992. The exclusion is available with respect to amounts paid by the employer on or before June 30, 1992.

4. Exclusion for employer-provided group legal services; tax exemption for qualified group legal services organizations (sec. 104 of the bill and secs. 120 and 501(c)(20) of the Code)

Present law

Under present law, certain amounts contributed by an employer to a qualified group legal services plan for an employee (or the employee's spouse or dependents) are excluded from the employee's gross income for income and employment tax purposes (sec. 120). The exclusion is limited to an annual premium value of $70.

The exclusion for group legal services benefits expires for taxable years beginning after December 31, 1991.

In addition, present law provides tax-exempt status for an organization the exclusive function of which is to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan (sec. 501(c)(20)). The tax exemption for such an organization expires for taxable years beginning after December 31, 1991.

Legislative background

The section 120 exclusion and the section 501(c)(20) exemption were enacted initially on a temporary basis by the Tax Reform Act of 1976 (through 1981). They subsequently were extended, again on a temporary basis, by the Economic Recovery Act of 1981 (through 1984), Public Law 98–612 (through 1985), the Tax Reform Act of 1986 (through 1987), the Technical and Miscellaneous Revenue Act of 1988 (through 1988), the Omnibus Budget Reconciliation Act of 1989 (through September 30, 1990), and the Omnibus Reconciliation Act of 1990 (through 1991). The Technical and Miscellaneous Revenue Act of 1988 imposed the $70 annual limit on the amount of premium that may be excluded by the employee.

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[1] The Treasury Department's *General Explanations of the President's Budget Proposals Affecting Receipts* erroneously describes the effective date of the proposal as "taxable years beginning after August 1, 1991 and *ending* on or before August 1, 1992."

[2] Expenditures paid or incurred for university basic research after December 31, 1991, are not eligible for the credit.

Explanation of provision

The exclusion from income for employer-provided group legal services is extended through June 30, 1992. The exclusion is available with respect to amounts paid by an employer before July 1, 1992, for coverage under a qualified group legal services plan for periods before July 1, 1992. In addition, the tax-exempt status for organizations providing qualified group legal services is extended through taxable years beginning before July 1, 1992.

5. Targeted jobs tax credit (sec. 105 of the bill and sec. 51 of the Code)

Present law

Tax Credit

The targeted jobs tax credit is available on the elective basis for hiring individuals from nine targeted groups. The targeted groups consist of individuals who are either recipients of payments under means-tested transfer programs, economically disadvantaged, or disabled.

The credit generally is equal to 40 percent of up to $6,000 of qualified first-year wages paid to a member of a targeted group. Thus, the maximum credit generally is $2,400 per individual. With respect to economically disadvantaged summer youth employees, however, the credit is equal to 40 percent of up to $3,000 of wages, for a maximum credit of $1,200.

The credit expires for individuals who begin work for an employer after December 31, 1991.

Authorization of Appropriations

Present law authorizes appropriations for administrative and publicity expenses relating to the credit through December 31, 1991. These monies are to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

Legislative background

The targeted jobs tax credit was enacted by Congress in the Revenue Act of 1978 to replace an expiring credit for increased employment. As originally enacted, the targeted jobs tax credit was scheduled to apply to qualified wages paid before 1982.

The availability of the credit was successively extended by the Economic Recovery Tax Act of 1981 (ERTA) for one year (through 1982), by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) for two years (through 1984), and by the Deficit Reduction Act of 1984 (DEFRA) for one year (through 1985). The Tax Reform Act of 1986 (TRA 1986) extended the targeted jobs tax credit for three additional years (through 1988), with modifications. The Technical and Miscellaneous Revenue Act of 1988 (TAMRA) extended the credit for one year (through 1989), with modifications. The Omnibus Budget Reconciliation Act of 1989 (OBRA 1989) extended the credit for nine months (through September 30, 1990). Most recently, the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) extended the credit for fifteen months (through 1991).

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the credit for one year. Therefore, the credit would be available for workers who begin work for the employer before January 1, 1993.

Explanation of Provision

The targeted jobs tax credit is extended for six months, so that it is available with respect to wages paid for employees who begin work for an employer before July 1, 1992.

6. Business energy tax credits for solar and geothermal property (sec. 106 of the bill and sec. 48(a) of the Code)

Present law

Under present law, nonrefundable business energy tax credits are allowed for 10 percent of the cost of qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment which produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission stage.[3]

The business energy tax credits are currently scheduled to expire with respect to property placed in service after December 31, 1991.

Legislative background

Ten-percent tax credits for qualifying solar and geothermal energy properties were enacted in the Energy Tax Act of 1978, effective after April 20, 1977, through December 31, 1982. In the Windfall Profit Tax Act of 1980, the solar and geothermal credits were extended through 1985, and the rates of these credits were increased to 15 percent. In the Tax Reform Act of 1986, the solar and geothermal credits were extended for three additional years (through 1988), at rates which phased down to 10 percent. An additional one-year extension (through 1989) of the solar and geothermal credits was provided in the Technical and Miscellaneous Revenue Act of 1988.

The solar and geothermal credits were extended for the nine-month period through September 30, 1990, in the Omnibus Budget Reconciliation Act of 1989. In the Omnibus Budget Reconciliation Act of 1990, these credits were extended for fifteen months through December 31, 1991.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the 10-percent business credits for solar and geothermal property for one year, through December 31, 1992.

Explanation of provision

The bill extends the business energy tax credits for qualifying solar and geothermal property placed in service through June 30, 1992.

7. Tax credit for low-income rental housing (sec. 107 of the bill and sec. 42 of the Code)

Present law

A tax credit is allowed in annual installments over ten years of qualifying newly constructed or substantially rehabilitated low-income rental housing. For most qualifying housing, the credit has a present value of 70 percent of the cost of low-income housing units. For housing receiving other Federal subsidies (e.g., tax-exempt bond financing) and for the acquisition cost of existing housing (e.g., costs other than the required rehabilitation expenditures), the credit has a present value of 30 percent.

To qualify for the credit, a building owner generally must receive a low-income housing credit allocation from the appropriate State credit authority. An exception is provided for property which is substantially financed with the proceeds of tax-exempt bonds subject to the State's private-activity bond volume limitation. The annual credit ceiling for each State is $1.25 per resident per year.

The low-income housing credit is scheduled to expire after December 31, 1991.

Legislative background

The low-income housing credit was enacted by the Tax Reform Act of 1986, with an expiration date of December 31, 1989. The credit was substantially revised and extended through December 31, 1990, by the Omnibus Budget Reconciliation Act of 1989 (the 1989 Act). To implement the equivalent of a partial-year extension of the credit, the 1989 Act reduced the annual low-income housing credit ceiling for 1990. In years prior to 1990, the credit ceiling for each State was $1.25 multiplied by the State's population. For calendar year 1990, that amount was reduced by 25 percent from $1.25 to $0.9375.

The Omnibus Budget Reconciliation Act of 1990 (the 1990 Act) restored the State credit ceiling applicable for 1990 to $1.25 per resident of the State, and extended authority to allocate the credit through December 31, 1991. In addition, the 1990 Act made technical and other modifications to the credit.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the current low-income housing credit for one year, through December 31, 1992.

Explanation of provision

The low-income housing credit is extended through June 30, 1992. The credit ceiling for each State is $1.25 per resident of the State for the period during 1992 for which the credit is extended.

8. Qualified mortgage bonds and mortgage credit certificates (sec. 108 of the bill and secs. 143 and 25 of the Code)

Present law

Qualified Mortgage Bonds

Qualified mortgage bonds ("QMBs") are bonds the proceeds of which are used (net of costs of issuance and a reasonably required reserve fund) to finance the purchase, or qualifying rehabilitation or improvement, of single-family, owner-occupied residences located within the jurisdiction of the issuer of the bonds (sec. 143). The QMBs must meet purchase price, income eligibility limitations, and other restrictions.

Mortgage Credit Certificates

Qualified governmental units may elect to exchange qualified mortgage bond authority for authority to issue mortgage credit certificates ("MCCs") (sec. 25). MCCs entitle home buyers to nonrefundable income tax credits for a specified percentage of interest paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the residence being financed continues to be the certificate-recipient's principal residence. MCCs are subject to the same targeting requirements as QMBs.

Expiration

Authority to issue QMBs and to elect to trade in QMB volume authority to issue MCCs expires after December 31, 1991.

Legislative background

The Mortgage Subsidy Bond Tax Act of 1980 first imposed restrictions on the ability

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[3] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (Code sec. 613(e)(2)).

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INTRODUCTION OF BILLS AND

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VOL 137 PT 23 NO 21—25 1991 UMI

of State and local governments to issue tax-exempt bonds to finance mortgage loans on single-family, owner-occupied residences. These restrictions included many of the rules applicable under present law.

Under the 1980 Act, the authority of State and local governments to issue QMBs expired on December 31, 1983. The Deficit Reduction Act of 1984 extended this authority (with modifications) through December 31, 1987), and enacted the MCC alternative to QMBs.

Authority to issue QMBs and the election to trade in bond volume authority to issue MCCs were extended for one year (through December 31, 1988) by the Tax Reform Act of 1986. The Technical and Miscellaneous Revenue Act of 1988 extended the authority to issue QMBs and the election to trade in bond volume authority to issue MCCs for another year (through December 31, 1989), with substantial modifications. The Omnibus Budget Reconciliation of 1989 extended the expiration date of this authority nine months (through September 30, 1990).

Authority to issue QMBs and the election to trade in bond volume authority to issue MCCs were extended for 15 months, (through December 31, 1991) by the Omnibus Budget Reconciliation Act of 1990. The 1990 Act also made several modifications to the recapture provisions. These modifications were effective as if enacted in the Technical and Miscellaneous Revenue Act of 1988 (the Act which originally enacted the recapture provisions).

Explanation of provision

The authority of State and local governments to issue QMBs and to elect to trade in bond volume authority to issue MCCs is extended through June 30, 1992.

9. Qualified small-issue manufacturing bonds (sec. 109 of the bill and sec. 144(a) of the Code)

Present law

Interest on certain small issues of private activity bonds is exempt from tax if at least 95 percent of the bond proceeds is used to finance manufacturing facilities or certain land or property for first-time farmers ("qualified small-issue bonds"). Qualified small-issue bonds are issues having an aggregate authorized face amount of $1 million or less. Alternatively, the aggregate face amount of the issue, together with the aggregate amount of certain related capital expenditures during the six-year period beginning three years before the date of the issue and ending three years after that date, may not exceed $10 million. Special limits apply to these bonds for first-time farmers.

Authority to issue qualified small-issue bonds expires after December 31, 1991.

Legislative background

Substantial modifications to the tax treatment of exempt small-issue industrial development bonds were made by the Tax Equity and Fiscal Responsibility Act of 1982. The 1982 Act also provided that the authority to issue exempt small-issue bonds would expire after December 31, 1986. The deficit Reduction Act of 1984 limited the small-issue bond exception to financing for manufacturing and farming facilities, effective after December 31, 1989.

The Technical and Miscellaneous Revenue Act of 1988 clarified the definition of manufacturing to provide that up to 25 percent of the proceeds of qualified small issue bonds may be used to finance ancillary activities which are carried out at the manufacturing site. The Omnibus Budget Reconciliation Act of 1989 extended the expiration date to September 30, 1990. The Omnibus Budget Reconciliation Act of 1990 extended that date to December 31, 1991.

Explanation of provision

The authority to issue qualified small-issue bonds is extended through June 30, 1992.

10. Deduction for health insurance costs of self-employed individuals (sec. 110 of the bill and sec. 162(1) of the Code)

Present law

Under present law, an employer's contribution to a plan providing accident or health coverage is excludable from an employee's income (sec. 106). No equivalent exclusion is provided for self-employed individuals (i.e., sole proprietors or partners in a partnership).

However, present law provides a deduction for 25 percent of the amounts paid for health insurance for a taxable year on behalf of a self-employed individual and the individual's spouse and dependents. This deduction is allowable in calculating adjusted gross income. The 25-percent deduction is also available to a more than 2-percent shareholder of an S corporation.

No deduction is allowable for any taxable year in which the self-employed individual or eligible S corporation shareholder is eligible to participate (on a subsidized basis) in a health plan of an employer of the self-employed individual (or of such individual's spouse).

The 25-percent deduction expires for taxable years beginning after December 31, 1991.

Legislative background

The 25-percent deduction for the health insurance costs of self-employed individuals was enacted on a temporary basis by the Tax Reform Act of 1986 (for taxable years beginning before January 1, 1990). Certain technical corrections to the provision were made by the Technical and Miscellaneous Revenue Act of 1988. The Omnibus Budget Reconciliation Act of 1989 extended the deduction for 9 months (for taxable years beginning before October 1, 1990) and clarified that the deduction is available to certain S corporation shareholders. The Omnibus Reconciliation Act of 1990 extended the deduction through 1991.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend for one year the 25-percent deduction for health insurance costs of self-employed individuals.

Explanation of provision

The 25-percent deduction for health insurance costs of self-employed individuals is extended through June 30, 1992. The deduction is available with respect to amounts paid before July 1, 1992, for insurance coverage for periods before July 1, 1992.

For purposes of the earned income limitation on the deduction, in the case of any taxable year beginning in 1991 the amount of earned income taken into account is the amount that bears the same ratio to the total amount of earned income for such taxable year as the number of months in the taxable year ending before July 1, 1992, bears to the total number of months in such taxable year.

11. Tax credit for orphan clinical drug testing expenses (sec. 111 of the bill and sec. 28 of the Code)

Present law

A 50-percent nonrefundable tax credit is allowed for a taxpayers's qualified clinical testing expenses paid or incurred in the testing of certain drugs, generally referred to as orphan drugs, for rare diseases or conditions. Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. Present law defines a rare disease or condition as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but there is no reasonable expectation that businesses could recoup the costs of developing a drug for it from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

Legislative background

This provision was enacted initially in the Orphan Drug Act of 1983, and was scheduled to expire after 1987. The credit was extended for three years in the Tax Reform Act of 1986, through December 31, 1990. The Omnibus Budget Reconciliation Act of 1990 extended the credit for one year, through December 31, 1991.

Explanation of provision

The provision extends the orphan drug tax credit for six months (i.e., for qualified clinical testing expenses incurred through June 30, 1992).

12. Minimum tax exception for gifts of appreciated tangible property (sec. 112 of the bill and sec. 57(a)(6) of the Code)

Present law

In computing taxable income, a taxpayer generally is allowed to deduct the fair market value of property contributed to a charitable organization.[4] In the case of a charitable contribution of tangible personal property, however, a taxpayer's deduction for regular tax purposes is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the dedication for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair market value of the property exceeds its adjusted basis. However, in the case of any taxable year beginning in 1991, this rule does not apply to contributions of tangible personal property.[5]

Legislative background

The Tax Reform Act of 1986 treated the amount by which the value of a charitable contribution of capital gain property exceeded the basis of the property as a minimum tax preference.

The Omnibus Budget Reconciliation Act of 1990 provided that, in the case of any taxable year beginning in 1991, this rule does not apply to a contribution of tangible personal property.

Explanation of provision

The rule that charitable contributions of tangible personal property are not treated as a minimum tax preference item is extended for six months (i.e., for contributions made through June 30, 1992).[6]

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[4] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)). Special rules also limit the amount of a charitable contribution deduction to less than the contributed property's fair market value in cases of contributions of inventory or other ordinary income property and short-term capital gain property.

[5] With respect to contributions made during any taxable year beginning in 1991, *see* Rev. Rul. 90-111, 1990-2 C.B. 30.

III. DESCRIPTION OF REVENUE-RAISING PROVISION

1. Modify estimated tax payment rules for large corporations (sec. 201 of the bill and sec. 6655 of the Code).

Present law

A corporation is subject to an addition to tax for any underpayment of estimated tax. A corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 90 percent of the tax liability shown on the return for the current taxable year. In addition, a corporation may annualize its taxable income and make estimated tax payments based on 90 percent of the tax liability attributable to such annualized income.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Explanation of provision

For taxable years beginning in 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its esimated tax payments will be required to base its estimated tax payments on 93 percent (rather than 90 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis. The applicable percentage will be 94 (rather than 93) percent in 1993, 94 percent in 1994, 95 percent in 1995, and 95 percent in 1996.

The provision does not change the present-law availability of the 100 percent of last year's liability safe harbor for small corporations. In addition, as under present law, the first quarter's estimated tax payment for a large corporation may be based on 100 percent of the prior year's tax liability.

Effective date

The provision will be effective for estimated tax payments with respect to taxable years beginning after December 31, 1991, and before January 1, 1997.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following-officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

TO BE BRIGADIER GENERAL

Col. George P. Cole, Jr., 553-66-0254, Regular Air Force.

Col. Eldon W. Joersz, 502-46-1673, Regular Air Force.

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[6] The bill does not affect the present-law treatment of contributions made in taxable years beginning before 1992.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN (for himself and Mr. MOYNIHAN):

S. 2038. A bill to amend the Social Security Act to improve benefits and coverage under title II, to establish the Social Security Administration as an independent agency, and for other purposes; to the Committee on Finance.

By Mr. GLENN (for himself, Mr. LEVIN, Mr. AKAKA, Mr. PRYOR, Mr. KOHL, Mr. LIEBERMAN and Mr. SASSER):

S. 2039. A bill to amend the Federal Advisory Committee Act; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 2040. A bill to suspend for a 3-year period the duty on certain sheet glass; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2041. A bill to amend the Petroleum Marketing Practices Act to enhance competition, and for other purposes; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 2042. An original bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. SIMON:

S. 2043. A bill to prohibit certain motor fuel marketing practices; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. MCCAIN, Mr. SIMON, Mr. AKAKA, Mr. BURDICK, Mr. WELLSTONE, Mr. DECONCINI and Mr. MURKOWSKI):

S. 2044. A bill to assist Native Americans in assuring the survival and continuing vitality of their languages; to the Select Committee on Indian Affairs.

By Mr. BINGAMAN:

S. 2045. A bill to authorize a study of the prehistoric Casas Grandes Culture in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN:

S. 2046. A bill to authorize humanitarian, technical, and enterprise fund assistance for the Baltic states and the Soviet republics, and for other purposes; to the Committee on Foreign Relations.

By Mr. SANFORD (for himself, Mr. MITCHELL, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BYRD, Mr. CONRAD, Mr. CRANSTON, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. HARKIN, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. NUNN, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. WELLSTONE, Mr. WIRTH and Mr. WOFFORD):

S. 2047. A bill to establish a commission to commemorate the bicentennial of the establishment of the Democratic Party of the United States; considered and passed.

By Mr. MOYNIHAN:

S. 2048. A bill to amend section 923 of title 18, United States Code, to require the keeping of records with respect to dispositions of ammunition, and to require a study of the use and possible regulation of sales of ammunition; to the Committee on the Judiciary.

By Mr. LIEBERMAN:

S. 2049. A bill to amend the Internal Revenue Code of 1986 to allow a credit for payments or contributions to certain cooperation research organizations; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 2050. A bill to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes; considered and passed.

By Mr. FORD:

S.J. Res. 235. Joint resolution designating May 7, 1992, as "National Barrier Awareness Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 232. A resolution relating to recess appointments; considered and agreed to.

By Mr. GRASSLEY (for Mr. DOLE):

S. Res. 233. A resolution designating room S-238 in the United States Capitol Building as the "Strom Thurmond Room"; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself and Mr. MOYNIHAN):

S. 2038. A bill to amend the Social Security Act to improve benefits and coverage under title II, to establish the Social Security Administration as an independent agency, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY AMENDMENTS OF 1991

● Mr. BENTSEN. Mr. President, today I am introducing S. 2038, the Social Security Amendments of 1991.. This bill will ease substantially the Social Security earnings test, improve benefits for certain disabled individuals and for widows and widowers, and help rebuild confidence in the Social Security system by establishing the Social Security Administration as an independent agency.

A primary objective of the bill is to reduce significantly the burden of the Social Security earnings test on those individuals who choose to work after they attain age 65. It increases the amount of earnings exempt from any reduction in Social Security benefits in every year through 1996. The exempt amount will be nearly doubled, going

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21—25
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from a projected yearly amount of $12,600 in 1996 under present law to $24,120 under my bill. By 1996, the bill will enable an individual to earn almost 2½ times more than the $9,720 he or she can earn this year without any reduction in benefits.

Today, when a person earns over the exempt amount, benefits are reduced by $1 for every $3 of earnings—a tax rate of 33⅓ percent. The bill would lower this rate of 25 percent on the first $5,000 of earnings above the exempt amount, reducing benefits by $1 for every $4 of earnings.

The primary purpose of the Nation's Social Security Program must be to provide income protection to older workers who have retired. In order to target its benefits on that population, the program has always included an earnings test to determine whether a person is retired. Unfortunately, that test has too often served to severely penalize many beneficiaries age 65 and over who need to or would like to supplement their retirement income by continuing to engage in employment. Over the years, I have supported many legislative changes that have helped to ease the severity of the test and allowed beneficiaries to earn more without losing their benefits.

When I first came to the Congress, the rule was that you lost your Social Security benefit in any month that you earned over $15. When I began my service in the Senate in 1971, a retiree could earn $1,680 a year with no loss of benefits. But the next $1,200 of earnings reduced benefits at a 50-percent rate, and any earnings over that caused a dollar-for-dollar reduction in benefits. That's a 100-percent tax rate.

In that Congress, I cosponsored legislation to substantially ease these tough earnings test rules. What I proposed then would have about doubled exempt earnings, indexed the exempt amount for the future, and eliminated the 100 percent reduction rate. Over the years, I have worked to see that proposal like this were enacted into law. As a result, the earnings test today is much less burdensome than it was 20 years ago.

Nevertheless, I am not satisfied that the earnings test we have today is equitable, or that it is designed to meet the real needs of retirees now and in the future. The percentage of the work force covered by private pensions has been slowly declining since 1980. The rate of savings declined by half during the 1980s and is not at rock bottom, barely 3 percent of household disposable income. In order to maintain their standard of living—or even to meet their basic needs—some current retirees must work to supplement their income from Social Security benefits and from other sources. Many more may need to do so in times to come.

But there's more to it than simple financial need. Our society has come to recognize that work is an essential part of the lives of many older people. The ability to continue to work at some level is vital if we are to maintain our health and sense of well being. And its a two-way street. Our economy—all of us—benefit from having the experience and skills of older workers in the work force. Yet today's earnings test is a serious work disincentive for many elderly retirees, and penalizes most those who want to or need to continue some form of meaningful employment.

I believe the changes in the test that I have proposed in this bill are ones that are necessary to meet the very real needs of today's and tomorrow's Social Security retirees—and ones that will benefit our society as a whole.

The bill also makes important improvements in the Social Security program that affect the disabled, widows and widowers, and election workers.

One long-overdue change is indexing the measure of substantial gainful activity, or SGA, used to determine disability. The Social Security definition of disability requires that a person be unable to engage in any "substantial gainful activity." Individuals who work and earn more than the SGA amount cannot be considered disabled for Social Security purposes. This means that they are not eligible for Social Security disability insurance benefits or supplemental security income disability payments.

For 10 years, from 1980 to 1990, SGA for people who are not blind was frozen at $300 a month in Social Security regulations. During this period, average wages increased by 68 percent. Failure to adjust the SGA level had the effect of substantially reducing the amount of work a person could perform and still be considered disabled. So the definition of disability, which should be relatively constant over time, instead became progressively more restrictive.

SGA for the blind, in contrast, has since 1978 been set by law at an amount equal to the earnings test exempt amount for persons who are 65 to 69 years old. This amount is indexed, and goes up annually by the rate of increase in average wages.

The special Disability Advisory Council, which was mandated by the Congress in 1985 and issued its report in 1988, looked carefully at SGA. For people who are not blind, it recommended that:

> SGA should be adjusted to reflect the average wage growth since the SGA level was last increased and should be indexed to average wage growth in future years.

The Council saw these changes as an important part of the effort to create work incentives for disabled individuals.

SGA for the non-blind was increased by regulation to $500 in 1990, an amount that reflected the growth in wages since it was last increased in 1980. However, no provision was made to keep this amount current with wage increases. S. 2038 would correct this flaw, providing in law for the indexing of SGA for the non-blind by the annual increase in average wages. SGA for the blind would continue to be indexed as under present law, and would not be affected by the changes I have proposed in the earnings test.

The bill also corrects an inequity affecting one particular type of disabled person, the so-called disabled adult child. Disabled adult children are individuals who were disabled before they reached age 22 and are entitled to Social Security benefits as dependents or survivors of retired, disabled, or deceased workers. Most of those receiving benefits today are in the 20 to 50 age group. Under current law, if these disabled individuals marry persons who are not also Social Security beneficiaries, they permanently lose all of their Social Security benefits. They also lose their Medicare benefits.

We used to talk about the "marriage penalty" in the income tax law, but this provision of the Social Security law lends new meaning to the term. Senator BREAUX has introduced legislation to eliminate the penalty for disabled adult children in the future. My bill would build on this approach. It would both eliminate the marriage penalty for all disabled adult children who marry in the future, and allow those who lost their benefits in the past because they married to reapply for benefits. If someone who reapplies is found to be still disabled, he or she will immediately begin receiving benefits again.

I have long been concerned that some groups of Social Security beneficiaries—particularly elderly widows and widowers—receive benefits that are considerably lower than average, and frequently have little in the way of other, non-Social Security income. The average widow age 70 and older, for example, must depend on her Social Security benefit for 70 percent of her income. The average retiree age 70 and older, in contrast, derives almost half of his income from sources other than Social Security.

The benefits the widow receives are based on the often incomplete earnings record of her husband and, for widows age 70 and older, average about $70 a month lower than those of retirees in this age group. The widow may have had little choice but to take benefits at the earliest possible time, or her husband may have elected to retire early. In either of these cases, the benefits she receives are permanently reduced because of "early retirement," sometimes by as much as 28.5 percent.

S. 2038 includes two provisions to assist the neediest widows and widowers. First, it would lessen the reductions for " early retirement" that now apply to the benefits of many widows and

widowers who are 85 years of age and older. These are individuals who have lived beyond the life expectancy on which the reductions were based, yet must continue to rely on their reduced benefits for the rest of their lives. This change will provide a permanent benefit increase averaging between $10 and $20 a month for over 250,000 of the most elderly widows and widowers.

Second, the bill would establish a new, fixed minimum benefit amount that would be paid to widows, widowers, and surviving disabled adult children who are receiving a benefit of less than $253 a month. It is designed to help this limited group of survivors who, by any standard, are receiving extremely low benefits.

The final program change include in S. 2038 increases the amount temporary election workers can receive and still be exempt from Social Security and Medicare coverage. Many Senators have heard from their State and local governments about this issue. It was not the intent of the Social Security law to cover these workers, who often work only a few days a year. This is what can happen, however, because the current $100 a year exemption in the law is now obsolete and inadequate.

Election workers are frequently newly hired for each election, and this type of occasional work may be their only attachment to the work force. Their coverage would present cumbersome record keeping problems and create unnecessary costs for State and local governments. I am proposing to solve the problem by raising the exemption for election workers to $1,000, effective in 1991.

As Senators know, the 1990 budget agreement requires that any cost increases or revenue losses to the Social Security program must be offset. However, I would propose an offset even if it were not required, because I believe that one of the most important obligations we have as Members of Congress is to protect the fiscal integrity of the Social Security trust funds. Social Security is a program vital to all Americans, and we must do nothing to put it at risk or weaken public confidence in its integrity.

S. 2038 pays for the costs of the program improvements proposed by increasing the Social Security contribution and benefit base by a modest amount. The base establishes the amount of annual wages or self-employment income subject to the Social Security payroll tax. It is indexed and increases every year as average wages increase. The 1977 Social Security Amendments were intended to increase the base so that taxes were paid on 90 percent of all covered wages, restoring coverage to the level in the early days of the program. But this level has not been maintained in recent years because wages of high earners have increased more rapidly than the average wage index. Today, only about 88 percent of wages are subject to the FICA tax.

S. 2038 puts us back on the track toward 90 percent coverage. In so doing it has a progressive effect, affecting only individuals with earned incomes next year of over $55,500. It provides for a $3,000 increase in the taxable base by 1996, phased-in in increments over the next 5 years. The 1992 increment would add $1,200 to the 1992 present law base of $55,500. Under fiscal year 1992 budget projections, the 1996 base would be raised from a present law estimated level of $69,600 to a proposed level of $72,600.

In addition to these changes in the Social Security program and its financing, the bill proposes a fundamental change in the Social Security administrative structure. It removes the Social Security Administration from the jurisdiction of the Department of Health and Human Services and establishes it as an independent agency.

This independent agency proposal is almost identical to the proposal introduced earlier this year by Senator MOYNIHAN, which I cosponsored. The differences are minor, perfecting changes.

The proposal follows the recommendations made by the Staats Panel in 1985. This was a Panel created by the Congress as part of the Social Security Reform Amendments in 1983. After thorough study, this Panel of experts, headed by former Comptroller General Elmer Staats, recommended that an independent Social Security agency should have a strong single administrator and a permanent bipartisan advisory board.

The bill provides that the agency would be headed by a single Commissioner, appointed by the President and confirmed by the Senate. The Commissioner's 4 year term would coincide with that of the President.

The creation of an independent agency with a single administrator should produce the kind of strong leadership that is needed to protect the long-term interests of the Social Security program. The bill elevates the status of the agency, which is now buried in the bureaucracy of the Department of Health and Human Services, and makes the position of Commissioner comparable in status and pay to the heads of other executive departments. These changes should make it possible to attract highly qualified individuals to the job of Commissioner by providing them with the stature and authority needed to manage what is one of the most important and complex organizations in our Government.

The agency would have a seven member, bipartisan advisory board. Three members, including the Chairman, would be appointed by the President, and two each would be appointed by the Senate and the House of Representatives. The Board would meet periodically during the year to advise the Commissioner on policy. It would not be involved in the day-to-day operational management of the agency. The Board is intended to help produce a more deliberative and balanced decisionmaking process on important Social Security policy issues, and to deter actions that might undermine the integrity and stability of the Social Security system.

I believe that making the Social Security Administration an independent agency is a necessary step in assuring public confidence in the long term viability of the Social Security program, and in improving the quality of service to more than 40 million beneficiaries and 133 million workers who pay Social Security taxes. When the American Association of Retired Persons [AARP] testified before the Finance Committee in 1989, the witness told the Committee that establishing the Social Security Administration as an independent agency: "would be a clear signal to the American people that Congress is committed to protecting the Social Security program for the long term and ensuring that the daily functioning of the Social Security program would be stabilized."

In my view, Mr. President, the provisions of this bill focus on the most important improvements needed in Social Security in 1991. We need to ease substantially the earnings test for beneficiaries 65 and older. It is time—in fact, long past time—to make Social Security an independent agency. I hope that these changes, combines with the improvements included in the bill for the disabled, for needy widows and widowers, and for others, will be approved by this 102d Congress.

Mr. President, I ask unanimous consent that a more detailed description of the bill be printed in the RECORD.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

S. 2038, THE SOCIAL SECURITY AMENDMENTS OF 1991

EARNINGS TEST

Present Law.—Social Security beneficiaries age 70 and older receive full benefits without regard to any earnings they may have. Those under age 70 are eligible for full benefits only if their earnings are lower than the earnings test exempt amounts determined by law. The exempt amounts are indexed and increase annually by the rate of average wage growth in the economy. In 1991, the annual exempt amount for retirees and other beneficiaries age 65 to 69 is $9,720. It will increase to $10,200 in 1992, and is projected to reach $12,600 in 1996. Individuals with higher earnings will have their benefits reduced by $1 for every $3 of earnings above the exempt amount.

Proposed Change.—The proposal would increase the amount of earnings totally exempt from reduction and modify the rate of benefit reduction for earnings above the exempt amount for individuals age 65 to 69. The age 65–69 exempt amounts would be in-

VOL 137
PT 23
NO 21–25
1991
UMI

creased to $11,760 in 1992, $13,800 in 1993, $16,680 in 1994, $20,760 in 1995, and $24,120 in 1996. The proposed 1996 level would be almost double that projected under present law. Following 1996, annual indexing of the exempt amounts would resume.

In addition, starting in 1993 the rate of benefit reduction for the first $5,000 of earnings above the exempt amount would be lowered to $1 of benefits for every $4 of earnings. The present law rate of $1 for every $3 of earnings would continue to apply to earnings above that level.

SUBSTANTIAL GAINFUL ACTIVITY

Present Law.—The Social Security definition of disability requires that, to be found disabled, an individual must be unable to engage in any "substantial gainful activity." An individual who works and earns more than the monthly dollar amount defined as substantial gainful activity (SGA) is considered to be capable of substantial work effort, and cannot meet the threshold test of disability in either the Social Security Disability Insurance program or the Supplemental Security Income program for the disabled. The concept of SGA is defined in law, but the precise dollar amount of SGA for persons who are not blind is established by regulation. This regulation also establishes a dollar measure for determining whether a disabled Social Security beneficiary who attempts to work a limited amount is engaged in a trial work effort which, if successful, can lead to his returning to work and leaving the benefit rolls.

Between 1980 and 1990, SGA for persons who are not blind remained fixed in regulations at $300 per month. It was raised by regulation to $500 per month in 1990, but there is no provision for increasing it to keep pace with the growth of average wages in the economy. The amount of a trial work month was set at a non-indexed amount of $200 by the 1990 regulation.

SGA for the blind is, by law, equal to the earnings test exempt amount applicable to persons age 65 to 69 ($810 per month in 1991). This amount is indexed annually by the increase in average wages.

Proposed Change.—Beginning in 1992, the proposal would index the $500 SGA amount for the non-blind so that it increases annually by the rate of growth of average wages. The $200 measure of a trial work month would also be indexed. SGA for the blind would remain at the annual dollar levels produced under the present law earnings test. The proposal provides that SGA for the blind would not be affected by the increases in the earnings test exempt amounts proposed in this bill.

MARRIAGE OF DISABLED ADULT CHILDREN

Present Law.—Disabled adult children are the children of retired, disabled, or deceased workers who became disabled before the age of 22. They receive reduced Social Security benefits based on their deceased parents' Social Security earnings records, and are eligible for Medicare benefits after a two-year waiting period. Disabled adult children continue to receive benefits until they cease being disabled, die, or marry a person who is not a Social Security beneficiary. In the latter case, benefits are permanently lost due to marriage; they cannot be regained if the marriage ends.

Proposed Change.—The proposal would permit a disabled adult child to marry any person (beneficiary or non-beneficiary) in the future without losing his or her Social Security and Medicare benefits. Those who have already lost their benefits due to marriage would be entitled to reapply for benefits. The proposal would require that the Social Security Administration make all reasonable efforts to locate these individuals and promptly inform them of their reapplication rights. Those who reapply and are found to be still disabled would again be eligible for Social Security benefits. The amounts of their Social Security benefits would be updated to include all cost of living increases granted since they last received benefits. Disabled individuals who were previously eligible for Medicare benefits would receive them immediately. Those who were not would receive Medicare after completing the time remaining in the 2-year waiting period.

MINIMUM BENEFIT

Present Law.—The minimum benefit provision has been eliminated in present law. Prior to 1982, the minimum benefit was applicable to all beneficiaries whose regular benefit amount, based on their own or someone else's Social Security earnings record, would have been lower. It was frozen at $122 a month in 1978 and eliminated after 1981 because of its limited applicability, and because of concern that it would be aid to individuals who had primarily worked in and received pensions from employment not covered by Social Security. Since that time, provisions have been enacted that prevent windfall benefits for government retirement pensions.

Proposed Change.—A new minimum benefit of $253 a month would be established in 1992, applicable only to widows, widowers, and disabled adult children who are the survivors of a deceased wage earner. The amount of the new benefit would be equal to the amount that will be paid in 1992 to current beneficiaries who received the old minimum benefit in 1978 or before and had that benefit increased by annual cost of living adjustments. The new minimum benefit would apply both to individuals currently receiving lower benefits and to future beneficiaries. It would be fixed at $253 for future new beneficiaries, but after receiving it individuals would be entitled to the regular, annual Social Security cost of living increases.

Any widows or widowers affected by the proposal who also receive government pensions would be subject to the applicable provisions of law for offsetting such pensions. Under the proposal, persons who are currently eligible for Medicaid based on their eligibility for Supplemental Security Income (SSI) payments would retain their Medicaid eligibility even if the increase in their Social Security benefits eliminated all SSI payments.

EARLY RETIREMENT ADJUSTMENTS FOR ELDERLY WIDOWS AND WIDOWERS

Present Law.—The basic Social Security benefit for widows and widowers who first claim benefits at age 65 is 100 percent of the amount their deceased spouse would have received had he or she retired at age 65. However, widows and widowers are eligible to claim benefits as early as age 60. Those who claim benefits before age 65 have their basic benefit permanently reduced for every month in which they received early benefits. The reduction amounts to 5.7 percent per year, for a maximum reduction of 28.5 percent at age 60. The reduction is intended to compensate for the additional years of benefits they will receive in comparison to people who first take benefits at age 65. In addition, if the deceased spouse of a widow or widower received a reduced retirement benefit because he or she retired before age 65, the widow or widower cannot receive a benefit that exceeds the higher of the spouse's reduced benefit or 82.5 percent of the benefit the spouse would have received had he or she retired at age 65.

Proposed Change.—The proposal would apply only to widows and widowers age 85 and over. It would change the reduction for those who claimed benefits before age 65 to an amount equal to 4 percent for each year of early benefits. It would also limit the benefit reduction for widows and widowers whose spouses retired early to a benefit level no lower than 90 percent of the spouse's full, age 65 benefit. Widow and widowers currently eligible for Medicaid based on their eligibility for Supplemental Security Income would retain their Medicaid eligibility under this provision, even if the increase in Social Security benefits caused the loss of all SSI payments.

COVERAGE EXEMPTION FOR ELECTION WORKERS

Present Law.—The 1990 reconciliation legislation requires State and local governments to cover under Social Security any of their employees who are not covered by a State or local government retirement program. Earlier legislation required them to cover newly hired employees under Medicare. However, other provisions of law allow State and local election workers who are paid less than $100 per year to be excluded from this coverage.

Proposed Change.—Concerns have been expressed by many States that the $100 coverage exclusion is no longer adequate to prevent Social Security and Medicare coverage of some State and local government election workers. The proposal would increase the coverage exclusion so that election workers who are paid less than $1,000 per year would not be required to be covered under Social Security and Medicare.

CONTRIBUTION AND BENEFIT BASE

Present Law.—The amount of annual earnings subject to Social Security taxes and creditable for benefits is limited by a "contribution and benefit base." Wages and earnings in excess of the base are not subject to Social Security FICA and SECA taxes. The base is indexed by the annual rate of increase in average wages. It will be $55,500 in 1992, and under fiscal year 1992 budget assumptions is projected to reach $69,600 in 1996.

Proposed Change.—The proposal would finance the changes in the earnings test and the other changes proposed in Social Security benefits and coverage by gradually raising the contribution and benefit base in the period 1992–1996. The base would be raised by $1,200 above the present law level in 1992, $900 in 1993, $2,100 in 1994, $2,400 in 1995, and $3,000 in 1996.

INDEPENDENT SOCIAL SECURITY AGENCY

Present Law.—Responsibility for administration of the Old Age, Survivors, and Disability Insurance (OASDI) programs is vested in the Secretary of Health and Human Services. The programs are administered by the Social Security Administration, a component of the Department of Health and Human Services. SSA is headed by a Commissioner appointed by the President. SSA also administers the Supplemental Security Income (SSI) program.

Proposed Change.—The proposal would establish the Social Security Administration as an independent agency with responsibility for the Old Age, Survivors, and Disability Insurance programs, and for the Supplemental Security Income program.

The agency would be headed by a Commissioner appointed by the President for a 4-year term coinciding with the term of the

President, and subject to confirmation by the Senate. The Commissioner would be compensated at the rare for level 1 of the Executive Schedule (equivalent to the pay of Cabinet officers). The Commissioner would be selected on the basis of proven competence as a manager, and would be responsible for the exercise of all powers and discharge of all duties of the Social Security Administration, have authority and control over all personnel and activities of the agency, and serve as a member of the Social Security Board of Trustees.

The Commissioner would be advised by a 7-member, part-time Advisory Board. Members of the Board would be appointed for 6-year, staggered terms. Three members, including the chairman, would be appointed by the President and confirmed by the Senate; no more than 2 could be from the same political party) would be appointed by the Speaker of the House (in consultation with the Chairman and Ranking Minority Member of the Committee on Ways and Means) and by the President pro tempore of the Senate (in consultation with the Chairman and Ranking Minority Member of the Committee on Finance).

Specific functions of the Board would include: studying and making recommendations on the most effective methods of providing economic security through the Social Security and Supplemental Security Income programs; making recommendations relating to the coordination of such programs with other programs providing economic and health security; making an independent assessment of the annual report of the Board of Trustees and advising the President and the Congress on the implications of the assessment; recommending to the President candidates to consider in selecting his nominees for the positions of Social Security Commissioner and Deputy Commissioner; reviewing and assessing the quality of service that the agency provides to the public; periodically assessing the adequacy of the agency's computer technology; reviewing and assessing the agency's progress in developing needed management improvements; increasing public understanding of the Social Security system; reviewing the development and implementation of a long-range research and program evaluation plan for the agency; reviewing and assessing any major studies of social security; and conducting such other reviews and assessments as may be appropriate.

In addition to the Commissioner, the President would also appoint a Deputy Commissioner, who would be subject to Senate confirmation. Other positions established within the agency (and appointed by the Commissioner) include: a Beneficiary Ombudsman to sponsor and support beneficiary interests; a Solicitor of Social Security to provide legal advice to the Commissioner and to manage the agency's litigation workload; and a Chief Administrative Law Judge. An independent panel would nominate candidates for the latter position. In addition, the proposal establishes in law the positions of Chief of Computer System Operations, Director of Research, Inspector General, and Chief Actuary. The Chief Actuary will consult, on an ongoing basis, with the Commissioner, the Chairman of the Committee on Finance in the Senate, and the Chairman of the Committee on Ways and Means in the House of Representatives, concerning the financial status of the Social Security trust funds.

The Commissioner would be directed to consult on an on-going basis with the Secretary of Health and Human Services to ensure coordination between the programs administered by the Social Security Administration and the Medicare and Medicaid programs, and to ensure that adequate information about benefits under Medicare and Medicaid is available to the public.

The Commissioner, jointly with the Director of the Office of Personnel Management and the Administrator of General Services, as appropriate, would be directed to carry out various demonstration programs. These programs would be focused on improving methods for recruiting, paying, and retaining computer specialists and other employees, and on improving procedures for the acquisition, operation, and maintenance of facilities and automated data processing equipment.

The Director of OPM would be directed to authorize for the Social Security Administration a substantially larger number of Senior Executive Service positions than were authorized on the date of enactment. In addition, at no time could more than ten positions in the agency be excepted from the competitive service because of their confidential or policy-determining nature.●

By Mr. GLENN (for himself, Mr. LEVIN, Mr. AKAKA, Mr. PRYOR, Mr. KOHL, Mr. LIEBERMAN, and Mr. SASSER):

S. 2039. A bill to amend the Federal Advisory Committee Act; to the Committee on Governmental Affairs.

FEDERAL ADVISORY COMMITTEE ACT AMENDMENTS OF 1991

● Mr. GLENN. Mr. President, I join with my distinguished colleagues on the Governmental Affairs Committee, Senators LEVIN, AKAKA, PRYOR, KOHL, LIEBERMAN, and SASSER, to introduce the Federal Advisory Committee Act Amendments of 1991. This bill represents a modified version of legislation the committee favorably acted on in the 101st Congress (S. 444) to amend the Federal Advisory Committee Act as part of its comprehensive review of the operation of this important open Government law.

The Federal Advisory Committee Act, popularly known as FACA, was enacted 19 years ago to provide a means for the Federal Government to account for and manage Federal advisory committees. In 1971, when the FACA legislation was first introduced, Congress didn't even know how many advisory committees there were, how much they cost, or what they did; and there was no way to find out. Educated guesses on the number of advisory committees in existence ranged from 1,000 to 3,000 and no agency had responsibility to monitor them.

In addition, there were no guarantees of public access to the deliberations of these advisory committees. Some met in closed sessions, and there was no requirement that public notice be given of advisory committee meetings. Concern was voiced that special interests, acting through advisory committees, could exercise undue influence on Government decisions without scrutiny.

These issues were addressed in FACA. The act originally provided for the Office of Management and Budget to conduct an annual review of all advisory committees, whether they were created by the executive branch or the Congress, and for OMB to review the charters of agency-created committees before they were established. President Carter transferred this responsibility to the General Services Administration in 1977. FACA required that advisory committee meetings be open to the public, subject to certain exceptions which are set forth in the Government in the Sunshine Act. FACA also required that advisory committees be terminated after 2 years unless their charter was renewed by the parent agency. This was intended to slow the proliferation of unnecessary and duplicative committees, which were perceived as the largest problem area with advisory committees.

I think it is fair to say that FACA has served the Government and the public quite well. The real costs to the public have been held reasonably stable, as evidenced by a few very telling statistics. For instance, the total number of chartered advisory committees has remained relatively constant since 1979 with approximately 1,000 committees, councils, and advisory groups of one type or another in existence at any one time. During fiscal year 1990 alone, 22,391 individuals served on 1,128 committees providing advice and recommendations to 64 departments and agencies. The total committee costs have fluctuated, rising from $25 million in 1972 to over $112 million in 1990. However, when we convert these cost figures to account for inflation, the increase is much smaller.

However, the story of FACA is not contained in the number of committees, their costs, or the number of people involved. There is still, even after 19 years, considerable confusion concerning the interpretation of the most fundamental provisions of the act. I am disturbed to find continued litigation over basic questions such as: Whether a specific group is an advisory committee as defined by the act; whether the group meets the act's balanced membership requirement; and whether, and to what extent, advisory committees utilized but not established by an agency are subject to the act.

Over the years portions of the act have been criticized by several Federal court judges called upon to interpret its provisions and ascertain Congress' legislative intent. Indeed, one Federal judge commenting on FACA described it as "obscure, imprecise, and open to broad interpretations." He added that:

> If more expertise were applied to such enactments to ensure that Congress states with more precision what it intends, the rules of the game would be more sharply drawn and court involvement could be less.

In another case involving a dispute over balanced membership, a federal district court judge commented that

VOL 137 PT 23 NO 21—25 1991 UMI

the requirement of FACA that advisory committees be fairly balanced "embodies inherent conceptual and practical difficulties." Most recently, the courts have virtually interpreted out of existence the act's provisions dealing with "utilized" advisory committees.

Judicial decisions such as these very clearly put the burden on Congress to clarify its intent and resolve the ambiguities in the act.

Over the last 15 years the Governmental Affairs Committee has held a number of hearings on FACA, which identified similar problems with the language of the act as well as some practical problems in its implementation. In 1976, the committee heard testimony from James Lynn, Director of OMB. He raised questions about attaining an appropriate balance of membership on an advisory committee, the requirement for open meetings, and the proliferation of advisory committees created by Congress. These comments were echoed again in 1984 by Joseph Wright, Deputy Director of OMB. In his testimony before the committee's Information Management and Regulatory Affairs Subcommittee, he said:

> Some of the Act's provisions are not drawn, we see in retrospect, with great clarity. Some are written in a fashion that permits lawyers to argue over their meaning almost endlessly. And they have. There is also criticism of the way that the Act has been interpreted by the courts, and the effect that these decisions and the ambiguities of the Act have had on the ability of agency officials to obtain advice promptly or even to meet with members of the public.

Mr. Wright went on to cite specific problems with the language of FACA, including the definition of "balanced membership," the lack of a definition of "meeting," and the applicability of FACA to subcommittees of an advisory committee.

In response to this record, the Governmental Affairs Committee held two oversight hearings during the 100th Congress on compliance with FACA by the President's AIDS Commission (S. Hrg. 100-538, December 3, 1987) and the Department of Defense (S. Hrg. 100-681, April 19, 1988). At both hearings the Committee received many specific suggestions as to how the act should be clarified and improved. Again, the main areas of concern were the definition of balanced membership, the definition of advisory committee, the openness of meetings and availability of documents, and the need to ensure that members of advisory committees do not have conflicts of interest.

One area of particular concern to me that was highlighted at our oversight hearings is the proliferation of advisory committees created by Congress. So often our response to a problem is to create a committee or commission to study it. While that may be the correct thing to do in many cases, a number of these committees linger on because Congress has made the committee permanent, or has given it too long a life span, or has exempted it from FACA altogether. Mr. Paul T. Weiss, Associate Administrator for Administration of GSA, testified at our 1987 hearing:

> The number of committees directed by the Congress, as a percentage of the total inventory, had doubled over the past 10 years. While the majority of these committees no doubt serve useful purposes, many are established with no fixed date for termination. Consequently, when such groups have accomplished their missions, Federal departments and agencies are hindered in their efforts to comply with FACA's provisions for terminating unneeded advisory committees by the necessity of entering an oftentimes protracted process of seeking legislative relief.

The comments and suggestions received from the witnesses at these hearings formed the basis for the legislation I introduced on August 10, 1988 (S. 2721). S. 2721 was the subject of a hearing before the Governmental Affairs Committee on October 5, 1988 (S. Hrg. 100-945).

On February 23, 1989, early in the 101st Congress, I introduced a new bill (S. 444) to amend FACA. With minor changes, S. 444 was similar to the previous legislation, S. 2721. On March 15, 1989, the Governmental Affairs Committee held a hearing on S. 444 (S. Hrg. 101-38). The witnesses at the 1989 hearing focused on essentially the same problem areas and issues that were identified in our previous hearings.

The committee revised S. 444 substantially, and, in March 1990, voted to report the bill favorably with an amendment in the nature of a substitute. However, the Department of Justice and the General Services Administration submitted written comments to the Committee expressing opposition to S. 444. The executive branch comments disagreed in substance with several of the bill's provisions and questioned the mechanics, but not necessarily the objectives, of other provisions. Rather than pushing forward with S. 444, we decided to take another look at the bill in light of the executive branch comments.

The bill I am introducing today represents the product of that effort. In the spirit of compromise, the new bill inlcudes a number of changes from S. 444 which address most of the executive branch objections to that version. At the same time, the new bill retains the basic objectives of the prior bills. I don't think that there is any significant disagreement over these basic objectives, although there have been differences over exactly how to achieve them.

The bill accomplishes three main objectives. First, it reorganizes the act and makes logically consistent the administrative provisions which address the establishment, chartering, and management of advisory committees, as well as the responsibilities of Congress, the President, agency heads, and the Administrator of GSA. Second, the bill clarifies a number of concepts, such as "balanced membership," "meeting," "subcommittee or other subgroup," and "utilized" committee, which have been problematic throughout FACA's history. Third, it clarifies the status of advisory committee members and strengthens the financial disclosure requirements and ethics controls that apply to them. I will describe each of these areas in a little more detail.

ADMINISTRATIVE PROVISIONS

The bill does not make fundamental changes in the way the FACA system is implemented, but is designed to help the current system function much more efficiently. It spells out more clearly the duties of parties responsible for creating, managing and terminating committees. Perhaps the most significant change is that agencies are given the authority to terminate statutorily created committees in their agencies before the statutory termination date of the committee, after giving 180 days notice to the authorizing committees in both Houses. Congress could during that 180-day period reauthorize the existence of the committee. This mechanism could not be invoked before 5 years if a committee is authorized to exist for 5 years or longer.

Another significant change is that for the first time each agency will issue its own annual report, and the President will issue a summary annual report. This is designed to give the committee management secretariat, located in GSA and charged with managing advisory committee functions, more time to selectively monitor agency performance rather than merely collecting and tabulating information from each agency.

DEFINITIONAL CHANGES

The most problematic aspects of FACA that have developed over the years concern the meaning and application of a number of concepts embodied in the act. As noted previously, the absence of clear definitions of many operative terms in FACA has led to a great deal of litigation and created practical difficulties.

One of the most troublesome areas concerns "utilized" advisory committees. FACA's definition of advisory committee now includes not only committees established by the Federal Government, but also committees having some existence outside the Government which are "utilized" as a source of advice by the President and executive agencies. The act draws no distinction between established and utilized committees. The executive branch maintains that applying FACA's requirements to outside committees used by the President is unconstitutional. In order to avoid deciding this constitutional issue, the courts have adopted an extremely narrow interpre-

tation of what constitutes a "utilized" committee for purposes of FACA. In addition to the constitutional issues, there are practical difficulties in applying FACA's substantive requirements, such as balanced membership, to utilized committees. The bill addresses these problems by creating a separate section in FACA to deal with utilized committees. This section supplies a definition of the term "utilized" a committee, which is absent from the current act. It exempts utilized committees from most of FACA's substantive requirements, such as balance, public access and financial disclosure, but includes provisions designed to ensure some accountability for their use.

With respect to "balance," the bill deletes the requirement, contained in S. 444, which mandated the inclusion of representatives of public and private sector interests on all advisory committees unless a waiver was granted. Instead, the bill requires that consideration be given to including representatives of interests which will be directly affected by the work of the committee and to obtaining expertise relevant to the work of the committee, in developing the balance plan. Further, the balance plan and the actions taken to implement it must be included in the advisory committee's report.

The bill's definition of "meeting" includes any "hearing before or deliberation among" committee members. This definition is intended to achieve broad coverage and supplant past administrative interpretations that may have been unduly restrictive. At the same time, it responds to Executive Branch objections that the definition in S. 444, which included any "interaction" among committee members, was too broad.

The definition of "subcommittee or other subgroup" makes clear that an advisory committee remains subject to FACA when it conducts its business through subcommittees or similar groups that report to the parent committee.

The definition of "advisory committee" retains S. 444's exemption from FACA for any committee composed wholly of full-time officers or employees of State or local governments acting in their official capacities who are required by statute to meet with Federal officials regarding programs that are shared by Federal, State, and local governments or that are administered by State or local governments.

ADVISORY COMMITTEE MEMBERS

The Governmental Affairs Committee hearings on FACA document the need to ensure that members of advisory committees know what their status is—whether they are to act as representatives of particular interests or to provide independent advice, and whether they are Federal employees. Therefore, the new bill requires that the statute or determination establishing an advisory committee indicate in general terms whether any committee members are to represent interests other than the United States. For example, there might be a provision for one member to represent agricultural interests or consumer interests. The bill further requires an appointment letter for all committee members. The letter must identify those individuals, if any, selected as representational members and specify the interests they are to represent. The letter for non-representational members would appoint them as Federal employees and specify their category of employment—for example, "special Government employees" who serve for limited periods.

The bill contains revised financial disclosure requirements for advisory committee members. The executive branch had objected that the financial disclosure requirements of S. 444 were too broad and were more stringent than those applicable to regular Federal employees. The new bill provides that all committee members who are Federal employees shall file statements which disclose their interests to the extent and in the manner prescribed by the Office of Government Ethics. This will enable OGE to maintain consistency between these advisory committee members and other Federal employees. For non-Federal employee members, the bill adopts the disclosure requirements recommended by the Administrative Conference of the United States. These requirements will provide agencies with sufficient information about the interests of the members to decide whether there is a problem with their participation in advisory committee business. The requirements will not, however, subject these nonemployee members to the Federal conflict-of-interest laws. In addition to the basic features described above, the bill includes provisions that enhance public access to advisory committee records, expressly confer standing on litigants challenging compliance with FACA and its implementing regulations, and authorize the award of attorney fees to litigants who prevail in their challenges.

By passing FACA in 1972, Congress recognized the merits of allowing the Government to draw upon the knowledge and experience of public experts, and at a reasonable cost. In return, the public is given an opportunity to participate actively in the Government's decisionmaking process. These are excellent goals, and FACA has to a large extent furthered them, but we need to ensure that the system continues to improve so that the Government receives the best advice possible, in an open and efficient manner.

Mr. President, the improvements to FACA in this bill address those problem areas that have come up consistently in recent years. I believe that there is a broad consensus on what the problems are and the general objectives of the corrective legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Advisory Committee Act Amendments of 1991".

REFERENCES

SEC. 2. All references in this Act are to the Federal Advisory Committee Act (5 U.S.C. App.), unless otherwise provided.

FINDINGS AND PURPOSES

SEC. 3. Section 2(b) of the Act is amended—

(1) in paragraph (1) by amending such paragraph to read as follows:

"(1) the need for each existing advisory committee should be periodically reviewed;";

(2) in paragraph (2) by inserting after "essential" the following: "and only when the information to be obtained is not already available through another advisory committee or source within the Federal Government,";

(3) by redesignating paragraphs (5) and (6) as paragraphs (7) and (8), respectively, and inserting after paragraph (4) the following new paragraphs:

"(5) the composition of any such committee should be fairly balanced in membership in terms of the points of view represented and the functions to be performed by the advisory committee; and

"(6) the purpose for and objectives of the committee should be clearly delineated in the charter of such committee;";

(4) in paragraph (7) (as redesignated by paragraph (3) of this section) by striking out "and" after the semicolon;

(5) in paragraph (8) (as redesignated by paragraph (3) of this section) by amending such paragraph to read as follows:

"(8) the function of advisory committees should be advisory, and determinations of action to be taken and policy to be expressed with respect to advisory committee reports or recommendations shall be made solely by the President or an officer or employee of the Federal Government; and"; and

(6) by adding at the end thereof the following new paragraph:

"(9) to the greatest extent practicable, an advisory committee should conduct all business furthering the purpose and objectives of the committee through meetings open to the public.".

DEFINITIONS

SEC. 4. Section 3 of the Act is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'advisory committee' means any committee, board, commission, council, conference, panel, task force, or any similar group (including any subcommittee or other subgroup thereof), which is—

"(A) established or authorized by statute;

"(B) established by the President; or

"(C) established by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies, officers or employees of the Federal Government, except that such term excludes—

"(i) the Advisory Commission on Intergovernmental Relations;

"(ii) any committee established or utilized by the Central Intelligence Agency;

VOL
137
PT
23
NO
21
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25
1991
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"(iii) any committee established or utilized by the Federal Reserve System;

"(iv) any committee composed wholly of full-time officers or employees of State or local governments acting in their official capacities who are directed by statute to meet with Federal officers and employees regarding programs that are shared by Federal, State, and local governments, or which are administered by State and local governments;

"(v) any committee which is composed wholly of full-time officers or employees of the Federal Government;

"(vi) any local civic group whose primary function is that of rendering a public service with respect to a Federal program; and

"(vii) any State or local committee established to advise or make recommendations to State or local officials or agencies."; and

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively, and inserting after paragraph (2) the following new paragraphs:

"(3) The term 'subcommittee or other subgroup' as used in paragraph (2) means any group composed in whole or in part of members of the committee which is established by the committee to assist it in carrying out its functions. Subcommittees or subgroups shall not provide advice or recommendations directly to a Federal official.

"(4) The term 'meeting' means any hearing before or deliberation among—

"(A) a majority of the members of an advisory committee;

"(B) a majority of members of a subcommittee or other subgroup; or

"(C) any smaller number of members which is authorized to act on behalf of the committee, or subcommittee or other subgroup thereof.".

PROHIBITIONS AND APPLICABILITY

SEC. 5. Section 4 of the Act is amended to read as follows:

"PROHIBITIONS AND APPLICABILITY

"SEC. 4. (a) No advisory committee shall be established by the President or by one or more agencies of the Federal Government, unless the establishment is—

"(1) specifically authorized by statute or by the President; or

"(2) specifically determined as a matter of formal record, by the head of the agency involved, after consultation with the Administrator, to be in the public interest in connection with the performance of duties imposed on that agency by law.

"(b) No advisory committee shall meet or take any action with respect to its purpose and objectives unless a committee charter has been filed in accordance with section 8.

"(c) The function of advisory committees shall be advisory only, unless otherwise specifically provided by a statute or Presidential directive. Recommendations are reports by an advisory committee shall be nonbinding and determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer or employee of the Federal Government.".

ESTABLISHMENT OR AUTHORIZATION OF ADVISORY COMMITTEES BY CONGRESS

SEC. 6. Section 5 of the Act is amended—

(1) by amending the section heading to read as follows:

"ESTABLISHMENT OR AUTHORIZATION OF ADVISORY COMMITTEES BY CONGRESS";

(2) by amending subsection (a) to read as follows:

"(a) The Congress may by statute establish or authorize the establishment of an advisory committee.";

(3) in subsection (b)—

(A) in the first sentence by—

(i) striking out "In" and inserting in lieu thereof "When";

(ii) striking out "each standing committee" and inserting in lieu thereof "a committee";

(iii) striking out "determine" and inserting in lieu thereof "consider"; and

(iv) striking out "such determination";

(B) in paragraph (1) by amending such paragraph to read as follows:

"(1) contain the clearly defined and detailed purpose for and objectives of the advisory committee;"; and

(C) by amending paragraphs (2) through (5) to read as follows:

"(2) indicate whether any members of the committee shall be appointed to represent parties or interests other than the United States, and if so, what parties or interests they are to represent;

"(3) contain provisions to indicate the appointing authority for members of the advisory committee and to assure that the advice and recommendations shall not be inappropriately influenced by the appointing authority or by any special interest, but shall instead be the result of the advisory committee's independent judgment;

"(4) contain provisions dealing with authorization of appropriations, the duration of the advisory committee if other than the two-year period provided for under section 18(a), and dates for the completion and publication of any reports; and

"(5) contain provisions to assure that the advisory committee shall have adequate staff, quarters, and funds to meet necessary expenses, and for Presidential advisory committees and committees reporting to more than one agency, to indicate the agency responsible for providing support services (as defined in section 16(c))."; and

(4) by amending subsection (c) to read as follows:

"(c)(1) Such legislation also shall contain a plan to assure that the membership of the advisory committee is fairly balanced in terms of the points of view represented and the committee functions to be performed by the advisory committee. In developing the balance plan, consideration shall be given to including members from representatives of interests which will be directly affected by the work of the committee and to obtaining expertise relevant to the work of the committee.

"(2) The balance plan and a description of the actions taken to implement it shall be included in the final report issued by the advisory committee.".

RESPONSIBILITIES AND ADVISORY COMMITTEE PROCEDURES

SEC. 7. The Act is amended by—

(1) striking out section 15;

(2) redesignating sections 12 through 14 as sections 16 through 18, respectively; and

(3) striking out sections 6 through 11 and inserting in lieu thereof the following new sections:

"ESTABLISHMENT OF ADVISORY COMMITTEES BY PRESIDENT OR AGENCY

"SEC. 6. (a) The President or an agency head may establish an advisory committee pursuant to a statute, Presidential directive, or agency directive. Any agency directive shall be a matter of formal record, subsequent to consultation with the Administrator.

"(b) In establishing any advisory committee the President or agency head shall consider whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee in existence, or by enlarging the mandate of an existing advisory committee. At the time any advisory committee is first established, the President or agency head shall make a determination in writing which shall—

"(1) contain the clearly defined and detailed statement of purpose for and objectives of the advisory committee;

"(2) contain the plan for achieving a fair balance in committee membership;

"(3) contain provisions to indicate the appointing authority for the members of the advisory committee and to assure that the advice and recommendations of the advisory committee shall not be inappropriately influenced by the appointing authority or by any special interest, but shall be the result of the independent judgment of the advisory committee;

"(4) indicate whether any members of the committee shall be appointed to represent parties or interests other than the United States, and if so, what parties or interests they are to represent;

"(5) contain provisions dealing with authorization of appropriations, the duration of the committee if for a duration other than the two-year period provided for in section 18(a), and dates for the completion and publication of any reports; and

"(6) contain provisions to assure that the advisory committee shall have adequate staff, quarters, and funds to meet necessary expenses, and for Presidential advisory committees and committees reporting to more than one agency, to indicate the agency responsible for providing support services (as defined in section 16(c)).

"(c)(1) The membership of an advisory committee shall be fairly balanced in terms of the points of view represented and the committee functions to be performed, in accordance with the plan required by subsection (b)(2) of this section. In developing the balance plan, consideration shall be given to including members from interests which will be directly affected by the work of the committee and to obtaining expertise relevant to the work of the committee.

"(2) The balance plan and a description of the actions taken to implement it shall be included in the final report issued by the advisory committee.

"(d) The information required under subsection (b) shall be contained in—

"(1) the Presidential directive in the case of an advisory committee established by the President; or

"(2) a timely notice published in the Federal Register in the case of an advisory committee established by an agency.

"UTILIZATION OF ADVISORY COMMITTEES BY PRESIDENT OR AGENCY

"SEC. 7. (a) As used in this section, the term 'utilized committee' means a committee or other group composed in whole or in part of other than full-time officers or employees of the Federal Government, with an established existence outside the Government, and which the President or one or more agencies or officers of the Federal Government adopts, such as through institutional arrangements, as a preferred source from which to obtain advice or recommendations on a specific issue or policy within the scope of their responsibilities.

"(b) The President or an agency head may utilize an advisory committee pursuant to a

statute, Presidential directive, or agency directive. Any agency directive shall be a matter of formal record, subsequent to consultation with the Administrator.

"(c) When considering utilizing any advisory committee, the President or agency head shall consider whether the functions of the proposed committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee.

"(d) At the time any committee is first utilized, the President or agency head shall make a determination in writing which shall—

"(1) contain a clearly defined and detailed statement of purpose for and objectives of the committee;

"(2) contain provisions to assure that the advice and recommendations of the committee shall not be inappropriately influenced by the appointing authority or by any special interest, but shall be the result of the independent judgment of the committee; and

"(3) indicate whether and how the membership of the committee is fairly balanced, and if it is not, why it is necessary to obtain advice from a committee lacking such balance.

"(e) Each utilized committee shall have a charter which conforms to the requirements of section 8 of this Act, except paragraphs (4)(C), (6), (7), and (9) of subsection (a) thereof.

"(f) To the greatest extent practical and consistent with their functions, utilized committees should conduct their business through public meetings and make their records available for public inspection and copying.

"(g) Utilized committees shall be subject to this section and sections 4, 9, 10 (except subsection (c)(2)), 11 (except subsections (c)(5) and (f)), 12, 15, 17, and 18 of this Act.

"CHARTERING OF ADVISORY COMMITTEES

"SEC. 8. (a) The charter of an advisory committee shall contain at least the following information:

"(1) the name of the committee;

"(2) whether the committee is—

"(A) established or authorized by statute;

"(B) established or utilized by the President; or

"(C) established or utilized as a matter of formal record by the head of the agency involved;

"(3)(A) the date the charter is filed;

"(B) whether such charter is an original charter or a renewal; and

"(C) if a renewal charter, the date when the committee was first chartered;

"(4)(A) the agency responsible for providing support services to the committee;

"(B) the agency or official to whom the committee reports; and

"(C) which agency or official shall be responsible for reviewing members' disclosure forms and counseling advisory committee members on Federal ethics rules and criminal conflict of interest statutes;

"(5) the clearly defined and detailed purpose for and objectives of the committee;

"(6) the appointing authority for the advisory committee members;

"(7) whether any committee members are or will be appointed to represent parties or interests other than the United States, and if so, what parties or interests they are to represent;

"(8) the estimated number and frequency of committee meetings and the estimated total period of time necessary for the committee to complete all tasks;

"(9) the location of the records and documents of the committee during its existence and for at least one year after the committee ceases to exist;

"(10) the estimated annual operating costs in dollars and person-years for such committee; and

"(11) the termination date of the committee, if other than the two-year period provided for in section 18(a).

"(b) For each advisory committee, a charter in accordance with this section shall be filed with—

"(1) the Administrator;

"(2) the head of the agency which established, utilizes, or provides support services for such advisory committee or in the case of an advisory committee not assigned to an agency for support services, the advisory committee itself; and

"(3) the standing committees, in the Senate and the House of Representatives, having jurisdiction over such advisory committee.

"RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES

"SEC. 9. In the exercise of its legislative and oversight functions, each standing committee of the Senate and the House of Representatives may review the activities of each advisory committee under its jurisdiction to determine whether—

"(1) such advisory committee should be terminated or merged with any other advisory committee;

"(2) the responsibilities of such advisory committee should be revised; and

"(3) such advisory committee complies with this Act and any other rule, order, regulation, or policy governing advisory committees.

"ADDITIONAL RESPONSIBILITIES OF THE PRESIDENT

"SEC. 10. (a) The President may delegate responsibilities for evaluating and taking action, where appropriate, with respect to all formal recommendations made to him by Presidential advisory committees.

"(b) Within one year after the date on which a Presidential advisory committee submits formal recommendations to the President, the President or a delegate shall submit a report to the Congress describing either proposals for action or reasons for inaction, with respect to such recommendations.

"(c)(1) The President shall ensure that committee charters required by this Act for Presidential advisory committees are filed in accordance with section 8.

"(2)(A) The President shall also ensure the following prior to participation by members in any meeting or work of a Presidential advisory committee:

"(i) All members shall receive letters formally appointing them to the advisory committee. The appointment letter for members who do not represent parties or interests other than the United States shall also appoint such members as Federal employees and designate their category of employment. The appointment letter for members who are to represent parties or interests other than the United States shall specifically so indicate and shall identify such parties or interests.

"(ii) All members who are appointed as Federal employees shall receive counseling on the Federal ethics rules and criminal conflict of interest statutes.

"(iii) All Federal employee members who are not required to file a public financial disclosure report under section 101 of the Ethics in Government Act of 1978 shall sign and date a statement disclosing their affiliations and financial interests to the extent and in the form and manner prescribed by the Office of Government Ethics. The Office of Government Ethics shall, to the greatest extent practicable, conform such disclosure requirements to the disclosure requirements applicable to regular Government employees and to the disclosure requirements applicable to non-Federal employee advisory committee members under subsection (c)(2)(A)(iv) of this section.

"(iv) All advisory committee members who are not appointed as Federal employees shall disclose in the form and manner prescribed by the President—

"(I) the identity of their principal employment;

"(II) a list of positions held (whether paid or unpaid) and any contractual relationships for the performance of services with any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution whose activities or purposes may be (or may foreseeably become) relevant to the purposes and functions of the advisory committee as determined by the President and described in the committee charter;

"(III) the identity, but not the value or amount, of any other sources of income or any interests in a trade or business, real estate, or other asset held for investment or production of income, exceeding $1,000 in value which are relevant to the purposes and functions of the advisory committee as determined by the President and described in the committee charter; and

"(IV) any other interests, affiliations, or arrangements which are or may be affected by the work of the committee.

"(B) The disclosure statements required under subparagraph (A) (iii) and (iv) shall be revised prior to the renewal of the advisory committee's charter under section 17(c) and within 30 days after a member's acquisition of a new affiliation or financial interest which is or may be affected by the work of the committee.

"(C) The information required under subparagraph (A)(iv) (I) and (II) shall be made available to the public upon request.

"(3) The President may delegate the responsibilities described under paragraphs (1) and (2).

"(d)(1) No later than February 1 of each year, the President shall make an annual summary report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year. The report shall be a summary and analysis of information contained in the annual report of each agency which established or utilized an advisory committee during that period. The summary report shall include—

"(A) the name of every advisory committee and the total estimated annual cost to the United States to fund, service, supply, and maintain such committees;

"(B) a summary and analysis of data regarding the establishment and termination of advisory committees during the preceding fiscal year;

"(C) whether such committees are ad hoc or standing committees;

"(D) the membership of such committees;

"(E) the frequency and openness of meetings;

"(F) the number of reports submitted;

"(G) a list of the advisory committees which terminated or were abolished by the President or an agency during the preceding year;

"(H) in the case of advisory committees established by statute, a list of those advisory

the form and manner prescribed by the Office

"(E) the functions of each such committee;

"(c) The Administrator shall—

wise would be compensated (or was com-

chairman of the advisory committee, or if

VOL 137 PT 23 NO 21—25 1991 UMI

committees which the President recommends be abolished before their specified termination dates, together with the reasons therefore and the statutory authority for their creation;

"(I) the number and results of the comprehensive reviews conducted by the Administrator under section 12(d) during the preceding fiscal year; and

"(J) any issues of concern in the functioning of advisory committees or this Act.

"(2) The President may exclude from the annual summary report any information which the President determines should be withheld for reasons of national security, and in lieu thereof shall include in such report a statement that such information has been excluded.

"ADDITIONAL RESPONSIBILITIES OF AGENCY HEADS

"SEC. 11. (a)(1) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees. Such guidelines and controls shall be consistent with this Act and any rule, order, regulation, or policy of the Administrator under sections 12 and 13.

"(2) Each agency head shall conduct annual reviews of committees or other groups established, utilized or contracted for by the agency to determine whether any are advisory committees subject to this Act and, if so, to bring such committees or groups into compliance with the requirements of this Act.

"(b) Each agency shall maintain systematic information on—

"(1) the nature, functions, and operations of each advisory committee (including each subcommittee or other subgroup as defined in section 3(3)) within the jurisdiction of the agency; and

"(2) the agency's compliance with this Act and with its own rules for advisory committees.

"(c) The agency head shall—

"(1) designate an Advisory Committee Management Officer for the agency;

"(2) comply with section 6 in establishing any advisory committee;

"(3) file a charter in accordance with section 8 of this Act for each advisory committee—

"(A) which is established by the agency; or

"(B) for which the agency has been delegated this responsibility by the President;

"(4) appoint a designated Federal official for each such advisory committee;

"(5) ensure the following prior to participation by members in any meeting or work of an advisory committee (other than a Presidential advisory committee):

"(A) All members shall receive letters formally appointing them to the advisory committee. The appointment letter for members who do not represent parties or interests other than the United States shall also appoint such members as Federal employees and designate their category of employment. The appointment letter for members who are to represent parties or interests other than the United States shall specifically so indicate and shall identify such parties or interests.

"(B) All members who are appointed as Federal employees shall receive counseling on the Federal ethics rules and criminal conflict of interest statutes.

"(C) All Federal employee members who are not required to file a public financial disclosure report under section 101 of the Ethics in Government Act of 1978 shall sign and date a statement disclosing their affiliations and financial interests to the extent and in the form and manner prescribed by the Office of Government Ethics. The Office of Government Ethics shall, to the greatest extent practicable, conform such disclosure requirements to the disclosure requirements applicable to regular Government employees and to the disclosure requirements applicable to non-Federal employee advisory committee members under subsection (c)(5)(D) of this section.

"(D) All advisory committee members who are not appointed as Federal employees shall disclose in the form and manner prescribed by the Administrator of General Services, in consultation with the Office of Government Ethics—

"(i) the identity of their principal employment;

"(ii) a list of positions held (whether paid or unpaid) and any contractual relationships for the performance of services with any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution whose activities or purposes may be (or may foreseeably become) relevant to the purposes and functions of the advisory committee as determined by the appointing authority; and

"(iii) the identity, but not the value or amount, of any other sources of income or any interests in a trade or business, real estate, or other asset held for investment or production of income, exceeding $1,000 in value which are relevant to the purposes and functions of the advisory committee as determined by the President and described in the committee charter;

"(6) publish timely notice of committee meetings in the Federal Register, oversee timely completion of detailed committee minutes and otherwise oversee committee compliance with the procedures in section 13; and

"(7) abolish advisory committees before their specified termination dates when appropriate.

"(d)(1) The disclosure statements required under subsection (c)(5) (C) and (D) shall be revised prior to the renewal of the advisory committee's charter under section 17(c) and within 30 days after a member's acquisition of a new affiliation or financial interest which is or may be affected by the work of the committee.

"(2) The information required under subsection (c)(5)(D) (i) and (ii) shall be made available to the public upon request.

"(e)(1) No later than December 1 of each year, the head of each agency which establishes, utilizes, or provides support services to an advisory committee shall submit an annual report to the Administrator on the activities, status, and changes in the composition of such advisory committees during the preceding fiscal year. The Administrator shall make such reports available to Congress upon request.

"(2) The agency head shall follow guidelines set forth by the Administrator for such annual report by the agency head.

"(3) The report shall include—

"(A) the name of each advisory committee which the agency has established, utilized, or provided support services during the preceding year;

"(B) the date of establishment, authority for creation, and expected termination of each committee;

"(C) whether such committee is an ad hoc or standing committee;

"(D) a list of each subcommittee or other subgroup (as defined in section 3(3)) in existence for each advisory committee;

"(E) the functions of each such committee;

"(F) the number and dates of meetings of each such committee during the preceding year;

"(G) the names and occupations of the current members of each such committee;

"(H) the total estimated annual cost to the United States to fund, service, supply, and maintain each such committee;

"(I) a list of the advisory committees which terminated or were abolished by the agency head during the preceding year;

"(J) in the case of advisory committees established by statute, a list of those advisory committees which the agency head recommends be abolished before their specified termination dates, together with the reasons therefor and the statutory authority for their creation; and

"(K) any issues of concern in the functioning of advisory committees or this Act.

"(4) The agency head may exclude from such annual report any information which such agency head determines should be withheld for reasons of national security, and in lieu thereof shall include in such report a statement that such information has been excluded.

"(f) Each advisory committee management officer shall—

"(1) exercise control and supervision over the establishment, operation, and procedures of advisory committees established by that agency;

"(2) assemble and maintain the reports, records, and other papers of any such committee during the existence of the committee;

"(3) carry out, on behalf of that agency, the provisions of section 552 of title 5, United States Code, with respect to such reports, records, and other papers;

"(4) coordinate with the designated agency ethics official to ensure appropriate counseling on ethics issues and timely completion of any written disclosure obligations;

"(5) maintain in a single location a complete set of the charters and membership lists of each of the advisory committees (including each subcommittee or other subgroup as defined under section 3(3)) of such agency;

"(6) maintain information on the nature, functions, and operations of the advisory committees (including each subcommittee or other subgroup as defined under section 3(3)) of such agency; and

"(7) provide upon request copies of minutes of meetings and reports of the advisory committees (including each subcommittee or other subgroup as defined under section 3(3)) of such agencies.

"(g) Within 1 year after the date on which an advisory committee submits formal recommendations to an agency, the agency head shall submit a report to the Congress describing either proposals for action or reasons for inaction with respect to such recommendations.

"RESPONSIBILITIES OF THE ADMINISTRATOR OF GENERAL SERVICES

"SEC. 12. (a) The Administrator shall establish and maintain within the General Services Administration a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

"(b) The Administrator may from time to time request such information as the Administrator determines necessary to carry out the functions under this section. Each agency head and advisory committee members shall cooperate by providing such information to the Administrator.

"(c) The Administrator shall—

"(1) promulgate regulations to prescribe administrative guidelines and management controls applicable to advisory committees and to interpret the provisions of this Act;

"(2) to the maximum extent feasible, provide advice, assistance, and guidance to the President, agency heads, advisory committees, and committee members to ensure compliance with this Act;

"(3) establish guidelines for the annual report required of each agency under section 11(d);

"(4) review committees or other groups established, utilized, or contracted for by an agency to determine whether any are advisory committees subject to this Act and, if so, to bring such committees or groups into compliance with the requirements of this Act; and

"(5) when designated by the President, appoint a designated Federal official for Presidential advisory committees.

"(d)(1) The Administrator shall periodically conduct a comprehensive review of each existing advisory committee to determine whether—

"(A) such committee is carrying out its purpose;

"(B) consistent with the provisions of applicable statutes, the responsibilities assigned to the committee should be revised;

"(C) such committee should be merged with other advisory committees; or

"(D) such committee should be abolished before its specified termination date.

"(2) Upon the completion of a review, the Administrator may make recommendations to the President, an agency head, or the Congress with respect to any action that should be taken.

"(e)(1) The Administrator shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

"(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the maximum rate specified under section 5376 of title 5, United States Code;

"(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service; and

"(C) services may be provided pursuant to section 3102 of title 5, United States Code, for members while in performance of advisory committee duties who—

"(i) are blind or deaf or who otherwise qualify as handicapped individuals (within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794)); and

"(ii) do not otherwise qualify for assistance under section 3102 of title 5, United States Code, by reason of being an employee of an agency (within the meaning of section 3102(a)(1) of such title).

"(2) Nothing in this subsection shall prevent—

"(A) an individual who (without regard to service with an advisory committee) is a full-time employee of the United States; or

"(B) an individual who immediately before service with an advisory committee was such an employee, from receiving compensation at the rate at which such individual otherwise would be compensated (or was compensated) as a full-time employee of the United States.

"(f) If there is disagreement on a material matter between the Administrator and an agency head regarding the establishment, management, or termination of advisory committees, the agency head shall have final authority, but a notice and description of the areas of such disagreement may be placed in the annual summary report required under section 10(d).

"ADVISORY COMMITTEE PROCEDURES

"SEC. 13. (a)(1) Each advisory committee meeting shall be open to the public and held—

"(A) at a reasonable time and in a place reasonably accessible to the public; and

"(B) in a meeting room sufficient to accommodate advisory committee members, committee or agency staff, and interested members of the public.

"(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Administrator may prescribe regulations to provide for other types of public notice to ensure that all interested persons are notified of such meeting prior thereto.

"(3) Interested persons shall be permitted to attend meetings of, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Administrator may prescribe.

"(b) An advisory committee may not report advice or recommendations to the President or one or more agencies or officers or employees of the Federal Government without first holding a meeting at which a majority of the committee members approve the advice or recommendations to be reported.

"(c)(1) Subject to the provisions of section 552(b) of title 5, United States Code, records of an advisory committee, including reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, or other recorded information, shall be available for public inspection and copying—

"(A) at a single location in the offices of the advisory committee or the agency which established or provides support services to the advisory committee during the existence of the advisory committee; and

"(B) at a single location to be specified in the committee's charter for at least 1 year after the committee ceases to exist.

"(2) Any record that is to be discussed or acted upon at a public meeting of an advisory committee shall be made available for public inspection and copying at least 48 hours in advance of such meeting.

"(3) Notwithstanding the provisions of paragraph (1), the provisions of section 552(b)(5) of title 5, United States Code, shall not apply to withhold the disclosure of any advisory committee record.

"(4) The disposition of such records, including transfer to the National Archives and Records Administration, shall be scheduled and carried out in accordance with the National Archives and Records Administration Act of 1984.

"(d) Detailed minutes of each meeting of each advisory committee (including each subcommittee or other subgroup as defined in section 3(3)) shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified by the chairman of the advisory committee, or if appropriate, the chairman of the subcommittee or other subgroup, within 45 days after the meeting.

"(e) Subsections (a) (1) and (3) of this section shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552b of title 6, United States Code.

"(f)(1) Unless otherwise provided by statute, Presidential directive, or agency directive, the designated Federal official appointed under section 11(c)(4) or section 12(c)(5) shall attend the meetings of an advisory committee and no advisory committee shall conduct any meeting in the absence of such official. The designated Federal official is authorized to—

"(A) adjourn the meetings when such official determines that adjournment is in the public interest;

"(B) approve or call the meeting;

"(C) chair the meeting when so determined by the involved agency head; and

"(D) except for Presidential advisory committees, approve the agenda of the meeting.

"AVAILABILITY OF TRANSCRIPTS

"SEC. 14. (a) Agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts and minutes of agency proceedings or advisory committee meetings.

"(b) As used in this section 'agency proceeding' means any proceeding as defined in section 551(12) of title 5, United States Code.

"PRIVATE RIGHT OF ACTION AND ATTORNEYS' FEES

"SEC. 15. (a)(1) Whenever any advisory committee is not in compliance with any provision of this Act, or any rule promulgated thereunder, any person may bring a civil action against the agency which has established, chartered, or utilized the advisory committee and the district courts of the United States shall have jurisdiction over such actions.

"(2) In the case of Presidential advisory committees that have not been chartered, established, or utilized by any agency, any person may bring an action against the President in order to obtain compliance with this Act, and the district courts of the United States shall have jurisdiction over such actions.

"(b) Venue in actions brought under this section lies in either the United States District Court for the District of Columbia or the district court of the United States in the district in which the complainant resides or has his principal place of business.

"(c)(1) Prior to filing any action under this section, the complainant shall make a request for relief, in writing, to the agency that has chartered, utilized, or established the advisory committee as to which relief is sought, and such request shall also be sent to the General Services Administration.

"(2) In the case of Presidential advisory committees which have not been chartered, established or utilized by an agency, such requests shall be made to the Counsel to the

VOL 137 PT 23 NO 21–25 1991 UMI

President and the General Services Administration.

"(d) The court may assess against the United States reasonable attorneys' fees and other litigation costs reasonably incurred under this section in any action in which the complainant has substantially prevailed.".

ADMINISTRATIVE PROVISIONS

SEC. 8. Section 16 of the Act (as redesignated by section 7(2) of this Act) is amended—

(1) in the third sentence of subsection (b) by inserting "on a reimbursable basis" before the period; and

(2) by adding at the end thereof the following new subsection:

"(c) For purposes of this section, the term 'support services' means the provision of office space, telephone and computer service, and other administrative or clerical services that the advisory committee may need.".

RESPONSIBILITIES OF THE LIBRARY OF CONGRESS

SEC. 9. Section 17 of the Act (as redesignated by section 7(2) of this Act) is amended in the first sentence by striking out "at least eight" and inserting in lieu thereof "one copy of each advisory committee charter and at least four".

TERMINATION OF ADVISORY COMMITTEES

SEC. 10. Section 18 of the Act (as redesignated by section 7(2) of this Act) is amended—

(1) in subsection (a) by—

(A) striking out paragraph (1);

(B) by redesignating paragraph (2) as subsection (a) and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) striking out "established after such effective date" in the first sentence of subsection (a) (as redesignated in subparagraph (B) of this paragraph); and

(2) by striking out subsections (b) and (c) and inserting in lieu thereof:

"(b)(1) In the case of an advisory committee established by statute with a specified duration longer than the two-year period provided for in subsection (a), the President or an agency head may abolish such committee after five years and before its specified termination date if—

"(A) the President or agency head gives 180 days written notice of the intention to abolish such committee to the standing committee in each House of the Congress with jurisdiction over such advisory committee; and

"(B) the President or an agency head first makes a finding that—

"(i) the tasks assigned to such committee are complete or obsolete;

"(ii) the primary functions of such committee have been assumed by another entity; or

"(iii) the termination of such committee is otherwise in the public interest.

"(2) If the Congress determines that the committee is necessary, the Congress may reestablish it within the 180-day period.

"(3) The President or an agency head may not abolish any advisory committee under the provisions of subsection (b)(1) that—

"(A) has been in existence for less than five years before the date of the enactment of the Federal Advisory Committee Act Amendments of 1991; and

"(B) does not have a total period of existence of at least five years.

"(c)(1) To renew an advisory committee established or utilized by the President or an agency, the President or an agency head shall file, before the date of the scheduled termination of the committee, a committee charter in accordance with section 8.

"(2) An advisory committee may be renewed for a period not to exceed two years from the date a new charter is filed.

"(3) Subsequent renewals may be achieved in the same manner before the date on which such advisory committee would otherwise terminate.

"(4) A committee charter shall be filed in accordance with section 8 on behalf of each advisory committee established by statute prior to the expiration of each successive two-year period following the date of the enactment of the Act establishing such advisory committee.".●

By Mr. GRASSLEY:

S. 2041. A bill to amend the Petroleum Marketing Practices Act to enhance competition, and for other purposes; to the Committee on the Judiciary.

PETROLEUM MARKETING COMPETITION ENHANCEMENT ACT

● Mr. GRASSLEY. Mr. President, I am today introducing the Petroleum Marketing Competition Enhancement Act, a bill to ensure rigorous competition in the sale of gasoline. This bill amends the Petroleum Marketing Practices Act to prohibit major oil companies from charging one set of customers more than another set of customers. In other words, they will be prohibited from charging their customer/competitors—the independent gasoline wholesalers, retailers and convenience store operators—a higher price for gasoline than they charge consumers at their own company-operated gasoline stations.

Mr. President, during the past several months, those of us concerned about the price of gasoline and competition within the oil industry witnessed an alarming exercise of tremendous market clout. Major oil companies were charging more to their wholesale independent marketers, than they were charging the customers of their own company-operated retailers! How long do you think it would take to drive America's independents out of the gasoline business when they have to pay more for gasoline than our Nation's drivers? And once independent competition has been driven out of business, what prices will oil companies be able to extract from American consumers then.

This phenomenon is called price inversion. And in view of the superior operating efficiencies of independent wholesalers, retailers and convenience store operations, there exists no legitimate reason for it to occur. It represents a blatant, anticompetitive pricing practice which will harm competitors and consumers.

There may be instances, during times of great market turmoil, such as when Iraq invaded Kuwait in August 1990, that temporary price inversions may be understood. The fact is, however, long after the petroleum markets stabilized following the invasion, these price inversions kept reoccurring well into the spring of 1991.

Mr. President, we cannot sit idly by letting America's consumers be forced to pay higher and higher prices as more and more independent petroleum marketers are driven out of business with incredible tactics such as price inversions. Therefore, the bill I am introducing today, requires basically two things to assure a fair market environment.

First, it prohibits oil companies from charging their wholesale customer/competitors more than the retail prices offered at company-operated stations, adjusted for the cost of doing business. Thus, this provision simply ensures that operating efficiencies remain relevant to competition in the retail gasoline market.

Second, no oil company will be allowed to pressure or coerce their franchised dealers to sell at certain, company set prices. This will prohibit oil companies from controlling market share by setting maximum prices at their dealerships.

Mr. President, the Petroleum Marketing Competition Enhancement Act is critical to the survival of tens of thousands of independent petroleum marketers throughout the United States. And it's enactment is essential if we hope to preserve for America's consumers a competitive gasoline market.

I have heard from hundreds of Iowans who support this bill. In addition to the thousands of Iowa independent gasoline dealers, consumers will benefit greatly from this bill. I think this is particularly obvious in rural areas that have fewer gasoline station options. The number of firms operating gas stations in Iowa has dropped to less than half of what it was in the mid-seventies. Today, many Iowa towns have only one gas station. Obviously, other market forces enter the arena, but clearly the passage of this legislation should exert a strong pull in the opposite direction which is leading us to an alarming increase in market concentration.

Mr. President, upon return next year, I will be seeking cosponsors to this important legislation. My colleagues can expect to hear from many of their constituents who strongly favor this legislation in the meantime.●

By Mr. SIMON:

S. 2043. A bill to prohibit certain motor fuel marketing practices; to the Committee on the Judiciary.

MOTOR FUEL MARKETING COMPETITION ACT

● Mr. SIMON. Mr. President, I introduce today the Motor Fuel Marketing Competition Enhancement Act, a bill to address a serious and growing problem facing the petroleum industry and American consumers.

Our Nation depends on an energy distribution system that reaches a broad and diverse range of consumers and commercial enterprises. This system of distribution must provide energy to small towns and rural areas, to small businesses, to industry, to agricultural users and to motorists. Our energy distribution system is complex and multifaceted. At numerous stages of this complex system there is a danger that one sector may accumulate too much market power and exercise control over other sectors of the industry. It is critical to the well being and maintenance of this system that competitive pricing takes place at all levels and in all areas.

The bill I am introducing today seeks to address a growing problem in motor fuel distribution, a problem that threatens in the short run to do serious harm to small business motor fuel distributors, and in the long run to drive up prices and reduce supply of motor fuel to small towns and rural areas traditionally served by small business marketers.

Increasing numbers of small business marketers are facing rising bankruptcy rates, reduced profits and increases in actual operating losses. These losses are not due to the industry wide stress that accompanied the supply shock of the Persian Gulf war. These problems have continued and accelerated in the months since the Persian Gulf war ended and the supply of Persian Gulf oil to the United States returned to prewar levels.

Rather, the major cause of the ills facing the small business marketers are pricing and marketing practices by petroleum refiners that undermine competition—mainly, selling motor fuel directly to motorists at prices lower than those charged wholesalers or retailers, or selling at prices that, in effect, squeeze independent marketers out of business.

My legislation is simple and straightforward. It prohibits refiners from selling motor fuel at the retail outlets they operate at prices below those charged small business marketers. It prohibits selling at a lower price to some reseller customers than to others unless the lower price can be cost-justified. It requires the wholesale function of distributors to be justly compensated. It prohibits refiners from forcing marketers to sell at prices established by refiners. It requires that during times of short supply, fuel will be shared fairly among all classes of customers. Finally, it eliminates discrimination between branded and unbranded customers.

Mr. President, it has become evident that some action must be taken if our energy distribution system is to be preserved. This bill is similar to legislation introduced in the House and has adopted much of the substance of that proposal. This bill draws upon consultations with numerous small business marketers and attempts to balance the needs and concerns of branded and unbranded marketers, wholesale and retail operators, as well as the needs of consumers. This bill seeks to extend equitable protections to all sectors of this industry, assure fair treatment to consumers and to avoid imposing unduly harsh or unrealistic measures upon refiners.

Mr. President this bill is realistic and attempts to address a serious problem facing consumers and small business marketers of motor fuel. If current trends continue we may see the elimination of small business marketers. This would be a severe loss for the consumer, commercial and agricultural customers in rural areas and small towns who rely on small business marketers for their motor fuel. Congress needs to act on this bill, promptly.●

By Mr. INOUYE (for himself, Mr. McCAIN, Mr. SIMON, Mr. AKAKA, Mr. BURDICK, Mr. WELLSTONE, Mr. DECONCINI, and Mr. MURKOWSKI):

S. 2044. A bill to assist native Americans in assuring the survival and continuing vitality of their languages; to the Select Committee on Indian Affairs.

NATIVE AMERICAN LANGUAGES ACT OF 1991

● Mr. INOUYE. Mr. President, I rise to introduce a bill to authorize the Administration for Native Americans to make grants to American Indian tribal governments and other native American organizations to assist them in assuring the survival and continuing vitality of their many languages.

This bill is modeled upon a bill introduced by Senator MURKOWSKI of Alaska to provide grants to Alaska Natives for language preservation, a bill that will soon be favorably reported by the Select Committee on Indian Affairs. It is a very good bill for Alaska Natives, and I applaud my colleague for his leadership on this issue. What my bill would do is to make such grants available to all tribal governments and native American organizations.

Mr. President, unlike languages brought to these shores by people from the East and West, languages indigenous to this hemisphere are spoken nowhere else. Since Europeans first arrived on these shores in the 16th century, hundreds of languages of indigenous peoples have been lost. Each year, additional languages are threatened with extinction.

As the Congress pointed out in the Native American Languages Act in 1990, "the traditional languages of native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions and values." In the act, Congress was explicit in its declarations of the rights of native Americans to use their languages, and among other things, to encourage that their languages be employed in instruction and be afforded respect in college curricula and in all settings.

Mr. President, what is needed now is a means of implementing the goals enunciated in the Native American Languages Act, and the bill I introduce today is intended to make a beginning for all Native Americans.

Under this bill, tribal governments and other Native American organizations presently eligible under the Native American Programs Act could apply for grants to establish native language training programs, to develop written materials, to compile oral records, to establish community language programs, and to construct facilities, if required. As with other programs administered by the administration for Native Americans, grants would be awarded on a competitive basis.

I am hopeful that this bill will be enacted during the 102d Congress in order that funding can be made available for Native American language programs before 1992 draws to a close. It is important that the Congress move ahead to implement the Native American Languages Policy Act.

I ask unanimous consent that the text of my bill and a section-by-section analysis be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Languages Act of 1991".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991) is amended by adding after section 803A the following new section:

"SEC. 803B. GRANT PROGRAM TO ASSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

"(a) IN GENERAL.—The Secretary shall award grants to any organization that is—

"(1) eligible for financial assistance under section 803(a); and

"(2) selected pursuant to subsection (c) of this section;

for the purposes of assisting Native Americans in assuring the survival and continuing vitality of their languages.

"(b) IN PARTICULAR.—The specific purposes for which grants awarded under subsection (a) may be used include, but are not limited to—

"(1) the construction of new facilities or the conversion of existing facilities into centers for the preservation and enhancement of Native American languages;

"(2) the establishment of community language programs to bring older and younger Native Americans together to facilitate the transfer of language skills from one generation to another;

"(3) the establishment of training programs to train speakers of Native American languages to teach such languages to others;

"(4) the development, printing, and dissemination of materials to be used for the teaching and enhancement of Native American languages;

VOL 137 PT 23 NO 21—25 1991 UMI

"(5) the establishment or support of training programs to train Native Americans to produce or participate in television or radio programs to be broadcast in their native languages; and

"(6) the compilation of oral testimony to record or preserve Native American languages.

"(c) APPLICATIONS.—Grants shall be awarded on the basis of applications that are submitted by any of the entities described in subsection (a) to the Secretary in such form as the Secretary shall prescribe, but the applications shall, at a minimum, include—

"(1) a detailed description of the project for which a grant is sought; and

"(2) a statement of objectives that are consonant with the purposes of this section.

"(d) AMOUNT OF FUNDING.—Notwithstanding any other provision of this Act, the costs of programs that are awarded grants pursuant to this section shall be paid in accordance with the following paragraphs:

"(1) 90 PERCENT OF COSTS.—The grants awarded pursuant to this section shall provide funding for not more than 90 percent of the costs of the programs that are recipients of such grants.

"(2) REMAINING 10 PERCENT OF COSTS.—The remaining 10 percent of the costs of programs that are awarded grants under this section shall be paid by the grant recipient either in cash or through the provision of property or services.

"(3) LIMITATION—The amount referred to in paragraph (2) may originate from any source (including any Federal agency) other than a program, contract, or grant authorized under this Act.

"(e) ADMINISTRATION.—The Secretary shall administer grants under this section through the Administration for Native Americans.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803A, and 803B"; and

(2) by adding at the end the following new subsection:

"(e) There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 for the purpose of carrying out the provisions of section 803B of this Act.".

SECTION-BY-SECTION ANALYSIS OF A BILL TO ASSIST NATIVE AMERICANS IN ASSURING THE SURVIVAL AND CONTINUING VITALITY OF THEIR LANGUAGES

Section 1. Short title.

Section 2. Amends the Native American Programs Act by authorizing an additional program of grants to tribal governments and Native American organizations.

Section 2(a). Provides that all governments and organizations eligible under existing law will be eligible applicants in the new program.

Section 2(b). Prescribes the purpose for which grants may be used, including construction of facilities, establishment of community language programs and training programs, development of materials, support of training programs related to broadcasting, and compilation of oral testimony.

Section 2(c). Provides that grant applications must include detailed description of projects, objectives consistent with this act, and a plan to preserve materials developed.

Section 2(d). Provides that grants awarded are to cover 90 percent of the costs, the other ten percent to be provided by the applicant (but allows the use of Federal funds if not provided under the Native American Programs Act).

Section 2(e). Provides that Section 803B will be administered by the Administration for Native Americans.

Section 3. Clarified that funding for this program is to be separate from the general appropriation for the social and economic development grant program; authorizes such sums as are necessary for fiscal years 1993 through 1997.•

By Mr. BINGAMAN:

S. 2045. A bill to authorize a study of the prehistoric Casas Grandes culture in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

CASAS GRANDES CULTURE STUDY ACT OF 1991

• Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to authorize the study of the prehistoric Casa Grandes culture in the State of New Mexico. This study will be done to determine the significance of this culture and how best to illustrate and commemorate this portion of the prehistory of the Southwest.

Around A.D. 1150, a prehistoric culture spread northward into what is now northwestern Chihuahua, Mexico, southwestern New Mexico, and southeastern Arizona. This culture was a regional version of the Meso-American civilization known today as the Casas Grandes culture. The Casas Grandes culture centered at the major town site of Casas Grandes, Chihuahua, but hundreds of other sites with ties to this cultural center spread out along regional drainages. The core area of this great prehistoric culture spreads into the United States primarily in southern Hidalgo County, New Mexico. The sites in Hidalgo County were labeled the "Animas Phase" by archaeologists in the early 1930's. But they are a little different from Casas Grandes sites immediately to the south in Chihuahua, Mexico in that they reflect the same cultural influence by Casas Grandes. Any differences present could reflect perhaps the geographic position on the Casas Grandes frontier. The study of frontier outposts of advanced cultures can tell us a lot about spheres of cultural influence and the impact of distance and environmental constraints on the export of culture traits and patterns. The Hidalgo County sites are at the northern most extension of Casas Grandes culture influence and would contribute to understanding these relationships.

Up until at least A.D. 1400, Casas Grandes functioned as a sort of cultural connecting point between the rest of Meso-America to the south, and the Anasazi and other puebloan cultures to the north. Study of this cultures' archaeological sites is key to understanding the relationships between these two great culture areas during a critical period when the modern Pueblo Indian cultures were developing.

The abandoned sites at the extreme northwestern corner of the Casas Grandes region have tremendous research potential. Many of these are large and complex sites, containing extraordinary polychrome pottery, detailed metal work, including rare copper bells, and other artifacts that bring a high market value. Sites are pothunted and vandalized both north and south of the border for this reason. Erosion is slowly washing other sites away. We are losing scientific information daily to these natural and manmade acts of destruction.

There are only 25–30 of these Casas Grandes-related sites in the whole of the United States; this small number of threatened sites makes it imperative that we quickly determine a course of action. This bill provides us with an excellent opportunity to carefully consider the significance of this prehistoric culture to the greater Southwest. The study will give us the facts we will need to better discuss and determine what preservation and interpretive measures are needed to care for this piece of our country's heritage.

My goal is to foster public understanding of this Nation's rich and varied cultural heritage—we are still just scratching the surface in understanding the complexities of prehistoric cultures in the Southwest.. What a terrible shame it would be to lose the material evidence of these cultures before our understanding becomes clearer and can be shared.

I urge my colleagues to join me in supporting this legislation to study this important part of our past for the benefit of present and future generations.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Casas Grandes Culture Study Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) about A.D. 1150, a prehistoric culture spread northward into what is now northwestern Chihuahua, Mexico, southwestern New Mexico, and southeastern Arizona;

(2) this culture was a regional version of the Mesoamerican civilization known as the "Casas Grandes Culture";

(3) While this culture was centered around the major town site of Casas Grandes, Chihuahua, Mexico, hundreds of other sites developed along regional drainages;

(4) the core area of this great culture extends into the United States, primarily into southern Hidalgo County, New Mexico;

(5) for more than 200 years, until at least A.D. 1400, the Casas Grandes Culture was situated at the connecting point between the rest of Mesoamerica to the south and the Anasazi and other puebloan cultures to the north;

(6) this culture represents a key aspect of understanding the relationships between the cultures of the American Southwest and of Mesoamerica;

(7) there are more than 25 known Casas Grandes sites in Hidalgo County, New Mexico, which are in varying conditions; and

(8) these sites contain extraordinary polychrome pottery, detailed metal work, including rare copper bells, and many other types of artifacts that bring a high market value when sites are vandalized.

SEC. 3. AUTHORIZATION OF STUDY.

(a) IN GENERAL.—The Secretary of The Interior, acting through the Director of the National Park Service, may conduct a study of the Casas Grandes Culture in southwestern New Mexico to determine its significance in illustrating and commemorating the prehistory of the Southwest.

(b) CONTENTS.—

(1) IN GENERAL.—The study shall examine—

(A) the geographic extent of the Casas Grandes Culture;

(B) the significance of the Casas Grandes Culture and remaining Casas Grandes sites in the context of Southwestern prehistory;

(C) the integrity of Casas Grandes sites;

(D) the relationships between the Casas Grandes Culture and the Mogollon Culture; and

(E) potential interpretive opportunities.

RECOMMENDATIONS.—The study shall include recommendations with respect to—

(A) measures for the preservation of cultural resources associated with the Casas Grandes Culture located in and around Hidalgo County, New Mexico;

(B) a broad range of interpretive opportunities involving the National Park Service, other Federal and State agencies, the Mexican government, and The Nature Conservancy; and

(C) general facility needs (including general location and anticipated costs), including road improvements that would be required for public enjoyment and interpretive use of Casas Grandes sites.

(c) COOPERATIVE WITH MEXICO.—

(1) PARTICIPATION.—Representatives of the State of Chihuahua, Mexico, shall be invited to participate in the study process.

(2) COOPERATIVE RELATIONSHIPS.—The study shall recommend potential cooperative relationships with Mexico for interpretation and visitor use.

(d) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committed on Energy and Natural Resources of the Senate not later than 2 years after the date on which funds are appropriated for the study.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. LIEBERMAN:

S. 2046. A bill to authorize humanitarian, technical, and enterprise fund assistance for the Baltic States and the Soviet Republics, and for other purposes; to the Committee on Foreign Relations.

ECONOMIC DEVELOPMENT AND SECURITY ACT OF 1991

• Mr. LIEBERMAN. Mr. President, I am introducing today, the Business Development and Economic Security Act of 1991, that will promote our Nation's economic security by helping the people of the Baltic States and the Republics of the former Soviet Union develop market-based economies and by facilitating business opportunities for American companies.

The American attitude toward the former Eastern bloc seems to have changed dramatically in recent months. Our euphoria over the fall of the Berlin Wall, the freedom of the Baltic States, and the collapse of communism in the Soviet Union has subsided and been replaced by timidity as we turn inward and away from one of the most important opportunities of our time: Bringing capitalism and democracy to the former Communist world.

The irony, of course, is that the people of these nations want us to teach them the ways of Adam Smith and Thomas Jefferson. They want People's Drugstore, not the people's commissariat for pharmaceutical supplies. We hesitate to reach out to them because we feel we can't afford to. We want to fix things at home first.

I agree we must focus now on what ails our own economy. We have much work to do to improve things at home. But our future is also linked to the future of the nations of the Baltic States and the former Soviet Union.

The political and security interests at stake are clear; we have based our entire post-war foreign policy on containing the Soviet Union and its satellites.

And this policy has cost us. According to Senator SAM NUNN, the United States has spent over $4 trillion since the end of the Second World War defending Europe and protecting our national security from the Soviet threat. We won the cold war at great economic sacrifice, but we could lose the peace by ignoring the economic opportunities in the former Soviet bloc. They want and need our help; there is money to be made and jobs to be created back home if we encourage and assist our businesses to get involved in the emerging markets of the Baltic States, and the Soviet Union.

We are beginning to invest and trade with the Baltic States. The hard work and eagerness of the people of these new nations to embrace the West is inspiring. The Baltics can serve as a bridge to the markets of the former Soviet Republics, and offer good investment and trade opportunities in their own right.

The Republics of the Soviet Union present a much more difficult proposition. But business can be done there if we are imaginative and patient. Many of the Republics of the former Soviet Union, particularly the Russian Republic, are rich in natural resources. They will be able to prosper with time, hard work, and help from us. If we don't move in, the Japanese, Koreans, and the Germans surely will. Can we afford to lose another market to these nations?

The Soviet Union is in a state of economic freefall today. GNP is down by 13 percent, industrial output is down by 9 percent, agricultural output is down by 11 percent, capital investments are down 20 percent, oil output is down 20 percent, retail prices are up 96 percent, and inflation is rampant—some estimates are as high as 300 percent annually.

The threat of famine this winter brought on by hoarding, poor distribution, a poor harvest, and political chaos is very real. As one witness stated in a hearing I chaired recently on doing business in the Soviet Union "The first rule of marketing is to keep the client alive." We cannot take advantage of the potential that the vast Soviet market offers if the various Republics fall into a state of anarchy because they have no food and medicine.

This bill attempts to deal with the problem of these shortages by sending food assistance, medical assistance, and feed for livestock in order to reverse the drop in meat production, and reverse the drop in dairy output in the Baltic States and the Republics of the former Soviet Union. This legislation contemplates that international relief organizations like Americares or the International Red Cross would distribute this aid directly to the Republics in order to overcome some of the distribution problems posed by other options.

The bill also requires the President to appoint a Coordinator for Economic Development, with the rank of Ambassador, to oversee all programs described in the legislation. This is to avoid duplication and to get the maximum benefit out of existing programs.

We need a strategy for dealing with the former Soviet Union that goes beyond the near term. The bill establishes a blue ribbon, bipartisan, public-private sector commission to develop a long-term strategy for helping both the former Soviet Union and American companies wanting to do business there. The Republics of the Soviet Union offer a vast market for U.S. goods and services. We need to have a plan to help our companies enter this market intelligently and successfully.

Throughout the postwar period, our foreign policy has been based on political and security concerns. Now, we must develop a strategy that uses our foreign assistance programs to strengthen our national economic security. In the 1990's, the race to capture new overseas markets will replace the arms race; trade agreements will take the place of arms control agreements. The United States must position itself well by developing a strategy to gain access to new markets.

If we help the Baltic States and the Republics of the former Soviet Union to expand their middle class, we can, at

the same time, position ourselves to

Normally the Bank must have a sov-

themselves with the building of a market-

ment of the Treasury), one of whom shall

TITLE II—APPOINTMENT OF COORDINA-

(c) ROLE OF COORDINATOR.—The Coordina-

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the same time, position ourselves to take advantage of this new market. These people lack consumer goods, services, and infrastructure. The Federal Government can help American companies tap into the vast market potential by aiding the people of the Baltic States and the Republics of the former Soviet Union with the rebuilding of their economies.

We should not send billions of dollars to the region. We can't afford to. Instead, we should develop cost-effective programs using existing Government agencies and programs, as well as multilateral organizations, like the IMF and the OECD, to leverage our resources. That is the premise of the bill that I introduce today.

In addition to granting short-term humanitarian assistance and establishing a commission for a long-term strategy for the former Soviet Union, the bill helps facilitate and protect business investment in the former Soviet Union and the Baltic States by aiding in the process of institution building. For example, experts from the Department of the Treasury and the Federal Reserve Board would help with the establishment of a banking system, the Environmental Protection Agency will continue with its efforts to help with the cleanup of the environment, and the Census Bureau will aid with the collection and analysis of statistical data.

The bill also sets up working groups between the U.S. Government and officials from the Baltic States and the Republics of the former Soviet Union to aid in the development of programs that will help them build a market economy and the institutions necessary to protect and nurture that market.

The energy sector within the former Soviet Union offers a real opportunity both for those republics with large oil reserves, and for U.S. companies that want to take advantage of these markets as suppliers of equipment and as developers of new and existing fields.

The Soviet oil industry is in a startling decline, which might lead the Soviet Union to become a net importer of oil by 1993. From a high of a little over 12 million barrels per day production, Soviet oil production could fall to as low as 7.7 million barrels, not enough to meet domestic needs. The effect that this would have on world oil markets could be substantial, and that would, in turn, hurt the already troubled American economy.

This bill addresses that problem by establishing a special Department of Energy [DOE] task force made up of Government and industry officials to assist the oil industry of the Republics of the former Soviet Union. A national interest account would be established at the Export-Import Bank to permit the Bank, on a limited basis, to use its programs to develop the Soviet oil industry without a sovereign guarantee.

Normally the Bank must have a sovereign guarantee to finance a transaction. A national interest account, used by the export credit agencies of many other developed nations, would allow the Eximbank to help American companies invest in the oil industry of the Republics of the former Soviet Union using other methods of protecting their investment.

To help with the development of the business community in the Baltic States and the former Soviet Union, enterprise funds, similar to the funds set up for Poland, Hungary, and the Czech and Slovak Federal Republic, would be established. These funds are to focus their efforts on developing small and medium-sized businesses, as well as assisting American small and medium-sized businesses to do business in the region.

The Baltic States are treated separately from the former Soviet Union in this bill, as well they should be. There was never a true union between these nations and the Soviet Union, and the bill recognizes that they are much more a part of Eastern and Central Europe by making them eligible for SEED programs.

The bill also puts strict, but reasonable, conditions on all assistance programs. Those conditions are: Compliance with the Helsinki accords, progress toward establishing a democratic state, and progress toward establishing a market-based economy.

Mr. President, we are faced with the historic opportunity of being able to contribute to our economic destiny, while helping the people of the Baltic States and the former Soviet Union rebuild their nation from the ravages of communism. Their prosperity could benefit us, if we put forward a strategy that promotes the trade and investment opportunities of American companies. I hope this bill will be a step toward reaching that goal.

I ask unanimous consent that a copy of the bill and bill summary be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Development and Security Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the failed coup in the Soviet Union offers new opportunities for the United States;

(2) given the difficult economic problems confronting the United States, the United States should not send significant amounts of financial assistance to the Soviet Union;

(3) all United States aid programs to the Soviet Union should be cost-effective, biased in favor of technical assistance, and structured to help the people of the Soviet Union use their vast natural resources to help themselves with the building of a market-based economy and a functioning democracy;

(4) for more than forty years, the United States has supported the struggle for independence in the Baltic states;

(5) now that independence has been achieved in the Baltic states, the United States should assist these nations with the building of democracy and a market-based economy;

(6) it is in the interest of the United States to help establish a democratic process and institutions that will promote democracy and a market-based economy;

(7) there are economic opportunities for the American companies both with exports and investment in the Soviet Union; and

(8) the "peace dividend" will only be fully realized if the Baltic states and the Soviet Union are able to build and sustain democracy and market-based economies integrated into the world economy.

SEC. 3. PURPOSE.

The purpose of this Act is—

(1) to assist the Baltic states and the Soviet republics to build institutions that will promote and sustain democracy and a market-based economy; and

(2) to ensure that all aid programs described in this Act shall be cost-effective and shall have as a goal—

(A) the maintenance of United States security;

(B) the pursuit of United States economic interests; and

(C) the promotion of the interests of the United States business community in order to create jobs and, generally, to promote economic growth in the United States.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "Baltic states" means the countries of Latvia, Lithuania, and Estonia;

(2) the term "Commission" means the Commission on Economic Security established by section 101;

(3) the term "Coordinator" means the Coordinator for Economic Development appointed under section 201;

(4) the term "humanitarian assistance" means food, medicine, clothing, and other assistance for humanitarian purposes, but such term does not include the provision of weapons, weapons systems, ammunition, or any equipment, vehicles, or material for use by military units or organizations; and

(5) the term "Soviet republics" means each of the following republics, individually or in any combination thereof:

(A) Armenia.
(B) Azerbaijan.
(C) Byelorussia.
(D) Georgia.
(E) Kazakstan.
(F) Kirghizia.
(G) Moldavia.
(H) Russia.
(I) Tajikistan.
(J) Turkmenistan.
(K) Ukraine.
(L) Uzbekistan.

TITLE I—COMMISSION ON ECONOMIC SECURITY

SEC. 101. ESTABLISHMENT; COMPOSITION.

(a) Establishment.—There is established the Commission on Economic Security.

(b) Composition.—

(1) The Commission shall consist of 11 members, appointed as follows:

(A) Five members who shall be appointed by the President (including one senior official each from the Department of State, the Department of Commerce, and the Department of the Treasury), one of whom shall serve as Chairman, who shall have been drawn from the private sector.

(B) Three members who shall be appointed by the Speaker of the House of Representatives in consultation with the Minority Leader.

(C) Three members who shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader.

(2) The Commission shall include members of each of the two major political parties, and at least 6 members of the Commission shall be drawn from individuals in the private sector having experience in the fields of economics and business, including international business.

(3) Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment and an individual appointed to fill a vacancy shall be appointed to serve for the remainder of the term. A member may be reappointed upon expiration of his or her term.

(c) Meetings.—A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at least quarterly or as frequently as may be necessary to carry out its duties.

(d) Compensation.—(1) Members of the Commission—

(A) except as provided in paragraph (2), shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions above GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) Any member of the Commission who is an officer or employee of the United States shall not be paid compensation for services performed as a member of the Commission.

(3) The Secretary of State is authorized to provide for necessary secretarial and staff assistance for the Commission.

SEC. 102. RESPONSIBILITIES.

The Commission shall—

(1) consider a wide range of political and economic issues, including the provisions of this Act, and shall develop a long-term economic strategy for dealing with, the Baltic states and the Soviet republics; and

(2) develop a long-term comprehensive efficient economic cooperation and assistance program for the Baltic states and the Soviet republics for use in guiding executive and legislative branch policy, including the coordinator.

SEC. 103. REPORTS.

(a) Interim Report.—Not later than 3 months after the date of enactment of this Act, the Commission shall send a report to the President and the Congress describing the status of its activities under this title.

(b) Final Report.—Not later than one year after the date of submission of a report under subsection (a), the Commission shall submit to the President and the Congress a final report of its activities.

TITLE II—APPOINTMENT OF COORDINATOR FOR ECONOMIC DEVELOPMENT AND WORKING GROUPS FOR THE BALTIC STATES AND REPUBLICS OF THE SOVIET UNION

SEC. 201. APPOINTMENT OF COORDINATOR.

(a) Appointment.—The President, by and with the advice and consent of the Senate, shall appoint a Coordinator for Economic Development to coordinate activities of all United States Government agencies in offering humanitarian or technical assistance to the Soviet republics.

(b) Rank and Status.—The Coordinator shall hold the rank and status of Ambassador Extraordinary and Plenipotentiary, shall hold office at the pleasure of the President, and shall be entitled to receive same allowances as a chief of mission.

(c) Duties.—The Coordinator shall—

(1) have primary responsibility for developing, in conjunction with the bilateral working groups, and in cooperation with the Commission a plan for United States humanitarian and technical assistance for the Soviet republics;

(2) have primary responsibility for coordinating the implementation of United States assistance for the Soviet republics;

(3) provide his good offices as a clearinghouse for business and other private sector initiatives designed to assist the Soviet republics;

(4) serve as the principal advisor to the President on United States humanitarian and technical assistance for the Soviet republics;

(5) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international negotiations regarding humanitarian and technical assistance for the Soviet republics;

(6) issue and coordinate policy guidance to departments and agencies of the United States on basic issues of policy and interpretation to the extent necessary to assure the coordination of United States humanitarian and technical assistance to the Soviet republics and consistent with any other law;

(7) act as the principal spokesman of the President on humanitarian and technical assistance to the Soviet republics; and

(8) be responsible for such other functions as the President may direct.

SEC. 202. WORKING GROUPS.

(a) Establishment.—(1) The Secretary of State is authorized to enter into an agreement with each of the Baltic states and the Soviet republics for the establishment of a bilateral working group for such state or republic, consisting of members drawn from governmental agencies and the private sector.

(2) The purpose of each working group would be to develop a plan of action for the economic development of the respective state or republic.

(3) The working group would develop an action plan in close consultation with the public and private sector in the individual states and republics.

(b) United States Delegation.—(1) Pursuant to each agreement executed under subsection (a), the Secretary of State is authorized to establish the United States delegation to the respective bilateral working group.

(2) Each such United States delegation shall consist of representatives from the Department of State, the Department of Commerce, and the Department of the Treasury, as well as business leaders from the private sector, appointed by the Secretary in consultation with the Congress.

(c) Role of Coordinator.—The Coordinator shall oversee and coordinate the activities of the working groups and report to Congress on those activities annually.

TITLE III—ELIGIBILITY FOR ASSISTANCE

SEC. 301. ELIGIBILITY.

In order to be eligible for assistance under this Act (other than emergency or humanitarian assistance described in title IV), the Baltic states and the Soviet republics shall—

(1) be in compliance with the Final Act of the Conference on Security and Cooperation in Europe, particularly the Copenhagen and Bonn documents of 1991;

(2) be making marked progress toward establishing a democratic state;

(3) be making marked progress toward establishing a market-based economy;

(4) be in compliance with all applicable United States laws; and

(5) be certified by the President under section 302.

SEC. 302. CERTIFICATION REQUIREMENT.

The President shall certify to the Congress each country meeting the eligibility requirements of paragraphs (1) through (4) of section 301.

SEC. 303. SUPERSEDING EXISTING LAW.

Upon receipt by Congress of the certification described in section 302 with respect to any of the Baltic states or Soviet republics, such state or republic shall be eligible for assistance under this Act notwithstanding any other provision of law.

TITLE IV—EMERGENCY ASSISTANCE AND HUMANITARIAN ASSISTANCE

SEC. 401. GENERAL POLICY.

The President, acting through the Coordinator, is authorized immediately to begin the process of sending food assistance and medicine to the Soviet Union through the Agency for International Development and international and national organizations such as the Red Cross, Project Hope, and Americares. Such programs shall include—

(1) grants of food assistance to arrest the drastic drop in living standards;

(2) livestock feed to avert mass slaughter of breeding herds, restore normal meat production, and reverse the drop in dairy output; and

(3) medical assistance, including all forms of clinical supplies and equipment.

SEC. 402. HUMANITARIAN ASSISTANCE.

(a) Development of Plan.—The Coordinator, in consultation with the Secretary of Defense, shall develop a plan for humanitarian assistance to the people of the Soviet Union, which would include making available to the Soviet Union Department of Defense supplies of nonlethal equipment, commodities, and other materials excess to the needs of the Department and making arrangements for the Department to airlift medicine and food to those areas in need.

(b) Policy Regarding Distribution and Hoarding Problems.—As part of such plan, the Coordinator, after consultation with public and private sector experts, shall make recommendations on ways to improve the distribution of agricultural commodities and to attempt to resolve the problem of hoarding.

TITLE V—TECHNICAL ASSISTANCE

SEC. 501. COORDINATION OF PRIVATE SECTOR GROUPS.

In order to develop programs that would facilitate the process of democracy-building and the creation of market-based economies in the Baltic states and the Soviet republics, the Coordinator shall—

(1) consult with private sector groups, including—

VOL 137 PT 23 NO 21-25 1991 UMI

(A) Citizen's Democracy Corps;

(B) International Executive Service Corps;

(C) Experiment in International Living;

(D) the American Field Research Committee; and

(E) the American Bar Association; and

(2) monitor and cooperate with the activities of private groups or individuals funded under the National Endowment for Democracy, the Fulbright Scholarship Program, and the National Academy of Sciences.

SEC. 502. COORDINATION OF UNITED STATES AGENCIES.

The Coordinator shall coordinate long-term technical assistance programs among all relevant departments and agencies of the United States for the Baltic states and the Soviet republics, including—

(1) the Department of Commerce, in particular the United States Census Bureau, for purposes of improving all forms of data collection and statistical analysis;

(2) the Department of Education;

(3) the Department of Labor, in particular the Bureau of Labor Statistics;

(4) the Department of the Treasury, with a special emphasis on assistance with the gathering of any financial statistics and the establishment of a banking system;

(5) the Peace Corps;

(6) the Department of Energy;

(7) the Federal Reserve Board;

(8) the Environmental Protection Agency; and

(9) the Office of Management and Budget.

SEC. 503. MEDIUM-TERM TECHNICAL ASSISTANCE.

The President is authorized to conduct medium-term technical assistance programs for the people of the Baltic states and the Soviet Union, which programs shall utilize, wherever appropriate, United States private sector firms and experts and shall include—

(1) training for central and commercial bankers;

(2) training and assistance in administration of all aspects of privatization programs;

(3) programs that address the problem of deregulation and promote competition among enterprises;

(4) programs to assist with the process of public administration, including—

(A) assistance with the development of improved data gathering and statistical analysis;

(B) assistance with the development and implementation of a new tax system; and

(C) the development of a new social security system, private insurance system, and the privatization of the delivery of social, health, and education services;

(5) programs to assist entrepreneurs and to develop small businesses and franchising;

(6) programs to assist with the restructuring of large-scale industry, including developing cooperative alliance programs, agriculture extension programs, and agribusiness and farmer exchange programs;

(7) programs to develop agricultural training and private agribusiness, and the development of an efficient agricultural market;

(8) short-term business training education programs of a duration from a few weeks to a few months with an emphasis on management and executive training;

(9) programs that will help attract foreign investment, including the drafting of laws and the creation of institutions designed to promote and protect such investment;

(10) programs to aid with the development of a customs and a border control system with an aim toward developing standardized procedures, to the extent practical, among the Baltic states and among the Soviet republics;

(11) programs to assist with the dissemination of public information and to improve the public information capability of the governments of the Baltic states and the Soviet republics;

(12) programs designed to assist with the development of the harmonization of tax and regulatory standards in line with those already used by the United States and the European Community;

(13) programs to assist with the development of cooperation among the Baltic states and among the Soviet republics; and

(14) programs to assist with the establishment of a functioning system of law, including the development of a constitution and a system of commercial law.

SEC. 504. COORDINATION AND PROMOTION OF EXCHANGE PROGRAMS.

It is the sense of the Congress that the Coordinator should coordinate and promote short- and long-term exchanges between public and private sector groups in the United States and their counterparts in the Soviet Union, particularly business and economic organizations.

TITLE VI—GOVERNMENT-TO-GOVERNMENT PROGRAMS FOR THE PROMOTION OF PRIVATE ENTERPRISE

SEC. 601. EXPORT-IMPORT BANK OF THE UNITED STATES.

(a) IN GENERAL.—The Export-Import Bank of the United States (hereafter in this Act referred to as the "Eximbank") shall establish and carry out—

(1) a special program to facilitate guarantees, direct loans, and insurance for the Soviet republics and the Baltic states; and

(2) special programs to assist United States exporters better to understand the new markets in the Soviet republics and the Baltic states.

(b) ADMINISTRATIVE PROVISIONS.—In carrying out subsection (a), the Eximbank shall coordinate its activities with the Coordinator, the Secretary of State and the Secretary of Commerce.

SEC. 602. ELIGIBILITY FOR OVERSEAS PRIVATE INVESTMENT CORPORATION ACTIVITIES.

Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting "the Baltic states, the Soviet republics," after "any other East European country".

SEC. 603. SPECIAL PROGRAM ADMINISTERED BY EXIMBANK AND OPIC.

Eximbank and OPIC shall establish a special program to assist with the development of the oil sector for the Soviet republics, as follows:

(1) The Eximbank shall develop a National Interest Account (hereafter in this Act referred to as the "Account") for the development of the oil sector that will not require a sovereign guarantee in order for Eximbank to transact business.

(2) OPIC shall provide a portion of its guarantee authority to aid with investment in the oil sector.

SEC. 604. AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) SPECIAL PROGRAM.—The Administrator of the Agency for International Development shall establish a special program to assist, in cooperation with American-owned firms, with the infrastructure needs of the Baltic states and the Soviet republics. This program shall include—

(1) the energy sector, consistent with the provisions of section 901;

(2) the telecommunications sector;

(3) the power generation sector; and

(4) the transportation and distribution sector

of the economies of the Baltic states and the republics of the Soviet Union.

(b) COORDINATION WITH EXIMBANK AND TDP.—The Agency for International Development shall work with Eximbank and the Trade and Development Program (TDP) to put together transactions that help the Baltic states and the Soviet republics and American exporters.

SEC. 605. REPEALS OF LIMITATIONS IN EXISTING LAW.

(a) REPEAL OF BYRD AMENDMENT.—Section 613 of the Trade Act of 1974 (19 U.S.C. 2487) is hereby repealed.

(b) REPEAL OF STEVENSON AMENDMENT.—Section 7(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 640(b)) is hereby repealed.

SEC. 606. POLICY TOWARD INVESTMENT AND ECONOMIC TREATIES.

The Congress hereby expresses its support for the President to begin negotiations on investment and economic treaties with the Baltic states and the Soviet republics.

SEC. 607. GENERALIZED SYSTEM FOR PREFERENCES.

It is the sense of the Congress that the President should designate the Baltic states and the Soviet republics as beneficiary developing countries under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) for purposes of according duty-free treatment to the eligible articles of such states and republics under such title.

SEC. 608. ELIGIBILITY FOR UNITED STATES QUOTAS UNDER THE INTERNATIONAL TEXTILE AGREEMENTS.

It is the sense of the Congress that the Baltic states and the Soviet republics should be made eligible by international agreement for United States quotas under existing international textile agreements.

TITLE VII—MULTILATERAL INITIATIVES

SEC. 701. MEMBERSHIPS IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) SUPPORT FOR MEMBERSHIPS.—The Secretary of the Treasury shall direct the United States executive directors to the International Monetary Fund and the International Bank for Reconstruction and Development—

(1) to support immediate membership in the Fund and the Bank of the Soviet republics which have been certified pursuant to section 301; and

(2) to recommend the availability of emergency and immediate relief for the Baltic states and the Soviet republics through the Fund and the Bank.

(b) PROPOSAL FOR CURRENCY STABILIZATION FUND.—The Secretary of the Treasury shall direct the United States Executive Director to the International Monetary Fund to propose the establishment within the Fund of a currency stabilization fund, to the extent practicable, using Special Discovery Rights (SDRs) to help make the currency or currencies of the Baltic states and the Soviet republics transferable.

SEC. 702. ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.

It is the sense of the Congress that the President should—

(1) call for the Organization for Economic Cooperation and Development (OECD) to include the Baltic states and the Soviet republics as part of their "Partners in Transition" program within the Center for Cooperation for European Economies in Transition (CCEET) (established in March 1990); and

(2) request that the CCEET immediately undertake a study of the economies of the Baltic states and the Soviet republics.

SEC. 703. MEMBERSHIP IN GATT.

It is the sense of the Congress that the President should call for the full member-

ship in the General Agreement on Tariffs and Trade (GATT) of those Baltic states and Soviet republics which have been certified pursuant to section 301.

SEC. 704. EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of the Treasury shall direct the United States Executive Director to the European Bank for Reconstruction and Development—

(1) to support the lifting of all limits on borrowing restrictions on the Soviet republics imposed on the Soviet Union by the Bank;

(2) to request the Bank to set up special programs to help the Soviet republics and the Baltic states to develop their private sector, and to act as a clearinghouse for aid and technical assistance programs from the various international and private sector organizations trying to help them; and

(3) to propose the establishment of an international payments union among the Baltic states, the Soviet republics, and Eastern European countries.

(b) DEFINITION.—For purposes of subsection (a)(3), the term "international payments union" means an international centralized agency that offsets, on a periodic basis, the claims of each of two countries for the currency of the other country based on trade.

SEC. 705. POLICY ON PARTICIPATION IN CSCE.

It is the sense of the Congress that the United States should support the admission into the Conference on Security and Cooperation in Europe (CSCE) of those Soviet republics and Baltic states which have been certified pursuant to section 301 .

SEC. 706. COORDINATION WITH G-7 NATIONS.

(a) ACTIVITIES COORDINATED.—

(1) It is the sense of the Congress that the President should coordinate activities with the other members of the Group of Seven (G–7) major industrialized nations in order to maximize effects of aid both short-term (emergency) and long-term, including shared contribution for relief efforts and avoidance of duplication of assistance efforts, and enter into discussions with the other members of the group of seven to establish a formal mechanism for coordinating aid.

(2) Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the progress of these efforts to coordinate with the other members of the Group of Seven.

(b) DEFINITION.—For purposes of this section, the term "Group of Seven (G–7) major industrialized nations" refers to Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States.

TITLE VIII—PRIVATE SECTOR DEVELOPMENT

SEC. 801. ENTERPRISE FUNDS FOR THE BALTIC STATES AND THE SOVIET REPUBLICS.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the private sectors of the Baltic states and the Soviet republics, including small businesses and joint ventures with the United States, including matching joint venture partners, and host country participants, and

(2) policies and practices conducive to private sector development in the Baltic states and the Soviet republics,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President—

(1) to support the Baltic-American Enterprise Fund, $45,000,000 for the 3-fiscal year period beginning October 1, 1991; and

(2) to support the Soviet-American Enterprise Fund, such sums as may be necessary. Such amounts are authorized to be made available until expended.

(c) NONAPPLICABILITY OF OTHER LAWS.—

(1) The funds appropriated under subsection (b) may be made available to the Baltic-American Enterprise Fund and the Soviet-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(2) Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(1) DESIGNATION.—The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this Act, the organizations so designated shall be referred to as the Baltic-American Enterprise Fund and the Soviet Republic American Enterprise Fund (hereafter in this section referred to as the "Enterprise Funds").

(2) CONSULTATION WITH CONGRESS.—The President shall consult with the leadership of each House of Congress, including the leadership of the appropriate congressional committees, before designating an organization pursuant to paragraph (1).

(3) BOARD OF DIRECTORS.—(A) Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(B) A majority of the members of the Board of Directors of each Enterprise Fund shall be United States citizens.

(C) A host country citizen who is not committed to respect for democracy and a free market economy may not serve as a member of the Board of Directors of an Enterprise Fund.

(4) ELIGIBILITY OF ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5, United States Code.

(e) GRANTS TO ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) ELIGIBLE PROGRAMS AND PROJECTS.—

(1) IN GENERAL.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(2) ASSISTANCE FOR THE SOVIET PETROLEUM INDUSTRY.—Funds available to the Soviet-American Enterprise Fund may be used to assist the Soviet petroleum industry.

(g) MATTERS TO BE CONSIDERED BY ENTERPRISE FUNDS.—In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(h) RETENTION OF INTEREST.—An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(i) USE OF UNITED STATES PRIVATE VENTURE CAPITAL.—In order to maximize the effectiveness of the activities of the Enterprise Funds, each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to this section, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out this section. Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

(j) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(k) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(l) GAO AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(m) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

for manufacturers and importers of

(1) in paragraph (1)(A) by inserting after

This leveraging of R&D dollars will

VOL 137 PT 23 NO 21—25 1991 UMI

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(n) ANNUAL REPORTS.—Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31, each year, beginning in 1993.

TITLE IX—UTILIZATION OF ENERGY RESOURCES

SEC. 901. TASK FORCE ON SOVIET ENERGY RESOURCE UTILIZATION.

(a) ESTABLISHMENT OF TASK FORCE.—(1) There is established a Task Force on Soviet Energy Resource Utilization (hereafter in this section referred to as the "Task Force").

(2) The Task Force shall consist of—

(A) eight Federal energy development experts, consisting of one representative from each of the following agencies of the United States, as designated by the head of the respective agency:

(i) the Department of Energy;

(ii) the staff of the Coordinator;

(iii) the Department of Commerce;

(iv) the Department of State;

(v) the Agency for International Development;

(vi) the Overseas Private Investment Corporation (OPIC);

(vii) the Export-Import Bank of the United States;

(viii) the United States Geological Survey; and

(B) such energy development experts from United States private sector oil, coal, and natural gas development companies as may be selected by the Secretary of Energy.

(3) The representative of the Department of Energy shall serve as Chairman of the Task Force.

(4) The Task Force shall communicate with and assist energy development agencies, firms, senior officials, and development experts from cooperating Soviet republics.

(b) PURPOSES.—The purposes of the Task Force are to develop United States policies and plans with respect to the Soviet Union—

(1) to promote the development of energy resources within those Soviet republics, including Russia, which possess major energy resources so that those republics can return to and exceed production levels achieved before 1989, thereby assisting in the creation of transferable currencies and internally generated funds to support sustainable economies;

(2) to promote economic development opportunities for United States energy firms; and

(3) to promote competition in world energy production to help assure reasonable domestic prices and stable energy markets.

(c) FUNCTIONS.—The Task Force shall—

(1) develop an in-depth understanding of resource development needs and production problems in participating republics;

(2) provide advice to participating republics and officials regarding such needs and problems;

(3) develop and implement a plan for the appropriate Federal agencies to provide technical assistance for resource development in participating republics;

(4) assist in developing and implementing a plan for resource development in cooperation with participating republics; and

(5) promote business alliances and cooperation between United States energy firms and equivalent entities in participating republics consistent with the prompt and efficient development of energy resources.

(d) REPORTS.—Not later than 6 months and 12 months after the date of enactment of this Act, the Task Force shall submit a report to the Congress, including appropriate congressional committees, on its progress in carrying out this section.

BILL SUMMARY

SHORT TITLE

"Economic Development and Security Act of 1991"

FINDINGS, PURPOSES, AND DEFINITIONS

The findings emphasize the need for the Soviets to rebuild their economy and for American aid programs to help create opportunities for U.S. businesses. They emphasize that the U.S. is not in a position to provide any new significant economic assistance. Existing programs are to be utilized in order to make cost effective use of our resources. The purpose of the bill is to help maintain American security concerns by aiding the Soviets, to pursue American economic interests, and to promote the interests of the U.S. business community.

TITLE I

Establishes a Commission on Economic Security consisting of 11 members appointed by the President and Congress to develop a long term plan for aiding the Baltic states and the republics of the Soviet Union.

TITLE II

Requires the President to appoint a Coordinator for Economic Development with the rank of ambassador and to establish working groups to help the Baltic states and the republics of the Soviet Union. The Coordinator shall develop in coordination with the working groups a plan for technical and humanitarian assistance for the republics and Baltic states. He will also act as a coordinator for public and private sector programs.

A separate working group shall be established for each republic and the Baltic states. The working group shall consist of U.S. government representatives and representatives from the Baltic states and the republics. They will develop an action plan for economic development.

TITLE III

Outlines eligibility for assistance for programs described in the Act. In order to receive assistance, the republics must be: in compliance with CSCE agreements; making marked progress toward establishing a democratic state; making marked progress toward establishing a market-based economy; in compliance with all applicable U.S. laws; and the President must certify that the aforementioned conditions are met.

TITLE IV

Outlines an emergency and humanitarian assistance program, including food and medical assistance.

TITLE V

Outlines a technical assistance program from both the public and private sector. The Coordinator will oversee and coordinate all efforts by the various public and private sector groups providing technical assistance to the republics.

TITLE VI

Outlines government-to-government programs for the promotion of private enterprise, including Eximbank, OPIC, and AID. The title also sets up a special program to help the Soviet oil industry. It also repeals the Byrd and Stevenson amendments which limit Eximbank programs in the Soviet Union. In addition, it encourages the U.S. to negotiate investment and economic treaties with the Soviet republics, expresses support for their products to benefit from the generalized system for preferences (GSP), and expresses support for their products to be eligible for access to the U.S. markets under international textile agreements.

TITLE VII

Expresses Congressional support for a number of multilateral initiatives to help the Soviet republics, including full membership to the IMF and World Bank. It also expresses support for the OECD and the new European Bank for Reconstruction and Development to help the Soviet republics. In addition, the title suggests that the President should coordinate with the G–7 in providing aid for the Soviet republics.

TITLE VIII

Establishes enterprise funds for the Baltic states and the republics of the Soviet Union. There is no specific authorization for the Soviet enterprise fund but there is $45 million authorized for the Baltic states over a three year period.

TITLE IX

Sets up a special energy task force consisting of a number of government agencies and the U.S. energy firm representatives to help the republics of the Soviet Union with their energy sector. The task force shall report to the Congress on what can be done to help increase production in the oil and energy industries in the republics, and promote a role for U.S. firms in that process.

By Mr. MOYNIHAN:

S. 2048. A bill to amend section 923 of title 18, United States Code, to require the keeping of records with respect to dispositions of ammunition, and to require a study on the use and possible regulation of sales of ammunition; to the Committee on the Judiciary.

RECORDS OF DISPOSITION OF AMMUNITION

• **Mr. MOYNIHAN.** Mr. President, I rise today to introduce a measure to improve our information about the regulation and criminal use of ammunition. It has two components. The bill would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco, and Firearms [BATF] on the disposition of ammunition, including the amount, caliber, and type of ammunition imported or manufactured. It would also require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations on the efficacy of reducing crime by restricting access to ammunition.

While there are enough handguns in circulation to last well into the 22d century, there is only a 4-year supply of ammunition according to the best estimate. But how much of what kind of ammunition, where does it come from and where does it go? There are currently no reporting requirements

for manufacturers and importers of ammunition—earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual uniform crime reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or amount of ammunition used in crime. In short, our data base is woefully inadequate.

I am a supporter of the Brady bill, which would require a waiting period before the purchase of a handgun, and have supported bills to stem the flow of automatic and semiautomatic firearms to criminals. But while the debate over gun control continues, I offer another alternative: Ammunition control. After all, guns do not kill people; bullets do.

Ammunition control, while a new idea, is not unknown. In 1982 Phil Caruso of the Patrolmen's Benevolent Association asked me to do something about armor-piercing bullets. Jacketed in tungsten or other materials, these rounds could penetrate four police flak jackets and an additional five Los Angeles County telephone books. They were of doubtful sporting value, and came to be known as "cop-killer bullets." I introduced legislation to ban the bullets in the 97th, 98th and 99th Congresses. The bills enjoyed the overwhelming endorsement of law enforcement groups and tacit support from the National Rifle Association. The Law Enforcement Officers Protection Act was finally signed into law by President Reagan on August 28, 1986.

Local jurisdictions are aware of the benefits to be gained from ammunition control. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. The city of Los Angeles beginning in 1990 banned the sale of all ammunition 1 week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air.

Such efforts, while well-meaning and effective, are isolated attempts to solve a national problem. But to do more, we need information to guide policymaking. This bill would fill that need by requiring annual reports to BATF by manufacturers and importers and directing a study by the National Academy of Sciences. I urge my colleagues to cosponsor this measure, and ask unanimous consent that its full text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at his place of business for such period and in such form as the Secretary may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

(2) by adding at the end thereof the following new paragraph:

"(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.".

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the National Academy of Sciences to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) to submit to Congress, not later than July 1, 1993, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.•

By Mr. LIEBERMAN:

S. 2049. A bill to amend the Internal Revenue Code of 1986 to allow a credit for payments or contributions to certain cooperative research organizations; to the Committee on Finance.

CREDIT FOR PAYMENTS OR CONTRIBUTIONS TO CERTAIN COOPERATIVE RESEARCH ORGANIZATIONS

• **Mr. LIEBERMAN.** Mr. President, I rise today to introduce the Cooperative Research and Development Credit Act of 1991. This bill would provide extra incentive for R&D consortia to work together on developing cutting edge technology.

According to a Business Week survey, R&D spending went up only 2.2 percent from 1989 to 1990—the smallest, annual increase since the mid-seventies. There is a slowdown in R&D spending that must be stopped. If we are to get our economy moving again, we cannot afford to spend less on the research and development of new products.

What makes the situation even more disturbing is that OECD statistics, which are calculated on an inflation and currency adjusted basis, indicate that U.S. corporate R&D spending may have actually declined in 1990 by 1.6 percent, while corporations in other OECD nations have increased their R&D spending.

We must act now to correct this situation. One way we can do this is to use our tax system to encourage collaboration among companies in order to cut R&D costs. Under cooperative research, our companies can share their costs and then make their own product development decisions based on the research findings.

This leveraging of R&D dollars will help American companies compete against firms from other nations that are spending more on their product research and development efforts. If we want to build a better computer or a more efficient car, it will take lots of expensive R&D to do so. Individual American companies cannot always afford to put that kind of money into product development. Our system of corporate governance and incentives puts emphasis on the short term, not long term capital intensive projects. A tax credit for consortia R&D should encourage companies to join together in a way that can help each of them.

This bill will promote cooperation in all phases of R&D, reduce duplicative R&D efforts, and let the collaborators in this effort decide which findings can be commercialized.

The bill provides that qualifying payments and contributions to cooperative research organizations will be eligible for a tax credit of up to 50 percent. The bill includes a number of qualifying definitions and restrictions on R&D expenditures to avoid multiple credit and to clarify interaction with other credit provisions of the Tax Code. For example, a qualifying cooperative research organization must be registered under the National Cooperative Research Act of 1984 and must have at least five members, four of which make significant financial contributions in support of the research effort.

This bill is not intended to replace the existing R&D tax credit but to complement it. We need to offer our companies a menu of options in order to get them to do more R&D spending.

The Center for Manufacturing Sciences, one of the largest of existing research consortia, reports that it leverages membership R&D dollars by as much as 10 to 1 and shortens the development cycle by 2 to 5 years. Extra R&D incentives should increase those ratios considerably.

I ask unanimous consent that a copy of the bill be included in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PAYMENTS OR CONTRIBUTIONS TO CERTAIN COOPERATIVE RESEARCH ORGANIZATIONS.

(a) GENERAL RULE.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new section:

"SEC. 30. CREDIT FOR PAYMENTS OR CONTRIBUTIONS TO CERTAIN COOPERATIVE RESEARCH ORGANIZATIONS.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable credit percentage of the taxpayer's qualified cooperative research expenditures to any qualified cooperative research organization during the taxable year.

VOL 137
PT 23
NO 21—25
1991
UMI

"(b) QUALIFIED COOPERATIVE RESEARCH EXPENDITURES.—For the purposes of this section—

"(1) QUALIFIED COOPERATIVE RESEARCH EXPENDITURES.—

"(A) IN GENERAL.—Except as otherwise limited or reduced in this section, the term 'qualified cooperative research expenditures' means the qualified amounts which are paid or contributed by the taxpayer during the taxable year to any qualified cooperative research organization.

"(B) QUALIFIED AMOUNT.—

"(i) For the purpose of subparagraph (A), cash, property, or other in-kind contributions received from the taxpayer by a qualified cooperative research organization shall be considered a 'qualified amount' with respect to the taxpayer if it is cash, or an in-kind contribution, including the use of the taxpayer's real property, personal property, intangible property or employees; to the extent that such amounts are verifiable from the qualified cooperative research organization's records; and if project specific, are necessary and reasonable for proper and efficient accomplishment of project objectives.

"(ii) For the purpose of determining qualified amounts with respect to the use or license of property from the taxpayer to the qualified cooperative research organization, such qualified amount shall be limited to the fair value for such usage of such property by the qualified cooperative research organization during the taxable year and, in any event, shall not exceed the amount of depreciation or amortization otherwise allowable to the taxpayer under this chapter allocable to such usage.

"(iii) For the purposes of determining qualified amounts with respect to the contributions of the services of any of the taxpayer's employees, such services shall be valued at the pro rata portion of the salary and benefits that the taxpayer pays for such employees and an appropriate portion of overhead with respect to such persons (but in no event shall such overhead exceed 25 percent of the salary and benefit amount allocated for such services).

"(iv) For the purposes of determining qualified amounts with respect to the noncash payment or contributions from the taxpayer to a qualified cooperative research organization (including amounts described in clause (ii)), such qualified amount shall not exceed the amount of the taxpayer's cash payments or contributions to such organization that constitute qualified amounts.

"(C) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified cooperative research expenditures' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by any government entity.

"(D) EXCLUSION OF CERTAIN PROJECT SPECIFIC AMOUNTS.—To the extent the taxpayer pays or contributes cash, property, or other in-kind contribution to a qualified cooperative research organization, the use of which is designated or restricted to a specific project to be conducted by the qualified cooperative research organization, then such project specific payment or contribution shall be considered a qualified amount only to the extent of ⅓ of the amount the qualified cooperative research organization receives for or allocates to such project from other nongovernmental sources.

"(2) QUALIFIED COOPERATIVE RESEARCH ORGANIZATION.—

"(A) IN GENERAL.—A qualified cooperative research organization means an organization that meets the registration requirement of subparagraph (B) and the membership requirement of subparagraph (C).

"(B) REGISTRATION.—An organization meets the requirements of this subparagraph if it qualifies for registration and has filed its registration with the Attorney General of the United States and the Federal Trade Commission under the National Cooperative Research Act of 1984 and its registration has been published in the Federal Register on or prior to the last day of the organization's taxable year (and such registration has not been withdrawn, suspended, or revoked).

"(C) MEMBERSHIP.—An organization meets the requirements of this subparagraph if it has 5 or more members and if any 4 members have provided payment or contributions in the prior fiscal year of the organization equal to at least 20 percent of the amount of payments or contributions provided by the nongovernmental contributor who provided the largest amount of payments or contributions to such organization (determined without regard to the provisions of subsection (c)).

"(3) DETERMINATIONS.—

"(A) LIMITATION.—The taxpayer's qualified cooperative research expenditures for which a credit can be claimed under subsection (a) shall be equal to the lesser of the taxpayer's qualified cooperative research expenditures for the current taxable year or the sum of—

"(i) the taxpayer's qualified cooperative research expenditures for the current taxable year multiplied by .5;

"(ii) the taxpayer's qualified cooperative research expenditures for the taxpayer's first preceding taxable year multiplied by .3; plus

"(iii) the taxpayer's qualified cooperative research expenditures for the taxpayer's second preceding taxable year multiplied by .2.

For purposes of this subparagraph, the taxpayer's qualified cooperative research expenditures shall be determined as if this section were in effect in each such year, without application of this subparagraph.

"(B) APPLICABLE CREDIT PERCENTAGE.—The credit allowable under subsection (a) shall equal the taxpayer's qualified cooperative research expenditures with respect to each qualified cooperative research organization during the taxable year multiplied by such organization's applicable credit percentage for the taxable year of such organization ending in or with the taxable year of the taxpayer, which shall equal the sum of such organization's private source funding ratios for the previous 3 taxable years determined as follows—

"(i) the qualified cooperative research organization's private source funding ratio for such organization's first preceding taxable year multiplied by .25;

"(ii) the qualified cooperative research organization's private source funding ratio for such organization's second preceding taxable year multiplied by .15; plus

"(iii) the qualified cooperative research organization's private source funding ratio for such organization's third preceding taxable year multiplied by .10.

For the purpose of this subparagraph, the private source funding ratio for a qualified cooperative research organization for any taxable year shall equal a fraction, the numerator of which shall equal the total amount of such organization's gross receipts for the taxable year excluding all governmental grants or support and the denominator of which shall equal the total amount of such organization's gross receipts for the taxable year from all sources. For any year in which a qualified cooperative research organization failed to meet the requirements of paragraph (2), its private source funding ratio shall equal 0.

"(c) ELECTION AND COORDINATION.—

"(1) ELECTION.—This section shall apply to any taxpayer for any taxable year only if such taxpayer elects (at such time and in such manner as the Secretary may prescribe) to have this section apply for such taxable year.

"(2) CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS.—No credit shall be allowed under subsection (a) for any qualified amount for which the taxpayer elects to claim a credit pursuant to section 28.

"(3) CREDIT FOR INCREASING RESEARCH EXPENDITURES.—

"(A) No credit shall be allowed under subsection (a) for any qualified amount that is or has been taken into account for the purposes of determining the credit allowable under section 41 for such taxable year; except that at the same time the election is made under paragraph (1), the taxpayer may elect not to have any of its qualified amounts taken into account for the purposes of determining the credit allowable under section 41 for such taxable year.

"(B) Any qualified amounts which are qualified research expenses (within the meaning of section 41(b)) shall be taken into account in determining base period research expenses for purposes of applying section 41 to subsequent taxable years.

"(C) To the extent the taxpayer receives any funds under a grant, contract, or otherwise from another person and such funds are taken into account for the purposes of determining the credit allowable under subsection (a), such other person shall not be entitled to take such funds into account for the purposes of determining the credit allowable to such person under section 41 for any taxable year.

"(4) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29; over

"(B) the tentative minimum tax for the taxable year.

"(5) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for the purposes of this section.

"(d) REPORTING REQUIREMENTS.—

"(1) REPORTS TO SECRETARY.—Each qualified cooperative research organization shall file a report with the Secretary containing—

"(A) a verification of the organization's qualification for its current taxable year as a qualified cooperative research organization pursuant to subsection (b)(2);

"(B) a determination of the organization's applicable credit percentage for its current taxable year determined pursuant to subsection (b)(3)(B); and

"(C) such other information as the Secretary may require by regulations.

"(2) REPORTS TO CONTRIBUTORS.—Each qualified cooperative research organization shall provide each person who paid or contributed any amount to the organization during the taxable year a copy of the report provided to the Secretary under paragraph (1) and such other information as the Secretary may require by regulations.

"(3) TIME AND MANNER OF REPORTS.—Such reports and information required in paragraphs (1) and (2) shall be filed or provided at such time and in such manner as the Secretary may require by regulations."

(b) COORDINATION OF CREDIT WITH DEDUCTIONS.—Section 280C of such Code is amended by adding at the end thereof the following new subsection:

"(d) CREDIT FOR QUALIFIED COOPERATIVE RESEARCH EXPENDITURES.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified cooperative research expenditures (as defined in section 30(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 30 (determined without regard to subsection (c)(4) thereof).

"(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

"(A) the amount of the credit allowable for the taxable year under section 30 (determined without regard to subsection (c)(4) thereof), exceeds

"(B) the amount allowable as a deduction for the taxable year for qualified cooperative research expenditures (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

"(3) CONTROLLED GROUPS.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 41(f)(5)) or a trade or business which is treated as being under common control with other trades or businesses within the meaning of section 41(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraphs (A) and (B) of section 41(f)(1)."

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 53(d)(1)(B) of such Code is amended—

(A) by striking "or not" and inserting ", not", and

(B) by inserting before the period at the end thereof the following: ", or not allowed under section 30 solely by reason of the application of section 30(c)(4)(B)."

(2) Clause (iv) of section 53(d)(1)(B) of such Code is amended—

(A) by striking "or not" and inserting ", not", and

(B) by inserting before the period at the end thereof the following: ", or not allowed under section 30 solely by reason of the application of section 30(c)(4)(B)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.●

By Mr. FORD:

S.J. Res. 235. Joint resolution designating May 7, 1992, as "National Barrier Awareness Day"; to the Committee on the Judiciary.

NATIONAL BARRIER AWARENESS DAY

Mr. FORD. Mr. President, I rise today to introduce a joint resolution to declare May 7, 1992 as National Barrier Awareness Day, a resolution to increase public awareness of the many barriers disabled individuals encounter in their daily lives. This day has been set aside to enhance opportunities for the disabled community in the areas of employment, education, housing, and transportation. It is important that we realize that barriers do exist for the 43 million disabled Americans and that we begin to work together to ensure these barriers no longer inhibit the lives of these individuals.

As we all know, it is difficult to comprehend the full effect of living with a disability unless we have done so. The problems that exist for individuals with disabilities run the gamut—from architectural, communication, employment to legal and attitudinal barriers. Of the five barriers, the one labeled "attitudinal" is the most detrimental. Attitudinal barriers are those which deter public acceptance of the physically impaired. This lack of understanding fosters stereotypes and creates attitudes which can bar people with disabilities from mainstream life just as much as physical barriers.

Mr. President, I find it most troubling that of the 12 million Americans who are disabled but employable, only 8 million of these individuals actually have jobs. Quite simply, we can and must do better. Only by increasing awareness and removal of the many barriers that exist, can we begin to remedy the situation. It is time to celebrate the many remarkable qualities and talents of disabled individuals and possess positive attitudes toward them.

To date, we have made great strides in improving the quality of life and opportunities for disabled individuals and we must continue to move forward. The passage of the Americans With Disabilities Act last year was a monumental step in protecting the rights of persons with disabilities and affording them the same, equal access to a wide array of public accommodations. However, our responsibility today is to ensure that the provisions in the legislation are fully implemented and to facilitate compliance for business, transportation systems, and other public accommodations.

As the Americans with Disabilities Act becomes effective in January 1992, I find it appropriate to honor the millions of disabled Americans this year. I would like to encourage my colleagues to join me in passing this joint resolution to declare May 7, 1992, as National Barrier Awareness Day and to encourage all Americans to create an environment free from all artificial barriers.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. KENNEDY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2, a bill to promote the achievement of national education goals, to establish a National Council on Educational Goals and an Academic Report Card to measure progress on the goals, and to promote literacy in the United States, and for other purposes.

S. 33

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 33, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

S. 240

At the request of Mr. SASSER, his name was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 488

At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 488, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 843

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 1372

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1381, a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1491

At the request of Mr. MITCHELL, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1491, a bill to establish a partnership among the United States Fish and Wildlife Service, the States, and private organizations and individuals to conserve the entire diverse array of fish and wildlife species in the United States and to provide opportunities for the public to enjoy these fish and wildlife species through non-consumptive activities.

S. 1533

At the request of Mr. BRYAN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1533, a bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934.

S. 1726

At the request of Mr. DIXON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1726, a bill to amend the Immigration and Nationality Act to restore authority in courts to naturalize persons as citizens.

VOL
137
PT
23
NO
21
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25
1991
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S. 1732

At the request of Mr. DASCHLE, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1732, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of leased employees, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1830

At the request of Mr. WOFFORD, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1830, supra.

S. 1851

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1851, a bill to provide for a Management Corps that would provide the expertise of United States businesses to the Republics of the Soviet Union and the Baltic States.

S. 1944

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1944, a bill to amend the Public Health Service Act to strengthen the Nation's health promotion and disease prevention activities, and for other purposes.

S. 1979

At the request of Mr. MCCONNELL, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1979, a bill to provide greater certainty in the availability and cost of liability insurance, to eliminate the abuses of the tort system, and for other purposes.

S. 2011

At the request of Mr. CRANSTON, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2011, a bill to provide agricultural and other essential commodities to the Soviet Union in exchange for Soviet fissile materials and to assist the development of lending institutions in the Soviet republics.

S. 2018

At the request of Mr. MCCONNELL, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Montana [Mr. BURNS], the Senator from North Dakota [Mr. CONRAD], the Senator from Missouri [Mr. DANFORTH], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 2018, a bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal Agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands.

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month."

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 217

At the request of Mr. GORE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Resolution 217, a resolution urging the Administrator of the Environmental Protection Agency to accelerate the scheduled phaseout of ozone-destroying substances in the United States as required pursuant to the Clean Air Act Amendments of 1990; calling on the President to urge the Contracting Parties to the Montreal Protocol to modify the Protocol in order to accelerate the phaseout of such substances; and for other purposes based on scientific findings concerning the degradation of the stratospheric ozone layer.

SENATE RESOLUTION 227

At the request of Mr. PRESSLER, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Resolution 227, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION 232—RELATING TO RECESS APPOINTMENTS

Mr. LIEBERMAN (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 232

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 233—DESIGNATING ROOM S-238 IN THE CAPITOL AS THE "STROM THURMOND ROOM"

Mr. GRASSLEY (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 233

Whereas Senator Strom Thurmond has served in the United States Senate with great distinction for thirty-seven years, six of which he served in the position of President Pro Tempore;

Whereas Senator Thurmond has served as Chairman of the Senate Judiciary Committee and as a senior member of several other committees and he has authorized hundreds of vital legislative measures;

Whereas Senator Thurmond has also served on numerous Federal commissions and other Federal bodies;

Whereas Senator Thurmond's service to the Senate has been characterized by diligent work for the citizens of the United States, sincere dedication, boundless energy, and immense loyalty;

Whereas on December 5th, 1991, Senator Thurmond will celebrate his 89th birthday; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Thurmond as a reminder to present and future generations of his outstanding service as a United States Senator: Now, therefore, be it

Resolved, That room S-238 in the United States Capitol Building is hereby designated as, and shall hereafter, beginning December 5th, 1991, be known as, the "Strom Thurmond Room", in recognition of the selfless and dedicated service provided by Senator Strom Thurmond to our Nation and its people.

AMENDMENTS SUBMITTED

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT

NUNN (AND OTHERS) AMENDMENT NO. 1439

Mr. NUNN (for himself, Mr. LUGAR, Mr. BOREN, Mr. DOMENICI, Mr. PELL, Mr. BIDEN, Mr. HELMS, Mr. CHAFEE, Mr. CRANSTON, Mrs. KASSEBAUM, Mr. EXON, Mr. LEVIN, Mr. BINGAMAN, Mr. GORE, Mr. CONRAD, Mr. GRAHAM, Mr. WIRTH, Mr. LIEBERMAN, Mr. MACK, Mr. GORTON, Mr. DOLE, Mr. MCCONNELL, Mr. KERRY, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. MITCHELL, Mr. STEVENS, Mr. COHEN, Mr. MURKOWSKI, and Mr. MOYNIHAN proposed an amendment to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the

North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, as follows:

On page 7, below line 6, insert the following:

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) FINDINGS.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among emerging political structures on the territory of the former Soviet Union that is not conducive to weapons safety or to international stability: (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the former Soviet Union that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union and its former and present republics, and (B) to assist in the prevention of weapons proliferation.

(b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to any nation, Soviet republic, or former Soviet republic unless the President first certifies to the Congress that the potential recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements or is designed to replace destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President, consistent with the findings stated in the preceding section, may establish a program as authorized in subsection (b) to assit Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C using funds appropriated for the Department of Defense for fiscal year 1992.

(b) TYPE OF PROGRAM.—The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics (including those which may gain independence after the enactment of this Act) to (1) destroy nuclear, weapons, chemical weapons, and other weapons, (2) transport, store, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) FUNDING.—The President, may, to the extent provided in appropriations Act, transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, such amounts as may be provided in appropriations Act, not to exceed $500,000,000 for reducing the Soviet nuclear threat under part B.

(2) Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed Forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) DEPARTMENT OF DEFENSE.—Notwithstanding any other provision of law, the Department of Defense shall serve as the executive agent for any program established under part B.

(c) REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense may reimburse other departments and agencies of the United States under this subsection for costs of participation, as directed by the President, only in a program estalished under part B.

(d) CHARGES AGAINST FUNDS.—The value of assistance from existing stocks and inventories of the Department of Defense or any other Federal department or agency may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) DETERMINATION BY DIRECTOR OF OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

PART C—REPORTING REQUIREMENTS

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under Part B, the President shall transmit to Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget, activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal year 1992 and 1993, the President shall transmit to Congress a report on the activities to reduce the Soviet nuclear threat carried out under part B. Each such report shall set forth, for the preceeding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which spent.

(2) The source of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of departments and agencies other than the Department of Defense in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

BYRD (AND NUNN) AMENDMENT NO. 1440

Mr. BYRD (for himself and Mr. NUNN) proposed an amendment to amendment No. 1439 proposed by Mr. NUNN (and others) to the bill H.R. 3807, supra, as follows:

At the end of the pending amendment, add the following:

It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for Fiscal Year 1992 should consider providing the necessary authority for the Secretary of Defense to obligate these funds in that Conference Agreement.

BOREN (AND OTHERS) AMENDMENT NO. 1441

Mr. BOREN (for himself, Mr. COHEN, Mr. NUNN, Mr. DOLE, Mr. LUGAR, Mr. PELL, Mr. MURKOWSKI, Mr. RUDMAN, Mr. BRADLEY, Mr. LEVIN, Mr. DANFORTH, Mr. CHAFEE, Mr. CRANSTON, and Mr. LIEBERMAN) proposed an amendment to the bill H.R. 3807, supra, as follows:

"SEC. . AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of hostile, anti-American leaders in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union and its republics.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, shall be authorized during fiscal year 1992 to transfer sufficient funds from those appropriated to the Department of Defense for fiscal year 1992 to

covery of forest ecosystems suffering catastrophic fire, insect infestation, national forests of Oregon and the North-

VOL 137 PT 23 NO 21—25 1991 UMI

the extent provided in the Appropriations Act, not to exceed $200 million, in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or is Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, as determined by the President. Any funds which are transferred pursuant to this provision shall be drawn from the Operations and Maintenance or working capital accounts of those funds appropriated to the Department of Defense for fiscal year 1992. The Congress designates all funds in this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds in this section shall be available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this provision to the emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) Prior Notice.—Before any funds are transfered for the purposes as authorized in section (b), the President shall notify the Committees on Armed Services of the Senate and House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(d) Reports to the Congress.—Within ten days of directing the Secretary of Defense to transfer funds pursuant to subsection (a), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, which shall at a minimum, set forth—

(1) the amount of funds transferred under this section, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the type and purpose of such assistance; and

(4) the locations, organizations, and political institutions to which the assistance was delivered.

(e) It is the sense of the Senate that the conferees on H.J. Res. 157, the Dire Emergency Supplemental Appropriations Act for FY 1992, should consider providing the necessary authority for the Secretary of Defense to obligate these funds in that Conference Agreement.

FEDERAL LANDS AND FAMILIES PROTECTION ACT

PACKWOOD (AND OTHERS) AMENDMENT NO. 1442

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. PACKWOOD (for himself, Mr. Hatfield, and Mr. Gorton) submitted an amendment intended to be proposed by them to the bill (S. 1156) to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes, as follows:

On page 7, line 2, strike "V" and insert "VI".

On Page 67, between lines 19 and 20, insert the following new title:

TITLE V—FOREST ECOSYSTEMS HEALTH AND RECOVERY

SEC. 501. SHORT TITLE.

This title may be cited as the "Forest Ecosystems Health and Recovery Act of 1991".

SEC. 502. PURPOSES.

The purposes of this title are to—

(1) promote the expeditious recovery of forest ecosystems suffering the effects of natural resource disasters, including catastrophic fire, insect infestations, disease, or other natural or human-caused events;

(2) minimize deterioration or adverse environmental damage to forests from fire, insects, and disease;

(3) minimize the risk to human safety from forest catastrophes such as wildfire; and

(4) minimize the economic losses due to forest health problems of communities that depend on units of the National Forest System or the public lands.

SEC. 503. DEFINITIONS.

As used in this title:

(1) Federal lands.—The term "Federal lands" means—

(A) lands included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))); and

(B) public lands (as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e))).

(2) Land management plan.—The term "land management plan" means—

(A) a land and resource management plan prepared by the Forest Service for a unit of the lands described in paragraph (1)(A), pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan prepared by the Bureau of Land Management for a unit of the lands described in paragraph (1)(B), pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(3) Salvage.—The term "salvage" means the removal of insect-infested, diseased, dead, damaged, or downed timber on Federal lands.

(4) Secretary.—Except as otherwise provided, the term "Secretary" means—

(A) with respect to lands described in paragraph (1)(A), the Secretary of Agriculture, or a designee; and

(B) with respect to lands described in paragraph (1)(B), the Secretary of the Interior, or a designee.

SEC. 504. USE AND LEVEL OF SALVAGE.

(a) In General.—The Secretary shall authorize salvage and rehabilitation in a timely manner, as necessary—

(1) to promote the expeditious recovery of forest ecosystems;

(2) to provide for public safety; and

(3) to prevent further deterioration or future environmental damage to a forest.

(b) Considerations.—In determining the appropriate use and level of salvage and rehabilitation, the Secretary shall consider all potential impacts on soil, watershed, wildlife, and the economic well-being of communities that depend on Federal lands.

(c) Costs.—In deciding whether to offer and award timber that is subject to salvage, the Secretary shall not preclude the offer and award of a particular sale because the anticipated total costs are greater than the anticipated revenues.

SEC. 505. SALVAGE-RELATED ACTIVITIES.

From the salvage sale fund authorized by section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)), the Secretary of Agriculture may use such sums as are necessary to permit the use of salvage- and rehabilitation-related activities, including controlled burning, thinning, and spraying, on lands described in section 503(1)(A).

SEC. 506. NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE.

(a) In General.—A salvage activity not inconsistent with the long-term management goals and objectives of a land management plan for the administrative unit in which the activity is to occur shall be deemed not to be a major Federal action significantly affecting the quality of the human environment for the purpose of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Exclusions for Certain Salvage.—The Secretary shall establish by regulation a policy establishing categorical exclusions from requirements established pursuant to such section for certain types of salvage, based on the extent to which the salvage includes selective thinning, minimal building of new roads, minimum loss of healthy standing timber, and other justifying factors.

SEC. 507. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) In General.—Unless the Secretary specifically provides for administrative review, citizens of the United States may seek immediate judicial review of decisions to permit salvage made by the Secretary in the district court of the United States for the district in which the salvage action is to occur.

(b) Standing.—If the Secretary provides an opportunity for administrative review, standing to bring an administrative appeal shall be available only to persons who have submitted written or oral comment during the preparation of the action for which administrative review is sought.

(c) Deadline for Filing.—An action brought pursuant to this section may be filed not later than 30 days after the final decision of the Secretary to permit salvage.

(d) Deadline for Decision.—In an action brought pursuant to this section, a district court shall render a final decision and dissolve any restraining order or preliminary injunction not later than 30 days after the date of the filing of the action.

On page 67, line 20, strike "V" and insert "VI".

On page 67, line 21, strike "501" and insert "601".

On page 68, line 3, strike "502" and insert "602".

- Mr. PACKWOOD. Mr. President, I am today submitting, on behalf of myself and Senators Hatfield and Gorton, legislation to promote the prompt recovery of forest ecosystems suffering from the effects of insect infestation, disease and wildfire.

The problem of declining forest health is particularly evident in our home State of Oregon. East of the Cascade Range—especially in the Blue Mountains region—there are thousands of acres of trees which are dead or dying. In fact, the Forest Service estimates that over half of the total acreage of the three national forests in Northeast Oregon contain predominantly dead or dying trees. The combined effects of fire suppression, selective harvesting of the most valuable species of trees, prolonged drought, and successive insect epidemics have led to this alarming situation.

The Pacific Northwest is in a crisis situation. The amount of timber reaching Oregon's mills has hit a critical low. Since last year's listing of the Northern spotted owl, thousands of jobs have been lost, and many more layoffs are expected. However, forest stand mortality presently occurring in many of Oregon's forests provides an avenue, through timely salvage operations, to offer relief to Oregon's timber communities.

The amount of timber lost annually to insects and disease in Oregon's public and private forest land is equal to about 1.6 billion board feet. This is enough timber to build about 150,000 homes. We cannot afford to ignore this potential.

I was pleased to note that in its last session, the Oregon State House of Representatives, recognizing the urgency of putting the health of our forests back on track, passed a resolution urging the Forest Service and the Bureau of Land Management to development a comprehensive plan to salvage this usable wood. This resolution echoes the feelings of many Oregonians desperately seeking expedient action on this issue.

Mr. President, salvage reduces the spread of insects and the potential for catastrophic fire and accelerates the process of regeneration. It is also designed to capture as much of the value which is still in the timber as possible. Salvage alone will not solve the forest health problem, but it is clearly the right first step.

My amendment, the "Forest Ecosystems Health and Recovery Act of 1991," takes this first step in recognizing this valuable opportunity to:

First, utilize decaying timber before it dies;

Second, promote the rehabilitation of deteriorating areas;

Third, ensure the health and stability of future Northwest timber growth; and

Fourth, reduce the threat to human safety posed by catastrophic wildfire.

Mr. President, it is my hope that the Senate will act quickly to take steps which will remedy the severe effects of catastrophic fire, insect infestation, and disease by permitting timely salvage dead and dying timber. We can no longer stand idly by while the health of our forest ecosystems deteriorates.

I ask unanimous consent that, House Joint Memorial 8 passed by the Oregon State House of Representatives, be placed in the Congressional Record. I also submit for the Record some letters I have received from community leaders in my State attesting to the urgency of this situation.

There being no objection, the material was ordered to be printed in the Record, as follows:

House Joint Memorial 8

Whereas the National Forest System has historically provided 80 percent of Oregon's timber supply needs, economic support for regional and local economics and funds for county government and Oregon schools; and

Whereas timber receipts from the Federal Government in 1989 accounted for nearly $300 million and have totaled $1.8 billion over the past decade, benefiting the public by delivering government services to people at the county level; and

Whereas the land allocation decisions made in recent federal forest plans have reduced the amount of land available for forest management to less than 40 percent of the land managed by the Federal Government; and

Whereas both the United States Forest Service and Bureau of Land Management recognize there are opportunities to salvage some of the forest stand mortality presently occurring, and increasing, due to drought conditions, insect outbreaks and disease infestations throughout the State of Oregon; and

Whereas, because salvaging forest stand mortality historically has been a byproduct of active forest stand management, it should be elevated to equal status with normal green timber harvesting operations to help provide a stable timber supply, to promote vigorous healthy forests, to use dead and dying wood in a timely manner, to protect adjacent healthy forests from disease, insects and catastrophic fire exposure and to expedite rehabilitation of other resource values; and

Whereas the State Forestry Department of Oregon has identified that 1.6 billion board feet of timber are lost annually to insects and disease in Oregon's public and private forestland; and

Whereas, because biological concepts such as maintaining biological diversity, recruiting wildlife trees and leaving large woody material may be in direct conflict with salvaging, any public policy that promotes forest salvaging should strive to reduce such conflicts by leaving a reasonable level of such materials for the health of the forest, yet be consistent with safe logging operations; and

Whereas sound forest management and prudent public policy should prevent the waste of usable wood by salvaging such forest stands in a timely manner and also promote the conservation of other forest resouces: Now, therefore, be it

Resolved by the Legislative Assembly of the State of Oregon; That—

(1) The United States Forest Service and Bureau of Land Management are urged to adopt, as part of a sound forest conservation strategy, a comprehensive program to salvage usable wood that is dead or dying in the national forests of Oregon and the Northwest, recognizing that such a program:

(a) Will promote not only mortality salvage but forest sanitation and resource rehabilitation, resulting in enhanced forest and watershed growth, vigor and health; and

(b) Shall be compatible with existing state and federal land management plans that protect and conserve all forest values, including water quality, wildlife habitat, harvestable timber, natural beauty and recreation.

(2) A copy of this memorial shall be sent to the Chief of the United States Forest Service, to the Director of the Bureau of Land Management and to each member of the Oregon Congressional Delegation.

Northwest Timberworkers
Resource Council,
La Grande, OR, August 14, 1991.

Senator Packwood: We must look to the health of our forests. Our forests are in need of a rejuvenating experience, and either we can provide that, or mother nature will provide it thru fire.

This a major crises, our future is dying. We are already too late.

Please help us in our efforts to remedy this situation.

Thank you for coming to La Grande.

Mark Simmons.

Union County,
Board of Commissioners,
August 13, 1991.

Senator Bob Packwood,
SW Main Street, Portland, OR,

Dear Senator Packwood: Your presence here today signifies to us your concern of the many forest implications within the Blue Mountains Forest.

As you may well know by now, the dominate species of the Blue Mountain Forest has changed from the Larch and Pine stands to the White and Douglas fir stands because of past harvest practices and the retention of fire. This has created the major outbreak of the spruce bud worm and now the reoccurrence of tussock moth followed by the bark beetles.

However, planning to solve these problems will take time and strong leadership within the Forest Service to make swift decisions of new management plans for the Blue Mountain Forests.

Union County has been at the forefront along with Wallowa County in raising concerns of forest health in the past years and has supported new approaches in dealing with forest health concerns.

Union County is very supportive of a "New Perspectives in Forest Health." Our recommendation is that time is of the essence to make the right decision for major salvage projects and return the forest to the original dominate species.

Union County would also recognize and support the leadership of a U.S. Forest Service Region 6 Forester John F. Butruille and Bob Richmond Supervisor of the Wallowa Whitman National Forest.

Speaking to you as the District 1 Chairman of Eastern Oregon Counties and Chairman of the Board of Directors for the Blue Mountain Natural Resources Institute, congressional support in leadership and federal revenue to assist the forest service managers and scientists could not come at a greater time than the present.

Sincerely,

John H. Howard,
Chairman.

VOL 137 PT 23 NO 21—25 1991 UMI

CONFEDERATED TRIBES OF THE
UMATILLA INDIAN RESERVATION,
Pendleton, OR, November 21, 1991.

STATEMENT ON FOREST HEALTH

The Confederated Tribes of the Umatilla Indian Reservation have a vital interest in the health of the Blue Mountains. Tribal members rely upon the output of products from the Blue Mountains National Forests, including fish, wildlife, roots and berries, and lumber.

As you know, Senator Packwood, the health of the Blue Mountains Forests is currently at a dismally low level. Certainly the dead and dying fir and spruce trees are an example. However, other aspects of forest health were in poor condition prior to the time when we noticed our forests were dying. For instance, in the upper Grande Ronde River, one of the Tribe's ceded lands fisheries, stream temperatures approach 80 F; lethal to salmon. The U.S. Forest Service has documented the loss of nearly 70% of the pool habitat needed for salmon reproduction.

The Confederated Tribes supports active and immediate efforts to put the health of our forests back on track. The Tribe's are supportive of using a number of tools, including accelerated harvests of dead trees, the reintroduction of fire, restoration of riparian zones, and road closures. It is imperative that these actions take into account that serious mistakes have been made in the science of forest management, and that this recognition guide our efforts.

Of equal importance, the road to forest health recovery, must focus on the health of the rivers and streams of the Blue Mountains. Protection and restoration of degraded fish habitat should guide both the intensity of efforts to convert the Forests from fir back to pine and larch and the manner in which the conversion is attempted. The watersheds in the worst conditions, including the upper Grande Ronde River, Catherine Creek, South Fork Umatilla River, and the Joseph Creek watershed, should receive the highest priority for watershed restoration. Light touches in these areas, precluding further water quality or fish habitat degradation, emphasizing the restoration of these areas, should be the rule.

The Tribe supports many of the ideas the Regional Forester is currently assessing. These include, focusing salvage harvest in areas with road systems now in place, precluding the harvest of green trees and thus maintaining a seed source for future conversion to ponderosa pine and larch, and accelerating the efforts to initiate a healthy forest for the next generation. Protecting and restoring the health of our salmon and steelhead rivers is an integral part of restoring forest health. Water quality and ultimately, the return of salmon to places like the upper Grand Ronde, is an infallible barometer of forest health. The Confederated Tribe's GBB a need for greater emphasis on protection and restoration of Blue Mountain watersheds, so that the return of the salmon will be a reality.

Sen. Packwood thank you for your attention to this vital issue.

Sincerely,

ELWOOD H. PATAWA,
Chairman, Board of Trustees.●

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT

LEVIN (AND OTHERS) AMENDMENT NO. 1443

Mr. LEVIN (for himself, Mr. DOLE, Mr. MITCHELL, Mr. BRADLEY, Mr. LUGAR, Mr. NUNN, Mr. DOMENICI, Mr. BOREN, Mr. LIEBERMAN, Mr. BUMPERS, Mr. SIMPSON, Mr. COHEN, and Mr. WELLSTONE) proposed an amendment to the bill H.R. 3807, supra, as follows:

At the appropriate place in the bill, add the following new section:

SEC. . POLICY TOWARD THE FORMER SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union is undergoing a transformation which opens the possibility of democracy, the development of free markets, new individual freedoms, and integrating the former Soviet republics into the global economy;

(2) if that transformation is not successful, there is a real threat of economic and social collapse, the emergence of totalitarian, security-threatening states, and the proliferation of nuclear weapons, components, and weapons technology;

(3) the national security interests of the United States are best served by stable, democratic societies and free markets in these republics;

(4) the economic interests of the United States are best served by the full integration of the Soviet republics, either individually or collectively, into world markets;

(5) the transformation into working democracies with open market economies is mostly the responsibility of these republics themselves, but the rest of the world can make significant contributions to this effort, linking those contributions to a well-planned reform program; and

(6) the success of structural reforms can best be facilitated by the immediate, coordinated actions of the United States, other nations, and international institutions such as the International Monetary Fund, the International Bank for Reconstruction and Development (also known as the "World Bank"), the European Bank for Reconstruction and Development, and the United Nations which have the skills and resources to assist that transformation without increasing the direct exposure of the United States Government to the debt of Soviet republics.

(b) POLICY.—It is the sense of the Congress that—

(1) it should be the goal of the United States policy toward the former Soviet Union to help the Soviet republics to avoid social chaos and achieve economic and political stability;

(2) that goal can best be achieved by facilitating the transformation of the Union of Soviet Socialist Republics into stable democratic states with free market economies and clearly defined economic and constitutional relationships with each other, binding agreements to minimize tariffs and other barriers of inter-republic trade, full integration into the world economic and political community, and manageable debt burdens;

(3) the President immediately should begin consultation with Congress and should promptly prepare and transmit to Congress a comprehensive plan entitled "International Investment for Democracy" that would assist the Soviet republics to avoid social chaos and achieve economic and political stability by articulating step-by-step actions that should be taken by such republics, acting together or individually, and the supporting actions that should be taken in response by the United States and other nations through international institutions;

(4) the International Investment for Democracy plan should include expeditious action—

(A) to provide prompt humanitarian assistance when necessary to prevent life-threatening shortages of food and urgently needed medical supplies;

(B) to combat the proliferation of nuclear weapons, components, and weapons technology, and to facilitate safe control, storage, and dismantlement of nuclear weapons;

(C) to provide technical assistance to facilitate the emergence of a market economy;

(D) to facilitate a dramatically increased number and intensity of contacts between Americans in the private sector and citizens of the Soviet Union;

(E) to help Russia and other Soviet republics to draft laws, establish political and legal structures, and build institutions that facilitate open, democratic, market societies; and

(F) to articulate clear conditions under which a currency stabilization fund could be used to facilitate the goals in paragraph (1), and, at the appropriate time, encourage international institutions to establish such a fund with contributions from leading industrial nations;

(5) assistance should be provided to republics that are establishing viable political, legal, and economic structures, including free and open markets, that agree to minimize barriers to inter-republic trade and that, individually or collectively, agree to participate in macroeconomic stabilization programs designed by international institutions and the delivery of such assistance must be fully consistent with the sovereignty, laws, and independence of participating republics;

(6) bilateral programs within this plan should efficiently pursue the goals of paragraph (1) and minimize the cost to the taxpayer and the debt exposure of the United States Government; and

(7) where currency and debt stabilization programs further the goals in paragraph (1), they should be provided through existing international financial institutions, rather than through direct United States Government assistance.

CRANSTON (AND OTHERS) AMENDMENT NO. 1444

Mr. CRANSTON (for himself, Mr. PELL, Mr. ADAMS, and Mr. WELLSTONE) proposed an amendment to the bill, H.R. 3807, supra, as follows:

At the appropriate place in the bill, add the following new Title:

"TITLE .—ELIMINATION OF WEAPONS-USABLE FISSILE MATERIALS

SECTION 1. SHORT TITLE.

This title may be referred to as the "Nuclear Weapons Security and Plowshares Act of 1991".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen United States agricultural interests while meeting urgent food needs in the Soviet Union;

(2) to help to consolidate democratic and free market reform in the Soviet Union; and

(3) to eliminate a critical threat to nuclear nonproliferation efforts by safeguarding dangerous weapons-usable materials from United States and Soviet warheads.

SEC. 3. POLICIES TO REINFORCE NUCLEAR NONPROLIFERATION.

(a) DETERMINATION OF PURCHASE PRICE OF SOVIET FISSILE MATERIALS.—The Congress urges the President, in consultation with concerned allies, to determine a fair and equitable price for the purchase of diluted uranium equivalent to the volume of Soviet fissile materials which have been made redundant through unilateral reductions and arms control agreements.

(b) COLLECTION, DILUTION, AND SAFEGUARDING OF SOVIET FISSILE MATERIALS.—The Congress further urges the President to consult with the leadership of the Soviet Union for the purposes of establishing a procedure for the collection, dilution, and safeguarding of fissile materials from dismantled weapons.

(c) MUTUAL REDUCTION IN INVENTORIES AND IMPLEMENTATION OF SAFEGUARDS.—It is the sense of the Congress that it should be the policy of the United States Government that any reduction of the Soviet stockpile of fissile material for weapons should be accompanied by a parallel decrease in the United States' own inventories of fissile materials used in nuclear weapons, and by implementation of appropriate safeguards on such materials.

(d) PROPOSED AGREEMENT WITH IAEA.—It is the sense of the Congress that the President should initiate talks with the President of the Soviet Union and the Director-General of the International Atomic Energy Agency (IAEA) to seek agreement that the mutual and verifiable destruction and storage of nuclear warheads, including on-site and challenge inspections, will be subject to mutually agreeable and comprehensive verification;

(2) to discuss the advisability and feasibility of an agreement to place all civilian fissile materials possessed by the United States and the Soviet Union under IAEA or equivalent bilateral safeguards, including such materials that have been permanently transferred from weapons uses.

SEC. 4. PROVISION OF AGRICULTURAL AND OTHER ESSENTIAL COMMODITIES FOR SOVIET FISSILE MATERIALS.

(a) EXCHANGE OF AGRICULTURAL COMMODITIES FOR SOVIET FISSILE MATERIALS.—The President shall provide to the Soviet Union—

(1) surplus agricultural commodities owned or controlled by the Commodity Credit Corporation which are available for disposition under section 416(b) of the Agricultural Act of 1949, or

(2) agricultural commodities or other essential commodities purchased at market prices,

in exchange for Soviet fissile materials of equivalent value.

(b) FINANCIAL ASSISTANCE FOR SOVIET DEVELOPMENT BANKS.—In addition to the commodities provided under subsection (a), the President shall provide 25 percent of the monetary value of the Soviet fissile materials acquired under such subsection to the Soviet republics in the form of financial assistance which shall be available only for the establishment of regional and local development banks.

(c) REIMBURSEMENT OF COMMODITY CREDIT CORPORATION.—The President shall reimburse appropriations for the Commodity Credit Corporation for commodities provided under subsection (a).

(d) SUPERSEDING EXISTING LAW.—Any agricultural commodity or financial assistance provided under this section to the Soviet Union or to any Soviet republic shall be provided notwithstanding any other provision of law.

SEC. 5. STORAGE, SAFEGUARDING, USE, AND ELIMINATION OF FISSILE MATERIALS.

(a) REPORTS.—Not later than 180 days after the date of enactment of this Act, with respect to paragraphs (1) and (2), and not later than one year after such date, with respect to paragraph (3), the Secretary of Energy shall submit a report to the Congress setting forth—

(1) a plan for the safeguarded storage and dilution of enriched uranium acquired under this Act;

(2) a plan for the safeguarding of plutonium in facilities in the Soviet Union and in the United States; and

(3) the findings of the study conducted under subsection (b):

(b) STUDY ON PLUTONIUM STOCKS.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study on United States and Soviet Union plutonium stocks and safe and effective means to store and ultimately dispose of such inventories and the plutonium accumulating in spent civilian-power reactor fuel.

SEC. 6. POLICY REGARDING NEGOTIATION OF BILATERAL AGREEMENT.

It is the sense of the Congress that the Secretary of State should explore with the Soviet Union an agreement not to produce highly enriched uranium of separated plutonium.

SEC. 7. TRANSFER OF FUNDS OUT OF DEPARTMENT OF DEFENSE ACCOUNTS.

The Secretary of Defense shall transfer to the President out of such accounts of the Department of Defense as he may designate during fiscal years 1992 through 1996 such funds as may be necessary to carry out the purposes of section 4:

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) the term "agricultural commodity" includes any edible agricultural commodity grown in the United States;

(2) the term "nuclear weapon state" has the same meaning given to such term by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(3) the term "safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A) (5) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(4) the term "Soviet Union" includes all successor states to the Soviet Union; and

(5) the term "weapons-usable nuclear material" means (A) any uranium that is enriched to more than 20 percent in U-235 or U-233, or both, or (B) any mixture of plutonium isotopes containing less than 80 percent PU-238.

COPYRIGHT RENEWAL PROVISIONS

LEAHY AMENDMENT NO. 1445

Mr. LIEBERMAN (for Mr. LEAHY) proposed an amendment to the bill (S. 756) to amend title 17, United States Code, the copyright renewal provisions, and for other purposes, as follows:

On page 20, strike out lines 21 through 23, and insert in lieu thereof:

(B) The American Society of Cinematographers and the International Photographers Guild shall jointly nominate 3 candidates.

NOTICE OF HEARING

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Tuesday, November 26, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building on an original bill providing for an amendment to the 1956 Lumbee Act to be followed immediately by a hearing on S. 1602, the Fort Peck Indian Tribes-Montana Compact Act of 1991.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 25, 1991, at 10 a.m. on the nomination of James B. Busey IV, to be Deputy Secretary of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed/executive session on Monday, November 25, 1991 at 2 p.m., to consider the nomination of Lt. Gen. Thomas J. Hickey, USAF, to be placed on the retired list in the grade of Lieutenant General.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 25, 1991, at 10 a.m. on the nomination of Jerry R. Curry to be administrator of the Federal Aviation Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Monday, November 25, at 2 p.m. to hold a hearing on the threat of North Korean nuclear proliferation.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOL 137 PT 23 NO 21—25 1991 UMI

COMMITTEE ON FINANCE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 25, 1991 at 3:30 p.m. to consider a bill to extend certain expiring tax provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HUMAN RIGHTS PROBLEMS IN ROMANIA

• Mr. LIEBERMAN. Mr. President, the liberation of Central and Eastern Europe from communism could usher in a new era of peace and prosperity, but only if the old ethnic antagonisms, which plagued Europe before World War II, are controlled. Unfortunately, this has not thus far been the case. The world has watched with concern as ethnic hatreds have torn apart Yugoslavia, leading to the first armed conflict in Europe since World War II.

Old antagonisms have also plagued Romania. Romania's Hungarian minority, which represents about 10 percent of the country's population, has come under attack by Romanian nationalists. Many of these attacks have focused on one of the great heroes of recent years, Bishop Tokes, the Hungarian pastor who led a long and lonely fight against persecution against the Hungarian minority under the Ceausescu regime. Bishop Tokes was the target of frequent harassment, which culminated in November 1989, when masked men entered his church in Timosoara and beat him in front of his wife and child. Government authorities tried to evict him and his family the following month, but were prevented from doing so by friendly town's people. This was the beginning of the anti-Ceausescu revolt.

Instead of being treated as a national hero by the national authorities, Bishop Tokes has come under unfair criticism by Romanian extremists within the government. Within recent months, a senator from the National Salvation Front, the ruling party, called on the Romanian Secret Police to investigate the so-called "anti-State, anti-Romanian" activities of Bishop Tokes. Another Romanian senator read aloud a letter of abuse directed against Bishop Tokes, written by the same securitate officer, who directed the Ceausescu regime's persecution of Bishop Tokes.

Nor have attacks been limited to Bishop Tokes:

Members of the Romanian Senate have called for the banning of the Hungarian Democratic Alliance, the second largest political party.

Other members have called for the imposition of martial law in the two counties of Romania with a majority ethnic Hungarian population.

The Romanian Senate has passed an article of the draft Romanian Constitution which removes provisions for the use of the Hungarian language in public administration.

An official of the National Salvation Front has brought a lawsuit for anti-Romanian activities against five of the best known democratic leaders in Romania, four of whom are ethnic Hungarians, and the fifth being Mrs. Doina Cornea, the prominent Romanian dissident.

I realize that the Romanian Government officials are not always in a position to control all members of their party and government. Nor are they always in a position to control bigotry outside of the government. But Romanian Government officials must be more vocal in denouncing this ethnic antagonism.

Senator DODD and I introduced an amendment last July that condemned ethnic intolerances in Romania. Among other things, we called on the Government of Romania "unambiguously to condemn those organizations promulgating anti-Semitism and animosity toward ethnic Hungarian, Gypsies, and other minorities." Since then, we have also signed a letter to Secretary Baker asking that most-favored-nation status not be granted to Romania until free elections are held and the human rights situation, notably its treatments of minorities, improves.

We have leverage over Romania. Trade with the United States has dropped precipitously since 1987 from a high of $715 million in 1987 to $231 million in 1990. This has occurred at a time when the Romanian economy has also declined dramatically; the GNP of Romania was approximately $81 billion in 1987 and fell to about $66 billion in 1990.

Mr. President, I look forward to the day when we can support most-favored-nation status for Romania. Romania has much to contribute to the new Europe that is slowly being built. But to fully rejoin the community of European democracies, the Romanian Government must lead the fight against ethnic divisions. The ghost of Nicolai Ceausescu will not be fully exorcized until that is done.•

HEALTH CARE: FIRE OUT OF CONTROL

• Mr. SIMON. Mr. President, Congressman HARRY JOHNSTON of Florida, one of the really fine, relatively new Members of the Congress, recently had an op-ed piece in the Washington Post comparing fire protection and health protection.

While any analogy always has its limitations, I thought it was a superb comparison.

I urge my colleagues in the Senate and their staffs to read this excellent column by Congressman HARRY JOHNSTON, and I ask that it be printed in the RECORD at this point.

The column follows:

Health Care: Fire Out of Control

(By Harry Johnston)

Imagine if fire departments were modeled on our current health care system. Your access to the fire department services would depend on the quality of your fire insurance. If private market forces operated as they do in health care, 37 million people would not have fire insurance, and 60 million more Americans would have only limited fire insurance. Moreover, if you were previously a victim of fire, your fire insurance agent would raise your premium due to your preexisting condition of bad luck.

While it is possible you could feel secure if you had quality fire insurance, you might begin to wonder when your neighbor's house sets ablaze. Is his employer still providing his fire insurance, or is he one of the 29 million working uninsured? Absurd, isn't it?

Fortunately, our society has decided that protection from fire is a community responsibility; it is time that we made the same distinction for health care. It is a historic accident that health care coverage has fallen to the responsibility of business. After World War II, America continued a policy of wage controls as our troops returned home and flooded the labor market. Facing labor shortages and unable to increase wages, businesses competed for workers by offering benefits such as health insurance.

Relying on employers to manage health insurance has resulted in a piecemeal system of coverage that is inefficient and ineffective. With business affiliation providing the basis of forming insurance pools, private insurance companies have isolated pockets of our population that can be manipulated to generate a profit. There is no rationale why two individuals with the same health status may face drastically different insurance costs because of their business affiliation or lack of it.

Our health insurance system's moral deficiencies translate into economic inefficiencies. The complexity of our current system is a nightmare for health care providers. Picture a firefighter searching through files to determine whether a desperate caller is insured and if so what services are covered. This is what our physicians face every day, and this inefficiency has contributed to the highest administrative cost of any health care system in the industrialized world.

The American economy suffers from a stranglehold of these soaring health care costs. Businesses that provide health insurance for their employees are crippled in the international market. Currently, Chrysler's health insurance costs force the price of its automobiles up by $700 compared with the $300 expense incurred by a comparable German car company.

Responsibility for insuring health care is misplaced; it is as if we were telling businesses that they must manage the provision of fire insurance in our community. America's health care crisis derives from a core misconception, and incremental solutions will not deliver a cure. Increasing coverage in this inefficient system will exacerbate our runaway health costs and, therefore, lead to poorer access to services.

As a pretext to any serious reform, we must resolve that health care is a community responsibility. First, we must declare that providing health insurance entails an obligation to cover a comprehensive population dispersing our shared risk of illness in a large insurance pool. We can no longer provide private insurance for the healthy and the affluent and leave the ill and the poor for a public program.

Second, we must establish a structure of health care budgets at the state, district and institutional level. Hospitals should receive a budget target with which to provide an expected level of services. District and state health boards would review each institution's performance with respect to its budget target rewarding efficient providers and weeding out inefficient practices. Physicians, not insurance companies, would have greater responsibility for managing our health care.

America deserves a better health insurance system. I find it sadly amusing that amid our talk of the community of nations, we have forgotten to safeguard the foundations of our own communities. The fires are burning.•

THANKS TO ARLENE ALTMAN

• Mr. DECONCINI. Mr. President, as we approach Thanksgiving Day, it is most appropriate that we take a few moments to express our thanks and appreciation to members of our Senate community who give of their talents and abilities to make our lives in and around the Senate run more smoothly.

One such outstanding member who recently left our Senate family is Arlene Altman who, since 1985, has served as the Director of the Senate Employees Child Care Center [SECCC]. Arlene is truly among our Nation's most dedicated child care professionals. Under her leadership, the Senate Employees Child Care Center became a model center for the many Federal agency child care centers in the Washington, DC area, as well as for child care centers across the Nation.

Arlene Altman is a pioneer in promoting and establishing quality child care programs, especially work-site child care. Long before the Congress and national and State policymakers recognized the pressing need that working parents have for first-rate child care options, Arlene had already built a distinguished career in directing child car programs, and was an accomplished professional in the field of early childhood education and development.

In 1985, Arlene became the second Director of the Senate Employees' Child Care Center. Under her able leadership, the SECCC Program grew and blossomed into one of the country's finest child care programs. Working with the center's board of directors, Arlene had responsibility for the management, administration, and program development of the center. During her tenure, she fostered a supportive and warm environment for the families who belong to the SECCC, reflecting her philosophy that "a family-oriented child care center can provide quality education, and a sense of joy from working together toward a common goal—our children's well-being."

Parents must be fully confident that the care they choose for their children while they work is of the highest quality. Because of Arlene's dedication, our employees whose children attend the SECCC have had the security of knowing that their children are cared for in a nurturing, loving setting, and are receiving a solid foundation for their education in the future.

Recently, Arlene left the SECCC to pursue other goals and explore other facets of the child care and early childhood education field. She is truly missed by parents, staff, and other members of the SECCC family who have been deeply touched by her vision, her tireless devotion to the children, and her attention to the needs of parents and families.

My wife Susan and I have known Arlene as a friend since she came to the SECCC, and we join with all those who have been part of the SECCC community in thanking her for her years of services, and for all that she has done for our children.•

BANKING REFORM LEGISLATION

(S. 543)

• Mr. KERREY. Mr. President, late last week the Senate passed by voice vote the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 (S. 543). I support passage of this legislation because it is imperative that we recapitalize the Bank Insurance Fund [BIF]. Recapitalizing the insurance fund is important if we are to maintain confidence in our financial system. The bill also gives regulators early intervention powers that are necessary to address problem institutions and lessen the cost of bank failures on the insurance fund. However, we need to be completely honest with ourselves and the American people as to the fact that the situation is much more serious than we have let on.

The legislation also included an important provision that instructs the FDIC to develop and institute risk-based deposit insurance premiums. Such a system would, in my view, shift the burden from well-capitalized and well-managed banks to those institutions that are most likely to draw on the insurance fund. This would reduce risky practices by banks and would put the insurance fund on a firmer basis over the long run.

I am pleased that the Senate narrowed the administration's original proposal to reform our bank system because I am not convinced by the argument that the main problem facing our country's banking sector is a lack of big banks. Further, I believe this is not the time to provide banks with the authority to sell new products and services.

I was disappointed by the Senate's inclusion of the D'Amato amendment on credit card interest rate caps. It is bad policy and it runs the risk of reducing credit to millions of Americans. It will have precisely the opposite effect of what the authors intended. The amendment has sent an important signal, and I believe that it has provoked a worthwhile debate and examination of this issue. I hope that it is dropped during conference with the House.

The Senate reached a compromise on the interstate banking issue with the Ford amendment. I would have preferred the Bumpers amendment preserving the "opt-in" approach to interstate banking. As a former Governor, I believe that States should be able to decide what types of banking activities will occur within their borders.

Although I had previously opposed the requirement for Government checking cash, I believe that the Banking Committee had sufficiently modified these provisions in a manner that addressed a number of the concerns raised by bankers in the past. Many Nebraska banks already provide similar services, and I was pleased that the legislation allowed them to be grandfathered into the law.

The need for a recapitalization of the BIF indicates the importance of banking to create an atmosphere of stability. The policies of the last decade have undermined public confidence in the financial system. Reversing this is vital to our long-term economic growth.•

SPECIAL EVENING AT DETROIT INSTITUTE OF ARTS

• Mr. LEVIN. Mr. President, each year "Bal Africain" is held at the Detroit Institute of Arts to raise money for scholarships for African-American students and to purchase major African and African-American art works for the museum and 1991 marks the 29th anniversary of this event which has become a highlight of the museum's fall social schedule.

But the December 7, 1991 "Bal Africain" will take on special significance, because a very important collection from the Barbier-Mueller Museum in Geneva, Gold of Africa, will be exhibited. A dazzling array of finely executed royal art, primarily dating from the late 19th and early 20th centuries, will be displayed. There will be ornaments and jewelry, some ornate, some whimsical, many of the objects depicting animals and scenes from daily life. Often the themes illustrate proverbs that allude to the power of the rulers.

And finally, to make the evening the most memorable in history, "Bal Africain" will welcome as its guest of honor His Royal Highness Odeefuo Boa Amponsem III, King of Denkyira, Ghana. The King will sit in state in traditional regalia, adding a feeling of excitement and glamor to the evening.

Mr. President, it is indeed a pleasure to welcome the King and Gold of Africa to the Detroit Institute of Arts, a very

VOL 137 PT 23 NO 21—25 1991 UMI

important cultural institution in our city, and I want to congratulate all those who have planned and carried out "Bal Africain" this year and for over a quarter of a century.•

DEFENSE EXPORTS

• Mr. LIEBERMAN. Mr. President, I would like to bring to the attention of my colleagues an important article from the Journal of Commerce on defense exports by Mr. Lawrence Lesser, a professor of business management at the University of Maryland. Mr. Lesser points out that United States firms are at a disadvantage in exporting their products in comparison with their European, Latin American, and Asian rivals. These countries receive major support from their governments; our firms receive much less support. This must change if we are going to compete successfully for international markets.

At the same time, we must be sure that weapons not be exported in ways that destabilize military balances in the Third World and increase the chances of war. This is the balance we must strike by supporting our defense firms when they are selling exports for legitimate defense needs. Earlier this year I introduced legislation that would help our defense exporters by establishing a program at the State Department to supply our defense exporters by establishing a program at the State Department to supply our defense exporters with necessary financing. Senator DODD introduced similar legislation, and we have both worked hard to see that our defense firms are not at a competitive disadvantage.

I commend Mr. Lesser's article to my colleagues.

The article follows:

[From the Journal of Commerce, Sept. 25, 1991]

STRATEGIC DEFENSE OF EXPORTS

(By Lawrence M. Lesser)

With the Cold War over and the defense budget on a downward spiral, major American defense manufacturers are closing plants and reducing expenses wherever possible in an effort to streamline operations.

At the same time, many firms have embarked on major diversification programs, shifting excess production capacity of nonmilitary markets such as aerospace, commercial aviation and motor vehicles.

If present trends continue, Federal outlays for defense will decline by at least 22% over the next five years. And defense spending as a percentage of the gross national product will drop to its lowest level since the end of World War II.

In order to strengthen their ability to withstand the smaller military marketplace of the 1990s, U.S. firms also are looking to overseas markets for defense-related business. In spite of their technological supremacy, however, they often find themselves at a competitive disadvantage because of the financial backing foreign exporters receive. Defense firms of the United Kingdom, France, Japan and Canada can gain concessional financing from their governments through national export-import banks. American companies have no such resource.

The U.S. military sales program, which offers financing for weapons sales, only applies to government-to-government sales and is not generally available for private sales to most European countries. The result is lost sales, lost jobs and a deteriorating U.S. defense industrial base.

For example, Westinghouse was a finalist in 1987, along with Thomson-CSF of France, to build a mobile radar for a ground-based defense system in Turkey. Thomson, one of Europe's largest defense firms, offered an attractive financing package including a 10-year grace period and a 3.5% interest rate. But Westinghouse was unable to obtain similar financing from the Export-Import bank and so lost the sale.

Another American firm, FMC Corporation, won a contract to supply more than 1,000 armored combat vehicles to Turkey. But when FMC went to its banks to secure financing for the deal, its requests were denied. The Ex-Im Bank also said no. FMC eventually located financing in Europe through the export-import banks of the Netherlands, Belgium and the United Kingdom. But to gain financing, FMC had to agree to build the vehicles in these countries.

FMC did win the contract. But jobs that would have gone to Americans instead went abroad because there was no U.S. government commercial financing available.

Congress should initiate an incentive financing program to help American defense manufacturers boost international sales at a time when geopolitical changes have sharply reduced the demand for military goods and services at home.

Under legislation now pending, NATO countries such as Greece and Turkey and key non-NATO allies Japan, Israel, Australia and New Zealand, would be offered commercial bank financing backed by U.S. government guarantees. The goal, which has been endorsed by President Bush, is to encourage these nations to meet their military requirements from American sources.

The Senate in late July approved a bill that would authorize a new export financing program administered by the State Department. But the House rejected a plan in June that would have placed the Ex-Im Bank in charge of the program.

Ex-Im Bank supporters worried that with new duties the bank would become embroiled in controversy and that its ongoing programs would be jeopardized. In 1968, Congress banned most Ex-Im Bank financing of arms sales following the disclosure of covert loans to developing countries during the Vietnam War.

But the Senate measure overcomes many of the flaws inherent in the old program. It would be run by the State Department, not Ex-Im Bank, and would be limited to selected U.S. allies, all stable democracies.

Nonetheless, opponents still question the justification for any program of military export financing. They argue that capital investment should be diverted toward more pressing domestic needs. And besides, they maintain, federal programs already exist to cushion the blow for displaced workers, communities and businesses affected by cutbacks in defense spending.

To be sure, we live in a world in which the threat of global conflict has receded. But our nation's strategic interests are still jeopardized by ongoing regional conflicts. The president and Congress have an obligation to assure that the United States has an adequate defense industrial base to meet future contingencies.

America also has economic interests at stake. Today, U.S. exports equal about 15% of real GNP and have become a major source of growth for the economy. The nation's trade deficit for the first seven months of the year has fallen to its lowest level in eight years. An increase in export growth, coupled with a reduction in the trade deficit, would be a significant counterweight to recessionary pressures.

Unfortunately, the fears of U.S. defense firms were heightened recently when European manufacturers, in a push to strengthen their own finances, signaled their willingness to cast American partners aside in favor of cooperative joint ventures with former rivals. Thomson-CSF just canceled a large missile venture with LTV Corporation and instead joined forces with Euromissile, its foremost competitor. Other similar ventures are being concluded by firms in Britain and France, Germany and France, and Italy and Spain.

In today's highly competitive global marketplace, the ability to offer favorable financial terms is as vital to successful exporting as quality and price are. If U.S. defense suppliers are unable to be competitive because of inadequate financing, the needs of foreign purchasers will be met by products made in London, Paris or Rome instead.

American defense firms believe that excellent opportunities exist to sell their products in overseas markets, if only they have a fair chance to compete. The least our government can do is to create a level playing field to give them that opportunity.•

STATE'S TOP FINANCIAL WATCHDOG: ROBERT CRONSON

• Mr. SIMON. Mr. President, one of the finest public officials I have known in my years of public life is a person who is retiring soon as the auditor general of Illinois, Robert Cronson.

He has played it straight, and with great courage.

Somehow, I hope his public service will continue. Precisely how, I am not sure.

It could be that the General Accounting Office could take advantage of someone with his skills.

Precisely where he will continue to serve, I don't know, but he is too valuable a person to simply be playing golf in Florida.

I ask that the Chicago Tribune article by Rick Pearson about his retirement be printed in the RECORD at this point.

The article follows:

STATE'S TOP FINANCIAL WATCHDOG IS BOWING OUT AFTER 17 YEARS

(By Rick Pearson)

SPRINGFIELD.—Auditor General Robert Cronson, whose critiques of state spending brought him into frequent conflict with the last two governors, said Tuesday he will retire at year's end from the watchdog post he has held for 17 years.

"Edgar hasn't been around long enough," Cronson said. "[Democrat] Dan Walker accused me of being a Republican, and [Republican] Jim Thompson accused me of being a Democrat, and I'm kind of proud of that fact."

Cronson, 66, the only non-elected constitutional officer in state government, becomes the most noteworthy name to take advantage of the state's new early retirement program, created this year as part of an effort to cushion state spending in fiscal 1992.

But Cronson, who will leave Dec. 31 with three years remaining in his second 10-year term, acknowledged that he will miss the ability to provide stringent oversight during a period of tenuously balanced state budgets.

"In my opinion, the state's fiscal condition is just as bad, if not worse, as anyone's willing to admit," he said.

"To a large extent, budget balancing has been done with mirrors and without reference to a lot of the underlying problems no one wants to make reference to."

One example, he said, was the state's pension system, of which he is soon to become an annuitant, where unfunded liabilities have increased to $11 billion from $3 billion in the last decade.

"There are a lot of problems, and they can't be dealt with politically," he said.

"Until the state is willing to face up to its fiscal problems, things won't improve."

Known for his candor, Cronson has been a frequent critic of the Illinois Toll Highway Authority and gained Thompson's wrath for an audit that assailed the job-incentive efforts st the Department of Commerce and Community Affairs.

"Nobody elected the auditor general governor, and if he wants to be the governor, he ought to run," Thompson responded to the 1989 audit.

But Cronson's most raging battle, which went to the U.S. Supreme Court, involved the Illinois Supreme Court and whether he had the right to audit the Attorney Registration and Disciplinary Commission, funded by attorneys' fees.

Cronson argued that the fees were public funds, but the courts disagreed.

Cronson has been in state government through four decades, serving in the early 1950s as state securities commissioner and, later, as an assistant secretary of state under Charles Carpentier.

He was elected by a three-fifths majority of the General Assembly in 1974 to serve as the state's first constitutional auditor general and was re-elected in 1984.

The legislature's bipartisan Legislative Audit Commission will conduct a search for Cronson's replacement and make recommendations to the General Assembly, which will make the final determination.•

TRIBUTE TO HOLMES ADAMS

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Holmes Albert Adams, the mayor of Neptune City whose 37 years of public service has enriched his community and all of us touched by his selflessness and leadership.

On January 18, 1992, the borough of Neptune City will honor Mr. Adams for his unparalleled dedication to improving the quality of life in New Jersey. I join in paying tribute to Mr. Adams and am proud to bring this occasion to the attention of my colleagues.

Holmes Adams enlisted in the U.S. Army during World War II and after a 3 year tour of duty, he was elected to the Neptune City Council. Mr. Holmes served as councilman until his appointment as mayor of Neptune in 1968.

During his tenure as mayor, Mr. Adams reached far beyond the responsibilities of his elected office. His dedication to serving the youth of his community has spurred his involvement with many important educational and recreational organizations. As president of the local P.T.A., advisor to the Methodist Youth Fellowship, founder of a local Cub Scout pack and chairman of both the Helping Hands Nursery School and the Neptune City Playground Committee, Mr. Adams has displayed compassion, generosity and wisdom in shaping a better tomorrow for the children of Monmouth County.

In his capacity as mayor, Mr. Adams has been singled out by his colleagues for his professional accomplishments as well as his high personnel standards. Mr. Adams was selected as president of the Monmouth County Mayor's Association and the Monmouth County Municipal Association. He also served as director of the board of New Jersey Mayor's Association.

After nearly four decades of tireless work and leadership in Monmouth County, Mr. Adams will retire from public office on December 31, 1991. Monmouth County and all of New Jersey will miss his contributions, which touched and changed so many lives. Mr. President, I am honored to join the borough of Neptune City in paying tribute to a man who has given so much of himself and to wish him many healthy, and happy years of retirement. I know he will enjoy the extra time with his beloved wife of 48 years, and his children and grandchildren. Holmes Adams is a deserving recipient of our praise and recognition.•

VERMONT PEARL HARBOR VETERANS RECEIVE COMMEMORATIVE MEDALS

• Mr. JEFFORDS. Mr. President, last Saturday, November 23, 1991, 24 Pearl Harbor veterans from Vermont received the Congressional Pearl Harbor Commemorative Medal. I ask that my remarks from the ceremony and the following article, which includes the names of the surviving Vermonters who received the medals, be included in the RECORD.

The material follows:

U.S. SENATE,
Washington, DC, November 23, 1991.

GENTLEMEN, YOUR FAMILIES AND FRIENDS: At Pearl Harbor, when enemy planes appeared out of the Sunday morning sky to hit our prime Pacific military base, Vermonters were there. One hundred thirty years ago, when Confederate cannons opened on Fort Sumter, Lincoln asked the governor of Vermont for help. Gov. Erastus Fairbanks called the Legislature into session, in this very chamber, and the state responded by rushing six regiments off south to war and by appropriating the then-staggering sum of one million dollars to support the war effort.

When it was all over, Philip Sheridan stood at the speaker's rostrum in this room to say that he never served with finer soldiers than the Vermonters. And the tradition continued at Manila Bay and over there to Belleau Wood and at Pearl Harbor and across the Pacific and in Europe and North Africa. And it continued in Korea and Southeast Asia and in the sands of Iraq. Vermonters, though peaceloving people, have always done their part when the nation called.

Where have 50 years, half a century gone? I remember THE day almost as if it were yesterday, though I was only seven years old. We were at home on Kingsley Avenue in Rutland when my father drove in from his Sunday card game and told us we were at war. We went inside and turned on the big floor model radio in the livingroom and heard the unbelievable reports. And here today, a half century later, are men from Vermont who were there in the smoke and fire while we, a quarter of the world away, listened.

The years have gone by, but the memories remain vivid, certainly more so for you than for those of us who only listened. And while there certainly is pain in the memories, there is also reasons for pride. Once again Vermonters had stood to the duty station and done what was asked of them. So it has always been since, even before, there was a State of Vermont, a United States of America.

Congratulations to you, our Pearl Harbor veterans. I wish I could be there to join in honoring you. But know I'm thinking of you at this hour and remembering a long ago day by the radio as you remember a day of thunder and deadly rain on an Island then so far away.

Most sincerely,
JAMES M. JEFFORDS,
U.S. Senator
(Captain, USNR, retired).

[From the Sunday Rutland Herald and the Sunday Times Argus, Nov. 24, 1991]

PEARL HARBOR VETERANS FROM VERMONT RECEIVE COMMEMORATIVE MEDALS

(By Maura Griffin)

MONTPELIER.—Alfred Hinton remembers where he was 50 years ago on Dec. 7 when the Japanese attacked Pearl Harbor. So did many others at a ceremony Saturday.

"I was at the end of a runway at Fort Kamamkail," he said Saturday after receiving a congressional Pearl Harbor Commemorative Medal. "I was a motor sizer and in charge of command and fire control systems."

Hinton and 23 others received the medals at a ceremony in the well of the State House that drew about 60 people.

"It's fantastic, a once-in-a-lifetime thing to get this medal," Hinton of Newport, said. "It doesn't bring back any of the boys we lost over there, but it gives us something to remember them by." He will return to Pearl Harbor in December for the first time since World War II.

Sen. James Jeffords, R-Vt., also remembered where he was, far away from Hawaii in Vermont.

"I remember the day almost as if it were yesterday, though I was only seven years old," Jeffords said in a letter read by a representative. "We were at home in Rutland when my father returned and told us we were at war. We went inside and turned on the big floor-model radio in the living room and heard the unbelievable reports."

"Jeffords, along with Sen. Patrick Leahy, D-Vt., and Rep. Bernard Sanders, I-Vt., were in Washington and not able, to attend. Leahy also sent a letter with a representative, as did Gov. Howard Dean.

A copy of the Honolulu Star Bulletin of 60 years ago was displayed in the lobby in the

VOL 137 PT 23 NO 21—25 1991 UMI

State House, spurring memories and reflections. Dean has proclaimed Dec. 7 to be Pearl Harbor Remembrance Day.

"Our motto is 'Remember Pearl Harbor and keep America alert,' " said Arnold Tibbitts, an Army veteran who is head of the Vermont chapter of the Pearl Harbor Survivors Association "Aloha."

"I'm very proud of all the veterans," he said. "And of the Norwich cadets. This is a military thing."

A Norwich University color guard participated in the military ceremony.

Herbert Hunt said he has letters that he sent to his mother the week before the bombing of Pearl Harbor, explaining how he expected an attack by the Japanese.

"The bombing wasn't really a surprise," he said. "We were unprepared militarily, but we weren't that surprised."

Hunt, who was a private when war broke out and a full commander when he retired, said every perspective of the attack is different.

"We only saw what was in our vision. A person a block away could have experienced something quite different," he said.

Brigadier Gen. Joseph Potter, a Pearl Harbor expert and commander of Norwich University, spoke to the crowd.

"Pearl Harbor galvanized the American people like no other event," he said. "There were innumerable acts of heroism and courage. Today those battle scars are carefully preserved and they serve as a constant reminder to never be caught unawares again."

SURVIVORS FROM VERMONT

MONTPELIER—Here is a list of the Vermonters who on Saturday received congressional Pearl Harbor Commemorative Medals:

Lester J. Alberghini, Army Air Corps, of North Troy.
Walter Robert Amadon, Navy, of Chester.
The late Joseph L. Bagriewicy, Navy.
The late James Jarvis Belvin, Navy.
Earl C. Bennett, Army, of Newport.
The late Lucien E. Boldue, Army.
Chester Franklin Brooks, Army, of South Burlington.
The late Winston Churchill, Navy.
Wendell O. Godin, Army, of Enosbury Falls.
The late Joseph N. Finnegan, Navy.
Merle I. Hamilton, Army, of Burlington.
Alfred C. Hinton, Army, of Newport.
Herbert Hunt, Army, of Graniteville.
Silas Hamilton Jewett, Army, of Morrisville.
Edgar Warren Johnson Jr., Army, of Manchester Center.
Joseph Charles Karwan, Army, of Milton.
Carman F. Landy, Army, Readsboro.
Frederick Lawrence, Army Air Corps, of Barre.
Robert C. Lawrence, Army, of Troy.
Athol E. Manning, Army, of Ludlow.
Eugene Gilbert Murphy, Navy, of Ryegate.
Arthur Maurice Partridge, Navy, of Barre.
George Ratcliffe, Army, of Wilder.
Arnold Tibbitts, Army, of Plainfield.•

USDA PLAN TO AID SOVIETS SHOULD BE DROPPED

• Mr. HELMS. Mr. President, last week the Department of Agriculture announced a $1.5 billion aid program for the Soviet Union. Most of these funds will be used to buy American commodities from American farmers. About one quarter billion dollars may be used for noncommodity aid.

While I can understand why U.S. farm organizations want to extend loans to the Soviet Union to purchase American farm products, I do not believe that USDA should start a major foreign aid program for the Soviet Union without any congressional debate or specific authorization.

There may well be programs of assistance for the Soviet Union we can all support. But from what I have seen of the new USDA plan, it needs to go back to the drawing board for rethinking.

Mr. President, one of the major elements in the plan, according to news reports, is for USDA to create a "model farm outside of St. Petersburg." The people of the former Soviet Union are probably thinking: "Oh great, just what we need—another state-run farm." They have made it clear that they are sick and tired of model farms, model factories, and all of the other models they have lived with under 75 years of communism.

I suppose, but you can never be sure, that the United States Department of Agriculture can run a better model farm than the bureaucrats at the Soviet Ministry of Agriculture. But this comes across as simply an expensive bureaucratic game of one-upsmanship or international bureaucratic rivalry. One State farm is as much of a disaster as another, and being run by the U.S. Government does not make it an exception to this rule.

There is a private agriculture sector in the Soviet Union and there is a growing body of aspiring private sector entrepreneurs there. If the administration is going to give aid to the Soviet Union, it needs to come forth with a real plan—one that addresses the real needs in the Soviet Union for economic and political freedom—and present that plan to the Congress for approval. Using back-door tactics of invading funds appropriated for helping American farmers is not the way to go about making a major foreign policy decision such as aid to the Soviets.

Mr. President, to date, Congress has wisely rejected the administration's efforts to get a blank check for billions of dollars for aid to the Soviets. The administration seems to be spending its time trying to find money for an unspecified Soviet aid program and neglecting the real work of coming up with a supportable program.

This is not an ideological matter. I would urge the administration to devote its time to come up with a specific plan for us to consider as soon as possible. However, if the plan is no better than the USDA plan for a model American State farm—which is simply trying to show that communism could work with better technology—I will oppose the plan.•

S. 1220, THE NATIONAL ENERGY SECURITY ACT

• Mr. LAUTENBERG. Mr. President, as we approach the end of this session of Congress, I want to address one of the major unfinished pieces of business before the Senate, energy legislation. This Nation needs a new comprehensive energy policy. Earlier this year I voted to oppose the motion to proceed to S. 1220, the National Energy Security Act. That legislation fell short of what we need. The chairman of the Energy Committee, Senator JOHNSTON, worked very hard to develop a bill. While my statement will make clear we disagree on major aspects of such a policy, we share the same desire to see the Congress address national energy policy. Today, I'd like to provide my views on the type of energy legislation which the Congress must pass during the next session.

Mr. President, S. 1220 served us more of the gluttonous menu of environmentally destructive energy development programs we now have when we need to go on an energy diet and develop cleaner, nonpetroleum-based fuels. It would have continued our existing misplaced energy priorities and it misses important energy conservation opportunities.

We often hear about the energy crisis. But the United States doesn't have a shortage of energy. Rather, we are too dependent on petroleum-based liquid fuels and too reliant on foreign oil—a reliance which adversely effects our national security and our balance of trade. Too much of the world's oil is under the control of Mideast countries—37 percent of the world market, and 24 percent of U.S. imports. And U.S. oil imports are too high—around 50 percent of our oil use or roughly 8.5 billion barrels per year. Oil imports account for 54 percent of our trade deficit.

Energy use has another important dimension, its effect on our environment. Some sources of energy cause significant, adverse environmental impacts—on local, regional, and global scales.

Motor vehicles are responsible for much of our smog, carbon monoxide, and air toxics problems. And power plants are a large source of pollutants which cause acid rain. We comprehensively addressed these air pollution problems last year in the Clean Air Act.

Of particular remaining concern is the release of carbon dioxide which contributes to global warming. I'll have more to say about the relationship between energy use and global warming.

So, in establishing energy policy, we must reduce our reliance on unstable sources of oil and stimulate sources of energy which minimize environmental impacts. We need a four pronged approach to address our energy crisis.

The heart of our policy should be energy conservation. The United States

has an enormous potential to conserve energy. With less than 5 percent of the world's population, and about 2.5 percent of the world's oil reserves, the United States uses 25 percent of the world's energy output. If the United States used energy as efficiently as Japan, we could lower our national fuel bill by $200 billion every year. Per capita energy use in the United States is more than double that of Japan, France, and Italy and close to double that of the United Kingdom and West Germany. We must tap into our energy conservation potential.

Second, we must develop our enormous reserves of renewable energy like solar energy. According to the Department of Energy, the annual renewable energy resource base is five to eight times the size of our total recoverable domestic coal reserves.

Third, we also must increase our use of clean alternative fuels like natural gas. According to CRS, alternative fuels programs established in the Clean Air Act and proposed in S. 1220 would displace 7 to 10 percent of total motor fuel use by the year 2010.

Finally, we must increase efforts to better utilize our existing oil resources. According to administration estimates, enhanced oil and gas recovery from existing oil fields would result in additional oil production of 1.4 million barrels of oil per day by 2005 and increased oil reserves of 20 to 65 billion barrels of oil.

Mr. President, such a policy is not only feasible, it is environmentally preferable and economically desirable. A new study, "America's Energy Choices: Investing In a Strong Economy and a Clean Environment," makes this clear.

The study, which was prepared by the Alliance to Save Energy, the American Council for an Energy Efficient Economy, the Natural Resources Defense Council, and the Union of Concerned Scientists, outlines a variety of measures to address our energy situation. While I don't agree with every recommendation, most of the recommendations are based on programs which I support and will discuss.

The study concludes that under a variety of scenarios, relying mainly on energy conservation and renewable energy, we can significantly change the level of energy use that is predicted for 2030 based on current policies, practices, and trends. We could: Reduce our use of energy by one-third to one-half; double our use of renewable energy; reduce our use of oil by 40 to 60 percent; reduce emissions of carbon dioxide by 50 to 80 percent; significantly reduce emissions of smog and acid rain causing pollutants; and provide savings of roughly $2 trillion over the period between now and the year 2030.

Unfortunately, S. 1220 failed to implement the report's recommendations. Much like the President's national energy strategy on which it is based, S. 1220 focused on environmentally damaging energy production like oil development in ANWR and off our coasts and gives short shrift to energy conservation and renewable energy.

S. 1220 would have done little to reduce our dependence on foreign oil. In fact, the President's own analysis shows that the United States would be as reliant on foreign oil in the year 2010 as it is now if the national energy strategy were implemented as provided for in S. 1220. And while we must reduce our emissions of carbon dioxide, S. 1220 would have led to an increase in those emissions.

CARBON DIOXIDE EMISSIONS

Mr. President, our profligate use of energy has resulted in increases of carbon dioxide which threaten our society. Carbon dioxide, which is released by the burning of fossil fuels, accounts for almost half of the gases that contribute to the greenhouse effect. Scientists believe that as greenhouse gases become trapped in the Earth's atmosphere, temperatures will increase around the globe.

Earlier this year, the National Academy of Sciences found that the average global temperature already has increased between 0.5 and 1.1 °F this century. And it concluded that without efforts to reduce greenhouse gases, there will be an increase of greenhouse gas concentrations equivalent to a doubling of the preindustrial carbon dioxide levels by the middle of the next century. This will lead to an increased average global temperature between 1.8 and 9 °F. For the first time ever, human actions are disturbing our environment in ways leading to significant changes in the Earth's climate.

The impacts could be far reaching. Mass extinction may result as species are unable to adapt to rapidly changing environmental conditions. Reduced soil moisture and altered weather patterns would disrupt United States and world agricultural cycles. Rising sea levels due to melting of the polar ice caps would inundate coastal areas around the world, resulting in loss of low lying coastal lands where millions of people reside. This is of particular concern to New Jersey where so many people live close to the coast.

Although there is some disagreement as to the rate and magnitude of change, there is a remarkable degree of scientific consensus that global climate change is upon us; 1990 was the hottest year this century. The next 4 hottest years all occurred in the 1980's. Some scientists believe this may be the first evidence of global warming. And if we wait for certainty about the magnitude of global warming, it may be too late to take any remedial action.

So our energy policy must reduce emissions of carbon dioxide. Even the administration's own national energy strategy says:

> Despite large uncertainties regarding potential climate change, there is sufficient credible scientific concern to start acting to curb the buildup of so called greenhouse gases—several of which are related to production and use of energy.

The National Academy of Sciences agrees. It concludes that notwithstanding scientific uncertainties regarding global warming, "* * * greenhouse warming poses a potential threat sufficient to merit prompt response." The Academy said that investment in mitigation efforts is a cheap way to insure against the scientific uncertainties.

In 1988, then candidate George Bush promised to address the greenhouse problem by using the White House effect. But this White House effect has turned out to be nothing but more hot air to heat up our Earth.

The President's national energy strategy actually contemplates a 25 percent increase in carbon dioxide emissions over the next 25 years. The President plans to offset these increases with reductions in CFC emissions that have already been required under the Montreal protocol and the Clean Air Act.

A recent report shows the fallacy of this policy. Last month, the U.N. Environmental Programs and the World Meteorological Organization reported that CFC's are not a major greenhouse gas. This undercuts the administration's policy of relying on the CFC reductions to address global warming. The report also showed that CFC's have produced a cooling effect in the lower atmosphere, masking the true level of warming we are committing ourselves to. And it reemphasizes the need to implement policies which reduce rather than increase carbon dioxide emissions.

The administration's carbon dioxide position stands in stark contrast to the policies of the rest of the industrialized world. Eighteen industrialized nations already have committed to stabilizing or reducing carbon dioxide emissions by the year 2000. None propose counting CFC reductions toward these goals. Some are proposing even greater reductions.

And this past summer, the British Prime Minister Major wrote to the White House criticizing the United States position on global warming and urging the United States to join Britain in setting limits on carbon dioxide.

So the self-proclaimed "Environmental President" stands alone in failing to act to reduce carbon dioxide emissions. The administration even successfully lobbied the Senate Energy Committee to delete a requirement in S. 1220 requiring the Department of Energy to identify policies to stabilize and reduce emissions of carbon dioxide.

These policies are particularly embarrassing because the United States emits a disproportionate amount of the world's carbon dioxide, about 20 percent of the world's CO_2 emissions. The

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United States emits 5 tons of carbon dioxide per person while the West German rate is 3 tons and Japan is 2 tons per person. So we should be taking a leadership role in reducing carbon dioxide emissions as called for by Senate Resolution 53 which I have cosponsored.

And the administration has opposed the provision in S. 1278 which I introduced which would require the Council on Environmental Quality to promulgate regulations requiring Federal agencies to address relevant global warming concerns in their environmental impact statements.

Can we reduce carbon dioxide emissions? We have already. If the United States operated at 1973 efficiency levels, we would have emitted 50 percent more carbon dioxide. But it's clear we can do more.

The National Academy of Sciences concluded earlier this year that the United States could reduce its greenhouse gas emissions by between 10 and 40 percent of the 1990 level at very low cost. And the Office of Technology Assessment concluded this year that the United States can decrease carbon dioxide emissions 35 percent below the 1987 level within 25 years by adopting an aggressive package of policies requiring no technological breakthrough. Much of this reduction can be achieved through the use of energy conservation techniques.

So we need to establish a policy of stabilizing and reducing greenhouse gas emissions and identify the programs we need to achieve this goal. This was rejected in S. 1220.

We need to take the leadership in addressing the global warming problem as was called for in Senate Resolution 53.

We need to focus our energy policy on energy conservation which can reduce carbon dioxide emissions. S. 1220 had a weak energy conservation program and instead creates a program to promote the use of coal, the energy source with the greatest global warming impact.

And we need to require Federal agencies to address global warming issues in their environmental impact statements as called for in S. 1278.

ENERGY CONSERVATION

Mr. President, we've been presented with two approaches to energy conservation, a tepid approach which was found in S. 1220 and an aggressive approach along the lines suggested by Senator WIRTH in S. 324, the National Energy Policy Act of 1991 which I have cosponsored, and S. 741, the National Energy Efficiency and Development Act of 1991, also introduced by Senator WIRTH.

According to analyses prepared by the Alliance To Save Energy and the American Council for an Energy-Efficient Economy, the aggressive approach suggested in the Wirth bills can achieve significant energy savings over S. 1220. While S. 1220's energy conservation provisions would have saved 1.4 quadrillion Btu's of energy—quads—a year by the year 2000, the Wirth bills would save 6 quads of energy a year by the year 2000, almost four times the savings of S. 1220. Likewise, in 2010, S. 1220 would have saved 3.4 quads of energy while the Wirth bills would save 14.4 quads of energy, the equivalent of 7 million barrels of oil per day. To put this in some perspective, the United States used 84.6 quads of energy in 1989. Between 1933 and 2010, while S. 1220 would have saved 29 quads of energy, the Wirth bills would save 130.9 quads of energy.

And it's clear that we can conserve energy without harming our economy. From 1973 to 1990, the ratio of energy use to the GNP declined by 2 percent, reducing energy use by 30 quads and saving the United States $180 billion.

So an aggressive energy conservation program is feasible, and essential to reducing our dependence on foreign energy sources and our emissions of carbon dioxide. In addition, energy conservation makes industry more efficient and more competitive in the world market.

The single most important step we can take in addressing this energy crisis is to increase automobile fuel efficiency standards. Over 60 percent of our use of oil is for transportation. So if we're going to reduce our dependence on oil, we must focus on the transportation sector. We must increase automobile fuel efficiency, and encourage people to increase their use of mass transit and reduce their use of automobiles.

That's why I'm a cosponsor of S. 279, the Motor Vehicle Fuel Efficiency Act. It expands on the original 1975 Corporate Average Fuel Economy [CAFE] Act which resulted in an approximate doubling in automobile fuel efficiency.

Unfortunately, average auto efficiency has stagnated since 1987 when it reached 28.1 miles per gallon. The 1992 average auto efficiency rating declined to 27.5 miles per gallon. So without Government intervention, we will continue our inefficient use of oil for automobiles.

The increased CAFE standards in S. 279 would result in an additional savings of over 2 million barrels of oil every day by 2005. That's 2 million barrels of oil which don't have to be imported—each and every day. A renewable source of 2 million barrels of oil a day.

Increased CAFE will reduce emissions of carbon dioxide. The United States emits more CO_2 than any other nation. And automobiles account for 25 percent of the U.S. contribution of CO_2 emissions. Mr. President, United States autos produce more carbon dioxide than is produced by all sources in Japan or all sources in all of Latin America. So if we're going to be serious about reducing emissions of greenhouse gases as was recommended by the National Academy of Sciences, we're going to have to increase our fuel efficiency.

Mr. President, at a hearing on the original CAFE law in 1974, a representative of Ford Motor Co. testified that meeting the 27.5 miles per gallon CAFE standard "would require a Ford product line consisting of either all sub-Pinto-sized vehicles or some mix of vehicles ranging from sub-subcompact to perhaps a Maverick."

Yet, despite the auto company's fears that the standards were unachievable, they managed to meet those standards.

Mr. President, the auto industry made similar statements about its inability to meet the original air pollution standards in the 1970 Clean Air Act. Let me quote what the former executive vice president of Ford Motor Co., Lee Iacocca, said back in 1970 concerning the auto standards in the 1970 clean air legislation.

> Some of the changes in this bill could prevent continued production of automobiles * * * Even if they do not stop production, they could lead to huge increases in the price of cars. They could have a tremendous impact on all of American industry and could do irreparable damage to the American economy. And yet, in return for all of this, they would lead to only small improvements in the quality of the air * * *. (T)his bill is a threat to the entire American economy and to every person in America.

Yet despite this claim the auto industry achieved the air pollution standards.

Mr. President, we hear the same claims of gloom and doom today about increased CAFE standards. History shows that we should treat these claims skeptically.

I have a strong faith in the ingenuity of American automakers and American autoworkers. They have met clean air, fuel efficiency, and safety challenges before. I am convinced that they can meet the fuel efficiency challenges ahead.

And a report just issued by the Office of Technology Assessment makes clear that increasing CAFE is feasible. OTA says that using the maximum feasible current technology with a 1987 car would result in a CAFE of 38.2 miles per gallon by the year 2001. That's over 10 miles per gallon greater than the existing CAFE standard. So it's clear that large increases in CAFE are achievable even with current technology.

And by 2010, using technologies that most automotive engineers agree would be commercialized by 2000, and a 1987 model car, OTA says CAFE would be 45 miles per gallon.

The OTA and the GAO also debunk arguments about downsizing of cars and automobile safety. OTA concludes that these CAFE standards can be achieved without downsizing cars and

without decreasing auto safety. And the GAO found that smaller cars have not led to more highway deaths.

Mr. President, S. 1220 doesn't require an increase in fuel efficiency standards. It merely gives the administration the authority to set a higher standard. That's like letting the fox guard the chicken coop. This administration has done little to hide its disdain for an increase in CAFE standards.

Senator JOHNSTON proposed a CAFE amendment which he asserted was the maximum feasible increase in fuel economy. The Johnston amendment would have increased CAFE to 30.2 miles per gallon in 1996, 34 miles per gallon in 2001 and 37 miles per gallon in 2006.

But the OTA analysis makes clear that these levels are not the maximum feasible. And the Johnston amendment included CAFE credits for alternative fuels and airbags and gave the Secretary of Transportation some authority to rollback CAFE limits. After considering these credits and rollback authority, the Johnston amendment guaranteed a CAFE of only 28 miles per gallon in 1996. CAFE for new cars in 1988 was 28.6 miles per gallon more than the Johnston limit for 1996. And the Johnston amendment guaranteed a CAFE standard of only 29.5 miles per gallon in 2001 and 30.8 miles per gallon in 2006. These CAFE levels are hardly designed to require auto manufacturers to make the feasible fuel efficient cars we need.

Mr. President, we also must decrease the growth in vehicle miles traveled or VMT. Total motor vehicle registrations in the United States have increased 69 percent between 1970 and 1988. The number of vehicle miles traveled nationally is increasing by about 25 billion miles per year. Without efforts to reduce the increase in vehicle miles traveled, the increase in vehicle miles will overwhelm any increase in automobile fuel efficiency and our use of oil will increase.

That's why as chairman of the Transportation Appropriations Subcommittee, I've led the fight to oppose administration budget cuts for mass transit and Amtrak. I've cosponsored S. 26, which amends the Internal Revenue Code to allow the same gross income tax exclusions for employer provided subsidies for mass transit and van pooling—up to $60 per month—that are provided for employer provided subsidies for parking. The clean air bill, which I helped write, requires States with air pollution problems to implement VMT growth control programs.

And I coauthored S. 1204, the Surface Transportation Efficiency Act of 1991. This bill would give the States greater flexibility to use highway trust funds for mass transit and provide additional funds for those States which control growth in vehicle miles of travel per capita and penalizing affected States that do not.

But we must also address energy conservation in the utility, residential and industrial sectors. The energy conservation provisions of S. 1220 need to be strengthened to achieve the energy reductions obtainable through implementation of the programs proposed in Senator Wirth's legislation.

We should institute industry energy use reporting requirements and voluntary efficiency targets for energy intensive industries. This type of program previously existed and resulted in documented energy savings.

We need to expand the provisions on equipment efficiency standards to include motors, faucets, and more types of commercial HVAC equipment, include initial energy efficiency standards for equipment and require the Department of Energy to periodically review and upgrade all equipment standards. This requirement would build on previous efforts like the 1990 bill we approved, which I cosponsored, to establish energy conservation standards for fluorescent lamp ballasts.

We need to require States to reform their utility regulations so that utilities are not financially penalized for their energy efficiency investments. My State of New Jersey last month adopted a new policy to reward utilities which spend funds to conserve energy rather than build new energy facilities.

We must require utilities to demonstrate to the Federal Energy Regulatory Commission that proposed long-term interstate power sales are consistent with State least cost planning requirements. Since conservation initiatives are cheaper than building new powerplants, least cost planning requirements will ensure that conservation measures are implemented.

We need to provide incentives to utilities to increase energy conservation efforts. This will save consumers money because it is cheaper to conserve energy than it is to generate it, and reduce the impact on our environment. That's why we've provided sulfur dioxide emission offsets for using renewable energy and energy conservation technologies in the Clean Air Act. These additional requirements would provide utilities with additional incentives to use these technologies.

According to the Edison Electric Institute, utilities spent more than $1.3 billion on 1,300 energy conservation programs in 1990 and saved the equivalent amount of energy which would be generated by 42 midsized powerplants. We need to encourage these energy conservation initiatives.

And we need to increase Federal efforts to reduce the Government's own energy use. The Office of Technology Assessment has estimated that the Federal energy bill could be reduced by $900 million per year if cost effective, energy conservation measures were implemented in Federal buildings. That's why I've cosponsored S. 147, the Federal Energy Management Amendments Act of 1991 and S. 1040, the Government Energy Efficiency Act, both of which contain numerous programs to reduce the Federal Government's use of energy.

Mr. President, we also need to increase energy conservation R&D and funds for State energy conservation efforts. As a result of Reagan administration budget cuts, R&D funding for energy conservation declined in constant dollars from $322 million in fiscal year 1981 to $129 million in fiscal year 1989. The GAO has reported that these budget cuts have delayed development of energy conservation technologies. Energy conservation R&D is second only to solar R&D at the bottom of the Federal energy R&D budget. Spending for nuclear R&D is three times higher than conservation R&D.

Total Federal energy conservation spending, including R&D and funding for State energy conservation programs, declined from $1.2 billion in fiscal year 1979 to $286 million in fiscal year 1988, a 76 percent decline. I've fought to reverse this decline by cosponsoring the State Energy Efficiency Programs Improvement Act, enacted in the last Congress, which updated expiring goals for State efficiency improvement while increasing spending authorizations. I've also supported higher appropriations for the Department of Energy's State and local energy conservation assistance programs. As a result, we provided $226 million for energy conservation R&D and almost $500 million for State and local energy conservation efforts in fiscal year 1991, a significant increase over the previous years.

Mr. President, there are other energy conservation initiatives which are very important.

We can reduce energy use by stimulating the recycling of materials. For example, energy savings to produce equivalent output using recycled materials rather than virgin materials is 96 percent for aluminum, 87 percent for copper, 72 percent for iron and steel, 64 percent for paper and 80 percent for plastic. The Senate Environment Committee on which I serve will be reporting amendments to the Resource Conservation and Recovery Act [RCRA] which will stimulate recycling. And I have introduced S. 615, the Environmental Marketing Claims Act which requires EPA to establish standards for terms including "recyclable" and "recycled content." This bill will encourage manufacturers to increase their use of recycled materials.

Inexplicably, EPA Administrator Bill Reilly testified before the Environment Committee last month that the administration opposed any additional regulatory efforts to stimulate recycling.

Policies Act [PURPA]. Under PURPA,

of scale and bring renewable electricity

According to a CRS analysis, these

ANWR

Or do we want to create an industrial

VOL 137 PT 23 NO 21–25 1991 UMI

The administration appears to have the attitude of the phony music teacher from the movie, "The Music Man;" no work, no effort, just wish hard enough and you can achieve your goal. This attitude demonstrates the administration's lack of commitment to environmental concerns and energy conservation.

Finally, we must not penalize consumers whose energy conservation efforts are subsidized by public utilities. That's why I have cosponsored S. 679, the Residential Energy Efficiency Policy Act of 1991 which would amend the Tax Code to exclude from gross income those payments made by public utilities to residential customers to subsidize the cost of energy conservation.

Mr. President, we simply cannot afford to continue to ignore the enormous benefits which energy conservation presents to our Nation. Our national security, our environment, and our economy will suffer if we fail to implement an aggressive energy conservation program—the kind of program lacking in the energy bill presented to the Senate in the first session.

RENEWABLE ENERGY

Renewable energy from solar, wind and other sources provides us with an enormous amount of nondepletable energy reserves. Eight percent of our existing energy demand is provided by renewable energy. A 1985 Department of Energy report estimated that the annual renewable energy resource base at 5 to 8 times the size of our entire recoverable domestic coal reserves. We hear so much about our enormous coal reserves. Yet here is an energy source which can give us 5 to 8 times the energy of our entire coal reserves each and every year.

Renewable energy is not finite like fossil fuels, and not subject to the whims of foreign suppliers. It generally results in minimal environmental impact, and is responsible for significantly lower amounts of carbon dioxide and air pollutants than fossil fuels. And renewable energy doesn't generate radioactive waste which needs to be disposed.

Mr. President, we have taken a number of actions to increase our use of renewable energy. I want to highlight a couple of the most significant.

In 1989, the Congress enacted the Renewable Energy and Energy Efficiency Technology Competitiveness Act which I cosponsored. This bill requires the Department of Energy to establish renewable energy demonstration programs and reauthorizes renewable energy export promotion programs.

The Clean Air Act provides sulfur dioxide emission offsets for using renewable energy and energy conservation technologies. This provides utilities with an incentive to use these technologies.

And in 1990, we passed legislation to amend the Public Utilities Regulatory Policies Act [PURPA]. Under PURPA, electric utilities are required to purchase power produced by renewable power facilities less than 80 megawatts in size. In 1990, we removed this size limitation providing a further incentive to renewable energy development.

But the two most critical needs to enhance renewable energy development were not addressed in the legislation presented to the Senate and should be addressed in energy legislation in the next session.

First, we need to reorient our energy research and development priorities to give greater consideration to renewable energy. In fiscal year 1991, the Congress reversed the trend initiated by the Reagan administration to reduce funds for renewable energy R&D. Renewable energy R&D declined by 90 percent in real terms between fiscal year 1979 and fiscal year 1990. In fiscal 1991, the Congress reversed this trend and provided a 40-percent increase in renewable R&D funding.

Mr. President, with the size of the cuts initiated by the Reagan administration, the administration didn't cut fat. It cut the heart out of the program. A 1990 Department of Energy report shows why.

It concluded that the extent of Federal support for renewable energy can greatly influence the rate of increase of renewable energy's market share and the success of the U.S. domestic renewable energy industry. DOE estimates that if R&D were to double or triple, the contribution of renewable energy would increase from the 1988 level of 6.7 quads to as much as 57 quads in the year 2030. At this level, we would reduce our annual carbon dioxide emissions by 4.4 billion tons by 2030. So we need to significantly increase our investment in renewable R&D.

Yet, for fiscal year 1992, the Bush administration proposed only a 4 percent increase in renewable R&D while proposing a 30 percent increase in nuclear R&D. The Congress added $40 million to this request providing a 24-percent real increase in spending. But even with congressional action to reverse the renewable energy R&D budget cuts, the fiscal year 1992 funding level is still 84 percent below the peak level of funding reached in fiscal year 1979. Renewable energy R&D remains far below R&D levels for nuclear energy and fossil fuels. We need to increase renewable energy R&D to levels of these other energy sources.

Unfortunately, S. 1220 did nothing to reverse the existing relative underfunding of renewable energy R&D.

We also need to extend the existing business tax credit for renewable energy which expires at the end of this calendar year. This credit allows producers of renewable energy to expand the market enough to create economies of scale and bring renewable electricity generation costs down below those of competing fuels. It also would correct market forces which do not properly account for the environmental, national security, and balance of trade benefits of renewable energy. I have cosponsored S. 141, which would extend for 5 years the business energy tax credits for investments in solar and geothermal facilities and S. 1157, which would permit business energy tax credits to be taken against the alternative minimum tax for those businesses subject to its provisions.

Mr. President, development of renewable technologies is being hampered by the general negative economic climate, the low level of fossil fuel prices, and the lack and uncertainty of tax incentives. In July, Luz, the world's largest solar energy producer, laid off half of its work force and postponed construction of its 10th solar plant in the United States. Luz officials cited a lack of Government support for renewable energy. Mr. President, we must not allow renewable energy to wither on the vine. We must initiate an age of Aquarius and let the Sun shine in.

S. 1220 did attempt to encourage hydroelectric dam projects but it did so in a way which threatens our environment. Currently, FERC regulates these projects because they impact waters which flow between the States and because they can adversely affect fish and wildlife resources.

But S. 1220 would have allowed States to take over regulation of roughly two-thirds of currently licensed projects. It provided virtually no standards or directions to States for such regulation. Existing licensees could choose between Federal and State regulation. So the bill removed these projects from Federal environmental protection and could have resulted in damage to fisheries and wildlife. This is not the way we should be encouraging energy development.

ALTERNATIVE FUELS

If we are to reduce our reliance on foreign oil resources, we must increase our use of alternative fuels like natural gas.

Last year in the Clean Air Act, we took a major step in increasing our use of alternative fuels. We required the use of oxygenated fuels in carbon monoxide nonattainment areas and reformulated gas in the nine worst ozone nonattainment areas which will include almost all of New Jersey. Alternative fuels will replace a portion of the petroleum in the gasoline for these areas. We authorized California to develop a program requiring low-emission and ultra-low-emission vehicles. Other States may adopt this program. These cars will require clean fuels or electricity. And we required centrally fueled fleets of 10 or more vehicles in certain cities to be clean fueled vehicles which will require the use of alternative fuels.

According to a CRS analysis, these requirements will mean that 40 percent of U.S. gasoline will be reformulated or made cleaner through the use of alternative fuels by 1998. EPA expects these programs to displace between 310,000 and 700,000 barrels per day by 2010 resulting in a 3- to 7-percent displacement of gasoline. And these fuels generate less air pollution than gasoline.

We need to build on the provisions in the Clean Air Act. S. 1220 would have expanded the fleet program to cover more than 100 additional cities. CRS estimates that with the expansion of the alternative fuel fleet program, alternative fuels would replace 7 to 10 percent of the total motor fuel by the year 2010. And S. 1220 included the provisions of S. 768, the National Electric Vehicle Act, which I cosponsored, which establishes an electric vehicle R&D program.

But it included a provision which deviate from the strong cost-effective alternative fuels program we need.

The bill included provisions which would restrict the importation of gas from Canada. S. 1220 provided that FERC cannot authorize natural gas imports unless it agrees to redress anticompetitive impacts on U.S. gas producers.

This restriction would have adversely affected the northern portion of the country including New Jersey which utilizes low-cost Canadian gas. Mr. President, we need to increase our use of natural gas which is clean burning, generates significantly less carbon dioxide per unit of energy, is low cost, currently at the equivalent of $12 per barrel of oil, and in plentiful supply. Imports of natural gas from Canada doubled between 1986 and 1990. We need to encourage the use of natural gas produced in both the United States and in Canada.

OIL EXPLORATION AND PRODUCTION

Mr. President, I support oil and gas development in areas which are not environmentally sensitive. In particular, we need to increase our production of oil from enhanced recovery technologies applied to existing oil fields.

According to a report prepared by the Texas Bureau of Economic Geology, using new recovery techniques, up to 48 billion barrels of oil in existing reserves could be recovered cost effectively. And the administration's national energy strategy predicts that enhanced oil and gas recovery would result in additional oil production of 1.4 million barrels of oil per day by 2005 and increased oil reserves of 20 to 65 billion barrels of oil. In contrast, the mean estimate of oil from ANWR, if oil is even found, is 3.6 billion barrels of oil.

We must not, however, allow our existing domestically produced oil shortfall to shelter the risks of development in environmentally sensitive areas like ANWR and our offshore waters.

ANWR

S. 1220 would have opened the Arctic National Wildlife Refuge to oil and gas drilling. It would have had us try to produce our way out of our oil shortage.

But Mr. President, we can save almost 10 times more oil each and every day by 2005 through increased CAFE standards than we can through drilling in ANWR. And even if oil is found in ANWR, it's a finite resource. It will run dry.

Mr. President, the administration's national energy strategy makes clear that ANWR is not essential for our national security. There is only a one in two chance of finding any oil. Even if oil is found in ANWR, it is estimated that the oil fields will produce oil equal to only 4 percent of U.S. oil use at its peak in 2005 and down to 1 percent by 2010 with less thereafter. This is a minor amount of oil in terms of U.S. oil demand, providing only 6 months worth of oil. And it's a trivial amount, less than 1 percent, in terms of world oil resources. ANWR won't change the world oil balance.

If ANWR is our largest remaining untapped oil reserve, then it should be clear we can't produce our way out of our oil shortage. In fact, even if oil is found at ANWR, its reserves are dwarfed by our potential reserves for increasing production through further research of enhanced oil recovery at existing fields. And ANWR's estimated 3.6 billion barrels of reserves is far less than the 16 to 23 billion barrels of reserves in existing fields on the Alaskan North Slope.

But even more is at stake in ANWR than energy development. After the *Exxon Valdez* spill 2 years ago, I visited both the spill and the coastal plain of ANWR.

What I saw was the best of nature and the worst of man.

I saw the best of nature in the Arctic Refuge, an area which even the Department of the Interior says, "is the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the Arctic ecosystems in North America." An area which biologist George Schaller calls unique and irreplaceable, not just on a national basis, but also on an international basis.

Beauty, wilderness, pristine, these words simply fail to capture what I saw, and what is at stake if we allow oil and gas drilling to proceed.

Unfortunately, in seeing the spill in Prince William Sound, I saw the worst of man. I saw how carelessness despoiled a rich ecosystem. Dead wildlife and oil coated beaches.

This devastation by man stands in stark contrast to the beauty of nature I saw.

And that's what's at stake as we consider energy legislation. Do we want to preserve that unique beauty of nature? Or do we want to create an industrial complex of drill sites, waste pits, roads, airports, marine facilities, solid waste dumps, sewage treatment plants, pipelines, spills, and pollution? A complex that according to the Department of the Interior's own report would affect 12,650 acres of this unique wilderness area.

Do we want to develop the ANWR, to keep feeding our fossil fuel appetite, or do we want to conserve fuel resources, develop alternative sources of energy, and preserve our pristine lands?

If we drill for oil in ANWR, we may find oil for a few years, but ANWR will never be wilderness again.

If we develop ANWR we threaten this unique wilderness system. And if we destroy the wilderness values in ANWR, we also threaten an undisturbed ecosystem with its polar bears, musk oxen, and porcupine caribou.

And if we destroy our own wilderness areas, what credibility will we have in telling other countries to preserve their forests, wetlands, and biological diversity?

That's why I am an original cosponsor of S. 39 which would make the ANWR coastal plain a wilderness area. This would preclude oil and gas development on the coastal plain of ANWR and preserve this unique resource for future generations.

OFFSHORE OIL PRODUCTION

Mr. President, the waters offshore of New Jersey and the other mid-Atlantic States are another fragile environment which we should protect from oil development. I have led the fight in the Appropriations Committee to fight oil drilling off our coast.

In 1988, then-candidate George Bush visited the New Jersey shore. He called the pollution of our coastal waters and beaches a national tragedy, and promised to protect the Nation's shores. Yet in his June 1990, OCS moratoria decision, the President protected only a portion of the Nation's coastline. Although he recommended moratoria for most of the west coast, much of New England and certain areas off western Florida, the President flatly ignored New Jersey and the other mid- and South-Atlantic States. The decision effectively discriminates against the mid- and South-Atlantic States by saying that other offshore areas are somehow more sensitive and more deserving of protection.

It took the National Academy of Sciences 3 years and the President's OCS Task Force another year just to conclude that the areas placed under moratoria needed further study. And the President's decision called for an additional 6 to 10 years of study to determine the environmental impacts on these States. How can the administration already have all the answers for New Jersey and the other unprotected States? The answer is, Mr. President, it can't.

VOL
137
PT
23
NO
21—25
1991
UMI

Obviously the President does not believe that these States deserve protection. But the economies of these unprotected States rely heavily on their coastal resources. The New Jersey coastal tourism industry alone is worth $8 billion per year. Oil and gas development can have severe impacts on a State's commercial and recreational industries, not to mention the damage it can inflict on its marine and estuarine systems.

The waters off New Jersey are just as precious as those covered by the President's ban; our beaches deserve equal treatment. Since the June 1990 decision, I have sent several letters to the President, and have met with the Director of the Minerals Management Service. In each instance, I have urged that New Jersey receive the same type of environmental reviews as those States which obtained moratoria. Unfortunately, my attempts to resolve this problem administratively have failed—the MMS is now proposing to hold our vast acreage off the eastern seaboard for oil and gas leasing. So I've fought in the Appropriations Committee to instill some justice into the OCS planning and leasing processes.

The Department of the Interior estimates that our offshore areas could provide 8.9 billion barrels of oil or the equivalent of 1.4 years of oil. But 55 percent of this oil would come from the Gulf of Mexico. The Atlantic Coast would provide only 200 million barrels or around 10 days' worth of oil. These are meager benefits in the face of the potential economic and environmental risks posed to our vulnerable coastal States, and OCS development would do little to affect our reliance on the volatile world oil markets.

While S. 1220 provided a welcome 10-year moratorium of oil and gas activities off New Jersey, it would have established a program biased toward OCS development. And New Jerseyites can be affected by oil and gas operations off other mid-Atlantic States just as if they were off our coast.

S. 1220 would have required the administration to review existing moratoria decisions. It biased this review by requiring a comparison of oil spilled from OCS operations to that spilled by shipping imported oil to the United States. But it did not compare the environmental effects of OCS operations with the effects of energy conservation and expanding our use of alternative fuels and renewable energy. This review would be little more than an excuse to justify eliminating existing moratoria.

S. 1220 also would have made it more difficult to cancel a lease once it has been issued even if new information demonstrated that drilling should not proceed. And it takes money from the Federal Treasury to give to those States which already are accommodating OCS activities.

Mr. President, I believe we need to increase the role of States in OCS development activities. In the last Congress I cosponsored the Coastal Zone Management Act amendments which reversed a Supreme Court decision and required that OCS lease sales be consistent with State coastal zone management plans. And this year I have cosponsored S. 736 which would expand the role of States in OCS lease-sale plans by allowing a Governor to override a Federal OCS leasing decision unless the Federal Government could show that the Governor's action was arbitrary and capricious or based on a factual error.

Increasing domestic oil production from our ocean waters, like drilling for oil in ANWR, is a short-term fix to our shortage of oil. The United States simply does not possess large enough reserves—on or offshore—to satisfy this Nation's insatiable appetite for oil. We must reject the kind of OCS development that was suggested by S. 1220.

OIL IMPORT FEES

Mr. President, we have seen many proposals in this and past Congresses to impose an oil import fee. This year we saw a proposal to impose an in-kind storage requirement levy on imported crude oil or refined petroleum products which has the effect of an oil import fee. That's why I cosponsored Senate Resolution 98 which would state the sense of the Senate to oppose these proposals.

An oil import fee or proposal with a similar impact would increase the costs of production and manufacturing for industries that use petroleum products and impair the ability of those industries to compete in international markets. In these economic times, our economy cannot afford this additional burden.

These proposals also would be borne disproportionately by regions like the Northeast that are dependent on petroleum products. It would disproportionately hurt those dependent on oil to heat their homes. At the same time, it would provide a subsidy to oil producing regions.

This is unfair and must not be enacted by the Congress.

CLEAN AIR EMISSIONS

S. 1220 would have weakened the Clean Air Act by allowing utilities to extend the life of old polluting powerplants and thereby escape meeting standards for new plants. These refurbished plants could increase emissions of air pollutants rather than reduce emissions if they had to meet stricter controls as new plants. Senator JOHNSTON indicated his intent to delete this provision from S. 1220. I agree that this provision should be deleted and that we should maintain the course we adopted last year in the Clean Air Act to protect the health of our citizens from polluted air.

NUCLEAR ENERGY

Nuclear energy has been the stepchild of energy alternatives. More than 100 reactors have been canceled in the last two decades including every reactor ordered since 1973. No commercial powerplants have been ordered since 1978. We have made too little progress in finding a way to safely dispose of high-level radioactive waste. And in a recent poll, 62 percent of Americans oppose building more powerplants in the United States.

It's clear that nuclear energy will not play a significant role in our future energy strategy unless the public regains confidence in nuclear energy and we solve the high-level radioactive waste problem. And nuclear energy has a very limited role in addressing our shortage of oil. Less than 5 percent of U.S. oil is used to generate electricity. So a switch to nuclear energy would have little impact on our imports of oil.

Until 1989, the public had a right to a hearing to address nuclear safety issues prior to both construction and operation of a nuclear powerplant. Concerns were raised that issues were not being raised and addressed early in the nuclear licensing process. So in 1989, the Nuclear Regulatory Commission streamlined the licensing process. The Commission required that all issues that can be addressed before construction should be resolved then. This makes sense.

Public interest groups challenged two sections of this regulation which provided that the NRC itself would not review, and the public would have no right to a hearing on, a variety of nuclear safety issues arising between the time that a construction permit is awarded and the time that operation of a plant is about to begin. A three judge panel of the U.S. Court of Appeals for the District of Columbia, including then Judge Clarence Thomas, struck down these two sections as contrary to the plain language and intent of the Atomic Energy Commission.

S. 1220 would have overturned the Court of Appeals decision and eliminated the right to a hearing prior to operation on nuclear safety issues that could not have been raised prior to construction. These issues could include significant new scientific data bearing on the safety of the nuclear plant's design, significant new information of the susceptibility of the site and plant design to extraordinary events, changes in population density and other factors which could complicate emergency planning and evacuation in the event of an accident as well as quality control problems in the constitution of the plant itself.

And S. 1220 would have eliminated the requirement that the NRC make a formal finding not only that the plant has been built to specifications but that the plant complies with the safety

requirements of the Atomic Energy Act. This NRC finding is essential because a plant may be built to specifications but may not adequately protect the public safety. New information developed after the specifications for a powerplant are completed may show that the specifications are no longer adequate to protect the public. S. 1120 would also have eliminated judicial review of this finding.

Mr. President, by eliminating the public's right to a hearing, prior to operation, to raise significant safety issues which could not have been raised prior to construction, and by narrowing the NRC's responsibility to make a determination that the plant will be operated safely, we undermine nuclear reactor safety and public confidence which the nuclear industry needs to restore.

Nuclear licensing issues are within the jurisdiction of the Environment, not Energy Committee. I plan to work with Senator GRAHAM and other Senate Environment Committee members in correcting the flawed regulatory approach contained in S. 1120.

Unfortunately, S. 1120 would have provided a bailout for the uranium-enrichment industry. It requires the Federal Government to write off 95 percent of more than $10 billion of uncovered costs of the Department of Energy's uranium-enrichment programs and would have repealed the existing provision requiring full cost recovery.

Mr. President, nuclear energy will have a limited role in our energy future unless public confidence in it is restored and a solution to high-level radioactive waste disposal is developed. S. 1220 addressed neither of these problems.

NATIONAL ENVIRONMENTAL POLICY ACT

Mr. President, S. 1220 contained a number of provisions relating to the implementation of the National Environmental Policy Act or NEPA. NEPA falls under the jurisdiction of the Subcommittee on Superfund, Ocean and Water Protection which I chair. Many of these provisions conflict with NEPA as it has been implemented since the Council on Environmental Quality issued regulations in 1979.

The most troubling provision concerned the proposed legislative determination in S. 1120 that the Department of the Interior's environmental impact statement is adequate. Mr. President, this is a virtually unprecedented provision. It is the Interior Department's responsibility to prepare an environmental impact statement which meets the requirements of NEPA, the responsibility of the courts to determine whether this requirement has been adhered to and the responsibility of the Congress to use the information provided in an adequate environmental impact statement to determine what to do about drilling and wilderness designation in the ANWR coastal plain.

S. 1220 turned this process on its head. It takes away authority to the courts to determine the adequacy of the impact statement and gives it to the Congress. Yet it is the judicial process where litigants address specific allegations of inadequate action and the courts, using established review standards, determine whether the impact statement is adequate. The Congress has not had the benefit of these focused judicial arguments.

The purpose of NEPA is to ensure that the decisionmaker, in this case the Congress, is made aware of the environmental impacts of a particular action. Public participation allows the public input into the process and requires the authors of the impact statement to respond to concerns raised about the impact statement. The NEPA process has been described by the administration as "an outstanding success in getting Federal decisionmakers to consider and document environmental issues early in the planning stages for Federal projects."

The problems which can arise if Congress makes a determination on NEPA adequacy are demonstrated by a recent decision by U.S. District Court Judge June Green. Judge Green determined that the Interior Department violated NEPA by its recent revision of oil and gas estimates for the refuge. The Interior Department ignored serious potential environmental effects such as the estimated 400 additional tanker trips from the Port of Valdez which could result in a possible *Exxon Valdez*-type oil spill. And it failed to provide public participation in reviewing this report as required by NEPA.

Judge Green ordered the Interior Department to issue a supplemental impact statement and to circulate the statement for public comment. And Judge Green refused to grant the Government's motion to dismiss the lawsuit challenging the adequacy of the impact statement prepared by the Interior Department to lease ANWR for oil and gas development. Judge Green will soon be deciding whether the environmental impact statement is adequate.

Mr. President, the Congress was asked to make a decision on ANWR without the complete information we requested in the original Alaska Lands Act in 1980. We should let the NEPA process proceed and not make the determination on the adequacy of the impact statement provided by S. 1220.

S. 1220 would have had the Congress determine that the ANWR impact statement is adequate notwithstanding Judge Green's finding of failure to comply with NEPA and prior to her ruling on the adequacy of the impact statement. Mr. President, this provision is simply an attempt to short circuit the well established and well justified NEPA process.

Mr. President, S. 1220 included a number of provisions which establish procedures for the Federal Energy Regulatory Commission's implementation of NEPA. These would deal with problems in FERC's implementation of NEPA. But the problems are not due to NEPA. They result from FERC's failure to abide by the Council on Environmental Quality's NEPA regulations.

FERC has argued that because it is an independent agency, it is not bound by CEQ's regulations. To eliminate this argument, S. 1278, which I introduced, would make clear that FERC is bound by CEQ's regulations.

S. 1220 included many provisions from CEQ's regulations. These provisions would be unnecessary if it were clarified that the existing regulations apply to FERC as I have proposed.

But in some cases S. 1220 went beyond the CEQ regulations. It eliminated FERC's existing responsibility to consider the effects of a gas pipeline when those effects are not under FERC's jurisdiction. Under CEQ regulations, effects outside the jurisdiction of the lead agency must still be analyzed in an EIS if they are reasonably foreseeable.

S. 1220 appeared to authorize FERC to act when an expert Federal agency fails to provide comments to FERC on an EIS within FERC prescribed timeframes. Under CEQ regulations, a lead agency could risk publication of an inadequate NEPA document if it proceeded unilaterally.

And it mandated preparation of a single environmental impact statement by FERC which would satisfy NEPA compliance for all Federal agencies. While CEQ regulations call for consolidated review and documentation to the fullest extent possible, the regulations do not allow one agency to mandate preparation of one EIS. And the regulations do not provide that other Federal agencies must rely on the FERC EIS. S. 1220 would have given FERC unprecedented control over the development of the record for a project.

Mr. President, we should avoid establishing different NEPA provisions for different agencies. We should mandate instead that FERC comply with the existing NEPA regulations.

CFC'S

Mr. President, S. 1220 also undercut the CFC Elimination Program we adopted just last year in the Clean Air Act. And it did it as new information showed that depletion of the ozone layer is far more widespread than previously believed.

Mr. President, the destruction of the Earth's protective stratospheric ozone layer is well documented. This layer protects all living things from harmful ultraviolet radiation from the Sun. Destruction of the ozone layer will lead to increases in skin cancer, and cateracts, and damaging crops and marine organisms. Since the late 1980's, we have seen a dramatic hole in the ozone layer over Antarctica.

VOL
137
PT
23
NO
21—25
1991
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So in the Clean Air Act amendments which we passed last year, we included a phaseout of ozone-depleting substances. The phaseout is similar to restrictions imposed internationally by the Montreal protocol. But the Congress recognized the seriousness of ozone depletion and went farther than required by the Montreal protocol. We imposed a faster and deeper interim reduction schedule, an earlier phaseout of another ozone depleter, methyl chloroform, and a freeze and eventual elimination of production of HCFC's by the year 2030. And we gave the EPA Administrator authority to speedup the process if new information showed that a more stringent schedule was necessary to protect public health.

Unfortunately, just a few weeks ago, new findings that depletion of the ozone layer is far more widespread than previously expected were announced by the U.N. Environmental Programme and World Meteorological Society. These findings showed ozone depletion in spring and summer months, not just the winter as previously believed, and widespread depletion over the globe, not just Antarctica. Even industry has responsibly responded to this new information by calling for an acceleration of phaseout efforts for CFC's.

But S. 1220 would have undercut the Clean Air Act by requiring that CFC reductions comply with the Montreal Protocol unless Congress enacts legislation to speed up the phaseout. This would have eliminated the authority we provided to the EPA Administrator to accelerate the CFC elimination program.

Mr. President, we shouldn't address CFC phaseouts in an energy bill. We shouldn't undercut the Clean Air Act which we passed just last year. And we certainly shouldn't limit the EPA Administrator's authority to accelerate the phaseout of ozone depleting substances as new evidence shows that an accelerated phaseout is necessary to protect public health and the environment.

CONCLUSION

Mr. President, S. 1220 failed to establish the energy policy that we need—a policy that relies on energy conservation, renewable energy, alternative fuels, and enhanced oil recovery. Instead, it would have continued outdated energy practices which cause adverse environmental impacts.

Mr. President, New Jersey recently adopted a new energy policy which calls for a 25-percent reduction in energy use by the year 2000. But New Jersey would not achieve its goal if S. 1220 were enacted.

Mr. President, S. 1220 would establish an energy policy which the American people don't want. A poll taken by the Alliance to Save Energy and the Union of Concerned Scientists last December, shows that people want our energy efforts to focus on energy conservation, renewable energy, and alternative fuels. Specifically, the poll shows:

. That 75 percent of Americans believe reducing demand makes more sense than increasing supply for reducing U.S. dependence on foreign oil supplies;

That 70 percent want the United States to join with other industrial countries and limit carbon dioxide emissions from fossil fuels rather than wait for more evidence regarding the accuracy of global warming predictions;

That 84 percent support increasing fuel economy standards to 40 miles per gallon by the year 2000;

That 75 percent would give renewable energy the largest or second largest share of Federal energy research dollars with energy conservation research running a close second; and

That the public strongly opposes building more nuclear power plants and using coal or oil from public lands if this might cause some environmental damage.

I will be working with my colleagues to develop energy legislation which provides the emphasis on energy efficiency, alternative fuels, renewable energy, and enhanced oil recovery which we need. This is legislation which the Congress must consider in the next session.•

OUR VETERANS, OUR HEROES

• Mr. D'AMATO. Mr. President, I rise today to honor our Nation's veterans. As we approach the 50th anniversary of the bombing of Pearl Harbor, we honor those who lost their lives in this dastardly attack. We also honor the survivors of Pearl Harbor, we honor their widows, and we honor their children.

So many children in the America of World War II, lost their fathers. They were taken away from them forever. Sons and brothers were also taken away. Generations of children grew up never having played ball with their father or going to the movies with their brother.

The attack on Pearl Harbor drastically changed America. This attack changed the world. No longer could America live in isolation. No longer could we remain untouched by world events. The men and women we honor share something in common with every veteran who has served in America's wars. From Lexington and Concord to the Persian Gulf, those bearing the brunt of war fought to ensure a better life for their children.

Our veterans, all of them, need our support and our help. They deserve proper medical care and their just benefits. They deserve the honor due to them for their service to their Nation and their people. Our veterans fought for freedom of religion, freedom from tyranny, freedom from fear, and freedom from want. They fought against dictators and demagogs. They fought against murder and oppression.

In an age in which we look for heroes, here they are. These men and women went on to fight the most vicious war known to man. They defeated the worst enemies America has known. They defeated tyranny. We honor them for their courage, their devotion to freedom and their service to mankind. Hail to the heroes of Pearl Harbor. Your deeds will not be forgotten.•

POLLUTION PROBLEMS ON INDIAN RESERVATIONS

• Mr. SIMON. Mr. President, I want to congratulate Bill Lambrecht and the St. Louis Post-Dispatch for an excellent series of news stories on the serious pollution problems on Indian reservations.

The first article, "Poisoned Mandate," illustrates the Federal Government's failure to live up to its trust responsibility to protect Indian lands. Today, Indian reservations across the country are becoming the new dumping grounds for American cities and the Federal Government. This is happening because of the unique status Indian reservations have as domestic sovereign entities not subject to many Federal and State laws.

Unemployment rates on Indian reservations range between 60 and 87 percent, and tribal governments are being solicited by private waste management companies to place landfills on this land as one way to reduce unemployment on reservations. Mr. President, we cannot allow Indian lands to become our cities' new dumping grounds because of our failure to help tribal governments provide jobs for their tribal members.

The second article "Poisoned Water," illustrates how companies along the St. Lawrence river are destroying the lives of residents of the St. Regis Mohawk Reservation.

Because of the polluted water of the St. Lawrence River, hundreds of jobs in fishing and farming on the reservation have been lost. Without fishing and farming, the Mohawks have turned to supporting gambling activities to provide the funds so desperately needed by the tribal government.

Congress and the U.S. Environmental Protection Agency have failed to protect native American lands from private polluters. The Federal Government for the past 20 years has not provided funds of any kind or technical help to tribal governments in controlling the pollution on Indian lands. I quote here from Bill Lambrecht's article about the Mohawk reservation: "'Those people have ruined it all,' said Tom Barnes, whose fishing-guide business has dwindled to nothing, referring to neighboring industrial plants that have polluted the St. Lawrence. 'And nobody seems to care,'"

Mr. President, the St. Louis Post-Dispatch has done a great service by informing its readers of this scandal. It is time the Federal Government fulfills its treaty obligation to protect the lands of the first Americans.

I ask that these articles be placed in the RECORD.

The articles follow:

[From the St. Louis Post Dispatch, Nov. 18, 1991]

POISONED WATER—POLLUTION OF ST. LAWRENCE RIVER IS DESTROYING OLD WAYS OF LIFE ON RESERVATION FOR MOHAWKS

(By Bill Lambrecht)

MASSENA, N.Y.—As the Mohawk "King of the Muskies," Tony Barnes lured anglers from as far away as Europe to the fishing hotspots on the St. Lawrence River.

All that changed in the mid-1980s amid disturbing reports of widespread pollution that gave once crystal-pure inlets names like Contaminant Cove and Dead Clam Cove. The King's once brisk business dropped to a trickle when it became clear no one wanted to take home coolers of infected perch and walleye.

Instead of catching whopper muskies with alligator jaws, Barnes today lands nightmarish specimens of the laboratory—fish with open sores and beavers with fur slickened from chemicals.

At age 69, Barnes still lives in a cabin on the water's edge, but he rarely sports fishes. He took out only three fishermen last year. In the summer of 1984 before the water turned bad, he guided about 21 a week.

Since his recent retirement as a deputy sheriff, Barnes has another job.

The King of the Muskies has become an unofficial pollution hunter for the St. Regis Mohawk reservation.

"Those people have ruined it all," Barnes said, referring to neighboring industrial plants that have polluted the St. Lawrence. "And nobody seems to care."

Amid the seeping chemicals, unsanitary landfills, and radioactivity that have blighted American Indian reservations, the Mohawk's troubles with pollution stand as a monument to the destruction of a land and its people.

Indians who settled these parts in the 1750s in the company of Jesuit missionaries were content to live off the rich and swift St. Lawrence. The peace-loving tribe refused to take part in either the Revolutionary War or the War of 1812.

With the polluted St. Lawrence no longer able to sustain the Mohawks, some have turned to smuggling and casino gambling. There have been well-publicized and deadly shootouts.

About 9,000 Indians live on the reservation called Akwesasne—Mohawk for 'land of the partridges." It borders the St. Lawrence River in northern New York and in southern Ontario.

Forests of maple, mixed hardwood and a few gaunt pines cover the hills that slope toward the St. Lawrence on both sides of the border. The woods are full of deer, fox, skunks and raccoon.

The St. Lawrence Seaway, built in 1953, brought the hydroelectric power that brought the factories that brought the pollution, Indians say.

General Motors once manufactured Corvair engines in a plant adjacent to the reservation, then converted to a dye-casting operation that produces metal parts. For 14 years the plant used fire-retardant PCBs (polychlorinated biphenyls), chemicals that have seeped into the river.

The debate has recently renewed over just how toxic PCBs are. They remain banned by the federal government as probable carcinogens.

A few miles upriver, two aluminum smelters—Reynolds Metals Co. and Aluminum Co. of America—have helped foul the reservation's air and water with fluoride, PCBs and other chemicals.

In 19th-century treaties, the U.S. government promised to protect Indians. Court decisions and federal laws over 150 years have established a trust responsibility by which the government is required to protect not only the Indians but their land and its environment.

Until recently, however, federal agencies rarely clamped down on the polluters near the Mohawk Reservation. The Indians believe that the cleanup solutions proposed by the U.S. Environmental Protection Agency are unsatisfactory.

In fact, they say the evidence from the St. Lawrence shows that the pollution is getting worse.

Samples of St. Lawrence River sediment taken by the Post-dispatch and tested at a laboratory in Baltimore showed 12 parts per million PCBs. That is 12 times what a proposed settlement agreement involving the government, Indians and industry would allow in sediment after it's been cleaned—and 120 times the standard set by the Mohawks.

In June, a fish taken from the St. Lawrence showed PCBs in levels of 113 ppm when tested by a state of New York lab. The federal government has a maximum limit of 2 parts in fish.

Turtles' flesh has contained PCBs 1,000 times the permissible levels. This is particularly troubling to Mohawks; in Indian teachings, North America is known as Turtle Island, and the turtle is often depicted in old drawings supporting the Earth on its shell.

Tests show that ducklings along the St. Lawrence are loaded with chemicals. Frogs are too contaminated to manage more than a feeble jump or two, Mohawks say.

"Sometimes, the frogs are so lethargic that they don't even move at all. You can just pick them up," said Patti Franks, an environmental specialist for the Mohawk tribe.

Indians themselves also feel the effects. The Akwesasne (pronounced Ahk-wuh-SAHSS-nee) Freedom School for traditional Mohawk teachings moved a few years ago because of worry about pollution. It had been situated next to the General Motors site.

Indian children conclude every school day with a thanksgiving prayer, spoken in Mohawk, in praise of the trees, Earth and water. Now, the school is moving a second time because tests show that nearby soil is polluted with chemicals.

Preliminary findings of a recent state study indicate that Indian mothers who eat St. Lawrence fish have 50 percent higher levels of PCBs in their breast milk than do other women on the reservation.

Pete Franks, Patti's husband and a Mohawk policeman, recalled that Mohawks drank water from the St. Lawrence as recently as the 1970s.

"Now we can't even swim in it. We're not even supposed to touch it," Franks exclaimed.

He made the comment as he piloted his skiff on the inlet known locally as Dead Clam Cove.

It wasn't unusual in pre-pollution days for more than 100 Indians to fish commercially on the St. Lawrence. Now only a handful of Mohawks bother to travel the necessary 10 or so miles downriver away from the pollution to set out their nets.

Farms also have disappeared. Fewer than 25 Indian families till the rich soil deposited by glaciers long ago; 20 years ago, there were at least four times as many. But many of the Indians say they quit farming when their cattle became ill mysteriously.

The likely culprit was fluoride. Tests showed traces of the chemical in the air emissions of the aluminum smelters. Mohawk cattle, according to a 1989 study by the New York State College of Veterinary Medicine, suffered from severe fluoride poisoning that stunted their growth and caused dental disease.

"After a while, the animals won't drink water because the nerve endings are sticking out inside their mouths. They get skinny and die on you after a few years," said Noah Point, who continues to farm on Cornwall Island, on the Canadian side of the reservation.

Mohawk fishermen and farmers once traded among themselves. Indians scouted the riverbanks for sweetgrass for basket-weaving and herbs for medicine. No more.

"They've totally destroyed the reservation lifestyle as it was," said Mohawk Head Chief L. David Jacobs.

The character of Indian tribes has changed for many reasons, among them the departure of better-educated young people from the reservation. Indians, in general, have increasingly become assimilated. Many go to malls to shop. About 650,000 Indians live on the nation's 280 reservations. Another 1 million live elsewhere.

At Akwesasne, some of the changes—many for the worst—came with the pollution. And as their means of livelihood vanished, Mohawks attempted to survive in desperate ways. They agreed to allow waste to be dumped on their land for relatively small amounts of money.

The Mohawks stopped letting brokers of waste in the door after some of the material proved to be more hazardous than advertised. But Chief Jacobs still gets dumping proposals over the phone.

Cigarette smuggling provides reliable, low-risk income for some Mohawks. With prices at $6 a pack in high-tax Canada, an Indian can make hundreds of dollars a week selling lower priced American cigarettes to Canadians.

Gambling, which could almost be called a survival economy in Mohawk country, brought violence to the reservation last year. The Mohawks and others believe that as self-governing entities they are free to allow gambling. It started with high-stakes bingo. Then came the casinos.

Last year Canadians by the busload started arriving from Montreal, 90 minutes away. They came to play blackjack and hit the slot machines at casinos that had sprouted like fast food restaurants on the Mohawk's main strip in New York state.

The fundamental issue of who was entitled to the gambling proceeds sparked trouble—as did the broader question of whether gambling should be allowed on Indian land at all. In May 1990, two Indians from opposing factions were shot to death. The casinos were closed by the state of New York, and the courts will determine when they will reopen—if at all.

A diver sent into the St. Lawrence along the Mohawk reservation to retrieve Loran Thompson's 50 horsepower outboard spotted something disturbing—but not surprising.

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VOL 137 PT 23 NO 21—25 1991 UMI

Waste drums.

The response this summer by the EPA also seemed typical to many Indians. After a quick check, EPA officials couldn't find the drums and haven't been back for another look.

For Thompson, a member of the armed, semi-secret Warriors Society, the episode was more proof of the industrial pollution that has damaged the river and changed the lives of Mohawks.

"Their progress has been our condemnation," Thompson said, standing beside the inlet unaffectionately known as Contaminant Cove.

The ocean-going tankers and freighters plying the St. Lawrence glide by within view of Thompson's land. The belching stacks of the sprawling Reynolds complex are also visible. His eight children have played on land laced with PCBs.

Thompson eventually recovered his motor, which had slipped from its mounting and fallen into the water. But he is angered by the destruction that he sees around him. Fellow warriors talk aggressively of keeping dumpers and polluters off Indian land.

The Warriors fought with automatic weapons to keep the casinos open last year. Before some were indicted or imprisoned, they held off state police in a gunfight and waged a battle to stop construction by non-Indians of a golf course in southern Ontario near Indian land.

One subject, however, unites the Warriors Society with the anti-gambling forces and local police—pollution.

Thompson, who has been called a Warrior general, has 40 acres alongside the contaminated General Motors landfill. Since the 1800s, his family farmed the land, cattle grazed on it. After the pollution was found, Thompson quit farming and fishing and sold his cattle.

"All we have left is this dirty place that we can't use for anything," he said, as he stood in a bed of black-eyed Susans.

Thompson, 44, vows not to leave his land or his tribe even though he worries about the health of his eight children.

His wife, who remained at home while he traveled the country as a steelworker, died of cancer.

Wherever he went, Thompson said, the reality of what was happening back home stayed with him.

"The pollution is everywhere on the reservation," he said. "No matter how far I ran, I couldn't get away from it."

[From the St. Louis Post-Dispatch, Nov. 18, 1991]

Indians Say EPA Not Doing Enough

(By Bill Lambrecht)

WASHINGTON.—In 1986, Congress ordered the U.S. Environmental Protection Agency to draw up a list of toxic problems on Indian reservations across the country.

The EPA never did.

A year later, when the EPA finished writing new rules for garbage and solid-waste control, copies were sent to states so that they could be ready when the rules took effect.

But the nation's 310 Indian tribes didn't get copies.

"The EPA always seems to forget us. And when they remember us, all we seem to get from them is the bureaucratic runaround," said Everett Vigil, health coordinator for the Jicarilla Apaches, a tribe in New Mexico that has pollution troubles from oil wells on the reservation.

Indians have been left out in the cold since the nation's pollution-fighting mechanisms were born. Congress mistakenly omitted Indians from most environmental laws passed in the early 1970s.

Most of those errors were corrected in the mid-1980s. But it was too late for Indians, because for many years they had been unable to qualify for grants like states had received to set up pollution-control offices.

So Indians find themselves nearly 20 years behind the rest of the country in fighting pollution. Now, they are forced to deal with a tight-fisted federal bureaucracy that is just beginning to understand the problems on reservations. Throughout Indian country, tribal leaders point to serious problems in dealing with the EPA. For instance:

In Montana, Indians on the Fort Belknap reservation watch in horror as peaks of the Little Rockies disappear before their eyes, pulverized by miners blasting for gold next to their reservation.

If that weren't bad enough, the mining company extracts the paydirt with a cyanide mixture that Indians say contaminates their water.

"The EPA should be up here monitoring all this, looking at the destruction to our mountains, our water and our wildlife. We ask them, but they don't do anything to help us," said tribal chairman Donovan Archambault.

In eastern Oklahoma, Cherokees have asked the government for help in stopping the poultry industry from allowing insecticides and chemicals wash into streams. But Indians say that neither the EPA not state officials have responded.

A stream inspected by the Post-Dispatch in Cherokee territory near Jay, Okla., carried feathers and frothy evidence of chemical contamination washed out from chicken houses.

In Idaho, Nez Perce Indians say that they have unsuccessfully tried since the early 1980s to get EPA help in studying possible health threats from living downwind from a federal nuclear waste dump at Hanford, Wash.

"We went to determine the causes of illness and cancer that have been on the increase among our people. But the EPA doesn't seem to listen," said Allen Slickapoo Sr., a member of the tribal executive committee.

EPA officials in Washington contend that Indians expect too much.

"Some of the tribes want us to come in and restore their ecology, but they don't understand that the laws don't allow us to do that," said Martin Topper, the coordinator for EPA Indian programs.

Yet some of EPA's own experts believe that the EPA has authority to do much more to help Indian tribes.

Last year, the EPA's failure in Indian country precipitated an uprising within the agency.

At an extraordinary meeting in Denver attended by some of the EPA's top officials, Indian experts in the agency laid it on the line: Unless the EPA changed course swiftly, they were going to fan out and tell Indian tribes the truth—that EPA programs were a shambles and their spending a joke.

"The EPA was doing practically nothing while waste sites and problems on reservations grew worse by the day," said a highranking EPA official who took part in the meeting.

F. Henry Habicht II, the EPA's No. 2 official and a participant in the meeting, later authorized about $1.6 million to be spent in grants that enable Indians to tackle dumping, water contamination or other problems as they see fit.

The EPA has requested $3 million from Congress for more such no-strings programs next year. But that isn't even one-tenth of the $35 million that Indian experts inside the agency say is needed for Indians to begin catching up.

[From the St. Louis Post-Dispatch]

Plan To Clean GM Site Assailed—EPA Proposal Inadequate, Mohawks Fear

(By Bill Lambrecht)

MASSENA, NY.—Angry Mohawks pack tribal meetings to protest a plan to clean up pollution at the General Motors complex adjacent to their reservation.

Many Indians believe the U.S. Environmental Protection Agency's proposal to cover a contaminated landfill and make other improvements at the carmaker's huge plant is woefully inadequate.

"There is a real fear that once the EPA is done here, that's it, and we'll be stuck with this contamination forever," said James Ransom, a tribal environmental specialist.

Ransom could be right.

"We're construing this as a permanent remedy," said Richard Cahill, an EPA spokesman in New York,

Cahill did, however, leave open the possibility for a further cleanup if and when new methods of dealing with PCBs are developed.

Specifically, the EPA plan would require GM to contain and cover 424,000 cubic yards of contaminated material at a GM landfill rather than have it hauled away. A wall would be built around the site and wells dug to watch for seepage in the St. Lawrence River.

Elsewhere on GM property, badly polluted soil containing more than 500 parts per million PCBs would be removed. But much of the PCB contamination, including sediment from river dredging, probably would be neutralized with chemicals. It then would be buried on General Motors property.

"Everybody is working and cooperating," said Ben Ippolito, a spokesman for General Motors. "We want to get started on the cleanup and get it behind us."

The Mohawks remain skeptical, as do some New York state officials.

"EPA is backing off; how much we don't know," said Ward Stone, a wildlife pathologist for the state of New York. "But it appears that they're not taking into consideration the birds and the wildlife here, and they're not taking into account the unique needs of the tribe."

Poisoned Mandate—Government Fails in Its Legally Established Role as Protector of Indians

(By Bill Lambrecht)

WASHINGTON.—For the American Indian, pollution may be the last stop on the trail of tears.

Reservations have been poisoned by trash, chemicals, hospital waste—even radioactivity. Indians who mystically revere Mother Earth now fear that their contaminated rivers, air and woodlands could bring an end to what remains of their fragile culture.

"We were moved from our homelands to these isolated areas that we now find filled with pollution," said Wilma Mankiller, chief of the Cherokee Nation of Oklahoma. "And nobody in Washington is paying much attention."

After years of warfare and broken treaties, Indians were given some of the poorest, most unforgiving land in this country and told to stay there—often at gunpoint. In exchange, the "White Fathers" repeatedly promised to

protect them and safeguard their reservations.

Those promises, like so many others, have been broken. They have been broken through negligence, confusion and, even worse, through indifference.

An investigation by the Post-Dispatch has uncovered repeated failures by the federal government to live up to its legal responsibility to protect the environment on Indian reservations.

In interviews with more than 150 leaders from 70 tribes, many spoke angrily of their experiences.

The trashing of the reservations has occurred from Alaska to Florida. Hunting grounds that were seldom happy after the Indian Wars of the last century have become dumping grounds.

Industrial waste that was dumped into the water in Mohawk territory has turned the St. Lawrence River from a bountiful source of fish into a gumbo of pollution. All across the arid breadth of the Navajo nation land in New Mexico and Arizona, desert wind has transformed uranium tailings into radioactive sand dunes.

In Oklahoma, Cherokee-owned land has been contaminated from a plant that processes uranium to make fuel. Far to the north, in Alaska, natives had hoped to preserve their lifestyle by recovering vast tracts of land from the federal government. Instead, they've inherited health threats and legal hazards left over from oil, mining and military operations.

Impoverished tribes have become easy targets for million-dollar offers from unscrupulous waste companies looking for dump sites. The era of the forked tongue is still alive and well on the reservation.

Waste company executives, Mankiller said, "wear Rolex watches and call themselves the solution to the pollution problem. You can spot them a mile away."

A plan is even afoot to consider storing the highly radioactive spent fuel rods from the nation's nuclear power plants—about 20,000 tons of it—on Apache land in New Mexico.

Indian lands have such poor sanitation that they resemble Third World nations. More than 160 substandard garbage dumps fester on the country's 280 reservations and as well as on other Indian lands. But federal agencies have done little to help clean them up.

UNKEPT PROMISES

There are roughly 90 million acres of Indian land, including 35 million acres owned outright by Alaskan natives. The government holds title to most reservation land outside of Alaska, a claim hotly disputed by many Indians. Few of the nation's 310 tribes own their own land.

Beginning in the late 1700s, the United States government promised in treaties to watch over Indians. By the 1830s the Supreme Court had established that the United States has a trust responsibility with the tribes. By 1871, more than 600 treaties reflecting that fact had been signed. That duty has been expanded by federal laws and recent court rulings that refer to the government as trustee over Indian reservations.

But evidence strongly suggests that the government has broken that trust.

The Post-Dispatch investigation reveals:

The Bureau of Indian Affairs, part of the Interior Department, has little interest in—or money for—the fighting of pollution. It has a five-member environmental staff to cover 53 million acres in the lower 48 states.

Last spring, George Farris, the bureau's environmental director, photographed trucks dumping waste on land owned by the Agua Caliente Tribe in California. By this fall, Farris had yet to turn over the evidence to law enforcement agencies or to take steps to crack down on dumpers.

Environmental Protection Agency programs are ill-suited to tribes. Financing is minimal. Things were so bad last year that some of the EPA's own experts threatened to blow the whistle on the government's failures. A secret meeting in Denver led to only minor changes.

The Department of Energy suspended cleanup of uranium mines in Arizona and Utah and now threatens indefinite delay. Outraged Navajos recall how the federal government chose not to warn Indian miners years ago of potentially life-threatening danger.

The Bureau of Land Management, part of the Interior Department, has refused to help track down polluters in Alaska who fouled federal land being returned to Eskimos, Aleuts and other indigenous people.

Congress excluded Indians from the nation's main hazardous waste law—the Resource Conservation and Recovery Act of 1976, an omission that stands to this day. Initially, neither the Clean Air, Clean Water, Safe Drinking Water laws nor any of the antipollution laws from the early 1970s covered Indians.

The Nuclear Regulatory Commission never warns Indians when nuclear materials are transported across their land. The NRC always notifies states. But the tribes aren't told when waste-laden trucks and trains roll across their land.

Given the government's track record, many Indians worry they won't be protected from new threats. U.S. and Japanese interests are seeking permits to mine uranium—the fuel for nuclear plants—adjacent to Indian land near the Grand Canyon.

In August, the U.S. Circuit Court of Appeals in San Francisco rejected the Havasupai tribe's claim that development of a uranium mine near the Grand Canyon violated Indians' access to religious sites.

Some in the tribe feel that they have nowhere to turn. And history has shown repeatedly the long trail of tears when Indians turn to the government.

A CULTURE STRUGGLES TO SURVIVE

Rampant alcoholism and low self-esteem are sad, familiar stories in Indian country, as are poverty and unemployment, which averages 58 percent among America's Indian tribes. About 650,000 Indians live on reservations; 1 million live elsewhere.

Less palpable but no less tragic is the effect on Indians when the bedrock of their existence—their land—becomes polluted. Indians have deep cultural and religious ties to the soil, wind and water. Many of them celebrate the divine presence of the Earth within themselves.

"The destruction of our land by others is comparable to us taking a jackhammer to the cathedral at the Vatican," said Manuel Pino, a New Mexico Pueblo Indian who teaches at Arizona State University.

New contamination has awakened memories of the disease and poisoning that their ancestors suffered.

Entire villages were wiped out by epidemics of smallpox and cholera brought up the Missouri River by traders. White settlers in Sioux territory in the Dakotas used to leave behind food saturated with wolf poison to kill Indians.

American Indians withstood massacres, deceit and forced relocations during the late 1800s. Until the 1930s, the officially announced aim of the government's assimilation policies was to destroy Indian tribes. After that came the "termination" policy—a formal government effort to end protection of Indian tribes. This policy persisted to the 1960s.

Now, although the government's stated policy is to allow Indians to determine their own future, pollution is heavily encroaching on the Indian world, leaving Indians estranged from their land and separated from their culture. The conflict has occasionally erupted in violence. Smuggling, gambling and gunbattles have been the legacy on Mohawk land in New York.

As the Indians see it, their struggle with a dirty environment is nothing short of a struggle for survival.

Said Chris Peters, a Hoopa Indian from California: "The destruction of our culture is a sentence to everlasting death."

Government Lawyers Fight "Trust Responsibility"

(By Bill Lambrecht)

WASHINGTON—Through bloody experiences that forever linked the words "broken" and "treaty," American Indians learned how easy it was to have the law on their side and still come out losers.

Many argue that the same thing is happening today as Indians have the best of the law but the worst of the deal as they struggle to clean up pollution on their land.

Since the Trail of Tears death march of the Choctaw Indians in 1830, federal laws and court rulings have firmly established the responsibility of the federal government to protect the land of American Indians.

And yet, government lawyers fight against carrying out that responsibility and against admitting liability when it comes to Indian land.

Legal experts doubt whether Indians could win broad, class-action suits on environmental grounds because the courts have grown stricter in cases involving the liability of the federal government.

All of this, of course, would have a familiar ring to the Choctaw Indians, who originated in what is now Mississippi. As a result of the Treaty of Dancing Rabbit Creek in 1830, 20,000 of them lost their land and 12,000 lost their lives on the long march to Oklahoma to claim new land.

"There probably isn't a treaty with Indians that has not been broken," said Carl Shaw, a Cherokee who is the main spokesman for the U.S. Bureau of Indian Affairs.

The legal underpinnings of the Indians' claim to a clean environment started in 1831, the year after the Choctaws' tragedy. The government tried to take still more land—this time from Indians in Georgia. The case made it to the Supreme Court, which decreed that the United States has a "trust responsibility" with Indians.

In this landmark ruling, Chief Justice John Marshall wrote that the relationship "resembles that of a ward to his guardian."

Since then, treaties, federal laws and more court rulings have established the government's responsibility to provide for the health and well-being of Indians. The General Allotment Act of 1877, among others, designated the government as trustee for reservations and required it to maintain land values.

Many Indians contend that the federal government has broken the trust, first by allowing reservations to become polluted, an now by delaying their cleanup.

Government officials don't disagree.

"I think they're 100 percent right that the trust has been broken when it comes to

POISON IN ARIZONA

An outraged federal judge ordered the Bu-

better," Lewis said, speaking in Navajo

a plane leaving the United States.

which will allow them to compete and

VOL
137
PT
23
NO
21—25
1991
UMI

dumping and some of these things," said Shaw.

The Indians have won a few legal skirmishes over the environmental issue.

In the Blue Legs case (it was named after a Sioux Indian woman), a U.S. District Court in South Dakota ordered the federal government three years ago to pay most of the initial cleanup costs for garbage dumps on the Pine Ridge Reservation.

In 1983, the Supreme Court found the federal government liable for failing to properly manage timber interest of the Washington state's Quinault Tribe.

By nearly every reading. The government is responsible for Indian land.

"The U.S. is obliged to make sure that land is there for future generations. From a moral point of view, the government ought to be liable if they've allowed Indian lands to be used and not cleaned up," said Reid Chambers, the principal Indian affairs lawyer during Republican administrations in the 1970s.

President George Bush himself spoke to the issue this summer, promising that the government will do nothing "that will adversely affect or destroy those physical assets that the federal government holds in trust for tribes."

Just rhetoric, say Indians who note how federal lawyers repeatedly have fought liability in pollution cases.

When the Environmental Protection Agency issued its first Indian policy in 1984, government lawyers sought to delete references to the trust. The lawyers lost, and a strongly worded document signed by William D. Ruckelshaus, who was then the EPA administrator, broadly committed the agency to a trust responsibility on Indian land.

New proposals to store hazardous and nuclear wastes on tribal land have poured gasoline on the debate over who will be responsible if something goes wrong.

For Indians like Suzan Shown Harjo, executive director of the Morning Star Foundation, which protects Indian art and culture, the past can't be forgotten.

"Our ancestors gave up all that land in return for protection and for the right to continue being Indians. That was the deal," Harjo said. "But what the 'trust relationship' seems to mean is that we don't trust them and they don't trust us."

ILLEGAL DUMPERS SCAR INDIAN LAND

(By Bill Lambrecht)

SYRACUSE, N.Y.—Grisly knots of bandages, syringes and other hospital refuse stretch 50 yards through a thicket on the Onondaga Reservation near Interstate 81, a getaway route for that modern scourge of the reservations—the midnight dumper.

A few miles away, a stubborn fire ignited by another dose of illegal dumping burned 25 feet underground this summer, scorching a two-acre-patch on the reservation.

Nearby, midnight dumpers struck again, dropping 400 bags of asbestos into a ravine. And down yet another road, an Indian accepted $50 last spring to let dumpers deposit tons of "black beauty," a granular lead-filled material left over from sandblasting bridges. It would have cost $25,000 to bury the material properly in a landfill.

"Indian land is the easiest place in the world to dump your wastes," said Ward Stone, a wildlife pathologist for the state of New York as he toured tribal dump sites.

The remoteness of Indian reservations and an indifference among federal authorities have created a final frontier for waste-toting criminals.

POISON IN ARIZONA

Traditional teachings call for Indians to plan seven generations ahead. As they look around their reservations, they are disturbed by what just one or two generations have brought.

The Gila River Reservation near Phoenix, Ariz., is another favorite spot for hit-and-run dumpers. The tribe has averaged 17 serious cases of dumping annually. Federal authorities are investigating the recent dumping of 30 truckloads of crushed automobile parts. The waste contains lead and other contamination from heavy metals.

In 1988, an incident that began with the discovery of a dead coyote and dead birds near some chemical drums ended with four Indians in the hospital. One by one the tribal officials keeled over after investigating the drums, which contained pesticides. Also, Lee Ballard, the tribe's hazardous waste expert, collapsed after inhaling the fumes even though he was wearing a respirator.

A year earlier, Sally Jones, an Indian, landed in the hospital with lung damage and rashes after trying to wash out an old barrel. An Indian firefighter was overcome by intensely toxic fumes and went to the hospital.

"People rent U-Hauls, load them up and come out and dump on us," said Ballard, a non-Indian who was hired by the tribe as a hazardous waste specialist with a one-of-a-kind EPA grant.

Ballard led an investigation that produced what is believe to be the only federal conviction for dumping on reservations. The violators had forgotten to scratch off the serial numbers from one of the 28 drums of toxic chemicals that they had dumped. That led to a conviction of a company in Phoenix.

The EPA earmarked $30,000 this year to train a handful of Indian people in handling hazardous material. But Ballard says little has been achieved.

TOXIC WASTE PITS

Dumpers have turned garbage dumps into more than eyesores; many are now toxic waste pits. Landfills in the Devil's Lake Sioux Reservation in North Dakota and the Oneida Reservation in Wisconsin are laced with arsenic, mercury and other illegally dumped chemicals.

Neither could qualify for the Superfund cleanup priority list, which applies mainly to cities rather than Indian land or other rural areas.

On Cherokee land in Oklahoma, 27 "wildcat dumps" cropped up in the mid-1980s. Despite the Cherokee's requests to the federal government for help, little has been done. Wilma Mankiller, chief of the Cherokee Nation of Oklahoma, complained that her tribe has pushed for an arrest, hoping that publicity might deter dumping. Nothing happened.

The Bureau of Indian Affairs sent along $870,000 this summer to help the Cherokees. But that money will clean up only three of the 27 waste sites.

"I think that the bureau quit functioning about five years ago," said Frank H. Farrell, the Cherokee's natural resources director and a former official of the Bureau of Indian Affairs.

RUNAWAY GARBAGE

The picture is just as gloomy on the sprawling Pine Ridge Sioux Indian reservation in South Dakota. Mattie Blue Legs became so angered and sickened by a garbage dump near her home that she sued the federal government. The dump wasn't far from the wind-scoured mass grave at Wounded Knee, where the 7th Cavalry shot down more than 350 Sioux 101 years ago.

An outraged federal judge ordered the Bureau of Indian Affairs and the Indian Health Service to pay three-fourths of the initial $370,000 cost of cleaning up 14 dumps and of opening new landfills.

The Indians had won what they thought was a rare victory.

Three years later, the Sioux in this rugged landscape of buttes, prairie and vast horizon are still afflicted by rotting garbage and the smell of burning tires. Landfills gouge the hillsides.

Under federal supervision, the tribe covered the old dumps with dirt rather than clean them out. When it rains, garbage pokes up through the earth.

At nearby Porcupine, one of the new landfills is a 20 foot-wide trench that is about the length of a football field. The landfill contains rotting garbage and smoldering tires. Acrid smoke wafts through an Indian graveyard and into the adjacent homes of some of the poorest people on the reservation.

"Some of these new dumps are as bad or worse than before," said Jo Ann Tall, a Sioux from Porcupine.

SUBSTANDARD DUMPS

Documents show that the Indian Health Service has identified 650 sites on Indian land where trash is deposited, most of them open dumps. More than 100 were built in the last 30 years with the help of the Indian Health Service.

But only a handful would meet federal standards that apply on non-Indian land.

Indians, admittedly, share the blame. Despite a reverence for the environment, many tribes are careless with garbage. Only a few have tried to control refuse.

But problems run far deeper than Indian shortcomings. Inspections and interviews show a pattern of federal neglect, unsuitable laws and an absence of coordination by federal agencies in charge of Indian land.

It would cost at least $66 million to build minimally safe dumps for Indians, according to estimates from the Indian Health Service. Based on upcoming EPA rules for landfills, the cost could rise to more than $100 million.

The Bureau of Indian Affairs, which has the primary trust responsibility for Indian land, will spend about $2 million on the problem this year. The Indian Health Service is contributing another $4.5 million; the U.S. Environmental Protection Agency is contributing less than $500,000.

Money is just part of the problem. Nobody is sure which federal agency has jurisdiction.

Said Bill F. Peterson, chief engineer for the U.S. Public Health Service. "All of us would admit that everything we're doing has been inadequate."

RESERVATIONS LIVE WITH THIRD WORLD SANITATION SYSTEMS

(By Bill Lambrecht)

PINE DALE, N.M.—When Tom Lewis was a young bronco-busting Navajo, the thunder and rain came often, and the Puerco River flowed bountifully through the New Mexico desert.

Lewis, 87, is now a tribal medicine man. Despite his prayers, the rain seldom beats down any more, punishment in his mind for Navajos who dug the yellow rocks—uranium.

On those rare moments when the drought lifts and there's a trickle in the Puerco, the water is too contaminated with radioactivity from uranium mining for even sheep to drink. So, Lewis' grandsons strap barrels onto their pickup and drive 60 miles roundtrip for water.

"I sit on my porch, and I wonder why things have got worse for my people and not better," Lewis said, speaking in Navajo through a translator.

The medicine man's desperation is typical of Indians who have problems with running water, sewage disposal and garbage. Besides pollution, most Indian reservations are afflicted with chronic sanitation difficulties that resemble those in Third World countries.

The federal government promised in its treaties with Indians to look out for their health and welfare. That duty was later interpreted by the courts as a legally binding trust responsibility.

The Indian Health Service—the federal advocate for Indians' health—is operating under orders from Congress to improve Indians' sanitation.

"It is the policy of the United States," the law reads, "that all Indian communities and Indian homes, new and exiting, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible."

And yet serious sanitation problems remain for Indians and Alaskan natives.

A Post-Dispatch investigation found that:

On Navajo land alone, more than 11,000 Indian homes lack running water and sewage disposal. Across Indian country, more than 27,000 homes have no piped water or sewage disposal, according to Indian Health Service records.

More than 15 percent of Indian homes lack basic sanitation—nearly eight times worse than the rest of the country. Improvement is needed to two-thirds of the Indian homes that have plumbing.

Few Indian reservations have modern garbage disposal.

The Indian Health Service estimated two years ago what it would take to cure Indians' desperate sanitation problems—$1.6 billion.

According to the report, $882 million is needed to provide water for Indian homes; $577 million for sewers; and $135 million for garbage collection.

Since then, the Indian Health Service pared the total figure to about $600 million, mainly by dropping difficult engineering projects in Alaska.

Meanwhile, the federal Office of Management and the Budget has steadfastly recommended that nothing be spent to correct reservation sanitation problems.

Few would dispute the close connection between sanitation and health. In 1989, more than half of the 56 infant deaths reported on Navajo land occurred in homes without running water, according to a new report commissioned by the Indian Health Service.

In Alaska, infant mortality rates among natives have averaged at least 50 percent higher than for Americans in general in recent years, state health records show. Nationally, the tuberculosis death rate for Indians was five times the rate for other races combined.

The Indian Health Service will get about $70 million next year for sanitation, an amount that depends on the still unapproved federal budget bill. But the $35 million earmarked for new projects, experts say, falls far short of what is needed to give Indians the kind of sanitation enjoyed by the rest of the country.

WHERE IS OUR EDUCATION PRESIDENT?

• Mr. ADAMS. Mr. President, I rise today to ask: Where is our Education President? Usually, he can be found on a plane leaving the United States. Today, he is on a plane to talk about education in Ohio. Many sound bites. Lots of trips. But nothing that makes our children better at math and science, literate, and able to get a job after they graduate.

The President's education plan is like Swiss cheese. The holes are where assistance for public schools should be. The large holes are where Head Start and other early childhood programs should be.

George Bush is not an Education President. His is not an education plan that helps our children. We must provide more resources today to all Americans, including early childhood programs, public schools, and higher education. What we fail to do today, we will require our children and our Nation to pay dearly for tomorrow.

I voted in committee to pass Democratic legislation that would improve our neighborhood public schools and made Head Start available for all eligible children. I introduce legislation to help middle and lower income families afford college and to increase the quality and training of child care staff.

I am committed to making a good education a national priority. Americans demand it. All Americans deserve it. The Democrats' proposals will put us on the track to do it.•

OREGON'S SILETZ TRIBE: CREATING A FUTURE

• Mr. HATFIELD. Mr. President, it was a pleasure to read in this morning's New York Times, an article entitled "Back From Oblivion, a Tribe Forges a Future." This article was written primarily about an Oregon Indian tribe—the Siletz Tribe—which has, for the past two decades, been engaged in a constant battle to regain its identity and economic self-sufficiency.

Since 1855, the Siletz Tribe has lost the 1.2 million-acre reservation to which it was guaranteed in its treaty with the U.S. Government. This land has been displaced primarily through misguided Federal Indian policies and powerful and covetous economic interests. The most significant blow to the status and centuries-old heritage of the Siletz and many other American Indian tribes, however, was the Termination Act of 1954.

In my own State of Oregon, the Termination Act attempted to erase the heritage and culture of the Siletz and a number of other Oregon tribes—one of which was mentioned in this morning's New York Times article, the Coquille Tribe. These two tribes, among nine federally recognized Indian tribes in the State of Oregon, are currently engaged in a healing process to piece back together the culture and heritage stripped by the Termination Act, while at the same time attempting to achieve the economic self-sufficiency which will allow them to compete and flourish in the free-enterprise world.

Mr. President, the Senate has before it now, legislation designed to be a significant piece of the Siletz Tribe's economic self-sufficiency puzzle—the Siletz Reservation Addition Act of 1991 (S. 1561). This legislation, introduced on July 25, 1991, and referred to the Senate Select Committee on Indian Affairs, would return approximately 11,500 acres of timberland in Western Oregon to the Siletz Tribe for multiple-use management. Although S. 1561 has a number of problems which must be worked out, I am hopeful this innovative piece of legislation can be considered by the Select Committee during the next session of the 102d Congress.

The significant accomplishments made to date by the Siletz Tribe, as described in the New York Times article, are a model for tribes whose status has been restored. I must agree with this assessment, Mr. President. In fact, the Siletz Tribe's greatest achievement, in my view, is their cultivation of hope for so many other tribes throughout our Nation also attempting to climb the steep and slippery slope of tribal restoration and self-sufficiency. I salute the Siletz and pledge my continued assistance and support toward the completion of their most difficult quest.

Mr. President, I ask that the text of the following New York Times article of November 25, 1991, be placed in the RECORD following my remarks.

The article follows:

BACK FROM OBLIVION, A TRIBE FORGES A FUTURE

(By Timothy Egan)

SILETZ, OR, November 21.—Deep inside the coastal forest of Oregon, a small American Indian tribe is building the reservation of the future.

After clearing a swath in the woods, the Siletz Indians have constructed a new community of big homes and broad streets. Unemployment is well below the national average. Drugs and alcohol are not allowed. And the budget, enriched by tribal businesses and a portfolio of outside investments, is showing a healthy surplus.

But what is most remarkable about the Siletz is the simple fact that they exist, still holding millennium-old ties to this land. The Siletz, like nearly 70 other tribes and bands of American Indians, were officially abolished in the 1950's as a part of a Government policy known as termination, which took their land, their sovereign status and their tribal identity. In return, the Government made cash payments to the Indians.

Since then, the 2,000-member tribe has waged a 35-years struggle for the restoration of what was taken. Reflecting the consensus view that the policy, which the Government said was intended to move Indians into the American mainstream, was a dismal failure, the Siletz say they are far better off with a reservation, even a tiny one.

But as they work to build a new reservation from the ground up, the Siletz are determined to avoid the mistakes of the past. There are no handouts or cash payments to individuals; they limit budget growth to 2.5 percent a year. They make some use of the

VOL
137
PT
23
NO
21
—
25
1991
UMI

old economic standbys, forests and fish, but are not afraid of trying new business ventures or investing in the stock market. And they still have ceremonies to the salmon God and teach children how to speak the tribal language.

"This tribe is a real prototype for the future because they are trying to take the best of both worlds," said Nelson Witt, an Oglala Sioux who was hired to manage the tribal business interests here. "They are a part of the outside world, but they have not driven the Indian from their hearts."

Most major tribes that were abolished from 1954 to 1970 have been restored through acts of Congress. The Menominee, in Wisconsin, were the first to be brought back, in 1973. The Siletz, in 1977, were the second. Two tribal groups that were terminated, one in South Carolina and the other in California, have yet to win back their status as nations within a nation.

As they rebuild their nations, in some cases starting with nothing more than a one-room office in places where they used to own a third of a state, the tribes are trying to avoid the old cycles of despair. Many of the long-established Indian reservations, situated on land that was considered worthless by the Government, have unemployment rates in excess of 70 percent, bleak housing, and minimal prospects for the future.

To the south of here, the Coquille Tribe, restored in 1989, has but a single acre of land and a small tribal office in Coos Bay, a depressed Oregon mill town on the Pacific. The 600-member tribe adopted a new constitution in August and is working on a plan to be economically self-sufficient.

CHANGE IN POLICY

"It goes without saying that restoration will lead to a better life," said Don Ivy, a Coquille tribal leader. "But the fact is, we live in the 1990's and we need to try a modern approach. The Siletz, for us, have been an education."

There is widespread feeling that the Siletz are a model for tribes whose status has been restored, like the Ponca Indians in Nebraska. The 1,200-member tribe had its status restored last year but has no land. Some of its leaders were on the Oregon coast this week studying the Siletz and the Coquille.

Since 1960, the number of American Indians counted by the Census Bureau has tripled, to a current population of 1.8 million, mainly because the number of Americans who declare themselves as Indians has grown. A majority still live on or near reservations.

But it wasn't so long ago that Federal Indian policy favored removing reservations altogether. Oregon was particularly affected by that policy, as tribes like the Klamaths and the Siletz, who once had huge tracts of reservation land, were given cash payments and told that they no longer existed as a tribe. In the early years of termination, this was done without the consent of a majority of tribal members.

In their treaty of 1855, the Siletz were granted a reservation of 1.1 million acres. But the treaty was never ratified by the Senate, and land that was to have been set aside for them was given away in a series of Presidential decrees. This land includes some with the most spectacular scenery on the Oregon coast, where four-star resorts and art galleries now hug the cliffs of Highway 101.

When the Siletz were terminated in the 1950's, the Government gave each tribal member $560. In turn, the tribe lost 60,000 acres it still owned from the original 1.1-million-acre reservation. The tribe retained a small cemetery atop a hill in this town, the only visible landmark of a people who once lived from Northern California to halfway up the Oregon coast.

From the start, many in the tribe did not agree to give up its reservation, although some who lived in nearby towns told Federal agents they favored the idea.

"You never quit being an Indian just because your tribe has been terminated," said Delores Pigsley, the Siletz tribal chairwoman.

"Termination was a disaster, stripping us of language, culture, land, everything," she added. "It looked good to people who didn't live on reservations, so the Government would go to Indians outside the reservation to get their permission."

The Siletz spent two decades trying to get a Congressional declaration restoring the tribe. After 1970, when Congress and President Richard M. Nixon formally denounced termination, the path was cleared to bring back the tribe.

Parcels totaling 3,600 acres of Federal land were given to the tribe, and in 1977 it started anew. Members sold timber, built a community center next to the cemetery and made plans to construct new houses for Indians who began to move to the new reservation. They also revitalized the local community, non-Indians in the area acknowledge, where Siletz children attend public schools.

"Our goal was to build for the future, to always look ahead," said Manuel Rilatos, who is on the tribal council.

The Siletz decided, against the wishes of some here, not to give out individual payments from the proceeds of tribal enterprises. Instead, they elected to put the money into a community trust, and invest for the future. The timber enterprise grew, as did a business that sells native plants to nurseries. Money was put into the stock market. Last year, revenue of about $2 million was four times the size of the budget.

This year has been the best yet. The Siletz started a smokehouse that sells salmon to tourists in Depoe Bay. A medical clinic, serving Indians and non-Indians alike, has just opened. The tribe realized a longstanding dream and built 54 new houses, some of them with five bedroom, bay windows and two-car garages.

More than almost any other tribe that has been restored, the Siletz have prospered. But even tribes that have not done as well say coming back from termination has been a second chance at life.

"The significance of restoration is that this is the first time in American history that a major Indian policy actually began with Indian people," said Aida Deer, an educator at the University of Wisconsin who was instrumental in helping her native Menominee Indians regain their reservation in Wisconsin. "We achieved a very historic reversal of policy."

Given the history of Federal policy, many Indians never thought they could get their tribual status or reservation returned, Ms. Deer said.

"The small tribes pulled this off, through strength and courage, and I think everybody was surprised," she said. "When termination occurred, what people forgot was that Indians wanted to be Indians."

Don Miller, a lawyer with the Native American Rights Fund in Boulder, Colo., said restoration has been a rare success story in Indian country, but it should be placed in perspective.

"The tribes that were terminated have benefited greatly from restoration," Mr. Miller said. "But, of course, this doesn't mean they got very much of their land back. Only a sliver."

Looking at the big new houses here in Siletz, Mr. Rilatos, who was born here in 1923, said: "We went from a million acres to a graveyard, to this here. We are just now seeing some light."•

S. 543, THE BANKING REFORM BILL

• Mr. BROWN. Mr. President, on November 21, 1991, the Senate passed S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, by voice vote. I would like to go on record that had there been a recorded vote on the banking bill my vote would have been "no."

I opposed the bill because it relies on taxpayers to bail out the banking industry. The bill provides $70 billion in loans from the U.S. Treasury to the Federal Deposit Insurance Corporation [FDIC]. This loan is to be repaid by the banking industry through deposit insurance premium assessments and selling assets of failed institutions. If, however, the banking industry is unable to repay, taxpayers will be forced to pick up the tab for insolvent banks. Taxpayers should not be required to pay 1 cent for losses.•

A TRIBUTE TO PEARL HARBOR VETERANS

• Mr. ADAMS. Mr. President, I rise today to pay tribute to those veterans of the attack on Pearl Harbor who live in my State of Washington.

At this occasion, the 50th anniversary of the attack on Pearl Harbor, we have all taken time to reflect on the events of that important day. In the matter of a few moments, as the Japanese launched an early morning attack on our Pacific Fleet, 2,403 of our courageous servicemen and women gave their lives, 1,178 were wounded, and all of our lives changed forever. President Roosevelt told us that December 7, 1941, would be a "day that will live in infamy." Indeed, this day has proven a constant reminder of the heroism and sacrifice by so many young men and women in defense of our freedom and liberty.

We must never forget Pearl Harbor. This one, unique defining moment in our history serves as testimony to the courage and conviction of a generation of Americans. When asked to serve their country to preserve our way of life, they did so willingly and selflessly. The United States emerged once again as a positive force for freedom and democracy in the world. The example set by the United States gave many people all over the world hope for a more promising future. The service and sacrifice of young service men and women provided that message of hope.

My State of Washington calls itself home to more than 600 Pearl Harbor veterans. All across the State of Washington, on December 7, 1991, in places like Port Angeles, Oak Harbor, Spokane, Seattle, and Vancouver, families and friends will gather to pay tribute to these brave men and women who served at Pearl Harbor.

We all remember where we were on that day. We knew what a terrible blow we had taken at Pearl Harbor. As a World War II veteran myself, I know of the hardships and sacrifice given by those who served. While this is a fitting and well-deserved gesture, it can never fully repay the debt owed those who served.

Be assured that as we commemorate the 50th anniversary of the attack on Pearl Harbor, the bravery, valor, and service of these men and women in defense of their country and its ideals are not forgotten.•

REMOVAL OF INJUNCTION OF SECRECY FROM THE TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS—TREATY DOCUMENT NO. 102–20

Mr. LIEBERMAN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the treaty with the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms, transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (the START Treaty) signed at Moscow on July 31, 1991. The START Treaty includes the following documents, which are integral parts thereof:

—the Annex on Agreed Statements ("Agreed Statements Annex");

—the Annex on Terms and Their Definitions ("Definitions Annex");

—the Protocol on Procedures Governing the Conversion or Elimination of the Items Subject to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Conversion or Elimination Protocol");

—the Protocol on Inspections and Continuous Monitoring Activities Related to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, with 12 annexes ("Inspection Protocol");

—the Protocol on Notifications Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Notification Protocol");

—the Protocol on ICBM and SLBM Throw-weight Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Throw-weight Protocol");

—the Protocol on Telemetric Information Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Telemetry Protocol");

—the Protocol on the Joint Compliance and Inspection Commission Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms ("Joint Compliance and Inspection Commission Protocol"); and

—the Memorandum of Understanding on the Establishment of the Data Base Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, with 10 annexes ("Memorandum of Understanding").

In addition, I transmit herewith, for the information of the Senate, the Report of the Department of State and documents associated with, but not integral parts of, the START Treaty. These documents are of four types: separate executive agreements related to the Treaty; letters embodying executive agreements on various aspects of the Treaty; declarations regarding specific systems that do not fall within the scope of the Treaty; and a variety of statements and correspondence concerning aspects of the negotiation of the Treaty. Although not submitted for the advice and consent of the Senate to ratification, these documents are relevant to the consideration of the Treaty by the Senate.

The START Treaty represents a nearly decade-long effort by the United States and the Soviet Union to address the nature and magnitude of the threat that strategic nuclear weapons pose to both countries and to the world in general. The fundamental premise of START is that, despite significant political differences, the United States and the Soviet Union have a common interest in reducing the risk of nuclear war and enhancing strategic stability.

The United States had several objectives in the START negotiations. First, we consistently held the view that the START Treaty must enhance stability in times of crisis. The strategic nuclear forces remaining after implementation of START—as well as during the period when weapons are reduced—should be such as to reduce Soviet incentives to provoke a crisis or to strike first during a crisis. Stability in times of crisis will remain important even in the post-Cold War era; no one can predict the future, and the purpose of this Treaty is to regulate the strategic threat for many years to come. Among the many measures we sought to fulfill this objective, the most important were the preferential treatment given to stabilizing systems, such as bombers and cruise missiles, the stringent limits on deployed ballistic missiles and their reentry vehicles, and the special, restrictive limits on heavy ICBMs, the most destabilizing weapons in existence.

Second, we sought an agreement that did not simply limit strategic arms, but that reduce them significantly below current levels. A successful combination of this objective with that of a stabilizing force structure can serve for many years as a linch-pin in shaping our strategic posture, and, if appropriate, can serve as a basis for future agreements that will lead to further reductions. Moreover, in order for the Treaty to work smoothly over many years, its terms must be as precise and unambiguous as possible. Neither Party should have any doubt as to the limitations and obligations that are imposed by the terms of the Treaty.

Third, we sought a Treaty that would allow equality of United States forces relative to those of the Soviet Union. Again, the emphasis is to reach equality in order that the resulting levels will be stabilizing. Equality does not require identical force structures; rather, it demands limits that allow the Parties to have equivalent capabilities.

Fourth, we sought an agreement that is effectively verifiable. Effective verification is necessary to ensure that U.S. national security is not jeopardized under the Treaty. Effective verification also acts as an inducement to the Soviets to comply because they are aware that their behavior will be closely monitored.

Finally, the United States placed great emphasis during the negotiations in seeking an agreement that would be supported by the American and allied publics. This objective means that U.S. policies regarding strategic forces must not only sustain deterrence, but will also serve to assure the American people and allied publics that the risk of war and crisis instability is low and is being further reduced.

I am fully convinced that the START Treaty achieves these objectives.

VOL 137
PT 23
NO 21—25
1991
UMI

START will be the first Treaty that actually reduces strategic offensive arms. START will lead to stabilizing changes to the composition of, and reductions in, the deployed strategic offensive nuclear forces of both countries. The overall strategic nuclear forces of both countries will be reduced by 30–40 percent, with a reduction of as much as 50 percent in the most threatening systems. The Treaty will have a 15-year duration, and can be extended for successive 5-year periods through the agreement of the Parties.

Force reductions under START will be asymmetrical due to currently higher Soviet levels, and will result in equal limits on deployed strategic offensive arms at the end of each of three phases over the first 7 years that the Treaty is in force. Moreover, I believe that the reduction of ICBMs should be accomplished even more rapidly than the Treaty would require. On September 27, as a part of my statement on the future of U.S. nuclear weapons, I said that those ICBMs that the United States would reduce pursuant to START would be eliminated more rapidly than required by the Treaty. Today, I reiterate that pledge.

More specifically, the central limits of START require reductions down to ceilings of 1,600 on deployed strategic nuclear delivery systems (i.e., deployed ICBMs, deployed SLBMs, and deployed heavy bombers), 6,000 accountable nuclear warheads that those missiles and bombers would carry, and 3,600 metric tons of aggregate ballistic missile throw-weight. Aggregate throw-weight—a measure of the total weight of weapons and related objects that a ballistic missile can deliver—is limited to approximately 54 percent of the current aggregate Soviet throw-weight level.

Within these aggregate limits, the United States and Soviet Union have agreed to observe certain subceilings in specific weapon categories. Reductions and limitations on those weapon systems that could most threaten crisis stability are emphasized in these subceilings. Under START, neither Party may have more than 4,900 deployed ballistic missile warheads of which no more than 1,100 warheads can be on deployed mobile ICBMs. Moreover, the Soviet Union is required to reduce by 50 percent their heavy ICBM force. The Soviet Union will eliminate no fewer than 22 SS–18 launchers every year during the 7-year reduction period to a ceiling of 1,540 warheads on 154 heavy ICBMs.

To assist in verifying compliance with these limits, START incorporates the most extensive verification regime in history, which includes the exchange of ballistic missile telemetry tapes, the permanent monitoring of mobile ICBM assembly facilities, 12 kinds of on-site inspections, special access visits, cooperative measures, and data exchanges to complement our national technical means of verification. Moreover, many of the Treaty provisions, such as its definitions, counting rules, conversion or elimination procedures, notifications, and numerous data exchanges, will help to verify whether the Soviet Union is in compliance with the central limitations. Thus, I am convinced START is effectively verifiable.

START represents a critical watershed in our long-term effort to stabilize the strategic balance through arms control. Stabilization of the strategic balance will help cement one of the most fundamental tenets of our preferred world order—that conflict must not and shall not be resolved through the use of nuclear weapons. Moreover, recent events underscore the need to ensure stability and to broaden the dialogue between our countries. Implementation of START would reinforce these efforts.

In sum, the START Treaty is in the interest of the United States and represents an important step in the stabilization of the strategic nuclear balance. I therefore urge the Senate to give prompt and favorable consideration to the Treaty, including its Annexes, Protocols, and Memorandum of Understanding, and to give advice and consent to its ratification.

GEORGE BUSH.
THE WHITE HOUSE, *November 25, 1991.*

RECESS APPOINTMENTS

Mr. LIEBERMAN. Mr. President, I have a resolution which I offer on behalf of Senators MITCHELL and DOLE, which I send to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 232) relating to recess appointments.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 232) was agreed to, as follows:

S. RES. 232

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BICENTENNIAL OF THE ESTABLISHMENT OF THE DEMOCRATIC PARTY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed now to the immediate consideration of S. 2047 introduced earlier today by Senators SANFORD, MITCHELL, et al., regarding the bicentennial of the establishment of the Democratic Party of the United States.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 2047) to establish a commission to commemorate the bicentennial of the establishment of the Democratic Party of the United States.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) it is generally acknowledged that the evolution of the political party system in the United States provided life and flesh for the framework of democratic governance that was established by the Constitution;

(2) Thomas Jefferson founded the first political party in the United States, the Democratic Party, which was originally known as the Republican Party, in order to accommodate the honest differences of our emerging Nation's people, to ensure that freedoms provided would be honored, to guarantee that complaints against the government could be redressed, and to effectuate the choice of the electorate in the peaceful transfer of political power;

(3) in 1992, the Democratic Party of the United States will celebrate the 200th anniversary of its establishment on May 13, 1792;

(4) an understanding of the historical development of the Democratic Party is crucial to an understanding of the history of the United States; and

(5) it is appropriate and desirable to provide for the observation and commemoration of the 200th anniversary of the Democratic Party.

SEC. 2. ESTABLISHMENT OF COMMISSION.

There is hereby established a Commission on the Bicentennial of the United States'

Democratic Party (hereafter in this bill referred to as the "Commission") to coordinate ceremonial events and related activities as appropriate during the calendar year of 1992.

SEC. 3. MEMBERSHIP OF COMMISSION.

The Commission shall be composed of the following members:

(1) 4 members to be appointed by the Majority Leader of the Senate, who may be Members of the Senate.

(2) 4 members to be appointed by the Speaker of the House of Representatives, who may be Members of the House of Representatives.

(3) 4 members to be appointed by the Chairman of the Democratic Governors' Association, who may be current or former members of the Democratic Governors' Association.

(4) 2 members of the Democratic National Committee to be appointed by the Chairman of the Democratic National Committee.

(5) As many as 6 additional members to be appointed by the Commission once the 14 members have been appointed pursuant to paragraphs (1) through (4).

SEC. 4. CHAIRPERSON.

The Majority Leader of the Senate shall designate with the concurrence of the Speaker of the House of Representatives and the Chairman of the Democratic Governors' Association, 1 of the members of the Commission to serve as Chairperson of the Commission.

SEC. 5. VACANCIES.

Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment.

SEC. 6. DUTIES OF COMMISSION.

The Commission shall—

(1) educate the American public about the creation and growth of political parties in the United States, the importance of political parties to the founding and preservation of democracy, and the operation of political parties in the governmental process;

(2) oversee the planning and development of all events, activities, and studies, that are organized to commemorate the establishment and development of political parties in the United States;

(3) plan and implement the observance of the bicentennial of the Democratic Party during the calendar year of 1992;

(4) seek to involve private organizations in the bicentennial activities; and

(5) serve as a vehicle for the collection and dissemination of information about bicentennial activities and events.

SEC. 7. REPORTS TO CONGRESS.

The Commission shall submit periodic reports, and a final report at the time of its termination, on its activities to the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 8. FUNDING.

(a) PRIVATE SOURCES.—Funds for the Commission shall be raised through private sector sources.

(b) DISCLOSURE.—The Commission shall disclose the sources and amounts of such funds in its interim and final reports.

(c) DONATIONS.—The Commission is authorized to accept donations of money, personal services, and property related to the commemoration of the Democratic Party.

(d) VOLUNTEER SERVICES.—The Commission may accept such volunteer services of private individuals or companies as the Commission determines are necessary to carry out the purposes of this joint resolution.

(e) DISSOLUTION.—Upon its dissolution, the Commission shall distribute any remaining funds to any organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 that is dedicated, among other purposes, to educating the public about the democratic political process.

SEC. 9. TERMINATION.

The Commission shall cease to exist on February 13, 1993, unless otherwise provided by law.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF COPYRIGHT RENEWAL PROVISIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 278, S. 756, relating to copyright renewal provisions.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 756) to amend title 17, United States Code, the copyright provisions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

TITLE I—COPYRIGHT RENEWAL PROVISIONS

SECTION 101. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of—

"(i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or

"(ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire,

the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work—

"(i) the author of such work, if the author is still living,

"(ii) the widow, widower, or children of the author, if the author is not living,

"(iii) the author's executors, if such author, widow, widower, or children are not living, or

"(iv) the author's next of kin, in the absence of a will of the author,

shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year before the expiration of the original term of copyright by any person entitled under paragraph (1) (B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2) (A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant of a transfer or license of copyright that is made before the expiration of the original term of copyright, may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the copyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.".

(e) BASIC PAY.—Members of the Board shall

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(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under paragraphs (1) and (2) of section 304(a) of title 17, United States Code, (as amended by subsection (a) of this section) shall have the same effect with respect to any grant, before the effective date of this section, of a transfer or license of the further term as did the renewal of a copyright before the effective date of this section under the law in effect at the time of such grant.

(c) CONFORMING AMENDMENT.—Section 304(c) of title 17, United States Code, is amended in the matter preceding paragraph (1) by striking "second proviso of subsection (a)" and inserting "subsection (a)(1)(C)".

(d) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended by striking "At" and all that follows through "unpublished work," and inserting "At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date,".

(e) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended by inserting after "409," the following: "in the application for a renewal registration,".

(f) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended—

(1) by striking "in its first term"; and

(2) by striking "$12" and inserting "$20".

(g) EFFECTIVE DATE; COPYRIGHTS AFFECTED BY AMENDMENT.—(1) Subject to paragraphs (2) and (3), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply only to those copyrights secured between January 1, 1963, and December 31, 1977. Copyrights secured before January 1, 1963, shall be governed by the provisions of section 304(a) of title 17, United States Code, as in effect on the day before the effective date of this section.

(3) This section and the amendments made by this section shall not affect any court proceedings pending on the effective date of this section.

SEC. 102. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 108(i) of title 17, United States Code, is repealed.

TITLE II—FILM PRESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Act of 1991".

SEC. 202. FINDINGS.

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage;

(3) because of deterioration or loss, less than one-half of the feature-length films produced in the United States before 1951, including only 20 percent of the silent films, still exist and many of the films produced after 1951 are deteriorating at an alarming rate; and

(4) it is appropriate and necessary for the Federal Government to—

(A) recognize motion pictures as a significant American art form deserving of protection, including preservation and restoration; and

(B) establish a National Film Registry of films that represent an enduring part of our national, historical, and cultural heritage, which Registry should be established and maintained in the Library of Congress; and

(5) to the extent possible, and with the permission of the copyright owners, films selected for inclusion in the National Film Registry should be made widely available to the American public in their Registry versions.

SEC. 203. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereafter in this title referred to as the "Librarian") shall establish a National Film Registry under the provisions of this Act, for the purposes of recognizing and preserving films that are culturally, historically, or aesthetically significant.

SEC. 204. DUTIES OF THE LIBRARIAN OF CONGRESS.

(a) DUTIES.—The Librarian shall, after consultation with the Board established under section 205—

(1) after completion of the study required under section 212, establish a comprehensive national film preservation program for films, in conjunction with other major film archives, with the objectives of—

(A) coordinating activities to assure that ongoing efforts of archivists and copyright owners, and others in the public and private sector are effective and complementary;

(B) generating public awareness of and support for those activities;

(C) increasing accessibility of films for educational purposes; and

(D) improving nationwide activities in the preservation of works in other media such as videotape;

(2) establish criteria and procedures pursuant to which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication;

(3) establish procedures whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(4) establish procedures for the examination by the Library of Congress of copies of films named for inclusion in the National Film Registry to determine eligibility for the use of the seal of the National Film Registry;

(5) determine which films satisfy the criteria developed under paragraph (2) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in such Registry;

(6) publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry;

(7) provide a seal to indicate that a film is included in the National Film Registry;

(8) to the extent practicable, ensure, subject to the rights of copyright owners, that there is a Registry version of each film selected for the National Film Registry;

(9) publish in the Federal Register the standards for preservation or restoration that shall qualify films for use of the seal; and

(10) submit an annual report to the appropriate committees of the Congress, listing films included in the National Film Registry and describing the activities of the Board.

(b) SEAL.—A seal provided for a film under subsection (a)(7) may be used on any copy of the Registry version of such film as defined in section 211(6). Before such seal may be used, the Library of Congress shall have examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or his duly authorized licensee may place or authorize the placement of a seal on a copy of a film selected for inclusion in the National Film Registry. In the case of works no longer protected by copyright, the Library may affix a seal. The person authorized by this subsection to place a seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

SEC. 205. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of 17 members, selected by the Librarian in accordance with the provisions of this section. Each organization listed in subparagraphs (A) through (P) shall submit a list of not less than three qualified candidates to the Librarian. With the exception of the member listed in subparagraph (Q), the Librarian shall appoint 1 member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. Such organizations shall include—

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America East and West, appointed in accordance with paragraph (2);

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Film and Television at New York University Tisch School of the Arts;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Alliance of Motion Picture and Television Producers;

(M) the Screen Actors Guild of America;

(N) the National Association of Theater Owners;

(O) the American Society of Cinematographers and the International Photographers Guild, appointed in accordance with paragraph (2)(B);

(P) the United States Members of the International Federation of Film Archives; and

(Q) a member at large.

(2)(A) Each organization under paragraph (1)(C) shall nominate 3 candidates. The Librarian shall appoint a candidate from 1 organization as a member of the Board, and shall select a candidate from the other organization as an alternate.

(B) The American Society of Cinematographers shall nominate 3 candidates, each of whom shall be a member of the International Photographers Guild.

(3) The member at large listed in paragraph (1)(Q) shall be chosen by the Librarian from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall also select from the names submitted in this paragraph an alternate member at large who may attend those meetings which the member at large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years. There shall be no limit to the number of terms that any individual member may serve.

(2) A vacancy on the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than 1 nominee on the Board at any time.

(d) QUORUM.—Nine members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 206. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Librarian and Board considers appropriate.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations and representatives for academic institutions with film study programs.

(c) SELECTION OF FILMS.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian and make recommendations with respect to the selection of films for the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant. The Board shall recommend and the Librarian shall select not more than 25 films a year for inclusion in the Registry.

SEC. 207. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) COPY OF FILM.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of a Registry version of each film included in the National Film Registry. Whenever possible the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—In addition, the Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials. Such materials shall become a part of the collection described in subsection (d).

(c) PROPERTY OF THE UNITED STATES.—All copies of films, and other materials, received by the Librarian shall become the property of the United States Government, except that nothing in this title shall infringe on the copyright owners' rights under title 17, United States Code.

(d) REGISTRY COLLECTION.—All copies of films received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, subject to the limitations of title 17, United States Code—

(1) provide for reasonable access to films in such collection for scholarly and research purposes; and

(2) to the extent practicable, and with the permission of the copyright owners, endeavor to exhibit or encourage the exhibition of such films to the public.

SEC. 208. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—No person shall knowingly distribute or exhibit to the public a copy of a film which bears a seal as described under section 204(a)(7) if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but the print from which such copy was made was not examined and approved for use of the seal by the Library of Congress pursuant to section 204(b).

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal as described in this section shall be effective for each film after publication by the Librarian in the Federal Register of the name of that film selected for inclusion in the National Film Registry.

SEC. 209. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 208 upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective removal of the seal of the National Film Registry.

(2) In any case in which the Librarian finds a pattern or practice of the willful violation of this title, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

(c) EXCLUSIVE REMEDIES.—The remedies provided under this section shall be the exclusive remedies under this title or any other Federal or State law, regarding the use of the seal as described by section 204(a)(7).

SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate.

(b) EXPERTS AND CONSULTANTS.—The Librarian may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 211. DEFINITIONS.

For purposes of this title:

(1) The term "Board" means the National Film Preservation Board.

(2) The term "copy" used in reference to a film means a copy fixed on film stock, not on other media such as videotapes or laser disks.

(3) The term "film" means a motion picture as defined in section 101 of title 17, United States Code, except that such term excludes any works not originally fixed on film stock, such as videotapes or laser disks.

(4) The term "Librarian" means the Librarian of Congress.

(5) The term "publication" means a publication as defined in section 101 of title 17, United States Code.

(6) The term "Registry version" means, with respect to a film, the version of the film first published or as complete a version as bona fide preservation and restoration activities by the Library of Congress or another archive acting pursuant to section 204 can compile.

SEC. 212. STUDY BY THE LIBRARIAN OF CONGRESS.

The Librarian, after consultation with the Board, shall conduct a study on the state of film preservation and restoration, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation. No later than 1 year after the date of enactment of this section, the Librarian shall submit to the Congress a report containing the results of the study conducted under this section.

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Library of Congress, such sums as are necessary to carry out the provisions of this title, but in no fiscal year shall such sum exceed $250,000.

SEC. 214. EFFECTIVE DATE.

The provisions of this title shall be effective on the date of the enactment of this Act through September 30, 1997. The provisions of this title shall apply to any copy of any film, including films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988. Films selected for the National Film Registry under the National Film Preservation Act of 1988 shall be deemed to have been selected under this title.

SEC. 215. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 et seq.) is repealed.

AMENDMENT NO. 1445

(Purpose: To make a technical amendment)

Mr. LIEBERMAN. Mr. President, on behalf of Senator LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for Mr. LEAHY, proposes an amendment numbered 1445.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, strike out lines 21 through 23, and insert in lieu thereof:

(B) The American Society of Cinematographers and the International Photographers Guild shall jointly nominate 3 candidates.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1445.

The amendment (No. 1445) was agreed to.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—COPYRIGHT RENEWAL PROVISIONS

SECTION 101. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of—

"(i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or

"(ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire,

the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work—

"(i) the author of such work, if the author is still living,

"(ii) the widow, widower, or children of the author, if the author is not living,

"(iii) the author's executors, if such author, widow, widower, or children are not living, or

"(iv) the author's next of kin, in the absence of a will of the author,

shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year before the expiration of the original term of copyright by any person entitled under paragraph (1) (B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2) (A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant of a transfer or license of copyright that is made before the expiration of the original term of copyright, may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the copyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.".

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under paragraphs (1) and (2) of section 304(a) of title 17, United States Code, (as amended by subsection (a) of this section) shall have the same effect with respect to any grant, before the effective date of this section, of a transfer or license of the further term as did the renewal of a copyright before the effective date of this section under the law in effect at the time of such grant.

(c) CONFORMING AMENDMENT.—Section 304(c) of title 17, United States Code, is amended in the matter preceding paragraph (1) by striking "second proviso of subsection (a)" and inserting "subsection (a)(1)(C)".

(d) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended by striking "At" and all that follows through "unpublished work," and inserting "At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date,".

(e) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended by inserting after "409," the following: "in the application for a renewal registration,".

(f) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended—

(1) by striking "in its first term"; and

(2) by striking "$12" and inserting "$20".

(g) EFFECTIVE DATE; COPYRIGHTS AFFECTED BY AMENDMENT.—(1) Subject to paragraphs (2) and (3), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply only to those copyrights secured between January 1, 1963, and December 31, 1977. Copyrights secured before January 1, 1963, shall be governed by the provisions of section 304(a) of title 17, United States Code, as in effect on the day before the effective date of this section.

(3) This section and the amendments made by this section shall not affect any court proceedings pending on the effective date of this section.

SEC. 102. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 108(i) of title 17, United States Code, is repealed.

TITLE II—FILM PRESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Act of 1991".

SEC. 202. FINDINGS.

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage;

(3) because of deterioration or loss, less than one-half of the feature-length films produced in the United States before 1951, including only 20 percent of the silent films, still exist and many of the films produced after 1951 are deteriorating at an alarming rate; and

(4) it is appropriate and necessary for the Federal Government to—

(A) recognize motion pictures as a significant American art form deserving of protection, including preservation and restoration; and

(B) establish a National Film Registry of films that represent an enduring part of our national, historical, and cultural heritage, which Registry should be established and maintained in the Library of Congress; and

(5) to the extent possible, and with the permission of the copyright owners, films selected for inclusion in the National Film Registry should be made widely available to the American public in their Registry versions.

SEC. 203. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereafter in this title referred to as the "Librarian") shall establish a National Film Registry under the provisions of this Act, for the purposes of recognizing and preserving films that are culturally, historically, or aesthetically significant.

SEC. 204. DUTIES OF THE LIBRARIAN OF CONGRESS.

(a) DUTIES.—The Librarian shall, after consultation with the Board established under section 205—

(1) after completion of the study required under section 212, establish a comprehensive national film preservation program for films, in conjunction with other major film archives, with the objectives of—

(A) coordinating activities to assure that ongoing efforts of archivists and copyright owners, and others in the public and private sector are effective and complementary;

(B) generating public awareness of and support for those activities;

(C) increasing accessibility of films for educational purposes; and

(D) improving nationwide activities in the preservation of works in other media such as videotape;

(2) establish criteria and procedures pursuant to which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication;

(3) establish procedures whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(4) establish procedures for the examination by the Library of Congress of copies of films named for inclusion in the National Film Registry to determine eligibility for the use of the seal of the National Film Registry;

(5) determine which films satisfy the criteria developed under paragraph (2) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in such Registry;

(6) publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry;

(7) provide a seal to indicate that a film is included in the National Film Registry;

(8) to the extent practicable, ensure, subject to the rights of copyright owners, that there is a Registry version of each film selected for the National Film Registry;

(9) publish in the Federal Register the standards for preservation or restoration that shall qualify films for use of the seal; and

(10) submit an annual report to the appropriate committees of the Congress, listing films included in the National Film Registry and describing the activities of the Board.

(b) SEAL.—A seal provided for a film under subsection (a)(7) may be used on any copy of the Registry version of such film as defined in section 211(6). Before such seal may be used, the Library of Congress shall have examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or his duly authorized licensee may place or authorize the placement of a seal on a copy of a film selected for inclusion in the National Film Registry. In the case of works no longer protected by copyright, the Library may affix a seal. The person authorized by this subsection to place a seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

SEC. 205. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of 17 members, selected by the Librarian in accordance with the provisions of this section. Each organization listed in subparagraphs (A) through (P) shall submit a list of not less than three qualified candidates to the Librarian. With the exception of the member listed in subparagraph (Q), the Librarian shall appoint 1 member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. Such organizations shall include—

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America East and West, appointed in accordance with paragraph (2);

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Film and Television at New York University Tisch School of the Arts;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Alliance of Motion Picture and Television Producers;

(M) the Screen Actors Guild of America;

(N) the National Association of Theater Owners;

(O) the American Society of Cinematographers and the International Photographers Guild, appointed in accordance with paragraph (2)(B);

(P) the United States Members of the International Federation of Film Archives; and

(Q) a member at large.

(2)(A) Each organization under paragraph (1)(C) shall nominate 3 candidates. The Librarian shall appoint a candidate from 1 organization as a member of the Board, and shall select a candidate from the other organization as an alternate.

(B) The American Society of Cinematographers and the International Photographers Guild shall jointly nominate 3 candidates.

(3) The member at large listed in paragraph (1)(Q) shall be chosen by the Librarian from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall also select from the names submitted in this paragraph an alternate member at large who may attend those meetings which the member at large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years. There shall be no limit to the number of terms that any individual member may serve.

(2) A vacancy on the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than 1 nominee on the Board at any time.

(d) QUORUM.—Nine members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 206. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Librarian and Board considers appropriate.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations and representatives for academic institutions with film study programs.

(c) SELECTION OF FILMS.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian and make recommendations with respect to the selection of films for the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant. The Board shall recommend and the Librarian shall select not more than 25 films a year for inclusion in the Registry.

SEC. 207. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) COPY OF FILM.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of a Registry version of each film included in the National Film Registry. Whenever possible the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—In addition, the Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials. Such materials shall become a part of the collection described in subsection (d).

(c) PROPERTY OF THE UNITED STATES.—All copies of films, and other materials, received by the Librarian shall become the property of the United States Government, except that nothing in this title shall infringe on the copyright owners' rights under title 17, United States Code.

(d) REGISTRY COLLECTION.—All copies of films received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, subject to the limitations of title 17, United States Code—

(1) provide for reasonable access to films in such collection for scholarly and research purposes; and

(2) to the extent practicable, and with the permission of the copyright owners, endeavor to exhibit or encourage the exhibition of such films to the public.

SEC. 208. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—No person shall knowingly distribute or exhibit to the public a copy of a film which bears a seal as described under section 204(a)(7) if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but the print from which such copy was made was not examined and approved for use of the seal by the Library of Congress pursuant to section 204(b).

VOL 137 PT 23 NO 21—25 1991 UMI

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal as described in this section shall be effective for each film after publication by the Librarian in the Federal Register of the name of that film selected for inclusion in the National Film Registry.

SEC. 209. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 208 upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective removal of the seal of the National Film Registry.

(2) In any case in which the Librarian finds a pattern or practice of the willful violation of this title, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

(c) EXCLUSIVE REMEDIES.—The remedies provided under this section shall be the exclusive remedies under this title or any other Federal or State law, regarding the use of the seal as described by section 204(a)(7).

SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate.

(b) EXPERTS AND CONSULTANTS.—The Librarian may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS–15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 211. DEFINITIONS.

For purposes of this title:

(1) The term "Board" means the National Film Preservation Board.

(2) The term "copy" used in reference to a film means a copy fixed on film stock, not on other media such as videotapes or laser disks.

(3) The term "film" means a motion picture as defined in section 101 of title 17, United States Code, except that such term excludes any works not originally fixed on film stock, such as videotapes or laser disks.

(4) The term "Librarian" means the Librarian of Congress.

(5) The term "publication" means a publication as defined in section 101 of title 17, United States Code.

(6) The term "Registry version" means, with respect to a film, the version of the film first published or as complete a version as bona fide preservation and restoration activities by the Library of Congress or another archive acting pursuant to section 204 can compile.

SEC. 212. STUDY BY THE LIBRARIAN OF CONGRESS.

The Librarian, after consultation with the Board, shall conduct a study on the state of film preservation and restoration, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation. No later than 1 year after the date of enactment of this section, the Librarian shall submit to the Congress a report containing the results of the study conducted under this section.

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Library of Congress, such sums as are necessary to carry out the provisions of this title, but in no fiscal year shall such sum exceed $250,000.

SEC. 214. EFFECTIVE DATE.

The provisions of this title shall be effective on the date of the enactment of this Act through September 30, 1997. The provisions of this title shall apply to any copy of any film, including films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988. Films selected for the National Film Registry under the National Film Preservation Act of 1988 shall be deemed to have been selected under this title.

SEC. 215. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 et seq.) is repealed.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALASKA NATIVE LANGUAGES PRESERVATION AND ENHANCEMENT ACT

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 319, S. 1595, the Alaska Native Languages Preservation and Enhancement Act of 1991, that the substitute amendment be agreed to, the bill as amended be deemed read a third time, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1595) deemed to have been read the third time and passed is as follows:

S. 1595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Native Languages Preservation and Enhancement Act of 1991".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991) is amended by adding after section 803A the following new section:

"SEC. 803B. GRANT PROGRAM TO PRESERVE AND ENHANCE ALASKA NATIVE LANGUAGES.

"(a) IN GENERAL.—The Secretary shall award grants to any—

"(1) Alaska Native village;

"(2) consortium of Alaska Native villages;

"(3) regional corporation established by the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

"(4) urban Alaska Native organization;

that is selected pursuant to subsection (c), for the purposes of enhancing, encouraging, preserving, and facilitating the ability of Alaska Natives to speak their native languages, and to preserve and expand knowledge about such languages.

"(b) IN PARTICULAR.—The specific purposes for which grants awarded under subsection (a) may be used include, but are not limited to—

"(1) the construction of new facilities or the conversion of existing facilities into centers for the preservation and enhancement of Alaska Native languages;

"(2) the establishment of community language programs to bring older and younger Alaska Natives together to facilitate the transfer of language skills from one generation to another;

"(3) the establishment of training programs to train speakers of Alaska Native languages to teach such languages to others;

"(4) the drafting and printing of materials to be used for the teaching and enhancement of Alaska Native languages;

"(5) the establishment or support of training programs to train Alaska Natives to produce or participate in television or radio programs to be broadcast in their native languages; and

"(6) the compilation of oral testimony to record or preserve Alaska Native languages.

"(c) APPLICATIONS.—Grants shall be awarded on the basis of applications that are submitted by any of the entities described in subsection (a) to the Secretary in such form as the Secretary shall prescribe, but the applications shall, at a minimum, include—

"(1) a detailed description of the project for which a grant is sought;

"(2) a statement demonstrating that a principle objective of the project is to preserve or enhance the knowledge or use of Alaska Native languages; and

"(3) a plan to preserve the results of the project (such as tapes, textbooks, or transcripts) in a central location for the benefit of future generations of Alaska Natives and other interested persons.

"(d) AMOUNT OF FUNDING.—Notwithstanding any other provision of this Act, the costs of programs that are awarded grants pursuant to this section shall be paid in accordance with the following paragraphs:

"(1) 90 PERCENT OF COSTS.—The grants awarded pursuant to this section shall provide funding for not more than 90 percent of the costs of the programs that are recipients of such grants.

"(2) REMAINING 10 PERCENT OF COSTS.—The remaining 10 percent of the costs of programs that are awarded grants under this section shall be paid by the grant recipient either in cash or through provision of property or services.

"(3) LIMITATION ON FUNDS TO PAY THE REMAINING 20 PERCENT OF COSTS.—The amount referred to in paragraph (2) may originate from any source (including any Federal agency) other than a program, contract, or grant authorized under this Act.

"(e) ADMINISTRATION.—The Secretary shall administer grants under this section through the Administration for Native Americans.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803A, and 803B"; and

(2) by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated $2,500,000 for each of the fiscal years 1992, 1993, 1994. 1995, and 1996, for the purpose of carrying out the provisions of section 803B of this Act.".

WAIVER OF CERTAIN RECOVERY REQUIREMENTS WITH RESPECT TO REMODELING OF FACILITIES

Mr. LIEBERMAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1891.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1891) entitled "An Act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction of remodeling of facilities, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa–12(d)) is amended by striking out "(a)(2)" and inserting "(a)".

SEC. 2. USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

(2) by adding at the end the following new paragraph:

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

Mr. LIEBERMAN. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STROM THURMOND ROOM

Mr. GRASSLEY. Mr. President, I send to the desk a resolution on behalf of Senator DOLE and ask that it be considered.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 233) designating Room S–238 in the United States Capitol Building as the Strom Thurmond room:

Whereas Senator Strom Thurmond has served in the United States Senate with great distinction for thirty-seven years, six of which he served in the position of President Pro Tempore;

Whereas Senator Thurmond has served as Chairman of the Senate Judiciary Committee and as a senior member of several other committees and he has authored hundreds of vital legislative measures;

Whereas Senator Thurmond has also served on numerous Federal commissions and other Federal bodies;

Whereas Senator Thurmond's service to the Senate has been characterized by diligent work for the citizens of the United States, sincere dedication, boundless energy, and immense loyalty;

Whereas on December fifth, 1991, Senator Thurmond will celebrate his 89th birthday; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Thurmond as a reminder to present and future generations of his outstanding service as a United States Senator: Now, therefore, be it

Resolved, That room S–238 in the United States Capitol Building is hereby designated as, and shall hereafter, beginning December 5th, 1991, be known as, the "Strom Thurmond Room", in recognition of the selfless and dedicated service provided by Senator Strom Thurmond to our Nation and its people.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to take 3 minutes of the Senate's time to suggest two things. First, there is already a Strom Thurmond room in the Capitol. My staff happens to think it is my office.

But this will officially name a room after STROM THURMOND. I would suggest based on not only the diligence but the incredible perseverance of the Senator from South Carolina that we will probably see a half dozen cities named after STROM THURMOND before this is over.

I think it is highly appropriate that the room be named after STROM THURMOND, but I might suggest that in his ninth term he may not settle for a room. He is moving into his eighth term next time out. In his ninth term I suspect we may be back here having to talk about a building. But I am delighted he is settling for only a room right now, because I want to tell you: He can fill that room with all of us whenever he decides he needs us.

On a serious note, the Senator from South Carolina has been the single most enjoyable person I have had the honor of working with in my years in the U.S. Senate. There have only been 19 years, a mere drop in the bucket compared to the Senator from South Carolina.

I want to congratulate him. He deserves a room to be named after him. He deserves to know that all of us in this body, any of us who have worked with him, look to him for not only guidance but the fact that he has been able to be the quintessential legislator.

He is a man that is easy to deal with. He has incredible honor when he deals with you. You never have to wonder where he is. And I admire him a great deal, and am delighted to see the Senate naming a room after him.

I thank my colleagues for indulging me in allowing me to make those references.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 233) was agreed to.

The preamble was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, Senator THURMOND.

Mr. THURMOND. Mr. President, this is the first I ever heard of this. I am shocked and surprised that this action was taken. Ordinarily you hear some rumors about things. I knew nothing about this at all. But I deeply appreciate the thoughtfulness of the Senate in doing this.

I did not know who inspired it, authored it, or anything about it. But I do appreciate the kindness of the Senate. I thank whoever the author is; who did it.

I thank Senator BIDEN for his kind remarks; and all the rest of the Senators.

I enjoyed being here for 37 years, and I do not know that I will be here for 37 more. [Laughter] Certainly several more years, I hope.

I want to express my deep gratitude and appreciation for this kindness that you have conferred upon me.

Thank you very much.

[Applause, Senators rising]

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DASCHLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER, Without objection, it is so ordered.

LONG–TERM HEALTH CARE

Mr. SIMON. Mr. President, Saturday, or maybe it was Friday, I introduced a

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VOL 137 PT 23 NO 21—25 1991 UMI

bill that moves us in a direction that I think we have to move in terms of long-term care.

This is one of the basic problems. It is not a substitute for a comprehensive health care bill. Obviously, we have to move in that direction. But it is going to take some time before we move in that direction of a comprehensive health care bill.

So I introduced a bill that is composed of two parts. Part of it is a bill that the late Congressman Claude Pepper and I introduced some time ago to take care of at-home care. About 30 percent of the people who go to nursing homes do not need to go to nursing homes.

So we provide some assistance for people who are at home in terms of people who cannot bathe themselves, cannot feed themselves, or who have lost some of these functions, or the ability to go to a toilet, or some of the things that are simple tasks that some people have lost in terms of long-term care.

When I say long-term care, more than 90 percent are those over the age of 65. But it could happen that the Presiding Officer, Senator TOM DASCHLE, or PAUL SIMON, could walk out here and get hit by a truck. I hope it does not happen to either one of us. But the need for long-term care can hit any of us.

The second thing we do is, and we do it on a pay-as-you-go basis, as I will explain in a moment, is we say for those who have to go to nursing homes—and those numbers if I had a graph in front of you would be going up like this. Nine years from now there will be a million more people in nursing homes than there are right now. That is an astounding reality that we face.

When Social Security passed the average American lived to be 58. We now live to be an average of 75. Those numbers are going up.

But the second thing this bill does is it says if you have to go to a nursing home, the first $500 of the expenses you have to pick up. Then the difference between a $500 and the average cost of a nursing home, which is $2,400, would be picked up by the Federal Government.

And beyond that $2,400, if you want to go to a nursing home that costs $3,000 a month, you have to pick that up. But no longer would families have to be devastated. No longer would we have—as I read in an article just the other day—middle-income families maneuvering around so that their parents turn over their bank accounts and property to them so they would be eligible for Medicaid. We would save some money in Medicaid.

How do we pay for this long-term care, which is going to be a growing problem? We pay for Medicaid by an increase of a half percent in the Social Security tax, and we pay for this program by taking the cap off of the Medicare cost, the 1.3 percent that we pay that is now limited to the first $125,000. I think it makes sense. And it is very interesting to me that I have tried this out in all kinds of town meetings and groups everywhere, and I have yet to find a group that is not overwhelmingly for it. And if I were to ask—just among the pages, the staff, and the people here right now—how many of you have relatives who are in a nursing home right now, you would be surprised at the number of hands raised.

In the strange way we can monitor on TV, the other day I spoke to three high school groups in Illinois and asked them to raise their hands if they had a relative who is in a nursing home. You would be surprised at the number of high school students who raised their hands.

This, again, is not comprehensive legislation, in terms of dealing with the health care problem. It deals with only one aspect of it, but it is an aspect that is doable. My hope is, again, that we can do it.

Let me summarize once again. It provides at-home care up to 50 percent of the cost of nursing home care for people who have two functions that are missing, such as maybe bathing, maybe eating or, whatever the functions are. The second thing it does is to say that the first $500 of nursing home care that you need, you have to pay for it yourself. Most people have that $500. The difference between $500 and $2,400, which is the average cost of nursing home care, the Federal Government would pick up. Then if you want to go to a fancier nursing home, or maybe one near your home that costs $3,000, you or your family have to pick up that extra amount between $2,400 and $3,000. It is, I think, a step in the right direction. I hope we will not wait until we have a comprehensive bill before we move on this.

I am a cosponsor of the Mitchell-Kennedy bill. The Mitchell-Kennedy bill deals with many of our problems. It does not deal with the long-term care problem. This is a problem that is going to be growing fairly dramatically in the near future, and I hope we deal with it, and I think we have to deal with it on a pay-as-you-go basis.

Mr. President, if no one else seeks the floor, I suggest absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed for a brief period of time as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I have been a strong advocate of aggressively moving to seize economic opportunities in the Soviet Union. I welcome the President's modest proposal to provide the Soviets credit for purchases of American food products. This is good news for American farmers. I suspect that as the winter wears on, more may need to be done.

The Soviet Union is in a period of painful transition. There is hardly an American product produced which that Nation does not need. The problem of course, is how to get paid for those products. The irony is that the Soviet Union is among the world's richest nations in terms of natural resources and energy resources. The challenge is to think creatively and find ways to extract value from those resources to pay for exports from the United States. A creative export strategy for these new markets could get American farms and factories producing for consumers starved for American products. Such a strategy could be a lasting recession ender.

Soviet consumer needs should be treated as an opportunity to expand trade, rather than a burden, which challenges an old order. While perhaps risky in the short term, trade with the Soviet Union holds unprecedented promise for the United States in the long term.

Over the last several months, I have frequently discussed the economic potential of a long-term food for oil agreement between the United States and U.S.S.R. While the Bush administration replied to my suggestions with the reasons why such a deal could not work, just 2 weeks ago, the French Government concluded a food for oil agreement with the Soviet Government.

Today, I rise to report another example of a lost opportunity because our Government is clinging to the old thinking of the cold war while our competitors are seizing economic opportunities.

Over a year ago, the executives of US West briefed me on their plan to lead a consortium of firms to upgrade the Soviet telecommunications infrastructure with a trans-Siberian fiber-optic network.

I offered my support and discussed the matter with fellow Senators. It is my belief that the project which used relatively modest fiber-optic technology would have had congressional support. Unfortunately, citing Cocom restrictions, the Bush administration blocked the fiber project.

After the end of the Soviet coup, in an address to this body, I called on the Bush administration to reconsider its opposition to the Trans-Siberian fiber optic project and to target telecommunications exports to the Soviet Union and Eastern Europe.

I regret to report that not only did that call apparently go unheeded, the Bush administration has been fighting legislation in Congress to amend U.S. law to permit American participation in the Trans-Siberian fiber optic project.

In light of the administration's persistent stubbornness on this issue, I call to the attention of my colleagues an article published in today's issue of Inside U.S. Trade which reports that an East German firm, operating under the German grandfather clause of the Cocom rules, is shipping optical fiber to the U.S.S.R. While there may be some question about the quality and capabilities of the East German fiber, this report should send the United States a clear warning signal.

In international trade the old saw is appropriate "he who hesitates is lost." In terms of developing exports to Eastern Europe and the Soviet Union, the United States is hesitating.

I again renew my call for an end to the fiber optic deadlock. If United States firms are successful in their bids to build Soviet and East European telecommunications infrastructures, there will be a ground floor advantage for United States telecommunications exports for years to come. If the German firms, Japanese firms or any other nation's firms build the new infrastructure, then exports from those nations win the advantage.

The urgency is clear. Not only will a developed telecommunications network itself facilitate the development of business and markets, telecommunications improvements are at least partially self-financing since hard currency is earned on each incoming international call.

The United States must develop a long-term bipartisan export strategy for the U.S.S.R. and Eastern Europe or be left out of one of the world's most exciting economic expansions. Legislation I introduced earlier this fall to create a U.S.-U.S.S.R. peace and prosperity commission would provide a forum to craft an American strategy.

In the meantime, the United States should not lose sight of the real opportunities which are day by day slipping out of our fingers because of a present lack of vision.

The East German sale of optical fiber is a wake up call to those who have been standing in the way of an export oriented telecommunications trade policy. In a growing recession, the United States can not afford to hang up on any new customers for American products.

Mr. President, I ask unanimous consent that the article entitled German firm in Eastern half said to export fiber cable to Soviet Union, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GERMAN FIRM IN EASTERN HALF SAID TO EXPORT FIBER CABLE TO SOVIET UNION

A firm located in former east Germany has sold fiber optics cable to the Soviet Union that exceeds the specifications laid out for such sales of high-technology telecommunications equipment by the U.S. and its allies in the Coordinating Committee for Multilateral Export Controls (CoCom).

In doing so, the firm Carl Zeiss Jena Optik is taking advantage of a "grandfather clause" negotiated in CoCom during the unification of Germany that allows exports from that region of any products capable of being made with indigenous east German technology prior to unification, industry and government officials said. Reports from U.S. industry sources, confirmed by an informed U.S. official, indicate that Jena Optik has contracted to sell 130,000 kilometers of optical fiber, which when bundled together would produce about 1600 kilometers of fiber optic cable.

U.S. industry and government sources immediately differed on the implications of the sales, which an informed government official acknowledged had been notified to CoCom as required under the grandfather clause. Industry sources warned of far-reaching consequences, as it would allow a German company an initial foot in the door at providing fiber optics technology to the Soviet Union. They pointed out that the provision of such technology runs directly contrary to stated U.S. policy, as adopted by CoCom last May. That policy forbids the sale of high-speed fiber optics equipment or technology to the Soviet Union because it could interfere with Western intelligence collection capabilities and bolster the survivability of Soviet military communications in time of war.

The licensing of such a sale by Germany could be an "opening shot across the bow" in a renewed push for more liberal parameters for telecom sales under threat of abandoning CoCom, U.S. industry sources said. They also noted that the sale could renew congressional backing for a controversial telecom provision opposed by the Administration that is currently contained in H.R. 3489, the House version of the Export Administration Act (EAA) bill waiting to be conferenced with the Senate. That measure would liberalize telecom sales to the Soviets to allow them to buy equipment up to the level that China is currently allowed to purchase.

But a U.S. government official reached on Nov. 21 downplayed the significance of the sale. The cable that is being produced by Jena Optik is of such poor quality that it could not be used for long distances such as a trans-Siberian cable. Moreover, he noted, it is the transmitters and boosters that are the critical part of fiber optics technology that allows transmission at high rates, and there is no indication that those units are part of this sale.

While the U.S. is not pleased by such a sale, the U.S. official said, it recognizes that it is legitimate if produced with indigenous east Germany technology as notified to CoCom. The government earlier had decided that it could not press Germany to adopt a unification-era export controls policy that would shut down certain factories that produce high-tech goods for export. Jena Optik is one of "about a half dozen" east Germany firms that have the capability to produce a limited amount of low-quality fiber. He added that officials would be checking to ensure that the production is actually being done with pre-unification technology that was not obtained illegally from the West.

The official did not dispute that the cable at issue would allow a transmission at a frequency of 1370 nanometers, which is considerably above the 100-nanometers level that CoCom determined last May to be the point beyond which sales should require a multilaterally approved license.

Separately, prospects for the Senate to pass companion legislation to H.R. 3489 waned this week as Sen. Malcolm Wallop (R-WY) refused to lift a Nov. 13 hold he had placed on procedures that would have allowed a quick vote on a bill largely similar to S. 320, the bill passed by the Senate last spring. Wallop is indicating that he believes a rapid effort to conference any bill with the House could harm national security given provisions on telecommunications and nuclear exports in the House bill, an informed congressional source said.

In addition, the House this week passed the Chemical and Biological Weapons Act, which would require the President to impose sanctions against foreign persons and countries involved in the production and use of chemical and biological weapons. The President could waive the requirement to impose sanctions for at least 1 year if such a waiver were "essential" to national security. If the President, waived import sanctions, he would have to notify the committees on ways & means and senate finance, not the foreign affairs and foreign relations committees, according to an amendment proposed by Rep. Sam Gibbons (D-FL) at a Nov. 19 committee markup. The CBW bill is part of a package of bills the House Ways & Means Committee passed on Nov. 19. It contains a bill allowing the sale of Soviet gold coins in the U.S., a measure to extend Most Favored Nation (MFN) treatment to the Baltic states and a bill to extend duty free treatment of certain goods from the Andean nations. The bills were attached to H.R. 1724 as passed by the Senate, which extends MFN treatment of Czechoslovakia and Hungary and extends unemployment compensation benefits. It was moved to the House suspension calendar along with the bill extending MFN to the Soviet Union, where it passed on Nov. 20. However, the bill may face difficulties in the Senate over the Andean trade initiative, which has not been the subject of hearings in the Senate. It was likely that the Senate would push to kill the Andean trade initiative in conference, but the situation was complicated on Nov. 21 when the House passed a motion to instruct the conferees to accept the Andean trade initiative. That motion was approved by more the 400 House members, according to a congressional source.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise today to support the conference report for H.R. 1724, which provides additional emergency unemployment benefits. This bill represents a compromise which provides a fair level of benefits to all States.

The measure we will be considering tomorrow builds upon a measure which

VOL 137
PT 23
NO 21—25
1991
UMI

the Congress considered last week and President Bush signed into law. Under that bill, States would receive either 6, 13, or 20 weeks of additional unemployment benefits. That bill was enacted into law in order to allow these much needed unemployment benefits to begin flowing to those persons who have exhausted their regular benefits. However, during Senate consideration of the measure, strong concern was expressed that the benefit formula used to determine the number of weeks of additional benefits a State would receive was not equitable. I shared this concern and was pleased when the Senate passed the compromise measure included in the conference report. Under the compromise bill, all States would receive up to 13 weeks of additional benefits. Nine states that have the highest rates of unemployment would receive up to 20 weeks.

These benefits will be available to eligible persons who have exhausted their regular benefits since March 1, 1991. This temporary program will end on June 13, 1992. These additional benefits will be paid for by permanently extending the program allowing the Internal Revenue Service to collect nontax debts owed to Federal agencies, changing the requirements for filing of quarterly estimated income tax payments, extending for an additional year the current unemployment tax rate paid by employers, and allowing the Department of Education to garnish the wages of people who default on student loans. While it is important to lend a helping hand to those who are out of work, it is imperative that we pay for these benefits. Today, when the Federal debt is over $3 trillion and the Federal budget deficit is $268 billion, we must not pass measures which will add to the deficit. I am pleased that the above mentioned provisions were included to pay for these urgently needed benefits.

Mr. President, this bill will increase the available benefits for persons in some States such as my home State of South Carolina. I am pleased that we will be considering this measure in order to assist unemployed persons as they continue their search for work. I urge my colleagues to support the conference report.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH EDUCATION ASSISTANCE LOAN CEILING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2050, a bill to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes, introduced earlier today by Senators KENNEDY and HATCH; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was deemed read the third time, and passed, as follows:

S. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled an Act "Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes".

NATIVE AMERICAN CULTURE CENTER

Mr MITCHELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 3370, a bill directing the Secretary of the Interior to carry out a study regarding a native American cultural center in Oklahoma City, OK, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 3370) to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, Oklahoma.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3370) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL AMENDMENTS TO INDIAN LAWS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S.1193.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the amendent of the House to the bill (S. 1193) entitled "An Act to make technical amendments to various Indian Laws", with the following amendment:

Page 5, after line 14 of the Senate amendment, insert:

SEC. 7. AMENDMENTS TO SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT.

The Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (Public Law 100–512) is amended in sections 7(a), 7(d), 10(a)(1)(A), 10(a)(1)(B), and 12(b), by striking out "December 31, 1991" and inserting in lieu thereof "June 30, 1992".

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SAN CARLOS INDIAN IRRIGATION PROJECT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1476, the San Carlos Indian irrigation bill just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1476) to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 1476) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3595

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed to H.R. 3595, the Medicaid Moratorium Amendments of 1991 be vitiated and that at 10:30 a.m. tomorrow, Tuesday, November 26, the Senate proceed to the consideration of H.R. 3595.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time proceed to the consideration of H.R. 1724, the MFN/unemployment insurance supplemental conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Minnesota be recognized to address the Senate, and that upon the conclusion of his remarks the Senate stand in recess as under the order until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I thank my colleagues.

MEDICAID MORATORIUM AMENDMENTS

Mr. DURENBERGER. Mr. President, I intend to take just a few minutes to discuss the issue of the Medicaid moratorium amendments.

The leader has already indicated that the motion to invoke cloture has been vitiated and that this matter will be addressed in the form of H.R. 3595, as amended by the Senate Finance Committee and hopefully in conjunction with that on an amendment by this Senator, an agreement that was reported out of the Finance Committee without recommendation which has been subsequently modified during the course of the last day or two, an agreement entered into between members of the National Governors Association and others in negotiation with the administration to try to deal with an issue which has been plaguing both sides for the last 12 months that deals with provider taxes and voluntary donations.

Mr. President, about a month ago many of the Nation's Governors came to Washington to meet with a number of the leaders of the House and Senate, particularly the people who were most interested in health care reform. States are probably having a more difficult time than we meeting their obligations under Medicaid, general medical assistance, and a variety of other programs. The Governors came with a very imaginative, I thought as one of the participants, platform for health care reform.

Among the recommendations made to us by the Nation's Governors was that we do something about the relationship between the Federal and the State system. Among other things, they recommended to us that the Medicaid system was broke and in fact this is their words:

> The Governors believe the Medicaid system is broken. It has become a rigid and overly complex program. Its institutional bias prevents State from providing preventive and primary care in settings most appropriate for its clients. Eligibility for the program is dominated by arcane rules that penalize providers, clients and administrators.

The Governors in their program then go into what they call their long-term vision for changes in the Medicaid Program, changes that recommend special provisions for the elderly and people with disabilities, changes in the public program for low-income people. Then they go into a set of recommendations on short-term realities and recommendations and they speak to the issue of financing the Medicaid Program.

This is what they say, and I quote from their recommendations.

> Financing is the major obstacle to achieving consensus on the best long-term use of current Medicaid resources. The options, therefore, are for each side to try to shift the disproportionate burden to the other or to work cooperatively to develop a way to achieve a rational system over time.

I will repeat that: The options appear to be "for each side to try to shift a disproportionate burden to the other or to work cooperatively to develop a way to achieve a rational system."

For several years we have been in the business of shifting burdens toward the States. We have come up with a variety of very important mandates in the area of young mothers and children but we have not provided the adequate resources for the States to implement those mandates.

The States seem to be in the process of getting even. In the last 12 months they have increased what are called provider taxes or voluntary donations by 100 percent, thus shifting their matching financial contributions for Medicaid onto the Federal Government. In the process, many of the States are on the verge of converting this 26-year-old Federal-State Medicaid financing partnership into a sole proprietorship financed 100 percent by the Federal Government.

I will take just a minute to describe perhaps three examples for my colleagues. I am sure my colleague who is in the Chair now from South Dakota does not represent a constituency that is practicing any of these examples. In fact, I think South Dakota is one of few States, maybe six States in this country, that do not do any of these kinds of schemes.

But here is what one State did. This particular State's hospitals historically added a surcharge to their regular service charges to cover projected uncompensated care costs. The State government converted the surcharge program into a tax program. The hospitals transferred the tax over to the State. The State then returned the money to the hospitals in the format of increased Medicaid payments and then claimed Federal matching funds for the increased payments. The State in this case estimates that this paper transaction will generate more than one-half billion dollars in additional Federal funds but not a single dime of additional cost to the State treasury.

Here is a second example. This one involves a so-called donation. This State had a $208 million shortfall in its Medicaid hospital budget so a group of hospitals in the State formed a nonprofit corporation which borrowed $365 million from a bank and then donated the funds to the State. The State increased its disproportionate share payments to these hospitals from a maximum of 2½ percent of Medicaid reimbursement to the 53 percent. That enabled the State to return the $365 million donation to the hospitals in the form of disproportionate share payments. The State then claimed the $365 million payment for Federal matching was reimbursed $208 million by the Federal Government and that enabled the State to use the Federal funds to eliminate its $208 million Medicaid hospital budget shortfall.

Finally, Mr. President, I will describe an innovative new tax program that effectively converts one State's Medicaid Program into a 100-percent federally financed program. One of the reasons this State is able to convert its Medicaid Program to a 100-percent Federal program is because for every dollar it claims it pays for Medicaid, the Federal Government provides more than $3 of matching funds. In this case, the State adopted a tax—and I use that word with caution—on noninstitutional providers participating in Medicaid. The revenue from the tax precisely equals the State's share of costs for Medicaid. The State then will raise payments to the providers in an amount that again precisely equals the revenue derived from the tax.

When the cost of the tax is subtracted from the increased Medicaid payment to the provider, the provider continues to receive the same payment that they had received prior to the imposition of the tax.

The effect for the U.S. taxpayer is that the Federal Government pays 100 percent of the costs of this State's

VOL
137
PT
23
NO
21
—
25
1991
UMI

Medicaid budget. And to make matters even worse, by declaring nearly 100 percent of a State's hospitals as disproportionate share hospitals, all the restraint on hospital charges to Medicare or Medicaid patients is eliminated and the Federal taxpayers pay whatever the hospital wants to charge and the State is willing to pay with Federal dollars.

Mr. President, in the past year alone the cost to the Federal Government of investigating donation and PAC schemes has increased by more than 1,100 percent. A year ago these payments totaled $500 million. This year they are $5.5 billion.

What is clear is that few legislators think that these transactions are right. But if one or two States get away with it, every State must inevitably join in the feeding frenzy. Thirty-eight already have, and our colleagues from the other 12 will have to make a place for them at the trough.

Mr. President, I recognize that every State is under severe budgetary pressure. With the economy slow to recover, with more citizens seeking State assistance, the pressure on the States to balance their budget is enormous.

Morever, annual double-digit increases in the cost of health care, along with an endless series of Federal Medicaid mandates, only serves to exacerbate that pressure. But that is not justification to allow the States to shift their statutory costs to the Federal Government.

The authors of the Medicaid law never intended the Federal Government would be solely responsible for financing Medicaid. It was assumed each State would have to use some of its fiscal resources to share in the cost of the program.

Congress, in setting up the formula, recognized the fiscal disparities that existed between the States. It adopted a Federal matching formula that increased the Federal match for States with lower per capita incomes. Currently the matching rates for provider payments can range from 50 to 83 percent.

Let me give you an example. The matching rate for the State with the largest Federal contribution is Mississippi, 80-20. For Arkansas the matching rate is 75–25. For Minnesota, it is 54–46. And for New York, 50–50. What that means is that for every Medicaid dollar expended by the State of Mississippi the Federal Government will pay $4 to the State for its share. That is legitimate. For every Medicaid dollar paid by the State government in New York, the Federal Government provides $1.

If Mississippi wanted to federalize its Medicaid Program, and so far it has not, all it would have to do is raise Medicaid fees to its providers by about 20 percent, then impose the tax on Medicaid of about 20 percent. The providers would continue to receive reimbursement at current rates, but the State would have generated enough additional Federal matching money to finance 100 percent of the State's program.

Until recently every State had to factor in State Medicaid costs in their annual budgets. But what we are seeing is that some very creative State officials have found a way to eliminate Medicaid as a cost item in their budgets. These States no longer have to make the difficult decision of cutting services or raising taxes to help finance Medicaid. Instead, they send the bill to Washington where the State's Medicaid bill is paid for by the Nation's taxpayers.

Mr. President, Minnesotans gladly accept the 54 percent Federal Medicaid match. They do not resent the idea that poorer States receive a higher match. We are proud to the wealth of our State, and we are pleased that the Federal Government is more generous to poorer States. But the donation and tax schemes that shift Medicaid costs from the State to the national taxpayers have nothing to do with the fiscal capacity of a State. Wealthy States that receive the minimum 50 percent match have adopted some of the most creative of the tax schemes.

So the issue is not the fiscal capacity of a State. It is simply a matter of the fiscal creativity of State budget officials and the moral integrity of the same.

When Minnesota's new Gov. Arne Carlson entered office at the beginning of this year he faced a $2 billion budget shortfall. After months of agonizing over the issue, Minnesota adopted a modest provider tax program. State officials really did not want to adopt such a program because they knew it was a matter of fiscal chicanery. But their attitude was simply that all the other States are doing it, why should not we get in the game?

Obviously, at the same time, they had pressure from providers of care to raise the reimbursement the State was providing for the provision of these services.

So, Mr. President, the issue is not do you protect your State's Medicaid financing scheme. It is will we take responsibility for Federal Medicaid spending or will we delegate that to the 50 State legislatures?

If the Federal deficit can be increased by $5 billion in just 1 year by the creation of these schemes, just the beginning of these schemes, think of these schemes, think of what all 50 States could do to the Federal budget next year.

We must take that responsibility, and we must do it now, Mr. President. On tomorrow we will have an opportunity to do that. We will certainly have had the help of our colleagues from the Governors' Association. At least at this stage, as I understand the negotiations, all but one or two of the Governors—others who have been consulted with—have indicated that appropriate changes have been made in the agreement so that they would be satisfied with the recommendations which we will make tomorrow in the form of an amendment.

For those who have not yet decided to be part of the agreement, I will just go back to where I began with the very, very fine statement put together by all of the Governors—John Ashcroft of Missouri is the Chairman, Roy Romer, Governor of Colorado, is vice chairman of the committee—and restate their proposition.

Medicaid is broken. It has to be fixed. There are long-term ways of doing it, and there are short-term ways of doing it. The options the Governors say are for each side to try to shift the disproportionate burden to the other or that both sides work cooperatively to develop a way to achieve a rational system over time.

The agreement which I hope to be able to present on behalf of both the Governors and those of use who participated in the last several days in this I trust adopt that second route that we work cooperatively with the Nation's legislatures and Governors, and develop a way to achieve a rational system.

Mr. President, I yield the floor.

ORDER FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow; and that following the time reserved for the two leaders, there be a period for morning business not to extend beyond 10:30 a.m. tomorrow, during which Senators may be permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12:30 to 2:15 PM

Mr. MITCHELL. Mr. President, I ask unanimous consent that on tomorrow the Senate stand in recess from 12:30 p.m. until 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senate stands in recess until 10 a.m., Tuesday, November 26.

Thereupon, the Senate, at 10:11 p.m., recessed until tomorrow, Tuesday, November 26, 1991, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate November 25, 1991:

DEPARTMENT OF TRANSPORTATION

James Buchanan Busey IV, of Illinois, to be Deputy Secretary of Transportation.

VOL 137 PT 23 NO 21—25 1991 UMI

HOUSE OF REPRESENTATIVES—*Monday, November 25, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are appreciative, O God, that in so many places in our world people are securing the realities of freedom. We know that nearly every day we hear of new liberties to nations, of hostages released, of reconciliations attempted, of families reunited. We pray, gracious God, that as we see others gaining renewed spirit and vigor, we will not lose ours through lack of determination or purpose. May we commit our hearts and minds and souls to justice, to personal dignity, and to respect between every person so the soul of our Nation is strong from within. Grant, O living God, this our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. PAXON] please come forward and lead the House in the Pledge of Allegiance.

Mr. PAXON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution and a concurrent resolution of the House of the following titles:

H.J. Res. 125. Joint resolution to designate the week beginning November 24, 1991, and the week beginning November 22, 1992, each as "National Family Caregivers Week"; and

H. Con. Res. 188. Concurrent resolution concerning freedom of emigration and movement for Syrian Jews.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 794. An act to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes; and

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2521) "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes."

The message also announced that the Senate had passed bills, a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 108. An act to make a technical amendment to the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress;

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for a period of not more than 70 years;

S. 1182. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes;

S. 1183. An act to reduce the restrictions on the lands conveyed by deed to the city of Kaysville, Utah, and for other purposes; and

S. 1184. An act to direct the Secretary of the Interior to conduct a study to determine the nature and extent of the salt loss occurring at Bonneville Salt Flats, UT, and how best to preserve the resources threatened by such salt loss;

S.J. Res. 124. Joint resolution to designate "National Visiting Nurse Associations Week" for 1992;

S.J. Res. 225. Joint resolution to designate February 3, 1992, through February 9, 1992, as "National Police Officer and Firefighter Recognition Week"; and

S. Con. Res. 78. Concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

APPOINTMENT AS MEMBERS OF COMMISSION ON LEGAL IMMIGRATION REFORM

The SPEAKER. Pursuant to the provisions of section 141(a) of Public Law 101–649, the chair appoints the following members to the Commission on Legal Immigration Reform on the part of the House: Mr. Bruce A. Morrison of New Haven, CT; and Mr. Warren R. Leiden of McLean, VA.

MOTION TO INSTRUCT CONFEREES ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. WYLIE. Mr. Speaker, I offer a motion to instruct.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Mr. WYLIE moves that the Managers on the part of the House at the conference on the disagreeing vote of the two Houses on the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, be instructed to insist on the House provisions, due to the dire need to replenish the Bank Insurance Fund.

The SPEAKER. The gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes, and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support of my motion to instruct conferees with reference to the recapitalization of the bank insurance fund. Simply stated, the motion would instruct House conferees to insist on the House provisions due to the dire need to replenish the deposit insurance fund immediately.

The need for this unusual procedure, it seems to me, ought to be obvious to the Members. The bank insurance fund needs to be recapitalized immediately. The Senate-passed banking bill would involve nine other committees of the House and make the process of going to conference so cumbersome as to be unworkable.

The Senate banking bill, for instance, deals with crop insurance, the Lampf decision regarding limitations for securities and fraud cases, the TWA pension fund, Chinese slave labor, lender liability under public works, fair trade and financial services, repeal of the luxury tax, and CIA reporting requirements.

We have met with Senate leaders, and I think they have agreed to drop most of these so-called controversial nongermane amendments, but time is not on our side, Mr. Speaker.

To consider all of these extraneous amendments would be contrary to the central need now and that is to recapitalize the bank insurance fund. The Senate bill also includes a cap on interest rate charges on credit cards. The author of this amendment has put a hold on the appointing of conferees until he can get some sort of an agreement in this regard.

I think it is fair to say that most of the conferees would want to drop this amendment, too. I received an urgent

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

letter from Secretary Brady this morning and another one from Chairman Alan Greenspan, FDIC Chairman Bill Taylor, and Paul Volcker, all having written strong letters in opposition to the imposition of arbitrary interest rates on credit cards.

Mr. Speaker, I think I have made my point that the time to get on with the recapitalization of the bank insurance fund is now.

These other issues are important, but they can be taken up later on. The issue of the recapitalization of the bank insurance fund cannot be taken up later on. We need to restate the House position in the strongest possible terms as to the urgency of the recapitalization of the bank insurance fund.

I urge support of my motion to instruct conferees.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

I agree with my distinguished colleague from Ohio. I agree on this motion to instruct the conferees when and if we have them.

Clearly there is no margin for error in the House. We have had votes ad nauseam, both full committee, subcommittee, full committee and the House. Unrestrained, three times. And it just seems to me that I, for one, would not ask the Members of the House to walk the plank four times whereas the other body did not send us a bill until about noon Saturday.

And then it was so chock full of disparate elements, that I think my colleague from Ohio has brought out, including the proviso as to slavery in China, to such things as a pension plan for the Federal Deposit Insurance Chairman, Bill Taylor, to relief for the banks, for the relief of the bankruptcy troubles of Robert Campaul, the guy that shattered the bond business and the so-called junk bond world.

☐ 1210

So what we got was a bill so chock full of irrelevancies, as a mangy hound dog is full of fleas, and it just simply is not possible to proceed in a rational manner. It is impossible for the House to proceed. We would have to have had at least nine different committees from the House all the way from the Committee on Foreign Affairs, the Committee on Ways and Means, and Intelligence if we were to have a suitable and a proper arrangement for conferees from the House to meet that kind of action from the Senate.

I might disclose to my colleagues so that they will understand why it is that I support this strongly; the Speaker, in his wisdom, convened almost 10 hours Friday, brought the Senators over, the Secretary of the Treasury, various and sundry committee chairmen from the House, all the committee chairmen and the committee members from the Senate. The Treasury brought in an army of staff. In fact, I guess on Friday, the Treasury must have closed the doors for business because all of their staff were over here. He met to try to reason.

What happened? Nobody can say that we were trying to be confrontational. I want to thank the Speaker for that effort. I think that what it has done is shown that the House has acted most responsibly, most honorably, and above all responsibly to the urgent need.

I pointed out in general debate when we brought up the banking bill this third time that a month from now when we are in the vacation time and on the verge of Christmas the deposit insurance fund for the banks is insolvent, and if anybody who gets up here and emotionally says, "Let us be honest," if we want to be honest then what we ought to tell our folks is "We don't have the insurance fund in a position to honor the commitment of the Government for our little funds or big funds, up to $100,000." That is the bald truth.

Now, it is almost criminal negligence. If there were such a thing as malpractice for negligence in legislative procedure, I think that the actions here that we face in trying to structure at this late hour a conference would certainly make somebody vulnerable there.

Mr. Speaker, I yield such time as he may use to the gentleman from Illinois [Mr. ANNUNZIO], the distinguished chairman of the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance of the Committee on Banking, Finance and Urban Affairs of the House.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to support the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] and to support the gentleman from Ohio [Mr. WYLIE] for the motion to instruct. I associate myself with the remarks of the gentleman from Texas [Mr. GONZALEZ] and those of the gentleman from Ohio [Mr. WYLIE].

For over a year now we have been warning the American people that the BIF is broke, it is insolvent, it is out of money. I urge the Members of this Congress to vote for this motion to instruct because if we do not do that, all we need is one more large bank to fail in the United States and we are going to have blood on the streets of America. The people will finally realize that their deposits are not insured.

Some of us have short memories. Do we remember what happened in the State of Maryland? Do we remember what happened in the State of Ohio? Do we remember what happened in the State of Rhode Island, where the Governor, I understand, is still riding around in a limousine with two bodyguards because those savings and loans shut down?

These institutions in those States were not federally insured. They were privately insured in those States where the S&L's went down. So I urge the Members today to vote on the Wylie motion and to vote "aye."

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time.

I join him and the other Members that have spoken here this morning in strong support for this motion to instruct the conferees. We have worked on this bill for months, and I compliment all the Members that have worked so hard, the chairman and the subcommittee chairman and the ranking member, and all the members of the Banking Committee. This motion is really the only avenue that is available. We have faced this issue in committee for months. We have gone over all of the amendments and the version passed by the House is the only bill that we can enact, at this time. Many, including myself, have questions in our minds about this bill. However, we realize that this is the only way for us to proceed, that we have to recapitalize the FDIC, we have to be responsible.

At least one House has to be responsible. The Senate with a voice vote put everything in their bill including the kitchen sink, including all the dirty dishes. A voice vote totally ducking this issue is, in my opinion, irresponsible action. Now is the time for us to act, and I would plead with all the Members of the House to join in this motion and back the Wylie motion.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his contribution. Again I want to urge Members to vote for this motion to instruct conferees. As I said a little earlier, the bank insurance fund recapitalization is urgently needed. The New York Times reported this morning that "Federal regulators have had to move more slowly in seizing weak banks because of the depletion of the deposit insurance fund," which will ultimately cost taxpayers money.

The news media has not been treating us kindly on this issue, Mr. Speaker. The motion to recommit will restate our position as to how urgent we feel this recapitalization of the bank insurance fund really is and, therefore, I would urge adoption of the motion, Mr. Speaker.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to instruct.

VOL
137
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23
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1991
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There was no objection.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Ohio [Mr. WYLIE].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WYLIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum in not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 398, nays 3, answered "present" 1, not voting 32, as follows:

[Roll No. 423]

YEAS—398

Abercrombie
Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Loken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—3

Burton
Quillen
Solomon

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—32

Alexander
Clay
Collins (IL)
Crane
Engel
Foglietta
Ford (TN)
Hatcher
Hertel
Horton
Hutto
Mfume
Mrazek
Oberstar
Oxley
Parker
Payne (NJ)
Ray
Rostenkowski
Russo
Savage
Sharp
Shaw
Sikorski
Smith (TX)
Stokes
Sundquist
Towns
Weber
Weldon
Wilson
Wolpe

□ 1241

Mr. QUILLEN changed his vote from "yea" to "nay."

Mrs. COLLINS of Michigan and Mr. NICHOLS changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATING ORDERING OF VOTE ON H.R. 3638, KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

Mr. GUNDERSON. Mr. Speaker, I ask unanimous consent to vacate the ordering of a vote on the bill (H.R. 3638) modifying the boundaries of the Alaska Maritime National Wildlife Refuge.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 157, CORRECTING ERRORS IN ENROLLMENT OF H.R. 2251, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION TO INSTRUCTION OFFERED BY MR. MCDADE

Mr. McDADE. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion

The Clerk read as follows:

> Mr. McDADE moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.J. Res. 157, be instructed that if there is a choice between a cleaned-up Desert Storm and dire emergency package that offers substantial assistance to those affected by natural and farming disasters that is likely to be signed into law, and a product containing extraneous and non-emergency items that is likely to be vetoed, resulting in a delay in further consideration of this measure until well into 1992, the conferees should choose the former, in order to get assistance to those in need in the shortest time possible.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. McDADE] will be recognized for 30 minutes in support of his motion to instruct conferees and the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes

The Chair recognizes the gentleman from Pennsylvania [Mr. McDADE].

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this supplemental, which we have been working on for some 5 months, left the House, it was in deep trouble. It had been loaded up with a myriad of provisions, from changing the Federal Election Commission law on financing Presidential campaigns to providing drug testing for Members of Congress.

Funding had grown to the level of over $7 billion, and if enacted, would have resulted in a sequester of 2.7 percent against all domestic programs to pay for it.

When I offered a motion to recommit, which received 180 votes, the chairman rose and most uncharacteristically in a weak moment said, "Don't worry. The Senate will take care of it."

Of course, the Senate did not take care of it. The funding levels passed by the Senate are just as high. And they loaded it up even more, taking some 30 amendments on the Senate floor, with provisions ranging from recognizing the Ukraine to monitoring domestic uses of imported grain to space missions to looking at comets.

The only saving grace in the Senate bill was an emergency provision that said that the only funding in the bill that would be made available is whatever the President chose to declare an emergency. A bill containing such a provision could be signed by the President, but the likelihood that the House would accept such a provision is minuscule.

So here we are, going to conference on this long-suffering supplemental, and still in a muddle. But there is a ray of hope, Mr. Speaker; a ray of hope for all the Members in this House who are hoping that we can find a way to provide needed disaster assistance to the east coast, and the west coast, and many places in between, and to pay for costs of Desert Storm.

That ray of hope is a letter sent by the administration on Saturday, which goes a long way toward defining what would constitute an acceptable package. If we can produce a clean bill consisting of funding for Desert Storm, FEMA disasters and agriculture disasters, the administration would be willing to designate a significant amount of funding as emergency.

For FEMA, while up to now the administration has been willing to designate $151 million as emergency, while both House and Senate have passed funding in the amount of $943 million, the administration would be willing to designate a substantial amount of the current $693 million backlog in funding as an emergency. The exact amount still needs to be negotiated out, but it will be a substantial amount.

For agriculture disasters, previously the administration's position was to agree to up to $1 billion if it was offset. Now the administration is willing to designate up to $900 million as an emergency.

That is a substantial and significant offer, Mr. Speaker. It puts the House conferees and the House to a decision point.

Do we want a bill that will get assistance to those affected by disasters, or do we want a veto that will put off consideration of the issue until the next session of Congress?

My motion to instruct would put the House on record in support of getting a substantial and significant supplemental that the President can sign. There is a real chance to do so.

It will take some restraint on the part of the Congress, but we have the opportunity to do the right thing—get a lean, clean supplemental that addresses the real needs that are out there, with the assurance of the administration that it will sign a bill.

My motion to instruct instructs the conferees that if they have a choice between a cleaned up bill that will be signed, and a Christmas tree that will be vetoed, they ought to take the responsible position and get a signable bill.

I urge my colleagues to support this motion. If it fails, and we get a supplemental that is vetoed, it will be at the fault of Congress.

When you go back to your constituents and explain to them why they are not getting paid for their backlogged claims to FEMA, or why they are not getting any agriculture disaster assistance, you will not be able to blame the administration. They have mercifully put forth a way to get out of the quagmire that we have created for ourselves.

The choice between a supplemental that will be enacted and a supplemental that will be vetoed is now up to the conferees and up to the Congress.

I urge Members to do the responsible thing and the right thing—to vote for this motion to instruct conferees.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I call the attention of my colleagues to the fact that I differ with the views that have been stated by my good friend and colleague on the conference committee and on the Appropriations Committee.

We provide by law that the Congress can say what is a dire emergency, and also the President can say what is a dire emergency. I call attention to the fact that we had $1 billion $100 million determined by the executive branch as being a dire emergency for foreign countries. I call attention to the fact that in the bill before us, our colleagues on the other side of the Capitol provided section 202, which gives to the executive branch the right of item veto, and certainly that was not mentioned in support of the instruction.

So I would have to say that I differ with the facts. As the chairman of the conference, I differ with the facts as related. I differ with the efforts to provide that the executive branch shall have the power to control the Congress' action, though it has the power of veto.

We have three branches of Government, the legislative, the judicial, and the executive, and I am proud to say that since I have been chairman of the Appropriations Committee, the White House has signed 180 bills of the 193 appropriations bills we have passed. We have worked the others out.

I have said many, many times that we try to run a bipartisan committee. We try to realize, as has been said before, that we have a government of three branches, which is like a Russian chariot with three horses; we have to pull in the same direction if we are to get anywhere. But I say we have reached a point here now where the Office of Management and Budget is telling us what the President will do, not merely what they will recommend. I do not know whether he has authorized them to do that or not. I do have a letter from the Director of OMB in which he says the President will do this and that he will do that, but that he will not do this and will not do that. I do not know how sound his claims may be, but I will say that on an earlier bill when I talked to the OMB Director about a sequester and went over the various activities of the Government in the bill, he said he wanted to work it out, and then the next thing, I knew, he had issued an order of sequestration for thirteen ten-thousandths of 1 percent.

So I say to the Members, they can adopt this if they wish, but we on the committee expect to do our own interpretations, and certainly we are not in a position to turn it over to the executive branch. May I say that my personal relations with the President are excellent. He is a fine person, and we have been friends for a long time. That does not mean we agree. Certainly we should not give the executive branch item veto and the right to run everything.

Mr. Speaker, let me read the language that has been put in here by our friends on the other side of the Capitol:

> SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution, other than those made available by transfer, are available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VOL 137 PT 23 NO 21—25 1991 UMI

May I say that I served on the Budget Committee. I was the one who made the mistake of recommending it. I recommended, as chairman of the committee, that we have five members of the Ways and Means Committee, five from the Appropriations Committee, and that the five others be from the legislative committees. Instead, they weighted it in favor of the legislative committees. So the budget we started with as a target, ends up being a ceiling:

I point out again that our committee has held the total of appropriations bills to $680,800,000,000, below the recommendations of Presidents since 1945.

Be that as it may, I am not willing at this time to bind myself to anybody that will claim that the Congress has turned over to the executive branch, the right and power to item veto. That just means a dictatorship. That is what it means, and I have too high a regard for the President to think that he will use it that way. But that is what the provision passed by the other body on the other side of the Capitol would provide. It would provide that in section 202. So I cannot suggest that is his interpretation, and I have not heard the interpretation before, but if it is interpreted as OMB has written it down here, and they seem to follow that, I cannot agree with it. The Members may do whatever they want to do, and there are instructions I have seen in the past that are ignored, and we will have to do our own interpretation on what this instruction means for that is not only our right but our duty.

Mr. McDADE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

Mr. McDADE. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Speaker will appoint conferees on his return to the chair.

A NOVEMBER POEM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I have today a November poem written by me which I submit on behalf of myself and Mr. Reyes to Mr. Gordon, Officer Brazwell, and Ms. Sampson, and other people who have not yet found themselves right with the Lord:

A NOVEMBER POEM

(By Dick Armey)

Oh, how the mighty have fallen
Irvin and Smith left Redskins sprawlin'.
Roused from the undefeated dream
By that oh-so-hated Dallas team!

The 'Skins saw Johnson's bag of tricks
Hail Mary passes, on-side kicks!
And wasn't it a sight to see,
That heroic, second-string Q.B.?

The loss took place at R.F.K.
But evokes the words of J.F.K.
Cowboys fans chant this one-liner,
Say it loud; "Ich bin ein Beuer-leiner!"

Add to the rivalry one more game,
Beside those of Landry-Allen fame.
It's a tough loss, but don't be too sore,
Wait 'til play-offs, when we beat you once more!

TEXAS VENISON CHILI DAY

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I want to join my colleague, the gentleman from Texas [Mr. ARMEY], on behalf of the Cowboys. I was not just sure what he said, but it was about the great victory over the Redskins yesterday.

I have asked for this time, Mr. Speaker, to remind the Members that today is the day we give chili away, Texas venison chili. So if any Member has not availed himself or herself of it, a cup of red hot chili is available for you in either the Democratic or the Republican cloakrooms or in room H–137 or in the dining room.

Mr. Speaker, this is only really one-alarm chili. If I had given you two-alarm chili, none of you gringos could handle it.

□ 1300

I think this chili is good, based on the comments so far. I want to remind Members that this is about the 25th year that I have served venison chili for House Members. So help yourself. This is a great occasion, and it prepares us well for Thanksgiving.

PROVIDING FOR CONSIDERATION OF H.R. 3750, HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 299

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part 1 of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except the amendment printed in part 2 of the report of the Committee on Rules accompanying this resolution. The amendment shall be considered as having been read, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. The amendment shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendments adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendment thereto final passage without intervening motion except one motion to recommit. After passage of H.R. 3750, it shall be in order to move to take from the Speaker's table the bill S. 3 and consider said bill in the House. It shall then be in order to offer a motion to strike out all after the enacting clause of S. 3 and insert in lieu thereof the provisions of H.R. 3750 as passed by the House. It shall then be in order to move that the House insist on its amendment to S. 3 and request a conference with the Senate thereon.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, I make a point of order against the consideration of this resolution.

Mr. Speaker, this resolution violates House rule XI, clause 4(b), which states that:

> The Committee on Rules shall not report any rule or any order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

Here we go again, throwing the rules out the window. This must be some kind of new martial law that we started dealing with, according to the majority leader, last Friday.

The relevant portion of clause 4, Mr. Speaker, of rule XVI states that:

> After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such permission to a Member who is opposed to the bill or joint resolution.

Mr. Speaker, on January 3 of this year I wrote to you, the majority leader, and the chairman and members of

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the Committee on Rules. With that letter, I transmitted a 48-page report prepared by the Committee on Rules minority staff entitled "The Motion to Recommit in the U.S. House of Representatives: The Rape of a Minority Right."

Mr. Speaker, that paper carefully traced the legislative history and intent behind what is now clause 4(b) of rule XI and clause 4 of rule XVI. In essence that report demonstrated beyond any doubt that the whole purpose of the two rules was to give the minority a final vote on its legislative position.

The House already had another provision in rule XVII, dating back to 1880, which provided for one motion to recommit with or without instructions, pending the adoption of the previous question or after it is ordered.

Mr. Speaker, this new rule, which applies only to bills and joint resolutions after the previous question is ordered, was specifically set apart from that to clearly reserve to the opponents the right to offer the motion and get a vote on the final amendment in the form of instructions, if the opponents so desire.

That is the way this House has always operated.

As the author of the new rule, Representative John Fitzgerald, a Democrat from their side of the aisle and from New York, my State, put it on offering the language back on March 15, 1909, and I quote this for Members back in their offices who ought to be listening.

> Under our present practice, if a Member desires to move to commit with instructions, the Speaker, instead of recognizing the Member desiring to submit a specific proposition by instructions, recognizes the gentleman in charge of the bill and he moves to recommit.

And Representative Fitzgerald concluded:

> Under our practice, the motion to recommit might better be eliminated from the rules altogether.

Mr. Speaker, the author left no doubt that he was specifically offering this new House rule to give the opponents a final vote on a proposition in the form of instructions. I will not quote at length all the speakers who have subsequently reiterated this purpose of the new rule. Let me just give one example.

Quoting from Cannon's Precedents, volume 8, section 2727, Speaker Gillett, on October 7, 1919, said the following in ruling on a point of order:

> The fact is that a motion to recommit is intended to give the minority one chance to fully express their view so long as they are germane. The whole purpose of this motion to recommit is to have a RECORD vote on the program of the minority. That is the main purpose of the motion to recommit.

And it is the democratic way of doing things.

Mr. Speaker, the Chair has previously relied on a 1934 precedent to uphold the right of the Committee on Rules to restrict the minority's right to recommit.

In that 1934 instance, a rule prohibited amendments to a particular title of a bill during its consideration, meaning in the House and in the Committee of the Whole. And the Chair upheld a point of order against a motion to recommit with instructions that attempted to amend that title.

Mr. Speaker, as the research paper I submitted to you last January made clear, that 1934 point of order was wrongly decided.

The ruling was wrong because if the Committee on Rules could prohibit some amendments from being offered in a motion to recommit, by logical extension it could prohibit all amendments from being offered. And that would clearly nullify the whole intent of the rule, which was to guarantee to the minority the right to offer an amendment and a motion to recommit with instructions, if they so wished, provided they were opposed to the bill.

The central issue, Mr. Speaker, is not whether the Committee on Rules has preserved the right of a straight motion to recommit but, rather, if it has preserved the minority's right to a motion to recommit. In the words of the rule, "as provided in clause 4 of rule XVI," the rules of our House.

And what that rule's author provided was the right to offer amendatory instructions. About that there should be no question after reading the history and precedents surrounding that rule.

Mr. Speaker, the rule before us does not protect the right to offer a motion to recommit with amendatory instructions because it makes in order an amendment in the nature of a substitute as the base bill for amendment purposes. And the adoption of that substitute by the House would preclude any further amendments in a motion to recommit unless the rule had included the words "with or without instructions."

Everybody upstairs in the Committee on Rules knew that. Nobody was being fooled. That has been the traditional language included by the Committee on Rules, dating back to 1909, for the specific purposes of protecting the minority's prerogatives whenever a committee substitute is made the base text.

The gentleman from California [Mr. DREIER] pointed this out during the Committee on Rules markup of this rule and offered the appropriate corrective language. That motion was rejected on a party line vote after it was made quite clear that the majority was intentionally denying this minority right because it did not want the minority to offer a further amendment.

I cannot believe this. As the chairman put it, we were already given a substitute we could offer during consideration in the Committee of the Whole. It is clear from the record and this rule that the majority has purposefully denied this historic minority right which dates back over 90 years ago.

□ 1310

I therefore urge, Mr. Speaker, that you uphold my point of order and the important principle involved here of preserving and protecting the right of the minority to have a final vote on its program in the motion to recommit. To do otherwise would be to render this rule meaningless and to turn the clock back a century on this fundamental minority right.

I ask you, Mr. Speaker, to be fair and to rule in my favor.

The SPEAKER. Does the gentleman from Texas [Mr. FROST] desire to be heard?

Mr. FROST. Mr. Speaker, I wish to be heard on the point of order.

The SPEAKER. The gentleman from Texas is recognized.

Mr. FROST. Mr. Speaker, the gentleman from New York [Mr. SOLOMON] makes the point of order that the rule limits the motion to commit and therefore, according to the minority, violates clause 4(b) of rule XI.

Mr. Speaker, I respectfully disagree. Rule XI prohibits the Rules Committee from reporting a rule that: "would prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

Clause 4 of rule XVI addresses the simple motion to recommit a bill or joint resolution and requires the Speaker to give preference in recognition to a Member of the minority who is opposed to the measure. Nowhere are instructions mentioned.

The Rules Committee, therefore, may report a rule that limits but does not prohibit the motion to recommit or to commit—without violating clause 4(b) of rule XI.

Mr. Speaker, so long as a simple motion to commit can be offered, a rule does not prevent the motion to recommit from being made as provided in clause 4 of rule XVI. This is a well-established parliamentary point.

Speaker Rainey so ruled in 1934 and was sustained on appeal. He said then:

> The Chair will state that the Committee on Rules may, without violating this clause, recommend a special order which limits, but does not totally prohibit, a motion to recommit pending passage of a bill or joint resolution, such as precluding the motion from containing instructions relative to certain amendments.

Mr. Speaker, the parliamentary point was reaffirmed on October 16, 1990, and once gain on June 4, 1991, on the civil rights bill the first time the House considered it.

In October 1990, the Rules Committee reported a resolution making in order one motion to recommit which may not include instructions. The Speaker pro tempore [Mr. MURTHA] on that occasion ruled:

> Clause 4 of rule XVI does not guarantee that a motion to recommit a bill must always include instructions.

VOL
137
PT
23
NO
21—25
1991
UMI

On June 4, 1991, the same point of order was raised against the rule on the civil rights bill. The Speaker overruled the point of order, stating:

> A special order that does not preclude a simple motion to recommit does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

In summary, Mr. Speaker, the precedents are clear and unequivocal. If the rule does not deprive the minority of the right to offer a simple motion to commit or recommit, then the rule does not violate the spirit or the letter of clause 4(b) of rule XI.

Mr. Speaker, I urge that the point of order be overruled.

The SPEAKER. Does the gentleman from New York [Mr. SOLOMON] seek to speak further on the point of order?

Mr. SOLOMON. If I might, Mr. Speaker.

The SPEAKER. The gentleman from New York is recognized.

Mr. SOLOMON. Mr. Speaker, earlier this year, quite early in the beginning of the year when the same situation occurred, the minority was outraged that this right would be taken away from us, and it was on a very important bill at the time when we really needed to expedite measures and get it through the House.

At that time, you, Mr. Speaker, were good enough to call a meeting consisting of you and the majority leader, Mr. GEPHARDT, and Chairman MOAKLEY, myself, and ROBERT MICHEL, our Republican leader, into your office where we discussed this issue, and at that time we received assurances from you and from the majority leader that we would look into this and we would try to have as much comity as we could and that we would try to work together.

Now here we are at the end of the session starting all over again. Mr. Speaker, I know myself in good faith did not go back out on the floor and use dilatory tactics or, working under the rules of the House, try to slow down measures in order to try to get our way. We took you at your word and the majority leader at his word that we would try to resolve these problems so they would not recur. Now here we are again, and I for one am disappointed that this is happening.

The SPEAKER. The Chair is prepared to rule, but let the Chair say to the gentleman from New York, because he has mentioned the Chair's previous statements, that consideration of ways to accommodate this disagreement have continued but so far there is no consensus on how to resolve it. The Chair hopes the gentleman understands that that does not preclude further efforts. But in the meantime the Chair would not suggest that the gentleman foreclose any rights available to the gentleman under the circumstances.

Does the gentleman from Texas [Mr. FROST] desire to speak further on the point of order?

Mr. FROST. No, Mr. Speaker, I do not. I believe the matter has been summarized well to this point.

The SPEAKER. The Chair is ready to rule.

The gentlemam from New York makes a point of order against House Resolution 299 on the ground that it violates clause 4(b) of rule XI, which provides that the Committee on Rules shall not report any rule or order of business that would prevent the motion to recommit from being made as provided in clause 4 of rule 16.

Clause 4 of rule XVI provides for one motion to recommit a bill or joint resolution after the previous question is ordered on final passage, with preference in recognition going to a Member who is opposed to the bill or joint resolution.

Under the terms of the pending special order, the option of including instructions to amend in the motion to recommit H.R. 3750 pending the question of its passage might be precluded if the bill were entirely rewritten by the House's adoption of an amendment in the nature of a substitute. But the rule would allow not only a simple motion to recommit but even a motion to recommit with nonamendatory instructions.

On October 16, 1990, and more recently on June 4, 1991, the Chair was called upon to rule on similar points of order. On each occasion the Committee on Rules had reported a special order of businesss that would directly or indirectly preclude the inclusion of instructions in the motion to recommit the bill pending the question of its passage. On each occasion the Chair overruled the point of order, relying on precedents of the House—specifically the ruling of Speaker Rainey on January 11, 1934—holding that the Committee on rules does not violate clause 4(b) of rule XI so long as it does not deprive the minority of the right to offer a simple motion to recommit. On this point the Chair would refer to page 471 of the House rules and manual.

Under the precedents a special order that does not preclude a simple motion to recommit does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." Clause 4 of rule XVI does not guarantee that a motion to recommit after the previous question is ordered on passage of a bill or joint resolution may always include instructions.

Although the pending resolution could indirectly preclude recommittal with instructions to amend, it would not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." For this reason the Chair is constrained to abide by the rulings of January 11, 1934, October 16, 1990, and June 4, 1991, and to overrule the point of order.

The gentleman from New York [Mr. SOLOMON] is recognized.

Mr. SOLOMON. Mr. Speaker, as I did not do before, you just cited the precedent, I will not out of respect to you ask to challenge the Chair on this ruling. But I would point out, Mr. Speaker, that during that meeting that we discussed before where you and the majority leader had said that the situation would not be established as a precedent, yet I believe I heard you cite the earlier precedents this year.

I again am not going to take up the time of the House this afternoon, because we have pressing matters we have to deal with. But Mr. Speaker, I hope that you, repeating your own words, would continue to pursue this and that we would resolve this matter before we convene in January. I would appreciate your consideration.

The SPEAKER. The Chair will exercise his best efforts to that end, and thanks the gentleman from New York.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 157, CORRECTING ERRORS IN ENROLLMENT OF H.R. 2251, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

The SPEAKER. The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs: WHITTEN, NATCHER, SMITH of Iowa, YATES, OBEY, BEVILL, MURTHA, TRAXLER, LEHMAN of Florida, FAZIO, HEFNER, MCDADE, MYERS of Indiana, MILLER of Ohio, PURSELL, GREEN of New York, and SKEEN.

There was no objection.

□ 1320

PROVIDING FOR CONSIDERATION OF H.R. 3750, HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1991

The SPEAKER. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During debate on House Resolution 299, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 299 provides for the consideration of H.R. 3750, the House of Representatives Campaign Spending Limit and Election Reform Act of 1991. H.R. 3750 is a comprehensive, meaningful, and workable

reform of the Federal Election Campaign Act of 1971, and is the product of nearly 1 year of detailed study, thorough discussions, and open negotiations. Because of the complexity and interdependence of each of the issues in this legislation, the Committee on Rules recommends a rule which will allow the House to make a choice between two different approaches to campaign finance reform in order to fulfill our commitment to the American people to clean up the election process.

Mr. Speaker, House Resolution 299 waives all points of order against the consideration of H.R. 3750 and provides for 1 hour of general debate on the bill. The 1 hour of general debate time is to be fully divided and controlled by the chairman and ranking minority member of the Committee on House Administration. Following general debate, the rule provides that the bill shall be considered for amendment under the 5-minute rule and that during such consideration, that it shall be in order to consider the text of the amendment in the nature of a substitute printed in part 1 of the report accompanying House Resolution 299 as an original bill for the purpose of amendment under the 5-minute rule. The rule provides that the substitute shall be considered as having been read and waives all points of order against it.

The amendment in the nature of a substitute made in order in the rule consists of the text of H.R. 3750 with some compromise language which was added to the bill after further extensive consultation within the House. The compromise substitute, drafted by House Administration Committee Chairman CHARLIE ROSE and the chairman of the Task Force on Campaign Finance Reform of the committee, SAM GEJDENSON, retains the cornerstone of the reform package—a cap on spending—while adding other provisions which will ensure that this legislation directly responds to the wishes of the American people in a responsible manner.

Mr. Speaker, before I detail the rest of the rule, I would like to take a few minutes to explain the provisions of H.R. 3750 and the Rose substitute. Both proposals establish a voluntary cap on congressional campaign spending at $600,000, require that no more than $500,000 of the total may be spent on a general election, and provide that if a candidate accepts the voluntary spending limits, his or her campaign will be eligible for matching funds up to $200,000.

Both proposals place an aggregate limit on political action committee and large donor contributions by providing that no campaign may receive more than one-third, or a maximum of $200,000, of the spending limit from PAC's, and that no campaign may receive more than one-third, or $200,000, of the spending limit from large donors who give contributions in excess of $200. However, both proposals provide that in the event a candidate opts out of the voluntary spending limitation and matching funds provision, both he and his opponent are still limited to the aggregate sublimit on PAC and large donor contributions. In other words, if your opponent chooses to disregard the $600,000 spending limit, you are still limited to total receipts of $200,000 from PAC's and $200,000 from large contributions.

Both proposals provide a means for candidates to combat negative independent expenditures by providing matching funds for any candidate who has $10,000 spent against him or her. Finally, both proposals provide for long overdue controls on so-called soft money expenditures by placing a spending limit on the amount political parties may spend to assist their Federal candidates.

The Rose substitute adds several critically important provisions to H.R. 3750, as reported by the Committee on House Administration. The Rose substitute, like H.R. 3750, does not provide money for the matching funds pool, a new make-democracy-work fund; however, it does require that private donations be used to finance the new fund and specifically bans the use of taxpayer dollars for matching funds purposes.

The Rose substitute also contains a provision which addresses those instances in which a wealthy individual uses his or her own money to finance a congressional campaign by providing 3-to-1 matching funds from the make-democracy-work fund to the opposing candidate, who has agreed to the voluntary spending limits, once any one candidate has spent $250,000 of his or her own money.

Mr. Speaker, the only amendment made in order in the rule to the Rose substitute is the amendment printed in part 2 of the report accompanying House Resolution 299. This amendment, which will be offered by the minority leader or his designee, shall be considered as having been read and shall be debatable for 1 hour, with that time to be equally divided and controlled by the proponent and a Member opposed thereto, and shall not be subject to amendment. Mr. Speaker, consideration of this amendment, which represents the minority response to calls for campaign finance reform, along with the Rose substitute, will present the House with a clear choice on how we are going to conduct congressional elections.

House Resolution 299 also provides that at the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute. The previous question shall be considered as having been ordered on the bill and amendment thereto to final passage without intervening motion, except for one motion to recommit.

Finally, Mr. Speaker, the rule provides that after passage of H.R. 3750, it shall be in order to move to take from the Speaker's table the bill, S. 3, and to consider that bill in the House. It shall then be in order to offer a motion to strike out all after the enacting clause of S. 3 and to insert in lieu thereof the provisions of H.R. 3750 as passed by the House and to then move that the House insist on its amendment to S. 3 and request a conference.

Mr. Speaker, every Member of this House knows full well that we as an institution have been taken to task for the endless money chase that is congressional electioneering. The gentleman from Connecticut [Mr. GEJDENSON], and his task force, have labored long and hard to craft a fair and equitable way to finance Federal congressional campaigns. As a member of that task force, I am well aware of the long hours and hard bargains that were required to bring this legislation before the House today, and I believe H.R. 3750, and the Rose substitute deserve the overwhelming support of the Members of this body. This legislation has been created in the open and with the assistance of countless Members of the House. I commend it to my colleagues and urge support of House Resolution 299 in order that we may proceed to this most urgent issue.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides for the consideration of a bill which should be entitled the Democrat Incumbent Protection Act of 1991. And the way the rule is structured there will be almost no realistic chance to modify the proposal.

Republican Members have been largely excluded during the final key steps of the process, resulting in a bill which the President will almost certainly be forced to veto, and in the end there will be no solution to the problem through this process.

For the record I would like to lay out how the action in the Rules Committee contributed to this result.

Shortly before the Rules Committee convened at 11 a.m. on last Saturday morning we saw for the first time the text of a new substitute version of the bill. It was not the version reported out by the subcommittee, or the full Committee on House Administration. It was a significantly different version which apparently had been put together the night before because of concern that the committee bill did not have sufficient support to pass the House.

Even the ranking Republican member of the House Administration Com-

VOL 137 PT 23 NO 21—25 1991 UMI

mittee and its Task Force on Campaign Finance Reform, the very able gentleman from California [Mr. THOMAS] was not given the courtesy of seeing a copy before coming to the Rules Committee. Mr. Speaker, this is not the way to achieve bipartisanship.

After hearing testimony and taking a brief break for lunch, the Rules Committee returned at 1:30 p.m. to find a new version of the substitute which had been further modified.

Mr. Speaker, campaign finance reform is an important issue. It goes to the very heart of the way the American people choose their Representatives. The proposal brought to this floor should be a well-thought-out product, not something put together at the last minute in a back room.

In the Rules Committee on Saturday, Mr. Speaker, there were a total of 20 other amendments or substitutes proposed on the subject of campaign finance reform. In the end only one alternative was allowed to be considered on the House floor. It is to be offered by the distinguished gentleman from Illinois [Mr. MICHEL] or his designee.

The other 19, many of them well-thought-out improvements to the oill, and to current law, will not be allowed to be considered by the House under this rule.

Even more disturbing, Mr. Speaker, this rule denies the minority its traditional right to recommit with instructions to amend the bill and report back forthwith. This is the last chance before final passage for the minority to offer its best alternative.

That basic minority right should never be taken away.

Mr. Speaker, the bill made in order by this rule is as bad as the rule.

First the bill provides for limits on spending. To some this sounds like a reasonable idea at first, until you stop to consider that the real effect is to lock in an advantage for incumbents. And as it happens, most incumbents around here are Democrats and have been since 1954.

Those of us on the minority side are the ones who are going to have to try to preserve a level playing field for challengers.

Each incumbent has about one-half million dollars a year for staff and office expenses, plus free mailing, plus name identification. If you then by law ensure that no challenger can raise more than the incumbent to offset these advantages, the odds of a challenger's success became very small.

In addition, the new back room substitute bill promises matching funds for candidates up to $200,000 each, but the bill fails to specify exactly how this taxpayer money is going to be raised. The bill also promises reduced postage rates to candidates who agree to abide by the spending limits, and this money ultimately will have to come from the taxpayers.

Mr. Speaker, under the provisions of this rule the House is permitted to consider one alternative to the back room substitute.

It is the substitute to be offered by the Republican leader, Mr. MICHEL. The provisions of the Michel substitute were introduced as H.R. 3770 back on November 14 by a number of Members, including this Member. Unlike the back room substitute which constitutes the base bill, the Michel substitute has been available to Members in printed form for some time now. It is not an incumbent protection plan, and it will not cost the taxpayers any money.

The Michel substitute will let the voters in the district set the spending limits by requiring that the majority of campaign funds be raised in the Member's district. This is a distinct difference from the Democrat back room substitute which does not require even $1 to be raised in the district. It could all come from people with a special interest in Washington or New York or Hollywood.

In order to reduce the impact of special interest money, PAC contributions under the Michel substitute would be limited to the same $1,000 level permitted for individuals.

Finally, the Michel substitute would ban soft money contributions to political parties for use in Federal elections. Soft money is money from unions, corporations, and individuals who make Federal contributions over $25,000 that would be illegal if given to a candidate. The ban on soft money would ensure that only funds raised under Federal rules could be used to influence Federal elections.

Mr. Speaker, of the two alternatives allowed under this rule today the only one which can be signed into law is the Michel substitute. If we are serious about cleaning up the problem of special interest political money, it is the only way to go.

If Democrats are not prepared to vote for the only alternative which can be signed into law, then they should join with Republicans in voting "no" on this rule so we can take time in the next session to have a full and balanced discussion of the complex issue.

It is not to the benefit of either party to be stuck with a deal cut in secret at the last minute which may produce consequences even its drafters did not intend.

Mr. Speaker, on behalf of the American taxpayer, vote "no" on this public financing rule and bill.

☐ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I think my record on campaign finance is clear and long. Before last year, the last campaign finance reform bill that passed the House was my bill, the Obey-Railsback bill. I remain committed to campaign finance reform.

I am going to vote no on this rule because I think that by the time this bill is finished both parties will have done a disservice to the facts.

I think the Republican substitute is simply not real because under the guise of pretending to attack PAC's, that package really would move the center of gravity in campaign financing very much over into the hands of the wealthiest people in this society. That is exactly where that party wants to be. I understand that.

I happen to think that is wrong.

Second, I think that the Democratic alternative is also deficient simply because it reminds me of the movie that Ronald Reagan starred in some time ago called "Kings Row." After he had been run over by a train and had his legs amputated, he woke up in the hospital and the first question he had was, "Where's the rest of me?"

That is the question I would ask about the Democratic package because this bill claims that it puts a $200,000 limit on PAC's; it claims that it puts a $200,000 limit on what it can raise from large contributors, and it claims that it provides a system under which you can have matching funds for small contributions.

But in fact it has no credible way, at least at this stage, to actually provide that matching money. I understand why it does not have that funding, because the fact is that the Republican Party has so savagely taken advantage of the public's lack of understanding about the necessity for public financing that they have created a situation in which no public financing bill can actually pass.

I think that is unfortunate and I think the blame for that lands clearly on the shoulders of the minority party.

But nonetheless, I am not willing to say that at this point we ought to go on and choose between these two alternatives, because I think the Democratic alternative panders to massive public misunderstanding about the realities of campaign finance.

It does not, in my view, take sufficiently into account the danger that you will drive underground the money trail if you try to limit PAC spending without providing other legitimate ways in which you can provide funds to match small contributions.

I think it also treats campaign surpluses in a very strange way. It protects the megasurpluses, it protects the $800,000 and $1 million surpluses built up by a few people around here, provided that those surpluses are expended for a purpose other than that for which they were raised. But it does not allow other Members to use small surpluses in a way which enhances

their ability to remain independent of single or special interests. I think that is a major mistake in the bill.

I also think what is missing from both of these options is a recognition of our obligation to finally confront the American people and say hey, folks, if you want the system to be better, if you want to take the system back from single and special interests, then you need to exercise your individual responsibility by engaging in an act of individual citizenship.

I think we ought to give the public an opportunity, not to deduct what they pay from their taxes, but to add, on a voluntary basis, to add up to $10 when they file their tax return, to add up to $10 which would be deposited into either the democracy fund or, if they wanted, given to the Republican campaign committee, the Democratic campaign committee, so that they exercise their own individual responsibility to help provide funding that will help substitute for traditional big money campaign sources.

The Democratic bill may possibly have that option open to it, but only if a second subsequent step is taken in the Committee on Ways and Means with respect to revenues. Because it does not meet our obligations to provide a full package, because it does not confront the Supreme Court in the way they have totally screwed up our ability to bring any dignity to the campaign finance system, I am going to urge a vote against the rule until both parties have produced a better package.

Mr. SOLOMON. Mr. Speaker, I yield 6½ minutes to the distinguished ranking member of both the Committee on House Administration and the task force, the gentleman from California [Mr. THOMAS].

☐ 1340

Mr. THOMAS of California. Mr. Speaker, I rise today more in the form of a public service announcement than in any other form because I think it is absolutely necessary.

To my colleagues on this side of the aisle: I think you heard the ranking member of the Rules Committee in his point of order about our desire to be treated in a fundamentally fair way being rejected, and if that isn't sufficient reason for you to vote against the rule, you need to know that there were a dozen of your colleagues who offered thoughtful and meaningful amendments in the Rules Committee. All of those were rejected as well.

So, Mr. Speaker, I would ask my Republican colleagues to vote "no" on the rule.

And for my Democrat colleagues, I think you need to know that six very well thought out alternatives were presented by the Democrats. All of those were rejected as well. A number of them had complete conceptual packages for public financing. The gentleman from California [Mr. BEILENSON], along with the gentleman from Iowa [Mr. LEACH], was to offer one. The gentleman from Wisconsin [Mr. OBEY] was to offer one.

Finally, I want to tell my colleagues in the form of a public service announcement: All of those Dear Colleagues that you have been receiving over the last several weeks from SAM GEJDENSON, you can simply throw away. They do not apply to the bill that was voted out of the Rules Committee. Those Dear Colleagues talked about a bill which is not in front of you. That was a bill that late Thursday night, behind closed doors and in the shadows, was fundamentally altered. Fundamentally altered in what ways? You can see it in H.R. 3750.

Here is the bill of the gentleman from Connecticut [Mr. GEJDENSON] as described in the Dear Colleagues:

The gentleman from Connecticut said there are going to be new cost obligations. There are going to be postal subsidies for those who come under the bill, somewhere between $50 and $75 million, as roughly estimated by CBO. There are going to be matching funds, and here it is difficult to determine how many candidates would qualify since they have had this incentive, but somewhere between $50 and $300 million in terms of matching funds. They had a provision for new funding sources in that bill. First of all, they wanted to talk about eliminating tax deductions for lobbying. They then talked about an FEC user fee on PAC's, and they talked about voluntary donations.

In front of the Committee on Rules, a rose by any other name, or, if my colleagues will, the Son of Sam emerged, and what we have in this new package is an additional cost obligation. They kept the matching funds, they kept the postal subsidy, but they added, quote, unquote, from the bill, an incentive. My understanding from the scuttlebutt and the rumors around the floor is that the incentive, not identified in the bill, is to be a tax credit, a $50 tax credit.

In fact, the Joint Tax Committee has estimated the cost of a $50 tax credit of Federal candidates. Over the next 5 years the cost would be $780 million. In 1992, the cost would be $74 million; in 1993, $238 million; in 1994, $107 million; in 1995, $205 million; and in 1996, $155 million.

That is somewhere between $100 and $200 million additional new annual average cost obligation for which tax revenues will have to be found.

But then what they also did, and this is the point that the gentleman from Wisconsin [Mr. OBEY] pointed out so clearly; what they also did was then removed the only two funding sources from the bill other than voluntary contributions, and what they are going to do today in front of us is to ask us to vote on H.R. 3750, as amended. The Son of Sam will have three tax obligations, about $500 million in obligations, and the funding source is going to be voluntary donations.

Come on. This is one hand clapping, and it was done, not at the 11th hour, but, in fact, at 5 minutes until midnight behind closed doors.

In addition, briefly I do want to let people know exactly what they are voting on because apparently the majority is unwilling to do so. In all of the Dear Colleagues that went out, this bill has continued as a $600,000 spending limit package. That just is not true. It is not so. The bill itself says, "It isn't so."

Yes, originally there was a $600,000 limit; I am not talking about the add-ons in terms of special elections, or in close primaries, or all the gimmickry things they have put into micro-managed campaigns. I am talking about the fundamental package as contained in the amended version. The $600,000 is in there, but late at night, or early in the morning, they decided to add another 5 percent for fundraising activities. That is an additional $30,000 in the package. There was no discussion of that at all in front of any group, and, as a matter of fact, no discussion in the Committee on Rules as to what that additional $30,000 was all about.

Also, Mr. Speaker, my colleagues need to know that, although they want to move this bill now, it is not to apply to an election until 1994. Now we have two intervening years—1992 and 1993. Take conservative CBO estimates of inflation: 3.9 percent for 1992, 3.8 percent for 1993. This bill actually in its fundamental form is a $680,000 spending limit package. Again, not talking about the $150,000 that for some reason somebody gets to spend if they have a race in which the people back home really challenge them, and do not like them very much, and they win by less than 10 percent. They get an additional $150,000. That would put the figure way off the chart.

Mr. Speaker, I am talking about those changes that have been made in just the last 48 hours in front of the Committee on Rules, and I would tell my colleagues, when you try to determine just exactly what this package is, and we've had some difficulty with the amendments. What we find is the fact that at one time apparently the gentleman from Connecticut thought he had the pulse of the Nation, because he kept arguing that the public opinion polls showed that the people were for taxpayer finance; and that's why he went ahead with it, but at the 11th hour. Apparently the gentleman from Connecticut didn't even have the pulse of the Democratic caucus because he pulled that aspect as well. But, more importantly, they have the effrontery to present to you a package which will spend between $300 and $500 million, and they propose to finance it out of voluntary contributions.

Mr. Speaker, they deserve to be voted

Federal tax return and have received

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Why not allow the debate? It is high

achieve that laudable objective. I

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Mr. Speaker, they deserve to be voted down on this rule to save them from themselves.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, for those who will be watching the debate over the next 3 hours, I think, first of all, we ought to have some rules. The first rule is we can make perfect the evil of good. I think all of us, as Members of Congress, would have written a different bill from what the Republicans or Democrats will be offering today if we were writing it individually. Both bills are a product of what was an attempt to try to build a consensus within our respective parties. Today we are going to have a complete debate on the future of this country's needs with respect to elections.

Mr. Speaker, I would like to respond to the gentleman from Wisconsin [Mr. OBEY], a dear friend of mine who has indeed been a champion of campaign finance reform for over a decade in this House of Representatives. He said that one of his major concerns of the Democrat proposal was in fact the failure to take into account surplus funds and the inability to move those surplus funds into an account where someone could use them in the future. We did that for a specific reason. Those surplus funds give an incumbent an unfair advantage against a challenger. It would be unfair for those challengers because they are incapable of really building up surpluses.

This is one of the things that we are going to find as we debate this today. There are going to be tough reforms in this bill. The surplus provisions in the Democrat bill clearly are trying to level that playing field to make these races more competitive.

With respect to the gentleman from California [Mr. THOMAS], my dear friend, he seems to be making the argument that the cost of this bill could be anywhere from, I think he used the number $150 million, and then he went on to $270 million, and finally he is estimating that the potential cost of this bill could be $500 million. Well, the facts are a little bit different because CBO has estimated that the total cost of the Democrat bill over a 2-year period will be somewhere in the neighborhood of $40 to $90 million.

The other thing I find interesting in Mr. THOMAS' argument is that the Republican Party is adamantly opposed to public financing.

□ 1350

It really kind of ignores reality. It ignores the reality that Republican Presidential candidates have requested and accepted over $212 million in public funds to run for President. It ignores the reality that both Mr. Bush and Mrs. Bush checked the box yes on their Federal tax return and have received $60 million in 1980 and 1988 in public funds. It ignores the fact that Ronald Reagan himself accepted $92 million of public financing to run for President. It ignores the fact that the Republican National Committee has requested and accepted nearly $24 million in public funds to finance their Presidential conventions since 1976, and it ignores the fact that the Republican Campaign Committee, along with the Democratic Campaign Committee, have accepted literally millions of dollars in postal subsidies in political mailings to help their candidates.

So let us try to keep the debate focused on really what true reform is. I think if we do that, we will not make perfect the evil of good, and I think we will have a good debate.

Mr. Speaker, I ask my colleagues to support the rule so we can begin for the final time, hopefully, in all our tenure here, the final resolution of true campaign reform for our country.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to a distinguished Member of the committee, the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in opposition to the rule.

As I testified before the Rules Committee on Saturday and as several of my colleagues have already expressed, more especially, the gentleman from California [Mr. THOMAS], the campaign reform bill that is now being brought to the floor is not only poor legislation but the process that is being pursued by the majority does not serve campaign reform well. This has been a real example of the majority's handling of campaign finance. Little effort has been made to consider the views of the minority either in the Committee on House Administration or the Committee on Rules.

I was personally testifying before the Rules Committee on the Boehner-Roberts amendment in regard to the voter registration lists and targeted congressional mailings. It was discovered by the minority at that particular time that not only had the original legislation, as approved by the House Administration Committee, been modified, but in fact the bill had gone through a complete change, a real metamorphosis, and the changes were continuing as the Rules Committee met. I have just finally received—I say to all interested parties—11 new changes in the bill. This bill continues to change like a chameleon as we talk and as we debate. There have been no hearings, and there has been no opportunity for the minority or the public to review or to attempt to understand this bill. There has been no chance for any Member, either from the majority or the minority, and the gentleman from Wisconsin [Mr. OBEY] has already spoken to that. He is the god-prince of reform around this place.

Twelve Republican amendments were to be offered, and six Democratic amendments were to be offered. There is no opportunity to really recommit the bill. As this rule is written, as the gentleman from New York [Mr. SOLOMON] says, the minority will have only one true opportunity to offer a substitute should this rule be approved. Even a simple amendment by the gentleman from Ohio [Mr. BOEHNER] and myself to get the House out of the business of using voter registration lists for congressional mailing purposes was not given an opportunity by the Rules Committee.

Mr. Speaker, I urge my colleagues on both sides of the aisle to oppose this rule.

The SPEAKER pro tempore (Mr. MONTGOMERY). The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

Mr. SOLOMON. Mr. Speaker, I yield two additional minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I yield to my colleague, the gentleman from Ohio [Mr. BOEHNER], who is the author of reform legislation in regard to the voter registration lists.

PARLIAMENTARY INQUIRY

Mr. SMITH of Florida. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SMITH of Florida. Mr. Speaker, would I be correct in this: The gentleman from New York [Mr. SOLOMON] controls the time and can yield to anyone he so chooses, but that Member to whom he has yielded cannot yield that time to some third party?

Mr. SOLOMON. Absolutely not. That is perfectly in order, Mr. Speaker. It happens all the time.

The SPEAKER pro tempore. The Chair believes that if the gentleman from Kansas [Mr. ROBERTS] stays on his feet, he could yield to the gentleman without yielding a block of time.

Mr. SMITH of Florida. I am not trying to prevent it. Mr. Speaker, I just want to get a clarification of it because it works both ways. I appreciate the ruling.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. ROBERTS. Mr. Speaker, I yield to my friend, the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, I thank my friend, the gentleman from Kansas [Mr. ROBERTS] for yielding, and I rise also to oppose the rule.

One of the major issues in bringing campaign finance reform to the floor today is fairness, fairness for challengers. We all know that incumbents have a lot of advantages. They have an easier time raising money, they have closer contacts with special interests, and they even have staff in their offices to do research, but the greatest advan-

tage incumbents have is the congressional frank.

One of the issues that has been raised in the last several months is the use of voter registration lists in Members' offices, so although we can direct our mail to everyone in our districts, we can also direct mail only to those people in our districts who are registered to vote.

What is it we are saying to those people in our districts? "If you vote, you count. If you don't vote, I guess you don't count."

I think that is ethically wrong, and it ought to be eliminated. There should be no use of voter lists of any kind in any Member's office.

The gentleman from Kansas [Mr. ROBERTS] and I wanted to offer that amendment today, but, no, we are not going to talk about that because the Rules Committee would not make it in order.

In addition to the amendment the gentleman from Kansas [Mr. ROBERTS] and I would have offered, I have another amendment that says we should only use our free mailing privileges to respond to contracts made by our constituents to our offices, whether they phone or whether they mail.

In my case, I get $170,000 a year to do mailing in my district. I need $20,000. That is $150,000 this year and another $150,000 next year that I can use to put my face out there and to put all the words I want to use on all the mail in my district. That is the greatest incumbency protection tool that Members of this House and Members of this Congress have, and if we are serious about having campaign finance reform and giving challengers a real opportunity to compete against us as incumbents, I do not think we can start anywhere without first starting with the use of the frank in this Congress.

So, Mr. Speaker, I urge my colleagues to join the gentleman from Kansas [Mr. ROBERTS] and me in opposing the rule we have before us today.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in strong support of the rule. If Members vote against the rule, they vote against debate on campaign reform.

I think we had better start listening to the American people. The American people are saying to us that they want a limit on spending in campaigns. The fact is that there is a perception that some can buy campaigns and indeed buy Congress.

Why do we not want a debate on campaign reform? What is in the bill that I support? It places spending limits on congressional races. It limits PAC contributions. It has limits on soft money. It has a strong statement urging us to continue some constitutional limits.

No taxpayer dollars are involved. It requires that private donations be used in financing these campaigns.

Why not allow the debate? It is high time we did it, and I really think we ought to support the rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WALSH], a distinguished member of the Committee on House Administration.

Mr. WALSH. Mr. Speaker, I rise in opposition to this rule.

For the past year I have traveled around the country and met with members of the task force and individuals around the country who are interested in this issue, and this bill was never discussed. It was never mentioned in 1 year of testimony on the task force.

A bipartisan group of Members in the Rules Committee on Saturday asked that this bill and other bills be given a full opportunity for discussion, and that was denied by this rule.

□ 1400

This is a critical issue. America is angry at us for the way we run our campaign.

I offered a bill, it was a tough bill, that would have required 100 percent of the money raised within that congressional district. The only influence on that election would be from that congressional district; $200 maximum contribution, $25,000 allowed to be rolled over to the next election. That is all. No contributions 2 weeks prior to the election, and a tax credit for those who contribute.

This bill that we have before us has a cap of $600,000, when the average election in this country is $400,000. What kind of a cap is that? It is an increase of 50 percent.

PAC's are still allowed to contribute over $100 million in these elections. That is special interest money, a special allowance made for them.

Public financing, how can you get voluntary contributions for public financing when less than 20 percent of America's taxpayers will contribute $1? How can you fund a voluntary contribution effort that way?

The gentleman from Oklahoma [Mr. SYNAR] gave us some dollar estimates as to the costs to the American taxpayer. Those figures were good last Saturday, but they are no good today because we have a brandnew and different bill before us.

Mr. Speaker, I urge a strong no vote on this rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the whole question of campaign finance reform is about the basic issue of reducing the influence of money in the election process. That is what it is all about.

Today, my friends, we are going to hear a lot of ideas about how to achieve that laudable objective. I would just submit, Mr. Speaker, that there is one simple idea we will not be debating here today whose time has come, and that is the idea of 4-year terms for Members of Congress.

Mr. Speaker, that is right, 4-year terms. I would just urge Members to think about some basic facts.

Today in this country we elect county commissioners to 4-year terms; we elect city commissioners to 4-year terms; we elect Governors to 4-year terms; we elect State officers all over this country to 4-year terms. But we elect Members of Congress to 2-year terms, and we put us all in the position of being involved in this mindless money chase we are trying to pretend like we are going to legislate out of existence with this kind of legislation. That is not going to happen, Mr. Speaker.

The one thing we can do is change our 2-year term to a 4-year term. You cut the money chase in half, but, more important, you also will hopefully enable the Members of this institution to take a longer term view of some of the problems facing this country.

Mr. Speaker, I submit it is going to be increasingly difficult for this body to do that, given the 2-year term and given the mindless money chase we are all involved in.

Mr. Speaker, as we deal with this issue I hope that we will keep in mind some of the ideas contained in House Joint Resolution 311 which I introduced earlier this year, which provides for a 4-year term. Some will say you will never get it through the Senate. I would submit that the provision in this resolution which requires a Member of Congress to resign at the time they announce their candidacy for another office will win the approval, hopefully, of the Senate, and avoid the kind of problem we have had in the past with the Senate in that regard.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I would just state to the gentleman from New York [Mr. SOLOMON] that my previous parliamentary inquiry had nothing to do with the debate. I wanted to settle a question I had in mind.

Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I came to this floor frankly very much torn about supporting this rule. My staff worked long and hard over the last few weeks on fashioning a substitute that would try to some degree salvage public financing, which I think is an important component of trying to take the evil view that Americans have of campaign financing in general out of campaigns. But it appears that the well has been poisoned about public financing.

The President of the United States, Mr. Bush, could take $46 million in

VOL 137 PT 23 NO 21–25 1991 UMI

1988, for campaign financing from the public, but now all of a sudden even Republicans do not like campaign financing out of the public Treasury.

In any event, it seems that this bill has gone along in that direction, abandoning what would have been the best way to take the sting out of the way we raise money to a large degree.

Mr. Speaker, I have been in favor of public financing for some time. So we tried to fashion a compromise that would do something else by giving people lower broadcast rates, lower funding for mailers and for other kinds of publicly used mailing.

The problem is the Committee on Rules made none of it in order. But sitting here and listening to the debate, frankly, and with apologies to my staff, quite honestly, who still feel very strongly about this, I have come to the conclusion that we need to put this debate on the floor.

The gentleman from Connecticut [Mr. GEJDENSON], with whom I agree on many issues and disagree with on some, and the other side of the aisle on that task force, have worked awfully hard. I think debate needs to be brought to the floor. I think the American public are entitled to that debate. I think we ought to put it on the floor, and the absence of certain provisions in here are not so compelling to vote this rule down.

Mr. Speaker, I urge Members to let us look at what we can do to change campaign financing and change the perception that the American public has, in many instances the wrong perception.

Mr. Speaker, I urge support of this rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I rise in opposition to this rule and would just like to make several quick points with regard to three potential pieces of legislation, two of which were allowed to be offered—the Republican bill and the Democratic bill—and a bipartisan approach that the gentleman from California [Mr. BEILENSON] and I had hoped to offer, but which the Committee on Rules did not allow.

Mr. Speaker, the Beilenson-Leach bill speaks for itself. It would have provided a $400,000 spending limit. It would have eliminated all PAC contributions. It would have limited contributions to $500, and it would have provided matching funds for small contributions triggered at a $30,000 floor.

Mr. Speaker, I consider these provisions to represent substantial, real reform. I do not have any confidence that the majority might have voted for it, but I do believe we should have had the right at least to offer it as a package, and more importantly, as amendatory components to the principal legislative vehicle.

The Republican alternative represents modest but serious reform. It cuts PAC spending from a $5,000 limit to $1,000. Fifty percent of campaign money raised has to come from people who can actually vote for a candidate seeking support. It blocks certain soft money contributions.

The Democratic bill also speaks for itself, loud and clear. It is surreal reform. The spending limits were described a minute ago as $680,000, but in reality they are much higher. On top of the $600,000-plus ceiling may be added $150,000 for a primary, plus fundraising costs, plus legal expenses, plus office expenses, plus cost of living adjustments. The real spending limit in the Democratic bill is closer to $1 million than $600,000.

Mr. Speaker, as a Member I am disappointed that the reform approach of Mr. BEILENSON and I could not be offered. I frankly am rather proud that my party has offered a bill that at least is substantive and not fake. In this context I must tell this body, it is hard to be anything but disappointed at this Democratic approach, which is the lowest common denominator package. It gives the word "reform" a bad name. It is hard not to conclude that the party that claims to be of the poor wants to run its campaigns with the clanging jingles of coins brought in from moneyed interest groups—that is, the rich.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would announce that the gentleman from New York [Mr. SOLOMON] has 9 minutes remaining and the gentleman from Texas [Mr. FROST] has 8½ minutes remaining.

Mr. BEILENSON. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, in the 3 years I have served on the House Rules Committee, I have never before spoken out against a rule on the House floor. Although I have frequently argued in committee against proposed rules I disagreed with, I never wanted to undercut our committee's position on the floor once its decision had been made.

But today, we have before us a rule that is terribly wrong—wrong for the subject matter it covers, wrong for this institution, and wrong for the people we serve. It ought to be defeated.

I want to make it very clear from the outset that my protest against the rule is not a move to avoid considering campaign finance legislation. Quite the contrary; as a Member who has sponsored legislation providing public funding and spending limits for campaigns for years, I want us to pass campaign reform legislation.

I am opposed to the rule because it does not do justice to the subject it covers. Campaign finance is an issue that goes to the very heart of our democratic system of Government. The laws governing campaign finance determine who has power to influence our legislative process and who does not; and they determine how competitive our elections are and whether voters have a true choice in who represents them in Congress. We all know, and the voters all know, that there are many problems with the system as it exists now. How we solve those problems is far too important to cover it in just 1 hour of general debate, with just one alternative to the committee bill from which to choose.

If we pass this rule today we will be repeating last year's attempt at reform, with the same result. We will be pushing through a bill in the minimum amount of time possible, at the last moment of the session, when everyone is focused on getting done and getting out. As a result of this truncated debate, we will not have a product to send to conference with the other body that can truly be said to reflect the will of this body. Rushing through a bill that was introduced only a couple of weeks ago is a recipe for failure.

What we ought to do on this issue is have a debate that lasts 2 or 3 days, and have larger range of amendments from which to choose. It may well be that a lengthier process will bring the same result as a shorter process; we may well end up with H.R. 3750 just as it is. But every Member of the House has such strong views about what needs to be done in this area that we have to have a way to express support for other ways to change the system, even if it turns out that there is no majority for any alternative. We have to have the chance to work through that process. That process will ultimately result in a bill with much stronger support than H.R. 3750 has at the moment, and a much better chance of getting through conference.

Unlike many other Members who oppose this rule, I do support public financng—strongly. But after listening carefully during the Rules Committee deliberation of this bill on Saturday, I am not sure that I will be voting for public financing by voting for H.R. 3750 as amended by the Rose-Gejdenson agreement—which is made in order as original text under this bill. It doesn't bother me, as it bothers some Members, that H.R. 3750 counts on passing a revenue-raising measure in the future. What does bother me is that it is unclear whether this new compromise measure contains a plan for raising funds for the matching public funds. In the limited debate that is afforded, we are not likely to get a good answer.

Nor are we likely, in 1 hour of debate, to get a full airing of many important provisions of this bill. The gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from North Carolina [Mr. ROSE] deserve a great deal of credit for the work they have done to try to ensure that the Membership fully understands this bill, but that does not substitute for having a full public airing of it.

For those who fear we cannot pass a bill if it is considered in a more open fashion, we need only look to the Senate, which did pass a reform bill earlier this year after lengthy floor consideration.

Passing this legislation today will not get it to conference much sooner than if we come back to it early next year. We ought to defeat this rule, so that we can give this the full consideration it deserves.

☐ 1410

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON], a member of the committee.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I certainly hope that this rule is rejected. I agree with the speaker that preceded me but for different reasons. It is a bad rule, though. It should allow full and open discussion on an issue of such monumental importance.

I would have liked to introduce a little amendment that simply requires any taxpayers' dollars that go into commercials means that those commercials carry a tag line "Paid for wholly or in part with taxpayers' dollars," but that would not be in order. Nor would some 19 other amendments which were offered by the Committee on Rules. All we get is one Republican substitute. It is a good substitute, but frankly this issue deserves a lot more debate.

I oppose this whole concept of public financing. I am concerned about it. I think it needs a heck of a lot of debate.

I notice in the Democratic bill version of this bill that they talk about a fund they would create and name the "Make Democracy Work Fund." Frankly, I would rename it. I would call it the "Implementation of Marxist Egalitarianism of the American Political Process Act." Because that is basically what we are about here.

If this rule passes, if this Democratic alternative passes, we are going to impose Marxism and communism on the American people's political process, notwithstanding its remarkable lack of success in the Soviet Union or anywhere that it has been implemented and notwithstanding the fact that only 19 percent of the American people support the Presidential checkoff system, and only 29 percent of them supported it at its peak 10 years ago.

This is a terrible, terrible concept, and it promotes advocacy by the lunatic fringe among which are Lyndon LaRouche, who got $1.3 million in the checkoff system last year and qualifies for up to 13 million bucks this time around on the Presidential system. Or Lenora Fallini, whose new Alliance Party supports Mu'ammar Qadhafi. Or David Duke; if we get public financing, listen to this, Mr. Speaker. The Times-Picayune, November 17, 1991.

The Grand Wizard of David Duke's old Klan group says he's building a training ground deep in the Ozarks' for white supremacists who want to follow Duke's lead into mainstream politics.

"Louisiana has one David Duke," said Thom Robb, Grand Wizard of the Knights of the Ku Klux Klan. "We plan to give America a thousand of them."

And they will be paid for with taxpayers' dollars in this bill that these Members want to pass.

Mr. Speaker, I include for the RECORD a copy of the article from which I just quoted.

KKK PLANNING CLONES OF DUKE

ZINC, ARK.—The grand wizard of David Duke's old Klan group says he's building a training ground deep in the Ozarks for white supremacists who want to follow Duke's lead into mainstream politics.

"Louisiana has one David Duke," said Thom Robb, grand wizard of the Knights of the Ku Klux Klan. "We plan to give America a thousand of them."

Duke was grand wizard of the Knights for about five years until he left in 1980.

Robb said he doesn't work with Duke, now a Republican who says he has repudiated his neo-Nazi and Klan past.

But Robb said they share a similar political strategy: replace racist rhetoric and violence with well-packaged campaigns against affirmative action, quotas, welfare, AIDS patients and drugs.

Robb is turning two oak-rimmed acres in northern Arkansas into a Klan camp. About 200 Klansman gathered there in October for the KKK Congress, which Robb normally showcases in Pulaski, Tenn.

He wants to build a dormitory to house students during summer camp.

Robb said students will learn the historical Klan beliefs; whites, not Jews, are the true descendants of the House of Israel; blacks and whites should live in separate societies.

Potential leaders "will be taught to avoid statements that sound hateful and turn people off," he said. Their dress and speech will be honed.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, the average contested election in the United States for Congress costs about $600,000 right now. Is it not amazing that the Gejdenson bill authorizes spending at the level of $600,000. PAC's still can contribute $5,000 and $5,000. Individuals can still contribute $1,000 and $1,000. And if we like our elections recently, this will lock them in, and it will lock them in with public money.

What have our elections consisted of most lately? Negativism, negative campaigning, turning off the American electorate. People coming away with the impression that no candidate is honest, no candidate is capable, and turning off from the process.

As long as there is big money in the election process, we are going to have professional marketers involved, and they do not care what happens to the American electoral system. They have one thing in mind and one thing in mind only, and that is win at all costs.

It is a lucrative thing for them, if they are successful. They get paid big dollars.

Gejdenson locks this in. It locks it in not just for the next election cycle. It is indexed. It locks it in forever, and it uses public money to do it.

Is this reform? I do not think so. I had an amendment that I wanted to offer that the Committee on Rules did not make in order that would have cut all of the limits in half and another that would have prevented indexation so that the $600,000 would shrink over time. That was not in order either.

Even more significantly, the really good amendment, the Leach-Beilenson amendment that would have limited spending to $400,000, would cut PAC's way back, would increase the importance of individual contributions, this was not made in order either.

Mr. Speaker, this is not reform. I cannot support it. I cannot support the rule, and I cannot support the bill.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS]

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in opposition to the rule. If I have even seen a subject matter that I think deserves an open rule, it is the subject of campaign finance reform. But how do we arrive at that point with what is tantamount to a closed rule?

If anybody has any questions, I would refer them to yesterday's Washington Post, a very interesting article on our select committee, our super committee known as the Committee on Rules.

With nine out of 435 votes, Moakley, the distinguished chairman of that committee, tells the House how to debate.

This article goes on to quote our ranking Republican, the gentleman from New York [Mr. SOLOMON] as saying that there are three or four situations each year where partisanship take over the rulesmaking process. This is one, because all the testimony that we have heard so far on this rule has indicated that there were lots of substantive progressive amendments that Members from both sides of the aisle wanted to offer in this amendment. But instead we are getting a restrictive rule again.

I had an amendment that I offered up in the Committee on Rules that I thought was almost a logical one, and that is to say that anyone who accepts public financing must agree to debate their opponent or opponents in both the primary and the general election. It got some favorable response from the other side. I see the gentleman from California [Mr. BEILENSON] here who was favorable, but it was defeated because the fix was in and the understanding was already there in place that our amendments would be limited to the one that is going to be offered by the minority leader.

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I also am concerned that the bill contains an inherent restriction on an individual candidate's right for freedom of expression under the first amendment. And that is the limit on what an individual candidate can give of their own funds to his or her own campaign. The bill, as I understand it, contains a limit of $60,000, which again is a constraint on the individual candidate's first amendment right and a further advantage for incumbents.

I can positively attest to my colleagues that if that restriction was in place with the last campaign cycle, I would not be here today. So I rise in opposition to the rule. I think it ought to be an open rule permitting free and open debate.

It is too important a subject to give it this short shrift in the 11th hour.

☐ 1420

Mr. SOLOMON. Mr. Speaker, does the gentleman from Texas [Mr. FROST] have only one remaining speaker?

Mr. FROST. That is correct. I have the chairman of the task force, who is going to conclude debate.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from New York [Mr. SOLOMON] is recognized for 2 minutes.

Mr. SOLOMON. Mr. Speaker, I would just say to the Members that they have heard Members from both sides of the aisle complain about the terrible procedure that brought this bill to the floor. This procedure gags Republicans and Democrats alike; it makes in order a bill that was never even considered by any committee, a bill that has so many back room changes in it that 90 percent of the Members, 90 percent of whom are out of this Chamber right now, have no idea what is in it.

The Members have heard some criticism that public financing was stripped out of the bill. Members have heard others say that public financing is still in it.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding.

There has been some discussion about the financing under the bill. The gentleman from Ohio quoted some numbers. I am sure he is aware that those are CBO numbers based on the former structure of the bill and not on the current structure of the bill.

If in fact there is a tax credit to be included, it is in fact some kind of a gift to the very rich. It would be only for those who can file the long form, unless of course they want to make the tax credit on the 1040 EZ; if that is the case, CBO, as estimated in the past, puts the cost somewhere between $50 million and $150 million for the tax credit alone. So the subject of $200 million to $300 million, even $500 million, is a realistic figure.

I would tell the gentleman that he has a right to be as confused as the rest of us, because there is no CBO estimate on this bill.

Mr. SOLOMON. Mr. Speaker, if Members remember that they did not know what was in the thrift deregulation bill back in 1980, which got us into this awful banking mess, and yet they all voted for it, wait until they vote for this bill and then try to tell their constituents, "I did not know what was in it."

Vote "no" on this rule and on the bill, like I am.

Mr. FROST. Mr. Speaker, I would inquire of the Chair if all of the gentleman's time has expired.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] has 39 seconds remaining.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield 5 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, let me first start by thanking my colleagues and members of the Committee on House Administration, the Committee on Rules, particularly the gentleman from Texas [Mr. FROST], who serves on both committees, the gentleman from North Carolina [Mr. ROSE] of the full Committee on House Administration, the Speaker for his support throughout this entire process, the majority leader, who has worked with us, and his staff, almost on a day-to-day basis, the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Michigan [Mr. BONIOR], the whip, the gentleman from California [Mr. FAZIO], the gentleman from Wisconsin [Mr. KLECZKA], who did yeoman's work on the committee on our side, the gentleman from Maryland [Mr. HOYER], the gentleman from Alabama [Mr. BROWDER], and so many others who put time into what is one of the toughest tasks of this Congress.

We have worked on a bill that tries to reform the process by which we live, and that has a double problem in it. It is problematic in that each of us imagines our own circumstances and each of us has a better way to make a fair system in our own districts. I will give Members the benefit of the doubt that what they are trying to produce is the best and fairest system for their own particular district. But none of us has the knowledge of all the districts in the Congress and how to write a law that works best across this country for Members of Congress.

For my part, when I started this process, I was for reform. It was broadly defined and, frankly, I did not know as much as I needed to. Maybe if I knew that much I would not have accepted the appointment from the Speaker.

So we started with hearings, and I think these hearings on campaign finance reform are probably unequaled, at least in my memory, in this Congress. We went through public hearings until no Member of Congress was ready to come forward at another hearing. We gave every Member in this institution a chance to come and tell us how it is done in their district. We had public hearings which included 107 public witnesses.

We held two hearings, one in Minnesota and one in Wisconsin, because for my money they have the best systems in the country, the most progressive, the most tested. We had planned to hold hearings in Connecticut and California and the inability to coordinate the schedule of the ranking members and myself precluded those hearings.

At the end of the hearing process I went to the Republican leader on this task force and I asked him whether he wanted to work on a joint bill, a bill that both Democrats and Republicans could agree on, and then we would have Democrat and Republican amendments to that, one core bill with a Democratic amendment and a Republican amendment, or would he prefer to have simply a Republican versus Democratic bill.

The Republican leader of the task force for his side said he wanted to make sure that his option was protected to present what he wanted on the floor. That was later checked by the gentleman from North Carolina [Mr. ROSE], the chairman of the full committee. So the rule here today gives the minority exactly what they asked for. They asked for the ability to offer whatever they want on the floor of the House.

Now, for all those Members on the Republican side of the aisle that have complaints with what is before us, I suggest they talk to the gentleman from Illinois [Mr. MICHEL] or the gentleman from California [Mr. THOMAS], because the rule—and we told them this well in advance of this day on the floor—would provide for whatever the Republicans wanted to present to us.

What they have offered us is also instructive. The Republican plan is the wealthy individual protection act of 1991. If this was 1215 and we were passing the Magna Carta we could say it was a step forward, because what the Republican plan does is it protects the wealthy and wealth alone. If the Members represent 90 percent of their district, if they represent the poor and the working people in their district but they do not represent the wealthy, do not bother running for election, because unless they can get those wealthy individuals in their district to finance their campaign, then they cannot enter the debate.

What do we want to achieve here? Do we want to rig the system so only

those who appeal to wealth and power in this society get to participate? We repealed poll taxes. This country ended a process where we needed money to play. Now the Republican alternative, the central theme they have chosen, is to make sure that unless they appeal to the wealthiest individuals in their district they cannot play. That says to women, to blacks, to minorities, and to challengers "Do not get in the game."

If the Members want to protect incumbents then they say the money has to be collected in that local neighborhood. Why? Here is the incumbent. He is on the Committee on Ways and Means, he is on the Committee on Approriations.

Mr. SOLOMON. Mr. Speaker, I yield my remaining 39 seconds to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I come to this well having never opposed in my 5 years in this body a rule. In fact, I would defy anyone to find a more loyal Member of my party in that regard. But I, like the gentleman from California [Mr. BEILENSON], have mixed emotions about this rule because I do not believe it encourages the best bill possible. I think to some extent it discourages it.

Let me just say that I have the utmost respect for the gentleman from Connecticut [Mr. GEJDENSON], for all of his work and I believe that the words be just uttered are correct. But those in many respects do not have to do with the rule.

This issue is too important to have such limited debate. It is too far reaching to be dealt with with just one amendment, and it is too crucial to the democratic process to be held hostage for any kind of partisan politics whatsoever.

So I urge Members of this body to vote against the rule. I would hope that the Committee on Rules would come back with something that encourages a greater participation among its Members, and I urge a "no" vote.

☐ 1430

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 246, nays 180, not voting 8, as follows:

[Roll No. 424]

YEAS—246

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—180

Allard
Allen
Anthony
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Morella
Morrison
Myers
Nagle
Nichols
Nussle
Obey
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal
Santorum
Savage
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Skeen
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Fields
Foglietta
Ford (TN)
Ireland
Mrazek
Ray
Stokes
Towns

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Mr. VOLKMER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 543) entitled "An Act to reform Federal insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institution, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. SASSER, Mr. CRANSTON, Mr. GARN, Mr. D'AMATO, Mr. GRAMM, and Mr. BOND;

From the Committee on Environment and Public Works, solely for title

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X; Mr. BURDICK, Mr. LAUTENBERG, Mr. es both of these concerns in a respon- vate contributions, rather than in-

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this place. And we must restore public much more will all this cost in the lion dollars or more to rescue incum-

VOL 137 PT 23 NO 21—25 1991 UMI

X: Mr. BURDICK, Mr. LAUTENBERG, Mr. MITCHELL, Mr. CHAFEE, and Mr. DURENBERGER;

From the Committee on Labor and Human Resources, solely for consideration of section 1159: Mr. KENNEDY, Mr. METZENBAUM, and Mr. HATCH; to be the conferees on the part of the Senate.

HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1991

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 299 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3750.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. ROSE] will be recognized for 30 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when I established the Task Force on Campaign Finance Reform, I saw the mission of the task force as designing a complete and comprehensive package of reforms which would restore the public's trust and confidence in Federal campaigns.

Any criticism that the current version of H.R. 3750 somehow unfairly disadvantages either my Republican colleagues on the Committee on House Administration or the Republican Party itself is misplaced. From the beginning, the Republican Party has in its conference, agreed on certain principles for campaign finance reform. Thus, the Republican conference has been locked into an approach that has never considered overall campaign spending limitations as necessary. I have consistently said that my goal was to address the concerns of the American people, and, as I read those concerns, all Americans want an end to high-priced congressional races. There is also a great deal of concern regarding the use of taxpayer dollars in congressional races, and H.R. 3750 addresses both of these concerns in a responsible and fair manner.

The bill we have before us today, H.R. 3750, which contains my compromise substitute, is a giant step in the right direction. I want to commend all of the members of the Campaign Finance Reform Task Force, especially Chairman SAM GEJDENSON, for all of their efforts in bringing us some fresh, new ideas on campaign finance reform.

The cornerstone of this package is a $600,000 spending limit for congressional races. No more than $500,000 of the total may be spent in the general election. To compensate for those States which have runoffs, we provide for an additional $100,000. To assist those candidates who have close primary results, we provide an additional $150,000 to those who win their primaries by a margin of 10 percent or less. However, not more than $500,000 in the general election may be spent by congressional candidates.

No one can deny that their constituents are fed up with high-priced campaigns. These campaigns, like the Senate races in my State, for example, involve enough spending to feed the residents of some of the smaller countries in the world for a year. And my friends, the costs of campaigns continue to spiral out of control. We must address this issue, and H.R. 3750 does this in a very reasonable, and fair fashion.

Criticism of the role of political action committees, known as PAC's, has also been addressed by H.R. 3750. Eliminating PAC's is not the answer because many small contributors, average working people, must have a role to play in the political process. By contributing to a PAC, the small contributor has a strong voice in the process, and the playing field levels out for the small contributor as compared to wealthy individuals.

By placing an aggregate limit on the amount PAC's may give in any particular race, and by placing an aggregate limit on the amount wealthy individuals may contribute in any political race, all contributors are given an equal chance to be heard.

H.R. 3750 emphasizes the importance of spending limits, and includes a title providing a sense of Congress that the issue is of such importance that it should be addressed in subsequent legislation, perhaps including a constitutional amendment, by committees of appropriate jurisdiction.

With respect to the source of funding, my substitute provides a mechanism for the volunteerism which the President has promoted throughout his term. Any individual or group can contribute to the make-democracy-work-fund.

Thus, H.R. 3750 as reported by the Rules Committee, removes any reference to taxes and requires funding from private contributions. At this time, the public clearly feels that private contributions, rather than increased taxes or Federal spending, is the way to go.

There are other important reforms in this legislation, which will also be discussed during this debate. H.R. 3750 addresses the wishes of the American people to curtail limitless campaign spending. It does so in a responsible manner, in a budget-neutral and party-neutral manner. I urge my colleagues to vote for a limit on campaign spending, by voting for H.R. 3750.

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Mr. Chairman, let me point out something to my friends about the Committee on House Administration. The Members are all well aware that during this year my ranking member and I have accomplished in a togetherness fashion, that has never been seen around here before, a lot of good things for the House of Representatives. But occasionally, like today, we come upon an issue where we have to put on different hats and go at it from the aspects of what our parties feel about it.

So I do not want the Members to think that the ranking member of my committee and I have suddenly stopped working together for their benefit. That is not the case. We just have a little different role today, and Members are going to see something like they have never seen before take place today between us as we get into this issue to discuss how we feel about this bill. But when it is over, we will go back as a committee to serve the Members of Congress.

Mr. Chairman, I hope that the Members will support the bill.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS], a long and ardent participant in campaign finance reform.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as I testified before the Task Force on Campaign Finance Reform in April of this year and as I have said many times before, the most crucial issue we face in Congress may be the fact too many of our citizens are losing faith and confidence in government. Simply put, we must restore public confidence.

Now when Congress usually takes a look at what is allegedly broke and fixes it, we usually try to sell political perception under the banner of reform. This result is long on politics and short on practical results. As case in point: the obvious need for campaign reform.

Now, let me stress at the outset that I strongly favor changes in the Federal campaign laws. That is why I have introduced reform legislation in the last two sessions of Congress. We must make the election process fair. We must ensure openness and public disclosure—the key to all reforms around this place. And we must restore public confidence in the system.

Sadly the Democratic reform posse is headed down a different, and what I believe to be a wrong, trail to change the current system. The package before us today is molded along these lines.

First, it further erodes the two-party system;

Second, it provides for taxpayer financing for congressional elections; and

Third, it proposes spending limits that fail to address regional differences in the United States.

Over the years, one of the greatest threats to our political system has been allowing the influence of the political parties to wither. This has followed too much reliance on PAC's, too many incumbent perks and protections, emergence of the so-called professional politician, and elimination of discipline and accountability in Congress.

The alternative to a strong two-party system is at best confusion and at worst chaos that immobilizes government. How many people today complain that Congress is incapable of any concerted action. We even have trouble deciding when to adjourn.

However, many in Congress are reluctant to turn power back to parties due to self-preservation and because they have their sights on getting taxpayers to foot the bill for their campaigns.

Last year, $445 million was spent on campaigns for the U.S. Senate and House of Representatives. While no one is proposing to have the taxpayer finance the total cost, it should be clear that American taxpayers do not want and do not need even part of this cost.

Even worse, so-called public financing would further undermine the influence of individual contributors and political parties in the election process. Taxpayer financing of campaigns doesn't further the worthy goal of making challengers more viable. However, it does ensure that the voters will be hit with a cacophony of rhetoric for myriad candidates who may or may not have more than a handful of supporters.

The Democratic bill creates an opportunity for candidates in some cases to receive up to $3 in public financing for every $1 raised from contributors. It is an abomination of the election process and a raid on the U.S. Treasury.

Why, why, why should taxpayers be asked to foot the bill to publicize the views of every special interest with a candidate and a mailing list to match?

And who is going to enforce all the standards, thresbolds, and paper requirements of the Democractic bill? Is the FEC to double or triple in size? Will that improve the effectiveness of reporting or will this sleeping giant be forced to grow even more and crumble beneath its own weight? And, how much more will all this cost in the end?

Let me end by saying, as I said during discussion on the rule for this bill, that I am distressed and disheartened with the methods used by the majority to bring this legislation to the floor. The rights of the minority have been ignored and trampled upon by the majority—and that fact alone is reason enough for this legislation to be defeated.

Mr. Chairman, let us bring comity to the House by defeating this proposal and returning it to the House Administration Committee where a bipartisan package should be drafted.

I urge my colleagues to oppose this bill and support the minority substitute to be offered later in this debate.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, let us take a look at the top 50 recipients of PAC contributions during the 1990 election cycle.

There were 5 Republicans in the top 50—and 45 Democrats. There was 1 Republican in the top 25.

PAC contributions to Democrats in that category outstripped Republicans by $18 million.

The top Democrat received approximately $763,000. The top Republican who was ninth on the list—received approximately $519,000.

The second highest Republican who was 26th on the list—only received $433,000. In the top 50 recipients, $20,980,103 was received by Democrats. Only $2,144,850 was received by Republicans in the top 50. This is a factor of 10 to 1.

Today's challenger has to overcome all the advantages of incumbency—plus a $300 or $400,000 edge to the incumbent supplied by PAC's. I know. In 1988, I was one of those challengers.

This bill evens those odds a little. We should do more, but the majority won't let us. If Republicans oppose this bill—if the President vetoes it—we will truthfully say we oppose public financing. The Democrats will say we're in the pockets of big business. The Democrats will be believed.

Republicans, let us surprise them by voting yes.

This is not a perfect bill, but it is a step forward.

On a nonpartisan basis, Mr. Chairman, the $200,000 limit on PAC's in this bill strikes a reasonable balance.

A balance between the right of citizens to band together to elect likeminded candidates and the right of voters to have their Representative selected locally—not in Washington.

In other words, PAC's have a right to play in the political process, they don't have the right to star.

Let us limit the power brokers in Washington who now move half a million dollars or more to rescue incumbents who lost the support of their own constituents.

Let us back this needed reform.

Mr. THOMAS of California. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I do not oppose public campaign financing in principle, but I reluctantly must oppose this bill because it simply does not provide meaningful campaign finance reform.

The way I see it, the primary objective of campaign finance reform should be to eliminate the possibility for one contributor to make a contribution to a candidate that is so large that it creates an actual or apparent obligation on the part of the recipient.

The soft money loophole of the existing law is the principal means by which contribution limits can currently be evaded, making it possible for enormous contributions of Keating 5 proportions to be pumped into congressional and senatorial campaigns. As Common Cause itself has noted, H.R. 3750 will do virtually nothing to close the soft money loophole.

The other current legal conduit for the largest contributors is the $5,000 PAC contribution limit. I know that H.R. 3750 does impose a $200,000 aggregate PAC limit, but that limit is hardly restrictive because most incumbents do not receive much more than that now.

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Meanwhile, the bill does absolutely nothing to limit the amount that any single PAC can give.

As a result, powerful incumbents will be able to raise their $200,000 PAC allotment with ease from a mere 20 PAC's, because each PAC could still give $5,000 for the primary and $5,000 for the general election.

Each of those lucky PAC's will have more, not less, relative importance to the canadiate than it does now.

Another serious flaw in the bill is its spending caps. Spending caps are inherently pro incumbent. I understand that the caps in this legislation are relatively generous, they are somewhat flexible, and they are voluntary, but they still put a challenger at a tremendous disadvantage, because no challenger has the assets that an incumbent has, the asset of the franking privilege, the asset of Government space and office expenses, and the asset of greater access to the media. Nor do these limits take into account the dramatic differences in the cost of running a campaign in different media markets.

One way to give a break to challengers would be to allow political parties to give a larger campaign contribution to challengers. As the gentleman from Kansas [Mr. ROBERTS]

VOL 137 PT 23 NO 21—25 1991 UMI

said, such a provision is not in this legislation. It is an unfortunate omission.

Finally, H.R. 3750 will not go into effect until after next year's election. This provision reminds me of the prayer of young St. Augustine, who said, "Give me chastity and continence, but not yet."

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a number of the incumbents said this should not be done, and a number of our critics, those inside and outside the institution, said it could not be done. But I think we really do in this bill vastly increase competition for public office, competition for the House of Representatives.

Mr. Chairman, I do not say restore competition, because I do not believe it has ever been absent. But we do increase it in this bill. For that I congratulate the gentleman from Connecticut [Mr. GEJDENSON], certainly the chairman of the committee [Mr. ROSE], and the others like the gentleman from Oklahoma [Mr. SYNAR], who invested so much time in this legislation.

Mr. Chairman, the minority party has attempted to sell the American people on the concept that this is an institution that replicates itself, that perpetuates itself; that somehow it is wired for incumbency.

I think it does not take much analysis to conclude that if the Republican Party had held every seat that it has wanted at one time during the 1980's, during a period in which it was in ascendancy, electing Presidents Reagan and Bush to overwhelming margins of victory, the Republican Party would today be in charge of this institution. The gentleman from Illinois [Mr. MICHEL], our good friend the minority leader, would be the Speaker.

So there is competition here. The average Member serves only 10 years. But reelection rates have been slightly higher in recent years than they have historically been. They are slightly beyond the norm.

Mr. Chairman, I think this legislation goes a long way to restoring a more level playing field for candidates of both parties to challenge incumbents. Certainly it will be difficult at any time to vote on anything that smacks of public financing, but under the system that has been put together in this bill, for the first time individuals who do not have a lot of personal wealth, who do not have access to PAC's, who typically know and support incumbents of both parties, are going to be in a position to gather the resources to become competitive candidates for Congress.

The American people are frustrated by the perception that this place does not turn over sufficiently. That is a perception, but we all know in politics it becomes a reality. This legislation goes a long way to meet the frustration of people that are leading them to sign petitions for term limits, that are pushing them into positions to unseat incumbents.

Mr. Chairman, I would urge Members to support this bill if they want to take a step in the direction of a more fair and competitive political system.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WALSH], a hard-working member of the task force who attended virtually every one of the hearings and was, of course, denied the opportunity to have input on the legislation because there were no meetings over the bill.

Mr. WALSH. Mr. Chairman, as my distinguished ranking member on the task force mentioned, we met hours and days and weeks and months, almost a year, and this bill was never brought before the task force. It was never even discussed. It was put together over the last week in a shadowy, smoke-filled room somewhere in this building, and it was never finalized until perhaps even as we speak this moment.

Mr. Chairman, I am amazed at my colleagues on the other side of the aisle. They rail day after day about the President and his inability to put together a domestic policy, when they cannot even run their own House 2 days in advance. They do not know what a bill is going to look like until the next day, and then it changes again.

This bill is called reform. It says there is a cap on spending, a $600,000 cap. Well, Members have described it as $1 million. The average race in this country costs only $400,000, so how could that be a cap?

PAC's, hundreds of millions of dollars will be allowed to be raised by special interests. The only special interest that we should have, my colleagues, is those people we represent. The Republican bill says that the money should be raised within the district.

Matching funds, the scheme for matching funds I referred to as gossamer. There is no substance. The dictionary defines gossamer as a fine film of cobwebs with delicate glistening dewdrops.

Mr. Chairman, when the Sun comes out on this matching funds scheme and shines upon this gossamer of make-democracy-work fund, it will disappear.

Mr. Chairman, I urge a "no" vote on the Democratic bill, and support of the Republican substitute.

Mr. ROSE. Mr. Chairman, how much time do the parties have remaining?

The CHAIRMAN. The gentleman from North Carolina [Mr. ROSE] has 21 minutes remaining, and the gentleman from California [Mr. THOMAS] has 23½ minutes remaining.

Mr. ROSE Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE Mr. Chairman, I rise today in support of H.R. 3750, the Campaign Finance Reform Act.

I must first compliment SAM GEJDENSON, the chairman of the Task Force on Campaign Finance Reform, and CHARLIE ROSE, chairman of the parent House Administration Committee, for crafting a responsible bill under difficult circumstances. I have also benefited from discussing this issue with BILL THOMAS, ranking minority member of both the task force and the committee.

The task force has been inclusive in its approach, offering Members the chance to testify in hearings and then to comment on early drafts of this legislation. As one who has taken full advantage of these opportunities, I want to commend the task force's leadership for making them available.

So I rise in support of this carefully crafted product and want to comment on several of its features.

Some may approach this bill from the standpoint of what it lacks, or what it does not do, or how it fails. And indeed it is not a perfect bill; I too intend to work for further changes as the bill goes to conference and, no doubt, further reform in future years. But this bill is a major step forward, and I support it for what it does:

First, it limits spiraling campaign spending—it provides for realistic cost containment, but still permits full and effective campaigns. It caps spending at $600,000 per election cycle, but also reduces the costs associated with the mailings and television appeals that are necessary to reach the mass of voters.

Second, it provides for a healthy diversity of funds.

It is not enough simply to limit the amount spent or raised, unless we resign ourselves, in the age of television, to not reaching thousands of our voters. We must have full and effective campaigns, but ensure that they have broadly based and diverse funding.

H.R. 3750 doesn't eliminate or stigmatize any class of donors, but provides for a better balance among small contributors, large contributors, PAC's, and parties. And by placing a 10-percent limit, $60,000, on the amount a candidate can contribute to his or her own campaign—and by taking that amount out of the $200,000 overall limit for large contributions—it ensures that a candidate cannot offset this diversity of sources using personal wealth alone.

Third, the bill encourages small contributors and widespread financial participation in politics.

Candidates will be encouraged to pursue small donors since only small contributors will be eligible for matching funds from the make-democracy-work fund. And the bill sets in motion a process by which tax incentives will be provided for small individual contributions to candidates, parties, and the make-democracy-work fund.

Fourth, it moves effectively to clean up a number of existing and potential abuses: it eliminates bundling; it eliminates leadership PAC's; it lowers the threshold of contributions the FEC is tracking to $50 to provide more accountability; and it deals with independent expenditures—probably the most glaring loophole in present law—with some innovative disincentives and protections.

It also enacts safeguards against soft money abuses. This is an especially difficult area, where we are in danger of throwing out the baby with the bathwater. I concentrated on soft money in my own testimony before the task force, both because of my experiences as a State party chairman and because of my concern that legitimate grassroots party activity be protected and encouraged.

As I told Chairman GEJDENSON and other members of the task force, it will surely be a perverse result of campaign finance reform if, in our quest to deal with abuses of soft money, we discourage legitimate grassroots party activity that represents politics at its best or if we shut down the most important things that parties do: registering voters, getting people out to vote, and encouraging participation.

So I am a strong advocate of the thoughtful way that H.R. 3750 deals with this issue.

First, we restrict soft money by setting an overall limit of $.50 per voter for combined activities. This is a healthy but limited allocation that will allow State and local parties to conduct vigorous coordinated campaigns on behalf of their slate of Federal, State, and local candidates.

Second, the bill dictates that a large percentage of spending for combined activities must come from hard Federal dollars—that is, dollars restricted by Federal donation limitations and subject to Federal reporting standards. And it raises that limit of Federal dollars for both national party committees and State and local party committees in Presidential election years, when an increased level of activity on behalf of Federal candidates would be expected.

Third, it gives responsibility for tracking and filing these consolidated reports to the State party. I can tell you as a former State party chair, that tracking and accounting under these provisions will be no picnic. But State parties that are accounting in a good-faith manner now should generally be able to verify that these expenditures fall within the designated limits.

There is a real danger here, and I believe the task force has recognized it. To place further restrictions on combined political activity as some advocate, would merely set up the real possibility that such activity would leave party channels altogether, completely escaping our scrutiny and our accounting. Or we might find that, because we have erected such formidable barriers, State and local parties simply choose to leave Federal candidates out of their campaign efforts.

I believe these reasonable restrictions on soft money will have a positive effect in combating soft money violations—but they will not do so at the expense of vigorous and vital coordinated campaigns by national, State and local party organizations.

Finally, a word about the Republican substitute. No detailed critique is required, for it meets almost none of the criteria for reform. It conspicuously refuses to put a cap on spending. But it does very little to encourage a diversity of funding either. No tax incentives for small contributors are to be found in the Republican substitute.

It manages, at the same ime, to be profoundly antiparty. Its soft money provisions are totally indiscriminate; they would give State and local parties the unhappy and unacceptable choice of either sharply curtailing their grassroots activities or eliminating Federal candidates and races from those efforts. And while the substitute overreaches in dealing with soft money abuses, it is largely silent on the other abuses addressed by H.R. 3750.

Mr. Chairman, I support H.R. 3750 for the thoughtful ways that it limits spending, promotes diversity of funding sources, encourages participation, and corrects many flaws in our present system. I urge my colleagues on both sides of the aisle to support it.

Mr. THOMAS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the ranking member on the Subcommittee on Elections of the Committee on House Administration.

Mr. LIVINGSTON. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I am the ranking member on the Subcommittee on Elections, but this topic was taken out and put into a special task force of which I am not a member. But if I were a member of this task force that met religiously over the last year, frankly, I would be upset. I would be very unhappy.

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Because all of the work that went into that task force was promptly thrown in the wastebasket, and this bill from the majority emerged in the last 48 hours to guide how America is going to run its political process for years to come. Nobody really understands what is in this bill.

I can tell my colleagues that the Republicans do not understand what is in it, because they just found out about it in the last few hours. And I do not think the Democrats understand what is in it either.

In fact, I do not think they know that this bill calls for financing limits of as much as $600,000 per candidate, or that some portion of that, perhaps as much as 50 percent, comes from public financing.

I do not think they know that the bill could cost the American Treasury some $350 million and by some estimates, maybe a half billion dollars. And what is worst for my friends from Louisiana, I do not think they know that runoffs in the Louisiana primary situation entitles a candidate not to $600,000, but only to $100,000 in campaign spending.

Anybody who understands the Louisiana process, which admittedly is different from others, knows that our main race is in the runoff. It is not in the primary. And by my reading of this act, we Louisiana candidates would only have $100,000 of spending per candidate.

All of that is just icing on the cake. The real crux of this bill is the public financing section which no one has adequately been able to determine or understand. And when we consider that under the current public financing scheme that has been in place in the President's checkoff system since 1974, Lenora Fallini, a Qadhafi proponent, will qualify for up to $13.8 million. Lyndon LaRouche, who believes that the Queen of England and Henry Kissinger conspired with the KGB to put dope around the world, can qualify for up to $13.8 million. And, under this bill, the Ku Klux Klan, which says they are going to sponsor some 1,000 new white supremacists to run for Congress around the country, and run with taxpayers' money. These people are going to qualify for taxpayers' money under this act. It just boggles my mind that this could happen, no matter how extreme the views of a participating candidate may be.

We have not had an opportunity to debate this issue. We have not had an opportunity to discuss it in the committee. We do not know whether this is a reasonable bill, but I would suggest to my colleagues that the probable ramifications of it are awesome.

We ought to look at it much longer and much larger before we consider passing it.

Mr. ROSE. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, we often, in this Chamber, have talked of crossroads. A choice between an aye or no vote is often pictured with this image—of one road which leads upward to the new Jerusalem golden on the horizon, and of another, sharply in the other direction, which leads down toward a dark decay and doom.

But, as we all know, the choices we make in this Chamber rarely have such dramatic consequences. Today we must decide whether to rescue the jewel in the crown of our democracy—the free election of the Congress by the citizens

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VOL 137 PT 23 NO 21—25 1991 UMI

of the United States—from the unsavory and sordid decay in which it is now mired.

A vote to reject the reforms, which we are bringing you today, will have no immediate consequence. We will return here tomorrow to this Chamber, the flags will fly over the Capitol and its bright white dome will show to the city of Washington and to the world that the Republic still stands.

But I urge my fellow Members to pause before casting a "no" vote and to cast their minds back into history and far into the future. Over 200 years ago, on the edge of the then known world, a scattering of exiles from the tyrannies of Europe conceived of the most reckless, audacious, radical, and revolutionary idea to burst upon Western civilization—that of a government, not of kings or despots or priests or nobles, but of the people who, freely and without hindrance, would choose those who would make the laws and govern. Somewhat over 100 years ago in this very building, half-finished as it was, the Congress presided over the rivers of blood and the years of desolation of the Civil War, resolved that government of the people, by the people, and for the people shall not perish from the Earth.

We are now, once again, turning to consider that grand and glorious experiment of representative democracy which, fragile as it is, has withstood, and outlived the now shattered empires and despotisms that attended its birth. That experiment is now in serious danger. The voice of the people is muted and muffled, not by enemies without but by money within. We are now the servants of contributions and not of constituents. We are yoked to steering committees and receptions and the political bonds which bind us to those who elected us are frayed and frail and snapped in places.

We do not know to the exact hour when the glory that was Greece began to fade and when Rome turned toward decline. But, should this Chamber reject the reforms we proffer today, I like to imagine, that in the distant future, some traveler from a faraway land, might step down, not far from here, off the stump of an elm tree, where he had been photographing the ruins of the Capitol and read on a small bronze tablet, of the vote today, of a dimly remembered House of Representatives, not to return to the tenets of democracy.

Mr. Chairman, I urge my colleagues, I implore my colleagues, support this reform for the people.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding time to me.

I tell my colleagues, the rhetoric up here today has been beautiful. New Jerusalem? Our forefathers? Public trust? Boy, that is pretty deep. Can my colleagues imagine our forefathers George Washington and Thomas Jefferson and John Adams, who believed in very little government involvement in our lives, saying, We want you to spend $270 million to help us get elected?"

This has got a $270 million minimum, more like $350 million and up taxpayers' dollars to help us get reelected. Can my colleagues imagine our forefathers talking about that?

The gentleman from North Carolina [Mr. ROSE], chairman of the committee, a few moments ago talked about public trust. I tell my colleagues, over 70 percent of the people in this country, according to polls, are against public financing, well over 70.

When we go out to our town meetings, ask them what they think about that. And then say, "What do you think about public trust?" And they are going to say, "You are putting your hands in my pocket for $270 million to get reelected." And that is public trust?

I think the American people do not want us putting our hands in their pockets anymore. Members have heard me say this before—one of my colleagues from Colorado says I sound like a broken record because I keep saying this over and over again—but the deficit this year alone is going to be $400 billion. The national debt is $4 trillion, up 400 percent in 10 years. And we are going to take $270 million out of the taxpayers' pocket to pay for this legislation?

I tell my colleagues, the American people do not want it. I think we should vote against it.

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Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield for 20 seconds?

Mr. SWIFT. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I do not want to embarrass the former chairman for this effort, but I would like to publicly thank him for all the assistance he gave me and the subcommittee staff throughout this process. I do not think we would be here today without his efforts a year ago, 2 years ago, and without the assistance he gave this committee. I just want to applaud him for all those efforts.

Mr. SWIFT. Mr. Chairman, I thank the gentleman, but the fact is that we would not be here today without the efforts of the gentleman from Connecticut [Mr. GEJDENSON], and I thank him.

People differ about spending limits. Just before the last election there was a mailer that came out to all the media that savaged me for the bill that I introduced because Mr. Nader of Congress Watch said that I had placed the spending limits too high, at $550,000. The thing is, I agree with him. I thought it should have been lower, too, but that is as low as I could get them.

However, Fred Wertheimer of Common Cause told me $600,000 was as low as we possibly could have them, perhaps they should be higher.

My point is, people disagree, even Fred Wertheimer and Ralph Nader. It has occurred to me that it would be very interesting to see those two gentleman debate those issues, because, being as both speak ex-cathedra, it would be the greatest holy war since the Crusades. But the bottom line is that people disagree on this issue, and those of us at a less sacred level, we politicians, disagree as well.

The President says he will veto a bill that reaches his desk with spending limits. We have heard a good statement from the other side opposing spending limits. Let me tell the Members why I have always believed spending limits are the essential reform. I do not believe they are an incumbent protection provision at all. In fact, under our current system an incumbent can always spend substantially more than a challenger.

The fact is the argument that you must in fact let a challenger spend more, and therefore spending limits that would keep it equal are an advantage to the incumbent, falls on its face in terms of practicality, simply because challengers never get anywhere near as much. Spending limits at least limit the size of the field. It gives a challenger a greater chance of getting into the same ballpark with the Members.

Spending limits will significantly cure, in my judgment, every other wrong people perceive to be associated with the way we fund our campaign: The amount of time we spend, the amount we have to take from specific sources, and so forth and so on. Spending limits are the solution.

But let me give one last reason we should vote for this bill and adopt spending limits. Every single poll I have ever seen shows that when we ask the American public, "What reform do you think will solve the problem in campaign finance," it comes out inevitably "spending limits."

I urge my colleagues to support this bill.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to the bill.

It is bad enough that this body is accused of writing rubber checks and running up restaurant tabs; now some misguided members of the Democratic Party are suggesting we restore Congress' image with the taxpayers by having them pick up the tab for our elections. What a high opinion these people must have of themselves.

Mr. Chairman, this is a typical Democrat solution to a problem. Instead of getting to the root of why people are disenchanted with Congress, the Democrats propose to throw money at the problem. Sound familiar? Public financing of elections is the ultimate example of the welfare mentality.

No one can argue that we have to make changes to our current election laws. People are not participating in the electoral process; they are losing faith in their leaders. Fewer and fewer talented people are deciding to enter public service. And who can blame them? They find themselves spending more time pursuing money than debating the issues.

There aren't easy solutions to this problem. When you propose to change the election process, you are going to the very heart of our Constitution. And a problem as complex as this deserves a better solution than a quick-fix proposal like public financing.

In my original remarks on this bill, I was prepared at this point to discuss the make-democracy-work provisions in the bill. But, mysteriously, whole sections of this so-called landmark legislation disappeared between full committee and the Rules Committee. It is a shame we aren't going to be here another week. At the rate this bill changes, the Democrats may end up proposing corporate or labor union sponsorship of elections like we see with college bowl games or touring rock bands. For example, instead of the Sunkist Fiesta Bowl, we can have the Sunkist Third District of Iowa election.

The Michel substitute doesn't need to hide behind a maze of tax writeoffs, voluntary funds, registration fees, and matching funds. The Republican alternative requires a majority of a candidate's funds be raised from local resources—from the people he or she will be serving in Congress. The Republican proposal reduces the allowable PAC contribution to $1,000—the same as individual contributions, and the Republican alternative would become effective in 1992, rather than forcing Americans to wait another 3 years for real reform. The Republican alternative restores power over the election process to the individual. If the American people once again feel they have control over choosing their representatives, we'll see a rebirth of involvement in the democratic process.

We have a serious problem on our hands. The term limit movement has caught on like a wildfire across America because Congress cannot deal maturely and effectively with serious problems. Instead, we waste time with silly proposals like this one. This is not a serious proposal, it is a boldfaced partisan effort designed to make President Bush look bad.

I warn my colleagues to beware. The joke may be on Congress. You may wake up one day and find that term limits have cost you a seat in Congress. The people who elected us expect and deserve better than this partisan game.

I know that well-meaning people from both sides of the aisle can arrive at a solution. But I cannot support a proposal that would, in essence, say to the very people who are disenchanted with us, "stick'em up."

I urge my colleagues to oppose the bill and support the Michel substitute.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, there is a growing feeling in this country that our institutions of government, and particularly the Congress, are out of touch with the American people. There is even a stronger feeling that access to government by average Americans is inhibited by their lack of dollars to influence the system. Most Americans believe that public policy is determined not by what is good for America but by how many dollars can be contributed to the politicians of their choice. Most Americans feel that incumbent politicians have a lock on campaign spending, being able to raise unlimited campaign dollars and squeeze out any meaningful amounts of money that their challengers might be able to raise.

All of this has led to a feeling of cynicism and alienation by the American people, that their government does not belong to them anymore and that the current system does not work. That is one of the reasons why people like David Duke have had the success they have had in the American political system.

This bill is a reasonable attempt to deal with a problem. It sets aggregate campaign limits so we can restore some sanity to the millions and millions of dollars spent in campaigns; frankly, so that we can stop spending so damn much money on campaigns. And it sets some limits to special interest money, doing so in a reasonable way.

It is not a perfect bill but it moves the process along to get us a more perfect bill, and it moves us a long way toward restoring participatory democracy in this great country of ours.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield to me?

Mr. GLICKMAN. I am glad to yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for yielding. I know he is concerned about the success of the David Dukes, but I would suggest to the gentleman that under a public financing situation the David Dukes of the world, the extremists on all sides, will get free funding from the taxpayers' dollars.

Mr. GLICKMAN. The gentleman totally misreads the bill and is inaccurately characterizing it.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman I rise in strong opposition to this bill. We have experimented with taxpayer finance politics at the presidential level and it has been a complete failure. Why, then, do we want to give every congressional candidate a $200,000 campaign slush fund out of the U.S. Treasury? Eighty percent of the American people have already rejected taxpayer-financed politics when given the opportunity. In 1989, less than 20 percent of the American people checked yes on their tax forms. Given the low regard in which the Congress is held, even fewer will support tax funds for congressional candidates.

□ 1540

My constituents are outraged about the S&L bailout and certainly do not want to have a congressional incumbent bailout as well.

The current public financing program funds extremist candidates, such as convicted felon Lyndon LaRouche. I am sure he cannot wait to run a slate of candidates for congressional seats if this bill were to pass.

I would remind my colleagues that we have a $350 billion deficit.

There are rural counties in my northern California district with almost 20 percent unemployment. The people in these counties do not believe for one moment that the solution to our Nation's problems is $200,000 in political welfare for professional politicians paid for with tax dollars. They know the solution is jobs, but the only jobs that this bill creates are for lawyers and accountants and campaign consultants.

Mr. Chairman, I encourage my colleagues to oppose this legislation.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, Halloween has come and gone, yet some in this body continue to play tricks on the American people by introducing self-serving legislation like H.R. 3750—what I like to call the Taxpayer-Funded Public Finance Campaign and Incumbent Job Security Act of 1991. This country is experiencing an economic slowdown, so what does the majority party bring to the floor, a bill that costs the American taxpayers $270 million or more just to pay for congressional campaigns. The majority party seems to be more interested in bringing legislation to the floor that they feel can score political points with the public, rather than tackle the tough issues, like jump-starting this sluggish economy.

I'm not saying that campaign finance reform legislation is not important; but this legislation does little to make elections more competitive, and by placing spending caps it could serve to

VOL 137 PT 23 NO 21-25 1991 UMI

further secure incumbents. We are not going to obtain real campaign finance reform in this body until we scale back the many incumbent advantages that have already been built into the system.

I ask each of you to look in the mirror knowing what you know, would you run against yourself? True reform will only come when we put an end to soft money and bundling, eliminate the role of PAC's, restrict the use of leftover campaign funds, and give elections back to the people in each district, by permitting tax deductions for small district donations. None of these proposals are included in this bill.

The most recent example of how Congress abuses the taxpayer for its self-serving interests, is the private contract the House Administration Committee entered into earlier this year for the purpose of providing Members of Congress with lists of their district's registered voters. The American people are sick and tired of these types of incumbent protection programs and they must end if Congress is truly interested in campaign finance reform.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, can you believe this? I ask the people up here in the audience and people watching, can you believe that we are here today on the House floor talking about how to spend the taxpayers' money to help us get elected?

Now, the people on the other side will tell you that is not what we are doing. What we are doing here is to make sure that elections are fair. This comes to you from the party of the perks, from the party of the bank scandal, the restaurant scandal, leased cars and other perks in Congress. This comes to you from a party who just earlier this year said that they were not going to cut the franking accounts of Members of Congress for next year, even though we were not even going to use half the money this year. The reason was, well, we have a tendency around here to mail a little bit more during election years. I wonder why that is?

Now, they are coming to the floor today to say to the American people, "Trust us, trust us. This is going to level the playing field. We have a 100-vote majority in the Congress, but we want to level the playing field because we want to be fair."

Now, do you really believe that? I do not believe that.

What they tell you is this substitute is bad that the Republicans want to offer because it makes people raise their money within their own districts.

You have to raise your money within your own district? You mean the people in your home community have to support you? What a terrible un-American thing we are talking about here.

I just was elected to Congress last year. I defeated a 14-year incumbent, outspent 3 to 1, and I got here because the people in my district rose up and supported me. I was outspent 3 to 1 and yet I got more money from individuals within my district than he did. What is wrong with that?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. THOMAS of California. Mr. Chairman, I yield 30 additional seconds to the gentleman.

Mr. SANTORUM. Mr. Chairman, what is wrong with having the people in your own community determine who is elected from that community? Why do we need taxpayers across this country reaching into their pockets that are very, very thin right now, giving us money to reelect us? Where have we gone in this country when we can even consider this with a straight face?

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, we have heard some good speeches today against taxpayer-funded campaigns to Congress, great speeches—wrong bill. If this bill contained provisions for taxpayer-funded campaigns for Congress, this Member and most of the conservative Democrats would be joining you in opposing it.

Read the bill. There is no taxpayer-funded campaign for Congress in the bill anymore. The compromise struck with the chairman, and I do want to congratulate Chairman ROSE for his excellent work in compromising this bill, was that the fund for democracy no longer contains tax supports, surely voluntarily contributions.

Furthermore, the chairman has agreed to a provision in the bill which now says that that fund does not go into effect until the Ways and Means Committee comes up with the ways and means to provide a system whereby individual donors to the candidate of their choice can get a tax credit to encourage small contributions in political campaigns.

The authors of the bill have gone a country mile to take out our concerns about taxpayer-funded congressional elections. That is gone, folks.

Great speeches, wrong bill.

We may not be able to guarantee clean elections in America. We may not be able to guarantee clean politics for America, but one thing we know for sure, there is too much money in politics in America.

The bill we propose today with taxpayer funds eliminated, with voluntary spending limits in it, with instructions to work toward tax credits for donors to choose the candidates of their choice, to make their donations to, is the right approach at the right time when Americans want cleaner politics in America.

Mr. THOMAS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH], a Member who has been involved in campaign finance reform for years.

Mr. LEACH. Mr. Chairman, one of our distinguished colleagues earlier today suggested that this body has been presented a campaign reform bill that is an oxymoron. I do not know if that is the case, but I do believe the Democrats must believe the country is moronic if it believes their approach is reform.

At best it esconces the status quo. Rather than reducing individual PAC limits, the Democratic bill keeps them. Rather than empowering the electorate, it encourages candidates to accept out-of-State, out-of-district funds.

Rather than plugging the soft money loophole, it turns the other cheek, or more aptly opens the other pocket.

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And rather than establishing prudential spending limits, it sets close to a $1 million ceiling. If this is reform, then up is down.

What, then, does the Republican substitute do? It reduces individual PAC limits from $5,000 to $1,000.

I would like to eliminate PAC's entirely, but an 80-percent reduction must be understood as substantial real reform.

The Republican bill requires candidates to receive half of their money from people who can actually vote for the candidate. I would like to say 100 percent.

But, 50 percent is a progressive step.

After all, one of the tragedies of our system is that elections have become nationalized through out-of-State special-interest giving. Our Founding Fathers envisioned a legislative system where people of various parts of the country would, unencumbered, come to Washington to represent their constituents' interests.

Instead, in recent decades those who influence the political process through campaign giving have come to be more important than those who cast the ballots. This is not representative democracy; it is obligarchic representation.

Finally, on the spending limit issue, the question of judgment is clearcut. Democrats suggest that in establishing a ceiling of approximately $1 million for a congressional race they are advancing progressive spending restraint. Republicans suggest that cutting individual PAC's giving 80 percent, by requiring that half of the money candidates receive come from their prospective constituents, and by getting rid of soft money, that the effective ceiling will be much lower. It's difficult for me to believe that any impartial observer could conclude anything except that the Republican approach will cut campaign costs far more effectively than the Democratic one, and

give challengers a far better chance to run competitive campaigns.

In a system where 85 percent of PAC money goes to incumbents, where 97 percent of labor money, and just over half of business resources, go to the establishmentarian majority party in Congress, ensconcing legislatively the status quo isn't good enough. In fact, the majority party's legislative initiative is disheartening because it wears the mask of reform.

Nevertheless, while I intend to support my party's more progressive alternative, I expect to support this sham of a legislative package on final passage in the slimmest of hopes that sincerity of intent will prevail in House-Senate deliberations. In this case, I'm not convinced something is better than nothing. But I do recognize the House needs pieces of paper to go to conference.

After all, Mr. Speaker, what this country needs is arms control between business and labor, the establishment of a system where the individual citizen, not the moneyed interest groups, is dominant, where the challenger has a fair and reasonable chance.

The Republican approach is not near as comprehensive as I would like, but it is a clear step in the right direction. The Democratic approach, on the other hand, is a dicey dodge, a high-kicking polka when the country wants a straightforward waltz.

It's time Congress musters the political courage to discipline itself, rededicating energies to tapping America's soul rather than pocketbook.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. I thank the gentleman for yielding.

Mr. Chairman, I would like to engage the chairman of the Committee on House Administration in a colloquy.

Mr. Chairman, as you know, we have had a lot of discussion on H.R. 3750, particularly on the idea of public financing of election campaigns, and I believe it is important to place on the record how it resolves the concerns many of us share.

Mr. Chairman, does the bill we are now debating provide for any funds from the U.S. Treasury for matching funds for political campaigns?

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. BROWDER. I yield to the chairman.

Mr. ROSE. I thank the gentleman for yielding.

Mr. Chairman, no, it does not.

Mr. BROWDER. It does require that the make democracy work fund be financed by voluntary contributions?

Mr. ROSE. That is absolutely correct.

Mr. BROWDER. Mr. Chairman, am I correct in noting that the matchingfund provisions of this bill do not become effective unless incentives are enacted that encourage individuals to contribute to the candidate of their choice?

Mr. ROSE. The gentleman is correct.

Mr. BROWDER. Mr. Chairman, the revisions are more important than just a technical change. H.R. 3750, with these changes, ensures that the American public will have the choice over whether to make campaign contributions and control over those contributions. Keeping individual choice and control over campaign funding ensures greater participation by the general public and it is in keeping with democratic principles that the people control their government. Let me add that I will not support campaign funding schemes that reduce choice and control, and I will oppose any attempt at a later date to give tax dollars directly to candidates for office.

H.R. 3750 is a balanced, reasoned approach to enacting spending limits that will ensure more choices and better representation for the American people in their Congress. It will force candidates out of their beltway mentality on campaign fundraising and send them back to the people who elect them. I urge my colleagues to support this bill.

Mr. THOMAS of California. Mr. Chairman, how much time is remaining.

The CHAIRMAN. The gentleman from California [Mr. THOMAS] has 7 minutes remaining, and the gentleman from North Carolina [Mr. ROSE] has 6 minutes remaining.

Mr. THOMAS of California. Mr. Chairman, I yield myself 5 minutes.

After that colloquy, Mr. Chairman, I can only tell the gentleman from Alabama [Mr. BROWDER] that he had better vote against this bill if he wants to vote against taxpayer financing in political campaigns. It is as simple as that. That is a flat statement, and it cannot be challenged.

Title I of this bill says expenditure limitations, contribution limitations, matching funds and reduced third-class mail rate for eligible House of Representatives candidates, that money comes from the taxpayer. If you vote in favor of this bill, you are voting in favor of taxpayer financing of campaigns, only for those who are willing to come under the limits.

If you will visit with me once again what we have in front of us—and if anyone wants to challenge these statements on their time, I would certainly like to have them show me in the bill where the specificity is that no matching funds can be from taxpayer dollars, because the bill does not say that.

Those of you who are smiling had better read the bill rather than rely on somebody else's judgment as to what is in the bill. First of all, the only funding in the bill is for voluntary contributions. There are three obligations that must be met. The postal subsidy, somewhere between $40 million and $70 million; and the matching funds that are in the bill. And a new obligation which was put in by the Committee on Rules, which is called incentive under the bill, but which the gentleman from North Carolina called a tax incentive; and finally, truth-in-packaging, the gentleman from Louisiana called a tax credit.

Where in the world do you think you get the revenue for a tax credit? That is called an increased revenue obligation.

If someone gets a tax credit, they owe less, the Government gets less. You are spending taxpayer dollars in an election.

What is the matter with you people?

I read SAM GEJDENSON'S Dear Colleagues. The first one started out with the battle cry, "We are going to bite the bullet. We are going to have public financing. We are going to have taxes to cover it." And what happened in the Committee on Rules? You are now gumming a political lollypop.

Not only have you backed off of an upfront, honest commitment to put money in the bill, as you had in the original one—whether we disagree with you or not is the point; you had enough courage to cover your costs.

You had a bill that probably paid for itself if you believed the CBO estimate in terms of money, and it simply cannot be believed because we have no practice with people getting free money to run in campaigns.

But at least you had the money in there.

This is nothing more than a sham. The gentleman from Wisconsin [Mr. OBEY] said that, the gentleman from California [Mr. BEILENSON] said that, the gentleman from Maryland [Mr. MFUME] said that, on the rule.

You ought to own up to the fact—and I am more than willing to be challenged here—there is not a requirement for matching funds, not a requirement for postal subsidy and an incentive which has been told to be a tax credit? And then the bill goes on to say that it does not go into effect unless, under the Budget Act, there are sufficient revenues.

That means Committee on Ways and Means has to raise taxes to finance campaigns under this bill. Whom are you kidding? Apparently, only those Members on your side of the aisle who have been given assurances, which certainly are not written in the bill.

In addition to that, from the beginning you have failed to address soft money. Soft money is money which is illegal in Federal campaigns if it were given to a candidate.

You continue to allow it to be given to the political parties for a building fund, to buy a computer. It is very seductive money. It is and should be banned.

You do not do it in your bill. The Republican substitute bans it.

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lina [Mr. ROSE], the chairman of the

Mr. ROSE. Yes. I would invite the

the comprehensive election law reforms made

VOL 137
PT 23
NO 21–25
1991
UMI

But most damning, I think, is the fact that you are arguing, you are wearing this hairshirt of spending limits that is very, very difficult under the bill to carry out the kinds of activities that we think we should need, a give-and-take on your side of the aisle in terms of the amount that should be spent.

Up until Saturday you are still carrying on a Turkish bazaar hanging on how many freebies would be slipped into the bill. You added an additional 5 percent for fundraising. You have no limit whatsoever on legal costs, you have no limits whatsoever on accounting costs. And when you take a look at the cost-of-living adjustment automatically built into this bill, before you have one campaign under the limits, it is now $600,000. Without the ups and extras, it is over $700,000 just to begin with.

When you add the ups and the extras and the other gimmicks that you have built into it, it is well over a million dollars, and not one line in this bill addresses the franking subsidy that American taxpayers already pay to political financing but only to incumbents.

The CHAIRMAN. The time of the gentleman from California [Mr. THOMAS] has expired.

Mr. THOMAS of California. Mr. Chairman, I yield myself 1 additional minute.

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Mr. Chairman, if someone would take a look at this bill in terms of what it was and what it is now, it is clearly nothing more than a shell, an expedient offering to those people who could not open up to the fact that even these phony limits are not enough, that we had to go ahead and be phony about the fundamental financing portion of this bill as well.

Make no mistake. There is nothing in this bill, nothing in this bill, that takes away from the taxpayer financing on postal subsidies, on matching funds and on tax credits, if those are, in fact, the incentives that we are going to have in the bill.

So, through the back door some of my colleagues may think they are getting away from public financing of campaigns, but they better read the bill instead of taking a hope and a promise or someone's interpretation of what is in the bill. This bill is and remains taxpayer financing of campaigns.

Mr. ROSE. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, as a member of the task force and also the Committee on House Administration, I rise in strong support of H.R. 3750.

Mr. Chairman, I would like to take a few moments to share with my colleagues some thoughts on the campaign finance reform bill we are now debating.

As a member of the task force which has been examining this issue for the past 9 months, I would first like to compliment the chairman, SAM GEJDENSON, and ranking member, BILL THOMAS, for all of their efforts in this very complex area of the law, as well as CHARLIE ROSE, chairman of the full House Administration Committee.

While the gentleman from Connecticut and the gentleman from California quite often had legitimate differences of opinion on how to approach this topic, I believe the task force successfully completed its mission of examining the countless suggestions as to how we can restrain the power of money as a force in our electoral process.

Mr. Chairman, when the task force held its first hearing back in March, I stated that the goal of this process should be to craft a new system of campaign financing which will meet three goals. First, curtail the campaign money chase; second, reduce the influence of special interests; and third, stimulate vigorous campaigns. I believe H.R. 3750 meets these goals, and this legislation has my full support.

To say this bill has my support is not to say this is a perfect bill. This is not a perfect bill, and I doubt anyone, including the gentleman from Connecticut, would argue that it is. The most resounding lesson we learned from our Member day hearings—during which every Member was invited to share their views with the task force—is that there are 435 people in this Chamber who are experts in campaign financing, each having their own ideas on how to improve the system.

Despite differences of opinion, it is clear that comprehensive reform with spending limits is long overdue. H.R. 3750 is a solid first step. Since 1972, total expenditures in congressional elections has increased by more than 600 percent. During the last election cycle, average winning House candidates in competitive races had to spend more than $500,000. This high cost not only eliminates your average citizen from running for office, but it forces many elected officials to engage in perpetual fundraising.

Mr. Chairman, yesterday's Washington Post contained a brief article on newly released census data showing that voter participation is continuing to drop. It has become clear that the large sums of money spent in congressional elections have tarnished the public's view of the electoral process. The general public is falling under the assumption that dollars at a fundraiser are more important than their votes on election day.

H.R. 3750's limit of $200,000 in PAC contributions and $200,000 in large contributions, allows for competitive races while reducing the influence of special interest money.

Unfortunately, we are considerably restricted by the 1976 Supreme Court decision, Buckley versus Valeo, which ruled that limitations on campaign contributions and spending were constitutional only when voluntary. The only effective way to induce candidates to accept these limits, therefore, is to provide them with incentives—namely matching funds.

A system of spending limits and public financing is not some radical idea the authors of this bill thought up. This is the system which now funds our Presidential elections. It has also worked in elections for legislative, executive, and judicial seats in my home State of Wisconsin since the early 1970's. Although not perfect, this system has helped reduce the influence of money on these elections.

Some of my colleagues are charging that a public financing system will be perceived as the ultimate in congressional perks—using taxpayer dollars to pay for their campaigns. Let me state very clearly, nothing could be further from the truth.

The President has already stated he will veto legislation containing public financing. I find this disturbing, given the fact he used taxpayer dollars and public financing to win in 1988, and will most likely accept public financing in 1992.

The public is justifiably concerned over the way elections are run in this country. Low voter turnout and the extraordinary talk of limitations on the terms of Members of Congress signal the erosion of the confidence the American people have in our electoral process.

A vote for H.R. 3750 is a vote to restore this confidence.

A vote for H.R. 3750 is a vote to return congressional campaigns to barbecues and rallies and a $10 contribution from the guy down the street, rather than $500 a plate breakfasts for special interests.

A vote for H.R. 3750 is a vote for fairness for incumbents, fairness for challengers, but most importantly, fairness for the American people.

I hope Members will join me in supporting this legislation.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Chairman, I am supporting this legislation today for some very basic reasons.

First, Americans are tired of politics as usual. They are tired of the influence of big money in our elections and in our Government. I am supporting this because we have got to stop the runaway train of campaign financing and spending, and break the logjam of inaction in Washington to clean up this mess and restore the confidence of the American people in this system.

Mr. Chairman, elections should be contests of ideas, and of values, and of vision, not of one's ability to raise money. This legislation does the basic thing that needs to be done. It is the only chance we have today to do what needs to be done, and that is to draw the line on the influence of money in our elections.

Mr. Chairman, that is what this bill does, and that is what this Congress needs to do to restore the confidence of the American people and to restore democracy in this country.

I urge my colleagues to vote for this legislation and draw the line on big spending once and for all.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from North Carolina [Mr. ROSE], the chairman of the Committee on House Administration, for yielding this time to me.

Mr. Chairman, do we want to derail the move to term limits which would throw out the good among us, as well as the bad? Do we want to increase voter turnout, which in Kentucky just 2 weeks ago was only 30 percent of the eligible adults? Do we want to increase grassroots activity which has waned and which is almost nonexistent in some sectors of the country? And last, but not least, do we want to increase public confidence in the political system?

Mr. Chairman, I think most of us would answer, "Yes," to all of those questions, and one way to accomplish all this is to today pass the bill before us which is the Campaign Finance Reform Act.

Mr. Chairman, this is not a perfect bill, and the defects and flaws in it have been pointed out, as the defects and flaws in the bill offered by the gentleman from California [Mr. THOMAS] will be pointed out.

But this is a step in the right direction. This does give the people of this great country who have in many cases almost given up hope in this system, who have just about reached a point of despair about this system, a hope for the future. This gives us the matrix, this gives us the raw material, to make improvements in the years ahead. This puts a limit on spending, which is so very important and about which we hear so much from our constituents. It eliminates to some extent the heavy hand of political action committees, of special interest money. It does make some effort to restore the role of the people, the small donor in campaigns.

All in all, Mr. Chairman, this is a great step forward. I urge its passage by this body.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Chairman, I would like to ask the chairman of the Committee on House Administration to enter into a colloquy with me. First, I commend the gentleman from North Carolina [Mr. ROSE] for bringing this legislation to the floor.

The primary concern of the American people is to limit campaign spending. In 1974, Congress passed legislation to cap campaign expenditures, but these limits were ruled unconstitutional in the 1976 Supreme Court decision, *Buckley* v. *Valeo*.

Is it the gentleman's understanding that language included in this bill states that the Congress should consider legislation which would provide for an amendment to the Constitution to set reasonable limits on campaign expenditures in Federal elections?

Mr. ROSE. Mr. Chairman, will the gentlewoman yield?

Mrs. PATTERSON. I yield to the gentleman from North Carolina.

Mr. ROSE. Yes. I would invite the gentlewoman's attention to title XIII of the bill.

Mrs. PATTERSON. Again, I want to commend the gentleman's leadership and that of the task force chairman in crafting meaningful reform.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank the very distinguished and respected chairman of the Committee on House Administration, the gentleman from North Carolina [Mr. ROSE], for yielding this time to me.

Mr. Chairman, last year more than $2 million was raised and spent in the Eighth District of Virginia. This bill would set limits that would cut that amount in half, and that is why I support this bill.

Mr. Chairman, I never want a future challenger of mine to have to go through what I had to go through for the right to sit in this esteemed body, to be part of this process that I respect so much. What is happening is poisoning the process. It is no longer enough to understand the issues, to be able to articulate our position, to be willing to get up at the crack of dawn and shake thousands of hands. We also have to be willing and able to raise $1 million every other year.

Mr. Chairman, that is wrong. That is not a qualification for statesmanship, and this is the first, the most important, in fact, the only first step we can take today toward the process of reforming this system, of giving the political process back to the people.

Mr. Chairman, 1 year ago I was elected to the House of Representatives because the citizens of the Eighth District of Virginia wanted change in Congress. One of the fundamental changes they wanted was the way we elected Members to Congress, and at the root of that change is the way we fund our campaigns.

I had to spend $1 million to run for Congress against an established, well-financed incumbent, and the total campaign cost of $2.2 million made my race one of the most expensive House races ever.

One-third of the $1 million I raised came from the individual contributions of thousands of workers who alone would not have been able to participate in my win, but through political action committees were able to stay toe to toe with the much wealthier executives of their employing corporations—who tended to contribute to my incumbent opponent.

I was fortunate to be able to raise enough money to compete with my opponent, but I do not want to maintain my seat in Congress merely because it will cost too much for anybody but a multimillionaire to challenge me in the future.

The major advantage incumbents have over their challengers is access to financial resources, and it is time to remove this unfairness.

The bill under consideration makes several substantial and much-needed improvements to the comprehensive election law reforms made in the 1970's:

It limits the amount candidates can receive from organized special interest groups and lobby organizations.

It limits the amount candidates can receive from wealthy individuals.

It sets forth more stringent regulations for so-called loopholes in current laws—independent expenditures and soft money expenditures of political parties and, most importantly, this legislation encourages candidates to adhere to spending limits.

I believe the spending limit specified, $600,000, is sufficient for every candidate to communicate his platform, if both candidates are so limited—and I am in one of the most expensive media markets in our country.

Without competition the democratic process becomes undemocratic. Our goal today is to secure public confidence in this institution, and thereby strengthen the integrity of our Nation's representative government.

Mr. ROSE. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I rise in support of the bill, H.R. 3750.

Mr. ROSE. Mr. Chairman, I have no further requests for speakers, and I reserve my right to close the debate.

Mr. THOMAS of California. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, it is interesting that the gentleman from Virginia [Mr. MORAN] gets exercised over million-dollar campaigns. This legislation would provide for upward of million-dollar campaigns.

It is interesting that people say that there has to be a spending limit when in fact there is no change from the current amount that political action committees can give in a campaign. It was $10,000 in an election cycle; it is $10,000 in an election cycle. There is no fundamental change in the way in which we campaign. Still not one dime needs to come from a constituent, and I say to my colleagues, believe me, when you take a look at the totals in this bill, and you take a look at current campaign practices, no one will have to fundamentally change the way in which they campaign.

Mr. Chairman, the question of spending limits is bogus. This bill does not really limit overall spending when there are open-ended requirements for a number of services under the bill. It is not as advertised.

Mr. ROSE. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, the American people have told us loud and clear that they want to place a cap on the costs of campaigns. This bill, H.R. 3750, puts a cap on campaign spending at $600,000. There is no cap on the substitute that is about to be offered by the gentleman on the other side.

Mr. Chairman, we also put a limit of $200,000 on the amount of money that

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can be spent coming from political action committees.

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This is something else the American people have told us they want. We know that there are other things we would like to do. We have crafted, I think, a good bill that the American people think is necessary.

Mr. Chairman, I urge my colleagues to support H.R. 3750.

Mr. MARKEY. Mr. Chairman, I rise in support of H.R. 3750, and commend Mr. GEJDENSON, the chairman of the House Administration Task Force on Campaign Finance Reform, for his efforts in bringing this legislation before the House today. I would like to focus my remarks on section 802 of this bill, which relates specifically to the cost of broadcasting political advertising, which lies within the jurisdiction of the Committee on Energy and Commerce and the Subcommittee on Telecommunications and Finance, which I chair. The explosion in the cost of campaigns in recent years, with rising television costs weighing heavily, makes this issue a very important piece of the broader package of campaign finance reform.

The Committee on Energy and Commerce has been involved with this particular issue for more than a year now. Last year, the committee attempted to bring to the House floor a bill identical to the language contained in section 802 of the legislation before us today. Just like section 802, it would have required broadcasters to sell political candidates fixed and nonpreemptible spots at the lowest preemptible rate. On June 13, 1991, the Telecommunications and Finance Subcommittee held a hearing during which a number of distinguished witnesses, including former Democratic and Republican National Committee Chairmen Paul Kirk and William Brock, spoke in support of the legislation.

All of us in public life must be sobered by recent trends in the public's perception of and participation in electoral politics. A recent study by the Markle Commission on the Media and the Electorate found that "American voters do not seem to understand their rightful place in the operation of American democracy" and see themselves as "distant outsiders with little personal consequences at stake." Last year, 64 percent of eligible voters failed to participate in the midterm congressional elections. Thus, at a time when our country should be an exemplary beacon of light leading the way for the world's newly emerging democracies, we may be threatened by dimmed participation in our own electoral process.

Clearly, many factors have contributed to the perception of disenchantment with voters, from the decline in the strength of political parties to the attention focused on the power of political action committees and the burdens of fundraising. But as the single most powerful form of communication today, television's role as a medium for speaking to voters is critical.

The agreement to purchase air time made between a political candidate and a television or radio station is more than a private contract between individuals or corporations. Because broadcasters operate through the use of the public airwaves, they assume the legal responsibility of safeguarding the public interest. As part of this subcommittee's continuing oversight of the effectiveness of broadcasters in meeting their public interest responsibilities, we have sought the existence of a fair and effective system through which candidates communicate their ideas. On the other hand, given the growing competitive pressures on broadcasters from cable and video sources, we have also sought a solution which respects the importance of free, over-the-air television in the provision of information to the public.

During and following the 1990 elections, there has been an increasing confusion and frustration over the currently existing lowest unit charge rules, both from candidates and broadcasters. We are seeing a burgeoning list of court disputes concerning alleged overcharging by broadcasters and, more recently, the intent of the FCC to step in and preempt many court determinations. All of this further bolsters the need for the reform contained in section 802.

As the committee report accompanying H.R. 3750 notes, section 802 amends section 315 of the Communications Act by clarifying the lowest unit charge provision. It requires broadcasters to charge candidates for public office the lowest charge of the station, rather than the lowest unit charge, for the same amount of time for the same period on the same date during pre-election periods. This section also reduces the preelection period during which the lowest charge provision is effective from 45 days to 30 days for primary elections and from 60 days to 45 days for general or special elections. Decreasing preelection periods will reduce candidates' broadcast advertising expenses, and mitigate the potential adverse impact that compliance with this section may have on station revenues.

I hope that the consideration and even the passage of these changes to the political broadcasting rules will not end the exploration of the entire issue of the link among telecommunications technology, political candidates, and voters. I would hope, in the not-too-distant future, for a broader examination of the impact of new technologies in shaping the political process itself.

In closing, I again want to commend Mr. GEJDENSON, who testified before my subcommittee in June, and recognize the leadership of Chairman DINGELL on this issue. I hope it is a provision all of my colleagues can support.

Mr. HOYER. Mr. Chairman, I rise today in support of H.R. 3750, the House Campaign Spending Limit and Election Reform Act. I want to commend House Administration Committee Chairman CHARLIE ROSE and the task force Chairman SAM GEJDENSON for their excellent work on this legislation.

The American people are showing their increasing distrust and disillusionment with the American political process. Voting participation is down and citizens feel that their voices and their concerns are of less and less importance to the politicians. One of the reasons for their concerns is a perception that the special interests and the big money people are the only ones with any sway in Washington, DC, and that theirs are the only voices that count.

Now, each and every one of us in this House knows that we represent our constituents better than that. We know of the time, effort, and commitment that each of us puts into representing his or her district to the best of our ability. Yet, unless we enact the reform bill before us today, we will have failed in our jobs and in our responsibility to prove to the American public that we hear their concerns and that we can respond.

I believe that the bill before us today is meaningful reform which will help the average American again feel part of the process. H.R. 3750 implements meaningful reform without playing political gamesmanship and provides the type of reform that the American public is asking for.

H.R. 3750 will help control the increasing cost of campaigns, will encourage the full participation of all citizens in the electoral process, and will allow candidates to spend their time not just on a money chase, but on a chase to win the respect and support of the voters. Most important, H.R. 3750 sets a $600,000 spending limit for House candidates. This is a fair limit which will allow both challengers and incumbents to run competitive races. The American public is watching with increasing disgust at the costs of political campaigns. We must put an end to the spiraling costs of elections. H.R. 3750 does that.

Furthermore, the matching funds and the discounted mailings will provide substantial additional revenues for challengers and will help make the election process a more equitable process. I am also pleased that the bill before us today will encourage candidates to raise money within their home communities. A candidate is only eligible for matching funds if he or she has raised $60,000 from individual contributions.

Finally, contrary to assertions on the floor today, the bill before us today contains no public financing. Many listening to the debate today, may be surprised to learn that President Reagan is the top recipient of public funds from the checkoff system—$92 million; and that President Bush has requested and accepted a total of $60 million in 1980 and 1988. Clearly, public financing is a popular idea among some candidates. But, again, the bill before us today does not contain public financing. Rather, the legislation before us today would provide matching funds from a fund that is financed solely by voluntary contributions.

I urge my colleagues to support today's bill which I believe takes the best ideas of reform and combines them into a fair and effective bill. Americans are concerned about public financing, and as I just stated, there is none in this bill. Americans are concerned about the spiraling costs of campaigns; there is a spending limit in this bill. Americans are concerned about the disparate influence of a few wealthy individuals; there is a limit in this bill. Americans are concerned about the influence of PAC's; there is a limit in this bill. In fact, Mr. Chairman, what's in this bill is real reform and real competition. I urge my colleagues to vote for the bill and vote against the substitute.

Mr. HAYES of Illinois. Mr. Chairman, as this debate on money is politics swirls around us, I want to focus the discussion on some relevant issues.

First, I feel strongly that we must not further erode the political power of poor or working people. When I testified before the House Administration Task Force on Campaign Finance Reform, I pointed out that poor people often are clustered in certain rural and urban districts such as mine. While we may laud the contributions of individuals to campaigns, it is very difficult to raise individual contributions from people who do not have enough money to provide their children with three meals a day. Any formula for funding campaigns, such as that offered by some of my Republican colleagues, which increases the power and influence of big donors would concentrate too much power in the hands of the rich at the expense of working people. We must remember that the less fortunate have just as much right to determine their future as any other citizen.

For example, many of my constituents are blue collar. They take pride in giving to their union's political action committee, or any PAC which represents their interests. They take pride in their PAC involvement and tell me that it helps them compete in the same ballpark with the big donors. Somehow, Mr. Chairman, I hope we can take their interests to heart. Perhaps we need to distinguish between two types of PAC's: One represents the common cause of thousands of members, whether it be labor, environment, or some other interest, each of whom contributes a modest amount. The other type of PAC represents a small, often corporate interest. It gets a few hefty contributions from the CEO, his or her board of directors, and their relatives. The former represents the will of many people while the latter reflects the narrow interest of its members. The two types of PAC's should not be treated equally.

My second observation is that we need to stop the precipitous drop in voter participation. One of the main obstacles to increased voter participation. One of the main obstacles to increased voter turnout is the series of hurdles we construct for citizens to climb before they can register to vote. While registration varies from State to State, some States act as if voter registration were not a right but a privilege for those who can navigate the bureaucracy. Such impediments stand in stark contrast to many other nations which go out of their way to encourage registration and hold elections that are most convenient for their citizens. In order to increase access to registration forms in this country, I introduced H.R. 2668 and H.R. 2669, which make such forms available at local post offices and with postal change-of-address forms. The Postal Service provides a convenient location which is easily accessible to all.

Finally, it is my experience that the primary culprit for the rising cost of campaigns is the high cost of media—particularly TV. Media is the single most expensive item in a campaign. I was disgusted to learn that some local outlets gouged candidates in 1990 with unreasonably high fees. I would hope that the industry could develop guidelines to prevent any future occurrence.

Mr. HUGHES. Mr. Chairman, I rise today in support of H.R. 3750, the Campaign Finance Reform Act of 1991. I am pleased to commend the members of the House Task Force on Campaign Finance Reform, and Chairman SAM GEJDENSON in particular, for their efforts in developing this important legislation.

While I intend to support this legislation, however, I do so with great reluctance. This bill does not go nearly as far as I would like to restore competition and public confidence in the campaign system. It is my hope that this legislation is only a first step in what will be an ongoing process to truly reform our campaign finance system.

It's been more than a decade since the last significant campaign finance reform legislation passed the Congress and became law. As my colleagues well know, the costs of running a successful campaign for Congress have more than doubled during that period.

In fact, we have reached the point where campaigns are being driven more by the candidates' ability to raise and spend money than by their qualifications or positions on the issues. That's just not right.

The costs of running for Congress have gotten so out of hand that the parties are having a difficult time recruiting qualified candidates. This has seriously diminished the competitiveness which has always been the hallmark of our democratic process.

The skyrocketing costs of political campaigns have also vastly increased the influence of PAC's and other special interest organizations which have the ability to turn out large and frequent donations. In so doing, they have squeezed out the average voters who used to contribute $50 or $100 to a campaign, but who no longer believe their contribution makes a difference.

Perhaps most important of all, the high costs of campaigns have undercut the fundamental confidence of the American people in our system of government. Many people believe their elected officials are beholden to the PAC's and other special interests, and it's hard to blame them when they see hundreds of thousands of dollars pouring into their districts from out of State to help elect their Congressman.

That doesn't mean that the system alone is to blame for all the problems. There has also been a growing lack of restraint on the part of candidates who take full advantage of the system to raise and spend far more money than necessary.

In my own case, I have always raised the vast majority of my campaign funds in small donations from my own constituents in southern New Jersey, and I have sought to limit my PAC contributions to no more than a third of my total receipts. We could go a long way toward restoring order to the campaign process if other candidates voluntarily adhered to these or similar guidelines.

Unfortunately, not everyone is in a position to do so, and we really have little choice but to overhaul the entire system. In that regard, H.R. 3750 is as good a way as any to start. Under this bill, a spending cap of $600,000 will be imposed on House candidates, with flexibility for those candidates whose opponents do not agree to the spending limits.

I would much prefer a spending cap of $400,000. That is a more realistic figure for challengers to attain and would put them on a more level playing field with incumbents. I regret that we will not have an opportunity to consider a lower ceiling as part of this legislation.

H.R. 3750 also limits the amount of PAC contributions which candidates can accept, both in terms of dollar amounts and as a percentage of their total receipts, and requires candidates to raise at least one-third of their campaign funds from small individual contributors. While I agree with the limit on PAC contributions, I would have preferred that candidates be required to raise at least 50 percent of their funds from small donors in their own districts.

The bill also takes important steps which I support to control independent expenditures, bundling, and so-called soft money which serve no purpose other than to get around the restrictions of Federal election law.

I am very concerned about the provisions in H.R. 3750 to make up to $200,000 in public funds available to candidates in the form of matching donations. In theory, I believe that public financing may be the only constitutional remedy available to put a cap on campaign spending.

However, I am not at all convinced that the American public is prepared to support limited public financing—even where no tax dollars are involved—at this time. I'm not certain that we will be able to raise enough money through voluntary donations to finance the matching funds. Without a full complement of matching funds, the whole system outlined in this legislation could fall apart.

Mr. Chairman, H.R. 3750 is not a perfect bill but at least it's a start, and it does move us in the right direction. We just can't continue to put the problem of campaign finance reform off any longer. By limiting the overall costs of campaigns, we can begin to restore fairness and competition to the process.

Just as importantly, we can begin to regain the public confidence in our system by shifting the emphasis away from the special interests and back to the average voter. That's the direction we need to go.

Mr. CONYERS. Mr. Chairman, I rise today in support of the House Campaign Spending Limit and Election Reform Act. As a Member of this body over the last 26 years, I have personally witnessed the following trends in the election process: The fundraising money chase which has spiralled upward in the last dozen years; the dwindling percentage of Americans who cast their votes on election day; and the complete collapse of public confidence in the political process, and in particular the Congress. The statistics are alarming—poll after poll has demonstrated that the average American not only believes that their vote is meaningless, but also that the Members of this Congress are being corrupted by big-money special interests groups. And, regardless of whether or not these beliefs are well founded, the fact remains that the political process is being dragged through the mud by the appearance of impropriety and corruption. This perception of wrongdoing is the single most damaging factor to public confidence, and we have seen its effects with the recent grassroots movements in favor of congressional term limitations. Even the Supreme Court has stated that the appearance of corruption is a compelling State interest in limiting campaign contributions and expenditures—Buckley versus Valeo.

In past Congresses, many of my colleagues and I have endorsed serious campaign finance reform, only to be met with ineffectual

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Republican amendments and counterproposals, and the threat of a Presidential veto. Again this year, the President has vowed to veto a meaningful reform bill. And again this year the Republican substitute would do nothing toward limiting total campaign spending, and would actually encourage the growth of thousands of new special interest PAC's. I urge my colleagues to reject this campaign finance reform charade which is designed to fool the American public. Instead, we have an opportunity today to support real reform—reform which will remove the power that's been given to those people with the biggest checkbooks, and return it to the constituents we are sworn to represent. And most importantly, this bill will allow us all to stop chasing after campaign dollars, and focus on the tremendous social and economic problems plaguing our country.

H.R. 3750 may not be the ultimate solution to our political ailments, but it is a milestone first step which has gained the overwhelming support of grassroots citizens' groups and the nonpartisan National League of Women Voters. This bill, along with a National Voter Registration Act which I will reintroduce in January, will go a long way toward empowering all of our citizens and improving the political process. As public confidence in this institution continues to disintegrate, I urge my colleagues to send a positive message to the American public by supporting H.R. 3750.

Mr. COSTELLO. Mr. Chairman, I am hopeful that we in this House can come together today and pass a comprehensive campaign finance reform package. The people of my State and this country want us to act quickly to change the way congressional elections are conducted.

I am pleased that provisions of this bill offered today relating to public financing have been changed to reflect that no taxpayer dollars will be used to finance congressional elections. Given these changes, I believe this bill is a step in the right direction to bring about important and meaningful campaign finance reform.

As my colleagues know, I have opposed public financing for campaign finance reform. Last year, I voted against the Synar amendment to replace the $1 Presidential fund checkoff with a $3 checkoff, designed to funnel taxpayer dollars directly into congressional elections. The Presidential checkoff system has not worked effectively and there is no reason to believe a congressional checkoff system would have been any more effective.

This bill contains several elements that represent important changes to the campaign process: It caps spending limits, reduces the influence of political action committees, limits the ability of wealthy donors to monopolize the process, and restricts the use of soft money in congressional campaigns.

I would like to point out that I do not feel individual contributions are negative elements of the congressional election process, especially from constituents in one's own district. Nor do I believe that political action commitee contributions are inherently bad. They allow members of an organization—coal miners, school teachers, or senior citizens—to pool their funds and have a larger voice in the political process. However, I do believe the steps included in this bill to reduce the influence of wealthy, individual contributors and huge PAC donations are what the public desires.

Many of my constituents are upset with the campaign finance process in regard to the issue of soft money, or funds funneled by political parties to a particular candidate. Soft money only further reduces fairness in congressional races due to large get-out-the-vote expenditures by national and State parties. This bill will address the hidden expenditures posed in races by greatly restricting the use of soft money by political parties.

In addition, and in many ways the greatest benefit about this legislation, H.R. 3750 through its spending limits will serve to reduce the huge costs of congressional campaigns. With the average congressional race now costing almost $500,000, we must lower the amount of money spent on congressional elections.

I urge my colleagues to vote in favor of this bill today, so that we can begin to make the appropriate changes to the congressional election process before the end of the 102d Congress.

Mrs. LLOYD. Mr. Chairman, I'm pleased to support this campaign reform legislation. It is a responsible, workable package to improve the ways campaigns are financed and conducted. Passage of this legislation should ensure fairness for all incumbents and challengers in the election process.

The people of my district have told me repeatedly that they want campaign finance reform. They feel very strongly that spending should be limited. But just as strongly, they oppose public financing.

I've heard from many small contributors who feel they should not be forced to support political candidates whose philosophies they may oppose. I am pleased that an agreement has been reached which answers many of these concerns about direct public financing.

The core features of H.R. 3750 include: Spending limits in congressional races; limits on political action committee contributions; the means to combat escalating so-called independent expenditures; spending limits on soft money; a strong statement urging the adoption of specific constitutional limits to campaign spending; the requirement that no taxpayer dollars may be used to finance congressional campaigns; the stipulation that private donations must be used to finance congressional campaigns; and a specific recommendation encouraging the consideration of measures designed to encourage contributions by small donors to congressional candidates.

The specification that no taxpayer dollars may be used to finance congressional campaigns is a key provision of the compromise reached on this bill. The compromise retains the provision for matching funds to candidates as an encouragement to abide by the spending limits. However, the funds from which the match is made will be built on voluntary contributions, not tax money.

This is essential because I do not feel that public money should be used to subsidize congressional campaigns, particularly when so many State and local governments are suffering from budgetary shortfalls which have caused them to cut their spending to the bone. Adding public financing of campaigns to the Federal expenditures would only increase the burden of debt we are already carrying.

Moreover, direct public financing of candidates does not give the electorate control over the release of their taxdollars to candidates whom they may find highly objectionable.

Judging from the substantive lack of public support for the Presidential election campaign fund, it appears that the majority of the American public agrees. At present, less than 20 percent of all Americans choose to designate support for Presidential candidates through the checkoff on their tax returns.

This is understandable given that political extremists such as Lyndon LaRouche have received a substantial amount of public money and that David Duke has already established a Presidential campaign committee that could qualify for taxpayer funds. Americans want control over whom their political contributions go to. Public financing does not afford them that latitude.

Given this established lack of support for public financing, I feel that the compromise worked out in this area of the bill is timely and appropriate. American taxpayers want their taxdollars used as wisely and efficiently as possible. Public financing of political campaigns is neither. This bill recognizes that and reflects the consensus that American taxpayers want responsible spending limits and accountability for all campaign expenditures.

I urge my colleagues to join with me in supporting the Campaign Spending Limit and Election Reform Act.

Mr. ATKINS. Mr. Chairman, thank you for the opportunity to speak in support of this important legislation.

I also wish to express my appreciation to both the chairman of the House Administration Committee CHARLIE ROSE and the chairman of the Campaign Reform Task Force SAM GEJDENSON for putting together an ambitious bill that will have a dramatic effect on the way future campaigns will be waged.

We have heard a lot of discussion thus far on the so-called controversial aspects of the Gejdenson-Rose bill.

We have heard Members say that the matching funds do not have the support of the American people, and that the bill is either too restrictive or too forgiving of PAC's and is not a reform bill at all.

Don't be swayed by these arguments.

I have received 695 letters on campaign finance reform in the last year, and every single letter is in support of a major overhaul in the campaign finance system.

Not one voter has written to me in opposition to public financing, to a restriction on PAC's or to voluntary spending limits.

My constituents realize that this is not a bill for Members of Congress, but for the voter.

They want to clean up the special interest bidding war that accounts for much of today's fundraising; and they want competitive elections.

This bill delivers on all counts.

This ambitious legislation will forever change the way we raise money and will change it for the better.

It will change the way we advertise and will change it for the better.

It will give challengers a fair shot at beating an incumbent, and yes, that is a change for the better.

Voters are skeptical.

They believe Congress is unable or unwilling to pass comprehensive campaign finance reform legislation.

They believe that Congress will act only in its own interest.

I believe differently.

In the 7 years that I have been a Member of Congress, the House has been mired in partisan battles. But I have never doubted any Member's commitment to work in the national interest nor any Member's pride in this institution.

Fair and competitive elections are in the best interest of all citizens and of this institution.

Don't be swayed by arguments that public financing is an entitlement for politicians.

It is an entitlement for the voter.

They are entitled to fair, competitive congressional elections. That is what democracy is all about.

Mr. POSHARD. Mr. Chairman, I rise in support of H.R. 3750, a bill to reform the campaign finance system for congressional elections.

I believe money has nearly corrupted our system. It certainly has tainted it, and produced something very different from what I used to teach my students in high school government classes. From the model of citizen-legislator we have come to the model of politician-fundraiser, where the money chase exhausts our energy to pursue meaningful achievement in education, health care, and the many other issues we all came here to address.

This bill, as many others will no doubt repeat, is not perfect. And despite my support for this bill, I believe we could go much further. The $600,000 voluntary spending limits are still extremely high. We should seriously consider eliminating political action committees, and if not, then lower even further their donation limits. And we should take a more serious look at how our congressional offices help further a permanent incumbency. I stand ready to assist in that effort.

But before I throw too much cold water on this bill, let me thank the leaders who bring it before us today. It does have voluntary spending limits, reductions in PAC donations, and an element of public participation, not financing, which moves us down the road of reform.

I urge this House to pass this bill, but not to rest on this issue. The public has a tremendous lack of confidence and faith in us, in our public institutions, and that is terribly damaging to us as a country. We cannot afford to lose touch. I know there is not a single Member who comes here with that expectation, and I don't for a minute believe it happens through purposeful intent. But it does happen, and we do become less responsive to the merchants of Main Street we are here to serve. We lose touch with the millions without health care. And we can hardly find time to address the concerns of the family in crisis.

This bill is a landmark achievement, a bold step in the right direction, and I hope, a sign of things to come.

Mr. DREIER of California. Mr. Chairman, most Members of this body agree that an effective campaign reform package is necessary for the future of the U.S. Congress. There are many merits to making elections more equitable and cost effective.

However, there are several inequities within the Democrat version of the bill that deem further debate. I would like to take this opportunity to touch on one particularly blatant partisan effort to restrict the effectiveness of our President.

Often referred to as the Air Force One amendment, this section of the bill prohibits those seeking Federal office from using Government-owned aircraft to travel to an event related to a Federal election. This language does not specifically mention Air Force One, but its intent is clearly evident.

Mr. Chairman, it is highly hypocritical of the U.S. Congress to mandate that the President use campaign or personal funds for trips related to campaign evens when Members of Congress routinely use their allocated travel budgets to travel home during the campaign season.

If we were truly serious about reforming the entire system, we would take a hard look at the current practices of the U.S. Congress and include them in any reform plan. This is just another example of the all too prevalent mindset that Congress is above reproach.

Mr. OWENS of Utah. Mr. Chairman, I rise today in strong support of H.R. 3750, the House Campaign Spending Limit Election Reform Act. As the chairman of the task force knows, I have long advocated a similarly balanced plan with voluntary spending limits. I commend my good friend, SAM GEJDENSEN, for his patience and diligence in crafting this plan before us, and I commend Chairman ROSE for his important contributions.

I may be one of the few House Members who wishes there were public financing in the bill. If there ever were a bargain for the taxpayer, this would be one. With significant public financing, the special interests would lose power to attempt to influence legislation. But this bill is the next best thing, with a balanced mix of PAC's individuals, and the "make democracy work" fund. We need at least partial public financing if challengers are to have any chance at all.

In a war of words and wallets, we have been escalating toward uncontrollable cost proliferation. It is time for a mutually verifiable campaign-spending freeze. In my first election for the House in 1972, I raised $130,000. In 1990, I was forced to raise a million dollars.

Nearly $3 billion was spent in 1988 on all elections in the United States—more than five times what was spent in 1976. House and Senate races alone cost $450 million in 1990, a fourfold increase since 1976. Like the Federal deficit, campaign costs are spiraling out of control. But unlike the Federal deficit, campaign costs are relatively easy to control—if we simply exercise the collective will to do so.

We are exercising that will today. Public confidence has been eroded by our costly political battles. We waste too much of our legislative time on fundraising. The institution of Congress is exposed to undue influence. Last year, we took some faltering steps toward reform. This Congress, we must do better.

Being in Congress is a great, usually rewarding honor. But fundraising is another story. Like most of you, I dislike it. I have even introduced legislation extending the terms of Congressmen to 4 years by constitutional amendment in order to put a stop to the perpetual campaign, but that effort has so far not been seriously considered here. In the same legislation, I also proposed a constitutional amendment allowing a firm legal cap on spending on congressional races—the same concept that is endorsed in the Democratic proposal today.

Campaign finance reform is long overdue. We are spending too much. We are collecting too much. We are wasting too much time on fundraising. The system now in place is an insurance policy for incumbents, so this effort today represents a leap of faith and fairness. But self-interest and special interest must give way to the public interest. The Democratic alternative, with its balance and voluntary limits, will be an effective tool in achieving that goal. I urge my colleagues to reject the substitute and vote for H.R. 3750.

Mr. DICKINSON. Mr. Chairman, during consideration of the campaign finance reform bill in the House Administration Committee, I offered a straightforward and simple right to know amendment. The amendment addressed a fundamental issue—American workers who pay dues and fees to unions have the right to know their money is being spent on political activities.

Quite simply, the amendment would have required labor organizations to file a report with the FEC, and simply give a copy to those workers represented by that union. The report would have shown how much of their dues and fees are spent on political causes and activities. Under current law, American workers have no such access to that information. Indeed, no one outside the union hierarchy knows exactly how much money from a union's general treasury fund is spent on politics.

This amendment was not burdensome in any way. It would have provided basic information that unions at every level, even at the local level, keep away.

Some members of the committee raised a point—if we include the unions, shouldn't we include corporations. Mr. Thomas then offered a modification to my amendment to address that concern, and the same members objected. They wanted more time to consider the amendment. I redrafted my amendment to impose the same requirement on corporations as they requested. I offered to work out the problems to the members that objected in committee—and received no response.

NOVEMBER 15, 1991.

Hon. SAM GEJDENSON,
Rayburn Building, Washington, DC.

DEAR SAM: I am writing with regard to the Dickinson Amendment offered in the House Administration Committee yesterday. The Thomas Amendment to the Dickinson Amendment addressed your objection to the original amendment. As per Chairman Rose's request, we will work with you on this matter to resolve any misgivings you may have before going to the House Rules Committee next Tuesday. The amendment is as follows:

AMENDMENT TO H.R. 3750 OFFERED BY MR. DICKINSON OF ALABAMA AS MODIFIED BY MR. THOMAS OF CALIFORNIA

At the end of title V, add the following new section:

SEC. 506. LABOR ORGANIZATIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended

VOL 137 PT 23 NO 21—25 1991 UMI

by inserting after section 104 the following new section:

"Disclosure of Information Concerning Expenditures for Political Activities

"SEC. 304A. (a) IN GENERAL.—Each labor organization shall, not later than January 30 of the year following the end of each Federal election cycle, provide to the Commission and to each employee within the labor organization's bargaining unit or units a written report disclosing the portion of the labor organization's income from dues, fees, and assessments that was expended directly or indirectly with respect to activities that, in whole or in part, were in connection with an election for Federal office during that election cycle.

"(b) CONTENTS.—(1) The report under subsection (a) shall disclose information on the dues, fees, and assessments spent at each level of the labor organization and by each international, national, State, and local component or council and each affiliate of the labor organization showing the amount of dues, fees, and assessments spent—

"(A) on direct activities, such as cash contributions, to candidates, and committees of political parties;

"(B) on internal and external communications relating to specific candidates, political causes, and political parties;

"(C) internally by the labor organization to maintain, operate, and solicit contributions for a separate segregated fund; and

"(D) on voter registration drives, State and precinct organizing on behalf of candidates, and political parties, and get-out-the-vote campaigns.

"(2) For each of the categories of information described in paragraph (1) (A), (B), (C), and (D), the report shall identify the candidate for public office on whose behalf expenditures were made or the political cause or purpose for which expenditures were made.

"(3) The report under subsection (a) shall also list all contributions or expenditures made by separated segregated funds established and maintained by each labor organization.

"(c) DEFINITION.—For the purposes of this section, the term 'in connection with an election for Federal office' has the meaning that it has under section 325(b).

"(d) Publicly-held corporations shall be required to provide to their shareholders, and nonprofit organizations shall be required to provide to donors of more than $100, a report as specified in subsection (a) above disclosing the amount spent for purposes listed in subsection (b)(1) (a) through (d)."

We look forward to working expeditiously on this matter. With best regards, I am

Sincerely yours,

WM. L. DICKINSON.

Before I offered my amendment in House Administration Committee, Mr. CLAY offered one of his own. Three members that supported Mr. CLAY'S amendment argued, and I quote:

"What's wrong with disclosure, we need it."

"We should support this 'Right-to-Know' Amendment."

"I believe in sunshine."

Five minutes later, these three members opposed my "Right-to-Know Amendment," my "Sunshine Amendment," my "Disclosure Amendment." Why were those members afraid of having the dues-paying, honest workers of this country find out what unions are using their dues money for when it relates to political activities.

Billions of dollars in forced dues are collected by union officials every year, and much of the money finds it way into campaign coffers in the form of unlimited and unreported in-kind contributions to Federal candidates such as phone banks, get-out-the-vote drives, and subsidies to union PAC's. Passage of so-called campaign reform without ending this corrupt practice would be a sham.

As long as the union bosses shower Members of the Democrat majority with their forced dues contributions, the House leadership will not allow meaningful debate and a clear cut vote on the right-to-know of American union members. The heavy-handed fashion in which the leadership is ramming its bill through the House proves my point.

It is a simple issue—should working men and women be allowed to know how their union dues and fees are being spent? As long as union leaders are allowed to spend untold millions of dollars on politics without the knowledge of their members, campaign reform is illusory.

Members that support my "Right-to-Know" amendment favor union democracy and full disclosure. Those that oppose my amendment have no interest in protecting union workers, they only want to protect union bosses from having to disclose to union members how their hard-earned money is being spent.

It is the height of hypocrisy when Democrats claim to be "for the working man" and at the same time deny these honest, hard-working citizens the right to know how their money is being spent. Are the Democrats really trying to protect our country's workers or are they simply protecting the hand that feeds them—labor bosses?

I would also like to comment on one other aspect of the Democrat bill regarding the establishment of taxpayer financing for congressional election campaigns.

The use of tax dollars to fund congressional elections makes a travesty of the public's right to elect the Representatives of their own choosing. The voters know this. They have demonstrated their objections to public funding through their unwillingness to designate a portion of their tax dollars to the Presidential Election Campaign Fund. That fund is almost depleted, and tomorrow the Democrat leadership will bring an innovative concept to the floor to correct that problem—debt financing. This concept is brought to you by the same party of Congress that created a $320 billion budget deficit, but that is another matter.

Now the Democrats have brought a bill to the floor that has no funding mechanism in place. They want to pass a bill and let the Ways and Means Committee raise taxes to pay for this sham next year. They say it doesn't cost anything until Ways and Means looks at the issue. Don't be fooled. Without the funding provisions in the bill, it will still cost $1 million annually for the FEC to administer. If the funding mechanisms are enacted—and they will have to be—it will cost the American taxpayer over $225 million a year. How will the Democrats pay for this—you guessed it—debt financing. Who foots the bill? The U.S. taxpayer.

Any vote now to give to congressional candidates what the voters have refused to give to Presidential candidates would further undermine public faith in our Government. Instead, we must ensure voters that they have the freedom to exercise both their electoral and economic rights and powers in the election process. The American voter should be as free to contribute or not to a campaign as he or she is to vote for the candidate of choice. Taxpayers should not be compelled to pay, even indirectly, for political campaigns of candidates they do not support. If we vote for public funding, we will be telling American citizens that we are more interested in their money than in their concerns.

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise today in support of H.R. 3750, the House Campaign Spending Limit and Election Reform Act. Mr. Chairman, for years the costs of Federal election campaigns have spiraled up and up. The high price of television advertising, computers, and polling is forcing candidates to spend increasing amounts of time on raising money, rather than focusing on the issues.

This proposal is an excellent step forward toward reforming a system that is in serious need of change. Most important, it places a cap on campaign financing, a limit that should be adhered to by all candidates. While many Americans view campaign finance reform as an arcane issue, in all the polls of Americans' opinions on this matter, there is only one area of strong agreement: Cap campaign spending. It is disappointing that our colleagues across the aisle have not yet heard this plea.

In addition to overall spending limits, I strongly favor limitations on political action committees, or PAC's. This measure will cap PAC contributions at $200,000, or one-third of the total limit. While political action committees are valuable tools for all citizens to pool their money to become involved in the political process, the Congress must recognize the perception in the public's eye that PAC's exert undue influence on the process.

This bill achieves a fair balance in this area by dividing the contribution areas into thirds: One-third from PAC's, one-third from individual contributions, and one-third from matching funds.

Finally, I must commend the House Administration Committee and the Campaign Finance Task Force for producing a bill that will never extract one thin dime from the average taxpayer to pay for the matching funds. I must say, in all honesty, that I could not have supported a bill that included a large element of taxpayer-financed matching funds.

The bill before us today has many other laudable elements. The bill regulates so-called independent expenditures, prohibits bundling, and adds requirements that candidates must take credit for their own television ads by appearing in them.

Mr. Speaker, Americans have sent a signal that our political system is in a mess. It is the responsibility of the U.S. Congress to clean up that mess. A vote today in favor of this measure is a step in the right direction. I urge the adoption of H.R. 3750.

Mr. WEISS. Mr. Chairman, I rise in strong support of H.R. 3750, the House Campaign Limit and Election Reform Act. This progressive, reform legislation is long overdue, and it is one of the most important pieces of legislation this body will vote on this year.

Our colleagues on the other side of the aisle are fond of pointing out how disenchanted Americans are with Congress, and the House of Representatives in particular. They say the House is controlled by big spenders and special interests. Yet for all their rhetoric, the Republicans do little to solve these problems. Their campaign finance proposal is largely business as usual.

The Democratic proposal does much to address the crucial problems of election finance and to change the image that the Congress is up for sale. Most importantly, this legislation would remedy two critical sources of voter resentment.

First, Americans feel that congressional elections are too expensive. It is unconscionable that a House campaign can cost over $1 million. These high costs are not only a disincentive to potential candidates, but they skew candidates' time and energy from pressing issues to fundraising.

In addition, the high costs of political campaigns are an embarrassment, given that the Nation is in the midst of a recession and millions of Americans are being thrown out of work.

But the Republicans turn their back to this. They want to eliminate the limits on campaign expenditures, apparently satisfied with the high-cost status quo.

Second, voters are concerned that big-money donors and large PAC donations play too big a role in fundraising, elbowing the small, individual donation aside. H.R. 3750 would reduce the big-money chase by limiting the amount that could be received from wealthy sources and encouraging smaller donations with a tax credit.

What's more, many Americans suspect that special interests—like the Charles Keatings—have too much influence on the decision-making process in Congress. The fact is that big money, special interests should not exert any more influence over Members than any other constituent. That is inherently undemocratic.

But the Republicans would do little to reduce the pressure of big donors, permitting large, local contributors to give up to $5,000 from unlimited sources. Even worse, the Republicans do nothing to curb wealthy candidates from contributing as much as they want to their own campaigns. Thus, a wealthy candidate would have an unfair advantage over any opponent.

In short, the Republican position on campaign finance reform is more of the same. They say if you can get the big money, wealthy donors to finance your campaign, then you can spend as much as you please. But if you represent working Americans who can't afford to contribute thousands of dollars to a campaign, then tough luck in funding your election. The Republicans' proposal not only denies political reality, but is unacceptable. It is time to take down the for sale sign in front of the Capitol. H.R. 3750 would do just that.

First, H.R. 3750 limits campaign spending to $600,000 per election. The limit on spending is entirely voluntary, and it caps spending in the general election at $500,000 and in a runoff at $100,000. This limit would cover the costs of 90 percent of all campaigns. To encourage participation, the bill provides lowered mail costs and matching funds for individual contributions to candidates who accept the caps. It also establishes a make democracy work fund, which would consist of voluntary contributions to finance the matching funds.

Second, it caps PAC and large individual donations at $200,000. This cap is in effect regardless of whether the candidate participates in the voluntary system.

Finally, the bill makes important campaign reforms by closing loopholes that allow unfair independent expenditures, bundling and soft money. Participating candidates would have their spending limits eliminated, if independent expenditures against them totaled at least $10,000. Also, if participating candidates were faced with at least $60,000 in opposing independent expenditures, they would be eligible for an equal amount of Federal matching funds.

Two other changes are noteworthy. The bill requires broadcasters to charge candidates the lowest advertising charge for the station, rather than the lowest unit charge. H.R. 3750 also requires that candidates appear prominently in the television advertisement and a statement must be made by the candidate that acknowledges responsibility for the contents of the ad.

Although I am an original cosponsor of H.R. 3750, I would have preferred a bill with even lower limits on campaign spending and tighter limits on PAC and large individual contributions.

Unfortunately, such a proposal did not have broad enough support in the House. Thus, I am willing to support H.R. 3750. The American public has been clear about campaign finance reform, as the recent drive for term limitation suggests. They are tired of the status quo that permits those who can afford to contribute to campaigns to have the most influence on the political process. That is unfair and undemocratic. The practical effect of the current system of campaign finance is that we have a system of government more akin to a plutocracy than a democracy.

Finally, for those Members who are concerned about the potential costs of H.R. 3750, I would remind them that the current savings and loan scandal will cost the taxpayers hundreds of billions of dollars. Could we have prevented, or even mitigated, this bailout if we had a different system of campaign finance? I think so. In light of this, can we afford not to have campaign finance reform?

Although the bill is not perfect, I urge my colleagues to support H.R. 3750.

Mr. HOUGHTON. Mr. Chairman, I rise in opposition to this bill for several reasons:

First, public financing. In a word, I'm against it. H.R. 3750 provides up to $200,000 in Federal matching funds for each candidate. It also allows a postal subsidy of $112,000 per candidate. This does not include any extra funds that would flow to a candidate should he find himself in a close primary—extra $150,000. Candidates can ask for matching funds to offset independent expenditures and can receive unlimited Government funding if his or her opponent fails to abide by the voluntary $600,000 spending limit.

It's difficult to say how much all this will cost the taxpayer. If every candidate takes advantage of the matching funds and postage subsidies, the taxpayers' bill would be $270,000. Once again, that figure does not include additional Federal funds available to candidates under certain conditions.

H.R. 3750 creates a make democracy work fund to offset the costs of public financing. My judgment is that voluntary contributions won't be enough; 70 percent of the constituents I serve oppose public financing. I understand those numbers hold true nationwide. Not coincidentally, the percentage of taxpayers signing yes on the $1 check off for Presidential elections has dropped to 19 percent.

So Mr. Chairman, the bottom line is that for this bill to take effect, the Ways and Means Committee is going to have to craft a revenue raising package to pay for public financing of elections. That means more taxes to pay for politicians' campaign expenses. This, frankly, makes no sense at all. I'm against it.

The second area I would address is the bill's treatment of PAC's. PAC spending overwhelmingly favors incumbents. In 1990, only 8 percent of PAC money went to challengers. In fact, PAC's gave more money to incumbents than challengers were able to net in total receipts.

H.R. 3750 sets a $200,000 sublimit on PAC receipts. But in 1990, the average candidate received only $209,000 in PAC funds. Given this reality, the bill's limit on PAC spending is no limit at all.

The GOP substitute to be offered by Minority Leader MICHEL reduces the amount a PAC can give to any one candidate in an election cycle from $5,000 to $1,000. The Michel proposal provides a real limit on PAC's. It is a serious reform in the way we do business in Washington.

Finally, I'd like to talk about another provision in the Michel substitute which was not included in H.R. 3750. The Michel amendment requires that at least 50 percent of a candidate's campaign funds should come from within his district. H.R. 3750 does not. It's time that our campaigns reflect the interests of Ames, IA, or Corning, NY, rather than those expressed by K Street or within the fundraising banquet rooms of the Capitol Hill Club, the DNC headquarters and the American Trucking Association.

Mr. Chairman, is it not the purpose of campaign reform should to reflect the interests of the American people? This bill does not. It forces them to pay for a flawed system. Oppose H.R. 3750 and support the Michel substitute.

Mr. WOLPE. Mr. Speaker, I rise in strong support of H.R. 3750, the House Campaign Spending Limit and Election Reform Act.

The very first bill I agreed to cosponsor when I entered the Congress some 13 years ago was a campaign finance reform bill. Even then it was clear to me that the integrity of our entire political system was being seriously compromised by the huge amounts of money that were pouring into political campaigns and by the disproportionate influence wealthy individuals and well-financed special interests had come to exercise on our political process. I was convinced then—as I am convinced now—that nothing would go further in restoring public confidence in our political institutions than to clean up the system by which we finance our campaigns.

Whatever feelings I had on this matter 13 years ago have only been intensified by my

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an important concept. It opens up the oppor- package, because each provision is inter- election by a margin of 10 percent or less,

VOL 137
PT 23
NO 21—25
1991
UMI

experience in the Congress. Our present system of campaign finance is demeaning to all candidates. We all spend far too much time pursuing campaign funds when we should be legislating, and too many Members have become far too dependent upon wealthy contributors and special interests. Even when Members of Congress are voting their consciences and expressing their best policy judgments, the current system invites the cynical conclusion that their votes are being influenced by those campaign contributions upon which they have come to rely.

The time for fundamental reform of our system of campaign finance is long overdue. There are two keys to true reform. The first key is to put limits on campaign expenditures. In too many instances, elections have become auctions—with offices available to the highest bidder or the most successful fundraiser. This practice must stop. There can be no meaningful reform that does not place effective limits on total campaign expenditures.

The second key to true reform is to decrease the ability of special interests and the wealthy, whether they operate individually or in groups, to exercise disproportionate influence on the political process—influence beyond their numbers or the merits of their arguments.

Mr. Speaker, in my judgment the House Campaign Spending Limit and Election Reform Act before us passes both critical tests of true campaign finance reform. It places a voluntary spending limit of $600,000 on all House campaigns, which includes a $200,000 limit on PAC contributions, a $200,000 limit on individual contributions, and Federal match of the first $200 of each individual contribution, up to $200,000. There are also a number of provisions that are vital to increasing the competitiveness of elections, including reduced mail and broadcasting costs.

Mr. Speaker, I will not take the time here to detail the elements of the Republican substitute that is being offered by Mr. MICHEL. But I do find it remarkable that a campaign finance reform bill would be offered that contains no spending limits whatsoever. Without such limits, there simply is no reform. Without spending caps, the games will continue. The money chase will go on. And the new limits on PAC's the Republican substitute proposes will do little but to invite campaign operatives to find new and different back-door methods to fund their candidates. The American people will continue to be sacrificed on the altar of the wealthy and the powerful. Our colleague, DAVID OBEY, once said:

> The major test of any campaign reform legislation in determining whether it serves the public interest should not be whether money is given individually or collectively, but whether the rules of the game allow the well-off and well-connected to have influence on Government that far surpasses the influence of average American families.

Unfortunately, the Republican substitute before us simply does not pass this test.

Mr. Speaker, the time has come to reform our system of campaign financing, to end the money chase and to restore the confidence of the American people in the integrity and independence of their elected officials and political institutions. I urge immediate adoption of this vital legislation.

Mr. HOAGLAND. Mr. Speaker, full participation in the processes of government is a fundamental tenet of our democratic form of government. The right to vote, the right to petition one's government are rights cherished by Americans. Yet in today's climate, many people question the amount of influence they actually have in the political process in Washington. People perceive that under the current system, those groups and individuals with large amounts of money to contribute to candidates have more influence than those who do not. They are correct.

The bill before us today goes a long way toward restoring the voice of the average American in Congress. The Campaign Spending Limit and Election Reform Act, H.R. 3750, makes fundamental changes in the way we raise and spend money in Federal elections. It has several important changes: First, it limits spending on congressional campaigns to $600,000 in each 2-year cycle. Second, it limits PAC contributions to $200,000. Third, it tightens rules on independent expenditures and the use of soft money by State parties in Federal races.

Due to limits placed by the Supreme Court on the ability of Congress to legislate in this area, participation must be voluntary. I believe most will volunteer because the bill now contains incentives that make participation attractive.

Why is this a good bill? First and foremost, the bill reduces the influence of the moneyed special interest groups. It places tough new limits on what candidates for Congress can receive from special interest groups. It closes the soft money loopholes that groups can use to evade current contribution limitations.

It also lessens the importance of contributions from those who are able to give candidates over $200, up to $1,000. The bill makes more important contributions of $200 or less.

Second, by limiting the total amount that can be spent in a 2-year cycle, the bill cuts down on the money chase. It frees up more time for official duties. Members and candidates will not have to spend so much time raising money. The lid will relieve the constant pressure to raise money for the next campaign. Thus, with the amount of necessary money reduced, the influence of money is diminished.

Third, the bill should help equalize the advantages held by incumbents. According to Common Cause, incumbents outspent challengers by a factor of nine in the 1990 congressional elections. By placing an overall lid of $600,000, the bill will allow challengers the potential to raise as much money as incumbents.

Another important feature of this bill is that its new Federal matching fund does not increase taxes or push up the deficit. The fund is created by a registration fee on PAC's, a reduction in the Federal income tax deduction for lobbying expenses, and solicitation of contributions like the current Presidential election fund contribution on tax returns.

In 1980, the average House candidate spent $160,000 to get elected. In the last congressional election cycle, the average congressional campaign cost $410,000. In 1990, $445 million was spent on House and Senate races, a nearly fourfold increase from the $115.5 million spent in 1976. PAC contributions continue to grow steadily. A substantial percent of House and Senate general election funds came from PAC's in 1990. In fact, from 1980 to 1988, PAC contributions increased by 175 percent, while small contributions grew only 12 percent.

The time has come to reform our system of campaign finance, and I fully support the effort.

Mr. GREEN of New York. Mr. Chairman, the American people have long been concerned about the enormous influence of PAC's and the soaring costs of congressional campaigns. In addition, poll after poll reveals that over 70 percent of Americans are fed up with Congress and its inability to enact credible campaign finance reform legislation. I believe that campaign finance reform is long overdue and it is high time we vote to remedy public skepticism as well as reinvigorate electoral competition. Therefore, I shall support the Republican campaign reform substitute. If, however, it is defeated, I shall vote for H.R. 3750, the Campaign Spending Limit and Election Reform Act of 1991.

Simply put, if adopted, the Republican campaign reform substitute can become law and take effect immediately for the 1992 campaign cycle. My colleagues know that the President supports the Republican substitute, while he has vowed to veto H.R. 3750 because of its spending limit and public financing provisions. Moreover, my colleagues know that we do not have the numbers in the House to override a Presidential veto. Therefore, if H.R. 3750 is adopted, it is very unlikely that it will ever become law.

The Republican campaign reform substitute sharply reduces the current limit on PAC contributions from $10,000 to $2,000 per election cycle. It also requires candidates to raise at least half of their funds from residents within a county in which a Member's district is located. By requiring that a majority of a candidate's funds are raised from local sources, candidates can devote more time to campaigning in the district and less time chasing down money around the country. Such reform would give candidates with strong, broad-based support within a congressional district an advantage over those who are controlled by out-of-State interests, as well as force challengers to build grass roots support. The substitute also contains a ban on so-called soft money, which is currently contributed to parties of PAC's and used for certain political activities. Finally, the Republican substitute takes effect immediately for the 1992 campaign cycle. After all, the American people should not have to wait until 1994 for campaign finance reform.

If, however, the Republican campaign reform substitute is defeated, I shall vote for H.R. 3750, the Campaign Spending Limit and Election Reform Act. Unlike a majority of my Republican colleagues, I have long advocated campaign reform based on voluntary and limited public financing. I believe that public financing can be instrumental in increasing competition and reducing public cynicism by creating a competitive electoral system that will give little-known challengers some of the advantages of incumbents. Public financing is

an important concept. It opens up the opportunity to seek office to people of all economic backgrounds and political ideologies. It protects Americans from having their ballots filled with the names of only the wealthy and those who owe tremendous legislative debts to the special-interest groups that helped finance their campaigns.

On January 3, 1991, the first day of the legislative session, I reintroduced legislation to provide voluntary and limited public financing of congressional general election campaigns. Under my proposal, a candidate, upon raising a specified amount of money in small contributions from individuals within his or her own State, would be eligible for a matching Federal contribution. All Federal matching funds would be raised through a voluntary income-tax checkoff.

With the cost of the average House seat soaring to $400,000 in the 1990 election cycle, I feel that the current campaign system must be reformed. H.R. 3750 sets a constitutionally-sound spending limit of $600,000. While I am disappointed that the measure fails to limit the amount of PAC contributions, it does cap the total amount of PAC dollars a Member can raise at $200,000. The legislation also cracks down on so-called independent expenditures, prohibits bundling, and limits soft money abuses.

Overall, I think that it is imperative that we enact campaign finance reform legislation. While I support and will vote for H.R. 3750, I am concerned that it really does not have a shot at becoming law. With the promise of a Presidential veto and insufficient numbers to override that veto we are once again playing charades with the American people who want real campaign finance reform.

In closing, I urge my colleagues to vote for the campaign reform substitute because it will effectively reduce the role of PAC's and special interests as well as enhance the role of individuals in financing campaigns. Moreover, the Republican substitute will be signed by the President and become law for the 1992 election cycle. While H.R. 3750 makes great strides to reform the current system, it unfortunately will not become law.

Mr. KOSTMAYER. Mr. Speaker, over the past decade I have been in some of the closest races in the country, having both won and lost races by less than 2 percent. In every election since 1984 I have raised and spent more than $600,000. I have also raised more than $200,000 during each of those cycles from political action committees. In each of the last several elections I have raised substantially more campaign funds than my opponent.

If any incumbent had reason to balk at the overall spending limits and the PAC limits in the House Campaign Spending Limit and Election Reform Act, it might be me. On the contrary, however, I am an enthusiastic supporter of H.R. 3750. This campaign finance reform is long overdue and vitally needed.

This legislation has earned our support because it contains all the elements necessary for real reform: It limits overall campaign spending, has a significant component of matching funds, and closes a variety of campaign loopholes dealing with independent expenditures, bundling, and soft money. Campaign finance reform must be considered as a package, because each provision is interrelated and dependent on the others. Without each of these essential components, the entire campaign finance effort would collapse.

We need this important reform legislation. We need it to correct the abuses of the current system. We need it to make campaigns more competitive. And we need it to help restore the trust of the American people in this institution.

The House Campaign Spending Limit and Election Reform Act (H.R. 3750) is a responsible, comprehensive, workable way to end the money chase so that elections are battles of ideas, not bank accounts.

This bill would not help my reelection campaign. But it would help the Nation and the Congress, and for that reason I strongly urge my colleagues to vote for H.R. 3750. The time for this needed reform is now.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in Part 1 of House Report 102–365 is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 3750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "House of Representatives Campaign Spending Limit and Election Reform Act of 1991".

TITLE I—EXPENDITURE LIMITATIONS, CONTRIBUTION LIMITATIONS, MATCHING FUNDS, AND REDUCED THIRD-CLASS MAIL RATE FOR ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES

SEC. 101. NEW TITLE OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

"TITLE V—EXPENDITURE LIMITATIONS, CONTRIBUTION LIMITATIONS, AND MATCHING FUNDS FOR ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES

"SEC. 501. EXPENDITURE LIMITATIONS.

"(a) IN GENERAL.—An eligible House of Representatives candidate may not, in an election cycle, make expenditures aggregating more than $600,000, of which not more than $500,000 may be expended in the general election period.

"(b) RUNOFF ELECTION AND SPECIAL ELECTION AMOUNTS.—

"(1) RUNOFF ELECTION AMOUNT.—In addition to the expenditures under subsection (a), an eligible House of Representatives candidate who is a candidate in a runoff election may make expenditures aggregating not more than $100,000 in the general election period.

"(2) SPECIAL ELECTION AMOUNT.—An eligible House of Representatives candidate who is a candidate in a special election may make expenditures aggregating not more than $500,000 with respect to the special election.

"(c) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, subject to the general election period limitation in subsection (a), the candidate may make additional expenditures of not more than $150,000 in the general election period. The additional expenditures shall be from contributions described in section 503(h) and payments described in section 504(g).

"(d) NONPARTICIPATING OPPONENT PROVISIONS.—

"(1) LIMITATION EXCEPTION.—The limitations imposed by subsections (a) and (b) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in subsection (a).

"(2) CONTINUED ELIGIBILITY AND ADDITIONAL MATCHING FUNDS.—An eligible House of Representatives candidate referred to in paragraph (1)—

"(A) shall continue to be eligible for all benefits under this title; and

"(B) shall receive matching funds without regard to the ceiling under section 504(a).

"(3) REPORTING REQUIREMENT.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in subsection (a)(1);

shall report that the threshold has been reached to the Commission not later than 48 hours after reaching the threshold. Not later than 48 hours after the Commission receives a report under this paragraph, the Commission shall transmit a copy of the report to each other candidate in the election.

"(e) INDEPENDENT EXPENDITURE PROVISION.—The limitation imposed by subsection (a) does not apply to an eligible House of Representatives candidate if independent expenditures totaling $60,000 are made in the same election in favor of another candidate or against the eligible House of Representatives candidate.

"(f) EXEMPTION FOR CERTAIN COSTS AND TAXES.—Payments for legal and accounting compliance costs and Federal and State taxes shall not be considered in the computation of amounts subject to limitation under this section.

(g) EXEMPTION FOR FUNDRAISING COSTS.—

(1) Any costs incurred by an eligible House of Representatives candidate or his or her authorized committee in connection with the solicitation of contributions on behalf of such candidate shall not be considered in the computation of amounts subject to limitation under this section to the extent that the aggregate of such costs does not exceed 5 percent of the limitation under subsection (a) or subsection (b).

(2) An amount equal to 5 percent of salaries and overhead expenditures of an eligible House of Representatives candidate's campaign headquarters and offices shall not be considered in the computation of amounts subject to limitation under this section. Any amount excluded under this paragraph shall be applied against the fundraising expenditure exemption under paragraph (1) above.

"(h) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representa-

VOL
137
PT
23
NO
21—25
1991
UMI

tives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 5 percent or less shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to the amount of the excess expenditures.

"(2) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by more than 5 percent and less than 10 percent shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to three times the amount of the excess expenditures.

"(3) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 10 percent or more shall pay to the Commission, for deposit in the Make Democracy Work Fund, the amount of matching payments received under section 504 and an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

"(i) INDEXING.—The dollar amounts specified in subsections (a), (b), (c), and (e) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

"SEC. 502. STATEMENT OF PARTICIPATION; CONTINUING ELIGIBILITY.

"(a) IN GENERAL.—The Commission shall determine whether a candidate is in compliance with this title and, by reason of such compliance, is eligible to receive benefits under this title. Such determination shall—

"(1) in the case of an initial determination, be based on a statement of participation submitted by the candidate; and

"(2) in the case of a determination of continuing eligibility, be based on relevant additional information submitted in such form and manner as the Commission may require.

"(b) FILING.—The statement of participation referred to in subsection (a) shall be filed not later than January 31 of the election year or on the date on which the candidate files a statement of candidacy, whichever is later.

"SEC. 503. CONTRIBUTION LIMITATIONS.

"(a) ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATE LIMITATION.—An eligible House of Representatives candidate may not, with respect to an election cycle, accept contributions aggregating in excess of $600,000.

"(b) NONPARTICIPATING OPPONENT PROVISIONS.—The limitations imposed by subsection (a) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(1) is not an eligible House of Representatives candidate; and

"(2) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in section 501(a).

"(c) TRANSFER PROVISIONS.—

"(1) If an eligible House of Representatives candidate transfers any amount from an election cycle to a later election cycle, the limitation with respect to the candidate under subsection (a) for the later cycle shall be an amount equal to the difference between the amount specified in that subsection and the amount transferred.

"(2) If an eligible House of Representatives candidate transfers any amount from an election cycle to a later election cycle, each limitation with respect to the candidate under section 315(i) for the later cycle shall be one-third of the difference between the applicable amount specified in subsection (a) and the amount transferred.

"(d) RUNOFF AMOUNT.—In addition to the contributions under subsection (a), an eligible House of Representatives candidate who is a candidate in a runoff election may accept contributions aggregating not more than $100,000 in the general election period. Of such contributions, one-half may be from political committees and one-half may be from persons referred to in section 315(i)(2).

"(e) PERSONAL CONTRIBUTIONS.—

"(1) IN GENERAL.—An eligible House of Representatives candidate may not, with respect to an election cycle, make contributions to his or her own campaign totaling more than $60,000 from the personal funds of the candidate. The amount that the candidate may accept from persons referred to in section 315(i)(2) shall be reduced by the amount of contributions made under the preceding sentence. Contributions from the personal funds of a candidate may not be matched under section 504.

"(2) LIMITATION EXCEPTION.—The limitation imposed by paragraph (1) does not apply in the case of an eligible House of Representatives candidate if any other candidate—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in section 501(a).

"(3) TRIPLE MATCH.—An eligible House of Representatives candidate, whose opponent makes contributions to his or her own campaign in excess of 50 percent of the general election period limitation specified in section 501(a), shall receive $3 in matching funds for each $1 certified by the Commission as matchable for the eligible candidate.

"(f) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed the limitation under subsection (a) by 5 percent or less shall refund the excess contributions to the persons who made the contributions.

"(2) MEDIUM AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed a limitation under subsection (a) by more than 5 percent and less than 10 percent shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to three times the amount of the excess contributions.

"(3) LARGE AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed a limitation under subsection (a) by 10 percent or more shall pay to the Commission, for deposit in the Make Democracy Work Fund, the amount of matching payments received under section 504 and an amount equal to three times the amount of the excess contributions plus a civil penalty in an amount determined by the Commission.

"(g) EXEMPTION FOR CERTAIN COSTS AND TAXES.—Any amount—

"(1) accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress; and

"(2) used for legal and accounting compliance costs and Federal and State taxes shall not be considered in the computation of amounts subject to limitation under subsection (a).

"(h) INDEPENDENT EXPENDITURE PROVISION.—The limitation imposed by subsection (a) does not apply to an eligible House of Representatives candidate if independent expenditures totaling $60,000 are made in the same election in favor of another candidate or against the eligible House of Representatives candidate.

"(i) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, notwithstanding the limitation in subsection (a), the candidate may, in the general election period, accept additional contributions of not more than $150,000, consisting of—

"(1) not more than $50,000 from political committees; and

"(2) not more than $50,000 from individuals referred to in section 315(i)(2).

"(j) INDEXING.—The dollar amounts specified in subsections (a), (d), (e), (h), and (i) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

"SEC. 504. MATCHING FUNDS.

"(a) IN GENERAL.—An eligible House of Representatives candidate shall be entitled to receive, with respect to the general election, an amount equal to the amount of contributions from individuals received by the candidate, but not more than $200,000, and not to the extent that contributions from any individual during the election cycle exceed $200 in the aggregate.

"(b) INDEPENDENT EXPENDITURE PROVISION.—If, with respect to a general election involving an eligible House of Representatives candidate, independent expenditures totaling $10,000 are made against the eligible House of Representatives candidate or in favor of another candidate, the eligible House of Representatives candidate shall be entitled, in addition to any amount received under subsection (a), to a matching payment of $10,000 and additional matching payments equal to the amount of such independent expenditures above $10,000, and expenditures may be made from such payments without regard to the limitations in section 501.

"(c) SPECIFIC REQUIREMENTS.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may receive matching funds under subsection (a) only if the candidate—

"(1) in an election cycle, has received $60,000 in contributions from individuals, with not more than $200 to be taken into account per individual;

"(2) qualifies for the general election ballot;

"(3) has an opponent on the general election ballot; and

"(4) files a statement of participation in which the candidate agrees to—

"(A) comply with the limitations under sections 501 and 503;

"(B) cooperate in the case of any audit by the Commission by furnishing such campaign records and other information as the Commission may require; and

"(C) comply with any repayment requirement under section 505.

"(d) WRITTEN INSTRUMENT REQUIREMENT.—No contribution in any form other than a gift of money made by a written instrument that identifies the individual making the contribution may be used as a basis for any matching payment under this section.

"(e) MAKE DEMOCRACY WORK FUND.—There is established in the Treasury a fund, to be known as the 'Make Democracy Work Fund', consisting of such amounts as may be deposited under section 501, section 503, or provisions enacted pursuant to section 301 of the House of Representatives Campaign Spending Limit and Election Reform Act of 1991. Amounts in the fund shall be available without fiscal year limitation for payment of matching funds under subsection (f) and initial expenditures incurred by the Commission in the administration of section 304(e) or 311(a)(11) of this Act.

"(f) CERTIFICATION AND PAYMENT.—

"(1) CERTIFICATION.—Except as provided in paragraphs (2) and (3), not later than 5 days after receiving a request for payment, the Commission shall submit to the Secretary of the Treasury a certification for payment of the amount requested under subsection (a) or (b).

"(2) PAYMENTS.—The initial payment under subsection (a) to an eligible candidate shall be $60,000. All payments shall be—

"(A) made not later than 48 hours after certification under paragraph (1); and

"(B) subject to proportional reduction in the case of an insufficient balance in the Fund established by subsection (e).

"(3) INCORRECT REQUEST.—If the Commission determines that any portion of a request is incorrect, the Commission shall withhold the certification for that portion only and inform the candidate as to how the candidate may correct the request.

"(g) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, the candidate shall be entitled to matching funds totaling not more than $50,000, in addition to any other amount received under this section.

"(h) INDEXING.—The dollar amounts specified in subsections (a), (b), and (c) (other than the amount in subsection (c) to be taken into account per individual), and subsections (f) and (g) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS.

"(a) GENERAL ELECTION.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of the eligible House of Representatives candidates, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether such candidates have complied with the conditions of eligibility and other requirements of this title. No other factors shall be considered in carrying out such an examination and audit. In selecting the accounts to be examined and audited, the Commission shall select all eligible candidates from a congressional district where any eligible candidate is selected for examination and audit.

"(b) SPECIAL ELECTION.—After each special election, the Commission shall conduct an examination and audit of the campaign accounts of all eligible candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(c) AFFIRMATIVE VOTE.—The Commission may conduct an examination and audit of the campaign accounts of any eligible House of Representatives candidate in a general election if the Commission, by an affirmative vote of 4 members, determines that there exists reason to believe that such candidate has violated any provision of this title.

"(d) PAYMENTS.—If the Commission determines that any amount of a payment to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify the candidate, and the candidate shall pay to the Secretary an amount equal to the excess.

"(e) DEPOSITS.—The Secretary shall deposit all payments received under this section in the Make Democracy Work Fund.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; CERTIFICATIONS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the House of Representatives setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the aggregate amount of matching fund payments certified by the Commission under section 504 for each eligible candidate;

"(3) the amount of repayments, if any, required under section 505, and the reasons for each repayment required; and

"(4) the balance in the Make Democracy Work Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a House document.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under section 504) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 or judicial review under section 506.

"(c) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (d), to conduct such audits, examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(d) REPORT OF PROPOSED REGULATIONS.—The Commission shall submit to the House of Representatives a report containing a detailed explanation and justification of each rule, regulation, and form of the Commission under this title. No such rule, regulation, or form may take effect until a period of 30 legislative days has elapsed after the report is received. As used in this subsection—

"(1) the term 'legislative day' means any calendar day on which the House of Representatives is in session; and

"(2) the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

"No eligible House of Representatives candidate may receive amounts from the Make Democracy Work Fund unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.".

(b) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by this section and by section 201 of this Act, shall be treated as invalid.

SEC. 102. DEFINITIONS.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking out paragraph (19) and inserting in lieu thereof the following new paragraphs:

"(19) The term 'eligible House of Representatives candidate' means a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, as determined by the Commission under section 502, is eligible to receive matching payments and other benefits under title V by reason of filing a statement of participation and complying with the continuing eligibility requirements under section 502.

"(20) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election; and

"(21) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

VOL
137
PT
23
NO
21—25
1991
UMI

SEC. 103. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking out "and the National" and inserting in lieu thereof "the National"; and

(B) by striking out "Committee;" and inserting in lieu thereof "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives candidate;";

(2) in paragraph (2)(B), by striking out "and" after the semicolon;

(3) in paragraph (2)(C), by striking out the period and inserting in lieu thereof "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) the terms 'eligible House of Representatives candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

(5) by adding after paragraph (2) the following new paragraph:

"(3) The rate made available under this subsection with respect to an eligible House of Representatives candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to 3 times the number of individuals in the voting age population of the congressional district (as certified under section 315(e) of such Act).".

TITLE II—LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES; MISCELLANEOUS PROVISIONS RELATING TO CONTRIBUTIONS UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

SEC. 201. LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions from political committees aggregating in excess of $200,000.

"(2) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions aggregating in excess of $200,000 from persons other than political committees whose contributions total more than $200.

"(3) In addition to the contributions under paragraphs (1) and (2), a House of Representatives candidate who is a candidate in a runoff election may accept contributions aggregating not more than $100,000 with respect to the runoff election. Of such contributions, one-half may be from political committees and one-half may be from persons referred to in paragraph (2).

"(4) Any amount—

"(A) accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress; and

(B) used for legal and accounting compliance costs, Federal and State taxes, or fundraising costs under section 501 shall not be considered in the computation of amounts subject to limitation under paragraphs (1), (2), and (3), but shall be subject to the other limitations of this Act.

"(5) In addition to any other contributions under this subsection, if, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, the candidate may, in the general election period, accept contributions of not more than $150,000, consisting of—

"(A) not more than $50,000 from political committees; and

"(B) not more than $50,000 from persons referred to in paragraph (2).

"(6) The dollar amounts specified in paragraphs (1), (2), (3), and (5) (other than the amounts in paragraphs (2) and (5) relating to contribution totals) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

SEC. 202. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 201, is further amended by adding at the end the following new subsection:

"(j) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 203. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

SEC. 204. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking out "and" after the semicolon at the end;

(2) in clause (xiv), by striking out the period at the end and inserting in lieu thereof the following: "; and"; and

(3) by adding at the end the following new clause:

"(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 60 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $1,000 with respect to an election.".

SEC. 205. INCREASE IN THE AMOUNT THAT MULTICANDIDATE POLITICAL COMMITTEES MAY CONTRIBUTE TO NATIONAL POLITICAL PARTY COMMITTEES.

Section 315(a)(2)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(B)) is amended by striking out "$15,000" and inserting in lieu thereof "$20,000".

SEC. 206. AMENDMENT TO SECTION 316 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended—

(1) by inserting "(A)" at the beginning of paragraph (2) and redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) at the beginning of the first sentence in subparagraph (A), by inserting the following: "Except as provided in subparagraph (B),"; and

(3) by adding at the end of paragraph (2) the following:

"(B) Expenditures by a corporation or labor organization for candidate appearances, candidate debates and voter guides directed to the general public shall be considered contributions unless—

"(i) in the case of a candidate appearance, the appearance takes place on corporate or labor organization premises or at a meeting or convention of the corporation or labor organization, and all candidates for election to that office are notified that they may make an appearance under the same or similar conditions;

"(ii) in the case of a candidate debate, the organization staging the debate is either an organization described in section 301 whose broadcasts or publications are supported by commercial advertising, subscriptions or sales to the public, including a noncommercial educational broadcaster, or a nonprofit organization exempt from Federal taxation under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986 that does not endorse, support, oppose candidates or political parties; and

"(iii) in the case of a voter guide, the guide is prepared and distributed by a corporation or labor organization and consists of questions posed to at least two candidates for election to that office,

provided that no communication made by a corporation or labor organization in connection with the candidate appearance, candidate debate or voter guide contains express advocacy, or that no candidate is favored through the structure or format of the candidate appearance, candidate debate or voter guide.".

TITLE III—REQUIREMENT OF BUDGET NEUTRALITY

SEC. 301. REQUIREMENT OF BUDGET NEUTRALITY.

(a) CONDITIONAL PAY-AS-YOU-GO ESTIMATE.—To achieve the purpose of subsection (b), an estimate shall be made of the net "pay-as-you-go" costs of this Act assuming its preceding sections become effective. That estimate shall be made under the procedures specified in section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (hereinafter referred to as the Deficit Control Act) but shall not be considered to be an estimate required by that section. Until and unless this subsection is superseded by subsection (c), no net costs otherwise attributable to this Act shall be included in any documents required under the Deficit Control Act.

(b) ALL COSTS MUST BE FULLY OFFSET BY JANUARY 1, 1993.—The provisions of title VII, section 201 of title II, and sections 503 through 509 of title I shall not become effective unless, on January 1, 1993, it is determined that each of the following three conditions has been met—

(1) Provisions—

(A) creating incentives for individuals to make voluntary contributions to the candidate of their choice have been enacted; and

(B) for individuals or organizations to make voluntary contributions to the "Make Democracy Work Fund" have been enacted.

(2) The statute enacting any provision referred to in paragraph (1) states that the provision has been enacted for the purpose of effectuating this Act.

(3) The savings from provisions under paragraphs (1) and (2), estimated under the procedures specified in section 252(d) of the Deficit Control Act at the time of their enactment, are as great or greater in both fiscal years 1994 and 1995 than the net costs of this Act in each such year conditionally estimated under subsection (a).

(c) ADDITION OF ESTIMATED NET COSTS TO THE PAY-AS-YOU-GO SCORECARD.—If, on January 1, 1993, it is determined that the costs of this Act have been fully offset as specified in subsection (b), so that the preceding sections of this Act shall become effective, then the conditional estimate of the costs of this Act (made under subsection (a)) shall be included in the records maintained under section 252 of the Deficit Control Act.

(d) DEFINITION OF "COSTS" AND "SAVINGS".—For purposes of this section, the terms "costs" and "savings" mean outlay increases or decreases from direct spending provisions or revenue increases or decreases from revenue provisions of the type covered under section 252 of the Deficit Control Act.

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking out paragraphs (17) and (18) and inserting in lieu thereof the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) Any expenditure made by the following shall not be considered an independent expenditure:

"(i) a political committee of a political party;

"(ii) a political committee established, maintained or controlled by a person or organization required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611); or

"(iii) a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to or participate in campaign activity.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking out "or" after the semicolon at the end;

(2) in clause (ii), by striking out the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

SEC. 402. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

"(B) Any independent expenditure aggregating $5,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $5,000 are made with respect to the same election as the initial statement filed under this section.

"(C) Such statement shall be filed with the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. Not later than 48 hours after the Commission receives a report under paragraph (A) or (B), the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

"(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

"(B) Such statement shall be filed with the Commission and shall identify each candidate whom the expenditure will support or oppose. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.".

TITLE V—BUNDLING AND SOFT MONEY

SEC. 501. RESTRICTIONS ON BUNDLING.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8)(A) No person, either directly or indirectly, may act as a conduit or intermediary for any contribution to a candidate.

"(B)(i) Nothing in this section shall prohibit—

"(I) joint fundraising conducted in accordance with rules prescribed by the Commission by 2 or more candidates; or

"(II) fundraising for the benefit of a candidate that is conducted by another candidate.

"(ii) No person prohibited from acting as a conduit or intermediary under subparagraph (A) may conduct or otherwise participate in joint fundraising activities with or on behalf of any candidate.

"(C) For purposes of this section, the term 'conduit or intermediary' means a person who transmits a contribution to a candidate or candidate's committee or representative from another person, except that—

"(i) a candidate or representative of a candidate is not a conduit or intermediary for the purpose of transmitting contributions to the candidate's principal campaign committee or authorized committee;

"(ii) a professional fundraiser is not a conduit or intermediary, if the fundraiser is compensated for fundraising services at the usual and customary rate;

"(iii) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(b), is not a conduit or intermediary for the purposes of that event; and

"(iv) an individual is not a conduit or intermediary for the purpose of transmitting a contribution from the individual's spouse.

"(D) For purposes of this section, the term 'representative'—

"(i) shall mean a person who is expressly authorized by the candidate to engage in fundraising, and who, in the case of an individual, occupies a significant position within the candidate's campaign organization, provided that the individual is not acting as an officer, employee or agent of any other person;

"(ii) shall not include—

"(I) a political committee with a connected organization;

"(II) a political party;

"(III) a partnership or sole proprietorship; or

"(IV) an organization prohibited from making contributions under section 316.".

SEC. 502. LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES

"SEC. 323. (a)(1) In each Federal election cycle with respect to each State, a political party the national committee of which received amounts under section 9008(b) of the Internal Revenue Code of 1986 with respect to the preceding presidential election may not make payments for combined political activities in a total amount which exceeds 50 cents multiplied by the voting age population of the State (as certified under section 315(e)) or $500,000, whichever is greater.

"(2) For purposes of the limitation of paragraph (1), aggregate payments by national party committees, State party committees, subordinate State party committees and any other local party committees of the same party in any State shall not exceed the limitation in paragraph (1). A State party committee shall administer compliance with the limitation in one of the following ways—

"(A) the State party committee shall be responsible for ensuring that payments by

tribution to the treasury of the United

"(c) Any printed communication described

(1) by inserting after "SEC. 322." the fol-

VOL 137 PT 23 NO 21—25 1991 UMI

the entire party organization within that State comply with the limitation and shall file consolidated reports with the Commission showing all payments for combined political activity within the State; or

"(B) any other method, submitted in advance and approved by the Commission which permits control over payments and disclosure.

"(b)(1) Political party committees that make payments for combined political activity must allocate a portion of such payments to Federal accounts containing contributions subject to the limitations and prohibitions of this Act, as provided for in this section.

"(2) National party committees shall allocate as follows:

"(A) At least 65 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(3) State and local party committees shall allocate as follows:

"(A) At least 50 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in presidential election years. In all other years, the costs of voter drives and administrative expenses which shall be paid from a Federal account shall be determined by the ballot composition for the election cycle, but, in no event, shall the amount paid from the Federal account be less than 33 percent.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities exempt from the definition of 'contribution' or 'expenditure' under section 301, when conducted in conjunction with both Federal and non-Federal elections, shall be paid from a Federal account according to the time or space devoted to Federal candidates or elections.

"(D) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(c) For purposes of this subsection—

"(1) the term 'combined political activity' means any activity that is both—

"(A) in connection with an election for Federal office; and

"(B) in connection with an election for any non-Federal office.

"(2) Any activity which is undertaken solely in connection with a Federal election is not combined political activity.

"(3) Except as provided in paragraph (4), combined political activity shall include—

"(A) State and local party activities exempt from the definitions of 'contribution' and 'expenditure' under section 301 and activities subject to limitation under section 315 which involve both Federal and non-Federal candidates, except that payments for activities subject to limitation under section 315 are not subject to the limitation of subsection (a)(1);

"(B) voter drives including voter registration, voter identification and get-out-the-vote drives or any other activities that urge the general public to register, vote for or support Federal or non-Federal candidates, candidates of a particular party, or candidates associated with a particular issue, without mentioning a specific candidate;

"(C) fundraising activities where both Federal and non-Federal funds are collected through such activities; and

"(D) administrative expenses not directly attributable to a clearly identified Federal or non-Federal candidate, except that payments for administrative expenses are not subject to the limitation of subsection (a)(1).

"(4) The following payments are exempt from the definition of combined political activity:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

"(5) The term 'ballot composition' means the number of Federal offices on the ballot compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this paragraph, the following offices shall be counted, if on the ballot during the next election cycle: President, United States Senator, United States Representative, Governor, State Senator, and State Representative. No more than three additional statewide partisan candidates shall be counted, if on the ballot during the next election cycle. No more than three additional local partisan candidates shall be counted, if such offices are on the ballot in the majority of the State's counties during the next election cycle.

"(6) The term 'time or space devoted to Federal candidates' means with respect to a particular communication, the portion of the communication devoted to Federal candidates compared to the entire communication, except that no less than one-third of any communication shall be considered devoted to a Federal candidate.".

SEC. 503. PROHIBITION OF SOLICITATION OF CONTRIBUTIONS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS BY FEDERAL CANDIDATES AND OFFICE HOLDERS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 201 and 202, is further amended by adding at the end the following new subsection:

"(k) During any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a substantial part of the activities of such organization include voter registration or get-out-the-vote campaigns.".

SEC. 504. REPORTING REQUIREMENTS FOR CERTAIN RECEIPTS AND DISBURSEMENTS THAT ARE NOT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE OR ARE NOT CONTRIBUTIONS OR EXPENDITURES.

(a) Reporting Requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d)(1) Political committees established and maintained by a national political party shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 323 applies shall report all receipts and disbursements in connection with a Federal election or combined political activity (as determined under section 323).

"(3) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election or combined political activity (as determined by the Commission).

"(4) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was received or made.

"(5) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Report of Exempt Contributions.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

"(C) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.".

(c) Reporting of Exempt Expenditures.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by adding at the end the following:

"(C) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures aggregating in excess of $200 shall be reported.".

SEC. 505. CLARIFICATION OF EXCLUSION OF MAILING COSTS FROM PARTY-BUILDING PROVISIONS.

Section 301(8)(B)(x)(1), section 301(8)(B)(xi), section 301(8)(B)(xii)(1), section 301(9)(B)(viii)(1), and section 301(9)(B)(ix)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)(x)(1)), (2 U.S.C. (8)(B)(xi)), (2 U.S.C. 431(8)(B)(xii)(1)), (2 U.S.C. 431(9)(B)(viii)(1)), and (2 U.S.C. 431(9)(B)(ix)(1)) are each amended by striking out "direct mail" and inserting in lieu thereof "mail".

TITLE VI—PROHIBITIONS RELATING TO POLITICAL COMMITTEES AND FOREIGN NATIONALS

SEC. 601. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by inserting the following new paragraph:

"(6)(A) A candidate for Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

"(B) For one year after January 1, 1993, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified, under section 501(c)(3) of the Internal Revenue Code of 1986, or making a contribution to the treasury of the United States or the Make Democracy Work Fund; or, contributing to the national, State or local committees of a political party, or, making contributions not to exceed $1,000 to any candidate for elective office.".

SEC. 602. PROHIBITION OF CERTAIN USES OF THE NAME OF A CANDIDATE BY POLITICAL COMMITTEES OTHER THAN THE PRINCIPAL CAMPAIGN COMMITTEE OF THE CANDIDATE.

Section 302(e)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any fundraising activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate.".

SEC. 603. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended by adding at the end the following new subsection:

"(c) A foreign national shall not directly or indirectly direct, control, influence or participate in any person's election-related activities, such as the making of contributions or expenditures in connection with elections for any local, State, or Federal office or the administration of a political committee.".

TITLE VII—CAMPAIGN SURPLUS

SEC. 701. EXCESS FUNDS OF INCUMBENTS WHO ARE CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

An individual who—

(1) is a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in an election cycle to which title V of the Federal Election Campaign Act of 1971 (as enacted by section 101 of this Act) applies;

(2) is an incumbent of that office; and

(3) as of the date of the first statement of participation submitted by the individual under section 502 of the Federal Election Campaign Act of 1971, has campaign accounts containing in excess of $600,000;

shall deposit such excess in a separate account subject to the provision of section 304 of the Federal Election Campaign Act of 1971. The amount so deposited shall be available for any lawful purpose other than use, with respect to the individual, for an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, unless section 501(d)(1) of the Federal Election Campaign Act of 1971 is applicable.

TITLE VIII—CAMPAIGN ADVERTISING

SEC. 801. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking out "an expenditure" and inserting in lieu thereof "a disbursement";

(2) in the matter before paragraph (1) of subsection (a), by striking out "direct";

(3) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

(4) by adding at the end the following new subsections:

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the candidate, and, if broadcast or cablecast by means of television, shall also—

"(1) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(2) be accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 802. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by section 801, is further amended—

(1) in subsection (b)(1)—

(A) by striking out "forty-five" and inserting in lieu thereof "30";

(B) by striking out "sixty" and inserting in lieu thereof "45"; and

(C) by striking out "lowest unit charge of the station for the same class and amount of time for the same period" and insert "lowest charge of the station for the same amount of time for the same period on the same date";

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

TITLE IX—CONTRIBUTION SOLICITATION

SEC. 901. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "Sec. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

TITLE X—REPORTING REQUIREMENTS

SEC. 1001. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A)) is amended by striking out "$200" and inserting in lieu thereof "$50".

SEC. 1002. REPORTING OF OPERATING EXPENDITURES BY CATEGORY.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 504 of this Act, is further amended by adding at the end the following new subsection:

"(e) The Commission shall require, with respect to reports under this section, that operating expenditures be reported on an election cycle basis, by category, as specified by the Commission.".

SEC. 1003. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of subsection (b) of section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress)".

SEC. 1004. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(11) maintain computerized indices of contributions of $50 or more.".

TITLE XI—BALLOT INITIATIVE COMMITTEES

SEC. 1101. DEFINITIONS RELATING TO BALLOT INITIATIVES.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 102, is further amended by adding at the end the following new paragraphs:

"(22) The term 'ballot initiative political committee' means any committee, club, association, or other group of persons which makes ballot initiative expenditures or receives ballot initiative contributions in excess of $1,000 during a calendar year.

"(23) The term 'ballot initiative contribution' means any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the State, commonwealth, territory, or District of Columbia level which involves (A) interstate commerce; (B) the election of candidates for Federal office and the permissible terms of those so elected; (C) Federal taxation of individuals, corporations, or other entities; or (D) the regulation of speech or press, or any other right guaranteed under the United States Constitution.

VOL 137
PT 23
NO 21—25
1991
UMI

"(24) The term 'ballot initiative expenditure' means any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the state, commonwealth, territory, or District of Columbia level which involves (A) interstate commerce; (B) the election of candidates for Federal office and the permissible terms of those so elected; (C) Federal taxation of individuals, corporations, or other entities; or (D) the regulation of speech or press, or any other right guaranteed under the United States Constitution.".

SEC. 1102. AMENDMENT TO DEFINITION OF CONTRIBUTION.

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)), as amended by section 204, is further amended—

(1) in clause (xiv), by striking out "and" after the semicolon;

(2) in clause (xv), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause: "(xvi) a ballot initiative contribution.".

SEC. 1103. AMENDMENT TO DEFINITION OF EXPENDITURE.

Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended—

(1) in clause (ix)(3), by striking out "and" after the semicolon;

(2) in clause (x), by striking out the period and inserting in lieu "; and"; and

(3) by adding at the end the following new clause:

"(xi) a ballot initiative expenditure.".

SEC. 1104. ORGANIZATION OF BALLOT INITIATIVE COMMITTEES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 302 (2 U.S.C. 432) the following new section:

"ORGANIZATION OF BALLOT INITIATIVE COMMITTEES

"SEC. 302A. (a) Every ballot initiative political committee shall have a treasurer. No ballot initiative contribution shall be accepted or ballot initiative expenditure shall be made by or on behalf of a ballot initiative political committee during any period in which the office of treasurer is vacant.

"(b)(1) Every person who receives a ballot initiative contribution for a ballot initiative political committee shall—

"(A) if the amount is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

"(B) if the amount of the ballot initiative contribution is in excess of $50, forward to the treasurer such contribution, the name, address, and occupation of the person making such contribution, and the date of receiving such contribution, no later than 10 days after receiving such contribution.

"(2) All funds of a ballot initiative political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

"(3) The treasurer of a ballot initiative political committee shall keep an account for—

"(1) all ballot initiative contributions received by or on behalf of such ballot initiative political committee;

"(2) the name and address of any person who makes a ballot initiative contribution in excess of $50, together with the date and amount of such ballot initiative contribution by any person;

"(3) the name, address, and employer (if an individual) of any person who makes a ballot initiative contribution or ballot initiative contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

"(4) the identification of any political committee or ballot initiative political committee which makes a ballot initiative contribution, together with the date and amount of any such contribution; and

"(5) the name and address of every person to whom any ballot initiative expenditure is made, the date, amount and purpose of such ballot initiative expenditure, and the name of the ballot initiative(s) to which the ballot initiative expenditure pertained.

"(d) The treasurer shall preserve all records required to be kept by this subchapter for 3 years after the report is filed.".

SEC. 1105. BALLOT INITIATIVE COMMITTEE REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 304 (2 U.S.C. 434) the following new section:

"BALLOT INITIATIVE COMMITTEE REPORTING REQUIREMENTS

"SEC. 304A. (a)(1) Each treasurer of a ballot initiative political committee shall file reports of certain receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

"(2) All ballot initiative political committees shall file either—

"(A)(i) quarterly reports in each calendar year when a ballot initiative is slated regarding which the ballot initiative committee plans to make or makes a ballot initiative expenditure or plans to receive or receives a ballot initiative contribution, which shall be filed no later than the 15th day after the last day of each calendar quarter; except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year; and

"(ii) preballot initiative reports, which shall be filed 5 days before the occurrence of each ballot initiative in which the ballot initiative committee plans to make or has made a ballot initiative expenditure or plans to receive or has received a ballot initiative contribution; or

"(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month.

"(3) If a designation, report, or statement filed pursuant to this subchapter (other than under paragraph (2)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

"(4) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during each year, only the amount need be carried forward.

"(b) Each report under this section shall disclose—

"(1) the amount of cash on hand at the beginning of the reporting period;

"(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

"(A) ballot initiative contributions from persons other than political committees;

"(B) ballot initiative contributions from political party committees;

"(C) ballot initiative contributions from other political committees and ballot initiative politicial committees;

"(D) transfers from affiliated political committees;

"(E) loans;

"(F) rebates, refunds, and other offsets to operating expenditures; and

"(G) dividends, interest, and other forms of receipts;

"(3) the identification of each—

"(A) person (other than a political committee or ballot initiative political committee) who makes a ballot initiative contribution to the reporting committee during the reporting period, whose ballot initiative contribution or ballot initiative contributions have an aggregate amount or value in excess of $50 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution and the address and occupation (if an individual) of the person;

"(B) political committee or ballot initiative political committee which makes a ballot initiative contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

"(C) affiliated political committee or affiliated ballot initiative political committee which makes a transfer to the reporting committee during the reporting period;

"(D) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan and the address and occupation (if an individual) of the person;

"(E) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of such receipt and the address and occupation (if an individual) of the person; and

"(F) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt and the address and occupation (if an individual) of the person;

"(4) for the reporting period and the calendar year, the total amount of disbursements, and all disbursements in the following categories:

"(A) ballot initiative expenditures;

"(B) transfers to affiliated political committees or ballot initiative political committees;

"(C) ballot initiative contribution refunds and other offsets to ballot initiative contributions;

"(D) loans made by the reporting committee and the name of the person receiving the loan together with the date of the loan and the address and occupation (if an individual) of the person; and

"(E) independent expenditures;

"(5) the total sum of all ballot initiative contributions to such ballot initiative political committee.".

SEC. 1106. ENFORCEMENT AMENDMENT.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) The civil penalties of this Act shall apply to the organization, recordkeeping, and reporting requirements of a ballot initiative political committee under section 302A or 304A, insofar as such committee conducts activities solely for the purpose of influencing a ballot initiative and not for the purpose of influencing any election for Federal office.".

SEC. 1107. CONFORMING AMENDMENT TO STATEMENT PROVISION.

Section 312(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(1)) is amended to read as follows:

"SEC. 312. (a)(1) A copy of each report and statement required to be filed by any person under this Act (except a ballot initiative political committee) shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.".

SEC. 1108. STATEMENT AMENDMENT.

Section 312 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439) is amended by adding at the end the following new subsection:

"(c) A ballot initiative political committee may file each report and statement required to be filed under this Act in the State in which its treasurer resides and with the Commission, insofar as such committee conducts activities solely for the purpose of influencing a ballot initiative and not for the purpose of influencing any election for Federal office.".

SEC. 1109. PROHIBITION OF CONTRIBUTIONS IN THE NAME OF ANOTHER.

Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441f) is amended to read as follows:

"PROHIBITION OF CONTRIBUTIONS IN THE NAME OF ANOTHER

"SEC. 320. No person shall make a contribution or ballot initiative contribution in the name of another person or knowingly permit his name to be used to effect such a contribution or ballot initiative contribution, and no person shall knowingly accept a contribution or ballot initiative contribution made by one person in the name of another person.".

SEC. 1110. LIMITATION ON CONTRIBUTION OF CURRENCY.

Section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441g) is amended to read as follows:

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 321. No person shall make contributions or ballot initiative contributions of currency of the United States or currency of any foreign country which in the aggregate, exceed $100, to or for the benefit of: (1) any candidate for nomination for election, or for election, to Federal office; (2) any political committee (other than a ballot initiative political committee) for the purpose of influencing an election for Federal office; or (3) any ballot initiative political committee for the purpose of influencing a ballot initiative.".

TITLE XII—PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE.

SEC. 1201. PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 502, is further amended by adding at the end the following new section:

"PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE

"SEC. 324. No aircraft that is owned or operated by the Government (including any aircraft that is owned or operated by the Department of Defense) may be used in connection with an election for Federal office.".

TITLE XIII—SENSE OF THE CONGRESS

SEC. 1301. SENSE OF THE CONGRESS.

The Congress should consider legislation which would provide for an amendment to the Constitution to set reasonable limits on campaign expenditures in Federal elections.

TITLE XIV—EFFECTIVE DATE

SEC. 1401. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of, and the amendments made by, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to any election occurring before January 1, 1993.

The CHAIRMAN. No amendment to the amendment in the nature of a substitute is in order except the amendment printed in Part 2 of House Report 102–365, which is considered as read and is not subject to amendment.

For what purpose does the gentleman from Illinois [Mr. MICHEL] rise?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MICHEL:

SECTION 1. HOUSE OF REPRESENTATIVES ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL INDIVIDUAL RESIDENTS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to a reporting period for an election, accept contributions from persons other than local individual residents totaling in excess of the total of contributions accepted from local individual residents.

"(2) As used in this subsection, the term 'local individual resident' means an individual who resides in a county, any part of which is in the congressional district involved.

"(3)(A) Any candidate who accepts contributions that exceed the limitation under this subsection by 5 percent or less shall refund the excess contributions to the persons who made the contributions.

"(B) Any candidate who accepts contributions that exceed the limitation under this subsection by more than 5 percent and less than 10 percent shall pay to the Commission, for deposit in the Treasury, an amount equal to three times the amount of the excess contributions.

"(C) Any candidate who accepts contributions that exceed the limitation under this subsection by 10 percent or more shall pay to the Commission, for deposit in the Treasury, an amount equal to three times the amount of the excess contributions plus a civil penalty in an amount determined by the Commission.".

(b) EFFECTIVE PROVISION.—During any period with respect to which subsection (i) of section 315 of the Federal Election Campaign Act of 1971, as added by subsection (a), is not in effect, such subsection shall be effective as so added, together with the following new paragraph:

"(3) For purposes of this subsection, an individual may not be considered a resident of more than one congressional district.".

SEC. 2. REDUCTION IN THE LIMITATION AMOUNT APPLICABLE TO NONPARTY MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS TO CANDIDATES.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 1, is further amended by adding at the end the following new subsection:

"(j) Notwithstanding subsection (a)(2)(A), no nonparty multicandidate political committee may make contributions referred to in that subparagraph which, in the aggregate, exceed $1,000.".

(b) TECHNICAL AMENDMENT.—Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by inserting after "(A)" the following: "except as provided in subsection (j),".

SEC. 3. BAN ON SOFT MONEY.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS AND REPORTING REQUIREMENTS FOR AMOUNTS PAID FOR MIXED POLITICAL ACTIVITIES

"SEC. 323. (a) Any payment by the national committee of a political party or a State committee of a political party for a mixed political activity—

"(1) shall be subject to limitation and reporting under this Act as if such payment were an expenditure; and

"(2) may be paid only from an account that is subject to the requirements of this Act.

"(b) As used in this section, the term 'mixed political activity' means, with respect to a payment by the national committee of a political party or a State committee of a political party, an activity, such as a voter registration program, a get-out-the-vote drive, or general political advertising, that is both (1) for the purpose of influencing an election for Federal office, and (2) for any purpose unrelated to influencing an election for Federal office.".

(b) REPEAL OF BUILDING FUND EXCEPTION TO THE DEFINITION OF THE TERM "CONTRIBUTION".—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking out clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

SEC. 4. 1992 TRANSITION RULE RELATING TO EXCESS FUNDS OF CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, on January 1, 1992, has campaign accounts containing amounts in excess of the contribution limit under section 315(i) of the Federal Election Campaign Act of 1971 shall deposit such excess in a separate account subject to section 304 of the Federal Election Campaign Act of 1971. The amount so deposited shall be available for any lawful purpose other than use, with respect to the individual for an election

VOL 137 PT 23 NO 21—25 1991 UMI

for the office of Representative, in, or Delegate or Resident Commissioner to, the Congress. For purposes of this section, excess funds are those funds which exceed twice the amount of funds raised from local individual residents after December 31, 1990. From January 1, 1992, until the end of the period covered by the 1992 pre-primary report a candidate may transfer excess funds from the separate account to the campaign account so long as a majority of the total funds contributed or transferred to the campaign account were raised from local individual residents after December 31, 1990. No funds may be transferred from a separate account of a candidate to a campaign account of the candidate after the end of the period covered by the 1992 pre-primary report.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 1992.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. MICHEL] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Is the gentleman from North Carolina [Mr. ROSE] opposed to the substitute?

Mr. ROSE. I am in opposition, yes, Mr. Chairman.

The CHAIRMAN. The gentleman from North Carolina [Mr. ROSE] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. THOMAS] be allowed to manage the time on our side after I have concluded my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. Mr. Chairman, let me first, at the very outset, pay my compliments to the gentleman from California [Mr. THOMAS] for the manner in which he has addressed this subject and the manner in which he has acquitted himself during the debate thus far and all during the consideration of this matter. I pay my compliments also to the members of the task force who served under the gentleman for so long a time.

And I might say that I express my appreciation to the chairman of our policy committee, the gentleman from Oklahoma [Mr. EDWARDS], who in times past conducted no less than six policy committee meetings on our side of the aisle in dealing with the subject of campaign reform.

This is not new to us. We have been through it. We originally conceived of a measure with 22 specific points. We have narrowed it down today in this substitute to merely four for the sake of clarity and concentrating on the most important issues for the moment that we might have those very well debated here today.

I stand before the Members today, quite frankly, as a reformer. Yes, this old bull, this "man of the House," this battle-hardened 35-year veteran of political wars. At the end of the 100th Congress—I believe it was in December 1988—I challenged the majority to join us in the reform of campaigns. As I indicated, we convened the task force, and we devoted many, many hours to that subject, and we stuck with our plans on this side. We did not have to abandon them in the last few minutes for fear that what we were trying to sell to this House would not wash with the American people.

Three long years passed, and, of course, the majority did not accept our challenge until just now. I think it is rather significant that we have gone right up until the last day or so before we finally get to campaign reform.

Working with my Republican colleagues, we produced a bill that is true and meaningful campaign reform. At its heart are three basic principles, as has been pointed out so well by previous speakers during general debate.

The first is to return elections back to our constituents and away from Washington's special interests. We accomplished this by requiring half of a candidate's money be raised from back home. This is our power, quite frankly, to spending limits, as much as I decry the ever-increasing and escalating costs of campaigns. When I ran the first time in 1956, it cost $15,000 and I got myself elected to Congress as a freshman. Then, of course, by 1982, when we had a tough campaign, it was up to about $600,000. I decry that escalating increased cost of spending. But we were able to accomplish it at that time.

Our answer to spending limits is one of flexibility. If, for example, in a sparsely settled State if they can only raise $50,000 for a candidate out there on either side of the aisle, that is the level of campaign spending they are going to have in that State. If New York City or Orange County want to spend $3 million on a congressional race, that is their prerogative. That is the difference between the two districts. And that is more than what the people in Peoria would like to spend in the central Illinois district for BOB MICHEL.

We say that if half of that money comes from the local district, we have automatic spending limits, and it is going to vary around the country and not be some national norm and put every one of us in the same kind of straitjacket.

Then, second, we reduce the influence of special interests. We accomplish that by reducing the amount PAC's can give from $5,000 per PAC to $1,000. Let us face it, PAC's were born of reform a number of years ago. We said we wanted to spread the contributions around, encourage more people to participate in the process, and a $5,000 limit was set at that time. If that is bad, then on our side, "ask what is the basis for a change?" And we make the rationale that if individuals can give up to $1,000, why not have PAC's capped at $1,000? It seems to me so odd that there are those who would say PAC money over $1,000 coming from maybe 300 or 400 people who give to a PAC at Caterpillar is more onerous than one corporate executive from a neighboring company, maybe a competitor of Caterpillar, giving us $1,000 on his own, and that is OK. What the devil is the difference?

I probably aim that at the members of the Press Gallery more than anything for decrying political action committees. We do not condemn them out of hand, but if they are too big, then let us have them, as a rationale, considered as individuals, with individuals and PAC's the same. That is our way of addressing that particular issue.

Third, the ban on soft money, often called the sewer money of politics, and as my friend, the gentleman from California [Mr. THOMAS], has so well pointed out, what that does to the whole political process. Democrats criticize our reform because they thrive on that kind of contribution in the big cities of this country.

Finally, we make our reform package effective January 1, 1992. Why wait 2 or 3 more years? If it is so good, why do we not get at it for this next election coming up just this coming year? We can do that. We can get it enacted, passed into law, and effective by January 1.

My moderate and conservative friends across the aisle had good reason to worry about the Gejdenson bill, and I might say on our side of the aisle that when we had those advocates of tax credits for contributions, I said that if we are against public financing of campaigns, we have got to be against tax credits for contributions. If you cannot be for one, you cannot be for the other. So this is the position we took in our bill.

It was public financing, it was financing spending limit, it was an incumbent reelection plan that the American voters would have rejected at the polls next November. But the majority managed to drag something out on the floor that they called reform.

But a $600,000 spending limit is not reform. It is a reprieve, quite frankly, for incumbents who would be beaten if challengers had a fair chance.

The Democrats' refusal to act on PAC's and soft money is not reform. It is a reward. They will say that this is a $200,000 limit overall, but that does not do anything about those who can give $5,000 apiece.

You can call the Democratic package a reprieve or a reward, or you can call it a rebuke to the voters who dare to ask for real reform, you can call it a reprisal against challengers, call it a political illusionist's trick, making true reform disappear by the wave of

magic by the Democratic majority, call it anything you want, but whatever you do, do not call it reform. Reform is too important a word to be debased by applying it to the ultimate insiders' ploy, a desperate attempt to disguise the power of the perk by the mantle of respectability.

□ 1620

Fifty-five years ago, a great political leader said, "The voice of great events is proclaiming to us: Reform if you would preserve."

That leader was Franklin Delano Roosevelt.

This Republican is quoting from FDR only to show that the need for reform must transcend partisanship. If we are to preserve all that is good in this institution, believe me, we have to reform.

To truly reform means something more than shifting the pieces around to create a more organized version of the status quo. To truly reform is to become radical in the original meaning of that word, to go to the very root of the thing.

The Republican reform gets to the root of the problem; the Democratic package merely trims and snips and makes surface changes.

The Republican reform brings the process back to the people of our districts; the Democratic package turns its back on the people and offers them soft soap financed by soft money.

Mr. Chairman, the voice of great events speaks to us today. It is a voice crying out in the wilderness the majority has made of this institution with unrestricted power. It is a voice crying "Reform now."

Let us heed that voice by voting for the only proposal for reform that will really reform—that is our Republican substitute.

The CHAIRMAN. The gentleman from Illinois [Mr. MICHEL] has consumed 9 minutes.

Mr. ROSE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I first want to say to my colleague from Illinois [Mr. MICHEL] who just spoke that I found a couple of things in his statement that I agreed with, one of which is that it would be better that we raise more money in our local districts. That is a good idea. Banning of soft money or getting a little tougher on soft money, that is a good idea.

But then I found a lot that I had to disagree with. I found it interesting that my colleague and the Republican plan talks about our limit of $600,000. At least it is a limit. If that is too much, why do we not have a suggestion to lower that limit? I think one would find a lot of support for that on this side of the aisle. Certainly, this Member would be supportive.

Mr. Chairman, I found it interesting as we talk about the difference between 200 people giving $1,000 or 40 people giving $5,000, if the 40 are reflective of literally hundreds of individuals who have organized for purposes of participating in the political process.

I do not think that floats. I do not think it makes that much difference. In fact, I have spent too much time encouraging people to involve themselves in the political process to suddenly say all of that is for naught.

Mr. Chairman, I really have been interested in listening, particularly to the gentleman from California, talking about taxes that are in this bill. There are no taxes in this bill.

Very clearly specified in the rhetoric that has been spoken on this floor from the other side today that says there is, you have not read the bill. It would be helpful before you stand in the well to read the bill. There are no taxes.

Also, I find it interesting, particularly the gentleman from California [Mr. THOMAS] talking about the mail subsidies.

Mr. Chairman, this is one of the areas that I really wished that we could have had a better effort for bipartisan action on this bill than what we are seeing here today. Because when you compare what the Republican committees have spent on mailing subsidies compared to what we Democrats have spent, it is the difference between night and day, $9,600,000 versus $600,000.

Maybe it is the pot calling the kettle black. But if there is one thing the American people want today from us, it is political honesty. To stand up and decry what we are proposing as incentives in our bill and saying that is evil, when on the other hand you are fully participating up to the tune of $9,600,000, strikes me as being a little bit—well, a little bit speaking with forked tongue.

Mr. Chairman, I say that there are good things in both bills. But, Mr. Chairman, I am here today to again encourage support of H.R. 3750.

This bill that we have proposed today on our side of the aisle is a spending limit bill. It contains a provision calling for a constitutional amendment to permit nonvoluntary spending limits, something that is growing in support on both sides of the aisle.

Reasonable spending limits should encourage greater competition in congressional races. This is a competition bill that we propose. With competition and choice comes responsiveness and accountability.

Just as important, we must recognize what our bill is not. It is not partisan, in spite of what you hear from the other side.

I urge my colleagues on the other side of the aisle to consider the fact that H.R. 3750 provides no partisan advantage to Democrats and is worthy of your support. The American people want an end to partisan bickering.

There is one other thing which this bill is not. This bill is not perfect. More can and needs to be done. Spending limits can be tightened. Passage of a constitutional amendment would eliminate the need for incentives to encourage compliance with voluntary limits. I hope we can join next year in seeing that this gets done.

Further restrictions on soft money are absolutely essential. No reform is final and there is always room for improvement. I personally would favor individual votes on all ideas for reform on this or some other day. However, we would be both unwise and imprudent if we were to reject the good for the sake of the unattained.

Mr. Chairman, the American people are watching the bottom line, and the bottom line is this: H.R. 3750 is a good first step. It is real reform. It is a spending limit bill that provides no direct taxes to candidates. It provides no partisan advantage. It encourages public participation in the system and fights apathy and alienation. It encourages competition and responsiveness.

My colleagues, that is the bottom line. If you support reform, support the Democratic package. Vote against the Republican substitute.

Mr. THOMAS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the substitute and in opposition to the majority bill.

Mr. Chairman, I would like to state that I support congressional reform—reform in the way this House is run, and as we are discussing today, improvements in the way congressional campaigns are financed. I find it exciting that today we have the opportunity to refine and perfect this great institution of government.

However, I must admit that I am quite disappointed because no matter how optimistic I try to be, I realistically foresee the imminent failure of this body to pass meaningful campaign finance reform.

We are all feeling pressure to enact legislation that will restore public confidence in Congress. However, passing H.R. 3750 would be like trying to put out a grease fire with water. The goals of this legislation, supposedly, are to try to put some control on the quickly rising costs of campaigns, to limit the unfair advantages held by incumbents, and to reduce the influence of special interest groups by capping the amount they can give. I wish to commend my colleagues for their hard work and creativity, in designing legislation that attempts to meet these goals.

However, the majority's bill fails to constitute real reform and will basically protect business as usual.

H.R. 3750 fails to give power back to our constituents, because it doesn't require any funds to come from the can-

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seeking reelection to the House after 12

If the Members do not like mixing

so expensive that today it takes a lot

VOL 137 PT 23 NO 21—25 1991 UMI

didate's districts. The PAC limit only gives more spending power to the big, well-funded PAC's who are able to give more money early in the campaign. The smaller PAC's will be shut out when the $200,000 PAC limit is reached.

Through public funding, citizens will be forced to support, with their tax dollars, political candidates whose philosophies they oppose. For example, a local women's club would not be able to donate to a local candidate's campaign, if the candidate had already reached the limit for PAC contributions. Meanwhile, their tax dollars would be doled out to any candidate who qualifies for matching funds—which means even candidates as has been suggested like David Duke, whose outrageous views they might oppose, would be funded.

Even though I know reform is desperately needed, I cannot give my vote to enact a bill that creates welfare for politicians. How will we be able to explain to the American people that the imperial Congress has just enacted a new perk where tax dollars will be used to fund our campaigns? Regardless of how it is disguised, public financing as already stated is opposed by 70 percent of the American people.

Fortunately, there is another option. I urge my colleagues to take a good look at the Republican alternative. It meets the goals of reform, by ensuring that contributions are coming from the folks back home. PAC's will be put at the same level as individuals, and soft money contributions will be stopped.

For those who truly wish to clean up the way we finance our campaigns, and for those who don't merely wish to increase the President's veto record, there is an alternative. If you are against public financing and for real, long-overdue reforms, please support the Republican substitute.

[Mr. THOMAS of California addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. LEWIS].

□ 1630

Mr. LEWIS of Georgia. Mr. Chairman, I want to thank the gentleman for yielding time to me.

Mr. Chairman, I rise today to speak on behalf of the campaign finance reform bill that was introduced by my colleague, Congressman GEJDENSON. This bill has been carefully crafted to address the concerns of all of us here in the Congress. It gives us an opportunity to vote for a fair and far-reaching package.

In passing this bill, this Congress will encourage greater citizen participation in the political process. As one who worked several years for the passage of the Voting Rights Act of 1965, I have become concerned with the growing public disenchantment with the political process. It seems as if the American people feel that elected officials are not responding to their needs. Of equal concern to me is the perception that the average American citizen has little or no way to influence the political process. This bill provides the opportunities to change these perceptions.

First, it will make political campaigns a marketplace of ideas, where we debate the concerns of the people, rather than a competition to fill campaign coffers. When we take our campaigns to the streets, the plant gates, the shopping malls, barbershops, beauty shops, and the doorsteps of America, we will engage all of the electorate in the issues that confront our society.

Second, this bill would help shift the focus of campaign fundraising back to the average person we represent. This bill would encourage us to spend more time with the people who actually vote for us.

I urge you to vote for this bill and let's bring the American people back to the political process.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, today we have a historic opportunity, the opportunity embodied in H.R. 3750. And it is no mistake that it starts out and says, "The House of Representatives Campaign Spending Limit and Election Reform Act of 1991."

The reason it says "spending limit" is because that is the root of the evil that this bill addresses. All of the rhetoric coming from the other side about the substitute cannot fail to emphasize that point enough. They do not want to have a spending limit. That is the key, not where the contributions come from, that drives up the second that there is a spending limit.

The President does not hesitate a moment to go to Houston, go to Dallas, $1,000 a pop. We do not have to worry about political action committees there. Not when we have people who can be paid in inflated salaries with the full expectation that they will give this money back to selected candidates at $1,000 a pop and then call for political action committees to be put down in this country so that the average working person who contributes their dollar or two a month can participate in these elections the same way the high-priced executives do.

When we hear political action committees being assaulted by people who are paying $1,000 every time they want to sit down for lunch with the President so he can ask credit card rates to come down and then have John Sununu decide for him that he did not really mean it, that is what we are talking about.

Are we going to limit spending and enable the average person to get back into this political contest or not? That is what this is all about, and that is what this bill does.

After all the rhetoric is over with, after all the arguments about this Republican substitute comes to the forefront, remember that this bill was the first step in making sure that there was a spending limitation and that the average person had a chance to get back into politics in this country.

If Members are for the little person and for elections in this country that are fair and just, vote yes.

Mr. THOMAS of California. Mr. chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, first of all I want to say that I stand in strong support of the Michel substitute. I also want to commend the gentleman from California who I know has virtually worked years on this issue to try to bring consensus and change to the election process of this country.

Like the gentleman from Hawaii [Mr. ABERCROMBIE], my good friend, has just talked about, the Presidential politics and Presidential campaigns, let us talk about congressional campaigns and congressional change, a couple differences between the bill and the substitute that we have before us.

I think they are important. We talk about spending limits, and this bill before us has a $600,000 spending limit that can roll on in just a few short years to a $1 million spending limit. That is not much of a spending limit, Mr. Chairman.

But let me say that when we start to bring the campaign back home, when the people who live in our districts that shell out the $10 and the $15 and the $25 and make the $100 donations because they believe in what we say, they believe in what we do, and they believe in how we represent them or how we will represent them, that is campaign election reform.

Mr. Chairman, I might say to my colleagues on the other side of the aisle, that is campaign spending limitation. When the people back home can say, "We elected this man or woman. We put in our dollars in our campaign contributions, not some big PAC that effected a candidate in the Midwest from the east coast or the west coast but people back home effected change because it was their contributions, it was their support for their candidate that made a change."

Mr. Chairman, I think we need to support the Michel substitute.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, I thank the gentleman for yielding time to me, and I appreciate this opportunity to speak.

Most of my colleagues know at the conclusion of this term I will not be

seeking reelection to the House after 12 years. For those who believe that this in some way, shape, or form is a vindication of term limits, they could not be more terribly mistaken. But we also could not be more terribly mistaken if we did not realize that term limits was the cudgel, the bat, the shotgun behind the door that is headed straight toward this institution simply because the people at home feel that elections no longer are fair.

They will not be made more fair by the adoption of the Republican substitute today for it could be most appropriately entitled the campaign finance reform "lite." It does nothing with exorbitant expenditure increases. It does nothing with negative advertising. It does nothing with the accumulation of vast resources in the hands of Tammany Hall-like political parties.

No; it simply picks on one part of the problem, PAC's, and places limits on them. And that is indeed appropriate. But if we truly believe that the money chase will ultimately chase more people like me from seeking elected office, then we need to reject the Republican substitute and focus on the important first steps that the Democrat alternative has before us today.

It makes limits for parties, for individuals, for PAC's. It ends the horrors of those independent grossly misstated campaigns that just rip the hearts and souls out of our campaigns. It will end the practice where a 30-second TV commercial means more than a 30-year career, something that I know the minority leader has come to regret over the lifetime of his campaigns, but most importantly, the Democratic alternative will say that we are more in favor of elections and more opposed to auctions, that we believe that ideas ought to be the test and not the size of one's checkbook.

Reject the Republican substitute. Support the Democratic first stop for reform.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington, [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, we keep hearing from the other side of the aisle that this bill contains public financing. It is because they wrote their speeches before they read the bill. It does not contain any public financing. It does raise the question, what do we do if we are concerned about private money mixing with public policy?

It seems to me that changing the nature of the private money is not going to do any good.

□ 1640

One thousand dollars from a PAC is no dirtier and no cleaner than $1,000 from an individual representing the same interest. One thousand dollars from the widget PAC is just the same as $1,000 from the executive of the widget makers of upper New Hampshire.

If the Members do not like mixing private money with public policy there are two things they can do. They can go to public financing, which is not currently in our program, or they can limit not the nature but the amount of money that goes into the public process from the private sector. This bill does the latter. This bill reduces the amount of money that goes from the private sector to the public sector.

I urge my colleagues to support this bill.

Mr. ROSE. Mr. Chairman, I would yield 1 minute to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding time.

Mr. Chairman, I rise in enthusiastic support of the substitute being offered by the minority leader and through the gentleman from California [Mr. THOMAS]. The idea that the bulk of a candidate's contributions should come from local sources simply makes good sense. It is an idea whose time, frankly, came some time ago, but the majority party just does not recognize that.

I would add my voice to those who would pay tribute justly to our colleague, the gentleman from California [Mr. THOMAS], who has led the charge for some years now to enact a local financing requirement. Under his leadership the House did indeed overwhelmingly endorse the concept of local financing in the last Congress. More importantly, local financing has won acceptance by those who live in the real world, which is outside this beltway. As we all know, the changes we are discussing today will not become law any time soon, because what we are involved in here today is really political posturing leading to next year. The House will have to revisit this issue yet again, and when we do I will be asking the Members to consider a variation on this theme of local financing.

I would propose that we sever the direct link between the candidates and the PAC's, which gives rise to the perception of buying access or buying influence, and I would do this by redirecting PAC contributions to the national party committees. The NRCC and the DCCC would then contribute those dollars to candidates, but only up to the amount the candidate has already raised locally. We would join the idea of divorcing the PAC contributions from the direct contributions to the candidate.

I would urge an aye vote on the substitute.

Mr. ROSE. Mr. Chairman, it is my privilege to yield 8 minutes to the gentleman from Connecticut [Mr. GEJDENSON], the chairman of the task force.

Mr. GEJDENSON. Mr. Chairman, if we walk through the center doors of the Chamber, the only statue that looks at this House is the statue of Will Rogers, and some 60 years ago Will Rogers said that "Elections are getting so expensive that today it takes a lot of money to lose one." Had Will Rogers lived today he would surely be shocked by the cost of campaigns.

There is one fundamental difference that we start with between the alternative of the gentleman from California [Mr. THOMAS] and the minority leader in our bill; that they have no limit on spending. Let me tell the Members what that means. Following the Republican proposal, we could go out and get $1 million from political action committees. In fact, if we could get all 4,000 political action committees to contribute to us, we could raise $4 million from political action committees.

There is a caveat here. The caveat must be, and I am not quite sure, because we just recently saw their bill, that we have to raise $4 million from rich people, so here is the limit. The limit is somewhere around $8 million if we follow their bill, if we just want to take the max in legally allowed PAC contributions under what they are trying to sell us as reform.

This is not reform. We know what they are doing. They are trying to rig the system. They are trying to rig the system so only the wealthy can be represented here. They are trying to make sure that the challengers will not be able to raise money in their districts, because who wants to be against the incumbent Congressman. They want to make sure that blacks, minorities, and women who are already underrepresented here are shut off from any opportunity to get their message out.

It is interesting, as we talk to our opponents in this process, they tell us that the present system gives incumbents an advantage because incumbents raise so much more money than challengers. Then they turn around and say, "but if we put a limit on spending then we are giving incumbents protection as well." They cannot have it both ways. It cannot be an advantage to incumbents that we have unlimited spending and that if we limit spending it is an advantage for incumbents as well.

We do not have public financing in this bill. If I had 218 votes I would have put it in, but the Congress is not ready to do that and we are going to have to debate on another day how we fund some of these issues. But I am amazed by the Republican shock at public funds in campaigns, $129 million just for campaigns that President Bush has been involved in; $212 million taken by Republican candidates running for President. The Republican National Committee has taken $24 million of public funds just to pay for their lavish parties called conventions.

Now, if they are that offended by public funds, for God's sake, give it back. The Treasury will take it. Or do not take any more. But I do not think they ought to do that, because when we

look at the process, everybody says the

seem to get off the mark without try-

$5,000; and third, it bans so-called soft

Mr. THOMAS of California. Mr.

Mr. PANETTA. Mr. Chairman, I rise

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VOL 137
PT 23
NO 21—25
1991
UMI

look at the process, everybody says the Presidential system is better today than it was in the past.

The Republican alternative does one other thing; it guarantees that there is a fight to raise funds, to shackle opponents, those who do not appeal to the wealthiest in society. This is now a race to appeal to rich people and powerful people or else one cannot get in the debate.

A colleague of ours, the gentleman from Louisiana [Mr. HAYES], has a district that is 90-percent poor and 90-percent black. He clearly represents the position of his constitutents, but under the Republican alternative Mr. HAYES could not get to Congress unless he had a voice loud enough to be heard in his district without having a penny of campaign funds, because his people cannot pay their utility bills. They have a hard time paying for groceries and rent, let alone being able to give $25 or $100, and certainly not $1,000 to a Congessman they believe in.

We ought not be calling something reform that chokes off the debate, that precludes one side or the other from getting funds. The first speaker on our side, the gentleman from Florida [Mr. JAMES], looked at the numbers instead of just rejecting this out of the bill. The gentleman from Florida, a Republican, said this bill treats everyone fairly.

We did not start this off trying to rig the money only to the Democratic side; we wanted to level the playing field, and that is what American politics ought to be all about, not trying to rig it so that only the rich can get to play and call the tune. This is the most open political process in the globe. People around the world, with all our faults and failures, still want to emulate what is done here in America. As Eastern Europe and the Soviet Union look toward democracy, they are not rushing to Japan for a model for a democratic institution. They look to this place.

At the end of World War II my parents, who survived the Nazis and Stalin, chose America because it gave an opportunity to all people, no matter what their wealth or their background.

There is a lot of talk about a closed system. This system is not closed, but it ought to be more open. For my friends on the Republican side of the aisle I would like to remind them of a few things. For the first 6 years of the 1980's the Republicans had control of the U.S. Senate and they lost it because they lost the confidence of the American people. If the Republicans had kept the seats they have had in this House over this decade they would have a majority.

We need to make this process fair not just for the wealthy people, and this is the failure of the party on the other side, that whether it is tax breaks or campaign finance reform, they cannot seem to get off the mark without trying to rig it for people with wealth. Maybe they do not understand it. Maybe that is worst of all; they do not understand that people who are trying to feed their kids and send them to school do not have a lot of disposable cash.

□ 1650

The choice here is a very simple one. It is a choice between a bill that has no limits, that would allow a Member seeking Congress to get $4 million in political action committee money and call it reform.

I am not against political action committees. For God's sake, everybody in this House takes them. If they are so bad, stop taking them on your own. They put some balance into the system, too. What is wrong with political action committees is when they dominate the process, when suddenly we find 50, 60, or 70 percent of our money coming from political action committees.

If you cut down political action committees, we go back to before 1974. It is just rich people again. Instead of, yes, union workers and environmentalists and people who care about children having access to the political system, it becomes just millionaires again.

It seems to me if there is one message we ought to send from here it is that we can restrain spending, that we can have a political system that engages debate rather than a chase for dollars, and an unending chase for dollars, and that the American people ought to be proud of the Congress they have.

Lastly, I would like to close with some of what my colleagues persist on doing in this well—demeaning this Chamber. This is the pride of people who seek democratic government across the globe, and whether you agree with the Democratic proposal that the gentleman from North Carolina [Mr. ROSE] and I have drafted or the bill that the gentleman from Illinois [Mr. MICHEL] and the gentleman from California [Mr. THOMAS] have put before us, do not demean this Chamber. This is the fundamental first Hall of democracy on this planet.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Michel Republican substitute to the campaign finance reform bill, H.R. 3750.

The Republican substitute, offered by Mr. MICHEL, accomplishes three key real reforms: First, it requires that at least half of a candidate's campaign funds be raised from individual contributors living within his or her district; second, it caps political action committee [PAC] contributions at $1,000, down from the current limits of $5,000; and third, it bans so-called soft money, money given to State political parties for use in Federal elections.

Each of these reforms, Mr. Chairman, is key to reforming campaign finance laws. Taken together, they strengthen the role of individuals, and reduce the influence of special interests in campaign finance; they return control of campaign finance to local contributions; and the reduce the influence of outside kingmakers and political machines.

The Democratic plan, by contrast, keeps the PAC ceiling at the same level—$5,000—has no provision requiring a majority of contributions to come from local contributors, and, calls for taxpayers to finance congressional campaigns.

Mr. Chairman, taxpayers are already allowed to contribute to congressional campaigns—voluntarily. And they do so. But under the Democratic plan, all taxpayers would be called upon to contribute to all candidates. This just won't fly.

Mr. Chairman, the taxpayers are calling for reform of campaign finance laws. They are not calling for mandatory taxpayer financing of campaigns. In addition, the spending ceiling on campaigns imposed by the Democratic bill would benefit incumbents and put challengers at a disadvantage, due to the built-in advantages of incumbents in any campaign.

Mr. Chairman, the people want true campaign finance reform, not a sham. I urge members to support the Michel substitute.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Chairman, the cost of congressional campaigns is out of hand. Today, the average cost of winning a House seat is $410,000, more than double the amount spent in 1980. This is a dangerous trend. Elections should not be decided by the amount of money you can raise. They should be decided by your track record, your commitment, and ability to bring about results in response to the issues and concerns of the people who have an opportunity to vote for you. The voluntary spending limit imposed by this bill is the only way to stop the money chase that drives candidates away from small, individual contributors. The make-democracy-work fund allows for matching funds for each $200 contribution a candidate receives from individual contributors, and it encourages candidates to rely on people from their district. This legislation gives the people of this country equal footing with large campaign contributors. And it will not cost taxpayers one dime. We must put the people back into the electoral process, and balance the influence of large contributors and PAC's. We are a representative government, and our electoral system must reflect this fundamental principle of democracy.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of the substitute.

I think most everyone in this Chamber is very much interested in doing something with campaign reform. I am interested not only as a candidate, but as a political activist who has been very much involved in the political process for some time. I am one who believes that politics is the process of self-government and that in it we need people to be involved, and I think that really what we are talking about here is how people get involved.

We hear some Members going on and on about the rich people. I do not know where that all comes from. I have been involved in it for a very long time, and I can tell you it is not exclusively for rich people.

I have heard a lot about oxymorons. Someone said this whole thing was an oxymoron.

Let me cite a couple that I have listened to in the last few minutes I have been here.

Increased involvement—you do not get that from public funding.

Reducing the special interests—you do not get that from leaving PAC's as they are.

The primary concern of the American people is to limit spending—you do not get that when you allow a million dollars in spending.

What we need to do is take a look at a bill that has some real substance to it, and the most important is raising the funds locally.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. chairman, I rise in strong support of the Republican substitute.

Mr. Chairman, the Republican substitute requires that a majority of a candidate's funds be raised from local district sources. If you are from Michigan, you should be raising money from Detroit or Lansing, Holland, St. Joe, or Kalamazoo. If you are from Michigan you should not be going to Burbank, Dallas, Phoenix, New York, or Miami to raise a majority of your district funds. That is just not right.

How often have we heard that special interests are controlling this institution. The Republican substitute reduces the allowable maximum PAC contribution to a candidate from $5,000 to $1,000. What is wrong with that?

Last, it bans soft money contributions to political parties for use in Federal elections.

Full disclosure, that is what we want, that is what this bill does. What is wrong with that?

Mr. Chairman, I urge my colleagues to support the Republican Campaign Reform Act.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 3750, the House of Representatives Campaign Spending Limit and Election Reform Act of 1991, and against the Republican substitute.

As a member of the Task Force on Campaign Finance Reform, I feel it is unfortunate that Democrats and Republicans were unable to reach a consensus on an approach for campaign finance reform. I hope, however, that all in this Chamber share the common goal of enacting real reform that will serve to restore the trust of the American people in our electoral process. To restore this trust I believe we must take action to stop the rising costs of campaigns, limit contributions of special interests and the wealthy, and provide voters with a meaningful role in campaign fundraising. H.R. 3750 achieves these goals.

First, H.R. 3750 seeks to control campaign costs by establishing a voluntary spending limit of $600,000 per election cycle. Capping campaign expenditures is perhaps the most important and long-lasting reform which the Congress can enact. The $600,000 limit will help stop the ever-increasing money chase for both incumbents and challengers, and level the playing field for challengers by allowing them to run competitive, even-matched races.

Second, H.R. 3750 reduces the influence of special interests and wealthy donors in House elections by limiting amounts political action committees [PAC's] and large donors may contribute to House candidates. These limits will also serve to encourage individuals' participation in the campaign but bolstering the importance of small individual donors in House campaigns.

Third, the legislation helps level the playing field for challengers and reduce the time candidates spend fundraising by offering matching funds to candidates that abide by the voluntary spending limits. Matching funds will also encourage candidates to seek local, small donor contributions necessary to qualify for matching funds. This will provide candidates with the incentive to raise contributions from local, small donors without raising constitutional concerns by statutorily requiring in-district fundraising.

It is my hope that the bill's combination of the contribution limits and emphasis on small donor donations will serve to rejuvenate voters' participation and trust in our electoral system. As I noted above, it is regrettable that this bill will not be passing with bipartisan support. I believe it is a strong bill that will bring real reform to our electoral system and commend Chairman GEJDENSON for his tremendous work in bringing forth this proposal. The chairman had a very difficult charge to fill and invested a great deal of effort into devising legislation that provides real reform while not unduly complicating the process. The fruit of this effort is the opportunity for this Chamber to enact the strongest campaign reform legislation considered by the House in recent history. The House must act on this opportunity to show the American public that we hear their concerns, that we understand their frustration, and that we are serious about campaign finance reform. I urge my colleagues to support the adoption of H.R. 3750.

Mr. THOMAS of California. Mr. Chairman, I yield 30 seconds to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the Michel substitute to bring our own constituents back in the election process.

The Democrats' bill does not address the No. 1 problem in our election system—voter turnout. The substitute will increase voter confidence and thereby, turnout.

We can win their confidence by requiring local financing of campaigns and limiting PAC contributions further. We cannot do it by asking for public financing.

How can limiting spending do anything but discourage outsiders from running when they must spend much time and money just getting their name recognized?

The substitute will take the step of involving more of our constituents in the election process. The more that our constituents feel they can contribute to a race they are voting on, the more confidence they will have in the system.

If people are so worried about costs of campaigns around here, maybe we should ask the newspapers, radio and TV stations to donate more cheap time for candidates. I do not see anyone in the media lending anything but criticism to our current system.

Mr. ROSE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I urge my colleagues to vote against this substitute.

□ 1700

It unfairly discriminates against women and minorities. It fails to cut the cost of campaigns. It increases the power of the almighty dollar.

But most important, it fails to limit the cost of campaigns for Federal elections.

The American people have told us loud and clear that they want a cap on spending. H.R. 3750 does that; the substitute does not.

Taxpayers are used to making tax contributions to pay for elections in this country. They pay for the cost of conducting the elections. But they did not want their tax dollars at this time going for candidates for Congress. We have taken that from this bill.

I hope you will vote against the substitute and support H.R. 3750 as it was originally written.

There is another concern I have that is

And so I come here today and ask

of campaign reform in the House of

VOL
137
PT
23
NO
21—25
1991
UMI

Mr. THOMAS of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would ask the chairman of the Committee on House Administration if he would respond to a question in regard to his bill.

Under title III, requirement of budget neutrality, it says that certain provisions have to be in effect before the bill goes into effect. It says that these provisions must create incentives and that this is a cost as defined under cost and savings under the Deficit Control Act.

Mr. Chairman, is the gentleman saying that this bill will go into effect in 1994, even if there are no tax bills?

Mr. ROSE. I yield to the chairman of the task force——

Mr. THOMAS of California. No, no, I asked the gentleman to respond on my time.

Mr. ROSE. Yes, the bill will go into effect in——

Mr. THOMAS of California. With no new revenue voted?

Mr. ROSE. Yes.

Mr. THOMAS of California. The gentleman does not understand his own bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Republican substitute. And the reason I do it is because the Republican substitute requires candidates to go to their own voters to raise the money for their campaigns.

Today, many Members of this body, and many Members of this Congress, raise the majority of their campaign funds from people and PAC's that are 1,000, 2,000, 3,000 miles away from their districts. We also require full disclosure of indirect campaign contributions.

Under our bill, there would be no more undisclosed, under-the-table donations; donations to benefit a Federal candidate would have to be disclosed and comply with FEC regulations.

The Democratic bill does not encourage the involvement of local voters; it does not require the disclosure of indirect, under-the-table campaign contributions. It is only the Republican bill that responds to the concerns of the American people.

Our bill is easy to understand because it is based on principles that are 200 years old in this country, that power belongs to the local people, both in terms of voting and in terms of financing.

My colleague, the gentleman from Alaska [Mr. YOUNG], made the point about perks. Today, at a time when the American people are fed up with the perks that Congress gives to itself, you are now proposing to go to the people and take their tax money to pay for our own reelections.

I have never seen a bigger perk than that.

Mr. Chairman, it is time to let the American people control the destiny of Congress by letting the voters in each district determine who they are going to support. We should not go to voters who live thousands of miles away with totally different interests and concerns and get our money from them to be sent to Congress.

Mr. ROSE. Mr. Chairman, I yield as much time as he may consume to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the Gejdenson bill.

I stand as the only Independent in Congress, a minority of one, in support of H.R. 3750, the strongest campaign finance reform bill in the House of Representatives. Dozens of bills have been circulated in both the House and the Senate. The comprehensive measure drafted by the Task Force on Campaign Finance Reform headed by Representative GEJDENSON of Connecticut is, in my view, the best piece of legislation that this body, as it is presently constituted, can pass. That is not to say that it is the best piece of legislation that can be written. Far from it. However, at this point in time, it is imperative to pass legislation which addresses the impact increasingly costly elections are having on the quality of our democracy. Candidates spend too much time in pursuit of money and too little time debating the issues; incumbents have a markedly high advantage in fundraising which turns into a major advantage in campaigns so that 96 percent of the incumbents get reelected; challengers can't afford to get their message out, and voters are often denied the opportunity to make an informed choice. All and all, the current situation leads to cynicism, disgust, and a voter turnout which is now, far and away, the lowest for any industrialized democracy on Earth.

I, and my staff, have worked with the task force to draft reforms which would lead to a more democratic process and lessen the impact of big-money interests. H.R. 3750 institutes spending limits, provides matching funds for small donor contributions, caps contributions from PAC's and large donors, closes a variety of campaign loopholes dealing with independent expenditures, bundling, and soft money, reduces postal rates, ensures the lowest television advertising rates and bans leadership PAC's. While I applaud the committee's work, it is important to note that this is only the first step toward enacting widereaching, meaningful campaign reform. The goal that we must ultimately achieve is one in which all candidates—rich and poor, challenger and incumbent, Democrat, Republican, Independent or third party, have an equal opportunity to electoral success. That is what democracy is all about.

The heart of any real campaign finance reform must be a limit on spending—an end to the money chase. Only this will stop the escalating costs of campaigns, level the playing field for incumbents and challengers alike, and reduce the amount of time and energy spent in soliciting campaign contributions. H.R. 3750 sets a spending limit of $600,000—in my mind, arbitrary and much too high. Past campaign expenditures, differing media markets, and wage disparities make such a dollar amount inappropriate for legislation which effects 50 States. I would prefer to develop a formula based on voting-age population taking these variables into consideration. The goal must be to spend as little as possible while making sure that all citizens are fully informed as to the positions and views of the candidates.

Any provision for Federal money should leverage the impact of small individual donations. Our preferred approach, to establish a small donor (under $200) matching fund and have that be the method of dispersing public funds, is the method the task force has chosen. This, and the fact that individual contributions are limited to $200,000, will provide a disincentive for candidates to seek large sums from single sources as only the first $200 of any contribution will be matched. This is a start—we could go further and lower the amount individuals can contribute.

H.R. 3750 also limits every candidate, regardless of whether they accept the spending limit, to $200,000 from large contributors, counting the candidate's personal contributions toward that limit. Considering that one-third of the Senate and about three dozen Members of the House are millionaires, this is an important provision of the bill.

A campaign spending limit only works if all the candidates sign on and it is adequately monitored. To address the first issue, I'd like to make the spending limit an offer you can't refuse by requiring, as the Senate bill does, a tagline on all voter communications by noncomplying candidates stating that the candidate has not agreed to abide by the spending limits. The issue of monitoring is a bit more difficult to deal with but that is precisely why it must be written into law and implemented consistently.

PAC's are a favorite target these days and there seems to be an unwillingness to distinguish between corporate or large donor PAC's and those controlled by low- and moderate-income citizens. I believe there is a vast difference and I am disappointed that this is not addressed in this legislation. One option would be to have candidates specifically outline their points of agreement and points of disagreement with each PAC they receive money from or to sign-on to their agenda. Another might be to set different PAC limits for small donor and corporate PAC's as they did in the 1990 Senate bill. We should, and do in H.R. 3750, set a limit on the amount of PAC money a candidate is allowed to accept—$200,000. We would also prefer an outright ban on PAC's of foreign-owned companies.

The amount of soft money from parties and independent expenditures that influence campaigns with little or no public scrutiny is of great importance. H.R. 3750 closes a number of loopholes and mandates stricter reporting requirements in these areas though, in my view, it does not go far enough. I would suggest counting all outside expenditures, including party money, as candidate expenditures, including party money, as candidate expenditures and subjecting them to the same disclosure and spending guidelines.

There is another concern I have that is probably not at the top of any other Congressman's list. As the only Independent in Congress at the present time, I want to ensure that congressional reforms do not make it more difficult for candidates who choose to run outside the two-party system. All candidates, not just Democrats and Republicans, deserve a fair shot in an election. The Senate bill (S. 3) actually had several problems in this area. For instance, Democrats and Republicans would get twice the number of communication vouchers as third-party or Independents under this plan. That is unacceptable. I hope and expect that, if H.R. 3750 passes and goes on to conference committee, the final bill will create a level playing field for all candidates regardless of party affiliation.

Mr. ROSE. Mr. Chairman, it is my privilege to yield 4 minutes to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

Mr. GEPHARDT. Mr. Chairman and Members of the House, I first want to congratulate the Members who have worked so hard to bring us to this moment. This is legislation that all of us think we are experts on because we all run for reelection, and I know how hard it is to put this kind of legislation together.

Recently, Peter Hart and Douglas Bailey, two renowned testers of public opinion, did a study of the question of politics and campaigns and political reform. And in their conclusion they said this:

> At the very moment when communism has fallen to democratic aspirations in the Soviet Union, American democracy faces a crisis of confidence among American citizens. People across the United States increasingly have come to doubt whether our political system works, either as a vehicle for expressing their will or as an effective mechanism for confronting the Nation's problems.
>
> Many citizens, even those who still vote, have concluded that they do not exercise real authority over our political system. Americans desperately want to believe that theirs is a government of, by, and for the people. Down deep, "they say," however, very few think we have that today.

In their prescriptions that they asked people about for solving this problem, the No. 1 solution that people gave was to reduce the amount of money that candidates raise and spend on campaigns.

I submit, ladies and gentlemen of the House, that the bill that the gentleman from North Carolina [Mr. ROSE] and the gentleman from Connecticut [Mr. GEJDENSON] have brought is the only proposition before us this afternoon that will do what the great majority of the American people want done, and that is to get the amount of money that is being spent in campaigns, to be reduced. The Republican alternative, probably better than what we have today, simply does not get the job done. There is no cap, there is no limit, there is no end; it is still open-ended.

It changes the way in which it works a bit, but it does not solve the problem.

And so I come here today and ask Members to reject the substitute, and to vote for what has been produced, because it is real reform.

If we can leave here in the next few days or weeks, whenever we leave, and feel that we have really done the right thing to restore the faith of the American people, that they do control this system, they do have a say, that the special interests are not in control, but they are actually funding the campaigns of the people that come here, then we will have really helped.

There is no more important issue in front of us than this one. We have to restore the faith of the American people and the bill that the gentleman from North Carolina [Mr. ROSE] and the gentleman from Connecticut [Mr. GEJDENSON] have produced, is the best way to do that.

I urge Members to vote against the substitute and to vote for the Democratic proposition.

Mr. THOMAS of California. Mr. Chairman, I understand the Chair indicated that this gentleman from California has the right to close. Mr. Chairman, we have one final speaker.

The CHAIRMAN. The gentleman is correct. The Chair also informs the gentleman that the gentleman from California has 7 minutes remaining, and the gentleman from North Carolina [Mr. ROSE] has 3 minutes remaining.

Mr. ROSE. Mr. Chairman, I have only one speaker left, and that is the distinguished Speaker of the House, the gentleman from Washington [Mr. FOLEY].

The CHAIRMAN. Under the rule, the proponents of the substitute have the right to close.

Mr. ROSE. Mr. Chairman, it is my pleasure to yield the balance of our time to the Speaker of the House, the gentleman from Washington [Mr. FOLEY].

The CHAIRMAN. The Speaker of the House is recognized for 3 minutes.

Mr. FOLEY. Mr. Chairman, I think this is a historic moment in the House of Representatives. It is certainly one of the most important legislative moments of this year in this Congress.

Mr. Chairman, I want to pay tribute to all those who have worked so hard in bringing this difficult and complex, but enormously significant, legislation to the floor. I also want to salute not only the chairman of the committee, the gentleman from North Carolina [Mr. ROSE], and the chairman of the task force, the gentleman from Connecticut, Mr. GEJDENSON, who have particularly on this side of the aisle worked so assiduously and consistently to make this legislation possible, but the gentleman from the State of Washington [Mr. SWIFT], who in the last Congress was the chairman of the task force that brought forward the legislation that we passed at that time, and is in every way that is important a father of campaign reform in the House of Representatives.

Mr. Chairman, this is an important opportunity for the House to meet its commitment, a commitment given by our leadership on both sides of the aisle, that we would face this issue and resolve it in this session.

Mr. Chairman, this is a good bill; it is a good reform bill. It begins the process of lowering the ever-escalating costs of campaigning in this country. It brings elements of fairness and opportunity to the political system that did not exist before. It puts restraints on what is, in my view, the fundamentally acceptable method of campaign financing through political action committees, but limits their impact on the campaign process. It brings about, in many other ways, vastly important steps to make the system fairer, more equitable, more appropriate, and more credible to the American people.

☐ 1710

Mr. Chairman, as the gentleman from Connecticut [Mr. GEJDENSON] has said only a few moments ago at this podium,

> We have an obligation, I think, that goes beyond our first obligation which exists to our own citizens, to our own heritage, to our own traditions. We have an obligation to those around the world who look to the American political system as a model of the direction in which their societies should go.

In Alexanderplatz and in all of the squares and centers from Tiananmen to Alexanderplatz where people have been demonstrating for democracy, they were carrying in there hearts and minds the Constitution of the United States, the Declaration of Independence, the writings of Thomas Jefferson and Thomas Paine, the speeches of Abraham Lincoln. It is this country's traditions that have resonated around the world to spread a message of democracy and freedom.

Mr. Chairman, we have an obligation to renew and improve our own institutions, to see that they are always worthy of that support, not only at home, but abroad.

I commend to the Members of the House this bill. I believe that it will be one of the great achievements of the first session of this Congress that we will this afternoon reject the Republican substitute, with respect, and pass the bill brought to us by the committee and the task force.

Mr. THOMAS of California. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, the majority leader, the gentleman from Missouri [Mr. GEPHARDT], said that what we have is government of, by and for the people. I would contend that the campaign finance bill we have in front of us is government for the people, but not necessarily of and by. The expenditure limit has been selected after much difficulty in terms of arguments about campaign carryover funds that really

VOL 137
PT 23
NO 21—25
1991
UMI

only incumbents deal with, and, after wrestling with whether or not we should have under the limit or outside the limit campaign fundraising costs, legal costs or accounting costs, that are only concerns of incumbents.

Mr. Chairman, I say to my colleagues, "What you have in front of you is a bill written for the people."

I would suggest to my colleagues that the reason the Republican substitute is so difficult for the Democrats to comprehend is because the fundamental concept is government of and by the people. Yes, the public is concerned about how much money is spent in campaigns, but they are also concerned about where the money comes from.

Take a look at this. The overwhelmingly majority of the American public thinks it is a good idea to require the candidate to get the bulk of their funds from back home. Unfortunately the Democrats have not understood this fundamental concept and how it would completely change the election process.

For example, in the Democrat bill, by law we are now allowed a $600,000 carryover. That carryover is endorsed in this legislation, and now the incumbents will say, "Well, I've only got 550,000. I'm not even up to the limit under the acceptable campaign carryover."

I ask my colleagues, "What would you do if you went back home and told the people back home, 'I need more of your money. I need a few dollars from you before I can get a dollar from PAC's or from the outside, and, by the way, I have a $500,000 carryover.'?"

Do my colleagues know what the people would say to them? They would say, "Spend the carryover before you ask for more money."

Then my colleagues come to a Washington lobbyist. They put out a PAC fund raiser, which they are allowed to do under their bill with no real changes, and does that Washington lobbyist care whether my colleagues have a $500,000 carryover or not? No. Do my colleagues want the money? Lobbyist will give them the money. But if my colleagues had to rely on people back home to give them money, people are going to say, "Spend the carryover first."

Mr. Chairman, we have heard a lot about negative campaigning. How in the world does their bill change negative campaigning? It provides $600,000. We have really seen it provides $700, $750,000 in the first cycle. Not one penny is required to come from anybody in the district. Not one dime from someone who can vote for them. And so, they hire the political consultant, they hold their activities, and they go ahead and run negative campaigns.

Mr. Chairman, I ask my colleagues, "If you were required to get the money from people in your district, and you ran a negative campaign, how many people back home would fund that kind of a sleazy campaign?"

The only reason negative campaigns are successful is because my colleagues do not have to use money from people back home. They can use the PAC money and they can use the outside individuals' money.

Mr. Chairman, I say to them, "That's what your bill perpetuates. What you don't understand, what you've missed in terms of a fundamental point, is that money isn't the end in politics. Your bill focused on money, money, money. That is not the end in politics. The votes are the end in politics. Money is the means. And if you want a government of and by the people, as well as for the people, you wouldn't sit here in your arrogance and set up some kind of a micromanaged campaign structure so that incumbents arrogantly say, 'We've now given you a level playing field.'"

Mr. Chairman, if my colleagues really want fundamental reform, they will let the people back home decide how much money they as candidates are going to spend. I know it is radical, and I know my colleagues are opposed, and I know they are going to do everything they can to argue that this is simply a moneyed position. No, they are wrong, because right now the people back home who give $5 and $10 do not count. It is the thousand-dollar PAC, it is the thousand dollars of outside money, that calls the tune today. But if my colleagues had to get a dollar from a person inside their district before they could take a dollar outside their district, that person inside their district would become a whole lot more important.

But more important than that: We would get back to the fundamentals of politics. We would have government of and by the people. What would my colleagues have to do? They would have to go back home and mingle with their people in the district. They would have to ask those people for help. But do my colleagues know what happens when you have to ask people for help? Someone says, "Here, BILL," and I have done it at county fairs, and my colleagues have done it as well. They walk up to us, and they say, "You have my vote." My colleagues have already gotten what is most important in politics. They have gotten their vote.

Mr. Chairman, it did not cost $100,000. My colleagues visit with them one on one, and I say, "What will happen, if you require a majority of money to come from the district, is that you will realize that money is not the end, that you will begin to realize that time is money, that people's contributions actually help and that they will work with you in group organizations to get the votes which are fundamentally the key in a democracy, not money."

My colleagues say, "We don't have an arbitrary limit." Yes, they have a limit. It is the same limit for South Dakota, and the same limit for a 12-block square district in New York. It is arbitrary, and it is capricious, and it does not make sense in some districts.

My colleagues say, "We don't have a limit," and I say, "Yes, we do. The limit is how much someone in a district is willing to give, and what you're afraid of is putting total control in the hands of people because, if you had to come back home and ask them for a contribution, you would have to face them far more frequently. You wouldn't enjoy the dinners in New York, or Houston, or Hollywood. You would have to come back home."

Yes, it is hard work. People say, "Gee, you spend too much time trying to raise money." That is because we have to raise money outside of our districts. That is because we have to have a million dollars to run negative campaigns.

Mr. Chairman, that will not change under this Democrat bill. It is exactly the same thing that is going to continue to occur because we have not tied it to the people. But if my colleagues require a majority of funds to come from individuals who live in their district, we will have a self-policing mechanism. I cannot cite some specific number. There is not going to be one. It depends upon the people, and my colleagues have got the ability to get people to organize and work for them to get the votes which are the fundamental reasons that we stand for election. Not money, but votes. Government of, government by the government for the people starts with the people, not with some arbitrary limit, not with some micromanaged mix of numbers.

Let me tell my colleagues something. The American people want to make sure that the money comes from them, not from political action committees—but from them.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. MICHEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. THOMAS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 265, not voting 4, as follows:

[Roll No. 425]

AYES—165

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
Dickinson

Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Poshard
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—265

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—4

Ford (TN)
Moody
Mrazek
Ray

□ 1742

Mrs. COLLINS of Illinois, Mr. BERMAN, and Mr. KOLTER changed their vote from "aye" to "no."

Mr. CRANE and Mr. WYLIE changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. HOYER] having assumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes, pursuant to House Resolution 299, reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. THOMAS of California. Mr. Speaker, I am opposed to the bill in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. THOMAS of California moves to recommit the bill, H.R. 3750, to the Committee on House Administration.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 155, nays 270, not voting 9, as follows:

[Roll No. 426]

YEAS—155

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon

Wolf
Young (AK)
Zeliff
NOT VOTING—9
Panetta
Sangmeister
Tanner

The result of the vote was announced

Sec. 222. Contributions through intermediaries and conduits.

"(2) the term 'eligible candidate' means a candidate who is eligible under section 502 to

VOL
137
PT
23
NO
21—25
1991
UMI

Wolf
Wylie
Young (AK)
Young (FL)
Zelliff
Zimmer

NAYS—270

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—9

Ford (TN)
Gingrich
Holloway
Livingston
Michel
Moody
Mrazek
Ray
Shuster

☐ 1802

Mr. BRYANT changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HOYER). The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 273, nays 156, not voting 5, as follows:

[Roll No. 427]

YEAS—273

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Morrison
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NAYS—156

Alexander
Allard
Allen
Anthony
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Myers
Nagle
Nichols
Nussle
Oxley
Packard
Paxon
Perkins
Pickett
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Sisisky
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOT VOTING—5

Ford (TN)
Moody
Mrazek
Ray
Shuster

☐ 1820

Mr. HALL of Texas changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MOODY. Mr. Speaker, I was unable to be present during the vote on the campaign finance reform legislation that the House considered this evening. Had I been present, I would have voted "no" on the substitute and aye on final passage.

Mr. ROSE. Mr. Speaker, pursuant to House Resolution 299, I move to take from the Speaker's table the Senate bill, S. 3 to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of S. 3 is as follows:

S. 3

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Election Ethics Act of 1991".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of FECA; table of contents.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

Sec. 101. Senate spending limits and public benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Broadcast rates.
Sec. 104. Preferential rates for mail.
Sec. 105. Disclosure by noneligible candidates.
Sec. 106. Reporting requirements.
Sec. 107. Other definitions.

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

Sec. 201. Cooperative expenditures not treated as independent expenditures.
Sec. 202. Equal broadcast time.
Sec. 203. Attribution of communications.

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

Sec. 211. Personal contributions and loans.
Sec. 212. Extensions of credit.

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

Sec. 215. Limitations on contributions to State political party committees.
Sec. 216. Provisions relating to national, State, and local party committees.
Sec. 217. Restrictions on fundraising by candidates and officeholders.
Sec. 218. Reporting requirements.

Subtitle C—Contributions

Sec. 221. Limits on contributions by certain political committees.
Sec. 222. Contributions through intermediaries and conduits.
Sec. 223. Contributions by dependents not of voting age.

Subtitle D—Reporting Requirements

Sec. 231. Reporting requirements.

TITLE III—FEDERAL ELECTION COMMISSION

Sec. 301. Use of candidates' names.
Sec. 302. Reporting requirements.
Sec. 303. Provisions relating to the general counsel of the commission.
Sec. 304. Retention of fees by the commission.
Sec. 305. Enforcement.
Sec. 306. Penalties.
Sec. 307. Random audits.
Sec. 308. Attribution of communications.
Sec. 309. Fraudulent solicitation of contributions.

TITLE IV—MISCELLANEOUS

Sec. 401. Restriction of control of certain types of political committees by incumbents in or candidates for Federal office.
Sec. 402. Polling data contributed to a senatorial candidate.
Sec. 403. Mass mailings.
Sec. 404. Extension of time period when franked mass mailings are prohibited.
Sec. 405. Sense of Senate regarding funding of Act.
Sec. 406. Debates by general election candidates who receive amounts from the Presidential Election Campaign Fund.
Sec. 407. Uniform honoraria and income limitations for Congress.
Sec. 408. Expedited review of constitutional issues.
Sec. 409. Uniform limitations for earned and unearned income.
Sec. 410. Prohibition of certain election-related activities of foreign nationals.
Sec. 411. Technical corrections to Ethics in Government Act of 1978.
Sec. 412. Sense of the Senate regarding application of provisions relating to PACs equally to candidates for the Senate and candidates for the House of Representatives.

TITLE V—TELEPHONE VOTING BY PERSONS WITH DISABILITIES

Sec. 501. Study of systems to permit persons with disabilities to vote by telephone.

TITLE VI—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 601. Effective date.
Sec. 602. Authorization of appropriations.
Sec. 603. Severability.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE SPENDING LIMITS AND PUBLIC BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC BENEFITS FOR SENATE ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of United States Senator;

"(2) the term 'eligible candidate' means a candidate who is eligible under section 502 to receive benefits under this title;

"(3) the terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 506;

"(4) the term 'general election' means any election which will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(5) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(6) the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B);

"(7) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of this title;

"(8) the term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for the office of United States Senator;

"(9) the term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

"(10) the term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for the office of United States Senator;

"(11) the term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office;

"(12) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e); and

"(13) the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

"(4)(A) The limitation under this sub-

didate may petition the Commission by fil-

"(A) In the case of a major party can-

VOL 137 PT 23 NO 21–25 1991 UMI

"CANDIDATES ELIGIBLE TO RECEIVE BENEFITS

"SEC. 502. (a) IN GENERAL.—For purposes of this title, a candidate is an eligible candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 503(b); and

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 503(a).

"(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENT.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 503(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of—

"(I) the amount of the general election expenditure limit under section 503(b), reduced by the amount of voter communication vouchers issued to the candidate; plus

"(II) the amount of contributions from State residents which may be taken into account under section 503(b)(4) in increasing the general election expenditure limit; plus

"(III) the amount which may be maintained in a legal and accounting compliance fund under section 503(c);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(vi) will cooperate in the case of any audit and examination by the Commission under section 507; and

"(E) the candidate intends to make use of the benefits provided under section 504.

"(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 503(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 503(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate with respect to such period under section 304A(b) (relating to independent expenditures in excess of $10,000).

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

"(1) 10 percent of the general election expenditure limit under section 503(b); or

"(2) $250,000.

"(2) For purposes of this section and section 504(b)—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period.

Clauses (ii) and (iii) shall not apply for purposes of section 504(b).

"(3) For purposes of this subsection and section 504(b), the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of section 504(b), the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for purposes of subsection (d), the base period shall be the calendar year in which the first general election after the date of the enactment of this title occurs.

"LIMITATIONS ON EXPENDITURES

"SEC. 503. (a) LIMITATION ON USE OF PERSONAL FUNDS.—The aggregate amount of expenditures which may be made during an election cycle by an eligible candidate or such candidate's authorized committees from the following sources shall not exceed $25,000:

"(1) The personal funds of the candidate and members of the candidate's immediate family.

"(2) Personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 502(f) (relating to indexing).

"(4)(A) The limitation under this subsection (without regard to this paragraph) shall be increased by the lesser of—

"(i) 25 percent of such limitation; or

"(ii) the amount of contributions described in subparagraph (B).

"(B) Contributions are described in this subsection if such contributions—

"(i) are made after the time contributions have been received in an amount at least equal to the threshold contribution requirement under section 502(e);

"(ii) are in amounts of $100 or less; and

"(iii) are made by an individual who was, at the time the contributions were made, a resident of the State in which the general election is held;

except that the total amount of contributions taken into account under subparagraph (A) with respect to any individual shall not exceed $100.

"(C) Except as otherwise expressly provided, any reference in any provision of law to the general election expenditure limit under this subsection shall be treated as a reference to such limit computed without regard to this paragraph.

"(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

"(2) A legal and accounting compliance fund meets the requirements of this paragraph if—

"(A) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate amount transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(C) no funds received by the candidate pursuant to section 504(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection, the term 'qualified legal and accounting expenditures' means the following:

"(A) Any expenditures for costs of legal and accounting services provided in connection with—

"(i) any administrative or court proceeding initiated pursuant to this Act during the election cycle for such general election; or

"(ii) the preparation of any documents or reports required by this Act or the Commission.

"(B) Any expenditures for legal and accounting services provided after the general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(C) Expenditures for the extraordinary costs of legal and accounting services provided in connection with the candidate's activities as a holder of Federal office other than costs for the purpose of influencing the election of such candidate to Federal office.

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under paragraph (2)(B), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation. Such determination shall be subject to judicial review under section 509.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5)(A) A candidate shall terminate a legal and accounting compliance fund as of the earlier of—

"(i) the date of the first primary election for the office following the general election for such office for which such fund was established; or

"(ii) the date specified by the candidate.

"(B) Any amounts remaining in a legal and accounting compliance fund as of the date determined under subparagraph (A) shall be transferred—

"(i) to a legal and accounting compliance fund for the election cycle for the next general election;

"(ii) to an authorized committee of the candidate as contributions allocable to the election cycle for the next general election; or

"(iii) to the Senate Election Campaign Fund.

"(d) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure by the candidate or the candidate's authorized committees for Federal, State, or local taxes on earnings allocable to contributions received by such candidates or committees.

"BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE

"SEC. 504. (a) IN GENERAL.—An eligible candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b)(3) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3629 of title 39, United States Code;

"(3) payments from the Senate Election Campaign Fund in the amounts determined under subsection (b); and

"(4) voter communication vouchers in the amount determined under subsection (c).

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), except as provided in section 506(d), the amounts determined under this subsection are—

"(A) the independent expenditure amount; and

"(B) in the case of an eligible candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 503(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible candidate which are required to be reported by such persons under section 304A(b) with respect to the general election period and are certified by the Commission under section 304A(e).

"(3) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(B) is not greater than 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to two-thirds of such limit applicable to the eligible candidate for the election; plus

"(ii) if the excess described in paragraph (1)(B) equals or exceeds 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to one-third of such limit applicable to the eligible candidate for the election.

"(B) In the case of an eligible candidate who is not a major party candidate, an amount equal to the lesser of—

"(i) the allowable contributions of the eligible candidate during the applicable period in excess of the threshold contribution requirement under section 502(e); or

"(ii) 50 percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The Secretary of the Treasury shall issue nontransferable voter communication vouchers to eligible candidates as provided under section 506(b).

"(2) The aggregate amount of voter communication vouchers issued to an eligible candidate under paragraph (1) shall be equal to 20 percent of the general election expenditure limit under section 503(b) (10 percent of such limit if such candidate is not a major party candidate), except that no vouchers shall be issued to any eligible candidate unless Congress provides that the amounts in the Fund to pay for such vouchers are derived solely from—

"(A) voluntary contributions or tax check-off contributions that are not from any tax liability owed by the person to the Treasury; or

"(B) sources which do not affect individual taxpayers, corporate taxpayers, partnerships, and estates and trusts, other than with respect to their campaign activities or other activities with respect to influencing Federal legislation.

"(3) Voter communication vouchers shall be used by an eligible candidate to purchase broadcast time during the general election period in the same manner as other broadcast time may be purchased by the candidate, except that each such broadcast shall be at least 1 but not more than 5 minutes in length.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (2) and (3) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 503(b).

"(2) An eligible candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 502(c)(1)(D) or subsection (a) or (b) of section 503 if any one of the eligible candidate's opponents who is not an eligible candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 133⅓ percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(3) A candidate who receives benefits under this section may receive contributions

VOL 137
PT 23
NO 21—25
1991
UMI

for the general election without regard to clause (iii) of section 502(c)(1)(D) if—

"(A) a major party candidate in the same general election is not an eligible candidate; or

"(B) any other candidate in the same general election who is not an eligible candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 503(b).

"(e) USE OF PAYMENTS FROM FUND.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 502 that such candidate is an eligible candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible candidate files a request with the Secretary of the Senate to receive benefits under section 506, the Commission shall certify to the Secretary of the Treasury whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 509.

"PAYMENTS RELATING TO ELIGIBLE CANDIDATES

"SEC. 506. (a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2) Amounts in the Fund shall, subject to the availability of appropriations, be available only for the purposes of—

"(A) providing benefits under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(3) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"(c) VOUCHERS.—(1) Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary of the Treasury shall, subject to the availability of appropriations, issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(2) Upon receipt of a voter communication voucher from a licensee providing broadcast time to an eligible candidate, the Secretary of the Treasury shall, subject to the availability of appropriations, pay to such licensee from the Senate Election Campaign Fund the face value of such voucher.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 505 for payment, or issuance or a voucher, to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of expenditures which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the fund to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of such excess.

"EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES

"SEC. 507. (a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible candidate under section 505(a)(1), the Commission shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay to the Secretary the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 502(d); or

"(2) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to the amount of the excess expenditures.

"(e) ASSESSMENT OF CIVIL PENALTIES.—If the Commission determines that a candidate has committed a violation described in subsection (c) or (d)—

"(1) in the case of a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved, and

"(2) in the case of a violation described in subsection (b) where the expenditures exceeded the applicable limit by more than 5 percent, the Commission may assess a civil penalty against such candidate in an amount not greater than 300 percent of such excess.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible candidate under this

title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(g) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(h) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"CRIMINAL PENALTIES

"SEC. 508. (a) VIOLATIONS.—(1) No person shall knowingly and willfully—

"(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

"(B) use such benefits for any purpose not provided for in this title; or

"(C) make expenditures in excess of—

"(i) the primary and runoff expenditure limits under section 502(d); or

"(ii) the general election expenditure limit under section 503(b).

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer, employee, or agent of any political committee who knowingly consents to any expenditure in violation of the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(b) USE OF BENEFITS.—(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, such benefit or such portion other than in the manner provided in this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(c) FALSE INFORMATION.—(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Secretary of the Senate or to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d) KICKBACKS AND ILLEGAL PAYMENTS.—(1) It is unlawful for any person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by any eligible candidate or the authorized committees of such candidate.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by any candidate pursuant to the provisions of this title, or received by the authorized committees of such candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"SEC. 509. (a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 509 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 511. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 505 as benefits available to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507 or 506(d)(2), and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1993.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1993, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1993, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1993, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—(1) Except as provided in this subsection, if title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

(2) Paragraph (1) shall not apply by reason of section 504(a)(3) of the Federal Election Campaign Act of 1971 (providing payments to eligible candidates) having been held invalid.

(3) If section 504(d) (2) or (3) of the Federal Election Campaign Act of 1971 is held to be invalid because the expenditure limits under sections 502(c)(1)(D)(i) and 503 (a) and (b) of such Act, or the contribution limits under section 502(c)(1)(D) of such Act, do not apply—

(A) paragraph (1) shall not apply, and

(B) during any period any such section is not in effect, such limits shall be increased by 100 percent.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for election to the office of United States Senator or the candidate's authorized committees,

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"(b) Subsection (a) shall cease to apply to

gated to be made, which in the aggregate ex-

"(B) The Commission, not later than 3

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unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year.".

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to the United States Senate (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting "$1,000" for "$5,000"; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the United States Senate (or an authorized committee) to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) the greater of—

(i) $375,000; or

(ii) 20 percent of the sum of the general election spending limit under section 503(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible candidate (as defined in section 501(2)) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The $825,000 and $375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) RULE ENSURING PROHIBITION ON DIRECT CORPORATE AND LABOR SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization which is a bank, corporation, or other organization described in such section 316(a).

(f) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1992.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 103. BROADCAST RATES.

(a) PROVISIONS RELATING TO LOWEST UNIT COST.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended by adding at the end thereof the following new paragraph:

"(2) The charges made for the use of any broadcasting station by any person who is an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) for the United States Senate in connection with such candidate's campaign for nomination for election, or election, to such office shall not exceed—

"(A) during the forty-five days preceding the date of a primary or primary runoff election in which such person is a candidate, 100 percent, and during the general election period (as defined in section 501(5) of the Federal Election Campaign Act of 1971) in which such person is a candidate, 50 percent, of the lowest unit charge of the station, determined at the rate applicable to broadcasts of 30 seconds for the same time of day and day of week; and

"(B) at any other time, the charges made for comparable use of such station by other users thereof.

In the case of a primary or runoff election, a candidate who has filed the declaration under section 502(b) (and has not exceeded any limitations contained in such declaration) shall be treated as an eligible candidate for purposes of this paragraph.".

(b) PREEMPTION RULES; ACCESS; VOUCHERS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f) and by inserting after subsection (b) the following new subsections:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period the rates under subsection (b)(1)(A) or (2) are in effect, of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b) (1)(A) or (2).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

"(d)(1) In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time to such candidate without regard to the rates charged for such time.

"(2) No broadcast time purchased through the use of voter communications vouchers shall be required to be provided without at least 4 days advanced notice.".

(c) CONFORMING AMENDMENT.—Section 315(b) of the Communications Act of 1934 is amended—

(1) by striking "The charges" and inserting:

"(1) Except as provided in paragraph (2), the charges"; and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(d) APPLICABILITY OF LOWEST UNIT CHARGE REQUIREMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as so redesignated by subsection (c) of this section, is amended—

(1) by striking "forty-five" and inserting in lieu thereof "thirty";

(2) by striking "sixty" and inserting in lieu thereof "forty-five"; and

(3) by striking "class and".

SEC. 104. PREFERENTIAL RATES FOR MAIL.

(a) REDUCED RATES.—Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§3629. Reduced rates for certain Senate candidates

"(a) The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1).

"(b) Subsection (a) shall cease to apply to any candidate for any campaign when the total amount paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) of subsection (a) exceeds 5 percent of the amount of the general election expenditure limit applicable to such candidate under to section 503(b) of the Federal Election Campaign Act of 1971.".

(b) AUTHORIZATION.—(1) Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)–(h)" and inserting "3626(a)–(h), and 3629".

(2) Section 3627 of title 39, United States Code, is amended by striking "or 3626" and inserting "3626, or 3629".

(c) CONFORMING AMENDMENT.—The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates.".

SEC. 105. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Subparagraph (B) of section 318(a)(1) of FECA (2 U.S.C. 441d(a)(1)), as amended by section 308, is amended by adding at the end thereof the following:

"(iv) If a broadcast or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible candidate (as defined in section 501(2)), or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'."

SEC. 106. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 502(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible candidate under section 503(b). Such declaration shall be filed at the time provided in section 502(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible candidate under section 502; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 70 percent of the general election expenditure limit applicable to an eligible candidate under section 503(b),

shall file a report with the Secretary of the Senate within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 133⅓ percent of such limit) with the Secretary of the Senate within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓ percent of such limit.

"(3) The Commission—

"(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 503(b), shall certify, pursuant to the provisions of subsection (e), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled under section 504(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 503(b), certify (pursuant to the provisions of subsection (e)) to the Secretary of the Treasury such candidate's eligibility for payment of any amount under section 504(a).

"(b) INDEPENDENT EXPENDITURES.—(1)(A) Any person who makes, or obligates to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000 shall report to the Secretary of the Senate as provided in this subsection.

"(B) If 2 or more persons, in cooperation, consultation, or concert with each other, make, or obligate to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000, each such person shall report to the Secretary of the Senate as provided in this subsection with respect to the independent expenditures so made by all such persons.

"(2) Any person referred to in paragraph (1) shall report the amount of the independent expenditures made or obligated to be made not later than 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds $10,000. Thereafter, such person shall report independent expenditures not later than 24 hours after each time the additional aggregate amount of such expenditures incurred or obligated (and not yet reported under this paragraph) exceeds $10,000.

"(3) Each report under this subsection shall be filed with the Secretary of the Senate and the Secretary of State for the State of the election involved and shall contain—

"(A) the information required by subsection (b)(6)(B)(iii) of section 304; and

"(B) a statement under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat.

"(4)(A) A person may file a complaint with the Commission if such person believes the statement under paragraph (3)(B) is false or incorrect.

"(B) The Commission, not later than 3 days after the filing of a complaint under subparagraph (A), shall make a determination with respect to such complaint.

"(5) The Commission shall, within 24 hours of receipt of a report under this subsection, notify each eligible candidate (as defined in section 501(2)) in the election involved about such report.

"(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any election for the United States Senate which in the aggregate exceed the applicable amounts under paragraph (2). The Commission shall notify each eligible candidate in such election of such determination within 24 hours of making it.

"(7) At the same time as a candidate is notified under paragraph (5) or (6) with respect to expenditures during a general election period, the Commission shall, pursuant to subsection (e), certify to the Secretary of the Treasury eligibility to receive benefits under section 504(a).

"(c) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than $25,000 during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 24 hours after such expenditures have been made or loans incurred.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible candidate in the general election involved about each such determination.

"(d) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(e) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commis-

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"(6)(A) A licensee that endorses a can-

"(2) No contribution by a candidate or

dent of the United States who is affiliated

VOL
137

PT
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1991

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sion on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(f) Copies of Reports and Public Inspection.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V (whenever a 24-hour response is required of the Commission) as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(g) Definitions.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V."

SEC. 107. OTHER DEFINITIONS.

(a) Election Cycle Defined.—Section 301 of FECA (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

(b) Identification.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking out "mailing address" and inserting in lieu thereof "permanent residence address".

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

SEC. 201. COOPERATIVE EXPENDITURES NOT TREATED AS INDEPENDENT EXPENDITURES.

(a) Treatment of Cooperative Expenditures.—(1) Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended by adding at the end thereof the following new sentence: "The term 'independent expenditure' shall not include any cooperative expenditure.".

(2) Paragraph (9) of section 301 of FECA (2 U.S.C. 431(9)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as an expenditure made by the candidate on whose behalf, or for whose benefit, the expenditure was made.".

(3) Paragraph (8) of section 301 of FECA (2 U.S.C. 431(8)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure was made.".

(b) Cooperative Expenditure Defined.—Section 301 of FECA (2 U.S.C. 431), as amended by section 107(a), is amended by adding at the end thereof the following new paragraph:

"(21)(A) The term 'cooperative expenditure' means any expenditure which is made—

"(i) with the cooperation of, or in consultation with, any candidate or any authorized committee or agent of such candidate; or

"(ii) in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

"(B) The term 'cooperative expenditure' includes an expenditure if—

"(i) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure;

"(ii) in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policy-making position; or

"(iii) the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(iv) the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office;

"(v) the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(vi) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(C) The term 'cooperative expenditure' includes an expenditure if such expenditure—

"(i) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that is established, administered, controlled, or financially supported, directly or indirectly, by a connected organization that is required to register, or pays for the services of a person who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(ii) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that has made a contribution to the candidate or authorized committee.".

SEC. 202. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

"(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates; and

"(iii) provide the licensee a copy of the statement described in section 304A(b)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)(3)(B))..

"(B) A licensee who is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify such person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid out of the Federal Election Campaign Fund pursuant to section 504(a)(3) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).

"(3) A licensee shall have no power of censorship over the material broadcast under this section.

"(4) Except as provided in paragraph (2) and subsection (c) or (d), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

"(5)(A) Appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

"(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) In the case of an editorial described in subparagraph (A) that—

"(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial, and

"(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response.".

SEC. 203. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)), as amended by section 308, is further amended by adding at the end thereof the following new paragraph:

"(3) A communication described in paragraph (1) that is paid for through an independent expenditure—

"(A) in the case of a television broadcast, shall include during the entire length of the communication a clearly readable video statement covering at least 25 percent of the viewing area of a television screen stating the information required in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located;

"(B) in the case of any audio broadcast (including a television broadcast), shall include an audio statement at the conclusion of the broadcast stating the information described in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located; and

"(C) in the case of a newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising, shall include a statement of—

"(i) the information required in paragraph (1)(B);

"(ii) the following sentence: "The cost of presenting this communication is not subject to any campaign contribution limits."; and

"(iii) the name of the person who paid for the communication including, in the case of a political committee, the names of its president and its treasurer, and the name of its connected organization (if any) and the city and State in which located.".

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

SEC. 211. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by inserting at the end thereof the following new subsection:

"(i) Limitations on Payments to Candidates.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family (as defined in section 501(6)) may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 212. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by inserting at the end thereof the following new clause:

"(iii) with respect to a candidate for the office of United States Senator and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mass mailings (including mass mail fund solicitations), or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period (not in excess of 60 days) for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished (the date of the mailing in the case of advertising by a mass mailing).".

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

SEC. 215. LIMITATIONS ON CONTRIBUTIONS TO STATE POLITICAL PARTY COMMITTEES.

(a) Individual Contributions to State Party.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; or".

(b) Multicandidate Committee Contributions to State Party.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000; or".

(c) Increase in Overall Limit.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end thereof the following new sentence: "The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees which are taken into account for purposes of paragraphs (1)(C) and (2)(C).".

SEC. 216. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) Expenditures by State Committees in Connection with Presidential Campaigns.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end thereof the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e).".

(b) Contribution and Expenditure Exceptions.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (v) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;";

(B) in clause (xi)—

(i) by striking "direct mail" and inserting "mass mailing"; and

(ii) by striking the semicolon at the end thereof and inserting "and are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;"; and

(C) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clause (iv) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;"; and

(B) by repealing clauses (viii) and (ix).

(c) Soft Money of Committees of Political Parties.—(1) Title III of FECA, as amended by section 102, is amended by inserting after section 324 the following new section:

"POLITICAL PARTY COMMITTEES

"Sec. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a)—

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) Except as provided in paragraph (3), any of the following activities during a Federal election period shall be treated as in connection with an election for Federal office:

"(A) Voter registration and get-out-the-vote activities.

"(B) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified.

"(C) The preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified.

"(D) Maintenance of voter files.

"(E) Any other activity affecting (in whole or in part) an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications,

and similar kinds of communications or pub-

purpose or effect of which is to promote a po-

shall report all receipts and disbursements in

"(A) shall report to the Commission within

(b) Congressional Campaign Committee.—

authorized committee or agent the person

VOL
137
PT
23
NO
21–25
1991
UMI

and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are not activities described in paragraph (2)(A).

"(E) Administrative expenses of a State or local committee of a political party, including expenses for—

"(i) overhead;

"(ii) staff (other than individuals devoting a substantial portion of their activities to elections for Federal office);

"(iii) meetings; and

"(iv) conducting party elections or caucuses.

"(F) Research pertaining solely to State and local candidates and issues.

"(G) Maintenance of voter files other than during a Federal election period.

"(H) Activities described in paragraph (2)(A) which are conducted other than during a Federal election period.

"(I) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on the date which is 60 days before the primary election for any regularly scheduled general election for Federal office; and

"(B) ending on the date of the general election.

"(c) TRANSFERS AND SOLICITATIONS OF COMMITTEES.—(1) Except as provided in paragraph (2), the limitations on contributions contained in paragraphs (1) and (2) of section 315(a) shall apply to transfers between and among political committees described in subsection (a).

"(2)(A) A national committee may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(B) Subparagraph (A) and paragraph (1) shall not apply to contributions that—

"(i) are to be transferred to a State committee for use directly for activities described in subsection (b)(3); or

"(ii) are to be used by the committee primarily to support such activities.".

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(5) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b)(2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)). This paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4). No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990.".

(3) Paragraph (4) of section 315(a) (2 U.S.C. 441a(a)(4)) is amended by striking the first sentence thereof.

(d) GENERIC ACTIVITIES.—Section 301 of FECA (2 U.S.C. 431), as amended by section 201(b), is amended by adding at the end thereof the following new paragraph:

"(22) The term 'generic campaign activity' means a campaign activity the preponderant purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate.".

SEC. 217. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 211, is amended by adding at the end thereof the following new subsection:

"(j) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, or are not from sources prohibited by this Act with respect to elections to Federal office.

"(2) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(3) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(4) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(k) TAX-EXEMPT ORGANIZATIONS.—(1) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

SEC. 218. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325).

"(3) Any political committee to which section 325 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 325(c) and the reason for the transfer.

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election (as determined by the Commission).

"(5) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $200 shall be reported.".

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $200 shall be reported.".

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end thereof the following: "For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.".

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(f) REPORTS BY LARGE CONTRIBUTORS.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(f) REPORTS BY LARGE CONTRIBUTORS.—(1) Any individual who makes contributions subject to the limitations of section 315(a)—

"(A) shall report to the Commission within 7 days after such contributor makes contributions aggregating $10,000 or more during any calendar year; and

"(B) thereafter, shall report to the Commission within 7 days after each time such contributor makes contributions (not yet reported) aggregating $5,000 or more.

Any report shall include identification of the contributor, the name of the candidate or committee to whom the contributions were made, and the amount of the contributions. The Commission shall transmit a copy of any report received under this subsection which includes contributions made to a candidate for the United States Senate to the Secretary of the Senate within 2 working days of receipt of such report.

"(2) Any candidate for Federal office, any authorized committee of a candidate, or any political committee soliciting contributions subject to the limitations of section 315(a) shall include with such solicitation notice of—

"(A) the requirement to report under paragraph (1); and

"(B) the aggregate limitation on such contributions under section 315(a)(3).".

Subtitle C—Contributions

SEC. 221. LIMITS ON CONTRIBUTIONS BY CERTAIN POLITICAL COMMITTEES.

(a) LIMITATION ON AMOUNT OF CONTRIBUTIONS THAT MAY BE ACCEPTED.—Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by section 216, is amended—

(1) in paragraph (1) by striking "(2) and (3)" and inserting "(2), (3), (6), and (7)"; and

(2) by adding at the end thereof the following new paragraphs:

"(6) A congressional campaign committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed 30 percent of the total expenditures which such committee may make pursuant to section 315(d)(3) during that election cycle.

"(7) A national committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed an amount equal to 2 cents multiplied by the voting age population of the United States, as certified under subsection (e).

"(8)(A)(i) Any expenditure made by a national or State committee of a political party, a congressional campaign committee, or any subordinate committee of the preceding committees, for general public political advertising which clearly identifies a candidate for Federal office by name shall be subject to the limitations of paragraphs (1) and (2).

"(ii) Clause (i) shall not apply to expenditures for mass mailings designed primarily for fundraising purposes which make only incidental reference to any one or more Federal candidates.

"(B) For purposes of paragraph (3), any expenditure by a committee described in subparagraph (A) for any solicitation of contributions which clearly identifies any candidate on whose behalf such contributions are being solicited shall be treated for purposes of this paragraph as an expenditure in connection with the general election campaign of such candidate, except that if more than 1 candidate is identified, such expenditure shall be allocated on a pro rata basis among such candidates.".

(b) CONGRESSIONAL CAMPAIGN COMMITTEE.—Section 301 of FECA (2 U.S.C. 431), as amended by section 216(d), is amended by adding at the end thereof the following new paragraph:

"(23) The term 'congressional campaign committee' means the Democratic Senatorial Campaign Committee, the National Republican Senatorial Committee, the Democratic Congressional Campaign Committee, and the National Republican Congressional Committee.".

(c) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1992.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 222. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection—

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(ii) the conduit or intermediary is—

"(I) a political committee other than an authorized committee;

"(II) an officer, employee, or agent of such a political committee; or

"(III) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(IV) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C) For purposes of this section—

"(i) the term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, including contributions arranged to be made in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting; and

"(ii) the term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

SEC. 223. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 217, is amended by adding at the end thereof the following new subsection:

"(l) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

Subtitle D—Reporting Requirements

SEC. 231. REPORTING REQUIREMENTS.

(a) PERIODS FOR REPORTING.—(1) Section 304(b)(2) of FECA (2 U.S.C. 434(b)(2)) is amended by striking "for the reporting period and calendar year," and inserting "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(2) Section 304(b)(4) of FECA (2 U.S.C. 434(b)(4)) is amended by striking out "for the reporting period and calendar year," and inserting in lieu thereof "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and

VOL 137 PT 23 NO 21—25 1991 UMI

election cycle in the case of authorized committees of candidates,".

(3) Section 304(b)(3) of FECA (2 U.S.C. 434(b)(3)) is amended by inserting "(within the election cycle in the case of authorized committees)" after "calendar year" in subparagraphs (A), (F), and (G) thereof.

(4) Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by inserting after "(within the election cycle in the case of authorized committees)" after "calendar year".

(5) Section 304(b)(6)(A) of FECA (2 U.S.C. 434(b)(6)(A)) is amended by striking out "calendar year" and inserting in lieu thereof "election cycle".

(b) PERSONAL AND CONSULTING SERVICES.—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end thereof the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

TITLE III—FEDERAL ELECTION COMMISSION

SEC. 301. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 302. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end thereof;

(2) in subparagraph (B) by striking the period at the end thereof and inserting "; and"; and

(3) by inserting the following new subparagraph at the end thereof:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 303. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) ACTION BY THE COMMISSION THROUGH ITS GENERAL COUNSEL.—(1) Section 306(c) of FECA (2 U.S.C. 437c(c)) is amended to read as follows:

"(c)(1) Subject to paragraph (2), all decisions of the Commission with respect to the exercise of its duties and powers under this Act or under chapter 95 or 96 of the Internal Revenue Code of 1986 shall be made by the affirmative vote of 4 members of the Commission.

"(2) On questions relating to—

"(A) the exercise of the Commission's authority under sections 307(a) (3) and (4);

"(B) a determination under section 309(a)(2) concerning whether there is reason to believe that a person may have committed or may be about to commit a violation of law; and

"(C) a determination to initiate or proceed with an investigation,

the general counsel of the Commission shall make a recommendation for action by the Commission, and such action shall be taken upon the affirmative vote of 3 members of the Commission.

"(3) A member of the Commission may not delegate to any person the member's power to vote or any other decisionmaking authority or duty vested in the Commission.".

(2) Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking ", by an affirmative vote of 4 of its members,".

(b) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by inserting at the end thereof the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(c) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence thereof; and

(2) by striking the third sentence thereof.

SEC. 304. RETENTION OF FEES BY THE COMMISSION.

Section 306 of FECA (2 U.S.C. 437c) is amended by inserting at the end thereof the following new subsection:

"(g) Fees collected by the Commission for copying and certification of records and provision of other materials to the public shall not be covered into the general fund of the Treasury of the United States, but shall be kept in a separate account and shall be available to the Commission, without necessity of an appropriation, for use in carrying out this Act.".

SEC. 305. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking "it has reason to believe that a person has committed, or is about to commit" and inserting "facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit".

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(B) in paragraph (11) by striking "(6)" and inserting "(6) or (13)".

SEC. 306. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.".

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.".

(c) TIME PERIODS FOR CONCILIATION.—Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by striking "30 days" and inserting "15 days";

(2) in clause (i) by striking "90 days" and inserting "60 days"; and

(3) in clause (ii) by striking "at least 15 days" and inserting "no more than 30 days".

SEC. 307. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1), and subject to the provisions of section 507, the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process.".

SEC. 308. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended to read as follows:

"(a)(1)(A) Except as permitted under paragraph (2), if—

"(i) any person makes an expenditure or independent expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, or solicits a contribution by a communication through a broadcasting station, newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising; or

"(ii) an authorized committee registered under section 303 makes a communication of any kind,

the requirements of subparagraph (B) shall be met with respect to such communication.

"(B) For purposes of subparagraph (A), the requirements of this subparagraph are as follows:

"(i) In the case of a television, radio and cable communication paid for by the candidate, an authorized committee of the candidate, any agent of either, or any other person authorized to make such payment by such candidate or committee, the communication shall—

"(I) include a full screen personal appearance by the candidate (or in the case of a radio broadcast, an audio statement by the candidate) in which the candidate states: 'I, (name of the candidate), am a candidate for (the office the candidate is seeking) and I have approved this message'; and

"(II) shall clearly state that the communication has been paid for by the candidate, the candidate's authorized committee, or the agent of either, or that the communication has been paid for by such other person and authorized by such candidate or committee.

"(ii) In the case of any other communication paid for and authorized by a candidate, an authorized committee of a candidate, or its agents, or any other person authorized by such candidate or committee, the communication shall clearly state that the communication has been paid for by such candidate or authorized committee or by such other person and authorized by such candidate or authorized committee.

"(iii) If the communication is paid for by an independent expenditure, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's authorized committee.

"(2) The Commission may waive the requirements of paragraph (1) in circumstances in which the inclusion of the required information in a communication would be impracticable.".

SEC. 309. FRAUDULENT SOLICITATION OF CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting "(a)" before "No"; and

(2) by inserting at the end thereof the following new subsection:

"(b) No person shall—

"(1) make a fraudulent misrepresentation that the person is authorized to solicit or accept a contribution to a candidate or political committee; or

"(2) solicit or accept a contribution to a candidate or political committee unless the person—

"(A) intends to, and does, pay over to the candidate or political committee any contribution received; and

"(B) inform the candidate or political committee of the name of the contributor.".

TITLE IV—MISCELLANEOUS

SEC. 401. RESTRICTION OF CONTROL OF CERTAIN TYPES OF POLITICAL COMMITTEES BY INCUMBENTS IN OR CANDIDATES FOR FEDERAL OFFICE.

Section 302 of FECA (2 U.S.C. 432) is amended by adding at the end thereof the following new subsection:

"(j) An incumbent in or candidate for Federal office may not establish, maintain, or control a political committee, other than an authorized committee of the candidate or a committee of a political party.".

SEC. 402. POLLING DATA CONTRIBUTED TO A SENATORIAL CANDIDATE.

Section 301(*j*) of FECA (2 U.S.C. 431(8)), as amended by section 218, is amended by inserting at the end thereof the following new subparagraph:

"(E) A contribution of polling data to a candidate for the office of United States Senator shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

SEC. 403. MASS MAILINGS.

Section 301 of FECA (2 U.S.C. 431), as amended by section 221(c), is amended by adding at the end thereof the following new paragraph:

"(24) The term 'mass mailing' means newsletters and similar mailings of more than 100 pieces in which the content of the matter mailed is substantially identical, excluding—

"(A) mailings made in direct response to communications from persons to whom the matter is mailed;

"(B) mailings to Federal, State, or local government officials; and

"(C) news releases to the communications media.".

SEC. 404. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking clause (i) and inserting the following:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II) by striking "fewer than 60 days immediately before the date" and inserting "during the year"; and

(2) in subparagraph (C) by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 405. SENSE OF SENATE REGARDING FUNDING OF ACT.

(a) FINDINGS.—The Senate finds that—

(1) this Act does not provide for a funding mechanism to pay for the provisions cleaning up Senate election campaigns;

(2) a funding mechanism is necessary to pay for such provisions; and

(3) it is the position of the House of Representatives that under the Constitution all bills affecting revenue must originate in the House of Representatives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) legislation to clean up Senate election campaigns shall be funded by removing subsidies for political action committees with respect to their political contributions or for other organizations with respect to their lobbying expenditures;

(2) legislation to clean up Senate election campaigns shall not be paid for by any general revenue increase on the American taxpayer;

(3) legislation to clean up Senate election campaigns shall not be paid for by reducing expenditures for any existing Federal program; and

(4) legislation to clean up Senate election campaigns shall not result in an increase in the Federal budget deficit.

SEC. 406. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are eligible under section 9003 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury shall not receive such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 4 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) be ineligible to receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section.".

SEC. 407. UNIFORM HONORARIA AND INCOME LIMITATIONS FOR CONGRESS.

(a) ADMINISTRATION OF RULES AND REGULATIONS.—Section 503 of the Ethics in Government Act of 1978 is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) inserting after paragraph (1) the following new paragraph:

"(2) and administered by the committee of the Senate assigned responsibility for administering the reporting requirements of title I with respect to Members, officers, and employees of the Senate;".

VOL
137
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23
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25
1991
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(b) Definitions.—Section 505 of the Ethics in Government Act of 1978 is amended—

(1) in paragraph (1) by inserting "a Senator or" after "means"; and

(2) in paragraph (2) by striking "(A)" and all that follows through "(B)".

(c) Amendments to the Ethics Reform Act of 1989.—Section 1101(b) of the Ethics Reform Act of 1989 is repealed and section 1101(c) is redesignated as section 1101(b).

(d) Federal Election Campaign Act of 1971.—Section 323 of FECA (2 U.S.C. 441(i)) is repealed.

(e) Supplemental Appropriations Act, 1983.—Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(f) Effective Date.—The amendments made by this section shall take effect on January 1, 1992.

SEC. 408. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) Direct Appeal to Supreme Court.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) Acceptance and Expedition.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 409. UNIFORM LIMITATIONS FOR EARNED AND UNEARNED INCOME.

(a) Substantive Amendments.—Section 501 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by inserting "or unearned" after "earned"; and

(2) in section 501(a)(2) by inserting "or unearned" after "earned".

(b) Technical Amendments.—(1) The heading for title V of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "**EARNED**".

(2) The heading for section 501 of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "**EARNED**".

(3) The heading for section 501(a) of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

SEC. 410. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

(a) Findings and Declarations.—The Congress finds and declares that—

(1) the electoral process of the United States should be open to all American citizens;

(2) foreign nationals should have no role in the American electoral process;

(3) Congress does not intend and has never intended to permit foreign nationals to participate, directly or indirectly, in the decisionmaking of political committees established pursuant to the Federal Election Campaign Act of 1971;

(4) it is the intent of Congress to prohibit any participation whatsoever by any foreign national in the activities of any political committee; and

(5) while it is necessary to safeguard the political process from foreign influence, it is critical that any protections not discriminate against American citizens employed by foreign-owned companies and that Americans' constitutional rights of free association and speech be protected.

(b) Prohibition of Certain Election-Related Activities of Foreign Nationals.—Section 319 of FECA (2 U.S.C. 441e) is amended by—

(1) redesignating subsection (b) as subsection (e); and

(2) inserting after subsection (a) the following new subsections:

"(b) A foreign national shall not direct, dictate, control, or directly or indirectly participate in any person's decisionmaking concerning the making of contributions or expenditures in connection with elections for any Federal, State, or local office or decisionmaking concerning the administration of a political committee.

"(c) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall include the following statement on all printed materials produced for the purpose of soliciting contributions:

" 'It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee.'

"(d) A nonconnected political committee or a separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall certify in regular reports to the Commission, or in a manner prescribed by the Commission, that no foreign national has participated either directly or indirectly in the decisionmaking of the political committee or separate segregated fund, including the appointment of the administrators of the committee or fund.".

(c) Penalty.—Section 309(b)(1)(C) of FECA (2 U.S.C. 437g(d)(1)(C)) is amended by inserting "section 319 or" before "section 322".

SEC. 411. TECHNICAL CORRECTIONS TO ETHICS IN GOVERNMENT ACT OF 1978

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 103(i) by striking "7-day" and inserting "30-day"; and

(2) in section 105(b)(1) by—

(A) striking "Each agency" and inserting "Except as provided in the second sentence of this subsection, each agency"; and

(B) inserting after the first sentence the following: "With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year, or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g).".

SEC. 412. SENSE OF THE SENATE REGARDING APPLICATION OF PROVISIONS RELATING TO PACS EQUALLY TO CANDIDATES FOR THE SENATE AND CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

It is the sense of the Senate that all provisions of this Act and amendments made by this Act that relate to multicandidate political committees and separate segregated funds shall apply in regard to candidates for the House of Representatives in the same manner and to the same extent as they apply to candidates for the Senate.

TITLE V—TELEPHONE VOTING BY PERSONS WITH DISABILITIES

SEC. 501. STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.

(a) In General.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(b) Consultation.—The Federal Election Commission shall conduct the study described in subsection (a) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(c) Criteria.—The system or systems developed pursuant to subsection (a) shall—

(1) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(2) propose procedures to identify persons who are so disabled; and

(3) describe procedures and equipment that may be used to ensure that—

(A) only those persons who are entitled to use the system are permitted to use it;

(B) the votes of persons who use the system are recorded accurately and remain secret;

(C) the system minimizes the possibility of vote fraud; and

(D) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(d) Requests for Proposals.—In developing a system described in subsection (a), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(e) Physical Access.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(f) Deadline.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the date of enactment of this Act.

TITLE VI—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 601. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1993.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out its functions under this Act.

SEC. 603. SEVERABILITY.

Except as provided in section 101(c) of this Act, if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

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MOTION OFFERED BY MR. ROSE

Mr. ROSE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Rose moves to strike out all after the enacting clause of S. 3, and to insert in lieu thereof the provisions of H.R. 3750 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days during which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. Hoyer). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–378) on the resolution (H. Res. 301) waiving all points of order against the conference report on the bill (H.R. 3371) to control and prevent crime, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

Mr. PASTOR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1176) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I would ask the gentleman from Arizona [Mr. Pastor] to explain the program.

Mr. PASTOR. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Arizona.

Mr. PASTOR. Mr. Speaker, S. 1176 authorizes the establishment of the Morris K. Udall Scholarship and Excellence in National Environmental Policy at the University of Arizona in Tucson. The national foundation is an independent entity within the executive branch.

The purposes of the foundation are severalfold:

First, to increase the awareness of the importance of our natural resources;

Second, to foster among all Americans a recognition of the special relationship they have with the environment;

Third, to identify important environmental issues;

Fourth, to establish a program for environmental policy research and a program for environmental conflict resolution at the Udall Center at the University of Arizona;

Fifth, to develop resources to train professionals in the field of environmental policy and related areas;

Sixth, to disseminate educational information on environmental issues.

Seventh, to develop resources for proper training native American and Alaska native professionals in area of health care and public policy; and,

Eighth, to provide for scholarships and government internships for training native Americans in the field of public policy.

Mr. Speaker, few have spoken more consistently, and fewer still more eloquently, of our obligations to conserve our natural resources and to protect the rights of our first Americans than Moe Udall.

When Moe first entered Congress in 1961 to succeed his brother Stewart, we looked upon our land and water as resources to be developed and exploited. Long before the environmental movement emerged, Moe Udall reminded the country that man has a special relationship with his land, water and air. He made us understand we are a part of nature, not separated from it.

Moe Udall worked to restore dignity to a proud people. He was among the first to recognize that the native American struggle for self-determination be taken seriously. He fought to give native Americans the assistance they needed to develop their internal institutions of self-government and the resources necessary for tribal economic development.

This legislation is a fitting tribute to Moe, and it builds on his record of 30 years of service in Congress. The legislation establishes a 10-member board of directors comprised of two Members of the House of Representatives, two Members of the Senate, two individuals selected by the President, the Secretaries of Interior and Education and two members of the University of Arizona. The board will award scholarships, fellowships, internships, and grants to deserving individuals to pursue studies related to the environment, native American and Alaska native health care, and tribal public policy.

The foundation will support the establishment of an environmental conflict resolution center at the Udall Center on the campus of the University of Arizona, Moe's alma mater. It will create a repository for the Udall papers and will assemble an annual panel of experts to discuss contemporary environmental issues and conduct research on native American and Alaska native health care issues and tribal public policy.

Mr. Speaker, I wish to thank the chairman and ranking member of the Education and Labor Committee for their cooperation in seeing that this legislation received expedited consideration. I also wish to thank my colleagues, Representatives Obey and Rhodes for sponsoring and supporting the House version of this legislation. Without their assistance and the help of their staffs, we would not be discussing this bill today.

Mr. Speaker, I urge my colleagues to pay tribute to Moe Udall's legacy by joining me in supporting this legislation today. I thank the gentleman for yielding.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I shall not object, but I just want to say that, if we had $5 million to spend, I cannot think of a finer gentleman to honor than Moe Udall.

Mr. Speaker, I rise in support of S. 1176 and its House companion bill H.R. 3268, the Morris K. Udall Scholarship and Excellence in National Environmental Policy. This bill is in the jurisdiction of the Committee on Education and Labor, and is before us today for consideration.

The bill pays tribute to a distinguished statesman, Morris Udall (Moe), with whom I enjoyed working during all the years of my service in the House of Representatives. When I arrived in Congress, I immediately discovered that Moe Udall was a true statesman. He was always well prepared, did his homework, and articulated his beliefs. His physical stature was a metaphor, representative of his ability as a colleague for he was truly equal to his height. I hope that this bill can honor him as he so admirably deserves.

Again, Mr. Speaker I rise in support of S. 1176 and ask my colleagues to join me in its swift passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Act".

SEC. 2. FINDINGS.

The Congress finds that—

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(1) For three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 4. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of 10 members, as follows:

(1) Two Members, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives.

(2) Two Members, one appointed by the Majority Leader and one appointed by the Minority Leader of the Senate.

(3) Two Members, appointed by the President, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) One Member, appointed by the President of the University of Arizona after consultation with the Center, who has shown leadership and interest in the continued use, enjoyment, education and exploration of the Nation's rich and bountiful resources.

(5) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(7) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as Chairperson.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—The term of office of each member of the Board shall be 6 years, except that—

(A) in the case of the Board members first taking offices—

(i) members appointed by the President shall serve for 2 years; and

(ii) the Members appointed by the Senate and the member appointed by the President of the University of Arizona shall each serve for 4 years; and

(B) a Member appointed to fill a vacancy shall serve for the remainder of the term for which the member's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as Members of the Board.

(e) LOCATION OF FOUNDATION.—The Foundation shall be located in Tucson, Arizona.

(f) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 5. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 6. AUTHORITY OF THE FOUNDATION.

(a) AUTHORITY OF THE FOUNDATION.—

(1) IN GENERAL.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) SCHOLARSHIPS.—Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) FELLOWSHIPS.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) INTERNSHIPS.—Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public

health or public policy organizations pursuant to section 5.

(5) GRANTS.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) REPOSITORY.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) COORDINATION.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) MORRIS K. UDALL SCHOLARS.—Recipients of scholarships, fellowships, internships and grants under this Act shall be known as "Morris K. Udall Scholars".

(c) PROGRAM PRIORITIES.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3) and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6) and section 6(a)(7) conditioned on a 25 percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

SEC. 7. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 10 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the fund. Such investments shall be in Public Debt Securities with maturities suitable to the needs of the Fund. Investments in Public Debt Securities shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States" of comparable maturity.

SEC. 8. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) IN GENERAL.—The Foundation shall pay from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) AUDIT BY GENERAL ACCOUNTING OFFICE.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation.

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the fund $40,000,000 to carry out the provisions of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASTOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1790

Mr. SHARP. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from the bill, H.R. 1790.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COAST GUARD AUTHORIZATION ACT OF 1991

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1776) to authorize for fiscal year 1992 the U.S. Coast Guard budget, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the Senate insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1992, as follows:

(a) For the operation and maintenance of the Coast Guard, $2,570,000,000, of which $500,000 shall be used to implement the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, (P.L. 101–646), and $35,000,000 shall be expended from the Boat Safety Account.

(b)(1) For the acquisition, construction, rebuilding and improvement of aids to navigation, shore and offshore facilities, vessels, sonar simulators, and aircraft, including equipment related thereto, $466,000,000, of which $29,000,000 shall be used to acquire a command and control aircraft, to remain available until expended.

(2) Funds authorized to be appropriated for the construction of a new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(3)(A) Notwithstanding another provision of law, the Secretary of the department in which the Coast Guard is operating may submit a request for reprogramming of funds to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for Congressional review of appropriations reprogramming requests. Subject to those reprogramming procedures—

(i) the Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for a multiyear lease but not for the purchase of aircraft; and

(ii) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(B) The Coast Guard may transfer the current command and control aircraft to the vendor of a replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and

VOL 137 PT 23 NO 21–25 1991 UMI

the proceeds applied toward a purchase, lease, or lease with option to purchase.

(4) Before October 1, 1992, the Secretary of Transportation shall use funds as may be necessary, not more than $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter MACKINAW at least an additional 15 years.

(c) For research, development, test, and evaluation, $29,150,000, to remain available until expended.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $11,100,000, to remain available until expended.

(f) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(g) Of the amounts authorized for Coast Guard operations and maintenance and acquisition construction and improvement, the following amounts shall be derived from transfer from the Oil Spill Liability Fund for implementation of the Oil Pollution Act of 1990 (P.L. 101–380; 104 Stat. 484):

(1) $25,000,000 for operating expenses; and

(2) $30,000,000 to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)), including the purchase and prepositioning of oil spill removal equipment.

(h) Of the amounts authorized for Coast Guard operations and maintenance, not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C. 262a).

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992.

(a) As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 4. TRANSFER OF AUTHORITY FROM THE SECRETARY OF TRANSPORTATION TO THE SECRETARY OF THE NAVY UPON THE TRANSFER OF THE COAST GUARD TO THE NAVY.

Not later than 90 days after enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the functions, powers, and duties vested in the Secretary of Transportation and exercised through delegation to the Commandant of the Coast Guard that would be transferred to the Secretary of the Navy when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

SEC. 5. RETIREMENT OF REAR ADMIRALS.

(a) Section 290 of title 14, United States Code, is amended——

(1) in subsection (e) by striking "June 30 of" and substituting "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and substituting the following new subsections:

"(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b)(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and substituting "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

SEC. 6. ENLISTED PERSONNEL BOARDS.

(a) Section 357 of title 14, United States Code, is amended to read as follows:

"(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.

"(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendation of a Board—

"(1) because the members's performance is below the standards the Commandant prescribes; or

"(2) because of professional dereliction.

"(c) An enlisted member under review by the Board shall be—

"(1) notified in writing of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

"(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

"(1) have twenty or more years of active service;

"(2) have been considered for involuntary retirement; and

"(3) it determines should be involuntarily retired.

"(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

"(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

"(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within 90 days of the notification.

"(h) An enlisted member, who has completed twenty years' service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

"(i) An enlisted member voluntarily or involuntarily retired after twenty years' service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

"(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

"(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.".

(b) The catchline to section 357 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.", and item 357 in the analysis to chapter 11 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.".

SEC. 7. AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE.

Section 93 of title 14, United States Code, is amended by—

(1) striking the word "and" at the end of subsection (q);

(2) striking the period at the end of subsection (r) and inserting "; and"; and

(3) adding the following new subsection:

"(s) accept, under terms and conditions the Commandant establishes, the service of an individual order to perform community service under the order of a Federal, state, or municipal court.".

SEC. 8. HOUSE UNIT LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction of renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in Fiscal Year 1991, the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of the Massachusetts Military Reservation.

SEC. 9. AIR FACILITIES LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in Fiscal Year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

SEC. 10. COAST GUARD HOUSING STUDY.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

SEC. 11. TWO-YEAR BUDGET CYCLE FOR THE COAST GUARD.

Notwithstanding another law, the President is not required to submit a two-year budget request for the Coast Guard until the President is required to submit a two-year budget request for the Department of Transportation.

SEC. 12. TRANSPORTATION OF HOUSEHOLD EFFECTS OF COAST GUARD CADETS.

Section 406(b)(2)(E) of title 37, United States Code, is amended to read as follows:

"(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A) of this paragraph. The weight allowance for cadets and midshipmen is 350 pounds.".

SEC 13. EMERGENCY RECALL OF RESERVISTS.

Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than thirty days in any four-month period and not more than sixty days in any two-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

SEC 14. RECALL OF RETIRED OFFICERS.

(a) Section 332(b) of title 14, United States Code, is amended by striking "1" and substituting "2".

(b) Section 332(a) of title 14, United States Code, is amended by striking "his" and substituting "that officer's" and by striking "he" and substituting "that officer".

SEC. 15. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by striking at the end "September 30, 1992", and inserting "September 30, 1994".

SEC. 16. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203(a)(1)) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 17. NORTH CAROLINA MARITIME MUSEUM.

Notwithstanding section 3301(8) of title 46, United States Code, the GENERAL GREENE, (vessel identification number USG NP5000025661), may transport not more than 16 passengers when the North Carolina Maritime Museum operates the vessel for educational purposes.

SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

(a)(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of 18 members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

(1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them.

(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

(3) Two members from organizations that represent shipowners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

(4) Two members representing organizations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston.

(7) Two at large members who may represent a particular interest group but who utilize the port facilities at Galveston, Houston, and Texas City.

(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

(10) One member representing environmental interests.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(d) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the chairman and one of the members as the vice chairman. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) The term of the Committee shall begin on October 1, 1991.

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a)(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on a wide range of matters regarding all facets of navi-

VOL 137
PT 23
NO 21–25
1991
UMI

gational safety related to the Lower Mississippi River. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give the Secretary. The Committee shall meet at the call of the Chairman, or upon request of the majority of Committee members, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of twenty-four members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico.

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessel owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee upon recommendation after first soliciting nominations by notice in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department, who shall not be a voting member of the Committee.

(d) The Committee shall annually elect, by majority vote at its first meeting, a chairman and vice chairman from its membership. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be two years. The Secretary shall, not less than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular place of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 20. VESSEL REQUIREMENTS.

Section 3503 of title 46, United States Code, is amended as follows:

(1) in subsection (a), by striking "November 1, 1993" and substituting "November 1, 1998"; and

(2) in subsection (b)(1):

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and substituting "; and"; and

(C) by adding the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations comply with any non-combustible material requirements that the Coast Guard prescribes for non-public spaces. Coast Guard requirements shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public.".

SEC. 21. AMENDMENT OF INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

SEC. 22. DESIGNATION OF THE BORDEAUX RAILROAD BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Bordeaux Railroad Bridge at mile 185.2 of the Cumberland River is deemed an unreasonable obstruction to navigation.

SEC. 23. NEW CONSTRUCTION DECLARATION.

The vessel, SEA FALCON, United States official number 606930, is deemed to have been built in the year 1990 for all purposes of subtitle II of title 46, United States Code.

SEC. 24. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and substituting "September 30, 1996".

SEC. 25. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and substituting "1994".

SEC. 26. CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE.

(a)(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active adis to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(d) For purposes of this section—

(1) "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 27. SHIP SHOAL LIGHTHOUSE TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of Berwick, Louisiana all rights, title, and interest of the United States in the aid to navigation structure known as the Ship Shoal Lighthouse, Louisiana.

SEC. 28. CAPE COD LIGHTHOUSE AND SANKATY HEAD LIGHT STATION.

(a)(1) Not later than six months after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Army, the Secretary of the Interior, appropriate State, local, and other governmental entities, and private preservation groups, shall develop a strategy regarding the relocation, ownership, maintenance, operation, and use of Cape Cod Lighthouse (otherwise known as "Highland Light") in North Truro, Massachusetts, and Sankaty Head Light Station in Nantucket, Massachusetts.

(2) In developing the strategy, the Secretary shall determine whether and under what conditions it would be appropriate to convey the rights, title, and interest of the United States in Cape Cod Lighthouse and Sankaty Light Station to other Federal, State, or local government agencies or private preservation groups.

(3) In preparing the strategy with respect to Cape Cod Lighthouse, the Secretary shall consult with the Director of the National Park Service to determine whether the lighthouse should become part of the National Park at Cape Cod National Seashore.

(4) Any strategy developed under this section shall be consistent with—

(A) the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws; and

(B) the goal of interpreting and preserving material culture of the United States Coast Guard.

(b) After completion of the strategy under subsection (a), the Secretary of Transportation may convey, by any appropriate means, all right, title, and interest of the United States in either or both of Cape Cod Lighthouse and Sankaty Head Light Station to one or more Federal, State, or local government agencies or appropriate nonprofit private preservation groups. Any conveyance under this subsection shall be made—

(1) without payment of consideration;

(2) subject to appropriate conditions as the Secretary of Transportation considers necessary; and

(3) subject to the condition that if the terms and conditions established by the Secretary are not met, the property conveyed shall revert to the United States.

SEC. 29. TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES.

(a)(1) The Secretary may convey by any appropriate means to the State of Oregon all right, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b)(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considered to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section the term—

(1) "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State or Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon;

(2) "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon;

(3) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 30. CONVEYANCE OF WHITE ISLAND LIGHTHOUSE.

(a) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purposes of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term "White Island Lighthouse" means the Coast Guard lighthouse located at White Island, Isles of Shoals, New Hampshire including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

SEC. 31. CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE.

(a)(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all

"(A) embarks or disembarks passengers in

(10) Coast Guard units remain in the Per-

lations promulgated by the Secretary for

Appropriations Act, 1991, Public Law 101–509,

(b) The Secretary of Commerce shall make

VOL
137
PT
23
NO
21—25
1991
UMI

right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term—

(1) "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 32. OIL POLLUTION REPORT.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effect of section 1018 of the Oil Pollution Act of 1990 (P.L. 101–380, 104 Stat. 484) on the safety of vessels being used to transport oil and the capability of owners and operators to meet their legal obligations in the event of an oil spill.

SEC. 33. PASSENGER VESSEL INVESTIGATIONS.

Section 6101 of title 46, United States Code, is amended by adding at the end of the following:

"(e)(1) This chapter applies to a marine casualty involving a United States citizen on a foreign passenger vehicle operating south of 75 degrees north latitude, west of 35 degrees west longitude, and east of the International Date Line; or operating in the area south of 60 degrees south latitude that—

"(A) embarks or disembarks passengers in the United States; or

"(B) transporta passengers traveling under any form of air and sea ticket package marketed in the United States.

"(2) When there is a marine casualty described in paragraph (1) of this subsection and an investigation is conducted, the Secretary shall ensure that the investigation—

"(A) is thorough and timely; and

"(B) produces findings and recommendations to improve safety on passenger vessels.

"(3) When there is a marine casualty described in paragraph (1) of this subsection, the Secretary may—

"(A) seek a multinational investigation of the casualty under auspices of the International Maritime Organization; or

"(B) conduct an investigation of the casualty under chapter 63 of this title.".

SEC. 34. PORTION OF SACRAMENTO RIVER BARGE CANAL DECLARED TO NOT BE NAVIGABLE WATERS OF UNITED STATES.

For purposes of bridge administration, the Sacramento River Barge Canal, which connects the Sacramento Deep Water Ship Channel with the Sacramento River in West Sacramento, Yolo County, California, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) from the eastern boundary of the Port of Sacramento to a point 1,200 feet east of the William G. Stone Lock.

SEC. 35. SENSE OF THE CONGRESS RELATING TO THE ROLE OF THE COAST GUARD IN THE PERSIAN GULF CONFLICT.

(a) The Congress finds that—

(1) members of the Coast Guard played an important role in the Persian Gulf Conflict;

(2) 950 members of the Coast Guard Reserve were called to active duty during the Persian Gulf Conflict and participated in various activities, including vessel inspection, port safety and security, and supervision of loading and unloading hazardous military cargo;

(3) members of Coast Guard Law Enforcement Detachments led or directly participated in approximately 60 percent of the 600 vessel boardings in support of maritime interception operations in the Middle East;

(4) 10 Coast Guard Law Enforcement Teams were deployed for enforcement of United Nations sanctions during the Persian Gulf Conflict;

(5) over 300 men and women in the Coast Guard Vessel Inspection Program participated in the inspection of military sealift vessels and facilitated the efficient transportation of hazardous materials, munitions, and other supplies to the combat zone;

(6) members of the Coast Guard served in the Joint Information Bureau Combat Camera and Public Affairs staffs;

(7) approximately 550 members of the Coast Guard served in port security units in the Persian Gulf area, providing port security and waterside protection for ships unloading essential military cargo;

(8) the Coast Guard Environmental Response Program headed the international Interagency Oil Pollution Response Advisory Team for cleanup efforts relating to the massive oil spill off the coasts of Kuwait and Saudi Arabia;

(9) the Coast Guard Research and Development Center developed a deployable positioning system for the Explosive Ordinance Disposal Area Search Detachment, saving the detachment time and thousands of dollars, while also increasing the effectiveness and efficiency of the minesweeping and ordinance disposal operations in the Persian Gulf area; and

(10) Coast Guard units remain in the Persian Gulf area and continue to provide essential support including both port security and law enforcement.

(b) The Congress commends the Coast Guard for the important role it played in the Persian Gulf Conflict and urges the people of the United States to recognize that role.

SEC. 36. BRIDGE ACROSS WAPPINGER CREEK, NEW YORK.

Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0, at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401), section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

SEC. 37. VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA.

The Secretary of Transportation, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

SEC. 38. TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Charleston County Park and Recreation Commission all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b) subject to existing easements and restrictions of record. The transferee shall pay for all conveyance costa.

(b) The property to be transferred under subsection (a) is described as commencing at a point in the center of United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30 seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights of way connected therewith, extending from the Government's property at the east end of Folly Island to such power lines connection with the South Carolina Power Company's power line at Folly Beach.

SEC. 39. REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS.

Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"SEC. 7. (a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regu-

lations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality; or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States, or;

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States.

shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purpose.".

SEC. 40. AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION, 1989.

(a) Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" and substituting "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and substituting "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code,".

SEC. 41. CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II.

(a) Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel MAYFLOWER II, owned by Plimoth Plantation, Inc., a corporation under the laws of Massachusetts.

(b)(1) The Secretary may exempt the vessel MAYFLOWER II from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under title 33, United States Code.

(2) If the Secretary exempts the vessel from any requirement under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

SEC. 42. JOHN F. LIMEHOUSE MEMORIAL BRIDGE.

Notwithstanding another law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Water in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

SEC. 43. OREGON OIL SPILL RESPONSE STUDY.

Not later than one year after the date of enactment of this act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

SEC. 44. TRANSPORTATION SUBSIDY.

The Department of Transportation may include military personnel of the Coast Guard in any program in which the Department participates under section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991, Public Law 101–509, notwithstanding section 629(c)(2) of that Act.

SEC. 45. CHATHAM HARBOR, MASSACHUSETTS.

Not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard shall provide to the U.S. Army Corps of Engineers New England Division for incorporation into their Feasibility Study on Improvement Dredging in Chatham Harbor, the following information:

(1) a description of the current and projected future navigational hazards in Chatham Harbor caused by shoaling in and around Aunt Lydia's Cove;

(2) the current and projected impacts, of these navigational hazards on the Coast Guard's missions, including:

(A) impacts on search and rescue responses;

(B) impacts on the area of response;

(C) types and costs of any special equipment needed to navigate the channel; and

(D) potential impacts on boater safety; and

(3) the benefita to local boaters and the Coast Guard that would result from improved navigation.

SEC. 48. JONES ACT WAIVERS FOR CERTAIN VESSELS.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) MISS LELIA, United States official number 577213.

(2) BILLFISH, United States official number 920896.

(3) MARSH GRASS III, United States official number 963616.

SEC. 47. NATIONAL MARITIME ENHANCEMENT INSTITUTES.

Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121–2(e)), is amended by striking "shall not exceed $100,000" and substituting "by the Secretary shall not exceed $500,000".

SEC. 48. ACQUISITION OF SPACE IN VIRGINIA.

The Secretary of Commerce shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the consent of the Secretary of Commerce, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

SEC. 49. ACQUISITION OF SPACE IN ALASKA.

The Secretary of Commerce shall acquire space from the Administrator of General Services on Near Island in Kodiak, Alaska, that meets the long-term space needs of the National Oceanic and Atmospheric Administration, if the maximum annual cost of leasing the building in which the space is located is not more than $1,000,000.

SEC. 50. TRANSFER AT JUNEAU, ALASKA.

(a) Notwithstanding another provision of law, the Secretary of Transportation shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 51. STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS.

Not later than one year after the date of enactment of this Act the Secretary of Transportation and the Secretary of Commerce will submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in the efforts.

SEC. 52. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS.

(a) Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions, are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67 Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet past the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

VOL 137 PT 23 NO 21–25 1991 UMI

south 15 degrees 14 minutes 01 seconds west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 seconds west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 seconds west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the City of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15,171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit 'B' of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly referred to as the "Rivers and Harbors Appropriation Act of 1899" (33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969.

(d) If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced with 5 years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 53. DISCLOSURE REGARDING RECREATIONAL VESSEL FEE.

Section 2110(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: 'The fees for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment.'."

SEC. 54. SENSE OF THE CONGRESS ON COAST GUARD RESCUE EFFORTS.

(a) The Congress finds that—

(1) during the month of October, Air Station Cape Cod experienced one of the most intense periods of search and rescue activities, including 51 search and rescue cases of which 27 were in the last 10 days of the month;

(2) immediately prior to the Winter storm that ravaged Cape Cod from October 28 to November 1, with average seas of 35–40 feet and winds exceeding 80 knots, coastal small boat station personnel on Cape Cod and the Islands of Nantucket and Martha's Vineyard successfully worked with the local communities and the fishing industry to secure the small coastal ports to minimize damage to vessels and property;

(3) Group Portland, Group Boston, and Group Woods Hole units suffered significant damage to coastal small boat stations, lighthouses, and other aids to navigation but this damage did not affect operational readiness and Coast Guard boats and aircraft were prepared to respond to emergencies;

(4) during the five-day period from October 28 to November 1, the Coast Guard Cutter GENETIN, Coast Guard cutter BEAR and Coast Guard helicopters stationed at Elizabeth City, North Carolina participated in five offshore rescue operations that saved 21 lives;

(5) Coast Guard flight crews operating from Elizabeth City logged 56 hours of flight time during the 72-hour period when Hurricane Grace buffeted the North Carolina Coast;

(6) the Coast Guard performed these search and rescue operations while fulfilling other important missions including the monitoring of a sulfuric acid spill and a sensitive law enforcement operation.

(b) The Congress commends the Coast Guard units involved for their remarkable skill, performance and dedication in protecting life and property and urges the people of the United States to recognize this job well done.

SEC. 55. SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES.

(a) The Congress finds that—

(1) under section 9701 of title 31, United States Code, and section 664 of title 14, United States Code, Coast Guard user fees must be fair, based on the cost to the Coast Guard of providing services or things of value, based on the value of services or things of value provided by the Coast Guard, and based on a valid public policy or interest;

(2) the Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was established under the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–1397);

(3) recreational boaters who are required to pay this fee cannot expect to receive any additional service in return for payment of the fee;

(4) recreational boaters already pay a motorboat fuel tax that contributes to the Coast Guard budget; and

(5) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) It is the sense of Congress that the requirement that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of an offsetting receipts provision to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

SEC. 56. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY

(a) In recognition of the memorandum of understanding of March 2, 1989, regarding the Cooperative Institute of Fisheries Oceanography (hereinafter in this section referred to as the "Institute"), the Institute is established within the National Oceanic and Atmospheric Administration, in partnership with Duke University and the Consolidated University of North Carolina.

(b) There is authorized to be appropriated to the Secretary of Commerce $525,000 for fiscal year 1992 and $546,000 for fiscal year 1993, to remain available until expended, for use for activities of the Institute.

(c) Amounts appropriated pursuant to subsection (b) may be used for—

(1) administration of the Institute;

(2) research conducted by the Institute; and

(3) preparation of a five-year plan for research and for development of the Institute.

(d) Within one year of the date of the enactment of this section, the Institute shall submit to the Congress and the Under Secretary of Commerce for Oceans and Atmosphere the plan developed pursuant to subsection (c)(3).

SEC. 57. NATIONAL DEFENSE RESERVE FLEET.

Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended by adding at the end the following new subsection;

"(d) READY RESERVE FORCE MANAGEMENT.—

"(1) MINIMUM REQUIREMENTS.—To ensure the readiness of vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

"(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

"(B) activate and conduct sea trials on each vessel at least once every 24 months;

"(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

"(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and

"(E) notwithstanding section 2109 of title 46, United States Code, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

"(2) VESSEL MANAGERS.—

"(A) ELIGIBILITY FOR CONTRACT.—A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

"(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

"(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

"(B) CONTRACT REQUIREMENT.—The Secretary of Transportation shall include in each contract for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46, Untied States Code, for a seaman performing that service while operating the vessel if the vessel were not a public vessel.".

Mr. TAUZIN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Louisiana?

Mr. FIELDS. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from Louisiana [Mr. TAUZIN] for an explanation of the bill.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr FIELDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, I rise today in support of H.R. 1776, the Coast Guard Authorization Act of 1991. This bill passed the House on July 18, 1991, and the other body on November 21, 1991. The differences between the Houses over this legislation have been worked out resulting in an excellent piece of legislation. I now ask this House to agree to the amendments proposed by the other body. This bill is the result of a bipartisan effort by both Houses of Congress to support one of the most respected and effective agencies in the Federal Government; the U.S. Coast Guard. I would like to thank Chairman WALTER JONES, Representative BOB DAVIS, and Representative JACK FIELDS for their hard work and cooperation in producing a bill which serves the Coast Guard well.

This bill recognizes the Coast Guard for what it is; an armed force of exceptionally dedicated men and women who are always ready to respond to the call of duty. From the war zone waters of the Persian Gulf to the deadly hurricane seas of the North Atlantic, in 1991 Coast Guard men and women served their country in the face of danger.

For the Coast Guard, 1991 was not unusual. They serve in times of national crises and they serve in times of peace. Coasties serve every day, saving lives at sea, ensuring safe navigation, cleaning up oilspills, protecting our fishing industry, and interdicting illegal drugs. When we give the Coast Guard a job to do—it's done, no questions asked.

H.R. 1776 authorizes the Coast Guard to take the practical steps necessary to implement the Oil Pollution Act of 1990. OPA '90 will have a greater impact on the Coast Guard's future than any other single piece of legislation in recent history. The Coast Guard needs our support to implement this legislation.

H.R. 1776 recognizes the Coast Guard's need for capital improvements. It authorizes the design and construction of desperately needed vessels for the fulfillment of the many missions of the Coast Guard.

This legislation also addresses the need to improve the working and living

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Guard have not only fulfilled these responsibil-

to improve safety on passenger vessels. This

There was no objection.

VOL
137
PT
23
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21
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25
1991
UMI

conditions of the people who are the Coast Guard. Coast Guard personnel must be provided with adequate housing, medical care, and compensation. The Commandant has made people issues his top priority recognizing that the Coast Guard personnel cannot carry out their duties if they are not adequately provided for.

The bill represents the best legislative efforts of all involved in both bodies. I urge unanimous consent of the House in concurring in the amendments to H.R. 1776.

Mr. FIELDS. Mr. Speaker, as a cosponsor of H.R. 1776, I rise in strong support of this bill which authorizes appropriations for the U.S. Coast Guard.

While this is the second time we have considered this legislation, the refined version we have before us today is the product of careful deliberations with the other body.

Since our distinguished subcommittee chairman has done a superb job describing this legislation, I will highlight only a few of the more important provisions.

Mr. Speaker, while the Coast Guard can always use additional funds to carry out its ever growing list of operational responsibilities, the authorization levels contained in H.R. 1776 provide sufficient funds to that vital agency.

For instance, incorporated within this legislation is $14 million to renovate and extend the useful life of the Coast Guard cutter *Mackinaw*. This vessel is the only icebreaker capable of extended and uninterrupted service during the winter months in the Great Lakes. It is essential that we keep this vessel in operation and I compliment the distinguished ranking minority member of our committee, BOB DAVIS, for his tireless leadership on behalf of the *Mackinaw*.

Second, we have authorized $29 million within this legislation so that the Coast Guard can obtain a new command and control aircraft. The acquisition of this aircraft is vital because the Coast Guard's two existing planes, which are used by the Commandant, have surpassed their useful life and the cost of maintaining them has become prohibitive. As a member of the Joint Chiefs of Staff, Admiral Kime must have safe and reliable aircraft at his immediate disposal.

Third, incorporated within H.R. 1776 is language transferring $55 million from the oilspill liability fund for the purchase and prepositioning of oilspill removal equipment.

As someone whose congressional district was devastated by two major oilspills last year, I am pleased that the Coast Guard has announced that it will preposition certain cleanup equipment in the Gulf of Mexico. I am confident that these additional funds will help accelerate that acquisition process and that it will enhance the protection of our Texas coastline.

In addition, this money will be used to finance oil pollution prevention plans and to compensate those who are adversely affected by an oilspill.

Fourth, I am pleased that we have included language to statutorily mandate the Houston-Galveston Navigation Safety Advisory Committee.

This committee, which was created by administrative decree in 1982, provides solutions to the Coast Guard on a range of problems dealing with traffic congestion, vessel groundings, and oilspill control. Our ports are safer today because their suggestions have been implemented and it is appropriate that we have included this important advisory committee, which will serve at virtually no cost to the taxpayer, within H.R. 1776.

Fifth, we have approved language to help ensure the safety of the 4 million Americans who sail on foreign-flag passenger cruise ships each year.

Specifically, we provide that any death, serious injury or major damage to a passenger ship involving Americans booked on a voyage marketed in the United States must be reported immediately to the Coast Guard. In addition, H.R. 1776 will ensure that any investigation into the cause of the accident be conducted consistent with regulations enacted by the International Maritime Organization [IMO].

It is my firm belief that both the reporting requirement and the investigation of marine casualties will provide greater safety for those Americans who travel on passenger cruise ships.

Sixth, this legislation commends those men and women of the U.S. Coast Guard who played an important role in the Persian Gulf conflict.

While the Coast Guard may not have received as many accolades as the other branches of service, their personnel performed superbly in such activities as vessel inspections, port security, oilspill cleanup, and law enforcement.

Furthermore, Coast Guard law enforcement detachments led or participated in nearly 60 percent of the more than 600 vessel boardings that occurred in the Middle East.

Mr. Speaker, I am pleased to have cosponsored the original resolution, House Concurrent Resolution 163, commending the U.S. Coast Guard and feel it is appropriate that it has been included within H.R. 1776.

Finally, this legislation expresses the sense of Congress that the so-called recreational boat fee must be repealed.

Mr. Speaker, the recreational boat fee is a tax that should never have been approved because it fails the fundamental test of what constitutes a user fee, since those who pay receive no benefit and no additional services.

Furthermore, I reject the notion that those who use our waterways pay little, if anything, toward their maintenance. The truth is that recreational boaters pay millions of dollar each year in Federal and State taxes and fees. These include: Customs entry fees, FCC radio license fees, State boat registration fees, State sales tax, Federal luxury taxes, property taxes, trailer and titling fees, and $170 million in Federal fuel taxes in fiscal year 1992 alone. The vast majority of this money is used for a whole range of Coast Guard programs.

In short, those who use our waterways already pay their fair share and they should not be further burdened by this arbitrary, unfair, and indefensible recreational boat tax.

While I would have preferred a total repeal of the recreational boat fee, unfortunately, we will have to complete that effort at a later date.

Nevertheless, you can be assured that I intend to continue to vigorously work to remove this burden from our Nation's 4 million recreational boaters.

Mr. Speaker, in closing, let me say that it is critical that we provide the Coast Guard with the financial resources they need to get the job done. It is my firm belief that this legislation is a step in the right direction.

I urge my colleagues to support this bill so that the Coast Guard can continue to wage its battle against the spread of illegal drugs into this country, adequately protect our coastline from future oilspills, and upgrade their oceangoing fleet to assist our citizens throughout this country.

Mr. Speaker, I would like to compliment my distinguished subcommittee chairman, BILLY TAUZIN, for his superb leadership and tireless efforts in bringing this measure to the floor. This legislation was written in a truly bipartisan manner and I urge my colleagues to vote "aye" on H.R. 1776.

Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of H.R. 1776, the Coast Guard Authorization Act of 1991.

As the deficit has mushroomed, Congress and the American people have become increasingly concerned with reducing spending and eliminating waste. In guiding the Nation out of this recession, it is critical that we cease unnecessary spending yet provide sufficient funds to support essential services. Historically, the Coast Guard is one agency where funds are frugally spent to meet important national goals. This authorization bill continues this tradition.

The bill before the House is similar to the bill we passed last July, with additions from the other body. We have now worked out all differences, and I expect the bill to move quickly.

The bill authorizes just over $3 billion for Coast Guard programs in fiscal year 1992. Funds authorized for the Coast Guard are spent for important and diverse purposes including the rescue of lives at sea, the prevention of oilspills and other marine pollution, and the enforcement of laws and treaties. Over the past year, the men and women of the Coast

Guard have not only fulfilled these responsibilities but also met unprecedented and monumental challenges.

Each day, the Coast Guard routinely conducts search and rescue operations for boaters, swimmers, and accident victims. During hurricanes and tropical storms, the Coast Guard is always on the scene. Twenty-four hours a day, Coast Guard navigational aids help the mariner avoid the perils of the sea.

Just this past month, the Coast Guard was pushed to the limit to respond to the victims of Hurricane Grace and a series of other storms. During the 5-day period from October 28 to November 1, the Coast Guard Cutter *Genetin*, Coast Guard Cutter *Bear*, and the Coast Guard helicopters stationed at Elizabeth City, NC, participated in five offshore rescue operations that saved 21 lives. Coast Guard flight crews operating from Elizabeth City logged 56 hours of flight time during the 72-hour period Hurricane Grace buffeted the North Carolina coast. The Coast Guard performed these search and rescue operations while fulfilling its other important missions, including the monitoring of a sulfuric acid spill and a sensitive law enforcement operation.

In addition to these natural challenges it confronts every day, the Coast Guard has to deal with man-made crises. During Operation Desert Shield/Desert Storm, the Coast Guard provided port security both in America and Saudi Arabia, provided valuable assistance in responding to the oilspill caused by Saddam Hussein's decision to open the spigots of Kuwait's oil wells, and shared responsibilty for enforcing the U.N. blockade. Any one of these tasks could have pushed another agency to the limit, but for the Coast Guard, they became part of the huge mosaic which defines the modern Coast Guard.

This bill contains a number of significant provisions. One of the most important concerns cruise ship safety. This provision, which I authorized, extends the jurisdiction of the Coast Guard to investigate accidents on passenger vessels that operate from U.S. ports or have other significant contacts with the United States. Each year, thousands of American citizens board cruise ships to see the world. They travel to the Caribbean, Alaska, South America, and Antarctica. Virtually, all of these vessels are documented in foreign nations, and virtually all of the passengers are American citizens.

Section 34 of the bill requires certain foreign-flag passenger vessels to report marine casualties to the Coast Guard. It applies this requirement to a foreign passenger vessel in specific geographic locations, that embarks or disembarks passengers at a U.S. port, and to a vessel that transports passengers traveling under any form of combined air and sea ticket package that has been marketed in the United States. When there is a casualty, the Secretary of Transportation is given the discretion whether to investigate. If the choice is to investigate, the Secretary may either seek a multinational investigation under the auspices of the International Maritime Organization [IMO] or allow the Coast Guard to conduct its own investigation; in either case, the Secretary is required to ensure that when an investigation is undertaken, that it is timely, thorough, and produces findings and recommendations to improve safety on passenger vessels. This provision should assist the Coast Guard to counsel changes both at the IMO and in the United States that will save lives.

The bill also contains a provision to implement the Salvage Convention. This international agreement provides additional incentives for salvors to assist foundering or sunken ships that may cause damage to the marine environment. I strongly support this convention.

I should note that this convention will have no effect on the United States implementation of the Abandonment Shipwreck Act—Public Law 100–298. In the act, the United States asserted title to three classes of abandoned, historic shipwrecks within U.S. waters and transferred title to these wrecks to the States in whose submerged lands these wrecks are embeded or lie. These wrecks are now managed in accordance with State historic preservation and resource management laws and are no longer subject to the Federal common law of salvage. Accordingly, these wrecks are not subject to salvage proceedings and do not come within the application of the Salvage Convention pursuant to article 2 of that convention.

This bill also contains a provision of particular interest to my State in that it establishes the Cooperative Institute of Fisheries Oceanography [CIFO] within the National Oceanic and Atmospheric Administration, in partnership with Duke University and the Consolidated University of North Carolina. CIFO will provide enhanced cooperation and research on fisheries and oceanography problems of interest to North Carolina and the entire southeast. Within 1 year, the institute is to develop and submit to NOAA and the Congress a 5-year research and development plan. In fiscal year 1992, $525,000 is authorized for CIFO, with an additional $546,000 authorized in fiscal year 1993.

Finally, H.R. 1776 also contains a number of other provisions addressing a variety of internal Coast Guard matters, such as housing, personnel retention, and recall of officers. The bill also deals with the transfer of unnecessary property, extension of the terms of advisory committees, navigational and boating safety, bridges, unique vessels, lighthouses, and pollution.

H.R. 1776 should help the Coast Guard perform its many missions in an efficient and economical manner. I urge my colleagues to support this important legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Louisiana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 794) to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

SENATE AMENDMENTS:

Page 1, strike out all after line 2, over to and including line 26 on page 16 and insert:

TITLE I—SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

SECTION 101. SHORT TITLE.

This title may be cited as the "Silvio O. Conte National Fish and Wildlife Refuge Act".

SEC. 102. FINDINGS.

The Congress finds and declares the following:

(1) The late Silvio Conte was a long-time champion of the preservation of natural resources, including the Connecticut River, shepherding through Congress legislation meant to restore the river and its wildlife to health.

(2) The Connecticut River and its riparian lands are unique environmental resources which provide habitat for significant anadromous, migratory, and resident fish; migratory waterfowl; and other wildlife species, including such threatened or endangered species as the shortnosed sturgeon and bald eagle.

(3) Federal, State, and local governments have spent over $600,000,000 to clean up the Connecticut River and improve the quality of its fish and wildlife habitat, resulting in the reestablishment or improvement of the populations of many species such as the Atlantic salmon, American shad, bald eagle, and peregrine falcon.

(4) The Connecticut River valley is home to over two million people, and accordingly the river and riparian lands are of great value for environmental education and natural resource based recreation.

(5) The Connecticut River valley is threatened with spoilation, removal from public access, and ecological downgrading and is a significant source of energy and means of commerce for New England.

(6) Despoiling the Connecticut River and its riparian lands will result in the permanent loss of unique social, educational, and environmental assets and will devalue the significant Federal, State and local investments made to clean up the river.

SEC. 103. DEFINITIONS.

For the purposes of this Act—

(1) the term "affected States" means the Commonwealth of Massachusetts, and the States of Vermont, New Hampshire, and Connecticut;

(2) the term "refuge" means the Silvio Conte National Fish and Wildlife Refuge established under section 106 of this Act;

(3) the term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(4) the term "selection area" means the lands and waters of the Connecticut River basin, including the main stem of the river and its tributaries from its source at Fourth Connecticut Lake to Long Island Sound.

SEC. 104. PURPOSES.

The purposes for which the refuge is established are—

VOL
137
PT
23
NO
21
—
25
1991
UMI

(1) to conserve, protect, and enhance the Connecticut River valley populations of Atlantic salmon, American shad, river herring, shortnosed sturgeon, bald eagles, peregrine falcons, osprey, black ducks, and other native species of plants, fish, and wildlife;

(2) to conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species and the ecosystems upon which these species depend within the refuge;

(3) to protect species listed as endangered or threatened, or identified as candidates for listing, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.);

(4) to restore and maintain the chemical, physical, and biological integrity of wetlands and other waters within the refuge;

(5) to fulfill the international treaty obligations of the United States relating to fish and wildlife and wetlands; and

(6) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access to the extent compatible with the other purposes stated in this section.

SEC. 105. SELECTION OF LANDS.

Within three years after the date of the enactment of this Act, the Secretary shall—

(1) consult with appropriate State and local officials, including those representing State government natural heritage inventory agencies, the Long Island Sound Management Conference as established under the National Estuary Program, private conservation organizations, and other interested parties in designating the refuge boundaries;

(2) define and designate the refuge boundaries, including all subunits, within the selection area that would fulfill the purposes set forth in section 104 of this Act; and

(3) prepare a detailed map depicting the refuge boundaries designated under paragraph (2), which the Secretary shall keep on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

SEC. 106. ACQUISITION AND ESTABLISHMENT OF REFUGE.

(a) ACQUISITION.—To the extent authorized under the Fish and Wildlife Act of 1956 (16 U.S.C. 742f–a–5), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460k–4–11), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715–715s), the Emergency Wetlands Resources Act of 1986, as amended (16 U.S.C. 3901 et seq.), the North American Wetlands Conservation Act (16 U.S.C. 4401–4413), and other existing laws, the Secretary may acquire for inclusion in the refuge by purchase or donation such lands and waters or interests therein (including permanent conservation easements) within the boundaries defined and designated under section 105 of this Act. All lands, waters, and interests therein so acquired shall be part of the refuge.

(b) ESTABLISHMENT.—When sufficient property within the boundaries defined and designated under section 105 of this Act have been acquired to constitute an area that can be effectively managed as a refuge, the Secretary shall establish the refuge, to be named the "Silvio Conte National Fish and Wildlife Refuge," by publishing a notice to that effect in the Federal Register and publications of local circulation.

(c) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries of the refuge defined and designated under section 105 of this Act as may be appropriate to carry out the purposes of this Act or to facilitate the acquisition of property within the refuge.

(d) INTERIM REPORT TO CONGRESS.—Within one year of the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works in the United States Senate and the Committee on Merchant Marine and Fisheries in the United States House of Representatives a report describing those lands and waters that the Secretary proposes to acquire under the Fish and Wildlife Act of 1956 (16 U.S.C. 742f–a–5), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460k–4–11), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715–715s), the Emergency Wetlands Resources Act of 1986, as amended (16 U.S.C. 3901 et seq.), the North American Wetlands Conservation Act (16 U.S.C. 4401–4413), and other existing laws for inclusion in the refuge at a subsequent time. The Secretary also shall include in the report an estimate of the total number of acres of lands or waters or interests therein that may be acquired for inclusion within the refuge boundaries under the authority of this Act and other existing laws and the approximate cost of such acquisition.

SEC. 107. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall admnister all lands, waters, and interests therein acquired under section 106 pursuant to—

(1) the provisions of the National Wildlife Refuge System Administration Act of 1966 (U.S.C. 668dd–668ee) and the Refuge Recreation Act (16 U.S.C. 460k–460k–4); and

(2) the purposes for which the refuge is established, as set forth in section 104 of this Act.

(b) OUTREACH AND EDUCATION.—The Secretary shall work with, provide technical assistance to, provide community outreach and education programs for or with, or enter into cooperative agreements with private landowners, State and local governments or agencies, and conservation organizations to further the purposes for which the refuge is established, as set forth in section 104 of this Act.

(c) USE OF OTHER AUTHORITY.—The Secretary may utilize such other statutory authority as may be available to the Secretary for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education, as the Secretary considers appropriate to carry out the purposes of the refuge as set forth in section 104 of this Act.

SEC. 108. SILVIO CONTE NATIONAL FISH AND WILDLIFE REFUGE ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND FUNCTIONS.—Within three months after the date of enactment of this Act, the Secretary shall establish a committee to be known as the "Silvio Conte National Fish and Wildlife Refuge Advisory Committee" (hereinafter referred to as the "Advisory Committee") which shall assist the Secretary on community outreach and education programs that further the purposes of the refuge.

(b) MEMBERSHIP; TERMS.—The Advisory Committee shall be composed of fifteen members, each appointed by the Secretary within three months of the date of enactment of this Act for a term not to exceed three years, as follows:

(1) four members, including one from each of the affected States, to be recommended by the Governor of each State as representing the cities or towns bordering the Connecticut River and its tributaries;

(2) four members, including one from each of the affected States, to be recommended by the Governor of each State as representing State agencies with responsibility for conservation or water quality programs;

(3) four members, including one from each of the affected States to be appointed from recommendations made by the Governor of that affected State, who shall represent nonprofit conservation organizations or citizen groups with direct interest in the purposes of the refuge;

(4) one member of the Long Island Sound Management Conference; and

(5) two members to be designated by the Secretary, including one who represents the energy and commerce interests associated with the Connecticut River.

(c) CHAIRMAN.—The Advisory Committee shall elect one member of the Advisory Committee to be its chairman.

(d) VACANCIES.—Any vacancy in the Advisory Committee shall be filled in the same manner in which the original appointment was made.

(e) COMPENSATION.—A member of the Advisory Committee shall not receive any compensation for service on the committee.

(f) MAJORITY VOTE.—The Advisory Committee shall act by affirmative vote of a majority of the members thereof.

SEC. 109. INTERPRETATION AND EDUCATION CENTER.

(a) IN GENERAL.—The Secretary is authorized to construct, administer, and maintain at appropriate sites within the refuge, or pursuant to subsection (b) cooperate in the construction, operation and maintenance at an appropriate site, not more than four aquatic resources and wildlife interpretation and education centers, known as Silvio Conte National Fish and Wildlife Refuge Education Centers, along with administrative facilities, to provide opportunities for the study, understanding, and enjoyment of aquatic resources and wildlife in its natural habitats.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized—

(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with State and local governments and other public and private entities;

(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses: Provided, That Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

(3) to interpret the Connecticut River's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SECTION 201. ESTABLISHMENT AND TERMS OF SILVIO O. CONTE MEMORIAL SCHOLARSHIP FUND.

(a) IN GENERAL.—In recognition of Silvio O. Conte's longstanding contribution and devotion to the conservation of our Nation's natural resources, and his life-long commitment to education, the Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, is authorized to enter into an agreement with the National Fish and Wildlife Foundation, hereinafter referred to as the Foundation, and the University of Massachusetts/Amherst, hereinafter referred to as the University, to establish the Silvio O. Conte Memorial Scholarship Fund. The purpose of the agreement is to encourage students to enter the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology by establishing a scholarship fund at the University.

(b) TERMS OF AGREEMENT.—Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301–6308), the agreement authorized under subsection (a) of this section shall direct that the University shall—

(1) establish the Silvio O. Conte Memorial Scholarship Fund for the purpose of awarding scholarships for a period not exceeding three years to eligible candidates in advanced degree programs in the fields of fisheries and wildlife ecology and conservation, natural resources policy and administration, or ecology;

(2) invest funds provided by the Director, the Foundation and any other contributors in interest-bearing accounts;

(3) award scholarships annually utilizing the interest generated from such investment accounts minus the amount equal to inflation;

(4) match the scholarship awards with in-kind contributions of equal value, such as waivers of tuition or fees or the provision of other financial aid;

(5) establish eligibility criteria based upon financial needs, academic achievement, and potential contribution of the profession;

(6) announce the availability of the scholarship in a manner which ensures that it is widely distributed and that minority and socially-disadvantaged candidates are made aware of the opportunity;

(7) upon request by the Director, make available the investment accounts for his inspection; and

(8) prepare and provide to the Director annually a report regarding the expenditures from the investment accounts which shall include the number of scholarships awarded, the amount of each scholarship, and the share of each scholarship provided by the University.

(c) AUTHORIZATION.—The Director is authorized to make a one-time contribution of up to $50,000 to the University to establish the Silvio O. Conte Memorial Scholarship Fund.

(d) TERMINATION OF AGREEMENT.—At such time as the parties agree to terminate the agreement authorized under subsection (a) of this section, the principle and interest in the account shall be deposited in the Migratory Bird Conservation Fund.

SEC. 202. WILDLIFE INTERPRETATION AND EDUCATION CENTER.

Title II of Public Law 100–610 is amended by adding at the end the following new section:

"SEC. 208. WILDLIFE INTERPRETATION AND EDUCATION CENTER.

"(a) The Secretary is authorized to construct, administer, and maintain at an appropriate site, a wildlife interpretation and education or visitor center.

"(b) The Secretary is authorized—

"(1) to enter agreements to share the construction and operation of and the land acquisition for the center, including the costs thereof, with State and local governments and other public and private entities;

"(2) to utilize appropriated or donated funds for construction, operation and maintenance expenses, provided that Federal interests arising from such expenditures are protected by a long-term lease, agreement, or transfer of property interest; and

"(3) to interpret the Pettaquamscutt Cove region's aquatic and wildlife resources in the context of the region's cultural, geological, and ecological history.".

Page 17, strike out lines 1 to 13.

Page 17, line 14, strike out **[TITLE V]** and insert: *TITLE III.*

Page 17, line 16, strike out **[501]** and insert: *301.*

Page 17, after line 20, insert:

SEC. 302. COST-SHARING FOR STATE COASTAL WETLANDS GRANTS.

(a) FEDERAL SHARE.—Section 305(d)(1) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3954(d)(1)) is amended by striking "has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces." and inserting in lieu thereof: "has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:

"(A) a trust fund from which the principal is not spent; or

"(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees.".

(b) EFFECTIVE DATE.—This section shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.

Page 17, strike out all after line 20, over to and including line 2 on page 18.

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Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Massachusetts?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, I take this time to yield to the gentleman from Massachusetts [Mr. STUDDS] for an explanation of this bill.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 794 is an omnibus fish and wildlife conservation bill that was introduced by the widely respected and sorely missed gentleman from Massachusetts, Silvio Conte, shortly before his death.

The primary purpose of the bill is to establish a national fish and wildlife refuge in Silvio's beloved Connecticut River valley, a refuge that the Merchant Marine and Fisheries Committee voted to designate the Silvio O. Conte National Fish and Wildlife Refuge. As amended, the bill authorizes the Secretary of the Interior to share with the States bordering the Connecticut River the costs and operation of refuge visitor centers.

A second provision honoring Mr. Conte was added by the other body. It would establish the Silvio O. Conte Memorial Scholarship Fund, which is designed to encourage students to enter the fields of fisheries and wildlife conservation.

Other titles have been added to the bill to encourage broader State participation in the National Wetlands Conservation Program, and to permit the construction of a Federal facility at the Culebra National Wildlife Refuge in Puerto Rico.

This is a good bill, it honors one of the most beloved Members who ever served in this body, and I urge Members to support it.

Mr. YOUNG of Alaska. Mr. Speaker, further reserving the right to object, I can only compliment the chairman of the subcommittee, and let me say this: Sil, wherever you are—and I know where you are—I hope you are recognizing the work of this House in your memory as we remember the good times and the fun times we had with the great Congressman from Massachusetts.

Mr. OLVER. Mr. Speaker, I can think of no more appropriate memorial to the work and life of Silvio Conte than the National Fish and Wildlife Refuge we have created in his name today.

Silvio was a true outdoorsman and environmentalist. He loved the beautiful stretches of mountains, hills, valleys, and lakes that make up western Massachusetts. He recognized and cherished the great resources provided to the region by the Connecticut River and its surrounding lands. And like the rest of us who have lived in the area over the last several decades, he deplored the destruction of the river, and the loss of the many gifts it gave us.

Today we have begun to fulfill a dream of Silvio's—to restore the Connecticut River to its former beauty and health. The creation of this refuge will finally protect the river and its valley, and once again make it a home for the fish, birds, and animals that have vanished under years of environmental strain.

The Silvio Conte National Fish and Wildlife Refuge Act will also create education centers to bring the many resources of the river a step closer to the valley residents and visitors. It is fitting that the first of these centers be located along the section of the river that was represented by Silvio Conte.

In building and maintaining the education center in Massachusetts I am hopeful that the Secretary of the Interior will seek cooperative agreements or partnerships, as provided for in this bill. Such agreements offer a great opportunity for saving costs while creating extremely worthwhile centers for udnerstanding the river and its cultural, ecological, and geological history.

I thank my colleagues for their support of this important legislation. Each of you should be proud to have taken a part in supporting this worthwhile environmental protection bill. But perhaps you should be even more proud of your role in fulfilling the dream of a man who cared so deeply for the outdoors and the beauty of his home State. Silvio Conte's dream will now take shape, and his work will be honored for years to come.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

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VOL 137
PT 23
NO 21—25
1991
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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of Rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Votes postponed on suspensions considered prior to the consideration of the conference report on the crime bill, H.R. 3371, will be postponed until after the vote on said conference report.

Any other rollcall votes demanded later in the day as the House proceeds to the consideration of further suspensions will be postponed until tomorrow.

DESIGNATION OF A CHIEF MINORITY AFFAIRS OFFICER IN THE DEPARTMENT OF VETERANS AFFAIRS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3327) to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department, as amended.

The Clerk read as follows:

H.R. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHIEF MINORITY AFFAIRS OFFICER.

(a) CHIEF MINORITY AFFAIRS OFFICER.—Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

"§317. Chief Minority Affairs Officer

"(a) The Secretary shall designate one of the Assistant Secretaries of the Department as the Chief Minority Affairs Officer of the Department.

"(b) The Chief Minority Affairs Officer shall have the following duties:

"(1) To investigate and examine the policies, regulations, programs, and other activities of the Department as they affect minority group members who are veterans or receive benefits from the Department.

"(2) To assess the needs of minority group members who are veterans or who receive benefits from the Department as those needs relate to the activities of, and benefits provided by, the Department and to evaluate the manner and extent to which the activities of, and benefits provided, by the Department fulfill those needs.

"(3) To advise the Secretary regarding the effect on minority group members of policies, regulations, programs, and other activities of the Department and of methods to ensure that minority group members are afforded an opportunity to participate fully in the activities and benefits of the Department.

"(4) To carry out any additional functions and activities that the Secretary prescribes with regard to minority group members who are veterans or who receive benefits from the Department.

"(c) In this section, the term 'minority group member' means an individual who is—

"(1) Asian American;

"(2) Black;

"(3) Hispanic;

"(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian);

"(5) Pacific-Islander American; or

"(6) female.

"(d) Not less than every two years, the Secretary shall submit to the Congress a report containing a detailed description of any activities and policies of the Department relating to minority group members who are veterans or who receive benefits from the Department and the duties of the Chief Minority Affairs Officer, with respect to the previous two-year period.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"317. Chief Minority Affairs Officer.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3327 would designate one of the Assistant Secretaries of the Department of Veterans Affairs as the chief minority affairs officer of the Department. The bill would strengthen accountability for all of the many efforts of the Department to assist minority veterans. It would allow for better coordination within the Department to assure that programs reach all veterans.

A similar provision was passed by the Senate last week, Mr. Speaker.

Mr. Speaker, I want to commend and thank my colleague, the gentleman from New York [Mr. RANGEL], for working with me and putting together this bill. The gentleman from New York introduced a similar bill in the last Congress and again earlier this year, and we were in agreement on the merits of the proposed legislation. I also want to commend my colleague, the gentleman from Arizona [Mr. STUMP], the ranking minority member, for his support and help.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. RANGEL], the coauthor of this legislation.

Mr. RANGEL. Mr. Speaker, let me first take time to thank the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY] for the leadership he has provided in this legislation, which could have been a sensitive issue if he had not seen the merits of it. In working with his Republican counterparts, this has become a nonpartisan issue.

I think that all of us felt a great deal of pride in seeing all our American men and women who demonstrated the love and affection they had for our great country in the Persian Gulf. But it really reminded us that each time our Nation has been called into combat, we expected that whether we were in the minority or in the majority, we would be there when our Nation needed us, notwithstanding the fact that many of us believe there are inequities. The problems that we have sometimes come about because of economic reasons, because minorities do not always find themselves available for college deferments. Notwithstanding the percentage in the population, when the count is taken as to who is in combat, who is missing, and who is killed in action, unfortunately we find that minorities certainly are listed far higher in proportion than the percentage they represent in the population.

That is not to say that the medals and the tributes that are paid to them are not honor enough to die for this country. But the problems we face are there when they come home after the parades, after the confetti, and after America seems to have forgotten. When we look at the alcoholics, the addicts, the jobless, the homeless, and the hopeless, it pulls at all of our hearts to see that somehow they have to carry a heavier burden.

We have found that veterans of color, female veterans, and veterans who are Hawaiian natives as well as Alaskan Natives and Indians have found a more difficult time in adjusting to society because of lack of training and lack of support. That is why I think it is important that the Committee on Veterans' Affairs has reported out a bill that would set aside an Assistant Secretary of the Department of Veterans Affairs to make certain that we are able to guide these veterans to become better trained, to be able to be assimilated into American society, and to really become contributors rather than be just listed among the homeless.

To the chairman of this committee, Let me say that I feel a special personal commitment because when I joined the service in 1948, and went to Korea, I was a high school dropout. It did not bother me too much then, but after I came home with the Bronze Star and the Purple Heart and really thought that parade meant something and applied for a job, I found out that notwithstanding the fact that it was reported that I was a hero, I was still a high school dropout. I was fortunate because at the Veterans' Administration, even though it was difficult, I was able to go to high school, I was able to finish college, and I was able to go to law school.

Mr. Speaker, what I needed was someone to help guide me to the Veterans' Administration, someone who paid special attention, and someone who was able to take me out of poverty and into school and treat me like a veteran should have been treated.

There is no question that in our homeless shelters 40 to 60 percent of the people there have served their country in an honorable position, and I think that as veterans around this country, especially those in the service, remember the Montgomery bill as being that vehicle that has taken them from being high school dropouts, people without training, or people who wanted to assimilate into society, when they remember what the Montgomery bill has done for them, when one day it will be recorded that the Assistant Secretary of the Department of Veterans Affairs was the agency chief minority affairs officer, someone that can look out for them, someone that can guide them, someone that can help, someday these people will be able to come back to this Congress and say that because of our concern and because we had the courage to say that some people may need additional help, we will be proud of the fact that the gentleman from Mississippi reported this bill out of his committee and that the Congress passed it on the Suspension Calendar.

Mr. Speaker, I thank the chairman of the Committee on Veterans' Affairs.

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Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3327, a bill to designate a chief minority affairs officer in the Department of Veterans Affairs.

Chairman MONTGOMERY and Mr. RANGEL, a combat veteran of the Korean war, have worked together to bring this measure to the floor, and the committee minority has agreed to it. Our agreement is a reaffirmation of the bipartisan commitment to the impartial delivery of VA benefits and services to every person eligible for them.

As our committee report states:

> In recommending this legislation, the committee does not intend to imply that the Department of Veterans Affairs has ignored any of its statutory responsibilities for insuring that benefits or employment opportunities are provided to minorities in a neutral manner, without regard to sex, race, or ethnic background.

Mr. Speaker, I believe the VA is doing an excellent and highly commendable job in this respect. Furthermore, the Secretary of Veterans Affairs in a November 12, 1991, letter to Chairman MONTGOMERY unequivocally said that:

> * * * Veterans' benefits are to be made available to all honorably discharged veterans regardless of their rank, branch of service, sex, creed or national origin.

The Secretary's entire letter is included in the committee's report.

The Committee on Veterans' Affairs under the leadership of our distinguished chairman, Mr. MONTGOMERY, has a long history as advocates for veterans, all veterans.

The function of this committee is to investigate, study, and consider matters affecting veterans and their dependents as a group. Our goal is to enact legislation to improve the services provided to all veterans through the Department of Veterans Affairs. In order to achieve this goal, the committee has held many hearings on a multitude of subjects which are of utmost concern to veterans. In fact our Subcommittee on Oversight and Investigations has held a hearing every year for the past 3 on the concerns of Vietnam veterans.

During these hearings we have heard from specific minority groups including: The Congressional Black Causcus—Black Veterans Braintrust, The National Association of Women Veterans, Inc., Puerto-Rican-Hispanic Veterans Association of the Delaware Valley, and Gay, Lesbian and Bisexual Veterans of America.

To my knowledge, no legislation has been introduced, even by the proponents of legislation aimed at minority groups, to address any claimed denial of veterans' benefits or medical care on any basis other than statutory eligibility requirements—not race, ethnicity, religious, or any other type of discrimination.

Despite the absence of a clearly identified problem area, we have taken prompt action on H.R. 3327 which will help ensure that the needs and views of minority veterans are heard. H.R. 3327 will require that the Department have a high level individual who can be held accountable for representing the needs of minority veterans.

In addition, Mr. Speaker, the leadership of this committee receives and responds to correspondence from all over the country on many veterans issues. We hear from veterans who complain the system is failing them because of: over crowding, budget cuts, and lack of resources and equipment for medical care, benefits processing, and even grass seed to cover the graves of their departed loved ones.

But, Mr. Speaker, we have not heard from any veterans who believe the system is failing them simply because of their color.

What all this means to me, Mr. Speaker, is that this committee, our staff and the Department are not overlooking the needs of minority veterans. Quite the contrary, it seems we have achieved a high degree of integration of the veterans' system to respond to the needs of all veterans regardless of their color.

In addition, this committee has worked to ensure that minorities maintain visibility within the Department. The VA has issued over a dozen reports specifically identified as concerning women and minorities since 1984. Other major health studies relative to the experiences of minorities have been explored by the VA. These include: Studies related to agent orange and post-traumatic stress disorder—Vietnam veterans readjustment study—AIDS research, medical system users, homeless veterans, sickle cell anemia, and war zone stress among returning Persian Gulf veterans.

Additionally, Mr. Speaker, the Department of Veterans Affairs has a specific program to develop women and minorities for management positions.

The VA opposes enactment of H.R. 3327, because in the VA's view, it would place special emphasis on certain categories of veterans rather than on equality among all veterans, and duplicate existing efforts to address concerns of minority veterans. However, my hope is that, should this legislation be enacted, it will be carried out in such a way as to ensure continuing equality among all veterans, nothing more and nothing less.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New York [Mr. RANGEL] for giving this opportunity to introduce this bill and let me cosponsor it. I might say that the gentleman from New York [Mr. RANGEL] was rather modest in not saying that his son is a marine, and he did sign up for the Montgomery GI bill. We are proud to have been able to help move this legislation along. It is needed. I hope the Department of Veterans Affairs will take this legislation seriously, which I know they will, and that we can see the minorities receive the kind of treatment that they should receive, and that all veterans should be treated the same.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3327, a measure to designate a chief minority affairs officer in the Department of Veterans Affairs.

I would like to commend the chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY] for introducing this important measure, and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for his unceasing efforts on behalf of our Nation's veterans and the gentleman from New York [Mr. RANGEL], the original sponsor of this measure, for diligently pursuing this issue.

H.R. 3327 amends title 38, of the United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department.

Mr. Speaker, our support of this measure confirms the support in Congress for our Nation's veterans. This measure allows VA, to designate an established assistant secretary to handle pertinent issues that affect our Nation's veterans.

Accordingly, I strongly support H.R. 3327, and urge my colleagues to vote in favor of it.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

VOL 137 PT 23 NO 21—25 1991 UMI

The SPEAKER pro tempore. (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 3327, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3327 and on House Resolution 300.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

VETERANS' HEALTH CARE AND RESEARCH AMENDMENTS OF 1991

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 300) providing for the concurrence by the House with amendments in the amendments of the Senate to H.R. 2280, as amended.

The Clerk read as follows:

H. RES. 300

Resolved, That upon the adoption of this resolution the bill (H.R. 2280) to amend title 38, United States Code, to extend and improve veterans' health care programs, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendments thereto be, and the same are hereby, agreed to with amendments as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Programs Amendments of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code, and to Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

PART A—GENERAL HEALTH CARE

Sec. 101. Increase in limit on certain grants for home structural alterations for disabled veterans.
Sec. 102. Extension of annual report on furnishing health care.
Sec. 103. Submission of reports of Geriatrics and Gerontology Advisory Committee.
Sec. 104. Research corporations.
Sec. 105. Authority to hold joint title to medical equipment.
Sec. 106. Quality assurance activities.
Sec. 107. Advisory Committee on Prosthetics and Special-Disabilities Programs.
Sec. 108. Prosthetic services report.
Sec. 109. Services for homeless veterans.
Sec. 110. Prohibition of use of prices of drugs paid by the Department of Veterans Affairs in the calculation of Medicaid rebates.

PART B—MENTAL HEALTH PROVISIONS

Sec. 121. Marriage and family counseling for Persian Gulf War veterans.
Sec. 122. Post-Traumatic Stress Disorder research and reports.
Sec. 123. Post-Traumatic Stress Disorder program planning.

TITLE II—HEALTH-CARE PERSONNEL

Sec. 201. Cap on certain rates of pay.
Sec. 202. Minimum period of service for scholarship recipients.
Sec. 203. Authority to purchase items of nominal value for recruitment purposes.
Sec. 204. Special pay for certain physicians and dentists based on board certification.
Sec. 205. Transition rule for payment of special pay under certain special pay agreements.
Sec. 206. Authority to appoint non-physician directors to the office of the Under Secretary for Health.
Sec. 207. Expansion of director grade of the physician and dentist pay schedule.

TITLE III—LIFE INSURANCE PROGRAMS

Sec. 301. Supplemental service disabled veterans' insurance for totally disabled veterans.
Sec. 302. Increase in amount of Veterans' Mortgage Life Insurance.

TITLE IV—COMPENSATION AND PENSION

Sec. 401. Clarification of scorekeeping rule for cost-of-living increases in compensation rates.
Sec. 402. Reduction in pension for veterans' survivors who are receiving medicaid-covered nursing home care.
Sec. 403. Access to information necessary for the administration of certain veterans' benefits laws.

TITLE V—MISCELLANEOUS

Sec. 501. Extension of authority of Secretary of Veterans Affairs to maintain the regional office in the Philippines.
Sec. 502. Reestablishment of the Advisory Committee on Native-American Veterans.
Sec. 503. Extension of certain vocational rehabilitation and training programs.
Sec. 504. Authorization requirement for construction of new medical facilities.
Sec. 505. Redesignation of certain positions within the Department of Veterans Affairs.
Sec. 506. Redesignation of sections of chapter 43.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(b) REFERENCES TO SECRETARY.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

PART A—GENERAL HEALTH CARE

SEC. 101. INCREASE IN LIMIT ON CERTAIN GRANTS FOR HOME STRUCTURAL ALTERATIONS FOR DISABLED VETERANS.

(a) INCREASE.—Section 1717(a)(2) is amended by striking out "$2,500" and "$600" and inserting in lieu thereof "$4,100" and "$1,200", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to a veteran who first applies for benefits under section 1717(a)(2) of title 38, United States Code, after December 31, 1989.

(c) APPLICABILITY.—A veteran who exhausted such veteran's eligibility for benefits under section 1717(a)(2) of title 38, United States Code, before January 1, 1990, is not entitled to additional benefits under such section by reason of the amendments made by subsection (a).

SEC. 102. EXTENSION OF ANNUAL REPORT ON FURNISHING HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health-Care Amendments of 1986 (38 U.S.C. 1710 note) is amended by striking out "fiscal year 1991" and inserting in lieu thereof "fiscal year 1992".

SEC. 103. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Paragraph (2) of section 7315(c) is amended to read as follows:

"(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

SEC. 104. RESEARCH CORPORATIONS.

(a) PERIOD FOR OBTAININO RECOGNITION AS TAX-EXEMPT ENTITY.—Section 7361(b) is amended by striking out "three-year period" and inserting in lieu thereof "four-year period".

(b) EXTENSION OF AUTHORITY FOR ESTABLISHMENT OF CORPORATIONS.—Section 7368 is amended by striking out "September 30, 1991" and inserting in lieu thereof "December 31, 1992".

SEC. 105. AUTHORITY TO HOLD JOINT TITLE TO MEDICAL EQUIPMENT.

(a) IN GENERAL.—(1) Chapter 81 is amended by adding at the end of subchapter IV the following new sections:

"§ 8157. Joint title to medical equipment

"(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 8153(a) of this title for the joint acquisition of medical equipment.

"(b)(1) The Secretary may not pay more than one-half of the purchase price of equipment acquired through an agreement under subsection (a).

"(2) Any equipment to be procured under such an agreement shall be procured by the Secretary. Title to such equipment shall be held jointly by the United States and the institution.

"(3) Before equipment acquired under such an agreement may be used, the parties to the agreement shall arrange by contract under section 8153 of this title for the exchange of use of the equipment.

"(4) The Secretary may not contract for the acquisition of medical equipment to be

purchased jointly under an agreement under subsection (a) until the institution which enters into the agreement provides to the Secretary its share of the purchase price of the medical equipment.

"(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the Department in equipment acquired through an agreement under subsection (a) to the institution which holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

"(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment acquired under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department. The Secretary may not pay more than one-half the depreciated purchase price of that equipment.

"§ 8158. Deposit in escrow

"(a) To facilitate the procurement of medical equipment pursuant to section 8157 of this title, the Secretary may enter into escrow agreements with institutions described in section 8153(a) of this title. Any such agreement shall provide that—

"(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 8157(b)(4) of this title;

"(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

"(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

"(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

"(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(2) retain in the escrow account interest or other earnings on such investments;

"(3) disburse the funds pursuant to the escrow agreement; and

"(4) return undisbursed funds to the institution.

"(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

"(2) Funds held in an escrow account under this section shall not be considered to be public funds.".

(2) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8156 the following new items:

"8157. Joint title to medical equipment.
"8158. Deposit in escrow.".

(b) REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plans for implementation of this section. The report shall include an identification and discussion of—

(1) the instructions the Secretary proposes to issue to medical facilities to guide the development of proposals for procurement of medical equipment under this section, including instructions for ensuring equitable arrangements for use of the equipment by the Department and the co-purchasers of the equipment;

(2) the criteria by which the Secretary plans to evaluate proposals to procure medical equipment under this section;

(3) the means by which the Secretary will integrate the process of procuring equipment under this section with the policies and procedures governing health care planning by the Veterans Health Administration; and

(4) the criteria by which determinations to transfer title to equipment under section 8157(c) of title 38, United States Code, as added by subsection (a), would be made.

SEC. 106. QUALITY ASSURANCE ACTIVITIES.

Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in section 201(a)(1) and 201(a)(3) of Public Law 100-322 shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities.

SEC. 107. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) STATUS AND NAME OF COMMITTEE.—The Federal advisory committee established by the Secretary and known as the Prosthetics Service Advisory Committee shall after the date of the enactment of this Act be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs and shall operate as though such committee had been established by law. Notwithstanding any other provision of law, the Committee may, upon the enactment of this Act, meet and act on any matter covered by subsection (b) of section 543 of title 38, United States Code, as added by subsection (b) of this section.

(b) STATUTORY ESTABLISHMENT.—(1) Chapter 5 is amended by adding at the end of subchapter III the following new section :

"§ 543. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a)(1) There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(b) The objectives and scope of activities of the Committee shall relate to—

"(1) prosthetics and special-disabilities programs administered by the Secretary;

"(2) the coordination of programs of the Department for the development and testing of, and for information exchange regarding. prosthetic devices;

"(3) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(4) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(c) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in subsection (b).

"(d) Not later than May 1, 1992, and January 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 60 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(e) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for—

"(1) spinal-cord-injured veterans;

"(2) blind veterans;

"(3) veterans who have lost or lost the use of extremities;

"(4) hearing-impaired veterans; and

"(5) other veterans with serious incapacities in terms of daily life functions.".

(2) The table of sections at the beginning of chapter 5 is amended by adding at the end the following new item:

"543. Advisory Committee on Prosthetics and Special-Disabilities Programs.".

SEC. 106. PROSTHETIC SERVICES REPORT

Not later than January 15, 1992, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 1712(i) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions; and

(B) the accumulation of a significant backlog in the procurement of prosthetic appliances.

SEC. 109. SERVICES FOR HOMELESS VETERANS.

(a) PROGRAM DEVELOPMENT.—The Secretary shall assess all programs developed by facilities of the Department of Veterans Affairs which have been designed to assist homeless veterans. To the maximum extent practicable, the Secretary shall seek to replicate at other facilities of the Department those programs that have as a goal the rehabilitation of homeless veterans and which the Secretary has determined to be successful in achieving that goal by fostering reintegration of homeless veterans into the community and employment of such veterans.

(b) ASSESSMENT AND COORDINATION.—(1) In carrying out subsection (a), the Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

(A) Health care.

(B) Education and training.

(C) Employment.

$50,000,000 for fiscal year 1993. Funds appro-

amelioration of psychological, marital, or fa-

VOL 137 PT 23 NO 21–25 1991 UMI

(C) Employment.

(D) Shelter.

(E) Counseling.

(F) Outreach services.

(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(c) Planning.—In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility, to—

(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs; and

(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans.

(d) Services.—In furtherance of subsection (a), the Secretary shall require the director of each medical center or regional benefits office, in carrying out such director's responsibilities under title 38, United States Code, to take appropriate action to—

(1) meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

(2) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (1) of the services available to such veterans within the area served by such center or office.

(e) Authority to Accept Donations for Certain Programs.—The Secretary may accept donations of funds and services for the purposes of providing one-stop, non-residential services and mobile support teams and for expanding the medical services to homeless veterans eligible for such services from the Department of Veterans Affairs.

(f) Definitions.—As used in subsections (a) through (e):

(1) The term "medical center" means a medical center of the Department of Veterans Affairs.

(2) The term "regional benefits office" means a regional benefits office of the Department of Veterans Affairs.

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

(4) The term "homeless" has the meaning given such term in section 103(a), as limited by section 103(c), of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a)).

(g) Extension of Certain Programs for Homeless Veterans.—Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628; 102 Stat. 3257) is amended—

(1) in subsection (a), by striking out "to the Veterans' Administration" and all that follows through the period and inserting in lieu thereof the following: "Department of Veterans Affairs for medical care of veterans $50,000,000 for fiscal year 1993. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for medical care of veterans."; and

(2) in subsections (b) and (c), by striking out "Of the amount appropriated pursuant to subsection (a), 50 percent" and inserting in lieu thereof "The amounts appropriated pursuant to subsection (a)".

(h) Extension of Program for Mentally Ill Homeless Veterans.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting in lieu thereof "1994".

(i) Report.—Not later than February 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing an evaluation of the programs referred to in subsections (a) and (e).

SEC. 110. PROHIBITION OF USE OF PRICES OF DRUGS PAID BY THE DEPARTMENT OF VETERANS AFFAIRS IN THE CALCULATION OF MEDICAID REBATES.

Section 519 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) the following shall not be used to calculate Medicaid rebates paid by drug and biological manufacturers:

"(1) Prices of drugs and biologicals paid by the Department of Veterans Affairs and prices of drugs and biologicals on contracts administered by that Department.

"(2) Prices (after any rebate or discount) of drugs and biologicals paid pursuant to contracts entered into with States which include, as a basis for rebates or discounts, the prices referred to in clause (1);"; and

(2) by inserting "(other than section 110 of the Veterans' Programs Amendments of 1991)" in subsection (d) after "legislation".

Part B—Mental Health Provisions

SEC. 121. MARRIAGE AND FAMILY COUNSELING FOR PERSIAN GULF WAR VETERANS.

(a) Requirement.—Subject to the availability of funds appropriated pursuant to the authorization in subsection (g), the Secretary shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The authority to conduct the program shall expire on December 31, 1993.

(b) Persons Eligible for Counseling.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses and children of such veterans; and

(2) veterans who are or were members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses and children of such members.

(c) Counseling Services.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary), is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) Manner of Furnishing Services.—(1) Marriage and family counseling services shall be furnished under the program—

(A) by personnel of the Department of Veterans Affairs who are qualified to provide such counseling services;

(B) by appropriately certified marriage and family counselors employed by the Department; and

(C) by qualified mental health professionals pursuant to contracts with the Department, when Department facilities are not capable of furnishing economical medical services because of geographical inaccessibility or are not capable of furnishing the services required.

(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ licensed or certified marriage and family counselors to provide counseling under paragraph (1)(B) and may classify the positions in which they are employed at levels determined appropriate by the Secretary, taking into consideration the training, experience, and licensure or certification required of such counselors.

(e) Contract Counseling Services.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the treatment plan and the assessment made under subsection (c) are approved by an appropriate mental health professional of the Department designated for that purpose by the Under Secretary for Health.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under

subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) Cost Recovery.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

(g) Authorization of Appropriations.—There is authorized to be appropriated $10,000,000 for each of fiscal years 1992 and 1993 and $3,000,000 for fiscal year 1994 to carry out this section. Funds appropriated pursuant to the authorizations in the preceding sentence shall be considered to be emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)).

(h) Report.—Not later than January 1, 1993, the Secretary shall submit to Congress a report on the program conducted pursuant to this section. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in subsection (b);

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(i) Definitions.—For the purposes of this section, the terms "veteran", "child", "active duty", "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in section 101 (2), (4), (21), (27), (31), and (33) of title 38, United States Code, respectively.

SEC. 122. POST-TRAUMATIC STRESS DISORDER RESEARCH AND REPORTS.

(a) Research Priority.—In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding (1) Post-Traumatic Stress Disorder, (2) Post-Traumatic Stress Disorder in association with substance abuse, and (3) the treatment of those disorders.

(b) Updates of Reports Under Section 110(c) of Public Law 98–528.—(1) Not later than February 1, 1992, and February 1, 1993, the Under Secretary for Health's Special Committee on Post-Traumatic Stress Disorder established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) shall concurrently submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 90 days after receiving each of the reports under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

SEC. 123. POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING.

(a) Plan.—The Secretary shall develop a plan—

(1) to ensure, to the maximum extent practicable, that veterans suffering from Post-Traumatic Stress Disorder related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner;

(2) to expand and improve the services available for veterans suffering from Post-Traumatic Stress Disorder related to active duty;

(3) to eliminate waiting lists for inpatient treatment and other modes of treatment for Post-Traumatic Stress Disorder;

(4) to enhance outreach activities carried out to inform combat-area veterans of the availability of treatment for Post-Traumatic Stress Disorder; and

(5) to ensure, to the extent practicable, that there are Department Post-Traumatic Stress Disorder treatment units in locations that are readily accessible to veterans residing in rural areas of the United States.

(b) Considerations.—In developing the plan referred to in subsection (a), the Secretary shall consider—

(1) the numbers of veterans suffering from Post-Traumatic Stress Disorder related to active duty, as indicated by relevant studies, scientific and clinical reports, and other pertinent information;

(2) the numbers of veterans who would likely seek Post-Traumatic Stress Disorder treatment from the Department if waiting times for treatment were eliminated and outreach activities to combat-area veterans with Post-Traumatic Stress Disorder were enhanced;

(3) the current and projected capacity of the Department to provide appropriate treatment and rehabilitative services for Post-Traumatic Stress Disorder;

(4) the level and geographic accessibility of inpatient and outpatient care available through the Department for veterans suffering from Post-Traumatic Stress Disorder across the United States;

(5) the desirability of providing that inpatient and outpatient Post-Traumatic Stress Disorder care be furnished in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department;

(6) the treatment needs of such veterans who are women, of such veterans who are ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems in addition to Post-Traumatic Stress Disorder; and

(7) the recommendations of the Under Secretary of Health's Special Committee on Post-Traumatic-Stress Disorder with respect to (A) specialized inpatient and outpatient programs of the Department for the treatment of Post-Traumatic Stress Disorder, and (B) with respect to the establishment of educational programs that are designed for each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from Post-Traumatic Stress Disorder.

(c) Report.—Not later than April 30, 1992, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan developed pursuant to subsection (a). The report shall include specific information relating to the consideration given to the matters described in subsection (b).

(d) Definitions.—For the purposes of this section:

(1) The term "active duty" has the meaning given that term in section 101(21) of title 38, United States Code.

(2) The term "veteran" has the meaning given that term in section 101(2) of such title.

(3) The term "combat-area veteran" means a veteran who served on active duty in an area at a time during which hostilities (as defined in section 1712A(a)(2)(B) of such title) occurred in such area.

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. CAP ON CERTAIN RATES OF PAY.

Section 7455(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by adding at the end the following:

"(2) Whenever the amount of an increase under subsection (a) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.".

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) Minimum Service Requirement.—Section 7612(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", but for not less than two years.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 7423 is amended by adding at the end the following new subsection:

"(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall

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prescribe guidelines for the administration of the preceding sentence.".

SEC. 204. SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION.

(a) IN GENERAL.—Section 7437(e) is amended by striking out "only for the special pay" and all that follows through the period in paragraphs (1)(C) and (2)(C) and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if enacted with the amendment made by section 102 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40; 105 Stat. 187).

(c) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the amendments made by subsection (a) may be charged to fiscal year 1992 appropriations available for the same purpose.

SEC. 205. TRANSITION RULE FOR PAYMENT OF SPECIAL PAY UNDER CERTAIN SPECIAL PAY AGREEMENTS.

(a) TRANSITION RULE.—Section 104(d) of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40; 105 Stat. 199) is amended by adding at the end the following: "In the case of a physician or dentist who was employed by the Department of Veterans Affairs on July 14, 1991, and who was ready and willing to enter into an agreement under such subchapter on such date, the agreement entered into by the physician or dentist shall take effect on that date without regard to the date of the approval of the agreement under the regulations prescribed to carry out such subchapter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if enacted with section 104 of such Act.

(c) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the amendment made by subsection (a) may be charged to fiscal year 1992 appropriations available for the same purpose.

SEC. 206. AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE UNDER SECRETARY FOR HEALTH.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.".

SEC. 207. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting ", or comparable position" before the period.

TITLE III—LIFE INSURANCE PROGRAMS

SEC. 301. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§ 1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $10,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 302. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

TITLE IV—COMPENSATION AND PENSION

SEC. 401. CLARIFICATION OF SCOREKEEPING RULE FOR COST-OF-LIVING INCREASES IN COMPENSATION RATES.

For the purpose of calculating the baseline under section 257(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907(b)) with respect to the increase in rates of veterans' compensation and disability and indemnity compensation for a fiscal year, the amount by which each rate of compensation or dependency and indemnity compensation is increased shall be assumed to be rounded to the nearest whole dollar.

SEC. 402. REDUCTION IN PENSION FOR VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and

(2) in paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1992, and shall apply with respect to months after December 1991. Such amendments shall expire in accordance with section 5503(f)(6) of title 38, United States Code.

SEC. 403. ACCESS TO INFORMATION NECESSARY FOR THE ADMINISTRATION OF CERTAIN VETERANS' BENEFITS LAWS.

(a) ACCESS.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

"(p)(1) Nothing in this title shall apply to the disclosure by the financial institution of the name and address of any customer to the Department of Veterans Affairs where the disclosure of such information is necessary to, and such information is used solely for the purposes of, the proper administration of disability compensation, dependency and indemnity compensation, or pension under the provisions of title 38, United States Code, or section 10 of Public Law 85–857 (72 Stat. 1263).

"(2) Notwithstanding any other provision of law, any request authorized by paragraph (1) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing the customer's name and address to the Department of Veterans Affairs and shall be barred from redisclosure by the financial institution or its agents.".

(b) PRIVACY SAFEGUARDS.—(1) Chapter 53 is amended by adding at the end the following new section:

"§ 5319. Limitations on access to financial records

"(a) The Secretary may make a request referred to in section 1113(p) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(p)) only if the Secretary determines that the requested information—

"(1) is necessary in order for the Secretary to administer the provisions of law referred to in that section; and

"(2) cannot be secured by a reasonable search of records and information of the Department.

"(b) The Secretary shall include a certification of the determination referred to in subsection (a) in each request presented to a financial institution.

"(c) Information disclosed pursuant to a request referred to in subsection (a) may be used solely for the purpose of the administration of benefits programs under laws administered by the Secretary if, except for the exemption in subsection (a), the disclosure of that information would otherwise be prohibited by any provision of the Right to Financial Privacy Act of 1978.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5319. Limitations on access to financial records.".

TITLE V—MISCELLANEOUS

SEC. 501. EXTENSION OF AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO MAINTAIN THE REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking out "September 30, 1991" and inserting in lieu thereof "March 31, 1994".

SEC. 502. REESTABLISHMENT OF THE ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) REESTABLISHMENT.—The Advisory Committee on Native-American Veterans established by section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99–272; 100 Stat. 388) is hereby reestablished.

(b) INCORPORATION OF PROVISIONS OF PRIOR LAW.—Subsections (b) through (e) and (g) of section 19032 of the Veterans' Health-Care Amendments of 1986 shall apply to the Advisory Committee on Native-American Veterans reestablished by subsection (a).

(c) REPORTS.—(1) Not later than January 1, 1993, and January 1, 1994, the Committee shall submit to the Secretary a report containing the findings and any recommendations of the Committee regarding the matters described in section 19032(b) of the Veterans' Health-Care Amendments of 1986 that were examined and evaluated by the Committee during the fiscal year preceding the fiscal year in which the report is submitted.

(2) Not later than 60 days after receiving each such report, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(d) TERMINATION.—The Committee shall expire 60 days after the date on which the second report is transmitted by the Committee pursuant to subsection (c).

SEC. 503. EXTENSION OF CERTAIN VOCATIONAL REHABILITATION AND TRAINING PROGRAMS.

Sections 1163(a)(2)(B), 1524(a)(4), and 1525(b)(2) are amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

SEC. 504. AUTHORIZATION REQUIREMENT FOR CONSTRUCTION OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 8104(a) is amended to read as follows:

"(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.".

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting "new" before "medical facility" the second place it appears; and

(B) by striking out "$500,000" and inserting in lieu thereof "$300,000".

(3) Subsection (c) of section 8104 is amended by striking out "resolution" both places it appears and inserting in lieu thereof "law".

(b) APPLICABILITY.—The amendments made by subsection (a) shall not apply with respect to any project for which funds were appropriated before the date of the enactment of this Act.

SEC. 505. REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) REDESIGNATION OF POSITION OF CHIEF MEDICAL DIRECTOR.—The position of Chief Medical Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Health of the Department of Veterans Affairs.

(b) REDESIGNATION OF POSITION OF CHIEF BENEFITS DIRECTOR.—The position of Chief Benefits Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Benefits of the Department of Veterans Affairs.

(c) TITLE 38 CONFORMING AMENDMENTS.—Title 38, United States Code, is amended by striking out "Chief Medical Director" and "Chief Benefits Director" each place they appear (including in headings and tables) and inserting in lieu thereof "Under Secretary for Health" and "Under Secretary for Benefits", respectively.

(d) EXECUTIVE SCHEDULE CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking out the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.";

and inserting in lieu thereof the following:

"Under Secretary for Health, Department of Veterans Affairs.

"Under Secretary for Benefits, Department of Veterans Affairs.".

(e) REFERENCES IN OTHER LAWS.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Department of Veterans Affairs—

(1) to the Chief Medical Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Health of the Department of Veterans Affairs; and

(2) to the Chief Benefits Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Benefits of the Department of Veterans Affairs.

SEC. 506. REDESIGNATION OF SECTIONS OF CHAPTER 43.

(a) REDESIGNATION OF SECTIONS TO CONFORM TO CHAPTER NUMBER.—Each section contained in chapter 43 is redesignated by replacing the first two digits of the section number with the number of that chapter.

(b) TABLES OF SECTIONS AND CHAPTERS.—(1) The table of sections at the beginning of chapter 43 is revised so as to conform the section references in that table to the redesignations made by subsection (a).

(2) The items relating to chapter 43 in the table of chapters before part I and in the table of chapters at the beginning of part III are revised so as to conform the section reference to the redesignations made by subsection (a).

(c) CROSS-REFERENCES.—(1) Any provision of title 38, United States Code, that contains a reference to a section redesignated by subsection (a) is amended so that the reference refers to the section as redesignated.

(2) Any reference in a provision of law other than title 38, United States Code, to a section redesignated by subsection (a) shall be deemed to refer to the section as so redesignated.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution contains proposed amendments to H.R. 2280, a bill that passed the House on June 25 containing our recommendations for changes to health care provisions for veterans and eligible dependents. The other body did not act on the measure until last Wednesday when it passed the bill with several amendments. Time will not permit us to resolve differences on many issues; however, the proposed amendments we offer today have merit and should be enacted before adjournment. Although I cannot assure my colleagues that the recommendations contained in this bill will be accepted in the other body, we have worked very hard to reach agreement on several key issues and we hope the other body will concur and send the bill to the President before we leave town.

I want to thank the gentleman from Arizona [BOB STUMP], distinguished ranking minority member of the full committee, and the very able ranking minority member of the Subcommittee on Hospitals and Health Care, JOHN PAUL HAMMERSCHMIDT, for their help in getting these amendments together in such a short period of time.

I am grateful to the chairman of our Subcommittee on Compensation, Pension and Insurance, DOUG APPLEGATE, for his help on two important insurance provisions.

The proposed amendments address a number of important matters. Among these, it tackles two very serious problems which affect thousands of veterans, particularly veterans of the Vietnam era. These are posttraumatic stress disorder—commonly referred to as PTSD—and problems associated with the homeless. In both cases, we know that VA is doing some fine work to repair the lives of those caught up with these problems. But we know that more needs to be done.

Mr. Speaker, in a relatively few years VA has begun to build a network of specialized programs across the country to provide for treating veterans suffering from PTSD. Our committee has authorized the establishment of additional PTSD units and, earlier this year, Congress appropriated an additional $10 million to further those efforts. What is lacking, however, is a comprehensive assessment by VA of veterans' needs and a strategic plan for treating PTSD which can provide a basis for the Department and the Congress to make sound funding judgments.

This bill would require the Secretary to develop such a plan. It would also make clear that the plan must address

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1991, our Subcommittee on Hospitals

change it. The proposed amendments

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ment for) the improvements and alterations may not exceed (a) $2,500 in the case of medi-

retary's comments and recommendations thereon, to the House and Senate Commit-

standing any other provision of law, to (1) transfer VA's interest in equipment acquired

VOL 137 PT 23 NO 21–25 1991 UMI

the real problems facing veterans, such as the length of time it takes for a veteran to be admitted to a PTSD unit; better access in certain areas of the country, and the veteran's own reluctance to seek out these services.

Mr. Speaker, we view such a plan as a vital step in our ongoing efforts to help rehabilitate veterans suffering from PTSD.

The proposed amendments would address a second very important issue: What more we can do for homeless veterans.

We know that being homeless is not just a VA problem. And we know it is not a simple problem. Often a large number of the homeless suffer from mental illness or drug and alcohol abuse. Many are not aware of sources of help already available to them.

No one government or private entity can itself help the individual overcome all of these problems. For that reason, many of VA's success stories involve links with community organizations and local governments. Through such means, VA can bring a number of resources to bear on the problems of the individual veteran.

H.R. 2280 would build on the successes VA has experienced. But it would do more. It would direct the VA to coordinate its efforts to plan for and serve the homeless with those having that responsibility in the community.

The bill would also extend for 2 years—through September 30, 1993—the VA's highly regarded program of community-based residential care for homeless, mentally ill veterans.

Finally, the proposed amendments would increase the authorization of appropriations for VA under the McKinney Homeless Assistance Act.

Mr. Speaker, in the interest of time I will not detail all the provisions of the bill, but I will highlight a couple other key provisions.

The proposed amendments would authorize establishment of a special marriage and family counseling program to assist Desert Storm veterans and family members. This is a very important provision for those Reserve and National Guard units that were called to active duty.

This measure would also increase the Chief Medical Director's ability to monitor care throughout the system, and thus to assure better quality of care. The additional flexibility which this authority would provide should help accelerate implementation of the quality assurance programs which VA has already set in motion.

Mr. Speaker, the provision of medical care is multifaceted and has many elements which underlie maintenance of quality. The availability of needed medications, for example, is one such element. The Veterans' Affairs Committee this session has devoted considerable attention to VA's ability to procure needed drugs. On September 11, 1991, our Subcommittee on Hospitals and Health Care held a hearing to receive testimony about the reasons for, and implications of, sharp increases in drug prices to the VA in preceding months. The committee has learned that the Department is sustaining increased pharmaceutical costs after accounting for inflation amounting to more than $60 million annually in relation to a drug budget in 1990 of $700 million. In short, many manufacturers increased drug prices in response to provisions of section 4401 of the Omnibus Budget Reconciliation Act of 1990 [OBRA–1990]. The act created a mechanism aimed at providing discounted drug prices to the State Medicaid programs. Those discounts, provided through rebates, are keyed to best prices in the market. With the law's failure to exempt all VA prices from consideration in Medicaid rebate calculations, many manufacturers have dramatically hiked VA prices.

To overcome that situation, section 519 of the VA–HUD and Independent Agencies Appropriations Act for fiscal year 1992, Public Law 102–139, excluded prices paid by VA from the Medicaid rebate calculation. The statute provides, in pertinent part, that:

> Notwithstanding any other provision of law—prices for drugs and biologicals paid by the Department of Veterans Affairs, and prices for drugs and biologicals on contracts administered by the Department of Veterans Affairs, shall not be used to calculate Medicaid rebates paid by drug and biological manufacturers.

Although the aim of section 519 was clear on its face—to preclude VA prices from being used to calculate Medicaid rebates—manufacturers have asserted that a lowering of VA prices would still make them a benchmark for Medicaid rebates. The argument is based on a drug rebate law in effect in New York State—the Elderly Pharmaceutical Insurance Coverage Program [EPIC]. Manufacturers state that any reduced price offered to VA must be provided to EPIC; in a leap of logic, they further assert that that rebate to EPIC would then become the benchmark best price for Medicaid rebate purposes, notwithstanding the exclusionary provisions of section 519 of 102–139.

That assertion apparently relies on a tunnel-visioned reading of the definition of best price in OBRA–1990, which ignores the import and significance of section 519, a later and more specific provision of law. Discounts to the EPIC Program, and other like it, cannot reasonably be deemed to provide a reference price for Medicaid rebates except by ignoring the clear language and intent of Congress. Public Law 102–139 clearly prohibits the use of VA or VA-administered prices as a benchmark for Medicaid rebates notwithstanding any other provision of law.

Mr. Speaker, the intent and the meaning of section 519 is clear, and the proposed amendments would not change it. The proposed amendments would simply clarify, with even more specificity than section 519 itself, what that measure means. It would provide, in essence, that Medicaid pharmaceutical rebate calculations shall not use prices paid by VA for drugs, or prices paid by States under contracts which use VA prices as a benchmark.

Mr. Speaker, in addition to its many provisions relating to the provision of medical care, the House amendments contain two important insurance provisions. The first would allow a totally disabled veteran to purchase, at standard rates, $10,000 additional insurance under the Service Disabled Veterans Insurance Program.

In addition, the amendments would increase the veteran's mortgage life insurance ceiling from $40,000 to $90,000.

There follows a more detailed explanation of the House amendments.

Mr. Speaker, this is a good measure and I urge my colleagues to support the resolution.

EXPLANATORY STATEMENT ON THE HOUSE ADMENDMENTS TO THE SENATE AMENDMENTS TO H.R. 2280 THE "VETERANS' PROGRAMS AMENDMENTS OF 1991"

This document explains the provisions of various measures (listed below) passed by the Senate and House which are offered as a proposed House substitute amendment to H.R. 2280. There remain many issues outstanding with respect to health-care, compensation and pension, and other matters covered in the measures listed below that are not described in this document.

The measures referred to above are as follows:

H.R. 1047, the proposed "Veterans' Benefits Programs Improvement Act of 1991," as first passed by the House on April 11, 1991. (H.R. 1047 as amended and enacted in Public Law 102–86, did not contain the provisions now incorporated in this compromise agreement.)

H.R. 2280, the proposed "Veterans' Health Care and Research Amendments of 1991," as passed by the House on June 25, 1991.

S. 775, the proposed "Veterans Benefits Improvement Act of 1991," as reported by the Senate Committee on August 2, 1991, and modified by the Committee and passed by the Senate on November 20, 1991.

S. 869, the proposed "Veterans Health Care Amendments Act of 1991," as reported by the Senate Committee on July 24, 1991, and modified by the Committee on November 20, 1991, the text of which was passed by the Senate on November 20 as a substitute for the text of H.R. 2280.

H.R. 2280 as passed by the House is referred to as the "House bill" and the text of S. 869 as passed in H.R. 2280 is referred to as the "Senate amendment." All other measures are referred to by bill number.

TITLE I—GENERAL HEALTH

PART A—GENERAL HEALTH CARE

Increase in limit on certain grants for home structural alterations for disabled veterans

Current law: Section 1717(a)(2) of title 38 authorizes VA to furnish, as part of medical services furnished to a veteran under section 1712(a) of title 38, improvements and structural alterations as necessary to assure the continuation of treatment for the veteran's disability or to provide the veteran access to the home or to essential lavatory and sanitary facilities. The cost of (or reimburse-

ment for) the improvements and alterations may not exceed (a) $2,500 in the case of medical services furnished under section 1712(a)(1) of title 38, i.e., services furnished (1) to a veteran for a service-connected disability, (2) for any disability of a veteran who has a service-connected disability rated at 50 percent or more, or (3) to any veteran for a disability for which the veteran is in receipt of compensation under section 1151 of title 38; or (b) $600 in the case of medical services furnished under any other provision of section 1712 of title 38.

House bill: Section 104 would amend section 1717(a)(2) so as to increase, effective October 1, 1991, the maximum amount of reimbursement for such home modifications to (a) $3,300 in the case of medical services furnished under section 1712(a)(1) of title 38; or (b) $1,200 in the case of medical services furnished under any other provision of section 1712.

Senate amendment: Section 202, effective on the date of enactment, would (a) increase the maximum amount of reimbursement for such home modifications to $5,000 in the case of medical services furnished under section 1712(a)(1) of title 38; and (b) $1,200 in the case of medical services furnished under any other provision of section 1712.

House amendment: Section 101 would (a) increase the maximum amount for home modifications to (1) $4100 in the case of medical services furnished under section 1712; (2) $1200 in the case of medical services furnished under any other provision of section 1712; (b) provide that the new rates would be effective in any case of a veteran who first applies for the grant benefit on or after January 1, 1990; and (c) clarify that a veteran who, prior to January 1, 1990, received the maximum amount of reimbursement authorized under the current limits of section 1717 is not entitled to additional monetary benefits by reason of the amendments.

Extension of annual report on furnishing health care

Current law: Section 19011(e)(1) of Public Law 99–272, the Veterans' Health Care Amendments of 1986 (a) requires the Secretary to submit to the House and Senate Committees on Veterans' Affairs, not later than February 1 following the fiscal year covered in a report, annual reports on the furnishing of hospital care in fiscal years 1986, 1987, 1988, and 1989 to veterans who are entitled to such care under section 1710(a) of title 38; and (b) specifies the type and detail of information which must be provided in the reports.

House bill: Section 103 would amend section 19011(e)(1) so as to extend this reporting requirement through FY 1992.

Senate amendment: No provision.

House amendment: Section 102 follows the House provision.

Submission of reports of Geriatrics and Gerontology Advisory Committee

Current law: Section 7315(f)(2) of title 38 (a) requires the Secretary to establish a Geriatrics and Gerontology Advisory Committee (GGAC); (b) sets forth the GGAC's duties; and (c) requires the GGAC, not later than April 1, 1983, to submit to the Secretary, through the Chief Medical Director, a report with respect to its findings and conclusions including certain specific information; (d) requires the GGAC, following the submission of that report, to submit to the Secretary, through the Chief Medical Director, such further reports as the GGAC considers appropriate; and (e) requires the Secretary to transmit the reports, together with the Secretary's comments and recommendations thereon, to the House and Senate Committees on Veterans' Affairs not later than 90 days after receipt from the GGAC.

House bill: Section 302 would amend section 7315(f)(2)(C) so as to add a requirement that any reports issued by the GGAC be submitted simultaneously to the Secretary and the Committees.

Senate amendment: No provision.

House amendment: Section 103 follows the House provision.

Research corporations

Current law: Subchapter IV of chapter 73 of title 38 (a) authorizes VA to establish at any VA medical center a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center; (b) requires the Secretary to dissolve any research corporations established pursuant to this authority that fail to obtain, within three years after establishment, recognition from the Internal Revenue Service as a tax-exempt entity under section 501(c)(3) of the Internal Revenue Code of 1986; (c) requires that any corporation established under this authority operate solely to facilitate research described in section 7303 of title 38; and (d) requires that any research corporation established under this authority be established no later than September 30, 1991.

House bill: Section 306 would (a) amend section 7361(b) so as to extend from three years to four years after a research corporation is established the period during which it must obtain recognition as a tax-exempt entity; and (b) amend section 7368 of title 38 so as to extend VA's authority for establishing research corporations for one year, through FY 1992.

Senate amendment: No provision.

House amendment: Section 104 follows the House provision with an amendment to extend the authority to establish the corporations through calendar year 1992.

Authority to hold joint title to medical equipment

Current law: Section 8153(a) of title 38 authorizes the Secretary of Veterans Affairs to make arrangements, by contract or other form of agreement, for the sharing of specialized medical resources, including medical equipment, between VA health-care facilities and non-VA facilities for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a VA health-care facility to provide a similar resource, or when specialized VA medical resources, while justified on the basis of veterans' care, are not utilized by VA to their maximum effective capacity. This section does not contain a specific authority for the joint procurement of medical equipment.

House bill: Section 308 would amend chapter 81 so as to add a new section 8157 which would (a) permit the Secretary to enter into agreements with non-VA institutions described in section 8153(a) of title 38 for the acquisition of medical equipment provided (1) the Secretary pays not more than one-half of the purchase price of equipment acquired, (2) the Secretary procures the equipment, (3) the Secretary and the chief executive of the non-VA institution arrange by contract, before the equipment is used, for the exchange of use of the equipment, and (4) the Secretary does not contract for the acquisition of such equipment until the non-VA institution provides its share of the purchase price of the equipment to the Secretary; (b) permit the Secretary, notwithstanding any other provision of law, to (1) transfer VA's interest in equipment acquired through a joint agreement to the non-VA institution holding joint title to the equipment if (A) the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of VA, and (B) the institution agrees to pay VA one-half of the depreciated purchase price of the equipment, and (2) acquire the interest of the non-VA institution in the equipment if (A) the Secretary determines that the acquisition would be justified by the considerations specified in (b)(1), above, and (B) VA pays no more than one-half of the depreciated price of the equipment; (c) permit the Secretary to enter into an escrow agreement with the non-VA institution which would (1) require that institution to pay to the Secretary the funds necessary to make a payment under a joint-funding acquisition agreement, (2) require the Secretary, as escrow agent, to administer those funds in an escrow account, and (3) require the Secretary to disburse those funds to pay for the equipment upon its delivery or in accordance with the procurement contract and disburse all accrued interest or other earnings on the escrowed funds to the non-VA institution; (d) permit the Secretary, as escrow agent, to (1) invest the escrowed funds in obligations which are insured or guaranteed by the Federal Government, (2) retain in the escrow account interest or other earnings on the investments, (3) disburse the funds pursuant to the escrow agreement, and (4) return undisbursed funds to the non-VA institution; (e) permit the Secretary, if the Secretary enters into an escrow agreement, to enter into a joint-funding acquisition agreement, if one-half of the purchase price of the equipment is available in an appropriation of funds for the expenditure or obligation; (f) require that funds held in an escrow account not be considered public funds; and (g) require the Secretary, not later than November 1, 1991, to submit to the House and Senate Committees on Veterans' Affairs a report on the Secretary's plans for implementation of this provision, along with identification and discussion of (1) the instructions the Secretary proposes to issue to medical facilities for the development of proposals for joint procurement of medical equipment, including instructions for ensuring equitable arrangements for use of the equipment by VA and the non-VA sharing partner, (2) the criteria the Secretary plans to use to evaluate proposals, (3) the means by which the Secretary will integrate the process of procuring equipment with policies and procedures governing health-care planning for VHA, and (4) the criteria by which determinations regarding the transfer of title to equipment would be made.

Senate amendment: No provision.

House amendment: Section 105 follows the House provision except that it would require the Secretary to submit the implementation-planning report to the House and Senate Veterans' Affairs Committees not later than 45 days after the date of enactment.

Quality assurance activities

Current law: Section 7311 of title 38 (a) requires the Secretary to (1) establish and conduct a comprehensive program to monitor and evaluate the quality of VA health-care services, and (2) delineate the responsibilities of the Chief Medical Director with respect to the quality assurance program; (b) specifies the types of information that the Chief Medical Director must evaluate as part of the quality assurance program; (c) requires the Chief Medical Director to make

VOL 137 PT 23 NO 21–25 1991

such recommendations as the Chief Medical Director considers appropriate on the basis of evaluations conducted pursuant to the quality assurance program; (d) requires (1) the Secretary to allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Veterans Health Administration to carry out its responsibilities under section 7311 of title 38, and (2) the Inspector General to allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Inspector General to monitor the quality assurance program.

House bill: Section 309 of H.R. 2280 would require that, effective October 1, 1991, all quality assurance programs and activities carried out by the Secretary within the Veterans Health Administration be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities, without regard to the locations of the duty stations of the employees carrying out those programs and activities, and thus would be funded through the medical care account.

Senate amendment: No provision.

House amendment: Section 106 follows the House provision, modified to become effective October 1, 1992.

Advisory Committee on Prosthetics and Special-Disabilities Programs

Current law: On September 4, 1991, the Secretary administratively established a Prosthetic Services Advisory Committee with twelve members.

House bill: No provision.

Senate amendment: Section 205 would require the Secretary to establish an Advisory Committee on Prosthetica and Special-Disabilities Programs with membership including representatives of veterans-prosthetic users, recognized experts in the field of prosthetics engineering, and individuals engaged in prosthetica research, rehabilitative medicine, and relevant clinical treatment. The function of the Committee would be to advise the Secretary on all matters related to prosthetics and special-disabilities programs administered by the Secretary; the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetics devices; the coordination of Department programs and non-Department programs that involve the development and testing of prosthetics devices; and the adequacy of funding for the prosthetics and special-disabilities programs of the Department. The Committee would be required to submit concurrently to the Congressional Committees on Veterans' Affairs and the Secretary annual reports beginning on January 15, 1992. Not later than 30 days after receiving each report, the Secretary would be required to submit a report to the Congressional Committees on Veterans' Affairs commenting on the Advisory Committee's report.

Compromise agreement: Section 107 follows the Senate amendment with amendments such that the compromise agreement (a) requires the existing VA Prosthetics Services Advisory Committee—the charter of which was filed on September 4, 1990—to adhere to the objectives and scope set forth in the Senate provisions; and (b) with respect to the Advisory Committee annual reports (1) requires the reports only on May 15, 1992, and January 15 of 1993, 1994, and 1995, and (2) requires that the Secretary submit commentary on the Advisory Committee's annual reports to the Committees not later than 60 days after the date on which any such report is received by the Secretary.

Prosthetic services report.

House bill: No provision.

Senate amendment: Section 209 would require the Secretary to submit to the Congressional Committees on Veterans' Affairs a report by January 15, 1992, containing (a) an evaluation of the reasons for the accumulation of the backlog in VA's provision of prosthetic appliances that grew to $10.6 million in FY 1989 and for the failure to observe, in connection with the provision of prosthetic appliances, the statutory priorities established in section 1712(i)(1) of title 38, and (b) a description of the actions that the Secretary has taken and is planning to take to prevent such a recurrence of these problems.

Compromise agreement: Section 108 follows the Senate amendment with an amendment which changes the due date for the report to June 15, 1992.

Services for homeless veterans

Assessment of the Needs of Homeless Veterans and Available Services.

House bill: No provision.

Senate amendment: Section 203(a)(1) would require each VA medical center (VAMC) or regional benefit office (RO) (in consultation with all VA facilities serving veterans in the appropriate service area and with existing community-based organizations that have experience in working with homeless persons) to make an assessment of the needs of homeless veterans in that facility's catchment area for health care, education, training, employment, shelter, counseling, and outreach services and the extent to which these needs are being met by VA programs, other government programs, and private programs.

Section 203(a)(2) would require each VAMC, in conjunction with the appropriate RO and the Director of Veterans Employment and Training in the State, to develop a plan for each of FYs 1992, 1993, and 1994 for the provision of outreach and other comprehensive services to homeless veterans in that VAMC/RO catchment area and, in developing such a plan, to attempt to the maximum feasible extent to meet, within existing authorities and available resources, needs identified in the assessment as unmet and to coordinate with other Federal, State, and local programs that provide services to homeless persons or homeless veterans. Each plan would be required to include a list of all local, private, and governmental programs that offer assistance to homeless persons or homeless veterans and identify the services offered by those programs.

Section 203(a)(3) would require the director of each VAMC to be responsible for carrying out the plan for that VAMC's catchment area and taking appropriate steps to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless, of the services available to the veteran within that area.

Section 203(a)(4) would require each VAMC director to disseminate to all other government agencies, local governments, and private entities that provide services to homeless veterans information regarding services provided to homeless veterans by the VAMC or other VA facilities.

Compromise agreement: Section 109 generally follows the Senate amendment with amendments such that the compromise agreement would require the Secretary to (a) assess all programs developed by facilities of the Department which have been designed and established to assist homeless veterans; (b) to the maximum extent practicable, seek to replicate at other facilities of the Department those programs which have as a goal of rehabilitation of homeless veterans and which the Secretary has determined to be successful in achieving that goal by fostering reintegration of such veterans in the community and the employment of such veterans; and (c) require directors of VA medical centers and regional benefits offices, in coordination with non-VA organizations with experience working with local homeless persons, to develop lists of all programs assisting homeless persons and encourage the cooperative development of a local plan for coordinating services for homeless veterans.

Extension of Homeless Chronically Mentally Ill (HCMI) Veterans Program

Current law: Under section 115 of Public Law 100-322, the Veterans' Benefits and Services Act of 1988, VA was required, in FYs 1988 and 1989, to conduct a pilot program to provide care, treatment, and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless chronically mentally ill (HCMI) veterans who are eligible for care under section 1710(a)(1) of title 38. Public Law 100-628, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (McKinney Act II), authorized appropriations of $30 million for each of FYs 1989 and 1990 and required that 50 percent of the funds so appropriated in each of those years be available for the HCMI program and 50 percent be available for the Domiciliary Care for Homeless Veterans (DCHV) program (discussed below). Public Law 101-237 extended the authority for the HCMI program through FY 1992, and Public Law 101-645 authorized appropriations of $31.5 million for FY 1991 and $33.075 million for FY 1992 to be divided equally between the HCMI and DCHV programs.

House bill: Section 106 would extend and expand the HCMI program, subject to a specified level of funding for VA medical care above the President's budget request, by (a) increasing the number of VA employees in geographic areas with the greatest need; (b) establishing additional programs in at least four cities in which there is a significant unmet need for assistance for homeless chronically mentally ill veterans; and (c) authorizing appropriations of $3.3 million for fiscal year 1992 and such sums as are necessary for subsequent fiscal years for such expansion.

Senate amendment: Section 203(e) would (a) extend through FY 1993 the authorization of HCMI appropriations and increase the authorized levels of appropriations to $35 million for FY 1992 and $40 million for FY 1993; and (b) extend the HCMI program's authority by two years, through FY 1994.

Compromise agreement: Section 109 extends the HCMI programs's authority through FY 1994 and increases the authorized level of appropriations for the HCMI and DCHV programs to $50 million for FY 1993, with funds appropriated in that year to be allocated between those two programs at the Secretary's discretion.

Extension of Domiciliary Care for Homeless Veterans (DCHV) Program

Current law: Public Law 100-71, the Supplemental Appropriations Act of 1987, authorized VA to implement the DCHV program and appropriated $15 million for the conversion to domiciliary-care beds of underutilized space located in facilities in urban areas in which there are significant numbers of homeless veterans. Subsequent authorizations of appropriations of $15 million for FYs 1989 and 1990 were enacted in McKinney Act II, and authorizations of $15.75 million for 1991 and $16.54 million were enacted in Public Law 101-645.

House bill: No provision.

Senate amendment: Section 203(e) would extend through FY 1993 the authorization of DCHV appropriations and increase the authorized level of appropriations to $22.5 million for FY 1992 and $25 million for FY 1993.

Compromise agreement: As noted above, section 109 authorizes the appropriation of $50 million for the HCMI and DCHV programs for FY 1993, with funds appropriated in that year to be allocated between those two program at the Secretary's discretion.

Authority to Accept Donations for Certain Programs

Current law: Section 8301 of title 38 authorizes the Secretary to accept devises, bequests, and gifts with respect to which the donor has indicated a desire that the property be used for the benefit of veterans or a veterans' hospital or home.

House bill: Section 106(b) would authorize a pilot program, subject to the appropriation of a specified level of funding for VA medical care above the President's budget request, involving the provision of services to the homeless, in conjunction with a public or nonprofit entity, through the use of mobile outreach services, medical and rehabilitative services, and provision of transitional housing.

Senate amendment: Section 203(c) would authorize VA to accept donations for the purposes of establishing one-stop, non-residential service centers and mobile support teams and expanding the health services available to homeless veterans eligible for VA benefits and services.

Compromise agreement: Section 109(e) follows the Senate amendment.

Report

House bill: No provision.

Senate amendment: Section 203(f) would require the Secretary to submit by February 1, 1993, a report of an evaluation of the effectiveness of VA's implementation during FYs 1991 and 1992 of the provisions relating to homeless veterans.

Compromise agreement: Section 109(i) follows the Senate amendment.

Prohibition against use of prices of drugs paid by the Department of Veterans Affairs in the calculation of Medicaid best-price rebates

Current law: Section 1927 of the Social Security Act (42 U.S.C. 1396r-8), as enacted by section 4401 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) requires pharmaceutical manufacturers to issue quarterly rebates to State Medicaid programs for all drugs dispensed to Medicaid beneficiaries on an outpatient basis. The amount of the rebate is equal to the greater of (a) the difference between the average manufacturers price (AMP) for a drug and the best price charged to any other purchaser for that drug, or (b) 12.5 percent of the AMP for the drug. Section 519 of Public Law 102-139, the FY 1992 VA, HUD, and Independent Agencies Appropriations Act (a) prohibits the use of prices for drugs and biologicals paid for by VA or pursuant to contracts administered by VA for calculation of Medicaid best-price rebates until the earlier of (1) the effective date of legislation regarding VA drug prices is enacted, or (2) June 30, 1992; (b) requires the Secretary of Veterans Affairs to attempt to negotiate new contracts, or renegotiate current contracts, for drugs and biologicals paid for by VA or pursuant to VA-administered contracts; and (c) requires the Secretary to submit, not later than June 30, 1992, a report to the House and Senate Veterans' Affairs Committees, the House and Senate Appropriations Committees, the House Energy and Commerce Committee, and the Senate Finance Committee on the percentage increase in prices for drugs and biologicals paid by VA from September 1, 1990, to a date 60 days prior to the date of the report of each drug and biological listed on the Federal Supply Schedule.

House bill: No provision.

Senate amendment: Section 215 would amend section 519 of Public Law 102-139 so as to prohibit the use of prices for drugs and biologicals (after any rebate or discount) paid pursuant to contracts entered into with States, which are referenced to, as a basis for rebates or discounts, prices paid by VA or pursuant to VA-administered contracts, for Medicaid best-price rebate calculations under section 1927 of the Social Security Act.

House amendment: Section 110 follows the Senate amendment with an amendment clarifying that this measure does not constitute legislation triggering the expiration of section 519.

PART B—MENTAL HEALTH PROVISIONS

Marriage and family counseling for Persian Gulf war veterans

Current law: Under sections 1701(6)(B), 1712(b)(2), and 1712A(b)(2) of title 38, VA has limited authority to provide counseling services to family members of eligible veterans. Counseling of family members may be provided only if it is either necessary for the effective treatment or rehabilitation of a service-connected disability of a veteran, part of a necessary follow-up treatment of a veteran who has been hospitalized, or essential to the effective treatment or readjustment of a veteran receiving mental health services under VA's readjustment counseling authority.

House bill: No provision.

Senate amendment: Section 131 through 134 include provisions that would establish a program of marriage and family counseling for certain veterans of the Persian Gulf War and the spouses and families of such veterans, as follows:

Basic Requirement. Section 131(a) would require VA to establish, within 30 days after enactment and subject to the availability of appropriations, a program of marriage and family counseling for certain Persian Gulf War veterans and their families. The authority for this program would expire on September 30, 1994.

Persons Eligible for Counseling. Section 131(b) would authorize VA to provide, either directly or by contract, marriage and family counseling to (a) veterans who were awarded campaign medals for active-duty service during the Persian Gulf war and their spouses, children, and parents, and (b) veterans who are or were members of reserve components—including the Reserve and National Guard forces—who were called to active duty during the war and their spouses, children, and parents.

Counseling Services. Section 131(c) would permit VA to provide only marriage and family counseling that the Secretary determines—based on an assessment by a mental-health professional designated by the Secretary—is necessary for the amelioration of psychological, martial, or familial difficulties that resulted from the veteran's active duty service.

Manner of Furnishing Services. Section 131(d) would (a) require that the marriage and family counseling be furnished either (1) directly by VA personnel, including marriage and family counselors employed by VA, whom the Secretary determines are either appropriately certified or otherwise qualified, or (2) through contract arrangements with mental health professionals who the Secretary determines are appropriately qualified; and (b) authorize VA to employ certified marriage and family counselors to provide counseling under the program and pay them at the rates prevailing for such counseling among non-VA professionals in the same locality.

Contract Counseling Services. Section 131(e) would, in the case of contract counseling (a) require the provider to sumbit to VA within 15 days of the start of the treatment, on a form prescribed by the Secretary, a treatment plan which includes how many visits are expected. In a case in which a treatment plan is disapproved, require VA to reimburse the mental health professional for the reasonable cost (as determined by the Secretary) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval; (b) provide that, when counseling is provided under a contract with VA, no care may be provided more than 90 days after the counseling was initiated (or after the end of a previously approved period of care) unless approved by the Secretary on the condition that counseling is needed as a result of active-duty service and is provided pursuant to an updated treatment plan submitted not more than 30 days before the end of the 90-day period (or before the end of the previously approved period of care); and (c) provide that, in the case of contract counseling, if a non-VA mental health professional determines that counseling is needed to ameliorate psychological difficulties resulting from active-duty service, that same mental health professional generally may not provide the services. The Secretary would be authorized to waive this prohibition for locations in which the Secretary is unable to obtain the assessment by a mental health professional other than the one with whom the Secretary contracts for the furnishing of counseling services.

Cost Recovery. Section 131(f) would provide that the third-party reimbursement provisions in section 1729 of title 38, United States Code, under which VA is authorized, under certain circumstances, to collect from insurers the cost of care provided by VA, would apply to services provided under the pilot program.

Authorization of Appropriations. Section 133 would authorize the appropriation of $1 million for fiscal year 1991 and $10 million for each of fiscal years 1992, 1993, and 1994 and declare that the funds are emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget Act of 1985, but provided that the funds could be used only if the President designates the appropriation as an emergency requirement.

Reports. Section 134 would require the Secretary to submit (a) by January 1, 1993, an interim report describing the number of individuals who have received care under the program and the numbers of visits that the individuals made, with breakdowns showing the numbers who were reservists, other veterans, spouses, children, or parents and the numbers of individuals who received direct VA services as opposed to contract services; and (b) by January 1, 1994, a report that includes updates of those data and a description and evaluation of the program and any recommendations that the Secretary considers appropriate.

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VOL 137 PT 23 NO 21–25 1991 UMI

House amendment: Section 121 follows the Senate amendment with amendments that (a) eliminate the January 1, 1994, final report requirement; (b) strike the 30-day requirement for implementation of the program; (c) change the program expiration date to December 31, 1993; (d) change the FY 1994 authorization of appropriations for the program to $3 million (e) exclude parents from eligibility for counseling under the program; (f) authorize VA to establish a personnel classification specifically for marriage and family counselors; (g) and clarify that any contract arrangements are subject to the provisions of section 1703 of title 38 which permit VA to contract for medical and rehabilitative services only when VA facilities are not capable of furnishing economical services because of geographic inaccessibility or are not capable of furnishing the required services.

The Committees encourage the Secretary, in carrying out the program, to utilize to the maximum extent practicable the VA/DOD joint sharing authority.

Post-traumatic stress disorder research and reports

House bill: Section 404 would require that the Secretary (a) in carrying out research and awarding grants under chapter 73 of title 38, designate a level of funding support and priority to the conduct of research on mental illness including research on PTSD, and PTSD in association with substance abuse, and research on the treatment of those disorders, and (b) submit a report to the Congressional Committees on Veterans' Affairs on the implementation of this provision not later than December 1, 1992.

Senate amendment: Section 106(a)(6)(B) would, as noted above, require the Secretary, as part of the reporting requirement in section 106, to provide information on the Secretary's efforts to give research relating to PTSD a high priority in the allocation of funds available to VA for research related to mental health.

Compromise agreement: Section 122 follows section 404(a) of the House bill with an amendment clarifying that the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding PTSD and deleting the requirement to designate a level of funding support.

Special Committee on Post-Traumatic Stress Disorder

Current law: Under section 110(e) of the Veterans' Health Care Act of 1984 (Public Law 98–528), the Secretary is required to submit to the Congressional Committees on Veterans' Affairs annual reports, not later than February 1 of 1986, 1987, 1988, and 1989, regarding the Department's efforts regarding PTSD and to include in such reports the views of the Department's Special Committee on PTSD. Section 210(e) of the Veterans' Benefits Amendments of 1989 (Public Law 101–237) required the Special Committee to submit concurrently to the Department and the Congressional Committees by February 1, 1990, a report updating the earlier reports. Section 204 of the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101–366) requires the Special Committee to submit a report concurrently to the Department and the Congressional Committees by February 1, 1991.

House bill: No provision.

Senate amendment: Section 108 would extend for two years the reporting requirements of VA's Special Committee on PTSD and require the reports to be submitted concurrently to VA and the Congressional Committees.

Compromise agreement: Section 122 follows the Senate amendment.

Post-traumatic stress disorder treatment services

House bill: Section 403 would (a) require the Secretary (1) to seek to implement the recommendations of the Chief Medical Director's Special Committee on PTSD regarding the expansion of specialized PTSD treatment programs, and (2) subject to certain funding limitations, to establish and operate in locations the Secretary deems appropriate, not less than five new specialized inpatient PTSD units, not less than ten new PTSD clinical treatment teams, and not less than five outpatient programs for treatment of veterans suffering from both PTSD and substance abuse; and (b) authorize appropriations of $7.4 million for these programs in FY 1992 and such sums as may be necessary in subsequent years.

Section 405 would require the Secretary, in consultation with the Chief Medical Director's Special Committee on PTSD, to assess the need for treatment and rehabilitative services for veterans with PTSD and develop a plan for delivery of PTSD treatment and rehabilitation based on (a) the Secretary's estimate of the numbers of veterans who suffer from PTSD who are likely to seek care from VA and are entitled by law to such care; (b) the current and projected capacity to provide services; and (c) the Secretary's evaluation of existing programs.

Section 405(c) would require that, not later than August 30, 1992, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the needs assessment and plan as described in section 405(a).

Senate amendment: Section 105 would require that, not later than December 1, 1991, the Secretary (a) devise and initiate implementation of a plan to increase, to levels commensurate with the needs of veterans suffering from PTSD related to active-duty service, PTSD treatment provided in specialized inpatient and outpatient treatment programs, including PTSD/substance abuse programs, and in Vet Centers; and (b) enhance outreach activities to combat veterans and encourage such veterans to participate in treatment.

Section 106 would require that, not later than 90 days after the date of enactment, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the plan described in section 105. The report would be required to include (a) a description of the plan; (b) a description of the resources necessary to increase treatment availability for PTSD and enhance outreach; (c) a description of VA's efforts to make such resources available; (d) an estimate of the availability of community-based residential treatment for PTSD and the impact of such availability on the increased availability of such treatment by VA; (e) an assessment of the need for, and potential benefit of, providing scholarships or other educational assistance to improve the training of individuals providing PTSD treatment; (f) recommendations to improve the availability of PTSD treatment; (g) a description of the efforts by the Secretary to implement the recommendations of the Special Committee on PTSD with respect to (1) establishing educational programming directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD, and (2) giving PTSD-related research a priority in VA mental-health research funding; and (h) any other proposals and recommendations that the Secretary considers appropriate to increase the availability of PTSD treatment.

Compromise agreement: Section 123 requires the Secretary to (a) develop a plan to (1) ensure to the maximum extent practicable that veterans suffering from PTSD related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner, (2) expand and improve the services available for veterans suffering from PTSD related to active duty, (3) eliminate waiting lists for inpatient and other modes of treatment for PTSD, (4) enhance outreach activities to inform combat-area veterans of the availability of treatment for PTSD, and (5) ensure, to the extent practicable, that there are Department PTSD units in locations readily accessible to veterans residing in rural areas of the United States; (b) consider, in developing the plan described above (1) the numbers of veterans suffering from PTSD related to active duty, as indicated by relevant studies, scientific and clinical reports, and other pertinent information, (2) the numbers of veterans who would likely seek PTSD treatment from the Department if waiting times for treatment were eliminated and outreach activities to combat-area veterans with PTSD were enhanced, (3) current and projected capacity to provide appropriate treatment and rehabilitative services for PTSD, (4) the level and geographic accessibility of inpatient and outpatient care for veterans suffering from PTSD across the United States, (5) the desirability of providing inpatient and outpatient PTSD care in Department facilities that are physically independent of general psychiatric wards at the Department's medical facilities, (6) the treatment needs of such veterans who are women, of such veterans who are ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans) and of such veterans who suffer from substance abuse problems in addition to PTSD, and (7) the recommendations of the Under Secretary of Health's Special Committee on PTSD with respect to specialized inpatient and outpatient programs of the Department for the treatment of PTSD and the establishment of educational programming that is directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD; and (c) not later than April 30, 1992, submit to the Congressional Committees on Veterans' Affairs a report on the plan as described above.

TITLE II—HEALTH-CARE PERSONNEL

Cap on certain rates of pay

Current law: Section 7455 of title 38 (a) authorizes the Secretary to increase the minimum, intermediate, or maximum rates of basic pay for certain health-care personnel and VHA police officers on a nationwide, local, or other geographic basis; (b) requires that increases in rates of basic pay pursuant to this authority be made only in order to (1) provide salaries competitive with, but not in excess of, salaries paid to the same category of personnel at non-Federal facilities in a VA facility's local labor market, (2) achieve adequate staffing at particular facilities, or (3) recruit personnel with specialized skills; and (c) provides that (1) the amount of any increase under this authority in the maximum rate of basic pay for any grade may not exceed (except in the case of nurse anesthetists and licensed physical therapists) the amount by which the maximum for that grade exceeds the minimum rate of pay for that

grade, and (2) the maximum rate as so increased may not exceed the rate paid for individuals serving in the position of Assistant Chief Medical Director.

House bill: No provision.

Senate amendment: Section 222 would amend subsection (c) of section 7455 so as to authorize the Secretary to increase the maximum rate under the special rates authority for any grade to two times the difference between the minimum and maximum rate of pay for that grade.

House amendment: Section 201 follows the Senate provision.

Minimum period of service for scholarship recipients

Current law: Section 7612 of title 38 sets forth criteria for participation in the Health Professional Scholarship Program, established pursuant to section 7611 of title 38 which include a requirement that an agreement between the Secretary and a scholarship recipient include (a) the Secretary's agreement to provide the recipient with a scholarship for a specified number (from one to four) of school years, and (b) the recipient's agreement to serve as a full-time VA employee for one calendar year for each school year or part thereof for which the recipient participated in the scholarship program.

House bill: Section 202 would amend section 7612(c)(1)(B) so as to require participants who enter into scholarship agreements after the date of enactment to serve as full-time employees in VHA for a minimum of two years.

Senate amendment: No provision.

House amendment: Section 202 follows the House provision.

Authority to purchase items of nominal value for recruitment purposes

Current law: Under current law, VA has no specific authority to purchase promotional items of nominal value for use in the recruitment of individuals for employment.

House bill Section 203 would (a) authorize the Secretary to purchase promotional items of nominal value for use in the recruitment of individuals for employment in VA health-care positions, and (b) require the Secretary to prescribe guidelines for the administration of the procurement and use of such items.

Senate amendment: No provision.

House amendment: Section 203 follows the House provision.

Special pay for certain physicians and dentists based on board certification

Current law: Section 7437(e) of title 38 requires (a) that, in the case of a physician or dentist who was employed in the Veterans Health Administration (VHA) on a full-time basis on July 13, 1991, the day before the effective date of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991, title I of Public Law 102–40, and on that date was being paid only for the special-pay factors of primary, full-time, and length of service, that physician or dentist shall continue to be paid special pay at a rate not less than the rate of special pay paid to him or her on that date; and (b) that a physician or dentist who was employed VHA on a part-time basis on July 13, 1991, and on that date; and (c) that a physician or dentist who was employed in VHA on a part-time basis on July 13, 1991, and on that date was being paid only for the special-pay factors of primary and length of service shall continue to be paid special pay at a rate not less than the rate paid to the physician or dentist on that date.

House bill: No provision.

Senate amendment: Section 225 would amend section 7437(e) so as to require that a physician or dentist who was employed in VHA on July 13, 1991, and who was being paid special pay for no special pay factors other than primary, full-time, length of service, or specialty or board certification shall continue to be paid special pay at an annual rate no lower than the rate at which the physician or dentist was paid on that date.

House amendment: Section 204 follows the Senate provision.

Transition rule for payment of special pay under certain special pay agreements

Current law: Section 104 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40) requires that the amendments to chapter 74 of title 38 made by that Act take effect on the first day of the first pay period beginning after the earlier of (a) July 1, 1991, or (b) the end of the 90-day period beginning on the date of enactment of that Act. However, it contains no specific provision regarding those physicians and dentists who were ready and willing to enter into new special-pay agreements on the effective date of title I of Public Law 102–40, but whose agreements were not approved under VA regulations on or before the effective date.

House bill: No provision.

Senate amendment: Section 226 would amend section 104(d) of Public Law 102–40 so as to (a) require that any special-pay agreement entered into by a physician or dentist under title I of that law who was employed by VA on the effective date of that title, July 14, 1991, and who was ready and willing to enter into a new special-pay agreement on that date, shall take effect as of that date without regard to the date of approval of that agreement; and (b) provide that expenses incurred for periods before October 1, 1991, by reason of the requirement described in (a), above, may be charged to fiscal year 1992 appropriations for the same purpose.

House amendment: Section 205 follows the Senate provision.

Authority to appoint non-physician directors to the Office of the Chief Medical Director

Current law: Section 7306(a) of title 38 authorizes the Secretary to appoint individuals to positions in the Office of the Chief Medical Director and, pursuant to section 7404 of title 38, pay such individuals under the title 38 authority.

House bill: No provision.

Senate amendment: Section 227 would amend section 7306(a) so as to authorize the Secretary to appoint all non-physician directors of clinical support services within VHA under the title 38 personnel appointment authority.

House amendment: Section 2067 follows the Senate provision.

Expansion of director grade of the physician and dentist pay schedule

Current law: Section 7404(b) of title 38 (a) establishes pay schedules for physicians and dentists, registered nurses, and clinical podiatrists and optometrists employed by the Veterans Health Administration; (b) limits the use of the director grade of the physician and dentist schedule to physicians and dentists servings as directors of hospitals, domiciliaries, centers, or independent outpatient clinics; and (c) limits the use of the executive grade of the physician and dentist schedule to physicians and dentists serving as chiefs of staff at a hospital, or independent outpatient clinic, or in a comparable position.

House bill: No provision.

Senate amendment: Section 228 would amend section 7404(b)(2) so as to authorize the use of the director grade of the physician and dentist pay schedule for a physician or dentist serving in a position comparable to that of a director of a hospital, domiciliary, center, or independent outpatient clinic.

House amendment: Section 207 follows the Senate provision.

TITLE III—LIFE INSURANCE PROGRAMS

Supplemental service disabled veterans' insurance for totally disabled veterans

Current law: Section 1922(a) of title 38 requires VA to provide $10,000 in life insurance at standard rates to any veteran released from active duty after April 24, 1951, who is suffering from a service-connected disability that renders the veteran uninsurable according to standards of good health established by the Secretary and who applies for the policy within one year from the date service-connection is determined by VA.

Section 1912(a) of title 38 provides that, upon application by the insured and under such regulations as the Secretary may promulgate, payment of premiums on insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if that disability began (a) after the date of the insured's application for insurance, (b) while the insurance was in force under premium-paying conditions, and (c) before the insured's sixty-fifth birthday.

House bill: No provision.

Senate bill: Section 501 of S. 127 as introduced, which was derived from section 501 of S. 2100 as reported by the Senate Committee on July 19, 1990, would (a) provide supplemental coverage at standard premiums, of up to an additional $10,000 in SDVI, to certain veterans who are eligible for a waiver of premiums due to total disability, and (b) specify that a veteran not currently eligible for waiver of premiums of SDVI would have a year, upon notification of eligibility, to apply for the supplemental coverage.

Compromise agreement: Section 301 follows the Senate bill.

Increase in amount of veterans' mortgage life insurance

Current law: Section 2106(b) of title 38 sets at $40,000 the maximum amount of Veterans' Mortgage Life Insurance (VMLI) available to veterans who have received a specially-adapted housing grant under chapter 21 of title 38.

House bill: Section 9(a) of H.R. 1047 would increase from $40,000 to $90,000 the maximum amount of VMLI available under section 2106 of title 38.

Senate amendment: No provision.

House amendment: Section 302 follows the House bill.

TITLE IV—COMPENSATION AND PENSION CLARIFICATION OF SCOREKEEPING RULE FOR COST-OF-LIVING INCREASES IN COMPENSATION RATES

Current law: The "pay-as-you-go" rules in the Budget Enforcement Act of 1990 (BEA) (title XIII of Public Law 101–508) limit changes in current law that would increase payments of entitlements and other direct spending. The rules generally require sequestration of certain direct spending by a total amount equal to net spending in excess of the direct spending in a baseline calculated under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 ("Gramm-Rudman-Hollings"), as amended in 1990 by the BEA. Section 252 of Gramm-Rudman-Hollings (2 U.S.C. §902), as amended,

House bill: Section 301 would amend sec-

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VOL 137 PT 23 NO 21—25 1991

gives the Office of Management and Budget (OMB) the responsibility to estimate the direct-spending costs or savings associated with newly enacted legislation.

The statutory definition of the baseline includes a provision, section 257(b)(2)(B) of Gramm-Rudman-Hollings, which states, "The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session."

House bill: No provision.

Senate bill: Section 3 of S. 775 would clarify that, for purposes of the sequestration baseline under section 257(b) of Gramm-Rudman-Hollings (2 U.S.C. §907(b)), as amended by section 13101(e) of the BEA, it is to be assumed that the veterans' compensation COLA for each rate of compensation will be rounded to the nearest whole dollar.

House amendment: Section 401 follows the Senate provision.

Reduction in pension for veterans' survivors who are receiving Medicaid-covered nursing home care

Current law: Section 5503(a) of title 38 limits to $90 a month the maximum amount of VA needs-based pension payable to veterans who are receiving care in VA domiciliaries or nursing homes and who have no dependents.

Section 8003 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508 (OBRA), applies the $90-a-month limit on pension payments to Medicaid-eligible veterans who have no dependents and who are in nursing homes participating in Medicaid. Section 304 of Public Law 101–40 exempted from section 8003 of OBRA veterans who are in State veterans homes.

The OBRA provision does not reduce the amount of VA pension that a veteran actually receives, since the pension payments affected by OBRA formerly were passed through to the nursing home in which the veteran was receiving care. Following implementation of section 8003, Medicaid payments fully replace the VA pension payments for the veteran's nursing-home care. From the veteran's standpoint, the OBRA provision protects $90 a month of the VA pension from various State Medicaid rules that required the veteran to use almost all of the pension for his or her care, except for a personal allowance that is less than $90 a month in every State. Thus, the OBRA provision ensures that veterans whose VA pension is reduced under the provision receive slightly more personal spending money than they had been allowed to keep under prior law.

Survivors of veterans of wartime service, who are eligible for needs-based VA pension benefits, are not covered by section 8003, which expires September 30, 1992.

House bill: No provision.

Senate bill: Section 4 of S. 775 would extend section 8003 of OBRA to cover veterans' survivors receiving VA needs-based pension who have no dependents and who are in nursing homes participating in Medicaid. The provision would take effect on November 1, 1991, and would expire on September 30, 1992, the same date on which section 8003 of OBRA expires.

House amendment: Section 402 follows the Senate provision, with an amendment providing that it would take effect January 1, 1992.

Access to information necessary for the administration of certain veterans' benefits laws

Current law: The Right to Financial Privacy Act of 1978 (RFPA) (Public Law 98–21) generally prohibits federal agencies from gaining access to or obtaining copies of information contained in the financial records of a customer from a financial institution unless the records are reasonably described and the customer has authorized disclosure or the records are sought pursuant to an administrative subpoena or summons, a search warrant, a judicial subpoena, or a "formal written request." There are 11 types of disclosures to Federal agencies that are excluded from the general prohibition, including disclosure authorized under the Internal Revenue Code and disclosure necessary for the proper Administration of programs of withholding taxes on nonresident aliens; Federal Old-Age, Survivors and Disability Insurance Benefits; and Railroad Retirement Benefits.

House bill: No provision.

Senate bill: Section 4 of S. 775 would amend the RFPA to authorize VA to obtain from financial institutions the current mailing addresses of certain VA beneficiaries whose benefits are deposited into their accounts by direct deposit. The Secretary would be authorized to request and obtain this information only if the Secretary determines and certifies that the information is necessary to administer veterans' benefits programs and that the information cannot be obtained by a reasonable search of the Department's records. Information disclosed by the financial institution under this provision could be used solely for the purpose of administering veterans' benefits programs.

House amendment: Section 403 would amend the RFPA to provide the basic authority for the Secretary to request and obtain the information and would add a new section 5319 of title 38, United States Code, to require the Secretary to make the determination and certification required in the Senate bill and to limit the use of the information as required in the Senate bill.

TITLE V—MISCELLANEOUS

Extension of authority of Secretary of Veterans Affairs to maintain the regional office in the Philippines

Current law: Section 315(b) of title 38 authorizes the Secretary to maintain a regional office in the Republic of the Philippines until September 30, 1991.

House bill: No provision.

Senate amendment: Section 7 would extend the authority to maintain such an office until December 31, 1996.

House amendment: Section 501 extends the authority until March 31, 1994.

Reestablishment of advisory committee on native-American veterans

Current law: Section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99–272) established the Advisory Committee on Native-American Veterans. Section 413 of the Veterans' Benefits and Services Act of 1988 (Public Law 100–322) extended the Advisory Committee until February 1, 1989, to allow for an examination of the needs of Native Hawaiian veterans. The activities of the Advisory Committee officially ended 90 days after the Secretary submitted to the Committees on Veterans' Affairs the Advisory Committee's third and final report.

House bill: No provision.

Senate amendment: Section 302 would, effective October 1, 1991, reestablish the Advisory Committee on Native-American veterans for two years and require submission of two more reports on March 31, 1992 and 1993.

Compromise agreement: Section 502 follows the Senate amendment with an amendment to provide that the Advisory Committee will be reestablished on the date of enactment of the compromise agreement.

Extension of certain vocational rehabilitation and training programs

Program for Trial Work Periods and Vocational Rehabilitation

Current law: Section 1163 of title 38 provides that, during the period beginning on February 1, 1985, and ending on January 31, 1992, in the case of a veteran receiving compensation at the total-disability rate based on a determination of individual unemployability who participates in a program of vocational rehabilitation and begins to engage in a substantialy gainful occupation during the rehabilitation-program period, the compensation of the veteran will not be reduced as a result of that work income unless the veteran maintains the occupation for 12 consecutive months.

House bill: No provision.

Senate amendment: Section 214(a) would amend section 1163(a)(2)(B) to extend this program through December 31, 1992.

House amendment: Section 503 follows the Senate provision.

Program of Vocational Training for New Pension Recipients

Current law: Section 1524 of title 38 provides, during the period beginning on February 1, 1985, and ending on January 31, 1992, for a program of vocational training for certain non-service-disabled wartime veterans awarded a need-based pension.

House bill: No provision.

Senate amendment: Section 214(b) would amend section 1524(a)(4) to extend the program through December 31, 1992.

House amendment: Section 503 follows the Senate provision.

Protection of Health-Care Eligibility

Current law: Section 1525 of title 38 provides, during the period beginning on February 1, 1985, and ending on January 31, 1992, for a program of three-year protection of VA health-care eligibility for a veteran whose entitlement to pension is terminated during this period by reason of income from work or training.

House bill: No provision.

Senate amendment: Section 214(c) would amend section 1525(b)(2) to extend the program through December 31, 1992.

House amendment: Section 503 follows the Senate provision.

Authorization requirement for construction of new medical facilities

Current law: Section 8104(a)(2) of title 38 provides that it is not in order in the Senate or in the House to consider a bill, resolution, or amendment that would make an appropriation for any fiscal year for a major medical facility project or a major medical facility lease unless (a) the bill, resolution, or amendment specifies the amount to be appropriated for that project or lease, (b) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and (c) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year. Section 8104(a)(3) defines a "major medical facility project" as a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2 million and a "major medical facility lease" as a lease for space for use as a medical facility at an average annual rental of more than $500,000.

House bill: Section 301 would amend section 8104(a) to provide that (a) no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law; (b) a "major medical facility lease" is a lease of space for use as a new medical facility; and (c) a covered lease is one with an average annual rent of more than $300,000.

Senate amendment: No provision.

House amendment: Section 504 follows the House provision.

Redesignation of positions of Chief Medical Director and Chief Benefits Director as Under Secretaries

Current law: Sections 305 and 306 of title 38 designate the heads of the Veterans Health Administration and the Veterans Benefits Administration of the Department of Veterans Affairs as the Chief Medical Director and Chief Benefits Director, respectively.

House bill: Section 310 would redesignate the positions of Chief Medical Director and Chief Benefits Director as the Under Secretary for Health and the Under Secretary for Benefits Administration, respectively.

Senate amendment: Section 8 would give to the position of Chief Medical Director the additional title Under Secretary for Health and to the position of Chief Benefits Director the additional title Under Secretary for Benefits.

House amendment: Section 305 follows the House provision.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member of the Committee on Veterans' Affairs, I join my colleagues today in strong support of H.R. 2280, which provides for the concurrence of the House, with amendments, to the Senate amendments.

This bill, as explained by our distinguished chairman, Mr. MONTGOMERY, is designed to improve the quality, delivery and administration of health care programs. It also makes improvements to certain veterans' benefits programs, including increases in insurance coverage for severely disabled service-connected veterans. The measure enhances existing programs and extends some expiring reporting requirements.

The measure also contains provisions introduced at the request of the administration and we are pleased to be able to address them in H.R. 2280.

Included at the request of the Department is a provision which will redesignate the titles of Chief Medical Director and Chief Benefits Director as Under Secretaries. The title of Under Secretary more properly reflects the expertise and responsibilities of these individuals. It would enhance their access to the top circles of Government management.

Finally, I want to thank Chairman MONTGOMERY and my colleagues on the Committee on Veterans' Affairs for their combined efforts. The prompt deliberation on these issues paved the way for our consideration of this important legislation today. I urge the support of my colleagues on the measure as amended.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 2280, Veterans Health Care and Research Amendments of 1991.

I would like to commend the chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY], for introducing this important measure, and the ranking minority member, the gentleman from Arizona [Mr. STUMP], for his unceasing efforts on behalf of our Nations veterans.

H.R. 2280 makes program enhancements for veterans' medical care and extends certain expiring authorities.

Mr. Speaker, 30 to 40 percent of our Nation's homeless are veterans. H.R. 2280 takes the necessary steps needed to help our Nation's homeless veterans by extending the authority for the Homeless Chronically Mentally Ill Veterans Program through 1994.

The measure also expands the outreach and community-based residential care for homeless, chronically mentally ill veterans, as well as directing the Secretary of Veterans Affairs to report to Congress on the VA's plan to provide assistance to homeless veterans.

Many of our Nation's veterans suffer daily from recurring nightmares of their days in combat. H.R. 2280 establishes at least 5 new post-traumatic stress disorder [PTSD] units and at least 10 PTSD clinical treatment teams. Additionally, the chief medical director's special committee on PTSD will develop a plan for providing services for those suffering from PTSD.

This important measure also provides that VA quality assurance programs and activities be funded from the medical care account. Quality of care in our veterans' hospitals is an important and essential priority. This provision will give the Secretary of Veterans' Affairs additional flexibility in funding in order to carry out an effective and comprehensive quality assurance program.

Mr. Speaker, our support of this measure confirms the support in Congress for our veterans through making important changes in the veterans health care system to meet our Nation's veterans needs.

Accordingly, Mr. Speaker, I support H.R. 2280, and urge my colleagues to vote in favor of it.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE], the chairman of the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs.

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Mr. APPLEGATE. Mr. Speaker, I thank the gentleman for yielding time to me.

I just want to side with the remarks of the gentleman from New York [Mr. GILMAN] about what we do for the veterans. I think it should be remembered by the people of this country that we do more for our veterans than any nation in the world or in the history of the world.

We take good care of them, and we will continue to do so because of what they have done for us.

I simply want to note my strong support for this measure, House Resolution 300, because of the two insurance provisions which will benefit seriously disabled service-connected veterans who have not been able to obtain adequate levels of life insurance or mortgage protection coverage due to their disabilities. Neither of these provisions has a great cost to the Government, but each will greatly help this group of veterans and their families. And the veterans' mortgage life insurance program, what this will do would be to increase the amount of insurance on the specially adapted house from $40,000 to $90,000. And that is for the severely handicapped who has to have this kind of a facility.

The other is in service disabled veterans' insurance, which will allow the Government to pick up an additional $10,000 worth of life insurance for each of these veterans.

I would also want to note that the bill contains other provisions which have been stated here very capably by our chairman that affect the administration of veterans' benefits. I also want to commend the chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY], my friend and colleague, and the ranking member, the gentleman from Arizona [Mr. STUMP], for their efforts in attempting to bring an agreement together over the weekend and with their counterparts in the other body, Senator CRANSTON and Senator SPECTER.

I hope any problems encountered on their side can be quickly resolved so that we can get this piece of legislation enacted as soon as possible. I urge my colleagues to give support to this bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Mississippi [Mr. MONTGOMERY] as well as the gentleman from Ohio [Mr. APPLEGATE], chairman of the Subcommittee on Compensation, Pension, and Insurance, and commend them for their efforts. Their prompt deliberation on these issues paved the way for our consideration of this important legislation today. I urge support of my colleagues on the measure, as amended.

Mr. Speaker, I reserve the balance of my time.

UMI

VOL 137 PT 23 NO 21–25 1991 UMI

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I intend to support this legislation. Let me say, having served with the gentleman from Mississippi [Mr. MONTGOMERY] on the Committee on Veterans' Affairs some years ago, I know well his leadership on these issues and how important that leadership is to veterans.

As I indicated, I will support this legislation.

I did want to raise, however, to discuss one point that has broader implications than just veterans' issues.

The point is this: The pharmaceutical manufacturers in this country have been providing to the Veterans' Administration drugs as discount prices. They say that out of patriotic duty they were providing these pharmaceutical drugs, to the veterans' system.

A provision that Congress passed in OBRA 90, which requires a best-price calculation with respect to what can be charged to Medicaid, is a provision that the pharmaceutical manufacturers say caused them to increase substantially drug prices in the VA system.

All of us understand the problems that increase in drug prices has caused the VA system, and all of us want to solve that. And this does address that particular problem.

I will support the bill for that reason, but I did want to raise the broader question. When we take the VA drug prices out of the best priced calculation, we remove a substantial amount of pressure that ought to continue to exist generally on the pricing practices of pharmaceutical manufacturers.

I have a list of drug prices which shows increases over the last 5 years. Let me just give some examples. Tylenol with codeine, up 129 percent over 5 years; Valium, 10 milligram, up 97 percent over 5 years. I can go down the list, 80 percent, 90 percent, 131 percent over 5 years. There is no excuse for this.

The public is getting ripped off, in my judgment, by pricing policies that are unfair not just to the VA but to everybody, to Medicaid, to the general public that goes to the drugstore to buy drugs.

The only point I wanted to make is that while I support this bill and understand why we must do what we are doing to restore reasonable drug prices for drug costs to the VA system, all of us ought to be determined to bear that same imprint on legislation around here with respect to the people who walk into their corner drug store and buy medicine as well. And we need to find ways to do that, Mr. Speaker. I think what is happening is pharmaceutical manufacturers are pricing drugs that have been on the market for a good long while with price increases that are unreasonable.

We need to find ways to solve that problem.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the point the gentleman has made. We certainly agree with him.

We have passed legislation that we think, as far as veterans are concerned, and that is the only area that we could work in on rolling back these drug prices. This cost the Veterans Department already $60 million, the raising of the prices by the pharmaceutical houses in the last 7 months.

The bill is over in the Committee on Energy and Commerce, and I am sure they are taking a good, hard look at it. Something should be done.

Mr. DORGAN of North Dakota. Mr. Speaker, the point I was making is this is one increment in a range of policies that we need to consider to respond to what is a growing problem in this country of, in my judgment, overpricing pharmaceutical drugs to people from all walks of life.

Once again, I appreciate the leadership of the chairman.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

We have the blue sheets that further explain these bills at the majority leader's desk. I am happy to say I believe this will be the last two veterans' bills for this session of the Congress.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to commend you and the ranking member, Representative STUMP, for your resolve in bringing H.R. 2280, as amended, to the House floor in such a timely manner.

The chairman has already pointed out that this body passed a majority of the provisions contained in H.R. 2280, on June 25, 1991. However, today's bill contains several compromise provisions on health care and benefits agreed to by our colleagues in the other body.

We are dedicated to consistently improving the quality, delivery, and administration of medical care for our Nation's veterans and H.R. 2280 does just that. As the ranking member on the Subcommittee on Hospitals and Health Care, I want to emphasize several of these measures.

In particular, this bill prohibits pharmaceutical manufacturers from using VA drug prices in the calculation of Medicaid rebates. The fiscal year 1990 Omnibus Budget Reconciliation Act [OBRA] contained a provision requiring drug manufacturers to provide State Medicaid Programs with the best price through monetary rebates. However, the law failed to exclude from the calculation of best price, the VA's Federal Supply Schedule, [FSS], through which the VA, as well as other Federal agencies, procures its drugs. Subsequently, pharmaceutical manufacturers have drastically raised prices on drugs sold to the VA in order to cut their losses.

As a result, VA pharmacies are being forced to curtail the supply of specific prescriptions and inform veterans that they cannot have certain medication necessary for their treatment.

While further legislative action is necessary to alleviate the fiscal burden placed upon the VA, excluding VA drugs from Medicaid rebate calculation is a step in the right direction.

Early next session, it is my hope that the House takes favorable action on H.R. 2890, which goes further to correct the unwarranted increases in drug prices.

I would also like to point out additional provisions of H.R. 2280 which are critical to maintaining a topnotch veterans' health care system.

H.R. 2280 authorizes the VA and local medical facilities to jointly acquire major medical equipment. During these times of budgetary constraint, it is imperative that the VA be given this kind of option so as to obtain necessary medical equipment.

Finally, H.R. 2280 requires that VA congressional office quality assurance employees be paid out of the medical care account, as opposed to the medical and miscellaneous administrative operation expense [MAMOE] account. This action is necessary so that we need not rely on funding of the MAMOE account which has been seriously eroded over the last several years.

I urge my colleagues to support H.R. 2280 so that we can follow through on our commitment to providing our Nation's veterans with the quality health care and services they deserve.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and agree to the resolution, House Resolution 300, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

AMENDING THE COST SAVINGS AWARDS PROGRAM FOR FEDERAL EMPLOYEES

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2263) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost-saving disclosures, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARDS FOR COST SAVINGS DISCLOSURES.

(a) AGENCY AWARDS PROGRAM.—Section 4512 of title 5, United States Code, is amended to read as follows:

"§4512. Agency awards for cost savings disclosures

"(a) The Inspector General of each agency shall establish a program under which a cash award may be paid to any employee or former employee of such agency whose disclosure of fraud, waste, or mismanagement to the Inspector General of such agency (whether made to the Inspector General directly or indirectly) has resulted or may reasonably be expected to result in—

"(1) cost savings for the agency; or

"(2) other benefits to the Government or the public appropriate for recognition under this section.

"(b)(1) Subject to paragraph (2), an award under this section may not exceed an amount equal to—

"(A) 5 percent of the agency's cost savings which the Inspector General determines to be the total savings attributable to the employee's or former employee's disclosure; or

"(B) if no cost savings are involved, such amount as the Inspector General considers appropriate.

"(2) No award under this section may exceed $20,000.

"(3) In determining an agency's cost savings for purposes of paragraph (1)(A), the Inspector General may take into account agency cost savings projected for subsequent fiscal years which will be attributable to the disclosure.

"(c) In the case of an agency for which there is no Inspector General, any reference in this section to the Inspector General of an agency shall be considered to be a reference to the agency employee designated by the head of such agency for purposes of this section.

"(d) An agency may pay or grant an award under this section notwithstanding the death or separation from the service of the employee concerned, or the death of the former employee concerned.

"(e) There are authorized to be appropriated to the account which funds the operations of the Inspector General of each agency (or, in the case of an agency which has no Inspector General, which funds the operations managed under this section by the employee designated under subsection (c)) such sums as may be necessary to carry out this section.".

(b) PRESIDENTIAL AWARDS PROGRAM.—The first sentence of section 4513 of title 5, United States Code, is amended to read as follows: "The President may pay a cash award in the amount of $40,000 to any employee whose disclosure of fraud, waste, or mismanagement has resulted or may reasonably be expected to result in substantial cost savings for the Government.".

(c) AUTHORITY TO MAKE AWARDS TO CERTAIN NON-FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 4512 the following:

"§4512a. Awards for certain non-employees

"(a) The Inspector General of each agency shall establish a program under which a cash award may be paid to any individual or entity whose disclosure of fraud, waste, or mismanagement to the Inspector General of such agency (whether made to the Inspector General directly or indirectly) has resulted or may reasonably be expected to result in—

"(1) cost savings for the agency; or

"(2) other benefits to the Government or the public appropriate for recognition under this section.

"(b) An award under this section may only be made where the information disclosed by the individual or entity was gained by such individual or entity in the course of performing any services for, or furnishing any services to, such agency under contract.

"(c) An award under this section for any disclosure may not exceed the amount which would be allowable under section 4512 if such disclosure had been made by an employee of the agency involved.

"(d) In the case of an agency for which there is no Inspector General, any reference in this section to the Inspector General of an agency shall be considered to be a reference to the agency employee designated by the head of such agency for purposes of this section.

"(e) Each program under this section shall include, with respect to individuals covered by this section, provisions comparable to the provisions of subsection (d) of section 4512, as such subsection relates to employees covered by that section.

"(f) There are authorized to be appropriated to the account which funds the operations of the Inspector General of each agency (or, in the case of an agency which has no Inspector General, which funds the operations managed under this section by the employee designated under subsection (c)) such sums as may be necessary to carry out this section.".

(2) CHAPTER ANALYSIS.—The analysis for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4512 the following:

"4512a. Awards for certain non-employees.".

(d) ELIMINATION OF EXPIRATION PROVISION.—Section 4514 of title 5, United States Code, and the item relating to such section in the analysis for chapter 45 of such title are repealed.

SEC. 2. AWARDS FOR SUPERIOR ACCOMPLISHMENTS.

(a) PROGRAM MODIFICATIONS.—Title 5, United States Code, is amended by striking sections 4502 through 4504 and inserting the following:

"§4502. General provisions

"(a) A cash award under this subchapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this subchapter constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee or such employee's heirs or assigns.

"(b) A cash award to, and expenses for the honorary recognition of, an employee may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting. The head of the agency concerned determines the amount to be paid by each activity for an agency award under section 4503. The President determines the amount to be paid by each activity for a Presidential award under section 4504.

"(c)(1) Notwithstanding section 4501(2), for the purpose of this subsection, 'employee' includes an employee covered by the performance management and recognition system established under chapter 54.

"(2) The Office of Personnel Management may by regulation permit agencies to grant employees time off from duty, without loss of pay or charge to leave, as an award in recognition of superior accomplishment or other personal effort that contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork.

"§4503. Agency awards

"(a) The head of an agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, an employee who—

"(1) by such employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to such employee's official employment.

"(b)(1) Except as provided in paragraph (2), a cash award under this section may not exceed—

"(A) an amount equal to 10 percent of the agency's cost savings attributable to the employee's accomplishments, or the minimum annual rate of pay payable for a position classified above GS–15 of the General Schedule, whichever is less; or

"(B) if no cost savings are involved, the minimum annual rate of pay payable for a position classified above GS–15 of the General Schedule.

"(2) When the head of an agency certifies to the Office of Personnel Management that the highly exceptional or unusually outstanding nature of the accomplishments of an employee so warrants, a cash award in excess of the maximum amount allowable under paragraph (1), but not in excess of an amount equal to two times such maximum amount, may be granted with the approval of the Office.

"§4504. Presidential awards

"(a) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, an employee who—

"(1) by such employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to such employee's official employment.

A Presidential award may be in addition to an agency award under section 4503.

"(b) The President determines the amount of a cash award under this section.".

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT.—Subchapter I of chapter 45 of title 5, United States Code, is amended—

(i) by redesignating section 4507 as section 4508; and

(ii) by inserting after section 4506 the following:

"§4507. Reports

"(a)(1) Each agency shall prepare and transmit to the Office of Personnel Management on an annual basis a report on such agency's awards program under section 4503.

"(2) An agency report under this subsection shall include, for the period covered by that report—

"(A) the number of cash awards made by the agency under the agency's awards program (as referred to in paragraph (1)), and the amount of each such award;

"(B) if no cash award was made, a statement of the reasons why no such award was made, particularly any difficulties which the agency may have encountered with respect to administering its awards program;

"(C) a statement of any measures taken, or proposed to be taken, by the agency in order to overcome any difficulties identified under subparagraph (B); and

"(D) any other information which the Office may require in preparing a report under subsection (b).

VOL 137 PT 23 NO 21–25 1991 UMI

"(b)(1) The Office shall, on an annual basis, transmit to the Committee on Post Office and Civil Service of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the head of each agency, a report under this subsection. The report shall include—

"(A) the name of any agency which either did not make any cash award under section 4503 during the period covered by the Office's report (including any explanation given by the agency) or did not submit a report under subsection (a) with respect to the period involved;

"(B) a description and evaluation of each agency's cash awards program under section 4503 (and any program established by such agency under section 4502(c)); and

"(C) recommendations for any legislation or administrative action which may be necessary in order that sections 4502(c) and 4503 may more effectively be carried out.

"(2) Any information which, pursuant to paragraph (1)(A), is included in a report under this subsection shall be published in the Federal Register.".

(B) CHAPTER ANALYSIS.—The analysis for chapter 45 of title 5, United States Code, is amended by striking the item relating to section 4507 and inserting in lieu thereof the following:

"4507. Reporte.
"4508. Awarding of ranks in the Senior Executive Service.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Sections 3151(c), 5383(b)(1), and 5384(a)(2) of title 5, United States Code, section 1601(c) of title 10, United States Code, section 405(b) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)), section 733(a)(5) of title 31, United States Code, and sections 4101(e) and 4107(c) 7425(a)(6) and 7404(c) of title 38, United States Code, are each amended by striking "4507" and inserting in lieu thereof "4508".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective as of October 1, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2263, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in a quest for increased productivity and efficiency, the Federal Government has established incentive awards programs for Federal employees. Cost incentive programs reward Federal employees for a variety of reasons, ranging from suggesting cost-effective and efficient improvements in Government operations to reporting waste, fraud, and mismanagement within the Federal Government. They are based on two principles: that employees are best able to recognize and to propose solutions for problems in their jobs, and that no one has a monopoly on good ideas.

H.R. 2263, introduced by Representative KASICH and myself, makes permanent the Cost Savings Disclosure Awards Program and strengthens the Superior Accomplishments Awards Program. It is not a new bill. This legislation was previously considered in the past two Congresses. In the 100th Congress, the bill passed the House of Representatives under suspension of the rules. In the 101st Congress, this legislation passed both Houses—the House in July of 1990 and the other body with an amendment on October 28, 1990. However, due to time constraints, the two versions were not reconciled—the House was unable to consider the Senate amendment.

The Cost Savings Disclosure Awards Program would authorize inspectors general and the President to pay cash awards to employees who disclose fraud, waste, or mismanagement in the Government. This program had been in existence since 1981. However, the program expired on September 30, 1990, due to lack of action in the Senate. However, H.R. 2263 would make this program permanent. The inspector general of the Department of Defense recently wrote the author of the legislation and stated the value of the program:

> DEAR REPRESENTATIVE KASICH: Since the inception of the cash awards program, the Office of the I.G., Department of Defense, has recognized approximately 60 people with total awards exceeding $78,000. As of March 1990, disclosure of fraud, waste, and mismanagement has resulted in cash savings to the Department of Defense of over $49 million and cost avoidance savings of over $142 million. It is our hope that you will continue your efforts to make this program permanent in the ongoing battle against waste, fraud, and abuse.

The Superior Accomplishment Awards Program authorizes agencies to recognize and reward employees of their suggestions, or achievements that contribute to the efficiency, economy, or improvement of Government operations. H.R. 2263 strengthens the Superior Accomplishments Awards Program by increasing the maximum amount of the award to 10 percent of the agency's cost savings attributable to the employee's accomplishments or to an amount not to exceed the basic pay of a GS–15.

In fiscal 1989 alone, under the existing program, over $8 million in awards were paid to almost 29,000 employees, and the Government achieved over $191 million in first year measurable benefits by virtue of these suggestions.

While we all hope Federal employees will blow the whistle, we know that blowing the whistle can be risky. This legislation is intended to provide an incentive for Federal employees to disclose waste and abuse within their Government agencies and positively offer suggestions to increase the efficiency and save money for the operation of the Federal Government. I would like to commend Representative KASICH for his dogged leadership and concern in this area; Representative GILMAN, the ranking member of the Post Office and Civil Service Committee, and Representative MORELLA for all of their hard work and dedication to improving working conditions for Federal employees all across this country, and I urge my colleagues to support this bill.

☐ 1900

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2263, a bill which would extend and strengthen two incentive awards programs.

Last year, a similar bill was introduced and passed the House and was amended by the Senate on the last day of session; therefore, it did not pass.

I applaud my colleague from Ohio, Mr. KASICH, and my colleague from Minnesota, Mr. SIKORSKI, for reintroducing this bill again and for providing that this important incentive in the Federal sector be made permanent.

Mr. Speaker, H.R. 2263 would make permanent two incentive programs which already exist in title 5, the Superior Accomplishment Award Program and the Awards for Cost Savings Disclosure Program. The Superior Accomplishment Award Program authorizes agencies to recognize and reward employees for their suggestions or achievements that contribute to the efficiency, economy, or improvement of the Government; and the Awards for Cost Savings Disclosure Program authorizes the President to pay cash awards to employees who disclose fraud, waste, or mismanagement.

Mr. Speaker, Federal employee incentive and suggestion programs have been in existence in the Government since 1912. However, during the last few years agencies have not been taking advantage of these programs. Nevertheless, this is no reason to allow these valuable programs to lapse. These programs are needed to provide further incentives to Federal employees.

The cost incentives program is used extensively in the private sector. There is no reason it cannot work in the public sector. A more meaningful monetary reward will, undoubtedly, be an increasingly beneficial tool to encourage savings and to improve productivity and the quality of service in the Government.

This bill also provides that the inspector general of each agency shall establish a program to award any individual or entity who has saved the Government money by disclosing fraud, waste, or mismanagement. During the period of time that the person or entity was performing services for or to the agency. I believe this is an important part of the bill because there are likely to be innumerable Government contractors who would be involved in cost savings to the Government if they were part of this awards program.

I would like to again commend the sponsors of this measure and would like to encourage all my colleagues to support H.R 2263.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. KASICH] the prime sponsor of the bill.

Mr. KASICH. Mr. Speaker, I thank the gentleman for yielding time to me.

I do not want to take a lot of time because we have a lot of suspensions up. Let me say this bill was modeled after the kind of innovative programs that IBM and Xerox have where they make very liberal use of a program designed to reward employees for developing innovative ideas.

First of all, the gentleman from Minnesota [Mr. SIKORSKI] has been very patient in getting this bill to the floor a couple of times, and so has the gentlewoman from Maryland [Mrs. MORELLA]. A lot of times I think in this place when things do not move quickly people tend to give up, and I want to thank the gentleman from Minnesota particularly, and his staff, because talk about dogged determination, he has moved this thing along. I really hope we are going to get this all the way through the process this time. I think, considering the fact that this is passing this year and we will get it to the Senate and let them have their chance to develop it will ensure that it will become law.

Just to give the Members one or two ideas of what people have done, there was $2,500 awarded to an employee who disclosed some things that a defense contractor was doing. The effort resulted in the recovery of approximately $1 million in parts, and he was given a generous allocation of $2,500 for sticking his neck out to save $1 million. Obviously we can do better than that for this gentleman.

Another person was awarded $5,000, and he developed a reform in the way in which a contractor did his work on acquisition procurements. That resulted in $8 million in savings. The program really worked.

There is a gentleman by the name of Alfred Lee of the Naval Seaport Center in Portsmouth, VA, who on his own time designed and developed a new method of repairing fatigue cracks on the Navy's MIC 45-gun mounts. This saved, servicewide, $70 million.

So we ought to be encouraging employees to develop innovative suggestions, imaginative suggestions, and what we are trying to do is to pattern and fashion the Government's program after those programs in the private sector that have been most effective.

So I want to thank, again, the chairman and the gentlewoman from Maryland [Mrs. MORELLA] and the gentleman from New York [Mr. GILMAN] and also Kathy Krupp of my staff who has worked on this for an awful long time, and hopefully we will make sure this gets all the way through and becomes law.

I will even give some kudos to the gentleman from New York [Mr. FISH], since he is searching for some.

Mrs. MORELLA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the ranking member of the Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I rise in support of H.R. 2263, the Federal Employees Cost Incentives Award Act. I would like to commend my good friend, the sponsor of the legislation, the gentleman from Ohio [Mr. KASICH], and the chairman of the Subcommittee on Civil Service, Mr. SIKORSKI, for bringing this measure to the floor. It is a familiar piece of legislation. I supported a similar measure last Congress only to see it die in the last few days of the session. However, this year I look forward to its timely enactment.

H.R. 2263 strengthens and makes permanent the two existing incentive awards programs for Federal employees. The Superior Accomplishment Awards Program authorizes agencies to recognize and reward employees for their suggestions or achievements that contribute to the efficiency, economy or improvement of Government operations. Although in existence since 1954, most agency managers have rarely utilized this program.

The Superior Accomplishment Awards Program is permanent law and the legislation before us reforms and strengthens the Savings Disclosures Program which allows inspectors general and the President to pay cash awards to employees who disclose Government waste, fraud, or mismanagement. This program was established in 1981 and has been extended on a periodic basis since that time. H.R. 2263 makes this worthwhile program permanent.

Mr. Speaker, this legislation is part of our continuing efforts to increase efficiency in Government and deserves this committee's support. I urge all of my colleagues to join me in supporting this important legislation.

1910

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, I very much appreciate the gentleman's comments, but what I appreciate even more than his comments is that he remembers how to correctly pronounce my name. It does go with "basic—KASICH."

Mr. Speaker, I appreciate the gentleman yielding to me.

Mrs. MORELLA. Mr. Speaker, I think the bill of the gentleman from Ohio [Mr. KASICH] is a great one. It is a really a win-win situation, Mr. Speaker; so I commend the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SIKORSKI] for this bill, which I hope will become law.

Mr. KASICH. Mr. Speaker, I thank the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I, too, commend the gentleman from Ohio for the Kasich legislation that we have before us.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and pass the bill, H.R. 2263, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MAKING A TECHNICAL CORRECTION IN PUBLIC LAW 101–549

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 187) to make a technical correction in Public Law 101–549.

The Clerk read as follows:

S.J. RES. 187

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in section 112(b)(1) of the Clean Air Act, as amended by section 301 of Public Law 101–549, strike out the term "7783064 Hydrogen sulfide" in the list of pollutants.

The SPEAKER pro tempore (Mr. HALL of Texas). Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on Senate Joint Resolution 187, the Senate joint resolution now under consideration.

VOL 137 PT 23 NO 21–25 1991 UMI

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

I do want to indicate, like most large and complex legislation, the Clean Air Act Amendments included a number of technical errors.

This amendment corrects one such error: the incorrect inclusion of the chemical hydrogen sulfide on the list of hazardous air pollutants in section 112(b) of the act.

This error resulted from a mistake in enrollment of the bill by the clerk of the Senate. The Senate passed Senate Joint Resolution 187 last August to correct this mistake.

I urge my colleagues to support the amendment to correct this error, as well as subsequent efforts to correct any other technical errors in the Clean Air Act Amendments of 1990.

Mr. LENT. Mr. Speaker, I yield myself such time as I shall consume.

Mr. LENT. Mr. Speaker, I rise in support of Senate Joint Resolution 187.

As the chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, the gentleman from California [Mr. WAXMAN] has explained this amendment makes one simple but very important correction to Public Law 101–549, the Clean Air Act Amendments of 1990.

Mr. Speaker, during the conference last fall on the Clean Air Act amendments, the conferees agreed to include the chemical hydrogen sulfide on the list of chemicals subject to the accident prevention, detection, and response provisions. But the conferees specifically agreed not to include hydrogen sulfide on the list of chemicals in section 112–B. The chemicals listed in section 112–B are those for which EPA must issue stringent control regulations over the next 10 years. As evidence of our intent not to include hydrogen sulfide in section 112–B, it is worthwhile to note that the copy of the final bill that was printed by the Government Printing Office does not include hydrogen sulfide in section 112–B.

However, while the final bill was being prepared to be sent to the President for his signature, hydrogen sulfide was inadvertently added back to the list of chemicals in section 112–B. The President signed this version of the law, and from a legal standpoint. It is the only version of the law that matters.

Mr. Speaker, we need to act now to correct this mistake. There may be other technical corrections that need to be made to the 1990 amendments, and I understand that our staffs have begun the process of looking at other technical corrections that may be necessary. But this mistake is different from other possible mistakes, and this mistake needs to be corrected as soon as possible.

This mistake is different from other possible mistakes because it was made after both Houses had completed consideration of the bill and as it was being prepared for the President's signature.

Furthermore, Mr. Speaker, this mistake needs to be corrected as soon as possible because this mistake places a number of businesses and industries at risk of significant regulation that the Congress did not intend.

Mr. Speaker, the oil refining industry in this country is a perfect example of the trouble that could result if this mistake is not corrected quickly. A number of oil refineries are aging and need to be modified and upgraded. Planning for such modifications must begin several years before the actual modification is made. As long as hydrogen sulfide is listed in section 112–B, refineries and other businesses may be forced to plan for—and even make—modifications that Congress never intended.

For these reasons, Mr. Speaker, I urge the adoption of this legislation.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan, [Mr. DINGELL] the distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of this resolution. It is a technical correction. The conference report filed by both the House and the Senate reflects an agreement by both bodies that the provision should not be included in the last of pollutants in section 112(c) of the amended Clean Air Act. The House passed the bill in the proper form. However, in the enrolling process in the Senate, the provision was inadvertently retained and it become part of the public law. This resolution corrects this inadvertent mistake. There is an institutional need to adopt this resolution.

The gentleman from Louisiana [Mr. TAUZIN], the gentleman from Kansas [Mr. SLATTERY], the gentleman from Texas [Mr. FIELDS], the gentleman from Ohio [Mr. HALL], as well as others, are very interested and supportive of this resolution. The substance, H_2S, hydrogen sulfide, is important to several industries.

Mr. Speaker, I also want to take this opportunity to first commend the Environmental Protection Agency for its diligent efforts in seeking to implement the Clean Air Act Amendments of 1990. I also want to express my support for the efforts of the EPA in conducting roundtable discussions as part of the prerulemaking process. I believe that those discussions have been helpful to the EPA, States, the industries, the environmentalists, and many more. I urge that they continue, although I am not as supportive of the regulatory negotiation process which EPA has followed in some case. Indeed, I am concerned about the adequacy of that process and urge that it be used sparingly.

I also want to express my views on comments I have seen in the media and elsewhere regarding suggestions about the legislative history of the 1990 amendments. I particularly call your attention to my remarks of last November:

> It is important to stress once again, that the statement of managers as printed in the conference report, represents the views of all the managers or conferees from the House and Senate who signed the conference report.
>
> The conferees made a decision several weeks ago not to engage in writing a detailed description of the House and Senate bills and the resulting conference agreement for each and every section and title of the legislation as is often done in other conference reports. This is a very lengthy piece of legislation. It is also complex and controversial. The conferees did not believe it necessary or wise to try to anticipate future interpretations or problems as to the application of this legislation. In general, we believe that the legislation speaks for itself and, where it was necessary to make comments, the conference report includes specific statement agreed upon by all of the conferees or managers.
>
> I presume that some individual conferees in the House and in the Senate may want to express views relative to the legislation and to offer various interpretations. That is their right, and I applaud that. However, I want to make it clear that only the statement of managers, which is part of the conference report, reflects the views of all the managers or conferees in the House and Senate. To the extent that the managers' statement is silent regarding specific provisions and titles, that is a deliberate decision on the part of all the managers who signed the conference agreement. The regulated community, the Environmental Protection Agency, environmentalists, and others may have preferred that the managers or conferees spell out in greater detail our intent and our interpretations in order to make their tasks simpler administratively and in the courts. However, the House and Senate conferees or managers did not share that view.

The two Houses, their committees, and the conferees discussed many matters before settling on the final version of the bill and the brief manager's statement. Unfortunately, that discussion and its scope are not part of the conference report or the manager's statement. Any attempted recollection or interpretation of that discussion by anyone is probably flawed. Undoubtedly, such views would not have been shared identically by all of the conferees last October and certainly would not be today. Thus, I urge that EPA not be swayed by suggestions that the absence of any matter or alternative is itself evidence of some intention by the conferees to accept or reject an idea or proposal.

EPA should rely primarily on the specific language of the statute and secondarily on the brief manager's statement for the views of all of the conferees, while using common sense and reasonableness in preparing regulations for publication. Individual floor debate comments by the Members should, of course, not be ignored, but their weight certainly must be judged in light of the above comments.

Finally, I am concerned that EPA has not met all the deadlines under the law as our Subcommittee on Oversight and Investigation observed a few days ago. I think it is important that deadlines are met, although it is also important that all regulations are consistent with the law and fair and reasonable. The deadlines should not be used to avoid that responsibility.

Again I rise in support of this resolution.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. Of course, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, there are other technical errors that we will have to correct in the Clean Air Act. We want to give assurances to those who are concerned about it that we will look at that issue next year, provided they are genuinely technical. We do not want to reopen all those issues that were resolved in the legislation.

Mr. DINGELL. Mr. Speaker, if the gentleman will permit, the gentleman is absolutely correct.

There is one strong agreement on the part of all the conferees that passed the Clean Air Act of last year, and that is that we will not open the substance of it at any time soon; however, there are a number of technical corrections and we will be looking at them, working with the distinguished gentleman from California, because it is appropriate that we should make corrections of a technical character in this statute in order to see to it that it is fair and workable.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. HALL of Texas). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 187.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

PERMISSION TO ADD ADDITIONAL SPONSORS TO HOUSE RESOLUTION 284, THE MARSHALL PLAN

Mr. ROEMER. Mr. Speaker, I ask unanimous consent to add the names of the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from North Carolina [Mr. HEFNER] as cosponsors of the resolution, House Resolution 284 expressing the sense of the House of Representatives that there is a need for a comprehensive, coordinated strategy to help the United States achieve its goal of being the strongest Nation on Earth economically and military, so that it remains the greatest Nation in support of human dignity, freedom, and democratic ideals.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

THE MARSHALL PLAN

Mr. ROEMER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 284) expressing the sense of the House of Representatives that there is a need for a comprehensive, coordinated strategy to help the United States achieve its goal of being the strongest Nation on Earth economically and militarily, so that it remain the greatest Nation in support of human dignity, freedom, and democratic ideals.

The Clerk read as follows:

H. RES. 284

Whereas recent world events have provided the United States with new opportunities to redirect its resources toward domestic challenges, and the state of its economy requires that the United States take such action;

Whereas the continued economic vitality of the United States is being seriously threatened by its failure to invest in its future needs, especially in the areas of education and training, the infrastructure and manufacturing capability, and financial stability;

Whereas national security; which provides a foundation for the lasting values of human dignity, freedom, and democratic ideals, is based upon economic strength as well as military might; and

Whereas the attainment of these goals requires swift and intelligent action to articulate and carry forward a comprehensive, coordinated strategy to improve our productivity and economic well-being through investment in human and material resources, stimulation of cooperative efforts between the public and private sector at all levels, and leadership and vision to develop a dynamic blueprint that is as appropriate to our present and future needs as the Marshall Plan was for the needs of Europe following World War II: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) there is a need for the development of a comprehensive, coordinated strategy to encourage investment in human and material resources, to harness our inventive genius to the marketplace, to secure the education and training of a competitive citizenry and workforce, and to stimulate cooperative efforts between the private and public sectors at all levels of business, education, and government; and

(2) such a comprehensive, coordinated strategy will help the United States achieve its goal of being the strongest Nation on Earth economically and militarily, so that it remain the greatest Nation in support of human dignity, freedom, and democratic ideals.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. ROEMER] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. ROEMER].

GENERAL LEAVE

Mr. ROEMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Resolution 284, the resolution now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROEMER. Mr. Speaker, I yield such time as he may consume to my distinguished friend, the gentleman from Arkansas [Mr. THORNTON] to be our first lead-off speaker on the Marshall plan.

Mr. THORNTON. Mr. Speaker, I want to thank my distinguished colleague, the gentleman from Indiana [Mr. ROEMER], and my colleague, the gentlewoman from Illinois [Mrs. COLLINS], and the more than 130 Members of this House on both sides of the aisle who have cosponsored this resolution.

Mr. Speaker, too often, we think of problems in global terms, such as international competition, balance of trade, and national security. These are large concepts, but they are important because they have an impact upon each individual citizen.

You don't have to have a doctorate in economics to know what happens to you when the television factory closes, and your job moves overseas.

You don't need to consult an expert to recognize the potholes that shake the suspension on your imported car.

You don't have to be a mental giant to realize that something is desperately wrong when your children graduate and can't find a job—and can't afford the training or additional education they need to enter a high-technology workplace.

People in Arkansas and throughout the Nation know that we are up against some tough competition if we want to keep the American dream from becoming a nightmare of failed promises to our children, lower real wages for our work force, and an uphill struggle to protect the human dignity which is a foundation for our democratic ideals.

More than 2 years ago I suggested that we needed a comprehensive strategy to address these issues. Then the Berlin Wall crumbled, setting in motion a series of events which have forever changed the world, and which call for new directions and new strategies to attain our Nation's goals. At that

on our willingness today to invest in

add that our national security is based

House Resolution 284 is offered in the

we are no longer competitive in new

Mrs. MORELLA. Mr. Speaker, I rise

VOL 137
PT 23
NO 21—25
1991
UMI

time, some people called for a Marshall plan to rebuild Eastern Europe, but I suggested we needed a Marshall plan for America.

More than 40 years ago, Secretary of State George C. Marshall suggested a Marshall plan to rebuild Europe.

At that time we were head over heels in debt—worse even than today's burden. We had a national debt of $260 billion compared with a gross national product of only $212 billion. Yet we allocated 2 percent of our GNP in a bipartisan effort to rebuild Europe, restore their infrastructure, stabilize their finances, educate and train their work force, and make them economically competitive. The Marshall plan for Europe worked—and now we need to address our own problems here at home.

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Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. THORNTON. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, I rise to congratulate the gentleman from Arkansas. Rarely does any one Member take an issue, focus on that issue, develop its substance, communicate its worth to others in this body and to the country with the diligence and ability that the gentleman from Arkansas has done.

I believe this resolution is one of the most important we will consider in this first session of the Congress. The American public is absolutely convinced that we must direct our attention to rebuilding America, its resources, both its people and its physical infrastructure.

This resolution lays out a clear and important path for our Nation to follow, a path to help bring our Nation to the position of strength and prosperity which it deserves, and which it can obtain.

The resolution expresses the sense of the House that the United States must redirect its resources in a comprehensive and coordinated manner. Our world is rapidly changing. Each day brings news of dramatic world events which we would have once thought impossible.

Our Nation must be ready and willing to take advantage of these challenges. In fact, the current state of our Nation demands that we meet these challenges and respond with a new plan, a new vigor, and a renewed commitment to invest in ourselves, to invest in our Nation. The resolution before us today provides such a plan.

We must move to ensure the economic vitality of our Nation by investing in our future. It is said so many times that it loses its impact, but the popular phrase, our children are our future, is a truth worth repeating. The future strength of our Nation depends on our willingness today to invest in education and in training.

We must also, however, continue to invest in the backbone of our Nation, for without it, we cannot stand firm and tall. We must continue our investment in our Nation's infrastructure and the manufacturing capability of our Nation.

We are a strong Nation. And from that strength comes our confidence as well as our commitment to democracy and democratic ideals. But all facets of our Nation should work together in a coordinated comprehensive fashion to meet our common goal. House Resolution 284 calls for a coordinated strategy to improve our productivity and our economic well being through investment in human and material resources and the stimulation of cooperative efforts between the public and private sector.

After World War II, our Nation provided a plan, a blueprint, to help Europe rebuild. Our Nation developed a coordinated, comprehensive strategy to address the needs of the time and to bring an entire region back to strength and prosperity. Surely, a Nation can do no less for itself. Surely our Nation can join together to meet the challenges of the day.

Mr. Speaker, I stand here with great respect for the work that the gentleman from Arkansas has done. He resigned as president of the University of Arkansas to join us here. The university's loss has been both this House's gain and the country's gain, and I look forward to working with the gentleman from Arkansas as we develop specific substantive, important legislation consistent with the premise and resolve in this resolution.

I rise in strong support of the resolution and with thanks to the gentleman from Arkansas.

Mr. THORNTON. I want to thank the gentleman for his congratulatory remarks and say that I appreciate very much the leadership that the gentleman has brought to this effort in scheduling emphasis sessions and in helping develop the proposal.

Indeed, as the gentleman says, the American people are ahead of us on this. They want us to use the same vision and leadership that we have used to rebuild nations all over the world, to address our own problems of a faltering economy, inadequate support for education, and our crumbling infrastructure all of which will keep us from being as competitive as we should be.

Mr. HOYER. I share with the gentleman the view that there is absolutely nothing we as a people cannot accomplish if we have the will to do so and we have the focus on what our objectives are.

That is what the gentleman has done, and that is a great service for us and for our country.

Mr. THORNTON. I thank the gentleman for his comments and I would add that our national security is based not only on military strength but upon economic might.

It's time we develop a Marshall plan for America to bring home well-paying jobs, to educate and train our citizens and workforce, to rebuild our infrastructure and manufacturing base, and to develop the economic strength which is required if we are to really tackle the problems of affordable healthcare, crime and drug abuse, poverty and hopelessness, which now confront us.

Mr. Speaker, these problems are interrelated, and how we choose to deal with them will affect this Nation's ability to compete in the global economy for decades to come.

Adoption of this resolution will say that we in this House recognize our responsibility to work together to encourage investment in human and material resources, to harness our inventive genius to the marketplace, and to stimulate cooperation between all levels of the private and public sectors. We should develop and implement a comprehensive strategy to make sure our Nation remains both strong and great.

The challenges are enormous but our resources are equal to the occasion. Our task as representatives is to provide leadership equal to the work that must be accomplished.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of House Resolution 284, a resolution which calls for the development of a comprehensive, coordinated strategy for the United States to invest in its future. I congratulate its author, my friend, the gentleman from Arkansas [Mr. THORNTON]. At a time when both consumers and businesses are bracing against economic uncertainties, the formulation of a recovery strategy that is both affordable and makes sense to the American people, is critical. We must arrest the declining rates of growth of productivity and real wages. The Federal budget deficit must come down to increase capital formation, private sector investment, and jobs.

The resolution before us is a sensible outline for public and private investment in our economic recovery. Its elements are: First, investing in education and training of our work force; second, stimulating investments in modern plants and equipment, and third, increasing research and development in new products and processes, which historically has led to increased economic activity. For more than a decade, America has been unwilling to invest in the future, and is consequently performing badly in each of these areas.

House Resolution 284 is offered in the spirit of the post-World War II Marshall plan for the recovery of Europe, the industrial base of which has been destroyed. It is a call for America to act, an America which today has the energies and resources necessary for its own recovery. It would be welcomed by our public and by our global economic partners; disillusionment would be replaced by revitalized world leadership.

I urge my colleagues to support this measure.

Mr. ROEMER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Michigan [Mrs. COLLINS], who has worked so hard on this idea and on this resolution.

Mrs. COLLINS of Michigan. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I congratulate the leader on this project, the gentleman from Arkansas [Mr. THORNTON] and the gentleman from Indiana [Mr. ROEMER].

Mr. Speaker, this Nation needs an economic boost to its economy in order to advance education, modernize its infrastructure, and save businesses. Many of us in this body have spoken about the various legislative measures we could use to break the economy from the paltry levels it has remained at for over a decade. I do not think there is anyone here that would disagree that we need to consider all of these measures.

However, there are two ways to consider development proposals. One way is to examine each legislative vehicle separately, and to work using a piecemeal method to aid the economy. The other method is to examine all of these measures within the context of a comprehensive and coodinated plan to promote the growth of our economy.

The Marshall plan, developed to aid in Europe's recovery following World War II, proved that a comprehensive planning process is the only workable solution when the problems a country confronts appear to be insoluble. Europe was crushed both physically, economically, and psychologically. The devastated infrastructure was simply an outward sign of the underlying economic problems. Schools throughout Western Europe fell far short of providing a decent education to students.

The United States provided several billion dollars to aid in Europe's recovery, following the guidelines of the Marshall plan. The plan required that the money be spent in the areas of education, infrastructure, and business in a comprehensive fashion. Further guidelines were developed to prevent spending waste.

The United States today needs its own economic boost, much like that of the Marshall plan. The same problems faced by Europe following World War II can be seen every day all over this country. Our school systems are declining, our small businesses are failing, we are no longer competitive in new technology markets, and roads, bridges, and other structures are deteriorating at extraordinary rates.

This Congress needs a mandate to move forward on the issue of investing in America. This resolution should be this body's first move toward pulling this Nation out of the economic gutter. The message the resolution sends is that we are tired of losing out to nations around the world we once lead in every social and economic sphere. All of this country's major problems need to be addessed simultaneously. If we ignore one problem, we create another. For example, if our businesses become successful, but we do not develop the human resources necessary to maintain this success, then we have failed at our task. If we develop new technologies, but we are unable to bring the technology onto the market because of a crumbled road system, then again, we have failed at our task.

This Nation needs an economic boost, but because of limited resources, unusual efficiency will be needed to advance our Nation's development. The money needs to be spent in comprehensive manner, so that each of this Nation's problem areas—education, business, and infrastructure—are addressed at the same time.

I urge my colleagues to vote for this important, and urgently needed resolution. Developing a comprehensive recovery plan should be this body's No. 1 priority when it returns after the holidays. I intend to be at the forefront of those efforts. I hope that all of you will join me, as many of you already have, in moving this Nation forward, once more, toward regaining its prominence as a world leader.

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Mr. GOODLING. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mr. VALENTINE. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I rise in support of House Resolution 284. We, as a nation, are facing increasing competition from foreign high technology companies. Many of these foreign firms operate in an environment where government policies strongly support national and international competitiveness.

If this Nation is to remain competitive in the years to come, the Federal Government must accept the responsibility to invest its resources wisely—with some strategy in mind. Today, we have no coordinated comprehensive strategy that will result in the ability of American industry to produce higher quality goods at lower costs.

House Resolution 284 encourages the development of a strategy that will allow America to maintain its preeminent competitive position in the global economy for years to come. I urge my colleagues to support this resolution.

Mrs. MORELLA. Mr. Speaker, I rise today in support of this sense-of-the-Congress resolution, House Resolution 284, urging the development of a comprehensive, coordinated strategy to harness our inventive genius to the marketplace and to stimulate cooperative efforts between the public and private sectors. I am pleased to support the efforts and leadership of the distinguished gentleman from Arkansas [Mr. THORNTON] and the other cosponsor of this so-called Marshall plan for America, the gentlewoman from Michigan [Mrs. COLLINS], and the gentleman from Indiana [Mr. ROEMER].

I am very aware that my distinguished colleague from Arkansas has a deep interest in bolstering our international competitiveness and our Nation's economic growth. I have had the privilege of working closely on these issues with Mr. THORNTON in our Committee on Science, Space, and Technology. I know that we both believe that the collaboration of the public sector with private sector industry will ultimately work to the benefit of all Americans by enhancing our ability to compete in the global marketplace.

House Resolution 281 expresses a need for our Nation to invest in the education and training of our work force, the improvement of our manufacturing base, the commercialization of American technology, and the advancement of our global competitive position. It is very important that we must remain strong and competitive.

Mr. Speaker, I am pleased to join this bipartisan effort to call for advancing our preeminent competitive position in the global economy. I commend the gentleman from Arkansas [Mr. THORNTON], the gentleman from Indiana [Mr. ROEMER], and the gentlewoman from Michigan [Mrs. COLLINS] for introducing this legislation. Let us pass this resolution—recognize our opportunities and meet our challenges.

Mr. ROEMER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Speaker, I am proud to be one of the original, initial sponsors of this resolution. I commend the gentleman from Indiana [Mr. ROEMER], the gentleman from Arkansas [Mr. THORNTON], and the gentlewoman from Michigan [Mrs. COLLINS] for their leadership.

Mr. Speaker, we need a Marshall plan for America. In the aftermath of World War II, to our everlasting credit, we rebuilt the economy of Europe, we rebuilt the economy of Japan. Now is the time to rebuild the economy of the United States of America.

One aspect, one important aspect, of our Marshall plan must be the notion of economic conversion. I am very proud to represent some important people from our district, the people at Martin Marietta who helped build the Patriot missile, the people at McDon-

VOL 137 PT 23 NO 21–25 1991 UMI

nell Douglas who helped build the Tomahawk cruise missile, the people at Harris Corp. who helped build the antennas and the communications satellites that provide us with our intelligence around the world. These people helped win for us the war in the Persian Gulf, but, Mr. Speaker, these people today are one cut away from the unemployment lines.

Mr. Speaker, our Marshall plan must include a component, a strategy, for economic change, for economic transition, for economic conversion. If we are going to cut defense intelligence, then why not take that money and put it into investing in languages, and anthropology, and history and sociology so we can understand the world? If we are going to cut defense R&D, then why not take part of that money and give it to the National Science Foundation so we can continue to invest in the future? And if we are going to cut defense weaponry spending, then why not take that money and invest it in ways that will encourage those businesses to convert so that they can build new rockets to take us to Mars, so that they build new magnetic levitation systems that can speed up our transportation, so that they can develop alternative energy sources to help free us from our needless dependency on foreign oil?

This must be a part of our Marshall plan for America, and I am proud to be among those who are standing here working together on a bipartisan basis to help rebuild our democracy from the grassroots up.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of this resolution, and my friend, the gentleman from Arkansas [Mr. THORNTON], normally as a Missouri Tiger we would be at odds on a football field with the Razorback State, but I rise in strong support, but I would ask the Members on the other side of the aisle to think seriously about what this resolution means and the impact of it in the future.

Mr. Speaker, right now we pay 18 cents out of every dollar toward the deficit. We spend more money on the deficit than we do for all the programs in which we want to help, and the No. 1 program to me should be education. Yes, even at the cost of defense.

Mr. Speaker, I repeat that: We spend more money on the interest of the national deficit than we do on all the programs which we want to help, and we are going to turn into a pumpkin if we do not quit spending, and I want the Members on the other side of the aisle to really consider what this resolution means, and that is why I support it so strongly.

Mr. Speaker, we have a mandate to cut spending. It was called a budget agreement, that for every tax dollar taken in, we cut spending by $2, and that is difficult sometimes especially when it comes to our own programs. But I feel strongly that it is something we have to do to get this country back on track.

Mr. Speaker, we have a bill that is going to be reintroduced, as I understand it, on the House floor, and that is to give $1 billion out of the defense community, out of the defense budget, to the Soviet Union. I would ask the Members not to support that because it is contrary to this resolution. We are cutting defense by 25 percent, one of the true areas which we really are cutting the budget, but yet it is putting hundreds and thousands of people out of work in this country. It has weakened the defense of this country, and at the same time we have to put more people on unemployment, which we just went through the bill on the House floor. It has put more people on welfare that are not paying taxes, and again we are going to turn into a pumpkin.

So, again I would say to the gentleman from Arkansas [Mr. THORNTON], my friend, that I rise in extreme support of his resolution, and let us just really think about it in the future in how we vote in the House.

Mr. ROEMER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker and my colleagues in the Congress, this is an important moment for me because I brought up this notion in a discussion to the gentleman from Arkansas [Mr. THORNTON] who serves on the Committee on Government Operations. I wish I could say I talked to the gentleman from Pennsylvania [Mr. GOODLING] on the other side about it, but I do not recall. I certainly talked with the gentlewoman from Michigan [Mrs. COLLINS] whose district is adjacent to mine, and I see a Marshall plan to be an item of national security.

Mr. Speaker, it is important that we pull together all of the considerations of infrastructure, education, fighting crime, creating jobs, into one consideration, and our economy demands it.

As the Members know, IBM just closed out, I think it was 20,000 workers. Our competition in the automobile industry is lagging because of old style practices and lack of Government cooperation that still obtains.

So this is important to me. It is a wonderful thing because somewhere in the National Urban League John Jacob, who was in touch with us and who has been talking about his urban Marshall plan for many, many years, must be smiling because there are Americans all over this great country who are looking for a way for us to bring our economy into line, to make us strong, to regain our initiative, and to create dignity and freedom for those who need jobs.

Mr. Speaker, this is an important resolution. I commend the gentleman from Indiana [Mr. ROEMER], who brings this resolution to the floor.

Mr. GOODLING. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

I think it is very interesting that we are proceeding here with a resolution this evening on the Marshall plan, M-a-r-s-h-a-l-l, at the same time that the House is operating under martial law, m-a-r-t-i-a-l. In other words, we have declared military martial law in the House in order to bring resolutions like this before the House.

I have to say that I do not know how anybody could be against this resolution. When I read the language here, I find that it says this:

> There is a need for the development of a comprehensive, coordinated strategy to encourage investment in human and material resources, to harness our inventive genius to the marketplace, to secure the education and training of a competitive citizenry and work force, and to stimulate cooperative efforts between the private and public sectors at all levels of business, education, and government * * *

Who in the world could be against that. It is a wonderful sentiment.

Then we go further, and it says this:

> Such a comprehensive, coordinated strategy will help the United States achieve its goal of being the strongest Nation on earth economically and militarily, so that it remain the greatest Nation in support of human dignity, freedom, and democratic ideals.

My goodness, how can anybody be against that?

It starts off saying that: "it is the sense of the House of Representatives," and a lot of Americans think we do not have much sense around here, but the fact is that these are sentiments that nobody could be against.

The question I think that all of us have here this evening is: What do we plan to do about this? It is fine to express the sense of the House of Representatives. The fact is that as we are here this evening, a number of us are attempting to bring an economic growth package to the floor on the RTC bill that will be delivered to us tomorrow, and we are being told that under martial law that cannot be done, that they have absolutely no intention of carrying out some of these ideals by doing something substantive.

Mr. Speaker, I think that certainly the entire House will vote for these very, very important sentiments, but it would be nice if we would actually do something to give the American people real jobs.

Mr. ROEMER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I am pleased to hear that the gentleman from Pennsylvania does not find fault with this measure and supports it. He does not always support every bill that comes along. I think that is significant.

Mr. Speaker, this measure tonight may not be long noted except by Members who are sponsors of it. It envisions a new approach to our economic and industrial growth, much like the Marshall plan. It is difficult to accept that the United States is not the leader in every respect throughout the world. We must accept that. However, we can now do things differently.

I rather imagine that not many of us really know what is in this so-called Marshall plan. The gentleman from Pennsylvania has a point. I think we will further develop what goes into it. Too often in this country we have built projects for a region, supplying a specific number of jobs for a specific type of industry, and yet while that is important, we have to take a different approach. I think this bill tonight is the seed that is planted, one which we can use as a blueprint for development that can become a mosaic of great attempts to redo or redirect our work throughout this country as far as industrial policy is concerned.

Mr. Speaker, I have a feeling that we are going to hear much more about this plan as we learn how to put it together. I commend the gentleman from Arkansas [Mr. THORNTON] for his work in this regard.

Mr. GOODLING. Mr. Speaker, I yield 5½ minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the resolution of the gentleman from Arkansas [Mr. THORNTON]. I think it has marvelous intentions. I think it is the kind of global thinking for our country that we need, and I think we surely need a lot more of it.

I would just like to call attention to a few of the things that the gentleman is talking about, such as a vision for the future of our country. Well, we have a tax code in America that is woefully inadequate and discouraging for long-term investment. Our country is suffering from the disease of short-termitis, and the political battles that we play out here on the floor have yet to do anything for long-term thinking and long-term investment.

When our Republican side of the aisle, talks about America having the highest capital gains tax of any country that we compete with the other side responds that the Republicans want tax breaks for the rich. When some of us talk about investment tax credits for things like productivity-enhancing equipment, machinery and facilities, the other side talks about tax breaks for corporations. I do not know who is right or who is wrong in the grand scheme of things, but this resolution should encourage us to put aside some of these rather petty political differences based on, I might add, the most short-term thinking of all, the next election. We need to get on with the work that the American people expect and do what is right.

The gentleman from Arkansas talks about cooperative efforts by the public and private sectors. I happen to have more than 10 years experience working in the Energy and Commerce Committee on issues of regulating American industry, particularly regulating American manufacturing. The gentleman mentions manufacturing. The prime, the crucial wealth creator in modern society has been treated like an orphan child. We treat it as a great polluter, an exploiter of blue collar workers, and we do not pay attention to its long-term material needs to be competitive in a global economy where countries support their manufacturing industries like crown jewels. We need a lot more cooperation between the private and the public sectors. The gentleman from Arkansas is right on target.

□ 1950

I would hope we end this political hatchet throwing and we get about the work of doing what the American people want us to do.

Mr. THORNTON. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Arkansas.

Mr. THORNTON. Mr. Speaker, I would like to express my appreciation to the gentleman not only for his support of this resolution, but for his support in the Committee of Science, Space, and Technology for the importance of harnessing our creative genius to the marketplace and of developing high technology jobs here.

I would also like to call to the attention of the gentleman that the original Marshall plan, which is used as an example only for this plan, was a bipartisan effort. At that time President Harry Truman was a Democrat. His Secretary of State, George C. Marshall, articulated the idea of the plan. The Republican Congress, in both the House and the Senate, worked with the administration in developing the plan and in carying it out.

We need the present administration to assist in the development of this plan.

Mr. RITTER. Mr. Speaker, reclaiming my time, the gentleman is a distinguished Representative. He is a former president of the University of Arkansas and had been a member prior to that. He brings some unique experiences to this debate.

The gentleman talked about high technology and research and development and investing in the future. Let us remember that this Congress funds $75 billion a year of research and development. Little of that research and development has anything to do with the marketplace. We have almost created a situation whereby what we do in our research and development expenditures has nothing to do with the marketplace.

Mr. Speaker, maybe we could get away with that when we were the only country in the world that was manufacturing anything and everybody else was rubble after World War II. But today we had better cut out this science and technology pork barreling. Our research and development expenditures, $75 billion a year, are largely driven by the momentum of past agency politics and present pork barrel politics, and have very little to do with priorities. We know all the great big projects out there that the gentleman from Texas [Mr. PICKLE] mentioned are engaged for one or another Member's district, but not for the country as a whole.

Mr. ROEMER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my friend from Arkansas, Mr. THORNTON, has brought before us an important statement, and, yes, indeed, it is a symbol. It is a symbol and statement about what America wishes and hopes for itself and for its children. Reordering our priorities, reestablishing the need to reinvest in ourselves, to redirect our resources, is an important statement for this Congress to make.

Mr. Speaker, many of us know and relish the tremendous military accomplishments of the past year. But most of us also have to take into account that you cannot have a first-rate military when you have a second-rate domestic economy.

That is what we seek to propose before us today. As my colleague from Pennsylvania so aptly suggested just a few moments ago, establishing priorities and not continuing to do business as usual as we have in the past is what the symbolism and message is in this resolution. Technological advances, new opportunities for ourselves and for our children, is what my colleague from Arkansas, Mr. THORNTON, wants to commit this Nation to, and the adoption of this resolution is but the first step, much in the same way another President at that very podium almost 30 years ago admonished this Nation to take its first step into the heavens and beyond. We begin a different journey with that same first step.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would hope that this resolution would be the beginning of a bipartisan effort to really accomplish things for the good of this country. I am not a very good partisan politician, and I have become very upset the last several months, and I hate to think of what the next year will bring, because

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economic development right here on

A wealthy world leader found itself floundering

we need to do good things. We need to

VOL 137 PT 23 NO 21—25 1991 UMI

I have a feeling it will be more politics and not much getting done that is going to amount to anything as far as this country is concerned.

On Saturday I listened to the debate and sometimes I was embarrassed. At other times I thought we were making political statements.

Someone would say well, if we give middle-income America $300, $400, in tax breaks, somehow or other we are going to stimulate the economy.

I am here to say if you gave the Members of the Congress of the United States a $500 tax break, 80 percent, myself included, could do nothing to stimulate the economy. We probably would pay one small debt or something of that nature. We could not buy a big ticket item. We could not expand industry. We could not start a new business. We could not do any of those things. Certainly someone in the $20,000 to $60,000 bracket is not going to be able to do anything with a tax break in order to stimulate the economy.

In this resolution we are talking about cooperation. I would hope that that is what next year will bring. Because in this resolution, let me just point out one line, my being the ranking member on the Committee on Education and Labor, and that line is, "Stimulation of cooperative efforts between the public and private sector at all levels." That is one line. Another line says, "To secure the education and training of a competitive citizenry and work force."

Mr. Speaker, if we would only understand that if we were to have a real Marshall plan against illiteracy in this country we probably would solve 80 percent of all of our problems. Just look at the problem, and 8 times out of 10 illiteracy is involved. If we only understand that it is an intergenerational problem and we attack it as an intergenerational problem, then we will be successful. Then we will have a Marshall plan that really truly will bring about an improvement in the conditions in the United States.

Mr. Speaker, I hope that this is the beginning of not rhetoric, but the beginning of a bipartisan effort to really do the things that have to be done in this country in order to remain competitive and become more competitive.

Mr. ROEMER. Mr. Speaker, I yield a long 30 seconds to the gentleman from Missouri [Mr. SKELTON].

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Missouri.

The SPEAKER pro tempore (Mr. HALL of Texas). The gentleman from Missouri [Mr. SKELTON] is recognized for 1½ minutes.

Mr. SKELTON. Mr. Speaker, I thank the gentlemen for yielding.

Mr. Speaker, being on the Committee on Armed Services as I am, I have the opportunity to work not only in present capabilities, but to look downstream as to our national security. We all know the national security is far more than the tanks and ships and airplanes and men and women in uniform that we have. It is based upon a national will and it is based upon the economic condition of a country.

Mr. Speaker, we have just seen the collapse of an economy in the Soviet Union, the Soviet Union which had and still has the largest number of people in uniform anywhere in this world. Yet we have seen their military capability actually dwindle to next to nothing as a result thereof.

Mr. Speaker, I compliment particularly not just the gentleman from Indiana [Mr. ROEMER] and the gentleman from Pennsylvania [Mr. GOODLING], but I compliment particularly the gentleman from Arkansas [Mr. THORNTON] who has glued together this thought. The major part of it is to put together an economic strategy.

Mr. Speaker, you have strategies for national security, you have a cold war strategy, you have strategies on the battlefield. But this is so terribly important, that we have a coordinated strategy for the economic betterment of our country. Once we do that, we will not only have a better economy, people at work, but we will find ourselves in a much better position when it comes to national security.

Mr. ROEMER. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Speaker, I rise today in support of House Resolution 284, which expresses the sense of the House of Representatives that America needs a Marshall plan to aggressively attack the pressing needs of our country in these trying times. I commend the leadership of my distinguished colleagues, the gentleman from Arkansas [Mr. THORNTON] and the gentleman from Indiana [Mr. ROEMER]. I am honored to be numbered among the many cosponsors of this responsible legislation on both sides of the aisle.

Mr. Speaker, it seems that at the time of the Civil War there was less partisanship than what exists in this House today. This resolution expresses I think what the sense of America should be, that we should be looking toward team-America, that we should be working together to improve the business climate, the working climate, the quality of life that this country has to offer.

Not long ago we had heard in the last decade that we should be searching for ways to reduce the cost of goods to protect the consumer.

□ 2000

It is time that we talk about production. I ask that my colleagues support this resolution in order that we begin the team work that this country needs to bring itself into sole prominence in this world in the year 2000.

Mr. ROEMER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise today strongly in support of House Resolution 284, a sense-of-the-House resolution calling for the establishment of a comprehensive and coordinated strategy which will help the United States attain the goal of being the strongest Nation on Earth—both militarily and economically.

This Marshall plan for America is no less important to our Nation today as was the original Marshall plan for Europe in 1948. Back then we demonstrated the compassion which Sir Winston Churchill described as the "most unsordid act in history." Today we must show the same compassion for our own Nation, our own people, and our own well-being.

Today the world is undergoing significant change, and our Nation is having a difficult time assuming a new role in it. For over 45 years, our stature in the world—and resulting security policy—was dictated by a bipolar balance of power between Washington and Moscow. This relationship, based completely on military might and the specter of nuclear war, seemed as permanent as the tide. But that relationship has changed—not only quickly, but perhaps permanently as well.

The United States must change in this new world order. No longer will our superpower status be determined by how many divisions we have in our Army, how many bombers we have in our Air Force, or how many aircraft carriers we have in our Navy. While all these facets of our security policy will remain important, they must be augmented by a strong economic and social strategy here at home.

We must begin this retooling of our superpower status by ensuring that our young people are healthy and educated. We must look at our dilapidated infrastructure and make the commitment to invest in its renewal and repair. We must take on the overwhelming burden of our Federal deficit and develop a strong and durable economic policy to repair it. Overall, while I am certainly not endorsing a complete abrogation of our responsibility to the international community, support of this resolution would signify that we take as serious our problems here at home as we do those abroad.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding time to me.

I, too, want to congratulate my colleagues from Arkansas and Indiana for putting this sense-of-the Congress together.

I would encourage them, and other Members on that side of the aisle, to go one step further and implement some economic development right here on this floor today or tomorrow. A couple of hours ago the President of the United States did what the majority leader asked him to do last week, endorse an ecomonic growth package, the economic growth package that we have been here to the well trying to get the other side of the aisle to take up before we leave here for Thanksgiving for over a month recess.

The President now has said he will sign that economic growth package. He is waiting. The American public is waiting. The people who are on unemployment are waiting. The people who are on welfare are waiting. How long will you make them wait.

Mr. ROEMER. Mr. Speaker, I yield 30 seconds to the gentlewoman from [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I really just wanted to rise in support of this resolution offered by our good friend from Arkansas who really made a special effort to get this resolution passed. It is a public-private partnership that he is asking for to plan for the future with a plan for the industrial base and the ecomony of our people.

I think it is an America first, all American resolution.

I am very proud to support it, and I am proud of the work that he did to get it on the floor.

Mr. ROEMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to close on this side by saying that I appreciate the number of Republicans and Democrats that have joined together to talk about a real issue to the American people. I salute the gentleman from Arkansas [Mr. THORNTON] for his hard work on this effort.

Mr. Speaker, what is life like for the children in this country when one child drops out of school once every 8 seconds of the school day? When we are building so many prisons and prison cells in this country and the director of prisons in Indiana will tell me we either send them money later on prison cells or now on preventative measures like Head Start programs?

Mr. Speaker, President Lincoln once said, "When times are new, we must think anew and act anew."

We do not necessarily have to come up with a brand-new idea today. We can incorporate the principles that worked, bringing private and public sectors together, looking long-term rather than short-term 30-second commercials and bind together in a bipartisan way to pass this Marshall plan next Congress.

Mr. Speaker, a history lesson is on today's agenda. One of the most stirring success stories in living memory fades before us, and yet, it should be the centerpiece of congressional debate today.

Mr. Speaker, let us learn a lesson from the aftermath of World War II. An industrial giant was on its knees. A society was devastated. A wealthy world leader found itself floundering in postwar chaos, unable to compete with other, new world leaders. Citizens were willing and able to work, but jobs did not exist, and their future went from doubt and uncertainty to jeopardy to irreparable loss. A world leader consumed itself in indecision, and its people felt leaderless. Jobs were scarce, education became a privilege, the infrastructure crumbled, and a world power could not care for its citizens.

I am speaking of post World War II Europe, Mr. Speaker, but with little stretch of the imagination I could be speaking of the United States today.

Yet, when Europe verged on collapse, the United States showed unprecedented leadership with the Marshall plan. We created an agenda to reorder Europe's domestic priorities, and helped them invest in their own future. Could we not, must we not do the same at home today?

Congress has an absolute responsibility to form and implement a long-term legislative agenda to address the problems that are eating away at our quality of life: infrastructure, health care, competitiveness, and, perhaps most important of all, education.

Mr. Speaker, education is the cornerstone to America's future. Our children are our future, and our ability to provide opportunity for our children is critical to our survival economically and as a free people.

I have the honor of serving on the Education and Labor Committee in this body. In this capacity, I have the great privilege of working to provide a better educational future for America's young people.

But the truth is that the needs of America's young are impacted by virtually every committee in this House, whether in America's communities, our environment, or the Nation's economy.

Today's bill, House Resolution 284, insists that Congress recognize its responsibility to our youth, and that we recognize that virtually every decision we make impacts on our children, and so on our future.

Mr. Speaker, my colleagues participating in this debate today have and will raise many important, timely, and insightful issues. They all carry messages of deep importance to us in Congress, and to our Nation.

They each provide sound and solid reasoning why America can and must enact a domestic Marshall plan.

But it is for our children, Mr. Speaker, that I have come to the well of the House today. We cannot—must not—fail them, for if we do, we fail ourselves.

The Marshall plan for America is the key to our children's future, and therefore to our own. I urge our colleagues to support this plan, and lead the United States back to its rightful place as the undisputed world leader of the free world.

Mr. GOODLING. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Let me just say to my friends who have promoted this particular provision that it looks to me like it is a bumper strip. It is very general. It says we need to do good things. We need to all work together. It is happy talk.

I do not see anything with respect to IRA's. I do not see anything with respect to tax-free savings accounts for the middle class, nothing with respect to capital gains cuts. I remind my friend that blue-collar workers cannot hire themselves. They cannot hire each other.

Most of the jobs in this country are developed by private industry. There is nothing here that will provide economic growth.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in support of House Resolution 284, and commend my colleague from Arkansas for his leadership on this issue.

The American experience has been referred to as a "glorious experiment." Truly, the course that our Founding Fathers set us upon over 200 years ago has proven to be glorious indeed. As our national Thanksgiving holiday approaches we are all reminded of the many blessings that have been bestowed upon us.

However, the foundation of our Nation is not based upon material prosperity. Rather it is based upon deep principles of freedom and justice and as a result America is looked to as a beacon of hope by people all over the world.

Just this year, our Nation was called upon to once again be a leader in the fight for freedom. The outstanding performance of our Armed Forces in the Persian Gulf demonstrated that America still retains that can do spirit.

Therefore, it is only fitting, Mr. Speaker, that we bring this resolution before the House today. House Resolution 284 calls for a reordering of our national priorities. It expresses the sense of Congress that a new Marshall plan for America needs to be developed. We need to recommit ourselves to the goals of education and training, financial stability for our citizens, and a cooperative effort between the public and private sector at all levels.

By working to ensure that our country continues both its economic and military leadership, the ideals of the American experiment will remain as an example to those around us.

The SPEAKER pro tempore (Mr. HALL of Texas). All time has expired.

The question is on the motion offered by the gentleman from Indiana [Mr. ROEMER] that the House suspend the rules and agree to the resolution, House Resolution 284.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

PUBLIC TELECOMMUNICATIONS ACT OF 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(3) With respect to the 5 offices whose

SEC. 9. TRAINING AND PROFESSIONAL DEVELOP-

tions Act of 1934 (47 U.S.C. 396(m)((2)) is

ford it. Right now upward of 60 percent

year 1994, $375 million for fiscal year

VOL
137
PT
23
NO
21—25
1991
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SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Telecommunications Act of 1991".

SEC. 2 PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATION.

Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended by striking the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated $42,000,000 for each of the fiscal years 1992, 1993, and 1994, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunication facilities as provided in this subpart.".

SEC. 3. SERVICES FOR UNDERSERVED AUDIENCES.

Section 393(b)(4) of the Communications Act of 1934 (47 U.S.C. 393(b)(4)) is amended by inserting immediately before the period at the end the following: ", including services to underserved audiences such as deaf and hearing impaired individuals and blind and visually impaired individuals".

SEC. 4. CONGRESSIONAL DECLARATIONS OF POLICY.

Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting immediately after paragraph (7) the following new paragraphs:

"(8) public television and radio stations and public telecommunications services constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

"(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies; and".

SEC. 5. BOARD OF DIRECTORS.

(a) REDUCTION IN NUMBER OF MEMBERS.—(1) Section 396(c)(1) of the Communications Act of 1934 (47 U.S.C. 396(c)(1)) is amended—

(A) by striking "10' and inserting in lieu thereof "9"; and

(B) by striking "6" and inserting in lieu thereof "5".

(2) Section 396(c)(2) of the Communications Act of 1934 (47 U.S.C. 396(c)(2)) is amended by striking "10" and inserting in lieu thereof "9".

(b) TERM OF OFFICE.—Section 396(c)(5) of the Communications Act of 1934 (47 U.S.C. 396(c)(5)) is amended to read as follows:

"(5) The term of office of each member of the Board appointed by the President shall be 6 years, except as provided in section 4(c) of the Public Communications Act of 1991. Any member whose term has expired may serve until such member's successor has taken office. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.".

(c) TRANSITION RULES.—(1) With respect to the 3 offices whose terms are prescribed by law to expire on March 26, 1992, the term for each such office immediately after the date shall expire on March 26, 1998.

(2) With respect to the 2 offices who terms are prescribed by law to expire on March 1, 1994, the term for each of such offices immediately after that date shall expire on March 26, 2000.

(3) With respect to the 5 offices whose terms are prescribed by law to expire on March 26, 1996—

(A) 1 such office, as selected by the President, shall be abolished on March 26, 1996;

(B) the term immediately after March 26, 1996, for another such office, as designated by the President, shall expire on March 26, 2000; and

(C) the term for each of the remaining 3 such offices immediately after March 26, 1996, shall expire on March 26, 2002.

(4) As used in this subsection, the term "office" means an office as a member of the Board of Directors of the Corporation for Public Broadcasting.

SEC. 6. COMPENSATION OF OFFICERS.

Section 396(e)(1) of the Communications Act of 1934 (47 U.S.C. 396(e)(1)) is amended by striking the fourth sentence and inserting in lieu thereof the following: "No officer of the Corporation, other than the Chairman or a Vice Chairman, may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct.".

SEC. 7. CONTENTS OF ANNUAL REPORT.

Section 396(i)(1) of the Communications Act of 1934 (47 U.S.C. 396(i)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) a listing of each organization that receives a grant from the Corporation to produce programming, the name of the producer of any programming produced under each such grant, the title or description of any program so produced, and the amount of each such grant;".

SEC. 8. CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION.

(a) EXTENSION OF AUTHORIZATION.—Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "$180,000,000 for fiscal year 1981," and all that follows through "$245,000,000 for fiscal year 1991,";

(2) by striking "and" after "fiscal year 1992,"; and

(3) by inserting immediately after "fiscal year 1993" the following: ", $310,000,000 for fiscal year 1994, $375,000,000 for fiscal year 1995, and $425,000,000 for fiscal year 1996".

(b) ANNUAL REPORT.—Section 396(k)(1) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)) is amended by adding at the end the following new subparagraph:

"(E) In recognition of the importance of educational programs and services, and the expansion of public radio services, to unserved and underserved audiences, the Corporation, after consultation with the system of public telecommunications entities, shall prepare and submit to the Congress an annual report for each of the fiscal years 1994, 1995, and 1996 on the Corporation's activities and expenditures relating to those programs and services.".

SEC. 9. TRAINING AND PROFESSIONAL DEVELOPMENT.

Section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)(II)) is amended by inserting immediately after "other than English" the following: "or for assistance in the provision of affordable training programs for employees at public broadcast stations".

SEC. 10. INDEPENDENT PRODUCTION SERVICE.

Section 396(k)(3)(B)(iii)(V) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(iii)(V)) is amended—

(1) by inserting immediately after "expenditures of the independent production service" the following: ", including carriage and viewing information for programs produced or acquired with funds provided pursuant to subclause (I) "; and

(2) by striking "fiscal year 1992" and inserting in lieu thereof "fiscal years 1992, 1993, 1994, and 1995".

SEC. 11. GRANT DISTRIBUTION CRITERIA.

Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended by inserting "(which the Corporation shall review periodically in consultation with public radio and television licensees or permittees, or their designated representatives)" immediately after "eligibility criteria".

SEC. 12. COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS BY FUND RECIPIENTS.

(a) CERTIFICATION AND EMPLOYMENT REPORTS REQUIRED.—Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end the following new paragraph:

"(11)(A) Funds may not be distributed pursuant to this subsection for any fiscal year to the licensee or permittee of any public broadcast station if such licensee or permittee—

"(i) fails to certify to the Corporation that such licensee or permittee complies with the Commission's regulations concerning equal employment opportunity as published under section 73.2080 of title 47, Code of Federal Regulations, or any successor regulations thereto; or

"(ii) fails to submit to the Corporation the report required by subparagraph (B) for the preceding calendar year.

"(B) A licensee or permittee of any public broadcast station with more than 5 full-time employees to file annually with the Corporation a statistical report, consistent with reports required by Commission regulation, identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

"(i) Officials and managers.

"(ii) Professionals.

"(iii) Technicians.

"(iv) Semiskilled operatives.

"(v) Skilled craft persons.

"(vi) Clerical and office personnel.

"(vii) Unskilled operatives.

"(viii) Service workers.

"(C) In addition, such report shall state the number of job openings occurring during the course of the year. Where the job openings were filled in accordance with the regulations described in subparagraph (A)(i), the report shall so certify, and where the job openings were not filled in accordance with such regulations, the report shall contain a statement providing reason therefor. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.".

(b) COMPILATION OF REPORTS BY CORPORATION.—Section 396(m)(2) of the Communications Act of 1934 (47 U.S.C. 396(m)((2)) is amended by adding at the end the following new sentence: "Such report shall include a summary of the statistical reports received by the Corporation pursuant to subsection (k)(11), and a comparison of the information contained in those reports with the information submitted by the Corporation in the previous year's annual report.".

SEC. 13. AUDIT REQUIREMENT FOR PUBLIC TELECOMMUNICATIONS ENTITIES.

(a) ALTERNATIVE TO AUDIT FOR CERTAIN ENTITIES.—Section 396(l)(3)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)(ii)) is amended—

(1) by redesignating the existing test as subclause (I);

(2) by striking "and" at the end of subclause (I), as so redesignated, and inserting in lieu thereof "or"; and

(3) by adding at the end the following new subclause:

"(II) to submit a financial statement in lieu of the audit required by subclause (I) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and".

(b) FREQUENCY OF AUDIT.—Section 396(l)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)) is amended—

(1) in clause (ii) by striking "biannual" and inserting in lieu thereof "biennial"; and

(2) in clause (iii) by striking "biannualy" and inserting in lieu thereof "biennially".

SEC. 14. REPEAL.

Paragraph (4) of section 396(l) of the Communications Act of 1934 (47 U.S.C. 396(l)) is repealed.

SEC. 15. CLARIFICATION OF CONGRESSIONAL INTENT.

Section 103(a) of the Children's Television Act of 1990 (47 U.S.C. 303b(a)) is amended by inserting "commercial or noncommercial" immediately before "television broadcast license".

SEC. 16. EFFECTIVE DATE.

Section 5(a) shall take effect on March 26, 1996. All other provisions of this Act are effective on its date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tonight we bring to the floor the authorization for the Corporation for Public Broadcasting. This legislation is going to ensure for the next 3 years that there is an authorization for the public television and the public radio stations of our country.

As we all know, over the last 30 to 40 years public television and public radio have played a verv important role in ensuring that there is at least one quality source of programming on the dial on both the radio and television. But in a modern era, it takes on an even greater importance.

For example, with the advent of cable television, what we are seeing is more and more of a separation of access to information between those who can afford it and those who cannot afford it. Right now upward of 60 percent of all Americans have access to cable television. The other 40 percent do not.

As a result, what we are seeing is a separation in our society between the information rich and the information poor. That is, those who are in the upper income brackets on a continuing basis are seeing an improvement in the overall quality of the information which comes through into their homes.

On the other hand, what we are seeing is a development of a trend where there is a deterioration in the quality of programming going to the remainder of the homes. This trend is something which, as a Congress, we have to be very, very concerned about, because as we all know, since 1934, we have used the principles of diversity, of localism, of universal service as the basis for constructing a telecommunications policy in our country.

More and more, however, what we are seeing is that there is an exclusive group of people within the country, those who can afford it, whose information sources are continuing to improve, and there are others who are seeing a deterioration.

Enter the Corporation for Public Broadcasting. Here what we are ensuring is that there will be one source that will continue to maintain a high quality of programming, who will commit to ensuring that regardless of income, regardless of race, regardless of ethnicity or religion, that this programming will go into the home at the same high quality that it traditionally has.

It plays a critically important role in our society. I would hope that the House this evening could accept this 3-year authorization.

The gentleman from New Jersey [Mr. RINALDO] as usual has played his splendid role in ensuring that the legislation is put together on a bipartisan fashion, often helped in the construction of the legislation by Larry Irving, by Lisa Gursky, and by Chris Salemme, who have helped me throughout the process and here this evening to make this presentation to the floor.

I would hope, as would the gentleman from Michigan [Mr. DINGELL] and all the Members on the Democratic side, that this legislation would be given positive reception this evening.

Mr. Speaker, I reserve the balance of my time.

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Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 2977, the Public Telecommunications Act of 1991.

This bill addresses the authorization levels for the Corporation for Public Broadcasting [CPB] for fiscal years 1994 through 1996. Under H.R. 2977, CPB will be authorized at $310 million for fiscal year 1994, $375 million for fiscal year 1995, and $425 million for fiscal year 1996.

These levels, although greater than the levels authorized previously, are less than requested. I think the levels are justified in light of assurances made to the committee by CPB that a significant portion of the appropriated funds will be directed toward educational programs and services, as well as the expansion of radio services.

I applaud CPB's recommitment to its educational roots and the expansion of public broadcasting's capacity and ability to improve education's services. As we all know, it has become increasingly apparent in recent years that it is those countries which strongly support their educational programs that will take the lead in today's competitive global economy.

By using combinations of television, satellite, computer, videodisc, and telephone technology, the Public Broadcasting System is developing the new American classroom, bringing quality educational opportunities to students regardless of geographic or economic location. Clearly, as President Bush has stated, the days of the little red schoolhouse are over.

Recognizing the importance of CPB's proposed educational and radio expansion initiative, this bill directs CPB, in consultation with the Public Telecommunications System, to report annually to Congress regarding its activities and expenditures relating these areas. In addition, CPB's annual report is expected to list every organization that receives a grant from CPB for any programming and list the producer, title, and description of each program produced under such grants.

H.R. 2977 also reduces the number of CPB board members from 10 to 9 and staggers their terms in office. The bill contains an amendment to the Children's Television Act of 1990 which clarifies that the act's renewal requirements apply to noncommercial as well as commercial stations.

The bill requires that no CPB funds would be distributed to a station unless the station certifies to CPB that it has complied with the FCC's Equal Employment Opportunity [EEO] regulations and submits to CPB a copy of its EEO report for the prior year. Finally, the bill expands CPB's reporting requirements with respect to the activities and expenditures relating to the Independent Production Service [ITVS] to include carriage and viewing information in order to ensure that programming produced with these funds reaches the audience it is intended to reach.

Overall, Mr. Speaker, the Public Television Communications Act of 1991 provides fiscally responsible authorization levels for public broadcasting which will enable the system to fulfill its commitment to providing much-

any way meant to censor them, only to

But Mr. Speaker, we are not going to

Mr. Speaker, I yield back the balance

VOL 137 PT 23 NO 21—25 1991 UMI

needed educational and radio expansion services.

I would like to personally and particularly commend the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee, for working with the minority and the minority staff; for ensuring that our views were heard; for working to produce this type of bipartisan legislation that people on both sides of the aisle can support.

I would also like to express my appreciation to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and the gentleman from New York [Mr. LENT], the ranking minority member, for advancing through their leadership this bipartisan authorization practice.

I urge my colleagues to vote favorably on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding and compliment him and the distinguished minority leader for their wonderful work on this.

I think public broadcasting is one of the most important assets in the communication network that our people have. When one thinks of how it all began, the private donations, the contributions that people make, individual people own the company, literally, by their contributions, and this authorization complements what individuals do.

In my own city of Cleveland we are very proud of our public radio station and our public TV station, and I think the caliber, the level of communication, the level of programming is on a very lofty level. That is why I think it is so important to our Nation's culture to have it. So I want to compliment the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Louisville, KY, Mr. MAZZOLI.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding. To show you how long I have been here in the House, I remember years ago when the idea of public broadcasting was very, very controversial. We used to have long and very bitter debates over whether or not there should be any public money devoted to the question of public broadcasting. I think it is to the credit of the gentleman from Massachusetts [Mr. MARKEY] and others before him that we have reached the point where public broadcasting is part of the educational and entertainment firmament, and it is almost unthinkable not to have it available to our people.

I would just point out that the blockbuster entertainment of "The Civil War", which just appeared this year, which broke every viewership record that was ever had, I think young Ken Burns deservedly won every sort of award for that. I would also like to mention my friend, Bob Edwards, who broadcasts for NPR, who happens to be a graduate of my high school and a fellow Louisvillean. So we wish excellent work for the next 3 years on the part of public broadcasting.

Mr. RINALDO. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Speaker, first I would like to commend the gentleman from Massachusetts [Mr. MARKEY], our distinguished chairman, and the gentleman from New Jersey [Mr. RINALDO], the ranking Republican on the subcommittee, for their leadership in bringing this legislation to the floor and for leadership in telecommunications policy issues in general.

Mr. Speaker, over the years the Corporation for Public Broadcasting and PBS have provided the country with a great variety of high quality entertainment and educational programming. Public television has also been at the forefront of technological innovation, merging video presentation and teaching.

For the most part I feel that the money Congress spends on CPB is money well spent. The programs produced by the Children's Television Workshop, such as "Sesame Street", watched by my own children as they grew up, have been helping all American children learn for decades.

Over the years I have also enjoyed watching quality programming, such as "Jewel in the Crown", "Riley, Ace of Spies", "Smiley's People", "The Civil War", and so much else that was not available on commercial TV.

However, there is another side to PBS programming. I am concerned about the way in which PBS distributes programs to PBS member stations.

First, there is very little, if any, input from member stations to PBS central and I think we need more.

PBS's programming decisions have become too centralizing, deciding what programs are suitable for a very diverse America without seeking the opinions of the audience they are trying to reach. On some very controversial political issues, PBS has shown over the years some bias. We saw it on Central America programming over the decade of the 1980's.

The latest issue has been the political hot potato of global warming.

PBS has distributed to its stations programs airing the "Doomsday" side of this controversy. Shows like "After the Warming," "Global Change," and other programs showed public television viewers the alarmist side of global warming; however, PBS refused to distribute "The Greenhouse Conspiracy," a critically acclaimed documentary that uses science to virtually take apart the alarmist global theories that are the basis for the programs distributed by PBS.

On September 17, 1991, PBS once again distributed "After the Warming" to its stations. Some of these stations, knowing that PBS has been one-sided on this issue, went out and individually purchased "The Greenhouse Conspiracy" and aired it prior to "After the Warming."

I applaud these individual station efforts to provide a more balanced approach to this critical environmental issue; however, the fact that PBS would distribute "After the Warming" and not "The Greenhouse Conspiracy" is disturbing. Why should an individual station have to go out and purchase another program to achieve the kind of balance that PBS is itself supposed to provide?

In authorizing the Corporation for Public Broadcasting, Congress said that CPB was to:

> . . . Facilitate the full development of Public Telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature.

It is apparent that some of the stations have taken that statutory mandate for balance seriously in spite of PBS's oft-times disregard for balance.

The members stations have behaved well. It is PBS central which causes my concern.

As the distribution arm of America's Public Television, PBS has a very special responsibility to provide the public with balanced programing on controversial issues. That is a statutory requirement. This balance has been ignored on a key environmental issue, and there is nothing in this legislation to change that.

The same statute that requires CPB and, therefore, PBS to be balanced, has no enforcement mechanism, and that is probably a good thing, because none of us want to stand here and censor public television.

But PBS is using taxpayer money to distribute only one side of a subject with a potentially enormous impact on our jobs and our very way of life.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. RINALDO. Mr. Speaker, I yield an additional 1½ minutes to the gentleman from Pennsylvania.

Mr. RITTER. PBS simply refuses to distribute scientifically responsible programing that does not agree with their bias, and that is wrong.

For a decade the leftist view has dominated on PBS without any balance from the other side. This is wrong.

There needs to be some sort of accountability for PBS, and this is not in any way meant to censor them, only to have them live up to the spirit, if not the letter of the law. They simply have not done so.

During the energy and Commerce Committee markup, I attached an amendment to this authorization that strengthens the reporting requirements for the independent television service [ITVS], a new service that is supposed to provide alternative programs from independent producers. As a result of my amendment, the bill expands CPB's reporting requirement with respect to its activities and expenditures to include carriage and viewing information in order to ensure that programing produced with these funds reach the audiences for which it is intended.

This kind of reporting will be helpful to understand just how our taxpayer dollars are spent. We need to ensure that the dollars we give to ITVS are used to fulfill the congressional intent. We in the Congress will continue to monitor public broadcasting closely and to expect PBS to live up to its congressional mandate, or at least the spirit of the statute that authorizes them.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I, too, come here to support this bill, as an attorney who used to represent the public broadcasting station in Pittsburgh and as a very strong supporter of public broadcasting and in the work in particular of WQED in Pittsburgh that has done a fantastic job not only in "Mr. Roger's Neighborhood" but many other local programs. I heartily support this endeavor.

It is unfortunate, however, that we are here discussing public broadcasting instead of doing something very substantive about the growth and the need for economic growth here in this country.

When I walked back up the aisle after the last time I took the well, a few of my colleagues were surprised at the fact that I said that the President of the United States would actually sign this economic growth package, the growth package that we brought to the floor a few days ago.

I will repeat that for members on both sides of the aisle. The President of the United States said this evening that he will sign this economic growth package.

I know there are many Members on the Democratic side of the aisle, because I have talked to many of them, who are anxious to do something about this economy. They are anxious because they know there are problems out there in the economy. They know that people are desperate. They know that this economy needs a jump start. They realize that.

But Mr. Speaker, we are not going to get a chance under the current rules, we are not going to get a chance to vote on an economic growth package before this Congress adjourns for the end of this year.

Now, I would plead with Members from this side of the aisle and Members from that side of the aisle, to the Speaker of the House, please, for the American public, give this economic growth opportunity a chance. Have it debated. Put up your own economic growth package. Let us talk about both of them. Let us have a debate here. Before we take a month and a half off for our vacation time, let us have a debate on the floor of the House before we leave. Let us have a discussion on economic growth.

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of this legislation and would like to commend the chairman of the subcommittee as well as the ranking Republican member for their bipartisan efforts to bring this bill to the floor for final passage.

This legislation is significant in several aspects. First, it represents a renewed commitment on the part of the Federal Government to vigorously fund public broadcasting. Second, and most importantly, this legislation represents a pledge on the part of those in the field of public broadcasting—the Corporation for Public Broadcasting, National Public Radio, and America's Public Television Stations—to move aggressively to expand service and opportunity for rural and minority audiences who continue to be underserved by the Nation's public broadcasting system.

Today, Congress is taking an important step to reinvest in its public broadcasting system. And with that reinvestment comes a responsibility among those in the public broadcasting community to channel significant resources to stations serving rural and minority audiences. And this legislation recognizes that priority by strengthening EEO standards for public broadcasting stations and by placing a stronger emphasis on training and professional development.

I look forward to the completion of CPB's ongoing comprehensive review of its community service grant program. Its recommendations should help guarantee that the rural and minority audiences begin receiving a more equitable share of the Federal pie. I know this subcommittee, under the able leadership of Chairman MARKEY and the ranking member, will remain committed to the goal of expanding opportunity for minority employment and ensuring that underserved and unserved groups will continue to be brought into the public broadcasting system.

I would urge my colleagues to vote in favor of the bill.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I would like to add that Craig Margolis of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce helped us very much in the drafting of this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2977, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2977, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

OMNIBUS INSULAR AREAS ACT OF 1991

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1688) entitled the "Omnibus Insular Areas Act of 1991", as amended.

The Clerk read as follows.

H.R. 1688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Insular Areas Act of 1991".

TITLE I—INSULAR AREAS DISASTER SURVIVAL AND RECOVERY ACT OF 1991

SEC. 101. SHORT TITLE.

This title may be cited as the "Insular Areas Disaster Survival and Recovery Act of 1991".

SEC. 102. DEFINITIONS.

As used in this title—

(1) the term "insular area" means any of the following: American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands;

(2) the term "disaster" means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 103. AUTHORIZATION.

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to—

(1) construct essential public facilities necessitated by disasters in the insular areas occurring prior to the date of the enactment of this Act; and

(2) enhance the survivability of essential infrastructure in the event of disasters in the insular areas.

except that with respect to the disaster declared by the President in the case of Hurri-

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VOL 137 PT 23 NO 21—25 1991 UMI

cane Hugo, September 1989, amounts for any fiscal year shall not exceed 25 percent of the estimated aggregate amount of grants to be made under sections 403 and 406 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172) for such disaster. Such sums shall remain available until expended.

SEC. 104. TECHNICAL ASSISTANCE.

(a) Upon the declaration by the President of a disaster in an insular area, the President, acting through the Director of the Federal Emergency Management Agency, shall assess, in cooperation with the Secretary and chief executive of such insular area, the capability of the insular government to respond to the disaster, including the capability to assess damage; coordinate activities with Federal agencies, particularly the Federal Emergency Management Agency; develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular government lacks any of these or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area which the President deems necessary for the recovery effort.

(b) One year following the declaration by the President of a disaster in an insular area, the Secretary, in cooperation with the Director of the Federal Emergency Management Agency, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the status of the recovery effort, including an audit of Federal funds expended in the recovery effort and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds in the event of future disasters.

SEC. 105. HAZARD MITIGATION.

The total of contributions under the last sentence of section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 403, 406, 407, 408, and 411 of such Act with respect to any major disaster: *Provided*, That the President shall require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 406 of such Act for any disaster.

SEC. 106. TECHNICAL AMENDMENT.

Paragraphs (3) and (4) of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) are each amended by inserting after "American Samoa," the following: "The Northern Mariana Islands,".

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. AMERICAN SAMOA WATER, SEWERAGE, AND POWER NEEDS.

(a) The Secretary of the Interior shall conduct a comprehensive study or, as appropriate, review and update existing studies to determine the current and long-term water, power, and wastewater needs of American Samoa. Such study shall be conducted in consultation with the American Samoa Government and those Federal agencies which have recent experience with the water, power, and wastewater needs of American Samoa.

(b) The Secretary of the Interior shall report the results of the study conducted under subsection (a) to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than December 31, 1992. The report shall include—

(1) an assessment of the water, power, and wastewater needs of American Samoa on the date of the enactment of this Act and for the year 2000;

(2) an assessment of, and recommendations regarding, how these needs can be met;

(3) an assessment of, and recommendations regarding, any additional authority or funding which may be necessary to meet these needs; and

(4) an assessment of, and recommendations regarding, the respective roles of the Federal and American Samoa Governments in meeting these needs.

SEC. 202. INSULAR GOVERNMENT PURCHASES.

The Governments of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands are authorized to make purchases through the General Services Administration.

SEC. 203. FREELY ASSOCIATED STATE CARRIER.

(a) In furtherance of the objectives of the Compact of Free Association Act of 1985 (Public Law 99–239) and notwithstanding any other provision of law, a Freely Associated State Air Carrier shall not be precluded from providing transportation, between a place in the United States and a place in a state in free association with the United States or between two places in such a freely associated state, by air of persons (and their personal effects) and property procured, contracted for, or otherwise obtained by an executive department or other agency or instrumentality of the United States for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted, or utilized by or otherwise established for the account of the United States, or shall be furnished to or for the account of any foreign nation, or any international agency, or other organization of whatever nationality, without provisions for reimbursement.

(b) The term "Freely Associated State Air Carrier" shall apply exclusively to a carrier referred to in Article IX(5)(b) of the Federal Programs and Services Agreement concluded pursuant to Article II of Title Two and Section 232 of the Compact of Free Association.

SEC. 204. MARSHALL ISLANDS FOOD ASSISTANCE.

Section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note) is amended by striking out "five" and inserting in lieu thereof "ten".

SEC. 205. NORTHERN MARIANAS COLLEGE.

Section 9(a) of Public Law 99–396 is amended by striking out the period at the end and inserting in lieu thereof the following: "and in subsection (b), by striking out 'and Micronesia' each place it appears and inserting in lieu thereof 'Micronesia, and the Northern Mariana Islands' and by striking out 'and to Micronesia' and inserting in lieu thereof ', Micronesia, and to the Northern Mariana Islands'.".

TITLE III—SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS, ACT OF 1991

SEC. 301. SHORT TITLE.

This title may be cited as the "Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1991".

SEC. 302. FINDINGS.

The Congress finds that the Salt River Bay area of the north central coast of St. Croix, United States Virgin Islands—

(1) has been inhabited, possibly as far back as 2000 B.C., and encompasses all major cultural periods in the United States Virgin Islands;

(2) contains the only ceremonial ball court ever discovered in the Lesser Antilles, village middens, and burial grounds which can provide evidence for the interpretation of Caribbean life prior to Columbus;

(3) is the only known site where members of the Columbus expeditions set foot on what is now United States territory;

(4) was a focal point of various European attempts to colonize the area during the post-Columbian period and contains sites of Spanish, French, Dutch, English, and Danish settlements, including Fort Sale, one of the few remaining earthwork fortifications in the Western Hemisphere;

(5) presents an outstanding opportunity to preserve and interpret Caribbean history and culture, including the impact of European exploration and settlement;

(6) has been a national natural landmark since February 1980 and has been nominated for acquisition as a nationally significant wildlife habitat;

(7) contains the largest remaining mangrove forest in the United States Virgin Islands and a variety of tropical marine and terrestrial ecosystems which should be preserved and kept unimpaired for the benefit of present and future generations; and

(8) is worthy of a comprehensive preservation effort that should be carried out in partnership between the Federal Government and the Government of the United States Virgin Islands.

SEC. 303. SALT RIVER BAY NATIONAL HISTORIC PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS.

(a) ESTABLISHMENT.—In order to preserve, protect, and interpret for the benefit of present and future generations certain nationally significant historical, cultural, and natural sites and resources in the Virgin Islands, there is established the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virginia Islands (hereafter in this title referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of approximately 912 acres of land, waters, submerged lands, and interests therein within the area generally depicted on the map entitled "Salt River Study Area—Alternative 'C'" in the "Alternatives Study and Environmental Assessment for the Columbus Landing Site, St. Croix, U.S. Virgin Islands" prepared by the National Park Service and dated June 1990. The map shall be on the file and available for public inspection in the offices of the National Park Service, Department of the Interior, and the Offices of the Lieutenant Governor of St. Thomas and St. Croix, Virgin Islands.

SEC. 304. ACQUISITION OF LAND.

(a) GENERAL AUTHORITY.—The Secretary of the Interior (hereafter in this title referred to as the "Secretary") may acquire land and interests in land within the boundaries of the park only by donation, purchase with donated or appropriated funds, or exchange. Nothing in this section shall be construed to prohibit the Government of the Virgin Islands from acquiring land or interest in land within the boundaries of the park.

(b) LIMITATIONS ON AUTHORITY.—Lands, and interests in lands, within the boundaries of

the park which are owned by the Virgin Islands, or any political subdivision thereof, may be acquired only by donation or exchange. No lands, or interests therein, containing dwellings lying within the park boundary as of July 1, 1991, may be acquired without the consent of the owner, unless the Secretary determines, after consultation with the Government of the Virgin Islands, that the land is being developed or proposed to be developed in a manner which is detrimental to the natural, scenic, historic, and other values for which the park was established.

SEC. 305. ADMINISTRATION.

(a) IN GENERAL.—The park shall be administered in accordance with this title and with the provisions of law generally applicable to units of the national park system, including, but not limited to, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467). In the case of any conflict between the provisions of this title and such generally applicable provisions of law, the provisions of this title shall govern.

(b) COOPERATIVE AGREEMENTS WITH UNITED STATES VIRGIN ISLANDS.—The Secretary, after consulting with the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission (hereafter in this title referred to as the "Commission") established by section 306, is authorized to enter into cooperative agreements with the United States Virgin Islands, or any political subdivision thereof, for the management of the park and for other purposes.

(c) GENERAL MANAGEMENT PLAN.—(1) Not later than the last day of the third fiscal year beginning after the date of enactment of this title, the Secretary, in consultation with the Commission, and with public involvement, shall develop and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park. The general management plan shall describe the appropriate protection, management, uses, and development of the park consistent with the purposes of this title.

(2) The general management plan shall include, but not be limited to, the following:

(A) Plans for implementation of a continuing program of interpretation and visitor education about the resources and values of the park.

(B) Proposals for visitor use facilities to be developed for the park.

(C) Plans for management of the natural and cultural resources of the park, with particular emphasis on the preservation of both the cultural and natural resources and long-term scientific study of terrestrial, marine, and archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the park. The natural and cultural resources management plans shall be prepared in consultation with the Virgin Islands Division of Archeology and Historic Preservation.

(D) Proposals for assessing the potential operation and supply of park concessions by qualified Virgin Islands-owned businesses.

(E) Plans for the training of personnel in accordance with subsection (d).

(d) ASSISTANCE TO PROMOTE A VIRGIN ISLANDS TERRITORIAL PARK SYSTEM.—During the 10-year period beginning on the date of enactment of this title, the Secretary shall provide the funds for the employees of the Government of the Virgin Islands directly engaged in the joint management of the park and shall implement, in consultation with the Government of the Virgin Islands, a program under which Virgin Islands citizens may be trained in all phases of park operations and management, except that in no event shall the Secretary provide more than 50 percent of the funding for such purposes. A primary objective of such program shall be to train employees in the skills necessary for operating and managing a Virgin Islands Territorial Park System.

SEC. 306. SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS, COMMISSION.

(A) ESTABLISHMENT.—There is established a commission to be known as the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission.

(b) DUTIES.—The Commission shall—

(1) make recommendations on how all lands and waters within the boundaries of the park can be jointly managed by the governments of the Virgin Islands and the United States in accordance with this title;

(2) consult with the Secretary on the development of the general management plan required by section 305; and

(3) provide advice and recommendations to the Government of the Virgin Islands, upon request of the Government of the Virgin Islands.

(c) MEMBERSHIP.—The Commission shall be composed of 10 members, as follows:

(1) The Governor of the Virgin Islands, or the designee of the Governor.

(2) The Secretary, or the designee of the Secretary.

(3) Four members appointed by the Secretary.

(4) Four members appointed by the Secretary from a list provided by the Governor of the Virgin Islands, at least one of whom shall be a member of the Legislature of the Virgin Islands.

Initial appointments made under this subsection shall be made within 120 days after the date of enactment of this title, except that the appointments made under paragraph (4) shall be made within 120 days after the date on which the Secretary receives such list.

(d) TERMS.—The members appointed under paragraphs (3) and (4) shall be appointed for terms of 4 years. A member of the Commission appointed for a definite term may serve after the expiration of the member's term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made and shall be filled within 60 days after the expiration of the term.

(e) CHAIR.—The Chair of the Commission shall alternate annually between the Secretary and the Governor of the Virgin Islands. All other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(f) MEETINGS.—The Commission shall meet on a regular basis or at the call of the Chair. Notice of meetings and agenda shall be published in the Federal Register and local newspapers having a distribution that generally covers the United States Virgin Islands. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(g) EXPENSES.—Members of the Commission shall serve without compensation as such, but the Secretary may pay each member of the Commission travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code. Members of the Commission who are full-time officers or employees of the United States or the Virgin Islands Governments may not receive additional pay, allowances, or benefits by reason of their service on the Commission. The Secretary shall provide the Commission with a budget for travel expenses and staff, and guidelines by which expenditures shall be accounted for.

(h) FEDERAL ADVISORY COMMITTEE ACT.—Except with respect to the provisions of section 14(b) of the Federal Advisory Committee Act, and except as otherwise provided in this title, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(i) TERMINATION.—The Commission shall terminate 10 years after the date of enactment of this title unless the Secretary determines that it is necessary to continue consulting with the Commission in carrying out the purposes of this title.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from the Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as you know, the Congress has the responsibility under the Constitution to determine policies for the insular areas in the Caribbean and the Pacific associated with the United States. As Members may be aware, the practice has been to combine many of these decisions on which there is general agreement into omnibus bills.

The substitute for H.R. 1688 before the House is such legislation. It would establish policies to meet several insular situations. It was developed on a bipartisan basis and in consultation with the Senate and the administration.

The Omnibus Insular Areas Act of 1991 that I have proposed has its origins in a bill that passed both the House and the Senate last year. Unfortunately, that bill was not enacted into law because final Senate action came too late for the House to act further before it adjourned.

Today's legislation eliminates the areas of disagreement reconciling the House and Senate versions of last year's bill with the administration. In effect, it is the product of an informal conference.

Thus, the changes made from the bill as passed unanimously by the House last year or as reported by the Interior and Insular Affairs Committee unanimously this year are those we understand are necessary to make it possible

VOL 137 PT 23 NO 21—25 1991

UMI

for this legislation to finally become law, and become law soon.

The compromises have resulted in a substitute that is acceptable to the administration and that I believe will be accepted by the Senate committee leadership.

These compromises have preserved the most important original purposes of the legislation. So, while issues of controversy have been removed from the substitute, the provisions it retains are, nonetheless, greatly needed.

Some are urgent in nature. For example, one would continue the food program for the Marshall Islands atolls contaminated by U.S. nuclear testing. Another would provide the territory that I represent, the U.S. Virgin Islands, with assistance needed for recovery from the awful Hurricane Hugo. Appropriations for both of these purposes have already been made; but there is need for additional authorization.

INSULAR AREAS DISASTER SURVIVAL AND RECOVERY ACT

Title I of the legislation is the Insular Areas Disaster Survival and Recovery Act. It would authorize measures necessary to enable insular areas to survive and recover from natural disasters.

BACKGROUND OF TITLE I

These provisions were the driving force behind the legislation. They were developed after Hurricane Hugo struck the Virgin Islands with what the Federal Emergency Management Agency [FEMA] described as a "force unsurpassed in this century."

The storm devastated the island of St. Croix in particular. Over 90 percent of the island's buildings were damaged and about 80 percent of the population sought disaster assistance.

A delegation led by the now chairman of the Interior and Insular Affairs Committee, our distinguished colleague GEORGE MILLER, and the Secretary of the Interior, our former colleague Manuel Lujan, agreed that the destruction was so pervasive that assistance beyond that which normal disaster programs could provide was needed.

This was also suggested by FEMA when it reported a year after the disaster that "much still needs to be done before full physical, economic, environmental and psychological recovery is a reality."

The experience of the Virgin Islands is not unique among the insular areas, as a U.N. subcommittee recognized recently in commenting upon the particular vulnerability of small territories to natural disasters. To prove the point I note that just since Hugo, serious disasters have occurred in five of the six Pacific insular areas.

The fact is that the insular areas face extraordinary disaster problems because of the frequency and severity of the tropical storms that strike them.

Their rate of disasters far exceeds the rate of the States.

They need special assistance for responding to disastrous storms because of their distance from the rest of the Nation; their relatively small size, populations, resource, and revenue bases; and their relatively high costs and great social and economic needs. In particular, they lack infrastructure strong enough to withstand the ravages of nature.

We have already recognized this by appropriating $7.5 million to the Interior Department for the special disaster problems faced by insular areas. Authorization is needed for spending this appropriation and that is one of the purposes of this legislation.

ANALYSIS OF TITLE 1

This legislation, therefore, would:

Authorize Interior Department funded construction of facilities necessitated by disasters which have occurred from the time of Hugo to the present;

Authorize Interior and FEMA funded hazard mitigation, that is, improvements to infrastructure to enable it to withstand the inevitable future natural disasters;

Require the President to assess the ability of an insular area to cope with a disaster and provide any needed technical assistance;

Require the Interior Department to report on recovery a year after disasters occur; and

Clarify the eligibility of the Northern Mariana Islands for normal Federal disaster relief through FEMA.

MISCELLANEOUS PROVISIONS

Title II of the substitute consists of miscellaneous provisions. It would:

Require the Interior Department to report on American Samoa's water and power needs;

Make the current, temporary authorization for insular governments to make purchases through the Federal Government permanent;

Authorize agencies to contract with airlines in the Federated States of Micronesia and the Republic of the Marshall Islands;

Extend the authorization for supplemental food assistance for the peoples of the Marshall Islands atolls contaminated by U.S. nuclear testing; and

Authorize the Northern Marianas College to receive the same endowment authorized for other insular land grant institutions.

Let me briefly explain the background of these provisions.

AMERICAN SAMOA WATER, SEWERAGE, AND POWER NEEDS

The insular areas lack some of the basic infrastructure needed for a decent quality of life and that residents of the States take for granted. The lack of essential facilities poses health hazards, impedes economic growth, and cannot be met with the limited resources of island communities alone. This is especially a problem in the less developed insular areas, such as American Samoa and the Trust Territory Islands of Palau.

The Congress has acted to provide special assistance for many critical insular infrastructure needs; but it has only done so on a piecemeal basis. Further, while some studies of some needs have been done; a comprehensive study of related needs has not.

Last year's bill would have required the Interior Department to make comprehensive recommendations on insular water, power, and sewer needs. An amendment I proposed expanded upon legislation initially sponsored by our colleague ENI F.H. FALEOMAVAEGA.

This bill, as reported by the Interior and Insular Affairs Committee, would have covered all of the U.S. insular areas and the Trust Territory.

There were objections in the administration and the other body, however, to this provision in this bill. Later, though, those objecting on the other side of the Capitol agreed to a very similar provision if it were limited to American Samoa, one of the areas of the most acute need for it.

We, have, therefore accepted the best agreement we could reach with Senate sponsors so that we can at least comprehensively address the very serious problems faced in Samoa. These problems include villages without running water and chronic deficiencies in the electricity delivery system.

The revised provision would require the Interior Department to report regarding Samoa's needs by the end of next year. I have been advised that Chairman BENNETT JOHNSTON of the Senate committee agrees that Interior is to use all funds necessary for the study, which is estimated to cost at least $200,000.

There are also indication from the Senate that they would support use of existing authorities, such as the Interior Departments territories technical assistance program, to examine specific needs in other areas. So, the limitation to Samoa is one with which we can live.

INSULAR GOVERNMENT PURCHASES

Annual appropriations laws enacted since 1950 have authorized insular areas receiving assistance through the Interior Department to make purchases through the General Service Administration. There is, however, no permanent authority for this means of procurement. This authority is needed to enable governments that are greatly dependent upon Federal funds to achieve economies in obtaining equipment and supplies.

The provision to meet this need is identical to one that passed the House last year.

FREELY ASSOCIATED STATE CARRIER

Some of the development assistance granted the Marshall Islands under the Compact of Free Association Act of

1985 has been used to establish an airline. The Defense Department wants to use this airline for transportation to the important Kwajalein Missile Range which is located in the islands. Federal agencies, however, lack authority to contract with freely associated state airlines.

The provision to correct this situation is identical to one that passed both Houses last year. It was cosponsored by the distinguished ranking Republican of the Interior and Insular Affairs Committee, our colleague DON YOUNG.

MARSHALL ISLANDS FOOD ASSISTANCE

The 1985 Compact Act also authorized special supplemental food assistance for the peoples of the four Marshall Islands atolls contaminated by U.S. nuclear testing through fiscal year 1991. Subsequent legislation committed that the assistance would be provided as long as needed.

Some $418,000 has been appropriated for the food program for fiscal year 1992. There is, though, no specific authorization for spending beyond fiscal year 1991.

NORTHERN MARIANAS COLLEGE

The Omnibus Insular Areas Act of 1986 designated the Northern Marianas College a land grant institution. It did not, however, make the college eligible for the $3 million endowment provided other insular land grant institutions.

The provision to authorize the endowment is identical to one that passed the House in 1988.

I appreciate the help that we received on this matter from the Resident Representative of the Northern Mariana Islands, Juan Babauta.

ST. CROIX, VIRGIN ISLANDS PARK AND PRESERVE

Title III of the substitute would establish the Salt River Bay National Historical Park and Ecological Preserve in St. Croix, VI, consisting of approximately 912 acres of land and water. It is virtually identical to the text of H.R. 2927, which passed the House on November 5.

These provisions would:

Authorize the Secretary of the Interior to acquire lands within the boundary of the park and to enter into cooperative agreements with the Government of the Virgin Islands for the management of the park;

Establish a 10-member advisory commission to make recommendations to the Secretary and the Government of the Virgin Islands on how all lands within the boundaries could be jointly managed and to consult in the development of the general management plan; and

Establish a training program for Virgin Islands Government employees directly engaged in park operations.

BACKGROUND OF TITLE II

Salt River Bay, located on the north central coast of St. Croix, has long been recognized as an area worthy of preservation. Legislative efforts to protect it actually date to 1958 when the Legislature of the Virgin Islands voted to purchase 50 acres of the area.

Included were five acres of beach where Christopher Columbus anchored his 17 ships on his second voyage and sent some of his men ashore to investigate the Indian village that was visible on the island's western shore. The 5-acre Columbus Landing Site was designated a "National Historic Landmark in 1960."

In addition to its rich historical and cultural history, the area also has a wealth of natural and environmental treasures. These include: The largest remaining mangrove forest in the U.S. Virgin Islands; a significant tropical reef system, and a submarine canyon; as well as breeding grounds for a number of North American songbirds.

In 1980, a 690-acre area of Salt River Bay was designated a National Landmark.

DIFFERENCES FROM THE REPORTED BILL

There are several major differences between the reported bill and the substitute other than the one relating to the water, power, and sewerage study that I have already explained.

One, requested by the minority, would limit the authorization for Interior Department funded construction of facilities in insular areas necessitated by disasters to disasters which have occurred from the time of Hurricane Hugo to the present. It would also set the authorization for construction in the Virgin Islands related to Hugo.

The language fixing this authority is similar to language contained in the reported bill setting a limit on assistance to the Virgin Islands through FEMA for hazard mitigation that was deleted from the substitute at the request of the administration.

Another change requested by the minority would respond to the roles of the Interior Department and the Federal Emergency Management Agency in responding to insular disasters. It would add clarifying language to the requirement for the President to assess insular disaster situations in cooperation with the Secretary of the Interior. The language would provide that the assessment is to be done through the Director of FEMA. It would also add clarifying language to the requirement for the Secretary of the Interior to report after insular disasters. This language would provide that the report is to be made in cooperation with the Director of FEMA.

As the committee report makes clear, the legislation is intended to have Interior supplement—and not duplicate—FEMA responsibilities for funding and oversight of and reporting on insular disasters. This was also the effect and intent of the original language. But although the clarifying language I have described is not necessary, we have included it to facilitate approval of this bill.

A third change was agreed to in order to meet one of the two conditions set by the administration for the bill's approval. It would add language to clarify that the additional FEMA hazard mitigation assistance that the legislation would authorize would be provided on a matching basis. It is similar to language contained in last year's bill.

Last year's language was deleted from the reported bill at the request of the distinguished chairman of the Public Works and Transportation Committee, ROBERT ROE. The concern was that the language would eliminate the matching requirement for the already authorized FEMA hazard mitigation assistance by applying a match to only the additional assistance authorized by this legislation.

The fourth change would exclude the Federated States of Micronesia, the Marshall Islands, and Puerto Rico from the Insular Areas Disaster Survival and Recovery Act. This is the change insisted upon by the administration that I am most reluctant to make.

The administration's reasons for excluding Micronesia and the Marshall Islands on one hand and Puerto Rico on the other are different. I want to take a moment to explain them.

The administration objected to the inclusion of Micronesia and the Marshall Islands because it contends that they should receive no disaster assistance beyond that provided under Compact of Free Association legislation.

Compact law provides the freely associated states the same disaster assistance provided the other insular areas. Had the provisions for special insular disaster assistance proposed by the insular disaster relief legislation been in effect when the compact was negotiated, it is reasonable to presume that compact legislation would have extended such provisions to the freely associated states.

In the end, though, it was not the inclusion of the freely associated states—which, admittedly, are not U.S. insular areas but are, instead, merely associated with the United States—that the administration objected to most. It was, instead, the inclusion of Puerto Rico.

The administration's only explanation for its unrelenting objection to the inclusion of Puerto Rico has been a claim that Puerto Rico could require the use of most of the Interior Department's territories technical assistance funds because it is relatively large in comparison to the other insular areas.

This explanation is contradicted by the facts.

First, the legislation's proposed requirement to provide technical assistance to insular governments needing it after Presidentially declared disasters would be an assignment to the President. This is clear in the language of the bill and the President could provide the assistance through agencies other

than the Interior Department, such as upon imported fuels and maximize use DE LUGO of the Subcommittee on Insu-

System in the one location on U.S. soil and/or that the version that we send to committee on National Parks and Pub-

VOL
137
PT
23
NO
21
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25
1991
UMI

than the Interior Department, such as FEMA.

Second, the committee report on the bill made it clear that the assignment was not intended to require the Interior Department to provide Puerto Rico with assistance under Interior's territories technical assistance program or confer any authority—which does not exist at present—for it to do so.

Setting aside that the administration's excuse for opposing the inclusion of Puerto Rico is groundless, the reality is that Puerto Rico has had great disaster recovery and survivability problems and it is relatively poor. It needs and deserves the humanitarian disaster assistance that the administration is willing to provide the four other U.S. insular areas.

The reason that the administration does not want to provide this assistance is political. If the truth is not that it wants to deny the assistance because the President favors statehood for the Commonwealth and providing special assistance designed for insular areas reinforces arguments against statehood, the motivation may be even less supportable.

The administration, undoubtedly, believes that the goal of statehood justifies denying Puerto Rico special assistance for disasters it is willing to provide the four other U.S. insular areas. As much as we might condemn it for this callous approach, though, the reality is that the administration threatens to deny all of the assistance that this legislation could provide to all of the other insular areas, if we do not concede to its denial of the assistance to Puerto Rico.

It position is not right; but has delayed approval of some of the other important purposes of title I and II for several months now. So, the administration confronts us as we near the end of this session with the decision of either trying to finally obtain the provisions that can be approved or obtaining none at all this year.

Because we should not further delay other provisions, we have had to accept the administration's ultimatum regarding Puerto Rico.

Our colleague who represents the Commonwealth, JAIME B. FUSTER, has been a statesman on this matter. The sponsor of the amendment that added Puerto Rico, he has fought valiantly to retain it. Although he does not agree willingly, he has, though, had to recognize the necessity of proceeding with the disaster provisions for the other U.S. insular areas.

Senate differences are the reason for another change in today's substitute.

A provision in the reported bill that also passed the House in last year's bill—and has passed the House this year in other legislation—would have authorized $500,000 per year for projects that would reduce insular dependence upon imported fuels and maximize use of the prodigious indigenous, renewable resources of the insular areas.

The Senate had passed a provision similar to the House provision last year; but Senate sponsors do not want to include a provision in this year's legislation. We have had to accept their decision to enable agreed upon provisions to have a real chance of being enacted this year. And we hope the Senate will consider this provision in the other bill we have sent them.

The final major difference is the addition of the St. Croix, VI, park and preserve provisions as a new title III.

There are two areas of difference between title III and H.R. 2927. They relate to amendments reported by the Senate Energy and Natural Resources Committee. Let me also describe them.

One would reduce the boundaries of the park and preserve to the alternative "C" boundary as contained in the Alternative Study and Environmental Assessment of Salt River which was prepared by the National Park Service.

The other would limit the Secretary to funding no more than 50 percent of the cost of training employees of the Government of the Virgin Islands directly engaged in park operations.

These are relatively minor amendments in the scope of things and do not excessively detract from the primary purposes of the St. Croix park and preserve provisions.

I have, therefore, included them in the substitute in hopes that accepting them can make it possible to have these provisions enacted this year.

While I have taken sometime to explain the differences between the reported bill and the substitute, I want to emphasize again that the compromises have retained the most important original purposes and urgently needed provisions of the legislation. The substitute, therefore, should not only be considered acceptable: it is a more than fair resolution of the differences on this legislation.

In sum, it is a worthwhile bill that I urge my colleagues to approve. Let us send it to the Senate which, I hope and believe, will send it to the President before Thanksgiving.

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Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1688, the Omnibus Insular Areas Act of 1991, which contains a number of provisions of import to some of our U.S. territories and free associated states. A number of these measures have no associated cost, but require authorizing legislation. The others have been limited in scope to keep expenditures to an absolute minimum.

I want to commend my good friend from the Virgin Islands, chairman RON DE LUGO of the Subcommittee on Insular and International Affairs, for agreeing to collectively address matters affecting the island areas. There remains many other outstanding matters affecting the U.S. territories, the trust territory of the Pacific Islands, and the free associated states, which hopefully can be addressed in another omnibus bill next year. H.R. 1688 has been modified to address the concerns raised by the administration. Those specific provisions which the administration found objectionable have been removed.

I also want to commend my very good friend, the delegate from Guam, BEN BLAZ for his effective leadership for the people of Guam.

While all of the individual provisions of H.R. 1688 have merit, the authorization for a land grant endowment for the Northern Marianas College warrants additional comment. In the early 1980's, the Northern Mariana Islands petitioned the Congress to designate the Northern Marianas College as a land grant institution. At that time, I was not convinced that the institution warranted the expenditure of Federal funds, particulary due to the apparent lack of governmental support in the Northern Mariana Islands.

The college was not accredited, shared space in a wing of an old hospital building, and the local government provided sparse funding. However, with the leadership of college President Agnes McPhetres, the Government dedicated the entire old hospital site to the college when the hospital was relocated to new facilities, funding was provided for renovations, staffing and academic resources were bolstered, and the college obtained full accreditation. After these dramatic improvements, I actively supported land grant status for the college, which was in fact extended by Congress in 1986.

President McPhetres has continued her efforts to improve the college, increasing enrollment, diversifying academic programs, and improving the appearance of the school. The college also has been reaccredited, firmly establishing the longevity of the quality of postsecondary education in the Northern Mariana Islands.

Given this impressive development record and the ongoing commitment of the local government and public to the college, it is fully appropriate for Congress to authorize, as per section 205, a land grant endowment. This corpus of funds will provide a stream of funding for the college to help future students to participate in the quality learning environment provided by the tenacious and dedicated efforts to so many in the Northern Marianas, and particularly, President Agnes McPhetres.

Title III of this bill would establish the Salt River Bay National Historical Park and ecological preserve at St. Croix, VI. This measure would establish a new unit of the National Park

System in the one location on U.S. soil where Columbus' men are believed to have landed. This is an important bill and one on which I am proud to be an original cosponsor.

When a similar bill passed the House earlier in the year, some Members on this side of the aisle had a number of concerns with the bill. I am pleased that the Senate addressed those concerns when the Energy and Natural Resources Committee reported the bill last week. Title III of this measure is identical in every significant way to what the Senate reported. One area of difference from the Senate version is that the Senate version makes it clear that payment to Virgin Islands Government employees is subject to appropriation. Technically, that language is unnecessary since all activities authorized in the bill are subject to appropriation.

Mr. Speaker, I reserve the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota, [Mr. VENTO] who has been key in this legislation. The gentleman has been a good friend and a tremendous help whenever we need legislation to help the insular areas. The gentleman is the head of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs.

Mr. VENTO. I thank the gentleman. First of all, I thank him for his kind comments, and I will work to earn that high praise in the years ahead that I have the privilege to work with the chairman of the subcommittee, RON DE LUGO.

Mr. Speaker, I congratulate the gentleman on this bill. This has been a difficult task that he has carefully put together.

I specifically want to commend the gentleman for that and also, of course, to rise in support of the provisions in the substitute that deal with the Salt River Bay preserve and historic park in St. Croix, VI, a bill that passed the House without objection earlier this month. It is a significant accomplishment.

This, of course, is also known as the Columbus landing site, the only place under the American flag that we know for certain is a specific area that Columbus visited on his second voyage.

Mr. Speaker, there are minor changes in this. There is a slight reduction of 46 acres which is the view shed area, as it is referred to by those of us that have worked with it, that Secretary Lujan has now signed off on and is willing to accept, or to give up on including such areas. It also provides for cost-sharing provisions with regard to the training of Virgin Island employees. I think that is a fair provision.

I hope it proves to accomplish the success that is necessary.

I hope with these changes that the Senate will accept this omnibus bill and/or that the version that we send to the Senate and hope that this will be a reality in 1992, the 500th year of Columbus's discovery.

I thank the gentleman for his cooperation.

Mr. LAGOMARSINO. Mr. Speaker, I might tell my colleagues my understanding is that the Senate will accept the bill just as it is being presented here tonight.

Mr. Speaker, I want to congratulate the chairman of the subcommittee for the Salt River provision and tell him that we appreciate the efforts of Secretary Lujan in bringing about this important matter.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this bill because I too an concerned about the insular affairs, the insular areas of our country.

I am also concerned about the economic affairs of our country. A few minutes ago I was at the well, and I asked the Democratic leadership if they would release an economic growth package so that it could be voted on here on the floor of the House before we leave. I got my answer. And I got my answer; this was told to me by a ranking member on Rules that in fact they are going to be considering a bill up there, the October surprise.

Now, where are the priorities of the Democratic leadership in this institution when we try to dig up 12-year-old unsubstantiated claims without going through committee process, without going through the hearing process, and yet when it comes to important things such as jobs in America, there is no time for that? The Rules Committee is too busy for that.

The calendar is too jammed for you, America, for the public that is out of work or underemployed. There is not time for you here. We have to wait until the spring or until the summer to take care of you.

But we can do political damage to the President before we leave here. We just cannot help you before we leave here.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

At this point, I want to thank the gentleman from California, who is the ranking Republican of the Subcommittee on Insular and International Affairs, for the cooperation he has given in developing this legislation. I also want to recognize the roles of the full Committee on Interior and Insular Affairs, our colleagues the gentleman from California [Mr. MILLER] and the gentleman from Alaska [Mr. YOUNG] the help of the chairman of the Subcommittee on National Parks and Public Lands, our colleague from Minnesota [Mr. VENTO] and the involvement of the chairman and ranking Republican of the Senate committee of jurisdiction, BENNETT JOHNSTON and MALCOLM WALLOP.

The distinguished chairman of the Public Works and Transportation Committee, our colleague the gentleman from New Jersey [Mr. ROE], and its Subcommittee on Aviation chairman, our colleague, [Mr. OBERSTAR], the gentleman from Minnesota cooperated on section 203.

I also wanted to thank several members of the staff for their work on this legislation.

Insular and International Affairs Subcommittee staff director, Jeffrey L. Farrow, professional staff member Gail A. Mukaihata, and minority consultant T.E. Manase Mansur worked on all aspects.

Subcommittee professional staff member Virginia A. Sablan had special responsibilities for titles I and II. Subcommittee clerk Daisy M. Minter and full Interior and Insular Affairs Committee professional staff member Lori Sonken contributed to them as well.

Insular and International Affairs Subcommittee professional staff member Brian L. Modeste; my administrative assistant Sheila Ross; and National Parks and Public Lands Subcommittee professional staff member Alexander Scott and staff director Richard Healy made title III possible.

Full Interior and Insular Affairs Committee general counsel Richard Meltzer and staff director Daniel P. Beard were also helpful on this bill.

The committee's minority staff director, Daniel Val Kish, and Public Works and Transportation Aviation Subcommittee counsel David A. Heymfeld helped with section 203. Public Works and Transportation Water Resources counsel Errol Tyler and minority counsel Gabe Roza helped with section 105.

We cannot forget the hard work of assistant legislative counsel Jean Ann Quinn of the Legislative Counsel and analyst James Hearn of the Congressional Budget Office.

We also appreciate the work of Senate Energy and Natural Resources Committee professional staff member, Allen Stayman, and minority senior counsel James P. Bierne.

Last, but not least, I want to acknowledge the cooperation of the Office of Management and Budget's Associate Director for Natural Resources, Energy, and Science, Robert E. Grady and other OMB staff including Ron Cogswell, and other OMB staff including Ron Cogswell, Jim Jordon, Kathy Peroff, Susan Tanaka, Barbara Casey, and Jim Jukes.

Finally, I again want to urge my colleagues to approve this bipartisan compromise package of insular measures so that they can become law this year.

Mr. DE LUGO. Mr. Speaker, I have no

for, or development of, any new geothermal

well or any exploration of or develop-

Congress ought not to diminish any-

because of potential threats, real or

have indeed impeded or drained or al-

VOL
137
PT
23
NO
21
—
25
1991
UMI

Mr. DE LUGO. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and pass the bill, H.R. 1688, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

OLD FAITHFUL PROTECTION ACT OF 1991

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3359) to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1027) and for other purposes, as amended.

The Clerk read as follows:

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

H.R. 3359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Old Faithful Protection Act of 1991".

SEC. 2. AMENDMENTS TO GEOTHERMAL STEAM ACT.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 and following) is amended by adding the following new sections:

"SEC. 30. The Congress hereby declares that any use of, or production from, any existing geothermal well, or any exploration for, or development of, any new geothermal well or any facility related to the use of subsurface geothermal resources within the Corwin Springs Known Geothermal Resource Area (as designated in the July 22, 1975, Federal Register (Fed. Reg. Vol. 40, No. 141)) will result in adverse effects on significant thermal features in Yellowstone National Park. Notwithstanding any other provision of law to the contrary, the Secretary shall prohibit any use of, or production from, any existing geothermal well or any exploration for, or development of, any new geothermal well or any facility related to the use of subsurface geothermal resources within the Corwin Springs Known Geothermal Resource Area, including lands and waters and interests or rights in such lands and waters not owned by the United States. For the purposes of this section, the term 'geothermal well' means a well for geothermal steam and associated geothermal resources.

"SEC. 31. The Secretary shall not issue any lease under this Act for lands within a 15-mile radius of the boundary of Yellowstone National Park. Nothing in this section shall be construed to affect the ban or prohibition referenced under section 28(f) and section 30.".

SEC. 3. MORATORIUM AND STUDY.

(a) Any use of, or production from, any existing geothermal well, or any exploration for, or development of, any new geothermal well or any facility related to the use of subsurface geothermal resources is prohibited on lands and waters and interests or rights in such lands and waters not owned by the United States, within a 15-mile radius of the boundary of Yellowstone National Park, except with respect to the Island Park Geothermal Area (as designated by the map in the 'Final Environmental Impact Statement of the Island Park Geothermal Area' (January 15, 1980, p. XI)), to which such prohibition shall apply to lands and waters and interests or rights in such lands and waters not owned by the United States within the full extent of such Area, until 180 days after the receipt by Congress of the study referred to in subsection (b). Nothing in this section shall be construed to affect the ban or prohibitions referenced under section 28(f), section 30 and section 31 of the Geothermal Steam Act of 1970.

(b) The National Park Service, in consultation with the Forest Service and the United States Geological Survey, shall conduct a study on the impact of potential geothermal development on the thermal features of Yellowstone National Park. Such study shall not include the area referred to under section 30 of the Geothermal Steam Act of 1970, and shall not include federal lands within the areas referred to in section 28(f) and section 31 of such Act. The study shall be submitted to Congress no later than four years after the date of enactment of this Act.

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Mr. WILLIAMS. Mr. Speaker, I yield myself 5 minutes.

My colleagues, Yellowstone National Park is America's first national park. Many believe it to be the world's premium national park. It is in trouble today. Yellowstone's majesty is in its mountains and meadows; its uniqueness is in its hot springs and geysers, such as Old Faithful. That uniqueness is being jeopardized by continuous efforts during the past several years by companies and organizations who are requesting permits to drill into the geothermal system which underlies Yellowstone and its environs.

Mr. Speaker, the legislation which is before us this evening, H.R. 3359, called the Old Faithful Protection Act, accomplishes several things, and I will take a couple of minutes to explain to my colleagues in the House, but primarily it accomplishes the following:

Mr. Speaker, it provides for Yellowstone Park and its wonderful thermal features ironclad, copper-riveted, rock-ribbed, no-risk protection. It does it, my colleagues, in the following ways:

First, it prohibits any use of or production from any existing geothermal well or any exploration for, or development of, any new geothermal well on lands not owned by the United States within what is known as the Corwin Springs Geothermal Resource Area.

Second, it imposes a permanent moratorium on geothermal leasing on Federal lands within a 15-mile radius of the boundary of Yellowstone National Park.

Third, it prohibits any use of or production from any existing geothermal well or any exploration of or development of any new geothermal well on lands owned by the United States within a 15-mile radius of the boundary of Yellowstone.

Thus, Mr. Speaker, there is a prohibition on lands, both private, State and Federal. The ban on lands not owned by the United States is temporary, and that temporary moratorium is for 4 years, during which this legislation requires a study by the National Park Service in consultation with the Forest Service and the United States Geological Survey, a study conducted to determine the impact of any geothermal development on the thermal features of Yellowstone Park. That study will be submitted to the Congress no later than 4 years after the date of enactment of this act.

With those provisions, Mr. Speaker, we believe that the unique and enormously important thermal features that underlie Yellowstone National Park will not be harmed, will not be harmed because we prohibit the drilling of any new wells or the development of any existing wells on all lands surrounding the park, and on those lands which are not owned by the United States we place a moratorium until this study is completed.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I am consume.

I rise today with serious concerns about the bill before us, but let me begin by reiterating the view of everyone from the minority who spoke on H.R. 3359 at the full Interior Committee markup. We all expressed a sincere desire to insure Yellowstone National Park's thermal features be protected from legitimate threats. No one on our committee, and I daresay in this body, would ever think, say, or vote otherwise, that's abundantly clear. So when we clear away the partisan rhetoric about who is more faithful to Old Faithful what remains?

Mr. Speaker, I am afraid we are left with a bill that likely would effect a taking of private property rights. Now, you have heard much speechmaking regarding the "takings" issue already, and likely will hear more denials of this assessment. But, Mr. Speaker, even if the provisions in this bill were ultimately deemed by the judicial branch to not rise to the threshold of a legislative taking, I still could not support this bill as amended.

Why? Because, enactment of H.R. 3359 would greatly diminish the value of the Royal Teton Ranch without granting any compensation. Mr. Speaker, at the subcommittee hearing not one witness attempted to dispute the valuation of the ranch's water right at between $1 and $11 million. We must, therefore, assume that this value range is accurate. I believe strongly that

Congress ought not to diminish anyone's private property value by this magnitude, unless we go ahead and acknowledge the necessity for the action and pay them for it.

Obviously, Mr. Speaker, many of my colleagues agree with this sentiment. Protection of private property from seizure without compensation fueled the effort in the conference on the highway bill to agree to language regarding executive branch assessments of potential takings. Mr. Speaker, the electorate is fed up with the rapacious appetite of the Congress to pass laws with little regard to their economic impact. I believe, as does the administration, that H.R. 3359 is yet another example.

As I said before, we agree the protection of the thermal features of Yellowstone National Park is important. That is why in 1988 the Congress directed the U.S. Geological Survey to study potential impacts upon the park from pumping a well on the Royal Teton Ranch. Mr. Speaker, the USGS has reported back and the verdict is:

> Fluid production from the existing geothermal well * * * at rates up to about 25 liters per second * * * poses no discernible risk of decreased discharge of the Park's thermal springs.

Mr. Speaker, the majority from the committee wishes to paint this report as unbalanced because the views of the National Park Service were not specifically included. We disagree and believe the scientifically reached conclusions are valid. I do not intend to seek a recorded vote on H.R. 3359, so I won't go into detail why we believe the majority failed to make the case against the science contained in the USGS report.

However, I will say that if the science stands up to scrutiny—and we believe that it does—then the majority's takings assessment is insupportable. The test, as outlined in the committee report, is no taking exists if an action would substantially advance a legitimate State interest. We believe that a proposed pumping rate that would have no discernible impact upon the park's thermal features simply cannot substantially advance protection of Yellowstone Park. Therefore, the pumping ban in H.R. 3359 fails to meet the recognized criteria, and the loss of value of the Royal Teton Ranch is a taking of the owners' property. The administration shares this view.

Furthermore, Mr. Speaker, we are concerned about the committee's refusal to listen to the professional advice of the agency with the clear expertise to perform this assessment. This bill would require the Park Service to perform a similar assessment of impacts from potential private geothermal development within 15 miles of Yellowstone's borders. The majority is shopping for the recommendation they want to hear—disallow private activity within a buffer zone around the park because of potential threats, real or imagined.

Mr. Speaker, I end on an observation made by a witness at our hearing. The true crown jewels of this Nation are not our parks, but rather the protection of individual freedoms embodied in the Bill of Rights. With respect to the pumping ban in this legislation, we believe both Yellowstone National Park and private property rights can be protected by incorporating the scientific conclusions of the U.S. Geological Survey. If Congress insists upon disallowing any pumping, we believe compensation for taking of this right should be factored into this bill.

☐ 2050

Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentlewoman from Nevada for yielding me the time.

Mr. Speaker, I rise in support of this geothermal bill. This bill addresses several issues that are of great importance to me and to my State of Wyoming and indeed to the entire country. One is the possibility that activities taking place outside the park could impact on some of the wonders of the Yellowstone Park, one of our great natural resources.

Second, it raises the very real question, as the gentlewoman from Nevada mentioned, about the matter of the taking of private property, an issue which is increasingly important and increasingly discussed, particularly in areas where we have a great deal of public land.

Finally, it has to do with the water rights that are allocated by States, and I think it is a very important feature for all of us, whether we are in wilderness bills or whether we are in park bills, that States retain this authority to allocate water rights.

There have been several studies as to whether or not geothermal drilling and geothermal use on the periphery of the park would affect the geothermal activities within the park.

This is not the first time this question has been raised. Some time ago when there was talk about developing an electric generating plant from geothermal resources, it was talked about at that time. Two studies have been made, particularly one by the Park Service and one by the U.S. Geological Survey. The Geological Survey indicated at the end of this study, and I quote: possesses no discernable risk of a decreased discharge of the park's thermal springs.

They were pretty positive about it.

The National Park Service, on the other hand, as we might imagine, was much less positive and in fact took a much more cautious approach. I have to confess that I take a cautious approach, too. Should we find that we have indeed impeded or drained or altered the geothermal activities within the park, I do not think we would have the scientific knowledge as to how to replace it or repair it. So I favor erring on the side of being extra careful.

Mr. Speaker, I do support the bill, but I believe that we ought to take a look, if this goes on through the Senate and goes on through the Congress, at this question of the taking of private land. It is my view that the resource is so important that indeed if there is damage done to private owners, we would be in position to reimburse them for those losses.

Mr. Speaker, I thank the gentlewoman from Nevada for the time, and I urge passage of the bill.

Mrs. VUCANOVICH. Mr. Speaker, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield 1 minute to the chairman of the Committee on Interior and Insular Affairs, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Chairman, I take the floor at this time to thank our colleague and senior member of our committee for bringing this matter before the Committee on Interior and Insular Affairs and getting us to move this legislation to the floor of the Congress tonight.

It is very clear that the protection of Old Faithful is something that all Members of Congress are deeply concerned about, and without the intervention of our colleague, the gentleman from Montana [Mr. WILLIAMS] on behalf of this act, we simply would not be here tonight to enable the Congress to go home and tell the American people that we have in fact protected this incredible American asset and value system, if you will.

On behalf of those who have traveled to Old Faithful and seen it and listened to their families as they discussed with their children not only that immediate enjoyment but when they were there before and the need for the Congress to protect it, I just want to commend the gentleman and thank him for his immediate recognition of the threat that has been posed to Old Faithful under the actions of the Secretary of the Interior.

Mr. Speaker, I urge my colleagues to support this legislation.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, I would like to thank my colleague for yielding this time to me.

Mr. Speaker, I listened with great interest and great concern to the comments expressed by the gentlewoman from Nevada [Mrs. VUCANOVICH] and the gentleman from Wyoming [Mr. THOMAS]. I was interested in their concerns about this legislation and its impact on jobs and economic growth.

VOL 137
PT 23
NO 21—25
1991
UMI

Mr. Speaker, we have a plan this evening that in Wyoming and Nevada and across the West and across the country will create jobs and economic growth and opportunity for Americans. Our Republican economic growth and job creation legislation cuts middle-class taxes and also creates millions of new jobs across this Nation.

I say to my friends that even Democratic candidates for President have endorsed many of the planks contained in our legislation. Many of those same provisions are already being filed and supported in this House and in the other body this evening. We have an opportunity, if the Democratic leadership of this House gives us that chance, to present to the American people and this Congress for a vote legislation to create jobs and economic growth and opportunity for American families, for American workers, and for this Nation in the years to come.

Mr. Speaker, let us have that opportunity to schedule that vote and move on this important legislation this evening.

Mr. WILLIAMS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am pleased that the other side has raised economic development and jobs as an issue on this bill, and while some of my colleagues on this side might wonder how jobs could be created in a bill to protect Yellowstone National Park.

I would say to my colleagues that that debate belongs here indeed because not only is Yellowstone National Park a wonderful, unique environmental feature in the American West, but it is also a cash register for the States of Idaho, Wyoming, and Montana, and for the West itself. Should this Congress go along with the Secretary of the Interior and allow drilling to take place in the environs of Yellowstone Park, and should we find in that great thermal basin a drying up of those thermal features, as we have found everywhere else in the world where drilling has been allowed, we would see the jobs in Yellowstone Park and in the surrounding States begin to wither. We would see the economies of the gateway communities begin to blow away.

So I am hopeful tonight that my colleagues will reject the allowances of the Secretary of the Interior that drilling might go ahead outside of Yellowstone Park in that great geothermal system, and instead pass this legislation and insist on protecting not only this environmental wonder but the jobs and the economic development that goes along with them.

Mr. Speaker, I yield 2 minutes to the chairman of the Subcommittee on Public Lands and National Parks, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding time to me, and I congratulate him and the members of the committee, along with the subcommittee chairman, the gentleman from West Virginia [Mr. RAHALL].

The gentleman from West Virginia and I held hearings on the topic. The gentleman from Montana [Mr. WILLIAMS], ever observant of the problems that are occurring in and around Yellowstone National Park, picked up very quickly on the fact that a late report, some 9 months late, actually was moving to in fact suggest that drilling in and around the geothermal features outside the park would not have an impact inside the park.

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It came to light subsequently that in fact that USGS study, when brought before the Park Service group and Park Service scientists, they found fault and took exception with it. Unfortunately, that component of the report did not come to the Congress at the same time but was subsequently learned of, and, of course, fortunately I think served as the basis, along with the USGS report, for the action that we have before us today.

I think we made a judgment, and the judgment was that we were not going to risk the loss of the geothermal features in Yellowstone National Park, if not the oldest park in the Nation, certainly one of the oldest.

This bill before us today is to provide the protection not just for those immediate areas at Corwin Springs, but also the general area around the park.

Part of this I think could have been averted if the National Park Service and the Department of the Interior had asserted its water rights in a proper, timely manner. Unfortunately, those very rights, those water rights, go undefined and unaddressed in terms of what has occurred here.

I think the bottom line in this issue, however, Mr. Speaker, is simply the fact that parks are a one-way street. They are a one-way street losing the qualities that cause them to be designated as national parks.

Mr. Speaker, I would hope we would continue to take actions in the modern world and our country to preserve some of these areas the way they were intended, and in fact meet the mandate of the 1916 park law, which provides for preservation and enjoyment.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume

Mr. Speaker, I would like to just point out to the gentleman from Montana who spoke that the Secretary of the Interior is not recommending drilling. Rather it is the pumping of an existing well at a very low rate compared to the volume of hot water emanating from the Corwin Springs area that the scientists conclude would do no discernible harm.

Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support of the legislation to protect the geothermal features of Yellowstone National Park. I have spoken with the Secretary of the Interior a number of times about how that might best be accomplished. This administration, and I can say unequivocally, the Secretary of the Interior, and all of us on the committee, for that matter, are committed to protecting those geothermal features.

Mr. Speaker, we are also committed to protecting private property and avoiding setting any precedents of taking.

This is not a perfect piece of legislation. I am, however, willing to accept this legislation because of its critical nature, and particularly the perception of trying to protect the geothermal features.

Mr. Speaker, as I say, this is not a perfect piece of legislation. Hardly any legislation is. As a matter of fact, it is quite imperfect inasmuch as we could have included some amendments in the committee markup. It was tried in the subcommittee and again in the full committee, and those amendments that provided for the protection of private property rights were not accepted. I think we need not go into that and remake those arguments on the floor of the House.

Mr. Speaker, I would urge my colleagues to support this legislation. I know we all have reservations, but let us get on about our business and stop the political rhetoric. A lot of it has been leveled at this administration for not attempting to protect those geothermal features, but let me assure Members that they have told me time after time that that was their interest.

Mr. WILLIAMS. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL], the chairman of the subcommittee which began this legislation, the Subcommittee on Mining and Natural Resources, whose great attention to this matter has brought us to this point where the House hopefully is about to assure protection of Yellowstone Park.

Mr. RAHALL. Mr. Speaker, I thank the gentleman from Montana for yielding me this time. I certainly want to commend his leadership for bringing this issue before the body today and before our Subcommittee on Mining and Natural Resources and the Subcommittee on Natural Parks and Public Lands, as Chairman VENTO has stated.

Mr. Speaker, this is a very important issue for the psyche of the American people. We are talking about one of the most enduring geothermal features in our Nation, the geysers and hot springs of Yellowstone National Park.

In regard to the comments just made by the gentleman from Montana [Mr. MARLENEE], I have no doubt that it is Secretary Lujan's fervent desire to protect the geothermal features of this park, as it is each of our desires that are speaking on this issue today.

I think what we are doing in this legislation, Mr. Speaker, is ensuring that there be no mixups, that there are to be no missed communications within the Department of the Interior, this Department of the Interior or any future Department of the Interior, as to the desire of Congress and the American people to protect this park and prevent any geothermal development or any exploration for development of any well facility related to the use of subsurface geothermal resources on the lands within the area.

Mr. Speaker, I commend the gentleman from Montana [Mr. WILLIAMS] and all those that have dedicated themselves to preserving this park.

Mr. Speaker, the issue at hand is the integrity of the most endearing thermal features in the American psyche; the geysers and hot springs of Yellowstone National Park.

Yellowstone is one of two remaining intact geyser basins in the world that have not been destroyed or damaged by geothermal development.

Congress in placing the area under the jurisdiction of the Interior Secretary, stated that: "he shall make regulations providing for the preservation, from injury or spoilation, of all * * * natural curiosities, or wonders, within the park, and their retention in their natural condition."

Yet, existing law affords these curiosities and wonders—the park's thermal features—with only limited protection from certain Federal geothermal leasing activities.

This is why we are bringing H.R. 3359 to the floor today.

To ensure the permanent protection of significant thermal features, such as Mammoth Hot Springs, within Yellowstone National Park.

This goal would be accomplished by prohibiting the use of, or production from, any existing geothermal well, or any exploration for, or development of, any new geothermal well or any facility related to the use of subsurface geothermal resources on lands within the Corwin Springs known geothermal area, Montana.

Further, we are seeking to impose a moratorium on Federal geothermal leasing on lands within a 15-mile radius of Yellowstone National Park.

In addition, the bill would place a temporary moratorium, until after the submission of a study to Congress, on geothermal developments on non-Federal lands bordering Yellowstone National Park. The study would examine the impact of potential developments on the park's thermal features.

These provisions are necessary to insure that, at some future date the spigot, would not be turned-off on the park's thermal features. So that the public may continue to enjoy Old Faithful, Mammoth Hot Springs and countless other thermal features within the park for generations to come.

Mr. Speaker, I want to commend the sponsor of this bill, the gentleman from Montana [Mr. WILLIAMS], a member of the Interior Committee, for his diligence and hard work on this measure. It was through his leadership that we are able to bring H.R. 3359 to the House floor today.

Mr. Speaker, I feel compelled, as the chairman of the subcommittee with jurisdiction over this bill, to address the alleged takings issue. The record must be clear on this matter.

As I have noted, the hearing record points out that the only acceptable form of protection for the park's thermal features is to prohibit subsurface geothermal development within the Corwin Springs KGRA.

This remedy would allow the use of non-federal geothermal resources within the KGRA at their natural surface flow rates, such as at the La Duke Hot Spring, as well as the other thermal springs and seeps in the area provided no subsurface development is involved. And, I would stress that the bill does not require the Department to acquire any water rights, as there is no need to do so.

Meanwhile, the legitimate interest of the Federal Government in providing for the protection of a unit of the National Park System would be satisfied.

Accordingly, as the American Law Division, Congressional Research Service, Library of Congress, noted in a September 4, 1987, memorandum on the question of whether a prohibition on private geothermal development near a national park would constitute a constitutional taking:

> "If the geothermal development ban is permanent, a court is likely to apply the taking criteria recently reiterated by the Supreme Court: "We have long recognized that land use regulation does not effect a taking if it substantially advances legitimate state interests and does not deny an owner economically viable use of this land."
>
> *Nollan* v. *California Coastal Comm'n*, 107 S. Ct. 3141 (1987). The first criterion, whether the ban substantially advances legitimate state interests, involves two subquestions: whether avoidance of whatever adverse effect would result from geothermal development is a "legitimate state interest," and whether the ban "substantially advances" that objective. A broad range of governmental purposes has been held to be "legitimate" in this context, hence it appears likely that protection of national parks would be among them. And if there is a clear link between the ban and the threatened adverse effect, the other prong of the first criterion would seem satisfied as well.
>
> The second criterion, whether the land use regulation denies an owner economically viable use of his land, has been universally construed to mean that if any economically viable use remains, the regulation is not a taking (assuming the first criterion is met). Thus, the factual question here is whether the private lands to which the ban would apply are suitable for any economically viable use other than geothermal development. If so, the ban probably would be found to work no taking; if not, then the opposite."

In this regard, I would note that private lands within the Corwin Springs KGRA are not only suitable, but are used, for purposes other than geothermal development, and further, that the legislation being reported would not extinguish any water rights, but rather, it would simply govern the manner in which any such rights may be utilized.

Now, if any party feels aggrieved by this restriction, and believes it constitutes a takings, they are certainly free to pursue just compensation in an inverse condemnation suit against the Government through the U.S. Court under the Tucker Act.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I, too, am concerned about the effect on jobs that this bill will have, as expressed by both sides of the aisle. I share the support of the gentlewoman, but I also share her concerns.

But I think we can do a little more about jobs in this country than passing this bill. There is something that we would like to do here on this side of the aisle, and I know there are Members on the other side of the aisle that would like to do the same thing before we leave here, and that is pass an economic growth package.

But we are not doing that. Right up in that room, right up in the Committee on Rules right now, as we speak, the Committee on Rules is going to be passing and moving to the floor the October surprise, the big political gemstone that has been hung on so closely by the other side of the aisle, waiting to drop it, just as we leave here.

Now, I understand, and maybe the gentleman from Pennsylvania [Mr. WALKER] can help me on this, is it not true that the Committee on Rules could, even though the economic growth package has not been considered in committee, the Committee on Rules could indeed make this package in order on the House floor?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, under the martial law rule we are operating under, the Committee on Rules could in fact bring down for consideration tomorrow a bill making in order the economic growth package, just as they are going to bring down the October surprise package, which has not been through committee either. So it is exactly the same kind of thing.

Mr. Speaker, if we were determined to have an economic growth package on the floor, the Committee on Rules could make that in order, just the same as they are going to make an October surprise package in order.

Mr. SANTORUM. Mr. Speaker, reclaiming my time, is it the estimation of the gentleman from Pennsylvania [Mr. WALKER], the Democratic leadership would prefer to make political hay as opposed to making policy hay for the American people?

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, of course. It appears as though this is a purely political agenda. For people who will say when the martial law rule that was passed it did not mention the idea of an economic growth package, it does not

VOL
137
PT
23
NO
21
—
25
1991
UMI

mention October surprise either. That is the reason why they have to get the rule tonight, so it comes up the very next day.

The fact is that what they are attempting to do is impose their political agenda on others.

Mr. WILLIAMS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to rise for just a moment to first of all express my support for the legislation, and also to compliment the gentleman from Montana. [Mr. WILLIAMS] for his leadership in bringing this issue to the Congress. In fact, the legislation is very necessary to see that this valuable resource, the goethermal resources of Yellowstone, are protected.

The gentlewoman from Nevada [Mrs. VUCANOVICH] made reference earlier to a study done by the U.S. Geological Survey. The conclusion that is expressed in this study is no discernible risk to the resource at levels of pumping at the level of the natural flow.

Mr. Speaker, I think in fact that a careful reading of this study indicates that no such conclusion can be reached at all. In fact, one of the world's experts on geothermal resources has testified that the plan that would have been allowed by the Secretary of Interior would indeed have proposed a threat to this resource.

So I think the gentleman from Montana [Mr. WILLIAMS] does a favor to us and to all the people of this country by bringing this legislation to us. It is without a doubt necessary that we be conservative and prudent in making decisions which impact resources as important as Yellowstone. The gentleman from Montana [Mr. WILLIAMS] has recognized that, and, through his leadership, we have avoided the possibility of actions which might have been approved by the Secretary of the Interior which would have injured this resource.

Mr. Speaker, I thank the gentleman, and urge Members to support the legislation.

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Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

With regard to the issue of taking, the committee and I have been very careful to be sure that this legislation avoids the taking of private property. And I am convinced and intend that we do avoid it.

This legislation clearly allows the consumption of surface runoff, and I am committed to and I believe have seen that the committee report reflects that belief.

I do want to make the following points, though: I am sensitive to the fact that the utilization of the surface flow at a spring known as LaDuc Hot Springs in the Corwin Springs area, the utilization of that flow does have some administration hurdles. I have looked into the matter, and it appears to me that a surface development, not a well, but surface development is compatible with the area. And I am committed to being of assistance in going through the regulatory process with those who wish to use that surface runoff to aid them in establishing that use.

My colleagues, I urge an affirmative vote tonight to this legislation which assures a zero-risk policy toward the thermal features of Yellowstone National Park by placing a ban on the drilling into the thermal system below Yellowstone and its environs.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and pass the bill, H.R. 3359, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, can the Chair give the Members some idea of what the proceedings are going to be from here on out? We are hearing rumors that the crime bill has been pulled.

The SPEAKER pro tempore. As far as the Chair knows, we are going to go through H.R. 848 and H.R. 690, and that is the extent of the information that the Chair has.

Mr. WALKER. Mr. Speaker, further parliamentary inquiry, has the Chair at this point decided whether or not further votes on suspensions for the evening will be rolled until tomorrow?

The SPEAKER pro tempore. The Chair wishes to correct his statement. We have a list of about 12 to 13 more suspensions, and we will take them as they come.

Mr. WALKER. Mr. Speaker, under the martial rule we can, I believe, have other suspensions added to that list on an hour's notice. Are the votes on those suspensions going to be rolled until tomorrow?

The SPEAKER pro tempore. It is the Chair's understanding that the suspension votes will follow the vote on the crime conference report. If not tonight, it will be at a later time.

Mr. WALKER. Mr. Speaker, if the crime bill does not come to the floor, will the votes be rolled?

The SPEAKER pro tempore. That is the Chair's present understanding.

Mr. WALKER. I thank the Chair.

LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and take the Speaker's table the bill (H.R. 848) entitled "An Act Little Bighorn Battlefield National Monument," with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment: Page 6, after line 10, insert:

TITLE III

SEC. 301. EXTENSION OF ALIENABILITY RESTRICTIONS ON SETTLEMENT COMMON STOCK.

Section 37(a) of Public Law 92-203, the Alaska Native Claims Settlement Act (43 U.S.C. 1629c(a)) is amended by striking "December 18, 1991." and inserting in lieu thereof "July 16, 1993: Provided, however, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 848 authorizes the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn, as well as changing the name of this national park unit to the Little Bighorn Battlefield National Monument. The bill introduced by my Interior Committee colleague, Representative BEN NIGHTHORSE CAMPBELL, was originally passed by the House on June 24, 1991. Subsequently the Senate considered the measure and has now returned the bill to the House with an amendment.

The Senate amendment to H.R. 848 adds a provision that would amend the Alaska Native Claims Settlement Act so as to extend until July 16, 1993 the period during which the general rule of the inalienability of stock in the native corporations will be in effect. This is a matter of particular interest to the chairman and the ranking Republican member of the Committee on Interior and Insular Affairs. I understand that this change is acceptable to them, and I note that this will provide the Interior Committee and the Congress time to carefully consider various proposals that have been made concerning possible future restrictions on hostile takeover of the native corporations organized under the Alaska Native Claims Settlement Act.

Mr. Speaker, the establishment of a memorial to honor the Indians who fought in the Battle of the Little Bighorn is a fitting and proper thing to do. It is also time to change the name of the battlefield to Little Bighorn Battlefield National Monument. We need to recognize all who fought at this battle, as well as what they fought for. I urge passage of H.R. 848 as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House has considered and passed this bill earlier this year. It is sponsored by the gentleman from Colorado [Mr. CAMPBELL]. I strongly support it.

We imagine this memorial will bring recognition to the courageous Indian warriors who won this battle, by the way, and died at the Battle of Little Bighorn. I strongly concur with the Senate amendment, as attached. It is not a difficult amendment. It is basically a technical amendment.

It is on behalf of my Alaska Natives, and I strongly support it.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. CAMPBELL], sponsor of the measure.

Mr. CAMPBELL of Colorado. Mr. Speaker, we are about to adjourn for a holiday during which people throughout this Nation give thanks for the blessings we share in America. It is the holiday most commonly associated with the goodwill native Americans historically showed to the Pilgrims by sharing with them the bounty of a fruitful land.

I cannot imagine better timing for H.R. 848 to be sent to the President's desk than tonight. It is indeed a welcome event for America's 2 million American Indians, but perhaps more importantly it sends a message throughout this land that Americans truly are a people of fairness and tolerance. Some say that building a monument to the fallen Indian warriors and changing the name of the battlefield to a neutral name is only a symbol. Mr. Speaker, it might be said that the Statue of Liberty is also only a symbol. Symbols uplift the spirits of people. Symbols bring goals into focus. Symbols rally the best in us to do good work. Symbols are reminders that, for all our past mistakes, we must strive to do better for all humankind. I know I can speak for the American Indian, and indeed all Americans who support this bill. This is a wonderful Thanksgiving present, and I would like to thank the entire Montana delegation—Senators BAUCUS and BURNS, Congressman WILLIAMS and MARLENEE—as well as Chairmen MILLER and VENTO—as well as ranking minority Member DON YOUNG for their support of this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I just simply want to say that this, too, is a matter of importance to my State of Wyoming. Although it is Montana, it is very close to our northern boundary, very close to Sheridan.

We also have a number of very active citizens, Native Americans in our State, and we are pleased that the gentleman brought this to the House. I rise in support of the bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER], chairman of the committee.

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 848. I am pleased that the bill establishing a memorial at Custer Battlefield National Monument to honor the Indians who fought in the battle of Little Bighorn is before the House. I also support a Senate amendment to the bill which extends the restrictions on sale of Alaska Native corporation stock.

The Senate amendment to the bill is designed to give Congress more time to fully address the issue of hostile takeovers of Alaska Native corporations. The Interior Committee recently held a hearing on this important subject.

When Congress enacted the Alaska Native Claims Settlement Act in 1971, it established over 200 Native-owned corporations to manage the huge land resources and other assets conveyed to Alaska Natives in that historic settlement. Congress also restricted the sale of stock in the Native corporations for 20 years, a period which is due to expire on December 18, 1991. While comprehensive "1991" amendments to ANCSA established the strong presumption that the Native corporations will remain Native-owned in the future, shareholders were also given the right to vote to sell their stock freely.

The recent efforts of Klukwan, a small village corporation, to conduct what appears to be a hostile leveraged buy-out of Sealaska, the regional corporation for Southeast Alaska Natives, has refocused Congress's attention on the December 18 expiration of stock restrictions. It is clear that Congress had not anticipated hostile takeover battles between Alaska Native corporations when it was enacting the "1991" amendments.

The Senate amendment to this bill extends the restrictions on stock alienability for another 19 months, through July 16, 1993, in order to give Congress time to thoroughly consider the ramifications of potential hostile takeovers by any party of Alaska Native corporations. This amendment, which is supported by the Alaska Federation of Natives, will also give both Congress and the Alaska Native community more time to consider various legislative proposals.

Although this amendment is not a permanent solution, it should send a strong negative signal to anyone who may have envisioned December 18, 1991 as a starting date for sending teams of investment bankers and attorneys to descend upon Alaska Natives with the goal of taking over their corporations and their land.

I want to compliment the gentleman from Alaska for his efforts on this legislation. As my colleagues on the Interior Committee know well, Mr. YOUNG is a strong supporter of the interests of Alaska Natives. I also wish to express my appreciation of Senator TED STEVENS of Alaska for his cooperation and work to expedite Senate Consideration of this matter.

Mr. Speaker, I insert for the RECORD a letter from the Alaska Federation of Natives, Inc.:

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, AK, November 18, 1991.

Hon. GEORGE MILLER,
Chairman, House Interior and Insular Affairs Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN MILLER: Thank you for the opportunity to submit written testimony on the important issue of "ANSCA Native Corporation Hostile Takeover Procedure Amendment".

As reflected in the AFN Board of Directors and Convention Delegate Resolution 91–02, the issue is viewed as a serious one among Native people. Protection of Native land and resources through retention of ANCSA land by the original Native owners over time is a position on which the AFN has never wavered.

I recognize that the timeframe for establishing long-term protections against hostile takeovers through legislation this session of Congress is quickly eroding. In light of the limited timeframe and the extreme importance of this issue, I strongly urge that you support a standstill provision that would allow additional time to develop amendment language which focuses on a long-term solution.

A standstill provision would serve to allow the Native community adequate time to work with you and your staff to develop acceptable language.

I believe we share a mutual concern that it is absolutely imperative that Congress speak

VOL 137 PT 23 NO 21—25 1991 UMI

to the concerns surrounding hostile takeover issue reflected in our Convention Resolution prior to the upcoming holiday recess.

I am available to assist with this matter in any way you deem appropriate. Thank you.

Sincerely,

JULIE E. KITKA,
President.

☐ 2120

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs, has stated very clearly the intent of the Senate amendment. I want to compliment him for his acceptance of this amendment. It is crucial to the State of Alaska so we can have a little time to look and see what would be the results.

Mr. Speaker, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding the time.

This is an appropriate memorial to our Native Americans, and certainly something worthy of House support. Native Americans are among those groups who would most benefit from an economic growth package, if in fact we could get it considered on the House floor. The fact is that what we are doing is considering this legislation that is something of help to them rather than considering the broader context of their economic concerns.

It is too bad that we do not have that legislation before us. The fact is the Rules Committee is meeting as we speak and could, in fact, make in order that package and allow us to vote on an economic growth package.

It is also true that we have now met the condition that the majority leader laid down here just about 24 hours ago, and that is the majority leader said that the missing ingredient in getting an economic growth package going was the President of the United States; that is, the President would have to support the package. We have within the last couple of hours heard directly from the President of the United States. The President supports the economic growth package and so, therefore, the missing ingredient is now no longer missing. We could, in fact, have a package that we would pass in the Congress, send to the President and it would be signed. Rather than waiting 2 or 3 months to put Native Americans and others back to work, we could in fact have a package that puts people back to work beginning early next year.

The reason why we are not considering that package is because there is a reluctance, well nigh a determination not consider this package. I am concerned about that. I wish we could get a real economic growth package going.

Mr. SANTORUM. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Speaker, the other concern I recall the majority leader having the other day is that we were not going to pass an economic growth package which was going to add to the budget deficit. Does the gentleman know what this growth package has been scored as?

Mr. WALKER. Treasury has scored this package at a plus $400 million, so it in no way impinges upon last year's budget deal. This is a package which is deficit-neutral, and yet at the same time creates 1.5 million jobs.

Mr. SANTORUM. When the gentleman says this has been scored by Treasury, this has been scored by the organization that is responsible for scoring under the budget agreement, is that correct?

Mr. WALKER. That is exactly right. And this package is in fact something that could be passed through here, and can be done in a way which is responsible fiscally, and at the same time it is a package which would put people back to work.

Mr. SANTORUM. I thank the gentleman.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS], one of the principal sponsors of this legislation.

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, this legislation has two parts. The first is a monument to be built to the native American fighters who fought and died at the Battle of the Little Bighorn. That monument will be placed alongside the monuments to the soldiers who fought and died at the Little Bighorn. That monument is a long time coming, a long time overdue.

The other portion of this bill is one on which I have persisted, and tonight I feel somewhat satisfied in my persistence. That is, the other portion of the bill that we will pass here tonight is to change the name of this place to one which recognizes the geographic location, as we do in almost all, perhaps all other, battlefields. It was on June 25 and 26 in 1876, with America celebrating its centennial, that Custer and his brave men marched onto this little knoll alongside the Little Bighorn and met their fate. This bill, long overdue, now establishes a bridge between the races, a bridge which crosses this century, plus a decade and a half, a bridge long overdue to join the races and properly recognize all of the Americans who fought and died at the Battle of Little Bighorn.

I want to commend my colleague, the gentleman from Colorado [Mr. BEN NIGHTHORSE CAMPBELL], for his efforts in bringing the legislation to this point.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. MARLENEE], an outstanding Congressman.

Mr. MARLENEE. Mr. Speaker, I thank my colleague from Alaska for yielding the time.

Mr. Speaker, I have no pause with erecting a monument. I believe it is long past time for constructing a memorial which will be a long step toward healing the wounds which have lingered over the century since the battle which was the closing act in the 400-year contest between the native American peoples and the European settlers over this country's lands and how they were divided and utilized.

Although the battle was fought 115 years ago at the Little Bighorn, and it was a decisive victory for the Sioux and the Cheyenne and the other warriors who fought the 7th Cavalry, it was truly an instance in which one could apply the old axiom about winning a battle and losing a war. Fighting continued for some years after this date, but there were no more encounters of this magnitude and consequence between the Army and the native American tribes. Because of this, it is particularly fitting that the battlefield should contain a memorial, a memorial to the Indian warriors who fought and died to protect their lands and their families. They were truly invaded by the 7th Cavalry.

In a larger sense, such a memorial will symbolize the sacrifices made by native Americans in defense of their lands and values over the long years since the setting of America. The memorial will bring recognition to the courageous Indian warriors who fought and died at the Battle of the Little Bighorn. And hopefully it will be in some sense a recognition of their commitment, their commitment to the United States of America.

I commend my colleague, the gentleman from Colorado, Mr. BEN NIGHTHORSE CAMPBELL, a Cheyenne. I commend him most heartily and strongly for bringing this bill forward and helping to get it passed in this Congress of the United States, and I am very pleased, although I had this bill up last year under my sponsorship, I am pleased to join him this year because I think it is even more fitting. I think this bill, as I say, recognizes the commitment that the native Americans have to the United States of America in all of the wars that we have had since that Battle of the Little Bighorn.

I was not pleased with the name change that was contained within this legislation. There were some who insisted on it, and it was rather disruptive, and perhaps we could have been somewhat more judicious or taken a little bit longer in deliberations and had a better consensus of what that name should be. But nonetheless, we

have arrived at this point to where we must either pass the legislation in this House or go at it again next year, and I prefer that my colleagues support the legislation.

☐ 2130

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, I would like to thank my colleague for yielding me this time.

Listening this evening to my colleagues across the aisle and on this side talk about their concerns relating to native Americans, I represent a community with many native Americans.

The No. 1 concern on the minds of the native Americans of my area is the same as the concern of all constituents in western New York. It is jobs and creating opportunity.

Mr. Speaker and my friends, we also talked about the last stand. Well, the American worker's last stand will occur this week when they will have the opportunity to watch whether or not Congress is willing to take a stand and create jobs and economic growth for all Americans.

We have put a plan before this Congress to create jobs, to create opportunity, to create hope for American workers, American families, young Americans who want to have that opportunity for the first time in their lives to own a home, to share in that American dream.

Our House Republican economic growth and jobs creation plan would do just that, and much, much more for this country. The only thing that stands in the way, the last stand in the way of that plan is the Rules Committee and the House Democratic leadership. I hope they will take a stand, along with the Members on this side of the aisle, for opportunity for Americans and approve our economic growth plan for this Nation.

You know, that first Thanksgiving, native Americans and the settlers sat down together after they had labored hard in the fields. This Thanksgiving we have the opportunity once again to thank God and thank this country for economic opportunity by passing a plan that will create those jobs and give us a new Thanksgiving, a Thanksgiving of hope and opportunity.

Mr. YOUNG of Alaska. Mr. Speaker, I urge my colleagues to pass this legislation. Again I compliment the subcommittee chairman and the chairman of the full committee for their hard and diligent work on this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I urge positive action on this measure, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HALL of Texas). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 848.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

MARY McLEOD BETHUNE MEMORIAL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 690) to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read as follows:

Senate amendment: Page 6, after line 6, insert:

SEC. 6. HIGHER EDUCATION ACT OF 1965.

Section 775 of the Higher Education Act of 1965 (20 U.S.C. 1132h-4) is amended—

(1) in subsection (c) by inserting "and maintenance" after "construction", and

(2) in subsection (d) by striking "$6,200,000" and inserting "$15,700,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 690, introduced by my colleague on the Interior Committee, Representative JOHN LEWIS, recognizes the contributions made by Mary McLeod Bethune and by the National Council on Negro Women. The House passed H.R. 690 to establish the Mary McLeod Bethune Council House National Historic Site here in Washington, DC, on April 24, 1991.

The Senate has passed H.R. 690 with an amendment adding a section that would amend the Higher Education Act to facilitate the construction of an arts center at Bethune-Cookman College in Daytona Beach, FL. This amendment is not within the jurisdiction of the Interior Committee, raising jurisdictional issues. I understand that the House Education and Labor Committee does not favor this approach. Therefore, I ask that the House not concur in the Senate amendment and send H.R. 690 to the Senate without their amendment. I look forward to speedy enactment of this legislation and establishment of Mary McLeod Bethune Council House National Historic Site.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 690, a bill to provide for establishment of the Mary McLeod Bethune Council House National Historic Site. This bill would bring full designation of this nationally significant resource as a unit of the national park system; and provide a logical conclusion to previous congressional recognition of this site some 9 years ago.

The measure before us today has the general support of the administration since most of the issues raised in their testimony have now been addressed. The difficult issues associated with the role of the nonprofit associations in the management of the area have also been largely resolved.

I am especially pleased that the report language recognizes the $1.5 million in Federal funding which has been provided to this site over the last 8 years will be considered in determining the appropriate acquisition cost. The report also recognizes that donation of the Bethune archives to the Federal Government has the broad support of the subcommittee members.

I note for the record that there is some concern on behalf of subcommittee members regarding the relatively high costs for development and operation of this site, especially in consideration of the relatively low visitation projected. I believe this is an important issue which deserves the continuing scrutiny of the subcommittee.

As a cosponsor of the measure, I am pleased to commend this bill to my colleagues and I would like to recognize Mr. LEWIS for his flexibility in working with us on our concerns and the chairman, Mr. VENTO, for his long interest in this issue; starting with his ultimately successful efforts to secure from the National Park Service a thorough study upon which to base this legislation.

This bill contains no major changes from the bill passed by the House on April 24 and I commend this measure to my colleagues and urge them to support it.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, I rise today not to oppose Federal acquisition of the Mary McLeod Bethune home and headquarters here in Washington, DC, but to express my support for the amendment that was adopted by the other body. In my view, that amendment would have furthered the objective of honoring Dr. Bethune by authorizing the completion and main-

tenance of a fine arts center on the

the regular deduction for a charitable

for the purpose of asking our majority

TORTURE VICTIM PROTECTION

mind altering substances or other procedures

to apply the burden of proof standards

VOL 137 PT 23 NO 21–25 1991 UMI

tenance of a fine arts center on the campus of the college that bears her name.

Mr. Speaker, Mary McLeod Bethune made a number of major contributions in the fields of education, civil rights, and public service, the record of which will be enhanced by Federal operation of her Washington, DC, home and headquarters. But I can think of no better way to recognize her accomplishments as cofounder of what is now Bethune-Cookman College and as president of that institution for 36 years than to complete what will amount to a living memorial to those accomplishments. When finished, the Mary McLeod Bethune Fine Arts Center will bring to the Bethune-Cookman campus a multipurpose facility capable of providing both specific academic training as well as cultural enrichment to Bethune-Cookman students.

Today, approximately 15 percent of the students of Bethune-Cookman College are enrolled in its Cultural and Performing Arts Program and its Hospitality Management Program. The training they get in these programs, which will be enhanced by completion of this fine arts center will help them obtain jobs in Florida's dynamic tourist and entertainment industries. Also, when the rest of this fine arts center is finished, many other Bethune-Cookman students and visitors will be able to use its facilities and derive benefit and enjoyment from the events that are conducted there.

Much more could be said, Mr. Speaker, in favor of completing this fine arts center, the first phase of which has already been built. But, rather than belabor the matter further at this time, let me simply express the hope that a way can be found to authorize its second and final phase in the near future.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I, too, rise in support of this bill and in support of someone named after an institution of higher learning.

In this economics jobs package that we have been talking about for the last few hours, there was something specific in the area of education and training for people who are unemployed and need to learn a skill. It is called the Employers Apprenticeship Program. It is the LEAP Program.

Businesses are encouraged to contribute funds to a newly created class of nonprofit organizations that will work with business and local educational organizations, school boards, and community colleges to create work-based learning opportunities for students. Businesses would receive a tax credit for donations to the apprenticeship education organizations, in addition to the regular deduction for a charitable organization. Students would work part time in a field related to a course of study and receive the lowest minimum wage or training wage.

Students in high schools, community colleges, or graduate equivalency programs would be eligible to participate.

This is something real for the young men and women of this country who want to get a job. This is something real that unless the Democratic majority changes their minds and allows this package to be voted on the floor of the House, these people who are sitting out there watching this tonight are not going to have the opportunity for these apprenticeships.

Mr. Speaker, I urge the Democratic leadership to bring this package to the floor.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and disagree to the Senate amendment to the bill, H.R. 690.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendment was disagreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have asked for this time for the purpose of asking the majority leader about the schedule for the rest of the evening, and I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

It is our intention to continue with the suspensions, but to roll the votes.

If the gentleman can give us some assurance that there will not be procedural votes called this evening, it would be our intention not to have further votes this evening.

☐ 2140

Mr. WALKER. Mr. Speaker, I know of no plans to get procedural votes on our side. I know of no reason why that would be necessary. If we can finish out the calendar and come back tomorrow and start fresh, I think that is certainly something which we would agree to do.

Mr. MILLER of California. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding, and I do so for the purpose of asking our majority leader with respect to whether or not the Chair will recognize Members for unanimous-consent requests for the purposes of passing legislation this evening or whether that would not be in order.

Mr. GEPHARDT. If the gentleman will yield to me, it is not expected that there would be unanimous-consent requests for that purpose.

Does the gentleman know of some situation?

Mr. MILLER of California. It is those that you do not know about that worry you. I just wondered whether that would be the expectation of Members that if we left here now there would be no further legislative business allowed.

Mr. GEPHARDT. That is right.

Mr. MILLER of California. But for the suspensions.

Mr. GEPHARDT. That is correct.

Mr. MILLER of California. And we are all protected on the suspensions.

Mr. GEPHARDT. In any event, we told the minority there would be a 2-hour notice in any case. We do not intend to do that this evening.

Mr. WALKER. Mr. Speaker, could the gentleman from Missouri tell us what time we would be coming in tomorrow?

Mr. GEPHARDT. I intend to, in a moment, ask unanimous consent that we be permitted to meet at 10 a.m., in the morning.

We will, of course, be running forward through the day and evening until we can try to finish our business.

Mr. WALKER. Could the gentleman tell us how long tomorrow's session might be?

Mr. GEPHARDT. It will be the mother of all evenings.

Mr. WALKER. I thank the gentleman and yield back.

HOURS OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m., tomorrow.

The SPEAKER pro tempore (Mr. HALL of Texas). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REDESIGNATION OF TIME FOR FURTHER PROCEEDINGS DE NOVO ON H.R. 3638, KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair redesignates the time for further proceedings de novo on the motion to suspend the rules on H.R. 3638 to the legislative day of November 26, 1991.

TORTURE VICTIM PROTECTION ACT OF 1991

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2092) to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing, as amended.

The Clerk read as follows:

H.R. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Torture Victim Protection Act of 1991".

SEC. 2. ESTABLISHMENT OF CIVIL ACTION.

(a) LIABILITY.—An individual who, under actual or apparent authority, or color of law, of any foreign nation—

(1) subjects an individual to torture shall, in a civil action, be liable for damages to that individual; or

(2) subjects an individual to extrajudicial killing shall, in a civil action, be liable for damages to the individual's legal representative, or to any person who may be a claimant in an action for wrongful death.

(b) EXHAUSTION OF REMEDIES.—A court shall decline to hear a claim under this section if the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred.

(c) STATUTE OF LIMITATIONS.—No action shall be maintained under this section unless it is commenced within 10 years after the course of action arose.

SEC. 3. DEFINITIONS.

(a) EXTRAJUDICIAL KILLING.—For the purposes of this Act, the term "extrajudicial killing" means a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.

(b) TORTURE.—For the purposes of this Act—

(1) the term "torture" means any act, directed against an individual in the offender's custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind; and

(2) mental pain or suffering refers to prolonged mental harm caused by or resulting from—

(A) the international infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another individual will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Torture Victim Protection Act, H.R. 2092, puts torturers on notice that they will find no safe haven in the United States. Torturers may be sued under the bill if they seek the protection of our shores or otherwise subject themselves to the personal jurisdiction of a U.S. court.

The bill clarifies existing law to make explicit that victims of torture can bring a Federal civil cause of action against their torturer. The bill also expands existing law by providing U.S. citizens the right to obtain civil redress for torture.

Torture is defined in accordance with the definition contained in the U.N. Convention Against Torture. Provisions implementing the criminal aspects of that convention are included in the crime bill that this committee recently approved. However, a criminal prosecution does not make the victim whole. The Torture Victim Protection Act complements what we did in the crime bill by allowing victims to obtain money damages from torturers in a civil cause of action.

The act has broad bipartisan support and is endorsed by numerous organizations. In the previous two Congresses this committee approved nearly identical legislation and so did the House.

Mr. Speaker, one amendment was adopted to the bill in committee. It was crafted in bipartisan fashion, and I would like to thank my colleague, BILL MCCOLLUM, the ranking minority member of the Subcommittee on International Law, for working with me on this amendment.

First, the amendment added a 10-year statute of limitations to the bill. This will prevent the litigation of stale claims in the Federal courts. As currently written, the bill provides for no statute of limitations.

Second, as the bill was originally written, the alleged offender had to show by "clear and convincing" evidence that the claimant has not exhausted remedies in the country where the claimant was tortured. The amendment kept the exhaustion requirement, but removed the "clear and convincing" standard, and left it to the courts to apply the burden of proof standards that they would normally use.

Third, my amendment clarified the wrongful death portion of the bill. As written, the bill contained language, "beneficiary in a wrongful death action," which was vague and did not make clear whom the offender would be liable to in instances of extrajudicial killing. The amendment made clear that in such instances, the offender will be liable to the victim's legal representative or any person who could be a claimant in an action for wrongful death.

I urge my colleagues to support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Yatron].

Mr. YATRON. Mr. speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the Torture Victim Protection Act, as amended, extends to U.S. citizens the right to bring a civil cause of action against their torturers, a right aliens have had in this country since 1789 under the Alien Tort Claims Act. The Torture Victim Protection Act will clarify and expand existing human rights law by imposing civil liability on individuals who, under the authority of any foreign nation, perpetrate acts of torture or extrajudicial killing. Nearly identical legislation has already passed the House twice.

In order for a U.S. court to hear a claim under this legislation, the defendant must have been acting under the authority of his or her government, must be subject to the personal jurisdiction of U.S. courts when the victim brings a civil action, and the victim must have exhausted all legal remedies in the country where the torture took place.

Mr. Speaker, the Torture Victim Protection Act, as amended, also sends a distinct and forceful message that the U.S. will not host torturers within its borders.

Mr. Speaker, I want to thank the gentleman from Florida [Mr. FASCELL], the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Nebraska [Mr. BEREUTER], the gentleman from New York [Mr. GILMAN], the gentleman from Texas [Mr. BROOKS], and the gentleman from Kentucky [Mr. MAZZOLI], and the gentleman from Florida [Mr. MCCOLLUM], for their timely consideration of this legislation.

Mr. Speaker, I urge my colleagues to support the bill.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation. It is similar to, or almost exactly what we brought out in the past before. But we never got it enacted into law.

It provides, as both of the gentlemen have explained, for civil remedies, long overdue for victims in the area of torture. It seems to me that despite some

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VOL 137 PT 23 NO 21—25 1991 UMI

opposition and some questions about it from sources concerned with the fact that there might be a reciprocity question that could get us into conflict somewhere, that this is not that big a deal, but it is indeed a very big deal to the victims involved, and we ought to provide civil remedies.

Mr. Speaker, I have one request for time from the gentleman from Michigan.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan, my good friend on the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I wish to commend Congressman YATRON, the chairman of the Human Rights Subcommittee, for his determined efforts on behalf of this legislation. Congressman YATRON has sponsored this bill during each of the last few Congresses, and I am proud to have joined as a cosponsor each time.

I also wish to recognize the contribution of the ranking Republican member of the subcommittee, Mr. BEREUTER. Finally, I would like to thank Chairman FASCELL of the full committee for preparing this measure for the floor.

This bill would clearly open the courts of the United States to victims of torture overseas. It would permit torture victims or their survivors to bring civil actions against the persons responsible, provided they can be found within this country.

I am especially pleased that, at Congressman YATRON'S motion in committee, the bill was amended to resolve certain legal matters. The amendment: First, clarifies who may bring an action; second, places a 10-year limit on claims; and third, requires the party bringing action to show that he had exhausted his remedies in the foreign country.

There are, of course, situations in which application of this statute could create difficulties in our relations with friendly countries. But this is a small price to pay in order to see that justice is done for the victims of torture. Also, it should be noted that actions under this section could not be brought against a foreign official who has diplomatic immunity while in the United States.

Mr. Chairman, this is a significant bill that makes an important statement about our commitment as a nation to take human rights seriously. I hope that this year, at last, it will finally become law.

Mr. McCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 2092, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2092, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

IMMIGRATION TECHNICAL CORRECTIONS ACT OF 1991

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3670) to make certain technical corrections relating to the immigration laws, as amended.

The Clerk read as follows:

H.R. 3670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This Act may be cited as the "Immigration Technical Corrections Act of 1991".

(b) In this Act, the term "INA" means the Immigration and Nationality Act.

SEC. 2. CORRECTIONS RELATING TO TITLE I OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 201 of the INA, as amended by section 101(a) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(3), by striking "(3) The number computed under this paragraph for a fiscal year" and inserting the following:

"(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year"; and

(B) in subsection (d)(2), by striking "(2) The number computed under this paragraph for a fiscal year" and inserting the following:

"(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year".

(2) Section 101 of the Immigration Act of 1990 is amended by adding at the end the following new subsection:

"(c) TRANSITION.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of a alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.".

(3) Section 202(a)(4)(A) of the INA, as amended by section 102(1) of the Immigration Act of 1990, is amended by striking "MINIMUM".

(b)(1) Section 112 of the Immigration Act of 1990 is amended—

(A) in subsection (c), by striking "temporary or" before paragraph (1), and

(B) by adding at the end the following:

"(d) DEFINITIONS.—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.".

(2) Section 203(b) of the INA, as inserted by section 121(a) of the Immigration Act of 1990, is amended—

(A) in paragraphs (1), (2), and (3), by striking "40,000" and inserting "28.6 percent of such worldwide level" each place it appears,

(B) in paragraph (1)(C), by striking "who seeks" and inserting "the alien seeks",

(C) in paragraphs (4) and (5), by striking "10,000" and inserting "7.1 percent of such worldwide level" each place it appears, and

(D) in paragraph (2)(B), by inserting "professions," after "arts,".

(3) Section 216A of the INA, as inserted by section 121(b)(1) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(2)(A), by inserting "(and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216)" after "status of the alien", and

(B) in subsections (c)(3)(B) and (d)(2)(A), by striking "obtaining the status of".

(4) Section 121(b)(2) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "deportation".

(5) Section 124(a) of the Immigration Act of 1990 is amended—

(A) in paragraph (1)—

(i) by inserting "(or paragraph (2) as the spouse or child of such an alien)" after "paragraph (3)", and

(ii) by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year."; and

(B) in paragraph (3)(A), by striking "(and has been so employed during the 12 previous, consecutive months)" and inserting "except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months".

(6) Section 132 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)";

(B) in subsection (a), by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.";

(C) in subsection (b)(1), effective after fiscal year 1992, by striking "that is not contiguous to the United States and";

(D) in subsection (c)—

(i) effective beginning with fiscal year 1993, by striking "in the chronological order in which aliens apply for each fiscal year" and

inserting "strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State",

(ii) by inserting before the period at the end the following: "and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided", and

(iii) by adding at the end the following: "If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives, the shortfall shall be added to the number of such visas to be made available under this section to such natives in the succeeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland."; and

(E) in subsection (e)—

(i) by striking "the grounds" and all that follows through "shall not apply, and",

(ii) by striking "the ground of exclusion specified in paragraph (6)(C) of such section" and inserting "the grounds of exclusion specified in paragraphs (6)(B) and (6)(C) of section 212(a) of the Immigration and Nationality Act", and

(iii) by adding at the end the following: "In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.".

(7) Section 134(a) of the Immigration Act of 1990 is amended by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)".

(c)(1) Section 141 of the Immigration Act of 1990 is amended—

(A) in the heading, by striking "**REFORM**",

(B) in subsection (a), by striking "Reform",

(C) in subsection (a)(1)(B), by striking "of the Subcommittee" and all that follows through "International Law", and

(D) by adding at the end the following new subsection:

"(i) PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).".

(2) The item in the table of contents of such Act relating to section 141 is amended to read as follows:

"Sec. 141. Commission on Immigration Reform.".

(d)(1) Section 152(b)(1)(A) of the Immigration Act of 1990 is amended by striking "who has performed faithful service" and inserting "and has performed faithful service as such an employee".

(2) Section 245 of the INA, as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended—

(A) in subsection (c)(2), by inserting "(J)," after "(I),", and

(B) by adding at the end the following new subsection:

"(h) In applying this section to a special immigrant described in section 101(a)(27)(J)—

"(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

"(2) in determining the alien's admissibility as an immigrant—

"(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

"(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.".

(3) Section 241(h) of the INA, as amended by section 153(b) of the Immigration Act of 1990, is amended by striking the comma after "(3)(A)".

(4) Section 154 of the Immigration Act of 1990 is amended—

(A) in subsection (b)(1)(A), by inserting "or China" after "Hong Kong",

(B) in subsection (b)(1)(B)(i), by inserting "of" after "of section 203(a)", and

(C) by striking paragraph (3) of subsection (c).

(5) Section 155 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or section 203(e), in the case of fiscal year 1992)" after "203(c)", and

(B) in subsection (b), by striking "or the child" and inserting "or who are the spouse or child".

(e)(1) Section 161(a) of the Immigration Act of 1990 is amended by striking "in this section," and inserting "in this title, this title and".

(2) Section 161(c)(1) of the Immigration Act of 1990 is amended—

(A) by inserting "or an application for labor certification before such date under section 212(a)(14)" after "before such date)",

(B) in subparagraph (A), by inserting "or application" after "such a petition",

(C) in subparagraph (A), by inserting ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993" after "(by not later than October 1, 1993", and

(D) by adding at the end the following new sentence:

"In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, there shall be no additional fee for the filing of the new petition referred to in subparagraph (A).".

(3) Section 203(f) of the INA, as inserted by section 162(a) of the Immigration Act of 1990, is amended—

(A) by striking "PRESUMPTION.—" and all that follows through "so described." and inserting "AUTHORIZATION FOR ISSUANCE.—", and

(B) by striking "201(b)(1) or in subsection (a) or (b)" and inserting "201(b)(2) or in subsection (a), (b), or (c)".

(4) Section 204(a)(1) of the INA, as amended by section 162(b) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by adding at the end the following: "An alien described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney General under this subparagraph for classification under such section.",

(B) in subparagraph (F), by striking "Secretary of State" and inserting "Attorney General", and

(C) in subparagraph (G)(iii), by striking "or registration".

(5) Section 204(e) of the INA, as amended by section 162(b)(3) of the Immigration Act of 1990, is amended by striking "a immigrant" and inserting "an immigrant".

(6) Paragraph (1) of section 162(e) of the Immigration Act of 1990 is repealed, and the provisions of law amended by such paragraph are restored as though such paragraph had not been enacted.

(7) Section 245(b) of the INA, as amended by section 162(e)(3) of the Immigration Act of 1990, is amended—

(A) by striking "201(a)" and inserting "202 and 203", and

(B) by striking "for the succeeding fiscal year" and inserting "for the fiscal year then current".

(8) Effective as if included in section 162(e) of the Immigration Act of 1990—

(A) clauses (ii)(II) and (iii)(II) of section 101(a)(27)(I) of the INA are amended by striking "applies for a visa or adjustment of status" and inserting "files a petition for status",

(B) section 216(g)(1) of the INA is amended by striking "203(a)(8)" and inserting "203(d)"; and

(C) section 221(a) of the INA is amended by striking "nonpreference,".

(9) Effective as if included in the Immigration Nursing Relief Act of 1989, section 212(m)(2)(A) of the INA is amended, by inserting after the first sentence following clause (vi) the following: "Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off.".

(10) Effective as if included in the Immigration Nursing Relief Act of 1989, as amended by section 162(f)(1)(B) of the Immigration Act of 1990, section 2(b) of the Immigration Nursing Relief Act of 1989 is amended by inserting after "registered nurse," the following: "who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status,".

SEC. 3. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 217 of the INA, as amended by section 201(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(4), by striking "BY SEA OR AIR" and inserting "INTO THE UNITED STATES", and

(B) in the heading of subsection (b), by striking "RIGHTS" and inserting "RIGHTS".

(2) Section 217(e)(1) of the INA, as redesignated by section 201(a)(7) of the Immigration Act of 1990, is amended by striking "(a)(4)(C)" and inserting "(a)(4)".

(3) The second sentence of section 251(d) of the INA, as inserted by section 203(b)(2) of the Immigration Act of 1990, is amended by striking "charterer" and inserting "consignee".

(4) Section 258(c)(2)(B) of the INA, as inserted by section 203(a)(1) of the Immigration Act of 1990, is amended by striking "each such list" and inserting "each list".

(5)(A) Section 101(a)(15)(H)(i)(b) of the INA, as amended by section 205(c)(1) of the Immi-

date of the enactment of this Act" and in-

(B) in clauses (v) and (vi), by striking the

(1) in subsection (e)(4)(B), by inserting "a"

VOL 137 PT 23 NO 21—25 1991 UMI

gration Act of 1990, is amended by inserting "subject to section 212(j)(2)," after "(b)".

(B) Section 212(j) of the INA is amended by striking paragraph (2) and inserting the following:

"(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

"(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

"(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

"(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).".

(6) Section 212(n)(1)(A)(ii) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by striking "for such aliens" and inserting "for such a nonimmigrant".

(7)(A) Section 101(a)(15)(H)(i) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by striking ", and had approved by,".

(B) Section 212(n)(1) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by moving the matter after the first sentence of subparagraph (D) flush with the left margin and by adding at the end the following:

"The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies.".

(8) Section 206(a) of the Immigration Act of 1990 is amended by inserting "and section 124(a)(3)(A) of this Act" after "Immigration and Nationality Act".

(9) Section 214(c)(2) of the INA, as added by section 206(b)(2) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by striking "individuals petitions" and inserting "individual petitions", and

(B) in subparagraph (D)(ii), by striking "involved" and inserting "involves".

(10) Section 214(a)(2)(A) of the INA, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by striking "under section 101(a)(15)(O)" and inserting "described in section 101(a)(15)(O)".

(11) Section 214(c)(5) of the INA, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by striking "101(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(b)".

(12) Section 207(c) of the Immigration Act of 1990 is amended by inserting "of the Immigration and Nationality Act" after "101(a)(15)(H)(ii)(a)" each place it appears.

(13) Section 101(a)(15)(Q) of the INA, as added by section 208(3) of the Immigration Act of 1990, is amended by striking "designated" and inserting "approved".

(b)(1) Section 221(a) of the Immigration Act of 1990 is amended—

(A) in the matter before paragraph (1), by striking "in a position unrelated to the alien's field of study and", and

(B) in paragraph (1), by inserting "academic" before "year".

(2) Section 221(b) of the Immigration Act of 1990 is amended—

(A) by inserting "and the Secretary of Labor" after "the Commissioner of the Immigration and Naturalization", and

(B) by inserting "a report" after "to the Congress".

(3) Section 222(a) of the Immigration Act of 1990 is amended by striking "Subject to the succeeding provisions of this section" and inserting "Subject to subsection (b)".

(4) Section 223(a) of the Immigration Act of 1990 is amended—

(A) by striking the period at the end of paragraph (2) and inserting a comma, and

(B) by adding at the end the following:

"or who is the spouse or minor child of such an alien if accompanying or following to join the alien.".

SEC. 4. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) Section 302(c) of the Immigration Act of 1990 is amended by striking "AFFECT", "supercede", and "affect" and inserting "EFFECT", "supersede", and "effect", respectively.

(b) Section 244A of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(1) in subsection (a)(1), by inserting after "designated under subsection (b)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)",

(2) in paragraph (1)(B), by adding at the end the following: "In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section.", and

(3) in subsection (c)(1)(A), by inserting after "designated under subsection (b)(1)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)".

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorized departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 5. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) Section 310(b) of the INA, as amended by section 401(a) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(b) Section 407(c)(11) of the Immigration Act of 1990 is amended by striking ", other than subsection (d)".

(c) Section 407(d)(8) of the Immigration Act of 1990 is amended by striking "Section 328(c) (8 U.S.C. 1439(c)) is amended" and inserting "Subsections (b)(3) and (c) of section 328 (8 U.S.C. 1439) are amended".

(d) Subsection (g) of section 334 of the INA, as redesignated by section 407(d)(12)(E) of the Immigration Act of 1990, is redesignated as subsection (f).

(e) Section 407(d)(12)(B) of the Immigration Act of 1990 is amended by adding "and" at the end of clause (i).

(f) Section 335(b) of the INA, as amended by section 407(d)(13)(C)(iii) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(g) Section 407(d)(14)(D)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(h) Section 407(d)(14)(E)(ii) of the Immigration Act of 1990 is amended by striking "persons" and inserting "person".

(i) Section 337(c) of the INA is amended by striking "before".

(j)(1) Section 407(d)(16)(C) of the Immigration Act of 1990 is amended by striking the comma after "venue".

(2) Section 338 of the INA, as amended by section 407(d)(16)(C) of the Immigration Act of 1990, is amended by striking "District" and inserting "district".

(k) Section 340 of the INA, as amended by section 407(d)(18) of the Immigration Act of 1990, is amended—

(1) in the first sentence of subsection (a), by striking "District Court" and inserting "district court", and

(2) in the second sentence of subsection (g), by striking "clerk of the court" and inserting "clerk of court".

(l) Section 407(d)(19)(A)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(m) Effective as if included in section 407(d) of the Immigration Act of 1990:

(1) Paragraph (24) of section 101(a) of the INA is repealed.

(2) Section 312 of the INA is amended by striking "petition" and inserting "application" each place it appears.

(3) The heading of section 322 of the INA is amended by striking "PETITION" and inserting "APPLICATION".

(4) The item in the table of contents of the INA relating to section 322 is amended by striking "petition" and inserting "application".

(5) Section 330 of the INA is amended by striking "of this subsection" and inserting "of this section".

(6) Section 332(a) of the INA is amended by striking "petitioners" and inserting "applicants".

(7) Section 334(a) of the INA is amended by striking ", in duplicate,".

(8) Section 341(a) of the INA is amended by striking "a petitioner" and inserting "an applicant".

(n) Section 408(a)(2)(B) of the Immigration Act of 1990 is amended by striking "on the date of the enactment of this Act" and inserting "on January 1, 1992".

SEC. 6. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 101(a)(43) of the INA, as amended by section 501(a)(4) of the Immigration Act of 1990, is amended by striking ".," and inserting a period.

(2) Section 502(a) of the Immigration Act of 1990 is amended by striking "(8 U.S.C. 1152a(a)(1))" and inserting "(8 U.S.C. 1105a(a)(1))".

(3) Section 287(a)(4) of the INA, as amended by section 503(a)(2) of the Immigration Act of 1990, is amended by striking ", and" at the end and inserting "; and".

(4) Section 242(a)(2)(B) of the Immigration and Nationality Act, as added by section 504(a)(5) of the Immigration Act of 1990, is amended by striking "who is lawfully admitted for permanent residence" and insert ", who is lawfully admitted,".

(5) Section 236(e)(1) of the INA, as amended by section 504(b) of the Immigration Act of 1990, is amended by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)".

(6) Section 509(b) of the Immigration Act of 1990 is amended by inserting before the period at the end the following: ", except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction".

(7) The last sentence of section 510(b) of the Immigration Act of 1990 is amended by striking "for".

(8) The last sentence of section 510(c) of the Immigration Act of 1990 is amended by striking "been been" and inserting "been".

(9) The last sentence of section 212(c) of the INA, as added by section 511(a) of the Immigration Act of 1990, is amended by striking "an aggravated felony and has served" and inserting "one or more aggravated felonies and has served for such felony or felonies".

(10) Section 513(b) of the Immigration Act of 1990 is amended by striking "petitions to review" and inserting "petitions for review".

(11) Section 514(a) of the Immigration Act of 1990 is amended by striking "10 years" and inserting "ten years".

(12) Paragraphs (1) and (2) of section 515(b) of the Immigration Act of 1990 are amended to read as follows:

"(1) The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

"(2) The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.".

(b)(1) Section 274B(g)(2)(B)(iv)(II) of the INA, as amended by section 536(a) of the Immigration Act of 1990, is amended by striking "subclause (IV)" and inserting "subclauses (III) and (IV)".

(2) Section 274A(b)(3) of the INA, as amended by section 538(a) of the Immigration Act of 1990, is amended by striking the comma after "officers of the Service".

(3) Section 274B(g)(2)(B) of the INA, as amended by section 539(a) of the Immigration Act of 1990, is amended—

(A) in clause (iv)(IV), by striking the period at the end and inserting a semicolon,

(B) in clauses (v) and (vi), by striking the comma at the end and inserting a semicolon,

(C) in clause (vii), by striking ", and" and inserting "; and",

(D) in clause (vii), by striking "to order (in an appropriate case) the removal of" and inserting "to remove (in an appropriate case)", and

(E) in clause (viii), by striking "to order (in an appropriate case) the lifting of" and inserting "to lift (in an appropriate case)".

(c)(1) Section 274B(g)(2)(D) of the INA is amended by striking "physicially" and inserting "physically".

(2) Section 543(a)(3) of the Immigration Act of 1990 is amended by inserting "each place it appears" before "and inserting".

(3) Sections 252(c) and 275(a) of the INA, as amended by section 543(b) of the Immigration Act of 1990, are each amended by striking "fined not more than" and all that follows through "United States Code)" and inserting "fined under title 18, United States Code,".

(4)(A) The second sentence of section 231(d) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(B) The third sentence of section 237(b) of the INA is amended by striking "district director of customs" and inserting "Commissioner".

(C) The second sentence of section 254(a) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(D) The second sentence of section 273(b) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(5) Section 544 of the Immigration Act of 1990 is amended by striking "(c) EFFECTIVE" and inserting "(d) EFFECTIVE".

(6) Section 242B of the INA, as inserted by section 545(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(1)(E), by striking ", upon request,";

(B) in subsection (a)(2)(A)(ii), by inserting ", except under exceptional circumstances," after "failure";

(C) in subsection (a)(2), by adding at the end the following:

"In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).";

(D) in subsection (b)(1), by inserting before the period at the end the following: ", unless the alien requests in writing an earlier hearing date";

(E) in subsection (b)(2)—

(i) by inserting "pro bono" after "to represent", and

(ii) by adding at the end the following: "Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.";

(F) in subsection (c)—

(i) in paragraph (1), by striking "except as provided in paragraph (2)," each place it appears,

(ii) in paragraph (1), by adding at the end the following: "The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).", and

(iii) by striking the second sentence of paragraph (2);

(G) in subsection (c)(4), by inserting "(or 30 days in the case of an alien convicted of an aggravated felony)" after "60 days";

(H) in subsection (d), by striking "the Board" and inserting "the Attorney General";

(I) in subsection (e)(4)(B), by inserting "a" after "with respect to"; and

(J) in subsection (e)(5), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(7) The 8th sentence of section 242(b) of the INA, as amended by section 545(e) of the Immigration Act of 1990, is amended to read as follows: "Such regulations shall include requirements that are consistent with section 242B and that provide that—

"(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held,

"(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

"(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

"(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.".

SEC. 7. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

(a) Section 212(a) of the INA, as amended by section 601(a) of the Immigration Act of 1990, is amended—

(1) in paragraph (1)(A), by adding "or" at the end of clause (ii);

(2) in paragraph (3)(A)(i), by inserting "(I)" after "any activity" and by inserting "(II)" after "sabotage or";

(3) in paragraph (3)(B)(iii)(III), by striking "an act of terrorist activity" and inserting "a terrorist activity";

(4) in paragraph (3)(D)(iv), by striking "if the alien" and inserting "if the immigrant";

(5) in paragraph (3)(C)(iv), by striking "identities" and inserting "identity";

(6) in paragraph (5)(C), by striking "preference immigrants" and all that follows through the end and inserting the following: "immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).";

(7) in paragraph (6)(B)—

(A) by striking "who seeks" and inserting "(a) who seeks",

(B) by striking "(or" and inserting ", or (b) who seeks admission", and

(C) by striking "felony)" and inserting "felony,";

(8) in paragraph (6)(E)—

(A) by redesignating clause (ii) as clause (iii), and

(B) by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien under section 112 or 301 of Immigration Act of 1990 if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(9) in paragraph (8)(B), by striking "alien" the first place it appears and inserting "person"; and

(10) in paragraph (9)(C)—

(A) in clause (i), by striking everything that follows "entry of" and inserting "an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person

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granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.", and

(B) in clause (ii), by striking "to an alien who" and all that follows through "signatory" and inserting "so long as the child is located in a foreign state that is a party".

(b) Section 212(c) of the INA, as amended by section 601(d)(1) of the Immigration Act of 1990, is amended by striking "subparagraphs (A), (B), (C), or (E) of paragraph (3)" and inserting "paragraphs (3) and (9)(C)".

(c) Section 212(d)(3) of the INA, as amended by section 601(d)(2)(B)(i) of the Immigration Act of 1990, is amended—

(1) by striking "(3)(A)," and inserting "(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii)," each place it appears, and

(2) by striking "(3)(D)" and inserting "(3)(E)" each place it appears.

(d) Section 212(g)(1) of the Immigration and Nationality Act, as amended by section 601(d)(3) of the Immigration Act of 1990, is amended by striking "section (a)(1)(A)(i)" and inserting "subsection (a)(1)(A)(i)".

(e) Section 212(h) of the INA, as amended by section 601(d)(4) of the Immigration Act of 1990, is amended—

(1) in the matter before paragraph (1), by striking "in the case of " and all that follows through "permanent residence"; and

(2) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting "(A) in the case of any immigrant" after "(1)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking "and" at the end of subparagraph (C) and inserting "or",

(D) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and

(E) by adding at the end the following:

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and".

(f) Section 212(i) of the INA, as amended by section 601(d)(5) of the Immigration Act of 1990, is amended by striking "alien" and "alien's" each place it appears and inserting "immigrant" and "immigrant's", respectively.

(g) Section 241(a) of the INA, as amended by section 602(a) of the Immigration Act of 1990, is amended—

(1) by striking "deportable as being", and by inserting "deportable" after "the following classes of";

(2) in paragraph (1)(D)(i), by inserting "respective" after "terminated under such";

(3) in paragraph (1)(E)(i), by inserting "any" before "entry" the second and third places it appears;

(4) in paragraph (1)(E), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien under section 112 or 301 of Immigration Act of 1990 if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(5) in paragraph (1)(G), by striking "212(a)(5)(C)(i)" and inserting "212(a)(6)(C)(i)";

(6) in paragraph (1)(H), by striking "paragraph (6) or (7)" and inserting "paragraph (4)(D)";

(7) in paragraph (2)(D), by inserting "or attempt" after "conspiracy";

(8) in paragraph (3), by adding at the end the following:

"(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.";

(9) in subparagraphs (A) and (B) of paragraph (4), by striking "after entry has engaged" and inserting "after entry engages"; and

(10) in paragraph (4)(C)(ii), by striking "excluability" and inserting "excludability".

(h) Section 102 of the INA, as amended by section 603(a)(2) of the Immigration Act of 1990, is amended by striking "paragraph (3) (other than subparagraph (E)) of section 212(a)" each place it appears and inserting "subparagraphs (A) through (C) of section 212(a)(3)".

(i) Effective as if included in section 603(a)(5) of the Immigration Act of 1990, section 210(b)(7)(B) of the INA is amended by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)".

(j) Effective as if included in section 602(b) of the Immigration Act of 1990, section 241 of the INA is amended—

(1) by striking subsection (d), and

(2) in the subsection (h) (added by section 153(b) of the Immigration Act of 1990) by striking "exist" and inserting "existed" and by redesignating the subsection as subsection (c).

(k) Effective as if included in section 603(a) of the Immigration Act of 1990:

(1) Sections 207(c)(3) and 209(c) of the Immigration and Nationality Act, as amended by section 603(a)(4)(B) of the Immigration Act of 1990, are each amended by striking "subparagraphs (A)" and inserting "subparagraph (A)".

(2) Section 210A(e)(2)(B) of the INA is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) Paragraph (3) (relating to security and related grounds).".

(3) Section 217(a) of the INA is amended by striking "(26)(B)" and inserting "(7)(B)(i)(II)".

(4) Section 218(g)(3) of the INA is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)(i)".

(5) Section 244A(c) of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(A) in paragraph (2)(A)(iii)(I), by striking "paragraphs (9) and (10)" and inserting "paragraphs (2)(A) and (2)(B)"; and

(C) by amending subclause (III) of paragraph (2)(A)(iii) to read as follows:

"(III) paragraphs (3)(A), (3)(B), (3)(C), or (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).".

(6) Section 245A(d)(2)(B)(ii) of the INA is amended—

(A) by striking subclause (IV),

(B) by redesignating subclause (II) as subclause (IV) and by transferring and inserting it after clause (III),

(C) by redesignating subclause (III) as subclause (II),

(D) by inserting after subclause (II) (as so redesignated) the following new subclause:

"(III) Paragraph (3) (relating to security and related grounds).", and

(E) by striking "Subclause (II)" and inserting "Subclause (IV)".

(7) Section 272(a) of the Immigration and Nationality Act is amended by striking the comma before "shall pay".

(8) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended by section 603(a)(20)(B) of the Immigration Act of 1990, is amended by striking "(D)" and inserting "(E)".

(9) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking "(23)(B), (27), (29), or (33)" and inserting "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

(10) Section 2(a)(3) of the Immigration Nursing Relief Act of 1989 is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)".

(l) Effective as if included in section 603(b) of the Immigration Act of 1990—

(1) paragraph (4)(B) of such section is amended by striking "in paragraph (2)", and

(2) section 242(e) of the Immigration and Nationality Act is amended by striking "paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3), or (4)".

SEC. 8. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

(a) Effective October 1, 1991, section 245(e)(3) of the Immigration and Nationality Act, as added by section 702(a)(2) of Immigration Act of 1990, is amended by striking "204(h)" and inserting "204(g)".

(b) Section 702(b) of the Immigration Act of 1990 is amended by striking "204(h) (8 U.S.C. 1154(h))" and inserting "204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act,".

(c) Section 304(f) of the Immigration Reform and Control Act of 1986, as amended by section 704(b) of the Immigration Act of 1990, is amended—

(1) by striking "appointment in the and" and inserting "appointment and", and

(2) by striking "civil" the first place it appears and inserting "competitive".

(d) Section 404(b)(2)(A) of the INA, as added by section 705(a)(5) of the Immigration Act of 1990, is amended by adding at the end the following new sentence:

"In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district."

SEC. 9. ADDITIONAL MISCELLANEOUS CORRECTIONS.

(a) Section 204(c) of the Immigration Reform and Control Act of 1986 is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "temporary resident aliens" and inserting "eligible legalized aliens",

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end the following new sentence: "In subparagraph (D), the term 'eligible legalized alien' includes an alien who applies on a timely basis to become an eligible legalized alien, until the date there has been a final determination with respect to such application.";

(2) by amending subparagraph (D) of paragraph (2) to read as follows:

"(D) A State is permitted to expend in each fiscal year an amount not to exceed $100,000 (or, if greater, 1 percent) for the purposes described in each of subparagraphs (D) and (E) of paragraph (1). If a State expends with respect to a fiscal year under either such subparagraph for such purposes less than the maximum permitted under the previous sentence, the maximum amount that

may be expended for such purposes with respect to the succeeding year shall be increased by the amount of such shortfall."; and

(3) in paragraph (3)(B), by striking "4105(b)(1)(A)" and inserting "3126(b)(1)(A)".

(b)(1)(A) Section 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100–459, 102 Stat. 2203) is amended—

(i) in subsection (a)—

(I) by striking "Title 8, United States Code, section 1356 is amended by adding" and inserting "Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end", and

(II) in the subsection (o) added by such subsection, by striking "will" and inserting "shall"; and

(ii) by amending subsection (b) to read as follows:

"(b) Section 344(g) of the Immigration and Nationality Act (8 U.S.C. 1455(g)) is amended by inserting after 'Treasury of the United States' the following: 'except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 286(m)'.".

(B) The fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101–162, 103 Stat. 1000) is amended to read as follows: ": *Provided further*, That section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by striking 'in excess of $50,000,000' and by striking the second sentence".

(2)(A) Section 286 of the INA, as amended by section 210 of the Department of Justice Appropriations Act, 1991, is amended—

(i) in subsection (h)(1)(A), by inserting a period after "available until expended",

(ii) in subsection (m), by striking "additonal" and inserting "additional",

(iii) by moving the left margins of subsection (q)(2) and the matter in subsection (q)(3)(A) (before clause (i)) 2 ems to the left,

(iv) in subsection (q)(3)(A), by inserting "the" after "The Secretary of", and

(v) in subsection (q)(5)(B), by striking "subsection (q)(1)" and inserting "paragraph (1)".

(B) Section 210(a)(2) of the Department of Justice Appropriations Act, 1991, is amended by striking "in which fees" and inserting "in which the fees".

(3) The amendments made by paragraph (1) and (2) shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(c)(1) Section 101(a)(15)(D)(i) of the INA is amended by inserting a comma after "States)".

(2) The item in the table of contents of the INA relating to section 242A is amended by striking "Procedures" and inserting "procedures".

(3) The item in the table of contents of the INA relating to section 345 is repealed.

(4) Section 101(c)(1) of the INA is amended by striking "322, and 323" and inserting "and 322".

(5) Section 204(f)(4)(A)(ii)(II) of the INA, as redesignated by section 162(d)(6) of the Immigration Act of 1990, is amended by striking "section 652 of such Act" and inserting "the second and third sentences of such section".

(6) Paragraph (3) of section 210(d) of the INA is amended—

(A) by indenting the paragraph (and its subparagraphs) 2 ems to the right;

(B) by striking "the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA)" and inserting "Service pursuant to this subsection";

(C) in the matter before subparagraph (A), by striking "INS" each place it appears and inserting "Service";

(D) in subparagraph (A), by striking "as defined in section 210(a)(1)(A) of the INA the INS" and inserting "described in subsection (a)(1)(A) the Service";

(E) in subparagraph (A), by striking "in the INA" and inserting "in this Act";

(F) in subparagraph (B), by striking "as defined in section 210(a)(1)(B)(1)(B) of the INA" and inserting "described in subsection (a)(1)(A)"; and

(G) in subparagraph (B), by striking "section 210(b)(1)(A)" and inserting "subsection (b)(1)(A)".

(7) Section 212(j) of the INA is amended by striking "International Communication Agency" in paragraphs (1)(D) and (3) and inserting "United States Information Agency".

(8) Section 218(i)(1) of the INA is amended by striking "274A(g)" and inserting "274A(h)(3)".

(9) Section 242(h) of the INA is amended by inserting a comma after "Parole".

(10) Section 242A(a) of the Immigration and Nationality Act is amended by striking "101(a)(43)" and inserting "101(a)(43))".

(11) Section 274A(b)(1)(D)(ii) of the INA is amended by striking "clause (ii)" and inserting "clause (i)".

(12) Section 313(a)(2) of the INA is amended by inserting "and" before "(F)" and by striking "; (G)" and all that follows through "of 1950" the second place it appears.

(13) Section 286(e)(1)(D) of the INA is amended by striking "of this title".

(14) Section 344(c) of the INA, as redesignated by section 407(d)(19)(F) of the Immigration Act of 1990, is amended by striking "of this subchapter" and inserting "of this title".

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99–653).

SEC. 10. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 2 through 8 shall take effect as if included in the enactment of the Immigration Act of 1990,

(2) section 9(a) shall be effective with respect to allotments for fiscal years beginning with fiscal year 1989, and

(3) section 9(c) shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

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Mr. MAZZOLI. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. HARRIS].

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2824

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from the bill, H.R. 2824.

The SPEAKER pro tempore. (Mr. HALL of Texas). Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3670 consists of a number of technical amendments to the Immigration and Nationality Act. About 90 percent of the provisions in this measure are corrections to the Immigration Act of 1990.

Whenever a complex and major piece of legislation like the 1990 act is enacted, there are bound to be some oversights and technical errors. This legislation will correct those errors and oversights.

These technical amendments have come to my attention and the attention of my colleagues in a variety of ways. Some have been noticed to us by constituents and affected groups, some by the administration, and many by House and Senate staff, the law revision counsel, and the House legislative counsel.

Almost everything in H.R. 3670 is purely technical, such as corrections of spelling, surplus language, wrong cross-references, and faulty grammar and terminology, but there are a very few substantive provisions in the bill. However, they neither increase or decrease the visa levels set in last year's Immigration Act, and, nothing in the bill is controversial.

Our immigration law is inherently complicated. This bill, which has had the bipartisan support of the committee, will make that law more logical, easier to implement, and fairer for all.

I urge my colleagues to support H.R. 3670.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this particular bill, as was described by the gentleman from Kentucky [Mr. MAZZOLI], is not anything more than a technical bill. There is nothing in it which any of us are considering a major provision, but it does address the numerous problems as described in the bill that we passed in 1990, and those problems, being technical in nature, are such that, if we do not correct them out here tonight, we do not get on with them, why we cannot prevent problems to people out in the field trying to implement the law. So, we need to pass it.

The Speaker, there is no reason I know of to get in any controversy or debate on it, and I am not going to take any more time on it.

Mr. Speaker, I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

VOL 137 PT 23 NO 21–25 1991 UMI

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 3670, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3670, the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

O AND P NONIMMIGRANT AMENDMENTS OF 1991

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3048) to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants, as amended.

The Clerk read as follows:

H.R. 3048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "O and P Nonimmigrant Amendments of 1991".

SEC. 2. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) IN GENERAL.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)), as added by section 205(a) of the Immigration Act of 1990, is amended—

(1) by adding "or" at the end of subparagraph (A),

(2) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(3) by striking subparagraph (C).

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 3. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) SUBSTITUTION OF NEW STANDARDS.—Clause (i) of section 101(a)(15)(P) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended to read as follows:

"(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);".

(b) NEW STANDARDS.—Section 214(c)(4) of such Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by redesignating subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

"(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

"(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

"(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

"(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

"(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

"(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

"(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

"(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

"(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.".

SEC. 4. CONSULTATION REQUIREMENT.

Section 214(c) of the Immigration and Nationality Act, as amended by section 207(b)(2) of the Immigration Act of 1990, is amended—

(1) in paragraph (3)(A), by striking "after consultation with peer groups in the area of the alien's ability" and inserting "after consultation in accordance with paragraph (6)",

(2) in paragraph (3)(B), by striking "after consultation with labor organizations with expertise in the skill area involved" and inserting "after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability",

(3) in paragraph (4)(C), as redesignated by section 3(b), by striking "clause (ii) of",

(4) in paragraph (4)(D), as redesignated by section 3(b), by striking "after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved" and inserting "after consultation in accordance with paragraph (6)",

(5) by redesignating paragraph (6) as paragraph (7), and

(6) by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) To meet the consultation requirement of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.

"(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

"(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

"(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

"(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

"(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the

Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

"(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

"(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

"(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate.".

SEC. 5. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) DEFINITION OF EXTRAORDINARY ABILITY IN THE ARTS FOR O NONIMMIGRANTS.—Section 101(a) of the Immigration and Nationality Act, as amended by sections 123 and 204(c) of the Immigration Act of 1990, is amended by adding at the end the following new paragraph:

"(46) The term 'extraordinary ability' means, for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.".

(b) ELIMINATING ADDITIONAL PAPERWORK REQUIREMENT FOR O-1'S.—Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, as amended by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", but only" and all that follows up to the semicolon at the end.

(c) CLARIFICATION OF SIGNIFICANT PHOTOGRAPHY FOR O-2'S.—Section 101(a)(15)(O)(ii)(III)(b) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking "significant principal photography" and inserting "significant production (including pre- and post-production work)".

(d) CLARIFICATION OF MULTIPLE EVENTS FOR VISAS FOR O NONIMMIGRANTS.—Section 214(a)(2)(A) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by inserting "(or events)" after "event".

(e) CONSULTATION WITH RESPECT TO READMITTED O-1 NONIMMIGRANTS.—Section 214(c)(3) of the Immigration and Nationality Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by adding at the end the following: "The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.".

SEC. 6. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) ELIMINATING 3-MONTH OUT-OF-COUNTRY RULE FOR P-2 AND P-3 NONIMMIGRANTS.—Section 214(a)(2)(B) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended—

(1) by striking "(B)(i)" and inserting "(B)", and

(2) by striking clause (ii).

(b) TREATMENT OF FOREIGN ORGANIZATIONS FOR P-2 NONIMMIGRANTS.—Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by inserting "or organizations" after "and an organization".

(c) TREATMENT OF P-2 NONIMMIGRANTS.—(1) Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", between the United States and the foreign states involved".

(2) Section 214(c)(4)(E) of the Immigration and Nationality Act, as added by 207(b)(2)(B) of the Immigration Act of 1990 and as redesignated by section 3(b) of this Act, is amended by striking ", in order to assure reciprocity in fact with foreign states".

(d) PERFORMANCE OF TEACHING AND COACHING FUNCTIONS BY P-3 NONIMMIGRANTS.—Section 101(a)(15)(P)(iii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended—

(1) by striking "for the purpose of performing" and inserting "to perform, teach, or coach", and

(2) by inserting "commercial or noncommercial" before "program".

SEC. 7. OTHER AMENDMENTS.

(a) RETURN TRANSPORTATION REQUIREMENT FOR O AND P NONIMMIGRANTS.—Section 214(c)(5) of the Immigration and Nationality Act, as added by section 207(b)(2) of the Immigration Act of 1990, is amended by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) or 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.".

(b) ENTRY OF FASHION MODELS UNDER H-1B.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended—

(1) by inserting "or as a fashion model" after "214(i)(1)", and

(2) by inserting "or, in the case of a fashion model, is of distinguished merit and ability" after "214(i)(2)".

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(3)), as amended by section 207(b)(2) of the Immigration Act of 1990 and by section 4 of this Act, is amended by adding at the end the following new paragraph:

"(8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

"(A) The number of such petitions which have been filed.

"(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

"(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

"(D) The number of such petitions which have been withdrawn.

"(E) The number of such petitions which are awaiting final action.".

(2) DEADLINE FOR FIRST REPORT.—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 8. EFFECTIVE DATE.

The provisions of, and amendments made by, this Act shall take effect on April 1, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3048 would amend the Immigration and Nationality Act to remove unnecessary and burdensome requirements that restrict the numbers and types of foreign artists, athletes, and entertainers who may be issued nonimmigrant visas to perform or entertain in the United States.

This legislation has gone through a number of amendments and refinements since its introduction back in July. It has been a difficult process, but the bill we bring to the floor today has received broad bipartisan support in the Judiciary Committee.

I thank my colleagues on the subcommittee for their superb cooperation and genuine consideration. It is a pleasure and honor to work with them.

Mr. Speaker, this is a compromise measure that protects domestic artists from unfair foreign competition and at the same time guarantees that this country will continue to be enriched by the unique talents of artists and entertainers from abroad.

By way of background, the Immigration Act of 1990—Public Law 101-649—created a number of new nonimmigrant visa categories.

Two of these new visa categories, however, were inartfully conceived and poorly drawn—the "O" and "P" visa categories. Each category authorizes the temporary admission of certain highly skilled foreigners.

Generally speaking, the O category is reserved for aliens who have reached the very top of their profession in the sciences, business, education, athletics, or the arts.

The P category differs from the O category not only with respect to the categories of aliens covered but also with respect to the degree of acclaim or skill an individual must have in

VOL 137 PT 23 NO 21—25 1991 UMI

order to qualify for a visa. Both the O and the P categories have subcategories.

During the past year, the Subcommittee on International Law, Immigration, and Refugees received numerous letters from representatives of arts groups—profit and nonprofit theaters, opera, symphony orchestras, dance groups, performing arts centers, and even circuses—expressing fears, which I share, that the new O and P visa categories would severely and unduly restrict the numbers and types of foreign artists entering the United States. Similarly, the Cultural Council of the European Community formally issued a resolution of objection regarding the new visa categories.

On October 9, the Subcommittee on International Law, Immigration, and Refugees, which I am honored to chair, held a hearing on this bill. The testimony we received from the administration, labor unions, and arts presenters was extremely helpful in helping us craft the bill now before us.

Turning to the substance of the bill, some of its more important features are as follows:

First, current law imposes a 25,000 annual cap on the number of aliens who may receive P–1 and P–3 visas; the bill allows admission of all qualified P–1 and P–3 aliens.

Second, current law requires that all members of a P–1 entertainment group have at least 1 year's experience with that group; the bill establishes a general rule that the 1-year requirement shall apply, but allows for exceptions, automatically waives the 1-year requirement for 25 percent of the members of the group, and provides an additional waiver of the 1-year rule whenever a group member must be replaced because of exigent circumstances.

Third, current law requires that P–1 alien groups be internationally recognized; the bill allows waiver of the international recognition standard in special circumstances.

Fourth, current law requires that P–2 and P–3 aliens must remain outside the United States for at least 3 months before they can be readmitted; the bill allows for immediate readmission of otherwise qualified persons.

Fifth, current law establishes no procedures for the expedited admission of O and P artists, entertainers and athletes who face exigent circumstances; the bill directs the Immigration Service to establish such expedited admission procedures.

Sixth, current law imposes a requirement of extraordinary ability on O–1 artist and entertainers; the bill relaxes the extraordinary ability requirement by requiring instead distinction.

Seventh, current law requires INS to make a finding in each case that an O–1 alien's admission will benefit the United States; the bill deletes that requirement.

Eighth, current law requires INS to consult with an appropriate labor union or peer group every time an O–1 alien seeks admission; the bill waives the consultation requirement for O–1 aliens with respect to whom a consultation has occurred within the previous 2 years and allows INS to waive the consultation requirement if no such labor union or peer group exists.

Mr. Speaker, there can be little doubt that current law must be reformed. I believe that this measure corrects the mistakes of last year's law, and I urge my colleagues to give this bill their support.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Kentucky [Mr. MAZZOLI] has been very gracious in talking about our committee. He has chaired it very ably, and I have served with him a number of years on the Subcommittee on International Law, Immigration, and Refugees. So, it has been a very, very fine year to serve with the gentleman. It is always a pleasure. He reaches for consensus, and that is what happened in the bill that is before us.

I think that is why, when we talk about the O and P visas and the need to make some changes in the law to allow particularly performers in the arts to be able to come to our country and perform in various theater productions, and opera companies and so on, it is why we were able to make these changes in such an amicable way that allows that to occur and still provides the protection that we need to provide, of course, for our own citizens so that there is not an inappropriate number of foreign artists coming to this country, but there is a need for us to have those kinds of artists come here, in particular educators, in some cases scientists and others that are covered by these visas to teach in our schools and so on.

So, Mr. Speaker, the bill is substantive. It is not a simple bill, not a technical corrections bill, but rather one that does provide some substantive relief, and, yes, as the gentleman from Kentucky [Mr. MAZZOLI] said, our staffs have worked very hard on it. Claudia Strom is with me tonight, served as counsel for this subcommittee last year on the minority side and has been much involved this year, and to all our staff on both sides of the aisle, we want to thank them, as the gentleman from Kentucky did, because I assume this is the last bill, pray that it is of this committee, that we will see out this year.

Mr. Speaker, with no controversy and no further requests for time, I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 3048, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 1991

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3531) to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Trademark Office Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Patent and Trademark Office for fiscal year 1992—

(1) $95,000,000 for salaries and necessary expenses, which shall be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund established under section 10101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508);

(2) such sums as are equal to the amount collected during that year from fees under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following); and

(3) $24,000,000 for administrative, capital, or other expenditures not provided for under paragraphs (1) and (2).

(b) AMENDMENTS TO BUDGET RECONCILIATION ACT.—Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "of 69 percent, rounded by standard arithmetic rules,"; and

(B) by inserting before the period ", in order to ensure that the amounts specified in subsection (c) are collected".

(2) Subsection (b)(1)(B) is amended by inserting "of these surcharges," after "(B)".

(3) Subsection (c) is amended—

(A) by striking "REVISIONS" and inserting "ESTABLISHMENT OF SURCHARGES"; and

(B) by striking "surcharges" and all that follows through "Trademarks" and inserting "the Commissioner of Patents and Trademarks shall establish surcharges under subsection (a)".

(c) WAIVER OF CERTAIN RESTRICTIONS.—Surcharges established for fiscal year 1992 under section 10101(c) of the Omnibus Budget Reconciliation Act of 1990 may take effect on or after 1 day after such surcharges are published in the Federal Register. Section 553 of title 5, United States Code, shall not apply to the establishment of such surcharges for fiscal year 1992.

SEC. 3. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated under this Act may remain available until expended.

SEC. 4. OVERSIGHT OF PATENT AND TRADEMARK FEES.

Section 42 of title 35, United States Code, is amended by adding at the end the following:

"(e) The Secretary of Commerce shall, on the day each year on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

"(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

"(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

"(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

"(4) any proposed disposition of surplus fees by the Office; and

"(5) such other information as the committees consider necessary.".

SEC. 5. PATENT AND TRADEMARK FEES.

"(a) FEE SCHEDULES.—(1) Section 41(a) of title 35, United States Code, is amended to read as follows:

"(a) The Commissioner shall charge the following fees:

"(1)(A) On filing each application for an original patent, except in design or plant cases, $500.

"(B) In addition, on filing or on presentation at any other time, $52 for each claim in independent form which is in excess of 3, $14 for each claim (whether independent or dependent) which is in excess of 20, and $160 for each application containing a multiple dependent claim.

"(2) For issuing each original or reissue patent, except in design or plant cases, $820.

"(3) In design and plant cases—

"(A) on filing each design application, $200;

"(B) on filing each plant application, $330;

"(C) on issuing each design patent, $290; and

"(D) on issuing each plant patent, $410.

"(4)(A) On filing each application for the reissue of a patent, $500.

"(B) In addition, on filing or on presentation at any other time, $52 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $14 for each claim (whether independent or dependent) which is in excess of 20 and also in excess of the number of claims of the original patent.

"(5) On filing each disclaimer, $78.

"(6)(A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, $190.

"(B) In addition, on filing a brief in support of the appeal, $190, and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, $160.

"(7) On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, $820, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $78.

"(8) For petitions for 1-month extensions of time to take actions required by the Commissioner in an application—

"(A) on filing a first petition, $78;

"(B) on filing a second petition, $172; and

"(C) on filing a third petition or subsequent petition, $340.

"(9) Basic national fee for an international application where the Patent and Trademark Office was the International Preliminary Examining Authority and the International Searching Authority, $450.

"(10) Basic national fee for an international application where the Patent and Trademark Office was the International Searching Authority but not the International Preliminary Examining Authority, $500.

"(11) Basic national fee for an international application where the Patent and Trademark Office was neither the International Searching Authority nor the International Preliminary Examining Authority, $670.

"(12) Basic national fee for an international application where the international preliminary examination has been paid to the Patent and Trademark Office, and the international preliminary examination report states that the provisions of Article 33(2), (3), and (4) of the Patent Cooperation Treaty have been satisfied for all claims in the application entering the national stage, $166.

"(13) For filing or later presentation of each independent claim in the national stage of an international application in excess of 3, $52.

"(14) For filing or later presentation of each claim (whether independent or dependent) in a national stage of an international application in excess of 20, $14.

"(15) For each national stage of an international application containing a multiple dependent claim, $160.

For the purpose of computing fees, a multiple dependent claim as referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.".

(2) Subsection (b) of section 41 of title 35, United States Code, is amended by striking "a patent in force" and all that follows through the end of paragraph 3, and inserting the following: "in force all patents based on applications filed on or after December 12, 1980:

"(1) 3 years and 6 months after grant, $650.

"(2) 7 years and 6 months after grant, $1,310.

"(3) 11 years and 6 months after grant, $1,980.".

(3) Subsection (d) of section 41 of title 35, United States Code, is amended to read as follows:

"(d) The Commissioner shall establish fees for all other processing, services, or materials relating to patents not specified in this section to recover the estimated average cost to the Office of such processing, services, or materials, except that the Commissioner shall charge the following fees for the following services:

"(1) For recording a document affecting title, $40 per property.

"(2) For each photocopy, $.25 per page.

"(3) For each black and white copy of a patent, $3. The yearly fee for providing a library specified in section 13 of this title with uncertified printed copies of the specifications and drawings for all patents in that year shall be $50.".

(b) AUTHORITY TO INCREASE FEES.—Section 41(f) of title 35, United States Code, is amended by striking "on October 1, 1985, and every third year thereafter, to reflect any fluctuations occurring during the previous three years" and inserting "on October 1, 1992, and every year thereafter, to reflect any fluctuations occurring during the previous 12 months".

(c) NOTICE OF FEES.—(1) Section 41(g) of title 35, United States Code, is amended to read as follows:

"(g) No fee established by the Commissioner under this section shall take effect until at least 30 days after notice of the fee has been published in the Federal Register and in the Official Gazette of the Patent and Trademark Office.".

(2) Fees established by the Commissioner of Patents and Trademarks under section 41(d) of title 35, United States Code, during fiscal year 1992 may take effect on or after 1 day after such fees are published in the Federal Register. Section 41(g) of title 35, United States Code, and section 553 of title 5, United States Code, shall not apply to the establishment of such fees during fiscal year 1992.

(d) PATENT AND TRADEMARK COLLECTIONS; PUBLIC ACCESS.—(1) Section 41 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Commissioner shall maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations arranged to permit search for and retrieval of information. The Commissioner may not impose fees directly for the use of such collections, or for the use of the public patent or trademark search rooms or libraries.

"(2) The Commissioner shall provide for the full deployment of the automated search systems of the Patent and Trademark Office so that such systems are available for use by the public, and shall assure full access by the public to, and dissemination of, patent and trademark information, using a variety of automated methods, including electronic bulletin boards and remote access by users to mass storage and retrieval systems.

"(3) The Commissioner may establish reasonable fees for access by the public to the automated search systems of the Patent and Trademark Office. If such fees are established, a limited amount of free access shall be made available to users of the systems for purposes of education and training. The Commissioner may waive the payment by an individual of fees authorized by this subsection upon a showing of need or hardship, and if such a waiver is in the public interest.

"(4) The Commissioner shall submit to the Congress an annual report on the automated search systems of the Patent and Trademark Office and the access by the public to such systems. The Commissioner shall also publish such report in the Federal Register. The Commissioner shall provide an opportunity for the submission of comments by interested persons on each such report.".

(2)(A) The section heading for section 41 of title 35, United States Code, is amended to read as follows:

"§ 41. Patent fees; patent and trademark search systems".

(B) The items in the table of sections at the beginning of chapter 4 of title 35, United States Code, are amended to read as follows:

"41. Patent fees: patent and trademark search systems.
"42. Patent and Trademark Office funding.".

(C) The chapter heading for chapter 4 of title 35, United States Code, is amended to read as follows:

CHAPTER 4—PATENT FEES; FUNDING; SEARCH SYSTEMS".

(D) The items relating to chapters 3 and 4 in the table of chapters for part I of title 35, United States Code, are amended to read as follows:

"3. Practice Before Patent and Trademark Office 31
"4. Patent Fees; Funding; Search Systems .... 41".

(e) USE OF FEES.—Subsection 42(c) of title

agreement relating to data for automation

carry out the provision of certain inter-

the gentleman from California [Mr.

Mr. MAZZOLI. Mr. Speaker, will the

Mr. HUGHES. Mr. Speaker, we would

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(e) Use of Fees.—Subsection 42(c) of title 35, United States Code, is amended to read as follows:

"(c) Revenues from fees shall be available to the commissioner to carry out, to the extent provided in appropriation Acts, the activities of the Patent and Trademark Office. Fees available to the Commissioner under section 31 of the Trademark Act of 1946 may be used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks and to cover a proportionate share of the administrative costs of the Patent and Trademark Office.".

(f) Trademark Fees.—(1) Section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) is amended to read as follows:

"(a) The Commissioner shall establish fees for the filing and processing of an application for the registration of a trademark or other mark and for all other services performed by and materials furnished by the Patent and Trademark Office related to trademarks and other marks. Fees established under this subsection may be adjusted by the Commissioner once each year to reflect, in the aggregate, any fluctuations during the preceding 12 months in the Consumer Price Index, as determined by the Secretary of Labor. Changes of less than 1 percent may be ignored. No fee established under this section shall take effect until at least 30 days after notice of the fee has been published in the Federal Register and in the Official Gazette of the Patent and Trademark Office."

(2) Fees established by the Commissioner of Patents and Trademarks under section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) during fiscal year 1992—

(A) may, notwithstanding the second sentence of such section 31(a), reflect fluctuations during the preceding 3 years in the Consumer Price Index; and

(B) may take effect on or after 1 day after such fees are published in the Federal Register.

The last sentence of section 31(a) of the Trademark Act of 1946 and section 553 of title 5, United States Code, shall not apply to the establishment of such fees during fiscal year 1992.

(g) International Application Fees.—(1) Section 376 of title 35, United States Code, is amended—

(A) in subsection (a)—

(i) in the second sentence by inserting after "Office" the following: "shall charge a national fee as provided in section 41(a), and"; and

(ii) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(B) in subsection (b) in the last sentence by striking "the preliminary examination fee" and inserting "the national fee, the preliminary examination fee,".

(2) Section 371(c)(1) of title 35, United States Code, is amended by striking "prescribed under section 376(a)(4) of this part" and inserting "provided in section 41(a) of this title".

SEC. 6. USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED.

The Commissioner of Patents and Trademarks may not, during fiscal year 1992, enter into any agreement for the exchange of items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and machine readable data). The preceding sentence shall not apply to an agreement relating to data for automation programs which is entered into with a foreign government or with an international intergovernmental organization.

SEC. 7. INDEMNIFICATION OF EMPLOYEES.

The Commissioner of Patents and Trademarks is authorized to indemnify any officer or employee of the Patent and Trademark Office who participated in the Law School Tuition Assistance Program of the Patent and Trademark Office, against tax liability incurred as a result of payments made to law schools under the program in tax years 1988, 1989, and 1990.

SEC. 8. DUTIES OF COMMISSIONER.

Section 6(a) of title 35, United States code, is amended by striking "and shall have" and inserting ", including programs to recognize, identify, assess and forecast the technology of patented inventions and their utility to industry; and shall have".

SEC. 9. REPEAL OF PRIOR AUTHORIZATION ACTS.

Subsections (b) and (c) of section 104 of Public Law 100-703 are repealed.

SEC. 10. GAO REPORTING REQUIREMENT.

Section 202(b)(3) of title 35, United States Code, is amended by striking "each year" and inserting "every 5 years".

SEC. 11. PATENT INFORMATION DISSEMINATION.

(a) Definitions.—For purposes of this section—

(1) the term "CD-ROMs" means compact discs formatted with read-only memory, including such discs that make use of advanced optical storage technology;

(2) the term "classified patent information" means patent information organized by the subject matter of the claimed invention according to the United States Patent Classification System or the classification system used by the country or authority that issues a patent;

(3) the term "Commissioner" means the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks; and

(4) the term "patent information" means a complete and exact facsimile of a patent or patent application, including the text and all images contained therein (such as drawings, diagrams, formulas, and tables).

(b) Information Dissemination Program.—No later than January 1, 1992, the Commissioner shall establish a demonstration program which shall make patent information available in accordance with the provisions of this section, through October 1, 1992. The Commissioner shall produce master CD-ROMs containing classified patent information and provide copies of them to the public for purchase.

(c) Information to be Disseminated.—The patent information that shall be disseminated pursuant to this section shall be patent information in the possession of the Commissioner in computer readable form, including information on selected subclasses of United States patents, as determined by the Commissioner.

(d) Fees.—The Commissioner shall establish fees for the purchase of CD-ROMs, at a rate sufficient to recover the estimated average marginal cost of producing and processing purchase orders for copies of master CD-ROMs.

(e) Report.—On the date that is 1 year after the date of the enactment of this Act the Commissioner shall submit to Congress a report on the implementation of this section.

SEC. 12. DEFINITION.

For purposes of this Act, the "Trademark Act of 1946" refers to the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provision of certain international conventions, and for other purposes", approved July 5, 1945 (15 U.S.C. 1051 and following).

SEC. 13. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, except that the fees established by the amendment made by section 5(a) shall take effect on or after 1 day after such fees are published in the Federal Register.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. Hughes] will be recognized for 20 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3531 authorizes the Patent and Trademark Office for a period of 1 year. The Patent and Trademark Office was last authorized in 1988, and that authorization expired on September 30, 1991. The Committee on the Judiciary favorably reported H.R. 3531, with minor amendments, and I urge my colleagues to support this legislation today.

The efficient and proper functioning of the Patent and Trademark Office is essential to maintain a strong intellectual property system in the United States. H.R. 3531 will assure that PTO has adequate funding for fiscal year 1992. At the same time, we have tried to keep patent and trademark fees as low as possible.

H.R. 3531 contains the following key features:

First, it retains the small entity fee structure to encourage innovation by America's independent inventors, small businesses, and university researchers.

Second, it sets new patent processing fees to reflect a Patent and Trademark Office operating budget of $426 million in fiscal year 1991.

Third, it limits authorization to 1 year so that the Congress can closely monitor progress in the automation system and other aspects of PTO operations.

Fourth, it retains the fence between trademark fees and other agency funds, but authorizes use of trademark fees to pay a proportion of PTO administrative costs.

Fifth, it increases patent and trademark fees across the board, and follows the mandate of the omnibus budget reconciliation to raise the targeted $95 million in deficit savings from a surcharge on user fees.

Finally, it authorizes $26 million in public funds, in an effort to restore partial public funding for PTO operations.

The bill contains two additional provisions to improve the dissemination of information to the public through the use of CD-ROMS and public education.

I am very grateful to the ranking minority member of my subcommittee

the gentleman from California [Mr. Moorhead] for working with me to achieve the solution that we have reached today. I also thank the chairman and my colleagues on the Judiciary Committee for supporting this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from New Jersey [Mr. Hughes] for yielding this time to me. I salute him for the bill, and of course I very strongly support it. I have enjoyed working with the gentleman for many years.

I have one question. I have a friend, Ralph Brick, who has practiced in the area of patent law.

Ralph has been sending me information over the last few months and probably over a few years in which he as a practitioner and a skilled person in that area feels that the Patent Office, both because of sometimes its archaic practices and because of the fee structures and because of the length of time it might take to get patents, really puts American businesses at somewhat of a disadvantage.

In the current Business Week—the gentleman may have seen it—there is a fairly long piece on this question of whether we are at a competitive disadvantage in America with our companies because of the Patent Office. I just want to ask the gentleman, who is the leader and expert in that field, does the gentleman, as part of his reauthorization hearings next year, intend to perhaps get into the question of competitiveness and advantage and disadvantage as the Patent Office is involved?

Mr. HUGHES. Mr. Speaker, the gentleman's constituent, Ralph, I think, probably has some legitimate criticism of the present process. We are trying to automate the system, as my colleague, who works with us very closely on intellectual property issues, knows. The turnaround time, the pendency time, is around 18 months. It is much higher than that on biotechnology applications. It is much too long. Automation will enable us to do a far better job.

We have tried to address a number of other problems that have been brought to our attention, such as the small fee entity, for instance. The universities turn out a great many inventions, as the gentleman knows, and that small fee entity enables them to do that. The gentleman is very closely allied with Notre Dame University, I know. That is important to them. We maintain that in this legislation. We try to keep the fees low. We have seen an escalation of fees in the last few years, and that does hurt a lot of our small inventors.

So we do have a lot of work to do, and we do intend to have oversight hearings in the next Congress on these and other issues.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield further.

Mr. HUGHES. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I will go back to the office and get the copy of the article and perhaps send it to the gentleman.

My recollection, having scanned the article, was that essentially the Japanese function differently on the granting of patents and the whole patent process than we do, and the premise of the story, whether it is correct or not, is that this advantages Japanese companies in securing patents and perhaps protecting their patent process, and it concomitantly gives them an advantage over our companies.

I would ask the gentleman if part of his oversight hearings will deal with the subject of whether there is a competitive aspect to the patent process. We certainly want not to put our companies to any major disadvantage.

Mr. HUGHES. Mr. Speaker, both our colleague, the gentleman from California [Mr. Moorhead] and I are working with Carla Hills in connection with her negotiations in GATT, the General Agreement on Tariffs and Trade, to try to basically reach some accords. There is a lot of unfairness in many aspects of our international relationships. There is a tremendous disparity between our patent laws or our regime and the Japanese in many respects, as well as with the European Common Market and, I might say, Mexico, where we are developing the North American Free-Trade Agreement.

Patent harmonization is one of the goals really worldwide that we have so we can, in fact, protect the creators of American property, not just in this country but overseas. One of the great problems we have had as a country, as my colleague well knows, is that we have not always done the best we can do in protecting America's creativity. We have to do a far better job in the years ahead. That has been one of our strong points, and I can tell the gentleman that is one of this subcommittee's main priorities. We look forward to working with the gentleman from Kentucky on this issue.

Mr. MAZZOLI. Mr. Speaker, if the gentleman will yield for just another moment, first, if there are two people in the world who could pull off the miracle of understanding the patent laws in a way that the whole issue can be harmonized, the gentleman from New Jersey and the gentleman from California are those two people.

Last but not least, if the gentleman does conduct hearings next year, I wonder if it would be possible for Mr. Brick to testify, or perhaps if not to give his personal testimony, perhaps his written testimony could be made a part of the record. If that could be accomplished, I would feel confident that it would add to our understanding.

Mr. HUGHES. Mr. Speaker, we would be very happy to work with our distinguished colleague, the gentleman from Kentucky [Mr. Mazzoli] on that score.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend our committee chairman for quickly bringing this legislation to the floor. I would also like to commend our subcommittee chairman and his staff for the good job they have done in developing the compromise for this important legislation. The Budget Reconciliation Act of last year delivered a bit of a shock to the Judiciary Committee and to the patent community by making the PTO almost entirely user-fee funded. The Budget Act also required a 69 percent increase in user fees to make up for the loss in taxpayer money. The PTO has made tremendous improvements over the last 6 or 7 years to a point where that office rivals any office in the world. Our task is to keep this office moving forward during this difficult financial period. I believe this legislation does that and urge a favorable vote.

Mr. Speaker, we have had to make a substantial adjustment over the past decade from a primarily taxpayer funded, outdated, declining patent system, to an almost 100 percent user-fee funded, updated, modernized, and effective patent system. Although, in the early eighties, I believe we did the right thing for the betterment of the system, it has not been easy. Users and practicers have resisted this evolution all the way. When, in the early eighties, we directed the PTO to modernize and computerize its 25 million documents and come into the 20th century, no body supported that directive. When we substantially increased the fees in the early eighties very few supported that directive.

But if we hadn't taken those steps a decade ago we would be so far behind the European and the Japanese Patent Offices we would never be able to catch up. But that's not the case today. Although we have our problems and we have plenty of work to do, I believe we are about to surpass all other patent offices, in the quality of patents issued. This turnaround was accomplished through the efforts of many people, including the private patent bar and other users of the system and also the House Judiciary Committee.

If we are to continue our progress and stay ahead of the European Patent Office and the Japanese Patent Office we must continue to move forward with automation. During the hearings on the authorization of the U.S. Patent and Trademark Office, some private sector witnesses stated that the Office's automation activities should be funded from taxpayer revenues, not

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user fees. When they were asked about

moving forward and I urge its adop-

"(i) any posthumous work or of any peri-

In the case of applications made under clause

(f) Copyright Office Fees.—Section

be included in the National Film Registry,

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user fees. When they were asked about what course of action to take if taxpayer funds were not available, a few witnesses responded that work on the automation projects, including deployment of the Automated Patent System and trademark system improvements, should be discontinued, or at least significantly curtailed. In essence, these individuals would elect short-term savings in fees charged by the Office instead of investing in automation systems that may increase efficiency, increase quality, and decrease costs in the long term.

I believe the committee strongly disagrees with this approach and believes that it is necessary to take advantage of the improved automated systems that are ready for deployment and to continue to invest in improvements. To this end the committee added a new subsection 2 to 35 U.S.C. 41. This subsection is intended to mandate the deployment of automated systems developed by the Office to the work force at the Office and to the public, and to require the Office to continue to develop improvements to these systems in this and future fiscal years.

The committee recognizes that taxpayer funds are not available to underwrite the costs of automating the Patent and Trademark Office and that user fees will have to be used. Furthermore, we are aware that the level of funding provided by this act will not enable the Office to accomplish as much as it requested or as much as some members of the public may want. It will, however, enable the Office to take significant steps forward. The committee does not intend to dictate which systems are deployed this fiscal year or in future fiscal years, or to dictate to whom the systems are deployed in any given fiscal year. Decisions such as these depend heavily on costs, technical capabilities, and the amount of fee income available at the time of deployment. As such, these decisions should remain with the Commissioner.

This does not mean that the committee will not carefully scrutinize the Office's automation program. We will review this program carefully during the authorization process next year and in following years. Furthermore, the chairman of our Subcommittee on Intellectual Property and the Administration of Justice and his counterpart in the other body have requested that the Government Accounting Office review the Office's automation efforts. The committee will carefully review their findings.

Mr. Speaker, I believe that we are coming close to achieving the goal we announced back in 1980 of making our patent system a model for the world. However, today we are at an important crossroads, as to whether to continue to move forward or do we stop or do we begin the slide backward? Mr. Speaker, I believe that with H.R. 3531 we are moving forward and I urge its adoption.

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Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield back the balance of my time, I want to not only thank my colleague for his work on the Subcommittee on Intellectual Property and Judicial Administration issues in this session of Congress, but a very fine professional staff, both the majority staff and minority staff that worked well together in a bipartisan fashion. The work product that comes out of that subcommittee is outstanding because of the professionalism that inheres in our professional staff.

Mr. MOORHEAD. Mr. Speaker, I certainly second the comments about our staff. I think we have one of the finest staffs on the Hill. They do a remarkable job.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. TAYLOR of Mississippi). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3531, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COPYRIGHT AMENDMENTS ACT OF 1991

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2372) to amend title 17, United States Code, with respect to fair use and copyright renewal, to reauthorize the National Film Registry Board, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Amendments Act of 1991"..

TITLE I—RENEWAL OF COPYRIGHT

SEC. 101. SHORT TITLE.

This title may be referred to as the "Copyright Renewal Act of 1991".

SEC. 102. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of—

"(i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or

"(ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire,

the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work—

"(i) the author of such work, if the author is still living,

"(ii) the widow, widower, or children of the author, if the author is not living,

"(iii) the author's executors, if such author, widow, widower, or children are not living, or

"(iv) the author's next of kin, in the absence of a will of the author, shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, if the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year before the expiration of the original term of copyright by any person entitled under paragraph (1) (B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2) (A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

In the case of applications made under clause (i) for works not originally registered, the Register may, in accordance with regulations, require an original term registration as a condition to the registration for the renewed and extended term, except in the case of a Berne Convention work whose country of origin is not the United States.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant or a transfer or license of copyright that is made before the expiration of the original term of copyright, may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the oopyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facta stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.

"(C) If an application to register a claim in the first term of copyright is not made before expiration of the first term, the remedies of actual and statutory damages, attorney's fees, and seizure and forfeiture otherwise provided by sections 504, 505, and 509, respectively, shall not be available to the copyright owner for any act of infringement that commences before registration is made of a claim in the renewed and extended term of copyright, even if the infringing conduct continues after registration is made.".

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under paragraphs (1) and (2) of section 304(a) of title 17, United States Code, (as amended by subsection (a) of this section) shall have the same effect with respect to any grant, before the effective date of this secticn, of a transfer or license of the further term as did the renewal of a copyright before the effective date of this section under the law in effect at the time of such grant.

(c) CONFORMING AMENDMENT.—Section 304(c) of title 17, United States Code, is amended in the matter preceding paragraph (1) by striking "second proviso of subsection (a)" and inserting "subsection (a)(1)(C)".

(d) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended by striking "At" and all that follows through "unpublished work," and inserting "At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date,".

(e) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended by inserting after "409," the following: "in the application for a renewal registration,".

(f) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended—

(1) by striking "in the first term"; and

(2) by striking "$12" and inserting "$20".

(g) EFFECTIVE DATE: COPYRIGHTS AFFECTED BY AMENDMENT.—(1) Subject to paragraphs (2) and (3), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply only to those copyrights secured between January 1, 1963, and December 31, 1977. Copyrights secured before January 1, 1963, shall be governed by the provisions of section 304(a) of title 17, United States Code, as in effect on the day before the effective date of this section.

(3) This section and the amendments made by this section shall not affect any court proceedings pending on the effective date of this section.

TITLE II—NATIONAL FILM PRESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Act of 1991".

SEC. 202. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereinafter in this title referred to as the "Librarian") shall establish a National Film Registry pursuant to the provisions of this title, for the purpose of maintaining and preserving films that are culturally, historically, or aesthetically significant.

SEC. 203. DUTIES OF THE LIBRARIAN OF CONGRESS

(a) STUDY OF FILM PRESERVATION.—The Librarian shall, after consultation with the Board established pursuant to section 204, conduct a study on the current state of film preservation and restoration activities, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall, in conducting the study—

(A) take into account the objectives of the national film preservation program set forth in clauses (i) through (iii) of subsection (b)(1)(A); and

(B) consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation.

(2) Not later than 1 year after the date of the enactment of this Act, the Librarian shall submit to the Congress a report containing the results of the study conducted under paragraph (1).

(b) POWERS.—(1) The Librarian shall, after consultation with the Board, do the following:

(A) After completion of the study required by subsection (a), the Librarian shall, taking into account the results of the study, establish a comprehensive national film preservation program for motion pictures, in conjunction with other film archivists and copyright owners. The objectives of such a program shall include—

(i) coordinating activities to assure that efforts of archivists and copyright owners, and others in the public and private sector, are effective and complementary;

(ii) generating public awareness of and support for those activities; and

(iii) increasing accessibility of films for educational purposes, and improving nationwide activities in the preservation of works in other media such as videotape.

(B) The Librarian shall establish guidelines and procedures under which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication.

(C) The Librarian shall establish procedures under which the general public may make recommendations to the Board regarding the inclusion of films in the National Film Registry.

(D) The Librarian shall establish procedures for the examination by the Librarian of prints of films named for inclusion in the National Film Registry to determine their eligibility for the use of the seal of the National Film Registry under paragraph (3).

(E) The Librarian shall determine which films satisfy the criteria established under subparagraph (B) and qualify for inclusion in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in the Registry.

(2) The Librarian shall publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3) The Librarian shall provide a seal to indicate that a film has been included in the National Film Registry and is the Registry version of that film.

(4) The Librarian shall publish in the Federal Register the criteria used to determine the Registry version of a film.

(5) The Librarian shall submit to the Congress a report, not less than once every two years, listing films included in the National Film Registry and describing the activities of the Board.

(c) SEAL.—The seal provided under subsection (b)(3) may be used on any copy of the Registry version of a film. Such seal may be used only after the Librarian has examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or an authorized licensee of the copyright may place or authorize the placement of the seal on a copy of a film selected for inclusion in the National Film Registry, and the Librarian may place the seal on any print or copy of the film that is maintained in the National Film Registry Collection of the Library of Congress. The person authorized to place the seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

(d) DEVELOPMENT OF STANDARDS.—The Librarian shall develop standards or guidelines by which to assess the preservation or restoration of films that will qualify films for use of the seal under this section.

SEC. 204. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of up to 18 members, who shall be selected by the Librarian in accordance with the provisions of this section. Subject to subparagraphs (C) and (O), the Librarian shall request each organization listed in subparagraphs (A) through (P) to submit to the Librarian a list of not less than 3 candidates qualified to serve as a member of the Board. Except for the members-at-large appointed under paragraph (2), the Librarian shall appoint 1 member from each such list submitted by such organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. The organizations are the following:

(A) The Academy of Motion Pictures Arts

ployed intermittently in Government service

(A) is not included in the National Film

each such fiscal year, as reflects any in-

tary damages, attorneys fees, and sei-

proponents and opponents of moral

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(A) The Academy of Motion Pictures Arts and Sciences.

(B) The Directors Guild of America.

(C) The Writers Guild of America. The Writers Guild of America East and the Writers Guild of America West shall each nominate not less than 3 candidates, and a representative from 1 such organization shall be selected as the member and a representative from the other such organization as the alternate.

(D) The National Society of Film Critics.

(E) The Society for Cinema Studies.

(F) The American Film Institute.

(G) The Department of Theatre, Film and Television of the College of Fine Arts at the University of California, Los Angeles.

(H) The Department of Film and Television of the Tisch School of the Arts at New York University.

(I) The University Film and Video Association.

(J) The Motion Picture Association of America.

(K) The National Association of Broadcasters.

(L) The Alliance of Motion Picture and Television Producers.

(M) The Screen Actors Guild of America.

(N) The National Association of Theater Owners.

(O) The American Society of Cinematographers and the International Photographers Guild, which shall jointly submit 1 list of candidates from which a member and alternate will be selected.

(P) The United States members of the International Federation of Film Archives.

(2) In addition to the Members appointed under paragraph (1), the Librarian shall appoint up to 2 members-at-large. The Librarian shall select the at-large members from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with the film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall, in selecting 1 such member-at-large, give preference to individuals who are commercial film archivists. The Librarian shall also select from the names submitted under this paragraph an alternate for each member-at-large, who may attend those meetings to which the member-at-large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member of the Board to serve as Chairperson.

(c) TERM OF OFFICE.—The term of each member of the Board shall be 3 years, except that there shall be no limit to the number of terms that any individual member may serve.

(2) The vacancy in the Board shall be filled in the manner in which the original appointment was made under subsection (a), except that the Librarian may fill the vacancy from a list of candidates previously submitted by the organization or organizations involved. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—9 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home of regular places of business in the performance of functions of the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and the responsibilities of the Board.

SEC. 205. RESPONSIBILITIES AND POWERS OF BOARD.

(a) IN GENERAL.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and shall consult with the Librarian, as provided in section 203, with respect to the inclusion of such films in the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations, and representatives of academic institutions with film study programs. The Board shall nominate not more than 25 films each year for inclusion in the Registry.

(c) GENERAL POWERS.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Librarian and the Board considers appropriate.

SEC. 206. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) ACQUISITION OF ARCHIVAL QUALITY COPIES.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of the Registry version of each film included in the National Film Registry. Whenever possible, the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—The Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film included in the National Film Registry, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials.

(c) PROPERTY OF UNITED STATES.—All copies of films on the National Film Registry that are received by the Librarian and other materials received by the Librarian under subsection (b) shall become the property of the United States Government, subject to the provisions of title 17, United States Code.

(d) NATIONAL FILM REGISTRY COLLECTION.—All copies of films on the National Film Registry that are received by the Librarian and all materials received by the Librarian under subsection (b) shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, and in accordance with title 17, United States Code, provide for reasonable access to films such collection for scholarly and research purposes.

SEC. 207. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—(1) No person shall knowingly distribute or exhibit to the public a version of a film which bears the seal described in section 203(b)(3) if such film—

(A) is not included in the National Film Registry; or

(B) is included in the National Film Registry, but such copy was not made from a print that was examined and approved for the use of the seal by the Librarian under section 203(c).

(2) No person shall knowingly use the seal described in section 203(b)(3) to promote any version of a film other than a Registry version.

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal described in section 203(b)(3) shall be effective for each film after the Librarian publishes in the Federal Register the name of that film as selected for inclusion in the National Film Registry.

SEC. 208. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 207(a).

(b) RELIEF.—(1) Except as provided in paragraph (2), relief for a violation of section 207(a) shall be limited to the removal of the seal of the National Film Registry from the film involved in the violation.

(2) In the case of a pattern or practice of the willful violation of section 207(a), the United States district courts may order a civil fine of not more than $10,000 and appropriate injunctive relief.

SEC. 209. LIMITATIONS OF REMEDIES.

The remedies provided in section 208 shall be the exclusive remedies under this title, or any other Federal or State law, regarding the use of the seal described in section 203(b)(3).

SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate to carry out this title.

(b) EXPERTS AND CONSULTANTS.—The Librarian may, in carrying out this title, procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule. In no case may a member of the Board be paid as an expert or consultant under such section.

SEC. 211. DEFINITIONS.

As used in this title—

(1) the term "Librarian" means the Librarian of Congress;

(2) the term "Board" means the National Film Preservation Board;

(3) the term "film" means a "motion picture" as defined in section 101 of title 17, United States Code, except that such term does not include any work not originally fixed on film stock, such as work fixed on videotape or laser disks;

(4) the term "publication" means "publication" as defined in section 101 of title 17, United States Code; and

(5) the term "Registry version" means, with respect to a film, the version of the film first published, or as complete a version as the bona fide preservation and restoration activities by the Librarian, an archivist other than the Librarian, or the copyright owner can compile in those cases where the original material has been irretrievably lost.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Librarian to carry out the purposes to this title—

(1) $300,000 for fiscal year 1992, and

(2) $300,000 for each of the fiscal years 1993 and 1994, plus such additional amount, for each such fiscal year, as reflects any increase in the Consumer Price Index, as determined by the Secretary of Labor, occurring since the beginning of fiscal year 1992.

SEC. 213. EFFECTIVE DATE.

The provisions of this title shall apply to any copy of any film, including those copies of film selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988, except that any film so selected under such Act shall be deemed to have been selected for the National Film Registry under this title.

SEC. 214. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 and following) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2372—the Copyright Amendments Act of 1991—is a two-titled bill that will improve this Nation's copyright system. The bill was reported favorably by the Committee on the Judiciary with amendments on November 19, 1991. It is the work product of my subcommittee—the Subcommittee on Intellectual Property and Judicial Administration—which has jurisdiction over copyright law matters.

Title I is the Copyright Renewal Act of 1991, providing for the automatic renewal of copyrights secured on or after January 1, 1963, and before January 1, 1978, the effective date of the Copyright Revision Act of 1976.

Title I is a compromise which balances the rights of creators with the interests of users, such as those who engage in the pursuit—be it business or academic—of finding and distributing inaccessible copyrighted works.

The purpose of the renewal proposal is to allow the automatic renewal of copyright in works eligible for renewal between the years 1991 and 2005. At the same time, the bill encourages voluntary registration by removing the availability of most copyright remedies from authors or their heirs who fail to register their works.

Currently, renewal is a trap for the unwary. Compliance with the law requires authors to be aware and to remember that 27 years after first publication, a renewal registration must be filed in the Copyright Office in order to sustain the work's protection. In 1976 Congress opted to eliminate renewal for post-1987 works. This bill takes the same path.

At the same time, the bill limits the remedies of authors who fail a timely original term registration—that is, before the end of the first 28-year term of protection. Failure to file an original term registration would deny these authors the remedies of actual and monetary damages, attorneys fees, and seizure and forfeiture—provided in sections 504, 505 and 509 of the Copyright Act—for all infringements that occur in the second term of protection—47 years. These same authors would enjoy the automatic second term of protection of 47 years, whether or not they file an original term registration or a renewal term registration. Authors can cure their failure to register an original term registration by filing a renewal registration at any time during the second term, thereby availing themselves of all of the remedies of copyright for infringements which commence after the filing of the renewal registration. Prior infringements, even those that continue after the filing of a renewal registration, could only be met with a motion for injunctive relief—cease and desist—as provided in section 502 of the Copyright Act.

Permissive registration is already contemplated in the Copyright Act, and comports with our international treaty obligations. As this committee noted in its report of the Berne Convention Implement Act, "Registration * * * is in the public interest." Copyright registration promotes efficient litigation practices, to the benefit of the courts and the public as well as the parties to a lawsuit. Registration as a prerequisite to lawsuit helps to maintain the existence of a central, public depository of copyright claims. And registration fuels the Library of Congress.

Title I continues existing Copyright Office practice, allowing a renewal registration during the first term of copyright only where an original term registration has been filed. Exceptions would be made for Berne Convention works, whose country of origin is not the United States, and for universal copyright convention works—consistent with current practice—and with current obligations under both of those treaties.

Title II is the National film preservation Act of 1991, authorizing funding for film preservation activities through the year 1994. Title II will assure that films of important cultural, historical, and aesthetic significance to our country are properly preserved.

"It's a Wonderful Life," The Wizard of Oz", "Citizen Kane," and "Mr. Smith Goes to Washington" have long been cherished as part of our cultural heritage. Today these films are among the 75 Films of the National Film Registry and will be preserved for future generations. However, more than half of the feature films made in the United States before 1951 have literally vanished, and many more recent films are deteriorating quickly.

Congress first enacted the Film Preservation Act in 1988, under the leadership of Representative BOB MRAZEK, after achieving a compromise between proponents and opponents of moral rights for filmmakers. Title II of H.R. 2372 would advance the goals of the 1988 act: The promotion of film as an art form and the increased public awareness of the need to preserve our Nation's motion pictures. However, controversial film labeling provisions contained in the 1988 act have been deleted, and the current legislation places a new emphasis on the physical preservation of American films.

The film preservation activities of the Librarian of Congress fall within the jurisdictions of both the Judiciary Committee and the House Administration Committee. I would like to acknowledge the constructive efforts of the chairman of the Committee on House Administration, the gentleman from North Carolina, [Mr. ROSE], and the chairman of the Subcommittee on Libraries and Memorials, the gentleman from Missouri [Mr. CLAY] to preserve America's treasured films.

In closing, I would also thank the ranking minority member of the subcommittee, the gentleman from California, [Mr. MOORHEAD] and all of my subcommittee members for their assistance. I would also recognize the contributions of the chairman of the committee, the gentleman from Texas [Mr. BROOKS] and the ranking minority member, the gentleman from New York, [Mr. FISH].

I urge support for H.R. 2372.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my support for H.R. 2372, the Copyright Amendments Act of 1991. The legislation contains two titles. Title I deals with the automatic renewal of copyrights secured from 1963 to 1977 and title II would reauthorize the National Film Board.

Perhaps the best statement of the need for title I is found in the House report on the 1976 Copyright Revision Act. In that report the Judiciary Committee noted that:

> One of the worst features of the present (1909) copyright law is the provision for renewal of copyright. A substantial burden and expense, this unclear and highly technical requirement results in incalculable amounts of unproductive work. In a number of cases it is the cause of inadvertent and unjust loss of copyright.

Title I of H.R. 2372 represents an innovative solution to the problems caused by the two-term renewal system by providing for the automatic renewal of copyrights secured from 1963 to 1977.

That said, I wish also to note a closely related issue. I am speaking of the interpretation of the law which may prevent the continued distribution of motion pictures during the renewal term of the underlying works on which they are based and which they incorporate.

This problem has resulted from Stew-

Mr. Speaker, I yield back the balance

"(3) the term 'injury' means—

court may be taken, during the 60-day period

"(5) An action removed under this sub-

tion 1368 of this title, process, other than

VOL 137 PT 23 NO 21–25 1991 UMI

This problem has resulted from Steward versus Abend, a 1990 Supreme Court decision which overturned settled law on which the motion picture industry and copyright owners had relied since 1977. The problem comes up in this situation. A producer wishes to make a motion picture based on a preexisting work—say a novel. The producer and the novel's author strike a bargain, and the author grants a license to make and use the movie, for which he is paid. In return, his license allows the producer to use the motion picture in both the initial and renewal terms of the novel's copyright. If the author lives through the initial term, the contract remains binding. But, under Abend, if the author happens to die before the renewal term, his successors may unilaterally break the contract and demand additional payment, or even stop the continued distribution of the movie, even though the producer has fully lived up to the contract and has already paid the author for all continued uses of the movie.

It appears to me that even the Court of Appeals for the Ninth Circuit, whose decision in Abend the Supreme Court affirmed, expressed uneasiness about the result. Rather than allow the author's successor to bar continued distribution of the derivative motion picture, the court refused to enjoin that distribution and limited recovery only to monetary damages. What the outcome of that particular case will be we do not know, for the court has not yet set the amount of the recovery.

In any event, the chairman of the Intellectual Property Subcommittee, Mr. HUGHES, will join me in monitoring the way the law in this area evolves. It's possible that at some point we may need to consider corrective legislation.

Title II of H.R. 2372 would reauthorize the National Film Preservation Act for 3 additional years. The provisions of the act expired at the end of September. The original act that passed in 1988 was controversial and the existing law was the product of many political compromises which were arrived at without the benefit of the Judiciary Committee.

Title II drops the moral rights and labeling issues which are the source of the controversy in existing law and focuses on the physical preservation of films. The bill would also develop a national plan in conjunction with other major film archives to work together in the preservation of films.

Titles I and II are supported by the Copyright Office and the copyright community.

I urge its adoption.

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Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

I have no additional speakers. It is a good bill, Mr. Speaker. I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 2372, as amended.

The question was taken; and, two-thirds having voted in favor thereof, the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read, "A bill to amend title 17, United States Code, with respect to copyright renewal, to reauthorize the National Film Preservation Board, and for other purposes."

A motion to reconsider was laid on the table.

MULTIPARTY, MULTIFORUM JURISDICTION ACT OF 1991

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2450) to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions, as amended.

The Clerk read as follows:

H.R. 2450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiparty, Multiforum Jurisdiction Act of 1991".

SEC. 2. JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1368. Multiparty, multiforum jurisdiction

"(a) The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed $50,000 per person, exclusive of interest and costs, if—

"(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

"(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

"(3) substantial parts of the accident took place in different States.

"(b) For purposes of this section—

"(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

"(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

"(3) the term 'injury' means—

"(A) physical harm to a natural person; and

"(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

"(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 25 natural persons; and

"(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories or possessions of the United States.

"(c) In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

"(d) A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.".

(b) A CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1368. Multiparty, multiforum jurisdiction.".

SEC. 3. VENUE.

Section 1391 of title 28, United States Code, is amended by adding at the end the following:

"(g) A civil action in which jurisdiction of the district court is based upon section 1368 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.".

SEC. 4. MULTIDISTRICT LITIGATION.

Section 1407 of title 28, United States Code, is amended by adding at the end the following:

"(l)(1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1368 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability and punitive damages. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

"(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(3) An appeal with respect to a determination of punitive damages by the transferee

court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.".

SEC. 5. REMOVAL OF ACTIONS.

Section 1441 of title 28, United States Code, is amended—

(1) is subsection (e) by striking out "(e) The court to which such civil action is removed" and inserting in lieu thereof "(f) The court to which a civil action is removed under this section"; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

"(A) the action could have been brought in a United States district court under section 1368 of this title, or

"(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1368 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1368 in a United States district court that arises from the same accident as the action in State court, or at a later time leave of the district court.

"(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(l) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

"(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) An action removed under this subsection shall be deemed to be an action under section 1368 and an action in which jurisdiction is based on section 1368 of this title for purposes of this section and sections 1407, 1659, 1697, and 1785 of this title.

"(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.".

SEC. 6. CHOICE OF LAW.

(a) DETERMINATION BY THE COURT.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1659. Choice of law in multiparty, multiforum actions

"(a) In an action which is or could have been brought, in whole or in part, under section 1368 of this title, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include—

"(1) the place of the injury;

"(2) the place of the conduct causing the injury;

"(3) the principal places of business or domiciles of the parties;

"(4) the danger of creating unnecessary incentives for forum shopping; and

"(5) whether the choice of law would be reasonably foreseeable to the parties.

The factors set forth in paragraphs (1) through (5) shall be evaluated according to their relative importance with respect to the particular action. If good cause is shown in exceptional cases, including constitutional reasons, the court may allow the law of more than one State to be applied with respect to a party, claim, or other element of an action.

"(b) The district court making the determination under subsection (a) shall enter an order designating the single jurisdiction whose substantive law is to be applied in all other actions under section 1368 arising from the same accident as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to the parties and claims in all such actions before the court, and to all other elements of each action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to a party, claim, or other element of an action.

"(c) In an action remanded to another district court or a State court under section 1407(l)(1) or 1441(e)(2) of this title, the district court's choice of law under subsection (b) shall continue to apply.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1659. Choice of law in multiparty, multiforum actions.".

SEC. 7. SERVICE OF PROCESS.

(a) OTHER THAN SUBPOENAS.—(1) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1697. Service in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1368 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

"1697. Service in multiparty, multiforum actions.".

(b) SERVICE OF SUBPOENAS.—(1) Chapter 117 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1785. Subpoenas in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1368 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(2) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

"1785. Subpoenas in multiparty, multiforum actions.".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2450, the Multiparty, Multiforum Jurisdiction Act of 1991.

H.R. 2450, which I introduced for myself and Mr. MOORHEAD on May 23, 1991, will improve the fairness and efficiency by which the Federal judiciary resolves lawsuits arising out of accidents that involve numerous parties and multiple States.

Unfortunately, we often start our day by learning that, somewhere in the United States, a plane has crashed, a hotel has burned, or two trains have collided. Whenever tragedies such as these occur, tens, hundreds, and sometimes thousands of suits may be filed by the victims or their families in a multitude of State and Federal courts seeking compensation for their losses. Despite the fact that these suits present identical issues of fact and law, there is often no way under our current system to try all these suits in one court.

Bringing them all in a single State court may not be possible, because no one State may have constitutionally sufficient contact with all the parties to exercise personal jurisdiction over

them. The result is duplicative litiga-

ican Law Institute. This amendment

event, for example, an explosion or airplane

The Chair recognizes the gentleman

court in Charlottesville instead of

The bill has the enthusiastic support of the

VOL 137 PT 23 NO 21—25 1991 UMI

them. The result is duplicative litigation in multiple State and Federal courts.

At the same time, complete consolidation may not be possible in a single Federal court, because the statute authorizing Federal jurisdiction over suits between citizens of different States requires complete diversity of citizenship—meaning that no plaintiff can be a citizen of the same State as any defendant. Where, as in the average mass accident case, the number of plaintiffs is high, it will often be the case that one or more of them will be from the same State as a defendant, making separate, duplicative trials unavoidable.

The consequences of duplicative mass accident litigation are several. For victims, duplicative litigation can result in some accident victims recovering fully while others in the same accident recover nothing, for no better reason than that the judges, juries, and lawyers were different. For defendants, duplicative litigation can result in the imposition of multiple punitive damage awards. The courts also suffer because duplicative litigation results in the squandering of scarce judicial resources on multiple trials of the same case.

The bill before us today would provide a vehicle for consolidation of related mass accident litigation in a single Federal forum. It would do so by creating a special Federal court jurisdiction over cases involving the injury or death of 25 or more people alleging damages of over $50,000 each arising out of a single accident.

Under the bill, as long as any one plaintiff and any one defendant were citizens of different States, the requisite diversity would be established. All mass accident cases with significant multistate implications could thus be filed in or removed to Federal court.

Once in the Federal court system, all related litigation would be sent to a single Federal court. This court would next decide what State law should apply. It would then try all liability issues, and assess punitive damages when appropriate. The transferee court would then return the cases to the courts where they were originally filed for separate compensatory damages assessments.

H.R. 2450 is nearly identical to bills introduced in the last two Congresses by Bob Kastenmeier, my predecessor as Chair of the Subcommittee on Intellectual Property and Judicial Administration. Each bill passed the House in the 100th and 101st Congresses under suspension of the rules by voice vote.

The one substantive change in the bill is a simplification of the 10-factor choice of law section—in the original bill—into a more objective 5-factor approach which will follow a recent choice of law proposal from the American Law Institute. This amendment still maintains a presumption for a single jurisdiction choice of law which often would be obvious in a single-event mass tort, for example, a hotel fire, plane crash, and so forth. This new formulation, however, would still maintain alternative choice of laws for unique complex situations.

The Multiparty, Multiforum Jurisdiction Act of 1991 represents a collaborative, bipartisan effort that has included all three branches of Government, and is therefore in keeping with the finest traditions of court reform legislation. I urge your support for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2450 is important legislation. It will expand Federal jurisdiction in a very narrow and carefully defined category of cases concerning mass tort litigation.

This legislation has been carefully drafted to exclude toxic substances cases as well as product liability cases. We were told by the U.S. Judicial Conference and the Department of Justice that it would not significantly increase the workload of the Federal courts. H.R. 2450 has the support of the American Law Institute, the Judicial Conference, and the Department of Justice. I am not surprised that some lawyers are not too enthusiastic about this legislation because it would somewhat limit their ability to forum shop their case. However, the bill is intended to cut back on duplicative adjudication, wasted judicial resources, and inconsistent case results. Our chairman of the subcommittee, BILL HUGHES, has done an excellent job of describing the details of this legislation. I urge a favorable vote on H.R. 2450.

Mr. FISH. Mr. Speaker, the Judiciary Committee, last year, was very careful in making clear that this legislation is not intended to cover the ordinary product liability case.

The "single event or accident" language is intended to exclude conventional products liability cases from the scope of mass torts covered by the bill, inasmuch as product cases ordinarily involve multiple goods sold in multiple transactions to consumers who are injured in multiple incidents. The act of fabricating a defective warning or product design is not an accident as that term is defined in the bill. Moreover, the bill provides that the requisite number of deaths or injuries must occur from a single accident. While many people may be killed or injured as a result of a defective product design or warning, they are not injured in the design or warning, as they would be in an explosion or an airplane crash. Rather, they are injured later, after the products are sold, in separate, multiple events. Therefore, the creation of defective product designs or warnings are not single accidents to which the bill is intended to apply. Of course, if at least 25 people are killed or injured in a single event, for example, an explosion or airplane crash, that is caused by a defectively designed, labeled, or manufactured product, the bill would apply. The bill, as introduced, would have applied to a single event or occurrence. Accident was substituted for occurrence, in order to extinguish all doubt that the bill would not apply to cases involving repeated or prolonged exposures over time to toxic substances, asbestos or agent orange.

I urge your support for H.R. 2450.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 2450, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE XXVIII, UNITED STATES CODE, REGARDING EASTERN AND WESTERN DISTRICTS OF VIRGINIA

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 829) to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia.

The Clerk read as follows:

H.R. 829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGES IN EASTERN AND WESTERN DISTRICTS OF VIRGINIA.

Section 127 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Culpeper,", "Louisa,", and "Orange,"; and

(2) in subsection (b)—

(A) by inserting "Culpeper," after "Craig,";

(B) by inserting "Louisa," after "Lee,"; and

(C) by inserting "Orange," after "Nelson,".

SEC. 2. APPLICABILITY OF AMENDMENTS.

(a) PENDING ACTIONS.—The amendments made by section 1 shall not apply to any action commenced before the date of the enactment of this Act and pending in the United States District Court for the Eastern District of Virginia on such date.

(b) JURIES.—The amendments made by section 1 shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving in the Eastern or Western District of Virginia on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES]

Mr. HUGHES. Mr. Speaker, I yield myself such time as I my consume.

Mr. Speaker, I rise in support of H.R. 829, a bill which modifies the composition of the eastern and western districts of Virginia.

H.R. 829, which improves access to the Federal courts for the citizens of three counties in the State of Virginia, was originally introduced by our esteemed former colleague, Congressman D. French Slaughter, Jr.

At this time I would like to thank the ranking minority member of the subcommittee, Mr. MOORHEAD, for his assistance in moving this very special piece of legislation. I would also commend our colleagues, RICK BOUCHER and GEORGE ALLEN for their support of this legislation.

At present, the State of Virginia is divided into two judicial districts, the eastern and western districts. The present composition of these districts has been the cause of much inconvenience and expense to clients, jurors, and attorneys. H.R. 829 enables residents of Louisa, Culpeper, or Orange counties to enter Federal court in Charlottesville, VA, as opposed to Alexandria or Richmond, VA. This change would considerably reduce round-trip driving distances between the cities of Culpeper, Louisa, and Orange, and the present places of holding court in the eastern district of Virginia.

In conclusion, this measure has met with a great deal of support. Out of respect for our distinguished former colleague, Congressman D. French Slaughter, Jr., the original sponsor of this bill, as well as in the spirit of promoting judicial efficiency, I strongly urge your support for H.R. 829.

Mr. Speaker, I reserve the balance of my time.

□ 2230

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 829 which transfers three counties in Virgina—Culpeper, Louisa, Orange—from the eastern judicial district to the western judicial district. This modification is designed to enhance access to the Federal courts for several thousand Virginia residents.

H.R. 829 was introduced by our former colleague on the Judiciary Committee, French Slaughter, who retired earlier this month ending his distinguished congressional career. Mr. Slaughter served with distinction for several terms as a member of the Judiciary Subcommittee on Intellectual Property and Judicial Administration. It was his belief that the proposed change in H.R. 829 would better serve residents of the three affected counties by allowing them to attend Federal court in Charlottesville instead of Richmond or Alexandria.

H.R. 829 has the enthusiastic support of the Bar Association of the three affected counties as well as the chief judge of the western district and the resident judge in Charlottesville. The chief judge of the eastern district has expressed some reservation to the proposal, which resulted in the Fourth Circuit Judicial Council adopting a position of neutrality on it. The Judicial Conference of the United States has indicated that it has no opposition to the proposal.

I would like to thank the chairman of the Subcommittee on Intellectual Property and Judicial Administration, Mr. HUGHES, as well as the chairman of the full committee, Mr. BROOKS, and its ranking minority members, Mr. FISH, Mr. BOUCHER and Mr. ALLEN, for their interest in and work on H.R. 829. The bill is a solid proposal and fitting tribute to our former, distinguished colleague from Virginia, French Slaughter. I wish him all the best and urge the passage of the legislation.

Mr. FISH. Mr. Speaker, I rise in support of H.R. 829 and I too would like to extend my appreciation to our chairman, JACK BROOKS, and the chairman of the Subcommittee on Intellectual Property and Judicial Administration, BILL HUGHES, and the ranking minority member of the subcommittee, CARLOS MOORHEAD, for their work on H.R. 829. Our friend and former colleague from Virginia, French Slaughter, has served the seventh district and his State with distinction. Prompt action on this legislation is a proper tribute to the gentleman who has dedicated so much of his life to public service. He will be missed on the Judiciary Committee and I wish him well in his retirement.

Mr. Speaker, this legislation has widespread support and I urge its adoption. At this point I would like to read a statement regarding H.R. 829 from Mr. Slaughter.

STATEMENT BY HON. D. FRENCH SLAUGHTER, JR.

Mr. Speaker, I wanted to take this opportunity to thank personally the Chairman of the Judiciary Committee, Mr. Brooks, for his work on H.R. 829. I would also like to again thank Mr. Boucher, a cosponsor of H.R. 829, as well as Messrs. Hughes, Moorhead, and Fish, who have been supportive and helpful with the bill. I also thank my distinguished successor, Mr. Allen, for his support and commitment to carry the bill on to enactment.

H.R. 829, which transfers the counties of Culpeper, Orange and Louisa from the Eastern Judicial District of Virginia to the Western District, will enhance access to the Federal courts for some 70,000 residents of the 7th Congressional District of Virginia. Currently, litigants and lawyers are required to travel some distance to Alexandria or Richmond to access the Federal court. In light of the distance required to attend court, and the traffic and parking problems associated with such travel, there exists a reluctance to use the federal court. Since these counties, once moved, would be assigned to the Charlottesville Division of the Western District, travel to a Federal court will be more convenient, thereby enhancing utilization of the court.

The bill has the enthusiastic support of the bar associations of the three counties, as well as the Chief Judge of the Western District and the resident Judge in Charlottesville. In addition, the Judicial Conference has stated that it does not oppose enactment of the proposal. I urge the passage of H.R. 829.

Mr. Speaker, since my health prevented me from addressing the full Judiciary Committee prior to my November 5th resignation, I would like also to take this opportunity to say how much I enjoyed serving on the Committee. I appreciated the courtesy the Chairman has shown me over the years, and I will miss working with him. I would also like to extend my best wishes and thanks to the Ranking Member, Mr. Fish, as well as the rest of the Members on the Committee. I will miss seeing all of you. I also wish my successor, Mr. Allen, the best of luck as he begins his service on this distinguished Committee.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 829.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE 28, UNITED STATES CODE, REGARDING THE EASTERN DISTRICT OF TEXAS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3666) to amend title XXVIII, United States Code, to provide for an additional place of holding court for the Eastern District of Texas.

The Clerk read as follows:

H.R. 3666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 124(c)(3) of title 28, United States Code, is amended by inserting "and Plano" after "held at Sherman".

The SPEAKER pro tempore. Purauant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to support H.R. 3666, a bill creating a place of holding court in Plano, TX, for the Eastern District of Texas.

H.R. 3666, was introduced by the esteemed chairman of the Judiciary Committee, the gentleman from Texas [Mr. BROOKS]. I would also like to thank the ranking minority member of

places of holding court in the Eastern

and pass the bill (H.R. 2549) to make

"Sec. 567. Termination of committee.

VOL 137 PT 23 NO 21-25 1991 UMI

the subcommittee, Mr. MOORHEAD, for his support in the measure.

Currently, Sherman, TX is the only place of holding court in the Sherman Division of the Eastern District of Texas. As part of the Dallas metropolitan area, which is projected to grow from 3.8 million in population in 1990 to 4.5 million through the year 2000, Plano is in one of the fastest growing cities in the United States. The courthouse in Sherman—a 1908 facility housing one courtroom—where cases from the Plano area are now heard, is inadequate to support expansion of the court.

H.R. 3666 is a rational and necessary approach to meet the reality of a rapidly growing population coupled with a facility that simply is not adequate.

In conclusion, I urge your support for the measure.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my support for H.R. 3666 which would designate Plano as an additional place of holding court for the Eastern District of Texas. This measure represents a recommendation of the Judicial Conference of the United States which is based on the recognition that Plano is the largest city in the Eastern District of Texas and one of the fastest growing cities in the United States. In addition, the current capacity of the Federal Courthouse at Sherman, TX is limited. It is also important to note that a long range facility plan authored by the court for the Eastern District of Texas, projected a need for a new court facility in Plano to accommodate the increasing demand for judicial services in that city.

H.R. 3666 was introduced by the chairman of the full committee, Mr. BROOKS, who is to be commended for his work on the legislation, as is the chairman of the Subcommittee on Intellectual Property and Judicial Administration, BILL HUGHES, who was instrumental in helping expedite consideration of this measure. In addition to the judicial conference, the legislation is supported by the judges of the Eastern District of Texas and the Judicial Council of the Fifth Circuit. Mr. Speaker there is no opposition to the proposal, and I urge its passage.

Mr. BROOKS. Mr. Speaker, I rise in strong support of H.R. 3666, legislation I introduced to add Plano, TX, as a place of holding court for the Federal District Court in the Eastern District of Texas.

As part of the Dallas metropolitan area—which is expected to grow by nearly three-quarters of a million people over the next decade—Plano is one of the fastest growing cities in the United States. At the present time, however, residents of Plano must travel to Sherman, TX—which is about an hour away—in order to have their cases heard. In addition, the courthouse in Sherman is a small facility, dating from the turn of the century, that cannot be expanded to accommodate another judge and courtroom. Thus, designating Plano as a place of holding court is the most logical, efficient means of assuring that Plano residents will have adequate access to the Federal District Court.

This bill is supported by the Judicial Conference of the United States, which earlier this year recommended adding Plano as a place of holding court. I would also like to take this opportunity to thank my good friend, the Hon. Robert M. Parker, the Chief Judge of Eastern District, for bringing the conference's recommendation to my attention.

Mr. Speaker, this is a simple, straightforward bill that will promote greater efficiencies in the administration of justice in the Eastern District, and I urge my colleagues to support it.

Mr. JOHNSON of Texas. Mr. Speaker, I rise in support of H.R. 3666, which will facilitate access to the Federal Court System for the residents of the Dallas Metropolitan area. Currently, the Eastern Federal Court District of Texas is served by only one location—Sherman, TX.

Because of the rapid population growth in the Dallas metropolitan area, it is essential that a second location for holding Federal Court in Eastern Texas be created.

As a long-time resident of Plano, TX, where this court will be located, I have witnessed first-hand the rapid growth of this Dallas suburb. Plano is now one of the fastest growing cities in the country, but its residents must commute nearly 50 miles each way to attend Federal Court in Sherman. In addition, the facilities in Sherman are not adequate to meet the growing Federal caseload in the Eastern District of Texas. Mr. Speaker, a second location for holding court will greatly improve access to the Federal Court System for the people of Metropolitan Dallas and East Texas.

I would like to thank the chairman of the Judiciary Committee, Mr. Brooks of Texas, as well as the Chairman of the Subcommittee on Intellectual Property and Judicial Administration, Mr. HUGHES, and the ranking member of the Subcommittee, Mr. MOORHEAD, for their efforts in bringing this legislation before the House of Representatives.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of the time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGES] that the House suspend the rules and pass the bill, H.R. 3666.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE 28, UNITED STATES CODE, REGARDING THE EASTERN DISTRICT OF NORTH CAROLINA

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3686) to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina.

The Clerk read as follows:

H.R. 3686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 113(a) of title 28, United States Code, is amended—

(1) striking "Clinton," and "Washington,"; and

(2) by inserting "Greenville," after "Fayetteville,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support H.R. 3686 which creates a new place of holding court in Greenville, NC. A second purpose of the legislation is to eliminate two places of holding court that are no longer being used—Clinton and Washington, NC.

H.R. 3686, was introduced by a respected member of the Subcommittee on Intellectual Property and Judicial Administration—the gentleman from North Carolina [Mr. COBLE]. He did so upon recommendation of the Judicial Conference of the United States. In its recommendation, the conference acted on favorable advice of the judges of the Eastern District of North Carolina, the Judicial Council of the Fourth Circuit Court of Appeals, and the judicial Conference's Committee on Court Administration and Case Management.

To date, Clinton and Washington have been inactive places of holding Federal court for over 10 years. In addition, since Greenville is the geographic center of the eastern district, many of the Federal agencies dealing with the courts are located in Greenville.

Ultimately, this legislation would have a positive impact in terms of a cost savings to taxpayers as a result of decreased travel costs for Federal judges and by creation of a more efficient and more accessible court system for litigants.

In conclusion, I urge your support for the measure.

Mr. Speaker, I have no further requests for time, but I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3686 which would make changes in the

places of holding court in the Eastern District of North Carolina. This bill was introduced by our colleague, HOWARD COBLE, who is to be commended for his excellent work on this initiative. In addition, the chairman of the Intellectual Property and Judicial Administration Subcommittee, BILL HUGHES, as well as the chairman of the full committee, JACK BROOKS, and the ranking minority member, HAM FISH are to be commended for their efforts on behalf of the legislation.

H.R. 3686 is based on a recommendation of the Judicial Conference of the United States. At the hearing held by the subcommittee on H.R. 3686, Judge Malcolm J. Howard of the Eastern District of North Carolina indicated in his testimony that the two places for holding court that would be deleted under the proposal, Clinton and Washington, have had no Federal court activity for more than a decade. Moreover, Greenville, the site to be added as a place for holding court in the Eastern District of North Carolina, is the absolute geographic center of the district, and will result in better access to the Federal court for people of this region.

In addition to the Judicial Conference, H.R. 3686 is supported by the Judges of the Eastern District of North Carolina, the Judicial Council of the Fourth Circuit Court of Appeals, and the Judicial Conference's Committee on Court Administration and Case Management. There is no opposition to the bill and I urge its passage.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3686.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2240

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the six bills just passed by the House.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ADMINISTRATIVE PROCEDURE TECHNICAL AMENDMENTS ACT OF 1991

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2549) to make technical corrections to chapter 5 of title 5, United States Code, as amended.

The Clerk read as follows:

H.R. 2549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Procedure Technical Amendments Act of 1991".

SEC. 2. REDESIGNATION OF SUBCHAPTER III.

Subchapter III of chapter 5 of title 5, United States Code, is amended—

(1) by redesignating such subchapter as subchapter V;

(2) by redesignating sections 571 through 576 as sections 591 through 596, respectively; and

(3) in section 593(b)(4), as redesignated by paragraph (2), by striking "575" and inserting "595".

SEC. 3. REDESIGNATION OF SUBCHAPTER IV.

(a) NEGOTIATED RULEMAKING.—The subchapter IV entitled "NEGOTIATED RULEMAKING PROCEDURE" of chapter 5 of title 5, United States Code, is amended—

(1) by redesignating such subchapter as subchapter III and inserting such subchapter immediately after subchapter II of such chapter 5;

(2) by redesignating sections 581 through 590 as sections 561 through 570, respectively;

(3) in section 565(a)(1), as redesignated by paragraph (2) of this section, by striking "584" and inserting "564";

(4) in subsection (d) of section 568, as redesignated by paragraph (2) of this section, by striking "589" and inserting "569"; and

(5) in section 569, as redesignated by paragraph (2) of this section—

(A) in subsection (d)(2) by striking "586" and inserting "566";

(B) in subsection (f)(2) by striking "588" and inserting "568'; and

(C) in subsection (g) by striking "575" and inserting "595".

(b) ALTERNATIVE DISPUTE RESOLUTION.—The subchapter IV entitled "ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS" of chapter 5 of title 5, United States Code, is amended—

(1) by inserting such subchapter immediately after subchapter III of such chapter (as redesignated by subsection (a)(1) of this section);

(2) by redesignating sections 581 through 593 as sections 571 through 583, respectively;

(3) in subsection (b) of section 577, as redesignated by paragraph (2) of this section, by striking "583" and inserting "573"; and

(4) in subsection (b)(2) of section 581, as redesignated by paragraph (2) of this section, by striking "590" and inserting "580".

SEC. 4. CLERICAL AMENDMENTS.

The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by striking "Subchapter III" and all that follows through the end of the table and inserting the following:

"Subchapter III—Negotiated Rulemaking Procedure

"Sec. 561. Purpose.
"Sec. 562. Definitions.
"Sec. 563. Determination of need for negotiated rulemaking committee.
"Sec. 564. Publication of notice; applications for membership on committees.
"Sec. 565. Establishment of committee.
"Sec. 566. Conduct of committee activity.
"Sec. 567. Termination of committee.
"Sec. 568. Services, facilities, and payment of committee member expenses.
"Sec. 569. Role of the Administrative Conference of the United States and other entities.
"Sec. 570. Judicial review.

"Subchapter IV—Alternative Means of Dispute Resolution in the Administrative Process

"Sec. 571. Definitions.
"Sec. 572. General authority.
"Sec. 573. Neutrals.
"Sec. 574. Confidentiality.
"Sec. 575. Authorization of arbitration.
"Sec. 576. Enforcement of arbitration agreements.
"Sec. 577. Arbitrators.
"Sec. 578. Authority of the arbitrator.
"Sec. 579. Arbitration proceedings.
"Sec. 580. Arbitration awards.
"Sec. 581. Judicial review.
"Sec. 582. Compilation of information.
"Sec. 583. Support services.

"Subchapter V—Administrative Conference of the United States

"Sec. 591. Purpose.
"Sec. 592. Definitions.
"Sec. 593. Administrative Conference of the United States.
"Sec. 594. Powers and duties of the Conference.
"Sec. 595. Organization of the Conference.
"Sec. 596. Authorization of appropriations.".

SEC. 5. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) NEGOTIATED RULEMAKING ACT OF 1990.—(1) Section 4 of the Negotiated Rulemaking Act of 1990 (Public Law 101-648; 104 Stat. 4976) is amended by striking "576" and inserting "596".

(2) Section 5 of that Act is amended—

(A) by striking "Subchapter IV" and inserting "Subchapter III of chapter 5";

(B) by striking ", as added by section 3 of this Act," and inserting "(enacted as subchapter IV of chapter 5 of title 5, United States Code, by section 3 of this Act and redesignated as subchapter III of such chapter 5 by section 3(a) of the Administrative Procedure Technical Amendments Act of 1991)"; and

(C) by striking "subchapter IV" and inserting "subchapter III".

(b) ADMINISTRATIVE DISPUTE RESOLUTION ACT.—(1) Paragraph (3) of section 571 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended by inserting a comma after "including".

(2) Paragraph (8) of section 571 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended to read as follows:

"(8) 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement—

"(A) between an agency and persons who would be substantially affected by the decision; or

"(B) between persons who would be substantially affected by the decision,

except that such term shall not include any matter specified under section 2302 or 7121(c) of this title;".

(3) Subsection (g) of section 580 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended by striking "attorney fees and expenses" and inserting "fees and other expenses".

(4) Section 10(b) of title 9, United States Code (as added by section 5 of the Administrative Dispute Resolution Act (Public Law 101-552; 104 Stat. 2745)), is amended—

(A) by striking "590" and inserting "580"; and

Congress assembled, That section 574 of title 5, United States Code, is amended—

and pass the bill (H.R. 3237) to extend the terms of office of members of the

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SECTION 1. SHORT TITLE.

each calendar quarter. Such compilations

other than the Executive Office of the Presi-

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(A) by striking "590" and inserting "580"; and

(B) by striking "582" and inserting "572".

(5) Section 203(f) of the Labor Management Relations Act, 1947 (as added by section 7 of the Administrative Dispute Resolution Act (104 Stat. 2746)) is amended in the third sentence by striking "583" and inserting "573".

(6) Section 10 of the Administrative Dispute Resolution Act (104 Stat. 2747) is amended—

(A) by striking "581" and inserting "571"; and

(B) by striking ", as added by section 4(b) of this Act" and inserting "(enacted as section 581 of title 5, United States Code, by section 4(b) of this Act, and redesignated as section 571 of such title by section 3(b) of the Administrative Procedure Technical Amendments Act of 1991)".

The SPEAKER pro tempore. Pursuant to the rules, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, this renumbers some parts of the Code and it will allow agencies to use the alternative dispute resolution technique even where it is not itself a party, but where it has jurisdiction.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will take just half the time the gentleman from Massachusetts took to speak about this bill.

This is a purely technical amendment that we want to see pass as quickly as possible. I urge the Members to adopt it unanimously.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 2549, as amended.

The question was taken; (and two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING UNITED STATES CODE RELATING TO AUTHORITIES OF THE ADMINISTRATIVE CONFERENCE

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3379) to amend section 574 of title V, United States Code, relating to the authorities of the Administrative Conference.

The Clerk read as follows:

H.R. 3379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 574 of title 5, United States Code, is amended—

(1) in paragraph (3) by striking "and" after the semicolon;

(2) by amended paragraph (4) to read as follows:

"(4) enter into arrangements with any administrative agency or major organizational unit within an administrative agency pursuant to which the Conference performs any of the functions described in this section; and"; and

(3) by adding at the end the following:

"(5) provide assistance in response to requests relating to the improvement of administrative procedure in foreign countries, subject to the concurrence of the Secretary of State, the Administrator of the Agency for International Development, or the Director of the United States Information Agency, as appropriate, except that—

"(A) such assistance shall be limited to the analysis of issues relating to administrative procedure, the provision of training of foreign officials in administrative procedure, and the design or improvement of administrative procedure, where the expertise of members of the Conference is indicated; and

"(B) such assistance may only be undertaken on a fully reimbursable basis, including all direct and indirect administrative costs."

The SPEAKER pro tempore.. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 20 seconds.

The Administrative Conference of the United States has told us that they get requests from foreign governments to which they would like to respond, and this bill would allow them to do so.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is another bill at this late hour that we need not expound more than already has been done.

We ask for unanimous approval of the legislation.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 3379.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FOREIGN CLAIMS SETTLEMENT COMMISSION AMENDMENTS ACT OF 1991

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3237) to extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years.

The Clerk read as follows:

H.R. 3237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Claims Settlement Commission Amendments Act of 1991".

SEC. 2. EXTENSION OF TERMS OF OFFICE.

Section 103 of the Act of March 14, 1980 (Public Law 96-209; 94 Stat. 96 (22 U.S.C. 1622c)) is amended—

(1) in the second sentence of subsection (a) by striking "three" and inserting "six";

(2) in the first sentence of subsection (c) by striking "three" and inserting "six"; and

(3) by striking subsection (d) and inserting the following:

"(d) Members of the Foreign Claims Settlement Commission who are serving on the date of the enactment of the Foreign Claims Settlement Commission Amendments Act of 1991 shall serve a term of six years from the beginning of the term for which they were last appointed.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 5 seconds.

Mr. Speaker, the Reading Clerk is absolutely right.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the only comment that I want to make for the RECORD is this was requested by the Department of Justice.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 3237.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1991

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3341) to amend the Ethics in Government Act of 1978 with respect to honoraria, and for the purposes, as amended.

The Clerk read as follows:

H.R. 3341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Government Act Amendments of 1991".

SEC. 2. MODIFICATION OF PROHIBITION OF HONORARIA.

Section 501(b) of the Ethics in Government Act of 1978, as amended by the Ethics Reform Act of 1989 and Public Law 101-280, is amended—

(1) by striking "An individual" and inserting "(1) Except as provided in paragraph (2), an individual"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), paragraph (1) shall not apply to an honorarium paid to an officer or employee for an appearance, a speech, or an article published in a bona fide publication if—

"(i) the purpose of the appearance, or the subject of the speech or article, does not relate primarily to the responsibilities, policies, or programs of the agency or office in which the individual is employed, and does not involve the use of Government time, property or other resources of the Government, or nonpublic Government information;

"(ii) the reason for which the honorarium is paid is unrelated to that individual's official duties or status as such officer of employee; and

"(iii) the person offering the honorarium has no interests that may be substantially affected by the performance or nonperformance of that individual's official duties.

"(B) Subparagraph (A) shall not apply to an officer or employee who is—

"(i) a Member, or

"(ii) an noncareer officer or employee employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President) is equal to or greater than the rate of basic pay payable for Level V of the Executive Schedule.

"(C) A statement of the source, date, and amount of any honorarium accepted by an individual under subparagraph (A) shall be included in any report required by such individual by section 101 or section 107 of this Act.

"(D) The amount of any honorarium accepted under subparagraph (A) shall not exceed the usual and customary fee for the services for which the honorarium is paid, up to a maximum of $2,000.".

SEC. 3. REGULATIONS.

Section 503 of the Ethics in Government Act of 1978 is amended—

(1) by inserting "(a) IN GENERAL.—" before "This"; and

(2) by adding at the end the following:

"(b) PRIOR NOTIFICATION OF ACCEPTANCE OF HONORARIA.—(1)(A) Rules and regulations issued under subsection (a) shall include procedures under which individuals described in paragraph (2) shall notify the appropriate entity administering such rules and regulations before accepting honoraria permitted under section 501(b)(2)(A) that, in the aggregate, equal or exceed $200 in value from any one source in a calendar year. Such rules and regulations may include provision for notification after the acceptance of a noncash honorarium for an appearance or speech if the offer of the honorarium is made at the appearance or speech. Such rules and regulations may also provide for the notification of the appropriate entity if an honorarium is not accepted.

"(B) Each entity administering such rules and regulations shall compile all notifications received under subparagraph (A) during each calendar quarter. Such compilations shall be made available to the public in the same manner as reports are made available to the public under section 105 of this Act.

"(2) The individuals to whom paragraph (1) applies are any noncareer officer or employee who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15.

"(3) Any person who fails to notify the appropriate entity, pursuant to procedures established under paragraph (1), before accepting honoraira—

"(A) shall pay, for deposit in the general fund of the Treasury, an amount equal to the value of the honoraria involved; and

"(B) shall be subject to appropriate disciplinary and other remedial action in accordance with applicable laws, Executive orders, and rules or regulations.

The entity administering rules and regulations issued under paragraph (1) may, in accordance with procedures established in such rules and regulations, waive any penalty under this paragraph in extraordinary circumstances.".

SEC. 4. DEFINITION OF HONORARIUM.

Section 505(3) of the Ethics in Government Act of 1978 (as amended by section 314(b) of Public Law 102-90) as in effect on January 1, 1992, is amended by striking "if the subject matter" and all that follows through "Government".

SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.—Section 207(j) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate, in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

"(B) Subparagraph (A) shall not apply to—

"(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission;

"(ii) any communication to, or appearance before, an employee (as defined in section 2105 of title 5) of an Executive agency (as defined in section 105 of title 5) unless the employee is—

"(I) an employee of the Executive Office of the President;

"(II) the head or assistant head of an Executive department or a military department (as such terms are defined in sections 101 and 102 of title 5); or

"(III) an employee appointed by the President, by and with the advice and consent of the Senate;

"(iii) any communication or appearance referred to in subparagraph (A) that is made by a person on any matter in which that person also represents, as agent or attorney or otherwise, anyone other than a person or entity described in subparagraph (C); or

"(iv) a communication or appearance that is made by—

"(I) a person who is subject to the restrictions of subsection (c) or (d) if the communication or appearance is made before an officer or employee of a department or agency, other than the Executive Office of the President, and if that person is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before that department or agency;

"(II) a person who is subject to the restrictions of subsection (e)(1)(A) and who is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before either House of Congress or any legislative office of the Congress;

"(III) a person who is subject to the restrictions of subsection (e)(2)(A) and who is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before any person described in subsection (e)(2)(B);

"(IV) a person who is subject to the restrictions of subsection (e)(3) and who is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before the committee by which the former employee was employed;

"(V) a person who is subject to the restrictions of subsection (e)(5)(A) and who is also representing, aiding, or advising anyone else (other than the United States or a person or entity referred to in subparagraph (C)) in any matter pending before any person described in subsection (e)(5)(B).

"(C) for purposes of this paragraph—

"(i) the term 'candidate' means any person who seeks nomination for election, or reelection, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or reelection, to Federal or State office;

"(ii) the term 'authorized committee' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

"(iii) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

"(iv) the term 'national Federal campaign committee' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to the Congress;

"(v) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

"(vi) the term 'political party' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

"(vii) the term 'State' means a State of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, and any ter-

an officer or employee who is a noncareer of-

which by virtue of several definitions

governmental decisions, they should be

($101,300) continue to be prohibited from ac-

Mr. FRANK of Massachusetts. Mr.

VOL 137 PT 23 NO 21–25 1991 UMI

Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) APPLICABILITY.—A former officer or employee who is subject to the prohibitions contained in section 207(c) of title 18, United States Code, as in effect before January 1, 1991, shall, notwithstanding such prohibitions, be permitted to make communications and appearances solely on behalf of a candidate, a national committee, a national Federal campaign committee, a State committee, or a political party, as though the provisions of section 207 of title 18, United States Code, in effect on or after January 1, 1991, as amended by this section, were applicable to such former officer or employee.

SEC. 6. TECHNICAL AMENDMENTS.

(a) TITLE I OF ETHICS IN GOVERNMENT ACT OF 1978.—Title I of the Ethics in Government Act of 1978 is amended—

(1) in section 101(f)—

(A) in paragraph (3) by striking "whose position" and all that follows through "for GS-16" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule or, in the of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (6) by striking "whose basic rate of pay" and all that follows through "GS–16" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(2) in section 109—

(A) in paragraph (8) by striking "who is paid" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(B) in paragraph (13)(B)(i) by striking "who is compensated" and all that follows through "Schedule" and inserting "who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(C) in paragraph (13)(B)(ii) by striking "compensated" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(b) TITLE V OF THAT ACT.—Title V of the Ethics in Government Act of 1978 is amended—

(1) in section 501(a)(1) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code," and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,";

(2) in section 501(a)(2) by striking "who becomes a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grades GS–16 of the General Schedule during a calendar year," and inserting "who during a calendar year becomes a Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(3) in section 502 by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(c) AMENDMENTS TO GIFT PROVISIONS.—Section 314(g) of the Legislative Branch Appropriations Act, 1992 (Public Law 102–90) is amended by adding at the end the following: "The amendments made by subsection (a) shall apply only with respect to gifts or reimbursements received on or after such effective date.".

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) SECTION 2.—The amendments made by section 2 shall be effective as of January 1, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I will take a little more time on this. I yield myself 2 minutes.

The bill has two parts. First, I should say there is a part that it does not have, a nongermane amendment dealing with the contribution definition of the Federal Elections Campaign Act is not part of this bill. That is what the amendment did.

It amends two things we did, both of which were generally good, but which had some slight errors. First, in the postemployment ethics bill, we exempted from the prohibitions in that bill State governments and other such organizations. That is someone who leaves the Congress or leaves the Cabinet and goes to work for a State government is not covered by the prohibition against coming back and talking to his or her former colleagues.

We in my judgment forgot to include in that set of exemptions the Democratic and Republican National Committee and appropriate political campaigns, so that if someone leaves the President's Cabinet and goes to work in the Presidential election campaign, he or she will not be forbidden to talk to his or her former colleagues.

Second, in restricting honoraria and in trying to prevent conflict of interest, we over-legislated, I believe, and wound up with a legislative enactment which by virtue of several definitions being strung together, meant that virtually no employee of the legislative or executive branch could on his or her own time, not selling any government information and in an entirely legitimate way earn money on the side by writing or speaking. That went way too far.

We had some controversy. I am grateful to the gentleman from Pennsylvania because we were able to work this out. I am pleased to say that in this bill we had the support of Common Cause and the American Civil Liberties Union. The gentleman from Pennsylvania and I under the guidance of our chairman and with participation from the Office of Government Ethics in the White House have a very reasonable set of rules here which allows Federal employees their rights and guards the public against abuse.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill that will require a little bit more explanation than we accorded the previous pieces of legislation, which were largely technical in nature.

The American public will recall the furor that swept across our country when it was learned that many Members of Congress were earning thousands of dollars in so-called honoraria, speaking fees for attending conferences and conventions in which these fees would be paid to Members of Congress and it would be an extra income for them.

I myself recall that I had a policy against receiving such honoraria, feeling that this was a perk that went above and beyond the call of duty, but many Members of Congress felt that they had to vote at some point or another to do away with honoraria, and sure enough, that was accomplished and the Congress abolished this speaking fee arrangement for Members of Congress; but as the gentleman from Massachusetts has said, we swept the baby away with the bath water when we said that this kind of speaking fee arrangement would be banned forever from all Federal employees.

So the gentleman from Massachusetts, seeing the error of our ways, brought about that which would restore this to Federal employees.

Now, here is where the scenario began to thicken a little bit. The gentleman from Pennsylvania then felt that this was allowing to creep back into government that very odious bad practice which the American public felt so strongly about, namely, speaking fees for Federal functionaries. So that is where the compromise began where Members of good will began to close around the issue and determine a workable compromise, not to penalize Federal employees who after all in a certain area of their endeavors would not be able to influence political and

governmental decisions, they should be exempted from this ban on honoraria.

A person working as a Federal employee who has an interest in stamps should be able to give a lecture on stamps, or on flowers or on gardening or whatever extracurricular activity there might be available for such employees. That is what brought about this compromise.

When Common Cause found out about it, they first balked at the idea that we should open up the arena for honoraria again. The ACLU also felt badly about it. The White House became involved, and sure enough, we were able to formulate a compromise that protects the Federal employee who will not be able to have undue influence over policy in our government and still be able to engage in the so-called speaking fee honoraria syndrome.

I think it is worthy of our approval. I want the CONGRESSIONAL RECORD to fully reflect that this was one of the exercises of compromise that Members of Congress more often ought to engage in.

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent to insert in the RECORD a summary which explains these rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Speaker, the summary is as follows:

SUMMARY OF H.R. 3341—Ethics in Government Act Amendments of 1991

MODIFICATION OF HONORARIA BAN

H.R. 3341 establishes three categories of Government officers and employees for purposes of applying the honoraria provisions in title V of the Ethics in Government Act:

(1) All career employees at any salary level and noncareer employees in positions paid at the GS–15 rate or below, could accept payment for a speech, appearance, or article that meets the three-part test established in the bill: (1) the subject does not relate primarily to the responsibilities, policies or programs of the employing office, and does not involve the use of Government time or resources; (ii) the reason for the payment is unrelated to the employee's official duties or status; and (iii) the mayor has no interests that may be substantially affected by the employee's performance or nonperformance of official duties.

(2) Noncareer employees classified above GS–15, or paid at or above 120 percent of the GS–15 rate ($74,000), could accept honoraria that meets the three-part test in the bill, subject to the following notification and disclosure requirements:

Frist, they must notify their agency ethics office before accepting any payment over $200. Failure to notify would be subject to a fine equal to the value of the honorarium, which could be waived extraordinary circumstances. Second, all such acceptances of honoraria must be complied on a quarterly basis by each agency, and the compilations must be made available to the public in the same manner as are in financial disclosure reports.

(3) Members and noncareer employees paid at or above Executive Schedule Level V ($101,300) continue to be prohibited from accepting any honoraria.

The bill reinstates the prior $2,000 limit on any single honorarium, and requires honoraria to be reported in any public or confidential disclosure statement filed by the employee.

The honoraria modification is retroactive to January 1, 1991, when the ban took effect, except that the notification and quarterly disclosure requirements take effect upon enactment.

EXCEPTION TO POSTEMPLOYMENT BAN

The bill also amends the postemployment restrictions in 18 U.S.C. 207 to allow former senior Government officials to contact their former colleagues solely on behalf of candidates and party committees during the one-year period after they leave office. The amendment includes provisions to protect against abuse of the exception by those who also represent other clients.

Mr. CLAY. Mr. Speaker, I rise today in support of H.R. 3341, the Ethics in Government Act Amendments of 1991. This bill was jointly referred to the Committee on Post Office and Civil Service and reviewed very carefully. It is critical that this bill be enacted into law this year.

The most important thing to remember about this bill is that it basically restores for all but the highest ranking Federal employees the same rules that applied to receipt of honoraria that existed before the Ethics Reform Act of 1989 banned all honoraria. In 1989, Congress did not intend, as it has now become clear, to enact an across-the-board ban for all employees—one without regard to how small the fee, how junior the employee, or how irrelevant the speech or article to an employee's job.

At the time, Congress' focus was on banning the acceptance of honoraria by high-ranking Government officials and Members of Congress. There was no discussion of the receipt of honoraria by rank and file employees. Nor was there any discussion of ethical problems arising from the receipt of honoraria by rank and file employees. There was a good reason for that. There is no evidence that there has ever been a problem. Perhaps the reason is that prior to the ban every Agency applied tough rules and policies against honoraria that created conflicts of interest or interfered with the performance of an employee's official duties. This body of rules, policies and laws prevented problems before they happened.

This bill returns us to that point in time. The bill does go a step further and codifies much of the ethics standards and restrictions that applied to honoraria. These provisions will ensure that no abuses will arise in the future.

This bill is an important mid-course correction. The executive branch has long encouraged Federal employees to engage in outside writing, teaching or lecturing. This policy made sense then and it makes sense now. Many of the activities now banned are completely innocuous. Moreover, the ban interfered with entirely legitimate professional activities of Federal employees—activities often beneficial to the Government as well as to individual employees. Finally, I support this bill because it lifts an unnecessary and draconian restriction on the freedom of Federal employees to spend their personal time as they see fit.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 3341, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 2250

FAILURE TO NOTIFY MEMBER OF LEGISLATION PENDING ON THE FLOOR

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, unfortunately I thought we had arrangements in the House that when H.R. 3341 was going to be called, we would receive 1 hour's notice.

I have to say I am very disappointed with some of the people who have sponsored this because their offices had made the assertion that there would be no question that my office would be notified. Unfortunately they saw fit to go back on that pledge and did not notify my office.

So when we noticed the bill being called up, we rushed to the floor. But because of the speed of the promoters of this legislation, it obviously has been passed by voice vote and those Members of the House of Representatives will not have the opportunity to amend or to oppose this vote or this legislation in its present form.

I would like to extend and revise my remarks on H.R. 3341 and call the House's attention to the fact that by speedily passing this legislation they are bringing to the American people the opportunity for Federal employees to have uncontrolled honoraria, something that more than a year ago, under great pressure from the American people, this Congress felt gave the perception if not the fact that there were questionable activities of elected officials and employees of the Federal Government that should be more scrupulously overseen.

Unfortunately this bill will allow Federal employees of agencies such as the IRS, the FBI, the Justice Department, and, yes, the employees of the individual senatorial congressional offices here on the Hill to engage in the activity once again of accepting up to $2,000 honoraria for speeches or appearances, and that honorarium will be unlimited so that in the course of a year $50,000 or $100,000 could be earned by individuals working for the U.S. Govern-

more particularly a congressional employee in any one of our offices, should

vious order of the House, the gentleman from Massachusetts [Mr.

Mr. KANJORSKI. The chairman of my committee, rather than allowing us

VOL 137
PT 23
NO 21–25
1991
UMI

ment with not adequate disclosure nor oversight.

I think it is most unfortunate.

I get a notice from someone of timing here.

The timing, wherever, did not go to my office.

Anyway, the unfortunate passing of this bill is that this House of Representatives has just passed a bill that is potentially going to bring disgrace upon this House and disgrace upon the various memberships, as the recent bank's bouncing of checks has occurred.

We have just gone through the pathetic thing where just a few Members or a minority of Members bounced checks in this House and we all paid that price. We just went through the pathetic example of where just a few Members of this House were irresponsible enough to run up accounts at the restaurants and we all suffered and this institution suffered.

We have gone through an attempt to reform this House over the last year or year and a half and this very day passed campaign reform. And here in the 11th hour of the night, in fast speed, a bill is brought on the floor to allow unlimited honoraria payments to Federal employees, congressional employees, Justice Department employees, anyone you wish, all with the idea that there was a great compromise struck.

All I can say, gentlemen, I hope we have struck that compromise in such a way that a year or 2 years from now a Member of this House does not come back and pay the price of total embarrassment or disgrace because somebody in their office did not have to disclose an honorarium that should not have been taken.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, if the gentleman will allow, the characterization that he is putting into the CONGRESSIONAL RECORD seems to indicate from the gentleman's perspective that we who had worked for a full year on this legislation simply chose an 11th hour attempt to sneak a piece of legislation through which is to the disliking of the gentleman. But I want to assure him and the American public that we thought this legislation through from beginning to end.

Mr. Speaker, I will take second place to no one in my opposition to honoraria for the bad intentions that those honoraria first brought to the minds of the public. But this is totally different and I reject with dismay——

Mr. KANJORSKI. Reclaiming my time, if the gentleman will request time, I would like to discuss the issue.

Mr. GEKAS. That is what I am trying to do.

FAILURE TO NOTIFY MEMBER OF PENDING LEGISLATION ON THE FLOOR

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Under a previous order of the House, the gentleman from Pennsylvania [Mr. KANJORSKI] is recognized for 5 minutes.

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. May I finish my statement and then the gentleman may take back his time.

Mr. KANJORSKI. Well, I am still yielding and would like to go back and forth.

Mr. GEKAS. The gentleman yielded to me.

Mr. KANJORSKI. First of all let me say this: I understand that the gentleman from Pennsylvania [Mr. GEKAS] has worked for a full year to find a compromise. I understand Mr. FRANK worked for a full year and Chairman BROOKS did too and a lot of people in Washington outside the congressional process worked very diligently trying to find a mechanism by which Federal employees could talk to garden clubs and receive honoraria. This Member is not opposed to that.

As a matter of fact, I have discussed that openly, that we want to allow a measured response that Federal employees can do things outside their employment that have no effect, negative effect, upon their own individual ability to earn income or that could bring disfavor to the Government of the United States.

What I indicated to the gentleman, however, I think if the gentleman has read my Dear Colleague letters over the last several weeks and particularly today, and I indicated to Mr. FRANK, was the fact that a $2,000 honorarium was not a speech to the garden club; it was quite a substantial payment. I could even understand that. But at that level I indicated to the gentleman that I had amendments that I wished to have disclosure of amounts above $500 so that those people in the executive branch of this Government, in the congressional branch of this government, and in the judicial branch of this Government, employing these individuals receiving those amounts of money, would have the ability to know that.

I resent the fact that an employee in my office may be able to cloak under honorarium a $2,000 payment and receive unlimited numbers of those payments in a given year and I would have no opportunity as a matter of law to know what is going on.

I think that is a breach of the effort that we made 2 years ago to clean up the idea of what honoraria was.

I appreciate the efforts the gentleman put in and I think he probably reached the satisfactory point to satisfy 90, 95 percent of the Federal employees that have a problem.

My problem was that I saw a need for public disclosure in that, and the gentleman did not give me the opportunity to come here tonight to debate that by merely notifying me that within this hour this bill was going to be called up.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. I certainly will yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I offer the gentleman an apology. Apparently, I will say, the gentleman never himself spoke to me and asked for notification. If he had, I guarantee he would have been notified.

Mr. KANJORSKI. Mr. FRANK, my staff and your staff——

Mr. FRANK of Massachusetts. The gentleman yielded to me.

Mr. Speaker, I will not ask the gentleman further to yield. I will respond on my own time.

☐ 2300

Mr. GEKAS. Mr. Speaker, will the gentleman further yield on one point?

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, in my judgment the greatest independent public arbiter in matters of ethics on Capitol Hill has been for a long time Common Cause. When Common Cause, working with us, was able to put its imprimatur upon the final product in which the very matters which the gentleman from Pennsylvania——

Mr. KANJORSKI. Mr. Speaker, reclaiming my time, Common Cause supported the finance reform bill today. May I inquire of the gentleman from Pennsylvania, "Did you vote in favor of the campaign finance reform bill today?"

Mr. GEKAS. That is not the issue.

Mr. KANJORSKI. I say to the gentleman, "You're talking that Common Cause is such a great developer of ethics in this House, and they supported that campaign finance reform bill. Why didn't you go along with Common Cause on that?"

Mr. GEKAS. Mr. Speaker, the gentleman from Pennsylvania [Mr. KANJORSKI] apparently misunderstood me. I said that the Common Cause organization was an arbiter of ethics on Capitol Hill. That is a totally different question from campaign financing by any standard.

Mr. KANJORSKI. I understand, I understand.

Mr. GEKAS. So what I am saying to the gentleman from Pennsylvania [Mr. KANJORSKI] is, "When I relied, this individual, at least partially and substantially, on the opinion of Common Cause in trying to arrive at a solution to this, I believe I was doing the American public a service, and I still believe it."

Mr. KANJORSKI. Reclaiming my time, Mr. Speaker, let me ask the gentleman a question. "Mr. GEKAS, do you believe that a Federal employee, but

more particularly a congressional employee in any one of our offices, should be able to receive a $2,000 honorarium, and 50 or a hundred of them a year, and never disclose that fact to any of the Members that are employing them, and that we don't know whether they complied with the law? Do you think that that is right for this House to subject itself to more types of embarrassment like this and not to debate this issue fully so that all the Members of the House know what's involved, but do it at the eleventh hour of the day before we go home?"

This is a gift to the American people. Where are the American people crying out for honorium for Federal employees? I do not receive any letters from them. I receive may be one or two comments or letters from Federal employees, but not from the American people.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 258 CREATING A TASK FORCE OF MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS TO INVESTIGATE ALLEGATIONS CONCERNING THE HOLDING OF AMERICANS AS HOSTAGES BY IRAN IN 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–386) on the resolution (H. Res. 303) providing for the consideration of the resolution (H. Res. 258) creating a task force of members of the Foreign Affairs Committee to Investigate Certain Allegations Concerning the Holding of Americans as Hostages by Iran in 1980, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b), RULE XI WITH RESPECT TO H.R. 2212, EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–387) on the resolution (H. Res. 304) waiving the requirement of clause 4(b), rule XI with respect to resolutions regarding the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE REALITY OF THE HONORARIUM BILL

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I am often puzzled when some of my colleagues come to the floor asserting their unhappiness that people will think ill of this institution and then proceed to engage in rhetoric which, if people accepted it at face value, could only result in unfair criticism of the institution.

The gentleman from Pennsylvania [Mr. KANJORSKI] who began this exchange discussed the honorarium bill in terms that only rarely struck a glancing blow at reality. There is, however, one accurate thing that he said.

Mr. Speaker, he was told apparently that he would be notified, and he was not. I regret that deeply. As I said to the gentleman, and as I started to say when he interrupted me, had he personally told me he wanted to be notified, I can guarantee him that he would have been. He never, and we discussed this several times, never told me that he wanted to be notified. A member of his staff did tell a member of the committee staff that he wished to be notified, and there was an error on our part. I regret that deeply. He should have been notified.

I will say again that, had he personally asked me, I would have done it. A member of his staff asked another member of the staff and that notification—assurance was given, and notification was not given. That is regrettable, but it does not justify the inaccurate representations about this bill that have been given.

First of all, I would like to say that, while we who are in elected office are here voluntarily, get a certain amount of credit, get the satisfaction of knowing we are working on important public policy questions, we are, therefore, entitled to be asked to put up with some things that other people do not. I do not think that applies to every single Federal employee.

The gentleman said, well, he did not object to certain of these things. I must say in his conversations with me he did not submit to me any amendments or any suggestions for change. I talked to him about it. He never submitted to me any proposals pertaining to this, and we had these conversations back a couple of months. We had public hearings on this bill.

Mr. KANJORSKI. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield.

Mr. KANJORSKI. Mr. Speaker, the gentleman from Massachusetts [Mr. FRANK] may not be aware of the fact, but there is a referral to my subcommittee that I had partial jurisdiction, and I discussed the amendments with the chairman of my committee——

Mr. FRANK of Massachusetts. I understand that.

Mr. KANJORSKI. The chairman of my committee, rather than allowing us to have those amendments, he passed it on, and passed through and waived any jurisdiction.

Mr. FRANK of Massachusetts. I understand that, and it does not contradict one thing of what I said. Had the gentleman, knowing that my subcommittee had the primary jurisdiction, knowing that we had public hearings and meetings on it, had he come to me with some amendments, I would have been glad to discuss them with him.

I simply say to the gentleman, the understanding I had was that he was opposed to the whole idea, and that was based on my conversation with him, and I think opposition to the whole idea is wholly unfair to a very large number of hard-working Federal employees.

I very much regret this tendency to denigrate the integrity of the people who work for the Federal Government. I do not think there is any factual basis for it, and I do not think that because we find ourselves in political trouble we ought to exploit the reputations of the Federal employees.

The legislation was an overreach in the first place, the one that restricted them. Yes, I agree with my friend from Pennsylvania that with good reason to knock us out of the honoraria business. It was abused. No one, no one, no one has ever brought to us, and we have asked for it, any serious evidence of abuse by the Federal employees. There is simply no such evidence.

I will ask the gentleman from Pennsylvania if he wants to produce some now.

Mr. KANJORSKI. Will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. There has just been a recent completed investigation of Members of Congress' offices where a member of the district staff was accepting, quote, payments, and gifts and honoraria for helping people file for certain——

Mr. FRANK of Massachusetts. That would be specifically prohibited by my bill. This is an example of how little——

Mr. KANJORSKI. Will the gentleman yield?

Mr. FRANK of Massachusetts. No, I yielded to the gentleman twice now, and I will not do it again. When I tried to get him to yield so I could apologize, I could not get the time.

I will now say to the gentleman that he is simply giving an example of the misstatements about the bill. The kind of behavior he is talking about is specifically prohibited under this bill. The bill says, "You can have an honorarium."

An honorarium, by the way, is a misnomer. It does not mean one just shows

VOL
137
PT
23
NO
21—25
1991
UMI

up and makes a speech. The way honorarium was decided, was defined: Anything that someone did in a personal appearance, musical performance, writing a short story. All of those would have been restricted, prohibited.

Our bill says:

> The purpose of the appearance or the subject of the speech or article does not relate primarily to the responsibilities, policies, programs of the agency or office. The reason for which the honorarium is paid is unrelated to that individual's official duties. The person offering the honorarium has no interest that may be substantially affected by the performance or nonperformance of that individual's official duties.

So, the example he cited is wholly inappropriate, wholly irrelevant to this issue.

Mr. KANJORSKI. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. No, I will not yield. I asked the gentleman to yield. The gentleman asked to yield to give him an example. That is wholly irrelevant.

I am sorry that an employee may have behaved improperly, although I have no knowledge of the circumstances, but that improper behavior would be prohibited under this bill.

This bill says, if a Federal employee engages on his or her own time in any form of activity and is paid, by the way, the usual and customary fee, so the suggestion that Federal employees would be going before people with whom they had Federal business and would be taking excessive amounts is specifically contradicted by this bill. This bill does not allow any of those evils.

Now I will yield to the gentleman.

Mr. KANJORSKI. Mr. Speaker, I just want to call attention that I did circulate a "Dear Colleague" letter that was addressed to the gentleman from Massachusetts [Mr. FRANK] today, and obviously, because he was involved on the floor, he did not receive it. But it did contain the structure that I made.

The points that I made is, one, I had no problem with payments being made, but I had a cap of $500.

Mr. FRANK of Massachusetts. Mr. Speaker, I am going to take back my time; I am sorry.

□ 2310

The gentleman had plenty of time. He said he had addressed a letter to me as a "Dear Colleague." That is a very inappropriate way to get information.

EXPANSION OF SPECIAL ORDER TIME

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts be granted another 5 minutes.

Mr. KANJORSKI. If I may add to that, Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. FRANK] and I may both be accorded an additional 5 minutes, so that after Mr. FRANK is finished I will have an opportunity to respond to his comments.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THE REALITY OF THE HONORARIUM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the Chair. I am not going to take that time. I think this is pretty clear. I want to just stress again that the points the gentleman is talking about have nothing to do with this bill. This bill says you cannot take an honorarium, a fee that is greater than the usual and the customary amount. You cannot take a fee from someone with whom you have an official relationship. You cannot take a fee if it affects your business. He is making complaints about something we are not doing, and he is doing it at the expense of the Federal employees. I understand political pressures, but to come here and misdescribe legislation and to make scapegoats of the Federal employees seem to me a grave error.

The gentleman says, "What about one of my own employees?" Nothing in this bill prohibits the gentleman from making rules that apply to his own employees.

As far as disclosure, for the people who make more than $74,000 a year there is full disclosure. For people who make less, and again, here is what this bill says. If you are a Federal employee on your own time, not selling any Government property, not selling anything you got from the Government, you can take the usual and customary fee for a short story, for a song, for preaching, for practicing medicine on the weekend, for drawing up a will. You can take the fee, which if we did not pass this bill, you would not be allowed to. It would not be allowed. This is what we are dealing with. You cannot have any relationship with these people. They cannot be people who you have any influence over.

Now, none of the horrors and evils the gentleman is talking about were there. When the gentleman says he hopes that this does not disgrace the House, I think he engages in self-fulfilling rhetoric, because to make a suggestion on such little evidence that this carefully drafted bill, which prohibits everything he complains about, I think that is the kind of rhetoric which causes the problems he claims he does not wish to see.

Mr. Speaker, I yield back the balance of my time.

THE HONORARIUM BILL AND DISCLOSURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KANJORSKI] is recognized for 5 minutes.

Mr. KANJORSKI. Mr. Speaker, I really cannot argue with Mr. FRANK's representation of what the bill does, because in fact that is what it does do. But what it does not do and what I find fault primarily within the bill, it does not provide for a methodology of disclosure. It is the same problem that we always have. People are sworn to abide by the law. They are sworn to keep within the measure of the law. But those of us who have people functioning under us, those of the individuals in the Internal Revenue Service or the Justice Department I think would be no different than myself. They would like to know whether the people working under them have received sums of money, so that they could judge whether or not that individual complied with the law.

The assumptions that Mr. FRANK makes, as I in my experience in government and in the practice of law, you could not assume all people comport with the law and follow the law.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield.

Mr. KANJORSKI. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman then confuses me, because what he is saying is, he does not mind the law, although I must say people who heard his speech before that would be hard pressed to understand that. The terms he describes the law in, it seems to me are very different than what he now says, but it seems to me what he now says is we cannot trust these people to follow the law. That is why I think he is being unfair to Federal employees.

I also want to say if the gentleman thinks they are going to violate the law, what does he think a disclosure is going to do? They would violate that, too.

Mr. KANJORSKI. Mr. FRANK, it is simple. If they fail to make a disclosure and they accept money at all from anyone, then you do not have to go into the merits of why they receive it, whether it was justified, whether it comported with the law. They failed to disclose it, and that in and of itself calls for enforcement.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, the gentleman is saying that the only thing he disagrees with is the failure to have disclosure under $74,000?

Mr. KANJORSKI. No. I wanted to have this disclosure in my bill. I felt that moneys up to $500 in any one period of a year did not need to be disclosed, but this bill provides for honoraria of up to $2,000 an event or circumstance, an unlimited number of events.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman continue to yield?

Mr. KANJORSKI. Certainly.

Mr. FRANK of Massachusetts. And it does so if that is the usual and customary fee for that. We had doctors at the National Institutes of Mental Health and at the Veterans' Administration who work part time, and we were specifically asked to make sure that we did not say that we would lose the services of these part-time doctors. Sometimes the usual and customary fee for a complicated operation could be $2,000.

So when the gentleman conjures up that figure out of context, he ought to know what we are talking about.

Mr. KANJORSKI, That is fine, and they would have to disclose that, and I see nothing wrong with disclosing that. If in fact they performed a procedure in a consulting capacity or a part-time employment capacity outside of government work, the people that they worked for would know that they received that.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman would yield, the gentleman agrees that that is all this bill makes legal, nothing beyond that is authorized.

Mr. KANJORSKI. I understand that the honorarium could be up to $2,000 for any single event.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. KANJORSKI. And that there is an unlimited amount that can be received in a given year.

Mr. FRANK of Massachusetts. If the gentleman will continue to yield, if, if that is the usual and customary fee for that particular act and if there is no connection between the person performing the act and the people who are paying the honorarium in his official duties.

Mr. KANJORSKI. Mr. FRANK, let us address ourselves to speaking arrangements. I know many Members of Congress, before we outlawed honoraria, accepted $1,000 or $2,000 for speaking occasions. I know for a fact that General Schwarzkopf's people mentioned the fact that he receives $40,000 and $50,000 for speaking events. I know for a fact that it was discussed here that former President Reagan, in going to Japan and speaking on two occasions, received an honorarium of $2 million.

Now, I quite frankly do not know what ordinary and customary is.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield further?

Mr. KANJORSKI. When it comes to setting this fee, obviously a lot of people in this world have differing interpretations.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

The gentleman is being very selective in what he is repeating of what I told him. It also says you cannot take it unless "the person offering the honorarium has no interest that may be substantially affected by the performance or nonperformance of that individual's official duties," and also "the purpose of the appearance does not relate primarily to responsibilities, policies or programs of the agency." Those did not apply to Members of Congress.

In other words, this is a much tighter set of rules. Members of Congress were allowed to take honoraria, before we abolished it, from people who would be substantially affected by the performance or nonperformance. What we are saying is if a Federal employee goes out and does something wholly unrelated to his or her work, to a group wholly unrelated, and they pay that employee what they would have paid anybody else, the employee can take it.

That is what the gentleman turns into a disgrace.

Mr. KANJORSKI. Mr. Speaker, I suggest that as legislators we cover just about everything imaginable in the nature of what we can affect. We affect everything from appropriating money to establishing rules and regulations for every industry, for every type of business operation, for establishing standards throughout the world.

I do not know what I would consider right for a congressional employee to accept money for. Quite frankly, I do not want to be caught in the bind of having to know what they did accept money for. All I asked for was disclosure.

The SPEAKER pro tempore. All time has now expired.

FINANCIAL DISCLOSURE LIMITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, I assure the Chair I will not take the remaining 5 minutes. I simply want to say that many times in the operation of Members of Congress, the ethical and financial affairs, we find certain exceptions and certain limitations that are comparable to what we are discussing here.

For instance, in our own election reports that we file regularly and our own financial disclosures, the gentleman from Pennsylvania will agree, if I could have his attention, even in our own financial disclosure for Members of Congress and our campaign disclosure there are certain limits under which no full disclosure has to be made, or other categorizations during which no specific information has to be filed.

For instance, as I recall in our financial disclosures all one has to do is to declare that between $5,000 and $20,000 certain assets are excluded.

□ 2320

Mr. KANJORSKI. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Speaker, that is for assets. When we have requirements for——

Mr. GEKAS. Mr. Speaker, I have the benefit of my time. I am simply saying that we cannot be adversely criticized for molding a bill in which we set off categories where full disclosure has to be made in one category, lesser disclosures in others, and perhaps no disclosures in others. We cannot be adversely criticized for trying to reach levels of earnings of Federal employees over which we feel that no honoraria should be accepted, and those minimums where we say it cannot do any harm if indeed the offeror has nothing to gain from paying that.

In other words, what the kinds of criticism are over this bill, and I am very sensitive to it, because, as I said at the outset, there was no greater critic of the honorarium system nor one who was less willing to allow this bill to go through before I investigated fully and before I had the benefit of consultations throughout our little realm up here, and now I am satisfied that what we have crafted fully serves the Congress of the United States and Federal employees.

Mr. KANJORSKI. Mr. Speaker, if the gentleman will yield further, will the gentleman from Pennsylvania [Mr. GEKAS] feel comfortable if at some time in the next several years it is determined that a congressional employee working in one of our offices receives $2,000 for making speeches, and makes 25 of those speeches to the same type of organization?

Mr. GEKAS. Mr. Speaker, reclaiming my time, I would say to the gentleman, it is just as the Congress was revulsed when egregious examples were given to them of honoraria and numbers of dollars received, and then we reacted. I pledge to the gentleman that I, personally, will react to the first egregious act that occurs on any part of any Federal employee that makes this legislation obsolete or amendable.

Mr. KANJORSKI. Mr. Speaker, the problem is, because we do not have disclosure, we will never know that, until there is a Federal indictment or a disgrace that occurs.

Mr. GEKAS. Mr. Speaker, that is not the case. We will find out. I pledge to the gentleman from Pennsylvania [Mr. KANJORSKI] that I will find it out.

Mr. Speaker, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. KANJORSKI. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. TAYLOR of Mississippi). The gentleman will state it.

Mr. KANJORSKI. Mr. Speaker, I understood when we passed the famous

cational assistance provided by an employer 3. Deduction for health insurance costs of for authority to issue mortgage credit cer-

VOL
137
PT
23
NO
21–25
1991
UMI

thing known as the martial rule, which I voted for and supported, that there would be a procedure where before a bill would be called on the floor there would be a notice of 1 hour that that bill was going to be called to the floor.

My inquiry now is in what nature did that notice take place in the immediate preceding bill, the passage of H.R. 3341?

The SPEAKER pro tempore. The Chair will advise the gentleman that notice as given through the Cloakroom.

Mr. KANJORSKI. Notice was given through the Cloakroom?

The SPEAKER pro tempore. That is the information of the Chair.

Mr. KANJORSKI. All 435 Members of Congress were in the Cloakroom at any one given time?

The SPEAKER pro tempore. it is the understanding of the Chair that that information was available by calling the Cloakroom.

Mr. KANJORSKI. I see. And there was no other format, a notice which would go out on the call system, that within the next hour a particular bill number would be called up? Is that not our procedure here?

The SPEAKER pro tempore. The Chair will inquire and give a more substantial answer in the morning. At this time the sole information the chair has is that notice was given through the Cloakroom to the Members' offices.

Mr. KANJORSKI. Mr. Speaker, may I render an objection to the calling up of the bill, that it was not in accordance with the rule adopted, and therefore the proceedings were not in conformance with the rules of the House, and respectfully request that the Chair entertain a motion to allow, at the very minimum, since we cannot discuss it anymore, for the calling of a recorded vote?

The SPEAKER pro tempore. The gentleman will have to make that request tomorrow. The Chair cannot entertain that request at this time.

Mr. KANJORSKI. So that I get it straight, is it recorded that as acting Speaker you are receiving my request, or do I have to direct that tomorrow to another Speaker at some time?

The SPEAKER pro tempore. When the Speaker is in the chair tomorrow, the gentleman may make that request.

Mr. KANJORSKI. Mr. Speaker, may I further inquire, are there any recorded votes that were called for on the suspensions that were called today?

The SPEAKER pro tempore. The answer is no. Every one of the motions passed unanimously by voice vote.

Mr. KANJORSKI. Mr. Speaker, can the Chair then direct this member as to precisely what time this Member has to be on the floor to appropriately make the motion or request that I have just made in my parliamentary inquiry to the Chair?

The SPEAKER pro tempore. The Chair will advise the gentleman that the House meets at 10 o'clock tomorrow morning.

Mr. KANJORSKI. Mr. Speaker, at what precise moment should the question be put to the Chair and under what circumstance?

The SPEAKER pro tempore. The gentleman should be here at 10 o'clock and ask the Speaker that question at the first order of business.

UPON INTRODUCTION OF THE TAX EXTENSION ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 3909, the Tax Extension Act of 1991, a bill to extend for 6 months the so-called expiring tax provisions. These are 12 provisions of the Internal Revenue Code that were enacted to provide incentives for research and development, low-income housing, education, and other activities beneficial to the economy. Each of these provisions is scheduled to expire generally after December 31 of this year. I am pleased that Senator BENTSEN is introducing an identical bill in the Senate.

I am introducing this legislation today as a stopgap measure to prevent any economic disruptions that might be caused by the expiration of these provisions at the end of this year. I wish to be clear, however, that I intend this to be the last temporary extension of expiring tax provisions. The 6-month extension contained in H.R. 3909 should be adequate to allow for the development of a permanent solution in the event that there is a tax bill next year.

Over the past few years, these temporary extensions have become an annual ritual. It is a ritual that is bad for government and bad for business planning. Faced with such onagain, offagain legislation, taxpayers cannot plan ahead to utilize the incentives. This annual uncertainty does not reflect well on the Congress or the administration, and creates needless instability.

Many of these tax incentives have merit. However, some of them have not survived on their own, but for years have enjoyed a free ride as stowaways on the extenders package. Temporary extensions of all the expiring provisions have become the easy way out—an excuse to avoid making the hard choices about our priorities and how to pay for them.

In the past, I have repeatedly urged that we should judge each of the expiring provisions on their individual merits, fund the permanent extension of those tax incentives that are most worthwhile, and let the others expire. That remains my position. However, current budgetary and political realities in the closing days of this first session of Congress demand a more expedient, temporary solution.

I want to serve notice, however, that I intend to hold hearings early next year on all the expiring tax provisions. The Ways and Means Committee will scrutinize each one, and vote on each one individually, to decide whether each one should be permanently extended or allowed to expire. The burden will be on those who support individual extensions, both in the administration and in the Congress, to present the case for a permanent extension and to recommend ways to pay for them.

Mr. Speaker, in compliance with the budgetary pay-as-you-go requirements, H.R. 3909 contains a revenue offset which would speed up estimated tax payments for certain large corporations. Under current law, these corporations are required to make estimated tax payments equal to 90 percent of their current tax liability. The bill would temporarily raise this required percentage to 95 percent, after a 3-year phasein period.

Commitments have been made in both Houses of Congress to keep this legislation clean of amendments, nongermane or otherwise. To avoid the expiration of these various tax provisions—and the economic disruption that might result—I would urge that these commitments be honored in both tax-writing committees and in both the House and Senate. Any amendment at any point in the legislative process would jeopardize passage of this important emergency legislation.

My explanation of H.R. 3909 follows.

EXPLANATION OF H.R. 3909, THE TAX EXTENSION ACT OF 1991

I. SUMMARY OF TAX PROVISIONS EXPIRING IN 1991

The following tax provisions are generally scheduled to expire after December 31, 1991, except for item (6): [1]

(1) Exclusion for employer-provided educational assistance benefits (Code sec. 127);

(2) Exclusion for group legal services benefits and the tax exemption for an organization providing group legal services as part of a qualified group legal services plan (secs. 120 and 501(c)(20));

(3) Deduction for health insurance costs of self-employed individuals (sec. 162(l));

(4) Tax exemption for qualified mortgage bonds and election to issue mortgage credit certificates (secs. 143 and 25);

(5) Tax exemption for qualified small-issue manufacturing bonds (sec. 144(a));

(6) Rules for application and apportionment of research expenses (sec. 864(f)); [2]

(7) Tax credit for qualified research expenditures (sec. 41);

(8) Tax credit for low-income rental housing (sec. 42);

(9) Targeted jobs tax credit (sec. 51);

(10) Business energy tax credits for solar and geothermal property (sec. 48(a));

(11) Tax credit for orphan drug clinical testing expenses (sec. 28); and

(12) Minimum tax exception for gifts of tangible personal property (sec. 57).

II. DESCRIPTION OF TAX PROVISIONS EXPIRING IN 1991

1. Exclusion for employer-provided educational assistance (sec. 127 of the Code)

Present law

An employee's gross income and wages for income and employment tax purposes do not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts are paid or incurred pursuant to an educational assistance program that meets certain requirements (sec. 127). This exclusion, which expires for taxable years beginning after December 31, 1991, is limited to $5,250 of educational assistance with respect to an individual during a calendar year.

In the absence of the section 127 exclusion, and employee generally would be required to include in income and wages, for income and employment tax purposes, the value of edu-

cational assistance provided by an employer to the employee, unless the cost of such assistance qualified as a deductible job-related expense of the employee.

Legislative background

The section 127 exclusion was first established on a temporary basis by the Revenue Act of 1978 (through 1983). It subsequently was extended, again on a temporary basis, by Public Law 98–611 (through 1985), by the Tax Reform Act of 1986 (through 1987), by the Technical and Miscellaneous Revenue Act of 1988 (through 1988), by the Omnibus Budget Reconciliation Act of 1989 (through September 30, 1990), and by the Omnibus Reconciliation Act of 1990 (through 1991). Public Law 98–611 adopted a $5,000 annual limit on the exclusion; this limit was subsequently raised to $5,250 in the Tax Reform Act of 1986. The Technical and Miscellaneous Revenue Act of 1988 made the exclusion inapplicable to graduate-level courses. The restriction on graduate-level courses was repealed by the Omnibus Reconciliation Act of 1990, effective for taxable years beginning after December 31, 1990.

Description of proposal

The exclusion from income for employer-provided educational assistance would be extended through June 30, 1992. The exclusion would be available with respect to amounts paid on or before June 30, 1992.

2. Exclusion for employer-provided group legal services; tax exemption for qualified group legal services organizations (secs. 120 and 501(c)(20) of the Code).

Present law

Under present law, certain amounts contributed by an employer to a qualified group legal services plan for an employee (or the employee's spouse or dependents) are excluded from the employee's gross income for income and employment tax purposes (sec. 120). The exclusion is limited to an annual premium value of $70.

The exclusion for group legal services benefits expires for taxable years beginning after December 31, 1991.

In addition, present law provides tax-exempt status for an organization the exclusive function of which is to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan (sec. 501(c)(20)). The tax exemption for such an organization expires for taxable years beginning after December 31, 1991.

Legislative background

The section 120 exclusion and the section 501(c)(20) exemption were enacted initially on a temporary basis by the Tax Reform Act of 1976 (through 1981). They subsequently were extended, again on a temporary basis, by the Economic Recovery Act of 1981 (through 1984), Public Law 98–612 (through 1985), the Tax Reform Act of 1986 (through 1987), the Technical and Miscellaneous Revenue Act of 1988 (through 1988), the Omnibus Budget Reconciliation Act of 1989 (through September 30, 1990), and the Omnibus Reconciliation Act of 1990 (through 1991). The Technical and Miscellaneous Revenue Act of 1988 imposed the $70 annual limit on the amount of premium that may be excluded by the employee.

Description of proposal

The exclusion from income for employer-provided group legal services would be extended through June 30, 1992. The exclusion would be available with respect to amounts paid by an employer before July 1, 1992, for coverage under a qualified group legal services plan for periods before July 1, 1992.

3. Deduction for health insurance costs of self-employed individuals (sec. 162(l) of the Code).

Present law

Under present law, an employer's contribution to a plan providing accident or health coverage is excludable from an employee's income (sec. 106). No equivalent exclusion is provided for self-employed individuals (i.e., sole proprietors or partners in a partnership).

However, present law provides a deduction for 25 percent of the amounts paid for health insurance for a taxable year on behalf of a self-employed individual and the individual's spouse and dependents. This deduction is allowable in calculating adjusted gross income. The 25-percent deduction is also available to a more than 2-percent shareholder of an S corporation.

No deduction is allowable for any taxable year in which the self-employed individual or eligible S corporation shareholder is eligible to participate (on a subsidized basis) in a health plan of an employer of the self-employed individual (or of such individual's spouse).

The 25-percent deduction expires for taxable years beginning after December 31, 1991.

Legislative background

The 25-percent deduction for the health insurance costs of self-employed individuals was enacted on a temporary basis by the Tax Reform Act of 1986 (for taxable years beginning before January 1, 1990). Certain technical corrections to the provision were made by the Technical and Miscellaneous Revenue Act of 1988. The Omnibus Budget Reconciliation Act of 1989 extended the deduction for 9 months (for taxable years beginning before October 1, 1990) and clarified that the deduction is available to certain S corporation shareholders. The Omnibus Reconciliation Act of 1990 extended the deduction through 1991.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend for one year the 25-percent deduction for health insurance costs of self-employed individuals.

Description of proposal

The 25-percent deduction for health insurance costs of self-employed individuals would be extended through June 30, 1992. The deduction would be available with respect to amounts paid before July 1, 1992, for insurance coverage for periods before July 1, 1992.

For purposes of the earned income limitation on the deduction, the amount of earned income taken into account would be the amount that bears the same ratio to the total amount of earned income for the taxable year as the number of months in the taxable year ending before July 1, 1992, bears to the total number of months in the taxable year.

4. Qualified mortgage bonds and mortgage credit certificates (secs. 143 and 25 of the Code)

Present law

Qualified Mortgage Bonds

Qualified mortgage bonds ("QMBs") are bonds the proceeds of which are used (net of costs of issuance and a reasonably required reserve fund) to finance the purchase, or qualifying rehabilitation or improvement, of single-family, owner-occupied residences located within the jurisdiction of the issuer of the bonds. The QMBs must meet purchase price, income eligibility limitations, and other restrictions.

Mortgage Credit Certificates

Qualified governmental units may elect to exchange qualified mortgage bond authority for authority to issue mortgage credit certificates (MCCs) (sec. 25). MCCs entitle homebuyers to nonrefundable income tax credits for a specified percentage of interest paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the residence being financed continues to be the certificate-recipient's principal residence. MCCs are subject to the same targeting requirements as QMBs.

Expiration

Authority to issue QMBs and to elect to trade in QMB volume authority to issue MCCs expires after December 31, 1991.

Legislative background

The Mortgage Subsidy Bond Tax Act of 1980 first imposed restrictions on the ability of State and local governments to issue tax-exempt bonds to finance mortgage loans on single-family, owner-occupied residences. These restrictions included many of the rules applicable under present law.

Under the 1980 Act, the authority of State and local governments to issue QMBs expire on December 31, 1983. The Deficit Reduction Act of 1984 extended this authority (with modifications) through December 31, 1987, and enacted the MCC alternative to QMBs.

Authority to issue QMBs and the election to trade in bond volume authority to issue MCCs were extended for one year (through December 31, 1988) by the Tax Reform Act of 1986. The Technical and Miscellaneous Revenue Act of 1988 extended the authority to issue QMBs and the election to trade in bond volume authority to issue MCCs for another year (through December 31, 1989), with substantial modifications. The Omnibus Budget Reconciliation of 1989 extended the expiration date of this authority nine months (through September 30, 1990).

Authority to issue QMBs and the election to trade in bond volume authority to issue MCCs were extended for 15 months, (through December 31, 1991) by the Omnibus Budget Reconciliation Act of 1990. The 1990 Act also made several modifications to the recapture provisions. These modifications were effective as if enacted in the Technical and Miscellaneous Revenue Act of 1988 (the Act which originally enacted the recapture provisions).

Description of proposal

The authority of State and local governments to issue QMBs and to elect to trade in bond volume authority to issue MCCs would be extended through June 30, 1992.

5. Qualified small-issue manufacturing bonds (sec. 144(a) of the Code)

Present law

Interest on certain small issues of private activity bonds is exempt from tax if at least 95 percent of the bond proceeds is used to finance manufacturing facilities or certain land or property for first-time farmers ("qualified small-issue bonds"). Qualified small-issue bonds are issues having an aggregate authorized face amount of $1 million or less. Alternatively, the aggregate face amount of the issue, together with the aggregate amount of certain related capital expenditures during the six-year period beginning three years before the date of the issue and ending three years after that date, may not exceed $10 million. Special limits apply to these bonds for first-time farmers.

Authority to issue qualified small-issue bonds expires after December 31, 1991.

Legislative background

Substantial modifications to the tax treatment of exempt small-issue industrial development bonds were made by the Tax Equity

VOL 137 PT 23 NO 21–25 1991 UMI

and Fiscal Responsibility Act of 1982. The 1982 Act also provided that the authority to issue exempt small-issue bonds would expire after December 31, 1986. The Deficit Reduction Act of 1984 limited the small-issue bond exception to financing for manufacturing and farming facilities, effective after December 31, 1986, and extended the expiration date for these bonds to December 31, 1988. The Tax Reform Act of 1986 extended that date to December 31, 1989.

The Technical and Miscellaneous Revenue Act of 1988 clarified the definition of manufacturing to provide that up to 25 percent of the proceeds of qualified small issue bonds may be used to finance ancillary activities which are carried out at the manufacturing site. The Omnibus Budget Reconciliation Act of 1989 extended the expiration date to September 30, 1990. The Omnibus Budget Reconciliation Act of 1990 extended that date to December 31, 1991.

Description of proposal

The authority to issue qualified small-issue bonds would be extended through June 30, 1992.

6. Allocation and apportionment of research expenses (sec. 864(f) of the Code)

Present law

Pursuant to Treasury regulations which were promulgated in 1977, research and experimentation expenditures are generally allocated as follows: (1) expenses for research that is undertaken solely to meet legal requirements imposed by a government and that cannot reasonably be expected to generate income (beyond de minimis amounts) outside that government's jurisdiction are allocated solely to income from sources within that jurisdiction; and (2) remaining research expenses are generally apportioned to foreign source income based on either (a) gross sales, except that a taxpayer using this method may first apportion at least 30 percent of such expenses exclusively to the source where over 50 percent of the taxpayer's research is performed; or (b) gross income, except that expenses apportioned to U.S. and foreign source income using a gross income method cannot be less than 50 percent of the respective portions that would be apportioned to each income grouping using a combination of the sales and place-of-performance methods.

A statutory allocation rule applies to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991. In these two taxable years, the statutory allocation rule provides that 64 percent of U.S.-incurred R&D expenses are allocated to U.S. source income, 64 percent of foreign-incurred R&D expenses are allocated to foreign source income, and the remainder of R&D expenses are allocated and apportioned either on the basis of sales or gross income, but subject to the condition that if income-based apportionment is used, the amount apportioned to foreign source income can be no less than 30 percent of the amount that would have been apportioned to foreign source income had the sales method been used. In taxable years beginning after August 1, 1991, the R&D allocation regulation applies.

Legislative background

Beginning in 1981, Congress enacted a series of statutory R&D allocation rules to substitute, in part, for the R&D allocation regulation. The first statutory R&D allocation rule was contained in the Economic Recovery Tax Act of 1981 (ERTA), covering any taxpayer's first 2 taxable years beginning within 2 years after August 13, 1981. In the taxable years governed by this aspect of ERTA, all U.S-incurred R&D expenses were allocated to U.S. source income. This provision was exended by the Deficit Reduction Act of 1984 (DEFRA) and the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) through taxable years beginning on or before August 1, 1986.

For taxable years beginning after August 1, 1986, and on or before August 1, 1987, the Tax Reform Act of 1986 (TRA) provided that 50 percent of research expenses (other than amounts incurred to meet certain legal requirements, and thus allocable to one geographical source) were allocated to U.S. source income, with the remainder allocated and apportioned either on the basis of sales or gross income.

The Technical and Miscellaneous Revenue Act of 1988 (TAMRA) effectively extended statutory allocation rules for an additional four months. The rules in effect for these four months, however, were different than those contained in previous statutes.

The Omnibus Budget Reconciliation Act of 1989 (OBRA89) and the Omnibus Budget Reconciliation Act of 1990 (OBRA90) apply a statutory allocation rule to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991. In taxable years governed by OBRA89 and OBRA90, the same statutory allocation rule applies as was applicable to expenses deemed incurred in the first four months of the year governed by TAMRA. That allocation rule is codified as section 864(f) of the Internal Revenue Code.

President's budget proposal

Under the President's fiscal year 1992 budget proposal, the statutory R&D allocation rules of section 864(f) would be extended for one year, so as to apply to all R&D expenses paid or incurred in taxable years beginning after August 1, 1991 and on or before August 1, 1992.[3]

Description of proposal

The expired statutory allocation rule would be extended to apply to research expenses paid or incurred during the taxpayer's third taxable year beginning after August 1, 1989, and on or before August 1, 1992. In the case of the taxpayer's first taxable year beginning after August 1, 1991, however, the statutory allocation rule would apply only to research expenses paid or incurred during the first six months of that year.

7. Tax credit for qualified research expenditures (sec. 41 of the Code).

Present law

General Rule

A 20-percent tax credit is allowed to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit will not apply to amounts paid or incurred after December 31, 1991.

A 20-percent tax credit also applies to the *excess* of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for university basic research *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fix-base period, as adjusted for inflation.[4]

Computation of Allowable Credit

Except for certain university basic research payments, the credit applies only to the extent that the taxpayer's qualified research expenditures for the taxable year exceed its base amount. The base amount for the current year is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years.

If a taxpayer both incurred qualified research expenses and had gross receipts during each of at least three years from 1984 to 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenses for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (such as "start-up" firms) are assigned a fixed-base percentage of .03.

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Relation to Deduction

Deductions for qualified research expenditures allowed to a taxpayer under sec. 174 or any other provision are reduced by an amount eqal to 100 percent of the taxpayer's research credit determined for that year.

Legislative background

The research credit initially was enacted in the Economic Recovery Tax Act of 1981 as a credit equal to 25 percent of the excess of qualified research expenses in the current year over the average of qualified research expenses in the prior three taxable years. The research credit was modified in the Tax Reform Act of 1986 which (1) extended the credit through December 31, 1988, (2) reduced the credit rate to 20 percent, (3) tightened the definition of research expenditures eligible for the credit, and (4) modified the university basic research credit.

The Technical and Miscellaneous Revenue Act of 1988 extended the credit for one additional year, through December 31, 1989. The 1988 Act also reduced the deduction allowed under section 174 for qualified research expenses by an amount equal to 50 percent of the research credit determined for the year.

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months (by prorating qualified expenses incurred before January 1, 1991). The 1989 Act also modified the method for calculating a taxpayer's base amount and further reduced the deduction allowed under section 174 for qualified research expenses by an amount equal to 100 percent of the research credit determined for the year.

The Omnibus Budget Reconciliation Act of 1990 extended the research credit through December 31, 1991 (and repealed the special rule to prorate qualified expenses incurred before January 1, 1991).

President's budget proposal

The President's fiscal year 1992 budget proposal would make permanent the 20-percent research tax credit for qualified research expenditures and university basic research payments.

Description of proposal

The tax credit for qualified research expenditures (including university basic research payments) would be extended for six months (i.e., for qualified expenses incurred through June 30, 1992).

8. Tax credit for low-income rental housing (sec. 42 of the Code)

Present law

A tax credit is allowed in annual installments over ten years for qualifying newly constructed or substantially rehabilitated low-income rental housing. For most qualifying housing, the credit has a present value of 70 percent of the cost of low-income housing units. For housing receiving other Federal subsidies (e.g., tax-exempt bond financing) and for the acquisition cost of existing housing (e.g., costs other than the required rehabilitation expenditures), the credit has a present value of 30 percent.

To qualify for the credit, a building owner generally must receive a low-income housing credit allocation from the appropriate State credit authority. An exception is provided for property which is substantially financed with the proceeds of tax-exempt bonds subject to the State's private-activity bond volume limitation. The annual credit ceiling for each State is $1.25 per resident per year.

The low-income housing credit is scheduled to expire after December 31, 1991.

Legislative background

The low-income housing credit was enacted by the Tax Reform Act of 1986, with an expiration date of December 31, 1989. The credit was substantially revised and extended through December 31, 1990, by the Omnibus Budget Reconciliation Act of 1989 (the 1989 Act). To implement the equivalent of a partial-year extension of the credit, the 1989 Act reduced the annual low-income housing credit ceiling for 1990. In years prior to 1990, the credit ceiling for each State was $1.25 multiplied by the State's population. For calendar year 1990, that amount was reduced by 25 percent from $1.25 to $0.9375.

The Omnibus Budget Reconciliation Act of 1990 (the 1990 Act) restored the State credit ceiling applicable for 1990 to $1.25 per resident of the State, and extended authority to allocate the credit through December 31, 1991. In addition, the 1990 Act made technical and other modifications to the credit.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the current low-income housing credit for one year, through December 31, 1992.

Description of proposal

The low-income housing credit would be extended through June 30, 1992. The credit ceiling for each State would be $1.25 per resident of the State for the period during 1992 for which the credit is extended.

9. Targeted jobs tax credit (sec. 51 of the Code)

Present law

Tax Credit

The targeted jobs tax credit is available on an elective basis for hiring individuals from nine targeted groups. The targeted groups consist of individuals who are either recipients of payments under means-tested transfer programs, economically disadvantaged, or disabled.

The credit generally is equal to 40 percent of up to $6,000 of qualified first-year wages paid to a member of a targeted group. Thus, the maximum credit generally is $2,400 per individual. With respect to economically disadvantaged summer youth employees, however, the credit is equal to 40 percent of up to $3,000 of wages, for a maximum credit of $1,200.

The credit expires for individuals who begin work for an employer after December 31, 1991.

Authorization of Appropriations

Present law authorizes appropriations for administrative and publicity expenses relating to the credit through December 31, 1991. These monies are to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

Legislative background

The targeted jobs tax credit was enacted by Congress in the Revenue Act of 1978 to replace an expiring credit for increased employment. As originally enacted, the targeted jobs tax credit was scheduled to apply to qualified wages paid before 1982.

The availability of the credit was successively extended by the Economic Recovery Tax Act of 1981 (ERTA) for one year (through 1982), by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) for two years (through 1984), and by the Deficit Reduction Act of 1984 (DEFRA) for one year (through 1985). The Tax Reform Act of 1986 (TRA 1986) extended the targeted jobs tax credit for three additional years (through 1988), with modifications. The Technical and Miscellaneous Revenue Act of 1988 (TAMRA) extended the credit for one year (through 1989), with modifications. The Omnibus Budget Reconciliation Act of 1939 (OBRA 1989) extended the credit for nine months (through September 30, 1990). Most recently, the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) extended the credit for fifteen months (through 1991).

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the credit for one year. Therefore, the credit would be available for workers who begin work for the employer before January 1, 1993.

Description of proposal

The targeted jobs tax credit would be extended for six months, so that it would be available with respect to wages paid for employees who begin work for an employer before July 1, 1992.

10. Business energy tax credits for solar and geothermal property (sec. 48(a) of the Code)

Present law

Under present law, nonrefundable business energy tax credits are allowed for 10 percent of the cost of certain qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment which produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission stage.[5]

The business energy tax credits are currently scheduled to expire with respect to property placed in service after December 31, 1991.

Legislative background

Ten-percent tax credits for qualifying solar and geothermal energy properties were enacted in the Engergy Tax Act of 1978, effective after April 20, 1977, through December 31, 1982. In the Windfall Profit Tax Act of 1980, the solar and geothermal credits were extended through 1985, and the rates of these credits were increased to 15 percent. In the Tax Reform Act of 1986, the solar and geothermal credits were extended for three additional years (through 1988), at rates which phased down to 10 percent. An additional one-year extension (through 1989) of the solar and geothermal credits was provided in the Technical and Miscellaneous Revenue Act of 1988.

The business energy tax credits for solar and geothermal property were extended for the nine-month period through September 30, 1990, in the Omnibus Budget Reconciliation Act of 1989. In the Omnibus Budget Reconciliation Act of 1990, the solar and geothermal credits were extended for fifteen months through December 31, 1991.

President's budget proposal

The President's fiscal year 1992 budget proposal would extend the 10-percent business credits for solar and geothermal property for one year, through December 31, 1992.

Description of proposal

The business energy tax credits would be extended for property placed in service through June 30, 1992.

11. Tax credit for orphan clinical drug testing expenses (sec. 28 of the Code)

Present law

A 50-percent nonrefundable tax credit is allowed for a taxpayer's qualified clinical testing expenses paid or incurred in the testing of certain drugs, generally referred to as orpha drugs, for rare diseases or conditions. Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. Present law defines a rare disease or condition as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but there is no reasonable expectation that businesses could recoup the costs of developing a drug for it from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

Legislative background

This provision was enacted initially in the Orphan Drug Act of 1983, and was scheduled to expire after 1987. The credit was extended for three years in the Tax Reform Act of 1986, through December 31, 1990. The Omnibus Budget Reconciliation Act of 1990 extended the credit for one year, through December 31, 1991.

Description of proposal

The proposal would extend the orphan drug tax credit for six months (i.e., for qualified clinical testing expenses incurred through June 30, 1992).

12. Minimum tax exception for gifts of appreciated tangible property (sec. 57(a)(6) of the Code)

Present law

In computing taxable income, a taxpayer generally is allowed to deduct the fair market value of property contributed to a charitable organization.[6] In the case of a charitable contribution of tangible personal property, however, a taxpayer's deduction for regular tax purposes is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the deduction for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair market value of the property exceeds its adjusted basis. However, in the case of any taxable year beginning in 1991, this rule does not apply to contributions of tangible personal property.

Legislative background

The Tax Reform Act of 1986 treated the amount by which the value of a charitable contribution of capital gain property exceeded the basis of the property as a minimum tax preference.

The Omnibus Budget Reconciliation Act of 1990 provided that, in the case of any taxable year beginning in 1991, this rule does not apply to a contribution of tangible personal property.

Description of proposal

The rule that charitable contributions of tangible personal property are not treated as a minimum tax preference item would be extended for six months (i.e., for contributions made through June 30, 1992).

III. DESCRIPTION OF REVENUE-RAISING PROVISION

1. Modify estimated tax payment rules for large corporations (sec. 6655 of the Code)

Present law

A corporation is subject to an addition to tax for any underpayment of estimated tax. A corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 90 percent of the tax liability shown on the return for the current taxable year. In addition, a corporation may annualize its taxable income and make estimated tax payments based on 90 percent of the tax liability attributable to such annualized income.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Description of proposal

For 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments would be required to base its estimated tax payments on 93 percent (rather than 90 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis. The applicable percentage would be 94 (rather than 93) percent in 1993, 94 percent in 1994, 95 percent in 1995, and 95 percent in 1996.

The provision does not change the present-law availability of the 100 percent of last year's liability safe harbor for small corporations. In addition, as under present law, the first quarter's estimated tax payment for a large corporation may be based on 100 percent of the prior year's tax liability.

Effective date

The proposal would be effective for estimated tax payments with respect to taxable years beginning after December 31, 1991, and before January 1, 1997.

FOOTNOTES

[1] These tax provisions, except for item (12), were last extended in the Revenue Reconciliation Act of 1990 ("1990 Act") (Title XI of the Omnibus Budget Reconciliation Act of 1990, P.L. 101-508). Item (12) was enacted in the 1990 Act as a one-year provision.

[2] Expired on August 1, 1991.

[3] The Treasury Department's *General Explanations of the President's Budget Proposals Affecting Receipts* erroneously describes the effective date of the proposal as "taxable years beginning after August 1, 1991 and *ending* on or before August 1, 1992."

[4] Expenditures paid or incurred for university basic research after December 31, 1991, are not eligible for the credit.

[5] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (Code sec. 613(e)(2)).

[6] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)). Special rules also limit the amount of a charitable contribution deduction to less than the contributed property's fair market value in cases of contributions of inventory or other ordinary income property and short-term capital gain property.

INTRODUCTION OF THE RURAL COMMUNITY EQUALITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. AuCoin] is recognized for 5 minutes.

Mr. AuCOIN. Mr. Speaker, today I am introducing legislation which is a direct result of conversations I had with Oregonians in rural communities this summer.

I listened and I understand their message. Rural communities in Oregon and throughout the West are increasingly finding themselves caught in a crossfire generated by the war over our public lands and resources. They have become innocent bystanders as powerful interests attempt to pull public land management policy in opposite directions, often, on one extreme, toward total lockup or, on the other, toward complete resource exploitation. This chaos is made worse by a Federal Government who often doesn't know it has stepped on the local public's toes until their foot is broken.

The result is a chilling uncertainty in the market—and when you have market uncertainty you raise a question whether real market value can be determined in many cases, and that's not fair.

Our Federal Government must be held to a higher standard of accountability to the citizens we serve. The legislation I introduce today can begin to restore that accountability.

In an effort to preserve America's national treasury of parks, forests, wildlife refuges, and recreational areas, the Federal Government often seeks the purchase of private land. For example, as part of his "America the Beautiful" Program, President Bush has asked Congress to spend $47.5 million in fiscal year 1992 for private land purchases by the BLM alone.

I support efforts to enhance our national scenic treasury. But we must understand the impact on local communities and local government and eliminate it or minimize those impacts where possible. And the Federal Government should provide justification for why the acquisition is needed. If it can't be justified, it shouldn't be purchased.

Taking private land out of the local tax base can have a devastating impact on the community, particularly where the local government has reached the maximum allowed under the payment-in-lieu-of-taxes program which compensates lost tax revenue when Federal land is acquired.

I have concluded that current law does not provide adequate compensation in some circumstances or doesn't always provide an adequate check on the Federal Government's appetite to acquire private land.

The Rural Community Equality Act which I am introducing today will address both problems by supplementing the compensation provided to local government and serve as a check on private land acquisition.

My legislation will provide payment to local government, in addition to any payment received under the Pilt Program for lands acquired by the Bureau of Land Management. Current law allows such payments for lands acquired by the Forest Service if the land is acquired for wilderness, or lands acquired by the National Park Service, but not the BLM which manages some 270 million acres and is our largest Federal landowner.

Each yearly payment made under this program will equal 1 percent of the fair market value of the interest in land on the date the Federal Government acquires the interest. However, payments may not be more than the amount of real property taxes levied during the previous fiscal year.

Five years after any acquisition, my bill requires the responsible Federal agency to review the status of the parcel and determine if it should remain in Federal ownership. The Secretary is directed to develop cost-benefit criteria to assist in this determination and to share the results of this review with the affected unit of local government prior to making a final determination.

If the land is no longer needed for Federal purposes the land must be released from Federal control. If the land remains under Federal control, the payments would continue with a status review conducted every 10th year.

This legislation will require the Federal Government to think very carefully about the acquisition of private land and should result in the acquisition of those lands where long-term protection can be justified.

UNFOLDING CRISIS IN THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. NAGLE] is recognized for 60 minutes.

Mr. NAGLE. Mr. Speaker, I wish to address the House tonight, a practice that I do not normally engage in, particularly at this hour. However, I want to discuss, as best I can, the situation between the Soviet Union and the United States with regard to recent developments we have had between our country and theirs, and focus, at least in the commencement of my remarks, on the question of agricultural sales.

The current consternation of the Bush administration over the most recent request of the Soviet Union for agricultural credits to purchase American farm products has much deeper and more profound implications than simply whether or not the United States will be paid sooner, later, or never.

Setting aside the irony of this administration, or to be fair, any recent administration, worrying about the ability of the recipients of their foreign aid to pay back what has been given to them. the decision to make within the coming weeks could very well shape and define the post-cold-war era.

On one hand, we have a former adversary in deep distress. It is no overstatement, to say that the center, as the Soviets now refer to their central Government, is in disarray. Aside from mustering a nuclear response to a truly perceived threat to national survival, the national government no longer exists to perform traditional functions in a civilized society.

Nor are the replacement governments, the so-called Republics—currently, collectively, or individually—able to meet the needs of the people they represent, and, more importantly, speak with one voice to the international community for the betterment of the entire Soviet society.

We have not seen the dismemberment of a superpower with nuclear capability before; and while we have dealt successfully previously with vanquished military foes, those dealings have taken place in a context of a destroyed military capability of our adversary.

But to say, on the other hand, as some have advocated, that what happens in this dissolution of a country does not concern us is to believe that what has been dismembered can neither: First, not be put back together again; or second, if restructured and made whole again, will only be in a substance that is pleasing to our eyes. Further, either indifference to the events unfolding before us or a philosophy of simple "cash and carry only" assumes that we will not be impacted by the very process of dissolution, Finally, if the Soviet Union is dissolved in 15 separate countries, or more likely 30, danger can clearly still exist both to ourselves and them to each other.

Clearly, what is needed is a coherent national plan, with the support of the public, to weigh what action this country should commence on its own, what should be done in concert with our allies and what the policy objectives we seek, unilaterally and multilaterally, to achieve.

The prospects for this happening are not at this moment very bright. Six weeks after the Soviet President requested substantial emergency food and humanitarian supplies, after four technical advisory teams of the administration have either visited or are visiting the Soviet Union, the debate has diminished within the administration to whether the recipients of our assistance could realistically be expected to repay on 1½ billion dollars' worth of aid. Those of us concerned about the broad implications of this decision as it impacts U.S. policy are not reassured to learn that a decision will be made in "the next 10 days or so."

Understanding why this inability to decide has overtaken the Bush administration may request an opportunity to commence the public debate on what the coherent U.S. response should be and how it should be presented.

As usual, there is not simply one cause for the indecision of an administration that boldly went to war less than a year ago. There seem to be three: history, politics, and ideology.

Within the administration, within the political appointees of the Departments of State, Commerce, Defense, and the CIA, and even deeper into permanent staff of these institutional structures, we have a host of people, well intentioned and honest, who came to Washington to win or at least not lose the cold war. Since 1947, our goals have been simple: Contain Communism, fight it in every region of the world, maintain a sufficient nuclear deterrent that they dare not attack and prevent Europe from being overrun by a horde of Red troops bent on imposing Marxism upon the world.

In short, if you have lived in Washington during the last 44 years or you came to town most recently with one objective, and that is obtained, natural difficulty will be found in developing to a totally changed international picture. The past, while it may not have been adored, was at least certain; the future presented to us now that we have won is unclear, dangerous, and requires a totally new mind set. This is difficult for any group to do, but particularly difficult for a conservative administration.

This does not mean to imply that there is not a danger of the resurrection of the Soviet Union as a Communist society. The recent coup attempt reminds us of that danger. No, it would be imprudent to throw out history, but also equally imprudent to allow the past to so dominate our present that tomorrow becomes yesterday simply because we allowed ourselves to be controlled by it.

Unfortunately, the lack of a perspective toward tomorrow and a propensity to be controlled by the mind set of the cold war warrior, is not the only limitation to a realistic and a proper evaluation of the dangers and opportunities before our country. There is politics.

The formation of a new, and active, foreign policy by this administration, may have unfortunately been retarded by the rise of the Democratic Presidential prospects. The ability of the party of opposition to find and exploit the public dissatisfaction with a perceived President's interest in foreign affairs over domestic issues has obviously restricted the amount of time, focus, and action the President feels he can devote to issues of international concern. That this has happened should not surprise us. As with Roosevelt during the Depression, hard times bring demands from the voting public that we "fix things here at home." Any new administration initiative will require that this political opposition be dealt with and appeased.

There is almost an irony to this development and almost a longing among some of us that the recent Pennsylvania election had not taken place when it did. At the very time when the administration needs to step forward boldly in the formation of a new foreign policy vis-a-vis the Soviet Union, President Bush has been driven from the field. The nature of that retreat, and the manner in which it was done by the Democrats, precludes them from stepping into the void. While events of the magnitude of which we cannot imagine swirl around us, the field sets barren of contestants and needed action, partisan or bipartisan.

A philosophy of international affairs that says simply, "We won, let's go home," is not what this country needs at this time; and yet, because of politics, this is what we may very well have, as Democrats, bequeathed.

Equally as dangerous as allowing the dead hand of history to control us, or bowing to domestic politics, is the danger of rigid and self-satisfied ideology appearing to provide the answer. Unhappily, this element too is in the mix.

The current conventional wisdom is that we won simply because our system was better. Part of this doctrine rests upon a solid foundation of a free society constantly, collectively, and individually, being able to debate, change, and adapt to a series of international events over the years. The strength of this system is shown in many ways too numerable to mention here. The second half of that wisdom is bottomed upon an economic theory called the free enterprise system.

Action needed now, we are told, is really only twofold: Give the Soviets freedom and the free enterprise system, a market economy, and their problems will be solved. Soon, they will be just like us. Further, there is no one better able to import this economic concept to our former adversary than American business. Dangerously, this writer contends, is this belief that we need do little if anything more than this.

The mixed success the imposition of a market economy has brought to Eastern Europe should give us pause. The transition to a totally new economic order, whether done quickly or gradually, brings very uneven results. further, the experiment in Eastern countries has one marshaling benefit total absent within the Soviet Union: a strong sense of national unity, a willingness to bear pain to establish a truly independent nation now that they are free of the choking foot of the Communist Party.

Unhappily, no such strong national identity exists within the Soviet Union. In fact, the desire for separate nations within the borders of our former adversary is rapidly becoming clear. Thus, two immediate problems confront this theory: First, we are not talking about creating one market economy for one country but at least 15 separate and distinct such economies each with a varying degree of enthusiasm for the project and resources

VOL
137
PT
23
NO
21—25
1991
UMI

to accomplish the task; and no history or even understanding of tolerance for each other or even ethnic groups within the various new countries exists absent the imposition of central control. But the source of that imposed tolerance, the Kremlin, no longer exists.

To further complicate the complicated, even within those new, independent entities, a strong element of the population is still Communist and in some countries, such as the Ukraine, still in control.

A plan of action by an American administration to simply stand back and allow the American businessman to do the economic transition on his own ignores the fact that the Soviet military remains intact, somewhat independent of any government control; and may very well move collectively or individually to the new regime that appears most promising to them.

A host of other barriers, some to be discussed later, restrict our abilities to export our principles of democracy and economics. It will suffice to say now that simple reliance on the transformation of the Soviet society to a market economy will not be easy nor provide all the answers. Yet, because of our historical mindset and our politics, this theory as a policy seems to be gaining ground almost by default.

If a plane load of American businessmen to Moscow and the pittance of technical assistance that we have given so far or promised to give is not the answer, a issue that must be addressed before saying what should be done is to confront and remove the existing barriers to broad and coherent action.

To seek this answer is to confront both recent events and history. Recently, Representative LES ASPIN and Senator SAM NUNN proposed taking $1 billion from the Defense budget and giving it in humanitarian aid to the Soviet Union. The White House did not oppose or encourage this step, simply saying that they would accept it if done. Part of the assistance was to technically assist the Soviets in the dismantling of some of their defense industry.

Such a program, while hardly enough, was a step in the right direction. The plan met almost immediate opposition from Republican congressional leaders, who were later joined by some Democratic legislators, and died very quickly. Such an undertaking, at least from the defense budget, is now no longer viable.

The lesson here is simply that such efforts to structure, control as best possible, assist in the transformation of the Soviet society will not stand without bipartisan effort and strong backing from the White House.

During and following the Second World War, bipartisanship in the conduct of foreign affairs was thought to be proper and indeed was more the norm than the unusual. Many difficult decisions were made by national leaders freed from the danger of a domestic political backlash.

The difficulty in constructing such bipartisanship now is not out of the question. If the administration is willing to formulate the plans, or adopt Congressional attempts, the public may not be only willing to accept but support such foreign assistance.

The biggest impediment here is that such an effort does require the administration to yield a degree of control over foreign policy. The history of the last two administrations has been one of carefully guarding, and even seeking to expand, the right of the American President to set and execute foreign policy without regard for congressional oversight. Such a step towards bipartisanship would involve a measure of retreat from this Presidential prerogative. But even if the administration has a grand but yet unannounced plan, the implementation of any effort is doomed to failure because of attacks from both the left and the right without such Republican and Democratic support.

By way of specific illustration, broad bipartisan support could be generated from Republican and Democratic farmstate leaders and representatives for the pending decision over sending food with credits to the Soviets this winter.

But whether assistance be little or assistance to the Soviets be great, nothing will happen until the political climate is changed.

Removing political barriers by the formation of a new bipartisan effort toward the Soviet Union can only be accomplished if a real need is established first in the minds of political leaders and then in the minds of the public.

In other words, before we change the policy of indecision and indifference—or at best our current tepid response—to the Soviet Union, the urgency of the situation and the consequences of the failure to act must be understood. This is not a difficult case to make.

The unclassified travel time of a nuclear tipped ICBM launched from the Soviet Union to the central part of the United States is 20 minutes. The time of impact is considerably less if done from a submarine off our coast. There are currently 30,000 such nuclear warheads in the Soviet Union—and as worrisome, some 10,000 of these are smaller, mobile, theater nuclear devices. Recent reports have reached us that some of the sites where these are controlled are left totally unattended by Soviet troops while they search for food for themselves.

In addition, assurances have been given that all the nuclear weapons of the Soviet Union remain under the center's control. The Ukrainians, for one, dispute this and have announced that they will not transfer back these weapons at this time, if ever.

The disintegration of a society with nuclear capability should concern all of us. While action may not be taken against us, similar constraints may not exist with various groups within the Soviet Union using them on each other.

Further, reports have been received of the potential for the elite of the Soviet nuclear society to be recruited to other countries that may not currently have nuclear capability.

In summary, the emergence of 15 distinct countries with nuclear capability or access to and the potential, without the center's inhibition, of selling or trading nuclear expertise to other countries certainly complicates the conduct of U.S. post-cold war foreign policy. Particularly, if the situation within the various republics is one of chaos, strife, and hunger.

Winston Churchill once said of the Soviet Union that it was a "riddle wrapped in a mystery inside an enigma." Today a more apt description would be that it is chaos, surrounded by upheaval and wrapped in incomprehension.

The economy is out of control. The Soviet central bank printed 57 billion rubles in August of this year. In the previous year, the bank printed for the entire year 47 billion rubles. Inflation could reach 400-percent annually and is even now moving upward at an alarming rate.

The Soviets estimate their total course-grain harvest for this year—160 million metric tons—as contrasted, by their estimates, of normal harvests of 220 to 230 million metric tons. To maintain food levels that were sustained in the winter of 1990–91, they have estimated they will need 11 billion dollars' worth of food assistance from the United States, the nations of G–7 and Japan. To date, they have received little and can certainly expect to receive far less than the requested amount. Even if those levels were achieved they face tremendous problems of hoarding by a population worried about both supply and inflation.

Ministries, previously designed to make the system work even in its cumbersome fashion, disappear overnight. Some are simply not funded, some are simply closed, and others are simply taken over by individuals who decide they are the new owners. There is within the leaders a pronounced inability to distinguish between public and private property.

Further, there is within the industrialized nations an emerging myth that at the worst, we will be dealing with 15 republics, some closely identified with the West and others in a loose confederation of economic cooperation. Setting aside the difficulties of this achievement without a functioning central bank and a common exchangeable currency, the reality is that we have no guarantee that the biggest of

those republics, Yeltsin's Russian Federation, may well dissolve into a collection of smaller republics, some with little toleration for each other. Some with nuclear weapons.

To cause further consternation for Western planners, some of the southern portions of the current Soviet Union are Moslem in religion. Reports are now being received that fundamentalist, long the bane of the United States in the Persian Gulf, are outreaching to their brothers to the north. The creation of a fundamentalist Islamic State to align with the Iraqs, and the Irans, and similar nations should be avoided.

Economic chaos, nuclear capability, ethnic strife, food riots, Moslem fundamentalism are all in isolation let alone in concert formation provide the seeds for the growth of a new and terribly complex world order. A Western aided, orderly transition to a free and economically integrated country or countries is far preferable.

Finally, the return to a concentration of power within the center would seem to represent for the Western nations a choice not much more preferable than total disintegration. We would again be confronted with a government that could reclaim power only with the utilization of the most brutal of means. Whether this new power be from the left or the right, nuclear power would again be concentrated within a nation whose interest would not always be consistent with our own.

The case for a controlled evolution of the Soviet society is thus understandable. The desperate straits of their country make such an aid package urgent. The consequences of a failure of policy at this juncture lays the foundation for all that may unfortunately follow. Finally, while history can teach, it should not control us; the need for new politics is clear and simple ideology can take us only so far.

Any effort to stabilize the Soviet society for a peaceful transformation to a free and successful series of international functioning units must be drawn up with a recognition of what is needed both in the near term and over a longer period of time. The complexity of the undertaking requires patience and a realistic expectation that not every endeavor may be successful either in its entirety or regionwide. Further, our own barriers to such an effort must be removed.

An issue first addressed, however, has to be to whom is the aid given, under what circumstances and in what form. The granting of assistance, it must be recognized, can help stabilize a society, but such aid can also add to the power and control of those receiving it. Further, aid can be freely given without restraint or with various levels of requirements to be met before delivery. Unrestricted aid or, in the phrase of Zbigniew Brzezinski, the former Carter National Security Council Adviser, a carrot and stick approach.

These threshold inquiries are not mere idle academic discussions. The initial and sustained Western response will determine not only the stability of Soviet society but also influence the very form of post-cold war Russia.

Here a number of value judgments—almost an ability to do the impossible: peer prospectively into history—must be made. For our purposes here, however, several concerns about the shape of a future Russia and its Republics can be discerned.

First, the center must be maintained to perform certain essential functions: The control of the nuclear forces, the control, to the extent possible, of the nonnuclear military forces. The dissolution of Soviet troops into rival bands obviously must be avoided.

Second, the center should be maintained for the purpose of maintaining free economic integration of the various Republics with each other and for provinces within the various Republics to maintain economic ties with their own regional governments.

Again, this is not idle speculation. For example, without a national currency, any economic international integration will be difficult to sustain. Without interregional economic integration, the Communist system of interdependent industries cannot be overcome without great difficulty.

Third, the center should be maintained as the representative of all Republics with various international organizations. As will be advocated later, the granting of Soviet membership into international monetary and trade organizations should only be done with the central government. Attempting to deal with a host of new nations would only strip the government of all vestige of control or even appearances of power.

Fourth, any assistance to individual Republics or even the center must be preconditioned upon the observance of basic human rights. In short summary, the Helsinki accords—and other international covenants of this nature—must be maintained. While we cannot prevent another Yugoslavia, we can certainly attempt to slow such a development.

Fifth, the conversion of the military capabilities of the old Soviet Union into a modern industrial nation is essential, of course, for a successful transformation. However, we should not simply hope this happens, but we should insist upon such a conversion, provide the advice necessary to see that it happens, and condition our assistance upon it taking place. This is true whether done through the center or by region.

Finally, direct aid to the Republics should, in part, be measured by the degree of interregional cooperation they are obtaining with their sister Republics and the degree that they and the center undertake economic reform. Lost in the history of the Marshall plan were two relevant features: The recipient countries were required to: First, develop a realistic economic reform plan for themselves and, second, integrate that plan with neighboring countries. While a solely funded U.S. Marshall plan is not advocated here, these two features of it are recommended.

If these be the goals that we seek to obtain, then equally important will be to whom we ask within the Soviet Union to obtain them.

Given a decision to grant broad and sweeping assistance to the Soviet Union can be structured either to maintain some vestiges of national stability and enhance needed reforms or, if done haphazardly and without coordination, contribute to the very disintegration we seek to avoid. As a rule of thumb only, the broader the undertaking, the more the remnants of the center need to be involved both because it will require a national Soviet effort and because bypassing the center only insures its further demise.

Even without historical proof, this writer cannot help but believe that we have already today contributed to the demise of the central government. We have required them, prudently, to make arms control concession after concession during the last 18 months. Our decision not to grant the center, only very limit them economic assistance, however, did not elevate their stature with the military or the Republics. They had nothing to show for what they had conceded, no lever or flag to convince their Republics to believe that in unity there was strength. The next round of assistance should not make the same mistake.

Properly structured aid is a tool of our longer range foreign policy goals as much as the aid itself. To be utilized, the consequences of delivery and to whom such assistance is delivered should be a carefully defined processes.

There are short term, immediate needs within the Soviet system and longer range assistance. The short term can best be defined in two commodities: necessities and hope.

Hope may well be more important, and surely as important, as necessities. The latter is as accessible as the former, although necessities may be easier to deposit upon Russia's shores.

Every visitor of insight to the Soviet Union today leaves with a profound impression of the depression of the Russian people and their territories. Collectively, they seem to believe that nothing will get better, that only hardship and profound upheaval await them. Into such a atmosphere are the seeds of demagogues and fascism introduced and such aromas these twins of evil leave smell sweet upon such foul air.

This restriction, too, should be re-

European Recovery and Development

The advice given to them with our

VOL
137
PT
23
NO
21
—
25
1991
UMI

Food today and the assurances of food tomorrow provide time to think and reflect. The agriculture community, which may be divided upon many issues, recognizes the marvelous opportunity for profit and expanding markets. Further, farmers are not split on this issue by party and advocacy of this action comes from both sides of the aisle. The mechanism for credits, as opposed to a confrontation of giving away American goods and services is not present. While transportation problems may present themselves, a commitment of the availability of American agricultural products removes a major barrier to Soviet stability.

If food gives substance to the Soviet people, the giving of hope represents little cost and substantial opportunity. Writing in the Spring issue of Foreign Affairs, John Lew Gaddis wrote:

> The Marshall Plan worked by employing small amounts of economic assistance to produce large psychological effects. It restored self-confidence in Europe just at the point * * * at which it was sagging. What was critical was not so much the extent of the aid provided as its timing, its targeting and its publicity: its main purpose was to shift the expectations of its recipients from the belief that things could only get worse to the conviction that they would eventually get better. (at Page 115.)

The argument here is that while food may cost little—(and indeed if such sales raise the price of our domestic raw products actually save the government money in price support maintenance)—the actual cash available to the United States to help stabilize the Soviet society is in reality very little. Therefore, what little we have has to be maximized. Maximization means more than simply getting the best result for the least spent, it means seeing also that the most spent gives a message of hope.

We now know that the Soviets have less experience or even comprehension of a free market system than we at first thought. Generally, they are for it in concept but do not understand it in practice. The old way of authoritarian control may not represent better, but at least a painful transition to the new system is avoided. The current situation within the republics certainly seems to confirm that fear: since the freedoms have been won, the situation has only gotten worse.

It is important that some of Soviet society experience some success. Targeted communities or regions need to be identified, locations where a relatively quick reversal of the adverse fortunes can be obtained. Such success in isolation can provide inspiration to others.

A few communities of intermediate size—defined as between 350,000 and 750,000 population—need be identified. This new, or Model Cities Program, needs to have a concentrated attention of American business. The Overseas Private Investment Corporation [OPIC], which has relatively few dollars to spend, should concentrate such resources on the private U.S. sector willing to invest in the specifically identified communities. OPIC, quite properly, currently grants its guarantees against loss on a first come, first served basis. Such a change in practice represents a temporary departure from an otherwise sound policy. Ex-Em credits, if appropriate, can also be utilized.

Coordination should be done to move a consortium of American businesses into these areas, not just one plant or processing location for an identified area but a number of businesses both for mutual support and to widen the impact area. Obviously, the cooperation of local authorities has to be obtained, the Soviet propensity to take longer than forever to do anything overcome, and there must be a reasonable expectation for the business to earn a reasonable return on their investment.

The reason for choosing intermediate size communities is relatively simple. Current American business experience says going to do business, the more knowledge is present of the character and characters of that community, and that means the more the enterprise avoids having to work from the top of the Soviet system through the maze of ministries and regulation.

Debates can be held over which communities and where. It will be sufficient to say that some raw materials or manufacturing process must be present. Assurances, via law, must be given that American technology will be protected and statutory waivers quickly obtained for the transfer of that technology—a subject that will be revisited—to the selected communities.

Such an undertaking should not stop with a simple economic assistance plan for the targeted towns. The administration has long been big on providing technical assistance, as they should be. However, where, what, and to whom are some of the essential questions that remain unanswered. Target technical assistance to the communities in question, including very important environmental assistance, would do well to go hand in glove with targeted economic development.

Finally, while the issue of democractic institutional training is essential for the entire country, some measure of such assistance has to be directed at these areas. Success should be total, not only in the aspects of American technology and business know-how, but American democratic processes as well. The relationship of the community to its business base, with the supporting infrastructure and environmental cooperation, should be established. Such cities would then be Model Cities and the experiences learned in the process more easily adapted by others. But most importantly, in the entire country, there would be two or three or more locations where the reformers could point to with both pride and a concrete example of success. More than economic gain, the Model Cities Program represents the essential feature of the Marshall Plan: hope.

The longer range goal of Soviet integration to the world economy will not result from simply stabilizing their society for the winter and providing examples of success. Because of the cold war, there exist a series of structural barriers to Soviet participation. Such barriers have to be removed if the transformation is to be successful.

Following the Second World War, the United States and the Western industrial nations deployed not only a military force around the Iron Curtain, they effectively denied the Soviet's economic integration into the modern industrial era. The degree of success of these policies can now only be fully appreciated by those who visit Russia and observe first hand the level of technical retardation experienced by their society.

A modern, stable, economically intergrated country or countries cannot be built if the policy of containment and isolation continues. This writer advocated a year ago in introducing the Collective Security Act of 1990 of permitting full Soviet participation in international monetary bodies. Last year the Soviet Central Government sought admission to the World Bank and the International Monetary Fund. Earlier this month, the IMF granted the central government and their Republics $30 million in technical assistance. Earlier this week the nations of G–7 agreed to forgo Soviet debt repayment and require interest payments only providing the Republics agreed to guarantee the total national foreign debt and commerce economic reform.

The Soviet Central Government now has been granted "observer" status with both the IMF and the World Bank. Whatever reasons existed for this distinction real and partial membership before seems now to have vanished. Granting full status at this time to both organizations to the Center would seem to have the advantage of strengthening the central government, thus maintaining our allies interest from the strategic standpoint and providing some national perspective for the needed Republic economic coordination. This tacit recognition of the center has the important effect of adding to its preservation. The addition of individual Republics to full status must await further developments and their own progress on those conditions listed previously.

The Soviets also requested membership and participation in the European Bank of Recovery and Development. They were granted the right to borrow only to the extent of their deposits.

This restriction, too, should be removed. Finally, even though late, Center membership to GATT should take place, if only to learn as much as to participate.

On these matters and others, an essential feature to retain is that the future course of developments within the Soviet Union—or as the country was known formerly—impacts directly on United States policy. However, the resources available from ourselves alone to shape that evolution are extremely limited both by the amount of money available and the domestic political scene.

That does not mean, however, beyond the reformation of our legislative record on trading opportunities with the Soviets, we are powerless to act. This is true particularly if we act in concert with others who have the same interests strategically and economically. A nation that has the capability to organize the world to go to war surely has the same organizational capacity to organize a coordinated effort to preserve domestic stability in Russia and its Republics.

To date, a coordinated effort by the nations of G–7 or the Group of 24 have not come about. True, the aforementioned credit forbearance from G–7 and the giving of credits for technical assistance from the IMF have taken place. But no agreed upon international scheme for additional aid is being discussed. Worse, each nation, almost in competition with each other, seeks the most lucrative trade agreements with the functioning remnants of Soviet society. Except for the United States, which is rapidly losing this market opportunity, our European and Japanese allies seek business opportunities and joint ventures, providing government guarantees for the private enterprise, but conditioned upon requirements that such credits are used to serve their debt first. A policy that simply picks over the bones of the Soviet carcass is at best a policy that permits uneven development and stability and, at worst, runs a high risk of failure.

A failure to create such a broad international program of assistance may leave in the future a more threatening international situation than the cold war itself. Watching developments unfold in the former Eastern European countries and the Soviet Union is almost seeing a pre-World War I map unfold before the nation's eyes. That map, with treaties and treaties within treaties, nationalism and tension, could very well be repeated. In countries beset with economic woes, military adventurism coupled with national pride often serves to substitute and offset failed domestic policy.

There is no need to create a new international organization to provide such planning, assistance and international co-operation. The Office of European Recovery and Development already exists and could well be transformed to this larger task. With planning and co-operation, the new rules of economic competition vis a vis the Soviet Union and East Europe could be agreed upon. The duplication of needed aid would be avoided and the coordination of aid obtained. International resources could be pooled so that no one nation bears the burden. The important work of creating a national and internationally functioning currency commenced. In this last endeavor and the others, cooperation with other international economic and relief organizations could be sought.

This peaceful opportunity for economic and political evolution for the Eastern European countries and the Soviet Republics, however, requires focus and concentration. The current international policy, if there be one, is simply ad hoc and moment to moment. The giving of aid, the trade opportunities, the Soviet and Warsaw bloc countries achievement of democratic reform is left to the whim of individual industrial nations. A more productive policy and better results can be had through multinational responses that are in concert, well planned, and well thought out.

A great deal of reliance by the administration has been placed on the domestic business community to assist both Eastern Europe and the Soviets in their transformation. This is as it should be but there are two major restrictions on this capacity, first, that it has to be understood and avoided; and the second, removed. The former is an overly dependent reliance on an economic theory and the second is statutory barriers that restrict United States investment and access.

The economic theory of the free enterprise system has worked well. But such a theory operates differently in different countries. More structured and controlled in some modern societies and more free wheeling in others. The free enterprise system may have certain universal principles such as supply and demand, but each nation has tempered the harsher effect of such business principles to meet both domestic needs and cultural principles. Examples of this, such as market restrictions to the Japanese people or large agricultural subsidies to German farmers, are abundant.

In exporting our knowhow, our business investment and our expertise, two factors must go with such an exodus: first, sensitivity to the Soviet cultural needs, whether needed national or regional and; second, the developed safeguards of our system.

Sensitivity to cultural factors is bottomed not only on the fact that each successful country practices the market economy slightly differently, but avoids the assumption that there is nothing within their culture from which we might learn.

The advice given to them with our technical system must be accompanied by our tempering of a free economic system with the dangers such an economic order presents when left unrestrained. For example, do we only teach them about wages without disclosing the concept of a minimum wage? Do we tell them of labor without discussions of our child labor laws? There are a host of illustrations, not the least of which could be institutional agencies such as the SEC, the FDIC, the Food and Drug Administration. Sadly, some will take the extreme of the free enterprise system and advise them that such well thought and learned American and European restraints really are not necessary. Creating a Russia that simply reflects what America was in 1890 will only span a resentment by the populace that could pose many problems for a society that historically is more used to authoritarian control than freedom.

With those two admonitions in mind, American enterprise can clearly help, and can clearly profit. These are not inconsistent. But the host of legislative restrictions must be quickly removed with administration leadership and bipartisan support from the more thoughtful Members of the Congress.

Rightfully, concerned over the condition of minorities within the Soviet Union, past Congresses, with the support of the existing administration, have passed a series of laws retarding United States economic investment within the Communist countries. Generally, this statute is known as Jackson-Vanik, and has been re-enforced both before and after its enactment with a series of initiatives known as Johnson, Byrd, and Jackson amendments.

It is impossible for United States business to commit their resources into the Soviet Union on the basis that normal commercial relationships the will exist only on a year-to-year basis, depending on the conduct of the Soviet's government toward the outward migration of minorities. A policy of free access and exchange of commercial opportunities both for them and for us on a simple year to year basis represents neither a stability of relationship that they need or the commitment of access, long range, that United States commercial enterprises require.

Recently, the United States Congress approved a trade agreement with the Soviets that waived Jackson-Vanik for one year. It did not waive the additional restrictions that the aforementioned amendments contain. Thus, while we grant the Soviets commercial opportunities with us, we do so for only one year; and all are additional prohibitions against additional trade, such as EX-IM credits continue to exist.

Given the Soviet history, the desire for retention of all of these trading limitations is understandable and can

VOL 137 PT 23 NO 21—25 1991 UMI

serve as an additional lever to insure continued Soviet and the individual Republic's progress on these important human rights issues. But a longer period of time is needed if U.S. investment is to take place. A far better scheme would be to waive Jackson-Vanik—and the applicable amendments—for 3 years, with a two-pronged provision: First, a Soviet or individual Republic's retreat on the individual rights will bring an re-enactment of the bill's provisions; and, second, if satisfactory progress is maintained by the parties, an automatic extension would take place for 5 years.

There are a variety of reasons for these steps. The ability of American business to commit resources must have an assurance of a continuity of policy that a year-to-year review does not provide. The ability of American business to compete requires that trade agreements bring with them an ability for Soviet products to penetrate United States markets for a sustained period of time. The straight retention of current United States trade restrictions on the Soviet Union does not provide an opportunity for our commercial interests to trade with them for profit.

Ultimately, we must face the fact that despite our historical prohibitions on trading with the enemy, such restraints have severely handicapped our commercial interests. Other nations are not only encouraging the businesses of their individual countries to explore Soviet opportunities, they are underwriting them. We may very well have to do the same.

Finally, in terms of opportunities for trade and modernization of the Republics, recognition must be given to the substantial retardation that takes place through the current administration of Co-Com. Soviet society can never be modern if modern technology is not available to them. The ability of the United States to take their best production processes and their best goods to new and formerly communist areas is hampered substantially by our formerly justified fear of transfering a technology that could be used for war. These current, but unrealistic restrictions, on technology transfer cost this nation $10 billion dollars in foreign trade annually. A much more realistic line than now employed (and in co-operation with our allies) must be drawn.

Inherent within this document is an underlying assumption that there is much we can learn from the Russian peoples and much they can learn from us. However, without a much more aggressive use of cultural exchange programs, such a learning process will never take place.

We currently have 10 times the number of Chinese students from the PRC than we do Soviet students. We have not utilized to anywhere near the extent possible our Fulbright scholarships, our Peace Corp, our business exchange programs that would bring to them and us knowledge of each other's ways.

Within the next year, programs such as Samantha Smith undergrduate student exchange, the 1000/1000 President's initiative, the Cooperating Private Institute [CPI], Fulbright Program, expanded to include PhD candidates, and University Affiliation alignments must be increased. Funding for these programs is only 4.3 million dollars annually. Major increases in the funding of these investments, an aggressively expanded United States staff within the Soviet Union to outreach the programs and an educational effort at home as to the benefit for us of these is clearly needed.

In his lifetime, the late Senator Robert Kennedy spoke of the impact that a collective effort of humanity could have on the course of world affairs. He termed this endeavor "bending history". We have the ability to shake off the dogmas of the past and to shape the future course of international relations for the better or for the worse. A vision of tomorrow that permits a new and safer world requires us and permits us to act boldly in assisting the development and modernization of a former adversary. We will be measured by the courage of our action; and we will pay the price of inaction.

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SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GEKAS) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes each day, on December 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, and 21.

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. PARKER, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

(The following Member (at the request of Mr. KANJORSKI) to revise and extend his remarks and include extraneous material:)

Mr. KANJORSKI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KANJORSKI today during debate on H.R. 3341.

(The following Members (at the request of Mr. GEKAS) and to include extraneous matter:)

Mr. LEWIS of California in two instances.

Mr. SANTORUM in two instances.

Mr. DUNCAN.

Mr. GEKAS.

Mr. DORNAN of California.

Mr. GREEN of New York.

Mr. BALLENGER.

Mr. LAGOMARSINO in three instances.

Mr. PACKARD.

Mr. MICHEL.

Mrs. JOHNSON of Connecticut.

Mr. EMERSON in five instances.

Mr. BENTLEY.

Mr. RINALDO.

Mr. GRADISON.

(The following Members (at the request of Mr. FRANK of Massachusetts) and to include extraneous matter:)

Mr. DE LUGO.

Mr. MILLER of California.

Mr. LANTOS in two instances.

Mr. FASCELL in three instances.

Mr. MAZZOLI in two instances.

Mr. LEHMAN of Florida.

Mr. BEILENSON.

Mrs. BOXER.

Mr. WILLIAMS.

Mr. TALLON.

Mr. VISCLOSKY.

Mr. AUCOIN.

Mr. HOYER.

Mr. DYMALLY.

Mr. TRAFICANT.

Mr. JOHNSON of South Dakota.

Mr. HALL of Texas.

Mr. BROWN of California in 10 instances.

Mr. ASPIN.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. DINGELL.

Mr. DICKS.

Mr. OLVER.

Mr. KOSTMAYER in two instances.

Ms. NORTON.

Mr. LEHMAN of California.

Mr. LAFALCE.

Mr. STUDDS.

SENATE BILLS, JOINT RESOLUTION, AND CONCURRENT RESOLUTION REFERRED

Bills, a joint resolution, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 108. An act to make a technical amendment to the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress; to the Committee on Banking, Finance and Urban Affairs.

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years; to the Committee on Interior and Insular Affairs.

S. 1182. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1183. An act to reduce the restrictions on the lands conveyed by deed to the city of

Kaysville, Utah, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1184. An act to direct the Secretary of the Interior to conduct a study to determine the nature and extent of the salt loss occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources threatened by such salt loss; to the Committee on Interior and Insular Affairs.

S.J. Res. 225. Joint resolution to designate February 3, 1992, through February 9, 1992, as "National Police Officer and Firefighter Recognition Week"; to the Committee on Post Office and Civil Service.

S. Con. Res. 78. Concurrent resolution regarding the unfair imprisonment and trail of Dr. Nguyen Dan Que by the Government of Vietnam; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2100. An act to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes;

H.R. 2521. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 3728. An act to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution;

H.R. 3839. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and relayed agencies, for the fiscal year ending September 30, 1992, and for other purposes; and

H.J. Res. 125. Joint resolution to designate the week beginning November 24, 1991, and the week beginning November 22, 1992, each as "National Family Caregivers Week."

ADJOURNMENT

Mr. NAGLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 25 minutes a.m.), under its previous order, the House adjourned until today, Tuesday, November 26, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2409. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Department of Defense Authorization Act, 1985, to relieve the Secretary of Defense from the requirement of relating to the Congress, on an annual basis, a report entitled, "United States Expenditures in Support of NATO"; to the Committee on Armed Services.

2410. A letter from the Director, U.S. Trade and Development Program, transmitting TDP's report required by Public Law 100-504, section 8E(h)(2); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. Supplemental report on H.R. 3435. (Rept. 102–358, Pt. 2). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on Mismanagement in Programs for the Homeless: Washington, DC, as a Case Study (Rept. 102–366). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2092. A bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing; with an amendment (Rept. 102–367, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 3666. A bill to amend title 28, United States Code, to provide for an additional place of holding court for the Eastern District of Texas (Rept. 102–368). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3686. A bill to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina (Rept. 102–369). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS. Committee on the Judiciary. H.R. 829. A bill to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia (Rept. 102–370). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3379. A bill to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference (Rept. 102–371). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2549. A bill to make technical corrections to chapter 5 of title 5, United States Code; with an amendment (Rept. 102–372). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2450. A bill to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions; with an amendment (Rept. 102–373). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3359. A bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1027) and for other purposes; with an amendment (Rept. 102–374). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3237. A bill To extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years (Rept. 102–375). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Resolution 292. Resolution expressing the sense of the House of Representatives with respect to legislation relating to the amortization of goodwill and certain other intangibles (Rept. 102–376). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3909. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes. (Rept. 102–377). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 301. Resolution waiving all points of order against the conference report on the bill (H.R. 3371) to control and prevent crime, and against consideration of such conference report. (Rept. 102–378). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 2372. A bill to amend title 17, United States Code, with respect to fair use and copyright renewal, to reauthorize the National Film Registry Board, and for other purposes; with amendments (Rept. 102–379, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 3048. A bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants; with an amendment (Rept. 102–380). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1555. A bill to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; with an amendment (Rept. 102–381 Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary H.R. 3531. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes; with an amendment (Rept. 102–382). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3670. A bill to make certain technical corrections relating to the immigration laws; with an amendment (Rept. 102–383). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 2890. A bill to establish limits on the prices of drugs procured by the Department of Veterans Affairs, and for other purposes (Rept. 102–384, Pt. 1). Ordered to be printed.

Mr. BROOKS; Committee on the Judiciary. H.R. 3341. A bill to amend the Ethics in Government Act of 1978 with respect to honoraria; and for other purposes; with an amendment (Rept. 102–385, Pt. 1). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 303. Resolution providing for the consideration of House Resolution 258, a resolution creating a Task Force of Members of the Foreign Affairs Committee To Investigate Certain Allegations Concerning the Holding of Americans as Hostages by Iran in 1980 (Rept. 102–386). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 304. Resolution waiving the requirement of clause 4(b), rule XI with respect to resolutions regarding the conference re-

VOL
137
PT
23
NO
21
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25
1991
UMI

port H.R. 2212, a bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes (Rept. 102-387). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. OBEY (for himself, Mr. Swift, and Mr. Kolter):

H.R. 3907. A bill to require each State to adopt by 1994 a plan for ensuring the provision of health insurance to all residents of the State, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. SKAGGS (for himself, Mr. Morrison, Mr. Schiff, Mrs. Schroeder, Mr. Richardson, Mr. Stark, Mr. Hall of Ohio, Mr. Bilbray, Mr. Lancaster, Mr. Bustamante, and Mr. Towns):

H.R. 3908. A bill to provide compensation and health reinsurance benefits to employees at Department of Energy defense nuclear facilities for injuries caused by exposure to ionizing radiation and to ensure fair treatment of employees during modernization and reconfiguration of such facilities, and for other purposes; jointly, to the Committees on Education and Labor, Energy and Commerce, and Armed Services.

By Mr. ROSTENKOWSKI:

H.R. 3909. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Ways and Means.

By Mr. GLICKMAN (for himself, Mr. Gekas, Mr. Murphy, and Mr. Staggers):

H.R. 3910: A bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 3911. A bill to extend until January 1, 1995, the existing suspension of duty on (6R,7R)-7-((R)-2-Amino-2-phenylacetamido)-3-methyl-8-oxo-5-thia 1-azabicyclo(4.2.0)oct-2-ene-2-carboxylic acid disolvate; to the Committee on Ways and Means.

H.R. 3912. A bill to extend until January 1, 1995, the existing suspension of duty on chemical intermediate; to the Committee on Ways and Means.

By Mr. LIPINSKI:

H.R. 3913. A bill to amend section 132 of the Immigration Act of 1990 to provide for a set aside of 14 percent of visa numbers under the diversity transition program for natives of Poland; to the Committee on the Judiciary.

By Mr. OWENS of Utah:

H.R. 3914. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguished between general funds, trust funds, and enterprise funds, and for other purposes; jointly, to the Committee on Government Operations and Rules.

By Mrs. SCHROEDER:

H.R. 3915. A bill to amend title 10, United States Code, to provide that certain former spouses of members of the uniformed services shall be eligible for commissary and exchange benefits; to the Committee on Armed Services.

By Mr. WILLIAMS:

H.R. 3916. A bill amending the Federal Railroad Safety Act of 1970 to require trains to be equipped with rear-end telemetry systems; to the Committee on Energy and Commerce.

By Mr. AuCOIN:

H.R. 3917. A bill to amend title 31, United States Code, to provide for additional payments in lieu of taxes for lands acquired by the U.S. Government for administration by the Bureau of Land Management, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. BOXER (for herself, Mr. Gilman, Mr. Johnson of South Dakota, Mr. Gallo, Mr. Towns, Mr. Hyde, Mr. Frank of Massachusetts, Mr. Wolpe, Mr. Stokes, Mr. Shays, Mr. Mineta, Mr. Neal of Massachusetts, Mr. Owens of New York, Mr. Rose, Mr. Brown, Mrs. Morella, Mr. Dwyer of New Jersey, Mr. Ackerman, Mr. de Lugo, Mr. Scheuer, Mr. Annunzio, Mr. Dellums, Mr. Downey, Mr. Traficant, Mr. Savage, Mr. Machtley, Mr. Schumer, Mr. Solarz, Mr. Kostmayer, Mr. Flake, Mr. Cardin, Mr. Moody, Mr. Jacobs, Ms. Kaptur, Mr. Torricelli, Mr. Ireland, Mr. Panetta, Mr. Kleczka, Mr. Mrazek, Mr. Hayes of Illinois, Mr. Ravenel, Mrs. Unsoeld, Mr. Torres, Mr. Dixon, Mr. Yates, Mr. Miller of Washington, Mr. Engel, Mr. DeFazio, Ms. Pelosi, Mr. Jontz, Mr. Lantos, and Mr. Swett):

H.R. 3918. A bill to provide for nonanimal acute toxicity testing by the Federal Government; to the Committee on Energy and Commerce.

By Mr. CARPER:

H.R. 3919. A bill to temporarily extend the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DICKS:

H.R. 3920. A bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. DOWNEY:

H.R. 3921. A bill to provide for the review of certain determinations under the countervailing and antidumping duty laws; to the Committee on Ways and Means.

By Mr. HALL of Texas (for himself, Mr. Brown, Mr. Sensenbrenner, Mr. Bacchus, Mr. Bliley, Mr. Cramer, Mr. Geren of Texas, Mr. Lewis of Florida, Mr. Mineta, Mr. Mollohan, Mr. Nagle, Mr. Perkins, Mr. Rohrabacher, Mr. Stallings, Mr. Traficant, and Mr. Volkmer):

H.R. 3922. A bill to promote the conduct of biomedical research in space; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. IRELAND (for himself, Mr. Broomfield, Mrs. Meyers of Kansas, Mr. Combest, Mr. Baker, Mr. Hancock, Mr. Machtley, Mr. Camp, Mr. Franks of Connecticut, and Mr. Boehner):

H.R. 3923. A bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. JONTZ:

H.R. 3924. A bill to amend the Solid Waste Disposal Act to authorize States to place certain restrictions on the interstate transportation of solid waste, to encourage community recycling, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LIPINSKI:

H.R. 3925. A bill to amend the Internal Revenue Code of 1986 to exclude interest from the gross income of individuals to the extent that the principal amount on which the interest is earned does not exceed $50,000; to the Committee on Ways and Means.

By Mrs. LOWEY of New York (for herself, Ms. Molinari, Mr. Ford of Michigan, and Mr. Goodling):

H.R. 3926. A bill to establish a program to provide child care through public-private partnerships; to the Committee on Education and Labor.

By Mr. MARKEY (for himself, Mr. Rinaldo, Mr. Synar, and Mr. Wyden):

H.R. 3927. A bill to extend and revise rulemaking authority with respect to government securities under the Federal securities laws, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MOORHEAD:

H.R. 3928. A bill to amend title 18, United States Code, to make certain drug offenses under State law predicate offenses under the armed career criminal statute; to the Committee on the Judiciary.

By Mr. PETERSON of Minnesota:

H.R. 3929. A bill to direct the Secretary of the Interior to issue regulations under the Migratory Bird Treaty Act that authorize States to establish hunting seasons for anhingas and double-crested cormorants; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS:

H.R. 3930. A bill to revise the orphan drug exclusivity provisions of the Federal Food, Drug, and Cosmetic Act; to the Committee on Energy and Commerce.

By Mrs. UNSOELD (for herself, Mr. Swift, Mr. McDermott, Mr. Miller of Washington, Mr. Morrison, Mr. DeFazio, Mr. AuCoin, Mr. ,Wyden, and Mr. Dicks):

H.R. 3931. A bill to establish a program to rehabilitate and enhance Federal, State, local government, and private forest lands in the Pacific Northwest and to provide employment opportunities in the program for residents of the Pacific Northwest; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. ENGLISH (for himself, Mr. Sarpalius, and Mr. Brewster):

H.J. Res. 382. Joint resolution proposing an amendment to the Constitution of the United States to limit the number of years an individual may serve in certain positions in the Government of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. SOLARZ:

H. Con. Res. 248. Concurrent resolution expressing the sense of the Congress that the authorities on Taiwan should permit the return to Taiwan of all citizens of Taiwan who are committed to peaceful political change; to the Committee on Foreign Affairs.

By Mr. MONTGOMERY (for himself and Mr. Stump):

H. Res. 300. Resolution providing for the concurrence by the House with amendments in the amendments of the Senate to H.R. 2280; Considered and agreed to.

By Mr. SHARP:

H. Res. 302. Resolution urging the President to negotiate with Canada and Mexico an expanded and improved rule of origin for the North American Free-Trade Agreement; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 318: Mr. Santorum.

H.R. 606: Mr. Zeliff.

H.R. 643: Mr. Zeliff.

H.R. 842: Mr. Hubbard, Mr. de Lugo, and Mrs. Collins of Michigan.

H.R. 870: Mr. Torricelli.

H.R. 872: Mr. Gingrich.

H.R. 962: Mr. Blackwell.

H.R. 1202: Mr. Bilbray, Mr. Weiss, Mr. Dwyer of New Jersey, Mrs. Lowey of New York, Mr. Stallings, Mr. Horton, Mr. LaFalce, and Mr. Pastor.

H.R. 1335: Mr. Schumer and Mr. Swett.

H.R. 1354: Mr. Neal of Massachusetts, Mr. Foglietta, Mr. Rose, Mr. Kleczka, Mrs. Mink, Mr. de Lugo, and Mr. Kostmayer.

H.R. 1503: Mr. Moody.

H.R. 1527: Mr. Duncan.

H.R. 1750: Mrs. Lowey of New York.

H.R. 1823: Mr. Hoyer.

H.R. 2246: Mr. Cox of Illinois.

H.R. 2286: Mr. Zeliff.

H.R. 2368: Mr. Glickman.

H.R. 2407: Mr. Lowery of California and Mr. Lehman of California.

H.R. 2624: Mr. Engel.

H.R. 2819: Mr. AuCoin, Mr. Jones of North Carolina, Mr. Oberstar, Ms. Norton, Mr. Mollohan, and Mr. Panetta.

H.R. 2832: Mr. Laughlin, Mr. Manton, and Mr. Saxton.

H.R. 2890: Mr. Lent and Mr. Camp.

H.R. 2898: Mr. Annunzio.

H.R. 2966: Mr. Rowland, Mr. Torricelli, Mr. Kildee, and Mr. Hubbard.

H.R. 3017: Mr. Dellums.

H.R. 3018: Mr. Dellums.

H.R. 3164: Mr. Barnard, Mr. Herger, Mr. Hubbard, Mr. Espy, and Mr. Burton of Indiana.

H.R. 3219: Mrs. Collins of Illinois, Ms. Waters, Mr. Torres, Mr. Savage, Mr. Ford of Tennessee, Mr. Espy, Mr. Mfume, Mr. Rahall, Mr. Towns, Mr. Jacobs, Mr. Conyers, Mr. Rangel, and Mr. Lewis of Georgia.

H.R. 3304: Mr. Smith of Iowa, Mr. Skelton, Mr. Mazzoli, Mr. Mavroules, Mr. Hatcher, Mr. Wyden, Mr. Olin, Mr. Lancaster, Mr. Broomfield, Mr. Combest, Mr. Franks of Connecticut, Mr. Camp, Mr. Ramstad, and Mr. Boehner.

H.R. 3334: Mrs. Lloyd.

H.R. 3337: Mr. Oxley, Mr. Rostenkowski, Mr. Leach, Mr. Hancock, Mr. Duncan, Mr. Campbell of California, Mr. Bereuter, Mr. McCollum, Mr. Paxon, Mr. Riggs, Mr. Wylie, Mr. Johnson of Texas, Mr. Archer, Mr. Michel, Mr. McEwen, Mr. Martin, Mr. Skeen, Mr. Burton of Indiana, Mrs. Roukema, Mr. Wheat, Mr. Bliley, Mr. Dreier of California, Mr. Nichols, and Mr. Santorum.

H.R. 3349: Mr. Bennett, Mr. Dickinson, Mr. Horton, Mr. Ackerman, Mr. Ramstad; Mr. Doolittle, and Mr. Bustamante.

H.R. 3372: Ms. Norton and Mr. Cox of Illinois.

H.R. 3425: Mr. Shays.

H.R. 3438: Mrs. Meyers of Kansas.

H.R. 3439: Mrs. Meyers of Kansas.

H.R. 3440: Mrs. Meyers of Kansas.

H.R. 3441: Mrs. Meyers of Kansas.

H.R. 3442: Mrs. Meyers of Kansas.

H.R. 3484: Mr. Miller of California, Mr. Jontz, and Mr. Applegate.

H.R. 3515: Mr. Duncan and Mr. Sikorski.

H.R. 3599: Mr. Traxler, Mr. Horton, and Mr. Hastert.

H.R. 3620: Mr. Jacobs, Mr. Jontz, Mr. Mineta, Mr. Bruce, and Mr. McCloskey.

H.R. 3625: Mr. Levine of California, Mr. de Lugo, Ms. Kaptur, Mr. Evans, Mr. Jontz, Mr. Rowland, and Mrs. Morella.

H.R. 3626: Mr. Torres, Mr. Kolter, Mr. Matsui, Mr. Mazzoli, Mr. Pease, Mr. Lipinski, Mr. Murtha, Mr. Nagle, Ms. Kaptur, Mr. Ford of Tennessee, Mr. Dwyer of New Jersey, and Mr. Johnson of South Dakota.

H.R. 3639: Mr. Eckart.

H.R. 3666: Mr. Johnson of Texas.

H.R. 3678: Mr. Zeliff.

H.R. 3748: Mr. Horton and Mr. Eckart.

H.R. 3750: Mr. Wise and Mr. Staggers.

H.R. 3764: Mr. Rowland.

H.R. 3770: Mr. Young of Alaska, Mr. McCrery, and Mrs. Meyers of Kansas.

H.R. 3785: Mr. Penny, Mr. Henry, Mr. Valentine, Mr. Lewis of Florida, Mr. Camp, Mr. Riggs, Mr. Upton, and Mr. Zeliff.

H.R. 3824: Mr. Lagomarsino and Mr. Ireland.

H.R. 3904: Mr. Waxman, Mr. Towns, Mr. Traficant, Mr. Stark, and Mr. Boucher.

H.J. Res. 291: Mr. Bonior, Mr. Borski, Mr. Dicks, Mr. Dreier of California, Mr. Dellums, Mr. Fish, Mr. Flake, Mr. Hall of Texas, Mr. Inhofe, Mr. Kennedy, Mr. Levine of California, Mr. Lewis of Georgia, Mr. Miller of California, Mr. Sabo, Mr. Smith of Texas, Mr. Spence, Mr. Waxman, and Mr. Wyden.

H.J. Res. 356: Mr. Emerson, Mr. Faleomavaega, Mr. Fascell, Mr. Foglietta, and Mr. Poshard.

H.J. Res. 367: Mr. Clement, Mr. Cox of California, Mr. McEwen, Mr. Roberts, Mr. Rogers, Mr. Combest, Mr. Zeliff, and Mr. Bustamante.

H. Con. Res. 88: Mr. Campbell of California.

H. Con. Res. 100: Mr. Houghton, Mr. Solarz, Mr. Valentine, Mr. Henry, and Mr. Paxon.

H. Con. Res. 156: Mr. Foglietta, Mr. Levin of Michigan, and Mr. Fawell.

H. Con. Res. 168: Ms. Pelosi.

H. Con. Res. 180: Mr. Mineta, Mr. Washington, and Mr. Skaggs.

H. Con. Res. 232: Mr. Smith of Florida, Mr. Lancaster, and Mr. Lehman of Florida.

H. Res. 257: Mr. Slattery.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1790: Mr. Sharp.

Business has quadrupled since the new build-

modern light," says architect Gerhardt

ter, and safer, place to live. No wonder so

VOL
137
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23
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1991
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EXTENSIONS OF REMARKS

LET'S PUT "SERVICE" BACK IN POSTAL SERVICE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. GEKAS. Mr. Speaker, I rise today to share with my colleagues and the American people an article by our distinguished colleague, Representative WILLIAM BROOMFIELD, which appeared in the November 12, 1991, issue of the Christian Science Monitor. I believe this is worth the attention of the American public and could be the beginning of a much-needed look at the U.S. Postal Service. The text of Representative BROOMFIELD's article follows:

[From the Christian Science Monitor, Nov. 12, 1991]

LET'S PUT "SERVICE" BACK IN POSTAL SERVICE

(By William S. Broomfield)

When I read that the management of the United States Postal Service had just awarded itself $20 million in bonuses for the past three years, I did a double take. Wasn't this the Postal Service that had just lost $1.4 billion during the same period? Wasn't this the Postal Service that had become the topic of more constituent outrage that any issue I can remember in recent years?

In July, I introduced a resolution that would create a bipartisan commission to study the postal system. It's been 20 years since the old post office became a quasi-independent agency. It seemed like a good time to take a fresh look at what Congress had done and do some fine-tuning—or even a major overhaul if necessary.

Within days, 125 members of Congress has signed onto the bill as cosponsors. They told stories of the same constituent outrage that I had been hearing. I soon discovered, however, that to some in Congress the Postal Service has become not just a sacred cow, but an entirely sacrosanct herd. It sits on a reservation with "off limits" signs posted all over it.

The House's Post Office and Civil Service Committee has refused to entertain any thought of a commission and has put postal union lobbyists up to roving the halls of Congress and reining in any members who signed onto the resolution.

The biggest canard these lobbyists have been airing is that the resolution calls for privatizing the Postal Service. That's simply not true. The resolution doen't even suggest privatization

What is the Postal Committee afraid of? It's probably concerned that a truly independent commission will discover what any American citizen could hve told the committee a long time ago: At the Postal Service, service is becoming a thing of the past.

At a time when more and more businesses remain open on weekends, when it is getting harder and harder for two-earner families to get all the family chores done during the work week, the Postal Service is closing some of its offices on Saturdays, reducing window hours at other post offices, and removing collection boxes from convenient locations.

The removal of collection boxes is an especially sore point. They were put on street corners for a reason: the convenience of the elderly man or woman who no longer has the stamina to walk blocks through rain, sleet, or snow to mail a letter.

Too many of those mailboxes are vanishing. It's not the local vandals who are ripping them out of the sidewalks. It's the management of the US Postal Service.

Moreover, at time when the population is growing, and people are forming new neighborhoods, it is getting harder and harder to get the Postal Service to open new offices that can serve these growing areas. And at a time when when the pace of the economy is moving faster and faster, the Postal Service is implementing slower and slower standards for the delivery of first-class mail.

The Postal Service can get away with poor service as no other corporation can. It is a monopoly protected by federal statute. Generally speaking, no one else in America is allowed to carry letter mail. The Postal Service has been spared the rigorous oversight necessary to provide good servcie at reasonable prices. The real loser is the American consumer.

It's time to take a fresh and impartial look at the system and see whether the American people are getting their money's worth. There's no better way to accomplish that than with a bipartisan, blue ribbon commission.

* * *

GOVERNMENT AT ITS BEST

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, at a time when people read so many unpleasant things about govenment—some of which are true—it is very refreshing to read something that is as deservedly positive as this article by Robert Campbell about the new public library in Newton. The article speaks for itself, and I will not add to the wholly justified encomiums which it bestows on this magnificent building. I would simply like to add here a list of those who are deserving of credit for this example of government at its best. Mayor Ted Mann of Newton, who has been a tireless and effective advocate for enlightened public policy deserves much of the credit, as does the Newton Board of Alderman which gave its support for the project. Particular leadership on this effort was shown by the Newton Board of Library Trustees. The members of that board are Joseph Biotti, Jr., Michael Lipof, Melvin A. Ross, and Florence R. Rubin, all of whom deserve a great deal of credit. And the most credit of all goes to the person who chaired the library trustees, Dorothy Reichard. The extraordinary nature of her achievement is underlined by the fact that she serves—as do all the trustees—in a wholly voluntary and unpaid capacity. I know that, because Dorothy Reichard is one of the great assets of the Fourth Congressional District, which I happened to have inherited from my predecessor, Congressman Robert Drinan. Dottie Reichard ran the Fourth District Congressional Office for Father Drinan for several years, as she has for me since I was elected. I am enormously pleased to be able to invoke the principle of innocence by association and bask in the reflected glory that belongs to Dottie Reichard for this Newton Library. Her energy, dedication, and creativity are the single biggest reason that it now exists in the form in which it does.

ARCHITECTURE

(By Robert Campbell)

The new main library in Newton is a minor miracle. It's a winner in so many ways: as beautiful architecture, as a working book dispensary, as a lively community center and as a civic presence that speaks for Newton as a town long renowned for the quality of its schools and intellect life.

High above the library, a symbol of all these virtues climbs into the sky. It is a tall white tower that rises above the surrounding houses and trees to become, especially at night when it is illuminated, a lantern of truth in the sky. Like the white cupolas of Harvard, which it resembles, the tower stand for the brain and the imagination, properly located up in the air near heaven, well above the more mundane functions.

Suddenly, today, every town seems to be building a new library. This is happening at a time when, surveys show, young people aren't reading much, and at a time when everyone says the book is about to go the way of dodo, to be replaced by the computer screen.

Great architecture is usually the product of a culture in decline, claim some theories, not a culture still alive and creating itself. Are we building these temples to the book in a desperate effort of denial, a doomed attempt to stave off the book's inevitable demise?

Maybe. But I think there's another motive, at least here in Newton. This library is above all a community center. And Americans are starved for a sense of community.

Thus the Newton library is not only a place of books, but one of art galleries, meeting rooms and quite meditation spaces in which you can lift your eyes from a book to view of trees, water and sky. It's also a place in which you can share with your neighbors the elemental delights of architecture: light and space, order and variety, memory and invention.

Whatever the reason, Newton is boggling pop success. The only people who sometimes seem unhappy with it are the members of the staff, who are overwhelmed by too many users. Books are piling up everywhere because they are being circulated in such numbers that there isn't time to put them away.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Business has quadrupled since the new building opened.

The architects are a joint venture: A. Anthony Tappe and the firm of Kallmann, McKinnell & Wood, with KMW handing most of the actual design. For those who know KMW's work a lot of the Newton library will look familiar, with motifs repeated from the American Academy of Arts and Sciences in Cambridge, Shad Hall gym at Harvard Business School, and Becton Dickinson corporate headquarters in New Jersey.

One doesn't know where to begin in praising this marvelous building. Practical things: The people who come by car and the people who came buy foot are ingeniously brought together, so they all enter the building through the same lobby, sharing a sense of procession. Evocative things: The floor plan is that of a church. At its center is a triple-height atrium like the tall skylit nave of a church, on both sides of which are lower, darker aisles filled with bookstacks. At the far end of the atrium is a churchlike apse, a rounded space that feels like an ambulatory below and a chapel above. From this "chapel," appropriately enough, you overlook an old graveyard.

Or civic things: The library is sited in such a way that it shares a small aromatic park with the Newton City Hall. By facing the park with its front door, the library transforms it from an isolated patch of green into something more like a town common. The city hall and the library, together, energize the park as do the meeting hall and church of a New England green. Something important is happening here, something that's almost disappeared from American life: the sense of a civic place, a public space proudly defined by significant public monuments.

Or, finally, details. The handsome blend of reds in the brick, delicately modulated by inset panels and trim courses. The triangular braces—a trademark of these architects ever since the American Academy—here employed indoors, around the top of the atrium, as sculptural objects that make manifest the light from above.

In a more cosmic sense, what's most exciting about the building is that it integrates three ways of design that normally have nothing to do with one another. At one and the same time, it's modern and historical and vernacular.

In the America of today, except in the work of a few architects like Robert Venturi, those paths seldom meet. Vernacular is the junk along the highway, rarely designed by architects, a chaotic but often engaging clutter of practical marketable buildings and images. Modern is the abstract, often alien stuff people think of as "functional," although it rarely functions especially well. Historical is the architecture of the past, often imitated by the postmodern architects of the '70s and '80s who try to make you like their new buildings by copying older architecture you already do love.

Integrating all three into one, Newton points a possible direction for American architecture.

Historical: With its brick walls and columns, its sloping slate roof, its tall white cupola, Newton looks like the neo-Georgian undergraduate houses of Harvard. Because it's not afraid to trade on our understanding of such old models, it's legible. Using a language we know, it talks to us about civic and intellectual presence.

But look closer. At that atrium for instance. This is a white-on-white abstraction that is pure and austere and lovely in a totally modern way. "We wanted a very sort of modern light," says architect Gerhardt Kallmann. He got it here, a white glow that ennobles every detail and transforms the library entirely. Great libraries of the past were dark, protective vaults of books, like the Boston Public Library. Newton is the opposite, something far more open, a modernist interior in which you always seem to be looking through layer upon layer of bright space out to the green trees beyond. Indeed, there is hardly a place anywhere within this building that doesn't enjoy both natural light and a view of nature.

The Newton library wasn't built by a university or museum with the freedom to choose its own contractor. It was a public job and had to be awarded to the lowest bidders. In Massachusetts, nine times in 10, that's a recipe for shoddy construction. To have pulled off a building this good under such circumstances was a triumph of commitment and willpower that must have involved a large part of the community.

It isn't surprising, therefore, to learn that the people of Newton have so far contributed $1.2 million in private gifts toward their new library. The Newton library, clearly, is the product not only of superb design but of communal love.

* * *

A TRIBUTE TO THE COLMA FIRE DISTRICT ALL-VOLUNTEER FIRE COMPANY OF SAN MATEO COUNTY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LANTOS. Mr. Speaker, today I rise and pay tribute to the Colma Fire District, the only all-volunteer fire company in San Mateo County. As the Oakland Hills fires storm raged in late October, the firefighters of Colma Fire District rose to the occasion and bravely fought the deadly flames.

The massive fire cut a path of destruction and death. The speed with which it spread was shocking; it took the lives of 25 residents and left millions of dollars of damage in its wake.

When they received the call, 20 firefighters from the district were deployed to Grizzly Peak. There they fought the unpredictable flames. The remaining members of the force remained on guard to protect their district.

Even considering the breadth of its destruction, the fire could have been a lot worse. It is safe to assume that greater damage was averted through the brave actions of the Colma Fire District members.

It is important to remember, Mr. Speaker, that the men of the Colma Fire District are all volunteers. They have dedicated themselves to public service; protecting the citizens of the San Francisco Bay area against the threat of fire, they risk life and limb every day.

The men of the Colma Fire Company do more within their community than fight fires. They are also involved in food drives, Toys for Tots, and other activities that benefit the less fortunate among us.

Mr. Speaker, the members of the Colma Fire District are exemplary citizens of San Mateo County. Because of their commitment to our community, San Mateo County is a better, and safer, place to live. No wonder so many youngsters grow up dreaming to be firefighters.

* * *

HONORING GILBERT GARCIA, RECIPIENT OF THE 1991 SANTA BARBARA HISPANIC ACHIEVEMENT COUNCIL AWARD

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Gil Garcia, a lifelong resident of Santa Barbara, and a very charitable person.

Gil has many civic and community accomplishments to be proud of, most notably his work with minority outreach. By trade, Gil is an architect with his own business; he has received the Santa Barbara Chapter of the American Institute of Architects Award for affordable housing designs. As chair of the Hispanic Business Committee of the Santa Barbara Chamber of Commerce, Gil has worked very hard to assist minority groups in achieving their goals. He has also received the Santa Barbara Minority Business Development Center's Award for managing an exemplary minority business and serves as the chair of the city's housing authority.

Gil a true civic leader. He is also a wonderful person who puts all his effort into a project to ensure its success. Gil can be credited for many more accomplishments than listed here, but it should be known that his efforts have made the city of Santa Barbara a better place in which to live. Personally, I have known Gil for years and he has always been a friend and helpful person to work with in the 19th district.

As Representative of this great city I, along with Santa Barbara's citizens, have much to be grateful for to Gilbert Garcia. It is very appropriate for Gil to be honored by the Hispanic Achievement Council.

* * *

QUESTIONNAIRE RESULTS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. BEILENSON. Mr. Speaker, I take this opportunity to share with my colleagues the results of a questionnaire that I sent my constituents in September.

The results of the poll are, I think, interesting and significant. For example, an overwhelming majority of those who responded—98 percent—think defense spending should either be frozen or cut, while many favor increased spending for at least some domestic programs. Of particular interest, a majority of the respondents—58 percent—indicated they are willing to pay more taxes to finance the additional spending they favor.

By another strong majority—92 percent—my constituents believe that medical professionals in federally funded family planning clinics should be permitted to offer abortion-related information to their clients who request it.

On the question of health care reform, 57

[In percent]

government to dictate to medical professionals what information they may or may

G. Require states to rewrite building codes

OPPORTUNITY FOR MUTUALLY

water, even peaceful nuclear explosives

VOL 137 PT 23 NO 21 — 25 1991 UMI

On the question of health care reform, 57 percent of the respondents support providing health insurance to everyone by shifting to a single, Government-sponsored insurance plan modeled on Canada's system.

Regarding campaign finance reform, 53 percent favor public financing of congressional campaigns, while another 41 percent support reducing the amount a PAC can contribute to a House candidate from $5,000 to $1,000. Only 7 percent of the respondents prefer leaving the current system of financing congressional campaigns as it is now.

And, finally, when asked which proposals they would favor to reduce U.S. dependence on imported oil, the majority chose regulatory measures, such as raising requirements for auto fuel efficiency.

I find these annual questionnaires to be a valuable means of learning my constituents' opinions on the major issues before us in Congress, and I thought my colleagues might be interested in seeing the results, too:

THE FEDERAL BUDGET

Despite persistent efforts during the past decade to bring our huge budget deficits under control, the federal government continues to spend far more than it raises in taxes, requiring it to borrow immense sums to make up the difference. In 1980, our national debt stood at $900 billion; since then it has more than quadrupled to $3.7 trillion. Lawmakers have been stymied in attempts to make substantial reductions in these annual deficits because there is little support among voters either for raising taxes or for cutting most federal programs. In fact, public pressure is growing to increase spending in a number of areas.

1. The following is a list of virtually all federal programs and activities, showing the percentage of the budget each currently represents. For each of them, please indicate whether you favor: (1) cutting funding; (2) spending about the same amount; or (3) increasing funding.

[In percent]

	Cut	Same	Increase
Military (Defense) (21 percent of the budget)	79	19	2
Social Security (19 percent)	11	67	22
Food, housing, income, and Medicaid for the poor (9 percent)	17	43	40
Medicare (health insurance for elderly and disabled) (7 percent)	6	48	46
Civil service and military retirement (4 percent)	38	58	4
Veterans' benefits (2 percent)	15	71	14
Other domestic programs (16 percent)			
Each of these programs represents less than 1 percent of the budget.			
1. Health Research (for AIDs, Alzheimer's, cancer, etc.)	8	35	57
2. Family planning programs	19	38	43
3. College financial aid	22	47	31
4. Head Start	20	42	38
5. Child Care	19	39	42
6. Home-buying assistance for middle-income families	30	46	24
7. Highway construction	16	57	27
8. Mass transit	12	31	57
9. National parks, forests, and wildlife refuge	8	52	40
10. Environmental protection and toxic waste clean-up	7	40	53
11. Energy conservation, research and development	9	38	53
12. Space programs (NASA)	47	41	12
13. Assistance to State and local law enforcement agencies	24	57	19
14. War on drugs	28	39	33
15. Border patrol	19	43	48
16. Air and other transportation safety/regulation	5	56	39
17. Food and drug safety/inspection	8	57	35
18. Federal courts and prisons	14	59	27
19. Arts and humanities	37	42	21
20. Farm programs	48	39	13
21. Congress	68	29	3
22. White House	71	27	2
Foreign aid (1 percent):			
1. Foreign Economic Aid	60	31	9
2. Foreign Military Aid	88	11	1

Note.—15 percent of budget consists of interest payments on the national debt which cannot be cut unless borrowing is reduced; and 7 percent consists of payments for depositors who had accounts in failed savings and loans.

2. If you checked "increase" on one or more of the above categories, are you willing to pay more taxes to finance additional spending in those areas? Yes, 58 percent, No, 42 percent.

CAMPAIGN FINANCE REFORM

In the 1990 elections, the average amount spent by an incumbent seeking re-election to the House of Representatives was $364,000, while the average spent by a challenger was $105,000. Special-interest political action committees (PACs) contributed 13 times more money to incumbents than to challengers, widening the financial gap between the two types of candidates and fueling the high level of spending.

Because PACs are playing an ever larger role in the financing of House campaigns, there is growing concern that lawmakers are becoming more responsive to special-interest contributions than to the people they were elected to represent, and that elections are becoming more heavily tilted in favor of incumbents. As a result, public confidence in the integrity of our political system is being badly damaged.

To control the cost of campaigns and reduce the influence of special-interest money, Congress is considering various proposals for changing the way candidates' campaigns are financed. Some people say we should simply lower the limit on the amount of money a candidate can receive from each PAC. Others favor financing congressional campaigns the way presidential campaigns are funded, by providing public funds to candidates who agree to abide by a spending limit and not to accept any PAC or individual contributions.

3. Which approach to reform of campaign finance law do you support? (Choose one.)

A. Provide public funding, just as presidential campaigns are financed now, for candidates who agree to abide by a spending limit and not to accept any individual or special-interest PAC contributions, 53 percent.

B. Do not provide any public funds or set spending limits, but do reduce the amount each PAC can contribute to a House candidate from $5,000 to $1,000, 41 percent.

C. Leave the rules as they are, with no limit on the total amount a candidate may spend and no reduction in the amount a PAC can contribute, 6 percent.

ABORTION COUNSELING

When Congress established the federal family planning program for low-income women in 1970, it stipulated that none of the funds could be used to pay for abortions. However, clinics could offer their pregnant clients information about abortion and, if they requested it, a referral to an abortion clinic in the area.

In 1988 the Reagan Administration re-interpreted the law and issued new regulations barring doctors and other personnel in federally funded family planning clinics from offering any abortion advice or referrals, or from answering any abortion-related questions their clients ask. This new interpretation was upheld by the Supreme Court earlier this year, and Congress is currently debating legislation to overturn the Court's decision and rescind the rule.

Supporters of abortion counseling say that this so-called "gag-rule"—which allows the government to dictate to medical professionals what information they may or may not provide to their clients—forces doctors to violate medical ethics, and infringes on the Constitutional right of free speech and on doctor-patient confidentiality. And, the rule is unfair to low-income women because they will be denied access to information about all legal options, while more affluent women will continue to be given complete information by their private doctors.

Opponents of counseling argue that federally funded family planning services, which were originally intended to reduce abortion, should not be used to provide counseling and referrals for abortion. The rule does not prevent a women from seeking and obtaining an abortion outside the federal program, but merely assures that federal funds are not spent to encourage abortion.

4. Should doctors and other medical professionals in federally funded family planning clinics be permitted to offer abortion-related information and referrals to their pregnant clients who request it? Yes, 92 percent, No, 8 percent.

DEPENDENCE ON IMPORTED OIL

If present trends continue, by the end of the decade the United States will import two-thirds of the oil we use, up from one-quarter in 1985. The Bush Administration and Congress agree that our growing dependence on foreign oil poses a threat to our vital national security interests, but disagree about how to reduce reliance on imports. In general, the leading proposals would either: (1) encourage greater domestic production; (2) rely on regulatory approaches to cut oil consumption; or (3) raise the price of oil to encourage conservation.

Proponents of increasing domestic energy production want to strengthen U.S. energy industries and avoid more government regulation or higher taxes. Opponents argue that any significant additional energy production is likely to cause serious environmental damage.

Supporters of regulatory measures (such as higher auto fuel economy requirements) want to promote energy conservation without incurring additional energy costs for consumers. Opponents worry that such measures could hurt the U.S. auto industry and other domestic businesses.

Supporters of higher energy taxes also want to promote conservation, but say that higher prices are necessary to generate demand for better mass transit systems and for cars that get better mileage; that point out that this approach has the added benefit of reducing the federal deficit. Opponents, however, say that energy taxes would unfairly burden the poor, those who have to drive long distances, and businesses dependent upon tourism.

5. Which of the following proposals do you support for reducing U.S. dependence on imported oil? (Choose as many as you wish.)

Promote greater domestic energy production:

A. Increase offshore oil and gas drilling—27 percent.

B. Permit oil and gas drilling in the Arctic National Wildlife Refuge—23 percent.

C. Provide new tax breaks for exploration and production of oil and gas—35 percent.

D. Expedite licensing of new nuclear power plants—35 percent.

Reduce oil consumption through regulatory measures:

E. Raise requirements for auto fuel efficiency (more miles per gallon)—76 percent.

F. Establish energy efficiency standards for appliances and equipment—69 percent.

G. Require states to rewrite building codes to improve energy efficiency—64 percent.

Encourage the conservation of oil by raising its price:

H. Raise the federal tax on gasoline—28 percent.

I. Impose an oil import fee—41 percent.

J. Establish a tax on all forms of energy—12 percent.

HEALTH CARE REFORM

Faced with skyrocketing health care costs and the fact that tens of millions of Americans lack adequate health insurance, members of Congress are contemplating major changes in our health care delivery system. Two principal approaches have emerged for dealing with these problems: (1) require all employers to pay for insurance for employees and their dependents, and extend government-sponsored coverage—Medicare and Medicaid (MediCal)—to everyone else; or (2) establish government-sponsored insurance that would provide coverage for everyone under a single, unified plan, similar to Canada's system.

Supporters of the first approach say that building on the existing private/public health insurance system would preserve our high quality of health care and cause the least disruption to providers, insurers, and patients. Opponents argue that this plan would fail to deal sufficiently with the relentless rise in costs, the massive amounts of paperwork required by the multitude of private health insurers and government agencies, and the high rate of unnecessary procedures.

Supporters of the second approach say that only by shifting to a single, government-sponsored insurance plan can we reduce health care costs while also providing comprehensive benefits for everyone. This system would eliminate vast amounts of overhead costs, yet still provide reasonable payments for providers and allow patients to choose their own doctors and hospitals. Opponents argue that such a system would lead to long waits for elective surgery and stifle the advances in medical technology which have made the U.S. the world leader in this field.

Opponents of both these approaches say that neither one should be pursued, because they would require higher taxes and more government regulation. Instead, we should concentrate on more modest goals, such as using tax incentives to encourage more small businesses to offer insurance.

6. Which one of the following approaches to reforming our health care system do you support? (Choose one.)

A. Provide health insurance for everyone by building on the existing system of both public and private insurance; require all employers to pay for insurance for employees and their dependents, and extend government-sponsored coverage—Medicare and Medicaid (Medi-Cal)—to everyone else—20 percent.

B. Provide health insurance for everyone by shifting to a single, government-sponsored insurance plan modeled on Canada's system—57 percent.

C. Do not try to provide health insurance for everyone; instead, work on more modest changes, such as using tax incentives to encourage more small businesses to offer health insurance—23 percent.

OPPORTUNITY FOR MUTUALLY ASSURED DISARMAMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FASCELL. Mr. Speaker, earlier this month, the Subcommittee on Arms Control, International Security and Science of the Foreign Affairs Committee held a hearing on President Bush's September 27 nuclear arms control initiative and President Gorbachev's October 5 response. The witnesses were the Director of the U.S. Arms Control and Disarmament Agency, Hon. Ronald Lehman, and three experts from the Congressional Research Service: Mark M. Lowenthal, senior specialist in U.S. Foreign Policy; Amy F. Woolf, specialist in national defense; and Francis T. Miko, specialist in European and Soviet Affairs. What follows are some key observations about the President's disarmament proposals, Gorbachev's response, and the expert testimony on November 5.

We no longer need to rely solely on mutually assured destruction as the basis for our country's national security policy. Rather, our security can be enhanced with greater efforts toward mutually assured disarmament.

The recent disarmament proposals by President Bush and Soviet President Gorbachev signify the end of the cold war era of arms control. We need to let go of the cold war mindset that guided policy decisions toward new arms production and escape the premise that we have to arm ourselves to the teeth in order to eliminate some of the arms poised against us. Over the years, we placed too much of our energies and moneys into the pursuit of massive new arms production, while efforts at controls to increase U.S. security lagged behind. In short, we had an arms race in all forms of weaponry, from nuclear to chemical conventional arms.

The post-World War II bipolarity of the United States versus the Soviet Union and NATO versus the Warsaw Pact has not yet given way to multipolarity. Nonetheless, the cold war geopolitical structure has crumbled with the Berlin Wall. Old adversaries are joining together to work toward global nuclear, chemical, and biological disarmament, nonproliferation controls on weapons of mass destruction capabilities, and multilateral restraint in the sale of conventional arms. President Bush's initiative and Gorbachev's response signal a new approach of unilateral and reciprocal action based on mutual interests and an abandonment of many of the cold war ideological underpinnings.

This new reality was most graphically demonstrated in the failed coup this past August in the Soviet Union. It has resulted in the pursuit of new priorities such as the elimination of thousands of tactical nuclear weapons and chemical stocks and the renewed commitment to tighter controls on remaining weapons. In short, political uncertainties in an unstable Soviet Union with up to 12 independent republics raise important questions about nuclear command and control as well as nuclear proliferation.

Fears that Russian nuclear entrepreneurs are selling reactors, enriched uranium, heavy water, even peaceful nuclear explosives [PNE's] pose a new nuclear proliferation threat. Fears also exist that Soviet nuclear weapons might be used by the republics as bargaining chips with central authorities in Moscow. As Ukrainian leaders, for example, demand a say in weapons use, locations, deployments—in effect, all decisions pertaining to Soviet nuclear forces—we must be confident that they support central control of the nuclear arsenal and agree to abide by international arms control agreements.

With the center rapidly losing ground we must establish relations with the leaders of the republics. As their political roles continue to expand, power inside the former Soviet Union remains fluid, and so we must be flexible. The power structure that emerges out of the new political union and economic pact in the Soviet Union will have serious implications for future arms control and disarmament negotiations.

Speaking from years of experience formulating, directing, and negotiating arms control in the past, Ambassador Lehman identified the administration's top arms control priorities for 1992. These include the conclusion of the Chemical Weapons Convention, agreement on open skies, and follow-on conventional arms talks and European security negotiations in Helsinki. He also emphasized the need to strengthen efforts in nuclear nonproliferation focusing on the Korean peninsula, South Asia, and the Middle East.

One key observation contained in the testimony of the CRS experts is that while the President's proposals and Gorbachev's response will eliminate several types of nuclear weapons, these proposals do not necessarily mean a change in the way the United States or the Soviet Union view their defense and security requirements. Rather, the CRS experts describe them as responses to changes that have already occurred in Europe and the Soviet Union. The CRS experts concluded that it is not the unilateral steps but the proposals for further negotiations, such as the President's call for bilateral elimination of MIRVed ICBMs, that provide the opportunity for more sweeping changes.

The President's decision to eliminate ground- and sea-based tactical nuclear weapons has my full support. In this regard, the INF Treaty, which resulted in the elimination of an entire class of nuclear weapons, is most instructive and worth emulating. We should also be working toward a comprehensive ban on nuclear testing and on plutonium production.

The President's initiative and the Soviet positive response provide an opporunity for unprecedented progress in arms control and disarmament in the 1990's. We now have a greater opportunity to:

Bring an end to the nuclear arms race;

Stop tactical nuclear weapons from being dangerously shuffled around Europe and within the Soviet Union;

Stop the production of a new generation of stealth bombers carrying nuclear weapons;

Stop nuclear testing; and

Stop plutonium production.

The nuclear arms race may become a disarmament race where the Soviets turn to the United States to help it get rid of thousands of nuclear and chemical weapons. We should be ready to respond positively to such a challenge and opportunity.

DAVID GEARY WINS 1991 VICTORY

A TRIBUTE TO ZUBIN MEHTA

ON THE OCCASION OF PAUL

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of the drought, the impact of the contracts on

enough water to meet environmental needs

waste and ensure adequate supplies for everyone in California.

DAVID GEARY WINS 1991 VICTORY AWARD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, last week, I had the great pleasure of meeting in my office with Mr. David Geary, who is the Massachusetts winner of the 1991 Victory Award. Mr. Geary is a consumer of mental health services and he was one of those honored last week at the Kennedy Center. He was nominated by the Massachusetts Department of Mental Health and selected by Massachusetts Governor William Weld for this award in recognition of his integrity and courage in the face of adversity. Mr. Geary has suffered from a mental illness for 12 of his 34 years, and he has fought back valiantly. As a very active volunteer staff member of the Alliance for the Mentally Ill in Massachusetts, he has done extremely important work on behalf of himself and others similarly situated. I know from my own conversation with Mr. Geary that he is a man of courage, purpose, and skill, and the mentally ill in Massachusetts and elsewhere are fortunate to have so dedicated an advocate. I congratulate Governor Weld and President Bush for their decision to bestow such a deserved honor on Mr. Geary. And I ask that the statement that Mr. Geary issued on the receipt of his award be printed in the RECORD.

STATEMENT FROM DAVID GEARY, RECIPIENT OF THE 1991 VICTORY AWARD FROM MASSACHUSETTS

I am the State Victory Recipient for 1991. When I look at some of the past honorees. I feel I fall a little short in comparison to the contributions to society they have made. However, I am using all of my God-given strengths to overcome and be at peace in this turbulent world. I have a major mental illness and for all of us who are psychiatrically challenged and for their loved ones that feel the pain, this is a victory for each and everyone of these people, not just myself.

Research is surging ahead, and with medication, these advances are allowing us to be productive citizens with a high quality of life, taking us out of our constant pain, confusion and anguish. As we become more vibrant, we realize that there is another horror: Society's general view on mental illness and at the sting of stigma as formidable as a brick wall and just as hard to get through. But there is a way through: education and facts about major mental illness. I want to let people know that we are less violent than the general population, that our disease is biologically based, and that we can return to a normal productive life as citizens.

This award is for all the mental health consumers of Massachusetts that are fighting for justice and equality despite a life of pain.

A TRIBUTE TO ZUBIN MEHTA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to the great maestro, Zubin Mehta. An inspiring man who leads an inspiring life, Mr. Mehta is most deserving of this distinguished body's praise.

Born in Bombay, India, Zubin Mehta was raised in a musical household headed by his father, Mehli Mehta, a cofounder of the Bombay Symphony Orchestra. At the age of 18, Zubin abandoned his medical studies and began a career in music that would lead him to the pinnacle of his profession.

Zubin's genius was never in doubt. After studies at the Academy of Music in Vienna, Zubin Mehta conducted the Vienna and Berlin Philharmonic Orchestras at the ripe old age of 25. From 1962 to 1967, Zubin Mehta was music director of the Montreal Symphony. In 1962, the Los Angeles Philharmonic appointed him its music director, a post he held for 16 years. In 1979, he was named musical director of the New York Philharmonic, a post he still holds. Since 1969, Zubin has been music director of the Israel Philharmonic Orchestra. In 1981, that appointment was extended for life.

Known as one of the greatest conductors of all time, Zubin Mehta's impression on the world of music is indelible. Over the years, he has conducted thousands of public concerts. His recording legacy is equally impressive. He has made more than 30 recordings with the New York Philharmonic, including Mahler's Symphony No. 5, Holst's "Planets" and Sibelius' Symphony No. 2 and "Finlandia." Recently, he recorded Stravinsky's "Rite of Spring" and "Symphony in Three movements" and a Gershwin collection including "Rhapsody in Blue," "An American in Paris," and excerpts from "Porgy and Bess."

Included among his many awards and honors are the Nikisch Ring, bequeathed to him by Dr. Karl Bohm, and the Vienna Philharmonic Ring of Honor to commemorate the 25th anniversary of his Vienna Philharmonic conducting debut.

In Israel he was awarded Honorary Doctorates by the Hebrew University Jerusalem, the Tel-Aviv University, and the Weitzmann Institute, and the Hebrew University also named a wing of the musicology department after him and his father.

Mr. Speaker, Zubin Mehta is an honorary citizen of Tel Aviv, and a worthy citizen he is. With hostilities in the Persian Gulf imminent, Zubin abandoned his schedule and flew to Israel to be with its citizens and his Israel Philharmonic Orchestra colleagues. Understandably, he was received in Israel as a hero.

In fact, Mr. Speaker, Zubin Mehta is a hero to many, and I include myself among those numbers. It is with great pride and admiration that I rise to honor him today. I ask my colleagues to join me in paying tribute to this legend of music and in wishing him the best in all of his future endeavors.

ON THE OCCASION OF PAUL RIDLEY-TREE'S 75TH BIRTHDAY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to a very fine and outstanding individual, Paul Ridley-Tree, on the occasion of his 75th birthday, December 12, 1991.

Paul and his wife Leslie have been major philanthropists in Santa Barbara for many years. They are firm believers in education and the arts. Some of their notable contributions include sponsoring musical benefits on behalf of the Santa Barbara Symphony, working very closely with the Music Academy of the West, and donating $100,000 to restoration efforts at the Lobero Theater. They have also set up the Ridley-Tree Scholarship Fund for academic achievement at Santa Barbara City College, and the Ridley-Tree Education Center at the Santa Barbara Museum of Art to assist children, senior citizens, and the handicapped in attaining artistic achievement.

The most important asset of Paul is that he is a generous, caring, and gracious individual. It is a pleasure to be in Paul's company. He is always positive, an important characteristic for the role model he is.

In closing, it would be difficult to overstate how influential Paul has been in this community. I wish him well on his 76th year.

ONE SMALL STEP FOR WATER REFORM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MILLER of California. Mr. Speaker, I would like to share with my colleagues two editorials that present a clear and convincing case for water contract reform legislation.

As you may recall, this issue was the subject of a vote on Monday the 18th in which 245 Members, a majority of the House—though just short of the two-thirds vote required—supported a drought relief bill with my amendment that would limit long-term Federal water contracts to 3 years, instead of the automatic 40-year renewals as is the current Interior Department policy.

The Washington Post on November 21 described the narrow-minded Western water policies of Interior Secretary Manuel Lujan as failing to address the critical and contemporary question of how much Federal water should be diverted to "nonessential agriculture at the expense of municipalities."

As the 40-year contracts that guarantee huge volumes of water to large California irrigators begin to expire, the question of their renewal is of utmost importance. As California approaches a sixth year of drought, how can we continue to supply low-cost water for agriculture—more than 80 percent of the State's water—for 40 more years under identical terms? Automatic renewals ignore the severity

of the drought, the impact of the contracts on the environment, and the demands from new municipal users that did not exist when the contracts were first signed in the 1940's and 1950's.

On November 20, the Los Angeles Times featured an editorial congratulating the majority of the House who voted to block 40-year Federal water contracts. The editorial criticized current policy, claiming that "the Interior Department is renewing contracts for subsidized irrigation water as though the State were in no danger of a sixth year of drought."

Mr. Speaker, I call my colleagues' attention to these two editorials, which I have included with this statement, because I fully intend to bring water contract reform legislation back to the House floor next year. Water contract reform has become the single most important water policy decision facing California and the West.

Taxpayer organizations, environmental groups, major urban water agencies, national newspapers, and 245 Members of the House agree that the time has come for water policy to reflect the demands of the 1990's and the next century.

The two editorials follow:

[From the Washington Post, Nov. 21, 1991]

WATERSHED

The Western water problem used to be almost entirely one of supply; there wasn't enough. Now the government has significantly increased supply by damming up and diverting the region's rivers, and the problem has become one of allocation as well: whether too much low-cost federal water is going to nonessential agriculture at the expense of municipalities, the nonagricultural economy and the environment.

The Bush administration, in the person of Interior Secretary Manuel Lujan, has refused to confront the issue, claiming that under the law it is powerless to shift any water away from agriculture and saying responsibility rests with Congress or the states. This week George Miller, new chairman of the House Interior Committee, tried, if not quite to force the administration to make the situation better, at least to keep it from making it worse. He brought up water contract legislation under a House procedure requiring a two-thirds vote. While he failed to get quite that, he got a 245–164 majority and is serving notice he will try again. The western water rules may be about to change.

California is the prime example of both the benefits and costs of traditional western water policy. Its rivers are mostly in the north; they converge in the San Francisco Delta and Bay, together a major western plant and animal breeding ground. But much of the water from these rivers is now diverted south. The deserts in the state's long Central Valley and Los Angeles area have been reclaimed, but the delta and bay have been degraded by the loss of fresh water in the process; parts of the valley have also been degraded by accumulations of salts and agricultural chemicals.

A first generation of 40-year federal contracts to deliver water to valley irrigation districts is now expiring. Mr. Lujan claims he has no choice but to extend them, guaranteeing the farmers the same supplies for another 40 years, and has begun to do so. Interior Chairman Miller, in the House, and water subcommittee chairman Bill Bradley, in the Senate, have both introduced bills that would force the secretary to reserve enough water to meet environmental needs first. In the meantime, Mr. Miller tried to attach to a drought-relief bill a provision that expiring contracts could be extended only three years at a time.

The drought bill was a fitting vehicle. The 6-year California drought has greatly clarified who wins and loses under current water policy. A few obscure animal species have almost been wiped out, so little water has been left for them; the Endangered Species Act may be invoked next. Mr. Miller will let drought-relief bill go to conference and try to tack his amendment staying Mr. Lujan's hand onto another bill next year. Too bad it has to be this way; the administration should have been moving to modernize water policy on its own.

[From the Los Angeles Times, Nov. 20, 1991]

WASHINGTON SINKS KEY ANTI-DROUGHT BILL—WATER WATCH: BUT TIDE IS RUNNING TOWARD REFORM

Silver linings are rare in the best of clouds these days, let alone the cloud of drought that hangs over California.

But one turned up Monday showing that a healthy majority of the U.S. House of Representatives favors new federal water policies. That could be the best news for Californians in 5—perhaps going on 6—dry years. The House showed its colors with 245 votes for a bill, sponsored by Rep. George Miller (D-Martinez), to block any more 40-year contracts to sell cheap federal water to Central Valley farmers. The bill died on a technicality.

The 3-year ban would have allowed plenty of time for Congress to act on other water policy reforms, headed by a longer-range bill by Sen. Bill Bradley (D-N.J.) to hand over allocation of 7 million acre-feet of federal water to California. Bradley's bill would allow buying and selling of at least some of the water delivered by the federal Central Valley Project on an open market. Bradley would, in essence, transfer from federal to state law decisions on allocating water that flows through federal dams and canals.

Although state law itself needs to be expanded, Gov. Pete Wilson used what he had last January to put the state in the business of buying water in areas of surplus and selling it to parched customers elsewhere to help them through the summer.

Miller says his bill to block contract renewals will be back next January, counting on its majority to come back, too. And the Bradley bill, now stalled in committee by opposition from agriculture and Sen. John Seymour (R-Calif.), will also be back.

Miller, chairman of the House Interior Committee, apparently lost some votes by quietly attaching his ban on contract renewals to a drought bill supported by Seymour that would give federal officials powers to transfer water supplies only during a drought emergency.

Miller's bill is important because the Interior Department is renewing contracts for subsidized irrigation water as though the state were in no danger of a sixth year of drought. Every renewed contract siphons water out of the pool that Bradley would release to the open market.

Existing law limits the use of federal water largely to irrigation, regardless of demand for the crops in question. It also requires that water distributed by federal canals be used only in the San Joaquin valley.

Miller, Bradley and others argue that in the absence of major new dam and reservoir projects, allowing the free sale of water to willing buyers is the best way to prevent waste and ensure adequate supplies for everyone in California.

Studies show that cities would buy only a small fraction of water that now goes to farms. Most of that is water now used to irrigate uneconomical crops or crops grown on land so polluted it should be taken out of production.

Meanwhile, Seymour stayed with his view Monday that federal water law is fine the way it is. He opposes the Bradley bill on the curious grounds that it is federal interference with state water supply. Federal and state water both come from the Sacramento Delta; the distinction south of there is manmade.

With a very dry 7 weeks of a new rainy season already behind us, California needs its politicians pointed as clearly in the right direction on water policy as Bradley is. Its very future depends on keeping elementary facts of nature straight.

A LOT OF FINE PEOPLE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DUNCAN. Mr. Speaker, I have always been extremely proud to be from east Tennessee. Not only is it one of the most beautiful parts of our entire Nation, but I have always thought that it has many of the kindest and most helpful people in the world.

Harry Moskos, the outstanding editor of the Knoxville News-Sentinel, wrote a column on Sunday, November 24, which highlighted how east Tennesseans go out of their way to help others. I would like to call his column to the attention of my colleagues and others by having it reprinted in the RECORD.

Also, I would like to congratulate Chrissie Webb, Niki Maples, Kenneth Jenkins, David Carr, Charles Smith, Gale Mayer, Cheryl Sheridan, Jack Davis, Mike Hansard, Nola Peters, Dawn Selin, Jack Van Gelder, Heather Brzenzinski, Melissa Brzenzinski, and the employees of Proffitt's children's department for being such fine and helpful citizens.

[From the Knoxville News-Sentinel, Nov. 24, 1991]

A LOT OF FINE PEOPLE

(By Harry Moskos)

At the close of last week's column, I talked about East Tennesseans going out of their way to help others.

With Thanksgiving Day just four days away, it made me reflect on some of the people who give the rest of us cause for Thanksgiving every day.

There were many such people who made our list of heroes this year.

Leading the list is Chrissie Webb, who came home from school to pick up her father so he could see her participate in a track meet for William Blount High School. She missed the track meet but saved her father's life.

Larry Webb, a diabetic, had passed out, and Chrissie knew she had to get some sugar into her father. She fixed him some orange juice, put a lot of sugar in it and forced him to drink it.

When seven-year-old Niki Maples saw her 11-month-old cousin fall down a flight of stairs at her apartment, she immediately called 911. Niki got the 911 operator on the

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phone while her aunt was looking after her

ating expenses complicates economic policy-

A SALUTE TO THE WOMEN'S

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time, talent, funds, and support to the Women's Coalition of St. Croix.

Much has been done and much remains to

it that the BASS Tickets Foundation will honor at its benefit concert this week, "Ticket Aid."

Almost 100 heroes and their guests have

Was editor in chief of the satellite division, Aerospace Corp., where he also formed the Aerospace Chorale, which is still in existence.

VOL 137 PT 23 NO 21—25 1991 UMI

phone while her aunt was looking after her daughter.

Four University of Tennessee students rescued two men from a smoke-filled apartment in the Fort Sanders area. The students—Kenneth Jenkins, David Carr, Charles Smith and Gale Mayer—spotted smoke coming from the apartment and led the two occupants to safety.

In May, Cheryl Sheridan, a teacher assistant at Westview Elementary School, saved the life of a choking student by using the Heimlich maneuver. The student choked while in the school cafeteria. Sheridan was trained in both First Aid and Red Cross CPR by David Hunsinger, the Knox County Schools supervisor of health and physical education.

Jack Davis, a seventh-grade science teacher at South-Doyle Middle School, is another hero. Thirty-five students were aboard a school bus when it began rolling downhill. Davis grabbed one student out of the way of the rolling bus, then jumped aboard and stopped the vehicle by pulling on the hand brake.

K-Trans driver Mike Hansard makes the list for just being nice. A reader told us of observing Hansard leaving his bus to help an elderly lady cross the street and safely board his bus.

There are a lot of honest people—many more than we know about. But we do know about Nola Peters, an employee at East Towne Mall; Dawn Selin, a cashier at the Clean Machine Car Wash, and Jack Van Gelder, a shopper at Home Depot. In separate incidents, each found someone's purse or money. And the losers got everything back.

Sisters Heather and Melissa Brzenzinski, both pupils at Alcoa Elementary School, kept calm when they saw a classmate run into the path of a car. They immediately got help and, fortunately, their friend suffered only a bruised foot.

And let us not fail to mention the 16 employees of Proffitt's children's department at West Town Mall who have "adopted" a five-year-old suffering from a rare platelet disease. Every year, the department employees throw a Christmas party for Kristopher Hazard.

A lot of fine people doing different things to bring happiness to others.

Happy Thanksgiving.

INTRODUCTION OF THE CAPITAL BUDGETING ACT OF 1991

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. OWENS of Utah. Mr. Speaker, today I introduced the Capital Budgeting Act of 1991. This legislation would require that the unified budget presented by the President contain an operating budget and a capital budget so as to allow the Congress and President to better prioritize spending and gear the priorities of the Federal budget toward long-term investment. Furthermore, it directs the Committee on the Budget to submit proposed legislation which would eventually eliminate deficits in the operating account.

In August 1989, the GAO recommended structuring the budget in such a manner. It noted that "Failure to recognize the critical distinction between capital investments and operating expenses complicates economic policymaking." It is no secret that our budget is geared away from long-term economic growth and productivity. Highways and bridges, airports, wastewater treatment facilities, and certain communications facilities all do more than create short-term jobs. They are a critical determinant of the private sector's ability to supply goods and services to the market. Yet we have found ourselves prevented by the current unified budget structure from making these critical investments.

This legislation is virtually identical to legislation introduced by Senator KOHL. in the 101st Congress, with one major exception. Defense facilities and weapons platforms are excluded from the definition of capital asset and, rather, included in the operating budget. Though such expenditures might constitute capital in an accounting sense, they do little to further the Nation's economic growth in the post-cold war era. Moreover, given the considerable funding and consequent political support these programs receive, including them in the capital account would prove detrimental to the important goal of deficit reduction.

Critics will note, and rightly so, that this particular legislation is geared toward so-called brick and mortar programs. I fully agree that investments in worker productivity—R&D, education, job training, and preventative health care—are critical to the Nation's future economic well-being. In the coming session, I intend to introduce legislation incorporating some of these so-called human investments into the capital account. I have introduced the legislation in its current form because I believe it important to begin this debate immediately.

By including the bulk of the Federal budget in the operating account, and requiring the Government to collect enough revenues to cover those costs we further the goals of deficit reduction by both putting downward pressure on nonproductive Federal expenditures and disciplining the tendency to cut taxes without cutting spending. The Budget Committee retains its responsibility of setting deficit targets, thus preventing the capital account from becoming a giant loophole. And by allowing the Federal Government to borrow only for purposes that promote economic growth, the ability to shoulder the Federal debt is enhanced.

Many of our constituents ask why the Federal Government won't handle its finances like a business or State governments. This approach allows the Federal Government to do so. Granted, the role of the Federal Government is fundamentally different than that of either a business or a State government—this legislation is sensitive to that fact, and will be improved upon in the coming session. But it is no less important that the Federal Government have a budget structure that facilitates prioritization and fiscal discipline. I encourage my colleagues to join me in this effort now and in the coming session.

A SALUTE TO THE WOMEN'S COALITION OF ST. CROIX

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DE LUGO. Mr. Speaker, I rise to recognize the important accomplishments and great contributions of the Women's Coalition to St. Croix, a volunteer organization that in a decade of service to the Virgin Islands community has made an enormous difference in the lives of thousands of women and children who have suffered the pain and suffering of battering and abuse.

Home should be a shelter against the harsh world outside, where tranquility and love nurture and restore the family. Yet, domestic violence and sexual abuse are all too common, not only in the Virgin Islands, but throughout the Caribbean, the United States, and the world. We have been shocked to learn in recent years that violence in the home is as prevalent as it is abhorrent. It is a vicious plague that grows from one generation to the next; those who grew up abused often themselves become abusers. In the homes of the rich and poor, the learned and uneducated, domestic violence affects every strata of our society.

Since the inception of the Women's Coalition in December 1981, its volunteers and supporters have moved in many directions to do battle against domestic violence. Their weapons have been love, caring, sheltering, education, and hope. During the past 10 years the coalition has assisted more than 2,000 clients, providing counseling, support, help through support groups, and emergency food and clothing to women and children who are the victims of abuse. Coalition volunteers have been available 24 hours a day to go to the police station or hospital emergency room in the critical moments immediately following an incident to help victims understand what has happened, how to cope with the physical and emotional consequences, and make decisions about the future.

The Women's Coalition also has implemented an important communitywide education program and has helped bring into the open the once taboo topic of domestic violence. The coalition has made the community realize the depth and breadth of the problem and begin to come to grips with the grim reality of its existence. As a result, many women who believed they were alone in their anguish and pain have realized they are not. Because of the coalition, they have come forward, sought, and found help, and broken the stranglehold of violent and dangerous domestic relationships. The work of the coalition has made many in the community far more alert to the prevalence of child abuse and neglect, and has helped rescue at-risk youngsters who otherwise would have had no hope of escape.

I especially want to commend Women's Coalition Executive Director Mary Mingus for her hard work and leadership which has mobilized the community in the struggle against the terror that exists behind the closed doors of so many homes in our community.

I also want to express appreciation to the individuals and businesses who have given their

time, talent, funds, and support to the Women's Coalition of St. Croix.

Much has been done and much remains to be done. But the Women's Coalition of St. Croix has proven that the hard work of a dedicated cadre composed strictly of volunteers can make significant, positive changes in communities such as the Virgin Islands.

PROTEST BY CROATIAN POLITICAL PARTIES TO ARREST OF THE PRESIDENT OF CROATIAN PARTY OF RIGHTS, DOBROSLAV PARAGA, BY THE CROATIAN GOVERNMENT OF FRANJO TUDJMAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. TRAFICANT. Mr. Speaker, I insert the attached declaration regarding the arrest of Dobroslav Paraga, President of the Croatian Party of Rights, by the Croatian Government into the CONGRESSIONAL RECORD:

PROTEST TO ARREST OF PRESIDENT OF CROATIAN PARTY OF RIGHTS, DOBROSLAV PARAGA, BY CROATIAN GOVERNMENT OF FRANJO TUDJMAN

(Translation of the enclosed statement of five Croatian political parties)

We most decidedly protest the arrest of the President of the Croatian Party of Rights, Mr. Dobroslav Paraga, and demand his immediate release. We likewise demand that disagreements and differences between the Croatian authorities and Croatian political parties be resolved exclusively in a political fashion, on a platform of Croatian democratic unity, and thereby prevent all possible conflict within the Croatian people itself, otherwise which results could be catastrophic.

The arrest of a leader of one of Croatia's political parties is a dangerous precedent, which leads to the establishment of an authoritarian system of government, removing us from the democratic organization of the Croatian state, which essentially weakens the capacity of Croatia's defense and decreases the possibility of international recognition of Croatia.

Croatian Democratic Party.
Croatian Christian Democratic Party.
Croatian People's Party.
Croatian Peasant Party.
Croatian Democratic Party of Croatia.

BASS TICKETS FOUNDATION TO HONOR EAST BAY HEROES

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. BOXER. Mr. Speaker, I would like to take this opportunity to tell my colleagues of a unique event in the San Francisco-Oakland Bay area to honor the heroes of the recent Oakland-Berkeley hills fire. East Bay residents exhibited extraordinary courage to help their neighbors during that conflagration. It is this indomitable spirit and the heroes who embody it that the BASS Tickets Foundation will honor at its benefit concert this week, "Ticket Aid."

Almost 100 heroes and their guests have received complimentary tickets and will be honored at the benefit concert this Saturday featuring the supergroup, The Highwaymen (Waylon Jennings, Willie Nelson, and Kris Kristofferson), at Oakland's Paramount Theatre. Inspired by the East Bay's gallant spirit, The Highwaymen are extending their set of music for this occasion.

Ticket Aid is the inaugural benefit gala for the BASS Tickets Foundation, and all proceeds after expenses and all service charges from Ticket Aid ticket sales will be donated to this well-deserving, nonprofit foundation.

The BASS Tickets Foundation is dedicated to making entertainment available to needy, disabled, elderly, or otherwise disadvantaged people living in northern California. Since the Foundation's inception in 1989, more than 33,000 people have enjoyed entertainment through this program. The BASS Tickets Foundation makes it possible for more than 1,500 disadvantaged people each month to see a wide spectrum of shows including theatre, dance, circus, collegiate and professional sports, ice shows, and many other attractions. Contributions from event presenters, sports teams, and venues such as Bill Graham Presents, Walt Disney's World On Ice, Oakland Athletics, San Francisco Ballet, San Francisco Symphony, San Francisco Giants, and Pier 39 to name a few, make it possible for recipients of the foundation to attend more than 25 events each month.

Mr. Speaker, I am proud that we have such innovative nonprofit foundations to serve the disadvantaged in the San Francisco-Oakland Bay area. The BASS Foundation should be commended for taking up the cause of honoring these fearless heroes who demonstrated their selfless sacrifice to help their neighbors during the recent, tragic firestorm.

TRIBUTE TO DALE VAN NATTA OF TRW

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DYMALLY. Mr. Speaker, I rise with a certain degree of sadness after learning that my good friend, Dale Van Natta, will relocate from TRW in Los Angeles to TRW in Las Vegas.

Mr. Speaker, to merely describe Mr. Van Natta as a community pillar would indeed be a gross understatement. After 24 years of involvement in TRW's Civic and Community Relations Department, Dale is leaving an indelible, positive contribution on the Los Angeles community.

Mr. Speaker, Dale Van Natta is a man of numerous accomplishments:

Prior to his tenure at TRW, Dale Van Natta:

Was the youngest foreman at Northrop Aircraft in 1958;

Was director of music and christian education at Calvary Presbyterian Church, Long Beach;

Managed the Roger Wagner Chorale and toured the world, including the Soviet Union;

Was editor in chief of the satellite division, Aerospace Corp., where he also formed the Aerospace Chorale, which is still in existence.

Mr. Speaker, during Dale Van Natta's 24 glorious years at TRW in Los Angeles, he compiled an exemplary record of service.

He was responsible for obtaining the 90th anniversary painting that hangs in the Redondo Beach City Hall;

Helped establish the Inglewood Cities in School Program;

Started the business/education partnership process in 19 southern California school districts with a project called STEP [school teams for educational partnerships]; initiated a partnership called Project SEED [science education for early development], a collaboration between universities, schools, and industry in hands on science experiments with computer simulations;

Received awards for outstanding citizenship, community service, and support to education from California State University Foundation, CAL State Dominguez, El Camino College Foundation, the cities of Carson and Redondo Beach, and the Centinela Valley School District.

Mr. Speaker, Dale Van Natta exemplifies what is great about the State of California and Los Angeles in particular. Although he is physically leaving Los Angeles, his legacy is carved into the very fabric of the Los Angeles community.

THE ADMINISTRATIVE LAW JUDGE CORPS ACT

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. GLICKMAN. Mr. Speaker, today I introduced a bill along with my colleague on the Judiciary Committee, Representative GEORGE W. GEKAS, Pennsylvania, and Representative AUSTIN MURPHY, Pennsylvania, titled the Administrative Law Judge Corps Act. A similar bill, S. 826, was introduced in the Senate by Senator HEFLIN, Alabama, along with Senators SPECTER, METZENBAUM, DECONCINI, and SHELBY.

The time has come to enact legislation to create an independent corps of Federal Administrative Law Judges [ALJ's] located outside of the agency for which they render decisions and insulated from undue political influence. The approximately 1,000 ALJ's located in Federal agencies provide independence and neutrality against unrestrained executive action in the enforcement of the statutes governing the agency.

In the past, this bill was driven by the problems of ALJ's at the Social Security Administration, but agency interference with judicial independence has moved beyond this setting. The November, 1991, issue of the American Bar Association Journal, in an article titled, "Judges Under Fire, ALJ Independence At Issue," documents the problems of ALJ's at the Department of the Interior. Under the banner of management standards, ALJ's are often subject to agency production standards and performance evaluation. The ratings process

may be used as a method of influencing deci- deserving an Administrative Procedure Act make the world around them a better place.

Increases in health care costs have ex- STEP 1 JAMES MANION IS A REAL HERO

VOL 137
PT 23
NO 21—25
1991
UMI

may be used as a method of influencing decisions and ALJ's who rule most often in line with agency management find that they have their transfer requests honored, leave granted, additional support staff, and parking privileges. Those ALJ's who rule against the agency may find subtle measures used against them and ALJ's more junior than them but who support agency management are made chief and regional ALJ's and receive other choice job assignments and benefits. As long as ALJ's remain employees of an agency, the agency may use promotional opportunities, office space, and support staff to reward or punish agency decisionmakers.

Support for the creation of an ALJ corps does not depend on finding the behavior of agencies toward ALJ's inappropriate or coercive in some manner. Reasons to support the corps rest in the public perception of inappropriate agency control. Too often we hear of the lack of confidence of an individual who is accused by a Federal agency of serious wrongdoing and is not reassured by the fact that the ALJ hearing the case is an employee of the agency. The realities of the situation indicate that the key to public satisfaction and confidence in the administrative law setting is the independence of the ALJ. The creation of an independent corps not housed in the agency will gain the respect and confidence of the public in the operation of the administrative law system. It is for this reason that we should support this improvement of the adjudications process in administrative agencies.

The American Bar Association supports the creation of an independent corps of ALJ's as a significant improvement to our system of administrative law and as a solution to the public perception and problem of agency control. Under the bill I introduced, judges in the corps would be grouped in eight divisions according to their expertise: Division of Communications, Public Utilities, and Transportation; Division of Safety and Environmental Regulation; Division of Labor; Division of Labor Relations; Division of Health and Benefits; Division of Securities, Commodities, and Trade Regulation; Division of General Programs; and Division of Financial Services Institutions. Under the bill, judges in the corps would be assigned by the corps to hear cases at the request of the agency. The corps may assign judges to cases outside of their division as demand requires. One advantage to the scheme is that agencies with little adjudicatory work or uneven work demands would no longer need to maintain a fulltime staff for occasional use. Also, the corps would have judges throughout the country, thus saving travel costs for hearings. Another cost savings benefit of the corps would be the elimination of duplicative offices of hearings and appeals found in some 31 Federal agencies. The corps would need only one pool of support staff and legal resources.

In the past, ALJ's in Federal service were classified as GS–15 and GS–16 according to function as either benefit or regulatory ALJ's. The function distinction was a barrier to establishing a unified corps of ALJ's, and it was not a distinction of real merit. In its wisdom last year, the Congress abolished these artificial distinctions and classified all Federal ALJ's as Executive Service and phased in the pay raise for the GS–15 ALJ's over time. Now, all cases deserving an Administrative Procedure Act [APA] hearing are given equal dignity. This was an important step in creating the proper environment for the establishment of a unified corps. One hurdle in enacting the bill has been eliminated, since it does not need to consider the salary classification of Federal ALJ's, which is currently uniform. There is no hidden agenda in the bill for an ALJ pay raise. The bill will in fact be a cost benefit to the taxpayer. It is time to streamline government and not add layers of bureaucracy for adjudications in every Federal agency with authority to conduct APA hearings.

The Congressional Budget Office estimates that the start up costs for the ALJ Corps would be less than $500,000, a modest amount. The CBO also states that adopting a centralized system will result in savings because fewer judges could handle the existing caseload. Agencies with small caseloads would not need to retain their own judges and they would be free to decide cases for other agencies.

The bill would improve ALJ accountability by uniform training and standards for conduct. A unified corps of ALJ's would promote professionalism among Federal ALJ's and provide solutions to the few cases of intemperate behavior by ALJ's, without compromising their independence. The corps, not the agency, would be responsible for establishing standards and developing peer review and compliance mechanisms for monitoring performance by ALJ's. I think we would see some positive changes and enhanced professionalism among ALJ's in a unified corps. These are areas that agencies have problems promoting among ALJ's without being viewed as evaluating them in an impermissible manner. Even in situations when the agency is well motivated, there is a perception of agency intimidation and influence. None of these factors would be present in a corps, where judges would tell other judges to shape up and would have the programs to assist them.

I have great expectations for the reforms and benefits that the corps will give to our system of administrative adjudications. The American public demands and expects fairness and due process from government decision makers. The enactment of a corps bill would ensure the integrity and rule of law in our administrative decisions.

CINDY ZIPF: EFFECTIVE ACTION FOR A CLEAN OCEAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. PALLONE. Mr. Speaker, earlier this month, the Junior League of Monmouth County, NJ, presented its first community environmental award to Cindy Zipf, the founder and executive director of Clean Ocean Action. I cannot imagine anyone in the district I represent—or anywhere else, for that matter—deserving of such a high honor.

Mr. Speaker, Cindy Zipf is one of those people who are blessed with intelligence and boundless energy and who, to the benefit of us all, choose to use their talents selflessly to make the world around them a better place. Cindy started Clean Ocean Action back in 1983. At that time, it was clear that a consensus was emerging among residents of the New Jersey shore that something had to be done about the worsening problems of pollution in our coastal waters. It's hard to believe, but a mere 8 years ago sewage sludge was being dumped just a few miles offshore from some of the most heavily used bathing beaches in New Jersey. Through the leadership of Clean Ocean Action, that dumping was first moved to over 100 miles offshore, as an interim step, and will ultimately be phased out entirely by the end of this year.

Sludge dumping is but one issue where Clean Ocean Action, led by Cindy Zipf, has made a real difference on behalf of the ocean environment and the people who depend on it. The entire gamut of unsound and dangerous ocean disposal practices has been exposed and successfully challenged through the efforts of Cindy Zipf. In my efforts to pass antidumping legislation, both here in Congress and in the New Jersey Legislature when I was member of the State senate, I have relied heavily on the background information and proposed legislative and regulatory actions offered by Cindy Zipf and her organization.

As much as Cindy Zipf is held in high esteem for her substantive work on behalf of a healthier ocean environment, perhaps her greatest gift is her abilities to build coalition and galvanize public opinion. Clean Ocean Action actually represents more than 100 different organizations and receives support from virtually every sector of the community. In addition to playing a major role in the legislative process, Clean Ocean Action has played an effective role in educating the public, from school kids on up, and in getting people to take part in a variety of volunteer efforts on behalf of clean water and beaches. In the space of about 8 years, Cindy Zipf has taken Clean Ocean Action from a fledgling operation into the center of the mainstream of Monmouth County and the entire New Jersey shore.

Mr. Speaker, I am proud to join with the Junior League of Monmouth County, an organization of women promoting voluntarism, in paying tribute to Cindy Zipf—constituent, friend, and endless source of first-rate ideas.

UNIVERSAL HEALTH INSURANCE ACT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. OBEY. Mr. Speaker, today I am introducing with Mr. SWIFT and Mr. KOLTER the Universal Health Insurance Act of 1991, H.R. 3907. Poll after poll indicates that many Americans are terribly concerned about the runaway costs of health care and that their health insurance may be weakened or taken away at the bargaining table. A recent Washington Post and ABC poll indicates that a majority of Americans worry a great deal about being able to afford adequate medical care and fear their medical benefits will be reduced.

Increases in health care costs have exceeded Inflation by 4 or 5 points since Harry Truman was President. During the past decade, per capita health care spending in the United States increased by 139 percent.

This year I held eleven health care forums throughout my district and I heard over and over again about spiraling health care costs. Representatives of local governments and private employers testified that their health care costs increased by as much as 15 percent per year over the past decade. One of the largest employers in my district, Consolidated Papers, testified that over the past 5 years their health care costs rose by 71.8 percent.

In addition to rising health care costs, many working families are faced with another problem: job lock. Almost a third of working persons report that they are unable to change jobs because if they were to leave their current position they would lose health care coverage for themselves and/or family members under a new health plan due to a preexisting health condition.

I believe that the way the Congress responds to this concern will have a major impact on whether working people believe that their Government is in touch with the needs of the average American family. The dilemma we face is how to stake out our determination to deal with the health care problem in a way that does not create impossible problems for us in the budget over the next 3 years.

The House is now reviewing a number of options and seems to be moving toward choosing the single-payer option, an expansion of the Medicare model or the pay-or-play model which would be largely financed through private employers. I hope that we reach agreement and I support the effort, but I am concerned that we will not be able to agree on any one of those three approaches. Even if we could reach agreement on whether to go the employer route or the single-payer route, the devil still will be in the details and we still will have tremendous difficulty agreeing on the specifics of eligibility, benefits, and cost control mechanisms, not to mention financing.

I am, therefore, introducing legislation which would give us a fallback position. Why can't we simply move ahead on the problem by setting deadlines? Why can't we simply pass legislation that says that within 3 years every State in the Union will be required to have a universal health care system which provides basic coverage for every individual in the State?

States would be allowed to do it their own way. The Federal Government would be required to commit itself to providing 50 percent of the overall estimated national cost by establishing a Federal-State cost-sharing arrangement so that the Federal Government meets its responsibility to bear a fair share of the costs. It allows States to choose their own method by which they would provide such coverage. The bill would require that the Federal Government review the operations of all State plans once they are in existence to determine which State models work the best to deliver services and control costs and should, therefore, be adopted as the required model for the rest of the country.

The bill would work as follows:

STEP 1

It would require that every State in the Union have in place by January 1, 1994, an operating program that provides basic health care coverage for every human being living in the State. States which do not comply would face the potential loss of Federal Medicaid payments starting the first quarter of 1996.

States would be allowed considerable latitude in designing their plans, but they would have to meet minimum Federal standards and include hospital care, physician services, diagnostic services, long-term care for the elderly and disabled, prescription drug, immunizations, early periodic screening and diagnostic tests [EPSDT], and up to 45 days a year of mental health care.

States could, if they desire, rely primarily on the private sector. If they did so, a State could rely on an employer-mandated plan and require that employers with more than 50 employees offer health insurance to their families which meet the minimum coverage standards and cover the rest of the population through a State risk pool arrangement. The bill also allows States to experiment with a single-payer plan—in fact, the bill contains financial incentives to do so.

STEP 2

Once State programs are operating in 1994, the Federal Government would take the next 3 years to evaluate the effectiveness of each State's approach. By January 1, 1997, the Secretary of Health and Human Services would be required to do two things:

First. Determine which State models did the best job in providing universal health coverage at a reasonable cost and should be adopted by other States.

Second. Decide whether the experience gained has demonstrated that the administration of universal health coverage should be moved to the Federal Government or remain at the State level.

This country has had a 40-year debate about how we should provide universal health care. This bill is designed to cut through that by using States as laboratories of democracy. We have a long tradition of doing that in this country. That approach will enable us to learn as we go in working ourselves through to a final approach which is the most effective and cost efficient.

It would enable us to move the country into a new approach to health care without making specific decisions about details until we have enough experience to make the right decisions. We could learn by doing.

This bill is structured in such a way that we could support it without encountering significant budget agreement problems. It provides a way for us to stake out our determination to attack this problem without running into impractical obstacles with the budget during the next 3 years. It defers decisions about many specifics, but still allows us to stake out our intention to stand by the side of average Americans in attacking a problem that is real in their lives.

JAMES MANION IS A REAL HERO

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LEHMAN of Florida. Mr. Speaker, there aren't many people like James Manion. Last year, he risked his own life to rescue Jessie V. Sutton from armed hoodlums in the parking lot of their private club. During this heroic act, Manion was shot in the torso and spent more than a year recovering from several operations. Despite the risks, James Manion got involved and, as a result, he became modern-day proof that real heroes still exist.

The selfless quality of Mr. Manion's bravery puts him in a class all by himself. His blind devotion to the welfare of another person typifies the ideal relationship among human beings. His convictions are inspiring.

Men like James Manion rejuvenate our faith in humanity and set an example for our children. His courage is a reminder to us all that, by helping one person, we help all humanity. He is truly a classic hero.

ACHIEVING A COMPREHENSIVE TEST BAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. GREEN of New York. Mr. Speaker, the experience in Iraq makes it urgent that the United States lead the international community in strengthening the nuclear nonproliferation regime. One clear step we can take is to enact further restrictions on underground nuclear explosions so as to constrain the development and deployment of a new generation of nuclear arms.

Because I believe it is critical that Congress send a strong signal to President Bush that the United States must reverse its adamant opposition to a comprehensive test ban [CTB], today I am cosponsoring H.R. 3636, legislation calling for a 1-year moratorium on nuclear testing. Let me make it absolutely clear, however, that my endorsement of this legislation is qualified. My record in support of a CTB is clear and longstanding, and I believe we are in a position to achieve a CTB by 1995. However, let me put the issue of a testing moratorium into some context.

In a recent report to Congress, Physicist Ray Kidder of Lawrence Livermore National Laboratories argues that concerns about the safety of the nuclear stockpile should not limit United States consideration of a partial or comprehensive test ban. Dr. Kidder argues that with a small, finite number of tests—about 8 to 10 he said to me in a recent telephone conversation—the United States should be able to achieve a CTB by 1995. Thus, while I endorse the call for a testing moratorium contained in H.R. 3636, we must understand that the larger goal of working toward a CTB by 1995 will require a small amount of testing.

But move toward a CTB we must. It has been 32 years since President Dwight Eisen-

VOL 137 PT 23 NO 21–25 1991 UMI

hower initiated negotiations for a CTB. Yet today, the administration is unwilling even to negotiate on the CTB. This position weakens global nonproliferation efforts in several important ways.

Politically, nuclear testing undermines the Nuclear Nonproliferation Treaty [NPT], which, while imperfect, remains the central element of international efforts to prevent the spread of nuclear weapons. Because a substantial number of nonnuclear-weapons states have linked their support for nonproliferation to a compelete test ban, continued testing encourages the nuclear efforts of nonnuclear-weapons states.

The global community is approaching a milestone in nonproliferation efforts. While the NPT comes up for review every 5 years, article X of the treaty states that in 1995, 25 years after the entry into force of the treaty, "a conference shall be convened to decide whether the treaty shall be convened to decide whether the treaty shall continue in force indefinitely," as determined by a majority of the parties to the treaty. At the 1990 NPT review conference, which I attended, the unwillingness of the United States to tie progress toward a CTB with extension of the NPT in 1995 prevented the review conference from reaching consensus on a final document reaffirming the NPT.

This situation puts the NPT in some jeopardy. Progress toward a CTB has long been regarded by the nonnuclear-weapons states to be an absolute minimum condition for superpower compliance with article VI of the NPT, which encourages weapons states to agree to negotiate good faith reductions of nuclear arsenals. If the Soviets and we will not comply with article VI, we cannot expect the nonnuclear powers to comply with the other parts of the NPT which require those nonnuclear states not to become nuclear states. The longer the superpowers stall on a CTB, the greater the prospects are that some nonnuclear weapons states will resist efforts to extend the NPT in 1995.

In addition, the willingness of the nonsuperpower nuclear weapons nations such as France, the United Kingdom, and the People's Republic of China to cooperate with the United States and the Soviet Union in a more restrictive nuclear test ban is essential to the long-term success of global efforts to limit nuclear warhead development. Those three nations, however, have resisted further restrictions on nuclear testing, believing that the Soviets and we must lead the way.

Technically, a CTB encourages nonproliferation because while a technically advanced nation with access to fissionable material can manufacture simple bombs without testing, more advanced fission, and thermonuclear weapons require testing.

In short, I believe that the benefits of a CTB, which include restricting other nations' testing programs, strengthening the global nonproliferation regime, and ceasing radioactive underground contamination, greatly outweigh the concern that clandestine testing may occur below the monitoring threshold.

So today I ask my colleagues, is there any greater security challenge facing the 1990's than nuclear proliferation? Congress has long pushed the administration on the urgent issue of a CTB, and we must continue that course.

TOMCAT HERO

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DORNAN of California. Mr. Speaker, I rise today to pay tribute to a young naval aviator whose courage and skill serve as important reminders to all of us about the dangers that our brave service men and women face on a daily basis, both in times of peace and times of war.

Picture, if you will a supersonic F–14 Tomcat jet fighter over the Persian Gulf at 27,000 feet, at a speed of over 500 miles an hour. All of a sudden—bam—the nose cone and radar dome rip off the aircraft and literally blow apart the glass cockpit canopy, leaving the pilot, Lt. Comdr. Joe "Reb" Edwards, with no way, except hand signals, to communicate with his carrier or the crewman in the back seat.

As a Navy Times article describes:

> Edwards, blood streaming down his face, flying one-handed, blind in one eye, and without radio communications, still managed to land the jet safely on the flight deck of the aircraft carrier *Eisenhower* near Bahrain in the afternoon of November 13.

This is not a scene from "Top Gun," ladies and gentleman, but rather, it represents the real life heroics of real naval officers, pilot Joe Edwards and his radar intercept officer, Scott Grundmeier. This successful emergency landing is a testament first and foremost to the quality of the men and women in our Armed Forces, the quality and quantity of their training, and finally the quality of their equipment, in this case the F–14 Tomcat.

I salute the bravery of Joe Edwards, and ask my colleagues to join me in wishing him a speedy recovery from his injuries. Let us here in Congress also continue to provide Joe and the other brave men and women of our Armed Forces with the best training and best equipment available. They deserve no less.

CONCERN ABOUT BLOODSHED IN YUGOSLAVIA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. VISCLOSKY. Mr. Speaker, as the United States Representative of thousands of Americans of Serbian and Croatian descent in northwest Indiana, I am deeply concerned about the continued bloodshed in Yugoslavia. I believe the United States must send a clear message to both sides, including those in power, that further violence and oppression by anyone will not be tolerated. In addition, ethnic minorities living in any of the Yugoslav Republics should not be discriminated against on the basis of their ethnicity or religion. Further, we must find the means necessary to bring the fighting to an end.

To promote a balanced approach in resolving the conflict, I have introduced a resolution, House Concurrent Resolution 245, which urges all parties in Yugoslavia to cease additional use of force and engage fully and in good faith in negotiations on the future of Yugoslavia. It also encourages religious leaders in Croatia, Serbia, and the other Republics to play a part in the peace negotiations. House Concurrent Resolution 245 expresses the strong support of the U.S. Congress for the efforts of the European Community [EC] and other concerned countries and international organizations to restore and maintain peace. Finally, the resolution urges the President and Secretary of State to support the formation of an international peacekeeping force to assist in the enforcement of cease-fire compliance and to support its deployment in Yugoslavia as a contribution to a comprehensive peace agreement.

As you know, on June 25, Croatia and Slovenia unilaterally declared their independence. Since then, fighting between Serbs, who account for about 11 percent of Croatia's 4.5 million people, and Croatian militiamen has taken scores of lives in eastern Croatia. Serbian and Croatian leaders have agreed to a series of cease-fire agreements in the bloody Yugoslav civil war, but, in spite of these agreements, fighting between Serbs and Croats has continued virtually unabated. Peace negotiations sponsored by the EC have been unsuccessful, in part, because the EC is unable to enforce cease-fire agreements. Both Croatia and Serbia have appealed to the United Nations to send peacekeeping troops to Yugoslavia, but they have not agreed upon where these forces are to be positioned.

Many Serbs fear they would be massacred if Croatia were to secure its independence from Yugoslavia. In addition, Croatia is considered to be Yugoslavia's bread basket, and opponents of Croatian independence are wary of the economic consequences if Croatia were to secede from Yugoslavia. Croatian leaders charge that the Government of Serbia is fomenting rebellion so that it can annex vast tracts of Croatian territory into a powerful, new greater Serbia.

A good example for all ethnic groups in Yugoslavia can be seen in northwest Indiana. Since the turn of the century, Serbs, Croats, and Slovenes have lived harmoniously in the region. They have lived and worked together, and, together, have improved the quality of life for everyone in northwest Indiana. Indeed, I have made a special effort to confer with leaders of the Serbian and Croatian communities in northwest Indiana in order to better understand their concerns.

It is my sincere hope that a concerted effort by all parties in the conflict, as well as the international community, will help to secure an immediate and permanent cease-fire. This would enable Serbs, Croats, and other ethnic groups in the Yugoslav Republics to engage fully and in good faith in negotiations on their future.

THE INSTALLATION OF REAR-END TELEMETRY SYSTEMS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. WILLIAMS. Mr. Speaker, I rise today to introduce legislation amending the Federal

Railroad Safety Act of 1970 to require trains to be equipped with rear-end telemetry systems.

Railroad companies are currently allowed to operate cabooseless trains. The Federal Railroad Administration's [FRA] only requirement for cabooseless trains is that they be provided with a flashing red light on the rear car of such trains during hours of darkness. There is no requirement that train crews be provided the knowledge that air brakes are functioning properly after departing the initial terminal. Permitting cabooseless trains to continue to operate without two-way telemetry devices is putting the public and railroad workers in unnecessary danger.

For the past 2 years, the Canadian Transportation Department has required that every cabooseless train operating in Canada be equipped with an operative telemetry device with a rear-of-train emergency breaking feature. Canadians have found that these devices are a necessary safety feature. America should move toward increased safety on our railroads.

THE GOVERNMENT SECURITIES REFORM ACT OF 1991

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MARKEY. Mr. Speaker, following more than a year of examination into regulation of the government securities market by the Subcommittee on Telecommunications and Finance and after numerous hearings on the subject, I am today introducing, along with the subcommittee's ranking Republican member, Mr. RINALDO, and my subcommittee colleagues, Messrs. SYNAR AND WYDEN, the Government Securities Reform Act of 1991. Since the advent of Federal regulation of securities in this country, the government securities market has been treated by regulators and the law as the outback region of oversight. The adoption of this legislative package would end that regulatory isolation. The time has come to move forward toward effective, comprehensive reform of the most important financial market we have, the market for the Nation's own securities.

The subcommittee's examination of the government securities market began over a year ago with an initial letter of inquiry to the SEC. The steady drumbeat of problems in this market began with the GAO report of last fall, which recommended new sales practice authority, and continued through our hearing of last spring, in which we heard directly about substantial losses of State and local governments in this market. At that time, the Resolution Trust Corporation released a report to this subcommittee identifying at least 37 failed S&L's which lost a combined $620 million in the government securities market.

Concerns continued to swirl a month later, when the subcommittee wrote to the SEC, the Treasury Department, and the Federal Reserve seeking a full investigation of a then-alleged squeeze in the secondary market for May 2-year notes. Finally, in August, this drumbeat turned into a symphonic explosion of market problems with revelations by Salomon Bros. of its own illegal activities. Combined with the stunning disclosures of improper activity within the market for Freddie Mac and Fannie Mae securities, we are now all too aware of the deficiencies in the regulatory structure of this market.

The Salomon revelations have focused unprecedented attention on the auction process for government securities, and rightfully so. The Federal Government has a strong and ongoing interest in seeing that its debt is issued honestly, fairly, and efficiently. But the squeezes which took place in the sale of April and May 2-year notes, and the losses by S&L's and local governments, all took place in the secondary market. It is the means by which millions of investors throughout the world participate in the government securities market. Thus, we ultimately need comprehensive reform in both areas.

The proposed legislative package attacks directly the antiquated, obsolescent enforcement scheme in this market. Today we rely on the SEC to enforce the law in the government securities market as well as all other securities markets. But when it comes to government securities, the SEC is a cop with no nightstick and no map of the streets. This proposed legislation takes the lessons of experience from over 50 years of experience in the development of the securities laws and applies them to a heretofore regulatory black hole. We can no longer afford to simply shut our eyes to violations of law in this market as they develop, then hope that we can send in a Sherlock Holmes of the securities markets after the clues have been scattered to the wind. We need a cop on the beat every day, not just an emergency-only SWAT team.

This legislation contains several key elements. It extends the Treasury Department's current rulemaking authority over capital adequacy and general bookkeeping requirements for 5 years, until October 1, 1996. It provides for comprehensive SEC authority to create an electronic audit trail for the government securities market. It authorizes the SEC to set up a system for large trader reporting in the government securities market. It expands current SEC authority over fraudulent and manipulative practices to this market. It provides governmental authority for the first time in this market to oversee the dissemination of price information to the public. It requires supervisory procedures to be in place at all registered government securities dealer firms and conventional broker-dealer firms. It expands the authority of the National Association of Securities Dealers to institute sales practice rules for the government securities market.

I look forward to working closely next year with my cosponsors, in particular Mr. RINALDO, to assure the passage of a genuine bipartisan bill which will bring greatly needed reform to this most important marketplace.

SECTION-BY-SECTION ANALYSIS OF THE GOVERNMENT SECURITIES REFORM ACT OF 1991

Section 1. Short title.

The Act is entitled the "Government Securities Reform Act of 1991."

Section 2. Extension of Government securities rulemaking authority.

The legislation extends the sunset date from October 1, 1991 to October 1, 1996 of the Government Securities Act of 1986 which allows for the current Treasury Department rulemaking authority over capital adequacy and general book and recordkeeping requirements for government securities dealers.

Section 3. Prevention of manipulative acts and practices—market surveillance.

(a) Recordkeeping and reporting by government securities brokers and dealers—The bill would broaden the current SEC authority over equity and debt securities markets by granting to the SEC the authority to order additional recordkeeping and reporting from government securities brokers or dealers for purposes of market surveillance and monitoring of price and trading activity in the government securities market.

(b) Government securities large trader reporting—Current SEC authority in equity and debt securities markets would be extended by allowing the SEC, in consultation with the Federal Reserve Board and the Treasury Department, to identify and receive trade reporting information for large trading customers in government securities for purposes of market surveillance.

(c) Prevention of fraudulent and manipulative acts and practices—SEC authority over regulated brokers and dealers in the equity and debt securities markets would be extended by enabling the SEC to adopt rules governing government securities brokers and dealers to prevent fraudulent, deceptive, or manipulative acts or practices, or the use of any fictitious quotations in the government securities market.

Section 4. Broker/dealer supervision responsibilities.

All SEC-registered brokers and dealers, municipal securities brokers and dealers, and government securities brokers and dealers would be required to adopt mandatory internal policies and procedures to prevent violations of securities law, including books and records violations.

Section 5. Sales practice rulemaking authority.

(a) Appropriate regulatory agency rulemaking—The legislation would grant to the appropriate regulatory agencies, such as banking regulators, the authority to write sales practice rules governing the secondary government securities market. These rules would apply to non-NSAD members.

(b) Rules by registered securities associations—The Act would lift current legal restrictions which prevent the National Association of Securities Dealers (NASD) from writing rules of fair practice in the government securities market (such as rules governing customer suitability and rule prohibiting excessive markups and account churning). NASD rules now apply in all other securities markets.

Section 6. Market information.

The SEC would be granted authority to oversee, in consultation with the Federal Reserve Board and the Treasury Department, the dissemination of government securities market price and trading information to the public. This authority would be patterned after current SEC authority in the equity market.

Section 7. Study of trading system for government securities.

The legislation establishes two studies of the government securities market. One would be a joint study the SEC, the Treasury and the Federal Reserve Board on the adequacy of any changes made in the regulation of the government securities market after October 1, 1991. This study would be due no later than October 1, 1996. Second, the GAO would be commissioned to study the overall effectiveness of the SEC regulation of the

deadly warfare among crack cocaine gangs

predators were an astonishingly small group

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VOL 137 PT 23 NO 21—25 1991 UMI

government securities market, with its report due no later than March 31, 1996.

Section 8. Technical amendments.

(a) Information—provides for information sharing among all appropriate regulatory agencies with respect to the activities of government securities brokers and dealers.

(b) Amendments to definitions—This section clarifies several definitions under the securities laws—(1) "appropriate regulatory agency," and (2) "financial institution".

(c) Effective date of broker/dealer registration—This section clarifies that such registration only become effective upon the date the broker/dealer becomes a member of an exchange or the NASD.

Section 9. Rule of construction.

This section makes clear that nothing in this legislation affects any governmental authority to regulate the initial issuance of United States government obligations.

WE SHOULD SEEK A COMPREHENSIVE, BALANCED APPROACH TO CRIME

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues an article published in the October 27, 1991, edition of the Washington Post.

The article argues that tough punishment for the committed, violent criminal, not only is effective in reducing crime, but is an indispensable factor in any successful crimefighting program.

This premise is reasonable and logical. But, tough punishment cannot do the job alone. Neither can intervention, nor social services, nor counseling, nor attacks on any of the root causes such as poverty, joblessness, inadequate education, or poor housing. But, all of them working in coordination and cooperation just might do the trick.

I don't agree fully with the writer's premises, but his article is worth the time to read.

[From the Washington Post, Oct. 27, 1991]

AN ANTI-CRIME SOLUTION: LOCK UP MORE CRIMINALS

(By Eugene H. Methvin)

One of America's best-kept secrets is that our huge investment in building prisons—an estimated $30 billion in the last decade to double capacity—has produced a tremendous payoff: Americans are safer and, as the Justice Department reported last week, crime has fallen steadily.

Moreover, some pioneering research and policy field testing suggest that if we again double the present federal and state prison population—to somewhere between 1 million and 1.5 million—and leave our city and county jail population at the present 400,000, we will break the back of America's 30-year crime wave.

Liberal opponents will howl, of course. They have convinced many Americans that imprisonment is a failed policy and don't want to hear otherwise. The Edna McConnell Clark Foundation bombards influential media, declaring: "Our prison population has gone up by more than 200 percent in the last 15 years with no resulting decrease in crime." The director of the American Civil Liberties Union's National Prison Project, Alvin Bronstein, writes that "no jurisdiction has ever * * * had an impact on crime rates by an expanded incarceration policy." Washington Post columnist Colman McCarthy insists that prisons don't succeed but "work-release or community-service programs, structured therapy, in-prison job training, restitution, house arrests with electric monitoring and halfway houses do."

Other pundits and experts will point out that numerical *correlation*—between increased incarceration and decreased crime rates—does not prove a *causation* and that other demographic variables may be at least partly responsible for the trend. They are usually the same people who nonetheless find correlations between crime and joblessness, poverty and illiteracy and who argue that public money is better spent addressing these "root causes."

Despite our high prison population, punishment for crime is near an all-time low, Texas A&M University economist Morgan O. Reynolds observes. He did a 38-year comparison of serious crime and probable punishment—that is, the expected days in prison as determined by the median prison sentence for all serious crimes and weighted by probabilities of arrest, prosecution, conviction and imprisonment. He charted the two lines from 1950 to 1988. His chart shows a big horizontal "X."

Probable punishment turned sharply down in 1954, and crime soared. Thus, in 1950 we had 1.8 million serious crimes, and the average criminal risked 24 days in prison. By 1964 imprisonment risk dropped in half, to 12.1 days, and crimes had increased to 4.6 million. By 1974, the criminals risked a mere 5.5 days in prison and America had 10.3 million crimes. Finally, in 1975, punishment turned slightly up, and the crime increase slowed. In 1988, the prison risk was 8.5 days and the number of crimes was 13.9 million.

"Why is there so much crime?" asks Reynolds. "The main reason is that crime pays for millions of criminals and potential criminals. Only 17 in 100 murders result in a prison sentence. The imprisonment rate for rape is 5.1 percent, for assault 1.5 percent and for auto theft only 0.3 percent * * *. Even though police make 13 million arrests each year, less than 2 percent of them result in a prison sentence."

A related analysis produces similar conclusions. During the 1960s, total prison population fell from a then-historical peak of about 219,000 in 1961 to about 195,000 in 1968. During the same decade, crimes soared from 3.4 million in 1960 to 8 million in 1970, according to the FBI's Uniform Crime Reports [UCR] based on incidents reported to police.

Only after 1972 did the prison population start upward, surpassing the 1961 peak in 1975, then soaring to 771,243 by last Jan. 1. And, wonder of wonders, crime declined significantly—whether measured by the FBI's long-standing UCR or by the Justice Department's National Crime Survey of households conducted by its Bureau of Justice Statistics (BJS).

The distinction between the two surveys is important. The FBI's UCR, begun in 1929, includes only crimes reported to police; in 1973 Justice began its scientific BJS surveys to estimate actual victimization totals, including crimes not reported to police—which the department estimated at 62 percent in 1990 (and more than half of all violent crimes). The two sets of figures frequently produce seeming contradictions and must be interpreted carefully. For example, the latest BJS report shows that the percentage of assaults reported to police increased from 43 to 47 in 1989-90—which alone would produce an increase of almost 10 percent in the FBI's reported assaults even if there were no actual increase.

Moreover, there are differences in crimes. Half or more murders and aggravated assaults are once-in-a-life-time crimes of passion that involve acquaintances; robbery and burglary are almost always crimes of deliberation by predators who repeat and repeat and repeat. I rely more heavily on the latter two categories than on others when measuring the effectiveness of imprisonment rates. There are other variables as well. The crack cocaine epidemic, which began in 1985, clearly has produced an increase in criminality since then—including murderous battles over turf. Rape and theft remain the most underreported crimes of all, though efforts by police and victims groups to encourage rape reporting are having some success. And much depends on what year is used as a baseline.

Given these caveats, it is not surprising that the FBI could report this weekend that the number of reported crimes in the nation in the first half of 1991 *increased* 2 percent over the first half of 1990, continuing an *upward* trend evident since the mid-1980s—while the BJS could report last weekend that actual criminal victimization (reported and unreported) *decreased* 3.9 percent last year, continuing a "*downward* trend * * * that began a decade ago." Contradictory? Not really. They are describing different groups of crimes over different periods of time.

Both surveys, in fact, show a long-term downward trend. Even without adjusting for increased population, increased reporting to police or the crack phenomenon of the late 1980s, the FBI's reported murder rate for the 1981-90 decade declined 8 percent and the burglary rate 26 percent—though the robbery rate increased 5 percent. The broader BJS survey documents an overall 9.2 percent decline in violent crimes since its first survey in 1973; robbery is down 16 percent, burglary 41 percent and rape 33 percent. In sum, the BJS found, the rate of crimes against people was 25 percent lower in 1990 than in 1973 and the rate of household crimes 26 percent lower. The number of personal or household crimes, it added, fell from 41 million in 1981 to 34 million in 1990—a decline of 7 million in a decade.

Michigan, California and Texas in the 1980s have conducted revealing demonstrations of contrasting "deprisonization" and "lock 'em up" policies.

Case 1. Michigan tried it both ways. In the last 1970s, legislators and voters refused to build new prisons, and the state soon was forced to deal with severe overcrowding. The governor granted emergency releases to 20,000 inmates in four years, some more than two years early. Michigan became the only state to record a prison population decrease in 1981-85, dropping from 15,157 in 1981 to 14,604 in 1984 but then jumping sharply to 17,755 in late 1985 after a Detroit Free Press series on early release of prisoners.

The violent-crime rate for Michigan reported by the FBI soared 25 percent, and public outrage mounted. Starting in 1986, a crash prison-building program doubled inmate population in five years. And, wonder of wonders, Michigan's crime rate dropped. Robbery and burglary rates fell more than 25 percent; in Detroit the decline was even more impressive—burglaries down 32 percent, robberies 37 percent. (Murders decreased at lesser rates—12 percent in the state and 4 percent in the city, an apparent anomaly probably explained by new and

deadly warfare among crack cocaine gangs in Detroit, as in Washington.)

Success in Michigan wasn't cheap. The state voted $888 million to build and expand prisons by 1992, and operating them costs additional millions each year. But there were savings too. In 1988, U.S. Sentencing Commission criminologist Mark A. Cohen calculated the cost of 10 crimes to their victims by combining direct costs such as lost property and wages with estimates of pain, suffering and fear based on known jury awards. Cohen calculated the cost of a rape at $51,050, a robbery at $12,594, an assault at $12,028, a burglary at $1,372. By this measure, the decrease in just two prominent "fear" crimes—robberies and burglaries—saved Detroiters $113,546,000 in a single year.

Case 2. Since 1982 Californians have approved $3.7 billion in bonds to build prisons. From 1980 to January 1991, inmate population quadrupled from 22,600 to 98,000. By the 1990s, murder, rape and burglary rates fell a whopping 24 to 37 percent from their 1980-82 peaks—which translates as an annual reduction of nearly a thousand murders, 16,000 robberies and a quarter of a million burglaries.

Case 3. Conversely, Texas learned that skimping on prisons inflates crime disastrously. Prison costs had soared because of a burgeoning inmate population, a doubling of the guard/prisoner ratio and a federal judge's order to make costly changes—some indisputably necessary, such as better medical care, but others of dubious value, such as free college courses. The yearly cost per-prisoner would eventually rise from $2,920 to $14,000 in the '80s, but in any early effort to slow it, the legislature in 1983 adopted a turn-'em-loose-faster approach. Thus, while the imprisoned convict population grew by 2½ times, the average term served dropped from 55 percent of sentence to less than 15 percent and the number of convicts on parole increased by 21 times.

Texas A&M professor Reynolds calculated the consequences. The expected punishment for a serious crime dropped 43 percent (from 13 days to 7.4) from 1980 to 1989, though for the nation as a whole it rose by about 35 percent (from 5.5 days to 8.8) in roughly the same period. Factoring the probability of arrest, conviction and imprisonment, a potential criminal in Texas today risks little. Fewer than one out of every 100 serious crimes results in a prison term, and those who land in prison serve an average of only 10 months. For murder an offender risks 24 months, for rape 5.3 months, for robbery 2 months and for burglary 7 days.

Result: The crime rate soared 29 percent in the 1980-89 decade, though nationally it dropped 4 percent, making Texas the second most crime-prone state. In 1980 no Texas city had ranked in the 20 worst America cities in property crimes; in 1988, 13 of the nation's worst 20 cities were in Texas.

If increased incarceration cuts crime, how many convicts should we keep locked away in this "land of the free"? When can we stop? And how much can we afford? We've spent an estimated $30 billion to double our prison population in the past decade, and yet today our prisons crowd in perhaps 140,000 more than they should.

University of Pennsylvania criminologist Marvin Wolfgang compiled arrest records up to the 30th birthday for every male born and raised in Philadelphia in 1945 and 1958 and published a 1990 study comparing the two cohorts. In both, about 35 percent of the young men collected one arrest and most never tangled with the law again. The real hard-core predators were an astonishingly small group of repeaters who were rarely punished; just 7 percent of each age group committed two-thirds of all violent crime, including three-fourth of the rapes and robberies and virtually all the murders. Moreover, this 7 percent not only had five or more arrests by age 18 but went on committing felonies and, for every arrest made, got away with about a dozen crimes.

Incredibly, only 14 percent of the first five arrests resulted in punishment; in the other 86 percent, no charges were brought. Even the 14 killers among the 1945 cohort averaged an appallingly lenient four years behind bars. Yet when punishment was tried, it worked. The few who were imprisoned committed fewer and less serious crimes afterward.

What can be done? Wolfgang's studies suggest that about 75,000 new young, persistent criminal predators are added to our population every year. They hit their peak rate of offenses at about age 16. Locking up all of them from the time of a third felony conviction until, say, age 30 would almost double our present prison population to about 1,230,000. But such long-term imprisonments may not prove necessary if punishment is applied early and consistently.

Another measure of the size of our hard-core criminal population comes from a Justice Department program begun in 1983 and based on the Philadelphia findings. Justice persuaded 20 cities to have their police, prosecutors, schools and welfare and probation workers pool information and focus on the worst offenders, generally youngsters with three or more arrests by age 18. A "serious habitual offenders" [SHO] gets priority attention from probation authorities, and if he is arrested anew, investigators and prosecutors throw the book at him with escalating penalties (coupled with rehabilitation efforts) in an effort to stop the revolving door.

In all 20 cities, SHOs consistently comprised less than 2 percent of all juveniles arrested, or about 18 to 25 youngsters per 100,000 population. Thus, out of 250 million Americans, we would have a maximum of maybe 62,500 SHOs between their 14th and 18th birthdays at any one time. Putting them all behind bars until 30 after the third offense—or even permanently, as is the law in many states, though rarely enforced—would be a relatively inexpensive way to cut a huge chunk out of our still atrocious crime rates.

California's only participating city, Oxnard, began a concerted effort to get the city's active SHOs behind bars, and in 1987 violent crime dropped 38 percent, more than double the drop in any other California city. By 1989 all 30 of Oxnard's identified active SHOs were behind bars—almost exactly the predictable total for a city of 130,000—and its citizens experienced the lowest crime of a decade. Murders declined 60 percent, robberies 41 percent and burglaries 29 percent.

Based on these social yardsticks, I'd hazard a guess that America's hard-core violent repeaters number upwards of a million. That in turn suggests that if we increase federal and state prison populations to between 1 million and 1.5 million and keep our jails (usually operated by cities and counties for misdemeanor sentences of a year or less) at the present level of about 400,000, we may see a sharp drop in our horrendous crime rates.

And what about those alternatives to imprisonment Colman McCarthy touts?

The American Institutes for Research in the Behavorial Sciences, a non-profit Washington think tank, studied 350 high-repeat Illinois delinquents and found imprisonment was significantly more effective in reducing subsequent arrests from their previous levels. Judges committed the 159 worst prospects to incarceration and sent another 191 to foster or group homes for community "treatment" programs; the latter recorded subsequent arrest reductions of 56 to 68 percent while those imprisoned registered 71 percent fewer. Moreover, those not imprisoned were free to continue committing untold crimes while in "treatment."

In short, lock 'em up and you slow 'em down. Turn 'em loose and you pay an awful price.

STOP ABUSIVE FRANKING PRACTICES

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SANTORUM. Mr. Speaker, Congress has just considered several campaign finance reform measures, most notably the Campaign Spending Limit and Election Reform Act which seemingly introduced the concept of taxpayer subsidized political funds. Public funding of political activity, which I oppose, was hotly debated. However, few taxpayers realize that Members of Congress are already receiving their tax dollars to subsidize Congress Members' political efforts.

Money for pseudopolitical activity is available to Members through the official mail allowance, which is often used to send unsolicited mailings which are very political in nature. It is unfair to taxpayers for incumbents to use official mail funds to promote their political efforts. Franked outreach mail is often political mail.

Therefore, today I have introduced a bill, the Official Mail Accountablility Act, which will implement additional franking restrictions. This measure will keep Members of Congress from abusing the frank, as many currently do when mailing politically oriented material with public funds. The bill addresses unsolicited mass mailings only, which is any single mailing with distribution exceeding 200. The Official Mail Accountability Act will: Prohibit all pictures with the exception of one photo in the masthead; reduce personal references from 32 to 16; restrict content so that only legislation or legislative activity can be referenced; and eliminate all personal references in point size above 14 points other than in the masthead.

I urge my colleagues to support this measure, and pass it first thing when we return so that challengers next year are not further disadvantaged while Members of Congress continue to produce politically oriented mailings in an election year.

IN MEMORY OF JOHN SLOAN, JR.

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. IRELAND. Mr. Speaker, I rise today in appreciation of John Sloan, Jr., president and

VOL 137 PT 23 NO 21—25 1991 UMI

CEO of the National Federation of Independent Business, who passed away 2 weeks ago.

There is, really, too much that is good about John to fit on a page. There are too many accomplishments and too many memories to sit on a piece of paper. But what he gave to us, his family, his friends, and to our country deserves our honor and attention, and deserves our best efforts to articulate, somehow, what we remember.

Perhaps John's professional accomplishments are the easiest part of this story to tell. Born in Tennessee and raised on a farm there, John Sloan was graduated from Vanderbilt, served as an officer in the U.S. Navy, and earned an advanced degree from Rutgers University. John was president of First Tennessee Bank in Nashville prior to taking the helm of NFIB, the small business organization he steered since 1983.

And, Mr. Speaker, for those of us who think our lives are dedicated to public service, let me list some of John's activities: Chairman of the National Advisory Council of the Small Business Administration; member of the Small Business Council of the U.S. Chamber of Commerce, the Tennessee Board of Equalization, of the President's Committee on Employment of People with Disabilities, the Boys' Clubs of America, the Freedoms Foundation at Valley Forge, National Junior Achievement, the National Legal Center for the Public Interest, and many, many more organizations that deserved the stature and talents of a man like John Sloan.

Yet, I think if John were here, he would be embarrassed by all this talk: "Words are nice," he'd say, "but actions speak." And he spoke volumes when, as president of First Tennessee Bank in 1980, he established a "small business base rate" to keep small enterprises open when record high interest rates were closing them down. He did something no one else dreamed of doing, and we admired that in him—and the lessons he taught us by what he did for small business.

He wouldn't show any embarrassment, however, over the pride he held for his family. It was my pleasure to employ his daughter, Dillie, as an intern in 1986, and from that experience, I can say John had good reason to be proud of them all. Our hearts go out to John's wife, mother, sons, daughters, and brothers. We share in your loss.

And to them, Mr. Speaker, I admit that my words are an inadequate tribute to such a remarkable American. So let me just say that I am honored to count John Sloan among my friends. And that all of us in Congress count him among the special men and women who have dedicated their lives to those ideas and those realities that make our Nation great: Family, opportunity, freedom and justice. He will be missed.

IN REMEMBRANCE OF BOB CALDARELLI

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MRAZEK. Mr. Speaker, I rise today in remembrance of Bob Caldarelli, who was a courageous, caring, and respected member of the Long Island community.

I have been honored to know the Caldarelli family for a great number of years. His father has been a close personal friend of mine, and while this is a great loss to all who knew Bob Caldarelli, it is heartwarming to know that he was held in the highest esteem by those who lives he touched. Therefore I would appreciate that the following statement, from his friend and colleague Norm Mason, be entered into the RECORD:

Bob Caldarelli had been with Korfund and joined the company about twenty five years ago. His first responsibility was to take over our Certification group and bring it up-to-standard. As with everything he did, he performed expertly. In a relatively few years we moved him on to Sales and then to an on-the-road Sales Manager. I am sure that during this period many of you were not only trained, but serviced by Bob.

As he became more senior and the company larger, his range of skills had to be passed on and shared with the newer people. He became our in-house expert and a source of guidance and information to virtually everyone here. He also provided that strong shoulder to lean on, both in-house and to the representatives. During this period, Bob basically reported to no one as he would always seek out the most important and difficult situations, whether it was closing an order or providing a solution to a problem. He was very simply just a member of the family.

About six years ago we asked him to take over the presidency of Mercer. As always, he welcomed the new challenge even though it meant moving to New Jersey and being away from his family five days a week. Under his direction, Mercer developed a much greater range of capability and he almost doubled the volume. Interestingly enough, while he no longer worked directly with the Mason Industries representation, many of you continued to call him at Mercer because you were simply more comfortable discussing some of your problems with him. You were not alone.

Unfortunately, Bob contracted melanoma about four years ago. His life expectancy was 1 year. Bob absolutely refused to surrender to this notion. Despite a series of difficult operations, radiation, chemotherapy and all the miseries attendant to the disease, he continued to work up until 5 months ago when it became physically impossible even for this giant. His spirit never faltered and he never complained about his lot nor the physical pain. He was more concerned about making it easier for all of us and his wonderfully supportive wife, Edith, and two magnificent children, Alicia and Robert.

He was not yet fifty, when he died on October 18th. All of us who loved him, will miss his integrity, strength, intelligence and friendship.

HUMAN RIGHTS IN MEXICO

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. AuCOIN. Mr. Speaker, I rise to express my concern about human rights in Mexico and to commend one of my constituents for her work on this important issue. Ms. Melissa Gronquist of Beaverton, OR, recently sent me the attached statement about widespread human rights violations in Mexico.

These concerns are especially pertinent now that the United States has put free trade negotiations with Mexico on a fast track. Mexico must guarantee and effectively uphold internationally recognized standards of human rights, including workers' rights. Otherwise, any trade agreement will be unfair to Americans and Mexicans alike.

I encourage my colleagues to consider the points raised by Ms. Gronquist, and I congratulate her for speaking out in support of human right in Mexico and throughout the world.

DEAR REPRESENTATIVE AuCOIN: I am writing as a constituent and as a citizen concerned about human rights. My home is in Beaverton, Oregon, but I am currently a Junior at Georgetown University. Beginning in high school, I became aware of the abuses governments often inflict on their own people, and I learned that there are steps I can take to stop those abuses. Torture and the imprisonment of people for their nonviolent beliefs are unacceptable to me and contrary to the United Nations Declaration of Human Rights. My beliefs led me to join Amnesty International, and I now serve as the student head of the chapter at Georgetown.

Amnesty International is a non-profit organization that works for the release of all prisoners who have been imprisoned for their beliefs, color, sex, ethnic origin, language, or religion, provided they have neither used nor advocated violence. Amnesty International's goals also include fair and prompt trials for all political prisoners and an end to torture and executions in all cases. Letter writing campaigns and international pressure are employed to achieve these goals.

As a member of Amnesty International, it is my hope that when Congress and the administration make policy, they take into consideration the human rights violations that occur in many countries all over the world. The situation in Mexico is an excellent example because most people are not aware of their widespread use of torture. It is estimated that 80 percent of all people arrested in Mexico will be exposed to some form of torture ranging from beatings to electric shock to asphyxiation. These practices are routine among the police force, and any confessions extracted are permissible as evidence in court. Anyone is susceptible to abuse if arrested. This includes women, children, and foreigners; 92 Americans filed complaints of ill-treatment by Mexican authorities last year. Amnesty International believes that the principle reason for the pervasiveness of torture is the virtual impunity with which government officials operate. The Mexican government has stated its commitment to human rights by ratifying United Nations treaties regarding torture and by creating a National Human Rights Commission last year. Unfortunately, the recommendations the commission makes are seldom implemented. Cases are investigated, but until the police officers involved are brought to trial or disciplined in some way, the abuses will continue. The Mexican government must actively change the institutionalized nature of torture in their country, and the United States government should actively encourage them to do so.

As Amnesty International has discovered, public pressure can have a positive impact on the policies of other governments. The United States government can also be a positive influence by encouraging governments

that desire agreements and aid from the United States to eliminate their domestic human rights violation. The United Nations has declared that all people are entitled to certain self-sustaining rights and to certain freedoms of expression. Denial of these rights should not be viewed as a country's internal problem; their denial is an intolerable abuse that should cause concern and action among free people everywhere. Thank you for your support and involvement on this issue.

Sincerely,

MELISSA GRONQUIST.

TRIBUTE TO CHRISTINE KETCHIN

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SPRATT. Mr. Speaker, I rise today to congratulate Christine "Tine" Ketchin, of Winnsboro, SC, on receiving the Volunteer of the Year award from the American Red Cross of Fairfield County.

Tina began volunteering in the Fairfield Service Center in January 1990. Every day, she goes to the office to help out with typing, answering the phone, welcoming visitors, and running errands. This year, she has volunteered more than 450 hours.

By giving her time and talents, Tina has helped many citizens in need. I rise to commend her for her work, and add my congratulations to the many she has received.

MAKING HISTORY AT LOMA LINDA PROTON TREATMENT CENTER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today remarks made by Dr. Allan Bromley, assistant to the President for science and technology, at the convocation of the Proton Beam Cancer Treatment Center at Loma Linda University in Loma Linda, CA on November 17. His comments convey the fantastic and historical work being done at Loma Linda to bring state-of-the-art medical technology into a hospital setting:

REMARKS AT CONVOCATION OF THE PROTON TREATMENT CANCER CENTER

(By D. Allan Bromley)

It is extremely gratifying for me to speak at this convocation for the Proton Treatment Cancer Center, and not only because, as the Assistant to President Bush for Science and Technology, I am pleased to see the fruits of scientific research being applied to such practical and humanitarian purposes. As you heard in the introduction, I am a nuclear physicist, and I have spent much of my professional career building and working with accelerators such as the one at the heart of this center.

In fact, it was an accelerator that first got me started in science. After receiving an undergraduate degree in electrical engineering from Queen's University in Canada, where I grew up, I went to the University of Rochester, because I was interested in cosmic rays, and at that time Rochester had one of the best cosmic ray groups anywhere in the world.

However, the very afternoon I arrived, the head of the cosmic ray group died of a heart attack. Then, within a week of my arrival, the second in command was also gone because of a former association with Robert Oppenheimer. So I went to the Chairman of the Physics Department and said, "What should I do now?" He replied, "Well, we have an old particle accelerator in the basement that no one has used for about 10 years. Why don't you see what you can do with that." And I've been working with accelerators ever since.

The construction and use of accelerators is a quintessentially American story. One of the first particle accelerators was designed by Ernest Lawrence while he was at Yale in the late 1920s, but the theorists of the day told him in no uncertain terms that the thing could not possibly work. Fortunately, Lawrence, a good experimentalist, who by this time had moved to Berkely, could not understand the theorists' arguments, so he went ahead and built it anyway. It turned out that real magnetic fields were much different than theoretical magnetic fields—and the accelerator worked perfectly!

That first cyclotron was about as big as the palm of your hand. I sometimes wonder what Lawrence would think about the lineal descendent of the cyclotron—the 54-mile Superconducting Supercollider that will soon be built in the plains of Texas.

Americans have always believed in forging ahead, no matter what the odds. We explored and settled the West; we invented the machines that have revolutionized life in the twentieth century throughout the world; we have extended the frontier of exploration into space. This pioneering spirit, the optimism that accompanies it, have always been a part of the American outlook.

That outlook is also part of the facility we are honoring today. Loma Linda's Proton Treatment Cancer Center is a shining example of the kind of facility—and the kind of vision—that will ensure American leadership in the 21st century. It takes research at the very frontiers of science and technology and applies it to one of the most daunting and feared diseases of humanity. In its determination to push back the boundaries of the medically possible, the Proton Cancer Treatment Center demonstrates the can-do spirit and life-affirming optimism of both the people who have made it possible and the people who use it every day.

A BIOMEDICAL REVOLUTION

As I said, I've worked in the physical sciences most of my life, but I consider myself extremely fortunate to be witnessing—and now to be a part of—a profound transition in science. For the past 50 years, the physical sciences have had a tremendous influence on our lives, on our economies, and on our societies. That influence is going to continue; the fields of computing and communications, materials science and engineering, the earth sciences, and other physical sciences are just beginning to flourish, and they will continue to reshape the world.

But over the next 50 years I fully expect that the influence of the life sciences will come to equal, and then exceed, that of the physical sciences. This influence is going to change our lives in ways that we can only begin to imagine today. But we must begin preparing ourselves for those changes.

The rate of change in the biomedical sciences can take your breath away, and it is only going to accelerate. Here at the Cancer Treatment Center, forefront physics will soon be applied to thousands of patients. Elsewhere, researchers are using the tools of biotechnology to create new treatments and diagnostic techniques. Laboratories throughout the country are now taking the first steps in deciphering the human genome—the sequence of genetic information that makes us uniquely human. And ethicists and philosophers are beginning to ponder the new capabilities and dilemmas that this surge of information will provide.

There is one area in particular that I might emphasize. Last spring I released a report entitled "Maximizing Human Potential: The Decade of the Brain." As the report points out, we have learned more about the brain and the nervous system during the past ten years than we have learned in all of previous history, and progress during the 1990s—which President Bush has designated the Decade of the Brain—promises to be even more spectacular.

A particularly exciting aspect of this work involves the technology that allows you to noninvasively study what is going on in the human brain—for instance, PET scanning and scanning with ultrasensitive magnetometers. With this new capability, we can begin to focus not only on the structure of the brain but on its function, and the result is going to be breakthroughs that we cannot even imagine at this point.

America is leading the way into the new age of biomedical accomplishment, in part because of the strong support that the federal government has given to the life sciences in this country. Just to give you an idea of our achievements: in 1990 the Science and Technology Agency of Japan published the results of a survey in which Japanese researchers were asked to rank the best research facilities throughout the world. At the very top of the list was the National Institutes of Health in Bethesda, Maryland, the flagship of this nation's biomedical enterprise.

The Bush Administration is committed to maintaining and extending this excellence. In his most recent budget, President Bush has proposed that we spend about $75 billion on federal research and development, including nearly $9 billion for the National Institutes of Health. In fact, the increase he requested for NIH is the largest increase that any American President has ever requested for NIH.

A particular focus of NIH's recent work has been something that is embodied by the Proton Cancer Treatment Center—namely, the transfer of technology developed through federal research and development into the private sector. The NIH technology transfer program has been hailed as the most aggressive, most innovative, and most effective such program in the federal government. More than 100 Cooperative Research and Development Agreements were signed last year, and even more are in the works. Each of these CRADA's, as they are called, represents an agreement between federal scientists and researchers in the private sector to work together toward a common goal. The result is new products, new companies, and in the end perhaps whole new industries fostered through partnerships between the public and private sectors.

THE NATURE OF TECHNOLOGY TRANSFER

The end result of these new partnerships is a much greater degree of technology transfer. But I must caution that the term "technology transfer" is one of the most misunderstood in the English language. It seems

to imply that technology can be neatly iden-

THANKSGIVING 365 DAYS A YEAR

BOTH PARTIES MUST ACCEPT

leagues, which I long ago learned was ineffec-

learned as a child in Sunday school. Those

what to do either. Senate Democrats over-

VOL
137
PT
23
NO
21
—
25
1991
UMI

to imply that technology can be neatly identified, wrapped up, and transported with equal neatness to another organization, where it can be unwrapped and applied without significant change. Nothing could be farther from the truth.

In fact, there is only one way in which technology can be effectively transferred, and that is in the minds of people. I have become convinced that the only effective transfer occurs when the technologies are carried in the minds of trained individuals moving from one organization to another. As a result, I believe that substantially increased mobility among our research personnel—both basic and applied, both short- and long-term—is essential.

Other countries are much more successful at these kinds of close working relationships than we are here in the United States. Our international trading partners have forged very strong links between government and industry. They have put public and private funds into targeted programs that reduce the risk of technology development, lower the cost to each participant, and make it easier to compete.

If the United States is to compete in such a marketplace, we cannot force each individual country to reinvent the technological wheel. Rather, the government must act as catalyst, with federal funding where appropriate, to combine the very real strengths apparent in each component of our R&D enterprise.

CONCLUSION

Much has been said and written in the last few years about how America is losing its edge in technology, and even in some areas of science. Personally, I believe that much of this talk is ill-informed at best. We in the United States continue to have, by a large margin, the strongest science and technology base that the world has ever known. This storehouse of facilities, equipment, knowledge, and trained personnel has come about largely because of the generous support provided by the federal government, and ultimately by the American taxpayer, for research and development since World War II. It is a tribute to the American people, and to the public policy process in this country, that investments of this magnitude have been made.

The facility that we are honoring today is equally a tribute to the foresight and dedication of the people who have been associated with it. I would single out Congressman Jerry Lewis, whose tireless efforts in Congress are largely responsible for the construction of this facility, and Dr. James Slater, director of the center, who is charged with the wise and efficient use of this pioneering device. But there are many more: the scientists, health care workers, grants administrators, laboratory technicians, and support staff associated with this program. All of them deserve to be recognized.

Ralph Waldo Emerson once said that "in the hands of the discoverer, medicine becomes a heroic act." Here at the Proton Cancer Treatment Center, medicine has achieved that heroic transformation. In this facility, we witness not only a medical miracle but a monument to the human spirit. It is an accomplishment of which we can all be proud.

THANKSGIVING 365 DAYS A YEAR

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MICHEL. Mr. Speaker, at a time when families are gathering together to celebrate the Thanksgiving holiday, the Peoria area chamber of commerce held its own Thanksgiving celebration; the presentation of the Tom Connor Award for Community Service to Judith L. Oakford.

The Peoria area can be truly thankful for the time and energy Judith Oakford unselfishly gives to 12 not-for-profit organizations and a drug and alcohol rehabilitation agency. Our community is enriched by her dedication and philanthropy.

Judith, we are grateful to you for giving your time and sharing your talents with us throughout the year.

Mr. Speaker, at this point in the RECORD, I wish to insert an article which appeared in the November 23, 1991 issue of the Peoria Journal Star "Volunteer work is her payback:"

VOLUNTEER WORK IS HER PAYBACK

(By Bill Mitchell)

Judith L. Oakford's advice to her eight grandchildren is: "Be true to yourself."

Oakford, a lifelong Peorian, has been sure to follow her own advice.

"I'm happy doing what I do, or I wouldn't be doing it," said the winner of the Tom Connor Award for Community Service, presented Friday by the Peoria Area Chamber of Commerce at its 16th annual Thanksgiving luncheon.

At 57, Oakford is an active member of the boards of directors of 12 not-for-profit organizations, and is executive director of Community Partnership, a drug and alcohol rehabilitation agency.

She does not give all her time to others, though.

"I do things for myself, too. I jog and run, I read and I can relax easily. I am not aware that it's a drive. I'm not what you would call a driven person."

Somewhat uneasy over the notoriety, Oakford said although she appreciates the award, the ceremony and attention "are not my cup of tea."

Oakford calls what she does as a volunteer "tithing," paying one's dues to a community she said is the "greatest city on Earth."

Although she is comfortable at the board table, she said one of the most enjoyable things she and her husband, banker Art Oakford, do is camping.

Her preoccupation with the world around her stems from childhood. She said she was not a good student, but was "nicely preoccupied." Her parents only insisted that one grade on her report card be a good one: effort. "I have a lot of energy. I am very lucky and I love what I'm doing . . . This is my form of learning. This is how I grow."

The award is named after former Peoria newscaster Tom Connor. About 800 people attended the chamber luncheon.

BOTH PARTIES MUST ACCEPT BLAME FOR ECONOMIC DECLINE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. BROWN. Mr. Speaker, as I have observed the debate in the House over the past few days, it is clear that a growing consensus is developing on the need to take vigorous action to strengthen the U.S. economy. The nature of that action has not yet, and I am being charitable, reached a stage of consensus. Members of both parties seem to take great glee in blaming the other party for the obvious problems which exist today. Quite frankly, neither party has distinguished itself by its economic leadership or its understanding of the economic reality of the world today.

Beneath the political bickering, however, there is beginning to emerge a framework for both understanding the problem and putting in place the solutions to maintaining U.S. economic strength. The problems facing us did not develop overnight. Our economic decline has been evident for nearly a generation. Some of it was clearly inevitable as the economics of war-torn Europe and Japan rebounded and became more competitive with the United States economy. The larger part of our decline was probably avoidable if we had been willing to adopt some of the more flexible and pragmatic policies of our successful competitors.

Just as the problems did not develop overnight, neither will the solutions, no matter how wisely developed and implemented, bring about the instant change that politicians might like. A rough rule of thumb would be that for each major problem area, and there are many, it will take about as long for solutions to be effective as it took for the problem to develop. In most cases this will be a minimum of 10 years, frequently more. The role of political leadership will be to shorten that time by correctly diagnosing the problems, agreeing on the major directions for change, and cooperating on overcoming the obstacles to those changes. To the extent that the political leadership resists this role, they are a part of the problem.

This point of view was well articulated in the column by Hobart Rowen in the Sunday Washington Post titled "Democrats, Too, Lack Recovery Plan." While pointing out that President Bush must accept major responsibility for the Nation's economic condition, Rowen assigns almost equal blame to the Democrats in Congress for failure to propose solutions. In his words, "As for the short-term economic emergency the Nation faces, the Democrats seem to be just about as empty of ideas as is the White House." He goes on to suggest that "staking out sensible positions on energy, education, science research, health care, income redistribution, and entitlement programs won't end the recession, which will now run its course. But articulating such a program might reawaken voter confidence that the Democrats can once again be trusted to run the economy from the White House." That advice is equally applicable to Republicans, of course.

Mr. Speaker, my primary purpose in making these remarks was not to lecture my colleagues, which I long ago learned was ineffective, but to direct their attention to a resource which they might find helpful in guiding us toward solutions to our current problems. I refer here to a series of recent reports by the Office of Technology Assessment, one of the agencies serving the Congress. OTA has received numerous requests for help on economic competitiveness problems, and as a part of its response to these requests has issued a series of three reports on technology, innovation, and U.S. trade. The most recent, issued earlier this month is entitled, "Competing Economies—America, Europe, and the Pacific Rim." The two earlier reports were entitled, "Paying the Bill: Manufacturing and America's Trade Deficit" and "Making Things Better: Competing in Manufacturing." All of these reports are free of partisan overtones, present an analytical foundation which has been reviewed by the best minds in the country, and suggest solutions which are compatible with a range of political philosophies. They are being used by an increasingly large number of policy makers and policy analysts in this country and around the world as an essential tool for understanding and action. The Washington Post, in an editorial in today's edition "America as Competitor," makes these comments, which I quote, "The erosion of the American position in key industries is too apparent. A lot of hard thinking is now underway and some of it is reflected in the reports of Congress' Office of Technology Assessment." The editorial goes on to make other comments about the reports, and I will include the full text with my remarks. However, the editorial also makes the point which Hobart Rowen made in his Sunday column, which I discussed earlier in these comments, that "* * * Congress, like the White House, continues to resist several basic truths that OTA and nearly everyone else writing on these subjects find inescapable." I will not belabor the nature of these basic truths, but they cover the usual litany—overconsumption, undersaving, underinvestment, huge deficits, high interest rates, et cetera, all of which require the kind of long-term policy changes which I referred to earlier.

Mr. Speaker, it is far too late in this session of the Congress to address our economic problems in a comprehensive way. First, we must see the light, which may take Divine intervention. My suggestion is that we use this interval between adjournment and the beginning of the next session to review carefully some of the proposals contained in the OTA reports I have mentioned, and other sources as well. After we have done that, we should try to develop reasonable solutions to aid our long-term problems, and we should propose these solutions with a minimum amount of partisan bickering. Over the course of the next few months we should all try to do what we were elected to do, which is to serve our constituents and the Nation by acting wisely on these proposals. We are constrained by the institutions of our democracy to address only pieces of the problems. But if we each do that well the pieces may come together to create a beautiful mosaic. If we fail to come together we will continue to make a bipartisan mess of our country's future.

Mr. Speaker, I am guided in making these remarks by the words of an old hymn which I learned as a child in Sunday school. Those words were "Brighten the corner where you are." If we each do that the whole world will be brighter.

[From the Washington Post, Nov. 25, 1991]

AMERICA AS COMPETITOR

Beyond the short-term performance of the American economy and the rising anxieties about growth in the coming election year lies a much more portentous question. The United States' success as a competitor in world markets has been declining over the past decade. The results are most visible in the average person's earning, which have been flat since the 1970's. A rising standard of living required improved competitiveness. The question is how to achieve it.

This country seems to be coming to the end of its inclination to leave competitiveness mostly to the market. Those Adam Smith neckties are going out of fashion. The erosion of the American position in key industries is too apparent. A lot of hard thinking is now underway, and some of it is reflected in the reports of Congress's Office of Technology Assessment. The most recent, on the triangular competition among the United States, Western Europe and Japan, appeared on Nov. 13.

One attractive idea is to develop more vigorous partnerships between industry and the federal government in research and development. Another is a system of industrial extension agents, modeled on farm agents, to nudge companies toward better methods of manufacturing. American institutions for disseminating new technology, the OTA warns, are weak. How about using government procurement of innovative equipment to build markets for it? That, after all, is how the computer industry was developed. OTA is providing its masters in Congress with the background from which many bills will doubtless be drawn.

But Congress, like the White House, continues to resist several basic truths that OTA and nearly everyone else writing on these subjects find inescapble. Americans spend too much. They save and invest too little. Much of the Japanese advantage can be explained by one fact alone: Japan invests twice as large a proportion of its income in new equipment and machinery as the United States does. One reason is that American companies are penalized by the enormous federal budget deficit, which holds interest rates high and discourages investment. As the budget vise tightens, support for education is cut and college tuitions rise—making it harder than ever for students to complete the long and demanding training that produces the engineers and scientists that high productivity requires.

Those three threats to economic success—huge deficits, low investment and rising barriers to education—need to be corrected first. Until that's done, nothing else is going to make much difference.

[From the Washington Post, Nov. 24, 1991]

DEMOCRATS, TOO, LACK RECOVERY PLAN

(By Hobart Rowen)

"I think they're in a panic: They're stuck and don't know what to do." That's the assessment by Rep. Charles E. Schumer (D-N.Y.) of the Bush administration's present dilemma over the economy, and even discounting Schumer's statement for normal political spin, it comes distressingly close to the truth.

But I don't see any convincing evidence that the Democrats on Capitol Hill know what to do either. Senate Democrats overwhelmingly supported Sen. Alfonse M. D'Amato's (R—N.Y.) nutty proposal to cap credit card interest rates. (On that, the box score should show two assists: one to the banking industry for bringing the problem on itself, and the other to President Bush for inspiring D'Amato.)

Nor did Senate Majority Leader George J. Mitchell (D—Maine) cover himself with glory by proposing to finance extended unemployment benefits by cutting off foreign aid to most countries.

But the blame for this contentious mess rests mostly with Bush, who hasn't given adequate attention to the steady worsening of the nation's economic health in the past year. Action was needed many months ago to extend unemployment insurance benefits. Now, he finds there is almost nothing he can do in the short run to jump-start the economy.

And his advisers, such as they are, are in disarray and disagreement. None has come up with a coherent long-range program that promises an upturn in economic growth over the next few years, or offers even partial solutions to the problems of declining competitiveness with other nations, a decaying infrastructure and weak education and healthcare systems.

In a tiresome refrain, all one hears from the White House is static about a capital-gains tax cut. The hired-hand wordmeisters last week gave Bush a stump-speech line to the effect that the capital-gains tax cut he proposed "will create jobs and get America back to work again."

Vice President Dan Quayle's contribution: "There's a silver bullet out there that could help this economy, and it is the jobs creation tax cut known as the capital-gains tax cut. . . . Let me point out that this capital-gains tax rate reduction, it will create jobs. Nobody really argues that."

Nobody? A number of studies made on Capitol Hill and by think tanks show that the great bulk of the benefits of lowered capital-gains tax cuts goes to upper-income brackets, boosting their net profits on sales of real estate and existing stock holdings.

Such capital-gains tax cuts have nothing to do with creating new capital assets—which might be a source of job growth. Wall Street, of course, would love the shot in the arm it gets from churning sales of securities, and maybe a few jobs would be added in brokerage houses. But significant job creation in the real economy comes from financing something new and productive, as lawyer Barton A. Pasternak of Wyncote, Pa., pointed out in a letter to the New York Times on Nov. 17.

That should be encouraged—but that's not what the Bush capital-gains tax cut proposal is all about.

It seems to me that on this and other issues, it's about time the Democrats reject Bush's pretense that the problem will disappear by itself, and formulate a detailed recovery program of their own, starting with new incentives for creating capital assets.

Many individual Democrats, including some of the candidates for president, have articulated such ideas. Rep. Lee H. Hamilton (D-Ind.), vicechairman of the Congressional Joint Economic Committee, told me in an interview that he favors "tax incentives for investment, carefully targeted to make sure that it is net, new investment." He believes this could be done either with an investment tax credit or a narrowly defined and limited capital-gains reduction.

But Democrats as a party haven't given investment a top priority. The various sugges-

tions on targeted tax incentives need to be

Congress spent much of the 101st Con-

If the people of Puerto Rico want to be out-

question: "Do you want to be disassociated

Puerto Rico from the coverage of the Terri-

honor Hospice of Louisville, and its many

VOL
137
PT
23
NO
21
—
25
1991
UMI

tions on targeted tax incentives need to be better spelled out—as does the balance of a Democratic program—in a coherent way that could be laid before voters as a long-term Democratic Party initiative.

As for short-term economic emergency the nation faces, the Democrats seem to be just about as empty of ideas as is the White House. One key Democratic staff adviser in Congress acknowledges that the economy may need a huge fiscal thrust—say, $60 billion—by the turn of the year. It's under discussion in Democratic circles, but they hesitate to come forward with it now, knowing it would involve busting last year's budget agreement and would be unpopular with many conservatives in their own party who don't want to run up the deficit.

To meet what he says is the nation's main problem—a worry about jobs and income—Schumer told me: "The only thing I see is an old remedy, some kind of jobs program to restore confidence." He acknowledges that this would add to the budget deficit, but argues: "The bang for the buck we'd get over the next 9 to 12 months would make up for its [money] cost in terms of the boost it gives to confidence."

That's not much of a program, as some Democrats acknowledge. But they blame the President for the conditions that make other short-term responses, such as lower interest rates, appear useless at this point. They are frustrated, as well, by Bush's successful string of vetoes.

"If there were a president engaged in the process of restoring the economy, there could be a longer list of [short-term] possibilities," said one Democratic politician.

But it seems to me that by not fashioning a believable economic recovery program—whether or not Bush would go along—the Democrats lay themselves open to the charge that they'd rather have a political issue than an economic upturn.

Staking out sensible positions on energy, education, science research, health care, income redistribution and entitlement programs won't end the recession, which will now run its course. But articulating such a program might reawaken voter confidence that the Democrats can once again be trusted to run the economy from the White House.

PUERTO RICO'S REFERENDUM OF DISASSOCIATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LAGOMARSINO. Mr. Speaker, the Government of Puerto Rico has independently scheduled a referendum in Puerto Rico, without congressional authority, which may directly affect the future United States-Puerto Rico relationship. The President of the United States asked the Congress, in his first address to a joint session of the Congress, to take the steps necessary to let the people of Puerto Rico decide regarding their preferred relationship with the United States. The President requested action from the Congress because he understands that the Constitution provides for the Congress to make all the needful rules and regulations respecting territories of the United States. The Governor of Puerto Rico also asked the Congress to enact referendum legislation.

Congress spent much of the 101st Congress considering Puerto Rico status referendum legislation. Once the proponents of outright independence and quasi-independence saw statehood being given fair and equitable consideration by the Congress, action was taken in Puerto Rico to stop the congressional referendum legislation. These two forces joined together to repeal English as an official language of Puerto Rico and institute a Spanish-only law, thereby stopping enactment of a referendum which would have offered statehood as an option to the people of Puerto Rico.

With over 70 percent of the people objecting to the repeal of English, the pro-U.S. forces have promised to reinstate the common official language established in 1902. Additionally, a "yes" or "no" vote regarding a closer relationship with the United States has been proposed for after the November 1992 elections.

Apparently not content with the seeds of disassociation sown in the Congress by the Spanish-only law, and to prevent the proposed "yes" or "no" vote regarding a closer relationship with the United States, proautonomists banded together to further distance Puerto Rico and the United States. A referendum has been abruptly scheduled for December 8. A recent poll reveals over 70 percent of the people do not understand the meaning of the referendum which purportedly guarantees the permanence of U.S. citizenship rights with a full array of independence-like attributes.

The United States District Court for the District of Puerto Rico issued an opinion last week calling the propositions of the referendum "confusing, vague, contradictory, and deceptive. The court also declared: "The ballot is unfair."

The court dismissed the case in deference to the voters and stated:

> Even though the potential for confusion in the referendum is great and that the process appears tilted towards the "yes" vote—a matter that in the future may weigh heavily in the Congress—this Court concludes that the sound constitutional course to follow is to defer to the voters and to the free competition of ideas. At this stage, it is for the voters, not this Court, to decide whether "yes" or "no" on the ballot will prevail.

I also believe the referendum to be unfair. The future of the citizenship rights of my 3.6 million fellow citizens in Puerto Rico weighs heavily now. The magnitude of the impact of their decision should not be underestimated. The people are led to believe that a "yes" vote would guarantee their U.S. citizenship under independence and a commonwealth status which is outside of the plenary powers of the Congress. Both of these statuses represent forms of independence with which the United States has established precedents.

The Commonwealth of the Philippines evolved from a U.S. territory into an independent nation losing U.S. nationality and citizenship. The Micronesian Trust Territories became free-associated states, now sovereign in their own rights and full members of the United Nations, but foregoing United States citizenship.

The question the people of the Commonwealth of Puerto Rico need to ask on December 8th is: "Do you want to be disassociated from the United States?"

If the people of Puerto Rico want to be outside of the plenary powers of the Congress, then the answer is "yes." But, as the Republic of the Philippines and the Micronesian free-associated states found, that also means no U.S. citizenship.

Last month I questioned the Department of Justice regarding the enactment of referendum legislation by the Government of Puerto Rico. I recently received a response in which the Justice Department offered a number of relevant views related to the referendum regarding Puerto Rico's status and citizenship.

Justice clarified that Puerto Rico remains unquestionably under the Territory Clause of the United States Constitution. Justice further stated, "every area under the sovereignty of the United States that is not a state must necessarily be governed under the authority of the Congress, i.e., under the Territorial Clause." With regard to the provision in the referendum which refers to Puerto Rico outside of the plenary powers of the Congress (Territorial Clause), Justice states:

> "Thus, in our view, as long as Puerto Rico remains under the sovereignty of the United States without being a state, the Legislative Assembly of Puerto Rico cannot exempt Puerto Rico from the coverage of the Territory Clause."

While Justice then assumes that a Commonwealth relationship could not be independence, but one under the sovereignty of the United States, the Commonwealth status promoted in the ballot is in fact one to be outside of the plenary powers of the Congress. If Congress were petitioned to grant a status outside of the Territorial Clause, other than statehood, only outright independence or some form of independence would meet the ballot definition.

The Department of Justice further clarified that U.S. citizenship would not be retained were Puerto Rico to become independent. The evolution of Puerto Rico from under the sovereignty and plenary powers of the Congress to some independent entity would affect the retention of United States citizenship and any inherent right of future United States citizenship. Even if Congress could enact legislation to allow residents of the newly evolved independent Puerto Rico to retain their United States citizenship, "that citizenship would be entirely statutory, and not supported by a Constitutional guarantee."

I am including the full response from the Department of Justice to assist the individual voters in Puerto Rico to make an informed choice. Rather than believe expensive advertisements and propaganda, I urge the people to review these official views of the Federal Government and to then make an informed decision.

Only a closer relationship to the United States permits U.S. citizenship and full local self-government outside of the plenary powers of the Congress to the extent provided by the Tenth Amendment of the U.S. Constitution. Two of the three status options to be mandated through the referendum by amending the Puerto Rico Constitution would distance or further disassociate Puerto Rico from the United States. This may be the nearly irreversible course on which Puerto Rico will set, should a majority of the people vote "yes" in the December 8 referendum which masks the

question: "Do you want to be disassociated from the United States?"

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 13, 1991.

Hon. ROBERT J. LAGOMARSINO,
Vice Chairman, Subcommittee on Interior and Insular Affairs, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN LAGOMARSINO: I am writing in response to your letter of October 10, 1991, to Attorney General Designate William Barr, in which you ask for the opinion of the Department of Justice on four specific questions concerning a recent enactment of the Legislative Assembly of the Commonwealth of Puerto Rico.

Although we wish to assist your Subcommittee, we are obliged to decline to provide a formal opinion with respect to the specific questions you pose. As Attorney General (later Justice) Frank Murphy pointed out in response to a request for a legal opinion from the United States Senate, it is the "time-honored position" of the Attorney General not to provide opinions at the request of persons outside the Executive Branch. See Request of the Senate for an Opinion as to the Powers of the President "In Emergency or State of War", 39 Op. Att'y Gen. 343, 347 (1939). We are particularly reluctant to provide such an opinion in this case, moreover, because the statute on which our views are sought is not a proposed or enacted Act of Congress, but an unofficial translation of a bill adopted by Puerto Rico's Legislative Assembly.

You may, however, wish to consider the views regarding the constitutional status of Puerto Rico that this Department has expressed on other occasions. These views, we believe, are directly relevant to the questions you raise.

The Territory Clause, U.S. Const., Art. IV, sec. 3, cl. 2, vests in Congress the power to "make all needful Rules and Regulations respecting the Territory . . . belonging to the United States." It was established in National Bank v. County of Yankton, 101 U.S. 129, 132–33 (1880), that every area under the sovereignty of the United States that is not a State must necessarily be governed under the authority of Congress, i.e., under the Territory Clause. In Harris v. Rosario, 446 U.S. 651 (1980) (per curiam), the Supreme Court reaffirmed that result.

The enactment of the Puerto Rico-Federal Relations Act, Pub. L. No. 600, 64 Stat. 319 (1950), codified at 48 U.S.C. §§731b et seq., pursuant to which the people of Puerto Rico organized a government under their own Constitution, did not change Puerto Rico's constitutional status as a "territory," nor diminish Congress' power respecting Puerto Rico under the Territory Clause. As Judge Torruella stated in concurrence in U.S. v. Lopez Andino, 831 F.2d 1164, 1173 (1st Cir. 1987) (footnotes omitted; emphasis in original), cert. denied, 486 U.S. 1034 (1988):

> Although some events subsequent to the passage of P.L. 600 have tended to overlook and obscure the facts, the legislative history of that Act leaves no doubt that even though its passage signaled the grant of internal self-government to Puerto Rico, no change was intended by Congress or Puerto Rico authorities in the territory's constitutional status or in Congress' continuing plenary power over Puerto Rico pursuant to the Territory Clause of the Constitution.

Thus, in our view, as long as Puerto Rico remains under the sovereignty of the United States without being a State, the Legislative Assembly of Puerto Rico cannot exempt Puerto Rico from the coverage of the Territory Clause.

The referendum legislation evidently provides for Statehood, Commonwealth status, or independent status for Puerto Rico. We assume that Commonwealth status does not amount to independence, but to a status under the sovereignty of the United States. As such, it would differ fundamentally from the status of the Freely Associated States in the Pacific which are sovereign and independent nations. Their relations with the United States are conducted on a diplomatic basis. Thus, while the Spanish name for Commonwealth status (Estado libre asociado) is similar to that of the Freely Associated States in the Pacific Ocean, the legal status of the Freely Associated States is entirely different. The inapplicability of the Territory Clause to independent sovereign entities like the Federated States of Micronesia and the Marshall Islands does not mean that that Clause would be also inapplicable to an area, not a State, that remained under the sovereignty of the United States.

Finally, the United States citizenship of individuals born in Puerto Rico is at present granted by statutory law. See Act of March 2, 1917, Ch. 145, 39 Stat. 951 (1917), codified at 8 U.S.C. §1402. Thus, it may be possible in theory for Congress to revoke or modify such citizenship. Were Puerto Rico to become a State, native-born Puerto Ricans would then be United States citizens as a matter of constitutional right under section 1 of the Fourteenth Amendment, rather than merely as a result of statutory law. However, were Puerto Rico to become an independent nation no longer subject to the sovereignty of the United States, the transfer of sovereignty would have the effect under international law of transferring to the new sovereign entity the citizenship of those who remained there. This rule of international law has been recognized by the United States. See e.g., American Insurance Co. v. Canter, 26 U.S. (1 Pet.) 511, 542 (1828); United States ex rel. Schwarzkopf v. Uhl, 137 F.2d 898, 902 (2d Cir. 1943). Moreover, while Congress in its discretion could enact legislation that would permit the residents of an independent Puerto Rico to retain their United States citizenship if they so desired, that citizenship would be entirely statutory, and not supported by a constitutional guarantee. For a fuller presentation of our views on the subject of citizenship, we may refer you to the Testimony of Edward S.G. Dennis, Acting Deputy Attorney General, before the Committee on Energy and Natural Resources, United States Senate, Concerning S. 712, at 6–8 (July 11, 1989) (copy enclosed).

We will be happy to work with the Subcommittee as it considers legislation in this important area.

Please let us know if we can be of further assistance.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

A SPECIAL THANKS TO HOSPICE OF LOUISVILLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MAZZOLI. Mr. Speaker, as we approach the Thanksgiving holiday, I take this time to honor Hospice of Louisville, and its many counterparts across the Nation for the aid, compassion, comfort, and love they lend to persons of all faiths, backgrounds, and income strata who share but one thing in common: They are dying.

I was proud to have cosponsored H.J. Res. 153, which designates November as National Hospice Month. If this does nothing more than increase public awareness of hospice care and what it is, then our work will have been acquitted.

Hospice of Louisville, under the leadership of Executive Director Randall DuFour, has served Jefferson, Bullitt, Henry, Oldham, Shelby, and Spencer counties of Kentucky since 1978. It is one of the largest hospices in the country, has a professional staff of 110 and a volunteer organization of more than 300. Hospice of Louisville cares for more than 350 patients daily, including more than 50 pediatric patients.

What is most heartwarming is that Hospice of Louisville provides the full range of hospice care—medical, social, spiritual, and psychological—regardless of the patient's or the family's ability to pay.

Mr. Speaker, during this season of Thanksgiving it is appropriate that we recognize and thank Hospice of Louisville, and all hospices around the country for the dedicated, humanitarian services they provide. Their work is a shining example—in these self-centered and indulgent times—of selflessness and generosity.

REDUCE COST OF AUTOMOBILE LEASING

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SANTORUM. Mr. Speaker, once again congressional privileges are in the public spotlight. A headline in one of my local papers last week blared "House Car-Leasing Policy Taking Taxpayers for an Expensive Ride."

In response to this, and to further the concerns that Congress should be more financially responsible and should operate under the same scrutiny and guidelines that it imposes on others, I am introducing the Congressional Automobile Leasing Accountability Act today. This measure will require House Administration and Members of Congress to utilize the General Services Administration [GSA] for all automobile leasing.

Nearly one-third of House Members lease cars at taxpayer expense, some paying up to $1,000 a month for luxury cars. Currently, the House spends $769,000 a year to lease cars for 126 Members' use in their districts. GSA could lease very adequate cars to the same Members for $373,000 a year, saving the taxpayer $396,000. GSA uses competitive bidding to buy and lease cars at huge discounts. There is no reason that the cars used by Members of Congress for official business should not be leased through GSA, the Government agency whose mission it is to provide these official services.

I ask my colleagues to support this bill and act quickly to make the institution of Congress more accountable and fiscally responsible.

NEED FOR INDEPENDENT B–2

CONGRESS OF THE UNITED STATES,

mation on the test results, whatever they

riences during the war with Iraq and else-

however, the SR–71 was one of the largest

terrain and that the power setting on the B–

VOL 137 PT 23 NO 21—25 1991 UMI

NEED FOR INDEPENDENT B-2 BOMBER RADAR TESTS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. IRELAND. Mr. Speaker, there has been a great deal of commotion in the press in recent weeks about the role and effectiveness of the F–117A stealth fighter during the war with Iraq. These questions have obviously touched an exposed nerve, because they go right to the heart of the issue: Can effective stealth technology be achieved at affordable prices? And do stealth programs like the B–2 bomber, advanced tactical fighter, and A–X bomber make sense?

Mr. Speaker, the future of the B–2 bomber is now in doubt in the wake of conference actions by the Armed Services and Appropriations Committees. But the B–2 is by no means dead. While conferees have voted to place a lid on B–2 production at 15 aircraft, Congress is continuing to pour billions of dollars into the program—over $4 billion last year and another $4 billion plus this year with certain restrictions—all to keep stealth technology alive.

So while the future of the B–2 may be somewhat murky, unfortunately, future funding for associated stealth technology is continuing unabated. The military services are pressing forward with stealth technology on a broad front—trying to adapt it to a whole new generation of helicopters, bombers, fighters, and missiles, and Congress continues to authorize and appropriate billions of dollars for these very costly stealth projects—with literally no hard evidence that the technology really works. In fact, available evidence suggests that there are radars in use in the United States, the Soviet Union, China, Europe, and the third world that can easily detect and track stealth aircraft.

Mr. Speaker, the B–2 is not being tested against these radars, and that it is totally unacceptable. It is imperative that we learn as much as possible as quickly as possible about this crucial matter before billions more is spent on dubious technology.

Toward that end, I have written to Secretary of Defense Cheney, asking that the B–2 be subjected to a series of independent tests against an array of potential threat radars, including low frequency radars and ultrawide band or time domain pulse radars. The thinking underlying my proposal to Secretary Cheney is based on extensive discussions with several radar experts and confidential sources in government and industry. The sum and substance of those discussions are outlined in a memorandum for the RECORD.

Mr. Speaker, I insert my letter to Secretary Cheney and the underlying memorandum for the RECORD and urge my colleagues to review the material. After studying it, I feel most will agree: the B–2 must be tested against a realistic array of threat radars before we spend another dime producing more stealth technology.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 14, 1991.

Hon. RICHARD B. CHENEY,
Secretary of Defense, Pentagon, Washington, DC.

DEAR DICK: I am writing to request that the B–2 bomber be subjected to a series of independent radar tests designed to determine how difficult it is to detect the aircraft and thus measure its true survivability.

Dick, Congress is continuing to authorize and appropriate billions of dollars for the B–2 stealth bomber and a number of other very costly stealth projects with no proof whatsoever that the desired stealth characteristics are achievable at affordable prices.

Admittedly, the future of the B–2 is now in doubt—in the wake of unfavorable congressional action on the program last year and again this year, but the program is by no means dead. While placing a lid on production, Congress is pouring money into the program—over $4 billion last year and another $4 billion plus this year with certain restrictions—all to keep the technology alive.

While the future of the B–2 may be murky, unfortunately the future funding of its stealth technology seems to be quite clear. The military services are pressing forward with stealth technology on a broad front. The Air Force is moving ahead at full-speed with another huge stealth program—the Advanced Tactical Fighter, and the Navy is in the process of launching the A–X—the successor to the A–12 stealth bomber, which you terminated for default. And there is the Tri-Service Standoff Attack missile just to name a few.

It is imperative that we learn as much as possible, as quickly as possible, about this very crucial matter—before billions more dollars are spent in pursuit of dubious technology.

To date the B–2 has not been tested against a realistic array of potential threat radars. The B–2 must be tested against a range of radars—both conventional ones and radars known to have effective counter-stealth capabilities, such as low-frequency radars and ultra-wide band or time domain pulse radars.

PROPOSED TEST

I propose a test that could be conducted with ease and at relatively low cost.

The Customs Service has taken the 425 MHz radar from a Navy E–2C, upgraded it, and installed it on a P–3 aircraft designated AEW. The radar mounted on this aircraft is very similar to Soviet and Chinese radars deployed in a host of third world countries. The AEW aircraft, I am told, has been instrumental in interdicting the flow of cocaine and marijuana.

I propose that the Customs Service's AEW aircraft be used to measure the B–2's detectability. The Customs Service has indicated that it could make the AEW aircraft available for such tests for a maximum "window" of three days, subject to the following conditions:

The only person on the AEW, who would know the test plan and the position of the B–2, would be a "trusted agent." The "trusted agent" would be a neutral observer and preferably a person not associated with either the Air Force or Customs Service. The "trusted agent" would observe but say nothing. This person could be selected from the offices of the Secretary of Defense or Inspector General.

To maintain good relations between Customs and the Air Force, neither Customs nor the "trusted agent" would reveal any information on the test results, whatever they might be.

The tests must not exceed the three-day "window" specified by Customs. Customs and the Air Force need to agree on the dates of the three-day "window."

In order to gather as much information as possible, I suggest that the observations be made over water, desert, and mountainous terrain and that the power setting on the B–2 be varied to determine whether the exhaust plume is indeed a factor.

The B–2 should also be tested against the experimental time domain pulse radar in service at the Naval Weapons Center, China Lake, California. This radar has already demonstrated ultra high resolution at short ranges against fighter aircraft like the F–4. Ongoing development work will soon extend its range.

Upon completion of the proposed tests, the results would have to be compiled by an independent office and transmitted to you, the Air Force, and to the appropriate committees of Congress.

Kind regards.
Sincerely,

ANDY IRELAND.

MEMORANDUM

To: File
From: API
Date: November 13, 1991
Re: Proposed B–2 Radar Tests

The future of the B–2 bomber is now in doubt—in the wake of unfavorable congressional action on the program last year and again this year, but the program is by no means dead. While placing a lid on production at 15 aircraft, Congress is continuing to pour billions of dollars into the program—over $4 billion last year and another $4 billion plus this year with certain restrictions—to keep the technology alive.

So while the future of the B–2 bomber itself remains murky, there is no uncertainty surrounding future spending on its stealth technology. The military services are pressing forward with stealth technology on a broad front. The Air Force is moving ahead at full-speed with the Advanced Tactical Fighter, and the Navy is in the process of launching the A–X—the successor to the A–12 stealth bomber, which was terminated for default by Secretary of Defense Cheney. And there is the Tri-Service Standoff Attack missile just to name a few.

Stealth programs absorb billions of dollars each year, but there is literally no evidence that proves the desired stealth characteristics—the ability to evade enemy radar—is achievable at affordable prices. In fact, information in the public domain suggests that there are radars in use in United States, Europe, the Soviet Union, China, and the third world that have a capability to effectively detect stealth aircraft. Is the B–2 being tested against such radars? The answer is No. I find that fact totally unacceptable and have written to Secretary Cheney, (11/14/91) asking that the B–2 be subjected to a series of independent tests against an array of potential threat radars to determine exactly how difficult the airplane would be to detect.

BACKGROUND

Initially, stealth aircraft like the F–117A fighter and B–2 bomber were thought to be nearly invisible to radar. The Air Force, for example, has argued that the B–2—a 360,000 pound aircraft—would have a radar cross-section of a hummingbird, while the Navy claimed that the A–12—a 70,000 pound plus aircraft—would have a radar cross-section the size of a moth. Recent operational experiences during the war with Iraq and elsewhere, however, raise fundamental questions about the credibility of such assertions and about the true value of stealth technology itself.

NEED FOR INDEPENDENT TESTS

It is critical at this juncture to carefully measure the "stealthiness" of the B–2 bomber.

Congress is continuing to authorize and appropriate billions of dollars on stealth technology with no proof whatsoever that the desired stealth characteristics are achievable. We need hard evidence—based on a series of independent tests—that would show us exactly how difficult it is to detect the B–2 and thus how survivable the bomber might really be. B–2 testing to date has been conducted against an unrealistic array of potential threat radars.

The B–2 must be tested against a range of radars—both conventional ones and radars known to have counter-stealth capabilities, such as low-frequency radars and ultra-wide-band or time domain pulse radars.

REVELATIONS FROM WAR WITH IRAQ

Three British destroyers—Exeter, Gloucester, and Cardiff, which were equipped with Marconi D–band Type 1022 radars and operating in the head the Persian Gulf—were reportedly able to detect and identify U.S. F–117A fighter bombers as they crossed water at up to 40 miles—a range considered adequate for air defense purposes. If true, this report would establish one very important fact: D-band radars can readily detect stealth aircraft.

D-band type radars are manufactured in a number of countries and have been exported extensively throughout the third world. D-band radars are neither expensive to build nor complex and can be installed on mobile ground equipment as well as on large aircraft.

It is also common "street talk" in the halls of the Pentagon and Congress that U.S. Navy E–2C aircraft tracked the F–117A's at over 100 miles and that the F–117A's had to operate with significant numbers of Air Force EF–111 and Navy EA–6B electronic jamming aircraft over Iraq, because the F–117's were being tracked by low-frequency (500 MHz) Chinese and French radars located in Iraq.

RADAR DETECTION OF B–2

And now in the wake of "anomalies" in "low-observable" testing of the B–2, even the Chief of Staff of the Air Force, General McPeak, is willing to admit: "certain parts of the Soviet air defense setup would be able to detect the B–2 today." The Air Force is considering several "fixes" to enhance the B–2's stealthiness, including the installation of electronic jamming equipment onboard the aircraft to confuse enemy radars. Electronic jammers are the antithesis of stealth. Their use would announce the presence of B–2 aircraft for miles around. Furthermore, the need for such devices clearly suggests that the B–2 is vulnerable to radar detection.

DETECTABILITY OF EXHAUST PLUMES

There is considerable evidence that jet aircraft engine exhaust plumes constitute good radar targets. Since an exhaust plume is composed of ionized gases, this is a plausible assumption.

We need to fully understand the role of jet plumes in radar detection before proceeding any further with stealth technology.

The SR–71 is an excellent case in point. Most news reports have characterized this aircraft as "radar evading." In point of fact, however, the SR–71 was one of the largest radar targets ever detected on the FAA's long-range radars. The FAA was able to track it at ranges of several hundred miles. The explanation offered was that the radars were detecting the exhaust plume. Was this a unique situation because of the additives in the SR–71's fuel? We must also have an answer to this question. If the jet's plume is such a good target, then the aircraft itself becomes extremely vulnerable.

This evidence by itself does not prove that stealth technology has no military value, but it raises a very serious question: Can stealth technology yield a militarily useful reduction in radar cross-section at an affordable price?

I fear the answer to this question is NO.

Knowledge about stealth performance and characteristics emerging from the war with Iraq is just the tip of the iceberg. Counter-stealth capabilities have been a deep, dark secret for a number of years, yet they do not involve technological breakthroughs. Moreover, radar engineers continue to acquire new knowledge about the physical properties of stealth aircraft, which is leading to the development of new and more effective anti-stealth radar systems. These are or soon will be available in the Soviet Union, China, and third world. The emergence of effective counter-stealth radar systems could make stealth technology irrelevant.

I believe that it is imperative that we learn as much as we can, as quickly as possible, about this crucial matter—before billions of dollars more are spent in pursuit of dubious technology.

PROPOSED TEST

I have proposed a test that could be conducted with ease and at relatively low cost.

The Customs Service has taken the 425 MHz radar from a Navy E–2C, upgraded it, and installed it on a P–3 aircraft designated AEW. The radar mounted on this aircraft is very similar to Soviet and Chinese radars deployed in a host of third world countries.

I am told the AEW aircraft has been instrumental in interdicting the flow of cocaine and marijuana—at least over water. It has been so successful, in fact, that the smugglers have been forced to greatly curtail over water flights in favor of small, very low-flying aircraft flights over land, which are much more difficult to detect.

I propose that the Customs Service's AEW aircraft be used to measure the B–2's detectability. The Customs Service has indicated that it could make the AEW aircraft available for such tests for a maximum "window" of three days, subject to the following conditions:

The only person on the AEW, who would know the test plan and the position of the B–2, would be a "trusted agent." The "trusted agent" would be a neutral observer and preferably a person not associated with either the Air Force or Customs Service. The "trusted agent" would observe but say nothing. This person could be selected from the offices of the Secretary of Defense or Inspector General.

To maintain good relations between Customs and the Air Force, neither Customs nor the "trusted agent" would reveal any information on the test results, whatever they might be.

The tests must not exceed the three-day "window" specified by Customs. Customs and the Air Force need to agree on the dates of the three-day "window."

In order to gather as much information as possible, I suggest that the observations be made over water, desert, and mountainous terrain and that the power setting on the B–2 be varied to determine whether the exhaust plume is indeed a factor.

The B–2 should also be tested against the experimental time domain pulse radar in service at the Naval Weapons Center, China Lake, California. Such radars have already demonstrated ultra high resolution at short and medium ranges against fighter aircraft like the F–4. Further development could extend the range of these radars.

Upon completion of the proposed tests, the results would have to be compiled by an independent office and transmitted to the Secretaries of Defense and the Air Force and to appropriate committees of Congress.

DEFENSE NUCLEAR WORKERS' BILL OF RIGHTS

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SKAGGS. Mr. Speaker, today I am introducing legislation to compensate workers at nuclear weapons plants for injuries caused by excessive exposure to radiation, and, now that the cold war has ended, to help these workers make the transition from weapons production work to decommissioning and cleanup work and to civilian jobs.

For more than 40 years, workers at the Nation's nuclear weapons plants have been among America's frontline soldiers in the cold war. In carrying out their national security mission, many have worked with uranium, plutonium, and other radioactive materials under conditions we would consider appalling by today's standards. With the coming consolidation and likely downsizing of the weapons complex, some of these workers face serious health, insurance, and future employment difficulties that are unique to their industry.

These workers have dedicated their careers to this difficult and sometimes dangerous national defense, mission, and we should treat them now with a decent sense of national responsibility. They did their part—we should keep faith with them. Congress has already recognized America's special obligations to veterans, of course, and to those who were innocently exposed to dangerous levels of radiation during the cold war—uranium miners, people living downwind of nuclear tests, and the atomic veterans. I strongly believe that nuclear weapons workers deserve similar consideration.

My legislation will address their needs in the areas of worker compensation, health insurance, and workplace adjustment and assistance at a very reasonable cost. It shows that the Nation isn't going to abandon people who have devoted their working lives to protecting their country.

Please let me take a minute to describe more fully what the bill does.

WORKER COMPENSATION

Because of their work with radioactive materials, some nuclear weapons plant workers have contracted leukemia or other cancers, usually after long latency periods. These radiation-related work injuries are currently tried under State laws, which typically have such strict standards of proof that very few people ever receive compensation.

VOL 137 PT 23 NO 21–25 1991 UMI

I know about this situation first hand because of cases at the Rocky Flats plant in my district, where workers who were exposed to unhealthy levels of ionizing radiation—and who then contracted cancer—have been denied any compensation. This isn't fair, it isn't right, and it isn't the way we should treat our defense workers.

My bill would help these workers receive fair compensation—by transferring workers who suffer from radiation-caused diseases to a more suitable Federal worker-compensation system—under the Longshore Act—and by shifting the burden of proof in these cases. Under my bill, a worker who has been exposed to unhealthy levels of radiation, or who has worked for a sufficient number of years in "hot" facilities where such exposure could be expected, would be covered under this existing Federal system. If he or she than develops a radiation-related disease, it would be presumed that the disease was work related; to rebut this presumption, the Department of Energy [DOE] or its contractors would have to show that other factors caused some or all of the disease.

This approach is a practical and sound one. It will make a real difference to workers who have been exposed to unhealthy levels of radiation, without simply handing out money. Workers would still be required to demonstrate concrete facts about their exposure to radiation, but they would do so through a worker compensation system, rather than by suing in court. The Federal worker compensation system that would resolve these cases, provided under the Longshore Act, covers workers who do not fit well under State worker compensation systems, or whose work is particularly hazardous. It provides excellent benefits and is known for its fair appeals process; and since it is already in operation, no new administrative or appeals systems would be needed.

HEALTH CARE REINSURANCE

With the cold war over, several nuclear weapons plants have closed or reduced operations, and further contraction and consolidation of the nuclear weapons complex will occur over the next decade. Some workers at these facilities have already been laid off, and more probably will be. Unfortunately, when they seek new jobs, they may face resistance because employers fear that the workers' prior exposure to radiation could increase company health care or health insurance costs.

My bill would establish a DOE-funded health reinsurance program for former weapons plant workers who were exposed to unhealthy levels or radiation. Because DOE's worker-exposure records are often inaccurate or nonexistent, the program would also cover those who worked for 5 or more years in "hot" facilities, a period of time in which unhealthy levels of radiation exposure might reasonably be assumed.

This provision would eliminate a significant reemployment hurdle, and make it easier for these former defense nuclear workers to obtain new civilian jobs. It would do this by capping the health-insurance liability of their new employers at $25,000 for specific radiation-related diseases. DOE's reinsurance program would cover costs above this amount. Of course, employers and insurers would still pay all other health care costs.

ASSISTANCE TO WORKERS

The bill would also provide for the fair treatment of these workers during the modernization and consolidation of the complex. It directs DOE to coordinate with the Department of Labor and with union, State, and local community officials to minimize the social and economic impacts of consolidation. It also directs DOE to formulate a work force restructuring plan for each facility that emphasizes worker retraining and relocation help for other DOE jobs; education and job-placement assistance for those seeking new jobs; and early retirement options.

In 1992, DOE will spend approximately $4.3 billion to decontaminate and clean up its nuclear weapons facilities; over the next decade, DOE plans to spend another $20 billion. Certainly, spending a tiny fraction of this amount to assist the workers at these sites would be a wise and responsible investment, and my bill would provide this kind of aid.

I urge my colleagues to support this legislation, and so to treat these defense workers in a fair and responsible manner.

TRIBUTE TO DICK HOWARD

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. JOHNSON of South Dakota. Mr. Speaker, I would like to take this opportunity to recognize the hard work and important efforts of Richard Howard, the secretary of the South Dakota Department of Transportation, during the recent reauthorization of the surface transportation legislation.

Dick Howard spent many hours and considerable effort to help ensure the voice of rural America was heard during deliberations of the surface transportation bill. The efforts of Dick Howard and his staff were extremely helpful to me and his expertise and advice was greatly appreciated during the reauthorization of one of the most important pieces of legislation to be considered during the 102d Congress.

These efforts went beyond the call of duty and included organizing and leading an informal coalition of 12 States to ensure their input into the process which produced the final version of transportation legislation. Not only did Dick testify before both the House and Senate committees during the hearing phase of the process, but he continued to correspond with me and the two Senators from South Dakota, other State transportation officials, and members of the authorizing committees in both the House and Senate as legislation was being developed.

Through all of this hard work and persistence, Dick continued to be good natured and easy going, which was no surprise to those of us who have had the pleasure to work with him in years past. The efforts of Dick Howard during consideration of the surface transportation legislation were very important to South Dakota and many other States, and I am pleased to have an opportunity to recognize him today.

INTRODUCTION OF THE CHILD CARE PUBLIC-PRIVATE PARTNERSHIP ACT

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise today to introduce essential legislation to expand the availability of urgently needed child care services for American families. Joining me as original cosponsors of the new bill, the Child Care Public-Private Partnership Act of 1991, are Representative SUSAN MOLINARI, Chairman WILLIAM FORD, and ranking member WILLIAM GOODLING.

During the 101st Congress, I worked hard to help enact major child care legislation. After a long and arduous struggle, we finally enacted compromise legislation that will provide much needed assistance to parents all over the Nation.

However, it goes without saying that the legislation that was approved falls short of solving the child care crisis in this Nation. The funding for child care programs is far less than what is needed, and the administration has further complicated matters by issuing regulations which will undermine the ability of these new programs to expand child care services and improve the quality of services provided.

Further, one crucial proposal contained in the House-passed child care bill was unfortunately omitted from the final compromise—my proposal to provide incentive grants to businesses for the purpose of expanding quality child care services.

The private sector has often been criticized for its lack of involvement in providing or subsidizing child care services. It is often pointed out that only a small fraction of the Nation's 6 million employers currently provide some kind of child care assistance to their employees.

However, there is a clear trend toward increased involvement on the part of employers. In 1978, only 110 corporations sponsored or paid for child care services. By 1985, that figure had risen to 2,500, and by 1989, it stood at 4,100.

In a 1988 survey of 1,500 employers conducted by the American Society for Personnel Administration, 50 percent of the firms indicated that they are considering or actively planning for the provision of child care services to their employees. This survey included a large number of small- and mid-sized firms.

Moreover, a recent survey conducted by the Families and Work Institute of 188 major corporations in 30 industries shows that 13 percent of major corporations now offer child care centers, 5 percent offer child care discounts, and 1 percent offer child care vouchers.

The report concludes that there is a dramatic change underway in American business, with nearly all of the Nation's largest corporations offering some types of programs to help employees meet family needs. According to Ellen Galinsky, a coauthor of the report, which is called the Corporate Reference Guide to Work-Family Programs, "although most companies still have a long way to go, innovative family supportive programs are mushrooming, the pace is accelerating and the trend is irreversible."

There are several reasons why there is so much corporate interest in providing child care services. For one thing, employees are increasingly making clear their needs for child care assistance. However, the response of many corporations is not only a manifestation of altruism toward their employees. It is also based on an increasing realization that the provision of child care services and other family-friendly policies are directly linked to enhanced productivity and increased competitiveness.

According to Dana Friedman and Ellen Galinsky of the Families and Work Institute, employer-provided child care is directly related to improvements in recruitment, retention, and improved employee morale. In a period of impending labor shortage, the ability to retain a qualified and already trained workforce is of the utmost importance. The provision of child care services will help American business maintain and improve their productivity.

Despite the fact that child care makes sense from the standpoint of the bottom line, most businesses are still reluctant to become involved in providing or subsidizing child care. However, there is evidence that the provision of Federal incentives can be a highly successful manner of expanding private sector involvement in the child care field.

Business leaders themselves tell us that Federal incentives are likely to spur corporate involvement in child care programs. At a 1989 conference of 250 employers convened by Resources for Child Care Management in Chicago, business leaders were asked if government assistance would spur additional corporate involvement. All of the respondents strongly indicated that government assistance would prompt additional action on the part of business, and the majority clearly preferred a program of incentive grants.

Further, the need for business involvement in providing child care services has long been acknowledged by Members of Congress from both parties. In fact, as long ago as 1984, the Select Committee on Children, Youth and Families issued a report recommending, among other things, that Congress should develop incentives for employers to expand the child care options available to their employees. This recommendation was endorsed by Democratic and Republican members of the committee.

From the standpoint of the Federal Government, public-private partnerships are a cost-effective response to the child care crisis. Because Federal grants will leverage a much larger sum for actual child care services. At a time when Federal resources are extremely limited, the ability to leverage private sector funds must not be overlooked.

Perhaps that is why almost every major child care bill in recent years has acknowledged the need for public-private partnerships in child care. My proposal to provide Federal support for expansion of private sector involvement in child care built upon the proposals contained in many of these bills and was also developed in cooperation with experts in the field.

The proposal received virtually unanimous support from both sides of the aisle during the consideration of child care legislation by the House during the 101st Congress. In fact, several competing child care proposals incorporated the provisions I proposed, and the House approved my proposal as part of the Omnibus Child Care bill. Subsequently, House and Senate conferees agreed to include these provisions in the conference report.

However, during the waning days of the 101st Congress, key Members of the other body met with White House representatives to develop a compromise child care measure. Unfortunately, the public-private partnership provisions were dropped at the insistence of the White House—not for any substantive reason, but simply because the White House insisted on limiting the number of authorizations in the final child care agreement.

At the time, several Members of the other body committed to pursue separate legislation on this issue during the 102d Congress. Therefore, I am today introducing my proposals to spur public-private partnerships in child care as separate legislation. I am joined in doing so by Representative SUSAN MOLINARI, who is also deeply committed to the goal of expanding child care services for American families, and by Chairman BILL FORD and ranking member BILL GOODLING of the Education and Labor Committee, to which this bill will be referred.

The bill we are introducing, the Child Care Public-Private Partnership Act, is identical to the version that was agreed to by Members of the House-Senate Child Care Conference in 1990.

Specifically, it authorizes $25 million for a program of matching grants administered by the Secretary of Health and Human Services. These grants would be provided to businesses, or consortia of small businesses, to help them create or expand child care services for their employees and the surrounding community—either onsite or at a nearby location.

Grants could also be provided to nonprofit organizations to provide technical information and assistance that will enable businesses to provide child care services. However, the Secretary is directed to give priority to grant awards which are designed to increase actual child care services.

Because small businesses have been most reluctant to become involved in providing child care services, preference would be given to grant proposals involving businesses with fewer than 100 employees.

Grant recipients would be required to match every government dollar with two private dollars. In addition, grant applicants must provide assurance that child care services will be provided at affordable rates, and on an equitable basis, to all employees, including low- and moderate-income employees. Finally, applicants must provide assurances that child care services provided with grant funds are in compliance with State and local licensing requirements.

Mr. Speaker, I would urge all of my colleagues to join me, Congresswoman SUSAN MOLINARI, Chairman FORD, and ranking member GOODLING, as cosponsors of this bipartisan initiative.

Public-private partnerships are clearly an important means of providing additional child care options to American families. They minimize Federal outlays, while maximizing child care options.

We know that many businesses are providing child care services, and many more are aware of the importance of child care. Clearly, it is in the interests of our Nation's families for the Federal Government to help facilitate increased employer involvement. If we can bring the private sector and the public sector together in partnership, we can significantly expand the availability of quality child care at a minimal cost to the taxpayers. This will not only brighten the future of countless children across the Nation, but it will also help us increase productivity and enhance our competitiveness.

Mr. Speaker, for the benefit of my colleagues, I would like to insert in the CONGRESSIONAL RECORD the text of the Child Care Public-Private Partnership Act:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Public-Private Partnership Act of 1991".

SEC. 2. ESTABLISHMENT OF BUSINESS INCENTIVE GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to—

(1) businesses and consortia—

(A) to pay start-up costs incurred to provide child care services; or

(B) to provide additional child care services; needed by the employees of such businesses; and

(2) nonprofit business organizations to provide technical information and assistance to enable businesses to provide child care services.

SEC. 3. ELIGIBILITY TO RECEIVE GRANTS.

To be eligible to receive a grant under section 2, a business, nonprofit business organization, or consortium shall submit to the Secretary an application in accordance with section 4.

SEC. 4. APPLICATION.

The application required by section 3 shall be submitted by a business, nonprofit business organization, or consortium at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that the applicant shall expend, for the purpose for which such grant is made, an amount not less than 200 percent of the amount of such grant;

(2) an assurance that such applicant will expend such grant for the use specified in paragraph (1) or (2) of section 2, as the case may be;

(3) an assurance that such applicant will employ strategies to ensure that child care services provided by such applicant, or provided with the technical information and assistance made available by such applicant, are provided at affordable rates, and on an equitable basis, to low- and moderate-income employees;

(4) an assurance that such applicant—

(A) in the case of a business or consortium, will comply with all State and local licensing requirements applicable to such business or consortium concerning the provision of child care services; or

(B) in the case of a nonprofit business organization, will employ procedures to ensure that technical information and assistance provided under this Act by such business organization will be provided only to busi-

VOL 137 PT 23 NO 21-25 1991 UMI

nesses that provide child care services in compliance with all State and local licensing requirements applicable to child care providers in such State; and

(5) in the case of a business or consortium, an assurance that if the employees of such applicant do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such applicant, the excess of such child care services shall be made available to families in the community in which such applicant is located.

SEC. 5. SELECTION OF GRANTEES.

For purposes of selecting applicants to receive grants under this Act, the Secretary shall give priority to businesses that have fewer than 100 full-time employees. To the extent practicable, the Secretary shall—

(1) make grants equitably under this Act to applicants located in all geographical regions of the United States; and

(2) give priority to applicants for grants under section 2(1).

SEC. 6. DEFINITIONS.

As used in the Act:

(1) BUSINESS.—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) CHILD CARE SERVICES.—The term "child care services" means care for a child that is—

(A) provided on the site at which a parent of such child is employed or at a site nearby in the community; and

(B) subsidized at least in part by the business that employs such parent.

(3) CONSORTIUM.—The term "consortium" means 2 or more businesses acting jointly. A consortium may also include a nonprofit private organization.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $25,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

A CONGRESSIONAL SALUTE TO LT. ROBERT KALOWES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a man who has served the Long Beach Police Department and his community with great distinction, Lt. Robert Kalowes. On Sunday, December 1, 1991, the Long Beach Police Department will be honoring the service retirement of Lieutenant Kalowes. This occasion affords me the opportunity to express my sincere appreciation for his many years of dedicated work to the Long Beach community.

Joining the force in August 1964, Lieutenant Kalowes began his career as a foot patrolman assigned to the Nu-Pike Amusement Zone. By 1976, he was promoted to the rank of sergeant responsible for 35 police officers in the North Long Beach area. Soon after he was promoted to lieutenant increasing the scope of his responsibility to 45 police officers and numerous civilian personnel. In his 27 years and 4 months of service to the force, Lieutenant Kalowes has participated in every facet of police work from helicopter observer and lifeguard patrol boat operations to undercover operations. His most recent assignment, beginning in July 1987, was as commanding officer of the community relations division.

Lieutenant Kalowes' dedication to his community is further enhanced by the number and type of community activities with which he is involved. He is a current member of the executive board of a National Council on Alcoholism. He is a member of the Carmelitos Senior Citizens Advisory Board, vice chairman of the Support Activities Committee of the Boy Scouts of America, and a member of the Willmore City Heritage Association. In addition, Lieutenant Kalowes is a member of the Willmore City Heritage Association. In addition, Lieutenant Kalowes is a member of the International Police Association and the founder and editor of the Long Beach Police Officers Association Newsletter. He is the chairman of Swimming and Diving Events of the IV Police Olympics and an instructor at the Long Beach Police Academy, Long Beach City College, American Heart Association, American Red Cross, and the National Safety Council of Long Beach. He and his wife, Peggy, have served as host parents for the Japanese Student Exchange Program. Lieutenant Kalowes is also a member of the board of realtors in Long Beach.

It is not often that a man with such a wide range of community service comes to my attention. Therefore, on this most special occasion, my wife, Lee, joins me in extending our heartfelt thanks to Robert Kalowes. We wish Robert, his wife Peggy, his three children, Jeffrey, Cynthia, and Christopher, all the best in the years to come.

TRIBUTE TO LAWRENCE BUCHHEIM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. PACKARD. Mr. Speaker, I rise before you today to pay tribute to a dear friend and an outstanding leader in my district, Mr. Lawrence Buchheim. Larry will retire next month from the San Juan Capistrano Council, where he has served since 1978.

It is a rare occasion when a person positively impacts everyone he comes in contact with; however, Larry is such an individual. On December 7, 1991, we will have the opportunity to formally pay tribute and congratulate our good friend Larry Buchheim at a community reception to be held in his honor in the center courtyard of the historic Mission San Juan Capistrano.

Through his many years of contributions to the community, Larry has unselfishly given of himself and his time. Larry has provided San Juan Capistrano with unwavering leadership since its incorporation in 1961 when he personally carried the incorporation papers to the county clerk in Santa Ana. Since that time he has served as a member of the board of trustees of the San Juan Capistrano Historical Society, a member of the American Legion, Lions International, San Juan Senior Citizens Club, and the Boy Scouts of America Advisory Committee. He was elected a trustee of the Capistrano Union School District, and has been a member of the San Clemente Elks Club, the Capistrano Art Association, and various study committees appointed by the city council of San Juan Capistrano. During his tenure on the city council, he has diligently served one term as the city's mayor and four terms as the mayor pro tem, including this past year.

Larry was born and raised in the San Juan area where his family farmed and had a cattle ranch. Larry fondly reminisces about days when he was able to ride his horse through the open fields to a deserted beach. This childhood memory may have been the cornerstone for one of his most recent accomplishments in which the voters of San Juan Capistrano passed the Save Open Space bond in 1990.

The previously mentioned efforts do not tell the whole story of Larry Buchheim, as many people have said that Larry himself is the embodiment of San Juan Capistrano. Having lived all of his 64 years in San Juan, Larry has been able to provide both the San Juan City Council and myself with a historical perspective of the area in addition to unfaltering advice. As the city manager of San Juan Capistrano so appropriately expressed,

> Larry's presence will be sorely missed; his sense of humor, his down-to-earth perspective of life, and his tales of an earlier time in San Juan Capistrano that provided a much needed and appreciated balance to the goings-on here at city hall. Larry is like one of his paintings—a Capistrano original and a priceless treasure.

Larry is a gentleman of dedication and talent, and is an example of the public servant for all of us to emulate. We will all miss Larry's leadership in the community; however, it is a great pleasure for me to take this opportunity to extend my warmest congratulations on his retirement. My wife, Jean, joins me in wishing Larry continued health and happiness in the years to come.

NEW TURKISH GOVERNMENT OFFERS ENCOURAGING PACKAGE OF HUMAN RIGHTS REFORMS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. HOYER. Mr. Speaker, the new government in Turkey, led by Suleymin Demirel, recently unveiled a package of wide-ranging reforms which addresses many concerns voiced by human rights observers including the Commission on Security and Cooperation in Europe. The sweeping proposals would make amendments to the 1982 Constitution and abrogate or change existing laws. The measures, if adopted by the Turkish Parliament and fully implemented, would secure for Turkey a place alongside the most advanced democracies in the world.

The "democratization package" as it is called, would do the following: Lift the state monopoly on television and radio broadcasts,

expand academic independence, reform voting laws, provide added police training, redraft existing laws concerning torture, remove all forms of censorship, reduce maximum periods of pretrial detention, enforce a detainee's right to counsel at all stages of detention, limit martial law and emergency rule powers, expand permissible activities for trade unions, students and associations, televise parliamentary debate and ensure judicial automony. Other specific reforms addressed in the package include one which directly relates to commitments undertaken by the Government of Turkey within the Conference on Security and Cooperation in Europe [CSCE]: and I quote, "The legal and de facto restrictions and obstructions on free expression of ethnic origin, use of language and promotion of culture by all citizens, will be eradicated within the concept of national unity and in conformity with the Paris Charter to which Turkey is a party".

Mr. Speaker, Prime Minister Demirel stated publically today that "torture is a crime against humanity * * * and it is our duty to prevent this." The Helsinki Commission applauds this public condemnation by the newly elected Prime Minister as an important and critical signal to those who engage in torture that such practices will no longer be tolerated.

Mr. Speaker, this promising, if yet enacted, set of proposals by the new coalition government indicates a determination on the part of Mr. Demirel and his partners to address the major sources of problems which have seriously clouded Turkey's past human rights performance. Given the economic difficulties facing Turkey and the violent conflict in the southeastern regions inhabited by Kurds, this proposal is even more remarkable and courageous. It is likely, as was previously the case when even less sweeping reforms were introduced, conservative elements in government will offer objections to the package. In the past, similar types of legislation were often delayed for years, haphazardly implemented or allowed to fall from the agenda. I sincerely hope that the new government will work hard to adopt these proposals, knowing that they have the full support of the United States. The stated intentions of the new government to make the Kurdish issue a priority is a most positive indicator.

Mr. Speaker, I would also like to note what I consider to be a significant incentive for Turkey to pursue these reforms and see that they reach fruition. Turkey's historic ties with Central Asia provide it with a unique opportunity. As the Muslim republics of the former Soviet Union strive to further develop their own political and economic systems, Turkey could serve as a model of democratic development and economic achievement. I sincerely hope that such ties will be developed, as they will certainly benefit not only Turkey and the Central Asia nations, but regional and global stability.

SMALL BUSINESS HEALTH CARE REFORM ACT OF 1991

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. IRELAND. Mr. Speaker, I rise today to introduce what I hope will be the blueprint from which workable health care legislation may be finalized. The Small Business Health Care Reform Act of 1991 is an attempt to address the vital elements of health insurance reform which cannot be delayed while Congress engages in extended debate on a more comprehensive measure.

By now everyone knows that the rising cost of health insurance and the resulting unavailability are serious problems for small business owners and employers as well as the Nation. I wish that I were standing before you today as a proud cosponsor of far reaching legislation dealing with all aspects of the health insurance and delivery system. Unfortunately, neither we in Congress nor the American people have reached sufficient agreement for that kind of progress.

Instead, what we are presenting today represents short-term relief for small companies and is an initiative we believe to be a step in the right direction. I might add that our belief is shared by the National Federation of Independent Business, National Small Business United, the Small Business Legislative Counsel, and the U.S. Chamber of Commerce, all of whom commend my introduction of the Small Business Health Care Reform Act of 1991. I ask unanimous consent that their letters of support be printed in the RECORD behind the text of this speech.

Mr. Speaker, health care and health insurance issues have been debated both in and out of Congress for many years. Meanwhile, the statistics continue to speak for themselves:

National health expenditures as percentage of gross national product have grown from 5.9 percent in 1965 to 11.1 percent in 1988, according to Congressional Budget Office calculations. It is estimated that the percentage will be 17 by the year 2000.

The Small Business Administration reports that about 8.2 million of the nearly 32 million uninsured Americans are private wage-and-salary workers; 1.6 million are business owners.

The SBA again estimates that almost 75 percent of the 8.2 million uninsured workers are employed in small firms with fewer than 500 employees. Further, more than 47 percent of all uninsured workers are in firms with fewer than 25 employees.

Small firms with fewer than 500 employees created almost one-half of approximately 11.1 million jobs added between 1984 and 1988. Clearly, inattention to this issue will mean that small business, the locus of job creation and innovation, will be forced to confront a mounting financial burden in an effort to provide health benefits to employees. I suspect many will simply decide that it is too costly and reduce or cancel their programs. A lot has been said about this problem, but little has been accomplished. Today's introduction of the Small Business Health Insurance Act of 1991 is the first of many steps I along with my cosponsors have planned to correct that.

Mr. Speaker, the bill includes: First, improvements in health insurance affordability for small employers.

In this section, we provide for a permanent increase in the deductible health insurance costs for self-employed individuals from 25 percent to 100 percent. We also authorize $150 million per year for grants to be awarded to a maximum of 15 States to assist their development of small employer health insurance group purchasing arrangements.

Second, improvements in health insurance for small employers.

This section outlines standards and requirements for small employer health insurance. Insurers offering health insurance plans to small employers, or firms employing 2 to 50 workers, must abide by standards established by the Secretary of the Department of Health and Human Services, and enforced by the State.

In general, small business health insurance plans must guarantee eligibility to any employee deemed eligible for the plan by the small business. In addition, States are given various options through which availability of health insurance plans must be guaranteed to all small employers.

Insurers interested in serving the small employer market are expected to guarantee renewability, avoid discrimination based on health status, medical history, or claims experience, and limit preexisting condition exclusions to 6 months. Moreover, there are limits and controls placed on premium rates.

Insurers offering health plans must offer both a standard and basic benefit package. Each plan has specific benefits which are outlined in the act. State mandates are preempted for small employer insurers that are in compliance with the terms described in the act.

Third, improvement in portability of private health insurance.

Many working Americans are reluctant to make job changes due to concerns about the loss of health benefits. This provision responds to that concern. Individuals with preexisting conditions who change jobs without a lapse in insurance coverage of more than 3 months are protected from preexisting condition exclusions under the new company's plan for the benefits covered under the individual's previous health insurance plan.

Fourth, health care cost containment.

The Act establishes a Health Care Cost Commission composed of 11 members appointed by the President. The members will be experts in health-related fields. The commission's charge is to study trends in health care spending and recommend strategies for controlling and reducing costs.

The bill encourages the use of managed-care programs by prohibiting States from restricting managed-care plans that meet Federal certification standards.

A system of uniform claim forms is instituted. Standards will be developed for uniform claim and reporting procedures to be used by individuals and providers who must submit claims for medical treatment.

The bill encourages expansion of health-care services to the poor and working poor by treating Community Migrant Health Center

VOL
137
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medical personnel as Federal employees for purposes of malpractice litigation.

Fifth, Medicare prevention benefits.

A package of preventive health care benefits are added to the Medicare Program. The additional benefits include colorectal screening, immunizations, well-child care, and mammography screening.

Mr. Speaker, as we prepare to adjourn the first session of the 102d Congress, I want to serve notice to my colleagues that I intend to pursue this issue aggressively when we reconvene in January. To end yet another Congress without enacting meaningful improvements to the Health Care System would do a tremendous disservice to our constituents. I not only urge my colleagues to cosponsor this legislation, but I exhort each member to make it clear to the leadership of both parties that we are committed to action and expect health care to be the priority time on the agenda during the upcoming year.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington DC, November 25, 1991.

Hon. ANDY IRELAND,
U.S. House of Representatives,
Washington, DC.

DEAR ANDY: On behalf of the over 500,000 members of the National Federation of Independent Business (NFIB), I want to commend your efforts to introduce legislation today which will help reduce the burden of health care coats on small and independent business.

Your introduction of this legislation, as the ranking minority member of the House Small Business Committee, increases the awareness in the U.S. Congress of the plight being faced by small business owners who are experiencing skyrocketing health insurance premiums.

The incremental approach taken by this legislation builds upon what is right with the current health delivery system, yet recognizes needed reforms to ensure small business can both obtain and afford basic health coverage for themselves and the millions of Americans they employ.

The NFIB is anxious to assist you in your endeavors, and I look forward to be working with you as we move into the second session of the 102d Congress.

Sincerely,

JOHN J. MOTLEY, III,
Vice President, Federal Governmental Relations.

NATIONAL SMALL BUSINESS UNITED,
Washington, DC, November 25, 1991.

Hon. ANDY IRELAND,
U.S. House of Representatives, Washington, DC.

DEAR CONORESSMAN IRELAND: On behalf of National Small Business United (NSBU) and its more than 60,000 members, I want to applaud your introduction of a bill which would substantially improve small businesses' access to health insurance. We support your effort as a starting point.

As Ranking Minority Member of the House Small Business Committee, you are keenly aware of the problems small firms face in obtaining health insurance coverage. Your introduction of the bill demonstrates your desire to not just talk about the problem but more importantly to do something about it.

NSBU is hopeful that Congress will soon embark on a meaningful discussion of not only the access problem but also the affordability problem confronting small firms and individuals when they attempt to buy health insurance. We know you recognize both problems must be solved simultaneously if small businesses are to be able to provide health insurance to their employees. In the context of the discussion about affordability, we hope Congress focuses on ways to help patients become better consumers of health care and on ways to increase the individual's responsibility as a health care consumer.

Again, thank you for your leadership and effort.

Sincerely,

G. THOMAS CATOR,
Washington Representative.
JOHN PAUL GALLES,
Executive Vice President.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, November 21, 1991.

Hon. ANDY IRELAND,
Committee on Small Business, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE IRELAND: On behalf of the Small Business Legislative Council (SBLC), I wish to express our support for your efforts to enact health care system reforms for the small business market. As we understand your initiative from briefings by your staff, it appears you have identified some of the significant problems confronted by small businesses as they attempt to provide health care benefits to their employees.

As you know, our members believe we must rein in the costs of an out-of-control health care delivery system. We are convinced small business will assist in providing access to health care to all Americans when we can establish cost stability and renew confidence in the health care system. There is much we can do as we work toward that goal, and it is our understanding your initiative will address many of these concerns.

The SBLC is a permanent, independent coalition of over one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. While our policies are developed through consensus among our membership, we respect the right of individual associations to express their own views. For you information, a list of our members is enclosed.

Again, we appreciate your efforts to undertake health care reforms beneficial to small business. We look forward to working with you on this initiative.

Sincerely,

PHILLIP R. CHISHOLM,
Chairman.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Floorcovering Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehousemen's Association.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Association of the Wall and Ceiling Industries-International.
Automotive Service Association.
Automotive Warehouse Distributors Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
C-PORT.
Christian Booksellers Association.
Council of Fleet Specialists.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Medical Distributors Association.
Independent Sewing Machine Dealers Association.
International Association of Refrigerated Warehouses.
International Bottled Water Association.
International Communications Industries Association.
International Formalwear Association.
International Franchise Association.
Jewelers of America, Inc.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
Menswear Retailers of America.
NMTBA-The Association of Manufacturing Technology.
National Association for the Self-Employed.
National Association of Brick Distributors.
National Association of Catalog Showroom Merchandisers.
National Association of Chemical Distributors.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Passenger Vessel Owners.
National Association of Personnel Consultants.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Realtors
National Association of Retail Druggists.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Campground Owners Association.
National Candy Wholesalers Association.
National Chimney Sweep Guild.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Fastener Distributors Association.

National Food Brokers Association.
National Grocers Association.
National Independent Dairy-Foods Association.
National Knitwear & Sportswear Association.
National Limousine Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox & Packaging Association.
National Parking Association.
National Precast Concrete Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Petroleum Marketers Association of America.
Printing Industries of America, Inc.
Professional Plant Growers Association.
Retail Bankers of America.
SMC/Pennsylvania Small Business.
Small Business Council of America, Inc.
Society of America Florists.
Specialty Advertising Association International.
United Bus Owners of America.

U.S. CHAMBER OF COMMERCE,
Washington, DC, November 22, 1991.

Hon. ANDY IRELAND,
Committee on Small Business, U.S. House of Representatives, Washington, DC.

DEAR ANDY: The U.S. Chamber of Commerce understands that you intend to introduce a small-business health care bill, similar to Senator Bentsen's S. 1872, in the House of Representatives. While the Chamber has some questions about the details of the Bentsen bill (e.g., what will federal minimum benefit standards for health insurance actually entail?), we are very supportive of its general approach. You obviously share our conviction that incremental steps to address the problems of health care access and cost can and should be taken now, even while the debate on more comprehensive reform proceeds.

Small business is a natural target for immediate assistance. As you well know, access to health coverage is in large measure a small-business problem. It is in small business that the major gaps in health coverage for workers and their dependents occur. Small businesses currently face higher administrative costs, limited access to managed-care plans, inability to purchase basic coverage in many states because of benefit mandates, higher costs related to medical underwriting practices, and a limited tax deduction for self-employed small-business owners.

It appears that your bill will address this whole slate of problems, and more besides. (Jeanne Morin of your staff has indicated that you also are looking at malpractice liability reforms and the standardizing of claim forms.) As so often, the Chamber thanks you for being such a staunch friend of small business. We look forward to working with you step by step to relieve the country's health care woes.

Sincerely,

DONALD J. KROES.

TRIBUTE TO WESTMINSTER SCHOOL

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to congratulate and recognize the special achievements of a group of dedicated athletes from my congressional district—the boys' soccer team from Westminster school in Simsbury, CT.

The team recently ended a rebuilding year with a stunning 1–0 victory over Belmont Hill to capture the New England prep school championship, the first ever in Westminster's history. To get to the championship game, Westminster had to defeat two teams to whom they had lost earlier in the season.

First, Westminster defeated Choate-Rosemary Hall 1–0 in sudden death overtime. This win was number 200 in the illustrious coaching career of Geoffrey Wilbraham, head coach, French teacher and director of studies at Westminster.

Next, in the semifinal game, Westminster shocked previously undefeated Suffield Academy, the tournament's No. 1 seed, with a three goal shutout.

In the championship game on November 17, Westminster was under constant pressure from the outset from a relentless Belmont Hill attack. But they could not score due to the acrobatics of Westminster goalkeeper Todd Krugman and a swarming defensive backfield that did not allow a goal in the entire New England tournament. Westminster scored the title game's only goal when Doug Knight sped past two defenders and fired a blistering shot past the goalkeeper with under 7 minutes left in the game.

Mr. Speaker, Westminster School is justifiably proud and so am I of the wonderful achievements of their championship team. They worked hard all year and showed what teamwork and commitment can accomplish in capturing their first ever New England prep school soccer title.

Congratulations to the team which includes: Csaba Borsody, Jamie Bray, Jim Davis, Tim Ernst, Randy Fernandez, Brent Francoline, Tim Geraghty, Craig Gwinn, Doug Knight, cocaptain, Todd Krugman, Jason Manasse, Craig Maravich, Jim Miklus, cocaptain, Sam Powers, Stephan Reeves, Matt Schwarz, Justin Scott, Matt Tanis, Dean Themistocles Topodas, Peter Welles, Greg Werner, Tom White and Manager Nate Townsend. I also commend the contributions of Head Coach Geoffrey Wilbraham and Assistant Coach José Ilzarbe.

Congratulations to Westminster School, the team members and to their friends and families who have supported and encouraged them.

DEMOCRATIC ELECTIONS IN TURKEY ARE GOOD NEWS FOR AMERICA

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MOODY. Mr. Speaker, leading up to, during and after the recent gulf war many Americans had the opportunity to take note of the strong relationship that exists between our country and the Republic of Turkey. For those of us involved in government and for many Americans, Turkey's history as a steadfast ally and its commitment to democracy, free market economics and the rule of law are well known.

For most Americans, however, the events surrounding the gulf war were the first opportunity they have had to take note of the positive and crucial role Turkey plays in the region.

Since those events, there has been another occupance which also underscores Turkey's commitment to its own tradition of democratic institutions and democratic political values: The free national election that was held in Turkey last month.

Mr. Speaker, I would like to congratulate the people of Turkey on the success of those elections.

More than 80 percent of the Turkish electorate went to the polls and elected representatives to their parliament, the Turkish Grand National Assembly. As a result, six major parties—covering a wide variety of political views—contested the elections and will be represented in the new parliament. Just last week, the new Prime Minister, Suleyman Demirel—leader of the True Path Party— was installed to lead a new government coalition. The former Prime Minister, Mesut Yilmaz of the Motherland Party, has taken his place as leader of the official opposition.

From all indications, it seems quite clear that while the government may have changed, Turkey's positive orientation to the West and to the United States as friend and ally, will not.

We are no more in a position to judge the internal nuances of domestic Turkish politics than they are to judge the shades of difference between and sometimes within our political parties. We do know that President Ozal and former Prime Minister Yilmaz have been and will remain good friends to the American people. And we have every expectation that Prime Minister Demirel and his coalition allies will also be our trusted friends and partners.

Mr. Speaker, the democratic institutions in Turkey have their origin in the foundation of the modern republic early in this century under the leadership of Kemal Ataturk. Since that time, the Turkish people have worked hard and successfully to make Ataturk's secular democratic ideals a reality.

Naturally, there have been occasions in the past, and there may be some in the future, when our two countries do not absolutely agree on every issue. That is normal, even between friends. We expect our Government to put American interests first—and it does; and the Turkish people expect no less from their Government—and it will. But on the fun-

damental issues of democracy and human

satellites, weather satellites, and remote sens-

The Soviet Union's Mir space station and the

tion in the mechanical stress of gravity pro-

it grows cells "beautifully, prolifically and

1991 Teacher of the Year. In June, Ponzillo

VOL 137 PT 23 NO 21—25 1991 UMI

damental issues of democracy and human rights, the desire for trade, the necessity for regional stability, and the respect one accords the integrity of a friend, the American and Turkish peoples are very much in harmony.

This is particularly important to keep in mind, Mr. Speaker, because despite the results of the gulf war and despite the collapse of the old Soviet Union, Turkey's pivotal geographic and political role will become even more critical in the years ahead. From Turkey's western borders to the furthest reaches of the Middle East, there are only three genuine democracies: Turkey, Greece and Israel. Unlike most other countries in the region—and sadly unlike too many countries around the world—in Turkey today, power is transferred peacefully in free and fair elections.

While Turkey has enjoyed maturing political freedoms for most of this century, the same cannot be said of most of her neighbors. If Iran, Iraq and Syria were to adopt Turkey as a model for their own political and economic development, the prospects for peace in the Middle East would be greatly improved.

Across the southern regions of the old Soviet Union, millions of Turkic speaking people are emerging from the confines of collapsed Soviet communism. These emerging Muslim nations share language and many cultural influences with Turkey. Will they look westward, toward the secular, democratic model of Turkey? Or will they look southward, toward the fundamentalist theocratic and anti-democratic model of Iran?

It is my belief, Mr. Speaker, that the Azeris, Turkmens, Kazahks, Crimean Tatars, Uzbeks, Kirghiz, Chechens, Baskurts and even the Uigers of northern China, will look to Turkey.

And as they do, they will see a thriving democracy, with an unfettered free-wheeling press, where the values we as Americans hold so dear are part of the fabric of everyday life.

The success of those values we share with Turkey—and their attractiveness to emerging democracies from Bulgaria to central Asia—are crucial to our foreign policy. Where democratic values prevail, peace and stability are more likely to follow. It is for this reason that I call the attention of the Congress to the continuing success of democracy in modern Turkey and to the genuine hope that Turkey will be the model for other countries.

INTRODUCTION OF BIOMEDICAL RESEARCH BILL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. HALL of Texas. Mr. Speaker, I am pleased to introduce today the Biomedical Research in Space Act of 1991. This legislation will, I believe, allow the Nation to make effective use of the expertise and resources of the National Institutes of Health and the National Aeronautics and Space Administration to jointly address some of the pressing medical research problems facing us today.

The Nation's space program has delivered many benefits to our citizens since its inception more than 30 years ago. Communications satellites, weather satellites, and remote sensing satellites are just some of the fruits of space research that we now take for granted, but which have immeasurably improved the quality of life here on Earth. I firmly believe that biomedical research in space has the potential, in selected areas, to deliver equally impressive terrestrial benefits.

Increasing our understanding of the human organism's response to spaceflight has long been considered crucial to our long-term objectives for human space exploration. However, it is also true that the space environment provides a unique laboratory for biomedical research that may allow us to significantly increase our knowledge of the nature and treatment of terrestrial diseases and medical conditions. The recent hearing held by the Subcommittee on Space produced impressive testimony by leading biomedical researchers that space-based biomedical research has the potential to improve our understanding of the cardiovascular system, gerontological conditions such as osteoporosis and arthritis, and the immune system. In addition, it was stated at the hearing that research conducted with a NASA-developed device—the Rotating Wall Bioreactor—even offers the promise of dramatic improvements in cancer therapy. In fact, results have been so encouraging that one experimental therapy is entering clinical trials. I want to include for the record a recent article which appeared in the Washington Post describing the future benefits of this type of research.

Yet all of the researchers at the hearing expressed the belief that more needed to be done in space-based biomedical research and that such research could pay important dividends in increased knowledge of some of the Nation's most stubborn medical research problems. They also declared that it is important that NASA and the National Institutes of Health work closely together to maximize the quality of such research. Accordingly, I am today introducing legislation that I believe will promote the effective and efficient conduct of biomedical research in space to provide maximum benefit back here on Earth.

Mr. Speaker, I would like to briefly summarize the main provisions of the bill.

The bill requires NASA and NIH to establish a joint working group to develop joint and complementary research, Mr. Speaker, programs in space-based biomedical research. Such research shall be focused on those areas where space-based research may contribute to significant progress in the understanding and treatment of diseases and other medical conditions.

The bill establishes a joint NIH–NASA program of research grants to promote such biomedical research, and it establishes a peer-review evaluation process to ensure that grants are awarded only for research of the highest quality.

In order to promote the continuing development of trained scientists and engineers who will provide the cornerstone for future research advances, a joint NIH–NASA program of graduate research fellowships is established.

Since it is important to obtain maximum leverage from our research investment, the bill directs NASA to develop a plan for joint United States-Soviet biomedical research in space. The Soviet Union's Mir space station and the United States space shuttle could provide important facilities for joint biomedical research prior to the deployment of Space Station Freedom.

Data obtained from space-based biomedical research needs to be available to the research community. This bill directs NASA to develop and maintain an electronic data archive of such experimental data.

Finally, the bill includes a provision for the creation of an international telemedicine emergency medical consultation capability for disaster-stricken areas. Such a telemedicine "space bridge" proved highly beneficial in the period following the Armenian earthquake.

Mr. Speaker, this is an important piece of legislation that will help to bring benefits of the space program to all of us here on Earth. I urge my colleagues to support this bill and give it speedy passage.

Growing Spare Parts For People in Space?—NASA Device Revolutionizes Cell Culturing

(By Kathy Sawyer)

While NASA has focused on the problems of sending whole humans into space, some medical researchers say a giant leap for mankind could come from the care and feeding in orbit of the tiniest of people parts.

Since early in this century, scientists have used increasingly sophisticated methods to grow animal and human cells in laboratory dishes. Advances in these techniques have contributed to recent leaps in genetics and medicine.

But some types of cell farming have been limited by the press of gravity, researchers say. While many individual cell types will live and divide well under routine conditions, they can rarely be induced to assemble themselves into the complex, three-dimensional tissues of the sort that grow in the watercushioned human womb. And some cells can't grow at all.

But a space biology team at NASA's Johnson Space Center in Houston has created a stir in the biotechnology world with a government-patented invention that researchers say lifts gravity's heavy hand without leaving the Earth.

Several clinical researchers are using prototypes of NASA's Rotating Wall Bioreactor to improve patient treatment. They say it approximates weightlessness so well that, in pilot programs, it has grown unusually large, unusually authentic swatches of human brain tumor, small intestine, fibrous connective tissue, colon (normal and cancerous) and mouse cartilage.

Stocked with cells that, in conventional systems, grew four layers deep before shutting down, the NASA bioreactor grew them in heaps, hundreds of layers deep, scientists said.

How much scientists can improve on these results once the bioreactor is adapted to work in prolonged weightlessness in orbit is a tantalizing question.

"We're sort of excited about its potential for growing large quantities of cells for tissue structures," said surgical oncologist J. Milburn Jessup of Harvard Medical School's New England Deaconess Hospital in Boston, who is using the bioreactor for colon cancer research. On the ground, "it provides a pretty good re-creation of what happens [in both normal and cancerous colon tissue] in vivo."

Glenn Spaulding, manager of the space center's biotechnology program, said the NASA team was surprised that a mere reduc-

tion in the mechanical stress of gravity produced such dramatic results. The team has been "overwhelmed with requests for the technology," he said. There are only 10 or 15 of the bioreactors, each hand-built for NASA. The government is negotiating with potential commercial builders, but for now, "we're the only ones you can call." The cells must be sent to Houston for growing.

AN INDUSTRY IN ORBIT?

Privately, some NASA sources express intense excitement about the possibility that this technology could become the catalyst for a new space-based industry—a kind of bio-body shop in orbit, growing tissues and perhaps whole organs for implanting. Some congressional space advocates see such technology as a possible antidote to charges that space activity often is too removed from mainstream human concerns to justify its high costs.

However, NASA officials caution that the technology is in its infancy, and that for now they see weightlessness as just another possible tool for basic research. Conceived in mid-1988, the bioreactor is to make its first orbital test flight aboard the shuttle Atlantic on a mission scheduled for launch Tuesday.

Bob Rhome, director of NASA's microgravity science and applications office, said NASA officials are determined not to raise expectations prematurely out of a zeal to justify space activity. "We want scientific concerns to set the pace," in contrast to the past, when "in some cases we have dragged the science community into space," he said.

The Houston team got the idea for the Rotating Wall Bioreactor while developing equipment for the planned space station Freedom. They saw the system initially as a way to mount the cell cultures in the shuttle and protect them from severe stresses during launches and landings.

In conventional lab dishes, cultures of normal cells grow until they form a layer one cell thick and then stop multiplying. Cancer cells, more prolific, grow into multiple layers that smother those on the bottom. Cells kept in liquid suspension get damaged or dislocated by shearing forces from turbulence as the bottles are agitated or rolled.

"A high-shear environment is like taking a baby's hair and touching it to your skin. That's 100-fold more shear than we want," Spaulding said.

In the bioreactor, cells and their liquid medium are confined between the walls of two tubes set one inside the other. The distance between the walls is so small that when the device turns, the medium moves with the walls, carrying the cells along.

As a result, even on the ground, shear damage to cells is reduced tenfold compared to other ways of keeping cells in suspension, Spaulding said. In orbit, "there should be between 100 and 1,000 or more times less shear" than in conventional systems on the ground.

PRODUCING 'NORMAL' CELLS

Philip C. Johnson, an infectious diseases specialist at Houston's University of Texas Science Health Center, called the NASA bioreactor "pretty ingenious." In his research, he said, it has enabled him for the first time "to grow normal human intestinal cells," where before "we had to rely on cell lines from people with cancer. . . . Much of our research on processes had been done on non-normal cells."

Marylou Ingram, senior research scientist at Huntington Medical Research Institutes in Pasadena, is using the bioreactor to improve treatment for brain tumors. She said it grows cells "beautifully, prolifically and much more like they grow in the body." Tumor-fighting cells grown this way, once implanted in a patient's brain, also had an improved ability to recognize and attack real cancer cells.

But after a few weeks or months, depending on the types of cells, even the new bioreactor runs into the limits of gravity. As the tissue masses get bigger, they tend to "hit the wall," Spaulding said.

In space, ever-larger bioreactors humming in weightlessness for months or years might provide an almost natural stress-free space womb in which the cell cultures might develop without limit.

"The larger the size of the culture, the higher the fidelity [to real human tissue]," Spaulding said. With high enough concentrations of tissue, it might be possible to isolate basic processes: "How do cells become an intestine instead of a toe? . . . Once you know that, you can reproduce the mechanism on the ground."

Spaulding said, however, that many technical hurdles remained.

Still, laced through the caution is the hint of an audacious dream. Harvard Medical School's Jessup voiced it. "The bottom line is: I think it's possible to grow organs [for implant in humans] in space—theoretically. I don't want to sound like a way-out kook, and I know this is far in the future. But that is the ultimate utility of this kind of biotechnology."

MARIE PONZILLO RECEIVES HOME ECONOMICS TEACHER OF THE YEAR AWARD

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, these days students have tough choices to make about their academic future. They look to teachers for advice and counsel in making these important decisions. Students today need positive role models who lead by example.

It is always special to find a teacher who provides all the normal academic requirements, but steps above this and becomes a friend and role model for the students.

Marie Ponzillo is this special kind of teacher. Ms. Ponzillo was recently named teacher of the year by the American Home Economics Association. This award recognizes excellence and creativity in teaching of home economics.

Ms. Ponzillo is a home economics teacher at Crosby High School in Waterbury, CT. She has developed the Crosby Consignment Shop, which is a student-run program involved with recycling used cloths and providing retail business experience for the students. Profits from this program go to the students and the University of Connecticut Medical Center's Children With Cancer Fund.

I want to commend Ms. Ponzillo for her work to assure excellence in education. At this point in the RECORD, I would like to submit an article from the Journal of Home Economics outlining Ms. Ponzillo's accomplishments.

Teacher of the Year Award

Marie Ann Ponzillo, a Connecticut home economics teacher, has been selected AHEA's 1991 Teacher of the Year. In June, Ponzillo was presented a $1,000 honorarium and a plaque at the Association's 82nd Annual Meeting and Exposition in Minneapolis by Peggy Wild, national marketing director of Glencoe-Macmillan/McGraw-Hill. The awards program, cosponsored by Glencoe and the AHEA Foundation, recognizes and promotes excellence and creativity in the teaching of home economics.

Ponzillo teaches at Crosby High School in Waterbury, Conn., where she developed The Crosby Consignment Shop. The shop, a student-run program sponsored by the home economics department, recycles used clothing from the community, provides retail business experience for participants, and earns profits for its student contributors and the University of Connecticut (UNCONN) Medical Center's Children With Cancer Fund. Shop activities are designed to build students' self-esteem, develop their communication skills, promote the concept of recycling, and encourage school and community volunteers to work together for mutual benefit.

The project currently involves 80 Clothing I and Independent Living students, who volunteer their services before, during, and after school hours. As the Crosby Consignment Shop took shape, it became obvious that additional assistance would be needed from students with skills in other areas, and the volunteer corps rapidly has become an interdisciplinary one. Distributive education students set up displays and fashion shows and plan retailing and marketing procedures; journalism classes assist in the writing of press releases and fashion-show commentary; art majors contribute advertising designs for printed matter and help with the fashion coordination of outfits; and technology education volunteers create graphic designs for advertising and set designs for fashion shows.

Realizing that her pupils also could benefit from the expertise of capable adults, Ponzillo set up an advisory board, composed of parents and community leaders in such fields as law, politics, business and banking, and fashion as well as members of the Medical Center staff. These experienced persons act as mentors for the students and have become an invaluable resource as they help with the activities of the shop.

One of the prime objectives of the consignment shop is to generate profits for both the students and the UCONN Children with Cancer Fund. Only students are allowed to consign garments; of the profits realized, two-thirds are returned to the student owner. The remaining one-third—as well as all monies from donated pieces—is given to the UCONN Children with Cancer Fund.

The Crosby Consignment Shop also touches the lives of many other students at Crosby High School. Students who lack funds to purchase fabric may still enroll in the Clothing I class because they work on donated clothing, e.g., laundering, repairing, and updating the style. In addition, the shop gives free clothing to needy students in the local community.

The program, just a year and one-half old, has drawn its participants closer together in a cooperative enterprise that benefits the volunteers as much as the recipients. It has become an outstanding public relations/promotion campaign for home economics education—locally, statewide, and nationally.

For more information on Marie Ponzillo's program, write to her at Crosby High School, 300 Pierpont Road, Waterbury, CT 06705.

(Marie Ponzillo received a bachelor's degree in home economics from the University

VOL
137
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of Connecticut and a master's degree in administration, supervision, and public law from Central Connecticut State University. She has been active in many community service activities and other charitable and civic causes. She is owner and President/CEO of Image Building Specialists, Inc., a marketing, management, and promotion firm that provides national networking services for the products and services of various corporations.)

CONGRATULATIONS TO TURKEY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. KOSTMAYER. Mr. Speaker, Turkish general elections were held last month to choose 450 members of Parliament for the next 5 years. The results of this election gave Suleyman Demirel's True Path Party a plurality in the voting, and Mr. Demirel subsequently formed a coalition government with the leader of the Social Democratic Populist Party, Erdal Inonu.

The elections highlight Turkey's history as a developing democracy dating back to 1923 when the Republic of Turkey was founded by Mustafa Kemal Ataturk. Turkey remains the only predominantly Muslim country that is a secular, liberal democracy founded on pro-Western ideals.

All Turkish citizens over the age of 21 may vote for the person and party of their choice. At present, there are 18 political parties in Turkey, including 6 major parties representing diverse ideologies and policies. These 6 parties will be represented in the new Parliament.

Voter participation in Turkey is extremely high, averaging 80 percent. This, incidentally, compares most favorably to our own general election statistics. In the 1988 U.S. Presidential election, for example, only 50 percent of those eligible voted. The smooth transition to a new government, despite the many difficulties inherent in establishing a coalition, is viable proof of the growing strength of Turkey's electoral system.

The transfer of power by the process of election in Turkey serves as a positive model for the Middle Eastern countries and for the people of the emerging Muslim Soviet Republics such as the Azeris, Tajiks, Turkmen, Kazakhs, and Kirghiz. Because of its cultural links to these Republics and its proximity to the Middle East, Turkey's commitment to democracy, symbolized by these most recent free elections, serves as a clear alternative to those policies advocated by other less democratic countries in the region.

Mr. Speaker, I wish to congratulate Turkey on the occasion of its elections and its continuing commitment to democracy.

TRIBUTE TO DRUG FREE DOWNRIVER WEEK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DINGELL. Mr. Speaker, I rise today to call your attention to the efforts of the Downriver Community Conference [DCC] in southeast Michigan as it works to meet the community's goal of "Mission Possible: Drug Free Downriver."

Earlier this month, the Board of directors of the DCC designated the week of December 7, 1991, as "Drug Free Downriver Week" to ensure that each child in our community is made aware of the dangers of drug abuse while making certain that our young students will be provided a drug-free learning environment. One of the most important parts of this program is to let young people know that it is right to say no to drugs.

Mr. Speaker, programs like that of the DCC are crucial to the continued vitality of our community. National tracking studies have shown that with higher public awareness of the dangers of illegal drugs, there has been significant recognition that illegal drug use is a major underlying cause of crime and social decay. Reportedly, there has also occurred a significant reduction in the number of Americans who use cocaine and marijuana.

I believe that presenting this point to young people as they come to an age where they must make adult choices sends them a necessary and positive message that promotes a healthy, drug-free lifestyle.

Mr. Speaker, the DCC is committed to fully developing each young person's human potential through education, encouragement, and interaction with adult role models. The promotion of a healthy lifestyle is important to the future success of our young people. I hope my colleagues will join me today in congratulating the DCC on this marvelous effort.

THE 150TH ANNIVERSARY OF THE WILLISTON NORTHAMPTON SCHOOL

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. OLVER. Mr. Speaker, I rise today to celebrate the 150th anniversary of Williston Northampton School as a college preparatory boarding school in Easthampton, MA.

As a strong supporter of education, I take special pride in noting that on December 2, 1841 the first classes were held at the Williston Seminary. Furthermore, Mr. Speaker, over the past 150 years, the Williston Northampton School has been dedicated to providing young people an education founded on a tradition of values that respect each student's talents and aspirations. The school has built a fine record of accomplishments.

Most recently, the Williston Northampton School was selected as an "exemplary school", the top honor in the U.S. Department of Education Secondary School Recognition Program. It is this kind of dedicated institution that enhances educational growth and we should all share pride in their achievements. I congratulate all who have contributed to the great heritage this school is able to proclaim today.

HEALTH CARE

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. DICKS. Mr. Speaker, the gap is clearly widening. Health care costs are rising in America at a rate well beyond the means of most Americans, and an increasing number of people simply cannot afford health insurance coverage. Obviously this is affecting the state of health care in our Nation. Even in a country as advanced as ours, in which we spend a greater percentage of our GNP on health care than any other industrialized nation, the life expectancy and infant mortality rates are unacceptable. The United States ranks 13th in the world in life expectancy, and 24th in preventing infant mortality. For a nation that spends as much for health care as we do, it is tragic that an estimated 37 million Americans have no health insurance coverage whatsoever.

There are many bills under consideration in Congress in this session that attempt to reform or to reorganize or to expand our health care system, while at the same time controlling costs. As my colleagues know, most of the solutions are as massive and complex as the problems they attempt to solve.

But there exists, right now, an effective and economical solution to addressing the health requirements of the most vulnerable citizens in society. At this time, community, migrant, and homeless health care centers provide inexpensive primary and preventive care for millions of low-income and disadvantaged people. The basic services offered by these clinics save money by reducing the number of emergency room visits, reducing the number of hospital admissions, shortening the length of hospital stays, reducing the number of premature births, lowering the number of communicable diseases, and protecting our Nation's children from disease through immunization. But it is important to note, that for every patient cared for by a health center, another four patients need, but cannot obtain care because of the shortage of health care services.

In the Sixth District of Washington State, the seven community and homeless health care clinics have made the difference for many families who are forced to choose between paying the light bill or to take their child for a medical checkup. This year, an estimated 14,000 low-income individuals will recieve primary and preventative care in the Tacoma-Pierce County area. Across the State of Washington, community health care clinics will provide approximately 400,000 medical and dental treatments. Since the number of unemployed people in the United States continues to rise, increasing the number of people without employee health care insurance, these clinics are essential for serving this at-risk population.

The bill I am introducing today addresses this area of neglect by increasing this country's investment in migrant, community, and homeless health care programs. Beginning in fiscal year 1992, each of these health care programs would receive an annual increase in funding of 20 percent. Similar increases would

continue through fiscal years 1993, 1994, 1995, and 1996, until funding for these programs are double their current level. There is legislation in the other body that is similar, but it does not provide any increase for migrant nor health care for the homeless. Since community health, migrant health, and health care for the homeless work in a complementary fashion, it is vital to focus attention on all three of the programs, when considering improvements in delivering primary health care services.

Children from low-income families would obviously be the greatest beneficiaries of this legislation. About one-third of those served by these clinics are chldren under the age of 14, and more than one-fourth are women of childbearing age. Children present a special risk for those who are uninsured, and they are most likely to suffer when deprived of continuous health care. As many of my colleagues know, it is for children that the largest gains can be made in the health care field. For example, childhood immunization: For every dollar spent on immunizations and on preventive care for young people, there is a tenfold savings in future medical costs.

I encourage my colleagues to support this legislation, and to join me in providing the medically underserved an effective and cost-efficient health care program.

IN MEMORY OF MARGARET R. MURRAY

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. FOLEY. Mr. Speaker, I would like to express my very deep condolences to the family of Margaret R. Murray, who passed away Sunday morning following a brief illness.

Margaret worked on agricultural issues in Washington, DC, for the last 15 years and was both highly respected and well loved by her colleagues. She was always a warm and cheerful person—a pleasure to work with and known for her honesty and integrity.

Following Margaret's graduation from George Washington University in 1975, she was employed in government relations by Daniels, Houlihan & Palmeter, Schnittker Associates, Abel, Daft & Earley, the National Rural Telecom Association, and, for the past 7 years, at McLeod, Watkinson & Miller. She developed a special expertise in budgetary and trade matters as well as those issues affecting rural communications and the Federal crop insurance program.

Margaret had many friends in the Washington area and in the American agricultural community. My wife Heather and I considered it a privilege to be able to count ourselves among these friends. While she will be sorely missed, we will always cherish our memories of Margaret and her warm, generous nature.

Margaret is survived by her husband, Carl Schwensen, her son, Christian, her parents, three sisters, and two brothers. Our prayers go out to each of them.

HONORING SURVIVORS OF THE ATTACK ON PEARL HARBOR

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. SCHEUER. Mr. Speaker, as the 50th anniversary of the Japanese attack on Pearl Harbor approaches, it is our duty to remember and honor those American servicemen who lost their lives and who were injured on that fateful day. It is also, however, our joy to celebrate those who survived.

On December 7, I will be honoring three such survivors of that "day that will live in infamy."

PAUL W. HEATON, U.S. MARINE CORPS

Private First Class Heaton was a member of the Marine Corps unit aboard the cruiser U.S.S. *San Francisco* anchored in Pearl Harbor waiting to enter dry dock for repairs. Private First Class Heaton was going ashore to attend church services when the general alarm was sounded aboard the ship, requiring all of the ships crew to report to their battle stations.

Private First Class Heaton was a member of a gun battery aboard ship and would have reported there, but the San Francisco had been required to remove all its fuel and ammunition prior to entering the dry dock. Consequently, the ship was unable to take any defensive action. Instead, the Marines were ordered aboard the heavy cruiser U.S.S. *New Orleans*, and later were readied for going ashore to defend against a feared Japanese landing.

After surviving the attack on Pearl Harbor, Private First Class Heaton served aboard the *San Francisco* until July 1942. Afterward, he joined the 2d Marine Raiders Battalion, which distinguished themselves in combat on Guadalcanal and during other operations in the Pacific Theater during World War II.

SM1C. ROBERT JOE GREEN, U.S. NAVY

Steward's Mate First Class Green was asleep aboard the destroyer U.S.C. *Hull* when a friend woke him up as the Japanese attacked. General quarters sounded aboard the ship. Steward's Mate First Class Green would have reported to a 5-inch gun battery aboard the ship, but the Hull had been required to remove all its fuel and ammunition prior to entering the dry dock. Consequently, the ship was unable to take any defensive action. As a result, the crew of the *Hull*, including Steward's Mate First Class Green, were spectators to a tragic event in our Nation's history.

After completion of repairs, the *Hull* left Pearl Harbor and joined a battle group for combat duty, and participated in several sea battles during the war in the Pacific.

S1C. EDWARD H. HUBER, U.S. NAVY

Seaman Huber was a member of the 16-inch gun crew at turret No. 3, aboard the battleship U.S.S. *West Virginia*. The *West Virginia* was anchored in Pearl Harbor on the morning of December 7 when general alarm sounded aboard ship and all crew members manned their battle stations. When the *West Virginia* was hit by a torpedo and turret No. 3 took a bomb hit, Seaman Huber took part in the rescue and evacuation of the wounded. Fortunately, the crew evacuated to the battleship U.S.S. *Tennessee*. However, the *West Virginia* would not be so lucky, as it took five more hits and settled to the bottom of the harbor.

Seaman Huber assisted gunners on the *Tennessee* during the remainder of the Battle of Pearl Harbor and on the next day was assigned to the cruiser U.S.S. *San Francisco*, on which he served until the war's end.

GUYANESE HOPE FOR DEMOCRACY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. KOSTMAYER. Mr. Speaker, as a member of the Foreign Affairs Subcommittee on Western Hemisphere Affairs, I would like to take a moment to focus the spotlight of democracy which has shown so brightly in Eastern Europe, Africa, and Latin America, on a seldom mentioned country—Guyana.

In many respects, Guyana is an isolated and forgotten country. As democratic pluralism spread throughout the world, Guyana resisted change. But recently, as a result of internal and international pressure, the ruling party, the Peoples National Congress [PNC], agreed to very significant reforms to Guyana's electoral process. The PNC, which has dominated political life since 1964 through fraud, manipulation, and intimidation, agreed to reforms that include election monitoring by international observers, the preliminary counting of ballots at the place of polling, and the development of a new voters roll based on a house to house enumeration.

With all of the new found international attention, Guyana's democratic process still has many obstacles to overcome. It is not yet certain that the PNC will fulfill its promises of reform, and the process is further burdened by an electorate that is uninformed and lacks trust in the electoral machinery.

Mr. Speaker, I visited Guyana in September and saw many people working against the odds to bring democracy to Guyana. I was especially impressed by the work of the Electoral Assistance Bureau [EAB], a nonpartisan, nongovernmental organization, whose members are traversing the country conducting voter and civic education seminars for citizens in urban and rural areas.

More recently, the Electoral Assistance Bureau conducted an exhaustive survey revealing serious flaws in the voter registry. The findings of the EAB received wide acceptance and led in part to recent appeals to President Hoyte to delay the election pending correction of the list. Through its work, the EAB has established itself as an institution that is capable of informing the national and the international community, in a sober and independent manner, about the conduct of elections in Guyana.

The success of the EAB has been due in large part to the assistance of the national Democractic Institute for Internal Affairs, a political development organization that has worked in more than 35 countries strengthening democratic processes and institutions throughout the world.

Mr. Speaker, the work of the EAB is courageous and not without risk. Guyana's history

VOL 137 PT 23 NO 21—25 1991 UMI

has included incidents of political persecution and worse. I commend the EAB for its work, and I am hopeful that democracy in Guyana soon becomes a reality through the arduous work of the Guyanese people and organizations like the EAB.

SITUATION IN THE SOVIET UNION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. ASPIN. Mr. Speaker, the situation in the former Soviet Union continues to deteriorate. Every day, more newspaper articles appear confirming this assessment.

A November 24 article in the Washington Post describes the corruption, barter and outright theft occuring at every stage of food distribution. Food riots have already taken place in southwest Moscow, and a 30 percent smaller harvest this year is expected to exacerbate the situation.

Mr. Speaker, why is this of concern? The reason is that the former Soviet Union has nearly 30,000 nuclear weapons. Social chaos resulting from widespread hunger, cold and sickness could weaken control of those thousands of weapons. In fact, a November 23 article in the Daily Telegraph describes the potential for control of missiles by "rebel units" left without food or pay.

The administration responded on November 20 to the prospect of severe food shortages with a $1.42 billion aid progam, including $1.25 billion in agricultural credits. Unfortunately, the program will not do much to stave off social disorder this winter. The majority of the credits will buy grain to feed livestock, not people. As Leslie H. Gelb points out in a November 24 column in the New York Times, "[M]uch of the grain won't even reach Soviet seaports in time to make a difference this winter."

Senators NUNN and LUGAR have proposed to give the President the discretion to spend up to $500 million to store and dismantle the Soviet nuclear arsenal. However, this does not address shortages of food and medicine.

Comprehensive Congressional efforts to forestall disorder have been stymied by a lack of understanding of what is at stake. A November 22 op-ed in the Philadelphia Inquirer by Trudy Rubin points out the mischaracterization of proposed aid to our former adversary. "In reality the Soviet aid issue has less to do with altruism than it does with protecting America's most basic security interests," Rubin says. As Gelb declares, "The risks of inaction and delay are clear and grave."

I ask that copies of these articles be printed in the RECORD to remind my colleagues of the alarming situation in the former Soviet Union, and the national security consequences of our failure to act.

[From the Philadelphia Inquirer, Nov. 22, 1991]

AID TO SOVIETS THAT BENEFITS U.S.

(By Trudy Rubin)

The debate in Washington over how much emergency aid to give to the disintegrating Soviet Union has gone dangerously astray over the last few weeks. But, fortunately, some farsighted senators are trying to pull it back on track.

Until now, the whole aid question has been inaccurately framed as one of whether an ailing America can still afford to give charity abroad. But in reality the Soviet aid issue has less to do with altruism than it does with protecting America's most basic security interests.

A collapsing empire full of desperate people makes easy prey for political demogogues who could gain access to parts of the Soviet nuclear arsenal. Soviet authorities are committed to storing and/or destroying thousands of strategic and tactical nuclear weapons, but they are hampered by lack of storage space, collapsing transport facilities and lack of technical expertise.

A delegation headed by the Soviet deputy minister of atomic power and industry, Victor Mikhailov, (his ministry controls both production and dismantlement of nuclear weapons) recently visited Washington. The delegates told American officials and U.S. scientists that they fear they could lose control over parts of their nuclear arsenal, as republics or small autonomous areas split off from Moscow. Some nuclear weapons might fall into the hands of dangerous new hardline leaders.

And so the Soviets are seeking U.S. aid and advice on storing and destroying nuclear, chemical and biological weapons. "They say they can't get people to work for rubles anymore," as the value of the ruble collapses, said Princeton University Professor Frank von Hippel, who met with the Mikhailov group. "They need hard currency to get extra storage built for warheads and plutonium components." The Soviets are also seeking U.S. money and technical help for destruction facilities.

Partly a response to the Mikhailov visit, Sen. Sam Nunn (D., Ga) and Rep. Les Aspin (D., Wis.) came up with a plan to shift $1 billion from the $291 Pentagon budget into a fund to help the Soviets. The proposal would have given the administration discretionary authority to use the money in joint projects with the Soviets for weapons destruction, as well as for conversion of military industries to civilian factories (in which U.S. firms could invest). The money also would have been targeted to help the Soviets with emergency transport of food.

That proposal was dropped from the defense bill early this week when the administration failed to give it any support. President Bush was afraid to buck the anti-foreign-aid tide. Instead, the administration offered the Soviets little more than new guarantees for loans to purchase American wheat.

Fortunately others in the Republican Party were more farsighted. Sen. Richard G. Lugar (R., Ind.) helped put together a bipartisan group of nine Democratic and seven Republican senators who met yesterday to try to resurrect part of the $1 billion plan.

The new version would give the President discretion to use $500 million of Pentagon money for one main purpose: to help the Soviets or the republic governments collect, store and destroy nuclear weapons. The specific target is the 15,000 tactical nuclear weapons that Soviet President Mikhail S. Gorbachev has already offered to destroy.

"This is a national security package, not foreign aid," said one legislative aide involved in the process. Congressional sources say that Defense Secretary Dick Cheney supports the plan. So, they say, does Deputy Defense Secretary Donald Atwood, who has just been visiting Moscow to examine the possibilities for converting some Soviet defense plants from making aircraft and missiles to civilian production.

Under the new congressional plan, strict U.S. controls would be imposed to make sure the Soviets didn't squander or pocket the money. The U.S. funds would go for building storage facilities, helping with transport and providing technological know-how. U.S. companies would get contracts for building new Soviet missile storage facilities, and Soviet matching funds would be required. U.S. allies would be asked to contribute money.

This is the kind of creative thinking this is desperately needed to cope with the gathering speed of the Soviet collapse. Spending Pentagon money in this way is clearly in America's interest, more sensible than many far larger budget items on the Pentagon agenda. But the administration hasn't yet endorsed, let alone promoted, such a plan.

There is no time left for dithering. The bipartisan group of senators hopes to get the $500 million fund approved before Congress adjourns next week. "This is truly an emergency," Lugar said yesterday. "* * * These small nuclear weapons need to be rounded up and stored, or destroyed.* * * If not, some of these weapons are likely to be sold to other countries, terrorist groups or other desperate people." Explained in this fashion, such spending can surely muster public support.

[From the Daily Telegraph (U.K.), Nov. 23, 1991]

MISSILES COULD BE CONTROLLED BY REBEL UNITS

(By Peter Almond)

Intelligence experts in Britain and America are so worried about the state of the Soviet military that they fear minor mutinies may be under way and that nuclear weapons could easily be controlled by rebel units.

A Pentagon official said yesterday that the complex arming and launch codes for missiles still aimed at Britain and the United States made the weapons virtually impossible to fire in the wrong hands—but the codes could eventually be overcome.

"The internal military situation is becoming critical," added Mr. John Hines, Soviet military expert for the Rand Corporation and the U.S. Congress. "Our intelligence people have direct reports that some units have not received food for weeks.

"There is a potential 1917 [when the Russian army revolted and brought on the Communist revolution]. Since the troops do not know whose authority they are under, units are beginning to look out for themselves."

The crisis worsened last weekend when Mr. Boris Yeltsin, the Russian president, said his republic was taking control of the Soviet Finance Ministry and banks.

There are no specific reports yet that Soviet Strategic Rocket Force troops are not being paid, but Mr. Dick Woff, a London-based Soviet intelligence expert, said that when Northen Fleet officers went to collect their pay at a Murmansk bank two weeks ago, there was no money to give them.

Apparently in order to tighten control over all nuclear forces, Mr. Woff said Moscow had restructured the Strategic Rocket Forces into so-called "Strategic Forces of Retention", bringing all naval Backfire nuclear bombers and missile submarines under its control, as well as all space, air force and long-distance nuclear weaponry.

Whether the new structure will succeed appears doubtful. With Mr. Yeltsin now effec-

tively in control of nuclear weapons on Russian territory, experts expect that the Ukraine, Kazakhstan and Byelorussia will follow suit and use their weapons as a bargaining chip against new Russian power.

The Ukraine is in a particularly powerful position. It has 176 intercontinental ballistic missiles in fixed silos and about 30 strategic bombers.

"Tampering with those missiles would disarm them and they still could not be fired without the launch codes," said Mr. Hines, "but it's not impossible for Ukrainian engineers to re-engineer the weapons. That would involve state participation, and I can't see who benefits from that.

"A more likely scenario is that, to get attention, a unit could rebel and threaten to destroy the missiles and nuclear warheads, creating a nuclear pollution problem."

[From the Washington Post, Nov. 24, 1991]

NICE FOOD—IF YOU CAN GET IT

(By Fred Hiatt and Margaret Shapiro)

MOSCOW.—The White Cottage farm on the outskirts of Moscow still sends pigs to slaughter every day, but there's no pork in the stores. The cows of the huge Gorki dairy still give milk, but cheese is a rarity here. The nets of the Soviet fleet teem with fish, but the Moscow Port Cold Storage refrigerator rooms stand half empty.

This is the mysetry of the Moscow food chain; its solution is a tale of corruption and improvisation and ruthless Darwinian competition that has created a pervasive sense of lawlessness. There is food in the Soviet Union—less than in the past, to be sure, but still available to those who have the money, connections and savvy to navigate the anarchy.

Young enterpreneurs with cash and daring bribe store directors with extra rubles or calculators to get meat at the back door. Factories, no longer fulfilling their state-dictated plans, instead barter their television sets or shoes for food to distribute to their workers. Warehouse directors, instead of shipping food to shops, trade their vodka for meat, meat for sugar, sugar for milk.

Ordinary customers, meanwhile, wait for hours in front of shops, edgy and suspicious but powerless to protect themselves. These are the unfortunate Muscovites who produce nothing concretely tradable—civil servants who prospered under the old system, teachers, writers, nurses, bus drivers. The most vulnerable among them, pensioners and children, already pick through the central city garbage dump as they face the prospect of a hungry winter.

This is the Moscow food chain at a critical moment of transition, as the old economic system based on fear and orders from the top breaks down and the country fragments. Sugar is not delivered, potatoes rot in the fields, and processing plants decay or run out of fuel. Meanwhile, leaders talk about free-market reforms and privatization, but apparatchiks still cling to power, forcing food to pass through layer upon layer of bureaucracy.

And all along the food chain people take their cut, skimming off the choicest—for themselves, for friends, for barter—and sending the rest on until it arrives, a skimpy, pathetic remnant, at the ordinary stores.

"Unless we have a person watching at every link of the chain, from the producer to the purchaser, the goods will be lost," said Victor Semonov, general director of the White Cottage farm, which produces pigs and vegetables. "The people at every part of this chain will pursue their own interests at the expense of ordinary buyers."

The result in a house-of-mirrors world where a bent form of capitalism is taking shape in the shadows, where ordinary people struggle to stay a meal or two ahead, and where money is often worth next to nothing, fulfilling in an unintended way Karl Marx's prophecy that communism would lead to a moneyless society.

"We've reduced our country to a feudal state over 74 years," said Ella Yudrina, deputy head of the city organization responsible for food supplies in Moscow's Kievsky district. "No one is interested in money, only barter. It's a very bad omen for the future economic level of our country."

THE BLACK ENTRANCE

Maxim Valetsky, 26, is not going hungry, yet his very success shows how seriously askew the system in the Soviet Union is today. In his small Moscow flat, dozens of cans of vegetables are stacked under a tarp on the balcony. Cans of milk are crammed into a cupboard beneath the kitchen window. Three refrigerator-freezers are stuffed with cheese, chicken, beef, butter, chocolate, even batteries and antibiotics. His larder, a testament to his anxiety about the future, would inspire envy and wonder among his neighbors. "In company, I wouldn't say that I still eat cheese," Valetsky said.

But even for the Valetskys, feeding themselves and their 5-year-old daughter is a constant challenge. He works 14 or 16 hours a day as an independent businessman and sales representative, earning perhaps 10 times the average monthly wage. His wife works almost as many hours, putting together the convoluted deals necessary to get for her family the foods that no longer appear on store shelves.

The cheese, for example, began with a rumor: A cafeteria in a goverment office had some blocks of cheddar. The Valetskys, trading past favors, were able to purchase some scare medicines from a friend working in a state pharmacy, where drugs are almost never openly for sale. They offered the medicines to the cafeteria manager, who agreed to trade the cheese—but only if the Valetskys also brought a consignment of scarves that the manager had earned in an earlier deal.

"So now I am giving scarves away," Valetsky said, shrugging his shoulders as he sipped coffee—also not available through ordinary channel—at his kitchen table.

When the local meat store gets a shipment, the Valetskys get a telephone call; for a few extra rubles per kilogram above the fixed price, the clerk sells them everything out the back door, or what the Russians call "the black entrance." About 30 or 40 women of their provisions the same way, with the clerk pocketing some of the bribes and passing more up the ladder to his director, to whom Valetsky's wife brings gifts from time to time. Valetsky said he believes little meat is sold these days to legitimate, front-door customers.

Six months ago the Valetskys bought only meat at the back door; now they buy everything but bread that way, because so little is put on the shelves to be sold at the state prices.

"I feel guilty that I cannot live in another way," Valetsky said. "I am not proud of it. But I want to live, and so I do. I wonder how the other people manage."

Lately, as the gap widens between him and "the other people," Valetsky has begun worrying about social disorders, about someone seeing his wife at "the black entrance." "People are becoming more and more anxious every day," he said.

Indeed, one day this month in southwest Moscow, scores of shoppers, alerted by a suspicious "customers' committee" that had watched the local grocery day and night for months overran blockades and stormed the store, looking for meat, vodka and sugar they believed was being hidden in the basement and smuggled out the back. The search was fruitless, and the shoppers returned to their lines and their self-compiled waiting lists of more than 5,000 names in chronological order.

But the newspaper Trud saw the small riot as an ominous sign. "It seems we have come to the moment when everyone fears everyone else," the labor newspaper commented. "In the 165th police station, they told us, 'Everything is under control.' But will police power be sufficient for long?"

DEPLETED DEPOTS

The breakdown in the distribution system is painfully visible in the middle of the Moscow food chain at the filthy, ramshackle, two-story building from which the government long supplied food to the 58 government groceries in the city's Kievsky district.

Cold storage rooms once filled with milk, eggs, meat, fruit and other necessities now store cartons of canned salmon sent by Germany as "humanitarian aid." Upstairs in other sparse rooms were stacked bags of partially processed rice, some sugar and bars of soap from India. The depot's only precious commodity, butter, was reserved for children and people who donate blood.

"Even a year ago, we got more than this. This year, right before our eyes, the quantities have been reduced," said depot employee Vladimir Fyodorov as he trudges through mud two inches deep to watch the unloading of low-quality boiled sausages and of frozen beef kidneys in ripped, dirty cardboard boxes. Until recently, few Muscovities deigned to buy such meat, Fyodorov said; now it sells out swiftly.

This depot, like thousands across the country, is bare in part because the harvest was smaller this year, a result of bad weather, spoilage and disabled, crumbling farm equipment. The nation can afford to buy less fodder overseas, so beef and pork production has fallen off. With grain supplies low, chickens are being slaughtered, and the number of eggs has dropped; Moscow gets 5 million instead of 10 million a day, said Elionora Borodina, a city bureaucrat who still tries to direct where and how food will be distributed in Moscow.

ECONOMY IN CHAOS

The former 15 republics of the Soviet Union, each going its own way, no longer fulfill old state-mandated plans, often refusing to ship food beyond their borders. Ukrainian sugar, for example, no longer reaches Russia, Borodina explained, and the newly independent Baltic republics are looking for new markets for their meat and fish. New "customs posts" between republics take their share of food that does get shipped, as do highway and railroad robbers. To fill their freezers for the winter, Valetsky and two friends plan to drive south and buy 400 pounds of beef—and then drive back, revolvers at the ready, without stoppoing.

Many producers, anticipating the free-market economy that Russian President Boris Yeltsin has promised but set no date for, simply hold goods off the market, waiting for a better price. Many others trade for food but not for rubles, which constantly diminish in value as the government speeds up the printing of money.

The persistence of fixed prices feeds a thriving black market. One former bus driv-

VOL 137 PT 23 NO 21—25 1991 UMI

er said he quit to earn a far more handsome living speculating in vodka, which officially is sold not only at a fixed price but also for ration coupons alone.

When a shipment of 80 cases of vodka arrives at a neighborhood store, the director immediately claims 20 cases for himself and his staff to barter for food and other necessities, the speculator explained. The director sells 40 cases more, at twice the low state price, to the former bus driver and other speculators, who double the price yet again before selling the bottles on the street or out of their car trunks. Only 20 cases remain for the customers lined up in front of the store, many of whom wait for hours yet never manage to use their ration coupons. At one liquor store recently, 4,000 customers had signed the informed daily list reserving their places in line for vodka purchases.

Such scarcity breeds theft. At the Moscow Port Cold Storage facility, for instance, director Oleg Ivanov said boxcars sometimes arrive open and empty of the fish that was loaded onto them in Murmansk or Vladivostok.

But losses to theft are not his major problem, Ivanov said. The Soviet fleet is catching about as many fish as ever, he said, but now wants to trade fish directly for sugar, for ball bearings, for whatever it needs to feed its crews and keep its ships afloat. And when Ivanov does receive fish, such as the frozen perch that were falling stiffly out of their burlap sacks onto the track's muddy floor the other day, he too trades much of it to a local store for meat and other provisions for him and his workers.

"It's really a pity that a country like ours, one-sixth of the world and with enormous resources, has come to this," said city administrator Yudrina, itemizing for a visitor how severely food stocks in the Kievsky region have plunged in the last year.

She said she believes the freezing of prices will improve the situation, but added: "There is a time factor. The people who made the [August] coup are still sitting out there and waiting, waiting until things get bad."

RUSSIA FACES WINTER—AND PLEADS FOR U.S. HELP

(By Kevin Klose)

MOSCOW.—Amid ghostly outriders of oncoming winter—wisps of snow sifting down from darkening morning skies, glimmers of frost in the birch forests—the lands and cities of Russia lie quiet and exhausted after a year of cataclysmic civic tumult.

As the season gathers strength, the ancient nation and its diverse peoples are bracing for an assualt that many fear could shape Russia's future and insure a rebirth of its authoritarian past. They cast it in simple, yet mythic terms: ice, snow and cold matched against a bedraggled population's uncertain march toward democracy.

"If we can just get through the winter * * *"

The haunting phrase—as though Moscow were as mortally endangered as Leningrad during its 900-day encirclement by the Germans in World War II—echoed over and over in the capital a week ago as Russians talked about their hopes for the future. It was often accompanied by a fatalistic shrug of the shoulders or a peek at the sky as if a blizzard were about to begin. Russian winter—the superhuman force that twice saved the Motherland by helping destroy Napoleon's army and Hitler's Wehrmacht—could betray the nation in this turbulent moment and weaken or even end hopes for true political reform.

Moscow offers mostly only signs of unstoppable economic rundown. To be sure, the newspapers are full of accounts of new deals and joint ventures with the capitalists. Western and Asian businessmen throng the city, bargaining for the natural riches of a stupendously wealthy and plundered continent.

But years of political disarray have reduced the capital to a dismal place of heavily polluted air, heaved and potholed streets, crumbling buildings, abandoned and vandalized public works projects. Lines of harried, grim people queue and search everwhere for food. Beggars shelter in subway entrances and robbery-assaults continue to soar.

The physical decline is matched by that of the ruble: in barely a week this month, its value fell by a third, a freefall that is steadily wiping out all but homegrown entrepreneurs and capitalist foreigners, whose comparative wealth rises with every new exchange rate. It is hear amid the economic ruin of everyday life for everyday Russians that the bell may toll for democracy.

Bread lines shrank to 20 minutes from three hours, and then disappeared, but the battered, near-empty state shops and markets are centers of filth and backdoor corruption, even in the best downtown neighborhoods. Sudden impoverishment has scourged Eastern Europe as the protections that guarded the old centrally run "soft-currency" socialist economies shattered in the move to hard-currency capitalism. But nowhere is the collapse more threatening or the drain on self-esteem greater than in the former superpower.

"You cannot even conceive of the humiliation I feel," said a woman, close to tears as she explored the psychic injury of the economic calamity. "We are a great country. What has happened to us?

"When did the world last encounter such a volatile mix of bewilderment, anger and shame? Russia under Kerensky? Weimar Germany? The parallels are not a cliche; they are inevitable. For indeed, having been defeated in the Cold War, Russia now faces the spectre of post-war failure as well.

Winter's onset has sharpened the Russians's sense that substantial aid from the United States is needed to insure democracy. The pleas for U.S. assistance—food, medicine, technology, hospital equipment, computers, etc.—erupted spontaneously wherever I went during a week in Moscow and a provincial city. I heard it from dozens of people, private citizens to senior officials struggling to form new governments within the collapsed empire.

I came here with a group of past and present American officeholders, led by former secretary of state Edmund Muskie and former senators Birch Bayh of Indiana, Henry Bellmon of Oklahoma and John Culver of Iowa, to consult on federalism issues with the various executive and legislative governments—union, Russian federation, Moscow city and region—and judicial and economic reform commissions at all levels.

The talks, sponsored by the American Committee on U.S.-Soviet Relations headed by William Green Miller and the International Association of Parliamentarians, ranged from practical politics to the philosophy of separation of powers. But at every turn, the Russians expressed the view that with the Cold War over, the United States now has the power to insure a peaceful prosperous future for a huge nation of nearly 150 million people, many of whom harbor ethnic hatreds or covert their neighbors' territory.

The billions of aid dollars flowing in from private organizations and the Western alliance drew little comment. It is the Americans whom Russians admire and with whom they identify, an embrace reinforced by the thought that unlike other major aid-givers, the United States and Russia have never formally warred against each other.

Some of this is just plain hucksterism, pandering to foreigners who may have important connections back home. But the longing for everyday help from America—whose wartime Lend-Lease trucks and Spam still stir fond memories in millions of Soviet war survivors—has very deep roots of its own. Anatoli Tizhalov, a senior Moscow regional official, was proudly describing how his reform government nurtures private farming. "A year ago, there were three independent private farmers in Moscow *oblast* [region]. Now there are 740, with 600 on the waiting list. Professional training for these people is of great importance.

"But I have another priority," he said in a wishful tone. "The 740 farmers are eager to work, but there is no normal infrastructure for them. We don't have the tools and machinery for such farmers. All our equipment is for supergiant collective farms. We know that the United States helped South Koreans learn advanced farming. You can make a good business and earn hard currency here."

"We need to learn how to work as true partners and friends," a Muscovite said in a typical outburst of intense hope. "Without your aid, without your strength, we will fail."

"Life stinks * * *. You've got to help us," said a hat seller. "This is such a poor life we live! Americans: Help!"

"I request that America come to our side with help," said a city councilman in Saransk, grimy provincial capital of the Mordovian Autonomous Republic 400 miles southeast of Moscow. "There is a critical situation with medicine and drugs in the Soviet Union. In 1992, thousands will die because of a lack of medicine. This is genocide. We hope the U.S. government can send help—especially to Mordovia." He proposed a joint U.S.-Russian drug store for his city.

Underscoring the uncertainty of the season, Soviet President Mikhail Gorbachev and Russian President Boris Yeltsin last week separately offered grim economic assessment. Yeltsin called for steadfastness during a "period of worsening conditions" which he said could last six months. Newly reinstalled Foreign Minister Eduard Shevardnadze warned that dictatorship may return.

It seems implausible that something as mundane as a single season could have much effect on the nation-building, statecraft and politicking that have riveted world attention on Russia and Moscow. After all, winter and Russia merge effortlessly in the mind. Yet this year, the cold and dark are arriving at a dangerous time: on the heels of a bad harvest (30 percent smaller than 1990) and a crisis in energy production (down 10 percent from 1990) and amid protracted political struggle between Russia and the other republics.

My family and I lived here for four years in the Brezhnev era, when men and women who advocated reform and democratization were routinely imprisoned, exiled or sent to psychiatric prisons for the criminally insane. So I expected to find jubilation and release among reformers working to found a new nation—or nations—based on egalitarian principles and the rule of law.

There indeed was much serious talk of institution-building. But we also encountered deep self-doubt and uncertainty about whether decades of Soviet rule have irreversibly damaged the moral compasses of citizens. With piercing self-knowledge, the Russians talked about the ravages of the past on their effort to forge humanitarian ethical and moral norms.

"You can start with the economy," said a judicial reform commissioner in a characteristic comment, "but the main problem is ourselves. After 74 years of dictatorship, we are accustomed to totalitarian ways and [no longer] have knowledge of what is morally good and what is bad. We were always told that the Soviet way is the best way and that is the biggest trouble * * *. The main problem is our problem * * *."

So much has been destroyed and so much else is brand new, unformed, untested that everything is precarious. We saw this vividly in Mordovia, an infamous region where political labor camps once abounded.

Bellmon, U.S. District Court Judge Louis Pollak, Utah Supreme Court Justice Michael Zimmerman and I made the trip there, accompanied by my son, Brennan, an exchange fellow at a space science institute in Moscow. Our hostess was Tatiana Tyurina, a Union deputy from Saransk.

A Moscow overnight train brought us to her city (pop. 350,000) in the Volga basin. The site of a lightbulb factory and a large electronics complex that did military work, it previously was closed to foreigners. But greeting us were local dignitaries and a professor earnestly speaking excellent English. Mordovians, a Finnish sub-group, account for about a third of the region's 1 million population. We retired to a hotel for a lavish breakfast of smoked fish, fresh tomatoes and broiled "cutlet"—items missing from a state market on the city's main street. It looked like a carbon copy of the mendacious "official" visits arranged for foreign press during the time of party power.

But then the officials began talking. The hotel, once party-owned, is in insurgent hands now. Ditto the gloomy highrise party stronghold that looms over government square. Tyurina related how democratic forces had coalesced when it was discovered the party was building itself a new hospital instead of renovating the outdated local children's hospital. She circulated petitions, the new hospital was stopped, the old refurbished, and the party defeated in elections that made her Union deputy.

It was a moment of heady triumph, as though partisan commandos had pushed the occupiers out in hand-to-hand combat. But now, problems of governing a moribund creation grind without relief. Tyurina spends each week in Moscow lobbying for help, goes home for the weekend, returns to Moscow. The shortages stretch to the horizon: inadequate public transport, poor housing, terrible telecommunications, woeful medical supplies, food shortages, decrepit stores, budgetary collapse. Her heart-shaped face was a mask of fatigue, deep pockets etched beneath dark eyes. "I don't think I can run again [for office]," she said. "It's just too much."

Saransk's air and water are foul from mercury, lead and other unabated pollution from the lightbulb factory. A doctor in a chance sidewalk encounter with me ("You're an *American?*" she goggled, "*Here?*") said respiratory illnesses among children in certain parts of the city are "terrible because of industrial wastes."

"We don't even have the equipment to find out what the levels of poison are," said activist politician Vasili Taratov. "In this city—in Russia—there are many production illnesses." He added hopefully, "We're setting up a citywide environmental committee and we'd be very happy to accept help. I think the United States could send us small amounts of equipment—this is justified by people's health problems."

The shattering of the party also broke its coercive power in the invisible realms of belief, connectedness and belonging that bound millions to a paranoid ideology of global class conflict. The Soviets used to speak of a "correlation of forces," as if human endeavor were but applied science—the Marxist vision that treated individual fates as nothing more than chemical process. What will replace the "correlation of forces?"

Millions of Russians know that the communist past was a monstrous one; even simple acknowledgment of that reality can act as a force to shape a positive future. But accurate knowledge of the past, no matter how important and transforming, cannot by itself safely guarantee that a civil society can come alive here. The dangers are so numerous they are almost uncountable.

"The United States has begun to treat us differently and we feel it," said Vasili Taratov. "Until recently, we were such an aggressive armed country that nobody would trust us, and we don't blame you for this. But we've become convinced that the United States won't conquer us—because it would cost so much to rule us!"

The joke drew rueful laughs around the table. But then came a pause and talk turned to whether the now-invisible party was stirring long-dormant ethnic antagonisms among Russians and Mordoviana. No one knew for sure, but there was palpable apprehension. They seemed certain of this much: Out beyond the partisans' torchlit ramparts, the former occupiers were moving in the darkness.

[From the New York Times, Nov. 24, 1991]

THE U.S.: A PATHETIC NATION

(By Leslie H. Gelb)

With the trillions spent to win the cold war, it will be pathetic if the U.S. fails to find $1 billion to combat famine and the danger of nuclear chaos in the Soviet Union.

Famine in Soviet cities this winter could kill the Soviet democratic experiment, and there is only one way to prevent starvation. That is by loading up U.S. military aircraft with food, flying to cities and overseeing the distribution. But aside from a few Democratic Representatives such as Les Aspin and Lee Hamilton, Washington sits on its hands.

The spread of Soviet nuclear weapons could present the greatest threat to world peace, and there is only one way to guard against their misuse, theft or sale. That is a crash joint effort by U.S. and Soviet specialists to secure them. But apart from an encouraging bipartisan group of senators joined by Mr. Aspin and Mr. Hamilton, Washington shows no urgency.

The risks of inaction and delay are clear and grave. Yet legislators, fearful of being accused of helping Soviets at the expense of Americans, shrink from doing what they know is right. And President Bush, who above all understands what must be done, is also frozen by such accusations and remains inexcusably silent.

The one thing Mr. Bush has done—his now $4 billion "food aid" program—raises serious questions about his competence and motives. Senator Patrick Leahy is not alone in charging that the President "is playing a deceptive game with American taxpayers."

The Bush $4 billion plan sounds good. It provides U.S. credit guarantees for the Soviets to borrow money from banks to purchase American grain. Marlin Fitzwater, the White House spokesman, said the program "is aimed at alleviating food shortages and other dire humanitarian consequences * * * this winter."

But much of the grain won't even reach Soviet seaports in time to make a difference this winter. Much of what does arrive is bound to rot on the docks or find its way into the black market, if past experience with Soviet distribution is any guide. Most of the cargo is feed grain, destined for farms and animals, not people. This grain will help sustain livestock. But it will do very little to alleviate hunger in Soviet cities now.

This is no secret. Which is why Mr. Leahy and many others see the $4 billion as aimed more at raising American farm incomes than at helping needy Soviets.

Mr. Leahy is also rankled by what he sees as Mr. Bush's budgetary sleight of hand. The President is not asking Congress to appropriate $4 billion, and says the Soviet Union is creditworthy and will pay its bills. Mr. Leahy argues that there is little chance the Soviets will find the cash, and that the American taxpayer will eventually have to pick up the tab. The Senator is by all odds correct.

Here another fundamental issue is joined. If the $4 billion is essentially a gift to the Soviet Union and mainly a boon to American farmers, and if it won't do much to relieve famine this winter, why spend it at all? Or why not use the money to provide emergency relief for needy Americans?

Put this way, the Leahy stance is not frivolous or isolationist. Politicians could say in honesty that they would rather use the funds for America's emergencies than make a grand, but largely ineffectual gesture abroad.

But the choice should not be between a questionable food aid effort and American domestic priorities. It ought to be between those priorities and a food relief program that can work.

Mr. Aspin has put together a list of already-bought and ready-to-go food-stuffs, including $165 million in free food already allocated by Mr. Bush, and tons of food leftover from the Persian Gulf war. Europe is also loaded with excess stocks.

What is needed is transportation and reliable distribution inside the Soviet Union. U.S. forces fed the Kurds after the gulf war and could do it again on a much larger scale. They are also ready to help their counterparts gather and destroy Soviet nuclear weapons. The $1 billion needed for these vital tasks would come from existing Pentagon funds, not new money.

A nation loses its soul and spirit if it cannot act to protect its most basic interests and values. Soulless and spiritless we will enter our future if we fail to do what we can to forestall new dangers and dictatorship in the Soviet Union.

PAY-AS-YOU-GO CONSEQUENCES

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. GRADISON. Mr. Speaker, during the closing days of this session of Congress, bills are being hurriedly considered on the floor under expedited procedures. Ostensibly, these bills are noncontroversial. Generally, they do not raise Budget Act points of order.

Require that all radio officers be trained and

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concern of mine as the church has a profound

the public domain after serving only a few

solution to address fish and wildlife problems

VOL 137 PT 23 NO 21–25 1991 UMI

I would like to call the attention of my colleagues to the fact that several of the bills on the suspension calendar and a couple of bills on the regular calendar include direct spending which is not subject to further action by the Appropriations Committee. Under the 1990 budget agreement, legislation affecting direct spending and receipts is subject to the pay-as-you-go budget enforcement mechanism.

Under the PAYGO system, the deficit impact for each bill for each year through fiscal year 1995 is recorded on what we informally call the PAYGO scorecard. Each week, CBO issues a memorandum showing how much has been added to the PAYGO scorecard to date. Here is where we stood as of November 15:

DIRECT SPENDING AND RECEIPT LEGISLATION, 102D CONGRESS, 1ST SESSION—CBO/OMB ESTIMATES COMPARED, CHANGES IN THE DEFICIT

[In millions of dollars, by fiscal year]

	1991	1992	1993	1994	1995
Enacted legislation:					
CBO	6	−39	13	151	184
OMB	([1])	−26	5	4	6

[1] Less than $500,000

PAYGO enforcement occurs within 15 days after Congress adjourns at the end of a session. At that time, there is a sequestration of mandatory programs—including Medicare, unemployment compensation, title XX, child nutrition, family support, and others—to offset the amount of any net deficit increase estimated by OMB in that fiscal year and the prior fiscal year.

OMB figures indicate that, based on legislation enacted before November 15, there would be no sequester when the current session concludes. However, the scorecard figures for fiscal year 1993, 1994, and 1995 all show a net deficit increase. Unless legislation is enacted before the end of the 2d session of the 102d Congress which offsets the fiscal year 1993 deficit increase, a sequester will occur when Congress adjourns next year.

Some of the bills under consideration during these closing days of the 1st session are deficit neutral over a 4- or 5-year period. The way the PAYGO system works, however, this does not necessarily provide protection against a sequester. Because the net deficit for each year is scored separately for PAYGO purposes, a bill could reduce the deficit in the long run but still contribute to a sequester for a particular year. For example, a bill that reduced the deficit by $10 million in each of fiscal years 1992, 1993, and 1995 but increased the deficit by $5 million in fiscal year 1994 would reduce the deficit by $25 million over the entire period. However, the $5 million in 1994 could cause sequester unless offsetting legislation were subsequently enacted.

I am belaboring this description of PAYGO enforcement only because at this time of the year, so many bills containing direct spending are being hurried through the legislative process. I want to be sure that my colleagues understand how the system operates so that they are not misled about the political impact of their measures and votes this year and in the 3 years ahead. Bills which appear to be uncontroversial today, may result in controversy in the future.

RADIO COMMUNICATIONS SAFETY ACT

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. RINALDO. Mr. Speaker, I rise to announce my intention to introduce legislation when Congress reconvenes in January to address the increasing complexity of shipboard communications equipment. My proposal would direct the Federal Communications Commission to adopt rules expanding the licensing requirements for maritime radio officers to ensure that they are adequately trained in the operation and repair of advanced navigational communications equipment on ships. The legislation I intend to introduce would also amend section 352 of the Communications Act of 1934 to ensure that large cargo ships sailing close to our shores are not routinely exempted from the act's requirements to have certified radio officers on board.

Prompt, reliable communications in ship emergencies is absolutely critical to ensure safety of life at sea and to protect the environment from the devastating consequences of an uncontrolled oil spill. Indeed, a delay in responding to a distress call can transform a minor mishap into a tragedy.

In recent years, we have witnessed the development of advanced maritime communications systems, such as the Global Maritime Distress and Safety System or GMDSS. Undeniably, these systems represent important technological advancements in maritime communications and their deployment will dramatically decrease risks to mariners, ships and the environment caused by sea disasters. However, the deployment of advanced communications systems, such as GMDSS, do not obviate the need for on-board licensed radio officers, trained to respond instantly to provide communications support for all emergency situations at sea. In addition to providing prompt communications is a disaster, such personnel are needed to maintain and, if necessary, repair advanced communications equipment.

The attendance of trained radio electronic personnel on an oil tanker could mean the difference between preventative maintenance, crisis trouble shooting, and the devastation that is all too evident more than 2½ years after the *Exxon Valdez* disaster.

The legislation I intend to introduce attempts to ensure that licensed radio electronics personnel are on board all ships and are trained to operate and maintain all communications equipment, including advanced communications systems, such as GMDSS, and would require the FCC to promulgate rules which:

Update the licensing requirements of radio officers to ensure that such personnel be certified as qualified to operate modern shipboard communications equipment and to maintain such communications and related navigational equipment;

Require that the primary responsibility of maritime radio officers is to operate the shipboard communications equipment and to repair and maintain communications, and other related equipment on board the ship;

Require that all radio officers be trained and licensed in the operation and maintenance of the ship's radio, navigational, and other related communications equipment and advanced communications techniques;

Permit the FCC to contract with outside institutions for the training and testing of radio officers.

In addition, my proposal would also direct the FCC to conduct a study after the deployment of the GMDSS to examine the telecommunications needs on board ships and to report its findings to the Congress.

Finally, in order to provide additional safeguards to protect the environment from disasters at sea, my proposed bill would tighten current statutory exemptions to radio station and operator requirements and would require that an environmental impact statement be performed prior to the FCC exempting vessels carrying cargo which may be hazardous to the environment.

Mr. Speaker, only by ensuring that adequately trained radio officers are on board ships to operate communications systems and to detect and repair electronic failures can we hope to effectively prevent future environmental disasters and loss of life at sea.

ST. PATRICK'S CHURCH IN FELLS POINT, MD, CELEBRATES ITS BICENTENNIAL

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize St. Patrick's Church in Fells Point, Maryland, on the celebration of its bicentennial.

For 200 years, St. Patrick's Church has attended to the needs of its congregation with the warmth and caring that only the church can provide. Founded in 1792 by Bishop John Carroll, the church has had several locations within Fells Point. The church currently stands at its fifth location, where it has been for 180 years. Rich in history, St. Patrick's Church was one of the first area churches to have a parochial school. Founded in 1815, the school was opened to educate the children of immigrants. During the later part of the 1800's, the church had two orphanages which later were closed during the World War II era. It is not hard for one to picture the scene of Fells Point on Baltimore's waterfront full of merchant trade from around the world and the arrival of immigrants to a young and vigorous nation.

St. Patrick's Church has indeed weathered the test of time. In 1983, the present church suffered a severe fire. The five-alarm fire took 135 firefighters and 45 pieces of equipment to extinguish the blaze. Three years later, after rebuilding, the church was rededicated on October 4, 1986.

The bicentennial of St. Patrick's Church is a proud and joyous occasion for the congregation and surrounding community. An important and established part of the community, St. Patrick's is a place of worship and a source of faith and guidance to many in the community. The health and vitality of the church is a great

concern of mine as the church has a profound impact on the well-being of our country. Without the church, we would indeed be a lesser nation.

As the proud author of House Joint Resolution 325, Religious Freedom Week, I take a special pride in the religious freedoms we enjoy in this country. Through their faith, charity, and reverence for God, St. Patrick's Church not only has made Fells Point a better community in which to live, but have made this a better nation as well.

Mr. Speaker, fellow colleagues, it is with great respect and admiration that I congratulate Rev. Blair Raum, the 15th pastor of St. Patrick's Church, and the parishioners, upon this momentous occasion. May God bless them in the years to come.

THE ARMED CAREER CRIMINAL CLARIFICATION ACT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. MOORHEAD. Mr. Speaker, I am today introducing legislation to strengthen efforts to implement Federal firearms laws when dealing with violent armed criminals. The Armed Career Criminal Clarification Act treats drug offenses as qualifying for the armed career criminal statute for Federal prosecution if the State offense would have been punishable by 10 years or more if it had been federally prosecuted.

The Armed Career Criminal Act [ACCA] was part of the Omnibus Crime Control Act enacted in 1984. The coverage of the act was expanded in the 99th Congress by broadening the class of predicate crimes that make an armed person a career criminal. The measure has given local and Federal prosecutors increased leverage against some of the worst habitual offenders of our criminal justice system. It mandates a 15-year sentence for an individual with three previous convictions for a violent felony or serious drug offense. A serious drug offense is one which, under either State or Federal law, carries a maximum sentence of 10 years.

Unfortunately, a similar sentence in California carries a maximum of only 5 years for a serious drug offense even though the same crime under Federal law carries a maximum sentence of 10 years. This lower penalty threshold enables a career criminal in California to easily avoid conviction under the Armed Career Criminal statute. The U.S. attorney's office for the central district of California reports there are hundreds of career criminal cases that involve not a first time offender, but a violent criminal or drug trafficker with a laundry list of firearms-related offenses, who continues to operate freely on our streets. Without corrective legislation, this loophole will continue to thwart any attempts by Federal law enforcement officials in California to fully enforce the true intent of the ACCA.

My legislation is intended to take the most dangerous and violent street criminals out of circulation and close the loophole in the current law which allows these individuals back in the public domain after serving only a few months of their sentence. At a time of increased drug-related gang violence across America, this legislation is urgently needed to allow Federal law enforcement to dismantle these criminal operations. In the first 9 months of 1991, there were 561 gang-related homicides in the Los Angeles area alone, most of which were committed with guns. In addition, there have been nearly 1,000 drive-by shootings. Authorities indicate that a majority of those who pulled the trigger in these cited instances of homicide have multiple convictions on their records already and most likely would not have been back on the streets shooting at innocent people, if the ACCA had been applied during their prior convictions.

We are not creating any new Federal offense or penalty with my legislation. We are just making sure that the existing Federal firearms penalties are applied evenly and across the board for those felons with long criminal histories. It is within the national interest to ensure that we have balance and uniformity in our sentencing procedures and deal in an equal manner with those habitual violent criminals who commit the same crime with the same culpability, regardless of whether they are operating on the streets of LA or the streets of Detroit.

Although my bill is narrowly drawn and only applies to a certain type of offender, who violates Federal firearms laws after they have already received three prior convictions, it is intended to apply to the most violent and habitual criminals, who are turning our streets into a war zone. The majority of the hard core criminals on the streets in Los Angeles are out there because we are not able to apply this provision across the board. My legislation would assist law enforcement officials at the Federal and local level and ensure the same minimum standard for the violent armed career criminal.

Mr. Speaker, violent crime continues to dominate our streets and our neighborhoods. Let's work together to close one of the loopholes that exists in title 18 of our Federal criminal statute. I urge my colleagues to support the Armed Career Criminal Clarification Act.

CENTRAL VALLEY FISH AND WILDLIFE ACT OF 1991

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. LEHMAN of California. Mr. Speaker, in California, water is a very valuable and scarce commodity. The State's rich diversity and tremendous growth have placed enormous burdens on its natural resources, especially water. Entering a potential 6th year of drought, California is grappling with ways to reconcile the needs of urban area, fish and wildlife, agriculture, and other concerns. Any legislation to address these competing interests must be balanced; unfortunately, though, a balance is difficult to strike.

Today, Congressman DOOLEY and I are introducing legislation that provides a realistic solution to address fish and wildlife problems in the San Joaquin Valley of California.

Senator BRADLEY has introduced sweeping legislation that allocates water in California for the enhancement of wetlands and the restoration of fish and wildlife populations. However, his bill would have a devastating impact on central valley farming communities. While Senator BRADLEY'S bill correctly focuses on a serious problem and appropriately draws attention to the magnitude of habitat degradation in the San Joaquin Valley, it requires that beneficiaries of the central valley project [CVP] bear all the burdens. I will oppose any proposals designed to protect fish and wildlife that have negative impacts that are much too costly.

In particular, I have fought attempts to severely limit water contract terms because the limitations would create substantial hardship for family farmers. I have also opposed the water to the highest bidder schemes proffered under the guise of reform which, in fact, move water from farm to city with no environmental benefits.

Everyone knows by now what we are against. This bill states that we are for.

We are for reforming CVP policies consistent with the goals of enhancing the environment and sustaining California's agricultural production at existing levels.

We are for placing a greater emphasis on water conservation while permitting water transfers both within and outside the central valley, if sufficient safeguards for water districts are established.

We are for including measures to alleviate the staggering overdraft on the east side of the valley by developing facilities to store or transfer water south of the San Joaquin/Sacramento Delta.

Yes, we are for additional environmental protection and mitigation but we believe that such policies must be established through negotiation and consensus, not through a process whereby one side dictates their version of solutions to the other side. We are for a balanced solution and the bill we introduce today provides specific, concrete measures by which to alleviate known strains on California's environment.

California agriculture must not be the scapegoat for damage caused by a myriad of activities and should not be used as the shill in a scheme to transfer water to cities. The needs of all parts of the State must be considered to develop a rational solution to the water problems facing the State of California. The Central Valley Fish and Wildlife Act of 1991 will accomplish these objectives.

TRIBUTE TO THE AFRO-AMERICAN NEWSPAPER

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Ms. NORTON. Mr. Speaker, I am pleased today to commemorate a century of outstanding journalistic service by the Afro-American newspaper as it celebrates its 100th year, and to pay special tribute to the paper's founder,

John Henry Murphy, a native of Baltimore, ings, they could rehabilitate watersheds and (6) Olympic Recreation Initiative ($150–

priced them with impunity, to the detriment of phan drugs, but ensure that commercially lu- A respect for the ideals of the Jesuits de-

VOL 137 PT 23 NO 21–25 1991 UMI

John Henry Murphy, a native of Baltimore, MD, who was indeed an exceptional and far-sighted man.

History documents that on March 19, 1864, as the Civil War raged in this country, young John Henry Murphy answered the call of President Abraham Lincoln and enlisted in Company G of the 30th Regiment Infantry, U.S. Colored Troops, Maryland Volunteers. He served with honor, and had risen to the rank of first sergeant by the time of his "mustering out" at Roanoke Island, NC on December 10, 1865. Some years following his return to Baltimore, Mr. Murphy bought a one-page news flyer which, over the years, he developed into the Afro-American.

By the time of his death in 1922, John Murphy was able to bequeath to his 10 children what by then was the largest black newspaper plant in the country, with a circulation of 14,000, operated and manned by 138 employees. Today, in addition to the Washington Afro-American, the Baltimore Afro-American, and the Richmond Afro-American, this far-reaching firm also publishes DAWN Magazine and Every Wednesday, a weekly newspaper in Prince Georges County.

Descendants of John Henry Murphy continue their ancestor's dedication to excellence as they fill active roles today in the publishing, editing, writing, and distribution phases of the paper. John Murphy's granddaughter, Frances L. Murphy II, a former professor at both State University College of New York and Howard University here in the District, is now publisher of the Washington Afro-American; her daughter, Frances Murphy Draper, is president and chief operating officer of the AFRO Group; Mrs. Murphy's grandson, Kevin Peck, is advertising manager of the Washington AFRO; and another of John Henry Murphy's greatgrandsons, John Oliver, Jr., is Chairman of the Board/Publisher.

I am sure, Mr. Chairman, that my colleagues will want to join me in saluting this extraordinary family newspaper and the exceptional family that founded it and continues to make it such a vital part of American journalism.

THE TIMBER RESOURCE EMPLOYMENT ENHANCEMENT (TREE) BILL

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mrs. UNSOELD. Mr. Speaker, in the Northwest it's increasingly clear that harvest levels on Federal and State timberlands will not be as high as they once were. But it's equally clear that the Federal Government should be fighting to provide jobs—real CCC-type jobs at real wages—for workers in communities that depend on those forests.

That's why I'm introducing a bill today I call TREE—Timber Resource Employment Enhancement. We have timber workers who won't be allowed to cut as much wood as they once cut, but that's no reason why they should have to pack up and go to the big cities to be retrained. They could construct forest buildings, they could rehabilitate watersheds and fisheries, they could build trails—and they could do it with wages that will support their families.

Sure, there's a cost to this, but welfare and bankruptcy and hunger and loss of self-respect cost more. The displaced workers from our Northwest woods don't want welfare checks; they want to work hard and take home a paycheck. We've got to set a national example in the Northwest and show how to put hard-working Americans back to work.

Attached, Mr. Speaker, are a summary of the bill and the text.

TREE SUMMARY

I. Short Title: Timber Resource Employment Enhancement Act (TREE).

II. Purpose: To restore and enhance federal, state, local government and private forests; and to maintain employment opportunities for people economically dependent upon these forests.

III. TREE.

(a) Definitions.

(1) Rural Community: (A) communities with fewer than 10,000 people, located in counties with at least 15 percent of the economy forest-based; or (B) counties with fewer than 22,550 people with at least 15 percent of the economy forest-based; or (C) communities with fewer than 20,000 people with at least 25 percent of the town's economy forest-based.

(2) Federal Forests: The twenty BLM districts and National Forests in which northern spotted owls are protected.

(b) Rehabilitation of Federal Forest Lands.

(1) Program: The Secretaries shall establish a program to rehabilitate federal forests which should include projects to: rehabilitate watersheds and fisheries; implement New Forestry; construct and rehabilitate facilities; enhance wildlife habitat; improve, reconstruct, or remove forest roads or trails; and improve timber stands in areas likely to be available for timber production in order to increase productivity and ensure healthy forests. (2) Authorizes $100 million per year each fiscal year 1993–97, only 5 percent of which may be spent on administration.

(c) State and Private Timberland Enhancement Program.

(1) Program: The Forest Service's State and Private Forestry will establish and carry out a program to increase timber production on state, county and private lands. Projects will improve timber stands; restock and reforest lands; assist in implementation of federal and state legal requirements for fish and wildlife protection; improve wood utilization in forests and mills. (2) Authorizes $30 million per year for each fiscal year 1993–97, only 5 percent of which may be spent on administration.

(d) Local Contracting Preference.

(1–3) The Secretaries shall give contracting preference for jobs associated with this legislation to people who have resided in "rural communities" (defined above) since January 1, 1988, or contractors who hire such people.

(e) Olympic National Forest Model Program: The Secretary, through the Olympic National Forest Supervisor, shall establish the following programs (for fiscal years 1993–97):

(1) Specialized Forest Products ($250,000/year).

(2) Facilities Repair and Maintenance ($4 million/year).

(3) Watershed Initiative ($2–6 million/year).

(4) New Forestry Initiative ($500,000/year).

(5) Silvicultural Projects ($600,000/year).

(6) Olympic Recreation Initiative ($150–$800,000/year).

BRING DRUG PRICES DOWN: END ABUSES OF THE ORPHAN DRUG ACT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 25, 1991

Mr. STUDDS. Mr. Speaker, I am introducing legislation today to reform a critical and well-intended Federal law originally enacted to spur the development of drug therapies for rare or orphan diseases. Contrary to both the needs of desperately ill people and the intent of Congress, the law is being abused to shield extremely profitable drugs from competition.

The 1983 Orphan Drug Act provided incentives to stimulate development and market availability of drug therapies used to treat rare diseases. The most important of these incentives is the provision of a 7-year period during which a company is granted the exclusive right to develop and market a particular drug for a specific illness. These drugs are considered unprofitable because the small market assumed to exist for them makes it unlikely firms would generate sales revenues to recoup their often considerable costs in research and development.

By most accounts, the law has been a success. Prior to its enactment, few companies invested in development of orphan products. Now, according to a recent pharmaceutical industry survey, roughly 200 orphan drugs are in development, 450 products have been designated as orphans, and 65 orphan products have been approved for marketing.

One such product is phosphocysteamine, an orphan drug for cystinosis, a terrible illness afflicting a youth in my district, Shea Hammond of Falmouth, MA. Were it not for the orphan drug law, drugs like this one helping Shea might never be developed.

There are more than 5,000 other orphan diseases, ranging from lupus and multiple sclerosis to obscure maladies like neurofibromatosis and scleroderma. Individually each orphan disease strikes relatively few patients, but together they afflict 20 million Americans.

However, the law's salutary effects in correcting the failure of the free market to spur development of bona fide orphan drugs are being undermined by the market monopolies being granted for very profitable drugs. At least drugs considered to be commercial blockbusters within the drug industry were granted designation by the Food and Drug Administration [FDA] as orphans.

Due to unforeseen loopholes in the law, the manufacturers of these drugs are enjoying lucrative market exclusivity despite their proven commercial value. In fact, these products—human growth hormone, erythropoietin and aerosolized pentamidine—were well under development before they were swept under the purview of the act.

I have nothing against profits, Mr. Speaker, but a prime reason these products are so lucrative is because drug companies have

priced them with impunity, to the detriment of desperate patients, and all under the protection of the 7-year orphan drug monopoly. One drug, ceredase, a breakthrough treatment for Gaucher's disease, costs $350,000 per year. These companies are profiting because potential competitors are frozen out of the market.

One such competitor is Serono Laboratories, Inc., of Norwell, MA. The firm manufactures human growth hormone—one of the products in question—a designated orphan drug for the treatment of pituitary dwarfism, which affects some 10,000 youngsters. Because another company enjoys exclusive rights under current law to sell this drug in the United States, the company was compelled to lay off 34 employees last spring.

The case of human growth hormone is perhaps the most egregious abuse of the Orphan Drug Act thus far. Incredibly, there were five companies—not just one—rushing to develop this drug before the orphan drug law was even enacted. Obviously, in contrast to companies developing true orphan drugs, the act's incentives had nothing to do with the development of human growth hormone.

The legislation I am introducing today is intended to address precisely these abuses, and to increase competition where an orphan drug's commercial value is demonstrable. By stimulating competition, this legislation should, lead to lower prices for several costly and important drugs—costs which are increasingly being borne by the public through Medicare and Medicaid.

Under my bill, orphan drugs with cumulative sales above $150 million would lose their market exclusivity. The measure includes a provision to permit an additional $50 million in monopoly revenues when the orphan drug's manufacturer can certify that a drug's development costs exceeded $100 million.

In effect, this would create a $200 million sales trigger, which, once reached, would authorize the FDA to approve other manufacturers' versions of an orphan drug.

A bill approved in the 101st Congress would have addressed some of these questions. Although the administration was deeply involved in striking the eventual compromise on orphan drug reform last year, President Bush unexpectedly vetoed it at the behest of the Vice President's Council on Competitiveness. In my view, that veto—and the FDA's continued reluctance to consider reforms of the orphan drug law—show that the concerns of patients about unjustified orphan drug monopolies and exorbitant drug prices are falling on deaf ears in this administration.

The National Organization for Rare Disorders [NORD], led by its able spokeswoman, Abbey Meyers, has long sought reforms of the act. NORD, which represents 20 million Americans with rare, often crippling diseases, believes my bill would preserve the law's critical incentives for research and development of orphan drugs, but ensure that commercially lucrative drugs do not receive the law's special protections.

Mr. Speaker, Congress must act to restore the Orphan Drug Act to its true purpose: To ensure that therapies for rare ailments are developed and that patients whose lives may depend on them have access to these therapies. I will be working in the months ahead to move this legislation forward.

Mr. MINETA. Mr. Speaker, this month marks the passage of 2 years since Salvadoran military officers murdered six Jesuit priests attached to the University of Central America, their cook and their cook's daughter.

Since that time, peace negotiations have continued intermittently while the civil war in El Salvador has dragged on, killing thousands of people.

I would like at this time, Mr. Speaker, to remember these eight men and women out of the thousands that have lost their lives.

I would like to memorialize Fathers Ignacio Ellacuria, Ignacio Martin Baro, Joaquin Lopez y Lopez, Juan Ramon Moreno Pardo, Segundo Montes Mozo, and Amando Lopez Quintanilla. I would like to remember their cook, Mrs. Elba Julia Ramos, and Celina Marisela Ramos, her daughter.

The deaths of these people have been especially immediate for me, Mr. Speaker. Three of these men were graduated from the University of Santa Clara, which I am privileged to represent. The university has been a leader in bringing justice to Central America for years and indeed, has supplied many faculty members to the Jose Simeon Canas Central American University, where the Jesuit priests and their companions were slain in November 1989.

Mr. Speaker, we must remember these eight people because their killers have not yet been brought to justice. The conviction of Col. Alfredo Benavides of their murders represent not a grand triumph of the Salvadoran judicial system as some have claimed, even though a senior member of the military was found accountable for their crimes for the first time.

Rather, it shows the shortcomings of a judicial system that bows to pressure from influential citizens and government officials. Soon after Judge Ricardo Zamora sentenced Colonel Benavides, he left El Salvador for Europe. Anonymous enemies had threatened his life.

It is a tribute to men like Judge Ricardo Zamora that even a portion of the wrongdoings of the Government of El Salvador have been brought to light. They, like the Jesuit priests who died at the hands of the Salvadoran military, are dedicated to bringing the truth into the open.

Governments that lie to their citizens and to the world should not rule, yet they can muzzle free debate with violence and intimidation. It is incumbent on people who can speak freely to stand up for the truth in El Salvador.

A respect for the ideals of the Jesuits demands that we continue to press for social justice in El Salvador. If the Salvadoran Government lies to its people, we should try to tell the truth. If the Government covers up its crimes, then we should help those who want to reveal them.

The six Jesuits who died with their two companions 2 years ago knew that the future of El Salvador lies in including all people in the political processes of that nation, not excluding them. It lies in equity, not inequality. And it lies in truth, not dissimilation.

The loss of the six Jesuit priests still saddens the faculty and students of Santa Clara University and occupies the thoughts of the people of the surrounding Santa Clara Valley. These people are watching El Salvador to witness progress or inertia there. They stand vigil in memory of brave men who died for their principles.

And as we remember the sacrifices of the six Jesuit priests, let us also remember the tens of thousands of victims on whose behalf they worked. Thank you very much.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 26, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 5

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the Department of Defense hospital and medical supply system.
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VOL
137

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FIRST SESSION

VOLUME 137—PART 24

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VOL
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Congressional Record

PROCEEDINGS AND DEBATES OF THE 102^{d} CONGRESS, FIRST SESSION

SENATE—*Tuesday, November 26, 1991*

(Legislative day of Saturday, November 23, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Because that, when they knew God, they glorified him not as God, neither were thankful; but became vain in their imaginations, and their foolish heart was darkened. Professing themselves to be wise, they became fools * * *—(Romans 1:21, 22).

Eternal God, Creator, Sustainer and Consummator of history, the Apostle Paul reminds us that to be ungrateful is to forget the blessings of God which come to us daily. In effect, we assume the plenty that surrounds us is the result of our own efforts and genius. Forgetting the resources which God alone gives, we fail to express our appreciation to Him. Give us grace this week to examine our lives in light of all the blessings of life and liberty which come to us with such common regularity. And forbid that familiarity with these blessings should make us indifferent to Your love, Your goodness, Your mercy.

"O beautiful for spacious skies,
"For amber waves of grain,
"For purple mountain majesties
"Above the fruited plain!
"America! America!
"God shed His grace on thee,
"And crown thy good with brotherhood
From sea to shining sea!"

("O Beautiful for Spacious Skies," Katharine L. Bates, 1893.)

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 26, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SCHEDULE

Mr. MITCHELL. This morning, following the period for morning business, which will continue until 10:30 a.m., under the order entered yesterday at 10:30, the Senate will proceed to the consideration of H.R. 3595, the Medicaid moratorium legislation. There is the likelihood of votes, if amendments are offered to the bill this morning; and as of late last evening, I anticipate that there will be some amendments. Under an order entered yesterday, I received the authority to proceed to the unemployment compensation conference report at any time today following consultation with the Republican leader.

It is my hope that we will be able to proceed to that bill today. And, under the order entered last evening, the Senate will be in recess from 12:30 p.m. until 2:15 p.m. to accommodate the party conferences.

As I indicated yesterday, and on each of the previous days, it is our hope to be able to complete the necessary action before the Senate in time to adjourn for the Thanksgiving Day recess. If we are to do so, I think we all know that it means a very long day today, possibly stretching into tomorrow, and so Senators should be aware of that in preparing their schedules for the next 24 hours. There could very well be votes throughout the day and the evening, today and tomorrow.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL addressed the chair.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The chair recognizes the majority leader.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be deemed approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware, Senator ROTH.

'TWAS THE NIGHT BEFORE RECESS

Mr. ROTH. Mr. President, on this day, the day before we are expected to recess, I have authored a verse for my colleagues in both Chambers, as well as our friends at the other end of Pennsylvania Avenue. My poem is called, "'Twas the Night Before Recess."

'Twas the night before recess and all through the land
The economy was stagnate, employees were canned.
The Congress was wrapped up all tight in its words;
At home angry voices of voters were heard.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
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While lobbyists with smiles and special interests with grins
Went off to vacation to boast of their wins.
When out in the States there arose such a clatter;
People were sick of political chatter. .
Polls all reported rebellion ahead;
For Congress the choice was be quick or be dead.
Tax cut talk flew both furious and fast,
While in hallowed chambers Members sat on their * * * chairs!
The White House was silent until the Union they would State,
Hoping by then the problem would abate.
When, what to my wondering eyes should appear,
But born-again taxcutters to allay voter fear.
More rapid than eagles the cutters they came,
Each whistling and shouting and calling his name:
Now Clinton, now Bradley, now Downey and Gore;
On Rosty, on Cuomo, on Moynihan, more.
From children's tax credits to rates that will fall
Now, cut away! Cut away! Cut away all.
Their voices were many, their attempts so sincere,
But the fact of the matter was recess grew near.
Congressional bags packed, plane engines they roared;
Off to their Thanksgiving turkey they soared.
So back to their districts the Congressmen flew
With bags full of goodies and porkbarrel, too.
While out in the heartland taxpayers were pinched;
Instead of receiving they felt rather grinched.
Despite all the rhetoric, it was more of the same:
The spending continued but no tax cut came.
The voters were weary, anger in mass,
They said give us relief or you're out on your * * * chair!
Perhaps this time their message will be heard
And Congress will come back to live up to its word.
It can be done, it's been done before,
Kemp-Roth brought recovery—jobs, growth and more.
I know I'm no poet, but my tax message is clear:
If we don't cut them now we must cut them next year.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. Senator BINGAMAN is recognized.

INDIAN ARTS AND CRAFTS ACT OF 1990

Mr. BINGAMAN. Mr. President, as we near the end of the 1st session of the 102d Congress, I would like to draw the attention of my colleagues to a bill we passed in the closing hours of the 101st Congress: the Indian Arts and Crafts Act of 1990. I would like to urge my colleagues to work with me, with the administration, and with American Indian tribal leaders, artists, and crafters to ensure that the rights of individual artists are not trampled in the effort to enforce this law.

Known today as Public Law 101-644, the Indian Arts and Crafts Act of 1990 was introduced and enacted with the best of intentions. Its purpose was clear and laudable: To prevent fraud in the Indian arts and crafts market and to preserve and foster traditional American Indian arts and crafts. I support these goals wholeheartedly, and I have worked since coming to the Senate in 1980 to enact legislation and gain enforcement of policies aimed at putting an end to the counterfeiting of American Indian arts and crafts. Because of this great concern, I am troubled by reports I have heard recently about the disruptive impact misapplication of this legislation is having in my home State of New Mexico and in art centers around the country.

After looking into these reports, observing the act in practice in New Mexico and other States, and discussing it with some of my Indian constituents, I have reached the conclusion that the Congress—and the American Indian community—should take a serious, in-depth look at this legislation. We should thoroughly discuss its provisions and explore all its potential effects on Indian artists and Indian tribes. Then we should make an educated decision about whether the act should be allowed to stand as is, or whether it should be amended or even repealed. During the upcoming recess, I will undertake such an examination. I will discuss this legislation with Indian leaders, Indian artists, and other concerned individuals and organizations in my State. Then I will decide whether I think we can find a more effective, less divisive way to protect both the consumers and the practitioners of traditional American Indian arts and crafts.

Mr. President, let me briefly explain this act: Public Law 101-644 makes it unlawful for anyone to sell or offer to sell any work of art as Indian made, or as an Indian product, or the product of a particular Indian or Indian tribe, unless the artist who produced it is an enrolled member of a federally or State-recognized Indian tribe or has a certificate from a tribe stating tribal affiliation. Severe criminal penalties—up to $250,000 and 5 years in jail for the first offense—are imposed for violations of the act. A civil cause of action is given to the attorney general and Indian tribes to be brought on behalf of a tribe, an individual tribal member, or a tribal arts and crafts organization.

Unfortunately, this seemingly innocuous statute has proved to be disruptive to Indian arts shows and galleries. The act's somewhat vague definitions and broad scope are beginning to polarize Indian artists, tribes, museums, and gallery owners; and by all indications, the situation will probably grow worse over the next few months as the Department of the Interior attempts to draft implementing regulations. Instead of helping to improve the economic status of American Indians, I believe the long-term effect of this act could be to significantly harm individual Indian artists and entire Indian tribes. If it is ever fully implemented as currently drafted, I believe this act could deprive tribes of some of their constitutionally guaranteed right to sovereignty and could rob many American Indian artists of their livelihood and their right to free speech, simply because they are unable or unwilling to produce, upon demand, a card documenting their ethnicity.

Already, a number of well-respected Indian artists with longstanding careers have been labled fake Indians because they do not have tribal enrollment cards, yet continue to truthfully discuss their ethnic and cultural heritage in connection with their art. In New Mexico, self-appointed art police are approaching gallery owners and operators of art shows implying that they will suffer grave legal consequences if they do not remove the work of the so-called fake Indians. In my view, the act as it currently exists could be setting the stage for battle: already, widely publicized disputes have erupted over the definitions of real "Indian art" and real "Indians." All of this is far removed from the original intent of the act, which was simply to prevent non-Indians from making products that appeared to be genuine, traditional Indian arts and crafts that deceive consumers and deprive legitimate Indian crafters of their rightful place in the market.

I am troubled, Mr. President, because I believe the act raises serious constitutional questions. Its current language is very broad and appears, to me, to limit freedom of speech. Under the act, even truthful comments about one's cultural heritage could be unlawful if the speaker—the artist—does not back his comments and work with an Indian census card or certificate. As every first year law student knows, when the Government acts to curtail speech, even in a commercial context, the regulation must be drafted as narrowly as possible to achieve the legitimate legislative goal. I fear, however, that the 1990 act may violate this fundamental principle because it clearly attempts to regulate both traditional Indian arts and crafts, such as Navajo rugs and Zuni jewelry, as well as non-Indian fine art, such as paintings and sculptures. These sculptures, oil paintings, water colors, and other types of European-influenced art forms have been widely adapted for artistic expression and sale by Indians and others, and they are included within the scope of the act. Yet, in my view, a clear, significant difference exists between fine art and traditional arts and crafts.

The fine arts market simply does not need the same type of protection needed in the market for traditional Indian crafts. In the latter market, a great deal of the inherent value of the work comes from its genuineness. People who travel to New Mexico to visit and purchase traditional Indian art, such as Navajo rugs or Acoma pottery, do so in some substantial part because their purchases represent the American Indians' unique contributions to our national culture. In addition to beauty, traditional Indian art represents a unique and irreplaceable way of life. Similar pieces made by non-Indians, or Indians of tribes for which the particular art has no inherent significance, would simply not be as valuable, no matter how skillful the imitation.

In fine art, however, the same criteria do not apply. The value of the works are more exclusively in their aesthetic appeal, or value as investments, rather than in the cultural identity of the artist. For example, there is no identifiable style of Acoma oil painting, as there is with Acoma pottery. People cannot readily be deceived into believing that they are purchasing genuine Acoma oil paintings in the same manner that they can be deceived into thinking they are purchasing genuine Acoma pottery.

Attempting to regulate fine art as we do traditional crafts has, in my initial view, merely injected Congress into the debate over who has the right to call himself or herself an Indian and whose style of painting or sculpture is more true to the Indian sensibility. I do not believe the Federal Government belongs I that debate. It is a debate left, under the Constitution, to the Indian tribes as sovereign entities. And to the extent the Indian Arts and Crafts Act of 1990 involves us in that debate, I believe it should be repealed or amended.

In addition to these problems, I believe the act, as it is now being implemented, has the appearance of creating categories based on racial characteristics. To the courts, all such categories are inherently suspect and subject to strict judicial scrutiny. Although I have not yet thoroughly examined every constitutional argument to the contrary, I am inclined to believe that the act may not survive such scrutiny when the inevitable legal challenge comes. If this is true, it would most definitely save time, expense, and a lot of heartache for all concerned, if we, in the Congress, began working to correct the mistakes of the 1990 act as soon as the second session of the 102d Congress convenes early next year.

Basically, the act creates a distinction between artists who can label their work "Indian" and those who cannot. The classification is predicated upon enrollment in, or certification by, a recognized Indian tribe. The purpose of the classification is to protect the Indian arts and crafts market from "non-Indian" counterfeits. However, and for several different reasons, the fact is that many American Indians are not enrolled in their respective tribes.

Historically, some Indians have been dissuaded from enrolling by officials who sought to keep enrollment numbers low. The nature of some reservations, where people often lead isolated lives, discourages registration and the documentation necessary to achieve it. Early on, many Indians were reluctant to enroll due to distrust, or fear, of white government. Also, philosophical, cultural, and political reasons have made some Indians reluctant to participate in registering themselves. It is offensive to some that they must be enrolled on a governmental list and assigned a number to claim their cultural and ethnic birthright. For an example of some of these reasons, and their effect, I respectfully request that an article from The Indian Trader, dated August 1991, be printed in the RECORD at the conclusion of my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1)

Mr. BINGAMAN. Mr. President, obviously, such nonenrollment has nothing to do with genuineness of the artists' relationship to their tribes or the Indianness of their artwork. Yet, in the absence of enrollment, these artists are totally barred from asserting their ethnic heritage as part of a discussion of their art. It is true that the act authorizes nonenrolled artists to seek certification of their standing as Indian artisans from their respective tribes. But the exact same reasons that militate against enrollment also militate against applying for certification. Certification provides no relief for artists who religiously or philosophically oppose having to join a group to assert heritage, nor does it remedy the situation of artists who lack the paper credentials to achieve certification. The act, therefore, could disenfranchise authentic Indian artists from asserting their heritage in the name of protecting the market from counterfeits. And in my view, it may not be sufficient to allow the act's language to stand and state, instead, in regulations or floor statements that nonenrolled Indians can go on with their art, so long as they refrain from talking about it in connection with their heritage. No other artist suffers this restriction.

My initial analysis has also led me to conclude—perhaps incorrectly and I would appreciate discussing this with my colleagues—that the act appears to create other forms of classification based on race, and that it may unconstitutionally delegate Congress' authority to recognize Indian tribes. Mr. President, I understand that under existing law a court could certify the act's classifications as political, rather than racial, and thus find them technically permissible. But when the effect of the classifications is so immensely harmful and their appearance so extreme, I believe the underlying act merits reexamination. In retrospect, the classifications may be deemed unnecessary or in need of amendment or clarification.

With respect to this act, I would like to discuss three classifications:

1. INDIAN AND NON-INDIAN ARTISTS AND CRAFTERS

Under my interpretation of the act, only nonenrolled, or noncertified, Indians are prohibited by law from discussing their heritage in connection with their art. Enrolled Indian artists, and all non-Indians, are allowed to freely express themselves about the relationship between their heritage and their art without fear of imprisonment or lawsuit. In my view, it simply is not sufficient or logical to say that nonenrolled Indians can continue with their art, so long as they refrain from talking about it in connection with their heritage. As I stated earlier, no other artists suffer this restriction. No law requires Americans of Irish descent who record Irish folk music to be certified as genuine Irish-Americans. Nor are African-Americans who market African design clothing required to carry papers showing that they are African-American. How can we, in good conscious, impose such a burden on Indians, who like the Mestizos of New Mexico can trace their heritage in this land to the 15th century and beyond, but because of centuries of mixed Spanish and Indian blood belong to no formally recognized Indian tribe? Yet, this is what we have done.

Unfortunately, the act appears to create the odious spectacle of requiring American citizens to carry paperwork establishing their racial or ethnic purity before they can fully practice their chosen profession. Only Indian artists are required to meet this burden. However laudable the underlying goal of the act, this classification is precisely the sort of intentional, insidious separate treatment based on the race that the Constitution, in all other cases, forbids.

2. DISCRIMINATION AGAINST ARTISTS OF CERTAIN TRIBES

The 1990 act requires enrollment, or certification, as a perquisite to adopting the label Indian artist; and, therefore, appears to discriminate against members of certain tribes who have chosen art as their profession. This is because each tribe sets its own standards for enrollment as an act of its inherent sovereignty. These standards vary widely. One tribe may require merely one sixty-fourth tribal ancestry—or blood quantum—for enrollment, and another tribe may require one-third, or, one-half, or whatever level it deems fit. Some tribes do not base enrollment on blood quantum; they base enrollment on treaty signatories or on parental lineage at key times in the tribe's history; thus hav-

"But I'm sure that there are artists out

Nation's economic system. It was true

ing the effect on denying one tribal member an enrollment number, while granting a number to another tribal member with a blood quantum level equal to—or even less than—the denied member.

For political, cultural, and historical reasons, some tribes seek to encourage enrollment and others do not. Mr. President, I do not mean to diminish the tribes' right to make this type of decision. I fully respect and will always defend their sovereign right to do so; I am merely pointing out the application of these facts in the context of this act and an individual Indian's decision to pursue an artistic career.

I believe the act creates the very real possibility of one Indian artist being able to speak freely about his culture and his art, while another Indian artist of the same quantum of Indian ancestry, but from another tribe, could be jailed for doing so. The only difference between them is tribal affiliation. The solution to this dilemma, according to the Department of the Interior-Indian Arts and Crafts Board's "fact sheet" is to compel all Indian tribes to adopt the same criteria for tribal "certification." This is the goal the arts and crafts board has announced it will work toward in January. But in my view, it is a goal the Congress must reject and a solution the tribes should renounce because of the degree to which it infringes on each tribe's inherent sovereign right to set its own standards for membership.

3. DISCRIMINATION AGAINST INDIANS WHO CHOOSE ART AS A PROFESSION

Finally, Mr. President, I want to discuss the fact that only Indians who choose artistic careers are required by law to show proof of heritage before making reference to their identity in connection with their work. For example, in my home State of New Mexico, we have some law firms that represent themselves as specializing in Indian law and, in one instance, as "an Indian law firm." These attorneys are not required to certify their degree of Indian blood, nor must they carry any special paperwork to hold themselves out as Indian lawyers. Obviously, if such an attorney misrepresented himself, he would be subject to ethical sanctions and other legal action from those injured. But the sanctions would flow from the deceit, not from the attorney's heritage. Under the Indian Arts and Crafts Act, however, an Indian of the same blood quantum as the Indian attorney, but who lacks an enrollment card, is subject to punishment for honestly discussing his heritage.

Mr. President, I find myself wondering if any of these classifications are necessary to achieve the goal of eliminating fraud in the Indian arts and crafts market. Perhaps that goal can be achieved, as some have speculated, by more vigorously enforcing the prohibition against misrepresentation found in the original Indian Arts and Crafts Act. Certainly, this is something we need to look into, and if lax policies exist, we need to make changes. Additionally, since the House committee reports accompanying the 1990 act devote considerable attention to the problem of imported Indian arts and crafts imitations, perhaps we need to look into strengthening the Commerce Department's authority to regulate the importation of Indian-style crafts.

Between 1984 and 1988, I worked with my colleague from New Mexico, Senator DOMENICI, to ensure that the Commerce Department had the authority—and that it exercised that authority—to strictly regulate the importation of native American-style jewelry. Our amendment to the omnibus trade bill specifically directed the Department to promulgate regulations requiring the permanent marking of country-of-origin on imported Indian-style jewelry. Those much-needed and long-awaited regulations were just beginning to be implemented when the Indian Arts and Crafts Act of 1990 was introduced in the House.

Mr. President, I have talked long enough. The Congress is on the eve of adjournment for the balance of this year. I will conclude by pledging that during this recess, I will discuss this act with Indian leaders and Indian artists in my State and throughout the country. When we reconvene next January, I will work with the distinguished chairman and members of the Select Committee on Indian Affairs to ensure that we meet—and preserve—the original intent of the 1990 act. And as I have done in the past, I will continue to work toward the goal of protecting traditional Indian arts and crafts without abridging any individual's constitutionally protected freedoms. I urge my colleagues to join with me in the next session to cure the act's defects, clarify its objectives, and take positive action to protect all Indian artists and consumers of Indian arts and crafts from fraud and deception.

EXHIBIT 1

[From the Indian Trader, August 1991]

NEW INDIAN ARTS AND CRAFTS ACT BRINGS DISSENSION

OKLAHOMA CITY.—Bert Seabourn was an Indian first and then an artist. But because of a new federal law, he no longer can claim to be an Indian artist.

Throughout the United States, but primarily in the Southwest, dozens of Indian artists such as Seabourn are snared by a law that was designed to protect them from look-alike imitations, much of it from the Orient. Instead, they say, the law is hampering their efforts to earn a livelihood and is dividing Indian from Indian.

"It has caused a lot of confusion, a lot of bad will," said Shirley Wells, owner of an Indian art gallery at Sapulpa in northeast Oklahoma. "Some innocent people are being hurt and the law doesn't really help anyone."

The Indian Arts and Crafts Act of 1990 specifies that nothing can be claimed to be Indian-made unless the artist can prove Indian heritage. Both the artist and gallery can be fined for violations up to $10,000 in some instances.

Seabourn and the others do not have that documentation, the so-called "Indian card" that fits in a billfold and lists the degree of Indian blood. That card is the passport to the free benefits available under federal law.

Their ancestors, because of distrust of the white government, pressure or a lack of knowledge, never signed the government rolls. That signing was what started the documentation process that led, generation by generation, to holders of today's Indian cards.

"I don't know if my ancestors even knew about it," said Seabourn, whose work hangs in the Vatican's permanent collection. He said his Cherokee ancestors were farmers down in Texas, many days' ride from where the rolls were being signed in northeast Oklahoma.

PROVISION MADE FOR CURRENT ARTISTS

The law does make provision for established artists that do not have their documentation. It allows federal- or state-recognized tribes to decide whether someone can be called an artist from that tribe.

A special committee set up by the Cherokee Nation studied Seabourn's case and recommended unanimously that he be granted such recognition.

But some tribal members protested the ruling. They contended that the committee was deciding who could be a Cherokee and that certification decisions should be voted on by tribal members.

A week later, Principal Chief Wilma Mankiller vetoed the resolution and proposed instead that Seabourn be named a goodwill ambassador for the Cherokee Nation.

IN DANGER IF THEY TOLD

Seabourn, who through the years has donated supplies and works to the Cherokees and conducted art classes for them, said lack of knowledge wasn't the only reason the rolls weren't signed. He said other Indians at that time still remembered the tales told by relatives and friends of their forced removal from their homes in the Southeast and elsewhere.

"So many of the old people felt they were in danger if they wrote down where they were," added Woyneve Cassidy, a stained glass artist from Pagosa Springs, Colo. "I understand that."

But Ron English, a Chippewa painter and a former leader of the militant American Indian Movement, sees it differently. He says undocumented Indians were the result of "people who did not want to be identified as Indians when it wasn't a good idea to be Indian. Now they want back in" when much of that stigma has been erased.

A PROUD PEOPLE

"Indians are a proud people and know enough not to go where they are not wanted," English said. "If I am not wanted in a show, I will go away. I will not gripe. I have to live with myself. I have to be able to sleep at night."

One thing is certain. The law has made artists and galleries alike wary of what they say.

At this year's Red Earth celebration in Oklahoma City, billed as "America's largest Native American festival," prospective buyers were given a disclaimer stating that the art was not guaranteed to be "produced by, or products of, an 'Indian,' as that term is defined" in the law.

Similar disclaimers have been posted in many galleries, and some galleries have even gone to the extraordinary lengths of placing similar notices on individual shelves of "Indian" works.

Seabourn said he had taken the additional step of writing each gallery that handles his work, offering to remove it. In each case, he said, the galleries said they wanted to keep representing him.

Because of the new law, Red Earth this year decided originally to ban all artists who did not have their proper documentation. Festival planners later relented to the extent that they allowed those who had exhibited there previously to exhibit again this year, once the disclaimers were printed.

The change in mind did not come soon enough to allow Seabourn and several others to get back into Red Earth. They already had committed to an alternate showing several blocks up the street specifically for those without Indian documentation.

There is a lot at stake.

Indian art in the past 20 years has moved from tourist trinkets and road stand souvenirs to highly sought after—and expensive works ranging from the traditional to the most modernistic. It is not unusual to see paintings sell for $5,000 and up, prints starting at $100 and sculpture at $15,000 and above.

Artists work in all mediums, from oils and water colors to welded iron.

The popularity of Indian art has prompted some galleries and museums to open Indian wings, and the desire for Indian art has spread outside the continental boundaries. Doc Tate Nevaquaya, an Indian painter who lives in southern Oklahoma, has sold a painting to Queen Elizabeth II: Other Indian artists have had showings in Great Britain and the Orient.

Rep. Ben Nighthorse Campbell, D-Colo., the only Indian member of Congress and an artist, co-sponsored the Indian Arts and Crafts Act of 1990 in an attempt to make sure that only true Indians could mine this bonanza. The act, in reality, is just a strengthening of a law first passed in the 1930s.

"The act was designated to be as inclusive as possible and to protect the Indian artist," said Carol Knight, Campbell's press secretary. "It is a huge business. It's just simply not fair to a true Indian artist to have other people selling things they're claiming is Indian-made."

A CONSUMER PROTECTION BILL

As for changes in the law to take care of situations such as that of Seabourn, Ms. Knight said: "The Indian tribes are sovereign. They have sole control over their internal operations. Whenever you're dealing with Indian legislation, you have to deal with sovereignty. You can't pass a law in Washington to tell the tribes how to deal with this."

Some Indian artists dismissed the new law as only a "consumer protection bill" that did nothing to help them. Still others said it would devalue the works of artists who, like Seabourn, could no longer claim to be Indian artists.

"I don't think anyone buys Indian art because the artist is an Indian," Wells said. "They buy it because of the artist, the technical aspects of the painting. I don't think the value increases or decreases because the artist is an Indian or not."

Ms. Knight and several gallery owners said that, as might be expected from the state with the largest number of federally recognized Indian tribes and a large number of Indian residents, Oklahoma has generated the most protests to the new law.

"But I'm sure that there are artists out West who have been hurt that we don't know about," Ms Wells said.

SOME NOT HAPPY WITH THE NEW LAW

Even some of the Indian artists who have their card aren't happy with then new law.

It took artist Nick Brokeshoulder about two months to complete the paperwork needed to gain admittance to some art works. Brokeshoulder, a young Hopi from Arizona, carves traditional kachina dolls, the representatives of Hopi gods. "Why do I need to prove it when I know I'm an Indian? Black artists aren't asked to prove they're African-Americans."

Benjamin Harjo Jr. of Oklahoma City, the grand award art winner at the 1988 Red Earth, was even more outspoken.

"I think the government was concerned that the Indian people are making this money," Harjo said. "They came up with this law to further divide the Indian people."

Even state Sen. Enoch Kelly Haney, the only Indian artist in the Oklahoma Legislature and a supporter of the law, said he though some changes needed to be made. And he does not doubt that Seabourn is an Indian, despite the lack of documentation. Haney is a Creek-Seminole.

Indian people respect the words of their elders, and the last word may have come from George "Woogie" Watchataker, a 75-year-old Comanche painter.

"Anyone can go ahead and paint Indian if they want to," Watchetaker said.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 2056 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who seeks recognition?

The Chair recognizes the Senator from Idaho, Senator CRAIG.

ECONOMIC PROBLEMS

Mr. CRAIG. Mr. President, a lot of people are looking for a new idea to solve our Nation's economic problems.

Maybe we should try an old idea instead. Sometimes they work better. And when I say "old," I mean a really old idea—a couple of hundred years. In fact, it was only 10 years after our Constitution was written that Thomas Jefferson said:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of the Constitution; I mean an additional article taking from the federal government the power of borrowing.

The point of Jefferson's statement is far more profound than any of the statutory tinkering with the budget that we have seen in recent years. And it is certainly relevant to the challenges facing us today. No matter how complex we might make the relationships seem between modern economic forces, some basic premises are as true as they were 200 years ago: The impact of Federal fiscal policies is a matter of revenues and expenditures, and when we spend more than we have, we upset our Nation's economic system. It was true then. It is true now. It simply has not changed.

I might add, there are also certain political realities that have not changed. Without a spending limitation, Members of Congress can accommodate one spending interest and gain political capital without reducing other spending programs and facing political disadvantage that can result. The political costs of excessive spending are deferred, resulting in deficits and ultimately higher taxes—while the political benefits of the spending are immediately enjoyed by those affected by the program and the Members of Congress who supported it. Year after year we have fresh proof that, no matter how bad times get, politicians will never give up their right to attempt to purchase votes by borrowing dollars from the general economy.

Statutory reforms by themselves, whether in tax law or spending restraint, are not capable of exchanging the basic forces of Federal fiscal policy. These reform proposals are all embrace an underlying assumption that a new fiscal responsibility can result if we can simply control these forces. Looking for some lasting economic guarantees, to form a Federal Government that is politically driven to withstand spending impulses simply does not work. The motivation is never there, because, Mr. President, as we have seen in the past and as we are seeing now we can always pass go.

Mr. President, there is nothing more certain to keep the engine of American economic prosperity moving than the basic principles of individual free enterprise, and there is nothing more certain to provide for that than a return to the principles Jefferson spoke of. To do that, we need to enact an amendment that fundamentally changes the focus of the forces that shape Federal budgetary policy—an amendment endorsed by a majority of the American people and a majority in Congress—an amendment that is not a "new idea" but is nevertheless, in my opinion, a good idea.

What I mean, of course, is the balanced budget/tax limitation amendment to the U.S. Constitution. How simple; but frankly, Mr. President, very profound. This idea that the American people speak so often about and ask us to be responsible for, I have been working and promoting for nearly a decade. In that time, I have seen it grow from an academic concept to a nationwide grassroots movement. Together with my colleague in the other body, Representative CHARLIE STENHOLM of Texas, I helped build a bipartisan, bicameral congressional coalition that brought along sometimes reluctant cosponsors and pushed continually for a full debate and vote on this issue.

We have had some success. This amendment was considered in either,

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cut the overhead from the Department

ECONOMIC GROWTH AND FAMILY

Bush apparently is following their bad advice. Warned The Wall Street Journal this or both, the House of Representatives and the Senate in 1982, 1986, and just last year—and it passed every time. Although we have not always achieved the constitutionally required two-thirds majority, we are continuing to gain support.

Mr. President, had we enacted a balanced budget amendment even 5 years ago, this country would be the economic engine driving the entire world economy today. We would still be the home of the world's largest banks. We would not be the world's biggest debtor. We would not have to worry about extending unemployment benefits or caring for exploding numbers of homeless people.

That is why I believe that the American people will respond even more strongly now to the call for a true, balanced budget amendment. We have such an amendment pending in this Senate on our calendar and that is Senate Joint Resolution 18. And our distinguished ranking member of the Judiciary Committee, Senator THURMOND, has been pushing for a commitment to bring this matter to the floor for a vote. I heartily support his effort in that regard.

If we are successful in choking off Congress' ability to overspend, some Members of Congress may have to find another way to convince the voters, Mr. President, that they are actually governing. They might have to try a little bit of statesmanship.

Perhaps now, before the fact, is the time for us to start practicing that historic effort.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who seeks recognition?

Mr. HEFLIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alabama, Senator HEFLIN.

Mr. HEFLIN. I thank the Chair.

(The remarks of Mr. HEFLIN pertaining to the introduction of S. 2051 and S. 2052 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. Does any Senator seek recognition?

If not, the Chair, in his capacity as a Senator from the State of Virginia, notes the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FEDERAL MANDATES

Mr. SEYMOUR. Mr. President, this morning I would like to speak about a problem that is having a greater and greater impact on my State of California. Very specifically, the problem is Federal mandates. That is, the Federal Government passing laws, setting up new social programs, sometimes promising funding for them and then pulling the rug and leaving the State in a lurch.

California is not alone in this problem. Certainly, in the 8 years I spent as a State senator in the California State Legislature, I saw plenty of times when the State government was mandating to local governments. So mandates at every level of government are not new.

As a matter of fact, I am reminded of the golden rule. The golden rule is: He or she who has the gold rules.

And so the Federal Government in this case sets up mandates and says, "We have the rules. We are going to tell you what to do and when to do it and how to do it." Then they pass the law and they start off keeping their promise and keeping their word. Then things get a little tight, and they start cutting. But they do not cut or reduce the Federal mandate. So a State such as mine, and many others, have no choice but to pick up the ball the Federal Government dropped when it broke its promise.

The bottom line in the State of California, Mr. President, as a result of Federal mandates, is $1.4 billion a year. No small sum. In fact, right now Congress is considering over 100 measures that would impose new or expanded Federal mandates on the States.

When I was a State senator, I was able to get State legislation through that says if you are going to mandate something, put up the money. And if you will not put up the money, then we do not have to do it. Maybe it is about time, Mr. President, that we in the Congress consider some fiscally responsible action in the same direction.

The social demographics of California are changing. California for years has been a very attractive State because of its climate, because of its robust economy, because of the environment, its mountains, its beaches. California is a dream. That dream is now in danger because people have been coming to California in ever increasing numbers.

Let me be specific. During the 1990's, California's population is projected to grow by 6.3 million people. Fifty-five percent of that growth will be internal, 44 percent will be from foreign immigration, and 1 percent from domestic migration.

Forty-four percent—that gets me to one of the Federal mandates in California. You will recall, Mr. President, that it was not long ago—as a matter of fact, 1986—that Congress passed the Immigration Reform and Control Act. A component of that was to say "We will grant amnesty to illegal aliens who may be residing in your State. But we are going to pay you for the services that they require, whether it be education, whether it be medical costs—those social costs to your State, we will reimburse." That was the bargain. That was the agreement.

Earlier this year, Mr. President, I argued right here on the floor that Congress was not putting one red cent into that program. They had reneged on their bargain.

To my State of California, what does that mean: $400 million from the State of California, already pushed to the wall, like we all are, because of the recession, already pushed to the wall because of ever-increasing numbers of illegal immigrants coming to the State. These refugees have every right to come to and reside in the State of California, but not being provided the Federal financial support that we had been promised—in the fiscal condition California is in—forces the State to make some very, very difficult decisions. Why? Because the Federal Government has not kept their promise. The check is in the mail. Sure, the check is in the mail.

I also spoke of refugee settlement. The bottom line on refugee settlement relative to a number of programs is twofold, where the Federal Government has broken their promise. The Federal Government started out by saying "We will provide you financial support, State of California, for helping the refugee families get settled." And they do need time to get settled. If we were transferred or moved to another State, we would need time to get settled. It is particularly hard on a refugee family.

So the Federal Government started off by saying "We will give you 36 months' support." That sounded reasonable; not too long a time, but time to get settled.

Do you know what it is today, Mr. President? Four months. How would any one of us like to pick up our roots, go to some foreign country, having language difficulties—move to a new country, a new State, expect to settle that family, find a new job, and be self-sufficient in 4 months? The Federal Government has broken its promise again.

Another area, Mr. President: aliens who commit crimes in California. Right now it is estimated that we have in our State prisons in California over 9,600 aliens who have been convicted of some felony. That is more than 6 percent of our total prison population in California.

In our California Youth Authority we house more than 750 minors who are designated as deportable. So what does that cost the State of California, because the Federal Government is unwilling to enforce our borders?

I argued here on the floor for an amendment and lost by 8 votes. That amendment was very simple. It said

cut the overhead from the Department of Commerce and the Department of Justice by less than 1 percent. That will give us $40 million. That $40 million can be used to protect our border and restrict the numbers of illegal aliens, estimated to be 1,500 a day, coming across the border. Less than 1 percent—300 new border patrol officers—and it lost by 8 votes. Why? Because today California may be on the short end of the stick.

But the message I want to bring to my colleagues this morning is this: Tomorrow you are going to be on the short end of the stick, because this problem is not going to remain in California. It is spending. It is spreading to Illinois, it is spreading to Ohio, it is spreading to Pennsylvania, it is spreading to Texas, it is spreading to Florida.

So next year, when we return, I will be back here arguing that either we put our money up—as the Federal Government has promised—or we shut up and remove the mandate.

We cannot have it both ways. The fiscal crisis in our States is too great. Certainly the States cannot be expected to look to their taxpayers, their producers, and say, "Sorry, the Federal Government has withheld their promise. We are going to raise your taxes so you can pay for it." We cannot do that and we will not do that.

What we can do is work toward a policy that says if you are going to mandate a program to a State or a local government, then you put up the money. When you stop putting up the money, the mandate comes off.

It is time that we recognize that States, like my State of California, have in their Constitution a requirement to balance the budget. They do not have the spending luxury that we have here in Congress of just adding to the deficit. "Just add that to the deficit, that is a nice thing to do, just add it on, that is OK, add it to the mortgage."

Of course, I disagree with that policy. I think we ought to have a constitutional amendment requiring the federally balanced budget. But be that as it may, the States, and my State, do not have that privilege. They have to cough it up, and pay-as-you-go. It is about time that Congress, the Federal Government, start paying as we go.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ECONOMIC GROWTH AND FAMILY TAX FREEDOM ACT

Mr. KASTEN. Mr. President, right now, the economy is still weak—and the threat of unemployment is causing worry to thousands of working families in Wisconsin and millions across this Nation.

The worst part of our economic crisis is this: It does not have to be this way. This recession could—and should—have been avoided by the continuation of progrowth policies at the Federal level.

Last year, Congress imposed the largest tax increase in American history on the economy. As a result, our national economic pie got smaller. Budget deficits got bigger. And millions of working people lost their jobs.

The Washington establishment turned its back on the record of economic growth sparked by low taxes—and the economy stopped dead in its tracks.

I think it is time for us to enact the same kind of progrowth tax cuts advocated by statesmen as diverse as Presidents Calvin Coolidge, John F. Kennedy, and Ronald Reagan.

Representative VIN WEBER, Minnesota Republican, and I have introduced the Economic Growth and Family Tax Freedom Act of 1991, S. 1920 and H.R. 3744, that builds on the approach of former Presidents Coolidge, Kennedy, and Reagan.

Our legislation provides tax cuts for families with young children with a $1,000 tax credit for children under age 6, and tax incentives for growth including a cut in the capital gains tax, increased tax deductions for business investment, restored tax incentives for investors in real estate, and Federal enterprise zones.

With the U.S. economy mired in recession, there is now a consensus in Washington to cut taxes. But let us make sure that we enact a tax cut that not only provides relief to working families but promotes economic growth as well.

I ask unanimous consent that recent articles on the economic and budgetary impact of the Economic Growth and Family Tax Freedom Act by Daniel J. Mitchell of the Heritage Foundation and Lawrence Hunter of the U.S. Chamber of Commerce be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOW THE KASTEN-WEBER TAX CUT WILL SPUR ECONOMIC GROWTH

The deep and painful recession afflicting America is the result of seriously flawed economic polices supported by George Bush and Congress. Record tax increases, costly new regulatory burdens, and unprecedented increases in federal spending all have combined to discourage job creation and entrepreneurship. Even though the evidence is clear that the economy remains stagnant, Bush Administration economic advisors actively are opposing growth legislation. And Bush apparently is following their bad advice. Warned The Wall Street Journal this week in an editorial: "Even as lusty a beast as the U.S. economy can take only so much punishment from its political masters in Washington. The long and short of it is: The world's most important economy is in the grip of economic incompetents." As long as it remains in their grip, American workers and families will remain condemned to lower living standards and rising unemployment.

Yet the economy can grow again if policy makers remove the shackles placed on it last year by the tax and spending increase. To do so, lawmakers must reverse course and correct the mistakes that are causing the recession and adopt policies that encourage job creation and increase incentives to work, save, and invest.

A good start is the Economic Growth and Family Tax Freedom Act of 1991 (S. 1920, H.R. 3744) introduced by Senator Robert Kasten of Wisconsin and Representative Vin Weber of Minnesota, both Republicans. The Kasten-Weber growth package cuts the tax on savings and investment, technically known as the "capital gains tax," lowers taxes on business investment, expands Individual Retirement Accounts (IRAs), offers real estate tax relief, and establishes enterprise zones. Kasten-Weber also relieves the tax burden on families by granting a $1,000 non-refundable tax credit for children under age 6 and a similar credit of $300 for children age 6 to 18. The credit significantly would reverse the rising tax burden on families caused by inflation's erosion of the dependent exemption over the past four decades.

With the economy mired in recession, the portion of the Kasten-Weber package designed to promote economic growth is particularly critical. Its key features:

15 Percent Capital Gains Tax—Germany, Hong Kong, the Republic of China on Taiwan, and South Korea do not tax long-term capital gains, the difference between an asset's purchase and sale price. In Japan, the maximum tax on capital gains is a mere 5 percent. In the United States, by contrast, capital gains are subject to a 28 percent tax. To make matters worse, the tax code ignores the fact that much of the higher sales prices and profits on savings and investments are due to inflation. American investors cannot use indexing to ensure that taxes only are paid on actual gains rather than changes in asset value caused by inflation.

The Kasten-Weber proposal would cut to 15 percent the gains tax for savers and investors in the upper tax brackets and to 7.5 percent for those in the lower bracket. To prevent the unfair taxing of gains that reflect only inflation, the legislation also permits indexing. By calling for a lower rate and including indexation, the Kasten-Weber capital gains proposal goes well beyond the anemic proposal endorsed by the White House and would provide a much stronger stimulus to the economy.

Washington-based economists Gary Robbins and Aldona Robbins of Fiscal Associates, Inc., estimate that lowering the tax to 15 percent would create more than 900,000 new jobs over ten years and boost gross national product growth by an average of 0.36 percent for each year over the ten-year period. Other economists find similar impact from a capital gains tax cut. Allen Sinai, Chief Economist of The Boston Company, estimates that a 15 percent capital gains tax would boost employment by 600,000 within five years and increase the gross national product by 0.2 percent annually. Reducing the capital gains tax also would boost asset

values, thus strengthening American banks

icy makers seek not answers, but how to as-

Republicans, have proposed various legisla-

Sen. Jim Sasser, Tennessee Democrat, has suggested a 6 percent peace dividend that

dent must choose to reject the economics of austerity in favor of the low tax, middle

ment to a rule of law, not one to secret agreements with people whose only

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values, thus strengthening American banks and homeowners as well as reducing the cost of bailing out the federal government's savings and loan deposit insurance scheme.

Neutral Capital Cost Recovery—Kasten-Weber increases the amount of deductions businesses can take for investment expenses by adjusting "depreciation" schedules for inflation and the value of money. This reform substantially would boost capital formation by reducing the after-tax cost of investment. Under current tax law, businesses cannot deduct the cost of investments in the year when they are incurred. Instead these costs must be "depreciated" over time, up to 31 years. Eventually, of course, the business is permitted to deduct the entire nominal amount invested. But the true value of this deduction is eroded enormously by inflation.

The Kasten-Weber neutral capital cost recovery approach would address the tax code's bias against business investment. If a business originally was supposed to depreciate $10 million of an investment in the second year, for instance, Kasten-Weber might increase that depreciation to $10.8 million, with similar adjustments in following years so that the value of the deduction would keep pace with inflation and the cost of funds. Correctly structured, neutral capital cost recovery would provide the same incentive for increased investment as plans permitting immediate deductibility of business investment in the first year. This would remove some of the current penalty on productive investment.

IRA-Plus—Kasten-Weber expands upon current IRAs by giving all taxpayers the option to invest in Individual Retirement Accounts. Savers, moreover, would get the option of investing in IRAs that would allow for tax-free withdrawal of both principal and interest income upon retirement. Taxpayers taking advantage of this "back-ended" IRA, however, would not be able to deduct contributions in the year they are made. In addition to allowing tax-free withdrawals upon retirement, Kasten-Weber would permit 25 percent of the IRA to be withdrawn before retirement for initial home purchases, education, and medical emergencies.

Passive Loss Reform—As part of the 1986 Tax Reform Act, so-called passive investors in real estate, those defined as not principally engaged in the business, cannot use rental properties losses to offset other income. Many experts say that this provision has helped trigger the decline in American real estate values and thus has increased the cost of the savings and loan deposit insurance bailout. Kasten-Weber would reform passive loss rules for real estate so they more closely resemble guidelines for other business investments.

Enterprise Zones—To encourage economic growth in impoverished urban centers and other particularly depressed sectors of the country, Kasten-Weber would allow the creation of 50 enterprise zones. Employers opening operations in the zone would receive a tax credit for workers in the zone. No taxes would be levied on capital gains in the zone, and investments in zones could be immediately deducted from taxes in the year they are incurred. These zones especially would help create jobs in inner cities.

Bush Administration and congressional policies have made it unprofitable for businesses to hire new workers and for investors to put their money at risk. Excessive taxation and over regulation have ground the economy to a halt and pushed nearly two million additional Americans into unemployment lines. Meanwhile, Washington policy makers seek not answers, but how to assign blame elsewhere. Bush clumsily blames credit card issuers for high interest rates, while liberals in Congress think higher taxes on the "rich" will spur growth.

There is no mystery about how to restore growth: simply reduce or remove government penalties on job creation, savings, and investment. The Kasten-Weber bill will not solve every economic problem created by policy mistakes, but enactment of the pro-growth legislation would stimulate increased economic activity and reduce the tax burden on families.

DANIEL J. MITCHELL,
John M. Olin Senior Fellow.

[From the Washington Times, Nov. 21, 1991]

BACKED INTO A CORNER * * * AND HESITATING

(By Lawrence Hunter)

There is a famous old radio routine where a street thug approaches Jack Benny with two choices, "your money or your life." Apparently unable to decide which fate would be worse, the notoriously tightfisted Benny character says nothing.

The Democratic leadership in Congress has recently backed President Bush into a similar corner, saying, in effect, "abandon the budget agreement and pass a growth package or we will use your apparent lack of concern to murder you at the polls." Faced with what seems like an obvious choice, the president, like Jack Benny, is hesitating.

The budget agreement is the Bush administration's mantra, but it is also a political albatross; its corpse hangs around the necks of the American electorate. That legislation imposed five years of new and higher taxes and pushed federal spending to more than 25 percent of the gross national product, just as the economy was slipping into the dark waters of recession. President Bush personally defended this so-called "deficit-reduction" package, at great political cost, predicting that "if we fail to act, next year alone we will face a federal budget deficit of more than $300 billion, a deficit that could weaken our economy further and cost us thousands of precious jobs."

Nearly one year later, the economy lies listless, exhausted by recession. According to the Congress Budget Office, the deficit for the current fiscal year is expected to reach an unprecedented $362 billion. If you take into consideration the effect of discouraged workers on the overall unemployment rate, 3.24 million people have already been put out of work since the recession began. And with little to move it forward, the economy could well slip back into recession in the fourth quarter this year.

Ironically, the same ill wind that originally pushed us into the economic doldrums is now preventing us from drifting, let alone sailing, back out. The budget agreement's "pay as you go" enforcement rule, which in effect prevents taxes from being reduced, is keeping past government policy mistakes from being corrected. Mr. Bush, who seems willing to defend the budget agreement and "deficit reduction" at any cost, is caught in a fiscal Catch-22. Because he believes he cannot support tax reductions for fear of breaking the deal and increasing the deficit, he has no means of stimulating new economic growth and the higher tax revenues and lower deficits that inevitably would follow. Meanwhile, the economy sits, and deficit swells uncontrolled, and the American people continue to strangle under the weight of the budget agreement.

Alarmed by the state of the economy a number of legislators, both Democrats and Republicans, have proposed various legislation intended to provide middle class tax relief and encourage new economic growth. Sen. Lloyd Bentsen, Texas Democrat, for instance, has proposed a $300 tax credit for each child, and Individual Retirement Accounts for every American. According to Mr. Bentsen, "The tax credit would put money in the pockets of American consumers and help jump-start an economy that is dead in the water. The expanded IRA would encourage savings and investment needed to help sustain growth."

The objectives of any economic growth package must be to lift the heavy hand of taxation that stifles capital formation and frightens entrepreneurial spirits. It must also be broad-based, offering relief for families, workers, savers, investors and entrepreneurs. Building on the Bentsen plan, a package that meets these criteria is the "Economic Growth and Family Tax Freedom Act" proposed by Sen. Bob Kasten, Wisconsin Republican, and Rep. Vin Weber, Minnesota Republican. Its components include: family tax relief providing a $300 non-refundable tax credit for children between the ages of 6 and 18, and a $1,000 credit for children under the age of 6; a reduction in the capital gains tax to a top rate of 15 percent for individuals and corporations, and to 7.5 percent for lower bracket individuals; a Neutral Cost Recovery System; an IRA-Plus plan; repeal of the passive loss limitation for all active participants; and creation of enterprise zones.

The positive economic impact of such a package would be substantial. According to former Treasury economist Gary Robbins, such a combination of tax incentives would increase the GNP by an average of 1 percentage point per year over the next five years, while creating 1.4 million new jobs.

An additional boost to both job creation and middle class tax relief would result from a reduction in Social Security taxes. A 2 percentage point cut in the payroll tax (1 percent each for both workers and employers) has been proposed by in both houses as the Economic Growth and Jobs Creation Act (S. 381 and H.R. 960).

There are numerous other good ideas that might be added to such a package or substituted in place of one of the above ideas. Regardless of what the specific components are, the final package must be broadbased and it must be aimed at encouraging more productive activity, not just putting more money in everybody's pocket.

But how to pay for the package? The big obstacle to passing any tax cut this year is the administration's insistence, backed up by the Republican Congressional Leadership, that any tax package fit within the strictures of the budget agreement. "Pay as you go," remember, requires that tax cuts that result in static revenue losses be accompanied with either cuts in politically sensitive entitlements or higher taxes. But they seem to recognize that higher offsetting taxes are out of the question: The one lesson everyone should have learned from last year's disastrous budget agreement is that it is impossible to tax our way out of the deficit. Genuine deficit reduction can only be achieved through a combination of economic growth and spending restraint. The Reagan administration got the first half right but was unable, and the Congress unwilling, to control spending; the Bush administration thus far has failed to attain either.

On the spending side, Mr. Bentsen has suggested reducing defense outlays by approximately $55 billion over the next five years.

Sen. Jim Sasser, Tennessee Democrat, has suggested a 6 percent peace dividend that amounts to about $70 billion. In addition to such defense budget savings, an effective economic growth package would generate a permanent growth dividend.

The Kasten-Weber package, for instance, would increase GNP growth by an average of 1 percentage point per year over the next five years. Given the kinds of proposals currently being proposed on Capitol Hill, it would be possible to improve on this. (The 40-year growth trend is 3.0 percent a year and the recent trend, prior to the onset of the slowdown three years ago, is about 3.3 percent. The average rate of growth during the first year of recovery from a recession is about 5.5 percent. Based on these historical averages, an average annual growth rate of 4 percent a year over the next five years should be a reasonable expectation.) But to be conservative in our estimates, let's assume that we achieve no more than an increase in the annual rate of economic growth from the 2.5 percent average forecast by the Blue Chip Consensus to 3.5 percent. Such an objective is not unreasonable.

If we set as our objective a 1 percent increase in the rate of economic growth, the Congressional Budget Office estimates that the increased economic growth alone would reduce the deficit by $258 billion over five years. In other words, by CBO's own estimates, it should be possible to reduce taxes on average by $50 billion a year, spurring new growth and producing more new jobs without increasing the deficit. If we add a $70 billion peace dividend, that means it should be possible to reduce taxes by $328 billion over five years, or almost $66 billion a year with no adverse effect on the long-term deficit. A tax package along what is outlined above falls well within these limits. On a static revenue basis, the total cost of the Kasten-Weber package would be about $202 billion or $40 billion a year—well within the bounds of a modest peace-growth dividend, the remaining $123 billion might fund a scaled-down 1 percent cut in the Social Security tax, or other tax cuts.

An increase of 1.5 percentage points in the average annual growth rate, to 4 percent growth, could finance even larger tax cuts, without an increase in the deficit. Using CBO's rule of thumb, an increase of 1.5 percentage points on average annual growth rate would generate $387 billion in deficit reduction over five years. The full 2 percentage point FICA rollback would cost $263 billion over five years (again, on a static basis). If we succeed in increasing growth by an average of 1.5 percentage points a year, that additional economic growth dividend could be used to fund the full 2 percentage point reduction in Social Security taxes.

In 1961, a determined John F. Kennedy promised to place an American on the Moon and return him safely to Earth, all before the end of the decade. That President had a vision, and it was fulfilled. By comparison, it seems a rather modest goal to set out to reignite entrepreneurial spirits and launch the economy back to its postwar growth trend—boosting the average annual real growth rate to 4 percent, increasing productivity to 3 percent, bringing inflation down to earth at 2 percent, and lowering unemployment to 3 percent, returning Americans safely back to work.

In 1991, President Bush has a unique opportunity to foster sustainable economic growth without abandoning the spirit of deficit control intended, though never achieved, by the budget agreement. But to do so, the President must choose to reject the economics of austerity in favor of the low tax, middle class populism that embodied the best of the Reagan era. For now, he is hesitating—unwilling to decide, fearing failure.

If Mr. Bush's kinder, gentler economic malaise persists, voters may very well start questioning why, if a Democrat can put an American on the Moon, can't a Republican put a few Americans back to work?

WAR CRIMES SPEECH

Mr. REID. Mr. President, last winter I stood before this body as the first member of my party to speak in support of the President's proposed course of action in the Persian Gulf. As that time I said that we should "strike now, while the coalition stands firm and our convictions and morale are high."

I urged that we "achieve a clear cut victory, and get our troops out of the Middle East, before they become bogged down in interminable defensive or occupation duties."

Some days later, Mr. President, I again spoke to this body. At that time I set forth in considerable detail the awful litany of crimes against the laws of war which had been commited by the Government of Iraq and its military forces. I called upon our Government, as a permanent member of the Security Council: "to introduce a resolution creating an international tribunal empowered to investigate and prosecute those crimes committed by the Iraqi leadership, both civilian and military, as well as by those brutes who carried out their orders."

I noted that it was not a day too soon: "to put Saddam Hussein, his government, and the armed forces of Iraq on notice that the nations of the world will exact full justice and complete retribution for every misdeed."

Unfortunately, Mr. President, the Government failed to follow through on that suggestion. If the White House and the Cabinet had done so, the world might now be faced with one less major problem, and the White House might not now be bemoaning the public perception that it failed to take advantage of our Armed Forces' stunning victory in Iraq.

It was, with considerable interest, Mr. President, that I read in the Washington Post that President Bush and his advisers, due only to worries about those public perceptions, are considering covert actions to destabilize and overthrow the thugs who run Iraq. I would like to offer them another path to follow, one I feel is more in the interest of our Nation and of the world.

Let us forget, in this case, the language of covert operations. Instead, let us approach the problem of Saddam Hussein in the forthright fashion espoused by the President when he acted as the leader of a grand coalition against aggression. President Bush then spoke stirringly. If that is to mean anything, it should be a commitment to a rule of law, not one to secret agreements with people whose only recommendation is that they are the enemy of our enemy.

Mr. President, at the conclusion of combat in the gulf, the Congress mandated the preparation of certain reports. Among those was a report on the potential for prosecution of war crimes. I believe we asked what crimes had been committed and what proof we had of who had committed them.

Based on unclassified information, including the treatment of allied POW's, the devastation of Kuwait and the systematic looting by Iraqi forces of that unhappy nation, as well as the grossest sort of crimes against the environment and against world peace, it is clear to me that Saddam Hussein and his ministers are liable to indictment before an international tribunal. I also believe there is sufficient evidence to convict those men and to subject them to the punishments they so richly deserve.

Let America take the lead in convening such a court Mr. President. I believe that a fair and open trial requiring adequate evidence and the right of confrontation and crossexamination, would serve as a vastly better example to our newly democratic friends and our former foes tentatively emerging from totalitarianism, than any exercises in the forceful overthrow of the Iraqi regime.

President Bush proposed a new approach. I supported him in that nobel endeavor and whether or not he is still committed to it, I most definitely am. Let us stick to the rule of law, to what is right and just and fair. If we do Mr. President, we and all those throughout the world who have finally profited by our example, can only be the better for it.

MARGARET L.A. MacVICAR

Mr. KENNEDY. Mr. President, several weeks ago, the Nation lost one of its most distinguished educators and scientists when Margaret L.A. MacVicar of the Massachusetts Institute of Technology died of cancer. She was 47.

Margaret MacVicar was born in Canada and later moved to Flint, MI. She was in the seventh grade when the launch of sputnik in October 1957 triggered major changes in American science education. With her extraordinary intellect, she was soon taking college level science courses and worrying about the cost of college. Thanks to the generosity of a neighbor in Flint, she enrolled at MIT in the fall of 1961 and received a bachelor's degree in 1964, and a Ph.D, in 1967. After completion of her graduate studies, she was a postdoctoral fellow in the Cavendish Laboratory at Cambridge University.

Dr. MacVicar returned to MIT in 1969 as a physics instructor and was ap-

pointed to the faculty the next year.

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pointed to the faculty the next year. Professor MacVicar immediately distinguished herself as an educator and a scientist. The focus of her research was superconductivity. She was first to achieve electron tunneling into single crystals of several transition metal superconductors.

But Dr. MacVicar was much more than a scientist. She was that rare combination of a world class researcher who was deeply committed to undergraduate education. As MIT's first dean of undergraduate education, she guided the restructuring of the institute's undergraduate academic program.

In her quest to improve the undergraduate experience at MIT, Professor MacVicar established the Undergraduate Research Opportunities Program [UROP] in 1969. Before the establishment of UROP, there was little opportunity for undergraduates to do hands-on research. The UROP Program was designed to give undergraduates the chance to do research in collaboration with faculty members. Since its creation, the program has become an integral part of MIT's undergraduate curriculum and has been widely imitated. About three-quarters of the undergraduates at MIT have participated in UROP; many regard it as the most significant element of their undergraduate education.

Professor MacVicar was an educational innovator who believed that education should be structured to fit into the context of a student's life and should make students aware of their societal responsibilities. At MIT, she sought to increase the diversity of the undergraduate body by encouraging increased admission of women, minorities, and students with a variety of different interests and experiences.

Her dedication to increasing the access of all students to higher education was directly related to her personal experience. When she first entered MIT as a student in 1961, she was one of roughly 20 women. In the 30 years since she entered, MIT has been transformed; women now comprise 27 percent of the student body. Much of the credit for this reform must be given to the tenacity and drive of Margaret MacVicar.

When asked about the perception that she was driven to reform American Education, Dr. MacVicar replied:

> I have that reputation because I am persistent, energetic, and impatient. I think it's very, very rare that something can't be done, assuming that it's not illegal, and I am intently focused on the ball game. I do not think of my office as being in a stable operational mode. It's not. We are in a campaign mode, and the campaign is an academic ideas campaign.

Professor MacVicar's academic ideas campaign can be clearly seen in her work toward the improvement of science education in the public schools. Having benefited directly from the renewed emphasis on science education in the late 1950's, she was firmly committed to strengthening and expanding these programs for students today. She was instrumental in formulating MIT's national initiative for primary and secondary science education.

As her efforts on behalf of elementary and secondary schools illustrate, Margaret MacVicar's educational vision was not limited to higher education. In 1983, she was appointed vice president of the Carnegie Institution in Washington, DC. She was later cochair of Project 2061, a study designed to develop a completely new science curriculum for elementary and secondary education that was sponsored by the American Association for the Advancement of Science. She has recently served as chair of the advisory committee on education and human resources of the National Science Foundation. She was a member of the Corporations of the Charles Stark Draper Laboratory and of the Woods Hole Oceanographic Institution and a trustee of Radcliffe College and the Boston Museum of Science.

Many words come to mind in describing Margaret MacVicar. Ability, insight, energy and leadership are all appropriate for this woman who accomplished so many things. There is no question that the academic community at MIT has suffered a terrible loss. But neither is there any doubt that her contributions to education and science—both at MIT and across our Nation—will be long remembered.

TOXIC SUBSTANCES

Mr. REID. Mr. President, in October 1976, the Toxic Substance Control Act [TSCA] was enacted. It was to have been a powerful tool in restricting and controlling harmful chemicals from entering the marketplace and the environment. The concepts behind the legislation were sound. The Environmental Protection Agency [EPA] was required to establish an inventory of all chemical substances being manufactured or processed; manufacturers were to report to EPA before introducing new chemicals, and EPA was given the authority to require testing of chemicals, and to restrict, control or prohibit their use or distribution. EPA's Office of Toxic Substances was to have served as the primary gatekeeper for keeping toxic chemicals in check.

Fifteen years after the enactment of TSCA, however, few toxic chemicals have been controlled or prevented from entering the environment and a recent court ruling has made it clear that the act is so inherently flawed that it is unlikely that many chemicals will be regulated in the future. On October 18, 1991, the fifth Circuit Court of Appeals overturned EPA's regulation to ban most remaining uses of asbestos under the authorities of section 6 of TSCA. This was a landmark decision for several reasons.

Asbestos has long been known as a lethal substance to human health. Perhaps more evidence exists on the harmful effects of exposure to asbestos than any other substance in the environment. Unfortunately, much of that evidence is empirical. The shipyard workers of the 1940's were left with a sad legacy of lung cancer, and other diseases for their heroic efforts to equip the armed services during World War II. Today, the Government is spending hundreds of millions of dollars to abate asbestos materials in the Nation's schools since early exposure to asbestos may manifest in disease 20 to 30 years after the exposure occurs.

After a decade of work, EPA finally promulgated a rule in 1989 to bring the use of asbestos in brake linings, floor tile, and construction materials to a halt. Soon thereafter, the asbestos industry filed suit to block implementation of the ban. In issuing an opinion, the fifth Circuit Court of Appeals in no way attempted to refute the danger that asbestos pose to human health. It found, however, that EPA had failed to meet the strict dictates of TSCA and that the Agency's rulemaking methodology was flawed.

Mr. President, if EPA can't stop the use of asbestos under TSCA, it most assuredly won't be successful in restricting the use of lead or any other very toxic materials. Under the present circumstances, the agency can't be faulted if it does not even attempt further regulation of chemicals through TSCA. Congress, bears a good share of the burden for this turn of events. Since, enactment, we've essentially abdicated responsibility for TSCA despite abundant evidence that the statute wasn't working very well. Rather than trying to reform the law, we have legislated around it.

The only significant changes to TSCA in its 15-year history have been chemical specific provisions addressing the problems of radon exposure and asbestos abatement in schools. For the most part, we're managing toxics by establishing maximum levels for their presence in the air, water, and land, and by curtailing certain disposal practices. This is a remedial, very expensive, and backward approach to a problem that should be handled through prevention.

We've been hearing for a long time that problems with TSCA reside with its implementation, not with the act itself. The fifth Circuit Court of Appeals decision proves otherwise. We can no longer ignore the need for significant changes to TSCA. And that process is going to require a lot of time and effort.

As chairman of the Toxic Substances, Environmental Oversight, Research and Development Subcommittee, it is my intent to start the legislative process moving with hearings early next year. I harbor no illusions that we can

enact a bill before the close of the 102d Congress. In my view, it would be pointless to try and move legislation either mandating an asbestos ban or making merely cosmetic changes to TSCA. The act needs to be reworked in a comprehensive, deliberate, and thoughtful manner and that will require time.

I speak today, to put my colleagues, the chemical industry and the public on notice that I am committed to meaningful reforms in the way we screen and regulate toxic substances. I encourage interested parties to come forward with constructive proposals to assist my subcommittee in meeting this objective.

THE CRISIS IN YUGOSLAVIA

Mr. KERRY. Mr. President, before we conclude this session of Congress, I want briefly to address certain aspects of the tragic crisis in Yugoslavia.

It is vital, first of all, to make it clear that although no side is blameless, the primary responsibility for the recent violence rests with the Republic of Serbia and the Serb-dominated federal army. Serbian leaders have consistently failed to comply with cease-fire agreements and they have undertaken aggressive and wholly illegitimate military actions, such as the shelling of Dubrovnik and the siege of Vukovar.

It has become more and more obvious, with each passing month, that the Army's goal is to seize and hold substantial amounts of Croatian territory no matter how many are killed, no matter how many are wounded, no matter how many are forced to leave their homes. It also has become more and more obvious, as cease-fire agreement after cease-fire agreement has been signed and ignored, that neither peace nor stability will return to Yugoslavia unless the Serbs are persuaded—or pressured—to forgo further military aggression.

It is clear—and truly tragic—that international efforts to bring the war in Yugoslavia to an end have thus far been frustrated. The economic sanctions recently imposed by the European Community [EC] are not likely to be effective, nor are they directed—as I believe they should be—solely at the Serbian side. The most recent cease-fire, negotiated by former Secretary of State Cy Vance, is fragile and may not hold.

Accordingly, I call upon President Bush to take the following actions:

First, I urge the President to speak out personally on this issue. It is not enough for second or third tier Officials at the State Department to express concern about the violence in Yugoslavia. The level of killing and the magnitude of suffering have reached the point where Presidential involvement is urgently required.

Second, the administration should admit the obvious, which is that Yugoslavia is no longer a single nation. We should be prepared to recognize formally the independence of Croatia, Slovenia, and other Yugoslav republics upon request and upon their demonstration of a capacity for self-government as required under international law.

Third, we should put the issue of violence in Yugoslavia before the Security Council of the United Nations. Economic sanctions against Serbia will be effective only if they are worldwide in nature. Further, it is growing clearer with every passing day that international peacekeeping forces are needed, and the sooner the better.

Fourth, we should work with the United Nations, the EC, and the leaders of Serbia and Croatia to negotiate a permanent settlement to the violence. Such a settlement must begin with a genuine cease-fire; it must include a recognition of the independence of the republics and an agreement on boundaries; and it requires an enforceable commitment on the part of all republics to respect minority rights. It would be naive to assume that such a settlement will come easily or quickly. It will inevitably be a step-by-step process. But the first step—an end to the killing—can and should be taken now.

Mr. President, the war in Yugoslavia has gone on too long. It is no longer possible for our country to look the other way. We cannot say this is simply a Yugoslav problem or a European problem. It has become a matter of worldwide humanitarian and political importance. We must do more. We must do everything we possibly can. And we must do it now.

RESTORING DEMOCRACY IN HAITI

Mr. KERRY. Mr. President, before we conclude this session of Congress, I would like to address the ongoing crisis in Haiti.

Since the September 30 coup against elected President Jean-Bertrand Aristide, Army leaders have established a reign of brutality and terror. Hundreds have been murdered; thousands have been beaten; hundreds of thousands have been threatened or intimidated into silence. The National Assembly, which should have led the fight to restore democracy, instead has acquiesced in the selection of an illegitimate puppet regime.

For the past 7 weeks, the Organization of American State [OAS] has been working to end the crisis through the imposition of tough economic sanctions and talks with military and political leaders. This past weekend, negotiations broke down because of the outrageous refusal of Assembly representatives to acknowledge Father Aristide's Presidency.

In recent days, the tragedy in Haiti has extended beyond the island to the sea. Terrorized by the Army and crushed by the burden of economic sanctions, thousands of Haitians have sought to flee their country by boat. Since September 30, more than 3,000 have been picked up by the Coast Guard. Last Saturday, an incredible 246 men, women, and children were found packed like human sardines into a single sailboat. The Bush administration has responded by asking democratic Caribbean governments to accept some of the refuges, while seeking to return others to Port-au-Prince.

Under the current circumstances, it is immoral for the administration to repatriate refugees by force to Haiti. We have an obligation to provide at least temporary sanctuary to those fleeing a repressive and undemocratic regime. The administration is right, however, to fear the possibility of a massive boatlift from Haiti if the current crisis is not resolved. Were that to occur, thousands more Haitians surely would drown.

It is essential, therefore, that we move beyond the debate over the treatment of refugees to a debate over how we alter the conditions that create refugees; Haiti must be made safe for Haitians once more. We must work with Haitian leaders in that country and in the exile community here in the United States to restore democracy and subsequently to provide emergency humanitarian assistance, encourage private investment, and institutionalize respect for human rights.

The economic sanctions imposed on Haiti as a result of the September 30 coup are necessary but cruel. They cannot be extended for long without bringing unbearable hardship upon the Haitian poor and causing permanent damage to the already weak Haitian economy. Nor, however, can the sanctions be lifted until democracy is restored and the results of the last Presidential election respected.

Father Aristide is the legitimate President of Haiti. He must be returned to office, through negotiations if possible, by force if that becomes absolutely necessary. The Organization of American States [OAS] has been attempting to negotiate his return for more than 7 weeks. Those negotiations are making progress, but resistance to Aristide's return remains strong within the army, among some political leaders, and within the small Haitian elite. That resistance must be overcome and overcome soon.

It is argued by the army and by some opposition politicians that President Aristide violated the Constitution and failed to respect human rights. The President has been justly criticized for some of the speeches he has made, and it is true that the human rights record of his administration was far from perfect. He has a responsibility to do bet-

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ter and he has promised to do so. But

postwar regional security arrange-

have been subject to abuse, stripped of

amended, and meets the requirements for

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. SENATE SUPPORTING ter and he has promised to do so. But let's be clear. The Aristide administration has the best record of respect for human rights of any administration in Haiti during this half century. And the army leaders who seized power from him are responsible for murdering hundreds—perhaps thousands—of unarmed citizens in cold blood.

The situation in Haiti is grave and the potential for a new round of violence is real. There is no sure way to restore democracy and ensure peace. But the best hope lies in strong diplomacy founded on the proposition that the constitutional order in Haiti must and will be respected, whatever it takes.

I urge President Bush to speak out personally, urgently, and immediately on the Haitian crisis. I urge him to make it clear to the leaders of the Haitian Army that their future depends on choices they must make and make soon. We must make it clear that the international community will not lift economic sanctions until democracy is restored; but neither are we willing indefinitely to inflect economic hardships upon the Haitian people. Time is running out. The army must accept President Aristide's return; the army must accept democracy; the army must respect the Constitution; the army must back down; or the army's own future will be at risk.

Mr. President, the United States has a strong national interest in seeing that democracy in Haiti is restored. We have an urgent humanitarian interest in alleviating the suffering of the Haitian people. We have taken steps during the past 7 weeks to achieve both goals, but those steps have not been enough. We must reevaluate our options. We must take a harder line. We must act. And we must act soon.

HUMAN RIGHTS IN IRAN

Mr. PELL. Mr. President, in the past several years reports have surfaced periodically in the international press that Iran has embarked on a policy of improving its relationship with the West. In these reports, we hear that Iran wants to upgrade its economic and diplomatic ties with the United States, so that Iran might rehabilitate its economy—ravaged by nearly a decade of war with Iraq—and, presumably, emerge as a responsible and powerful force in the Persian Gulf and the Near East.

A wide range of evidence has been put forth in support of the contention that Iran is reaching out to the rest of the world. First, we are told that the Iranian President Ali Akbar Hashemi Rafsanjani's consolidation of power in Iran is indicative of the emergence of a more moderate Iranian leadership. Next, some contend that Iran's neutrality in the Persian Gulf war, coupled with its effort to be included in the postwar regional security arrangements, shows that Iran is willing to work with its neighbors to achieve stability in the gulf. Finally, the positive movement during the last year on the hostage issue in Lebanon has been attributed to an effort by Iran to shore up its international image.

In truth, Mr. President, in spite of the progress that may have been achieved in recent years, it is clear that many aspects of Iran's behavior remain cause for serious concern. Iran's involvement in international terrorism, its activities in nuclear and chemical weapons proliferation, and its role in opposing the Middle East peace talks are but a few examples of Iran's actions that remain worrisome to the international community.

Perhaps in no other area, however, has Iran's behavior been more troubling than in its blatant disregard for the human rights of its own citizens. In its 1990 "Country Reports on Human Rights Practices," the State Department notes that abuses included summary executions of political opponents—of the regime; widespread torture; repression of the freedoms of speech, press, assembly, and associations; arbitrary detentions; lack of fair trials; continuing repression of the Baha'i community; denial of citizens' right to change their government; and severe restrictions on women's and worker rights. In other words, by virtually every standard, the Government of Iran has been judged by the State Department to be "a major violator of human rights."

Mr. President, the United States has actively supported measures in the United Nations to promote respect for human rights in Iran. Last year, for the first time, Iran accepted a visit from a United Nations special rapporteur, who investigated the human rights situation and reported on his conclusions. That reported noted credible evidence that "* * * human rights violations occur frequently in the country and that Government action to prevent and remedy such violations has not been sufficient to put an end to them." This year, the United States is again supporting a visit by the special rapporteur and is working to see that a strong resolution concerning Iran is adopted in the U.N. General Assembly.

The U.S. Congress, too, has been an active participant in efforts to address the human rights problems in Iran. One area of particular concern has been Iran's treatment of its minority citizens. For instance, during the past 10 years, the Senate Foreign Relations Committee has approved several resolutions dealing with the persecution of adherents to the Baha'i faith in Iran.

By the tenets of their faith, the Baha'is are a peaceful and nonviolent community and pose no threat to the government of Iran. In the past, they have been subject to abuse, stripped of property, threatened with execution, and denied the ability to practice their faith. While there is some evidence that the oppression of the Baha'is has abated somewhat in recent years, the stark truth remains that the Baha'is are a persecuted minority. The brutal treatment of the Baha'is and other minorities in Iran continues in spite of Iran's professed adherence to the Universal Declaration of Human Rights.

Mr. President, surely my colleagues in the Senate recognize the importance of Iran in the affairs of the Persian Gulf, the Near East, and South Asia. The question remains, however, whether Iran can play a constructive role in the region. If we are to judge Iran, our standard must be its actions, and Iran's actions continue to be cause for concern. I therefore believe the United States administration and the Congress ought to continue their firm efforts to promote responsibility and respect for human rights in Iran.

TRIBUTE TO PEGGY NAGEL ON THE OCCASION OF HER RETIREMENT

Mr. BURDICK. Mr. President, I rise with sorrow and celebration to pay tribute to Peggy Nagel, a staff member of the Environment and Public Works Committee. Peggy will be retiring in December after having served the Environment and Public Works Committee for 21 years. Her service spanned three chairmen—Democrats as well as Republicans. Peggy started in 1970 as a secretary on the Subcommittee on Air and Water Pollution of the Public Works Committee under Chairman Jennings Randolph. In 1979 she was asked to take on the responsibility of financial clerk for the expanding Environment and Public Works Committee. Peggy has been balancing our books without flaw and managing our budget with precision and competence ever since.

The demands placed on a chief clerk of a large committee are many and burdensome. Peggy carried out her responsibility with fairness and firmness, managing to accomodate every Senator and staff member. I know that all of the Senators and committee staff share my feelings of sorrow and celebration as we say farewell to Peggy. We feel sorrow because we will be losing an energetic, fun loving, and talented staff member who performed her duties with grace and dedication even during times of awesome circumstance. Yet we know that no one else deserves this retirement more than Peggy and that she anticipates it with peace and exhilaration.

Good luck to you, Peggy, in the years to come. Our heartfelt thanks for an outstanding job.

A TRIBUTE TO MARGARET MURRAY SCHWENSEN

Mr. BURNS. In our daily hustle and bustle of doing the business of this Nation, we sometimes have to slow up and recognize what I think is a tragedy that will affect us all here on the Hill.

Mr. President, I rise today to pay tribute to Margaret Murray Schwensen, who passed away unexpectedly last Sunday. Margaret had represented the agricultural community, including the Independent Crop Insurers, rural telephones, and the sugar industry among other clients.

She was a valuable member of a small group of people who provide the expert advice that makes things go on the Hill. At a time when more and more Americans have no idea how much wheat is in a loaf of bread or where a gallon of milk comes from, Margaret provided that rural expertise.

Today, there are too few like Margaret, too few who take their responsibility to the American farmer as seriously as did Margaret, too few who know and understand agriculture and the myriad laws that govern it. Margaret knew, and did her job as an expert. She will be missed. Margaret leaves behind a loving husband, a young son, and hundreds of friends on and off the Hill.

Mr. SASSER. Mr. President, I hereby submit to the Senate the First Budget Scorekeeping Report for Fiscal Year 1992, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $15.2 billion in budget authority, but exceed the budget resolution by $3.2 billion in outlays. Current level is $2.6 billion above the revenue target in 1992 and $3.6 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $351.8 billion, $0.6 billion above the maximum deficit amount for 1992 of $351.6 billion.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 25, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report, my first for fiscal year 1992, shows the effects of Congressional action on the budget for fiscal year 1992 and is current through November 23, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. AS OF NOV. 23, 1991

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level[1]	Current level + resolution
ON-BUDGET			
Budget authority	1,270.0	1,254.9	−15.2
Outlays	1,201.6	1,204.8	+3.2
Revenues:			
1992	850.4	853.0	+2.6
1992–1996	4,832.0	4,835.6	+3.6
Maximum deficit amount	351.2	351.8	+.6
Debt subject to limit	3,982.2	3,639.9	−342.3
OFF-BUDGET			
Social Security outlays:			
1992	246.8	246.8	
1992–1996	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–1996	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS NOV. 23, 1991

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			850,405
Permanent appropriations	784,740	723,462	
Outlays from prior year appropriations	0	234,906	
Offsetting receipts	(186,675)	(186,675)	
Total enacted in previous sessions	598,065	771,693	850,405
ENACTED THIS SESSION			
Appropriation legislation:			
Agriculture (Public Law 102–142)	51,219	36,382	
Commerce-Justice (102–140)	21,425	16,016	
Offsetting receipts	(119)	(119)	
District of Columbia (Public Law 102–111)	700	690	
Energy and Water (Public Law 102–104)	21,875	12,961	
Interior (Public Law 102–154)	12,253	7,949	
Legislative Branch (Public Law 102–90)	2,309	2,063	
Military Construction (Public Law 102–136)	8,563	2,931	
Transportation (Public Law 102–143)	14,302	12,217	
Treasury-Postal Service (Public Law 102–141)	19,695	17,027	
Offsetting receipts	(6,079)	(6,079)	
Veterans, HUD (Public Law 102–139)	80,941	42,469	
Emergency Supplemental for Humanitarian Assistance (Public Law 102–55)		(1)	
Dire Emergency Supplemental Appropriations, 1991 (Public Law 102–27)		511	
Other spending legislation:			
Extending IRS Deadline for Desert Storm Troops (Public Law 102–2)			(5)
Veterans' Education, Employment and Training Amendments (Public Law 102–16)	2	2	
Higher Education Technical Amendments (Public Law 102–26)	(56)	(56)	
Veterans' Health Care Personnel Act (Public Law 102–40)		(1)	
Veterans' Housing and Memorial Affairs (Public Law 102–54)		5	
Veterans' Benefits Improvement Act (Public Law 102–86)	3	3	
Intelligence Authorization Act, FY 1991 (Public Law 102–88)	(1)	(1)	(1)
Veterans' Educational Assistance Amendments (Public Law 102–127)		(1)	
Extend Most-Favored-Nation Status to Bulgaria (Public Law 102–158)			(2)
Unemployment Compensation (Public Law 102–164)	3,825	3,825	2,600
Discretionary estimating adjustment	(233)	(5,823)	
Total enacted this session	230,625	142,974	2,593
PENDING SIGNATURE			
Defense (H.R. 2521)	269,911	176,492	
Labor, HHS, Education (H.R. 3839)	182,964	146,777	
Offsetting receipts	(39,658)	(39,658)	
Defense Authorization Act (H.R. 2100)		(7)	
Intelligence Authorization Act, fiscal year 1992 (H.R. 2038)	(1)		
Total pending signature	413,217	283,604	
CONTINUING RESOLUTION AUTHORITY, PUBLIC LAW 102–163			
Foreign Operations (expires March 31, 1992)	14,034	5,496	
Offsetting receipts	(41)	(41)	
Total continuing resolution authority	13,992	5,454	
MANDATORY ADJUSTMENTS			
Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution	(1,041)	1,105	
Total current level	1,254,858	1,204,830	852,998
Total budget resolution	1,270,021	1,201,600	850,400
Amount remaining:			
Over budget resolution		3,230	2,598
Under budget resolution	15,163		

[1] Less than $500,000.

Note.—Numbers may not add due to rounding.

SEND US AN ADVOCATE

Mr. BUMPERS. Mr. President, the Senate receives a lot of criticism from the White House about the time we take to act on the President's nominees to various government posts. However, the Senate cannot give consent or advice if the President fails to nominate, as he has for almost 2 years now, for what is one of the most important posts in government in the eyes of millions of small business owners.

Once again, a full session of Congress has passed without President Bush having submitted a nominee for chief counsel for advocacy in the Small Business Administration. Last year about this time, I took to the Senate floor to urge that the President act promptly to send us his choice for this important post. A full year has passed, and nothing has happened. SBA has been without a chief counsel for advo-

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cacy for virtually the entire Bush ad-

[From the Wall Street Journal, Nov. 20, 1991]

bought the idea that a Democratic Congress

Stanley Kane was admired by every-

bation for 15 years. He gave him no prison time, explaining that the man would not be

sis of the situation of the world's refugees and internally displaced people.

cacy for virtually the entire Bush administration.

As Senators may recall, we had a nominee for this job a couple of years ago. Without belaboring the history of that choice, suffice it to say that the nominee withdrew in February 1990. Since then, we have been patiently waiting for the President to send up another nominee.

In the last year, the Senate Small Business Committee has acted promptly on President's Bush's nominees for SBA Administrator, inspector general and Deputy Administrator. We recently went to extra trouble to waive Senate rules and confirm the Deputy Administrator, Mr. Cooksey, in time for him to attend an important SBA conference. That annual conference, incidentally, was sponsored by the Office of Chief Counsel for Advocacy, which remains unoccupied. To underscore the problem most dramatically, this year's conference was, for the third year in a row, hosted by an acting chief counsel.

Every poll of small business people and every statement by small business groups says that the chief counsel is the most needed job in SBA. The reason is simple. Under the statute establishing this office, which was written by Congress in the late 1970's, the chief counsel is the independent watchdog within the administration on behalf of the Nation's small business community. He is not beholden to OMB, he is not beholden to the administrator of SBA, and he is not beholden to Congress. He is charged under the law with speaking out and commenting on proposed regulations and legislation without regard to the official administration line. The chief counsel plays a crucial, constructive role in ensuring that small business owners' voices are heard above the noise of Washington. As Congress approaches difficult issues concerning economic development, tax policy and health care reform, the need for a small business advocate is crucial.

I have a recent Wall Street Journal article by Jeanne Saddler concerning small business views on the chief counsel post and the administration's performance generally which I will ask unanimous consent be included in the RECORD at the conclusion of my remarks.

Mr. President, I strongly urge the President to submit a nominee for this critical position. I pledge to expedite hearings and work with the administration so that the interests and concerns of American small business owners are fully represented at the SBA.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 20, 1991]

SMALL-BUSINESS OWNERS FEEL THEY'VE BEEN BETRAYED

(By Jeanne Saddler)

If big-company chiefs are angry with President Bush and Congress these days, they have plenty of company among the country's millions of small-business owners. But the two groups have somewhat different reasons for their anger.

"We're ticked off: I feel let down," says David Pinkus, who owns North Haven Gardens, a Dallas, Texas, landscape-construction concern. He and many other business owners give the president and Congress low marks on handling the economy.

Asserting that President Bush lacks "backbone," Mr. Pinkus charges: "He caved in [to Congress] on the passage of a civil-rights bill that will create a lot of litigation, not jobs for minorities, and he caved in on controlling spending. It was all smoke and mirrors."

Many small-business owners are particularly concerned about the new civil-rights bill, which Mr. Bush has said he would sign. Among other things, it strengthens the prohibition against employment discrimination. Although the bill exempts very small companies (employing fewer than 15), many business owners fear that the legislation will lead to litigation that they—unlike big companies—can't afford.

At a small-business conference in San Antonio last week, the prevailing mood among both Republican and Democratic business owners was anger at politicians for failing to lead during an economic crisis. While the crisis is slashing profits at some big companies, it is putting thousands of small firms out of business entirely. Owners of small companies, who are often poorly capitalized, frequently feel the effects of a decline in confidence before it starts affecting the pocketbooks of big-company managers. Although most owners still blame Congress more than the Bush administration for the nation's economic woes, there is a fresh sense of disappointment aimed at the president.

Many owners charge that Mr. Bush is neglecting small business, which gave him considerable support in his presidential election. Owners are particularly annoyed that after two years the administration still hasn't filled the Small Business Administration job most important to them, chief counselor for advocacy. The holder of this post is supposed to speak independently of Congress and the White House on policy matters. Failure to fill the job makes critics ask whether the president is truly concerned about small business.

"I talked to George Bush in 1985 about the need to hook up with small business, says George Abbott, who heads two management-consulting firms in Omaha, Neb. "Historically, the advocate is a great liaison for the administration; [President Bush] missed a golden opportunity.

Susan Hager, a partner in a public-relations firm in Washington, D.C., and president of the advocacy group National Small Business United, says the vacant job shows that the administration officials "don't even do the public-relations end of it—[so we can forget] the substance."

Until lately at least, the small-business lobby generally has supported President Bush, while attacking the Democratic-controlled Congress for pressing changes, such as a higher minimum wage, that would increase small-business costs.

But now, "there's a different tone," says Ms. Hager. "Before, some Republicans bought the idea that a Democratic Congress was to blame; now people aren't any more enamored of the Republicans than of the Democrats." She says she gives both Mr. Bush and Congress a D on handling the economy.

Mr. Abbott, who heads the Nebraska consulting concerns, says he would give grades of C+ to the president and D to Congress. "Even though I'm a lifelong Republican, I can't accept the fact that he [President Bush] hasn't done anything for small business," he says.

Small-business owners say they want tax-policy changes to encourage investments that will lead to jobs. Many favor a cut in capital-gains taxes, and others want additional moves as well.

Revising the 1986 tax act to restore value to real estate is critical, argues Mr. Pinkus, the Texas business owner. Although one of the aims of the 1986 act—to shut down real-estate tax shelters—was a good idea, the act had highly adverse effects on many real-estate investments, he says. He also supports an income-tax cut to encourage consumers to spend again.

The lack of available credit for small and medium-sized concerns also is adding to business owners' irritation with Washington. William Pinkerton, president of Project Services International, a Pittsburgh, Pa., company that provides training and engineering services to the steel industry, says he had to close a new office in Corpus Christi, Texas, three months ago when his bank refused to extend his line of credit.

"I guess I'd blame [Congress and the administration] for not doing something sooner on the credit crunch," says Mr. Pinkerton. "Our revenues are down 50% from where they should be. Right now, we're down to one major project, and we should have four or five," he adds. He says the company has 27 employees and about $3 million in annual revenue.

Recently, Mr. Bush met with about a dozen small-business owners to discuss a broad range of issues, including a capital-gains tax cut, reform of the health-insurance market for small companies and the credit crunch. At a recent meeting with reporters, SBA Administrator Patricia Saiki said the use of SBA loan programs has risen significantly of late. The dollar value of the agency's loan guarantees rose 12% in the fiscal year ended Sept. 30 to $3.8 billion. Moreover, SBA loans to exporters more than doubled last fiscal year to $107 million from $42 million.

"I told our lenders to commit to as many loans as possible" and to let the SBA worry about increasing its guarantee authority, Mrs. Saiki said. She said she is telling colleagues in the administration that SBA programs should become the "economic toolbox" to ease the credit crunch.

But for some, help may arrive too late. Elizabeth Newlon, who owns a personnel-recruiting firm in Pittsburgh, says the slow economy is very likely to put her out of business.

But "I'll be kind; I'll give the president a D on the economy," she says. "I may need to go to him for a job."

TRIBUTE TO JUDGE STANLEY KANE

Mr. DURENBERGER. Mr. President, Stanley Kane died Sunday night of cancer. He spent 83 busy years on this planet, most of them with a woman who was so much a part of his life it's hard to imagine one without the other.

Stanley Kane was admired by everyone that knew him personally; his reputation is admired by those who did not have that privilege.

I knew him best not as a judge, but as a Eucharist Minister in our church in downtown Minneapolis.

I first became acquainted with him through his wife Betty. She was a DFL activist, and I am a life-long Republican. But in our State of Minnesota, party labels usually aren't barriers; partisans often come together in search of good public policy. Betty reflects Stanley's love for the law and his deep concern for the rights and responsibilities of people. And I'm sure much of what we admired in Stanley has its roots her life and values as well.

It is part of the history of this place that it was said about the great Senator New Hampshire: "No man could ever be as great as Daniel Webster looked." That was how Stanley Kane looked. And he "judged" better han he "looked."

He was that rare kind of individual that made you want to be a better person just being in his presence.

Mr. President, David Chanen has written a sensitive obituary of Stanley Kane for the Minneapolis Star Tribune, and I ask unanimous consent that it appear at this point in the RECORD.

JUDGE STANLEY D. KANE, DIES; NOTED FOR COURAGE AND UNUSUAL SENTENCES

(By David Chanen)

Lawyers enjoyed bringing their cases before Stanley D. Kane. Whether the case was civil or criminal, big or little, the Hennepin county District Court judge had a reputation for being fair in his decisions and taking a common-sense approach to the law.

During his 25 years on the bench, he wasn't afraid to be courageous in his decisions. In 1965 he decided that a long-standing Sunday-closing law, which permitted only specific types of businesses to open, was unconstitutional.

He also fashioned unusual sentences, such as the 1976 case in which he ordered a white man convicted of assaulting a black man to study minority history, take university courses on the subject and watch the television show "Roots."

He served until the mandatory retirement age of 70, but continued to work nearly full time as a judge until stepping down in 1988.

Kane died of lung cancer Sunday at his Minneapolis home. He was 83.

"He was student of the law and he made sure that his decisions were based upon law," said Rolf Fosseen, former chief justice of the Hennepin County District Court. "If he was unfamiliar with an issue, he'd go right to the books.

When he retired, Kane received a page from the county public defender's office, the first ever given to a judge. It read, "To Judge Kane, before whom all people are treated with dignity, fairness and compassion.

During his swearing in ceremony, Hennepin County District Court Judge Michael Davis said "he intended to model himself after Kane because 'he was a judge's judge, a lawyer's judge, a people's judge.'"

Kane was involved in his share of controversial cases. In 1966 he placed a Richfield dentist who admitted killing his wife on probation for 15 years. He gave him no prison time, explaining that the man would not be dangerous to himself or the community if allowed to continue living with his children and practicing his profession.

In 1972 Kane ruled that a driver whose car was caught for two hours in the old Metropolitan Stadium parking lot after a Vikings playoff game could sue for false imprisonment.

"He was extremely conscientious, legally and as a man," said Eugene Minenko a Hennepin County District Court judge. "I don't know anybody who he worked with in the court system that didn't like him.

Kane heard an early environmental lawsuit. In 1969 he refused Fry Roofing Co. an injunction to stop the city from tagging it for violating the city air-pollution ordinance, saying that the company's asphalt roofing plant in north Minneapolis had "literally been a stench in the nostrils of the community" for many years.

He reversed several controversial decisions by the Minneapolis City Council. He granted a permit for People Inc., a group home for epileptic youths, which had met with neighborhood opposition. In 1983 he declared a city ordinance requiring a $10 fee for newspaper racks unconstitutional.

"The tougher the case, the more he liked it," said Jack Provo, Hennepin County court administrator. "He might have to listen to 25 motions in a day, but that didn't bother him."

Kane grew up on the north side of Minneapolis. His father, a Minneapolis fire captain, died in a fire after rescuing nine people when Kane was an infant, Kane earned bachelor's and master's degrees in romance languages from the University of Minneapolis where he was editor of the student newspaper, the Minnesota Daily. He received a law degree from the old Minnesota College of Law now William Mitchell College of Law in St. Paul). and later became a faculty member.

From 1943 to 1947 he was an attorney for the National Labor Relations Board, he also was general counsel for the North Central Allied Association of Motion Picture Exhibitors before his appointment to the bench by Gov. Karl Rolvang in 1963.

His wife Betty, also has had a high-profile life. Who served for several years as Minnesota's DFL chairwoman, worked with the League of Woman Voters and was a legislative lobbyist.

Kane was a member of the board of trustees of the Hennepin County Law Library and was active with the Variety Club Heart Hospital. After he retired he took several history and art classes at the university.

Besides his wife he is survived by a daughter, Kathleen Kane, and a son, Daniel, both of Minneapolis.

Services will be held at 10:30 a.m. Wednesday at St. Olaf Church, S. 8th St. and 2nd Av., Minneapolis. Visitation will be held from 4 to 8 p.m. Tuesday at Thomson Brothers Funeral Home 2535 Park Av. at 26th St. Memorials are suggested to Variety Club Heart Hospital or St. Olaf Poor Fund.

U.S. COMMITTEE FOR REFUGEES ANNUAL WORLD REFUGEE SURVEY DESCRIBES PLIGHT OF UPROOTED CIVILIANS

Mr. PELL. Mr. President, I want to call attention to the 1991 World Refugee Survey—the U.S. Committee for Refugee's comprehensive annual analysis of the situation of the world's refugees and internally displaced people. The Survey is supported by religious bodies, foundations, voluntary agencies, refugees, and private citizens nationwide—bearing testimony to the respect USCR has won from those who work with uprooted people.

No other group does what USCR's energetic staff takes on each year, visiting dozens of refugee emergencies worldwide to document the protection and assistance needs of civilians who have fled conflict and persecution. There reports are a catalog of the world's most dangerous trouble spots: southern Sudan, Liberia, Sri Lanka, Burma, Somalia, Iran, Peru. Senators concerned about refugees know they can depend on USCR for constructive guidance in finding ways to respond to these most vulnerable human beings.

I ask that the thoughtful "Year in Review" by USCR's distinguished Director, Roger P. Winter, printed in this year's Survey, pages 2 to 6, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE YEAR IN REVIEW

(By Roger P. Winter)

The year 1990 was one of lost innocence, shedded naivete. As 1989 closed, for many of us there was boundless hope—essentially, knowledge—that with the demise of the Cold War, the world could look forward to a rosier future. There would be opportunity to focus on improving the quality of life for all, international cooperation that would make multilateralism work, usher in peace, and perhaps even give rise to peace dividends. We believed that "liberty and glasnost for all" had set in motion democratizing and peacemaking trends that would never be reversed.

A year later, the world has engaged in a major war in the Persian Gulf that even before the outbreak of hostilities in 1991 had displaced more than a million people. In the aftermath of that war, the world has been forced to confront the hopelessness and helplessness of refugees and displaced people in new, high profile ways, with thousands dying in the process. In the Soviet Union, the architect of glasnost has in the Baltics countenanced the rise of violent militarism as an instrument of domestic policy, the Union itself appears to be rushing toward collapse, and perhaps millions are poised to leave at the first opportunity. Despite the apparent end of the Cold War, the world's refugees had increased to nearly seventeen million by the end of 1990 and were significantly higher immediately thereafter. The reality of war and conflict for much of humankind remains unchanged, the prospects for much more—in the Soviet Union, Yugoslavia, the Middle East, India, Sudan, Burma—portend even higher numbers of refugees and displaced people. We remain in a well-weaponed world.

This spiritual and emotional rollercoaster has implications on the largest of scales. In the refugee field, they are all-defining. Geopolitics has consistently dominated the international refugee machinery. Many have conceived of refugees exclusively in Cold war terms. Although that should never have been the case, in truth, the Cold War, including the third world proxy battles it spawned, was the major producer of refugees in the post-

themselves frozen out of the assistance that arrived, even though they had depleted their

generous than their neighbors, now are introducing restrictive measures so that they

ed States. After a decade of bickering, the Immigration and Naturalization Service pub-

World War II era. We perceived its passing to mean that fewer refugees would be created and that millions who lost their homes and homelands would be able to return.

The past year has produced several developments, revelations, and trends that, at minimum, muddy the clarity of our earlier prognostications. For one, we are now aware of the post-cold war lag factor. It has been more than two years since the Soviets left Afghanistan, but there is no peace, and the refugees have not gone home. While small progress has been made in some other regional conflicts, such as Angola, Mozambique, Cambodia, in almost all the dying and suffering go on. Only in Namibia and, less securely, in Nicaragua, is peace actually "on line." Extricating the world from passing conflicts is not at all simple or quick.

For another, the absence of the Cold War framework, perhaps properly, undermines the certitude with which too many of us approached the world. Robert J. Samuelson recently wrote that the United States, "since the 1940s, communism has been the great simplifier . . . it made our foreign policy a great morality tale of good versus evil . . . now, [with] communism's collapse . . . we are less sure of our foreign interests." Freed from the Cold War framework, ethnic hatred, nationalism, and other forces raise their negative sides unbridled, without the discipline inherent in the old framework. While many share a feeling that there will be less (simplistic) clarity on why new populations of refugees and displaced people emerge, it is increasingly clear that the forces unleashed by the world's changes will in fact produce new displacement in significant numbers.

There is increasing evidence that the apparent demise of the Cold War and the fear of collapse in the Soviet Union have combined to cost most refugees and displaced people whatever strategic value they may once have had. Several observers have suggested with respect to refugees, and displaced people that, because the conceptual structure that defined "our interests" has changed, so too has our will to respond. It is increasingly clear that for many in the best-off nations of the world the humanitarian needs of the poorest of the poor, those of least strategic importance, are fading from the even miniscule view they were formerly afforded. For most of us, the plight of Africa's victims, for example, is just not an issue, just as the gassing of the Kurds was not when it first came to world attention in 1988. If anything, too much attention continues to be focused on walling others out so that they don't impinge on us. The UN High Commissioner for Refugees (UNHCR) respected Director of International Protection Michel Moussalli recently pointed out that "the budget of UNHCR for the 15 million refugees in the world amounted to roughly $500 million in 1989. The financial resources devoted by the administrations of the Western countries handling their asylum procedures amounted for the same period to roughly 5 billion dollars." With respect to UNHCR, the abrupt departure of High Commissioner Stoltenberg in October further unsettled the institution that has suffered immensely during the last few years. Bureaucratically, it may seem that the worst of UNHCR's budget crunch has passed. But that would be a shallow view indeed. It may be more comfortable in Geneva because the substantial deficit carried forward from 1989 to 1990 has been liquidated, and staff who were going to be let go are gone. But at what a price! Refugees worldwide—but especially in the less visible spots—have seen their actual level of care degraded, education of their children eliminated, their dependency deepened.

It is critically important for those interested in humanitarian concerns generally, and humanitarian concerns in the third and fourth worlds specifically, to fight back, to organize to ensure that whatever "new world order" emerges from today's confusion and change adequately responds to the vulnerable uprooted victims of human conflict.

In that regard, I suggest that a five-point common agenda be pursued during the next several years:

1. Strengthen the multilateral humanitarian institutions. The UN High Commissioner for Refugees, the International Committee of the Red Cross, and other international entities that deal with refugees and displaced people have emerged from the last few years in a weakened state. In terms of their mandates, capabilities, financial resources, and available diplomatic support, that trend needs immediate reversing. While it is important that the UN system generally works better now, with fewer East versus West blockages to its peacekeeping and conflict resolution capacities, it is also critically important that these particular UN and international agencies actually work well. They are the institutions charged with protecting and assisting those who are already victims.

2. Advance and institutionalize international protection and assistance for internally displaced people. States are legal entities that often have no inherent validation by the people who live within them. Glenn Frankel has written that most nation-states are "jury-rigged contraptions that owe their existence to the twentieth century collapse of the Ottoman, Hapsburg, British, and French empires. . . . More than 90 of the UN General Assembly's 159 member states were born after World War II." He quotes Francois Heisbourg, director of the International Institute for Strategic Studies: "Will nation-states fade away? I don't think so. Will state sovereignty fade? My answer is yes."

One area in which sovereignty should fade is where a government's abuse of its own citizens so onerous that it breaches some well-defined standard of international acceptability. We need a system that codifies an international interest in the people in such cases and legalizes an appropriate international protective response. To be politically feasible, such an approach would likely need to be limited to clearly aberrant or rogue governments and also limited in the responses that could be triggered. One example might be the provision of a legal umbrella for cross-border relief operations to civilians being starved out by their government in a civil war without that government's approval. Such victims would be of international concern and would be fed with international resources if they had been able to cross a border. Is it really logical to force them to do that to survive?

At the other end of the response continuum would be a mechanism that triggers UN Security Council consideration of a humanitarian disaster. When millions of a country's citizens are viciously abused by that country's government, Security Council consideration is justified and intervention may be warranted. Any "new world order" worth its salt would provide for this.

In any event, now is the time to move in the direction of institutionalizing improved international protection of internally displaced civilians; the tragedy of Kurdish and Shi'ite civilians in Iraq has shown for all to see the inadequacy of the world's current response to the internally displaced. The stage for improvement has been set. You can hear the possibilities in President Bush's own words:

"Some might argue that this decision [of April 16 to field military forces to protect internally displaced Kurds] is an intervention into the internal affairs of Iraq, but I think the humanitarian concern, the refugee concern is so overwhelming that there will be a lot of understanding about this."

3. Promote successful repatriation and reintegration of refugees and internally displaced people. The combined numbers of refugees and displaced people uprooted by some conflicts, such as in Afghanistan and Mozambique, are so great that they could overwhelm such countries if and when they do achieve some semblance of peace. Because most repatriation is spontaneous, "repatriation emergencies" could occur as large numbers and internally displaced people surge towards home areas that are entirely devastated. There is a universal vested interest in assisting such countries to reconcile and develop in the hope that peace is sustained. Today, the international community is not addressing this need at all well.

4. Ensure that victims of human conflict in the poorest, least strategically important countries of the world don't continue to be ignored. All the signs are already in place that they will be ignored unless NGOs and religious institutions collaborate to change the trend. One recent report indicated that charitable contributions in some European countries for humanitarian programs in Africa are down by more than 90 percent, while contributions to meet needs in the Soviet Union related to problems of food distribution there are flooding in. There will always be such strategic priorities that get a response, and not undeservedly so. However, religious bodies and NGOs are the natural constituency of those that have no other constituents. Recent developments indicate that many people will die or be permanently blighted if we are not up to the task. In the Horn of Africa, forty percent of the entire population are refugees or internally displaced people.

5. Fight the construction of Berlin Walls around the liberal, rich democracies of the West that attempt to cut themselves off from asylum seekers from the second and third world. As the West European nations move toward "harmonization" of their asylum policies and free movement among themselves, there is immense pressure to create barriers to prevent "nonmembers" from penetrating the "clubhouse" they are creating. But all too often, the consequences are a shirking of their responsibility to examine asylum claims and to protect deserving refugees. Instead, the tendency is to "pass the buck" to the frontline first asylum states, where protection is precarious and the resources are badly strained.

On the ground in 1990, the largest new population of refugees and displaced people in *Africa* was that of *Liberians*. In a hellacious blood-letting, 1.2 million people were uprooted. In the critical period, when massive numbers of refugees first arrived in poor, remote locations in Guinea, Cote d'Ivoire, and later Sierra Leone, the international community did not respond quickly or well to the refugees' needs. Without the generosity of local people, who opened their homes and shared their meagre resources with the refugees, there would certainly have been a major catastrophe. Months later, when the international community finally got its act together, those same local people found

themselves frozen out of the assistance that arrived, even though they had depleted their own food reserves to assist the refugees.

Meanwhile, life remained horrific for those displaced inside Liberia. Some 125,000 people were trapped inside Monrovia, which turned into a battleground between government troops and various rebel and other armed forces. For months, there was no food or water. Killings and even massacres became commonplace. When a multi-national West African peace-keeping force restored some order, hundreds of thousands more displaced people flocked to the city in search of food and security. Once again, international response did not keep up with the explosion of need, and in December 1990, malnutrition and hunger were rife in the Liberian capital.

An uncannily similar scenario played out beginning in December in *Somalia's* capital, Mogadishu. There too government troops and rebels fought for control of the city. There too dead bodies lay on the street, and terror and mayhem ruled. As 1990 ended, Somali refugees—as well as Ethiopian refugees who had been living in Somalia—were fleeing to neighboring countries. Hundreds of thousands became internally displaced. And with the country still in chaos, help was nowhere on the horizon.

Besides these new emergencies, during 1990 there was substantial deterioration in already existing refugee and internal displacement situations in Africa. Most dramatic among those was in *Sudan*, where relief experts were forecasting that hundreds of thousands could begin to starve to death beginning in spring 1991. The government of Sudan's long-term denial that a large-scale famine was developing, its hindering of relief efforts by international and private organizations, and its undermining of Operation Lifeline Sudan, all contributed to the potential for large-scale starvation in 1991.

In *southern Africa*, an average of 6,000 *Mozambicans* per month continued to flee to *Malawi*, bringing the total number of refugees in that tiny country to more than 900,000. While the dismantling of many of the laws that shaped the apartheid system in *South Africa* kindled hope for a more equitable South African society and for the repatriation of more than 40,000 South African refugees, it did not help the 250,000 Mozambican refugees whom South African authorities still view as illegal migrants subject to deportation.

A small-scale repatriation program through which several thousand *Angolan* and *Zairean* refugees returned home in 1990 was suspended due to the poor security situation in Angola, where war and drought have also put large numbers at risk and have thwarted relief efforts. Although peace talks in both the *Angolan* and *Mozambican* conflicts move forward, albeit slowly, repatriation of refugees from those countries is not imminent

With the signing in June of the Schengen Supplementary Agreement by *France, Germany*, and the *Benelux* countries as well as the signing that same month the EC states of the Dublin Convention on the state responsible for examining an asylum request, the European Community has moved significantly closer to a harmonized policy on asylum and entry as part of its overall plan to abolish internal customs and passport controls within the EC by the end of 1992. The effect of this on asylum seekers in Europe in 1990 was of diminished opportunity to register asylum claims and of a continuing downward trend in the number of asylum cases decided favorably. Harmonization, all too often, has meant that nations once more generous than their neighbors, now are introducing restrictive measures so that they may stand shoulder to shoulder with those European states that have sought to deter the entry of asylum seekers.

Western Europe's restrictive turn, while motivated in large part by the presence of asylum seekers from the Middle East, Africa, South Asia, and Europe's own southeastern region, also reveals a concern about the prospect of a new, large wave of asylum seekers from the *Soviet Union*.

The disintegration of the Soviet Union picked up speed during 1990, as nearly all Soviet republics declared their sovereignty or independence. Outbreaks of ethnic or nationality-based violence during the past two years have caused more than half a million people to become displaced within the USSR, the majority of whom are Armenians, Azerbaijanis, Meskhtian Turks, Tatars, other Caucasian nationalities, and ethnic Russians living as minority groups in outlying republics have joined the ranks of the displaced as well. Many of the displaced are returning to areas from which they had been forcibly moved during the Stalin era, as each of the nationality patches that comprise the Soviet quilt becomes more ethnically homogeneous.

A resurgence in anti-semitism and fears of political and ethnic violence compelled more than 200,000 Jews to exit the Soviet Union during 1990, most to Israel, but thousands were generously received in the United States and Germany as well. This was the first year of direct resettlement processing of 50,000 Soviets to the United States, who were processed out of the American embassy in Moscow, instead of Vienna and Rome. The new system had glitches, particularly for hundreds of Christian Evangelical families who still had Israel listed as the country of destination on their passports, the well-understood ruse that had once enabled them to reach Vienna.

Despite the added security threats from the Gulf conflict, the migration of Soviet Jews to Israel continued at the highest rate in decades. Israel's housing and social services were severely strained by the admission of about 184,000 Soviet Jews in 1990, and double that number are expected in 1991.

While welcoming the largest influx of Jews in decades, Israel's housing and social services were severely strained by the admission of about 184,000 Soviet Jews during the year, and the prospect that this number could double in the year ahead. The influx of Soviet Jews was a cause of increasing wariness among Palestinians in the occupied territories, including more than 900,000 UNRWA-registered refugees.

The most dramatic event in the Middle East in 1990 occurred with the invasion of Kuwait. The invasion and subsequent occupation touched off an exodus of more than 300,000 Kuwaitis and caused more than a million nationals of other countries to vacate the area. This put a tremendous strain on Jordan, which—due to the presence of 929,000 Palestinian refugees—already had the highest ratio of refugees to native population of any country in the world before the conflict began.

New political and military developments in the region had little impact on the Afghan war and the more than six million Afghan refugees in Pakistan and Iran. Although Soviet troops have been out of Afghanistan for two years, a civil war chugs along delaying still longer the reconstruction of Afghanistan and the return of her people.

Important victories were won during the year on behalf of asylum seekers in the *United States*. After a decade of bickering, the Immigration and Naturalization Service published regulations to implement the asylum provisions of the Refugee Act of 1980. Under the new system, a specialized corps of asylum officers will hear asylum claims in a nonadversarial setting, supported by a documention center, open to information from nongovernmental agencies. Those denied asylum will still be able to have their asylum claims heard by an immigration judge in the course of a deportation or exclusion hearing. Congress also filled a gap in the 1980 refugee law by creating a category of temporary protected status, and designated an 18-month safe haven period for Salvadorans. Finally, the settlement of a class-action suit in December allows for new adjudications of up to a half million *Guatemalan* and *Salvadoran* asylum claims.

The United States also admitted more refugees from overseas in 1990 than in any year since 1981. Fully 75 percent of the 122,325 refugees who were admitted represented two nationalities. Soviets and Vietnamese.

In South Asia, at least one million people were internally displaced in *Sri Lanka* as a long-running civil war between the Sri Lankan government and Tamil separatists flared violently in June 1990. By the end of the year, about 125,000 Tamils had fled across the Palk Strait to seek refugee in southern *India*. The government in New Delhi has so far resisted efforts by UNHCR to provide assistance to the Tamils. India has more than 400,000 refugees—from Tibet, Bangladesh, Afghanistan, Burma, as well as Sri Lanka—most of whom receive no international aid or protection.

A new crackdown on Tibetan Buddhist monks and nuns compelled several thousand to cross the high mountain passes into *Nepal* in search of asylum or transit to India. In the last five months of 1990, Nepal involuntarily repatriated 167 Tibetan asylum seekers, some of whom were imprisoned by Chinese authorities.

Despite persistent entreaties from the United States, UNHCR and USCR, *Malaysia* has pushed back more than 9,000 Vietnamese boat people since May 1989. Not a single arrival has been counted since July 1990, testament either to the success of the interdiction or the despair of the refugees.

As the civil war in *Cambodia* escalated in scope and violence, more than 30,000 refugees arrived in Thailand, some bringing horror stories of rampant disease and hunger in the Khmer Rouge "liberated zones." More than 150,000 people have been internally displaced by the fighting.

The number of refugees in *Thailand* swelled to nearly 460,000, including 325,000 *Cambodians*, 70,000 *Laotians*, and 16,000 *Vietnamese*. Persecution and civil war in *Burma* has forced more than 45,000 Burmese students and ethnic minority peoples to flee into Thailand. The ethnic groups, principally the Karen and Mon, have clustered in camps and villages along the border, while most of the students have sought refuge in Bangkok.

Throughout the year, the boat people population in *Indonesia* hovered near 20,000, prompting concern of a backlash. But despite repeated reports of mistreatment of Vietnamese by Indonesian authorities on Kuku Island, the government's commitment to asylum remained unchanged.

The world remains confronted with a myriad of humanitarian and refugee situations. It is unfortunately the case that no government can be trusted to do the humanitarian thing at any particular time or in any specific situation. Governments always act according to their perception of their interests.

The litany of refugee tragedies in 1990—

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or instructors in their specialties. Many of

in the individual state's teacher retirement

bill that Senator JEFFORDS and I craft-

The reality is this: If we are serious

The litany of refugee tragedies in 1990—newly created or dragging on—has already unfortunately proven to be only a prelude to 1991's refugee tragedies. And this is the way it will continue unless people East and West, North and South demand of their governments a new world order, with new, more humane priorities, thus making it in governments' individual and collective interests to function on a higher, more moral plane. Upholding human rights, seriously confronting poverty, discrimination, and violence, eliminating crushing debt on the poorest of the world's countries, promoting sustainable, environmentally respectful development—these are all goals common people can appreciate; they are all in "the peoples'" interests.

So, too, are protecting and caring for refugees and displaced people.

MAKING USE OF A NATIONAL RESOURCE: MEMBERS LEAVING THE MILITARY SERVICES

Mr. NUNN. Mr. President, as the Department of Defense reduces the size of the military services over the next few years, many soldiers, sailors, marines, and airmen will be leaving active military service. It is my strong hope that these personnel reductions can be accomplished on a voluntary basis, and that the military services will not have to separate any member through involuntary reductions in force. It is also my strong hope that our Nation will be innovative in using the talent and leadership of our military personnel who will be leaving active service in private enterprise and public service.

With regard to avoiding involuntary reductions in force, we have included in the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993 authority for a program of incentives to encourage certain categories of military personnel to voluntarily separate. These incentives include lump sum or annuity payments for certain career personnel who face the possibility of being involuntarily separated, and who choose to separate voluntarily. I have described these incentives in a previous statement on the contents of the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993.

Mr. President, I think that it is very important for us to realize that military personnel who will be leaving active service over the next few years are a valuable resource of this country. These officers and noncommissioned officers have much to offer in the way of skills and leadership, not only in private enterprise, but in public service. We can help by being innovative, and by aggressively seeking out opportunities where arrangements can be established that are mutually beneficial to the military and our communities.

For example, we have asked the Department of Defense, in the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993, to propose a program that would permit the early retirement of certain military personnel who would volunteer to retire to accept a position in public service, such as teaching, or working in community service with our youth where the technical and leadership skills they have gained in the military can be put to effective use. In this regard, I believe a partnership arrangement could be modeled along the lines of the Junior ROTC Partnership Program where schools can hire a military retiree by paying the difference between the retirees retired pay and the regular teaching salary of the position to which the military retiree is hired. The compensation for such personnel could also include some form of further credit for military retired pay based on contributions to the military retirement fund by the employer, the employee, the Government or any combination of the three.

Mr. President, there are many officers and noncommissioned officers who will be subscribing to the program of voluntary separation incentives we have included in the conference report on the National Defense Authorization Act for fiscal year 1992 and 1993. I believe that it is very important that the Department of Defense act expeditiously to encourage these separating personnel seeking opportunities in public service, and to assist them in securing alternative, nontraditional job certification if necessary for their employment.

Mr. President, there is interest and support in our communities for innovative programs such as this. For example, Prof. Bill Hobby, a former Lieutenant Governor of Texas, who teaches at the Lyndon B. Johnson School of Public Affairs at the University of Texas, wrote an article in the November 24, 1991, issue of the Washington Post entitled "From the Armed Forces to the Classroom." In his article, Dr. Hobby proposes an innovative, "nontraditional" program for qualifying military personnel who are leaving active military service to teach in our schools. I ask unanimous consent that the article be included in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

From the Armed Forces to the Classroom—Military Veterans Are Good Prospects for High School Teachers

(By Bill Hobby)

Within the next few years, hundreds of thousands of highly trained men and women will be mustered out of the armed forces.

Of the 750,000 soon-to-be veterans who will leave military service during the next five years, about 150,000 are commissioned, warrant and senior noncommissioned officers. They are trained in vital technical skills and are natural leaders.

Though well qualified, many will not be able to find jobs that use those skills. Typically, these veterans will have spent one-quarter of their military careers as students or instructors in their specialties. Many of them will be men, many of them minorities.

They are in their forties and fifties, with twenty-odd productive years ahead of them. The nation has invested hundreds of millions of dollars in their professional training. In short, they are fine prospective high school teachers.

With the proper incentives, 75,000 might become teachers.

That many new teachers would not only be readily absorbed in the next five years, but welcome into the classroom. About 90,000 potential new teachers a year now graduate from colleges of education. School districts hire more than 175,000 new teachers a year. The deficit is filled by the return of former teachers, teachers who have never taught despite being qualified to do so and new teachers from alternative certification programs.

More than 1 million new teachers will be needed in the next five years. Colleges of education will provide about half a million. Well-qualified veterans can help fill the gap.

With the growing dissatisfaction with the teachers profession and the pressure to find new sources of teachers. Texas and many other states have begun qualifying teachers in nontraditional ways.

These "nontraditional" teachers have done just as well as, or better than, education graduates on certification tests and on the job.

About 28 states now have such programs. These programs are an integral part of the President Bush's "America 2000" program for education. In his recent report to Congress, the president said: "The solution to the problem of attracting talented teachers is not to regulate the industry further but to open it up to the competitive process and to reduce certification requirements in ways that do not threaten but instead encourage excellence in teaching."

The inclusion of veterans in the president's solution for the teacher shortage makes sense.

Can people who have not graduated from college teach in high school? A college degree indicates maturity and knwoledge. So does 10 or so years of service in the armed forces. I have never known a chief petty officer who could not teach a high school class. For centuries, noncoms have spent most of their time educating adolescent boys.

Teacher programs don't have to take years. College graduates in the Teach America program enter inner-city classroom after three months of training. Could not mature veterans with 10 to 20 years of military service be trained in the same length of time? Of course. They could be teaching in the classroom in a matter of months.

The success of this program will be determined by the quality of the soon-to-be veterans willing to enter it. The qualify will be determined by the incentives offered, most logically through the military retirement system.

Veterans leaving the service have pension benefits ranging from none for those with fewer than 20 years service, to 50 percent to 75 percent of final pay for those with 20 to 30 years of service and 75 percent for those with more than 30 years of services. The pensions, of course, are in addition to medical benefits of enormous value.

Under this approach, a qualified veteran who becomes a teacher would earn military retirement credit in the classroom. The credit could be either on a year-for-year basis or proportional. The cost of the additional benefit would be deferred until retirement of the teacher-veteran, who would also earn credit

in the individual state's teacher retirement system.

A more costly alternative would be to offer the 15-year veteran a flat 40 percent pension (2.5 percent per year) for as long as the veteran teaches. The enhanced pension (50 percent) would be payable at the completion of five years in the classroom. This relatively small pension would compensate for the low entry-level pay of teachers.

Fedeal, state and local efforts would be needed to coordinate the program. Specific actions would include: promotion of the program within the military, modification of the retirement system, creation of state programs of alternative certification, mobilization of the colleges and universities and involvement of school districts in need of trained personnel.

Employing trained military personnel at or nearing retirement is a logical way to address several of our problems; the reduction of the armed forces, the need for more teachers and the stagnation of the economy present a unique opportunity for the nation.

Another group that is interested in tapping into the leadership and skill resource of military personnel who will be leaving active service is The Cities in Schools Program. The program is targeted at reclaiming youth who are drop outs from schools or who are potential drop outs. Separating military personnel returning to their communities can take local leadership positions in this worthwhile effort.

Mr. President, we have challenged the Defense Department to work with us to develop programs such as these in our conference report on the National Defense Authorization Act for fiscal years 1992 and 1993. I am pleased to note that the Army leadership has begun initiatives to develop programs such as these. I expect that such efforts will broaden to the other military services under the oversight of the Defense Department. Obviously, as Dr. Hobby noted in his article, these programs will require Federal, State, and local coordination to be effective. It is my hope that we will be successful in enacting such a coordinated program early next year.

ON PROMOTING FOREST LAND CONSERVATION AND FOREST-RELATED ECONOMIC DEVELOPMENT IN THE NORTHERN FOREST LANDS OF NEW ENGLAND

Mr. LEAHY. Mr. President, New Englanders are often characterized as proud, tough-minded, self-reliant and—above all—reserved. But when they have got something to say, those same Yankees get right to the point.

I was reminded of that this summer at a public hearing in Lyndonville, VT. Hundreds of New Englanders came to discuss the future of the northern forest lands—26 million acres of virtually continuous woods stretching from eastern New York, across Vermont and New Hampshire into northern Maine.

My goal at the hearing was to find out what people thought about a draft bill that Senator Jeffords and I crafted with the Senators from the other three States. The bill was designed to promote forest land conservation and forest-related economic development in the northern forest lands. This was not an idea hatched in Washington. It came from people in the four States who were concerned about the conversion of large tracts of working forest to nonforest uses.

In drafting the bill, we built on the recommendations in the Governors' task force report that was issued last year as a companion to the Forest Service's Northern Forest Lands Study. The task force, which was comprised of landowners, environmentalists, and State foresters, recommended the creation of a four-State council and a program to research, identify, and inventory the resources of the northern forest lands. The report was enthusiastically endorsed by the four State Governors.

Throughout this process, I have tried to be sure the legislation we drafted in Washington reflects the views of those who live and work in the northern forest lands. That is why we waited to introduce the draft bill until all interested parties reviewed it and had a chance to voice their concerns at hearings in Vermont and Maine. After all, there is no sense in introducing something that hurts the region it is designed to help.

We were not then—and I am not now—suggesting, even indirectly, that any property owners be forced to give up their land. To the contrary, we are developing State and Federal assistance programs to help landowners overcome financial and technical problems and keep their forests healthy and productive. We are also trying to find new ways to market forest products and make constructive changes in our State and Federal tax system to promote forest retention.

From the hearing testimony and the hundreds of letters I've received, it is clear that the vast majority of Vermonters are concerned about the future of their forests. People love the forests for the hiking, fishing, and hunting they offer. And people believe the northern forests should continue to provide New Englanders with jobs, forest products, and our unique quality of life.

While most Vermonters think the northern forest lands deserve our attention, not everyone agrees on the best way to proceed. It is no secret that a vocal faction opposes any effort to protect the northern forest lands. I respect the views of these people, but I am deeply troubled by the misinformation being spread to further their cause. Among other things, these people have suggested that our efforts will lead to the condemnation of houses and churches. Nothing could be further from the truth.

The reality is this: If we are serious about protecting the northern forests, we have to put aside the rhetoric and start taking substantial action. Senator Rudman and I worked hard again this year to secure funding to keep the northern Forest Lands Council intact and to continue its research, inventory, and resource identification programs. While I could continue to seek appropriations without legislation, taxpayer interests would be better served if legislation were enacted to authorize our efforts.

In the coming months, I will be proposing changes to the draft that I hope will resolve many of the issues raised during the hearings and public meetings this year. The many thoughtful suggestions we received will ensure that we proceed in a way that more accurately reflects the views of Vermonters and others throughout the region. Two suggestions I wholeheartedly support are local-interest representation on the Council from each of the four States and a provision specifying that the Council will not have any land acquisition or regulatory authority.

Thus, the Council would be comprised of 17 members. Each of the four Governors would appoint four members to represent the State's conservation agency, environmental community, private forest landowners, and local interests. A USDA Forest Service representative would also participate.

In the meantime, I believe the Council should move forward with the guidelines it recently adopted. In addition, the Council should proceed in the following manner:

The Council should: Develop and approve consistent standards and methodologies for resource inventory efforts by the States; identify opportunities for interstate cooperation; share relevant information among the four States; develop and recommend to the States and Congress a set of actions to further natural resource planning and land conservation within the northern forest lands; involve the public in further forest land deliberations; and report annually to Congress, the Secretary of Agriculture, and the Governors of the four States on the progress of northern forest lands programs.

A citizens advisory committee should be established with representatives from local government, consulting foresters, environmental organizations, the forest products industry, forest landowners, land-trust organizations, labor organizations, recreation organizations, and others deemed appropriate by the Council.

The Council should hold public meetings, publicize them well, and encourage comment on its actions.

The Council's research program should examine relevant forest land conservation topics, produce a research base, outline future research needs, and

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INCOME TAX CUTS FOR MIDDLE

by a reporter about Congress staying in

allocate research funds to public and private research organizations.

The Council should be sure its inventory work takes advantage of existing material and provides data consistent with standards and guidelines used in the northeastern States' inventories and by the Forest Service; State and Federal agencies and public and private research organizations should help gather and analyze the data.

The Forest Service should designate a northern forest lands liaison from its State and private forestry program to assist the Council and coordinate the research, resource inventory, and analysis program. The Forest Service should also coordinate the work of all Federal agencies that provide technical assistance to the Council.

I hope that most people would be able to support these principles. Unfortunately, it still will be difficult to allay the concerns of those who are convinced that this effort is merely a Federal land grab by outsiders. While I support Federal acquisition programs, that support is based on making land available on a willing seller, willing buyer basis.

Mr. President, the Senate's northern New England delegation has worked closely on this issue for the last 2 years. In fact, all four Governors and eight Senators in the four-State delegation supported northern forest lands appropriations requests. While some may see my comments today as a break with that coalition, they should know that I remain committed to passing a bill we can all support.

My action today reflects the sense of urgency I feel about protecting our northern forests. While the recession has lowered property values and taken away the immediate threat of land speculation in the region, the problem has not disappeared. So now that we have the chance, we should act. If we wait until the economy rebounds, we will not have a say. By then the fate of the northern forests will be determined for us—and not by us.

But if we work together—small landowner, conservationists, the forest products industry, and local, State, and Federal Government—we can keep our northern forests and forest-based economy healthy for future generations.

PROTECTING THE ANCIENT FORESTS AND RURAL COMMUNITIES OF THE PACIFIC NORTHWEST

Mr. LEAHY. Mr. President, a long-simmering crisis in the Pacific Northwest forests is reaching the boiling point. And if we do not do something about it—if we do not get this issue off Congress' back burner—then things are going to boil over sooner than later.

The sad reality is that this crisis, and the painful transition it has caused workers in the Pacific Northwest, could have been avoided.

But the Reagan and Bush administrations wouldn't turn off their saws long enough to hear the foresters who had long warned that ancient forests on the region's private lands were rapidly disappearing. As the private timber supply dwindled, pressure mounted to cut the oldest, biggest and most profitable trees in our national forests.

While national forests provide important timber for our use, most Americans want more from their national forests than two-by-fours. Americans go to national forests to fish, to hunt, to hike, to canoe, and to just get away from the rigors of their daily lives. Those are things we cannot generally do on private lands.

The Reagan administration, however, had a different view of ancient forests. When Fish and Wildlife Service biologists recommended that the northern spotted owl, which depends on the ancient forests, be listed as a threatened species, administration officials kept the report under wraps. It is a sad commentary that it took a U.S. district judge, William Dwyer, to make the administration acknowledge that it was breaking Federal forestry laws.

Despite a flurry of legal activity on this issue, it wasn't until 1991 that court decisions significantly reduced timber sale levels in the Pacific Northwest. Prior to that, starting in fiscal year 1985, Congress attached riders to the annual appropriations bills that limited citizen rights to question certain Pacific Northwest timber sales.

In the 1990 appropriations bill, Congress limited such judicial remedies for all of Washington, Oregon, and northern California. I decided not to fight that rider, but not before agreeing with my distinguished colleague from Oregon, Senator HATFIELD, that this rider would be the last "quick fix" to be attached to an appropriations bill.

Senator HATFIELD and I also agreed to work together on a long-term ancient forest solution that: First, ensured sustainable ecosystems; second, did not limit citizen access to the courts unless all parties agreed; and third, was worked out through the authorizing committees.

As promised, I directed my staff to talk with all interested parties about developing a long-term solution to protect our ancient forests. My staff met with environmentalists, labor and forest products industry representatives, officials from State, county, and local government, Pacific Northwest delegation members and others.

The forest products industry would not agree to proceed on a regional solution. The forest products industry said it would talk, but only if the legislation provides limitations to citizen access to administrative appeals and the courts on all national forest matters. Because I believe citizens in a democracy should always have a way to voice their opinions, that precondition was unacceptable.

So now here we are. The Nation is in the middle of a recession. The Forest Service's Region 6 harvest levels in Washington and Oregon have dropped from 5.4 billion board feet in 1988 to an estimated 3.1 billion board feet this year. Fortunately, there is still 5.3 billion board feet under contract that can be cut at any time. That means that the drop in the harvest level to 3.1 billion board feet is largely due to the recession—not the spotted owl, as some claim.

Still, the administration's failure to comply with the law has essentially shut down the region's timber sale program in 1991. That is a serious matter and one we must resolve.

To do so, we need to cut through the rhetoric and deal with the economic and ecologic realities. I realize that will not be easy. I know that jobs are hanging in the balance. I know that the future of our ancient forests, salmon runs and spotted owls are also threatened. But if we can set aside our differences long enough to find some common ground, I'm convinced we can develop a mutually satisfactory blueprint for the future of our national forests.

For starters, I will be drafting legislation with Senator ADAMS over the recess to provide a long-term solution to the ancient forest issue. I will work with Senator ADAMS because he is trying to protect both jobs and forest ecosystems without sacrificing basic constitutional rights.

In developing a long-term solution I will work to meet three principles: ancient forest sustainability, constitutional rights, and economic stability.

This effort will not be easy. We cannot save every job and we cannot save every ancient tree. We can, however, develop a program to bring Forest Service management into compliance with existing environmental laws, protect the region's forest products industries, and provide a smoother transition to those individuals and communities whose livelihoods are disrupted by timber harvest reductions.

PACIFIC NORTHWEST FOREST COMMUNITY RECOVERY AND ECOSYSTEM CONSERVATION

Mr. ADAMS. Mr. President, I am deeply pleased that Senator LEAHY has committed his leadership and expertise to resolving the forest management crisis in the Pacific Northwest. His work on behalf of rural communities is well known. His experience with forest management issues is widely respected. As chairman of the Agriculture, Nutrition, and Forestry Committee, he will help focus the Senate's efforts on developing a long-term solution to this extremely difficult problem.

The Congress has wrestled with this issue for several years. A final resolution has eluded us. We have tried all of

the quick fixes. All of the political solutions have failed. The economic and environmental realities in the Pacific Northwest have now removed all other options.

If we are to restore economic and environmental stability to the region, we must have a legislative solution in this Congress.

We clearly cannot rely on the Bush administration for a solution. By avoiding the issue, the Reagan and Bush administrations created the crisis. They refused to heed the warnings sounded by professional foresters as long as 10 years ago. The foresters warned us the intensity of timber harvest was destroying the forests' ability to maintain other public values. If Reagan and Bush had listened, forest policy could have been adjusted to minimize economic impacts to our rural communities.

Instead, we must now make major adjustments to protect water quality. To protect recreation, fish and wildlife. And to protect other public values required by law on our national forests.

Over the last several months, Congress has received a wealth of information from forest scientists. They tell us that it is possible to maintain timber production without degrading other public values. This will require, however, that we amend our forest management objectives. They must be made more sensitive to the natural system of interrelationships among the trees, soil, water, plants, and animals.

There is no need to fear such a change. There are many excellent professionals in the Federal land management agencies who are capable of bringing about this change in a responsible manner. What we should fear are shortsighted, partisan political actions that would prevent such change.

I urge my colleagues to join with me and Senator LEAHY. Join us in giving careful consideration to an ecosystem-based approach to resolve this issue. This is the only viable approach to Federal forest management in the Pacific Northwest. It will provide a secure and solid base for sustainable production of timber and timber related jobs without threatening the other public values we expect from our public lands.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business is closed.

Mr. SPECTER. I ask unanimous consent that I may speak as in morning business for a period of not to exceed 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized as in morning business for up to 7 minutes.

INCOME TAX CUTS FOR MIDDLE AMERICA

Mr. SPECTER. Mr. President, I have just come from a hearing of the Finance Committee which was considering income tax cuts for middle America, IRA legislation, and other means to stimulate consumer purchasing power. I think it is worthwhile to address this subject very briefly for my colleagues generally and for those who may be watching our proceedings.

The subject matter of the hearing was a proposal by the distinguished Senator from Texas, Senator BENTSEN, to reduce tax rates on middle-income Americans, a proposal that I heartily support. The hearing was also on proposals for IRA's. I testified before the Finance Committee, urging them to take action on legislation introduced last week by Senator DOMENICI and myself which would provide that taxpayers could withdraw from existing IRA's up to $10,000 now without any penalty or tax this year, the taxes to be paid in the next 4 years, providing those funds were used on certain consumer items.

This idea is an expansion of proposals which are now pending, where IRA's would be utilized on items like first-time home buying, medical expenses, and college tuition.

From that general position, which has wide acceptance, Senator DOMENICI and I offered an amendment last week which would allow middle-income taxpayers, individuals with earnings up to $75,000 or married couples with earnings up to $100,000, to use existing IRA's and other deferred-income plans. It is estimated that some $800 billion are in such accounts. Our amendment was not successful on the Senate floor last week, largely because the matter was initiated in the Senate as opposed to the House.

I argued then, Mr. President, and will repeat the argument now, that we ought to move beyond the jurisdictional considerations to these issues at the present time. We have a very serious economic problem in the United States of America. Whatever one may wish to call it—"a recession," "not quite as bad as a recession," "something worse than a recession"—there is absolutely no doubt that there is a very, very serious situation in the U.S. economy now.

Two weeks ago, Mr. President, I urged that the Senate not adjourn after Thanksgiving but that the Senate and the House should stay in session during the month of December to address these problems.

I raised that same issue this morning in the Finance Committee hearings, realizing full well that on this, what is scheduled to be the last day of the session, it is highly unlikely we will be staying in session.

When I moved outside and left the hearing room, I was asked a question by a reporter about Congress staying in session. One of the reporters informed me that Speaker of the House FOLEY had said that all it would take would be a telephone call from the President for the House to remain in session.

I was asked what I thought about that. I responded that I thought the Speaker of the House—I say this respectfully—ought to initiate the call himself. He has a telephone which calls out as well as one which receives incoming calls. We ought not to stand on protocol. The matter ought to be initiated by the legislative leaders in the House and in the Senate.

During the proceedings before the Finance Committee, I had said the proposal which Senator DOMENICI and I had suggested had been discussed broadly with the administration. We discussed it with Secretary of the Treasury Nicholas Brady. We discussed it with Chairman of the Federal Reserve Board, Alan Greenspan. We discussed it with the chairman of the President's Council of Economic Advisers, Michael Boskin. We discussed it with the Chief of Staff of the White House, Gov. John Sununu. As I said on the floor last week, there was a lot of interest, although not a commitment, by those officials.

During the course of my conversations with ranking officials in the administration, it has been noted—and this has been widely reported in the news media as well—that the administration's plan is to advance their economic proposals in the State of the Union speech.

I respect that judgment from the administration, but as a Senator, speaking only for myself, I have a differing point of view. My sense is that we ought to be acting now and that if the ideas are proposed in January or in early February, the Congress will take February and March and April and May and June and July and beyond, whatever time is available. But, if the ideas are advanced now, with the impending Christmas season upon us, there would be a good chance the Congress and the administration could come up with some solid proposals to stimulate a recovery.

The idea, again, which Senator DOMENICI and I had proposed is a very sound one. I have yet to hear anyone offer an argument on the merits against the idea, except perhaps it would deplete savings, and it would do that to a limited extent. With $800 billion in those savings I suspect that our proposal would not really make a serious encroachment on the savings in this country.

In any event, savings are for a rainy day. I suggest that there is a cloudburst outside. There is a cloudburst, Mr. President, in the form of a very serious economic situation in this country.

Mr. President, in testifying before the Finance Committee this morning

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

on Senate bill 612, I noted that the bill was introduced on March 12 and that the bill had 74 cosponsors, with a generous representation from both political parties. This could be a starting point. Or the bill which Senator DOMENICI and I introduced could be a starting point. We need a starting point.

I know, Mr. President, when I travel through Pennsylvania—and in the course of the past several weeks I have been in all parts of my State: Erie, Scranton, Pittsburgh, Philadelphia, central Pennsylvania—there are a lot of Pennsylvanians who are hurting and there are a lot of Americans beyond my own State who are hurting.

I frankly do not want to return home. I do not want to go back to Pennsylvania and have my constituents say, "Why don't you men and women in the Congress do something constructive?" I think we ought to be here and in session making every possible effort to solve our economic problems.

In that vein, I wonder why we have not acted on S. 612, which, as I said, was introduced in March 12 and has garnered 74 cosponsors.

To repeat, when a reporter says to me that the Speaker of the House, Mr. FOLEY, suggested that all the President has to do is pick up the phone to keep Congress in session, I reply, respectfully, that Speaker FOLEY ought to pick up the phone. I do not think Congress ought to go out of session and fail to address these economic problems for want of having one party or another pick up the phone.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3595, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3959) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Moratorium Amendments of 1991".

SEC. 2. MORATORIUM ON THE ISSUANCE OF FINAL REGULATIONS AND ON THE USE OF DONATIONS AND PROVIDER-SPECIFIC TAXES BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID.

(a) MORATORIUM ON ISSUANCE OF FINAL REGULATIONS.—

(1) DELAY IN CHANGES IN REGULATIONS CONCERNING DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647) is amended by striking "December 31, 1991" and inserting "April 1, 1992".

(2) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—Such section is further amended by—

(A) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(B) by adding at the end the following new subsection:

"(b) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—The Secretary shall not issue any regulation prior to April 1, 1992, that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public lands as a source of State share of financial participation under title XIX of the Social Security Act, including the treatment of such funds as a source of State share of financial participation under such title notwithstanding the fact that the public agency contributing the funds provides services under the State plan under such title.".

(3) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—Such section is further amended by adding at the end the following new subsection:

"(c) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall not issue any regulation prior to April 1, 1992, regarding standards for qualification as a disproportionate share hospital or payment adjustments for such hospitals under title XIX of the Social Security Act.".

(b) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—

"(1) DETERMINATIONS OF FEDERAL MATCHING PAYMENTS DURING MORATORIUM PERIOD.—

"(A) IN GENERAL.—For purposes of determining the amount to be paid to a State under section 1903(a)(1) of the Social Security Act for the period of January 1 through March 31, 1992, the total amount expended during such period as medical assistance under the State plan shall be reduced by the amount determined under subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount determined under this subparagraph shall be such amount of revenues from provider-specific taxes and provider donations as exceeds the sum of—

"(i) the total amount of any revenues received by the State (and by any units of local government in the State) during such period from provider-specific taxes pursuant to State or local legislation as enacted or adopted on or before November 22, 1991; plus

"(ii) the total amount of any revenues received by the State (and by any units of local government in the State), from provider donations under donation programs in effect on September 30, 1991, that do not exceed 25 percent of such revenues received in Federal fiscal year 1991.

"(2) MORATORIUM ON STATE TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—For the period of January 1, 1992, through March 31, 1992, a State may not—

"(A) designate as a disproportionate share hospital any hospital that is not so designated pursuant to a State plan amendment that was submitted on or before September 30, 1991; or

"(B) change the formula or rates upon which Federal reimbursement is based for disproportionate share hospitals during such period.".

(c) RELATED PROVISIONS.—Section 8431 of the Technical and Miscellansous Revenue Act of 1988, as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(e) RELATED PROVISIONS.—

"(1) MORATORIUM ON REVISIONS OF ESTIMATED AMOUNTS.—In estimating under section 1903(d)(1) of the Social Security Act the amount to which a State will be entitled for a quarter under subsections (a) and (b) of section 1903 of such Act for a quarter beginning on January 1, 1992, and ending on and including March 31, 1992, the Secretary may not withhold any amounts estimated to be expended during the quarter (or reduce any amount so estimated pursuant to section 1903(d)(2)(A) of such Act) solely because the amounts are attributable to provider donations, intergovernmental transfers, or provider-paid taxes.

"(2) PROHIBITION ON PENALTIES AND OTHER REGULATORY ACTIONS PERTAINING TO PERIOD OF MORATORIUM.—The Secretary may not assess a penalty or take any compliance, disallowance, or other regulatory action against a State under or pursuant to title XIX of the Social Security Act on the basis of the State's use of provider donations, intergovernmental transfers, or taxes (whether or not of general applicability) paid by, assessed against, or received from an individual or entity providing medical assistance under the State plan under such title to receive Federal matching funds under such title for quarters beginning on or after January 1, 1992, and ending on or before April 1, 1992.".

(d) DEFINITIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (c), is further amended by adding at the following new subsection:

"(f) DEFINITIONS.—For purposes of this section—

"(1) 'donation' means any voluntary payment, in cash or in kind, including any gift, contribution, presentation, or award;

"(2) 'health care provider' means any individual or entity that furnishes health care items or services for which it receives remuneration;

"(3) 'provider' includes any—

"(A) health care provider;

"(B) corporation, partnership, association, or organization formed by or on behalf of health care providers;

"(C) person who has an ownership or control interest (as defined in section 1124(a)(3) of the Social Security Act) in a health care provider;

"(D) employee, spouse, parent, child, or sibling of an individual described in subparagraph (A) or (C); and

"(E) individual or entity that is a major customer or supplier of a health care provider;

"(4) 'provider donation' means a donation by or on behalf of a provider;

"(5) 'provider specific tax' means a tax assessed under State or local law whose applicability is limited to health care providers or health care services (a tax is limited to health care providers or health care services if no other entity, item, or activity is subject to the identical tax); and

"(6) 'tax' means any mandatory payment imposed by a State or unit of government subordinate to a State, including any assessment, fee, charge, or duty.".

(6) BUDGETARY TREATMENT.—

(1) NO SEQUESTRATION.—Notwithstanding any other provision of law, there shall be no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of the provisions of (and amendments made by) this Act.

(2) NO ASSUMPTION WITH REGARD TO REGULATION.—The budget submitted pursuant to section 1105 of title 31, United States Code, shall be prepared in a manner that does not assume any effects (including potential effects) on Federal expenditures resulting from the issuance of any regulation that relates to—

(A) provider-specific taxes;

(B) provider donations;

(C) intergovernmental transfers; and

(D) standards for qualifying as a disproportionate hospital or payments for such hospitals under title XIX of the Social Security Act, and that is not a final regulation by the submission date of such budget.

Amend the title so as to read: "An Act to provide for a moratorium on the issuance of final regulations and on the use of donations and provider-specific taxes by States to receive Federal matching funds under medicaid."

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I think we face a very serious problem in the Medicaid Program. It is a problem which we can take a big step today toward solving. I hope we do solve this today, and solve it really once and for all.

Mr. President, not all of our colleagues have been as close to this problem as have members of the Committee on Finance. We have held in that committee two hearings on this subject, and we just had one earlier this week.

For the benefit of my colleagues, I would like to take a moment to outline what that problem is. As my colleagues know, the cost of the Medicaid Program is shared by Federal and State governments. The Federal Government contributes to the State, for use in its Medicaid Program, a percentage of the State government revenue the State chooses to allocate to the program. The amount that the Federal Government contributes varies with the per capita income of the State. In other words, under the current rules of the program, the poorer States get more from the Federal Government than the richer States.

The assumption is that the taxpayers in the richer States can afford to assume more of the costs of providing health care for the poor than can the taxpayers of the poorer States.

The problem that we are addressing today, Mr. President, is that a large number of States have devised creative ways and methods to draw down additional Federal matching money for their State Medicaid Program without even investing additional new State funds raised by broad-based taxes.

In fact, Mr. President, some of the States have found ways of getting more Federal money for their Medicaid Programs without investing any new money at all in the program. Some of these methods seem to me to be of questionable validity.

What can you say about any State that permits a foundation apparently created especially for the purpose to borrow from a financial institution, invest the borrowed money in the Medicaid Program, then use it to draw down the Federal match at not less than 50 cents on the dollar, and then repay the financial institution for the money already borrowed?

Let us call such arrangements what the inspector general of the Department of HHS called them, and that inspector general said they are a "scam." The general method used was pretty well described by Dr. Wilensky. She is the Administrator, as you know, of HCFA. This was made in testimony before the Committee on Finance earlier this week. I am following her description here very closely.

States borrow money from providers, and those providers usually are the hospitals from which the money is divided, through donation or tax programs. This money is then used as the States' share of Medicaid, and is matched by Federal money at least dollar for dollar.

In some States, as Dr. Wilensky describes this, the States reimburse providers for the donations or taxes that they have paid by increasing Medicaid payments to them. The States then use Federal matching funds to pay providers for Medicaid services.

Dr. Wilensky made it clear in her testimony that it is at least theoretically possible in these arrangements for the Federal Government to pay 100 percent of a State's Medicaid Program.

This is not just a problem of a few States. This started out as probably a very innocent proposition out there with a few States just a little over a year ago, I believe, maybe a little over a couple years ago. But there has been a tremendous growth in this practice. So we are not talking about a minor problem here.

These methods have spread very quickly among the States, and so has the money that the Federal Government has been spending as a consequence of these new approaches.

According to Dr. Wilensky's testimony, in 1986 only one State was using such methods. So I stand corrected in the sense that I said it was only a little short while ago. But let us say 5 years ago, only one State. By the middle of this year 38 States were using donations and tax programs.

In October 1990, the inspector general reported that $497 million in matching funds for donations and provider taxes were requested by nine States. In May 1991, 18 States will request $2.5 billion. By July 1991, 30 States had requested $3.8 billion in matching funds.

The Health Care Financing Administration is currently estimating that States will request at least $5.5 billion to match these donations and these tax programs in fiscal year 1992.

So, I hope what is a fact here, a fact that I just described, is readily seen as being no small matter. This is a tremendous consequence of this program. And the consequences are going to be greater if we do not solve this problem soon.

First, these arrangements are creating inequities among the States. States which do not engage in these methods like my own State of Iowa will not be getting their fair share of aggregate Federal contributions to the program.

My leading newspaper, the Des Moines Register, in an editorial entitled "Iowa's Honest, and Loses," said this:

> Thirty-seven States are cheating the Federal Treasury out of health-care money, aided and abetted by the U.S. Congress. Iowa is not one of the 37—and its honesty is costing its residents millions upon millions of dollars.

That is the end of the quote from the Des Moines Register.

So I want to stress the same point that the Register is making, Mr. President, because I know that we are going to hear lots of talk today about hurting poor moms, and babies, from the advocates of continuing these funding mechanisms, some of which have been described by the inspector general as a scam.

Nobody wants to hurt the poor, but in a very important sense that is not the issue here. The issue is because we have already decided to take care of people who qualify for Medicaid, who is going to pay for helping people who qualify? The issue is whether the States that engage in those funding arrangements are going to make the taxpayers of other States pay for things they do not want to ask their own taxpayers to pay for.

So why should the State of Iowa deal straightforwardly with its budget problems? We have laid off 1,200 State employees. We have absorbed 3½ percent across-the-board budget cuts, cutting deeply into other valuable State programs to try to solve our budget problems the very best way we know how without any help outside of our borders while other States are in the process of thinking up scams to take money from the Federal Treasury, kind of a ripoff fashion, and thus solve or at least reduce their own budget deficits.

which have been placed on the States

STATE OF GEORGIA,

time to fill a void of the Senate proce-

VOL
137
PT
24
NO
26
1991
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JA
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1992
UMI

Second, the nature of the Medicaid Program as a Federal-State cost-sharing program is being transformed. You cannot say it is being transformed by plan, because being a Federal program, that would have to be done here in the Congress of the United States. It is being done willy-nilly, without any systematic review or decision by this body or the other body. One of its basic principles—that is, one of the basic principles of the Medicaid Program which is now, I believe, 25 years old—is that the States will assume greater responsibility and care in the management of the program if they are paying for part of the cost. This basic premise is being subverted by the problem that we now face.

A related basic principle that the States, which have less ability to raise money because of their lower per capita income will receive greater Federal match money and vice versa, is also being destroyed, Mr. President.

There is obviously no necessary relationship between the wealth of a State and what it can get from the Federal taxpayers through the schemes that have been described here and that are well known. And particularly if these continue, it will exacerbate the problem. Although I have seen no evidence on this point, it could happen that the richer States could end up with more Federal money than poorer States if such schemes are allowed to continue.

Third, as is evident from the Federal spending increases I have just cited from Dr. Wilensky's testimony, these financing arrangements are, in effect, an open spigot in the Federal Treasury.

There is virtually no limit to the amount of money that the Federal Government may end up pouring into these programs.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. FOWLER. Mr. President, I rise today on behalf of the more than 800,000 citizens in the State of Georgia whose access to quality health care is dependent upon the continued financial stability of the Medicaid Program.

I speak today on behalf of my friend Zell Miller, the Governor of my home State of Georgia. Like many Governors across the Nation, Governor Miller fears that the proposed changes to Medicaid funding rules contained in the Durenberger amendment represent another lethal blow to state budgets that are already suffering from economic decline, rising health care costs, increasing federal mandates, and a lack of domestic concern by this administration.

Mr. President, I have been working on this issue for many months. I introduced legislation back in April myself to cap voluntary donations at 10 percent. I wrote to Gail Wilensky, Administrator of the Health Care Financing Administration, and Richard Darman, Director of the Office of Management and Budget, last July, and again this fall, expressing concern over the proposed rule changes and their potentially disastrous effect on disproportionate share hospitals.

Like a number of my colleagues on both sides of the aisle, I sought a sound, fair and well-considered restructuring of the system.

Today, as the Congress prepares to recess, the administration now comes hastily forth with what can only be described as a complete restructuring of the financing of the Medicaid Program.

Even at this late hour, this is a critical issue that deserves our attention, but the first question we must ask is: "What is the proposal?" If ever there was a moving target, this proposal is it.

My distinguished colleague from Minnesota now offers an amendment that is billed as a compromise between the National Governor's Association and the Office of Management and Budget. The Governor of my State and his Medicaid advisors barely know what is contained in the agreement. Certainly, they have not agreed to it. Senators did not have the benefit of seeing even a draft of this language until Saturday, and I understand it was being rewritten right up to the time of introduction. How can we even consider endorsing a proposal which acts more like a chameleon than it does a settlement agreement?

There are many questions about this so-called compromise, but perhaps the main point to be made today is that there is not time for the deliberative debate that needs to occur between the administration and the Congress and all the parties affected by this proposal. This is why I have said repeatedly that a moratorium on the October 31 regulations is needed, and why I have urged Senate passage of H.R. 3595, as passed by the House.

Many States, including Georgia, will be harmed if HCFA's regulations or the Durenberger amendment are enacted without major revision. Both move from State legislatures the authority to make their own taxing decisions, and both impose on the States constraints which are not in the interest of the States or the Medicaid recipients they cover. Despite the administration's statements that it supports federalism, the amendment centralizes more authority in HCFA.

The amendment omits the assurance contained in the original agreement that would permit States to commit tax revenues to reimburse Medicaid providers who paid the tax. In addition, it give HCFA broad discretion to disallow Federal matching if any such guarantee is made by a State to the providers being taxed. This omission leaves the States at HCFA's mercy and cannot be a simple oversight.

The original NGA agreement also contained provisions protecting the longstanding right of the States to use funds transferred to the Medicaid Program from other State agencies, counties, special purpose districts or other governmental entities, but the amendment contains so much provisions. Again, State Medicaid programs are left unprotected.

Mr. President, in 1990, the people of Georgia approved a constitutional amendment to initiate a program of provider donated funds. These funds are appropriated by the Georgia General Assembly and have been disbursed pursuant to Medicare State plan amendments approved by HCFA. The State of Georgia has used these funds to pay the perinatal case management, post partum care, family planning, physician payments for obstetrical care, and payments to the 70 disproportionate share hospitals, which serve the vast majority of our low-income residents. Two-thirds of these hospitals are rural, and without these payments, which HCFA proposes to artificially cap, many of these rural hospitals would close.

I am proud of the fact that Georgia was the first State to make disproportionate share hospital payments. I am proud of the fact that Georgia and its entire congressional delegation worked to eliminate HCFA's upper limit payment cap to these hospitals. And I want to express my grave concern today about the proposed caps on such payments included in this amendment. I also take pride in having our entire congressional delegation standing together again in opposition to this latest effort to hamper the States and do harm to Medicaid.

The American people deserve a full public debate on the need for health care reform. We cannot begin that debate by rushing through a proposal that pulls the rug out from under Medicaid and leaves us no foundation on which to build a better health delivery system.

Mr. President, let me make one final point. There are those that would have us believe the increase in Federal Medicaid expenditures is attributable to State financing scams. I resent the suggestion that Georgia's program—which was approved overwhelmingly by Georgia voters as an amendment to our State Constitution—is a scam. And I resent the notion that Georgia's Governor and legislature should come to HCFA hat in hand, to have HCFA tell Georgia how it should finance its Medicaid Program.

But what I resent most is the administration's ignorance as to what has really caused increased Medicaid expenditures, namely, the growth in recipients. In Georgia alone, the number of covered recipients is 23 percent higher this year than last. And this has nothing to do with our donated funds program. It has to do with an economy that is in recession, people who have no health care coverage, and mandates

which have been placed on the States by HCFA and Congress.

Mr. President, Medicaid is a program that was developed to assist people who cannot afford health care coverage on their own. It does not take a rocket scientist to figure out that this administration has played a major role in driving up State Medicaid costs by abandoning its traditional partnership with the States, by failing to propose an economic policy that keeps Americans on the job and by ignoring the need for comprehensive health care reform.

Under this administration, real GNP growth is lower than at any point since Mr. Hoover occupied the White House, employment and income growth are at their lowest levels since World War II and the official poverty rate is the highest it has been since 1967—with the exception of 5 years during the previous administration. At the same time, health care spending is at the highest level of GNP ever recorded—an estimated $756 billion for this year alone. Surely President Bush, or whoever is in charge of domestic policy at the White House, understands the linkage between our current economic decline and the increase in the number of Americans who simply cannot afford health care.

If there are more poor people in America, there are more people who have no other choice than to rely on Medicaid to provide the health care services that they need and deserve.

Instead of chastising the States and their Medicaid programs, we should be commending them for addressing the immediate needs of the medically indigent in the best way they can. We do the States and the millions covered by Medicaid an injustice by even considering a proposal such as the one that is now before us.

As a member of both the Budget and Appropriations Committees, I understand the serious budget and fiscal implications of the existing Medicaid match system and the type of radical proposal on the table today. With so much at stake here, in terms of dollars and lives, I think we owe it to the American people to get the facts before we act. I ask my colleagues to oppose this amendment and to support a 9-month moratorium on HCFA rulemaking.

Thank you, Mr. President, and I ask unanimous consent that a copy of Gov. Zell Miller's letter to me outlining his opposition to the settlement proposal be printed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF GEORGIA,
OFFICE OF THE GOVERNOR,
Atlanta, GA, November 22, 1991.

Hon. WYCHE FOWLER, Jr.,
Russell Senate Office Building,
Washington, DC.

DEAR WYCHE: I urge you to support an extended moratorium on the issues of Medicaid provider taxes, voluntary donations, and payments to disproportionate share hospitals and to oppose the plan recommended by the National Governors' Association.

I oppose the NGA plan for the following reasons:

1. It runs counter to basic principles of federalism by allowing, for the first time, the administration to tell states how they can raise their state match funds for Medicaid. It allows HCFA to micromanage state revenue programs, letting HCFA tell states what kinds and amounts of taxes they can and cannot impose.

2. In the past, Congress has specifically allowed the voluntary contribution and provider-specific tax programs that the administration and the NGA plan now would eliminate. Now, in the middle of a recession and at a time when the Pennsylvania election has shown that health care is a matter of great public concern, is not the time for the administration to change the rules of the game and force states to raise taxes, cut back on health care, and/or cut payments to marginally profitable hospitals and push them toward insolvency. After two straight sessions of budget cuts, Georgia cannot stand to have another $250 million in Medicaid money taken away at this time.

3. It puts an upper limit on payments that the state can make to hospitals that carry a heavy burden of indigent care. There has been no such limit up till now. The state should be able to reimburse hospitals for the costs of indigent care based upon how much they provide, not based upon an artificial upper limit. To do otherwise would fly in the face of congressional intent, which was to recognize the special needs of hospitals which perform this type of public service care.

I appreciate your vigorous efforts on behalf of Georgia in this area and want to assure you that we are all extremely grateful for your help.

With kindest personal regards, I remain
Sincerely,
ZELL MILLER.

Mr. GRASSLEY. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Oregon [Mr. HATFIELD].

AN EPIDEMIC OF HISTORICAL AMNESIA

Mr. HATFIELD. Mr. President, with those of us who are conferees in between our conference sessions, and with the pending business now being discussed and negotiated, I rise at this time to fill a void of the Senate procedure merely to call my colleagues' attention to what I view as an epidemic that now sweeps our Nation.

In this kind of epidemic, Mr. President, its victims include our children and our grandchildren, and its insidious impact affects our national wellbeing. This is not an epidemic affecting the body, like AIDS, or smallpox or cholera. It is, instead, an epidemic affecting the mind and the American spirit. I see it is an epidemic that erodes the way in which we view ourselves, our society, and our great Nation.

We are living now amid an epidemic of historical amnesia. It is an epidemic that has left generations of our citizens, young and old alike, with little real understanding of American history, with little reality based perspective on who we, as a nation, are and how America came to be what it is today. Worse yet, what little history we, as a society, claim to know is too often skewed by the storybook characterizations of the people and events that have shaped the American experience. What do our children and grandchildren really know of George Washington, beyond the unlikely notion that he never told a lie?

The sad fact is that, as we prepare to mark the 500th anniversary of the arrival of the Columbus expedition to this continent, we are confronted with the distressing findings of a recent survey of 17-year-old students that showed one-third—one-third of our students—thought Columbus reached the New World after 1750. Two-thirds could not correctly place the Civil War between 1850 and 1900. While 9 out of 10 knew George Washington was our first President, 4 out of 5 had no idea when Abraham Lincoln was President. Only 3 in 10 had even heard of the Magna Carta, and only 4 in 10 knew of Dred Scott.

A survey conducted here in Washington in 1989 by the Center for Science in the Public Interest asked 180 schoolchildren, ages 8 to 12, to name all the American Presidents they could. It also asked them to name all the alcoholic beverages they could. These kids could name an average of 5.2 alcoholic beverages, but just 4.8 Presidents of the United States. There was a 10-year-old girl who could rattle off 14 brands of beer and booze, but could name only four Presidents. There was a 7-year-old boy who knew 10 brands of beer and wine, but could list only "Aprilham Linchon" and "Ragon" as Presidents. Sobering statistics, indeed.

I raise this issue today as a plea to my colleagues in the political community, as we are, for their help in eradicating this epidemic of historical amnesia, and to encourage them not to exacerbate it. In our personal and professional lives as lawmakers, as public officials, as candidates, we find ourselves every day on the frontlines of current

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Mr. President, I suggest the absence

ness be extended until the hour of 12:45

Second, to allow the State Medicaid

events. Let us here, today, commit ourselves to making history, not making up history.

As we immerse ourselves in the rhetoric of the upcoming election year, let us forsake the lure of tailoring the scared fabric of our Nation's history to suit our own partisan ambitions and goals. Let us make an effort to understand—and help our constituents to understand—the delicate weave of social, economic and political threads that comprise that fabric. Let us agree not to unravel and reweave those threads into superficial, political prattle that neither serves nor does justice to our country and our people and certainly does little to help restore public respect for the Senate, the Congress and the Presidency. And I speak of politics at all levels.

The myths are many. I fear we know them all too well: Democrats are the champions of the poor, while Republicans are the handmaidens of the bloated plutocrat. Democrats start the big wars, while Republicans handle dollars with sense, are but a few examples of the myths that I speak of.

And now, as we enter an election year in the midst of an uncertain economy, the myth-makers are busy exhuming and breathing new rhetorical life into the myths of the Great Depression. Critics of the President and his administration's handling of our economy scurry to resuscitate the myth-shrouded spectre of Herbert Hoover, the whipping boy of the Democrats ever since the first regrettable forays into dirty tricks campaigning in the late 1920's.

You remember Herbert Hoover: that short-sighted, cold-blooded, introvert. That do-nothing, one-term failure of a President who, according to a recent issue of U.S. News & World Reports, "passively presided over the start of the Great Depression in the 1930's." You remember Hoover: That unfeeling, uncaring millionaire who fed and helped rebuild Europe after World War I, but who, as President, sat back and let his own people go hungry and jobless. You remember Hoover: who promised—and be sure you put quotes around these statements—"a chicken in every pot:" and assured a devastated American public that "prosperity is just around the corner."

Such are the Depression myths that surround Herbert Hoover. Of course, none of them, not even the oft-quoted quotes, survives even casual scrutiny of the historical record. What history shows is a President whose diversity of interests and activities ranks with that of Thomas Jefferson. As a publisher of over 30 volumes of great works, and whose analytical and intellectual depths are perhaps unmatched by any President over the last two centuries of American history.

The Depression myths that surround this man hold him, alone, accountable for a global economic cataclysm that brought the world to its knees, all within just 7 months of his inauguration. History, however, takes a longer view. While the myths trace the Depression's origins to Wall Street and Black Thursday, history pre-dates its origins by 15 years to the killing fields of Belgium, where the first and last casualty of World War I was a fragile European economy.

The myth-makers would have us believe that callous indifference and political paralysis promoted Hoover to fiddle while the Nation was consumed by an economic firestorm. History, however, recalls Herbert Hoover as the first American President to use his political influence and the power of the Presidency to construct an interventionist fireline to confront an economic tailspin. His Reconstruction Finance Corporation kept the flames from licking at the banks, the insurance companies, the railroads, and other institutions that comprised the economic backbone of the ailing American economy. When farm prices plunged in the 1930's, this do-nothing President ordered the Federal Farm Board to create the Grain Stabilization Corporation which stemmed the tide of panic in farm prices. Rather than mythical indifference to the needs of the unemployed and homeless, Hoover worked tirelessly with industry and with State and local governments to both preserve and create public and private-sector jobs—jobs that would both preserve and create a sense of dignity and self-worth that a Federal dole could not. At the same time the National Council of Social Workers was condemning proposals to create a Federal welfare bureaucracy, Hoover was anonymously donating $10,000 a year to the San Francisco Board of Welfare and quietly raising hundreds of thousands more to provide relief to the families of unemployed miners.

The myth-makers paint a portrait of Hoover as a Machiavellian millionaire, more concerned with protecting the empires of rich New York bank owners than feeding the families of out-of-work banktellers. History recalls a President who, in the midst of the Depression, sacrificed considerable political capital by raising the maximum income tax on the wealthiest Americans from 24 to 55 percent.

The myth-makers would have us believe that today's economic backdrop is a precursor of a deja vu replay of 1929. History recalls America in 1929 as the last economic domino to drop, not one that, like today, teeters as the economies of Germany, Japan, Italy, and Great Britain stand firm.

Collectively, these Depression myths depict Herbert Hoover as a pariah. They invite derisive comparisons to contemporary political figures deemed deserving of ridicule, contempt, and scorn. Yet, history remembers the unsolicited wave of respect and admiration afforded Herbert Hoover even by those who were, if myth is to be perceived as fact, his sworn political adversaries.

Within hours of being sworn into office on that dark day in Dallas, President Lyndon Johnson phoned Herbert Hoover to seek his guidance in handling the difficult days ahead.

President John F. Kennedy—smitten by what First Lady Jacqueline Kennedy described as "a slight case of hero worship"—invited Herbert Hoover in March 1961 to head the advisory committee of an innovative new program called the Peace Corps.

When George McGovern was named director of Food for Peace, he, too, sought Herbert Hoover's advice.

When Robert Kennedy's namesake son was born, Ethel Kennedy wrote Herbert Hoover. Should her new son be named Robert Francis Benjamin Franklin Herbert Hoover Kennedy?, she asked, adding in a postscript "Do you think Bobby can get some of you by osmosis?"

No-nonsense Harry Truman, in helping to dedicate Hoover's Presidential Library, described Herbert Hoover as "one of my closest friends." And, as you recall, he invited him to head up the Reorganization Commission of the Federal Government known as the Hoover Commission.

Hoover, he then said, was "one of America's greatest men," adding that "I speak advisedly, because I know most of them, and he's one of them."

Even Hoover's nemesis, Franklin Delano Roosevelt, once saw greatness in this man. In a letter written in January 1920 to the U.S. Ambassador to Poland, a young FDR, then Assistant Secretary of the Navy, had this to say about Herbert Hoover:

> He is certainly a wonder, and I wish we could make him President of the United States. There could not be a better one.

Mr. President, I come not to praise Hoover, but to bury the myths that surround him, as but an example of historic amnesia. And I ask my colleagues in Congress to repudiate these and other myths disguised as historical facts in ways that shortchange and cheapen our collective understanding of America's rich history and undermine the legacies of the men and women who have distinguished themselves in service to America.

We cannot allow America's history to become a casualty of partisan political bickering. And we cannot condone through our silence the actions and words of colleagues who play fast and loose with our history. As Herbert Hoover once asked:

> Are we upholding the front of human decency when we permit untruth and dishonesty in government officials to go unchallenged, whether in our home town, our home state, or in Washington?

I, like Mr. Hoover, think not.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2057 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair regrets to interrupt the Senator. The hour of 12:30 has arrived, and the Senate is under a previous order.

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the Presiding Officer.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Cal. 391, Carolynn Reid-Wallace, to be Assistant Secretary for Postsecondary Education, Department of Labor.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the nomination was confirmed, as follows:

DEPARTMENT OF EDUCATION

Carolynn Reid-Wallace, of the District of Columbia, to be Assistant Secretary for Postsecondary Education. Department of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

Is there a further request with respect to the standing order of the Senate?

EXTENSION OF MORNING BUSINESS

Mr. GRAHAM. Mr. President, I ask unanimous consent that morning business be extended until the hour of 12:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. GRAHAM. Mr. President, earlier today I heard comments regarding the proposition which is before the Senate, a proposition to either impose a moratorium on certain HCFA regulations on provider taxes and donations or to enact an NGA/administration compromise, the Durenberger amendment. The effect of implementing regulations without congressional action would be to restrict the ability of State to use innovative measures to raise some of the funds with which they match Federal Medicaid reimbursements.

Mr. President, in the past, I have heard statements that have disparaged State provider tax programs and, I believe, have done so indiscriminately and unfairly. Therefore, it is my purpose today to explain to the Senate the history, the rationale, and the performance of the provider tax program in the State of Florida.

We are considering a very serious issue, Mr. President, because, as I will indicate later, the consequences of adopting a policy that eliminates the State's ability to utilize these innovative forms of financing would be to deny health services to some of the most vulnerable members of our society.

I wish to explain the Florida provider tax program. In 1984, our State passed legislation creating the Public Medical Assistance Trust Fund [PMATF]. The fund was intended to provide Medicaid and other services for the medically indigent. The PMATF is funded through a 1.5-percent assessment on the net operating revenues of all acute care hospitals and through State general revenues. The program was implemented in 1985.

Some points about the program. Florida's tax is broad based. It applies to all acute care hospitals without any hold harmless or guaranteed reimbursements for participants.

The tax was a compromise agreed to by the State legislature, the hospital and insurance industry, and the business community—a unique demonstration of how all segments of the community can come together to achieve a common goal, a demonstration which I suggest is going to be necessary as we move to other areas of health care reform.

The State's assessment was created for several reasons: One was to level the playing field, the circumstance in our State as it had been prior to adoption of this program and which continues today, that relatively few hospitals, typically the urban public hospitals, are providing a disproportionate share of the State's indigent care.

Second, to allow the State Medicaid Program to improve and expand its available services.

Third, to respond to a directive of the Reagan administration, which asked the States to utilize innovative mechanisms for its State Medicaid match.

And, fourth, to finance optional indigent medical care beyond those mandated or financed through Medicaid and some mandated Medicaid Programs.

Mr. President, Florida's hospital assessment is based on all public and private acute care hospital revenues, is required regardless of whether the hospital participates in Medicaid and regardless of the extent of Medicaid participation, and it is not included as an allowable cost in the Medicaid cost report.

This year, Florida's tax will generate an estimated $174 million in revenues, which will be used in part for the State match for Medicaid. Last year, Florida spent most of the $147 million in revenues from the assessment on keeping up with just the few Federal mandates which had been imposed by Congress. Thirty million dollars in revenues from the tax are used for non-Medicaid indigent care purposes. About $20 million in the fund is generated from sources other than the hospital provider tax.

In response to the argument that all provider taxes maximize the Federal matching rate and, therefore, cause an undue burden on Federal revenues, in fiscal year 1985–86, the first year of the Florida program, Florida's provider tax represented 16.44 percent of the State Medicaid match. By fiscal year 1990–91, the tax was 9.9 percent of the State Medicaid match.

So, Mr. President, in the case of Florida, the charge cannot be made that this has been used as a means of expanding the State's drawdown of Federal funds because, in fact, the proportion of our Medicaid reimbursement represented by the hospital provider tax has been a declining percentage.

Mr. President, indeed, the administration has said repeatedly that Florida is the model provider tax program. According to a November 25 letter from Dr. Gail Wilensky, HCFA Administrator, Florida's tax is "exactly the type of tax that we believe would meet the spirit of this compromise legislation."

A July 15, 1991, Washington Post editorial characterized Florida in the following manner: "Some of these tax and contribution schemes are legitimate. Florida, for example, since 1984 has levied a modest tax on the net operating revenues of all its acute care hospitals. The effect is to spread the cost across the State and population through insurance. The proceeds help pay Medicaid's cost."

Mr. President, I have maintained for several years that Florida's program is a valid means for leveling the playing

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Mr. Hoover occupied the White House,

field, causing all our acute care hospitals to make some contribution toward indigent care and redistributing the burden providing that care.

That is why I introduced legislation in 1989 to protect provider taxes and donations. We are considering the implementation of that provision of OBRA 1990 today. It is my hope that ongoing negotiations result in an acceptable compromise and a compromise that this Senate, this Congress, can approve before we recess.

During these difficult economic times, the curtailment or elimination of the State's ability to use provider taxes would be devastating. In my State, as an example, if we were denied the right to use this means of financing a portion, last year less than 10 percent, of our Medicaid match, it would have some of the following effects:

In Florida the fund finances several important mandatory and optional Medicaid programs; the Medicaid coverage of pregnant women and infants up to 150 percent of poverty, for example, the congressionally mandated qualified Medicare beneficiary program under which States are required, through Medicaid funds, to pay the out-of-pocket costs for the elderly indigent's participation in Medicare. In Florida we go beyond that by supplementing those who are eligible for the qualified Medicare beneficiary programs with full Medicaid coverage. Last, Florida's provider tax helps fund an optional medical needy program for non-Medicaid-eligible persons with catastrophic expenses. All of those programs, Mr. President, would be in jeopardy if we did not act before this Congress recesses on protecting provider taxes.

Thank you, Mr. President.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. LIEBERMAN. Mr. President, today the Senate will be taking action on H.R. 3595, the moratorium on the HCFA regulations under Medicaid. I want to indicate to the Senate that this bill, as reported out of committee, would have done a grave injustice to the State of Connecticut because it contained a provision freezing classification and reimbursement rates for a disproportionate share of hospitals that was in effect as of September 30 of this year, 1991. That provision would have been manifestly unfair because States were given no notice that the rules of the game were going to change on September 30. In fact, they were given no warning that if they wanted to make changes related to this disproportionate share hospital provision, they had better get them approved by HCFA by September 30.

Mr. President, the language here is arcane but the effect on Connecticut is much more than merely technical. In fact, if these provisions were allowed to stand, it would have a devastating effect on my already recession-wracked State. It would deprive Connecticut of the possibility of $236 million in savings under two State planned amendments which have been filed but were filed after September 30. The State had no reason to believe that it needed to have these amendments approved prior to that date.

Mr. President, I understand the significance of the moratorium on the HCFA regulations and I have no problem with it, but I could not have supported legislation which so seriously and retroactively punished my State. Connecticut has been very hard hit by the current recession. Unemployment continues to rise, businesses are closing, and the State government itself has had to make extremely severe budget cuts while raising taxes at the same time. If Congress now came along and told the State that the planned amendments which it had submitted in compliance with the HCFA regulations after September 30, 1991, are not eligible for this possible $236 million of reimbursement because of purely arbitrary retroactive cutoff dates, it would have a truly devastating effect on Connecticut.

Mr. President, that is the bad news. I am pleased to say that the good news is that, once learning of the effect of this provision in this bill and speaking to the chairman of the Finance Committee, to the Senator from Minnesota [Mr. DURENBERGER], and to our friends in HCFA and OMB, I am very pleased and grateful to be able to say that I gather that language will be submitted as part of an amendment to this bill, H.R. 3595, that will protect the State of Connecticut from this arbitrary cutoff and an opportunity to bring some relief to our recession-wracked, overtaxed, and budget-pressured State of Connecticut.

I want to extend my heartfelt thanks to the people who have been so responsive to us: The Senator from Texas, Mr. BENTSEN; the Senator from Minnesota, Mr. DURENBERGER; Dr. Gail Wilensky, the Administrator of HCFA; Tom Scully of OMB; and particularly three Senate staff people; Alexander Polinsky, of Senator DURENBERGER'S office; and Marina Weiss and Janis Guerney of Senator BENTSEN'S office. Let me just say, in a very real and direct and tangible way, all of the people of Connecticut are grateful for this understanding and this response.

I thank the Chair and I yield the floor.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

The Chair would remind the Senator from Georgia that the time extended for morning business has expired.

Mr. FOWLER. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. FOWLER. Mr. President, I rise today on behalf of the more than 800,000 citizens in the State of Georgia whose access to quality health care is dependent upon the continued financial stability of the Medicaid Program.

I also speak today on behalf of my friend Zell Miller, the Governor of my home State of Georgia. Like many Governors across the Nation, Governor Miller fears that the proposed changes to Medicaid funding rules contained in the Durenberger amendment represent another lethal blow to State budgets that are already suffering from economic decline, rising health care costs, increasing Federal mandates, and a lack of domestic concern by this administration.

Mr. President, along with many others, I have been working on this issue for many months. Back in April, I introduced legislation to cap voluntary donations at 10 percent. I wrote to Gail Wilensky, Administrator of the Health Care Financing Administration, and Richard Darman, Director of the Office of Management and Budget, last July, and again this fall, expressing concern over the proposed rule changes and their potentially disastrous effect on disproportionate share hospitals.

Like a number of my colleagues on both sides of the aisle, I sought a sound, fair, and well-considered restructuring of the system.

Today, as the Congress prepares to recess, the administration now comes hastily forth with what can only be described as a complete restructuring of the financing of the Medicaid Program.

Even at this late hour, this is a critical issue that deserves our attention, but the first question we must ask is: What is the proposal? If ever there was a moving target, this proposal is it.

My distinguished colleague from Minnesota, I understand, will offer an amendment that is billed as a compromise between the National Governor's Association and the Office of Management and Budget. The Governor of my State and his Medicaid advisers barely know what is contained in the agreement. Certainly, they have not agreed to it. Senators did not have the benefit of seeing even a draft of this language until late on Saturday, and I understand now it was being rewritten right up to this time as I speak. How can we even consider endorsing a proposal which acts more like a brush fire than it does a settlement agreement?

It is my understanding that administration officials worked with Senators

from many States last night in an attempt to address their concerns over this so-called OMB-National Governors Association agreement. Mr. President, despite my well-known interest in this matter, no one from the administration attempted to include me or my staff in these last minute negotiations. As a result, the agreement continues to present a significant threat to our State budget and, as I mentioned, more importantly, to the thousands of Georgians who rely on the Medicaid Program for their health and well-being.

There are many questions about this so-called compromise, but perhaps the main point to be made today is that there is not time for the deliberative debate that needs to occur between the administration and the Congress and all the parties affected by this proposal. That is why I have said repeatedly that a moratorium on the October 31 regulations is needed, and why I have urged Senate passage of H.R. 3595, as passed by the House of Representatives.

Many States, not just Georgia, will be harmed if HCFA's regulations or the Durenberger amendment are enacted without major revision. Both remove from State legislatures the authority to make their own taxing decisions, and both impose on the States constraints which are not in the interest of the States or the Medicaid recipients they cover. Despite the administration's statements that it supports federalism, the amendment centralize more authority in HCFA.

The amendment omits the assurance contained in the original agreement that would permit States to commit tax revenues to reimburse Medicaid providers who paid the tax. In addition, it gives HCFA broad discretion to disallow Federal matching if any such guarantee is made by a State to the providers being taxed. This omission leaves the states at the Health Care Financing Administration's mercy and cannot be a simple oversight.

The original National Governors' Association agreement also contained provisions protecting the longstanding right of the States to use funds transferred to the Medicaid Program from other State agencies, counties, special purpose districts or other governmental entities, but the amendment contains no such provisions. Again, State Medicaid programs are left unprotected.

Mr. President, in 1990, the people of Georgia approved a constitutional amendment to initiate a program of provider donated funds. These funds are appropriated by the Georgia General Assembly and have been disbursed pursuant to Medicare State plan amendments approved by HCFA. The State of Georgia has used these funds to pay the perinatal case management, postpartum care, family planning, physician payments for obstetrical care, and payments to the 70 disproportionate share hospitals, which serve the vast majority of our low-income residents. Two-thirds of these hospitals are rural, and without these payments which HCFA proposes to artifically cap, many of these rural hospitals would close.

I am proud of the fact that Georgia was the first State to make disproportionate share hospital payments. I am proud of the fact that Georgia and its entire congressional delegation worked to eliminate HCFA's upper limit payment cap to these hospitals. And I want to express my grave concern today about the proposed caps on such payments included in the proposed Durenberger amendment. I also take pride in having our entire congressional delegation standing together again in opposition to this latest effort to hamper the States and do harm to Medicaid.

The American people deserve a full public debate on the need for health care reform. We cannot begin that debate by rushing through a proposal that pulls the rug out from under Medicaid and leaves us no foundation on which to build a better health delivery system.

Mr. President, if I may make one final point. There are those who would have us believe that the increase in Federal Medicaid expenditures is attributable to State financing scams of some sort. I deeply resent the suggestion that Georgia's program—which was approved overwhelmingly by Georgia voters as an amendment to our State constitution—in any way falls into that category. And I resent the notion that Georgia's Governor and legislature should come to HCFA hat in hand, to have HCFA tell Georgia how it should finance its Medicaid Program.

But what I resent most is the administration's ignorance as to what has really caused increased Medicaid expenditures, namely, the growth in recipients. In Georgia alone, the number of covered recipients is 23 percent higher this year than last. And this has nothing to do with our donated funds program. It has to do with an economy that is in recession, people who have no health care coverage, and mandates which have been placed on the States by HCFA and the Congress.

Mr. President, Medicaid is a program that was developed to assist people who cannot afford health care coverage on their own. It does not take any kind of scientist, rocket or molecular, to figure out that this administration has played a major role in driving up State Medicaid costs by abandoning its traditional partnership with the States, by failing to propose an economic policy that keeps Americans on the job and by ignoring the need for comprehensive health care reform.

Under this administration, real GNP growth is lower than at any point since Mr. Hoover occupied the White House, employment and income growth are at their lowest levels since World War II and the official poverty rate is the highest it has been since 1967—with the exception of 5 years during the previous administration. At the same time, health care spending is at the highest level of gross national product ever recorded—an estimated $756 billion for this year alone. Surely President Bush, or whoever is in charge of domestic policy at the White House, understands the linkage between our current economic decline and the increase in the number of Americans who simply cannot afford health care.

If there are more poor people in America, there are more people who have no other choice than to rely on Medicaid to provide the health care services that they need and deserve.

Instead of chastising the States and their Medicaid Programs, we should be commending them for addressing the immediate needs of the medically indigent in the best way they can. We do the States and the millions covered by Medicaid an injustice by even considering a proposal such as the one that is now before us.

As a member of both the Budget and Appropriations Committees, I understand the serious budget and fiscal implications of the existing Medicaid match system and the type of radical proposal on the table today. With so much at stake here, in terms of dollars and lives, I think we owe it to the American people to get the facts before we act. I ask my colleagues to oppose this amendment and to support a nine month moratorium on HCFA rulemaking.

The PRESIDING OFFICER. The Senator from West Virginia is recognized. The Chair reminds the Senator that time has expired in morning business.

Mr. ROCKEFELLER. The Senator from West Virginia asks unanimous consent to speak for no more than 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MEDICAID MORATORIUM

Mr. ROCKEFELLER. Mr. President, last year during negotiations of the Omnibus Reconciliation Act of 1991—in which I participated as a conferee—Congress agreed to, and the President signed a law that allowed States to assess taxes on hospitals, nursing homes, and certain intermediate care facilities to fund the State's share of Medicaid. Congress also extended a moratorium on the issuance of regulations that would prohibit the use of voluntary donations to fund a State's share of Medicaid.

On September 12 of this year, the Health Care Financing Administration [HCFA] issued final regulations imple-

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menting that legislation that went far beyond congressional intent, and a plain reading of the law. The regulations were ambiguous and confusing.

The Children's Defense Fund testified last Tuesday before the Finance Committee that since Medicaid's inception 25 years ago, it is hard to remember a more extraordinary rule, and that it "represented the complete undoing * * * of health service delivery arrangements that constitute the health care lifeline for millions of poor and medically underserved women and children * * *"

On October 31 of this year, HCFA issued regulations to clarify what was meant by their September 12 regulations. But the clarifying regulations only served to further muddy the waters. And, if that wasn't enough, HCFA added new regulations on disproportionate share payments.

Since HCFA's issuance of clarifying regulations, intense negotiations have been underway between the National Governors' Association and the administration to work out an agreement on: Medicaid voluntary donations, provider taxes, and disproportionate share payments.

My State has major concerns about this agreement—as do others. While I certainly am—in fact, have long been—a proponent and a major advocate of interested parties sitting down together to negotiate what is ultimately in everyone's best interests, I have deep concerns that the Congress is being asked to legislate on an agreement that was reached so late last week, and with so little time left in the legislative year. In fact, the Finance Committee had so little time to carefully review and consider this agreement at last Friday's finance markup, that we reported out the NGA/administration agreement without recommendations by voice vote. I voted no.

Speaking as the junior Senator from West Virginia, I would like to State, for the record, how West Virginia has dealt with a chronic funding shortfall in its Medicaid Program. In 1989, West Virginia ended its fiscal year owing its providers about $61 million and its Medicaid payments lagging about 2 to 4 months behind. In fiscal year 1990, West Virginia's Medicaid shortfall was about $43 million and, in fiscal year 1991 it was $37 million; with payments for services still significantly delayed.

West Virginia's Medicaid Program is now fiscally sound and claims are now paid on time. Even though West Virginia has complied with, and in some cases, exceeded Federal mandates to improve coverage for pregnant women, infants, and children.

In addition, to stem the growing tide of doctors who refused to provide prenatal care to pregnant women or see pediatric patients enrolled in Medicaid, West Virginia increased its reimbursement rates for selected services. Payments for obstetrical services were increased from $600 to $1,100. Reimbursement for pediatric offices visits were increased from $10 a visit to $21 to $50 per visits depending on what service visits were increased was in 1981, when the payments went up from $7 to $10.

How did West Virginia manage to turn around their Medicaid Program? They did it the hard way. They did it by raising taxes and setting priorities. They did not do it through what the administration calls scams or schemes.

West Virginia ranks 46th in family poverty. So it may not come as a surprise, to some of you, that over 40 percent of all babies born in West Virginia are covered by the Medicaid Program. But without West Virginia's commitment to expand and improve its Medicaid Program—beginning first with pregnant women and children—many, many of those babies would have been born uninsured. Also greatly increasing the likelihood that their mothers would have gone without prenatal care. West Virginia has saved the Federal Government a bundle by getting cost-effective prenatal care to them, rather than having to eventually pay for neonatal intensive care unit services for their children.

Last month, the West Virginia State Legislature enacted legislation to improve reimbursement rates from current Medicaid levels that are 23 percent of private insurance rates, on average, to 77 percent of private insurance rates. Until Medicaid reimbursement rates are adequate, Medicaid beneficiaries will not have access to mainstream medical care.

Medicaid beneficiaries whose States have adequate reimbursement rates receive their care in doctors' offices, while those in low fee States get care in costlier settings, such as emergency rooms or hospital outpatient departments. Again, West Virginia is working to improve the health of its citizens and encourage more cost-effective care in the long run.

West Virginia's provider tax program was developed after a careful reading of the legislative language in OBRA 1990. West Virginia's legislation is consistent with congressional intent. In fact, their provider tax program could be implemented under the regulations issued by HCFA, because it deals only with doctors, dentists, nurse practitioners, and other noninstitutional providers. As published, HCFA's regulations only apply to hospitals, nursing homes, and intermediate care facilities for the mentally retarded.

The NGA/administration agreement could seriously harm West Virginia's plan to improve access to health care for the over 145,000 children in West Virginia who rely on Medicaid. The NGA/administration agreement could seriously impair West Virginia's attempt to draw more doctors, nurses, physician assistants, and others to the 43 counties—out of 55 counties in West Virginia—that are designated health professional shortage areas.

Mr. President, I am not at all comfortable with enacting legislation that the Finance Committee has had so little time to carefully review. I am not pleased with moving forward on legislation that may have some very serious, currently unknown, consequences for millions of Americans—many of them children—who depend on the Medicaid Program for their health care.

The Children Defense Fund outlined a small sampling of State programs in jeopardy because of HCFA's rules last week before the Finance Committee:

In Utah, collaborative efforts between the Utah Health Department and Medicaid agencies resulted in expanding Medicaid eligibility to 133 percent of poverty for pregnant women; improved enrollment through the use of outstation workers; home visits; and a massive statewide outreach program. Result: a significant drop in infant mortality.

The Prenatal Care Assistance Program, New York's public maternity program, serves thousands of pregnant women and children eligible for Medicaid. An additional 70,000 low income pregnant women are served through a voluntary transfer of funds arrangement to the State Medicaid agency from the public maternity program.

In Mississipppi, about 2,400 extremely high risk, low income pregnant women are intensely monitored throughout their pregnancy to improve birth outcomes. This $2.5 million program saves millions by avoiding bad birth outcomes.

It's not clear to this Senator—nor do I think any of my colleagues can say with certainty—how these programs and other vital health programs will fare under the NGA/administration agreement. It's full ramifications are not known because of the haste in which the agreement was made.

That is why I personally would favor legislation that was favorably reported out of the Finance Committee last Friday.

That legislation would impose a two-way, short-term moratorium on HCFA issuing new regulations and prohibit States from setting up new programs until April 1, 1992. Giving us time early next year to more thoroughly review the NGA/administration agreement.

Although I would prefer a short-term moratorium, I am sympathetic to the many Governors who want a permanent solution now, so that they can adequately prepare for next year's legislative sessions and in developing their budgets.

Owing to health care inflation and to the recession which has increased the number of families eligible for Medicaid, States are seeing more and more of

their dollars being eaten up by the Medicaid Program. Last year Medicaid accounted for about 14 percent of total State spending; after Medicaid spending increased by 18 percent from the previous year. By 1995, States will be spending up to 22 percent of their total budgets on Medicaid.

Mr. President, this issue is symbolic of a much bigger problem. Thirty-three million Americans—one-third of them children—lack basic health care coverage. Who is going to pay to make sure every American has basic health coverage? Who should have that responsibility? Individual families? Should businesses provide coverage to its workers, much like it provides a minimum wage? Or should Government pay for the care of all Americans? This country is currently engaged in a very dangerous game of hot potato—trying to shift costs from one payer to another. In reality, we all end up paying for those who forgo medical care because they can't afford it, or because they can't find a doctor who will see a Medicaid patient because of lousy reimbursement rates.

The Bush administration claims that allowing States to tax health care providers, or allowing hospitals to donate funds, fundamentally alters the traditional Federal-State matching formula under the Medicaid Program. I say that these are not traditional times.

I have heard Bush administration officials say that if the States want to fundamentally alter the formula used in calculating Federal matching payments or to fundamentally change the current Medicaid Program, then they ought to come in and sit down with the administration and discuss those types of reform. I hope that is an invitation for serious discussion of health care reform. In fact, I have a few ideas of my own for reform and would gladly sit down at that table.

In my view, the problems confronting States in financing their Medicaid programs are a cry for bold, major reform of our entire health care system.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 1:11 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ADAMS).

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

THE BOYS AND GIRLS CLUBS OF AMERICA

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 525 regarding the Boys and Girls Club of America; that the Senate proceed to its immediate consideration; that the bill be deemed read a third time, passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 525) to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Club of America.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill (H.R. 525) was deemed read a third time and passed.

WAIVING THE PERIOD FOR CONGRESSIONAL REVIEW FOR CERTAIN DISTRICT OF COLUMBIA ACTS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 3709, a bill to waive the period for congressional review for certain District of Columbia acts; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times and passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3709) to waive the period of congressional review for certain District of Columbia acts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

The bill (H.R. 3709) was deemed read a third time and passed.

COMMENDING THE PARTICIPANTS IN THE MIDDLE EAST PEACE TALKS

Mr. BENTSEN. I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 226, commending the participants in the Middle East peace talks just received from the House; that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table and the preamble be agreed to.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 226) commending the participants in the Middle East peace conference convened in Madrid, and urging them to continue their pursuit of a just and lasting peace in the Middle East.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 226) was agreed to.

The preamble was agreed to.

MEASURE INDEFINITELY POSTPONED—S. 1987

Mr. BENTSEN. Mr. President, I ask unanimous consent that Calendar No. 329 S. 1987, a bill to amend the Arms Control Act to authorize the President to transfer battle tanks, artillery pieces, and armed combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK GEOGRAPHY AWARENESS WEEK' NATIONAL TRAUMA AWARENESS MONTH'

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of the following joint resolutions just received from the House: House Joint Resolutions 212, House Joint Resolutions 201, House Joint Resolutions 300; that the joint resolutions be deemed read three times, passed, and the motion to reconsider be laid upon the table, en bloc; and that the preambles be agreed to to; further, that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the joint resolution (H.J. Res. 212) to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week" was deemed read a third time, and passed.

The preamble was agreed to.

So the joint resolution (H.J. Res. 201) designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week" was deemed read a third time and passed.

The preamble was agreed to.

So the joint resolution (H.J. Res. 300) designating the month of May 1992, as "National Trauma Awareness Month" was deemed read a third time and passed.

The preamble was agreed to.

NATIONAL TRAUMA AWARENESS MONTH

Mr. BENTSEN. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 229, the Senate companion

to House Joint Resolution 300, and that

through the provision of emergency medical

The assistant legislative clerk read

receive up to 13 weeks of emergency

Czechoslovakia and Hungary MFN sta-

ment and very positive statement in

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

to House Joint Resolution 300, and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read three times and passed, and the motion to reconsider be laid on the table, and the preamble be agreed to.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 229) designating the month of May 1992, as "National Trauma Awareness Month".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, I am pleased that the Senate is considering Senate Joint Resolution 229, a resolution to designate the month of May 1992 as "National Trauma Awareness Month." For the past 4 years, I have had the privilege of sponsoring this joint resolution, which the Senate has passed. I am pleased to sponsor this measure again this year.

It is important to focus the public's attention on ways to prevent trauma and on the improvement that can be made in trauma care. With the enactment of this resolution, the Trauma Society members can begin to mount their grassroot programs for 1992 to heighten the public's awareness of Trauma. Also, States can coordinate their various activities in conjunction with emergency medical centers.

As a nation, we spend $70 billion annually on traumatic care due to highway accidents. During the upcoming holiday season, everybody should remember the gravity of the traumatic-injury problem, since this is time when friends and families are traveling the highways. I think it most appropriate that we pass this resolution before we leave. I hope that the Senate will favorably act on the "National Trauma Awareness Month" resolution.

So the joint resolution (S.J. Res. 229) was deemed read a third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 229

Whereas more than 9,000,000 individuals in the United States suffer some type of traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals less than 44 yeas of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has made trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $148,500,000,000 on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment through the provision of emergency medical services and trauma systems; and

Whereas the people of the United States must be educated regarding the prevention and treatment of trauma and the proper and effective use of emergency medical services and systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May, 1992, is designated as "National Trauma Awareness Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

GWEN B. GILES POST OFFICE BUILDING

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 375, H.R. 3322, designating the Post Office Building in St. Louis, MO; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3322) to designate the building in St. Louis, Missouri, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill..

So the bill (H.R. 3322) was deemed read a third time and passed.

ACTION VITIATED AND MEASURE PLACED ON CALENDAR—S. 754

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate action on Calendar No. 320, S. 754, a bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program, be vitiated, and placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

TORTURE VICTIMS PROTECTION ACT

Mr. McCONNELL. Mr. President, I understand the Senate has received from the House, H.R. 2092, the Torture Victims Protection Act.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCONNELL. On behalf of Senator SPECTER, I ask that that bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2092) to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

Mr. McCONNELL. I now ask for its second reading.

Mr. BENTSEN. I object to the second reading, Mr. President.

The PRESIDING OFFICER. Objection has been raised to the second reading. The bill will be read a second time on the next legislative day.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS, AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL—CONFERENCE REPORT

Mr. BENTSEN. Mr. President, I submit a report of the committee of conference on H.R. 1724 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferences.

The PRESIDING OFFICER. Without object, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, November 26, 1991.)

The PRESIDING OFFICER. Under the previous order, it is so ordered that the conference report will be brought up. There will be 30 minutes, equally divided, in the usual form.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BENTSEN. Mr. President, it is critical that we enact this conference report as promptly as possible. The conference report incorporates without change the unemployment compensation amendment passed by the Senate on November 8. It modifies the emergency unemployment bill already signed by the President, Public Law 102–164, to ensure that long-term unemployed workers who have exhausted their regular benefits will be eligible to

receive up to 13 weeks of emergency benefits regardless of the State they live in. Under Public Law 102–164, 23 States are eligible to pay workers only 6 weeks of emergency benefits, rather than the 13 or 20 weeks of benefits that other States are able to pay.

The conference report also extends "reach back" benefits to workers in all States. This means that workers who exhausted their regular benefits on or after March 1, 1991, but before the start of the program on November 17, will be eligible for emergency benefits regardless of where they live. Under Public Law 102–164, workers in 18 States do not qualify for these benefits.

Because this bill will be enacted after the effective date of the program, there are certain requirements in present law relating to eligibility requirements for extended benefits that States will not be able to meet. I want to clarify that it is the expectation of the conferees that the Department of Labor will waive these requirements, in order that States will not be penalized for failure to take actions that, given the retroactive nature of this legislation, they cannot reasonably be expected to take.

We have every reason to believe that the President will sign this bill into law immediately. If he does, I am told that checks can begin to go out within the next few days. I believe the Congress shares with the administration the obligation to see that these benefits are in the hands of those who need them as quickly as possible.

This bill also includes a number of trade provisions that deserve mention.

Most important, it will provide permanent most-favored-nation [MFN] treatment to Estonia, Latvia, and Lithuania. We witnessed something this fall that I was not sure we would ever see—the three Baltic states regained their independence from the Soviet Union. This one event is probably the best illustration of the profound changes that are taking place in that part of the world.

In 1974, we adopted a set of procedures—in title IV of the 1974 Trade Act—for granting MFN to those countries that were not receiving it then. That included Estonia, Latvia, and Lithuania. In fact, these three countries were only swept into title IV because they were still controlled by the Soviet Union. Now that they have regained their independence, it is plain that they do not belong in title IV and should not be subject to its requirements. This legislation provides that the Baltic States will receive MFN unconditionally.

This bill also recognizes the profound changes that have occurred in Czechoslovakia and Hungary—the two countries in Eastern Europe that have led the way in adopting democratic reforms and moving toward market-based economic systems. This bill gives the President the authority to grant Czechoslovakia and Hungary MFN status on a permanent and unconditional basis. It would fully normalize our trade relations with these countries, and put them on the same footing as almost all of our other trading partners. I cannot help but remember my first visit to Czechoslovakia on the ground. I was there in the air, uninvited, a few times before. But I recall being there in 1971, and getting on an elevator in a hotel operated by a very old man. As I got on the elevator, he turned to me and said, in English, "You are an American, aren't you?"

I said "Yes."

He said, "Are you one of the Senators visiting?"

I said "Yes."

He said, "Senator, when will we be free?"

I rode all the way to the sixth floor without giving him much of an answer. I am not sure he ever saw freedom, but at least his country has it now. This conference agreement also fulfills a commitment made by the administration when they negotiated the trade agreement with the Soviet Union which was approved by the House last week, and which we approved yesterday. It repeals an outdated, unnecessary measure—a ban on imports of gold coins from the Soviet Union.

And it strengthens the bill that the Congress passed earlier this year on chemical and biological weapons. It adds import sanctions to the list of sanctions to be imposed against companies and countries that develop, use, or stockpile chemical and biological weapons in violation of international law or against their own citizens.

Finally, it extends trade benefits to the four Andean countries—Bolivia, Colombia, Ecuador, and Peru—that have been fighting an uphill battle against the powerful drug cartels. I have some reservations about the bill: I'm always concerned about the effects that one-way trade benefits might have on the workers in this country. But I decided not to oppose this provision in order to make sure that American workers would benefit as soon as possible from the unemployment bill included in this package.

Without question, the most important thing is that we approve this conference report as soon as possible so that jobless Americans in all 50 States will finally get the help they need to pay their mortgages, meet the payments on their cars, and feed and clothe their children.

I urge my colleagues to support the conference agreement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas, the minority leader.

Mr. DOLE. Mr. President, let me indicate many of us made our statements last evening, including this Senator. I commend the chairman of the Finance Committee for his very strong statement and very positive statement in all aspects to this particular legislation.

I particularly agree with him in the statement with reference to the Baltic States, Estonia, Latvia, Lithuania, and also Czechoslovakia and Hungary. These are positive measures when we extended MFN on a permanent basis, and I am certain that all of our colleagues will support us in that effort.

I thank the chairman for his tireless efforts on behalf of America's unemployed, and I am pleased that we have reached this point.

It seems to me that there is no request for time on this side. I am going to yield back the remainder of the time on this side.

REGARDING UNEMPLOYMENT COMPENSATION BENEFITS

Mr. BROWN. Mr. President, I rise today to express my concern regarding the most recent unemployment compensation bill, H.R. 1724, which the Senate approved earlier today. The fact is that this bill adds $505 million to the Federal deficit in fiscal year 1992, according to the Congressional Budget Office [CBO]. This is in addition to the $1.225 billion increase in the federal deficit included in the Emergency Unemployment Compensation Act of 1991, H.R. 3757, which the Senate passed on November 15, 1991.

Taken together, the bills increase the fiscal year 1992 Federal budget deficit by $1.7 billion, including an $878 million tax on jobs which occurs by extending the 0.02 percent FUTA supplemental tax for one year. This tax increase discourages the creation of new jobs and could force the layoff of thousands of workers, exactly what we don't need.

I favor assistance for our unemployed and have supported several measures that provide assistance that don't violate the budget agreement. I have opposed the measures that break the budget. Ultimately, they will harm the unemployed by discouraging new jobs.

H.R. 3757 and H.R. 1724 both sidestep the pay-as-you-go requirement in last year's budget agreement. This has the very real result of increasing the deficit—estimated to be $362 billion in fiscal year 1992. Additional debt is not the answer. Inevitably, the Federal Government will be forced to raise revenue or borrow money to finance this additional debt.

Congress and the administration should instead be working to enact unemployment compensation legislation which pays for any additional benefits without increasing the budget deficit or discouraging the creation of jobs.

STATEMENT IN SUPPORT OF MFN FOR THE BALTIC STATES AND THE SOVIET UNION

Mr. LIEBERMAN. Mr. President, I rise in support of extending most-favored-nation [MFN] status to the Baltic States and the former Soviet Union. This is an appropriate action at this

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

time, considering all the positive events that have taken place in that part of the world in the past few months.

The Baltic States after enormous struggle have won their freedom and deserve our support. The best way to truly assist them with the rebuilding of their economies is through trade and investment. There are real opportunities for American companies in doing business with the Baltic States. MFN status will help our companies realize those opportunities.

Changes in the former Soviet Union are dramatic as well. The question being debated throughout most of the republics is not whether to implement a program that will lead to a market based economy but what kind of program to implement. Emigration from the Soviet Union is no longer an issue, the real problem is whether or not the West can accommodate those who want to and can afford to leave.

The related question of whether we should extend MFN to the individual republics of the former Soviet Union must be addressed. As long as the republics meet the criteria set for granting MFN as a whole, such as compliance with the Jackson-Vanik amendment. then there is no reason that they should not be given MFN. They need trade and an economic relationship with the West if they are to succeed in building market economies.

Trade can benefit the United States as well. American manufactured exports to the various republics of the former Soviet Union are growing even without MFN. The Department of Commerce predicts that they will reach the level of $1 billion this year, an increase of nearly 30 percent from the same period of last year.

Exports of data processing equipment, for example, have increased at a fast rate, from about $2 million in 1988 to the present level of over $110 million annually. There is a vast untapped market in the Soviet Union. If we help our companies get involved in those markets now, by granting MFN, then we can ensure that our share of the future market will be substantial and our people will benefit proportionately.

We should show support for the Baltic States and the republics of the former Soviet Union by extending MFN status to them.

Mr. BENTSEN. Let me thank the minority leader for his cooperation not just on the trade questions, but for the long hours we put in working out the problems on the extension of unemployment benefits. This was a critical measure, and we took a bipartisan approach on it. I am appreciative of that. I also want to extend my thanks to the majority leader for his tireless work on behalf of the unemployed.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the conference report on H.R. 1724.

The conference report was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate now go into morning business for a period not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for a period of 15 minutes to proceed as though in morning business.

THE COLD WAR IS OVER

Mr. METZENBAUM. Mr. President, as we meet here today there is a reality that I am not sure the President of the United States is aware of. I think it is time that somebody tell the President that the cold war is over and that the Soviet Union is now a broken-down welfare case; that the Warsaw Pact no longer exists; and that we no longer need to spend $160 billion every year to defend Europe from a country that barely exists. I think it is time somebody tell the President that we no longer need to keep 280,000 U.S. combat troops in Europe at the taxpayer's expense.

I am not advocating that we bring home all of our troops, but I believe it is totally inappropriate that we continue to spend over half of the defense budget to maintain 280,000 troops over there.

The cold war is over. We won.

The only Soviet troops remaining in Central Europe are stationed in Eastern Germany as a favor to the Soviet Government. The Germans are actually paying for the Soviet troops stationed in East Germany.

The Soviets have such a serious housing shortage in their own country that they have no place to put their returning troops. So they stay in Germany—courtesy of the Germans.

Consider that irony. If that is not an unbelievable situation, I have never heard of one. We pay to defend Germany from the very Soviet troops that the Germans are supporting. We are providing dollars to protect against the Soviet troops to help defend Germany against Soviet troops that are stationed in East Germany and are being paid for by the Germans. That is unbelievable.

Historians will look back and say: "There is something we do not understand about that." And, frankly, I do not understand it, and I do not think the American people would understand it if they knew about it.

Mr. President, there has to be a stop to this unending waste of billions of dollars paying for our troops to be stationed in Europe against an enemy that no longer exists.

Continued excessive spending on troops in Europe is contributing to serious and severe problems here at home. Last year, we had a combined world trade deficit of $101 billion. Every week there is a story in the newspaper about a Japanese company or European company buying another American corporation. In the last 3 years, foreign companies spent $160 billion buying up U.S. corporations. Last year, we spent $160 billion for our NATO commitment.

Every dollar we spend on troops and tanks in Europe is a dollar the Europeans have to spend on themselves. It is a dollar that flows out from this country to Europe. What an unbelievable effort it requires of us to try to maintain a balance of trade. We look at the figures coming through on the TV screen or in the newspapers reporting on a $6 billion shortflow of dollars, more going out than came in.

But what about the billions we are sending overseas every single day of the week, every month, every year, to pay for our troops in Europe? If those troops were back in this country, or if they were phased out, those same dollars could be used to rebuild the infrastructure of this country. Those dollars could be used to make America a greater country, to build up our country. But instead, we are sending those dollars overseas for the European countries to use as they please.

Every dollar we spend overseas is a dollar we do not have for our industries. It is a dollar we do not have for health care, for education, to protect the environment, to build decent roads and bridges. The issue could not be more clear. The world has changed. Our economy is on the ropes. Growth is slower than at any time since World War II. Family disposable income is down; average wages are down 9 percent since 1979. Only a week ago Friday, the stock market dropped 120 points, the largest drop in 2 years.

People in this country are worried about crime; they are worried about drugs, and families starting out can no longer afford to buy their own home. They have to take out a mortgage to send their kids to college. Thirty million Americans have no health insurance, a number that increases with every job layoff. People are worried about education, about pollution.

It is time we recognize reality in this country. The Russians are not the greatest threat we face today; they are not a threat at all. The defense authorization conference report contains an amendment that I and the Senator from North Dakota offered expressing the sense of Congress that U.S. troop strength in Europe be reduced to 100,000 by 1995.

I am frank to say that is still too many troops. That is still too long a period of time. I know that we can bring them home faster, and those who are concerned as to whether we muster them out or do not muster them out, that is a separate issue. Bring them home. Use the dollars in this country, and let the decision be made by others as to whether we do or do not muster them out.

But I would sure prefer to see those dollars that are being paid to those soldiers over in Europe being spent in this country, whether they are in the military or out of the military, so they can be spent in the American economy. And if they can be spent in the American economy, we could be rebuilding so much of America. It is time we brought those troops home. It is time the Europeans paid their own way.

Mr. President, I yield the floor and I suggest the absence of a quorum.

Mr. SASSER. Mr. President, if the Senator will withhold.

Mr. METZENBAUM. I certainly withhold.

The PRESIDING OFFICER. The Senator has yielded the floor and the Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senator from Ohio still has 8 minutes remaining in his morning business request. Does the Senator wish to renew that request?

Mr. SASSER. Mr. President, I ask unanimous consent to proceed as in morning business for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to proceed as in morning business for 10 minutes.

Mr. SASSER. I thank the Chair.

(The remarks of Mr. SASSER pertaining to the introduction of S. 2061 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SASSER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 2062 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2063 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MEDICAID MORATORIUM AMENDMENTS OF 1991

The Senate continued with the consideration of the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The business before the Senate is H.R. 3595.

Mr. DODD. Mr. President, parliamentary inquiry. Is that the Medicaid legislation?

The PRESIDING OFFICER. That is correct.

Mr. DODD. I thank the Chair.

Mr. President, let me just, first of all, thank my colleague from Texas and also my colleague who is on the floor, the, I presume, ranking minority member or comanager of the legislation, Senator BENTSEN, of Texas, as well as Senator DURENBERGER, for their tremendous cooperation with my colleague from Connecticut, Senator LIEBERMAN, and me in putting together a modification of this legislation, which will be of tremendous assistance to approximately 410,000 people in the State of Connecticut. That is, in a State with a population or 3½ million people, as many as 420,000 people will be positively impacted as a result of the decision to allow a modest change of date here that will permit an application from the State to be submitted to the Health Care Financing Administration to assist in what was called the "disproportionate share formulations."

Let me explain, Mr. President, in these terms what it means to the people in the State. We have approximately 15 percent of our population in the State of Connecticut that has no health insurance at all. There is an additional 140,000 people that are underinsured and therefore are required, when they are afflicted with some kind of an illness or problem, to show up at public hospitals for treatment.

In the absence of providing any kind of assistance to these institutions which have a disproportionate share of the population showing up as compared to other public hospitals in the country, in the absence of providing some relief to these hospitals, the average taxpayer—who in many ways are those people who have health insurance—end up picking up the cost of these individuals who show up for care.

In the city of Stamford, CT, last year alone there were some $15 million that hospitals in that city had to find for uncompensated care; that is people without any health insurance or underinsured who showed up in the hospitals in that city, and because we have a benevolent country, we provide health care, but $15 million had to be found someplace.

You can guess where it was found: Increased premium costs for those people who have health insurance or increased cost of the care that was being provided in order to provide or pay for the care that was uncompensated.

I heard the other day—and he will certainly correct me when he comes to the floor—but the Senator from Texas, Senator BENTSEN, spoke about a hospital, I believe he said in Houston, where there was something in the neighborhood of $40 million or $45 million in uncompensated care I think last year. That is a phenomenal amount that a hospital would have to provide or come up with in order to deal with the people who show up without any ability to pay for the care they are receiving.

So, I thank our colleagues—both the chairman of the Finance Committee, Senator BENTSEN, as well as Senator DURENBERGER—for the assistance they provided us here and provided the people who need that care and provided those taxpayers and others who will receive some relief, we believe, as a result of this proposal.

Obviously, this is not the ultimate solution. We have a lot of other problems to deal with in order to try to correct this particular problem of the lack of health insurance, under-insured people, the ability to provide for quality care for people. That is a much larger issue than, hopefully, all of us believe must be addressed. But in the interim, the proposals we have offered here and were accepted by Senators DURENBERGER and BENTSEN in no small measure will make a great difference for as many as 400,000 people in the State of Connecticut directly and a great many more in an indirect way.

I will be happy to yield to my Senator from Minnesota if he cares to comment on this.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I will take just a minute to comment on this. Speaking for my colleague, the chairman of the Finance Committee, let me first express our appreciation to the senior Senator from Connecticut for his comments.

But second—an important point to the rest of our colleagues—the agreement that has been hammered out here

SEC. 2. PROHIBITION ON USE OF VOLUNTARY fiscal year 1992 (or not later than 5 days after clinic, or entity to determine the eligibility

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as of about 3:05 p.m., and hopefully will be on the floor very soon, was not one of those compromises where we took relatively illegitimate claims around everybody's scam and tried to make an agreement out of it.

It is true that some of the States in this country had concocted what some will believe are a scam or a scheme. But I must say with regard to Connecticut, probably no State has gotten more publicity over the cost of doing public business in that State as Connecticut. Certainly, our former colleague, who is now their Governor, has been in the middle of it all of the time.

In this particular case, Connecticut was in a situation where in order to help pay for Medicaid and I believe general medical assistance payment to hospitals throughout Connecticut—

Mr. DODD. That is right.

Mr. DURENBERGER. They used a definition of disproportionate share hospital which is in the proposed HCFA regulations. It is not in this agreement, unfortunately, because we could not get an agreement on it, but it was in the proposed HCFA regulations. They took that definition of disproportionate share and amended and put in an application to amend their State plan, but they did it, unfortunately, after September 30.

So here was a situation in which a State tried to follow the law as the Federal Government was laying it down,' tried to play by the rules, but they got their application in after the deadline, which was incorporated both into the moratorium by the chairman of the Finance Committee and by the agreement.

So I am pleased with the work the two Senators from Connecticut have done. I am particularly pleased that when we are going to talk about the scams and schemes of some people around here that the one State that had the greatest pressure on it of all, Connecticut, has tried to follow the law as it relates to the appropriate partnership between the Federal and State Government in providing for the needs of low-income Americans.

I thank my colleagues for his comments and I thank him for bringing this matter to our attention and I am very pleased we could work it out.

Mr. DODD. Mr. President, I thank the Senator from Minnesota for those comments and his characterization of the State. It has been a difficult time for us, fiscally, with a significant deficit and a real struggle occurring as to how to deal with that deficit.

Despite the reputation of the State of Connecticut of being one of the most affluent States of the country—and that is true on a per capita income basis—it comes as a shock to many people that Hartford, New Haven, and Bridgeport rank in the top 10 of the poorest cities with populations over 100,000 in the United States. So amidst great affluence there was also poverty in a small State. This provision will make a great deal of difference to those people we are trying to serve who fall into that category.

I should have added as well that since 1980, our health care expenditures have increased by 150 percent in the State of Connecticut. It is a staggering increase. I think that is well above the national average. The national average has also been rather high, but this, I think, is substantially higher.

Mr. President, again my compliments and thanks to Senator BENTSEN, the chairman of the committee, as well as Senator DURENBERGER. They have provided the people of my State with a great deal of assistance and relief by their willingness to accept this change of date provision which could make a difference for people.

REGULATION OF CERTAIN INDIAN TRUST FUNDS

Mr. DIXON. Mr. President, on behalf of the majority leader I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 378, S. 754, that the bill be read a third time and passed, and that the motion to reconsider be laid on the table.

I believe that has been cleared with my distinguished friend from Minnesota.

Mr. DURENBERGER. There is no objection on this side of the aisle, Mr. President.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 754) to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended by—

(1) inserting immediately after "lands" a comma and the following: "and income including interest up to $4,000 per annum derived therefrom,"; and

(2) inserting immediately after "resource" the following: "or income".

Mr. DIXON. Mr. President, are we on morning business at this time?

The PRESIDING OFFICER. We are at this time on H.R. 3595.

Mr. DIXON. Mr. President, I ask unanimous consent to be permitted to proceed as in morning business briefly for the purpose of introducing two different bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 2065 and S. 2066 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. I yield the floor.

The PRESIDING OFFICER. The senior Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for approximately 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 3062 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURENBERGER. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

The Senate continued with the consideration of the bill.

Mr. DURENBERGER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the committee substitute to H.R. 3595.

AMENDMENT NO. 1446

(Purpose: to substitute a permanent ban for the temporary moratorium)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of myself and Senator RUDMAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mr. RUDMAN, proposes an amendment numbered 1446.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii), subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) of subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection, the term 'health care related tax' means a tax (as defined in paragraph (7)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that violates the standards in subparagraph (E)(ii) (I) and (II) or paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fis-

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and sec-

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment may be made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax is imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of subclause (II).

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State-owned teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) Conforming Amendments.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not of general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) Effective Date.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) Repeal of Prohibition of Upper Payment Limit for Disproportionate Share Hospitals.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

(b) Limitation on Aggregate Payment Adjustments.—

(1) In general.—Section 1923 of such Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(f) Denial of Federal Financial Participation for Payments in Excess of certain Limits.—

"(1) In general.—

"(A) Application of state-specific limits.—Payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made in accordance with the State plan in effect or submitted to the Secretary by September 30, 1991, or in accordance with the State plan in effect or submitted to the Secretary by November 26, 1991 or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date, or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (hereinafter referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(2) Determination of state DSH allotments.—

"(A) In general.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) Exceptions.—

"(i) Limit to 12 percent or base allotment.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) Exception for minimum required adjustment.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) State supplemental amounts.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) Determination of redistribution pool.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) Distribution of pool based on total medicaid expenditures for medical assistance.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ratio of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) Definitions.—In this subsection:

"(A) High DSH state.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) State.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) State base allotment.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

"(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments based on the State plan described in subparagraph (A)(i)(I), or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date.

"(D) State growth amount.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) State growth factor.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) Conforming amendments.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) Prohibiting Use of DSH Payment Adjustment To Hold Hospitals Harmless for Taxes.—Subsection (c) of such section if further amended by adding at the end the following: "A payment adjustment that varies by type of hospital after the effective date specified in section 1903(w)(1)(F) is not consistent with this subsection if its purpose or effect is to reimburse providers for health care related taxes without regard to their low-income utilization rate or medicaid inpatient utilization rate (as such terms are defined in subsection (b)).".

(d) Limits on Authority To Restrict DSH Designations.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section, except as provided in the last sentence of subsection (c).".

(e) Effective Date.—The amendments made by this section shall take effect January 1, 1992.

SEC. 4. REPORTING REQUIREMENT.

(a) In General.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) Effective Date.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5. INTERIM FINAL REGULATIONS.

The Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act. The Secretary of Health and Human Services shall consult with the States before issuing any regulations under this Act.

Mr. DURENBERGER. Mr. President, last evening I described a variety of State Medicaid financing plans that have in effect undermined the basic integrity of the Medicaid Program which has been in existence since 1965. Medicaid is under the jurisdiction of the Senate Finance Committee and before us is an effort on the part of the Senate Finance Committee to deal with those problems. H.R. 3595 was a bill passed by the House last week. It was reported out of the Finance Committee with a recommendation that a moratorium for 3 months be adopted. Along with that we reported out of the Finance Committee a framework agreement which at that point was being nego-

tiated between the National Governors

National Governors Association.

Mr. BENTSEN. Mr. President, I

of this issue would rise substantially, due to OMB's and CBO's assumptions

The administration-NOA agreement also allows States to retain flexibility

the Congress adjourns for the Thanksgiving recess.

I want also at this time to reiterate

VOL
137
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tiated between the National Governors Association, various interests and the administration to deal with two problems. One, the abuses that were involved and, secondly, an effort by the administration through the Health Care Finance Administration to deal with those abuses by regulation, regulations which almost no one felt they could support.

That particular agreement was not reported out with any specific recommendation on purpose because at the time that it was reported out the parties were still negotiating.

Mr. President, I believe we now have an agreement, and I am pleased that the amendment before us is to incorporate that agreement. I am going to take a few minutes to describe it to my colleagues who for one reason or another, particularly because it is the end of the session, because it is a very complicated issue, I think are concerned about what they might be signing up for when they sign up for this agreement, which I hope they do.

I indicated at the time I spoke last evening that from what I know, a lot of State legislators and Governors—I can certainly speak for my own because I spoke to them when they enacted it in Minnesota—my Governor did not want to do this; the legislature did not want to do it. They know that these financing schemes are not appropriate public policy and the proof is in the fact that 90 percent of the moneys today collected from Federal taxpayers under these plans were not being collected a year ago.

Simply what happened, a couple people got hold of what they thought was a great idea and everybody else saw them doing it it. Since every State is in a big financial bind, and in order to try to make up for the inadequacies of their own payment system in Medicaid, they decided to buy into these programs.

Now, I think, Mr. President, in the form of the agreement we have, the Governors and the legislatures are trying to work as partners with us in the Federal system to rationalize this payment system.

The amendment that I am offering today is a fair compromise, and I will point out the areas with which I personally disagree. I do not disagree with anything in the agreement but with some of the underlying principles with which I might have some difficulty. But that is a debate with which to deal at another time.

I ask unanimous consent, Mr. President, at this point in the RECORD there be printed a letter from the National Governors Association signed by John Ashcroft of Missouri and Gov. Roy Romer of Colorado pledging the NGA support.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
November 21, 1991.

Hon. DAVE DURENBERGER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DURENBERGER: For the last month, Congress has urged the nation's Governors to work with the Administration to bring a package to the Hill that would permanently resolve the issues involved in Medicaid provider taxes and donations.

We have done that. The attached settlement proposal has the unanimous support of the NGA Executive Committee and the White House.

We urge you to pass the legislation. If necessary, we ask you to stay in session or reconvene to pass permanent legislation. No issue is more important to the states and to the people we all serve.

We pledge to you our firm commitment to work with every member of Congress to pass this legislation.

Sincerely,

JOHN ASHCROFT,
Governor.
ROY ROMER,
Governor.

Mr. DURENBERGER. Mr. President, I will describe the three basic components of the Governors Association-administration compromise embodied in this amendment.

In the first place, the administration has agreed to a very generous transition period to allow States to convert the financing of their Medicaid programs. States could continue to finance their Medicaid programs through provider-specific taxes and donation programs until October 1, 1992. The only caveat to the transition is that the tax program had to be in effect, or reflected in a State plan amendment, as of November 22, 1991.

Moreover, for those States with a fiscal year ending between July 1 and October 1 of next year, 1992, the States would continue using these programs until January 1, 1993. And for those States whose legislatures do not have regular sessions scheduled next year, in 1992, their programs could remain in effect until July 1, 1993.

Mr. President, these are extraordinary concessions by the administration. HCFA regulation is substantially different from the agreement and will not go into effect January 1, 1992, unless we act. The fact that the administration has been so willing to grant such a generous transition simply reflects the importance the administration attaches and the Congress should attach to finally getting legislation in place that ultimately stops the hemorrhaging of the Federal Treasury that is going on today.

After the transition period is completed, State voluntary contribution programs that are solely designed to increase the Federal share of Medicaid should be ended.

Mr. President, I am going to yield, if I may, to my colleague and the principal author of this effort to deal with this problem, the chairman of the Senate Finance Committee.

Mr. BENTSEN. Mr. President, I thank my distinguished colleague from Minnesota, who has been very much involved in the process of trying to resolve this issue. What I have done, as chairman of the committee was to report out a 4-month freeze, a freeze on the administration's putting into effect its interm regulation, and a freeze on State initiation of new programs.

The dispute has been about how States finance their share of Medicaid payments. There is strong disagreement by the administration with some of the State practices which they believe take inappropriate advantage of the Federal Government. Working out the agreement has not been easy, but I must say that Dr. Wilensky worked into the night last night with the various State representatives, the Senators, and responded to the requests of Governors to see if we could accommodate the differences in their views. And each State has unique problems, all 50 of them.

Last Friday, when the committee met, I proposed we move forward the administration-NGA plan in hopes that differences could be worked out between the Governors and the administration. Considerable progress has been made in that regard. I heard positive feedback from a number of Senators representing the various States.

But I must say I still have concerns about this agreement because of the haste with which it was crafted, because of the fact that the final language has not been fully reviewed by the affected parties, and so often the devil is in the details.

But after talking with my Governor about some of her concerns, most of which have been addressed, and in talking to my colleagues here, I am going to support the administration's proposal as presented by my distinguished friend from Minnesota.

But I am going to support it with some reservation. I want to put the administration on notice here today that I plan to monitor implementation of the agreement very carefully over the next months, to assess its impact on States, providers, and beneficiaries. I will be holding oversight hearings in the Finance Committee.

Neverthess, I agree with my friend from Minnesota that there are certain advantages to moving ahead now. First and foremost, enactment of this agreement will keep the administration's October 31, 1991, regulation from going into effect, a step that would be disastrous for many of the States. It would cost my own State something on the order of $600 to $800 million a year, or more, in additional costs. It would cause chaos in State medicaid programs. And that regulation will go into effect on January 1 if we do not resolve this situation now. For virtually every State that would pose a problem.

Furthermore, if Congress does not act this year, the cost of a resolution

of this issue would rise substantially, due to OMB's and CBO's assumptions about the savings associated with its October 31 regulation. Thus, the ability of the Congress to craft a long-term solution would be substantially circumscribed. We would be in a situation in the Finance Committee where we would either have to propose deep cuts in other entitlement programs, such as Medicare and veterans benefits and guaranteed student loans or raise taxes substantially to offset costs projected by the administration.

Furthermore, Congress needs to protect the taxpayers from State financing practices that allow them to draw down more Federal funds inappropriately. The problem is real, and according to the inspector general of HHS abuses are occurring in a number of States.

The agreement of the National Governors Association with the administration will have the following benefits: States will be given guidance about what taxes are eligible for Federal Medicaid matching payments. States will have the time to make necessary changes in current laws or to initiate proper donation or tax programs. States will have generous transition time to convert to broad-based taxes. States will have until at least October 1, 1992, to come into compliance with the new donation and State tax requirements, protecting existing programs, and allowing States without tax programs to implement them.

The compromise addresses problems of timing unique to States with biennial legislative sessions and States with other special legislative circumstances by allowing a longer phase-in period. That was a deep concern for a number of Senators. Many of my colleagues talked to me about that issue.

Furthermore, the NGA-administration agreement really operates as a moratorium for 9 months. It allows all States to keep the Medicaid Program and policies that already were in effect until at least September 30, 1992, and allows other States transition periods until as late as June 30, 1993.

The major point is that no State will have to cut provider tax programs or disproportionate share payments, thus protecting State revenues and Medicaid recipients. The regulation would force some States to cut their Medicaid programs. And that will be unnecessary under this agreement.

The compromise will cap the amount a State can raise through provider-specific taxes, but States currently above the cap can continue at that level. The cap on the amount of funds raised through provider taxes will sunset after 3 years.

Furthermore, because the cap is based on total Medicaid spending in the State, the amount States can raise through taxes increases automatically as State Medicaid program expenditures increase.

The administration-NOA agreement also allows States to retain flexibility to designate which hospitals can receive disproprotionate share payments—this was a big concession by the administration, and many members worked hard to obtain that concession.

Under the agreement, States may spend no more than 12 percent of their Medicaid expenditures on disproportionate share payments. No State, however, is required to cut current spending, even if above the cap. States below the cap would be allowed to increase spending in proportion to growth in overall Medicaid payments.

The agreement constitutes long-term policy because it allows States to continue existing Medicaid programs under legitimate financing plans. Abuses in the use of hospital and health provider taxes are addressed. States are still allowed to use provider taxes to finance their Medicaid programs as long as there are no hold-harmless or kickback provisions to benefit the health provider. In other words, the case-sharing arrangements of the Federal-State program will be preserved.

Congress has until October 1992 to change any details in the administration-NGA compromise before its provisions take effect. That is a real safety valve for us and one of the reasons that, as chairman of the Finance Committee, I will monitor closely the implementation of these provisions through oversight hearings.

Finally, OMB estimates that, without action, the $5.5 billion in costs attributable to provider donations and taxes for 1992 will at least double to $10 billion, in 1993.

So. Mr. President, in spite of my concern about not being totally convinced that this agreement is the best possible policy, I will lend my support to the proposal of the distinguished Senators from Minnesota and from New Hampshire on behalf of the administration's and the Governors.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I note the presence on the floor of the distinguished Republican leader, as well as the chairman of the Finance Committee, and the Senator from Minnesota, who is managing this bill for the minority side.

I commend Senators BENTSEN and DURENBERGER for their efforts in trying to bring this to a satisfactory conclusion. This is very important legislation on which we must act and with respect to which there still has to be a reconciling of the Senate position with the House position. That will have to be done promptly.

So I encourage prompt action on this legislation, hopefully, without any amendments, and that will enable us to proceed to get this done, finally, before the Congress adjourns for the Thanksgiving recess.

I want also at this time to reiterate what I believe to be the importance of extending several provisions of the tax laws which will otherwise expire at the end of this year. The distinguished chairman of the Finance Committee, yesterday, led the effort in that committee to report it to the Senate floor unanimously, and I know the distinguished Republican leader and the Senator from Minnesota, as members of the committee, support that effort. There are several very important provisions of law which will expire by the end of this year, unless we act now to extend them.

They are important in and of themselves, but they are critical in this difficult economy. Failure to extend these provisions will cause a severe negative jolt to the economy which, in my judgment, would be the worst possible thing at the worst possible time.

We have received this from the House in the circumstances in which the Senate has only two choices: We can either extend these expiring provisions without amendment or change, or we can do nothing. I know that many Senators would like to make other changes in the tax law as well. I am one of them. I know the chairman is another, the Senator from Minnesota is another, and the Republican leader is another. But the reality which we face is that if anyone tries to add anything to this package, the only effect will be that nothing will occur.

I want to repeat that: As unfortunate as it is—and I particularly feel it is unfortunate—we can either extend these provisions for 6 months and do nothing else, or we can do nothing. There is no possibility, none whatsoever, that we can add 1, 2, 3, or 17, or any provisions to these and hope that somehow they will be pulled in along with these extenders. That is because we are late in the session, and the House has made it clear that is their position.

I am going to ask the distinguished Republican leader and the chairman of the Finance Committee to comment on this so as to make certain that I do not misstate the case in any way and that they are of the same view that I am.

Mr. President, I am shortly going to propound a unanimous-consent request, which will have the effect of passing through the Senate the extension of these expiring provisions with no other changes. And I hope that we are going to get that consent. I hope that no Senator will object:

I repeat and emphasize that if an objection is heard, it will not benefit any other provision of law. It will only cause these expiring provisions to expire, to not be extended, with what I believe will be very serious, adverse consequences for our Nation's economy, and for a whole host of provisions of law and those who rely upon them.

So I hope very much that we are going

quest of the majority leader, that we

of the problem if they are not ex-

leave for holiday vacations to take one

State legislatures are going to have a very hard time adopting them.

percent of their Medicaid Program, that is their choice. But what this

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137
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So I hope very much that we are going to be able to do this.

I will now yield to the distinguished Republican leader for any comments he may have, and then to the chairman of the Finance Committee, and I note Senator DANFORTH'S presence as well.

Mr. DOLE. If the majority leader will yield, he has accurately stated the case with reference to both pieces of legislation. The quicker we can move this Medicaid package to the House side, the better; it is going to take several hours to iron it out. I hope we have no amendments. I think we are down to one that we are trying to discourage. I hope that can be done on both sides, so there will be zero amendments.

Second, with reference to the extenders, the majority leader is correct. Either we are going to pass the extenders by unanimous consent, or they are not going to pass this year, unless we should be here next week or sometime in December.

So I urge my colleagues on this side to forego any amendments. I know there is a great temptation. This is must legislation, and it will be signed by the President. It is a great opportunity to kill the whole package—not to pass anything, but to kill the whole package. So we are waiting for two phone calls which hopefully will be very soon, and I will be in a position to give the majority leader that report.

Mr. MITCHELL. Mr. President, it is my intention to propound the request in any event——

Mr. DOLE. I would be constrained to object. I would rather not.

Mr. MITCHELL. I will do that after I hear from the distinguished Republican leader. I will now yield to the chairman of the Finance Committee for any comments.

Mr. BENTSEN. I thank the leaders for their efforts. There is no question that every member of the Finance Committee and every Member of the Senate has a particular tax provision that he thinks would help and has a constituency supporting that. We discussed that in the Finance Committee yesterday. But we have a strict understanding, a clear understanding with the House that if one amendment is added, it all goes down the tube.

We are talking about things like R&D, research and development. We are in international competition where we are trying to increase the productivity of our country insofar as its factories and production. R&D is necessary. But it stops. We are talking about low-income housing, and our housing starts are down. We are talking about high unemployment and an economy dead in the water. This would be a stimulant for the economy. We do not have it. We could go through the list. Targeted jobs tax credit. But we lose it all if we have one amendment.

So I hope very much that the membership will be in accord with the request of the majority leader, that we have a unanimous consent, and that we have no amendments offered in accordance with the request of the minority leader.

So we passed that out of the Finance Committee unanimously. Every member of that committee, with all of their concerns and interests for tax legislation, understood the enormity of that decision and the responsibility of trying to add an amendment to it.

Mr. MITCHELL. Mr. President, I yield to the distinguished Senator from Missouri, who has been very active in urging the extension of the expired provisions of law.

Mr. DANFORTH. Mr. President, it would be tragic to allow these provisions to expire, especially at a time of downturn in the economy. What is involved in these provisions is jobs, and those jobs can be computed—the research and development tax credit, targeted jobs tax credit, low-income housing tax credit. All of these are provisions that exist now in the Internal Revenue Code that provides real jobs for real people.

People say, what can we do to improve the Tax Code to create more jobs, to stimulate the economy?

Well, at least we can avoid doing something which is destructive; namely, to allow provisions that are now in the code to expire, and then, hopefully, reenact them next year after everybody has dismantled their programs.

So this is really important for the economy. The position that has been taken by the majority leader and by the chairman of the Finance Committee and by Senator DOLE has been recognized by a very strong majority of Members of the Senate.

Senator DODD and I circulated a letter, I guess it was about a week ago, 2 weeks ago, maybe, just on the floor during vote time. It was the easiest letter to circulate either of us have ever had. We got 79 signatures of Senators in a 4-hour period of time, as I recall; 79 Senators who said that as a practical matter the only way to bring this bill to the floor is to do so without amendments, and that we would support bringing it to the floor without amendments, and that we urged the majority leader to do so. He has done so.

Now it is my hope that at least those 79 Senators and 21 others will be true to their word and not prevent this bill from going forward. I appreciate what the majority leader has done and I appreciate the skillful way the chairman of the Finance Committee has handled it yesterday.

Mr. BENTSEN. Mr. President, I thank the Senator from Missouri and the Senator from Connecticut, because they helped push this on to get it started with the feeling we could actually accomplish this in a short period of time and help point out the enormity of the problem if they are not extended. So I enthusiastically support and appreciate his support.

The PRESIDING OFFICER. Has the majority leader yielded the floor?

Mr. MITCHELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, as I understand the situation, we have one, at least one matter of concern on the Republican side of the aisle which I trust will be worked out shortly. I know one of my colleagues has a brief colloquy on a Medicare amendment which he did not want to accept as part of the Medicaid reform, and until that can be worked out I would like to finish some of my comments, unless the majority leader had some other matter he would like to take up.

I would begin by thanking my colleague from Texas, my chairman on the Finance Committee, both for his comments with regard to the agreement, which endorsed the agreement, but with appropriate caution.

All of us are very uncomfortable when we begin legislating a deal that we have not negotiated every detail of ourselves.

I was particularly pleased with the chairman's comments about holding hearings on Medicaid in the committee, and I think the Governors and the legislators in this country and the people at the country and the local level are going to be very pleased to hear that also. Because I talked last night about this very excellent policy statement that the Governors presented to many of us about 3 or 4 weeks ago in which they said that the options—in effect, they said financing is the major obstacle to achieving consensus on the best long-term use of Medicaid resources. The options are for each side to try to shift the disproportionate burden to the others, as we do when we give Medicaid mandates and do not pay for them, or to work cooperatively to develop a way to achieve a rational system over time.

I think this agreement achieves that, and the commitment by the chairman of the Finance Committee to follow this agreement up with hearings on the subjects raised by the Governors here, particularly Medicaid and related commitments that we all make to provide health care and medical services to low-income Americans, is very appropriate.

I must also mention that my colleague, Senator BENTSEN, is the author and I am pleased to be the chief Republican sponsor on our side of an effort to deal with all the larger issues of health care reform in the form of S. 1872, which is, to the best of my knowledge, the best bipartisan, nonpartisan effort to help to make health care available to all Americans.

While I am at it, I might as well encourage my colleagues before they

leave for holiday vacations to take one more look at S. 1872. If you want something to talk to your constituents with back home, this is probably the best approach to making health care and medical care available that you are going to find.

I would also like to express, while I have an opportunity, while I am waiting to find out if we worked out the problem, my particular appreciation to Dr. Marina Weiss, the genius of health care on the Senate Finance Committee, who worked the Finance Committee side of this; Alexander Polinsky, on my staff, who did the same for me; to Gail Wilensky of the Health Care Financing Administration for seeing the problem developing and putting together a set of regulations and managing the reaction to those regulations that came; particularly to the technical staff of HCFA, who worked I think this morning until 6 a.m. to try to work on both language and its application to the agreement; Tom Scully, who is Dick Darman's deputy at the Office of Management and Budget and a person who without whom this agreement probably would not be possible; and then Alicia Pelrine and Ray Scheppach who are the executive director and the health professional at the National Governors Association. They are the people who I think are principally responsible for taking 50 experts, i.e., the national Governors, and getting them to work out a consensus over time on a very excellent statement of the Federal-State partnership in meeting the health care needs of Americans and they, too, were key to putting this agreement together.

I indicated in the beginning of my statement that I had some disagreement, not with the agreement as an agreement, but with some of the presumptions about what public policy ought to be.

In effect, what we do is, in order to get the States out of these donation programs where some nursing home or hospital says "Here, I will give you a dollar; you go send it to the Feds and pick up another dollar with it and give me the dollar back," to get them out of that kind of a game we had to admit that it would be appropriate for States to pass broad-based provider taxes, that is taxes on nursing homes, hospitals, doctors, and so forth.

I want to go on record, Mr. President, saying that I believe that the Medicaid Program nor any other third party program in this country should be financed by taxes on hospitals, nursing homes, or medical services of any kind. These are simply taxes on sick people, and on the injured. I call them stealth taxes because they are hidden in the unwitting insurance plans which prevent protest by taxpayers.

They have no business in our public policy. They are simply taxes on the sick and the injured, and hopefully State legislatures are going to have a very hard time adopting them.

Some members of organized labor have already come out in opposition to expanded use of these provider-specific taxes. And while I hate to pass another buck back to the States, I think it is the kind of issue that we are going to need to deal with here in the coming year or so, as they deal with them at the State level.

Personally, Mr. President, I favor federalizing Medicaid. I do not think we ought to have the big debates: this State gets 50–50, this State gets 80–20, this State gets whatever it is, debating formulas and ripoffs and all the rest of the sort of thing.

Most people cannot help where they live. People who live in Mississippi, right next door to Texas, have about one-half the tax capacity to meet the needs that people who live in Texas here. I do not think it is fair to run a system on which people depend whether they are in Maine or New Mexico or Washington or Florida; I do not think it is fair to run that kind of system in this country, where you work or where you live determines whether or not you have access to health care.

So I, for one, believe we ought to skip all the provider taxes, skip all these battles here, and federalize our commitment to provide services for low-income persons. But that is a debate that hopefully we will have in the Finance Committee over the next year or so as we work this partnership.

I just wanted to be sure, Mr. President, that in no way did I want this agreement to be interpreted as an endorsement of State or local taxes on medical services. We here have the responsibility for helping our Nation's elderly, disabled, and low-income with their hospitals, nursing home, and medical expenditures. I do not think we want to be in a position of saying that people who are sick and injured in this country ought to pay the taxes that finance the other sick and injured.

We do not intend by this agreement to limit the authority of States to raise funds, to match Federal Medicaid dollars, except where that authority is exercised in a manner that has the effects of requiring the Federal Government to pay both the tax and the match. That is the difference.

So the reality is we cannot continue to allow sham transactions, provider-specific taxes that are effectively shifting in some of our States 100 percent of the cost of Medicaid to the Federal Government. We are going to make that decision, and I already said I believe we ought to make that decision; we ought to make that here and then live with the consequences in taxes and the budget. The hospitals and nursing home are merely intermediaries in these State programs, and these practices must come to an end.

If the State legislatures want to adopt such taxes to finance up to 25 percent of their Medicaid Program, that is their choice. But what this compromise says is that these must be real taxes, there can be no guarantees that the tax will be rebated directly or indirectly.

Finally, Mr. President, the compromise seeks to resolve a growing tension between the Federal Government and the States as to what type of hospital qualifies as a disproportionate share hospital that can receive a higher reimbursement rate. There are several States that have already classified all of their hospitals as so-called disproportionate share hospitals, and more are waiting to file plan amendments that broadens the number of hospitals that can qualify for such payments.

It is important for all Members to recognize that under Medicaid, Federal matching payments for disproportionate share hospitals are not subject to limitation. This has so far enabled many of the States to receive increasing large Federal matching payments under the guise of their provider tax programs.

Some would have preferred that the NGA agreement establish strict definitions for disproportionate share hospitals. Earlier I mentioned Connecticut. The Governors and the administration have forged a compromise that does two things: First, it repeals the current rule establishing no upper limit on Federal matching for Medicaid DSH payments; and second, it establishes a separate upper payment limit for Medicaid disproportionate share payments.

Under the agreement, the total of all DSH payments in fiscal year 1993 and in any future year cannot exceed 12 percent of total Medicaid Program expenditures in that year.

Any State whose DSH payments in fiscal year 1992 exceeded 12 percent of total Medicaid Program expenditures would be entitled in subsequent years to receive Federal matching for DSH payments up to the dollar amount of such payments in fiscal year 1992. This dollar limit would remain in effect until DSH payments in that State fell to 12 percent of Medicaid Program expenditures. Thereafter, the State would be entitled to increase DSH payments in proportion to total Medicaid Program growth.

Any State whose percentage of DSH payments in fiscal year 1992 is less than 12 percent of Medicaid Program expenditures will be entitled in subsequent years to Federal matching for additional DSH payments according to the following schedule:

First, the level of fiscal year 1992 payments will be increased by the same percentage as the increase in total Medicaid Program expenditures in the State compared with 1992;

Second, the State will receive an allocated share of the "DSH growth fac-

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tor" derived from those States whose

Thank you for your attention to this dif-

Mr. DURENBERGER. The applica-

The motion to lay on the table was

that has taken place mostly behind the

Further, because of a separate agree-tor" derived from those States whose DSH payments are limited because their DSH programs are currently over 12 percent of total Medicaid expenditures.

Mr. President, these rules attempt to restore meaning to the idea of a disproportionate share hospital. With no upper limit currently allowed for Federal matching for Medicaid DSH payments, we have witnessed numerous instances where States have classified every one of their hospitals as a DSH hospital. In so doing, the DSH classification has served as the engine driving the donations and tax schemes previously discussed. The NGA administration agreement puts an end to this abuse.

Mr. President, this is a complex agreement. It has taken weeks to work out. All sides have given something on this. But the critical thing to remember is that this agreement is the best way we can finally call a halt to the endless creative financing schemes that are destroying the Federal/State Medicaid program. I urge all of my colleagues to support this amendment.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I support the Durenberger amendment to H.R. 3595, as amended by the Senate Finance Committee. I want to assure that Maine is able to continue under its provider-tax plan at least through the State's 1992 fiscal year, which ends on June 30, 1992. It is important that Maine's Medicaid Program not be disrupted at least through this fiscal year.

I have been assured by the Office of Management and Budget that Maine will be protected through June 30, 1992.

I ask unanimous consent that a letter to me from the Associate Director for Human Resources, Veterans and Labor, of the Office of Management and Budget, dated November 25, 1991, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 25, 1991.

Hon. GEORGE J. MITCHELL,
Majority Leader,
U.S. Senate, Washington, DC

DEAR SENATOR MITCHELL: This morning I spoke with Governor McKernan regarding the effect of various Medicaid moratoria on the State of Maine. As a result of our discussion, I am certain that, either under Senator Bentsen's legislation of the HHS regulation, Maine will be reimbursed under its current Medicaid program through the end of its current fiscal year.

The HHS regulation allows for transitional exceptions for states to meet the terms of the regulation through June 30, 1992. The Governor and I are sure that Maine can successfully receive such an exception.

Thank you for your attention to this difficult issue.

Sincerely,

THOMAS A. SCULLY,
Associate Director for Human Resources, Veterans and Labor.

Mr. MITCHELL. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB. Mr. President, it is my understanding that absolutely nothing in this legislation prevents States from taking advantage of the provisions of OBRA 1990 allowing the creation of separate classes of disproportionate share hospitals from among those hospitals already designated as such, as long as they are not using disproportionate share payments to hold providers harmless for the tax. By creating separate classes within the disproportionate hospital designation, States are permitted the flexibility of providing a different disproportionate payment rate for each class of hospital. Designated classes could, for example, be State teaching hospitals, sole community providers, rural hospitals, et cetera.

The Commonwealth of Virginia has submitted a State plan creating separate classes within the disproportionate hospital designation. This would require a Medicaid formula and rate adjustment. It is my understanding that both the reclassification and the formula and rate change for Virginia's Medicaid plan will be permitted under this legislation.

Mr. DURENBERGER. My colleague from Virginia is correct. Under this legislation, States would continue to be allowed to create separate classes within the disproportionate hospital designation and would be permitted to adjust the Medicaid rate and formula accordingly.

Mr. WARNER. I want to join my Virginia colleague, Senator ROBB, in seeking to assure that Virginia will not be penalized under this bill. This legislation ensures that Medicaid plans for disproportionate hospitals submitted prior to November 26 will not be affected by this bill. The Virginia General Assembly is due to take under consideration, in January, an amended Medicaid plan submitted to the Health Care Financing Administration [HCFA] on November 19. I am pleased that the administration has confirmed that this legislation will allow my State to proceed with its plans. We must assure that Medicaid funding of indigent care may continue to be provided to those hospitals most heavily burdened by this most pressing public health priority.

Mr. DURENBERGER. The application of this legislation as articulated above by my colleagues from Virginia is correct.

Mr. MOYNIHAN. I wonder if the senior Senator from Minnesota would yield to a question?

Mr. DURENBERGER. I would be glad to yield.

Mr. MOYNIHAN. Mr. President, paragraph (2)(E) of new subsection (w) of section 1903 authorizes the Secretary to grant a waiver from the uniformity requirement of the broad-based provider specific tax provisions if the State establishes that the tax is redistributive in nature and the waiver is not a backdoor way to hold the providers harmless for the tax.

New York has had a system of assessments of hospitals used to reimburse some of the costs of those hospitals that provide charity care. The assessments vary by region but are uniform within each region. These variations are of long standing. The system is still redistributive, and serves a strong public policy goal of spreading the cost of charity care among those able to bear that cost. Can the distinguished Senator confirm that this is the type of case which would probably be covered by the waiver provision?

Mr. DURENBERGER. Yes, in the case you describe, where the tax is redistributive in nature notwithstanding the regional variations, the Secretary might well be expected to grant a waiver from the uniformity requirement.

Mr. MOYNIHAN. I thank the Senator. Mr. President, I yield the floor.

Mr. DURENBERGER. Mr. President, I urge the adoption of the Durenberger-Rudman amendment.

Mr. BENTSEN. Mr. President, we have no request for amendments on this side. We are prepared to move on the pending legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 1446) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

The question is on the motion to lay on the table the motion to reconsider.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider the substitute amendment.

Without question, the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I am very pleased that the Senators from Texas and Minnesota have greed to include language extending the date for changes in disproportionate share hospitals proposed by Senator DODD and myself in the Medicaid moratorium legislation. It is my understanding that pursuant to this language those States which submitted State plan amendments to HCFA on or before November 26, 1991 will be able to change the designation of disproportionate share hospitals in their States to include all hospitals which have a Medicaid or low-income utilization percentge at or above the statewide arithmetic mean Medicaid or low-income utilization rate. It is further our understanding that States which have submitted plan amendments on or before November 26, 1991 will be allowed to modify those plans after November 26, 1991 to come into compliance with these criteria.

Mr. DODD. Mr. President, I want to reiterate what my friend from Connecticut has just said. The agreed upon language which we have proposed provides that the September 20, 1991 deadline does not apply to States that had submited plans on or before November 26, 1991 and/or that submit subsequent modifications to these plans if these plans change the designation for disproportionate share hospitals in their States to include any hospitals which have a utilization percentage for care of low-income or Medicaid patients at or above the statewise arithmetic mean Medicaid or low-income utilization rate.

Is this the understanding of the Senators form Minnesota and Texas?

Mr. DURENBERGER. Yes, that is correct. The language proposed by the Senators from Connecticut would change the effective date of the moratorium on changes in State treatment of disproporationate share hospitals for those States which have submitted plans to HCFA between September 30, 1991 through November 26, 1991 or which have submitted modifications to those plan amendments subsequent to November 26, 1991 which are otherwise approvable under the HFCA NPRM of October 31, 1991. Pursuant to this amendment these States would be allowed to designate additional disproportionate share hospitals of those institutions have a utilization percentage for care of low-income or Medicaid patients at or above the statewide arithmetic mean Medicaid or low-income utilization rate. I also understand that the administration has agreed to this language. Is that also the understanding of the distinguished chairman of the Finance Committee?

Mr. BENTSEN. Yes, that is my understanding also.

Mr. MCCONNELL. Mr. President, we are coming to the end of a long battle that has taken place mostly behind the scenes, and this is one of those outcomes that reminds me of the saying, "In legislating, there are no victories, only varying degrees of defeat."

This summer, the Health Care Financing Administration proposed new regulations that would essentially prohibit States from using health provider taxes to match Federal dollars under the Medicaid Program.

Needless to say, the response to these regulations has been deafening. Kentucky, and many other States, would be forced to choose between fiscal insolvency and simply closing the doors of the health care system to the poor.

Adding insult to injury, the administration explained the need for these regulations by saying that States were using revenue-raising scams to qualify for Federal matching funds. I can't speak for other States, but I can speak for Kentucky, in assuring the administration that Kentucky is not using any scams to fund its Medicaid Program.

Responding to this health care crisis, the House of Representatives passed H.R. 3595, a bill introduced by Congressman Waxman, which would provided for a 1-year moratorium on implementation of these extreme regulations. The bill passed the House by an overwhelming margin of 348 to 71.

Shortly thereafter, I introduced a companion bill to H.R. 3595 in the Senate. To me, 1 year seemed a fair amount of time to resolve a tough, complicated issue that involved the budgets and health care systems of 50 States and the Federal Government.

I was pleased that several of my Senate colleagues joined me in this endeavor, and we were well on the way to halting these regulations and allowing some breathing room to work out a more reasonable, acceptable middle-ground.

Our efforts toward a moratorium also put pressure on the administration to negotiate with the States on this critical issue, rather than try to dictate the rules of the game unilaterally.

These negotiations, between HCFA and the National Governors Association, have produced an eleventh-hour agreement that resolves many of the points in dispute about the original administration regulations.

Like any eleventh-hour agreement, this compromise leaves much to be desired, in the view of this Senator. States like Kentucky, where there are many more indigent patients than there are funds to provide for them, could end up paying a steep price under this agreement.

Nevertheless, the choice before us today is not between this problematic compromise and something better that is just around the corner.

The choice is between this package or the original regulations, which we know, without any doubt, would be devastating to Kentucky and many other States.

Further, because of a separate agreement that I secured with the Administrator of HCFA, this compromise has a moratorium built into it: None of the provisions or restrictions in the package will affect Kentucky for the entire year after the general assembly goes into legislative session in 1992. In other words, Kentucky will have until June 1993 to review the regulations and respond to them.

That delay is at least something to be for, because any extra time we can provide could quite literally save lives in Kentucky.

In addition, although we all approach this compromise in good faith, it is worth pointing out that the bill provides us adequate time to correct any problems that emerge as a result of its provisions over the coming year.

For example, I remain deeply concerned about the 25 percent cap on all provider payments and the 12 percent cap on disproportionate share hospital payments.

These caps are manifestly unfair—and maybe unworkable—for States like mine that must serve unusually high numbers of indigent patients. In Kentucky, the total percentage of indigent care-seekers is nearly 20 percent—or 1 in every 5. A 12-percent cap on DSH payments simply does not deal with that reality.

Such caps raise the serious question about what a hospital in Kentucky is going to do when the number of indigent care seekers coming through its doors exceeds the funds available to provide care.

Will that hospital be forced to close its doors to the poor? Or will the state simply try to assume these costs and end up going bankrupt?

These are troubling questions for any State that has a substantial indigent population, and these questions must be carefully analyzed and addressed over the coming year—not in some hastily-prepared, eleventh-hour compromise.

In saying this, I do not denigrate the hard work or honorable intentions of those who have put together this amendment. On the contrary, I have great respect for those who have labored over this proposal, and appreciate their efforts to stave off certain disaster, if the original regulations had gone into effect.

Therefore, although I continue to have serious concerns about the caps contained in the Durenburger amendment, I support this compromise as the best option available among a narrow field of bad options.

People all across the country—and here in this body—are calling for improved health care services in our country, but no one is willing to pay for it. We have directed the States over and over again to expand their Medicaid Programs, knowing full well that States do not possess the funds to pay

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for these expansions. Now we are trying to tell the States how they can or

the compromise amendment, the so-called National Governors' Association

lion in fiscal year 1992 for Medicaid programs. Across the Nation, States

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what types of programs are acceptable. It also allows the States to establish programs within these parameters and

reform reimbursement levels to eliminate the favorable treatment for urban areas.

language in the medicare law which requires a geographic skill differential. Since the law requires the formula to for these expansions. Now we are trying to tell the States how they can or cannot come up with the money.

This is an urgent matter for the many States these regulations will affect. Federal matching funds are crucial to the Medicaid Programs in Kentucky and other States. If the availability of these matching funds are significantly limited, as they may end up being under this compromise, the poorest of our Nation's citizens could be placed at further risk of inadequate health care.

I hope that, after the present crisis passes, we can address ourselves to the larger problems affecting America's health care system, and achieve solutions that go beyond 11th-hour compromises and slap-dash solutions.

Mr. FORD. Mr. President, I rise to support H.R. 3595, legislation to impose a moratorium on the administration's Medicaid regulations.

As my colleagues may remember, on September 12, the day these regulations were issued, I came to the Senate floor to attempt to offer an amendment to extend the current moratorium on these regulations through September 30, 1991.

According to the nonpartisan Congressional Budget Office, my amendment had no cost. According to the administration's Office of Management and Budget, my amendment had a $1.5 billion cost. It is my understanding that OMB has now revised its estimate upward to a $5.8 billion cost.

Something is just not right about this. My State stands to lose over $500 million next year if these regulations are not stopped. With this money, we have been able to extend hospital coverage to 225,000 Kentuckians who had no access to care before that. We have been able to provide access to care for Kentucky mothers and infants, which has reduced our infant mortality rate to a record low.

We in Kentucky are attempting to deal with the problem of 37 million uninsured Americans—over 700,000 in Kentucky alone. Our plan was enacted consistent with last year's OBRA provisions, and is already producing results. But this administration, through its attempts to prohibit States, like Kentucky, from funding Medicaid services for our low-income families through provider-paid taxes, is once again turning its back on the uninsured.

These regulations go far beyond congressional intent, and are a blatant attempt to cap Medicaid spending in a way that Congress has consistently opposed. We should be helping our states meet the health care needs of our people, not forcing them into bankruptcy through arbitrary regulations.

The current moratorium on these regulations expires December 31, 1991. I would have preferred a simple extension of the current moratorium, but the compromise amendment, the so-called National Governors' Association [NGA] agreement contained in the Durenberger amendment, is the best solution that can be reached under the circumstances.

Under a change I sought in the original NGA compromise, the effective date of this agreement for Kentucky was extended to July 1, 1993. Because Kentucky is the only State which only meets biennially in even-numbered years, our effective date under the original agreement was October 1 of next year. As a former Governor, I was concerned that the October effective date would not have given Kentucky enough time to come into compliance.

I appreciate the willingness of the administration to consider and support this change for Kentucky. I commend the distinguished chairman of the Finance Committee, Senator BENTSEN, and his staff, for working to resolve this situation so that on January 1 of next year, 225,000 Kentuckians will not lose their access to health care.

Kentucky must have the flexibility to fund the health care needs of our people. The current Health Care Financing Administration regulations do not provide that flexibility. With the additional time available under the NGA agreement, hopefully, Kentucky will be able to continue our good progress in providing needed health care services for Kentuckians.

Mr. BYRD. Mr. President, I support the amendment offered by the Senator from Minnesota [Mr. DURENBERGER], to H.R. 3595, the Medicaid Moratorium Act. The Durenberger amendment sets forth the compromise reached between the National Governors Association [NGA] and the administration on voluntary donations, provider-specific taxes, and disproportionate share payments. The amendment also incorporates changes made to the compromise by Members of Congress and individual States.

On September 12, the Health Care Financing Administration [HCFA] issued an interim final rule that would ban States from using voluntary donation programs and institutional provider taxes to obtain Federal matching funds for States' Medicaid programs. This rule, scheduled to go into effect on January 1, 1992, would have a devastating effect on many States' abilities to fund their Medicaid programs. The citizens who depend upon Medicaid as their source of health-care insurance would subsequently suffer. HCFA's interim final rule violates the congressional intent of the Omnibus Budget Reconciliation Act of 1990, and States and the Congress have voiced strong opposition to this rule.

As my colleagues are well aware, Medicaid costs are soaring at both the State and Federal levels. It is expected that the Federal Government and States could pay an estimated $115 billion in fiscal year 1992 for Medicaid programs. Across the Nation, States are having great difficulty financing their share of the Medicaid Program, and my State, West Virginia, is no exception. West Virginia has taken the actions necessary, including raising taxes, to eliminate its Medicaid shortfall. Yet, West Virginia still faces a most difficult time financially dealing with its current caseload. I am sure other States face similar difficulties. These difficulties must be addressed if our Nation's most vulnerable citizens are to have access to health care.

I believe that this final compromise gives States the opportunity and the time to make the modifications necessary to comply with the guidelines set forth in this amendment. I hope that the Senate will support the Durenberger amendment and avoid the devastating effect that implementation of HCFA's interim final rule would have on States' Medicaid programs.

I commend my colleague from West Virginia [Mr. ROCKEFELLER], for his work on this measure. The issues addressed here are of the utmost importance to West Virginia, and Senator ROCKEFELLER deserves much credit for all of his efforts in this regard.

Mr. CHAFEE. Mr. President, for too long, we have postponed settling the issue of voluntary contributions and provider-specific taxes being used to draw down Medicaid funds by States. It is critical that we enact legislation to define reasonable guidelines for the use of provider taxes in financing State Medicaid programs as soon as possible, in order to give States the ability to do long-range planning.

This is especially important to States like my home State of Rhode Island, which have delayed enacting provider tax or donation programs until they had clear guidance from the Federal Government. I would not have my State, and the handful of others, further penalized by allowing those donation and provider tax programs in existence to continue, while prohibiting additional States from implementing their own programs.

The amendment before us, which is based upon an agreement reached by the administration and the National Governors' Association [NGA], is a good first step. Now that we have a compromise between two of the principals in this dispute, I would prefer not to enact yet another moratorium continuing the uncertainty. I am however, very concerned about provisions in the agreement that limit Federal matching funds for Medicaid disproportionate share payments, capping levels at 12 percent of total Medicaid expenditures in each State. I have suggested a 3-year sunset, but in any event, I am hopeful that we will be able to revisit this issue next year and find some other means of financing.

Given those reservations, the amendment sets forth definitive guidelines on

what types of programs are acceptable. It also allows the States to establish programs within these parameters and begin long range planning. I urge my colleagues to join with me in supporting this amendment. Thank you Mr. President.

Mr. COATS. As the Senator from Texas knows, insulin serves as a lifeline for many Americans—for diabetics and other individuals with special medical needs, insulin makes the difference between life and death.

I would like to know if the Senate Finance committee is willing to examine the consequences of the OBRA 90 Medicaid drug rebate provisions on insulin?

Would the Chairman be prepared to review this aspect of OBRA 90 and take whatever steps are appropriate to resolve this issue as soon as possible early in 1992?

Mr. BENTSEN. It would be my intention to resolve this issue as soon as possible.

THE MEDICARE GEOGRAPHIC ADJUSTMENT AMENDMENT

Mr. WALLOP. Mr. President, usually at this time of year, we have a major debate on Medicare and Medicaid issues as Congress would push the annual budget reconciliation bill before adjournment. We would make major decisions on health issues with only perfunctory analysis. This process led to the enactment of Medicare's prospective payment system for hospitals, and more recently for physicians. The payment systems are designed to remedy health pricing problems which appear to occur with regularity in populous, urban areas.

In our zeal to respond to this urban abuse, we have cast out a net that has ensnared rural states. The legislated changes in Medicare are an acute problem for our sparsely populated Western States. A regulatory avalanche is descending on our doctors and hospitals pushing us back to frontier health conditions.

This year, our health care providers nearly received a respite. Because of that marvelous budget agreement last year—which becomes more tattered and irrelevant as the economy stutters—we supposedly have spending restraint this year. With the deficit near record levels, few will be celebrating the first anniversary of the budget agreement. At least, we do not have to enact a reconciliation bill this year, which has lately become an event for a tax increase.

We have not entirely escaped confronting health issues before adjournment. There is a proposal involving a funding issue for the States under the Medicaid Program. And, yesterday, the Health Care Financing Administration issued its long awaited regulations on Medicare's new fee schedule for physician services. The health professionals in Wyoming were eagerly awaiting the regulations. Finally, Medicare would reform reimbursement levels to eliminate the favorable treatment for urban areas.

The new system will utilize a national rate for each health procedure covered under Medicare. Not only would rates in rural areas be brought into alignment with urban rates, but the socalled "urban differential" which no one could ever explain would disappear. But, we all know that neither Congress nor the bureaucrats can resist turning a simple idea into a Rube Goldberg maze. The administration proposed a modification of the fee schedule because the bureaucrats feared that physicians would mysteriously increase services to bilk the program. They ignored the volume restraints previously included in the law.

Congress decided that physician fees are different for each region of the country. So, the law contains a requirement for a geographical adjustment factor. It was argued that the cost of living in rural areas was lower than urban areas, so the formula should adjust for locale. Oddly enough, medical equipment manufacturers do not discount their prices for rural areas. Drug companies do not have a rural price versus an urban price. And, the salary requirements for scarce nurses and technologists are not reduced because the employer is a rural hospital or physician.

Despite the contradictions in the assumptions supporting a geographical adjustment factor, those of us representing rural areas accepted the gaf as the price we must pay for the reform of physician fee schedules. However, reconciliation bills always contain surprises, and there is one in the geographic adjustment factor. Part of the calculation includes a skill differential. In other words, the law assumes that a physician practicing in rural areas has inferior skills to a doctor in an urban setting. It is an erroneous, insulting assumption about our rural physicians. To calculate the skill differential, the bureaucrats developed an opportunity cost scheme. They did not actually compare skills between rural and urban physicians. They simply compared salary levels for other professions in rural and urban areas. Any difference was used to calculate skill differentials for doctors. I would ask that the actual table be included in the RECORD at the conclusion of my remarks. Our rural areas, such as all of Wyoming, many parts of Texas, Oregon, and Kansas, all have a lower skill rating than more urban areas.

Last June, I wrote to Dr. Gail Wilensky, Administrator of the health care financing administration, about this and related fee schedule issues. I will ask to have the letter included in the record following the remarks of Senator BENTSON. I never received a response, but I have come up with my own response. We should repeal the language in the medicare law which requires a geographic skill differential. Since the law requires the formula to be neutral, the formula would be adjusted with this deletion. There would be no budget cost to the change.

While I would like to offer an amendment here today to correct this problem, perhaps this would be more appropriate when the Senate considers the Medicare technical corrections bill in the 2d session. I hope we can take a look at the problem at that time.

Mr. BENTSEN. I can assure the Senator from Wyoming that he will find a welcome reception for his views on geographic adjusters from many members of the Finance Committee. During its deliberations on Medicare physician payment reform legislation in 1989, the committee considered whether there should be any geographic adjustment factor, and, if so, what it should be.

The package developed by Senators ROCKEFELLER and DURENBERGER for the so-called overhead portion of the physician's fee, which compensates for office expenses such as rent, staffing, and supplies. The committee agreed to this because organizations like the Physician Payment Review Commission and the American Medical Association told us that fairness required a payment adjustment for practice costs that are beyond the individual physician's control.

The committee rejected an adjustment to the so-called work component of the fee, however, despite the fact that Health and Human Services Secretary Dr. Louis Sullivan and others argued that an adjustment for a physician's own personal cost of living was necessary in order to ensure an adequate supply of doctors in urban areas.

As I recall, some members of my committee were concerned that such an adjustment might be interpreted as a judgment by Congress that the work of urban practitioners was somehow worth more than that of their rural colleagues. Other Members felt that the choice of where to live is a personal one and, as such, shouldn't be recognized by the new payment system.

As my colleague points out, the bill that emerged from the Senate-House conference on payment reform did include a partial adjustment for variations in cost of living—but one that reflects only one-quarter of the measured variation. That means that if the cost of living in a rural area is 80 percent of the national average, payments for physician work will still equal 95 percent of the national average—rather than the 80 percent that would result if a pure cost of living adjustment were applied.

While many Finance Committee conferees would have preferred no cost-of-living adjustment at all, those representing urban practitioners argued forcefully—and successfully—that some adjustment was necessary.

TABLE 1.—GEOGRAPHIC PRACTICE COST INDICES BY

on the future spending that would

countenance different rules for dif-

I am committed, however, to ensuring that any geographic adjuster applied to physician payments under Medicare is based upon the best information available, so that it reflects area variations in costs as accurately as possible. That is essential if physicians are to regard the new payment system as fair and worthy of their support.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 24, 1991.

Dr. GAIL WILENSKY,
Administrator, Health Care Financing Administration Department of Health and Human Services, Baltimore, MD.

DEAR DR. WILENSKY: Recently, I had several meetings with physicians from Wyoming to discuss their problems with the Medicare reimbursement system. Since your office issued proposed regulations for the prospective payment system for physicians on June 5, I wanted to comment on current and potential problems with the Part B program.

One major problem is the method for determining reimbursement under the various procedure codes. I have enclosed one page of the reimbursement schedule for one doctor in Wyoming. He highlighted two similar procedures (23075 and 230760). The second procedure is more complicated than the first, and normal fees are about three times the easier procedure. However, the Medicare fee is less for the more complicated procedure. This makes no sense. And, we reviewed many other fee codes during his visit which reflected this same decision to pay a lower fee for a more complicated procedure. I would appreciate an explanation of why Part B utilizes such a dysfunctional reimbursement structure.

This problem has aroused much concern on my part about the prospective payment system being implemented by HCFA. While physicians are to be reimbursed at the same rate for the same procedure, there will be a regional differential. One of the past problems with geographic price differentials is the discrimination against rural areas. Past analysis of rural and urban differences in health costs have indicated that as much as 20% of the difference cannot be explained. I would urge that any regional variations be based only on documented differences in practice costs.

I understand that the regional differential will rate rural physician skills at a lower level than urban physician skills. There is no justification for such discrimination, and I would urge that physicians not be weighed differently simply because they practice in a rural area.

I appreciate your attention to these comments, and look forward to your response.

Sincerely,

MALCOLM WALLOP,
U.S. Senator.

Enclosure.

TABLE 1.—GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

Carrier No.	Locality No.	Locality name	Work	Practice expense	Malpractice
510	5	Birmingham, AL	.981	0.913	0.824
510	4	Mobile, AL	.964	.911	.824
510	2	North Central AL	.970	.867	.824
510	1	Northwest Alabama	.985	.869	.824
510	6	Rest of AL	.975	.851	.824
510	3	Southeast AL	.972	.869	.824
1020	1	Alaska	1.106	1.255	1.042
1030	5	Flagstaff, AZ	.983	1.016	1.255
1030	1	Phoenix, AZ	1.003	1.016	1.255
1030	7	Prescott, AZ	.983	.911	1.255
1030	99	Rest of Arizona	.987	.943	1.255
1030	2	Tucson, AZ	.987	.989	1.255
1030	8	Yuma, AZ	.983	.911	1.255
520	13	Arkansas	.960	.856	.302
2050	26	Anaheim-Santa Ana, CA	1.046	1.220	1.370
542	14	Bakersfield, CA	1.028	1.050	1.370
542	11	Fresno/Madera, CA	1.006	1.009	1.370
542	13	Kings/Tulare, CA	.999	1.001	1.370
2050	18	Los Angeles, (1st of 8)	1.060	1.196	1.370
2050	19	Los Angeles, CA (2d of 8)	1.060	1.196	1.370
2050	20	Los Angeles, CA (3d of 8)	1.060	1.196	1.370
2050	21	Los Angeles, CA (4th of 8)	1.060	1.196	1.370
2050	22	Los Angeles, CA (5th of 8)	1.060	1.196	1.370
2050	23	Los Angeles, CA (6th of 8)	1.060	1.196	1.370
2050	24	Los Angeles, CA (7th of 8)	1.060	1.196	1.370
2050	25	Los Angeles, CA (8th of 8)	1.060	1.196	1.370
542	3	Marin/Napa/Solano, CA	1.012	1.198	1.370
542	10	Merced/Surr. Cntys, CA	1.018	1.009	1.370
542	12	Monterey/ Santa Cruz, CA	1.023	1.108	1.370
542	1	N. Coastal Cntys, CA	1.003	1.072	1.370
542	2	Ne Rural CA	1.001	.990	1.370
542	7	Oakland-Berkeley, CA	1.028	1.258	1.370
542	27	Riverside, CA	1.026	1.080	1.370
542	4	Sacramento/Surr. Cntys, CA	1.026	1.088	1.370
542	15	San Bernardino/E. Cntrl CA	1.025	1.077	1.370
2050	28	San Diego/Imperial, CA	1.026	1.090	1.370
542	5	San Francisco, CA	1.038	1.303	1.370
542	6	San Mateo, CA	1.038	1.303	1.370
2050	16	Santa Barbara, CA	1.012	1.073	1.370
542	9	Santa Clara, CA	1.048	1.286	1.370
542	8	Stockton/Surr. Cntys, CA	1.019	1.027	1.370
2050	17	Ventura, CA	1.034	1.132	1.370
550	1	Colorado	.999	.988	.683
10230	4	Eastern Conn	.999	1.053	1.036
10230	1	NW and N. Central CT	1.002	1.071	1.025
10230	3	South Central CT	1.018	1.103	1.188
10230	2	Southwest CT	1.053	1.139	1.231
570	1	Delaware	1.026	1.018	.664
580	1	D.C. + MD/VA suburbs	1.059	1.168	.947
590	3	Fort Lauderdale, FL	.993	.981	1.376
590	4	Miami, FL	1.034	1.025	1.641
590	2	N/NC/Florida cities	.975	.932	1.108
590	1	Rest of Florida	.966	.871	1.108
1040	1	Atlanta, GA	.975	1.022	.752
1040	4	Rest of Georgia	.956	.841	.752
1040	2	Small Georgia cities 02	.962	.895	.752
1040	3	Small Georgia cities 03	.961	.869	.752
1120	1	Hawaii	1.003	1.094	1.025
5130	12	North Idaho	.965	.917	.889
5130	11	South Idaho	.967	.936	.889
621	10	Champaign-Urbana, IL	.965	.920	1.137
621	16	Chicago, IL	1.044	1.114	1.773
621	3	DeKalb, IL	.978	.925	1.137
621	11	Decatur, IL	.981	.927	1.137
621	12	East St. Louis, IL	.989	.958	1.579
621	6	Kankakee, IL	.972	.925	1.137
621	8	Normal, IL	.997	.968	1.137
621	1	Northwest, IL	.974	.896	1.137
632	5	Peoria, IL	1.009	1.031	1.137
621	7	Quincy, IL	.974	.896	1.137
621	4	Rock Island, IL	.995	.958	1.137
621	2	Rockford, IL	1.010	1.018	1.137
621	13	Southeast IL	.974	.896	1.137
621	14	Southern IL	.974	.896	1.137
621	9	Springfield, IL	.996	.966	1.137
621	15	Suburban Chicago, IL	1.020	1.097	1.137
630	1	Metropolitan IN	.998	.963	.547
630	3	Rest of Indiana	.979	.896	.516
630	2	Urban Indiana	.980	.905	.516
640	5	Des Moines (Polk/Warren), IA	.997	.966	.666
640	3	North Central, IA	.971	.916	.666
640	2	Northeast IA	.972	.918	.666
640	6	Northwest IA	.969	.890	.666
640	4	S. Cen. IA (excl. Des Moines)	.962	.881	.666
640	1	SE Iowa (Incl. Iowa City)	.976	.933	.666
640	7	Southwest IA	.968	.900	.666
740	5	Kansas City, KS	.978	.964	1.134
650	1	Rest of Kansas	.953	.893	1.134
740	4	Suburban Kansas City, KS	.978	.964	1.134
660	1	Lexington and Louisville, KY	.984	.917	.667
660	3	Rest of Kentucky	.974	.875	.667
660	2	SM cities (city limits) KY	.976	.898	.667
528	7	Alexandria, LA	.985	.889	.808
528	3	Baton Rouge, LA	.991	.966	.808
528	6	Lafayette, LA	.982	.982	.808
528	4	Lake Charles, LA	.975	.907	.808
528	5	Monroe, LA	.979	.880	.808
528	1	New Orleans, LA	.994	1.003	1.185
528	50	Rest of Louisiana	.972	.880	.824
528	2	Shreveport, LA	1.003	.940	.808
21200	2	Central Maine	.942	.903	.716
21200	1	Northern Maine	.947	.912	.716
21200	3	Southern Maine	.956	.980	.716
690	1	Baltimore/Surr. Cntys, MD	1.027	1.040	.927
690	3	South and E. Shore MD	1.011	1.010	.820
690	2	Western Maryland	1.006	1.013	.843
700	2	Mass. Suburbs/rural (cities)	.997	1.072	.855
700	1	Massachusetts urban	1.002	1.131	.855
710	1	Detroit, MI	1.059	1.091	1.736
710	2	Michigan, not Detroit	1.010	.971	1.196
720	00	Minnesota (Blue Shield)	.999	.971	.748
10240	00	Minnesota (Travelers)	.999	.971	.748
10250	1	Rest of Mississippi	.960	.838	.650
10250	2	Urban Missouri (city limits)	.966	.902	.650
740	3	K.C. (Jackson County), MO	.978	.964	1.179
740	2	N. K.C. (Clay/Platte), MO	.978	.964	1.179
11260	3	Rest of Missouri	.950	.847	1.179
740	6	Rural NW counties, MO	.953	.866	1.179
11260	2	Sm. E. Cities, MO	.954	.838	1.179
740	1	St. Joseph, MO	.950	.867	1.179
11260	1	St. Louis/lg. E. Cities, MO	.988	.964	1.352
751	1	Montana	.967	.926	.718
655	00	Nebraska	.960	.883	.435
1290	3	Elko & Ely (cities), NV	.984	1.026	1.144
1290	1	Las Vegas, et al (cities), NY	1.036	1.082	1.144
1290	2	Reno, et al (cities), NV	1.008	1.141	1.144
1290	99	Rest of Nevada	1.020	1.079	1.144
780	40	New Hampshire	.962	1.011	.602
860	2	Middle New Jersey	1.034	1.070	1.153
860	1	Northern New Jersey	1.040	1.131	1.153
860	3	Southern New Jersey	1.016	1.030	1.153
1360	5	New Mexico	.981	.925	.767
801	1	Buffalo/Surr. Cntys, NY	1.006	.942	.963
803	1	Manhattan, NY	1.059	1.255	1.647
801	3	N. Central Cities, NY	.997	.952	.963
803	2	NYC Suburbs/Long I., NY	1.060	1.229	1929
803	3	Poughkpsie/N NYC Suburbs	1.004	1.018	1.325
14330	4	Queens, NY	1.059	1.255	1.861
801	2	Rochester/surr. cntys, NY	1.021	1.017	.963
801	4	Rest of New York	.988	.935	.963
5535	95	Rest of North Carolina	.963	.883	.378
5535	94	Urban (city limits) NC	.975	.926	.378
820	1	North Dakota	.965	.895	.688
16360	1	Akron,OH	.993	.944	.920
16360	2	Cincinnati, OH	.989	.956	.920
16360	3	Cleveland, OH	1.011	.968	.920
16360	4	Columbus, OH	.983	.956	.920
16360	5	Dayton, OH	.999	.935	.920
16360	9	E. Central (Steubenvl), OH	.974	.912	.920
16360	7	Mansfield, OH	.972	.906	.920
16360	13	Marion + surr. cntys, OH	.971	.911	.920
16360	6	Northwest (Lima) OH	.973	.919	.920
16360	14	Scioto Valley, OH	.977	.936	.920
16360	15	Southeast (Ohio Valley) OH	.973	.909	.920
16360	8	Springfield, OH	1.004	.940	.920
16360	10	Toledo (Lucas/Wood), OH	.991	.996	.920
16360	12	W Centr (Lake Plains), OH	.969	.906	.920
16360	11	Youngstown, OH	.987	.937	.920
1370	00	Oklahoma	.969	.911	.516
1380	2	Eugene, et al (cities), OR	.968	1.008	.951
1380	1	Portland, et al (cities), OR	.993	1.033	.951
1380	99	Rest of Oregon	.979	.997	.951
1380	3	Salem, et al (cities), OR	.974	.990	.951
1380	12	SW OR. cities (city limits)	.974	.988	.951
865	2	Lg. Pennsylvania cities	1.008	1.001	1.440
865	1	Philly/Pitt med schs/hosps	1.014	1.014	1.552
865	4	Rest of Pennsylvania	.975	.929	.986
865	3	Small Pennsylvania cities	.984	.945	.986
973	20	Puerto Rico	.882	.763	.466
870	1	Rhode Island	1.009	.998	.734
880	1	South Carolina	.971	.874	.448
820	2	South Dakota	.951	.857	.688
5440	35	Tennessee	.969	.896	.407
900	29	Abiline, TX	.971	.888	.504
900	26	Amarillo, TX	.972	.900	.504
900	31	Austin, TX	.969	.968	.504
900	20	Beaumont, TX	.998	.955	.504
900	9	Brazoria, TX	1.025	.955	.504
900	10	Brownsville, TX	.980	.888	.504
900	24	Corpus Christi, TX	.976	.944	.504
900	11	Dallas, TX	.996	.971	.504
900	12	Denton, TX	.996	.971	.504
900	14	El Paso, TX	.995	.894	.504
900	28	Fort Worth, TX	.973	.936	.504
900	15	Galveston, TX	.982	.968	.504
900	16	Grayson, TX	.964	.903	.504
900	18	Houston, TX	1.014	.982	.656
900	33	Laredo, TX	.968	.856	.504
900	17	Longview, TX	.968	.929	.504
900	21	Lubbock, TX	.950	.881	.504
900	19	McAllen, TX	.945	.873	.504
900	23	Midland, TX	1.032	.998	.504
900	2	Northeast rural Texas	.968	.883	.504
900	13	Odessa, TX	1.008	.971	.504
900	25	Orange, TX	.998	.955	.504
900	30	San Angelo, TX	.954	.902	.504
900	7	San Antonio, TX	.973	.929	.504
900	3	Southeast rural Texas	.973	.895	.504
900	6	Temple, TX	.969	.886	.504
900	8	Texarkana, TX	.953	.883	.504
900	27	Tyler, TX	.984	.931	.504
900	32	Victoria, TX	.976	.973	.504
900	22	Waco, TX	.981	.871	.504
900	4	Western rural Texas	.961	.852	.504
900	34	Wichita Falls, TX	.969	.896	.504
910	9	Utah	.993	.952	.739
780	50	Vermont	.942	.941	.533
10490	1	Richmond and Charlottesvl, VA	.975	.953	.462
10490	4	Rest of Virginia	.967	.888	.522
10490	3	Sm. town/industrial VA	.971	.892	.531
10490	2	Tidewater and N. Virginia counties	.989	.944	.703
973	50	Virgin Islands	1.000	1.000	1.000
932	4	E. Cen and NE WA (excl Spokane)	.991	.979	1.064
932	2	Seattle (King Cnty), WA	1.019	1.049	1.064
932	3	Spokane and Richland(cities), WA	.996	.995	1.064
932	1	W and SE WA (excl Seattle)	1.008	.992	1.064
16510	16	Charleston, WV	.987	.962	.688
16510	18	Eastern Valley, WV	.962	.881	.688
16510	19	Ohio River Valley, WV	.962	.881	.688
16510	20	Southern Valley, WV	.960	.876	.688
16510	17	Wheeling, WV	.975	.900	.688
951	13	Central Wisconsin	.960	.888	.762
951	40	Green Bay, WI(Northeast)	.979	.913	.762
951	54	Janesville, WI (S—Central)	.970	.905	.762
951	19	La Crosse, WI (W-Central)	.976	.919	.762
951	15	Madison, WI (Dane County)	.977	.979	.762
951	46	Milwaukee suburbs, WI (SE)	1.010	1.008	.762
951	4	Milwaukee, WI	1.008	1.009	.762
951	12	Northwest Wisconsin	.966	.898	.762
951	60	Oshkosh, WI (E-Central)	.974	.911	.762
951	14	Southwest Wisconsin	.960	.888	.762
951	36	Wausau, WI (N-Central)	.971	.898	.762
825	21	Wyoming	.988	.938	.641

Note: Work GPCI is the one-quarter work GPCI required by Public Law 101-239.

THE MEDICAID MORATORIUM AMENDMENT OF 1991

Mr. GRASSLEY. Mr. President, I am going to support the agreement so arduously negotiated between the Governors' Association and the Health Care Financing Administration.

As I understand it, the Governors firmly support the agreement. And I have kept in close touch with my own Governor's office and my State's Medicaid Program throughout this debate.

I have to say that I think it is unfortunate that the cutoff date for commencement of the provider tax funding mechanisms which would be accepted for Federal matching funds had to be moved forward to last week in order to gain the adherence of several States to the agreement being negotiated between the Governors and the Health Care Financing Administration.

However this is scored by the Office of Management and Budget for Budget act purposes, the need to get support for this agreement from States who started these funding mechanisms at the last minute, so to speak, is going to cost the Federal taxpayer more.

Nevertheless, at least this agreement enables us to impose some constraints on the future spending that would occur under these funding arrangements.

I also believe that it is unfortunate that we must change the basic nature of the Medicaid Program under these circumstances. I agree with other Senators who have said that the way we should transform the Medicaid Program, if that is what we want to do, is to fully debate it through the legislative process.

Instead, over a period of a week or two, if we pass this legislation, we have accepted the principle that the States, if they so choose, can impose taxes on health care providers as a way of funding the Medicaid Program. I am not particularly comfortable with this idea, Mr. President.

Nevertheless, this Governors' agreement will impose some regularity and standards on these unorthodox funding mechanisms, and is, in my view clearly preferable to a moratorium, however short we would like its ending date to be.

I have several problems with proceeding with a moratorium, even if it is a relatively short one like that which was reported from the Committee on Finance over my opposition.

To begin with, I do not believe that we will end up with a moratorium ending April 1. I do not doubt for a minute that the chairman of the Finance Committee will work hard to achieve such a concluding date for a moratorium.

What I do doubt is the willingness of the other body to go along. Their moratorium legislation has an ending date of September 30. I have heard that some of the Members of the other body, who will be on any conference committee, do not want to see these funding arrangements ended. Furthermore, there are even members of the Finance Committee who would like to see a later date for the conclusion of the moratorium.

Thus, we could easily end up with a concluding date for the moratorium in June or even later. By that time, we will be in the Presidential and Congressional election campaigns and it will become more and more difficult to get the issue resolved. We will then be tempted to postpone the issue until the next Congress. This certainly seems to me to be a likely an outcome as any.

Second, this moratorium is two-sided—the regulations would not be able to go forward, and all States would be frozen more or less where they are, even the ones which are not using these methods. States like Iowa, which do not engage in these methods, will continue to be treated differently than the other States.

If I am right in assuming that we will end up with a longterm moratorium, States like Iowa will be completely frozen out of using methods which we have legitimated for other States.

Although I have serious reservations about such funding methods, I cannot countenance different rules for different States. That just is not fair.

In summary, Mr. President, we need to get some control over this problem, and the only way we can hope to do that is to support the Governor's agreement. States now using these methods have some protection. States such as Iowa, which do not use these methods would at least be able to participate in the program on the same terms as the other States, if they so choose.

MEDICARE GRADUATE MEDICAL EDUCATION PROGRAM

Mr. SIMPSON. Mr. President, I would like to engage the distinguished chairman of the Finance Committee on a topic of some importance to the States of Wyoming and Missouri.

Earlier today I had planned to offer an amendment to the Medicaid legislation; however, rather than hold up such an important measure with an amendment that we did not have an opportunity to clear with the House, I agreed to withdraw the language and offer it instead as a freestanding bill.

As the chairman knows, Mr. President, there are hospital facilities in Wyoming and Missouri that were unintentionally left out of the Medicare Graduate Medical Education Program when Congress enacted changes to that statute in 1986. They were left out because the statutory language did not anticipate the circumstances that these facilities found themselves in at the time, of that they find themselves in now. As a result, without a technical change to the statutory wording, these hospitals cannot get back in.

This is a critical issue to Wyoming, which has just over 500 active physicians to serve 99,000 square miles. Though its complement of residents is modest, Wyoming's sole Medical Residency Program is a significant source of physician supply in the State.

Prior to 1988, Wyoming's Medical Residency Program was housed in, financed and administered by the State University. In 1988, the residency program spun off from the university to the hospital—probably appropriate—since we do not have a medical school at the university. The hospital now has full operational, financial and administrative responsibility for the program. However, the hospital does not now, nor has it ever, received a dime in Medicare direct graduate medical education reimbursement.

As the chairman knows, Mr. President, the Medicare Direct GME Program was established to compensate hospitals for approved graduate medical education costs in proportion to their Medicare patient load. That is fair policy.

Unfortunately, the Medicare statute denies Wyoming its fair share of these critical funds. The statute bases hospital GME reimbursement on 1984 cost reports. Since the Wyoming facility did not incur any costs until it assumed the residency program in 1989, it has a 1984 base-year cost of zero. Consequently, it is forever eligible for GME reimbursement in the amount of zero, even though it is now operating a top-flight rural residency training program and even though fully 80 percent of its patient base is either Medicare, Medicaid, or uninsured. Illogical as that is, there is just no way around it under the statute. That is why I am seeking a legislative remedy.

Mr. President, I know that as an architect of the 1986 statute, the distinguished chairman of the Finance Committee understands this problem and is committed to helping us resolve it.

Mr. BENTSEN. First I want to say that I appreciate the forbearance of the junior Senator from Wyoming earlier today. I know that he has been seeking to resolve the problem he just described for some time now, and I intend to help him do that. I also know that he fully appreciates the tremendous importance of the Medicaid bill we passed today, and the risk that any amendment would have posed to its final passage.

Mr. SIMPSON. Let me assure my friend from Texas that HCFA has been intimately involved in this issue. Gail Wilensky visited the Wyoming Residency Programs personally, and her office has been instrumental in helping us to prepare this legislation. The Office of Mangement and Budget is also very supportive of the merits of our case and of the remedy we here propose. Their concern, of course, is that any increased outlays in GME funds be offset, which we have also proposed a way to do. And at this point let me also say to my friend from Texas that we are not wedded to any particular financing mechanism. We include one in this legislation, we have others waiting in the wings if the chairman finds them more acceptable. Our sole concern is to assure Wyoming full and equal participation in a vital national program from which it is now, through no fault of its own, entirely excluded.

Mr. BENTSEN. I thank my colleague for calling this issue to the attention of the Finance Committee. Senator BURDICK has raised a similar problem in North Dakota. It was never intended that certain hospitals be excluded from receiving Medicare GME payments simply by virtue of the date on which they undertook to operate a residency program, indeed there is an exception in the statute to address precisely that issue, but I understand that in some circumstances, such as Wyoming's, hospitals fall outside that provision.

Let me assure my colleague that I understand the problem and I am sympathetic to it. I will ask that the Senate Finance Committee take the Senator's legislation under consideration and hope we can reach resolution of this problem in the near future.

Mr. BOND. Mr. President, I join the Senator from Wyoming, Senator SIMPSON, in expressing our concern about this unfortunate and unintended problem with payment for graduate medical education. I thank the chairman of the Finance Committee, Senator BENTSEN, for agreeing to work to resolve this problem early in 1992.

When Congress changed the rules for determining payment under Medicare to hospitals for their graduate medical education [GME] programs, an unforeseen and certainly unintended consequence of this change in payment policy occurred which affects a very small number of hospitals in this country. This glitch in the GME payment rules has caused Keller Memorial Hospital in Fayette, MO, to be left without the Federal Government shouldering the responsibility for it's share of these educational costs and in fact, Keller Hospital has been told by the Health Care Financing Administration that it must pay back funds already dispersed to this hospital.

The problem occurred because prior to 1986, Keller's medical education costs were paid through a Federal grant program: "Grants for Residency Training in Family Medicine," and not through Medicare. When this program was terminated, Keller was advised by Medicare that it would begin receiving this Federal assistance through the Medicare program and did so in 1986. Since that time, Medicare has reimbursed Keller Hospital approximately $334,000. The new GME payment rules passed by Congress, did not take into account situations like that of Keller Hospital which received zero in 1985 from Medicare for GME, and HCFA has determined based on this, that Keller therefore should continue to receive zero. Certainly, this is not what Congress intended when the new GME payment rules were enacted.

Keller Hospital is a struggling rural hospital which, like many rural hospitals, has seen some very tough times in recent years. Keller's medical residency program prepares physicians to practice in rural Missouri where they are desperately needed. Keller is also the largest employer in Fayette and it's painfully obvious how devastating it would be if Keller is forced to close because of a payment glitch that Congress created. But, until we act, HCFA is knocking on their door and demanding that they pay back up to $334,000 which they simply cannot afford to do. The administration has no other choice unless we enact legislation to amend the statutory GME payment rules.

Mr. President, I want to again thank the chairman of the Finance Committee, Senator BENTSEN, for agreeing to help us solve Keller hospital's problem and prevent an unnecessary and unfortunate tragedy from occurring. I look forward to working with him and Senator SIMPSON to get this problem resolved as soon as possible in 1992.

Mr. DIXON. Mr. President, today, this body will act on H.R. 3595, the Medicaid Moratorium Act, by adopting the National Governors' Association agreement as the solution to States' use of voluntary donations, provider-specific taxes, and intergovernmental transfers to generate Federal matching funds under the Medicaid Program.

As I have expressed to my colleagues in the past, the Medicaid regulations issued on September 12, 1991, by the Health Care Financing Administration [HCFA] would effectively undo all the work my State has done in its unanimous enactment of a plan to assess hospitals, nursing homes, facilities serving persons with developmental disabilities, and community mental health centers.

Many providers of health care in my State continue to have concern about the lack of flexibility regarding the nature of State taxes, and the imposition of limits on the amounts States may spend on their most vulnerable citizens.

My preference to address these and other concerns was to repeal the regulations outright. I cosponsored S. 1886, legislation to impose a temporary moratorium on HCFA's regulations until September 30, 1992, in order to at least temporarily prevent HCFA from going forward. In addition, I reserved the option to offer an amendment to extend the Finance Committee's substitute on the moratorium from April 1, 1992, to at least July 1, 1992. However, we are now running out of time. It, therefore, becomes imperative to resolve the Medicaid dilemma for States and the many health care providers. I, therefore, reluctantly support the measure before us to codify the National Governors' Association's Medicaid provider tax agreement.

Mr. President, this body has spoken and obviously will approve the Governors' agreement. I am pleased, however, that the chairman of the Senate Finance Committee, Senator BENTSEN, has expressed his intent to monitor the administration's implementation of the agreement.

I hope that Senator BENTSEN and the conferees will include report language which will prohibit HCFA from attempting to narrowly define classes of disproportionate share hospital providers.

Mr. President, I ask unanimous consent that such proposed language be included in the RECORD at the end of my remarks.

According to the information available to me on section 1923(c), the committee substitute amendment to H.R. 3595, does not include clarifying language sought by children's and other disproportionate share hospitals, and supported by the State of Illinois. I understand that HCFA has told the National Governors' Association that the agency will issue written assurance that the amendment to section 1923(c) precluding States from using the third

option for payment adjustments to disproportionate share hospital providers does not otherwise change current law, as amended by OBRA '90.

I appeal to the conferees to make these clarifications which are so vital to providing health care for the most vulnerable individuals in our society—poor families, the elderly, and disabled.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CLARIFICATION OF INTENT OF SECTION 4703 OF OBRA '90

(Sec. 1923(c)(3) of the Social Security Act)

"The purpose of this third option is to allow a State to consider other factors determined by a State to be related to the care of Medicaid and low-income patients in its disproportionate share payment formula. Such other factors may include, but are not limited to: intensity of care; the provision of endangered services or services essential to the Medicaid and low-income patients of a State; the efficiency of hospitals as measured through occupancy rates or such other factors reasonably related to efficiency; Medicare, Medicaid, and/or low-income utilization levels; the types of services that are predominantly furnished by a hospital; geographic location; or any combination of such factors, so long as the factors apply equally to all hospitals of each type and result in an adjustment that is reasonably related to the costs, volume, or proportion of services provided to low-income patients.

Therefore, nothing in this section shall be construed in any way as limiting the ability of a State to define the types of hospitals for which payment adjustments may vary in accordance with methodologies established under Section 1928(c) of the Act."

Mr. MACK. First, I would like to thank the chairman of the Finance Committee. I concur with the comments made by my collegue, Senator BOB GRAHAM concerning a transitional period for those States whose legislatures might adjourn prior to a compromise being finalized. I appreciate the chairman's assurances that States, such as Florida, which fall into this category, will be given an acceptable period to come into compliance.

Second, I would like to take a few moments to talk about Florida's Medicaid Program. Florida acted in good faith when it established its matching mechanism for Federal Medicare funding in the 1980's. My colleague, Senator GRAHAM, was instrumental in creating Florida's provider specific tax program. Florida has received repeated assurances from the national level that its program is a model one.

This Medicaid issue is simple one of fair share. The National Association of State Budget Officers report that Medicaid is the second fastest growing item in State budgets. According to Dr. Wilensky's recent testimony before the Committee on Finance, Medicaid expenditures new represent over 16 percent of most State budgets.

My State has, and is continuing to be, pillaged by the Federal Government. It has been my experience that for every dollar in taxes Florida sends to Washington, it receives back far less in programmatic outlays. For too many years, we Floridians have not received back our fair share of Federal dollars. it is critical the hemorrhage of Florida dollars to Washington does not increase and I appreciate the many efforts that have been made to prevent this from happening.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3595), as amended, was passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to provide for a moratorium on the issuance of final regulations and on the use of donations and provider-specific taxes by States to receive Federal matching funds under medicaid.

Mr. DURENBERGER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GATT

Mr. PRESSLER. Mr. President, recently I introduced a resolution along with Senators LUGAR, GRASSLEY, and WALLOP expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in GATT negotiations. I did this after returning from Rome a few weeks ago when it became apparent to me that there was an assumption on the part of European diplomats that the United States would compromise on the agricultural subsidies part of the GATT Treaty.

Mr. President, all along our Government has insisted that Europe reduce its agricultural subsidies and reduce its export subsidies. Europe's insistence not to reduce its subsidy has held up conclusion of the Uruguay round negotiations.

Recently, there have been some indications that the United States is now moving toward a compromise. What has been revealed thus far is 25-year lower reduction in the EC's export subsidies, rather than a larger 10-year reduction. I am very fearful that our trade negotiators and the administration will compromise what many of us have been counting on. That is that Europe will significantly reduce its agricultural subsidies and its export subsidies as we have done. Our reform reduces and continues to reduce over a 5-year period agricultural subsidies.

My resolution has been endorsed by the American Farm Bureau Association, the National Farmers Union, the National Grain and Feed Association, the National Milk Producers Federation, the National Turkey Federation, the American Sugar Beet Growers Association, and the United Fresh Fruits and Vegetables Association.

My resolution expresses the sense of the Senate that the administration holds firm in its negotiations, to the announced demands for EC subsidy reductions.

Ms. MIKULSKI assumed the Chair.

Mr. PRESSLER. Madam President, I voted for the free-trade agreement between the United States and Canada. I am prepared to help out with the proposed free-trade agreement with Mexico. However, we should continue to insist that Europe lower its agricultural subsidies and its export subsidies. The fact that Europe has been increasing its subsidies has made trade in some commodities very unfair. For example, soybeans are about $12 to $13 a bushel in Europe, while they are between $5.60 and $5.75 a bushel in the United States. Our farmers have not been able to compete fairly in that market.

My resolution says that it is the sense of the Senate that any agreement regarding proposed changes to the GATT must: First, achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market; second, achieve new and expanded farm market opportunities; third, ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community.

The purpose is to be sure that nontariff barriers are erected in place of tariff barriers. For example, we had reached an agreement on beef with Europe, and Europe then came up with an argument against the use of hormones that caused the United States to lose

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beef markets in Europe. The point is that the EC by raising this argument in effect introduced a nontariff barrier.

The EC raised another issue of cleanliness of our meat-packing plants. We have state-of-the-art meat packing plants in the United States, and problems identified are quickly solved.

The point is the adoption of new nontariff barriers on the part of the EC seem to be endless. This is not in good faith, in this Senator's judgment.

Madame President, the fourth point of my resolution would not limit the United States ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future.

And, finally, five, achieve a sound agreement governing sanitary and phytosanitary regulations. This point addresses the issue of erecting nontariff barriers in animal and plant health and safety after a tariff agreement has been entered into.

Madam President, I ask unanimous consent to have printed in the RECORD a copy of the resolution, S. 227, along with a copy of a letter from the U.S. Trade Representative on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 227

Whereas in 1985, negotiations on an international agreement to reform the General Agreement on Tariffs and Trade (hereafter in this resolution referred to as "GATT") began in Punta del Este, Uruguay, with a targeted conclusion date of December 1990;

Whereas the United States and other major agricultural exporting nations insisted from the start on significant reductions in the subsidy programs operated by the European Community under its Common Agricultural Policy;

Whereas in December 1990, after the European Community decided against reducing the subsidy programs of its Common Agricultural Policy, no international agricultural subsidy reduction agreement was reached;

Whereas in November 1991, the European Community indicated some willingness to reduce its export subsidies during the GATT negotiations;

Whereas agriculture has a long tradition of supporting international efforts to achieve more open markets and fairer rules governing world agricultural trade;

Whereas the support of United States farmers and ranchers for multilateral and other trade negotiations depends on the success of the Uruguay Round GATT negotiations in achieving agricultural subsidy reductions in the European Community; and

Whereas any agreement under the GATT that is not supported by American farmers and ranchers would not be acceptable to the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that any agreement regarding proposed changes to the GATT must—

(1) achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market;

(2) achieve new and expanded foreign market opportunities for United States farm products;

(3) ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community;

(4) not limit the United States' ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future; and

(5) achieve a sound agreement governing sanitary and phytosanitary regulations.

U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 22, 1991.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: This is in response to your telegram of November 11 which was prompted by reports you received from European diplomats that the United States was about to drop its demand that the European Community (EC) cease its agricultural protectionism.

Clearly, those reports were false. As you correctly pointed out in your message, worldwide agricultural policy reform is a critically important objective for U.S. farmers. For that reason, the Administration has not receded from, and will not back down on, its insistence that all countries participating in the Uruguay Round agree to binding commitments that will achieve the goal agreed upon by all participants—a substantial and progressive reduction in agricultural support and protection.

From a very practical standpoint, it makes no sense for us to reduce the pressure on the EC—or any of our other trading partners—to agree to subsidy reductions since the United States is already committed to a path that will produce substantial subsidy cuts for many of our major crops. On that point, we fully agree with you.

With regard to the status of the Uruguay Round agricultural negotiations, we recently began what appears to be a constructive dialogue with the EC. We hope these talks will ultimately lead to an acceptable agreement on agriculture. We will keep you and your colleagues fully informed as those difficult discussions proceed.

We appreciate your advice and support on this vital issue.

Sincerely,

CARLA A. HILLS.

Mr. PRESSLER. I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I request unanimous consent to proceed for about 5 minutes.

Mr. MITCHELL. Will the Senator withhold to permit me to present a unanimous-consent request regarding the extending of expiring tax provisions? I thank the Senator.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, as I earlier announced, it is my intention to present a unanimous-consent request that would permit prompt action to extend certain expiring provisions in the tax laws which are critical to our Nation's economy in any event and especially at this very difficult time of economic recession.

Under the circumstances which we face, there is no possibility of amending these provisions, much as I would like to, and much as I know many Senators would like to. I have discussed this matter with the distinguished Republican leader who has just previously and publicly supported the view which I have expressed, as does the chairman of the Finance Committee, and the Finance Committee unanimously yesterday supported this position.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3909

Mr. MITCHELL. Accordingly, Madam President, I ask unanimous consent that when the Senate receives from the House the bill to extend certain expiring tax provisions, H.R. 3909, that provided it is identical to the text of S. 2042, as reported by the Senate Finance Committee on November 25, it be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that all of the above occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. KASTEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Madam President, I reserve the right to object, first of all, to make the point to the majority leader and the Finance Committee chairman that I support permanent extension of the expiring tax provisions. I think they are important provisions, and I think they help create jobs and preserve jobs.

Frankly, if we are going to work to create and preserve jobs, which should be our top priority, I think we have to include in this package, and I hope we can, the repeal of the 10-percent excise tax on boats. That has to be, in my view, included in tax legislation ideally this year.

I know the Senator from Maine spoke in favor of the resolution which was a sense-of-the-Senate resolution before us only a few days ago. It passed with 82 Senators joining the Senator from Maine and myself saying that we have to repeal this tax. The excise tax on boats has backfired. It has put thousands of middle-class workers who build boats in the unemployment line.

I would like to ask the leader if he would amend his unanimous-consent request to allow the Senator from Wisconsin to offer one amendment. I am not talking about growth amendments. I am not talking about the debate on capital gains, or reincentivizing the economy or all the other debates we have had on this floor back and forth.

It would be one amendment, and the amendment would simply be to repeal the excise tax on boats. I am concerned about the whole excise tax, that whole category, and I would like to repeal all of it. But right this minute, and I believe that between now and next February or March when we may have a chance for another vehicle between this minute and then, in my judgment, we are going to see additional companies across this country and probably in the majority leader's State and mine and certainly workers across this country lose their jobs because of the combination of the recession and the excise tax on boats.

So I ask the leader if I could ask the right to amend his unanimous-consent request—and then I would not object—to offer one amendment for an up-or-down vote, and I am agreeable to a short time period, I would say 10 minutes equally divided because we had this debate on the floor of the Senate a day or two ago when 82 Senators supported it. Ten minutes, equally divided, on an up-or-down vote on repealing the excise tax on boats.

With that, I would have no objection to this request.

Mr. MITCHELL. Madam President, as the Senator form Wisconsin knows very well, I strongly support repeal of the luxury tax on boats. I am a cosponsor of the legislation to repeal that provision. I spoke in favor of and voted in favor of the resolution just a few days ago. No one would prefer more than I that we could right now vote to and in fact repeal that tax.

But the Senator from Wisconsin also knows full well that is not going to happen on this bill and he knows full well that I cannot agree to the request that he has made for two reasons: The first is that it has been made unmistakably clear by the House that if this bill is changed in any way—in any way whatsoever—it will not be accepted in the House and the only result of that effort will be to cause the expiring provisions to expire. This is not a case in which one change and one change alone can be made. The House has made clear that either we extend the expiring provisions and do that only or we do nothing.

The second reason I cannot agree to the Senator's request, as he full well knows, is that 98 other Senators have agreed to permit us to extend the expiring provisions without amendment. A very large number of them have stated to me personally that if anyone else gets a single amendment, he or she wants his or her amendment to be offered. So that much as I want to accept the Senator's offer, much as I want to repeal the luxury tax on boats, much as I would like to limit it to that one amendment, that is not going to happen and it cannot happen. Indeed, the distinguished Republican leader said to me that if boats is on there, there have to be other things on there. And the Senator from Wisconsin knows that.

So the reality is, Madam President, and members of the Senate, we have two choices, very painful and unpleasant choices for the Senate, and especially painful and unpleasant for me. We can either extend these expiring provisions, very important provisions, without any change, or we can do nothing.

I regret that. I find it very difficult to accept. But we are often, indeed we are regularly here confronted with difficult and unpleasant choices, personally and politically, as individuals and as an institution.

Therefore, I want to say to the Senator from Wisconsin that I am deeply commited to repeal of the luxury tax on boat. I believe that there will be a major tax bill enacted into law early next year, and I am going to do everything I can, all within my power as an individual Senator and as majority leader, to make certain that as part of that there is a repeal of the luxury tax on boats and that it is retroactive.

I believe that will happen, both for substantive and political reasons. I think substantively the tax clearly was a mistake. It is causing harm. It must be rectified. I wish it could be rectified now, but it is creating a false impression to create the impression that we can do so as part of this bill. We cannot.

We can cause this bill to go down. We can cause the expiring provisions not to be extended. We can end the research and development tax credit, the low-income housing tax credit, the mortgage revenue bond credit, and others, which I do not think we should do, and I hope we will not. But that is the very personal painful choice before us. And accordingly, as I would like to agree with—and I do agree with the position taken on the issue by the Senator from Wisconsin—the reality is that if this unanimous-consent request is not agreed to, the matter will simply be terminated.

If there are going to be any amendments, there are obviously going to be dozens, perhaps hundreds of amendments. Everyone here has been here long enough to know what happens when a tax bill comes to the Senate floor in the closing days and knows there cannot be one amendment. There are right now on the floor six other Senators, and I expect that if other Senators knew that we had a tax bill here with amendments available to it, we would have 96 Senators very quickly. It simply cannot be done.

So with the deepest of regret and with a great deal of personal anguish, because of the circumstances of the effect of the boat tax on my State, I cannot agree to the Senator's request and will simply withdraw the request if objection is made.

Mr. KASTEN. Madam President, very briefly, further reserving the right to object, evidently, if we are down to one person standing here and everyone else has agreed, I can count, and we can get to where the majority leader wants to get by outvoting me. I understand that. But I think it is a little bit unfair when we are at the end of the session with the tax bill when a number of us have prevented from acting because there has not been a tax vehicle all along the way over the past several weeks, indeed the past several months.

On this issue, my sense is the majority leader and I had others support repeal. The opposition is in the House, significant opposition in the House Ways and Means Committee at this time. If we had our way and we could originate tax legislation, and we had the consensus that seems to be developing here, we would be there. But that has not been the case.

As the majority leader knows, I have been looking for a vehicle, a proper vehicle. We have been told we needed a revenue offset. We now have that revenue offset. It is in diesel fuel for the marine industry. The point is that we cannot have legislation on other bills, so we have been prevented that way. And now the only tax legislation that comes along to which in fact this would be germane and would properly be attached, we are told we cannot have any amendments.

I understand that there are other amendments. I have other questions and amendments with regard to the tax package. But this one, in my view, is a crisis. This one, in my view, we can count the workers, the jobs we are losing in my State and in the Senator's.

I do not know what to do except to say that I am somewhat helped by the fact that the majority leader and I know the Senator from Texas, the chairman of the Finance Committee, in the committee said we can have this bill retroactive. My hope is that if it were passed—in other words, in March or May, early April, we could have the bill and it could be retroactive. I know we cannot promise a particular date, but at least until the beginning of the year, or ideally today. I know that discussion occurred in the Finance Committee, and I know we cannot at this time say to when it can be retroactive.

But I want to say to the majority leader, I join him in wanting this tax repeal, which will be repealed, to be retroactive, and that gives some help to some of the people who right now are continuing to risk their capital in a losing market. Going into the spring shows, making plans for the spring shows, maybe that helps somewhat.

But if this is the best we could do, it is the best we could do. I want to do differently, but I also am aware that at least at this moment I am the only person who is objecting, and therefore I will just yield the floor.

Mr. MITCHELL. Madam President, I renew my request.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

The majority leader's unanimous-consent request is agreed to, as there is no objection.

Mr. MITCHELL. Madam President, for his courtesy in yielding. This col- placed with a decent public plan, one

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However, the State is concerned that I have read some of the reports about So, I would suggest that there will be

Mr. MITCHELL. Madam President, let me say to my friend and colleague from Wisconsin that when we entered the Senate we swore an oath to uphold and defend the Constitution. I believe that the American Constitution is the best statement of individual liberty—particularly when one includes the Bill of Rights which, of course, is an integral part of it—ever devised by men or women anywhere. But there are some parts of it that I wish were different, and one of the parts that poses the most difficulty for us here is the one to which the Senator from Wisconsin has referred: Tax legislation cannot under the American Constitution originate in the Senate; it can only originate in the House of Representatives. The Senate does not have any authority to initiate tax legislation. If we pass a tax bill here that originated in this body, it is a nullity. It is unconstitutional. It has no legal effect.

Now, that is a reality with which we must deal, and it bears directly on the circumstance in which we find ourselves. We have not had a tax bill for the simple reason that the House has not passed and sent us a tax bill. So, laboring under that handicap, we are confronted now with this situation when on the last day of the session the House does send us a tax bill and it is limited and it has with it the condition that if it is changed in any respect, it will be dead.

I find that extremely difficult to accept.

I find it personally painful, given that the Senator From Wisconsin knows my State is adversely affected by the tax. I want to repeal it more than any Member of this Senate. But we have to make clear to everyone that is not an option. That was not an option on this provision. The only thing we could do is either pass these expiring provisions, or do nothing.

We are regularly confronted here with very painful and unpleasant choices, not between good and bad and right and wrong, but between more painful and less painful, or more painful and most painful, in this case.

So I thank my colleague for the effort he has demonstrated in calling attention to this situation, and in getting the Senate to go strongly on record in favoring repeal of the tax. I look forward to working with him on repeal of this legislation retroactively, as far back as we can get it.

This is not going to undo all the damage that has been done, or repair all of the harm that has occurred. But it will be something. I look forward to working with him to do that as soon as possible; to get this tax repealed, and to repeal it retroactively. We are going to work just as hard as we can. It simply was not possible on this bill. That just was not available to us. I regret that.

Madam President, I thank my colleague from West Virginia very much for his courtesy in yielding. This colloquy went on longer than I know he intended, and I appreciate that very much

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

MEDICAID

Mr. ROCKEFELLER. Madam President, the majority leader has no reason to thank me, because the business that he was doing was extremely important and very fruitful for our country.

I rise only to comment on an agreement between the National Governors Association and the administration that we just passed by voice vote dealing with the Medicaid Program.

It strikes me as odd, Madam President, that we tend in this body and in this Congress to deal out tax shelters for wealthy people. We talk about all kinds of things, including what we have just been discussing, and that is the tax situation of luxury boats of $100,000 or $150,000, or over. We do that all rather easily.

But when it gets down to a question of Medicaid and providing health insurance for pregnant women, so they can get prenatal care, and for children, so they can have adequate preventive care and inoculations, it becomes an enormous public brouhaha.

Indeed, we are accusing States who are struggling to balance their budgets and adequately fund their Medicaid programs—accusing them of engaging in a scam, and of conspiracies to defraud the Federal Government.

As far as I know, most of this money goes to take care of low-income pregnant women and children, which is at the very foundation of proper health care policy and preventive health care policy.

Some would say that doctors and hospitals are trying to rip off the system. That is untrue. Take West Virginia, for example. Today in West Virginia, physicians are reimbursed at 3 percent, on average, of private health insurance rates for taking care of Medicaid beneficiaries.

Under legislation recently enacted in West Virginia, doctors will be reimbursed for up to 77 percent of what they normally would receive under private pay insurance. That is called making it possible for low-income children and pregnant women to obtain access to health care. Physicians become more willing to give that care because they are getting more adequately reimbursed. It's still not what they would receive under private insurance, but it is significantly improved. That's good public health policy.

My second point is we should not be here discussing Medicaid at all, Madam President. Medicaid is a national disgrace. It ought to be outlawed and replaced with a decent public plan, one variation of which is suggested in the Pepper Commission, and is reflected in the Democratic plan on comprehensive health reform.

We have structured in this country a welfare system for medical care. We call it Medicaid. It is meant to act as a safety net for low-income people.

Yet, only 42 percent of persons with incomes below the Federal poverty level are eligible for Medicaid. It is not a safety net. In this country, there are over 433,000 women this year who are pregnant and have no health insurance. These women have a much higher chance of delivering low birth weight babies, which then turns into an enormous public expense because of neonatal intensive care that is often needed. The Senator from Maryland, who is presiding, knows very well that situation. It's a tremendous waste of public money—$600 of prenatal care versus maybe $300,000 of intensive care.

The point I would conclude with is that this debate we have had over the past few days—most of which has taken place behind closed doors, should not have taken place at all. We should replace Medicaid with a program that has uniform eligibility, uniform benefits, and uniform reimbursement rates. There should be no Medicaid at all.

There should be a decent public program which reimburses physicians and hospitals, at least, under Medicare rules, so that they are able to reach out to people who do not have private health insurance. That is where health care public policy reform should start.

So I say to the Presiding Officer that I, along with Senator BENTSEN and others, are going to watch very carefully as this agreement is implemented to make sure it is implemented in the proper fashion. I regret that we have to go through this at all. I look forward to the day when there will not be a Medicaid Program, rather to the day we are debating comprehensive health care reform.

I thank the Presiding Officer. I yield the floor.

Mr. JEFFORDS addressed the Chair.

Mr. GRAHAM. Mr. President, today, the Senate considered the compromise negotiated between the National Governors Association [NGA] and the administration.

Included in this legislation is a definition of an acceptable provider-specific tax as one that is broad-based. In other words, it must be uniformly applied to all providers in a class-related business of providers.

Florida's Provider Tax Program has been in effect since the mid-1980's and has often been cited by the administration as a model tax. It is currently applied to all providers at a rate of 1.5 percent of net operating revenues. I believe this tax is truly redistributive and meets the test the administration would like to apply to provider tax programs.

However, the State is concerned that emphasis in this compromise legislation on gross revenues in its definition of an acceptable tax could result in the disallowance of Federal matching funds for Florida's tax on net operating revenues.

For this reason, the State of Florida requested that net operating revenues be included explicitly in the NGA/administration compromise legislation. It is my understanding that, on page 8 of the bill, line 16, the phrase "or net operating revenues" was included in recognition of Florida's tax as a permissible tax under this agreement.

It would be appropriate at this point to define a net operating revenue tax.

Chapter 395.101 of Florida Statutes clearly defies Florida's program. Subparagraph (e) defines "net operating revenue" as "gross revenues less deductions from revenue." Subparagraph (f) defines "deductions from revenue" as "reductions from gross revenue resulting from the inability to collect payment of charges. Such reductions include bad debts; contractual adjustments; uncompensated care; administrative courtesy and policy discounts and adjustments; and other such revenue deductions, but also includes the offset of restricted donations and grants for indigent care."

Mr. President, thank you for allowing me to define the term net operating revenues.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2079 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

MAKING GOOD PROGRESS

Mr. DOLE. Madam President, I just wanted to take a moment to indicate my view that we are making good progress. We are down to now probably four or five pieces of major legislation, many of which are in the process of being resolved. Many of the problems with some of the bills are being resolved. I hope that we will complete our work sometime before midnight or sometime after midnight, but before morning, before dawn.

I know there is a great deal of frustration on the House side because of concerns about whether or not a growth package ought to be addressed—in this case, one offered by the House Republicans, before we adjourn. And it is particularly troublesome, because it is more or less linked to whether or not there will be any funding for the RTC. No House Republicans will vote for the RTC funding unless there is a vote on the growth package.

I have read some of the reports about the White House response to the growth package. I understand there was a meeting last evening with the President and the Republican leader, Congressman MICHEL, and the whip, Congressman GINGRICH, and there was discussion of the growth package. I understand that the Speaker, Speaker FOLEY, is obviously concerned, properly concerned, about how to proceed. Maybe we should not leave. If people do not want to leave for the holidays, maybe we should stay here and come to grips with this issue.

Having said that, let me indicate as far as I know there is no consultation with the Senate Republicans. This may be a House Republican growth package but it is not a Republican growth package that has been agreed to by Republicans in the Senate as well as Republicans in the House.

We have had no contact from Treasury, or the White House, or OMB, or any other agency of the administration that this in effect would be the Republican package.

I do not fault my Republican colleagues in the House for working on a growth package. In my view it is very important. There are a number of ideas that have already been expressed. Senator GRAMM from Texas has an idea. Senator DOMENICI has ideas. A number of us have been working almost on a daily basis. There are a number of ideas on the Democratic side. There are probably a dozen or more growth packages in existence, and many more in the works.

It just seems to me that we are not going to resolve anything by either staying here next week or coming back sometime in December. I do not believe we are going to resolve this very important issue this year. It is my understanding that the President will be working all the time Congress is gone on how to come to grips with the issue; how to turn the economy, get the economy moving. If the recession is over, how do you make certain, and how do you start getting a real recovery? The President has met with economists. He has met with Members of Congress. He has met with business people around the country. He understands that there is certainly a great deal to be done.

But I would hope in the process we examine all the options, and we consider all the options, and we do not rush to judgment on this package, that package, a House package, a Senate package, an administration package, until we have had hearings, until we can understand how they will affect certain parts of the economy. Will they create jobs? Will they create growth? And it just seems to me it would be a bit premature to say, well, we ought to vote on this package tonight. We ought to vote on it next week. Why not vote on a Republican Senate package, or another package, or an administration package?

So, I would suggest that there will be a Republican package. It may contain many of the provisions that are in the House Republican package. Hopefully it will contain some ideas that Senate Republicans have. Hopefully it will contain some ideas that the President may have, or Treasury may have, or others who advise the President. And hopefully many of the ideas our economic growth package contains will also be contained in some of the packages or ideas being offered by Members of the other party in the House and in the Senate.

So, I just say there has been no consultation on this side of Republican Senators. We have not met with the President. He has not insisted to us that we vote on a growth package before we adjourn. In fact, the message I get is to the contrary. I think the President would like Congress to complete its work and go, and so I hope that we do go. I hope we go between now and tomorrow morning.

Madam President, I yield the floor.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Madam President, I thank my distinguished colleague for his statement. It is my hope that we will be able to complete action on the important measures remaining prior to tomorrow and be able to leave for the Thanksgiving day recess.

We are awaiting action in the House on several of these important measures. One of them is the surface transportation bill, which is of great significance, it is must legislation before we can consider adjourning. It will not be taken up in the House for some time. But the distinguished Republican leader and I have discussed the matter and believe that since we are awaiting action on that and other measures in the House it would be appropriate for debate to commence on that measure here so that when we do get it we will not have to commence the debate at that time but there will have been an opportunity for every Senator to express himself or herself in as much detail as possible on that very important subject.

So, we are advised that the chairman of the subcommittee of jurisdiction, and the chairman of the Senate conferees, Senator MOYNIHAN, will as soon as he completes other important matters be present to begin that debate and discussion, and I think it will be helpful and useful.

So I encourage any Senator who wants to address that subject to be prepared to do so shortly, so as not to feel that a Senator does not have that opportunity later on tonight or tomorrow morning when the conference report actually arrives in the Senate.

Madam President, does the Senator seek recognition?

Mr. JEFFORDS. I was seeking recognition.

Mr. MITCHELL. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. MITCHELL. Madam President, would the Senator withhold?

MORNING BUSINESS

Mr. MITCHELL. Madam President, I ask unanimous consent that there now be a period for morning business during which Senators will be permitted to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2081 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. MOYNIHAN. Mr. President, I have the great satisfaction of being able to inform the Chair that the 92 conferees on the Surface Transportation Efficiency Act of 1991 have reached unanimous agreement and that a little later in the evening the House will take up the measure. We fully expect they will send it to us directly, whereupon we will, as one of the concluding acts of the first session of the Congress, pass this epic measure, as we think it to be and, indeed, as many have already described it as being.

It would be 4 years ago that I was the manager of the Surface Transportation Act of 1987. It was held over a year owing to an inability of the House and Senate to agree.

On that occasion I said repeatedly that bill would be the last bill of the interstate highway era; that the next bill would bring us to a new period and a new program, and I think, Mr. President, that those expectations and that requirement have been met.

The interstate era is epic. It is one of the great stories of the 20th century. It was the beginning of the largest public works program in the history of the world. It began, as many things do, in the city of New York in 1939 at the World's Fair in Flushing Meadows, which was a great feat of Robert Moses, a planner of highest abilities. The great success of the fair was the General Motors futurama. It had the intriguing quality of a great plastic dome; you looked inside and you would see a countryside. The seats, the bench, moved around the dome, so you found yourself moving around your country and you saw a country spanned by highways that had no red lights, limited access, and permitted continuous movement up to speeds of 100 miles an hour. You could drive from New York to San Francisco without running into a red light.

That seemed a improbable event. You could cross the country by rail, but not by road. Not by paved road. You would run into dirt roads in the high plains and in many parts of the mountains.

In 1944, President Roosevelt, on the advice and at the suggestion of Robert Moses, proposed to Congress that we create such an interstate highway system after the war. It was expected that the war, when it ended, would be followed by a resumption of the depression and that public works would be very much in need and in order.

And this was done. In 1947, Congress began providing mileage, but nothing much happened because there was no Federal money—a small Federal aid highway program, but nothing of real consequence.

President Eisenhower came to the Presidency in 1953, and this for him was something more than an abstraction, something more than a wonderful visit to the World's Fair. I expect he did not visit the World's Fair. I did. He had other more important things to do.

But as it happened, the first command in his Army career had come in 1919. He was told to assume that enemy action had destroyed the railroads of the United States and that he had to take an Army truck convoy from Fort Meade, about 10 miles from here in Maryland, to San Francisco Bay.

Well, he got it done, but he did not get there in 5 days. He found it an epic enterprise to get those trucks across the plains, across the rivers, across the mountains. And when coming to the Presidency, he saw this opportunity, and he took it. He asked his great friend, Gen. Lucious Clay, to chair a committee-commission, it may have been—to propose what should be done.

They said build the roads; but in order to do it, you would have to have a source of funds. They discussed bonds, and that did not seem quite right; President Eisenhower was leery of indebtedness. And then the idea came forward. Jim Wright, former Speaker of the House, was a new Member then. He participated in the discussions that came up with the idea of a gasoline tax—the Federal Government did not have one then—deposited into a trust fund dedicated to this purpose; 3 cents at that time. And off we went.

The States had already been working in this direction. New York State, under Governor Dewey, designed the interstate highway when the war was over, and built it from Yonkers, just north of Manhattan, along the route of the Erie Canal, up to Albany, across the Buffalo, and then down to Pennsylvania.

The great civil engineer, Bertram Tallamy, who just recently passed away, came down from Albany to be Director of the Bureau of Public Roads, then in the Department of Commerce, now the Department of Transportation, to take over the building of this system.

It was an epic enterprise, and he did what he should have done. He started out by putting the New York State Thruway in the system. As the distinguished Presiding Officer knows, he put limited access highways in Connecticut, New Jersey, Pennsylvania, Ohio, Indiana, and Illinois.

It was specifically provided in the Clay Commission report that States which contributed segments would be reimbursed for this, and the statute in 1956 required that there be a report from the Bureau of Public Roads in 1958 on what was owed each State. Indeed, we have that. It was not just a few States. In the end, most States, the great majority, contributed rights of way, or whatever, and the reimbursement is now in order and is provided for in this bill to take whatever time it takes as the years go ahead.

But as would be the case with these enterprises, the original design contemplated 2,500 miles. It was meant to be constructed in 13 years. Well, it grew to 44,000 and took the better part of half a century, but it did get done. We have projects remaining: the Anderson Freeway in Los Angeles, named for Glen Anderson, former chairman of the House Committee of Public Works, has to be finished. You fly into Los Angeles International Airport, and you see it 50 percent completed, and right on schedule it would be done now.

There are some bits and pieces in Pennsylvania. There are bits and pieces here and there. There is a major project in Boston, the central artery, which has not yet been designed or agreed to, a third tunnel under the river has to be done.

That will take us, along with some reimbursements for projects traded in, which you were able to do in recent years—4 more years of payment on the Interstate System. Then it is done—done—the largest public works program in history, the largest engineered construction on Earth, bigger than the Great Wall of China, and visible, I cannot doubt, by astronauts as they fly around the Earth.

The project, the enterprise, was not without its inefficiencies. It is a pattern of these things that when a new mode of transportation comes in the initial routes tend to be very productive, profitable. And then you move on to more marginal enterprises.

In my State of New York, the Erie Canal was a spectacular success, moving east from Albany to Buffalo, opening up the Great Plains. It changed the history of the world. It changed our history. It changed the history of Europe. When grain from western New York started arriving in Britain, the British repealed their corn laws and became an industrial nation, as phrase has it. Just as when the grain from the railroads in the Great Plains began to reach Eastern Europe, it changed the entire social structure of that part of the world as well and led to immigration here.

Transportation does that. The Erie Canal was but complete, and they had to start building spurs north and south, and they never got anywhere. Railroads did much the same thing. There came a point where the great routes had been built and then spurs would go here and spurs would go there, rarely with much success, most now abandoned.

In the same way, the interstate, growing from 2,500 to 44,000 miles, began to take on the aspects of a consumption program rather than an investment program. The road began to be seen as free goods. Not enough attention was paid to maintenance.

States were required to maintain the systems themselves, and only received Federal money when they started to back down. So they tended to wait until they broke down.

Early on, it was clear that we did not know how to put one of these highways through a great city. They smashed through cities and the wreckage is there to be seen. They redistributed population within metropolitan areas. Most commuting today is from suburb to suburb, rather than the old pattern of suburb to inner city. They left groups isolated. They moved manufacturing away from cities.

People say steam concentrates and electricity diffuses. Well, nothing diffused like the interstate highway, and the trucking industry that grew up around it. It shifted the population.

In the 40 years of the New York State throughway and the interstate system, my State of New York will have lost one-third of its congressional delegation as the population moved west and south.

When the interstate was authorized in 1944 the United States was the world's largest exporter of oil, the only manufacturer of automobiles—there may have been some made in Canada, but they were not making them in Britain. We had far and away the technique of paved highways.

Fifty years go by, almost, and that is not so anymore. We now import two-thirds of our oil. Two-thirds of all oil consumption goes to automobiles and through internal combustion engines. The Japanese are the least-cost producers of automobiles. And to our great surprise, we learn that the Europeans have moved ahead of us in road construction technology.

A group led by Dr. Larson, head of the Federal Highway Administration, arranged to visit European Community countries last year and came back shocked. My God, they produce pavements much better than ours. They have different chemical compounds. Their bonding is better. They are warranteed. They last longer. That was a wake-up call.

Our legislation, which, of course, is surface transportation, involves transit, it involves roads, it involves harbors. It is called the Intermodal Surface Transportation Efficiency Act of 1991. It is our plan to move from system building to system performance, to get more out of our plant, to get more productivity. Now it is time to get the return on the investment.

My very able friend from the State of Idaho, Senator SYMMS, who I see is coming on the floor at this very moment, has been eloquent in this matter. He will not mind my saying that he is a businessman. He is involved in private enterprise. He does not seem to think there is anything the matter with that. He understands that investment is meant to have a return. It is to produce more moneys, more wealth than it involved in the first instance. That is why investment takes place.

If I could give a homely metaphor of what I am talking about: If you have ever been in a traffic jam—and if there is anybody in sight or sound who has not been in one, he lives a pretty closeted life—you see a transportation system that has performance problems.

What are these problems typically? They are not a lack of capacity. You cannot just have built the largest highway system on Earth, the largest manmade object on Earth, and found yourself in a traffic jam and say we do not have enough highways. No. You have to get more out of those highways.

Congestion reflects a pricing system. The price of using the highway is set too low so the demand is too high. It is like those clips you see from the Moscow food store with a line around the block, and when you get in, there is nothing to buy. The prices are set too low, so the supply does not come, and the demand is too high. The result is not a very successful system.

We think this way. We have congestion pricing in this bill. We have a provision that the Senator from Connecticut put in which provides that, if you get more miles out of a gallon of gasoline, you get rewarded for it. Up until now, this system has played very simple; the more gasoline you use, the more money you got. The money was Federal money, 90–10. So it looked like a free good. If you believe there is such a thing as a free lunch, you can believe there is such a thing as a freeway. There is not. The incentives have to produce more.

The Senator from Connecticut recalls my saying to him on the floor in June that one of the jewels of this legislation was his provision that says the more miles you get out of a gallon of gasoline, the more highway money you get because you are getting productivity in the system.

We have that in intellegent vehicles. The junior Senator from New Jersey, our good friend, has seen to it that we have a special provision for intelligent vehicles, intelligent highways.

I was thinking about this the other day. It happens that not only was I around for the World's Fair, ruined my teeth on the free candy they handed out in those days, I was also around for the opening of the Triborough Bridge. I thought that was the most wonderful thing in the world; counting cars. It was a grand bridge, a beautiful, beautiful bridge.

I would say now that about 54 years have passed. They still have men, now women as well, in those booths collecting the tolls when you come over. That is not productivity, Mr. President. In 54 years they have not speeded up the number of tolls a person collects. A half-century goes by and there is just as much labor to collect those tolls as when they started.

Twenty-five cents worth of electronics on a credit card would record that you had crossed the Triborough Bridge in 1 hour. If they had any sense, they would charge you 50 cents at midnight and $2.50 cents at 6 o'clock in the afternoon; maybe a quarter at 4 in the morning.

The price, you see, would help even out the flow. They would send you the bill, like the telephone company sends you a bill. If you do not pay it in 3 months, take your license away. Be up to date, learn productivity, think congestion pricing.

I happen to be on a board of an institute and was talking about this subject recently. James Tobin, the very most eminent Nobel laureate, an economist from Yale University had been in Bergen, Norway, lecturing. He said in Bergen they have sort of a circle, perhaps it was the old city wall. If you drive your car inside that circle, an electric meter starts to run. As long as you stay, you are paying to stay there. Everyone is quite happy. People for whom it is worthwhile to drive in. If people do not want to pay that price, they can

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swer will surprise you. Listen and learn

Mr. President, I see my friend has

ment to allowing the marketplace to

take a bus or walk. And this creates revenues, and the market clears, as an economist would say. Do you not get more supply than there is demand or vice versa?

We have sought to set us in that direction. We have said we have no bias for or against highways, no bias for transit or against transit. If we have a firm conviction, it is that no State is alike, no metropolitan region is alike. The mix will be different for all. There are very few places where the density of population would support an efficient new transit rail system. Many places have HOV, high-occupancy-vehicle lanes where four people have to be in the car instead of one. These roads will do the work of four lanes of interstate highway, and do it better, and to the satisfaction of the cities. We have gone around the country, and we have seen this everywhere.

We have money for ferries in this legislation. Ferries are an efficient and attractive form of transportation, in cities such as Seattle, Portland, and in my own city of New York, and New Jersey. When I was a young boy, there were 15 ferries crossing the Hudson river to Weehawken. Almost none make that trip today. I will bet you there will be more, because they are efficient. The old Hudson goes flowing on and does not have to be paved or repainted. And you can move a lot of people on it.

Our idea is to permit innovation and to think of efficiency, to add capacity by improving performance. This is the largest transportation bill in history, $151 billion over 6 years. Half again as much as we have been spending. There are 2 million jobs in this bill. It has to pass. I would not want to think what would happen if it did not pass tonight, because we are going out tonight, and a number of people would lose their jobs. A million and a half men and women would lose their jobs by springtime, which is before we would get back to the subject, not counting the jobs that will be created.

Of all the bills we have dealt with in this Congress so far, this will have more effect on the lives of Americans than any other. Everything in life is toughed by transportation. Even if you never leave your house, transportation brings goods and services to your house.

We have made one very important decision, and that is that the first dollar out of the trust fund goes to maintenance of the Interstate system. We learned that up until now what a good manager would think of as maintenance does not qualify for Federal aid. If there is a crack down the middle of the road, you have to fix it yourself. If it opens up and becomes a trench, then you have rehabilitation and you can get 90–10 money. We are putting 90–10 money into maintaining that system.

Then we go to the National Highway System. It is important to the President, and I am happy to say—and I said this earlier—that he announced this afternoon he will sign this bill, and sign it with enthusiasm, which I think is warranted. We have heard that from the Department of Transportation.

The National Highway System will consist of roads picked from existing primary arterials. There are about 140,000 miles now, built by States. Some of these are new. Some of them are old.

They are going to have to cut these down, and in 2 years time we ask them to come back and tell us what you want. They will negotiate with the State departments and Governors.

Then we have a large new surface transportation program, and that is where the innovative congestion pricing experiments will be found. Intelligent vehicles will be given out from the Department of Transportation.

Fifty percent of the money in the National Highway Program, $21 billion, can be moved if the Governors think there is a better use for it in their system.

States are not the same. They do not want to be the same. I said on this floor, God created Montana 550 miles long. Well, that is not Rhode Island. They are going to have different needs.

We have a large transit bill, $32 billion. We have special provisions for bridges. And we have provisions for air quality and congestion mitigation. This is the first transportation bill which has as its purpose bringing environmental needs into sync with transportation needs.

We have been living as if one activity was not aware of the other.

We had a discussion in our hearing—in our conference, and I think I said, Mr. President—let me repeat. The 92 conferees from the House and Senate are unanimous on this bill—unanimous. We had a discussion of, well, countryside, cityside, and the old rural highway program.

Apart from the national road which was build in 1807 from out here in Maryland to Vandalia, IL, which was then the capital of Illinois, it cut across the country and got us to the Mississippi valley.

The Federal Government got back into the system late and really kind of farmed the market roads, as they were called. We wanted to continue that program, as they were trying to say how much should go here or there. We all said, stop, the States know; they know how much countryside they have and how much—how these roads are.

My State of New York, I live on a dirt road. We have, for the last quarter century, our home—for the last 27 years, our home has been in Delaware county in upstate New York. We moved there, and for the children that is home. Prosser Hollow—MacDougal Road—there in the sheep country settled by the Scots. MacDougall Road is a dirt road and fine by us. We are about 2 miles from Route 23 which is one of the original routes west from the Hudson River. It paralleled this country where the Conestoga wagons were built. We are about 8 miles from, as it happens, Route I–88, a part that goes from Albany down to Binghamton.

Aaron Burr's nephew built a tar roof on the top of the hill that MacDougall Road leads to. It was really wrenching up. You actually crossed the watershed from the Susquehanna to the Delaware and that road has been there since wagon days and it was a dirt then it is a dirt now. Route 23, was paved, I would say, 1925, or maybe 1915, by the time the Model T was moving around. Route I–88 was opened about 5 years ago. That is the mix, the same mix all over the Nation. People who live there know best what they need. Flexibility is the word and accountability and productivity is the object.

We are very pleased with the transit provisions, more money available for transit than we have ever had. We need it in terms of air quality.

In that discussion of rural roads, I often remark, you know, there are parts of this country where they define regions by parallels of latitude against town and country. In southern California the entire politic is one unit of government for purposes of air quality and the problems of air quality are overwhelmingly the problems of the automobile. The automobile liberates you and it also has its externalties, if I can use a word the economists use. It can poison the air and it can add an extra 3 hours to getting to work and back or getting anywhere you want to and back. So trying to experiment, learning from each other, we have university centers. We know very little about transportation, seriously.

When we began, Senator SYMMS and I, these deliberations, we asked, "Let us see, how is productivity doing? How is it getting along here?" Nobody seems to know.

So I called the very distinguished Chairman of the Council of Economic Advisers, Dr. Michael Boskin, and I said, "Mike, what do you fellows know about productivity in transportation?"

He said, "I am not sure we do know." He said, "I will get back to you."

And he did. And he told us—that I am sure it surprised him and dismayed him as much as us—for the last 15 years, productivity in transportation of the United States, in the estimate of the Chairman of the President's Council of Economic Advisers, has been growing at the rate of 0.01.

I see some young pages down there and they are good at arithemtic. I am sure they learned all these things and if any young page will tell me how many years it takes for 0.01 compounding to double, I will let you go home early tonight. I see a lot of minds twirling but no answer. The answer will surprise you. Listen and learn it because it teaches you something.

It takes 350 years for that rate of productivity to double. That is a medieval rate, about the rate Europe grew from the year 1000 to the Renaissance in 1350. We are the largest public works in history. We have a medieval rate of productivity growth, and we call it our infrastructure, meaning on the bottom. Manufacturing in United States is doing very well. Productivity in manufacturing goods is growing at 6, doubling about every decade. But it is operating on top of an infrastructure which is not growing at all.

So, pull up your socks. Learn from others. The Europeans make better roads. Find out what they are doing. It is not beyond us. But make it worthwhile. Maybe it costs a little more, but if it lasts 40 years, you get more out of it. These are not free goods. That is why in this bill we have a Bureau of Transportation Statistics. The first ever. We are going to find out what works, what it costs to do this, what it costs to do that, what is best.

The Departments of Commerce and Labor have been great help to American business and workers by what they have learned about productivity in the work force and the nature of markets. We have not had that in transportation.

I was very pleased the National Research Council is doing a general review of our transportation, and it said "By all means, grab that Bureau of Transportation Statistics."

I have been going on longer than I intended, Mr. President, and I certainly did not want to let an opportunity pass to hear from my friend, the Senator from Idaho. I do not know what he is going to say, but I hope he is going to talk about a very special provision in this bill which will take gasoline taxes that are collected for use in vehicles off highways and put them into a trust fund to provide recreational trails around the country for hikers, for backpackers if they want to be overnight hikers, for people who use snowmobiles in the winter, for all kinds of recreational uses. It is the unanimous and very happy judgment of the conferees that this section of the act should be known as the Symms Act and henceforth these to be known as Symms trails in acknowledgement of the extraorindary effort that Senator SYMMS has put into bringing it about.

As we know, we do not want to hurry it 1 minute, but he is not going to run for another term. His distinguished career in the House and the Senate is coming to a close. Other careers await him. But we are very grateful. Congress wants to acknowledge his work in so many other ways, but this way as well, and on this thing particularly close to him. As an old Marine, he loves to sleep out in the snow, the rain and the mud, and as a rancher from Idaho he was in the mud.

Mr. President, I see my friend has risen, and I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my distinguished colleague from New York for those kind words and for his interest in this entire piece of legislation, not only the National Trails Act, which is a part of this legislation, which will provide us with an opportunity to guarantee that there be backpackers trails, and there will be some trails for motorized vehicles and some trails maybe for both, and that we will allow the States the flexibility to be able to see that that happens with the fund, which will be a very small amount of money to start out with.

Our cost estimates that were run earlier indicate that there is somewhere in the neighborhood of $75 million a year that goes into the trust fund. It is not used on our road system and it not refunded to the purchasers of that fuel. But we will only be putting $30 million a year in this 6-year period in that fund which will be directed by the Secretary of Transportation to the State committees on recreational trails, and the States will have great flexibility to do this with certain guarantees.

Our friend JOHN CHAFEE, the Senator from Rhode Island, played a role in this. And that was to guarantee that the backpackers have some trails built that do not have someone driving a motorized vehicle on them. So that is a small part of the bill. It is funded out of the funds of people who purchase fuel and do not ask for the refunds, as I said and I think it is an excellent program.

I thank my colleague from New York for his kindness and generosity and the recognition to me on that issue.

I say, Mr. President, that after having served in the Senate now—this is my 11th year—on two committees during this entire time, and at my outset here in the Senate I was on 3 committees with Senator MOYNIHAN: Environment and Public Works, the Finance Committee, and the Budget Committee. And he since got wise and got off the Budget Committee.

But I could not have said it better than George Will. George Will wrote a column here a few years ago. George Will is normally known as a Republican, and he made a statement in this column about our good friend, the senior Senator from New York, that he was in fact a national treasure.

I have to say, as an unreconstructed westerner, from a State that has very diverse interests from the State of New York, Senator MOYNIHAN is in fact a national treasure because he is a visionary and can see the importance of market decisions with respect to all aspects of our life.

This bill, the Intermodal Efficiency Transportation Act of 1991, is a monument to allowing the marketplace to start determing the allocation of these scarce resources into improving transportation, not necessarily by just pouring more cement or building more rail trains, but by utilizing those assets in a most efficent way, allowing market determination.

I thank my colleague from New York for his leadership on this bill, and I thank my other colleagues on the committee, and cetainly those of us on the conference who have been working night and day for the last 2 weeks, and our staffs. I know at some appropriate point in the RECORD the names of some of these staff people will be spread across the RECORD so those people will get some recognition, I hope, of what they have contributed to make this possible.

Later on tonight we will have before us the conference report for the measure, which will carry with it the Intermodal Surface Transportation Efficiency Act 1991, H.R. 2950. And the major points that it will have in it will be a funding of $119 billion for highway construction, repairs, magnetic levitation; $31.5 billion for mass transit construction and expansion. So we have a section coming here from the Banking Committee, the $31 billion part, and $119.5 in highway expenditures.

The Federal-State match of 80–20 for all programs except—and I think we all heard the good Senator from New York talk about the fact that the interstate highway projects, which do not add lane capacity, will remain at 90–10; in other words, maintenance, reconstruction, rebuilding.

I would just have to say a good example of this is the State of Montana. Montana has an enormous amount of interstate, a 700,000 population of people, one of the largest States in the Union. There are tremendous differences in temperatures from extremely cold to extremely hot weather, which makes it very difficult to maintain those roads.

This bill will provide a lot of money for the State of Montana, for example, to maintain that interstate from the original Interstate and Defense Highway System, now often referred to as the Eisenhower Interstate and Defense System.

It is true of all of our States. We will now continue to keep 90–10 flowing to those States for the maintenance of these primary arteries, the Interstate Highway System, which is about a 40,000-mile system.

But this will mark the end of new construction with interstate funding. There are two or three major projects left in the country. There is one huge, expensive project in this bill to complete the interstate in the State of Massachusetts. There is an expensive part left, the Ventura Freeway in Los Angeles that will be completed with this bill, and a couple of others in a few

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with the Europeans, the Japanese, and our other trading partners, and we get

about how incentives are what we want to continue to remember to put into

and in my own State, only 33 percent of the land is privately owned.

other States. But the bulk of the money that is in the bill will go for those States and a few other States. It is in the charts you will all have access to that will be made a part of the RECORD before the night is over.

There is an authorization of $7.2 billion for the completion of all these interstate projects. This has gone on, now, since 1956, and it has been a very successful program. It has made the Nation more unified. We have tied the country together with better transportation so the States in the outlying regions that produce so many of the products that people want in the cities have access to those cities via a good road system.

The President is very happy about the fact that in this bill there is an authorization of $38 billion for a 155,000-mile National Highway System consisting of interstate highways and major primary roads.

States may transfer 50 percent of their NHS money to other road programs or transit. Up to 100 percent of NHS funds may be transferred in States with Clean Air Act nonattainment areas if the Secretary of Transportation finds the transfer is in the public interest.

So, what I am saying is there is a lot of flexibility with those funds, but there is also a vision added to the same vision that was there in 1956, when the first Interstate Highway and Defense System passed. I think Senator MOYNIHAN pointed out they had started authorizing this earlier under the Roosevelt administration in a much smaller scale. But what really made the push was when President Eisenhower was elected and had that vision that we needed to have an Interstate and Defense Highway System that got the program started.

Of course, that experience he had in his life, most recently when he took office in 1952, of having the German Army move hundreds of divisions across Germany on the autobahns, he realized when they were surprised in Belgium at the Battle of the Bulge how many troops and how rapidly they had moved. It was a road system that made it possible. So he was sensitive to the defense needs of the country. He was also sensitive to the fact that as a young captain he had tried to take a group of about 140 trucks across the United States in the 1920's—I think it was in 1922 or so, we will have to check for the exact date of that, but it was shortly after—maybe it was shortly before World War I, if he was a captain, come to think of it.

Nevertheless, it was either in the teens or the 1920's. It was a tremendously difficult trip. They got out into Wyoming where Interstate 80 now goes and found themselves mired in the mud and then when it dried out they were mired in the dust and had an extremely difficult time getting across the country. He recognized it would be good for the country. Now we have finally brought legislation here which will complete that dream.

Federal-State match in the bill, as I said, is 80-20, except for those programs that remain at 90-10. There is a $24 billion flexible Surface Transportation Program, in which all funds may be transferred to transit at the discretion of State and local officials. And a lot of people, I think, have been concerned about that.

The States that I come from, the Western States, the big States with small population, large geography, like the bill because of the flexibility that they will have in the bill. I think in many cases, where people think some of these highway dollars may be spent on mass transit—it is possible that could happen in some major metropolitan areas if that seems to be the most efficient way to spend those moneys—it will be decided by the people who are responsible for transportation in those regions.

However, I point out to my colleagues that one of the most efficient transportation transit systems, if you will, works on a volunteer basis right here under the dome of the Nation's Capitol, practically. That is U.S. 95 HOV lanes that go one way coming in, coming north coming in the mornings, south in the afternoons during rush hour. Those HOV lanes on U.S. 95 coming out of northern Virginia into the Capital carry more people than any rail transit system in the country except for one line in New York City.

I think people should not be concerned. It may be that some of these flexible funds in the metropolitan planning areas—I think a great many of those dollars may be spent to make the system they have more efficient, using it for HOV lanes, by improving the ability to use their current system—maybe by resurfacing it, having some lanes that can only carry automobiles with three or four people in them, and buses, and get a lot more bang for the buck, so to speak, and get rid of some of that congestion that is so costly to the productivity of the country.

There is a $16 billion program to replace and rebuild the Nation's bridges. We establish a national commission to develop intermodal transportation ideas, to coordinate intermodal policies, to develop an intermodal transportation data base, a toll facilities program in which Federal funding will be allowed for the expansion of toll highways, bridges, or tunnels. The revenue generated might be considered for other transportation improvements. A $725 million program to construct an operating maglev prototype within 7 years; a $660 million Intelligent Vehicle Highway Systems Program—I might say that the Maglev Program is from our good friend from New York, Senator MOYNIHAN, who once again is looking into the next century of where this country wants to go.

This Senator believes that we will be building more high-speed trains in the United States, and I am speaking of state-of-the-art technology that is now available. There are now trains that are running in several countries, and we are hopeful that we will be building them in the United States very soon.

The first train of that type is proposed to be built in Texas, between Houston and Dallas and Austin, which would give us a prototype of how to do this. Senator MOYNIHAN is looking on to the next generation of maglev, which would be extremely efficient and extremely fast and at some point in time might be able to replace some of our current system and improve and help decongest airports, help decongest interstates.

There is one thing that we have to remember: This is a nation of trucks and truckers. The trucking industry employs 8 million people in the United States. It is very important to our economy. It is important that we have good roads for the trucks to run on. One of the ways to have that work efficiently with our current system is to have alternate ways for people to transport themselves so you do not continually have a conflict between the trucks and the automobiles on some of these roads.

(Mr. AKAKA assumed the chair.)

Mr. SYMMS. Mr. President, looking down the road, I can see that there can be some great benefit to the American people by moving ahead and making it possible for high-speed rail to become a reality in the United States. I do not know whether it will happen in this bill, but certainly when we have a revenue bill before the Senate, where there is time for the Senate to work on it, I hope that the Senate will see fit, and the House and the President, to lift the cap on revenue bonds so it will provide a mechanism for States and businesses, private sector groups, to develop highspeed train service in the United States.

That is one way we could do that—is to make available equity financing, to have some capital available from the sale of revenue bonds so we could build some high-speed trains. I believe if we can see some of these happen in some areas like from Pittsburgh to Philadelphia, from Houston to Dallas, from Boston to New York, and New York to Washington in the future, that it could be a great benefit for this country and improve our efficiency.

I think one thing that Senator MOYNIHAN has alluded to, and I want to repeat because I think it is worth repeating, not only for our colleagues but for people who are interested in this country, is why we think this is important legislation.

When you have legislation that is striving to maintain competitiveness with the Europeans, the Japanese, and our other trading partners, and we get up to capacity, there is one thing maybe we can do by improving our transportation: We make the whole system work more efficiently. I think it is very important that we remember that the flexibility that we tried to work into this bill will allow those decisions to be made so that we can improve the efficiency of our transportation dollars in this country and reduce the costs of getting the potatoes from Idaho to the restaurant in New York City, or in Milwaukee, as my friend from Wisconsin was acknowledging here. And those things are very important. I think we are trying to do that with this bill.

This bill, as I said, has a $660 million program, an Intelligence Vehicle Highway Systems Program, that Senator MOYNIHAN has talked about. That was the product of our friend from New Jersey, Senator LAUTENBERG. I think it shows great hope. In other words, to do systems and learn how to use the modern-age technology that we have developed, to direct the traffic to the places where there is not as much traffic; also, to make it simpler for people to put in the mechanism, the pricing mechanism, that if you are going to drive at certain hours of the day, there may be a counter like at the grocery store when you get the price marked, that checks your car. Pretty soon, at the end of the month, PAT MOYNIHAN gets a bill from DOT in his local community for the use of the road, depending on the time of day; he gets a bill for the use of the road.

I say to my colleagues, if they do not believe this works, I invite you to go out to Springfield on Franconia Road, west of Springfield, and there is a place out there where the cars drive in and people just get there; stand there. You do not have any bureaucracy. There are no licenses issued. There is no telling them how to do it. They stand there at the place, and cars drive up from about 6:30 or 7 in the morning, during the heavy rush-hour traffic. They pick up two passengers or three, get on the HOV lane, and whip into the District in 20 minutes, where it would take them 45 minutes in the other lane.

Likewise, down here at 14th Street, there is a place where people do the same thing. It does not take any regulation from the Government, except for the thing, and that is a sign that says: Three people per car on the HOV lanes. That is all it takes. They enforce the three-person occupancy rule, and the people manage to figure out how to get in the cars, and we do not have to worry about it. The mechanism works. When there is an incentive, people will react to that incentive.

I see my friend from New York nodding on that. We heard that this morning on another subject from our dear friend, Secretary of HUD Jack Kemp, about how incentives are what we want to continue to remember to put into the American system on the economic side. What we are saying is, it works in transportation, too. If there are incentives to improve efficiencies, we believe people will respond to that.

There are corridors of national significance in this bill that are needed to construct multi-State connectors. The States may work to those corridors of national significance to improve upon the bill, a greatly strengthened role for local officials to upgrade the metropolitan planning organizations; those are for population centers over 200,000. They will be able to receive funds that they request to use flexibly for choices of whether they want to build HOV lanes, whether they want to continue to build the current roads, maybe improve their rail system into the city, the transit system; they will have great flexibility to do that.

Another significant part that has been the single most controversial part of this legislation, Mr. President, is the money. I have found throughout this debate, from whom we had the bill on the floor last summer, throughout the hearing process, that most of our colleagues in the Senate, because of the political situation, the political climate we all live in in the political world, the one thing they are most concerned about is how much money will their State get.

I see the distinguished senior Senator from South Carolina on the floor, and he has expressed that concern to me. South Carolina, historically, has been a State that pays in more money than it gets back. We realized this. As the interstate started coming to an end back in 1982, we amended the act then, to put in what is called a minimum allocation in which we tried to start guiding the money, so we received up to 85 percent returned on the dollar for every State.

It is very difficult to run a national program and return everybody exactly the same amount of money they put in. Like I mentioned, for example, Montana has great needs, long distances, difficult terrain, difficult weather, and it is a bridge State; that if you are going to drive across the northern tier of the United States, you have to drive through Montana. And in order to have an Interstate and Defense Highway System, somebody had to help the Montanans build the road. There is not a big enough tax base.

In my State, for example, the Federal Government owns two-thirds of the land. Two-thirds of the land, Mr. President, is owned by the Federal Government. I find that rather interesting, when these people who are pushing perestroika in the Soviet Union today are saying that they want 60 percent of the land to be owned by the private citizens of the Soviet Union, and of the respective republics in which they live; and in my own State, only 33 percent of the land is privately owned.

In other States like Nevada, it is only 12 percent. In Alaska, 2 or 3 percent of the land is privately owned. In California, Oregon, Washington, there are great tracts of land—Wyoming, New Mexico, and those Western States—that are still owned by the Federal Government; those States have a more difficult time developing their resources and coming out with the ability to meet those highway demands. So that is why we have had this program.

But the minimum allocation is at 90 percent in this bill. There is no State that will receive less than 90 percent relative to its share of the Highway Trust Fund contributions. And we will probably have more to say about that later because there will be, I am sure, some of our colleagues who have expressed great concern.

I must say that those colleagues have worked hard for their States, and I believe with this bill—this is a bill that I like to refer to as a pay-before-you-go bill. This bill is not one of these bills where we come in and authorize money that has not yet been raised by the revenue collectors. This money is raised by the purchase of fuel on a daily basis by the American people and is in a trust fund.

So if we do not pass the bill, we are denying our States the opportunity to have the moneys that we are going to be releasing as soon as this bill is signed by the President. Dr. Tom Larson, from the Federal Highway Administration, who has played a great role in assisting the Congress with all kinds of technical assistance and advice and help, will be releasing dollars to our respective States.

I mentioned my good friend from South Carolina because those of us who know Senator THURMOND know he is not someone who can be taken lightly. He is very concerned about what happens in South Carolina. But it happens to be one of those States that has helped the rest of the country build the Interstate. It received in the last 5 years 87 cents for every dollar it put into the trust fund. In this program they are going to receive 93 cents for every dollar, so we are coming up, I say to the Senator, to where it will be helpful to the Senator and his constituents.

Furthermore, in the last 5 years, South Carolina, for example, received $926,781,000. In the next 6 years under this program, we will allocate, effective immediately upon the President's signature and the release of funds by Dr. Larson and the Federal Highway Administration, $1,633,054,146 to the State of South Carolina. So it will be the biggest Federal Aid Highway Program in history in that State. And that is true of all of our States.

I noticed the New York Times this morning talked about the jobs that are

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when it is completed. I look forward to

had received vocational instruction.

Senator SYMMS from Idaho deserves

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on the line with this bill. I think it is worth mentioning that when the Federal process is taking the tax dollars from the people, putting it in a trust fund to spend on highways, if we just hold it and do not spend it on highways, it is true, it makes the Federal deficit look better, but it is also true that we have taken that money from people and it is not spent on anything productive. That is a very negative factor in our economy. If we return it back to the States, dedicate it to transportation needs, there will be an enormous infusion of capital back into the system. Otherwise, it would be held in abeyance.

I have never made the argument—it is not worthy probably to go into it here for philosophical reasons—that a highway bill is necessarily a jobs bill, but I can tell you one thing, Mr. President, no passing a highway bill can be very antijobs because these dollars are dedicated for the building of our roads, for the improvement of our roads, the maintenance of our roads, and the construction industry infrastructure and the men and women who work in it are in place and working. If we do not successfully complete passage of this legislation, there is going to be an enormous cutoff of funds and you are going to hear the screams across the country. Fighting further to get a better, a more fair allocation would only, I think, delay unnecessarily needed projects, hurt the country enormously, and in the end I do not believe the conferees can do any better than we have to try to make this a fair program.

We have here available for all Senators, if they have not seen these charts, charts of how their respective States will come out, how much money they get, what percent of the program they will get, how much return their State gets. There are all kinds of reasons why one State looks like it did better. For example, if a small State had a big project in a State and then this time they do not have that big project in the State, it can make the numbers look much different even though the Federal aid funds will be continuing to flow into that State. So we just cannot have the first look at those numbers.

I think those of us on the committee will do what we can with our staffs to show any Senator who is interested exactly how their States come out. But I can only say that our conferees worked long and hard. I would say on our side Senators CHAFEE, myself, Senator DURENBERGER, Senator WARNER worked long and hard to try to see that everyone was treated fairly. It was a bipartisan conference. I just named the Republicans. Senators MOYNIHAN, REID, LAUTENBERG, BURDICK. We did our best in our conference, and we talked about our States. We went through it State by State. We ran these numbers over and over and over.

Chairman ROE, of the House, this afternoon I think, observed that this is the 29D run of numbers. When we reached 29D, Mr. President, we said that is as far as we are going; we cannot do any better; we are going to the floor with it. Our staffs have been diligently working to put this package together.

I believe we have a very fine bill. It is true, if somebody wants to pick at it, they can probably find something that is not entirely perfect. There are a few States that are extremely concerned. One of those coming to mind is Florida. Because Florida is growing fast, it has enormous transportation needs. Florida is to the point now where it has come from only being returned 77 cents on the dollar in the last 5 years to 92 cents. That in large part has been due to the diligent efforts of the two Senators from Florida. It was Senator GRAHAM who stood here and fought and argued with us for a week to make sure we understood he was tired of getting back 77 cents on the dollar.

Now, there is one other thing I would say to my colleagues. When they come to the floor and look at these charts, we have the highway dollars here. We have the highway dollars, Mr. President. There is $32 billion worth of transit projects, and some of the States that do not do quite as well on highways—coming to mind is Florida, Texas, California—do very well in transit. And so we think it will work itself out and they will feel pretty good when it is over, we hope.

There is one thing in the bill, Mr. President, I guess I should say, that I did not approve of, and I guess we might as well talk about those things we do not like. But I think most Senators in here are going to like this. There is a freeze as of June 1, 1991, to prevent expanded use of triple trailer trucks.

Now, I said earlier, Mr. President, I think it is important we lift the cap on revenue bonds either in this bill or some other bill, at some place soon, so that we can start the private investment into high-speed rail in this country to take some of the pressure off our interstate highways, which are heavily traveled by trucks. I know most people when driving down the road get worried about a truck, but I want to say one thing about triple trailers. It needs to be said. There have only been eight fatalities involving triple trailers, with all the millions of miles they have run.

We have capped the expansion of it in this bill. I would have preferred not to do that. As the Senator from New York said, I come from a produce ranch.

The trucking industry in this country employs 8 million people, and without a good, vital trucking industry we would find that everything we buy would cost more. The biggest users of railroads in the United States is the trucking industry. That is often overlooked.

Oftentimes we hear in the Senate that it is the truckers versus the railroads. This is an intermodal transportation bill. We are trying to look into the future and say we need high-speed rail. We need better, more efficient highways. In some places we need new highways. We need to have trucks.

I do not think that the solution to safety on the highways is going to be found just by saying you cannot use this truck, or you cannot use that truck. We need to work this thing out.

This bill speaks to that because it is becoming a problem for drivers and automobiles, and there are more people driving cars than there are trucks.

In politics, I am a realist. I know what happened in the committee when I opposed this. I did not win the votes. I did not win the votes because more of the Senators thought we ought to put a cap on this. It was called another Symms amendment with transportation that dealt with allowing States to grandfather-in the use of triple trailers. It went from 10 States to more and so forth.

So the Senate said, that it is. We are going to cap it here. That is in this bill. There is a lot of safety in this bill that should be good for the country which will save lives and keep our medical costs down.

But most of it is on a reward basis. It is not the club. Senator CHAFEE worked—I see he is here on the floor—a great deal on the seatbelts and motorcycle helmets. He has done this in a fashion to reward the States to get into a program and make a program that helps.

Eventually, it is going to prove to be in their best interests to do what is in the bill. But it is a carrot approach to improve safety.

I think the bill will save a lot of lives and improve the transportation in this country with a better road. It is a safer place to drive. It is going to be better all the way around for the country to have better roads and better alternatives when there is no room to build any more roads so the people can get to and from work in a very safe and successful manner.

Anyway, Mr. President, I think this is an excellent bill. I am very proud of the work that we have done on the bill. I think that there is a lot of credit to go around to a lot of our colleagues.

But I will just say to all of those colleagues who are very concerned that come from some of the donor States, Senator WARNER, Senator LAUTENBERG, some of the Members of the House, they put up a whale of an effort for them. We have come a long way from where we were just a few short years ago. In fact, we have come a long way from where we were a few months ago toward recognizing that we have to have a sense of equity so all the people are treated fairly.

I think it is a good conference report. I hope it will be passed yet tonight

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when it is completed. I look forward to seeing the benefits of what I think is a very monumental piece of legislation and probably one of the most important that I have worked on in my time here in the Senate.

I, for now, Mr. President, yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

THE FEDERAL BUREAU OF PRISONS' POSTRELEASE EMPLOYMENT PROJECT

Mr. THURMOND. Mr. President, I rise today to speak about an important and dramatic new research finding. This finding is the result of many years of dedicated research work conducted by the Federal Bureau of Prisons.

The Federal Bureau of Prisons has just completed an 8-year study that shows there are significant differences between inmates who have participated in vocational training and work in Federal Prison Industries versus those who remained idle. This study is entitled the "Post Release Employment Project"—referred to as PREP—and it compares groups of inmates with similar criminal histories.

These study results indicate that those who did participate in vocational training and Federal prison industry programs showed much better adjustment in the institution; were significantly less likely to become involved in new criminal behavior after their release; and even earned more money after release than inmates who had similar backgrounds but did not participate in these programs.

This is the largest and most comprehensive research study undertaken to date to evaluate the impact of these vocational training and Federal Prison Industry Programs on inmate post-release success. The significance of this research will be felt throughout the field of corrections.

The Bureau's study clearly shows the value of industrial work and vocational training in facilitating an inmate's successful adaptation to a productive life in the community after being released from prison. The study also demonstrates the contributions that Prison Industries and vocational training make to the management of safe institutions.

Preparation for this study began in 1983. Date collection on postrelease outcomes continued into early 1987, with more than 7,000 inmates involved. Unlike most studies of prison vocational training or work experience, PREP is a prospective, long-term study. Study inmates were identified by case management staff at the institution over a period of several years. Inmates were selected for the study group prior to their release, if they had participated for at least 6 months or had received vocational instruction. Based on a set of matching variables, comparison inmates were selected who were released in the same timeframe but who had not participated in either work or training.

The primary focus of PREP was a determination of the differences exhibited by the study and comparison groups once they were released to community supervision. Post release followup information was obtained on all inmates. The followup information included information on employment, wages, and retraining. Most of the study inmates and some comparison inmates were released though a halfway house prior to their eventual release to the community.

I believe that the Director of the Bureau of Prisons, Mr. J. Michael Quinlan, should be commended for his strong and able leadership at the Bureau. He and his dedicated staff have spent long hours of research in preparing this important study. This project will be a vital step toward the goals of better postrelease adjustment and a safer America.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

INTERMODAL TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. BURNS. Thank you very much, Mr. President.

Mr. President, I come to the floor to make a few comments on the final chapter we hope in the conference report on the highway transportation bill. It is called the Intermodal Surface Transportation Efficiency Act of 1991.

I want to congratulate a lot of the conferees that participated in this conference. When it all started out, in the House version to the Senate version, I do not think there were two pieces of legislation that were supposed to come together that were so far apart.

I would have to say that each and every person that participated in that conference had a lot of what we call T-R-Y about it. It had to be done. It was a long and arduous task, but in the end, I think, it was very, very fair.

I have seen these men and women work on these conferences, and a number of people that I think deserve praise on this bill. Senator MOYNIHAN, who has never lost his sense of humor in long hours of negotiations, even on long hours of trips sometimes.

Mr. SYMMS. If you would spend 6 weeks in conference on this issue, you might not necessarily always say that he has a great sense of humor.

Mr. BURNS. I would advise the Senator from Idaho that every time I approached him, his sense of humor was still intact. I know it is hard to keep your cool sometimes under those kinds of conditions.

Senator SYMMS from Idaho deserves special credit, especially from my State of Montana, understanding the problems that we face in the West, where we are sparsely populated, but we have thousands of miles of roads to maintain and to keep up. Senator BURDICK from North Dakota, Senator CHAFEE, who just spent hours upon hours on this task, people working with Senator SYMMS, such as Taylor Bowlden, Angela Plott, who have been so kind to my staff as we worked through the process.

Also, I thank the Governor of my State of Montana, Stan Stephens; his Director of Transportation, John Rothwell; and their Washington counsel, all for their advice and assistance to make sure that, yes, our States of the West were treated fairly in this bill.

You know when we talk about putting people to work, I think the study was, if my memory serves me right, that for every $1 billion in this massive transportation bill, we create 20,000 jobs over the next 6 years. We have heard great speeches about infrastructure. This Congress should be investing in that infrastructure.

As the Senator from Idaho spoke as well of the trucking industry, we have to remember that there is not a city in America that does not have fresh produce every day, fresh meats every day, which comes from vast distances. The folks who live in Maine eat lettuce and fresh vegetables from our Southern States and California, delivered fresh daily, all our produce. We are the most well-fed nation in the world.

It is one thing to produce it. The next thing is to process and distribute on a daily basis, so that our tables can be set. That is important. That is infrastructure. That is what it takes to make a nation hum, and this is where we should be making our investment of dollars collected by this Government, back into the infrastructure so the activities of commerce can be carried on in a timely fashion.

The final compromise also recognizes the need of rural States like Montana, with its vast miles and sparse people. We receive our money, and we are part of the National Highway System. We are a part of the whole system.

Yes, we are individual States, but we are all a part of this great country. Also, it gives us money so we can deal with our secondary roads and our arterials. It recognizes our farm-to-market system, requiring the State to consult with local officials to incorporate its system in rural priority roads and bridge networks. The number of bridges falling down in this country is phenomenal. This allows that work to begin.

The final compromise adopts the Senate's bill structure and its overall flexibility which allows for the innovation of our transportation infrastruc-

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tures that it gives to every State in the Nation the ability to transfer funds to its areas of greatest need. It also provides an 80 percent Federal match so that States that are already facing budgetary constraints can afford a robust public works program.

So, Mr. President, I am very pleased that the conferees included my amendments to promote rural tourism and recreational travel. There are extra dollars around our national parks and our public lands, because we can have the greatest attraction for the enjoyment of America. But they are never enjoyed if you cannot get there.

My own State of Montana receives about $50 million over the next 6 years to spend in conjunction with Federal agencies inside Forest Services, BLM, national parks. Those funds can be spent on roads that enhance the recreational travel that makes the tourism related amenities such as signs, parking areas, scenic easements, and visitor centers eligible for Federal funding.

That is very important, because in my State, Montana, tourism is the second largest industry, and we get the biggest share of it in just 3 months. I sometimes wish we had a climate like that of the occupant of the chair, the Senator from Hawaii: maybe we could get more travel to those majestic mountains in Montana.

So I appreciate the work that the conferees have done. I appreciate their willingness to listen to the needs of all America, to make it fair, especially for my State of Montana. I congratulate them, and I thank them.

I yield the floor.

Mr. MOYHIHAN. Mr. President, on behalf of the conferees, Senator CHAFEE, Senator SYMMS, who are on the floor now, and myself, we would like to thank the very able Senator from Montana for his remarks and to say to him, we thank you, sir, for your amendment on rural tourism, which is an important part of this measure. It is a better bill because of the amendment you offered, and we thank you for it. I think a lot of Americans, not just Montanans, will be in your debt.

Mr. CHAFEE. Mr. President, first of all, I want to join in the thanks to our distinguished colleague from Montana for the kind comments he made and for the contributions he made to this legislation.

Second, it is very opportune that we have on the floor the two chief authors of this legislation, namely, the distinguished chairman of our committee dealing with this matter, and the ranking Republican, Chairman MOYNIHAN from New York and the ranking Republican, Senator STEVE SYMMS from Idaho. But for the perseverance and tenacity of these two gentlemen, we would not have this bill before us.

So I tip my hat to both of them, and I think the key thing—it is not getting a highway bill. No one seriously suggests that with all of this money piling up in the Highway Trust Fund, that it was not going to be spent. The key thing about this bill is that this truly sets a new direction, and the senior Senator from New York, many times, has pointed out that the 40-year program of building the Interstate Highway System is not all finished, but the program is finished.

Now we are looking toward the balance of this century into the next one, and the question before us is, do we keep going as we were before? We have money—in this case $119 billion—do we spend it on roads, bigger roads, wider roads, more roads? Or do we say, look, the objective of this money is a transportation system, how we can best move people and goods at the lowest cost, fastest manner and most efficient fashion in our country. That is what we have done. Anybody who studies this bill will be struck by the fact that there is tremendous discretion and flexibility. That is another word that is used. The ability to spend money, if you want, if the State works in conjunction with—we use the term metropolitan planning area—the larger urban centers.

Do they want to spend the money on more roads, or do they want to spend it on something else? Do they want to spend it on a high-speed rail system, for example? Or do they want to spend it in some new developments? Indeed there is some very interesting experimental work provided here, in a subject that the senior Senator from New York has been interested in for a long time, called magnetic levitation. That may be a flop and may not be worth anything. But when you are spending in the next 6 years $119 billion for transportation, it is worthwhile spending $725 million to construct a prototype of the magnetic levitation system. So that is a very interesting undertaking.

Now, Mr. President, again I just want to congratulate these two distinguished Senators for what they have done in connection with this legislation. I particularly want to single out Senator SYMMS because he comes from a very, very large State, a truly rural State—they do not have large centers of population—where the idea of mass transit is not as pertinent as it is in New York or New Jersey or in my home State of Rhode Island.

But he went along with these new trends, with these new possibilities. I think he has shown flexibility in his own approach. He comes from a State where triple trailers are important, where big trucks are important. In my State they are looked on as a menace. But Senator SYMMS showed a dedication, a willingness to compromise, a willingness to get on with the effort. I think we all owe a great debt of gratitude to him.

And I will say—and we will have an opportunity to say this plenty in the next 12 months—but having worked with him so many years on this committee, I am very, very sorry he is not running for reelection. It is a loss not only to this committee, it is a loss to the country. I just hope he will continue his active interest in public affairs when he returns to his home State. And we will miss him.

Now, Mr. President, a couple of points of specifics on this bill. First of all, I mentioned that there is $119 billion—even from somebody from Washington, $119 billion is a lot of money—that is going to be spent on this program over the next 6 years. In addition to that, $3½ billion for mass transit construction, dedicated to that, separate from the part that can be transferred under the flexibility of that previously mentioned out of the $119 billion.

Second, pursuant to the wise guidance of the senior Senator from New York, we decided that we have to keep up these roads, particularly the interstate, and so therefore, we encouraged maintenance, proper maintenance of the interstate through the 90–10 program, 90–10 being 90 cents from the Federal Government and only 10 cents from the local government.

. On the new construction, that is at a rate of 80–20; namely, 80 cents from the Federal Government and 20 cents from the locals.

That formula is not one I am particularly fond of. We came in as Senators with 75–25. We wanted to discourage new construction. Every one of us look around, and what is the easy way to do things? Expand the roads, build another lane. Take a look at 495 out here. That is the solution with every problem, instead of having some innovative approaches to it.

But the conference—many things are a compromise in this world, particularly in conferences with the House—so we settle at 80–20; that is 80 percent being Federal funds and 20 percent local for expansion or construction of new roads.

Now, there is a national highway system involved here. That is something new. We have not dealt with that before. But what does that mean?

What it means is you have the Interstate Highway System, and then there will be selected other roads, primary roads in the Nation, that will combine with the Interstate Highway System, and will come to be known as the National Highway System.

I personally think there is going to be a lot of battles over how that is going to be determined, because if there is preferential funding for the National Highway System as there is in this bill, then different States are going to say, well we want ours in there, and we want more than you are saying we can have. That is perfectly

logical. We all know how that is going to work out. So when they talk of a 155,000-mile National Highway System, some States are going to have very, very important roads left out of it. And there is where you are going to have trouble, I believe.

But that is part of making decisions. And who is going to make the decision is a little fuzzy, I think. It is going to be left up to the Federal Highway Administrator, but he will be under tremendous pressure.

We are going to rebuild our bridges with $16 billion. Now, more can be set aside for that, but certainly $16 billion has to be set aside.

I mentioned the Magnetic Levitation Program. We have $660 million which has been described as the intelligent vehicle highway system. What wonderful words, "intelligent vehicle highway system." Most of that is for research in our colleges and universities to figure how we can use these roads better.

What are some examples? I will give you an example. Certain automobiles that are going downtown during the rush hour will have a special tag on them. They will pay for that tag. Only those with the tag will be permitted to be downtown or headed into town between the hours of say 7:30 and 9:30. If you do not have that tag, you have to wait until later.

Now, is that harsh? I do not think so, because studies have shown that a lot of people head into town most at those crowded hours that could just as well go at a separate time. But swept up by habit, inertia, custom, they head in town at those specific hours when they could just as easily go at a separate time. The whole objective is how could we get more vehicles using the same roads in an uncrowded fashion.

Mr. President, the other portions of this have been described.

Again, I want to stress the capability to switch funds into mass transit. I do not think many people realize this, that 100 percent, every single dollar of some State's national highway system funds, can be transferred into mass transit if that State is not in attainment with the Clean Air Act and receives the approval of the Secretary of Transportation.

That is a very, very unusual feature. But it certainly is one that will say to those States that are not in attainment under the Clean Air Act, "Here is something you can do. You can put it all into mass transit."

I would just like to conclude. I see my distinguished colleague on his feet and I just want to conclude by saying that several things in here—like all of us, I have had some features I have been working on particularly. I am very pleased that we have some incentives to encourage the use of motorcycle helmets. There is no question there is an absolute direct correlation between motorcyclists suffering severe head injuries and severe trauma without helmets as opposed to those who wear their helmets.

In my little State, we have 17 individuals in our State institutions in comas—some have been there for as long as 17 years—as a result of motorcycle accidents, and carrying them at a cost of, per individual, something close to $200,000 a year. Those injuries might have been avoided and probably would have been avoided if those individual motorcyclists had helmets.

Likewise we have funds in here to encourage the use of seatbelts. There is a direct correlation between the use of seatbelts and the reduction of injuries in automobiles.

Finally, we have had long battles about billboards, and on this floor when the Senate considered the legislation the provision that I had in there to permit the States to amortize billboards was soundly defeated, regrettably, from my point of view. However, in this particular legislation we provide for the construction or the designation of scenic byways. The distinguished Presiding Officer, I am sure, has some lovely roads in his State which would qualify for being scenic byways, particularly charming sections of road that should be preserved and kept that way.

Under this legislation, we provide not only that no new billboards can be constructed on those scenic byways, but 10 percent of the scenic byway money can be used to purchase these billboards to get rid of them forever.

So I think in future generations people are going to ride in these scenic byways and say, "Thank goodness those individuals in the Congress did something to preserve these sections of road in 1991 when they passed that bill."

I look for an expansion of this program in future years, so motorists can take these trips on these lovely roads—I have some in my State; all of us have some in our State—without the offensive sight, visual pollution, that is provided by billboards.

I thank the Chair.

And some people say "Oh, well, how are you going to know where the next inn is? How are you going to know where there is a restaurant?"

We all know the answer to that is there are very discreet signs designating fuel, food, or lodging, and if need be, they can be a little more explicit than that. But certainly they do not have to be these monstrous billboards.

So I want to thank the Chair, and again congratulate the two real leaders in this situation.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, the Senator from Rhode Island has to be at another conference committee meeting right now. He will be leaving the floor. I do not want him to leave the floor with the vague statement that future generations will thank persons who provided, in this legislation, that there will be no new billboards on scenic highways, and that moneys will be available to take down billboards there now. It was not persons, plural, sir. It was JOHN CHAFEE, of Rhode Island. Captain CHAFEE, if you like.

You never saw a marine like him. He stormed into those billboards like they were a short Iwo Jima. He made it his personal concern, and he brought the conference unanimously to this view.

I do not know how we are going to work it out that people who do not see something are going to be aware of the something they do not see. But the history should be recorded, right here and now, that this is the Chafee amendment, worked out in conference, to his great credit, to the great enhancement of this bill, and to the enhancement of our country.

And we thank you, sir.

Mr. CHAFEE. I thank my colleague.

Mr. SYMMS. Mr. President, I want to add my thanks to Senator CHAFEE, who is the ranking member of this committee I am privileged to serve on. Rhode Island is not a donor State. JOHN CHAFEE was like a rock in that conference. Senator MOYNIHAN referred to him as Captain CHAFEE. We all know of his distinguished record as a marine in World War II, in Korea, in the infantry.

But he is like a rock. He stood there for the Senate's position, day after day after day, and gave a lot of strength to the rest of us a lot of times. We all felt that way. We had a good conference, a group of Senators who tried to work together, and we think that is the reason we got this bill.

JOHN CHAFEE had a lot to do with that, and I will be forever grateful for him and Senator MOYNIHAN and other members of the conference for their help on several issues I had.

I was disappointed we did not get the private property amendment. I might just say about my colleagues in the Senate on that issue, most of the colleagues we had in there, over half of them, had voted against my position on the floor. But it was not the Senate that cracked on this issue. The House simply refused to take the Symms private property takings amendment.

JOHN CHAFEE, though he may have had differing views, stood there, and that was at bay for a day or two or three. I had an alternative that the Senators thought they would be glad to go along with, but the House would not take it.

I am grateful to my friend from Rhode Island for the kind things he said about me. I am privileged to be with him in any kind of a fight. I would rather have JOHN CHAFEE on my side. Oftentimes, in the committee, we are not on the same side. But in this particular case, he was a great help, I think, to all of us to keep the Senate position in this bill.

The key to that is flexibility. A lot of my colleagues have been talking about transit here on the floor, and I appreciate what the Senator said. But the State of Idaho—I have talked to the Director of Transportation today. He is elated with this bill, because he has flexibility to try to make the road system better in Idaho and put the money where it is most needed, to improve our important roads in that State. He felt the Senate and the House did a great job coming up with this bill.

I thank the Senator for his help.

Mr. CHAFEE. I thank both of my colleagues for their very generous comments, and I appreciate it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 15 minutes for purposes of introduction of two bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, before I proceed to the statement to accompany the introduction of two important pieces of legislation, I would like to make some comments on the discussions which have been proceeding relative to the Surface Transportation Act.

It disappoints me, Mr. President, that we are at this point at almost 8 p.m. on the last day of the session, supposedly, before we recess for the year, without a copy of one of the most important bills we will be asked to vote upon; without the analytical tables that allow us to understand what the implications of that bill will be.

We have been asked to make comments at this time in preparation for the opportunity that we will be afforded when the conference report is before us. I wish to express that concern in hopes that those who have the greatest knowledge about this legislation will be prepared to respond in detail to the questions that those of us who are apprehensive have and, therefore, will give us the solace that we hope their words will be able to provide.

I will personally be focusing my questions on some very fundamental questions, such as: Is there a basic sense of fairness in this legislation? Are the needs of all of the 50 States properly taken into account in terms of their size, their growth, their special economic circumstances, their contribution toward the National Highway System, what their historic commitments have been, and what their future obligations to the public of America will be?

I am also going to be concerned, Mr. President, with some questions relative to the role of this legislation in economic stimulation. I have heard the President, I have heard leaders of Congress point to the highway bill, the Surface Transportation Act, which includes highways as well as mass transit, as being one of the most significant economic bills that the Congress will pass. I agree that it can be one of the most significant economic bills. It can be if it makes a positive contribution toward building America's infrastructure if it is targeted in a way that will put the maximum number of Americans to work immediately during this period of economic recession. Those are contributions that the bill can make.

Whether it does make those contributions we do not know because, with the exception of a small group of people who as recently as 2 hours ago were supposedly still in the process of making this brew, we do not know whether this bill, in fact, will stand up to those standards of analysis. I look forward to an opportunity to engage, at such time as the bill itself and the analytical tables are available, those who know more about this legislation on those issues.

To conclude these preliminary observations, Mr. President, I believe that the Congress is about to do a disservice to the American people if we adjourn tonight or tomorrow. This country is hurting. There are millions of families who have felt the pain of unemployment and economic distress and underemployment, who have felt the personal anxiety that accompanies that, the loss of sense of selfworth and respect. I do not believe that this Congress should be in recess while the Nation is staggering under such economic pain.

I heard earlier tonight on national television the President, in an informal interview, use the phrase that he enthusiastically supported a congressional growth plan which apparently was presented earlier today in the House of Representatives. To me, that is an indication that the President is now prepared to consider today, not at the time of the State of the Union in January or February, a growth plan, a plan to start the American economy. While we do not know the specifics of what he would support, we clearly know that if we are not in session, there will be no opportunity for us to engage the President in that dialog that might lead toward some constructive actions for America.

I believe that we should take this opportunity to join the President in a bipartisan spirit, recognizing our mutual responsibilities for the well-being of the people of this country, and stay here and do our work. I can assure you, Mr. President, that the American people are not going to focus their blame singularly on the White House if they see the Federal Government, if they see Washington stand passive and indifferent for a 2-month period of severe economic recession. They are going to hold all elements of the Federal Government, and specifically the Congress, accountable for what it did. I, for one, will urge my colleagues, as I have in the past, to stay in Washington and do our business and continue to search for those measures which the Federal Government can initiate that would contribute to a lessening of the economic pain for our Nation.

I hope, as I conclude again this preoration to my statement on introduction, that the highway bill can stand that test. I frankly doubt it, and if it cannot, then I believe we have yet another reason, a reason based on the failure of this highway bill to meet the test of contributing to the economic stimulation of America, to return this for further review, analysis, and prescription of a highway bill, mass transit bill that can make a positive contribution to America's economy.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2096 and S. 2097 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SYMMS. Mr. President, I would like to speak for 2 minutes as though in morning business.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 2095 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. SYMMS. Mr. President, I do not see any other Senator seeking recognition, so back to the bill at hand. I am particularly proud of sections 1301 through 1304 of the Surface Transportation Efficiency Act.

I said to Senator MOYNIHAN the other night at 2 a.m., after the conference had accepted the Senate provision which has the National Recreational Trails Trust Fund Act included in it, that now we have made it all the way so it really is a intermodal bill. We are going all the way from the backpacker to maglev and all points in between.

So it is an intermodal bill. And just so that my colleagues will know what is in it, sections 1301 through 1304 of the bill create a national recreational trails trust fund for nonrecreational fuel taxes for the purpose of maintaining and constructing Federal, State, and private recreational trails.

To clarify future congressional oversight and jurisdiction, while keeping responsibility for program administration consistent with budget functions and to use the most conservative estimate of revenue to be generated for the trust fund, two changes were made by the conference substitute to the Senate language. One change made by the conferees was that the fund was moved

from the purview of the Secretary of the Interior. Instead, the conferees decided to put the administration of the fund under the purview of the Secretary of transportation in consultation with the Secretary of the Interior.

This happened primarily because we became embroiled in a jurisdictional fight in the other body, and we think this is a good compromise so that Interior will have consultation with this but the Secretary of Transportation will be responsible.

The other changes was that the conferees decided to take the lowest estimate of revenue under the fund and use this as a cap on obligations for the first 6-year period while this program gets on its feet. Obligations are limited to $30 million a year over 6 years. The conferees intend that as information relating to this revenue is available, it will be provided to the House Public Works and Transportation Committee and the Senate Environment and Public Works Committee, so that recommendations can be made relating to future appropriate obligation limitations.

The third change was the name change that Senators MOYNIHAN and WARNER suggested. I am deeply appreciative of them to name this act the "Symms National Recreational Trails Act."

In closing, I want to thank all of my Senate conferees and House conferees for their support on this section of the highway bill. But because of their interest and determination we have the legislation before us tonight that will send those fund dollars in the National Recreation Trails Act back to the folks at the State level on the ground using these trails where the money is needed and where it belongs.

Mr. President, I would like to have printed in the RECORD a report I prepared on The National Recreational Trails Fund Act provisions in this highway bill. This report outlines our intentions, and how the legal language in the bill should be interpreted and implemented.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT FOR THE CONFERENCE COMMITTEE ON THE HIGHWAY BILL

PART B, THE NATIONAL RECREATIONAL TRAILS FUND ACT

Summary

Section 1301 through 1304 establish a National Recreational Trails Trust Fund, drawn from the excise tax paid on nonhighway recreational fuels, which will provide states with funding for projects promoting safe and environmentally sensitive opportunities for use of recreational trails.

Discussion

Americans going to and from their places of recreation constitute eight percent of national highway usage.

Access to fishing, hunting, camping, climbing and a number of other forms of recreation is often provided by trails; but such trails can also be the source of recreation themselves for hikers, joggers, horseback riders, bicyclists, snowmobilers, trail bikers and others. Recognizing this, the President's Commission on Americans Outdoors in 1987 recommended the establishment of a dedicated trust fund financed by the fuel use taxes paid on "nonhighway recreational fuels," the balance of which would assist the states in providing and maintaining recreational trails. This concept is very similar to the Aquatic Resources (Wallop-Breaux) Trust Fund, which dedicates motorboat fuel taxes to the protection and enhancement of fisheries and boating facilities.

Part B follows the Commission's recommendation by establishing a National Recreational Trails Fund. The Fund is created out of "nonhighway recreational fuel taxes." By definition, this revenue source is not derived by any usage of highways, and under the "user-fee" concept of highway funding, should either be refunded or dedicated to a program more directly related to the activity being taxed. While the recreational fuel taxes paid by individuals are not practically refundable, the taxes paid by outfitters and guides, snowmobile excursion operators, motorcross racing establishments, ski lodge and snow trail groomers, and other commercial fuel users are currently refunded. Part B utilizes these unrefunded nonhighway recreational fuel taxes by dedicating this revenue source to a Fund that directly benefits recreation in general.

The Fund is distributed to the states, one-half equally divided and one-half divided based on a measure of recreational usage. Under this formula, those states which face the greatest recreational demands will receive a proportionately greater share of funds to address that demand.

Many states already dedicate taxes and fees on equipment and fuels for funding recreational programs. The provision of federal Trails Fund moneys should not reduce any state's financial commitment in this regard. In fact, after three years, states with certain trail-recreation-based revenue sources are required to make a reasonable estimation of such revenues available for recreational trail funding within that state.

The Fund provides assistance to state and local governments, since it is at this level that the goal of "closer-to-home" recreation can be best achieved. While trails on federal lands can be expected to benefit when the impacts of heavy usage are mitigated by the provision of more local trail opportunities, the Fund is not intended as a substitute, or supplement, to appropriations for trail programs on federal lands. To emphasize this, the bill does not authorize the use of Fund moneys for trail construction on federal lands, except to the extent that such construction furthers a specific objective of a State Comprehensive Outdoor Recreation Plan (SCORP).

Section 143(d) lists the authorized uses of Fund moneys. The various activities lettered (A) through (K) have been listed in order of suggested priority. It is well recognized among trail users that the need for construction of new trails is often not as immediate as the need for maintenance and repair of the existing trails system. Furthermore, education, enforcement and training activities are essential to prevent further erosion and damage to existing trails. These activities are therefore ranked when allocating Fund moneys.

The Recreational Trails Fund is designed so that, once a decision is made concerning a trail, states have access to funds that will improve the enjoyment, safety and environmental soundness of that trail. The Fund itself is not intended to alter public land management policies, dictate when or where a trail is to be built, or what kind of usage should occur on that trail. Rather, it is assumed that such decisions have already been made through public policy processes, such as state or local recreation plans. In conformance with this process, states should specify trail needs and priorities in statewide park and recreation plans or their supplements prior to commitment of Fund moneys.

In regard to administration and allocation of funds to states, it is recognized that institutions and processes for administering recreation and park grants already exist, including assistance for trails and trail-related projects. To avoid a proliferation of agencies and administrative burdens, the state and local activities benefitting from the Fund should, to the extent practicable, be administered in conjunction with the state grant program authorized by the Land and Water Conservation Fund Act, including the utilization of existing administration procedures and organization. For the purposes of Federal-State coordination, the Secretary of Transportation should encourage each Governor to appoint the entity currently administering the Land and Water Conservation Fund state assistance program to administer Trails Fund moneys.

The Fund is structured to encourage as much consensus between diverse trail users as possible. In order to remain eligible for Fund moneys after three years, a trail-user representative advisory committee must exist within each participating state. Many such committees already exist as provided under the National Trails System Act, and it is not anticipated that duplicate committee structures would be necessary to satisfy the eligibility requirement. These committees should reflect the diversity of trail use within each state.

Priority is given to those proposals which satisfy more than one recreational demand, i.e., hiking and bicycling, horseback riding and skiing, alternating and time-shared use proposals, and other combinations of differing uses. In no case, however, should this encouragement for diversified use of trails result in the placement of two or more incompatible or dangerous uses together on a trail.

The Fund also ensures that states take a "good faith look" at proposals which address different trail needs, including motorized and non-motorized use. A "minimum reservation" for each form of recreation affords all trail users an opportunity to advance sound proposals. In the absence of acceptable proposals, however, this reservation of funds may be dropped with the approval of the trail-user advisory committee in that state.

Further, given that some smaller states may lack a wide array of recreational trail use options, states with a total land area of less than 3,500,000 acres and that contribute less than one percent of total nonhighway recreational fuel use, may choose to be exempted from any consideration of a "minimum reservation" for expenditures relating to motorized or non-motorized recreation.

Part B establishes a National Recreational Trails Advisory Committee to advise the Secretary of Transportation on Fund administration. Further, final administrative decisions by the Secretary are made in consultation with the Secretary of Interior. It is anticipated that trail-user involvement will result in policies that reduce administrative

did we need with this new technology?

19th century, where we ought to be in

a bill in an incredibly short period of

overhead, promote volunteerism, and increase and improve trail experiences. As is required under the Federal Advisory Committees Act, the Secretary should select committee members who are most qualified and knowledgeable on the issues of importance to trail users.

The National Recreational Trails Trust fund is not meant to be the exclusive source of funding for recreational trails projects. Instead, the conferees intend that it compliment other private and public funding sources.

Mr. SYMMS. Mr. President, I want to add a few other things about some of the groups that support this bill, and the statements that go with them. Derrick Crandall, president of the American Recreation Coalition had this to say:

> The prospect strikes us as one of the most logical and most important recreational initiatives underway. The fund offers a balanced, fair program which will draw all trail users together, just as the Wallop-Breaux fund has helped bond the Nation's anglers and boaters.

I ask unanimous consent that the entire document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTDOOR ENTHUSIASTS SUPPORT THE NATIONAL RECREATIONAL TRAILS FUND ACT

"The prospect strikes us as one of the most logical and most important recreation initiatives underway. [The Fund] offers a balanced, fair program which will draw all trail users together, just as the Wallop-Breaux Fund has helped bond the nation's anglers and boaters."—Derrick A. Crandall, President, American Recreation Coalition.

"The National Recreational Trails Fund Act would supply a stable and consistent source of funding that could be used to meet long term trail planning needs through a dedicated trust, rather than the fluctuating budget process."—Edwin E. Kibler, Legs Dir., National Campers and Hikers Association.

"Legislation such as this engenders a continued love affair between our great outdoors and America's people. [The] bill is a step in the right direction by protecting and enhancing the great outdoors and specifically the trails in our country."—Daniel N. Thomas, President, Great Lakes Sport Fishing Council.

"We have reviewed the bill and are pleased to see many positive ideas incorporated in the legislation. The recreational trail system has needed rehabilitation and upgrading for some time and it is good to see Sen. Symms' willingness to move forward on it."—Scott Sutherland, Dir. Fed. Relations, Ducks Unlimited, Inc.

"The American Horse Council believes that this legislation will expand our nation's available trails and ensure that riders will have an opportunity to participate in the use and development of new and existing trails."—R. Richards Rolapp, President, American Horse Council.

"Our members are well acquainted with the sad plight of recreation trails generally, and with the many contributing factors. [This] proposal to dedicate an ongoing source of funds for the benefit of recreation trails is timely and commendable."—Larry Cash, President, Fed. Of Western Outdoor Clubs, Pacific Crest Trail Conference.

"Our members believe that they will benefit both from the additional trails and from the development of trail-side and trail-head facilities that will be made possible by the Trails Fund Act."—Sue Bray, Vice President, The Good Sam Club.

"Cost sharing for both trail construction and maintenance with user participation has been effective and [this] Bill would encourage further progress. The Society for Range Management supports such measures and is happy to be listed among supporters of the National Recreational Trails Fund Act."—Stan Tixier, President, Society for Range Management.

"The Wildlife Legislative Fund of America is confident that the National Recreational Trails Fund Act will produce an abundance of opportunities for the many outdoors men of America."—William P. Horn, Dir., Nat. Affairs, Wildlife Legislative Fund of America.

"American Trails expresses it's full support for this legislation. This legislation encourages responsible trail development, and the protection of the environment in the design and development of new trail resources."—Charles A. Flink II, Chairman of the Board, American Trails.

Mr. SYMMS. I see my distinguished colleague from New York is on his feet.

Mr. President, I say to Senator MOYNIHAN that at 2 o'clock in the morning when this was accepted by the conference—Or was it Sunday afternoon? Those days start running together—I said to Senator MOYNIHAN, we have come full circle, my friend. We now have gone all the way from backpackers to maglev in this bill.

So it truly is an intermodal transportation bill. I sincerely thank Senator MOYNIHAN very much for his help that made this possible, and also Senator CHAFEE and others on the committee.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, my indefatigable friend from Idaho mentioned maglev which is a term for magnetic levitation. If no Senator is seeking recognition, it might be useful to expand a little bit on this matter because it goes to the whole question of innovation in transportation, a point with which Americans are familiar, and which shaped out country.

It was 1807, if I get it right, when the *Clermont*, the Fulton steamboat, made its trip from Manhattan up to Albany and steamboat transportation was born.

We took the steam engine which had come out of Britain and put it onto a boat. The next thing you know, we were free of the winds, free of the currents. Railroads were not an American invention but they certainly took a form and magnitude in this Nation that they had never experienced in Europe.

Then the automobile, I think an internal combustion engine was displayed in Vienna on the day that Grant took Richmond. But it was the U.S. production of automobiles in vast numbers that changed the nature of our society.

We were the first to fly at Kitty Hawk. Into our own time, we were the first to send a rocket to fly to the Moon.

We have been on the edge of transportation innovation. It is our intention that we should stay so and this bill embodies that purpose—the Lautenberg provisions—on intelligent vehicles on highways.

But maglev is a nice story of a country getting too set in its ways—which happens to countries. It is a nice story because of the way it came to be invented. The story goes back to the early 1960's.

There is a young nuclear engineer who was then working out of the Brookhaven National Laboratories in the eastern end of Long Island. He still is. His name is Dr. James Powell, Canadian by birth. He did his graduate work at MIT. He was on his way back to MIT one Friday evening, I think, for a beer party as young men will do. He got to the Bronx Whitestone Bridge which crosses Long Island Sound on the mainland. He got into that permanent traffic jam that awaits you before you get your toll ticket at the Bronx Whitestone Bridge. Between the time he slowed down and the time he got his ticket, he had thought up magnetic levitation.

Well, that is what it means to be a nuclear engineer in your late twenties. We recall that Leo Szilard, in 1933, was waiting for a traffic light to change in London and thought up fission. I suppose somebody else would have done it if he had not. But those are little moments of genius that come rarely and then change the world.

Dr. Powell was then rooming with Dr. Gordon Damby. They were bachelors, and they have since formed families of their own. They both are still at Brookhaven. In 1966, they published in a scientific paper their invention. It is a very simple idea, like most great ideas in physics, once you get it clear. Magnets attract and magnets repel.

They envisioned a pathway in which magnets are placed in the roadbed, to use that term from railroading, on which a car or series of cars also with magnetic implants would rise when the current was turned on in such a way as to repel, and then move forward also with magnets attracting.

Suddenly you had a form of locomotion unlike that has ever been conceived. All the energy of friction is eliminated, all the energy cost, and also, as in the case of flying, all the tremendous power that is required to get an airplane high enough to move in atmosphere where it is efficient to do so.

In the early 1970's the U.S. Department of Transportation experimented a bit with this work. Other very able engineers were involved. But then we dropped it. We had highways, we had automobiles, we had airplanes. What

did we need with this new technology? We dropped it.

And, bang, the Japanese picked it up. Bang, the Germans picked it up. They could see something new. I visited the test track in northern Germany where about $1 billion has been invested already in trains that move without any contact with the earth at 220 miles an hour. They can move up to 300 miles per hour. Maximum efficient speed is about 220. The Japanese have put several billion dollars into this technology.

They have just now commenced their first commercial project. Senator CHAFEE said it may, in the end, not work; it may be that high-speed rail is a more efficient form. The French TGV is already in place, and I read in the Economist magazine, just this week's issue, I believe, that it has transformed the economy of France, connecting Paris with Lyon, and suddenly a country that is concentrated in one big city is diffuse. The Economist is a careful journal, and they would not casually say that something has transformed the economy of France. They said the TGV has transformed the economy of France.

Would maglev do the same? Well, it might. It has the great virtue of being able to move at very high speeds between cities, in situations such as we have here in the Eastern United States where air traffic is at its saturated limit. There is so much air space over the National Airport and LaGuardia, that a flight from New York to Washington takes an hour. Actual flight time is about 25 minutes, but the other time is spent circling, slowing down, and waiting.

The advantage of maglev, from our point of view, is that we have the rights-of-way in the interstate system; absent the rights-of-way, you would not think of putting in any new surface transportation system in this area. But we have that in this bill. We already started.

The Bureau of the Budget, under Mr. Darnan, has been very supportive of this idea. The Corps of Engineers is very interested. And the Department of Energy is very much so, in the possibility of linking up maglev with new modes of electrical transmission, which we are just now developing.

Again, we have much less cost of transmission over distances for electricity, and that gives you the possibility of something really new.

These are ideas that began here. I do not think we are willing to settle for a day when you have an extensive system of maglev here in the United States, and you pick up one of those trains and look at the bottom of one of those cars and it says, "Invented in the United States, made in Japan." If that happens, it will have been our choice.

Tonight, we are going back to where we would have been any time in the 19th century, where we ought to be in the 21st century. It is our idea. We are going to develop it, and find out how good it is. It is of particular interest to places like Florida.

One of the first opportunities we had to see how promising this was, or how necessary it was, was in Florida. That State began looking at the question of high-speed rail after a traffic study told them that by the year 2020, it would take 44 lanes of interstate highway to carry the traffic between Miami and Orlando—44 lanes, Mr. President.

Russell Baker, as only Russell Baker could do, picked this up and wrote a column, the heading of which was a takeoff on that terse BBC announcement from World War II. It simply said, "One of our States is missing, paved over." We can do better. Or if we cannot, we can surely try to do better. We cannot fault our nuclear engineers. We cannot fault our electrical engineers. They keep coming up with ideas that seize the imagination of the world, the great opportunities which the rest of the world seizes.

After all of those years of the cold war, after so much of our energies, innovation, and science and technology went into weaponry, here is an opportunity to do something for the folks at home.

This program will be run by the Department of Transportation with the cooperation of all of the agencies involved. It will be given out as an award to whatever consortium of States or private enterprises or municipalities comes in with the best bid. Before this decade is out, we are going to find out. And people may be coming from around the world to ride on our maglev, rather than us going around the world looking at theirs.

Mr. President, I see my learned, able friend from New Jersey on the floor. I am happy to yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will not be long. I do want to take the opportunity to express the satisfaction that I derived from having been engaged in the process of developing, as a participant, this surface transportation bill, of having worked with colleagues who, through very serious and diligent efforts, made the whole thing come together, and at the same time representing various diverse interests around the country.

Mr. President, I think it is important to note that we were members on the Senate side, for the most part, of a Subcommittee on Infrastructure of the Environment and Public Works Committee. Senator MOYNIHAN is the distinguished chairman of that subcommittee, and it was through an exceptional show of patience, skill, and knowledge that he was able to produce a bill in an incredibly short period of time.

I want to remind my colleagues here that we were ready to start talking very seriously in June; that our friends in the House had some different ideas, and produced one bill that needed some changes, and it took them until October to get their bill ready. This is not, in any way, intended to be a criticism, because they came up with a wonderful bill, and they had lots more people to satisfy, by the very nature of the two bodies being considerably different, they with 435 Members, and we with 100.

But when you saw the group gathered around the table—and we had distinguished participants, like QUENTIN BURDICK, the chairman of the Environment and Public Works Committee from North Dakota; we had Senator HARRY REID from Nevada; Senator GEORGE MITCHELL, the majority leader, from Maine; I, from New Jersey; the distinguished chairman of the subcommittee, Senator MOYNIHAN from New York. On the other side, colleagues like Senator SYMMS, who did such an outstanding job in bringing the forces together, representing the State of Idaho, which is quite different in character and population and distances than New Jersey and New York. We had Senator CHAFEE, who comes from a State like mine, very densely populated, small, compact, with different interests in terms of its transportation needs. Yet, they all came together in the spirit of equanimity and fairness that continued almost from the start.

Then a meeting with our colleagues from the House chaired by my Congressman, and an old friend, BOB ROE from New Jersey;

And again, a variety of interests and attitudes about what transportation ought to represent.

Why do I mention this? First of all, I was privileged to work with Senator MOYNIHAN. His leadership is exemplary; his knowledge exceptional. President. I do not know how many books the Senator has written. I just know it is an awful lot. I have read a lot, but I would not want to put my reading up to his writing.

The fact is that Senator MOYNIHAN, when he was meeting to discuss transportation needs of the country, had written a review of Solzhenitsyn's book that appeared in the New York Times in the book review section. He has a breadth of talent and knowledge that all of us look to and listen to at times with wonderment.

But the fact is that Senator MOYNIHAN put his shoulder to the wheel and encouraged, cajoled, pushed, and pulled until we were able to assemble a relatively common opinion, and hammer out what I think is a distinguished piece of legislation that will be one of the hallmarks of the legislative agenda in this century.

Though this body is not unaccus-

miles. Why, we have days like that in

No. 50, or something of that nature. We

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I see other Senators on the floor who

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Though this body is not unaccustomed to hyperbole, Mr. President, I would have to tell you that in the opinion of many, this transportation bill will be recorded as one of the high points in the legislative agenda of the Congress in this century.

It took a very bold stroke to stir us away from the conventional manner of travel, to put one's car on the highway, to sit in traffic, to bypass the cities, to exploit nature, to in time spoil our air, consume prodigious quantities of energy which we cannot supply within our own borders, and to say to people who are so dependent upon vehicular travel that we are going to find another way; we are going to right a wrong. And that is what happened.

And, without further embarrassing our distinguished colleague from New York, it took a bit of genius, in my view, to be able to say to people: we are going to satisfy your needs, your State, your congressional district needs, and at the same time, we are going to dramatically change the transportation policy of this country. And that is what happened.

Very often, numbers make policy; arithmetic creates direction. And that is the way it was done, very creatively, by saying: Here is a variety of choices that you have—flexibility. If I, in New Jersey, need more money invested in mass transit, the choice is there for me and my State.

And in the case of Senator SYMMS—and I must say on a personal note, Senator SYMMS and I spent a few moments together, as we have, I think, since we have been serving here, in kind of a fresh phase of friendship, able to discuss things—personal—some hilarious; some very sober.

But the fact is that Senator SYMMS, who got an ovation from all of the conferees, had to his, I think, somewhat embarrassment, a program named after him that relates to the trails, our nature trails, throughout our country. And it was a testimonial to Senator SYMMS, with whom we do not—at least I speak for myself—I do not always agree. But nevertheless, there is a sincerity, an honesty, a comradeship, a desire to get the job done that, frankly, obviated any differences in opinion or policy that we may have.

And STEVE SYMMS—I do not want to start the eulogies, by a long shot. But STEVE SYMMS is definitely going to be missed here, not only because he is a decent person, but because also he provokes us into thinking about what there is on the other side of our own opinion.

So I say that to note that during this conference, Senator SYMMS, from the sparsely populated State of Idaho, with its grand mountains and its beautiful terrain, with much different needs than New Jersey—although it has been said on a clear day, from one of the mountain tops in Idaho, one can see for miles. Why, we have days like that in New Jersey, sometimes. We see a mile or so.

But the fact is that we were able, at all times, to come back to the center and say: Listen. It may not be perfect for my State. And there are lots of people around here who are not only complaining that it is not perfect, they are almost saying on occasion: "It ain't even good." Well, it is good. This is a great bill. Let it not be misunderstood. We served the interests of virtually every State in this country and the territories. We took care of the rural and the urban. We took care of those who prefer automobile travel and those who prefer train or transit travel.

We did; we covered all of the bases. And when you have 535 participants, as we have in this Congress of ours, you get a variety of opinions that are often very, very different. But we merged them all because someone like STEVE SYMMS stood up and said: Yes; it is not what I would like, but it is what I am going to settle for in the interest of the many, versus the needs or the interests of the few.

So, Mr. President, when we look at what has taken place these very busy couple of weeks, that we negotiated in good faith at one moment—one of the Members on the House side had to spend a couple of hours in the hospital to recover his strength; one of the staff people who had been working 18, 20 hours a day was taken home ill; a big, strapping fellow, he had to get a respite; he had to get away from it. And the work continued to plow on.

So, Mr. President, I want to say that though perfection is a goal, it is not possible. It is not possible, with 50 States and 435 districts. It is not possible. And the worst thing in the world, in my view, would be for us in any way to lay this aside, continue to work on it at our leisure, if I might say.

This is not a new bill, Mr. President. This is a bill that had its origin 6 months ago, 5 months ago, and this is a bill that people out there are demanding. When the President of the United States, who voiced not only skepticism but sheer opposition to having this transportation bill, said today: I am going to sign that bill. And he did it; why? He did it because it is good for America. It is necessary.

We have people begging for work. We have to get this economy of ours started, and there are few ways better than getting an infrastructure investment like this one going.

So as much as it would be desirable to be able to stand here, continue refinements, continue looking for ways to improve it, they have been exhausted.

Mr. President, we even developed a colloquialism in the committee. We said: I send a formula to the computer and ask for its immediate consideration. I think we were up to version No. 50, or something of that nature. We massaged the numbers. We manipulated them. That sounds wrong, but we manipulated them in the most positive way. We skewed them; we touched them, we moved them. We did everything to satisfy all the participants. And again, while not perfect, there is not anyone in this body who can look at the result and say: I am not better off than I was last year; than I have been in the last few years. I am better off. I do not care what State is represented, Mr. President.

So I would urge us to get on with the work of the country. This is one positive way to do it. That is what brought all of us with disparate interests together. It is that we knew that we needed to say to the American people: We are going to try to put you back to work just as quickly as we can, and the cash will start to flow.

We already know States, Mr. President, where people have been laid off, where work has stopped.

There would be nothing more painful, in my view, than to see highway projects grind to a halt while people are begging to go to work while we are continuing to be noncompetitive because of congestion, where we are continuing to use more than our share of the energy supply of the world, while we are continuing to pollute the air.

This is the time for us to kind of join hands because it is Republicans and Democrats that fashioned this bill, join hands and put our shoulders to the wheel and let us get to work. That is what this bill is about. We are privileged, Mr. President, to have at this hour the opportunity to say yes to America, to put our energy and our resources into the rebuilding of this country. I hope that, though there is some concern—perhaps it can even be described as dissatisfaction, Mr. President—that we are going to say it is not quite everything that we want, but it is most of the things that we want and we should get on with it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if you would like to know the spirit of this legislation, you could not have heard it better than from our beloved friend from New Jersey. He is saying, "Say yes to America. Say yes to 2 million people who will be put to work by this, and say it now, say it tonight." Which we will do.

I thank the Senator for his more than generous remarks which are embarrassing but treasured.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator from New Jersey for his kind comments about this Senator. But I would also like to say, again, I hope that the Senators in our body will begin to have an opportunity to look at what he is talking about with intelligent-vehicle management. It is an opportunity, I think, to really make this a more efficient use of people, which is our most valuable resource in this country, so they do not spend all their time sitting in a traffic jam.

We thank Senator LAUTENBERG for it. I am one of those people who say we need more business people to come into the Congress. In that conference, which was a brutal, lengthy conference with great confrontations, particularly in the earlier days of it—and lasted through the latter days—FRANK LAUTENBERG was one person whose business experience came through because of the practical pragmatics in business, that you have to get the job done and you cannot just say no to everything because you do not like it. You have to go on. You have to run the company. You have to make a decision. He was a great help to see we got some of those decisions made, and I appreciate him for his role in this. It was a privilege to work with all of the conferees, but I thank my colleague and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to join the previous speakers who have commented on the Surface Transportation Act conference report, which is about to be before us, and join them in urging its prompt passage.

I would like to begin, though, by paying my highest compliments to the chairman of the Transportation Subcommittee: our teacher, our leader, the former Ambassador to India, the former Ambassador to the United Nations, the senior Senator from the great State of New York. There are no other Senators in this body who are his peer, who equal his vision, his perspective, his sense of the future. He has more than ably led us to the brink of passage in a major leap forward in the development of national surface transportation policy.

This is not just another highway bill. As the Senator from New York often reminds us, it is not even close to another highway bill. This is a bill which addresses the future—intelligent vehicle highway systems, mass transportation—a whole host of innovative ideas to launch us into the next century.

I must say I think it is a good precent that this body could follow in many other areas, whether it is tax legislation, whether it is crime legislation—all the areas where America needs to be more competitive, where America must lead the world. We must cast away some of our old ways of thinking. We must look forward. This Surface Transportation Act is an example of the way Congress must lead this Nation forward.

I see other Senators on the floor who also merit the highest praise. The senior Senator from Idaho [Mr. SYMMS], whose unflagging, persistent efforts also helped make this moment tonight possible. He is terrific; a zealous advocate for the American West. I had all kind of reports from other Senators serving on the conference. The Senator from Idaho was in there working away, trying to find an accommodation, working with Senators to get a final bill passed. I thank the Senator from Idaho for all of his efforts. He has truly distinguished himself.

Mr. SYMMS. I thank my colleague.

Mr. BAUCUS. I see also on the floor, if I might say, another transportation guru, the chairman of the Appropriations Transportation Subcommittee Senator LAUTENBERG. Fortunately, he is also on the authorizing committee as a member of the conference so he was able to lend his expertise in transportation policy and development of what has turned out to be a truly superlative transportation bill. I want to thank the Senator from New Jersey for his expertise, his contributions, and efforts as well.

Mr. LAUTENBERG. I thank the Senator.

Mr. BAUCUS. I see also the Senator from Nevada, another member of the conference. In his quiet, no-nonsense way, the Senator from Nevada could not have been more effective or more helpful. This was not an easy matter.

I can think of few bills few programs, which are more difficult to put together. Obviously, that is because our country is so diverse.

For instance, a State as sparsely populated as Montana—with approximately four persons per square mile—must find accommodation with a State as densely populated as New Jersey—a State with approximately 1,000 people per square mile.

Not an easy task. But that is exactly what this highway bill does.

It is interesting to point out here, too, Mr. President, that our area, the area of the State of Montana, the State that I represent, is about the same as the area of the State of California. The population of my State of Montana, though, is only 800,000 people. But our population is only one thirty-seventh that of the State of California.

The point is that with our sparse population, great distances and limited tax base, Montana could not survive without the Federal Aid Highway Program.

For Montana, highways are not only the most important means of transportation, they are our only competitive means of transportation. We have no competitive rail freight service to speak of, limited passenger rail service. We have no bus service to speak of.

We have a minimal, at best, passenger air service in my State. We have no barges in Montana. Unlike our friends downstream on the Missouri River. We have no river transportation. We are not a seaport, we are not on the Great Lakes. Our highways are everything.

And I must say sometimes the weather in the winter gets a little bit severe. Blizzards come up, and it is very important we have a good, strong highway system so that we can survive.

Mr. SYMMS. Will my colleague yield on that point? I talked to the port manager of the Lewiston Port today, Lewiston, ID, which is the highest port—anyway, in our State—I think in the entire system, 700-feet elevation. They are thrilled about the extra funds that will be in for maintenance of the roads so the road between Lewiston, ID, and up to——

Mr. BAUCUS. Great Falls, Highway 200.

Mr. SYMMS. In Missoula, they are thinking of—the trucks come down the old Sacagawea Trail they took Lewis and Clark down, and they are very thrilled about the bill because the importance of grain trucks loading in Lewiston, ID, with the maintenance part, there are adequate roads there; we just need to fix them up. They have a terrible time keeping them maintained. I thank my colleague.

Mr. BAUCUS. I thank the Senator. Highway 200 is critical to both our States. As the conferees know much better than I, transporation is a cost of doing business.

The more there are transportation inefficiencies, whether they are traffic delays, traffic jams, a road in disrepair, the more that is an additional cost of doing business. So from a competitiveness point of view, if no other, the more we have an efficient transportation system, the more transportation costs are lowered to businesses and to Americans and the more competitive we are. The example the Senator just gave is right on point. When highways are up and running and maintained, farmers can get their grain to market—with greater efficiency and lower cost.

Mr. MOYNIHAN. Could I say the world market?

Mr. BAUCUS. An excellent point from the Senator from New York. As this loose grain goes from Idaho, barges on the river, terminals to the coast sent worldwide, to the Far East, to countries around the world. It is a matter of worldwide competitiveness and efficient transportation policy certainly helps America's competitive position in the world.

Essentially, Mr. President, I would like to just point out that I think this bill is very balanced. It helps and pays attention to Western sparesely populated States, it pays attention to densely Eastern urban populated States, and that is because of the vision of the Senator from New York, the chairman of the sub-committee, and

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goes into a trust fund, and those are

part of the United States, as was evident in his advocacy in that conference

the past to work with DAVID DURENBERGER. I am impressed with his con-other members of the committee as we crafted this bill.

I am reminded, Mr. President, of another issue that we in my State of Montana are now facing, and that is the attempted passage of a Montana wilderness bill. There is no issue in my State that is more contentious than the wilderness. Everyone in the State of Montana is an outdoors person. We hunt, we fish, we raise grain, we raise livestock, we harvest timber, we mine minerals, we are an outdoors recreation State. Each of us in the State of Montana knows how and has a very strongly held view as to how the out of doors, our public lands, if you will, should be managed. But I must say with 800,000 people not all views are coincident. There is plenty of room for disgreement under the big sky.

The same is true here. We have 50 States. Not all States are identical. Different populations, different climate, different conditions, but we all much work together to form the best amalgamation, if you will, the best combination, if you will, for the greater good.

Benjamin Franklin once said some 200 years ago, and is as true today: "Either we hang together or most assuredly we will hang separately." Our national moto, emblazoned over the Presiding Officer's chair, "el pluribus unum,"—one out of many. We are many States but we need a common single, unifying policy theme to bring us together for the greater good.

We cannot let perfection be the enemy of the good. This bill is not perfect. How many times have we heard that?

Some will say that is trite. Mr. President, often the most trite things are the most true. Perfection cannot be the enemy of the good.

Along with about a dozen other Western Senators Senator REID and I introduced a highway bill, which would have been much better from my State's point of view, and I wish the committee would have passed it; I wish the conference would have adopted it. But it did not.

While I believe the Reid-Baucus bill helped draw strong attention to the needs of the West. The committee recognized there are other competing interests. No Senator is perfectly happy with all provisions of this bill. Not one.

As the Senator from New Jersey said, on the other hand, every Senator can be proud and happy that there are provisions in this bill that will help his or her State, the sum total of this bill is much better than current law as it applies to every State in the Union.

I would like also to thank and praise my colleagues, Senator BURNS from Montana who worked with me, I also worked closely with our Republican Governor, Stan Stephens, and John Rothwell, the director of the Montana Department of Transportation. We pulled our resources together as well as resources of other States.

Again, teamwork is togetherness, which is the hallmark of this bill, balancing the needs of Western States along with the needs of Eastern and urban States have brought us toward passage of an excellent advance in transportation policy. When we all look back several years from now we will be very proud. We will look back and see that in November 1991, when we enacted a surface transportation act that looked toward the future, not just another highway bill.

I very much thank and commend the conferees for their diligent and statesmanlike efforts. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from New York.

Mr. MOYNIHAN. Mr. President, praise from the Senator from Montana is praise indeed. He who put together the Clean Air Act of 1990 know what is required, his epic efforts in that regard.

If I would say one thing about our bill, this bill, the bill out of our committee, it is that we for the first time link transportation with environmental issues with our provisions on congestion and clean air which we are very much in your debt, and I am beyond words.

Mr. SYMMS. I join the distinguished chairman in thanking my friend for those kind words. I might say I was one of those who wished he was not so effective when he was doing the Clean Air Act, but when we were in the throws of the conference and fighting with the House over the formula, when I invoked Senator BAUCUS's name that he would be ballistic over this issue——

Mr. MOYNIHAN. They shuttered.

Mr. SYMMS. They realized they had to come back and listen to us.

I thank the Senator. Although he is not a member of the conference, his name was invoked many times by this Senator because I hated to make it sound like it was just Idaho that was getting hurt. The Senator from Montana repeatedly talked to me, as did his colleague Senator BURNS. I appreciate working with him and I thank him.

Mr. BAUCUS. The Senator from Montana is most grateful in helping the Senator from Idaho. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

A GREAT PIECE OF WORK

Mr. REID. Mr. President, this is a time when we find around the country bashing the Congress, blaming Congress for this, blaming Congress for that. But I would like those people who are watching tonite to know that I believe that what has taken place during these past few weeks has been a fine moment for the people's body, the Congress.

It would be appropriate if people all across the country could have watched the workings of this conference: Two bodies that were established by our Founding Fathers, the House and the Senate, one that is a very huge body of 435 Members, another amaller with 100, meeting together in conference to work out the intricacies of a $150 billion bill.

That is what this legislation was. It involved over $150 billion. And after the two bodies passed bills that were certainly different, the conferees met and in a period of 2 weeks, spending literally hundreds of hours, were able to come up with a bill that there as unanimous agreement on, all conferees from the House and the Senate agreed that this bill is the best that could be done.

It did not make everyone happy. There are things, as I was a member of that conference, there are things in that bill that I do not especially like. But for this country, it is a great piece of work. It will supply jobs to million people.

If our constituents could also see the work of their dollars in looking at what the Senate and House staffs did, they work all night long on a number of occasions, slept on couches up in these offices, having things ready so that when we met again after having spent a long day and night of this we would have the information at hand so that we could again try to work out the multitude of differences in this legislation.

I have served in legislative bodies for a number of years. I have been back here 9 years, served in the Nevada State Legislature as the president of the senate and as a member of the assembly for 6 years. I think this is a great example of how a legislative body should work. This is something that should make the American people proud of what their representatives do.

Also, everyone should understand—I have had a number of people come to me and ask, "Well, this is just the authorization. You have to get the money appropriated now, don't you."

The way that Congress is established, there is a process where on most occasions there has to be authorizing legislation. For example, there has to be a bill authorizing what we are going to do for the defenses of this Nation, with out military. Once the Armed Services Committee authorizes the legislation, then the Appropriations Committee has to come along and see if they are going to appropriate money for what was authorized.

That is not what happens here. In this instance, these moneys that we talk about will come to be. They will start immediately. This money is part of a trust fund. We are not out taxing the American public new dollars. These moneys have built up in a trust fund that has been established as a result of people paying money for every gallon of gasoline they purchase. The money

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goes into a trust fund, and those are the moneys now that will be spent. That is what we are talking about, the $150 billion. These are real dollars, dollars that will be put to work putting people's children to work, people's fathers to work, mothers, et cetera.

So this is a fine piece of legislation in many different ways.

The senior Senator from New York, I listened to him as he went through a historical narrative as to how this bill came about. I listened to him today. It was certainly something that was illuminating, but I think it was also important that his speech will culminate literally in this legislation becoming effective.

The bill has many good things in it. One thing that has not been talked about, at least I have not heard, is that there will now be air bags in vehicles that are sold in the United States, a safety device. There are many other safety provisions in this legislation, but this is one that we have not talked about. This bill contains so much good that it takes a lot of time to pull out the things that we have been working on for a couple of weeks.

One of the things that is important and is worth repeating, there is no question that the infrastructure in this country is deteriorating. No matter where you go, you see roads that are in bad shape.

If you take the freeway from Reno to Salt Lake City, the road is in bad shape. The freeway was built and it really has not been repaired very much. You take the freeway from Las Vegas to Salt Lake City—both of these roads are about 500 miles long—and it is also in bad shape. Why? Because formulas in the past have been set up not to give States incentives to repair, renovate roads.

This legislation will do that. Why? Because the matching figure gives incentives to States to repair roads. The match is 90–10 for repairing, whereas building new roads is 80–20.

I think it is important that we talk a little bit about the conference. I have done that. I think it is important to talk a little bit about the conferees.

The Western part of the United States does not have a lot of people, if you exclude California. As a result of that, I had the opportunity in this legislation to work extremely closely with the senior Senator from the State of Idaho, STEVE SYMMS. We have served on the committee together for 5 years. While I was in the House, I worked with hin on Western matters, but this is the closest I have worked with him on legislation during the time I have been in Washington. He did a great job of representing the Western part of the United States.

But as the Presiding Officer stated in his remarks earlier on this floor, I was impressed with Senator SYMMS because he not only cared about the Western part of the United States, as was evident in his advocacy in that conference committee, but he also publicly stated and gave up issues because he thought it would be for the common good of this country.

There has been a lot said about the senior Senator from New York, the chairman of this conference. As the history books are written, Senator MOYNIHAN will be one of those people who will be written about for years and years to come as being a great figure in the Senate, a person with great vision, who has been writing about these things. He has been prophesying about things that have come to pass. Things that he has talked about in this legislation will certainly be talked about in the years to come as a result of his vision.

I can remember when we first started talking about a highway bill earlier this year, he called us into his office. He talked about the importance of a highway bill and gave us one of his lectures as if we were students attending a university. He, in effect, told us what surface transportation was all about. I learned at that time, as I have learned through the entire process of this bill.

Mr. President, I express through the Chair to the senior Senator from the State of New York my admiration and respect which has cerntainly grown during this conference—great patience. All the bad news in the Senate we directed to him. All the good news, we took the pats on the back ourselves. The bad news, he got it all—and there was plenty of it, and there probably still will be a little talk here tonight about this bill not being perfect.

One of the people we have not spent enough time talking about—and we really should—is the chairman of the full committee, QUENTIN BURDICK. QUENTIN BURDICK is a man of great wisdom. He attended all of the conferences. He did not talk a lot but when he did talk, we listened. He is a man of great wisdom, and certainly his attending every one of those conferences added to the importance of what we were trying to accomplish.

Another person who has not been talked about, or at least I have not heard him talked about very much tonight, is the silent giant during this conference, DAVID DURENBERGER of Minnesota. I would have to say if a professor gave an examination to the students of this conference, the House and Senate conferees, and asked questions either in multiple choice or essay questions, I think Senator DURENBERGER of Minnesota would probably score as high as anyone, and I would bet a little money that he would probably get the best grade in the class. He, like Senator BURDICK, did not talk a lot, but when he talked, he had everything together. He knew the point he wanted to make and he made it and made it well. Again, I had not had the opportunity in the past to work with DAVID DURENBERGER. I am impressed with his contributions to this conference.

Mr. President. I was lieutenant governor in the State of Nevada and my Governor at that time was a man by the name of Michael Callahan, who taught me in high school. He taught me Government in high school and was my coach. He lost a leg in Korea. I was always fascinated with the Korean war because I had heard so many stories about the Korean war from my friend, Governor Callahan. Therefore, I was really interested, when I read a book review of the "Coldest War," written by James Brady, who is a writer for Newsweek. I read the book because I wanted to learn more about Michael Callahan, who was a Silver Star winner, had a rifle range named after him, a hero of the war.

I was anxious to read that book. I was so surprised when I read that book, surprised from a lack of knowledge that the hero of this book was Captain CHAFEE, a man who was really one of the heroes of the Korean war.

I, during the conference, joked with him because he is such a purist, such a man of high principle that if he believed in something it was tough to get him to vary a little bit, to compromise a litte bit. I referred to him during the conference as Captain CHAFEE; acted just as he did when he was a hero in the Korean war.

It was a great pleasure to work with JOHN CHAFEE and to find out what really a great advocate he is of the things he believes in.

The person I sat next to during the whole conference was the Presiding Officer, the acting President of the Senate.

As was said by Senator SYMMS, it is important that business people come to this body, a person who is without any question or debate whatsoever one of the most successful business people that we have in our country. He took a small business into an extremely large business and decided that he wanted to become involved in public service. That was this Nation's gain, the State of New Jersey's gain, and the business world's loss. He has done so much in Congress to give the business person's view of what we need to hear around here, a person who has been a success in business, and his ability to understand what the bottom line is in business helped us in this conference because he is somebody that was concerned with numbers. What is the bottom line?

I have great respect for Senator LAUTENBERG, as I had during this period to time.

Also, before closing my remarks about the conference, Mr. President, I would like to say that another person that added a great deal to the conference and to show the bipartisan nature of this conference is the fact that

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I talked more about my Republican

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I talked more about my Republican colleagues tonight than I have perhaps or as much about my Democratic colleagues. But JOHN WARNER was a person who added so much to this conference.

One of the other good things that we have not talked about in this legislation is the fact that as a result of the work that we did, after some debate, the construction of National and Dulles Airports will continue. As a result of a court decision construction would have come to a dead standstill. It would have stopped.

As a result of spending 3 or 4 hours one day during this conference we were able to work out a compromise so that construction at Dulles and National Airports will not miss a beat. It will not miss a beat and, in the process, save taxpayers' money so that there will not have to be the startup costs again.

That is virtually the work of Senator WARNER. I joined with Senator WARNER in that amendment which was sponsored by Senator WARNER.

This is typical of the work he did in the conference, looking at the overall picture of what this country needs and recognizing that a State like Virginia is a microcosm perhaps of this whole country. He has the area right around the District, the suburbs of the District of Columbia. He has a lot of rural areas that he had to be responsible for.

So Senator JOHN WARNER, the senior Senator from Virginia, was a great help in our being able to arrive at this settlement on the conference report that will be voted on later tonight.

As has been stated, it is imperfect legislation. All 50 States and the territories also included in this legislation are different. Each State has problems.

One of the things that I personally was extremely interested in is magnetic levitation. I have worked with the senior Senator from New York on magnetic levitation for several years now. One of the people that has been such an advocate of magnetic levitation is the Senator from Florida, Senator GRAHAM. It appears to me that, with his advocacy—"his" meaning the senior Senator from Florida, I think that Florida stands the chance—in fact, I am confident that Florida can have the first magnetic levitation system in this country. I hope we do something to get magnetic levitation going in this, and this bill will contribute some money to that.

But for some jurisdictional problems, and hopefully they can still be resolved before the night is not, but even if they are not, I am sure Florida will get its fair share or more of those magnetic levitation moneys that will be available in this country as a result of the work of Senator GRAHAM.

This legislation is, as has been stated on a number of occasions tonight, imperfect. But we could go back and start all over tomorrow, call the conferees back. We would not come up with any legislation that is any better than what we came up with today. Fifty States and the Territories, 435 Congressmen, each representing approximately half a million people, trying to satisfy each of them, and States as large as the 28 million that live in California, and the 400,000 that live in Wyoming—those disparate views had to be met in this legislation. We did the best we could possibly do.

Mr. MOYNIHAN. Mr. President, I know the Senator from Nevada has to be elsewhere. Before he goes, if you hear the gentle generosity, understanding of his remarks about others, you would have some sense of the grace that he brought to our deliberations. Without him—there was an element of the peacemaker that HARRY REID radiated a moments when it was needed—we would not be here without him.

I am very pleased that Senator REID called attention to the work Senator WARNER did, great, deft use of this vehicle for a very important and urgent purpose, which is to say the National and Dulles Airports; but the tenacity with which he represented those who did not leave the floor entirely happy in June. The bill came out of the Senate 91 to 7. But there were seven. He was of that view.

Then, of course, we would not be the committee we are—we think we are a pretty good committee—without QUENTIN BURDICK, who is our patriarch, and our conscience when matters required. If we ever get drowsy he picks us up just like that. There are moments we get drowsy. Not however, QUENTIN BURDICK. I thank him so much on behalf of his brothers, his colleagues. It was very generous of him, as he is very generous.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I have been on the floor for awhile. Might I say to the distinguished chairman who is here that I compliment the committee both for the product which I will discuss in a few moments, and for the obvious collegiality that arose in the committee with very different views and different interests.

After weeks of deliberations and effort, they came away from there rather united and unanimous, and united in their efforts and confident that they had produced a good bill for the United States. That is what the highway bill started out to be. That is why there were differences. We were trying to build a national system. Now we have just about built that system, and we are starting on another one, in another way, with a lot more flexibility.

I rise tonight to say to the committee that you will never please everyone. Someone will always have some notion of how they might have done better in this bill. But, frankly, let me suggest, if you re going to take the entrusted money, and if every State will get 100 percent, what do we need it for? I mean, it is a sham, because why take 100 percent from each State, and give them back 100? We had just as well quit it, and let the States collect their own and spend their own. They will have greater flexibility, no need of the Federal Government. So we cannot be exactly on 100 percent return.

But I think equity has been done, and we have a very good approach to getting a big bill passed with a lot of jobs and resources, and we are not going to go in the red to do it, which is interesting. We will have the money there as we spend it. It will be there, because those who use automobiles and use gasoline and related products are paying it in sufficient quantities to cover this bill

Having said that, let me thank the committee for another thing. My State, much like Montana and others, does not have a divesity of transportation modes. We are just beginning in mass transportation in a second city, which means we have only had it in one, so to speak. We have very little air service, outside of one large city. Frankly, we need roads. We are a large State with not too big a population. For those small populations, if there are not good roads, they are isolated and ruined.

Much like Montana and others, we appreciate the fact that we are going to be able to continue with a very good plan for State highways and for a national system within that State. But we also have an area that, when it comes to roads, is close to being a disaster area. That is one-third of the Navajo Indian reservation, and two other reservations of Indian people, and 17 pueblos, smaller groupings. The one thing that is absolutely obvious about them is that they have little or no roadway system.

I think almost as a direct consequence, as my friend from New York knows, there is no group of Americans with a lower standard of living than the Indian people on reservations. They have fewer jobs, fewer good paying jobs, fewer businesses, fewer factories, fewer of those things that people go to, day by day, to earn a living and share in the wealth produced by the economic system.

We think there is no miraculous cure to that, and we think there are a lot of reasons for it. One reason for it that stands out is that they do not have a highway or roadway system. You cannot exist and compete and grow and prosper with no roadway system on a reservation as large as the Navajo reservation. If you take the reservation in the four States, it is larger than many, many States, literally. Perhaps it is larger than seven States of the Union,

just that piece of geography. The roads are minimal.

I thank you for putting in $190 million a year for the 6 years, if I read the bill right, or what I have been told about the bill. We have $200 million, and the House had much less. You got very close to ours. When you add the bridges and some other things, the Indian people came out fairly well, which means New Mexico gets an added highway system, albeit on the Indian reservations, to be run and managed by them. It will be part of an expanding roadway system for the State of New Mexico, becasuse while it is their territory, so as to speak, it is also New Mexico. They are New Mexicans. They must come and go, and we must come and go. Transportation and commerce flow. So you can add that to what we get as a State, and that is, over the next 6 years, going to be building more and more of the economic lifeblood of our State, which is the highway system.

Having said that, I surely have no reason to thank other members of the committee, as my good friend from Nevada has. That is his prerogative about the committee he is on. I served there for a long time, I say to my friend from Nevada. In fact, I was on the last conference. I know precisely how he resolved it. I know how we got the House to get serious. That was the first time we had one cent of our roadway tax for mass transit, and it turned out many of the House Members liked that.

We voted for that here on the Senate floor, and it was going down. Senator DOLE, Senate BUMPERS, and myself agreed to switch our votes so we would have the 1 cent moving over. So I reminded them if they were not willing to work out some things, we could kill the bill and start over. And I promised them there would be no mass transit money coming, and by the next day, we were negotiating nicely.

And then, as the Senator remembers, we finally settled on a formula by using the formula upon which the previous laws of our country were based, where we split the money with our cities, revenue sharing for our cities. I dream it up on day on the way to work, and found out it would work here also. That is what we used as the formula, and settled it in about 3 hours. It was not so complicated, because we did not have so many new projects.

I think this will be the last bill that our ranking Republican Senator SYMMS, will participate in. He will not be with us next year. He decided that he is going to go home and will not be here with us any longer, of his own volition. I say that it has been a great pleasure working with him, being a friend of his, and seeing the enthusiasm and vigor with which he approaches highway bills.

It just seems like this is something that STEVE SYMMS was born to like, born to kind of handle, highways and roadways, and the kinds of things that he sees as progress.

What a good job he did for his State and for those of us who live in similar States out there in the Rocky Mountains. We have a State much like his, with a lot of public domain, a lot of forest land. We have Indian real estate and property.

I thank him for all he did, and say to him that we will truly miss him in this endeavor. And let us hope that everyone knows, as we move through this bill, that STEVE SYMMS' fingerprints and ideas are all over the place. We thank him for it.

Mr. MOYNIHAN. Mr. President, I thank my friend from New Mexico. Steve's fingerprints are all over this, and his name is in it. The record should surely show that if we have responded to the need for Indian roads, it is at the insistent behest and persuasive advocacy of the very distinguished Senator from New Mexico.

We are all in his debt. I would like to acknowledge that.

Mr. DOMENICI. Mr. President, let me start by thanking the distinguished Senate members of the conference committee, who have toiled diligently to complete their work on this bill.

If we want to talk about jobs for this country, Mr. President, this conference report will provide significant employment opportunities for the people of this country.

Its passage is imperative before we adjourn for the year, and I commend the conferees for coming to agreement, despite the significant differences that existed between the Senate-passed and Housed-passed bills.

I will try to be brief in my comments because I know that there are many Members who wish to speak.

Because of the strong interest in this bill by residents of New Mexico, I began my review of the highway and transit programs 10 months ago. I was fortunate enough to gather the experts in my State together to serve on a Task Force to advise me on pending legislation and issues of greatest concern to my State.

As a result of their advice, I pursued a number of initiatives on the Senate floor.

One initiative on which I devoted a significant amount of time was to provide more funding for the Indian reservation roads program.

Mr. President, if you wish to see a system of substandard roads, I would encourage you to visit some of the Indian reservations of this country. The Indian people live in isolated areas, and that isolation has been magnified because of the difficulty of movement. Their road system has been rated by the Bureau of Indian Affairs, and the results are an embarrassment. Only 11 percent of the paved roads and none of the unpaved roads were rated as good. Conversely, 53 percent of the paved roads and a staggering 90 percent of the unpaved roads were rated as poor!

But this bill finally corrects this inequity.

As I understand what is contained in this bill, we are able to tell the Indian people of this country that we will provide, over the next 6 years, $1.1 billion. Averaged out over 6 years, that means we will be providing, out of the Highway Trust Fund, $190 million a year to finally begin the process of upgrading this system of roads. Mr. President, this action is long-overdue.

In addition, the Conferees accepted several provisions in the House bill to improve key aspects of Indian reservation roads. First of all, there is a one percent set-aside for bridges located on Indian reservations roads.

As well, because about one half of rural roads on Indian lands are not part of the Indian Reservation Roads system, this bill makes it clear that these reservation roads are eligible for funding under the State Rural Mobility System.

Finally, provisions have been included to provide highway training, Indian preference for projects constructed near reservations, transfer of road funds to tribally-controlled postsecondary vocational education institutions, and the use of up to two percent of funds available for Indian reservations roads for planning activities.

I would also like to take this opportunity to thank several of my colleagues on the Select Committee on Indian Affairs, who helped secure these provisions—Senators INOUYE, MCCAIN, DECONCINI, MURKOWSKI, DASCHLE, CONRAD, and SIMON.

Mr. BRADLEY. Mr. President, I am proud to join my colleague from New York, Mr. MOYNIHAN, and many other Senators in supporting the 1991 Surface Transportation Act.

Thirty years ago, we were spending approximately 2.3 percent of our GNP on capital investments in infrastructure. We were building the roads and bridges and airports that were both a backbone of America's postwar growth, and an engine of that growth.

Spending on infrastructure peaked in 1980. Since then, the Federal Government has taken a shortsighted and narrow-minded view of Federal spending, treating it as a burden to be shifted onto the state rather than an investment in the future. As a result of this neglect, we enter the 21st century with an infrastructure that is decaying before our eyes. Our roads and bridges are crumbling. According to the Department of Transportation, the poor condition of our highways meant an additional 722 million hours of vehicle delay in 1985, delays that waste gas, reduce productivity and lower our standard of living. Unless we take action now, DOT estimates that we will spend 3.98 billion hours in delays. Our cities'

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The conference report also encour-

efforts to videotape impaired drivers.

safety regulations. Finally, last year,

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mass transit systems are aging and inadequate for their changing needs. Our airports are overcrowded and our railroads need modernization.

We must also begin planning for the next generation of infrastructure: smarter roads and mass transit, the high speed trains that are already in use in Germany and Japan, as well as telecommunications and fiber optics. We must begin today in order to be competitive in tomorrow's leading edge industries.

It is not by chance that the most competitive economies in the world are backed by the highest levels of infrastructure investment. The link between public spending and productivity is well-established, and yet we are spending less and less on our public infrastructure. The investments we will have to make are daunting, and I hope that this legislation marks the beginning of a national effort to rebuild our existing infrastructure.

CONCERNING THE HIGHWAY BILL

Mr. DANFORTH. Mr. President, the highway bill conference report that is before the Senate contains the most significant package of highway safety legislation since the creation of the U.S. Department of Transportation (DOT) and the National Highway Traffic Safety Administration (NHSTA) in 1966. The Senate Commerce Committee conferees, Chairman HOLLINGS, Senator EXON, Senator BRYAN, Senator GORTON, and myself, have negotiated provisions that improve vehicle safety, reduce impaired driving, and improve truck and bus safety.

THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT OF 1991

Each year, 45,000 Americans die in highway crashes. In my home State of Missouri, there were 1,096 highway deaths last year, a 4-percent increase over the previous year. According to DOT, highway crashes cost the U.S. economy $75 billion annually.

Congress has given NHTSA primary responsibility for solving highway safety problems. Despite the importance of NHTSA, no reauthorization has been enacted since 1982. In the last 9 years, the Senate has approved, without opposition, reauthorization bills on five occasions. The Senate and the House have been unable to reach agreement until this year, however. This NHTSA legislation is a comprehensive highway safety measure. It addresses air bags, issues raised in previous NHTSA bills, requires action on promising new safety technologies, and launches a new offensive against impaired driving.

AIRBAGS AT LAST

The single most important vehicle improvement we can make to reduce highway fatalities and injuries is to require air bags in all cars and light trucks, which include minivans, four-wheel drives, and pickups. Under DOT's passive restraint rule, a car or light truck must be equipped with either air bags or automatic seat belts. Although either option is available to manufacture, statistics prove that air bags provide superior protection. So-called automatic seat belts have not substantially increased belt use rates. These automatic belts can be either manually operated or, in some cases, may have motorized shoulder harnesses. A 1989 Insurance Institute for Highway Safety study on nonmotorized automatic belts found that the automatic feature had been disabled on one or more belts in 95 percent of the new cars it surveyed in dealer showrooms. Motorized automatic belts provide an automatic shoulder harness, but require the driver or passenger to buckle the lap belt. A University of North Carolina study found that less than 30 percent of the occupants of cars with motorized belts connected their lap belts.

Even when a seat belt is worn properly, it is not as effective as an air bag. A German study assessed the effectiveness of automatic belts on more than 600 passengers involved in frontal collisions. The study found that, even with automatic belts, 30.4 percent of the drivers suffered a head impact, and 10.6 percent suffered skull-brain trauma. The study also found that 28.6 percent of the drivers sustained chest injuries.

In light of this overwhelming evidence, safety experts agree that seat belts cannot provide the protection that air bags provide in a severe crash. Even the Automotive News, in an editorial entitled "Most 'Passive' Belts are Actively Foolish; Bring on the Bags," has recognized that:

> A not very funny thing happened on the way to getting air bags in cars: a new generation of ever-worse seat belts. * * * The long-term solution is air bags and normal three-point belts. Fortunately, buyers now want bags. * * * Everybody should hurry it up. The sham-passive belts will be a short-lived, unfortunate footnote in the history of car safety.

In contrast to automatic belts, air bags have been a great success. State Farm Insurance Company has been tracking the experience of its policyholders with air bag-equipped cars. In all but 18 out of 6,521 accidents in which the air bag deployed, the drivers survived. In Missouri alone, 278 State Farm policyholders have been saved from death or more serious injuries by air bags.

DOT has estimated that the general availability of air bags in passenger cars could prevent 8,000 fatalities annually. About 40 percent of all 1991 model cars will have driver-side air bags and a number of models will also have passenger-side air bags. Unfortunately, to date, very few small cars have been equipped with air bags. This omission means that the already existing difference in fatality rates between small and large cars will expand. Moreover, only a few light truck models have air bags.

The conference report eliminates these safety gaps. It requires 95 percent of all passenger cars manufactured on or after September 1, 1996, to have both driver- and passenger-side air bags. Beginning September 1, 1997, all manufacturers must have air bags in 100 percent of these passenger cars. In addition, 80 percent of family vehicles, such as minivans, four-wheel drives, and small pickups manufactured after September 1, 1997, must have driver-side and passenger side air bags, and 100 percent of those manufactured after September 1, 1998, must have both driver- and passenger-side air bags.

The American public has waited long enough for air bags in passenger cars, small trucks, and minivans. Finally, every new vehicle will have them.

OTHE NHTSA ISSUES

An important issue addressed in earlier bills is light truck safety. Light trucks, which include minivans, pickups, and four-wheel drive vehicles, currently account for about one-third of the light-duty vehicle market. In 1990, light truck sales increased to 5 million because these relatively inexpensive vehicles are being used as passenger cars. Although light trucks compete directly with passenger cars, NHTSA has exempted them from a number of passenger car safety standards. These exemptions have contributed to the annual toll of more than 8,500 light truck fatalities.

Recently, some of these exemptions have been eliminated. The conference report would complete the process by requiring NHTSA to conduct a rulemaking on extending the passenger car side impact standard to light trucks.

Another important safety issue is rollover. Many vehicles, particularly ones in the sport-utility class, have high centers of gravity, which can cause them to roll over. For example, NHTSA reports that 64 percent of all single-vehicle accidents of the discontinued Suzuki Samurai involve rollover. The rollover rate for full-sized sedans in single-vehicle crashes is only 8 percent. The conference report requires NHTSA to conduct a rulemaking on rollover prevention.

Another important piece of unfinished business is the need for a rulemaking on methods to reduce head injuries. Each year, between 400,000 and 500,000 Americans suffer head injuries in automobile crashes. The National Head Injury Foundation estimates that over 50,000 of these head injury victims are permanently disabled. An air bag can eliminate head injuries resulting from frontal crashes. Even if all cars are equipped with air bags, however, head injuries will still occur from rollover and side-impact crashes. This legislation requires NHTSA to issue a final rule to reduce head injuries. The rule would draw on NHTSA's research, which indicates that many of these head injuries can be prevented if additional padding is placed in the interior of the car where a crash victim's head is likely to hit.

The conference report also encourages new technologies to prevent accidents and relieve congestion. One such technology is a smart car/smart highway system. According to NHTSA, driver error contributes to more than 80 percent of all crashes. In advanced smart car/highway systems, automatic braking or steering is used to help overcome a driver's lapse in judgment or his inability to detect risks. These advanced systems will rely on computers and radio signals beamed up from the roadway to keep vehicles spaced safely and moving smoothly.

Less advanced systems might include safety improvements such as enhanced cruise control, which uses a radar technology to help maintain a safe following and leading distance. Another radar-related technology provides a driver with a warning if he attempts to switch lanes when there is a vehicle in his blind spot. The conference report would encourage DOT to develop a strategic plan to maximize the safety benefits of these systems.

Antilock brake systems are another promising safety technology. These brakes greatly increase the ability of a vehicle to stop in a short distance and in a straight line. They are especially effective in wet, snowy, or icy conditions. Currently, antilock brakes are available on some pickup trucks and luxury models. The conference report requires NHTSA to conduct a rulemaking on whether antilock brakes should be mandated for passenger cars.

PREVENTING DRUNK AND DRUGGED DRIVING

The conference report also addresses the leading cause of highway death—drunk and drugged driving—an issue on which Congress has played a leadership role during the last decade.

In 1982, according to NHTSA, 25,170 Americans were killed in alcohol-related crashes. Since that year, Congress has created State grant programs to encourage enactment and enforcement of tough drunk driving laws and the National Minimum Drinking Age Act. These efforts have made a small but measurable difference. NHTSA reports that there were 22,415 drunk driving fatalities in 1989. The percentage of fatal crashes that are alcohol-related has also dropped from 57.2 percent to 49. 2 percent.

The conference report creates an incentive grant program that will encourage states to take some promising impaired driving prevention initiatives. One of these initiatives involves increased use of sobriety checkpoints. These checkpoints have been endorsed as an effective tool to fight impaired driving by DOT Secretary Samuel K. Skinner and National Transportation Safety Board [NTSB] Chairman James Kolstad. In June 1989, the Supreme Court upheld the constitutionality of such checkpoints by a vote of 6 to 3.

Another requirement for receiving a grant under the new program involves efforts to videotape impaired drivers. Some local law enforcement officials are using video cameras to record the image of a weaving car and its incoherent driver. Aetna Life & Casualty and MADD have formed a partnership to purchase a limited number of video cameras for the police departments in cities such as Columbus, OH, and Kansas City, MO. Michael Creamer, a deputy sheriff in Columbus, explained the importance of the camera, "We'll show the judge, the jury and the courtroom how they really looked driving on the wrong side, falling down by the car, unable to walk or recite the alphabet." Creamer said all 17 drunk drivers that his department videotaped have pleaded guilty. Last May, the Supreme Court upheld the use of videotapeing drunk drivers by a 8 to 1 margin.

Two additional features of this new program merit discussion: First, the program endeavors to give States some flexibility by waiving one of the five basic criteria if they can show reduced alcohol-related fatalities over a 5-year period, and second, the program provides a supplemental grant to States that create an effective drugged driving prevention program. A 1988 DOT review of drugged driving indicates between 10, and 22 percent of crash-involved drivers tested positive for drugs.

MOTOR CARRIER ACT OF 1991

Mr. President, over the past decade, Congress has passed a variety of laws to ensure the safe operation of heavy trucks and buses on our Nation's highways. The conference report includes legislation that will further improve motor carrier safety.

Let me take a moment to summarize these efforts over the last decade. The Congressional effort on motor carries safety started in 1982 when we created the Motor Carrier Safety Assistance Program, which is known as MCSAP. This program provides funds to States to do roadside safety inspections of commercial drivers and vehicles and safety audits at the terminals of motor carriers. MCSAP has far exceeded even the high expectations of those of us who created it. In fiscal year 1990, MCSAP funded 1.6 million roadside inspections and 9,863 safety audits. In the State of Missouri alone, MCSAP funded 61,360 roadside inspections and 496 safety audits. Those safety inspections and audits have removed thousands of unsafe vehicles and drivers from the road.

Five years ago, the President signed into law the Commercial Motor Vehicle Safety Act of 1986, which prohibits drivers from spreading their bad driving records over numerous licenses and establishes minimum standards for licensing commercial drivers. Three years ago, we enacted the Truck and Bus Safety and Regulatory Reform Act of 1988, which eliminated a loophole allowing heavy trucks and buses to operate within vast urban commercial zones without obeying critical Federal safety regulations. Finally, last year, we passed the Motor Carrier Safety Act of 1990 which prohibited any trucking firm that receives a DOT unsatisfactory safety rating from hauling hazardous materials. It also prohibited bus companies with unsatisfactory safety ratings from transporting passengers.

Although these and other laws represent great progress, we have a long way to go. Medium and heavy truck and bus accidents account for almost 6,000 deaths in this country annually. Eight percent of those killed were not truck drivers, but rather occupants of passenger cars. Each year, motor carrier accidents also account for about 160,000 injuries. Many of these accidents not only involve loss of life and injuries, but also the loss of countless millions of dollars in the form of traffic delays and cleanup expenses. In April of last year, for example, a collision between two trucks on I–70 in St. Charles, MI, set off an explosion that killed one driver and closed this vital highway for 6 hours.

We must continue our efforts to prevent such tragedies. The majority of motor carriers and commercial drivers take their safety responsibilities seriously. The Motor Carrier Act of 1991, which is contained in the conference report, focuses on the few operators who disregard safety.

Anticipating MCSAP's reauthorization, the Commerce Committee commissioned an extensive study of the program by the Congressional Research Service [CRS]. CRS found that MCSAP could be strengthened significantly if it addressed driver-related factors, such as reckless driving behavior, drug and alcohol use, fatigue, and lack of adequate training. Similarly, a 1988 Office of Technology Assessment [OTA] study found that human error is the cause of over 60 percent of motor carrier accidents. In addition, a Federal Highway Administration-sponsored study found that 95 percent of preventable accidents are related to driver factors.

This bill would increase MCSAP's focus on commercial driver errors resulting from reckless driving behavior, such as excessive speeding, improper lane changes, and tailgating. This bill also expands MCSAP's role in drug interdiction, drugged and drunk driving enforcement, and roadside checks on the status of drivers' CDL's.

This legislation contains a number of other provisions that will enable trucks and buses to operate more safely. It requires DOT to conduct a rulemaking on whether brake performance improvements, such as anti-lock braking systems and better brake compatibility, are needed. These brakes were required on all European Economic Community registered commercial vehicles this fall and will shortly be required on large commercial vehicles in

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Japan. In March 1987, DOT completed a

Representative SWIFT's involvement

senger vehicles—light trucks, jeeps and

Mr. President, I am proud to have

State's highway funding would in-

South Dakota and other States. He has

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Japan. In March 1987, DOT completed a congressionally ordered study, which determined that poor brake performance contributed to one-third of all truck accidents. Since that time, both the NTSB and OTA have concluded truck safety studies that find brake performance a leading factor in truck accidents.

Finally, this measure requires DOT to establish minimum training standards for drivers of long combination vehicles and to conduct a rulemaking on establishing such standards for all entry level commercial drivers.

CONCLUSION

This legislation will reduce impaired driving, make vehicles more crashworthy, help drivers avoid accidents and improve motor carrier safety. The driving public needs these protections as part of any highway bill.

Mr. GORTON. Mr. President, I am delighted to lend my support to the passage of the Surface Transportation Efficiency Act which provides funding for highway programs, highway safety programs, and mass transit programs for the next 6 years. I was especially pleased to be named a conferee to the Commerce Committee section of the bill which included the reauthorization of the National Highway Traffic Safety Administration [NHTSA].

Last summer, I was pleased to be asked to offer the Commerce Committee section of the bill during the debate of the underlying measure. It was my and the other members of the committee's hope that by including the NHTSA bill, which had passed the Senate five times, we would be able to force the House to discuss this important piece of legislation. I am delighted to report that this strategy worked and included in the bill is what may well be the single most important piece of legislation ever passed to increase safety on the Nation's highways.

As ranking Republican on the Consumer Subcommittee, I worked with the subcommittee's chairman, Senator RICHARD BRYAN, the full committee chairman, Senator FRITZ HOLLINGS and the ranking minority member of the full committee, Senator JACK DANFORTH on the NHTSA conference. I would like to commend each of them for their work, as well as the staff support provided by Linda Lance of the majority staff and Alan Maness of the minority staff. Each of these Senators are strong and longtime auto safety advocates. While each Senator was totally committed to the Senate position, we knew the conference would be a challenge. At this point, I would like to single out the work of one of the House conferees, Representative AL SWIFT, my colleague from Washington State. Representative SWIFT is the newly named chairman of the Transportation and Hazardous Materials Subcommittee, which has jurisdiction over NHTSA in the House. In my view, Representative SWIFT's involvement and willingness to forge a compromise on this important legislation was one of the key reasons we succeeded. I would like to take this opportunity to commend him and his staff person, Scott Cooper, for the valuable contribution they have made to auto safety.

The Advocates for Highway and Auto Safety have estimated that this bill will save an estimated 12,000 lives per year and thousands of serious injuries. Probably the single most important provision in this bill is one which will mandate airbags in all vehicles sold in the United States. specifically, the bill would require a phase-in, to 100 percent by September 1, 1997, of both driver's side and passenger side airbags on both domestic and imported cars; 100 percent of all light trucks and vans would also have to be equipped with dual airbags by September 1, 1998. The phase-in schedule for cars is 95 percent by 1996 and 80 percent for light trucks and vans by 1997.

The bill also directs NHTSA to undertake a number of high priority rulemakings. Specifically, NHTSA must initiate and complete specific rulemakings in a public forum and in a specified timeframe. Every effort was made to choose rulemakings that the conferees believed would have the greatest life-saving effect. It is my belief that the timeframes provided under the conference report are in some instances longer than what NHTSA will need. Lives can be needlessly lost by unwarranted delay and it is my hope that NHTSA will make every effort to beat the schedule laid out by the conferees whenever possible.

A final rule is required on the head injury caused in accidents in which the occupant hits the interior of the car's roof rails, pillars, and front headers. This type of head impact results in about 3,000 fatalities and 8,000 serious injuries a year. Preliminary research has shown that adding inexpensive padding to pillars and rails will result in greatly reduced occupant injury and death. The conference report also requires a separate study on all other aspects of occupant head injury prevention.

Another important rulemaking required in the bill concerns rollover protection. Due to their light weight, the width of their wheel base, and height, some light trucks, vans and sport utility vehicles are highly susceptible to rollovers. In 1989, approximately 9,600 fatalities were a result of vehicle rollovers. The conference report requires a rulemaking on rollover protection and the conferees included instructions to NHTSA to move quickly on this particular rulemaking due to its lifesaving effects.

The bill also requires a rulemaking on the extension of passenger car side impact protection to multipurpose passenger vehicles—light trucks, jeeps and minivans. Currently multipurpose passenger vehicles make up approximately one-third of all new sales of passenger vehicles. NHTSA has been slow in extending the same passenger protection requirements to these vehicles as it demands in automobiles.

NHTSA must also conduct a rulemaking on the safety of child booster seats. Child booster seats are used for children who are approximately 4 to 6 years old. NHTSA is required to issue a rulemaking on these seats to assess whether there needs to be any redesign of the seats to better position the child's body in relation to lap and shoulder seatbelts.

Another rulemaking is required on possible ways to improve the design for seatbelts. NHTSA will be required to look at the effectiveness and design of certain types of belts including automatic belts, spider web belts, and belts that attach to the door. Preliminary evidence shows consumers are often failing to attach their lap belts when wearing an automatic shoulder belt and often detach spider web belts altogether. Also, NHTSA should examine whether belts should be modified for children and short adults.

NHTSA will be required to consider the need to improve brake performance on automobiles including requiring antilock brake systems. Antilock brake systems have been shown to be very effective but are primarily found on more expensive passenger vehicles due to their cost. General Motors, however, has developed a new system which seems to be quite effective and is far less costly than other systems.

One section of the Senate bill which unfortunately was not included in the conference report would have required a 5 mi/h bumper standard and a label informing the consumer of the impact of a crash that the bumper can resist without damage. I pushed hard for these provisions because they would have saved the consumer a lot of money, time, and frustration by decreasing the damage caused in parking-lot type fender-benders. I think people who have been fortunate enough not to have recently experienced a mere 5 mi/h crash would be appalled to learn how expensive this minor damage costs to repair. The Insurance Institute for Highway Safety found that two moderately priced foreign cars sustained $3,300 damage in low-speed crash tests. Other similarly priced cars sustained far less damage in identical tests. Consumers deserve to have information about how various car's bumpers perform in minor crashes. The State of California has adopted legislation that will require a label disclosing this important information, but it is my belief that all U.S. citizens should have the benefit of this information. It is my hope that NHTSA will independently initiate a rulemaking on this subject.

Mr. President, I am proud to have played a part in enacting this important bill and I urge the Senate's approval.

Mr. DASCHLE. Mr. President, I rise in support of the conference report on the Surface Transportation Improvements Act.

The agreement pending before the Senate represents a true compromise, born of conflict between the diverse demands on highway and transit programs from urban and rural areas of this country, that will initiate much needed improvements in our Nation's infrastructure over the next 5 years. In addition, its passage before adjournment will contribute significantly to the effort to bring the country out of the depths of the current recession by putting Americans to work on important construction projects. The legislation takes us in the right direction by reinvesting in our highway system, strengthening our mobility as a nation, and reestablishing the importance of our transportation system to the national economy.

I commend the authors of the compromise and their staffs for shepherding this complex piece of legislation to the floor despite late efforts by some to derail it. The bill is desperately needed. It will generate substantial momentum for the improvement of the road and bridge systems that are the lifeline for businesses, recreation, international trade and for economic development in each and every State in the Nation, and this challenge should not be further delayed unnecessarily. Moreover, putting on hold the jobs that will be created by the bill would have been unforgivable, and I applaud the conferees for their firm stance on the compromise agreement and their determination to get on with the critical task of reducing the enormous backlog of highway and bridge contruction projects throughout the country.

Of course, as with most bills of this magnitude, there are some provisions in this legislation I would like to change. I am very disappointed that the conference report does not contain the Senate level of effort provisions, which provided bonuses to low-income States that continue to pay higher taxes per capita through State efforts. I would also like to reduce the amount of spending on mass transit and put that money back into highways, where rural States like South Dakota can use it. I would like to include some tangible recognition of the costs to Western States of extreme temperatures or the per capita efforts that rural States contribute to the highway fund.

Nevertheless, this bill represents the essence of a compromise, and, overall, it is a good bill for rural America. Over the last 5 years, for example, South Dakota received approximately $420 million from the Federal Highway Program. Under the compromise, the State's highway funding would increase to $793 million for 6 years, an increase of $48 million per year.

The conference report is a clear victory for rural States over the House proposal, which would have cut many rural States out of a large portion of the funding formulas. Thus, although the overall funding for the highway program would have increased under the House bill, South Dakota's percentage share of the funding, and those of other rural States, would have remained flat or even decreased given inflation and the size of the programs.

Ultimately, considering the inequities the Senate conferees were faced with in the House bill, this compromise represents a victory for equity and for the underlying integrity of the Federal Highway Aid Program. It recognizes that each State has vast highway and transportation needs and that the entire system is only as strong as its weakest link. Efforts to short-change our rural highways make no sense to the entire system and have no place in a national transportation plan.

I urge my colleagues to support this legislation.

RECOGNITION OF RICHARD L. HOWARD

Mr. President, I would like to call to the attention of my colleagues South Dakota's Secretary of Transportation, Richard L. Howard, who has been a key, behind-the-scenes player throughout the reauthorization process.

Through his tireless efforts to monitor the various legislative proposals that have been brought forth during the highway reauthorization debate and to rally his counterparts in other rural and Western States in a united front, Dick Howard has played a signficant role in navigating Congress to the point at which we find ourselves today. He has undertaken numerous trips to the Capitol from South Dakota to advocate on behalf of rural America. He has carried that message to at least two separate hearings and countless meetings with members and staff. And he has coordinated the initiatives of over a dozen State departments of transportation on various legislative proposals.

Dick Howard managed to bring together States as far apart as Maine and South Dakota, Alaska, and Nebraska, Montana and New Hampshire—all to work for a balanced highway bill that treats rural States equitably. With the help of his able staff, Dick has provided me with voluminous documentation, charts, and analysis that have been invaluable to my own efforts to ensure this legislation recognizes South Dakota's pressing infrastructure needs.

The journey to this point has been circuitous, and the road for rural States has been filled with impediments. At each turn in that road, Dick Howard has advised me and my staff how each of the various highway reauthorization proposals would affect South Dakota and other States. He has kept abreast of the fast-breaking changes in the legislation and served his colleagues in other States departments of transportation well.

Mr. President, on the occasion of final passage of this compromise conference report, it is appropriate that I take 1 minute to recognize Secretary Howard for his efforts and his outstanding contribution to this long, but fruitful legislative process.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding we are now in morning business?

The PRESIDING OFFICER. The Senator is correct.

EXECUTIVE SESSION

UNANIMOUS CONSENT ON TREATIES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following matters:

Ex. Cal. 14. Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

Ex. Cal. 15. Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification, that the understandings recommended by the Committee on Foreign Relations to Ex. Cal. 14 be adopted; that no other amendments, understandings or reservations be in order; that any statements appear, as if read, in the RECORD, and that the Senate vote, en bloc, on the resolutions of ratification without intervening action or debate with one vote to count as two.

The PRESIDING OFFICER. Without objection, is is so ordered.

LONDON AMENDMENT TO THE MONTREAL PROTOCOL AND THE WELLINGTON CONVENTION ON LONG DRIFT NETS

Mr. PELL. Mr. President, today the Senate has before it for its consideration two treaties: an amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer and the Convention for the Prohibition of Fishing With Long Drift nets in the South Pacific. Both the amendment and the convention will significantly enhance

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excuses for stubbornly refusing to ban trade in endangered species. They have

Effective measures to limit drift net fishing are required now. But in the

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protection of the global environment and I urge my colleagues to support them.

Let me first address the amendment to the Montreal Protocol. In broad strokes, the amendment adds new ozone depleting substances to be controlled pursuant to the Montreal Protocol on Substances That Deplete the Ozone Layer. Further, it establishes a financing mechanism to promote participation by developing countries in the control regime and makes technical changes to provisions within the protocol.

At the meeting at which the amendment was opened for signature, the parties also agreed to accelerate the phaseout schedule for substances already controlled under the protocol. This decision is not part of the amendment and does not require the advice and consent of the Senate, but is nonetheless important.

The amendment has taken on particular significance and urgency in light of findings contained in the recently released Executive Summary of the UNEP/WMO Scientific Assessment of Stratospheric Ozone: 1991 that shows that ozone depletion is taking place at more rapid rates, for longer periods, and over larger areas than previously thought.

There is no quick solution to this problem. I think this bears emphasis. It shows the limits on our ability to mitigate damage to the global environment once it has begun. It underscores that, whenever possible, we should concentrate our efforts on prevention rather than mitigation.

Even with the amendment in place, the loading of ozone-depleting substances in the atmosphere will continue to rise into the next decade. The level of stratospheric chlorine—the principal agent in ozone destruction—is expected to rise from its current level of 3.3 parts per billion by volume [ppbv] today to over 4.0 ppbv between 2000 and 2005; by contrast atmospheric chlorine concentrations in the late 1970's—prior to the onset of the Antarctic ozone hole—were about 2.0 ppbv.

The impacts on human health of this accelerated ozone depletion will be severe. The Environmental Protection Agency has estimated that it could cause an additional 11.5 million incidences of skin cancer and roughly 200,000 additional fatalities over the next 50 years in the United States alone, even with the limits in the amendment in place.

Clearly more needs to be done. The committee's report calls on the administration to support:

First, the phaseout as quickly as possible of long-lived chlorofluorocarbons, methylcholoroform, carbon tetrachloride and halons; second, the substitution of long-lived CFC's with hydrochlorofluorocarbons with the lowest possible ozone depleting potential—generally those with short lifetimes; third, the recycling of HCFC's to the maximum extent possible; fourth the not-in-kind substitution of CFC's wherever practical; and fifth, the acceleration and expansion of actions to facilitate the participation and earliest possible phaseout of CFC's by developing countries.

There are likely other steps that are possible and desirable. I think the results of the UNEP/WMO panel that I mentioned earlier underscore the need for ongoing scientific research into the causes, magnitude and effects of ozone depletion. This research can help identify those substances that should be phased out most quickly and thus, to the extent possible, minimize ozone depletion.

As an aside, on Tuesday, November 19, the Committee on Foreign Relations reported Senate Resolution 95, a resolution introduced by Senator GORE, of which I am a cosponsor. The resolution calls on the administration to take a series of steps to reduce emissions of ozone depleting substances in the United States and to work through the Montreal Protocol process to strengthen international efforts to protect the ozone layer. This resolution was reported by voice vote with no opposition. I am hopeful that the Senate will be able to take up that measure shortly.

In concluding my remarks on the amendment, I want to highlight the crucial role played by the United Nations Environment Programme in the establishment and the operation of the Montreal process. It was UNEP's Environmental Law and Institutions Unit [ELIU] under whose auspices the Vienna Convention for Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer was negotiated. It is the UNEP/WMO report cited earlier that focused international attention on the need to accelerate further the phaseout of ozone depleting chemicals.

Looking beyond the issue of ozone depletion, we find UNEP active in a number of areas, including: protection of the oceans, through its regional seas program; protection of endangered species, and promoting the adoption of environmental impact assessment procedures.

I believe these activities underscore the need for UNEP and the merit of strong U.S. support for that organization. As the world increasingly faces environmental problems that require global responses, UNEP is uniquely situated to address those problems.

The other item for the Senate's consideration is the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific and Protocol I to that convention. As its name states, the convention is designed to prohibit large-scale driftnet fishing in the South Pacific.

The convention obligates parties to prohibit nationals and vessels documented under their laws from engaging in driftnet activities in the convention area. It also provides that parties not assist or encourage the use of driftnets within the convention area, and take measures consistent with international law to prohibit the use of driftnets or the transshipment of driftnet catches in waters under their fisheries jurisdiction within the convention area. Article 3 further provides that parties may take measures consistent with international law to prohibit the landing and processing of driftnet catches within their territory, prohibit importation of driftnet-caught fish whether processed or not, restrict port access and port servicing facilities to driftnet vessels, and prohibit the possession of driftnets on board fishing vessels within their jurisdiction.

The protocol essentially duplicates the provisions of the convention, but applies these obligations to distant water fishing nations. Although eligible to become party to the convention by virtue of its exclusive economic zone falling within the convention area, the United States signed the protocol at the urging of the South Pacific nations to show support for the convention's principles and to encourage other distant water fishing nations to sign.

The convention reflects concern on the part of South Pacific nations on the impact of large-scale driftnet fishing on the stock of albacore tuna in the South Pacific. The mid and late 1980's saw a vast increase in the use of large-scale driftnets and the catch of albacore tuna in the region. This increase in driftnetting triggered substantial concern in the developing nations whose economies are highly dependent on albacore tuna. Although not conclusive, scientific data indicated that the continued high levels of driftnet fishing for albacore tuna threatened to destroy the fishery. To address this concern, a series of meetings was held in Wellington, New Zealand at which the text of this convention was finalized.

Mr. President, I strongly endorse ratification of this convention, but I believe it is only a partial response to the use of large-scale driftnets. The United States must continue to push for full implementation of U.N. General Assembly Resolutions 44/225 and 45/197 calling for worldwide moratoria on large-scale pelagic driftnet fishing to go into effect by June 30, 1992.

Mr. President, these are sound treaties, they deserve the Senate's advice and consent, and I urge my colleagues to support them.

WELLINGTON CONVENTION

Mr. ADAMS. Mr. President, the Senate's action today consenting to the ratification of the Convention for the Prohibition of Fishing With Long Driftnets in the South Pacific—known

as the "Wellington Convention—is an important step. It takes us closer to ending a major threat to the environment and fish dependent economies of the South Pacific.

The convention calls upon signatory nations to take key measures, consistent with international law, to prohibit drift net fishing in the region. The measures include the following prohibitions: landing and processing of drift net fish; prohibiting the import of drift net catches; restricting access to ports and port servicing facilities of drift net vessels; and prohibiting the possession of drift nets onboard vessels within the jurisdiction of signatory states.

The convention is an important weapon in the war against the destructive and wasteful drift net fishery. The convention is a clear call to all the drift net fishing fleets to stay out of the South Pacific.

In the mid-1980's, the South Pacific became a major target of the drift net fleets of Japan, Korea and Taiwan. According to the Senate Foreign Relations Committee's report, the activity in albacore tuna fishing by drift nets in the region increased dramatically, from roughly 10 ships in 1983–84 to between 130 and 200 ships in the 1988–89 season. In the 1988–89 season, the catch of tuna caught by drift nets may have exceeded 49,000 tons. The drift net fishery clearly pushed the annual catch of albacore tuna way above the maximum sustainable level.

The Wellington Convention may offer a solution to the South Pacific fishery but it will only force foreign drift net fleets to seek out new locations to victimize and to target other species into oblivion. The mobility of the drift net fleet is the very reason why more action is necessary, including U.N. Resolutions 44/225 and 45/197, calling for worldwide moratoria on large-scale drift net fishing.

Time is running out for endangered fish and marine mammals. The National Marine Fisheries Service recently released the most detailed report to date on the devastating effects of the drift net fishery.

Look at the toll—the latest NMFS report, which covered only 10 percent of the Japanese squid fleet, documented a 1-year incidental catch of at least 1,758 dolphins, 22 whales, 545 northern fur seals, 303,464 sea birds, 3,300 salmon, 3 million pomfret and 27 leatherback turtles and a loggerhead turtle. Japan, Korea and Taiwan together allow more than 1,000 drift net fishing vessels to sail freely in the North Pacific Ocean and the rest of the world's seas. They are driven by commercial greed. They share a collective disregard for the protection of endangered species. In the face of such arrogance, the United States must adopt an aggressive position.

I am tired of hearing the same old excuses. These countries have used these excuses for stubbornly refusing to ban trade in endangered species. They have used the same excuses for continuing the commercial slaughter of whales. And I expect they will let their drift net fleets keep fishing up to and perhaps beyond the U.N. moratorium deadline. We simply will not tolerate such behavior any longer.

CONVENTION FOR THE PROHIBITION OF FISHING WITH LONG DRIFT NETS IN THE SOUTH PACIFIC

Mr. AKAKA. Mr. President, last year the Senate did the right thing and voted to ban the use of drift nets in U.S. waters or by U.S. vessels anywhere in the world. Today we are called upon yet again to do the right thing and approve the Convention on the Prohibition of Fishing With Long Drift Nets in the South Pacific.

I am pleased that the Committee on Foreign Relations strongly endorses ratification of the Convention. No one can doubt that drift nets are the scourge of the seas. They indiscriminately destroy marine life and rapidly deplete our oceanic resources. These curtains of death, which typically stretch from 30 to 40 miles and are several feet deep, literally strip-mine our oceans. Its victims include marine mammals such as the northern right whale, the Pacific white sided dolphin, dall's porpoise, and northern fur seal; sea birds such as the black-footed albatross and the sooty shearwater; the leather-backed sea turtle; and numerous other creatures whose only mistake was to become entangled in these wasteful and senseless nets.

Drift net fishing has resulted in the overharvest of tuna, marlin, swordfish, salmon, and other highly valued commerical fish, threatening the long-term viability of these fisheries. Fishermen from my home State of Hawaii report that as a result of drift net fishing, their catch of albacore tuna plunged from 20,000 metric tons per year in the 1970's to only 1,750 tons in 1989. In response, I joined Senator INOUYE in an amendment to the Magnuson Act which extends existing controls over commercial and sport fishing to include tuna fishing, in the hope of ensuring sufficient stocks of tuna for the future.

Mr. President, the Wellington Convention is a wholly appropriate response to curb the use of large-scale pelagic drift nets in the South Pacific Ocean. The many small island nations in the region are greatly dependent on albacore tuna, and the continued use of drift nets represents nothing less than an encircling noose which threatens to strangle their economies.

By ratifying the Convention, the United States expresses not only its solidarity with the nations of the South Pacific. Ratification also expresses our deep concern to protect our fragile oceanic ecosystems, defend our endangered species, and preserve sufficient stocks of fish for posterity.

Effective measures to limit drift net fishing are required now. But in the context of ensuring that there are sufficient stocks of fish and that endangered species are protected, we should also recognize that longline fishing by foreign nations and by some domestic fishers presents an equally grave challenge and danger to marine life. Longline fishing boats daily lay out lines as much as 35 miles long, each typically holding 450 to 700 baited hooks. Longline fishing is a cousin to drift net fishing in its indiscriminate nature and in the harm it inflicts upon other wildlife such as the endangered Hawaiian monk seal, the gooney bird, and other creatures.

Over 150 longline fishing vessels are now licensed in Hawaii. The fleet, much of which recently arrived in Hawaiian waters from former fishing sites in the Atlantic and the Gulf of Mexico, has soared from a manageable 45 vessels in 1987 to nearly four times as many today. Since the influx of the longline fishing fleet, longline catches have increased more than threefold from a total of 4 million pounds in 1987 to 13 million pounds in 1990. This has adversely affected traditional troll and handline fishing, where catches have decreased 16 percent during the same period. This has greatly reduced the income from the troll and handline fishing, whose fleet numbers about 2,400 vessels, consisting of full and part-time fishers.

The dominance of the longline fishers can be seen in the harvest of the highly valued blue marlin. Longlines have tripled their marlin catch in 2 years from 226,000 pounds in 1988 to 830,000 pounds in 1990. Not suprisingly, the troll/handline fishers experienced a threefold decrease in 1 year. They landed 1.7 million pounds in 1989, but only half-a-million pounds in 1990. Longline fishing is rapidly depleting Hawaii's tuna and billfish stock, threatening the survival of Hawaii's fishing industry.

Furthermore, endangered species like the Hawaiian monk seal as well as mammals such as dolphins, are threatened by longline fishing gear and techniques. The increasing number of monk seals with cut jaws and head wounds and the carcasses of drowned albatrosses—all a result of longline fishing—point to a serious problem in our waters. Troll/handline fishers face the prospect of severe economic problems and, like the monk seal, are being pushed to the limits of extinction. Hawaii's charter boat industry, which engages in recreational fishing of the blue marlin and other species, has reported a noticeable decline in catches because of the longline fishing activities. Hawaii's recreational fishing industry may soon have to be placed on the threatened or endangered species list.

The Western Pacific Regional Fishery Management Council [WESPAC],

with the approval of Commerce Sec-

This is of grave concern because human

methyl bromide in ozone depletion, the

for the phaseout of ozone depleting chemicals and the financial and tech-

plant life. It is also a concern for our businesses, our industries, the way we

the immune system. Increased ultraviolet radiation has also been shown to

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

with the approval of Commerce Secretary Mosbacher, has established a moratorium which caps the number of longline vessels operating in Hawaiian waters. Another moratorium seeks to minimize gear conflicts between longline and troll/handline fishers by keeping longline fishers from 50 to 75 miles off shore.

Both driftnet and longline fishing are threats to sea life and our vital fishing industry. A comprehensive approach to these problems, with an effective and cooperative strategy to resolve outstanding issues with the longline fishing industry and those nations engaged in driftnet and longline fishing, can result in a lasting solution which will save our oceans and preserve an important aspect of our economy.

Mr. President, ratification of the Wellington Convention is an important, but not a final, step in eradicating large-scale driftnets from our seas. The Foreign Relations Committee said it best when it said, "The Convention is only a partial response to the ongoing threat to the world's fisheries and marine environment * * * the committee believes that this destructive fishing practice should be phased out entirely." I heartily agree.

LONDON AMENDMENT TO MONTREAL PROTOCOL

Mr. MITCHELL. Mr. President, the Senate ratifies the London amendments to the Montreal protocol on substances that deplete the ozone layer. The Montreal protocols provide for phaseout by the year 2000 of production of chlorofluorocarbons [CFC's], which deplete the earth's protective ozone layer. The London amendments add additional substances to be controlled and provides a financial assistance mechanism for developing countries so that they can more easily comply with the terms of the protocol.

The London amendment adds additional CFC's to the list of substances subject to the phaseout, as well as carbon tetrachloride and methyl chloroform. These substances are important ozone depleters.

The London amendments go into effect on January 1, 1992, if 20 signatory nations ratify by that date. The United States should be one of those 20, so I am particularly pleased that we are acting on this amendment today. Only seven other nations have ratified the amendment to date, but I am hopeful that a sufficient number will do so by next year.

While it is necessary that we ratify this amendment, it is already outdated.

A recent scientific assessment under the Montreal Protocol demonstrated that for the first time the ozone layer is depleted at midlatitudes during spring and summer months.

The total ozone mapping spectrometer [TOMS] data indicate that there is approximately a 3 percent depletion of the ozone layer over the last decade. This is of grave concern because human exposure—and the risk of skin cancer—is increased because many more people are outside during these months.

Even before this data on depletion of the ozone layer were released, scientists at the National Aeronautics and Space Administration released new information showing that there is a 4 to 5 percent depletion of the ozone layer over North America. Based on this data, EPA estimated that even under the London amendment there may be an additional 12 million cancers and 200,000 cancer-related deaths in the United States over the next 50 years due to ozone depletion.

We need to act more expeditiously to protect human health and the environment from depletion of the ozone layer. Fortunately, the 1990 amendments to the Clean Air Act provide the Administrator of the Environmental Protection Agency with authority to accelerate U.S. phaseout of CFC's and other substances that deplete the ozone layer. The science demonstrates that such acceleration is necessary.

And U.S. producers have demonstrated that acceleration is possible. For example, on October 22, 1991, the same day as the scientific assessment was released, the DuPont Co. announced its intention to cease production of CFC's by 1996 and 1994 for halons. Under the Montreal Protocol, production of such substances must end by the year 2000, and previous company policy was consistent with the Montreal Protocol.

Other developed nations have accelerated their production phaseout date. Germany is committed to a 1995 phaseout date; the European Community, Canada, Australia, and New Zealand will phaseout by 1997. This is 3 to 5 years faster than under the Montreal Protocol.

The United States should not remain isolated. We have an obligation to act quickly to protect the ozone layer. The environment will not respond overnight to actions we take in the United States. Even with accelerated phaseout, the hole in the ozone layer is unlikely to repair itself for another 50 to 100 years.

A faster phaseout need not be expensive. It is my understanding that a draft technology assessment report may suggest that phaseout by 1997, for example, can be done without excessive cost. Fortunately, the price of technology appears to be decreasing over time.

I support ratification of the London amendment, but I also urge the Administrator of the EPA, Bill Reilly, to use his authority to accelerate phaseout of substances that deplete the ozone layer.

I am also concerned that we may have excluded some chemicals of concern. I hope that EPA and other interested agencies are reviewing the role of methyl bromide in ozone depletion, the level of U.S. emissions, and the availability of alternatives. I am concerned that this substance may play an important role in ozone depletion and we should be sure to act quickly to ascertain the need and feasibility of a production phasedown.

I am pleased that we are ratifying the London amendment to the Montreal protocol. I urge the EPA Administrator and the administration to act quickly to protect the ozone layer and the public from greater risk.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. BURDICK. Mr. President, I rise today to note the ratification of the London amendments to the Montreal protocol on substances that deplete the ozone layer. These amendments are vitally important to the protection of a critical global environmental resource—the stratospheric ozone layer. Without such actions, the erosion of the Earth's protective ozone shield will lead to greatly increased incidents of skin cancers and cataracts, suppression of the immune system, a significant reduction in agricultural crop yields, and damage to marine resources.

I commend my distinguished colleague from Rhode Island, Senator PELL, on his efforts to bring this important treaty to the Senate floor. By our vote here today, we will become the eighth Nation to ratify the London amendments. Ratification by 20 countries is needed to bring the treaty in force. Our actions will send an important signal to the rest of the world that there is still much we can do and must do to protect the ozone layer.

Mr. President, the Committee on Environment and Public Works has long recognized the importance of protecting and healing the ozone layer. The Clean Air Act Amendments of 1990 contain detailed provisions which require a phaseout in the production and use of ozone depleting chemicals on a schedule which roughly parallels that of the London amendments. They also require that the EPA Administrator speed up the phaseout if credible current scientific information determines a more stringent schedule is necessary to protect human health and the environment.

While I applaud the steps taken thus far to protect the ozone layer, our work is not yet done. Twice in the last 6 months, scientific assessments have shown that the ozone layer is degrading much more rapidly than had been thought. We now know that ozone depletion extends into the midlatitudes and into the summer months. Thus the impact on human health and the environment is more staggering than we estimated.

The United States must chart the course for further revision of the Montreal protocol. The United States should back an accelerated schedule

for the phaseout of ozone depleting chemicals and the financial and technical aid to make this happen in both developed and developing countries. We can start by revising our schedule for eliminating ozone depleting chemicals here at home as mandated by the Clean Air Act.

Mr. LIEBERMAN. Mr. President, I rise today to urge ratification of the 1990 amendments to the Montreal Protocol of 1987, which requires the phaseout of chlorofluorocarbons [CFC's] and halons by the year 2000. These changes come into force on the international level as soon as 20 nations ratify the amendments. Our adoption of these revisions will be an encouraging sign to the entire world.

But adoption of these amendments, while a step in the right direction, is only the first of many steps we must take if we are to curtail and correct our current policy. The world community and the United States, unilaterally, must act to speed up the phaseout of ozone depleting substance.

A recent report, commissioned by the United Nations Environmental Programme [UNEP] and the World Meteorological Organization [WMO], contains alarming new scientific information about the extent of ozone depletion. The report found that ozone layer depletion is not limited to the Antarctic and the northern latitudes of the northern hemisphere in winter, but instead occurs in the middle and high latitudes of both hemispheres in spring, summer and winter. But the most frightening part of the report may well be the fact that ozone depletion is occurring at a rate 200 times faster than had ever previously been measured or predicted.

The immediate concern for all of us, and I mean literally the entire globe, is the increased incidences of skin cancer and immunological-deficiency problems in humans, as well as potential damage to crops such as soybeans, rice and timber due to increased ultraviolet [UV] radiation.

Health experts have testified before congressional committees that increased UV radiation poses a serious threat to humans, all over the globe, in the form of immune deficiency disorders. The increased UV radiation reduces the body's ability to protect itself from infectious disease. Higher incidences of lupus, Epstein-Barr, chronic fatigue syndrome, Graves' disease and herpes simplex are but a few of the threats posed to human health by ozone depletion, according to experts. Moreover, studies currently underway in the Antarctic indicate that phytoplankton, the most basic element of the food chain, is being affected by increased UV radiation due to ozone depletion.

I'd like to also remind my colleagues that the ozone question is not just one of health concerns for humans and plant life. It is also a concern for our businesses, our industries, the way we live. Our competitors in the automotive industry appeared to be 1, if not 2 years ahead of the United States in designing auto air-conditioning that no longer uses CFC's. Reports also indicate that commercial and residential refrigeration units are being designed outside the United States that are using CFC substitutes on a quicker schedule than our domestic producers.

I could go on with further examples, but I think the point is well made. The United States needs to take the lead in the systematic phase out of ozone-depleting chemicals.

The Clean Air Act Amendments of 1990 set a timetable for the phase out of CFC's, halons and HCFC's. But section 606 of the Clean Air Act requires the administration to take steps to accelerate the phase out, if and when new data indicates that there is a further threat to health and the environment. Mr. President, I think it is clear that the new evidence demands that the schedule be accelerated.

Many nations, especially in Europe, have timetables that are ahead of our own. When the next set of international talks begin next year, I hope that the President will have acted under the Clean Air Act and participants will take note that once, the United States is at the forefront of this issue, not lagging behind as we have in the past.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. BAUCUS. Mr. President, today we will ratify the 1990 amendments to the Montreal protocol on substances that deplete the ozone layer. These amendments were adopted in London in June 1990, by the second meeting of the parties to the Montreal protocol.

The Montreal protocol, which the United States ratified in 1988, is an unprecedented effort by the nations of the world to protect a critical global environmental resource—the stratospheric ozone layer. It is a carefully constructed and periodically reviewed international effort to heal the Earth's badly frayed ozone layer.

The amendments to the Montreal protocol which we have pending before us today will, when implemented, constitute another major step forward in protecting public health and the environment from the adverse effects of stratospheric ozone depletion. In addition, by controlling the emissions of these chemicals we will also reduce the anthropogenic emissions of greenhouse gases.

The ozone layer is a natural shield that protects all living things from the sun's harmful ultraviolet radiation.

Thinning of the ozone layer allows more high energy ultraviolet radiation to strike the Earth's surface, increasing the incidence of skin cancers and cataracts, and potentially suppressing the immune system. Increased ultraviolet radiation has also been shown to damage crops and marine resources.

Destruction of the ozone layer is caused primarily by the release into the atmosphere of chlorofluorcarbons [CFC's], halons and other similar manufactured chemicals. These compounds are used primarily as refrigerants, fire extinguishers and solvents.

The London amendments significantly strengthen the Montreal protocol in several ways. They require that industrialized nations implement a number of specific actions to stop ozone depletion including:

First, a stepwise reduction in production and consumption of CFC's, leading to a complete phase-out by the year 2000;

Second, a step-wise reduction in production and consumption of halons, leading to a phaseout by the year 2000, except for essential uses; and

Third, a step-wise reduction, leading to the phaseout of carbon tetrachloride by the year 2000 and methyl chloroform by 2005.

So far only seven nations—Canada, New Zealand, China, Maldives, Sweden, Japan, and Mexico—have ratified the London amendments. I am here today to urge that the United States quickly become the next nation to do so.

Mr. President, the parties to the Montreal protocol must be commended for agreeing a year ago to phase out production of several onzone-destroying chemicals, especially carbon tetrachloride and methyl chloroform—substances that were not included in the original Montreal protocol.

Unfortunately, controls still dangerously lag behind the environmental damage these substances cause.

Under the London amendments, industry still has 9 to 14 more years to continue producing these destructive compounds. Over this period, chemical manufacturers will produce approximately 10 billion more pounds of CFC's and more than 50 percent of the total amount of halons produced to date.

Further, the London amendments fail to address, except on a voluntary basis, the production and consumption of hydrochlorofluorocarbons [HCFC's]. These chemicals are brought into the protocol as transitional substances whose production and consumption must be reported. Parties to the London amendments adopted a nonbinding resolution calling for HCFC's to be phased-out not later than 2040 and if possible, not later than 2020.

Unfortuantely, we may not have that much time.

This spring, we were given more bad news about the status of the ozone layer. Scientists at the National Aeronautics and Space Administration released new data which show that between 4 and 5 percent of the ozone layer over North America, Europe and the midlatitudes in both hemispheres

has been destroyed in the last decade.

In the letter I proposed that the

Second, recapture and recycling provisions

Lieberman, Paul S. Sarbanes, Herb

entists suspect that—just as the ice

can move immediately to consider-has been destroyed in the last decade. This rate is twice as fast as believed earlier by NASA scientists.

The Environmental Protection Agency reported that as a result, some 12 million Americans would develop skin cancer, and more than 200,000 of them would die, over the next 50 years.

And Mr. President, just when things looked bad, we found they were really a lot worse. Last month, international ozone experts working with the United Nations released new data which showed that ozone depletion is not limited to the winter months. For the first time, scientists have found that in the summertime over all of our country, the ozone layer decreases by 2- to 3-percent.

We have substantially increased the risk of skin cancer and crop damage from ultraviolet radiation at precisely the time when schoolchildren are playing outdoors and crops begin to grow.

We and our children and our children's children will be forced to reevaluate our practices of going outside during the summertime months when our exposure to ultraviolet radiation is at a maximum.

In short, we have precipitated through our actions, a major environmental crisis that requires decisive action—both domestically and internationally. Ratification of the London amendments is the next in a series of steps necessary to preserve the ozone layer.

However, while tremendous important, the London amendments do not go far enough toward protecting the Earth's ozone layer. Other actions are needed.

The Clean Air Act Amendments of 1990 require the Administrator of the Environmental Protection Agency to accelerate the phaseout schedule of ozone depleting chemicals more rapidly than the year 2000 deadline, if scientific information suggests it is necessary to protect human health and the environemnt.

The new data showing the severity of the global ozone depletion demands action by the EPA Administrator.

Mr. President, the United States is far from being the world leader on its phaseout schedule.

All of the other industrialized countries, with the exception of the United States and Japan, have committed to an earlier phaseout of ozone depleting chemicals. Germany and Nordic countries have accelerated their phaseout date to 1995; the European Community, Canada, Australia, and New Zealand are committed to 1997. Interim deadlines would also be quickened. The United States should do no less.

For this reason I have written to President Bush urging more aggressive action. This letter was cosigned by 29 of my colleagues. I would like to submit a copy of this letter, dated April 24, 1991, for the RECORD.

In the letter I proposed that the United States adopt a four point plan to demonstrate our leadership in protecting the Earth's ozone layer. The plan proposes strengthening the Montreal protocol as follows:

First, the interim phaseout schedules and final phaseout dates for all of the ozone depleting chemicals currently covered by the protocol should be accelerated.

Second, recapture and recycling provisions should be added to the protocol. Venting or releasing any chemicals from refrigeration and air conditioning units into the atmosphere should be prohibited by a date certain with new provisions analogous to those in the Clean Air Act.

Third, while the current version of the protocol allows unlimited production and use of other ozone depleting chemicals, such as HCFC's, a strengthened protocol should place limits on the production and use of such chemicals.

Finally, the parties to the protocol need to continue financial aid and technical assistance to developing countries to accelerate their participation and compliance with the terms of the Montreal protocol.

For ourselves, our children, and our children's children, the United States must provide forceful leadership on this issue.

Mr. President, I ask unanious consent that a letter to President Bush, dated April 24, 1991, from various Senators be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON ENVIRONMENT AND
PUBLIC WORKS,
Washington, DC, April 24, 1991.

The Honorable GEORGE BUSH,
The White House.

DEAR MR. PRESIDENT: We are writing to urge that you adopt a four point plan to demonstrate United States leadership on the international environmental problem of protecting the Earth's ozone layer. The plan involves specific proposals to strengthen the Montreal Protocol as soon as possible.

As you know, the current version of the Montreal Protocol as modified by the June 1990 London agreement, requires that industrialized nations implement: 1) a step-wise reduction in production and consumption of chlorofluorocarbons (CFCs), leading to a complete phase-out by the year 2000; 2) a step-wise reduction in production and consumption halons, leading to a phaseout by the year 2000 (except for essential uses); and 3) a step-wise reduction, leading to a phase-out of carbon tetrachloride and methyl chloroform by the years 2000 and 2005, respectively. Our four-point plan includes a number of provisions to modify and strengthen the Protocol.

First, the interim phase-out schedules and the final phase-out dates for all of the ozone depleting chemicals currently covered by the Protocol should be accelerated. Simply moving the final phase-out dates to the year 1997 is not sufficient. The step-wise percentage reductions for the interim years should be increased.

Second, recapture and recycling provisions should be added to the Protocol. These will achieve significant reductions in the emissions of CFCs, halons, carbon tetrachloride, methyl chloroform, and substitute compounds, such as hydrochlorofluorocarbons (HCFCs), that are destroying the ozone layer or that have the potential to contribute to global climate change. The venting or releasing of any chemicals from refrigeration and air-conditioning units into the atmosphere by date certain, should also be prohibited with new provisions analogous to those in the Clean Air Act.

Third, while the current version of the Protocol will allow unlimited production and use of other ozone depleting chemicals such as HCFCs, a revise, strengthened Protocol should place limits on the production and use of such chemicals. The limits should be designed to discourage the production of HCFCs that have relatively long atmospheric lifetimes, high ozone depletion potentials, or high global warming potentials.

Finally, the Parties to the Protocol need to continue financial aid and technical assistance to developing coutries to accelerate their participation and compliance with the terms of the Montreal Protocol.

The ozone layer is under significant attack.

Scientists have already concluded that man-made chlorinated and brominated chemicals are largely responsible for the "antarctic Ozone Hole"—the large decrease in stratospheric ozone over Antarcica in springtime.

In 1989 scientists confirmed that the same ozone depleting chlorine species found in the Antarctic are also present in the Arctic stratosphere. Thus the Arctic is primed for an ozone depletion event similar to that in Antarctica. Whether or not any future Arctic ozone depletion occurs will depend on the particular meteorology of each Arctic winter.

Most recently, NASA scientists have shown that ozone depletion is not confined to the polar regions of the globe. In fact, there has been a world-wide depletion of the protective ozone column. Specifically, new data shows a significant downward trend of three to five percent in the ozone column over the past twelve years in the northern hemisphere. This actual, measured decease is larger by a factor of two to three than the decreases predicted by current theoretical models.

The ozone layer cannot tolerate more abuse.

Thinning of the ozone layer allows more high energy ultraviolet radiation to strike the earth's surface, increasing the incidence of skin cancers and cataracts, and potentially suppressing the immune system. Increased ultraviolet radiation has also been shown to damage crops and marine resources.

The new ozone losses measured by NASA raise serious questions about the adequacy of the control measures set forth in the Montreal Protocol to protect public health and the environment. For these reasons, we urge you to place the United States in a position of world leadership and to adopt our four-point plan for strengthening the Montreal Protocol.

We look forward to working with you on this important issue.

Sincrely,
John H. Chafee, Dave Durenberger, Richard G. Lugar, James M. Jeffords, Bob Packwood, Slade Gorton, Albert Gore, Jr., Max Baucus, Harry Reid, Joseph I.

Lieberman, Paul S. Sarbanes, Herb Kohl, Dale Bumpers, Patrick J. Leahy, Timothy E. Wirth, Bill Bradley, John F. Kerry, Barbara A. Mikulski, J. Robert Kerrey, Robert W. Kasten, Jr., Terry Sanford, George J. Mitchell, Clairborne Pell, Quentin N. Burdick, Paul Wellstone, Edward M. Kennedy, William S. Cohen, Thomas A. Daschle, Richard Bryan, Howard M. Metzenbaum.

RATIFICATION OF THE LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. GORE. Mr. President, humankind has entered a new—and disturbing—relationship with planet Earth. Our industrial society—with its excessive consumption and unrelenting pollution of the land and sky—is colliding violently with the planet's delicate life sustaining processes. Our rivers and streams are often foul and lifeless; the air we breathe is thick with smog; our forests are disappearing and thousands of species are vanishing forever.

And yet, somehow we have failed to see and to feel the damage that we are inflicting. But if there is any one of our insults to the earth that has begun to open our eyes, it is the enormous hole that we have torn in the Earth's protective ozone shield. The hole is some four times larger than the size of the continental United States and it continues to grow and it now persists through all seasons of the year.

Just last month, an international team of scientists who have been monitoring and studying the ozone layer sounded a loud alarm. They discovered in April that the depletion is occurring at a rate that is 200 to 300 percent faster than had ever before been detected or predicted and that the depletion is ocurring over nearly every part of the globe. But in October they told us that, for the first time, they have found that the ozone layer is impaired not only in winter, but also in the spring and summer months when we are more likely to be out doors and when crops are at a crucial point in their growing season.

And the damage will continue to intensify. The chlorinated and brominated chemicals that we continue to pump into the atmosphere—even under the limited controls we now have in place—will destroy as much additional ozone as has already been destroyed over the last decade—so, by the turn of the century, we will experience total ozone depletion that is two times as large as that we see today.

In the near term, we may also experience particularly severe spikes in ozone loss because of the violent eruptions of Mount Pinatubo. I have been in close communication with scientists from NASA and NOAA who have been closely monitoring the impact of Pinatubo. Their preliminary findings indicate that Pinatubo may be the largest volcanic eruption this century—2 to 3 times larger than the El Chichon eruption in 1982. This is a tremendous problem because the scientists suspect that—just as the ice crystals in the polar stratospheric clouds catalyze ozone destruction over the Arctic and Antarctic—sulfur compounds that are emitted in volcanic eruptions catalyze ozone loss over the midlatitudes—that is, over our heads. Because we have continued to pump chlorine into the atmosphere, this means that losses of ozone of up to 30 percent may be experienced over the northern midlatitudes in the fall and winter.

And let us make no mistake—increased exposure to ultraviolet radiation as a consequence of depleted ozone poses a grave threat to human health. The Environmental Protection Agency estimated that the increased ozone loss that the scientists have detected will lead to some 200,000 deaths from skin cancer in the next 50 years in the United States alone. And the international team of experts expects an additional 1.6 million additional cases of cataracts as a result of the depletions.

Moreover, recent studies provide alarming evidence that increased ultraviolet radiation will, as has been suspected, wreak havoc on the human immune system—making us not only more susceptible to skin cancers, but to all infectious diseases. In recent tests, 40 percent of those who were exposed to ultraviolet radiation experienced a failure of their body's ability to fight off harmful substances. And, unlike our increased susceptibility to skin cancer, increased vulnerability to infectious disease affects all human beings—regardless of skin pigmentation.

We know too, that increased exposure to UV-B could disrupt entire ecosystems. Phytoplankton, for example, the small organisms at the base of the oceanic food chain are particularly vulnerable and again, the latest scientific results show that the ability of these organisms to grow is severely impacted by excess radiation. Should plankton populations fail, all other species that feed on plankton are in jeopardy, too.

Mr. President, I have argued that the consequences of ozone depletion require us to do all that we can to end the use of ozone destroying chemicals as quickly as possible. The London Amendments to the Montreal Protocol are an important step forward in that regard, and I urge my colleagues to vote for their immediate ratification.

But, the new scientific findings clearly indicate that phasing out chlorofluorocarbons by the year 2000 as provided for in the London Amendments simply is not fast enough. We must do more; we must move faster. Ozone loss is cumulative and the longer we wait, the more damage we inflict; the more cancers, cataracts and deaths we will suffer.

I therefore hope that, after ratifying the London Amendments, the Senate can move immediately to consideration and passage of S. Res. 95—a resolution that I introduced in April and that the Senate Foreign Relations Committee reported unanimously last week. That resolution calls on the Administrator of the Environmental Protection Agency to accelerate the phaseout of ozone destroying chemicals as he is required to do under section 606 of the Clean Air Act when there is evidence that the current schedule is not sufficient to protect human health and the environment. The resolution also urges the President to take a leadership role in the international community on this issue and to call on the parties to the Montreal Protocol to accelerate the phaseout that is required under that agreement.

Action on S. Res. 95 is required now. European countries are moving ahead on this and we need to, too. Industry also recognizes the urgency of this situation—in light of the new scientific findings, DuPont and other companies have announced their intention to stop producing these chemicals years before they otherwise would be required under domestic and international law.

I urge my colleagues to join me in calling for the immediate consideration and passage of this measure.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL IN THE UNITED STATES SENATE

Mr. CHAFEE. Mr. President, I am pleased that the Senate is acting to ratify the amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer which were adopted in London in June 1990.

I feel that the Senate can take great pride in this new step to protect the ozone layer. It was Senate action in January 1990 on the Clean Air Act amendments accelerating the phaseout of CFC's and other ozone depleting chemicals that paved the way for this new international commitment.

Chlorofluorcarbons—the CFC's—which are used in refrigeration, insulation and many other products can breakdown the ozone molecules high in the stratosphere above the Earth's surface. Although there is only a small amount of ozone in the stratosphere, it plays a very important role in shielding us from ultraviolet radiation. Too much ultraviolet radiation can increase cases of skin cancer and cataracts and may cause significant damage to plants and the ocean food chain.

In the 1970's the United States took the first action to reduce CFC emissions by banning the use of CFC's as propellants in aerosol products. In 1989, many nations of the world community joined together on the Montreal Protocol an agreement that would reduce production of CFC's by 50 percent by the year 1998. That action was spurred in large measure by the discovery of a massive hole in the ozone layer over the Southern Hemisphere in winter months.

"(5) progress in the neurosciences and be-

"(B) the Committee on Ways and Means of

(ii) in subparagraph (A)—

Since the adoption of the Montreal Protocol, new and more troubling information had been gathered. Ozone levels over the midlatitudes have been depleted more rapidly than anyone expected. This new information formed the basis for the London amendments that we are considering now and for the provisions in the Clean Air Act that the Congress adopted to guide Unites States policy.

The London amendments follow the outline of the Clean Air Act in some respects. They provide for a virtual phaseout of CFC production by the year 2000. They also provide for a phaseout of two other chemicals, carbon tetrachloride and methyl chloroform, which also deplete the ozone layer because they add large amounts of chlorine to the atmosphere as they breakdown. U.S. production of these chemicals is banned under the 1990 Clean Air Act Amendments.

Another major provision of the London amendments would provide new financial mechanisms to encourage full participation by the developing countries in this international effort to protect the ozone layer. This is most important. As everyone understands, this is a problem that can only be solved if the whole world acts together. That the United States has consistently provided strong leadership to assure world cooperation to protect the ozone layer with such success is something every American can be proud of.

But we can do more. There are three areas I would mention in particular. First, we can move out of the CFC's even more rapidly. The Clean Air Act amendments and this London agreement set a deadline of 2000 on the production of CEF's. The most recent information suggests that we must not wait another 10 years. The Clean Air Act directs the Environmental Protection Agency to accelerate that schedule when scientific information such as the recent NASA reports warrants such action. EPA should take that step and the United States should once again urge the parties joined in the Montreal Protocol to follow our lead.

Second, the Clean Air Act provides for the recapture of CFC's that might otherwise be released during the maintenance or after the disposal of various products already in commerce. Rather than simply vent the freon to the atmoshpere when an auto air conditioner is repaired, the Clean Air Act requires that the spent freon be captured and destroyed or recycled. EPA needs to use its full authority here and again we should ask that the whole world join in amendments to the Montreal Protocol that would provide for recapture of CFC's in other nations.

Third, there are a group of chemicals called HCFC's that will be produced and used as substitutes for CFC's. They are not as damaging to the ozone layer. But they are not benign. Last year the Congress adopted a careful regulatory regime for these substances that will allow us to take full advantage of their properties as substitutes to make a quick exit from CFC's, but will at the same time prevent a permanent commitment to a large HCFC burden on the stratosphere. Again, we need to urge the world community to adopt similar standards for HCFC's.

In addition to these London amendments, the Senate will soon consider a resolution sponsored by the Senator from Tennessee [Mr. GORE] that would accomplish the additional steps that I have outlined. I was very pleased to be a principal cosponsor of that resolution and I urge my colleagues to support it when it comes to the floor of the Senate.

Thank you, Mr. President.

Mr. REID. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. The question is on agreeing to the resolutions of ratification.

A division is requested. Senators in favor of the motion will rise and stand until counted. [After a pause.] Those opposed will rise and stand until counted.

Two-thirds of those Senators voting having voted in the affirmative the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

CONVENTION FOR THE PROHIBITION OF FISHING WITH LONG DRIFTNETS IN THE SOUTH PACIFIC

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, done at Wellington on November 24, 1989 (the "Wellington Convention"), and Protocol I, done at Noumea on October 20, 1990, to the Wellington Convention, subject to the following understandings:

1. that the United States signed the Convention in its own name and on its own behalf because a portion of its exclusive economic zone is located within the Convention Area. It is the United States understanding that upon becoming a party to the Convention the United States will be obligated to prohibit driftnet fishing in all areas of its exclusive economic zone within the Convention Area, and to prohibit all United States nationals and vessels documented under United States laws from fishing with driftnets in the Convention Area.

2. that Article 3 provides for measures consistent with international law to restrict driftnet fishing activities by vessels within areas under a party's fisheries jurisdiction. It is the United States understanding that the measures in Article 3 will only be applied when consistent with navigation and other international transit rights under customary international law and as reflected in the 1982 United Nations Convention on the Law of the Sea.

AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of an Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at London on June 29, 1990, by the Second Meeting of the Parties to the Montreal Protocol.

Mr. REID. Mr. President, I ask unanimous consent that the motion to reconsider the vote be tabled, that the President be notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

ALZHEIMER'S DISEASE RESEARCH, TRAINING, AND EDUCATION AMENDMENTS OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 373, S. 1577, a bill to reauthorize the Alzheimer's Disease and Related Dementias Services Research Act of 1986; that the committee-reported substitute amendment be agreed to; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1577) to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the act, and for other purposes, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alzheimer's Disease Research, Training, and Education Amendments of 1991".

SEC. 2. SHORT TITLE OF ACT.

Section 901 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 note) is amended by striking "Services Research Act of 1986" and inserting "Research Act of 1991".

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alzheimer's Disease and Related Dementias Research Act of 1991 (42 U.S.C. 11201 et seq.).

SEC. 4. FINDINGS.

Section 902 (42 U.S.C. 11201) is amended—

(1) by redesignating paragraphs (7) through (12) as paragraphs (9) through (14);

(2) by striking paragraphs (4), (5), and (6); and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the cost of caring for individuals with Alzheimer's disease and related dementias is great, and conservative estimates range between $38,000,000,000 and $42,000,000,000 per year solely for direct costs;

"(5) progress in the neurosciences and behavioral sciences has demonstrated the interdependence and mutual reinforcement of basic science, clinical research, and services research for Alzheimer's disease and related dementias;

"(6) programs initiated as part of the Decade of the Brain are likely to provide significant progress in understanding the fundamental mechanisms underlying the causes of, and treatments for, Alzheimer's disease and related dementias;

"(7) although substantial progress has been made in recent years in identifying possible leads to the causes of Alzheimer's disease and related dementias, and more progress can be expected in the near future, there is little likelihood of a breakthrough in the immediate future that would eliminate or substantially reduce—

"(A) the number of individuals with the disease and dementias; or

"(B) the difficulties of caring for the individuals;

"(8) the responsibility for care of individuals with Alzheimer's disease and related dementias falls primarily on their families, and the care is financially and emotionally devastating;".

SEC. 5. COUNCIL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 911 (42 U.S.C. 11211) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and Communicative Diseases" and inserting "Disorders";

(B) by striking paragraphs (10), (11), and (12); and

(C) by adding at the end the following new paragraphs:

"(10) the Administrator of the Agency for Health Care Policy and Research;

"(11) the Administrator of the Health Resources and Services Administration;

"(12) the Director of the National Center for Nursing Research;

"(13) the Chief Medical Director of the Department of Veterans Affairs;

"(14) the Director of the National Center for Health Statistics; and

"(15) such additional members as the Secretary of Health and Human Services (hereinafter referred to as the 'Secretary') considers appropriate.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) The Assistant Secretary for Health shall serve as the Chairman of the Council."; and

(3) in subsection (d), by striking "twice" and inserting "once".

(b) FUNCTIONS.—Section 912 (42 U.S.C. 11212) is amended—

(1) in subsection (a)—

(A) by adding "and" at the end of paragraph (3);

(B) by striking "; and" at the end of paragraph (4) and inserting a period; and

(C) by striking paragraph (5); and

(2) by striking subsection (b) and inserting the following new subsection:

"(b)(1) The Chairman of the Council shall submit to the committees listed in paragraph (2) a report containing information on—

"(A) progress made by research, sponsored by the Federal Government, on Alzheimer's disease and related dementias; and

"(B) new directions that the Council considers potentially important in research on Alzheimer's disease and related dementias.

"(2) The Chairman of the Council shall submit the report described in paragraph (1) to—

"(A) the Committee on Energy and Commerce of the House of Representatives;

"(B) the Committee on Ways and Means of the House of Representatives;

"(C) the Committee on Veterans' Affairs of the House of Representatives;

"(D) the Committee on Appropriations of the House of Representatives;

"(E) the Committee on Labor and Human Resources of the Senate;

"(F) the Committee on Finance of the Senate;

"(G) the Committee on Veterans' Affairs of the Senate; and

"(H) the Committee on Appropriations of the Senate.".

SEC. 6. ADVISORY PANEL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 921 (42 U.S.C. 11221) is amended—

(1) in subsection (a)(2), by striking "the Director of the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Administrator of the Agency for Health Care Policy and Research";

(2) in subsection (d), to read as follows:

"(d)(1)(A) Except as provided in subparagraph (B), members of the Panel appointed under subsection (a)(1) shall each serve for a term of 3 years.

"(B) Of the members appointed under subsection (a)(1) that are serving on the Panel on the day before the date of the enactment of this subsection—

"(i) five shall serve for a term that expires on such date;

"(ii) five shall serve for a term that expires 1 year after such date; and

"(iii) five shall serve for a term that expires 2 years after such date.

"(2) A vacancy on the Panel shall be filled in the same manner as the original appointment was made, and not later than 90 days after the date on which the vacancy first arises. A vacancy on the Panel shall not affect the powers of the Panel.";

(3) in subsection (f), by striking "twice" and inserting "once";

(4) in subsection (h), by striking "of $100 per day" and inserting "at the daily equivalent of the maximum rate specified for GS-15 of the General Schedule under section 5332 of title 5, United States Code,"; and

(5) by adding at the end the following new subsection:

"(i) Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), on September 30, 1996, the Panel shall be abolished and all programs established under this part shall terminate.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 923 (42 U.S.C. 11223) is amended to read as follows:

"SEC. 923. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $150,000 for fiscal year 1992, $157,500 for fiscal year 1993, $165,500 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 7. RESEARCH RELATING TO SERVICES FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DEMENTIAS AND FAMILIES OF THE INDIVIDUALS.

(a) RESPONSIBILITIES OF THE NATIONAL INSTITUTE OF MENTAL HEALTH.—

(1) GRANTS.—Section 931 (42 U.S.C. 11251) is amended—

(A) by striking subsections (b)(2) and (c);

(B) in subsection (a), by inserting "and specialized care" after "services"; and

(C) in subsection (b)(1)—

(i) by striking "Within 6 months" and all that follows through "plan shall" and inserting "The Director of the National Institute of Mental Health shall";

(ii) in subparagraph (A)—

(I) by striking "provide for" and inserting "ensure that the research conducted under subsection (a) includes";

(II) by striking clause (iii) and inserting the following new clause:

"(iii) the optimal range, types, and cost-effectiveness of services and specialized care for individuals with Alzheimer's disease and related dementias and for their families, in community and residential settings (including home care, day care, and respite care), and in institutional settings, particularly with respect to—

"(I) the design of the services and care;

"(II) appropriate staffing for the provision of the services and care;

"(III) the timing of the services and care during the progression of the disease or dementias; and

"(IV) the appropriate mix and coordination of the services and specialized care;";

(III) in clause (iv), by inserting "the evaluation of best practices for the development of" before "appropriate"; and

(IV) in clauses (v) and (vii), by striking "and nursing home services" and inserting "nursing home services, and other residential services and care"; and

(iii) in subparagraph (B), by striking "research carried out under the plan" and inserting "the research".

(2) CONFORMING AMENDMENTS.—Section 931(b) (42 U.S.C. 11251(b)) is amended—

(A) by striking "(1)";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated by subparagraph (B) of this paragraph), by redesignating clauses (i) through (vii) as subparagraphs (A) through (G), respectively.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 933 (42 U.S.C. 11253) is amended to read as follows:

"SEC. 933. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(b) RESPONSIBILITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—

(1) RESEARCH PROGRAM AND PLAN.—Section 934 (42 U.S.C. 11261) is amended to read as follows:

"SEC. 934. RESEARCH PROGRAM.

"(a) GRANTS FOR RESEARCH.—The Administrator of the Agency for Health Care Policy and Research shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and for their families.

"(b) RESEARCH SUBJECTS.—The Administrator of the Agency for Health Care Policy and Research shall ensure that research conducted under subsection (a) shall include research—

"(1) concerning improving the organization, delivery, and financing of services for individuals with Alzheimer's disease and related dementias and for their families, including research on—

"(A) the design, staffing, and operation of special care units for the individuals in institutional settings, as well as individuals in home care, day care, and respite care; and

"(B) the exploration and enhancement of services such as home care, day care, and respite care that provide alternatives to institutional care;

"(2) concerning the costs incurred by individuals with Alzheimer's disease and related

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(1) in subsection (b), by striking paragraph

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dementias and by their families in obtaining services, particularly services that are essential to the individuals and that are not generally required by other patients under long-term care programs;

"(3) concerning the costs, cost-effectiveness, and effectiveness of various interventions to provide services for individuals with Alzheimer's disease and related dementias and for their families;

"(4) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning the role of physicians in caring for persons with Alzheimer's disease and related dementias and for their families, including the role of a physician in connecting such persons with appropriate health care and supportive services, including those supported through State and area agencies on aging designated under section 305(a) (1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a) (1) and (2)(A)); and

"(5) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning legal and ethical issues, including issues associated with special care units, facing individuals with Alzheimer's disease and related dementias and facing their families.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 936 (42 U.S.C. 11263) is amended to read as follows:

"SEC. 936. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $4,000,000 for fiscal year 1992, $5,000,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 8. TRAINING AND EDUCATIONAL ACTIVITIES.

(a) ACTIVITIES.—Section 962 (42 U.S.C. 11292) is amended to read as follows:

"SEC. 962. EDUCATION OF THE PUBLIC, INDIVIDUALS WITH ALZHEIMER'S DISEASE AND THEIR FAMILIES, AND HEALTH AND LONG-TERM CARE PROVIDERS.

"(a) TRAINING AND CONTINUING EDUCATION GRANTS AND CONTRACTS.—

"(1) GRANTS AND CONTRACTS.—The Secretary, acting through the Director of the Bureau of Health Professions may make grants and enter into contracts to assist eligible entities in meeting the costs of projects—

"(A) to train the faculty of schools and graduate departments of medicine, nursing, osteopathic medicine, dentistry, public health, psychology, allied health, and clinical social work, and marriage and family therapists, to teach health care professionals, paraprofessionals, students, and family caregivers of patients with Alzheimer's disease and related dementias;

"(B) to improve the skills of health care professionals, paraprofessionals, and family care givers regarding the diagnosis, care, and treatment of Alzheimer's disease and related dementias; and

"(C) to develop and disseminate curricula relating to the care and treatment of individuals with Alzheimer's disease and related dementias.

"(2) AWARD OF GRANTS.—In awarding grants under this subsection, the Secretary shall—

"(A) award the grants on the basis of merit;

"(B) award the grants in a manner that will ensure access to the programs described in paragraph (1) by rural, minority, and underserved populations throughout the country;

"(C) ensure that the grants are distributed among the principal geographic regions of the United States; and

"(D) give preference to entities that demonstrate a multidisciplinary approach to training health professionals and paraprofessionals.

"(3) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require, including, at a minimum—

"(A) an assurance that the eligible entity will make the training programs and continuing education programs described in paragraph (1) available to—

"(i) health care professionals, including mental health professionals;

"(ii) health care paraprofessionals;

"(iii) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and to the families of the elderly; and

"(iv) family caregivers; and

"(B) an assurance that the entity will coordinate such training programs and continuing education programs with—

"(i) the Alzheimer's Disease Research Centers described in section 445(a) of the Public Health Service Act (42 U.S.C. 285e–(2)); and

"(ii) the State agency designated under section 305(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)), in the State in which the entity will provide such programs.

"(4) ELIGIBLE ENTITY.—To be eligible to receive grants under this subsection, an entity shall be—

"(A) an educational institution providing training and education in medicine, psychology, nursing, social work, gerontology, or health care administration;

"(B) an educational institution providing preparatory training and education of personnel for nursing homes, hospitals, and home or community settings;

"(C) an Alzheimer's Disease Research Center described in section 445(a) of the Public Health Service Act; or

"(D) any other public or not-for-profit sources of assistance to individuals with Alzheimer's disease or related disorders and the families of such individuals.

"(5) COORDINATION.—The Secretary shall coordinate the award of grants under this subsection with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.

"(b) NATIONAL INSTITUTE ON AGING GRANTS.—

"(1) TRAINING MODELS GRANTS.—

"(A) GRANTS.—The Director of the National Institute on Aging may award grants to eligible entities to assist the entities in developing and evaluating model training programs—

"(i) for—

"(I) health care professionals, including mental health professionals;

"(II) health care paraprofessionals;

"(III) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and the families of the elderly;

"(IV) family caregivers providing care and treatment for individuals with Alzheimer's disease and related disorders; and

"(V) personnel of local organizations (including community groups, business and labor groups, and religious, educational, and charitable organizations) that have traditionally not been involved in planning and developing long-term care services; and

"(ii) with attention to such variables as—

"(I) curricula development for training and continuing education programs;

"(II) care setting; and

"(III) intervention technique.

"(B) ELIGIBLE ENTITY.—To be eligible to receive a grant under this paragraph, an entity shall be an entity described in subparagraph (A), (B), or (C) of subsection (a)(4).

"(2) EDUCATIONAL GRANTS.—The Director of the National Institute on Aging is authorized to make grants to public and nonprofit private entities to assist such entities in establishing programs, for educating health care providers and the families of individuals with Alzheimer's disease or related disorders, regarding—

"(A) caring for individuals with such diseases or disorders; and

"(B) the availability in the community of public and private sources of assistance, including financial assistance, for caring for such individuals.

"(3) AWARD OF GRANTS.—The Director of the National Institute on Aging shall award grants under this subsection in accordance with the requirements specified in subparagraphs (A) through (C) of subsection (a)(2).

"(4) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Director of the National Institute on Aging at such time, in such manner, and containing or accompanied by such information, as the Director may reasonably require, including, at a minimum, an assurance that the entity will coordinate programs provided under this section with the State agency designated under section 305(a)(1) of the Older Americans Act of 1965, in the State in which the entity will provide such programs.

"(5) COORDINATION.—The Director of the National Institute on Aging shall coordinate the award of grants under this subsection with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 964 of such Act (42 U.S.C. 12294) is amended—

(1) by inserting "(a)" after "964.";

(2) in subsection (a), as designated by paragraph (1) of this section, by striking "this part" and inserting "sections 961 and 963"; and

(3) by adding at the end the following new subsections:

"(b) There are authorized to be appropriated $5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(a).

"(c) There are authorized to be appropriated $2,000,000 for fiscal year 1992, $2,000,000 for fiscal year 1993, $2,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(b)(1).

"(d) There are authorized to be appropriated $5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(b)(2).".

SEC. 9. ALZHEIMER'S DISEASE CENTERS.

Section 445 of the Public Health Service Act (42 U.S.C. 285e-2) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following new paragraphs:

"(2) Notwithstanding section 496(b), Federal payments made under a cooperative agreement or grant under subsection (a) may be used for construction of the centers described in subsection (a).

"(3) As used in this subsection:

"(A) The term 'construction' does not include the acquisition of land.

"(B) The term 'training' does not include research training for which National Research Service Awards may be provided under section 487."; and

(2) by adding at the end the following new subsection:

"(d) There are authorized to be appropriated to carry out subsection (b)(2) such sums as may be necessary for fiscal year 1992 and each of the subsequent fiscal years.".

SEC. 10. GRANTS FOR PROMOTING INDEPENDENCE AND PREVENTING SECONDARY DISABILITIES IN PERSONS WITH ALZHEIMER'S DISEASE.

Section 445C of the Public Health Service Act (42 U.S.C. 285e–5) is amended by adding at the end the following new subsection:

"(d) The Director of the Institute shall develop, or make grants to develop—

"(1) model techniques to—

"(A) promote greater independence, including enhanced independence in performing activities of daily living and instrumental activities of daily living, for persons with Alzheimer's disease and related disorders; and

"(B) prevent or reduce the severity of secondary disabilities, including confusional episodes, falls, bladder and bowel incontinence, and adverse effects of prescription and over-the-counter medications, in such persons; and

"(2) model curricula for health care professionals, health care paraprofessionals, and family caregivers, for training and application in the use of such techniques.".

So the bill (S. 1577), as amended, was deemed read a third time and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

JAMES MADISON MEMORIAL FELLOWSHIP

Mr. REID. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 3932 relating to the James Madison Memorial Fellowship, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am pleased to join Senator HATCH in introducing legislation to make minor changes to the enabling statute for the James Madison Foundation.

This bill makes minor substantive changes to the Madison Foundation statute to enable the foundation to operate more effectively and efficiently.

The bill makes two changes to the foundation's enabling statute: First, it provides that a board member whose term has expired may serve a limited time beyond the expiration of his term until his successor takes office; second, it provides that the Madison Foundation may begin in the next academic year to award fellowships for graduate study to students who plan to become teachers.

I urge my colleagues to pass this measure expeditiously.

EXTENSION OF PROGRAMS FOR EDUCATION OF HEALTH PROFESSIONALS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 337, H.R. 3508, relating to the Public Health Service Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

The PRESIDING OFFICER. Is there objection to immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I commend the distinguished chairman of Senate Labor and Human Resources Committee for his commitment to the education and training of health professionals through the reauthorization and expansion of the Public Health Service Act. This bill will go a long way toward encouraging access to health care in rural and other medically underserved areas.

In addition, I thank my colleague for his willingness to include a provision in H.R. 3508 to enable a smooth transition to occur due to the passage of the Nutritional Labeling and Education Act of 1990. The nutrition labeling bill is yet another example of the chairman's commitment to the good health of our Nation's citizens. Enacted last November, this bill will ensure clear and accurate food labeling so that American consumers are sure to have the information necessary to choose a healthful diet.

Because of the need to ensure continuity and consumer certainty in understanding the significance of particular kinds of labeling, the nutrition bill included a national uniformity in labeling provision. A separate provision was also included to allow States to petition the Secretary of Health and Human Services for an exemption to the uniformity requirement when the States had a concern about particular informational needs.

Unlike most of the provisions to assure uniformity in labeling, Federal preemption with respect to content requirements called standards of identity, became effective on date of enactment of the bill. The immediate effective date of this section, combined with the need to create a formal procedure for exemption petitions, has resulted in problems for purchasers of maple syrup in Vermont.

The Vermont law regarding the contents equirements for maple syrup assures consumers in Vermont that maple syrup is at optimum density and contains no salt or chemical preservatives. Unfortunately, Federal law allows for a more watery syrup, containing salt and other additives, to also be called maple syrup.

Section 301 of title III of H.R. 3508 will enable Vermont to continue its current policy regarding the purity and thickness of maple syrup until the Secretary is able to consider Vermont's petition for exemption from the weak Federal contents requirements for maple syrup. This will give Vermonters the security of knowing that the maple syrup they have used and enjoyed for years will continue to be the same superior product.

Vermont is also concerned about the potential impact of the Nutrition Labeling and Education Act on other portions of the Vermont Maple Program, such as the effect of the new law on grading standards. However, we are confident that the petition process provided for in the nutrition bill will enable Vermont's needs to be addressed by the Secretary of Health and Human Services in due course.

I commend the drafters of this legislation for their foresight preemption provisions and their solution in enabling the Secretary to grant exemptions to the national uniformity in food labeling requirements.

I look forward to working with the bill's sponsors toward ensuring that the goals of the Nutrition Labeling and Education Act are in fact achieved.

AMENDMENT NO. 1447

(Purpose: To provide for a substitute amendment)

Mr. REID. On behalf of Senator KENNEDY, I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. KENNEDY, and Mr. HATCH) proposes an amendment numbered 1447.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I am extremely gratified by the Senate's expeditious passage of S. 1933, the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991. The fact that this legislation has been approved unanimously by the Senate reflects the broad support for this legislation that is intended to address the Nation's alarming shortage of primary care practitioners, nurses, public health, and allied health professionals.

The critical shortages among allied health and nursing fields have impeded the provision of quality care. They have already forced some hospitals to reduce services, close beds or units, and refer patients to other facilities.

Over the past 5 years, the proportion of graduates from medical schools planning to enter primary care specialties has decreased from 30 to 23 percent. Currently about 2,000 communities in this country are designated by the Federal Government as health professions shortage areas, with over 4,300 additional physicians required to provide needed primary care services. These figures mean that 30 million people are without access to primary and preventive care services.

A major source of primary care providers in underserved or rural communities comes from nonphysician providers, mainly nurse practitioners, certified nurse midwives, and physician assistants. There are over 20,000 nurse practitioners and 4,300 certified nurse midwives in practice, but for every additional of these nurses that graduates, there are at least four medically underserved communities requiring their services. Further, the percentage of physician assistants working in primary care has dropped from 74 to 55 percent between 1978 and 1989; and the percentage of physician assistants practicing in rural areas has been reduced by over half since 1981.

All of these problems are compounded by the rising cost of education in the health professions. Increasing numbers of students are dependent on the Federal Government for assistance to finance their education. In 1976, the Health Education Assistance Loan Program [HEAL] was created to provide financial assistance to graduate students in high-tuition health professions schools, and to help provide access to a health professions education. Since then, HEAL has insured more than 300,000 loans totaling over $2.6 billion in loan principal to students in 11 health professions. Unfortunately, problems exist in the HEAL Program that Congress must address. The rising costs of default has forced the Congress to appropriate $25 million in fiscal year 1991 and an estimated $61 million in fiscal year 1992. This bill, S. 1933, includes important improvements to the HEAL Program.

S. 1933 also reauthorizes programs and provides new opportunities to train additional health professionals in the following critical areas: First, mid-level primary care providers such as nurse practitioners, nurse midwives, nurse anesthetists, and physician assistants; second, primary care physicians such as in family medicine, general internal medicine and general pediatrics; and third, allied health professionals in shortage fields such as physical therapists, occupational therapists, respiratory therapists, dental hygienists, and clinical laboratory technologists.

S. 1933 provides important incentives to improve the geographic distribution of health professionals, and increase access to health care in medically underserved and rural communities, reversing recent trends that show that fewer physicians and other health care personnel are choosing to work in primary care fields and in medically underserved and rural communities.

S. 1933 was introduced on November 7, 1991, and was marked up in the committee on November 13, 1991, passing unanimously. The bill and the committee intent is described in detail in Senate Report 102–227 which accompanies this legislation.

S. 1933 is a bipartisan effort, a product of a great deal of thoughtful consideration concerning the Nation's future needs for health professionals in all fields and specialties. I commend Senator HATCH and other members of the Senate Labor and Human Resources Committee the other interested members of the Senate who helped to develop this comprehensive bill.

By the unanimous passage of S. 1933, the Senate is sending a clear message that we are committed to training an adequate supply of health professionals to meet the Nation's future needs. I look forward to working with my colleagues in the House toward early enactment of S. 1933.

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

• Mr. HARKIN. Mr. President, I rise in strong support of H.R. 3508, the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991. I want to commend our chairman, Senator KENNEDY, for his leadership in crafting this important bill and bringing it forward today. Because of its many component parts, it is always a difficult and complex measure to put together. And, as usual, the chairman has done a fine job.

This legislation, Mr. President, is especially important in light of what I hope will be our imminent action on a national health plan for the American people. All of the debate on health care reform tends to focus on how we are going to pay for insurance to cover the health bills of Americans. While this is indeed a fundamental component of the issue, we too often overlook the need to assure that we have sufficient skilled and properly trained professionals to deliver health care services in the first place. In many areas of the country, particularly in rural America, people are denied decent access to health care because of a shortage of appropriately trained health professionals. So that to simply to provide people in these areas will not be sufficient to solve the serious health care problems they face. In addition, health care professionals generally are not adequately trained in the prevention of disease and disability and the promotion of good health.

The Health Professionals Training and Nurse Education programs play a vital role in improving Americans' access to quality health services. And the amendments to these programs contained in S. 1933 will further strengthen nurse education programs and allied health training programs and places a greater emphasis in all of the programs toward disease prevention and health promotion and to primary care for our Nation's many rural and medically underserved communities. This is exactly the direction we need to be moving in federally supported health professionals training programs.

I am very pleased, Mr. President, that this bill incorporates many of the provisions of S. 694, the Allied Professionals Promotion Act of 1991, legislation I introduced along with Senators DASCHLE, SIMON, ADAMS, INOUYE, and AKAKA. These provisions, which include an increase in the authorization for training programs, the creation of an Advisory Council on Allied Health Professionals and the establishment of a Division of Allied Health within the Department of Health and Human services, are designed to alleviate the severe national shortage of allied health professionals. These health professionals make up two-thirds of our Nation's health care work force, and they share important responsibilities for the delivery of health care services—from those related to the prevention, identification, and evaluation of diseases and disorders, to health promotion services, to rehabilitation and health systems management services. The lack of an adequate supply of these key health professionals is limiting many Americans' access to quality health care and is adversely affecting hospitals, nursing homes, home health agencies, clinical laboratories, rehabilitation facilities, school systems and other service providers. These shortages are particularly acute among rehabilitation professionals such as occupational therapists, physical therapists, speech-language pathologists, respiratory therapists and other whose skills and services are so important in the provision of care to older Americans, the chronically ill and children and adults with disabilities.

Information from a variety of sources indicates that the shortage of allied health professionals will steadily worsen in the years to come without a renewed Federal effort to train additional personnel. A recent study by the Institute of Medicine projected that by the year 2000, the demand for physical therapists will increase by 87 percent and the demand for occupational therapists will jump by over half—52 percent. A national survey of over 7,000 hospitals found that vacancy rates for

16.4 percent for physical therapists 13.6 percent for occupational therapists, and 9.9 percent for speech-language professionals are significant all over the nation and are forcing facilities to reduce services, close beds and divert patients to other hospitals.

Mr. President, the Department of Health and Human Services, in its seventh annual report to the President and Congress on the status of health personnel in the United States noted that "* * * the allied health field is faced with growing shortages of personnel in a number of critical professional categories, reductions in program enrollments, closures of training programs, underrepresentation of minorities and shortages in faculty and trained researchers." Additional studies, surveys and reports from diverse organizations and agencies such as the American Medical Association, the National Institute on Aging, the Department of Education, the Easter Seals Society and the Institute of Medicine all point to this significant and growing threat to our nation's ability to provide important health and rehabilitative services.

In my own State of Iowa, we face severe shortages of allied health professionals. The vacancy rate for occupational therapists is 21 percent, some 5 percent higher than the national average. Fully 56 counties in Iowa have no occupational therapist. Iowa's current statewide vacancy rate for physical therapists is approximately 10.6 percent and is significantly higher in many rural parts of the State. Over the next 5 years, rural hospitals estimate a need for 62 additional physical therapists. Each year, the University of Iowa physical therapy program is only able to accept 30 students of the 250 individuals who apply. Our State's 21 percent vacancy rate for respiratory therapists is well over double that of the national average. In addition, Iowa is suffering from shortages of laboratory technicians, emergency medical technicians, medical technologists and other allied health professionals.

Mr. President, the bill's emphasis on increasing the number of health professionals generally in rural and other medically underserved areas is a critical step forward. Nearly 2,000 communities, home to over 33 million Americans, face a shortage of health personnel and have been designated as shortage areas by the Federal Government. These communities, including at least 23 in my State of Iowa, are literally starving for access to basic medical care. Small town after small town have no doctor or other basic health care provider, such as a nurse practitioner, nurse midwife or physician assistant. Over 150 towns in Iowa are actively seeking family doctors and many more face similar problems as health care providers retire and replacements must be found.

S. 1933's focus on underserved communities builds on last year's enactment of the National Health Service Corps Revitalization Act. The Labor and Human Resources Committee took the lead in reworking that critical program and with this legislation, it is once again taking up the cause of Americans who live in these areas across the nation.

Mr. President, perhaps the most important component of S. 1933 is its emphasis on the prevention of disease and disability and the promotion of good health. The bill requires that priority be given to applicants for competitive grants that can demonstrate that their training programs have—or are making progress toward the development and integration of—effective approaches and educational strategies to promote health and prevent disease and disability. It also requires that the Council on Graduate Medical Education develop mechanisms to assure the inclusion of health promotion and disease and disability prevention as a part of graduate medical education. As you know, these provisions are similar to those contained in S. 506, legislation I introduced earlier in the year but not under the jurisdiction of this committee. My bill would have required graduate medical education programs to include training in disease prevention and health promotion in order to be eligible for Medicare reimbursement.

These provisions represent a crucial change in the direction of our health care system—a direction towards common sense principles of prevention. These changes, which I have been promoting as a key component of my "Prevention First" initiative, will both improve the quality of health enjoyed by Americans and significantly reduce its costs by producing health professionals who are trained to prevent as well as to treat.

As you know, in addition to my position as a member of the labor and Human Resources Committee, I have the privilege to serve as chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies of the Appropriations Committee. This subcommittee funds the programs authorized by S.1933. I am pleased to say that we were able to provide an increase of $34 million over last year's level. Even this modest increase was very difficult to achieve given the fact that our subcommittee had $1 billion less that would have been necessary to provide all its programs level outlays and the fact that, as has been the case for the past 11 years, the administration requested virtually no funding for these important health professions programs. I call upon the President to reconsider his longstanding opposition to these critical health programs and to provide for their adequate funding in his budget request for fiscal year 1993.

Mr. President, there are many other important provisions in this bill—too many to list here. But I again applaud your efforts to bring this health professions bill to us and urge that it be adopted and was moved to conference with the other body so that this bill might be sent to the President prior to our adjournment.•

Mr. COATS. Mr. President, thank you for the opportunity to speak in support of S. 1933. I preface my remarks today by saying that I am pleased to be a cosponsor to this important legislation.

I believe the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991 does a very good job of targeting needed dollars to mid-level primary care providers, primary care physicians, and allied health professionals. In my home State of Indiana, this means improved funding for programs that train and serve: Nurse practitioners, nurse midwives, nurse anesthetists, physician assistants, physical therapists, occupational therapists, clinical laboratory technologists, and primary care physicians for professionals serving in general pediatrics, family medicine, and general internal medicine. These are the professionals that deliver the babies in a small town like Paoli or prepare elderly senior citizens for surgery in cities like Elkhart to the north.

Why is this reauthorization so important? The 1990 report from the Health Resources and Services Administration on "states' assessment of health personnel shortages: Issues and concerns," listed severe manpower shortages in each of these areas. A few alarming statistics shine light on why this reauthorization is so important, especially to rural areas.

First, over the past 5 years, the proportion of graduates planning to enter the primary care specialties has decreased from 30 percent to 23 percent. In fact, data from the 1990 national registry matching program indicates only 55 percent of the available family practice residency positions were filled.

Second, graduates for nurse anesthetist programs dropped by 44 percent from 1980 to 1990. Several rural hospitals in Indiana rely solely on these professionals. Undoubtedly, these mid-level practitioners play a role in solving our access problem to health care.

Third, today over 20,000 nurse practitioners and over 4,300 certified nurse midwives serve in the United States. Unfortunately, for every nurse practitioner and nurse midwife serving today, there are at least four medically underserved areas needing their services.

Fourth, registered nurses provide the hands-on care that is essential to treatment in rural areas. In Indiana, projections show that about 8,330 licensed practical nurses and nearly

35,000 nursing assistants will be needed by the year 2000. This means financial assistance for Health Services Administration and student traineeships.

Mr. President I believe the strength of S. 1933 is that new incentives will motivate health professionals to serve in medically underserved areas. Additionally, the student loan repayment provisions in the Health Education Assistance Loan Program [HEAL] have been strengthened to enhance individual responsibility.

Mr. President, this bill sends a strong message that the U.S. Congress is willing to provide needed resources to help train the health professionals who meet the health needs of the United States. Today, I join several of my committee colleagues in strong support of S. 1933. My hope is that our colleagues on the Appropriations Committee will follow through with adequate funding for these important programs in the next few years.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1447) was agreed to.

The PRESIDING OFFICER. Are there further amendments? Is there further debate? If not, the bill is deemed read for the third time and passed.

So, the bill (H.R. 3508), as amended, was deemed read a third time and passed.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. LAUTENBERG) appointed Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, Mr. HATCH, and Mrs. KASSEBAUM conferees on the part of the Senate.

NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 97, S. 367, a bill to amend the Job Training Partnership Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 367) to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. METZENBAUM. The President, the Nontraditional Employment for Women Act, S. 367, will create opportunities for thousands of women to obtain employment in fields with good wages, benefits, and job security. The evidence is clear that women participating in training programs under the Job Training Partnership Act have been clustered in programs for clerical, retail, and other traditionally female fields of work. Indeed, a recent General Accounting Office analysis on gender disparities in services provided by the JTPA indicates that many women receive classroom training for lower wage occupations. At the one service delivery area the GAO examined so far, 43 percent of the women who received classroom training were trained in clerical occupations.

It is no secret that technicians earn more than typists, and carpenters earn more than cashiers. Women deserve their fair share of the training available for the jobs with the best wages, benefits, and earning potential. The NEW Act will open the door to these jobs by increasing Federal efforts to prepare women for traditionally male fields of work.

The bill creates a 4-year, $6 million demonstration program to aid in the development and replication of programs to prepare women for careers in construction, electronics, and other traditionally male fields of work. The NEW Act is bipartisan legislation with impressive support from Wider Opportunities for Women and the National Women's Law Center, among other groups. I am pleased to be joined in this effort by Senators HATCH, KASSEBAUM, PACKWOOD, KENNEDY, PELL, ADAMS, SIMON, MIKULSKI, DODD, and HARKIN.

The NEW Act is a modest measure, but it will go a long way toward improving employment opportunities for women participating in programs under the JTPA. I thank my colleagues for their support in moving this legislation forward.

The PRESIDING OFFICER. Are there further amendments? Is there further debate? If not, without objection, the bill is deemed to be read the third time and passed.

So, the bill (S. 367) was deemed read a third time and passed, as follows:

S. 367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nontraditional Employment for Women Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this Act are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 3. DEFINITION.

Section 4 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(30) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work."

SEC. 4. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), (10), and (11) as paragraphs (6), (7), (8), (9), (10), (11), and (12), respectively;

(2) by inserting after paragraph (4) the following new paragraph:

"(5) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (12), as redesignated in paragraph (1) above, by—

(A) striking "and" at the end of subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) adding after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment.".

SEC. 5. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) of the Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) of the act is amended by—

(1) redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) inserting after paragraph (8) the following new paragraph:

"(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

SEC. 6. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

SEC. 7. STATE EDUCATION COORDINATION AND GRANTS

(a) STATE EDUCATION COORDINATION AND GRANTS.—Section 123(a) of the Act is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) inserting the following new paragraph at the end thereof:

"(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

(b) USE OF FUNDS.—Section 123(c) is amended—

(1) in paragraph (2)(B) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)"; and

(2) in paragraph (3) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)".

SEC. 8. USE OF FUNDS.

Section 204 of the Act is amended by—

(1) redesignating paragraphs (27) and (28) as paragraphs (28) and (29), respectively; and

(2) inserting after paragraph (26) the following new paragraph:

"(27) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment.".

SEC. 9. DEMONSTRATION PROGRAMS.

Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

"SEC. 457. (a)(1) From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between the Job Training Partnership Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under the Job Training Partnership Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontradition employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

SEC. 10. REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 457 of the Job Training Partnership Act.

(b) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 11. DISCRIMINATION.

(a) For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age

SEC. 12. EFFECTIVE DATE

This Act and the amendments made by this Act shall take effect upon the date of enactment of this Act, except that the requirements imposed by sections 4, 5, and 6 of this Act shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JUDICIAL NATURALIZATION ACT OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 3049, the Judicial Naturalization Act of 1991, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1448

Mr. REID. On behalf of Senators KENNEDY and SIMPSON, I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KENNEDY (for himself and Mr. SIMPSON) proposes an amendment numbered 1448.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Are there further amendments?

Mr. SIMPSON. Mr. President, I rise to join my colleague, Senator KENNEDY—the chairman of the Immigration Subcommittee—to urge the adoption of H.R. 3049, the judicial naturalization bill.

This bill is the result of a compromise between those Members of Congress who wish to place the fewest impediments possible before aliens wishing to become citizens and the judges who work in our Federal and State courts. Before 1990, all immigrants were naturalized by Federal district or State courts. The Immigration Act of 1990 made that process swifter by allowing the Attorney General to naturalize aliens.

Some judges expressed disappointment that they no longer were able to preside at the happy occasion of administration of the oath of citizenship. In addition, many Members of Congress agreed that the courts added a necessary ceremonial aspect to this important step in an immigrant's life. Therefore, this bill strikes an intelligent compromise: It gives authority to administer the oath of citizenship back to the courts for 45 days after the alien becomes eligible. If the court fails to act within 45 days, then the Immigration Service may administer the oath of citizenship.

I salute my good friend from Kentucky, Congressman RON MAZZOLI, for this fair and responsible compromise bill, and I encourage my colleagues to support it.

Mr. President, Senator KENNEDY and I intend to offer two immigration bills to H.R. 3049, as amendments.

In amendment No. 1, we are attaching language which reflects the compromise agreement between organized labor and artist groups reflected in S. 1776 and H.R. 3048, regarding the admission of foreign artists, entertainers, and other similar specialty immigrants. This is essential legislation which will ensure that we will have a continued flow of international artists and cultural exchange into the United States, and from the United States to foreign countries.

I would like to make a few specific remarks to some portions of this amendment, which is title II in the amendment offered by Senator KENNEDY and myself:

Proposed section 214(c)(4)(B)(ii) enables the Attorney General, in consideration of special circumstances, to waive the international recognition requirement for P–1 groups and to rely instead on national recognition.

This provision is designed primarily to benefit entertainment groups from countries such as Canada and Australia that may find it difficult to demonstrate recognition in more than one country except through access to the United States, due to such factors, for example, as limited access to media or consequences of geography. In these types of special circumstances, the Attorney General may waive the international recognition requirement.

For individuals under section 101(a)(15)(O)(i), except for those in motion picture or television production, where there is both a labor organization and a peer group that is not a labor organization, an advisory opinion from one of them is all that is required to adjudicate the petition. However, if the advisory opinion is not from the labor organization, the Attorney General will forward the petition to the labor organization, as required by section 214(c)(6)(B).

Subsection (c) of section 206 deletes references to nation-to-nation exchanges in order to clarify that what is required for those seeking to enter the United States under section 101(a)(15)(P)(ii) is that they be part of an exchange program between organizations, not nations, that represents a fair balance over a reasonable period of time; numerical equivalency is not required. The consultations for P–2 petitions shall be on the issue of whether those for whom P–2 petitions are submitted are part of such an organization-to-organization exchange program; no substantive standards apply to the participants in such programs.

I would like to note that it is the sponsor's intention that new paragraph 214(c)(6)(C) of this bill, which state that the Attorney General is not required to consult on visa applications where the applicant successfully demonstrates there is no appropriate peer group, labor organization or other person or persons, applies to all O and P category applicants. Thus, regulations in this area should cover aliens seeking entry for a motion picture or television production.

In amendment No. 2, we are attaching a compromise version of the Immigration Technical Corrections Act of 1991 (S. 1620 and H.R. 3670). This amendment, which will be title III of the substitute amendment, would make certain technical changes to the Immigration Act of 1990. The 1990 act made sweeping changes in our immigration laws, and these technical changes are the inevitable fine-tunings that must be done whenever legislation this broad in scope is enacted. The technical changes in this package have been agreed to by Democrats and Republicans of both House and Senate Immigration Subcommittees.

Included in the changes are improvements in the H–1B visa program, which employers use to bring in skilled aliens for temporary employment. These improvements: First, clarify the wage rate that employers must pay to H–1B aliens and to their own workforce, and second, alter the standard for penalizing employers, so that employers who make good-faith efforts to pay the correct wage rate would not suffer any penalties if the wage rate they selected

is later proven to have been inaccurate. I would like to thank representatives of the employer community and organized labor for their cooperation and assistance in drafting this language, which has been approved by all interested parties.

I would like to make just a few comments regarding the specific contents of title III:

First, this title clarifies that, when an employer seeks to hire an H–1B worker, the employer is not required to use any specific methodology to determine that the alien's wage complies with the wage requirements of the act and may utilize a State agency determination, such as SESA, an authoritative independent source, or other legitimate sources of wage information. Employers are known to use a variety of legitimate methods for determining appropriate wages, and we do not intend to mandate any specific change to these practices.

Second, in determining the actual wage level paid to other individuals with similar experience and qualifications for the specific employment in question, we intend the specific employment to mean the specific position held by the H–1B worker at the place of employment. By similar experience and qualifications, we intend factors that should be considered to include experience, qualifications, education, job responsibility and function, specialized knowledge, and other legitimate business factors.

Third, this title clarifies how complaints against employers of H–1B workers are to be handled and that the complaint process must differentiate between inadvertent or good faith failures or mistakes on the one hand and willful violations of employer obligations on the other. The system we envision works like this: If a complaint alleges that an employer has not provided the required wage of an H–1B worker, the employer is given the opportunity for a hearing and, if the allegation proves true, may be ordered to raise the worker's salary and to pay back wages. Other administrative remedies, including civil fines and debarment from the program, may be imposed on a wage complaint only if the Secretary finds a willful failure to meet a condition of subparagraphs (1)(A) (i) or (ii), by which we mean a knowing disregard for the requirements of these subparagraphs. If an employer establishes a good faith basis for its determinations, that will be a complete defense to a charge of willful failure to meet its obligations. Of course, if it is determined that the employer intentionally violated its other obligations in regard to the H–1B worker, administrative remedies may also be imposed, such as a one year bar on petitioning for alien workers.

Fourth, this title underscores that the H–1B program's labor condition application process is complaint-driven.

Mr. President, I urge the adoption of this legislation.

Mr. SEYMOUR. Mr. President, I am pleased to join today with the chairman and ranking member of the Immigration Subcommittee, Senators KENNEDY and SIMPSON, in support of their amendment to H.R. 3049, the Judicial Naturalization Amendments of 1991. I am particularly pleased that title II of this amendment contains the provisions from H.R. 3048. Passage of this legislation finally will bring to an end the controversy with respect to the admission of "O" and "P" nonimmigrant visas for performing artists, entertainers, and athletes.

The purpose of this legislation is to correct the flaws found in the Immigration Act of 1990. Though the proponents of the House-drafted provisions creating the "O" and "P" visas argued last year that these new categories would not represent a departure from the current H–1 visa category, it was clear after passage that this was not the case. In fact, after the Immigration and Naturalization Service published proposed regulations governing the "O" and "P" visas last July, it became strikingly clear that these provisions would have a significantly adverse affect on the ability of talented artists, entertainers and athletes from sharing their excellence and innovation in our country.

California is well-known throughout the world as a cultural mecca of creative motion pictures, music, and other unique forms of arts and entertainment. It thrives in this role because of the significant contributions and performances given by first-rate talent from every corner of the globe. Thus, it was no surprise when the leaders of the California arts and entertainment community first met with me and my staff to express their strong concerns that the "O" and "P" provisions and regulations would artificially restrict the cultural exchanges that are essential to their programs.

At the same time, I also heard from concerned Californians who rightly feared that any change in the 1990 act may undermine effective enforcement mechanisms and procedures that attempt to limit abuse of the nonimmigrant visa process. Abuse of this process has had a real and adverse affect on employment opportunities in this country to equally qualified Americans.

Furthermore, I was concerned that the provisions in the 1990 act, if left unchanged, would prompt other nations to retaliate and impose unnecessary travel and visa restrictions on American entertainers. Despite the fact that exporting American arts and entertainments this Nation's third largest generator of trade surplus, many countries currently have arbitrary restrictions on nonimmigrant visas for American artists and specialists. If we expect these nations to reduce their unfair barriers, then we must set the example and pursue fair nonimmigrant regulations and effective enforcement of those regulations. This balanced approach serves both goals of protecting American jobs and sharing the accomplishments of foreign and American artists and entertainers.

Fortunately, a balanced approach was achieved last September. With the assistance of my colleagues and their staffs of the Immigration Subcommittee, leaders of the arts community and organized labor worked diligently on compromise legislation. This legislation, S. 1776, of which I am a cosponsor, was introduced on September 30, and was largely incorporated in the House companion legislation, H.R. 3048, and in title II of the amendment to the legislation before us today, H.R. 3049.

We sought compromise. We got compromise. That is the reason we are able to take quick action on this legislation so that it may be sent to the President and signed into law before the end of this year.

Specifically, title II does the following: Repeals the 25,000 ceiling on "O" and "P" visas, and requires the General Accounting Office to conduct an investigation on the impact of the "O" and "P" visa procedures on the American labor force and the ability of American artists to obtain similar visas abroad; amends the arbitrary 1-year association requirement for P–1 applicants by exempting 25 percent of the performers and entertainers in the group seeking entry; eliminates the 3 month out-of-country rule for P–2 and P–3 nomimmigrants; clarifies the definition of "O" nonimmigrants with extraordinary ability in the arts to mean "distinction;" and amends the consultation requirement that gives labor organizations an opportunity to submit an advisory opinion on possible "O" and "P" applicants, but reaffirms that the Attorney General maintains full discretion to deny or accept a nonimmigrant application.

Mr. President, we cannot ignore the tremendous contributions made by the arts and entertainment industry to our national economy and cultural diversity. They must continue now and in the years ahead.

So I am pleased that with passage of this compromise legislation, all sides of this issue—international arts organizations, the American arts and entertainment community, and organized labor—can claim victory. They worked together to achieve this important compromise and in so doing, ensured that American audiences will be able to enjoy the best and most innovative artists and entertainers the world has to offer.

Finally, Mr. President, I want to take a moment to congratulate my distinguished chairman and the distinguished ranking member of the Immi-

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gration Subcommittee and their exemplary staff for their efforts to reach a fair and balanced resolution on this important matter. It is said that all the world's a stage. With this legislation, America can continue to be a stage for all the world.

Mr. KENNEDY. Mr. President, for the RECORD, and for the benefit of my colleagues, let me state what we are considering with this substitute amendment. We are making some technical corrections and clarifications to last year's major immigration reform legislation—the Immigration Act of 1990. They have been cleared on both sides, as well as with our counterparts on the House Judiciary Committee. They are noncontroversial, but they are necessary.

As our colleagues may remember, the opportunity to achieve final action, after a decade-long effort to secure immigration reform came only in the last days before the 101st Congress was scheduled to adjourn sine die. It came when the House completed action October 3, 1990, on a bill previously passed by the Senate the year before.

That gave conferees only a matter of days to resolve major differences between bills that were several hundred pages long. Inevitably, drafting errors and oversights occurred.

On August 1 of this year, the Senate adopted a technical corrections bill, S. 1620, which was introduced by Senator SIMPSON and myself. This Senate passed bill is reflected in title III of the pending substitute amendment. But there are two additional titles that amend and correct the Immigration Act of 1990.

TITLE 1 OF AMENDMENT

The first title relates to restoring court-administered naturalizations. Last year, we acted to provide for administrative naturalizations as a means of assuring that large backlogs would not grow in naturalization petitions—as was becoming the case in many districts. These backlogs were posing unnecessary and unfair impediments to those seeking to become U.S. citizens. Although the legislation provided that court-administered ceremonies should continue, the actual naturalization would be completed administratively.

Many judges subsequently expressed their concern that this unnecessarily denied the participation of courts where there was never a backlog problem, and denied the naturalization process of the solemnity of a court administered oath of citizenship.

In order to deal with these concerns, Congressman MAZZOLI, the House subcommittee chairman, and JACK BROOKS, chairman of the Judiciary Committee, hit upon a reasonable compromise—a compromise we probably should have considered during our conference on the legislation last year, had we had sufficient time.

It allows courts to have 45 days to administer naturalizations, but if they can not during that period of time, then an applicant may choose to have it completed administratively by INS. This assures that the courts have a role, but also that naturalization backlogs do not grow because of crowded court dockets.

Mr. President, this is a good compromise which I support. It has already passed the House of Representatives overwhelmingly. Our amendment adopts the House bill with some technical amendments on the fee structure to assure that naturalization fees administered by the courts do not become prohibitive or an impediment to citizenship.

Of all immigration related fees that should be kept to a minimum, I believe naturalization fees are first among them. We do not want a fee to become an obstacle for some with less means from accomplishing what our laws and policies encourage them to do—that is to become full participating citizens of the United States, with all the rights and responsibilities that implies.

TITLE II OF AMENDMENT

Mr. President, title II of our substitute amendment relates to revisions in the new O&P visa categories for the temporary admission of artists, entertainers and athletes. Later in the debate I will go into more detail on the revisions we make, and explain the intent of these changes. But title II basically reflects the bill Senator SIMPSON and I introduced (S. 1776), which has been favorably reported last week to House floor by the House Judiciary Committee.

In short, both the Senate and House Judiciary Committee have cleared title II of this amendment.

TITLE III OF AMENDMENT

Finally, as I indicated at the outset, the final title reflects the technical corrections bill (S. 1620) adopted by the Senate on August 1 and reported out of the House Judiciary Committee last week.

H–1B VISAS

Among the corrections contained within this legislation are changes to the so-called H–1B visa for certain aliens coming to work temporarily in the United States.

The corrections incorporated address problems raised by academic institutions and businesses. We would anticipate, with these corrections, that the H–1B visa will be more functional. However, we expect to review this visa category thoroughly in the coming year as we see how it is implemented.

The first problem which these corrections address is the rigid wage determination formula contained in the provisions of the Immigration Act of 1990. The corrections to section 101(a)(15)(H)(i) of the Immigration and Nationality Act, as amended by the Immigration Act of 1990, clarify that when an employer seeks to hire an H-1B worker, the employer is not required to use any specific methodology to determine that the alien's wage complies with the wage requirements of the Act and may utilize a state agency determination, such as a SESA, an authoritative independent source, or other legitimate sources of wage information.

Second, in determining the actual wage level paid to other individuals with similar experience and qualifications for the specific employment in question, we intend the specific employment to mean the the actual set of duties and responsibilities to be performed by the H–1B worker at the place of employment. By similar experience and qualifications, we intend factors that should be considered to include experience, qualifications, education, job responsibility and function, specialized knowledge, and other such legitimate factors.

Third, we clarify the standards by which complaints against employers of H–1B workers are to be handled and that the complaint process must differentiate between inadvertent or good faith failures or mistakes on the one hand and willful violations of employer obligations on the other.

We would envision the system to work as follows: If a complaint alleges that an employer has not provided the required wage to an H–1B, worker, the employer is given the opportunity for a hearing and, if the allegation proves true, may be ordered to raise the worker's salary and to pay back wages. Other administrative remedies, including civil fines and debarment, may be imposed on a wage complaint only if the Secretary of Labor finds a willful failure to meet a condition of subparagraphs (1)(A)(i) or (ii), by which we mean a knowing disregard for the requirements of these subparagraphs. If it is determined that the employer violated its other obligations in regard to the H–1B worker, administrative remedies may also be imposed with a one year bar on petitioning for alien workers.

Finally, the H–1B corrections underscore that enforcement of the program's labor condition application process is complaint driven and that the Department of Labor's responsibility is to check applications they receive "only for completeness and obvious inaccuracies." And it is furthermore our intention, in the corrections regarding the posting of the applications, that the documents which must accompany the posted application be only those which are necessary to support the application.

Another correction clarifies the authority of the Attorney General to release certain aliens from detention, pending their deportation hearings. In including this provision, which amends

section 242(a)(2) of the Immigration and Nationality Act, we intend that aliens be permitted to exercise all rights to be a hearing, as allowed under section 242. Furthermore, we expect that should an abuse of the Attorney General's discretion occur, this abuse will be fully challengeable in court.

In conclusion, Mr. President, this substitute amendment providing for Immigration amendments and technical corrections has been carefully reviewed and drafted in a bipartisan fashion in consultation with the House Judiciary Committee, as well as with all the relevant departments of the executive branch.

It is noncontroversial, but it is extremely important that we make these corrections in a timely fashion as we begin the full implementation of the immigration act of 1990.

I urge the adoption of the substitute amendment.

O AND P VISA REVISIONS

Mr. KENNEDY. Mr. President, I would now like to take this opportunity to review in more detail the reforms this amendment brings to the O and P visa provisions on the temporary admission of artists, entertainers and athletes to the United States. As I indicated, this section reflects the provisions of the bill (S. 1776), which Senator SIMPSON and Senator SIMON joined me in introducing last September, and which has been reported favorably by both the House and Senate Judiciary Committees.

One of the more controversial provisions of the Immigration Act of 1990 has turned out to be the creation of these new O and P nonimmigrant visas for performing artists and athletes. In the final drafting of the conference report on this section of the bill, the terms governing the issuance of these visas went considerably beyond what was understood during our discussions at the time.

To correct this, Mr. President, we have met over the last several months with representatives of organized labor and those representing the fields of the arts, culture, entertainment; and athletics. The arts community had expressed alarm over the the new O and P visa provisions. They perceived last year's changes as being not only a major departure from current practice, but a serious threat to their artistic programs.

To provide remedial changes while we study this issue further, over the past several months, our subcommittee staff have undertaken lengthy consultations with all parties to reach a compromise. The bill we are offering today is that compromise, and it is supported by the following interested parties.

From organized labor, represented by the Department for Professional Employees, AFL–CIO, the following have been consulted: Actors' Equity Association; American Federation of Musicians; American Federation of Television and Radio Artists; American Guild of Musicial Artists; International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada; International Brotherhood of Electrical Workers; National Association of Broadcast Employees and Technicians; Screen Actors' Guild, and the Writers' Guild of America—East.

From the arts community, the following have agreed: the American Symphony Orchestra League; OPERA America; Dance/USA; American Arts Alliance; Association of Performing Arts Presenters; International Society of Performing Arts Administrators; National Association of Performing Arts Managers and Agents; Western Alliance of Arts Administrators; North American Folk Music and Dance Alliance; Columbia Artis Management Inc.; International Creative Management Inc. and subsidiaries; Shaw Concerts, Inc.; the Recording Industry Association of America; the League of American Theatres and Producers; Ringling Bros. and Barnum & Bailey Circus; and the Big Apple Circus.

To clarify the legislative history behind the changes being made by this amendment, let me review the principal revisions our bill makes to the new O and P visa categories:

First, we would repeal the proposed 25,000 ceiling on P–1 and P–3 individuals. We then require the General Accounting Office to undertake a 2½-year study and report to Congress. The GAO will be required to provide information on admissions under these and other categories, and on laws, regulations and practices elsewhere that affect the American labor force in the arts and entertainment field.

In undertaking this study, Mr. President, it is my intention to ask the GAO to review this issue in a very broad fashion. We are aware of the importance of encouraging the free and fair interchange of artists and cultural activity between nations. The new P–2 visa provision for reciprocal arrangements between organizations in this country and other lands underscores this interest. The purpose of these arrangements should be to open doors of opportunity for U.S. citizen and resident alien artists, entertainers and support personnel while welcoming such people from other countries. More should be done.

Therefore, to assist the Congress, the GAO will study the employment opportunities of U.S. citizen and resident alien artists, entertainers and support personnel both here and abroad, the extent of nonimmigrant alien employment in these occupations and the impact of practices by other governments that may inhibit the ability of U.S. citizens and resident aliens to obtain employment in the arts, entertainment, and supporting occupations, to have their art and skills embodied in audiovisual materials and sound recordings disseminated and enjoyed in other lands, and to earn fair compensation for their efforts abroad.

This will allow Congress to consider the GAO report, as well as to receive the first report of the new commission on immigration reform established in last year's bill. That commission is charged with reviewing all aspects of U.S. immigration law and policy, and the changes made by the 1990 Act, including the nonimmigrant O and P visas.

We believe this is a fair compromise between those who believe these nonimmigrant visas should be capped at some limit, and those who have argued that any ceiling is arbitrary and unnecessary.

Second, we significantly modify the requirement that P–1 visa applicants must have a 1-year association with the group with which he or she is entering. As rigidly drawn last year, this requirement and certain associated rules are unrealistic given the realities of the entertainment industry and the performing arts community. We also provide expressly for essential support personnel in this category.

Third, we clarify the consultation requirements for O, P–1 and P–3 petitions to assure that if the collective-bargaining representative or other appropriate union has not had the opportunity to provide an advisory opinion, that entity shall receive a copy of the petition and supporting documentation with an opportunity to comment before the attorney general adjudicates the petition. We have taken various steps to streamline the consultation process.

Fourth, we extend the requirement for the return transportation for dismissed employees, as is now done for other nonimmigrant visa categories. If an employee is dismissed before the end of the period of his authorized admission, then the employer should pay reasonable costs for return transportation home.

Fifth, in some of the other provisions of this legislation, we clarify the definition of extraordinary ability for O–1 applicants and drop the need for the attorney general to determine their prospective benefits to the country; eliminate the 3-month out-of-country rule for P applicants; return fashion modeling to the H–1b category, but not as a specialty occupation; clarify the nature and purpose of P–3 applicants seeking to enter to perform culturally unique programs; and require the attorney general to report certain statistics annually respecting the H and Q, as well as the O and P categories.

These are obviously technical immigration provisions, but they have enormous consequences for the performing arts community. We believe these revisions represent a fair and satisfactory compromise between the interests of organized labor and the foreign artists, performers and athletes who come each year to the United States, bringing their talents their art, their performances to share with American audiences.

Finally, Mr. President, let me state the intent behind some of the other statutory changes we are making.

The first relates to the new standards for classification of P–1 nonimmigrants in section (3) of our bill.

The P–1 visa category is for aliens who make an important contribution to the quality of a performance group that is recognized as being outstanding in more than one country, including the United States. Such international recognition is not earned easily; it reflects a consistently outstanding level of performance sustained over a substantial period during which time the group has been tested in a number of performances for varying material. Recognition for outstanding quality extends to the group itself and not to any particular entertainment, play, composition, or event the group may present.

The requirement that a group be together for a sustained and substantial period of time serves to ensure that its reputation is not ephemeral. The attorney general, in his discretion, shall determine the length of time necessary to serve this purpose. Most groups should be able to produce appropriate documentation, the foreign sale of sound and/or video recordings, and significant critical reviews to demonstrate that their reputation is international in scope.

However, in subsection (b), in what will become section 214(c)(4)(B)(ii) of the Immigration and Nationality Act, we recognize that despite being outstanding in their discipline for a sustained and substantial period of time, it may be difficult for entertainment groups to demonstrate recognition in more than one country, due to such factors, for example, as limited access to media—at home or abroad—or consequences of geography that make it difficult for entertainment groups in certain countries to establish an international reputation except through access to foreign markets. Canadian entertainment groups, for instance, often are unable to establish international recognition unless they establish themselves in the United States as well as in Canada. In these types of special circumstances, the attorney general shall consider other types of evidence, advisory opinions, and/or appropriate expert opinion to adjudicate the petition, and may waive this requirement.

Since the reputation of the group is paramount, the P–1 provision requires the integrity of the group as a cohesive unit to be maintained. Because the quality of the work for which the group has achieved recognition rests on the collective efforts of the individuals who comprise it, this provision requires that individual alien performers and entertainers—but not essential support personnel—seeking to enter the United States as part of an outstanding group must establish that they have had a substantial relationship with the group ordinarily for at least 1 year.

To accommodate the everyday business and artistic operations of various types and sizes of groups, subsection 214(c)(4)(B)(iii)(I) of the act will waive the requirement of 1-year's association for 25 percent of the performers or entertainers in a group. Subsection (B)(iii)(II) will also enable the attorney general to waive the 1-year association requirement for illness or other unanticipated and exigent circumstances, such as death, injury, discharge, or resignation of a member; unforeseen events such as natural disasters; unanticipated emergencies that require the substitution of long-term members by others; and the presentation of certain works which require that the group be augmented by additional personnel performing critical roles.

Subsection (B)(iv) will make special provision for alien circuses and circus personnel, in light of their unique needs, circumstances and traditions.

In implementing these provisions, the Attorney General should avoid requiring unnecessary paperwork and documentation. For instance, for purposes of applying under subsections (B)(iii) (I) or (II), petitioners should be required only to provide a brief statement listing the particular circumstances that being the alien within the exception. Further initial individual documentation should prove unnecessary, particularly because the key issue will be the reputation of the group itself. Also, of course, a consultation with a labor organization prior to adjudicating the petition will be required. If an issue arises respecting a particular group member, the petitioner will have an opportunity to supply additional evidence.

Second, section (4), which contains revised consultation requirements, has been restructured. Petitioners for O–1 aliens not involved in motion picture or television productions will have the flexibility to consult with a broad range of individuals, groups or other entities, including labor organizations, with expertise in the particular field. However, inasmuch as a purpose of the consultation requirement is to provide notice of the petition to the affected labor organization, when the petitioner does not directly contact an appropriate labor organization prior to filing, the Attorney General is obligated to notify the national office of the collective-bargaining representative, if any, or an otherwise appropriate labor organization, by forwarding a copy of the petition and supporting documents. Collective-bargaining representative means the labor organization with which an employer has a legal obligation to bargain.

As used in this legislation, we intend the term "advisory opinion" to mean a written opinion respecting the qualifications of the beneficiary or beneficiaries of the petition in relation to the requirements of sections 101(a)(15)(O), (P)(i) and (P)(iii). To avoid imposing undue burdens, in the case of labor organizations, the terms may also mean a written comment regarding any aspect of the proposed beneficiary's or beneficiaries' qualifications under the respective sections, or simply a letter of no objection. Provision of an advisory opinion fulfills the Attorney General's consultation obligation under these sections.

With regard to O–2 beneficiaries in the motion picture and television field, we have broadened the nature of the underlying activities on the basis of which accompanying O–2 aliens can request entry despite their lack of a preexisting working relationship with the principal O–1 alien. We also restore the original understanding between organized labor and that industry in that an O–2 consultation will now be required with an appropriate union and a management organization, except in cases where there is no labor organization or peer group for an applicant.

For all O, P–1, and P–3 petitions, where the petitioner establishes that no appropriate peer group—including a labor organization—exists, the attorney general will render a decision without further consultation. This does not preclude the Attorney General from obtaining the same from a closely related peer group, labor organization or other person or persons, nor does it obviate the need for an advisory opinion, letter of no objection, or comment upon the later establishment of such entity. To implement this provision, the Attorney General should establish and maintain a list of occupations for which no appropriate peer group or union exists. Upon request, the Attorney General should provide notice of the disposition of each petition to any person, persons, labor or other organization that has provided an advisory opinion or comment.

In administering these provisions, it is essential that processing times be kept to an absolute minimum so as not to interfere with normal industry operations. For instance, in addition to the times specified in the statute, where additional evidence is required or rebuttal evidence may be appropriate, the attorney general should ensure that the petitioner receives a request and a copy of any negative comments promptly, to enable the petitioner to respond without further delaying adjudication of the petition.

Out of concern to avoid unnecessary paperwork and undue burdens, we have made a number of additional changes. For instance, if an O–1 artist or entertainer seeks readmission to the United States under a new petition within 2 years of having undergone a consultation as required in section 214(c)(6)(A), no new consultation will be required, although organized labor will still receive notice of the petition. In addition, we have provided that the attorney general may short any relevant processing timeframes for emergency reasons. Similarly, the attorney general may set expedited consultation procedures for all O or P applicants where needed to accommodate exigencies or scheduling in relation to productions or events. We provide similar arrangements for athletes. It is our intention that, in establishing such emergency procedures, the attorney general incorporate the use of telecopiers, and even the telephone where appropriate, provided adequate written administrative record is created.

Third, regarding section (d), the definition of extraordinary ability for O nonimmigrants, we intend that the attorney general adopt specific criteria to establish distinction in the arts, including essentially the same regulatory standards for prominent aliens of distinguished merit and ability as in effect on September 30, 1991. Thus, an alien could qualify under this section by meeting a number of standards for distinction; alternatively, the alien could qualify by winning a major, nationally or internationally recognized competition that is generally regarded as a benchmark for oustanding achievement in the alien's field. When the competition is of such prestigious nature, the Attorney General may consider second or third place ranking as sufficient qualification. The concept of distinction in the arts encompasses not only performers, but all essential technical personnel. Thus, the term "arts" should include: fields of creative activity or endeavor such as, but not limited to, music, opera, dance, drama and theater, painting and sculpting, literature, photography and circus performances, and encompassing not only principal creators and performances but other essential persons such as, but not limited to, directors, set designers, lighting designers, sound designers, choreographers, choreologists, conductors, orchestrators, musical, language or other coaches, arrangers, musical supervisors, costume designers, makeup artists, fight masters, stage technicians, and animal trainers.

We recognize that most O–1 individuals will be able to produce appropriate documentation to fulfill the specified criteria. However, some individuals may be unable to produce the types of documentation normally relied upon to prove extraordinary ability; for example, certain circus performers or persons who reside in societies where there has not been a modern tradition of compensation based on market principles or where access to media has been limited. In these instances, the attorney general may consider other types of evidence combined with appropriate advisory opinions and other comment.

Fourth, in section 6(d), we recognize the special needs and potential of P–3 culturally unique performers or groups. In addition to enabling them to perform, we wish to encourage them to pass along their craft by teaching or coaching. We also acknowledge that without the ability to present, teach or coach, their unique cultural talent in commercial as well as noncommercial venues, culturally unique performers may be unable to afford U.S. tours; indeed, without access to the U.S. market, they may be unable to afford to continue their art altogether.

In conclusion, Mr. President, I believe these changes, although highly technical, are extremely important to both the arts community and in the interest of American labor.

Mr. SIMON. I wish to join my friend, Senator KENNEDY, the chairman of the Immigration and Refugee Affairs Subcommittee, in offering this substitute amendment.

The immigration-related amendments we offer today make a number of minor and technical changes to the Immigration Act of 1990, adjust the 1990 reforms in our naturalization procedures and address problems related to the O and P entertainer visa provisions.

These amendments are the product of separate Senate and House legislation and contain provisions that have been cleared by the subcommittees on each side and have the support of the parties most affected.

The Immigration Subcommittee in the Senate is the smallest subcommittee so it is easy to discern the intentions of the Senate sponsors. In addition to the points raised by Senator KENNEDY, I wish to especially reiterate my strong support for the naturalization provisions and the O and P visa adjustments.

The naturalization amendments revise current law to address valid concerns that have been expressed by members of the judiciary in Illinois and around the Nation. These amendments are also cognizant of the great necessity to eliminate all unnecessary barriers to naturalization. These amendments ensure that naturalization ceremonies can take place in Federal district courts which can best provide the proper decorum and seriousness of purpose as we welcome newcomers, as citizens, to the American family.

At the same time, in enacting this legislation we are mindful of the backlogs that do take place in the naturalization process. No extraordinary delays should be caused by this legislation. In those areas of the country that cannot readily schedule naturalization ceremonies at the district court, a prospective citizen should not be forced to wait. This legislation provides that flexibility.

This package of amendments also addresses another potential barrier to naturalization. Between December 1989 and April 1991, the Immigration and Naturalization Service [INS] raised naturalization fees from $50 to $160 and revenues exceeded expenses related to the naturalization process. Following action taken by Congress in the Immigration Act of 1990, the INS partially reduced fees to $90. The confusion around the amount of fees assessed for naturalization prompted various House Members to request the General Accounting Office [GAO] to conduct a study on the INS fee structure. GAO has not yet conducted this study and it is not expected that the report will be complete until some time next year.

In the meantime, there is substantial concern that fees may be raised once again. I am pleased, therefore, that the naturalization amendments require the Attorney General to consult with the Judiciary Committees of the House and Senate prior to raising naturalization fees and to report to Congress where the fees fit into its overall budget.

A tremendous amount of work has gone into the O and P provisions of the Immigration and Nationality Act. These provisions repeal the previous 25,000 visa annual cap for P–1 and P–3 nonimmigrants that was established by the 1990 Immigration Act. They also require the General Accounting Office to report to Congress by the end of fiscal year 1993 on the use of O and P visas by artists, entertainers, and athletes to determine how many visas are actually used. The report will enable Congress to better evaluate the impact these visas have on entertainer employment and earnings among American workers. The report will also provide information on the policies of other countries regarding Americans who seek this work abroad.

Another important change contained in these provisions relate to the peer group consultation requirement of section 207 of the Immigration Act of 1990. These provisions clarify that if there is a collective-bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization for purposes of the peer group consultation requirement. These provisions give the peer group 15 days in which to file its response or "no objection" letter. The Attorney General will then give the employer an opportunity to respond and adjudicate the application within 14 days.

Where no appropriate peer group or labor organization exists and the em-

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States Army, shall retain all emoluments,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned

(b) COMPREHENSIVE SERVICE CENTERS.—Section 101(a) of the Abandoned Infants As-

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ployer can establish this to the satisfaction of the Attorney General, no advisory opinion or comment is required. I simply echo Senator KENNEDY's statement of subcommittee intent that this provision applies to all O and P category applicants. Thus, regulations in this area should also cover aliens seeking entry for a motion picture or television production.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1448) was agreed to.

Mr. DIXON. Mr. President, I am pleased the Senate has passed H.R. 3049, the judicial naturalization ceremonies amendments. I introduced the Senate companion legislation, S. 1726, which attempted to provide a balance between the numbers of individuals ready to be sworn in as new citizens, and the number of people who could conduct the ceremony.

Prior to enactment of the Immigration Act of 1990, Federal judges had exclusive authority to administer the oath of allegiance. The Immigration Act eliminated the exclusivity and replaced it with a choice system. Individual applicants could choose to be sworn in by a judge in a formal ceremony, or by an employee of the Immigration and Naturalization Service. The purpose of the choice system was to cut back on the mounting backlog of individuals waiting to be sworn in as new citizens of the United States.

The choice system, while appealing, had an unintended negative effect. It lessened the significance of the swearing-in ceremony. It also effectively stripped the judges of their historic role of administering the oath of allegiance.

Clearly, the Immigration Act went too far in its attempt to address a very real problem: Too many people to be sworn in, and too few judges and ceremonies.

S. 1726, and H.R. 3049 attempted to achieve a balance of interests, and I believe the legislation enacted today has achieved that balance. The legislation provides a temporary exclusive authority for the judges, while also allowing for Immigration and Naturalization Service officials to conduct ceremonies in a number of situations.

Mr. President, the oath of allegiance culminates a multi-year process by which an immigrant seeking a new and better life is fully incorporated into the American citizenry. It is their idealism, their desire to fully contribute to the American dream, that continue to enrich our country.

H.R. 3049, as did my companion legislation, S. 1726, balanced the historic importance of a judicial ceremony with the realities of an overburdened system. I applaud the Senate for acting so swiftly on it, and I thank my distinguished colleagues, Senators BIDEN, KENNEDY, SIMPSON, and SIMON, for their leadership in shepherding this legislation through the Judiciary Committee to the Senate Floor.

I thank my colleagues.

The PRESIDING OFFICER. Without objection, the bill is considered read for the third time and passed.

So, the bill (H.R. 3049), as amended, was passed.

The title was amended.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 1776—INDEFINITELY POSTPONED

Mr. REID. I ask unanimous consent that Calendar No. 339, S. 1776, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGES IN THE COMPOSITION OF THE EASTERN AND WESTERN DISTRICTS OF VIRGINIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 829, regarding changes in the composition of the eastern and western districts of Virginia, just received from the House; that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (H.R. 829) was deemed read the third time and passed.

MYRTLE FOESTER WHITMIRE DIVISION OF THE ARKANSAS NATIONAL WILDLIFE REFUGE

Mr. REID. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 2105, designating the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge," and that the Senate then proceed to its immediate consideration, that the bill be deemed read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2105) was deemed read the third time and passed.

Mr. BENTSEN. Mr. President, this bill designates a section of the Arkansas National Wildlife Refuge as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge" when the area is acquired by the U.S. Fish and Wildlife Service. This designation honors a family that has recognized the significance of their land and the value it has for Texas and the Nation. The approximately 5,000 acres of vital wetland habitat known as Rancho la Bahia has been in Myrtle Foester Whitmire's family for over 100 years. With the generous cooperation of the Whitmire family, this area will be preserved for the wildlife of the area and for the enjoyment of generations to come.

The area represents some of the finest remaining wetlands on the Texas midcoast. The wetland types occurring in the area have been identified in the national wetlands priority conservation plan as being rare in occurance and that this acquisition will ensure preservation of high quality waterfowl habitat.

The Whitmire family should be commended on their desire to preserve this land. I am encouraged to know that local support is high for naming the area after Mrs. Whitmire and that her name would bring about a positive response from the general public. The Arkansas National Wildlife Refuge is a part of preserving a significant area of the Texas coast.

APPOINTMENT OF ROBERT CURRY AS ADMINISTRATOR OF THE FAA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2098, a bill to provide for the appointment of Robert Curry as Administrator of the FAA, introduced earlier today by Senator FORD, that the bill be deemed read three times and passed and the motion to reconsider be laid upon the table; that any statements appear at an appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2098) deemed to have been read the third time and passed is as follows:

S. 2098

Be it enacted by the Sentate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration. Major General Curry's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Army, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Major General Curry shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Army, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United

States Army, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Major General Curry shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Army.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

Mr. FORD. Mr. President, I am introducing legislation which would enable the appointment, notwithstanding that provision of current law, of Jerry R. Curry to the poisition of FAA Administrator without affecting the status, rank, and grade which he holds on the retired list of the U.S. Army. During the time in which he serves as Administrator, Mr. Curry will not receive any of his retired pay.

This legislation is necessary because the FAA statute requires that the Administrator be a civilian. This waiver applies only to Mr. Curry, and not to any future administrators, unless another waiver is passed for them.

I ask my colleagues to act promptly on this legislation, so that it may be sent to the House, and we may be prepared to confirm Mr. Curry soon.

ORDER TO PRINT HEARING RECORD OF POW-MIA INVESTIGATION POLICY AND PROCESS

Mr. REID. Mr. President, on behalf of Senator KERREY, the chairman of the Select Committee on POW-MIA Affairs, I ask unanimous consent to print the hearing record, POW-MIA Investigation Policy and Process, from November 5, 6, 7, and 15, 1991, during adjournment, and the printing of additional copies for a total of 2,000 copies.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1532.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1532) entitled "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act Amendments of 1991".

SEC. 2. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (3), by striking "the vast majority" and inserting "an unacceptable number";

(2) in paragraph (6), by striking "the number of cases" and all that follows and inserting the following: "the number of infants and young children who are infected with the human immunodeficiency virus (which is believed to cause acquired immune deficiency syndrome and which is commonly known as HIV) or who have been perinatally exposed to the virus or to a dangerous drug;";

(3) in paragraph (7)—

(A) by striking "more than 80 percent of" and inserting "many such" before "infants"; and

(B) by striking "with acquired immune deficiency syndrome";

(4) in paragraph (8)—

(A) by inserting "such" before "infants"; and

(B) by striking "with acquired immune deficiency syndrome" and

(5)(A) in paragraph (9), by striking "and" at the end;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by inserting after paragraph (9) the following new paragraph:

"(10) there is a need to support the families of such infants and young children through the provision of services that will prevent the abandonment of the infants and children; and".

SEC. 3. PROGRAM OF DEMONSTRATION PROJECTS REGARDING INFANTS AND YOUNG CHILDREN ABANDONED IN HOSPITALS.

(a) PRIORITY REGARDING CERTAIN INFANTS AND YOUNG CHILDREN.—

(1) IN GENERAL.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in carrying out the purpose described in subsection (a) (other than with respect to paragraph (6) of such subsection), the applicant will give priority to abandoned infants and young children—

"(1) who are infected with the human immunodeficiency virus or who have been perinatally exposed to the virus; or

"(2) who have been perinatally exposed to a dangerous drug.".

(2) CONFORMING AMENDMENTS.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) in subsection (a)—

(i) paragraph (6), by striking "with acquired immune deficiency syndrome" and inserting "described in subsection (b)";

(ii) in each of paragraphs (2), (4), (5), and (7), by striking ", particularly those with acquired immune deficiency syndrome"; and

(iii) in paragraph (3), by striking ", particularly those with acquired immune deficiency syndrome;"; and

(B) in subsection (d)(1) (as redesignated by paragraph (1)(A) of this subsection), by striking "(d)" and inserting "(e)".

(b) COMPREHENSIVE SERVICE CENTERS.—Section 101(a) of the Abandoned Infants Assistance Act of 1988, as amended by subsection (a) of this section, is amended—

(1) in paragraph (6), by striking "and" after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to prevent the abandonment of infants and young children, and to care for the infants and young children who have been abandoned, through model programs providing health, educational, and social services at a single site in a geographical area in which a significant number of infants and young children described in subsection (b) reside (with special consideration given to applications from entities that will provide the services of the project through community-based organizations).".

(c) OTHER REVISIONS REGARDING PURPOSE OF GRANTS.—Section 101(a) of the Abandoned Infants Assistance Act of 1988, as amended by subsections (a) and (b) of this section, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: ", including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child"; and

(2) in paragraph (5), by inserting before the semicolon the following: "who are unable to reside with their families or to be placed in foster care".

(d) ADMINISTRATION OF GRANT.—Section 101(d) of the Abandoned Infants Assistance Act of 1988, as redesignated and amended by subsection (a) of this section, is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) in the matter preceding subparagraph (A) (as so redesignated), by striking "(d) ADMINISTRATION" and all that follows through "The Secretary" and inserting the following:

"(d) ADMINISTRATION OF GRANT.—

"(1) The Secretary";

(3) by moving each of subparagraphs (A) through (D) (as so redesignated) 2 ems to the right; and

(4) by adding at the end the following new paragraph:

"(2) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a grant under subsection (a) shall be for a period of 3 years, except that the Secretary—

"(A) may terminate the grant if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the grant; and

"(B) shall continue the grant for one additional year if the Secretary determines that the entity has satisfactorily complied with such agreements.".

SEC. 4. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—

"(1)(A) The Secretary may enter into contracts or cooperative agreements with public or nonprofit private entities for the development and operation of model projects to dis-

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seminate the information described in sub-

"(3) The term 'natural family' shall be

Mr. LEVIN. Mr. President, it is my

Resolved, That the House agree to the

Sec. 306. Typographical correction in sec-

Sec. 703. Amendments to the Rural Elec-seminate the information described in subparagraph (B) to individuals who are disproportionately at risk of dysfunctional behaviors that lead to the abandonment of infants or young children.

"(B) The information referred to in subparagraph (A) is information on the availability to individuals described in such subparagraph, and the families of the individuals, of financial assistance and services under Federal, State, local, and private programs providing health services, mental health services, educational services, housing services, social services, or other appropriate services.

"(2) The Secretary may not provide a contract or cooperative agreement under paragraph (1) to an entity unless—

"(A) the entity has demonstrated expertise in the functions with respect to which such financial assistance is to be provided; and

"(B) the entity agrees that in disseminating information on programs described in such paragraph, the entity will give priority—

"(i) to providing the information to individuals described in such paragraph who—

"(I) engage in the abuse of alcohol or drugs, who are infected with the human immunodeficiency virus, or who have limited proficiency in speaking the English language; or

"(II) have been historically underserved in the provision of the information; and

"(ii) to providing information on programs that are operated in the geographic area in which the individuals involved reside and that will assist in eliminating or reducing the extent of behaviors described in such paragraph.

"(3) In providing contracts and cooperative agreements under paragraph (1), the Secretary may not provide more than 1 such contract or agreement with respect to any geographic area.

"(4) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a contract or cooperative agreement under paragraph (1) shall be for a period of 3 years, except that the Secretary may terminate such financial assistance if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the assistance.".

(b) STUDY.—Section 102(c) of the Abandoned Infants Assistance Act of 1988, as amended by subsection (a) of this subsection, is amended—

(1) in paragraph (1)(A), by striking "infants who have acquired immune deficiency syndrome" and inserting "infants and young children who are infants and young children described in section 101(b)"; and

(2) in paragraph (2), by striking "The Secretary and all that follows through "Act," and inserting the following: "Not later than April 1, 1992, the Secretary shall".

SEC. 5. DEFINITIONS.

Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this title:

"(1) The terms 'abandoned' and 'abandonment', with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

"(2) The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act.

"(3) The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this Act.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "For the purpose" and all that follows and inserting the following:

"(a) IN GENERAL.—

"(1) For the purpose of carrying out this title (other than section 102(b)), there are authorized to be appropriated $20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, $30,000,000 for fiscal year 1994, and $35,000,000 for fiscal year 1995.

"(2)(A) Of the amounts appropriated under paragraph (1) for any fiscal year in excess of the amount appropriated under this subsection for fiscal year 1991, as adjusted in accordance with subparagraph (B), the Secretary shall make available not less than 50 percent for grants under section 101(a) to carry out projects described in paragraph (8) of such section.

"(B) For purposes of subparagraph (A), the amount relating to fiscal year 1991 shall be adjusted for a fiscal year to a greater amount to the extent necessary to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.

"(3) Not more than 5 percent of the amounts appropriate under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).

"(b) DISSEMINATION OF INFORMATION FOR INDIVIDUALS WITH SPECIAL NEEDS.—For the purpose of carrying out section 102(b), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1995.

"(c) ADMINISTRATIVE EXPENSES.—

"(1) For the purpose of the administration of this title by the Secretary, there is authorized to be appropriated for each fiscal year specified in subsection (a)(1) an amount equal to 5 percent of the amount authorized in such subsection to be appropriated for the fiscal year. With respect to the amounts appropriated under such subsection, the preceding sentence may not be construed to prohibit the expenditure of the amounts for the purpose described in such sentence.

"(2) The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the amounts appropriated under subsection (a)(1) for the fiscal year, the Secretary has obligated for the purpose described in such paragraph an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

"(d) AVAILABILITY OF FUNDS.—Amounts appropriated under this section shall remain available until expended.".

SEC. 7. CONFORMING AMENDMENT.

The heading for title I of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"TITLE I—PROJECTS REGARDING ABANDONMENT OF INFANTS AND YOUNG CHILDREN IN HOSPITALS".

SEC. 8. TERMINATION OF PROGRAM.

Section 105 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.

Amend the title so as to read: "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988.".

Mr. LEVIN. Mr. President, it is my understanding that this amendment has been agreed to by the floor managers. This amendment was originally offered as part of the Older Americans Act earlier this month. It was agreed to on a voice vote.

It is further my understanding that it is now uncertain that the conference on the Older Americans Act will be completed prior to recess. So, I am offering this amendment to the current vehicle.

The purpose of this amendment is to make clear that the Older Workers Benefit Protection Act applies equally in terms of effective dates to collective bargaining agreements which have been negotiated between the United Automobile Workers and General Motors, Ford, and Chrysler. This amendment makes clear that the delay in the effective date in the Older Workers Benefit Protection Act which applies to the General Motors and Ford contracts also applies to the contract negotiated between the UAW and Chrysler during that 1990 timeframe.

AMENDMENT NO. 1449

Purpose: To make uniform the effective date for compliance with the Older Workers Benefit Protection Act

Mr. REID. I move that the Senate concur in the House amendments with an amendment on behalf of Senators LEVIN and KASTEN which I now send to the desk.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEVIN (for himself and Mr. KASTEN) proposes an amendment numbered 1449. In the appropriate place in the bill insert the following new section:

"SEC. . Amend Section 105 of the Older Workers Benefit Protection Act (PL 101-433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following:"

"'; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;'"

The PRESIDING OFFICER. Without objection the motion is agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3029.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3029) entitled "An Act to make technical corrections to agricultural laws", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

Sec. 101. References.
Sec. 102. Conserving use acres.
Sec. 103. Double cropping of 0/92 acres.
Sec. 104. Announcement of acreage reduction programs for rice.
Sec. 105. Corn and sorghum bases.
Sec. 106. Cover crops on reduced acreage.
Sec. 107. Cotton user marketing certificates.
Sec. 108. Malting barley.
Sec. 109. Deficiency payments for wheat, barley, and oats.
Sec. 110. Minor oilseed loan rates.
Sec. 111. Sugar.
Sec. 112. Crop acreage base.
Sec. 113. Miscellaneous amendments to the Agricultural Act of 1949.
Sec. 114. Miscellaneous amendments relating to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 115. Miscellaneous amendments to the Agricultural Adjustment Act.
Sec. 116. Miscellaneous amendments to the Agricultural Adjustment Act of 1938.
Sec. 117. Section redesignation.
Sec. 118. Other miscellaneous commodity amendments.
Sec. 119. Sense of Congress regarding imported barley and oats.
Sec. 120. Cotton classing fees.
Sec. 121. Sense of Congress regarding targeted option payments.
Sec. 122. Transfer of peanut quota undermarketings.
Sec. 123. Cotton futures contracts.
Sec. 124. Lamb price and supply reporting services report and system.
Sec. 125. Cotton first handler marketing certificates.
Sec. 126. Production of black-eyed peas for donation.
Sec. 127. Milk price support program limited to 48 contiguous States.
Sec. 128. Modification of milk production termination program.

TITLE II—CONSERVATION

Sec. 201. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 202. Amendment to the Soil Conservation and Domestic Allotment Act.
Sec. 203. Farms for the Future.
Sec. 204. Amendments to the Food Security Act of 1985.

TITLE III—AGRICULTURAL TRADE

Sec. 301. Superfluous punctuation in farmer to farmer provisions.
Sec. 302. Punctuation correction in Enterprise for the Americas Initiative.
Sec. 303. Spelling correction in section 604.
Sec. 304. Missing word in section 606.
Sec. 305. Punctuation error in section 607.
Sec. 306. Typographical correction in section 612.
Sec. 307. Erroneous quotation.
Sec. 308. Punctuation correction.
Sec. 309. Date correction.
Sec. 310. Missing subtitle heading correction.
Sec. 311. Redesignation of subsection.
Sec. 312. Date correction to section 404.
Sec. 313. Date correction to section 416.
Sec. 314. Redesignation of section.
Sec. 315. Cross reference correction.
Sec. 316. Placement clarification.
Sec. 317. Punctuation correction.
Sec. 318. Elimination of obsolete cross reference.
Sec. 319. Cross reference correction.
Sec. 320. Correcting clerical errors in section 204 of the Agricultural Trade Act of 1978.
Sec. 321. Capitalization correction.
Sec. 322. Correction of error in date.
Sec. 323. Correction of typographical error.
Sec. 324. Cross reference correction.
Sec. 325. Elimination of superfluous word.
Sec. 326. Cross reference correction.
Sec. 327. Amendment to section 602.
Sec. 328. Section 407 corrections.
Sec. 329. Section 407(b) amendment.
Sec. 330. Supplemental views in annual report.
Sec. 331. Consultations with Congress.
Sec. 332. Statute designation.
Sec. 333. Correction of placement and indentation of subparagraph.
Sec. 334. Export credit guarantee program.
Sec. 335. Technical amendments to the Food for Progress Program.
Sec. 336. Miscellaneous amendment to the Agricultural Trade Development and Assistance Act of 1954.
Sec. 337. Reporting requirements.
Sec. 338. Sharing United States agricultural expertise and information.
Sec. 339. Conforming amendment relating to the Environment for the Americas Board.

TITLE IV—RESEARCH

Sec. 401. Competitive, special, and facilities research grants.
Sec. 402. National Agricultural Research, Extension, and Teaching Policy Act of 1977.
Sec. 403. Rural development and small farm research and education.
Sec. 404. National Genetic Resources Program.
Sec. 405. Alternative agricultural research and commercialization.
Sec. 406. Deer tick research.
Sec. 407. Miscellaneous research provisions.
Sec. 408. Sustainable agriculture research and education.

TITLE V—CREDIT

Sec. 501. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 502. Amendments to the Farm Credit Act of 1971.
Sec. 503. Federal Agricultural Mortgage Corporation.

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

Sec. 601. Federal crop insurance.
Sec. 602. Disaster relief.

TITLE VII—RURAL DEVELOPMENT

Sec. 701. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 702. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 703. Amendments to the Rural Electrification Act of 1936.
Sec. 704. Rural health leadership development.

TITLE VIII—AGRICULTURAL PROMOTION

Sec. 801. Short title.
Sec. 802. Pecans.
Sec. 803. Mushrooms.
Sec. 804. Potatoes.
Sec. 805. Limes.
Sec. 806. Soybeans.
Sec. 807. Honey.
Sec. 808. Cotton.
Sec. 809. Fluid milk.
Sec. 810. Wool.

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

Sec. 901. Application of Food Stamp Act of 1977 to disabled persons.
Sec. 902. Categorical eligibility for recipients of general assistance.
Sec. 903. Exclusions from income.
Sec. 904. Resources that cannot be sold for a significant return.
Sec. 905. Resource exemption for households exempt under AFDC or SSI.
Sec. 906. Technical amendment on transitional housing.
Sec. 907. Performance standards for employment and training programs.
Sec. 908. Suspension of certain requirements, and study, of food stamp program on Indian reservations.
Sec. 909. Value of allotment.
Sec. 910. Prorating within a certification period.
Sec. 911. Recovery of claims caused by nonfraudulent household errors.
Sec. 912. Demonstration projects for vehicle exclusion limit.
Sec. 913. Definition of retail food store.

Subtitle B—Commodity Distribution

Sec. 921. Extension of elderly commodity processing demonstrations.
Sec. 922. Reduction of Federal paperwork for distribution of commodities.

Subtitle C—Indian Subsistence Farming Demonstration Grant

Sec. 931. Purposes.
Sec. 932. Definitions.
Sec. 933. Indian subsistence farming demonstration grant program.
Sec. 934. Training and technical assistance.
Sec. 935. Tribal consultation.
Sec. 936. Use of grants.
Sec. 937. Amount and term of grant.
Sec. 938. Other requirements.
Sec. 939. Authorization of appropriations.

Subtitle D—Technical Amendments

Sec. 941. Technical amendments to the Food Stamp Act of 1977.
Sec. 942. Amendment relating to the Hunger Prevention Act of 1988.

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

Sec. 1001. Organic certification.
Sec. 1002. Agricultural fellowships.
Sec. 1003. Outreach and assistance for socially disadvantaged farmers and ranchers.
Sec. 1004. Protection of pets.
Sec. 1005. Critical agricultural materials.
Sec. 1006. Amendments to FIFRA and related provisions.
Sec. 1007. Grain standards.
Sec. 1008. Packers and stockyards.
Sec. 1009. Redundant language in Warehouse Act.

VOL
137
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Sec. 1010. Clarification of Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 1011. Perishable agricultural commodities.
Sec. 1012. Egg products inspection.
Sec. 1013. Prevention of introduction of brown tree snakes to Hawaii from Guam.
Sec. 1014. Grant to prevent and control potato diseases.
Sec. 1015. Collection of fees for inspection services.
Sec. 1016. Exemption and study of certain food products.
Sec. 1017. Fees for laboratory accreditation.
Sec. 1018. State and private forestry technical amendments.
Sec. 1019. Repeal of Public Law 76–543.
TITLE XI—EFFECTIVE DATES
Sec. 1101. Effective dates.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) Rice.—Section 101B(c)(1)(E) (7 U.S.C. 1441–2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) Alternative crops.—The Secretary" and inserting the following:

"(E) Alternative crops.—

"(i) Industrial and other crops.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) Sesame and crambe.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(b) Cotton.—Section 103B(c)(1)(E) (7 U.S.C. 1444–2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) Alternative crops.—The Secretary" and inserting the following:

"(E) Alternative crops.—

"(i) Industrial and other crops.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) Sesame and crambe.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(c) Feed Grains.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

(d) Wheat.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) Feed Grains.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) Double cropping.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

(b) Wheat.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) Double cropping.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441–2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(C) Announcements.—

"(i) Preliminary announcement.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after the date of enactment of this subparagraph). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) Final announcement.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) Corn and sorghum bases.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) Rice.—Clause (i) of section 101B(e)(4)(B) (7 U.S.C. 1441–2(e)(4)(B)(i)) is amended to read as follows:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to,

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or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) Approval of cover crops and practices.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(b) Cotton.—Clause (i) of section 103B(e)(4)(B) (7 U.S.C. 1444–2(e)(4)(B)(i)) is amended to read as follows:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) Approval of cover crops and practices.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(c) Feed Grains.—Clause (i) of section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)(i)) is amended to read as follows:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) Approval of cover crops and practices.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(d) Wheat.—Clause (i) of section 107B(e)(4)(B) (7 U.S.C. 1445b–3a(e)(4)(B)(i)) is amended to read as follows:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) Approval of cover crops and practices.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) Issuance.—Section 103B(a)(5)(E) (7 U.S.C. 1444–2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) Issuance.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(iv) Exception.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.".

(b) Prevailing World Market Price.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444–2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation

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under this paragraph and shall announce

inserting "in no event shall the level for

lected under this subsection in the manner

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beets for consumption in the United States

"(1) In general.—The Secretary shall, based on reestimates under section

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allounder this paragraph and shall announce such determination in the Federal Register.”; and

(2) by striking subsection (p) and inserting the following new subsection:

“(p) Malting Barley.—

“(1) Assessment required.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on program payment acres on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

“(2) Value of malting barley.—The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

“(3) Exception to assessment.—In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.”.

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking “sections” and inserting “section”;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

“(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

“(3) With respect to wheat, barley, and oats, the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.”.

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (2), by striking “flaxseed” and inserting “flaxseed, individually,”;

(2) in paragraph (3), by striking “that, in the case of cottonseed, in no event less” and inserting “in no event shall the level for such oilseeds (other than cottonseed) be less”; and

(3) by adding after and below paragraph (3) the following new sentence:

“To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.”.

SEC. 111. SUGAR.

(a) Sugar Price Support and Marketing Assessments.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking “announce the loan rate” and inserting “announce the basic loan rates for beet sugar and cane sugar”;

(2) in subsection (f), by striking “Loans” and inserting “Except as provided in subsection (g), loans”;

(3) by striking subsection (g) and inserting the following new subsection:

“(g) Supplementary Nonrecourse Loans.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

“(1) be made at the loan rate in effect at the time the second loan is made; and

“(2) mature in 9 months less the quantity of time that the first loan was in effect.”; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

“(1) Sugarcane.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

“(2) Sugar beets.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

“(3) Collection.—

“(A) Timing.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

“(B) Manner.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.”; and

(B) in paragraph (4), by striking “collect or remit the reduction” and inserting “remit the assessment”.

(b) Security Interests.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

“(b) Sugarcane and Sugar Beets.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 401(e)(2).”.

(c) Sugar Information Reporting.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) Duty of Processors, Refiners and Manufacturers to Report.—

“(1) Processors and refiners.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

“(2) Manufacturers of crystalline fructose.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as ‘crystalline fructose’) shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.”;

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

“(b) Duty of Producers To Report.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.”; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking “data on imports,” and inserting “data on production, imports,”; and

(B) by inserting “composite data on distributions of” after “sugar and”.

(d) Marketing Allotments for Sugar and Crystalline Fructose.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) Sugar Estimates.—

“(1) In general.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

“(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

“(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

“(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

“(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

“(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

“(2) Quarterly reestimates.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.”;

(2) by striking subsection (b) and inserting the following new subsection:

“(b) Sugar Allotments.—

“(1) In general.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

“(2) Products.—The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.”; and

(3) in subsection (d)(4), by inserting after “the United States” the following: “(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)”.

(e) Establishment of Marketing Allotments.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking “from the estimated sugar consumption” and inserting “from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)”; and

(B) in subparagraph (A), by striking “(representing minimum imports of sugar for consumption in the United States during the fiscal year)”;

(2) in subsection (b)(2), by striking “prevent the accumulation of sugar acquired by” and inserting “avoid the forfeiture of sugar to”;

(3) in subsection (f)—

(A) in the subsection heading, by striking “Sugarcane Allotment” and inserting “Cane Sugar Allotments”; and

(B) by striking “allotted among the 5 States in the United States in which sugarcane is produced” and inserting “allotted, among the 5 States in the United States in which sugarcane is produced,”;

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

“(1) In general.—The Secretary shall, based on reestimates under section 359b(a)(2)—

“(A) adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner;

“(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

“(C) suspend the allotments,

as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.”.

(B) by striking paragraph (3) and inserting the following new paragraph:

“(3) Reductions.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed.”; and

(5) by striking subsection (h) and inserting the following new subsection:

“(h) Filling Cane Sugar and Beet Sugar Allotments.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.”.

(f) Allocation of Marketing Allotments.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking “after such hearing” both places it appears and inserting “after a hearing, if requested by interested parties,”; and

(2) by striking subsection (b) and inserting the following new subsection:

“(b) Filling Cane Sugar Allotments.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.”.

(g) Reassignments of Deficits.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

“SEC. 359e. REASSIGNMENT OF DEFICITS.

“(a) Estimates of Deficits.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

“(b) Reassignment of Deficits.—

“(1) Cane sugar.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

“(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

“(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

“(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

“(2) Beet sugar.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

“(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

“(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

“(3) Corresponding increase.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.”.

(h) Provisions Applicable to Producers.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking “250 producers in such State” and inserting “250 sugarcane producers in the State (other than Puerto Rico)”;

(2) in paragraph (2), by striking “establish proportionate shares for the crop of sugarcane that is harvested during” and inserting “establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during”; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

“(3) Method of determining.—For purposes of determining proportionate shares for any crop of sugarcane:

“(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

“(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

“(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

“(D) The Secretary shall establish a uni-

(2) in subsection (c)—

(3) by adding at the end the following new

SEC. 114. MISCELLANEOUS AMENDMENTS RELAT-

(A) by redesignating subsection (q) as sub-

(B) by striking “of Tennessee”; and

(C) by adding at the end the following new

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

"(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) VIOLATION.—

"(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) REGULATIONS.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) APPEALS.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.".

SEC. 112. CROP ACREAGE BASE.

(a) ACREAGE CONSIDERED PLANTED.—Section 503(c) (7 U.S.C. 1463(c)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8) respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) acreage in an amount not to exceed 20 percent of the crop acreage base for a crop of feed grains or wheat if—

"(A) the acreage is planted to dry peas, (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils; and

"(B) payments are not received by producers under sections 105B(c)(1)(E) and 107B(c)(1)(E), as the case may be;".

(b) ADJUSTMENT OF BASES.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "BASES.—The county" and inserting the following: "BASES.—

"(1) IN GENERAL.—The county"; and

(2) by adding at the end the following new paragraph:

"(2) RESTORATION OF CROP ACREAGE BASE.—

"(A) IN GENERAL.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) ELIGIBLE PRODUCER DEFINED.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) REGULATIONS.—The Secretary shall issue regulations to carry out this paragraph.".

(c) PLANTING FLEXIBILITY.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) mung beans.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441–2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444–2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444–2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) BARLEY CALCULATIONS.—" and inserting "(bb) BARLEY CALCULATIONS.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b–3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o);

(ii) by striking "(o) In" and inserting "(o) REVIEW.—In"; and

(iii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a)—

(A) by striking "Administrator of Veterans' Affairs" each place it appears and inserting "Secretary of Veterans Affairs"; and

(B) by striking "Administrator" each place it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,"; and

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) IN GENERAL.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3978), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

(1) IN GENERAL.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

"(1) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.".

(2) CONFORMING AMENDMENT.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f–1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c–2)" and inserting "(7 U.S.C. 1445c–3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(l) (7 U.S.C. 1314e(l))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) SECTION REDESIGNATION.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) CONFORMING AMENDMENTS AS RESULT OF REDESIGNATIONS.—

(1) PRICE SUPPORT PROGRAM.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c–2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c–3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) MARKETING QUOTAS.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358–1(e)(3) (7 U.S.C. 1358–1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) MISSING LANGUAGE.—Section 5(i)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) MISSING LANGUAGE.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) EXTRA LANGUAGE.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(2)) is amended by striking "0 to".

(d) AMENDMENT TO FOOD AND AGRICULTURE ACT OF 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.".

(e) AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) CLARIFICATION OF AMENDMENT.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "SEC." and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) USE OF PAYMENTS.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) FINDINGS.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) SENSE OF CONGRESS.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. COTTON CLASSING FEES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 121. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(e)(3), 1444f(e)(3), 1444-2(e)(3), and 1441-2(e)(3)), respectively.

SEC. 122. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 123. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 124. LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.

SEC. 125. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444-2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

SEC. 126. PRODUCTION OF BLACK-EYED PEAS FOR DONATION.

(a) 50/92 PROGRAM FOR COTTON.—Section 103B(c)(1)(D) (7 U.S.C. 1444-2(c)(1)(D)) is amended by adding at the end the following new clause:

"(ix) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, all or any part of the acreage required to be devoted to conservation uses as a condition for qualifying for payments under this subparagraph to be devoted to the production of black-eyed peas if—

"(I) the producer agrees to donate the harvested peas from the acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(II) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

(b) ACREAGE REDUCTION PROGRAM.—Section 103B(e)(2) of such Act (7 U.S.C. 1444-2(e)(2)) is amended by adding at the end the following new subparagraph:

"(G) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, producers on a farm to plant black-eyed peas on not more than one-half of the reduced acreage on the farm if—

"(i) the producer agrees to donate the harvested peas from such acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(ii) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

SEC. 127. MILK PRICE SUPPORT PROGRAM LIMITED TO 48 CONTIGUOUS STATES.

(a) IN GENERAL.—Section 204 (7 U.S.C. 1446e) is amended—

(1) in subsection (a), by inserting "produced in the 48 contiguous States" after "the price of milk";

(2) in subsection (c)(1), by inserting before the period the following: "produced in the 48 contiguous States";

(3) in subsection (d)(5)(B), by striking "United States" both places it appears and inserting "48 contiguous States and the District of Columbia"; and

(4) in subsections (g)(1) and (h)(1), by striking "United States" each place it appears and inserting "48 contiguous States".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of January 1, 1991.

SEC. 128. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b)—

(A) by striking "AFFECT" and inserting "EFFECT"; and

(B) by inserting "and section 1499A" after "subsection (a)"; and

(3) in subsection (c), by inserting "and" after "Animal".

(h) NEW SECTION.—

(1) EDUCATION PROGRAM.—Such Act is amended by inserting after section 1499 (7 U.S.C. 5506) the following new section:

"SEC. 1499A. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

"Subject to the availability of funds appropriated in advance, the Secretary of Agriculture shall direct the Extension Service to operate a program in each State to catalogue the Federal, State, and local laws and regulations that govern the handling of unused or unwanted agricultural chemicals and agricultural chemical containers in the State. The program established under this section shall make available to producers of agricultural commodities and the general public, and provide on request, educational materials developed or collected by the program.".

(2) The table of contents in section 1(b) of such Act (104 Stat. 3363) is amended by inserting after the item relating to section 1499 the following new item:

"Sec. 1499A. Education program regarding handling of agricultural chemicals and agricultural chemical containers.".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

(a) IN GENERAL.—Sections 1465 through 1469 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) are amended to read as follows:

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan (including the interest paid by the State trust fund, State, or State agency on bonds or other obligations described in paragraph (2)).

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund, or to the State acting in conjunction with the State trust fund, to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships,

VOL
137
PT
24
NO
26
1991
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1992
UMI

villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) Lending institution.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) Program.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) Secretary.—The term 'Secretary' means the Secretary of Agriculture.

"(7) State.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) State trust fund.—The term 'State trust fund' means any trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, where such eligible State is approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) In General.—

"(1) Purpose.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for eligible loans described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds.

"(2) Assistance.—Under the program the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds and shall for each such 10-year period subsidize the interest on such eligible loans at the allowable interest rate for the first 5 years after the loan is made, or issued, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) Mandatory Assistance to Each State Trust Fund.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund during each of the first 5 years after the date on which each such loan was made or issued; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made to, or issued for the benefit of, the State trust fund, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each such loan made to, or issued for the benefit of, the State trust fund, as determined under procedures established by the Secretary.

"(c) Funding.—

"(1) Issuance of stock.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) Purchase of stock.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the raising of funds to purchase stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall promptly purchase the stock (within 60 days) being offered by the Secretary of Agriculture.

"(3) Commodity credit corporation.—If the Secretary of Agriculture fails to issue stock as required under this chapter, or if funding is otherwise not provided as set forth in this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) Required Purchases of Stock.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall promptly purchase stock (within 60 days) offered by the Secretary under subsection (c) and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) Entitlements.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in subsection (b).

"(f) Regulations.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under subsection (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) Duration of Program.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) Eligible Uses for Guaranteed Loan Funds.—

"(1) In general.—Funds from eligible loans (including proceeds from the sale of bonds or other obligations described in section 1465(c)(2)) guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings (including through investments not exceeding 10 years in duration for each eligible loan), to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) Collateral for loans.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) State Use of Guaranteed Loan Funds.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the eligible loans (described in section 1465(c)(2)) guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loans guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) Special Rules for the Pilot Project State.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) Provision of loan guarantee and interest assistance agreement.—Within 30 days of the date any State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) Approval of application.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) Amount of guarantees.—The Secretary shall calculate the total amount of guarantees to be provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board regardless of whether the fund had been approved by the Secretary in fiscal year 1991), by the State described in section 1465(c)(3)(A), political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for fiscal year 1992 for the State.

"(k) Miscellaneous Provisions.—

"(1) Operation.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) Earnings.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) Accounts.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

"(b) Compliance.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) Applications.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any funds provided, or guaranteed, by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) Annual Applications.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) Match and Maximum Amount.—

"(1) In general.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund (including matching funds described in paragraphs (2) through (4)) in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) Earnings.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) Obligations.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) Land.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) Clarification of Federal Law.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.".

(b) Regulations.—Section 1470 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended—

(1) by striking "This" and inserting "(a) In General.—This"; and

(2) by adding at the end the following new subsection:

"(b) Regulations.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.".

(c) Reports; Stock Issuance.—Such Act is amended by adding at the end the following new sections:

"SEC. 1470A. COMPTROLLER GENERAL REPORTS.

"On February 15 of 1992, and on December 1 of each of the years 1992 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1470B. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

(1) in section 1211 (16 U.S.C. 3811)—

(A) in paragraph (1)(D), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(B) in paragraph (3)(D), by inserting "of subtitle D" after "chapter 2"; and

(C) in paragraph (3)(E), by inserting "of subtitle D" after "chapter 3";

(2) in section 1212 (16 U.S.C. 3812)—

(A) in subsection (f)(4)(A), by striking "such violations" and inserting "such violation"; and

(B) in subsection (g)(2), by striking "XIII," and inserting "XIII";

(3) in section 1221(1)(D) (16 U.S.C. 3821(1)(D)), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(4) in section 1223 (16 U.S.C. 3823), by striking "and" at the end of paragraph (3);

(5) in section 1232(a) (16 U.S.C. 3832(a))—

(A) by striking the extra semicolon at the end of paragraph (6); and

(B) in paragraph (7)—

(i) by striking "fall and winter"; and

(ii) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

(6) in section 1237(d) (16 U.S.C. 3837(d)), by striking "subsection (d)" and inserting "subsection (c)";

(7) in section 1239(b)(1)(A) (16 U.S.C. 3839(b)(1)(A)), by striking "corridors," and inserting "corridors;"; and

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(8) in section 1247(b) (16 U.S.C. 3847(b)), by

"section 104" each place it appears and in-

(1) by inserting "provides or" after "in

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(2) in subsection (m), by striking "this Act" each place it appears and inserting

(C) by adding at the end the following new clause:

SEC. 332. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

(8) in section 1247(b) (16 U.S.C. 3847(b)), by striking "subsection 1234(b)" and inserting "section 1234(b)".

TITLE III—AGRICULTURAL TRADE

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title I and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "AGENCY OR PRIVATE PARTIES" in the heading and inserting "AGENCIES"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) SUBSECTION (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) ELIMINATION OF WORD.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

" '(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.' ".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. TECHNICAL AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (l), by striking "September 30," where it appears immediately before "December 31";

(2) in subsection (m), by striking "this Act" each place it appears and inserting "this section"; and

(3) by redesignating subsections (l) and (m) (as amended by paragraphs (1) and (2)) as subsections (k) and (l), respectively.

SEC. 336. MISCELLANEOUS AMENDMENT TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

SEC. 337. REPORTING REQUIREMENTS.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509(f)) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXCEPTIONS.—The reporting and recordkeeping requirements of this section shall not apply with respect to cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging. In order to qualify for the exception under this subsection, the tobacco must have a certification that its end use is for cigars, cigar tobacco, pipe tobacco, chewing tobacco in retail packaging, or snuff in retail packaging.".

SEC. 338. SHARING UNITED STATES AGRICULTURAL EXPERTISE AND INFORMATION.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) by striking the subsection heading and inserting the following:

"(d) E (KIKA) DE LA GARZA AGRICULTURAL FELLOWSHIP PROGRAM.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall establish a program, to be known as the 'E (Kika) de la Garza Agricultural Fellowship Program', to develop agricultural markets in emerging democracies and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and the Soviet Union, as follows:

"(1) DEVELOPMENT OF AGRICULTURAL SYSTEMS.—";

(2) in paragraph (1), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(3) in paragraph (2), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(4) by indenting 2 ems the left margin of paragraphs (1) through (9) and redesignating such paragraphs as subparagraphs (A) through (I), respectively;

(5) by striking "subsection" each place it appears and inserting "paragraph";

(6) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(7) by striking "paragraph (2)(A)" each place it appears and inserting "subparagraph (B)";

(8) by striking "paragraph (2)(B)" each place it appears and inserting "subparagraph (B)";

(9) in paragraph (1)(B) (as so redesignated)—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following new clause:

"(iii) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies.";

(10) in paragraph (1)(I) (as so redesignated), by striking "$5,000,000" and inserting "$10,000,000"; and

(11) by adding at the end the following new paragraph:

"(2) AGRICULTURAL INFORMATION PROGRAM.—

"(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, administered to complement the emerging democracies export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in the Soviet Union in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of a free market food production and distribution system in the Soviet Union and the enhancement of agricultural trade with the United States.

"(B) IMPLEMENTATION.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

"(i) compile, through contacts with the Government of the Soviet Union and private sector officials in the Soviet Union, a list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

"(ii) make such information available through an appropriate agency of the Department of Agriculture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

"(iii) carry out a program—

"(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

"(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i); and

"(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and the Soviet Union, which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises.

"(C) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to the Soviet Union.

"(D) DEFINITION.—For the purposes of this subsection, the term 'Soviet Union' means the Soviet Union, its successor entities, or any of the individual republics of the Soviet Union.

"(E) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.".

SEC. 339. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

Section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "five" and inserting "six"; and

(B) by inserting ", at least one of whom shall be a representative of the Department of Agriculture" after "Government"; and

(2) in subparagraph (B), by striking "four" and inserting "five".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) SHORT TITLE.—Subsection (a) of section 2 of Public Law 89–106 (7 U.S.C. 4501) is amended—

(1) by inserting "(1)" before "In order"; and

(2) by adding at the end the following new paragraph:

"(2) SHORT TITLE.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) OTHER AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "RECORD KEEPING.—" and inserting "INTER-REGIONAL RESEARCH PROJECT NUMBER 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR-4 program" and inserting "IR-4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "LIMITS ON OVERHEAD COSTS.—" and inserting "RECORD KEEPING.—";

(4) in subsection (g), by striking "AUTHORIZATION OF APPROPRIATIONS.—" and inserting "LIMITS ON OVERHEAD COSTS.—";

(5) in subsection (h)—

(A) by striking "RULES.—" and inserting "AUTHORIZATION OF APPROPRIATIONS.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "APPLICATION OF OTHER LAWS.—" and inserting "RULES.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "APPLICATION OF OTHER LAWS.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

Trade Act of 1990 (Public Law 101–624; 104

(B) in subsection (f), by striking "Commit-

(1) by inserting ", as amended by section

Rural Development Act (7 U.S.C. 1983(2)(A))

(e) AMENDMENT TO SECTION 3.7(b).—

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)). by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "SEC. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) PROGRAMS AUTHORIZED.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "COMPETITIVE GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) RURAL DEVELOPMENT EXTENSION" and inserting "(h) RURAL DEVELOPMENT EXTENSION";

(B) by striking "(h) RURAL HEALTH" and inserting "(i) RURAL HEALTH";

(C) by striking "(h) RESEARCH GRANTS.—" and inserting "(j) RESEARCH GRANTS.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) DISTRIBUTION OF FUNDS.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) IN GENERAL.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3744) is amended—

(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) TABLE OF CONTENTS.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) PUNCTUATION CORRECTION.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) ESTABLISHMENT OF REGIONAL CENTERS.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. DEER TICK RESEARCH.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (i), by striking "Agricultural Research Service" and inserting "Secretary of Agriculture, acting through the Cooperative State Research Service, to make competitive grants"; and

(2) in subsection (k)(1), by striking "Except for research funded under subsection (i), research" and inserting "Research".

SEC. 407. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101-624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(l) (7 U.S.C. 5843(l)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "WITHOLDINGS" and inserting "WITHHOLDINGS";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c) (7 U.S.C. 5928(c))—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) ESTABLISHMENT.—Notwithstanding subsection (g)(1), the Secretary shall establish not more than four centers."; and

(B) in paragraph (2), by striking "PERIODS AND PREFERENCES.—Grants" and inserting the following: "OPERATING GRANTS.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 408. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) AMENDMENT TO SECTION 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) AMENDMENTS TO SECTION 331.—

(1) DIRECT AMENDMENTS.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) INDIRECT AMENDMENTS.—

(A) CLARIFICATION OF REPEAL.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) PAYMENT OF ACCRUED INTEREST.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) CLARIFICATION OF TECHNICAL CORRECTIONS.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) AMENDMENTS TO SECTION 331E.—

(1) IN GENERAL.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) IN GENERAL.—The"; and

(B) by adding at the end the following new subsection:

"(b) CALCULATION OF YIELDS.—

"(1) IN GENERAL.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) AFFECTED BY A DISASTER.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) APPLICATION OF SUBSECTION.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) AMENDMENTS TO SECTION 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) AMENDMENTS TO SECTION 335(e)(1).—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (F)"; and

(2) by adding at the end the following new subparagraph:

"(F) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) AMENDMENTS TO SECTION 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) AMENDMENTS TO SECTION 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) AMENDMENTS TO SECTION 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) AMENDMENTS TO SECTION 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) AGRICULTURAL OR AQUATIC PURPOSES";

(2) by striking "(1) In general" and inserting the following:

"(1) IN GENERAL"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) LIMITATION ON LOANS FOR BASIC PROCESSING AND MARKETING OPERATIONS".

(b) AMENDMENT TO SECTION 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) AMENDMENT TO SECTION 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) AMENDMENT TO SECTION 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) AMENDMENT TO SECTION 3.7(b).—

(1) IN GENERAL.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products thereof" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance—

"(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

"(ii) is issued on or before September 30, 1995.

"(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this Act.".

(2) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) AMENDMENTS TO SECTION 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1), by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C).".

(g) AMENDMENT TO SECTION 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(h) AMENDMENT TO SECTION 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(i) AMENDMENT TO SECTION 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(j) AMENDMENT TO SECTION 5.58(4)(B).—Section 5.58(4)(B) of such Act (12 U.S.C. 2277a-7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(k) AMENDMENTS TO SECTION 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a-14(d)(1)) is amended by striking "insured".

(l) AMENDMENTS TO SECTION 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a-2(d)) is amended by striking "subchapter 1" each

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place such term appears and inserting "sub-

"(1) COMPENSATION.—The term 'compensa-

period. This paragraph may not be construed

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model or models used to implement the risk-

"(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed

such determination shall be made for the quarter ending March 31, 1992.

place such term appears and inserting "subchapter I".

(m) Amendments to Section 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b–3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(n) Amendment to Section 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

SEC. 503. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

(A) Supervision and Oversight.—Section 8.11 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–11 is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Authority.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

"(A) for the examination of the Corporation and its affiliates; and

"(B) for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this title, including through the use of the authorities granted to the Farm Credit Administration under—

"(i) part C of title V; and

"(ii) beginning 6 months after the date of enactment of this section, section 5.17(a)(9).";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3) Office of Secondary Market Oversight.—

"(A) Not later than 180 days after the date of enactment of this paragraph, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight

"(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Oversight.

"(C) The Office of Secondary Market Oversight shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.";

(3) by adding at the end thereof the following new subsection:

"(f) The Farm Credit Administration Board shall ensure that—

"(1) the Office of Secondary Market Oversight has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

"(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.".

"(b) Regulation of Financial Safety and Soundness.—Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) is amended—

(1) by inserting after section 8.0 the following:

"Subtitle A—Establishment and Activities of Federal Agricultural Mortgage Corporation"; and

(2) by inserting after section 8.14 the following new subtitle:

"Subtitle B—Regulation of Financial Safety ad Soundness of Federal Agricultural Mortgage Corporation

"SEC. 8.31. DEFINITIONS.

"For purposes of this subtitle:

"(1) Compensation.—The term 'compensation' means any payment of money or the provision of any other thing of current or potential value in connection with employment.

"(2) Core capital.—The term 'core capital' means, with respect to the Corporation, the sum of the following (as determined in accordance with generally accepted accounting principles):

"(A) The par value of outstanding common stock.

"(B) The par value of outstanding preferred stock.

"(C) Paid-in capital.

"(D) Retained earnings.

"(3) Director.—The term 'Director' means the Director of the Office of Secondary Market Oversight of the Farm Credit Administration, selected under section 8.11(a)(3).

"(4) Office.—The term 'Office' means the Office of Secondary Market Oversight of the Farm Credit Administration, established in section 8.11(a).

"(5) Regulatory capital.—The term 'regulatory capital' means, with respect to the Corporation, the core capital of the Corporation plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

"(6) State.—The term 'State' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 8.32. RISK-BASED CAPITAL LEVELS.

"(a) Risk-Based Capital Test.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this section, the Director of the Office of Secondary Market Oversight shall, by regulate, establish a risk-based capital test under this section for the Corporation. When applied to the Corporation, the risk-based capital test shall determine the amount of regulatory capital for the Corporation that is sufficient for the Corporation to maintain positive capital during a 10-year period in which both of the following circumstances occur:

"(1) Credit risk.—With respect to securities representing an interest in, or obligations backed by, a pool of qualified loans owned or guaranteed by the Corporation and other obligations of the Corporation, losses on the underlying qualified loans occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing industry practice in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (as established by the Director), experienced the highest rates of default and severity of agricultural mortgage losses, in comparison with such rates of default and severity of agricultural mortgage losses in other such areas for any period of such duration, as determined by the Director.

"(2) Interest rate risk.—Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (A) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (B) 600 basis points, and remain at such level for the remainder of the period. This paragraph may not be construed to require the Director to determine interest rate risk under this paragraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

"(b) Considerations.—

"(1) Establishment of test.—In establishing the risk-based capital test under subsection (a)—

"(A) the Director shall take into account appropriate distinctions based on various types of agricultural mortgage products, varying terms of Treasury obligations, and any other factors the Director considers appropriate;

"(B) the Director shall conform loan data used in determining credit risk to the minimum geographic and commodity diversification standards applicable to pools of qualified loans eligible for guarantee;

"(C) the Director shall take into account retained subordinated participating interests under section 8.6(b)(2);

"(D) the Director may take into account other methods or tests to determine credit risk developed by the Corporation before the date of the enactment of this section; and

"(E) the Director shall consider any other information submitted by the Corporation in writing during the 180-day period beginning on the date of the enactment of such Act.

"(2) Revising test.—Upon the expiration of the 5-year beginning on the date of the enactment of this section, the Director shall examine the risk-based capital test under subsection (a) and may revise the test. In making examinations and revisions under this paragraph, the Director shall take into account that, before the date of the enactment of this section the Corporation has not issued guarantees for pools of qualified loans. To the extent that the revision of the risk-based capital test causes a change in the classification of the Corporation within the enforcement levels established under section 8.35, the Director shall waive the applicability of any additional enforcement actions available because of such change for a reasonable period of time, to permit the Corporation to increase the amount of regulatory capital of the Corporation accordingly.

"(c) Risk-Based Capital Level.—For purposes of this subtitle, the risk-based capital level for the Corporation shall be equal to the sum of the following amounts:

"(1) Credit and interest rate risk.—The amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation, adjusted to account for foreign exchange risk.

"(2) Management and operations risk.—To provide for management and operations risk, 30 percent of the amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation.

"(d) Specified Contents.—The regulations establishing the risk-based capital test under this section shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to value ratios, taxes, yield curve slopes, default experience, prepayment rates, and performance of pools of qualified loans). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

"(e) Availability of Model.—The Director shall make copies of the statistical

model or models used to implement the risk-based capital test under this section available for public acquisition and may charge a reasonable fee for such copies.

"SEC. 8.33. MINIMUM CAPITAL LEVEL.

"(a) In General.—Except as provided in subsection (b), for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 2.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraphs (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.45 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(b) 18-Month Transition.—during the 18-month period beginning upon the date of the enactment of this section, for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraphs (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.40 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(c) Linked Portfolio Assets.—The percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is referred to in subsections (a)(3) and (b)(3) of this section (and in section 8.34(3)(A)) shall be—

"(1) during the 5-year period beginning on the date of the enactment of this section—

"(A) 0.45 percent of any such assets not exceeding $1,000,000,000;

"(B) 0.75 percent of any such assets in excess of $1,000,000,000 but not exceeding $2,000,000,000;

"(C) 1.00 percent of any such assets in excess of $2,000,000,000 but not exceeding $3,000,000,000;

"(D) 1.25 percent of any such assets in excess of $3,000,000,000 but not exceeding $4,000,000,000;

"(E) 1.50 percent of any such assets in excess of $4,000,000,000 but not exceeding $5,000,000,000; and

"(F) 2.50 percent of any such assets in excess of $5,000,000,000.

"(2) after the expiration of such 5-year period, 2.50 percent of any such aggregate assets.

"SEC. 8.34. CRITICAL CAPITAL LEVEL.

For purposes of this subtitle, the critical capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.25 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) a percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g), which shall be—

"(A) during the 5-year period beginning on the date of the enactment of this section, one-half of the percentage that is determined under section 8.33(c)(1); and

"(B) after the expiration of such 5-year period, 1.25 percent of any such aggregate assets.

"SEC. 8.35. ENFORCEMENT LEVELS.

"(a) In General.—The Director shall classify the Corporation, for purposes of this subtitle, according to the following enforcement levels:

"(1) Level I.—The Corporation shall be classified as within level I if the Corporation—

"(A) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established under section 8.32; and

"(B) equals or exceeds the minimum capital level established under section 8.33.

"(2) Level II.—The Corporation shall be classified as within level II if—

"(A) the Corporation—

"(i) maintains an amount of regulatory capital that is less than the risk-based capital level; and

"(ii) equals or exceeds the minimum capital level; or

"(B) the Corporation is otherwise classified as within level II under subsection (b) of this section.

"(3) Level III.—The Corporation shall be classified as within level III if—

"(A) the Corporation—

"(i) does not equal or exceed the minimum capital level; and

"(ii) equals or exceeds the critical capital level established under section 8.34; or

"(B) the Corporation is otherwise classified as within level III under subsection (b) of this section.

"(4) Level IV.—The Corporation shall be classified as within level IV if the Corporation—

"(A) does not equal or exceed the critical capital level; or

"(B) is otherwise classified as within level IV under subsection (b) of this section.

"(b) Descretionary Classification.—If at any time the Director determines in writing (and provides written notification to the Corporation and the Farm Credit Administration) that the Corporation is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages securitized by the Corporation or property underlying securities guaranteed by the Corporation, has decreased significantly, the Director may classify the Corporation—

"(1) as within level II, if the Corporation is otherwise within level I;

"(2) as within level III, if the Corporation is otherwise within level II; or

"(3) as within level IV, if the Corporation is otherwise within level III.

"(c) Quarterly Determination.—The Director shall determine the classification of the Corporation for purposes of this subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made for the quarter ending March 31, 1992.

"(d) Notice.—Upon determining under subsection (b) or (c) that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

"(1) that the Corporation is within such level;

"(2) that the Corporation is subject to the provisions of section 8.36 or 8.37, as applicable; and

"(3) stating the reasons for the classification of the Corporation within such level.

"(e) Implementation.—Notwithstanding paragraphs (1) and (2) of subsection (a), during the 30-month period beginning on the date of the enactment of this section, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 8.33.

"SEC. 8.36. MANDATORY ACTIONS APPLICABLE TO LEVEL II.

"(a) Capital Restoration Plan.—If the Corporation is classified as within level II, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

"(b) Restriction on Dividends.—If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level II or IV.

"(c) Reclassification From Level II to Level III.—The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 8.37), if—

"(1) the Corporation is within level II; and

"(2)(A) the Corporation does not submit a capital restoration plan that is approved by the Director; or

"(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(d) Effective Date.—This section shall take effect upon the expiration of the 30-month period beginning on the date of the enactment of this section.

"SEC. 8.37. SUPERVISORY ACTIONS APPLICABLE TO LEVEL III.

"(a) Mandatory Supervisory Actions.—

"(1) Capital restoration plan.—If the Corporation is classified as within level III, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

"(2) Restrictions on dividends.—

"(A) Prior approval.—If the Corporation is classified as within level III, the Corporation—

"(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

"(ii) may make any other payment of dividends only if the Director approves the payment before the payment.

"(B) Standard for approval.—If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

(C) by striking "450b(c)))" and inserting (as redesignated by section 403(a)(2)(B) of (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amend-

"(3) RECLASSIFICATION FROM LEVEL III TO LEVEL IV.—The Director shall immediately reclassify the Corporation as within level IV if—

"(A) the Corporation is classified as within level III; and

"(B)(i) the Corporation does not submit a capital restoration plan that is approved by the Director; or

"(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

"(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

"(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

"(3) PROHIBITION ON DIVIDENDS.—Prohibit the Corporation from making any payment of dividends.

"(4) ACQUISITION OF NEW CAPITAL.—Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

"(5) RESTRICTION OF ACTIVITIES.—Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

"(6) CONSERVATORSHIP.—Appoint a conservator for the Corporation consistent with this Act.

"(c) EFFFECTIVE DATE.—This section shall take effect on January 1, 1992.

(c) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa–3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(d) AMENDMENT TO SECTION 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa–6) is amended by adding at the end the following new subsection:

"(g) PURCHASE OF GUARANTEED SECURITIES.—

"(1) PURCHASE AUTHORITY.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) ISSUANCE OF DEBT OBLIGATIONS.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) TERMS AND LIMITATIONS.—

"(A) TERMS.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) REQUIREMENT.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) AUTHORITY.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (l)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 ACT.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 ACT.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "SUNFLOWER SEED" and inserting "SUNFLOWERSEED"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i);

(B) by striking "such Act" in clause (i) and inserting "such section"; and

(C) by striking "sunflower seed" in clause (iv) and inserting "sunflowerseed".

(c) CLARIFICATION OF AMENDMENT.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) AMENDMENTS TO SECTION 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) AMENDMENTS TO SECTION 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "GRANTS TO BROADCASTING SYSTEMS.—The Secretary.

(d) AMENDMENTS TO SECTION 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) AMENDMENTS TO SECTION 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) AMENDMENT TO SECTION 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) AMENDMENT TO SECTION 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) MISCELLANEOUS AMENDMENTS.—

(1) IDENTICAL AMENDMENTS.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) OTHER MISCELLANEOUS AMENDMENT.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENT TO SECTION 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) AMENDMENTS TO SECTION 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(l)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) AMENDMENTS TO SECTION 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) AMENDMENT TO SECTION 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) AMENDMENT TO SECTION 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) AMENDMENTS TO SECTION 2322.—Section 2322 of such Act (7 U.S.C. 1926–1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) AMENDMENT TO SECTION 2332.—Section 2332 of such Act (7 U.S.C. 950aaa–1) is amended by striking "Federal government" and inserting "Federal Government".

(h) AMENDMENTS TO SECTION 2388(h).—

(1) AMENDMENTS.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) SPECIAL RULE.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) REPEAL OF SECTION 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) AMENDMENT TO SECTION 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) REPEAL OF SECTION 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) AMENDMENTS TO SECTION 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) AMENDMENT TO SECTION 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa–1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) RURAL HEALTH LEADERSHIP DEVELOPMENT.—The Secretary, in consultation with the Office of Rural Health Policy of the Department of Health and Human Services, may make grants to academic medical centers or land grant colleges and universities, or any combination thereof, for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) CONFORMING AMENDMENT.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or entities described in paragraph (1)(C)".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Argicultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) COTTON PROMOTION ACT.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) REPORTS.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the

SEC. 906. TECHNICAL AMENDMENT ON TRANSI-

of issuance of food stamp coupons, until

SEC. 911. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ER-

"(k) SETTLEMENT AND ADJUSTMENT OF CLAIMS.—

SEC. 932. DEFINITIONS.

For the purposes of this subtitle:

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development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 902. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 903. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "to the extent" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 904. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.".

SEC. 905. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 906. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 907. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) In General.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes, including increases in earnings.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) Limitation.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995, of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 908. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) Suspension of Requirements.—

(1) Staggered issuance of coupons.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) Exemption from monthly reporting systems.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) Study.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) Components.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) Consultation.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 909. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 910. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 911. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 912. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

The Secretary of Agriculture shall solicit requests to participate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by May 1, 1992. The projects shall commence operations no later than January 1, 1993.

SEC. 913. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

(a) Hunger Prevention Act.—Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in paragraphs (1) and (2) of subsection (c), by inserting after "to needy persons" each place it appears the following: "and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons"; and

(2) by adding at the end the following new subsections:

"(j) Priority System for State Distribution of Commodities.—

"(1) Soup kitchens.—In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) Institutions that serve only low-income recipients.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) Other institutions.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy persons.

"(k) Settlement and Adjustment of Claims.—

"(1) In general.—The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under this section; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of this section.

"(2) Litigation.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(b) Emergency Food Assistance Act.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end the following new section:

"SEC. 215. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

"(a) In General.—The Secretary or a designee of the Secretary shall have the authority to—

"(1) determine the amount of, settle, and adjust any claim arising under this Act; and

"(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this Act.

"(b) Litigation.—Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(c) Commodity Supplemental Food Program.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end the following new subsection:

"(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

"(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Indian Subsistence Farming Demonstration Grant

SEC. 931. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) have income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

SEC. 932. DEFINITIONS.

For the purposes of this subtitle:

(1) Eligible recipient.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) has income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

(2) Indian.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) Indian reservation.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) Indian tribe.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) Inter-tribal consortium.—The term "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) Program.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 933. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) In General.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) Application.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 934. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses,

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(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by

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training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 935. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 936. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 937. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 938. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 939. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle D—Technical Amendments

SEC. 941. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centun" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at";

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)"; and

(E) in subsection (d)(4)(I)(i)(II)—

(i) by striking "601 et seq.))" and inserting "601 et seq.)"; and

(ii) by striking ", but in" and inserting "), but in";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,

and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 942. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a-1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "**APPPLICATORS**" and inserting "**APPLICATORS**";

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 136l(a)(2))—

(A) by striking ": *Provided*, That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w-1(c)), by striking "use" and inserting "uses".

(b) GENDER.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2)), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1)), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) UNEXECUTABLE AMENDMENT.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100-532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) RECORDKEEPING.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i-1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) MAINTENANCE FEE.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended to read as follows:

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) REGISTRATION AND EXPEDITED PROCESSING FUND.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a-1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the";

(2) in section 16(a) (7 U.S.C. 87e(a)), by striking "Administrtor." in the second sentence and inserting "Administrator."; and

(3) in section 17B(a) (7 U.S.C. 87f-2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. CLARIFICATION OF FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

Notwithstanding any other provision of law, the Secretary of Agriculture is directed immediately to implement the establishment within the Department of Agriculture

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of the Rural Development Administration established by subtitle A of title XXIII of the

made as the Secretary considers appropriate to ensure compliance with the requirements

shall order the hearing to be reopened for this purpose in such manner and on such

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tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or

and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or

subsection (a)) and the exemption authorized by section 15(d) of the Poultry Products Inspection Act (as added by subsection (b)).

of the Rural Development Administration established by subtitle A of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f et seq.) and the amendments made by such subtitle.

SEC. 1011. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) Short Title.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) Definitions.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1012. EGG PRODUCTS INSPECTION.

(a) Findings and Purposes.—

(1) Findings.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) Purposes.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) Inspection of Egg Products.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) Prohibited Acts.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) Penalties.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) Reporting of Violation to United States Attorney for Institution of Criminal Proceedings.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) Imports.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) Relation to Other Authorities.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) Effective Date.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1013. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) In General.—The Secretary of Agriculture shall, to the extent practicable, take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) Introduction Into Hawaii.—The Secretary shall initiate a program to prevent, to the extent practicable, the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or

tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) Authority.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) Control of Brown Tree Snakes.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes," after "rabbits,".

(e) Importation of Brown Tree Snakes.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1014. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1015. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Quarantine and Inspection.—The Secretary" and inserting the following:

"(1) Quarantine and Inspection.—

"(A) In general.—The Secretary";

(B) by indenting 2 ems the left margin of paragraph (1); and

(C) by adding at the end the following new subparagraphs:

"(B) Airport inspection services.—For airport inspection services, the Secretary shall collect no more than $69,000,000 in fiscal year 1992 and $75,000,000 in fiscal year 1993 from international airline passengers and commercial aircraft operators.

"(C) Commercial truck and railroad car inspection services.—For commercial truck and railroad car inspection services, the Secretary shall collect no more than $3,667,000 in fiscal year 1992 and $3,890,000 in fiscal year 1993 from commercial truck and railroad car operators.

"(D) Costs.—Fees, including fees from international airline passengers and commercial aircraft operators, may only be collected to the extent that the Secretary reasonably estimates that the amount of the fees are commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of such services with respect to passengers as a class includes the costs of related inspections of the aircraft.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) Reimbursement.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws. Any such reimbursement shall be subject to appropriations under clause (v)."; and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1016. EXEMPTION AND STUDY OF CERTAIN FOOD PRODUCTS.

(a) Amendments to Federal Meat Inspection Act.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under section 24 that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a meat food product from the inspection requirements of this Act if—

"(A) the meat food product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(b) Amendments to Poultry Products Inspection Act.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under this section that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a poultry product from the inspection requirements of this Act if—

"(A) the poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(c) Regulations.—No later than August 1, 1992, the Secretary of Agriculture shall issue final rules, through prior notice and comment rulemaking procedures, to implement the exemption authorized by section 23(c) of the Federal Meat Inspection Act (as added by subsection (a)) and the exemption authorized by section 15(d) of the Poultry Products Inspection Act (as added by subsection (b)). Prior to the issuance of the final rules, the Secretary shall hold at least one public hearing examining the public health and food safety issues raised by the granting of each of the exemptions.

(d) Studies.—

(1) In general.—Not later than 24 months after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the National Academy of Sciences, shall conduct—

(A) a study to develop criteria for, and evaluate, present and future inspection exemptions for meat food products and poultry products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), respectively, which shall examine the potential effect on consumers, on the affected industries, on public health and food safety, on the role of the Department of Agriculture, and the scientific basis for the exemptions; and

(B) a study of the appropriateness of granting an exemption from the requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act, as appropriate, for wholesale meat outlets selling to hotels, restaurants, or other similar institutional users provided that the processing of meat by the outlets is limited to cutting, slicing, grinding, or repackaging into smaller quantities.

(2) Results.—On completion of each study required under paragraph (1), the Secretary shall provide the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1017. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) In General.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e), shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) Amount of Fee.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) Reimbursement of Expenses.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) Adjustment of Fees.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accredi-

VOL
137
PT
24
NO
26
1991
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JA
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1992
UMI

tation programs carried out under the statutory authorities set forth in subsection (a).

"(e) APPROPRIATIONS PREREQUISITE.—No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.".

SEC. 1018. STATE AND PRIVATE FORESTRY TECHNICAL AMENDMENTS.

(a) COOPERATIVE FORESTRY ASSISTANCE.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended—

(1) in section 5(d) (16 U.S.C. 2103a(d)), by striking "State Foresters" each place it appears and inserting "State foresters";

(2) in section 7 (16 U.S.C. 2103c)—

(A) in subsection (d)(2), by striking "Not later than 1 year after the date of enactment of this section," and inserting "Not later than November 28, 1991,";

(B) in subsection (e), by striking "Within 1 year from the date of enactment of this section and in consultation with State Forest Stewardship Advisory Committees established under section 15(b)" and inserting "Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 19(b)"; and

(C) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)";

(3) in section 9 (16 U.S.C. 2105)—

(A) in subsection (g)(1)(C), by striking "subsection (e)" and inserting "subsection (f)";

(B) in subsection (g)(3)(E), by striking "subsection (e)" and inserting "subsection (f)";

(C) in subsection (h)(1), by striking "subsection (f)" and inserting "subsection (g)"; and

(D) in subsection (h)(2), by striking "subsection (f)(3)" and inserting "subsection (g)(3)"; and

(4) in section 10(g)(2) (16 U.S.C. 2106(g)(2)), by striking "fire fighting organization" and inserting "firefighting organization".

(b) COMMISSION ON STATE AND PRIVATE FORESTS.—Section 1245(g)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3549; 16 U.S.C. 1601 note) is amended by striking "the Director of the Office Technology Assessment may furnish".

(c) FOREST PRODUCTS INSTITUTE.—Section 1247(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3551; 16 U.S.C. 2112 note) is amended by striking "in this section" the second place it appears.

(d) RENEWABLE RESOURCES EXTENSION.—Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of the first paragraph (9) (as added by section 1219(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3539) and inserting "; and"; and

(3) by redesignating the second paragraph (9) (as added by section 1251(b)(3) of such Act (104 Stat. 3552) as paragraph (10).

(e) AMERICA THE BEAUTIFUL.—Section 1264(n)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3556; 16 U.S.C. 2101 note) is amended by striking "this Act" and inserting "this subtitle".

(f) REFORESTATION ASSISTANCE.—Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3558; 16 U.S.C. 2106a) is amended—

(1) by inserting "(16 U.S.C. 2101 et seq.)" after "1978"; and

(2) by striking "(16 U.S.C. 590h, 590l, or 590p)" and inserting "(16 U.S.C. 590p(b))".

SEC. 1019. Repealed Public Law 76–543. Public Law 76–543 (54 Stat. 231) is hereby repealed.

TITLE XI—EFFECTIVE DATES

SEC. 1101. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) to which the amendment relates:

(1) Section 201 (other than section 201(h)).

(2) Section 307.

(3) Subsections (a) through (c), (e), (h), and (i) of section 501.

(4) Subsections (a), (b), (f) through (i), and (l) of section 502.

(5) Section 602(c).

(6) Section 701 (except as provided in subsection (c) of this section).

(7) Section 702.

(8) Section 703(c).

(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) FOOD AND NUTRITION PROGRAMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

(2) PASS ACCOUNTS EXCLUSION.—

(A) IN GENERAL.—The amendment made by section 903(3) of this Act shall take effect on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 908 of this Act shall take effect on September 30, 1991.

(4) RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.—The amendment made by section 911 of this Act shall take effect on the date of enactment of this Act.

(5) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 913 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

Mr. LEAHY. Mr. President, our amendments to the Farms for the Future Act of 1990, make absolutely clear the intent of the farm bill language—that Vermont must receive funding from the Secretary of Agriculture to implement its own version of the Farms for the Future program.

Current law, without these amendments, already required this result. The Secretary of Agriculture refused to carry out that law. The Comptroller General of the United States ruled that:

> The words, the structure and history of the Farms for the Future Act support the conclusion that Congress intended to provide the Secretary of Agriculture with direct spending authority to establish a pilot project in Vermont. Furthermore, Congress intended for the Secretary of Treasury to provide the funding. Comp. Gen. Op. B–244093 (July 19, 1991).

I would like to note that the Conference Report accompanying the Food Agriculture, Conservation, and Trade Act of 1990, dated October 22, 1990, makes the above point clearly. It states that the conferees intended that a "mandatory pilot project is also established in Vermont." It further concludes that the final version makes "the pilot project State (Vermont) eligible for direct spending assistance and the other eligible states eligible for assistance subject to appropriations." House Report 101–916, 957. These points simply confirm what that law already required—which is why this provision has no cost. The changes reflect the original intent to provide Vermont with funding to operate its own Farms for the Future Program. I am very disappointed that the Department did not implement the law.

But the new language does more that just restate prior law requiring that financial assistance be provided to Vermont as the pilot project State. The Department recently issued proposed regulations that would have made it virtually impossible for any State to fully take advantage of the benefits of the original legislation. This amendment prevents the Department from instituting those impediments, which I believe were inconsistent with the intent, spirit and wording of the law and which would have prevented Vermont from gaining the benefits of the program.

The amendment, as with the prior version, makes clear that Vermont shall receive financial assistance, in the form or guarantees and interest

subsidies, from USDA. The money is to be provided by the Treasury Department as clearly provided in the law. Further it is again clear that Vermont, and each of the trust funds in Vermont participating in the farmland protection program funds in Vermont participating in the farmland protection program, must be approved since Vermont is defined as an eligible State. Once Vermont is approved, and Vermont must be approved, each trust fund set up in Vermont to carry out the purposes of the act must be provided the appropriate assistance.

I appreciate the assistance of Jim Libby and Gus Seelig of the Vermont Housing and Conservation Board in working on this issue as well as the assistance of Ed Thompson of the American Farmland Trust.

Mr. WALLOP. Mr. President, as the primary cosponsor of S. 1935 which is now a part of H.R. 3029, technical corrections to the farm bill currently under consideration, I rise to reaffirm my support of provisions vital to the survival of a domestic sheep industry. This is one more step in ongoing efforts by myself and my friends and colleagues, Senators SIMPSON, BURNS, BAUCUS, HATCH, CRAIG, PRESSLER, GARN, DOMENICI, SEYMOUR, DASCHLE, GRASSLEY, and others in Congress, the American Sheep Industry Association, and the Wyoming Wool Growers to correct serious sheep market problems adversely affecting over 110,000 hardworking families nationwide.

Because Wyoming is the Nation's third largest sheep-producing State with 1,539 family operations, disparities in America's sheep market continue to deeply concern this Senator and my constituents who are directly and indirectly involved in the sheep industry. Between 1988 and 1991, approximately 3,000 family sheep operations nationwide, including over 200 in Wyoming, have been unfairly driven from their heritage and out of business. Most remaining operations are on the brink of unnecessary financial disaster. If the current situation is not resolved soon, at least half of Wyoming's 830,000 sheep and lambs will be gone in 2 to 3 years. For the sake of thousands of families and small communities in Wyoming and nationwide who depend on a fair sheep market for their livelihoods, this problem must be corrected soon. This legislation is essential to bringing back a fair and healthy domestic sheep industry.

It is deeply concerning and quite puzzling that while the retail price of lamb products has remained steady over the past few years, the wholesale price paid to our sheep producers has declined. There is something rotten in the marketplace—it is not working in a fair and equitable way. We must ensure that all players in the sheep industry have accurate and complete information about wholesale and retail prices and yield gradings. Gathering and distributing this information will ensure that market information will not remain the privilege of a few, and will perhaps help shrink the curious and unfair spread between wholesale and retail sheep prices. By opening the flow of information, the sheep industry will begin to operate like every other free agricultural market in this Nation. Congress and the Department of Agriculture must act at this critical time in this essential way to save America's sheep industry. I urge your affirmative vote. Thank you, Mr. President.

Mr. LUGAR. Mr. President, I strongly support enactment of the legislation before us, which makes technical changes to the 1990 farm bill. To call these provisions "technical" is not to minimize their importance, for they will benefit farmers, ranchers, and agribusinessmen throughout the country, as well as consumers and low-income Americans.

Despite the best of intentions, it is never possible to foresee every possible consequence of each individual provision in a bill as massive as the Food, Agriculture, Conservation, and Trade [FACT] Act of 1990. Moreover, legislation which saw final approval during the closing days of the last Congress was bound to contain clerical and other errors which must be corrected. Hence the need for the legislation before us: It answers questions left unresolved in the 1990 law, and corrects errors and omissions therein. It will have no material effect on budgetary outlays.

Among the many individual provisions of this legislation, I wish to single out a few that are especially significant. First, the authority to fund price support loans on high-moisture feed grains is restored, correcting an error in the farm bill. Second, farmers will once again have the same flexibility to substitute corn for grain sorghum, and vice versa, that they enjoyed under the 1985 farm bill. In addition, wheat producers will receive the final portion of their deficiency payments somewhat earlier, though still within the same fiscal year in order to avoid any budget problems. The Department of Agriculture will be required to improve price information and price discovery for lamb, addressing a growing concern in the sheep industry.

I am also most gratified, Mr. President, that a provision from my bill S. 1714 is included in this legislation. In that bill, I proposed to give the Secretary of Agriculture authority to pay the expenses of U.S. farmers and other agricultural experts who will live in the Soviet Union for extended periods of time in order to provide technical assistance, training, and advice to the Soviet food industry. The Secretary could expend up to $5 million a year for this purpose. Clearly, Mr. President, among the most pressing needs for the Soviet Union is an overhaul in its food production and distribution system: The development of sound production practices, infrastructure, marketing and distribution systems, and a radically increased emphasis on the profit motive and product quality. This provision will allow the United States to assist the Soviet people as they try to build democratic capitalism in their agricultural and food sector, which has great potential but has a very long way to go.

It needs to be said, Mr. President, that developing Soviet agriculture in this way is going to be good for America. I need not mention our manifest national interest in stability and peace within the Soviet Republics, to which end a healthy food sector is essential. But we must also understand that as economies mature and incomes increase, food consumption often outstrips production, creating markets for surplus food producers like ourselves. More specifically, rising per-capita meat consumption in the former Soviet Union will mean a greater demand for feed grains, oilseeds and protein meals, which we will be well-positioned to supply. Thus, it is my belief that although Soviet agriculture has great potential, this need not mean that U.S. exports to the Soviet Union will decline. Indeed, they can easily increase, particularly value-added exports.

The bill before us contains other important provisions, including necessary technical changes in USDA's food assistance programs and new authorities for the Federal Agricultural Mortgage Corporation [FAMC]. The administration supports passage and enactment of the bill, and has worked closely with me, with Chairman LEAHY and with our House counterparts to fashion bipartisan legislation that will both refine and improve the 1990 farm bill, whose basic parameters remain, quite properly, unchanged.

Mr. REID. Mr. President, I move that the Senate concur in the amendment of the House of the amendment of the Senate.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar numbers 324 and 334, en bloc; that committee substitute amendments and the committee amendments, where indicated, be agreed to, en bloc; that the several bills each be deemed read for the third time, passed, and the

motion to reconsider the passage of

ment (hereinafter referred to as the "monu-

(2) a resource protection program, includ-

whether the addition of the site is consistent

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research, interpretation, and protec-

VOL
137
PT
24
NO
26
1991
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JA
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1992
UMI

motion to reconsider the passage of each bill be laid upon that table en bloc; that consideration of each bill be included separately in the RECORD; and that statements with respect to passage of each bill be included in the RECORD where appropriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIMBRES CULTURE NATIONAL MONUMENT ESTABLISHMENT ACT

The Senate proceeded to consider the bill (S. 1528) to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, which had been reported from the Committee on Energy and Natural Resources: with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mimbres Culture National Monument Establishment Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) The prehistoric Mimbres tradition was the most significant expression of the Mogollon culture, and represents one of three great prehistoric civilizations of the American Southwest;

(2) the Mimbres and Gila River valleys, including the Silver City, New Mexico area, contain many Mimbres sites;

(3) some of the Mimbres pueblos in those valleys were build during the classic phase of that culture in the 11th century and are among the largest in the southwestern United States;

(4) the Mimbres people developed sophisticated canal irrigation technology prior to the Anasazi Culture;

(5) the Mimbres material culture is epitomized by distinctive and strikingly pointed black-on-white pottery that is recognized as the consummation of several formal, pictorial, and iconographic traditions in the American Southwest;

(6) Mimbres pottery is internationally known and is probably the single most famous prehistoric American art style;

(7) many Mimbres sites have been vandalized or destroyed, and remaining sites are threatened by further vandalism and illegal pot-hunting; and

(8) in recognition of the national significance of the Mimbres sites and the urgent need to protect the valuable Mimbres cultural resources from vandalism and destruction, it is appropriate that a national monument and a system of archeological protection sites be established in New Mexico.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the nationally significant cultural resources associated with the prehistoric Mimbres tradition;

(2) to provide for the protection and interpretation of these resources for the benefit and enjoyment of present and future generations;

(3) to facilitate research activities; and

(4) to encourage government and private sector protection actions.

SEC. 3. ESTABLISHMENT OF THE MONUMENT.

(a) IN GENERAL.—There is hereby established the Mimbres Culture National Monument (hereinafter referred to as the "monument") in the State of New Mexico as a unit of the National Park System, consisting of approximately 959 acres, including the Cameron Creek, Mattocks, TJ Ruin, and Woodrow Units, as generally depicted on a map entitled "Mimbres Culture National Monument", numbered 80,008–A and dated July, 1991. Such map shall be kept on file and available for public inspection in the office of the Director of the National Park Service and in appropriate offices of the National Park Service in the State of New Mexico.

(b) ACQUISITION OF LANDS.—(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests in land within the boundaries of the monument by donation, purchase with donated or appropriated funds, or exchange: Provided, That no lands or interest therein owned by the State of New Mexico or a political subdivision thereof may be acquired except by donation or exchange.

(2) No lands or interests in land may be added to the monument after the date of enactment of this Act without specific authorization by Congress and the consent of the owner of such land or interest therein.

(3)(A) Subject to negotiated agreements to ensure cultural resource protection, an owner of improved residential property within the boundaries of the monument may, on the date of the acquisition of such property, retain for the owner and the owner's successors and assigns, a right of use and occupancy of the property for such residential purposes as existed before August 2, 1991, for a term, as the owner may elect—

(i) of not more than 25 years; or

(ii) ending at the death of the owner or the owner's spouse, whichever is later.

(B) The Secretary shall pay to the owner the difference between the fair market value of the property on the date of acquisition and the fair market value of the property on the date of the term retained by the owner.

(c) VISITOR CENTER.—The Secretary shall establish a visitor center and administrative headquarters for the monument in Silver City, New Mexico. The Secretary is authorized to acquire, in accordance with subsection (b)(1) of this section, up to 3 acres of land in Silver City for the purpose of establishing the visitor center and administrative headquarters.

SEC. 4. ADMINISTRATION OF THE MONUMENT.

(a) IN GENERAL.—The Secretary shall administer the monument in accordance with the provisions of this Act and laws generally applicable to the administration of units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) GENERAL MANAGEMENT PLAN.—Not later than 3 years after the date funds are made available for this subsection, the Secretary shall, in consultation with appropriate Federal and State agencies, public and private entities, affected landowners, and American Indian groups, including the Zuni Tribe, prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a general management plan (hereinafter referred to as the "plan") for the monument consistent with the purposes of this Act. The plan shall include—

(1) a statement of the number of vistors and types of public use within the monument which can be accommodated in accordance with the protection of the monument's resources;

(2) a resource protection program, including resource inventories;

(3) a general interpretive program, which shall include dissemination of information on the Masau Trail;

(4) a general development plan for the monument, including a description of facilities needed to accommodate for public use and for resource protection, and the estimated costs thereof;

(5) a research plan to evaluate broad aspects of the Mimbres culture, developed in cooperation with other Federal and State agencies, and public and private entities;

(6) a feasibility analysis of the WS Ranch archeological site, including management options and the potential for public use and interpretation;

(7) details of proposed cooperative agreements; and

(8) a joint management plan for the Mimbres Culture Archeological Sites Protection System established pursuant to section 5 of this Act. Such plan shall include—

(A) resource protection measures and associated costs;

(B) research needs and plans;

(C) a general interpretive program for the system; and

(D) guidelines for cooperative agreements, proposed cooperative agreements, and associated costs.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate local institutions of higher learning for the purpose of establishing a curatorial operation for the care and maintenance of Mimbres cultural artifacts. Such cooperative agreements may include an agreement to provide funding assistance, subject to appropriation, specifically for the curation of Mimbres cultural artifacts.

(2) The Secretary may enter into coperative agreements with other Federal agencies, and other public plan referred to in subsection (b)(5).

(d) RESEARCH SITE.—The Secretary shall administer the Woodrow Unit of the monument primarily as a research site. General public use facilities shall not be provided at the Woodrow Unit.

(e) IRRIGATION DITCH MANAGEMENT.—The Secretary shall not interfere with the continued use, maintenance, and operation of irrigation ditches located within the boundaries of the monument as of the date of enactment of this Act.

SEC. 5. MIMBRES CULTURE ARCHEOLOGICAL SITE PROTECTION SYSTEM.

(a) ESTABLISHMENT.—(1) In order to encourage the protection, interpretation, research, and integration of information about the Mimbres culture, there is hereby established the Mimbres Culture Archeological Site Protection System (hereinafter referred to as the "system") in the State of New Mexico, as generally depicted on a map entitled "Mimbres Culture Archeological Site Protection System", numbered 80,006—B and dated April, 1991.

(2) The system shall consist of the following eleven sites—Black Mountain; Cottonwood; Gatton Park; Lake Roberts; Old Town; Pony Hills; Pine Flat; Red Rock Cemetery; Red Rock Pithouse; WS Ranch; and Rio Vista.

(b) ADDITIONAL SITES.—(1) The Secretary shall undertake research to locate additional Mimbres sites on Federal lands in New Mexico.

(2) The owner of a non-Federal site may nominate such site for inclusion in the system. Upon nomination of such site, the Secretary shall review the site to determine

whether the addition of the site is consistent with the purposes of the system. The Secretary shall include any recommendation with respect to the site in the report referred to in subsection (c).

(3) Addition of new sites or deletion of existing sites from the system may only be made by an Act of Congress.

(c) REPORT.—Not later than 3 years after the completion of the general management plan referred to in section 4(b), the Secretary shall prepare and transmit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives providing recommendations for additions to or deletions from the list of archeological protection sites set forth in subsection (a)(2).

(d) ADMINISTRATION.—(1) The Secretary, in consultation and cooperation with affected Federal and State agencies and landowners, shall administer the system in a manner that will provide for the protection, preservation, and interpretation of Mimbres cultural resources and to facilitate research activities associated with such resources.

(2) Non-Federal lands or interests therein may not be acquired for addition to the system.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary or the Secretary of Agriculture, where appropriate, may enter into cooperative agreements with other Federal, State, and local agencies, public and private entities, private landowners, and other persons for the purposes of administration, management, protection, research, and interpretation of sites within the system.

(2) Federal funds may be expended, subject to appropriation, on non-Federal sites through cooperative agreements with, and the consent of, the owners of such sites.

(f) ADVISORY COMMITTEE.—The Secretary shall establish an Advisory Committee, composed of representatives of Federal and State government agencies, and other interested parties, to provide guidance in the preparation and implementation of the joint management plan required by section 4(b)(8).

SEC. 6 AUTHORIZATION OF APPROPRIATONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. BINGAMAN. Mr. President, I am pleased that the Senate has passed S. 1528, which will establish a Mimbres Culture National Monument and will establish a protection system for these valuable and threatened archeological sites.

For decades the striking black-on-white pottery produced by the Mimbres Culture, an ancient Southwestern culture, has been a double-edged sword for the archeological sites which contain it. The bold and beautiful, abstract and animal designs touch something in us across the centuries and make us want to know more about the people who made it; but actions taken to acquire this same pottery have inadvertently caused the wanton destruction of the Mimbres sites in which it rests. In their quest for the valuable pottery, pothunters loot with no regard for the sites they destroy. And the market is worldwide; the cultural properties associated with the Mimbres culture are of international artistic significance. As a result, there are almost 7,000 pieces of this pottery on exhibit in museums around the world. We are in danger of losing an irretrievable part of our country's heritage.

Despite this, before this bill, there was no unit of the National Park Service or any other agency which was dedicated to the preservation and interpretation of this culture. This bill initiates positive actions to preserve and protect what is left of the Mimbres culture.

There were three great cultures—the Anasazi, the Hohokam, and the Mogollon—which flourished in the Southwest region of our country; the most significant expression of the Mogollon culture was left by those who are known today as the Mimbres people. Their origin and demise as a culture is not fully understood. We do know, however, that the Mimbrenos lived between A.D. 200 and 1150. Over time, their way of life shifted from hunting and gathering to farming, utilizing a sophisticated system of stream diversion, and canal irrigation. They developed these systems centuries before the Anasazi. Their understanding of their environment was so complete that, for a time and even in an arid environment, they were able to raise enough food to support levels of population density unknown in other prehistoric Southwestern societies. Some of the pueblos built during the later Mimbres period of occupation are among the largest in the Southwest.

Pottery styles changed also, culminating in intriguing and beautifully executed black-on-white representational designs of plants, animals, humans, and mythological beings. The designs depict scenes of pottery-making, swimming, planting, hunting, gambling, food-gathering, and many other day-to-day activities.

There are scenes of humans and animals with mythological beings. There are bold, geomatric abstract designs. Mimbres art is a unique visual resource that gives us a tantalizing glimpse into the physical as well as the intellectual and spiritual world of the Mimbres people. But, without the context of the sites in which this art was created, it would remain just that for us—only a mystifying glimpse.

S. 1528 will recognize, preserve, and interpret a good cross-section of known examples of archaeological sites associated with the Mimbres culture of New Mexico. Not only does it set up a system of site protection for these sites, but it will also provide for the inclusion of additional sites for protection and study as they are discovered or re-evaluated in the future.

The bill's enactment will also provide for a visitor center in Silver City, and for an administrative center which will be involved in an educational program about the Mimbres culture. It will direct the National Park Service to move forward to answer questions of research, interpretation, and protection of Mimbres sites. The Mimbres Culture Archaeological Site Protection System called for in the bill will bring together, voluntarily and in a spirit of cooperation, interested landowners—private, Indian, and Federal—to take actions to protect the vestiges of Mimbres culture remaining on their properties. The bill also calls for an advisory committee to work with the National Park Service to promote the protection of these resources and to provide for their further protection and research.

Through protection, interpretation, and education, visitors to the monument established by this bill will better comprehend the architectural, artistic, social, and economic achievements of the Mimbres culture and its close ties to the land which gave its people nourishment. The creation of this monument will recognize the international significance of the material artifacts associated with this culture, and will protect and interpret these resources for the benefit of present and future generations. There are always lessons to be learned from the past. The passage of this bill assures that there will be increased public understanding and increased protection of a precious part of this Nation's rich heritage.

So the bill (S. 1528) was deemed read the third time and passed.

PROVISIONS FOR ENTRY INTO STOCK RAISING HOMESTEAD ACT LANDS

The Senate proceeded to consider the bill (S. 1187) to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in black brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINERAL ENTRY UNDER STOCK RAISING HOMESTEAD ACT.

(a) MINERAL ENTRY UNDER THE STOCK RAISING HOMESTEAD ACT.—Section 9 of the Act of December 29, 1916 entitled "An Act to provide for stock-raising homesteads, and for other purposes" (39 Stat. 862; 43 U.S.C. 299) is amended by adding the following at the end thereof:

"(b) PROSPECTING; NOTICE OF INTENTION TO LOCATE; EXPLORATION, DEVELOPMENT, AND PRODUCTION").—

"(1) PROSPECTING; LOCATION OF CLAIMS.—Notwithstanding subsection (a), no person other than the surface owner may enter lands subject to this Act to prospect for minerals or to locate a claim under the mining laws of the United States on such lands without:

"(A) filing a notice of intention to lo-

"(D) A statement of the dates on which

cedures for (i) reclamation of the surface *in*

or production activities to remedy to the

THE CALENDAR

and antiquities of national significance, and

"(A) filing a notice of intention to locate a claim pursuant to paragraph (2); and

"(B) providing notice to the surface owner pursuant to paragraph (3).

Any person who has complied with paragraphs (2) and (3) with respect to any such lands may, during the authorized prospecting period, enter such lands to prospect for minerals, with minimal surface disruption, and to locate a mining claim on such lands. During such period no such person may construct any road, use any explosives, or use any mechanical earth moving equipment on such lands. With respect to any lands for which a notice is filed under paragraph (2), the term 'authorized prospecting period' means the period beginning ten days after notice is provided under paragraph (3) with respect to such lands and ending with the expiration of the sixty-day period, or the extension of such period, pursuant to paragraph (2).

"(2) NOTICE OF INTENTION TO LOCATE A CLAIM.—

"(A) any person seeking to prospect for minerals or to locate a mining claim on lands subject to this Act shall file with the Secretary of the Interior a notice of intention to locate a claim on the lands concerned. The notice shall be in such form as the Secretary of the interior shall prescribe. The notice shall contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. The legal description shall be based on the public land survey or on such other description as is sufficient to permit the Secretary to record the notice on the Secretary's land status records. Whenever any person has filed a notice under this paragraph with respect to any lands, during the sixty-day period following the date of such filing, or any extension thereof pursuant to this paragraph, no other person (including the surface owner) may—

"**[**(A)**]** *(i)* file such a notice with respect to any portion of such lands;

"**[**(B)**]** *(ii)* prospect for minerals or locate a mining claim on any portion of such lands; or

"**[**(C)**]** *(iii)* file an application to acquire any interest in any portion of such lands pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). If, within such sixty-day period, the person who filed a notice under this paragraph files a plan of operations with the Secretary pursuant to subsection (c) of this section, such sixty-day period shall be extended until the approval or disapproval of the plan of operations by the Secretary pursuant to subsection (c) of this section.

"(B) The Secretary may establish such fees as may be necessary to cover the administrative costs of processing notices filed under this paragraph.

"(3) NOTICE TO SURFACE OWNER.—Any person who has filed a notice of intention to locate a claim under paragraph (2) for any lands subject to this Act shall provide written notice by registered or certified mail to the surface owner (as evidenced by local tax records) of the lands covered by the notice under paragraph (2). The notice shall be provided at least ten days before entering such lands and shall contain each of the following—

"(A) A brief description of the proposed prospecting activities.

"(B) A map and legal description of the lands to be subject to prospecting.

"(C) The name, address, and phone number of the person managing such activities.

"(D) A statement of the dates on which such activities shall take place.

"(4) ACREAGE LIMITATIONS.—The total acreage covered at any time by notices of intention to locate a claim under paragraph (2) filed by any person and by affiliates of such person may not exceed six thousand four hundred acres of lands subject to this Act in any one State and one thousand two hundred and eighty acres of such lands for a single surface owner. For purposes of this paragraph, the term 'affiliate' means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

"(5) MINERALS COVERED.—This subsection applies only to minerals not subject to disposition under the Mineral Leasing Act (30 U.S.C. 181 and following), the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), or the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

"(c) MINERAL EXPLORATION, DEVELOPMENT AND PRODUCTION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) of this section, except for prospecting in accordance with subsection (b) of this section, no person may conduct any mineral exploration, development, or production activities on lands subject to this Act without the written consent of the surface owner thereof unless the Secretary has authorized the conduct of such activities under paragraph (2).

"(2) AUTHORIZED MINING OPERATIONS.—The Secretary shall authorize, if the conditions of this paragraph are met, a person to conduct mineral exploration, development, and production activities on lands subject to this Act without the consent of the surface owner thereof. Such conditions for authorization are—

"**[**S**]** *(A)* BOND.—Before the Secretary may authorize any person to conduct mineral exploration, development, or production activities, the Secretary shall require such person to post a surety bond to be held by the United States, or to provide such other type of financial guarantee satisfactory to the Secretary to insure (i) reclamation of the surface *in accordance with the standards set forth in the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) and the regulations promulgated thereunder*, (ii) payment to the surface owner as compensation for any post-mining, permanent damages to crops and tangible improvements of the surface owner, and (iii) compensation for any postmining, permanent loss of income by the surface owner due to loss or impairment of grazing, or other uses of the land by the surface owner, to the extent that reclamation required by the plan of operations would not permit such uses to continue at the level existing prior to the mineral exploration, development, and production activities. In determining the bond amount to cover permanent loss of income, the Secretary shall consider, where appropriate, the potential loss of value due to the estimated permanent reduction in utilization of the land as expressed in Animal Unit Months.

"(B) PLAN OF OPERATIONS.—Before the Secretary may authorize any person to conduct mineral exploration, development, or production activities, the Secretary shall require such person to submit a plan of operations satisfactory to the Secretary and which complies with this subparagraph. The plan shall contain such terms and conditions as the Secretary determines necessary. The conditions shall include, at a minimum, procedures for (i) reclamation of the surface *in accordance with the standards set forth in the last sentence of Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) and the regulations promulgated thereunder*, (ii) minimization of damages to crops and tangible improvements of the surface owner, and (iii) minimization of disrupting to grazing or other uses of the land by the surface owner. The plan shall provide for payment of a fee for the use of the surface lands during exploration, development, production and reclamation activities. The fee shall be paid to the surface owner by the person submitting the plan of operations. The fee shall be paid in advance of any mineral exploration, development, or production activities or at such other time or times as may be agreed to by the surface owner and the person conducting such activities. The Secretary shall establish the surface use fee, taking into account the acreage involved and the degree of potential disruption to existing surface uses (including loss of income to the surface owner due to the loss or impairment of existing surface uses for the duration of the mineral exploration, development, and production activities), but the surface use fee shall not exceed the fair market value for the surface of the land. Upon receipt of the plan, the Secretary shall provide a copy of the plan to the surface owner. The surface owner may submit comments and recommend plan modifications to the Secretary within thirty days of the surface owner's receipt of the plan. The Secretary shall, within sixty days if receipt of the plan, determine if the plan complies with the requirements of this subsection and approve or disapprove the plan. The sixty-day period may be extended: an additional sixty days if the Secretary determines such time is necessary to make the determination. *The Secretary shall within sixty days of receipt of the plan, approve such plan, if it complies with the requirements of this subparagraph or notify the person submitting the plan of any changes required to bring such plan into compliance with the requirements of this subparagraph. If the person submitting the plan agrees to the changes or to modifications acceptable to the Secretary, the Secretary shall approve the plan as changed. If no agreement can be reached on changes which, in the opinion of the Secretary, will bring the plan into compliance with the requirements of this subparagraph, then the Secretary shall disapprove the plan and notify both the surface owner and the person submitting the plan of the decision. The sixty-day period shall be extended where additional time is required to comply with other requirements of law.* The Secretary shall suspend or revoke the authorization under this paragraph whenever the Secretary determines, on the Secretary's own motion or on a motion made by the surface owner, that the person conducting mineral exploration, development, or production activities is in substantial noncompliance with the terms and conditions of the plan and failed to remedy the violation after notice from the Secretary within the time required by the Secretary.

"(3) DAMAGES FOR FAILURE TO COMPLY.—Whenever the surface owner of any land subject to this Act has suffered any damages of loss referred to in paragraph (2)(A), if such damages or loss **[**results.**]** *results*—

"(A) from any mineral exploration, development, or production activities undertaken without the consent of the surface owner under paragraph (1) or an authorization by the Secretary under paragraph (2), or

"(B) from the failure of the person conducting mineral exploration, development, or production activities to remedy to the satisfaction of the Secretary any substantial noncompliance with the terms and conditions of a plan under paragraph (2)(B) pursuant to a notice from the Secretary under the last sentence of paragraph (2), the surface owner may bring an action against the person conducting mineral exploration development, production or reclamation activities in the appropriate United States district court for, and the court may award, double damages plus costs for willful misconduct or gross negligence. Such damages shall be reduced by the amount of any compensation which the surface owner has received, or is eligible to receive, pursuant to the surety bond or other financial guarantee required under paragraph (2)(A). The surface owner of such lands may also bring an action in the appropriate United States district court for double damages plus costs for willful misconduct or gross negligence against any person undertaking any minerals prospecting activity on such lands in violation of any requirement of paragraph (1).

"(4) PAYMENT OF DAMAGES.—The surface owner of any land subject to this subsection may petition the Secretary for payment of all or any portion of a surety bond or other financial guarantee required under paragraph (2)(A) as compensation for damages and losses referred to in paragraph (2)(A). Pursuant to such a petition, the Secretary may use such bond or other guarantee to provide compensation to the surface owner for such damages and to insure reclamation as required by this subsection.

"(5) BOND RELEASE.—The Secretary shall release the surety bond or other financial guarantee required under paragraph (2)(A) upon the successful completion of all requirements pursuant to the plan approved under paragraph (2)(B) or at such earlier date as may be agreed to by the surface owner.

"(6) MINERALS COVERED.—This subsection applies only to minerals not subject to disposition under the Mineral Leasing Act (30 U.S.C. 181 and following), the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), or the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).".

(b) SIMPLIFICATION OF PROCEDURES.—Within 180 days after the enactment of this Act, the Secretary shall determine what actions may be necessary to simplify the procedures established pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719) for conveyance of the mineral interest in such land owned by the United States. If the Secretary determines that no action is necessary, the Secretary shall notify the Committee on Energy and Natural Resources of the United States House of Representatives of such determination, along with the reasons for such determination.

(c) TECHNICAL CONFORMING AMENDMENT.—Section 9 of the Act of December 29, 1916 entitled "An Act to provide for stock-raising homesteads, and for other purposes" (43 U.S.C. 299) is amended by inserting "(a) GENERAL PROVISIONS.—" before the words "That all entries made".

(d) REGULATIONS.—Within one year after the date of enactment of this Act, the Secretary of the Interior shall promulgate such regulations as may be necessary to implement this section.

So the bill (S. 1187) was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 315, 316; that the committee amendments where indicated be agreed to en bloc; that the two bills be deemed read a third time and passed and the motion to reconsider passage of these items be laid upon the table en bloc; that any statements related to these calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORT TOTTEN NATIONAL HISTORIC SITE ESTABLISHMENT ACT

The bill (S. 1707) to authorize the establishment of the Fort Totten National Historic Site, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Fort Totten National Historic Site Act".

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) Fort Totten is one of the bet preserved military poste surviving from the Indian wars in the trans-Mississippi west;

(2) Fort Totten has played a significant role in American Indian history, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school; and

(3) Fort Totten is in immediate need of major repairs and restoration work which are beyond the capabilities of the State of North Dakota and which would be best undertaken by the National Park Service.

ACQUISITION OF HISTORICAL SITE

SEC. 3. In order to preserve Fort Totten, the Secretary of the Interior is authorized to acquire by donation from the State of North Dakota, the real property described in section 4 for the establishment and administration of a national historic site.

DESCRIPTION OF SITE

SEC. 4. The real property referred to in section 3 is that real property known as the Fort Totten State Historic Site located approximately twelve miles southwest of the town of Devils Lake, North Dakota, on the south shore of Devils Lake on the Fort Totten Indian Reservation.

ADMINISTRATION OF SITE

SEC. 5. The property acquired under this Act shall be known as the "Fort Totten National Historic Site", and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (30 Stat. 535; 16 U.S.C. 1, 2 4) and the Act entitled "An Act to provide for the preservation of historic American sites buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

GENERAL MANAGEMENT PLAN

SEC. 6. Within two years after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives as general management plan for the use and development of the site consistent with the purposes of this section, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resources protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

AUTHORIZATION

SEC. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

ARKANSAS WILDERNESS ACT

The Senate proceeded to consider the bill (S. 1743) to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arkansas Wild and Scenic Rivers Act of 1991".

SEC. 2. WILD, SCENIC, AND RECREATIONAL RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraphs:

"(119) BIG PINEY CREEK, ARKANSAS.—**[**The 41.3 mile segment from its origin in section 24, township 11 north, range 20 west,**]** *The 45.2-mile segment from its origin in section 27, township 13 north, range 23 west*, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(120) BUFFALO RIVER, ARKANSAS.—The 15.8-mile segment from its origin in section 22, township 14 north, range 24 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) the 6.4-mile segment from its origin in section 22, township 14 north, range 24 west, to the western boundary of the Upper Buffalo Wilderness, as a scenic river.

"(B) The 9.4-mile segment from the western boundary of the Upper Buffalo Wilder-

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ness to the Ozark National Forest boundary,

Canyon Botanical Area boundary to its con-

LAMPREY RIVER STUDY ACT

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sider the passage of these items be laid

shall serve as Chairman and who shall be a

Northern and Southern Advisory Councils, ness to the Ozark National Forest boundary, as a wild river.

"(121) Cossatot River, Arkansas.—Segments of the main stem and certain tributaries, totaling 20.1 miles, to be administered as follows:

"(A) The 4.2-mile segment of the main stem from its confluence with Mine Creek to the Caney Creek Wilderness Boundary [in] *on the north section line of* section 13, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a recreational river.

"(B) The 6.9-mile segment of the main stem from the Caney Creek Wilderness Boundary [in] *on the north section line of* section 13, township 4 south, range 30 west, to the Forest Proclamation Boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(C) The 4.4-mile segment of the Brushy Creek tributary from its origin [in] *in the southeast ¼ of* section 7, township 4 south, range 27 west, to the Forest Proclamation Boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(D) The 4.6-mile segment of the main stem from the State Highway 4 bridge to Duchett's Ford, to be administered by the Secretary of the Army as a scenic river consistent with the operation of Gillham Dam (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85–500)).

"(122) Hurricane Creek, Arkansas.—The 15.5-mile segment from its origin in [section 21,] *section 1,* township 13 north, range 21 west, to its confluence with Big Piney Creek, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 11.8-mile segment from its origin in [section 21,] *section 1*, township 13 north, range 21 west, to the western boundary of the private land [inside] *bordering* Hurricane Creek Wilderness, as a scenic river.

"(B) The 2.4-mile segment from the western boundary of the private land [inside] *bordering* the Hurricane Creek Wilderness to the Hurricane Creek Wilderness boundary, as a wild river.

"(C) The 1.3-mile segment from the Hurricane Creek Wilderness boundary to its confluence with Big Piney Creek, as a scenic river.

"(123) Little Missouri River, Arkansas.—Segments totaling 15.7 miles, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 11.3-mile segment from its origin [in] *in the northwest ¼ of* section 32, township 3 south, range 28 west, to the west section line of section 22, township 4 south, range 27 west, as a scenic river.

"(B) The 4.4-mile segment from the southern property line between National Forest System lands and private lands [in] *in the southeast ¼ of* section 28, township 4 south, range 27 west, to the Forest Proclamation Boundary, as a wild river.

"(124) Mulberry River, Arkansas.—The 56.0-mile segment from its origin in section 32, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 36.6-mile segment from its origin in section 32, township 13 north, range 23 west, to Big Eddy Hollow in section 3, township 11 north, range 27 west, as a recreational river.

"(B) The 19.4-mile segment from Big Eddy Hollow in section 3, township 11 north, range 27 west, to the Ozark National Forest boundary, as a scenic river.

"(125) North Sylamore Creek, Arkansas.—The 14.5-mile segment from the Clifty Canyon Botanical Area boundary to its confluence with the White River, to be administered by the Secretary of Agriculture as a scenic river.

"(126) Richland Creek, Arkansas.—The 16.5-mile segment from its origin in [section 27, township 12] *section 36, township 13* north, range 20 west, to the northern boundary of section 32, township 14 north, range 18 west, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 7.8-mile segment from its origin in [section 27, township 12] *section 36, township 13* north, range 20 west, to the western boundary of the Richland Creek Wilderness, as a scenic river.

"(B) The 5.3-mile segment from the western boundary of the Richland Creek Wilderness to the eastern boundary of the Richland Creek Wilderness, as a wild river.

"(C) The 3.4-mile segment from the eastern boundary of the Richland Creek Wilderness to the northern boundary of section 32, township 14 north, range 18 west, as a scenic river.".

SEC. 3. FEDERAL PROTECTION FOR STATE DESIGNATED RIVERS.

(a) In General.—The river segments described in subsection (b) are designated as components of the National Wild and Scenic Rivers System to be managed by the State of Arkansas in accordance with the requirements for rivers included in the National Wild and Scenic Rivers System pursuant to section 2(a)(ii) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)(ii)).

(b) River Segments.—The river segments referred to in subsection (a) are—

(1) the 10.4-mile segment of the Cossatot River from the Forest Proclamation Boundary to the intersection with State Highway 4; and

(2) the 0.3-mile segment of the Brushy Creek tributary from the Forest Proclamation Boundary to its confluence with the Cossatot River.

SEC. 4. SAVINGS PROVISION.

Nothing in this Act is intended to prohibit the Secretary of the Army from—

(1) operating Gillham Lake, including lake levels and releases, in a manner consistent with the Gillham project (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85–500)); or

(2) establishing a public use area for float trip termination at the confluence of the Cossatot River with Gillham Lake.

So the bill (S. 1743) as amended was deemed read the third time and passed.

(The text of the measure as passed by the Senate today will be printed in a future edition of the Record.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar Nos. 367 and 369 en bloc; that the several bills each be deemed read a third time, passed; that the motion to reconsider the passage of these items be laid upon the table en bloc; that the consideration of each bill be included separately in the Record and that statements with respect to the passage of each bill be included in the Record where appropriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAMPREY RIVER STUDY ACT

The bill (H.R. 1099) to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

WHITE CLAY CREEK STUDY ACT

The bill (H.R. 3012) to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

MEASURES INDEFINITELY POSTPONED—S. 461 AND S. 1552

Mr. REID. I ask unanimous consent that Calendar Nos. 354 and 357 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

STONES RIVER NATIONAL BATTLEFIELD EXPANSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3881, relating to the Stones River Battlefield, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3881) to expand the boundaries of Stones River National Battlefield, TN, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

So, the bill (H.R. 3881) was deemed read the third time, and passed.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 356, 358, 359, 360, 361, 362, 363 en bloc; that the committee substitute amendments and the committee amendments where appropriate be agreed to en bloc; that the several bills and the joint resolution each be deemed read a third time, passed; and that the preamble where applicable be agreed to; that the motion to reconsider the passage of these items be laid upon the table en bloc; that the consideration of each bill be included separately in the Record; and that statements with respect to the passage of each bill be included in the Record where appropriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALLEGHENY RIVER WILD AND SCENIC RIVERS ACT

The State proceeded to consider the bill (S. 606) to amend the Wild and Scenic Rivers Act by designing certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. DESIGNATION OF ALLEGHENY RIVER.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Allegheny River in the Commonwealth of Pennsylvania, and to assist in the protection, preservation, and enhancement of the fisheries resources associated with such river, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) Allegheny Pennsylvania.—The segment from Kinzua Dam downstream approximately 7 miles to the United States Route 6 Bridge, and the segment from Buckaloons Recreation Area at Irvine, Pennsylvania, downstream approximately 47 miles to the southern end of Alcorn Island at Oil City, to be administered by the Secretary of Agriculture as a recreational river in accordance with section 10(e) of this Act; and the segment from the sewage treatment plant at Franklin downstream approximately 31 miles to the refinery at Emlenton, Pennsylvania, to be administered by the Secretary of Agriculture as a recreational river in accordance with section 10(e) of this Act.".

SEC. 2. ADVISORY COUNCILS FOR THE ALLEGHENY RIVER.

(a) Establishment.—The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall establish within 120 days after the date of enactment of this Act two Advisory Councils to advise the Secretary on the establishment of final boundaries and the management of the river segments designated by section 1 of this Act (hereinafter referred to as the "Allegheny National Wild and Scenic River"), as follows:

(1) The Northern Advisory Council, to provide advice for the management of the segments of the Allegheny National Wild and Scenic River between Kinzua Dam and Alcorn Island.

(2) The Southern Advisory Council, to provide advice for the management of the segment of the Allegheny National Wild and Scenic River between Franklin and Emlenton.

(b) Northern Advisory Council.—(1) The Northern Advisory Council shall be composed of 9 members appointed by the Secretary as follows:

(A) the Forest Supervisor of the Allegheny National Forest, or his or her designee, who shall serve as Chairman and who shall be a nonvoting member;

(B) the Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his or her designee;

(C) two members each from Warren, Forest, and Venango Counties, from recommendations submitted by the County Commissioners of such counties, of which no fewer than two such members shall be riparian property owners along the Allegheny National Wild and Scenic River between Kinzua Dam and Alcorn Island; and

(D) one member from a nonprofit conservation organization concerned with the protection of natural resources from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Northern Advisory Council shall serve without compensation and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out his or her responsibilities under this Act.

(4) The Northern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreation River.

(c) Southern Advisory Council.—(1) The Southern Advisory Council shall be composed of 7 members appointed by the Secretary as follows:

(A) the Forest Supervisor of the Allegheny National Forest, or his or her designee, who shall serve as a nonvoting member;

(B) the Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his or her designee, who shall serve as Chairman;

(C) four members from recommendations submitted by the County Commissioners of Venango County, of whom at least one shall be a riparian property owner along the Allegheny National Wild and Scenic River between Franklin and Emlenton; and

(D) one member from a nonprofit conservation organization concerned with the protection of natural resources, from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy of the county representatives on the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Southern Advisory Council shall serve without compensation and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out his or her responsibilities under this Act.

(4) The Southern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreation River.

SEC. 3. ADMINISTRATION OF ALLEGHENY NATIONAL WILD AND SCENIC RIVER.

(a) Boundaries.—After consultation with the Commonwealth of Pennsylvania, the Northern and Southern Advisory Councils, local governments, and the public, and within 18 months after the date of enactment of this Act, the Secretary shall take such action with respect to the segments of the Allegheny River designated under section 1 of this Act as is required under section 3(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(b)).

(b) Interim Measures.—As soon as practicable after the date of enactment of this Act, the Secretary shall issue guidelines specifying standards for local zoning ordinances, pursuant to section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)), with the objective of protecting the outstandingly remarkable values of the Allegheny Wild and Scenic River, as defined by the Secretary.

(c) Administration of Certain Segments.—(1) Lands and interests therein acquired by the Secretary for the purpose of managing the Allegheny National Wild and Scenic River segments located between Kinzua Dam and Alcorn Island shall be added to and become part of the Allegheny National Forest.

(2) Lands and interests therein acquired by the Secretary for the purpose of managing the Allegheny National Wild and Scenic River segment located between Franklin and Emlenton may be managed under a cooperative agreement with the Commonwealth of Pennsylvania.

(d) Limitation on Land Acquisition Authority.—For the purposes of section 6(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(b)), the segments of the Allegheny River designated as components of the Wild and Scenic Rivers System by section 1 of this Act shall be deemed to be more than 50 per centum in public ownership.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

So the bill (S. 606) as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the Record.)

CONVEYANCE TO BLACK HILLS WORKSHOP AND TRAINING CENTER

The Senate proceeded to consider the bill (S. 1770) to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment on page 1, line 9, strike "at a price to be mutually agreed on", and inserting in lieu thereof "at fair market value".

So as to make the bill read:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO BLACK HILLS WORKSHOP AND TRAINING CENTER.

(a) In General.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Agriculture shall convey to the Black Hills Workshop and Training Center,

VOL
137
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24
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Inc., of Rapid City, South Dakota, at fair market value, certain surplus real property located in the Black Hills National Forest and described in subsection (b).

(b) DESCRIPTION.—The real property referred to in subsection (a) is located in Section 4, T.1.N., R.7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been declared surplus and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc. and approved by the Forest Service on October 2, 1990.

So the bill (S. 1770), as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

CONSENT TO CERTAIN AMENDMENTS OF THE LEGISLATURE OF THE STATE OF HAWAII TO THE HAWAIIAN HOMES COMMISSION ACT, 1920

The Senate proceeded to consider the joint resolution (S.J. Res. 23) to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the resolving clause and inserting in lieu thereof the following:

That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States hereby consents to the following amendments to the Hawaiian Homes Commission Act, 1920, as amended, adopted by the State of Hawaii in the manner required for State legislation:

Act 16 of Session Laws of Hawaii, 1986;
Act 85 of Session Laws of Hawaii, 1986;
Act 249 of Session Laws of Hawaii, 1986;
Act 36 of Session Laws of Hawaii, 1987;
Act 28 of Session Laws of Hawaii, 1989;
Act 265 of Session Laws of Hawaii, 1989;
Act 14 of Session Laws of Hawaii, 1990;
Act 24 of Session Laws of Hawaii, 1990;
Act 150 of Session Laws of Hawaii, 1990; and
Act 305 of Session Laws of Hawaii, 1990.

So the joint resolution (S.J. Res. 23), as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

MANZANAR NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (H.R. 543) to establish the Manzanar National Historic Site in the State of California, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[TITLE I—MANZANAR NATIONAL HISTORIC SITE

[SEC. 101. ESTABLISHMENT.

[(a) IN GENERAL.—In order to provide for the protection and interpretation of historical and cultural resources associated with the relocation of Japanese-Americans during World War II, there is hereby established the Manzanar National Historic Site (hereinafter in this title referred to as the "site").

[(b) AREA INCLUDED.—The sites shall consist of the lands within the area generally depicted as Alternative 3 on map 3, as contained in the Study of Alternatives for Manzanar War Relocation Center, map number 80,002 and dated February 1989. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") may from time to time make minor revisions in the boundary of the site.

[SEC. 102. ADMINISTRATION.

[(a) IN GENERAL.—The Secretary shall administer the site in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

[(b) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this title.

[(c) COOPERATIVE AGREEMENTS WITH STATE.—In administering the site, the Secretary is authorized to enter into cooperative agreements with public and private entities for management and interpretive programs within the site and with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

[(d) WATER.—The water rights of the city of Los Angeles shall not be affected by the conveyance of lands under section 103, except that the Secretary shall not acquire such lands until such time as the Secretary has entered into an agreement with the city of Los Angeles which includes provisions or provide water sufficient to fulfill the purposes of the site and to protect the cultural, visual, and natural resources of the site as these resources might be affected by the exercise of such rights.

[(e) TRANSPORT OF LIVESTOCK.—Any person who holds a permit from the Department of Water and Power of the city of Los Angeles, California, to graze livestock on city lands located contiguous with the site may move livestock across the Federal lands managed by the Bureau of Land Management located contiguous with the site for the purpose of transporting such livestock from one each parcel to the other.

[SEC. 103. ACQUISITION OF LAND.

[(a) IN GENERAL.—In order to carry out the purposes of this Act, the Secretary may acquire all lands referenced in section 101(b) through donation by or exchange with the city of Los Angeles.

[(b) AUTHORITY.—Notwithstanding any other provision of law, in event of exchange under this section, the Secretary shall utilize the Secretary's authority under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) to exchange public lands within Inyo County, California, identified as suitable for disposal by the Bureau of Land Management. Priority of such exchange shall be given to lands identified for disposal in the Bishop Resources Area Resource Management Plan and lands immediately adjacent to the site.

[(c) FACILITY.—The Secretary may contribute up to $1,100,000 in cash or services for the relocation and construction of a maintenance facility to replace the facility located on the land to be acquired under this section.

[SEC. 104. ADVISORY COMMISSION.

[(a) ESTABLISHMENT.—There is hereby established an 11-member advisory commission to be known as the Manzanar National Historic Site Advisory Commission (hereinafter in this title referred to as the "Advisory Commission shall be composed of former internees of the Manzanar relocation camp, local residents, representatives of Native American groups, and the general public appointed by the Secretary to serve for terms of 2 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairman.

[(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, acting through the Director of the National Park Service, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development, management, and interpretation of the site, including the preparation of the general management plan.

[(c) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the site. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

[(d) EXPENSES.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this title on vouchers signed by the Chairman.

[(e) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to this Advisory Commission.

[(f) TERMINATION.—The Advisory Commission shall terminate 10 years after the date of enactment of this title unless the Secretary determines that it is necessary to continue consulting with the Advisory Commission in carrying out the purposes of this Act.

[SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this title.]

TITLE I—MANZANAR NATIONAL HISTORIC SITE.

SECTION 101. ESTABLISHMENT.

(a) IN GENERAL.—In order to provide for the protection and interpretation of the historical, cultural, and natural resources associated with

the relocation of Japanese-Americans during World War II, there is hereby established the Manzanar National Historic Site in the State of California.

(b) AREA INCLUDED.—The site shall consist of approximately 500 acres of land as generally depicted on a map entitled "Map 3—Alternative Plans—Manzanar Internment Camp" numbered 80,002 and dated February 1989. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior. The Secretary may from time to time make minor revisions in the site boundaries.

SEC. 102. DEFINITIONS.

As used in this title, the term—

(1) "Advisory Commission" means the Manzanar National Historic Site Advisory Commission established pursuant to section 105 of this title;

(2) "city" means the City of Los Angeles;

(3) "Secretary" means the Secretary of the Interior; and

(4) "site" means the Manzanar National Historic Site established pursuant to section 101 of this title.

SEC. 103. ACQUISITION OF LAND.

(a) IN GENERAL.—(1) Subject to the limitations set forth in paragraphs (2) and (3) of this subsection, the Secretary is authorized to acquire lands or interests therein within the boundaries of the site by donation, purchase with donated or appropriated funds, or by exchange.

(2) Lands or interests therein located within the boundaries of the site which are owned by the State of California, or a political subdivision thereof, may be acquired only by donation or exchange.

(3) The Secretary shall not acquire lands or interests therein located within the boundaries of the site which are owned by the city of Los Angeles until such time as the Secretary has entered into an agreement with the city to provide water sufficient to fufill the purposes of the site.

(b) MAINTENANCE FACILITY.—The Secretary is authorized to contribute up to $1,100,000 in cash or services for the relocation or construction of a maintenance facility for Inyo County, California.

SEC. 104. ADMINISTRATION OF SITE.

(a) IN GENERAL.—(1) The Secretary shall administer the site in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–67).

(2) Nothing in this title shall create, expand, or diminish any authority of the Secretary over lands or activities of the city of Los Angeles outside the boundaries of the site.

(b) DONATIONS.—The Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing such services and facilities as the Secretary deems consistent with the purposes of this title.

(c) GENERAL MANAGEMENT PLAN.—Within 3 years after the date funds are made available for this subsection, the Secretary shall, in consultation with the Advisory Commission, prepare a general management plan for the site. Such plan shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with—

(1) public and private entities for management and interpretive programs within the site; and

(2) the State of California, or a political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(e) WATER.—Except as provided in section 103(a)(3) of this title, nothing in this title shall affect the water rights of the city of Los Angeles.

(f) TRANSPORT OF LIVESTOCK.—Any person who holds a permit from the Department of Water and Power of the City of Los Angeles to graze livestock on city-owned lands contiguous with the site may move such livestock across those Federal lands administered by the Bureau of Land Management which are located contiguous with the site, for the purpose of transporting such livestock from one city-owned parcel to the other.

SEC. 105. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an 11-member advisory commission to be known as the Manzanar National Historic Site Advisory Commission. The members of the Advisory Commission shall be appointed by the Secretary, and shall include former internees of the Manzanar relocation camp, local residents, representatives of Native American groups, and members of the general public.

(b) TERMS.—Members of the Advisory Commission shall serve for a term of 2 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his or her term, until such time as a successor is appointed.

(c) CHAIRMAN.—The members of the Advisory Commission shall designate one of the members as Chairman.

(d) CONSULTATION.—The Secretary, or the Secretary's designee, shall from time to time, but at least semi-annually, meet and consult with the Advisory Commission with respect to the development, management, and interpretation of the site, including the preparation of a general management plan as required by section 104(c) of this title.

(e) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings shall be published in local newspapers. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(f) EXPENSES.—Members of the Advisory Commission shall serve without compensation, but while engaged in official business shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (86 Stat. 776) are hereby waived with respect to the Advisory Commission.

(h) TERMINATION.—The Advisory Commission shall terminate 10 years after the date of enactment of this title.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II—JAPANESE AMERICAN NATIONAL HISTORIC LANDMARK THEME STUDY

SEC. 201. SHORT TITLE.

This title may be cited as the "Japanese American National Historic Landmark Theme Study Act".

SEC. 202. THEME STUDY.

(a) STUDY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized and directed to prepare and transmit to the Congress no later than 2 years after the date [of enactment] *funds are made available for* of this title a National Historic Landmark Theme Study on Japanese American history (hereinafter in this title referred to as the "Theme Study"). The purpose of the Theme Study shall be to identify the key sites in Japanese American history that illustrate the period in American history when personal justice was denied Japanese Americans. The Theme Study shall identify, evaluate, and nominate as national historic landmarks those sites, buildings, and structures that best illustrate or commemorate the period in American history from 1941 to 1946 when Japanese Americans were ordered to be detained, relocated, or excluded pursuant to Executive Order Number 9066, and other actions. The study shall include (but not be limited to) the following sites:

[(1) Internment or concentration and temporary] *(1) Internment and temporary* detention camps where Japanese Americans were relocated, detained, and excluded pursuant to Executive Order Number 9066, issued on February 19, 1942. The internment camps include: Tule Lake, California; Rohwer, Arkansas; Gila River, Arizona; Poston, Arizona; Granada, Colorado; Jerome, Arkansas; Heart Mountain, Wyoming; Minidoka, Idaho; and Topaz, Utah. The temporary detention camps include: Pomona, California; Santa Anita, California; Fresno, California; Pinedale, California; Tanforan in San Bruno, California; Sacramento, California; Marysville, California; Mayer, Arizona; Salinas, California; Turlock, California; Merced, California; Stockton, California; Tulare, California; Puyallup, Washington; and Portland, Oregon.

(2) Angel Island, California, the port of entry for many Japanese Issei.

(3) Camp Shelby, Mississippi, the training ground for the 442nd Infantry Regimental Combat Team.

(4) Camp Savage and Fort Snelling, Minnesota, locations for the Military Intelligence Service Language School where Japanese Americans received Japanese language instruction, enabling the Japanese Americans to translate Japanese war plans into English.

(5) Camp McCoy, Wisconsin, where the 100th Infantry Battalion was trained.

(6) Terminal Island, California, the first location where Japanese Americans were forced to evacuate.

(7) Bainbridge Island, Washington, where Japanese Americans were evacuated pursuant to Exclusion Order Number 1.

(8) Immigration and Naturalization Service internment camps at Crystal City, Kennedy, and Seagoville, Texas; Missoula, Montana; and Bismarck, North Dakota.

(b) IDENTIFICATION AND LIST.—On the basis of the Theme Study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

SEC. 203. CONSULTATION.

In carrying out the study, the Secretary shall consult with Japanese American citizens groups, scholars of Japanese American history, and history preservationists. [The Secretary shall receive permission from Indian tribes to obtain access to Indian lands.] *In preparing the study, if the Secretary determines that it is necessary to have access to Indian lands, the Secretary shall request permission from the appropriate tribe.*

SEC. 204. COOPERATIVE AGREEMENTS.

The Secretary may enter into cooperative agreements with one or more Japanese

American citizens organizations knowledgeable of Japanese American history, especially the relocation and internment period during World War II, to prepare the Theme Study and ensure that the Theme Study meets current scholarly standards.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as are necessary to carry out this title.

So the bill (H.R. 543) as amended, was deemed read the third time and passed.

ACQUISITION OF MONOCACY NATIONAL BATTLEFIELD, MD

The bill (H.R 990) to authorize additional appropriations for land acquisition of Monocacy National Battlefield, MD, was considered, ordered to a third reading, read the third time, and passed.

Mr. SARBANES. Mr. President, I rise in strong support of this legislation to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD. I commend the distinguished chairman of the Public Lands, National Parks, and Forests Subcommittee, Senator BUMPERS, and the chairman of the Committee on Energy and Natural Resources, Senator JOHNSTON, for moving this bill to the floor so expeditiously. I also commend my colleague, Representative BEVERLY BYRON, who has been a tireless advocate for preserving this battlefield and who steered this bill through the House.

As a nation which looks to the future, we sometimes fail to remember our past. The enactment of this legislation will help to ensure that an important part of our Nation's heritage is preserved and remembered.

Monocacy National Battlefield Park in Frederick County, MD, is the site of a little-known but important Civil War battle referred to as the "battle that saved Washington." It was here on July 9, 1864, that Union soldiers blunted a bold Confederate thrust at the Nation's Capital. Although outnumbered by some 14,000 Confederates under Lt. Gen. Jubal Early, 6,000 Union troops under the command of Maj. Gen. Lew Wallace held off the advancing Confederate Forces for a day, enabling Gen. Ulysses S. Grant to strengthen Washington's defenses and warding off the Confederacy's last attempt to bring the war to the north.

Congress first recognized the importance of the Battle of Monocacy by establishing Monocacy National Military Park in 1934. But it wasn't until this year—57 years after the battlefield was first established—that the park was officially opened for public visitation. One of the principal reasons for this is that the Park Service is still in the process of completing the acquisition of property within the boundaries of the park. While some headway was made in the late 1970's under the leadership of the late Representative Goodloe Byron is preserving this site, the total amount authorized for acquisition has only been $3.5 million. Consequently, most of the battlefield is still in private ownership. Today, the Park Service owns in fee or has obtained scenic easements for approximately 1,000 acres, with an additional 600 acres within the authorized boundaries of the battlefield yet to be acquired.

Unfortunately, this remaining unacquired acreage is seriously threatened by encroaching development. The battlefield's superb location along an interstate highway corridor and within easy reach of major population concentrations in Washington, DC, Baltimore, and Frederick also provides the basis for the serious and growing threat to the park land. This is one of the fastest-growing areas in the State of Maryland. Secretary of the Interior Manuel Lujan has listed Monocacy as one of 25 most endangered American battlefields and the battlefield was the top land acquisition priority of the Park Service's National Capital Region.

Two major parcels of land in private ownership remain within the battlefield's authorized boundaries. These farms were the site of much of the fighting at the Battle of Monocacy and, despite the encroachments of recent years, remain much as they were in 1864. The owners of one of the parcels, the Trail Farm which encompasses approximately 300 acres and is zoned for industrial development, have indicated that family circumstances may force the sale of the property this year. Private developers have expressed an interest in acquiring the property, but the family would prefer to sell to the Park Service. However, the Park Service's authorized ceiling for acquisition of battlefield property is inadequate to purchase the tract.

The legislation before the Senate does not expand the boundaries of the battlefield; it simply provides the National Park Service with additional authority for this land acquisition by authorizing an additional $20 million to permit the acquisition of the remaining 600 acres within the battlefield boundary. This is the estimated cost of completing all authorized land acquisition.

Mr. President, this beautiful area—so important to the history of this country—must be protected before the opportunity to preserve and interpret this battlefield is lost forever. I urge my colleagues to join me in supporting this legislation.

STONES RIVER NATIONAL BATTLEFIELD

The Senate proceeded to consider the bill (H.R. 2370) to expand the boundaries of Stones River National Battlefield, TN, and or other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STONES RIVER NATIONAL BATTLEFIELD BOUNDARY CHANGE.

The Act entitled "An Act to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes", approved December 23, 1987 (101 Stat. 1433), is amended as follows:

(1) In the first sentence of section 1(a) strike "numbered 327/80,001, and dated March 1987" and insert **[**"numbered 327/80,004A, and dated September 1991"**]** *numbered 327/80,004B, and dated November 1991.*

(2) In section 1(b), insert "(1)" after "LANDS.—", and add at the end thereof the following:

["(2) Before acquiring any lands under this Act whose surface has been substantially disturbed or which are believed by the Secretary to contain hazardous wastes, the Secretary shall (A) prepare a report on the potential hazardous wastes or similar problems associated with such lands and the costs of restoring such lands, together with a plan of the remedial steps that must be taken to correct the situation in order to proceed with the acquisition in a timely manner, and (B) submit the report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.**]**

"(2)(A) Before acquiring any lands under this Act where the surface of such lands has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, the Secretary shall prepare a report on the potential hazardous substances associated with such lands and the estimated cost of restoring such lands, together with a plan of the remedial measures necessary to allow acquisition of such lands to proceed in a timely manner, consistent with the requirements of subparagraph (B). The Secretary shall submit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)).

"(3)(A) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquistion by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed 25 years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever is later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisiton, less the fair market value of the term retained by the owner.

"(B) Any right of use and occupancy retained pursuant to this section may, during its existence, by conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

"(C) This paragraph applies only to owners who have reached the age of majority.

"(D) As used in this paragraph, the term 'improved property' means a detached, year-round noncommercial residential dwelling, the construction of which was begun before the date of enactment of this paragraph, together with so much of the land on which the dwelling is stituated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.".

(3) Section 2 is amended to read as follows:

"SEC. 2. AGREEMENT.

"The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, containing each of the following provisions—

"(1) If the city agrees to acquire sufficient interest in land to construct a trail linking the battlefield with Fortress Rosecrans, to construct such trail, and to operate and maintain the trail in accordance with standards approved by the Secretary, the Secretary shall (A) transfer to the city the funds available to the Secretary for the acquisition of such lands and for the construction of the trail, and (B) provide technical assistance to the city and to Rutherford County for the purpose of development and planning of the trail.

"(2) The Secretary shall agree to accept the transfer by donation from the city of the remnants of Fortress Rosecrans at Old Fort Park, and following such transfer, to preserve and interpret the fortress as part of the battlefield.

"(3) In administering the Fortress Rosecrans, the Secretary is authorized to enter a cooperative agreement with the city of Murfreesboro, Tennessee for the rendering, on a nonreimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

(4) Redesignate section 3 as section 4, and insert the following new section after section 2:

"SEC. 3. PLANNING.

"(a) PREPARATION OF PLAN FOR REDOUBT BRANNAN.—The Secretary shall, on or before February 1, 1992, prepare a plan for the preservation and interpretation of Redoubt Brannan.

"(b) UPDATE OF GENERAL MANAGEMENT PLAN.—The Secretary shall, on or before March 13, 1993, update the General Management Plan for the Stones River National Battlefield.

"(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to the city and to Rutherford County in the development of zoning ordinances and other land use controls that would help preserve historically significant areas adjacent to the battlefield.

"(d) MINOR BOUNDARY REVISIONS.—If the planning activities conducted under subsections (a) and (b) of this section show a need for minor revisions of the boundaries indicated on the map referred to in section 1 of this Act, the Secretary may, following timely notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and providing an opportunity for public comment, make such minor revisions by publication of a revised boundary map or other description in the Federal Register.".

So the bill (H.R. 2370), as amended, was deemed read the third time and passed.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION AUTHORIZATION ACT

The bill (H.R. 3387) to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 327, S. 452, authorizing jurisdiction transfer; that the committee amendments be adopted; that the bill be read a third time and passed; and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF ADMINISTRATIVE JURISDICTION OVER CERTAIN LAND

The Senate proceeded to consider the bill (S. 452) to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown italic.)

S. 452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. ADMINISTRATIVE TRANSFER TO THE SECRETARY OF THE INTERIOR.

[(a) AUTHORIZATION OF TRANSFER.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall transfer to the administrative jurisdiction of the Secretary of the Interior, without reimbursement, the approximately 840 acres of land located in Routt County, Colorado, described as the "Copper Spur Ranch portion to BLM", as generally depicted on the map entitled "Ekberg Copper Spur Ranch Land Exchange Proposed" dated September 1989, which lands shall be administered by the Bureau of Land Management in accordance with the law generally applicable to the public lands.

[(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a map and a legal description of the land transferred to the administrative jurisdiction of the Secretary of the Interior pursuant to subsection (a), and the map and description shall have the same force and effect as if they were included in this Act.

[(2) The Secretary of the Interior may correct clerical and typographical errors in the map and legal description filed pursuant to paragraph (1).

[(3) The map and legal description filed pursuant to paragraph (1) shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

[(c) RESERVATION OF EASEMENT.—The land transferred to the administrative jurisdiction of the Secretary of the Interior pursuant to subsection (a) shall be subject to the conservation easement granted to the State of Colorado (Division of Wildlife) by the United States, acting by and through the Secretary of Agriculture, dated April 27, 1988, and recorded in Routt County, Colorado (Reception Numbered 375283, Book 637, pages 1741–43), on October 6, 1988.**]**

[SEC. 2.] *SECTION 1.* EKBERG-COPPER SPUR LAND EXCHANGE.

(a) AUTHORIZATION OF EXCHANGE.—(1) As soon as practicable after receipt of an offer from the owner, the Secretary of Agriculture shall accept title to the approximately 427 acres of land located in Pennington County, South Dakota, described as "Tract A" and "Tract B", as generally depicted on a **[**map described in section 1(a),**]** *map entitled "Ekberg-Copper Spur Ranch Land Exchange—Proposed", dated September 1989*, which lands shall thereupon become part of the Black Hills National Forest and shall be administered by the Secretary of Agriculture in accordance with the **[**law**]** *laws* applicable to the National Forest System.

(2) Upon receipt of title to the land described in paragraph (1), the Secretary of Agriculture shall convey to the owner of that land all right, title, and interest of the United States in the approximately **[**720**]** *560* acres of land located in Routt County, Colorado, described as the "Copper Spur Ranch—portion to Ekberg", as generally depicted on the map described in section 1(a).

(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file with **[**the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee of Agriculture of the House of Representatives**]** *the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives* a map and a legal description of the land conveyed to the Secretary of Agriculture pursuant to subsection (a)(1), and the map and description shall have the same force and effect as if they were included in this Act.

(2) The Secretary of Agriculture may correct clerical and typographical errors in the map and legal description filed pursuant to paragraph (1).

RETIRED ENLISTED ASSOCIATION,

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wealth of the Northern Mariana Islands, and
the territories and possessions of the United

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137
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(3) The map and legal description filed pursuant to paragraph (1) shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Reservation of Easements.—(1) The land conveyed into private ownership pursuant to subsection (a)(2) land shall be subject to the conservation easement granted to the State of Colorado (Division of Wildlife) by the United States, acting by and through the Secretary of Agriculture, dated April 27, 1988, and recorded in Routt County, Colorado (Reception Numbered 375283, Book 637, pages 1741–43), on October 6, 1988.

(2)(A) The land conveyed into private ownership pursuant to subsection (a)(2) shall be subject to easements for ingress and egress through such lands for the benefit of the United States and the public granted between agencies of the United States on May 10, 1989, and recorded in Routt County, Colorado (Reception Numbered 380443, Book 643, pages 0051–0055) and all other easements of record.

(B)(i) The Bureau of Land Management and the owner of the Copper Spur Ranch shall enter into a cooperative agreement to study the feasibility of constructing access routes as alternatives to those provided by the easements described in subparagraph (A).

(ii) Upon agreement by the Bureau of Land Management on alternative access routes, the construction of such access routes at the expenses of the owner of the Copper Spur Ranch, and the conveyance to the United States of easements for use of such access routes by the United States and the public, the Secretary shall execute and deliver to the owner of the Copper Spur Ranch a release or other appropriate form of instrument extinguishing the easements described in subparagraph (A).

(d) Equalization of Payment.—If the values of the lands exchanged pursuant to subsection (a) are not equal, they shall be equalized by the payment of cash as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)) without regard to the 25 percent limitation contained in that section.

(e) Date of Exchange.—The exchange of lands authorized by subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

So the bill (S. 452) as amended was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the Record.)

MARY MCLEOD BETHUNE COUNCIL HOUSE NATIONAL HISTORIC SITE

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 690.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 690) entitled "An Act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes.".

Mr. REID. I move the Senate recede from its amendment to H.R. 690.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion is agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3604, the Greer Spring Acquisition and Protection Act of 1991, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3604) to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 3604) was ordered to a third reading, was read the third time, and passed.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 191, designating "National Law Enforcement Training Week," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read a third time and passed and the motion to reconsider laid upon the table, and the preamble agreed to; further, that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 100, the Senate companion, and the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 191) was deemed read the third time and passed.

The preamble was agreed to.

HEALTH EDUCATION ASSISTANCE LOANS

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2050.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 2050) entitled "An Act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes", do pass with the following amendment: Strike out all after the enacting clause, and insert:

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of title VII of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.".

SEC. 2. PILOT PROGRAM IN CLINICAL PHARMACOLOGY.

(a) Establishment.—The Commissioner of Food and Drugs is authorized to award through a competitive bid process a grant for a pilot program for the training of individuals in clinical pharmacology at an appropriate medical school without such a program. Such grant shall be for the purpose of evaluating the extent to which such a program can contribute to an identifiable increase in the number of trained biomedical, scientific personnel in clinical pharmacology.

(b) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years 1992 through 1996 $750,000 for each fiscal year to carry out this section.

Mr. REID. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING ENROLLMENT OF H.R. 1724

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 249, a concurrent resolution correcting a technical error in the enrollment of H.R. 1724, the MFN unemployment assistance bill; that it be agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. Wirth). Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 249) was agreed to.

RETIRED ENLISTED ASSOCIATION, INCORPROATED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 338, S. 447, regarding recognition of the Retired Enlisted Association, Incorporated; that the bill be deemed read three times and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 447) was deemed read the third time and passed, as follows:

S. 447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER

The Retired Enlisted Association, Incorporated, a nonprofit corporation organized under the laws of the State of Colorado, is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The Retired Enlisted Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the law of such State.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for retired enlisted service members, veterans and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

Except as provided in section 8, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. NONDISCRIMINATION.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

SEC. 9. RESTRICTIONS.

(a) Income and Assets.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) Loans.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) Shares of Stock.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) Congressional Approval.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

SEC. 10. LIABILITY.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 11. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspect by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 12. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"The Retired Enlisted Association, Incorporated.".

SEC. 13. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

SEC. 14. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 15. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 16. TAX EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

SEC. 17. EXCLUSIVE RIGHTS TO NAMES.

The corporation shall have the sole and exclusive right to use the names "The Retired Enlisted Association, Incorporated", "The Retired Enlisted Association", "Retired Enlisted Association", and "TREA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights.

SEC. 18. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

EXPRESSIONS OF GRATITUDE

Mr. BYRD. Mr. President, I have listened to a number of my colleagues this evening as they have extolled the talents and the virtues and the excellent work of the able senior Senator from New York [Mr. Moynihan], and so I rise at this time to add my modest expressions of gratitude and praise concerning this great Senator for the work that he has done in fashioning the highway bill.

Cato said that he would prefer that men ask why there was no statue built in his memory than for men to ask why a statue had been built for him. If I had my way about it, this bill would be named the Moynihan bill, in his memory. I would embellish the title a bit, for he is certainly deserving of such a eulogy as a deserved tribute to his skill and craftsmanship, his fairness and his patriotism.

I have had occasion to seek the work of others in the forming of this great body. Its roots came from our mother country, as we recall that the blood of Englishmen was shed for many of the rights that we have seen included in our own Constitution. And its roots likewise sprang from the Continental Congresses, the Congress under the Federation, and the Constitutional Convention. And as I have witnessed in my mind's eye those men who helped to shape this country, who helped to shape its governmental system, and as I have watched those illustrious Senators in the first Congress and in other Congresses down through the more than 20 decades of this institution's existence and this Republican form of Government, I have looked at Pat Moynihan many times and thought that he is such a man as those great men who graced those early Congresses. He could well have served in

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VOL
137
PT
24
NO
26
1991
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any era and any age and any period of this Nation's history.

I count it a privilege to be his colleague. He is a man of extraordinary talents, extraordinary experience, and extraordinary vision, and he applies those talents, that experience and that vision in his work as a legislative craftsman. In short, he has class.

I saw them tearing a building down,
A group of men in a busy town;
With a ho-heave-ho, and a lusty yell,
They swung a beam and the sidewall fell.
I said to the foreman, "Are these men skilled,
The type you'd hire if you had to build?"
He laughed and then he said, "No, indeed;
Just common labor is all I need.
I can easily wreck in a day or two
That which takes builders years to do."
I said to myself as I walked away,
Which of these roles am I trying to play?
Am I a builder who works with care,
Building my life by the rule and square,
Am I shaping my deeds by a well-laid plan,
Patiently building the best I can?
Or am I a fellow who walks the town
Content with the labor of tearing down?

The Senator of whom I speak is a builder. We have witnessed his product as we have seen it shaped and molded to his will and to the will of those who have worked with him and beside him. He has produced a piece of legislation that is a milestone in this institution's legislative history. The bill has been crafted by the conference through round-the-clock meetings over a great many days and, without his ceaseless efforts, we would not be praising this work tonight, nor would we be poised to adopt the conference report thereof.

As recently as two days ago, some members of the conference and the administration questioned whether a bill could be produced in the time remaining in this session. They said the differences were too great, both between the House and the Senate, and between the Congress and the administration. Some advocated a simple extension of the current program. Some said that we should return in the second session and address the problem and try at that time to bring forth a transportation bill.

But the Senator from New York would have none of that. He moved with dispatch this past spring in bringing a bill to the Senate. My colleagues will recall that during that debate, the Senate adopted my amendment providing for a level of effort program which recognized the needs of those States that were already taxing their citizens at a higher-than-average rate for road improvements while having a less-than-average tax base to meet those needs.

While the final conference report does not retain that format in its exactitude, the Senator from New York has kept me apprised during the deliberations of the progress, of the problems, of the delays.

He saw to it that the final product protected States like mine and many others that will now have their unique status recognized. His State, like mine, is one of those States that are a part of Appalachia. Mine is the only State that is wholly within that unique region.

The bill takes tremendous strides toward meeting the infrastructure needs of all regions of the country. As many Members know, I spent a great many hours at the budget summit last year, at which I advocated the need to invest in our country's infrastructure, both human and physical. In the give and take of those summit negotiations, I believe that we were successful in obtaining some of the necessary spending authority to move forward in meeting our Nation's infrastructure needs. The legislation that Senator MOYNIHAN and his colleagues on his subcommittee and full committee have put together in concert with the Members of the other body goes a long way toward implementing the views that were expressed at that summit.

The legislation will contribute to the infrastructure of the country, and in so doing will contribute greatly to the country's strength. It will put men and women to work. It will stimulate the economy. And those men and women who work will be taxpayers rather than tax consumers.

The bill is an expression of faith in our country's future. We are living at a time when there are long unemployment lines of men and women who want to work but who cannot find work. We are living at a time when the infrastructure of the Nation is deteriorating—our bridges are falling down, our roads are caving in, our waterways need repairing, and other segments and elements of the infrastructure are also in serious need of repair.

This legislation promises over the next 6 years to do something about the needs of this great country in that respect.

DeTocqueville, who visited this country in 1840, referred to the "incredible American." He said that "the incredible American believes that if something has not yet been accomplished, it is because he", the incredible American, "has not yet attempted it." And since deTocqueville made that statement, this country fought the Mexican War, the Civil War, the Spanish American War, the First World War, the Second World War, the war in Korea, the war in Vietnam, the Persian Gulf war.

It has survived many recessions and panics—the Great Depression of the thirties—and has emerged in these recent years, of course, the greatest and strongest Nation on the face of the globe because the incredible American believes that he can accomplish whatever he attempts. Now the Nation will have another tool with which to build, to attempt and to accomplish.

I am reminded of the biblical parable of the sower. A sower went out to sow his seed, and some of it fell by the wayside. It was trodden down and the fowls of the air devoured it. Some of it fell upon a rock, and as soon as it sprang up, it withered away because it lacked moisture. Some fell among thorns, and the thorns sprang up with it and choked it. And others fell on good ground, and sprang up, and it brought forth fruit a hundredfold.

Senator MOYNIHAN has sown seed upon good ground, and it will bear fruit a hundredfold.

As a Senator from West Virginia, I thank Senator MOYNIHAN for the attention that he has given to States like mine. It is not easy. It takes a master craftsman to put together a bill like this. And one must not only put together the legislation itself, but he must also put together the votes with which to carry the legislation. In doing so, he has thought of the Nation. I daresay that he has thought on many occasions more about other States and their needs, perhaps, than his own, because he has put the Nation first. That is the only way to think and act when one writes legislation such as the highway bill.

I think of the words of Thomas Babington Macaulay. They are very appropriate here:

> Of all inventions, the alphabet and the printing press alone excepted, those inventions which abridge distance have done most for the civilization of our species. Every improvement of the means of locomotion benefits mankind morally and intellectually, as well as materially, and not only facilitates the interchange of the various productions of nature and art but tends to remove national and provincial antipathies and to bind together all the branches of the great human family.

I could say nothing that would more nearly express my own feelings than to say that Senator MOYNIHAN's work comports with the vision and thought expressed in the words of Macaulay.

Mr. President, a nation is made great not by its acres, but by the men who cultivate them; not by its minerals, but by the men and the women who mine them. America was a great country before Columbus discovered it. Men and women have made it a great nation.

Senator MOYNIHAN and his colleagues have worked to give to the men and women of this country something for their hands to do, something to challenge their spirits, and something that will result in a greater Nation and a happier people. Future generations will rise up to call him blessed.

Not gold, but only men can make a nation great and strong;
Men who for truth and honor's sake stand fast and labor long;
Real men who work while others sleep.
Who dare while others fly.
They build a nation's pillars deep
And lift them to the sky.

Such a man is Senator PAT MOYNIHAN.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I have no words at this moment that would be adequate to my sense of gratitude to our revered, our revered, President pro tempore. As he spoke about the Senator from New York, as he spoke he made very clear about all of my colleagues in this enterprise. It has been a bipartisan, bicameral effort.

But, oh, what nation on Earth is graced by the President of the Senate who can stand ex tempore and cite Cato, and quote de Tocqueville, and summon from all that vast ocean of writings what must be the only remark Thomas Babington Macaulay ever made about roads. Only he. And that is why we treasure him, and that is why he graces this Nation and our body. My deepest and heartfelt gratitude.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TAX CREDITS

Mr. DOMENICI. Mr. President, I understand we have a tax-extender measure. I have a statement that explains my position in support of them and why, and recommends in strong terms that we stop doing the tax extenders on such a short timeframe when, indeed, they are expected to be long timeframe oriented. Nonetheless, it is better that we do it now than next year when we would have to make them retroactive. We have done that on occasion, also.

Mr. President, in 1913, the U.S. Congress was given the power to tax according to the 16th amendment. Since that time the Congress has utilized this power not only to pay for the vital needs of our Nation, but to encourage and reward productive forms of behavior. Using the Tax Code as our tool, the Congress has established a history of tax policy initiatives that stimulate growth and create jobs and opportunity for Americans.

For instance, in 1978, the Congress created the employer education assistance tax credit. In 1980, the Congress created the mortgage revenue bond tax credit. In 1986, the Congress enacted the low-income housing tax credit. All of these, as well as nine other provisions before the Senate for extension today, were created out of a belief that an investment in capital and human resources should be rewarded.

I support the extension of these 12 tax credits, and I am especially pleased that a revenue source has been earmarked such that the extensions comply with the Budget Reconciliation Act of 1990.

It is unfortunate, however, that these measures have not had the opportunity to come before the Senate prior to the 11th hour, so that their merits might be debated freely, and lengthier extensions might be considered based on the merits and effectiveness of the tax credits individually.

In order for any tax policy to be an effective tool of democracy, individuals must have confidence that the credit is real. The action we are taking today to extend these credits for an additional 6 months is commendable in light of the alternative, to postpone and enact them retroactively. Yet, how can the Congress possibly expect these credits to be effective if their fate is questioned annually, or biannually?

The common bond among all of these 12 credits is that they reward long-term investment and planning. However, these credits will do little to encourage a long-term perspective if their availability poses a greater risk to investors than a return on the investment itself.

I have been a longtime supporter of many of the components of this legislation. In New Mexico, tax-exempt mortgage revenue bonds have enabled over 20,000 families to purchase a first home. Without the availability of these low-interest loans, backed by tax-exempt mortgage revenue bonds, 80 percent of those New Mexicans would not have been able to achieve the dream of home ownership.

Likewise each year in New Mexico, the low-income housing credit leverages approximately 25 million dollars' worth of low-income housing construction and creates over 800 jobs. Yet, many prudent investors that would undoubtedly take advantage of credit do not because each year the availability of the credit is again in doubt.

Research and development in our Nation's industries is vital to our international competitiveness and prosperity in years to come. In this regard, I am most hopeful that the research and tax credit along with the others will be considered for permanent extension before the close of the 102d Congress.

In conclusion, I urge my colleagues to view tax policy as a method for rewarding individual effort, constructive investment, and healthy risk. The most important thing we can do to help Americans is to help them help themselves. A capitalistic society requires the formation of capital, and employment requires the presence of employers. Thank you for your consideration of these thoughts.

IN SUPPORT LEGISLATION TO EXTEND CERTAIN EXPIRING TAX PROVISIONS

Mr. LIEBERMAN. Mr. President, I rise to strongly support this legislation to extend certain expiring tax credits which are so important to our economy and to jobs for our people. These tax credits include: First, exclusion for employer-provided educational assistance; second, exclusion for employer-provided group level services; tax exemption for qualified group legal services organizations; third, deduction for health insurance costs of self-employed individuals; fourth, qualified mortgage bonds and mortgage credit certificates; fifth, qualified small-issue manufacturing bonds; sixth, allocation and apportionment of research expenses; seventh, tax credit for qualified research expenditures; eighth, tax credit for low-income rental housing; ninth, targeted jobs tax credit; tenth, business energy tax credits for solar and geothermal property; eleventh, tax credit for orphan drug clinical testing expenses; and twelfth, minimum tax exception for gifts of appreciated tangible property.

Everyone gains with the extension of these soon to expire tax credits. Failing to enact this legislation would have dire effects on our already suffering economy.

For example, the mortgage revenue bonds are absolutely crucial for both low-income homebuyers and for the real estate industry. Connecticut homebuyers, realtors, and builders are all suffering as a result of our present recession. Extending the mortgage revenue bond tax exemption is the least we can do to assist them and their counterparts throughout the nation.

The R&D tax credit is the cornerstone of building a competitive manufacturing base in this country. R&D spending by American companies is slipping and, without this tax credit, will go into a freefall.

Yesterday, I introduced a bill that would extend an enhanced R&D tax credit for consortia. We need to do as much as we can to aid companies in the development of new products so they can compete in the international marketplace. While I realize that we cannot act on this legislation today, I believe the least we should do to help American firms develop new products and technologies is extend the existing R&D tax credit.

The targeted jobs tax credit is one of the most important and popular provisions in the package. The business community, particularly small businesses, rely on this to help them remain profitable. Not to renew it would place another burden at a time when they can least afford it.

Mr. President, we must act favorably on this bill. It is important to workers and businesses across the Nation.

Mr. BENTSEN. Mr. President, one dozen tax provisions are due to expire at the end of this year. These provisions, among other things, encourage research and development, promote the construction of low-income housing, improve the availability of mortgages, and help the employment prospects of those with special employment needs. It was to prevent the imminent expiration of these provisions that the Finance Committee yesterday unanimously reported a bill on an emergency basis. That bill, S. 2042, was filed yesterday.

These important provisions can provide a sorely needed economic stimulus, and assist in the economy's long-term growth through the encouragement of R&D, education, housing construction, and job creation. Moreover, extension of these provisions at this time avoids the disruption and uncertainty in the affairs of taxpayers that can occur if the provisions are allowed to expire only to be later extended retroactively.

Under the bill, the expiring provisions would be extended for 6 months, through June 30, 1992. The revenue loss from this action would be entirely financed by one provision, a provision that would require large corporations to pay their tax liabilities more currently during the course of the year. Specifically, the proposal would require large corporations—those with over $1 million in taxable income—to pay estimated taxes based on 95 percent of the current year's tax liability, instead of 90 percent as current law allows. This provision would be phased in gradually over 5 years and sunsetted after 1996.

Earlier today, the House passed a bill—H.R. 3909—identical to this bill, S. 2042. I am delighted that we were able to obtain unanimous consent in the Senate for adoption of this bill. The House action and the Senate's unanimous consent completes an agreement to have identical bills without amendments, dispensing with the need for a conference. At the Finance Committee's markup, the Treasury representative indicated that the President would sign this bill.

Adoption of this bill without amendments reflects an extraordinary cooperative effort on the part of both bodies, on both sides of the aisle, and of the administration. I would like to thank Chairman ROSTENKOWSKI and Senator PACKWOOD for their efforts on this bill. I would particularly like to thank Senators DANFORTH, CHAFEE, and DODD, whose efforts to get the agreement of 79 Senators to oppose amendments to this bill paved the way for its passage.

TAX CREDIT EXTENDERS

Mr. DODD. Mr. President, I understand either later today or at some other point, the majority leader, I think in conjunction with the minority leader, Senator DOLE, will propound a unanimous-consent request to be able to bring up some 12 extenders of tax credits, including the research and development tax credit, the low-income housing tax credit, an educational tax credit, targeted jobs tax credit. There are a number of others. I do not have the list in front of me.

As one who worked with the senior Senator from Missouri, Senator DANFORTH, in soliciting the signatures I think of some 75 or so of our colleagues on a letter to the leadership suggesting that if these tax extenders, credit extenders were brought up on the floor of the Senate, none of the undersigned would support or offer any additional amendments to such a proposal.

I thank Senator BENTSEN and other members of the Finance Committee, along with the leadership, for their willingness to at least make such a request if, in fact, it is made and strongly urge that our colleagues would agree to that unanimous-consent request and allow for that package to come forward.

I know there are a number of provisions that other Members would like to raise, including this Member, on such a tax proposal—one including the tax on boats which has been a devastating blow to the marine industry in my State and throughout the New England area and I realize in other parts of the country.

As tempting as it would be to offer some tax relief for that industry that has been hard hit, I, for one, will forbear and agree and support this package of tax credit extenders because all of those extenders will expire on the 31st of December. That could be a major blow to a State like mine that has effectively used those tax credits to educate people—employers have—who would otherwise not have received the higher education; there are some 100,000 jobs, not to mention the incubator businesses that use the R&D tax credits to either expand or start new businesses.

So I hope when that proposal is raised, there will be unanimous support for that matter coming forward without any amendments, that we will be able to support the extension despite the temptation that every single one of us would have to utilize that tax vehicle to bring up other proposals that would be of some significance to our States and our constituencies.

This is one proposal I believe can make a significant difference before our adjournment, in trying to help jump start an economy that is on its back.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

JIM SASSER TAX EXTENDER LEGISLATOR

Mr. SASSER. Mr. President I rise to urge my colleagues to vote for H.R. 3909, legislation which provides for a 6-month extension of a variety of tax laws which would otherwise expire in 1991.

This legislation, reported out unanimously by the Senate Finance Committee, must be passed before the Congress adjourns.

Some 12 tax provisions are extended, but I would like to devote my remarks to two of these expiring tax provisions.

The first is the Mortgage Revenue Bond Program. This tax provision permits qualified governmental units to issue mortgage revenue bonds, the proceeds of which are used to provide affordable housing to many citizens who otherwise could not own their own home.

In 1990, State housing finance agencies issued some $8.6 billion in mortgage revenue bonds which permitted the issuance of some 131,000 loans for affordable housing. In my State of Tennessee, the State Housing Development Agency issued loans which permitted some 4,700 families and individuals to own their own homes. The average income of the Tennessee home purchaser was about $27,000 and the average home purchase price was about $44,000 under the State's Mortgage Revenue Bond Program.

The mortgage revenue bond tax provision which has been in effect since 1981 has helped qualified State and local agencies create and finance affordable housing throughout the country. At a time when the income squeeze is putting more and more families out of the housing market, the Mortgage Revenue Bond Program helps bring back the dream of homeownership to thousands of American workers and their families.

Another provision which deserves mention is the low-income housing tax credit which was enacted as part of the Tax Reform Act of 1986.

This tax credit promotes the construction or substantial rehabilitation of low-income housing units. Again this tax credit is of key importance to our housing industry.

In 1989 and 1990 some $517 million in low-income tax credits were used to finance the construction and rehabilitation of nearly 200,000 low-income housing units. In Tennessee, this tax credit helped provide some 4,000 units of low-income housing.

During a time when we need to construct, and rehabilitate as many housing units as possible and make housing more affordable to our citizens, these two tax provisions deserve our support.

By passing H.R. 3909, these tax credits can help bolster an anemic housing market in Tennessee and the Nation.

EXTENSION OF EXPIRING TAX PROVISIONS, S. 1950

Mr. DURENBERGER. Mr. President I rise to express my support for the extension of a group of tax provisions which are due to expire at the end of 1991. While this legislation by no means represents all that could or should be done in the tax arena, I am pleased that the Senate is acting to ensure that there will not be undue disruption in the lives of the many Americans who rely on these expiring programs.

The mere fact that the Senate is considering this tax measure is due in large part to the efforts of the senior Senator from Missouri. Senator DANFORTH worked to ensure that the extension of these items did not get bogged down by unlimited amendments. I commend and thank my friend for his efforts.

This legislation is more than just another bill which the Congress is rushing to complete before adjournment. Consideration and, ultimately, extension of these expiring provisions represents a renewed commitment to the individuals who benefit, both directly and indirectly, from these important programs and to the problems which they seek to address.

I am particularly pleased that this legislative package calls for renewal of the 25-percent deduction for the health insurance costs of the self-employed. I would, of course, prefer that this modest benefit to America's farmers and small-business people be increased to a 100-percent deduction. I also believe that it should be made permanent to avoid this annual uncertainty. However, any extension or relief, particularly during a recession, is critical to ensure that self-employed individuals are not forced to cancel what insurance they do have.

Despite what I expect will be a partial victory today, I will continue to work for the permanent extension of the 25-percent deduction, as well as a 100-percent deduction, for these health insurance costs through passage of legislation which I introduced at the beginning of the 102d Congress.

This deduction provision is not perfect, but it is an essential element in enabling individuals to provide health insurance for themselves and their families. Because all corporations in America enjoy a complete deduction for their health insurance expenses, this is not only an issue of sound policy for the self-employed, it is one of basic fairness.

Mortgage revenue bonds are another program which has been of great value to families of modest incomes. It has permitted many Americans to achieve the dream of home ownership and has also been effective in creating jobs for many tens of thousands of Americans. As the country continues to work its way out of recession, the value of this program cannot be underestimated for stimulating the economy and for assuring continued access to home ownership.

More directly, the targeted jobs tax credit has been responsible for the employment of many Americans who are likely to have difficulty obtaining steady employment. This program aids targeted groups of people by making it competitive for businesses to hire them for steady employment. The workers benefit through their acquisition of valuable work experience at the same time that they make valuable contributions to businesses and to the Nation's work force.

Our work force is also enhanced by the program in this bill which excludes from an employee's income the value of employer-provided educational assistance. What this means is that workers are not discouraged from seeking further education because they will be taxed on its value. Anything less than what this provision tries to accomplish sends the wrong message to workers and to business about the value of education.

It is in the best interest of the Nation to help workers to improve themselves by offering them a chance to build on existing skills and to acquire new ones. This program is the embodiment of the long-term view, which is too often left out of the planning of both businesses and government.

Likewise, the research and development tax credit in this legislation is essential for helping U.S. businesses develop new technologies. Because the cost of research can be enormous, this program enables businesses to look beyond the financial pressures of short-term and purely commercial applications by providing a tax credit to offset new research spending. The result is that American businesses will continue to be leaders in industry and will not lose the battle of competitiveness with our foreign competitors.

While I am very pleased to see these programs go forward, my enthusiasm is not unqualified. Like many of my colleagues, this legislation is not all that I would like it to be. However, because of the importance of a few provisions in this bill, I have joined 78 of my colleagues in signing a letter pledging our commitment to opposing any amendments to this bill, no matter how attractive or important they might be. Like most legislation which passes through this body, this bill is not perfect. But I will support it.

I am disappointed that the Senate will not consider the repeal of the excise tax on boats, which I believe has been responsible for a dramatic downturn in the boat manufacturing industry in my State and throughout the Nation. My disappointment is tempered only by the commitment of the Finance Committee to address this issue, as well as all of the other so-called luxury excise taxes, at the earliest possible opportunity when the Senate reconvenes in 1992.

I likewise regret that the Senate has not made needed modifications within this list of expiring provisions itself. Since this extension is for just a 6-month period, however, I am confident that the tax-writing committees in the Congress will make necessary refinements in existing programs, as well as a new evaluation of all of these provisions in the first part of 1992.

Mr. President, I hope that the full Senate will join me in voting to extend the 12 expiring tax provisions so that great disruption can be avoided for the millions of people who rely on these expiring tax provisions.

REAL ESTATE TASK FORCE

Mr. DOMENICI. Mr. President, in late October, not too long ago, the Republican leader created a small task force, a Senate Republican task force on real estate, and asked seven of us—I was the chairman—to look into what had happened to real estate in the United States; why was it in some kind of a freefall: more important, what was that doing to the economy today, how much was it contributing?

Interestingly, enough, everyone should know that while we regularly look at the economy as if something as static as real estate was not really a part of the GNP or a significant part of our wealth, let me suggest that it is quite the opposite. The evidence is quite extensive that about 25 percent of our GNP annually is the result of transactions involving some kind of real estate or improved real estate, that 75 percent of the wealth or asset value of the Nation is as the sum total of real estate and real-estate-related transaction.

So it is obvious, when you have a huge portion of your real estate in a freefall, for whatever reason—we think some of it is from the Tax Code, we think some of it is for other reasons—clearly, it has a very, very big negative effect on the economy and a drag on growth and prosperity.

We are still going to continue to look at that and will not report it in depth until later on in the early part of the year, because Congress is in the midst of passing a banking bill, RTC bill, and a few other items that clearly can have a dramatic impact on whether the value of real estate stabilizes or continues to fall. We did report that to the leader in a letter dated November 25. I ask unanimous consent to make that a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, DC.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR LEADER: The Republican Task Force on Real Estate has been meeting regularly since you created it in October. We have solicited and received analyses and recommendations from over 40 real estate and financial organizations. We have also met with the Chairmen of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Director of the Office of Thrift Supervision.

The one word that seems to dominate these discussions has been confidence. There is a current and dire need to restore confidence in the real estate market. We believe the real estate market is clearly undergoing significant economic stress, brought on in

amounts needed to be appraised. This will eral Reserve Chairman Greenspan, the The task force has also concluded large part by a combination of inflation in the 1970's and selected tax policies of the 1980's. In part, because of this past history, the industry is also undergoing structural changes that will fundamentally change its future and the way we, as legislators, should think about policies that affect this industry.

The Task Force intends to continue during the recess and to provide you with a final report in December. That report will address both regulatory and legislative reforms that we believe could help restore confidence in the short term and stimulate longer term industry growth.

In these last days of this first session, however, we believe action can be taken both by the Congress and the Administration to restore some degree of confidence in the market. We would propose that the legislative items identified be included in any conference agreement on the banking bill or as amendments to the Resolution Trust Corporation (RTC) funding legislation or other relevant legislation. Some items can be done administratively and we encourage the President to act quickly on such items through existing regulatory authorities.

The Task Force's short term recommendations follow (details appear on the attachment to this letter):

1. Credit Availability Amendment. The House RTC funding bill includes language that would effectively prevent lenders from having to dump real estate assets onto an already depressed market. It accomplishes this by allowing the Director of the OTS to grant temporary and limited relief in meeting capital requirements against real estate held by thrifts. No such language exists in the Senate banking bill. We strongly endorse the House language.

2. Open Bank Assistance Amendment. Both the House and Senate Banking bills include language that as drafted would restrict beyond current law the ability of regulators to work out problem loans for weak banks. We believe the language must be modified or dropped completely to prevent additional bank failures so as to allow regulators the flexibility to deal with weak banks in the current real estate market.

3. Early Resolution Amendment. Troubled banks need to be assisted as early as possible through alternative work-out arrangements and mergers. We believe this would be the most cost effective approach for the American taxpayer.

The Senate banking bill included sense of the Senate language that regulators should facilitate the early resolution of troubled institutions. We believe this language should be retained in any conference agreement. House language for early resolution of failing banks requires that the directors be removed and shareholders' claims be repudiated. Such language should be removed from any conference agreement and the Administration should pursue the intent outlined in the Senate bill.

4. Real Estate Appraisal Amendment. This amendment was recently adopted on the Senate Banking bill and has been included in the House reported RTC funding bill. The Senate bill language should be adopted in any conference agreement or absent legislation the President should move to implement the intent of the Senate bill through existing authorities. Certified appraisals must be used on loans made after January 1. This provision should be relaxed given the current state of the real estate market.

5. Regulators have existing authority to reduce the capital weighting requirements for loans of nonspeculative residential properties to 50 percent. Current practice is to place this at 100 percent. The Administration should move rapidly to reduce this capital requirement through regulatory means without the need for legislation as included in the House banking bill. Such legislative action could jeopardize the carefully negotiated Basel Accord.

6. Extension of certain expiring housing tax provisions. Finally, the amendment should include an extension of two expiring housing tax provisions, one for low-income housing and a second for mortgage backed revenue bonds. If this creates a constitutional problem as it relates to the origination clause, a separate revenue measure should be identified.

We believe these Task Force recommendations are small but doable steps in providing some assurances to the real estate market now before Congress adjourns. We have identified these problems and are prepared to act quickly. Longer term recommendations will be sent to you later.

We look forward to assisting you in the adoption of your Task Force on Real Estate's recommendations.

Sincerely,

Pete V. Domenici, Chairman; Senator John Danforth, Senator John McCain, Senator John Seymour, Senator John Chafee, Senator Connie Mack, Senator Warren Rudman.

BACKGROUND TO REAL ESTATE TASK FORCE PROPOSALS

CREDIT AVAILABILITY

Current law requires thrifts to set aside an increasing amount of capital against their investments in and loans to subsidiaries that engage in certain real estate related activities. By 1994, thrifts will be required to hold dollar for dollar capital against these investments and loans. This has already resulted in thrifts being forced to sell these assets in deteriorating markets where there are no buyers.

This amendment gives regulators flexibility to grant temporary relief to thrifts by allowing them to restructure their real estate lending portfolio to better reflect sluggish real estate markets. This will stop the flooding of real estate related assets at firesale prices which further erodes the market. It also allows banks to use capital towards other lending which can ease the credit crunch and help stimulate the economy.

OPEN BANK ASSISTANCE AMENDMENT (EARLY RESOLUTION/ASSISTED MERGERS)

Early resolution/assisted mergers is a cost-effective alternative to closing institutions and adding to the government's liquidation burden. Given the current severe dislocation in commercial real estate markets, it is important to provide regulators with flexibility to arrange such assisted mergers to both lessen the cost of resolution and keep affected real estate in private sector management and ownership.

Early resolution/assisted mergers is a program for banks and thrifts which should substantially reduce the cost to potential failures. Experience has taught us that institutions, which are solvent but have severe asset problems, tend to deteriorate very rapidly. Thus, the costs of eventual resolution can sky rocket.

Early resolution/assisted mergers would involve open assistance for a troubled institution as part of a merger with a well-managed, well-capitalized institution. As a condition for receiving assistance, the troubled institution's existing shareholders and bondholders would make substantial concessions.

The objective of this program would be to effect the resolution of the troubled institution as early as possible to lessen the deterioration of the institution's deposit franchise and thus reduce the cost to the taxpayer. Additionally, a majority of the troubled institution's assets—in particular its commercial real estate—would remain in the private sector, under the control of the acquiring institution's management, who would have incentives to work out this real estate in the most efficient manner.

21The Task Force commends the inclusion of the Early resolution Provision in the Banking Bill that will encourage the Federal Banking agencies to facilitate early resolution of trouble depository institutions.

Accelerated Resolution Program

The Early Resolution/Assisted Mergers proposal has grown out of the OTS/RTC success with the Accelerated Resolution Program (ARP). In ARP, OTS markets failing thrift with RTC assistance prior to closing. At the point of sale the institution is in place into a pass-through receivership, wiping out existing shareholders and bondholders.

By selling failing thrifts while they are still open the government is able to keep the institution's deposit franchises intact and usually results in a better premium than that obtained through a conservatorship sale.

The OTS and RTC have used their authority in the ARP toresolve 26 institutions. Three resolutions were arranged at no cost to the taxpayer.

ARP has the added benefit of selling the bulk of the institution's assets, at the time of resolution. This keeps these assets out of the RTC and outside the already substantial government liquidation process.

The Task Force recommends using this approach as a model for resolving banks as well as thrifts.

EARLY INTERVENTION

Early intervention is part of "prompt corrective action" for banks or thrifts that are dommed to fail. Early intervention takes place before an institution's capital reaches zero and mandates government intervention once an institution's capital falls below 2 percent. While well intended, early intervention could prove to be a cost ineffective resolution mechanism for damage control.

Early intervention could force regulators to unnecessarily close several substantial institutions which have significant core earnings and are likely over the near term to recapitalize without any government assistance. With the current weak real estate markets the regulators Ned the flexibility to determine if a bank is doomed to fail.

The Task Force recommends that the Federal regulators be given sufficient administave flexiblity to determine if a bank is dommed to fail.

The Task Force recommends that the Federal regulators be given suficient adminstrative flexibility to better address declining real estate markets.

REAL ESTATE APPRAISAL AMENDMENT

Currently in many states thatre is a real estate appraiser shortage which has distorted real estate markets, added delays to closing real restage transactins, and added unnecessary costs to borrowers.

This amendment will increase the supply of real estate appraisers by extending the effective date to only use state licensed/certified appraisers and increases the loan amounts needed to be appraised. This will provide immediate economic relief to bans, help stimulate real estate markets, and send the right message to the markets the we are serious about banking reform.

CAPITAL FOR RESIDENTIAL PROPERTIES

Regulators have the authority to reduce the risk based capital for residential construction loans for per-sold homes from 100 percent to 50 percent., This will make credit mopre easily available for homebuilders and increase the support of home for first the time homebuyers.

The Task Force recommends expedition the implementation of the policy.

Mr. DOMENICI. Mr. President, there are about six or seven items that are recommended that can be done, none of them gigantic, but a number of them have to do with areas like not letting the RTC have only one approach to a banking or savings and loan institution that is insolvent. Because, if the only approach is close them down, liquidate, pay the depositors, we add spontaneously much more real estate in the market and we add it in a nonmarket-oriented manner.

We ought to provide options so that is not the only approach to the S&L or bank that is in trouble, but rather that they can be held alive for a while until they are merged and we never dump the real estate on the market. I think everyone understands that.

There is an appraisal request in here that says why not appraise things quicker rather than slowly? Some of the appraisal techniques and mandates, certification, of certified appraisers are causing the market to go slow rather than quickly as it relates to houses and commercial real estate.

We recommend that if we do not get this done in the law, as the President suggests to the three major organizations that handle banking-related institutions, that they change their regulations so that we will not have to use registered and certified appraisers in every instance, raise the threshold on residences to $100,000 and on real estate to $250,000 is thought by a group that I worked with to be a rather reasonable and plausible approach.

There were a number of others that had to do with getting more housing financing out there quicker.

Mr. President, in late October the Senate Republican leader created the Senate Republican Task Force on Real Estate.

Leader DOLE asked me to chair the group, which included myself, Senators CHAFEE, DANFORTH, MACK, MCCAIN, SEYMOUR, and RUDMAN.

Leader DOLE charged the task force to review the current state of our real estate industry, its impact on the banking industry, credit, and our national economy.

The task force solicited and received over 40 current reviews, analyses, studies, and recommendations from financial and real estate experts.

Further, the task force has met with and had in-depth discussions with Federal Reserve Chairman Greenspan, the FDIC Chairman, Bill Taylor, and the former FDIC Chairman, Bill Seidman, along with the current Office of Thrift Supervision Director, Tim Ryan.

During the month of December the task force will continue its work and meet directly with those in the States who work daily in this area.

Yesterday, the task force transmitted a series of short-term recommendations to the Republican leader. The group will complete its longer term recommendations in December.

I want to take just a moment to highlight our initial findings.

First and foremost we conclude that there is a dire and urgent need to restore some confidence in the real estate market.

We believe that the real estate market today is clearly undergoing economic stress. But the real estate market is not homogeneous. Clearly, the commercial real estate market is under more stress than is the residential market.

And recent new housing starts suggest that maybe declining interest rates are starting to strengthen that segment of the market.

Nonetheless, the stress being experienced today is in large part the result of a combination of factors, beginning with the high real estate inflation of the 1970's and early 1980's and selected tax policies of the 1980's.

The key then to long term growth in the real estate market is long term economic growth in the general economy. But as this first session of Congress comes to a conclusion the task force identified a number of items in both the banking bill and RTC funding bill that could help or in some cases distract from the goal of strengthening this market.

Those short-term recommendations are included in a letter sent yesterday to the Republican leader and which I ask unanimous consent to be printed in the RECORD at this point.

Let me say at this moment no one knows for sure what the final disposition of the banking bill or the RTC funding bill will be this evening.

Hopefully, some of our recommendations will be included in the final conference agreement on the banking bill. This would include such items as providing the Director of the OTC with some temporary and limited authority to grant relief to lenders so as not to result in these lenders having to dump additional real estate properties on an already depressed market.

We also have concluded that the pendulum may have swung too far in the direction of limiting regulators in their authority to resolve weak banks without forcing their liquidation right now. We are afraid, however, that some provisions in the House-passed banking bill may further restrict this needed flexibility to the regulators at this critical time in the industry's future.

The task force has also concluded that certain capital standards for residential construction loans for presold homes and appraisal regulations can be modified through existing authorities. We encourage the President to expedite a review of his authorities in this area and modify current regulations for the goal of stimulating the market at this time.

The task force also recommended the extension of two expiring housing tax provisions, which the Senate adopted earlier today.

The task force knows that these recommendations are not the entire answer. In fact, an honest assessment of the outlook of the real estate market is one of continued stress as it goes through some fundamental structural changes.

Nonetheless, these initial recommendations, we believe, would go a long way toward establishing some needed confidence in the market at this critical time.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

THE COMMITTEE ON APPROPRIATIONS

Mr. BYRD. Mr. President, now that the Senate has completed action on 12 of the 13 regular appropriations bills, in addition to four supplementals, and a continuing resolution which funds the foreign operations appropriations bill through March 31, 1992, I wanted to take this opportunity to thank all members of the Appropriations Committee for their splendid support throughout this difficult year. I also wanted to take this opportunity to express my concerns regarding the allocations for fiscal years 1993 through 1995.

Earlier this year, when the defense appropriations bill was being considered by the Senate, I supported an amendment by the distinguished chairman of the Budget Committee, Mr. SASSER, which would have cut spending on the B-2 stealth bomber by $15 billion for fiscal years 1992 through 1995 and would have cut SDI by $9.1 billion and the MX rail mobile missile by $370 million over the same period.

Had that amendment been agreed to, it would have resulted in reductions totaling over $24 billion from defense spending for fiscal years 1992 through 1995.

Senator SASSER and I pointed out that we need to start cutting defense now because if we wait until 1994 and 1995, it will be too late. At that point, we will be forced to make massive cuts in personnel in order to achieve the level of savings that will be necessary if we are to avoid deep cuts in domestic discretionary spending.

In order to understand the severity of the problem we are facing, let me go

ture. Otherwise, we will continue to

A recent New York Times editorial

domestic discretionary in fiscal year

back and revisit the budget summit. At that summit, we succeeded in securing increases for domestic discretionary totaling $40 billion above the June 1990 baseline for fiscal years 1991–93. We wanted much more than that in order to reverse the drastic cuts that had been made to these critical domestic programs in the previous 10 years. The administration proposed further cuts of $40 billion below the June 1990 baseline. So, we moved the figure upward by $80 billion over the 1991–93 period—from the $40 billion below the June 1990 baseline proposed by the administration to the $40 billion above the June 1990 baseline contained in the Budget Enforcement Act.

I fought as hard as I know how to get these increases at the summit. I pointed out to the participants at the summit that we should take off our green eyeshades and recognize that we were, in fact, laying out a blueprint for the future of this Nation; and that a nation that does not adequately invest in its infrastructure—both physical and human—will decay from within and will become second-rate to other nations in the decades ahead.

In addition, there were other pluses for domestic discretionary spending contained in the summit agreement:

First, domestic discretionary is "held harmless" for economic and technical misestimates.

Prior to the summit agreement, discretionary spending—defense, international, and domestic—suffered sequesters because of these factors.

OMB's latest 1991–96 revenue forecast is down by $176.3 billion due to economic and technical misestimates.

Second, under the summit agreement, legislated growth in entitlement programs must be paid for by committees of jurisdiction; otherwise, entitlements will be sequestered. In the past, discretionary spending was sequestered for entitlement growth.

Third, for fiscal years 1991–93, we have three discretionary caps—one for domestic, one for defense, and one for international. If any one cap is exceeded, a sequester occurs on spending within that category only.

In the past, if international spending was above its allocation, a sequester was applied against domestic and defense programs, as well as international. Now, only the category that breaks its cap suffers the sequester.

Fourth, the agreement allows for "emergency" spending outside the caps, where the President and Congress agree. Emergencies should be (a) sudden, (b) unexpected, (c) temporary, and (d) for truly necessary spending. Examples are: Desert Shield/Storm, hurricanes, earthquakes, floods, droughts, tornadoes, and so forth.

So far, so good. But, also at the summit, we had major disagreements over the levels of funding that should be provided for domestic discretionary versus defense for fiscal years 1994 and 1995. When it became clear that we could not agree on separate caps for 1994 and 1995, we settled on one cap for all discretionary spending for 1994 and for 1995. Within that one cap, the Appropriations Committees, in their 602(b) allocations, will be able to set the level of funding for defense and for domestic and for international spending for 1994 and 1995. Everyone at that summit knew that there would be great difficulty in funding continued growth for domestic discretionary in 1994 and 1995 without making substantial cuts in defense.

Since the summit, as we all know, there have been dramatic changes throughout the world which have given us the opportunity as well as the responsibility to reexamine very carefully our defense needs in the years ahead.

It is clear that defense spending should be cut much deeper than we imagined that it could be at the time of the summit. In the coming months, we will be carefully examining the levels of defense spending that will be necessary in order to adequately provide for our own national security, as well as that of other nations upon whose security we depend.

There is little question that defense spending will be reduced. The questions are: "By how much?" and "What will be done with the savings?" I intend to make the case that these cuts are going to be needed for domestic discretionary programs. The Congressional Budget Office, in its August 1991 report entitled, "The Economic and Budget Outlook: An Update," makes it very clear that we cannot sustain the President's defense requests for 1994 and 1995 without major cuts in domestic discretionary spending in those years. On page 60 of the report, there is a table which sets out two scenarios. Scenario 1 assumes the President's budget request for defense for 1994 and for 1995. For 1994, the total assumed budget authority for all discretionary spending—that is, for defense, international, and domestic—is $518.1 billion. Of that amount, $295.5 billion would be provided for defense. That would be a reduction of $8.4 billion, or 2.7 percent, below baseline. In other words, defense would take a real cut below inflation of $8.4 billion in fiscal year 1994.

Under that scenario, however, both international and domestic discretionary would suffer greater cuts than defense. International would be cut $1.6 billion below baseline and domestic discretionary would have to be cut $14.9 billion below baseline—that is a 6.9-percent cut below inflation. Members are surely aware of the damage such cuts would do to our critical domestic discretionary needs. It would necessitate 6.9-percent reductions, across-the-board, for all domestic discretionary programs, such as law enforcement, education, water projects, research and development, highways, transit, VA medical care, and so forth. These cuts would come from the very same programs for which we have been able to provide increases in the past three fiscal years. We would be turning our backs on our commitment to invest in ourselves—in our people, in our highways and bridges, in our education programs, in research and development, in environmental cleanup, in health programs.

But, if 1994 looks bad, 1995 looks worse. For 1995, if the President's defense budget request of $298.5 billion is appropriated, that would equal a cut of $18.4 billion, or 5.8 percent, below baseline for defense. For domestic discretionary, the cut would be $21.9 billion, or 9.7 percent, below inflation. Real cuts of 9.7 percent would be required in 1995 for domestic discretionary if we wanted to provide the President's request for defense.

If we want to avoid these drastic cuts in domestic discretionary spending in 1994 and 1995, we will have to cut defense more than the President has proposed and apply the defense savings to domestic discretionary.

Under scenario 2, CBO shows what it will take in defense cuts in both 1994 and 1995 if we are to provide baseline levels for domestic discretionary for those years. In other words, if we want to just keep pace with inflation for domestic discretionary programs in 1994 and 1995, we will have to cut defense by $24.9 billion, or 8.2 percent, below inflation in 1994 and by $42.8 billion, or 13.5 percent, in 1995. That is a total cut of $67.7 billion below inflation for defense for the 2 years—1994 and 1995. Under this scenario, as CBO points out, "real defense spending would sink to 28 percent below 1990's level. Very large cuts in military operations—including personnel—and investments would be inevitable. A CBO analysis, in fact, concludes that there would be no orderly way to achieve the defense outlay targets under scenario 2 without starting before 1994—that is, appropriating less than the cap permits in 1993."

CBO goes on to state that "nondefense discretionary programs bore the brunt of budgetary cuts in the early 1980's, but have generally been boosted in recent years' appropriations. The caps in 1992 and 1993 permit these programs to keep pace with inflation." But, just keeping pace with inflation does not allow room for any real growth in 1993, 1994, or 1995, for infrastructure, for education, for environmental cleanup, or for other investments that should be increased.

It is not just ROBERT BYRD who believes this. There is a growing understanding by the American people that if we are to remain an economic superpower, we are going to have to substantially increase our investment in our own human and physical infrastructure. Otherwise, we will continue to lose ground to other nations of the world who are making such investments.

A recent article in the National Journal states that:

> At a recent conference hosted by the Washington-based Economic Policy Institute, the estimated annual cost of closing "the investment gap" was put at anywhere from $63 billion-$126 billion. Robert Heilbroner, professor emeritus at the New School for Social Research in New York City, said the nation eventually needed to invest an additional half-trillion dollars to put the United States on a par with its chief foreign competitors.

An article in the October 26 issue of Congressional Quarterly states that Robert Eisner, a Northwestern University economist:

> * * * thinks that government spending can be better targeted, especially on big-ticket items that private citizens wouldn't dream of financing. He favors spending on roads, bridges, airports, education, job training and health care. All would generate long-term benefits, he argues, and ought to be financed with borrowed money. In other words, the deficit can be a positive tool for investment: Individuals borrow to buy houses, local governments borrow to build schools or fire stations, and the federal government can and should borrow for its investments.

The Center on Budget and Policy Priorities, on October 25, issued an analysis of several tax reduction plans. Page 2 states:

> In short, under the budget agreement, large defense reductions are needed in FY 1994 and FY 1995 just to avoid major domestic and international cuts. If defense reductions in these years are used to finance tax cuts instead, it will be nearly impossible to stay within the caps without significant reductions in domestic and international discretionary programs.

An article by Jeff Faux in the Washington Post on October 27 entitled "A Tax Cut Could Really Wreck Things" contains the following quote:

> The problem lies in the deteriorating competitiveness of the economy itself, which has not been generating the level of income needed to maintain the living standards of the majority of working people. Unless we substantially raise investments in our people and our technological development, real wages and incomes for most American workers will continue to decline, regardless of what we do with the tax system.

A recent New York Times editorial entitled "The Law That Ate the Future" makes a very compelling case that last year's budget agreement must be changed. The concluding paragraph of which states:

> Preserving desperately needed public spending will require the entire peace dividend, and then some. To give it away in tax cuts borders on the unconscionable. Still deeper cuts in defense are needed; every cent of tax revenue is needed; the budget agreement is not.

A recent article in the Washington Post by Hobart Rowan states, in part:

> Here's what needs to be done to bust the budget: First, a meaningful extension of unemployment benefits. Bush ignores the human dimension: There are more than 8 million unemployed persons out there unimpressed by the categorization of this recession as "shallow." For them—and millions of others who have jobs but worry about the future—this downturn is plenty deep.
>
> Second, ignore those who say there is no peace dividend, or that it's already spent. Not true. Senate Budget Committee Chairman Jim Sasser. (D-Tenn.) shows that a modest 6 percent cut from Bush military spending requests would save $70 billion a year in outlays. (It could be cut even more.)
>
> Third, spend this money—and more—not on tax cuts but on public-sector projects such as roads and schools, and to finance genuine investment in carefully selected industrial projects aimed at increasing productivity. Provide a stimulus greater than the contraction resulting from lower defense spending.

Finally, an editorial in the November 11th issue of U.S. News and World Report, written by David Gergen, entitled "Let's Get Real" contains this statement:

> Over the short run, there are a few things Washington can and should do to alleviate public pain. It would help, for example, to take an additional chunk out of the defense budget and put people to work rebuilding our crumbling roads, bridges and airports. Public works programs may seem old-fashioned but they are effective—every $1 billion in spending is thought to create 41,000 jobs. And besides, America badly needs to modernize: Our investments in infrastructure have dwindled to less than 1 percent a year of gross national product, compared with 3 percent in Germany and 5 percent in Japan.

The point is, Mr. President, that the only way to avoid devastating cuts in domestic discretionary in fiscal year 1994 and fiscal year 1995 will be to cut defense and use those savings to prevent cuts in domestic discretionary. I repeat what I said earlier—everyone at the summit knew that in fiscal year 1994 and fiscal year 1995, we would have to cut defense in order to avoid cuts in domestic discretionary. What is new is that the level of cuts that are needed can be made in defense without harming our national security. So, to the extent there is a so-called peace dividend, it is already spoken for. The Budget Enforcement Act sets no level for defense spending for 1994 and 1995. Instead, the act allows Congress, through its budget resolutions and the Appropriations Committees, through their 602(b) allocations, to set the levels of defense spending for 1994 and 1995. It also allows the committees to use any savings from either defense or international spending to be applied to domestic discretionary programs. There are no separate caps on defense and international spending in those years. We will be free to use defense savings on domestic priorities. And, Mr. President, as I have pointed out here today, defense cuts should be made—in fact, must be made and applied to domestic discretionary programs—if we are to avoid devastating cuts in our investments in this country's pressing domestic needs.

We need to start this process of cutting defense in 1993 if it is to be accomplished without drastic personnel cuts. I am hopeful that the administration will work with the bipartisan leadership of Congess in connection with the 1993 budget resolution. I wanted to take this time today to make Senators aware of the problems we will face in funding our domestic programs in 1994 and 1995, and to point out that we will need to utilize defense savings, as is contemplated in the Budget Enforcement Act, to avoid cuts in domestic discretionary programs.

Mr. President, I ask unanimous consent to print in the Record a table titled meeting the discretionary budget authority caps in fiscal years 1994 and 1995.

MEETING THE DISCRETIONARY BUDGET AUTHORITY CAPS IN FISCAL YEARS 1994 AND 1995

[In billions of dollars]

Spending category	1993 cap	Scenario 1: Assume President's Defense request		Scenario 2: Assume nondefense at baseline	
		1994	1995	1994	1995
Defense:					
Assumed budget authority	291.5	295.5	298.5	279.0	274.1
Baseline		303.9	316.9	303.9	316.9
Cuts required:					
In dollars		−8.4	−18.4	−24.9	−42.8
As a percentage		−2.7	−5.8	−8.2	−13.5
International:					
Assumed budget authority	22.9	22.2	22.3	23.8	24.7
Baseline		23.8	24.7	23.8	24.7
Cuts required:					
In dollars		−1.6	−2.4		
As a percentage		−6.9	−9.7		
Domestic:					
Assumed budget authority	207.4	200.4	204.3	215.3	226.2
Baseline		215.3	226.2	215.3	226.2

MEETING THE DISCRETIONARY BUDGET AUTHORITY CAPS IN FISCAL YEARS 1994 AND 1995—Continued

[In billions of dollars]

Spending category	1993 cap	Scenario 1: Assume President's Defense request		Scenario 2: Assume nondefense at baseline	
		1994	1995	1994	1995
Cuts required:					
In dollars		−14.9	−21.9		
As a percentage		−6.9	−9.7		
Total discretionary:					
Assumed budget authority	521.7	518.1	525.0	518.1	525.0
Baseline		543.0	567.8	543.0	567.8
Cuts required:					
In dollars		−24.9	−42.8	−24.9	−42.8
As a percentage		−4.6	−7.5	−4.6	−7.5

Source: Congressional Budget Office, August 1991.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I make the inquiry of the Chair as to what period of the Senate agenda are we in now.

The PRESIDING OFFICER. The Senate is currently conducting morning business.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I am going to talk for a few minutes about the economy, but I would first, before the distinguished President pro tempore leaves the Senate floor, to extend my appreciation for the leadership that he so frequently provides and the eloquence with which he expresses himself. Very often on this floor, Senator ROBERT C. BYRD will make a statement that has many of us saying I wish I had said that. And tonight when he was so gracious in his acknowledgement of Senator MOYNIHAN's contribution and associating the unique qualities that Senator MOYNIHAN brings to this body with those of the early founders of the country, I thought was exceptional and deserved commentary.

Also, the President pro tempore never ceases, at least to me—and I am sure I could say "us" without challenge—with his depth of knowledge, and further and I said this on the floor of this Senate before, that if ever a person ought to be studied to find out how it is that not only how much detail he has acquired, how much information, but now how he can recall it.

I was in the computer business before I got here, one of the things we always prided ourselves in the computer business was how instantly we could access information, randomly, which means you do not have to go in sequence, you can touch any part of the data bank and pull up whatever it is you need. The only time I have seen some of the equipment dwarfed by a human being is on this floor when the distinguished chairman of the Senate Appropriations Committee ROBERT C. BYRD gets up and reciting either poetry, or prose, or chronology, or history, or the culture of the Senate, or the history of the country and that little poem that he recited tonight was so appropriate to the occasion in which he commended the good Senator from New York for his ability to build up.

I thought that it was an appropriate message for all of us in this late hour to be thinking about. Because that transportation bill, which we so arduously labored with, has come kind of aborning; we are still waiting for its first cry. It is reputed to be incubating over on the House side. But any moment now I hope that we will hear the beeps and be able to move ahead with that.

Mr. LEVIN. Will the Senator yield for just one minute?

Mr. LAUTENBERG. Yes.

Mr. LEVIN. I would like to add a thought about ROBERT C. BYRD to yours.

I listened to part of the remarks of the Senator from West Virginia in my office tonight. I must say that I am hoping that the country, the administration, and the Congress is listening to what the President pro tempore is saying about the Nation's priorities. Because what he is now saying and what he has been saying year after year after year is that we must tend to the infrastructure of this country, to our educational needs, to our health needs, to our other domestic needs. What he has been predicting for so long is coming true in spades. And I just hope the administration, who may not be up this late tonight, takes the opportunity to read what the Senator from West Virginia said again.

This has been a very pervasive theme of his career here in the Senate, at least as long as I have been here. And I know it is coming true. They should listen and heed the words of the Senator from West Virginia about the priorities of this budget next year, because they will come true.

We are going to have to make deeper cuts in defense and we are going to have to invest more in the infrastructure of our people. I think it is just certain that will happen. I just again hope the budget people and the administration and the President himself will listen and read what the Senator from West Virginia had to say tonight.

As to the Senator's poetry, I must say I have dazzled my three daughters with the fact that I can recite from memory about four poems. It is a bit embasrrassing when the Senator from West Virginia can recite from memory probably 100, and it may be more than that. I am afraid to ask. But I just hope that my daughters never find out just what kind of memory for poetry and other things, as my friend from New Jersey says, the Senator from West Virginia has, because he is truly amazing in his recall of history, poetry, and language and so many other things.

It has been a real pleasure to serve for now 12 years with our friend from West Virginia and I look forward to many, many more years of his service.

Mr. BYRD. Mr. President, if the Senator will yield.

Mr. LAUTENBERG. I am pleased to yield.

Mr. BYRD. Mr. President I thank the Senator from New Jersey, Mr. LAUTENBERG, and I thank the Senator from Michigan, Mr. LEVIN, for their very flattering words. I shall long treasure today's RECORD because in it I will be able to point to my grandchildren what some of my colleagues had so flatteringly said. I indeed appreciate it.

Mr. LAUTENBERG. Mr. President, I am reminded by the Senator from Michigan, when we start talking about recall and poetry, the only thing I could get through my mind was "Mary Had a Little Lamb," and I knew we had to go further than that to catch up with the vivid recollections that our distinguished colleague from West Virginia has. His words we have all heard and we have all marveled at. But if one looks at his history of the Senate, it borders on literature, with its history, its prose, its memory, and its analysis. It is quite a remarkable work and I treasure it.

THE ECONOMY

Mr. LAUTENBERG. Mr. President, I want to talk about the economy. The hour is late. We do not often have enough time to do these things. But I fear that we may get to see the Sun come up and so, while waiting, we will take this opportunity to deliver a message.

Mr. President, I am worried about the direction in which America is heading today. It is made worse by the lack of Presidential leadership on the economy. I fear that we are rapidly making the American dream of a better life more and more difficult to achieve for a large portion of working Americans. That means that the America we know and love—the America where opportunity abounds—is in serious danger.

I am the son of immigrants and I have lived the American dream. That is why I sought to serve in the U.S. Senate. I wanted to give something back to this country which has been so good to me, and to make sure it remained a beacon of opportunity for generations to come.

My father and mother were brought to this country by their parents from Russia and Poland in the early 1900's searching for a better life. Drawn by the stories of opportunity America promised, they believed that with hard work and determination, their children could have a better life than they did.

My father worked long, hard, hours in the silk mills of Paterson, NJ, and though he wanted it and though he had the ability and though he tried, he was never able to get to college. He died as a young man when I was 18 years of age. My mother never went to college. She worked behind the counter of a sandwich shop to put food on the table after my father died. They did whatever they could for my sister and me.

And, here I stand today, a former chief executive officer of one of America's most successful corporations that I helped build from a standing start. It pioneered an industry called the computing industry—one of America's most dynamic technology sectors. Here I stand now as a Member of the U.S. Senate. Only in America could the son of working class parents achieve such positions.

Our country's strength lies in the power of the American dream and the promise that the dream can be realized, if not in one's own life, then certainly for the next generation. Hard work, ability, and determination should be the only factors that count. The American dream must remain as a possibility for every citizen or else the promise of America is gone!.

Tragically, as our economy worsens, the American dream has become a nightmare for too many middle-income and poor Americans. As our economy slowed during the 1980's, the rich got richer, the poor got poorer, and the middle class got squeezed altogether. Today, middle-income American families are working harder—often requiring a second wage earner—for salaries that buy less and less.

Since 1980, the incomes of the richest 1 percent of households have grown by more than 100 percent—100 percent—while middle-class incomes have remained stagnant. Incomes of the poorest fifth of households have dropped 6 percent. Real hourly wages for nonsupervisory workers were lower in 1990 than in any year since 1964, and have fallen almost 4 percent since 1980, when President Reagan took office. Real disposable income is lower today than when President Bush took office in 1989.

The middle class is losing ground as the economy worsens, yet the President has repeatedly asserted that the economy is sound and there is no need for action. His only problem, he says, is convincing the public of that fact.

Mr. President, the American people are not satisfied that the economy is in good shape, or that the country is on track, because it's just not true. They are smarter than that. They just don't buy the public relations campaign. They know the average American's income and purchasing power has plummeted. They see it every day in supermarkets. They see it every month when they write out their checks for bills, and when they see what they have, if anything, left over at the end of the month.

They see that their tax burden has increased relative to the richest Americans. Since 1977, tax rates on the richest among us have gone down by 18 percent, while tax rates for the middle 20 percent of American families have increased.

It's a vicious cycle. Higher taxes and lower real wages reduce consumption. As the middle-class contracts, consumer demand goes down, inventories build up, people are laid off and the cycle continues.

To add to our economic woes, people are paying a larger share of their income for basic commodities like housing. In 1950, the average middle-aged, middle-class homeowner spent 14 percent of his gross income on mortgage payments. By 1983, that number had reached 44 percent. Is it any wonder that homeownership rates, which rose for six decades, has declined?

But numbers do not tell the whole story. They do not tell us how angry and disappointed people are with their inability to get ahead despite years of hard work and sacrifice. Middle-income Americans cannot afford college for their children and cannot afford to buy a home after saving for years. They cannot afford to buy a new car. They cannot afford to take a vacation. They cannot plan for an economically secure retirement. They cannot even afford health coverage for themselves and their families.

Public relations will not do it, Mr. President. It is all too real.

I hear the anguish of my constituents in New Jersey. I hear the fear and the anxiety, the disappointment, and disbelief that this could be happening in America. Why is not the President listening?

Does he not know that middle-income Americans have given up the hope of doing better than their parents and are fighting just to hold the line? Does he not know that they fear for their own and their children's future?

That is not the America in which I grew up. And it is not the America in which we all believe.

America was not always this way. We started the Reagan era with the highest wages in the world. Today we are 10th. We started the Reagan era as the world's largest creditor. Now we are the world's largest debtor.

While President Bush refuses to put forward a plan to get the economy going, he tells us everything is fine. But one economic indicator after another tells us the economic distress Americans feel is real and painful. Under the Bush administration, economic growth has slipped into reverse and Americans across the country are searching for answers.

While the average GNP per person, a measure of the average standard of living, has grown during the tenure of every other living, post-World War II President, GNP per person has fallen 0.6 percent a year since President Bush took office. During the Bush administration, nonfarm payroll employment has grown at a 0.55-percent rate—the worst rate of any administration since World War II.

During the Bush administration, housing starts have been the lowest for an administration since World War II. Real residential construction has fallen at an annual rate of 8.59 percent—the worst for any administration since World War II. And the Federal debt as a percent of GNP is 8.7 percent—the higest since World War II.

New claims for unemployment insurance have jumped to the highest level since last May. Hopes that the manufacturing sector would lead the recovery have now faded. Production is flat and new orders have fallen sharply for 2 consecutive months.

While our economy falters, President Bush blames the Democrats; he blames the budget agreement he engineered, which many believe has been disastrous; he blames everything but his own policies.

The average American family has been crying out for help while the American dream has been withering. The only forceful action we have seen by the administration is the wielding of the veto pen on economic rescue plans like the bill to extend jobless benefits.

To make the road to recovery easier for the average working American, we need to invest more in our own people and less to fight an enemy that no longer exists. The end of the cold war has given America one last chance to get its economic act together. The defense budget should be cut, and that money should be invested in education, research, infrastructure, and health care to revitalize our economy and recreate opportunity for the average American.

We must invest much more in education, because education has always been the way for Americans to climb the ladder of economic success and compete successfully in the world. A well educated, technologically literate work force is the key to America's economic success in the future.

And we must make sure that college loans and grants are there for those who need them. The President wants to tell middle-class Americans that they do not need help to send their children to college. Home ownership in New Jersey should not disqualify middle-class families from getting college loans, but they do. They need those loans. And they need tax incentives to save for college costs, tax incentives like new, expanded IRAs that can be used for tuition bills.

We need to invest in training and retraining for American workers throughout their careers. As we reduce defense spending, and we must, we will need programs to help move workers from defense industries to civilian industries. The President is the commander in chief. He led us ably in war in the Persian Gulf. I ask him now, where is the leadership for our economic stability here at home?

We should continue existing tax incentives for worker training and education. Because while American industry searches for skilled workers in Japan or Germany, we have legions of displaced, unemployed, dispirited workers right here at home, desperate for jobs.

In the years ahead, America's factory worker will need more than just a strong back and a will to work to succeed. In our ever changing and increasingly technological world, he or she will need training and retraining to remain competitive.

We need to find new ways to train and educate displaced workers and those who are the most disadvantaged—who threaten to become a burden instead of a productive force. We must experiment with new programs—like comprehensive education and employment centers that merge traditional education with on-the-job training. At the same time, we need to make sure that our tax dollars for schools and colleges are well spent.

We must invest more in infrastructure. There are few things more critical to a sound economy, to job creation, to a solid and growing middle class, and ultimately to our economic standing in the world, than investment in infrastructure and transportation.

Thus, we see the interest tonight that we have in getting this transportation, surface transportation bill done and out of here, and on the President's desk, because people recognize that it is such an essential part of a regrowth in our economy.

Investing in infrastructure goes beyond just building new roads and highways. It means higher output, higher productivity, fuel savings and greater economic growth throughout the country. It means building for our future

We are going to start the process by passing the surface transportation bill. That will be an economic shot in the arm of over $150 billion over the next 6 years. That will pump money into the economy to create jobs and get the economy back to work.

We must also work for a trading system that allows American business as much access to foreign markets as other countries have to ours. Otherwise, we could end up exporting our best jobs instead of our best products.

We must assure that while we trade, we provide strong and vigorous protection against theft or exploitation of American ideas. In the past, America has been the world's idea factory. Our ideas and inventions have been our competitive edge. But, too often, American ideas are exploited or stolen by others. I wrote legislation some time ago to toughen up our intellectual property laws and make it harder for foreigners to steal America's genius and we have to followup with rigorous enforcement.

And if we hope to compete successfully in today's world, we must set policies that not only protect but that stoke the fires of invention. We can do that by making permanent the tax credit for research and development, to spur industry to more and better discoveries. We can do it with continued support of our national laboratories and health science institutes.

And we can do it with an effective partnership between Government and business. Because the high costs of R&D often mean that private industry will not be able to bear the costs and risks alone. America leads in biotechnology, it leads in aerospace, it leads in communications satellites, in part because Government was a partner with industry.

We could make the road upward easier by enacting a tax cut targeted to the average American taxpayer. Since 1980, the wealthiest 1 percent among us saw their tax rates go down by 8 percent while the taxes of middle-income working Americans remained even. It has been a redistribution of wealth all right: Wealth to the rich.

Now the President, by advocating a cut in the capital gains tax, is saying that the problems of our country can be solved by giving another tax cut to a family whose income is $300,000 a year or more.

I do not agree. I favor a tax cut for the middle class to put more money into the hands of the average, hard-pressed, hardworking American.

And no American can climb the ladder of success if he lives with the constant fear that he cannot meet his families' medical needs.

Today, approximately 34 million Americans lack health insurance and about 60 million Americans are underinsured. Fully one-quarter of the uninsured are children, a majority of them are poor, and most have a job. Yet millions of Americans live in fear that a slight illness or a pink slip could mean financial ruin for themselves or their families. Many people are locked into jobs, afraid to leave because they do not want to take risks or pursue alternative careers for fear of losing their health coverage.

We need to make certain that in our America, every American can get health care. The President of the United States and the Vice President of the United States and their families enjoy the services of a private medical staff, courtesy of the American taxpayer. I do not think any American would begrudge that care for the President. But, what about the rest of the Nation? They are not asking for a doctor all their own, like the President. They are just asking for access to a doctor when they need it.

We must make the road to success easier by assuring that when people lose their job, they do not lose everything else also. We have 8.5 million Americans out of work, and more who have simply quit looking. Three million Americans will lose every source of income this year because they have exhausted their unemployment insurance and have been unable to find work. Their homes, their cars, and their futures will be at risk through no fault of their own.

Mr. President, virtually the moment the law extending unemployment benefits went into effect, the phones in unemployment offices in my State of New Jersey began ringing off the hook—120,000 New Jerseyans will apply for these benefits.

I have proposed legislation to allow those who are involuntarily unemployed to withdraw funds from IRA's and other retirement plans without the tax penalty that would otherwise apply. That is the least we can do for Americans hard hit by the recession, who cannot find jobs but have substantial savings.

Congress wanted to do more and do it sooner. But Congress had to force an extension of unemployment benefits down the President's throat. Although he had recognized emergencies for the Kurds, and the people of Turkey, he refused to recognize an emergency right here in America. And he blocked two bills that would have provided unemployment benefits months ago from funds collected for just that purpose.

We need to make it easier for the average American to buy a home if he or she saves for it.

The President the other day made an off-the-cuff suggestion to the American public, and that is they ought to go out and buy homes and buy cars to stimulate the economy. Mr. President, all you have to do is ask the question: With what? Where are they going to get the money to buy those homes and to buy those case? Perhaps credit cards will suffice with the debate we had here about interest rates.

Between 1970 and 1990, the national price for a typical starter home rose 21 percent in real terms. Over the same time period, real income of potential first-time buyers decreased by 7 percent. Is it any wonder that the America dream of owning one's own home is farther out of reach for middle class Americans then ever before?

Mr. President, it is long past time to stop tend in going to foreign emergencies. We need to address our own very real needs at home. Americans have always been a generous people, who respond to catastrophes abroad. But, now they feel they are being left out in the cold. And they are right. The President has traveled all over the world, but ignored the growing economic disaster in his own back yard. It is time to take care of our people and invest in our future.

It is time to get our allies carrying their fair share of the defense burden. While we are paying the lion's share for the defense of Europe and Japan, they are beating our pants off in the marketplace. Saudi Arabia and Kuwait, whose lands we saved from marauding armies still owe us $3.5 billion that they pledged to pay during the Persian Gulf war.

I guess the promise made when danger was imminent was one that was easier to make when the pressure was on. Neither one of the controlling governments in these countries has any financial problems, and they still owe America $3.5 billion that they pledged to help allay the cost of the war.

The America of today can no longer afford to carry the burden of defense for the rest of the world.

Mr. President, we must rededicate ourselves to creating an America of opportunity. Where the average American can hope for a good education, a steady job, good wages, proper health care, and a home of his own if he saves.

A stable middle class, with a belief that opportunity and a secure and better future is still there for them and their children is the basis of a stable and healthy democracy. A belief that our Government cares about its citizens, and that officeholders know we are here to serve the public; to nurture a healthy economy and hope for the future. Because if the American dream dies, then the promise of America—America as our parents knew it, as many of us have known it—will eventually die with it.

Mr. President, in the last couple of days, we have seen polls that reflect the attitudes of the American people. What they are saying is, "Help us." What they are saying is, "Remember us." What they are saying is reflected in the polls that attest to the popularity of President Bush.

He was riding high for a long time. He deserved a lot of credit for his conduct of the Persian Gulf war. But when you look at the drop in the polls, those are messages that the American public is sending. They are saying, "Mr. President, if you don't start paying attention to us and our needs and the national economy, we are going to send you out of office." That is what the message says. I hope the President listens carefully because it is more important for America's economy to be on the right foot than it is to replace the person in the White House.

I yield the floor.

THE ECONOMY

Mr. KERRY. Mr. President, I listened carefully to the words of the distinguished Senator from New Jersey, Mr. LAUTENBERG, and I congratulate him on his assessment of where we find ourselves at this moment. There is not one of the observations of the Senator from New Jersey that is not important for us to consider.

As we are here late at night, on a night when the Congress is pressing to complete its business, I must comment on the amount of unfinished business that faces us, not just as a Congress but as a country.

Yesterday, I heard the distinguished Senator from South Carolina, Mr. HOLLINGS, open the morning business of the Senate with the discussion about the state of this country with respect to our national debt. I must say that as I listened to him, I was struck. I have mouthed the words. I, too, have talked about it. I think we all have. But what the Senator from South Carolina ably pointed out is the degree to which we are currently stealing, literally stealing, from the future.

As the Senator from Texas, Senator GRAMM, pointed out the other day in making an argument against legislating additional unemployment insurance benefits, the trust fund from which we were trying to pay those benefits does not have the money. While charts might be held up on the Senate floor and Senators might address the notion that the trust fund is there and American citizens have paid into the trust fund with an expectation that it will provide the benefits it is intended to provide, the fact is the money is not there. The Federal Government has borrowed it to cover part of the national debt.

The same thing, sadly, is true with respect to Social Security. People are currently paying into the Social Security trust fund with an expectation that when they retire they and this generation will have paid enough into the trust fund to cover their retirement benefits. But the reality, Mr. President, is that this administration and this Congress, this administration by proposal and this Congress by commission or assent, are permitting those trust funds to be depleted in order to pay for current expenses.

So 10, 15, 20 years from now when a new generation retires with the expectancy of receiving Social Security, we are going to discover we have borrowed billions of dollars from the trust fund. As a result of permitting the President of the United States to carry on the extraordinary charade of pretending to the American people that you can have everything but it does not cost anything, that you can continue to spend and pursue the most extraordinary period of Keynesian stimulus in the history of this Nation while denying it is spending because it is borrowed, we are going to have a head-on collision with reality, Mr. President. It is going to stun everybody in this Nation.

In fact, that is precisely what we are witnessing in our economy today. People are scared. There is a crisis of consumer confidence that grows out of the feeling that the job will not be there, the paycheck will not be there, the house might not be there, the education may not be there for my kids—a sense that what we have always called the American dream is about to collide with reality.

In the next few hours, Mr. President, we are going to be asked to OK the assumption of extraordinary amounts of additional debt. At some point we must confront reality.

Mr. President, as the father of 2 children and as someone who tries hard to measure what we do here against the standard of what will be helpful to future generations, as I think most of my colleagues do, I believe honesty with ourselves requires us to admit there really is a gap between the rhetoric and the reality. In the final analysis, there are two Americas. There is the American ideal that politicians talk about and pay tribute to, and then there is the America that we really are and are becoming. It is that latter America that is very troubling to me.

The reality is that on almost every level at which there is substantive confrontation, there is a gap between what is said and done in Washington and what people see and feel out in the rest of the country, whether it is in crime fighting or in housing, or whether it is in AIDS research or education.

All of this looms menacingly in these final moments, as the Congress is departing. The fact is, Mr. President, that the voodoo economics that we heard about in the early 1980's has been augmented in recent days by voodoo arithmetic. We have seen $4 billion of loans that suddently became $10 billion of bailouts, that became $30 billion of deficits and debt through inflation and interest payments and systematic incompetence.

Mr. President, for the first time in the history of the United States of America we are about to pay more in

interest on the national debt than we American society affected by the fear Federal debt to $5 trillion by 1995, ac-

they invested their money and them- must act to change the reality. Mr. President, I would like to see us have a easier to engage in the charade, the shell game. So we move a little here, interest on the national debt than we have paid in recent years for the entire defense budget of this Nation. We are about to enter an era when debt service for this country is the next-to-largest and perhaps even the largest single component of the entire United States budget.

I do not know if others are as concerned about that as I am. I suspect they are. But if they are, then the question is: What are we going to do about it? What are we not doing about it? Because this debt is crowding out every other choice that we ought to be making and, frankly, it has come to drive all the business of the U.S. Senate and the Congress itself.

We have now created a situation in the U.S. Senate which requires a supermajority to act on matters that require new expenditures, and on other controversial matters. If you want to transfer money from one part of the budget to another, it takes 60 votes. If you want to waive the budget in order to make expenditures that you deem to be emergencies, it takes 60 votes. As we all know, if you want to end debate in the U.S. Senate, it takes 60 votes.

So effectively no longer do we govern in the U.S. Senate by majority; we govern by supermajority. That has changed the equation of government in ways that I think are extraordinarily significant and, in fact, detrimental.

Just over the past several months we have witnessed a truly remarkable and troubling situation. The administration said it is irresponsible to borrow $5 billion in order to provide unemployment insurance benefits that would put money into the pockets of working people who have been thrown out of work and could not find new work.

But that same administration that says it is irresponsible to borrow $5 billion to pay for those people to have the ability to put food on the table, pay the rent, pay for the heat, pay a mortgage, and maybe send a child to the doctor or to receive the medicine that they need, does not think twice about suggesting that we borrow $80 billion for the bailout of the commercial banks in order to replenish the bank insurance fund. Just yesterday the distinguished chairman of the Senate Banking Committee circulated a letter suggesting much if not all of this amount will not be returned to the Treasury and, therefore, will constitute a "bailout." And now we hear it also is not irresponsible to borrow another $80 billion for the RTC to use to bail out the savings and loans.

It simply amazes me, Mr. President, how it is possible for us to lose touch with the reality that our constituents are in touch with on a daily, hourly, minute-by-minute basis.

The pain out there is something that I have never previously seen in my public life—never. Never have I seen as many people across as many strata of American society affected by the fear that they feel today and by the sense of pessimism that they feel about the American economy, but most of all by the sense of frustration and confusion that they feel about the unwillingness or inability of this institution to respond with real help.

Does the administration require the same accountability of itself or of the process as it does for payment of money to kids who are needy, to the WIC program, to AIDS research, to crime fighting, to all the other priorities of the country? No. No.

When it comes to the savings and loans and the bailout, it is gold card all the way. Except that we do not qualify for the gold card anymore. We should not qualify for any card. The only reason we still have a card is that we conveniently are the issuer of the card. It is as if there is an automatic override to the delinquency process on our national credit card.

I believe that accompanying that reliance on the gold card is the piece-by-piece dismantling of the entire social contract of this Nation. Everything that we have built up over the years between citizen and Government is being shunted aside and dismantled by irresponsibly moving it onto somebody else's watch.

The operative philosophy seems to be that, "As long as the confrontation with reality does not happen on my watch, then I suppose it is all right." We appear to have some mystical faith that somehow everything will work out satisfactorily. But every one of us knows that is not true. That is simply not true.

When Ronald Reagan was running for President of the United States in 1980 against President Carter, he was warning how the Federal budget deficit, accumulated over the previous 190 years, since the term of George Washington, was threatening the future of this Nation. Back then the Federal debt had risen to the awesome sum of $909 billion—$909 billion, Mr. President. Ronald Reagan said we have to balance the budget or face calamity. What followed? We had eight successive years in which that President never once sent to the Congress a balanced budget; not once.

On the contrary, we had the exact opposite. We had the famous tax cut of 1981 which frankly brought on some of the most important parts of the crisis that we face today, the overbuilding of real estate among others, the extraordinary assumption of debt, the incredible trading in existing assets, and the cannibalizing of existing companies in order to sell those companies off and make the quick buck. We abandoned the tried and true formula that build this country in the first place, which was the creation of new wealth, the creation of new jobs.

At its current rate of growth, Mr. President, we are going to increase the Federal debt to $5 trillion by 1995, according to the Congressional Budget Office—$5 trillion. That is where we are headed in 3 short years. That is nearly $20,000 for every man, woman, and child in the United States of America, which is up from the figure of $6,000 per person we thought was so dramatic when we were quoting it about a year or so ago.

To put that into perspective, it means that the per capita share of our national debt equals 25 percent of the assets held by every American citizen, corporation, and interest in the entire United States.

Mr. President, that is an extraordinary amount of money—an extraordinary amount of indebtedness. And it seems to me that we are now on a course that is exponentially compounding our inability to decide and act to alter it. The fact is that we are, today, paying more to service the debt than for any program of the U.S. Government other than defense and Social Security, and debt service soon will surpass defense spending.

Let that reality sink in. Within a few years, the amount we pay for debt service will be larger than the $300 billion defense budget.

What is the Federal program for which we pay more than education, environmental protection, criminal justice, the war on drugs, transportation, science, aid to the cities and towns, medical research, agriculture, energy, and every other nondefense and non-Social-Security program of the U.S. Government? It is very simple. It is paying interest to ourselves. That is what we are doing with our precious Federal resources.

It is a fact unknown to an awful lot of Americans, because President Bush and this administration do not have the spine and the moral strength to stand up to the Nation and tell the American people the unpleasant truth. Instead, they promise services for which no one is willing to pay, and then watch those services degrade because we do not invest, as the Senator from West Virginia suggested we ought to.

Paying interest on the national debt, which is the No. 1 occupation of the United States of America, is crowding out every other choice we ought to be making.

I keep hearing people say: Well, what is your program? Here is the picture of disaster which some are fond of drawing. What is the alternative? Well, Mr. President, throughout the 1950's, 1960's, and 1970's, we were investing in ourselves. We were investing in our future. And we proved in most of this country that that pays off.

In Massachusetts, where money was significantly invested in the fifties in defense, MIT, Boston University, the medical industry, and others, people were told to go out and take risks, and

they invested their money and themselves. Some started out in their garage, like Ed Land of Polaroid, or Ann Wang of the Wang Corp. They had an idea, and they could go out, find the capital, invest in their idea, and create jobs.

We had a population that was sufficiently educated to be able to perform those jobs. The fact is that over the last 6 years, the capital pool of this country, some $80 billion or so, has been reduced on an annual basis. And on that annual basis, as the capital pool has been reduced, so has the amount of money that has gone into seed startups.

So if you are today's Ann Wang or today's Ed Land, it is a lot harder to find the money. If you look at New England as it is today, it is particularly hard to find the money, where you have cuts in the defense industry, where you have an overhang in the real estate industry, where you have a slowdown in the computer industry, not because of government, but because of bad management decisions that were made; where you have a reduction in your State outlays because of a fiscal crisis, and where you have a national recession—five huge negatives all mounting at the same time, all of them confronting the normal lender with an extraordinarily bleak outlook, which suggests.the lender may not get its money back.

The result is this downward cycle building on itself. Eroding consumer confidence follows.

Somehow, you have to break that psychology. Somehow, when people are increasingly without money in their pockets, somebody has to come along, like Franklin Roosevelt did, and suggest that there is a way to break the psychology of fear, to turn around that consumer crisis of confidence, to begin to create the kind of risk-taking that is necessary to create the next generation of products and economic advancement.

Mr. President, there is a next generation of products out there. It is in microelectronics, artificial intelligence, robotics, advanced environmental engineering. Some of the operations are likely to be described by terms I am sure we have not even heard of today.

The point is that, as a nation, we ought to be putting our investment energy not into more and massive long-term borrowing, but into the stirring of that economic energy and machine, into stimulating the kind of risk-taking and venture capital investment effort that will create the next generation of high value-added products that will allow the employees of the United States to earn the kind of income that they need to earn in order to raise the standard of living, not lower it, and at the same time be competitive with other countries in the world.

Well, Mr. President, that is not today's reality, not even close. So we must act to change the reality. Mr. President, I would like to see us have a targeted capital gains tax reduction, and I have advocated that for the years that I have been in the U.S. Senate. I would like to see us have the R&D tax credit made permanent and larger. I would like to see us create the capacity for people to go to school, rather than to jail, and to college, which is about one-third the cost of sending them to jail for 1 year, and begin to invest in this country through a teacher corps that would draw kids out of higher education and put them into the education system of this country.

There are many ways in which, on a daily basis, we could be involved in improving our public schools. One of the most fundamental problems in this Nation is that, in the inner cities of America, we have a total degradation of hope, a lack of opportunity, a lack of capacity for a huge number of Americans to enter into the work force or mainstream.

Our colleague, PATRICK MOYNIHAN, 25 years ago, wrote about the impact in America of minority communities that were then producing a 25-percent rate of illegitimacy of birth. He predicted chaos 25 years ago, and the consequence of his prediction was that he and his views were villified and the debate on what was happening in the inner city was set back for years.

Now 25 years later, my colleagues, the illegitimacy rate in the inner cities of the United States of America is 63 percent. If you thought you were going to have chaos 25 years ago, then look today at cities like New York where one kid will kill another in order to wear his clothing or jewelry. Those are kids without a role model, they are kids without family, they are kids without hope. And unless we begin to deal with that reality, we are kidding ourselves about working to achieve international competitiveness, we are kidding ourselves about improving the quality of life in the communities of this country, and we are kidding ourselves about investing in the future. That is as much a part of economic growth and development as anything else. When only 28 percent of the kids of this country who are eligible are able to participate in Head Start, which is considered to be perhaps the single most successful government human service program in history, then something is wrong. Something is wrong.

Head Start has demonstrated that its participants will be 50 percent more likely to hold a job, 50 percent more likely to go on to higher education, 40 percent less likely to have a teenage pregnancy, something like 50 percent less likely to go to jail. Those are extraordinary figures, figures worth drawing on and responding to in the U.S. Senate and in the Congress. But do we? No, Mr. President, it is much easier to engage in the charade, the shell game. So we move a little here, we move a little there, and we play the extraordinary game that the American people are fast catching onto and growing sick of.

Mr. President, there are a host of other things we could do for economic growth in this country. What happened to the dream of enterprise zones? What happened to the whole effort to say that we would attract business into those areas where they are least likely to go unless they have the capacity to get a bottom line that allows them to go there?

I think it is time for Democrats to shed the fear that we seem to have had about talking about economics in a practical and pragmatic way. The fact is, if capital does not get a sufficient return on investment, people will not invest. In 1981, it was demonstrated that capital can be drawn to build buildings, even if they are going to be empty after they are built because no one will rent them. We did that. That is the problem in America today. That is why a lot of the RTC holdings are sitting there with buildings that have no lessees? Why? Because the Tax Code made it attractive. So we know it works.

There is an artificiality in all of it, in a sense. What is not artificial is the consequent impact on the economy of those actions. Because the cycle downward builds off diminished appraisals and diminished values that have gone with it.

Mr. President, I have digressed, but I do not think I have strayed far from the essence of what will confront us tonight or tomorrow. We have to ask ourselves if it is responsible in this context to assume billions of dollars of increased debt rather than to confront the question of whether we are going to pay for the bank and S&L bailouts, and how we are going to pay for the bailouts, or whether we are simply going to shift the burden onto the next generations?

The cost of the S&L bailout has been something like $325 billion so far. Ultimately, $133 billion of the S&L cost will be interest payments, just interest. That is $133 billion that could go to deficit reduction, investments in infrastructure and education, and a host of other worthy purposes. Regretfully, Mr. President, it appears as though we are simply going to try to press that onto the next generation and to suggest that it can somehow be paid in the future.

Mr. President, I would call this no-fault banking bailed out by no-guts legislating.

It seems to me, Mr. President, that we have a responsibility to ask whether or not we are going to pay for it now, and whether or not we require the President of the United States to find the means of paying for it now.

You know it is very interesting. I was reading a magazine just the other day

land where you do the irresponsible thing and somehow convince people it

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so or-

Observer to the United Nations, Dean of the Diplomatic Corps, Excellencies, Family and

appropriate the world peace, its older, more universal application is the one we see em-

"We think of him," the Apostolic Pro-Nuncio went on, "as one who contributes to pro-

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You know it is very interesting. I was reading a magazine just the other day which had an article in it. It contained a very interesting paragraph:

> The Federal bank deposit insurance scheme has worked up to now simply and solely because there have been very few bank failures. The next time we have pestilence of them, it will come to grief quickly enough, and if the good banks escape ruin with the bad ones, it will only be because the taxpayer foots the bill.

H.L. Mencken wrote that in 1936, and, boy, has it come home to roost, Mr. President.

So the question is how are we going to pay for the bailout? Do we pay for it by increasing the debt, by speeding up the exponential increase of the impact of total debt service? Or do we act responsibly and say we ought to pay for it as we go. We have assumed the responsibility of bailing out the failed banks and S&L's, and no one would suggest that we should not fulfill that obligation. But the question is whether we ought to pay for that as we go along. There are ways, Mr. President, to do it.

A few days ago in the Washington Post there was a cartoon by Mark Alan Stamaty, in his "Washingtoon" series, and it addressed precisely this problem. There was a character in the cartoon, and the first question he asked to another character was, "How do you think we pay for the S&L bailout"? The second character turned to the first and said, "I do not know." The first replied, "We borrow." And then he explains the alternatives as follows. He says, "Some Congress offers a pay-as-we-go amendment saying we should fund the bailout with spending cuts or a tax hike because it will save us huge costs in future interests."

"Sounds responsible," says the second character. "But it isn't," says the first, "because according to proponents of the amendment, it is completely unrealistic because reaching a consensus in Congress right now in any specific combination of tax hikes and/or spending cuts is politically impossible."

So, the first one concludes, "The pay-as-we-go amendment would have the effect, they say, of halting the bailout altogether, thus costing us more money than the interest in borrowing."

"So the responsible thing to do is actually the irresponsible thing until we are able to reach a consensus?" the second character asks.

"That is right," says the first.

"So when will we do that?" asks the second.

"Maybe never," says the first.

"Where does that leave us?" the second character wants to know.

Responds the first, "All our answers lie in never-never land."

Never-never land. That is the trouble right now, Mr. President. That we have been living in never-never land, and we have allowed people the belief that you can continue to live in this never-never land where you do the irresponsible thing and somehow convince people it is the responsible thing to do. And yet the reality all along is that every American knows, because they face this issue on a daily basis, that you cannot keep borrowing more and more and more. You simply cannot do it. Eventually you have to pay for it one way or another.

I do not see how we can just continue the kind of shell game that this administration has been too willing to play. President Bush said, "Right now the Federal budget process is like a huge Rube Goldberg machine, out of control, producing noise, smoke, heat, and no light, sucking up more and more tax dollars on one end and turning them into spending programs without end."

President Bush last year rightly noted that we are facing government by gridlock in Washington, with spending skyrocketing out of control and a budget deficit looming over our children's children. Americans are fed up. But the President neglected to point out that he is a central part of that game. In fact, he bears a large portion of the responsibility because he has offered no real alternative for the people of this country, only veto threats and opposition to congressional initiatives.

Mr. President, it seems to me that we are running out of alternatives and options. A Congress that is about to go home, and a Congress that has the will to go home—and no one wants to go home more than I do—is a Congress that finds it very hard to confront these choices at the last moment.

But what I am frightened of is that even if we were not about to go home, or even when we return, there may continue to exist the extraordinary unwillingness to confront this reality. For the last few years, I voted against the budget agreement because I believe each was fraudulent the day it was made. And I believe my fears have been borne out, Mr. President.

I think, Mr. President, on the question on the S&L's and the RTC, we need to consider whether the confrontation we all know must come ought to come now. It may not come in these next few hours, but in my judgment it is a confrontation that must occur here in the U.S. Senate within the next few months because nothing less than our Nation's future depends on it.

Mr. President, I see that the leadership has returned to the Senate floor, so I will yield the floor at this time for whatever purposes they have returned for.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

SALUTE TO THE GOVERNMENT PRINTING OFFICE

Mr. FORD. Mr. President, hundreds of men and women support the Congress. The closing hours of a session test the skills and endurance of many of them. My appreciation of their support goes without saying, but let me tell each of you who may be listening now, or who may read these words later. I know of no Member of this institution who has not benefited by your efforts.

I would like particularly to salute the men and women at the Government Printing Office who have done yeomen duty in this past week. They have been working 12-hour shifts. Reporting to work at 4 in the morning. Some with hardly a break between shifts. As a result Congress has received much of the printed materials it needed—the CONGRESSIONAL RECORD, bills and committee reports—in time to complete the work that it had before it. The craftsmen at the Government Printing Office make up a remarkable collection of complimenting skills and in the closing hours of this session they have proven once again that when called on they go the extra mile.

AMBASSADOR JOSEPH VERNER REED

Mr. MOYNIHAN. Mr. President, as many here well know, Ambassador Joseph Verner Reed has enjoyed a long and distinguished record of foreign service. For some 30 years he has employed his singular talents in promoting the best interests of the United States abroad. Testament to Ambassador Reed's success are the countless decorations presented him for his diplomatic work. Among those he is no doubt most proud of is the Order of Pius IX, bestowed upon him by His Holiness Pope John Paul II during the Ambassador's tenure as Chief of Protocol of the United States. A splendid honor, and one I would like to make special note of. Mr. President, I ask that the exchange between Ambassador Reed and Pro-Nuncio Archbishop Agostino Cacciavillan on the occasion of this tribute be printed in the RECORD.

There being no objection, the exchange was ordered to be printed in the RECORD, as follows:

REMARKS BY AMBASSADOR JOSEPH VERNER REED UPON THE CONFERRAL OF THE PAPAL HONOR KNIGHT COMMANDER WITH STAR OF THE ORDER OF PIUS IX ON AMBASSADOR JOSEPH VERNER REED,

(Presented by His Excellency Agostino Cacciavillan) Apostolic Pro-Nuncio to the United States of America, Washington, D.C.

Apostolic Pro-Nuncio Cacciavillan, Archbishop Martino, the Holy See's Permanent Observer to the United Nations, Dean of the Diplomatic Corps, Excellencies, Family and Friends, what a gathering!

As the solstice has passed us into the summer of 1991, I salute you, Archbishop Cacciavillan, for assembling this August group and I thank you for organizing this event on a milestone of a day in my life * * * a milestone in my diplomatic life and my life as a member of mankind. I wish only that my parents could have been with me today to witness this signal honor that His Holiness John Paul II has bestowed upon me with the Order of Pius IX.

Thank you Your Grace for this gesture and recognition of mutual cooperation during my tenure as an international civil servant at the United Nations. I would ask that this heartfelt expression of appreciation be extended to the Holy Father. You have made me proud!

This signal event also gives me an opportunity to salute you, Your Excellency, on your success on diplomatic row since your arrival in federal city. You are a star! Your predecessor Archbishop Pio Laghi was a colleague, confidant and friend; he was also and is a star!

I thrill in the Archbishop's elevation to Prince of the Roman Catholic Church. I will be with the Archbishop in heart and spirit at the consistory to be held tomorrow (Friday, June 28) in St. Peter's Square in Rome when His Holiness will bestow the Red Beretta on Archbishop Pio Laghi making him Cardinal of the Holy See. (Currently the head of the Vatican congregation for Catholic education.)

I also congratulate Archbishop Angelo Sodano, the Vatican's Secretary of State on his elevation to the church's highest rank. I share with you, friends, a thought expressed by the Secretary of State that has set, in my opinion, the tone for his tenure as "the prime minister" of the Holy See * * *" We all know that the Church of Christ is not European, nor African, nor Asian, nor American." The Cardinal-to-be stated a fortnight ago * * * the Bishops "should speak in a way most comprehensible to the modern mentality, without, however betraying anything of the integrity and originality of the christian message."

This message from the Secretary of State of the Vatican recalls to mind the immortal words of Jesus Christ in His sermon on the Mount as it appears in the Gospel of Matthew. "Blessed are the peace makers for they shall be called the children of God."

The Secretary of State's predecessor Augustino Cardinal Casaroli was and is my friend. He served 11 years in this position. We worked together at the Parliament of Man along with my friend and colleague Archbishop Renato Martino. The Holy See is an observer state at the United Nations and the Holy See involves itself in "active diplomacy of great scope and variety".

During one of the general assemblies of the mid-eighties I dined with Cardinal Casaroli at the great residence of the Holy See on 72nd Street. I recall how he talked about the United Nations and the work of House of Peace * * * the importance of meeting and working together towards "a just peace" that would enable the millions on our planet to achieve a better life.

The Cardinal told me that the semetic language in which Jesus Christ spoke the word for peace was a variant of the Hebrew "Shalom" or the Arabic version "Salaam". Indeed, peace is a universal aspiration in the soul of man.

While in recent years there was a vain attempt by the so-called socialist movement to appropriate the world peace, its older, more universal application is the one we see embodied today by the efforts of the United Nations to see that peace—with justice—is achieved by all peoples in all nations. And, this has been the extraordinary witness by His Holiness Pope John Paul II as he has crisscrossed our globe to 95 nations to deliver over and over that message—peace with justice.

It is for this reason that I am honored to bear the professional designation of "diplomat". For we have been given the unique privilege of being the front line warriors for peace.

Thus I am doubly honored to have received this Order of Pius IX from those, considered by many and rightly so the world's greatest diplomats: diplomats, moreover, in the service of a father and brother who want for all:

"That peace which surpasses all understanding".

CONFERRAL OF THE PAPAL HONOR KNIGHT COMMANDER WITH STAR OF THE ORDER OF PIUS IX ON AMBASSADOR JOSEPH VERNER REED

(Commentary and remarks by Archbishop Agostino Cacciavillan) Apostolic Pro-Nuncio of the Holy See to the United States of America, Washington, DC.

The Apostolic Pro-Nuncio, Archbishop Agostino Cacciavillan, warmly welcomed government officials, especially the Secretary of the Treasury, and his wife, the Honorable and Mrs. Nicholas F. Brady, as well as the Dean of the Diplomatic Corps, Members of the Diplomatic Corps, other distinguished guests, and family and friends of Ambassador Reed.

Archbishop Cacciavillan noted that it was a Vatican meeting on Massachusetts Avenue, on the eve of a Consistory at Vatican City, for the creation by his Holiness, Pope John Paul II, of new Cardinals, among them, two Americans, Archbishop Anthony Bevilacqua of Philadelphia, and Archbishop Roger Mahony of Los Angeles, and also Archbishop Angelo Sodano and Archbishop Pio Laghi, both well-known to Ambassador Reed. So, there was an atmosphere of great joy in gathering to present Ambassador Reed with the Pontifical Honor, Knight Commander with Star of the Order of Pope Pius IX.

"This distinction," continued the Apostolic Pro-Nuncio, "is a sign of the appreciation the Holy Father has for Ambassador Reed, for the thoughtful and effective collaboration he has always extended the Holy See, especially when he served at the United Nations, as Under-Secretary-General for political and general assembly affairs. Cardinal Casaroli, former Secretary of State, and his successor, Archbishop Sodano, themselves experienced such consideration on various occasions, as has Archbishop Renato Martino, the representative of the Holy See to the United Nations, present at the nunciature to join in the presentation of the award to Ambassador Reed."

"We appreciate also," Archbishop Cacciavillan said, "what our friend Joseph, after his academic achievements as a student and then successful activities in the domain of economics, has accomplished in the international field, first as American Ambassador to Morocco. He demonstrated great professional interest in and genuine love for the peoples of Africa, which was certainly obvious again when, as United States representative to the Economic and Social Council at the United Nations, he performed an important role regarding a special session of the General Assembly on Africa in May, 1986."

"We think of him," the Apostolic Pro-Nuncio went on, "as one who contributes to promoting justice, human solidarity, peace, and a sense of universal fraternity, all values particularly dear to the Holy See and the Church because of her mission in and for the world."

Referring then to the work of Ambassador Reed as the Chief of Protocol, Archbishop Cacciavillan expresses "Deep appreciation and personal gratitude for the many attentions he has received from the honoree since his arrival in the United States in August 1990. No doubt these are common sentimente in the Diplomatic Corps of Washington, DC toward Ambassador Reed. To this important job Joseph brings indeed competence and experience regarding the substance of the matters dealt within diplomacy and, at the same time, special talents for human relationship, tact, openness, friendliness, and elegance." "I used to say," confessed the Apostolic Pro-Nuncio, "that Ambassador Reed is 'an artist of protocol'."

Archbishop Cacciavillan concluded by reading a message from Archbishop Pio Laghi, his immediate predecessor and Apostolic Pro-Nuncio to Washington, addressed to Ambassador Reed, congratulating him and extending to him "best wishes for continued good work on behalf of God and country".

COMMISSIONER FRANKLIN E. WHITE

Mr. MOYNIHAN. Mr. President, I would like to share with my colleagues news that a distinguished new Fellow has been named to the prestigious National Academy of Public Administration. He is New York's able State Transportation Commissioner, Franklin E. White.

The Academy, a private, nonprofit corporation chartered by the Congress, was established with the intent to improve the effectiveness of government at all levels, Federal, State and local. To this end, it makes available the collected experience and sage counsel of its 400 elected Fellows, all practitioners and students of government. They are chosen by their peers who include Cabinet Members, governors, members of Congress, and other prominent citizens who have served in the public life.

To be sure, the Academy has done well to include Commissioner White among its ranks. He has done a splendid job as head of one of the largest State transportation and public works organizations in the Nation. He enjoys a long and successful record of public service, and will no doubt greatly enhance the Academy's resources. Mr. President, at this point I ask that a brief biography of Commissioner White be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

FRANKLIN E. WHITE—NEW YORK STATE TRANSPORTATION COMMISSIONER

On May 1, 1985, Governor Mario M. Cuomo appointed Franklin E. White, New York State Transportation Commissioner. After receiving a unanimous confirmation by the New York State Senate, Commissioner White assumed office on July 15, 1985.

Commissioner White, 49, was raised in and attended parochial schools in New York

mented the regulatory guidance directed by Secretary Weiberger. De-

These reviews identified the following systemic deficiencies in the Air Force officer se-

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grade higher than the officers under consideration by the board. To ensure that the se-

fairness and objectivity which is so essential to the promotion selection process.

tempts to manipulate or interfere with promotion selection board procedures. . . .

Commissioner White, 49, was raised in and attended parochial schools in New York City. He is a graduate of Cardinal Hayes High School in the Bronx. In 1961, he received his bachelors degree, *cum laude*—in Accounting and Economics—from the City College of New York. He received his law degree, *cum laude*, from the Columbia University School of Law in 1965. Mr. White is married and has three children.

Before joining the Cuomo Administration, Commissioner White served as Virginia Secretary of Transportation and Public Safety during the Administration of Governor Charles S. Robb. Prior to that, Commissioner White was Associate Director for Justice, Domestic Policy Staff at the White House during the Administration of President Jimmy Carter. Mr. White served as Deputy Director of the New York State Division of the Budget from 1975–1978.

Since becoming New York State's Commissioner of Transportation, Mr. White has been an increasingly active advocate in national transportation forums for New York's "multi-modal" transportation policies and improved agency management initiatives. He is a member of the Executive and Policy Committees of the American Association of State Highway and Transportation Officials. He serves on the Executive Committee of the National Transportation Research Board and recently completed a one year term as President of the 11-state Northeast Association of State Highway and Transportation Officials.

Previously, Mr. White worked as an attorney with the Civil Rights Division of the U.S. Department of Justice and with the NAACP Legal Defense and Educational Fund. He was General Counsel to the New York City Commission on Human Rights and to the New York City Human Resources Administration. He was consultant to the Manpower Demonstration Research Corporation, a Ford Foundation affiliate.

Commissioner White serves as chief executive officer of the New York State Department of Transportation (DOT), one of the largest state transportation and public works organizations in the nation, employing 12,000 people with a budget of $4 billion. It is the oldest line agency in New York State government and has responsibility for or under its jurisdiction: highways, bridges, mass transit, rail, ports and aviation facilities.

THE CONDUCT OF PROCEEDINGS FOR THE SELECTION OF OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE

Mr. NUNN. Mr. President, the fair and impartial conduct of the selection process for promotion of officers in the armed forces has been a matter of great concern to the Armed Services Committee. In 1987, we conducted a detailed review of problems associated with the 1987 Marine Corps Major General Selection Board, and received assurances from Secretary Weinberger that regulatory guidance had been issued to preclude a recurrence of the actions that undermined the fairness of that board.

During the Committee's review of certain Air Force nominations during the 101st Congress, the Committee received information which indicated that the Air Force has not implemented the regulatory guidance directed by Secretary Weiberger. Detailed reviews of these matters during 1990 and 1991 by the Department of Defense and the Committee have revealed systemic deficiencies in the Air Force selection process. These deficiencies are described in a joint statement, issued by myself and Senator Warner, and in an analysis prepared by the staff of the Armed Services Committee.

The Conference Report on the National Defense Authorization Act for fiscal years 1992 and 1993, which we approved last week, establishes new statutory procedures that address the problems identified in the review of Air Force promotion practices. The Armed Services Committee will conduct oversight hearings early in the next session to review the implementation of this legislation and to examine the issue of accountability and responsibility for the deficiencies in the Air Force promotion selection process.

I ask unanimous consent that the joint statement and staff analysis be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[JOINT STATEMENT]

SENATOR SAM NUNN, CHAIRMAN, SENATE ARMED SERVICES COMMITTEE AND SENATOR JOHN WARNER, RANKING MINORITY MEMBER CONCERNING THE CONDUCT OF PROCEEDINGS FOR THE SELECTION OF OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE

The selection of officers for promotion in the armed forces through the grade of major general and rear admiral is governed by statutory procedures. The central feature of these procedures is the use of impartial boards of officers, known as selection boards, to recommend officers for promotion. The composition and conduct of these boards is carefully guided by laws and regulations designed to ensure the fairness and impartiality of board proceedings. The range of actions that may be taken by the senior leadership before, during, and after the board proceedings is likewise circumscribed to preclude improper interference with the integrity of the selection process.

The fair and impartial conduct of the selection process is a matter of great concern to the Committee. The integrity of the selection process is essential to the integrity of the officer corps. Adherence to established laws and regulations is necessary to ensure that the best qualified officers are selected for promotion, and that the officer corps has confidence in the integrity of the selection process.

During the Committee's review of certain Air Force nominations during the 101st Congress, the Committee received information which indicated the possibility of serious and systemic deficiencies in the procedures used by the Air Force to recommend officers for selection to general officer positions. The Committee brought these matters to the attention of the Department of Defense. The Deputy Secretary of Defense ordered an examination of officer selection procedures throughout the Department of Defense. The results of that review were provided to the Committee. The Committee also directed the Committee staff to review these matters. The results of these reviews are described in the attached staff analysis.

These reviews identified the following systemic deficiencies in the Air Force officer selection process:

(1) Failure to issue implementing regulations required by applicable statutes and Department of Defense Directives to ensure the fair operation of the selection board process.

(2) Use of a preselection process that improperly excluded ninety percent or more of the eligible officers from consideration by statutory selection boards.

(3) Improper communication to selection boards of "priority lists" prepared by senior officers.

(4) Improper communications between the Air Force leadership and selection board members.

In addition, these reviews identified deficiencies in specific cases that are described in the attached staff analysis.

As a result of the DoD review initiated by the Committee, the Air Force has taken corrective action by issuing a regulation governing general officer selection boards, eliminating the preselection process, eliminating the use of priority lists, and issuing regulatory restrictions on communications between the leadership and selection board members.

Section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 establishes new statutory procedures for the conduct of selection boards. These procedures address the problems identified in the review of Air Force selection board practices. Section 504 requires prompt implementation by the Secretary of Defense. The Committee will conduct appropriate oversight hearings early in the Second Session of the 102d Congress to review the manner in which the legislation has been implemented. In addition, these hearings will examine the very important issue of accountability and responsibility for the deficiencies in the Air Force promotion selection process.

STAFF REPORT TO THE COMMITTEE ON ARMED SERVICES UNITED STATES SENATE

During 1990 and 1991, the Committee on Armed Services reviewed officer promotion selection processes in the U.S. Air Force. In July 1991, Senator Sam Nunn and Senator John Warner, Chairman and Ranking Minority Member, directed the staff to prepare a staff analysis of the results of the review. The staff presented the analysis to the Committee on November 19, 1991. The Committee determined that the analysis should be issued as a Committee document. The following is the staff report that was prepared at the direction of the Committee.

Part I of this report sets forth the statutory and regulatory background of the current promotion selection process. Part II describes the events resulting in the Committee's inquiries and a review by the Department of Defense. Part III analyzes the deficiencies in Air Force procedures disclosed as a result of the Committee's inquiries and the Department's review.

I. STATUTORY AND REGULATORY BACKGROUND

The promotion selection process

The promotion of military officers through the grade of major general and rear admiral relies on a merit-based system, the centerpiece of which is the selection board process. The sole exception involves officers nominated under the President's power under Article II of the Constitution to make nonstatutory nominations, an authority that is rarely invoked.

Under current law, 10 U.S.C. 612, each selection board must consist of at least five officers, all of whom must be serving in a

grade higher than the officers under consideration by the board. To ensure that the selection process is not dominated by a small group of officers, the law provides that "[n]o officer may be a member of two successive selection boards . . . for the consideration of officers of the same competitive category and grade." 10 U.S.C. 612(b). To emphasize the solemnity of the board's responsibilities, a statute requires that each member "swear that he will perform his duties as a member of the board without prejudice or partiality and having in view both the special fitness of officers and the efficiency of his armed force." 10 U.S.C. 613.

To encourage candid discussions free from outside interference, the law prohibits disclosure of a board's deliberations "to any person not a member of the board," subject only to very limited exceptions. 10 U.S.C. 618(f).

The board must submit a written report, signed by each member, certifying that the board has "carefully considered the record of each officer" under consideration, and that those recommended by the board "are best qualified for promotion." 10 U.S.C. 617.

Prior to submission of the board's report to the President, it is reviewed by the Secretary of the Military Department concerned, the Chairman of the Joint Chiefs of Staff, and the Secretary of Defense. These individuals are not authorized to interfere with the legitimate exercise of discretion by the selection board or to make any changes in the recommendations of the board. The Service Secretary may return the report to the board for further consideration only if there has been a violation of law, regulations, or guidelines. Neither the Service Secretary, nor any other official who reviews the board's report, may add a name to, or delete a name from, the list recommended by the board. Only the President may remove a name from a list recommended by the board. 10 U.S.C. 618.

1987 investigation into improper communications with selection boards

In 1987, the Armed Services Committee conducted an inquiry into irregularities associated with the 1987 Marine Corps major general promotion list. One of the key problems arising out of the 1987 inquiry involved verbal communications by the Secretary of the Navy and the Commandant of the Marine Corps to the President of the selection board. The verbal communications resulted in two additional names being added to the board's original eight selections.

The Committee's report on the Marine Corps major general board (S. Exec. Rept. No. 3, 100th Cong., 1st Sess. (1987)) commented specifically on the relationship between oral communications and fairness of the selection process:

> The Committee observes that if an officer's selection is influenced by actions or oral communications of senior officials occurring outside the authorized selection board process, then other officers under consideration, who must rely on the authorized board process, may be denied a fair and equitable opportunity to be selected.

The report outlined the proper procedure for communicating information to a selection board:

> Opinions, in writing, by a Service Secretary or a Service Chief, with respect to personnel under their authority, can be made part of an officer's military records jacket at any time prior to a board covening and then can be given such consideration and accorded such weight as individual board members desire. That procedure maintains the spirit of fairness and objectivity which is so essential to the promotion selection process.

The Committee emphasized the importance of following such established procedures when dealing with the views of senior officials:

> The exceptional weight that can be attributed to a Secretary's (or Chief's) view requires equally exceptional care in the manner those views are conveyed to board members.

Corrective action directed by the Secretary of Defense in response to the 1987 investigation

In a letter to the Committee dated July 7, 1987, Secretary of Defense Weinberger assured the Committee that he had taken vigorous action to prevent recurrence of the problems associated with the Marine Corps major general board:

> As regards the Service Secretaries and other senior officials, we have . . . acted to prevent the problems in this case recurring in the future. After receiving the General Counsel's report of inquiry, I directed prompt issuance of guidance for the military departments to prevent a recurrence of the unfortunate confluence of events which necessitated review of the board proceedings in this case. . . .
>
> This guidance . . . fully and systematically addresses the confusion which complicated these board proceedings, by providing that, in the future:
>
> Service Secretaries may not add authorizations to a promotion board after it convenes without my approval;
>
> Service Secretaries and other persons must communicate their views regarding individual officers to a promotion board, if at all, in writing through means which will assure that their views are neither misrepresented nor misunderstood; and
>
> Each board member has a right to relief from board service if he or she believes that any person has acted to limit the board's discretion, and a duty to report that matter to appropriate Service or DoD officials.
>
> These provisions provide clear guidance for the future to prevent any circumstance in which the independence or integrity of a board proceeding could be questioned. . . .

As a result of the Secretary's action, an amendment to DoD Directive 1320.12 was issued on June 3, 1987 to ensure the integrity of the promotion process by regulating the flow of information to a selection board. A key feature of the amended directive was the requirement that: "[a]ll communications intended to express the views of the Service Secretary, the senior uniformed member of the Service concerned, or other superior authority to the members of a selection board shall be put *in writing, furnished to each member, and made a part of the board record.*" (emphasis added).

The Committee's report on the Marine Corps major general board took special note of the Secretary's action:

> [T]he Secretary of Defense [has] directed that guidance, uniformly applicable to all three military departments, be promulgated by the Department of Defense to ensure that in the future all communications between a Service Secretary or senior uniformed officers and a selection board be *in writing, be furnished to all members of the board, and be made a part of the official record.* . . . (emphasis added).

On June 3, 1987, the Deputy Secretary of Defense issued revised guidance to the military departments concerning the officer selection process, which embodied the directions of the Secretary of Defense and incorporated additional safeguards against attempts to manipulate or interfere with promotion selection board procedures. . . .

The June 3, 1987 amendments to DoD Directive 1320.12 included the following changes to ensure the integrity of the promotion process by regulating the flow of information to a selection board.

A requirement that the Service Secretary provide "written instructions to promotion selection boards."

A limitation requiring that "[a]ll communications intended to express the views of the Service Secretary, the senior uniformed member of the Service concerned, or other superior authority to the members of a selection board shall be put in writing, furnished to each member, and made a part of the board record."

A prohibition against providing favorable information or opinion regarding officers to be considered by the board except by means of a letter filed in the officer's official military records or a written communication provided to each member and made a part of the board record.

A prohibition against furnishing unfavorable information "except as expressly authorized under regulations prescribed by the Secretary concerned."

The Directive was further amended on November 29, 1989 to include:

Rules governing modification or withdrawal of instructions to a board.

A restriction providing that "[c]ommunications regarding particular officers are expressly forbidden, unless unusual circumstances exist that would preclude an officer's performance from being documented in the official record (i.e., sensitive classified mission, etc.)".

Procedures for receiving unsolicited favorable opinions.

A requirement for guidelines relating to the needs of the service for particular skills.

These amendments did not relax any of the restrictions imposed in June 1987.

Both the 1987 and 1989 amendments to DoD Directive 1320.12 required the Military Departments to provide the Office of the Secretary of Defense with implementing instructions within 120 days.

II. BACKGROUND TO COMMITTEE'S REVIEW OF AIR FORCE PROMOTION SELECTION PRACTICES

Development of information indicating irregularities in Air Force selection board procedures

In 1990, during the Committee's review of certain Air Force nominations for promotion to brigadier general, the Committee received indications that adverse information concerning certain nominees, which was not part of the nominees' military records, had been provided to one member of the selection board. However, this adverse information had not been communicated in writing to all members of the selection board as required by the amendments to DoD Directive 1320.12 that had been directed by the Secretary of Defense in response to the 1987 investigation of the Marine Corps major general board.

On June 28, 1990, the Committee asked the Department of Defense to determine the manner in which the information was handled with respect to the 1990 Air Force brigadier general selection board in light of the requirements of DoD Directive 1320.12.

The Secretary of the Air Force responded for the Department of Defense on August 3 1990. In response to the Committee's questions, the Secretary noted that certain adverse information relating to two nominees was provided to the President of the board but not to the other members of the board.

The Air Force response, and the Committee's review of applicable Air Force regulations, indicated that the Air Force had failed

was submitted to the Committee on June 19

2. Use of a preselection process to improperly

and at least 90 percent of the colonels assigned to Headquarters, Air Force, were im-

board to select the "best qualified" from a wider field—those found by a screening board

Directive 1320.12, which generally prohibited "communications regarding paticular offitions, indicated that the Air Force had failed to implement both the 1987 and 1989 amendments to DoD Directive 1320.12. On September 28, 1990, the Committee asked the Secretary of Defense to review pending Air Force nominations to determine whether the nominees were selected in accordance with applicable DoD Directives, and to advise the Committee of the actions taken by the Air Force to implement DoD Directive 1320.12.

While the Committee's request was under consideration by the Department of Defense, the Committee discussed the Air Force promotion system with General Merrill P. McPeak during review of his nomination to be Air Force Chief of Staff. In testimony before the Committee on October 24, 1990, General McPeak provided a candid, forthright assessment of deficiencies in the system. In addition to describing the failure to implement applicable rules restricting provision of information to selection boards, General McPeak noted the following additional deficiencies in Air Force procedures:

(1) A preselection process not authorized by Air Force regulations which reduced the number of candidates that would be considered by a general officer selection board through the elimination of about 90 percent of the eligible officers prior to convening of the centralized selection board.

(2) Improper briefings of the Secretary and the Chief of Staff of the preliminary decisions of selection boards prior to final action by the boards.

On October 25, 1990, the Committee brought these matters to the attention of the Secretary of Defense.

Review of the officer promotion process by the Assistant Secretary of Defense (Force Management and Personnel)

Deputy Secretary of Defense Atwood, by memorandum dated November 7, 1990, directed Christopher Jehn, the Assistant Secretary of Defense (Force Management and Personnel), "to review the officer promotion programs and promotion board procedures in each of the Military Departments." The Atwood memorandum stated that the purpose of the review was to determine whether existing regulations and procedures—

1) are in compliance with statutory requirements,

2) foster a climate of fair and equitable consideration of officers eligible for promotion, and

3) ensure the independence and integrity of promotion boards.

The OSD review covered the 1987–90 time period, and focused on the fiscal year 1990 cycle of promotion boards. The review consisted of an examination of regulations and related documents, formal presentations by the Services, and interviews with randomly selected board members and support personnel. The review of the Air Force process, for example, included interviews of 10 officers. The purpose of the review was to identify systemic problems, and it was not designed to specifically address the validity of each board conducted within that period. Therefore, the deficiencies in Air Force procedures described in Part III of this report should be regarded as examples, and not as a comprehensive listing of all irregularities that may have occured during that period.

On March 15, 1991, Deputy Secretary Atwood forwarded the results of the OSD review to the Committee. Additional material was provided to the Committee on April 9 by Secretary of the Air Force Donald B. Rice and on April 25 by Assistant Secretary of Defense Jehn. The Committee submitted follow-up questions on May 20, and material was submitted to the Committee on June 19 by Assistant Secretary of Defense Jehn and on July 10 by Air Force Secretary Rice. References in this report to the "OSD Review" pertain to material contained in the March 15 letter from Deputy Secretary Atwood and the letters from Assistant Secretary Jehn dated April 25 and June 19, 1991.

III. ANALYSIS

Irregularities identified as a result of the Committee's inquiries concerning Air Force promotion practices

The information provided by the Department of Defense in response to the Committee's inquiries established that there were serious, significant deficiencies in Air Force promotion practices.

1. Failure to issue required implementing regulations

According to Deputy Secretary Atwood, the OSD review "revealed, in the case of general officer promotions, a failure on the part of the Air Force to ensure strict adherence to required procedures. " The OSD review noted that "the lack of a governing Air Force regulation may account for an insufficient awareness of the various provisions of DoD [Directive] 1320.12 which contributed to irregularities, both real and preceived, in general officer promotions."

The failure of the Air Force to implement the regulation was not the result of an administrative oversight with respect to a routine matter. The Air Force actively participated in the development of the 1987 changes to the DoD Directive, and specifically objected to coverage by the regulation of general officer selection boards. The Air Force also proposed striking out the language which included "the senior uniformed member of the service concerned [and] other superior military authorit[ies]" in the requirement that all communications from the leadership be in writing. The Air Force comments were not accepted by the Deputy Secretary of Defense when the 1987 changes were issued. After the amended Directive was issued, the Air Force: (1) failed to issue a regulation governing the conduct of general officer selection boards; (2) failed to incorporate the changes into the existing regulation governing field grade officer selection boards; and (3) failed to incorporate the limitations on communications into the Letters of Instructions provided to selection boards.

The failure of the Air Force to fully implement the DoD Directive persisted for years—even after the Committee brought the Directive to the attention of the Air Force on June 28, 1990. The Air Force issued a regulation governing general officer selections on February 1, 1991. The Air Force has still not revised its field grade selection board regulation to incorporate the 1987 or 1989 amendments to the DoD Directive.

As the Committee noted in its report on the National Defense Authorization Act for Fiscal Years 1992 and 1993 (S. Rept. 102–113):

> The failure of a Military Department to implement a DOD Directive on a timely basis is inexcusable in any case. When it involves a directive that the Secretary has issued to address problems of abuse in the promotion selection process, the failire is intolerable.

The failure to implement the Directive meant that the Air Force provided no guidance to the officer corps in general, or selection boards in particular, as to the strict prohibitions set forth in the amendment DoD Directive.

2. Use of a preselection process to improperly exclude eligible officers from consideration by selection boards

When a selection board is convened, the board must consider each officer in and above the promotion zone for the grade and competitive category under consideration (10 U.S.C. 619(c)). There are a number of very limited exceptions, including authorization for the Service Secretary "by regulation" to "prescribe procedures to limit the officers to be considered . . .for promotion to the grade of brigadier general or rear admiral (lower half) . . . to those officers who are determined to be exceptionally well qualified for promotion . . . ."

According to the OSD review, the Air Force employed a preselection process without issuing the statutorily required regulation. The Air Force routinely used such unauthorized preselection boards to exclude eligible officers from consideration without prescribing the required procedures.

The OSD review determined that "[t]hese screening boards normally eliminated from consideration by the statutory board approximately 90 percent of those officers who would otherwise have been eligible for consideration by the statutory board."

The OSD review noted that "[n]o formal means were used to advise eligibles of the brigadier general pre-screening process." The effect was that thousands of officers who reasonably could have believed that their nonselection for promotion resulted from the decision of a statutory selection board had, in fact, been eliminated from consideration through unauthorized procedures before the statutory board ever met.

According to the OSD review, the Air Force used a three-tier preselection process to screen out candidates prior to convening statutory brigadier general selection boards. The first tier consisted of Initial Screening Boards established primarily at major command levels, which eliminated approximately 90 percent of the eligible officers from further consideration. The second tier involved a Central Screening Board, which eliminated about 50 percent of those recommended by the Initial Screening Boards. The final tier was the statutory selection board, which considered the remaining eligible officers.

The Initial Screening Boards were established at each of the major commands and at Headquarters, Air Force. As a result, eligible officers did not compete against their peers throughout the Air Force, as contemplated by the statutory centralized selection process. Instead, they were screened out through a procedure in which they unknowingly competed only against officers within their own command.

The Initial Screening Board at a major command consisted of general officers appointed by the major command commander. Thus, officers eligible for promotion who reasonably expected that they would be considered by a selection board convened by the Service Secretary, as required by law, were instead eliminated from consideration by screening boards appointed by commanders in the field.

An Initial Selection Board convened at a major command was allowed to forward no more than 15 percent of the eligible officers for centralized screening. The Headquarters Initial Selection Board was allowed to forward no more than 10 percent of the eligible officers for centralized screening.

The effect of the Initial Screening Board process was that at least 85 percent of the colonels assigned to the major commands,

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and at least 90 percent of the colonels assigned to Headquarters, Air Force, were improperly precluded from competing against their peers elsewhere in the Air Force before a central promotion board.

The balkanization of the Initial Screening Board process into separate boards for each major command, and a separate boards for the headquarters organizations, meant that an officer could be eliminated even though the officer was better qualified than an officer in another command who was selected. The potential for unfair treatment was magnified with respect to smaller commands, in which the 15 percent limitation meant that in absolute numbers, fewer officers in the smaller commands, as compared to larger commands, were eligible for selection. Thus, an officer at a smaller command who might rank well within the top 15 percent of Air Force colonels on a Service-wide basis, could be excluded from further consideration because of the limited number of selections available to that officer's command. In addition, officers in headquarters commands, which were subject to a 10 percent limitation, were at a disadvantage to their counterparts in major commands, which could forward 15 percent of their eligibles.

The second tier—the Central Screening Board—considered all eligible officers forwarded by the Initial Screening Boards. The Central Screening Board not only considered the military records of eligible officers, it also had access to a "closed" evaluation form—an evaluation that was not made available to the officer being evaluated. Although the closed form was authorized by regulation, the Central Screening Boards were not so authorized.

The Central Screening Board was composed of general officers from the major commands, the Air Force Secretariat, the Air Staff, and Joint Agencies. The president was appointed by the Secretary of the Air Force, and the members were appointed by the Chief of Staff of the Air Force. The Central Screening Board was permitted to forward up to half of the eligibles it considered to the Final (statutory) Selection Board.

The third tier, the Final (statutory) Selection Board, had access to the officer's military records, the "priority lists" submitted by major commanders and other selected officials, and the closed form evaluations.

According to the OSD review, the statutory selection board "considered all eligibles forwarded by the CSB [Central Selection Board], plus a small number of other eligibles identified by the commanders who did not score through the CSB." The "other eligibles" consisted of officers who were not forwarded by the Central Selection Board but who were identified on "priority lists" submitted by the commanders of major commands and other selected officials after they were notified of the results of the Central Selection Board. The priority list system served as a supplement to the screening process, and enabled those permitted to submit priority lists to ensure that favored candidates were not eliminated from consideration by the screening process. These "priority lists" are discussed in more detail in section 3, below.

Statutory screening boards, which are authorized to narrow the field, have a less stringent selection standard than regular (i.e., final) selection boards. Regular selection boards may recommend only those "best qualified" for promotion. The statutory standard for screening boards—"exceptionally well qualified"—permits the final board to select the "best qualified" from a wider field—those found by a screening board to be "exceptionally well qualifed." The Air Force, which did not have a regulation governing its screening boards, did not use the "exceptionally well qualified" standard. This was improper, because officers who might have been forwarded under an "exceptionally well qualified" standard were eliminated under the percentage quotas assigned to the screening boards.

The problems caused by failure to use the statutory criteria were compounded because the screening boards operated with virtually no written guidance, other than the limitation on the percentage that could be forwarded. As a result, the Initial Screening Boards could operate without regulations requiring the safeguards applicable to statutory selection boards, such as: (1) the requirement that no officer may be a member of two successive boards for the consideration of officers of the same competitive category and grade; (2) the requirement that eligible officers be provided with at least 30 days notice of the convening of a board and provided an opportunity to send a written communication to the board; (3) the requirement for Secretarial guidance, including guidance to ensure appropriate consideration of joint duty assignments; (4) the prohibitions against reviewing authorities adding to or deleting from the recommendations of selection boards; and (5) limitations on communications to selection boards. As a result, officers who reasonably believed that their records were considered in accordance with such safeguards were eliminated by screening boards in which such safeguards were not required to be observed.

In summary, instead of an authorized screening process with centralized selection using a statutory standard, the Air Force used an unauthorized process in which 90 percent or more of the eligible officers were eliminated through decentralized boards using an improper standard without regulations requiring the statutory safeguards applicable to regular selection boards.

3. Improper communication of "priority lists" to selection boards

The OSD review found that since the 1960's, the Air Force "allowed certain senior officers and civilian officials to provide to general officer promotion boards a list of eligible officers recommended for promotion. . . . These . . . Priority Lists . . . were the personal choices for promotion of the officials who prepared the lists, and proposed for promotion a small subset of the eligible officers."

The OSD review observed that the "use of these lists was not addressed in regulation and was not common knowledge outside the general officer management community." According to the OSD review, "[e]ligible officers were not made aware of the priority list system."

Officials permitted to submit a priority list were allowed to designate no more than 4 percent of the eligible officers in their command. Priority lists consisted of a rank ordering of certain candidates by the commander. There was no narrative information. Thus, the list did not provide selection boards with any information about the military record of an officer. The information communicated by the list—the presence or absence of a name, and the relative order of names on the list—was signficant, however, because the list communicated the views of the major commanders and other senior officials as to who should be selected.

As noted in the OSD review, use of such lists violated the 1989 amendments to DoD Directive 1320.12, which generally prohibited "communications regarding paticular officers" (subject to very limited exceptions). A March 6, 1991 Air Force memorandum, included as an enclosure to the OSD review, explained that the Deputy Chief of Staff for Personnel briefed the Secretary of the Air Force on the use of priority lists after the 1987 amendments to DoD Directive 1320.12. He did not brief the Secretary after the 1989 changes, which expressly prohibited communication of information such as priority lists to selection boards.

In addition to violating the 1989 changes to the DoD Directive, the use of priority lists compounded the problems noted in section 2, above, concerning the use of unauthorized screening procedures. The priority lists were prepared by the major commanders and other selected officials after they were notified of the results of the Central Screening Board. As a result, an officer who had not been selected by the Central Screening Board could nonetheless be considered by the final, statutory board if fortunate enough to be placed on a commander's priority list. Thus, even if the preselection process had been properly structured under 10 U.S.C. 619(c)(2) "to limit the officers to be considered by a selection board . . . to those officers who are determined to be exceptionally well qualifed for promotion," the statutory process would have been undermined by the use of priority lists to circumvent the statutory standard.

In summary, the use of priority lists improperly communicated the views of the senior leadership about particular officers to selection boards. In addition, the priority lists enabled the leadership to circumvent the preselection process. None of this was made known to eligible officers, who could reasonably believe that they were being considered for promotion on the basis of their official military records.

4. Improper communications between the Air Force leadership and selection board members

The OSD review noted that a board president had specific conversations with the Service Secretary and Chief of Staff during the 1989 brigadier general promotion board. According to the OSD review, these communications "did not comport with paragraph G.2. of DoD Directive 1320.12 in that these communications were not in writing, were not provided to each board member, and were not made part of the board record."

The review also noted that, as a general practice, "prior to the signing of the board report by promotion board members, the results of general officer promotion boards were routinely provided to both the Chief of Staff and the Service Secretary." These oral reports not only created the opportunity for improper verbal communications of the views of the Air Force leadership in violation of DoD Directive 1320.12, but also were contrary to 10 U.S.C. 617(a), which requires the board to provide the Secretary with a "written report, signed by each member of the board."

In response to a follow-up question by the Committee, the Air Force described the following incident, which illustrates the problems created by improper communications during a board's proceedings. A board was convened to select 32 officers for promotion to major general out of 102 eligibles. The board conducted a trial run, followed by a discussion, and "an initial review and scoring of the candidates." The board then adjourned for the evening.

When the board president reviewed the results, he found that Brigadier General

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"XYZ" was not among the top 32 in the order

retary, Chief or Staff, or other superior au-

According to the March 6, 1991 Air Force

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ber of selections without the approval of the

8. Selection of field grade officers

On February 7, 1990, the Air Force provided

"XYZ" was not among the top 32 in the order of merit, despite the fact that he had scored well in the trial run. According to the Air Force report, "[t]here had been some discussion of this officer's performance among some of the members after the trial run."

That evening, the board president had a "courtesy visit" with the Chief of Staff, during which he asked whether the Chief of Staff was satisfied with the performance of Brigadier General "XYZ" and whether the Chief of Staff agreed with the Vice Chief's decision to place Brigadier General "XYZ" on the "priority list" that the Vice Chief had submitted to the selection board. The Chief of Staff noted his satisfaction with Brigadier General "XYZ's" performance and his agreement with the placement of Brigadier General "XYZ" on the Vice Chief's priority list.

The next day, the board president advised the board of his concern that there was an "anomaly or disconnect" in the scoring. He also advised the board that "the Chief agreed with the Vice Chief's placement of BG XYZ on the priority list and that the Chief was satisfied with the duty performance of BG XYZ." The board decided to rescore Brigadier General "XYZ's" record, and the result of the rescoring placed him in the top 32 officers selected for promotion. According to the Air Force report, two of the members of the board, who had not been present during the entire discussion of the rescoring process, "believed that the rescoring of BG XYZ was very unusual and that there was actual or implied pressure to select BG XYZ." The Air Force report added that another member of the board "suggested that 'influence' may have caused the board to rescore, but that no one directed the board to select BG XYZ." Other members of the board did not have a clear recollection of the matter. As noted in the Air Force report, "the circumstances under which this rescoring was accomplished must be viewed as a violation of paragraph G2 of DOD Directive 1320.12, because of the communication between the Chief of Staff and the board president."

This incident underscores the inherent unfairness of communications to the board by the senior leadership during the deliberative process. The selection board was limited to recommending 32 officers for promotion. In the scoring that took place before the conversation between the Chief of Staff and the board President, Brigadier General "XYZ" did not score among the top 32 eligibles. After the conversation, he was included—thereby displacing another officer who did not have the benefit of a discussion between the board President and the Chief of Staff. The issue is not whether the Chief of Staff "directed" the board to select Brigadier General "XYZ"; rather, it is the failure of the Air Force to conduct its selection board proceedings, as required by law, in a manner that insulated board members from any communication that could be viewed by board members as influencing them towards a particular selection.

This incident illustrates the manner in which the failure of the Air Force to implement the DoD Directive left the Service vulnerable to improper conduct.

The OSD review found that the Deputy Chief of Staff for Personnel, although not serving as a selection board member or on the administrative support staff, was afforded access to promotion board proceedings. According to the OSD review: "This created the opportunity for violation of the rules governing communications insofar as this officer could be perceived as informally expressing the views of the Service Secretary, Chief or Staff, or other superior authority." The OSD review also noted that "such access may be in conflict with [10 U.S.C. 618(f)] which provides that the proceedings of a selection board may not be disclosed to any person not a member of the board." To the extent that the Deputy Chief of Staff for Personnel was involved in communications beyond routine administrative assistance to the board, such activities were in violation of the regulations and the statute.

A March 6, 1991 Air Force memorandum, included as an enclosure to the OSD review, notes that the Deputy Chief of Staff for Personnel "did, on occasion, discuss eligible officers with a board president or member." According to the March 6 memorandum, "on occasion a board member would ask if the Chief or other senior officials felt strongly about a candidate who had been highly rated. If the question was asked, he answered it."

The OSD review provides further details: "The Air Force informs us that prior to the convening of a promotion board, neither the CSAF [Chief of Staff of the Air Force] nor other senior officials conveyed their views about individual officers to [the Deputy Chief of Staff for Personnel]. In the course of working general officer assignments and related personnel matters with the senior staff, [the Deputy Chief of Staff for Personnel] became aware of how the senior staff regarded some officers. *If asked for comment, [the Deputy Chief of Staff for Personnel] provided his assessment of how the officer was viewed by the CSAF or another senior officer.* If he did not know enough to form an opinion, he declined to offer one." (emphasis added).

The March 6 Air Force memorandum observes that on one occasion, the Deputy Chief of Staff for Personnel "spoke to a full board from his own personal knowledge about an officer he believed had an integrity problem. He believed he had a personal responsibility to inform the board that the officer under consideration had lied to him and therefore lacked integrity." The OSD review notes that although the Deputy Chief of Staff for Personnel had advised the officer's supervisor of his concern, he had taken no action before or after the selection board to document this concern in an official record that would be properly before a selection board. The DoD letter also notes that the particular officer was not selected for promotion. The officer was not aware of, nor did he have an opportunity to rebut, this adverse information.

An additional difficulty is presented by the role of the Deputy Chief of Staff for Personnel in the "scoring" process. A statutory selection board determines which officers are selected through the assignment by board members of numerical scores to each eligible officer. Those who score highest, up to the number of eligibles the board is authorized to recommend, are selected. In the Air Force, the Deputy Chief of Staff for Personnel assisted the board in the conduct of "trial scores". The purpose was to promote discussion about the attributes that would make an officer worthy of selection. The "trial" scoring involved use of selected records of eligible officers, not hypothetical candidates. The discussion that followed involved consideration of the merits of an officer's records. The participation of the Deputy Chief of Staff for Personnel in these discussions constituted improper communication of the views of a senior officer about a particular eligible candidate in violation of DoD Directive 1320.12.

According to the March 6, 1991 Air Force memorandum, the Deputy Chief of Staff for Personnel "had full access to all boards, and considered it part of his role as DCS/Personnel to be there." The memorandum notes that earlier in his career, as a board member, he had observed previous Deputy Chiefs of Staff for Personnel "in the [selection] board room" and believed that "this was expected of the DCS/Personnel as part of his job, and indeed, that it would have been noted and questioned by board members if he were not present for a board."

The OSD review did not address the issue of whether it was appropriate for the Deputy Chief of Staff for Personnel to personally provide administrative support to selection boards. Because he was viewed by other members of the board as a representative of the senior leadership, he should not have been placed in that position. Even if it had been proper for him to provide administrative support to the boards, it was essential that he perform such tasks in a manner consistent with applicable law and regulations. In communicating unfavorable information to the board about a specific officer, he acted contrary to the position of trust which had provided him with access to the board's deliberations.

5. Improper communications by board members during board proceedings

The March 6, 1991 Air Force memorandum, summarizing information provided by the Deputy Chief of Staff for Personnel, noted that "[b]oard presidents from time to time have contacted officials outside the board structure concerning an eligible officer." In one case, "a board president called a CINC to clarify the ranking of an eligible officer on the CINC's PL [priority list]." In another instance, "contact was made with a commander to ascertain the meaning of remarks on a closed form" (i.e., the evaluation form that was not provided to the eligible officer).

The OSD review notes:

> [T]he Air Force conducted general officer boards in a manner that afforded the board members—who were all general officers—a significant degree of autonomy. Although the board recorders and support personnel limited access to the boardroom area and attempted to monitor the use of the telephones in the board room area, the board members had the opportunity to initiate and receive communications about any subject including eligible officers.

In the absence of a regulation limiting communications, there was no express limitation on the manner in which board members, exercising their "autonomy," could communicate with outside officials during board deliberations. This created the opportunity for violations of the prohibitions against such communications.

6. Improper increase in the number of officers authorized to be selected for promotion

DoD Directive 1320.12 provides that after a board is convened, the Service Secretary may not increase the number of officers authorized to be selected without the written approval of the Secretary of Defense. The purpose of this provision is to prevent a recurrence of the action taken with respect to the 1987 Marine Corps major general board, when the number of authorized selections was increased, after the board had made its initial decisions, to facilitate the selection of a candidate who was not initially selected by the board.

The OSD review determined that in 1988, after a board convened, the Secretary of the Air Force authorized an increase in the num-

ber of selections without the approval of the Secretary of Defense. According to the March 6, 1991 Air Force memorandum, this occurred when the Secretary and Chief of Staff were briefed on the results of a board, before the board adjourned, by the President of the board and the Deputy Chief of Staff for Personnel. The briefing took place before the board itself was informed of the order of merit that resulted from the scores they gave the candidates. During the briefing, the leadership was informed that a particular officer was placed below the cutoff point during rescoring procedures used to break a tie for the last remaining position to be selected. The "cutoff point" is the position on the order of merit list that separates those officers selected for promotion (above the cutoff point) from those officers who are not selected (below the cutoff point).

After hearing the briefing, the Chief of Staff suggested, and the Secretary agreed, to increase the number of eligible selections in order to include the officer who otherwise would not have been selected. According to the Air Force memorandum, the Deputy Chief of Staff for Personnel was not aware that such an action was impermissible without approval by the Secretary of Defense, and no one on his staff raised an objection. Although this was in clear violation of the changes in DoD Directive 1320.12 issued in 1987 to prevent manipulation of selection board results by the leadership, the change was approved by the Air Force leadership and the officer was selected and promoted.

7. Manipulation of the scoring process

The Air Force general officer promotion process used a scoring system to rank in order the candidates under consideration. When there was not a clear break point at the selection cut off line (i.e., between those who would be selected and those who would not be selected), the Air Force used a procedure involving repetitive rescoring of those in the group just above and below the cut off line. The OSD review documented the manner in which this process could be manipulated to favor a particular officer. As noted above in the context of improper discussions between the leadership and board members, there was one incident in which a particular officer was scored below the group eligible for additional scoring. In that instance, the board President "expanded" the size of the group eligible for additional scoring, which resulted in an additional opportunity for that officer to be considered. That officer, who would not have been selected had the normal scoring process been followed, received a score upon rescoring that improved his position relative to other eligible officers, resulting in his selection.

The improvement in that officer's relative position upon rescoring necessarily resulted in a lowering of another officer's relative position. Since the board was given a fixed number of selections, manipulation of the scoring process not only resulted in the selection of an officer who would not have been selected under normal procedures, it also resulted in the nonselection of an officer who would have been selected had regular procedures been followed.

Such manipulated rescoring undermines the integrity of the promotion process because it provides discretion for the board's results to be altered to the advantage of a particular officer not initially selected and to the disadvantage of an officer initially selected. The Air Force has subsequently eliminated any rescoring that is not needed to break a tie at the cutoff point.

8. Selection of field grade officers

The OSD review did not find similar systemic problems with respect to selection for grades 0-6 and below:

> The review determined that the existence of governing regulations, the training and use of full-time recorders, and control of access to board areas made the field grade process less vulnerable to "ad hoc" action and inappropriate influences than was the case in general officer promotion boards.

The Committee notes that none of the information provided by OSD or the Air Force documents any incidents of inappropriate communications to a field grade selection board. The Committee also notes, however, that the OSD review was designed to identify systemic problems and involved the interview of only a handful of board members and support personnel. As a result, it did not serve as a comprehensive review of selection boards that have met since the 1987 amendments were issued to DoD Directive 1320.12. The continuing failure of the Air Force to implement the prohibitions on communications in its field grade regulation means that the Air Force continues to be unnecessarily vulnerable to violations in individual cases.

9. Failure of the Air Force to undertake timely review and corrective action

In response to the Committee's questions in the summer of 1990 about a secific selection board, the Air Force noted on August 3, 1990 that adverse information concerning two officers was provided to the President of the board but not to the other members of the board. The response, however, did not reflect that this procedure was in violation of the requirement in DoD Directive 1320.12 to provide such information to all board members. Instead, the response implied that the Secretary acted under statutory authority:

> Under Section 615(a) of Title 10 [of] the United States Code[,] the Secretaries of the Military Departments are responsible for determining the information to be provided to promotion selection boards and for establishing the procedures by which the boards are provided the information. This would include policies concerning information on providing potentially adverse information to selection boards about individuals considered for promotion.

This response fails to take into account the Air Force's own 1987 review of DoD Directive 1320.12, which concluded that the amended Directive established mandatory procedural requirements for the conduct of selection boards.

In response to the Committee's specific question as to the regulatory basis for providing a document to the board President that was not made available to each member of the board, the Air Force letter asserted that the Secretary had statutory authority for his action:

> In performing his statutory responsibilities under Section 615(a) of Title 10 the Secretary decided to show the material to the President of the Board and allow the President an input as to whether the information should or should not be provided to the members of the board.

This response fails to note that while the Secretary has general statutory authority to provide information to selection boards, he has no authority to disregard limitations established by his superior, the Secretary of Defense. Moreover, it is inconsistent with the Air Force's own 1987 review of the DoD Directive, which noted that it would be improper for the board President to screen adverse information for purposes of deciding what information should be provided to the board.

On February 7, 1990, the Air Force provided a report to the Secretary of Defense on matters related to the Air Force's selection board problems. The Air Force acknowledged that the Service had used a variety of unauthorized practices, such as nonregulatory preselection boards, briefings for the senior leadership before boards adjourned, improper access to the selection board by the Deputy Chief of Staff for Personnel while the board was in session, and submission to boards of priority lists from certain commanders. The Air Force acknowledged that these practices were inconsistent with the Defense Officer Personnel Management Act and the 1987 and 1989 amendments to DoD Directive 1320.12, but attempted to deflect criticism from the Air Force by stating:

> The Air Force, *like the other Services*, gave insufficient recognition to these changes and did not issue the implementing regulations required by DoD Directive 1320.12; until recently DoD took no steps to ensure that such regulations were issued. (emphasis added).

Subsequently, the Committee asked the Department of Defense whether the systemic deficiencies in the Air Force selection board system were present in the systems managed by any other Military Departemnts. DoD advised the Committee on June 19, 1991 that the OSD review had not encountered the problems exhibited by the Air Force in any of the other Services, and that the review "did not find systemic deficiencies in the implementation of DoDD 1320.12 by the other Services.

An additional problem with the Air Force response is the implication that the Air Force problems were somehow excused because "DoD took no steps to ensure that such regulations were issued." The Department of Defense necessarily and properly operates on the premise that orders will be obeyed. While OSD always retains ultimate responsibility for the performace of the mission, and should institute appropriate organizations, it is inappropriate for a Military Department to imply that OSD is responsible for the Military Department's failings when the Military Department has been given clear instructions to implement an important adminstrative matter.

In material provided to the Secrtary of Defense on March 6, 1991, the Air Force provided the following description of the Air Force's reaction to the changes proposed in the 1987 amendments to DoD Directive 1320.12:

> [The Deputy Chief of Staff for Personnel] recalls that when DoD Directive 1320.12 was changed in 1987, he believed it was intended to correct problems that the Navy had experienced with its promotion boards, and he did not believe that any of those problems existed with Air Force boards. He did not believe that any Air Force Secretary or Chief of Staff had ever interfered with the selection process or that they ever would. He and his staff disagreed with the general officer provisions of DoDD 1320.12 circulated in May 1987 on the basis that there was no need for them. In the Air Force's view, the system had worked effectively and fairly for over twenty years.

This explanation, however, is incomplete. As noted in Part II of this report, the Air Force actively participated in the development of DoD Directive 1320.12, opposed inclusion of general officers, reviewed the Directive in detail after it was issued, and nonetheless failed to issue appropriate implementing regulations.

After the OSD review documented the numerous deficiencies in Air Force practice,

the Air Force provided additional views to the Committee. In a letter dated April 9,

(1) Improper communications by board members with outside personnel during

Board at the command level, circumvent the screening board process through submission

he directed in the wake of the Marine Corps major general board investigation, the Air

that appeared in a recent issue of the Maine Times. I would ask that the arti-

market of professional and white-collar workers in small to mid-size companies is the Air Force provided additional views to the Committee. In a letter dated April 9, 1991, the Air Force acknowledged the failure to issue implementing regulations, but provided the following explanation:

The Air Force did not issue the required implementing regulations, relying in part on the erroneous assumption that an expanded 1987 Secretarial Memorandum of Instruction to the Board would be sufficient. The sensitive "close-hold" aura that had traditionally surrounded general officer matters seems to have allowed the incorrect view to develop that regulations spelling out procedures were unnecessary.

The implication is that the Air Force was in technical noncompliance by not issuing a regulation, but that there was coverage in the "expanded" Secretarial Memorandum of Instruction. This response was incomplete. The Secretarial Memorandum of Instruction referred to the provisions of the DoD Directive concerning the duties of the board President, the general requirement for board members to act without prejudice, and the responsibility to report misconduct; but it made no reference whatsoever to the central provisions of the 1987 amendments—the restrictions on communications to the board concerning particular officers.

As noted above, the Air Force—for more than three years—failed to implement the 1987 amendments to the DoD Directive designed to address the potential for abuses in the promotion selection process. It has still not issued an implementing instruction for field grade promotions. These failures were harmful to the Air Force in general and to the officers eligible for promotion in particular. Thousands of officers were improperly excluded from consideration by statutory selection boards through use of an unauthorized selection process. Other officers were unfairly disadvantaged because they were not included on unauthorized "priority lists" used to communicate the preferences of selected leaders to promotion boards. The process was particularly unfair to those officers who—unbeknownst to them—were the object of particular communications or victims of manipulation of the scoring process.

In a large organization, such as the Air Force, there will be occasional failures to properly implement laws and regulations. The test of an organization's effectiveness is its willingness to promptly recognize such failures, take corrective action, and ensure that there is a thorough assessment of accountability and responsibility for the failures. In this case, the Air Force compounded the deficiencies in the promotion process by the failure to take timely action when the problems were brought to the attention of the civilian leadership.

IV. SUMMARY OF FINDINGS

The DoD review identified systemic deficiencies in the Air Force selection process. These deficiencies included the following:

(1) Failure to issue implementing regulations required by applicable statutes and Department of Defense Directives to ensure the fair operation of the selection board process.

(2) Use of a preselection process that improperly excluded 90 percent or more of the eligible officers from consideration by statutory selection boards.

(3) Improper communication to selection boards of "priority lists" prepared by senior officers.

(4) Improper communications between the Air Force leadership and selection board members.

In addition, the DoD review identified specific instances in which the following deficiencies occurred:

(1) Improper communications by board members with outside personnel during board proceedings.

(2) Improper increase in the number of officers authorized to be selected for promotion.

(3) Manipulation of the scoring process used by selection boards to determine which officers would be recommended for promotion.

V. OBSERVATIONS

The integrity of the selection board process

The integrity and fairness of the selection board process traditionally have been major concerns of the Committee on Armed Services. The Committee has acted through legislation, review of nominations, and oversight to ensure that the procedures used for selection boards are fair to the officer corps and are designed and conducted to select the best qualified officers for promotion.

The relationship between the integrity of the selection process and the integrity of the officer corps was underscored during recent Committee hearings. General Gordon R. Sullivan, Chief of Staff of the Army, noted that:

There is a direct link between the integrity of the selection board process and the integrity of our officer corps. The link lies in the confidence our officer corps has in the objectivity and professional ethic of the board. Our selections must be fair, impartial, and based upon demonstrated potential instead of subjective criteria, and they must be seen as such by our officer corps.

General Carl E. Mundy, Jr., Commandant of the Marine Corps, similarly observed that:

Integrity is the basis for the special trust and confidence reposed in the officer corps. . . . Any breach of integrity in the selection process jeopardizes this special trust and confidence.

The Air Force process for selection of general officers

The Air Force used a promotion selection system that did not properly implement the statutory and regulatory standards procedures established to ensure the integrity of the promotion selection process.

The starting point was an unauthorized preselection process in which 90 percent or more of the eligible officers were improperly excluded from consideration by statutory selection boards. The preselection process employed an improper standard, precluded officers from competing against their counterparts on a Service-wide basis, failed to provide regulatory guidance incorporating the safeguards applicable to statutory boards, provided major comanders and other senior officials with the means to circumvent the process through use of priority lists, and operated without the knowledge of the officers under consideration.

The 10 percent who were considered by statutory boards were considered under procedures involving unauthorized use of "priority lists" to improperly communicate the choices of selected leaders to the statutory boards. The procedures were further tainted by incidents involving improper communications to the boards by the Air Force leadership, unauthorized increase in the number of officers selected for promotion, and manipulation of the scoring process.

The process provided the commanders of major commands and other selected officials with multiple opportunities to directly communicate their preferences about specific individuals to selection boards. Rather than relying on the official records and evaluations of eligible officers, the Air Force used a system in which a commander of a major command could convene an Initial Screening Board at the command level, circumvent the screening board process through submission of a priority list, and signal specific preferences to the statutory board by the relative placement of officers on a priority list. Within the board, preferences could be further communicated through discussion with the Deputy Chief of Staff for Personnel about the views of the senior leadership, direct communications from board members to persons outside the board, and personal discussions between the board President and the Air Force leadership. The system was further subject to compromise through the addition of names after the board had made its initial selections and through the use of "rescoring" to include officers who otherwise would not have been selected and to exclude officers who had been selected.

These problems were compounded by the failure of the Air Force to make these procedures known to eligible officers. Thus, officers who reasonably believed they were reviewed under a statutory process were, reviewed by a separate process known only to insiders.

Legislative action

In response to the problems identified as a result of the Committee's inquiries and the OSD review, the Committee initiated legislation to better ensure the integrity of the promotion selection process, which is set forth in section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993. The legislation: (1) requires the Secretary of Defense to prescribe uniform regulations governing information furnished to selection boards; (2) provides that any communication to a selection board, including any member of the board, must be in writing, furnished to all board members, and made a part of the selection board's record; (3) ensures that the information provided to boards about an officer consits only of material from the officer's official military personnel file, information provided to the board by the officer concerned, or other substantiated, relevant information, identified and forwarded under uniform procedures established by the Secretary of Defense that could reasonably and materially affect the deliberations of the selection board; (4) ensures that eligible officers receive notice of and an opportunity to respond to the information about them that will be considered by the board; (5) restricts disclosure of the board's results to anyone outside the board until the members have completed and signed their final report; (6) prohibits improper influence on the board; (7) precludes use of a reselection process except under carefully limited procedures; and (8) provides eligible officers with notice of and an opportunity to respond to any information that is transmitted by a Service Secretary as part of a recommendation that an officer be removed from a selection board list.

Administration action

As a result of the review initiated by the Committee, the Air Force has issued a regulation governing general officer selection boards. The Air Force no longer uses a preselection process for promotion to brigadier general, and has eliminated the use of priority lists. It has also eliminated the "closed form" evaluation process, thereby ensuring that eligible officers have an opportunity to review and comment on information about them that will be provided to selection boards. Although more than four years have passed since Secretary Weinberger promised that regulations would be issued to implement the corrective actions

he directed in the wake of the Marine Corps major general board investigation, the Air Force still has not amended its field grade regulation to implement DoD Directive 1320.12.

Additional changes will be required as a result of the reforms mandated by section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993. In view of the failure of the Air Force to implement the changes directed by Secretary Weinberger in 1987, the staff recommends that the Committee request the Assistant Secretary of Defense (Force Management and Personnel) to carefully monitor implementation of this legislation. The staff also recommends that the Committee conduct appropriate oversight hearings to review the manner in which the legislation has been implemented.

TRIBUTE TO JAMES F. ORR III

Mr. COHEN. Mr. President, in these difficult economic times it gives me great pleasure to call to the Senate's attention a financial success story and the man responsible for it.

The story involves a Maine-based company called UNUM, the largest long-term disability insurer in the United States, and the man at its helm, James F. Orr II.

Under Orr's leadership as chairman and chief executive officer, UNUM also has become a major provider of specialty risk insurance as well as one of the top-rated firms in the nation for its progressive workplace environment. At a time when many businesses are cutting back, UNUM is looking to expand globally.

A veteran of 20 years in business and finance, Orr came to UNUM five years ago at a time when the company had just converted from a mutual to a stock corporation and had money to invest. Relying on his financial expertise, intellect and commitment, he cut costs, shrunk the employee base and turned the company into a lean and aggressive business.

The result has been good for UNUM and good for Maine. The company, based in Portland, employs 3,400 workers in the state and paid them more than $115 million in salaries last year, which has provided a big boost for the southern Maine economy.

The company had $185 million in net income last year, and the last economic report shows the firm increasing profits by 14 percent in the third quarter.

And all of this has been accomplished while providing a comfortable and friendly work environment. The company operates its own child care center, provides employees three months paid leave for childbirth, adoptions and eldercare and has a wellness center for employees, among other benefits.

UNUM under Jim Orr's leadership is a true success story and one that can serve as an example for many other companies.

More details about the exceptional UNUM story are included in an article that appeared in a recent issue of the Maine Times. I would ask that the article be reprinted in the CONGRESSIONAL RECORD so all my colleagues can learn about this fine Maine company.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Maine Times, Nov. 1, 1991]

JIM ORR WANTS UNUM TO CONQUER THE WORLD

(By Phyllis Austin)

James F. Orr III, chairman and chief executive officer of UNUM, is not singing the blues these days, despite the hard times of the insurance industry. Instead, he is crowing about the Maine-based company's hypergrowth and looking across both oceans to expand globally.

Orr, a former Wall Streeter, had to make tough cost-cutting and restructuring decisions five years ago to position UNUM for its surge to a $10.3 billion-in-assets corporation. Now, lean and aggressive UNUM is the largest long-term disability insurer in the U.S. and the United Kingdom and a major provider of specialty risk coverage, such as travel accident, life and other customized products. Plus, under Orr's leadership, the company has become one of the top rated in the nation for its progressive workplace environment.

Orr, 48, is celebrated in the business world for his accomplishments, but in Maine, where the company has been headquartered for 110 years, not many people know who he is. He's away from Maine traveling much of the time, and when he's home, Orr prefers privacy, not showmanship.

From day one, Orr and UNUM were an easy fit. At 43, he was top-line veteran of 20-years in the financial services industry and aspired to be chief executive of a company on the rise. UNUM, fresh from converting from a mutual to a stock corporation, was flush with $727 million of new investment capital and looking for a new CEO of his age and experience.

"Without question," Orr says, "the moon and stars were in the right relationship" for his and UNUM's successes. Orr believes the company "would have done well regardless [of who was CEO]," given the situation.

His reluctance to take credit for UNUM's prosperity comes from Orr's self-effacing view of himself as a team player, as someone in the right place at the right time. But by all accounts, Orr had the perfect skills for the high-pressured job—intellect, initiative, financial savvy, concentration and commitment. He had to use them to deftly cut costs, shrink the employee base and eliminate divisions draining UNUM in the mid-'80s.

The Wall Street Transcript, which has given Orr the Gold Award in the insurance industry for the last three years praises him as a "foresightful strategist [whose] incisive leadership has brought to UNUM a strong sense of purpose and direction."

With net income last year of $185 million, or $5.38 per share, UNUM earned a 15.2 percent return on equity (including $12.8 million from the resolution of special tax issues). The third quarter report issued last week showed UNUM continuing to defy the general economic malaise by increasing profits 14 percent.

UNUM spokesperson Anne Brenton say Orr expects, by year's end, to reach the 15 percent return goal he has set for the company, regardless of the business cycle. How can Orr shoot for the sky? Because UNUM's targeted market of professional and white-collar workers in small to mid-size companies is underpenetrated.

Only 20 million of the 30 million or so of those workers eligible for UNUM policies are covered so far. And with 24 percent of all premiums in the long-term disability business already in the fold, UNUM is besting the competition.

"As I've said before, we're in the business of what's between our ears," says Orr. "What we know, and how we put that knowledge to work, is the difference between UNUM and the competition. And that difference is, indeed, great," Just ask Cigna, Standard of Oregon, Paul Revere or Monarch, UNUM's major competitors, who are trying to keep up with the trend-setter.

Orr likes to point out that one of the reasons UNUM is doing so well is it didn't chase high yields or buy "junk bonds" indiscriminately in the '80s, as did other insurers now scrambling to survive. When UNUM saw problems developing in the commercial real estate market, Orr led the company to reduce its mortgage commitments.

Now, only 23 percent of UNUM's invested assets are in real estate, down from 41 percent in 1985, and only 3 percent are delinquent mortgages, below the industry average. High yield junk bonds comprise just 2 percent of UNUM's invested assets, with the largest in Time Warner Inc. the publishing/entertainment conglomerate.

As UNUM has prospered, so has Maine. Figures provided by the company report 1990 expenditures in Maine totaled $154,488,000. Of that, $115,500,000 was in salaries to UNUM's 3,400 workers here. Purchases, including real estate and utilities, amounted to $35 million; charitable donations, $1,020,000; and taxes, $2,968,000.

Financial analysts say southern Maine's economy would be devastated if UNUM pulled out for a more internationally central location. But Orr says Mainers shouldn't worry. UNUM's home office is in Portland for good, although there are about 100 field offices elsewhere.

Frankly, Orr says, UNUM's presence in Maine says nothing positive about the state's business climate. In fact, almost all of UNUM's business is done outside the state in major metropolitan areas of the country.

UNUM put down its roots here in 1961 because of a friendlier regulatory situation than in Boston, where the company started 30 years earlier. "I'd say Maine's a great place to be. We're very happy to be in Maine," says Orr. "But in the classic sense, the business climate is not great. That's not to say that business shouldn't locate here, he says, although business studies rank Maine "quite low on their list * * * there is the quality of life and other factors that play into the decision. From a recruiting perspective, Maine "is a tremendous advantage, because it is such an attractive place to live."

A $1 MILLION A YEAR PAYCHECK

Although the marriage of Jim Orr and UNUM has been relatively short, it's already hard to separate the two. Orr will talk about the company all day, but he doesn't like to focus on himself.

Since he constantly travels outside Maine and isn't a regular among Portland's social elite, Orr is something of an enigma, even to neighbors and the local business community. But bits and pieces of Orr's life are in the public domain.

Business Week reported last May that Orr earned $1,026,000 in salary and bonus in 1990—a 6 percent increase over the previous year and in the ballpark with the CEO's of Zerox, Gillette, CBS and Dow Jones.

every night. Many businesses that UNUM

partment's "E" Award for excellence in

In my home State of Connecticut, as

Records at the Falmouth tax assessor's office value Orr's two-acre waterfront property and home in Falmouth at $900,000; he pays $14,311 in taxes.

He and his wife, Ann, and daughters Brook, a student at Bates College, and Sage, a student at Waynflete, belong to the exclusive Woodlands Country Club. They take mini-vacations from time to time in England and the Rockies.

While Orr says he likes the "high quality lifestyle" in Maine, he doesn't appear to have ostentatious habits that his wealth would support. He prefers skiing at Sunday River resort in Bethel to Vail or other posh Western ski towns and sails off Falmouth rather than in the Caribbean.

The times he attends social functions in Portland—at the art museum or symphony—he's there more for business than for personal reasons, according to one patron. He doesn't booze or schmooz or go to local restaurants. There's nothing he likes better than reading a hefty political biography at home.

Orr travels half of his work life outside Maine to meet with managers at other UNUM offices, talk with investment analysts, brokers and clients. He is often asked about the impact of work on his family life. "I spend a lot of very, very high quality time with my kids. You have to deal with the [work and separation]. And I think we're dealing with it very comfortably."

Orr's sleek and crisp inner sanctum is on the seventh floor of Two Portland Square, with a spacious view of Portland harbor. While company headquarters is no more luxurious than leading law offices in the city, the atmosphere is tangibly different. UNUM feels like a global home office, and in the lobby has the different world capital clocks typical of an international headquarters. There's an intensity in the air, heightened when Orr's "manager" ushers him from meeting to meeting—on time.

At 48, Orr is as attractive a CEO as they come, tall and fit-looking in his well-tailored suits, with penetrating blue eyes and salt-and-pepper hair. A furrow on his forehead, laugh lines and a dimple in his chin are beginning to add "character" to his handsome face that could grace the pages of Esquire or Vogue. He prefers his jacket off as he glides around the office and drinks pineapple juice for a mid-morning energy boost.

While he seems to be a smiling, easy-going CEO, Orr is clearly focused on accomplishing the maximum moment to moment. If he's not a textbook workaholic, he's close, putting in at least 11-12 hours a day, attending two or three night meetings a week and rarely spending a full weekend "off".

But he believes in civic responsibility and serves as a trustee at Bates College, Maine Medical Center and Peoples Heritage Financial Group. He's chairman of the Maine Coalition for Excellence in Education and a director of the New England Colleges Fund, Nashua Corp., Grumman and the American Council of Life Insurers.

How much of value does he really contribute, given his travel schedule? "Very little," says Orr. Explaining himself, Orr says the board is "really there as a back-stop to fire the CEO, to represent the shareholders' interests, to assess management and to [weigh] the reasonableness of the strategic plan. The board is not there to run the operation."

"If I'm on a board, I attend the meetings . . . [but] I really do it because it's one of the few ways I have to talk to people outside, get input and a broader perspective on business and the economy," Orr says. "I get a lot of very good information that helps me in my role in this company. Someone in my role has very few people to talk to. It's hard to really have an indepth discussion and get challenged on things, and you're forced to think about things differently. A board is a vehicle that really helps with that."

While being a CEO may be lonely at times, it's a job Orr always knew he wanted. Raised in Minneapolis, Orr's father was in the electronic business and traveled around the world, and his mother was a writer and housewife. He couldn't think of any specific events that shaped his life. But he was obviously influenced by his father's work and "academic" interests, he says.

Orr is a graduate of Villanova University in 1965, where he majored in science and was a track star. He received a master's degree in business administration from Boston University in 1970. He began his career with a major Boston bank and subsequently spent several years in the securities industry in New York and Boston. He was a principal in a Boston-based, privately held investment firm from 1969 to 1975.

Orr spent over 10 years with Connecticut Bank & Trust (CB&T) as executive vice-president and treasurer in Hartford. He was a well regarded, top line officer but didn't show exceptional managerial talent, according to one source who knew him at the time.

But Orr made "a great move to leave a ship [CB&T] that was the Titanic," says Portland financial analyst Gerard Cassidy of Tucker Anthony Inc. by the time Orr departed, CB&T had become part of the Bank of New England, which collapsed last January.

Just before Orr was hired by UNUM, then-chairman Colin Hampton made a radical move in transforming the company from a mutual owned by policyholders to a publicly traded firm. But Orr was the one tapped to make demutualization work, in the wake of declining earnings and stock.

ORR'S BLIND SPOT

Price competition and skyrocketing costs had caused UNUM to post $70 million in losses for the group medical sector over two years. Orr moved quickly to slash about $25 million a year in expenses by cutting costs, eliminating 200 jobs at headquarters, and lopping off the medical sector and other programs draining UNUM. He redirected more money into sales and marketing to strengthen the core product, long-term disability.

Also, Orr began buying back UNUM stock, which benefited shareholders. Since 1988, UNUM has purchased 33 percent of its outstanding shares. "Frankly, investing in ourselves was one of the most attractive things we could do," he says. "We're presented opportunities every day to spend money. But there are very few out there that meet our strategy standards." He denied it was a move to thwart a potential takeover.

Analyst Steve Hirshon of Maine Securities Inc. gives Orr credit for "keeping employee morale intact" during the restructuring period.

Orr began by linking employees' earnings with the company's goals and performance. In other words, they take home cash bonuses when the company meets the target for earnings per share, as well as less tangible goals, such as improvements in customer services. After UNUM exceeded its 1990 goals, workers received 9 to 14 percent of their salary as a bonus, depending on seniority.

With so much success, it's easy to wonder if Orr has ever stumbled at UNUM. It's hard to pinpoint, he says. "If you look back, it's my not understanding somebody or missing an assessment of an individual. It's very important to me to understand how somebody's wired up. I've made some real blunders on what makes somebody tick and as a result trying to fit them in the right way and put the pieces together correctly."

He admits to increasing trust in his intuition about people and the company, the older he gets. "Maybe because I'm a deductive thinker, I always pooh-poohed intuitive thinking. But I must say more and more I rely on a more intuitive feel for things. Then I think it's coming to some wisdom in life. You have a reservoir down there that sits there, and you don't have to see it, feel it and touch it. But it's there, and I can rely on it. I do more and more of that."

HIGH-TECH TALK

UNUM employees give Orr high marks for UNUM's responsive working environment.

To start with, he encourages workers to use the electronic message system to talk to him. They can use their own desk terminals or sound off anonymously from computers in the lobby.

UNUM operates its own child care center and gives employees three months paid leave for childbirth, for adopting a child and for eldercare. Employees are reimbursed for child care costs when they're traveling, and workers who have school-aged children are allowed seven-and-a-half hours off from work for school-related activities as well as three "personal days" during the year for doctors' appointments and other personal matters. UNUM also has a wellness center for employees to exercise, provides access for the handicapped and keeps employees educated about AIDS.

Working Mother magazine's October issue included UNUM in its list of 85 "family friendly" companies, and a year earlier, *Good Housekeeping* named UNUM among its 69 companies for working mothers.

Although Orr graciously credits his staff for coming up with most of the new ideas around the office, he's the one who ultimately approves their implementation. Orr's concern about workers is also revealed in his approval of continuous employee education and retraining (a $3 million a year program) and his involvement in educational reform. Orr serves on a national board studying educational restructuring, as well as on the Maine Coalition for Excellence in Education.

The malfunctioning educational system has hit home at UNUM because the company recruits 75 percent of its employees in Cumberland County. UNUM has found in recent years that many high school graduates lack basic skills in math and communications. "The point is we can train our people to work as customer service reps, underwriters or managers," he says. "But we cannot teach the basic academic, reasoning and social skills they need to function in our training program. No business can."

To boost school improvement efforts, UNUM has contributed $1.1 million to fund a University of Southern Maine effort to improve teaching the $440,000 for the non-profit Maine Aspirations Foundation to raise personal, career and academic goals of students. UNUM also has contributed $60,500 to the Portland Partnership, an effort initially funded by UNUM in 1989 to encourage parent and community involvement in the city's public schools. The donations, spread over five years, also include contributions of time and technical assistance from UNUM employees.

TOWARD A GLOBAL FUTURE

With everything going so well, does Jim Orr sleep soundly at night? Certainly not

every night. Many businesses that UNUM targets (the 50 to 1,000-employee firms) are reassessing their health care spending. And UNUM must continue to convince these employers, suffering from the current recession, that long-term disability is worth the average 2 percent of their payroll.

One way UNUM keeps clients and beats the competition is to invest about $3 million a year in "benefits management," a nice way of saying it tries to uncover malingerers and help claimants get on Social Security, thus lowering UNUM's payout and the client's premiums. The effort includes investing in rehabilitation programs to shorten the "long term" of the disability coverage. To compete with UNUM's expertise, competitors have cut their policy prices. Allstate slashed its up to 15 percent to lure away some of UNUM's business but gave up.

UNUM's secret weapon is a huge database with 38,000 group clients and about five million individuals. The volume helps UNUM price its risks better than competitors.

No crystal ball is needed to predict UNUM's future. It's a favorite topic of Orr's and must make the competition squirm. In two words, UNUM is on an acquisitions hunt.

"We're going to be sitting here in 1998, the 150th anniversary year, and the insurance industry will look very, very different," he says. "There's no question there will be more and more international competition, and we've got to prepare this institution for that."

The company recently acquired National Employers Life, the leader in permanent health insurance in the U.K., with about 40 percent of the group market. UNUM's position in Canada was greatly enhanced last year when it bought the individual disability business of Constellation Life of Toronto.

Orr is looking across both oceans because the Swiss and Japanese spend more per capita on insurance than any other nation. And only 20 of the 50 largest insurance companies— and only four of the top 10—are headquartered in the U.S. Orr likes to note that the largest insurers—in terms of premiums, revenues and total surplus—are the Japanese. The insurer with the highest stock market value is German. Most important, Orr says, European and Asian insurers are growing at a much faster rate than those in the U.S.

"We'd like to have a leadership presence in the world's three major trading blocs—North America, Europe and the Pacific Rim—in time for our 150th anniversary as a company in 1998. We want to be a major international player in this industry. And I believe we're well on the way toward that goal."

G.E. MEDICAL SYSTEMS OF FLORENCE: LEADING THE WAY FOR AMERICAN INDUSTRY

Mr. HOLLINGS. Mr. President, one of the striking qualities of the American free-enterprise economy is its ability to renew itself in response to the challenge of recession and foreign competition. We in South Carolina take tremendous pride in being on the cutting edge of that innovation. Time and again, South Carolina industries have been recognized for excellence and innovation. To cite just two recent examples, Milliken & Co. won the prestigious Baldrige Award in 1989, and earlier this year Greenville Machinery Corp. of Greer won the Commerce Department's "E" Award for excellence in exporting.

Mr. President, the elite ranks of American industry were joined this month by General Electric Medical Systems of Florence, SC, which was awarded the 1991 PEPI Showcase Award by the Positive Employee Practices Institute. Each year, the institute surveys plants and divisions of Fortune 500 companies to identify the unit which has achieved the most dramatic results by motivating and empowering its workforce.

Since 1988, G.E. Medical Systems has operated with a self-managing work force in which employees set their own priorities, schedule their own work, track their own production goals, and take corrective action to ensure high-quality products. The result at G.E.'s Florence plant has been a 50-percent reduction in labor and material costs, plus sharp productivity gains in each of the last 3 years.

Mr. President, since the plant set its new course in 1988, G.E. Medical Systems has been an outstanding case study in successful employee self-management. Thanks to this PEPI Showcase Award, G.E.'s example will now be studied nationally and internationally. I salute all the men and women of G.E. Medical Systems in Florence. They have done South Carolina proud. And they are leading the way for American industry.

THE REAUTHORIZATION OF THE HIGHER EDUCATION ACT

Mr. DODD. Mr. President, I would like to take this opportunity to commend my colleagues on the Labor and Human Resources Committee, especially Senator PELL and Chairman KENNEDY, for their leadership and success in moving the reauthorization of the Higher Education Act through the committee process.

I, along with the other members of the committee, have spent the last few months working to reauthorize this historic legislation.

This is a strong bill that works to expand access to higher education to every person, regardless of family income, gender or ethnicity.

Access has become increasingly more difficult over the last decade, as the percent of Federal aid to students in the form of grants has dropped dramatically from 76 percent to 29 percent.

In 1980, the average Pell Grant covered 41 percent of tuition costs. Currently, Pell grants only cover, on average, 26 percent of tuition costs. This has forced the most needy students to supplement their grant awards.

Can the families hit hardest by these reductions be asked to sacrifice even more? Not in these extremely difficult economic times. It will be a travesty if families are forced to deny their children a college education.

In my home State of Connecticut, as well as throughout the rest of the country, many families are struggling as it is. Their income levels are too high to be eligible for Federal grants but too low to afford a college education.

Skyrocketing tuition costs and reductions in Federal aid have made higher education unaffordable for some and a tremendous burden for many, preventing some from achieving what they were raised and taught to strive for—the American dream.

The reauthorization of the Higher Education Act works to make the American dream a reality for lower and middle-income families.

It will expand Pell grant eligibility and grant levels to help more families—at a time when they need help the most.

It increases availability of loans to more middle-income families and increases the amount of loans.

It simplifies the student aid application process.

It improves program integrity to reduce levels of default.

It assures the financial stability of intermediaries in the student aid process.

It works to increase the supply and availability of teachers as we will be faced with huge shortages in the very near future.

It provides help to rebuild college and university facilities.

These sweeping proposals will represent a renewed and bolstered Federal commitment to improving access to educational opportunities.

Mr. President, while we will not have time to complete action on this measure this year, we cannot allow the day to come when colleges and universities are only accessible to the very rich and to the very poor. The future of this nation rests in our hands and we must respond and respond quickly.

ADM. DENNIS MATTHEW BROOKS

Mr. SHELBY. Mr. President, I rise today to express my thanks and to congratulate Rear Adm. Dennis M. Brooks who will be retiring on January 1, 1992, after 34 years of active duty with the U.S. Navy.

Admiral Brooks and I grew up together in Alabama. While I went on to the University of Alabama, Dennis received a much deserved appointment to the U.S. Naval Academy. He was commissioned an ensign in 1957 and was designated a naval aviator in February 1959. Admiral Brooks has served in six fighter squadrons, commanded Fighter Squadron 51 and Fighter Squadron 121 *and* accumulated over 4,500 hours and 990 carrier arrest landings in F-8 and F-4 fighter aircraft. Admiral Brooks' major sea commands include the U.S.S. *Kansas City* and the U.S.S. *Constellation.*

Following the command of the *Con-* vate practice of law in Florence for quent the probate office, she is under-

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European Community and now the Armenians in Nagorno-Karabakh. Due what the IMF's current assets are used

Following the command of the *Constellation*, Admiral Brooks assumed various commands in the Pacific including command of San Diego-based Carrier Group 7, Battle Group Bravo in the Indian Ocean and Carrier Group 5/Carrier Strike Force 7th Fleet/Battle Force 7th Fleet, Homeported in Subic Bay, Philippines. In September 1987, Admiral Brooks assumed command of all U.S. armed forces in the Persian Gulf region as commander, Joint Task Force Middle East. Admiral Brooks, then served as the director of Warfare Systems Architecture and Engineering at the Space and Naval Warfare Systems Command from September 1988 until he assumed his present position as director, Defense Support Project Office and deputy director for Operations, J-3 National Systems Support, the Joint Chiefs of Staff in August 1990.

Admiral Brooks has received numerous medals and awards during his 34 years of active duty. This impressive list includes the Defense Superior Service Medal, The Legion of Merit with three gold stars in lieu of a fourth award, the Navy Commendation Medal and the Joint Meritorious Unit Award in the Persian Gulf.

Admiral Brooks is married to the former Delores Katherine Gober, of Birmingham, AL. Lorrie and Dennis have three children. Son, Mark is a 1985 Graduate of the U.S. Naval Academy and a naval aviator. Their daughters, Amy and Allison attend the University of West Florida.

Mr. President, Adm. Dennis Brooks has given his entire adult life to the service of our country. He is about to take a well-deserved retirement. He and his wife Lorrie are returning to our home State of Alabama and will be residing in the Pell City area. His leadership, expertise and good counsel will be missed and is deserving of our Nation's gratitude for his efforts in our behalf.

TRIBUTE TO UNITED STATES DISTRICT JUDGE BERT HALTOM

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a close personal friend and a truly outstanding individual, E.B. "Bert" Haltom, Jr., who is assuming senior status as a U.S. District Judge for the northern district of Alabama effective January 1, 1992.

Bert was appointed to his lifetime Federal judicial office by President Jimmy Carter, and became a member of the U.S. District Court for the Northern District of Alabama on June 6, 1980. His official duty station since September 6, 1981, has been in Huntsville, AL, an area known for complex cases due to its high technology industry and space-related activity. Upon taking senior status, Bert will move his office to Florence, AL, his hometown.

Prior to taking office as a Federal district judge, Bert engaged in the private practice of law in Florence for over 30 years. His extensive practice as an attorney covered almost all areas—personal injury, labor law, civil rights, probate, banking, domestic relations, and so on. In the past, I tried cases with him and against him. He represented many indigent defendants as appointed counsel and demonstrated commitment to equal justice. He was one of the finest trial lawyers that Alabama has produced during my lifetime. His trial ability was honored by his selection to the fellowship of the American College of Trial Lawyers of the International Society of Barristers.

In 1948 Bert graduated from the University of Alabama School of Law, where we were classmates. He served 8 years as a member of the Alabama Legislature, including one 4-year term in the House of Representatives and another 4-year term in the Alabama Senate. He also served in World War II in the U.S. Air Force, Flying 35 combat missions in the European theater of operations as a ball turret gunner on a B-24 bomber.

Bert is a member of the American and Alabama Bar Associations. His service as a U.S. district judge was superb—he served on many committees and associations of Federal judges, and was recognized as one of the outstanding jurists of the Federal bench. He is married to the former Constance Boyd Morris and has one daughter and two grandchildren.

Judge Bert Haltom's outstanding legal abilities are only matched by a warm, friendly, compassionate personality. I salute him for his past service, and I wish him well in the coming years.

TRIBUTE TO RUTH OSBORNE

Mr. HEFLIN. Mr. President, Ruth Osborne will be retiring November 30 after 30 years as the chief clerk in the Franklin County, Alabama, probate judge's office. She has spent these many years running the office and cheerfully greeting people as they passed by her desk.

During her tenure in the probate office, Ruth Osborne has served with four judges: W.W. Weatherford, Jimmy Byars, Hal Kirby, and, most recently, Larry Jackson. She was hired by Judge Weatherford in 1961, and probably has met everyone in Franklin County on at least one occasion during her career.

What made her service so special was her ability to truly do it all. Her daily duties ranged from handling probate records to assisting in weddings. She dealt with virtually every conceivable situation, and always knew how to handle any problem or circumstance that arose. Ruth contributed a lot to Franklin County and its people, and meant a great deal to the probate office.

Although Ruth will be sorely missed by her coworkers and those who frequent the probate office, she is understandably looking forward to her well-deserved retirement. Mother of four and grandmother of nine, she is very active in several civic organizations, so she will have plenty to fill her time. She also plans to travel and work with different groups in her area.

Mr. President, I wish to congratulate Ruth on a long and distinguished career and extend to her my best for a happy and healthy retirement. I will share a word of caution, though: during any visits to the old office, don't let your former colleagues put you to work.

HUMAN RIGHTS AND SELF-DETERMINATION FOR KOSOVA

Mr. PRESSLER. Mr. President, while most of Serbia's tanks and troops have been ravaging lives and democracy in Croatia, other tanks and troops have been sent to wage war against the Albanian people of Kosova.

Serbian-controlled Federal troops have amassed a large arsenal of weapons to crack down on the people of Kosova. All universities have been closed by the authorities. The authorities have forbidden the use of the Albanian language. Military rule essentially dominates Kosova. Within the last few days alone, six Albanians have been killed. Many other Albanians have been forced to flee from their homes. In all, between 15 percent and 18 percent of the population has fled Kosova.

Most of those fleeing Kosova are young men under the age of 40, who are leaving to escape forced conscription into the Yugoslav Federal Army. Many Albanians in the Yugoslav army have defected. While many have escaped, others are presently being held hostage by the Federal authorities.

Mr. President, the right of these men to refuse to serve in the very army that is being used to kill innocent civilians in Croatia should be protected. Indeed, such protections are recognized under international law. According to the Geneva Convention of 1951, no one can be forced to serve in the ranks of an occupation army. Few can deny that the Yugoslav Army is a brutal occupying force in Kosova.

Hundreds of thousands of Yugoslavian refugees are now seeking political asylum in Europe—most in Switzerland and Hungary. Their plight demands a humanitarian solution. To turn them back would be an assignment to death. These refugees should be granted political asylum or some other temporary humanitarian status. Under no circumstances should they be deported.

Mr. President, I am horrified at the daily massacre of innocent civilians by Federal troops loyal to Serbia's Communist dictator—Slobodan Milosevic. Despite 14 cease-fire attempts by the European Community and now the United Nations, the war wages on.

As an original cosponsor of a comprehensive sanctions bill, S. 1793, against the Serbian Government, it is obvious to me that the Serbian Government will not listen to diplomatic pleas. The recent step to initiate sanctions against Yugoslavia is not enough. These sanctions are not directed against the people of Serbia. They are aimed at their oppressors.

Mr. President, I am also an original cosponsor of a resolution with Senator D'AMATO expressing the sense of the Senate regarding recognition of, and establishment of diplomatic relations with Croatia, Slovenia, Bosnia-Hercegovina, Kosova, and Macedonia.

In a democratic referendum on September 26, 1991, the vast majority of the citizens of Kosova approved independence. This step was not a hasty one. The Government of Kosova has attempted for the last 2 years to reason with the Federal Government. In response, the Federal Government has stripped Kosova of its status as an independent republic.

Mr. President, I urge a world-wide humanitarian response to Kosova's plight. Serbia's war must stop before the current reign of terror claims any more lives.

SUPPORT FOR THE PEOPLE OF ARMENIA

Mr. PRESSLER. Mr. President, today I rise to express my concern over the situation in Soviet-occupied Armenia. The people of Armenia have embraced democracy and voted freely for a President. Yet today, perhaps because of their moves toward representative government, they are subject to repeated attacks by their neighbors—the Azerbaijanis.

Today, armed groups of Azeri militia sealed off Armenian-inhabited Nagorno-Karabakh and began shelling its capitol, Stepanankert. This unprovoked use of force follows a comprehensive blockade of gas to Armenia which began on November 4. The cutoff of gas supplies comes in the midst of winter. Shortages of many essential goods are rampant. Unfortunately, all major roads and the railroad pass through Azerbaijan before reaching Armenia—one of the many nightmares of Soviet central planning and distribution.

The current blockade is not the first time that the Azerbaijani Government has used its geographically favorable position against the Armenian people. Blockades of Armenia have been instituted before—before and even following the tragic earthquake in Armenia 2 years ago.

Mr. President, the government of Azerbijan is attempting to intimidate the Armenian people into ending its support of self-determination for the Armenians in Nagorno-Karabakh. Due to crackdowns by the Azerbaijan authorities, 300,000 Armenian refugees have been forced to flee for their lives. This has created a tragic human rights situation and has left many people homeless.

The situation between Armenia and Azerbaijan is often misrepresented as an ethnic dispute on a level playing field. This is just not true. The Azerbaijanis have been aided intermittently by the Soviet military. Specifically, the Soviet military and the Azeri militia have taken joint military actions to depopulate Armenian villages in Nagorno-Karabakh. In many instances, Soviet forces have stood by and watched while Azeri militia have attacked innocent civilians. The cause of peace in this area of the world would be greatly aided by the withdrawal of all Soviet and Azerbaijani military forces from Nagorno-Karabakh.

We cannot stand by silently and watch the starvation and brutalization of the Armenian people. The United States has a moral imperative to speak out against Azerbaijan's cruel blockade and other bullying tactics.

I support the conditioning of any technical assistance and/or food aid to Azerbaijan upon the immediate cessation of its economic blockade of Armenia, the end of violence in Nagorno-Karabakh, and Azerbaijani respect for self-determination for all Armenians.

In addition, I urge the President to use his good offices to urge the Azerbaijan Government to lift immediately the blockading of railroads into Armenia and end the shelling of Nagorno-Karabakh.

Mr. President, I yield the floor.

INTERNATIONAL MONETARY FUND REPORT

Mr. BROWN. Mr. President, I want to take a moment to bring to my colleagues' attention the upcoming release of a report on the International Monetary Fund, or IMF. The report's release takes on a special significance when you remember that Congress has yet to approve the administration's request for a $12 billion increase in the IMF's quota.

I am told by the Alexis de Tocqueville Institution, which sponsored the report, that it was conducted in a bipartisan manner to uncover the facts surrounding the IMF and their loan policies. Mr. Greg Fossedal, the institute's chairman, charged Joe Cobb, a noted economic analyst, to lead the analysis with the help of other noted economists on this tough project. We've needed a thorough, factual, outside look at the IMF for a long time. This report should be a start in that direction.

Treasury's report released in May of this year is filled with rhetoric, but provides little hard documentation on what the IMF's current assets are used for, whether IMF policies are successful or not, and how IMF programs are structured. For those of us here in the Congress who are being asked to increase the fund's capitalization for the second time in a decade by billions of dollars, rhetorical assurances should not be enough. We need cold, hard facts.

I am told the de Tocqueville Institute's several-hundred-page report will give us a good start at some of those facts. It will look at the detailed implications of IMF policies for countries receiving IMF loans. Specifically, the report attempts to look at exactly how IMF programs are structured and what is included in conditional IMF loan packages for borrowing countries.

I am certain this project was very difficult, especially getting specific data on the IMF from our Government or directly from the IMF. Frankly, Mr. President, when we're talking about $12 billion of U.S. taxpayer money, our citizens have the right to know exactly what's being done with our money. Getting clear information from our Treasury Department on IMF programs—the numbers for the conditional deals behind the rhetoric—should be easy, not nearly impossible.

The de Tocqueville Institute's preliminary estimates uncovered interesting facts. Between 1985 and 1988, 47 IMF-sponsored arrangements involving monetary policy were studied. Nine involved fixed exchange rates, 6 involved adjustable pegs, 10 provided for a real-exchange rate rule and 22 of them were a complete float. However, the institute's study has uncovered a greater willingness on the part of the IMF since 1989 to experiment with fixed currency rates as a means of ensuring a stable economy. Especially important are results from Argentina's attempt to link their currency directly to the dollar. In the last 6 months, with the two currencies linked, Argentina's inflation has remained below 4 percent and economic growth continues above 3 percent of real GNP without wild fluctuations characteristic of the Argentine economy only a short time ago.

I am told the report also looks at IMF claims about the importance of privitization. The fund has placed an increasing rhetorical emphasis on privitization, but preliminary analysis shows the Fund has actually given much less emphasis to it than to other areas—budget balancing, for instance. To assist a nation in improving its tax collection, the IMF has sent in dozens of tax specialists, but has nothing similar for privitization.

Mr. President, during the coming break, I hope my colleagues, their staffs, and the news media will take time to read the de Tocqueville Institution's report on the International Monetary Fund—especially before we vote to spend $12 billion to increase our investment in the IMF.

I thank my colleagues for their attention.

AUTOMATED TELEPHONE CONSUMER PROTECTION ACT

Mr. PRESSLER. Mr. President, I support Senate passage of S. 1462. This legislation is the result of a House and Senate conference on comprehensive telemarketing legislation. It incorporates legislation Congressman MARKEY introduced in the House of Representatives and I introduced earlier this year in the Senate, and legislation introduced by Senator HOLLINGS. S. 1462 contains the provisions I first suggested in S. 1410, which passed the Senate earlier this year. I introduced this legislation in response to the national outcry over the explosion of unsolicited telephone advertising. I want to thank Chairman HOLLINGS and Chairman MARKEY for their efforts both to forge an agreement on our three bills.

Mr. President, consumers in my home State of South Dakota are fed up with the annoyance of unwanted telephone solicitations. Unlike other communications media, the telephone commands our instant attention. Junk mail can be thrown away. Television commercials can be turned off. The telephone demands to be answered.

People are increasingly upset over this invasion of their privacy by unrestricted telemarketing. In fact, the consumer backlash that has arisen from the cost and the interference of unsolicited telemarketing calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. The complaints of consumers have been heard.

This past June, we held hearings in the Commerce, Science, and Transportation Committee on S. 1410. During these hearings, we received testimony from consumer advocates, private citizens, and representatives of the telemarketing industry. The testimony we received was clear. The Federal Government needs to act now on uniform legislation to protect consumers.

The primary purpose of this legislation is to develop the necessary ground rules for cost-effective protection of consumers from unwanted telephone solicitations. These rules should allow responsible telemarketers to reach consumers who are most responsive to this form of solicitation, while eliminating the cost and time of contacting those individuals who would be least responsive.

To accomplish this balanced approach, the substitute we have before us today directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. This type of consumer protection has already been used with great success in the State of Florida. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange.

Some objected to the original legislation because of the extent to which it outlined the safeguards necessary for the creation of a national database. While I personally believe that an electronic database will give the most promising protection for consumers, we recognize that newer technologies could be used more effectively in the future. It is important to note that certain anti-competitive questions may arise as a result of the form of protection the FCC chooses. For this reason, it is important for the FCC to keep a close watch on the impact of its rulemaking on businesses that compete with larger monopolies.

We included in this substitute a provision that directs the FCC to examine whether local telephone solicitations by small businesses and second class mail permit holders should be subject to the same FCC regulations that would apply to all other telemarketers. Many small businesses conduct responsible telemarketing in the local areas they serve. Since their business depends upon their good standing in the community, they conduct their own telemarketing in a very respectable way.

We include in this bill an exemption for businesses that have an established business relationship with their customers. For example, if Citibank's credit card operation needed to inform customers about new services it intended to provide to their credit card customer, clearly this contact would be allowed.

The effect of this legislation will be to prohibit "cold calls" by any telemarketer to the telephone of a consumer who has no connection or affiliation with that business and who affirmatively has taken action to prevent such calls. Many responsible telemarketers have told me that this will save them both time and money by reaching only those people who are most likely to respond positively to their solicitations.

S. 1462 also addresses problems arising from computerized calls. Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers.

This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment. There have been many instances of auto-dial machines hitting hospital switchboards and sequentially delivering a recorded message to all telephone lines. In some cases, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phones inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, the substitute requires auto-dialer machines to release the phone line automatically after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call.

This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. The substitute bill requires that auto-dial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

While our substitute will not end all unsolicited calls, it will give back to consumers the freedom to choose how their telephones are used. The balanced approach we take in the Pressler-Markey-Hollings legislation, will finally give consumers relief from modern door-to-door salesmen who now have the unrestricted ability to invade the privacy of our homes at any time.

Mr. President, I ask unanimous consent that several articles in support of this legislation be placed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Nov. 22, 1991]

Putting Limits on Autodialers

Ever had a pleasant dinner interrupted by a telephone call, only to hear a tape-recorded voice greet you with an offer of something to buy? Then you may think there is nothing but good in congressional efforts to put a stop to such annoyances.

That reaction is perfectly understandable but not entirely wise. Autodialers may not be to everyone's liking, but they have value to some buyers and sellers—otherwise, they would vanish on their own. Fortunately, there are ways to deal with the aggravations and abuses without barring the machines altogether.

Autodialers have grown in use because, as a New York Times story put it, "they don't eat, they don't sleep and their feelings never get hurt when people curse them or hang up on them. They just call and call and call—each one up to 1,500 times a day."

By one estimate, these gadgets make 20 million calls a day in the United States, flogging a wide variety of goods and services. Most consumers, no doubt, hang up within seconds, if not milliseconds, but enough stay on the line to listen—and buy—that many companies wouldn't think of doing business without them.

They create problems beyond the interrupted meal. They can tie up phone lines, even after victims hang up, overwhelm electronic paging services and inflict unwanted expenses on cellular phone owners, who pay for incoming as well as outgoing calls.

The Senate recently passed two measures dealing with autodialers—one good and one bad. The good one, sponsored by Larry Pressler (R-S.D.), directs the Federal Communications Commission to either let consumers shield themselves by registering their numbers or to put the autodialers all on one exchange, enabling consumers to block their calls. The bad one, offered by Ernest Hollings (D-S.C.), bans autodialers from calling either fax machines or homes.

Hollings' blunderbuss approach would not only penalize businesses and consumers that benefit from autodialers, but probably run afoul of the Constitution as well. The 1st Amendment protects the freedom to speak—even by phone and even by recording. If Congress can't outlaw indecent messages provided by "phone sex" services—as the Supreme Court has ruled—it presumably has to be careful with broad prohibitions on the delivery of messages by autodialer.

A better approach is to zero in on clear abuses. A House bill would ban calls to emergency lines of health care facilities, police and fire departments. It would put pagers and cellular phones off limits. And autodialers would be required to disconnect after the person called hangs up—something not all do now.

Lawmakers should keep in mind that while recorded solicitations may be annoying to most consumers, they perform a valued function for some. It isn't too much to ask that Congress, in trying to protect the former, should also accommodate the interests of the latter.

[From the New York Times, Nov. 8, 1991]

Senate Votes Dialer Ban

Washington, Nov. 7.—The Senate unanimously approved bills today that would virtually ban the use of automated dialing machines in telephone marketing and would make it easier to block unwanted calls by live sales representatives.

The first measure, sponsored by Senator Ernest F. Hollings, Democrat of South Carolina, would make it illegal to use machines that automatically call homes and play recorded sales pitches, unless a person has given specific written or spoken permission.

A second measure, sponsored by Senator Larry Pressler, Republican of South Dakota, would instruct the Federal Communications Commission to adopt rules to help people block both live- and computer-delivered sales calls.

[From the Washington Post, Nov. 19, 1991]

House Votes to Restrict Calls by Telemarketers

(By Cindy Skrzycki)

The House of Representatives yesterday passed legislation to restrict telemarketers who dial some 38 million Americans every day with unsolicited commercial telephone calls, selling credit cards, aluminum siding, children's photographs and uncounted other products.

The bill, which passed by a voice vote, has to be reconciled with two initiatives approved by the Senate that also take aim parimarily at auto-dialers, which are computers that spew prerecorded messages. Differences in the bills should be ironed out by the end of the week, said a staff member on the House telecommunications and finance subcommittee.

Once a compromise reaches the White House, however, its fate is less certain. The Bush administration has raised objectoins to taking away or regulating one of business's most potent and economical marketing tools.

Nevertheless, the issue of blocking unsolicited sales calls generated by humans, computerized machines or facsimile machines isn't likely to go away as millions of Amercians find their dinner hours interrupted by telephone sales calls, sometimes from machines that refuse to free the line.

"When people get home from work, they deserve some peace and quiet," said Rep. Edward J. Markey (D-Mass.), sponsor of the House bill and chairman of the subcommittee on telecommunications and finance.

The House bill attempts to balance the privacy rights of individuals against the rights of businesses that may be using telemarketing not to solicit but to reach customers to warn of an electrical power test or a delinquent loan.

The Senate bill, sponsored by Sen. Ernest Hollings (D-S.C.), proposes to ban all computerized calls to the home unless the party consents to receiving them. In contrast, Markey's bill would charge the Federal Communications Commission with coming up with a way to protect consumers from commerical solicitations.

The House bill does allow businesses with established relationships to call even if a name shows up on an industry "do-not-call list." Contact would stop if the consumer objected again to being called.

The House bill prescribes additional restrictions for auto-dialers: The machines would have to identify themselves and hang up as soon as possible. They would not be allowed to call emergency phone lines, or mobile or cellular phones.

Also, the House bill requires faxes used for advertising to include the identity and telephone number of the faxer. It also asks the FCC to consider banning "junk faxes."

The Hollings bill places an outright ban on unsolicited faxes unless there has been some prior consent from the consumer.

Under the Markey bill, the FCC would have about a year to explore the best way to protect the privacy of residential telephone subscribers, an approach that is also suggested by Sen. Larry Pressler (R-S.D.) in a bill that passed the Senate earlier this month.

Some of the alternatives the FCC might consider include a national electronic database of people who do not want to be called, the use of new telephone technology to block such calls, or special markings such as an asterisk in the telephone book.

Studies done by telephone companies and other organizations show that automated telemarketing, which has grown into an industry that generates $435 billion in sales, is a growing irritant to Americans who feel the telephone is invading their privacy.

[From the Baltimore Sun, Nov. 19, 1991]

Senate, House Hang Up on Telephone Solicitors; Both Houses Passed Similar Legislation

(By David Hess)

Washington.—If you're being annoyed by telephone sales pitches from total strangers—or even worse, a computer—help may be on the way.

The House voted without dissent yesterday to short-circuit those nuisance phone solicitations. The Senate already has acted, and minor differences in the two bills are expected to be resolved quickly.

"The aim is not to eliminate the Brave New World of telemarketing," said Representative Edward J. Markey, D-Mass., "but rather to secure the individual's right to privacy."

According to Representative Markey, some 300,000 companies use the phones to make unsoliciated sales pitches to 18 million Americans every day.

Under Mr. Markey's bill, if you don't want to receive calls from the telemarketers, you could ask the Federal Communications Commission—or its designated agent—to put you on a "Don't Call" list. Any call after that would be illegal, and the caller would be subject to a fine of up to $1,500.

Because of the technical details, it would take about a year for the FCC to put the system in place.

In addition to barring unwelcome calls from sales agents, the bill would ban automatically dialed calls from computers. And it would vastly curb the use of "fax" machines to send unsolicited advertisements.

The bill exempts charitable organizations and political parties, as well as polling and market research firms.

It also would allow magazines, newspapers, cable TV and credit-card companies to call their current subscribers.

The Senate has approved similar bills, sponsored by Sen. Ernest F. Hollings, D-S.C., and Sen Larry Pressler, R-S.D. A final House-Senate version is expected to be enacted later this month.

The Bush administration opposes the legislation but took no action to derail it yesterday.

The President's Office of Management and Budget says that the proposal "would result in unnecessary regulation of commercial activities and could curtail technological innovation and eliminate legitimate business operations."

Congressional Republicans, however, generally support the bill, and several of them heartily endorsed it yesterday.

Marge Roukema, R-N.J., whose husband is a physician, said that her husband urged her to support the bill for health and safety reasons.

"He said a private line in his office, set aside for medical emergencies, has been tied up by these telemarketers and automatic dialing operations," she said.

[From the Indianapolis Star, November 11, 1991]

Bill Would Outlaw Some Computer Calls

The Senate has approved a bill that will outlaw computer phone solicitations unless consumers said they wanted to receive the calls. The legislation now goes to the House.

"It is time we liberated Americans from obnoxious telephone calls," said Sen. Larry Pressler, R-S.D., who sponsored the bill. "Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night."

The legislation also is designed to end other junk telephone calls. It prohibits:

Telephone solicitations to residential phone customers who choose not to receive the calls.

Use of automatic dialing machines or computer voice calls to emergency lines, cellular phones or pagers.

Unsolicited faxes.

The bill also allows consumers to recover damages for violation of the legislation.

Fraud by phone getting more common

Telephone fraud costs U.S. consumers about $1 billion a year. All too often, older people are a favorite target. That's because they are more likely to have money.

To combat the growing menace, the Federal Trade Commission has a free booklet

quiring autodialers to hang up within five

to Steven Hamm, South Carolina's consumer

allow consumers to block all calls from that exchange.

called Fraud by Phone. To get a copy, write to Public Reference, FTC, Washington, D.C. 20580.

[From the Congressional Quarterly Weekly Report, November 9, 1991]

The Senate on Nov. 7 passed on voice votes two bills aimed at ensuring the privacy of telephone consumers from marketers. A bill (S1410), sponsored by Larry Pressler, R-S.D., would direct the Federal Communications Commission (FCC) to halt the intrusion of unsolicited marketing calls.

One option is an electronic database that would allow consumers to register their phone numbers and receive protection from unsolicited advertising. Another is to place all telemarketers on a single phone exchange, to allow consumers to block calls from that exchange.

The FCC also would have to examine whether small businesses and second-class mail permit holders should be subject to the same rules. The bill would not prohibit businesses from calling established customers.

The other measure (S1462), sponsored by Commerce Committee Chairman Ernest F. Hollings, D-S.C., would curb the use of automatic telephone dialing devices. Businesses would be banned from placing automatically dialed calls to either fax machines or homes. Consumers who receive such calls could sue in state courts.

The House Energy and Commerce Committee in July approved a companion bill (HR1304) that would call on the FCC to protect consumers from unwanted telemarketing calls and regulate—but not ban—computerized dialing to either fax machines or residences. It awaits floor action.

[From the San Diego Union and Tribune, November 8, 1991]

PHONE SOLICITATION CURB GAINS IN SENATE

WASHINGTON—The Senate yesterday approved a bill that will outlaw computer phone solicitations unless consumers said they wanted to receive the calls.

The legislation was passed on a voice vote without opposition and now goes to the House.

"It is time we liberated Americans from obnoxious telephone calls," said Sen. Larry Pressler, R-S.D., who sponsored the bill. "Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night."

The legislation also is designed to end other junk telephone calls.

Telephone solicitations to residential phone customers who choose not to receive the calls.

Use of automatic dialing machines or computer voice calls to emergency lines, cellular phones or pagers.

Unsolicited faxes to junk machines.

[From Gannett News Service, Nov. 7, 1991]

SENATE VOTES TO LIMIT TELEMARKETING

(By Norm Brewer)

WASHINGTON—Legislation to limit unsolicited telemarketing—particularly the use of autodialing—passed the Senate Thursday without opposition.

The measure is needed to protect the privacy of consumers from solicitors who call more than 18 million Americans each day, said Sen. Larry Pressler, R-S.D., who wrote the initial bill restricting telemarketing.

"Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night," he said in a statement. "Junk mail can be thrown away. Television commercials can be turned off, but the telephone demands to be answered."

Pressler said the measure would not end telemarketing, which has skyrocketed in sales to more than $435 million last year.

But the Federal Communications Commission would have to consider options for banning telemarketers from calling residential consumers who do not want to be called. Options include a list of those consumers or putting them on exchanges that would be off-limits to telemarketers.

Use of automatic dialing machines would be restricted. The autodialer caller would have to be identified—including address and telephone number. If the consumer hung up, the autodialing machine would have to quickly hang up, too.

Now, some machines do not hang up until the recorded message has ended. That has created problems at hospitals and on emergency lines because it keeps the consumer's line tied up. The bill would allow hospitals, police and fire departments, and owners of paging and cellular equipment to block calls from autodialing machines.

So-called "junk" advertising using fax machines also would be prohibited.

More than 40 states—including South Dakota—already restrict telephone solicitations. However, telemarketers can operate nationally from states where laws are lax.

Pressler said the measure would "assist states in their attempts to regulate intrastate telemarketing abuse."

The House could consider a similar bill next week.

[From the Cincinnati Enquirer, Sept. 29, 1991]

CONORESS CONSIDERS PROPOSALS TO LIMIT UNINVITED PHONE CALLS

Much of America is fed up with automatic, mechanized, privacy-invading phone calls. But nobody has figured out quite what to do about it, though members of Congress are trying.

Bills to regulate the calls, which have a habit of interrupting sleep, dining or entertaining, are making their way through the legislative process. One, by Rep. Edward J. Markey, D-Mass., would bar such calls to hospital emergency rooms and other public-safety numbers and to paging services and cellular phones.

Sen. Ernest F. Hollings, D-S.C., would prohibit unwanted calls to homes. His bill would also require auto-dialers to hang up within five seconds after a call recipient hangs up. Yet another bill, by Sen. Larry Pressler, R-S.D., embraces the Markey bans and adds another on unsolicited advertising sent by fax machine.

The Markey and Pressler bills also instruct the Federal Communications Commission to study ways to protect phone customers. All lines should remain open to pollsters and other researchers, even if their non-automatic calls are sometimes annoying. Nor should government, federal or state, silence those who seek with their own voice to market a product or service.

But phone customers who want it deserve protection from the tape-recorded, metallic voices of those who make up to 1,000 calls daily.

[From Newsday, Sept. 16, 1991]

CURB TELE-JUNK

You're finally home from work, you've just sat down to dinner and the phone rings. What now? A disembodied voice that reminds you faintly of the paranoid computer HAL in "2000" wants to sell you something. And whether you want to buy or not—even if you hang up—the voice's taped sales spiel will tie up your phone until its course.

Junk mail is bad enough, but at least it doesn't keep you from getting the mail you want. But what can you do about endless junk phone solicitations—dialed automatically, to one number after another, without human intervention? Or about the plague of junk fax?

With some help from Congress, currently considering several bills to regulate telemarketing, you could do quite a lot.

At the least, as Sen. Ernest Holling (D-S.C) proposes, Congress should require an automatically dialed call to disconnect within five seconds after the targeted number hangs up, leaving the line free for emergency calls.

Unsolicited advertising by fax should be banned, as it would be under a bill offered by Sen. Larry Pressler (R-S.D.). Why should you provide paper and electricity for this?

Telemarketers should be required to compile a "don't-call" list of people who don't want to be bothered. If that fails, a national "don't-call" database may be necessary.

HAL, you'll recall, seized control from humans for a time. These bills would wrest it from machines and put it in human hands.

(By Thom Kupper Credit Newsday)

BILLS WOULD LIMIT RECORDED TELEMARKETING

[From the San Francisco Chronicle, Sept. 10, 1991]

Days after the 1989 Loma Prieta earthquake, a man whose house had been leveled was surprised to hear his phone ringing from under a pile of debris. He searched through the rubble and lifted the receiver to this ear, only to hear a recorded message trying to make a sale.

A Michigan family was unable to call an ambulance when their father was injured because an automatic dialing machine had called their house and would not hang up.

And at a college in Pennsylvania, a blind switchboard operator was besieged by an authomatic dialing machine that called her switchboard five times a minute for several days.

These are a few of the many stories told at a recent Senate hearing looking into the "automatic dialing-recorded message playing" machines that are under attack by consumer groups as public annoyances and occasional safety hazards. The machines, which can make their tape-recorded pitch to as many as 1,000 homes a day, have become the primary target of a flurry of pending legislation aimed at regulating the telemarketing industry.

Representative Edward J. Markey, D-Mass., who is sponsoring one of the bills, said the machines are turning home telephones into "receptacles of 'junk calls' in the same way that junk mail often inundates our mailboxes."

Even the Direct Marketing Association, which represents the telemarketers, concedes the need for regulation. Dick Barton, the group's vice president for government affairs, said the organization was ready to support many of the restrictions that would be imposed by bills sponsored by Markey and Senators Larry Pressler, R-S.D. and Ernest Hollings, D-S.C.

Markey's bill would ban any automated calls to public safety numbers, paging services or cellular phones. Pressler would ban those calls as well as any unsolicited advertising sent by fax machine.

Hollings goes furthest of all, outlawing any unwanted automatic calls to homes and requiring autodialers to hang up within five seconds after the call's receiver hangs up.

The bills all passed through committee with strong support, and its seems certain that some version will be passed by both houses of Congress.

[From Newsday, Sept. 5, 1991]

HOW TO HANG UP ON THOSE AUTOMATED PHONE CALLS

You're finally home from work, you've just sat down to dinner and the phone rings. What now? A disembodied voice that reminds you faintly of the paranoid computer HAL in "2001" wants to sell you something. And whether you want to buy or not—even if you hang up—the voice's tape sales spiel will tie up your phone until it's run its course.

Junk mail is bad enough, but at least it doesn't keep you from getting the mail you really want. But what can you do about endless junk phone solicitations—dialed automatically, to one number after another, without human intervention? Or about the growing plague of junk fax, which can occupy your machine with somebody's sales pitch just when you're expecting an important document that can't wait for overnight mail?

With some help from Congress, which is currently considering several bills to regulate telemarketing, you could do quite a lot.

At the least, as Sen. Ernest Hollings (D-S.C.) proposes, Congress should require an automatically dialed call to disconnect within five seconds after the targeted number hangs up, leaving the line free for emergency calls.

Unsolicited advertising by fax should be banned outright, as it would be under a bill offered by Sen. Larry Pressler (R-S.D.). Why should you provide paper and electricity for somebody's unwanted ad?

Every telemarketer should be required to compile a "don't-call" list of people who have indicated—perhaps quite vehemently—that they don't want to be bothered by future calls. (This newspaper deletes numbers from its computerized telemarketing list on request.) If that doesn't work, a national "don't-call" database may be necessary.

HAL, you'll recall, seized control from humans for a time. These bills would wrest it from machines and put it in human hands.

[From The Detroit News, July 25, 1991]

BILL AIMS TO HANG UP 'TELENUISANCE'

WASHINGTON—Congress is being asked to pull the plug on a national "telenuisance."

Tapping into an apparent wellspring of annoyance, the communications panel of the Senate Commerce Science and Transportation Committee Wednesday heard senators and witnesses recount a litany of complaints about computerized phone solicitations.

Labeling the practice everything from a "telenuisance" to "the modern form of telephone terrorism," the annoyed urged the panel to approve legislation by Sen. Ernest Hollings, D-S.C., that would ban computerized solicitations to residential phones, unless the user gives prior consent.

Hollings' bill is being considered by the subcommittee along with companion legislation, written by Sen. Larry Pressler, R-S.D., which also would curtail "junk fax" transmissions. The Pressler bill would direct the Federal Communications Commission to develop a national list of people who do not want solicitation calls.

Machine-generated telephone calls represent "the fastest growing category" of consumer complaints nationwide, according to Steven Hamm, South Carolina's consumer affairs director speaking for the National Association of Consumer Agency Administrators.

"Computer calls are now the modern form of telephone terrorism," Hamm said.

He urged the subcommittee to "put some teeth" into both the Hollings and Pressler proposals by imposing stiff penalties for violators.

Telemarketing industry representatives said they favored some regulation of computerized solicitations, but opposed an outright ban.

Direct Marketing Association Senior Vice-President Richard Barton said his industry group would favor prohibitions on "line seizure" by computer callers, as well as restricting calls to critical social services such as hospitals, both features of a House proposal.

"We are noting more than sources of revenue to an industry that has lost its moral compass," said Robert Bulmash.

"This out-of-control industry will summon us * * * by using our conditioned response to answer the phone as if we were nothing more than Pavlovian dogs with wallets," he said.

COMPUTER CALLS IRK LEGISLATORS

[From the Toronto Star, July 25, 1991]

WASHINGTON (REUTER) Automated telephone advertising calls are a growing nuisance and need federal regulation, several senators and witnesses told a hearing.

"Computerized message players are a nuisance and an invasion of an individual's right to privacy," Senate commerce committee chairman Ernest Hollings, said yesterday.

"They are not just a nuisance, they're plain dangerous," Sen. Larry Pressler added. He said the calls can tie up emergency telephone lines.

Hollings and Pressler have introduced bills to regulate the calls and to ban calls to emergency numbers.

Witnesses at the committee's hearing said telemarketing firms are using computer-operated telephone systems to make hundreds of calls a minute with recorded advertising messages. Because the computers call telephone numbers in sequence, they can reach unlisted numbers, telephone pagers and cellular telephones.

Holling's bill would prohibit unsolicited computerized telephone calls to homes, emergency numbers, pagers and cellular telephones. It would also ban unsolicited advertisements to facsimile machines.

[From Securities Week, Securities (SCR) July 22, 1991]

SENATE PANEL TO HOLD A HEARING ON BILL THAT WOULD RESTRICT COLD-CALLING

The Senate Communications Subcommittee will hold a hearing on a telemarketing bill this week, which if adopted, would have the unintentional effect of restricting cold-calling by brokers.

The "Telephone Advertising Consumer Rights Act," which was introduced by Sen. Larry Pressler (R–SD) in late June, is designed to give consumers a break from unsolicited telemarketing calls dialed by both humans and computers.

The bill requires the Federal Communications Commission to protect consumers from unwanted telemarketing calls in several ways. Consumers would be able to put their phone numbers on a "DO NOT CALL" list at the FCC, or, all telemarketers would be placed on a single exchange, which would allow consumers to block all calls from that exchange.

While the legislation is not aimed primarily at brokers, the bill's language is written in a way that would include cold-calling restrictions. The bill says that "telephone solicitation means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services."

Pressler's bill is similar to telemarketing legislation introduced in the House by Rep. Edward Markey (D–MA). Markey's bill has already cleared the House Telecommunications and Finance Subcommittee, and the legislation is waiting to be reviewed by the full Energy and Commerce Committee. That hearing is not likely to occur until after Congress returns from its August recess.

[From the Washington Times, July 25, 1991]

CONGRESS TRIES TO SHIELD PUBLIC FROM DELUGE OF TELEMARKETING

(By Jay Mallin)

The voice on the telephone line bubbled over with exciting news—a free trip to Hawaii, available just by calling a "900" number.

Being nothing but a mindless recording, however, the voice had no way of hearing the "click" as the recipient of the call hung up. And as the call was dialed by a computer that was probably picking phone numbers at random, no one knew that calling that particular phone number was probably a mistake.

The recipient of the call—perhaps the hundredth or thousandth such call placed by the computer that day—was Sen. Daniel K. Inouye. Being a Senator from Hawaii, he had no need of a free vacation in the islands, even if one was really available .

But as chairman of the Communications Subcommittee of the Senate's Commerce, Science and Transportation Committee, Mr. Inouye is likely to have considerable say on restrictions on telemarketing being considered by Congress.

The incident was just one of many that has everyone from consumer groups to the telemarketing industry association backing some kind of limit on telemarketing calls.

"Computerized calls are the scourge of modern civilization," Sen. Ernest Hollings, South Carolina Democrat, said recently on the Senate floor when he introduced a bill to limit the calls. "They wake us up in the morning, they interrupt our dinner at night, they force the sick and elderly out of bed, they hound us until we want to rip the telephone right out of the wall."

Several lawmakers have introduced bills to limit telemarketing calls. But the bills are still undergoing revision, and there is a range of choices Congress must make before it has a final version to consider—from whether to include non-profit organizations in any ban to exactly what kinds of calls should be prohibited.

Mr. Hollings' bill, for instance, would ban what everyone agrees are the most annoying calls—the ones that are placed by machines, often dialing random or sequential numbers, and that play pre-recorded messages with no involvement by a live person.

Stories about the disruptive effects of such machine calling abound. The "autodialers" have tied up cellular phone systems, rung every phone in a hospital, and once jammed the home phone line of a mother who was trying to call an ambulance for her sick child.

"They're not just a nuisance—they're just plain dangerous," said Sen. Larry Pressler,

York, Baltimore, Philadelphia, Hampton

acid has appeared for the first time—first in

high levels of toxic man-made chemicals in

South Dakota Republican, during a hearing of Mr. Inouye's subcommittee yesterday.

A representative of the Direct Marketing Association, the industry trade group, agreed such calls should be stopped.

"We * * * agree with the major thrust of the [Hollings] bill," said Richard Barton, senior vice president for government affairs at the Direct Marketing Association, a trade association with 3,500 member companies.

The Hollings bill, however, would do nothing to limit telemarketing calls by live operators. Other bills would go further.

Mr. Pressler has introduced a bill—similar to one offered in the House by Massachusetts Democrat Rep. Edward Markey—that would ask the Federal Commuunications Commission to look into the possibility of creating a national "Do Not Call" list.

Consumers who do not want to receive telemarketing calls would ask to be placed on the list, and telemarketers would then be prohibited from calling them.

The concept has been adopted by one state, Florida. But state legislation can't limit interstate calling, and so supporters of the idea say a national law is required.

In yesterday's hearing, though, Mr. Pressler's bill was attacked—from opposite sides—by both consumer representatives and the industry.

Michael Jacobson, who says his Center for the Study of Commercialism wants to halt the "permeation of advertising" in everyday life, argued the Pressler bill puts the burden to stop telemarketers on consumers, who must sign up to be on the list.

At the other end of the issue, Mr. Barton said the Direct Marketing Association questions the workability of maintaining a national "Do Not Call" database.

He suggested another alternative, one he said that has been adopted by South Carolina. That state requires organizations to maintain internal "Do Not Call" lists, so that people who receive an unwanted call can instruct the organization not to call again.

Mr. Pressler and Mr. Hollings said yesterday they may try to combine their bills, and on the House side Mr. Markey's proposal has already gone through a number of revisions. But members of Congress said they know their constituents are angry about the calls.

"I have received numerous complaints from Hawaiians who complain they are being called at all hours of the night by persons and computers who are calling from the East Coast" and who don't realize there is a time difference, said Mr. Inouye.

"This is a very emotional issue," Steve Hamm, administrator of South Carolina's Department of Consumer Affairs, told the subcommittee. "And I want you to know that you have hit the pulse of America" by considering the problem.

HOW TO ESCAPE THOSE CALLS

Here are some ways you can avoid most telephone marketing pitches.

Write a letter.

The Direct Marketing Association, a trade group, keeps a list of people who do not want to be called and makes it available to member companies that agree to comply. This can stop about 80 percent of the pitches, but you have to renew your request every five years.

Telephone Preference Service, c/o the Direct Marketing Association, 11 West 42nd St., P.O. Box 3861, New York, N.Y. 10163-3861.

Tell them not to call again.

Believe it or not, this simple expedient actually works for awhile with some companies, whose officials figure it is better not to anger potential customers.

The national photographic portrait chain Olin Mills, for instance, says it keeps "Do Not Call" lists at each of its studios, but they might call again after two years.

Use their technology against them.

Many telemarketers now use "predictive autodialers." The machines dial the numbers and connect the call to a live operator only if someone picks up the phone and says "Hello."

If your "Hello" is followed by a long pause or a click or a beep, just hang up before the machine puts a live operator on the line.

THE NEED FOR A NATIONAL PROGRAM TO PREVENT BALLAST INTRODUCTIONS OF EXOTIC SPECIES

Mr. GLENN. Mr. President, I rise today to reiterate my support for a national program of ballast management to prevent infestations of nonindigenous organisms in all waters of the United States. Nonindigenous species, like the zebra mussel, are an acute problem in the Great Lakes. However, they threaten the aquatic ecology and the economy of all four of the Nation's coasts, as well as inland waters.

Last fall Congress enacted a version of S. 2244, a bill I authored and introduced earlier in the summer as cochair of the Senate Great Lakes Task Force. S. 2244 comprehensively addressed the problem of unintentional introductions of nonindigenous species, and stressed prevention. Because ballast tanks of merchant ships are the leading vector of introduction of nonindigenous species, the bill as introduced required a program of environmentally sound ballast management for ships destined for any U.S. port. The national scope of the program was important to me because it was more protective of the Great Lakes, an area of particular concern to my constituents, but also because the absence of such a requirement creates a major gap in our national environmental protection policies.

The Non-indigenous Aquatic Nuisance Prevention and Control Act as enacted established a ballast management program for ships destined for Great Lakes ports only. I was very gratified to see the probability of infestations by nonindigenous species in the Great Lakes dramatically reduced with the enact of the final version. However, I remain concerned that the limited scope of the prevention program will leave the Great Lakes vulnerable to organisms that may become established in contiguous waters, such as the Hudson or Mississippi Rivers. I am also concerned that the remainder of the Nation's marine and fresh water ecosystems continues to be vulnerable to degradation by invading species.

I cannot adequately stress the environmental protection value of a national program of ballast management. In Lake Erie, where the zebra mussel infestation is still raging, we have all but lost our native species of freshwater clams. Other ecological costs are still under study but could include disruption of the migratory patterns of water fowl, and the spawning activity of fish. The economic costs to raw water users are already in the millions of dollars.

A recent Congressional Alert Bulletin from the Coast Guard reported that high levels of human cholera were discovered in the ballast tanks of merchant vessels visiting Mobile Bay from South America. And a November 22, 1991 article in the Wall Street Journal reported increased outbreaks of red tide in U.S. marine waters, and cited ballast dumping as a means of transmission. These articles underscore the fact that non-indigenous organisms transported in ballast water can also create serious public health threats.

I urge the attention of my colleagues to the need for a national program of ballast management to protect all U.S. waters from the serious problem of biological pollution from nonindigenous organisms. I will certainly be working closely with the majority leader to reserve adequate time in the Senate schedule for the upcoming session of Congress to reconsider the need to change current ballast management practices. I seek unanimous consent to have the aforementioned articles printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subj: FDA Ballast Water Sampling Program

1. Following the discovery of vibrio cholera in oysters in Mobile Bay in August of this year, the Food and Drug Administration [FDA] with Coast Guard support, has been conducting a vessel ballast water sampling program. Samples of ballast water, bilges, and MSD holding tanks were taken from deep draft vessels arriving in Mobile Bay from South America.

2. Two vessels arriving from South American Ports sampled on 6 and 7 November tested positive for vibrio cholera in a combination of ballast water, fire main water, bilge water and MSD holding tank samples. Both vessels have since sailed foreign.

3. Cholera is an acute, diarrheal illness caused by infection of the intestine by the bacterium vibrio cholera. The infection is often mild and self-limited or without symptoms. Nevertheless, the disease can sometimes be severe or fatal. Cholera is normally contracted by drinking water or eating food that is contaminated with the cholera bacterium.

4. Recognizing the potential and we stress "potential" for a significant health threat to the U.S. an emergency meeting was held in Washington, DC on 18 November with representatives from CG, EPA, FDA, NOAA, CDC and PHS to discuss the Mobile Bay situation. As a result of that meeting, the FDA is going to take the lead in a vessel sampling program that will take samples from a total of 65 vessels inbound from South American ports. By 28 November 1991 all 60 vessels will be sampled. The following ports have been selected for the sampling program: New

York, Baltimore, Philadelphia, Hampton Roads, Miami, Mobile, New Orleans, Houston, Galveston, LA/LB and San Francisco. Other ports may be added at a later time. COTPS shall assist in supporting the FDA sampling program. Full details of the FDA program will be passed on when finalized.

5. On 4 July 1991 IMO adopted international guidelines for preventing the introduction of unwanted aquatic organisms and pathogens from ships ballast water and sediment discharges. Copies of the resolution and IMO Guidelines are being provided to all shipping agents within the U.S. by COMDT G-M.

6. G-MEP intends to publish a Federal Register notice of national voluntary guidelines for ballast water exchange, using the IMO protocols as the base document, in the near term.

7. Separate Coast Guard policy is currently being developed to ensure appropriate actions are taken if a vessel tests positive for cholera in the FDA sampling program. It will be passed to the field as soon as it is completed.

8. G-KOM advises that no health threat exists to personnel conducting routine boardings on foreign vessels, provided that food and drink prepared or stored aboard is not consumed and good personal hygiene programs are observed.

[From the Wall Street Journal, November 22, 1991]

TOXIC RED TIDES SEEM TO BE ON THE RISE, INCREASING THE RISKS OF EATING SHELLFISH

(By DAVID STIPP)

Alfonso Falon owes his life to bad cooking.

When the Galicia I, a New Bedford, Mass., fishing boat, landed some mussels last year, Mr. Falon and other crew members decided to eat them for supper. By the time the shellfish began boiling, though, the crew was busy catching cod. Ninety minutes later, the mussels were as tough as rubber bands, but Mr. Falon was ravenous and ate more than a dozen.

The mussels were caught near Georges Bank, a rich fishing area 150 miles off Massachusetts. Unknown to the Galicia's crew, state health officials had issued a warning two weeks earlier that a deadly nerve toxin had been found in the area's shellfish.

Mr. Falon's first symptom of the paralytic shellfish poisoning, or PSP, was numbness in his lips. Soon other crew members were similarly affected. Mr. Falon eventually lost all feeling below the neck, went into convulsions and passed out. Captain David Cabral, who had eaten a cheeseburger for supper, gunned the boat toward shore for help.

Analysis showed that eating just a few of the raw mussels could have been lethal. But lengthy cooking had leached out most of the poison, and Mr. Falon recovered.

The Galicia's crew would seem to have had little reason to worry about the mussels. Red tides, the "blooms" of algae that cause such toxic episodes, were thought to occur only near the shore. But to many red tide experts, PSP's spread to Georges Bank wasn't too surprising.

A world-wide "epidemic" of harmful algal blooms has developed during the past few years, says Theodore Smayda, a University of Rhode Island oceanography professor. Blooms are cropping up in new places, and formerly nontoxic algae are turning toxic. The pattern suggests red tides are becoming a "major plantetary trend," like acid rain and ozone-layer thinning. Common underlying causes may be at work—coastal pollution and possibly global warming—he adds.

The latest U.S. outbreak is on the west coast, where a red tide toxin called domoic acid has appeared for the first time—first in anchovies off California and last week in razor clams off Oregon and Washington. It has apparently killed only sea birds so far. Bu the outbreak "is very significant and disheartening," says Sandra Shumway, a red tide expert with the Maine Department of Marine Resources. In 1987, mussels laced with domoic acid poisoned 153 people on Canada's Prince Edward Island, leaving 10 with brain damage and killing three.

Despite such episodes, many scientists dispute that red tides have reached epidemic proportions. Better monitoring of toxic blooms with satellites and other high technology may account for much of the apparent rise in frequency, they say. Moreover, fallout from red tides may be growing more as a result of an increase in coastal shellfish farming than because of the spread of toxic algae, says Donald M. Anderson, researcher at Woods Hole Oceanographic Institution in Massachusetts

But researchers generally agree that red tides are on the rise, at least to some extent. Some shellfish operators now carry mice on their boats. If the rodents keel over when they're injected with extracts of freshly caught mollusks, red tide toxins are probably present and the boats move on, says Patricia Tester, a red tide expert with the National Maritime Fisheries Service in Beaufort, N.C.

Red tides are bursts of growth by different species of algae, or microscopic floating plants at the base of the ocean food chain. They usually aren't toxic and often aren't red—they can be brown, yellow or colorless. The poisons in toxic red tides are transmitted to people through "filter-feeding" shellfish—such as mussels, clams and oysters—which strain nutrients from sea water and concentrate toxins in their internal organs.

Saxitoxin, which sickened the Galicia's crew, is one of the most deadly poisons known. It's found in algae off the north Atlantic and Pacific coasts. In the Southern U.S., a common red tide poison is brevetoxin, found in algae that grow in the Gulf of Mexico. Less toxic than saxitoxin, it typically causes a nonfatal flu-like illness. But some coastal residents are so sensitive to it that they get "choky" from the tiny amounts misted off waves, says Richard Pierce, research director at Mote Maine Laboratory in Sarasota, Fla.

Red tides have been known for centuries. But during the past two decades, blooms have occurred with portentous regularity. In 1972, a massive red tide bloom first brought paralytic shellfish poisoning to New England's southern coast; PSP blooms have occurred there annually since. In 1983, the Philippines' first known PSP bloom killed 21 people who ate affected shellfish. In 1987, PSP brought disaster to Guatemala, killing 26. Less deadly blooms have also occurred frequently during the past few years, including dense "brown" tides that have devastated Long Island's scallops.

Scientists are only beginning to puzzle out root causes. Japanese ships have apparently transported harmful algae to Australia in ballast water, says Matt Murphy, a red tide expert on Ireland's Sherkin Island. The water is pumped out as ships get close to port to take on cargo.

Most red tide stories are more complicated, though. In 1987, for example, hundreds of dead and dying bottle-nosed dolphins mysteriously washed up on the shores between New Jersey and Florida. Many had pox-like blisters, suggesting a bacterial or viral culprit. Tissue analyses also showed high levels of toxic man-made chemicals in some. But researchers were baffled—the widespread dying didn't fit known patterns of disease or chemical dumping, Meanwhile, an estimated half of the East Coast dolphins were wiped out by early 1988.

In late, 1987, 14 humpback whales beached and died on Cape Cod, providing a critical clue. An analysis showed mackerel in their stomachs contained saxitoxin—the first time red tide had been linked to the mass death of marine mammals, says Joseph Geraci, a veterinarian at the University of Guelph in Ontario, Canada. Based on that finding, researchers eventually traced the dolphin deaths to an unprecedented Atlantic coast outbreak of brevetoxin.

The red tide poisons had apparently weakened the animals, making them easy prey for diseases and chemicals they normally could cope with. A contributing factor, says Dr. Geraci, could be a switch in the animals' diets to include more fish tainted with red tide toxins. The mammals' favored food is growing scarce under heavy fishing-industry pressure. And numbers of some legally protected mammals, such as humpback whales, may have risen in certain places to the "carrying capacity" of the habitat, perhaps causing them to expand their dietary horizons, Dr. Geraci says.

But the most common causal thread running through the red tide story is pollution. In "a good half-dozen places" around the world, long-term increases in the abundance of harmful algae have been correlated with rising levels of nutrients from sewers, fertilizer runoff and other sources, says the University of Rhode Island's Dr. Smaya. Woods Hole's Dr. Anderson says anti-pollution measures such as greater use of "phosphate-free" detergents may also contribute to red tides by changing chemical ratios in coastal waters in ways that favor toxic algae.

If pollution is promoting red tides, the blooms are likely to get much worse in coming years. The population along the U.S. coasts is expected to grow to 127 million by 2010 from 80 million in 1960, greatly increasing the amount of sewage and other pollutants spewed into the sea. The percentage of U.S. shellfish beds in which harvests are banned or limited because of high levels of fecal coliform bacterial is already rising fast—to 37% in 1990 from 31% in 1985, according to a recent report by the National Oceanic and Atmospheric Administration. There's "an almost inexorable trend that threatens to destroy the harvest of wild or natural shellfish" in U.S. waters, the report concludes.

AIDS AND SEXUAL BEHAVIOR STUDIES

Mr. MOYNIHAN. Mr. President, in recent weeks, while the Nation's attention has been riveted on Earvin "Magic" Johnson and his announcement that he tested positive for the AIDS virus, the cancellation of two studies of sexual behavior, representing our best hope in the fight against AIDS, has gone unnoticed.

I would like to say that this Nation's leaders have echoed Mr. Johnson's call for AIDS prevention through education. But that would be a lie. The fact is that neither the administration nor the Congress are willing to address what may be the most fearsome epi-

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demic since the Bubonic plague. Both have given in to uninformed individuals who would have us turn our backs on this epidemic. And nothing illustrates this more clearly than the recent defeat of two scientific surveys of sexual behavior.

More than 195,000 people in this country alone have been diagnosed with AIDS since 1981, of whom 120,000 have died. 1,500 were children. And these are only the documented cases. As many as 1 million Americans may be infected with HIV. They too will die.

In the majority of cases, AIDS is transmitted sexually. And since there is no known cure for AIDS, modification of risky behaviors is currently the only way to prevent HIV infection. In its 1991 Report, "The AIDS Research Program of the National Institutes of Health," the Institute of Medicine noted that:

> Lack of knowledge regarding patterns and determinants of sexual and drug using behaviors in the general public as well as in groups at particular risk of HIV infection has hampered public health efforts to develop health education intervention efforts for the prevention of AIDS.

To design effective AIDS education and prevention programs, we need current data on sexual behavior. The embarrassing truth is that we have been waging the war against AIDS with data that was collected over 40 years ago.

From 1938 to 1953, Charles Alfred Kinsey conducted a survey of human sexual behavior. According to Wendy Baldwin of NICHD, it remains the only comprehensive source of data concerning sexual behavior in America. Kinsey study formed the basis of two books, "Sexual Behavior in the Human Male" (1948) and "Sexual Behavior in the Human Female" (1953), now known as "The Kinsey Report." There are numerous methodological problems with the Kinsey study. Yet for lack of more up-to-date comprehensive data, our knowledge about the prevalence of various sexual behaviors is still largely based on this source. This will not do.

Public health experts have long known that we need better and more recent data. Indeed, in 1987, the National Institutes for Child Health and Human Development [NICHD] contracted for a study of sexual behavior and attitudes. They awarded the grant to the University of Chicago's National Opinion Research Center [NORC]. I have met with Professor Gagnon and Edward Laumann of the NORC project. Both are respected leaders in their field.

Since the National Institutes of Health approved the NORC survey in 1988, it has undergone multiple reviews by the Office of Management and Budget, the NIH Director's Office, the Office of the Secretary of Health and Human Services, as well as the Office of the Assistant Secretary of Health. The revised study includes only those questions that bear some relationship to the transmission of HIV/AIDS. Notwithstanding, Secretary Sullivan has not permitted the survey to move forward. The American Teenage Survey has suffered a similar fate. In May 1991, the NICHD awarded a grant to Dr. Richard Udry of the Carolina Population Center and Dr. Ronald Rindfuss of the University of North Carolina to conduct a study of adolescent sexual behavior. Their application received high marks from its review panel. Secretary Sullivan canceled the project in July. I would not be surprised if this honorable member of the President's cabinet considered resigning over this matter.

This is an outrageous situation. The administration advocates behavior modification to prevent HIV infection. Yet how can we modify behavior when we know so little about it?

Despite the President's request for $3 million to implement the adult sexual behavior study, the administration has done little to advance this proposal and the Congress has done everything in its power to stop it.

Prof. Norman Birnbaum of the Georgetown University Law Center recently commented on the state of our society: "Social vision has failed; the public capacity to think has been degraded." His observation applies here. The administration and Congress has permitted fear and intimidation to blind them from their obligation to think and lead. Mr. President, research on human sexual behavior serves a public health need. I ask you, why has the administration not taken an active role in this matter?

In the Labor, Health and Human Services, and Education appropriations bill [H.R. 2707], Congress prohibited Federal funding of the adult and teen sexual surveys. But fear and silence will not slow this epidemic. Indeed, without scientific information concerning the behaviors that contribute to the transmission of AIDS, this disease will overtake us.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, the idea of a world ruled by law is as old, almost, as the idea of law itself. For more than 200 years this Nation has been committed to the idea that nations must act with law on their side and not simply indignation in their hearts.

Of late we have drifted away from this notion. But with the end of the cold war and the beginning of a new era of violent ethnic conflict, we need more than ever to adhere to the idea that rules are needed to restrain this cycle of violence.

We frequently say that the plight of the American hostages in Lebanon is outrageous. It is. But more to the point, it is illegal. The Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949, prohibits the taking of hostages at any time and in any place whatsoever. Yet this practice of holding innocent parties against their will with the hope of somehow effecting a change in the political order continues.

Yesterday, family and friends celebrated the return of former hostage, Tom Sutherland. I rejoice with them. But insist that we stand firm in our resolve to see all hostages everywhere released.

Mr. President, today marks the 2,446th day that Terry Anderson has been held captive in Lebanon. We have word through Terry Waite that Terry Anderson, Alann Steen, and Joseph Cicippio will be released before year's end. I call on their captors to fulfill this pledge.

Mr. LAUTENBERG. Mr. President, I rise in support of title V of H.R. 3704, the NOAA Authorization Act of 1991. Title V establishes a comprehensive monitoring program for our oceans and coastal waters.

Mr. President, we have made a great deal of progress in restoring the health of our marine waters. We no longer discharge raw sewage and dump sewage sludge and industrial waste into our coastal waters and ocean. We have begun to address nonpoint pollution—runoff—which threatens our waters. And fish are returning to our nation's estuaries.

But more remains to be done. According to EPA's latest national water quality inventory, in 1988 30 percent of our estuaries which have been assessed throughout the country either are failing to achieve water quality standards or are threatened with failing to achieve those standards. And 224 beach closures were reported in 18 States. These are remarkable figures nearly two decades after passage of the Clean Water Act.

I have joined Senator MITCHELL in introducing S. 1070, the Coastal Protection Act, to provide the programs we need to address the remaining coastal problems. This act is based on hearings held jointly in 1989 by the Subcommittee on Superfund, Ocean and Water Protection which I chair and the Subcommittee on Environmental Protection. We'll address most of the provisions of the Coastal Protection Act during the Senate's consideration of the Clean Water Act next year.

One essential element to restoring the health of our waters and one component of the Coastal Protection Act is to establish a comprehensive marine monitoring program. Title V establishes such a program. It is based on the monitoring program included in the Coastal Protection Act. And it includes provisions to establish a program to monitor garbage and other floatables along our shorelines, develop protocols for marine pollution monitoring and to disseminate information about marine pollution. These provisions were first included in the Comprehensive Ocean Assessment and Strategy Act which I introduced in 1989.

Title V will be an important part of our efforts to protect our coastal waters. I'm pleased that it is contained in this legislation.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. BURDICK. Mr. President, after many hours of difficult negotiations, I am very pleased with the final Intermodal Surface Transportation Efficiency Act of 1991. As the first reauthorization of the highway program in the post-Interstate era, this bill offers states new flexibility to meet their transportation needs.

In the short term, this bill creates jobs at a time when the nation desperately needs an economic boost. In the long term, this historic bill will improve our nation's roads and bridges and build a strong transportation infrastructure to carry us into the 21st century.

The final bill includes the flexibility that I consider essential to balance the needs of all 50 States. Urban States can put more dollars into mass transit and reducing pollution, while rural States can concentrate on needed road and bridge improvements. This bill increases Federal spending on highways and transit, providing more Federal funds to each of the 50 States.

As chairman of the Environment and Public Works Committee, I would like to commend everyone involved in drafting this historic bill. A special thanks to the subcommittee chairman, Senator MOYNIHAN, for his visionary leadership, and to Senator SYMMS, the ranking member of the subcommittee. I would also like to thank Senator CHAFEE, the ranking member of the full committee. The conference committee had 92 members, and I thank each Member of this body who contributed.

I cannot say enough about David Strauss, Mike Weiss, Kathy Ruffalo, and George Schoener on my committee staff who contributed many weekends and late nights to get this bill finalized before Thanksgiving. Roy Kienitz and Rob Connor on the majority staff and Jean Lauver on the minority staff also deserve special mention for their extraordinary efforts. I would like to offer my sincere thanks to all the staff who worked so hard in developing this bill.

This is historic legislation, and I call on all my colleagues to give it their full support. This bill will create hundreds of thousands of jobs to improve our economy while improving our transportation infrastructure.

PROTECTING THE MEDICAID PROGRAM

Mr. RIEGLE. Mr. President, this body must address an issue vitally important to this country's health care program for low-income individuals, the Medicaid Program, before Congress adjourns this year. We are presented with this problem due to a Health Care Financing Administration (HCFA) regulation published on September 12, that would severely restrict a state's ability to finance its portion of the Medicaid Program.

HCFA published interim regulations September 12, that would prohibit states from using any type of provider donation or tax to fund its portion of the Federal match. Not only was the regulation vague and contradictory in many places, but it also violated congressional intent regarding the use of provider taxes under Medicaid. I sent a letter in early October with other committee and subcommittee chairmen including Chairmen BENTSEN, DINGELL, SASSER, PANETTA, and WAXMAN asking for the withdrawal of the Medicaid regulations. I also held a hearing on July 26, about this issue in the Subcommittee on Health for Families and the Uninsured which I chair and which has jurisdiction over the Medicaid Program. The clarifying regulations that came out October 31, did not improve the situation. In fact, the administration added a new regulation, relating to Medicaid payments to "disproportionate share hospitals" which serve many low-income individuals, that hurts hospitals nationwide.

Mr. President, the short-term moratorium legislation that the Finance Committee recently reported out with favorable recommendation would have given us some time to reach agreement on a specific proposal with all interested parties, including States, the administration, Congress, providers and advocates. We also reported out a compromise proposal, without recommendation, that was developed in recent negotiations between the administration and the National Governors Association (NGA). We did this on Friday because committee members only saw a brief outline of the proposal late Thursday afternoon and the legislative language was still being drafted. Many Governors were concerned that the language being drafted did not accurately represent the proposal they had in fact agreed to.

I was very pleased that the Governors and the administration have been meeting to develop recommendations. What is very troubling about this process, however, is that the legislative language of the so-called NGA-administration compromise agreement continues to change by the hour as states continue to work with the administration to address their various concerns. My office did not even receive a draft of the language until Monday and I understand that such negotiations continued well into Tuesday.

Clearly, this is not the way to make important policy decisions regarding the Medicaid Program, one that serves millions of vulnerable families and children. I am also concerned that the Office of Management and Budget (OMB) is simply dictating policy in an arbitrary way. For example, on Friday, in the Finance Committee, we were told that if the moratorium is extended to April 1, 1992, then there would be no budget problems. When Senator MITCHELL wanted to extend the moratorium to July 1, suddenly there was a problem, but no rationale for the problem.

But Mr. President, Congress must act on this issue today, because the current proposed regulations would have a devastating impact on States' Medicaid programs and the people they are intended to serve and because the administration refuses to withdraw the HCFA regulations. We do need some limits in the area of financing Medicaid through provider donations and taxes, and ideally we need more time to fully consider the options and their implications. We are presented today, however, with the current regulations or proceeding with the NGA-administration proposal. Proceeding with the NGA-administration proposal may be the best approach given the circumstances, because under a short-term moratorium, it is not clear at all whether the administration would negotiate in good faith and some of the provisions in the current NGA proposal that would help Michigan, and other states, may be adopted.

Mr. President, a major problem with the NGA-administration compromise proposal continues to be its treatment of hospitals that treat a disproportionate share of low-income or Medicaid patients. The proposal would limit the total amount of Medicaid expenditures for disproportionate share payments available to states to 12 percent. Currently, there is no limitation or cap whatsoever on total payments. This is an unprecedented change that the administration is suggesting and let me emphasize again they just brought it up in a regulation issued October 31. I remain extremely concerned about this because Congress has not held hearings on this topic and we must carefully consider such an unprecedented change. As I understand it, however, the administration will not accept any proposal without such provisions related to disproportionate share so we would be stuck with the current regulations, a more unacceptable alternative to Michigan and other states.

In Michigan, over one-third of our hospitals are disproportionate share hospitals and receive special payments under Medicaid because they serve many low-income, Medicaid or uninsured patients. Part of Michigan's disproportionate share program has nothing to do with the State's voluntary donation program and so this part of our program is being unfairly affected by the NGA-administration proposal. Their proposal, thus, goes beyond the scope of the current problem. It's also important to note that Michigan's program clearly meets Congress's intent of providing enhanced payments only to hospitals that serve a disproportionate number of Medicaid and other low-income patients.

It's unclear to me why we must address the issue of Medicaid's disproportionate share hospitals in the NGA-administration plan when the real problem of taxes and donations have been addressed by requiring taxes to be broad-based and capping their level of use at 25 percent of a State's Medicaid expenditures.

Mr. President, because of recent budget cuts by Governor Engler in Michigan, our hospitals will be burdened with even more uninsured people and consequently, more uncompensated care costs. Close to 1,000,000 Michigan citizens now have no insurance coverage, including 300,000 children. Governor Engler has proposed a series of State cuts in health care benefits, effective October 1, that has increased the number of uninsured by close to 10 percent, about 83,000 single men and women. And in Wayne County alone, an additional 47,000 people will be without health care at the end of December because funding for its CountyCare program was cut by Governor Engler.

This is a tremendous burden on an already squeezed health care system. Hospitals, trauma centers, emergency units already have more than they can handle. Nationwide, 60 trauma care units have closed over the past 5 years due to uncompensated care and already low Medicaid payments. Michigan hospitals lost over $360 million in uncompensated care costs last year alone. The current NGA-administration proposal locks Michigan's total level of payments under disproportionate share to 12 percent at a time when they need the flexibility to give more money to disproportionate share hospitals.

Under the compromise, the only way Michigan could help hospitals that are especially over-burdened would be to take money from other hospitals. Hospitals have been calling my office and asking that we preserve the flexibility in the current disproportionate share hospital program to address the additional health care needs of Michigan citizens.

Mr. President, I will not block adoption of the NGA-Administration proposal despite these reservations because we need to move the process forward, but I will be working in the Senate-House Conference to ensure that disproportionate share hospitals programs under Medicaid can continue to operate to meet congressional intent of providing payments to hospitals that serve a disproportionate number of Medicaid and other low-income patients. My State needs flexibility both in the short-term, particularly in the Detroit area, and long-term to address urgent health care needs in Michigan.

MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT

Mr. LEAHY. Mr. President. When we passed the Mickey Leland Memorial Domestic Hunger Relief Act as the nutrition title of last year's farm bill, we intended, quite simply, to relieve hunger. I was concerned when the Department proposed regulations that interpreted many provisions of that legislation in ways that will increase, rather than decrease, the prevalence of hunger in America.

By enacting these amendments to the farm bill, we intend to restore that original intent. Senators on both sides of the aisle were troubled by many of these proposed regulations. On the other hand, once our Committee began work on this legislation, the Department agreed to reformulate many of its objectionable proposed regulations.

Today, I will discuss only what seem to me the most troublesome provisions of the Department's proposed regulations.

I would like to commend the Members on both sides of the aisle and in the other body for the outstanding spirit of cooperation that made it possible to pass this legislation in such a relatively short time. It is a tribute to the outstanding track record of the Federal nutrition programs that they continue to enjoy such strong bipartisan support and that any threats to their well-being brings a prompt, firm response from Members of widely differing political philosophies.

Our intent in enacting the provision on simplifying resource and eligibility determinations was clear. We intended to exclude resources whose relative value was slight. As I stated in my remarks accompanying that legislation, no purpose is served when a household is denied because of a resource that could not be sold for any substantial amount of money to buy food.

In implementing this provision, however, the Department developed a troubling rule. The proposed rule has two requirements: The resource must have a sale price of $2,000 or less, and the cost of sale must be at least 75 percent of the sale price. This regulation will only continue to deny food stamps to households due to resources whose sale would yield little or no money for food.

In addition, the Department ignored the intent to simplify the resource determination and ease the paperwork burden on State agencies and households. By creating the two-pronged cost of sale and sale price test, the Department has complicated the process. The Department has created two mathematical formulas that caseworkers must figure out—and households must understand—before the household can be determined eligible. In light of the burden on already overworked and understaffed State agencies, the Department should not be adding to the workload.

Nonetheless, we added this specific provision of the legislation to ensure that resources that are not actually available to the household for food are not counted to the household. By imposing arbitrary standards to determine when a resource is inaccessible, the Department would have complicated the program.

This amendment is intended to address these concerns. A resource will be considered exempt if its disposition is unlikely to yield any significant amount of money to buy food for the household. No arbitrary sale-price or percent-of-value test may be imposed. States shall not be required to verify the value of a resource in order for it to be excluded by this provision.

No one deserves our sympathy and concern more than the homeless. It was to make the program more accessible to these people that we enacted the provision on estimates in lieu of verification of shelter costs. The Department's regulatory interpretation of this provision included some important positive elements but also sent States a message that could effectively destroy the provision's usefulness.

We were pleased that the Department opted to allow homeless households with low shelter costs to use the shelter standard, properly rejecting the notion of establishing some cumbersome standard for determining what is "low." At least in this instance, the Department upheld the spirit of the legislation to simplify the application process for all homeless households, as well as for State agencies. Shelter costs for the homeless are hard to anticipate and harder still to verify, but nonetheless consume a large part of homeless households' incomes.

Unfortunately, the Department set $93 as the shelter standard. The provision we passed last year required States to estimate the shelter expenses that homeless households were likely to have in a month. The Department's rule would discourage State agencies from developing their own standards based on local shelter costs and encourage them to substitute the $93 figure. However, the Department's $93 figure is unrelated to actual shelter costs and is simply too low. Formerly homeless households may well spend more than $93 if they pay for shelter for even 1 week in a month. All of these households will be forced to document their actual costs, which may be difficult or impossible. States will have to anticipate how much homeless households

are likely to spend in the future. Our intent to reduce paperwork for the whole class of homeless households would be frustrated.

In promulgating its final rule, we now expect the Department to strike a better balance between the interests of reducing paperwork burdens for recipients and State agencies with the interest in providing guidance to State agencies. A single national number, if set at a level more reasonable than the Department's $93, could be a useful timesaver for States with low shelter costs. We expect the Department's final rule to make clear, however, as the law does, that States in which homeless people could realistically incur higher housing costs establish their own levels, which may be well above the national minimum chosen by the Department. Naturally, both the national and State or local numbers should be adjusted for inflation.

Recognizing that recipients of general assistance (GA) are the poorest of the poor, we intended that categorical eligibility streamline the procedure for processing GA households in the Food Stamp Program as it has for AFDC and SSI recipients. The Departments's overly restrictive interpretation would defeat this purpose by unnecessarily limiting the kinds of GA programs eligible for categorical treatment. Of course, categorical eligibility should only apply to households receiving needs-based assistance.

The Department, however, has proposed to restrict the criteria much farther, imposing absolute income and resource limitations. These limitations are far more stringent than Food Stamp Program criteria, which allow deviations from the income and resource guidelines for households in special circumstances.

Further, the Department's decision to restrict categorical treatment to recipients of GA programs with certification periods of 3 months or more will frustrate our intent to simplify the process. We understand that there are GA programs that have very stringent need standards but require new applications every month. The Department's interpretation would create undue burden for recipients and State agencies and would defeat the intent of this provision.

This amendment is intended to reduce the paperwork burden for applicant GA households, and to ensure that recipients of truly needs-based GA receive categorical treatment in the Food Stamp Program. Categorical eligibility would apply to households who receive GA under a program whose income criteria are comparable to, or more restrictive than, those in the Food Stamp Program. Recipients of one-time emergency assistance for transients and others whose need is manifestly limited to a single month would not be categorically eligible.

I was very troubled by the Department's approach to monthly reporting and retrospective budgeting. In particular, the changes made by the Department—neither required nor authorized by legislation—would cause needless hardship for recipients and increased the burden on State agencies. The provisions restricting notice to households and expanding the proration of benefits completely contravene our intent to relieve hunger since they make it even harder for eligible families to receive benefits.

The Departments's proposed rule combined the incomplete filing notice with the termination notice. We seriously doubt that recipients would receive adequate notice of their rights if this rule were not amended. When monthly reporting was first required, serious concerns were expressed as to whether households could realistically be expected to comply with the paperwork requirements. Because of such concerns, we restricted the scope of monthly reporting in 1985, 1988, and 1990.

It was thought that giving households two separate notices would at least partially address those concerns. The Department's proposal to combine the two forms would inevitably increase procedural terminations and caseload "churning" rather than simplification.

Fortunately, I have been informed that representatives of the Department agreed to abandon its proposal to combine the two forms. Instead, the Department will continue the requirement that households be given separate notice of both adverse actions. Households must receive separate notices of the late or incomplete filing and, if they refuse to comply then, of termination until the household complies with its reporting obligations. Nothing in this amendment is in any way intended to restrict households' right to retroactive food stamps once they file their late monthly reports.

In addition, the Department proposed to prorate the benefits of households submitting late monthly report forms. The Department failed to realize that these households are penalized already by having to wait to receive food stamps. Reducing the benefits the eligible household finally receives would compound the hardship and cause undue burden on households.

The Department's rule would increase the hardship on monthly reporting households—who are generally the working poor, and who already have more burdensome paperwork requirements than other households—by prorating their benefits within a certification period. This is not allowed for other households and should not be imposed on households who must make monthly reports. Further, proration of benefits for late reporters would increase the burden on State agencies, as caseworkers must calculate prorated amounts as well as the regular benefit amounts.

This package includes an amendment to override the Department's proposal and prevent State agencies from prorating the benefits of households who submit late monthly report forms. This legislation makes clear that proration of benefits is only allowed after the expiration of a certification period or the termination of a certified household that became ineligible under one of the act's substantive rules, such as the gross income test. Benefits may not be prorated where the household's certification period has not expired, even if the household has not participated at some point during that period due to being suspended for a monthly reporting or similar problem.

We intended in the head-of-household provision to ensure that the person who is chosen as the "head of household" is actually the person primarily responsible for making the household's key decisions. We weighed the recipients' interest in an unlimited right to select the head of household against the Department's interest in ensuring that Program goals are not undercut by artificial designations and struck a balance between the two to accommodate the real-life circumstances of food stamp households.

The Department's proposal is unfortunate. It would destroy the compromise we reached by imposing a primary wage earner test when younger people with wages move in with older persons who are not their parents and whose income comes from other sources. This rule creates a hardship for extended families sharing a home by penalizing all of the members when a younger wage-earner acts irresponsibly. The primary wage earner test not only is often inequitable, it also burdens State agencies.

The Department's proposal to recoup recipient claims through Federal income tax refund offset raises serious due process issues. Under this proposal, recipients are unlikely to receive adequate notice that their refunds are being intercepted. They are also unlikely, as a practical matter, to have a realistic chance to contest that action. Further, the provisions for appeal are inadequate, especially because the Department's proposal would allow offset to be used to reclaim overissuances—resulting from even inadvertent errors—that are 10 years old. It is difficult for anyone to give a detailed accounting of their activities 10 years earlier. Moreover, since States may be trying to collect overissuances in other ways, the danger of duplicate collection seems very high.

In light of the many hardships that the refund offset may cause, and its potential to undermine the incentives the earned income tax credit is intended to create, we believe that now is not the

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VOL 137
PT 24
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1991
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time to initiate this procedure. The Department should focus instead on more immediate goals: implementing the Leland Act, responding to the dramatic increase in caseloads caused by the recession, promoting simplicity and consistency in program administration, reforming the grossly ineffective employment and training program, and removing barriers to participation.

I am pleased that it appears that the Department now believes that no claims should be collected that are older than 6 years.

Last year's legislation dropped the requirement that 30 days must be given a household to elect a repayment method after that household was found to have committed fraud. As a matter of discretion, the Department should give at least 10 days to avoid the chaos that demanding instant action would bring.

Unauthorized by any legislation, the Department proposed to apply the shortened time frame to households who had not committed fraud, but had only made an inadvertent error. The Department's proposal would not only cause undue burden for households, it would increase the burden on State agencies as well.

I was alarmed to learn that over the past 3 decades AFDC benefits have declined in real terms, after adjustment for inflation, by an amount roughly equal to the benefits the Food Stamp Program provides. The cause of this decline is unclear, but it certainly seems possible that some States are seeing Federal food stamp dollars as a substitute for State-Federal AFDC moneys. If so, this is completely unacceptable. No one should be worse off in any other program because the Food Stamp Program exists. We expect the Department to work diligently to ensure that the Food Stamp Program's effectiveness is not undermined by having food stamps and other programs work at cross-purposes and reduce each other's benefits.

Last year's legislation required the Department to conduct enough demonstration projects to determine the effect on the program of excluding as a resource one vehicle per food stamp household. Unfortunately, the Department shows no sign of beginning to conduct these projects and has discouraged interested State agencies.

This legislation requires the Secretary to initiate those vehicle demonstration projects by January 1, 1993. Nonetheless, speaking as a Senator from one of America's most rural States, I hope that the Department initiates the projects well in advance of that deadline. In addition, I note the Arkansas State agency has requested some time ago that the Department conduct a demonstration project in that State, and I hope that the Department recognizes that State agency's interest and the work they have already done in thinking through how this demonstration would work when it selects sites.

To help disabled people regain their self-sufficiency, the Social Security Administration (SSA) has for some time encouraged recipients of Supplemental Security Income (SSI) benefits to develop "plans for achieving self-support" or PASS plans. A PASS plan might, for example, involve saving money to buy equipment the recipient needs to pursue a trade, or might call for the recipient to take some kind of specialized training to qualify for work that is within his or her functional capacity.

The farm bill excluded from food stamp resource determinations any assets of SSI recipients, including money saved under PASS plans, that SSI excludes from its resource calculations. The larger problem for PASS participants, however, is that current rules have been interpreted to require food stamp offices to count the SSDI benefits going into the PASS account as well as the SSI benefits that the participant is actually receiving as income. Although this practice has been found unlawful in the only court case decided to date, throughout most of the country disabled people working to regain their self-sufficiency are still being denied food stamps because of their PASS plans.

This legislation would provide that moneys SSA pays to a provider of training services or into a PASS account under the terms of a PASS plan would be treated as vendor payments—which in fact they are—and excluded from consideration as income. We do this because moneys set aside for the fulfillment of a PASS plan obviously are not reasonably available to meet the household's food needs.

The final bill makes a change in the language concerning the outcomebased performance standards the Secretary is required to establish for the Food Stamp Employment and Training Program. The final language removed the requirement that the performance standards be based on improvements in household members' educational levels. This change was made to give the Secretary more flexibility to develop performance standards that are compatible with the performance standards to be developed for the JOBS program authorized under Title IV-F of the Social Security Act.

This change is in no way indicative of a lessening of our intent that the performance standards reward States that provide educational services to their Food Stamp Employment and Training Program participants. We also expect that nothing in the performance standards developed for the Food Stamp Employment and Training Program will put States at a disadvantage for placing participants in longer-term educational programs.

Providing educational services is an essential component of any employment and training program because educational levels are more closely linked to an individual's ability to become self-sufficient than at any time in the past. University of Michigan researcher Sheldon Danziger has studied the relationship between educational attainment and earnings from 1949 to 1986. He found that the least educated individuals not only have the highest poverty rates, but have also experienced the greatest deterioration in their economic status over time.

The Commission on the Skills of the American Workforce found that in 1987 young male high school graduates with 1 to 5 years of work experience earned real weekly wages 20 percent lower than in 1979. The Economic Policy Institute reported that the earnings of men aged 24–34 with only a high school diploma declined 9 percent over the past decade, while the earnings of those without a high school diploma declined 12 percent.

MEAT AND POULTRY INSPECTION EXEMPTIONS

Mr. LEAHY. Mr. President. The Federal Meat Inspection Act [FMIA] and the Poultry Products Inspection Act [PPIA] are among the Nation's oldest statutes designed to protect the public health. These acts require the daily presence of a government inspector at facilities manufacturing meat and poultry products for resale.

If done correctly, such inspection ensures that exacting manufacturing and processing requirements result in wholesome and properly labeled meat and poultry products. In effect, these inspectors are the eyes of consumers, who cannot otherwise protect themselves against improper manufacturing or unsanitary plants.

This continuous inspection is necessary because products of animal origin can be carriers for disease and microbiological contaminants that could jeopardize the public. Accordingly, from the time of slaughter, through processing, until the consumer purchases a product at the supermarket, the meat or poultry is subject to continual inspection by officials of the U.S. Department of Agriculture [USDA] acting under the authority of the above statutes.

Visual inspection is required at the time of slaughter to eliminate the risks of disease. Inspection is also required at the time the meat or poultry is further processed—which can include being cooked or cured to ensure that microbiological-contaminants, such as listeria, salmonella, and E. Coli, are destroyed for ready-to-eat products. combined, these programs result in the safest meat and poultry supply in the world.

Furthermore, inspection is generally required of all further processing of the cured or cooked product when it is used in further processed products designated for resale. There are many reasons for such inspection. First, further processing of the meat may reintroduce old dangers or create new dangers, such as under processing a canned meat product. Second, a safe cooked or cured product may be recontaminated during processing or distribution.

Third, manufacture for resale may introduce new dangers of mishandling.

Notwithstanding the above, it is appropriate, from time to time, to review whether inspection is necessary in every instance. There may be limited situations when the risks discussed above are not present, or where there are protections available other than continuous Federal inspection. If such situations are identified, consideration should be given to exempting the processing of such products from inspection.

It must be emphasized, however, an exemption should not be granted to save money or for political expediency. The purpose of the inspection acts must never be compromised—the public health must be protected.

The American consumer enjoys the safest meat and poultry supply in the world, much of this due to inspection. Whenever such a protection is lowered or altered, it must be clearly established that consumers will not be placed at risk. Section 1015 does not abandon these principles nor, if properly implemented, does it lower public health protections.

Section 1015 of the technical corrections bill would require the Secretary of Agriculture to exempt the processing of pizzas in certain circumstances from the continuous and daily inspection requirements. It does not provide an exemption from the adulteration and misbranding requirements of he inspection acts. However, such exemptions may only be exercised in limited, well-defined circumstances where the risks discussed above would not be present.

Further, such exemptions would be granted only through a rulemaking that establishes ample protections to the public health. Finally, the legislation would begin the process of reviewing previously granted exemptions to ensure they are consistent with the public health.

The amendment requires the Secretary to exempt pizzas from inspection requirements of the inspection acts. However, this authority is limited both procedurally and substantively. Further, the section mandates the Secretary to conduct a study on the impact of products previously exempted under the historical exemption provisions of the acts.

Subsection (a), of section 1015, would amend section 23 of the FMIA to require the Secretary to exempt from inspection, by regulation, the processing of pizzas containing previously inspected and passed meat components in a cured or cooked form. In promulgating regulations to implement this provision, the Secretary shall prescribe whatever terms and conditions are necessary to ensure that no risk to food safety or public health arises.

These terms and conditions are to be issued under section 21 and 25 of the FMIA. Section 21 is the Secretary's general execution of the act. it is not expressly cited in the statute as the Secretary has the clear authority to adopt any and all needed conditions for the exemption.

Section 24 authorizes the establishment of storage and handling requirements for facilities not processing meats under continuous inspection. It is also expected that the Secretary will impose whatever additional requirements may be necessary to ensure that no risk to public health arises from this exemption. Thereby, the Secretary will ensure public safety in the absence of the daily inspection.

Subsection (b) makes parallel changes to section 15 of the Poultry Products Inspection Act. Under this subsection the Secretary is likewise required to impose conditions on the exemption consistent with sections 14(a) and (b).

Further, the exemption may be granted for the processing of pizzas which contain only cooked or cured meat and if the product will be distributed only to public or private non-profit institutions that operate under supervision that the Secretary determines will protect public health, such as the direct supervision of a registered dietician or the use of trained personnel. The Secretary has broad authority to refuse, withdraw or modify any exemption.

Subsection (c) requires the Secretary to implement subsections (a) and (b) through notice and comment rulemaking, which shall include at least one public hearing examining public health and food safety issues raised by the granting of this exemption. In such rulemaking, the Secretary is required to develop such terms and conditions as may be necessary to ensure food safety and protect the public health from any increased risk associated with granting of an exemption under subsections (a) and (b). This rulemaking should be completed by August 1, 1992.

Subsection (d) requires the Secretary, in consultation with the National Academy of Sciences, to conduct a study to evaluate and develop criteria for exemptions from inspection of meat food products. This study shall include current exemptions granted under section 1(j) of the FMIA and section 4(f) of the PPIA for products that have historically not been deemed by consumers to be products of the meat industry. In addition, the studies shall examine the appropriateness of granting exemption from the requirements of the FMIA for wholesale meat outlets engaged in minimal processing activities.

The legislation would provide a procedural and substantive framework for the Secretary to grant an exemption from inspection of pizzas.

As an initial matter, the new authority granted by this legislation would exempt the processing of pizzas from the requirement of daily inspection if certain conditions are met. The processing operation and products manufactured under such an exemption would still remain within the Secretary's authority and would be subject to the adulteration, misbranding, and other provisions of the FMIA or the PPIA, including storage, handling, processing and facility requirements.

The Secretary has broad authority to impose additional requirements upon an exemption as necessary to assure that the exemption gives rise to no risk to public health. Moreover, the Secretary has broad discretionary authority to withdraw or modify such exemptions to effectuate the purposes or provisions of the act.

The Secretary would have the authority to withdraw or modify any exemption in particular instances or at particular facilities, subject to appropriate due process protections. Further, the Secretary may indefinitely suspend a previously granted exemption and then reassess the exemption through a new rulemaking proceeding if there is basis to believe a risk to public health exists.

Subsections (a) and (b) would impose several procedural conditions on the grant of an exemption. The requirement to grant an exemption applies only where such an exemption gives rise to no risk to public health. Notice and comment rulemaking provides an appropriate structure for the Secretary to receive public input, and hence is required.

Such rulemaking, which includes a public hearing, shall focus on evaluating the public health implications of granting any proposed exemption. The notice and comment rulemaking is to identify any risk to public health that may arise through such an exemption, and to guarantee such risks must be eliminated through the terms and conditions the Secretary must adopt as a precondition of implementation of the exemption.

School children are likely consumers of these pizzas. Therefore, such terms and conditions must positively ensure food safety for these vulnerable populations, despite the absence of an inspector at that final processing stage.

The requirement for the Secretary to grant an exemption from inspection of pizzas must not be construed as a statutory mandate to lower food safety protections—it is not. Indeed, the mandate to ensure food safety and protect public health in the absence of continuous inspection should cause the Secretary to prescribe terms and conditions that are very exacting.

Even if the inspector is not present on a daily basis, equipment and facilities must adhere to high standards of cleanliness, and safe food handling must be assured through the terms and conditions. Only when the Secretary has developed such terms and conditions should the Secretary promulgate a final rule to implement subsections (a) and (b). If such terms and conditions cannot be established to the satisfaction of the Secretary, I do not believe that such regulations, to grant the exemption, should be published.

Earlier versions of this provision, passed by both the House and Senate, authorized, but did not require, the Secretary to grant exemptions. In this provision, the word "shall" replaces the word "may" to make clear that it is the firm intent of Congress that the Secretary must address this issue.

The new authority established herein in not mere discretionary authority for the Secretary to exercise to the extent, and at whatever time, the Secretary deems appropriate. The Secretary is obliged by this authority to prosecute a thorough and carefully considered rulemaking. However, this requirement does not relieve the Secretary of his public health protection duties.

The substantive requirements of the legislation have been designed to make certain that a product exemption will not be granted where there are substantial risks inherent in manufacturing the pizza for resale. To be eligible for exemption, the meat or poultry component of the pizza must have been previously inspected and passed by USDA in a cured or cooked form. Failure to start with such meat would clearly entail risk.

Furthermore, there are risks inherent in the storage, handling, and processing of meat or poultry. The legislation requires the Secretary to mandate requirements for facilities processing without daily inspection. Sanitary specifications for facilities, equipment and storage rules, as well as acceptable processing methods must be adopted to fully eliminate the risks of preparing meat food products. Finally, the pizza may only be distributed to public or non-profit private institutions. Such institutions may purchase such products for immediate consumption, thereby avoiding some food handling risks.

I expect that such institutions will be required to operate under supervision that assures that food handling and sanitation practices protect public health, such as the direct supervision of a register dietician or a staff trained in proper safe food handling techniques.

Admittedly, the Secretary bears a substantial burden to develop terms and conditions that are so effective as to ensure food safety when an inspector is not present on a daily basis.

In the evaluation of information from these sources, the Secretary would consider the history and nature of the product, whether a pattern of unsanitary conditions may exist in the industry, educational level and training of personnel, compliance with ingredient specifications and the health status and vulnerabilities of likely consumers, among others.

The Secretary retains broad discretion to refuse, withdraw, or modify such exemption to effectuate the purposes of the act. When this authority is exercised with respect to a particular facility, due process protections must, of course, be afforded. Regarding an exemption generally, in the event new evidence arises or the Secretary, in his or her discretion, otherwise determines that a risk to public health exists, such exemption should be suspended pending completion of a rulemaking to reevaluate the matters and promulgate such new terms and conditions as are required to ensure food safety and protect public health or eliminate the exemption.

In addition, the Secretary is expected to assure that manufacturers of exempt products comply with labeling requirements. Failure to require adherence to such labeling requirements would result in an unlevel playing field for competitors and institutional consumers who increasingly rely on product labeling.

The Secretary is expected to promptly exercise his or her discretionary authority to refuse or withdraw an exemption from inspection in any case where an exempt facility manufactures for resale products that fail to comply with relevant labeling requirements.

In the development of this legislation, concerns were expressed regarding current exemption provisions of the FMIA and PPIA. These provisions permit the Secretary to exempt totally from the act's coverage those products containing meat or poultry which historically have not been considered by consumers as products of the meat food [or poultry] industry. It is alleged that these provisions have resulted in a patchwork of inconsistent exemption decisions, not based on a public health standard.

Accordingly, subsection (d) of the legislation would require the Secretary to begin reviewing these exemptions by directing the Secretary undertake a study, in consultation with the National Academy of Sciences, to develop criteria for, and evaluate, present and future exemptions for meat and poultry products, as well as the effects of those exemptions would have on public health. Once that study is completed, within 24 months from the date of enactment, it is anticipated that the Secretary will work with the Congress to resolve the controversy and ensure public health protection.

The sponsors envision the fruit of this study to be a coherent policy for product exemptions consistent with the protection of public health.

FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991

Mr. WELLSTONE. Mr. President, I would like to thank the chairman of the Agriculture Committee, the senior Senator from Vermont, for all of his work on the meat and poultry inspection provisions of this technical corrections bill. And I would like to commend him for the excellent explanation just delivered of the final language contained in the bill on that subject.

I fully suscribe to the principles of public health protection as the chairman put them forward. I fully agree with him regarding the importance of taking great care in setting meat and poultry inspection policy in order to uphold those principles. I believe strongly in maintaining food safety and protecting public health through the USDA inspection system. And although such a system could probably never function perfectly, we certainly owe much to our current one.

Important issues relating to the public policy process and to the protection of public health have been raised in recent months during consideration of the provisions of this bill regarding the sale to schools of meat-topped pizza. I would like to review some of those issues quickly and outline my concern about them.

The House passed the technical corrections bill during the summer with brief language on the subject of exemption from meat inspection requirements for some pizzas. The language, as I understand it, was adopted at the last minute, and had never been considered in subcommittee deliberations or in any hearing in the House. We in the Senate made what we feel were substantial improvements to that language before passing the overall bill last Friday. Now, following a staff conference on the bill, we have yet another version of it, containing new language on meat-topped pizza, which was passed by the House earlier today.

As the chairman knows, I have been following this issue with great concern. I was somewhat alarmed by the early House version of the bill because of what appeared to me to be an outright special-interest exemption from meat-inspection requirements for some products. I felt that particular restaurant interests were being accommodated through a process which inadequately considered public-health impacts and which did not allow sufficient public comment and input concerning the granting of exemptions.

The chairman and his staff, working with other members of the Agriculture Committee, took particular care to address my concerns, which were widely shared. The version of the bill which the Senate Agriculture committee sent to the Senate last week, and which we passed, fully satisfied those concerns. It authorized the Secretary of Agriculture to grant certain exemptions from inspection, but only to the extent consistent with the protection of public health. It provided for fair and open administrative procedures.

The chairman knows that I would have preferred that language. Some consumer-nutrition advocates worry that the way we are authorizing an exemption form inspection in the bill before us appears to reverse longstanding practice regarding public health criteria. They say that it could be construed as shifting the burden of proof from those who will benefit from risk to those who will be subject to the risk.

In other words, this bill now instructs the Secretary that he shall grant an exemption, albeit under certain "terms and conditions." Then the Secretary may, of course, withdraw such an exemption if that is found to be necessary in order to ensure food safety and protect public health. I wonder if it is less clear than it was before that the Secretary and those who are seeking an exemption have a burden of proof to ensure that the exemption does not threaten public health before it is granted.

I am reassured by, and strongly agree with, the explanation offered by the chairman, of this current bill's language. The terms and conditions under which the Secretary is to exempt some products from meat inspection requirements must "ensure food safety and protect public health."

Therefore, to effect this exemption, the Secretary is required to establish such terms and conditions as may be necessary to be certain of food safety, even in the absence of daily inspection. Clearly, strong sanitation requirements will be imposed through the terms and conditions. I note that the chairman cites the sanitary requirements imposed on custom operations. And I note further that if regulations specifying terms and conditions cannot be promulgated, an exemption should not be granted.

I find comfort in the chairman's assurance that the Secretary's duty to protect the public health is, if anything, expanded in the case of an exemption from the requirements of daily inspection, as will be the case if this bill becomes law. Moreover, I understand that the Secretary would have broad authority to perform that duty.

As a member of the Senate Committee on Labor and Human Resources, I intend to observe carefully the rulemaking process for any exemption granted through this provision. I will pay particular attention to the terms and conditions promulgated by the Secretary as part of any exemption process to see that they do, in fact, ensure food safety and protect public health. Because it is my understanding that these provisions accomplish that end, I will not oppose their enactment, although I would have preferred those contained in the earlier, Senate-passed version of this bill.

EXTENSION OF EXPIRING TAX PROVISIONS

Mr. WOFFORD. Mr. President, I take this opportunity to commend the chairman of the Finance Committee, the Senator from Texas, for his leadership in bringing this legislation to the floor. Because this bill, which extends several expiring provisions of the tax code, is important in getting this country's economy moving again. In my mind, this legislation combines several of the types of initiatives that are vital to long term economic growth.

This bill provides incentives for capital investment. In particular, this legislation extends tax provisions that promote research and development. It would also extend small issue industrial development bonds, which stimulate private sector investment into long-lived physical plant and equipment, to increase productivity and to create permanent private sector jobs.

IDB's have been extremely successful in retaining and creating jobs in Pennsylvania. According to the Commonwealth's Department of Commerce, IDB's have financed 160 manufacturing and industrial projects in Pennsylvania, thereby retaining 13,359 jobs and creating 6,400 new jobs between 1987 and 1990.

This bill also promotes investment in the productive capacity of individuals. It will ensure that employees will be able to continue to receive up to $5,250 annually in tuition reimbursements or similar educational benefits from their employers on a tax-free basis. Since this deduction was first enacted in 1978, over 7 million working people have benefited. And these are middle-class working people—in 1986, over 70 percent of the benefits went to people earning less than $30,000.

In addition, this bill promotes housing opportunities through the extension of the mortgage revenue bonds and the low-income housing tax credit.

I am extremely concerned that the American dream of home ownership is fading. And I believe that the Federal Government has a role in reversing that trend. During the past 20 years, MRB's have financed more than 1.2 million mortgages totaling more than $75 billion. Since 1982, the MRB program has helped more than 35,000 families in Pennsylvania. The average price of houses financed in 1990 was $57,000 and the average family income of the participants was $27,100. Clearly, MRB's are important to first-time homebuyers.

The low-income housing tax credit is an important housing production program. It is a public-private partnership in the truest sense of that term. As a result of the productive relationships promoted by the tax credit, lower income families can obtain affordable housing.

Mr. President, this legislation is important during these economically troubled times. However, I am disappointed that the extension will only be for 6 months. Such a short-term extension creates uncertainty among those that utilize these tax provisions. Consequently, I will be working with my colleagues in the near future to at least make the most worthy of these provisions permanent.

CHAMPUS

Mr. WIRTH. Mr. President, on Saturday, the Senate debated the Department of Defense appropriations conference report and discussed many of the differences between the provisions of that report and the DOD authorization conference report. One of those differences relates to a provision of the authorization bill that I strongly supported involving the CHAMPUS Reform Initiative [CRI] contract now in effect in California and Hawaii. That provision instructs the Department to rebid the contract using competitive bidding procedures to determine the vendor that will perform services after the current contract terminates in January 1993. The appropriations conference report directs the Department to do precisely the opposite. That bill instructs the Department to extend the contract for 1 year until January 1994, keeping the current contractor in place without any competition whatever.

The President has just signed the DOD appropriations bill and will soon have the opportunity to sign the DOD authorization bill. As he considers his action on the authorization bill, I think it important to establish clearly the impact of that bill's CRI provision and, in particular, the effect of the enactment of that provision upon the conflicting language of the appropriations bill.

Mr. President, it should be clearly understood that enactment of the authorization bill will have the effect of rescinding the appropriations bill's language. The instructions to the Department relating to CRI that are contained in the two bills are in direct conflict and cannot both be followed. When Senator GLENN and other members of the Senate Armed Services Committee developed the authorization bill's CRI provision, our purpose was to counteract and supersede the instruction of the House Appropriations Committee' conflicting provision. The

VOL
137
PT
24
NO
26
1991
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JA
3
1992
UMI

effect of the President's signature of the authorization bill will therefore require competitive bidding to determine the fate of the CRI contract in 1993, notwithstanding the appropriations bill's instructions to the Department to extend the contract until January 1994. Clearly, the President understands that to be among the consequences of his signature of the authorization bill. To my mind, it is one of the desirable consequences that will result from that action.

FCC REALLOCATING FREQUENCIES

Mr. HOLLINGS. Mr. President, I rise today to discuss proposals currently being examined by the Federal Communications Commission [FCC] that could have a significant impact on the telecommunications systems of the railroads, the power companies, and other users.

The FCC is considering the feasibility of reallocating frequencies around 2 gigahertz to new service providers. Some of these frequency bands are heavily used by the railroads' and power companies' microwave communications systems. The FCC also is considering the cost impact in addition to the technical feasibility of any possible reallocation that may affect these users. In fact, the FCC is reviewing suggestions that the new service providers might be required to pay the relocation expenses of the incumbent users of these frequencies, including the railroads and power companies.

The railroads and the power companies have substantial interests in this matter. The railroads, the power companies, and other basic U.S. industries and State and local governments depend on their frequency bands extensively for microwave communications. These users' investments in microwave systems are substantial. The cost of accommodating those microwave systems in other frequency bands could be very high, assuming alternative frequencies are available. These microwave facilities were installed to provide communications facilities which were not otherwise available or were not available with the necessary service reliability.

In this regard, railroads and power companies must have available to them secure and reliable communications systems. Relocating these microwave systems to other frequency bands could force these users to incur substantial costs.

As I have said before, Congress should not get involved in specific frequency allocation decisions before the FCC. The FCC is clearly the expert body when it comes to determining which service should receive which frequencies. These decisions require detailed engineering studies concerning power levels, interference, coverage areas, transmission modes, and other considerations, questions that the FCC was created to address.

As it addresses the issues related to spectrum allocations to accommodate newly proposed services, the FCC should exercise great care and prudence with regard to the microwave systems upon which railroads and power companies depend for the safe and efficient operation of trains and provision of public power.

THE SURFACE TRANSPORTATION ACT

Mr. JEFFORDS. Mr. President, I am pleased to support the conference report on the Intermodal Surface Transportation Efficiency Act of 1991, and I want to commend my colleagues for their efforts in reaching a compromise with the House of Representatives. While we did not get everything we wanted, I am glad to see that many of the Senate provisions remained in the final bill.

I would briefly like to highlight some of the aspects of this bill. Our countries' bridges are falling down. This bill provides $16 billion to help solve this problem. In my own State of Vermont, several bridges are in disrepair. In fact, I am pleased that this bill may result in repair being done on a key transportation link between rural Vermont and New Hampshire: The Maidstone bridge. I'll discuss this in more detail later.

This bill will result in the completion of the present interstate highway system. President Eisenhower had the foresight to see how important the interstate system could be to commerce in this country. Thirty-five years later we are on the brink of completing this system.

To reduce Americans' use of cars, billions will be invested in new rapid transit systems. Over $9 billion will be provided for new transit systems. Approximately $660 million will be spent for an intelligent highway system to reduce congestion. Studies have shown that tremendous volumes of oil are wasted by cars stuck in traffic. Air pollution is also increased by the idling cars.

Flexibility is also provided in this bill. This is very important to my home State of Vermont. We need the ability to transfer money between projects.

Money is dedicated to the creation of a national system of trails for backpackers. Too often we forget our original form of transportation: Walking. Vermont has many trails which are heavily used, and we are looking forward to expanding or trail network.

Scenic byways are also allowed under this act. Billboards can be prevented from being put up on these byways. Money can also be spent to remove these billboards. I wish we had kept the Senate language, but am pleased that some option exists for removing billboards. Some day we may be free of this pollution on a stick.

I would briefly like to discuss the implications of this bill for my home State. Over the 6-year life of this bill, we should get approximately $492 million. I am pleased that the conferees were able to get another $20 million to complete a very important project for Vermont: The Bennington bypass. Bennington, VT, suffers from traffic congestion. To alleviate this congestion, a road would have to be built in New York State as well as in Vermont. Recently, Vermont and New York negotiated an agreement to build this road. Now we have the funding. Soon, the Bennington bypass will be a reality.

Bennington is not the only city to profit from this bill. All of Vermont will benefit from this bill by the inflow of money into the State. Some other specific projects may also benefit. I have spoken with Vermont's Secretary of Transportation about the Bennington bypass. According to the Secretary, the additional Federal money we received will free up State money which can go to other projects. These projects could benefit from the release of State money from the Bennington project. The first is the Maidstone bridge I discussed earlier. The second is Route 7 near S. Wallingford, and the third is a project at the medical center in Burlington. I am glad the Secretary and I were able to work together to ensure additional funding for other important Vermont projects.

Mr. President, the hour is very late, so at this point I will conclude my remarks. I want to thank Senators CHAFFEE, MOYNIHAN, SYMMS, and my other colleagues on the Environment and Public Works Committee. Their staffs are to be commended as well.

INCLUSION OF AREA HEALTH EDUCATION CENTER PROVISIONS IN PUBLIC HEALTH TRAINING ACT

Mr. McCAIN. Mr. President, I rise to express my support for the Senate amendment to H.R. 3508, legislation to reauthorize public health training programs. Specifically, I would like to express my appreciation to the authors of the Senate amendment for including the concepts embodied in the Area Health Education Centers Reauthorization Act of 1911, which I introduced earlier this year with Senators GRAHAM and others.

This legislation, which has been over a year in the making, represents a consensus opinion of the Area Health Education Center community nationwide. It reauthorizes and restructures the critical Area Health Education Center Program, which is a critical component to meeting the health manpower shortage needs in rural and other underserved areas.

Again, Mr. President, I am pleased that the authors of the Senate amendment to H.R. 3508 included the concepts embodied in the Area Health Education Centers Reauthorization Act of 1991.

RELATING TO HCFA REGULATIONS BANNING PROVIDER-SPECIFIC TAXES AND VOLUNTARY CONTRIBUTIONS TO STATE MEDICAID PROGRAMS

Mr. NUNN. Mr. President, earlier today the Senate approved by voice vote H.R. 3595, legislation aimed at supplanting pending Federal regulations that would have immediately banned the use of voluntary contributions and provider-specific taxes by State Medicaid Programs.

I am very pleased that H.R. 3595, as adopted, incorporated an agreement reached this morning between Senator FOWLER and myself and representatives of the Health Care Financing Administration [HCFA]. This agreement is a great improvement over the pending HCFA regulations that would have gone into effect otherwise and avoids the immediate threat of a $250 million shortfall in the State's fiscal year 1992 budget.

This agreement was reached through the good offices of Senator BENTSEN, and was developed on the foundation of an earlier compromise worked out between HCFA and the National Governors' Association. I want to thank Senator BENTSEN, NGA, and Gov. Zell Miller of Georgia and the Georgia Department of Medical Assistance, for the roles they played in this timely agreement.

The Georgia-HCFA agreement includes three very important concessions by the administration.

First, the prohibition on voluntary contributions to State Medicaid funds will be delayed until October 1, 1992, which will give Georgia more time to plan and implement a new system for financing its indigent care fund. It also forestalls the aforementioned $250 million shortfall in Federal Medicaid match dollars in fiscal year 1992.

Second, HCFA has agreed to modify language in the bill that would have made it virtually impossible for the Georgia General Assembly to debate legislation creating the provider tax which will now be the sole legitimate method of financing Georgia's indigent care fund. This linkage language made any discussions between State officials and providers on the structure of a provider-based tax grounds for assuming the State was attempting to circumvent Federal rules and secure excessive Federal match dollars. Now such discussion can take place, a concession of considerable importance insofar as Georgia may have to adopt a constitutional amendment to establish a new indigent care financing system.

Third of all, the agreement assures Georgia officials that they can continue to utilize local government funds made available through intergovernmental transfers, without forfeiting the Federal match. This, too, will be an important component in any future state indigent care financing system.

Mr. President, these are extremely technical matters affecting the most complex elements of this enormous intergovernmental program. The agreement reached today, however, basically represents a successful effort to prevent abuses in financing of State Medicaid Programs without abusing States which are struggling to care for our most vulnerable families.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:00 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 848) entitled the "Little Bighorn Battlefield National Monument".

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 690) to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2092. An act to carry out the obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing;

H.R. 3048. An act to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes; and

H.R. 3670. An act to make certain technical corrections relating to the immigration laws.

At 11:02 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 829. An act to amend title 38, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia;

H.R. 2450. An act to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions;

H.R. 2549. An act to make technical corrections to chapter 5, of title 5, United States Code;

H.R. 2732. An act to amend title 17, United States Code, with respect to copyright renewal, to reauthorize the National Film Preservation Board, and for other purposes;

H.R. 3237. An act to extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years;

H.R. 3379. An act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference;

H.R. 3666. An act to amend title 28, United States Code, to provide for an additional place of holding court for the Eastern District of Texas; and

H.R. 3686. An act to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina.

At 3:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 78. A concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 291. An act to settle certain water rights claims of the San Carlos Apache Tribe; and

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1555. An act to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; and

H.R. 3282. An act to amend the Act commonly referred to as the Johnson Act, to give the same treatment to the repair, transportation, possession, or use of gambling devices on certain United States-flag vessels as is governing to that activity on foreign flag vessels.

At 7:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3029) to make technical corrections to agriculture laws; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

H.R. 3341. An act to amend the Ethics in Government Act of 1978 with respect to honoraria, and for other purposes.

At 9:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary.

The message also announced that the House has passed the bill (S. 2050) to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 249. A concurrent resolution correcting a technical error in the enrollment of the bill H.R. 1724.

At 11:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2929. An act to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes;

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes;

H.R. 3932. An act to improve the operation efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month"; and

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day".

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 168. A concurrent resolution condemning Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712 and urging the President under the auspices of the United Nations to provide humanitarian assistance to the vulnerable populations of Iraq.

MEASURES REFERRED

The following bills, previously received from the House of Representatives for concurrence, were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1555. An act to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; to the Committee on Finance.

H.R. 2549. An act to make technical corrections to chapter 5 of title 5, United States Code; to the Committee on the Judiciary.

H.R. 3282. An act to amend the act commonly referred to as the Johnson Act, to give the same treatment to the repair, transportation, possession, or use of gambling devices on certain United States-flag vessels as is given to that activity on foreign-flag vessels; to the Committee on Commerce, Science, and Transportation.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2092. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 793. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes (Rept. No. 102–245).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 1056. A bill to provide for an architectural and engineering design competition for the construction, renovation, and repair of certain public buildings, and for other purposes (Rept. No. 102–246).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 652. A bill to protect the privacy of telephone users by amending section 3121 of title 18, United States Code (Rept. No. 102–247).

S. 474. A bill to prohibit sports gambling under State law (Rept. No. 102–248).

S. 313. A bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from a person who engages in torture or extra judicial killing (Rept. No. 102–249).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 168. A bill to implement certain recommendations of the Garrison Unit Joint Tribal Advisory Committee regarding the entitlement of the Three Affiliated Tribes and the Rock Sioux Tribe to additional financial compensation for the taking of reservation lands for the site of the Garrison Dam and Reservoir and the Oahe Dam and Reservoir, and for other purposes (Rept. No. 102–250).

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

H.R. 1426. A bill to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes (Rept. No. 102–251).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 757. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes (Rept. No. 102–252).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1696. A bill to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 353. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes (Rept. No. 102–253).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1581. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development (Rept. No. 102–254).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

William Carl, of Texas, to be a Member of the Board of the Panama Canal Commission;

John J. Danilovich, of California, to be a Member of the Board of the Panama Canal Commission;

John W. Crawford, Jr., of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1996; and

Leo P. Duffy, of Pennsylvania, to be an Assistant Secretary of Energy (Environmental Restoration and Waste Management).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of October 31 and November 15, 1991 at the end of the Senate proceedings.)

*Brig. Gen. Nathaniel H. Robb, ARNG, to be major general (Reference No. 426)

**In the Navy there are 169 appointments to the grade of ensign (list begins with Thomas H. Adair) (Reference No. 743)

**In the Air Force there are 2 promotions to the grade of colonel (list begins with Daniel D. Clifton) (Reference No. 774)

**In the Air Force and Air Force Reserve there are 26 appointments to the grade of colonel and below (list begins with Hector A. Arroyo Scotoliff) (Reference No. 775)

**In the Air Force Reserve there are 21 promotions to the grade of lieutenant colonel (list begins with Michael T. Allen) (Reference No. 776)

**In the Army Reserve there are 23 promotions to the grade of colonel and below (list begins with Charles G. Abbott) (Reference No. 777)

**In the Army there are 4 appointments as permanent professors at the United States Military Academy (list begins with James D. Hallums) (Reference No. 778)

**In the Air Force there are 680 promotions to the grade of colonel (list begins with Ronald M. Adams) (Reference No. 779)

**In the Army Reserve there are 810 promotions to the grade of colonel (list begins with Bruce A. Adams) (Reference No. 780)

**In the Naval Reserve there are 1,610 appointments to the grade of ensign (list begins with Kevin T. Aanestad) (Reference No. 781)

Total: 3,346.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN:

S. 2051. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period, and for other purposes; to the Committee on Finance.

S. 2052. A bill to amend the Internal Revenue Code of 1986 to stimulate the economy by allowing a deduction for personal interest of consumers, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 2053. A bill to amend section 1977A of the Revised Statutes to modify the remedies available to victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2054. A bill to confer jurisdiction on the United States Claims Court with respect to land claims of the Pueblo of Isleta Indian Tribe; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. KENNEDY, and Mr. THURMOND):

S. 2055. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself, Mr. BRYAN, Mr. DASCHLE, and Mr. ROCKEFELLER):

S. 2056. A bill to assist States in developing export programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH:

S. 2057. A bill to amend title 10, United States Code, to provide for centralized acquisition of property and services for the Department of Defense, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

By Mr. LIEBERMAN (for himself and Mr. ROBB):

S. 2058. A bill to declare as the policy of the United States cooperation with Western Hemisphere countries on energy issues, and for other purposes; to the Committee on Foreign Relations.

By Mr. NUNN (for himself, Mr. BREAUX, and Mr. PRYOR):

S. 2059. A bill to establish youth apprenticeship demonstration programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM (for herself and Mr. METZENBAUM):

S. 2060. A bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SASSER:

S. 2061. A bill to amend the Internal Revenue Code of 1986 to provide middle income tax relief, to provide for long-term economic growth, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Ms. MIKULSKI, Mr. PACKWOOD, Mr. WIRTH, Mr. MCCONNELL, Mr. WELLSTONE, Mr. DECONCINI, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. COHEN, Mr. CRANSTON, Mr. GORE, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. WOFFORD, and Mr. DIXON):

S. 2062. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY:

S. 2063. A bill to amend the Communications Act of 1934 to require cable television operators to provide notice and options to consumers regarding the use of converter boxes, remote control devices, and multiport technology; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD (for himself, Mr. MITCHELL, Mr. SIMON, Mr. JEFFORDS, Mr. DECONCINI, Mr. LEAHY, Mr. ADAMS, Mr. HARKIN, Mr. KENNEDY, and Mr. WELLSTONE):

S. 2064. A bill to impose a one-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period; to the Committee on Foreign Relations.

By Mr. DIXON (for himself and Mrs. KASSEBAUM):

S. 2065. A bill to federalize the crime of child molestation for repeat offenders; to the Committee on the Judiciary.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2066. A bill to amend title 10, United States Code, to require the Secretary of Defense to provide financial assistance to local educational agencies administering public school districts where military installations are located; to the Committee on Armed Services.

By Mr. MOYNIHAN:

S. 2067. A bill to provide for the elimination of the General Services Administration's Federal Building Fund; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2068. A bill to provide for a biennial review and planning for a public buildings program; to the Committee on Environment and Public Works.

S. 2069. A bill to provide that the General Services Administration provide information concerning public buildings in a certain form for the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (for himself and Mr. BURDICK):

S. 2070. A bill to provide for the Management of Judicial Space and Facilities; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 2071. A bill to suspend temporarily the duties on certain instant print cameras; to the Committee on Finance.

S. 2072. A bill to suspend temporarily the duties on certain chemicals; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. LOTT):

S. 2073. A bill to authorize appropriations for fiscal year 1992 for the Maritime Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. RUDMAN):

S. 2074. A bill to amend section 6002, United States Code, respecting immunized testimony; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2075. A bill to facilitate and assist in the economic adjustment and industrial diversification of defense industries, defense-dependent communities, and defense workers that are adversely affected by the termination or reduction of defense spending or

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defense-related contracts; to the Committee on Finance.

By Mr. PELL (by request):

S. 2088. A bill to authorize the establish-

By Mr. DASCHLE (for himself, Mr. SIMON, Mr. WIRTH, Mr. REID and Mr.

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riod on principal residences for taxpayers whose assets are frozen in financial institu-

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

be to provide some incentives to American businesses, in order to get the Na-defense-related contracts; to the Committee on Finance.

By Mr. PELL (for himself and Mr. Wofford):

S. 2076. A bill to amend the Communications Act of 1934 and the Federal Election Campaign Act of 1971 to better inform the electorate in Senate elections; to the Committee on Rules and Administration.

By Mr. MOYNIHAN (for himself, Mr. Durenberger, Mr. Packwood, Mr. Roth, Mr. Akaka and Mr. McCain):

S. 2077. A bill to amend title XIX of the Social Security Act to provide for optional State coverage of coordinated care, and to improve Federal requirements with respect to the provision of coordinated care by health maintenance organizations in order to allow States to reduce costs and improve quality care in contracting for managed care services under the medicaid program; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. Shelby, Mr. Reid, Mr. Dixon and Mr. Inouye):

S. 2078. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. Leahy):

S. 2079. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself and Mr. Durenberger):

S. 2080. A bill to clarify the application of federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JEFFORDS:

S. 2081. A bill to sell agricultural commodities to the Union of Soviet Socialist Republics so as to promote local food distribution and production and the operations and privately owned agricultural enterprises; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself and Mr. Lieberman):

S. 2082. A bill relating to the taxation of certain disability benefits received by former police officers or firefighters; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. Symms):

S. 2083. A bill to provide for an extension of regional referral center classifications, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. Symms):

S. 2084. A bill to provide for a minimum medicare payment level of 90 percent for rural referral centers allowable capital-related costs; to the Committee on Finance.

By Mr. MITCHELL (for Mr. Pryor (for himself, Mr. Dole, Mr. Cochran, Mr. Bond, Mr. Shelby and Mr. Boren)):

S. 2085. A bill entitled the Federal-State Pesticide Regulation Partnership; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRADLEY:

S. 2086. A bill to amend the Internal Revenue Code of 1986 to provide for individual development accounts, and for other purposes; to the Committee on Finance.

By Mr. SIMON:

S. 2087. A bill to prohibit certain use of the terms "Visiting Nurse Association", "Visiting Nurse Service", "VNA", and "VNS"; to the Committee on the Judiciary.

By Mr. PELL (by request):

S. 2088. A bill to authorize the establishment of a Beringian Heritage International Park; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Mr. Packwood and Ms. Mikulski):

S. 2089. A bill to repeal exemptions from civil rights and labor laws for Members of Congress; to the Committee on Governmental Affairs.

By Mr. AKAKA:

S. 2090. A bill to amend the Harmonized Tariff Schedule of the United States with respect to knit sweaters assembled in Guam; to the Committee on Finance.

By Mr. DECONCINI (for himself, Mr. Kennedy, Mr. Simon, Mr. D'Amato, Mr. Moynihan, Mr. Bradley, Mr. Adams, Mr. Kohl, Mr. Cranston, Mr. Kerry and Mr. Inouye):

S. 2091. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 2092. A bill to minimize the impact of Federal acquisition of private lands on units of local government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAMM (for himself and Mr. McCain):

S. 2093. A bill to insure that any peace dividend is invested in America's families and deficit reduction; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SIMON (for himself, Mr. Kennedy, Mr. Pell, and Mr. Adams):

S. 2094. A bill to repeal sections 601 and 604 of the Emergency Unemployment Compensation Act of 1991, relating to certain student loan provisions; to the Committee on Labor and Human Resources.

By Mr. SYMMS (for himself and Mr. Craig):

S. 2095. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for health insurance premiums, to provide for the creation of individual medical care savings accounts, to repeal certain tax benefits relating to medical expenses, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. DeConcini, Mr. Coats, and Mr. Cranston):

S. 2096. A bill to establish a period of congressional review for proposed arms sales to countries other than NATO allies or major non-NATO allies; to the Committee on Foreign Relations.

S. 2097. A bill to require a report regarding proposed sales to countries of the Persian Gulf and the Arabian Peninsula of defense articles pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

By Mr. FORD:

S. 2098. A bill to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; considered and passed.

By Mr. KENNEDY (for himself and Mr. Simpson):

S. 2099. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. Simon, Mr. Wirth, Mr. Reid and Mr. Hatfield):

S. 2100. A bill to amend the Internal Revenue Code of 1986 to encourage the development of renewable energy and the conservation of energy, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. Symms):

S. 2101. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GARN (for himself and Mr. Rockefeller):

S. 2102. A bill to amend the International Emergency Economic Powers Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. Moynihan):

S. 2103. A bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. Moynihan):

S. 2104. A bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physicial assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN (for himself, Mr. Ford, Mr. Lugar, Mr. Specter and Mr. Wofford):

S. 2105. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself, Mr. Specter and Mr. Gorton):

S. 2106. A bill to grant a Federal charter to the Fleet Reserve Association; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. Bond and Mr. Kennedy):

S. 2107. A bill to amend the Employment Retirement Income Security Act of 1974; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 2108. A bill to establish a national policy to encourage the proper collection, handling, treatment and disposal of medical waste materials; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. Packwood and Mr. Hatch):

S. 2109. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

By Mr. ADAMS (for himself and Mr. Gorton):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductible for the year in which paid or incurred; to the Committee on Finance.

By Mr. CHAFEE:

S. 2111. A bill to amend the Internal Revenue Code of 1986 to increase the rollover period on principal residences for taxpayers whose assets are frozen in financial institutions; to the Committee on Finance.

By Mr. INOUYE:

S. 2112. A bill to amend the Communications Act of 1934 to encourage competition in the provision of electronic information services, to foster the continued diversity of information sources and services, to preserve the universal availability of basic telecommunictions services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself, Mr. Craig, Mr. Symms and Mr. Helms):

S. 2113. A bill to restore the Second Amendment rights of all Americans; to the Committee on Governmental Affairs.

By Mr. PACKWOOD:

S. 2114. A bill to amend the Social Security Act to provide access to health care benefits for all Americans, and for other purposes; to the Committee on Finance.

By Mr. MACK (for himself and Mr. Graham):

S. 2115. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

By Mr. RIEGLE:

S. 2116. A bill to improve the health of children by increasing access to childhood immunizations, and for other purposes; to the Committee on Finance.

By Mr. SASSER (for himself, Mr. Moynihan, Mr. Riegle, Mr. Sanford, Mr. Sarbanes, Mr. Pryor, Mr. Hollings, Mr. Simon, Mr. DeConcini, Mr. Graham, Mr. Rockefeller, Ms. Mikulski, Mr. Dodd, Mr. Wirth, Mr. Glenn, Mr. Adams and Mr. Metzenbaum):

S. 2117. A bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

By Mr. DECONCINI (for himself and Ms. Mikulski):

S. 2118. A bill to create a Department of the Treasury Forfeiture Fund; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2119. A bill to amend title II of the Social Security Act to waive the twenty-four month waiting period for medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome (AIDS), and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S.J. Res. 236. A joint resolution designating the third week in September 1992 as "National Fragrance Week"; to the Committee on the Judiciary.

By Mr. DASCHLE:

S.J. Res. 237. A joint resolution proposing an amendment to the Constitution of the United States to set the compensation of services for Members of Congress, and for other purposes; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself and Mr. Levin):

S.J. Res. 238. A joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BINGAMAN (for himself, Mr. Exon, Mr. Gore, Mr. Glenn, Mr. Bryan, Mr. Lieberman, Mr. Adams, Mr. Harkin, Mr. Ford, Mr. Daschle, Mr. Leahy, Mr. Dodd, Mr. Kerrey, Mr. Wellstone, Mr. Hollings and Mr. Rockefeller):

S. Res. 234. A resolution expressing the sense of the Senate on the sale of 40 percent of McDonnell Douglas' commercial aircraft division to the Taiwan Aerospace Corporation; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. Res. 235. A resolution expressing the sense of the Senate that the bloodshed must be stopped in Croatia; to the Committee on Foreign Relations.

By Mr. ADAMS (for himself, Mr. Cranston, Mr. Akaka, Mr. Inouye and Mr. Wirth):

S. Res. 236. A resolution expressing the sense of the Senate that the President rescind Department of Defense Directive 1332.14, section H.1, which bans gay, lesbian, and bisexual Americans from serving in the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. GORE:

S. Res. 237. A resolution to bring an end to illegal logging practices in the Philippines and for other purposes; to the Committee on Foreign Relations.

By Mr. SIMON (for himself, Mrs. Kassebaum, Mr. Kennedy and Mr. Wofford):

S. Con. Res. 80. A concurrent resolution concerning democratic changes in Zaire; to the Committee on Foreign Relations.

By Ms. MIKULSKI:

S. Con. Res. 81. A concurrent resolution expressing the sense of the Congress regarding visionary art as a national treasure and regarding the American Visionary Art Museum as a national repository and educational center for visionary art; to the Committee on the Judiciary.

By Mr. MACK (for himself, Mr. Simon, Mr. McConnell and Mr. Lugar):

S. Con. Res. 82. Concurrent resolution urging greater progress toward democratization in Hong Kong; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 2051. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period, and for other purposes; to the Committee on Finance.

REINSTATEMENT OF REGULAR INVESTMENT TAX CREDIT

Mr. HEFLIN. Mr. President, I rise today to introduce the Investment Tax Credit Act of 1991. This bill would allow businesses to recognize a tax credit on the tangible personal property which they purchase.

It is no secret that the economy is at a standstill. Our goal, as the body responsible for this Nation's laws, should be to provide some incentives to American businesses, in order to get the Nation's economy back on track. The investment tax credit, before its repeal in 1986, proved to be one of the most effective incentives to business.

For example, if credit is put in place a business considering buying new equipment or vehicles for its operations would see the new equipment as an investment with immediate as well as long range returns. Mr. President, it is only with this type of stimulation that I believe the American economy can experience a turn for the better in the next year.

Our fellow countrymen are looking toward Washington for leadership in the economy. We must turn away from the do nothing and hope policy, and look toward the real life figures. Many of the repeals of the 1986 Tax Reform Act have proven to be short-sighted although well intentioned. We must give Americans and American business a chance to get the economy back on its feet. I hope all of my colleagues will join me in support of this bill and in support of my belief that if you give Americans the freedom and incentive to operate their businesses they will be the true leaders to a better economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF REGULAR INVESTMENT CREDIT.

(a) In General.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment in certain depreciable property), as amended by section 2, is amended by adding at the end the following new section:

"SEC. 50. REINSTATEMENT OF REGULAR INVESTMENT CREDIT.

"(a) In General.—With respect to any property placed in service during 1992, 1993, or 1994—

"(1) section 49 shall not apply, and

"(2) the regular percentage for purposes of this subpart shall be 10 percent.

"(b) Special Rules for Rehabilitation, Energy, and Reforestation Credits.—Notwithstanding any other provision of law, the rehabilitation credit, energy credit, and reforestation credit shall be computed in the manner provided by this subpart as in effect on the day before the date of the enactment of this section.

"(c) Projects Entered Into Before 1955.—For purposes of subsection (a), property placed in service after December 31, 1994, shall be treated as placed in service in 1994 if—

"(1) the construction, reconstruction, or erection of the property began during 1992, 1993, or 1994, or

"(2) the property is acquired by the taxpayer after December 31, 1994, and before January 1, 2000, pursuant to a contract which on such date, and at all times thereafter, was binding on the taxpayer.

Any credit allowable by reason of this sub-

light. The same scenario is true for

tional employment discrimination, and

However, Mr. President, until Congress is willing and able to undertake

mentioned to me. This or any other effort to lift the caps on punitive and

mission Act of 1946 permitted a claim to lands only if it were supported with

Any credit allowable by reason of this subsection shall be allowed in the taxable year in which the property is placed in service (or in which qualified progress expenditures with respect to such property are made)."

(b) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 50. Reinstatement of regular investment credit."

SEC. 2. REINSTATEMENT OF TECHNICAL PROVISIONS NECESSARY TO ALLOW INVESTMENT CREDIT.

Section 11813 of the Revenue Reconciliation Act of 1990 (Public Law 101-508) is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such section (and the amendments made by such section) had never been enacted.

By Mr. HEFLIN:

S. 2052. A bill to amend the Internal Revenue Code of 1986 to stimulate the economy by allowing a deduction for personal interest of consumers, and for other purposes; to the Committee on Finance.

DEDUCTION FOR CONSUMER INTEREST

Mr. HEFLIN. Mr. President, I rise today to introduce S. 2052, the Consumer Personal Interest Deduction Act of 1991. This legislation would allow the average American taxpayer to deduct personal interest payments from his or her Federal income tax.

The financial experts tell us that the outlook for the American economy is bleak and that consumers are simply not purchasing items such as new automobiles and appliances; the very items that spur our economy in innumerable ways. Before we can see some improvement in consumer spending, however, we must stop blaming middle America and start providing some incentives that will give the average American the desire and confidence to buy new products. It appears to me that the challenge before this Congress is to provide incentives that will prove to be wise over the long run as well as the short run. In my opinion, a change in the tax law that would again allow the taxpayer to deduct the personal interest he or she pays would meet both of these objectives.

Prior to the 1986 tax reform, all consumer interest was deductible. This deduction has been phased out over the past several years. It now seems apparent that this change in the Tax Code has not only phased out deductions, but has also phased out consumer spending. The time has come to reinstate this deduction and give Americans back their confidence to purchase.

Restoring this confidence will have far reaching positive effects on the economy as a whole. For in real terms, what this deduction means is that the family down the street which has been looking at that more up to date car but, has hesitated to borrow the money necessary to buy it, will now look at borrowing that money in a whole new light. The same scenario is true for most retail items of some significance. When we stop and consider that there are about 22 million people directly employed in the wholesale and retail industry, I hope we are able to see the importance of bringing middle America back to the marketplace.

Mr. President, I keep emphasizing middle America because my bill is aimed at the average taxpayer. This bill has a cap on the amount of personal interest that may be deducted. Thus, this bill does not provide a haven for the wealthy to avoid taxes; this bill simply provides a break to those who buy those items that are common to mainstream America. We must encourage Americans to return to the marketplace. I cannot think of a better way to do this than with an incentive that has proved to be effective in the past. Please join me in phasing back in the personal interest deduction and bringing back the American consumer to the American economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION ALLOWED FOR CERTAIN PERSONAL INTEREST.

(a) IN GENERAL.—Paragraph (1) of section 163(h) of the Internal Revenue Code of 1986 (relating to disallowance of deduction for personal interest) is amended to read as follows:

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, no deduction shall be allowed under this chapter for personal interest paid or accrued during the taxable year to the extent that the amount of such interest exceeds the applicable limit."

(b) APPLICABLE LIMIT.—Paragraph (5) of section 163(h) (relating to the phase-in) is amended to read as follows:

"(5) APPLICABLE LIMIT.—For purposes of paragraph (1), the term 'applicable limit' means—

"(A) in the case of a taxpayer filing a joint return, $6,000,

"(B) in the case of a married individual filing a separate return, $3,000, and

"(C) in the case of any other taxpayer, $4,000."

(c) CONFORMING AMENDMENT.—The heading for section 163(h) of the Internal Revenue Code of 1986 is amended to read as follows:

"(h) LIMITATION ON DEDUCTION FOR PERSONAL INTEREST.—".

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest on any indebtedness which was incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to any indebtedness incurred on or after such date to the extent such indebtedness is to refinance indebtedness incurred before such date.

By Mr. HATCH:

S. 2053. A bill to amend section 1977A of the Revised Statutes to modify the remedies available to victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

EMPLOYEE EQUITY AND JOB PRESERVATION ACT OF 1991

• Mr. HATCH. Mr. President, I am today introducing a bill titled the "Employee Equity and Job Preservation Act of 1991." It is a simple and straightforward measure, amending the Civil Rights Act of 1991 that was signed into law by President Bush last week. That legislation, in my view, represented a major step forward in protecting women in this country from discrimination in the workplace by permitting them, for the first time, to seek compensatory and punitive damages in cases of intentional employment discrimination under a new section 1981A.

In contrast to racial and ethnic minorities, who have long been able to recover such damages under a Reconstruction-era statute, section 1981, women, persons with disabilities, and others covered by title VII of the Civil Rights Act of 1964 had previously only been able to recover backpay and other make-whole remedies. The need for such additional relief for intentional discrimination was most apparent in cases of sexual harassment. In many of these cases, the failure of a woman to prove any tangible loss of wages and other benefits precluded any relief for her as well as any effective deterrent against an offending employer.

As a number of my colleagues pointed out during the recent debate on the Civil Rights Act, the final product, while a major step forward for those covered by title VII, failed to achieve total parity between the damages available to them and the damages available to those covered under section 1981. The reason is that the new legislation's section 1981A caps damages under a four-tier system based on the size of the employer. The damage caps range from $50,000 for an employer with fewer than 101 employees to $300,000 for employers with more than 500 employees. These caps were included as part of the compromise package.

Mr. President, Congress urgently needs to review the extent to which litigation in this country, featuring unlimited damage awards, among other things, has inhibited our country's economic growth as well as the expeditious and informal resolution of complaints. For example, citizens in my own State of Utah, who fare better than citizens of many other States, must wait an average of 14 months to have their cases heard in Federal court. The United States reportedly has 30 times the number of lawsuits per person than Japan and 20 times the number of lawyers as Japan per 100,000 population. it has become increasingly clear that the only real beneficiary of our current system is the legal profession.

However, Mr. President, until Congress is willing and able to undertake much needed broader reform, we are given the system as it exists today. And, I have been troubled by the double standard that the existing system applies in terms of the relief available to different persons protected by title VII. Unfortunately, this is but one of the many double standards that women in this country confront daily.

The purpose of the bill that I am introducing today is to eliminate this double standard for women, persons with disabilities, and victims of religious discrimination by removing the caps on punitive and compensatory damages for intentional discrimination under title VII. Under this bill, the only exception would be for cases brought against small employers with fewer than 50 employees. Punitive and compensatory damages would be available for employees of these smallest employers, but they would not be unlimited.

Notably, this exception builds on the carveout for a more limited category of small employers with fewer than 15 employees that has always existed under title VII, but not under section 1981, and that no one that I am aware of has ever advocated eliminating. Further, it parallels other efforts by prior Congresses to provide a small employer exception under laws such as the Fair Labor Standards Act. More recently, in fact, it parallels the willingness of many Members of the 102d Congress not only to limit the damages awarded against employers with fewer than 50 employees, as I suggest here, but also to exempt them entirely from the Family and Medical Leave Act. This is an obvious recognition that small employers can be severely affected by Federal legislation.

Mr. President, my bill does not exempt small businesses with between 15 and 50 employees from the law. In fact, their employees would be eligible for backpay and additional make-whole relief as well as for up to $50,000 in damages. That is more than any person employed in any size firm was ever allowed to recover under title VII until just last week and similar to what is available under the new law.

What I have sought to do by retaining this much more limited cap on damage awards is to deal with a larger and compelling problem. That problem is the devastating impact that unlimited jury awards for each plaintiff, in each case, brought against small employers, might have on their growth and economic viability. The question is quite simple, Mr. President. Are the interests of women employed by small businesses served when a jury award for damages is so large that it could potentially force that employer out of business and cost all of its employees their jobs?

Let me conclude, Mr. President, by acknowledging what many women have mentioned to me. This or any other effort to lift the caps on punitive and compensatory damages for cases of sexual discrimination is by no stretch of the imagination the principal answer to the difficult challenges that women in today's work force face. Working to eradicate discrimination is a necessary part of the answer, as is the precise amount of damages one can receive in such cases, but it is only part of the answer.

All of the remedies in the world for such cases will not help all of the women who want and need to work but cannot find jobs either because the jobs are not there or because they lack suitable skills and training. Nor will these remedies help women who cannot work because they cannot find adequate child care for their children or because the opportunity to return to their old jobs may not exist if they have taken several years off to raise their children.

Mr. President, I have devoted much of my time in recent years to efforts to deal with these issues as well, and I intend to continue those efforts in the coming session of Congress.•

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2054. A bill to confer jurisdiction on the U.S. Claims Court with respect to land claims of the Pueblo of Isleta Indian Tribe; to the Committee on the Judiciary.

LAND CLAIMS OF THE PUEBLO OF ISLETA INDIAN TRIBE ACT OF 1991

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill which will give the Pueblo of Isleta an opportunity to have their claims regarding aboriginal land title heard before the U.S. Claims Court. I am pleased that my colleague, Senator DOMENICI, joins with me in cosponsoring this bill.

The Pueblo of Isleta received erroneous advice from the Bureau of Indian Affairs about their rights under the Indian Claims Commission Act concerning claims to aboriginal land. They were told that without documentation they would have no valid claim against the United States; this was at a time when they were completely dependent upon the Bureau of Indian Affairs for advice and assistance in the matter of claims to land. The Isleta leaders at the time were not organized to address this issue of claims; they dealt primarily in internal matters and rarely became involved in matters outside the reservation boundaries, and they had no employees or staff of their own or legal counsel. As a result, they filed a very limited claim under the Indian Claims Commission Act in 1951, seeking recompense only for the taking of lands involved in Spanish land grants which they believed to be adequately documented.

Pueblo leaders were informed—late, and hastily—by the Bureau of Indian Affairs, that the Indian Claims Commission Act of 1946 permitted a claim to lands only if it were supported with documented evidence. Pueblo spokesmen tell me also that earlier leaders were informed that the Pueblo was not even permitted to make a claim based on aboriginal use and occupancy of tribal lands. As a result, no claim based on aboriginal use and occupancy was ever filed on behalf of Isleta. In fact, aboriginal use and occupancy was the basis for many Indian tribal claims under the Indian Claims Commission Act of 1946, which, if proved, resulted in considerable monetary recovery for the tribes.

This bill promises nothing to the Pueblo of Isleta people but an opportunity to submit their claim based on aboriginal use and occupancy pursuant to the Indian Claims Commission Act to the U.S. Claims Court in the same manner the Pueblo of Isleta would have years ago, had tribal officials had a clearer understanding of the issue. If, as a result of the fair hearing this bill provides, the Pueblo of Isleta proves that indeed it has a credible claim of aboriginal land use and occupancy, then appropriate monetary compensation would be determined by the court. The people of the Pueblo of Isleta are entitled to their day in court and this bill gives them that.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JURISDICTION.

(a) IN GENERAL.—Notwithstanding sections 2401 and 2501 of title 28, United States Code, section 12 of the Act of August 13, 1946 (60 Stat. 1052), and any other law that would interpose or support a defense of untimeliness, jurisdiction is conferred upon the United States Claims Court to hear, determine, and render judgment on any claim by the Pueblo of Isleta Indian Tribe of New Mexico (hereafter in this Act referred to as the "Tribe") against the United States with respect to any lands or interests that the Tribe held by aboriginal title or otherwise and that were acquired from the Tribe without payment of adequate compensation by the United States.

(b) COMPENSATION.—The United States Claims Court, consistent with applicable law, may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests were acquired from the Tribe by the United States.

(c) LIMITATIONS.—Jurisdiction is conferred only with respect to claims that—

(1) accrued on or before August 13, 1946; and

(2) are filed within 3 years after the date of enactment of this Act.

(d) EXHAUSTION NOT REQUIRED.—Jurisdiction is conferred notwithstanding any failure of the Tribe to exhaust any available administrative remedy.

(e) COSTS OF SUIT AND ATTORNEY'S FEES.—

(1) IN GENERAL.—The United States Claims Court may award to any prevailing party,

emphasizes the need for training to

Sec. 153. Job Corps.

serious barriers to employment for particiother than the United States, in any action under this Act, the costs and reasonable attorney's fees incurred by the party prosecuting the claim. The United States Claims Court shall determine the amount of reasonable attorney's fees in accordance with paragraph (2) for all services rendered in prosecuting a claim, whether before the court or otherwise, unless the amount of the fees has been stipulated in an approved contract between the attorneys and the claimant.

(2) STANDARD.—The court shall fix an amount for the reasonable attorney's fees that is—

(A) comparable to reasonable attorney's fees for prosecuting similar contingent claims in courts of law; and

(B) adequate compensation for the services rendered and the results obtained;

plus all reasonable expenses incurred in the prosecution of the claim.

(3) LIMITATION.—The amount fixed by the court pursuant to paragraph (2), exclusive of reimbursements for reasonable expenses, shall not exceed 10 percent of the amount recovered in such case.

(f) CERTAIN DEFENSES NOT APPLICABLE.—Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before or after the date of the enactment of this Act, pursuant to any judgment of the Indian Claims Commission or any other authority, relating to lands that are subject of a claim submitted by the Tribe under subsection (a), shall not be considered a defense, estoppel, or set-off to a claim by the Tribe, and shall not affect the entitlement to, or amount of, any relief stemming from such claim.

Mr. DOMENICI. Mr. President, the Isleta Pueblo in New Mexico, like the Zuni Pueblo before them, was apparently misinformed about their right to file a claim for damages for the loss of their aboriginal lands. In May 1978, the President signed Public Law 95-280. This law enabled the Zuni Pueblo to be heard before the U.S. Court of Claims. In the Zuni case, the court ultimately awarded $25,000,000 in monetary damages for the taking of Zuni aboriginal lands by the United States without compensation.

By introducing this bill for the Isleta Pueblo, I do not believe we are drawing any conclusions about the final outcome of any U.S. Court of Claims action. We are simply acknowledging the facts as they have been presented to us. In summary, the Isleta leaders have told me that their case was not heard by the relevant court because of poor advice given to the tribe by the Bureau of Indian Affairs. This parallels the Zuni case.

If these facts prove to be true, then the Isleta case deserves to be heard on its own merits. Today, we are asking our colleagues to consider the circumstances surrounding the Isleta Pueblo's right to file a claim in the U.S. Claims Court pursuant to the Indian Claims Commission Act. Obviously, the time for filing such a claim has run, therefore the provisions of this bill allow the Pueblo to have access to the U.S. Claims Court if we in the Congress find that there is sufficient evidence to reopen the court for a new hearing on the merits.

Like the Zuni case, we will have to review the 1951 records for evidence that the Isleta Pueblo leaders were truly deprived of their rights under the relevant statutes. I look forward to the hearing process so that the Isleta Pueblo will be able to make its case before the Congress for again having access to the U.S. Court of Claims.

By Mr. SIMON (for himself, Mr. KENNEDY, and Mr. THURMOND):

S. 2055. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the act, and for other purposes; to the Committee on Labor and Human Resources.

JOB TRAINING AND BASIC SKILLS ACT

- Mr. SIMON. Mr. President, today I am introducing a bill to amend the Job Training Partnership Act [JTPA] to strengthen employment and training assistance programs and to improve the targeting of services to economically disadvantaged adults and youth. I want to thank my good friends and colleagues, Senators KENNEDY and THURMOND, for cosponsoring this bill and for their help in drafting its provisions. I also want to express my appreciation to Chairman FORD, of the House Education and Labor Committee, and Representatives PERKINS, GOODLING, and GUNDERSON who were instrumental in passing similar amendments in the House of Representatives. Those amendments, embodied in H.R. 3033, passed the House of Representatives on October 9, 1991, by a vote of 420 to 6.

We are introducing this bill because our Nation today is facing the one enemy no peacetime economy has defeated—unemployment. Achieving full employment is the next logical step for a humane society and a society that intends to squarely confront the issue of global competitiveness and productivity. We cannot be competitive or productive when millions of Americans are out of work. We must meet the challenge to put America back to work for a simple reason. As I have said in the past, we have two options—we can pay people to work, or we can pay them for doing nothing. Obviously, it makes a lot more sense to pay them to work.

America's economy is facing two human resource trend lines—the supply of unskilled, and often uneducated, labor is going up and the demand for unskilled labor is declining. As we move toward the 21st century, we know that employment in professional technical and managerial jobs will increase substantially relative to operative and laborer positions. We know this is the trend, yet our work force is woefully unprepared to meet this challenge. JTPA is our primary Federal Job Training Program, and we must do what we can to structure the program to meet the needs of our society.

The way JTPA is currently structured, it will not be able to meet the goal of providing a productive and skilled work force by the year 2000. A program that enrolls 37 percent of its participants in short-term training programs, and a majority of the rest of enrollees are in on-the-job training and job-service programs, will not be able to significantly improve the skilled labor shortage. Furthermore, the program will not succeed in training the hard-to-serve if there are no incentives to serve those participants most in need of training and to provide them more comprehensive training services.

JTPA's predecessor, the Comprehensive Employment and Training Act [CETA] was plagued with low placement rates and high costs per placement. In addition, CETA has weak private sector involvement in planning the local training activity. JTPA was designed to correct the concerns with CETA by providing greater decision-making power at the State and local level and increasing the role of the private sector.

JTPA has accomplished the goals of increased participation in the private sector, higher placement rates and lower costs per placement. Yet we continue to hear complaints about JTPA. Indeed, overemphasis on achieving some of the goals of the program has led to failure in other areas. For example, increased placement rates have been achieved, in part, by focusing training efforts on those who are easiest to place. Thus, to a certain extent, the effort to improve placement numbers resulted in a failure to provide training services to those most in need. In addition, while we sought to reduce the cost per placement, we have reduced the costs to levels so low that participants are often not provided with adequate training. The costs are well below what is needed to provide training in most trade and technical programs, and the training periods are increasingly shorter. Average training periods are currently less than 12 weeks, while under CETA it was 20 weeks.

These amendments are designed to address the criticisms of JTPA, while preserving the successful aspects of the program. The focus of the amendments is on targeting services to those most in need, and on improving the quality of services to those most in need, and on improving the quality of services provided to participants. The bill contains important programmatic changes that will improve services and address perception problems that have led to decreases in funding. We have provided for separate adult and youth programs, with targeting for those with multiple barriers, and out-of-school youth. We have retained the summer youth program that has provided much needed employment for impoverished young people. In addition, the bill provides for individual needs assessment and counseling for each participant, and

emphasizes the need for training to provide for long-term employability, not just placement services. The bill also seeks to address concerns about discrimination in the program. Finally, we have included a program for high risk young—the Fair Chance Youth Opportunities Program and a program to encourage the training of women in nontraditional jobs—"Nontraditional Employment for Women." We intend to move this legislation as quickly as possible to ensure the program does not suffer from additional losses in funding.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Job Training and Basic Skills Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

TITLE I—ADULT AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Subtitle A—Policy, Authorization of Appropriations, and Definitions

Sec. 101. Declaration of policy and statement of purpose.
Sec. 102. Authorization of appropriations.
Sec. 103. Definitions.

Subtitle B—Job Training Partnership

Sec. 111. Private industry councils.
Sec. 112. Job training plan.
Sec. 113. Review and approval of plan.
Sec. 114. Performance standards.
Sec. 115. Selection of service providers.
Sec. 116. Limitation on certain costs.
Sec. 117. Service delivery area transfer and agreement.
Sec. 118. Governor's coordination and special services plan.
Sec. 119. State education coordination and grants.
Sec. 120. Additional requirements.
Sec. 121. State labor market information programs.
Sec. 122. General program requirements.
Sec. 123. Advance payment.
Sec. 124. Fiscal controls.
Sec. 125. Reports, recordkeeping, and investigations.
Sec. 126. Discrimination.

Subtitle C—Training Services for the Disadvantaged

Sec. 131. Establishment of adult opportunity program.
Sec. 132. Establishment of summer youth opportunity program.
Sec. 133. Establishment of youth opportunity program.

Subtitle D—Special Programs

Sec. 141. Employment and training assistance for dislocated workers.

Subtitle E—National Programs

Sec. 151. Native American programs.
Sec. 152. Migrant and seasonal farmworker programs.
Sec. 153. Job Corps.
Sec. 154. National activities.
Sec. 155. Cooperative labor market information program.
Sec. 156. National occupational information coordinating committee.
Sec. 157. Replication of successful programs.
Sec. 158. Fair chance youth opportunities unlimited program.

Subtitle F—General Provisions

Sec. 161. Jobs for employable dependent individuals.
Sec. 162. Effective date; transition provisions.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCILS

Sec. 201. Definition.
Sec. 202. Establishment of State human resource investment councils.
Sec. 203. Conforming and technical amendments.
Sec. 204. Effective date.

TITLE III—NONTRADITIONAL EMPLOYMENT FOR WOMEN

Sec. 301. Short title.
Sec. 302. Findings and purposes.
Sec. 303. Definition.
Sec. 304. Service delivery area job training plan.
Sec. 305. Governor's coordination and special services plan.
Sec. 306. State job training coordinating council.
Sec. 307. State education coordination and grants.
Sec. 308. Use of funds.
Sec. 309. Demonstration programs.
Sec. 310. Report and recommendations.
Sec. 311. Discrimination.
Sec. 312. Effective date.

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

TITLE I—ADULT AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Subtitle A—Policy, Authorization of Appropriations, and Definitions

SEC. 101. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

(a) DECLARATION OF POLICY.—In recognition of the training needs of low-income adults and youth, the Congress declares it to be the policy of the United States to—

(1) provide financial assistance to States and local service delivery areas to meet the training needs of such low-income adults and youth, and to assist such adults and youth in obtaining unsubsidized employment;

(2) increase the funds available for programs established under title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.) by not less than 10 percent of the baseline each fiscal year, to provide for growth in the percentage of eligible adults and youth served, beyond the 5 percent of the eligible population in need of the programs that is currently served, under the programs; and

(3) encourage the provision of longer, more comprehensive education, training, and employment services to the eligible population, which also requires increased funding in order to maintain current service levels.

(b) STATEMENT OF PURPOSE.—Section 2 (29 U.S.C. 1501) is amended to read as follows:

"SEC. 2. STATEMENT OF PURPOSE.

"It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency, thereby improving the quality of the work force and enhancing the productivity and competitiveness of the Nation.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (29 U.S.C. 1502) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a)(1)(A) There are authorized to be appropriated to carry out parts A and C of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.

"(B) Of the sums appropriated to carry out parts A and C of title II for each fiscal year, not less than 40 percent shall be made available to carry out part C of such title.

"(2) There are authorized to be appropriated to carry out part B of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.";

(2) by redesignating subsection (c) as subsection (b);

(3) by inserting after such subsection (b) the following:

"(c)(1) There are authorized to be appropriated to carry out parts A, C, D, E, F, and G of title IV for fiscal year 1993 and each succeeding fiscal year an amount equal to 7 percent of the sum of the amounts appropriated for parts A and C of title II for such fiscal year.

"(2) The Secretary shall reserve from the amount appropriated under paragraph (1) for any fiscal year—

"(A) an amount equal to 7 percent of the amount appropriated under paragraph (1) to carry out part C of title IV; and

"(B) $2,000,000 to carry out part F of title IV.

"(3) There are authorized to be appropriated to carry out part H of title IV $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the subsequent fiscal years.

"(4) There are authorized to be appropriated to carry out part I of title IV $25,000,000 for fiscal year 1993 and $50,000,000 for each of the fiscal years 1994 through 1996."; and

(4) in subsection (e)—

(A) by striking "(e)(1) Subject to paragraph (2), there" and inserting "(e) There"; and

(B) by striking paragraphs (2) and (3).

(b) CONFORMING AMENDMENTS.—

(1) Subsections (a) and (e) of section 302, and section 326(h) (29 U.S.C. 1652 (a) and (e) and 1662e(h)) are amended by striking "3(c)" and inserting "3(b)".

(2) Section 326(h) (29 U.S.C. 1662e(h)) is amended by striking "3(c)" and inserting "3(b)".

SEC. 103. DEFINITIONS.

(a) IN GENERAL.—Section 4 (29 U.S.C. 1503) is amended—

(1) in paragraph (5), by inserting "Association of Farmworkers Opportunity Programs, literacy organizations, agencies or organizations serving older individuals," after "United Way of America,";

(2) in paragraph (8)—

(A) in subparagraph (B)(i), by striking "poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Rec-

onciliation Act of 1981 (42 U.S.C. 9902(2))"; "(B) a parent and dependent children; or (2) NOMINATION.—Section 102(c)(2) (29

with local welfare agencies, other local agen- "(1) job training is an investment in human capital and not an expense; and "(A) the base period prior to program participation that will be used for measurement onciliation Act of 1981 (42 U.S.C. 9902(2))"; and

(B) in subparagraph (D), by inserting "subsections (a) and (c) of" after "under"; and

(3) in paragraph (10), by striking "handicapped individual" and inserting "individual with a disability";

(4) in paragraph (22), by striking "and Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau";

(5) in the second sentence of paragraph (24), by—

(A) inserting "drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,"; and

(B) striking "materials for the handicapped," and inserting "materials for individuals with disabilities, job coaches,";

(6) by striking paragraph (29) and inserting the following new paragraph:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (relating to the aid to families with dependent children program); or

"(ii) on the income of another family member but is no longer supported by that income; and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(7) by adding at the end the following new paragraphs:

"(30) The term 'basic skills deficient' means English reading or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

"(31) The term 'case management' means the provision, in the delivery of a service, of a client-centered approach designed to prepare and coordinate a comprehensive employment plan, such as a service strategy, for a participant to—

"(A) ensure access to a necessary training and support service; and

"(B) provide job and career counseling during program participation and after job placement.

"(32) The term 'educational agency' means—

"(A) a public local school authority having administrative control of elementary, middle, or secondary schools or providing adult education;

"(B) a public or private institution that provides alternative middle or high school education;

"(C) a public education institution or agency having administrative control of secondary or postsecondary vocational education programs;

"(D) a postsecondary institution; or

"(E) a postsecondary educational institution operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under the Act of April 16, 1934 (48 Stat. 596; chapter 147; 25 U.S.C. 452 et seq.).

"(33) The term 'family' means two or more persons living in a single residence, including—

"(A) a husband, wife, and dependent children;

"(B) a parent and dependent children; or

"(C) a husband and wife.

"(34) The term 'hard-to-serve individual' means an individual who is included in at least two of the following categories:

"(A) Long-term recipients.

"(B) School dropouts.

"(C) Individuals unemployed for 6 months or longer.

"(D) Individuals with a disability.

"(E) Offenders.

"(F) Displaced homemakers.

"(G) Homeless.

"(H) Older individuals.

"(35) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(36)(A) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized and funded by this Act.

"(B) For purposes of determining whether an individual is a participant, participation shall be deemed to commence on the first day, following determination of eligibility, on which the participant begins receiving subsidized employment, training, or services funded under this Act.

"(37) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(38) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized and funded by this Act.".

(b) Conforming Amendments.—The Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4—

(A) in paragraph (5), by striking "the handicapped" and inserting "individuals with a disability"; and

(B) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with a disability";

(2) in the second section 172(b) (as added by Public Law 100-628) (29 U.S.C. 1583(b)), by striking "handicapped individuals" and inserting "individuals with a disability"; and

(3) in section 423(1) (29 U.S.C. 1693(1)), by striking "handicapped individual" and inserting "individual with a disability".

Subtitle B—Job Training Partnership

SEC. 111. PRIVATE INDUSTRY COUNCILS.

(a) Composition.—

(1) Membership.—Section 102(a) (29 U.S.C. 1512(a)) is amended—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting the following:

"(2) representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the membership of the council; and

"(3) representatives of—

"(A) educational agencies (which agencies shall be representative of all educational agencies in the service delivery area);

"(B) vocational rehabilitation agencies;

"(C) public assistance agencies;

"(D) economic development agencies;

"(E) the public employment service; and

"(F) local welfare agencies.".

(2) Nomination.—Section 102(c)(2) (29 U.S.C. 1512(c)(2)) is amended to read as follows:

"(2) Education representatives on the council shall be selected from among individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education (including entities offering adult education) or general organizations of such schools and institutions, within the service delivery area.".

(3) Recommendations.—Section 102(c)(3) (29 U.S.C. 1512(c)(3)) is amended to read as follows:

"(3) The labor representatives on the council shall be selected from individuals recommended by recognized State and local labor organizations. If the State or local labor organization cannot adequately meet the labor representation on the private industry council, individual workers may be included on the council to complete the labor representation.".

(4) Additional representatives.—Section 102(c) (20 U.S.C. 1512(c)) is amended by adding at the end the following new paragraph:

"(4) The remaining members of the council shall include additional representatives from all sectors described in subsection (a)(3) and individuals recommended by interested organizations.".

(b) Effective Date.—No private industry council shall be considered to be in violation of the amendments made by subsection (a) of this section until the date 3 years after the date of enactment of this Act.

SEC. 112. JOB TRAINING PLAN.

(a) In General.—Section 104(a) (29 U.S.C. 1514(a)) is amended by inserting "under title II" after "appropriated".

(b) Contents.—Section 104(b) is amended to read as follows:

"(b) Each job training plan for the programs conducted under part A of title II (regarding adult programs) and under parts B and C of title II (regarding youth programs) shall contain—

"(1) information identifying the entity that will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of the service delivery area program with other programs and service providers in the labor market area, including—

"(A) assessments of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

"(4) a description of linkages, established in accordance with sections 205 and 265, designed to enhance the provision of services and avoid duplication, including—

"(A) agreements with educational agencies;

"(B) arrangements with other education, training, and employment programs serving the disadvantaged that are authorized by Federal law; and

"(C) efforts to ensure the effective delivery of services to participants in coordination with local welfare agencies, other local agencies, community-based organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including—

"(A) a description of the manner in which the program will contribute to the economic self-sufficiency of participants, and the productivity of the local area and the Nation; and

"(B) performance goals established in accordance with standards prescribed under section 106;

"(6) goals for the training and placement of targeted populations, and a description of efforts to be undertaken to accomplish such goals, including—

"(A) efforts to expand outreach to targeted populations who may be eligible for services under this Act;

"(B) efforts to expand awareness of training and placement opportunities for targeted populations; and

"(C) types of services to be provided to address the special needs of targeted populations;

"(7) adult and youth budgets for two program years and any proposed expenditures for the succeeding 2 program years, in such detail as is determined necessary, by the entity selected to administer the portion of the plan corresponding to the budgets in accordance with section 103(b)(1)(B), to meet the requirements of section 108;

"(8) procedures for identifying and selecting participants, procedures for determining eligibility, and methods used to verify eligibility;

"(9) a description of—

"(A) the assessment process that will identify the skill level and service needs of each participant;

"(B) the competency levels to be achieved by participants as a result of program participation;

"(C) the services to be provided, including the estimated duration of service and the estimated training cost per participant; and

"(D) the procedures for evaluating the progress of participants in achieving competencies;

"(10) a description of the procedures and methods used in carrying out title V, relating to incentive bonus payments for the placement of individuals eligible under such title;

"(11) fiscal control (including procurement, monitoring, and management information systems requirements), accounting, audit, and debt collection procedures, consistent with section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(12) procedures for the preparation and submission of an annual report to the Governor, which report shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which applicable performance standards have been met.".

SEC. 113. REVIEW AND APPROVAL OF PLAN.

Section 105(a)(1)(B)(ii) (29 U.S.C. 1515(a)(1)(B)(ii)) is amended by inserting "community-based organizations and" after "appropriate".

SEC. 114. PERFORMANCE STANDARDS.

(a) In General.—Section 106 (29 U.S.C. 1516) is amended to read as follows:

"SEC. 106. PERFORMANCE STANDARDS.

"(a) Congressional Findings.—Congress finds that—

"(1) job training is an investment in human capital and not an expense; and

"(2) in order to determine whether that investment has been productive—

"(A) it is essential that criteria for measuring the return on the investment be developed; and

"(B) the criteria should include basic measures of long-term economic self-sufficiency, including measures of increased educational attainment and occupational skills, increased employment and earnings, and reduced welfare dependency.

"(b) Performance Standards.—

"(1) Achievement of basic measures.—In order to determine whether the basic measures described in subsection (a)(2)(B) have been achieved by programs under parts A and C of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards for the programs.

"(2) Hard-to-serve individuals.—In prescribing performance standards for programs under parts A and C of title II, the Secretary shall ensure that States and service delivery areas will make efforts to increase services and positive outcomes for hard-to-serve individuals.

"(3) Factors for adult standards.—The Secretary shall base the performance standards for adult programs under part A of title II on appropriate factors, which may include—

"(A) placement in unsubsidized employment;

"(B) retention for more than 6 months in unsubsidized employment;

"(C) increase in earnings, including hourly wages;

"(D) reduction in welfare dependency; and

"(E)(i) acquisition of skills, including basic skills, required to promote continued employability in the local labor market (including attainment of the competency levels described in paragraph (5)), or acquisition of a high school diploma or the equivalent of the diploma; and

"(ii) one or more of the factors described in subparagraphs (A) through (D).

"(4) Factors for youth standards.—

"(A) In general.—The Secretary shall base the performance standards for youth programs under part C of title II on appropriate factors described in paragraph (3), and on factors including—

"(i) attainment of employment competencies (including attainment of the competency levels described in paragraph (5));

"(ii) dropout prevention and recovery;

"(iii) secondary and postsecondary school completion or the equivalent of such completion; and

"(iv) enrollment in other training programs, apprenticeships, or postsecondary education, or enlistment in the Armed Forces.

"(B) Variations.—The Secretary may prescribe variations in the standards described in subparagraph (A) to reflect the differences between in-school and out-of-school programs.

"(5) Competency levels.—The private industry councils, in consultation with educational agencies, community-based organizations, and the private sector, shall establish youth and adult competency levels, based on such factors as attainment of entry skill levels and other hiring requirements.

"(6) Requirements.—The performance standards described in paragraphs (3) through (5) shall include provisions governing—

"(A) the base period prior to program participation that will be used for measurement of the factors described in paragraphs (3) through (5), as appropriate;

"(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

"(C) cost-effective methods for obtaining such data as is necessary to carry out this subsection, which methods—

"(i) notwithstanding any other provision of law, may include access to—

"(I) earnings records;

"(II) State employment security records;

"(III) records collected under the Federal Insurance Contributions Act, chapter 21 of the Internal Revenue Code of 1986;

"(IV) records regarding State aid to families with dependent children;

"(V) statistical sampling techniques; and

"(VI) records or techniques similar to the records and techniques described in subclauses (I) through (V); and

"(ii) shall include appropriate safeguards to protect the confidentiality of the data obtained.

"(7) Gross program expenditures.—The Secretary shall prescribe performance standards for programs under parts A and C of title II relating gross program expenditures to various performance measures. The Governors shall not take performance standards prescribed under this paragraph into consideration in awarding grants under paragraph (8).

"(8) Incentive grants.—From funds available under section 202(c)(2)(C), and under section 262(c)(1) for providing incentive grants under this paragraph, each Governor shall award incentive grants to service delivery areas conducting programs under parts A and C of title II that—

"(A)(i) meet the performance standards established by the Secretary under this subsection (except for the standards established pursuant to paragraph (7)) with respect to services to all participants;

"(ii) serve more than the minimum percentage of out-of-school youth required by section 263(f); and

"(iii) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (7)) with respect to services to hard-to-serve populations, such as the target groups listed in sections 203(a)(2) and 263 (b) and (d);

"(B) place participants in employment that provides wages at placement that exceed the appropriate performance criteria;

"(C) meet the performance standards established by the Governor for programs under title II pursuant to subsection (e), except that not more than 25 percent of the incentive grants shall be awarded on performance standards established pursuant to subsection (e); and

"(D) establish effective linkages with other programs to avoid duplication and enhance the delivery of services.

"(c) Employment and Training Assistance for Dislocated Workers.—

"(1) Performance standards.—The Secretary shall prescribe performance standards for programs under title III based on participant placement and retention in unsubsidized employment.

"(2) Needs-related payments.—In prescribing performance standards under paragraph (1) for programs under title III, the Secretary shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).

VOL
137
PT
24
NO
26
1991
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JA
3
1992
UMI

"(d) VARIATIONS.—

"(1) AUTHORITY OF GOVERNORS.—Each Governor of a State participating in a program governed by standards issued under subsection (b) or (c) shall prescribe, within parameters established by the Secretary, variations in the standards for the State, based on—

"(A) specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State;

"(B) the characteristics of the population to be served;

"(C) the demonstrated difficulties in serving the population; and

"(D) the type of services to be provided.

"(2) SECRETARY'S RESPONSIBILITIES.—The Secretary shall—

"(A) provide information and technical assistance on performance standards adjustments;

"(B) collect data that identifies hard-to-serve individuals and long-term welfare dependency;

"(C) provide guidance on setting performance goals at the service provider level that encourage increased service to hard-to-serve individuals, particularly long-term welfare recipients; and

"(D) review performance standards to ensure that such standards provide maximum incentive in serving hard-to-serve individuals, particularly long-term welfare recipients, including individuals receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (relating to the aid to families with dependent children program) and title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to the supplemental security income programs).

"(e) ADDITIONAL PERFORMANCE STANDARDS BY GOVERNORS.—A Governor of a State participating in a program under title II or III may prescribe performance standards for the program in addition to standards established by the Secretary under subsections (b) and (c).

"(f) NATIVE AMERICAN AND JOB CORPS PROGRAMS.—The Secretary shall prescribe performance standards for programs under parts A and B of title IV, and for programs under title V.

"(g) SYSTEM FOR ADJUSTMENTS.—The Secretary shall prescribe a system for adjustments in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina theater between August 5, 1964, and May 7, 1975, offenders, and displaced homemakers, taking into account their special circumstances.

"(h) MODIFICATIONS.—

"(1) IN GENERAL.—The Secretary may modify the performance standards under this section not more often than once every 2 program years and such modifications shall not be retroactive.

"(2) JOB CORPS.—Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part B of title IV each program year.

"(i) NATIONAL COMMISSION ON EMPLOYMENT POLICY.—The National Commission on Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (d);

"(2) evaluate the usefulness of such standards as measures of desired performance; and

"(3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served in service delivery areas, what services are provided, and the costs of such services in service delivery areas.

"(j) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Governor of a State participating in a program governed by performance standards issued under this section shall provide technical assistance to service delivery areas and substate areas within the State that do not meet performance standards. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers, or make such other changes as the Governor determines to be necessary to improve performance. The Governor may also select an alternate administrative entity to administer the program for the service delivery area or substate area.

"(2) ALTERNATE ADMINISTRATIVE ENTITY.—The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(3) HEARING.—No change may be made under this subsection without providing to affected parties notice and an opportunity for a hearing before a hearing officer.

"(4) APPEAL.—The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.

"(k) CLARIFICATION OR REFERENCE.—For the purposes of this section, the term 'employment' means employment for more than 20 hours per week.".

(b) CONFORMING AMENDMENT.—Sections 311(a), 311(b)(8), and 322(a)(4) (29 U.S.C. 1661(a), 1661(b)(8), and 1662a(a)(4)) are each amended by striking "106(g)" and inserting "106(c)".

SEC. 115. SELECTION OF SERVICE PROVIDERS.

(a) CHILD CARE.—Section 107(a) (29 U.S.C. 1517(a)) is amended by adding at the end the following: "In addition, consideration shall be given to provision of appropriate supportive services, including child care.".

(b) SELECTION OF SERVICE PROVIDERS.—Section 107 is amended by adding at the end the following new subsection:

"(e) The selection of service providers shall be made on a competitive basis, to the extent practicable, and shall include—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purpose of the Act and the goals established by the Governor in the Coordination and Special Services Plan; and

"(2) documentation of compliance with procurement standards established by the Governor pursuant to section 164, including the reasons for selection.".

SEC. 116. LIMITATION ON CERTAIN COSTS.

(a) APPLICATION OF COST LIMITATIONS.—Section 108(a) (29 U.S.C. 1518(a)) is amended to read as follows:

"(a) Except as provided in subparagraphs (A), (B), and (C) of section 141(d)(3), funds expended under this Act shall be charged to the appropriate cost categories.".

(b) COST CATEGORIES AND LIMITATIONS.—Section 108(b) is amended to read as follows:

"(b)(1) The cost limitations contained in this section shall apply separately to the funds allocated for programs under part A of title II, and to the funds allocated for programs under part C of such title.

"(2) Funds expended under parts A and C of title II shall be charged to one of the following categories:

"(A) Administration.

"(B) Training-related and supportive services.

"(C) Direct training services.

"(3) The Secretary shall, in accordance with sections 204(b) and 264(c), define by regulation the cost categories specified in paragraph (2).

"(4) Of the funds allocated to a service delivery area for any program year under part A or C of title II—

"(A) not more than 20 percent shall be expended for the costs of administration; and

"(B) not less than 50 percent shall be expended for direct training services.

"(5) Each service delivery area shall ensure that all contracts, grants, or other agreements with a service provider, for services provided to participants, shall include appropriate amounts necessary for administrative costs and supportive services.".

(c) REFERENCE TO TITLE III LIMITATIONS.—Section 108 is further amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) by adding at the end the following new subsection:

"(e) Funds available under title III shall be expended in accordance with the limitations specified in section 315.".

SEC. 117. SERVICE DELIVERY AREA TRANSFER AND AGREEMENT.

(a) IN GENERAL.—Part A of title 1 is amended (29 U.S.C. 1511 et seq.) by adding at the end the following new sections:

"SEC. 109. SERVICE DELIVERY AREA TRANSFER AND AGREEMENT.

"(a) IN GENERAL.—Any service delivery area may enter into an agreement with another service delivery area to share the cost of educating, training, and placing individuals participating in programs assisted under this Act, including the provision of supportive services. Such agreement shall be approved by an individual representing each private industry council providing guidance to the service delivery area.

"(b) APPLICATION OF APPROPRIATE PERFORMANCE STANDARDS.—Each service delivery area entering into a service delivery area agreement pursuant to this section shall be credited under the appropriate performance standards.

"SEC. 110. REALLOTMENT.

"(a) REALLOTMENT AUTHORIZED.—The Secretary may reallot among States any amounts allotted under parts A and C of title II to the extent that the Secretary determines that a State or one of the service delivery areas of a State will not be able to spend such amounts within a reasonable period of time.

"(b) ADVANCE NOTICE REQUIRED.—

"(1) IN GENERAL.—The Secretary shall provide 30 days advance notice of any reallotment under subsection (a) to the Governor of an affected State and to the general public. During such period comments may be submitted to the Secretary.

"(2) NOTIFICATION AND PUBLICATION.—After considering any comments submitted during such period, the Secretary shall notify the Governor of any decision to reallot funds, and shall publish such decision in the Federal Register.

"(3) PRIORITY.—In reallotting any funds the Secretary shall give priority to States and service delivery areas that have satisfactorily spent an allotment for the previous fiscal year and that have experienced high rates of unemployment for an extended period of time.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part A of title I is amended by adding after the item relating to section 108 the following:

"Sec. 109. Service delivery area transfer and agreement.
"Sec. 110. Reallotment.".

SEC. 118. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) (29 U.S.C. 1531(b)) is amended—

(1) in paragraph (1), by striking "Such criteria" and inserting: "The plan shall also include criteria for coordinating activities under this Act with programs and services provided by State and local agencies on aging, and programs operated under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.). The criteria described in each of the two preceding sentences";

(2) by amending paragraph (2) to read as follows:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication of programs between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in the plan and shall identify the procedures developed to provide for the review of the JOBS plan by the State job training coordinating council.";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(4) by inserting the following new paragraph after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, program administration, program financial management, capacity building, priorities and criteria for State incentive grants, and performance goals for State-supported programs. The description of capacity building shall include the Governor's plans for research and demonstration projects, technical assistance for service delivery areas and service providers, interstate technical assistance and training arrangements, and other coordinated technical assistance arrangements for service delivery areas and service providers pursuant to the direction of the Secretary."; and

(5) in paragraph (4) (as redesignated in paragraph (2)) by—

(A) striking "and" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting a semicolon and "and"; and

(C) inserting at the end the following new subparagraph (C):

"(C) services to older workers, including plans for facilitating the provision of services across service delivery areas within the State, as provided in section 104(b)(2).".

(b) COORDINATION AND SPECIAL SERVICES ACTIVITIES.—Section 121(c) is amended—

(1) in paragraph (7), by inserting after the paragraph designation the following: "coordination of activities relating to part A of title II with";

(2) by striking "and" at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting a semicolon and "and"; and

(4) by adding at the end the following new paragraph:

"(11) initiatives undertaken pursuant to the State innovation and coordination program described in section 123.".

SEC. 119. STATE EDUCATION COORDINATION AND GRANTS.

Section 123 (29 U.S.C. 1533) is amended to read as follows:

"SEC. 123. STATE EDUCATION COORDINATION AND GRANTS.

"(a) ALLOTMENT.—

"(1) IN GENERAL.—The Secretary shall allot the funds made available to carry out this section under section 202(c)(2)(D) and under section 262(c)(1) to the Governors for allocation to State educational agencies to pay for the Federal share of carrying out the projects described in paragraph (2).

"(2) PROJECTS.—Funds allocated under paragraph (1) may be used to pay for the Federal share of carrying out projects (in accordance with agreements under subsection (b)) that—

"(A) provide school-to-work transition services of demonstrated effectiveness that increase the rate of graduation from high school, or completion of the recognized equivalent of such graduation, including services that increase the rate at which dropouts return to regular or alternative schooling and obtain a high school degree or equivalent;

"(B) provide literacy and lifelong learning opportunities and services of demonstrated effectiveness that—

"(i) enhance the knowledge and skills of educationally and economically disadvantaged individuals; and

"(ii) result in increasing the employment and earnings of such individuals; and

"(C) facilitate coordination of education and training services for eligible participants in projects described in subparagraphs (A) and (B), including activities pertaining to the establishment and operation of a State human resource investment council that meets the requirements of section 202 of the Job Training and Basic Skills Act of 1991.

"(3) ALLOCATION.—In allocating the funds described in subsection (a)(1) to a State educational agency, a Governor shall not establish requirements governing the distribution of the funds.

"(4) FEDERAL SHARE.—The Federal share of the cost of carrying out the projects described in paragraph (2) shall be 50 percent.

"(b) AGREEMENTS REQUIRED.—

"(1) PARTIES TO AGREEMENTS.—The projects described in subsection (a)(2) shall be conducted within a State in accordance with agreements between the State educational agency, administrative entities in service delivery areas in the State, and other entities such as other State agencies, local educational agencies, and alternative service providers (such as community-based and other nonprofit or for-profit organizations).

"(2) CONTENTS OF AGREEMENTS.—

"(A) CONTRIBUTION.—The agreements described in paragraph (1) shall provide for the contribution by the State, from funds other than the funds made available under this Act, of a total amount equal to the funds allotted under this section.

"(B) DIRECT COST OF SERVICES.—Such amount may include the direct cost of employment or training services—

"(i) provided by State or local programs or agencies; or

"(ii) provided by other Federal programs or agencies in accordance with applicable Federal law.

"(c) GOVERNOR'S PLAN REQUIREMENTS.—Any Governor receiving assistance under this section shall include in the Governor's coordination and special services plan, in accordance with section 121, a description developed by the State educational agency of—

"(1) the goals to be achieved and services to be provided by the school-to-work transition programs specified in subsection (a)(2)(A) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will result in increasing the number of youth staying in or returning to school and graduating from high school or the equivalent;

"(B) the work-based curriculum that will link classroom learning to worksite experience and address the practical and theoretical aspects of work;

"(C) the opportunities that will be made available to participants to obtain career-path employment and postsecondary education;

"(D) the integration to be achieved, where appropriate, in the delivery of services between State and local educational agencies and alternative service providers, such as community-based and nonprofit organizations; and

"(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) title II and part B of title IV of this Act;

"(ii) the Elementary and Secondary Education Act (20 U.S.C. 2701 et seq.);

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(iv) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(v) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(vi) the JOBS program; and

"(vii) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482);

"(2) the goals to be achieved and services to be provided by literacy and lifelong learning programs specified in subsection (a)(2)(B) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will increase the knowledge and skills of educationally and economically disadvantaged individuals, and result in increased employment and earnings for such individuals;

"(B) the integration to be achieved between projects assisted under this section and the 4-year State plan (and related needs assessment carried out for the plan) developed in accordance with section 342 of the Adult Education Act (20 U.S.C. 1206a);

"(C) the variety of settings, including workplace settings, in which literacy training and learning opportunities will be provided; and

"(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II and III of this Act;

"(ii) the Adult Education Act;

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(iv) the Stewart B. McKinney Homeless Assistance Act;

"(v) the JOBS program;

"(vi) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(vii) the National Literacy Act of 1991 (Public Law 102–73); and

"(viii) the Emergency Immigrant Education Act of 1984 (20 U.S.C. 3121 et seq.); and

"(3) the proportion of funds received under

amended by striking the item relating to

be provided directly by the brokering con-

"(F) written procedures shall be estab-

ceiving financial assistance under this Act

year's allotment is submitted to the Sec-

VOL
137
PT
24
NO
26
1991
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JA
3
1992
UMI

"(3) the proportion of funds received under this section that will be used to carry out the program described in paragraph (1) and the proportion that will be used to carry out the program described in paragraph (2).

"(d) Service Requirements.—

"(1) Permitted services.—Services funded under this section to carry out the projects described in subsection (a)(2) may include education and training, vocational education services, and related services, provided to participants under title II. In addition, services funded under this section may include services for offenders, veterans, and other individuals who the Governor determines require special assistance.

"(2) Limitations on expenditures.—

"(A) Coordination of services.—Not more than 20 percent of the funds allocated under this section may be expended to pay for the Federal share of projects at the State and local levels described in subsection (a)(2)(C).

"(B) School-to-work services; literacy and lifelong learning services.—Not less than 80 percent of the funds allocated under this section shall be expended to pay for the Federal share of projects conducted in accordance with subparagraphs (A) and (B) of subsection (a)(2).

"(C) Economically disadvantaged individuals.—Not less than 75 percent of the funds allocated for projects under subparagraphs (A) and (B) of subsection (a)(2) shall be expended for projects for economically disadvantaged individuals who experience other barriers to employment. Priority for funds not expended for the economically disadvantaged shall be given to title III participants and persons with other barriers to employment.

"(e) Distribution of Funds in Absence of Agreement.—If no agreement is reached in accordance with subsection (b) on the use of funds under this section, the Governor shall notify the Secretary and shall distribute the funds to service delivery areas in accordance with section 106(b)(8).

"(f) Reports and Records.—

"(1) Reports by governors.—The Governor shall prepare reports on the projects funded under this section, including such information as the Secretary may require to determine the extent to which the projects supported under this section result in achieving the goals specified in paragraphs (1) and (2) of subsection (c). The Governor shall submit the reports to the Secretary at such intervals as shall be determined by the Secretary.

"(2) Records and reports of recipients.—Each direct or indirect recipient of funds under this section shall keep records that are sufficient to permit the preparation of reports. Each recipient shall submit such reports to the Secretary, at such intervals as shall be determined by the Secretary.".

SEC. 120. ADDITIONAL REQUIREMENTS.

(a) Identification of Additional Imposed Requirements.—Section 124 (29 U.S.C. 1534) is amended to read as follows:

"SEC. 124. IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.

"If a State or service delivery area imposes a requirement, including a rule, regulation, policy, or performance standard, relating to the administration and operation of programs funded by this Act (including requirements based on State or service delivery area interpretation of any Federal law, regulation, or guideline) the State or area shall identify the requirement as a State- or service delivery area-imposed requirement.".

(b) Technical Amendment.—The table of contents relating to part B of title I is amended by striking the item relating to section 124 and inserting the following:

"Sec. 124. Identification of additional imposed requirements.".

SEC. 121. STATE LABOR MARKET INFORMATION PROGRAMS.

Section 125(a) (29 U.S.C. 1535(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) provide training and technical assistance to support comprehensive career guidance and participant outcome activities for local programs assisted under this Act.".

SEC. 122. GENERAL PROGRAM REQUIREMENTS.

(a) In General.—Section 141(d)(3) (29 U.S.C. 1551(d)(3)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postsecondary institution that are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.

"(C) In the case of any service provider (with the exception of a State or local agency) receiving funds to provide services under part A or C of title II, which provider expends not less than 90 percent of such funds for direct training and training-related and supportive services for any fiscal year, the funds expended for the costs of administering such services shall not be subject to the limitation under section 108(b)(4)(A), if the service delivery area otherwise complies with the requirements of such section 108(b).".

(b) Limitation.—Section 141(g) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end the following new paragraphs:

"(2) On-the-job training authorized under this Act for a participant with respect to a position shall be limited in duration to a period not in excess of the period generally required for acquisition of skills needed for the position within a particular occupation. In no event shall the training exceed 6 months unless the total number of hours of such training is less than 500 hours. In determining the period generally required for acquisition of the skills, consideration shall be given to recognized reference material (such as the Dictionary of Occupational Titles), the content of the training of the participant, and the service strategy of the participant.

"(3)(A) Each on-the-job training contract shall—

"(i) specify the types and duration of on-the-job training to be developed and other services to be provided in sufficient detail to allow for a fair analysis of the reasonableness of proposed costs; and

"(ii) comply with the requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer (but instead is contracted through an intermediary brokering contractor), shall, in addition to meeting the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, and other services to be provided directly by the brokering contractor within the organization of the contractor, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

"(C) If a brokering contractor enters into a contract with a subcontractor to provide training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.".

(c) Disposal of Assets.—Section 141(k) is amended to read as follows:

"(k) The Federal requirements governing the title, use, and disposition of real property, equipment, and supplies purchased with funds provided under this Act shall be the Federal requirements generally applicable to Federal grants to States and local governments.".

(d) Program Income.—Section 141 is further amended by—

(1) striking subsection (m); and

(2) redesignating subsections (n), (o), and (p) as subsections (m), (n), and (o), respectively.

(e) Public Service Employment.—Section 141(o) (as redesignated by subsection (d)(2) of this section) is further amended by striking "part B of this title or part A of".

SEC. 123. ADVANCE PAYMENT.

Section 162 is amended (29 U.S.C. 1572) by adding at the end the following new subsection:

"(f) When contracting with nonprofit organizations of demonstrated effectiveness, the Secretary, States, and service delivery areas may use advance payment method systems, except that such advance payments shall be based on financial need of such organizations and shall not exceed 20 percent of the total contract amount.".

SEC. 124. FISCAL CONTROLS.

(a) Procurement.—Section 164(a) (29 U.S.C. 1574(a)) is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with generally accepted accounting principles.

"(2) The Governor shall prescribe and implement uniform procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this Act. Such standards shall include provisions to ensure that, for the State, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

"(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed;

"(ii) the risk borne by the contractor; and

"(iii) market conditions in the surrounding geographic area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee, or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award and administration of a contract or grant under this Act; and

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards.

"(3) The Governor shall annually conduct on-site monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (2).

"(4) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (2), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions described in subsections (c) and (e) in the event of failure to take the required corrective action.

"(5) The Governor shall submit to the Secretary the procurement standards established pursuant to paragraph (2), and shall annually certify to the Secretary that—

"(A) the State procurement standards fully satisfy the requirements described in paragraph (2);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards established pursuant to paragraph (2); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (4).

"(6) The Secretary shall annually review the procurement standards established pursuant to paragraph (2) and shall annually notify the appropriate committees of the Congress whether the requirements contained in paragraph (5) have been satisfied.

"(7) If the Secretary determines that a Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided pursuant to subsection (g) in the event of failure of the Governor to take the required corrective action.

"(8) The Secretary, in consultation with the Inspector General, shall review the implementation of this subsection and submit a report to the appropriate committees of the Congress, not later than October 1, 1992, evaluating the effectiveness of the subsection in ensuring fiscal accountability and containing such recommendations as the Secretary determines to be appropriate.".

(b) Program Income.—Section 164 is further amended by adding at the end the following new subsection:

"(i)(1) A public or private nonprofit entity administering a program under this Act may retain income under the program if the entity uses such income to continue to carry out such program, and may use the income for such purposes notwithstanding the expiration of financial assistance for such program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services provided as a result of activity funded under this Act; and

"(B) funds provided to a service provider under this Act that are in excess of the costs associated with the services provided.

"(3) For the purposes of this subsection, each public or private nonprofit entity receiving financial assistance under this Act shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

SEC. 125. REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) Records.—Section 165(a) (29 U.S.C. 1575(a)) is amended by adding at the end the following new paragraph:

"(3) In order to allow for the preparation of estimates necessary to meet the requirements of subsection (d), recipients shall maintain standardized records for all individual participants, and provide to the Secretary a sufficient number of such records to provide an adequate random sample.".

(b) Audits.—Section 165(b) is amended by adding at the end the following new paragraph:

"(3)(A) In carrying out any audit under this Act (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through a grant or contract, the Secretary, the Inspector General, or the Comptroller General shall furnish to the State, administrative entity, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not fewer than 14 days (or as soon as practicable) prior to the commencement of the audit.

"(B) If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

"(C) The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding.

"(D) Nothing contained in this Act shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General.".

(c) Monitoring.—Section 165(c) is amended by—

(1) striking ", and" at the end of paragraph (1), and inserting a semicolon;

(2) striking paragraph (2); and

(3) adding at the end the following new paragraphs:

"(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 167; and

"(3) monitor the performance of service providers in complying with the terms of grants, contracts, or other agreements made pursuant to this Act.".

(d) Retention of Records.—Section 165 is further amended by inserting at the end the following new subsections:

"(d) Each Governor of a State participating in a program under this Act shall ensure that procedures are developed for retention of all records pertinent to all grants and agreements made pursuant to this Act, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records must be retained for 2 years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of 3 years after final disposition of the property.

"(e) The reports required in subsection (c) shall include information, in such form as to permit cross-tabulation, pertaining to—

"(1) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information about enrollees and participants;

"(2) the activities in which participants are enrolled, and the length of time that participants are engaged in such activities;

"(3) program outcomes, including occupations, for participants;

"(4) specified program costs; and

"(5) information necessary to prepare reports to comply with section 167 of this Act.

"(f) The Secretary shall ensure that all elements required for the reports described in subsection (d) are defined and reported uniformly.".

SEC. 126. DISCRIMINATION.

Section 167 (29 U.S.C. 1577) is amended by adding at the end the following new subsections:

"(e)(1) The head of the office of the Department of Labor referred to as the 'Directorate for Civil Rights' shall annually prepare a report on the administration and enforcement of this section.

"(2) The report required by paragraph (1) shall include—

"(A) an identification of the service delivery areas and States that have determined, during the preceding program year, not to be in compliance with this section;

"(B) for each such identification, the date on which the inquiry was begun and whether the inquiry was initiated on the basis of a complaint or at the initiative of the Department;

"(C) an identification of the service delivery areas and States awaiting findings by the Directorate;

"(D) the number of service delivery areas and States that, during the preceding year, were determined not to be in compliance with this section, and the number for which insufficient data prevented the making of such a determination, and information identifying the type of data that is missing or inadequate;

"(E) a statistical summary, broken down by race, sex, national origin, disability, or age, of the number of inquiries undertaken and the outcomes of the inquiries;

"(F) an identification of any service delivery area or State that has been determined, during the preceding year, to have failed to conduct objective assessments as required by sections 204 and 274 on a nondiscriminatory basis;

"(G)(i) the amount expended by the Department for the administration and enforcement by the Directorate of this section; and

"(ii) the number and percentage of full-time employees, and the full-time equivalent of the part-time employees, engaged in such administration and enforcement;

"(H) the number of onsite visits conducted each year, and whether the visits were initiated by the Department or by complaint;

"(I) the number of cases referred to the Attorney General, and for such cases—

"(i) the civil actions taken by the Attorney General on the cases;

"(ii) the use, by the Secretary, of the authority of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (29 U.S.C. 621 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

"(J) a description of any other actions taken by the Secretary under, or related to the administration and enforcement of, this section.

"(3) The report required by this subsection shall be submitted to the Congress as part of the annual report of the Secretary under section 169(d).

"(f) In addition to any other sums authorized to be appropriated, there are authorized to be appropriated for the operations and expenses of the Directorate such sums as may be necessary for the purpose of increasing the number of full-time equivalent personnel available to the Directorate in order to comply with the requirements of this section.".

Subtitle C—Training Services for the Disadvantaged

SEC. 131. ESTABLISHMENT OF ADULT OPPORTUNITY PROGRAM.

(a) In General.—Part A of title II (29 U.S.C. 1601 et seq.) is amended to read as follows:

"PART A—ADULT OPPORTUNITY PROGRAM

"SEC. 201. STATEMENT OF PURPOSE.

"It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing occupational and educational skills resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

"SEC. 202. ALLOTMENT AND ALLOCATION.

"(a) Allotment.—

"(1) Territories.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) Allotment to states.—

"(A) In general.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

"(B) Basis.—Subject to paragraph (3), of the remainder described in subparagraph (A) for each fiscal year—

"(i) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(ii) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(iii)(I) except as provided in subclause (II), 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within each State as compared to the total number of economically disadvantaged individuals in all States; or

"(II) for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(3) Limitations on allotments.—

"(A) State minimum.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

"(B) Minimum percentage.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(C) Maximum percentage.—No State shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(D) Allotment percentage.—

"(i) In general.—For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to this subsection.

"(ii) Fiscal year 1992.—For the purposes of this paragraph, for fiscal year 1992, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to section 201 as in effect on the day before the date of the enactment of this section.

"(b) Allocation to Service Delivery Areas.—

"(1) In general.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate 77 percent in accordance with this subsection and 23 percent in accordance with subsection (c). Of such 77 percent—

"(A) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total excess number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C)(i) except as provided in clause (ii), 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged individuals within each service delivery area as compared to the total number of economically disadvantaged individuals in the State; or

"(ii) for any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(2) Special rule.—The private industry council in each service delivery area may reserve not more than 10 percent of the funds received under this part for experimental programming for hard-to-serve individuals. The Comptroller General shall conduct a study to review and assess such experimental programs and postprogram results and shall submit the findings to the appropriate committees of Congress not later than September 30, 1994.

"(c) State Activities.—

"(1) In general.—The Governor shall allocate 23 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in paragraph (2).

"(2) Uses.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year—

"(A)(i) except as provided in clause (ii), 5 percent shall be available for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122; and

"(ii) the Secretary shall ensure that the amount available to carry out the activities described in clause (i) is not less than $500,000 by—

"(I) ratably reducing, by an amount necessary to meet the requirement of subclause (II), the amounts available under clause (i) for the States that have amounts available in excess of $500,000; and

"(II) allotting the funds available pursuant to subclause (I) to the States that would otherwise have amounts available under clause (i) that are less than $500,000 in amounts necessary to ensure that such States have an amount equal to $500,000 to carry out the activities described in clause (i);

"(B) 2 percent shall be available for technical assistance and capacity building in developing the overall capability of the job training system within the State, including the development and training of State and local service delivery area staff, service provider staff, the development of information and exemplary program activities, and the conduct of research and other activities designed to improve the level, degree, and goals of programs conducted under this Act;

"(C) 3 percent shall be available to provide incentive grants authorized under section 106(b)(8);

"(D) 8 percent shall be available to carry out section 123; and

"(E) 5 percent shall be available to carry out section 204(d).

"(d) Definitions and Rule.—

"(1) Definitions.—As used in this section:

"(A) Economically disadvantaged individual.—The term 'economically disadvantaged individual' means an individual who is age 22 through 72 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) Excess number.—The term 'excess number' means—

"(i) the number that represents the number of unemployed individuals age 22 through 72 in excess of 4.5 percent of the civilian labor force in the State; or

"(ii) the number that represents the number of such unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

"(2) Special rule.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practical, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged individuals.

"SEC. 203. ELIGIBILITY FOR SERVICES.

"(a) Eligibility.—

"(1) In general.—An individual shall be eligible to participate in the program assisted under this part if such individual is—

"(A) 22 years of age or older; and

"(B) economically disadvantaged.

"(2) Minimum requirement.—Not less than 65 percent of the participants in a program assisted under this part in each service delivery area shall be individuals who, in addition to meeting the requirements of paragraph (1), are included in one or more of the following categories:

"(A) Individuals who are basic skills deficient.

"(B) Individuals who are school dropouts.

"(C) Individuals who are recipients of aid to families with dependent children who either meet the requirements of section 403(l)(2)(B) of the Social Security Act (42 U.S.C. 603(l)(2)(B)) or have been provided an employability plan in accordance with section 482(b) of the Social Security Act (42 U.S.C. 682(b)).

"(D) Individuals with a disability.

"(E) Individuals who are homeless, as defined by subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

"(F) Individuals who are unemployed for the previous 6 months or longer.

"(G) Offenders.

"(H) Individuals who are limited-English proficient.

"(I) Individuals who are in a category established pursuant to subsection (b).

"(3) Special rule.—Not more than 10 percent of all participants in a program assisted under this part in each service delivery area shall be individuals who are not economically disadvantaged if such individuals are age 22 or older and within 1 or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in paragraph (2), or categories such as displaced homemakers, older workers, veterans, alcoholics, or addicts.

"(b) Additional Category.—A service delivery area conducting a program assisted under this part may add one category of individuals who face serious barriers to employment to the categories of eligible individuals described in subsection (a)(2) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted pursuant to paragraph (1) and transmits the request to the Secretary; and

"(3) the Secretary approves the request submitted pursuant to paragraph (2).

"(c) Transfer of Funds.—A service delivery area may transfer not more than 10 percent of the funds provided under this part to carry out part B for youth programs if a description of such transfer is included in the job training plan pursuant to section 104 and the Governor approves the transfer pursuant to section 105.

"SEC. 204. PROGRAM DESIGN.

"(a) In General.—

"(1) Program requirements.—Each program assisted under this part shall include—

"(A) an assessment, which shall comply with the requirements of section 167, of the skill levels and service needs of each participant, including such factors as basic skills, occupational skills, prior work experience, and supportive service needs, except that a new assessment of a participant is not required if the program determines that a recent assessment of the participant conducted pursuant to another education or training program, such as the JOBS program, is an appropriate assessment;

"(B) development of service strategies that shall identify the employment goal, the appropriate achievement objectives, and the appropriate sequence of services for participants, taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required if the program determines a recent service strategy developed for the participant under another education or training program (such as the JOBS program) is an appropriate service strategy;

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) basic skills training and occupational skills training if the assessment and the service strategy indicate such training is appropriate.

"(2) Additional requirements.—

"(A) Minimum income participants and applicants.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services available by the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) Applicants not meeting enrollment requirements.—

"(i) Service providers.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referrals to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) Service delivery area.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(b) Authorized Services.—Subject to the limitations contained in subsection (c), services that may be made available to each participant under this part may include—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second-language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) assessment of the skill levels and service needs of participants;

"(E) counseling, such as job counseling and career counseling;

"(F) case management services;

"(G) education-to-work transition activities;

"(H) programs that combine workplace training with related instruction;

"(I) work experience;

"(J) programs of advanced career training that provide a formal combination of on-the-job and institutional training and internship assignments that prepare individuals for career employment;

"(K) training programs operated by the private sector, including programs operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(L) skill upgrading and retraining;

"(M) bilingual training;

"(N) entrepreneurial training, such as training activities for microenterprises;

"(O) vocational exploration;

"(P) training programs to develop work habits to help individuals obtain and retain employment;

"(Q) attainment of certificates of high school equivalency;

"(R) preapprenticeship programs;

"(S) on-site, industry-specific training programs supportive of industrial and economic development;

"(T) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training; and

"(U) use of advanced learning technology for education, job preparation, and skills training; and

"(2) training-related and supportive services, including—

"(A) job search assistance;

"(B) outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for limited-English proficient individuals and individuals with disabilities;

"(C) specialized surveys not available through other labor market information sources;

"(D) dissemination of information on program activities to employers;

"(E) development of job openings;

"(F) programs coordinated with other Federal employment-related activities;

"(G) supportive services, necessary to enable individuals to participate in the program, and to assist the individuals, for a period not to exceed 12 months following completion of training, to retain employment;

"(H) needs-based payments necessary to participate in accordance with a locally developed formula or procedure;

"(I) followup services with participants placed in unsubsidized employment; and

"(J) services to obtain job placements for individual participants.

"(c) Special Rules.—

"(1) Workplace context and integration.—Basic skills training provided under this part shall, where appropriate, have a workplace context and be integrated with occupational skills training.

"(2) Basic education or occupational skills.—

"(A) Additional services.—Except as provided in subparagraph (B), job search, job search skills training, job clubs, and work experience provided under this part shall be accompanied by other services designed to increase the basic education or occupational skills of a participant.

"(B) Lack of appropriateness or availability.—Each program assisted under this part may provide job search, job search skills training, and job clubs activities to a participant without the additional services described in subparagraph (A) if—

"(i) the assessment and service strategy of a participant indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the employment service or other public agencies.

"(3) Needs-based payments.—Needs-based payments provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(4) Counseling and supportive services.—Counseling and supportive services provided under this part may be provided to a participant for a period up to 1 year after the participant's completion of the program.

"(5) Service strategy.—The service strat-

ices under this part. Such cooperative ar-

areas and entities for the summer youth pro-

"SEC. 254. LIMITATIONS.

"(a) Use During Summer Months or

SEC. 133. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

under title II to the State during the preceding fiscal year.

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“(5) SERVICE STRATEGY.—The service strategy developed pursuant to subsection (a)(2) shall not be considered a contract.

“(d) TRAINING PROGRAMS FOR OLDER INDIVIDUALS.—

“(1) IN GENERAL.—The Governor is authorized to provide for job training programs that are developed in conjunction with service delivery areas within the State and that are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 104, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

“(2) AGREEMENTS.—In carrying out this subsection, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations, including veterans organizations, and private business concerns.

“(3) CONSIDERATIONS.—The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

“(4) COORDINATION.—In providing the services required by this subsection, the Governor shall make efforts to coordinate the delivery of such services with the delivery of services pursuant to title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

“(5) SERVICE PROVIDER SELECTION.—In the selection of service providers to serve older individuals under this subsection, the Governor shall give priority to national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

“(6) ELIGIBILITY.—An individual shall be eligible to participate in a job training program under this subsection only if the individual is economically disadvantaged and has attained 55 years of age.

“SEC. 205. LINKAGES.

“(a) IN GENERAL.—In conducting the program assisted under this part, the service delivery area shall establish appropriate linkages with other Federal programs. Such programs shall include, where feasible, programs assisted under—

“(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

“(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

“(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

“(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

“(5) the employment program established pursuant to section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

“(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

“(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

“(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

“(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

“(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482).

“(b) OTHER APPROPRIATE LINKAGES.—In addition to the linkages required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate cooperative arrangements to enhance the provision of services under this part. Such cooperative arrangements may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, literacy organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

“SEC. 206. TRANSFER OF FUNDS.

“A service delivery area may transfer up to 10 percent of the funds provided under this part to the programs under parts B and C if such transfer is—

“(1) described in the job training plan; and

“(2) approved by the Governor.

“SEC. 207. STUDIES RELATING TO PLACEMENT AND TARGET POPULATIONS.

“The Comptroller General of the United States shall conduct a study to determine the number and percentage of adults assisted under this part that remain employed for at least 9 months after receiving assistance under this part. The Comptroller General shall submit a report containing the findings resulting from the study to the appropriate committees of Congress not later than 3 years after the date of enactment of this section.”.

(b) TECHNICAL AMENDMENT.—The table of contents relating to part A of title II is amended to read as follows:

“Sec. 201. Statement of purpose.
“Sec. 202. Allotment and allocation.
“Sec. 203. Eligibility for services.
“Sec. 204. Program design.
“Sec. 205. Cooperative arrangements.
“Sec. 206. Transfer of funds.
“Sec. 207. Studies relating to placement and target populations.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking “section 204(5)” and inserting “section 204(b)(1)(C)”.

(2) Section 122 (29 U.S.C. 1532) is amended—

(A) in subsection (a)(1), by striking “section 202(b)(4)” and “sections 202(c)(2)(A) and 262(c)(1)”; and

(B) in subsection (b)(2), by striking “section 202(a)” and inserting “section 202(b)”.

(3) Section 125(a) (29 U.S.C. 1535(a)) is amended by striking “section 202(b)(4) and”.

SEC. 132. ESTABLISHMENT OF SUMMER YOUTH OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Part B of title II (29 U.S.C. 1631 et seq.) is amended to read as follows:

“PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

“SEC. 251. PURPOSE.

“It is the purpose of programs assisted under this part—

“(1) to enhance the basic educational skills of youth;

“(2) to encourage school completion, or enrollment in supplementary or alternative school programs; and

“(3) to provide eligible youth with exposure to the world of work.

“SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION.

“(a) TERRITORIAL AND NATIVE AMERICAN ALLOCATION.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

“(b) USE OF PART C FORMULA FOR ALLOTMENT AND ALLOCATION.—The remainder of funds appropriated under section 3(a)(2) shall, for each fiscal year, be allotted among States on the basis of the formula specified in section 202(a)(2)(B) and allocated among service delivery areas on the basis of the formula specified in section 202(b)(1). For purposes of the application of the formulas under this subsection, the term “economically disadvantaged individual” means an economically disadvantaged youth, as defined in section 262(d)(1)(A).

“SEC. 253. USE OF FUNDS.

“(a) IN GENERAL.—Funds available under this part may be used for—

“(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, activities under programs described in section 265(b), and any other employment or job training activity designed to give employment to eligible individuals or prepare the individuals for, and place the individuals in, employment;

“(2) supportive services necessary to enable such individuals to participate in the program; and

“(3) administrative costs, not to exceed 15 percent of the funds available under this part.

“(b) BASIC AND REMEDIAL EDUCATION.—

“(1) IN GENERAL.—A service delivery area shall expend funds (available under this Act or otherwise available to the service delivery area) for basic and remedial education as described in the job training plan under section 104.

“(2) EDUCATION OR TRAINING.—The education authorized by paragraph (1) may be provided by—

“(A) the year-round program under this part;

“(B) the Job Corps;

“(C) the JOBS program;

“(D) alternative or secondary schools; or

“(E) other education and training programs.

“(c) ASSESSMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each participant under this part shall be provided with an objective assessment of the skill levels and service needs of the participant, which assessment may include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes, and supportive service needs.

“(2) RECENT ASSESSMENTS.—The assessment described in paragraph (1), or a factor of such assessment is not required under a program under this part if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program).

“(3) SERVICE STRATEGY.—The service delivery area shall develop a service strategy for participants that may identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under this subsection or under such other education or training program.

“(d) FOLLOWUP SERVICES.—Service delivery areas shall make followup services available for participants for whom a service strategy is developed in accordance with this section.

“SEC. 254. LIMITATIONS.

“(a) USE DURING SUMMER MONTHS OR EQUIVALENT VACATION PERIOD.—

“(1) SUMMER MONTHS.—Except as provided in paragraph (2), programs under this part shall be conducted during the summer months.

“(2) VACATION PERIOD.—A service delivery area may, within the jurisdiction of any local educational agency that operates schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

“(b) CONCURRENT ENROLLMENT.—

“(1) IN GENERAL.—An eligible individual participating in a program assisted under this part may concurrently be enrolled in programs under part C. Appropriate adjustment to the youth performance standards (regarding attainment of competencies) under section 106(b)(4)(A) (i) and (ii) and 106(b)(5) shall be made to reflect the limited period of participation.

“(2) CONCURRENT ENROLLMENT AND TRANSFERS.—Youth being served under this part or part C youth programs do not need to be terminated from participation in one program in order to enroll in the other. The Secretary shall provide guidance to service delivery areas on simplified procedures for concurrent enrollment and transfers for youth from one program to the other.

“SEC. 255. APPLICABLE PROVISIONS.

“(a) COMPARABLE FUNCTIONS OF AGENCIES AND OFFICIALS.—Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as the private industry councils, chief elected officials, State job training coordinating councils, and Governors have with respect to funds available under parts A and C of title II.

“(b) PROGRAM GOALS AND OBJECTIVES.—In accordance with subsection (a), each service delivery area shall establish written program goals and objectives that shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

“(1) improvement in school retention and completion;

“(2) improvement in academic performance, including mathematics and reading comprehension;

“(3) improvement in employability skills; and

“(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs.

“SEC. 256. DEFINITION.

“As used in this part, the term ‘youth’ means an individual who is age 14 through 21.”.

(b) TECHNICAL AMENDMENT.—The table of contents relating to part B of title II is amended to read as follows:

“PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

“Sec. 251. Purpose.
“Sec. 252. Authorization of appropriations; allotment and allocation.
“Sec. 253. Use of funds.
“Sec. 254. Limitations.
“Sec. 255. Applicable provisions.
“Sec. 256. Definition.

SEC. 133. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Title II (29 U.S.C. 1601 et seq.) is amended by adding at the end the following new part:

“PART C—YOUTH PROGRAM

“SEC. 261. STATEMENT OF PURPOSE.

“It is the purpose of the programs assisted under this part to—

“(1) improve the long-term employability of youth;

“(2) enhance the educational and occupational skills of youth;

“(3) encourage school completion or enrollment in alternative school programs;

“(4) increase the employment and earnings of youth;

“(5) reduce welfare dependency; and

“(6) assist youth in addressing problems that impair the ability of youth to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.

“SEC. 262. ALLOTMENT AND ALLOCATION.

“(a) ALLOTMENT.—

“(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

“(2) ALLOTMENT TO STATES.—

“(A) IN GENERAL.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

“(B) BASIS.—Subject to paragraph (3), the remainder described in subparagraph (A) shall be allotted, for each fiscal year, on the basis of the formula specified in section 202(a)(2)(B). For purposes of the application of the formula under this subparagraph, the term ‘economically disadvantaged individual’ means an economically disadvantaged youth.

“(3) LIMITATION ON ALLOTMENTS.—

“(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

“(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

“(C) MAXIMUM PERCENTAGE.—No service delivery area shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

“(D) TOTAL ALLOTMENT.—Notwithstanding subparagraphs (A) through (C), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of 1 percent of the total allotted to all service delivery areas in all States.

“(E) ALLOTMENT PERCENTAGE.—

“(i) For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to this subsection.

“(ii) FISCAL YEAR 1992.—For the purposes of this paragraph, the allotment percentage of a State for fiscal year 1992 shall be the percentage of the funds allocated for youth programs (as determined by the Secretary) under title II to the State during the preceding fiscal year.

“(b) ALLOCATION TO SERVICE DELIVERY AREAS.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate 82 percent on the basis of the formula specified in section 202(b)(1) and 18 percent in accordance with subsection (c). For purposes of the application of the formula under this subsection, the term ‘economically disadvantaged individual’ means an economically disadvantaged youth.

“(c) STATE ACTIVITIES.—

“(1) IN GENERAL.—The Governor shall allocate 18 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in subparagraphs (A), (B), (C), and (D) of section 202(c)(2).

“(2) INCENTIVE GRANT ALLOTMENT.—The amount reserved under paragraph (1) for the activities described in section 202(c)(2)(C) shall be used by the Governor to provide incentive grants under section 106(b)(8). The incentive grants made under this paragraph shall be distributed among not more than three-fourths of such eligible service delivery areas within the State in proportion to the extent to which the service delivery area fulfills the requirements of section 106(b)(8).

“(d) DEFINITIONS AND RULE.—

“(1) DEFINITIONS.—As used in this section:

“(A) ECONOMICALLY DISADVANTAGED YOUTH.—The term ‘economically disadvantaged youth’ means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

“(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

“(ii) 70 percent of the lower living standard income level.

“(B) EXCESS NUMBER.—The term ‘excess number’ means—

“(i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

“(ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

“(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth and the size of the youth population in a service delivery area.

“SEC. 263. ELIGIBILITY FOR SERVICES.

“(a) IN-SCHOOL YOUTH.—An individual who is in school shall be eligible to participate in the program under this part if such individual is—

“(1)(A) age 16 through 21; or

“(B) if provided in the job training plan, age 14 through 21; and

“(2) economically disadvantaged, or participates in a compensatory education program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

“(b) TARGETED GROUPS OF IN-SCHOOL YOUTH.—Not less than 70 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (a), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individuals.

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals exhibiting a pattern of disruptive behavior or disciplinary problems.

"(6) Individuals who are limited-English proficient.

"(7) Individuals who are homeless or runaway youth.

"(8) Offenders.

"(9) Individuals within a category established pursuant to subsection (h).

"(c) OUT-OF-SCHOOL YOUTH.—An individual who is out of school shall be eligible to participate in the program under this part if such individual is—

"(1) age 16 through 21; and

"(2) economically disadvantaged.

"(d) TARGETED GROUPS OF OUT-OF-SCHOOL YOUTH.—Not less than 70 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (c), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts (subject to the conditions described in section 264(d)(2)).

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Homeless or run-away youth.

"(6) Offenders.

"(7) Individuals who are limited-English proficient.

"(8) Individuals in a category established pursuant to subsection (h).

"(e) EXCEPTIONS.—Not more than 10 percent of participants in the program assisted under this part in each service delivery area shall be individuals who do not meet the requirements of subsection (a)(2) or (c)(2), if such individuals are within one or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsections (b) and (d), or categories such as individuals with limited-English language proficiency, alcoholics, or drug addicts.

"(f) RATIO OF OUT-OF-SCHOOL TO IN-SCHOOL YOUTH.—Not less than 50 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(g) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—

"(1) IN GENERAL.—In addition to the individuals described in subsection (e), an individual who does not meet the requirements of subsection (a)(2) may participate in the programs assisted under this part if such individual is enrolled in a public school—

"(A) that is located in a poverty area;

"(B) that is served by a local educational agency that is eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(C) in which not less than 75 percent of the students enrolled are included in the categories described in subsection (b); and

"(D) that conducts a program pursuant to a cooperative arrangement that meets the requirements of section 265(d).

"(2) DEFINITION.—For the purposes of paragraph (1), the term 'poverty area' means an urban census tract or a nonmetropolitan county with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(h) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals described in subsection (d) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted pursuant to paragraph (1) and transmits the request to the Secretary; and

"(3) the Secretary approves the request submitted pursuant to paragraph (2).

"SEC. 264. PROGRAM DESIGN.

"(a) YEAR-ROUND OPERATION.—The programs under this part shall be conducted on a year-round basis.

"(b) ESSENTIAL ELEMENTS.—

"(1) IN GENERAL.—The programs under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(B) development of service strategies that shall identify achievement objectives, appropriate employment goals (including, where appropriate, nontraditional employment) and appropriate services for participants, taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) the following services, which shall be provided either directly or through arrangement with other programs to a participant if the assessment and service strategy indicate such services are appropriate:

"(i) Basic skills training.

"(ii) Occupational skills training.

"(iii) Preemployment and work maturity skills training.

"(iv) Work experience combined with skills training.

"(v) Supportive services.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services available by the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(c) AUTHORIZED SERVICES.—Services which may be made available to youth with funds provided under this part may include—

"(1) the direct training services described in section 204(b)(1) in addition to—

"(A) tutoring and study skills training;

"(B) alternative high school services within programs that meet the requirements of section 141(n)(1);

"(C) instruction leading to high school completion or the equivalent;

"(D) mentoring;

"(E) case management services;

"(F) counseling, such as job counseling and career counseling;

"(G) limited internships in the private sector;

"(H) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations;

"(I) entry employment experience programs;

"(J) school-to-work transition services;

"(K) school-to-postsecondary education transition services; and

"(L) school-to-apprenticeship transition services; and

"(2) the training-related and supportive services described in section 204(b)(2), in addition to—

"(A) drug and alcohol abuse counseling and referral;

"(B) needs-based payments;

"(C) services encouraging parental, spousal, and other significant adult involvement in the program of the participant; and

"(D) cash incentives and bonuses based on attendance and performance in a program.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) STRATEGIES AND SERVICES.—In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

"(2) SCHOOL DROPOUTS.—In order to participate in a program assisted under this part, an individual who is under the age of 18 and a school dropout shall—

"(A) reenroll in and attend school;

"(B) enroll in and attend an alternative high school;

"(C) enroll in and attend an alternative course of study approved by the local educational agency; or

"(D) enroll in and attend a high school equivalency program.

"(3) SKILLS TRAINING.—

"(A) PREEMPLOYMENT AND WORK MATURITY SKILLS TRAINING.—Preemployment and work

maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase the basic educational or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(B) ADDITIONAL SERVICES.—Work experience, job search assistance, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(4) NEEDS-BASED PAYMENTS.—Needs-based payments authorized under this part shall be limited to payments necessary to permit participation in the program in accordance with a locally developed formula or procedure.

"(5) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period of up to 1 year after termination from the program.

"(6) NONCONTRACT TREATMENT.—The service strategy developed pursuant to subsection (b)(1)(B) shall not be considered a contract.

"SEC. 265. LINKAGES.

"(a) EDUCATIONAL LINKAGES.—In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems and needs, including, where appropriate, interim assessment results.

"(b) EDUCATION AND TRAINING PROGRAM LINKAGES.—In conducting the program under this part, the service delivery area shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV (the Job Corps);

"(2) parts A through D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(4) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(5) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(6) part F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.);

"(7) the Food Stamp Act (7 U.S.C. 2011 et seq.);

"(8) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(9) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482); and

"(10) any provisions of this Act.

"(c) OTHER PROGRAMS.—In addition to the linkages required under subsections (a) and (b), service delivery areas receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A of title II.

"(d) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—In conducting a program serving individuals specified in section 263(g), the service delivery area shall establish a cooperative arrangement with the appropriate local educational agency that shall, in addition to the other requirements of this section, include—

"(1) a description of the ways in which the program will supplement the educational program of the school;

"(2) identification of measurable goals to be achieved by the program and provision for assessing the extent to which such goals are met;

"(3) a description of the ways in which the program will use resources provided under this part and resources provided under other education programs to achieve the goals identified in paragraph (2);

"(4) a description of the number of individuals to be served; and

"(5) assurances that the resources provided under this part shall be used to supplement and not supplant existing sources of funds.

"SEC. 266. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part A if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.".

(b) TECHNICAL AMENDMENT.—The table of contents in title II is amended by adding after the item relating to section 256 the following:

"PART C—YOUTH PROGRAM

"Sec. 261. Statement of purpose.
"Sec. 262. Allotment and allocation.
"Sec. 263. Eligibility for services.
"Sec. 264. Program design.
"Sec. 265. Linkages.
"Sec. 266. Transfer of funds.".

Subtitle D—Special Programs

SEC. 141. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

Section 314(f) (29 U.S.C. 1661c(f)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) An eligible dislocated worker participating in training (except for on-the-job training) pursuant to this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

Subtitle E—National Programs

SEC. 151. NATIVE AMERICAN PROGRAMS.

(a) IN GENERAL.—Section 401 (29 U.S.C. 1671) is amended—

(1) in subsection (a), by striking "Alaskan Native" and inserting "Alaska Native, American Samoan,";

(2) in subsection (b)(2)—

(A) by striking "and groups and" and "and groups,"; and

(B) by inserting ", and to American Samoans residing in the United States" after "descent";

(3) in subsection (c)(1)(B)—

(A) by striking "natives" and inserting "Natives and American Samoans residing in the United States";

(B) by inserting "and State agencies" after "organizations"; and

(C) by striking "their needs" and inserting "the needs of the Hawaiian Natives and American Samoans";

(4) in subsection (e)—

(A) by inserting "(1)" after the subsection designation;

(B) by inserting "and American Samoan" after "Native American"; and

(C) by adding at the end the following new paragraph:

"(2) Such procedures and machinery shall include—

"(A) the designation by the Secretary of a single organizational unit that shall have the principal responsibility for the development, coordination, and oversight of all policies (except audit, procurement and debt collection policies) under which the Secretary regulates or influences the operation of Native American Indian programs under this section; and

"(B) a special effort to recruit Indians, Alaska Natives, American Samoans, and Hawaiian Natives for employment in the organizational unit identified in subparagraph (A)"; and

(5) in subsection (h)—

(A) by striking "representatives of Indians and other Native Americans" and inserting "the Advisory Council on Native American Indian Job Training Programs";

(B) by inserting "Indian and American Samoan" after "Native American"; and

(C) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall establish an Advisory Council on Native American Indian Job Training Programs (referred to in this section as the 'Council'), which shall consist of not fewer than 15 Native American Indians, Alaska Natives, American Samoans, or Hawaiian Natives appointed by the Secretary from among individuals nominated by Native American Indian tribes or Native American Indian, Alaska Native, American Samoan, or Hawaiian Native organizations. The membership of the Council membership shall represent diverse geographic areas and include representatives of tribal governments and of nonreservation Native American Indian organizations.

"(B) Each Council member may serve for a term of 2 years, and may be reappointed.

"(C) The Council shall be chaired by a Native American Indian, Alaska Native, or Hawaiian Native Council member elected by a majority of the membership of the Council and shall meet not less than twice each program year.

"(D) The Council shall—

"(i) solicit the views of a wide variety of tribes and Native American Indian and American Samoan groups, including groups operating employment and training programs funded under this section, on issues affecting the operation and administration of such programs;

"(ii) advise the Secretary with respect to all matters concerning the implementation of programs under this section and other programs providing services to Native American Indian youth and adults under this Act;

"(iii) advise the Secretary with respect to the design of all aspects of the system of performance standards developed under this section;

"(iv) advise the Secretary with respect to services obtained by the Department of Labor through contracts or arrangements with non-Federal agencies or entities, which services involve the provision of technical assistance to, or evaluation of, the programs authorized by this section;

"(v) assess the effectiveness of Native American Indian job training programs and make recommendations with respect to the improvement of such programs;

"(vi) advise the Secretary with regard to the recruitment of, identification of, and selection criteria for, candidates for the position of chief of the organizational unit described in subsection (e)(2)(A) whenever a vacancy in such position occurs; and

"(vii) submit a report to the Congress not later than January 1 of each year on the progress of Native American Indian job training programs and recommendations for improving the effectiveness of the programs.

"(E) From amounts appropriated to carry out this section, the Secretary shall make available to the Council such sums as may be necessary to carry out the functions of the Council.".

(b) RESERVATION.—Section 401(j) is amended to read as follows:

"(j) For the purposes of carrying out this section, the Secretary shall reserve, from funds available for carrying out this title (other than part B) for the fiscal year, an amount not less than 3.1 percent of the total amount of funds appropriated to carry out parts A and C of title II of this Act for such fiscal year.".

(c) COMPETITION GRANTS.—Section 401 is amended by adding at the end the following new subsection:

"(k) The competition for grants under this section shall be conducted every 2 years, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement, the Secretary may waive the requirement for such competition on receipt from the grantee of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

SEC. 152. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

(a) RESERVATION.—Section 402(f) (29 U.S.C. 1672(f)) is amended to read as follows:

"(f) For the purposes of carrying out this section, the Secretary shall reserve, from funds available for carrying out this title (other than part B) for any fiscal year, an amount not less than 2.76 percent of the total amount of funds appropriated to carry out parts A and C of title II of this Act for such fiscal year.".

(b) COMPETITION FOR GRANTS.—Section 402 is amended by adding at the end the following new subsection:

"(g) The competition for grants under this section shall be conducted every 2 years, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement, the Secretary may waive the requirement for such competition on receipt from the grantee of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

SEC. 153. JOB CORPS.

Section 427(a)(2) (29 U.S.C. 1697(a)(2)) is amended—

(1) by striking "10 percent" and inserting "20 percent"; and

(2) by adding at the end the following new sentence: "The Secretary shall not reduce the number of residential participants in Job Corps programs under this part during any program year below the number of residential participants during program year 1989 in order to increase the number of individuals who are nonresidential participants in the Job Corps.".

SEC. 154. NATIONAL ACTIVITIES.

(a) IN GENERAL.—Part D of title IV (29 U.S.C. 1731 et seq.) is amended to read as follows:

"PART D—NATIONAL ACTIVITIES

"SEC. 451. TRAINING AND INFORMATION PROGRAMS.

"(a) STAFF TRAINING.—The Secretary, directly or through grants, contracts or other arrangements, shall—

"(1) develop curricula and provide appropriate training, technical assistance, staff development and other activities at the national, regional, State, and local levels that will—

"(A) enhance the skills, knowledge, and expertise of the personnel who staff employment and training and other closely related human service systems, including service providers;

"(B) improve the quality of services provided to individuals under this Act and other Federal employment and training programs and encourage integrated service delivery;

"(C) improve the planning, procurement, and contracting practices in accordance with this Act; and

"(D) provide broad human services policy and planning training to private industry council volunteers and members of State human investment coordinating councils;

"(2) prepare and disseminate training curricula and materials for employment and training professionals and support staff, which curricula and materials focus on enhancing staff competencies and professionalism, including instruction on the administrative requirements of this Act, such as procurement and contracting standards and regulations; and

"(3) disseminate innovative and successful models, materials, methods, and program information and provide training in the techniques learned from the sources to foster improved program quality and professional growth among managers, service delivery providers, and administrators, involved in the delivery of employment and training services.

"(b) CLEARINGHOUSE.—The Secretary is authorized to establish a clearinghouse to—

"(1) regularly identify, develop, and disseminate innovative materials that enhance the knowledge and quality of performance of employment and training personnel;

"(2) facilitate effective communications and coordination among employment and training personnel;

"(3) establish a computer communications network to share information among employment and training personnel and institutions; and

"(4) establish linkages with existing human resources clearinghouses, including the Education Research Information Centers and the National Network for Curriculum Coordination in Vocational and Technical Education.

"(c) CONSULTATION.—The Secretary shall consult with the Secretaries of Education and Health and Human Services, as appropriate, to coordinate activities under this section with other relevant institutes, centers, laboratories, clearinghouses, or dissemination networks.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part D of title IV is amended to read as follows:

"PART D—NATIONAL ACTIVITIES

"Sec. 451. Training and information programs.".

(c) CONFORMING AMENDMENTS.—

(1) Section 161(b)(2) (29 U.S.C. 1571(b)(2)) is amended by striking "452 through 455" and inserting "451 and 452".

(2) Section 433(c)(1) (29 U.S.C. 1703(c)(1)) is amended by striking "452 and 455" and inserting "451".

SEC. 155. COOPERATIVE LABOR MARKET INFORMATION PROGRAM.

Section 462 (29 U.S.C. 1752) is amended by adding at the end the following new subsection:

"(g)(1) The Secretary may engage in research, demonstration, or other activities, including activities that may be carried out by States, designed to determine the feasibility of various methods of organizing and making accessible nationwide information on the quarterly earnings for all individuals for whom such information is collected by the States.

"(2) The Secretary shall submit a report to Congress based on the findings resulting from the activities described in paragraph (1) concerning the costs and benefits of establishing and maintaining a national longitudinal data base utilizing unemployment insurance wage records. Such report shall also address the feasibility of establishing appropriate safeguards for maintaining the confidentiality of information and privacy of individuals.".

SEC. 156. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

Section 464(a)(1) (29 U.S.C. 1754(a)(1)) is amended by striking "not more than $5,000,000" and inserting "$6,000,000".

SEC. 157. REPLICATION OF SUCCESSFUL PROGRAMS.

(a) IN GENERAL.—Title IV (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new part:

"PART H—REPLICATION OF SUCCESSFUL PROGRAMS

"SEC. 485. REPLICATION.

"(a) REPLICATION PROGRAM AUTHORIZED.—The Secretary shall make competitive grants to public or private nonprofit organizations for technical assistance, and to States and service delivery areas for planning and program development, associated with the replication of successful programs pursuant to the provisions of this part.

"(b) AWARDS.—

"(1) FACTORS.—In awarding grants for replication of successful programs to public or private nonprofit organizations, States, or service delivery areas under this part, the Secretary shall select programs that are likely to be successful in improving the employment prospects of economically disadvantaged youths and adults and are replicable on a large scale.

"(2) CONSIDERATIONS.—In selecting such programs the Secretary shall consider—

"(A) the size and scope of the program;

"(B) the length of time that the program has been operating;

"(C) the nature and reliability of measurable outcomes for the program;

"(D) the capacity of the sponsoring organization to provide the technical assistance

necessary for States and service-delivery areas to replicate the program; and

"(E) the likelihood that the program will be successful in diverse economic, geographic, and cultural environments.

"(c) APPLICATIONS.—

"(1) NONPROFIT ORGANIZATION.—Any public or private nonprofit organization with the capacity to provide the technical assistance necessary for program replication may submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall describe the program proposed for replication and available evidence of the success of the program in improving the employment prospects of economically disadvantaged youths and adults.

"(2) STATE; SERVICE DELIVERY AREA.—Any State or service delivery area desiring a grant to participate in a replication effort shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(d) GRANT LIMITATIONS.—

"(1) LIMITATION.—In any 3-year period the Secretary shall not approve grants for the same replication activities in more than 10 States or communities. During this 3-year period, the results of such limited replication efforts shall be carefully evaluated and examined by the Secretary regarding the advisability of replicating the model program in more than 10 States or communities or for longer than 3 years.

"(2) WAIVER.—The Secretary may waive the limitation set forth in paragraph (1) for a program if immediate replication efforts on a larger scale are warranted by extensive evaluation of the program prior to designation as a model program pursuant to the provisions of this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to title IV is amended by adding after the item relating to section 481 the following:

"PART H—REPLICATION OF SUCCESSFUL PROGRAMS

"Sec. 485. Replication.".

SEC. 158. FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

(a) IN GENERAL.—Title IV (29 U.S.C. 1671 et seq.) (as amended by section 157) is further amended by adding at the end the following new part:

"PART I—FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"SEC. 491. STATEMENT OF PURPOSE.

"The purposes of this part include—

"(1) enabling communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(2) facilitating the coordination of comprehensive services to serve youth in such communities.

"SEC. 492. DEFINITIONS.

"As used in this part:

"(1) PARTICIPATING COMMUNITY.—The term 'participating community' means a city in a metropolitan statistical area, the contiguous nonmetropolitan counties in a rural area, or a Native American Indian reservation or Alaska Native village, participating in the Fair Chance Youth Opportunities Unlimited Program established under this part.

"(2) POVERTY AREA.—The term 'poverty area' means an urban census tract, a nonmetropolitan county, a Native American Indian reservation, or an Alaska Native village, with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(3) TARGET AREA.—The term 'target area' means a poverty area or set of contiguous poverty areas that will be the focus of the Fair Chance Youth Opportunities Unlimited Program in a participating community.

"SEC. 493. PROGRAM AUTHORIZED.

"(a) PROGRAM ESTABLISHED.—The Secretary may establish a national program to provide Fair Chance Youth Opportunities Unlimited grants to service delivery areas to pay for the Federal share of providing comprehensive services to youth living in poverty areas in the cities and rural areas of the Nation.

"(b) GRANTS.—

"(1) GRANT RECEIPTS.—The Secretary shall award grants under this part—

"(A) to the service delivery area (on behalf of the participating community) in which a target area is located; or

"(B) in the case of a grant and involving the target area located on a Native American Indian reservation or Alaska Native village, to the grantee designated under subsection (c) or (d) of section 401.

"(2) NUMBER.—

"(A) IN GENERAL.—The Secretary may award not more than 25 grants in the first fiscal year that the program assisted under this part is authorized, and may award not more than a total of 40 grants over the first 5 fiscal years that the program assisted under this part is authorized.

"(B) INDIAN RESERVATIONS AND ALASKA NATIVE VILLAGES.—In awarding grants under this part the Secretary shall award at least 1 grant, but not more than 3 grants, during the first 5 fiscal years that the program is assisted under this part to grantees designated under section 401 representing Native American Indian reservations and Alaska Native villages.

"(c) GRANT TERM.—

"(1) IN GENERAL.—Grants awarded under this part shall be for a 1-year period. Such a grant shall be renewable for each of the 2 succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(2) EXTENSION.—The Secretary may extend the renewal period set forth in paragraph (1) for an additional 2 fiscal years on reapplication.

"(d) AWARD CRITERIA.—

"(1) CONSIDERATION.—In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved by the project, the likelihood of the successful implementation of the project, and the extent of community support for the project.

"(2) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to participating communities with the highest rates of poverty.

"SEC. 494. APPLICATION.

"(a) ELIGIBILITY.—Participating communities that have the highest concentrations of poverty, as determined by the Secretary based on the latest census estimates, shall be eligible to apply for Fair Chance Youth Opportunities Unlimited grants.

"(b) APPLICATION.—

"(1) IN GENERAL.—Each participating community desiring a grant under this part shall, through the individuals described in subsection (c), submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—The application described in paragraph (1) shall—

"(A) include a comprehensive plan for a Fair Chance Youth Opportunities Unlimited Program designed to achieve identifiable goals for youth in the target area;

"(B) set forth measurable program goals, which may include increasing—

"(i) the proportion of youths completing high school;

"(ii) the proportion of youths entering into community colleges or other advanced training programs; or

"(iii) the proportion of youths placed in jobs;

"(C) include information on supporting goals for the target area, such as increasing security and safety, or reducing the number of drug-related arrests;

"(D) provide assurances that the applicant will comply with the terms of the agreement described in section 495;

"(E) provide an assurance that all youth in the target areas have access to a coordinated and comprehensive range of education and training opportunities that serve the broadest range of youth interests and needs and simultaneously mobilize the diverse range of education and training providers in the participating community;

"(F) include information demonstrating the manner in which the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(G) demonstrate how the participating community will make use of the resources, expertise, and commitment of such programs and service providers as—

"(i) community-based organizations providing vocational skills, literacy skills, remedial education, and general equivalency preparation, including community-based organizations serving youth with limited-English proficiency;

"(ii) youth conservation and human service corps;

"(iii) Job Corps centers;

"(iv) apprenticeship programs; and

"(v) other projects and programs funded under this Act;

"(H) include an estimate of the expected number of youth in the target area to be served;

"(I) include a description of the resources available in the participating community from private, local government, State, and Federal sources that will be used to achieve the goals of the program;

"(J) include an estimate of funds required to ensure access to appropriate education, training, and support services for all youth in the target area who seek such opportunities; and

"(K) provide evidence of support for accomplishing the stated goals of the participating community from—

"(i) local elected officials;

"(ii) the local school board;

"(iii) applicable private industry councils;

"(iv) local community leaders;

"(v) businesses;

"(vi) labor organizations; and

"(vii) other appropriate organizations.

"(c) APPLICATION LIMITATION.—The application described in subsection (b) may only be submitted to the Secretary on behalf of a participating community by—

"(1) in the case of a community comprised of a city in a metropolitan statistical area, the mayor, after the Governor of the State in which such city is located has had an opportunity to comment on the application;

"(2) in the case of a community comprised of contiguous nonmetropolitan counties in a

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the administrative costs of establishing and

eligible to participate in activities under

SEC. 162. EFFECTIVE DATE; TRANSITION PROVISIONS.

rural area, the Governor of the State in which the counties are located; or

"(3) in the case of a community comprised of an Indian reservation or Alaska Native village, the grantee designated under section 401.

"SEC. 495. GRANT AGREEMENT.

"(a) IN GENERAL.—Each service delivery area receiving a grant under this part on behalf of a participating community shall enter into an agreement with the Secretary.

"(b) CONTENTS.—Each such agreement shall—

"(1) designate a target area that will be the focus of the program assisted under this part and shall have a population of not more than 25,000;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined activities including—

"(i) summer remediation;

"(ii) work experience and work readiness training; and

"(iii) school-to-work, apprenticeship, or postsecondary education programs;

"(D) teen parent programs;

"(E) special programs run by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increasing rural student enrollment in postsecondary institutions;

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities;

"(3) provide that only youth who are age 14 through 21 and reside in the target area shall be eligible to participate in the program;

"(4) contain assurances that the local educational agency and any other educational agency that operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(7) provide assurances that funds provided under this part will be used only to pay the Federal share of the costs of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area.

"SEC. 496. PAYMENTS; FEDERAL SHARE.

"(a) PAYMENTS.—The Secretary shall pay to each service delivery area having an application approved under section 494 the Federal share of the costs of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share of the costs shall be 50 percent for each fiscal year a service delivery area receives assistance under this part.

"(c) LIMITATION.—Each service delivery area may provide not more than 25 percent of the non-Federal share of the costs from Federal sources other than funds received pursuant to this part.

"SEC. 497. REPORTING.

"The Secretary is authorized to establish such reporting procedures as are necessary to carry out the purposes of this part.

"SEC. 498. FEDERAL RESPONSIBILITIES.

"(a) IN GENERAL.—The Secretary shall provide assistance to participating communities in implementing the projects assisted under this part. The Secretary may reserve not more than 5 percent of the amounts appropriated for this part to carry out this subsection.

"(b) INDEPENDENT EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for a thorough, independent evaluation of the Fair Chance Youth Opportunities Unlimited Program to assess the outcomes of youth participating in programs assisted under this part.

"(2) EVALUATION MEASURES.—In conducting the evaluation described in paragraph (1) the Secretary may use measures including—

"(A) enrollment, retention, and completion rates;

"(B) high school graduation rates;

"(C) measures of avoidance of antisocial behavior and self-destructive behavior;

"(D) measures of subsequent employment;

"(E) measures of continued pursuit of advanced education and training;

"(F) measures of admission into four-year colleges and universities; or

"(G) measures of admission into the Armed Forces, and similar measures.

"(c) REPORT.—

"(1) IN GENERAL.—The Secretary shall develop a report detailing the results of the independent evaluation described in subsection (b) and shall submit such report to the President and appropriate committees of Congress not later than December 31, 1994, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs assisted under this part.

"(2) FINDINGS.—Such report shall summarize findings concerning—

"(A) the extent to which current programs are sufficient in number, variety, and quality to meet demand; and

"(B) the feasibility of extending access to comprehensive education, training, and support services and programs assisted under this part to all areas of the Nation, including possible approaches to the incremental extension of such access over time.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to title IV is amended by adding after the item relating to section 485 the following:

"PART I—FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Definitions.
"Sec. 493. Program authorized.
"Sec. 494. Application.
"Sec. 495. Grant agreement.
"Sec. 496. Payments; Federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.".

Subtitle F—General Provisions

SEC. 161. JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS.

(a) IN GENERAL.—Title V (29 U.S.C. 1791 et seq.) is amended to read as follows:

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to provide incentives to reduce welfare dependency, promote self-sufficiency, increase child support payments, and increase employment and earnings of individuals by providing to each participating State a bonus for providing job training to—

"(1) absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), who subsequent to such training pay child support for their children; and

"(2) blind or disabled individuals receiving supplemental security income under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), who subsequent to such training are successfully placed in and retain employment.

"SEC. 502. PAYMENTS.

"(a) IN GENERAL.—For each program year for which funds are appropriated to carry out this title, the Secretary shall pay to each participating State the amount that State is eligible to receive under this title.

"(b) RATABLE REDUCTIONS.—If the amount so appropriated is not sufficient to pay each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

"(c) RATABLE INCREASES.—If any additional amount is made available for carrying out this title for any program year after the application of subsection (b), such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount that exceeds the amount that the State is eligible to receive under this title.

"SEC. 503. AMOUNT OF INCENTIVE BONUS.

"The amount of the incentive bonus paid to each State shall be the sum of—

"(1) an amount equal to the total of the amounts of child support paid by each individual eligible pursuant to section 506(1), for up to 2 years after the termination of the individual from activities provided under this Act; and

"(2) an amount equal to the total reduction in the Federal contribution to the amounts received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) by each individual eligible pursuant to section 506(2), for up to 2 years after the termination of the individual from activities provided under this Act.

"SEC. 504. USE OF INCENTIVE BONUS FUNDS.

"(a) IN GENERAL.—

"(1) ALLOCATION.—

"(A) ADMINISTRATIVE COSTS.—During any program year, the Governor may use an amount not to exceed 15 percent of the total bonus payments of a State for administrative costs incurred under this title, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

"(B) DISTRIBUTION OF PAYMENTS.—The amount of incentive bonus payments that remain after the deduction of administrative costs under subparagraph (A) shall be distributed to service delivery areas and Job Corps centers within the State in accordance with an agreement between the Governor and representatives of such areas and centers. Such agreement shall reflect an equitable method of distribution that is based on the degree to which the efforts of such area or center contributed to the qualification of the State for an incentive bonus payment under this title.

"(2) SPECIAL RULE.—Not more than 10 percent of the amounts received under this title in any program year by each service delivery area and Job Corps center may be used for

the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including the costs of providing incentive payments described in subsection (b), technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used by each service delivery area for activities described in sections 204 and 264, and by each Job Corps center for activities authorized under part B of title IV.

"(b) INCENTIVE PAYMENTS TO SERVICE PROVIDERS.—Each service delivery area or Job Corps center may make incentive payments to service providers, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 506.

"(c) APPLICATION OF SECTION RELATING TO ADMINISTRATIVE ADJUDICATIONS.—Section 166 (relating to administrative adjudication) shall apply to the distribution of incentive bonus payments under this section.

"SEC. 505. NOTICE AND APPLICATION.

"(a) NOTICE OF INTENT TO PARTICIPATE.—Any State seeking to participate in the incentive bonus program established under this title shall notify the Secretary of the intent of the State to participate not later than 30 days before the beginning of the first program year of participation.

"(b) APPLICATION.—

"(1) IN GENERAL.—Any State seeking to receive an incentive bonus under this title shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in order to ensure compliance with this title.

"(2) CONTENTS.—Each application shall contain, at a minimum—

"(A) a list of the eligible individuals in the State who satisfied the requirements of section 506 during the program year;

"(B) the amount of the incentive bonus attributable to each eligible individual and due the State pursuant to section 503; and

"(C) certification that documentation is available to verify the eligibility of participants and the amount of the incentive bonus claimed by the State.

"(c) NOTICE OF APPROVAL OR DENIAL.—The Secretary shall promptly inform a State after receipt of the application as to whether or not the application of the State has been approved.

"SEC. 506. ELIGIBILITY FOR INCENTIVE BONUSES.

"An individual shall be eligible to participate in a program established under this title if—

"(1) the individual—

"(A) is an absent parent of any child receiving aid to families with dependent children under part A of title IV of the Social Security Act at the time such individual was determined to be eligible to participate in activities provided under this Act;

"(B) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(C) pays child support for a child specified in subparagraph (A) following termination from activities provided under this Act; or

"(2) the individual—

"(A) is blind or disabled;

"(B) was receiving benefits pursuant to title XVI of the Social Security Act (relating to supplemental security income) at the time such individual was determined to be eligible to participate in activities under this Act;

"(C) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(D) earns from employment a wage or income.

"SEC. 507. INFORMATION AND DATA COLLECTION.

"(a) TECHNICAL ASSISTANCE.—In order to facilitate the collection exchange, and compilation of data and information required by this title, the Secretary is authorized to provide technical assistance to the States. Such assistance may include cost-effective methods for using State and Federal records to which the Secretary has lawful access.

"(b) JOINT REGULATIONS.—

"(1) IN GENERAL.—The Secretary and the Secretary of Health and Human Services, shall jointly issue regulations regarding the sharing among public agencies participating in the programs assisted under this title of the data and information necessary to fulfill the requirements of this title.

"(2) SUBJECTS.—Such regulations shall ensure—

"(A) the availability of information necessary to verify the eligibility of participants and the amount of the incentive bonus payable; and

"(B) the maintenance of confidentiality of the information so shared in accordance with Federal and State privacy laws.

"SEC. 508. EVALUATION AND REPORT.

"(a) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program assisted under this title.

"(2) CONSIDERATIONS.—The Secretary shall consider—

"(A) whether the program results in increased service under this Act to absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act and to recipients of supplemental security income under title XVI of the Social Security Act;

"(B) whether the program results in increased child support payments;

"(C) whether the program is administratively feasible and cost effective;

"(D) whether the services provided to other eligible participants under part A of title II are affected by the implementation and operation of the incentive bonus program; and

"(E) such other factors as the Secretary determines to be appropriate.

"(b) REPORT TO CONGRESS.—Not later than January 1, 1997, the Secretary shall submit a report to the appropriate committees of the Congress on the effectiveness of the incentive bonus program assisted pursuant to this title. Such report shall include an analysis of the costs of such program and the results of program activities.

"SEC. 509. IMPLEMENTING REGULATIONS.

"The Secretary shall promulgate regulations implementing this title not later than June 1, 1993.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to title V is amended to read as follows:

"Sec. 501. Statement of purpose.
"Sec. 502. Payments.
"Sec. 503. Amount of incentive bonus.
"Sec. 504. Use of incentive bonus funds.
"Sec. 505. Notice and application.
"Sec. 506. Eligibility for incentive bonuses.
"Sec. 507. Information and data collection.
"Sec. 508. Evaluation and report.
"Sec. 509. Implementing regulations.".

SEC. 162. EFFECTIVE DATE; TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect on December 1, 1992.

(b) PERFORMANCE STANDARDS.—The Secretary of Labor shall issue revised performance standards pursuant to the amendments made by section 161 as soon as the Secretary determines sufficient data are available, but not later than July 1, 1994.

(c) GUIDANCE.—

(1) IN GENERAL.—The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

(2) SPECIAL RULE.—The guidance provided pursuant to paragraph (1), while maintaining program integrity, shall—

(A) limit the documentation burden to the minimum necessary to adequately verify eligibility; and

(B) ensure, to the extent practicable, that the documentation requirements shall not discourage the participation of eligible individuals.

(3) DATE.—The Secretary shall provide the guidance described in paragraph (1) not later than July 1, 1992.

(d) RULES AND PROCEDURES.—The Secretary of Labor may establish such rules and procedures as may be necessary to provide for an orderly transition to programs established by, and implementation of, the amendments made by this title.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCILS

SEC. 201. DEFINITION.

For purposes of this title:

(1) APPLICABLE PROGRAM.—The term "applicable program" means any program under any of the following provisions of law:

(A) The Adult Education Act (20 U.S.C. 1201 et seq.).

(B) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(C) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(D) The Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(E) Subtitle F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.), to the extent provided under section 483 of such Act.

(2) APPLICABLE PROGRAM COUNCIL.—The term "applicable program council" means—

(A) with respect to the Adult Education Act, the State advisory council on adult education established under section 332 of such Act (20 U.S.C. 1205a);

(B) with respect to the Carl D. Perkins Vocational and Applied Technology Education Act, the State council established under section 112 of such Act (20 U.S.C. 2322); and

(C) with respect to the Job Training Partnership Act, the State job training coordinating council established under section 122 of such Act (29 U.S.C. 1532).

SEC. 202. ESTABLISHMENT OF STATE HUMAN RESOURCE INVESTMENT COUNCILS.

(a) COUNCIL ESTABLISHED.—Each State receiving assistance under an applicable program shall establish a State human resource investment council (referred to in this title as the "State council") to—

(1) review the provision of services and the use of funds and resources under applicable programs and advise the Governor of the State on methods of coordinating such provision of services and use of funds and re-

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sources consistent with the applicable pro-

(c) BUDGET.—Each State council shall pre-

(B) by striking the period at the end of

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by

"(F) a description of the extent to which the service delivery area has met the goals of

"(9) review the information reported pursuant to subparagraphs (D) and (E) of section sources consistent with the applicable programs;

(2) advise the Governor on the development and implementation of State and local standards and measures relating to applicable programs and coordination of such standards and measures; and

(3) work cooperatively with the directors of the designated State units administering the State vocational rehabilitation programs and the directors of the special education units of the State educational agencies to enhance employment and vocational education and training opportunities under applicable programs for individuals with disabilities.

(b) COMPOSITION.—Each State council established pursuant to subsection (a) shall be appointed by the Governor as follows:

(1) BUSINESS AND INDUSTRY.—Not less than 30 percent shall be appointed from representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils established under section 102 of the Job Training Partnership Act within the State.

(2) LABOR AND REPRESENTATIVES OF COMMUNITY-BASED ORGANIZATIONS.—Not less than 30 percent shall be appointed from representatives of organized labor and representatives of community-based organizations in the State.

(3) STATE ENTITIES.—Not less than 20 percent shall consist of—

(A) the chief administrative officer from each of the State agencies primarily responsible for administration of an applicable program;

(B) other members appointed from representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State board of education (if not otherwise represented), the State public assistance agency, the State employment security agency, the special education unit of the State education agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, the State agency on aging, the State veterans' affairs agency (or an equivalent agency), State career guidance and counseling organizations, and any other agency the Governor determines to have a direct interest in the utilization of human resources within the State; and

(C) the chief administrative officer of the designated State unit that administers the State vocational rehabilitation program as authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) LOCAL ENTITIES.—Not more than 20 percent shall be appointed from—

(A) representatives of units of general local government or consortia of such units appointed from nominations made by the chief elected officials of such units or consortia;

(B) representatives of local educational agencies and postsecondary institutions, equitably distributed between such agencies and such institutions, from nominations made by local educational agencies and postsecondary institutions, respectively;

(C) representatives of local welfare agencies; and

(D) individuals who have special knowledge and qualifications with respect to the special education and career development needs of individuals who are members of special populations, women, and minorities, including one individual who is a representative of special education.

(c) BUDGET.—Each State council shall prepare a budget for the operation of the council and shall submit such budget to the Governor for approval.

(d) SERVICES.—Each State council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out the functions of the State council under this title and under any applicable program.

(e) CERTIFICATION.—Each State receiving financial assistance under an applicable program shall certify to the Secretary of Labor the establishment and membership of a State council not later than 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under the Job Training Partnership Act.

(f) CONSOLIDATED COUNCIL.—A State that receives financial assistance under an applicable program with an applicable program council may establish a consolidated council, which shall have the authority, and perform the duties, of a State council and the applicable program council.

SEC. 203. CONFORMING AND TECHNICAL AMENDMENTS.

(a) ADULT EDUCATION ACT.—Section 342(a)(3)(A) of the Adult Education Act (20 U.S.C. 1206a(a)(3)(A)) is amended by striking clause (ii) and inserting "(ii) the State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991, and".

(b) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 626(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1425(a)) is amended by striking "(including" and all that follows through "to—" and inserting "(including State job training coordinating councils established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated councils established under section 202(e) of the Job Training and Basic Skills Act of 1991, and including service delivery area administrative entities established under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) to—".

(c) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—

(1) DEFINITION.—Section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471) is amended by adding at the end the following new paragraph:

"(43) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENT.—Section 112(a)(1)(A)(ii) (20 U.S.C. 2322(a)(1)(A)(ii)) is amended by striking "(established pursuant to section 122 of the Job Training Partnership Act)".

(d) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—Section 6107(11) of the Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5097(11)) is amended by inserting before the period the following: "or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991".

(e) WAGNER-PEYSER ACT.—

(1) DEFINITION.—Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(6) the term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENT.—Section 8(b)(3) of the Wagner-Peyser Act (29 U.S.C. 49g(b)(3)) is amended by striking "(established under such Act)".

(f) JOB TRAINING PARTNERSHIP ACT.—

(1) CONFORMING AMENDMENT.—Section 4 (29 U.S.C. 1503) (as amended by section 103(a) of this Act) is amended by adding at the end the following new paragraph:

"(30) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) REPEALERS.—

(A) IN GENERAL.—Subsection (c) of section 161 and section 181 (29 U.S.C. 1571(c) and 1591) are repealed.

(B) TECHNICAL AMENDMENT.—The table of contents relating to part E of title I is amended by striking the item relating to section 181.

(g) DISPLACED HOMEMAKERS SELF-SUFFICIENCY ASSISTANCE ACT.—

(1) DEFINITION.—Section 3 of the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2302)) is amended by adding at the end the following new paragraph:

"(9) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENTS.—Sections 5(a) and 8(b)(6) of the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2304(a) and 2307(b)(6)) are amended by striking "State Job Training Coordinating Council" and inserting "State job training coordinating council".

(h) SOCIAL SECURITY ACT.—Section 481(b) of the Social Security Act (42 U.S.C. 681(b)) is amended—

(1) by inserting "(1)" before "Except to"; and

(2) by adding at the end the following new paragraph:

"(2) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(i) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Section 123(d)(5) of the National and Community Service Act of 1990 (42 U.S.C. 12543(d)(5)) is amended by striking "among programs" and all that follows and inserting the following: "among—

"(A) programs that receive assistance under this subtitle; and

"(B)(i) the appropriate State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532); or

"(ii) consolidated councils established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on December 1, 1992.

TITLE III—NONTRADITIONAL EMPLOYMENT FOR WOMEN

SEC. 301. SHORT TITLE.

This title may be cited as the "Nontraditional Employment for Women Act".

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of the families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this title are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 303. DEFINITION.

Section 4 of the Job Training Partnership Act (29 U.S.C. 1503) (as amended by sections 103(a) and 204(e)(1) of this Act) is further amended by adding at the end the following new paragraph:

"(41) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

SEC. 304. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) (as amended by section 112(b) of this Act) (29 U.S.C. 1514(b)) is further amended—

(1) by striking "and" at the end of paragraph (11);

(2) in paragraph (12), by—

(A) striking "and" at the end of subparagraph (D);

(B) striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) adding at the end the following new subparagraphs:

"(F) a description of the extent to which the service delivery area has met the goals of the area for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(G) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the age of the participant;

"(iv) the race of the participant; and

"(v) information on retention of the participant in nontraditional employment; and"; and

(3) by adding at the end the following new paragraph:

"(13)(A) goals for—

"(i) the training of women in nontraditional employment; and

"(ii) the training-related placement of women in nontraditional employment and apprenticeships; and

"(B) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities.".

SEC. 305. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b)(2) (as amended by section 118(a)(2) of this Act) (29 U.S.C. 1531(b)) is further amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B) The plan shall include goals for—

"(i) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and other sources of Federal and State support;

"(ii) the training-related placement of women in nontraditional employment and apprenticeships;

"(iii) a description of efforts to be undertaken to accomplish such training and placement, including efforts to increase awareness of such training and placement opportunities; and

"(iv) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) (as amended by section 118(b) of this Act) (29 U.S.C. 1532(b)) is further amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(12) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment.".

SEC. 306. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) (29 U.S.C. 1532(b)) is amended by—

(1) striking "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting "; and"; and

(3) inserting after paragraph (8) the following new paragraphs:

"(9) review the information reported pursuant to subparagraphs (D) and (E) of section 104(b)(13) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(10) prepare a summary of the information reported pursuant to subparagraphs (D) and (E) of section 104(b)(13) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and annually disseminate such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(11) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary; and

"(12) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)), obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary.".

SEC. 307. STATE EDUCATION COORDINATION AND GRANTS.

Section 123(a)(2) (as amended by section 119 of this Act) is amended by—

(1) striking "and" at the end of subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting a semicolon and "and"; and

(3) inserting the following new subparagraph at the end:

"(D) provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

SEC. 308. USE OF FUNDS.

Section 204(b) (as amended by section 131(a) of this Act) (29 U.S.C. 1604(b)) is further amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(30) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment.".

SEC. 309. DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Part D of title IV (as amended by section 154(a) of this Act) (29 U.S.C. 1731 et seq.) is further amended by adding at the end the following new section:

"SEC. 452. DEMONSTRATION PROGRAMS.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) NUMBER OF GRANTS.—The Secretary

"(1) preparing women for nontraditional

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"(2) Number of grants.—The Secretary may award not more than six grants pursuant to paragraph (1) in each fiscal year.

"(b) Considerations.—In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between programs under this Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under this Act;

"(3) the extent to which the initiatives proposed by a State supplement or build on existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of the demonstration training programs of such State.

"(c) Use of Grants.—

"(1) In general.—Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) Eligible recipients.—Each State receiving financial assistance for the purposes described in paragraph (1)(A) may only award grants to—

"(A) community-based organizations;

"(B) educational institutions; or

"(C) other service providers;

that have demonstrated success in occupational skills training.

"(3) Special rule.—Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Demonstrated ability or exceptional performance.—Each State receiving financial assistance for the purposes described in subparagraph (B) or (C) of paragraph (1) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds for the purposes described in paragraph (1)(A).

"(d) Administrative Expenses.—In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs;

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment; or

"(3) provide technical assistance to service providers.

"(e) Evaluation.—The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the effectiveness of the demonstration programs in—

"(1) preparing women for nontraditional employment; and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

(b) Table of Contents.—The table of contents relating to part D of title IV is amended by adding after the item relating to section 451 the following:

"Sec. 452. Demonstration programs.".

SEC. 310. REPORT AND RECOMMENDATIONS.

(a) Report.—The Secretary of Labor shall submit a report to the appropriate committees of the Congress not later than 5 years after the date of the enactment of this Act, containing information on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 452 of the Job Training Partnership Act (as added by section 309 of this Act) in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 452 of the Job Training Partnership Act.

(b) Recommendations.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 452 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 311. DISCRIMINATION.

(a) Comparable Worth.—For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) Civil Rights.—

(1) Construction.—Nothing in this Act shall be construed to require, sanction, or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

(2) Participation and benefits.—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, handicap, age, political affiliation, or belief.

(3) Failure to meet goals.—Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

SEC. 312. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this title, except that the requirements imposed by sections 304, 305, and 306 shall apply to the plan or report filed or reviewed for program years beginning on or after December 1, 1992.●

Mr. THURMOND. Mr. President, as the ranking member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee, I am pleased to rise today as an original cosponsor of legislation which strengthens the program of employment and training assistance provided under the Job Training Partnership Act [JTPA].

Since the enactment of the JTPA in 1982, the core program of job training services for the economically disadvantaged has remained basically unchanged. In its 9 years of existence, this law has helped many Americans develop needed skills for entering the work force as productive citizens. The bill introduced today builds upon that established foundation.

Mr. President, a brief discussion of the recent legislative history on this matter is instructive. In 1989, the administration submitted a JTPA proposal to the Congress. Many of the proposals set forth in that legislation were later incorporated into S. 543, a bipartisan bill reported from the Labor and Human Resources Committee in September 1989 by a vote of 15–1.

In October 1990, a variation of S. 543 passed the Senate as an amendment to the Department of Labor, Health and Human Services, and Education and Related Agencies appropriations bill. However, the JTPA measure was dropped during conference.

In June of this year, I was pleased to introduce on behalf of the administration, S. 1404, the Job Training Partnership Act Amendments of 1991. That bill is designed to improve the targeting of JTPA funds to those facing serious barriers to employment. It would also strengthen program accountability, enhance existing job training services, and promote the coordination of a broad range of programs and resources.

The measure introduced today incorporates several provisions or modifications of provisions contained in S. 1404. It is a result of bipartisan negotiations. We have had the benefit of the views of the Department of Labor, the National Governors Association, the National Association of Counties, private industry council members, members of State job training councils, and many others. It does not contain everything I would prefer to see in a bill, but I do believe it represents a consensus, and important step forward.

Some of the things this legislation would do include:

Target services to persons facing serious and multiple barriers to employment;

Enhance program quality through individual assessments and service strategies;

Increase program accountability by enhancing performance standards;

Develop a more comprehensive, and well-coordinated human resource system; and

Continue the public-private partnership and local flexibility that make up the foundation of the current JTPA program.

The House of Representatives passed their version of the JTPA amendments

on October 9, 1991, by the overwhelming margin of 420-6. Now is the time to move in the Senate.

Mr. President, I urge my colleagues to consider this important legislation.

By Mr. BINGAMAN (for himself, Mr. Bryan, Mr. Daschle, and Mr. Rockefeller):

S. 2056. A bill to assist States in developing export programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATE EXPORT ASSISTANCE AND DEVELOPMENT

Mr. BINGAMAN. Mr. President, on a different issue for just a moment let me call to my colleagues' attention a bill that I am introducing today on behalf of myself, Mr. Bryan, Mr. Daschle, and Mr. Rockefeller, to assist States in developing export programs.

Very briefly, Mr. President, my impetus for doing this came from a trip that I had occasion to take to Japan over a year ago. During that trip I had the good fortune to visit with the head of the Japanese External Trade Organization [JETRO], which has a major responsibility at this stage. It was founded to promote exports from Japan. Today the major emphasis of its work is promoting exports to Japan to try to deal with the very large and chronic trade surplus that Japan has developed with this country in particular but with many countries in the world.

I became aware of a program that JETRO has to assist States and State economic development agencies in working with their local businesses to export products to Japan.

The head of JETRO, the director, informed me that they had put in place 15 JETRO employees working in the State office, economic development offices, to assist those States in promoting those exports to Japan.

My reaction at the time was that this was a commendable effort by JETRO, but unfortunately it is the kind of effort that our own Department of Commerce should be pursuing in a very vigorous fashion as well.

I think in some ways it is ironic to find a foreign government supporting individuals, working in State governments around this country, and trying to deal with a very major trade problem which we have.

Mr. President, I rise today to introduce legislation directing the Department of Commerce to assist States in their efforts to promote exports. Last week I spoke about this Nation's lack of commitment to strategic industries. As I stated at that time, our trade imbalances are partially due to the fact that we have no technology or manufacturing policy in this country. Until we correct this lack of policy and take an active role in rebuilding our industrial base, our educational system, and our Nation's infrastructure, we will not have an adequate supply of quality goods to export.

Unfortunately, however, our trade difficulties are not limited to a shortage of competitive goods to export. I believe that we can do a considerably better job of developing a trade policy to promote our exports abroad.

Although the Small Business Administration, the Department of Agriculture, an interagency Trade Promotion Coordinating Committee, and other agencies have a role, the Department of Commerce's International Trade Administration [ITA] has primary responsibility for our export efforts.

The ITA's efforts are focused on assisting individual businesses interested in exporting. In addition to country desks located in Washington, the ITA, through the U.S. and Foreign Commercial Service, has a small network of trade specialists in 68 U.S. cities and over 65 countries abroad.

It is my understanding that the U.S. and Foreign Commercial Service, where available, does a good job of helping businesses in their export efforts. Unfortunately, however, there is no formalized outreach in the Department of Commerce to other levels of government that are interested in promoting trade.

Many States, for example, have expressed a strong interest in developing export policies. Most States, Mr. President, have offices for this purpose located in various countries. About 40 States have offices located in Tokyo alone. Clearly, the States have expressed a strong interest in export policy. Yet the Department of Commerce seems to be doing little to support the States in their efforts to develop export policies.

To be fair, Mr. President, the U.S. and Foreign Commercial Foreign Service has in the past detailed a few specialists to States, including New Mexico, to work on trade issues. I am told by International Trade Administration officials, however, that these assignments were not part of a formal program, and that there are no plans to implement such a program.

What is truly ironic, Mr. President, is that, while our Department of Commerce is not helping our States engage in trade, the Japan External Trade Organization [JETRO] is. As you may know, JETRO was founded in 1958 by the Japanese Government to promote Japanese exports abroad. Japan's trade, manufacturing, and technology efforts have been so successful that JETRO's original mission is somewhat obsolete. JETRO now finds itself in the position of having to promote imports from nations like the United States to increase Japanese trade.

JETRO has recently begun an ambitious program to help States develop export policies. Currently, JETRO has about 15 specialists in various States, and plans to expand this program in the future. My State of New Mexico is one of the beneficiaries of this program. Earlier this year, Governor King and JETRO signed an agreement allowing JETRO to station a full-time specialist in New Mexico who will work closely with State officials in developing export strategies.

Mr. President, it is ironic that New Mexico cannot turn to its own Federal Government for this sort of assistance. I believe that the Department of Commerce should be prepared to make a commitment similar to JETRO's. The legislation I am introducing today will mandate the Department of Commerce to make such a commitment. Briefly, the legislation provides that States can apply to the Department of Commerce for assistance in developing export policy. The Department of Commerce can detail trade specialists to work with appropriate State agencies and provide written trade materials to the States. The Department of Commerce is also authorized to provide States assistance in developing their own export materials, trade missions, conferences, and other components of a successful export policy.

This is exactly the sort of assistance that JETRO is providing to New Mexico and other States. I think it is high time that our government begin to do the same.

By Mr. ROTH:

S. 2057. A bill to amend title 10, United States Code, to provide for centralized acquisition of property and services for the Department of Defense, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE ACQUISITION REORGANIZATION ACT OF 1991

Mr. ROTH. Mr. President, the Defense acquisition system is responsible for turning technology into the weapons used to defend America by our men and women in uniform. Developing and buying today's weaponry is important work. It is also expensive. Last week, Congress gave the Department of Defense $104 billion for researching, developing, and buying new weapons in fiscal year 1992. Several billion dollars more will be spent to pay hundreds of thousands of DOD employees who develop, buy, maintain, and upgrade weapon systems.

With the impressive display of U.S. weaponry in the Persian Gulf, it might be easy to accept the current defense acquisition system. However, a confluence of world events has caused Secretary Cheney to undertake a major—and I believe innovative—restructuring of the Department of Defense that will affect the Defense acquisition system.

In addition, defense procurement problems continue to haunt DOD acquisition programs. Taking these two conditions into account, I believe that there is both an opportunity and a need for reforming the Defense acquisition system.

Mr. President, while the system is able to produce good weapons, it is wasteful, inefficient, and takes too long to field needed technologies. The vast majority of weapon acquisition programs are experiencing serious cost and schedule problems. For example, the cost and schedule overruns on the A-12 Navy attack aircraft led Secretary Cheney to kill the program. The C-17 transport's cost and schedule overruns have seriously delayed its availability, while it now costs several times more than the C-5 transport.

After costing nearly $30 billion, the B-1 bomber's problems still kept it from being used in the Persian Gulf. According to cost data that DOD submitted to Congress in August, Army major weapon system program costs increased 23.8 percent over the last year, even after accounting for the effects of inflation and quantity.

Mr. President, I have given careful thought to this issue for many years. My colleagues may remember that I authored the legislation that created the Packard Commission and the bill that established the Under Secretary of Defense for Acquisition and implemented other Packard Commission recommendations. Over the years, my conclusion has not changed: There are many opportunities for improving defense acquisition. While many speak of down-sizing the DOD, I believe that we ought to focus on right-sizing the defense acquisition system. The organization needs right-sizing, the personnel system needs right-sizing, and the process needs right-sizing.

First, the defense acquisition system is too large. It is a large bureaucracy, with layer upon layer of management and dozens of buying commands and subcommands spread across the four military services. When the Packard Commission recommended streamlining this bureaucracy to three layers and a handful of commands, the military departments added the three-tier structure to their old organization structures. As a result, the American taxpayer is now paying for two bureaucracies in each of the three military departments. The Congressional Research Service reported that this system is clearly at odds with the principle of unity of command that was applied so successfully in Operation Desert Storm.

Second, Mr. President, the acquisition personnel system needs reform. The incentives are wrong. They reward program managers for increasing the size of their program and their budget. At a time when we are trying to reduce the number of people in DOD, the personnel system, with its perverse incentives, is telling defense acquisition managers: "Increase the number of people working for you and you'll get promoted." In addition, program management staff, with little or no acquisition training, are still being placed into positions that they are ill-equipped to handle.

Given the perverse incentive structure and the problems of high technology systems, it should be no surprise that costs and schedules grow.

Third, the defense acquisition process is too unwieldy and needs streamlining. To give you an idea of how inefficient the management practices are, a DOD program manager now has to follow 840 steps in order to get a weapon system concept into production.

This maze of standard operating procedures is clearly at odds with the modern management practices of internationally competitive high technology companies. Several recent defense acquisition studies have found that DOD has been increasing its timeline and spending ever larger amounts of money to field next generation systems, while the private sector has shrunk the time and money needed to develop comparable high technology products.

According to a Defense Sciences Board Task Force study, the time it takes to field a new weapon technology has increased 60 percent over the last four decades, and in defense acquisition, time is money. The study found that it now takes 16 years to field a new weapon, while high-technology commercial products take only 9 years.

Other elements of the acquisition process also need reform. For much of the last 15 years, studies have identified the problem of instability in the defense acquisition process.

Many blamed the instability on the Congress and I support multiyear budgeting to address this issue. But recent DOD studies have found that the majority of the problems come from within the Defense Department and from the instability of the global political situation. The studies highlight the disconnection between the annual budgeting systems of DOD and the five-milestone acquisition-decision process.

Without integration between the budgeting system and the acquisition system, a program manager must adjust his program at least twice each year—once for the budgeteers and once for the acquisition management chain. The instability is amplified by the multiple layers of the planning, programming, and budgeting system, referred to as the PPBS, and the layer-upon-layer of acquisition decision-makers in each military department. When problems arise, as is inevitable in high-technology endeavors, each layer tries to offer its correction, and, of course, this results in cost and schedule growth.

The large bureaucracy, the personnel system, and the overwhelming set of procedures have had a bad effect. The recent Defense Sciences Board Acquisition Task Force study noted that, "Many systems take an extended time to field, [and] contain outdated technology when fielded * * *." The Defense Department's Institute for Defense Analysis also found that the technology is not available when needed.

In the post-cold war environment, the Institute stated: "Fundamental changes must be made in the weapons acquisition process. This process must move in the direction of what we and others are calling a fast acquisition process."

A recent Defense Department advisory group study revealed that DOD's acquisition system continues to experience cost and schedule problems despite the myriad reforms enacted over the last 10 years.

The DOD study found that reforms, such as the Carlucci initiatives and total quality management, have only a marginal impact. While the 1980's acquisition reforms had minimal success, the Goldwater-Nichols operational command reforms were tremendously important and led to successes in Panama and the Persian Gulf.

Mr. President, we need to fix the acquisition organization, as well as the procedural and personnel system. I have spent 7 months developing legislation to this end.

To fix the organizational problems, I propose that a single DOD-wide agency, the Defense Research, Development, and Acquisition Agency replace the dozens of acquisition headquarters organizations that exist today. To fix the personnel system problems, my legislation will remove the perverse bureaucratic incentives that plague our acquisition system by implementing a form of pay for performance incentives. To fix the acquisition process problems, my legislation streamlines procedures and reallocates responsibilities to those who can get the job done right.

In crafting this proposal I took great care to provide appropriate direction and discretion to the Secretary of Defense and the Under Secretary of Defense for Acquisition.

I want to take a moment to discuss the basis of my proposal. I have applied lessons learned from Operation Desert Storm and the product development innovations of globally competitive American companies. Companies, such as Xerox, have cut their product development cycle while reducing development costs and increasing customer satisfaction.

They have done this by reorganizing their product development bureaucracy into a single entity that researches and develops products. The streamlined organization is given clear goals to accomplish. They give their people performance-based incentives and the responsibility needed to achieve those goals. Similarly, both General Schwarzkopf and the Congressional Research Service state the principle of unity of command was a key factor in the success of Operation Desert Storm.

First, my proposal consolidates the DOD research, development, and acquisition bureaucracies into a single DOD-wide agency, the Defense Research, Development, and Acquisition Agency. The Agency will be responsible for conducting research on the process as well as the product. The current duplicative organization structures will be replaced with only one management structure; the Packard Commission three-tier organization structure.

Program Executive Officers [PEO's] will be organized on mission areas—such as antisubmarine warfare—rather than on product areas—such as aircraft. PEO's will be responsible for programs that affect their mission area regardless of the program's stage in the acquisition process, including programs that upgrade fielded systems. This allows resources to be allocated in the most cost-effective manner for meeting mission needs.

The Chairman of the Joint Chiefs of Staff will be responsible for defining procedures, in coordination with the Director of the new Agency, whereby the joint operational commanders will interface with the PEO's. The procedures will include having the joint operational commands perform acceptance testing of weapons.

Second, my proposal reforms the personnel system. It changes the incentives by applying pay-for-performance, rather than basing a manager's pay grade on the number of people working for him or the size of his budget. For example, program managers could be promoted up to the rank of two star general, or the equivalent civilian pay grade, based on the performance of their programs. They could also be demoted for not meeting program performance goals. In addition, my legislation will improve the quality of the work force by implementing training requirements.

Third, my bill streamlines the acquisition process and reallocates responsibilities. It directs DOD to redo the acquisition process regulations so that program managers focus on achieving goals. It removes the current unwieldy process that is referred to as the five decision milestones. Instead, my proposal contains just one decision milestone, at the end of the demonstration and validation of a weapon system concept, when a system has been tested and proven feasible.

It also reduces the major source of program instability by requiring the agency to define a phased acquisition process and fully funding each phase of a program. These reforms build on the Enterprise program legislation approved by the Congress in the mid-1980's.

Mr. President, my legislation is unique in that it sets performance goals for the agency and gives it the authority to achieve the goals. By the year 2000, the agency will have to meet 90 percent of its cost and schedule goals or get rid of programs that are taking too long. The agency will also have to cut in half the average time it takes to field new weapons, from 16 to 8 years.

Mr. President, the success of the Goldwater-Nichols reforms and the changes in the international security situation highlight the need for this legislation. General Schwarzkopf pointed out that by allowing the military services to maintain control over acquisition, weapons would be developed that do not meet the needs of joint operations that will dominate military operations in the future.

For example, General Schwarzkopf said that interoperability problems will not get solved—the most deadly interoperability problem in the gulf war was the inability of Air Force pilots to identify Marine and Army ground vehicles. Accordingly, the CRS report on the gulf war lessons learned indicated that a single buying agency would be better able to interact with the Joints Chiefs of Staffs' unified command structure, resulting in more cost-effective weapons.

Both General Schwarzkopf and CRS said that a unified buying organization would be more responsive to joint military command needs.

Finally, Mr. President, my proposal is good government. While recent acquisition work force reforms have made a big step toward reforms that I had recommended in the 1980's, many gains are lost without a single buying agency to integrate work force innovations. Moreover, a single buying agency would save money just by removing the expensive duplication of acquisition staff.

I anticipate that my approach will reduce acquisition management personnel by as much as 25 to 30 percent, through reductions in duplicative headquarters staffs. Still, the largest gains would come from reducing the cost and time currently wasted in converting new technology into weapons. Perhaps the most important justification is that creating a single buying agency would be more responsive to the needs of the unified and specified commanders.

In summary, Mr. President, there is both a need and an opportunity of reforming Defense acquisition. DOD programs continue to experience cost and schedule problems. Obsolete acquisition structures and procedures are inflating the time and funding needed to field technologies. Now that the Warsaw Pack has dissolved and the cold war appears to be over, the Defense Department is reorganizing and altering operational concepts.

This creates both a need and an opportunity to replace bureaucratic DOD acquisition institutions with a framework based on lessons learned from Operation Desert Storm and industry innovations.

Mr. President, I ask unanimous consent that a synopsis of the bill and a section-by-section analysis that I have prepared be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SYNOPSIS OF THE DEFENSE DEPARTMENT ACQUISITION REORGANIZATION ACT OF 1991

There is both a need and an opportunity for reforming Defense acquisition. DoD programs continue to experience cost and schedule problems. Obsolete acquisition structures and procedures are inflating the time and funding needed to field technologies. Now that the Warsaw Pact has dissolved and the Cold War appears to be over, the Defense Department is reorganizing and altering operational concepts. This creates both a need and an opportunity to replace bureaucratic DoD acquisition institutions with a framework based on lessons learned from Operation Desert Storm and industry innovations.

The new single DoD acquisition agency bill incorporates the principles of unity of command, lean organization, pay for performance, and a streamlined acquisition process. In general, the bill:

Establishes performance goals for the new agency;

Reorganizes the DoD research, development, and acquisition bureaucracies into a single DoD-wide agency organized by mission area;

Re-emphasizes the commitment of Congress to a professional acquisition workforce and reorients the incentive structure towards program performance, and away from size of a manager's budget;

Streamlines the acquisition process, by directing DoD to redo the acquisition process regulations so that program managers focus on achieving goals. It also reduces the major source of program instability by fully-funding phases of a program.

The bill is composed of three Titles. Title I deals with organization and processes. Title I creates the new Defense Research, Development, and Acquisition Agency, and transfers research, development, and acquisition authority from the Military Departments to the new agency. The new Agency will consist of three layers of management: The Under Secretary of Defense for Acquisition will be the Director. Program Executive Officers (PEOs), to be selected by the Director, will be organized by mission area or target class; Program Managers, to be selected by the Director and PEOs, will have day-to-day responsibility for program management. The Program Managers will report to the PEOs, and the PEOs will report to the Director. A Deputy Director for Concurrent Engineering, who will also report to the Director, will oversee the provision of state-of-the art functional analysts to the Agency.

Title I also directs the Secretary to revise acquisition process regulations and budgeting procedures. There will be a one milestone decision process, whereby the DoD would decide whether to commit to supporting a system through the production phase. This decision would be based on the demonstration and validation tests of the system concept. In addition, full funding would be authorized for each phase of a weapons acquisition cycle that will be defined by the Secretary, rather than continuing to allow annual funding decisions driving program instability. The

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Agency will have responsibility for planning,

search, Development, and Acquisition Agen-

Section 122. Savings provisions

By Mr. LIEBERMAN (for himself and Mr. ROBB):

in energy related matters, it is declared to be the policy of the United States to work

company generated $23 billion in sales, paid $9.8 billion in taxes and still wound up with

Agency will have responsibility for planning, programming, and budgeting of DoD research, development, and acquisition. Title I also directs the Chairman of the Joint Chiefs of Staff to formulate the means of interactions between operation commanders and PEOs, including a process for joint foreign product development and acquisition.

Title II states management policies, including performance goals for the Agency and a revised personnel incentive system. By January 1, 2000, DoD should achieve two specific goals:

Ninety percent (on average) of the cost and schedule goals established for research, development, and acquisition programs.

The average period necessary for DoD to convert an emerging technology into operational capability should not exceed 8 years.

DoD must report its progress in implementing policies within the Secretary's Annual Report to Congress. If the goals are not achieved, Title II directs DoD to identify and consider terminating programs that are not achieving cost and schedule goals, taking into account; the current needs of the DoD; the state of technologies relevant to the needs of DoD; the estimated costs and schedule projections for completion; and, any other pertinent information. DoD must also identify existing and potential substitute programs.

Title II also reiterates the Congresses support for DoD meeting acquisition workforce education and training standards contained in Chapter 87 of Title 10 U.S. Code. In addition, Title II directs the Secretary of Defense to review available incentives and adverse personnel actions and to establish an enhanced system for encouraging excellence in the acquisition workforce. This includes a change in the basis for determining the pay grades of the acquisition workforce. Title II enables DoD to pay PEOs up the grade of a three star flag officer, or equivalent civilian grade. It enables DoD to pay the Program Managers up to the grade of a two star flag officer, or equivalent civilian grade. The Secretary can set the position regardless of a person's grade in the military, the budget, or other current standards for setting position compensation.

Title III contains conforming amendments. These modify sections of Title 10 U.S. Code for consistency with the transfer of responsibility from the Military Departments to the Defense Research, Development, and Acquisition Agency.

SECTION-BY-SECTION ANALYSIS OF THE DEFENSE DEPARTMENT ACQUISITION REORGANIZATION ACT OF 1991

TITLE I—REORGANIZATION AND REFORM OF THE DEFENSE ACQUISITION SYSTEM

Section 101. Centralization of acquisition authority

(a) The Under Secretary of Defense for Acquisition will gain the following responsibilities: prescribing policies for Department of Defenese research, development, and acquisition activities; planning, programming, and carrying-out research, development, and acquisition activities; and, in consultation with the DoD Comptroller, preparing, integrating, and executing budgets for defense research, development, and acquisition activities, including phases of the Planning, Programming, and Budgeting System (PPBS), with respect to research, development, and acquisition activities.

(b) Adds Chapter 136, comprised of the following 6 sub-sections, to Title 10 of the U.S. Code.

Section 2281 through 2283 of Title 10 will then charter the existence of the DoD Research, Development, and Acquisition Agency and the responsibilities of the Under Secretary of Defense for Acquisition (USD(A)) to match sub-paragraph (a). The Under Secretary of Defense for Acquisition is made the Director of the Agency and will conduct defense research, development, and acquisition activities through the Agency. He will also be responsible for ensuring realistic budgeting and program management. The Agency will conduct management, as well as weapons, research. There will be a Deputy Director for Concurrent Engineering.

Section 2284. Requires the USD(A) to select and evalnate Program Executive Officers (PEOs). The PEOs will be responsible for managing assigned weapons programs and related technical support. The PEOs will be organized by mission areas or target classes, but not both, and will report to the USD(A) in his role as Director of the Agency. The PEOs will have life cycle management responsibility over weapons; i.e. all research and development, procurement, product modifications.

The Chairman of the Joint Chiefs of Staff, in consultation with the Under Secretary of Defense for Acquisition, shall prescribe policies and procedures for interaction between unified and specified commanders and PEOs, including procedures for acceptance testing by operational commands.

Section 2285. Requires the USD(A) and PEOs to select and evaluate Program Managers (PMs). The PMs will be responsible for day to day management of programs. The PMs will report to the PEO for the relevant mission area or target class.

Section 2286. Requires the Deputy Director for Concurrent Engineering to provide state-of-the-art capabilities and select and evaluate Program Managers (PMs). The PMs will report to the PEO for the relevant mission area or target class.

(c) Terminates the procurement authority of the Military Departments.

Section 102. Phase funding and review of acquisition programs

Amends Chapter 131 of Title 10 U.S. Code by adding sections 2218 and 2219.

Section 2218 enables Congress to authorize full funding of programs for each phase of the acquisition program cycle. The Secretary of Defense shall define in regulations the phases of the acquisition program cycle, which may include Concept Definition, Concept Demonstration and Validation, Engineering and Manufacturing Development, Low-Rate Initial Production, and Full-Rate Production.

Section 2219. Requires the establishment of a one Milestone acquisition decision process. The USD(A) will review all programs at the end of demonstration and validation to determine whether they should proceed beyond demonstration and validation. This would make a commitment to support a program through full-rate production.

Section 103. Joint Foreign Products Development

Amends Section 153 of Title 10 U.S. Code by adding a new section that enables Unified and Specified Commanders to make recommendations to the USD(A) regarding the desirability of becoming involved in joint efforts for systems proposed or currently under development in other countries.

Section 121. Transfers

Transfers research, development, and acquisition functions of the Military Departments and Defense Agencies to the Defense Research, Development, and Acquisition Agency. Terminates the current defense acquisition organizations.

Section 122. Savings provisions

Continues in effect all decisions, rules, regulations, rights, etc. defined by existing DoD acquisition organizations until superseded or modified. States that provisions shall not affect proceedings, but allows modification or extension of proceedings to the extent that the same extent that could occur without implementation of this act.

TITLE II—SPECIFIC PROCUREMENT MANAGEMENT POLICIES

Section 201. Acquisition performance goals

It is the policy of the Congress that by January 1, 2000, DoD should achieve two specific goals. First, on average 90% of the cost and schedule goals established for research, development, and acquisition programs. Second, the average period necessary for DoD to convert an emerging technology into operational capability should not exceed 8 years.

If necessary, DoD must identify and consider terminating programs that are not achieving cost and schedule goals, taking into account: the current needs of the DoD; the state of technologies relevant to the needs of DoD; the estimated costs and schedule projections for completion; any other pertinent information. DoD must also identify existing and potential substitute programs.

DoD must report its progress in implementing policies within the Secretary's Annual Report to Congress.

Section 202. Implementation of Defense Acquisition Workforce Amendments

Reiterates Congressional support for acquisition workforce improvements and reemphasizes the importance of ensuring that the acquisition workforce is trained in accordance with the standards set-out in the Chapter 87 of Title 10 U.S. Code.

Section 203. Enhanced encouragement of excellence in the Defense Acquisition Workforce

Directs the Secretary of Defense to review available incentives and adverse personnel actions and to establish an enhanced system for encouraging excellence in the acquisition workforce. This includes establishing a pay band for PEOs and PMs by modifying Subchapter II of chapter 87 of Title 10 of the U.S. Code to insert the following:

Section 1736. Grade of Certain Acquisition Managers. Enables the Secretary of Defense to pay PEOs up the grade of a three star flag officer, or equivalent civilian grade. It enables the Secretary to pay the Program Managers up to the grade of a two star flag officer, or equivalent civilian grade. The Secretary can set the position regardless of a person's grade in the military, the budget, or other current standards for setting position compensation.

It also includes modifying Chapter 35 of Title 10 U.S. Code for the same purpose, by inserting §604 which contains similar language and allows those in the military to be permanently promoted while holding the position of a PEO or PM.

Section 204. Program management stability

Modifies language in section 1734 of Title 10 U.S. Code by replacing "major milestone" with "a phase in the acquisition program cycle." Changes language to conform with the creation of the Defense Research, Development, and Acquisition Agency.

TITLE III—CONFORMING AMENDMENTS

Modifies other sections of Title 10 U.S. Code for consistency with transfer of responsibility from the Military Departments to the Defense Research, Development, and Acquisition Agency.

By Mr. LIEBERMAN (for himself and Mr. ROBB):

S. 2058. A bill to declare as the policy of the United States cooperation with Western Hemisphere countries on energy issues, and for other purposes; to the Committee on Foreign Relations.

WESTERN HEMISPHERE ENERGY SECURITY PROMOTION ACT

Mr. LIEBERMAN. Mr. President, I am introducing today a bill for myself and Senator ROBB that would promote cooperation among the nations of this hemisphere on energy policy. This bill would require an annual report from the President on progress he has made in promoting a policy of hemispheric cooperation on oil and energy issues.

In Venezuela and in Mexico, we have two leading producers of oil. Just as important, both nations are beginning to open up to foreign investment in their energy sectors. This, in combination with a move to open up trading relations among the nations of the hemisphere, provides the United States with a unique opportunity to take advantage of the resources available to us in our own backyard.

As part of my statement on the introduction of this bill, I am attaching a recent article from Forbes magazine. The article, "A Saudi Arabia in Our Own Backyard?" describes the dramatic changes that have been made in the Venezuelan oil industry over the past few years. These changes could enhance Venezuela's role as a United States supplier. Diversification of energy supply leaves the United States much less vulnerable to political and economic disruptions in the Middle East.

Senator GLENN and I requested that the GAO do a study on the state of the Venezuelan oil industry earlier this year. We anticipate that study coming out in December or early next year. The study can serve as a basis for developing a strategy for greater cooperation among the Nations of the Americas to work together on an energy policy.

This bill is identical to legislation introduced in the other body by Representatives WISE and SYNAR.

I ask unanimous consent that a copy of the bill and the article mentioned earlier be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Western Hemisphere Energy Security Promotion Act".

SEC. DECLARATION OF POLICY AND REPORT.

(a) DECLARATION OF POLICY.—Recognizing that Western Hemisphere energy sources contribute to the energy security of the United States, and further recognizing the Western Hemisphere's increasing importance in energy related matters, it is declared to be the policy of the United States to work with countries of the Western Hemisphere to the maximum extent practicable in the development of their energy sources. In furtherance of this policy, consistent with sound environmental practices, due consideration shall be given to—

(1) focusing attention in trade negotiations and in bilateral and multilateral consultations relating to the Western Hemisphere on the desirability and benefits of investment policies that expand worldwide production capacity and diversity of oil suppliers;

(2) the preservation and enhancement of opportunities for other countries of the Western Hemisphere to supply petroleum to the United States;

(3) the continued development of higher petroleum production capability from other countries of the Western hemisphere, especially Mexico and Venezuela (including the Orinoco Belt); and

(4) programs pursuant to which United States technical assistance could be given to other countries of the Western Hemisphere to enhance their capability to increase production of petroleum that could be made available for sale in the United States.

(b) REPORT.—The President shall transmit to Congress by December 1, 1992, and yearly thereafter, a report on the state of the implementation of the policy declared in subsection (a). Such report shall include recommendations on ways in which this policy can be further implemented through specific programs.

[From Forbes, Oct. 28, 1991]

A SAUDI ARABIA IN OUR OWN BACKYARD?

(By James Cook)

So prevailing are the capitalist winds blowing across Latin America these days that even the Venezuelans are backing away from their longstanding hands-off-our-oil policy. In Caracas, a political consensus is growing that private capital—foreign as well as domestic—should be allowed to help develop the country's enormous energy potential. As Venezuela President Carlos Andres Perez explained it last month: "The oil industry is so capital-intensive that, regardless of our theory that it is a state industry, we thought it should be opened to the private sector."

Note the pragmatic tone in Andres Perez's remarks. Rich in hydrocarbon deposits, Venezuela is one of the half-dozen countries in the world capable of significantly expanding its oil production. But since nationalizing its oil industry in 1976, Venezuela has steadily lost market share and influence in the international oil business.

Between 1973 and 1987, for instance, its production of crude oil slid from 3.4 million to 1.6 million barrels a day. Production has since increased, to 2.1 million barrels in 1990, with 2.3 million a day so far this year. But even so, Venezuela has lost valuable share of the U.S. import market, and has watched its share of production by the Organization of Petroleum Exporting Countries drop by more than half. A founding member of OPEC, Venezuela has lately been relegated to the sidelines as decisions about oil production and quotas were set largely by the political and economic interests of the Middle East producers.

The fault does not lie with Venezuela's national oil company, Petroleos de Venezuela, S.A. In terms of management and efficiency, no nationalized oil enterprise has a better reputation than PDVSA—"Pay-duh-vay-suh," as it's known locally. Last year the company generated $23 billion in sales, paid $9.8 billion in taxes and still wound up with a $1.3 billion net profit for the year.

Unlike Mexico, say, Venezuela did not meld the 13 foreign oil companies it expropriated in 1976 into a conventional national oil company charged with providing jobs as well as producing oil. Rather, Exxon's Venezuelan operations were reconstituted as Lagoven. Shell's as Maraven, while 11 smaller companies were combined to form Corpoven. All three were rolled into PDVSA. But Venezuela's oil industry continued to be operated as a commercial and autonomous enterprise, with its three operating arms competing vigorously with one another. Interesting to note, their employees were specifically not civil servants, with the result that PDVSA generates roughly $450,000 in sales per employee. That's considerably less than Amoco's $585,000 per worker but miles ahead of Petroleos Mexicanos, which generates a mere $115,000 per worker.

Venezuela's relative decline among oil producers can be explained by two facts: (1) Much of its oil is heavy and costly to extract and refine; and (2) when prices were high, Venezuela cut back production to conserve its resources rather than maximize its revenues. But the collapse in oil prices in the early 1980s began changing that way of thinking.

Early last year the Venezuelan government approved a massive $48 billion, six-year program designed to increase production by 57%—to 3.3 million barrels a day by 1996 and between 4 million and 5 million bbl./day by 2000. Also in the plan is a fivefold increase in petrochemical refining; a $3 billion liquefied natural gas project (in partnership with Exxon, Shell and Mitsubishi); and a major push to commercialize its vast reserves of very heavy oil and bitumen in the Orinoco Basin.

Traditionally, the heavy and extraheavy crudes that are the principal source of Venezuela's expanded production have been difficult to make much money on. But PDVSA expects to demonstrate that, with new technology. Venezuela's heavy and extraheavy crudes can even be processed into light products like gasoline on an economic basis.

"These [heavy] crudes do not find markets that easily," says Andres Sosa Pietri, PDVSA's president, "so we have to refine more ourselves." But not just in Venezuela. PDVSA's foreign refineries, acquired over the last few years, now process only 64,000 barrels a day of heavy oil. By 1996, they'll be running about 350,000.

Venezuela has proven reserves of around 59 billion barrels, the sixth-largest oil reserve in the world. But the country's long-term energy future depends primarily on the commercialization of the 270 billion barrels of bitumen locked up in the north shore of the Orinoco River. One of the largest petroleum reserves in the world, on a par with Saudi Arabia's, the Orinoco Basin alone could supply the entire world with oil for ten years at current consumption rates—if PDVSA's researchers could figure out how to efficiently commercialize these tarlike bitumen reserves.

And PDVSA is finally beginning to do just that. By combining bitumen with water and a chemical, PDVSA has developed a new liquid fuel, trademarked "Orimulsion," that is designed to supplant coal in many utility markets. With markets opening up in Britain, Canada, Italy and Florida, PDVSA plans to increase production of Orimulsion from 30,000 bbl./day crude equivalent to 700,000 by 1996. It's only a first step, but one that may one day lead PDVSA into refining bitumen into light products like gasoline.

There is a catch. All this expansion costs money, and money is not something that Venezuela, which has just emerged from the worst financial crisis in its democractic history, has a great deal of. Hence the decision of the country's politicians to open the oil industry to private capital.

In an effort to finance PDVSA's ambitions, the Venezuelan congress has already opened petrochemicals and 55 marginal oilfields to private capital (though Venezuela retains nominal control over the oilfields). This fall the congress is expected to approve the $3 billion liquefied natural gas project PDVSA hopes to develop with Shell, Exxon and Mitsubishi off the northeast shore of Venezuela. And, having watched the impact of tax cuts on the U.S. in the 1980s, the government is even attempting to encourage foreign investment by cutting income taxes on jont ventures, from 67.7% to 30%, effective this fall.

PDVSA's Andres Sosa Pietri can envision $11 billion coming from various joint ventures in petrochemicals and natural gas. PDVSA itself can probably put up $30 billion out of retained earnings. But from where will the rest of the funding for the country's $48 billion expansion program come?

In Caracas these days one hears talk about pledging future production against new foreign loans, or offering supply contracts for conventional fuel if foreign oil companies commit themselves to heavy oil development. PDVSA executives talk about using project financing or even selling equity to the public. Whatever options are chosen it is clear that the government is serious about turning to the private sector for help in reinvigorating the industry. And well it should be serious: Venezuela's oil industry provides 24% of the country's GNP, 83 percent of its tax revenues and 86 percent of its export earnings.

Still, not everyone in the country sees things Andres Sosa Pietri's way. A month or so back, he found himself at loggerheads with Celestino Armas, boss of Venezuela's powerful Ministry of Energy & Mines, and the current president of OPEC. In a power grab, Armas asserted the right to review PDVSA's decisions on a wide range of operating matters. Sosa Pietri balked, and eventually Venezuela's president, Carlos Andres Perez, negotiated a truce between the two men. But Sosa Pietri will clearly have to proceed in his expansion plans with a wary eye out for Armas

Sosa Pietri must navigate another potentially treacherous conflict—between Venezuela's interests and those of OPEC. Like most other OPEC countries, Venezuela has been producing nearly all out since the Gulf war. But what happens next spring if a surplus of oil sends crude prices tumbling? Or a year or two from now when the 5 million barrels of lost Kuwaiti and Iraqi production begin moving into the market? Will OPEC impose quotas to sustain prices—and if it does, will Venezuela comply?

Andres Sosa Pietri responds to such questions cautiously. "Today," he says, "there is no conflict in aims between OPEC and what we want to do in Petroleos de Venezuela. Whatever OPEC decides, we must comply with."

In the past Venezuela has been less inclined than other OPEC producers to cheat on quotas. In recent years, however, PDVSA has moved downstream into refining and marketing on an international scale. It has accomplished this by making a series of small refinery acquisitions in Germany, Sweden and Belgium, and large ones in the U.S., where it has bought various refining and marketing operations, notably Citgo Petroleum Corp., the U.S.' ninth-largest gasoline marketer.

In short, PDVSA has become a vertically integrated oil company. It now refines more than 80 percent of its crude into higher-margined products (versus only 43% 15 years ago), thus capturing additional profit per barrel.

And therein lies a potential rub. With Venezuela now supplying 80 percent of its refineries' crude needs out of its own production, it is hard to imagine PDVSA bowing to orders from OPEC to curtail its output of crude, and buying some other producer's crude to feed its refineries.

All of this has important implications for U.S. energy policy in the decades ahead. The Gulf war has transformed OPEC. Backed by its special relationship with the U.S., Saudi Arabia is now calling the shots in OPEC, and doing so with uncommon arrogance. "Nobody's got to approve what Saudi Arabia produces," the kingdom's oil minister, Hisham Nazer, reportedly told his fellow OPEC oil ministers the other day. Nazer has made it abundantly clear that Saudi Arabia has no intention of cutting back production to make room for Iraq and Kuwait. It may prove equally intransigent in defending its dominant share of the U.S. import market—a position it assumed at Venezuela's expense in the Seventies.

Yet the bulk of PFVA's expanded output of crude and refined product is targeted at the U.S. markets. Only 4 days away by sea from the U.S.' Gulf Coast, versus 30 days from Saudi Arabia, Venezuela has always viewed the U.S. as the natural market for most of its output. U.S. producers, however, have previously viewed Venezuela as a low-cost competitor and have done their best to keep its crude out of the market.

U.S. politicians are now again talking about imposing oil import fees to protect the domestic industry. This would give Saudi Arabia, with its uncommonly low drilling and recovery costs, a considerable competitive advantage, and hurt higher-cost Venezuelan oil.

Is this intelligent policy? Henry Schuler, director of the energy security program at Washington's Center for Strategic & International Studies, doesn't think so. "Although Riyadh still appears to be willing to assert its unrivaled oil power in a way that accommodates Washington's economic and commercial interests," says Schuler, "it would be irresponsible to predict that will go on forever." Better, he thinks, to encourage relatively dependable Venezuelan supplies. Assuming Venezuela's politicians continue to open up their oil industry to private investors, wouldn't a relatively stable supplier in our own backyard make sense?

By Mr. NUNN (for himself, Mr. BREAUX, and Mr. PRYOR):

S. 2059. A bill to establish youth apprenticeship demonstration programs, and for other purposes; to the Committee on Labor and Human Resources.

YOUTH APPRENTICESHIP ACT OF 1991

Mr. NUNN. Mr. President, I rise today to reintroduce legislation first offered in the 101st Congress to authorize demonstration programs aimed at establishing a system of youth apprenticeships in the United States. I am joined by Senators BREAUX and PRYOR as original cosponsors, and I understand that Congressman DAVE MCCURDY is planning to introduce companion legislation in the House of Representatives.

We listened closely to comments from a wide variety of sources on last year's legislation, and have incorporated several constructive suggestions. For example, we have included language ensuring that demonstration programs authorized under this legislation do not conflict with existing private-sector apprenticeship opportunities, especially in the building trades. We have also fine-tuned the transition from academic courses to skills training for prospective apprentices, based on the practical experience of programs both in this country and in Europe.

Overall, however, this is the same legislation as last year's with the same basic rationale: Building a partnership between secondary and postsecondary schools and employers, to provide noncolleage bound youth real access to the jobs of the future by giving them the real-life skills they need to perform them.

I believe the case for a special effort in skills training in America is made every day by statistics that show we are not keeping up with the demands of our ever-changing workplaces. The General Accounting Office estimates that approximately 9 million of the Nation's 33 million youth aged 16 to 24 will not have the needed skills to meet employer requirements for entry-level positions.

Our task will not get any easier in the future, when even more skills will be necessary in our workplaces. A task force of the Center for Strategic International Studies found that the percentage of our jobs considered unskilled is steadily shrinking, from 60 percent in 1960, to 35 percent in 1990, to an estimated 15 percent in the year 2000. If we do not begin to catch up in skills training right now, we may find ourselves and our economy hopelessly off target in the very near future.

Through a well-designed, local job apprenticeship program, supervised work experience during high school could promote desirable work habits and workwise knowledge and skills. This approach was inspired by the impressive success of youth apprenticeship programs in Western Europe, especially Germany, England, Sweden, and Japan, and by the belief that their success substantially contributes to the relative strength of our European and Japanese friends in competing for international markets. I do not, however, suggest that we imitate or reduplicate any other country's program. Instead, we should adapt the principle of comprehensive work-based, competency-tested skills learning programs to our own culture, economy, and educational system, through a series of demonstration programs over the next 5 years.

If this legislation is enacted, these programs will be operated by a new Institute for Youth Apprenticeship, a public-private partnership managed by a broad of directors that includes representatives of educational institutions, business, labor, trade associations, and government. Aside from setting up demonstration projects, the institute's most important job will be to evaluate the results and make recommendations on how to create a nationwide apprenticeship system.

Each program will establish a partnership between secondary and postsecondary schools and employers. In the 10th grade, students will sign contracts with employers to begin apprenticeship programs in the 11th grade. These programs will last for 3 years, 1 year after graduation from high school. In the first 2 years, high school courses will be combined with training at worksites. The program is structured so that students gradually increase the time spent at worksites from 30 percent in the 11th grade to 50 percent in the 12th grade. In the third year, youth apprentices will supplement on-the-job training with academic courses at technical institutes or community colleges. Students will receive a high school diploma at the end of high school and a certificate upon completing apprenticeship training in recognition of their competency in the field in which they received their training.

Such a nationwide system would not be a new Federal program supplementing existing skills training efforts, but a basic reorientation of those efforts to tighten the links between the world of learning and the world of work, thereby improving the skills of our workers and their immediate and long-range ability to earn a decent living in the workplace of the future.

Mr. President, the economic impact of this legislation makes it especially timely. On the floor of the Senate, and indeed in every public and private forum in America, a debate is raging on the best means of reversing the squeeze on the real incomes of working Americans.

Some say we should give the middle-class a direct income boost through a tax cut. Others say we should stimulate capital investment and long-term economic growth, thereby creating a rising tide that will raise all boats.

There are elements of truth in both approaches. In the long run, however, the real key is to give working Americans the skills they need to increase their own incomes and to increase the productivity and competitiveness of our overall economy at same time. If we fail to do so, then all the tax breaks and investment incentives in the world will not keep our economy in pace with the global competition.

Reopening access to a high education for all Americans regardless of means is one-half of the skills training equation, and many Senators have offered constructive proposals toward that objection in recent years, including the national service concept which Senator ROBB and I have offered. The other half of the equation, for the forgotten half of American youth who do not go to college, is a youth apprenticeship system or something very much like it.

Our Nation's commitment to skills training must go far beyond Government programs. Educators, business leaders, and other opinion-makers must reinforce the importance of world-class skills for our workers. Our young people must believe, as I believe, that obtaining and practicing a skilled trade is just as important to our country's future as any other path in life they might choose.

Mr. President, this legislation is no more than the first step toward the kind of commitment we need to our young people's job skills. I urge the Senate to take the first step as soon as possible.

By Mrs. KASSEBAUM (for herself and Mr. METZENBAUM):

S. 2060. A bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, and for other purposes; to the Committee on Labor and Human Resources.

ORPHAN DRUG AMENDMENTS OF 1991

Mrs. KASSEBAUM. Mr. President, I am introducing today the Orphan Drug Amendments of 1991. Senator METZENBAUM joins me in putting forward this measure. In addition to extending the authorization of the Orphan Drug Act for 3 years, this legislation makes several substantive changes in provisions of the act.

Ten years ago, I introduced the original Senate version of legislation dealing with the development of drugs for rare diseases after constituents representing the Committee to Combat Huntington's Disease visited my office and described the difficulties of individuals suffering from rare diseases and conditions in obtaining treatment. That legislation called for the establishment of an Office of Drugs of Limited Commercial Value.

In introducing the measure, I noted that one of the major problems was—

> * * * the understandable reluctance of profit-seeking drug companies to devote greater amounts of capital to development projects which are simply not economically justifiable. Most drugs for rare diseases, in fact, have sales of less than $3 to $5 million annually. The social responsibility for developing these drugs should not rest solely on the shoulders of the drug companies.

Subsequently, I introduced a second bill designed to address some of the impediments to the development of orphan drugs which were not covered in my original legislation. That measure, which was a companion to legislation introduced by Representative HENRY WAXMAN, was signed into law in 1983 as the Orphan Drug Act—Public Law 97-414.

Since that time, the Orphan Drug Act has been reauthorized and modified on several occasions. Perhaps one of the more significant changes made was the addition of language in 1984 of a patient population threshold of 200,000 to the definition of orphan disease or condition. This change was made in response to a request from the Food and Drug Administration's Orphan Products Development Office. Officials of the Office noted that an up-front cost analysis could not reasonably be provided by drug companies in the early stages of the development process, which is the point at which orphan drug designation is generally sought. In essence, the patient population figure was established as a proxy for the limited commercial viability standard included in the original law in order to address practical problems with its implementation.

In the early years of my work with the legislation, I found that many individuals were confused by the term "orphan drugs." In fact, I received one rather agitated call to my office asking why I was trying to take drugs away from orphans. As I explained at the time, "these drugs are commonly known as orphan drugs due to the fact that high development and drug approval costs coupled with a small market for their use give these drugs limited commercial value." Thus, pharmaceutical companies were reluctant to adopt them.

Enactment of the Orphan Drug Act sent a message of hope to the nearly 20 million Americans suffering from rare diseases or disorders. It told them that the same system which brought forward penicillin, the polio vaccine, and cancer therapies was working for them as well.

In nearly every respect, the act has been a success. To date, 469 drugs have received orphan designation and 59 of those have been approved for marketing. Approved drugs have included treatments for diseases or conditions such as blepharospasm—a condition which causes almost complete eye closure—and Paget's Disease—a bone disorder where normal bone formation is disrupted. In addition, the research grant program authorized by the act has supported 190 grants to assist with clinical testing of drugs with potential for treating rare diseases or conditions.

Unfortunately, the true success stories of the act are being overshadowed by instances in which the act has been used in ways never anticipated and for purposes never intended. Today, one searching for material about the Orphan Drug Act may be well advised to bypass the health press and head

I believe it is also important to em-

The bill adds provisions to require

"(4) the Secretary has issued a termination

the cumulative net sales of a drug and which requests the Secretary to determine whether

to provide for appropriate competition for commercially viable drugs with net sales of straight for the Wall Street Journal, Money magazine, and stock market analyses. The Orphan Drug Act has become big business. Although the number of drugs at the center of this controversy is small, the situation can no longer be ignored.

Essentially, what has happened is that some drug manufacturers—lacking patent protection for their products—have seized upon the 7-year exclusive marketing provisions of the Orphan Drug Act as a means of shielding themselves from competition. At this point, most attention has been focused on EPO, a drug approved for the treatment of anemia associated with chronic renal failure, and human growth hormone [HGH], a drug approved for the treatment of pituitary dwarfism. It is estimated that the Medicare program will spend nearly $400 million in the next year for EPO, which is used by renal dialysis patients. Patients requiring HGH spend anywhere from $10,000 to $30,000 per year for the drug.

Although the patient populations to be served by the indicated uses of these drugs fall below the 200,000 figure established in the law, the extremely high prices charged for these drugs have led to sales figures in the hundreds of millions of dollars. Many other companies are waiting in the wings, eager to bring these same drugs to the market—leading one rapidly to the conclusion that these are not drugs of limited commercial viability which needed the incentives offered by the Orphan Drug Act to assure their development.

Whether it is protocol assistance or tax credits or exclusive marketing, the Orphan Drug Act offers a public benefit in order to achieve a public policy purpose. Any company that takes advantage of that benefit has an obligation to honor the public responsibility it carriers. The failure to do so can easily undermine the credibility of the act, causing many to lose sight of the enormous good it has accomplished.

The primary purpose of the reauthorization bill I am introducing today is to restore the credibility of the Orphan Drug Act by making refinements which will better assure that its original intent is served.

The bill accomplishes this purpose in two ways:

First, it establishes a $200 million sales trigger. If cumulative net sales of an orphan drug exceed $200 million, marketing exclusivity will be withdrawn from the sponsor of the drug and other manufacturers will be permitted to enter the market.

The bill also includes an appeals mechanism, which allows a manufacturer to retain exclusivity if it can demonstrate either that cumulative net sales of the drug have not exceeded $200 million or that development costs of the drug were so high that they were not recouped through $200 million in sales.

I believe it is also important to emphasize what this provision does not do:

It does not prevent the original sponsor of the drug to continue marketing that drug; it merely introduces the possibility of competition.

It does not diminish in any way the drug approval requirements which other companies must meet in order to bring a competing product to the market; those companies must go through the full drug approval process.

It does not require the Secretary of Health and Human Services to make any determinations regarding the profitability of a drug; cumulative net sales—not profits—are the yardstick.

It does not require drug companies to open their books to the Secretary of Health and Human Services; only net sales and/or development cost data would be presented and then only when a company chooses to appeal the withdrawal of market exclusivity.

As a practical matter, the overwhelming majority of orphan drugs will never have sales even approaching $200 million over a 7-year period. The incentives of the act have proven effective in cases where there has been no expectation at all that sales would reach this level, and they will continue to be effective.

I want to address briefly one aspect of this proposal about which some questions have been raised. It has been argued that withdrawing exclusive marketing rights prior to the expiration of the 7-year period set in the law would be an unconstitutional taking of private property. Without going into all the intricacies of the various legal theories put forward in this regard, let me point out that the argument is based on just that—legal theories. As is the case with any constitutional question, it is always possible to speculate about any number of legal arguments which might be raised. This is particularly true in situations such as this one, where there are few legal precedents and no cases on point with respect to the specific subject at issue. The same arguments, in fact, were raised during congressional consideration of legislation dealing with drug patents. However, no suits raising the issue of a taking of property rights were filed subsequent to the enactment of that measure in 1984.

Second, the bill addresses another situation which was not anticipated at the time the original act was crafted, and that is the case where a patient population grows beyond the 200,000 figure in the law. The rare diseases and conditions discussed at the time were not contagious and had relatively stable patient populations. Consequently, the act contains no provisions addressing situations in which a rare disease or condition "outgrows" its original classification. Subsequently, the AIDS epidemic demonstrated that such a situation is possible.

The bill adds provisions to require that the determination of whether fewer than 200,000 persons are affected by a disease or condition be made on the basis of a 3-year projection and to provide for the withdrawal of exclusive marketing rights at the point where the patient population for the approved treatment exceeds 200,000.

Additional provisions of the bill extend the authorization of the research grant program and replace the existing Orphan Products Board with an Office of Orphan Products.

This proposal has been endorsed by the National Organization for Rare Disorders [NORD], a coalition of organizations representing a broad array of individuals with rare diseases and their families. NORD has been tireless in its efforts to assist these individuals and families and to promote public awareness of the plight they face.

The issues I have discussed are controversial ones, which have been debated for several years. An alternative approach for resolving them was vetoed by the President last year. One hesitates to think how much time, effort, and money has already been spent in reviewing these questions.

I believe that this reauthorization proposal represents the right public policy choice, and I hope that my colleagues will join me in supporting it on that basis. There comes a point where enough is enough. The intent of the Orphan Drug Act is clear, its purpose is worthy, and it is well past time that the clouds on its credibility be lifted.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and a letter from Ms. Abbey Meyers, Executive Director of NORD, appear in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Orphan Drug Amendments of 1991".

SEC. 2. DESIGNATIONS.

(a) IN GENERAL.—Section 526(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(2)) is amended by adding before the period at the end the following: ", and on the basis of projections as to the number of persons who will be affected by the disease or condition 3 years from such date".

(b) EXCLUSIVITY.—Section 527(b) of such Act (21 U.S.C 360cc(b)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ";" and

(3) by adding at the end the following new paragraphs:

"(3) a drug has been designated under section 526 for a rare disease or condition described in section 526(a)(2)(A) and if after such designation such disease or condition does not meet such description; or

"(4) the Secretary has issued a termination notice under, and acted in accordance with, subsection (c)."

SEC. 3. TERMINATION OF ORPHAN DRUG STATUS FOR DRUGS OF SIGNIFICANT COMMERCIAL VALUE.

Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended by adding at the end the following new subsection:

"(c)(1) If the Secretary determines that the cumulative net sales of a drug which is designated under section 526 are more than $150,000,000 during the 7-year period described in subsection (a), the Secretary shall commence the review of any other application under section 505, certification under section 507, or license under section 351 of the Public Health Service Act (42 U.S.C. 262), for such drug for such designation, if such review has not already commenced.

"(2) If the Secretary determines that the cumulative net sales of a drug which is designated under section 526 are more than $200,000,000 during the 7-year period described in subsection (a), the Secretary shall issue a termination notice to the holder of the approved application of such designated drug. The notice shall state that the Secretary is authorized, no earlier than 90 days after the date of the notice, to approve other applications under section 505, issue other certifications under section 507, or issue other licenses under section 351 of the Public Health Service Act, for such drug for any such designation, unless such holder makes the showing described in paragraph (3).

"(3) Not later than 30 days after the date of the termination notice, the holder described in paragraph (2) may submit evidence to the Secretary to demonstrate that—

"(A) the cumulative net sales of the drug are not more than $200,000,000; or

"(B) the exceptionally high costs of developing the drug in the United States exceeded $200,000,000.

"(4) Not later than 90 days after the date of the termination notice, the Secretary shall review any evidence submitted by the holder—

"(A) in accordance with paragraph (3)(A), and determine whether cumulative net sales of the drug are more than $200,000,000, or

"(B) in accordance with paragraph (3)(B), and determine whether the costs of developing the drug in the United States exceeded $200,000,000.

"If the Secretary determines that the cumulative net sales of the drug are not more than $200,000,000, the Secretary shall, within such 90 days, vacate the notice until such time as such sales are more than $200,000,000. If the Secretary determines that the costs of developing the drug in the United States exceeded $200,000,000 the Secretary shall, within such 90 days, determine the amount of costs incurred in developing the drug in the United States and vacate the notice until such time as the cumulative net sales are more than such amount.

"(5) In determining the cumulative net sales of a drug, or determining the costs of developing a drug for purposes of paragraph (4), the Secretary shall consider—

"(A) evidence submitted in accordance with paragraph (3)(A) or paragraph (3)(B);

"(B) data obtained through contracts with independent sources of comparative sale date;

"(C) data submitted by interested parties; or

"(D) other relevant data available to the Secretary.

"(6) Any person may submit to the Secretary a petition which contains evidence of the cumulative net sales of a drug and which requests the Secretary to determine whether a termination notice under paragraph (2) must be issued.

"(7) As used in this subsection, the term 'cumulative net sales' of a drug means total sales of the drug in the United States minus discounts, allowances, and returns."

SEC. 4. OFFICE FOR ORPHAN AND RARE DISEASES AND CONDITIONS.

Section 227 of the Public Health Service Act (42 U.S.C. 236) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) There is established in the Department of Health and Human Services an Office for Orphan Diseases and Conditions. Such Office shall be established at a level within the Department with sufficient authority to assure full implementation of the functions and responsibilities established by this section.";

(2) by striking "Board" each place the term appears and inserting "Office";

(3) by striking "drugs and devices" in subsection (b) and inserting "Drugs, devices, and medical foods";

(4) by inserting "of chapter V" after "subchapter B" in subsection (c)(1)(A); and

(5) by adding at the end the following new subsection:

"(f)(1) There is established in the Office an advisory committee to advise the Office in carrying out the functions of the Office under this section.

"(2) The advisory committee shall be comprised of 11 members appointed by the Secretary, in consultation with the Office and the Commissioner of the Food and Drug Administration, from persons knowledgeable about rare diseases and conditions, including—

"(A) 5 representatives of organizations of persons with rare diseases or conditions;

"(B) 3 research scientists; and

"(C) 3 representatives of health-related companies.

"(3) The Secretary shall also appoint, as liaisons to the advisory committee, individuals from the Food and Drug Administration, the National Institutes of Health, and other appropriate Federal agencies.

"(4) Any vacancy occurring in the membership of the advisory committee shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the advisory committee.

"(5) Members of the advisory committee, and liaisons to the advisory committee, shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, for each day the member or liaison is engaged in the performance of duties away from the home or regular place of business of the member or liaison.

"(6) Notwithstanding section 1342 of title 31, United States Code, the advisory committee may accept the voluntary services provided by a member of the advisory committee, or a liaison to the advisory committee.".

SEC. 5. AUTHORIZATION FOR ORPHAN DRUG ACT.

Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended by striking "$10,000,000" and all that follows and inserting "$20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994."

SUMMARY OF ORPHAN DRUG AMENDMENTS OF 1991

The bill is designed to retain the incentives to develop drugs for rare diseases, but to provide for appropriate competition for commercially viable drugs with net sales of $200 million or more. It would require the Food and Drug Administration [FDA] to look into the future when deciding whether more than 200,000 people have a particular disease or condition, and to take into account conditions such as AIDS which may affect less than 200,000 people today but which are likely to affect more than 200,000 people in the near future. Finally, the bill would establish an Office of Rare Diseases within the Department of Health and Human Services, and it would provide an authorization for the research grant program for the next three years.

Section 1: The short title is the Orphan Drug Amendments of 1991.

Section 2: Under current law, the application for orphan drug status must show that, at the time of designation, the disease or condition for which the drug is marketed affects fewer than 200,000 persons in the United States. In the case of a condition such as AIDS, this means that a drug can qualify for orphan drug status even though it is expected that in the near future more than 200,000 people will be affected.

Section 2 requires that the determination of whether 200,000 people are affected by a disease or condition be made on the basis of projections as to the number of people who will be affected 3 years from the date that the designation is requested. Section 2 also provides that if at any time the number of people affected by the disease or condition goes above 200,000, additional companies may seek and obtain permission to market their drugs.

Section 3: Current law provides that an unlimited number of companies may obtain an orphan drug designation. An unlimited number of companies may also apply for approval of any specific orphan drug, but only one (the first to obtain approval) is granted seven years of market exclusivity. Any remaining sponsors of that drug must wait until the end of the 7-year period to market their products.

Section 3 establishes a trigger of $200 million in sales during the exclusive marketing period. When sales exceed the $200 million trigger, a company loses its exclusive marketing rights to an orphan drug unless it can demonstrate that development costs of the drug exceeded that amount.

Section 3 also requires the Secretary to begin review of other applications when the net sales of the designated drug reach $150 million, in order to avoid delay in the approval of a second sponsor's drug once the $200 million trigger is exceeded. This provision does not permit the approval of a competing drug prior to the termination of the market exclusivity of the designated drug.

Section 4: This section would eliminate the Orphan Products Board and substitute an Office of Orphan Products. The Office would coordinate the activities within the Federal Government concerning the development of drugs, devices, and medical foods for persons with orphan diseases and conditions. It would be assisted by an advisory committee comprised of representatives of organizations of persons with rare diseases and conditions, research scientists and representatives of health-related companies.

Section 5: Provides for an authorization for the grant program for fiscal year 1992, fiscal year 1993, and fiscal year 1994. The fiscal year 1992 authorization is $20 million, with increases of $5 million in each of the 2 following fiscal years.

NATIONAL ORGANIZATION FOR RARE

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NATIONAL ORGANIZATION FOR RARE DISORDERS, INC.,
New Fairfield, CT, October 22, 1991.
Sen. NANCY KASSEBAUM,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KASSEBAUM: Once again we are indebted to you for your compassion and leadership benefiting people with rare "orphan diseases." It has been 10 historic years since you stepped forward to fill a gaping societal need for the development of unprofitable drugs to treat rare disorders by sponsoring the Orphan Drug Act in the Senate.

Today, we marvel at the Act's accomplishments. It has decreased pain, alleviated disability and prevented death in untold numbers of people who previously had no hope. Yet it has also been the source of unimaginable ethical and moral issues that no civilized society has ever faced.

While we have often objected to the high prices some companies are charging for their designated orphan drugs in recent years, we are outraged the absolutely unaffordable prices charged by a few companies today which blocks access to therapy by ill and dying Americans. There is no cruelty more intense than charging $350,000 per year, per patient, for a live-saving drug, knowing that families must stand helplessly by watching their loved one die because they can't afford it.

Even if a patient is insured, most people have a $1 million lifetime cap on their health insurance. As a result we are facing an outrageous dilemma when a family can hardly afford therapy to save a dying child for only 1 year.

Neither can Medicare or Medicaid bear the burden of this exorbitant pricing. Medicare's End Stage Renal Disease (ESRD) program spent approximately $250 billion on EPO this year and Medicaid pays a large proportion of the bills for AIDS drugs which are designated orphans.

It is time we put an end to the limitless profits some pharmaceutical companies are making through the privileges of a law that was written to encourage development of drugs of little commercial value. We feel your Orphan Drug Amendments are crucial to maintaining the integrity of the law, and will ensure access by patients and fairness to orphan drug manufacturers.

The appeal mechanism you have developed permits companies that spend an extraordinary amount of money developing an orphan drug to extend their exclusivity, and should lay to rest any argument that some compounds may be more expensive to develop than others. As companies see that their orphan drug is approaching the very generous $200 million cumulative sales trigger, they are free to lower their price in order to extend their exclusivity for the full 7 years. Even if they lose their exclusivity before the seven years expires, companies are free to continue marketing their orphan drug at any price they wish, but like any other American industry they will have to compete in a free market. We hope the FDA will assure the American people that it will approve additional versions of orphan drugs immediately after the initial exclusivity expires.

We are also delighted that the Central Office for Rare Diseases will be created to coordinate all of the Government's efforts related to orphan diseases and orphan drugs. This office, which was the main recommendation of the National Commission on Orphan Diseases, should save many years and millions of dollars in uncoordinated duplicative efforts by all parties that seem to operate in a vacuum at the present time.

Senator Kassebaum, it is a great sadness to recognize that a small number of abuses have led to the need to change the Orphan Drug Act. But the law's imperfections have permitted violations of its intent, and if we don't stop them now there is no telling where it will end. If a drug for a growth disorder costs per year now, an a drug for a deadly genetic disease costs $350,000 per year now, can a million dollar per year drug be far behind?

We all know that Congress must take control of health care inflation, and the best place to start is a law written to encourage development of unprofitable drugs. Anyone who knows the legislative history of the Orphan Drug Act cannot deny this, and yet it is being denied by some companies who insist that profits should have no bounds.

As you well know, the goal of the act was to ensure that no company would lose money developing an orphan drug, and they would indeed make reasonable profits; but now is the time to assure those profits are indeed reasonable and not exorbitant. There is a beyond which the neediest and most vulnerable segment of our society, the ill and the disabled, must rely on the wisdom and compassion of Congress to protect them.

Very truly yours,

ABBEY S. MEYERS,
Executive Director.

• Mr. METZENBAUM. Mr. President, I rise to join my distinguished colleague, Senator KASSEBAUM, in introducing the Orphan Drug Amendments of 1991. I want to begin by commending Senator KASSEBAUM for her leadership in the area of orphan drugs. Since the initial enactment of the Orphan Drug Act in 1983, she has never wavered in her determination to make the Orphan Drug Program an unqualified success. Her sponsorship of this bill is another indication of her continuing commitment to this most important law.

This bill amends the Orphan Drug Act—which was enacted to foster the development of medications to treat people with rare diseases—so-called orphan drugs. Until the Orphan Drug Act was passed, there were no financial incentives for pharmaceutical companies to discover and develop drugs for illnesses affecting fewer than 200,000 people. Simply put, drugs for such small patients populations had very little commercial value, and companies were rarely willing to invest the resources necessary to bring them to the market.

The Orphan Drug Act provided pharmaceutical companies with important incentives to invest in orphan drugs; most important among them was an assured 7-year market monopoly. During that 7-year period, no other company could bring a competing product to the market.

I am proud to say that the Orphan Drug Act has been an unqualified success in spurring the development of essential, sometimes life-saving drugs, for small, often forgotten, groups of patients. To date, the Food and Drug Administration [FDA] has granted 476 orphan designations and approved 58 orphan drugs. Consequently, treatments are now available for people suffering from rare diseases and illnesses such as tissue rejection following a bone marrow transplant, paget's disease—a disease that weakens the bones and causes them to break—leprosy, and AIDS-related Kaposi's sarcoma among others. The development and approval of these and numerous other orphan drugs has given thousands upon thousands of desperately ill people hope for survival and freedom from pain and suffering. This was exactly the result that Congress hoped for when the Orphan Drug Act was approved.

Unfortunately, a few companies have exploited their 7-year market monopoly for an orphan drug by charging victims of rare diseases and illnesses thousands of dollars a year for their drugs. Patients with rare diseases and illnesses are forced to pay these exorbitantly high prices because the company that makes the drug they need has a lock on the market. Competitors that want to get on the market, and offer lower prices, cannot for 7 years.

Let me illustrate just how bad this problem can be. Ceredase, a drug for the treatment of Gaucher's disease, costs a patient $350,000 a year. Human Growth Hormone, a drug for pituitary dwarfism, costs a patient between $10,000 and $30,000 a year. And the list of horribles does not end here.

I am not suggesting that the pharmaceutical companies are violating the letter of the Orphan Drug Act by charging outrageously high prices for their orphan drugs. Clearly, they are not. However, I believe these companies are violating the spirit of the act and jeopardizing congressional support for the act. Through their high prices, these companies have turned a drug for a relatively small patient population into a drug with tremendous commercial value, and then they have used their 7-year marketing exclusively rights to block their competitors. This awful result was never contemplated under the Orphan Drug Act and should not be tolerated.

The Orphan Drug Act was carefully designed to give one company the necessary incentives to take on the development of a drug of little commercial value. Instead, the act has become a shield with which one company blocks its competitors from the market for a drug of tremendous commercial value, thereby subverting the important purpose of the act.

Fortunately, the number of circumstances have been relatively few in which this misuse of the act has occurred. However, it is clear from evaluating the designated orphan drugs currently undergoing testing at the FDA, that there will be many more orphan drugs that have tremendous commercial value. It is imperative that we act immediately to avoid further undermining of the Orphan Drug Act.

Last year the Congress passed a bill to deal with this problem that was vetoed by the President. That legislation would have allowed for FDA approval for companies that were simultaneously developing the same drug for the same rare disease. President Bush claimed that these changes would have undermined the act's incentives for bringing an orphan drug to the market, so he vetoed it.

Although I believe that the President was wrong, the Orphan Drug Amendments of 1991 take a different approach to the problem of high-cost, commercially valuable orphan drugs. The bill establishes a sales trigger that will allow a competitor's drug onto the market when the original sponsor's cumulative sales in the United States exceeds $200 million. This very generous sales trigger guarantees that an orphan drug's sponsors will receive a substantial return on its investment in a particular drug. Moreover, the sales trigger does not affect the ability of the original orphan drug sponsor to continue to sell its drug or set the selling price after it exceeds the trigger amount. Quite simply, all the bill does is allow a competitor onto the market before the original orphan drug sponsor's 7-year monopoly expires, if the original sponsor has sales of more than $200 million. Injecting competition into the market for costly orphan drugs will bring prices down and help make these drugs affordable for the patients who need them.

A few of the biotechnology companies that produce some of the most costly orphan drugs, have already begun to complain about the potential loss of market exclusivity. They argue that because they often have difficulty obtaining patient protection on biotechnology derived products and processes, the Orphan Drug Act is their only protection from competition, and hence their only assurance of recouping their investment. This argument stands the Orphan Drug Act on its head. Quite simply, the act was never intended to protect the stockholders of these biotechnology companies. Rather, it was enacted to provide pharmaceutical companies with special incentives to produce drugs of little commercial value for desperately ill patients. The biotechnology companies, with high-priced, commercially valuable drugs, cannot be allowed to hide behind the protection of the Orphan Drug Act because they have a problem with the patent laws. Their patent law problems ought to be addressed through amendments to those laws.

The bill contains several other provisions that are important changes to the Orphan Drug Act. Senator KASSEBAUM has discussed those provisions in the summary of the bill which she has placed in the RECORD.

In closing, I want to encourage all Senators to carefully review this important bill. If you want to end the inappropriate use of the Orphan Drug Act to block competition for high-priced, commercially valuable drugs, then you ought to join us in sponsoring this bill.•

By Mr. SASSER:

S. 2061. A bill to amend the Internal Revenue Code of 1986 to provide middle income tax relief, to provide for long-term economic growth, and for other purposes; to the Committee on Finance.

MIDDLE INCOME TAX RELIEF AND ECONOMIC GROWTH ACT OF 1991.

Mr. SASSER. Mr. President, the Conference Board reports this morning that consumer confidence has dropped to the lowest point in this present recession. Consumer confidence is lower today than it was in those fearful days just preceding the Persian Gulf war. And confidence is even lower now than at the worst point of the 1982 recession, which was the deepest recession in the post-World War II era.

We do not really need the Conference Board's survey to figure out that people who are worried about their jobs just do not make confident consumers, and they do not spend much money. 493,000 Americans filed unemployment claims just last week. That is the third consecutive weekly increase and the heaviest level of new claims since late April.

Economists are now revising downward their forecast for the fourth quarter gross national product growth for 1991, and more so, they are reviewing the figures coming in from the third quarter, which now we anticipate will be lower than originally predicted. But through it all, the prescription for the White House never changes. As the economy falters and flags, the White House says, "Stand pat; do not worry; keep cool; prosperity is just around the corner."

It is time we accept that this do-nothing approach has, indeed, done just that—nothing. What is needed now is a comprehensive, responsible, and well-crafted plan for recovery. The President never had a plan for unemployed Americans. We had to put one together on the Senate floor. I suppose it logically follows that if there is no plan for those Americans who need it most, since he saw no need to help the most distressed, he is going to have great difficulty seeing the need to help anyone else.

The "let the bad times roll" approach to economic policy is not, I submit, simply a historical anomaly. This administration is true to the economic philosophy of previous Republican administrations. Yes, the administration of President Reagan wore the pro-growth mantle, but very uncomfortably over the last decade, because Republicans are traditionally the party that fears inflation and distrusts economic growth.

The Democratic Party has been far more committed to the notion of Government policies that stimulates growth, that create jobs, that provide upward mobility. Just consider, if you will, the nine Presidents that we have had since World War II. There were four Democrats and five Republicans, and note that all four Democrats rank in the top five with respect to GNP growth records: Kennedy, Johnson, Truman, and Carter. That leaves the Republican administrations bringing up the rear on economic growth.

Put another way: The economy, since the days of Harry Truman, has grown on the average of 4 percent a year under Democratic administrations, and by only 2.5 percent a year with Republicans in the White House. In my estimation, many of our current difficulties—fiscal, political, and otherwise—can be attributed to the fact that this economy simply has not grown appreciably in the last 3 years.

I will note, Mr. President, that this administration in office now, the administration of President Bush, has actually had a negative real growth over the past 3 years. This is the first administration to preside over negative real growth on a per capita basis of any administration since that of Herbert Hoover in the late 1920's.

Mr. President, I am introducing an economic growth plan that is coordinated and is comprehensive. It is aimed at durable growth; it is financed over 5 years by an $80 billion peace dividend. Before going into detail, let me acknowledge that I am not the only one offering a constructive growth proposal. Many of my colleagues have drawn up plans and crafted initiatives that I think are valid, and are also meritorious.

I am not, by any means, wedded to all the elements of my own plan, and I am certainly open to proposals that are not included in what I offer today. But I think the larger point we are making is we, at the very least, need a dialog that leads to corrective action.

If the President waits until January, some 2 months away, if he waits for the State of the Union Address before even offering an economic game plan, we will not have any hope of enacting anything until at least the middle of an election year and, Mr. President, I submit that is too late.

The plan I am offering today is distinct, in my view, because it combines both sharp short-term stimulus and long-term growth elements, while placing necessary emphasis on fiscal constraint.

It is a multitiered approach designed both to lift us from the stagnation of the moment and make durable whatever growth we achieve to pay for it. I am proposing military spending cuts that are reasonable and achievable today and do not reduce our military flexibility or readiness. I am proposing an $80 billion peace dividend which will amount to a 5-percent reduction in de-

fense spending and retake this reduced

structural condition of our Nation, and we need more public investment to do

"In the case of a taxpayer described in: The applicable amount is:

"(C) 25 PERCENT ACCOUNT LIMIT.—

"(i) IN GENERAL.—A distribution shall not

other account or annuity, such amount shall not be taken into account in determining

"PART VII—ENTERPRISE CAPITAL INVESTMENT INCENTIVES fense spending and retake this reduced military spending and divide it into roughly three components: First, $30 billion for a middle-income tax cut; then $23 billion for long-term growth initiatives; and, finally, $25 billion to be applied to reduction of the deficit.

Now, the first component, the middle-income tax cut, is an immediate stimulus, an immediate jolt to counter the economic stagnation that is badly hurting middle-class American families. Middle-income households would receive a $300 to $500 credit against their 1991 taxes, and the proposal would put money, beginning in January 1992, into the pockets and purses of middle-class American families.

Mr. President, I have a chart here which indicates that my tax proposal is carefully targeted to benefit those who are most distressed by this recession and the most neglected by the policies of the last decade—middle-income Americans. You will note that, under this plan, families earning less than $50,000—these families here, families earning less than $50,000—receive 76 percent of the benefits. These same middle-income families would receive 5.8 percent of the capital gains tax cut advocated by the President.

Let me reemphasize, Mr. President. With the middle-income tax cut that I am proposing, 76 percent of the benefits would go to families making below $50,000. Contrast this with the President's proposal in which only 5.6 percent of the capital gains tax cut advocated by the President would go to families making less than $50,000. That is not to say the plan attempts to redress all of the inequities that muddle the Tax Code. Rather, it is designed to create a demand surge, to deliver with full force the momentum necessary to drive a recovery.

To that end, the plan also provides $3 billion for penalty free withdrawals from individual IRA's for first-time homebuyers and for individuals with higher education expenses or particular medical costs.

Now, I have coupled this with a broad-based tax cut and placed it in the context of a stimulus that is sizable, immediate, and temporary.

The plan then seeks to use that initial spark to ignite sustained economic combustion and long-term growth. It provides $12 billion in long-term business incentives, including extensions of the research and experimentation tax credit, the low-income housing tax credit, and the mortgage revenue bond tax credit.

I have also incorporated a proposal developed by Senator BUMPERS to offer a tax incentive for investment in small business to reward entrepreneurship and stimulate capital formation. The premium here is on new capital formation, new investment.

The plan I am offering today also recognizes that we need to improve the structural condition of our Nation, and we need more public investment to do it. My approach would invest $8 billion in roads, highways and bridges, waterways and runways, and in the process it would generate at least 100,000 jobs every year.

Finally, this growth plan would return no less than $25 billion, or nearly one-third of the peace dividend, to the U.S. Treasury in the form of unadulterated deficit reduction.

In offering this plan, I recognize the legitimate concerns of financial markets. That is why the plan is paid for. That is why the tax cut is temporary. The goal is to lift us from the stagnation of the moment and then sustain growth for the future. As I have said, Mr. President, others in the Senate have developed economic recovery proposals that are worthy, that are meritorious, and that are workable. There are other plans in the House of Representatives that also deserve consideration. But the bottom line is that sitting and waiting and complaining is not the answer.

Mr. President, I send this bill to the desk and ask for its immediate appropriate referral, and I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Income Tax Relief and Economic Growth Act of 1991".

TITLE I—TAX INCENTIVES

SEC. 101. NONREFUNDABLE TAX CREDIT FOR 1991.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. MIDDLE INCOME TAXPAYERS CREDIT.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined as follows:

"In the case of a taxpayer described in:	The credit amount is:
Section 1(a)	$500
Section 1(b)	$450
Section 1(c)	$300
Section 1(d)	$250.

"(b) PHASEOUT OF CREDIT AMOUNT.—

"(1) IN GENERAL.—Each dollar amount contained in subsection (a) shall be reduced (but not below zero) by 2 percent of the amount by which the taxpayer's adjusted gross income for the taxable year exceeds the applicable amount.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount for any taxpayer shall be determined as follows:

"In the case of a taxpayer described in:	The applicable amount is:
Section 1(a)	$65,000
Section 1(b)	$60,000
Section 1(c)	$40,000
Section 1(d)	$32,500

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25, the following new item:

"Sec. 25A. Middle income taxpayers credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990, and before January 1, 1992.

SEC. 102. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 28(b)(1) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 103. 1-YEAR EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(1) by striking "1991" each place it appears and inserting "1992",

(2) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(3) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(4) by striking "1994" in paragraph (2)(C) and inserting "1995".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 104. 1-YEAR EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendments made by subsection (a) shall apply to bonds issued after December 31, 1991.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after December 31, 1991.

SEC. 105. PENALTY-FREE IRA WITHDRAWAL FOR HOME PURCHASE, HIGHER EDUCATION, AND HEALTH COSTS.

(a) IN GENERAL.—Section 408(d) of the Internal Revenue Code of 1986 (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(8) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified special purpose distribution from an individual retirement account or an individual retirement annuity.

"(B) QUALIFIED SPECIAL PURPOSE DISTRIBUTION DEFINED.—The term 'qualified special purpose distribution' means—

"(i) a qualified first-time homebuyer distribution, or

"(ii) an applicable medical or educational distribution.

"(C) 25 PERCENT ACCOUNT LIMIT.—

"(i) IN GENERAL.—A distribution shall not be treated as a qualified special purpose distribution to the extent it exceeds the amount (if any) by which—

"(I) 25 percent of the sum of the aggregate balance of individual retirement accounts and individual retirement annuities established on behalf of an individual, plus the aggregate amounts previously treated as qualified special purpose distributions, exceeds

"(II) the aggregate amounts previously treated as qualified special purpose distributions.

"(ii) LIMITATION NOT TO APPLY FOR PURPOSES OF SECTION 72(t).—Section 72(t) shall not apply to any distribution which would be a qualified distribution but for the limitations of clause (i).

"(D) DISTRIBUTIONS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYER.—For purposes of subparagraph (B)—

"(i) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer (or by a parent or grandparent of a first-time homebuyer) from an individual retirement account or an individual retirement annuity to the extent such payment or distribution is used by the individual receiving the payment or distribution before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such first-time homebuyer.

"(ii) BASIS REDUCTION.—The basis of any principal residence described in clause (i) shall be reduced by any amount excluded from the gross income of such first-time homebuyer (or parent or grandparent thereof) by reason of this section.

"(iii) RECOGNITION OF GAIN AS ORDINARY INCOME.—

"(I) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in subclause (II), gain (if any) on the sale or exchange of a principal residence to which clause (i) applies shall, to the extent of the amount excluded from gross income under this section, be treated as ordinary income by such individual, and section 72(t) shall apply to such amount.

"(II) EXCEPTION.—Subclause (I) shall not apply to any taxable year to the extent of any amount which, before the due date (without extensions) for filing the return for such year, the taxpayer contributes to an individual retirement account or an individual retirement annuity. Such amount shall not be taken into account for purposes of any provision of this title relating to excess contributions.

"(III) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in subclause (I) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before subclause (I).

"(iv) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(I) any amount is paid or distributed from an individual retirement account or an individual retirement annuity to an individual for purposes of being used as provided in clause (i), and

"(II) by reason of a delay in the acquisition of the residence, such amount cannot be so used,

the amount so paid or distributed may be paid into an individual retirement account or an individual retirement annuity as provided in paragraph (3)(A)(i) without regard to paragraph (3)(B), and, if so paid into such other account or annuity, such amount shall not be taken into account in determining whether paragraph (3)(A)(i) applies to any other amount.

"(v) DEFINITIONS.—For purposes of this subparagraph—

"(I) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(II) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

"(III) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(IV) DATE OF ACQUISITION.—The term 'date of acquisition' means the date on which a binding contract to acquire the principal residence to which clause (i) applies is entered into, or on which construction or reconstruction of such a principal residence is commenced.

"(E) APPLICABLE MEDICAL DISTRIBUTIONS.—For purposes of subparagraph (A), the term 'applicable medical distributions' means any distributions made to an individual (not otherwise taken into account under this subsection) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 for amounts paid during the taxable year for medical care (without regard to whether the individual itemized deductions for the taxable year). For purposes of determining the amount so allowable, any child or grandchild of the taxpayer shall be treated as a dependent of the taxpayer.

"(F) DISTRIBUTIONS FOR EDUCATIONAL EXPENSES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'applicable educational distributions' means distributions to an individual to the extent that the amount of such distributions (not otherwise treated as qualified special purpose distributions, determined after application of subparagraph (E)) does not exceed the qualified higher education expenses of the individual for the taxable year.

"(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of clause (i)—

"(I) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the taxpayer, the taxpayer's spouse, or the taxpayer's child (as defined in section 151(c)(3)) or grandchild, at an eligible educational institution (as defined in section 135(c)(3)).

"(II) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 106. DEDUCTION FOR CAPITAL GAINS ON CERTAIN SMALL BUSINESS STOCK.

(a) IN GENERAL.—Subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to capital gains and losses) is amended by adding at the end thereof the following new part:

"PART VII—ENTERPRISE CAPITAL INVESTMENT INCENTIVES

"Sec. 1301. Deduction for gain on certain small business stock.

"Sec. 1302. Definitions and special rules.

"SEC. 1301. DEDUCTION FOR GAIN ON CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—If a taxpayer has a qualified small business net capital gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 50 percent of the excess (if any) of—

"(A) qualified small business net capital gain, over

"(B) the amount of seed capital gain, plus

"(2) the seed capital gain deduction.

"(b) QUALIFIED SMALL BUSINESS NET CAPITAL GAIN.—For purposes of this section, the term 'qualified small business net capital gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain for the taxable year determined by taking into account only gain or loss from sales or exchanges of qualified small business stock with a holding period of more than 5 years at the time of sale or exchange.

"(c) SEED CAPITAL GAIN DEDUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'seed capital gain deduction' means an amount equal to the sum of the amounts determined by applying the applicable percentages to the appropriate categories of seed capital gain under the table contained in paragraph (2).

"(2) COMPUTATION OF AMOUNT.—The seed capital gain deduction shall be computed as follows:

"In the case of:	The applicable percentage is:
5-year gain	50
6-year gain	60
7-year gain	70
8-year gain	80
9-year gain	90
10-year gain	100.

"(3) SEED CAPITAL GAIN.—For purposes of this subsection, the term 'seed capital gain' means the lesser of—

"(A) the excess (if any) of—

"(i) the net capital gain for the taxable year, over

"(ii) the qualified small business net capital gain for the taxable year determined without regard to gain or loss described in subparagraph (B), or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from sales or exchanges of stock—

"(i) which is qualified small business stock in a corporation which is a qualified small business (determined by substituting '$5,000,000' for '$100,000,000' in section 1302(b)(1)), and

"(ii) with a holding period of more than 5 years at the time of the sale or exchange.

"(4) CATEGORIES OF GAIN.—For purposes of this subsection—

"(A) 10-YEAR GAIN.—The term '10-year gain' means the lesser of—

"(i) the seed capital gain, or

"(ii) the seed capital gain determined by taking into account under paragraph (3)(B) only gain or loss from qualified small business stock with a holding period of more than 10 years at the time of the sale or exchange.

"(B) OTHER GAIN.—The terms '5-, 6-, 7-, 8-, and 9-year gain' mean, with respect to any category, the lesser of—

"(i) the excess (if any) of—

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"(I) seed capital gain, over

"(II) the amount determined under this paragraph for categories with a longer holding period, or

"(ii) seed capital gain determined by taking into account under paragraph (3)(B) only gain or loss from qualified small business stock with a holding period of more than 5, 6, 7, 8, or 9 years but not more than 6, 7, 8, 9, or 10 years, respectively.

"(d) Estates and Trusts.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of qualified small business stock which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gains derived from the sale or exchange of capital assets.

"SEC. 1302. DEFINITIONS AND SPECIAL RULES.

"(a) Qualified Small Business Stock.—For purposes of this part—

"(1) In general.—The term 'qualified small business stock' means any stock in a corporation which is originally issued after December 31, 1991, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) 5-year active business requirement.—Stock in a corporation shall not be treated as qualified small business stock unless, during the testing period, such corporation meets the active business requirements of subsection (c).

"(3) Certain redemptions, exchanges, etc. disqualified.—For purposes of paragraph (1)(B), and except as provided in subsections (d) and (e), stock shall not be treated as acquired by the taxpayer at its original issue if—

"(i) it is issued directly or indirectly in redemption of, or otherwise in exchange for, stock which is not qualified small business stock, or

"(ii) it is issued in an exchange described in section 351 in exchange for property other than qualified small business stock, if immediately after the exchange, both the issuer and transferee of the stock are members of the same controlled group of corporations (as defined in section 1563).

"(b) Qualified Small Business.—For purposes of this part—

"(1) In general.—The term 'qualified small business' means any domestic corporation with respect to which the sum of—

"(A) the aggregate amount of money, other property, and services received by the corporation for stock, as a contribution to capital, and as paid-in surplus, plus

"(B) the accumulated earnings and profits of the corporation,

does not exceed $100,000,000. The determination under the preceding sentence shall be made as of the time of such issuance but shall include amounts received in such issuance and all prior issuances.

"(2) Amount taken into account with respect to property and services.—For purposes of paragraph (1)—

"(A) Property.—The amount taken into account with respect to any property other than money shall be an amount equal to the adjusted basis of such property for determining gain, reduced (but not below zero) by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation.

"(B) Compensation for services.—The amount taken into account with respect to stock issued for services shall be the value of such services.

"(c) Active Business Requirement.—For purposes of this part—

"(1) In general.—For purposes of subsection (a)(2), the requirements of this subsection are met if, during the testing period—

"(A) the corporation is engaged in the active conduct of a trade or business, and

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business.

"(2) Special rule for certain activities.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) Stock in other corporations.—

"(A) Look-thru in case of subsidiaries.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) Portfolio stock.—A corporation shall be treated as failing to meet the requirements of paragraph (1) if, at any time during the testing period, more than 10 percent of the value of its assets (in excess of liabilities) consist of stock in other corporations which are not subsidiaries of such corporation.

"(C) Subsidiary.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns at least 50 percent of the combined voting power of all classes of stock entitled to vote, or at least 50 percent in value of all outstanding stock of such corporation.

"(4) Working capital.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(5) Maximum real estate holdings.—A corporation shall not be treated as meeting the requirements of paragraph (1) if, at any time during the testing period, more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(6) Small business investment companies.—Paragraph (1) shall not apply to any small business investment company operating under the Small Business Investment Act of 1958.

"(7) Computer software royalties.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(8) Testing period.—For purposes of this section, the term 'testing period' means, with respect to any stock held by a taxpayer, the 5-year period beginning with the first day of the taxpayer's holding period for such stock.

"(d) Special Rules for Options, Warrants, and Certain Convertible Investments.— For purposes of this part—

"(1) In general.—In the case of stock which is acquired by the taxpayer through the exercise of an applicable option or warrant, through the conversion of convertible debt, or in exchange for securities of the corporation in a transaction described in section 368—

"(A) such stock shall be treated as acquired by the taxpayer at original issue, and

"(B) such stock shall be treated as having been held during the period such option, warrant, or debt was held, or such security was outstanding.

"(2) Issue price for convertible debt or security.—For purposes of section 1302(b)(1) and notwithstanding section 1302(b)(2), in the case of a debt instrument converted to stock, or stock issued in exchange for securities in a transaction described in section 368, such stock shall be treated as issued for an amount equal to the sum of—

"(A) the principal amount of the debt or security as of the time of the conversion or exchange, and

"(B) accrued but unpaid interest on such loan or security.

"(3) Applicable option or warrant.—For purposes of this subsection, the term 'applicable option or warrant' means an option or warrant which—

"(A) was issued in exchange for the performance of services for the corporation issuing it, and

"(B) is nontransferrable.

"(e) Certain Tax-Free and Other Transfers.—For purposes of this part—

"(1) In general.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) Transfers to which subsection applies.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death,

"(C) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), 723, or 732, or

"(D) of qualified small business stock for other qualified small business stock in a transaction described in section 351 or a reorganization described in section 368.

"(3) Incorporations and reorganizations involving nonqualified stock.—

"(A) In general.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock which is not qualified small business stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) Limitation.—This part shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) Successive application.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) Control test.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(f) Stock Exchanged for Property.—For purposes of this part, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(1) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(2) the basis of such stock in the hands of the taxpayer shall be treated as equal to the fair market value of the property exchanged.

"(g) Pass-Thru Entities.—For purposes of this part, any gain or loss of a pass-thru entity which is treated for purposes of this subtitle as a gain or loss of any person holding an interest in such entity shall retain its character as qualified small business or seed capital gain or loss in the hands of such person.

"(h) Indexing.—In the case of any stock issued in a calendar year after 1992, the $5,000,000 and $100,000,000 amounts in section 1301(c)(3)(B)(i) and subsection (b)(1) of this section shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1991' for '1987' in subparagraph (B) thereof.".

(b) Maximum 14 Percent Tax Rate.—

(1) Individuals.—Section 1(h) of such Code is amended to read as follows:

"(h) Maximum Capital Gains Rate.—

"(1) In general.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rate and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) Special rule where taxpayer has qualified small business net capital or seed capital gain.—

"(A) In general.—If a taxpayer has qualified small business net capital gain or seed capital gain for any taxable year, then the tax imposed by this section shall not exceed the lesser of—

"(i) the amount determined under paragraph (1), or

"(ii) the sum of—

"(I) the amount determined under paragraph (1) without taking into account qualified small business net capital gain and seed capital gain for purposes of subparagraphs (A) and (B) thereof, plus

"(II) 14 percent of the qualified small business net capital gain and seed capital gain.

"(B) Definitions.—For purposes of this paragraph, the terms 'qualified small business net capital gain' and 'seed capital gain' have the meanings given such terms by section 1301 (b) and (c), respectively.".

(2) Corporations.—Section 1201(a) of such Code (relating to alternative tax for corporations) is amended—

(A) by inserting "or the corporation has a qualified small business net capital gain or seed capital gain" before ", then", and

(B) by striking paragraph (2) and inserting:

"(2) a tax equal to the sum of—

"(A) 34 percent of the sum of the net capital gain, reduced by qualified small business net capital gain and seed capital gain, plus

"(B) 17 percent of the qualified small business net capital gain and seed capital gain.".

(c) Treatment as Preference Item for Minimum Tax.—Section 57(a) of such Code (relating to items of tax preference under the alternative minimum tax) is amended by adding at the end thereof the following new paragraph:

"(8) Capital gains on sale of certain small business stock.—An amount equal to the deduction for the taxable year determined under section 1301(a)(1).".

(d) Losses on Small Business Stock.—Section 1244(c)(3)(A) of such Code (defining small business corporation) is amended by striking "$1,000,000" and inserting "$5,000,000 (adjusted at the same time and manner as under section 1302(g))".

(e) Conforming Amendments.—

(1) Section 62(a) of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) Long-term capital gains.—The deduction allowed by section 1301.".

(2) Subparagraph (B) of section 170(e)(1) of such Code is amended by inserting "(or, in the case of qualified small business stock under section 1301, 50 percent of the amount)" after "the amount".

(3) Section 172(d)(2) of such Code is amended to read as follows:

"(2) Capital gains and losses of taxpayers other than corporations.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1301 shall not be allowed.".

(4) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 220 of such Code is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of sale of qualified small business stock, see section 1301.

"(2) For deductions in respect of a decedent, see section 691.".

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of qualified small business stock held for more than 5 years, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1301 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(7) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1301 (relating to deduction for gain on qualified small business stock) shall not be taken into account.".

(8) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(h), 1201, and 1211" and inserting in lieu thereof "1(h), 1201, 1211, and 1301, and for purposes of section 57(a)(8)".

(9) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking out "66 percent" and inserting "the rate differential portion (within the meaning of section 904(b)(3)(E))".

(10) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1301 (relating to deduction for qualified small business net capital gains) and" after "except that".

(11) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) In general.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1301 shall not apply.".

(12) Section 1445(e)(1) of such Code is amended by striking out "34 percent (or, to the extent provided in regulations, 28 percent)" and inserting "34 percent (or, to the extent provided in regulations, the alternative tax rate determined under section 904(b)(3)(E)(iii))".

(f) Effective Date.—

(1) In general.—The amendments made by this section shall apply to stock issued after December 31, 1991.

(2) Application of tax incentive to current stock holdings of investors.—

(A) In general.—If—

(i) a taxpayer holds any stock on any date on or after the date determined under subsection (a) which, at the time it was issued, would be treated as qualified small business stock (as defined in section 1302(a) of the Internal Revenue Code of 1986) without regard to the time it was issued, and

(ii) the value of such stock on such date exceeds its adjusted basis,

the taxpayer may elect to treat such stock as having been sold on such date for an amount equal to its value on such date (and as having been reacquired on such date for an amount equal to such value). The gain from such sale shall be treated as received or accrued (and the holding period of the reac-

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quired stock shall be treated as beginning) on such date. For purposes of applying section 1301 of such Code, such stock shall be treated after such reacquisition as acquired in the same manner and at the same time as the original acquisition and the requirement of section 1302(a)(1) that the stock must have been issued after December 31, 1991, shall not apply.

(B) ELECTION.—An election under subparagraph (A) with respect to any stock shall be made in such manner as the Secretary may prescribe. Such an election, once made with respect to any stock, shall be irrevocable.

TITLE II—INCREASED OBLIGATION CEILINGS UNDER FEDERAL TRANSPORTATION TRUST FUNDS

SEC. 201. OBLIGATION CEILING FOR FEDERAL-AID HIGHWAY PROGRAMS.

Notwithstanding any other provision of law, the total of all obligations for Federal-aid highway programs (including minimum allocations for States under section 157 of title 23, United States Code) shall not exceed—

(1) $17,300,000,000 for fiscal year 1992;

(2) $17,800,000,000 for fiscal year 1993;

(3) $18,300,000,000 for fiscal year 1994;

(4) $18,800,000,000 for fiscal year 1995;

(5) $18,300,000,000 for fiscal year 1996; and

(6) $17,120,000,000 for fiscal year 1997.

SEC. 202. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR AIRPORT DEVELOPMENT AND PLANNING GRANTS; OBLIGATION CEILINGS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund, $250,000,000 which shall be available only to incur obligations to make grants under section 505(b) of the Airport and Airway Improvement Act of 1982.

(b) OBLIGATION CEILING.—Notwithstanding any other provision of law, the total of all obligations under section 505(b) of the Airport and Airway Improvement Act of 1982 shall not exceed $2,150,000,000 for each of the fiscal years 1993 through 1996.

SEC. 203. OBLIGATION CEILINGS FOR MASS TRANSIT DISCRETIONARY GRANTS.

Notwithstanding any other provision of law, the total of all obligations for the discretionary capital grant program funded out of the Mass Transit Account of the Highway Trust Fund shall not exceed $1,535,000,000 for each of the fiscal years 1993 through 1995.

SEC. 204. SURFACE TRANSPORTATION AUTHORITIES.

The following sections of S. 1204 of the One Hundred Second Congress (as passed the Senate) are hereby enacted: sections 102 and 103, sections 105 through 140, and sections 301 through 347.

TITLE III—DEFICIT NEUTRALITY

SEC. 301. ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (as adjusted under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985) are decreased as follows:

(1) the discretionary spending limit with respect to fiscal year 1993 for the defense category (under section 601(a)(2)(C)(i) of such Act) is decreased by $8,900,000,000 in new budget authority and $2,300,000,000 in outlays;

(2) the discretionary spending limit with respect to fiscal year 1994 for the discretionary category (under section 601(a)(2)(D) of such Act) is decreased by $12,800,000,000 in new budget authority and $7,600,000,000 in outlays; and

(3) the discretionary spending limit with respect to fiscal year 1995 for the discretionary category (under section 601(a)(2)(E) of such Act) is decreased by $17,600,000,000 in new budget authority and $13,800,000,000 in outlays.

(b) REDUCTION IN DEFENSE CATEGORY.—The reductions required under this section shall be achieved through reduction of discretionary appropriations in only the defense category.

SEC. 302. DEFENSE SPENDING LIMITS.

(a) IN GENERAL.—Section 301 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new subsection:

"(j) DEFENSE SPENDING LIMITS.—(1) The term 'defense spending limit' means spending for the major functional category for national defense (function 050) as follows—

"(A) with respect to fiscal year 1994, $282,200,000,000 in new budget authority and $282,300,000,000 in outlays;

"(B) with respect to fiscal year 1995, $280,300,000,000 in new budget authority and $277,600,000,000 in outlays;

"(C) with respect to fiscal year 1996, $272,900,000,000 in new budget authority and $274,200,000,000 in outlays; and

"(D) with respect to fiscal year 1997, $261,400,000,000 in new budget authority and $264,000,000,000 in outlays,

as adjusted consistent with the adjustments that section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 requires that the President or the Director of the Office of Management and Budget make to the discretionary spending limits.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for a fiscal year, amendment to such a concurrent resolution, motion in relation to such a concurrent resolution, or conference report on such a concurrent resolution, that would cause the level of budget authority or outlays for the major functional category for national defense (function 050) for the first fiscal year that is set forth in such concurrent resolution or conference report to exceed the defense spending limit set forth for that year under this subsection.".

(b) PRESIDENT'S BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with levels of budget authority and outlays for the major functional category for national defense (function 050) that do not exceed the defense spending limits set forth under section 301(j)(1) of the Congressional Budget Act of 1974 for any of the 5 years covered by that budget.".

SEC. 303. NO SEQUESTRATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, there shall not no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of any reduction in tax revenues caused by application of the provisions of (and amendments made by) this Act.

(b) BUDGET TOTALS ADJUSTMENTS.—

(1) PRESIDENT'S BUDGET.—When the President submits the budget for fiscal years 1993, 1994, and 1995, in addition to any adjustments required by section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, the maximum deficit amounts for the budget year and all outyears through fiscal year 1995 (under section 601(a) of the Congressional Budget Act of 1974) shall be adjusted to reflect up-to-date reestimates of the effects on the deficit of the provisions of (and amendments made by) this Act.

(2) CALCULATION OF INCREASE OR DECREASE.—The required increase or decrease under this subsection shall be calculated so that the maximum deficit amount shall be increased by the amount by which the provisions of (and amendments made by) this Act increase the deficit and the maximum deficit amount shall be decreased by the amount by which the provisions of (and amendments made by) this Act decrease the deficit.

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Ms. MIKULSKI, Mr. PACKWOOD, Mr. WIRTH, Mr. MCCONNELL, Mr. WELLSTONE, Mr. DECONCINI, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. COHEN, Mr. CRANSTON, Mr. DIXON, Mr. GORE, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WOFFORD):

S. 2062. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

EQUAL REMEDIES ACT OF 1991

Mr. KENNEDY. Today, we are introducing legislation to repeal the cap on the amount of damages available to women, religious minorities, and the disabled under the recently enacted Civil Rights Act of 1991. Identical legislation is being introduced in the House of Representatives.

I intend to ask the Senate Labor Committee to report this legislation at the beginning of the next session of Congress, and Majority Leader Mitchell has assured me that he will schedule it for action early in the session.

Three weeks ago, Congress passed a landmark civil rights bill that will restore to all Americans the ability to enforce their right to be free from job discrimination. Those who are committed to equal justice under law struggled for two years to pass this legislation, and its enactment constituted an impressive victory.

For the first time, the act gives women, religious minorities, and disabled persons the right to recover compensatory and punitive damages when they suffer intentional job discrimination; racial and ethnic minorities may sue under this provision as well.

Unfortunately, the new remedy created a glaring inequity by placing a ceiling on the amount of damages that can be recovered. As a result of this cap, victims of discrimination based on sex, religion, or disability can recover only limited damages, while victims of

race or national origin discrimination—who can sue under a different law—can recover unlimited damages.

There is no justification for this double standard. Intentional discrimination against women, religious minorities, and disabled persons is no less reprehensible than intentional race or national origin discrimination, and our laws should not perpetuate this injustice. Women, religious minorities, and the disabled are not second-class citizens, and they do not deserve second-class remedies.

The standard of proof and the definition of intentional discrimination are identical under the Civil Rights Act of 1991 and the long-standing race discrimination statute. There is no reason to expect significantly more litigation, or significantly larger jury awards, under the 1991 act.

In the last 11 years, under the law which allows racial minorities to recover unlimited damages, only 118 successful claims of intentional discrimination have been reported. Damages were awarded in only 69 of these cases, and damages over $200,000 were awarded in only three of these cases.

The caps under the 1991 act will not affect the size of the award for the vast majority of victims of discrimination. But those who have suffered the most severely, or been the victim of the worst discrimination, will be prevented from recovering full damages for their injuries, and employers who have committed the most outrageous acts of discrimination will be shielded from full responsibility.

It makes no sense to create a system which protects the worst lawbreakers and denies relief to those who have been harmed the most.

The Civil Rights Act of 1991 laid the groundwork for granting full justice to women, religious minorities, and the disabled. We must now complete the job.

Mr. DURENBERGER. Mr. President, we have just finished one of the most contentious battles I have witnessed in a very long time in the U.S. Senate. After long periods of discussion, negotiation, and debate, we managed to pass a civil rights bill that overruled several wrongly decided 1989 Supreme Court decisions.

I must add that I have been out in front in the race to end all forms of discrimination, in the workplace especially, and beyond. When I came to the U. S. Senate in 1979, I hired a legislative director by the name of Ralph Neas, who now happens to be Executive Director of the Leadership Conference for Civil Rights. And we made a mutual commitment that Ralph was going to help me end discrimination against women in the workplace. At that time, women in the workplace were being paid about 59 percent of what men were being paid. As Ralph showed me, going through the laws in this country, all of the many ways in which explicitly we discriminated against people on the basis of sex.

So in 1980, with the help of then Senator Birch Bayh, we introduced the first Economic Equity Act and reintroduced it, with Senator BOB PACKWOOD, my colleague from Oregon, in 1981; and we have been reintroducing it and passing portions of it every year since.

Over the last 6 years we made great strides under the Economic Equity Act in eliminating sexual discrimination in pension, estate, and tax law, insurance law, and a host of other issues. That effort has continued in the last 5 years under the leadership of Senator AL CRANSTON, Senator BARBARA MIKULSKI, myself, and others. We share a common goal of making this a Government of laws, not of men and women.

So it is clear from a review of this Senator's record that I have a long history of supporting equal opportunity legislation. And the recent civil rights initiative, spearheaded by Senator JOHN DANFORTH, was a victory for all Americans because it reaffirmed to the Nation and to the Supreme Court that we are committed as a nation to civil rights.

In addition to overturning various 1989 Supreme Court decisions, the civil rights bill plugged one of the biggest gaps in our civil rights laws by providing much-needed relief to victims of discrimination.

Previously, although racial and ethnic minorities were eligible for unlimited compensatory and punitive damages determined by a jury under section 1981 of the Civil Rights Act of 1986, women, the disabled, and persons suffering discrimination on the basis of religion, were only eligible for equitable relief and a court order reinstating the victim to his or her prior job.

In the new civil rights bill that we passed only a few short weeks ago, we provided to women, disabled, and those discriminated against on the basis of religion, compensatory and punitive damages awarded by a jury. The damages are only available to victims of intentional discrimination, and the law only provides recourse to employees who have suffered from deliberate employer conduct.

Thus, we are holding employers accountable for their actions, and thereby encouraging corporations to invest in educating their managers, supervisors, and employees, so employers will eliminate intentional discrimination from the workplace.

This was a much needed remedy, and I applaud the effort. But we did a novel thing when we created this new remedy: We capped the damages at a certain level. In other words, we limited the amount of compensatory and punitive damages in deliberate intentional discrimination cases, and we did it on the basis of the size of the company.

Mr. President, I announced at that time that I voted for the Civil Rights Act that I opposed the capping of the awards for women, the disabled, and those discriminated against because of religion. I did it because if we are to have equal rights, then we need to have equal remedies.

I opposed the damages caps at that time, and I would like to explain why I voted for a bill that contained the caps—there were two reasons. First, I obtained a promise on the part of the Senate leadership, as many of us did, that they would bring to the Senate floor early next year, that is in 1992, the bill that I am cosponsoring today, to lift the damages caps. And second, it was clear after a year-and-a-half of difficult negotiations that any attempt to lift the caps would require a conference with the House and would invite a Presidential veto. This, it would have been counterproductive at a time when we were trying to provide equal access to jury trials, and to provide damages for women and the disabled, to introduce an amendment that eliminated the caps.

Now that the Civil Rights Act has been signed by the President, I ask my colleagues: Why should women, people with disabilities, and those discriminated against intentionally because of religion, be singled out for special treatment? Should they not be entitled to the same relief that all other plaintiffs receive? I think everyone should be allowed to collect the same level of damages.

The reason is simple. The whole premise of civil rights law is to assure equal opportunity to every person. Congress mandates equal rights for all people regardless of race, sex, national origin, or religion.

But if we are to create equal rights, then we must also create and implement equal remedies. Congress must permit all individuals to share equal remedies under the law, and that is why I oppose the caps on damages.

The civil rights bill that we passed just a few short weeks ago had a fatal flaw. In attempting to encourage employers to treat each person equally, we wrote into the law unequal remedies. Racial minorities were entitled to unlimited damages, while women and the disabled have a cap placed on the damages available to them. This detracts from the very equality that we hope to sustain.

So, Mr. President, the time is at hand when we can do something about unequal treatment. And that is exactly what we are doing with the legislation introduced by Senator KENNEDY, myself and others, and the present occupant of the chair, my colleague from the State of Minnesota.

I strongly endorse this proposal to lift the caps. I urge all of my colleagues, particularly on the Republican side of the aisle, to support it. Prior to the new civil rights law, women and the disabled were treated as second

class citizens. We cannot allow this

I therefore am pleased to join with

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FCC waved its wand and declared—con-class citizens. We cannot allow this treatment to continue.

Mr. PACKWOOD. Mr. President, on October 29 of this year I stood before this body and lamented the fact that we were about to pass the Civil Rights Act of 1991 incorporating a provision that goes only part way toward correcting an equal protection problem in our law. I and others have detailed the history of how remedies for various kinds of intentional job discrimination came to be unequal.

When Congress passed title VII of the Civil Rights Act of 1964, it provided that the remedies for intentional discrimination based on race, sex, religion, or national origin would be primarily "equitable"—that is, you could get injunctions to stop the illegal treatment, and you could get reinstated to your job, and maybe back pay if you were illegally fired. You could not get compensatory damages, which are designed to compensate you for losses you suffered like doctor bills or losing your car if you could not make payments. You could not get punitive damages, which are designed, in egregious cases, to punish the wrongdoer who caused the discrimination.

Congress set up the title VII scheme to give everyone the same kinds of remedies. If you were black and mistreated on the job because of it, you had the same relief available to you as if you were a woman mistreated on the job because of her sex. But in 1976 an anomaly was created by a court when a race discrimination plaintiff successfully argued that they should be able to use section 1981, an 1866 statute which prohibits race discrimination in contracts, to get relief from job discrimination. This makes sense when you think about it because an employment situation really is a contract, an agreement between parties. But the effect of the court accepting this argument is that since 1976 race discrimination victims, and I understand some victims of discrimination based on national origin, have been able to get money damages while women and religious minorities could not. This is an anomaly in the law, created by judicial interpretation, not by any intent of Congress.

The Civil Rights Act of 1991 provides, for the first time, a remedy of money damages for all types of job discrimination, including even handicap discrimination, which was not included in title VII. But the act limits the dollar amount of damages. It is a step in the right direction but it maintains the basic inequity, since race discrimination victims can still use section 1981 and get unlimited damages.

When we passed the Civil Rights Act of 1991, I and some of my distinguished colleagues noted that they were uncomfortable with the still-unequal remedy scheme, and would continue to advocate for uncapped damages for all. I therefore am pleased to join with Senators KENNEDY, DURENBERGER, MCCONNELL, and COHEN and many other Senators to introduce the Equal Remedies Act of 1991, and look forward to Senate action on this very important matter.

Mr. METZENBAUM. Mr. President, I rise as an original cosponsor of the Equal Remedies Act of 1991. This legislation would remove the stigma of second-class status from the working women of this country, from religious minorities, and from the disabled. It would also strike a blow for equal treatment, a principle which every one of us should embrace.

The Civil Rights Act of 1991, signed into law by the President on November 21, 1991, was a giant step forward in the effort to restore the scope and protections of Federal civil rights law. But like most compromises, the Civil Rights Act of 1991 was not a perfect piece of legislation.

In addition to overturning eight Supreme Court decisions, the act attempted to address a longstanding anomaly in Federal civil rights law. Under title VII, women and religious minorities have received backpay and injunctive relief as remedies for intentional discrimination; punitive and compensatory damages have not been available. When the disabled were accorded rights for the first time under the Americans With Disabilities Act of 1990, they were restricted to these remedies as well.

But racial minorities have long been able to recover unlimited punitive and compensatory damages for intentional race discrimination under section 1981, a post-Civil War Reconstruction statute barring discrimination in contracts. Thus, under Federal law prior to enactment of the Civil Rights Act of 1991, racial minorities could recover unlimited punitive and compensatory damages for intentional discrimination, but women, religious minorities, and the disabled could not.

The Civil Rights Act of 1991 creates an important new remedy for women, religious minorities, and the disabled. But tragically, the inequity I have just described remains true today. The act does allow victims of intentional discrimination to recover compensatory and punitive damages, but this recovery is subject to monetary limitations—$50,000, $100,000, $200,000, and $300,000—that vary with the size of the employer. Out-of-pocket compensatory damages are not subject to these limitations. Thus, it is still the case that racial minorities may recover unlimited punitive and compensatory damages for intentional discrimination, but women, religious minorities, and the disabled may not.

This inequity has a tremendous practical effect on the disadvantaged groups. First, because compensatory damages are designed to make an individual whole for all losses they have suffered, it is completely inappropriate to place a monetary limitation on the amount that individual can recover. Victims of intentional harassment and discrimination often suffer severe physical and mental injuries as a consequence. The harms suffered by these victims are not capped in any way, and the remedies available to them should not be limited either.

Second, punitive damages are designed to punish employers who have acted with malice or with reckless indifference to the victim's rights. To ensure that the amount awarded deters the employer from future violations, juries are instructed to consider all relevant circumstances, including the employer's net worth. The Civil Rights Act of 1991 limits the amount of damages that may be awarded, based on the number of employees an employer has. While that number may roughly correspond to the employer's net worth in some instances, size is by no means a proxy for wealth. Moreover, these limitations apply to smaller employers who intentionally discriminate no matter how egregious their conduct. As a consequence, some may escape with only a monetary slap on the wrist that does not serve as a deterrent to future violations.

The legislation we are introducing today performs a quick and simple surgery on the damages provision established by the Civil Rights Act of 1991. It eliminates the monetary limitations described above, to ensure that the Federal Government treats all forms of intentional discrimination equally. I am proud to join with Senators KENNEDY, MIKULSKI, WIRTH, DURENBERGER, and the other original cosponsors in offering this legislation.

Up to now, the very statutes designed to ensure equality of opportunity for all Americans themselves have contained provisions which discriminate against women, religious minorities, and the disabled in terms of the remedies they may recover. Let us move swiftly to remove this inequity from Federal law. I can think of no reason to oppose this legislation, except for a willingness to let women, religious minorities, and the disabled be treated as second-class workers. I certainly hope no one will do so.

Mr. WELLSTONE. Mr. President, today we introduce the Equal Remedies Act of 1991—an act which rectifies a serious inequity created by the Civil Rights Act which was enacted by Congress this fall.

Under the Civil Rights Act which we recently passed, victims of intentional discrimination based on sex, religion, or disability in the workplace will be able to sue under the Federal civil rights laws for the first time. This was a giant step forward in the granting of equal civil rights to all Americans, and toward the elimination of the cancer of discrimination in our society.

That act, however, went only part of the way. While it established a remedy for victims of sex, religious, and disabled status discrimination, it also set a cap—an upward limit—on the amount of damages that the victims of these kinds of discrimination could receive. Although victims of racial discrimination are now able to receive unlimited damages to redress the violations of their civil rights, victims of discrimination on the basis of sex, religion, or disabled status are not.

I know of no legitimate reason—indeed, none has ever been advanced—that justifies this difference in treatment. Illegal discrimination of any kind wounds its victims. Illegal discrimination of any kind diminishes us as a society and as a Nation. We cannot say that one kind of discrimination is better or less reprehensible than another; that the legal remedies for one kind of discrimination will be limited, while the remedies for another will not. The existence of a two-tier system of remedies says to the victims of sex, religious, and disability status discrimination that what they have suffered is of lesser importance; it says to the perpetrators of this discrimination that the law has greater tolerance for their conduct. Neither is true. Both messages of the prior Civil Rights Act must be eradicated.

The section on damages in the Civil Rights Act represented a compromise necessitated by concern about passing a bill which would be signed by the President. Now that this step has been taken, we need to take the next step: The elimination of a damage scheme that itself discriminates against victims of employment discrimination. I believe that Americans believe in fairness and equality. I believe that the U.S. Senate remains committed to fairness and equality. By enacting this legislation, we will be finally completing the eradication of this last vestige of invidious discrimination in the civil rights laws.

By Mr. LEAHY:

S. 2063. A bill to amend the Communications Act of 1934 to require cable television operators to provide notice and options to consumers regarding the use of converter boxes, remote control devices, and multiport technology; to the Committee on Commerce, Science, and Transportation.

CABLE TELEVISION LEGISLATION

Mr. LEAHY. Mr. President, there is a concern I have, and I suspect it is one probably shared by many of those who are watching C-SPAN, or watching these proceedings, and that is the problem of cable television.

My home in Vermont is blessed by the fact that it is so far out in the country, and the houses are about a mile or so apart and you do not have cable television. In fact, we practically have no television. I think we get 1½ channels; one sort of comes in, and other comes in not too bad in the picture, but poor in the content.

I constantly run into people who tell me about the problems with cable television. It was not until I decided, in the home that I use during the week here in the Washington area, to put in cable television that I found out why people complain so about cable. In the rural independent part of the country that I am from, maybe it is just as well they do not have this type of TV. It would probably spark a revolution of people marching on cable headquarters.

So, Mr. President, I rise today to speak about Cable TV, an issue which has the American people fed up, out of patience and ready for action. They are tired of rising prices and dismal service, tired of being charged for channels they never ordered, converter boxes they do not want and remote control units they are forced to rent, tired of being a captive audience for cable operators and tired of too little action from Congress and the President.

THE CABLE MONOPOLY

Meanwhile, politicians, bureaucrats, and lobbyists here in Washington show an amazing ability to stay behind the curve. Last March, a panel of leading industry lights argued at a Senate hearing that cable is not a monopoly because people have other alternatives—such as watching over-the-air stations, or home videos or driving off to a ball game, instead of watching it in their living room. This makes about as much sense as saying that old Ma Bell was not a monopoly because people could write letters or send telegrams. Settling for a handful of over-the air stations or renting a movie is no substitute for the 30, 50, or 80 channels available on cable.

Meanwhile, our Federal watchdog agency, the FCC, after lengthy bureaucratic review, concluded in July that cable operators face effective competition if there are six over-the-air stations in their area. This decision was apparently considered a great advance over the old rule which said that three over-the-air channels amounted to meaningful competition.

All I can say about that is: Guys, you just do not get it. The bureaucrats and experts in Washington can debate the antitrust laws until the cows come home and try to convince each other that cable is not a monopoly, but the American people know better. Any consumer from Burlington, VT, to San Francisco can tell you that if you want to get a full slate of programming, you will probably have to deal with the local cable company. If that is not a monopoly, I do not know what is.

Moreover, cable is an unregulated monopoly. In 1984, Congress stepped in and freed cable from much regulation. In fact, basic cable rates were supposed to be regulated wherever cable faced no effective competition. But when the FCC waved its wand and declared—contrary to simple common sense—that virtually all cable operators did face competition, the operators were off to the races.

From November 1986 to April 1991, basic rates shot up by 56 percent. In a similar period in my own State of Vermont, prices rose 48 percent. And those are just averages. We have all heard the horror stories about truly astronomical increases—of 130 percent in Newark; 186 percent in Jefferson City, MO; and 222 percent in one Connecticut town because of the monopoly. Meanwhile, the unprotected victims of this price-gouging have no recourse.

As cable revenues soared, the industry took aggressive steps to consolidate its position, buying up programmers and preventing potential competitors like satellite or wireless cable from gaining access to key programming. When, for example, cable operators deny competitors access to prime attractions like TNT, with its NBA and NFL broadcasts, what they are doing is making the world safe for monopoly.

And unsafe for consumers. As long as companies face real competition, customers are well served. But if the customer is captive, business' natural impulse to maximize profits means rising prices and declining service. That is why anyone who thinks that cable or any other monopoly can effectively police itself is dreaming.

Of course, in a sense, cable has become a victim of its own success. The programming that cable and its newer competitors like satellite and wireless deliver has increasingly become a fixture in American households. If you want to see news around the clock on CNN; if you want to see public affairs programming on C-SPAN; if you want to see first-run movies or a full menu of college and professional sports, you cannot rely on your old antenna. The days when people were satisfied with a handful of broadcast stations are over. But the more that people come to rely on cable programming, the more that cable's monopoly status becomes intolerable.

THE COMPREHENSIVE CABLE BILL—S. 12

A number of my colleagues, including Senators HOLLINGS, INOUYE, GORE, METZENBAUM, LIEBERMAN, and DANFORTH have been wrestling with the cable issue for a long time and I commend their efforts in doing that. In essence, S. 12 establishes a temporary regulatory scheme while encouraging the growth of a competitive environment that will allow regulation to be phased out.

On the regulatory front, S. 12 requires that cable rates be reasonable and establishes standards for adequate service.

On the competitive front, S. 12 bars any programmer that owns or is owned by a cable operator from unreasonably refusing to deal with competitors like

satellite and wireless or from discrimi-

you have to do it? If you do take this

If there were real competition, no-

S. 2063

"(B) use a VCR to tape two consecutive

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137
PT
24
NO
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satellite and wireless or from discriminating against them in the price or terms of sale, if such discrimination damages local competition. I think that these nondiscrimination provisions could be still tougher, but they are an important step in the right direction.

I so have some concern about the copyright implications of the bill's new provisions on retransmission consent, and I plan to review those provisions carefully. But, on the whole, I think the approach of S. 12 is right on target.

The cable monopoly, of course, wants to continue to have its cake and eat it too. Cable operators oppose regulation on the ground that the free market should be left to work its will, but oppose the very measures—open access to programming—that would allow the free market to work. They talk about letting the free market in, but they make darn sure the free market does not come in.

The truth is that, when it comes to exclusive program deals, the cable industry has a lousy memory. In 1976, when the networks dominated and cable was a fledgling upstart, Congress granted cable a compulsory license so that cable would have full access to broadcast programming and could compete effectively. Now that the shoe is on the other foot, cable insists on its God-given right to tie up programming with exclusive contracts.

It may be that cable operators should not have been allowed to integrate vertically in the first place. If cable systems and cable programmers had remained in separate hands, many of the anticompetitive problems we face now could have been avoided. But given the vertically integrated world we live in now, with most top programmers owned by cable operators, the least we can do is demand that cable's competitors have access to programming on fair terms. To do less is to consign those competitors to defeat and America's consumers to the whims of monopoly power.

CABLE EQUIPMENT BILL

The bill I am introducing today—the Cable Ready Equipment Act of 1991—is aimed at a problem that more and more cable customers are confronting, to their dismay: Namely, that the converter boxes many are required to use disable important features of their cable ready TV's and VCR's.

How many people, Mr. President, have come to you, as they have to me, and said they have cable but then are told to get a converter box. They have to rent the converter box. How many of these people come in and say, "Hey, I got cable, but the cable company told me, 'Well, now you have to rent a converter box from us.'"

And why do you have to rent the converter box? Does it give you a better picture? Usually not. If anything, it usually degrades the picture. Why do you have to do it? If you do take this converter box that they tell you you need, then the TV remote control unit that you bought with your television becomes worthless. That box also makes it impossible to watch one channel while you tape another or to tape consecutive programs on different channels.

And if your new TV includes special features like a picture-in-a-picture display that lets you simultaneously check out a second channel while watching something else—forget it. The converter box prevents that feature from working—this converter box which you were required by your cable company to take apparently for no other reason than the fact that they make money on it.

My bill would do a number of things to make cable equipment more user-friendly:

First, it would encourage cable systems to use methods of signal denial—such as trapping or interdiction—which do not require a converter box in the first place. Because it is more and more evident to me that the main reason for converter boxes is that cable companies can charge for them. The fact that you bought a whole lot of equipment that you are not going to be able to use is immaterial to them as long as they are making money. The heck with whatever inconvenience it causes you;

Second, my bill would forbid cable operators from scrambling those channels offered on basic cable service;

Third, it would require cable operators to offer subscribers the option of receiving their unscrambled channels by direct hookup to their television, eliminating the converter box as to all such stations;

Fourth, cable operators would have to offer subscribers the option of purchasing a remote control device from any source rather than having to rent it from the cable operator.

Finally, it would direct the FCC to establish regulations phasing in a new technology called mutiport, which can decode scrambled signals without disabling any features of either a cable-ready TV or VCR.

If we lived in a real competitive cable world, this legislation would be unnecessary.

Can you imagine if you had two cable companies, one which said, "Well, you have to rent all this extra equipment of ours, you have to buy this or rent that, you have to set up all this stuff on your television—granted, it will not allow you to use any of the special features of your TV, but we are going to make money out of it"; and right in that same town another cable company that said, "Hey, same price, we will let you just hook right up to your TV, you will not have to rent extra equipment from us; you won't have to have a half dozen remote controls and so on." Which cable company do you think you would buy service from?

If there were real competition, nobody would put up with the kind of baloney that they put us through.

Enterprising companies would have seized the opportunity to offer consumers user-friendly service that allowed full use of their TV's and VCR's. But in a monopolistic world, which we have in the cable industry, consumers need help and this bill is designed to provide it. This is highly technical legislation, and I look forward to working on it with interested and knowledgeable parties in this country and within the Senate.

SATELLITE HOME VIEWER ACT—STANDING

My second bill—which I introduced Thursday—is intended to help reduce the amount that home dishowners have to pay for programming. Congressman BOUCHER has introduced companion legislation in the House. As an FCC study concluded in July, satellite carriers that uplink and downlink superstations and network affiliates routinely charge satellite distributors, who sell programming to dishowners, far more—sometimes several times more—than they charge cable operators. This price discrimination against satellite distributors in turn drives up the price that home dishowners have to pay.

That kind of price discrimination is clearly illegal under the Satellite Home Viewer Act of 1988. The problem is that the distributors have no standing to sue to enforce their rights.

My bill—the Satellite Home Viewer Act Amendments of 1991—will correct this anomaly by making clear that satellite distributors have such standing.

Mr. President, Congress cannot continue to ignore the growing problems in the cable industry. I fully agree that competition is the best way to protect consumers, but until consumers have genuine competitive options and are free from monopoly abuse, regulation will be necessary. Moreover, unless monopoly power is restrained by legislation, new competitors like satellite and wireless will die on the vine.

In this regard, I also want to register my concern over the proposed rule announced in July by the Copyright Office—a rule which would doom wireless cable by denying it the all important benefits of the cable compulsory license. Competition to cable should be the order of the day. The last thing we need is to squeeze the life out of a potential competitor.

Mr. President, I look forward to the debate on comprehensive cable legislation early next year. Cable's captive audience is restless and it has a right to demand better treatment. It is up to the Congress and the White House to deliver.

I ask unanimous consent that the full text of my cable equipment bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOTICE AND OPTIONS TO CONSUMERS REGARDING CABLE READY EQUIPMENT.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. NOTICE AND OPTIONS TO CONSUMERS REGARDING CABLE READY EQUIPMENT.

"(a) SHORT TITLE.—This section may be cited as the 'Cable Ready Equipment Act of 1991'.

"(b) FINDINGS.—The Congress finds that—

"(1) the use of converter boxes to receive cable television may disable certain features of cable ready televisions and VCRs, including, for example, the ability to—

"(A) watch a program on one channel while simultaneously using a VCR to tape a different program on another channel;

"(B) use a VCR to tape two consecutive programs that appear on different channels; or

"(C) use certain special features of a television such as a 'picture in a picture' feature; and

"(2) cable operators should, to the fullest extent possible, employ technology that allows cable television subscribers to enjoy the full benefit of the features available on cable ready televisions and VCRs.

"(c) DEFINITIONS.—As used in this section:

"(1) The term 'cable ready', when used to describe a television or VCR, means that the television or VCR is equipped with adequate channel capacity to receive the service offered by cable operators without the use of a converter box, except insofar as a converter box is needed to decode scrambled signals.

"(2) The term 'Commission' means the Federal Communications Commission.

"(3) The term 'converter box' means a device that—

"(A) allows televisions that are not cable ready to receive the service offered by cable operators; and

"(B) decodes signals that cable operators deliver to subscribers in scrambled form.

"(4) The term 'multiport' means an apparatus that is built into a television according to the EIA/ANSI 563 standard, or any successor standard accepted by the Commission, into which is fitted a cable system decoder that performs only a descrambling function, while other functions, such as tuning and remote control, are carried out by the television.

"(5) The term 'VCR' means a videocassette recorder.

"(d) SCRAMBLED SIGNALS.—Cable operators shall not scramble or otherwise encrypt any signal that is offered as part of basic cable service, as that term is defined in section 602(2).

"(e) CONVERTER BOXES.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations requiring a cable operator offering channels the reception of which requires a converter box to—

"(1) notify a subscriber that if a subscriber's cable service is delivered through a converter box, rather than delivered directly to the subscriber's cable ready television or VCR, the subscriber may be unable to enjoy certain features of his television or VCR, including the ability to—

"(A) watch a program on one channel while simultaneously using a VCR to tape a different program on another channel;

"(B) use a VCR to tape two consecutive programs that appear on different channels; or

"(C) use certain special features of the subscriber's television such as a 'picture in a picture' feature;

"(2) offer any subscriber with a cable ready television who does not receive channels the reception of which requires a converter box, the option of having his cable service installed, or reinstalled, at the cable operator's expense, by direct hookup to the subscriber's television or VCR; and

"(3) offer any subscriber with a cable ready television who receives or wishes to receive channels the reception of which requires a converter box, the option of having his cable service installed, or reinstalled, at the cable operator's expense, in such a way that those channels whose reception does not require a converter box are delivered directly to the subscriber's television or VCR.

"(f) REMOTE CONTROL DEVICES.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations relating to the use of remote control devices that shall—

"(1) require a cable operator who offers subscribers the option of renting a remote control unit—

"(A) to notify subscribers that they may purchase from any source a remote control device rather than renting it; and

"(B) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(2) prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(g) MULTIPORT TECHNOLOGY.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations relating to the installation of multiport technology on new televisions and the supplying by cable operators of descrambling units that are compatible with such technology. Such regulations shall require that—

"(1) all televisions with a picture screen of 13 inches or greater in size sold in the United States on or after the earliest feasible date to be fixed by the Commission, shall be equipped with multiport technology;

"(2) no later than the date fixed by the Commission in paragraph (1), a cable operator who provides channels the reception of which requires the use of a converter box shall, for a subscriber who receives or wishes to receive such channels and who owns a cable ready television equipped with multiport technology, offer to replace the converter box at the cable operator's expense, with a descrambling unit that is compatible with the multiport technology; and

"(3) an offer made pursuant to paragraph (2) to replace a converter box with a descrambling unit shall fully inform the subscriber that the use of the descrambling unit will enable the subscriber to enjoy features available on a cable ready television and any VCR that is connected to the television.".

By Mr. HATFIELD (for himself, Mr. MITCHELL, Mr. SIMON, Mr. JEFFORDS, Mr. DECONCINI, Mr. LEAHY, Mr. ADAMS, Mr. HARKIN, Mr. KENNEDY, and Mr. WELLSTONE):

S. 2064. A bill to impose a 1-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period; to the Committee on Foreign Relations.

NUCLEAR TESTING MORATORIUM ACT

Mr. HATFIELD. Mr. President, in a just a few days I will be leaving for Pearl Harbor with a delegation taking part in the ceremonies commemorating the 50th anniversary of the Japanese attack on the Pacific fleet. Recorded history refers to December 7, 1941, as a day which will live in infamy.

Mr. President, for myself and many others, Pearl Harbor's shock and tragedy is matched by few horrors, but certainly by the atomic blasts at Hiroshima and Nagasaki. As a young naval officer who viewed Hiroshima only days after the bomb was dropped I saw firsthand the terrible power of nuclear weapons.

Since World War II the United States and the Soviet Union engaged themselves in the task of perfecting the atom, creating tactical and strategic weaponry which could be flexible enough to use in any military situation. Yet, at the same time the superpowers have sought to suppress the possession of nuclear capabilities by other countries. That goal largely has been met. And just as the United States' relationship with Japan since Pearl Harbor has been completely and permanently transformed, so has our own need for nuclear weapons. The problem is that some within the Pentagon are not yet ready to admit that fact.

Today, I am pleased to announce that Senator MITCHELL and I, along with several other Senators, are offering legislation which will place the United States in a leadership position with respect to nuclear testing. Our bill calls for a 1-year, bilateral moratorium on such tests, so long as the Soviets are adhering to their decision to suspend tests. Now, more than ever, a nuclear test ban makes sense and I commit myself today to the effort to enact this moratorium

The premise behind our legislation is rather simple: The ending of the cold war has reversed the arms race. There is no need to develop new nuclear weapons. People will certainly argue over the need for such weapons at all. But no one can, in my view, assert that the United States will be unable to maintain national security if the Nation's testing program is halted. To the contrary, I am convinced that our security in the new world order can only be assured by the decision to suspend all nuclear testing.

President Bush's former arms control negotiator Richard Burt noted recently that "I think the time has come for us to seriously look at [a comprehensive test ban]. If the United States and the Soviet Union stopped testing nuclear weapons, it is going to be that much more difficult for small countries in the Third World to do that."

VOL
137
PT
24
NO
26
1991
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JA
3
1992
UMI

Mr. Burt has captured the real argument for a test ban: The threat has changed. We cannot allow ourselves to be preoccupied with a Soviet threat which has all but dissolved while ignoring the fact that the gravest danger now lies with the prospect of nuclear proliferation. The United States can recognize this threat and address it not only by implementing the bill introduced by Senator MITCHELL and myself, but by also working vigorously to enact a comprehensive test ban treaty.

Detractors will no doubt argue that a test ban places our nuclear stockpile at risk by prohibiting tests which verify safety. Yet, in a report to Congress last summer, a physicist at Lawrence Livermore National Laboratories asserted that the safety of our nuclear stockpile need not limit U.S. consideration of a test ban. The retirement of older weapons as well as tactical weapons have made this possible. In addition, precautions regarding the handling and transporting of nuclear weapons can provide a measure of safety in lieu of testing.

If then, we have largely ended the nuclear arms race and identified alternatives to testing, I challenge my colleagues to justify to the American taxpayer the continuation of a program which costs an average of $160 million per test. I urge the Congress to adopt the Nuclear Testing Moratorium Act in the spirit of the arms control initiatives announced by Presidents Bush and Gorbachev early this fall.

Mr. MITCHELL. Mr. President, I am pleased to join the distinguished Senator from Oregon [Mr. HATFIELD] and my other distinguished colleagues in introducing this legislation to implement a mutual moratorium on nuclear testing.

I believe it is important to sustain the momentum created by the recent unilateral arms control initiatives taken by President Bush and President Gorbachev. This legislation, by taking up the Soviet offer to temporarily halt nuclear testing, is another step toward building a more peaceful new world order.

President Gorbachev has offered to observe a 1-year testing moratorium as part of an effort to move the two countries toward a comprehensive test ban.

Up until President Bush assumed office, it had long been U.S. policy to pursue an end to all nuclear testing.

Our commitment to end nuclear testing was related to our institution of the nonproliferation regime. In exchange for other countries agreeing not to acquire nuclear weapons, we agreed to try to eliminate their role in our defense. Even President Reagan expressed to Congress his commitment to immediate negotiations on a step-by-step program to limit and end nuclear testing.

Unfortunately, the Bush administration has taken a giant step backward. This administration has called for a "period of implementation" of the Peaceful Nuclear Explosions and Threshold Test Ban Treaties before negotiating additional testing limits.

The rationale the President uses is that we must continue testing as long as we have nuclear weapons. Yet we can test the reliability of nuclear weapons without exploding warheads.

The real reason to conduct new tests is to develop new types of more lethal nuclear weapons, but we don't need such new nuclear weapons. Already this year, the administration has conducted 7 nuclear tests at a cost of between $10 and $100 million per test. This does not seem to reflect the end of the cold war and the emergence of a new world order.

It fails to acknowledge that the relevance of nuclear weapons to our society has declined dramatically. This administration has not sought a comprehensive nuclear test ban despite the fact that the Soviet Union has periodically halted its own nuclear tests.

President Bush has declined to explore further limits despite the fact that he has initiated a new phase of arms control in which progress can be achieved outside of the legal framework of a formal treaty. That is why we are introducing this bill today.

It is a very simple bill. It says that for 1 year, the United States will refrain from exploding any nuclear weapons as long as the Soviet Union, the Soviet Republics, or their successor states do the same. But if they do explode a nuclear device, the United States is free do so. I commend the senior Senator from Oregon for his leadership on this issue and I look forward to continuing to work together on issues of such vital concern. I am confident that we all want to help the new world order become a reality, to see more rapid and meaningful progress toward disarmament.

We all want to help end nuclear proliferation. We all want a cleaner environment, free of radioactive waste. We all want to save money.

With the arms race ending, with both the United States and the Soviet Union making deep reductions in nuclear and conventional weapons, now is the time to take the additional step of negotiating an end to nuclear testing. And in the meantime, the United States should join the Soviet Republics in temporarily halting nuclear explosions. It is a small but meaningful step toward a safer world.

By Mr. DIXON (for himself and Mrs. KASSEBAUM):

S. 2065. A bill to federalize the crime of child molestation for repeat offenders; to the Committee on the Judiciary.

KAHLA LANSING CHILD PROTECTION ACT

Mr. DIXON. Mr. President, I rise today to introduce the Kahla Lansing Child Protection Act of 1991, and ask for its swift enactment.

Kahla Lansing was a lovely 6-year old girl who lived in Spring Valley, IL. Spring Valley is a town of some 5,800 people nestled along the Illinois river in Bureau County, Mr. President. Kahla went to Lincoln elementary school there, and was a bright, well-liked student.

Earlier this year, Kahla was roller skating out in her family's neighborhood when a man in a car abducted her into the night, never to be heard or seen from again. The man molested her and murdered her, Mr. President; this lovely 6-year old girl.

The mayor of Spring Valley, who also happened to be Kahla's elementary school principal, Jim Narczewski, wrote me recently about the Kahla Lansing murder, and its devastating impact on the people of this close-knit family community. In his letter, he writes that the community was shocked to learn that the accused:

> Had been twice convicted of child molestation in the State of TX, sentenced to ten years imprisonment, and released after three months of "shock" incarceration. * * * in addition to abducting, molesting, and murdering Kahla Lansing, this same individual also sexually molested a child in Galesburg, Illinois. After leaving Galesburg, Illinois, the defendant traveled to Spring Valley * * * in search of a child to abduct and molest.

Mr. President, please hear what the mayor has said: The accused was twice convicted of child molestation, served his time under the law, and then hunted down Kahla Lansing. The system failed in this case.

It provided the loophole through which the accused was able to continue his sick criminal activity.

It is a sad fact that the Kahla Lansing case is not unique. Thousands of children are molested every day. Those convicted serve a wide variety of sentences. State laws provide an inadequate patchwork of laws for repeat offender situations. The application of Federal law in repeat offender situations provides the type of protection necessary to prevent Kahla's tragedy from reoccurring.

Our children are not adequately protected under current law from this crime. We need to provide better protection.

The legislation I am introducing today closes the loophole. It provides for Federal jurisdiction in cases where an individual has one or more prior Federal or State criminal convictions for child abuse as the term is defined in the 1990 Crime Control Act. The bill imposes a tough 15-year minimum mandatory sentence with no opportunity for parole, and requires the Bureau of Prisons to provide appropriate counseling and therapy to the person while incarcerated.

Under my legislation, values are put into practice. We, as parents and legislators, have the obligation to protect

children from the type of sick people who engage in child abuse, molestation, and pornography.

I truly hope, Mr. President, that through this legislation, no child will have happen to them what happened to Kahla Lansing. It would be a fitting memorial to her, and to all those children whose voices were silenced too soon, to enact this legislation. We must never forget Kahla, Mr. President, and with my colleagues' support of this legislation, we never will.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2066. A bill to amend title 10, United States Code, to require the Secretary of Defense to provide financial assistance to local educational agencies administering public school districts where military installations are located; to the Committee on Armed Services.

IMPACT AID PROVIDED BY THE SECRETARY OF DEFENSE

• Mr. DIXON. Mr. President, together with my good friend and colleague Senator PAUL SIMON from Illinois, I am introducing legislation correcting what is presently an inequity in financing education for those communities that support military bases and an inequity to their local taxpayers. This bill transfers part of the Federal impact fund from the Department of Education to the Department of Defense. While this step may at first appear to do things backward, the reality is that this legislation will help correct an injustice to many local property taxpayers who presently have to bear the unfair burden of paying a large portion of the cost of educating military dependents who live at many of our U.S. installations.

Many of our school districts Mr. President, are in a dire financial state. They are taking drastic steps to try to balance their budgets. Teacher paycuts, lack of necessary school equipment, reduction or elimination of sports programs, and the reduction of the number of school days all attest to the problem many of the school districts are having with their budgets. These cutbacks in educational services to our children are occurring at a time when we desperately need to improve our educational system in order to assure our future competitiveness in the world marketplace.

All of these financial problems are being made much worse by the impact of our military dependent children that the school districts are required to absorb in their school systems. In my State of Illinois, there are school districts, for example, Highwood-Highland Park and West Chicago, that are facing financial collapse due in large part to the impact of supporting military dependents without adequate financial support from the Federal Government.

A large portion of the money to pay for the school system comes from local taxpayers in the form of property tax and State tax. If a military member lives on the military installation, he does not pay any property tax. If his official residency is other than the State where he is stationed, he is not required to pay tax to that State where he is temporarily living.

Mr. President, for the local school districts, this means that needed tax money is not generated. To offset this problem, the Federal impact law provides Federal money to the school district for these students. The Department of Education administers this program. Unfortunately, based upon the dollars allocated in this program and the formulas used by the Department of Education to dispense these dollars, the school districts that service military dependents do not get adequate funds. The result is the school districts are short-changed on the dollars, which, in turn, means our students are penalized with a less than adequate education. This situation causes a grave injustice to those communities which are required to provide an educational system for military dependents.

Mr. President, as the chairman of the Armed Services Subcommittee on Readiness, Sustainability, and Support, I strongly believe that the Department of Defense should be accountable for those costs that are directly related to their operations. I further strongly believe that the cost to have military personnel and their dependents located in our communities at military installations is a cost directly related to the operations of that installation.

Mr. President, by transferring the responsibility and administration of that portion of the Federal impact funds that support military dependents to the Department of Defense, we will ensure the Department of Defense considers the cost of supporting its dependents in their budget requests. This in turn will cause the Department of Defense to ensure that the local community school system gets the needed dollars to support military dependents. Mr. President, this bill will require the Department of Defense to pick up the tab for military dependent schooling. I strongly feel this is only right. Mr. President, I also plan to introduce, at a later date, a bill to revamp how the impact fund for the military dependents is administered.

This bill we are introducing that transfers the portion of the impact funds that support military dependents is basically restating a premise that the national defense costs are a shared national burden, not an item with which to over burden a small group of homeowners. This cost of educating our military dependents should be factored in as a vital part of the cost of defense.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF IMPACT AID RESPONSIBILITY TO THE SECRETARY OF DEFENSE.

(a) IN GENERAL.—(1) Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2254. Impact aid for local educational agencies

"(a) The Secretary of Defense shall establish and conduct a program to provide direct financial assistance to each local public educational agency that—

"(1) administers a public school district in which there is located any military installation composed of property that—

"(A) was acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property owned by the United States before 1939 that was located in the school district; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired);

"(2) experiences a substantial and continuing financial burden resulting from the acquisition of such property by the United States; and

"(3) is not being substantially compensated for the loss in revenue resulting from the acquisition of such property by the United States.

"(b) To the maximum extent practicable, the program established pursuant to subsection (a) shall be consistent with the program established under the provisions of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 236 et seq.).

"(c) Funds for carrying out subsection (a), including funds for making payments to local educational agencies pursuant to such subsection, shall be provided for under the national defense budget function (050).

"(d) A local educational agency may not receive payments under the Act referred to in subsection (b) with respect to children counted for the purpose of providing financial assistance under the program conducted pursuant to this section.

"(e) In this section, the term 'military installation' shall have the meaning given that term in section 2801(c) of this title.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting after the item relating to section 2253 the following new item:

"2254. Impact aid for local educational agencies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992.•

• Mr. SIMON. Mr. President, I rise to join my colleague and friend from Illinois in supporting legislation that directs the Secretary of Defense to administer the military portion of impact aid. I am pleased to be an original cosponsor of this bill.

Impact aid financially compensates local school districts that are adversely affected by activity within the district, such as a military base. This activity can severely affect the tax base of the school district and thus hamper local schools' ability to provide all students with the quality education they deserve. Not only does our Federal activity reduce revenue from local property taxes, it can substantially increase the number of students that local schools must educate.

By not adequately reimbursing local schools for this cost, the Federal Government is shortchanging these districts—and in many areas, local taxpayers are taking up the slack. For example, North Chicago District 187 is losing up to $4,000 per year for each military child—despite passage of a referendum to raise property taxes to one of the highest rates in Illinois. Inadequate impact aid funding has forced North Chicago to cut 45 of 140 teachers in order to meet payroll. Highland Park and other Illinois districts, as well as school districts throughout the country, face similar problems. Our students deserve better.

Last week I wrote to Secretary Cheney urging that the Department of Defense take over the military portion of the Impact Aid Program. The Federal defense budget is nearly 10 times larger than our education budget. Obviously, there is much more room for providing adequate funding for this program within the defense budget than in the already underfunded education budget. In fact, impact aid funds appropriated for next year total just less than the cost on one B-2 bomber. I do not have to ask what is more important to our future—manufacturing another bomber that will probably never even be used or providing access to a quality education for 600,000 students.

In short, transferring the military portion of impact aid to the Department of Defense is common sense. What better way to show our appreciation to the individuals who serve in our Armed Forces—many of the whom served in the Persian Gulf—than to contribute to full and fair funding for educating their children.

Mr President, I urge my colleagues to join me in supporting this important legislation.●

By Mr. MOYNIHAN:

S. 2067. A bill to provide for the elimination of the General Services Administration's Federal Building Fund; to the Committee on Environment and Public Works.

S. 2068. A bill to provide for a biennial review and planning for a public buildings program; to the Committee on Environment and Public Works.

S. 2069. A bill to provide that the General Services Administration provide information concerning public buildings in a certain form for the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives; to the Committee on Environment and Public Works.

REFORM OF GENERAL SERVICES ADMINISTRATION

Mr. MOYNIHAN. Mr. President, today I am introducing legislation to reform the General Services Administration's Public Buildings Service. Mr. President, we have a budget process which looks no further than 1 year. Thus we continue to waste scarce funds and make poor investment decisions. In the case of procuring Government space, we have been forced to continue to lease expensive space rather than purchase or construct new space. Landlords become wealthy, but the Government has nothing to show for it, except a stack of rent stubs.

This is not new. Shortly after World War I, a public buildings commission surveyed Federal office space in Washington and found we were spending $1 million a year in rent to private landlords. There was an outcry, of course, and we built the Federal Triangle shortly thereafter. By 1994 we will spend $2 billion a year for rent. Too much for an outcry. Perhaps a howl.

The administrations' economic policies of the last decade have left us with no choice but to lease rather than to construct Federal office space. The pressure of the budget crisis makes it expedient to budget annual lease payments rather than the larger sums necessary to construct federally owned buildings. A General Accounting Office study of 43 proposed new building projects found that building the facilities would be $12 billion cheaper than leasing the space, over a 30-year period. Thus, while claiming to make Government behave more like the private sector, we fail to make necessary and wise investments.

But this has always been the case. It has been said that public buildings are the second most important item to every Cabinet Secretary. More time is spent worrying about office space than almost any other single issue in Government.

Although public building space is important, it is not popular. Such an investment never is. Thus we build in fits and starts.

From the first Congress until 1902, new Federal buildings were generally authorized individually. In 1902, Congress passed the first Omnibus Building Act, authorizing more than 60 buildings. Other such bills were passed, but with the onset of World War I everything just stopped. And they did not truly start again until the enactment of the Public Buildings Act of 1926 which created Washington's Federal Triangle and the Supreme Court Building. The Federal Triangle was needed to make up for the Government's office space shortage, which had become intolerable. During World War I, while we delayed the construction of new projects, the Government work force doubled to some 70,000.

World War II brought an end again to new public buildings construction. From then on we built slowly until space shortages would become troublesome enough that Congress would authorize a larger package of buildings all at once. This happened in 1954. GSA received a 3-year authority to build 23 buildings. Again in 1972, GSA received authority to build 68 projects.

Recognizing this trend, during the last buildings crisis, we created a self-funding mechanism for public building, known as the Federal Building Fund or FBF. It is funded by the so-called rent paid by agencies to GSA. The fund was intended to come the operating cost of the Public Buildings Service and to fund new construction projects. It has not. In fact, the fund has generated less than $100 million a year, on average, for new construction. To put this in perspective, the administration has requested a new Department of Transportation headquarters. That project alone would cost over $500 million.

The simple truth is we are not building enough buildings. A 1989 GSA/OMB study reached the same conclusion. But as long as we link the amount of money GSA collects in rents to the amount available for building new buildings we will fail to make the necessary investment.

The Administrator of the General Services Administration has testified before the Subcommittee on Water Resources, Transportation and Infrastructure, which I chair, that GSA should own 74 percent of its space, leasing the other 26 percent. In 1970, GSA owned 70 percent. Today they own just 57 percent. We are going backward. This is unwise and unacceptable.

For this reason, Mr. President, I introduce today a bill to eliminate the Federal Buildings Fund. I am greatly pleased that Senator BURDICK, chairman of the Environment and Public Works Committee is a cosponsor of this legislation.

By returning to the regular appropriations process for public buildings we will be able to make decisions based on the economics of such an investment. The shortsightedness may not end, but the choices will be clear.

Funding is not the only problem with GSA's public buildings service. Their planning and analysis are also insufficient. As chairman of the subcommittee which oversees GSA's Building Program, I am astonished at how little information we receive about proposed projects. Not just new construction, but leases and repair and alteration projects as well.

In this time of tight budget constraints, the question is not whether a

proposed project has a positive rate of return, but which projects have the highest rate of return—where does the Government get its best return on investment. GSA must submit an adequate 5-year plan establishing priorities. I have requested such a plan, but not received it.

As such, Mr. President, I am also introducing a bill, to be known as the Public Buildings Planning Act. This bill will require that GSA provide the information necessary for Congress to make rational economic choices in the public buildings area. it is a maxim that good decisions require good information. We are not getting it. We must require it.

Finally, Mr. President, I introduce a bill today to require GSA to include commercial equivalent rates in their lease prospectus submissions. GSA currently presents the committee a lease range estimate that doesn't relate to the private sector. This has caused great consternation in the committee. That information is important and this bill will require it to be included in all GSA lease requests to Congress.

Mr. President, these reforms are long overdue. We need to make intelligent investments and with these bills enacted, we will have a greater opportunity to do so.

By Mr. MOYNIHAN (for himself and Mr. BURDICK):

S. 2070. A bill to provide for the Management of Judicial Space and Facilities; to the Committee on Environment and Public Works.

JUDICIAL SPACE AND FACILITIES MANAGEMENT ACT

● Mr. MOYNIHAN. Mr. President, today I introduce, along with Senator BURDICK, legislation to grant the Federal courts greater independence from the General Services Administration in the area of space and facilities management. Mr. President, currently the judicial branch of our Government is dependent upon the executive branch for all of its space and facilities needs. The Judiciary's requests are subjected to both GSA's and OMB's decisionmaking process. And although both have been willing in recent years to fund a great number of court projects, it remains an executive branch prerogative.

The courts have rightfully requested more independence from GSA. The legislation I introduce today will do just that. Under this bill, following a transition period, the courts will no longer be subjected to executive branch review. Rather, they will make their space and facilities requests directly to Congress. Further, the Director of the Administrative Office of the United States Courts will be granted authority to contract for space and facilities for the U.S. courts itself, instead of relying on GSA.

As a consequence of this separation, the courts will no longer pay the so-called rent to GSA. They will be required only to reimburse GSA on an actual cost for services rendered basis. Such an arrangement already exists for several buildings belonging to the Social Security Administration.

Let me state here, Mr. President, that I do not support the decentralization of public building services. Centralization in this area is efficient and appropriate for executive branch agencies. Yet, in the case of the courts, it raises the question of separation of powers.

It should also be recognized, Mr. President, that greater independence for the courts ought not threaten the construction of new executive branch buildings. We know we are not building enough. The Administrator of GSA has testified that the Government should own 74 percent of its space. Currently, however, GSA owns just 57 percent. This is down from 70 percent in 1970. We are headed in the wrong direction. As such, the courts will not be permitted to receive funds from the Federal Building Fund for construction of its facilities following the 2-year phase period.

The courts will be permitted to establish their own building fund to be capitalized from whatever sources they may identify. And of course, Congress may directly appropriate funds for court projects. Mr. President, this bill is fair. It provides independence for the courts, but it does not create an inefficient duplication of GSA's services. I urge my colleagues to support it.●

By Mr. KERRY:

S. 2071. A bill to suspend temporarily the duties on certain instant print cameras; to the Committee on Finance.

S. 2072. A bill to suspend temporarily the duties on certain chemicals; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN CAMERAS AND CHEMICALS

● Mr. KERRY. Mr. President, today I am introducing two bills to amend the Tariff Code.

In the last few years, Mr. President, many of us have begun to recognize the way in which international competition is shifting significantly to the economic sphere. Indeed, many eloquent speeches have been made on this floor alluding to the fleeting triumphs of the cold war and enjoining America to embark on a new economic struggle to regain economic competitiveness.

However, Mr. President, despite this new reality and new rhetoric, precious little is being done to advance the competitiveness of this Nation. In fact, we continue to force our companies to play by a set of outmoded rules, to tie one hand behind their backs. This is especially true in the area of trade.

American businesses, to their credit, are doing their best to compete globally regardless of the laws and regulations imposed on them by Congress and regulatory agencies. One prime example of this is Polaroid. This company, a leader in advanced instant print systems and a leading manufacturer of technical and industrial photographic equipment, is engaged in an effort to maintain its dominance. What is so special about this effort is that Polaroid is seeking to keep its production facilities principally located in the United States.

Today I am introducing two bills to assist Polaroid in this effort. My legislation would suspend temporary duties on certain instant print cameras and chemicals now produced by the company in its foreign trade subzone located in Massachusetts. This duty suspension would help Polaroid continue to be competitive from its United States base. At the same time, the legislation would not damage any other U.S. competitor since there are no U.S. producers of the imported goods or of high-quality-instant photographic equipment.

I hope that my colleagues can join me in this small effort to assist a dynamic U.S. corporation retain its leadership.●

By Mr. BREAUX (for himself and Mr LOTT):

S. 2073. A bill to authorize appropriations for fiscal year 1992 for the Maritime Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARITIME ADMINISTRATION AUTHORIZATION

● Mr. BREAUX. Mr. President, I, along with my colleague, Senator LOTT, am introducing a bill today that authorizes the appropriations for the Maritime Administration [MarAd] for fiscal year 1992. The largest increase over the administration's request is an additional $8,961,000 for MarAd's Ready Reserve Force [RRF] Operations and Training. The funds authorized by this bill will enable MarAd to continue and improve upon its operation of the RRF as well as its many other functions.

MarAd's primary responsibility is the promotion of those activities that are designed to enhance the maritime industry in the United States. Among these duties are the maintenance and deployment of the National Defense Reserve Fleet, including the Ready Reserve Force.

The RRF played an essential role in Operation Desert Shield/Desert Storm. Had it not been for the RRF's participation in the military sealift strategy of the United States during the conflict in the Persian Gulf, the allied victory in the Middle East might not have been as thorough as it proved to be.

MarAd deserves much credit for our success in the Persian Gulf. Its performance in the maintenance and deployment of the RRF was vital. They are to be commended for a job well done.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. For fiscal year 1992, the following amounts are authorized to be appropriated for the Maritime Administration:

(1) $272,210,000 for payment of obligations incurred for operating-differential subsidies of United States-flag vessels.

(2) $36,985,000 for expenses related to manpower, education, and training, including—

(A) $25,278,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(B) $10,072,000 for assistance to the State maritime academies; and

(C) $1,635,000 for manpower and additional training.

(3) $28,204,000 for operating programs.

(4) $8,011,000 for expenses related to national security support capabilities, including—

(A) $6,748,000 for the National Defense Reserve Fleet; and

(B) $1,263,000 for emergency planning operations.

(5) $233,961,000 for the Ready Reserve Force, including—

(A) $104,000,000 for fleet additional, replacements acquisitions, and upgrading of vessels for the Ready Reserve Force;

(B) $125,961,000 for maintenance and operations programs in support of the Ready Reserve Force; and

(C) $4,000,000 for Ready Reserve Force share facilities and fleet support craft.●

By Mr. LIEBERMAN (for himself and Mr. RUDMAN):

S. 2074. A bill to amend section 6002, United States Code, respecting immunized testimony; to the Committee on the Judiciary.

IMMUNIZED TESTIMONY

Mr. LIEBERMAN. Mr. President, together with my friend and colleague from New Hampshire, Senator WARREN RUDMAN, I rise today to introduce a bill that would revamp our Nation's laws governing use immunity. Passage of this bill is essential to preserve the ability of law enforcement and Congress to obtain immunized testimony from a witness without endangering society's right to hold that witness accountable for his or her crimes.

Many of the arguments supporting this legislation are summarized in an op-ed I wrote that was published in the Washington Post earlier this year. I will not repeat them now, but ask unanimous consent that a copy of my op-ed be reprinted in the RECORD immediately following my statement.

This is a significant anticrime measure. Since Congress adopted use immunity as part of the Organized Crime Control Act of 1970, it has become one of the greatest weapons Federal prosecutors have to attack organized crime, including drug kingpins, and complex, white collar crimes, such as S&L fraud. Unfortunately, this weapon has been significantly blunted by recent court decisions. This bill seeks statutorily to reform the law underlying those decisions, thereby reinvigorating use immunity as a law enforcement weapon.

This bill is also essential to preserving Congress' oversight and investigative powers. Without the reforms contained in this bill, Congress will often face the dilemma of either letting criminals go free or obtaining testimony necessary to proper oversight.

Mr. President, there is an adage I learned in law school that says, "Hard cases make bad law." Fortunately, in this instance, it is within our power to change the law. We can make use immunity useful once again.

I ask unanimous consent that copy of the bill be printed in the RECORD, immediately following my op-ed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 24, 1991]

AFTER THE NORTH CASE: HOW DO WE GET AT THE TRUTH?

(By Joseph I. Lieberman)

"Hard cases make bad law," an adage first learned in law school, was borne out once again by the legal journey of Oliver North. Col. North—patriot and hero to some, scoundrel to others—has won his freedom. In the process, his case may have destroyed a valuable investigative tool used by law enforcement agencies and by Congress: the grant of "use immunity." Now freed from the political controversy of the North prosecution, it is time to assess and repair this damage.

Use immunity was an innovation enacted by Congress as part of the Organized Crime Control Act of 1970. It struck a balance between society's interest in fully investigating and prosecuting crimes and a witness's Fifth Amendment privilege against self-incrimination. Under that law, which the Supreme Court upheld in 1972, a witness who is compelled to testify can still be prosecuted so long as neither the witness's testimony nor evidence derived from it is later used to prosecute him or her.

This balance, properly executed, makes sense. In criminal cases involving organized crime and complex white-collar crime (such as the savings and loan scandal), the testimony of underlinings is often essential in convicting the criminal boss. Strategic granting of use immunity allows prosecutors to gain the evidence they need to convict the boss while preserving the witness's Fifth Amendment right not to testify against oneself and the right to prosecute that witness.

Similarly, Congress has legitimate oversight responsibilities for which it may require testimony from alleged criminal perpetrators. By granting use immunity to key witnesses, Congress can more quickly arrive at the truth of a matter of urgent public importance.

But under the court decisions that led to the end of the North case, the right to prosecute a witness granted use immunity has become an illusion; it's tantamount to waiving prosecution, no matter how heinous the crime. That's because the court in the North case vastly expanded what it means to use a defendant's immunized testimony against him or her. To prosecute that person, prosecutors must show that the defendant's testimony in no way influenced their witnesses. The incentive given to clever defense lawyers is clear: simply show your client's immunized testimony to every possible prosecution witness and—bingo—they're tainted and useless in court. Indeed, to fail to do so may be malpractice.

The chilling effect on Congress's power to investigate is clear: left unchanged, the current state of the law will inhibit its ability to get to the bottom of future S&L, HUD, Watergate, Iran-contra and BCCI scandals. Congress will be forced to forgo shedding the light of public inquiry on major cases of fraud and abuse if it doesn't want to endanger the prosecution of those who committed crimes.

Similarly, the outcome of the North case will inhibit prosecutors from going after the masterminds of criminal conspiracies by granting use immunity to their associates. Lawrence Walsh's decision to end North's prosecution demonstrates that the appellate court has erected an insurmountable burden to prosecuting a witness who has given testimony under a grant of use immunity.

I do not believe the Fifth Amendment requires us to sanction such gamesmanship or mandates the onerous requirements set by the appellate court. During Senate consideration of crime legislation earlier this year, I was blocked from offering an amendment that would have established a more sensible balance between investigators' needs and a defendant's Fifth Amendment rights. Under my amendment, which will shortly be introduced as a bill, testimony of a witness exposed to the defendant's prior immunized testimony would not be excluded so long as the witness testifies based on what he saw or heard transpire.

For example, if the bill had been law, it would not have mattered that Robert McFarlane was affected by North's immunized congressional testimony so long as he testified based on his own knowledge of the facts in the case. My bill would also prohibit the prosecution from exposing a witness to the immunized defendant's statements or otherwise using the defendant's immunized testimony to develop lines of inquiry.

These modifications would permit Congress to investigate fraud without shielding the perpetrators from prosecution and would give back to prosecutors the power to use testimony from witnesses to convict criminal bosses. At the same time, our legislation would still protect defendants against the misuse of immunized testimony by prosecutors.

This is the kind of balance Congress intended when it created use immunity 20 years ago. It is the kind of balance Congress must restore if the public's right to know—and right to justice—is to be fully preserved. Hard cases do make bad law. But it's within our power to change the law and make use immunity useful once again.

S. 2074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. IMMUNIZED TESTIMONY.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 6002 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whenever"; and

(2) by adding at the end the following new subsection:

"(b)(1) Testimony of a witness that is based on the witness's personal knowledge, irrespective of whether the witness has been exposed to testimony compelled under subsection (a), shall not be considered to be directly or indirectly derived from or to constitute a use of such compelled testimony if—

"(A) the prosecution has made no use of the immunized testimony; and

"(B) the witness was not exposed to the immunized testimony by the prosecution or by a third part acting, directly or indirectly, at the direction of the prosecution.

"(2) This subsection does not affect the prosecution's affirmative duty to prove that the evidence it proposes to use is otherwise derived from legitimate sources wholly independent of the compelled testimony.

"(3) This subsection shall be applied so as fully to protect a witness's privilege against self-incrimination in all respects. If, in the particular circumstances of any case, any provision of this subsection cannot be applied in a manner that is fully consistent with a witness's privilege against self-incrimination, the provision shall be applied only to the extent that it is fully consistent with the witness's privilege against self-incrimination, and the remainder of this subsection shall be fully applicable.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to compelled testimony that is given on or after the date of enactment of this Act.

By Mr. LIEBERMAN:

S. 2075. A bill to facilitate and assist in the economic adjustment and industrial diversification of defense industries, defense-dependent communities, and defense workers that are adversely affected by the termination or reduction of defense spending or defense-related contracts; to the Committee on Finance.

INDUSTRIAL DIVERSIFICATION AND ECONOMIC ADJUSTMENT ACT OF 1991

● Mr. LIEBERMAN. Mr. President, I rise today to introduce the Industrial Diversification and Economic Adjustment Act of 1991, a bill designed to effectuate a smooth, orderly, and intelligent transition to reduced levels of U.S. defense spending.

I am very pleased to be joined in this effort by Senator DODD, and I am also pleased to join Senator DODD as a cosponsor of the Defense Savings Investment Act of 1991, which he will be introducing later this afternoon.

Mr. President, throughout our history the level of U.S. defense spending has fluctuated greatly in response to a variety of threats to our national security. In 1944, during the peak of World War II, defense spending represented approximately 39.2 percent of our total GNP; in 1953, during the Korean war, defense spending represented approximately 14.4 percent of total GNP; and in 1968, during the Vietnam war, defense spending rose to 9.6 percent of GNP.

More recently, between the years 1979 and 1986, the United States waged what we are now able to describe as the final battle of the cold war. United States defense spending rose from 4.8 to 6.5 percent of GNP—the largest peacetime buildup in our history. In fact, Mr. President, in 1989 the Federal Government spent approximately $300 billion for defense. If we adjust this figure for inflation it represents roughly the same percent of GNP as at the 1953 Korean war peak and the 1968 Vietnam war peak.

Unlike most other conflicts, however, the cold war was not fought on the battlefields. It was fought in factories and laboratories throughout the country, and the soldiers included not only the armed services, but some of America's finest engineers, scientists, and skilled workers.

Now, in significant part due to their efforts, democratization and economic reform are emerging in both Eastern Europe and the Soviet Union, and the United States has declared victory in this first cold war.

We no longer need to place the containment of communism as our top spending priority. We now have the opportunity to reevaluate our national defense needs and reorder our national spending priorities. I believe, as others have indicated, that we will be able to reduce the defense budget by at least 25 percent over the next 5 years. If this is accomplished we will surely have the opportunity to address many domestic issues—like job creation and economic growth—that have for too long been neglected.

These opportunities will be both refreshing and exciting, but, it is important to remember that the actions we take to reduce the level of defense spending will have broad and direct ramifications for our economy, for our ability to compete in the world marketplace, as well as for the workers, communities, and businesses who, for reasons of national security, have become economically dependent on defense programs.

The legislation I am introducing attempts to minimize this impact by creating a bridge, if you will, to provide for an orderly, thoughtful, transition, and a unified governmental response to reduce levels of defense spending.

Mr. President, I believe diversification initiatives are important for many reasons.

First, we have already made an enormous investment, both directly and indirectly, in our defense infrastructure. In the past we have evaluated levels of defense spending on either national security or budgetary grounds. It is clear, however, that since defense industries now represent a major part of our remaining industrial, technological, and manufacturing base, that it will be essential to make these decisions on economic grounds as well.

While Japan and Germany have been pouring capital into their civilian industrial base, we have been pouring it into our defense base. We are now considering scrapping a big piece of what's left of the most advanced part of our industrial base. We must do this intelligently and provide for a careful transition on the American economy, American job creation, and American competitiveness will miss an opportunity and sacrifice much strength.

Thus, in order to protect this investment and our economic future, we will need to appraise our manufacturing and industrial base and then assess how best to effectuate a successful transition. If possible, cutbacks in this area should be undertaken so as to not adversely affect, and whenever possible to enhance, our industrial and technological capabilities. If we disregard this step, an important part of our economic future will surely be at risk.

Second, Mr. President, study after study tells us how this gap between the jobs and the skills of workers will continue to grow as we approach the 21st century. It is fair to state that the significant growth in the U.S. economy during the 20th century has been attributed to increases in human capital or the expansion of workers' knowledge. In order for us to continue to grow during the 21st century, we must have a work force prepared to meet the technical requirements of the workplace of the future.

Thus, as our inability to compete in the international marketplace becomes more and more apparent, it is clearly in our best interest to retain and re-use one of the finest trained and highly skilled work forces in the world—our defense workers—highly qualified and motivated—stars of the American work force. They can and should play an important role in the peaceful economic challenges that lay ahead.

And finally, I simply believe the Federal Government has a compelling obligation to mitigate the economic distress caused directly by its actions. America's defense workers are, in a way, veterans of the cold war and thus deserve our assistance during this time of transition, particularly in the area of job training. Mr. President, why should those who worked so hard to guarantee our security during times of conflict now be forced to pay the price for peace?

Just as it was in our national interest to spend billions and billions of dollars on defense over the last decade, I believe, for the reasons I have outlined, that it is now very much in our national interest to provide for an orderly transition and to enact diversification legislation concurrent with reductions in defense spending.

Mr. President, I know of the need to assist in the transition of defense workers and industries from firsthand experience. Throughout the cold war, as it was in the Revolutionary War and in every other conflict involving our Nation, Connecticut has been an arsenal of democracy. In 1989 my State received approximately $5.8 billion in direct defense expenditures and another $4.2 billion in indirect defense expenditures. On a per capita basis, that amounted to approximately $3,100 per resident and meant that approximately 8 percent of Connecticut's work force was employed in defense or defense-related jobs. In 1990, the Department of Defense awarded direct contracts worth $4.2 billion to more than 700 Connecticut companies.

Thousands of my constituents have been working in round-the-clock shifts to produce submarines, tanks, helicopters, and military aircraft engines—all the best in the world.

In this legislation I have attempted to address the diversification issue in a well balanced and comprehensive manner that addresses industrial, business, work force, and community issues. This legislation:

Calls for a study so we can better understand the extent to which and the means by which diversification defense industries to nondefense production can be accomplished;

Creates a Presidential Council on Economic Diversification to coordinate the efforts of Federal agencies and programs for the purpose of assisting communities, workers, and businesses in economic diversification;

Establishes a Defense Industrial Diversification Account for businesses wishing to diversify from relying primarily on defense contracts to becoming more integrated into the civilian sector. This account would function much like an IRA;

Establishes within the Small Business Administration a permanent Office of Small Business Diversification, and creates a small business diversification guaranteed loan or grant program;

Requires employee notification be given for qualified employees 90 days prior to any layoff;

Amends title III of the Job Training Partnership Act to increase the Federal set-aside for displaced workers and modifies the formula used to disburse funds to States;

Allows qualified defense workers who have been laid-off to withdraw funds from their Individual Retirement Account to pay the principal or interest on a mortgage on their primary residence or for the rental costs of their primary residence;

Identifies communities that will be substantially and seriously affected by defense layoffs and allows these impacted communities to be eligible for title IX Community Planning Grants under the Economic Development Administration;

Establishes an Office of Commercial and Defense Product Integration in the Department of Defense to implement policies and procedures designed to achieve a better integration of commercial production process and defense procurement practices and which will promote diversification by defense firms, as well as reduce the cost of defense products;

Establishes a Commission on Military Budget Reform to study the desirability and feasibility of Congress instituting a 3-year budget cycle for defense contracting. This multiyear approach can have the effect of reducing unit costs, increasing efficiency, and protecting jobs.

Mr. President, we will face a number of issues as we debate the fiscal year 1993 budget—a weekend economy, a crippling budget deficit, a chronic trade deficit, the savings and loan bailout, and an array of domestic issues demanding our time and attention. This, in combination with the global crumbling of communism, suggests that our defense budget must be reduced. What I am saying with this legislation is that we can do this one of two ways—either we can cut programs, troops, and contracts without regard for the consequences of our actions, or for a relatively low cost, we can protect our investment in both our work force and our industrial base and provide for an orderly, less painful, transition to the apparently more peaceful environment that lies ahead.

I believe this legislation takes us down the latter, wiser course.

Mr. President, I ask unanimous consent that a summary of this legislation be included in the RECORD immediately following my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF INDUSTRIAL DIVERSIFICATION AND ECONOMIC ADJUSTMENT ACT OF 1991

TITLE I—INDUSTRIAL DIVERSIFICATION STUDY

Requires the Department of Commerce, in consultation with the Department of Defense, the Small Business Administration, and the Defense Advanced Research Projects Agency (DARPA) to perform a study on the extent to which and how diversification of defense industries to non-defense production can be accomplished.

TITLE II—DEFENSE INDUSTRIAL DIVERSIFICATION ACCOUNT

Establishes a Defense Industrial Diversification Account for defense business wishing to become more integrated into the civilian sector.

This title would allow a firm, which is at least 35 percent reliant on defense contracts, to deposit a portion of its gross revenues into the account, tax free, for the purposes of investing in new non-defense plant and equipment or for the retaining or continued education of its workforce.

Deposits would be limited to the amount of a firm's defense-related depreciable assets. These investments could be made for a period of five years. the withdrawals could occur for 10 years. If the money were withdrawn for purposes other than those specifically stated, then the money would be fully taxed and a 10 percent penalty would be added.

TITLE III/TITLE IV—SMALL BUSINESS DIVERSIFICATION

Establishes, within the Small Business Administration, a permanent Office of Small Business Diversification. The purposes of this office is to identify the problems associated with defense cutbacks, for small defense-dependent businesses. The office would also serve to coordinate the efforts of the Small Business Administration and its programs for assisting firms adversely affected by defense cutbacks.

Creates a small business diversification guaranteed loan or grant program. Loans, guaranteed loans, or grants are capped at $40,000 for qualified small firms and require a 1:1 match from the firm.

Specific uses for the loan, guaranteed loan, or grant may include, but shall not be limited to, conducting market research or analysis for non-defense products, development of an alternative use of non-defense business plan, basic or applied research and development for non-defense lines of business, strategic planning, or non-defense prototype development.

Program is designed to promote diversification of small defense manufacturers and to qualify firms, if needed, for other S.B.A. loan guarantee programs or commercial lending sources.

TITLE VI—ECONOMIC ADJUSTMENT ASSISTANCE FOR EMPLOYEES

Employee notification is required for qualified employees 90 days prior to layoff.

Amends Title III of the Job Training Partnership Act (Displaced Worker Title). Increases Federal set-aside for displaced workers and modifies the formula used to disburse funds to States to factor in defense-related lay-offs.

Allows qualified defense workers, who have been laid-off, to withdraw funds from their Individual Retirement Account to pay the principal or interest on a mortgage of his or her primary residence of for the rental costs of his or her primary.

TITLE VII—COMMUNITY ECONOMIC ADJUSTMENT PLANNING

Identifies communities that will be substantially and seriously affected by defense lay-offs. (loss of more than 250 employees)

Allows substantially and seriously impacted communities to be eligible for Title IX Community Planning Grants under the Economic Development Administration.

TITLE VIII—COMMERICAL AND DEFENSE PRODUCT INTEGRATION

Establishes an Office of Commercial and Defense Product Integration in the Department of Defense to implement policies and procedures designated to achieve a better integration of commercial production processes and defense procurement practices.

TITLE IX—COMMISSION ON MILITARY BUDGET REFORM

Establishes a Commission on Military Budget Reform to study the desirability and feasibility of Congress instituting a three year budget cycle for defense contracting. The commission will determine whether the multi—year approach can have the effect of reducing unit costs, increasing efficiency, and protecting jobs.●

By Mr. PELL (for himself and Mr. WOFFORD):

S. 2076. A bill to amend the Communications Act of 1934 and the Federal Election Campaign Act of 1971 to better inform the electorate in Senate elections; to the Committee on Rules and Administration.

FEDERAL ELECTION CAMPAIGN ACT OF 1971

● Mr. PELL. Mr. President, on behalf of myself and the junior Senator from Pennsylvania [Mr. WOFFORD], I introduce a bill to provide free broadcast

time for the use of candidates for the U.S. Senate.

This bill, which I introduced in prior Congresses as the Informed Elections Act, has some special features which I believe could contribute to a restoration of public confidence in Congress as an institution:

It does not involve public financing;

It can help reduce the costs of campaigning; and

It directly deals with the problem of negative advertising.

The purpose of this legislation is simple and straightforward. It attacks the problem of spiraling costs of Federal political campaigns at its source. It would make available at no cost the one element which has contributed the most to the cost spiral and that is media broadcast time.

The bill requires TV stations—as a condition of their license to use public air waves—to provide time for campaign use to the national committees of the political parties, which would in turn allocate the time to eligible candidates for the Senate. Minor parties showing support of at least 5 percent of the electorate would also be eligible to participate.

Committees receiving free broadcast time may use up to 15 minutes per day up to a limit of 3 hours on any 1 station during the 60-day period immediately preceding a general or special election. The bill does not apply to primaries.

All time is to be provided during the so-called prime time access period, from 7:30 to 8 p.m. local time, each weekday evening. This is a time period which local stations are supposed to use for community-oriented programming, but which in practice is not always well used.

The free time must be used in a manner which promotes a rational discussion and debate of issues pertinent to the election involved. At least 75 percent of the time must be taken up by a candidate's own remarks. In this way, I believe the bill provides a positive alternative to negative campaign ads without in any way imposing limits on present practices.

While our bill would place an administrative burden on the parties, I suggest that it is a burden they should be glad to accept. The plan of the bill permits the party organizations to decide which of their candidates—particularly in metropolitan areas where Senate candidates from more than one State may be competing for time—can best benefit from the media exposure offered by the bill.

This bill is in no way restrictive of present campaign practices. Any candidate, whether or not a recipient of free time under this bill, is still at liberty to go out and purchase as much additional media time as he or she can afford and needs. Hopefully, however, the substantial infusion of free time provided by the bill will reduce substantially campaign expenditures for media purchases.

I would emphasize that this is a no-cost bill in terms of the value of the media time that would be given to the political process. The basic commodity of the bill is an existing public resource—namely the airwaves—which the Congress can properly require to be used for political debate.

The idea is by no means a new one. I introduced it in the 99th Congress as S. 2837, in the 100th Congress as S. 593, and in the 101st Congress as S. 751. And the idea has been espoused, quite independent of my own efforts, by scholars and commentators as diverse as Charles Krauthammer, Arthur M. Schlesinger, Jr., and Larry J. Sabato. So there has been ample opportunity for the concept to be absorbed into the fabric of campaign reform.

I am especially pleased to note that the basic concept of this bill was included among the recommendations of the bipartisan Campaign Finance Reform Panel appointed by the Senate majority and minority leaders last year. In its report of March 6, 1990, the panel specifically recommended that broadcasters be required, as a condition of license renewal, to make free time available to political parties for campaign use. There are some differences in the distribution formula, but essentially the bill matches the panel's recommendation.

I also note with great interest that the idea has been embraced on the other side of the aisle in this body. I was very pleased to find that title V of S. 7, the Fairness in Politics Act, introduced by the Republican leader, Mr. DOLE, mandates a grant of free time to Senate candidates by broadcast licensees. And the senior Senator from Delaware, Mr. ROTH, introduced another version of the plan as S. 1062.

Finally, I would note that this concept has particular relevance at this time when Congress as an institution is under attack, and when so much uncritical attention is being given to panaceas such as mandatory limitations on the number of terms a Member can serve.

The best alternative to mandatory term limitations, in my view, is to assure that the existing system of term limitation—namely the right of the electorate to throw out an incumbent every time he runs for reelection—is as competitive as it can be. This bill would help assure that objective.

So the time seems ripe to translate this idea into action.

Mr. President, studies have shown that at least 40 percent of all political campaign expenditures—and up to 75 percent in some media markets—are spent on media advertising. If we are truly concerned about curbing the cost of campaigning, it makes sense to use an available public resource to substitute for this major category of expenditure.

Hopefully, we will be giving thoughtful consideration to the subject of campaign reform in the second session of the 102d Congress. I offer this bill at this time for consideration in that context.●

By Mr. MOYNIHAN (for himself, Mr. DURENBERGER, Mr. PACKWOOD, Mr. ROTH, Mr. AKAKA, and Mr. MCCAIN):

S. 2077. A bill to amend title XIX of the Social Security Act to provide for optional State coverage of coordinated care, and to improve Federal requirements with respect to the provision of coordinated care by health maintenance organizations in order to allow States to reduce costs and improve quality of care in contracting for managed care services under the Medicaid program; to the Committee on Finance.

MEDICAID MANAGED CARE IMPROVEMENT ACT OF 1991

● Mr. MOYNIHAN. Mr. President, along with Senators DURENBERGER, PACKWOOD, ROTH, AKAKA, and MCCAIN, I an introducing today the Medicaid Managed Care Improvement Act of 1991. Our goal is to make it easier for States to enroll their welfare recipients into managed care plans—health maintenance organizations, preferred provider organizations, and primary care case management programs.

In part, this legislation is motivated by the problem of rising costs. The Medicaid Program has become the most volatile part of State budgets, and Governors have been fighting a losing battle to control expenditures. That job has been made more difficult by Congress' adoption of a long list of program expansions, principally in the areas of maternal and child health and long-term care, and by the willingness of hospitals and nursing homes to go to court under the Boren amendment to seek higher reimbursements. In addition, the provider tax controversy may result in some States receiving less Federal Medicaid funding than they had counted on. In this difficult environment, managed care represents one of the few ways that States can control costs without harming recipients.

Furthermore, managed care is needed to improve access to services. In most places, this is the real quality-of-care issue. Often, Medicaid reimbursements are so low that health care providers refuse to take welfare recipients as patients. In New York, for instance, Medicaid reimburses doctors $11 for a simple office visit, much less than the rate charged to private patients. The result is that most doctors refuse to see Medicaid clients. By reducing unnecessary services—particularly inpatient hospitalization—managed care plans save money and thus are able to pay providers higher fees. As a result, more doctors participate, and the plan is able to guarantee each client access to a phy-

provision is satisfactory to the State and "(xi) That any physician incentive plan (G) in subparagraph (D), as redesignated—

sician and to other health care providers.

Finally, managed care no longer represents a new technology. Health maintenance organizations have been in existence for over 50 years, and there have been Medicaid HMO contracts for over 20 years. It may have made sense to have strict Federal oversight when States first contracted with HMO's 20 years ago, but it makes little sense today.

Currently, managed care is only allowed in the Medicaid program under special waivers. And the Federal waiver process is long and difficult. It may take several years to receive Federal approval for a new program. In contrast, our bill lets States decide whether they want to contract with managed care plans. There would still be Federal requirements—HMO's could not discriminate in enrolling and disenrolling people based on health status, for instance—but States would not have to receive prior Federal approval. In effect, managed care would become a regular part of the Medicaid Program.

Ensuring that managed care plans provide health care of high quality is important. There have been some problems in this area in the past, and there is a need for oversight. But the present system works poorly. Some of the rules accomplish little other than to place a heavy burden on the Medicaid agencies and the managed care plans that are required to meet them. Furthermore, the States are in a better position than the Federal Government to monitor the quality of care at the local level because they are closer to the action.

Consider, for instance, the rule that 25 percent of the enrollees in a Medicaid-contracting HMO must be private pay clients. This rule was placed into the law out of concern that HMO's providing care to the poor not be composed solely of poor people. The argument was that an HMO is less likely to provide substandard care if some of its enrollees are paying their own way and thus are able to take their business elsewhere if dissatisfied with the quality of services. The only problem is that it has not worked out that way. There is a virtual consensus among those familiar with Medicaid-contracting HMO's that the 75–25 rule has done little, if anything, to improve the quality of care. There are bad HMO's that have ample private pay enrollees and excellent HMO's made up exclusively or largely of welfare clients—this is allowed currently under a waiver.

And the 75–25 requirement virtually rules out managed care plans in areas of concentrated poverty, such as large urban ghettoes, because there are so few private pay clients there. Yet it is there that we are most likely to find welfare clients abusing the system—getting drug prescriptions from several physicians and then selling the drugs on the street, for instance, or receiving their care in hospital emergency rooms where there are no records of previous services received and thus no continuity of care. This is where managed care is needed most.

Our bill replaces the existing arrangements with a meaningful quality assurance system which requires that enrollees be fully informed of their rights; that there be an extablished grievance procedure both within the plan and within the State agency overseeing the managed care program—including toll-free hotlines; that the State do periodic surveys of enrollee satisfaction; and that it review medical records to identify indications of underutilization and/or inappropriate treatment patterns. Finally, the bill requires that an independent, outside entity review each plan's quality assurance activities, and issue an annual report on its findings.

Our proposal also allows States to require that Medicaid recipients enroll in a managed care plan to receive services, but only if there are at least two plans available in the area from which recipients can choose—it would also be allowed where there is only a single plan if that plan has enrolled at least two-thirds of the area's physicians. If enrollment is purely voluntary, chances are that the worst abusers—clients who insist on seeing four or five doctors at the same time, for instance—will not enroll. Moreover, there is some evidence that a voluntary program will attract the healthiest clients but not those with more serious health care needs.

Some will argue that mandating enrollment in managed care limits the client's freedom of choice. In practice, however, the opposite is usually the case. In many center cities, where few physicians will accept welfare customers, freedom of choice is an empty phrase. Clients can pick any physician they want, but few of these will accept welfare customers. HMO's, in contrast, are able to attract additional physicians by paying more competitive rates, and thus provide a much broader set of choices for enrollees. In this sense, mandatory enrollment actually increases consumer choice.

Managed care provides major advantages to States struggling to control their exploding Medicaid costs. It also can help States guarantee access to services for welfare recipients who often have trouble finding a physician to treat them. And whatever the past problems with Medicaid HMO's, State Medicaid directors are unanimous in believing that, on the whole, the care provided in managed care plans is superior to that in the regular Medicaid fee-for-service, system. For these reasons, I am hopeful that the Senate will join us in approving this legislation as soon as possible.

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD along with a recent New York Times editorial.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Managed Care Improvement Act of 1991".

SEC. 2. OPTIONAL STATE MEDICAID COVERAGE OF COORDINATED CARE.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) in paragraph (24), by striking the comma at the end and inserting a semicolon;

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively, and by transferring and inserting paragraph (25) after paragraph (23), as so redesignated; and

(4) by inserting after paragraph (23) as redesignated, the following new paragraph:

"(24) coordinated care (as defined in section 1903(m)(1)); and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 3. MODIFICATION OF FEDERAL REQUIREMENTS TO ALLOW STATES MORE FLEXIBILITY IN CONTRACTING FOR MANAGED CARE SERVICES UNDER MEDICAID.

(a) COORDINATED CARE DEFINED.—Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended by amending paragraph (1) to read as follows:

"(1) For purposes of this subsection, the term 'coordinated care' means programs operated by any public or private entity described in paragraph (2)(A) or a primary care case management program described in paragraph (6).".

(b) IN GENERAL.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended—

(1) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) For purposes of this subsection, the term 'plan' means a public or private organization, organized under the laws of any State, operating under contract with a State, which meets the requirement of section 1902(w) and is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) or is a public or private organization, organized under the laws of any State, operating under contract with a State, which meets the requirements of section 1902(a) (except subsections (a)(1) and (a)(10)(B)). No payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided by a plan unless the contract between the State and the plan provides for the following:

"(i) That it makes services it provides to individuals eligible for benefits under this title accessible to such individuals, within the area served by the plan, to the same extent as such services are made accessible to individuals (eligible for medical assistance under the State plan) not enrolled with the organization.

"(ii) That the plan has made adequate provision against the risk of insolvency, which provision is satisfactory to the State and which assures that individuals eligible for benefits under this title are in no case held liable for debts of the plan in case of the plan's insolvency.

"(iii) That the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) that pertain—

"(I) to the ability of the plan to bear the risk of potential financial losses, or

"(II) to services performed or determinations of amounts payable under the contract.

"(iv) That in the plan's enrollment, reenrollment, or disenrollment of individuals who are eligible for benefits under this title and eligible to enroll, reenroll, or disenroll with the plan pursuant to the contract, the plan will not discriminate among such individuals on the basis of their health status or requirements for health care services.

"(v) That the plan—

"(I) except as provided under subparagraph (E), permits individuals who have elected under the State plan for medical assistance to enroll with the plan for purposes of such benefits to terminate such enrollment without cause as of the beginning of the first calendar month following a full calendar month after the request is made for such termination, and

"(II) provides for notification of each such individual, at the time of the individual's enrollment, of such right to terminate such enrollment.

"(vi) That the plan permits, at the option of the State, mandatory enrollment of individuals eligible for benefits under this title provided that the individual has—

"(I) a choice of two or more plans,

"(II) a choice between enrolling in a plan or a primary care case management system described in paragraph (6)(A), or

"(III) a choice among participating physicians to the extent that at least two-thirds of physicians in a geographic area participate in the plan or in the primary care case management system.

"(vii) That, at the option of the State, the plan may continue to provide an individual the benefits covered under its contract with the State, and receive State payment for such coverage, for a guaranteed period of one to six months, regardless of whether the individual becomes ineligible for benefits under this title during the six-month period.

"(viii) That the contract provides that, in the case of medically necessary services which were provided—

"(I) except as provided under subparagraph (E), to an individual enrolled with the plan under the contract and entitled to benefits with respect to such services under the State plan, and

"(II) other than through the plan because the services were immediately required due to an unforeseen illness, injury, or condition, either the plan or the State provides for reimbursement with respect to those services.

"(ix) That the plan provides for disclosure of information in accordance with section 1124 and paragraph (3) of this subsection.

"(x) That the contract provides, in the case of a plan that has entered into a contract for the provision of services with a federally qualified health center, that—

"(I) rates of prepayment from a State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and

"(II) at the election of such center payments made by the plan to such a center for services described in section 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E).

"(xi) That any physician incentive plan that it operates meets the requirements described in section 1876(i)(8).

"(xii) That the plan provides for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients.

"(xiii) That the payment methodology is based on experience rating or another actuarially sound methodology as approved by the Secretary and that payments to the plan shall not exceed 100 percent of expenditures that would otherwise have been made, demonstrated by such models or formulas as the Secretary may approve.

"(xiv) That the plan shall provide for implementation of an internal quality assurance program containing at least the following elements:

"(I) A written Quality Assurance Program (hereinafter referred to as 'QAP') specifying a systematic process including: measurable goals and objectives for quality of care, and activities to be undertaken on a continuous basis, and annual evaluation of the QAP.

"(II) The plan has an identifiable organization structure responsible for performing quality assurance functions within the plan and is accountable to the governing body of the plan, and whose activities have adequate supervision, staff, and other necessary resources.

"(III) If the QAP delegates certain quality assurance functions to other entities, the plan remains accountable for all QAP functions, and must have mechanisms to assure that all QAP plan activities are carried out.

"(IV) The QAP contains provisions to assure that physicians under contract with the plan, as well as all other health care professionals under contract with the plan, are qualified to perform their services and that their qualifications are assured through appropriate credentialing and recredentialing procedures.

"(V) The QAP provides for policies addressing enrollee rights and responsibilities, including enrollee grievance mechanisms and mechanisms to provide enrollees with information about access to and use of services within the plan.

"(VI) The QAP implements a continuous process of monitoring the delivery of health care which includes: identification of clinical areas to be monitored; use of quality indicators and standards for assessing care delivered, including availability and accessibility of care; monitoring through use of epidemiologic data or chart review, the care of individuals, as appropriate, and patterns of care overall; and implementation of corrective actions.

"(VII) For any other requirements if approved by the Secretary in consultation with States.".

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A), as amended, the following new subparagraph:

"(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a plan within the meaning of subparagraph (A) shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.";

(D) in subparagraph (C) as redesignated—

(i) by striking "clause (ix)" and inserting "clause (x)"; and

(ii) by striking "an entity" and inserting "a plan";

(E) by striking subparagraphs (C) and (D);

(F) by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F), and (G), respectively;

(G) in subparagraph (D), as redesignated—

(i) by adding "and" at the end of clause (iii);

(ii) by striking "; and" at the end of clause (iv) and inserting a period; and

(iii) by striking "(v)" and all that follows through the period;

(H) in subparagraph (E), as redesignated—

(i) in clause (i)—

(I) by striking "subparagraph (E) or (G)" and inserting "subparagraph (D) or (F)"; and

(II) by striking "which meets" and all that follows through "(A)(ii)";

(ii) in clause (ii), by striking "paragraph (6)" and inserting "paragraph (5)"; and

(iii) in the matter following clause (ii), by striking "clause (vi)" and inserting "clause (v)";

(I) in subparagraph (F), as redesignated—

(i) by striking "In" and inserting "The provisions of subparagraph (E) shall apply in"; and

(ii) by striking ", clauses (i)" and all that follows through "apply"; and

(J) in subparagraph (G), as redesignated, by striking "health maintenance organization" each place it appears and inserting "plan";

(2) by redesignating paragraph (4) as paragraph (3);

(3) in paragraph (3), as redesignated—

(A) by striking "health maintenance organization" the first place it appears and inserting "plan"; and

(B) by striking "organization" each place it appears and inserting "plan";

(4) by redesignating paragraph (5) as paragraph (4); and

(5) in paragraph (4), as redesignated—

(A) by striking "organization" each place it appears and inserting "plan";

(B) by striking "entity" and inserting "plan"; and

(C) by striking "(2)(A)(v)" and inserting "(2)(A)(iv)".

(c) PRIMARY CARE CASE MANAGEMENT PROGRAM DEFINED.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended—

(1) by redesignating paragraph (6) as paragraph (5); and

(2) by adding at the end the following new paragraph:

"(6) For purposes of this subsection, a primary care case management program means a process wherein individual medical providers, under agreements with the State, coordinate the delivery of medical care to individuals entitled to benefits under this title. The State may provide for a primary care case management program under this subsection that does not meet the requirements of section 1902 (a)(1), (a)(7), and (a)(10)(B). No payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided under a primary care case management program established by a State unless it provides for the following:

"(A) The individual medical provider operating under the program meets all applicable State licensure requirements and is otherwise eligible to participate under this title.

"(B) The primary care case management agreements entered into with the States meet the requirements of clauses (ii), (iii), (iv), (viii), and (xi) of paragraph (2)(A) if payment under the agreement is made on a risk basis for outpatient services delivered to an enrollee.".

(d) INDEPENDENT REVIEW AND QUALITY ASSURANCE OF COORDINATED CARE.—Section 1903(m) of such Act (42 U.S.C. 13966(m)) is further amended by adding at the end the following new paragraphs:

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"(7) A State contracting for coordinated care as described in paragraph (1) with a primary care case management program described in paragraph (6) or a plan as described in paragraph (2) shall provide for quality assurance activities to be conducted by the State consisting of at least the following activities:

"(A) A toll-free telephone number for enrollee questions and grievances.

"(B) A State-operated enrollee grievance procedure.

"(C) Periodic informing of enrollees of such enrollees rights.

"(D) Sample review of grievances registered with the plan or the State.

"(E) Survey and analysis of enrollee satisfaction.

"(F) In the case of a State contracting for coordinated care with a plan under paragraph (2), monitoring the plan's quality assurance to assure that it meets requirements specified in law and the contract entered into between the State and the plan under this subsection.

"(8) A State contracting for coordinated care as described in paragraph (1) with a plan described in paragraph (2) shall in addition to the requirements of paragraph (8) provide for an external independent review of each plan's quality assurance activities to be conducted by a Peer Review Organization or other organization external to the State as approved by the Secretary that consists of the following activities:

"(A) Review of the plan's medical records through sample or other appropriate methods for indications of inappropriate utilization and treatment.

"(B) Review of enrollee inpatient and ambulatory data either through sample or other appropriate methods to determine quality trends.

"(C) Review of the plan's internal quality assurance activities.

"(D) Notification of plans and State follow-up activities when any of the activities of this paragraph indicate inappropriate care or treatment.".

(e) CONTINUATION OF CERTAIN MANAGED CARE PLANS.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended by adding at the end the following new paragraph:

"(9) The Secretary may provide for the continuation of any managed care program operating under sections 1115 and 1915 authority without the need for granting additional waivers under such sections provided the program has been successful in assuring quality and containing costs (as determined by the Secretary) and is likely to continue to be successful in the future.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 4. CONVENING OF SECRETARIAL GROUPS ON SENTINEL HEALTH EVENTS AND ENCOUNTER DATA FORMATS.

(a) SENTINEL HEALTH EVENTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall no later than 1 year after the date of enactment of this Act convene a group composed of State medicaid staff, physicians, and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on criteria to be used by States and the plans described in section 1903(m)(2)(A) of the Social Security Act to determine underutilization in certain distinct health areas.

(b) ENCOUNTER DATA FORMATS.—The Secretary shall no later than 1 year from the date of enactment of this Act convene a group composed of State medicaid staff and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on the feasibility of utilizing encounter data and on data elements and formats to be utilized in submission and State review of information concerning services provided by plans described in section 1903(m)(2)(A) of the Social Security Act to individuals receiving services under such plans under the medicaid program.

SEC. 5. CERTAIN IMPROVEMENTS IN MEDICAID CASE MANAGEMENT SERVICES AND HOME AND COMMUNITY-BASED WAIVERS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in paragraph (17)—

(A) by striking "and" at the end of subparagraph (C);

(B) by adding "and" at the end of subparagraph (D); and

(C) by adding at the end the following new subparagraph:

"(E) nothing in this subsection shall be construed as restricting payment of medical assistance under this title for services received by individuals eligible under this title, when similar services are provided by the State or under contract with the State through a public or private entity to a population without charge to the individual;";

(2) in paragraph (23), by inserting "(including case management services under subsections (c), (d), and (g) of such section)" after "in section 1915"; and

(3) in paragraph (32)—

(A) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(B) by adding at the end the following new subparagraph:

"(D) in the case of services arranged through the case management agency under subsections (c), (d), or (g) of section 1915, payments made by the case management agency to providers of services shall be permitted provided that—

"(i) the case management entity is a nonprofit entity;

"(ii) the case management entity maintains a clear system of records demonstrating conformity between payments made and services required under the individual's plan of care; and

"(iii) the entity makes assurances satisfactory to the State that providers paid by the entity, for covered services to individuals eligible under this title, are eligible for payments under the provisions of this title;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1992.

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1902—

(A) in subsection (a)(30), by amending subparagraph (C) to read as follows:

"(C) provide, in the case of coordinated care under section 1903(m)(2), quality assurance review as described in section 1903(m)(8);"; and

(B) in subsection (e)(2)—

(i) in subparagraph (A)—

(I) by striking "an entity" and all that follows through "1903(m)(2)(A)" and inserting "a plan or program providing for coordinated care described in section 1903(m) (2)(A) or (6)"; and

(II) by adding at the end the following new sentence: "The State plan may also provide for 1 month continuous eligibility (as described in subparagraph (C)) for individuals enrolled with a coordinated care plan or primary care case management program under section 1903(m)."; and

(ii) by adding at the end the following new subparagraph:

"(C) For purposes of subparagraph (A), one month continuous eligibility means continued enrollment in a coordinated care program under section 1903(m) for a period of 1 month if the enrolled individual is determined ineligible due to excess income or resources and can reasonably be expected to reestablish eligibility in the month following the month of ineligibility."; and

(2) in section 1905—

(A) in paragraph (1), by inserting "(other than that which is permitted under section 1903(m)(6)" after "case management system"; and

(B) in paragraph (4), by inserting "other than that which is permitted under section 1903(m) regarding coordinated care programs" after "(4)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

PUT THE AID BACK IN MEDICAID

When they're sick, poor people in New York State suffer twice. Beyond injury and disease, they must struggle with a health care system that sends them from emergency room to clinic to Medicaid mill, looking for treatment they're not likely to find. They rarely see the same doctor twice, rarely get the attention that private patients do and even more rarely develop relationship with doctors who know their medical histories.

The result is attention that's so fragmented and haphazard that patients avoid it until they get so ill they have no choice. That's not only senseless; it is explosively expensive.

There is a better way, and several states, including New York, are giving it serious consideration. It is called managed Medicaid, a way of providing medical care to the poor that restores dignity and common sense. A blue-ribbon committee now urges Mayor David Dinkins of New York to embrace managed Medicaid. The case is compelling, for the physical health of poor patients and also the fiscal health of the city and state.

Under the present system, poor people who receive often inadequate Medicaid insurance seek care wherever they can find it, often at an emergency room. Under managed Medicaid they would choose from a new network of medical care facilities and receive their care in that place. That would allow them to develop a relationship with one doctor and get preventive, continuing attention. Typically, these facilities would resemble health maintenance organizations, or H.M.O.'s, which increasingly attract privately insured people.

Because enrollment would be mandatory, a managed system has a good chance of overcoming a besetting problem: the lack of doctors willing to serve poor patients in poor areas. How to attract the doctors? By paying higher reimbursement rates and guaranteeing them a large pool of patients. The state could afford the higher rates and still save money because preventive medical attention would obviate much more expensive care.

Adovcates predict that a managed system could attract private doctors, H.M.O.'s and

hospitals now struggling to serve Medicaid patients inefficiently in costly emergency rooms meant to cope with true emergencies.

There are obstacles to managed Medicaid. It would, notably, require capital to establish the new neighborhood facilities. But the chief stumbling block is emotional—overcoming the perception that a managed system denies poor people the freedom of choice available to others. Patients would have to choose and stay with one facility. But compare that with the only practical present choice—ping-ponging from sullen service in one place to the same in another.

It will take time to put a managed system into practice, but New York is on the verge of talking the first step. Gov. Mario Cuomo has introduced a bill to require counties to set up managed Medicaid systems gradually. Now Mayor Dinkin's management advisory committee urges him to go ahead with a pilot project. Concern for the poor, and for prudent management, would impel him to say yes, and soon.

The current system is close to disaster. It accounts for about 14 percent of the state budget and nearly 7 percent of New York City's budget, and it keeps growing. A managed system would save money—the costs average at least 10 percent less than traditional Medicaid. More important, it can bring humanity and quality care to poor New Yorkers; they already suffer enough.

• Mr. DURENBERGER. Mr. President, I am pleased to rise today to join my good friend, the senior Senator from New York, in introducing the Medicaid Managed Care Improvement Act. This legislation will provide States greater flexibility to address the health care needs of their Medicaid populations through health maintenance organizations and other forms of managed care. No longer will States have to obtain permission from the Federal Government to use managed care techniques that have been widely accepted and applied in the private sector. Techniques which have been demonstrated to both control costs and improve access to medically necessary treatments for Medicaid recipients in several States, including my own.

Mr. President, our recent debate on Medicaid provider taxes drove home a point of which I think most of us were already painfully aware: Medicaid directors and their governors are facing unprecedented fiscal crises. The combination of tightly constrained budgets and rapidly rising Medicaid costs has pushed some States to the brink of disaster—not just in terms of Medicaid, but with respect to other important programs as well. Funding for education, transportation, and law enforcement has been slashed in order for States to balance their budgets.

New Federal mandates expanding the eligible population plus health care cost inflation have created dramatic growth in State Medicaid spending over the past 10 years. As a result, Medicaid is the fastest growing component of most State budgets.

In the span of just a decade, from 1980 to 1990, the portion of State budgets consumed by Medicaid grew from 9 percent to 14 percent. It is projected to rise to 17 percent by 1995. The State share of Medicaid costs rose by 18 percent last year, and is expected to rise by 23 percent this year.

Unfortunately, Mr. President, the Federal Government has contributed much to the dilemma faced by the States, but offered little in the way of constructive solutions. In fact, we have placed major obstacles in the way of States who have sought to use managed care as an alternative to eliminating the eligibility of optional categories of Medicaid recipients or making drastic cuts in provider reimbursement. The result has been fewer poor people covered by Medicaid and, in many States, a provider population so grossly underpaid that few are willing to treat Medicaid patients.

The goal of the legislation we are introducing today is to eliminate the barriers that exist in current law with respect to States' use of managed care in Medicaid. While erected to preserve freedom of choice among providers for Medicaid recipients and to assure the provision of good quality care, in reality these legislative barriers have failed to accomplish either objective.

In fact, the notion of freedom of choice in fee-for-service Medicaid is a fantasy. Just what types of choices are available to fee-for-service Medicaid patients in urban ghettos?

On July 8, 1991, the New York Times furnished a graphic portrayal of what, unfortunately, is an all too common experience for Medicaid patients in inner cities. And I quote:

> The lines begin at sunrise, often before the metal gates have been lifted from a single shop window in Harlem or the Bronx.
>
> Patients arrive by the dozen, limping and wheezing, many clutching Medicaid cards. Some like Melissa Mendez, a 26-year old mother of four, will stand for hours, fevered and coughing, outside a bleak South Bronx office building. Others nap on crumpled pads of cardboard, or fashion makeshift chairs from the seats of abandoned cars.
>
> The street is their waiting room, because there is almost never a place to sit inside the dilapidated doctors' offices known as "Medicaid mills".
>
> * * * Housed in shabby, nondescript storefronts along the most desolate blocks in the city, the clinics are called mills because, for the official New York State Medicaid reimbursement rate of about $11 per patient visit, doctors there grind routinely through dozens of patients in a single hour. Often exams consist of nothing more than taking a person's name, temperature and Medicaid information.

So much for freedom of choice in fee-for-service settings for inner city Medicaid patients. And so much for quality of care considerations.

Mr. President, I request that the entire article from which I just read be placed in the RECORD following my statement.

The Medicaid Managed Care Improvement Act will make it possible for states to contract with managed care plans, including health maintenance organizations, preferred provider organizations and primary care case management systems, without obtaining a waiver from the Federal Government. It will also allow States to mandate enrollment in managed care plans so long as the beneficiary has a choice among at least two plans. If there is just a single plan available, enrollment can only be made mandatory if at least two-thirds of the physicians in an area are participating providers.

Some advocacy groups may perceive this provision as an abandonment of our commitment to assuring poor people the same range of health care choices that exist for other people. The harsh reality is that, despite the best efforts of these groups, we have never succeeded in mainstreaming the Medicaid population. As poignantly illustrated in the New York Times article from which I read, having a Medicaid card does not guarantee access to good health care. For many Medicaid recipients, enrollment in an HMO—voluntary or mandatory—would represent a significant improvement in access over what is available in a fee-for-service environment.

Senator MOYNIHAN and my bill will eliminate the requirement that any HMO in which Medicaid recipients are enrolled have at least 25 percent private pay enrollees. Historically, this requirement has been used as a measure of the quality of care provided by the plan. It was believed that having some enrollees who are free to disenroll at will would help assure a certain standard of quality in the organization.

While logical on the surface, the reality is that the mix of patients has little to do with the quality of services provided by a managed care plan. And, the downside of the 75/25 requirement has been to make it virtually impossible to establish managed care plans for Medicaid recipients in inner cities. These are often the populations that need managed care the most: patients who are likely to have multiple health and social problems that can best be served in a coordinated care system.

Instead of relying on an artificial proxy for quality of care, such as the 75/25 rule, our bill requires that all Medicaid managed care plans have an internal quality assurance program that is responsible for continuously monitoring the health care provided to patients and for implementing corrective action plans. In addition, States that contract for managed care must have their own quality assurance program that includes a toll-free telephone line for recipients. The State must review all grievances registered with the plan or the State, and it must survey and analyze enrollee satisfaction, as well as monitor the managed care plans' quality assurance programs. Finally, all managed care plans must submit to a review of their medical records by an independent, external organization, such as a Peer Review organization, that looks for indications of inappropriate utilization or treatment.

While there is no evidence to suggest that HMO's which are at financial risk for the health care services used by their enrollees provide less care than may be medically necessary, there continues to be concern that this could occur. Therefore, our bill directs the Secretary of Health and Human Services to convene two groups. The first group is to be comprised of State Medicaid staff, physicians and HMO representatives and will be charged with examining the entire issue of underutilization. The second group will study the feasibility of using medical encounter data for monitoring quality of care, and will determine the data elements and formats that should be used to accomplish that objective.

Mr. President, the bill my distinguished colleague from New York and I are introducing today will not solve all of the problems with the Medicaid program. For example, it will not correct the gross inequities that exist between States with respect to eligibility, covered services and provide payments. Nor will our bill make it easier for eligible people to enroll, or eliminate the welfare stigma that surrounds the program as a result of its linkages to AFDC and SSI.

I am convinced that for Medicaid to fulfill its original mission of providing access to health care services for poor pregnant women and children, the program must undergo a total transformation. And this cannot be accomplished without restructuring Medicare in a way that ensure that the long-term care needs of our elderly and disabled populations are met without them having to become Medicaid eligible.

I am committed to pursuing legislation that will reshape Medicaid and Medicare to better meet the health care needs of our population. However, this is a long-term proposition that, under the most optimistic scenario, will take years to accomplish. In the meantime, States are in crisis right now.

Good managed care plans offer states a chance to slow the rate of increase in their Medicaid Programs through the use of rigor our utilization review techniques; primary care gatekeepers and/or other providers as patient care managers; channeling of patients to high quality, efficient providers; quality assurance programs; and reimbursement systems that make the providers financially accountable for the cost and quality of services rendered.

Minnesota has employed mandatory managed care in its Medicaid Program in three counties since June of 1982, with great success. Currently, some 62,000 Minnesota Medicaid recipients are enrolled in managed care plans, and Minnesota's program is highly regarded among experts in this area. Nonetheless, despite nearly a decade of experience in Medicaid managed care, Minnesota must continue to operate its program under a waiver from the Federal Government.

This means that every few years, the Minnesota Medicaid staff must jump through a series of Federal hoops to get their waiver extended. Every few years they must hold their breath and hope that the waiver comes through.

Mr. President, no good purpose is served by the continuation of Federal waivers for States to use managed care in Medicaid. Managed care offers great promise for both slowing the rate of increase in health care costs and improving the quality of services rendered. It is commonplace in employer-sponsored health plans, and I look forward to the time when it is equally commonplace in Medicaid. This legislation will do much to hasten that day, and I encourage all of my colleagues to become cosponsors.●

[From the Washington Post, July 8, 1991]

MEDICAID'S MALADY

(By Michael Specter)

New York—The lines begin at sunrise, often before the metal gates have been lifted from a single shop window in Harlem or the Bronx.

Patients arrive by the dozen, limping and wheezing, many clutching Medicaid cards. Some, like Melissa Mendez, a 26-year-old mother of four, will stand for hours, fevered and coughing, outside a bleak South Bronx office building. Others nap on crumpled pads of cardboard, or fashion makeshift chairs from the seats of abandoned cars.

The street is their waiting room, because there is almost never a place to sit inside the dilapidated doctors' offices known as "Medicaid mills." Often the last refuge for sick people in need of quick medical attention but with no money to pay for it, such mills have taken on a troubling new prominence here as funds for public health clinics disappear and the poor overwhelm hospital emergency rooms.

Housed in shabby, nondescript storefronts along the most desolate blocks in the city, the clinics are called mills because, for the official New York State Medicaid reimbursement rate of about $11 per patient visit, doctors there grind routinely through dozens of patients in a single hour. Often, exams consist of nothing more than taking a person's name, temperature and Medicaid information.

"You can't call what goes on in those places medicine," said Joseph Post, medical coordinator for the state Health Department's office of professional conduct, which investigates Medicaid abuse. "It's a continuous obscenity. It isn't just that we treat poor people worse than animals. It's that the incentives are all designed to give the biggest rewards to the biggest criminals. No real doctor would spend a day there."

Medicaid, the primary health plan for the poor, has become by far the fastest-growing spending program in the United States, costing federal and state governments more than $90 billion this year. Yet even as costs rise beyond the most pessimistic projections, experts say the program serves fewer of those who need it most each year.

With fees that lag far behind what private insurers or even Medicare, the government program for the elderly, pay for the same services, many of even the most committed doctors refuse to participate in Medicaid.

In statehouses and on Capitol Hill, political leaders issue almost daily denunciations of a health-care system that ignores the nearly 34 million Americans with no insurance and treats the larger number on public assistance with indifference.

But it is on the poverty-ridden streets of the nation's largest cities that one can best understand the effects of a federal health policy that rewards doctors willing to abuse the neediest members of society.

"I regard the whole program as beyond repair," said Fernando Ferrar, Bronx borough president and an advocate of recruiting higher-paid physicians to serve underprivileged areas of the city. "We should just blow it up. * * * the city has the world's best medical schools and the finest hospitals. It has thousands of licensed doctors, many of them famous. And we have no health care at all for people who are in need. None. Nothing we do can be worse than this."

In areas where talented and qualified physicians rarely dare to practice, Medicaid mills prevail. Scattered throughout communities hit hardest by the spiraling epidemics of drug abuse, AIDS, tuberculosis, measles and many other preventable and often easily treated diseases, the exact number of such outfits in New York is unknown.

The 15 state health investigators in New York City divide their time between looking for abuse on the streets and doing paperwork involved in auditing the more than 10 million individual Medicaid claims filed each month. Local law enforcement officials recently have intensified their scrutiny of the mills, where doctors often prescribe drugs that in turn are sold immediately on the street or back to the supplying pharmacies—usually owned by the same person who owns the mill.

But, enforcement officials and legislators say, like crack houses or brothels, as soon as one mill is shut, another opens around the corner. Often the three can be found in the same block.

Several recent visits to one such doctor's office, on East 138th Street in the South Bronx, revealed long lines of young men waiting to enter, then staying for only a moment or two. Most then proceeded to the pharmacy next door. When finished there, several crossed the street and climbed into an abandoned building through a hole in a bricked-up window.

"Crack house," said a sergeant at the nearest police precinct, "They go from the doctor to the pharmacy, get whatever they can and try to barter it away for crack. It's absolutely routine."

Most Medicaid mills are run by people who never appear on the premises, according to state fraud investigators. With no sign outside, or simply the words "Doctors Office" painted above their doors, the offices consist of a waiting area, desk and examination room. Medical equipment is sparse, usually nothing more than a machine to test hearing and another to test lung capacity.

"They are installed only for the revenue they bring in," said Post, a retired physician who investigates claims of abuse for the state. "They advertise for doctors in the newspaper help-wanted ads. Most are newly licensed immigrants, eager for the money and often unaware that the conditions are so profoundly unacceptable."

The doctors work in shifts earning a salary of as much as $5,000 a week for fewer than 40 hours of work.

No matter what the malady, a visit to a mill rarely lasts more than a minute or two, time enough for a cursory examination and to draw blood for a series of expensive tests. The blood will be sent to a lab that will reward the Medicaid mill with a small fee for the favor. The same is true for pharmaceuticals. Since the government pays for Medicaid drugs, and kickbacks are routine, few patients depart without prescriptions.

Mendez said she came to the mill near her home in the Bronx on a recent morning only because the emergency room at the Lincoln Hospital Center usually is so overcrowded that she could not wait. Still, she stood in line at the mill with two of her four children for two hours, waiting to see a doctor for a severe respiratory infection. Three minutes after she finally entered, she came out with prescriptions for three popular and expensive drugs.

The drugs, given to many patients at this clinic, were Naprosyn, Tagament and Proventil. Naprosyn is an anti-inflammatory drug that can cause internal bleeding. Tagamet is used for ulcers or the type of bleeding that can be caused by improper or extensive use of Naprosyn. Proventil has been highly successful in treating asthma.

"[The doctor] took my temperature and gave me blood tests," she said. "She really checked me out."

But many health professionals say it is not possible to receive real care—good or bad—in such a brief visit. Mill doctors rarely bother to learn results of the tests they order for patients. Even when they do receive test results from the labs, state investigators say, the doctors frequently fail to inform patients of abnormal findings.

The office Mendez visited, on the Grand Concourse in the South Bronx, appears to close whenever an unusual looking person—a white man in a tie, for example—arrives. "They're not stupid," said Anjean Carter, medical director for the Community Service Society, a local health-advocacy organization. "They know who is there for treatment and who is there to shut them down."

Repeated attempts by a reporter to speak with doctors at four separate offices in the Bronx were refused by a receptionist who said the doctors were not in. On two such visits to the Grand Concourse office, an employee ran out and drew the metal gates to the ground as a reporter attempted to enter. On another occasion, when the doctor was not yet at the office, there were rodents in the tiny examination room and used syringes on the floor.

New York state does not release records of Medicaid investigations, but several case studies were made available by the House Government Operations subcommittee on human resources and intergovernmental relations, whose chairman, Ted Weiss (D-N.Y.), has held hearings on the quality of Medicaid physicians in the poores urban areas.

The pictures that emerge from these reports are similar. "All patients made only one visit," said a typical state health department study on Robert Rozefort, a New York doctor excluded from the Medicaid program last year after a lengthy review. "Histories were illegible, no real records, or exams. There were no lab tests ordered or recorded nor were diagnoses validated," which means there was no continuity in the charts nor were there second visits to make certain that initial diagnoses were correct.

"There is a monotonous quality to these charts," the study said. "Eight of 10 patients complain of asthma, and five of 10 complain of back pains. Almost all were given Tagamet and Proventil for uninvestigated complaints. These drugs potentiate [multiply] the effects of cocaine. This is grossly sustandard care." Rozefort could not be reached for comment. Although the state decided to withdraw permission for him to receive Medicaid reimbursement, no other action was taken.

Because of the welter of licensing regulations and a cumbersome appeals process, attempts to remove physicians from the Medicaid program can take years. Any licensed doctor may treat Medicaid patients; physicians are free to take a few patients, many or none.

The wide disparity in fees discourages many competent and reputable doctors from treating those often most in need of basic care. Many reports have shown the sharp statistical relationship between low-income and perilously bad health care. Yet, in its most recent report to Congress, the Physician Payment Review Commission found that 44 states have severe problems finding doctors willing to participate in the Medicaid program. Low fees were cited as the reason in almost every case.

In New York, whose Medicaid reimbursement rates are the nation's second-lowest behind West Virginia, doctors receive $15 for a routine electrocardiogram. But a doctor treating a patient on Medicare, the federal health program for the elderly, would receive $45 for precisely the same service. If the patient had private insurance or paid himself, the bill would be more than $100. For an initial office visit, a doctor can receive $63 under Medicare in New York, more than five times what Medicare pays.

According to the New York City Health Department, more than 530,000 people are eligible to receive Medicaid in the Bronx alone, about as many people as live in Boston. But in its most recent survey of health-care delivery to New York's poor, the Community Service Society could identify only six private physicians willing to provide a full range of medical services in the area's most ravaged neighborhoods.

"Look around and you will quickly find that the primary health-care network has been destroyed," said Bruce Vladek, president of the United Hospital Fund, a nonprofit health-advocacy group. "A system has been constructed that automatically scares away the people it is supposed to attract."

Low pay is only the most obvious reason. Doctors who work in the poorest neighborhoods also must contend with crime. They pay higher insurance premiums because their neighborhoods are more dangerous. Away from the customary affiliations with solid hospitals, they often lose their link to the newest trends in medicine.

Here and in many other states, there has long been steady resistance to the idea of raising fees to attract better physicians, not only because of costs during a budget crisis, but, more important, because many legislators also fear it is at least as likely to provide greater incentives for the worst abusers.

In the past, young doctors with the best intentions have come to Central Harlem and the Bronx, where the hypertension death rate is more than 1,000 times higher than the nation as a whole and mortality rates have far more in common with sub-Saharan Africa than with most of New York City.

Often, they say they want to practice where black men are many times more likely to die needlessly from preventable heart disease than residents in Zip codes only a mile away. In many cases, these physicians are idealistic, young and say they have an obligation to society that they want to fulfill.

"My entire goal in life was to become a doctor and return to the Bronx to treat my people," said Luis A. Diaz Jr., 38. Born and raised in the South Bronx, he spent his youth watching classmates slowly disappear, lost to drugs and guns and, more recently, to AIDS.

After much struggle and many false steps, he accomplished the first part of his dream in 1981, graduating from Tufts Medical School although he never officially graduated from college. For several years, he worked in one of the Bronx's few community health-care clinics, the Morris Heights Health Center, receiving a solid salary to provide quality health care. But the long hours, lack of continuity and difficulty clinic doctors have in establishing firm ties with patients, who might see one doctor one day and another the next, got to him.

More than once, he says, he was offered jobs by owners of the Medicaid mills, through advertisements and acquaintances at the hospital where he trained.

"Two-, three-thousand dollars a week for three days' work," he said, sadly shaking his head. "They just wanted me to front by signing prescriptions and making an occasional visit. That's a lot of money. But what they were doing in the mills was everything I was against. Sixty patients an hour. Even whores spend more time with their clients."

Finally, he decided to open his own office, with a colleague in pediatrics. He said he craved the time to treat patients properly, advise them on preventive medicine and above all to follow them over the course of their illnesses.

"I want to make a difference," he said. "I know it sounds stupid, but I thought I could."

But not with Medicaid patients. Despite his professed desire to treat the people with nowhere else to turn, Diaz quickly realized that, if he hoped even to pay the rent on his modest office, Medicaid patients were luxuries that he simply could not afford.

"You should see the look on people's face when we tell them we don't take Medicaid," he said, sitting in his neat examination room, brightly decorated with charts that explain how various organs work. "They look at me like I am scum. They don't want to hear about my wife and three kids. It's a betrayal.

"I tell them I am treating the working poor, who have no insurance at all," he continued. "But they don't care, and I don't blame them. The fact is, I refuse to treat the poorest patients. It makes me sick I don't have a choice.

● Mr. PACKWOOD. Mr. President, Medicaid expenditures have been increasing at a rate of 20 to 25 percent a year and are placing tremendous pressure on State budgets that are already stretched thin. In part, this has resulted from a series of Medicaid expansions passed by this Congress in such areas as maternal and child health, and long-term care for the elderly and the mentally retarded. In addition, all over the country, States are being sued by hospitals and nursing homes on the grounds that their Medicaid payments are inadequate.

That is why I am proud to introduce today, with Senators DURENBERGER and MOYNIHAN, the Medicaid Managed Care Improvement Act of 1991. Managed care, or coordinated care, is one of the few tools available to States to control costs without cutting benefits or restricting eligibility. And in many places, where State payments are so low that most providers refuse to participate in Medicaid, coordinated care may be the only way to guarantee that a welfare mother will be able to access a physician who will take care of her and her children.

Yet Federal policy discourages Medicaid Programs from using managed care. Even though HMO's have been available for more than 50 years and are well accepted in the private sector, States are forced to go through a lengthy and arduous waiver process before they can contract with such plans for Medicaid beneficiaries. Indeed, at a time when States have broad discretion to determine who to cover under Medicaid, what services to provide, and what to pay for services, the Federal Government insists on micromanaging State decisions regarding managed care.

By eliminating the requirement for Federal waivers, our bill, the Medicaid Managed Care Improvement Act of 1991, establishes managed care as a regular part of the Medicaid Program. States seeking to contract with HMO's would be able to do so without having to meet the 75/25 rule or the requirements for statewideness and comparability of benefits. Instead, States are required to develop strong quality assurance systems to monitor the care provided in managed care plans.•

• Mr. McCAIN. Mr. President, I rise today as a cosponsor and strong supporter of the Managed Care Improvement Act.

This legislation, which would enhance the ability of States to experiment with managed care in the context of their Medicaid Program, offers great hope to States and the Federal Government in bringing the growth in Medicaid costs under control.

Mr. President, as many of my colleagues know, Arizona has had a managed care Medicaid Program for nearly a decade—the Arizona Health Care Cost Containment System. AHCCCS, as it is known to those familiar with it, enjoys great support among Medicaid beneficiaries in Arizona and has been very successful in containing the growth in costs so many other States have experienced. Its success has been the subject of a number of recent articles.

I believe managed care does have a place in controlling costs and ensuring access to essential health care services for our Nation's poor. Arizona's program has demonstrated it.

But doing this has not been easy. The program functions under a section 1115 waiver, which has brought with it an enormous morass of studies, evaluations, and other administratively burdensome requirements. In spite of all this, it has been a very beneficial endeavor. It is AHCCCS' success that makes possible the legislation I am introducing today with Senators MOYNIHAN, DURENBERGER, and others.

I believe that as the cost growth in Medicaid remains largely unbridled for other States, more and more will look to the positive experience Arizona has had in applying managed care to Medicaid. I believe this legislation will give them the flexibility to experiment with this critical alternative.

On this note, I am very grateful to my colleagues from New York and Minnesota for including language in this legislation that will permit the Secretary of Health and Human Services to make a Medicaid demonstration program permanent if it has proven to be fiscally and programatically successful. This is critical, as we should permit those States that break new ground in this area and succeed in making their program permanent.

In conclusion, Mr. President, I would like to express my appreciation to my colleagues from New York and Minnesota for the time they put into crafting this legislation. I encourage all of my colleagues to consider signing onto this important legislation.•

By Mr. MITCHELL:

S. 2078. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of a principal residence by a first-time home buyer; to the Committee on Finance.

CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY A FIRST-TIME HOMEBUYER

Mr. MITCHELL. Mr. President, I am introducing legislation today, along with Senators SHELBY, REID, DIXON and INOUYE to establish a $1,000 tax credit for first-time home buyers. This legislation is designed to achieve two very important objectives. First, the bill provides critical financial assistance to enable young families to purchase a first home. Second, the bill will stimulate an important industry which has traditionally led the national economy out of a recession.

The fastest and most direct way to help many average income Americans is to help them become homeowners. Interest rates today are at their lowest point in years, but the lack of income growth has prevented middle income families from accumulating the savings necessary to purchase a first home.

In fact, since 1980 the home-ownership rate among young families has fallen almost 20 percent. According to the Census Bureau, only nine percent of today's renters can afford a median-priced home in the community where they live. Statistics from the Harvard Joint Center for Housing Study indicate why this has occurred. In 1970, first-time home buyers paid 16.2 percent of after-tax household income on housing. Today, first-time home buyers spend 29 percent of after-tax income on housing. These percentages are based on total household income and contradict the trends we might expect as millions of more families become two-income households.

My legislation addresses these alarming statistics by providing downpayment assistance in the form of tax credits to families who want to buy a first home. The bill provides a permanent $1,000 tax credit for the purchase of a first home for taxpayers with adjusted gross income under $40,000. The value of the credit is phased out until income reaches $50,000.

By making homes affordable to millions of Americans, the tax credit will also address the dire condition of our housing construction industry by increasing the demand for new homes. The home building industry is suffering through a depression in many areas of the Nation, with high unemployment rates among construction workers, and thousands of builders in bankruptcy. Residential construction is now at its lowest level since the Second World War.

Housing construction has led this country out of each recession since World War II but that has often required specific Federal policies to encourage home buying. The tax credit that I am proposing is similar to a temporary credit enacted in 1975 to encourage home purchases. That credit successfully stimulated the housing industry and the national economy. I believe my legislation will do the same.

I invite Senators to cosponsor this bill. I hope that we can get this legislation enacted into law in the near future.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence during the taxable year, there shall be allowed to such individual as a credit against the tax imposed by this subtitle for such taxable year an amount equal to $1,000.

"(b) INCOME LIMITATIONS.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) to any individual whose adjusted gross income for the taxable year exceeds $50,000.

"(2) PHASE-DOWN OF CREDIT.—The $1,000 amount set forth in subsection (a) shall be reduced by $10 for each $100 (or fraction

thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $40,000.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of such residence.

"(B) DATE OF ACQUISITION.—For purposes of subparagraph (A), the term 'date of acquisition' means the date—

"(i) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(ii) on which construction or reconstruction of such a principal residence is commenced.

"(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(3) PURCHASE.—The term 'purchase' means any acquisition of property, but only if the basis of such property in the hands of the person acquiring it is not determined—

"(A) in whole or in part by the reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(B) under section 1014(a) (relating to property acquired from a decedent).

"(4) TREATMENT OF MARRIED INDIVIDUALS.—The adjusted gross income of any individual for any taxable year shall include the adjusted gross income of such individual's spouse for such spouse's taxable year corresponding to the taxable year of the individual. For purposes of the preceding sentence, marital status shall be determined under section 7703; except that an individual shall not be treated as being married if such individual would not be treated as being married under section 21(e)(4).

"(5) JOINT PURCHASES.—If a residence is purchased together by 2 or more individuals for use as their principal residence—

"(A) such individuals shall be limited to 1 credit under this section for such purchase and the amount of such credit shall be allocated among such individuals in the manner prescribed by the Secretary,

"(B) no credit shall be allowed under this section for such purchase unless all of such individuals are first-time homebuyers, and

"(C) the aggregate adjusted gross income of all of such individuals shall be taken into account in determining the amount of the credit allowable under this section for such purchase."

(b) CLERICAL AMENDMENTS.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Purchase of principal residence by first-time homebuyer.
"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to principal residences purchased after November 26, 1991.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2079. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Energy and Natural Resources.

MARSH-BILLINGS NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. JEFFORDS. Mr. President, I am pleased to rise today, along with the senior Senator from Vermont, to introduce legislation which would create the first national park in my home State of Vermont.

I would like to commend the senior Senator from Vermont for the work he has done over the course of time to make this event possible. I know he has worked very hard to ensure that we be graced with this national park. It has been a pleasure working with him on it.

Let me explain just a little bit about it, because it is kind of a novel situation. It will probably be one of the smallest, if not the smallest, national parks in the United States. It will consist of about 450 acres of woods, old farm fields, carriage roads, walking paths, a quiet pond, and scenic hilltops in the heart of the Green Mountain State.

Laurence and Mary Rockefeller; residents of Woodstock, VT, have earned over the years a well-deserved reputation as two of America's great preservationists. Now they wish to give to America their home and the land that surrounds it. I hope we in Congress can accommodate them, for it is the Nation that stands to gain.

The Rockefellers live in an historic house dating back to the early 19th century, a house once lived in by the first of America's conservationists, George Perkins Marsh. Indeed, old boundary markers high in the hills behind the house still bear the Marsh name. Later the home was owned by Frederick Billings, a railroad pioneer, who had much to do with the settlement and development of the great American West.

In fact, Billings, MT, is named after his family. A biography has just been published about Billings. For the first time, this country is coming to understand his contributions.

Mary French Rockefeller grew up in that great house, overlooking the green valley of the winding and clear Ottauquechee River and the houses and spires of Woodstock. Later she met and married the Dartmouth College roommate of her brother, John French. And still later the Rockefellers made their home in what Woodstock residents call "The Mansion." So it remains.

At this time, I would be happy to yield to my senior colleague from Vermont, so that he may participate before I go on, and give further history of this great mansion.

If the Senator from Vermont [Mr. LEAHY], would like to participate at this point, I would certainly appreciate it.

Mr. LEAHY. Mr. President, I rise to join my Vermont colleague, Senator JEFFORDS, in introducing a bill to authorize the long-overdue establishment of Vermont's first National Park Service unit—the Marsh-Billings National Historical Park in Woodstock.

We take this action today, on what may be the last day of this session of the Congress, to allow us several weeks before the next session to describe and explain the many positive features of this bill to our fellow Senators. As soon as possible, we want to do the work necessary to have the bill speedily taken up and reported by the appropriate committee in the Senate—the Energy and Natural Resources Committee—for passage early in 1992.

The primary purpose of the new park is to interpret the history and evolution of land conservation stewardship in America. The Marsh-Billings property is a highly appropriate setting for this activity, as it is the birthplace of George Perkins Marsh—statesman, linguist, and a pioneering American conservationist.

It is also the former home of Frederick Billings—conservationsist, philanthropist, pioneer in reforestation and scientific farm management—who applied and refined the principles of sound land management introduced by George Perkins Marsh.

Many months ago, I spent significant time at the Marsh-Billings home in Woodstock with its present owners, Mary and Laurence Rockefeller, and Secretary of the Interior Lujan. We began to plan for the introduction of the legislation, and for the long term, when this important property will be open to the American public. Without the generosity of the Rockefellers, who are donating the property and establishing endowments to pay for ongoing preservation, maintenance, and property taxes, none of this would be possible.

It is ironic that Vermont—a national leader in historic preservation, forest stewardship, and natural resource conservation activities—is without any kind of National Park Service installation. I believe that the time, the property, and the circumstances are now right to change this situation by passing the Marsh-Billings National Historical Park Act early in 1992.

This is an extraordinary property—a mansion, related buildings, and approximately 500 acres of rolling hills and forests with scenic views. Laurence and Mary Rockefeller have my great admiration, and strong support for what they are working to accomplish for the National Park System in Woodstock. On an emotional level, I know how much this beautiful property means to them. They were married there before I was born. On our visits there, Senator JEFFORDS and I have seen and felt their great fondness for the home and land and all its historic heritage.

This new piece of legislation represents an outstanding opportunity to preserve the heritage of an important earlier era, left to us by two founders of the American conservation movement. If this house and land are not available for the American public to visit and appreciate, someday only

books will be available to portray this

As we all know, well-meaning gifts of

There being no objection, the bill was

retary is authorized to acquire such lands and interests therein by means other than

By Mr. LEVIN (for himself and Mr. DURENBERGER):

emption of State and local authority, the matter can often end up in the books will be available to portray this sense of place and era. There is a very real need for this type of preservation, and this opportunity to place a real treasure within the public trust must not be missed.

George Perkins Marsh and Frederick Billings are significant figures in Vermont's history, and I am pleased to be able to act to preserve their legacy. I have viewed and sensed a great deal of the remarkable heritage of these two men in that house and on those grounds, and look forward to sharing that with my fellow Vermonters and Americans.

I believe that the Marsh-Billings National Historical Park will be yet another jewel in a State blessed with many jewels. It will be the product of a working partnership between the local Woodstock community, and State and local government. It will be established under a long-term financial arrangement that is very fair and reasonable for the American—and the Woodstock—taxpayer. And it will be a tribute to the generosity, foresight and dedication of two extraordinary people, Laurence and Mary Rockefeller.

Mr. President, I very much look forward to working with my colleagues toward passage of the Perkins-Marsh National Historical Park Act in 1992.

Mr. JEFFORDS. Madam President, the Rockefellers would give the great house, now a national historic site, and the lands around it to the people of America. The property is a fairyland of formal gardens, pristine woods, fields still farmed, a deep and clear pond, high ledges with long views and old Billings family carriage trails that now make superb hiking and riding paths.

And just across the road is the Billings Farm Museum, one of this country's best living history places, a working farm and preserve of the family farm heritage. Americans can visit this repository of an earlier way of life and then go across the road to visit the home of some of America's great families. And they could walk about one of the finest bits of Earth on this continent in the quiet of rural Vermont, if we make real the dreams of the Rockefellers.

This would be a small national park, but to paraphrase Daniel Webster, there would be those who love it. Indeed, this is a place all America could come to love.

I want to briefly explain what this bill would do. It would establish the Marsh-Billings National Historical Park, which would consist of land donated by the Rockefellers. The park would contain two zones, a historic zone and a protection zone, and be surrounded by a scenic zone of private land with easements to preserve the natural beauty beyond the protection zone. The Secretary of the Interior is required to develop a management plan for the park within 3 years of enactment of the legislation.

As we all know, well-meaning gifts of property and physical plant can often lead to substantial operating costs. The commitment and generosity of the Rockefellers in creating this park is reflected by two funds they have offered to establish. This is truly a unique situation in which the Rockefellers have committed to preserve the integrity of their land and the town.

The first fund will be a tax fund to ensure that the town of Woodstock does not lose its tax base by the establishment of the park. The Rockefellers will continue to make payments in lieu of taxes as long as they remain in residence. Then the Park Service will make payments for 5 years as required by law. At that time, the town will be able to draw on this tax fund, which will be funded before the Rockefellers terminate their residency, to cover the loss in taxes that would occur when the Park Service completes its payments.

The second fund established in this bill would cover the cost of maintenance and preservation of the mansion and the surrounding grounds. This fund will be used in conjunction with the National Park Service's annual budget for the park. The Rockefellers have committed to covering the cost the maintenance and preservation of the park through this fund.

The Rockefellers have also agreed to cover half of the cost of the general management plan required in the bill. This is truly an amazing act of generosity. Not only are they willing to donate their land, which is valued at $10 million, they have agreed to establish two funds to protect both the town and the park. I am deeply appreciative of their commitment.

The people of Woodstock have expressed support for this initiative, as well as their strong interest in working with the Rockefellers and the National Park Service in developing a plan that will best suit the town. Given the substantial amount of land that will be donated, establishment of the park could have a major impact on the town, especially with any increasing number of visitors. I feel strongly the people of Woodstock must be a part of this process, for they will be the ones who can best determine the impact a park will have on the town.

I hope we approve this legislation and make this extraordinary gift to America a reality. It is seldom that this Congress gets such an opportunity. It is an act of generosity and farsightedness that deserves our enthusiastic support. If we so act, generation on generation of citizens will have a place to go and understand the kind of place from whence America came. It is the kind of place America must never let go.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marsh-Billings National Historical Park Act."

SEC. 2. PURPOSES.

The purpose of this Act are to—

(1) interpret the history and evolution of conservation stewardship in America;

(2) recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of "Man and Nature," statesman, lawyer and linguist;

(3) recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) preserve the Marsh-Billings Mansion and its surrounding lands; and

(5) recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller and Laurence Spelman Rockefeller in perpetuating the Marsh-Billings heritage.

SEC. 3. ESTABLISHMENT, ACQUISITION AND PURPOSES.

(a) There is hereby established the Marsh-Buildings National Historical Park (hereinafter referred to as the "park") as a unit of the National Park System, consisting of an historic zone and a protection zone.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the park in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 606; 16 U.S.C. 461–467).

(c) The park shall consist of no more than 560 acres in the historic zone and no more than 95 acres in the protection zone, all in Windsor County, Vermont, as generally depicted on the map entitled Marsh-Billings National Historical Park Boundary Map, dated 11/19/91. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(d) The historic zone shall include the Marsh-Billings Mansion and surrounding buildings and the area known as Mt. Tom. The primary purpose of the historic zone shall be for preservation, education and interpretation. The Secretary is authorized to acquire lands and interests therein in the historic zone by donation or with donated funds.

(e) The protection zone shall include the areas presently occupied by the Billings Farm and Museum. The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings Mansion in such manner and by such means as will continue or permit current and future compatible uses.

(f) The Secretary is directed to pursue protection and preservation alternatives for the protection zone, working with affected State and Local Government units and affected landowners, to develop and implement land use practices consistent with the purposes of this Act. The Secretary is authorized to accept donations of lands and interests in lands within the protection zone; further, the Secretary is authorized to acquire such lands and interests therein by means other than donation, if the Secretary determines that the lands are being used, or that there is an imminent threat that the lands will be used, for any purpose that is incompatible with the purposes of this Act.

SEC. 4. SCENIC ZONE.

There is hereby established a scenic zone, which shall include the lands generally depicted on the map entitled Marsh-Billings National Historical Park Scenic Zone Map, dated 11/19/91. The purposes of the scenic zone shall be to protect portions of the natural setting beyond the protection zone which are visible from the Marsh-Billings Mansion, by such means and in such manner as will permit current and future compatible uses. The Secretary is authorized to acquire scenic easements by donation within the scenic zone.

SEC. 5. COOPERATIVE AGREEMENTS.

(a) The Secretary may enter into cooperative agreements with such persons or entities as he may determine to be appropriate for the preservation, interpretation, management and operation of, and provision of educational and recreational uses for, the properties in the park and the scenic zone.

(b) The Secretary may, through cooperative agreements with owners or operators of land and facilities in the protection zone, provide for facilities to support activities of the historic zone.

(c) The Secretary may not expend appropriated funds in direct support of commercial enterprises, other than pursuant to a concession contract, entered into in accordance with the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20–29g), provided that existing commercial activities may be continued, insofar as they interpret the historic purposes of the site, by public or private non-Federal entities through cooperative agreements.

SEC. 6. ENDOWMENT.

The Secretary is authorized to receive and expend funds from an endowment to be established with The Woodstock Foundation or its successors and assigns, subject to the condition that payments therefrom shall be expended exclusively as the Foundation or its successors and assigns may designate for the preservation and maintenance of the Marsh-Billings Mansion and its immediately surrounding property, except that all such expenditures shall be consistent with the general management plan for the park.

SEC. 7. USE AND OCCUPANCY.

(a) When acquiring any land pursuant to this Act, the Secretary may acquire any such land subject to the retention of a right of use and occupancy for noncommercial residential purposes for a term not to exceed twenty-five years or for the life of the owner or owners.

(b) The Secretary may acquire lands in the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the grantor, his successors and assigns.

SEC. 8. GENERAL MANAGEMENT PLAN.

Within three years from the date funding is made available for the purposes of this section, by donation or otherwise, the Secretary shall develop and transmit a general management plan for the park to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

By Mr. LEVIN (for himself and Mr. DURENBERGER):

S. 2080. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

PREEMPTION CLARIFICATION AND INFORMATION ACT

• Mr. LEVIN. Mr. President, since 1789, Congress has enacted approximately 350 laws explicitly preempting State and local authority; over half of these laws having been enacted in the last 20 years. These figures, however, do not touch upon the extensive Federal preemption of State and local authority which has occurred as a result of judicial interpretation of congressional intent, when Congress's intention to preempt has not been explicitly stated in law. When Congress is unclear about its intent to preempt, it is left to the courts to decide whether or not preemption was intended and, if so, to what extent.

While we don't have any accurate data as to how many cases there have been where the courts have found preemption by implication, we do know they are numerous and that they form an increasingly significant portion of cases before the courts. According to a recent report by the Appellate Judges Conference of the American Bar Association, "Compared to 20 years ago, the number of preemption cases on the Supreme Court's docket has increased by a factor of four." This trend is not expected to abate.

Today, along with Senator DURENBERGER, I am introducing legislation to require that in order for there to be Federal preemption of State and local law, Congress must include an explicit statement to that effect in any bill it passes, unless of course, there exists a direct conflict between the Federal law and a State or local law which cannot be reconciled. This would close the back door of implied Federal preemption and put the responsibility for determining whether or not State and local governments should be preempted back in Congress where it belongs.

Article VI of the Constitution, the Supremacy Clause, states that Federal laws made pursuant to the Constitution, "shall be the supreme Law of the Land." In its most basic sense, this clause means that a State law is negated or preempted when it is in conflict with a constitutionally enacted Federal law. A significant body of case law has been developed to arrive at standards by which to judge whether or not Congress intended, by implication, to preempt State or local authority.

Of course if Congress clearly states its desire to preempt State and local authority or where there's a direct conflict that cannot be reconciled, then the question of preemption is resolved. But, in those cases in which the Federal law is not explicit regarding preemption of State and local authority, the matter can often end up in the courts. This is especially true in those cases in which the Federal Government sets a floor or ceiling for a certain activity but is silent with regard to whether or not, or to what extent, a State or local government can go further than the Federal Government requirement—above the floor or below the ceiling.

For example, if a Federal law sets a ceiling of 10 parts per billion of a certain toxic substance in drinking water, but is silent on the issue of whether or not, or to what extent, a State or local government could require stricter curbs on this toxin, the issue of State or local authority may very well end up subject to judicial interpretation. Similarly, if a Federal law sets a minimum of at least 10 parts per billion of an important additive to drinking water—like flouride—but is silent on whether or not, or to what extent, a State or local government could require greater amounts of the substance in drinking water, the courts would be left to resolve that issue. In both of these cases, our bill would permit tougher State laws, unless preemption were explicit or these was a direct conflict. These are the types of cases the courts have been considering in increased volume over the past 10 years.

A recent Supreme Court decision over the regulation of pesticides by local governments, Wisconsin versus Public Intervenor, describes the three standards by which, absent explicit preemptive language, congressional intent to preempt may be inferred. The three tests are as follows:

> * * * if a scheme of Federal regulation is 'so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it,' if 'the Act of Congress * * * touch[es] a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject,' or if the goals "sought to be obtained" and the "obligations imposed" reveal a purpose to preclude state authority.

We believe that if we in Congress want Federal law to preempt State and local government from legislating in an area, we should be clear about that. If we set a floor or a ceiling but are silent on actions which certainly meet but then go beyond the Federal requirement, State and local governments should be allowed to act as they deem appropriate. Our silence should not result in State and local governments having to fight these types of battles in the courts, and courts should not have to read the tea leaves to discern what we in Congress intended. Too much is at stake in these cases.

Our bill seeks to address this situation by requiring that—

> [n]o statute, or rule promulgated under such statute, shall preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless the statute ex-

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plicitly states that such preemption is intended or unless there is a direct conflict be-

that the laws enacted by the Congress will be the supreme law of the land.

One of the ways that we have traditionally been able to get rid of those

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fund, in a way, to teach the Soviet Union how to utilize the free enterprise

get the value of that food being present now, but they also get the value of

I appreciate the time of my colleagues here. I hope this bill will make plicitly states that such preemption is intended or unless there is a direct conflict between such statute and a State or local law, ordinance, or regulation so the two cannot be reconciled or consistently stand together.

Upon passage of this bill, a clear statement of intent to preempt will be the standard by which Federal preemption is to be judged: If there is no such statement or a direct, unreconcilable conflict, there is no preemption.

It will force Congress to think through the issue of preemption and whether or not it is appropriate for the matter at hand. The question of preemption will require debate and resolution at the front end of the process rather than after-the-fact guesswork. It places responsibility for the debate and resolution of the preemption question where it should be, with the legislature, not the judicial branch.

Our legislation also requires the Congressional Research Service, at the end of each Congress, to compile a report on laws passed in which statutory preemption is explicit and on all Federal cases in which preemption of State or local authority has been an issue. This will constitute the first time such a complete report has been done, and the information will be valuable to the debate regarding the appropriate use of preemption to reach Federal goals.

We have worked closely with the Advisory Commission on Intergovernmental Relations in devising this legislation. This organization has done a great deal of work in this area. Moreover, legislation in this area has been endorsed by the National Conference of State Legislators, the Intergovernmental Affairs Committee of the Council of State Governments, the United States Conference of Mayors and the Appellate Judges Conference of the American Bar Association.●

● Mr. DURENBERGER. Mr. President, I am pleased to join with my colleague, the distinguished junior Senator from Michigan, in introducing the Preemption Clarification and Information Act of 1991.

The Founding Fathers established in the Constitution a joint role for the States and the Federal Government. The powers of the Federal Government, including its role in regulating interstate and foreign commerce, maintaining the military, and entering into treaties, are clearly outlined in the body of the Constitution. When there is a question over jurisdiction, however, the tenth amendment prescribes that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Yet, Mr. President, the issue of Federal preemption of State and local authority has increasingly dominated intergovernmental relations. In spite of what is known as the supremacy clause of article VI, which proclaims that the laws enacted by the Congress will be the supreme law of the land, wrangling between State and Federal authority has only increased during the past half-century.

In the judgment of this Senator, the questions over preemption issues have not been as much related to the merits of the legislative differences, but have instead been focused on whether, and to what extent, preemption was intended by the Congress. Unfortunately, Mr. President, it is not the Congress which has determined preemption issues, as intended under the supremacy clause, it is the courts. When the Congress does not express its intent clearly enough, it abdicates its role and powers to the courts which are left to determine Congressional intent.

The Senator from Michigan and I do not intend to create new powers for the States or for the Congress, nor do we intend to usurp powers from State or local governments. Our purpose is to ensure that the Congress makes its intent clear when preempting State or local law. When it does not, this legislation ensures that the benefit of the doubt lies with the State or local government.

It is our hope that the Preemption Clarification and Information Act of 1991 will minimize litigation congesting the courts, will help to end the need for the courts to speculate and try to discern congressional intent, and will reduce the erosion of State efforts to work their will on issues with which they share legitimate interests with the Federal Government.

I encourage my colleagues to join us in supporting this effort to more carefully discharge the constitutional duties of the Congress.●

By Mr. JEFFORDS.

S. 2081. A bill to sell agricultural commodities to the Union of Soviet Socialists Republics so as to promote local food distribution and production and the operations of privately owned agricultural enterprises; to the Committee on Agriculture, Nutrition, and Forestry.

SALE OF AGRICULTURAL COMMODITIES TO THE SOVIET UNION

Mr. JEFFORDS. Madam President, I also intend to introduce another bill today. It is very interesting being in the Senate and having an opportunity to sit on two committees which deal with problems that sometimes interlock. I am here today to give a suggestion of how we can take a series of problems and resolve them with one bill.

Just the other day we took a considerable amount of time to talk about the serious problems we have in the dairy industry. The most significant aspect of those problems is the amount of surplus of goods we have hanging over the market and deflating the price our dairy farmers receive.

One of the ways that we have traditionally been able to get rid of those surpluses so the market can raise dairy prices is to ship them overseas and donate them or sell to a willing buyer. That is one of the aspects of this bill.

A problem which we have all been reading about in the media is the possible starvation of citizens in the Soviet Union. In relation to that, there is actually the possibility of two problems. First is the lack of food; and the second, the inability to distribute the available food to the people of the Soviet Union. Without correcting these problems we may end up with a serious problem of starvation. And that of course is of great significance and importance to this country because if that does occur, the very fragile union and the fragile situation we have could even go so far as to reverse itself. People need food, and at a time when their lives are threatened they can sometimes revert back to those things which they have tried to get away from.

Another problem we have is that the citizens in the United States that are not very pleased about sending money over to the Soviet Union at a time when we are having difficult times at home with unemployment and our own problems ensuring that everyone has adequate food. However, I do not think we need to choose between these problems. We certainly do have food and money available in this Nation to take care of our own if properly utilized. We have to keep this in mind when we design a program to provide aid to the Soviet Union. Related to this problem of providing assistance to the people of the Soviet Union is the credit restrictions we have in our law. We basically have to guarantee, or have to receive a guarantee, that the loans or the goods that are delivered will be actually paid for.

A while back, we had a hearing where former Ambassador Jack Matlock testified and put out a very interesting suggestion of how we might try to overcome some of these problems. He suggested that rather than just giving away the food, we could loan it to the Soviet Union with the understanding that the following things would occur:

First of all, that the food would be made available to the citizens, but it would be done in a way so that the value of the food products would be converted into the local currency, and instead of taking that money back, put it into a fund to be set up as a free enterprise fund. You would deliver the dairy products and they would be paid for in rubles, but the rubles would remain in the Soviet Union, put into a fund like our loan funds we have for businesses in this country and be made available for specific purposes, especially related to setting up private businesses to distribute food within the Soviet Union. It would be a teaching

fund, in a way, to teach the Soviet Union how to utilize the free enterprise system in order to make their system work better. So the opportunities now are truly great, and yet we venture into unchartered territory. We must not hesitate. Rather, in the American tradition, let us reach out eagerly and in peace across the Atlantic and beyond the Urals. Let's build markets for our goods. And in this Thanksgiving season, let us take our agricultural bounty and lend it to the Soviets. This is the right thing to do and the smart thing to do for us, our farmers, and the Soviet people.

The bill I am introducing capitalizes on the ideas of Ambassador Matlock. The program would use commodity credits to establish a free-enterprise fund for Soviet entrepreneurs. Under the program, the Soviets would be required to establish a revolving loan fund in exchange for food from the Commodity Credit Corporation's [CCC] stocks of dairy and other products. In practice, at the time of a CCC sale, the Soviet Union would deposit the ruble value of the food they wish to buy into a free-enterprise fund. Entrepreneurs could borrow from the fund, with preference given to those in food distribution or production. When the term of the CCC loan expires, the Soviet Union would be required to repay the United States, either in real dollars or in an equivalent amount of marketable commodity such as oil or gold.

Under this program, American farmers would be given a break, Soviets would eat this winter, the United States would be paid for what it provides, and Soviet entrepreneurs would be given a fighting chance. No new money need be expended from the U.S. Treasury, and no dollars would leave the United States.

Ambassador Matlock suggested this. I asked him at that time, "Isn't there availability of goods right now that we could transfer?"

He said, "No, the Soviets have been in such a desperate situation, they have already committed their oil and other natural resources they have for purposes of obtaining credit for other essential items. So we might have to wait."

But different from the Marshall plan and others, and especially in view of the huge natural resources in the Soviet Union, it seems to me, in taking Ambassador Matlock's suggestions, the better thing to do would be to ensure that we get repaid sometime.

It does take some faith. There is no question about that. It takes faith that the Soviet Union will survive but the law allows that funds will be provided to protect ourselves.

But it seems to me, here we are going to get $2 for every $1, and that $1 will come back, eventually. So, hopefully, the net impact upon our national debt should be zero. Not only do the Soviets get the value of that food being present now, but they also get the value of those funds equal to the value in their own currency utilized to loan out to create a free enterprise situation.

We have a firm in Vermont—Geonomics—which is studying the monetary and financial systems of the Soviet Union. We submitted the plan to them and they heartily endorsed it and said this is the kind of innovative concept we need to solve the various problems I have discussed.

One, of course, it would unload the surplus dairy products that we have, making it possible for our farmers to increase their revenues. Second, it would assist in feeding the people of the Soviet Union, to prevent starvation in winter; set up the mechanism to create the free enterprise systems necessary to improve their food distribution. It would also not be a program that raises a red flag to the American public: "Here we are just giving money away," but rather we would be loaning the money out with the expectation, assuming our faith in the free enterprise system is adaptable to the Soviet Union, that would result in getting paid back in the future.

So I offer this—perhaps not just in its limited form as we have for agricultural products, but also as a model, an innovative model—thanks again to Ambassador Matlock for his suggestion—that may allow us to help the Soviet Union get them on their feet and let them learn about the free enterprise system. At the same time, banking on their ability to be able to survive and improve their lot with the free enterprise system, and given their vast natural resources, the most natural-resource-endowed country in the world, to repay us in the future. We can always use it, I am here.

The first step in supporting democratic reform is to ensure that the Soviets do not starve this winter. History shows that economic distress combined with dashed hopes for political change are the conditions most likely to provoke unrest. Let's not allow shortages of milk and bread—of which we have so much—to become the curse of democracy. Let's help the Soviets in a way that can also help American farmers, and doesn't strain the American taxpayer.

CONCLUSION

The melting of the cold war has left us hopeful, surprised, and full of ideas, yet short of confident plans. Action seems stymied both by the uncertainty of future developments in the Soviet Union and by the absence of an overarching strategy to replace containment. I would argue that we do not have time to stall. We have the chance to shape a new Europe where democracy, free markets, and peace flourish: A Europe which is a good place for American business and a market for United States agricultural products.

I appreciate the time of my colleagues here. I hope this bill will make a significant contribution, not only to my dairy farmers but also to world peace, and to the Soviet Union.

With that, I ask unanimous consent a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALE OF AGRICULTURAL COMMODITIES TO SOVIET UNION TO PROMOTE LOCAL FOOD DISTRIBUTION AND PRODUCTION.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended by adding at the end the following new title:

"TITLE VII—SALE OF AGRICULTURAL COMMODITIES TO SOVIET UNION TO PROMOTE LOCAL FOOD DISTRIBUTION AND PRODUCTION

"SEC. 701. SHORT TITLE.

"This title may be cited as the 'Food for Enterprise Act'. .

"SEC. 702. DEFINITIONS.

"For purposes of this title:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means—

"(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof, that the Secretary of Agriculture determines meet the purposes of this title; and

"(B) such other edible agricultural commodities as may be acquired by the Secretary of Agriculture or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under section 416(b) of the Agricultural Act of 1949.

"(2) MARKET RATE.—The term 'market rate' means, with respect to financing, any rate of interest which is equal to or greater than the current average interest rate (as of the last day of the month preceding the financing under this title) that the United States Government pays on outstanding marketable obligations of comparable maturity.

"(3) PETROLEUM PRODUCT.—The term 'petroleum product' means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

"(4) UNION OF SOVIET SOCIALIST REPUBLICS.—The term 'Union of Soviet Socialist Republics; means the country recognized by that name by the United States or any successor country recognized by the United States.

SEC. 703. ESTABLISHMENT OF PROGRAM.

"(a) AUTHORITY FOR PROGRAM.—Notwithstanding any other provision of law, the President is authorized to establish a program for the sale on credit terms of surplus agricultural commodities owned or controlled by the Commodity Credit Corporation to the Government of the Union of Soviet Socialist Republics to meet the emergency food needs of that country if such Government meets the conditions of section 704. Such program shall be implemented by the Secretary of Agriculture.

"(b) BILATERAL AGREEMENT.—To carry out subsection (a), the Secretary of Agriculture

may negotiate and execute an agreement

"(b) SALE OF COMMODITIES.—The Secretary

S. 2083. A bill to provide for an exten-

cess to patients in predominately rural

will allow for and emphasize a scientif-

proved pesticides will be faced with

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may negotiate and execute an agreement with the Government of the Union of Soviet Socialist Republics to finance the sale and exportation of agricultural commodities to such Government.

"(c) REPAYMENT TERMS.—Such agreement shall require that the payment for agricultural commodities be made as follows:

"(1) The payment to the United States of principal shall be deferred for such number of years after delivery of the commodities as is set forth in such agreement and may only be paid—

"(A) in United States dollars; or

"(B) in an amount of gold, petroleum products, or other marketable commodity of equivalent value, to be held and disposed of in accordance with section 705.

"(2) The payment to the United States of interest shall be made at market rates, shall be due on the date that the principal is due, and may only be paid—

"(A) in United States dollars; or

"(B) in an amount of gold, petroleum products, or other marketable commodity of equivalent value to be held and disposed of in accordance with section 705.

"(d) TERMS OF DELIVERY.—Delivery of the commodities shall be made in accordance with the terms of the agreement.

"SEC. 704. TERMS AND CONDITIONS OF SALES.

"The conditions referred to in section 703(a) are that the Government of the Union of Soviet Socialist Republics—

"(1) upon receipt of the agricultural commodities, shall establish an interest-bearing account (which may be referred to as the "Free Enterprise Fund") into which shall be paid an amount of local currency equal to the full market value of such commodities, as determined by the agreement but at rates of exchange that are no less favorable than the highest exchange rate legally obtainable in the Union of Soviet Socialist Republics and that are no less favorable than the highest exchange rate obtainable by any other country;

"(2) shall use the Free Enterprise Fund only for loans to nongovernment Soviet entrepreneurs to finance—

"(A) the development of a private distribution system and food processing and food storage systems; and

"(B) the operations of privately owned agricultural enterprises;

"(3) shall cover into the Free Enterprise Fund the repayment of such loans, which amounts shall be available for the same purposes for which amounts in such Fund are otherwise available;

"(4) shall, for the purpose of meeting its emergency food needs, resell the agricultural commodities within the Union of Soviet Socialist Republics for local currency, which may be used as reimbursement to the Government for amounts paid into the Free Enterprise Fund under paragraph (1); and

"(5) shall agree that failure to comply with any of the conditions described in paragraphs (1) through (4) shall render the principal and interest obligations of the Union of Soviet Socialist Republics pursuant to the agreement due immediately, without regard to paragraph (1) or (2) of section 703(c).

"SEC. 705. DISPOSAL OF BARTERED COMMODITIES.

"(a) ROLE OF SECRETARY OF THE TREASURY.—Any gold, petroleum product, or other marketable commodity acquired by the United States in the Union of Soviet Socialist Republics pursuant to paragraph (1)(B) or paragraph (2)(B) of section 703(c) shall be held by the Secretary of the Treasury for disposal in accordance with this section.

"(b) SALE OF COMMODITIES.—The Secretary of the Treasury shall provide for the timely sale of all gold, petroleum products, or other commodities received under subsection (a). All moneys received from the sale of such items shall be covered into the miscellaneous receipts account of the Treasury of the United States.

"(c) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section.".

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2082. A bill relating to the taxation of certain disability benefits received by former police officers or firefighters; to the Committee on Finance.

DISABILITY BENEFITS TAXATION ACT

• Mr. DODD. Mr. President, I rise today to introduce a most important piece of legislation for over 1,000 retired police officers, firefighters and their widows in my home State of Connecticut. I am pleased to be joined in this effort by Senator LIEBERMAN.

The State of Connecticut, in an effort to address the serious problem of job-related hypertension among law enforcement officers, adopted the Heart and Hypertension Act. This State law allows police officers and firefighters who become disabled or die as a result of hypertension or heart disease to claim worker's compensation benefits, which are excluded from Federal taxes under Internal Revenue Code, section 104. Over the last 2 years, 1,110 officers or their survivors have retired or claimed this benefit under this statute.

Unfortunately, in July 1991, the IRS issued a private letter of ruling concluding that these benefits are taxable and has begun an investigation to identify those individuals who received these benefits. Although the State is working to correct the language of the statute to meet IRS requirements and protect future retirees, the current IRS ruling threatens officers who have received these benefits during the past 2 years with back taxes, penalties, and interest.

While I am pleased the State is moving ahead to correct this problem, I am deeply concerned for those unknowing retirees and widows who have, unaware of the taxability of this income, accepted these benefits and now stand possibly liable for back taxes, as well as interest and penalties through no fault of their own. In this regard, this legislation would exempt these benefits from retroactive taxes, penalties, and interest.

Mr. President, this is not an issue of great national magnitude, but for those 1,100 retired officers and widows this is a matter of utmost importance. I am hopeful that the appropriate committees will give this measure their early attention during the next session and we can move ahead toward a speedy passage of this legislation.•

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2083. A bill to provide for an extension of regional referral center classifications, and for other purposes; to the Committee on Finance.

S. 2084. A bill to provide for a minimum Medicare payment level of 90 percent for rural referral centers allowable capital-related cost; to the Committee on Finance.

MEDICARE PAYMENTS TO RURAL REFERRAL CENTERS

• Mr. CRAIG. Mr. President, today Mr. SYMMS and I are introducing two bills that are of great importance to the citizens of our State, Idaho—and to citizens across the Nation who live in rural areas. These measures address a very pressing concern: The future provision of health care in rural America.

The first bill deals with a sunset provision of law which must be extended by the end of fiscal year 1992, if this Nation's rural referral centers are to continue meeting the needs of their patients. This provision, which I refer to as the rural referral grandfather clause, provides these unique hospitals with a reimbursement rate comparable to that of their urban counterparts.

I introduced similar legislation in the 101st Congress, and a provision extending the grandfather clause through fiscal 1992, was included in the Omnibus Reconciliation Act of 1989. Now it is time to address this problem once again. My bill would simply extend the grandfather clause till fiscal year 1995, when the urban-rural differential will be phased out and reimbursements will be more equitable for rural hospitals.

In my State of Idaho and in 41 other States, rural referral centers are the cornerstones of rural health care. In some communities, they are the sole source of health care—the only source of health care for other communities in their region.

Rural referral centers provide a larger variety of specialized services and are therefore reimbursed from Medicare funds at a rate higher than that given to small rural hospitals. The larger rural referral centers must also pay salaries and expenses comparable to urban hospitals. If they are to continue offering the much needed, specialized care, rural referral centers must be reimbursed at a rate which properly reflects their costs. This legislation is fundamentally important to these hospitals if they are to be allowed to continue operating until the urban-rural differential is phased out.

The second bill my colleague from Idaho, Mr. SYMMS, is joining me in introducing makes a minor adjustment to the recently completed Medicare capital payment regulations. Our legislation would simply change the regulations by providing rural referral centers with the same 90 percent payment floor being provided for sole community providers.

Hospitals designated as "sole community providers" provide essential access to patients in predominately rural environments. They have been provided a capital payment floor of 90 percent, which is necessary to ensure that Medicare capital payments to those hospitals are adequate to secure access to essential care for rural America. Rural referral centers have a similar role in playing a major part of health care delivery in rural areas. Not only do they serve a large area, they also provide a wider range of care than do sole community hospitals. Therefore, given the unique role these facilities play in rural health care, I hope my colleagues will join in supporting this legislation to provide rural referral centers with a payment floor of 90 percent.

An article I once read on rural hospitals in Smithsonian magazine always sticks in my mind, because it did an excellent job of highlighting the importance of those institutions:

> A rural hospital, then, may be a place where nothing "special" ever happens. Where no one is a number; where everyone knows your name, tolerates your quirks and shares your griefs; where the nurses celebrate your birthday. Where when you telephone to say you feel sick and wish to be admitted, they turn down your bed and have the florist deliver a half-dozen pink carnations to your room. Where visiting hours do not matter even if they are posted—relatives and friends come and go as they please; where a turned-on light over your door instantly brings a nurse to your bedside. Where the kitchen staff makes bread and pies from scratch, and real mashed potatoes, and if you don't like the evening menu, someone will run to the corner and bring you a pizza with mushrooms and onions—and no anchovies.

Mr. President, rural referral centers are more than just health care centers—they are an important thread in the fabric of rural society. America's rural hospitals continue to face financial difficulties, difficulties that threaten not only their existence, but also the existence of the communities they serve. Medicare payments have long been inequitable to our rural referral centers. Let us protect them and the people they serve, until the present inequities in the system are phased out.•

By Mr. MITCHELL (for Mr. PRYOR, for himself, Mr. DOLE, Mr. COCHRAN, Mr. BOND, Mr. SHELBY, and Mr. BOREN)

S. 2085. A bill entitled the "Federal-State Pesticide Regulation Partnership Act of 1991"; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL-STATE PESTICIDE REGULATION PARTNERSHIP ACT OF 1991

• Mr. PRYOR. Mr. President, today I am introducing an important piece of legislation with the intention of rectifying a serious problem that has recently arisen in our efforts to protect consumers from potential harm from the use of pesticides and agricultural chemicals. This bill, the Federal-State Pesticide Partnership Act of 1991, will provide a national framework which will allow for and emphasize a scientifically sound regulatory approach by creating national uniformity in dealing with this issue.

The need for this legislation surfaced this summer when the Supreme Court ruled that the Federal Insecticide, Fungicide and Rodenticide Act, or FIFRA, does not preempt local governmental regulation of pesticide use in Wisconsin Public Intervenor, et. al versus Mortier, et. al. Under current law, pesticides are regulated by EPA under FIFRA with secondary enforcement reserved for or delegated to the individual States. This well-coordinated regulatory partnership between the Federal Government and the States has been the backbone of FIFRA since at least 1972. Prior to the decision, most had assumed that local governments were without authority to regulate on their own. The Court concluded, however, that while congressional committee reports arguably supported the concept of Federal preemption over local regulation of pesticide use, the express language of the statute itself did not provide sufficient justification for preempting local regulation. In reference to this disregard for legislative history, Justice White's opinion concluded, "* * * Congress is free to find that local regulation does wreak such havoc and enact legislation with the purpose of preventing it. We are satisfied, however, that Congress has not done so yet." Clearly, the Court recognized that national uniformity is not something Congress is precluded from enacting.

The decision of the Court essentially created over 83,000 local jurisdictions that are now free to regulate various aspects of pesticide use. Imagine the enormity of that number, especially when compared to the confusion and inconsistency that has resulted from just five Federal agencies regulating farmers' use of wetlands. As a staunch believer in States rights, I harbor reservations over the Federal preemption of almost anything, but in this case, it is clearly in the interest of the American public to create national uniformity. Without such jurisdiction, the regulation of pesticides will be left in the hands of governmental bodies with the least access to scientific input and the latest regulatory process which licenses pesticides for safe use. Furthermore, local regulation will interfere with the established Federal-State partnership that exists for all other aspects of pesticide regulation under FIFRA. There is the strong likelihood for conflicting and overlapping regulation as communities, townships, cities, counties, and even water conservation districts could enact their own regulations without regard for the regulations of neighboring or overlapping geographical jurisdictions.

Farmers and business people who rely on access to and use of EPA-approved pesticides will be faced with trying to comply with thousands of different regulations. For anyone operating across jurisdictional lines, these varying regulations will obviously create an overwhelming burden, and as a consequence, will surely drive up the prices of the goods and services provided by these interests. The last weight our farmers and small businesses need cast upon them, especially during economic times such as these, are numerous and conflicting regulations. Since the decision, almost 100 cities and towns and counties are considering adopting or have already adopted their own regulations. To date, no two are alike. Worse yet, many local jurisdictions have left technical, scientific, and regulatory decisions in the hands of town engineers and parks department employees since they do not have EPA scientists at their disposal. The trouble this will cause for farmers and small businesses is obvious, but it should not be assumed by anyone that this is only a rural problem. This will have an equal impact on such businesses as home pest controls, lawn care operations, florists, right-of-way maintenance companies, and school cleaning services, any and all of which operate frequently in urban areas.

Mr. President, this problem carries serious risks. Our public is now subjected to the decisions of regulating bodies that simply do not have the scientific expertise to carry out decisions that could effect the health of its citizens. In addition, the tremendous costs which consumers will be required to bear will be a certain result from farmers and companies, when able, having to adjust to so many conflicting and confusing rules in order to be in compliance with an untold number of agencies.

This complex and technical arena of pesticide regulation is one which requires not only the input from the best and brightest, but consistency as well. The only sure way to provide such consistency is through national uniformity. We owe this to the public Mr. President, and it is our responsibility to deliver this to them in a timely fashion, because this is a contemporary problem that the Senate should not delay in addressing.

For the record, I ask unanimous consent to include a list of the many groups that support my legislation, as well as an editorial from the Wall Street Journal from November 21, 1991.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COALITION FOR SENSIBLE PESTICIDE POLICY

Agricultural Alliance of North Carolina.
Alabama Agricultural Chemical Association.
All-America Rose Selections.
American Agri-Women.
American Association of Nurserymen.

American Farm Bureau Federation.

Minnesota Pest Control Association.

South Carolina Pest Control Association.

to return. The result has been a significant

INDIVIDUAL DEVELOPMENT ACCOUNT ACT OF 1991

have to save $1,650 from their dispos-

American Farm Bureau Federation.

American Sheep Industry.

American Society of Agricultural Consultants

American Sod Producers Association.

American Soybean Association.

American Wood Preservers Institute.

Animal Health Institute.

Arizona Pest Control Association.

Arkansas Agricultural Pesticide Association.

Associated Landscape Contractors of America.

Associated Landscape Contractors of Massachusetts.

California Association of Nurserymen.

Chemical Manufacturers Association.

Chemical Producers and Distributors Association.

Chemical Specialties Manufacturers Association.

Chocolate Manufacturers Association.

Colorado Pest Control Association.

Connecticut Nurserymen's Association.

Connecticut Pest Control Association.

Corn Refiners Association.

Delaware Association of Nurserymen.

Delmarva Agricultural Chemical Association.

Eastern Regional Nurserymen's Association.

Florida Nurserymen and Growers Association.

Florida Pest Control Association.

Garden Centers of America.

Georgia Green Industry Association.

Georgia Pest Control Association.

Golf Course Superintendents Association of New Jersey.

Hawaii Agricultural Alliance.

Hawaii Pest Control Association.

Idaho Soil Fertility and Crop Protection Association.

Illinois Fertilizer & Chemical Association.

Illinois Landscape Contractors Association.

Illinois Pest Control Association.

Indiana Pest Control Association.

Industrial Biotechnology Association.

Institute of Shortening & Edible Oils.

International Sanitary Supply Association.

International Society of Arboriculture (New Jersey Chapter).

Iowa Fertilizer and Chemical Association.

Iowa Nurserymen's Association.

Iowa Pest Control Association.

Kansas Fertilizer and Chemical Association.

Kansas Grain and Feed Association.

Kansas Termite & Pest Control Association.

Kentucky Nurserymen's Association.

Kentucky Pest Control Association.

Landscape Contractors Association, MD–DC–VA.

Landscape Ontario Horticultural Trades Association.

Louisiana AG. Industries Association.

Louisiana Pest Control Association.

Maryland Alliance for Responsible Regulation of Pesticides.

Maryland Nurserymen's Association.

Maryland State Pest Control Association.

Massachusetts Arborists Association.

Massachusetts Biotechnology Council.

Michigan Agri-Business Association.

Michigan Alliance for the Rational Approach to Pesticides [MARAP].

Michigan Nursery and Landscape Association.

Michigan Pest Control Association.

Millers National Federation.

Minnesota Biotechnology Association.

Minnesota Pest Control Association.

Minnesota Pesticide Information and Education.

Mississippi Nurserymen's Association.

Mississippi Pest Control Association.

Missouri Association of Nurserymen.

Missouri Pest Control Association.

Montana Agricultural Business Association.

National Agrichemical Retailers Association.

National Agricultural Aviation Association.

National Agricultural Chemicals Association.

National-American Wholesale Grocers Association.

National Arborist Association.

National Association of Plant Patent Owners.

National Association of State Departments of Agriculture.

National Association of Wheat Growers.

National Broiler Council.

National Cattlemen's Association.

National Christmas Tree Association.

National Confectioners' Association.

National Corn Growers Association.

National Cotton Council of America.

National Council for Environmental Balance.

National Fertilizer Solutions Association.

National Fisheries Institute.

National Food Processors Association.

National Forest Products Association.

National Grain and Feed Association.

National Grange.

National Landscape Association.

National Pest Control Association.

National Pork Producers Council.

Nebraska Fertilizer and Ag-Chemical Institute.

Nebraska State Pest Control Association.

New England Nurserymen's Association.

New England Pest Control Association.

New Jersey Nursery and Landscape Association.

New Jersey Pest Control Association.

New Jersey Turfgrass Association.

New York State Nursery/Landscape Association.

New York State Pest Control Association.

North Carolina Landscape Contractors Association.

North Carolina Pest Control Association.

North Dakota Agricultural Association.

Ohio Agrobusiness Association.

Ohio Grain & Feed Association.

Ohio Nurserymen's Association.

Ohio Pest Control Association.

Oklahoma Fertilizer and Chemical Association.

Oklahoma Pest Control Association.

Oregon Agricultural Chemicals Association.

Oregon Association of Nurserymen.

Oregonians for Food and Shelter.

Pennag Industries Association.

Pennsylvania Agronomic Products Association.

Pennsylvania Nurserymen's Association.

Pennsylvania Pest Control Association.

Pest Control Operators of California.

Pest Control Operators of Oregon.

Pesticide Association of New York State.

Pesticide Association of North Carolina.

Professional Lawn & Pest Applicators of Idaho.

Professional Lawn Care Association.

Responsible Industry for a Sound Environment.

Rocky Mountain Plan Food and Agricultural Chemicals Association.

Society of American Florists.

South Carolina Pest Control Association.

South Dakota Fertilizers and AG Chemical Association.

South Dakota Nurserymen's Association.

Southern Agricultural Chemicals Association.

Southern Nurserymen's Association.

Tennessee Pest Control Association.

Texas Association of Landscape Contractors.

Texas Association of Nurserymen.

Texas Pest Control Association.

The Alliance for Environmental Concerns.

The Alliance of Rhode Island Professional Pesticide Applicators.

United Egg Producers.

United Fresh Fruit and Vegetable Association.

United States Canola Association.

United States Chamber of Commerce.

Virginia Pest Control Association.

Washington Friends of Farms and Forests.

Washington State Nursery & Landscape Association.

Washington State Pest Control Association.

West Virginia Nurserymen's Association.

West Virginia Pest Control Association.

West Virginia Vegetation Management Association.

Wholesale Nursery Growers of America.

Wisconsin Agri-Business Council.

Wisconsin Fertilizer and Chemical Association.

Wisconsin Forestry/Right-of-Way/Turf Coalition.

Wisconsin Landscape Contractor's Association.

Wisconsin Nurserymen's Association.

Women Involved in Farm Economics.

[From the Wall Street Journal, Nov. 21, 1991]

SILENT HARVEST

Bugs are back in the news. California's winter crop has been decimated by a whitefly infestation. Perhaps $100 million of cantaloupes, cauliflower, broccoli and lettuce lie ruined. Probable causes of the blight are warm weather, possibly an intensive type of agriculture that provides hosts for the insects virtually year-round—and the flies' resistance to pesticide. The devastation of these crops raises anew the question of whether this country's recurring phobias over chemicals and the regulatory apparatus that politics has erected around the development of new agricultural chemicals leave the country poorly prepared to deal with problems such as an onslaught of whiteflies.

The institution created to protect us from chemicals is the Environmental Protection Agency. One can argue that the EPA is to agriculture what the Food and Drug Administration is to pharmaceuticals—a drag on the introduction of scientific technology.

It helps to be mindful that an agency like this one to some extent reflects the collective acts of the U.S. Congress. And most agencies have a variety of divisions, some disposed to letting private producers flourish, others antagonistic to the interests of industry. That said, let's see how the EPA figures in the future of the U.S. supply of fresh fruits and vegetables.

In the infamous case of Alar, the agency's carcinogen-assessment staff and ultimately the top administrators played ball with the scaremongers who eventually won the removal of this apple harvest-enhancer from use.

Since that occurred in early 1989, the case against Alar has been progressively discredited, but the verdict of popular fear seems to be permanent and the chemical is unlikely

to return. The result has been a significant drop-off in output of some varieties, such as the McIntosh, that are most prone to fall to waste when ripe. Earlier picking schedules of more common types have gotten major producers around Alar's absence but may be shortening the retailing calendar.

Outright bans are rare. Chemicals regulation usually slows innovation more quietly, by imposing barriers to new applications. Consider the case of the whitefly and NTN-3383, a promising alternative to existing pesticides that is being developed by Mobay Corp., a unit of BayerUSA.

On average, such a product seeking EPA "registration," or approval, faces a five- to 10-year process costing $35 million to $50 million, by industry estimate. This typically includes more than 100 different tests, plus followups, documented in excruciating detail. One, the so-called avian field study, will have cost Mobay $2 million, according to development manager Walt Mullins. As the name suggests, it's an open-area test for harm to birds, to avoid another Silent Spring (if there was a first one). Problem is, the results of such a sample are so vague—by nature, you might say—that "you can't say for certain" that even the placebos used are harmless to birds, according to Mr. Mullins.

Because most crops consumed fresh are only lightly dusted with pesticides, they are called "minor uses" by the agricultural-chemical makers. Not much of any single compound is sold, at least compared with the stuff used on the big commodity crops such as wheat, corn and soybeans. So in many cases it just doesn't pay to spend up to $50 million before even chancing the marketplace. Mobay believes it is lucky with NTN, that it may be useful on hundreds of different plants and even home lawns, so that it can be sold in sufficient volume to cover the costs. But that's exceptional.

The testing threshold has been steadily raised through episodes such as the Alar travesty. But that doesn't mean that previously approved substances are home free. Under legislation Congress enacted three years ago, the EPA must re-register agricultural chemicals OK'd before 1984. The industry estimates that'll run $8 million to $10 million apiece. About 400 compounds are vying for renewal. Half again as many won't even be put to the test, though many of those are no longer used anyway. The apple industry alone has lost about 15 chemicals in the past few years, a major Washington state grower says.

Thus, the regulatory meter is rapidly running up the tab on test dollars that could be going into finding new, possibly safer products to increase the supply and decrease the price of an undeniably healthful component of our nation's diet—fresh fruits and vegetables. Costs are driven up by an often vain pursuit of the finer and finer measurements of safety that advanced science permits.

Agriculture is a critical but hardly unique example of this unproductive obsession. Some way out—a new Congress, a more resolute executive branch, a media more skeptical of scares or even a creditable scientific appeals body—needs to be found so that costs can be better equated with the benefits of avoiding harm from real toxic threats. At present, the whiteflies are winning.•

By Mr. BRADLEY:

S. 2086. A bill to amend the Internal Revenue Code of 1986 to provide for individual development accounts, and for other purposes; to the Committee on Finance.

INDIVIDUAL DEVELOPMENT ACCOUNT ACT OF 1991

• Mr. BRADLEY. Mr. President, I rise to introduce legislation that offers a new way of thinking about how to expand our economy so that no one is left out. Our Government's approach toward poor families has, so far, had only one dimension—increasing short-term income, spending, and consumption.

We continue to be surprised when even aggressive income-maintenance efforts fail to reduce the level of poverty in America significantly. Yet the fact is that families cannot spend or consume their way out of poverty. Joining the economic mainstream requires savings, assets, and investment. Individual development accounts will give some of the poorest Americans a chance to build assets so that they can take the next step on the ladder of self-sufficiency: A first home, a college education, or a secure retirement.

Our current welfare system not only does nothing to help people develop assets for the future, it actively penalizes those who try. On the other hand, the Federal Government spends more than $100 billion a year to help better-off families accumulate savings and assets, especially through the deduction for home-mortgage interest and tax benefits for retirement savings. Now we are considering restoring enhanced deductibility for individual retirement accounts for first-time home buyers, higher education and retirement. Most of these policies have helped to relieve financial pressures for families and individuals who already possess significant assets—at most, 40 percent of the population. It's time to ask why we don't offer the same incentives and opportunities to those who don't already have $2,000 or more set aside. Individual development accounts would mirror expanded individual retirement accounts for those who don't already have the savings.

The bill I am introducing today would authorize $100 million for a broad-based demonstration of the merits of individual development accounts. Established community organizations would use the Federal demonstration grant funds, along with State and private contributions, to subsidize individual development accounts so that those who are making an effort to save are able to save about $2,000 a year. Anyone in a household with an income below 200 percent of the Federal poverty line and a net worth below $20,000 would be eligible for an IDA subsidy. The very poorest, those with income of 50 percent of the poverty level or less, would be eligible for a 9-to-1 match up to $1,800. In other words, if the poorest poor could save $200 in their IDA, the participating organization would match it with $1,800 for a total investment of $2,000. At the top end, people with incomes between 116 and 200 percent of the poverty level would be eligible for a 1-to-5 match. They would have to save $1,650 from their disposable income in order to receive a $350 subsidy that would bring the total to $2,000.

Personal contributions to an IDA would be tax deductible up to $2,000 a year. Funds withdrawn for one of the three legitimate purposes—first-home purchase, higher education, and retirement—would not be included in the gross income of the IDA holder. Withdrawals for any other purpose would trigger severe tax penalties and require forfeiture of all deposit subsidies.

The legislation I am introducing today should be the beginning of a transformation in our thinking about welfare and economic opportunity in America. Instead of just helping people survive day-to-day, we can help people build a strong, secure future for themselves and their children. Curing poverty by building assets is a broad strategy that goes beyond IDA's. My colleague from Iowa, Senator GRASSLEY, has introduced legislation that would change the AFDC system so that poor people could build a small investment in a microenterprise—a business with five or fewer employees—and become economically self-sufficient without penalty. I am proud to join Senator GRASSLEY in cosponsoring this overdue initiative.

Microenterprises, individual development accounts, and other initiatives to help poor people invest rather than consume, are the best way to end poverty, rather than just alleviate its consequences. Assets and investments make people stakeholders in our society, and our society is strongest when everyone has a stake in it.

I ask unanimous consent that a short technical description of individual development accounts and the demonstration program be included in the RECORD.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

INDIVIDUAL DEVELOPMENT ACCOUNTS

Definitions. An Individual Development Account (IDA) is an optional, earnings-bearing, tax, benefitted account in the name of one person. An IDA would be held in a licensed, federally insured financial institution. Amounts in an IDA can be withdrawn without penalty only for the following designated purposes: (1) first-home purchase; (2) post-secondary education (college/long-term training); and; (3) retirement. An IDA can also be transferred without penalty to one's spouse or dependent for the same uses.

Contributions and tax benefits. There is no limit on the amount of funds that may be deposited into an IDA, and deposits may come from a variety of sources. The amount allowable as a tax deduction for amounts paid into an IDA, however, shall not exceed $2,000 per year (indexed for inflation), and shall be permitted for only the person in whose name the account has been established. (Married persons filing jointly could each take the full deduction, provided each is eligible.) Earnings on deposits to an IDA would also be exempt from taxation.

Withdrawals and Penalty for Non-Designated Use. Amounts withdrawn for designated purpose and will not be included in the gross income of the person in whose name the IDA has been established. Withdrawals from an IDA will be paid directly to the institution providing the designated service (e.g., to the mortgage provider for first-home purchase, to the university for post-secondary education). Withdrawals for any non-designated use (except in the case of death or disability) would; (1) trigger a 10 percent penalty; (2) require the inclusion in gross income of all amounts previously deducted or excluded; and (3) require the forfeiture of all deposit subsidies.

Deposit Subsidies. In order to stimulate savings of about $2,000 per year per person for any of the designated purposes, deposits into an IDA would be matched in accordance with the table below. All matching amounts would be deposited directly into an IDA and would come form an IDA Reserve Fund established by the project participating in the demonstration.

Income[1]	Matching ratio	Maximum match
50 percent or less	9 to 1 (900 percent)	$1,800
51 or 85 percent	5 to 1 (500 percent)	1,650
86 or 125 percent	2 to 1 (200 percent)	1,400
126 or 160 percent	1 to 2 (50 percent)	700
161 or 200 percent	1 to 5 (20 percent)	350

[1] Income of the individual as a percentage of the Federal poverty threshold

DEMONSTRATION PROJECTS

General. Demonstration projects (conducted by private, non- and for-profit organizations) will be established to determine: (1) the social, psychological, and economic effects of providing individuals with limited means an opportunity to accumulate assets and; (2) the extent to which asset-based welfare policy may be used to enable individuals with low income to achieve economic self-sufficiency.

Applications. Grants shall be awarded on a competitive basis. Successful applicants will have received financial commitments from the State and private entities to carry out the project and will have demonstrated, in the judgment of the Secretary, an ability to: (1) assist participants in achieving self-sufficiency through the establishment and use of IDA and: (2) responsibly administer the project. Applicants must be submitted no later than April 1, 1992. Approval will be no later than June 1, 1992, with the project beginning on July 1 of that year.

IDA Reserve Fund. Each project participating in the demonstration would establish an IDA Reserve Fund which consists of Federal, State, local, corporate, and private contributions as well a any funds originating from a non-designated use of an IDA. From the Reserve Fund, deposit subsidies would be made directly into an IDA.

Persones Eligible to Participate. The participating organization shall determine who may participate in the demonstration, but in all cases the individual selected will be a member of a household whose income is not more than 200 percent of the Federal poverty threshold and whose net worth is not more than $20,000. Net worth is defined as the sum of the market value of assets owned by every member of the household minus liabilities owed by the Household. Net worth (for purposes, of the demonstration) excludes the first $35,000 of home equity, equity in a vehicle and equity in personal items (furniture, clothing, and jewelry)

Asset Tests in Other Programs. Funds in an IDA account (which are by definition restricted) shall be disregarded in determining eligibility for all means-tested public assistance programs.

General Oversight. A panel (established by the Secretary) composed of Federal and State officials, business leaders, and social policy innovators shall monitor the progress and provide general oversight of all of the demonstration projects. The panel will also develop general investment guidelines for amounts in IDAs and IDA Reserve Funds.

Evaluation. An independent research organization shall evaluate the demonstration projects, individually and as a whole. The research firm will be selected by the panel.

Authorization of Appropriations. Not more than $100,000,000 for each of the fiscal years 1992–1996 are authorized to be appropriated to carry out the project.●

By Mr. SIMON:

S. 2087. A bill to prohibit certain uses of the terms "Visiting Nurse Association," "Visiting Nurse Service," "VNA," and "VNS"; to the Committee on the Judiciary.

PROHIBITION OF CERTAIN USE OF TERMS

● Mr. SIMON. Mr. President, today I introduce legislation that will ensure that consumers and the medical community have the information they need to differentiate clearly between traditional, community-based visiting nurse associations [VNA's] and visiting nurse services [VNS's], which are charitable, nonprofit organizations, and the more recent nontraditional agencies which are private or for-profit. The purpose of this legislation is consumer protection, not commercial protection.

Since their founding more than 100 years ago, VNA's and VNS's have accepted the mission of providing home health care to all, regardless of ability to pay. These agencies annually provide home care to more than 1,500,000 men, women, children, and infants in urban and rural communities in 45 States. As a result of close ties to the communities which they serve, through voluntary boards of directors, local funding, and other volunteers, VNA's and VNS's work with other community organizations to offer such services as hospice care, meals-on-wheels, adult day care, mental health services, and sick and well child care. Services to the poor who are ineligible for Medicaid or Medicare are subsidized with donations from private contributors and charitable organizations and a small number of private-pay patients. Traditional VNA's and VNS's have trained countless numbers of physicians and nurses, many of whom continue to provide home health care.

For many years, VNA's and VNS's were the only organization providing home health care. Since 1981, however, when home health care services became eligible for Medicare or Medicaid reimbursement, hundreds of private and/or for-profit agencies have entered the home health care field. The success of VNA's and VNS's has made them models for home health care organizations. Some of these new companies have taken the name Visiting Nurse Association or Visiting Nurse Service, thereby taking advantage of the accumulated goodwill of the traditional VNA's and VNS's.

So far, instances of actual misrepresentation have been few. Still certain problems have arisen. Nontraditional home care organizations that are mistakenly perceived as traditional VNA's or VNS's may siphon off those patients who are reimbursable or can pay for themselves, leaving traditional VNA's and VNS's with the expensive and untenable task of caring only for the uninsured poor. The traditional VNA or VNS in this situation must either begin to turn needy patients away or accumulate mounting debts.

Patients and physicians who mistakenly believe that every organization calling itself a visiting nurse association or visiting nurse service follows the traditional VNA mission are sometimes confused when, for instance, a patient's Medicare coverage ends and the proprietary agency ends its services, leaving the patient to be cared for by a traditional VNA, or to fall through the cracks. A few physicians have complained that their patients were not receiving prescribed home health care, because a nontraditional organization had taken the case and not provided the same level of care that a traditional VNA or VNS would be expected to provide.

This legislation provides name protection to traditional VNA's and VNS's similar to what Congress has granted to other charitable organizations such as the Red Cross, 4–H, Boy Scouts, Girl Scouts, and Future Farmers of America. While agencies that have already been using the VNA/VNS name are grandfathered, new agencies that do not carry out the traditional VNA/VNS's mission will be precluded from using the name. This reasonable bill will help traditional VNA's and VNS's to continue to provide the charitable and necessary services they have been providing for over 100 years. Companion legislation has already been introduced in the House by Representative STAGGERS. I commend this bill to my fellow Senators and I urge its prompt passage.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF CERTAIN USE OF TERMS "VISITING NURSE ASSOCIATION", "VISITING NURSE SERVICE", "VNA", AND "VNS".

The Attorney General may—

(1) impose on any person who is not a visiting nurse association or visiting nurse service, and knowingly commits any of the violations described in section 2, a civil penalty that does not exceed $1,000 for each such violation; and

(2) enjoin any such person from committing any such violation.

SEC. 2. VIOLATIONS FOR WHICH CIVIL PENALTY MAY BE IMPOSED.

For purposes of section 1, a violation shall be any of the following;

(1) Use of the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term in commerce or in connection with any goods or services in a manner that falsely suggests, or causes any confusion, mistake, or deception, that the goods or services are produced or endorsed by a visiting nurse association or visiting nurse service.

(2) Use of the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term, in commerce or in connection with any goods or services in a manner that falsely suggests, or causes any confusion, mistake, or deception, that the person is associated in any way with a visiting nurse association or visiting nurse service.

SEC. 3. PROCEDURES FOR IMPOSITION OF CIVIL PENALTIES.

The Attorney General shall establish standards and procedures governing the imposition of civil penalties under section 1. The standards and procedures shall provide for the imposition of a penalty only after the person referred to in such subsection has been given an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

SEC. 4. AVAILABILITY OF OTHER REMEDIES.

The remedies provided under this Act shall be in addition to the remedies provided by any other law.

SEC. 5. REGULATIONS.

The Attorney General shall issue any regulations necessary to carry out this Act.

SEC. 6. DEFINITION.

For purposes of this Act, the term "visiting nurse association", "visiting nurse service", "VNA", or "VNS" means a community-based home health care provider comprised of at least a medicare-certified home health agency that is—

(1) controlled, either directly or at the corporate level, by an independent, self-perpetuating, and voluntary board of directors;

(2) is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, and

(3) is described in section 501(c)(3) of such Code.

SEC. 7. EFFECTIVE DATE.

(1) IN GENERAL.—This Act shall take effect on the expiration of the 6-month period beginning on the date of the enactment of this Act.

(b) EXCEPTION.—This Act shall not apply to any person referred to in section 1 who has used the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term continuously for at least 2 years prior to the date of the enactment of this Act.●

By Mr. PELL (by request):

S. 2088. A bill to authorize the establishment of a Beringian Heritage International Park; to the Committee on Foreign Relations.

BERINGIAN HERITAGE INTERNATIONAL PARK ACT OF 1991

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to authorize the establishment of a Beringian Heritage International Park. This proposed legislation has been requested by the Department of the Interior, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and the letter from the Assistant Secretary of the Department of the Interior to the President of the Senate, which was received on November 8, 1991.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Beringian Heritage International Park Act of 1991."

SEC. 2. FINDINGS.

The Congress finds that—

(1) environmental protection and the preservation of our natural and cultural heritage are goals shared by the United States and the Soviet Union, and goals which provide exceptional opportunities for improving peaceful cooperation;

(2) Beringia formed the link between the continents of Asia and North America that resulted in the peopling of North America;

(3) existing United States and planned Soviet national park units in the area of the Bering Strait display complementary resources of shared international significance and provide an excellent foundation for a United States-Soviet Union international park; and

(4) the establishment of a United States-Soviet Union international park in the area of the Beringian region of Alaska and the Soviet Far East would enhance the conservation, management, and understanding of shared resources and would symbolize our Nations' commitment to environmental protection and the preservation of the common natural and cultural heritage of the region.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to foster a climate of understanding and cooperation between the United States and the Soviet Union;

(2) to improve the bases for conservation and management of existing United States National Park System units in Beringia;

(3) to promote the protection, and public understanding and enjoyment of Beringia's unique environmental, natural and cultural values; and

(4) to authorize United States participation in the establishment and administration of an international park in Beringia.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "Beringia" means that area of land and water in Alaska and the Soviet Far East located in the vicinity of the Bering Strait, including the Seward Peninsula in the United States and the Chukotskiy Peninsula in the Soviet Union;

(2) the term "Secretary" means the Secretary of the Interior;

(3) the term "Park" means the Beringian Heritage International Park, authorized to be established under section 5 of this Act; and

(4) the term "Commission" means the Beringian Heritage International Park Commission, authorized to be established under the provisions of section 7 of this Act.

SEC. 5. ESTABLISHMENT OF PARK.

Upon enactment by the proper authority of the Soviet Union of a similar provision respecting the Soviet Far East portion of Beringia, and upon proclamation of the President of the United States, which proclamation is hereby authorized, the Bering Land Bridge National Preserve in the State of Alaska shall thereby be established as part of an international park to be known as the Beringian Heritage International Park.

SEC. 6. AUTHORITIES.

(a) Upon establishment of the Beringian Heritage International Park under section 5 of this Act, the Secretary is authorized—

(1) in consultation with the Secretaries of State, and Treasury, and the Attorney General, to enter into bilateral agreements with the appropriate officials of the Soviet Union, to facilitate international travel to the units of the Park and the exchange of equipment, materials, and information by and among native people and persons having an interest in the Park, either as scientists, tourists, or government officials;

(2) to enter into cooperative agreements with other Federal agencies, State and local governments, native corporations, universities, and other entities, including equivalent Soviet entities, for the purposes of gathering and sharing environmental information, establishing binational cultural programs to reestablish traditional relationships, conducting research including joint research to advance public knowledge of the peopling of North America, performing resource management activities, providing mutual training opportunities, and enhancing tourism or for other similar purposes;

(3) to establish and operate in cooperation with equivalent Soviet entities, a center or centers for research and public information, the purpose of which shall include but not be limited to the collection, storage and translation of technical information, promotion of cultural activities, and the production of exhibits. Such centers may be established through cooperative agreements with existing institutions;

(4) to investigate the suitability and feasibility of securing additional international designations for the Park, including but not limited to joint World Heritage Site designation; and

(5) to receive and provide funds, equipment and in kind services in support of the Park, from or to the appropriate entities of the Soviet Union.

(b) ADDITIONAL UNITS.—The Secretary may propose such legislation as may be appropriate to designate additional units of the Park from among lands that are part of the National Park System.

(c) ANILCA.—Nothing in this act shall be construed to add to or diminish the authorities of the Secretary under the provisions of the Alaska National Interest Lands Conservation Act (16 USC 3101 *et seq.*) with respect to the acquisition, operation, and management of units of the National Park System in Alaska.

SEC. 7. BERINGIAN HERITAGE INTERNATIONAL PARK ADVISORY COMMISSION.

(a) ESTABLISHMENT.—Effective upon issuance of the Presidential proclamation under

section 5 of this Act, there is hereby estab-

duties. Subject to appropriate restrictions

Section 4—Defines following terms:

(1) Secretary, or designee;

for research and public information. An advi-

creased U.S./Soviet cooperation in manage-section 5 of this Act, there is hereby established a Beringian Heritage International Park Advisory Commission which shall advise the Secretary and the Park's Soviet administrative authority on matters pertaining to the identification, protection, and preservation of the Park's natural and cultural heritage.

(b) MEMBERSHIP.—The Commission shall consist of twelve members, of whom six shall be the United States members and six shall be the Soviet Union members.

The United States members shall be appointed as follows:

(1) the Secretary, or his designee;

(2) one individual from among recommendations submitted by the Governor of Alaska, to be appointed by the Secretary;

(3) two Alaska natives from among recommendations submitted by NANA (North Native Association) and Bering Straits Native Corporations, to be appointed by the Secretary;

(4) one individual from among recommendations submitted by the Secretary of the Smithsonian Institution with a background in anthropology, to be appointed by the Secretary; and

(5) one individual from among recommendations submitted by the Director of the National Science Foundation, with a background in the natural sciences, to be appointed by the Secretary.

(c) ALTERNATES AND VACANCIES.—The Secretary shall designate an alternate to act in the stead of each member appointed by him. Alternate members representing the United States shall be appointed, and vacancies on the Commission filled, in the same manner in which the original appointment was made. Alternate members shall have the same authorities and responsibilities as regular members.

(d) TERMS.—Members of the Commission shall be appointed for terms of 3 years and may be reappointed. A member appointed to fill a vacancy occurring before the expiration of the term of which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member of the Commission appointed for a definite term may serve until the member's successor has taken office.

(e) COMPENSATION.—Members of the Commission representing the United States shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) CO-CHAIRS.—The Commission shall have Co-Chairs, one from the United States and one from the Soviet Union. The Co-Chairs shall be elected by the members of the Commission. The term of the Co-Chairs shall be 2 years.

(g) QUORUM.—A simple majority of the members shall constitute a quorum, but a lesser number may hold meetings.

(h) MEETINGS.—The Commission shall meet at the call of the Co-Chairs, or a majority of its members, but not less than once a year. Meetings will alternate venue between the United States and the Soviet Union.

(i) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Subject to appropriate restrictions for reasons of national security, upon request of the Commission, any Federal agency may provide to the Commission information, personnel, and services to assist in carrying out its duties under this Act.

(j) ADMINISTRATION OF COMMISSION.—Except as otherwise provided for in this Act, the administration of the Commission shall be in accordance with the provisions of the Federal Advisory Committee Act (5 USC App. Sec. 1 et seq.).

(k) TERMINATION OF COMMISSION.—The Commission shall terminate on the date that is 10 years after the date of the Presidential proclamation establishing the Park. The Commission may be extended by the Secretary and the Park's Soviet administrative authority for a period of not more than 5 years beginning on the date of termination if both parties determine that there is a continuing need for the Commission's advisory services.

SEC. 8. CONSULTATION.

Prior to entering into a bilateral agreement with the Soviet Union under section 6(a)(1) of this Act, the Secretary shall consult with the Secretary of State with respect to the effect of such agreement on the foreign policy of the United States. In all other respects, the Secretary shall consult with the Secretary of State as the Secretary may deem appropriate. The Secretary shall consult with the Secretaries of State, Treasury, and Transportation, the Attorney General, and the heads of other Executive Agencies, as appropriate, for the purposes of ensuring that impediments to cross-border travel between the designated park units, for purposes related to the functioning of the Park, will be lessened and, to the extent practicable, removed.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1—Provides that Act may be cited as "Beringian Heritage International Park Act of 1991."

Section 2—Sets forth Congressional findings that—

(1) environmental protection and preservation of heritage are goals shared by United States and Soviet Union;

(2) Beringia formed link between Asia and North America that resulted in peopling of North America;

(3) existing United States and planned Soviet park units in Bering Strait area display complementary resources of shared international significance and provide excellent foundation for United States-Soviet Union international park; and

(4) establishment of international park would enhance conservation, management, and understanding of shared resources and would symbolize . Nation's commitment to environmental protection and preservation of common heritage of region.

Section 3—Sets forth purposes of Act as being—

(1) to foster understanding and cooperation between United States and Soviet Union;

(2) to improve conservation and management of existing National Park System units in Beringia;

(3) to promote protection, public understanding, and enjoyment of Beringia's environmental, natural, and cultural values; and

(4) to authorize United States participation in establishment and administration of an international park in Beringia.

Section 4—Defines following terms:

(1) "Beringia" means area of land and water in Alaska and Soviet Far East in vicinity of Bering Strait, including Seward Peninsula in United States and Chukotskiy Peninsula in Soviet Union;

(2) "Secretary" means Secretary of the Interior;

(3) "Park" means Beringian Heritage International Park, authorized under section 5; and

(4) "Commission" means Beringian Heritage International Park Commission established under section 7.

Section 5—Provides that upon enactment by proper Soviet authority of similar provision respecting Soviet Far East portion of Beringia, and upon proclamation of the President of the United States, hereby authorized, existing Bering Land Bridge National Preserve in Alaska shall thereby be established as part of international park known as Beringian Heritage International Park.

Section 6—Authorities.

(a) Upon establishment of Park, Secretary is authorized—

(1) in consultation with State, Treasury, and Attorney General, to enter into bilateral agreements with Soviet officials to facilitate travel to units of the Park and exchange of equipment, and materials, and information by and among native people and scientists, tourists, or government officials;

(2) to enter into cooperative agreements with other Federal agencies, State and local governments, native corporations, universities and other entities, including equivalent Soviet entities, for purpose of gathering and sharing environmental information, establishing bi-national cultural programs, conducting research, including joint research, performing resource management activities, providing mutual training opportunities, and enhancing tourism or other similar purposes;

(3) to establish and operate in cooperation with equivalent Soviet entities a center or centers for research and public information, purpose of which shall include without limitation promotion of cultural activities and production of exhibits. Centers may be established through cooperative agreements with existing institutions, such as, in the United States, the University of Alaska and existing interagency visitor information facilities;

(4) to investigate suitability and feasibility of securing additional international designations for the Park, including without limitation joint World Heritage Site designation; and

(5) to receive and provide funds or in-kind services in support of the Park, from or to the appropriate Soviet entities.

(b) Authorizes Secretary to propose legislation to designate additional units of the Park from lands that are part of National Park System.

(c) Disclaims any addition to or diminishment of Secretary's authorities under ANILCA respecting acquisition, operation, and management of National Park System units in Alaska.

Section 7—Beringian Heritage International Park Advisory Commission.

(a) Establishes Commission effective upon proclamation, and sets forth purpose as advising the Secretary and the Park's Soviet administrative authority on matters pertaining to identification, protection, and preservation of the Park's natural and cultural heritage.

(b) Sets forth 12 members, 6 from the United States and 6 from the Soviet Union. The United States members to be as follows:

(1) Secretary, or designee;

(2) one from Governor of Alaska's recommendations, appointed by Secretary;

(3) two Alaska natives from NANA and Bering Strait Native Corporation's recommendations, appointed by Secretary;

(4) one from Smithsonian Institution's recommendations, with background in anthropology, appointed by Secretary;

(5) one from National Science Foundation's recommendations, with background in natural sciences, appointed by Secretary.

(c) Provides for alternate members and filling vacancies.

(d) Sets terms of members at 3 years.

(e) Prohibits payment of United States members for service on Commission, but authorizes travel expenses and per diem.

(f) Establishes Co-Chairs, to serve 2-year terms.

(g) Establishes a simple majority as quorum.

(h) Requires meetings to be held at call of Co-Chairs, but not less than once a year. Meetings to alternate venue between the U.S. and the Soviet Union.

(i) Directs Secretary to provide staff and technical assistance as he considers appropriate, and authorizes any Federal agency to provide information, personnel, and services.

(j) Makes applicable Federal Advisory Committee Act to administration of Commission, except as otherwise provided in this Act.

(k) Provides for termination of Commission after 10 years from Presidential proclamation, but authorizes extension for not more than 5 years if both the Secretary and the Parks Soviet administrative authority determine there is continuing need.

Section 8—Requires Secretary to consult with Secretary of State before entering into bilateral agreement with Soviet Union; in all other respects he shall consult with Secretary of State as he deems appropriate. Directs Secretary to consult with Secretaries of State, Treasury, and Transportation, Attorney General and heads of other Executive agencies for purpose of ensuring that impediments to cross-border travel between park units, for purposes related to functioning of park will be lessened and, to extent practicable, removed.

Section 9—Authorizes appropriation of such sums as may be necessary.

U.S. DEPARTMENT OF THE INTERIOR
Washington, DC., November 8, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft bill, the "Beringian Heritage International Park Act of 1991." Also enclosed is a section-by-section analysis of the bill.

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The enclosed bill would authorize the President, upon enactment of similar authority by the appropriate Soviet authorities, to establish by proclamation the Bering Land Bridge National Preserve in Alaska as the United States unit of an international park to be known as the Beringian Heritage International Park. Upon establishment, the Secretary of the Interior would be authorized, pursuant to cooperative agreements, to facilitate visitor access, coordinate U.S. and Soviet park management objectives and programs, share park environmental and interpretive information, establish bi-national cultural programs, conduct joint research, provide training opportunities, and join in the establishment and operation of centers for research and public information. An advisory commission would be established, composed of United States and Soviet appointees, to advise administrative authorities of both nations on the identification, protection, and preservation of the International Park's natural and cultural heritage. Provisions are included in the bill for early and continuing consultations between the Secretaries of the Interior and State as appropriate.

The purpose of this measure is to foster cooperation between the United States and the Soviet Union in interpreting, studying, and preserving a resource and heritage shared by our two nations in the Bering Strait region. Thousands of years ago, the first North Americans crossed a newly emerged Bering land bridge, following earlier movements of land mammals and plants. The people on each side of the bridge remained joined after a shallow sea formed, and are today united by language, tradition and environment.

Natives of Beringia continue to share common Yupik and Inupiat languages. Walrus and whales remain a vital part of the diet and social fabric of the native people. Archeological sites in both countries show dramatic similarity.

In 1987, under authority of the 1972 United States-USSR Agreement on Cooperation in the Field of Environmental Protection, a working group developed a specific theme for research, conservation, and management of the Beringian heritage. In 1989, a joint Soviet and American planning team assessed parks or potential protected sites on both the American and Soviet coasts of the Bering Sea. The team prepared a joint report recommending to its respective governments that an international park—embodying an existing national park in the United States and a newly created preservation unit in the Soviet Union—be designated by the national legislatures. The report and its recommendations were formally endorsed by Presidents Bush and Gorbachev in June 1990. Enactment of the enclosed bill would fulfill that goal on behalf of the United States. Similar legislation is being prepared by the Soviet counterpart authority for enactment by the appropriate Soviet authorities.

Establishment of the Bering Land Bridge National Preserve as a component of this proposed international park will not change the management or public use of the existing national preserve. The preserve was established as a unit of the National Park System by section 201 (2) of the Alaska National Interest Lands Conservation Act (ANILCA), approved December 2, 1980 (94 Stat. 2371). An area of 2,457,000 acres of public land on the Seward Peninsula of Alaska, the preserve is an ideal place in which to launch an international cooperative effort to recognize, protect and interpret selected elements of the Beringian heritage. One of the major purposes of the preserve, as set forth in ANILCA, is "to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian continent." Management of the preserve will continue to be accomplished by United States personnel and in accordance with the laws and regulations currently applicable to the preserve.

Operation and management of the national preserve are budgeted at $493,000 for fiscal year 1992. We estimate that, as a consequence of its designation as part of a Beringian Heritage International Park, as proposed herein, additional funds will be budgeted in future years to support increased U.S./Soviet cooperation in management and research. Other costs associated with this proposal are $100,000 per year, beginning in the second year, to support activities of the International Park Advisory Commission and up to $1.5 million per year, after the fourth year, for expanded cooperative research activities.

Construction, including planning, of research and public information center(s), authorized in section 6(a) of the bill, is estimated to cost approximately $12 million. Planning for this facility is expected to begin in the third year following enactment. Operation of the Research Center(s) is expected to begin in the eighth year following enactment at a cost of $500,000 and to cost up to $1 million per year by the tenth year.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

MIKE HAYDEN,
Assistant Secretary.●

By Mr. NICKLES (for himself, Mr. PACKWOOD, and Ms. MIKULSKI):

S. 2089. A bill to repeal exemptions from civil rights and labor laws for Members of Congress; to the Committee on Government Affairs.

CONGRESSIONAL AND PRESIDENTIAL ACCOUNTABILITY ACT OF 1991

● Mr. NICKLES. Mr. President, today the bill I send to the desk is intended to eliminate the double standard which presently exists for the Congress in certain labor and civil rights laws it has passed in the last 50 years.

Traditionally Congress has exempted itself from civil rights, health, safety and many labor laws which have been applied to the Federal executive and judicial branch as well as the private sector. This idea that Congress should not impose laws on the Nation that it will not live under itself is not a new one. A quote by James Madison in the Federalist Papers clearly states this; "Congress can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society."

This piece of legislation would make Congress, all its intrumentalities and certain executive branch employees subject to all regulations and remedies contained in the following laws: the National Labor Relations Act of 1935, Fair Labor Standards Act of 1938, Equal Pay Act of 1963, Civil Rights Act of 1964, Age Discrimination Act of 1967 and amendments of 1975, Occupational Safety and Health Act of 1970, Equal Employment Opportunity Act of 1972, Rehabilitation Act of 1973, American with Disabilities Act of 1990, Privacy Act of 1974, and title 6 of the Ethics in Government Act of 1978.

My distinguished colleague, Senator GRASSLEY, has worked tirelessly to make Congress face up to this double standard and do something about it. His success has been limited by those who continue to argue on the basis of

VOL
137
PT
24
NO
26
1991
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JA
3
1992
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constitutional arguments on which there is little guidance. In fact, the little guidance that does exist in case law of the last 3 years indicates that the courts would sustain the validity of congressional coverage of laws.

The real issue here is that it is about time Congress led by example and not by exemption. if we are going to impose these standards, remedies, and procedures on Federal agencies, State and local governments, and the private sector, we must impose them on ourselves.

If business runs afoul of any of the laws listed in my bill, they face Federal court litigation and endless bureaucratic headaches. Congress has exempted itself from the above-mentioned laws completely or has limited redress to be determined by an internal mechanism. Would we allow major corporations to set up their own rules for dealing with complaints under these laws? The answer is obviously, no.

Congress must no longer tell the American public that we are exempt from the laws which we pass in this Chamber everyday. Therefore, I encourage my colleagues to support this important piece of legislation.•

• Mr. PACKWOOD. Mr. President, I rise today together with Senator NICKLES to introduce the Congressional Accountability Act of 1991. This bill would extend the Protections of all the major discrimination and labor laws to congressional employees.

For the last 50 years, Congress has protected itself from many laws that would establish fair labor practices. Congress passed legislation establishing minimum wage and a maximum work week—and exempted itself. Congress passed legislation establishing equal pay for the same job—and exempted itself. Congress passed legislation prohibiting discrimination based on race, gender, religion or handicap, and legislation to protect the right to organize and bargain—and exempted itself from it all.

When Congress passed the Civil Rights Act of 1991, we made significant headway by including Senator GRASSLEY'S amendment which extends protection of antidiscrimination laws to Senate employees and gives them the right to go all the way to the court of appeals. I commend Senator GRASSLEY for his efforts, and I supported his amendment. But I believe we need to go farther, toward full parity of rights between congressional employees and other Government and private sector employees. That is what the Congressional Accountability Act would do. There is no excuse for Congress to protect all workers except its own. Those people with whom we work each day and upon whose judgment and efforts we depend, should not be treated as second class citizens.

Let's take a look at the laws we are talking about. The National Labor Relations Act—should our employees be allowed, if they want, to organize and join a union? Why not? It is allowed at every other level of Government, in almost every State I know of. Is it going to hurt the operation of the Congress if our employees are allowed to vote on whether or not they want to join a union? I think it would not hamper our effectiveness at all.

Equal pay—why on earth would we even argue whether we should have equal pay for men and women for the same job? That falls under the Equal Pay Act. Surely no one would object to that, from the standpoint of decent morality.

Discriminating on the basis of race, sex, religion, national origin, handicap: Anything wrong with saying you cannot do that? Age discrimination—I would like to think most of us by now have discovered there are many people, including some who have retired, who are willing to come to work, and they make excellent employees.

So go right through the list of the things that the Congressional Accountability Act is talking about, and say to yourself: Would my office be hampered if these laws applied? I would answer that if you say, "yes," my office would be hampered, then there is something wrong with the way you are running your office.

One argument that will be offered against the Congressional Accountability Act is that it is unconstitutional for a variety of reasons: The separation of powers, the speech and debate clause. I don't think that is true. Courts have not ruled squarely on the issue of applying any of the laws covered by this legislation to Congress. Although arguments could be made both ways, caselaw suggests that there are no clear constitutional prohibitions to such applications.

If we pass this bill and this issue goes to the U.S. Supreme Court and the Court says this is unconstitutional there is nothing we can do about that short of amending the Constitution. But I think what we are suggesting is constitutional. I think the court would say Congress has the power to allow itself to be treated, not necessarily as we treat the private sector, but to allow ourselves to be treated as we choose to be treated.

So put aside the argument as to whether or not this is constitutional. Put aside the argument as to whether or not we should treat ourselves like we treat private industry. This legislation should be adopted because it is a simple matter of fairness and decency.

I look forward to working with Senator NICKLES and my colleagues toward passage of this legislation.•

By Mr. AKAKA:

S. 2090. A bill to amend the Harmonized Tariff Schedule of the United States with respect to knit sweaters assembled in Guam; to the Committee on Finance.

TARIFF FOR KNIT SWEATERS ASSEMBLED IN GUAM

• Mr. AKAKA. Mr. President, today I am introducing legislation to make certain necessary technical changes to the tariff for knit sweaters assembled on the island of Guam.

Currently, knit sweaters from Guam receive duty-free treatment under a temporary duty suspension provided until October 31, 1996. Present law requires that the duty-free knit sweaters from Guam be assembled exclusively by United States citizens, nationals, or resident aliens.

This requirement was established at a time when there existed an ample supply of U.S. and resident alien workers on the island. Now, however, Guam enjoys a flourishing economic boom, and is suffering from a serious labor shortage. This 100 percent local labor requirement for sweater manufacturers creates a very real problem which threatens to end apparel manufacturing on the island. At present, there are not enough available U.S. citizens or resident aliens to support full production at even one garment factory.

The sole garment manufacturer on Guam, Sigallo-Pac, has been forced to curtail the production of sweaters because of this serious shortage of workers, despite the fact that Sigallo-Pac pays its assembly employees in excess of $7 per hour. Most workers have been attracted to employment opportunities in the hotel industry and government sector.

Sigallo has reached the point where the company will not be able to continue operations in Guam much longer at the current level of production. This would be unfortunate for Guam, since as I indicated earlier, Sigallo is the only apparel manufacturer on the island and but one of a few nontourist industry employers. Their operation contributes to the health and diversity of Guam's economy, giving the island a broader employment base.

The bill I am introducing simply provides that the duty suspension for knit sweaters assembled in Guam will apply to sweaters in which at least 50 percent of the assembly production workers are U.S. citizens, nationals, or resident aliens, rather than the current 100 percent requirement. Further, this legislation incorporates safeguards to prevent any misuse of this change, including a requirement that the assembly workers be paid at least the U.S. minimum wage.

Enactment of this legislation will permit Sigallo-Pac to supplement their work force with a small number of temporary H-2 workers, approximately 40 people, to meet production requirements.

This bill has the support of the Governor of Guam, the Honorable Joseph F. Ada, and a companion measure has been introduced in the House by my good friend, Congressman BEN BLAZ. I will be seeking expeditious consideration of the bill in the Senate.•

By Mr. DECONCINI (for himself Mr. KENNEDY, Mr. SIMON, Mr. D'AMATO, Mr. MOYNIHAN, Mr. BRADLEY, Mr. ADAMS, Mr. KOHL, Mr. CRANSTON, Mr. KERRY, and Mr. INOUYE):

S. 2091. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption democratic rule in Haiti; to the Committee on the Judiciary.

TEMPORARY PROTECTED STATUS FOR HAITIANS

• Mr. DECONCINI. Mr. President, I am pleased to introduce today, with Senators KENNEDY, SIMON, D'AMATO, MOYNIHAN, BRADLEY, ADAMS, KOHL, CRANSTON, and KERRY, the Temporary Protected Status for Haitians Act of 1991. This legislation will assure that Haitians in the United States, or in United States custody, will be protected until democratic rule is restored in Haiti. Those Haitians who are in our custody and control include those on board United States flag vessels, and those at Guantanamo Bay, Cuba, or elsewhere.

The crisis facing Haitian refugees is a real one. Since September 30, 1991, when the military ousted the first democratically elected President of Haiti, Jean-Bertrand Aristide, Haitians have become the innocent victims of continuous and random violence. Their basic freedoms have been lost. Many lives have been lost. And many others have been imprisoned, have gone into hiding or have fled their tiny island on rickety boats where their personal safety is further endangered on the high seas.

As a nation, we have a moral responsibility to protect those Haitians who have sought refuge from the turmoil in their homeland. Rather than turning them away from America to face an unknown fate, we can demonstrate our compassion toward the Haitian refugees by granting them temporary protected status. The Attorney General can do this, today, and I have urged him to do so. But Congress does not have to sit idly by while the administration chooses not to take action on this issue. We can send a clear message now by enacting the bill I am introducing today.

As my colleagues know, I played an instrumental role in enacting the temporary protected status provisions of the Immigration Act of 1990. This new law is meant to protect nationals from a designated State who do not fit the textbook definition of "refugee" or "asylee," but need temporary protection from armed conflict or other extraordinary conditions that threaten their safety. Haitians in this country and in our custody certainly merit temporary protection from the violence caused by the illegal seizure of power by the military in Haiti.

My bill specifically designates Haiti under section 244A of the Immigration and Nationality Act. Nationals of Haiti who are in the United States or in United States custody as of November 26, 1991, will be eligible for temporary protected status [TPS] for 1 year from the date of enactment of this bill. Haitian nationals would register for TPS benefits and would be given work authorizations.

The registration system provides a means by which the United States can maintain accurate records of Haitians in this country while at the same time provide them with safe haven. In addition, it will facilitate the return of Haitians when the period of temporary protected status expires.

I would like to point out that this legislation is not a substitute for political asylum. It would not grant permanent resident alien status for Haitians. They would not be eligible for any program of cash assistance under Federal law, except for treatment of an emergency medical condition. They may also be deemed ineligible for public assistance by a State or any political subdivision of a State which furnishes such assistance. All Haitians would remain subject to Federal and State laws, and would be subject to deportation for violations. Because the bill is limited to refugees currently residing in this country, or in United States custody, it offers no incentive to those who are not here on or before November 26, 1991.

What this bill will provide is a temporary safe haven in the United States until conditions in Haiti permit refugees to return to their home country safely. At the same time, it will allow for better management of those refugees who choose to remain in this country while peace negotiations continue. Haitians need and deserve our help and protection. This bill provides a positive resolution to this crisis. It also strongly encourages other members of the Organization of American States to protect Haitian nationals who have fled that country.

Mr. President, I urge my colleagues to support this urgent legislation. We all hope that peace and constitutional order will be restored in Haiti. Until that time, however, it is unconscionable for us not to do what we can to provide safe haven for Haitians.

I respectfully ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Temporary Protected Status for Haitians Act of 1991".

SEC. 2. TEMPORARY PROTECTED STATUS FOR HAITIANS.

(a) DESIGNATION.—Haiti is designated as of November 26, 1991 under subsection (b) of section 244A of the Immigration and Nationality Act.

(b) PERIOD OF DESIGNATION.—The designation under subsection (a) shall remain in effect for one year from the date of the enactment of this Act.

(c) ALIENS ELIGIBLE.—In applying section 244A(c)(1)(A) of the Immigration and Nationality Act pursuant to the designation under this section—

(1) nationals of Haiti who are in the United States, or who are in the custody or control of the United States, (including on Coast Guard vessels on the high seas) as of November 26, 1991, are considered to meet the physical presence requirement of clause (i) of such section; and

(2) the continuous residence requirement of clause (ii) of such section shall not apply.

SEC. 3. U.S. POLICY REGRADING PROTECTION OF HAITIANS BY OTHER MEMBERS OF THE ORGANIZATION OF AMERICAN STATES.

It is the policy of the United States to strongly encourage members of the Organization of American States to protect nationals of Haiti who have fled that country.•

• Mr. KENNEDY. Mr. President, over the past 2 weeks the Nation has witnessed one of the most shameful episodes in our immigration history. Hundreds of Haitians are fleeing the brutal military dictatorship that overthrew the democratically elected Aristide government and has since been ruling the country through fear and oppression. Yet, not only has the administration turned a cold shoulder to the Haitian boat people, but it also began to return them to Haiti until the courts intervened.

I believe we are obliged to open our doors, in cooperation with other governments in the region, to those seeking haven from the oppression and violence. Both our traditions and international law dictate that we must do all that we can to protect the Haitian refugees. And we must redouble our efforts to restore democracy and stability to that beleaguered country.

There is ample authority under current law for the administration to provide asylum and safe haven to the Haitian boat people. The administration should be exercising its authority now, in cooperation with our allies in the hemisphere, the Organization of American States, and the U.N. High Commissioner for Refugees.

However, as the administration has steadfastly refused to act under current law to admit Haitians, I am pleased to join with Senator DECONCINI today in introducing legislation to require the Attorney General to use his existing authority to grant "temporary protected status"—or temporary safe haven—to Haitians in the United States.

I believe this step is minimally necessary to respond to the tragedy of the Haitian boat people.

Last week, I called on the administration to work together with other

SECTION 1. SHORT TITLE.

ment during the preparation of the economic

sider. Had this proposal been thor-

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

governments in the region to develop a regional burden-sharing response to the boat people crisis.

But so far, the administration's definition of burden-sharing seems to be to accept only 75 Haitians, while urging other governments to accept the remaining thousands. Clearly, until the administration demonstrates its seriousness by taking a fair share of the Haitian boat people, we cannot expect other governments in the region to take seriously our calls for a regional response.

For the moment, the courts have properly stepped in and restrained the administration from its rash policy of sending Haitian refugees back to the abhorrent conditions they risked their lives to flee. I urge the administration to reject its cruel policy of forcibly returning the Haitians.

The United States should be intervening on behalf of the boat people instead of against them. Failure to assist them may well result in their further oppression in Haiti. It will also undermine our authority to speak up on behalf of other refugees in other parts of the world who face similar tragic circumstances in the future.●

● Mr. SIMON. Mr. President, I am pleased to join my friends, the Senator from Arizona, Senator DECONCINI and the chairman of the Immigration and Refugee Affairs Subcommittee, Senator KENNEDY, in introducing temporary protected status legislation for Haiti.

The military coup in Haiti represents a sad chapter in Haiti's history. Less than 1 year ago, the free election of President Aristide gave many in Haiti hope for a better future. The violence in Haiti indicates that this military junta has very little support among the people.

I support the administration's decision not to recognize this military coup and to withhold assistance to Haiti while this illegitimate government is in power. So far, the Organization of American States [OAS] has provided an effective forum to coordinate political, diplomatic and economic pressure on Haiti to reserve the events of the coup. American cooperation with the OAS will be crucial in peacefully resolving this crisis.

The crisis with Haitian boat people, however, cannot await the political process. We need to address this problem immediately and the legislation we introduce today begins to do so. This humanitarian and constitutional crisis calls for our understanding and help. Last year, as part of the Immigration Act 1990, Congress enacted a provision to grant temporary protected status to nationals of certain countries who were fleeing places in turmoil. This provision of law allows them to remain in the United States for a specified period of time, authorizes them to work, and keeps them from being forcibly returned to their country of origin.

The situation in Haiti makes it appropriate for that country to be designated for temporary protected status. The bill we introduce today protects from deportation those Haitian nationals who are in the United States or in United States custody or control as of today's date. This includes those Haitians who are on Coast Guard vessels on the high seas.

Mr. President, it is important, in enacting this legislation, that the United States does not inadvertently encourage Haitian nationals to flee their country. Countless individuals who take boats to get out of Haiti do not make it to safety. Upon the enactment of this legislation, the Voice of America should broadcast in all appropriate languages the eligibility requirements of the bill in order to fully inform the Haitian people who is eligible and who is not. This should not be a bill for false hope. It must be a bill for real protection.

Although the United States cannot accept everyone who wishes to enter our country, the situation in Haiti is unique and these people should not be abandoned or forcibly repatriated to face a government the U.S. does not even recognize. This legislation also encourages other members of the OAS to take in Haitians that have already set sail. The United States has a proud heritage of protecting and accepting those fleeing persecution. Together, on a regional basis, we must continue that partnership for Haitian nationals.●

By Mr. PACKWOOD:

S. 2092. A bill to minimize the impact of Federal acquisition of private lands on units of local government, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL LAND ACQUISITION IMPACT RELIEF ACT

● Mr. PACKWOOD. Mr. President, I am today introducing legislation to protect counties and municipalities from the impacts of Federal acquisition of private land.

My home State of Oregon is over 50 percent owned by the Federal Government. Some counties in Oregon are 75 percent or more federally owned. Every time a Federal agency accumulates another parcel of private land, local communities are harmed. First, the local property tax base is reduced. Hospitals, school districts, fire departments, sheriffs' departments and other essential public service entities, which depend on local property taxes, lose part of their operating budget. Second, local jobs and income are reduced, and opportunities for business development are lost.

Unfortunately, acquisition frequently occurs without even adequate consideration of the various community impacts and the wishes of local citizens.

Currently, the Federal Payments in Lieu of Taxes Act of 1976 [PILT] does compensate units of local government for a portion of lost property tax revenues. However, there are several problems with PILT. For instance, PILT contains a payment ceiling which arbitrarily limits payments to heavily impacted units of local government, especially those units with small populations. In addition, PILT payments have not kept pace with inflation. I am pleased to note that pending legislation by my colleague, Senator GARN of Utah, would increase the PILT authorization and adjust future payments to reflect increases in the Consumer Price Index. I fully support his efforts in this regard.

However, in my view, the PILT concept is no longer adequate to protect local communities from the effects of continued acquisitions of private land by Federal agencies. My bill—which is entitled the Federal Land Acquisition Impact Relief Act of 1991 seeks to address this situation as follows:

First, my bill would force Federal agencies to recognize the local impacts of private land acquisitions. Prior to any land acquisition, my bill would require the relevant Federal agency to conduct an economic impact analysis. The agency would be required to analyze and document the impacts of acquisition in terms of the tax payment losses to units of local government, the impact of tax payment losses on the delivery of essential public services, the effects of acquisition on local employment and income, and the limitations which Federal acquisition would impose on community and business development.

Second, my bill would require the Federal Government to make tax equivalency payments to each unit of local government affected by an acquisition of private land within its jurisdiction after October 1, 1992. In other words, all land already in Federal ownership would remain subject to PILT. All land acquired after October 1, 1992 would be subject to the new formula. The tax equivalency payment would be equal to 100 percent of the local property taxes which would otherwise be due if the land remained in private hands.

The purpose of my bill is to ensure fair treatment for local communities. My bill would not prevent the Federal Government from acquiring private land when it is clearly in the public interest.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Land Acquisition Impact Relief Act of 1991."

SEC. 2. FINDINGS.

Congress finds that—

(1) land that is held by agencies of the Federal Government does not fully contribute to the tax base of overburdened units of local government;

(2) further acquisitions of private lands by Federal agencies have the potential to impose severe hardships on units of local government; and

(3) when it is clearly in the national interest for the Federal Government to acquire private lands, other than by a contemporaneous exchange involving Federal land, Federal agencies should minimize the impact of Federal acquisition on units of local government.

SEC. 3. DECLARATION OF POLICY.

It is the policy of Congress that—

(1) Federal agencies should not acquire private land, other than by exchange, unless the acquisition is clearly in the national interest;

(2) the acquisition of private land by a Federal agency should be based on a careful analysis of the full range of the benefits and costs of Federal acquisition; and

(3) the acquisition of private land by a Federal agency should not result in a net loss of local tax revenues to the relevant unit of local government.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "agency" has the same meaning as is provided for "Executive agency" in section 105 of title 5, United States Code.

(2) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means—

(A) any county, municipality, or other political subdivision of a State, having authority under the laws of the State to levy and collect taxes upon real property; or

(B) the District of Columbia.

(3) REAL PROPERTY TAXES.—The term "real property taxes" means all taxes, whether ad valorem or otherwise, applicable with respect to real property, including special assessments, assessments for benefit, or other changes of general application against land in favor of a State or local governmental unit.

(4) STATE.—The term "State" means any of the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory and possession of the United States.

SEC. 5. ECONOMIC IMPACT ANALYSIS.

(a) IN GENERAL.—Prior to each acquisition of private land by an agency, the head of the agency shall prepare an economic impact analysis in accordance with this section.

(b) CONTENTS.—In preparing the economic impact analysis, the head of the agency shall, at a minimum, analyze—

(1) the extent to which alternative means to Federal acquisition are available to serve the Federal resource management objectives at issue;

(2) any tax payment loss to the relevant unit of local government;

(3) the effects of the tax payment loss on the delivery of governmental services by the unit;

(4) the effects on local employment and income; and

(5) any potential limitations that the Federal acquisition would pose for future community expansion.

(c) CONSULTATION.—The agency shall consult with the relevant unit of local government during the preparation of the economic impact analysis.

(d) NOTICE AND COMMENT.—The agency shall provide an opportunity for notice and comment in connection with the preparation of the economic impact analysis.

SEC. 6. TAX EQUIVALENCY PAYMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—For each parcel of private land acquired by an agency after October 1, 1992, other than by contemporaneous land exchange, the head of the agency shall pay annually to the unit of local government in which the parcel is located an amount equal to the real property taxes computed on the current market value of the parcel, as determined in accordance with paragraph (2).

(2) CURRENT MARKET VALUE.—

(A) INITIAL VALUE.—The initial current market value of a parcel shall be equal to the purchase price per acre multiplied by the number of acres acquired by the Federal Government.

(B) ADJUSTMENTS.—The unit of local government may adjust the current market value of a parcel to reflect adjustments in the current market value of other lands within the jurisdiction.

(3) SPECIAL FORMULAS.—In computing a tax equivalency payment under this subsection, special farm or forest use formulas, which may vary from State to State, shall not be applied to the value of the parcel.

(b) FAILURE TO PAY.—If for any reason the head of an agency fails to make a payment required under subsection (a), the unit of local government may file a civil action against the agency, and a district court of the United States shall have jurisdiction to enforce this section.

SEC. 7. EFFECT OF OTHER LAWS.

If for any fiscal year a payment described in section 6(a) is made to a State or unit of local government with respect to a parcel of land described in section 6(a)(1), such payment shall be reduced in proportion to the payment in lieu of real property taxes, if any, which is made with respect to the same parcel of land under any other federal law.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

In each fiscal year, there are authorized to be appropriated to each agency such sums as are necessary to carry out this Act.

SEC. 9. EFFECTIVE DATE.

This Act shall become effective on October 1, 1992.●

By Mr. SIMON (for himself Mr. KENNEDY, Mr. PELL, and Mr. ADAMS):

S. 2094. A bill to repeal sections 601 and 604 of the Emergency Unemployment Compensation Act of 1991, relating to student loan provisions; to the Committee on Labor and Human Resources.

REPEAL OF CERTAIN STUDENT LOANS

● Mr. SIMON. Mr. President, I rise to introduce a bill to repeal two misguided student loan provisions that were included in the unemployment compensation bill that the President signed 10 days ago.

The first provision I wish to address requires credit checks of student loan applicants over 21 years old. While this may appear reasonable at first blush, a careful examination of the issue reveals significant problems that the administration apparently failed to consider. Had this proposal been thoroughly reviewed, I doubt the idea would have been pursued.

As I said on the Senate floor when the unemployment insurance bill was being considered, to believe that we can save money to provide unemployment compensation by denying people the chance to go to college, is the most shortsighted policy I can imagine.

People who apply for student aid may not have perfectly clean credit records. Indeed, that's one reason we guarantee the loans—people who have been unemployed, or on welfare, or just scraping by can have the opportunity to get some further education, some job training, and improve themselves and their income. Some will end up failing and may default on their loans, but we have to provide them with opportunity. Overall, we as a nation benefit through increased productivity and tax revenues, and reductions in welfare payments. Rather than denying people the opportunity to enrich their lives and improve the productivity of our Nation, we should concentrate our efforts on ensuring repayment of loans. For example, a provision to ensure payment through wage garnishment was included in the unemployment insurance bill. This is a much more productive way to address the issue.

If this were the only problem with the credit check provision, it might be difficult to muster enough sympathy in Congress in order to repeal it. But there are at least two other major problems. First, and perhaps most importantly, many students without credit problems will be wrongly accused and will be denied their loan and their college education. Credit reports have a very high error rate. Researchers at Consumers Union, the publisher of Consumer Reports magazine, found errors in nearly half of the credit reports they examined. Moreover, a credit services company—part of the industry we're entrusting with this new responsibility—surveyed 1,500 reports and found serious errors in more than 40 percent of them. The credit reporting industry itself has reported that of the 9 million consumers who requested a copy of their credit reports in 1 year, 3 million of them made corrections.

If they were easy to correct, these errors might not be a major problem. But they aren't. The U.S. Public Interest Research Group [U.S. PIRG], the national association of State PIRG's, recently reviewed complaints about credit reporting agencies that had been filed with the Federal Trade Commission. U.S. PIRG found that consumers had contacted the credit bureau an average of five times over a period of 6 months, and the errors were still not corrected. This problem was featured in a recent column by Jack Anderson and Dale Van Atta, and I ask unanimous consent that it be included in the RECORD at this point.

surance for your employees or pay an

This is just one example, but it's not

older as a Nation, we have an increas-

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 18, 1991]

CREDIT BUREAU RECORDS OFTEN INACCURATE

(By Jack Anderson and Dale Van Atta)

When Ken Arsenian applied for his first credit card, he had every reason to expect that the application would sail through. But he hadn't counted on the record turning up a department store bill that the credit bureau said he failed to pay in 1975, when he was 6 years old.

Arsenian, a college student in California, discovered that bills dating from childhood were not the only mistakes on his record. There were a host of other bad debts blamed on him, none of which were actually his. Now, no matter what Arsenian does to clear the record, he can't. He demands corrections, and other mistakes creep in. He can't get a credit card. One bank refused to let him open a checking account. He can't even get a loan to buy a car.

"Each time I apply for a credit card just to see what happens, my report comes up with more derogatories on it,". Arsenian told our associate Scott Sleek.

Arsenian is a victim of a centralized system of credit reporting that puts the financial records in the hands of a few companies that make mistakes, and those mistakes are not easily corrected.

One of the three major companies that compile personal financial data, TRW, turned a whole town into victims of the same system. In Norwich, Vt., 1,500 residents were all listed in TRW's records as tax dodgers. A TRW subcontactor had mixed up the list of the town's taxpayers with those who had tax liens against them.

That and other cases have been documented by the U.S. Public Interest Research Group, a private watchdog organization. Among its findings was this unsettling fact: 33 percent of all credit reports contain serious mistakes, despite the claims of the credit bureaus that their error rate is low.

The most common mistake is for the bureaus to mix up the records of people with the same name. John Doe, upstanding citizen, gets saddled with the credit report of John Doe, ex-convict and deadbeat.

One man lost his job after a credit bureau wrongly reported to his employer that he had a felony cocaine conviction. Another man was saddled with a delinquent car loan dating back to when he was 2 years old. A college student was denied credit because the records said she was married to a man who was actually her father, who had a temporary tax problem four years earlier.

Eugene Wolfe, 74, of Washington, has been trying to clear his record for five years. He applied for a small bank loan in 1986 and discovered the debts of another Eugene Wolfe had been mingled with his own. Wolfe—the one who pays his bills—thought he had corrected the report, but the old information popped up in his file again last year. When he went to the credit bureau to straighten things out, he says he got the brushoff. He couldn't get past underlings to speak to anyone in authority.

"It was clear their purpose in life was to get rid of any complainers," Wolfe said.

Sen. Alan Dixon (D-Ill.) is drafting legislation to reinforce the existing laws that are supposed to protect consumers. Among the changes to be included are allowing consumers to have easier access to their files and prohibiting the release of investigative reports without the consumer's permission.

Second, a cornerstone of Federal policy on higher education is that the process of applying for financial aid is both free and as simple as possible. Requiring students to pay up to $25 for a credit check places a barrier to higher education that will prevent many people, particularly those most in need of additional education, from pursuing their dreams. And the charge is potentially much higher than $25, because if the student is denied and needs a cosigner, he or she will need to pay again to get a credit check for the cosigner.

The other provision that my bill would eliminate requires a confession of judgment by the borrower. This means that a student, in getting a loan, would be required to sign a statement confessing guilt in the event of a default. The borrower essentially signs away his or her rights. Both the Congressional Budget Office and the Office of Management and Budget determined that any savings from this provision would be negligible, so the only reason to support this provision would be if you believe that rights and due process should not extend to recipients of financial aid.

Mr. President, these two student loan provisions, placed into the unemployment insurance bill without hearings or analyses, are counterproductive. As the U.S. Student Association said, these changes "will shut people out of higher education and increase the unemployment and work force problems of this country. Surely this is not the intent of Congress." I intend to move to strike these provisions at the earliest opportunity.●

By Mr. SYMMS (for himself and Mr. CRAIG):

S. 2095. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for health insurance premiums, to provide for the creation of individual medical care savings accounts, to repeal certain tax benefits relating to medical expenses, and for other purposes; to the Committee on Finance.

AFFORDABLE HEALTH INSURANCE TAX ACT

Mr. SYMMS. Mr. President, every day I read another story about the health care crisis in America. I believe it. We do have a health care crisis, in fact, we have a number of them.

One crisis is that employer costs are going up like a rocket. Another is that we're spending a large and increasing share of our national product on health care, which is a related but separate problem from cost escalation.

Then there's the problem that we still have 30 million plus people who are uninsured. That's not quite a crisis because many, if not most, of these people have access to health care.

In Idaho as in many rural areas, as in many inner cities, there is a crisis in the lack of available health care even if the people needing care have insurance.

THE NEW HEALTH CARE CRISIS

In recent weeks, a new dimension has been added to the overall health care problem. We have a new crisis, which is that virtually every proposal to date would make matters worse. I know my colleagues don't like to hear it, but so far just about every plan and program moves us further down the road to socialized medicine. It's a little bit like the drunk who wakes up with a hangover and figures he needs another drink, like the old saying goes "a little hair of the dog that bit ya."

Mr. President, if a medium dose of bad medicine makes you sick, why in the world would anyone think a bigger dose would cure?

Some of my colleagues have begun pushing the Canadian system. Frankly, I can't understand how anyone could adopt that system now that the evidence is coming in.

For example, Ed Hazelmeyer of the Heritage Foundation recently wrote about a fellow up in Toronto who was told he needed coronary bypass surgery or he'd die, that is the fellow in Toronto, not Ed Hazelmeyer. This isn't the kind of thing you delay. In this country, if your doctor tells you on Tuesday that you need a bypass operation, then you may be in the operating room by Thursday.

The guy in Toronto waited 4 months. His operation was postponed 11 times because of a lack of beds in the intensive care unit. At one point he waited in the hospital for 13 days before being discharged without surgery. When he finally had the operation, a once healthy man with a fixable problem had been so weakened that he died 8 days after the operation. That's a sad story, but what makes it even sadder is that it's not a rare story.

Another idea that gets tossed around in the health care debate is cost containment. Cost containment sometimes means encouraging people to watch what they are paying, but more often means Government price controls. Price controls? You'd think we'd of learned by now. But price controls are a key part of current efforts and would expand significantly under the Kennedy-Mitchell proposal.

Many people have suggested we need to expand the Medicaid Program to deal with some of our health care problems. This is truly an incredible proposition. Medicaid is already growing at over 20 percent a year. I don't see that this is solving any problems. And yet an even faster expansion is to cure our health care systems's ills?

Another version of socialized medicine that some of my friends on the other side of the aisle have supported is the Kennedy pay or play. This system is really clever. Every employer gets a choice. Either accept the Federal requirement of providing health care insurance for your employees or pay an enormous tax.

I'll say one thing for pay or play: Small businessmen in mob-run cities all over the country will understand it. Either pay protection money or your business gets burned to the ground. Pay or play is legislated extortion. Either play by our rules or we'll tax you into the ground.

The one thing all these plans have in common is an enormous increase in Government. Somehow, Government regulators in health care are supposed to do better than the bureaucrats that've brought us such proud moments as the S&L mess and Pentagon overruns.

I understand we all want to do better in getting the health care crisis under control But wishing for better results while ignoring our history lessons is only going to give us a more painful lesson, regulators and bureaucrats are far more adept at creating messes than they are at cleaning them up.

THE HEALTH CARE MARKET

The one phrase we don't hear very often is "Health Care Market." And that should tell us where the real problems are. We don't look at it as a market where people are buying and selling health care services. The only time market forces seem to enter the debate at all is in the context of something that needs to be reversed or stopped.

Doctors, nurses, hospitals, drug companies, insurance companies, Federal, State and local governments, and, yes, even the patients, are participants in a market. And like any market, this one is subject to the normal laws of economics, the law of supply and demand, of scarce resources, of price signals and adjustments.

It shouldn't surprise anyone that the market isn't functioning properly when you realize how the Federal Government dominates the market, deciding who can do what and at what price.

Suppose you go to the doctor and he says he's not sure what the problem is, so he needs to run a few tests. Likely as not, the Federal Government through Medicare has determined what he can charge for those tests, and which tests to do.

If your doctor has some idea which test is most likely to yield results, and if he knows you had to pay all the costs yourself, he'd probably sit down with you and explain it all. That's pretty much what happens now in the one area of medicine pretty much left alone by insurance and Federal meddling—plastic surgery.

Instead, the doctor knows your insurance will cover just about everything. He also has control over has own income since he can order the extra tests, and he knows he can protect himself from future law suits if he does every test possible. He also knows that he isn't violating the hypocratic oath because it's always possible the extra tests will turn something up.

This is just one example, but it's not hard to see what the cost of a whole system set up this way is going to do. It can only go up.

Government control of market almost always fails. That's the lesson of the latter half of this century. It's the message shouted loud into the next century. It seems to be understood everywhere except the U.S. Congress.

Yes, Government controls fail, but it's important to remember why they fail. They fail because Washington doesn't understand a very important law of economics, which goes: Whenever Government interferes with the normal forces of the marketplace, eventually those forces will overcome the interference.

It's true that this market has some very distinctive characteristics, little matters like life and death. But it's a market just the same. As the debate moves forward, we must never forget that we're talking about reforming the way Government interferes with the market.

In considering the various proposals to date and to come, the starting point has to be with the marketplace. Does the proposal move us further down the road of Government intervention? Does it just rejigger the controls to compensate for the ways the market's attempted to skirt the old controls? Or does it shift the focus away from Government and toward individual decisions?

As the debate moves forward, let me take a moment to tick off what I think are the key points to focus on:

QUALITY OF CARE

First, the American people have the best health care services available anywhere. The trouble is we also have the most expensive health care services anywhere, whether measured in terms of what we pay as individuals or in terms of what we pay as a nation. On its face, that shouldn't surprise anyone. If you have the best of something you probably should expect to pay the most for it. You wouldn't expect to be able to buy a Lincoln Continental for the same price as the old Chevy Chevette, would you?

I don't think there's much sentiment out there to reduce the quality of health care just to lower its cost, which is what makes the Canadian system so frightening. While you might get some cost containment in the short run, it comes at a terrible cost in terms of quality of service.

Nevertheless, I think it's equally clear we are paying too much and we surely need to do what we can to lower costs or, more accurately, to reduce their rate of increase. The point is, it's a truism that as the quality of something improves you tend to pay more for it.

DEMOGRAPHICS

Second, another source of the problem is the aging of America. As we get older as a Nation, we have an increasing share of the population demanding health care services and the types of services themselves tend to be more expensive. Again, looking at this as a marketplace, as we get older as a nation we shift the demand curve further and further outward. And like any market, when you increase demand you get an increase in price.

LITIGATION CRISIS

Third, our national love affair with suing people has had an enormous impact on the escalation of health care costs. Every doctor, nurse, hospital and so on buys enormous amounts of insurance to protect themselves from the scourge of litigation. The annual cost of that insurance often runs into the hundreds of thousands of dollars. I am told that a typical insurance policy for an obstetrician in Washington runs around $100,000 annually.

In my own State of Idaho, 34 percent of obstetrician-gynecologists had stopped practicing obstetrics by 1986, and it's not like we had that many in the first place.

The liability problem is not primarily a matter of competence, either. Of course there are some bad doctors out there, just as their are a few bad accountants, lawyers, and so on. But according to one study by the American Medical Association, 77.6 percent of the obstetricians have been sued at least once.

Who pays these high-flying insurance costs? It's not the doctors and nurses, and it's not the insurance companies by the large. It's you and I. We pay the costs through higher health care insurance costs.

The other problem with the medical liability crisis follows from the first. Because of all these suits, there's a lot of defensive medicine. A 1987 AMA study put the cost of defensive medicine at about $14 billion annually. I wouldn't be surprised if that number had doubled since then.

HEALTH INSURANCE

Fourth, one advantage to looking at escalating health care costs through the prism of the marketplace is that it helps you to focus on the underlying problem. Let's take a look at how the health insurance market works.

Mr. Jones walks into a doctor's office with a medical complaint. The doctor checks to see whether Jones has health insurance. Assuming he does, the doctor then proceeds to run this test and that, prescribing various treatments and medication along the way. Mr. Jones, of course, has checked his insurance policy and he knows that after a $200 deductible, all his costs are covered by the insurance. So what does he care what it costs.

What's wrong with this picture?

As a description of what happens, there's very little wrong with the picture. But as a model of economic behavior, it's a prescription for disaster

through higher insurance premiums. surance tax credit and the individual meaningful participant in U.S. policy

VOL 137
PT 24
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1991
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because the person demanding the services doesn't care about their costs as long as his insurance will cover them.

Anytime you separate the person making the payments from the person taking the services, you destroy the market discipline that would otherwise constrain runaway price increases. And that's exactly what's happened.

Once again, the problem is Government interference, only this time it comes through the Tax Code. Because of the exclusion for employer-provided health insurance, we've moved the question of prices about as far from the consumer of health care as possible without going to national health care, and we've created an incentive to purchase insurance that's as rich as possible.

The only way to correct this problem is to get the individual more involved in the actual purchasing, not just the demanding of health care. We have to return normal market discipline to health care. Only by making the patient aware of the choices and the costs can we slow down what is now a runaway train.

Many people have told me that you can't put market discipline into health care demand. If somebody needs an operation to stay alive, they say, he's going to have that operation if he can.

This is true, of course, as far as it goes. But it really doesn't go very far. Even under one current system, patients make decisions about whether to undergo a procedure or not. The reality is there are a great many medical decisions that aren't black and white. Even in medicine we usually have options. If Mr. Jones had to pay a significant share of the costs and there were choices to be made, is there any reason to believe he wouldn't take cost into account?

Because we often make choices in medicine, it's not difficult to bring market discipline back into health care. It doesn't matter that there are instances, even a majority of instances, in which there's only one choice. Remember your economics. Market discipline operates at the margin. It's not the first decision that affects prices, it's the last. If we can make patients cost conscious, we can affect the decisions at the margin and we can restore normal market forces to health care.

THE SYMMS SOLUTION

I am today introducing legislation, along with my colleague Senator CRAIG, to address some of these problems, specifically the over-reliance on third-party insurance.

Let me state at the outset that I'm not opposed to health insurance by any means. Health insurance is vital. The problem is not health insurance as such, but the veil we've erected through employer-provided health care between the insured and the insurer.

The problem is that we've distorted the market incentives for health care. Basically, the Tax Code either encourages you to buy too much insurance, or none at all. If you buy too much, then you're going to use health care services without being a consumer of health care. If you buy no insurance, then you put off needed preventive medicine, and when the problem gets totally out of hand you become a burden on everyone else who shares your costs.

There are two main pieces to my proposal. First off, I think we need to encourage people to save for their out-of-pocket expenses as much as possible. In effect, we should be insuring ourselves for the small stuff.

We can do this with what I call individual medical accounts. If you contribute $1,000 to an IMA, you can exclude the full amount from your taxable income, much as an individual retirement account. Unlike an IRA, however, using my individual medical account, if you make a withdrawal to pay out-of-pocket medical expenses you aren't taxed on the amount withdrawn.

By encouraging people to save for their own medical expenses, the IMA will encourage people to buy insurance with higher deductibles. This will lower insurance costs dramatically. And it'll encourage people to be more cost conscious in their health care purchases because a greater share will be paid by the individual.

The second part of my proposal deals with employer-provided insurance. Let's look at Ms. Smith. Ms. Smith's employer provides health insurance. If she's a typical employee, she has no idea what that insurance costs. And because health insurance premiums are tax exempt, she has every reason to encourage her employer to pay more of her compensation through health insurance than through wages.

So, under current law, Ms. Smith only knows she is better off with what I call a Cadillac insurance plan: low deductibles, little or no copayment, and broadest possible coverage. The problem isn't so much that she is able to exclude the cost of her health insurance, it's just that there's no limit.

A related problem with health insurance today is that it's unaffordable to millions of Americans. Typically, these are people who don't have employer-provided health insurance and so don't enjoy tax-exempt status for their insurance premium. They are the unemployed, the self-employed, and employees of small businesses. Because of their employment status, they pay income tax on the cost of their health insurance. That means they pay 40 percent or more in pretax terms for their health insurance.

Let me tell you how I propose to solve these two problems. First of all, my proposal provides taxpayers with a 15 percent tax credit for health insurance. Such a credit will give everyone access to the same tax benefit irrespective of their employment status. A tax credit will also move the calculation of the tax benefit from the books of the employer to the individual purchasing the insurance, again making the individual more of a consumer and not just a user of health care.

To encourage people to use their tax benefit wisely and to keep costs down, the credit is limited. Under my proposal a certain amount of health insurance is subject to the credit. The credit should cover the costs of a Chevrolet-type plan. If people want to pay more for Cadillac plans, they're welcome to do so, but they shouldn't get a tax credit for all of it. Limiting the amount of insurance qualifying for the credit will also encourage people to raise their deductibles and to use their IMA to pay out-of-pocket expenses.

Also, the amount of credit available varies according to whether the tax filer is an individual, a couple, or a family with children. And there is an additional credit amount if the taxpayer buys long-term care insurance. The problem of long term care is going to grow rapidly as the average age of our citizens continues to grow. A credit for long-term care insurance, if enacted now, will encourage people to buy the insurance now rather than waiting until this becomes an enormous public problem.

We often hear about the 33 million or so uninsured. About two-thirds of the uninsured have incomes below 150 percent of the poverty level. Because of recent changes to the tax laws, these people also don't pay much, if any, Federal income tax. This means a nonrefundable tax credit doesn't do these people much good. So I see no choice but to make the credit refundable so the poor have a fair shot at buying health insurance.

However, making the credit refundable still doesn't go far enough. We have looked at the demographics of the uninsured population. And if you break that population down by income and by age, and then you ask what the effect would be if you enacted my proposal as introduced, then you could probably expect to reduce the rolls of the uninsured by about 10 million people.

A roughly one-third reduction in the uninsured is a great accomplishment, Mr. President. We achieve this result largely because the self-employed and those workers whose employers don't provide health insurance benefits would finally be able to afford health insurance.

But I don't believe that's good enough, particularly since it's the truly poor who would remain uninsured. The reason is simple enough. The poor often simply do not have sufficient disposable income to buy insurance, even with a 15 percent credit.

Mr. President, the fact is we pay for the health costs of the poor one way or another. We either pay through Federal programs like Medicaid, or we pay

through higher insurance premiums. Neither makes much sense if there's an alternative, and I believe there is an alternative.

My proposal would give individuals at or below the poverty level a 100 percent credit for the costs of their health insurance. This credit rate then declines to 50 percent and then 15 percent as the taxpayer's income increases. In effect, if they buy the insurance the Federal Government will cover its costs. This is the only way I know to ensure that the poor are properly part of our health care system without an enormous increase in the Federal health care bureaucracy.

Again, looking at the demographic picture of the uninsured we find that by increasing the credit rate for the truly poor we will encourage a additional 10 million Americans, an additional one-third of the uninsured to buy health insurance. I believe, therefore, that my bill would result in a total of some 20 million people who are currently uninsured enjoying the benefits and certainty that comes from holding health insurance policies.

To pay for the individual medical account and the tax credit, I propose repealing the exemption for employer-provided health insurance. Businesses would continue to be able to deduct these expenses as they do today, but individuals would see the amounts paid on their behalf added to their gross income for income tax purposes. So there wouldn't be any immediate impact on businesses.

Before I go on, let me relay a short story. When I first began talking about this package the Associated Press ran a story with the headline "Symms Proposes to Tax Health Benefits." I am not proposing to tax health care benefits, I am proposing to shift the tax benefits so that all Americans can share in them. For the typical taxpayer, there should be no impact on his or her net tax liability once you take into account the combined effect of the IMA, the tax credit, and the repeal of the employer-provided health insurance exclusion.

By including the amount employers pay for health insurance in the employee's taxable income, beneficiaries would finally see how much their insurance costs. This kind of awareness is essential if we're going to get the individual back into his natural role of price monitor.

I include two other revenue offsets in my bill both of which are health care related. First, my bill would repeal the deduction available to itemizers for out-of-pocket health care costs in excess of 7.5 percent of adjusted gross income. This deduction provides a tax incentive not to buy health insurance and not to save for health care costs. It is, therefore, inconsistent with the goals of this legislation and would no longer be appropriate if the health insurance tax credit and the individual medical account became law.

The second offset is the repeal of the supplemental health insurance tax credit which was established as part of the Omnibus Budget Reconciliation Act of 1990. This credit, which piggybacks on the earned income tax credit, is designed to encourage lower income individuals to purchase health insurance, particularly for their children. However, such an encouragement would no longer be needed, and would, in fact be redundant, if my bill were to pass.

It is my hope that this bill is neutral with respect to the Federal deficit. We have three revenue sources, two of which are substantial. I hope to have authoritative estimates from the Joint Tax Committee and the Congressional Budget Office soon so we will know whether we need to tighten some of the parameters in the bill, or whether we have room to relax them to some extent.

I wish to make one last point, Mr. President. The central issue is whether we try to move in the direction of more or less Government meddling in the market for health care. The pay or play and the Canadian system proposals move in the direction of radically increasing Government involvement. Most of the other current plans move in no direction at all, but merely tinker to a greater or lesser degree. My plan moves in the clear direction of less Government involvement by reducing the distorted incentives in the market for health insurance. Which plan do you think is most consistent with the lessons of recent history?

By Mr. GRAHAM (for himself, Mr. DECONCINI, Mr. COATS, and Mr. CRANSTON):

S. 2096. A bill to establish a period of congressional review for proposed arms sales to countries other than NATO allies or major non-NATO allies; to the Committee on Finance.

S. 2097. A bill to require a report regarding proposed sales to countries of the Persian Gulf and the Arabian Peninsula of defense articles pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Finance.

ARMS SALES LEGISLATION

Mr. GRAHAM. Mr. President, this is a time in which delicate peace process negotiations are underway for the Middle East. The American people, and the Congress, need more time to be able to review one of the most significant elements of America's contribution to stability in that region or instability: The United States sale of arms.

I am introducing two bills today which I believe will accomplish this goal of getting a greater understanding and opportunity for the American people and the Congress to be knowledgeable about, to understand, to be a meaningful participant in U.S. policy relative to arms sales in the Middle East.

The first bill would extend the mandatory congressional review period of weapons sales to countries other than NATO allies or major non-NATO allies to 30 session days. Current law stipulates 30 calendar days. That 30 calendar days, in my view, does not give the Congress enough time to consider these sensitive sales, not enough time because the 30-day clock keeps ticking whether we are in session or not. If the President was to submit an arms sale agreement tonight, Mr. President, it will go into effect before the end of this year and under our current schedule, before the Congress would have a meaningful opportunity to consider it.

The second bill would require that the administration report to Congress on how each proposed arms sale to the Persian Gulf and Arabian Peninsula would affect regional military balance.

The administration would also be required to analyze the impact of the proposed sale on multilateral efforts to control arms on a regional basis and on our attempts to secure bilateral security agreements in the area.

Mr. President, the administration continues to pursue seemingly contradictory goals in the Mideast when it comes to arms control. On the one hand, President Bush said on March 6 of this year that it would be "tragic if the nations of the Middle East and Persian Gulf were now, in the wake of war, to embark on a new arms race."

On the other hand, his Defense Secretary, Mr. Richard Cheney, told the House Foreign Affairs Committee, just 2 weeks after the President made that statement, "I think that our objective shouldn't be arms control per se, our objective ought to be security for our friends and allies."

So far, I believe the President's Defense Secretary seems to be winning the debate with the President because the administration has pumped into this region almost 7.5 billion dollars' worth of arms since the first of March.

The most recent sale was a $365 million arms package to Saudi Arabia that the administration sent up just before our August recess. Because of current law, most of the 30 calendar days ran out during the recess while Congress was unable to analyze the implications of that arms sale.

Those of us not on the oversight committees simply did not have appropriate time to carefully consider this sale. The American people are precluded from any understanding of the rationale of this sale.

Mr. President, this sale, in and of itself, on analysis appeared not to be a backbreaker. It included 2,000 MK–84 bombs, 2,100 CBU–87 cluster munitions, 770 AIM–7M Sparrow air-to-air missiles, laser guided bomb components, and miscellaneous munition components, spare and repair parts.

The President is now proposing to

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More importantly, arms control is today

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The President is now proposing to sell Patriots to Saudi Arabia. Given that this weapon is a defensive one, I support this particular sale.

But whether any of us support particular sales or not, Congress needs more time to consider each proposed sale on its merits.

I am concerned that, without any well-defined strategic rationale, we continue to pump billions of dollars into this volatile region.

To be exact, about $7.5 billion since the spring. Let me run down the list of the dollar value of some of the arms that have been sold:

March 1, $1.6 billion to Egypt;

March 22, $919 million to Saudi Arabia;

June 11, $150 million to Bahrain;

June 11, $682 million to the United Arab Emirates;

July 11, $473 million to Saudi Arabia;

July 19, $150 million to Oman;

July 19, $250 million to Morocco;

July 19, $146 million to Egypt;

July 23, $2.8 billion to Turkey; and

The most recent sale, July 24, $365 million to Saudi Arabia.

That is $7.5 billion worth in less than 8 months. I accept that dollar value in and of itself does not present a complete picture of each sale. Many of these sales consist of spare parts and other acceptable items. But dollar value is certainly one important indicator of what is happening here.

I believe that the major arms suppliers to the region—the United States, the Soviet Union, China, the United Kingdom, and France—are making some progress on developing ways to control arms sales.

Representatives from each of the five have now met twice to hammer out arms control agreements. Much remains to be done, however. And I question whether the administration is attaching the necessary priority to the issue.

I ask unanimous consent that a September 22, 1991, Washington Post article addressing the question of priority be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT ABOUT ARMS CONTROL?

(By Michael Nacht, Jay Winik, and Alan Platt)

In its headlong rush to convene the Middle East peace conference, the Bush administration is giving short shrift to arms control in the region. That is a serious mistake: Reducing the capabilities and incentives for states in the region to wage war is not only an urgent concern but one that can be usefully addressed even if a peace conference bogs down.

The administration has taken some initiatives to stem the flow of new ballistic missiles into the Middle East, and the president himself has stated that arms control should be a priority. But these efforts have not received the sustained high-level attention and support required to produce results. And even if these efforts were successful, they would still be woefully inadequate.

The Middle East remains virtually the only region where war is still a legitimate and widely used means of achieving political ends and where all the major powers have important ties and interests. Even if all outside arms shipments to the region ceased tomorrow, the region would be the most heavily armed in the world today. What must be found are measures that inhibit and ultimately delegitimize aggressive war as an instrument of policy.

Virtually all observers of the Middle East have rightly noted that it will take years, if not decades, for deep-seated differences between Arabs and Israelis to be overcome. Even if the peace conference were successful—a big if—this sobering reality will not change. Israeli officials have quietly speculated that increased Syrian-Israeli tensions could result from a stalemated peace conference. Should the peace process fail, another war is likely. Whatever the outcome, in the absence of arms control, regional hostility will loom as a cloud threatening reconciliation in the region.

The notion of applying arms control to the Middle East, is often greeted with skepticism based upon three arguments: that arms control is a Western concept inapplicable in the Middle East; that there is no experience with arms control in the region; and that even after the Gulf War there is no evidence of support in the Middle East for such measures. All three arguments are erroneous.

It is true that modern arms control was conceptually developed in the United States and Great Britain in the late 1950s and early 1960s. But this does not make it ill-suited for the Middle East. East-West arms control has had to cover a far broader range of issues and technological esoteric than would be necessary in the Middle East, from strategic and theater nuclear arms to space weapons to a myriad of conventional systems.

The immediate requirements for arms control in the Middle East, however, need not be nearly so comprehensive and arcane. Rather, smaller attainable steps such as confidence-building measures, taken by the regional states themselves, hold far greater promise than they did in the U.S.-Soviet and European contexts.

The bitterness of the Arab-Israeli dispute is not necessarily a block to useful arms negotiations—no more than was the once bitter enmity between the West and the Soviet bloc. Indeed, arms control has often been more effective between adversaries than allies, because its potential payoff is most obvious and the interest of the parties is correspondingly intense. Particularly in times of crisis, arms control can prevent escalation of conflict from political miscalculations or the perception of one side that another has acquired new, first-strike weapons systems. At a minimum, arms control measures could delay or prevent a new round of qualitative weapons competition and military maneuvers which, if left unchecked, would likely bog down the peace process or serve as a catalyst for renewed conflict.

There is, moreover, greater experience with arms control in the Middle East than is commonly acknowledged. The disengagement-of-forces agreements concluded in 1974 and 1975 between Egypt and Israel and between Israel and Syria specified a number of quantitative and geographical limitations on weapons deployments. The 1979 peace treaty between Israel and Egypt also included many such provisions. Over the years, a series of tacit understandings about acceptable military actions has also evolved.

More importantly, arms control is today being accorded far greater attention in the region. United Nations Security Council Resolution 687, which is unprecedented in its scope, seeks to construct an elaborate arms control regime. It calls for the destruction of Iraq's weapons-grade nuclear material and chemical and biological weapons, research sites, equipment to develop weapons of mass destruction and all ballistic missiles with ranges exceeding 150 kilometers. Not unlike the European theatre, a weapons data base is called for, as are intrusive methods of verification and rigorous measures to enforce compliance.

Both in Egypt and Israel, at the Al Ahram and Jaffe strategic study centers respectively, independent experts are, for the first time, exploring regional arms control measures. And in terms of declaratory policy, Egyptian President Hosni Mubarak has called for the elimination of all weapons of mass destruction from the Middle East, while Israel has publicly supported the concept of a nuclear-free zone.

Agreement on a series of confidence-building measures must undergrid any arms control regime. These would reduce the likelihood of war by fostering what experts call "transparency of capabilities and intentions."

The Middle East's historical record demonstrates that ambiguity about intentions has repeatedly led to war. In 1967 Egyptian troops massed against Israel. Uncertain as to Egypt's intentions, Israel struck preemptively, thus beginning the Six Day War. In 1973, Egyptians and Syrians conducted a deceptive maneuvers. Israel chose a wait-and-see attitude, only to be caught off guard when the combined Arab armies attacked. And in August 1990, Iraq employed similar tactics against Kuwait. In each of these cases, military action, whether defensive or preemptive, was seen as the only viable option for ending the crisis.

Among specific measures, that should be considered are: hotline agreements; risk-reduction centers; establishment of keepout zones and demilitarization of critical terrain; and requirements for pre-notification and explanation of military exercises above agreed-upon limits. Clear violations would create a "political trip-wire" designed to bring immediate international pressure to bear before aggressive hostilities break out.

Collectively these measures would go a long way toward making the use of war a far more difficult course for resolving political differences. Over time, states in the region would have far greater confidence in the diplomatic process and would also have greater incentives to make concessions for peace. Moreover, in due course arms-reduction agreements that could lend further stability to the region would have a better chance of success.

While the administration has been slow to articulate a policy for arms control in the Middle East, this approach has already been endorsed by an international group of regional and security specialists. In a recent report published by the United States Institute of Peace, they state: "The Gulf War has created a rare opportunity for serious initiatives on arms control in the Middle East. . . . Arms control measures should be pursued in parallel with the peace process."

The winter 1991 issue of Daedalus, the prestigious journal of the American Academy of Arts and Sciences, reflecting on 30 years of arms control, notes the imperative of disseminating the lessons of arms-control practice to the Middle East. Indeed, no less a

hawk than Israel's Ariel Sharon has openly observed that arms control, not a continued arms race,cold help bring peace to the Middle East.

What must be emphasized is that trust is not a necessary pre-condition for effective arms control. Control does not automatically translate into arms reductions and disarmament, as is popularly believed. Nor should it necessarily be construed as meaning comprehensive arrangements that are often unattainable. Rather, arms control encompasses those measures that strengthen regional stability and diminish war as an attractive instrument of national policy whether by design or perceived necessity—precisely what is needed now.

Mr. GRAHAM. Mr. President, in the meantime, I believe that the United States has a unique leadership role to play in this regard. I am not so naive as to think that arm sales to this region will come to a miraculous stop if the United States halts sales. But I do believe that, at the minimum, Congress should more carefully consider sales that the administration does propose.

We must insist that the administration present a more detailed strategic rationale for future sales. The administration justified the August Saudi sale by suggesting that "Saudi Arabia needs to replenish inventories expended during operation Desert Storm."

We need to be asking a number of questions.

What were regional inventories before the Persian Gulf war?

What are they now?

What portion of those inventories were actually expended during the war?

How much military hardware have we left in Saudi Arabia, for instance, following our withdrawal from that country after the war?

What are our overall strategic objectives in selling more than $7 billion worth of military hardware in this region since the end of the war?

Just exactly how are these sales going to advance our interests?

Mr. President, Congress has a responsibility to get answers to these questions.

We need a long-term strategy and clear definition of our goals.

The United States has a historic opportunity to change the way we and other major arms suppliers do business in this volatile region. We must not squander that opportunity.

By Mr. KENNEDY (for himself and Mr. SIMPSON):

S. 2099. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges; to the Committee on the Judiciary.

DESIGNATION OF IMMIGRATION JUDGES

• Mr. KENNEDY. Mr. President, I am pleased to introduce today with Senator SIMPSON, the ranking member on the Senate Subcommittee on Immigration and Refugee Affairs, a bill which gives just compensation to immigration judges and members of the Board of Immigration Appeals, in recognition of their important contributions to the immigration adjudication process.

These immigration judges play a vital role as executors of our Nation's immigration legacy, as they often are the final arbiters of the fate of those seeking to build their lives in America.

This bill addresses the failure of Congress to include immigration judges under the Federal Employees Pay Comparability Act of 1990, which increased the pay scales for all administrative law judges. The pay disparity created by this legislation has made it difficult for the Executive Office of Immigration Review [EOIR] to hire and retain the best immigration judges. Already some of the most gifted and dedicated immigration judges have transferred out of EOIR and to other agencies such as the Social Security Administration, where they would be paid at a much higher rate.

In a recent survey by the Administrative Conference of the United States, it was reported that out of approximately 174,240 enforcement cases heard by adjudicators of nine Federal agencies, including the Departments of Defense, Agriculture, Labor, and others, immigration judges presided over 152,400 cases. This breaks down to 71 immigration judges, each responsible for almost 2,500 cases. According to the report, the complexity of these proceedings, "* * * are akin to criminal proceedings * * *" and involve the understanding of "basic human rights and fundamental concepts of due process." At these proceedings, these judges decide whether or not an alien may be deported or excluded from entry into the United States, or whether an individual may be allowed to remain.

Immigration judges possess a special competence that can be acquired only over time. They preside over an area of the law which has quickly grown in complexity—immigration, passport, and nationality cases—making them specialists in this unique area of public service. Only last year, in the Immigration Act of 1990, Congress revised key aspects of the deportation process, thereby adding to the burden which these judges must shoulder.

Immigration judges are selectively chosen based on years of judicial experience and knowledge of immigration law. The decisions made by these judges not only affect countless lives, but have a profound effect on our national immigration policy.

Clearly, the responsibilities and duties of immigration judges are on an equal standing with that of administrative law judges, in terms of both their level of authority and complexity of issues adjudicated.

Although this bill would not raise the salary levels for immigration judges to exactly that of administrative judges, it establishes a special pay scale which is appropriate to the complex subject matter which they must master. I am confident that by correcting the current pay inequity system with just compensation, we will prevent the dangerous current trend of losing our most gifted and well-qualified immigration judges to other Federal agencies.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF SPECIAL INQUIRY OFFICERS AS IMMIGRATION JUDGES.

(a) Section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)) is amended—

(1) by striking "special inquiry officer" each of the three places it appears and inserting in lieu thereof "immigration judges"; and

(2) by adding at the end thereof the following new sentence: "Such term includes the Chief Attorney Examiner of the Board of Immigration Appeals (as such officer's functions are described in part 3 of title 8 Code of Federal Regulations, as of the date of enactment of this sentence) or any successor officer.

(b) Section 209(a)(2) of such Act (8 U.S.C. 1159(a)(2)) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(c) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "special inquiry officers" and inserting "immigration judges".

(d) Section 235 of such Act (8 U.S.C. 1225) is amended—

(1) in subsection (a)—

(A) by striking "special inquiry officers" each of the three places it appears and inserting in lieu thereof "immigration judges"; and

(B) by striking "special inquiry officer" and inserting in lieu thereof "immigration judge";

(2) in subsection (b), by striking "a special inquiry officer" each of the two places it appears and inserting in lieu thereof "an immigration judge"; and

(3) in subsection (c)—

(A) by striking "the special inquiry officer" and inserting in lieu thereof "the immigration judge";

(B) by striking "a special inquiry officer" each of the three places it appears and inserting in lieu thereof "an immigration judge";

(e) Section 236 of such Act (8 U.S.C. 1226) is amended—

(1) by striking "special inquiry officer" each of the 10 places it appears and inserting in lieu thereof "immigration judge";

(2) by striking "a" after "Proceedings before" and inserting in lieu thereof "an";

(3) by striking "a" after "decision of" each of the two places it appears and inserting in lieu thereof "an"; and

(4) by striking "A" and inserting in lieu thereof "An".

(f) Section 242(b) of such Act (8 U.S.C. 1252(b)) is amended)—

(1) by striking "special inquiry officer" each of the five places it appears and inserting in lieu thereof "immigration judge";

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VOL
137
PT
24
NO
26
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(2) by striking "A" and inserting in lieu thereof "An";

(3) by striking "a" after "proceeding before" and inserting in lieu thereof "an"; and

(4) by striking "a" after "Proceedings before" and inserting in lieu thereof "an";

(g) Section 242B(1) of such Act (8 U.S.C. 1252b(d)(1)) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(h) Section 273(d) of such Act (8 U.S.C. 1323(d)) is amended by striking "special inquiry officers" and inserting in lieu thereof "immigration judges".

(i) Section 292 of such Act (8 U.S.C. 1362) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(j) Section 4 of the joint resolution entitled "Joint resolution to enable the United States to participate in the resettlement of certain refugees, and for other purposes", approved July 14, 1960 (Public Law 86-648), is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(k) Section 2 of the Act entitled "An Act to authorize the creation of record of admission for permanent residence in the case of certain Hungarian refugees", approved July 25, 1958 (Public Law 85-559), is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

SEC. 2. COMPENSATION FOR IMMIGRATION JUDGES.

(a) In General.—Chapter 1 of the Immigration and Nationality Act (8 U.S.C. 1101–1105a) is amended by adding at the end thereof the following new section:

"COMPENSATION FOR IMMIGRATION JUDGES

"Sec. 107. (a) Immigration Judge Schedule.—(1) For purposes of determining pay for immigration judges there shall be six rates of basic pay for immigration judges, under the Immigration Judge Schedule, the designation of which shall be 'IJ', and each immigration judge shall be paid at one of those rates in accordance with the provisions of this section. Each rate shall be calculated as a percentage of the rate of basic pay designated as "ES-5", as established and adjusted by the President for the Senior Executive Service under section 5382 of title 5, United States Code.

"(2) The 'IJ' designation for each rate of basic pay under the Immigration Judge Schedule and that rate of basic pay expressed as a percentage of the ES-5 rate of basic pay are as follows:

"(A) For IJ-1: 65 percent.
"(B) For IJ-2: 70 percent.
"(C) For IJ-3: 75 percent.
"(D) For IJ-4: 80 percent.
"(E) For IJ-5: 85 percent.
"(F) For IJ-6: 90 percent.

"(b) Conversion to Immigration Judge Schedule.—The Attorney General shall determine which of the rates of basic pay shall be paid to each immigration judge and shall classify immigration judge positions by the rates of basic pay under the Immigration Judge Schedule. The rate of basic pay for each such immigration judge shall, upon the date of enactment of this section, be at least equal to the rate which was payable to that individual immediately before such date.".

(b) Amendment to Table of Contents.—The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 106 the following new item:

"Sec. 107. Compensation for immigration judges.".

(c) Effective Date.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.●

● Mr. SIMPSON. Mr. President, I am pleased to join with Senator Kennedy, the chairman of the Immigration Subcommittee, in introducing legislation to revise the pay grades of immigration judges and members of the Board of Immigration Appeals.

Immigration judges perform extremely important functions. They hear and decide whether aliens should be deported or excluded from the United States. They hear and decide whether an alien is likely to face political persecution if forced to return to his or her homeland. They determine whether it is safe to release on bond an alien who has been convicted of a felony. There are countless other decisions made by immigration judges, which are reviewed by the Board of Immigration Appeals, that have significant effects on our immigration policy and on our country.

Presently, immigration judges are paid at the GS-15 level. However, a number of Federal agency adjudicators performing similar functions—such as administrative law judges for the Social Security Administration—are paid at a much higher pay rate. As a result, a number of senior immigration judges have been leaving the immigration judge corps because they are well-qualified for these more lucrative agency-adjudicator positions.

I am greatly concerned that, unless this pay inequity problem is solved, we will lose our most qualified immigration judges to other Federal agencies, and the quality of decisions on important immigration cases will diminish.

This legislation takes a reasonable and responsible approach to the problem. While not paying immigration judges exactly as much as administrative law judges now receive, this bill would substantially increase the salaries of immigration judges and board members. It would decrease the incentive for our most talented judges to leave for employment in other Federal agencies, and it will preserve a quality level of adjudication in the increasingly complex arena of immigration law.

I understand that the Congressional Budget Office finds this legislation acceptable under our budget agreement, and I note that this legislation has significant support in the House of Representatives, as well. I urge the adoption of this bill.●

By Mr. DASCHLE (for himself, Mr. Simon, Mr. Wirth, Mr. Reid, and Mr. Hatfield):

S. 2100. A bill to amend the Internal Revenue Code of 1986 to encourage the development of renewable energy and the conservation of energy, and for other purposes; to the Committee on Finance.

RENEWABLE ENERGY AND ENERGY CONSERVATION ACT OF 1991

● Mr. DASCHLE. Mr. President, last June, the Subcommittee on Energy and Agricultural Taxation, which I chair, held 2 days of hearings on tax proposals to promote the development of renewable energy sources and to encourage energy conservation. At the time of those hearings, I expressed my intention to assemble those proposals, improve upon them, if possible, and reintroduce them in a single legislative package.

That process is complete, and I rise today to introduce the Renewable Energy and Energy Conservation Act of 1991.

Any meaningful energy policy must have four legs: First, improved conservation of energy; second, the development of domestic alternative and renewable energy sources; third, better utilization of our fossil resources; and fourth, the developement of strategic petroleum and product reserves in case of emergencies. If any one of these legs is missing, the policy cannot stand.

The Renewable Energy and Energy Conservation Act of 1991 focuses on the first two legs of that policy. Hence, it contains two titles. The first provides tax and tariff measures to promote renewable energy development and production. The second establishes tax incentives for energy efficiency and conservation.

Earlier this year, the Senate Energy Committee adopted a package of measures within its jurisdiction designed to address many of America's future energy needs. While that measure has since faltered, it is by no means dead and is expected to move again next year. The tax proposals found in the legislation I am introducing today are not alternatives to that energy bill. They are an absolutely essential component of it, and of any comprehensive and long-term national energy policy.

Many of my colleagues, including a number of members of the Energy Committee, would agree that energy tax incentives are critical to a well-rounded energy strategy. Chairman Johnston and Senator Wallop have provided me with many valuable suggestions, and I thank them for their input. Subsequent to that committee's completion of its energy package, a bipartisan group of its members send a letter to Senators Bentsen and Packwood, the chairman and ranking minority members of the Finance Committee, expressing their support for an array of energy tax incentive measures. Many of those measures are contained in the legislation being introduced today.

Mr. President, it is high time that we take action to address America's need for an energy policy. Due to oil shocks in 1973 and 1979, the Nation was shaken from complacency to confront its vulnerability by conserving energy and developing alternative sources of energy. But for a decade now, we have floated in limbo. We closed our eyes as oil imports rose, foreign dependency increased, the environment worsened, and alternative energy industries dried up from lack of support. While some of our leaders have clung to the free market as if it were the Holy Grail, our Nation moves farther and farther from a balanced energy policy.

Despite what can be called, at best, a patchwork energy policy today, we have achieved remarkable benefits from modest conservation measures instituted in the 1970's. The country saves an estimated $160 billion annually in energy costs due to conservation measures instituted since 1973. While overall energy consumption in 1973 was virtually identical to 1986, our GNP grew 40 percent during the period.

The strides made in the 1970's and 1980's stemmed from several factors. Oil became more expensive, causing people to use less of it. Congress passed new fuel efficiency or CAFE standards, raising fuel economy from an average of 13 miles per gallon to 27.5 miles per gallon. Homes were weatherized. Refrigerators and other home appliances became more efficient. Energy conservation became a central design for new and existing utilities.

But the progress of the 1970s stalled in the 1980s, when efforts to put our country on a sound energy footing dropped to an unacceptable level. Let's look at some of the accomplishments of the 1980's. The solar collectors on the roof of the White House were taken down and conservation became a campaign word synonymous with weakness. The Department of Energy was slated for elimination. CAFE standards were rolled back. DOE's research and development budget for renewable energy declined drastically from $557 million in 1981 to $78 million in 1989. In 1985, the 40 percent solar tax credit for homeowners expired, turning a $700 million solar industry into a $70 million one and, in the process, putting 35,000 people out of work.

Today, Japan and Germany use half as much energy per dollar of output as the United States. The longer we put off improving the Nation's energy efficiency and developing new sources of energy, the more precarious our position becomes.

We are at a turning point. The course we have been pursuing for the last 10 years is leading to a dead end. The goal of the Renewable Energy and Energy Conservation Act of 1991 is to make sure that the Nation takes a turn for the better and heads down the road to a comprehensive, environmentally sound and forward-looking energy policy.

Finally, nothing is more important to our immediate future than addressing the Federal budget deficit. While several provisions in this legislation may increase revenues, most will not. Therefore, I will request the Joint Committee on Taxation to prepare a section-by-section estimate of the revenue impact of the bill, and, at an appropriate time thereafter, I will recommend a sufficient revenue offset.

Mr. President, I ask that a summary of the bill and its text be printed in the Record immediately following my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the "Renewable Energy and Energy Conservation Act of 1991".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—RENEWABLE ENERGY TAX INCENTIVES

Subtitle A—Generation of Electricity From Renewable Sources

SEC. 101. MODIFICATIONS OF INVESTMENT TAX CREDIT.

(a) 10-Year Extension.—Section 48(a)(2)(B) is amended by striking "1991" and inserting "2001".

(b) Increase in Amount of Credit.—Subparagraph (A) of section 48(a)(2) is amended by striking "10 percent" and inserting "20 percent".

(c) Public Utility Property Eligible for Credit.—Section 48(a)(3) is amended by striking the last sentence thereof.

(d) Effective Date.—The amendments made this section shall apply to periods after December 31, 1991, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 102. ALLOWANCE OF ENERGY CREDIT AGAINST ALL OF REGULAR AND MINIMUM TAXES.

(a) In General.—

(1) Regular tax.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end thereof the following new paragraph:

"(3) Special rules for energy credit.—

"(A) In general.—In the case of a C corporation, this section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the energy credit, and

"(ii) then with respect to the energy credit.

"(B) Rules for application of energy credit.—

"(i) In general.—In the case of the energy credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) Net chapter 1 tax.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and 50 percent of the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the energy credit).

"(C) Energy credit.—For purposes of this paragraph, the term 'energy credit' means the credit allowable under subsection (a) by reason of section 48(a).".

(2) Minimum tax.—Paragraph (2) of section 55(c) is amended to read as follows:

"(2) Cross references.—

"(A) For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(B) For provision allowing energy credit against the tax imposed by this section, see section 38(c)(3).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 103. RENEWABLE ENERGY PRODUCTION CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. RENEWABLE ENERGY PRODUCTION CREDIT.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) the credit amount, multiplied by

"(2) the kilowatt hours of electricity produced through the use of qualified technologies property and—

"(A) which is sold by the taxpayer to an unrelated person during the taxable year, and

"(B) the production of which is attributable to the taxpayer.

"(b) Credit Amount.—

"(1) In general.—For purposes of subsection (a)(1), the credit amount shall be determined under the following table:

"Taxable year qualified technologies property placed in service:	The credit amount is:
1992–1996	2.0 cents
1997	1.6 cents
1998	1.2 cents
1999	0.9 cents
2000	0.6 cents
2001	0.3 cents.

"(2) Credit adjustment based on inflation.—

"(A) In general.—In the case of a taxable year beginning after 1992, the credit amount under paragraph (1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs.

"(B) Publication.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor for the preceding calendar year in accordance with this paragraph.

"(C) Inflation adjustment factor.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for calendar year 1992. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

VOL
137
PT
24
NO
26
1991
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JA
3
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"(c) APPLICATION OF SECTION.—This section shall apply with respect to electricity—

"(1) produced with qualified technologies property—

"(A) placed in service after December 31, 1991, and before January 1, 2002.

"(B) for which an energy credit has not been allowed, and

"(2) sold after December 31, 1991, and before January 1, 2009.

"(d) LIMITATIONS.—

"(1) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The amount of the credit allowable under subsection (a) with respect to any qualified technologies property for any taxable year shall be reduced by an amount determined under rules similar to the rules of section 29(b)(3).

"(2) COORDINATION WITH INVESTMENT CREDIT.—No credit shall be allowable under this section for any taxable year with respect to electricity produced through the use of any property if—

"(A) a credit is allowable under section 38 for such property for such taxable year, or

"(B) any business credit carryforward or carryback to such taxable year is allowable to any portion of the basis of such property.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over

"(B) the tentative minimum tax for the taxable year.

"(e) QUALIFIED TECHNOLOGIES DEFINED.—For purposes of this section—

"(1) QUALIFIED TECHNOLOGIES.—The term 'qualified technologies' means—

"(A) solar thermal,

"(B) photovoltaic,

"(C) wind,

"(D) geothermal (other then dry steam geothermal), and

"(E) biomass.

"(2) BIOMASS.—The term 'biomass' means any organic material, including wood and other agricultural crops, which—

"(A) is available on a renewable basis, and

"(B) is—

"(i) produced by a facility used exclusively for growing biomass for energy purposes on a sustained basis; or

"(ii) converted to electricity by a conversion technology with a net heat rate of 10,500 Btu's per kilowatt hour or less.

The term 'biomass' shall not include aquatic plants and waste residues from wood, animal, municipal, agricultural, or other sources.

"(3) DRY STEAM GEOTHERMAL.—The term 'dry steam geothermal' means geothermal produced from a dry steam geothermal reservoir which—

"(A) has no mobile liquid in its natural state,

"(B) has steam quality of 95 percent water or more, and

"(C) has an enthalpy for the total produced fluid at least equal to 1,200 Btu's per pound.

"(f) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—

"(1) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity produced within—

"(A) the United States (as defined in section 7701(a)(9)), or

"(B) a possession of the United States.

"(2) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER—In the case of a qualified technologies property in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from such property shall be allocated among such persons in proportion to their respective interests in the gross sales from such property.

"(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity produced with qualified technologies property to an unrelated person if such electricity is sold to such a person by another member of such group.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(5) FLOW-THRU FOR PUBLIC UTILITIES.—

"(A) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall prescribe regulations for the flow-thru of credits allowed under this section for public utilities.

"(B) PUBLIC UTILITY.—For purposes of subparagraph (A), the term 'public utility' means a person, State agency, or local unit of government engaged in the sale of electricity."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 30. Renewable energy production credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Alternative Transportation Fuels Tax Incentives

SEC. 111. DEDUCTIONS RELATING TO VEHICLES WHICH MAY USE CLEAN-BURNING FUELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR PURCHASE OF QUALIFIED CLEAN-BURNING MOTOR FUEL AND REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction for a taxable year an amount equal to the cost of—

"(1) any qualified clean-burning motor vehicle fuel property, or

"(2) any qualified clean-burning motor vehicle refueling property,

the original use of which by the taxpayer begins during such taxable year. In the case of property described in paragraph (2), such deduction shall be allowed only if such cost is paid or incurred in connection with a trade or business of the taxpayer.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-BURNING MOTOR VEHICLE FUEL PROPERTY.—The cost which may be taken into account under subsection (a) with respect to each qualified clean-burning motor vehicle fuel property shall not exceed—

"(A) in the case of an automobile, or any truck having a gross vehicle weight rating of 10,000 pounds or less, $2,000,

"(B) in the case of any truck having a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(C) in the case of any other truck, or any bus, $50,000.

"(2) QUALIFIED CLEAN-BURNING MOTOR VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) with respect to qualified clean-burning motor vehicle refueling property placed in service during the taxable year at the same or related fueling locations shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such locations for all preceding taxable years.

"(B) RELATED LOCATIONS.—For purposes of this paragraph, refueling locations shall be treated as related if such locations—

"(i) are less than 2 miles apart, and

"(ii) are owned or controlled by the taxpayer or any related person.

"(C) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(D) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a).

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to ensure that the limitation under this paragraph with respect to refueling locations may not be circumvented.

"(c) QUALIFIED CLEAN-BURNING MOTOR VEHICLE FUEL PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-burning motor vehicle fuel property' means property the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any part or component designed to modify a motor vehicle which is propelled by a fuel which is not a clean-burning fuel so that the vehicle may be propelled by a clean-burning fuel, but only to the extent such part or component is—

"(i) an engine (or modification thereof) which uses a clean-burning fuel, or

"(ii) attributable to the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which uses such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

"(2) ENVIRONMENTAL STANDARDS.—

"(A) GENERAL RULE.—Property shall not be treated as qualified clean-burning motor vehicle fuel property unless—

"(i) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(ii) in the case of retrofit equipment described in paragraph (1)(A), such retrofit

equipment meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(B) RULES WHERE NO STANDARDS ESTABLISHED.—

"(i) IN GENERAL.—If no standards described in subparagraph (A) have been established specifically with respect to any fuel or any retrofit equipment described in paragraph (1), the Administrator of the Environmental Protection Agency shall establish interim standards for such fuel or retrofit equipment within 60 days of the date such standards are requested by any person.

"(ii) BASIS FOR STANDARDS.—In the case of fuel, any interim standards established under clause (i) shall be equivalent to the standards for gasoline or diesel vehicles or engines of the same class, except that if the ozone forming potential of the fuel is not more than that of gasoline, then, for purposes of any ozone requirement, the hydrocarbon emissions requirement shall be adjusted to qualify the fuel under the hydrocarbon standard. Any such standards applicable to retrofit equipment described in paragraph (1) shall provide for emissions-related certification, testing, and warranty requirements no less rigorous than those applicable to original equipment manufacturers' vehicles.

"(d) QUALIFIED CLEAN-BURNING MOTOR VEHICLE REFUELING PROPERTY.—For purposes of this section, the term 'qualified clean-burning motor vehicle refueling property' means property the original use of which begins with the taxpayer and which is for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied petroleum gas, and

"(C) any fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) COORDINATION WITH BASIS PROVISIONS AND DEPRECIATION ALLOWANCE.—

"(A) REDUCTION IN BASIS.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) COORDINATION WITH SECTION 1245.—For purposes of section 1245, the amount of any deduction allowed under subsection (a) shall be treated as a deduction allowed for depreciation under section 167 (or amortization in lieu thereof) to the extent, but for subparagraph (A), it would otherwise be treated as so allowed."

(b) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by adding at the end thereof the following new paragraph:

"(14) QUALIFYING CLEAN-BURNING MOTOR FUEL AND REFUELING PROPERTY.—The deduction allowed by section 179A."

(c) EQUIVALENT PAYMENTS FOR PROPERTY OWNED BY STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall pay to each State or local governmental unit which files a claim under this subsection for any calendar year an amount determined under regulations prescribed by the Secretary equal to the present value of the incremental benefit that would be available under section 179A of the Internal Revenue Code of 1986 if—

(A) all qualified clean-burning motor vehicle fuel property (as defined in section 179A(c) of such Code) held by such unit were used in a trade or business,

(B) such unit was subject to tax under chapter 1 of such Code, and

(C) such year was such unit's taxable year.

(2) TREATMENT AS OVERPAYMENT.—For purposes of any law of the United States, any payment under paragraph (1) shall be treated as a refund of an overpayment of tax imposed by chapter 1 of such Code.

(3) STATE OR LOCAL GOVERNMENTAL UNIT.—For purposes of this subsection, the term "State or local governmental unit" means any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(2)(A)."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for purchase of qualified clean-burning motor fuel and refueling property."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 1992, and before October 1, 2002.

SEC. 112. DEDUCTION FOR 25 PERCENT OF PURCHASE PRICE ON NEW ELECTRIC-POWERED AUTOMOBILES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. ELECTRIC-POWERED AUTOMOBILES.

"(a) GENERAL RULE.—There shall be allowed as a deduction for the taxable year an amount equal to 25 percent of the costs incurred by the taxpayer during such taxable year in purchasing a qualified electric-powered automobile.

"(b) QUALIFIED ELECTRIC-POWERED AUTOMOBILE EXPENSES.—For purposes of this section, the term 'qualified electric-powered automobile' means an automobile (as defined in section 4064(b)(1)(A))—

"(1) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current, and

"(2) the original use of which begins with the taxpayer."

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Electric-powered automobiles."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 113. FUEL-USE METHANOL.

(a) IN GENERAL.—Subchapter 1 of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"	9901.00.54	Methanol (provided for in subheading 2905.11.10) or any mixture containing methanol (provided for in heading 2707, 2710, or 3823), if such methanol or mixture is to be used directly as fuel or in producing a mixture of methanol and gasoline or any other mixture to be used as fuel (including motor fuel provided for in subheading 2710.00.15), or is suitable for any such uses	13.21c/liter	Free (A,CA,E,IL)	13.21c/liter	On or before 10/1/ 2000	
"	9901.00.56	Aliphatic ethers derived from methanol (provided for in 2909.19.10) and any mixtures containing such ethers, if such ethers or mixtures are to be used directly as fuel or in producing mixtures to be used as fuel (including motor fuel provided for in subheading 2710.00.15), or is suitable for any such uses	4.53c/liter	Free (A,CA,E,IL)	4.53c/liter	On or before 10/1/ 2000	".

(b) EFFECTIVE DATE.—The amendment

redesignating section 136 as section 137 and

"Sec. 4060A. Collection and disbursement.

"Tax/Rebate = $10 × [S − S'], where:

period. The Secretary shall place all receipts

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(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

TITLE II—ENERGY CONSERVATION TAX INCENTIVES

Subtitle A—Alternatives to Single-Passenger Automobiles

SEC. 201. INCENTIVES FOR VANPOOLING AND LIMITATIONS ON PARKING TAX BENEFITS.

(a) IN GENERAL.—Paragraph (4) of section 132(h) (relating to special rule for parking) is amended to read as follows:

"(4) WORKING CONDITION FRINGE INCLUDES CERTAIN TRANSPORTATION SUBSIDIES AND PARKING.—

"(A) IN GENERAL.—For purposes of this section, the term 'working condition fringe' includes—

"(i) parking provided to an employee at a qualified parking facility, and

"(ii) qualified transportation provided by the employer between the employee's residence and place of employment.

"(B) LIMITATION.—Subparagraph (A)(ii) shall only apply to the extent the qualified transportation provided during any calendar month does not exceed $75.

"(C) QUALIFIED PARKING FACILITY.—For purposes of this paragraph, the term 'qualified parking facility' means—

"(i) a parking facility—

"(I) which is located on the premises of the employer,

"(II) which is operated by the employer, and

"(III) substantially all the use of which is by employees of the employer; or

"(ii) a parking facility which is on or near a location from which an employee of the employer commutes to work by mass transportation, vanpool, or carpool.

"(D) QUALIFIED TRANSPORTATION.—For purposes of this paragraph, the term 'qualified transportation' means—

"(i) transportation furnished in a commuter highway vehicle operated by or for the employer, and

"(ii) transportation provided by the employer (whether by payment or reimbursement) on buses, trains, boats, or subways but only if such transportation—

"(I) is available to the general public, and

"(II) is scheduled and along regular routes.

"(E) COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (D), the term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least eight adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer's employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least one-half the adult seating capacity of such vehicle (not including the driver)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to parking and transportation provided after December 31, 1991, in taxable years ending after such date.

Subtitle B—Other Conservation Incentives

SEC. 211. ENERGY CONSERVATION SUBSIDIES EXCLUDED FROM INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY AND WATER CONSERVATION SUBSIDIES PROVIDED BY UTILITIES.

"(a) GENERAL RULE.—Gross income shall not include the value of any subsidy provided by a public utility to a customer for the purchase or installation of any energy or water conservation measure.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of any subsidy excluded under subsection (a) which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount of any subsidy excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY OR WATER CONSERVATION MEASURE.—For purposes of this section, the term 'energy or water conservation measure' means—

"(1) any residential energy conservation measure described in section 210(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11)),

"(2) any commercial energy conservation measure described in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986),

"(3) any specially defined energy property (as defined in section 48(l)(5) of this title as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), and

"(4) any other measure designed to reduce energy or water consumption.

"(d) PUBLIC UTILITY.—For purposes of this section, the term 'public utility' means any person, corporation, State agency or local unit of government, or Federal agency engaged in the sale of electrical energy, gas, or water.

"(e) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.".

(b) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by electric utilities.
"Sec. 137. Cross reference to other Acts.".

(c) The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

Subtitle C—Fuel Efficient and Safe Automobiles

SEC. 221. INCENTIVES FOR SAFE AND EFFICIENT VEHICLES.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by adding at the end the following new subchapter:

"Subchapter D—Vehicle Fees and Rebates

"Sec. 4055. Short title.
"Sec. 4056. Definitions.
"Sec. 4057. Motor vehicle fuel economy and safety taxes and rebates.
"Sec. 4058. Fuel economy tax and rebate formula.
"Sec. 4059. Vehicle safety tax and rebate formula.
"Sec. 4060. Publication and display of formulas.
"Sec. 4060A. Collection and disbursement.

"SEC. 4055. SHORT TITLE.

"This subchapter shall be known as the 'Safe and Efficient Vehicles Incentives Act of 1991'.

"SEC. 4056. DEFINITIONS.

"For purposes of this subchapter—

"(1) The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"(2) The 'light-duty class' of motor vehicles means all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating.

"(3) The 'medium-duty class' of motor vehicles means all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

"(4) The term 'model year' has the same meaning given such term by section 4064(b)(4).

"(5) The term 'sale' shall include any sale or lease of a motor vehicle subject to this subchapter, but shall not include a rental of less than one month in duration.

"SEC. 4057. MOTOR VEHICLE FUEL ECONOMY AND SAFETY TAXES AND REBATES.

"(a) FUEL ECONOMY.—There are hereby imposed or allowed, as determined according to section 4058—

"(1) a tax on the sale of each new motor vehicle sold in the United States whose fuel economy is less than the sales-weighted average fuel economy of all new motor vehicles within the same class, and

"(2) a rebate for the purchase of each new motor vehicle purchased in the United States whose fuel economy is greater than the sales-weighted average fuel economy of all new motor vehicles within the same class.

"(b) VEHICLE SAFETY.—There are hereby imposed or allowed, as determined according to section 4059—

"(1) a tax on the sale of each new motor vehicle sold in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class, and

"(2) a rebate for the purchase of each new motor vehicle purchased in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class.

"SEC. 4058. FUEL ECONOMY TAX AND REBATE FORMULA.

"(a) IN GENERAL.—The fuel economy tax or rebate for each new motor vehicle shall be determined according to the following formula:

"Tax/Rebate = $\$10 \times [M - M']$, where:

"(1) 'M' means estimated annual fuel consumption of such vehicle and shall be equal to 10,000 divided by the MPG rating of such motor vehicle, as determined by the EPA Administrator under section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2033(d)), and

"(2) 'M'' means the sales-weighted average fuel consumption of all motor vehicles in the same class, as determined by the EPA Administrator and reported to the Secretary under such section 503(d).

"(b) DETERMINATION.—If the result of the calculation under subsection (a) is a positive number, it shall be a tax. If the result of such calculation is a negative number, it shall be a rebate.

"SEC. 4059. VEHICLE SAFETY TAX AND REBATE FORMULA.

"(a) IN GENERAL.—The safety tax or rebate for each new motor vehicle shall be determined according to the following formula:

"Tax/Rebate = $\$10 \times [S - S']$, where:

"(1) 'S' means the 'composite safety factor' for such vehicle, based on the formula established by section 103(i) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392(i)); and

"(2) 'S'' means the sales-weighted average composite safety factor of all motor vehicles in the same class, as determined by the Secretary of Transportation and reported to the Secretary under such section 103(i).

"(b) DETERMINATION.—If the result of the calculation under subsection (a) is a positive number, it shall be a tax. If the result of such calculation is a negative number, it shall be a rebate.

"SEC. 4060. PUBLICATION AND DISPLAY OF FORMULAS.

"(a) PUBLICATION.—Not later than July 31, 1992, and not later than July 31 of each year thereafter, the Secretary shall publish in the Federal Register and send to each manufacturer or importer of motor vehicles subject to this subchapter the formulae applicable for the calculation of fuel economy and safety taxes and rebates for each class of motor vehicles in the next model year.

"(b) CALCULATION.—The manufacturer or importer of each new light-duty or medium-duty motor vehicle shall calculate the fuel economy tax (or rebate) and the safety tax (or rebate) applicable to each such vehicle according to the applicable formulae published by the Secretary under subsection (a).

"(c) DISPLAY.—

"(1) IN GENERAL.—The manufacturer or importer of each new motor vehicle subject to this subchapter shall include in the label required to be affixed to such vehicle under section 506 of the Motor Fuel Vehicle Information and Cost Savings Act (15 U.S.C. 2006) and in any proposed or final sales contract the following information:

"(A) The fuel economy tax or rebate, as applicable.

"(B) The safety tax or rebate, as applicable, and

"(C) The net tax or rebate, as applicable.

The label shall also include graphic figures showing the relative rank of such motor vehicle to other vehicles in the same class, displayed separately for fuel economy and safety.

"(2) STICKER.—Any person who offers such vehicle for sale shall assure that the required information is prominently displayed on such sticker in bold figures at least the same size as the EPA mileage estimate and in such proposed or final sales contract in bold figures at least twice the size of other dollar figures displayed on such sticker or in such contract. Such information shall also be prominently displayed in any advertisement for such vehicle which includes information on fuel economy.

"SEC. 4060A. COLLECTION AND DISBURSEMENT.

"(a) COLLECTION.—Whenever any person sells a new motor vehicle for which a net tax is due under this subchapter, such person shall collect from the purchaser of such vehicle at the time of purchase the net tax due.

"(b) DISBURSEMENT.—Whenever any person sells a new motor vehicle for which a net rebate is due under this subchapter, such person shall give to the purchaser of such vehicle at the time of purchase a voucher for the net rebate due.

"(c) DEPOSIT.—On a quarterly basis, each person who has sold a new motor vehicle subject to this subchapter in the preceding quarter shall submit to the Secretary (1) all taxes collected from purchasers during such period, and (2) an accounting of all rebate vouchers issued to purchasers during such period. The Secretary shall place all receipts of such taxes in a special account dedicated exclusively to the purposes of this subchapter.

"(d) REBATES.—Whenever any purchaser presents a rebate voucher to the Secretary, the Secretary shall pay to such purchaser within thirty days the rebate amount due. Such payments shall be drawn from the special account established under subsection (c). If at any time funds in the special account are not sufficient to meet rebate obligations, the Secretary shall transfer to the account such funds as are necessary to meet such obligations. Such transfers shall be promptly repaid when the special account balance is in surplus. Except to repay any such transfers, the Secretary may not apply funds in the special account to any purpose other than the payment of rebates.

"(e) FORMS AND REGULATIONS.—The Secretary shall publish such forms and issue such regulations as are necessary to carry out this subchapter.

"(f) ADJUSTMENT.—Any rebate issued under this subchapter shall be considered an adjustment to the purchase price of the motor vehicle and shall not be considered income for the purposes of chapter 1 of the Internal Revenue Code.

"(g) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subchapter."

(b) SALES-WEIGHTED AVERAGE FUEL CONSUMPTION.—Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2033(d)) is amended by adding at the end the following new paragraphs:

"(4) For the purposes of determining fuel economy taxes and rebates due under subchapter D of chapter 31 of the Internal Revenue Code of 1986, not later than July 1, 1992, and each July 1 thereafter, the EPA Administrator shall, for each vehicle class as defined in paragraph (5)—

"(A) calculate the sales-weighted average fuel consumption of all new motor vehicles sold in the United States in the 12-month period covering the first half of the current model year and the last half of the prior model year;

"(B) adjust the result of such calculation by the percentage change in sales-weighted average fuel consumption as compared with the next prior 12-month period; and

"(C) report the resulting value to the Secretary of the Treasury for use as the term 'M'' in the formula set forth in section 4058 of the Internal Revenue Code of 1986.

"(5) For the purposes of the preceding paragraph there shall be two vehicle classes. The 'light-duty class' shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The 'medium-duty class' shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

"(6) For any vehicle that is powered by a fuel other than gasoline, the Administrator shall determine an MPG rating which reflects the amount of carbon dioxide emissions produced by such vehicle, taking into account the total fuel cycle, as compared to gasoline-powered vehicles.

"(7) Beginning the first year that fuel economy and safety taxes and rebates come into effect, the EPA Administrator shall include a complete schedule of such fees and rebates for each vehicle model in the fuel economy booklet required to be published each year under section 2006(b)."

(c) COMPOSITE SAFETY FACTOR AND SALES-WEIGHTED AVERAGE COMPOSITE SAFETY FACTOR.—Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(i)(1) For the purposes of determining safety taxes and rebates due under subchapter D of chapter 31 of the Internal Revenue Code of 1986, there is hereby established a 'composite safety factor' to be calculated for each model of motor vehicle within the vehicle classes defined in this subsection. The composite safety factor shall be based on injury criteria specified in regulations of the Secretary codified at 49 CFR section 571.208, using crash test data from tests conducted according to the test protocol set forth in such regulations, except that such crash testing shall be conducted at 35 miles per hour. The formula for the composite safety factor shall be—

"0.1 × [Driver's Injury Factor + (0.5 × Passenger's Injury Factor)], where

"'Driver's Injury Factor' = H + (12.525 × T) + (0.11 × L) + (0.11 × R), as measured for a dummy positioned in the driver's seat, and

"'Passenger's Injury Factor' = H + (12.525 × T) + (0.11 × L) + (0.11 × R), as measured for a dummy positioned in the front passenger's seat, and where

"'H' is the head acceleration as specified in 49 CFR 571.208.S6.1.2 of such regulations,

"'T' is the thorax acceleration as specified in 49 CFR 571.208.S6.1.3 of such regulations, and

"'L' and "R" are the left and right leg force, respectively, as specified in 49 CFR 571.208.S6.1.4 of such regulations.

"(2) The composite safety factor shall be calculated as specified in paragraph (1) unless the Secretary determines by rule that overall safety would be more accurately reflected by a different formula and establishes a revised formula on or before April 1 of the year before the model year to which the revised formula will be first applied. In establishing any revised formula the Secretary may alter the relative weight of the terms specified in paragraph (1) or add terms to account for other safety factors (including, but not limited to, side impact collisions and collision avoidance equipment such as anti-lock breaking systems), except that the total value of safety taxes collected under the new formula does not differ by more than 10 percent from the total value of safety taxes that would have been collected under the formula specified in paragraph (1).

"(3) Not later than July 1, 1992, and each July 1 thereafter, the Secretary shall, for each vehicle class as defined in this paragraph—

"(A) calculate the sales-weighted average composite safety factor of all new motor vehicles sold in the United States in the 12-month period covering the first half of the current model year and the last half of the prior model year;

"(B) adjust the result of such calculation by the percentage change in sales-weighted average composite safety factor as compared with the next prior 12-month period; and

"(C) report the resulting value to the Secretary of the Treasury for use as the term 'S'' in the formula set forth in section 4059 of the Internal Revenue Code of 1986.

"(4) If crash test data necessary to determine the composite safety factor for any new motor vehicle are not available as the result of tests conducted by the Secretary of Transportation, the manufacturer or importer of such vehicle shall conduct such tests as are necessary to determine such factor before such vehicle is offered for sale. Any such tests shall be conducted according to test

VOL
137
PT
24
NO
26
1991
JA
3
1992
UMI

protocol specified in 49 CFR 571.208 (except that they shall be carried out at 35 miles per hour) and shall be verified by confirmatory tests conducted by the Secretary before the end of the model year. The Secretary may determine that data from a previous model year may be used if the structural specifications of a model have not been altered.

"(5) For the purposes of this subsection there shall be two vehicle classes. The 'light-duty class' shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The 'medium-duty class' shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.".

(d) Conforming Amendment.—The table of subchapters for chapter 31 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"SUBCHAPTER D. VEHICLE FEES AND REBATES."

(e) Effective Date.—The amendments made by this section shall apply to sales of automobiles for model years beginning in 1992 and thereafter.

SUMMARY OF THE RENEWABLE ENERGY AND ENERGY CONSERVATION ACT OF 1991

TITLE I: RENEWABLE ENERGY TAX INCENTIVES

Subtitle A: Generation of Electricity From Renewable Sources

Extends through the end of the year 2001 the current law investment tax credit available to businesses that construct solar and geothermal energy facilities. Increases the credit to 20%.

Allows public utility properties to take the investment tax credit for solar and geothermal energy facilities.

Permits taxpayers that fall under the Alternative Minimum Tax to take the investment tax credit. The amount of the credit that could be taken against the AMT would be capped at 50%, with the ability to carry excess credits forward.

Establishes a new tax credit for the domestic production of electricity through qualified renewable technologies, e.g., solar, wind, geothermal, photovoltaic, and biomass. The credit initially would be equal to 2.0 cents per kilowatt hour and phased down to .3 cents per kilowatt hour by the year 2001. Taxpayers would be prevented from "double-dipping," i.e., taking advantage of both the investment tax credit and the production tax credit simultaneously.

Subtitle B: Alternative Transportation Fuels Tax Incentives

Establishes a deduction for the cost of acquiring a vehicle that utilizes cleanburning fuels (natural gas, liquefied petroleum gas, and any other fuel if at least 85% of the fuel is methanol, ethanol, any other alcohol, ether, or any combination of the foregoing). The permissible deduction amount would be up to $2,000 per vehicle ($5,000 for a medium-size truck and $50,000 for a heavy truck). A deduction of up to $75,000 per location also would be permitted for clean-burning motor vehicle refueling property, e.g., specialized gas pumps. Effective for property placed in service after September 30, 1992 and before October 1, 2002.

Allows individuals and businesses to deduct 25% of the purchase price of electric-powered vehicles.

Imposes a 50 cent-per-gallon customs duty on imported methanol, including the methanol portion of imported fuel additives derived from methanol, such as Methyl Tertiary Butyl Ether (MTBE).

TITLE II: ENERGY CONSERVATION TAX INCENTIVES

Subtitle A: Alternatives to Single-Passenger Automobiles

Includes employer-provided parking under fringe benefit rules along with mass transit, vanpool and carpool subsidies. Permits employee to exclude up to $75 worth of (1) an employer-provided mass transit, vanpool or carpool subsidy; or (2) the value of "qualified" employer-provided parking. Qualified parking is either (1) owned and operated by the employer and used substantially by employees of the employer; or (2) on or near a location from which an employee of the employer commutes to work by mass transportation, vanpool or carpool.

Subtitle B: Other Conservation Incentives

Provides that individual, commercial and industrial taxpayers may exclude from gross income any rebate provided by a public utility (electric, gas and water) for the purchase or installation of an energy conservation measure.

Subtitle C: Fuel Efficient Automobiles

Expands the current law "gas guzzler/gas sipper" tax, which imposes a tax or provides a rebate on the domestic sale of new motor vehicles based on average fuel economies of that class of vehicle. In addition, adds a separate coefficient for the tax based on crash safety data.●

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2101. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

LOWER SALMON RIVER RECREATIONAL AND SCENIC RIVERS ACT

● Mr. CRAIG. Mr. President, today, Senator SYMMS and I are very pleased to introduce this legislation which will protect 112 miles of the lower Salmon River in our State of Idaho as a component of the National Recreational and Scenic Rivers system.

The Salmon River is the largest free-flowing river in the Columbia River basin. While other segments of the Salmon were designated upon enactment of the Wild and Scenic Rivers Act of 1968, that act called for study of the lower segment for possible future designation. A study and accompanying environmental impact statement were completed in 1974 which recommended the lower Salmon River be designated.

I believe the time has come to act on that recommendation. So do the citizens of Idaho. Over the past 2 years I have met with landowners along the river, outfitter-guides who operate businesses on the river, the Federal and State agencies which manage portions of the river, and many others who are vitally interested in its future. I have proceeded slowly, deliberately, in an attempt to gain a consensus in the support of this bill. I believe that has been achieved.

Within this river corridor of about 35,000 acres lie many truly remarkable natural features. The Salmon River gorge is one of the deepest in the United States. Steep, rugged slopes drop hundreds of feet directly into the river. Along other stretches the canyon is broad and open with small river flats, benches, and terraces scattered throughout. The overall effect is one of great scenic beauty. Here is an environment where the visitor will experience solitude in an unspoiled, natural setting. However, man has been a visitor here for thousands of years. There are hundreds of recorded cultural sites presenting a rich and diverse record of human occupation during the past 10,000 years. In historic times, the river served as a magnet to miners after the discovery of gold in the region in 1860. A valuable historic record of that period remains, and this site is listed on the National Register of Historic Places.

Today, the river draws visitors from around the country because of its outstanding recreation opportunities. Communities near the river have experienced an economic transformation built around running whitewater and fishing for steelhead and trout. It is important to remember that this river forms the habitat and migration route for the Snake River spring/summer chinook salmon which has been proposed for listing as a threatened species, and the sockeye salmon which was recently listed as an endangered species by the National Marine Fisheries Service. Though fishing is not allowed on these species, they continue to attract many viewers who hope to see adult salmon negotiating the rapids to reach upstream spawning grounds.

These are some of the reasons I strongly support protection of the lower Salmon River as a recreational and scenic river. This legislation will designate one 53-mile segment as a scenic river under the administration of the Secretary of the Interior and two segments totaling 59 miles as recreational rivers. The Secretary of the Interior will administer one recreational segment. Administration of the second recreational segment, where National Forest land lies to the north and BLM-administered land to the south of the river, will be shared between the Secretary of the Interior and the Secretary of Agriculture. The river corridor boundary matches the temporary mineral withdrawals of public lands made in 1986 and 1988 which extend generally one-quarter mile on each side of the river. Private lands are included, and I have personally met with the landowners to gain their support of this bill. I have made the commitment that the Federal Government will not acquire any private lands or interests in private lands within the corridor without the consent of the owner.

The Bureau of Land Management currently has an active lands adjust-

ment program working cooperatively with willing sellers. Two land exchange cases are nearly complete and one land purchase case is underway. This bill will make permanent the temporary withdrawals of about 18,500 acres from new mineral entries. However, valid, existing rights on seven preexisting mining claims will be maintained.

I know of no opposition to this legislation at this time. It has strong support in Idaho, and I intend to ask the Senate, Mr. President, to move this bill along quickly when we convene in 1992.●

By Mr. GARN (for himself and Mr. ROCKEFELLER):

S. 2102. A bill to amend the International Emergency Economic Powers Act; to the Committee on Banking, Housing, and Urban Affairs.

INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

● Mr. GARN. Mr. President, I rise today to introduce legislation to amend the International Emergency Economic Powers Act, or IEEPA. While this bill amends legislation dealing with international emergencies, it is intended to address a much more mundane problem, but one that is becoming increasingly frequent. That problem is the failure of the Congress to do its job and enact necessary legislation.

I have had many opportunities during my time in the Senate to complain about legislative failures, especially by the House of Representatives. These include leaving FSLIC unfunded in 1986; leaving town last year without funding RTC; the failure to pass comprehensive banking legislation in 1984, 1988 and this year. In this case, however, the focus of my concern is the Export Administration Act.

The EAA lapsed more than a year ago because of delays in conference with the House. At that time, the President invoked IEEPA to maintain export controls. Conference action was completed last November and an EAA reauthorization was sent to the President. Unfortunately, after Congress adjourned, the President took some very bad advice and vetoed the bill because it might have required economic sanctions on users and purveyors of chemical weapons. This meant that the EAA would remain out of force until the 102d Congress was organized.

The Senate made restoring these authorities an early priority and last February 20 the Senate passed a new reauthorization. Unfortunately, the House Foreign Affairs subcommittee responsible for the EAA did not act for another 8 months, and the House did not finally pass a bill until October 30. Facing the end of the session and with the Banking Committee working around the clock to produce legislation that will protect insured depositors in our banks and savings and loans in the months ahead, there is simply no time to act on the House-passed legislation.

Through a string of circumstances, but most importantly because of the irresponsible behavior of a House subcommittee, critical legislation affecting billions of dollars of U.S. exports will continue to be carried out without benefit of any statutory structure or protections for more than a year.

While this situation should be unacceptable to the Congress, it is likely to be repeated because there is no penalty for congressional inaction or a Presidential veto as long as IEEPA is available without restriction to fill the gap. Incentives may even favor a veto by the President since the President's powers under IEEPA are much less constrained than under specific international statutes like the EAA. I believe this state of affairs is unacceptable. The proposed amendment would restrict the use of IEEPA authority to extend or reinstate lapsed provisions of law.

The amendment would limit to 180 days the period for which IEEPA would be used to extend or reinstate expired provisions of law. If IEEPA were used for this purpose, two parallel actions would be triggered. First, authorizing legislation, a simple extender of expired legislation for at least 180 days, would have to be introduced in both houses and referred to appropriate Committees. On a second track, a joint resolution, approving the President's proposed extension of authority for up to one year, would have to be introduced in both Houses and referred to the appropriate committees.

Since it is inaction in the committee of jurisdiction that has been a major source of delay, the bills and resolutions required to be introduced would be subject to expedited procedures for discharge from committee and floor consideration. Critical legislation could not be bottled up.

If Congress were to complete action on authorizing legislation within 180 days, no further action would be required. However, if the Congress failed to enact authorizing legislation within that period, a vote on the joint resolution extending emergency authority would be guaranteed. If Congress failed to endorse the emergency and support an extension of authority, the statutory authority that had been extended would expire.

It is likely that the administration will be unhappy about any amendments to IEEPA that limit the President's discretion. However, this bill does not limit the President's authority in true international emergencies. It limits authority to turn legislative failure into an international emergency. If such a pseudo-emergency situation occurs, the Congress will be forced to restore legislative authority either in the form of a bill or a joint resolution of approval.

It is a sad commentary that legislation like this is necessary. But unfortunately, the legislative process has been so devalued that it only functions through a patchwork of automatic procedures, supermajority votes on budget rules and cloture motions. I regret that I have to propose one more cog in the machinery of automatic legislation but to do otherwise is to endorse irresponsibility and inaction.●

● Mr. ROCKEFELLER. Mr. President, today I am pleased to join with the Senator from Utah [Mr. GARN] in introducing an amendment to the International Emergency Economic Powers Act [IEEPA].

This is a small bill, but it addresses an important problem that goes directly to the issue of presidential powers under the Constitution. Let me begin with a bit of history.

The International Emergency Economic Powers Act provides very broad authority to the President to take measures to deal with international emergencies. It was, for example, the authority President Carter cited when he froze Iranian assets in the United States during the hostage crisis. IEEPA gives the President very broad, even dictatorial authority, to halt or control the flow of commerce or funds between the United States and other parties, subject only to the limitation that he must first declare an emergency and report it to Congress, and that he must explicitly continue the emergency every 6 months with a further report to Congress.

In enacting the IEEPA, Congress consolidated a number of earlier laws relating to international emergencies and attempted to regularize the way the President dealt with unexpected crisis overseas. In doing so, it was Congress' intent that the broad authorities provided be used only in cases of extreme crisis when immediate action was required.

Over the years, this standard has unfortunately been devalued. President Reagan used the authority on several occasions to justify sanctions against specific countries, notably Libya. I hold no brief for Libya, Mr. President, and have consistently suppported sanctions, but I do question whether the situation in Libya threatened such imminent harm to United States economic security that it warranted declaring a national emergency.

Similarly, I am even more concerned about the current application of IEEPA as a substitute for the Export Administration Act. That act lapsed more than a year ago, on October 1, 1990. Subsequently, the Congress passed and sent to the President renewal legislation, which he pocket vetoed last year. At the time of the act's expiration, and subsequently at the time of the veto, the President exercised his authority under IEEPA, declared a national emergency, and imposed under that authority substantially the same system of regulations and controls that had existed under the Export Administration Act.

What that means, Mr. President, is that our entire export control program, a major administrative apparatus, is now being run by executive fiat rather than law. It means that exporters have few, if any, of the rights accorded them under the EAA and instead are having their exports controlled by bureaucratic whim.

Thus far, the bureaucracy's tendency to whimsy has been suppressed, and administration of the program has followed closely the previous law. At the same time, there has been one element of its administration that should give us all pause. When the President reimposed the control system under IEEPA, he did so somewhat selectively, in some cases establishing procedures that had been mandated by the bill he vetoed, and in other cases ignoring the language of that bill. In short, use of IEEPA has effectively allowed the President to have a line item veto. It has allowed him to pick and choose which provisions of a bill he wants to enforce, and it has allowed him to ignore the others. And, most importnt, it has allowed him to claim that a national emergency exists solely because he vetoed a bill that Congress sent him.

This is clearly not what Congress intended when it created IEEPA, but as a result of the way that law was drafted, the President is able to get away with using the broad powers allowed him uner IEEPA to carry out critical policies affecting billions of dollars of U.S. exports without benefit of any statutory structure or protection. There is also some evidence that the White House has actively discouraged Congress' further efforts to renew the Export Administration Act in order to permit the continuation of this extraconstitutional arrangement.

The bill the Senator from Utah and I are introducing is designed to prevent the President from using IEEPA merely as a free-ride vehicle while he vetoes important legislation. It would limit the President's authority under IEEPA to extend or reinstate expired provisions of law to a period no longer than 180 days. In addition, within 10 days of using IEEPA in such a case, two actions would automatically follow. Authorizing legislation would automatically be introduced in both Houses and referred to the appropriate committees of jurisdiction, and a joint resolution, approving the President's proposed extension of authority for up to 1 year, would also be inroduced in both Houses and referred to the appropriate committees.

The bill requires expedited procedures for discharge from committee and for floor consideration. For example, if Congress fails to enact authorizing legislation within 180 days, a vote on the joint resolution extending emergency authority would be guaranteed. The President may submit a proposal to Congress requesting an extension of expiring provisions of law beyond the 180 days, but he must include a declaration of the emergency and explain the unusual and extraordinary threat to national security, foreign policy, or the economy of the United States. Such a proposed extension shall not take effect unless the Congress passes a joint resolution approving the extension within 60 calendar days.

Mr. President, this bill deals with the limited circumstance of use of IEEPA as a substitute for legislation the President has chosen not to appove or the Congress has chosen not to extend. It does not attempt to address some of the other problems we have encountered with IEEPA over the years. In that sense, it is a modest proposal, but it is an important one, both for our exporters, who have the most at stake, and for the Constitution. I hope all senators will support it.●

By Mr. GRASSLEY (for himself and Mr. MOYNIHAN):

S. 2103. A bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortages areas, and for other purposes; to the Committee on Finance.

S. 2104. A bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

PRIMARY CARE HEALTH PRACTITIONER INCENTIVE ACT AND PHYSICAL ASSISTANT INCENTIVE ACT

● Mr. GRASSLEY. Mr. President, today, on behalf of myself and Senator MOYNIHAN, I am introducing two bills, S. 2103, the Primary Care Health Practitioner Incentive Act of 1991, and S. 2104, The Physician Assistant Incentive Act of 1991. These bills would provide Medicare reimbursement to nurse practitioners [NP's], clinical nurse specialists [CNS's], certified nurse-midwives [CNM's], and physicians assistants [PA's].

Despite the best efforts of the Federal and many State governments, there are still many older Americans who do not have access to affordable health care. For many of these individuals, access would be improved if we reformed the archaic Medicare policies that place a limitation on Medicare Coverage of "physician" services provided by PA's, NP's, CNS's, and CNM's.

These bills will rectify this situation, Mr. President. Specifically, PA's, NP's, CNS's and CNM's would be paid 97 percent of the physician fee schedule for services they perform regardless of location or practice setting. The services include those which these providers are legally authorized to perform under State law whether or not the provider is under the supervision of, or associated with, a physician or other health care provider.

In addition, modeled after the bonus payment of physicians who work in health professional shortage areas [HPSA's], these practitioners would also be paid a bonus payment when they work in health professional shortage areas [HPSA's]. This provision is necessary to encourage nonphysician practitioners [NPP's] to relocate to areas in need of health care services.

THE PROBLEM

Many of the current Medicare payment policies for PA's, NP's, CNS's, and CNM's have no rational basis. I noted above that this legislation would call for the program to reimburse services which these providers are authorized to perform under State law. In both Iowa and New York, State law requires nonphysicians to practice with either a supervising or collaborating physician. This physician need not be physically present in the same facility as the nonphysician practitioner and in many instances is located in a site physically remote from the NPP. In many instances, Medicare reimbursement policy will not recognize this relationship and instead requires that the physician be in the same building as the NPP in order for services to be covered. This legislation would authorize coverage of these health care practitioners as long as they were practicing in accordance with State law.

In addition, the Medicare Program now covers the services of all of these practitioners; however, various payment mechanisms are established for each and, for some, coverage is limited to certain areas or facilities. The legislation directing these differentials in payment levels was passed in an incremental fashion. Both the nonphysician practitioner community and the Physician Payment Review Commission [PPRC] have recognized these inconsistencies and have called for their resolution. This legislation accomplishes that objective and sets a uniform payment policy for these providers.

This legislation also reconciles payment for nonphysician practitioners with the resource-based payment recommendations for physicians which will be implemented in January of 1992.

BACKGROUND

As mandated by law [OBRA '89], the PPRC conducted a study of the implications of a resource-based fee schedule for physician services for nonphysician practitioners. The commission's recommendations are incorporated in the 1991 annual report to Congress. During these deliberations, professional associations representing the nonphysician practitioner groups addressed by the

study presented data to the commission and its staff.

Throughout the process, both the commission and the professional associations discussed alternative payment methodologies that would be consistent with the principles and goals of physician payment reform. Both groups reached similar conclusions, "the resulting payments do not reflect the relative costs of NPP services compared with physician services or the relative costs of services provided by one NPP category compared with another"—page 184, PPRC 1991 report to Congress. The mandate to change the law is clear.

In fact, much of this legislation is supported by the PPRC. The first part of this legislation provides a reimbursement rate of 97 percent of the physician payment for similar services. This rate has been developed utilizing identical resource components as those used to determine physician payment: work, practice expense, and malpractice expense. However, contrary to the recommendations of the commission, the PA's, NP's, CNS's and CNM's have documented to me that the value of the work component for physicians and nonphysicians is the same. Both the PPRC and the practitioner groups agree that "practice expense for a type of service should be roughly the same whether it is provided by a PA, NP, CNS, or CNM or a physician"—page 199, PPRC 1991 Report to Congress. Therefore, it is the differential in malpractice expenses that yields the 3-percent differential between the physician and nonphysician payment rates recommended in this bill.

The malpractice costs component represents on the average 4 percent of the physician fee schedule for each service. PA's, NP's, CNS's and CNM's experience 25 percent of the physician malpractice costs on the average. Hence, the professional liability insurance component for this fee schedule for PA's, NP's, CNS's, and CNM's is 1 percent.

Although not precisely accurate for all of these provider groups in all geographic areas of the country, this legislation provides simplicity for the implementation of this program by the Health Care Financing Administration.

IMPLICATIONS FOR PAYMENT POLICY

Currently, the services of PA's, NP's, CNS's and CNM's are paid at the physician rate when provided "incident to physicians' office services". Implicit in this bill is a discontinuation of this policy. Instead, all service provided by these practitioners will be identified as such through the use of a modifier code and will be paid at the 97 percent rate rather than the physician rate. This change will clarify both coverage and payment for services provided "incident to" physician services.

IMPLICATION FOR ACCESS TO CARE FOR MEDICARE BENEFICIARIES

This legislative proposal encourages greater participation in the Medicare Program by all members of the health care team—including PA's, NP's, CNS's and CNM's. Because of the unique contributions of each professional group, the overall improvement in health care for America's Medicare beneficiaries is ensured. Many communities, both urban and rural, simply cannot support a full-time physician. They can, however, support a full-time PA or nurse practitioner or nurse midwife. Therefore, the bill, if enacted, should improve access to health care in many urban and rural communities.

SUPPORT FOR THE BILL

The following groups are supporting these proposals:

American Academy of Physician Assistants.

National Association of Pediatric Nurse Associates and Practitioners [NAPNAP].

American Nurses' Association.

The Organization for Obstetric, Gynecologic, and Neonatal Nurses [NAACOG].

National Association of Neonatal Nurses.

National Association of Nurse Practitioners in Reproductive Health.

National Conference of Gerontological Nurse Practitioners.

National Organization of Nurse Practitioner Faculties.

Illinois Association of School Nurses.

American Nephrology Nurses Association.

National League for Nursing.

American College Health Association/Nurse Practitioner Section.

National Association of School Nurses.

Freestanding Nurse Practitioner Groups.

State Affiliated Nurse Practitioners.

California Coalition of Nurse Practitioners.

American College of Nurse Midwives.

New Hampshire Nurse Practitioner Association.

National Federation of Specialty Organizations.

I hope my colleagues will be able to join me in supporting this bill.

I ask unanimous consent that the texts of the bills be included in the RECORD after my statement.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Primary Care Health Practitioner Incentive Act of 1991".

SEC. 2. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, AND CERTIFIED NURSE MIDWIVES.

(a) INCREASED PAYMENT.—

(1) NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, AND CERTIFIED NURSE MIDWIVES.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) in subparagraph (K), by striking "80 percent" and all that follows through "physician)" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician"; and

(B) in subparagraph (M) the second place it appears, by striking "80 percent" and all that follows through "(r)(2))" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician".

(2) NURSE PRACTITIONERS.—Section 1842(b)(12)(A)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(12)(A)(ii)) is amended—

(A) in subclause (I), by striking "65 percent" and inserting "65 percent or in the case of nurse practitioner services 97 percent"; and

(B) in subclause (II), by striking "or for services" and all that follows through "1848" and inserting "or in the case of nurse practitioner services 97 percent of the fee schedule amount specified in section 1848 for the same service performed by a physician or for physician assistants the fee schedule amount specified in such section".

(b) DIRECT PAYMENT FOR NURSE PRACTITIONERS OR CLINICAL NURSE SPECIALISTS.—Section 1832(a)(2)(B)(iv) or such Act (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1880(d)(2)(D))".

(c) BONUS PAYMENT FOR SERVICES PROVIDED IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of services of a nurse practitioner, clinical nurse specialist or certified nurse midwife furnished to an individual, described in paragraph (1), in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in clause (C) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.".

(d) DEFINITION OF CLINICAL NURSE SPECIALIST CLARIFIED.—Section 1861(aa)(5) of such Act (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by striking "clinical nurse specialist" each place it appears; and

(2) by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) The term 'clinical nurse specialist' means, for purposes of this Act, an individual who—

"(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) REMOVAL OF RESTRICTIONS ON SETTINGS.—Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (ii) by striking "in a skilled" and all that follows through "1919(a))"; and

(2) in clause (iii) by striking "in a rural" and all that follows through "(d)(2)(D))".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 1992.

VOL
137
PT
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NO
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1991
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1992
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S. 2104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Physician Assistant Incentive Act of 1991".

SEC. 2. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) IN GENERAL.—Section 1842(b)(12)(A)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(12)(A)(ii) is amended—

(1) in subclause (I), by striking "65 percent" and inserting "65 percent or in the case of physician assistant services 97 percent"; and

(2) in subclause (II), by striking "or for services furnished" and all that follows through "1848" and inserting "or for services of a physician assistant 97 percent of the fee schedule amount specified in section 1848 for the same service performed by a physician or for services of a nurse practitioner the fee schedule amount specified in such section".

(b) BONUS PAYMENT FOR SERVICES PROVIDED IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 1833(m) (42 U.S.C. 13951(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of services of a physician assistant, furnished to an individual, described in paragraph (1), in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in clause (C) of section 1842(b)(6) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.".

(c) REMOVAL OF RESTRICTION ON SETTINGS.—Section 1861(s)(2)(K)(i) of such Act (42 U.S.C. 1395x(s)(2)(K)(i) of such Act (42 U.S.C. 1395x(s)(2)(K)(i) is amended by striking "(I) in a hospital" and all that follows through "shortage area".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 1992.●

By Mr. BENTSEN:

S. 2105. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE ACT OF 1991

● Mr. BENTSEN. Mr. President, for a substantial part of this legislative session, we have debated legislation regarding our Nation's transportation system. Although this legislation primarily relates to our land transportation system, we recognize that all types of transportation are important and interdependent. Thus, the development of our air transportation system is critical to the development of our overall transportation needs. It is imperative that we continue to promote the development of new aviation technologies that will allow us to respond to the ever-increasing transportation challenges that will face us in the coming years and to maintain our ability to compete in global aerospace markets.

The preferred mode of travel for intercity and international transportation is clearly air travel. Needless to say, this mode of travel has been quite successful in providing invaluable services to our Nation over the years. A look toward the future reveals that our air transportation system will encounter severe problems with airport congestion that will threaten our ability to expand our domestic transportation capacity to meet rising demands. Therefore, we must begin examining ways to avoid this imminent problem.

The development of vertical flight technology may be one important way to address the airport congestion problem. The type of vertical flight that has the most promise is performed by the tiltrotor aircraft. This aircraft takes off and lands vertically like a helicopter, but flies with the speed, comfort and range of a turboprop aircraft. It can therefore provide fast point-to-point service between relatively small transportation market points, independent of runway locations.

To date, tiltrotor aircraft have been primarily used for military purposes. The development of a civilian tiltrotor aircraft system would surely benefit from the engineering and operational experience of the military program.

This bill will require the Department of Transportation to establish a committee that will consider the most effective way to develop this important new technology. This committee will evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft. It will also devise a national system of infrastructure to support the incorporation of the technology into the national transportation system. One year after this committee begins such activity, it will be required to report its findings and determinations to Congress, so that the actual implementation of a civil tiltrotor aircraft program can be considered.

Mr. President, the establishment of a Civil Tiltrotor Development Advisory Committee is a significant step toward the continued modernization of our Nation's aviation system. I urge my colleagues to support passage of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Tiltrotor Development Advisory Committee Act of 1991".

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE

SEC. 2. (a) ESTABLISHMENT.—The Secretary of Transportation shall establish in the Department of Transportation a Civil Tiltrotor Development Advisory Committee (hereinafter referred to as the "Advisory Committee") to evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft and a national system of infrastructure to support the incorporation of tiltrotor aircraft technology into the national transportation system.

(b) MEMBERSHIP.—(1) The Advisory Committee shall be composed of members appointed by the Secretary of Transportation, not later than 60 days after the date of the enactment of this Act, as follows:

(A) At least one representative of the Department of Transportation.

(B) At least one representative of the Federal Aviation Administration.

(C) At least one representative of the National Aeronautics and Space Administration.

(D) Representatives of other Federal departments and agencies, State and local governments, and private industry, as considered appropriate and necessary by the Secretary.

(2) Members appointed pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall be appointed from among individuals employed within the Federal departments and agencies described in such subparagraphs who receive an annual rate of basic pay which equals or exceeds the rate payable for level VI of the Senior Executive Service.

(3) The Secretary of Transportation shall appoint a Chairperson of the Advisory Committee from among individuals employed within the Department of Transportation who receive an annual rate of basic pay which equals or exceeds the rate payable for level IV of the Executive Schedule.

(c) DUTIES.—The Advisory Committee shall—

(1) determine the costs, feasibility, and economic viability of developing a civil tiltrotor aircraft and establishing the necessary infrastructure to incorporate such aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(2) determines the benefits to the national economy and transportation system, including the potential for improved linkages and connections with other modes of transportation, of incorporating civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(3) determine further aeronautical research and development requirements needed to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(4) determine changes to regulatory standards governing use of the airspace which would be required to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system; and

(5) recommend which of the costs of developing civil tiltrotor aircraft and establishing the infrastructure necessary to support civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft should be paid by the Federal Government and which of such costs should be paid by private industry.

(d) REPORT.—Not later than the 365th day following the date of the first meeting of the

Advisory Committee, the Advisory Committee shall transmit to Congress a report containing its determinations and recommendations under subsection (c).

(e) TERMINATION.—The Advisory Committee shall terminate on the 30th day following the date of submission of its report under subsection (d).

By Mr. CRANSTON (for himself, Mr. SPECTER, and Mr. GORTON):

S. 2106. A bill to grant a Federal charter to Fleet Reserve Association; to the Committee on the Judiciary.

FLEET RESERVE ASSOCIATION FEDERAL CHARTER

● Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce today S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association [FRA]. Joining with me as original cosponsors are the distinguished ranking Republican member of the committee, Arlen Specter, and Senator SLADE GORTON.

The FRA is a nonprofit, national service organization devoted to the welfare of active duty servicemembers of the sea services and veterans of that service, and their dependents and survivors. Officially chartered in Pennsylvania in 1924, its membership has grown to include 152,000 active duty, Reserve, and retired enlisted members of the Navy, Marine Corps, and Coast Guard and 323 chapters nationwide.

The FRA's primary purpose is to represent and further the viewpoint of its members on matters pertaining to military personnel issues. The association also works closely with the Department of the Navy and the headquarters of the Marine Corps and the Coast Guard in order to provide members and their families with direct assistance on individual career problems. In addition, the FRA assists its members, and their dependents and survivors with personal problems, especially those related to military pay and survivor benefits, and with matters before the Department of Veterans Affairs.

Mr. President, through legislative seminars and two national publications, the FRA keeps its members informed about congressional activity relevant to the members' concerns. It is vitally important in order to promote citizen involvement in the legislative process, that our servicemembers and veterans, and their survivors and dependents, learn about congressional action that affects them, and that they have an organization like the FRA that will represent their views before Congress. Such representation ensures that Congress is well advised of the concerns of the men and women who serve this Nation.

During my tenure as chairman of the committee, it has been my privilege to work with the Fleet Reserve Association on both legislative and oversight matters. Military personnel and veterans throughout our great country have benefited enormously from the FRA's diligent and effective advocacy on their behalf.

Mr. President, I believe that the granting of a Federal charter is an appropriate form of recognition for this group and should help promote its valuable ongoing work. I urge my colleagues' unanimous support of this measure.

I note that on April 24, 1991, the distinguished chairman of the House Veterans' Affairs Committee, G. V. "SONNY" MONTGOMERY, and the ranking Republican member, BOB STUMP, introduced H. R. 2070, a substantively identical bill to grant the FRA a Federal charter. I look forward to working with Chairman MONTGOMERY and Mr. STUMP to secure passage of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECION 1. FEDERAL CHARTER.

The Fleet Reserve Association, a nonprofit corporation organized under the laws of the State of Delaware, is recognized and granted a Federal charter.

SEC. 2. POWERS.

The association shall have only the powers granted to it through it bylaws and articles of incorporation filed in the State of States in which it is incorporated and subject to the laws of such State or States.

SEC. 3. PURPOSES.

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) aiding the maintenance of an adequate naval defense for the United States;

(3) assisting the recruitment of the best personnel available for the United States Navy, United States Marine Corps, and United States Coast Guard;

(4) providing for the welfare of the personnel who serve in the United States Navy, United States Marine Corps, and United States Coast Guard;

(5) continuing to loyally serve the United States Navy, United States Marine Corps, and United States Coast Guard.

(6) preserving the spirit of shipmanship by providing assistance to shipmates and their families and

(7) instilling love of the United States and the flag and promoting soundness of mind and body in the youth of the United States.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the association shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

SEC. 6. BOARD OF DIRECTORS.

The composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the States or States in which it is incorporated.

SEC. 7. OFFICERS.

The officers of the association and the election of the officers shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State or States in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the association may inure to any member, officer, or director of the association or be distributed to any such individual during the life of this charter. This subsection may not be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The association may not make any loan to any member, officer, director, or employee of the association.

(c) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The association may not issue any shares of stock and declare or pay any dividend.

(d) CLAIMS OF FEDERAL APPROVAL.—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities.

(e) CORPORATE STATUS.—The association shall maintain its status as a corporation organized and incorporated under laws of the State of Delaware.

(f) CORPORATE FUNCTION.—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State or States in which it is incorporated.

(g) NONDISCRIMINATION.—The terms of membership and the conditions for serving as an officer or director in the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 9. LIABILITY.

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) APPLICATION OF STATE LAW.—This section may not be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following: "(75) Fleet Reserve Association.".

SEC. 12. ANNUAL REPORT.

The association shall annually submit to the Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 11. The annual report may not be printed as a public document.

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) The term "association" means the Fleet Reserve Association.

(2) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

SEC. 14. TAX-EXEMPT STATUS.

The association shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

SEC. 15. TERMINATION.

The charter granted in this Act shall expire if the association fails to comply with the provisions of this Act.

Mr. GORTON. Mr. President, today I speak on behalf of the 152,000 members of the Fleet Reserve Association who request that this body grant their organization a Federal charter. As an honorary member of the Fleet Reserve Association in Washington State, and an original cosponsor of S. 2106, I wholeheartedly support this request.

The primary purpose of the association is to represent and further the viewpoint of its members on matters pertaining to military personnel issues and to provide individual career services to its members. Since 1924, the Fleet Reserve Association has been actively involved in providing individual career services to its members by working closely with the Department of the Navy, the U.S. Marine Corps and the U.S. Coast Guard. In addition, the association keeps abreast of the defense needs of our country and assists in the recruitment of quality personnel for our Nation's sea services.

The Fleet Reserve Association is a nonprofit, nonpartisan, and nonsectarian organization which deals solely with personnel issues rather than military, foreign or political policy.

The association extends its benefits both to its members and to sea servicemen, and their dependents regardless of affiliation.

Senators, a Federal charter for this organization is primarily a symbolic gesture. It does not provide the Fleet Reserve Association with Federal money or office space or any Government-funded perks. It is simply an official recognition of an organization which has worked selflessly and tirelessly for this country and for the great men and women who have served this country in the U.S. Navy, Marines, and Coast Guard, for a period of almost 70 years.

Given a record of service as long and distinguished as that of the Fleet Reserve Association, a Federal charter is well deserved and perhaps long overdue. I, therefore, ask you to join me today in support of Senator CRANSTON'S bid for a Federal charter for the Fleet Reserve Association with the certainty that you are acknowledging the eminently worthy work of a proud and indispensable organization.

By Mr. DURENBERGER:

S. 2108. A bill to establish a national policy to encourage the proper collection, handling, treatment, and disposal of medical waste materials; to the Committee on Environment and Public Works.

MEDICAL WASTE MANAGEMENT POLICIES

• Mr. DURENBERGER. Mr. President, today I am introducing the Medical Waste Management Act of 1991. This legislation is intended to assure the safe management of wastes generated by hospitals, clinics, laboratories, and other medical facilities.

The Medical Waste Management Program set forth in this legislation will replace the Medical Waste Tracking Program that the Congress enacted in 1988 and that has been carried out in a handful of States in the Mid-Atlantic region. This new program would apply to the whole country. It would be a complete management program including standards for storage, treatment, transportation, and disposal.

The Committee on Environment and Public Works will begin markup sessions on the RCRA reauthorization bill when the Congress returns in January. It is my intention to ask the committee to consider this bill as an amendment to that RCRA reauthorization legislation.

Reviewing the provisions of this legislation, one will find that its requirements are not unlike those which will be applied to all solid wastes by that RCRA bill. This bill includes a broader definition of medical waste than some would want and it also includes a very detailed management system. And that will cause concern to some. But a comparison of this bill to the basic RCRA regime that is about to be put in place will show that in the context of the future RCRA solid waste requirements, this program is appropriate for the special characteristics of medical waste.

Medical waste is generated by hospital and other health care facilities, medical laboratories, physician and dentist offices, and other facilities such as nursing homes, funeral homes, and veterinary hospitals. Improper disposal of this waste, as with other types of refuse, is an environmental concern. In addition, certain types of medical waste, such as body parts, can be aesthetically displeasing, and other items, such as hypodermic needles and scalpels, can result in physical injury. However, the major concern is that some medical waste is potentially infectious.

Medical waste is most often defined to include microbiological wastes, liquid blood and blood products, isolation wastes from patients with communicable diseases, pathological wastes, such as body tissues and organs, used sharps like needles and scalpels, and contaminated animal carcasses, body parts, and bedding.

The number of facilities generating medical wastes is unknown but could exceed more than 1 million sites. Reliable data on the total amount of medical waste is also uncertain, but the Environmental Protection Agency estimates the total may be 3.2 million tons per year. About 80 percent of this amount comes from hospitals and according to EPA 10 to 15 percent may be infectious waste.

Hospitals and other health care facilities routinely segregate their wastes that may be infectious. This wastes is placed in specially designated or colored bags—so-called red bags—for storage and disposal. Needles and scalpels are placed in rigid containers to prevent injury to the health care work force.

Hospitals have generally handled their waste by burning it in an incinerator at the hospital. About 70 percent of the hospital waste is incinerated. Another 15 percent is sterilized with steam or heat before it is disposed.

We know that these practices are changing rapidly. Many hospital incinerators have only primitive pollution control equipment. The infectious character of the waste is addressed by incineration, but these facilities can contribute substantial amounts of toxic chemicals to the air in their communities. Air emission standards for hospital incinerators are on the horizon, and as a result much larger volumes of medical waste will be shipped and disposed at other sites.

During 1987 and 1988, several incidents of medical waste washing up on the shores of New Jersey, New York, and Maryland were reported in the press. Problems were also found in the Great Lakes region of the country. Beaches were closed. Businesses which relied on the tourist trade lost money. People were denied the use of these public resources. There have also been many other incidents where children have been exposed to medical wastes that were disposed in unsafe ways.

Many States, including my own State of Minnesota, have responded to those events with medical waste management programs of their own.

This legislation is also designed to address those problems and to assure that a uniform national system for the management of medical waste can be

put in place. The bill includes a broad definition of medical waste, requires that regulated medical waste be segregated and stored in specially designated containers, requires that persons transporting or treating medical waste register with EPA and obtain a permit for treatment facilities, establishes treatment standards for various categories of medical wastes, and establishes standards for facilities that treat or dispose of medical waste.

Mr. President, I ask that the text of the bill be printed in the RECORD along with my comments today.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. This Act may be cited as the "Medical Waste Management Act of 1991".

SEC. 102. Subtitle J of the Solid Waste Disposal Act is amended to read as follows:

"Subtitle J—Medical Waste Management Policies

"SEC. 11001. (a) The Congress hereby declares it to be the national policy of the United States that (A) the proper collection, handling, treatment and disposal of medical waste be encouraged to the maximum extent achievable, (B) improper management of medical waste be curtailed in order to properly protect human health and the environment, and (C) the United States no longer disregard the public health and safety concerns and the physical hazards to human health and the environment posed by the improper management of medical waste.

"(b) The Congress further declares it to be the national policy of the United States that the management of medical waste be considered and implemented to assure a comprehensive approach to medical waste management that fosters compliance with standards necessary to protect human health and the environment.

"MEDICAL WASTE DEFINITIONS

"SEC. 11002. As used in this subtitle:

"(1) The term "regulated medical waste" means any solid waste or secondary materials generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Such term does not include any "hazardous waste" identified or listed under section 3001 or any "household waste" as defined in regulations under subtitle C (including garbage, trash and sanitary wastes in septic tanks derived from households), except to the extent provided in section 11011. Regulated medical waste includes, but is not limited to:

"(A) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines and culture dishes and devices used to transfer, inoculate, and mix cultures.

"(B) Human pathological wastes, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

"(C) Liquid waste human blood, items saturated or dripping with human blood, items that were saturated or dripping with human blood that are now caked with dried human blood, and products of blood, including serum, plasma, and other blood components and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals and including intravenous bags.

"(D) Sharps that have been used in animal or human patient care or treatment or in medical research or industrial laboratories, including hypodermic needles, syringes (with or without attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing and culture dishes (regardless of presence of infectious agents), other types of broken or unbroken glasswares that was in contact with infectious agents.

"(E) Contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

"(F) Biological waste and discarded materials contaminated with blood, excretion, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases or isolated animals known to be infected with highly communicable diseases.

"(G) Chemotherapy wastes, including used intravenousbags and needles, tubing, vials, gloves, gowns, masks, and other disposable material used in the administration of cytotoxic or antineoplastic agents.

"(H) Unused, discarded sharps including hypodermic needles, suture needles, syringes and scalpel blades.

The Administrator is authorized to modify the definition of regulated medical waste under this paragraph as necessary to protect human health and the environment. The Administrator, in consultation with the Director of the Centers for Disease Control and the Administrator of the Occupational Safety and Health Administration, shall consider which of the wastes regulated under the Medical Waste Tracking Act of 1988 are appropriate for inclusion in the definition of regulated medical waste under this title.

"(2) The term "infectious agent" as used in the definition for regulated medical waste means any organism (such as a virus or bacteria) that is capable of being communicated by invasion and multiplication in body tissue and capable of causing disease or adverse health impacts in humans.

"(3) The term "generator" means any person whose activity or process produces regulated medical waste, without regard to quantity of medical waste produced, and includes, but is not limited to, the following categories of facilities and activities:

General Acute Care Hospital
Skilled Nursing Facility or Convalescent Hospital
Intermediate Care Facility
In-Patient Care Facility for the Developmentally Disabled
Chronic Dialysis Clinic
Free Clinic
Community Clinic
Employee Clinic
Health Maintenance Organization (HMO)
Surgical Clinic
Urgent Care Clinic
Acute Psychiatric Hospital
Laboratory
Medical Buildings
Physicians Offices
Veterinarians Offices
Veterinary Hospital
Home Health Agencies
Federal Facilities

"(4) The term "storage" means the temporary holding of regulated medical waste at a designated accumulation area before treatment, disposal or transport.

"(5) The term "transporter" means a person engaged in the off-site transportation of regulated medical waste by air, rail, highway, or water.

"(6) The term "transportation" means the shipment or conveyance of regulated medical waste.

"(7) The term "treatment", when used in connection with regulated medical waste, means any method, technique or process designed to change the biological character or composition of regulated medical waste so as to reduce or eliminate its potential for causing disease or otherwise render it nonhazardous, or so as to render such medical waste safer for transport or storage.

"(8) The term "OSHA" means the Occupational Health and Safety Administration in the Department of Labor.

"STORAGE AND CONTAINMENT OF MEDICAL WASTE

"SEC. 11003. (a) IN GENERAL.—

"(1) Not later than 12 months after the enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations for the storage and containment of regulated medical waste.

"(2) Containment of medical waste shall be in a manner and location which assures protection of human heath and the environment and curtails the risk of infectious disease transmission. Such containment shall minimize the exposure of the public to regulated medical waste, and shall be of such a nature and so maintained that such containment will not degrade or decompose, will not provide a breeding place or a food source for insects and rodents, and shall afford ample protection from animals and weather conditions.

"(3) Regulated waste shall be segregated from other waste at the point of origin in the producing facility of the generator.

"(3) Regulated medical waste shall be segregated from other waste at the point of origin in the producing facility of the generator.

"(4) Containment of medical waste shall be separate from other wastes. Enclosures or containers used for containment of medical waste shall be so secured so as to deny access by unauthorized persons and shall be marked with prominent warning signs on, or adjacent to, the exterior of entry doors, gates, or lids. Each container shall be prominently labeled with sign using language to be determined by the Administrator and legible during daylight hours from a distance of 25 feet.

"(b) STORAGE.—Regulated medical waste shall not be stored at a waste producing facility in a manner including the period of time and the maximum temperature at which stored) which will allow any portion of such waste to putrefy. Such requirements may vary with the nature of the waste to be stored. Containment of regulated medical waste at the producing facility for a period of not more than 90 days in accordance with such requirements is permitted without specific approval.

"(c) CONTAINMENT.—

"(1) Regulated medical waste, except for sharps capable of puncturing or cutting, shall be contained in disposable plastic bags which are impervious to moisture and have a strength sufficient to preclude ripping, tearing, or bursting under normal conditions of usage. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid wastes during storage, handling, or transport.

"(2) Sharps shall be contained for disposal in leakproof, rigid, puncture-resistant containers which are taped closed or tightly lidded to preclude loss of the contents.

"(3) All bags used for containment and disposal of regulated medical waste shall be red in color and conspicuously labeled to denote the nature of the medical waste. Rigid containers of sharps waste shall be labeled in the same way or placed in the disposable bags used for other regulated medical waste.

"(d) HANDLING.—

"(1) Compactors or grinders shall not be used to process regulated medical waste until after the waste has been rendered non-infectious. Regulated medical waste shall not be subject to compaction by any compacting device and shall not be placed for storage or transport in a portable or mobile trash compactor.

"(2) Regulated medical waste contained in disposable containers as prescribed above, shall be placed for storage, handling, or transport in disposable or reusable pails, cartons, drums, dumpsters, or portable bins. The containment system shall be leak resistant, have tightfitting covers, and be kept clean and in good repair. The containers shall be of any color and shall be conspicuously labeled as set forth in the promulgated requirements, on the lid and on the sides so as to be readily visible from any lateral direction when the container is upright.

"(3) Reusable containers for regulated medical waste shall be thoroughly washed and decontaminated each time they are emptied by a method specified by the regulations or the State Department of Health, unless the surfaces of the containers have been protected from contamination by disposable liners, bags, or other devices removed with the waste.

"(4) Approved methods of decontamination may include, but are not limited to, agitation to remove visible soil combined with one of the following procedures:

"(A) Exposure to hot water of at least (1800 F) for a minimum of fifteen seconds.

"(B) Exposure to a chemical sanitizer by rinsing with or immersion in one of the following for a minimum of three minutes: (i) Hypochlorite solution (500 ppm available chlorine); or (ii) Idoform solution (100 ppm available iodine).

"(5) Reusable pails, drums, dumpsters or bins used for containment of regulated medical waste shall not be used for containment of waste to be disposed of as non-infectious waste or for other purposes except after being decontaminated.

"(6) Trash chutes shall not be used to transfer regulated medical waste between containment locations.

"TRANSFER OF MEDICAL WASTE TO OFF-SITE TREATMENT OR DISPOSAL FACILITIES

"SEC. 11004. (a) TRANSFER OF MEDICAL WASTE TO OFF-SITE TREATMENT AND DISPOSAL FACILITIES.—Any generator of regulated medical waste shall transfer custody of the waste only to a transporter who is registered as a regulated medical waste transporter by the Administrator in accordance with section 11005.

"(b) SEGREGATION OF MEDICAL WASTE IN TRANSPORT.—Regulated medical waste shall not be transported in the same vehicle with other waste unless the medical waste is separately contained or unless all of the waste is to be treated or disposed of as regulated medical waste in accordance with the requirements of this subtitle.

"(c) OFF-SITE STORAGE.—Regulated medical waste shall not be stored at any off-site location in a manner (including the period of time and the maximum temperature at which stored) which will allow any portion of such waste to putrefy. Such requirements may vary with the nature of the waste to be stored.

"(d) MEDICAL WASTE TREATMENT OR DISPOSAL FACILITY.—Regulated medical waste shall be delivered for treatment or disposal only to a facility for which there is a valid and appropriate Medical Waste Facility Permit in accordance with section 11008.

"(e) HANDLING REQUIREMENTS.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations establishing requirements for the handling of regulated medical waste by persons who may be in contact with such waste during the transportation process.

"(f) DECONTAMINATION OF TRANSPORT VEHICLES.—Transport vehicles that have contacted spilled or leaked regulated medical waste shall be decontaminated by exposure to hot water of at least 180° F or through chemical sanitizing with the chemicals specified in section 1103(d)(4)(B).

"(g) IDENTIFICATION OF TRANSPORT VECHICLES.—Vehicles transporting regulated medical waste shall be identified on each side of the vehicle with the name or trademark of the transporter.

"STANDARDS APPLICABLE TO TRANSPORTERS OF MEDICAL WASTE

"SEC. 11005. (a) STANDARDS APPLICABLE TO TRANSPORTERS OF MEDICAL WASTE.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with the Secretary of Transportation, shall promulgate regulations establishing requirements for registration as a regulated medical waste transporter.

"(b) REGISTRATION AS MEDICAL WASTE TRANSPORTER.—

"(1) The regulations shall require that any person desiring registration as a medical waste transporter must submit to the Administrator a completed and signed application form provided by EPA.

"(2) The form shall contain a statement certifying that the applicant understands and will company with the applicable requirements of this subtitle, and a list of all vehicles and containers used in the transport of regulated medical waste.

"(3) Each vehicle listed must be registered to the applicant or under control of the applicant pursuant to a written lease or contract, and included in the applicant's required insurance coverage.

"(c) PROOF OF LIABILITY COVERAGE.—

"(1) Applicants shall be required to show evidence of financial responsibility adequate for any potential cleanup costs or third-party damages resulting from the operation of the person's business.

"(2) A copy of the insurance policy, if insurance is the chosen financial alternative for the required coverage, shall be maintained at the transporter's principal place of business.

"(3) A Certificate of Insurance, a bond of a licensed surety company or evidence of qualifications as a self-insurer, shall be provided which indicates that the minimum coverage has been obtained.

"(4) A registered medical waste transporter shall notify the Administrator in writing immediately upon notice of loss of the required liability coverage. A transporter shall immediately cease to transport medical waste upon loss of liability coverage.

"(d) FEES.—Fees for registration and inspection shall be collected from transporters as determined by the Administrator.

"(e) ANNUAL INSPECTIONS OF ROAD VEHICLES.—

"(1) Applicants shall be required to demonstrate that all trucks, trailers, semi-trailers, and containers which are to be used by the applicant for transportation of regulated medical waste on highways and which are subject to the provisions of this subtitle have passed an annual inspection by the Department of Transportation.

"(2) Any person who transports or proposes to transport medical waste on a highway shall—

"(A) Allow the Department of Transportation to inspect jointly the person's trucks, trailers, semi-trailers, and containers;

"(B) Make vehicles and containers available for inspection at a safe work location;

"(C) Allow the Department and the Administrator to inspect manifests, reports, permits, licenses, and other documents related to the handling or transporting of regulated medical wastes;

"(D) Make available to the Administrator and the Department of Transportation upon request all records of inspection.

"(3) The Department of Transportation or the Administrator may require testing, under prescribed conditions, of trucks, trailers, semi-trailers, or containers used to transport regulated medical wastes, in order to assure compliance with this subtitle.

"(4) When so requested by the Department of Transportation or the Administrator, a medical waste transporter shall, within a reasonable period of time, perform any or all of the following actions:

"(A) remove regulated medical waste or materials from the containers or other appurtenances of a truck, trailer, semi-trailer or container in order to make it safe to inspect;

"(B) remove covers and take other steps necessary to allow inspection;

"(C) present the manifest for the waste last held in each truck, trailer, semi-trailer, or container to be inspected.

"(5) Each medical waste transporter shall arrange for an inspection by the Department of Transportation prior to expiration of any certification or date assigned for annual inspection.

"(f) REQUIREMENTS FOR TRANSPORTERS.—

"(1) Registration as a regulated medical waste transporter will expire one year from date of issuance.

"(2) All vehicles and containers requiring certificates of compliance and any attached equipment must be in sound condition and containers must be designed and maintained to properly contain medical waste.

"(3)(A) A certificate of compliance issued by the Department of Transportation shall be placed on each truck, trailer, semi-trailer, and container which has passed its annual inspection.

"(B) The certificate of compliance shall not be displayed by any person who is not registered with the Department of Transportation as a medical waste transporter.

"(C) The certificate of compliance shall expire simultaneously with the expiration date of the medical waste transporter registration, unless the Department of Transportation determines in writing that a simulta-

neous expiration date would place an undue burden upon the applicant.

"(4) Registered medical waste transporters shall notify the Department of Transportation in writing within 30 days of the following occurrences:

"(A) The transporter changes majority ownership, name, or location;

"(B) Ownership or control of a vehicle or container certified by the Department is changed;

"(C) A truck, trailer, semi-trailer, or container certified by the Department is involved in any spill, in an accident which renders or may have rendered the vehicle or container in noncompliance with the requirements of this Title.

"(g) MEDICAL WASTE CONTAINERS.—

"(1) Each truck, trailer, semi-trailer, or container used for shipping regulated medical waste shall be so designed and constructed, and its contents so limited, that under conditions normally incident to transportation, there shall be no release of regulated medical waste to the environment.

"(2) Any truck, trailer, semi-trailer, or container used for shipping regulated medical waste shall be free from leaks and all discharge openings shall be securely closed during transportation.

"(h) TRANSPORT BY RAIL, AIR OR WATER.—The Administrator, in consulation with the Secretary of Transportation, shall promulgate regulations which apply the standards and regulations under this section applicable to regulated medical waste transporters using the roadways, to transporters using either the railway, airway or waterway systems to transport regulated medical waste.

"(i) DEFINITION OF CONTAINER.—For the purposes of this section, the term "container" refers to a large container that is part of a transportation system, designed to contain and aggregate multiple smaller containers but capable of being separated from the vehicle.

"TREATMENT OR DISPOSAL OF MEDICAL WASTE

"SEC. 11006. (a) REGULATIONS.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations establishing standards for the treatment or disposal of regulated medical waste.

"(b) TREATMENT OR DISPOSAL OF MEDICAL WASTE.—Disposal of regulated medical waste without treatment is prohibited. Treatment of regulated medical waste shall be by one of the following methods:

"(1) (A) Such medical waste may be treated by incineration in a controlled-air multi-chambered incinerator which provides complete combustion of the waste to carbonized or mineralized ash.

"(B) Incinerators shall be capable of providing proper combustion temperatures and residence time and shall be properly interlocked to assure that optimum operating parameters are maintained. Emissions shall meet emission limitations established on the basis of the maximum achievable control technology, as determined under section 129 and section 112(d) of the Clean Air Act.

"(2)(A) Such medical waste may be treated by decontamination by heating in a steam sterilizer so as to render the waste non-infectious. Medical waste so rendered non-infectious may then be disposed of in accordance with subtitle D or this subtitle, if such decontaminated medical waste is not otherwise identified as a hazardous waste under section 3001.

"(B) Minimum operating procedures for steam sterilizers shall include, but not be limited to, the following;

"(i) Adoption of standard written operating procedures for each steam sterilizer including time, temperature, pressure, type of waste, type of container(s), closure on container(s), pattern of loading, water content, and maximum load quantity.

"(ii) Check of recording and indicating thermometers during each complete cycle to assure the attainment of a temperature no lower than 121° C (250° F) for one-half hour or longer, depending on quantity and density of the load, in order to achieve decontamination of the entire load. Thermometers shall be checked for calibration at least annually.

"(iii) Use of heat sensitive tape or other device for each load that is processed to indicate the attainment of adequate sterilization conditions.

"(iv) Maintenance of records of procedures specified in this subparagraph for a period of not less than one year.

"(3) Non-infectious liquid medical waste may be discharged through a sewer to a publicly owned treatment works, unless prohibited by a State or local health officer or the owner or operator of the publicly owned treatment works.

"(4) The Administrator shall establish a process for qualifying other innovative technologies for the treatment of regulated medical waste, and any such technology may qualify under this subsection if it is found to be as effective in treatment or decontamination as the methods specified in paragraphs (1) and (2).

"(c) DISPOSAL OF CULTURES.—Cultures of viable etiologic agents shall be rendered non-infectious before disposal on land by heating the cultures in a steam sterilizer, by incineration, or by another sterilization technique approved in writing by the Administrator.

"(d) ANATOMICAL REMAINS.—Medical wastes consisting of recognizable human anatomical remains shall be disposed of by incineration or interment, unless burial in a landfill is specifically required by the Administrator because the waste contains a hazardous constituent.

"SHIPPING PAPERS

"SEC. 11007. (a) SHIPPING PAPERS.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations to establish a system of shipping papers that must accompany shipments of regulated medical waste from the location where they are generated to any treatment or disposal facility. Such regulations shall require generators of regulated medical waste and the owners and operators of facilities for the treatment or disposal of regulated medical waste to maintain records and to report at least annually on the types and quantities of regulated medical waste generated or received and as to compliance with this section.

"(b) REQUIREMENTS OF SHIPPING PAPERS.—The shipping papers shall include, but not be limited to, the following:

"(1) The name and address of the generator;

"(2) A brief, general description of the nature and volume of the regulated medical wastes being shipped;

"(3) An indication of whether or not the regulated medical wastes have been treated to render them non-infectious, and if so, the method of treatment;

"(4) If the waste has been treated, the name and address of the treatment facility;

"(5) A method by which the person causing the transportation of a shipment of waste shall designate the offsite treatment or disposal facility, as appropriate, to which the transporter shall deliver the waste.

"(6) A certification by the person causing the waste to be transported that (A) the waste is packaged and labeled in accordance with the regulations adopted under this subtitle; (B) the description of the waste and statement on whether the waste has been treated is accurate; and (C) if the waste has been treated, it has been treated in accordance with methods, techniques, and practices prescribed by requirements under this subtitle.

"(c) MEDICAL WASTE WITHOUT SHIPPING PAPERS.—No off-site treatment or disposal facility shall accept any regulated medical waste, treated or untreated, without the appropriate accompanying shipping papers. No generator of regulated medical waste shall transport or offer for transport, off-site storage, treatment or disposal, any regulated medical waste unless it is accompanied by the appropriate shipping papers.

"(d) SMALL QUANTITY GENERATORS.—The Administrator may promulgate alternative requirements applicable to those facilities generating less than 25 kilograms of regulated medical waste per month, provided that such regulations assure protection of human health and the environment with respect to the transportation, treatment and disposal of regulated medical waste.

"TREATMENT, STORAGE, OR DISPOSAL FACILITIES

"SEC. 11008. (a) REQUIREMENTS FOR MEDICAL WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES.—Any person who operates a facility for the treatment, storage, or disposal of regulated medical waste shall have a valid and appropriate medical waste management facility permit issued by the Administrator. Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations establishing the requirements for such permits and the procedure for issuing such permits.

"(b) OPERATION PLAN.—The operator of any facility used for the treatment, storage, or disposal of regulated medical waste shall have and shall adhere to an operation plan for the handling and disposal of regulated medical waste approved in writing by the Administrator, which shall be a condition of the permit issued under this section. The operation plan shall provide for or include, but not be limited to, the following:

"(1) A method of receiving wastes which assures that regulated medical wastes are handled separately from other wastes until treatment or disposal is accomplished and which prevents unauthorized persons from having access to or contact with the wastes;

"(2) A method of unloading and processing of regulated medical wastes which limits the number of persons handling the wastes and minimizes the possibility of exposure of employees and the public using or visiting the facility to the medical waste;

"(3) A method of decontaminating emptied reusable medical waste containers, transport vehicles or facility equipment which are known or believed to be contaminated with infectious agents or regulated medical waste;

"(4) The provision and required use of clean gloves and uniforms along with other protective clothing, face masks or respirators to provide protection of employees against exposure to regulated medical waste. Soiled protective gear shall be disposed of at the facility or decontaminated;

"(5) The means of decontamination of any person having had bodily contact with regulated medical waste while transporting the waste to the treatment or disposal facility or while handling or disposing of the waste at the facility;.

"(6) A quantification of the maximum amount of medical waste that may be treated, stored, or disposed of per month at the facility.

"(c) NEW OR REVISED OPERATION PLAN.—A new or revised operation plan for a treatment, storage, or disposal facility for regulated medical waste shall be submitted for approval to the Administrator whenever there is a projected increase of more than twenty-five percent in the maximum quantity of regulated medical waste receiving treatment, storage, or disposal per year by the facility or when changes are otherwise made in an existing operation plan.

"(d) NONCOMPLIANCE WITH OPERATION PLAN.—Approval for acceptance of regulated medical waste at a treatment, storage, or disposal facility may be withdrawn by the Administrator for noncompliance with the operation plan or other conditions of a permit issued under this section.

"(e) FINANCIAL ASSURANCE REQUIREMENTS.—As a condition of approval for such permit, any person who operates a facility for the treatment, storage, or disposal of medical waste shall provide evidence of financial assurance in accordance with section 3004(t) to meet all responsibilities with respect to corrective action or closure of such facility and any damages caused by the release of such waste.

"STATE PROGRAMS

"SEC. 11009. Not later than 6 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations establishing the minimum content for State programs to carry out this subtitle. After the effective date of regulations under this subtitle [eighteen months after the date of enactment of the Medical Waste Management Act of 1991], the requirements of this subtitle shall be carried out by each State that has expressed its intention to operate a regulated medical waste program in accordance with this subtitle, unless the Administrator determines that the program of such State does not comply with this subtitle and the minimum State program content regulations promulgated under this section, or that the State does not have the authority or resources to carry out such program.

"ENFORCEMENT AND SANCTIONS

"SEC. 11010. For the purposes of sections 3007 and 3008, the phrase "any requirement of this subtitle" includes any requirement of subtitle J and the term "hazardous waste" includes regulated medical waste.

"HOUSEHOLD MEDICAL WASTE

"SEC. 11011. The Administrator shall undertake a study of medical waste from households, and to the extent that a system for the collection and management of such medical wastes can be developed, the Administrator shall designate medical wastes from households that can be accommodated by such system as regulated medical waste under this subtitle.".

"SEC. 103. Section 1004(40) of the Solid Waste Disposal Act is amended to read as follows:

"(40) The term "medical waste" shall have the meaning provided in section 11002(1).".•

By Mr. BAUCUS (for himself, Mr. PACKWOOD, and Mr. HATCH):

S. 2109. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

METHOD OF ELECTION OF TAXABLE YEARS

• Mr. BAUCUS. Mr. President, the Tax Reform Act of 1986 [TRA 1986] imposed a requirement that partnerships, S corporations, and personal service corporations adopt, in general, a calendar year for tax purposes. As a result of public outcry concerning the difficulties created by this requirement, the Revenue Act of 1987 modified TRA 1986 with the creation of section 444 which allowed retention or adoption of a fiscal year by partnerships, S. corporations and personal service corporations if certain annual requirements were met. Section 444 provided a mechanism for relief. However, time has demonstrated that the original rules are overly restrictive and need modification.

The increased complexity of TRA 1986 has resulted in more time being devoted by taxpayers and their advisors to both planning and preparation of individual and small business tax returns. This increased workload has been further compounded by many taxpayers having switched from fiscal years to calendar years. More tax planning and preparation must now be done in a shorter period of time.

A nationwide survey conducted by a national organization of certified public accountants indicates that approximately 60 percent of the annual workload occurs during the first 3 to 4 months of the year. This has historically been a heavy workload period, but it has now become unacceptably heavy for taxpayers and their advisers.

Automatic extensions are available for many tax returns, but this provides only minimal relief to small business taxpayers and advisors. Extensions are costly and inconvenient. The tax liability must still be computed with great accuracy by the original due date. Further, it make it difficult to obtain the information necessary to estimate the tax liability of owners in order for them to apply for an extension.

This workload compression problem is not limited to tax work. It has become an even greater problem with accounting and auditing work. Owners and creditors typically demand financial statements and audit reports within 90 days after year end. Now this work must also be done between January 1 and April 15.

On average, only about 20 percent of small businesses which were on a fiscal year prior to TRA 1986 remain on a section 444 fiscal year.

The administration of the tax system is also damaged by the resulting uneven workload experienced by the Internal Revenue Service. The IRS, taxpayers, and tax practitioners can better meet tax filing requirements if the demands are spread throughout the year.

With the enactment of the section 444 fiscal year retention rules, Congress acknowledged that there are legitimate business reasons for allowing fiscal years. Fiscal years are ordinarily chosen to coincide with the natural business year of the taxpayer. The year end conformity requirement of TRA 1986 unduly interfered with business operations, and the fiscal year retention rules of RA 1987 did not go far enough in remedying the problem.

The legislation I am introducing today modifies a portion of the rules for fiscal year retention in a way which addresses the continuing problems in this area without sacrificing revenue. The general rules of sections 444, 7519, and 280H would remain relatively unchanged. The proposed legislation would reopen the election process to allow existing entities to either elect, re-elect, or modify an existing election for a fiscal year. It is anticipated that the proposed changes to the law will sustain revenue levels. A revenue estimate on the proposal to confirm this neutrality has been requested. In the event that the revenue estimate is negative, certain technical modifications to this bill are available to retain neutrality. The Secretary of the Treasury would prescribe rules consistent with current IRS practices for the frequency of changes.

In addition, no restriction would be imposed on the length of the deferral period. Entities would be allowed to elect a fiscal year which ends in any month. The proposed legislation would also make minor technical corrections and administrative changes which will make the provision fairer and more administrable.

The proposed legislation addresses serious problems being encountered by small businesses and their tax advisors; it offers taxpayers greater flexibility and fairness; it adds to the administrability of the tax system; and, it sustains revenues in this difficult time of budget constraints.

Mr. HATCH. Mr. President, I rise today with my colleagues from Montana and Oregon to introduce legislation to provide small businesses with the option to use a fiscal year instead of a calendar year for tax purposes.

The Tax Reform Act of 1986 contained a provision requiring small businesses to use a calendar year in computing their taxes. This affected small businesses, tax preparers, and the IRS. In response to the difficulties created by the calendar year requirement, the Tax Reform Act of 1987 modified these rules to allow certain small businesses to continue using fiscal years for tax purposes if certain annual requirements were met. This legislation brought some relief to business, but not enough. Most small businesses switched from a fiscal year to a calendar year.

When combined with the increased complexity of the tax law, this transi-

tion has severely affected the accounting industry by requiring that more time be spent with each client. The resulting workload shift for tax advisors has caused the period from December to May to become unacceptably heavy, with increases of up to 20 percent. The rest of the year's workload has dropped to unacceptably low levels. This workload pattern is mirrored by the Internal Revenue Service.

This legislation would help correct this imbalance by allowing small businesses to elect to use either fiscal or calendar years for tax purposes. As businesses switch to fiscal years, the workload of tax advisors and the IRS will be spread throughout the year.

As companies make the transition, a short accounting period is created. The short period reduces estimated payments to the Federal Government. This bill would require those companies making the switch to a fiscal year to make an initial deposit payment offsetting this revenue loss. This payment would remain on deposit and be refunded to the company after 20 months.

Mr. President, this legislation is a win-win proposition. It would impose no additional regulation on anyone. Instead, the provisions it contains are purely optional. It gives businesses the freedom to elect the accounting period that best coincides with their business cycle and does so in a fiscally responsible manner. This legislation gives much needed relief to American small business, the accounting industry, and the Internal Revenue Service. I heartily urge my colleagues to support this bill.

By Mr. ADAMS for himself and Mr. GORTON):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditure by electric utilities are deductible for the year in which paid or incurred; to the Committee on Finance.

ENERGY CONSERVATION EXPEDITURES BY ELECTRIC UTILITIES

• Mr. ADAMS. Mr. President, I am pleased to join with my colleague from Washington State, Senator GORTON, to introduce legislation clarifying the tax treatment of conservation expenses by electric utilities.

Earlier this year, we considered national energy security legislation. That legislation was defeated, partly because certain provisions were objectionable to many Senators. On a more fundamental level, the energy bill was defeated because it was not balanced. It focused too much on production and not enough on conservation.

A major component of our Nation's energy policy must be conservation. It has been estimated that increasing energy efficiency can decrease our energy use by one-third to one-half. The Union of Concerned Scientists has estimated that retrofitting electrically heated residential housing would cut energy consumption in those houses by 87 percent.

The implications are obvious. Greater energy conservation can increase our energy security. It can save taxpayers' money.

However, a fundamental problem inhibits our energy conservation efforts. Existing market barriers and incentive programs favor energy production. Not energy conservation. This must change if tremendous potential of energy conservation is to be realized.

The legislation we are introducing will preserve an important tax incentive for energy conservation.

In the spirit of conservation and reducing the demand for electricity, utilities have embarked on ambitious public education programs. The programs analyze customers' use of electricity and, if cost effective, provide funding to improve consumer energy efficiency. Typical activities include installing more efficient lighting, windows and appliances, and weatherizing older homes.

Since their inception, the IRS has treated the costs of conservation programs as deductable expenses in the year in which they occur. The costs associated with these programs include wages and salaries of employees who conduct and administer these programs, as well as grants given to contractors or customers for energy efficient measures.

I recently became aware of a problem that could send a chilling message to utilities across the country.

Due to conflicting intentions articulated by the Internal Revenue Service, the future treatment of conservation costs is unclear.

Hesitant and vague explanations from the IRS have resulted in considerable uncertainty for utilities. This uncertainty is causing utilities to place on hold or scrap altogether future upgrades and improvements in their conservation programs.

Conservation remains an essential component of any national energy plan. If conservation is to remain a viable option, we must act next year to clarify the tax treatment of these expenses.

The bill we are introducing today is simple and straightforward. It will amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductable for the year in which paid or incurred.

Senator GORTON and I urge our colleagues to join us in sending a clear message to utilities across the country that conservation is and will always remain one of our highest priorities.

Mr. President. I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC UTILITIES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 196 the following new section:

"SEC. 197. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC UTILITIES.

"(a) GENERAL RULE.—An electric utility may treat energy conservation expenditures which are paid or incurred during the taxable year by such utility in connection with its trade or business as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(b) ENERGY CONSERVATION EXPENDITURES.—For purposes of this section, the term 'energy conservation expenditures' means expenditures for—

"(1) subsidies provided to customers for—

"(A) any residential energy conservation measure described in section 210(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11)),

"(B) any commercial energy conservation measure described in section 710(h)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986), and

"(C) any specially defined energy property (as defined in section 48(l)(5) of this title as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990),

"(2) energy audits of commercial, residential, and industrial properties, or

"(3) administrative, promotional, and other costs associated with the foregoing.

"(c) ELECTRIC UTILITY.—For purposes of this section, the term 'electric utility' means any person engaged in the sale of electrical energy.

"(d) WHEN METHOD MAY BE ADOPTED.-A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for any taxable year. The method adopted under this section shall apply to—

"(1) all energy conservation expenditures, and

"(2) the taxable year for which adopted and all following taxable years unless, with the approval of the Secretary, a change to a different method is authorized with respect to part or all of such expenditures."

(b) CLERICAL AMENDMENT.—the table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 197. Energy conservation expenditures by electric utilities."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after December 31, 1980.•

• Mr. GORTON. Mr. President, I am proud to join my colleague from Washington State, Senator ADAMS, in introducing this legislation. Our legislation allows power utilities throughout the country to continue to provide valuable energy conservation assistance to businesses and residential customers.

The legislation prevents the Internal Revenue Service from retroactively ruling that the costs of these programs must be capitalized and deducted over a 10-year period by the utility. The current practice is for the utilities to write off the entire costs of the program during the year the expenditure occurs. Unless prohibited by our legislation, a change in the IRS ruling would increase the after-tax cost of conservation programs. If these programs cost utilities more, there would be fewer instances where electricity could be saved cheaper than it could be generated.

For the utility, these costs are primarily the wages it pays to its employees for the energy saving consultations with its customers. The legislation should have no revenue impacts because it only prohibits the IRS from changing its rules regarding the treatment of the costs of these programs.

Many utilities throughout the country provide a service which analyzes its customers usage of power. The utility then makes cost-effective suggestions to the business or residential user which will reduce their demand for the energy provided by the utility. Many utilities provide grants and offer low cost loans to its customers to implement these changes. The suggestions by the utilities to its customers often include installing weatherization measures, lighting changes, and altering industrial processes.

Mr. President, the assistance in energy conservation provided by utilities to its customers has several positive impacts. First, the measure reduces the overall usage of power and lowers the pollution created during power generation. Second, in the long run, the energy conservation measures which utilities assist business and residential users to install will reduce the number of new powerplants necessary to meet the needs of the utilities customers. And third, the legislation reinforces the trend of utility regulators toward rate setting for utilities that encourages utilities to assist its customers in reducing their power needs.

Senator ADAMS and I hope the Finance Committee will seriously consider this legislation next year. I urge my colleagues in the Senate to join us in cosponsoring this important environmentally sound and energy-saving piece of legislation.

By Mr. CHAFEE:

S. 2111. A bill to amend the Internal Revenue Code of 1986 to increase the rollover period on principal residences for taxpayers whose assets are frozen in financial institutions; to the Committee on Finance.

ROLLOVER PERIOD FOR PRINCIPAL RESIDENCES

• Mr. CHAFEE. Mr. President, the bill I am introducing today would provide temporary relief to individuals in Rhode Island who may be required to pay a capital gains tax on the sale of their principal residence.

Under the Internal Revenue Code, homeowners may defer the payment of tax on the sale of their original residence by purchasing a new principal residence within 2 years, either before or after, of the date of sale of the old principal residence. Under current law, the IRS does not have the authority to waive this 2-year requirement, however, an exception does exist to provide additional 2 years for taxpayers whose tax home is outside of the United States after the date of sale of their original residence.

Many Rhode Islanders who sold their homes within the last 2 years have not been able to replace their principal residence under the 2-year rollover rules. These individuals placed the cash proceeds from the sale of their old residence in a Rhode Island financial institution that remains closed pursuant to the bank holiday declared by the Governor of Rhode Island on January 1, 1991. As a result, these individuals have not been able to purchase a new principal residence because they do not have access to their downpayments that are frozen in one of these institutions.

This bill would provide these Rhode Islanders with 2 additional years in which to replace their principal residence by expanding the exception for taxpayers with a tax home outside of the United States. By providing these taxpayers with additional time, they should be able to purchase a new home and defer the tax that would otherwise be due on the gain from the sale of their original residence.

As a result of the collapse of the State bank insurance fund and the bank holiday declared by the Governor, these Rhode Islanders will be penalized by the 2-year rollover rule. I urge my colleagues to join me in supporting this bill so that we can enact it early next year and allow these individuals to avoid this unfair result.•

By Mr. INOUYE:

S. 2112. A bill to amend the Communications Act of 1934 to encourage competition in the provision of electronic information services, to foster the continued diversity of information sources and services, to preserve the universal availability of basic telecommunications services, and for other purposes; to the Committee on Commerce, Science and Transportation.

INFORMATION SERVICES DIVERSITY ACT OF 1991

• Mr. INOUYE. Mr. President, I rise today to introduce the Information Services Diversity Act of 1991. This legislation is designed to promote the development of competition in the local telephone exchange and ensure diversity in the information services industry. Specifically, this bill allows the Bell companies into many information services and contains a waiver provision for other services. It bars the Bell companies from electronic publishing only in their service areas and only until they face competition or 12 years, which ever comes first.

This legislation is necessitated by the July 25, 1991 decision by Judge Greene in *United States* v. *Western Electric Company*, civil action No. 82-0192, (D.D.C. 1991) lifting the information services line of business restriction on the Bell operating companies. That decision could stunt the growth of and eliminate the possibility of there ever being competitive information services industry in this country. History has shown that when the telephone service industry becomes vertically integrated, anticompetitive and anticonsumer abuse is likely to follow.

The Nation's local telephone companies are not like other businesses. Because they control essential telephone facilities and because they are rate regulated, they have the incentive and ability to act anticompetitively when they enter into unregulated lines of business. I do not believe that the individual Bell companies or their employees are malevolent. On the contrary, I have found just the opposite to be the case. It is simply that the lack of competition to the Bell companies gives them substantial incentives to use their undue market power to the detriment of competitors.

Vertical integration has long been a serious problem in the telephone industry. The U.S. Government has brought four antitrust actions against AT&T in the past 75 years. The first action resulted in the 1913 Kingsbury commitment, under which AT&T agreed to sell its holdings in Western Union and to refrain from purchasing any local telephone company. The second action, in 1926, resulted in AT&T divesting its ownership of a nationwide radio programming network. The third action resulted in the 1956 consent decree, which in effect barred AT&T from offering data processing type services. The final action is the 1984 modified final judgment.

Thus, three of these actions resulted in AT&T divesting some of its operations. All of these actions resulted in AT&T or its progeny being prohibited from engaging in certain actions. With the most recent court action, we thought we had put most of these problems to rest. The source of this undue market power—the essential—bottleneck—local telephone facilities—was given to seven different companies—the regional Bell operating companies or RBOC's—and these companies were forbidden to vertically integrate into certain businesses: the provision of long distance and information services and the manufacture of communications equipment. Without the threat of discrimination or cross-subsidization by the Bell companies, competition in these three forbidden sectors has flourished.

The last two antitrust actions brought by the U.S. Government were

founded on the same premise: the structure of AT&T was inherently anticompetitive. Firms providing long distance or information services required AT&T's local telephone facilities to complete their calls. Firms manufacturing telecommunications equipment could hardly stay in business if they could not sell to AT&T's local telephone companies. Yet, AT&T, with control of almost all of this country's local telephone facilities, also was engaged in providing long distance and information services and in manufacturing equipment. Not surprisingly, AT&T, the government argued, acted to favor its own enterprises, either by cross-subsidizing them with regulated telephone revenues or by discriminating against competitors. In other words, because it controlled bottleneck facilities, AT&T had both the incentive and ability to foreclose competition. As a result, it was virtually impossible to compete against AT&T in those markets that the government had decided should be competitive.

I believe that if the Bell companies are allowed into the information services market, it is very likely that they will discriminate against unaffiliated information service providers. The problem lies in their incentives. We simply cannot ignore the regional bell operating companies' incentives and capabilities to engage in anticompetitive acts stemming from their bottleneck control. These companies will strive to do what they believe to be in the best interests of their companies and their shareholders. This means that they will undoubtedly give preferential treatment to their affiliated companies. The recent violations by NYNEX and US West are only the latest examples of the Bell companies' potential to cross-subsidize and engage in discriminatory practices.

Virtually all of the largest phone companies which have been audited by regulatory bodies have engaged in some cross-subsidization or unlawful behavior. For example, a 1986 audit by the National Association of Regulatory Utilities Commissioners [NARUC] of Ameritech found Ameritech was cross-subsidizing its regulated business through its procurement process; a 1986 audit of Pacific Telesis by the California Public Utilities Commission found that the company was cross-subsidizing by assigning personnel from the regulated company to the unregulated company, to the tune of $3 million; and a 1985 NARUC audit of Bellsouth found that the regulated business cross-subsidized new, competitive Bellsouth businesses. Finally, in a pending proceeding the FCC has proposed fining a GTE/Contel subsidiary for cross-subsidizing through a purchasing subsidiary.

The Bell companies often assert that the issue of information services was not originally a part of the case against AT&T but was added as a last minute precaution. However, there is a long history of discrimination by both AT&T and the Bell companies against the information service providers. For example, in 1990, a court determined that Southwestern Bell was charging higher prices to directory publishing competitors for listings than it charged its own subsidiaries. In 1990, the Florida Public Service Commission prohibited Southern Bell from selling its own voice messaging services to its business customers after competitors asserted that Southern Bell was discriminating against them—the case was finally settled. I could cite many examples, but I think I have made my point.

I am also concerned about the FCC's ability to monitor these potentially anticompetitive acts. The Commission's accounting standard for monitoring cross-subsidization applies only to the plant used for interstate service, which is only about one-quarter of the total telephone plant. This means that the state regulators are key to ensuring against cross-subsidies, and they have not adopted standards similar to the FCC's. There are even some States which have deregulated all or part of the provision of telephone service, thus ensuring no oversight of cross-subsidies.

Equally troubling is the well recognized fact that the Commission does not have the resources to conduct frequent audits. In 1987, a General Accounting Office study looking at ways to control cross-subsidies between regulated and unregulated telephone services found that the FCC only has the resources to audit each telephone company once every 16 years.

Three of the FCC's present Commissioners, including the Chairman, have expressed reservations about the ability of regulators to regulate telephone companies. Chairman Sikes has stated that he does not believe that career government people or for that matter non-government people can find out what the true cost of telephone service should be. Similarly, in 1990, FCC Commissioner Duggan, speaking about the possibility of letting the telephone companies provide cable service, said that he has a "nightmare" about a "sixty story building *** filled with FCC accountants that would be needed to monitor—telephone company—cross-subsidies if they were in the cable television business."

State regulators also have limited resources and have not adopted standards similar to the FCC's. FCC Commissioner Barrett, a former state regulator, stated in 1990 that "in my years of rate regulation, I've only seen maybe two States that could recognize a cross-subsidy if it was staring them in the face."

As for the matter of discrimination or self-dealing, it is not clear that the FCC has the experience or resources to monitor such practices. There is no practical way for the Commission to monitor the many thousands, possibly millions, of transactions, to determine if the price, terms and conditions are nondiscriminatory. The only way to address this problem is to simply prohibit the bell companies from providing information services in their regions. Unit competition develops, they could provide information services outside of their region.

It is argued that the entry of the RBOC's into information services will do much to improve our Nation's competitiveness. Since the RBOC's have limited experience in information services, they are most likely to enter the market through the purchase of another firm. This would merely substitute another player for existing providers. The RBOC's also contend that the U.S. is falling behind other countries, pointing to the French Minitel System. However, Minitel is a State owned telephone system that only transmits information, it does not generate information. In fact, according to Judge Greene;

> If the regional bell companies were permitted to both generate and to transmit [information], they would, certainly as of now, appear to be the only entities in the developed world to have this kind of stranglehold on information.

Judge Greene's decision to allow the Bell companies into the field of information services clearly was made reluctantly. Judge Green stated that he was almost certain that the Bell companies will use their monopoly over local exchange service to act anticompetitively in the information services market. The court of appeals, however, told Judge Greene that almost certain was not good enough. The court of appeals told him, in effect, that he had to be absolutely certain. According to Judge Greene, this standard was impossible to meet, and it left him no choice but to lift the information services restriction.

As a general matter, I have had great faith in Judge Greene. I believe that he has been flexible in his interpretation of the AT&T consent decree, and he has always provided a sound rationale for his decisions. Frankly, it is my concurrence with Judge Greene that the likelihood of anticompetitive abuse by the Bell companies is almost certain that brings me to this decision. The information services industry is not only a major economic force in this country, it also is the foundation of our political liberties. Without a strong, vibrant, and diversified information industry, our body politic might wither away. A diversity of views is the lifeblood of American political discourse, societal growth and development, and human understanding. Any threat to this diversity must be carefully considered and fully explored.

I am also concerned about the ability of GTE/Contel to engage in discrimina-

VOL
137
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24
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tory behavior and cross-subsidization. GTE/Contel is presently subject to restrictions imposed by a consent decree. That decree does not prohibit GTE/Contel from providing information services; it does require that they provide those services through a separate subsidiary.

Just as with the Bell companies, GTE/Contel is the monopoly provider of local telephone service to its subscribers. As a result, it has many of the same incentives as the Bell companies to use its monopoly power to give its own subsidiaries an advantage and to disadvantage its competitors. I also recognize, however, that there are some differences between GTE/Contel and the Bell companies in terms of their ability to exercise that monopoly power. The GTE/Contel telephone companies are more geographically dispersed than the Bell telephone companies and are regulated by a greater number of state regulatory agencies. These factors reduce the potential for GTE/Contel to have cause harm to consumers or in the information services market.

Therefore, this bill applies the separate subsidiary requirements and the cost allocation rules to GTE/Contel, but does not apply the entry test. In other words, this bill will not prohibit GTE/Contel from offering information services. It will simply ensure that the ratepayers and competitors of GTE/Contel will be protected from any incentives to discriminate or engage in cross-subsidization.

The bill I am introducing today takes a reasonable approach. It addresses the issue of competition head-on by forbidding the RBOC's from offering electronic publishing in there service territories until they face competition. It also recognizes that the RBOC's should not be barred from all information services. This bill allows the RBOC's to provide noncontent information services anywhere in the country immediately. This will allow the RBOC's to offer medical imaging, data processing, computer bulletin boards, voice messaging, credit verification, and other services that involve transmitting information generated by others but do not involve compiling, manipulating, or generating information.

The bill will also allow the RBOC's to provide content-based services—called electronic publishing—anywhere in the country except where they provide telephone service. In other words, each RBOC will be able to offer electronic publishing to about 88 percent of the country's population immediately.

The only restriction in the bill is that RBOC's cannot provide electronic publishing services in an area where the RBOC provides telephone service. Even this restriction is lifted when the Bell company faces competition for local telephone service.

Let me briefly summarize the major provisions of this legislation in more detail.

The entry test—This provision states that a Bell company may not provide electronic publishing in the same areas where it provides local phone service until the operating company faces competition for local telephone service. The bill defines such competition to exist when competitive telephone service is available to 50 percent of both residential and business users and 10 percent of residential and business users subscribe to the service.

This test is similar to the test for competition included in S. 12, the Cable Television Consumer Protection Act of 1991, and is also similar to a proposal offered by Senator DANFORTH in 1986 as an amendment to S. 2565.

In the event that competition does not develop in the near future, the entry test sunsets in 12 years. After 12 years, a Bell operating company would be allowed to provide electronic publishing in its service area even if there is little or no competition. Thus, the entry test is not a permanent ban in the event that it takes competition longer to develop. A study done by Dale Hatfield, "An Analysis of the Potential Availability of Local Exchange Network Alternatives", concludes that there will be competition in the next 9 to 12 years.

Thus, this test does not constitute a permanent bar. It merely restricts the Bell companies' entry until competition develops. The sunset provision ensures that in the event that competition does not develop, the Bell companies will be permitted into the field.

In addition, this bill does not require that there be competition in every State served by a Bell company before an RBOC could provide service in any State. The test is applied on a State by State basis. Thus, if the test is met in New York but not New Jersey, NYNEX could provide content services in New York but not in New Jersey.

Waiver provision—To ensure that the American public is not deprived of services in the interim, the bill also includes a waiver provision that allows an RBOC to provide a particular information service if the FCC determines that no one else is providing that service and if it would not raise subscribers' basic telephone rates. This will ensure that the public has access to services that other companies may not choose to provide.

Electronic publishing—Moreover, the ban on the provision of information services by the Bell companies only applies in those areas where they provide local phone service. The Bell companies are free to provide information services in any part of the country outside of their region. Thus, the Bell companies could provide electronic publishing—content, that is, information controlled or generated by the RBOC like stock quotes or sports data—in every area of the country where they do not provide local telephone service—about seven-eighths of the country—using a separate subsidiary.

Noncontent services—In addition, there is no prohibition on the Bell companies provision of noncontent information services, like data processing or voice mail anywhere in the country. My bill would require that all information services, content and noncontent must be provided through a separate subsidiary to ensure that there is no cross-subsidization.

Separate subsidiary provision—this provision is similar to the provision that was included in S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, which passed the Senate earlier this year. However, this provision is significantly stronger. It requires that any information services must be provided through a separate subsidiary and specifies some of the conditions that must be met to comply with that requirement.

Cost allocation rules—to protect against cross-subsidization, RBOC's that provide any information services must establish a cost allocation system that prohibits any cross-subsidization. For example, the bill would prohibit the cost of providing such services from being subsidized by revenue from the telephone exchange service or telephone exchange access services.

Removal of barriers to entry—to ensure that there are no impediments to the development of competition at the local level, an RBOC may not provide electronic publishing in a State until all legal barriers to entry of competitive telecommunications services imposed by the state have been removed. Thus, the bell companies will have the incentive to work with their state and local regulators to eliminate any barriers to competition in the local exchange. To ensure that this provision does not result in a permanent bar to the entry of the bell companies into information services, this provision also sunsets in 12 years.

Network standards—finally, to ensure that the goal of competition is met, the bill includes provisions designed to improve the reliability of the telephone network and promote the development of competition in the local exchange.

I have made some significant changes in the bill before this introduction. I believe these changes are reasonable and increase the chances for eventual passage. But I do not want to leave any members or interested parties with the impression that this bill is written in stone. I intend to hold hearings on this bill and to hear all sides of the issue. If as a result of those hearings, it is clear that changes need to be made in this legislation, I will make those changes.

However, I do believe that this legislation is necessary to address the problems I have raised.

Mr. President, I believe that this issue is one of the most important issues to face the 102d Congress. I look forward to the support of my colleagues on this measure next year.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2112

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Information Services Diversity Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the national welfare will be enhanced by the continued development of robust competition in the provision of electronic information services and telecommunications services;

(2) the widest possible availability of information and telecommunications services requires an open telecommunications infrastructure that incorporates market-driven advances in technology and whose features and functions are available on a non-discriminatory and unbundled basis;

(3) the availability of multiple and interconnected complementary telecommunications networks can enhance competition in the provision of information and telecommunications services;

(4) the redundancy inherent in a pluralistic telecommunications infrastructure offers protection against network failures;

(5) the cost-effective deployment of advanced public telecommunications networks, subject to appropriate safeguards, can further the long-standing goals of universal telephone service at affordable rates;

(6) the provision of information services by operating companies prior to development of an effectively competitive telecommunications infrastructure would likely lead to higher rates for telephone exchange service and jeopardize the diversity of information sources and services; and

(7) current regulatory policies must be revised and supplemented to ensure the universal availability of telephone exchange service at reasonable rates and fair competition in delivery of telecommunications and information services.

(b) PURPOSES.—The purposes of this Act are to—

(1) ensure the continued availability of affordable telecommunications and information services that are essential to full participation in the nation's economic, political, and social life;

(2) encourage the continued development of advanced, reliable telecommunications networks;

(3) ensure that the costs of such networks and the services provided over them are allocated equitably among users; and

(4) ensure that the provision of information services by operating companies does not jeopardize the universal availability of telephone exchange service at reasonable rates or undermine competition in the information services marketplace.

TITLE I—INFRASTRUCTURE DEVELOPMENT

SEC. 101. NETWORK STANDARDS.

Title II of the Communications Act of 1934 is amended by inserting after section 201 the following new section:

"SEC. 201A. NETWORK STANDARDS.

"(a) SERVICE QUALITY.—

"(1) ADOPTION OF STANDARDS.—A Federal-State Joint Board shall be established under section 410(c) not later than 90 days after the enactment of this subsection to impose and enforce network quality standards upon the common carriers for the purpose of ensuring the continued maintenance and evolution of common carrier facilities and services. Not later than 180 days after the date of enactment of this subsection, the Joint Board shall initiate a rulemaking proceeding to establish standards, to be enforced by the Commission and the State commissions as to matters within their respective jurisdictions, for measuring common carrier network quality.

"(2) REPORT.—Each common carrier shall submit to the Joint Board established pursuant to paragraph (1) a quarterly data report, in a form required by the Joint Board, regarding compliance with the prescribed network quality standards. The Joint Board may require periodic independent audits of common carrier compliance with the network quality standards. The Commission, upon the recommendation of the Joint Board, shall establish enforcement penalties and procedures, including expedited customer complaint mechanisms, to ensure common carrier compliance with network quality standards.

"(b) INTERCONNECTION.—

"(1) GENERALLY.—Each local exchange carrier shall provide interconnection, on a reasonable and non-discriminatory basis, to common carriers and other providers of telecommunications services and information services who request it. An interconnecting party may physically colocate the equipment necessary for interconnection at the premises of a local exchange carrier, except as provided under paragraph (2).

"(2) VIRTUAL COLOCATION.—A local exchange carrier that can demonstrate by a preponderance of the evidence in a particular case that the physical colocation required under paragraph (1) is not practicable for technical reasons or because of space limitations shall offer an interconnecting party virtual colocation with its premises. Virtual colocation shall be economically and technically comparable to interconnection that is or would be obtained through physical colocation of the interconnecting party's equipment at the premises of the local exchange carrier. Nothing in this paragraph shall relieve an operating company of its obligations under section 227(d)(12).

"(3) EXCEPTION FOR RURAL EXCHANGE CARRIERS.—Notwithstanding any other provision of this subsection, a rural exchange carrier shall not be required to provide interconnection to another local exchange carrier for telephone exchange service.

"(4) REGULATIONS.—Within 270 days after the date of enactment of the Telecommunications Act of 1991, the Commission shall—

"(A) adopt and make effective rules to enforce the obligations imposed by this subsection; and

"(B) complete an inquiry to determine whether the interconnection offered by a local exchange carrier pursuant to this subsection should provide for the portability of telephone numbers and report to Congress within 18 months.

"(C) NETWORK ACCESS.—

"(1) REVISIONS TO ORDER.—The Commission shall further revise the order of the Commission entitled 'Filing and Review of Open Network Architecture Plans,' CC Docket 88-2, Phase I, released December 22, 1988, and subsequently revised, to require that—

"(A) the plans for compliance with such order offer unbundled features and functions;

"(B) such features and functions are made available on a reasonably uniform basis by all of the common carriers subject to such order, and that such features and functions are accessible throughout the service territory of each such carrier;

"(C) such plans include a schedule for timely offering of new features and functions; and

"(D) common carriers subject to such order not unreasonably discriminate between affiliated and unaffiliated providers of information services in offering tariffed features, functions, and capabilities, and the features, functions and capabilities necessary for billing and collection.

"(2) REVIEW OF ORDER AND PLANS.—At least once every three years, the Commission shall—

"(A) conduct a proceeding in which interested parties shall have an opportunity to comment on whether and to what extent the order described in paragraph (1), as further revised, and the plans filed pursuant to it have opened the networks of the carriers subject to such order to reasonable and non-discriminatory access by providers of telecommunications services and information services; and

"(B) not later than 180 days after receiving the reply comments filed in such proceeding, revise such order as it deems necessary or appropriate and require the common carriers subject to such order to file new or amended plans consistent with such revisions, which new or amended plans shall also be subject to public comment and Commission review prior to their becoming effective.

"(d) PRIVACY.—Personally identifiable customer information obtained or collected by a local exchange carrier in the course of providing telephone exchange service shall be used only in connection with the provision of such service, and shall not be made available to any affiliate of such carrier or any other person except—

"(1) as required by law; or

"(2) with the affirmative consent of the customer to which such information relates.

"(e) TARIFFS.—

"(1) GENERALLY.—A local exchange carrier shall prepare and file tariffs in accordance with this Act with respect to the interconnection and network access services required under this section. The costs that a local exchange carrier incurs in providing such services shall be borne solely by the users of the features and functions comprising such services. The Commission shall review such tariffs to ensure that—

"(A) the charges for such services are cost-based; and

"(B) the terms and conditions contained in such tariffs do not unreasonably bundle together any separable elements, features, or functions.

"(2) SUPPORTING INFORMATION.—A local exchange carrier shall submit supporting information with its tariffs for interconnection and network access services that is sufficient to enable the Commission and the public to determine the relationship between the proposed charges and the costs of providing such services. The submission of such information shall be pursuant to rules adopted by the

VOL
137
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24
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26
1991
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JA
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1992
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Commission to ensure that similarly situated carriers provide such information in a uniform fashion.

"(3) Universal service element.—A local exchange carrier may, subject to regulation, include in its tariffs for interconnection services an element intended to recover the amount necessary to preclude any substantial increases in the rates for telephone exchange service that would otherwise result from the offering of interconnection services. Such element shall be imposed at a uniform rate on any person who purchases such services, and shall also be included at the same rate in such carrier's charges for services offered by the carrier in competition with the services offered by interconnecting parties. No later than 270 days after the date of enactment of the Telecommunications Act of 1991, the Commission shall adopt and make effective rules governing the calculation of such element. Any amounts recovered by the local exchange carrier through the imposition of this additional element shall be used to defray the costs of providing telephone exchange service.

"(f) Resale.—The resale of telephone exchange service (or unbundled elements of such service) in conjunction with the furnishing of an interstate telecommunications service or any information service shall not be prohibited or subject to unreasonable conditions by the Commission, any State, or any local exchange carrier.

"(g) Coordinated Planning.—The Commission shall adopt and make effective rules for the conduct of coordinated network planning by common carriers, subject to Commission supervision, to ensure (1) the effective and efficient interconnection and interoperability of common carrier networks, and (2) that the design of such networks does not impede access to information services by subscribers to telephone exchange service furnished by a rural exchange carrier.

"(h) Study.—No later than 270 days after the enactment of the Telecommunications Act of 1991, the Commission shall initiate an inquiry to examine the effect of competition in the provision of telephone exchange access and telephone exchange service on the availability and rates for telephone exchange service furnished by rural exchange carriers."

SEC. 102. EXPEDITED REVIEW OF CERTAIN COMPLAINTS.

Section 208 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) Expedited Review of Certain Complaints.—The Commission shall issue a final order with respect to any complaint arising from alleged violations of section 201A within one year after such complaint is filed.".

SEC. 103. EXPEDITED LICENSING OF NEW TECHNOLOGIES AND SERVICES.

Section 7 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) Licensing of New Technologies.—Within twenty-four months after making a determination under subsection (b) that a technology or service related to the furnishing of telecommunications services or information services is in the public interest, the Commission shall adopt and make effective rules for—

"(1) the provision of such technology or service; and

"(2) the filing of applications for the authorizations necessary to offer such technology or service to the public,

and shall act on any such application within twenty-four months after it is filed. Any application filed by a carrier under this subsection for the construction or extension of a line shall also be subject to section 214 and to any necessary approval by the appropriate State commissions.".

TITLE II—PROVISIONS AFFECTING OPERATING COMPANIES

SEC. 201. PROVISION OF INFORMATION SERVICES.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

SEC. 227. PROVISION OF INFORMATION SERVICES BY OPERATING COMPANIES.

"(a) Provision of Services.—An operating company or an affiliate thereof may only provide information services, subject to this section and title VI.

"(b) Electronic Publishing.—

"(1) Entry test.—An operating company or an affiliate thereof may not offer electronic publishing services in a State in which such company or affiliate provides telephone exchange service until the Commission, after notice and opportunity for public comment and after consultation with the Department of Justice and the appropriate State commission, determines that—

"(A) at least 50 percent of all businesses and residences within the areas in such State which such company or any affiliate thereof provides telephone exchange service have access to transmission and switching facilities (other than those owned or controlled by an operating company or its affiliate) that are comparable in quality, cost, geographic range, and functionally to those offered by the operating company for the delivery of electronic publishing services; and

"(B) at least 10 percent of all businesses and residences within the areas in such State in which such company provides telephone exchange service subscribe to services delivered over such alternative facilities; and

"(C) it is unlikely that the operating company could use its position as a local exchange carrier to (i) impede competition in the provision of such electronic publishing services, or (ii) impose additional costs upon subscribers of telephone exchange service.

"(2) Sunset.—Subparagraphs (A) and (B) of paragraph (1) shall cease to be effective 12 years after the date of enactment of the Telecommunications Act of 1991.

"(c) Waiver.—An operating company or an affiliate thereof may petition the Commission for a waiver of subsections (b)(1) and (h) to provide a particular electronic publishing service. Such petition shall be granted if such company or affiliate can demonstrate to the Commission by a preponderance of the evidence that (A) such service would not exist unless offered by such company or affiliate, and (B) the provision of such service by such company or affiliate would not impose additional costs upon subscribers of telephone exchange service. The Commission shall provide notice and opportunity for public comment with respect to any petition for a waiver pursuant to this subsection, and shall issue a final order with respect to any such petition no later than one year after it is filed. The provision of any service authorized pursuant to this subsection shall be subject to all of the other provisions of this Act, including the requirements of this section.

"(d) Separate Subsidiary.—

"(1) Generally.—Except as provided in subsection (e), an operating company or affiliate thereof may provide information services only through a subsidiary that is separated from the telephone exchange service operations of the operating company, in accordance with the requirements of this subsection and the regulations prescribed by the Commission to carry out this subsection.

"(2) Minimum number of outside directors.—Any subsidiary required by this subsection shall have a board of directors not less than 33 percent of whom are not employees, officers, or directors of any operating company or any affiliate of such company.

"(3) Transaction requirements.—Any transaction between a subsidiary required by this section and any operating company or between such subsidiary and any other affiliate of such company—

"(A) shall not be based upon any preference or discrimination in favor of the subsidiary arising out of the subsidiary's affiliation with the operating company;

"(B) shall be carried out in the same manner as such company or affiliate conducts such business with unaffiliated persons;

"(C) shall be pursuant to contract or tariff reported to the Commission and made available for public inspection;

"(D) shall be fully auditable and reflect all costs associated with the conduct of such business; and

"(E) shall not have the effect of permitting any violation of the requirements of subsection (f) of this section.

"(4) Separate operation and property.—A subsidiary required by this subsection may not—

"(A) enter into any joint venture or partnership with the operating company or any affiliate of such company;

"(B) have employees or a financial structure (other than as provided in this section) in common with the operating company or any affiliate of such company;

"(C) own any property in common with an operating company or any affiliate of such company; or

"(D) establish any other subsidiary or affiliate except after notice to the Commission in such form and containing such information as the Commission may require.

"(5) Separate commercial activities.—A subsidiary required by this subsection shall carry out directly its own marketing, sales, accounting, hiring and training of personnel, purchasing, and maintenance.

"(6) Books, records, and reports.—Any subsidiary required by this subsection shall—

"(A) maintain books, records, and accounts in a manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the operating company and the other affiliates of the operating company, and which shall identify any conduct of business with such company and any such affiliates; and

"(B) prepare its own financial statements (including balance sheets and the related statements of operations, stockholders' equity, and cash flows) that are not consolidated with the financial statements of the operating company and any other affiliate of such company; and

"(C) prepare and file with the Commission, whether or not such subsidiary is publicly traded, the annual and periodic reports required of publicly traded companies by the Securities and Exchange Commission.

"(7) Advertising.—A subsidiary required by this subsection may not carry out advertising with the operating company, except that such subsidiary may carry out institutional advertising with such company if (A) such advertising does not specifically relate to any service, and (B) the subsidiary and the operating company share any costs of such advertising in proportion to their revenue.

"(8) Securities information.—A subsidiary required by this subsection shall submit to the Commission a copy of any statement or prospectus that such subsidiary is required to file with the Securities and Exchange Commission.

"(9) Outside ownership.—An operating company or an affiliate thereof may not own more than 90 percent of any class of outstanding capital stock of any affiliated subsidiary required by this subsection.

"(10) Transmission capacity.—A separate subsidiary required by this subsection may not own any transmission facilities, and may obtain the use of such facilities from an affiliated operating company or affiliate thereof only pursuant to tariffs of general applicability.

"(11) Preservation of separate subsidiary requirements for grandfathered functions.—Nothing in this subsection shall be construed to relieve an operating company or any affiliate thereof (or any other local exchange carrier or affiliate thereof) of any separate subsidiary requirement imposed before December 1, 1991.

"(12) Provision of services and information.—An operating company may not provide any services or information to a subsidiary required by this subsection unless such services or information are made available to others on the same terms and conditions.

"(e) Exception to Separate Subsidiary Requirement.—An operating company or affiliate thereof shall not be required to establish a subsidiary pursuant to subsection (d) with respect to any information service that such company or affiliate was authorized to provide on or before December 1, 1991.

"(f) Prevention of Cross Subsidies.—

"(1) Cost allocation system required.—Any operating company that provides information services, or which has an affiliate that is engaged in the provision of such services, shall establish and administer, in accordance with the requirements of this subsection and the regulations prescribed thereunder, a cost allocation system that, together with the subsidiary requirements of subsection (d), is intended to prohibit any cost of providing such services from being subsidized by revenue from telephone exchange service or telephone exchange access services.

"(2) Cost assignment and allocation regulations.—

"(A) Generally.—The Commission shall establish regulations to require the just and reasonable assignment and allocation of all costs that are in any way incurred by an operating company or any affiliate thereof in the provision of any information service.

"(B) Joint and common costs.—The regulations adopted pursuant to this paragraph shall include a requirement that any costs of any investment or other expenditure that cannot be allocated based upon direct or indirect measures of cost causation shall be allocated to unregulated services—

"(i) under a formula that ensures that the rates for telephone exchange service are no greater than they would have been in the absence of such investment (taking into account any decline in the real costs of providing such service), or

"(ii) based upon the highest forecast unregulated usage of the investment over the life of the investment,

whichever method results in the lesser allocation of such costs to telephone exchange service.

"(3) Insulation of ratepayers.—

"(A) Assets.—The Commission shall, by regulation, ensure that the economic risks associated with the provision of information services by operating companies or affiliates thereof (including any increases in the operating company's cost of capital that occur as a result of the provision of such services) are not borne by customers of telephone exchange service. In the event of a business loss or failure, investments or other expenditures assigned to information services shall not be reassigned to telephone exchange service or telephone exchange access service.

"(B) Debt.—Any operating company affiliate—

"(i) which is providing information services, and

"(ii) which is required to be or is structurally separate from an affiliate engaged in the provision of telephone exchange service,

shall not obtain credit under any arrangement that (I) would permit a creditor, upon default, to have recourse to the assets of the operating company, or (II) would induce a creditor to rely on the tangible or intangible assets of the operating company in extending credit.

"(4) Transfers of assets between affiliated companies.—The Commission shall prescribe regulations governing the accounting for the transfer of assets between a subsidiary required by this section and any operating company or between such subsidiary and any other affiliate of such company. Such regulations shall protect the interests of ratepayers of telephone exchange service and require such transfer to be conducted by means of a transaction that complies with subsection (d)(3). Such regulations shall require that—

"(A) any transfer of assets from such subsidiary to its affiliated operating company or any affiliate of that company be valued at the lesser of net book cost of fair market value; and

"(B) any transfer of assets from an operating company or its affiliate to such subsidiary be valued at the greater of net book cost or fair market value.

"(5) Annual auditing requirement.—

"(A) Audit applicability and purpose.—Each operating company that engages in, or has an affiliate that engages in, or has a financial or management interest in an organization or entity that provides information services, shall provide annually to the Commission, and to the State commission of each State within which such company provides telephone exchange service, a report on the results of an audit by an independent auditor conducted for the purpose of determining whether the company has—

"(i) established and administered a cost allocation system as required by paragraph (1) of this subsection, and

"(ii) complied with the cost assignment and allocation regulations prescribed under this subsection.

"(B) Conduct of audit.—Such audit shall be conducted, at operating company expense, in accordance with audit procedures prescribed by the Commission, by regulation, which shall include approval of auditor selection by the Commission and rotation of auditors or other procedures to ensure the independence of such auditor.

"(C) Submission of audit results; certification.—The operating company shall submit the audit to the Commission, which shall make the audit report available for public inspection. Such report shall be certified by the person conducting the audit and by an appropriate officer of such affiliate and shall identify with particularity any qualifications or limitations on such certification and any other information relevant to the enforcement of the requirements of this section.

"(D) Access to documents.—For purposes of conducting and reviewing such audit—

"(i) the auditor, the Commission, and a State commission with jurisdiction over the operating company shall have access to the accounts and records of the operating company and to those accounts and records of any of its affiliates necessary to verify transactions conducted with the operating company; and

"(ii) the Commission and a State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this paragraph.

"(g) Recovery of Use of Intangible Assets.—The Commission and a State commission shall, within their respective jurisdictions, require an operating company or any affiliate thereof that provides telephone exchange service to assess any subsidiary providing information services a charge for the reasonable value of any intangible assets used in the provision of information services, and to credit the amount of such charge to the provision of telephone exchange service.

"(h) Removal of Barriers to Competitive Entry.—

(1) Generally.—An operating company or affiliate thereof may not provide electronic publishing services, other than those it provided on or before December 1, 1991, in a State in which such company or affiliate provides telephone exchange service, unless and until all legal and regulatory entry barriers to the competitive provision of telecommunications services imposed by such State or the State commission in such State have been removed with respect to such company or affiliate.

(2) Sunset.—Paragraph (1) shall cease to be effective 12 years after the date of enactment of the Telecommunciations Act of 1991.

"(i) Provision of Gateway Services.—Any operating company or affiliate thereof that offers a gateway service shall make such service available concurrently to all of its subscribers under non-discriminatory rates, terms, and conditions.

"(j) Enforcement.—A person who is injured by a violation of any of the requirements of this section may, in lieu of filing a complaint under section 208, commence a civil action for injunctive relief and monetary damages in any Federal judicial district in which the defendant resides or has an agent. A residential customer of telephone exchange service shall have standing to commerce an action under this section, without regard to the amount in controversy. In any action brought under this section, the court may award the costs of litigation (including reasonable attorneys fees).

"(k) Additional Authority.—In addition to any other authority which the Commission may exercise under this Act, the Commission shall take such actions as are necessary—

"(1) to prevent anticompetitive practices between a subsidiary required by subsection (d) and operating company or any affiliate of the operating company;

"(2) to protect ratepayers of operating companies from subsidizing the provision of information services by such companies or their affiliates; and

"(3) to prevent any operating company or any affiliate thereof from imposing any unjust or unreasonable rates or charges for any common carrier services that are provided in connection with the provision of information services.

(l) Applicability to Other Local Exchange Carriers.—Subsections (a), (d), (e), (f), (g), (i), (j), (k), and (m), shall apply to any local exchange carrier that, as of December 1, 1991, was subject to the order entered on December 21, 1984, as restated January 11, 1985, in *United States* v. *GTE Corporation*, Civil Action No. 83-1298 (United States District Court, District of Columbia), or any affiliate of such carrier.

"(m) DEFINITIONS.—As used in this section—

"(1) AFFILIATE.—The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, or is owned or controlled by, or is under common ownership or control with, an operating company. For purposes of this paragraph, the terms 'own' 'owned', and 'ownership' means a direct or indirect equity interest (or equivalent thereof) of more than 10 percent of an organization or entity, or the right to more than 10 percent of the gross revenues of an organization or entity under a revenue sharing or royalty agreement, or any substantial management or financial interest.

"(2) OPERATING COMPANY.—The term 'operating company'—

"(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, new England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, US West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, the Bell Telephone Company of Pennsylvania, the Chesapeake and Potomac Telephone Company, the Chesapeake and Potomac Telephone Company of Maryland, the Chesapeake and Potomac Telephone Company of Virginia, the Chesapeake and Potomac Telephone Company of West Virginia, the Diamond State Telephone Company, the Ohio Bell Telephone Company, the Pacific Telephone and Telegraph Company, and Wisconsin Telephone Company; and

"(B) includes any success or assign of any such company, but does not include any affiliate of any such company.

"(3) GATEWAY SERVICE.—The term 'gateway service' means an information service that, at the request of the provider of an electronic publishing service or other information service, provides a subscriber with access to such electronic publishing service or other information service, utilizing the following functions: data transmission, address translation, billing information, protocol conversion, and introductory information content.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(d) SEPARATE SUBSIDIARY REQUIREMENTS.—Such sums as may be necessary are authorized to be appropriated for the implementation and enforcement of the requirements of section 208(c) and 227 of this Act. Such funds shall be in addition to any appropriations authorized under subsection a.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DEFINITIONS.

Section 3 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsections:

"(hh) 'Electronic publishing service' means the provision of any information—

"(1)(A) that the provider or publisher has (or has caused to be) authored, originated, gathered, collected, produced, compiled, edited, categorized, or indexed; or

"(B) in which the provider or publisher has a direct or indirect financial or proprietary interest; and

"(2) which is disseminated to an unaffiliated person through some electronic means.

"(ii) 'Information services' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information that may be conveyed via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(jj) 'Local exchange carrier' means a provider of telephone exchange service that is classified by the Commission as a dominant carrier.

"(kk) 'Rural exchange carrier' means a local exchange carrier serving a total of 50,000 or fewer access lines.

"(ll) 'Telecommunications' means the transmission, between or among points specified by the customer, of information of the customer's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(mm) 'Telecommunications service' means the public or private offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

SEC. 302. JURISDICTION.

Section 2 of the Communications Act of 1934 is amended—

(1) in subsection (b), by striking out "223 or 224" and inserting "223, 224, 225, and 227"; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding subsection (b), a State may not regulate the rates, terms, or conditions for the offering of information services, except as provided in this subsection and title VI.

"(2) A State may impose regulations upon a local exchange carrier with respect to the intrastate provision of information services by such carrier or an affiliate thereof if—

"(A) such regulations are necessary and appropriate to separate the provision of such services from the provision of telephone exchange services by such carrier or affiliate;

"(B) such regulations are intended to protect the privacy rights of customers of telephone exchange services;

"(C) such regulations do not affect the rates, terms, or conditions for the provision of such information services or the types of such services offered by such carrier or affiliate; and

"(D) such regulations are not inconsistent with the purposes of this Act or impede significantly the enforcement of this Act or any regulation or order prescribed by the Commission pursuant to this Act.".

SEC. 303. TELEPHONE EXCHANGE SERVICE IN RURAL AREAS.

Nothing in the amendments made by this Act shall be construed to limit the authority of the States to take actions, consistent with the findings and purposes of this Act, to ensure the availability of telephone exchange service at reasonable rates in areas served by rural exchange carriers (as such terms is defined in section 3(kk) of the Communications Act of 1934).

SEC. 304. APPLICABILITY OF OTHER PROVISIONS OF COMMUNICATIONS ACT.

Nothing in the amendments made by this Act shall be construed to relieve an operating company or affiliate thereof (as such terms are defined in section 227 (m) of the Communications Act of 1934) of any of the obligations, limitations, or responsibilities imposed by any other provision of the Communications Act of 1934, as amended.

SEC. 305. APPLICABILITY OF ANTITRUST LAWS.

(a) APPLICABILITY OF THE MODIFICATION OF FINAL JUDGMENT.—An operating company shall remain fully subject to the Modification of Final Judgment in all respects except as expressly provided in the amendments made by this Act.

(b) NO ANTITRUST, IMMUNITY.— Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law to the actions of an operating company or affiliate thereof (as such terms are defined in section 227(m) of the Communications Act of 1934).

(c) DEFINITIONS.— For purposes of this section—

(1) FEDERAL ANTITRUST LAWS.— The term "Federal antitrust laws" means—

(A) the acts cited in section 1 of the Clayton Act (15 U.S.C. 12);

(B) section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

(C) any law enacted after the date of enactment of this Act by the Congress which prohibits, or makes available to the United States or to any person in any court of the United States any civil remedy with respect to, any restraint upon, or monopolization of, interstate or foreign trade or commerce.

(2) MODIFICATION OF FINAL JUDGMENT.— The term "Modification of Final Judgment" means the order entered August 24, 1982, in *U.S. V. Western Electric Co.*, Civil Action No. 82-0192 (United States District Court, District of Columbia).•

By Mr. PACKWOOD:

S. 2114. A bill to amend the Social Security Act to provide access to health care benefits for all Americans, and for other purposes; to the Committee on Finance.

COMPREHENSIVE HEALTH INSURANCE PLAN OF 1991

• Mr. PACKWOOD. Mr. President, I introduce a bill which I ask that it be appropriately referred. I ask unanimous consent that the entire contents of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Health Insurance Plan of 1991" (to be known as CHIP of 1991).

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—EMPLOYER-PROVIDED HEALTH INSURANCE

Sec. 101. Employers required to offer basic health plans to employees and families.

Sec. 102. Tax penalties on noncomplying employers and insurers.

TITLE II—HEALTH CARE COVERAGE FOR INDIVIDUALS NOT OTHERWISE COVERED UNDER QUALIFIED EMPLOYER PLANS OR MEDICARE

Sec. 201. Expanded medicaid health care coverage of individuals not otherwise covered by qualified employer plans or medicare.

Sec. 202. Permitting buy-in to medicare for certain uninsured individuals.

TITLE III—HEALTH CARE ACCESS—TAX PROVISIONS

Sec. 301. Refundable credit for small business health care costs.

Sec. 302. Health insurance credit doubled to assist low-income employees.

Sec. 303. Repeal of EITC interactions.

Sec. 304. Deductibility for self-employed individuals.

TITLE IV—ADMINISTRATIVE PROVISIONS AND REPORT

Sec. 401. Development and application of uniform administrative procedures.

Sec. 402. Additional funding for outcomes research and practice guidelines.

Sec. 403. Annual report on health care.

TITLE I—EMPLOYER-PROVIDED HEALTH INSURANCE

SEC. 101. EMPLOYERS REQUIRED TO OFFER BASIC HEALTH PLANS TO EMPLOYEES AND FAMILIES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—EMPLOYER-PROVIDED HEALTH PLANS

"PART A—REQUIREMENT TO OFFER BASIC HEALTH PLANS TO EMPLOYEES AND FAMILIES

"Subpart 1—General Requirements and Definitions

"Sec. 2101. Application to employees.

"Sec. 2102. Treatment of all family members as a unit.

"Sec. 2103. Definitions relating to employment and employees.

"Sec. 2104. Definitions relating to families.

"Sec. 2105. Application of requirement to employers.

"Subpart 2—Qualified Employer Plans

"Sec. 2111. Certification of qualified employer plans.

"Sec. 2112. Definitions relating to qualified employer plans.

"Subpart 3—Requirements for Qualified Employer Plans

"Sec. 2121. Basic benefits.

"Sec. 2122. Timing of enrollment; period of coverage; employer plan cards.

"Sec. 2123. Limits on exclusions and coverage standards for basic benefits.

"Sec. 2124. Employee premiums and cost-sharing.

"Sec. 2125. Coordination and portability of health coverage under qualified employer plans.

"Sec. 2126. Use of uniform claims forms.

"Subpart 4—General Protections

"Sec. 2131. Consumer protections.

"Sec. 2132. Preemption of certain State requirements.

"PART B—SMALL EMPLOYER PURCHASING GROUPS

"Sec. 2141. Grants to small employer purchasing groups.

"Sec. 2142. Rules of operation.

"Sec. 2143. Freedom of contract.

"Sec. 2144. Small employer defined.

"PART C—SMALL EMPLOYER HEALTH INSURANCE REFORM

"Sec. 2151. General requirements for health insurance plans issued to small employers.

"Sec. 2152. Rating practices.

"Sec. 2153. Stricter State standards permitted.

"PART A—REQUIREMENT TO OFFER BASIC HEALTH PLANS TO EMPLOYEES AND FAMILIES

"Subpart 1—General Requirements and Definitions

"SEC. 2101. APPLICATION TO EMPLOYEES.

"(a) GENERAL RULE.—Except as provided in succeeding subsections of this section, each employer shall, in accordance with this part, offer to each of its eligible employees a qualified employer plan. Such offer—

"(1) shall include at least—

"(A) 1 basic health plan, and

"(B) 1 basic coordinated care plan (if the employer is located in the service area of such a plan), and

"(2) may include 1 or more—

"(A) enhanced health plans, or

"(B) enhanced coordinated care plans.

"(b) MULTIPLE EMPLOYERS.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), in the case of an individual who is an eligible employee of more than 1 employer, if more than 1 such employer offers the employee enrollment under a qualified employer plan, the individual shall elect (in a manner specified by the Secretary) the qualified employer plan under which the individual (and the individual's family) will be enrolled.

"(2) ALTERNATIVE PROCEDURE DEVELOPED BY THE SECRETARY.—Paragraph (1) shall not apply if the Secretary develops a procedure to require an individual who is an eligible employee of more than 1 employer to enroll in the qualified employer plan of the employer for which the individual reasonably expects to work the most hours.

"(3) BOTH ELIGIBLE EMPLOYEES.—In the case of married individuals who are both eligible employees of 1 or more employers, rules established by the Secretary based on the rules under paragraph (1) or (2) shall apply.

"(4) OTHER EMPLOYER'S OBLIGATIONS.—An employer who is not elected under paragraph (1) nor identified under paragraph (2) is not obligated to offer the employee (and family members) a qualified employer plan and may not charge the individual any premiums for coverage under such qualified employer plan.

"(c) TREATMENT OF EMPLOYEES UNDER COLLECTIVE BARGAINING AGREEMENT.—The requirements of this part shall not apply to eligible employees of an employer subject to a collective bargaining agreement between representatives of the employees and the employer if—

"(1) there is evidence health benefits of the employees were the subject of good faith bargaining, and

"(2) the agreement does not provide that this part shall apply.

"(d) NONAPPLICATION TO RESIDENTS OF PUERTO RICO AND TERRITORIES.—The provisions of this title shall not apply with respect to an employee who is not a resident of one of the 50 States or the District of Columbia.

"SEC. 2102. TREATMENT OF ALL FAMILY MEMBERS AS A UNIT.

"The offer of enrollment of an individual in a qualified employer plan required under section 2101(a) shall include enrollment of the family of the individual.

"SEC. 2103. DEFINITIONS RELATING TO EMPLOYMENT AND EMPLOYEES.

"(a) EMPLOYMENT, ETC.—In this title—

"(1) EMPLOYMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'employment' has the meaning given such term by section 3121(b) of the Internal Revenue Code of 1986.

"(B) TREATMENT OF FEDERAL EMPLOYMENT.—In applying subparagraph (A), the term 'employment' shall not be considered to include service performed in the employ of the United States if, in connection with the performance of such service (or the service of a family member), the individual is provided medical and dental benefits under chapter 55 of title 10, United States Code.

"(3) EMPLOYEE; EMPLOYER.—The terms 'employee' and 'employer' have the same meanings as such terms have for purposes of chapter 21 of the Internal Revenue Code of 1986.

"(b) DEFINITIONS RELATING TO EMPLOYEES.—In this title:

"(1) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who is reasonably expected to perform for that employer on a weekly basis at least 25 hours of service and on a yearly basis at least 16 weeks of service.

"(2) TREATMENT OF CONSULTANTS AND CONTRACTORS.—The term 'eligible employee' includes an individual who is a consultant or contractor of an employer if the Secretary determines that the consulting arrangement or contract was entered into to avoid the requirements of this title.

"(3) EXCLUSION OF FOREIGN EMPLOYMENT.—The term 'eligible employee' does not include an individual—

"(A) who is not a citizen or resident of the United States with respect to service performed outside the United States, or

"(B) who is a citizen or resident of the United States with respect to services performed outside the United States for an employer other than an American employer (as defined in section 3121(h) of the Internal Revenue Code of 1986).

"SEC. 2104. DEFINITIONS RELATING TO FAMILIES.

"In this title:

"(1) IN GENERAL.—Except as provided in paragraph (2), the terms 'family' and 'family member' mean an individual, the individual's spouse, and the dependents of the individual (as defined under section 152 of the Internal Revenue Code of 1986).

"(2) TREATMENT OF FAMILIES WITH MEDICARE BENEFICIARIES FOR COVERAGE PURPOSES.—In the case of a family with a medicare beneficiary, if coverage is provided to family members other than on the basis of employment of a family member, the beneficiary shall not be treated under this title as a member of the family for purposes of determining eligibility for coverage but shall be treated as a separate individual.

"(3) SPOUSE.—The term 'spouse' means, with respect to an individual, the individual to which the individual is married.

"(4) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703 of the Internal Revenue Code of 1986.

"SEC. 2105. APPLICATION OF REQUIREMENT TO EMPLOYERS.

"The requirements of this part apply as of January 1, 1993.

"Subpart 2—Qualified Employer Plans

"SEC. 2111. CERTIFICATION OF QUALIFIED EMPLOYER PLANS.

"(a) IN GENERAL.—An employer plan shall be treated as a qualified employer plan if,

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upon application, it is certified as meeting the requirements of each section of subpart 3 of this part by the State in which such plan is located, or, in the absence of State procedures or in the case of a self-insured plan, by the Secretary.

"(b) CERTIFICATION PROCEDURES.—

"(1) IN GENERAL.—Each State and the Secretary shall establish, not later than October 1, 1992, or the date specified by paragraph (2), procedures for the certification and periodic review and recertification of plans as qualified employer plans.

"(2) EXCEPTION TO EFFECTIVE DATE OF PROCEDURES.—In the case of a State—

"(A) requiring State legislation (other than legislation appropriating funds) in order to establish the procedures described in paragraph (1), and

"(B) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(c) TERMINATION OF CERTIFICATION.—A State or the Secretary, as appropriate, shall terminate the certification of a plan as a qualified employer plan if the State or Secretary determines that the plan no longer meets the requirements for certification. Before effecting a termination, the State or Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"SEC. 2112. DEFINITIONS RELATING TO QUALIFIED EMPLOYER PLANS.

"For purposes of this title:

"(1) EMPLOYER PLAN.—The term 'employer plan' means any health plan offered by an employer to its employee, but does not include any of the following:

"(A) Accident only insurance, disability only insurance, or long-term care only insurance.

"(B) Coverage issued as a supplement to liability insurance.

"(C) Workmen's compensation or similar insurance.

"(D) Automobile medical-payment insurance.

"(2) BASIC HEALTH PLANS; BASIC COORDINATED CARE PLANS.—The terms 'basic health plan' and 'basic coordinated care plan' mean a health plan and a coordinated care plan, respectively, which only provide the basic benefits required under section 2121.

"(3) ENHANCED HEALTH PLANS; ENHANCED COORDINATED CARE PLANS.—The terms 'enhanced health plan' and 'enhanced coordinated care plan' mean a health plan and a coordinated care plan, respectively, which, in addition to providing the basic benefits required under section 2121, provide supplemental benefits. The terms 'enhanced health plan' and 'enhanced coordinated care plan' do not include plans which only provide supplemental benefits.

"(4) HEALTH PLAN.—The term 'health plan' means any plan which is a hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract and, in States which have distinct licensure requirements, a multiple employer welfare arrangement.

"(5) COORDINATED CARE PLAN.—

"(A) IN GENERAL.—Until such time as the definition provided by the Secretary under subparagraph (G) takes effect, the term 'coordinated care plan' means a plan operated by a coordinated care entity that provides for the financing and delivery of health care services to individuals enrolled in such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs;

"(iv) financial incentives for individuals enrolled in the plan to use the participating providers and procedures provided for by the plan; and

"(v) a care coordinator responsible for guiding individuals enrolled in the plan to appropriate health care services in cost-effective settings.

"(B) COORDINATED CARE ENTITY.—The term 'coordinated care entity' includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a coordinate care contractor, that operates a coordinated care plan.

"(C) COORDINATED CARE CONTRACTOR.—The term 'coordinated care contractor' means an individual or entity that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for a qualified utilization review program; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a coordinated care plan.

"(D) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed or certified provider of health care services or supplies, that has entered into an agreement with a coordinated care entity to provide such services or supplies to a patient enrolled in a coordinated care plan.

"(E) CARE COORDINATOR.—The term 'care coordinator' means a physician, nurse practitioner, or other participating provider as determined by the Secretary.

"(F) QUALIFIED UTILIZATION REVIEW PROGRAM.—

"(ii) IN GENERAL.—The term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this title.

"(ii) UTILIZATION REVIEW PROGRAM.—The term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies provided under a coordinated care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(G) DEFINITION BY SECRETARY.—The Secretary shall develop, not later than January 1, 1995, a definition for the term 'coordinated care plan' for purposes of this title, including such requirements for financial participation and risk sharing as the Secretary deems appropriate.

"Subpart 3—Requirements for Qualified Employer Plans

"SEC. 2121. BASIC BENEFITS.

"(a) IN GENERAL.—The requirements of this section are met if an employer plan provides for basic benefits described in subsection (b) and meets the requirements of subsection (c).

"(b) SCOPE OF BASIC BENEFITS.—

"(1) GENERAL BENEFITS.—Except as provided in succeeding paragraphs of this subsection, the benefits provided to an eligible employee by a qualified employer plan shall consist of the same benefits as described in title XVIII to an individual entitled to benefits under part A, and enrolled under part B, of title XVIII.

"(2) ADDITIONAL BENEFITS.—

"(A) IN GENERAL.—Subject to periodicity schedules established by the Secretary, additional benefits shall be provided to an eligible employee by a qualified employer plan for the following items and services:

"(i) Newborn and well-baby care.

"(ii) Well-child care, including routine office visits, and routine laboratory tests, for individuals who have not attained age 7.

"(iii) Cancer screening, including pap smears, mammograms, colorectal and prostate screening, and other tests as specified by the Secretary.

"(iv) Routine immunizations (including the vaccine itself).

"(v) Preventive and routine dental services for individuals who have not attained the age of 18.

"(vi) Eyeglasses and hearing aids, and routine examinations therefor for individuals who have not attained the age of 18.

"(vii) Outpatient prescription drugs, biologicals, and insulin (within the meaning of section 1927(k)).

"(viii) Family planning services.

"(B) PERIODICITY SCHEDULES.—The Secretary, in consultation with appropriate medical experts, shall establish schedules of periodicity which reflect the general, appropriate frequency with which services listed in subparagraph (A) (other than clause (vii) thereof) should be provided.

"(3) BENEFITS UNDER STATE STANDARDS.—A State may implement a standard which further limits the basic benefits required to be provided by qualified employer plans under the preceding paragraphs of this subsection, but in no event shall the State implement a standard that limits basic benefits beyond the amount, duration, and scope of benefits provided under the State plan under title XIX, as in effect on or after January 1, 1993.

"(c) MAINTENANCE OF EFFORTS.—

"(1) IN GENERAL.—The Secretary shall, by regulation, provide rules similar to the rules of section 420(c)(3) of the Internal Revenue Code of 1986, to insure that any large employer shall maintain any benefits offered to the employees of such employer on January 1, 1993, which are in addition to the benefits required under subsection (b) for an additional 2 years after the such date.

"(2) LARGE EMPLOYER.—For purposes of paragraph (1), the term 'large employer' means, with respect to a calendar year, an employer that normally employs 100 or more eligible employees on a typical business day.

"SEC. 2122. TIMING OF ENROLLMENT; PERIOD OF COVERAGE; EMPLOYER PLAN CARDS.

"(a) GENERAL RULE.—The requirements of this section are met if an employer plan meets the requirements of subsections (b), (c), and (d).

"(b) TIMING OF ENROLLMENT.—The requirements of this subsection are met if an employer plan provides that:

"(1) ENROLLMENT UPON EMPLOYMENT.—Enrollment under the plan shall occur not later than the date on which the employment, for which such enrollment is required under this part, commences.

"(2) OPEN SEASON ONLY ONCE EVERY 2 YEARS.—Except in the case of a change in family, employment, or residence status for which coverage may be changed under subsection (c)(2), a currently enrolled eligible employee may change or modify coverage only once during any 2-year period.

"(c) PERIOD OF COVERAGE.—The requirements of this subsection are met if an employer plan provides that:

"(1) BEGINNING OF COVERAGE.—

"(A) IN GENERAL.—In the case of an individual enrolled under such plan, the benefits under the plan shall first become available for services furnished beginning on the first day of the month of enrollment.

"(B) TREATMENT OF ADDITIONS OF DEPENDENTS.—Any dependent added during the period of coverage under such plan shall, as of the date of the addition, be automatically enrolled and covered for benefits under the plan.

"(2) STANDARDS TO REFLECT OTHER CHANGES IN FAMILY, EMPLOYMENT STATUS, AND RESIDENCE.—

"(A) IN GENERAL.—Under standards established by the Secretary consistent with this paragraph, appropriate changes in coverage shall be provided to take into account—

"(i) changes in family composition or status resulting from marriage, divorce (or legal separation), and deletions of dependents,

"(ii) changes in employment status, including termination, and

"(iii) in the case of a coordinated care plan, changes in residence outside a plan's service area.

"(B) MONTHLY CHANGES.—Such standards shall be designed—

"(i) to effect a change in enrollment (or status of enrollment) as of the last day of the first month following the date of the event causing the change,

"(ii) to prevent any periods of noncoverage under any qualified employer plans, and

"(iii) to provide, in the case of a change of family status such as marriage, divorce, or legal separation, for accounting and crediting of cost-sharing among family members in an equitable and administrable manner.

"(d) EMPLOYER PLAN CARDS.—The requirements of this subsection are met if in conjunction with enrollment of individuals under an employer plan, such plan provides for the issuance of a card which may be used for purposes of identification of such enrollment and the processing of claims for benefits under the plan. The Secretary shall specify the information to be included on the card.

"SEC. 2123. LIMITS ON EXCLUSIONS AND COVERAGE STANDARDS FOR BASIC BENEFITS.

"The requirements of this section are met if an employer plan—

"(1) does not deny, limit, or condition the coverage under the plan with respect to basic benefits based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual, and

"(2) does not provide for exclusions from coverage for basic benefits that are more restrictive than the exclusions for such benefits under this part.

"SEC. 2124. EMPLOYEE PREMIUMS AND COST-SHARING.

"(a) ENROLLEE PREMIUMS AND COST-SHARING PERMITTED.—The requirements of this section are met if an employer plan provides for—

"(1) premiums, and

"(2) except as provided in subsection (e), cost-sharing amounts,

that comply with the provisions of subsections (b) and (c), respectively.

"(b) PROVISIONS RELATING TO PREMIUMS.—

"(1) LIMITATION ON PREMIUMS.—

"(A) MONTHLY PREMIUM LIMITED TO 20 PERCENT OF ACTUARIAL RATE.—

"(i) IN GENERAL.—A qualified employer plan may not require an eligible employee to pay a premium the amount of which on a monthly basis exceeds 20 percent (30 percent in the case of an eligible employee with a family member enrolled under the plan) of the monthly actuarial rate (as defined under clause (ii)).

"(ii) MONTHLY ACTUARIAL RATE DEFINED.—For purposes of this section, the term 'monthly actuarial rate' means, with respect to a qualified employer plan in a plan year, the average monthly per enrollee amount that the plan estimates, for enrollees under the plan during the year, would be necessary to pay for the total benefits required during the year under the plan, including administrative costs for the provision of such benefits and an appropriate amount for a contingency margin.

"(2) LIABILITY FOR PAYMENT OF PREMIUMS.—An eligible employee enrolled under a qualified employer plan is liable for payment of premiums required under that plan in accordance with this subsection.

"(3) WITHHOLDING PERMITTED.—No provision of State law shall prevent an employer of an eligible employee enrolled under a qualified employer plan from withholding the amount of any premium due by the employee under this subsection from the wages paid the employee.

"(4) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as preventing an employer from paying part or all of the employee premium for basic benefits or supplemental benefits, or

"(B) subject to subsection (f)(2), from requiring an eligible employee to pay for all or part of the premium for supplemental benefits.

"(5) NONDISCRIMINATION IN PREMIUM AMOUNTS.—Under a qualified employer plan, no eligible employee may be charged a different premium for the same coverage of basic benefits.

"(c) PROVISIONS RELATING TO COST-SHARING.—

"(1) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a qualified employer plan may not require a deductible amount for benefits provided with respect to any plan year beginning in a calendar year before 1994 that is—

"(i) in the case of a basic health plan—

"(I) with respect to any eligible employee with no family member enrolled under such plan, less than $200 or more than $400; and

"(II) with respect to any eligible employee with a family member enrolled under such plan, less than $400 or more than $800; and

"(ii) in the case of a basic coordinated care plan—

"(I) with respect to any eligible employee with no family member enrolled under such plan, more than $100 ($400 with respect to items and services provided outside the network); and

"(II) with respect to any eligible employee with a family member enrolled under such plan, more than $200 ($800 with respect to items and services provided outside the network).

"(B) DRUG DEDUCTIBLE.—A qualified employer plan may provide for a separate deductible amount for the provision of outpatient prescription drugs, biologicals, and insulin not greater than 2 times the limitation amount under subparagraph (A) applicable to the eligible employee.

"(2) LIMITATION ON COPAYMENTS AND COINSURANCE.—A qualified employer plan may not require the payment of any copayment or coinsurance for an item or service—

"(A) in an amount that is—

"(i) in the case of a basic health plan, less than 20 percent, or more than 25 percent, of the amount payable for the item or service under the plan; and

"(ii) in the case of a basic coordinated care plan, more than 20 percent of the amount payable for the item or service under the plan; or

"(B) after an eligible employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in paragraph (3)) for a plan year.

"(3) LIMITATION ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an eligible employee in a plan year, amounts payable under the plan as deductibles, copayments, and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family members covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section, the term 'out-of-pocket limit' means, in the case of a basic health plan or basic coordinated care plan, for a plan year beginning in a calendar year before 1994, an amount that is—

"(i) with respect to any eligible employee with no family member enrolled under such plan, not less than $1,000 nor more than $5,000; and

"(ii) with respect to any eligible employee with a family member enrolled under such plan, not less than $2,000 nor more than $5,000.

"(d) ADJUSTMENTS TO LIMITATIONS.—

"(1) INFLATION ADJUSTMENTS.—For each calendar year after 1993, the dollar amounts described in paragraphs (1)(A) and (3)(B) of subsection (c) for the preceding calendar year shall be increased by the percentage increase in the wage index, as published by the Bureau of Labor Statistics, for the 12-month period ending on September 30 of such preceding calendar year.

"(2) APPLICATION ON BASIS OF FAMILY STATUS.—Except as provided by the Secretary, a qualified employer plan may, with respect to basic benefits, provide for premiums, deductibles, copayments, and coinsurance to be applied, and the monthly actuarial rate described in subsection (b)(1)(A)(ii) to be estimated, on the basis of the number of family members of an eligible employee.

"(e) COST CONTAINMENT ARRANGEMENTS IN LIEU OF COST-SHARING AMOUNTS.—A qualified employer plan shall be permitted to provide for lower employee cost-sharing amounts if the plan contains such cost containment arrangements as described by the Secretary.

"(f) TREATMENT OF SUPPLEMENTAL COVERAGE.—

"(1) GENERAL RULE.—Nothing in this section shall be construed as preventing a qualified employer plan from providing for deductibles, coinsurance, and copayments or other restrictions with respect to supplemental benefits that are different from those permitted with respect to basic benefits.

"(2) Exception for non-optional supplemental benefits.—If a qualified employer plan is an enhanced health plan or an enhanced coordinated care plan and the eligible employee may not elect to forego the supplemental benefits, the plan—

"(A) may not impose a premium, for such basic and supplemental benefits, that exceeds the premiums that may be imposed for the basic benefits, and

"(B) shall assure that cost-sharing is not imposed with respect to basic benefits once the cost-sharing limit has been reached in a year with respect to all benefits.

"SEC. 2125. COORDINATION AND PORTABILITY OF HEALTH COVERAGE UNDER QUALIFIED EMPLOYER PLANS.

"(a) In General.—The requirements of this section are met if an employer plan meets the requirements of subsections (b) and (c).

"(b) Requirements Relating to Coordination.—The requirements of this subsection are met if an employer plan provides for coordination of—

"(1) enrollment and termination of enrollment among the qualified employer plans, the State plan under section 1902(a)(10)(G), and the program under title XVIII, and

"(2) application of deductibles and limitations on cost-sharing among such plans,

in accordance with standards established by the Secretary consistent with this part.

"(c) Requirement of Notices With Respect to Termination of Coverage.—

"(1) In general.—The requirements of this subsection are met if an employer plan provides notice at the time an individual's coverage under the plan is terminated. Such notice shall be provided (in a form and manner and at a time specified by the Secretary) to—

"(A) the individual (or in the case of a dependent, the eligible employee), and

"(B) the State agency administering the State plan under section 1902(a)(10)(G).

"(2) Notices of termination.—Each notice of termination under paragraph (1) shall include—

"(A) the effective date of the termination,

"(B) the names and other identifying information of family members whose coverage is affected by the termination, and

"(C) in the case of notice to the State, sufficient information to facilitate enrollment of the individuals affected under the State plan under section 1902(a)(10)(G).

"SEC. 2126. USE OF UNIFORM CLAIMS FORMS.

"The requirements of this section are met if an employer plan provides for submission of claims using uniform claims forms developed by the Secretary.

"Subpart 4—General Protections

"SEC. 2131. CONSUMER PROTECTIONS.

"(a) Coordination Among Plans.—The Secretary shall provide for such standards as may be necessary to provide for the allocation of responsibility among qualified employer plans (including the State plan under section 1902(a)(10)(G) and the program under title XVIII) in the case of—

"(1) an inpatient hospital stay, or

"(2) a single payment amount made for other services provided over a period of time, that begins during the period of coverage under one qualified employer plan and ends during a period of coverage under another qualified employer plan.

"(b) Protection Against Provider Claims.—In the case of a failure of a qualified employer plan to make payments with respect to basic benefits, an individual who is enrolled under the plan is not liable to any health care provider or practitioner with respect to the provision of such benefits for payments in excess of the amount for which the enrollee would have been liable if the plan were to have made payments in a timely manner.

"SEC. 2132. PREEMPTION OF CERTAIN STATE REQUIREMENTS.

"(a) Benefit and Coverage Rules.—Effective as of January 1, 1993, no State shall establish or enforce any law or regulation that—

"(1) requires the offering, as part of a qualified employer plan which is a basic health plan or a basic coordinated care plan, of any services, category of care, or services of any class or type of provider other than the basic benefits required to be provided under section 2121,

"(2) specifies the individuals to be covered under such a qualified employer plan or the duration of such coverage, or

"(3) requires a right of conversion from such a qualified employer plan to an individual basic health plan or basic coordinated care plan.

"(b) Coordinated Care Plans and Utilization Review Programs.—

"(1) In general.—Effective as of January 1, 1993, with respect to any qualified employer plan which is a coordinated care plan, no requirement of any State law or regulation shall—

"(A) prohibit or limit such coordinated care plan from including financial incentives for enrollees to use the services of participating providers;

"(B) prohibit or limit such coordinated care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by such coordinated care plan to participating providers for services provided to enrollees; or

"(ii) restrict the ability of such coordinated care plan to pay participating providers for services provided to enrollees on a per-enrollee basis;

"(D) prohibit or limit such coordinated care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit such coordinated care plan from requiring that services be authorized by a primary care physician selected by the enrollee from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or such coordinated care plan;

"(G) require a qualified utilization review program or such coordinated care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or such coordinated care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or such coordinated care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review;

"(J) restrict the amount of payment made to a qualified utilization review program or such coordinated care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or such coordinated care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted—

"(i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or

"(ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) Exceptions to certain requirements.—

"(A) Subparagraph (C).—Subparagraph (C) of paragraph (1) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payers with respect to such services or providers.

"(B) Subparagraphs (L) and (M).—Nothing in subparagraphs (L) or (M) of paragraph (1) shall be construed as prohibiting a State from

"(i) requiring that utilization review be conducted by a licensed health care professional, or

"(ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(c) State Defined.—In this section, the term 'State' means the 50 States and the District of Columbia.

"Part B—Small Employer Purchasing Groups

"SEC. 2141. GRANTS TO SMALL EMPLOYER PURCHASING GROUPS.

"(a) Grant Authority.—The Secretary may award grants to qualified small employer purchasing groups to assist such groups in paying the expenditures associated with the formation and initial operations of such groups.

"(b) Application.—To be eligible to receive a grant under this section, a qualified small employer purchasing group shall request such a grant as part of an application submitted by such group to the Secretary at such time, in such form, and containing such information, as the Secretary may require, including certification that such entity complies with all rules established by the State in which such entity is located, or in the absence of such rules, any rules established by the Secretary.

"(c) Authorization of Appropriations.—There are authorized to award grants under this section, such sums as may be necessary.

"SEC. 2142. RULES OF OPERATION.

"(a) Establishment of Rules.—Each State shall establish, not later than October 1, 1992, or the date specified by subsection (c), rules governing the approval of the operation of an entity as a small employer purchasing group in such State. Such rules shall require that—

"(1) the entity is administered solely under the authority and control of its member employers;

"(2) the membership of the entity consists solely of small employers (except that an employer member of the group may retain its membership in the group if, after the State determines that the entity meets the requirements of this subsection, the employer member ceases to be a small employer);

"(3) with respect to the State in which its members are located, the entity consists of not fewer than 10 employers;

"(4) the employer plans with respect to the employer members of the entity comply with applicable State laws and part A of this title;

"(5) each small employer in the geographic area covered by the program of the entity may become a member employer of the entity;

"(6) each enrollee in the program of the entity may enroll with any participating carrier that offers qualified employer plans in the geographic area in which the enrollee resides;

"(7) such entity will be a private, profit or nonprofit entity; and

"(8) the entity file an application for approval with the State.

"(b) Application for Approval.—Each entity desiring approval to operate as a small employer purchasing group in any State shall submit an application to such State. Such application shall describe—

"(1) the details of the group program and the participation requirements for small employers;

"(2) the program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

"(3) the approaches proposed for enlisting participation by insurers and small employers; and

"(4) relevant financial information, including plan sponsor fees, the procedure for the collection by the group of employer and employee premiums from employers, and the use of prepayment of premiums or other mechanisms to assure that premium payments will be made for coverage.

"(c) Exception to Effective Date of Rules.—In the case of a State—

"(1) requiring State legislation (other than legislation appropriating funds) in order to establish the rules described in subsection (a), and

"(2) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(d) Absence of State Action.—In the absence of any State action to establish rules described in subsection (a) by the date specified in such subsection, the Secretary shall promulgate rules, including application forms, for the approval of entities to operate as small employer purchasing groups in such State.

"SEC. 2143. FREEDOM OF CONTRACT.

"Nothing in this subpart shall be construed to prohibit a participating carrier from offering health care insurance coverage to small employers that are not participating in the program of a small employer purchasing group.

"SEC. 2144. SMALL EMPLOYER DEFINED.

"In this title, the term 'small employer' means, with respect to a calendar year, an employer that normally employs less than 100 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"Part C—Small Employer Health Insurance Reform

"SEC. 2151. GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS.

"(a) Registration With Applicable Regulatory Authority.—Each insurer shall register, not later than January 1, 1993, with the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for each State in which it issues or offers basic health plans or basic coordinated care plans to small employers.

"(b) Guaranteed Eligibility.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent of the eligible employee, to whom coverage is made available by a small employer.

"(c) Guaranteed Availability.—

"(1) State standard.—

"(A) In general.—An insurer that offers a basic health plan or a basic coordinated care plan to small employers located in a State must meet—

"(i) the availability standard of the State which requires that any insurer offering a basic health plan or a basic coordinated care plan to a small employer in the State offer the same plan to all other small employers in the State, or

"(ii) if determined by the State to be in the best interests of the insured in such State, any other standard which insures such availability.

"(B) Adoption of standards.—

"(i) In general.—Each State shall adopt a standard described in subparagraph (A) not later than January 1, 1993, or the date specified in clause (ii).

"(ii) Exception to effective date of standards.—In the case of a State—

"(I) requiring State legislation (other than legislation appropriating funds) in order to adopt a standard described in subparagraph (A), and

"(II) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this clause is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(iii) Absence of state action.—In the absence of any State action to adopt a standard described in subparagraph (A) by the date specified in such subsection, the Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in such State.

"(2) Treatment of coordinated care entities.—

"(A) Geographic limitations.—A coordinated care entity may deny coverage under a basic coordinated care plan to a small employer whose employees are located outside the service area of the entity, but only if such denial is applied uniformly without regard to health status or insurability.

"(B) Size limits.—A coordinated care entity may apply to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for a State to cease enrolling new small employer groups in basic coordinated care plans (or in a geographic area served by such plans) if it can demonstrate that its financial or administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups) will be impaired if it is required to enroll new groups.

"(3) Grounds for refusal to renew.—An insurer may refuse to renew, or may terminate, a basic health plan or a basic coordinated care plan under this part only for—

"(A) nonpayment of premiums,

"(B) fraud or misrepresentation, or

"(C) failure to maintain minimum participation rates.

"(d) Guaranteed Renewability.—

"(1) In general.—An insurer shall ensure that a basic health plan or a basic coordinated care plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3).

"(2) Termination of small employer business.—An insurer is not required to renew a basic health plan or a basic coordinated care plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its basic health plans and basic coordinated care plans issued to small employers in a State; and

"(B) provides notice to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for such State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) Basic Coordinated Care Option.—

"(1) In general.—Except as provided in paragraph (2), if an insurer offers a basic coordinated care plan in a State or a geographic area within a State to employers that are not small employers, the insurer must offer such basic coordinated care plan to small employers in the State or geographic area.

"(2) Size limits.—An insurer may cease enrolling new small employer groups in a basic coordinated care plan if it ceases to enroll any new employer groups in such plan.

"SEC. 2152. RATING PRACTICES.

"(a) Limitations on Experience Rating.—

"(1) In general.—Except as provided in paragraph (2), in establishing premium rates for basic health plans and basic coordinated care plans offered to small employers in a State, an insurer may use experience ratings.

"(2) Total claims exceeding $10,000.—An insurer offering basic health plans and basic coordinated care plans to small employers in a State must apply the amount by which total claims for the calendar year on a per employee basis exceed $10,000 across all small employer blocks of business of such insurer in such State.

"(3) Nondiscrimination.—Each State shall promulgate such rules as are necessary to insure that rating practices of insurers in such State do not treat similarly situated employees differently.

"(b) Publication of Rates.—

"(1) In general.—Not later than April 1 of each year beginning with calendar year 1993, each insurer which issues or offers basic health plans and basic coordinated care plans to small employers in a State shall provide to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for such State the average rates for such basic health plans and for such basic coordinated care plans charged by such issuer to small employer blocks of business in such State for the previous calendar year.

"(2) PUBLICATION.—Not later than July 1 of each year, each State shall publish a schedule of the average rates provided under paragraph (1).

"(c) BLOCK OF BUSINESS DEFINED.—In this section:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'block of business' means, with respect to an insurer, all of the small employers with either basic health plans or basic coordinated care plans issued by the insurer (as shown on the records of the insurer).

"(2) DISTINCT GROUPS.—

"(A) IN GENERAL.—Subject to subparagraph (B), a distinct group of small employers with either basic health plans or basic coordinated care plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(i) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(ii) have been acquired from another insurer as a distinct group, or

"(iii) are provided through an association with membership of not less than 10 small employers that has been formed for purposes other than obtaining health insurance.

"(B) EXCEPTION ALLOWED.—Except as provided in paragraph (3), an insurer may not establish more than one distinct group of small employers for each category specified in subparagraph (A).

"(3) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in paragraph (1) or (2) to account for differences in characteristics (other than differences in plan benefits) of basic health plans and basic coordinated care plans that are expected to produce substantial variation in health care costs.

"SEC. 2153. STRICTER STATE STANDARDS PERMITTED.

"Nothing in this subpart shall be construed as preventing any State from imposing—

"(1) stricter requirements than those imposed by section 2151(d) and 2152, or

"(2) requirements in addition to those imposed by this subpart,

on insurers which issue or offer basic health plans or basic coordinated care plans to small employers.".

SEC. 102. TAX PENALTIES ON NONCOMPLYING EMPLOYERS AND INSURERS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to taxes on qualified pension plans, etc.) is amended by adding at the end thereof the following new sections:

"SEC. 4980C. FAILURE TO OFFER TO ENROLL ELIGIBLE EMPLOYEES IN QUALIFIED EMPLOYER PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any person to offer to enroll any eligible employee in a qualified employer plan under part A of title XXI of the Social Security Act.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to an eligible employee shall be $50 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a person to offer to enroll any eligible employee in a qualified employer plan under part A of title XXI of the Social Security Act with respect to any eligible employee shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the eligible employee is placed in a financial position which is as good as such employee would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the eligible employee shall be treated as if the employee had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a qualified employer plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the qualified employer plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) DEFINITIONS.—For purposes of this section, the terms 'eligible employee' and 'qualified employer plan' have the meanings given such terms by sections 2103(b)(1) and 2111 of the Social Security Act, respectively.

"SEC. 4980D. FAILURE TO SATISFY CERTAIN STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE COVERAGE.

"(a) GENERAL RULE.—In the case of any person issuing a qualified employer plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of part C of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such part.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all qualified employer plans issued to small employers by the person on whom such tax is imposed.

"(2) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYER PLAN; SMALL EMPLOYER.—The terms 'qualified employer plan' and 'small employer' have the meanings given such terms by sections 2111 and 2144 of the Social Security Act, respectively.

"(2) PERSON.—The term 'person' means any person that offers a qualified employer plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(c) CLERICAL AMENDMENT.—The table of sections for such chapter 43 is amended by adding at the end thereof the following new items:

"Sec. 4980C. Failure to offer to enroll eligible employees in qualified employer plans.

"Sec. 4980D. Failure to satisfy certain standards for small employer health insurance coverage.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on or after January 1, 1993.

TITLE II—HEALTH CARE COVERAGE FOR INDIVIDUALS NOT OTHERWISE COVERED UNDER QUALIFIED EMPLOYER PLANS OR MEDICARE

SEC. 201. EXPANDED MEDICAID HEALTH CARE COVERAGE OF INDIVIDUALS NOT OTHERWISE COVERED BY QUALIFIED EMPLOYER PLANS OR MEDICARE.

(a) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" at the end of subparagraph (F); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) subject to section 1916(g), for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5), (17), and (21), to uninsured individuals described in section 1905(t);".

(b) UNINSURED INDIVIDUALS DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) The term 'uninsured individual' means an individual—

"(1) who is not otherwise eligible under this title or title XVIII of this Act;

"(2) who is not eligible for coverage under a qualified employer plan (described in part A of title XXI of this Act); and

"(3) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 240 percent of the official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.".

(c) LONG-TERM CARE COVERAGE EXCEPTED.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) as amended by subsection (a), is amended in the matter following subparagraph (G)—

(1) by striking "; and (XI)" and inserting "(XI)";

(2) by striking ", and (XI)" and inserting "(XII)"; and

(3) by adding at the end the following new clause: "and (XIII) the medical assistance made available to an individual described in section 1905(t) who is eligible for medical assistance only because of subparagraph (G) shall not include medical assistance for long-term care services (as determined by the Secretary);".

(d) STATE FLEXIBILITY IN PROVIDING BENEFITS AND COVERAGE.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) as amended by subsection (c)—

(A) by striking "and (XIII)" and inserting "(XIII)"; and

(B) by adding at the end the following new clause: "and (XIV) the medical assistance made available to an individual described in section 1905(t) may be made available to such individuals without regard to the requirements of paragraph (1) or subparagraph (B) of this paragraph;"; and

(2) in section 1905(a)(22) (42 U.S.C. 1396d(a)(22)), by striking "medical care" and inserting "medical care (including, at the option of a State, payment of premiums for enrollment of individuals described in subsection (t) in private insurance plans or coordinated care plans (as defined in section 2112(5) of title XXI of this Act) or other insurance plans as approved by the Secretary)".

(f) PREMIUMS AND COST SHARING.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (b), by striking "(A) or (E)" and inserting "(A), (E) or (G)"; and

(2) by adding at the end the following new subsection:

"(g) The State plan shall provide that in the case of uninsured individuals described in section 1905(t)—

"(1) whose family income (as determined under paragraph (3) of that section) does not exceed 100 percent of the official poverty line referred to in that paragraph, there may be imposed premiums, deductibles or other cost sharing with respect to such individuals as long as such requirements are nominal in amount (as determined by the Secretary); and

"(2) whose family income (as determined under paragraph (3) of that section) is greater than 100 percent of the official poverty line referred to in that paragraph, there may be imposed premiums, deductibles or other cost sharing with respect to such individuals on a sliding-scale basis based on the individuals' level of income as long as such requirements do not exceed the limitations for such requirements specified in section 2124 of part A of title XXI of this Act.".

(g) INCREASE IN FEDERAL PAYMENT TO STATES ENROLLING INDIVIDUALS IN COORDINATED CARE PLANS.—Section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be increased by 5 percent with respect to amounts expended as medical assistance with respect to individuals described in section 1905(t) who are enrolled in coordinated care plans (as defined in section 2112(5) of title XXI of this Act).".

(h) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a state that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 202. PERMITTING BUY-IN TO MEDICARE FOR CERTAIN UNINSURED INDIVIDUALS.

(a) IN GENERAL.—Section 1818(a)(1) of the Social Security Act (42 U.S.C. 1395i–2(a)(1)) is amended by inserting "(A)" after "(1)" and by adding at the end "or (B) has attained the age of 55 but has not attained the age of 65 and is not otherwise eligible under a qualified employer plan described in part A of title XXI of this Act,".

(b) BUY-IN UNDER PART A THROUGH PAYMENT OF PREMIUMS OF FULL BENEFIT COSTS.—Section 1818(d) of such Act (42 U.S.C. 1395i–2(d)) is amended—

(1) in paragraph (1), by inserting "and individuals described in subsection (a)(1)(B)" after "individuals age 65 and over"; and

(2) in paragraph (3), by inserting "and individuals described in subsection (a)(1)(B)" after "individuals age 65 and over".

(c) BUY-IN UNDER PART B THROUGH PAYMENT OF PREMIUMS OF FULL BENEFIT COSTS.—Section 1839(a) of such Act (42 U.S.C. 1395i(a)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall, during September of 1992, and of each year thereafter, determine and promulgate the monthly actuarial rate which shall be applicable for the succeeding calendar year for individuals described in section 1818(a)(1)(B). Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such individuals and enrollees age 65 and older will equal 100 percent of the total of the benefits and administrative costs which the Secretary estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such individuals and such enrollees. In calculating the actuarial rate, the Secretary shall include an appropriate amount for a contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or, if a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage under parts A and B for months beginning on or after January 1, 1993.

TITLE III—HEALTH CARE ACCESS—TAX PROVISIONS

SEC. 301. REFUNDABLE CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the qualified health care costs paid by such employer during the taxable year.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

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"(1) QUALIFIED HEALTH CARE COSTS.—The term 'qualified health care costs' means the excess of—

"(A) the amounts paid by the eligible small employer for health care coverage or benefits of its eligible employees for the taxable year, over

"(B) 5 percent of the wages paid or incurred with respect to such employees for such taxable year.

"(2) ELIGIBLE SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'eligible small employer' means any person—

"(i) which, on an average business day during the preceding taxable year, had more than 1 but less than 100 eligible employees, and

"(ii) at least 50 percent of the eligible employees of which during the taxable year received health care coverage.

"(B) AGGREGATION RULES.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means an employee who—

"(A) with respect to an eligible small employer, is reasonably expected to perform for that employer on a weekly basis at least 25 hours of service and on a yearly basis at least 16 weeks of service, and

"(B) does not have any health care coverage or benefits other than that provided by the eligible small employer.

The term 'eligible employee' shall not include a self-employed individual as defined in section 401(c)(1).

"(4) WAGES.—The term 'wages' has the meaning given such term by section 3121(a) (determined without regard to dollar limitation contained in such section).

"(c) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—Rules similar to the rules of subsection (g) of section 32 shall apply to any credit to which this section applies.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 77 of such Code is amended by inserting after section 7523 the following new section:

"SEC. 7524. ADVANCE PAYMENT OF CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

"(a) GENERAL RULE.—The Secretary of the Treasury shall make advance payments of refunds to which eligible taxpayers are entitled by reason of section 35.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if the taxpayer furnishes, at such time and in such manner as the Secretary may prescribe, to the Secretary such information as the Secretary may require in order to—

"(1) determine whether the taxpayer will be entitled to a refund by reason of section 35 for the taxable year, and

"(2) estimate the amount of qualified health care costs of the taxpayer for such taxable year.

"(c) EMPLOYMENT TAX PAYMENTS OFFSET IN LIEU OF DIRECT PAYMENTS.—

"(1) IN GENERAL.—An eligible taxpayer may, in lieu of receiving payments under subsection (a) from the Secretary, reduce such taxpayer's employment tax payments by an amount equal to the payments under subsection (a).

"(2) EMPLOYMENT TAX PAYMENTS.—For purposes of this subsection, the term 'employment tax payments' means payments made of—

"(A) amounts required to be deducted and withheld under section 3401 (relating to wage withholding),

"(B) amounts required to be deducted under section 3102 (relating to FICA employee taxes), and

"(C) amounts of taxes imposed under section 3111 (relating to FICA employer taxes).

"(3) TREATMENT OF REDUCED PAYMENTS.—For purposes of this title, any reduction of an eligible taxpayer's employment tax payments shall be treated as if such taxpayer had paid to the Secretary, on the day on which wages are paid to such taxpayer's employees, an amount equal to such reduction.".

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code".

(d) CLERICAL AMENDMENTS.—

(1) The table sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for small business health care costs.

"Sec. 36. Overpayments of tax.".

(2) The table sections for chapter 77 of such Code is amended by inserting after the item relating to section 7523 the following new item:

"Sec. 7524. Advance payment of credit for small business health care costs.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 302. HEALTH INSURANCE CREDIT DOUBLED TO ASSIST LOW-INCOME EMPLOYEES.

(a) IN GENERAL.—Subparagraph (A) of section 32(b)(2) of the Internal Revenue Code of 1986 (relating to health insurance credit) is amended—

(1) by striking "6 percent" in clause (i) and inserting "12 percent", and

(2) by striking "4.285 percent" in clause (ii) and inserting "8.57 percent".

(b) ADVANCE REFUNDING OF CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 3507 of such Code (relating to advance payment of earned income credit) is amended by striking "equal to such employee's earned income advance amount." and inserting "equal to the sum of such employee's—

"(1) earned income advance amount, plus

"(2) health insurance advance amount."

(2) ELIGIBILITY CERTIFICATE.—Section 3507(b) of such Code (relating to earned income eligibility certificate) is amended by striking "and at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) estimates the amount of health insurance costs (within the meaning of section 32(b)(2)(B)) of the employee for the taxable year."

(3) HEALTH INSURANCE ADVANCE AMOUNT.—Section 3507 of such Code is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) HEALTH INSURANCE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'health insurance advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated health insurance costs included in the earned income eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under subsection (c)."

(4) CONFORMING AMENDMENTS.—

(A) Section 3507(e) of such Code (as so redesignated) is amended—

(i) by striking "earned income advance payments" in paragraph (2) and inserting "advance payments under subsection (a)", and

(ii) by inserting "and health insurance advance amounts" after "amounts" in paragraph (3).

(B) Section 7524(c)(2) of such Code (as added by section 301) is amended by striking "section 3507(d)(2)(B)" and inserting "section 3507(e)(2)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 303. REPEAL OF EITC INTERACTIONS.

(a) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(b) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) of such Code is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(c) REPEAL OF INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) of such Code is amended by striking the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 304. DEDUCTIBILITY FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking out "25 percent of".

(b) DEDUCTION MADE PERMANENT.—Section 162(l) of such Code is amended by striking out paragraph (6).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

TITLE IV—ADMINISTRATIVE PROVISIONS AND REPORT

SEC. 401. DEVELOPMENT AND APPLICATION OF UNIFORM ADMINISTRATIVE PROCEDURES.

Part A of title XI of the Social Security Act (42 U.S.C. 1101 et seq.) is amended by adding at the end the following new section:

"UNIFORM ADMINISTRATIVE PROCEDURES

"SEC. 1144. The Secretary shall to the extent practicable, by no later than January 1, 1994, develop and implement a universal health identification card, uniform claims form and reporting standards to be utilized

under titles XVIII, XIX, and XXI of this Act.".

SEC. 402. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH AND PRACTICE GUIDELINES.

(a) EXTENSION AND EXPANSION OF INITIAL GUIDELINES AND STANDARDS.—Subparagraph (A) of section 1142(a)(3) of the Social Security Act (42 U.S.C. 1320b-12(a)(3)) is amended—

(1) by striking "January 1, 1991" and inserting "January 1, 1993", and

(2) by striking clause (i)(I) and inserting the following:

"(i)(I) account for a significant portion of national health expenditures (including expenditures under titles XVIII and XIX); and".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993; and

"(C) $275,000,000 for fiscal year 1994."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

SEC. 403. ANNUAL REPORT ON HEALTH CARE.

The Secretary of Health and Human Services shall not later than January 15 of each year beginning with calendar year 1994, submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives providing information (including recommendations to address problems identified) with respect to—

(1) access to health care services including the effects on access of—

(A) patterns of utilization;

(B) supply and distribution of services and providers; and

(C) demographic changes;

(2) sources of significantly changing health care costs;

(3) the effects on costs of—

(A) utilization by service, region, provider type and payer;

(B) supplies, labor, capital, and new and emerging technology;

(C) State and private efforts to contain such costs; and

(D) outcomes research and practice guidelines; and

(4) such other matters as the Secretary may consider appropriate.●

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2115. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES

● Mr. MACK. Mr. President, today, with my colleague Senator GRAHAM as an original cosponsor, I will be introducing legislation to amend the Internal Revenue Code of 1986 to treat spaceports as airports under tax-exempt facility bond rules. A similar bill, H.R. 1358, has been introduced by Congressmen SHAW and BACCHUS.

Current law allows exempt facility bonds to be issued to finance certain transportation facilities: airports, docks and wharves, mass commuting facilities, high-speed intercity rail facilities, and storage or training facilities directly related to these. With the exception of high-speed intercity rail facilities, the facilities must be owned by a governmental unit to be eligible for such financing. The bill would clarify that the interest earned on bonds issued by spaceports would be exempt from Federal taxation.

The definition of spaceports includes facilities directly related and essential to servicing spacecraft, enabling spacecraft to take off or land, and transferring passengers or space cargo to or from spacecraft. The facilities must be located at, or close proximity to, the launch site to perform these functions. It also includes other functionally related and subordinate facilities at or adjacent to the spaceport, such as launch control centers, repair shops, maintenance or overhaul facilities, and rocket assembly facilities that must be located at or adjacent to the launch site.

Under the bill, spaceport property which is located on land owned by the United States and leased to a governmental unit will be treated as owned if the lease term is at least 15 years. In addition, the land will be treated as owned as long as the lease term is equal to the useful life of the property.

My State contains the Spaceport Florida Authority, created in 1989 as the Nation's first transportation authority to stimulate the development of a commercial launch facility and related infrastructure at Cape Canaveral and Cape San Blas, FL. This was the beginning of the revival of the U.S. aerospace industry in the competitive international market. The passage of my bill will be another aid in positioning our aerospace industry to compete with the rest of the world.

The Joint Committee on Taxation has looked at this bill and has estimated the proposal would reduce the Federal fiscal year budget receipts by the following: (in millions) 1992(−1); 1993(−1); 1994(−2); 1995(−3); 1996(−3); for a total revenue loss to the Treasury of $10 million between 1992–96.

In order to compete in the global marketplace, I urge my colleagues to cosponsor this bill in order to allow our infant commercial spaceports the same advantages under our tax systems as other similar facilities.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES.

(a) IN GENERAL.—Paragraph (1) of section 142(a) of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended to read as follows:

"(1) airports and spaceports,".

(b) TREATMENT OF GROUND LEASES.—Paragraph (1) of section 142(b) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR SPACEPORT GROUND LEASES.—For purposes of subparagraph (A), spaceport property which is located on land owned by the United States and which is leased to a governmental unit shall be treated as owned by such unit if—

"(i) the lease (as defined in section 168(i)(3)) is at least 15 years, and

"(ii) such unit would be treated as owning property if such lease term were equal to the useful life of such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

By Mr. RIEGLE:

S. 2116. A bill to improve the health of children by increasing access to childhood immunizations, and for other purposes; to the Committee on Finance.

COMPREHENSIVE CHILD HEALTH IMMUNIZATION ACT

Mr. RIEGLE. Mr. President, today, I am introducing the Comprehensive Child Health Immunization Act, S. 2116, to ensure that America's children get the healthy start in life that we thought we had ensured more than a decade ago.

BACKGROUND ON THE PROBLEM

In 1979, the United States reached the goal of getting 90 percent of children immunized against common but dangerous diseases before they started school. In the last 3 years, however, we've seen a dramatic rise in the number of toddlers getting sick—even dying—from measles, an entirely preventable disease. Last year, more than 25,000 kids got measles—a two-thirds jump from the year before. In Michigan, measles jumped from a record low in 1988 of 31 cases to 359 in 1989, only to be exceeded again in 1990 with 478 cases—the highest since 1979—and 1 death. Nationally, nearly 4,500 mumps cases and 3,700 whopping cough cases also developed. In fact, in Michigan whooping cough cases almost doubled between 1989 and 1990.

This frightening trend is partly due to the fact that the country's earlier success in immunizing school children has made our system lax. It's also because our vaccine delivery system has not kept up its aggressive pace of pursuing these children, and making the shots affordable and easy to obtain. The sad fact is that about a third of U.S. 2-year-olds are not protected against measles, mumps, rubella, polio, diphtheria, whopping cough, tetanus and HiB—Haemophilus influenza type B. In Michigan, where the number of children fully immunized has been dropping, the rates parallel the national figures. Among poor children in big cities, the immunization rate among 2-year-olds often is as low as 40 percent.

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GOAL OF COMPREHENSIVE LEGISLATION

We in Congress responded to the measles outbreak a year ago by increasing the Federal appropriations for immunizations significantly for 1991—and we've increased funding again this year. We're trying to help the Centers for Disease Control [CDC] to attack the problem head on, but it's time to go beyond mere damage control in the short term to correct some basic infrastructure problems. That is the goal of the Comprehensive Child Health Immunization Act and I am introducing today.

Ideally, Mr. President, children should receive immunizations as part of a comprehensive, preventive health care program. Declining immunization status reflects a larger lack of access to basic health services for too many children. For many of us today, the ultimate goal is to guarantee financial access to coordinated health care for all Americans. But improvements in the childhood vaccine delivery system are needed now. The National Vaccine Advisory Committee [NVAC] to the CDC and the many child advocacy organizations it represents have set a new objective for the country. It's called every child by two and the objective is to get 90 percent immunization coverage of 2-year-olds by the year 2000.

We need to do several things to accomplish this, and I believe the Comprehensive Child Health Immunization Act will address them in a thoughtful manner, giving our public health professionals the tools and information they need to solve this problem.

Many groups, including the American Academy of Pediatrics, the Children's Defense Fund, the March of Dimes, and the Michigan Council for Maternal and Child Health, are supportive of this bill. I will continue to work with these and other groups to further refine and improve this bill as it moves through the legislative process.

IMPLEMENTATION OF CDC IMMUNIZATION PRACTICE STANDARDS

First, we have to remove the artificial barriers. For example, often children go to doctors or public health clinics for checkups, or minor illnesses, and no one checks to be sure they are up to date with their shots. It's a missed opportunity—and these opportunities also exist in our public aid programs when kids come along with their parents to offices where their benefit status is checked, and could easily receive shots, or at least have their immunization records checked. To remove these barriers, a set of standards for sound immunization practices is being drawn up by the CDC with input from a great number of public health professionals across the country through the NVAC. Adherence to these standards should be required among all who administer child vaccines, and I propose such adherence wherever Federal moneys are supporting immunizations.

Some of the opportunities for immunization will cost more money to implement—such as keeping vaccination clinics open beyond routine business hours so that working parents have more of a chance to get their kids immunized on the recommended schedule. Under S. 2116, I would authorize funds to ensure that public facilities can take steps such as these where necessary.

UTILIZING PUBLIC PROGRAMS TO INCREASE IMMUNIZATIONS

Child care programs that receive Federal assistance would be required to know the immunization status of all the children they serve and tell parents that full immunization is expected for children's participation and where to go to get them immunized. The bill would require that States getting Federal funds for these programs ensure that this happens. The programs provide assistance for child day care to working parents, including some parents who are in transition from public aid to work, as well as assistance for food programs at child care centers serving poor children.

Public aid offices should have informational materials about vaccination to give to parents, as should facilities in the private sector, such as maternity rooms of hospitals. Community centers, churches, even employment sites, present other opportunities for mothers and fathers to find useful reminders about how critical it is for kids to get their shots, and where they can get them. My legislation would require public aid programs to provide information ensuring that parents know how to get their children immunized, and allocate funds for HHS to develop consumer materials for wide distribution in communities.

INCREASED OUTREACH AND ACCESS TO IMMUNIZATIONS

In several locations, local government and private groups have mobilized to plan innovative ways for achieving their immunization objectives. Detroit is one of these areas, and some of the ideas there include setting up vaccination clinics in places where lots of children can be found, such as day care centers and adult health care clinics where kids accompany parents, even getting the word out to grandparents through AARP chapters. Here again, the local areas that have developed these plans need funds to fully operate them, and the Federal Government must help these as well as other locations that work out creative approaches. Under the Comprehensive Child Health Immunization Act, these programs are funded and funds are also used to spread the results of the techniques that work nationwide.

RESTORING MEDICAID OUTREACH FOR CHILDHOOD IMMUNIZATIONS IN MICHIGAN

Another kind of outreach required under this legislation relates to the health screening program for children in the Medicaid Program, called the Early and Periodic Screening, Diagnosis, and Treatment [EPSDT] Program. In a general way, that program already requires examinations of poor children on welfare, but States must begin to track the immunization status of those kids and aggressively try to reach out to communities at risk to ensure that children are immunized.

Mr. President, Governor Engler recently cut a successful outreach program in Medicaid's preventive health care program for children in Michigan. As reported by Michigan's Department of Public Health, these cuts mean that 40,000 children will not be immunized. The bill I am introducing today directly addresses this problem by requiring outreach for immunization under Medicaid.

NATIONWIDE TRACKING SYSTEM OF IMMUNIZATION STATUS

Public health officials need to keep track of immunization levels nationwide by location and age, but we don't have a reliable way of getting that information. Physicians, furthermore, don't have a good way to check on what shots a child needs if they haven't seen the child before. What's needed is a computerized national registry. It's going to take a couple of years to get one fully developed, but we have to start now by assisting States to put together tracking systems based on their vital records data. Under S. 2116, State demonstration projects would be funded next year. And, ultimately, we should gain a nationwide capability to assess a child's status by 1995. Having that capability will go a long way toward making all of the other outreach activities pay off.

EMERGENCY VACCINE FUND

The CDC must have funds available to respond quickly when an epidemic strikes, such as the measles outbreak that we've recently been confronting. CDC needs a permanent fund to purchase more vaccines in such emergencies to immunize those kids who have not had their second doses for measles, mumps, and rubella. This bill would authorize $20 million each year to be set aside for that purpose.

SUPPORT FOR NEEDED RESEARCH

Under this comprehensive legislation, research specifically dedicated to developing new vaccines would be supported. These are vaccines for younger infants, vaccines that combine several now administered separately, and vaccines against other childhood diseases such as chicken pox.

DEMONSTRATIONS TO TEST NEW PURCHASE AND DISTRIBUTION METHODS OF VACCINES

Finally, the high cost to physicians of purchasing vaccines directly from manufacturers is a problem we have to begin to address by finding ways to get affordable vaccines to primary care givers. One way potentially is to encourage states to buy vaccines under

CDC's contracts and distribute it to all providers at no charge. At least in Medicaid, States might save money this way by not reimbursing physicians with Medicaid funds, and physicians would not lose money as they do now when they have to accept Medicaid's low reimbursement rate.

Our goal in this part of the bill is to create incentives for all children to go back to receiving their immunizations from private providers who furnish ongoing, comprehensive health care. We also must relieve the burden on the public clinics which have been taking on an increasing portion of the task. Through demonstration grants, this bill would help States to experiment with different purchasing and distribution methods in order to find the most cost-effective way of achieving these objectives.

NEED FOR COMPREHENSIVE IMMUNIZATION PROGRAM

Mr. President, public health experts often say that the level of medical attention given to children is a measure of a country's health overall. Certainly, a child's immunization status is a strong indicator of a family's use of personal health services. The United States is now lagging behind other Western countries in its immunization rates. Our declining immunization status indicates a larger lack of access to basic health services for too many children.

Until this country reforms its health care system to make coordinated, comprehensive health care services available to all Americans, we must set our sights on an objective of giving America's children the benefit of the best our system can offer. But the system of delivering immunizations to them needs immediate improvement in order to eliminate the preventable diseases that threaten their future, and I believe this legislation takes important steps to ensure such improvement. The estimated cost of its implementation is $92.5 million in fiscal year 1993, $115.5 million in fiscal year 1994, and $140.5 million in fiscal year 1995, plus such as sums as may be needed for educational materials and to implement certain CDC practice standards.

I ask unanimous consent that the text of the bill, and a detailed summary, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Child Health Immunization Act".

SEC. 2. IMPLEMENTATION OF CENTERS FOR DISEASE CONTROL PRACTICE STANDARDS.

(a) IN GENERAL.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended—

(1) by redesignating section 2106 (42 U.S.C. 300aa-6) as section 2111; and

(2) by inserting after section 2105 (42 U.S.C. 300aa-5) the following new section:

"SEC. 2106. IMPLEMENTATION AND COMPLIANCE WITH IMMUNIZATION PRACTICE STANDARDS.

"(a) DESIGNATION BY SECRETARY.—Not later than 6 months after the date of enactment of this section, the Secretary shall publish in the Federal Register a designation of those Standards for Immunization Practices, developed and published by the Centers for Disease Control under the auspices of the National Vaccine Advisory Committee (hereafter referred to in this section as the 'standards'), that the Secretary determines can be implemented without cost.

"(b) COMPLIANCE.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations that require all individuals or entities receiving assistance from the Secretary for public sector immunization and social service programs, or for private sector immunization services provided through reimbursements made under title XIX of the Social Security Act or with vaccines made available by the Centers for Disease Control, to comply with the standards designated under subsection (a) not later than 18 months after the date of enactment of this section.

"(2) STATES.—Regulations promulgated under paragraph (1) shall require States receiving Federal funds that are used to provide vaccines, to insure that recipients of such vaccines adhere to the standards designated under subsection (a).

"(3) AUDIT PROCEDURES.—The Secretary shall utilize and expand existing audit procedures to monitor compliance with the requirements of this subsection.

"(c) OTHER STANDARDS.—

"(1) PROVISION OF ASSISTANCE.—The Secretary may provide assistance to entities that receive Federal immunization grant funds, to enable such entities to implement those Standards for Immunization Practices that the Secretary determines will necessitate the commitment of additional financial resources and to increase the access of children to immunizations.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to provide assistance under paragraph (1), such sums as may be necessary for each of the fiscal years 1993 through 1995.".

(b) CONFORMING AMENDMENTS.—

Section 2102(a)(9) of such Act (42 U.S.C. 300aa-2(a)(9)) is amended by striking out "2106" and inserting in lieu thereof "2111".

Section 2111(a) of such Act (as redesignated by subsection (a)(1)) is amended by striking out "section 2102(9)" and inserting in lieu thereof "sections 2102(9), 2106, 2107, 2108, 2109, and 2110".

SEC. 3. INCREASED IMMUNIZATION THROUGH ENROLLMENT INFORMATION.

Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2106 (as added by section 2) the following new section:

"SEC. 2107. DEVELOPMENT OF ENROLLMENT AND REFERRAL INFORMATION.

"(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and with appropriate organizations, shall develop—

"(1) model questions concerning immunization status and medical history; and

"(2) model packets of information concerning—

"(A) the risks and benefits associated with vaccines;

"(B) locations of immunization providers with respect to each State;

"(C) other material determined appropriate by the Secretary;

for use by States in enrolling and recertifying individuals with respect to programs under this Act, part A of title IV and title XIX of the Social Security Act, the special supplemental food program under section 17 of the Child Nutrition Act of 1966, and other programs designated by the Secretary.

"(b) INCORPORATION AND PROVISION OF INFORMATION.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall require States to—

"(A) incorporate the model questions developed under subsection (a)(1) into the forms and procedures utilized by such States with respect to the programs referred to in subsection (a); and

"(B) provide the appropriate information developed under subsection (a)(2) to recipients of benefits provided under the programs referred to in subsection (a).

"(2) OTHER ENTITIES.—The model questions and informational packets developed under subsection (a) shall be administered and provided to recipients of benefits under other Federally administered health programs, including benefits under the block grant program under title V of the Social Security Act, the preventive health block grant program under part A of title XIX of this Act, and benefits provided through community and migrant health centers.

"(c) REFERRAL PROCEDURES.—Not later than 1 year after the date of enactment of this section, the Secretary shall develop and apply, and require States to apply, procedures relating to the referral of individuals for immunization services, including a plan for the provision of transportation assistance for children eligible to receive assistance under title XIX of the Social Security Act.".

SEC. 4. REQUIREMENT OF IMMUNIZATIONS WITH RESPECT TO CHILD CARE.

(a) AFDC AND FAMILY SUPPORT SERVICES.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new section:

"IMMUNIZATION STATUS OF CHILDREN

"SEC. 418 In addition to meeting the other requirements of this part, to be eligible to receive payments under this part, a State shall provide assurances to the Secretary that child care providers within the State that provide services for which assistance is provided under this part will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(b) SOCIAL SERVICES BLOCK GRANTS.—Section 2005 of the Social Security Act (42 U.S.C. 1397d) is amended by adding at the end thereof the following new subsection:

"(c) To be eligible to receive payments under this part, a State shall provide assurances to the Secretary that child care providers within the State that provide services for which assistance is provided under this part will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(c) CHILD CARE FOOD PROGRAM.—Section 17(a)(2) of the National School Lunch Act (42 U.S.C. 1766(a)(2)) is amended—

(1) in subparagraph (B), by striking out "and" at the end thereof;

(2) in subparagraph (C), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(d) CHILD CARE AND DEVELOPMENT BLOCK GRANTS.—Section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e(c)(2)) is amended by adding at the end thereof the following new subparagraph:

"(K) IMMUNIZATION STATUS.—Provide assurances that child care providers within the State that provide services for which assistance is provided under this subchapter will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of enactment of this Act.

SEC. 5. INCREASED OUTREACH AND ACCESS TO IMMUNIZATIONS.

(a) INFANT IMMUNIZATION INITIATIVE PLANS.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2107 (as added by section 3) the following new section:

"SEC. 2108. GRANTS FOR IMPLEMENTATION OF INFANT IMMUNIZATION PLANS AND SUPPORT OF INNOVATIVE PROGRAMS.

"(a) IN GENERAL.—The Secretary shall award demonstration grants to eligible State and local entities to enable such entities to fully implement the plans of such entities with respect to the Infant Immunization Initiative.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a State or local entity that has developed a plan under the Infant Immunization Initiative; and

"(2) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary determines appropriate, including a description of the activities the entity intends to carry out using amounts received under the grant.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to an entity unless the entity agrees to maintain the expenditures of the entity for activities of the type described in subsection (e), at a level equal to not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity is applying to receive the grant.

"(d) AMOUNT OF GRANT.—The amount of each grant provided under this section shall be determined by the Secretary based on the size and demonstrated need of the entity.

"(e) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the implementation of the immunization plan of the entity. Activities under such plan may include—

"(1) the establishment of express vaccination facilities in health clinics;

"(2) the provision of vaccinations in hospital emergency rooms, through in-home visits and in day or child care centers, Head Start institutions, and in schools;

"(3) the establishment of mobile vaccination teams; and

"(4) other activities determined appropriate by the Secretary.

"(f) INNOVATIVE LOCAL PROGRAMS.—The Secretary may make grants to local communities submitting applications that meet the requirements of subsection (b)(2), to assist such communities in carrying out innovative programs designed to increase access to immunizations.

"(g) REPORTING REQUIREMENT.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report concerning the activities undertaken using amounts received under the grant. The Secretary shall compile information received in such reports, make such information available to the public, and provide for the use of such information in the immunization planning activities of other State or local entities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GENERAL PROGRAM.—There are authorized to be appropriated to carry out this section, other than subsection (f), $20,000,000 for fiscal year 1993, $25,000,000 for fiscal year 1994, and $30,000,000 for fiscal year 1995. A grant awarded with amounts appropriated under this paragraph shall not be for a period in excess of 3 years.

"(2) LOCAL INNOVATIVE PROGRAMS.—There are authorized to be appropriated to carry out subsection (f), $30,000,000 for fiscal year 1993, $40,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and such sums as may be necessary for each fiscal year thereafter.".

(b) COMPLIANCE WITH PRACTICE STANDARDS.—Section 2106 of such Act (as added by section 2) is amended by adding at the end thereof the following new subsection:

"(d) SUPPORT OF OPERATIONAL ACTIVITIES.—

"(1) IN GENERAL.—The Secretary, acting through the Centers for Disease Control, may provide assistance to entities of the type referred to in subsection (b)(1), to support the additional operational activities of immunization sites necessary to maintain compliance with the standards relating to infrastructure changes. Such assistance may also be provided to support innovative approaches designed to increase the access of children to immunization services.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of the fiscal years 1993 through 1995.".

(c) CONSUMER MATERIALS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide for the development and distribution of consumer educational materials concerning childhood immunizations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1993, such sums and may be necessary to carry out this subsection.

(d) EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT PROGRAM.—The Secretary of Health and Human Services shall modify regulations with respect to the Early and Periodic Screening, Diagnosis and Treatment program under title XIX of the Social Security Act, to require States to undertake aggressive outreach efforts in contacting parents concerning the immunization of their children and in tracking the immunization status of children through information submitted to the State from immunization providers seeking reimbursement under such title XIX.

SEC. 6. COMPREHENSIVE IMMUNIZATION TRACKING SYSTEM AND NATIONWIDE REGISTRY.

(a) NATIONAL HEALTH INTERVIEW SURVEY.—There are authorized to be appropriated to the Centers for Disease Control, $500,000 for fiscal year 1993, and such sums as may be necessary for each fiscal year thereafter, to pay the costs associated with the utilization of the National Health Interview Survey compiled by the National Center for Health Statistics.

(b) RESEARCH AND DEMONSTRATION PROGRAM.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2108 (as added by section 5(a)) the following new section:

"SEC. 2109. NATIONWIDE COMPUTERIZED REGISTRY RESEARCH AND DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a research and demonstration grant program to award grants to States, or other entities determined appropriate by the Secretary, for the development of computerized immunization registries in such States.

"(b) APPLICATION.—To be eligible to receive a grant under this section, a State or other entity shall prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require, including a description of the immunization registry that such State or entity intends to develop and implement through the use of amounts received under the grant.

"(c) USE OF AMOUNTS.—A State or entity shall use amounts received under a grant awarded under this section to—

"(1) develop and implement a computerized system for the identification and tracking of children for immunization purposes;

"(2) identify appropriate mechanisms for collecting, updating, maintaining and accessing data concerning the immunization of children;

"(3) implement procedures under which vaccine providers will have access to the current immunization records of their patients;

"(4) carry out any other activities determined appropriate by the Secretary.

"(d) REPORTING REQUIREMENTS AND NATIONAL COORDINATION.—Each State or entity that receives a grant under this section shall prepare and submit to the Secretary annual reports concerning the activities undertaken with amounts provided under this section. The Secretary shall utilize such reports to develop a nationwide, computerized registry containing immunization information concerning children throughout the United States. In developing such system, the Secretary shall establish procedures—

"(1) to collect information, through coordination with existing data gathering methods utilized by the Centers for Disease Control, from health care providers and State entities concerning the immunization status of individuals;

"(2) to enable health care providers to access information concerning their patients' immunization status; and

"(3) for tracking the immunization status of children.

"(e) COORDINATION WITH OTHER PROGRAMS.—The Secretary, and each State or entity that receives a grant under this section, shall coordinate the activities under

such grant with activities carried out under section 2108.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to award grants under subsection (a), $12,000,000 for fiscal year 1993.

"(2) PURCHASE OF EQUIPMENT.—There are authorized to be appropriated to enable the Secretary to provide assistance under this section for the purchase of computer equipment, to States or entities that demonstrate the likely success of their Statewide registry system, $20,000,000 for fiscal year 1994, and $30,000,000 for fiscal year 1995.

"(g) REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, a report concerning the results of the implementation of various Statewide immunization tracking systems established under this section until such time as a nationwide system is fully implemented.".

SEC. 7. VACCINE PURCHASE AND DISTRIBUTION DEMONSTRATION PROGRAMS.

(a) PUBLIC HEALTH SERVICE ACT.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2109 (as added by section 6(b)) the following new section:

"SEC. 2110. PRIVATE PROVIDER VACCINE PURCHASE DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which grants will be awarded to eligible States to enable such States to purchase vaccines for distribution to and use by private health care providers.

"(b) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to a State unless the State agrees to maintain the expenditures of the State for activities of the type described in subsection (d), at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(d) USE OF AMOUNTS.—

"(1) IN GENERAL.—A State shall use amounts received under a grant awarded under this section to purchase vaccines (in addition to those vaccines that such State would otherwise purchase), and distribute such vaccines at no cost to private health care providers for the immunization of children.

"(2) REQUIREMENTS OF PROVIDERS.—A private health care provider that receives vaccines purchased by the State under this section shall—

"(A) administer such vaccines to patients without assessing such patients for the cost of such vaccines;

"(B) with respect to any assessments made for the costs of administering such vaccines to patients—

"(i) prominently display information that indicates that no individual will be denied a vaccine made available under this section because of the inability of such individual to pay for the costs associated with the administration of such vaccine by the provider; and

"(ii) base such assessments on the ability of the patients to pay, consistent with applicable State requirements;

"(C) provide the State with information concerning the number of individuals treated with such vaccines; and

"(D) carry out any other activity determined appropriate by the State.

"(3) REPORTS.—A State that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the findings of the State with respect to any decrease, during the period for which the report is prepared, in the number of individuals referred by private health care providers to public providers for immunization purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1993 through 1995.

"(f) REPORT.—Not later than September 30, 1995, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the demonstration program established under this section. Such report shall include an assessment of whether the number of individuals referred by private health care providers to public providers for immunization purposes decreased in States awarded grants under this section during grant years.".

(b) SOCIAL SECURITY ACT.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end thereof the following new section:

"PRIVATE PROVIDER VACCINE PURCHASE DEMONSTRATION PROGRAM

"SEC. 1931. (a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which grants will be awarded to eligible States to enable such States to purchase vaccines for distribution to and use by private health care providers and to provide such providers with increased reimbursements for immunization services provided under this title.

"(b) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to a State unless the State agrees to maintain the expenditures of the State for activities of the type described in subsection (d), at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(d) USE OF AMOUNTS.—

"(1) IN GENERAL.—A State shall use amounts received under a grant awarded under this section to—

"(A) purchase vaccines (in addition to those vaccines that such State would otherwise purchase), and distribute such vaccines at no cost to private health care providers, on a use and replacement basis, for the immunization of children who are eligible for medical care under this title; and

"(B) provide increased reimbureements under this title to private health care providers with respect to immunization services for which reimbursement is provided under this title.

"(2) REQUIREMENTS OF PROVIDERS.—A private health care provider that receives vaccines purchased by the State under this section shall—

"(A) provide the State with information concerning the number of individuals treated with such vaccines; and

"(B) carry out any other activity determined appropriate by the State.

"(3) REPORTS.—A State that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the findings of the State with respect to—

"(A) any decrease, during the period for which the report is prepared, in the number of individuals referred by private health care providers to public providers for immunization purposes;

"(B) any increase in the number of individuals immunized under this title; and

"(C) any savings achieved by the State in the expenses of such State under this title.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1993 through 1995.

"(f) REPORT.—Not later than September 30, 1995, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the demonstration program established under this section. Such report shall include an assessment of—

"(1) whether the number of individuals referred by private health care providers to public providers for immunization purposes decreased in States awarded grants under this section during grant years: and

"(2) the potential savings under this title with respect to immunized children.".

SEC. 8. NATIONAL FUND FOR DISEASE OUTBREAK CONTROL.

Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)) is amended—

(1) in paragraph (1)(A), by inserting "as provided in paragraph (3), and except" after "Except"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) There are authorized to be appropriated $20,000,000 for fiscal year 1993, and each fiscal year thereafter, to be deposited in the National Fund for Disease Outbreak Control established under subparagraph (B).

"(B) The Secretary shall establish and administer a National Fund for Disease Outbreak Control. Such Fund shall be used by the Secretary to provide additional resources to enable the Centers for Disease Control to control the outbreaks of diseases requiring additional vaccine purchases.

"(C) Upon the determination by the Secretary that an unanticipated disease outbreak of the type described in subparagraph (B) occurs, the Secretary shall utilize the Fund established under such subparagraph to provide the Centers for Disease Control with the resources necessary to control the spread of such disease through the implementation of necessary preventive measures, including the reimmunization of children in disease-affected areas who have not yet received the recommended second-dose immunization against the disease.

"(D) Amounts appropriated under this paragraph shall remain available without fiscal year limitation.".

SEC. 9. SUPPORT FOR SPECIAL VACCINE RESEARCH.

Section 2102(a) of the Public Health Service Act (42 U.S.C. 300aa-2(a)) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RESEARCH.—The Director of the Program shall make appropriations available to appropriate Federal agencies to enable such agencies to carry out special research with respect to—

"(A) the development of vaccines that are safe and effective in younger infants and newborns;

"(B) the development of vaccine combinations to decrease the number of injections and required vaccine provider visits; and

"(C) the development of new vaccines, including vaccines for chicken pox and rotovirus strains common throughout the United States.".

SEC. 10. CENTERS FOR DISEASE CONTROL PROGRAM GUIDANCE.

The Centers for Disease Control shall develop a program guidance for all entities receiving a grant under this Act (or the amendments made by this Act), or any other childhood immunization grant under the Public Health Service Act, that shall require, as a condition of receiving such grants, that such grantees describe in detail the objectives, and plans for achieving such objectives, of such grantees and the specific activities to be undertaken by such grantees to reach out to high-risk populations for immunization purposes. Such program guidance shall also require such grantees to submit end-of-year reports to the Director of the Centers for Disease Control describing the success of such grantees in achieving such objectives and in carrying out such plans.

SEC. 11. REPORT.

Not later than 6 months after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the immunization status of preschool and school-aged children nationwide. Such report shall contain a description of the major impediments to the attainment of desired levels of immunization and recommendations for necessary programmatic, policy and legislative changes.

Summary of the Comprehensive Child Health Immunization Act

Purpose: To increase childhood immunizations.

Section . I—Implement the Standards for Immunization Practices published by the Centers for Disease Control (CDC) under the auspices of the National Vaccine Advisory Committee.

Many of the standards call for elimination of unnecessarily restrictive policy barriers to immunizations which will not require added resources. Others, such as standards calling for clinic staff to give one-to-one information to parents; expanded hours of operation; and for staff to create record systems to track immunization status, will require use of additional funds. CDC, in conjunction with the National Vaccine Advisory Committee and grantees, is in process of developing standards to be completed and promulgated by spring 1992.

1. Change Practice Restrictions in Public Immunization Programs.

Background: Administrative requirements of many public clinic immunization programs frequently make immunizations less accessible to children. Although these restrictions are well meaning, public and private health providers widely agree that they have no valid medical basis and should be eliminated. These barriers include, among others: requirements of advance appointments and physical exams, physician referral, enrollment in well-baby clinics, multiple visits for all vaccinations due at the same time, use of false medical contra-indications to deny vaccination.

Legislative Proposal: Require the Secretary of the Department of Health and Human Service (HHS) to designate those standards which may be implemented in the public sector without reliance on additional resources by six months following enactment of this legislation, and require compliance with them, in all HHS-funded programs, within one-and-a-half years after enactment. Such programs conduct public-sector activities that operate immunization and social service programs and support private sector immunizations either through Medicaid reimbursement or receipt of vaccines from entities which purchased them through CDC grant funds. States which have received federal funds and used them to provide vaccines would be required to assure adherence to these standards by recipients. Require HHS to build on current audit procedures to assure compliance with these standards.

2. Increase funding authorization to implement the remaining standards that require more resources.

Legislative Proposal: Authorize such sums as necessary in FY 1993, 1994 and 1995 for the programs established under the Public Health Service Act to permit CDC to support the additional operational activities of public immunization sites, supported with CDC funds, needed to come into compliance with the CDC practice standards relating to infrastructure changes.

Section II—Utilize enrollment in, and interaction with, other federal public programs to increase immunizations.

Background: Studies have shown that about one-third of unvaccinated measles patients had one or more previous health service contacts—visits with providers that were missed opportunities for vaccination. Many inner-city preschool children are in regular contact with public assistance programs which see families each month. Yet state welfare enrollment, and periodic visits to welfare office by clients, do not incorporate screening of immunization status of children.

Legislative Proposal: Require HHS and the Department of Agriculture, in conjunction with appropriate groups, to develop questions about immunization status and medical history, and provide information on vaccine risks and benefits and where to obtain immunizations, for use by states in enrolling and recertifying individuals in the Aid to Families with Dependent Children (AFDC), Medicaid, and Women, Infants and Children (WIC) programs. Such questions should be incorporated into existing procedures and forms. These questions should be administered, and the information provided, also to recipients of services given in federally administered health and social services programs such as those funded by maternal and child health, prevention and Title XX social services block grants or rendered in community and migrant health centers. The questions and information will be developed for use within one year after enactment.

HHS will also develop referral procedures across federally-supported programs one year after enactment, and require states to develop such procedures for state-administered programs as well as a plan for transportation assistance to Medicaid-eligible children.

Section III—Assess and Improve Immunizations in Child Care Programs.

Background: States receive federal funds to assist child care programs under at least five different programs. Two of these assist current or former AFDC recipients who are in transition to employment ("welfare to work" and "at risk" programs) by providing payments vouchers or placements of their children in child care. Another supports child care through social services block grants under Title XX of the Social Security Act. A fourth assists food programs in child care and family day care centers that serve poor children, under the National School Lunch Act. The fifth supports child care centers, as well as group, in-home and family day care programs for poor children under the Child Care and Development Block Grant Act.

Legislative Proposal: Require states, as a condition of receiving funds under these programs, to mandate that recipients of the funds, including child and family day care centers, assess the up-to-date immunization status of all children they serve and provide information as described in Section II. This requirement will be effective six months after enactment.

Section IV—Increase Outreach and Access to Immunizations.

Background: Funding is needed to enable HHS to support innovative approaches to increasing access to immunizations.

1. In September 1991 HHS announced it had identified and would provide technical assistance to six local areas to develop plans that will improve access to immunizations. These plans have not been funded for complete implementation, however, and replication in other locations of any activities that succeed will not be possible without federal assistance.

2. In addition to the need for greater support of the immunization delivery system is the need for more widespread consumer educational materials to increase parental desire to have children immunized. Although existing coalitions, representing private organizations devoted to improving the nation's immunization levels, may succeed in gaining philanthropic and corporate funding to develop such materials, success will require use of government financial assistance, as well.

3. The Early and Periodic Screening Diagnosis and Treatment (EPSDT) program, established under Title XIX of the Social Security Act, requires state Medicaid agencies to ensure that the health status of Medicaid-eligible children is checked regularly. This program has not required states to track the immunization status of children, however, or to contact parents to urge them to have their children vaccinated.

Legislative Proposal: 1(a). Authorize a program of demonstration grants under the Public Health Service Act, totaling $20 million in FY 1993, $25 million in FY 1994, and $30 million in FY 1995, to be used by the six model communities in order to fully implement their plans. These plans include such activities as opening "express" lanes in clinics for vaccinations; providing vaccinations in hospital emergency rooms, in home visits, in day care/child care, Head Start and WIC centers, and in schools; and activating mobile vaccination teams. The results of these model plans will be distributed and used in planning activities in other areas that will improve access to immunizations.

1(b). Authorize $30 million in FY 1993, $40 million in FY 1994, $50 million in FY 1995, and such sums as may be needed thereafter, to permit CDC to assist local innovative programs designed to increase access to immunizations.

2. Authorize new funds under the Public Health Service act, such sums as necessary in FY 1993, to finance the development and distribution by HHS of consumer educational materials on childhood immunizations to a wide range of types of facilities, such as hospitals, employment sites and community centers.

3. The HHS Secretary will amend regulations for the EPSDT program to require states to make aggressive outreach efforts in contacting parents about immunization and tracking children's immunization status, using information submitted to states by

medical providers seeking Medicaid reimbursement.

Section V—Create a Comprehensive Immunization Tracking System through a Nationwide Registry.

Background: 1. The last time a comprehensive national survey of immunization was conducted was in 1985. This year an immunization assessment of all children is included as part of the National Health Interview Survey conducted for the National Center for Health Statistics. This surveillance system of age-specific vaccination rates should be maintained to help monitor compliance with recommended immunization schedules. In the past, the funding for the inclusion of this assessment in the survey has come from CDC operational funding.

2. State computerized tracking systems are needed to permit all providers to accurately assess immunization status each time a child has a medical encounter, as well as to compile national statistics on levels of immunization across the country. Presently, assessment of a child's status depends on the memory or records available from a parent, except when all vaccinations have been done by one provider. The basis for data systems exists through vital statistics records and birth certificate information. CDC plans to assist several cities this year to participate in a demonstration of tracking systems and some of the cities indicate they cannot initiate such systems without outside funding.

Legislative Proposal: 1. Create a new, permanent authorization for the CDC immunization program of $500,000 for FY 1993, and such sums as may be needed in years thereafter, to enable the agency to pay for the cost of using the next national survey. The results of the survey regarding immunization should be published in a timely manner.

2. The HHS Secretary will establish a research and demonstration program under the Public Health Service Act which ultimately will lead to full development of an interstate computerized registry which can be widely used by both public and private providers. Information in the registry will come from medical providers and state entities, such as vital records diversions. HHS will ensure that such demonstrations protect confidential information about children and are coordinated with CDC's existing methods of data gathering.

For FY 1993, demonstration grants to states or appropriate organizations will be authorized, totaling $12 million, to identify appropriate mechanisms for collecting, updating and maintaining data and effective means of accessing it. The demonstration programs will include a means of tracking the immunization status of children in the EPSDT program and will be coordinated with program under Section IV. The Secretary will make annual reports to Congress on the results of various state tracking methods until a nationwide tracking system is fully operational.

An authorization of $20 million will be created in FY 1994, and $30 million in FY 1995, for HHS to assist states or appropriate organizations to purchase computer equipment and software, where necessary. The purpose of the authorization is to make computer tracking effective and full integrated across all states through HHS, in order to make the data nationally available.

Section VI—Demonstrate New Purchase and Distribution Methods.

Background: The cost of vaccination in physician office is too high for many middle-income parents, due to market prices of private-sector purchase. Therefore, an increasing number of parents seek immunizations for their children at already burdened public clinics, often interrupting the coordination of children's preventive care. States now purchase approximately half of the vaccines administered to children in the public sector; the balance of vaccines administered in the public sector in provided with federal funds. Most state purchases are at a more favorable price than private providers can obtain because they are made under contracts between CDC and manufacturers. If states were to increase their purchases through the CDC contract in order to distribute vaccines to private providers at no cost, they could expect to recover part of the cost of doing so through avoidance of Medicaid reimbursements to private providers. In addition, if private providers were more fully reimbursed for Immunizations under Medicaid, more physicians might participate and more children get immunized.

Legislative Proposal: To reduce the financial disincentive to receiving immunizations at physician offices, or other private facilities, HHS will develop two demonstration programs to be carried out over three years. Funding for these programs will be authorized at $5 million for each program in each of the three years. One will examine two mechanisms for increasing immunizations of Medicaid-eligible children in the private sector; the other will demonstrate whether vaccines made available to physicians at no cost will bring a substantial number of non-welfare children back to the private physician for immunization, and relieve the burden on public clinics. The cost-effectiveness of the different approaches will be assessed. For both demonstrations, funds will be authorized under the Public Health Service Act.

1. In the first demonstration, participating states will use grant funds from the Health Care Financing Administration to: 1) increase Medicaid reimbursement rates to private providers and, 2) purchase additional vaccines to give to private providers—on a use and replacement basis—who immunize children covered by Medicaid. The demonstration will examine, among other things, the degree of increased immunizations among children eligible for Medicaid and, in the second part, the potential savings to Medicaid.

2. In the second demonstration, participating states will use immunization grant funds provided by CDC under the Public Health Service Act to purchase additional vaccines to give to private providers for any and all immunizations. The demonstration will assess possible decreased referrals to public clinics from the private sector.

In the second demonstration, although providers will not be allowed to charge for the cost of vaccines, they will be allowed to charge for administration of vaccines, based on ability to pay or consistent with state requirements. If providers charge for administration, they will prominently display information which indicates that no one may be denied vaccine provided by the federal government for failure to pay the administration fee or failure to make a donation to the provider.

Section VII—Establish a national fund for outbreak control.

Background: When a disease outbreak occurs, emergency appropriations must be provided and often this does not happen fast enough.

Legislative Proposal: Under the Public Health Service Act, authorize an amount of $20 million each beginning in FY 1993, to be placed in a permanent reserve fund for use when unanticipated outbreaks require CDC to purchase additional vaccines. In those instances, as determined by the HHS Secretary, the fund could be used for the re-vaccination of children in affected areas who have not received the second dose recommended against measles, mumps, and rubella, or as the Secretary deems necessary.

Section VIII—Support special research.

Legislative Proposal: Authorize such sums as necessary to the National Vaccine Program within HHS to dispense to appropriate federal agencies for special research. This research will be for the purpose of: 1) developing vaccines that are safe and effective in younger infants and, ideally, newborns; 2) developing vaccine combinations to decrease the number of injections and visits required; and 3) developing new vaccines, including vaccines against chicken pox and rotoviruses common in the U.S.

Section IX—Report to Congress.

Legislative Proposal: The HHS Secretary will report to Congress six months after enactment, and annually thereafter, on the immunization status of pre-school and school-age children nationwide, describing the major barriers to attaining desired levels of immunization and identifying necessary programmatic, policy and legislative changes.●

By Mr. SASSER (for himself, Mr. Moynihan, Mr. Riegle, Mr. Sanford, Mr. Sarbanes, Mr. Pryor, Mr. Hollings, Mr. Simon, Mr. DeConcini, Mr. Graham, Mr. Rockefeller, Ms. Mikulski, Mr. Dodd, Mr. Wirth, Mr. Glenn, Mr. Adams, Mr. Metzenbaum):

S. 2117. A bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses; pursuant to the order of August 4, 1977, referred jointly to the Committee on Budget and the Committee on Governmental Affairs.

SOCIAL SECURITY SERVICE PRESERVATION ACT OF 1991

Mr. SASSER. Mr. President, I rise today to introduce a vital piece of legislation: the Social Security Preservation Act of 1991. I am pleased to have as original cosponsors Senators Moynihan, Riegle, Sanford, Sarbanes, Pryor, Hollings, Simon, DeConcini, Graham, Rockefeller, Mikulski, Dodd, Wirth, Glenn, Adams, and Metzenbaum.

The Social Security system is perhaps the most important program that is administered by the Federal Government. Social Security represents a sacred trust between the US Government and its citizens. It provides benefits to 40 million beneficiaries and it takes 3.6 million new applications every year.

The Social Security Program is administered by the Social Security Administration—SSA in shorthand. Unfortunately, in 1985, the President set in motion the termination of 17,000 SSA positions over a 6-year period ending in 1990. This action has had very adverse impacts on service to Social Security beneficiaries and applicants.

The Social Security Disability Program now has a backlog of more than

600,000 cases pending. Even if the entire amount requested by the President for 1992 is appropriated, the backlog will grow to 700,000 by the end of 1992. In an unprecedented disclosure, a press release accompanying the President's budget this year acknowledged that the applications of disabled Americans could require as much as 6 months to process by the end of 1992, even if the Congress approved the full amount of the President's budget request for SSA.

Just think of that. Some of the most vulnerable Americans—those who are completely disabled and cannot hold a job—have to wait 6 months to get Social Security benefits that they are entitled to by law. And all because the President and his advisers slashed the number of people working for the Social Security Administration over the last 6 years or asked for insufficient funds to pay for its activities. This is unjust and unfair.

But this is just the beginning. The pending number of hearings and appeals rose from 154,000 in late 1989 to 187,000 in August. Why? Because there are not enough staff and not enough other resources.

There has been a severe problem with telephone service. In a misguided attempt to solve this telephone service difficulty, SSA attempted to switch to one 800 number for the entire Nation and make it impossible for people to call their local offices. But there are not enough people to answer the 800 number. During peak periods in February, the busy signal rate was 74 percent; during nonpeak periods in the same month the busy signal rate was 64 percent. This is unacceptable. And in efforts to reduce this busy signal rate, SSA is switching staff out of handling Social Security claims in order to answer the 800 number. They are robbing Peter to pay Paul.

Manpower shortages are so severe that there are not enough people to train new claims representatives. In years past a new worker was given at least 13 weeks of training. This made sense because the Social Security rules and formulas take up 26 huge volumes. But now workers receive a maximum of only 10 weeks of training. Some workers are receiving no formal training. This is obviously unacceptable.

I could go on, but I think the point is clear. The unwarranted cutbacks in Social Security staff and resources have resulted in significant reductions in service to the public. And the problem has been compounded because OMB has repeatedly refused to release contingency funds appropriated for the agency by the Congress.

Fortunately, there is a solution. The Social Security Administration needs more money to hire additional staff and to have greater resources available. But as I will show in a moment, Social Security is competing with all other domestic appropriated programs for scarce funds. My legislation would eliminate this competition, enabling sufficient funding so that Social Security service to the public can be restored to needed levels.

Why are Social Security Administrative costs forced to compete with all other domestic appropriated programs for scarce dollars? Did not the Congress enact a law last year completely removing Social Security from the budget?

Congress certainly did enact a law last year that did just that. The law was very clear: for all budgetary purposes, Social Security was to be excluded. In particular, Social Security was to be excluded from the caps or limits that were placed on total domestic appropriations in each year.

But the Office of Management and Budget made the dubious legal decision that Social Security administrative costs were not excluded from the caps. As a result Social Security administrative money must compete with all other domestic appropriations for funding. Given the very tight limits on domestic spending and the significant unmet domestic needs in this country, it is small wonder that Social Security does not get enough money to provide adequate service to the public.

The legislation I am introducing today would fix this problem. It would make it clear in statute that Social Security administrative expenses must be excluded from the domestic discretionary spending caps. In this way the Social Security Administration could be given the amount of funding necessary to provide needed services to the public.

Social Security administrative expenses would not be completely unrestricted. To maintain budgetary control, these funds would be subject to the Social Security firewall, which already provides budgetary controls on all Social Security benefits and revenues. The legislation makes clear the precise manner in which administrative costs would be subject to this firewall.

We must protect the Social Security system in full. Full protection means that beneficiaries and applicants must receive adequate service. This legislation will make it possible to ensure that service. I strongly urge my colleagues to support this legislation.●

● Mr. SANFORD. Mr. President, I am pleased to be a cosponsor of this important legislation to remove Social Security administrative funds from the Federal budget. This was what Congress intended last year when legislation removing Social Security trust funds from the deficit calculations was approved. I thought we had made a clean break, but the Office of Management and Budget determined that administrative costs would not be removed, and instead would be counted under the domestic discretionary cap.

This administration, as was the case with the previous administration, likes to be creative with trust fund money. This creativity continued in the President's fiscal year 1992 budget proposal by counting Social Security administrative money as domestic discretionary money. This administration wants to pit Social Security, a program that more than pays for itself against Head Start, public health services and many other important underfunded nontrust fund programs. Where is the logic in that?

My staff spends an enormous amount of time helping people in North Carolina with Social Security problems. Most of these problems could be prevented if Social Security offices had enough manpower to get the job done. There are fewer offices to help people, and fewer people within those offices that remain. The problem may be as simple as getting through to the new 800 number to get a question answered. "Why is it taking so long?" is a question I get often as I move around the State. Well the answer is that during the past decade insufficient funding has created larger and larger backlogs and more problems for citizens and workers alike. And these problems are getting worse.

To hold Social Security administrative funds hostage under a domestic discretionary spending cap only makes matters worse. President Bush should not be doing this, and I am pleased to cosponsor legislation to end this unfair practice.●

● Mr. SARBANES. Mr. President, I rise today in strong support of the Social Security Service Preservation Act introduced by the distinguished chairman of the Budget Committee. I am proud to join him as an original cosponsor of this important piece of legislation.

Last year, we removed Social Security from the Federal budget and exempted what is this Nation's largest and most important service delivery program from the constraints of the Budget Enforcement Act. When the Senate supported this change by a vote of 98 to 2, it was unknown that language in another provision of the Budget Act raised some question as to whether the off-budget status of the Social Security Program included the administrative costs of the Social Security Administration. Clearly the intent of the legislation we passed last year was to have the entire program off budget. The bill offered by the Senator from Tennessee will clarify this by removing the administrative costs of the Social Security Administration from the discretionary spending limits in the Budget Enforcement Act and by reducing the spending caps accordingly.

Mr. President, I am privileged to represent the tens of thousands of Federal employees who are at the heart of Social Security operations. They represent the finest and best-trained employees found anywhere in our civil service. However, the budget cuts and staff reductions of the last two administrations have deprived these dedicated employees of the resources they need to provide adequate services to Social Security beneficiaries. Recent studies cited by the Senator from Tennessee indicate how these services have suffered under the pressure of dwindling resources.

This is not the first time I have taken the floor urging that we ensure that the Social Security Administration has sufficient resources to meet the needs of the public. In 1987, I authorized the Federal Government Service task force to study the service provided by the Social Security Administration through a survey of congressional caseworkers. The study revealed that, notwithstanding the diligent efforts of an overworked, underfunded staff, there existed a gross deficiency in service delivery. In fact, the problem of insufficient and declining service is such that I currently have legislation before the Senate to ensure that Social Security service offices are not closed unnecessarily.

The legislation introduced by Senator SASSER is critical to the effort of restoring Social Security services to an acceptable level. It would clarify the intent of last year's Budget Enforcement Act that the administrative costs be excluded from Federal budgetary constrictions. Most importantly, this legislation will help to ensure that this Nation's most important domestic program has the resources necessary to deliver its vital services to the public.

Mr. President, I commend the Senator from Tennessee for his work on this important issue. I urge my colleagues to support this legislation; and I yield the floor.●

● Mr. RIEGLE. Mr. President, today I am pleased to join with Senator SASSER, Senator MOYNIHAN and others in introducing legislation to remove the administrative expenses of the Social Security Program from the discretionary caps established under last fall's budget summit agreement. As a member of both the Senate Budget and Finance Committees, I strongly believe that the administrative costs of the Social Security Program should be treated in the same way as the old age, survivors, and disability insurance trust fund.

As my colleagues are aware, Social Security is a self-financed program, funded entirely from a dedicated payroll tax. I was a strong advocate in the early 1980's of removing Social Security from the Federal budget because there were some people who wanted to cut Social Security benefits to balance the budget. I felt it was important to protect the benefits that people had earned and eliminate once and for all the temptation to use Social Security funds for purposes other than those for which they were intended. The old age, survivors, and disability insurance trust funds were finally taken out of the Federal budget in 1985 as part of the original Gramm-Rudman-Hollings law.

Despite this action, Social Security continued to be counted toward the deficit calculations under Gramm-Rudman-Hollings. As my colleagues are well aware, the Social Security trust funds are currently running a surplus—this year it's going to be $63 billion according to the Congressional Budget Office [CBO]. When these surpluses are included in the deficit calculations, they make the operating deficit of the Federal Government look much smaller than it actually is. That's why we took the step last year of removing Social Security from the deficit calculations under Gramm-Rudman. When we did this, we believed we were taking all of Social Security, including the administrative expenses, out of these calculations.

Providing adequate levels of funding for administrative expenses is essential for the smooth operation of the Social Security Program. Currently, the administration of Social Security programs is hampered by the budgetary limits placed on the administrative expenses. For example, right now it takes anywhere from 2 to 6 months for the State disability determination services to make a decision on applications for disability benefits. People are waiting 6 to 14 months in some cases for a decision on an appeal to an Administrative Law Judge; in some cases people are waiting over 1 year just to get a hearing. And it's not just the disability program that is affected, seniors have been hurt by the problems at SSA. The entire system is fraught with delays, and services have deteriorated.

If the administrative expenses are treated as domestic discretionary spending and subjected to the spending caps enacted last fall, as the Office of Management and Budget [OMB] has indicated it intends to do, these funds could be subjected to any across-the-board cuts triggered if spending exceeds the levels set under the caps for this area of spending. This risk is unwarranted and unjustified. First of all, these expenses are paid directly by the trust funds, not from general revenues. And keeping the administrative costs on-budget is not what we intended last year when we took Social Security—all of it—out of Gramm-Rudman.

Mr. President, Social Security, including the administration of the program, is not contributing to the Federal budget deficit in any way. In order for the program to be run smoothly and for senior citizens and disabled persons to receive the benefits to which they are entitled, it is essential that the administrative aspect of the program be fully funded, and not subject to political manipulation. I urge our colleagues to join us in supporting this legislation to clarify the intent of Congress in this area.●

By Mr. D'AMATO:

S.J. Res. 236. Joint resolution designating the third week in September 1992 as "National Fragrance Week"; to the Committee on the Judiciary.

NATIONAL FRAGRANCE WEEK

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation designating the week beginning the second Sunday in September as "National Fragrance Week."

"National Fragrance Week" is the offspring of the Fragrance Foundation based in Manhattan. The Fragrance Foundation is responsible for many outstanding community and industry-wide contributions. They are a nonprofit organization geared toward education and community outreach. Not only does the foundation offer a central library and support international sensory research, it also participates in the mentor program at the Fashion Institute of Technology. Additionally it is an ardent supporter of Fragrance Gardens for the Blind. The Fragrance Forum, the foundation's quarterly newsletter, keeps the industry up to date on trends and activities.

The city of New York has had an annual celebration of Fragrance Week since 1987. Fragrance Week is marked by a mayoral proclamation and citywide celebrations. This year, the Fragrance Foundation and I seek a nationwide celebration during the third week of September 1992.

Mr. President, I ask unanimous consent that the text of my joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 236

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the Fragrance Foundation, a nonprofit educational organization, has grown and prospered since its establishment in 1949;

Whereas the Fragrance Foundation's goals are to advance the understanding and enjoyment of fragrance, one of humankind's greatest sensory pleasures, and to explore through scientific inquiry the therapeutic benefits of fragrance;

Whereas fragrance has the power to evoke memories, reduce anxiety, increase alertness, and elevate the spirits;

Whereas the fragrance industry employs more than 1,000,000 people and generates more than $4,000,000,000 in sales in the United States;

Whereas the Fragrance Foundation has celebrated the observance of Fragrance Week each year since 1987 and wishes to expand the festivities of Fragrance Week into a nationwide celebration; and

Whereas on September 13th, 1992, the Fragrance Foundation will inaugurate a nationwide educational effort through the leading retailers of the United States to acquaint the people of the United States with the benefits and pleasures of fragrances: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in the Congress assembled, That the week beginning September 13th, 1992, is designated as "National Fragrance Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.•

By Mr. DASCHLE:

S.J. Res. 237. A joint resolution proposing an amendment to the Constitution of the United States to set the compensation of services for Members of Congress, and for other purposes; to the Committee on the Judiciary.

COMPENSATION OF SERVICES FOR MEMBERS OF CONGRESS

• Mr. DASCHLE. Mr. President, public confidence in Congress as an institution is near an all-time low. That is understandable given the recent attacks from the President, the media, and certain members of the House and the Senate.

Some of the criticism is fair, some of it is not. But the need for constructive change cannot and should not be ignored.

As someone who believes in the constitutionally designated role of this institution, I am convinced that we have to take serious action to address this decline in public confidence by attacking its root causes. If people cannot trust that Congress will serve the national interest rather than individual Members' interests, if people cannot believe that their voices will be heard above the fray of partisan politics, then the very principles that drive our democratic system are threatened. We cannot have a government "of the people, for the people, and by the people" if the people do not believe or participate in it.

How do we restore public faith in our Government? There is no quick fix, and at least some of the responsibility lies with those who use cheap shots to denigrate the institution for short-term political gain or increased newspaper sales. But there are several things we in Congress can and must do to protect the integrity of this institution—not because it is "ours," or because we might be affected in the next election, but because our democracy depends on it.

First, we must acknowledge our faults. Although some of the attacks on Congress are arguably unfair or misleading, they would would not be so harmful if we did not create fertile ground for them. We, as an institution, have our problems, and we should acknowlege them honestly and do our best to correct them.

Second, we must fight the tendency to allow style and symbolism to overtake substance. The real problems in America are all too often neglected in favor of petty politics or symbolic speeches.

Third, we must, I am convinced, enact serious campaign finance reform. The long reach of special interests must be withdrawn and replaced by greater citizen participation in the electoral process.

Finally, we must develop a package of internal reforms to ensure that we avoid even an appearance of conflict of interest. There are several proposals already under consideration. Over the next few months. I will be introducing a package of legislation to initiate several reforms I believe are key to restoring the public trust in Congress.

Today I am introducing the first pillar of that package—the Congressional Pay Limitation Amendment. This joint resolution would amend the Constitution to ensure that Congress does not establish its own pay.

Instead of giving itself pay raises, Congress's pay would rise or fall with the income of the average American family. Not only would Congress be removed from pay decisions, Member's pay would be indirectly based on their performance in addressing our national economic issues, since improvements or declines in our economic strength would bring with them corresponding increases or decreases in congressional pay. The amemdment reads: "The Congress shall make no law affecting the compensation for services for Members of Congress. On January 1, of each year of the first session of a Congress, the compensation of Members of Congress shall be adjusted to correspond to any increase or decrease in the median income of all citizens of the United States."

In the near future, I will be introducing two other pieces of this package: first, a bill to eliminate congressional perks; and, second, a bill to ensure congressional coverage under workplace laws.

Congress is, by definition, the people's body. Taxpayers should not be required to subsidize special privileges or benefits for Members of Congress that are unrelated to the conduct of their official duties.

As for workplace laws, I have long believed that if Congress makes a law, we should live by it. The Grassley-Mitchell amendment to the Civil Rights Act of 1991 brought the Senate into compliance with antidiscrimination laws, and I look forward to working to ensure that all other appropriate laws also cover Congress.

Finally, it is necessary to overcome the public perception that the Senate is becoming an anachronism in the modern age. The feeling—within and outside of the Senate—that it is becoming increasingly difficult to accomplish substantive policy goals, is pervasive. We need to begin an earnest review of Senate rules to determine whether or not changes can be enacted to facilitate genuine debate and policymaking in the Senate.

No doubt there are other reforms that may prove necessary. We should remain open to them, and I look forward to working with my colleagues from both parties to bring some badly needed changes to help restore the people's trust in the people's government.

There being in objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 237

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE

"The Congress shall make no law affecting the compensation for services for Members of Congress. On January 1, of each year of the first session of a Congress. the compensation of Members of Congress shall be adjusted to correspond to any increase or decrease in the median income of all citizens of the United States.". •

By Mr. RIEGLE (for himself and Mr. LEVIN):

S.J. Res. 238. A joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week"; to the Committee on the Judiciary.

NATIONAL SENIOR SOFTBALL WEEK

• Mr. RIEGLE. Mr. President, for 7 glorious days in September of next year, in Wayne County, MI, a hearty group of people will participate in a softball tournament. Now a softball tournament is not a particularly exceptional event, a lot of people—some 32 million—play softball. What makes this particular tournament different is the age of the participants: they all will be at least 50 and they will be playing in the Seniors Softball World Series. In honor of this wonderful project, today I am introducing a joint resolution to designate the last week of September 1992 as National Senior Softball Week.

The idea for the Seniors Softball World Series began in 1985 with Mr. Ken Maas and Ms. Jacqui Jolly. They established the National Association of Senior Citizen Softball [NASCS], and I am proud to say that they founded it in Michigan. The NASCS is the only national organization promoting senior softball; teams from around the United States and Canada know the work of the NASCS. The first NASCS tournament, held in Clinton Township, MI, attracted 12 teams. The following year 21 teams participated and the year after that, 30 teams.

The success of the NASCS tournament caught on and in 1988, Mr. Maas, working with the Sporting Goods Manufacturers Association, established Seniors Softball World Series, Inc. The first Seniors Softball

World Series was held in Greensboro, NC, in 1989 with 68 teams. Since then, this Fall Classic has been played in Scottsdale, AZ, and Palm Beach County, FL. The event continues to grow—in 1991, 83 teams participated in the Seniors Softball World Series.

Mr. President, the growth and success of the NASCS and the Seniors Softball World Series provides further evidence of the energy and joy that seniors bring to this country. Every day we hear about or see examples of seniors throwing out the myth that getting older means you have to give up staying active. Seniors Softball also promotes an atmosphere of friendly competition and physical fitness among older americans. The NASCS also promotes international harmony; twice, teams from the NASCS have made road trips to the United Kingdom to share with them this uniquely American game. I urge my colleagues to acknowledge the spirt of our seniors by joining me in supporting this resolution.•

By Mr. DECONCINI:

S. 2118. A bill to create a Department of the Treasury Forfeiture Fund; to the Committee on Finance.

DEPARTMENT OF THE TREASURY FORFEITURE FUND

• Mr. DECONCINI. Mr. President, today I rise to introduce legislation, along with my colleague from Maryland, Senator MIKULSKI, to establish a Department of the Treasury forfeiture fund.

Mr. President presently, there are two Federal law enforcement forfeiture funds into which agencies of the Department of Justice and Treasury deposit receipts from forfeitures assets seized through drug, currency and customs violations: The Department of Justice assets forfeiture fund, and the U.S. Customs forfeiture fund. The Internal Revenue Service [IRS], the U.S. Secret Service and the Bureau of Alcohol, Tobacco and Firearms [ATF], law enforcement agencies of the Treasury Department, deposit all the proceeds for assets seized under violations of the laws they enforce into the Department of Justice Assets forfeiture fund. The Customs Service, on the other hand, has it own fund and deposits its proceeds from assets forfeited from violations of its laws into the Customs forfeiture fund. [The only proceeds for seized assets by Customs which are deposited into the Justice Fund are proceeds from assets seized for violations under 21 U.S.C. 881].

The legislation I am introducing today will allow all of the Treasury law enforcement bureaus to deposit receipts from Secretary of the Treasury. The Customs Service would serve as the management agent for the other bureaus by managing the seized property program and serving as the management agent for the fund itself.

This legislation provides a permanent indefinite appropriation for all costs related to seizures, awards of compensation to informants, satisfaction of liens, remission and mitigation payments, claims of parties in interest to certain low value property disposed of under 19 U.S.C. 1612(b), the expense of training related to seizure and forfeiture, and costs of certain experts and consultants.

A capped amount of $100 million would be available during each fiscal year for certain purposes including: publication of availability of moiety payments; payment of certain costs of joint operations with Treasury bureaus; payment of the attributable costs of the IRS Detroit Data Center.

The uncapped portion, estimated at $200 million, would be available for a number of other critical law enforcement needs including: equipment for vessels, vehicles or aircraft and other equipment related to seizure and forfeiture; purchase of evidence or information regarding violations of laws enforced by the Treasury law enforcement bureaus; reimbursement of private persons for expenses incurred by such persons in cooperation with Treasury law enforcement bureau investigations and to offset the necessary and reasonable costs of undercover operations.

This legislation would also authorize equitable sharing payments, out of the uncapped portion of the fund, to State and local law enforcement agencies based upon their participation in joint operations. Subject to State Department approval, the Treasury fund would make similar payments to foreign law enforcement agencies. The Department of the Treasury would have control over the amount paid out and the procedures used to determine the criteria for payment.

In an April 1991 article in The Police Chief, entitled "Equitable sharing of Federal Forfeiture Proceeds", George J. Terwilliger III, Associate Deputy Attorney General, U.S. Department of Justice, wrote:

> By all accounts, the sharing of federal forfeiture proceeds with cooperating state and local law enforcement agencies has been a dramatic success. In fact, in the past five years, more than half a billion dollars has been shared with cooperating state and local law enforcement officials—more than an eight fold increase over the fiscal year 1986 level of $22.5 million. Sharing in fiscal years 1990 had risen to $200 million. The prospects for continued growth of the program are excellent.
>
> Forfeiture proceeds are most effectively used to identify, investigate and prosecute more criminals.

While the Justice Department statistics are impressive, I want to point out to this body that one small Treasury Bureau, the Customs Service, is responsible for contributing over $224 million during the last 5 years in equitable sharing payments to State and local law enforcement agencies through its Customs forfeiture fund.

In addition to fostering improved relations between Federal, State and local law enforcement agencies, these equitable sharing transfers have helped agencies expand the number of criminal investigations; modernize their motor fleets; purchase computers and other high technology equipment, as well as new weapons and protective equipment; salaries and over time expenses; and meet the myriad of other expenses encountered by law enforcement agencies.

Clearly, State and local law enforcement organizations have been and will continue to our overall efforts in combating drug trafficking and crime generally—with equitable sharing playing a central role in expanding the number of criminal investigations undertaken.

Unobligated balances remaining in the fund in excess of $30 million at the end of each fiscal year will be transferred to the Department of Education for activities authorized under the Drug Free Schools and Communities Act. These funds are not intended to supplant normal appropriations for the Department of Education.

Last, Mr. President, this legislation makes changes to title 18 and title 26 to permit Treasury bureaus to seize assets under the provisions of these statutes which they enforce.

Mr. President, there have been concerns expressed in the past about the proliferation of forfeiture funds in the Federal Government. To be clear, this bill will not create an additional fund since one already exists under the Department of Treasury—the Customs forfeiture fund. Upon enactment, there will still only be one fund at the Treasury Department, however it will be one that is diversified with the participation of the three other Treasury bureaus: The Bureau of Alcohol Tobacco and Firearms, the U.S. Secret Service; and the Internal Revenue Service. This fund will, of course, receive oversight from the Secretary of the Treasury.

Having all of the Treasury bureaus participate in a Treasury-wide fund, managed by the Department of Treasury, they will avoid unnecessary communication problems or delays as these agencies have in place a variety of mechanisms for communicating and resolving concerns through their parent cabinet agency. This approach is also preferable to having a forfeiture fund at each individual law enforcement agency—with the accompanying duplication of management overhead and potential for waste, fraud, and abuse.

Mr. President, I have heard considerable testimony over the years as chairman of the Treasury, Postal Service, and General Government Appropriations Subcommittee as well as through the Judiciary Committee on forfeiture funds and related issues.

It is my experience that the Treasury bureaus have not received fair and equitable treatment through the Department of Justice assets forfeiture fund and that such participation has lead to difficulties for the Treasury bureaus. Most recently, I have heard this concern expressed directly from Secretary Brady during his testimony before the Appropriations Committee this last spring as well as from the Treasury law enforcement bureaus. It is my understanding that these difficulties have still not been resolved through direct negotiations and that additional problems continue to arise.

It is my view that having the Treasury bureaus participate in a Treasury fund will lead to a reduction in conflicts between the Treasury and Justice Departments—since the day-to-day forfeiture issues will not have to be resolved across Departmental lines. And, it will allow the two major Federal law enforcement agencies to focus additional time addressing issues associated with the war on drugs and combatting violent crime than on issues associated with the proceeds of forfeited property.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of the Treasury Forfeiture Fund Act".

SEC. 2. DEPARTMENT OF THE TREASURY FORFEITURE FUND.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 9702 the following new sections:

"§ 9703. Department of the Treasury Forfeiture Fund

"(a) IN GENERAL.—

"(1) There is established in the Treasury of the United States a Fund to be known as the 'Department of the Treasury Forfeiture Fund' (hereafter in this section referred to as the 'Fund'), which shall be managed by the Secretary of the Treasury (hereafter in this section referred to as the 'Secretary'). The Fund shall be available to the Department of the Treasury, subject to appropriation, with respect to seizures and forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) by the United States Customs Service, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, and the United States Secret Service (hereafter in this section referred to as the Treasury law enforcement bureaus), and the United States Coast Guard for payment, or for reimbursement to the appropriation from which payment was made, for—

"(A) all costs incurred by the Treasury law enforcement bureaus related to seizures, including costs leading to seizures and all proper expenses of seizures or the proceedings of forfeiture and disposition, and all expenses of inventory, security, and maintenance of custody of the property, advertisement, and disposition of the property, and, if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(B)(i) awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(ii) awards for information or assistance that leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000 for a violation of the provision of the Bank Secrecy Act (except that any such award shall not exceed the lesser of 25 percent of the net amount of the fine, penalty, or forfeiture or $150,000);

"(iii) purchases by—

"(I) the United States Customs Service of evidence or information with respect to violations of drug smuggling, drug trafficking or money laundering statutes;

"(II) the United States Secret Service of evidence or information with respect to violations of any of the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments, or of any of the laws of the United States relating to fraud in or against a financial institution or the Resolution Trust Corporation;

"(III) the Internal Revenue Service of evidence or information with respect to violations of sections 5313, 5314, 5315, and 5324 of this title and of violations of sections 1956 and 1957 of title 18; and

"(IV) the Bureau of Alcohol, Tobacco and Firearms, of evidence or information with respect to violations of section 924(c) of title 18, section 844 (d) through (i) of title 18, or section 842(h) of title 18;

"(C) satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with Customs according to law; and

"(ii) other valid liens and mortgages against property that have been forfeited pursuant to any law referred to in this paragraph, subject to the discretion of the Secretary to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

"(D) amounts authorized by law with respect to remission and mitigation;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure;

"(F) equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries under the authority of section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or section 201 of the Department of the Treasury Forfeiture Fund Act and all costs related thereto;

"(G) equipment for any vessel, vehicle, or aircraft available for official use by a Treasury law enforcement bureau to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment related to seizure or forfeiture, including, but not limited to, laboratory equipment, communications equipment, and the operation and maintenance costs of such equipment;

"(H) equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with any Treasury law enforcement bureau which may result in seizure or forfeiture;

"(I) overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting in law enforcement operations with any Treasury law enforcement bureau which may result in seizure or forfeiture;

"(J) at the discretion of the Secretary, the reimbursement of the expenses of private persons incurred by such persons in cooperating with any Treasury law enforcement bureau in investigations or undercover law enforcement operations;

"(K) the expenses of training the personnel of the Treasury law enforcement bureaus in carrying out their duties relating to seizure and forfeiture, including administrative duties related to inventory, maintenance, and disposition of seized or forfeited items;

"(L) the expenses incurred pursuant to regulations promulgated by the Secretary, that are necessary and related to seizure or forfeiture programs, including payments for the purchase or lease of automatic data processing equipment (if the majority of the use of such equipment is related to such programs), training, printing, and contracting for services directly related to the processing of and accounting for forfeitures, and contracting for services directly related to the identification of forfeitable assets, and the storage, protection, and destruction of controlled substances, explosives, and explosive materials; and

"(M) the costs of retaining the services of experts and consultants needed by the Treasury law enforcement bureaus to carry out their duties related to seizure and forfeiture.

"(2)(A) Any payment made under paragraph (1) (C) or (D) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of such seizure.

"(B) Any payment made under paragraph (1)(H) with respect to a seizure or forfeiture of property shall not exceed the value of such property at the time of disposition.

"(3) In addition to the purposes described in paragraph (1), the Fund shall be available for—

"(A) publication of the availability of awards under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(B) payment of overtime salaries, travel, fuel, training, equipment (including equipment for any vessel, vehicle, or aircraft available for official use by a foreign law enforcement agency), and other similar costs of foreign law enforcement officers incurred in joint law enforcement investigations with a Treasury law enforcement bureau, if such payments may result in seizure or forfeiture and are—

"(i) agreed to by the Secretary of State;

"(ii) authorized in an international agreement between the United States and the foreign country; and

"(iii) made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h));

"(C) payment of contract services relating to the receipt, processing, maintenance, and dissemination of reports filed in accordance with section 6050I of the Internal Revenue Code or sections 5313, 5314, 5315, or 5316 of this title; and

"(D) deposits pursuant to subsection (f)(3).

"(b) UNITED STATES COAST GUARD.—The Secretary of the Treasury shall make available to the United States Coast Guard, from funds appropriated under subsection (f)(2) not to exceed $10,000,000 for a fiscal year, an amount equal to the amount in the Fund de-

rived from seizures by the Coast Guard. Funds made available under this subsection may be used for—

"(1) equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(2) equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Coast Guard;

"(3) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard; and

"(4) expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

"(c) DEPOSITS.—There shall be deposited into the Fund:

"(1) All forfeited currency and proceeds from forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code) by any Treasury law enforcement bureau or the United States Coast Guard.

"(2) Deposits and transfers pursuant to paragraphs (1) and (3) of subsection (g).

"(3) Income from investments made pursuant to subsection (d).

"(d) INVESTMENT.—Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) ANNUAL REPORTS; AUDITS.—

"(1) The Secretary shall transmit to the Congress, not later than February 1 of each year—

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the Treasury law enforcement bureaus or the United States Coast Guard with respect to which funds were not deposited in the Fund during the previous fiscal year;

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency;

"(B) a report on—

"(i) the balance of the Fund at the beginning of the preceding fiscal year;

"(ii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

"(iii) the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

"(iv) any defendant's equity in property valued at $1,000,000 or more; and

"(v) the balance of the Fund at the end of the previous fiscal year; and

"(C) a report containing, for the previous fiscal year—

"(i) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Comptroller General, and

"(ii) an analysis of income and expenses showing the revenue received or lost—

"(I) by property category (general property, vehicles, vessel, aircraft, cash, and real property); and

"(II) by type of disposition (sales, remissions, cancellations, placed into official use, sharing with State and local agencies, and destructions).

"(2) The Fund shall be subject to annual financial audits conducted by the Comptroller General of the United States.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to administer the Fund and to carry out the purposes set forth in subsection (a)(1).

"(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $100,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for each such fiscal year.

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $100,000,000 for fiscal year 1993.

"(ii) $100,000,000 for fiscal year 1994.

"(3)(A) Subject to subparagraph (B), in each of fiscal years 1992, 1993, and 1994, the Secretary may transfer from the Fund any unobligated balances remaining unexpended to the Department of Education for activities authorized under the Drug Free Schools and Communities Act (20 U.S.C. 3181). Such transfers shall be made on a quarterly pro rata basis.

"(B) Transfers under subparagraph (A) may be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a)(1).

"(C) At the end of each of fiscal years 1992, 1993, and 1994, the Secretary may retain in the Fund not more than $30,000,000, or if determined by the Secretary to be necessary for asset specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in the preceding fiscal year. Any amount in excess of $30,000,000 shall be transferred to the Department of Education for activities authorized under the Drug Free Schools and Communities Act.

"(g) MISCELLANEOUS.—Notwithstanding any other provision of law, during any period when forfeited currency and proceeds from forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code) by the Treasury law enforcement bureaus and the United States Coast Guard, are required to be deposited in the Fund—

"(1) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall be transferred to the Fund;

"(2) except as provided in paragraph (1), no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

"(3) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the date of the enactment of this Act shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

"(h) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"§ 9704. Authority of the Secretary relating to forfeited property

"(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') with respect to any property forfeited under any law enforced or administered by the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, or the United States Secret Service may—

"(1) retain such property for official use; or

"(2) transfer such property to—

"(A) any other Federal agency; or

"(B) any State or local law enforcement agency that assisted in the seizure or forfeiture of such property.

"(b) TRANSFER TO FOREIGN COUNTRY.—The Secretary may transfer any forfeited personal property or the proceeds from the sale of any forfeited personal or real property to any foreign country which participated, directly or indirectly, in the seizure or forfeiture of the property, if such a transfer—

"(1) is one with which the Secretary of State has agreed;

"(2) is authorized in an international agreement between the United States and the foreign country; and

"(3) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).

"(c) AUTHORITY UNDER THE TARIFF ACT OF 1930.—Nothing in this section shall affect the authority of the Secretary under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

"(d) LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.

"(e) TITLE TO FORFEITED PROPERTY.—Following completion of procedures for the forfeiture of property pursuant to any law enforced or administered by a Treasury law enforcement bureau (as defined in section 9703), the Secretary is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

"(f) FORFEITED PROPERTY DEFINED.—For purposes of this section and section 9703, and notwithstanding any other provision of law, property shall be deemed forfeited pursuant to a law enforced or administered by a Treasury law enforcement bureau if it is forfeited pursuant to—

"(1) a judicial forfeiture proceeding where the underlying seizure was made by an officer of a Treasury law enforcement bureau or where the property was maintained by a Treasury law enforcement bureau; or

"(2) a civil administrative forfeiture proceeding conducted by a Treasury law enforcement bureau.".

(b) CLERICAL AMENDMENT.—The table of sections for subtitle VI of title 31, United States Code, is amended by inserting after the item relating to section 9702 the following new items:

"9703. Department of the Treasury Forfeiture Fund.
"9704. Authority of the Secretary relating to forfeited property.".

SEC. 3. AMENDMENTS TO OTHER LAWS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(4) of title 28, United States Code, is amended—

(1) by striking "the Secretary of the Treasury or";

(2) by inserting ": (1)" after the word "except"; and

(3) by inserting before the period "; or (2) all proceeds of forfeitures of property seized

by the Treasury law enforcement bureaus (as defined in section 9703 of title 31, United States Code) deposited into the Department of the Treasury Forfeiture Fund established pursuant to such section".

(b) ANTI-DRUG ABUSE ACT of 1988.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended by inserting before the period: "and from the Department of the Treasury Forfeiture Fund in the manner provided in section 9703(f)(3) of title 31, United States Code".

(c) AMENDMENTS TO TITLE 18.—

(1) Section 981(a)(1) is amended by adding at the end thereof the following new subparagraph:

"(F) Any property, real or personal, involved, used or intended to be used in, or constituting, derived from or traceable to any proceeds obtained directly or indirectly from, a violation of—

"(i) section 842 or 844 of this title (relating to explosives or arson) or section 924(c) of this title (relating to firearms), including a predicate offense to a violation of section 924(c);

"(ii) any of the laws of the United States relating to coins, obligations, or other securities of the United States or of any foreign government; or

"(iii) section 1028, 1029, or 1030 of this title.".

(2) Section 981(b)(1) of title 18, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) subject to forfeiture to the United States under subparagraph (F) of subsection (a)(1) of this section may be seized by the Secretary of the Treasury.".

(3) Section 981(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Nothing in this section shall prohibit the seizure or forfeiture of property that has been commingled with other property.".

(4) Section 982(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

"(A) section 842 or 844 of this title (relating to explosives or arson) or section 924(c) of this title (relating to firearms), including a predicate offense to a violation of section 924(c);

"(B) any of the laws of the United States relating to coins, obligations or other securities of the United States or of any foreign government; or

"(C) section 1028, 1029 or 1030 of this title, shall order that the person forfeit to the United States any property, real or personal, involved, used or intended to be used in, or constituting, derived from or traceable to any proceeds obtained directly or indirectly from such violation.".

(d) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 5872(a) of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) LAWS APPLICABLE.—Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture and (except as provided in subsection (b)) the provisions of law relating to searches, seizure, condemnation, and summary and judicial forfeiture of unstamped articles are extended to and made to apply to articles taxed under this chapter, and the persons to whom this chapter applies.".●

By Mr. MOYNIHAN:

S. 2119. A bill to amend title II of the Social Security Act to waive the 24 month waiting period for medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome [AIDS], and for other purposes; to the Committee on Finance.

MEDICARE ELIGIBILITY FOR INDIVIDUALS WITH AIDS

● Mr. MOYNIHAN. Mr. President, I rise today to reintroduce health legislation that will remove a significant barrier to health care access for individuals with acquired immune deficiency syndrome. The legislation I propose today would waive the 24 month waiting period for disability insurance beneficiaries with AIDS.

Four years ago, when I first introduced this legislation, I cited the following information:

> According to the Centers for Disease Control (CDC), as of December 31, 1986, there have been about 29,003 cases of full-blown AIDS reported in this country and of those 29,003, 16,301 have died.

When I reintroduced similar legislation in 1989, the death toll had risen 270 percent in just 2 years. By December 1988, more than 80,000 cases of AIDS had been reported to the CDC.

As of October 1991, more than 195,000 Americans have been diagnosed with AIDS since 1981, of whom over 120,000 have died. And these are only the documented cases. The Centers for Disease Control estimates that as many as 1 million Americans may be infected with the AIDS virus. Most of them will develop full blown AIDS in the next decade.

Mr. President, these numbers are rising at an alarming rate and we still have not addressed a fundamental problem confronting those with the syndrome: inadequate health insurance coverage for AIDS patients who become disabled.

There is currently a 24 month waiting period for disabled individuals before receiving Medicare benefits. The Medicare waiting period was established primarily to ensure that Medicare does not overlap with the disabled individuals's private health insurance. Unlike most other disability insurance beneficiaries, however, the AIDS patient cannot wait 24 months for health insurance coverage after the onset of opportunistic diseases like Kaposi's sarcoma or pneumonia. Even with AZT treatments, and AIDS patient's chance of surviving the waiting period are small. Given that AIDS patients are increasingly denied private health insurance coverage, we offer them little choice but to impoverish themselves by spending down to the level of Medicaid eligibility in order to obtain the coverage they need.

Mr. President, these individuals have worked and paid Social Security taxes and they are entitled to Medicare benefits. Until a cure is found for this tragic disease, let us at least minimize their suffering by granting disabled AIDS patients the benefits they deserve.

I urge all my colleagues to support this necessary legislation in our fight against AIDS. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TWENTY-FOUR MONTH WAITING PERIOD FOR MEDICARE ELIGIBILITY FOR INDIVIDUALS WITH AIDS.

(a) IN GENERAL.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h)(1) Subject to paragraph (2), in the case of an individual who is medically determined to have acquired immune deficiency syndrome (AIDS) and who files an application for hospital insurance benefits under part A of title XVIII pursuant to this subsection, subsection (b) shall be applied as if—

"(A) in paragraph (2)(A), ', and has for 24 calendar months been entitled to,' were deleted;

"(B) in paragraph (2)(B), ', and has been for not less than 24 months,' were deleted;

"(C) in paragraph (2)(C)(ii), ', including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted;

"(D) in the matter in the first sentence following subparagraph (C), 'first month' were substituted for 'twenty-fifth month'; and

"(E) in the second sentence, 'twenty-fourth' were deleted.

"(2) Paragraph (1) shall not result in an individual becoming entitled to hospital insurance benefits under part A of title XVIII for any month before the first month in which the individual both—

"(A) is medically determined to have acquired immune deficiency syndrome; and

"(B) has filed an application under paragraph (1).

"(3) For purposes of this subsection, an individual will be presumed to have acquired immune deficiency syndrome (AIDS) if the individual has been diagnosed, in accordance with standards established by the Secretary after consultation with the Director of the Centers for Disease Control, as having such disease.".

(b) EFFECTIVE DATE—The amendments made by subsection (a) shall take effect on the first day of the first month that begins more than forty-five days after the date of the enactment of this Act.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 353

At the request of Mr. GLENN, his name was added as a cosponsor of S. 353, a bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes.

S. 447

At the request of Mr. ROBB, his name was added as a cosponsor of S. 447, a bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 456

At the request of Ms. MIKULSKI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 456, a bill to amend chapter 83 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 456, supra.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 511

At the request of Mr. DODD, the names of the Senator from Nevada [Mr. REID] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 511, a bill to establish programs to improve foreign instruction and to amend the Higher Education Act of 1965 in order to promote equal access to opportunities to study abroad, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 689

At the request of Mr. HATFIELD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 689, a bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes; to create the United States Peace Tax Fund to receive such tax payments; to establish a United States Peace Tax Fund Board of Trustees; and for other purposes.

S. 765

At the request of Mr. BREAUX, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 1040

At the request of Mr. GLENN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. SHELBY], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1040, a bill to provide a Government-wide comprehensive energy management plan for Federal agencies.

S. 1100

At the request of Mr. KERRY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Develpment to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1125

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1125, a bill to provide incentives to health care providers serving rural areas, to provide grants to county health departments providing preventative health services within rural areas, to establish State health service corps demonstration projects, and for other purposes.

S. 1159

At the request of Mr. GORE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1159, a bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States.

S. 1227

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1227, a bill to amend the Public Health Service Act, the Social Security Act, and the Internal Revenue Code of 1986 to provide affordable health care of all Americans, to reduce health care costs, and for other purposes.

S. 1289

At the request of Mr. HARKIN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1289, a bill to amend the provisions of the Higher Education of 1965 relating to treatment by campus officials of sexual assault victims.

S. 1294

At the request of Mr. FOWLER, the names of the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. SHELBY], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 1294, a bill to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 1424

At the request of Mr. CONRAD, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1424, a bill to amend chapter 17 of tile 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States.

S. 1482

At the request of Mr. DIXON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1482, a bill to amend the Social Security Act to improve the notice of medicaid payment of medicare cost-sharing, and for other purposes.

S. 1521

At the request of Mr. MCCONNELL, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1521, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. DIXON], the Senator from Illinois [Mr. SIMON], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors

VOL 137 PT 24 NO 26 1991 — JA 3 1992
UMI

of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 1614

At the request of Mr. GRAHAM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1614, a bill to amend the Rehabilitation Act of 1973 to revise and extend the program regarding independent living services for older blind individuals, and for other purposes.

S. 1622

At the request of Mr. KENNEDY, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 1667

At the request of Mr. FORD, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1667, a bill to provide for a 2-year Federal budget cycle, and for other purposes.

S. 1686

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 1686, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

S. 1691

At the request of Mr. COCHRAN, his name was withdrawn as a cosponsor of S. 1691, a bill to amend title 18, United States Code, to govern participation of Federal Prison Industries in Federal procurements, and for other purposes.

S. 1696

At the request of Mr. BAUCUS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1696, a bill to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes.

S. 1725

At the request of Mr. DIXON, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1731

At the request of Mr. MCCONNELL, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Florida [Mr. MACK], the Senator from Rhode Island [Mr. PELL], the Senator from Kansas [Mr. DOLE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1731, a bill to establish the policy of the United States with respect to Hong Kong after July 1, 1997, and for other purposes.

S. 1738

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1738, a bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes.

At the request of Mr. COATS, his name was added as a cosponsor of S. 1738, supra.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1777

At the request of Mr. ADAMS, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1793

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1793, a bill to restrict United States assistance for Serbia or any part of Yugoslavia controlled by Serbia until certain conditions are met, and for other purposes.

S. 1830

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

At the request of Mr. WOFFORD, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1830, supra.

S. 1838

At the request of Mr. PRYOR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1838, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under medicare.

S. 1894

At the request of Mr. ROTH, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1894, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free Trade Agreement, and for other purposes.

S. 1902

At the request of Mr. ADAMS, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1902, a bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes.

S. 1912

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1916

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1916, a bill to transfer Federal financial assistance currently used to develop herbicide resistant plants to nonchemical weed control systems, and for other purposes.

S. 1920

At the request of Mr. KASTEN, the names of the Senator from North Carolina [Mr. HELMS], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1920, a bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for children, to provide tax incentives for economic growth, and for other purposes.

S. 1927

At the request of Mr. D'AMATO, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1927, a bill to authorize the Secretary of Agriculture to carry out a grant program to increase the international competitiveness of the forest products industries in the United States, and for other purposes.

S. 1933

At the request of Mr. PACKWOOD, his name was added as a cosponsor of S. 1933, a bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes.

S. 1935

At the request of Mr. SIMPSON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1935, a bill to require the Secretary of Agriculture to submit a report on, and establish a system for, lamb price and supply reporting services in the Department of Agriculture, and for other purposes.

S. 2000

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 2000, a bill to provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes.

SENATE JOINT RESOLUTION 15

At the request of Mr. THURMOND, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 100

At the request of Mr. KOHL, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from North Carolina [Mr. SANFORD], the Senator from Arizona [Mr. DECONCINI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 100, a joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week".

SENATE JOINT RESOLUTION 224

At the request of Mr. SIMON, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. ROBB], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Montana [Mr. BAUCUS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. METZENBAUM], the Senator from Michigan [Mr. LEVIN], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Oklahoma [Mr. BOREN], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KASTEN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 224, a joint resolution designating March 1992 as "Irish-American Heritage Month".

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week".

SENATE JOINT RESOLUTION 227

At the request of Mr. COATS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 227, a joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Members of Congress.

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Arizona [Mr. DECONCINI], the Senator from Maryland [Ms. MIKULSKI], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month".

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. DECONCINI, the names of the Senator from Colorado [Mr. WIRTH], the Senator from California [Mr. CRANSTON], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Concurrent Resolution 74, a concurrent resolution calling for acceptance and implementation by certain republics of the commitments on human rights, fundamental freedoms, and humanitarian cooperation contained in the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the names of the Senator from Maine [Mr. COHEN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 109

At the request of Mr. RIEGLE, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Resolution 109, a resolution exercising the right of the Senate to change the rules of the Senate with respect to the "fast track" procedures for trade implementation bills.

SENATE RESOLUTION 184

At the request of Mr. DIXON, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Resolution 184, a resolution to recommend that medical health insurance plans provide coverage for periodic mammography screening services.

SENATE RESOLUTION 221

At the request of Mr. COATS, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 221, a resolution to establish a procedure for the appointment of independent counsels to investigate ethics violations in the Senate, transfer to the Committee on Rules and Administration the remaining authority of the Select Committee on Ethics, and abolish the Select Committee on Ethics.

SENATE RESOLUTION 227

At the request of Mr. PRESSLER, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Resolution 227, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION 231

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Resolution 231, a resolution expressing the sense of the Senate that the President should submit to the 102nd Congress a proposal for reforming the health care system of the United States.

SENATE CONCURRENT RESOLUTION 80—RELATIVE TO THE DEMOCRATIC SITUATION IN ZAIRE

Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. WOFFORD, and Mr. HOLLINGS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 80

Whereas the people of the United States support the development of democratic institutions in Zaire that reflect the will of the people of Zaire and are concerned about ongoing human rights abuses in Zaire as confirmed by the Lawyers Committee for Human Rights;

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

Whereas Zairean security forces have repressed peaceful mass demonstrations protesting the government's economic policies and urging the implementation of democratic reforms;

Whereas recent press reports and other reliable sources indicate that these incidents caused the death of several people as well as the arrest of numerous people opposed to the regime;

Whereas these tragic events occurred following a period of continuous procrastination in convening a sovereign national conference composed of political, civic, religious, and other organizations;

Whereas President Mobutu has indicated, clearly, a lack of commitment to a transitional government to return the country to democracy by dismissing the new Prime Minister Tshisekedi Wa Mulumba;

Whereas the leaders of government in Zaire, beginning with President Mobutu, have systematically obstructed each attempt to facilitate this conference which could bring about a peaceful transition toward democracy; and

Whereas the catastrophic economic and social situation and the rampant corruption of authority, against which the population of Zaire is revolting, are being aggravated by the political uncertainty deliberately prolonged by President Mobutu: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls on President Mobutu to step down and permit the transitional government to return the country to democratic rule;

(2) firmly condemns all violations of human rights in Zaire;

(3) fully supports the aspirations of the Zairean people for democratic change, in particular the convocation of a sovereign national conference that would be fully representative of all the opposition forces, that would be conducted in a democratic manner, and that would have the full right to take its own decisions;

(4) supports the sovereign national conference to form the transitional government as soon as possible to organize free and democratic elections;

(5) invites the international community of nations to express their concern with respect to the repression and corruption of the regime and to provide support to the Zairean democratic forces desire for peaceful change;

(6) calls upon the President of the United States to urge that an appropriate international peacekeeping force be brought into Zaire to ensure stability during the political transition process; and

(7) calls upon the President of the United States to express his willingness to offer appropriate assistance to help implement any future international peacekeeping arrangement.

• Mr. SIMON. Mr. President, I would like to introduce today a resolution, concurrent with one sponsored by Representative Payne in the House and passed by the House last Tuesday, concerning Zaire. I have spoken on the floor regarding the situation in Zaire before now, and I remain gravely concerned. I feel that it is important that we in the Senate take urgent action on the very serious crisis Zaire is now facing. President Mobutu is still clinging to power, and has in fact used his power to choose still another prime minister, rather than seeking the input of the main opposition coalition on this important decision. Proposals to arrange for a transition to free and fair elections appear blocked. This resolution will express the Senate's desire to see a transitional government installed, a government which will begin to address the dire economic situation and to respect human rights in Zaire. It will send a message to Africa that America supports efforts to ensure democracy and peace for all Africans.•

SENATE CONCURRENT RESOLUTION 81—RELATIVE TO THE AMERICAN VISIONARY ART MUSEUM

Ms. MIKULSKI submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 81

Whereas visionary art is the art produced by self-taught individuals who are driven by their own internal impulses to create;

Whereas the visionary artist's product is a striking personal statement possessing a powerful and often spiritual quality;

Whereas prominent among the creators of visionary art are the mentally ill, the disabled, and the elderly;

Whereas there are many museums of visionary art located throughout Europe such as the Art Brut Museum located in Lausanne, Switzerland;

Whereas the American Visionary Art Museum is the first museum in North America to be wholly dedicated to assembling a comprehensive national collection of American visionary art;

Whereas the collection at the American Visionary Art Museum includes film, literature, and research on all fields related to visionary art;

Whereas the American Visionary Art Museum's mission is to increase public awareness of uncommon art produced by individuals in response to extraordinary circumstances;

Whereas the American Visionary Art Museum seeks to remove the stigma associated with disability by illuminating the power of humans to triumph over adversity through creativity;

Whereas the national policy of deinstitutionalization has resulted in the closure of many facilities and the destruction of visionary artwork;

Whereas the American Visionary Art Museum has the support of certain offices of the National Institute of Mental Health and other government agencies in its goal to function as a national repository for works produced by formerly institutionalized individuals; and

Whereas it is the best interest of the national welfare and all American citizens to preserve visionary art and to celebrate this unique art form: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) visionary art should be designated as a rare and valuable national treasure to which we devote our attention, support, and resources to make certain that it is collected, preserved, and understood; and

(2) the American Visionary Art Museum is the proper national repository and educational center for visionary art.

SENATE CONCURRENT RESOLUTION 82—URGING GREATER PROGRESS TOWARD DEMOCRATIZATION IN HONG KONG

Mr. MACK (for himself, Mr. MCCONNELL, and Mr. LUGAR) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 82

Whereas the 1984 Sino-British Joint Declaration on the Question of Hong Kong (hereafter in this concurrent resolution referred to as the "Joint Declaration") provides for the reversion of Hong Kong to China on July 1, 1997, after which Hong Kong will become a Special Administrative Region of the People's Republic of China;

Whereas the cornerstone of the Joint Declaration is the principle that the people of Hong Kong will govern themselves through an elected legislature and an executive accountable to the people and will enjoy "a high degree of autonomy" for at least 50 years after 1997;

Whereas the provisions of the Joint Declaration for an autonomous, democratically elected government were critical to persuading the people of Hong Kong to accept that agreement;

Whereas the Basic Law of the Special Administrative Region of the People's Republic of China (PRC), which will serve as the constitution of Hong Kong after 1997, was promulgated by the National People's Congress of the PRC but was never ratified or accepted by the people of Hong Kong;

Whereas, despite the statement in the Joint Declaration that the Hong Kong legislature "shall be constituted by elections", the Basic Law provides for only one-third of the legislature to be democratically elected by 1997, only one-half of the legislature by 2007, and contains no provision that the legislature will ever have a democratically elected majority;

Whereas confidence in the future of Hong Kong was severely eroded by the Government of China's June 1989 suppression of the pro-democracy movement in China;

Whereas the continued repression of the pro-democracy movement in China and statements and actions of the Government of China regarding Hong Kong have heightened concerns that the commitments of the Joint Declaration and the protections provided for in the Basic Law might not be adhered to and that the people of Hong Kong might be deprived of their freedom and human rights after 1997;

Whereas, in September 1991, members of the Hong Kong Legislative Council were selected by the people of Hong Kong in direct elections for the first time, but only 18 out of 60 members were allowed to be chosen through such direct elections;

Whereas in these elections a coalition of advocates of greater democracy received overwhelming support from the people of Hong Kong and won 16 out the 18 seats determined by the elections;

Whereas the people of Hong Kong, in voting for the pro-democracy coalition, expressed their desire for greater progress towards democracy in Hong Kong at the risk of displeasing the Government of the People's Republic of China; and

Whereas the people of Hong Kong, as evidenced by the voting in the September 1991 elections, believe that their freedoms, including the right to private property and other economic freedoms, will be best protected by accelerating the development of fully democratic institutions: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) fulfillment of the Joint Declaration and contemporaneous commitments of the governments of the United Kingdom and the People's Republic of China, require that the Legislative Council of Hong Kong be democratic elected;

(2) democratic institutions and practices should be firmly established before sovereignty over Hong Kong is transferred to the People's Republic of China in 1997;

(3) the Basic Law should be amended to be consistent with the Joint Declaration's commitments to democratic and autonomous government;

(4) the governments of the United Kingdom and the People's Republic of China should respect the will of the people of Hong Kong to establish further democratic institutions and practices and to take steps consistent with the Joint Declaration to safeguard their basic human rights before and after 1997; and

(5) the people of Hong Kong are to be commended for their efforts to maintain their freedom and prosperity and to attain fully democratic government.

Mr. MACK. Mr. President, it is ironic that just as democracy and freedom are sweeping the globe as never before, some six million of the freest people on earth are soon to be deliberately handed over to a Communist regime. The world cannot stand silently by as the fate of the free people of Hong Kong is put into the hands of the dictators of Beijing.

Today, Senators SIMON, MCCONNELL, and LUGAR join me in introducing a Senate concurrent resolution urging greater progress toward democracy in Hong Kong. Time is short for the people of Hong Kong, and it is time that the United States take a more active role in this struggle for freedom.

Mr. President, this is a situation Hong Kong faces, and how the people of Hong Kong are expressing their desire for democracy.

On July 1, 1997, the British colony of Hong Kong will become a "Special Administrative Region" of the People's Republic of China [PRC]. In September of this year, the people of Hong Kong voted overwhelmingly for legislative candidates advocating greater progress toward democracy in Hong Kong before the 1997 turnover.

Now, less than one third of the Hong Kong legislature is directly elected. The Chinese-drafted Basic Law—which will be Hong Kong's constitution after 1997—provides for only half the legislature to be directly elected by 2007, and has no provision for a majority of the legislature to ever be directly elected.

The people of Hong Kong voted for candidates who believe that the best hope of safeguarding their freedom and prosperity is to strengthen democratic institutions in Hong Kong before 1997. The resolution commends the people of Hong Kong for their efforts to maintain their freedom and prosperity and to attain fully democratic government.

The resolution also urges the British and Chinese governments to respect the will of the Hong Kong people to accelerate the building of democratic institutions before 1997 and to take steps consistent with the 1984 Sino-British Joint Declaration to safeguard their freedoms and human rights.

I would like to emphasize that this resolution does not ask or demand that the joint declaration be reversed. It calls for full and fair implementation of the declaration, whose letter was to guarantee a high degree of autonomy and whose spirit was to guarantee full democracy for Hong Kong well into the next century.

The problem is not joint declaration, but that Britain and China have betrayed the letter and spirit of the declaration by refusing to allow the Hong Kong people to guarantee their own freedoms. The Hong Kong people have been denied the ability to ratify or amend the Basic Law, or to institutionalize democracy in the precious years before 1997.

That is wrong, and it is time that the United States Congress, and United States policy, said so.

I ask unanimous consent that a background paper on Hong Kong be printed in the RECORD.

[From the office of Senator Connie Mack]

HONG KONG'S FREEDOM IN DANGER

Hong Kong is one of the world's great success stories. Once an impoverished backwater on the South China Sea, Hong Kong has become a free market showplace. With the world's highest population density and virtually no natural resources, the people of Hong Kong have built one of East Asia's richest economies on the principles of free trade (no tariff or nontariff barriers), low taxes, and little government interference in the economy. Hong Kong's achievements in standard of living, per capita income, life expectancy, literacy, and other indices have been the envy of the developing world.

Sadly, the "Hong Kong Miracle" may soon come to a halt. In 1997, without the consent of its people, Hong Kong will be turned over to the People's Republic of China, one of the most repressive communist totalitarian states and perpetrator of the 1989 "Tiananmen Square Massacre" in Beijing. While the rest of the world is enjoying an unprecedented trend toward democracy and free markets, the people of Hong Kong (many of them originally refugees from communist China) face being pulled down in the death throes of a failed system.

HISTORICAL BACKGROUND

Hong Kong is a British Crown Colony. In 1842, China ceded Hong Kong Island in perpetuity to the the United Kingdom, a result of 19th-century conflicts between Britain and China over the opium trade. In the 1860's, Britain received a perpetual lease in the nearby peninsula area south of Boundary Street in present-day Kowloon. Finally, in 1898, China granted the British a 99-year lease on areas adjoining Kowloon, called the "New Territories." Hong Kong was declared a free port in 1841, but its major importance and growth as a commercial and manufacturing center occurred after World War II.

In the early 1980s, the government of British Prime Minister Margaret Thatcher concluded that the parts of Hong Kong under permanent British control (Hong Kong Island and most of Kowloon) would not be viable after the expiration of the New Territories lease in 1997. Accordingly, in 1982 the British began negotiations with the Chinese communists over the colony's future. The result was a December 1984 Chinese/British "Joint Declaration," under which the entirety of Hong Kong (including the areas under British sovereignty or perpetual lease-rights) would be returned to China on July 1, 1997, along with the New Territories.

REVERSION WITHOUT REPRESENTATION

The Joint Declaration is a bilateral agreement between London and Beijing—the people of Hong Kong were not represented in the negotiations. (While not a party to the Declaration, the United States has been supportive of British policy.) The Joint Declaration states that for at least 50 years after the 1997 reversion Hong Kong will be a Special Administrative Region in China with "a high degree of autonomy," retaining its own economic and administrative system, and continuing to participate in international agreements and organizations. A new "Basic Law," specified under the Joint Declaration to serve as a constitution for Hong Kong after 1997, was drafted without any effective contribution by the Hong Kong people; it contains no provision for a legislature with an elected majority.

Thus, despite these assurances of "autonomy," most of Hong Kong faces 1997 with increasing trepidation, based upon past experience with the Chinese communists, and reinforced by the bloody events of June 1989. In addition, the communists' blunt opposition to any democratization of Hong Kong institutions has added to these fears. Despite Beijing's opposition, elections were held in September 1991 for 18 of the 60 seats on Hong Kong's largely rubber-stamp Legislative Council. To the surprise of many observers (and the chagrin of both Beijing and the British administration), 16 seats were won by the United Democrats of Hong Kong and their allies. The United Democrats, led by Legislative Council member Martin Lee, favor more democracy in Hong Kong and less interference by the Chinese communists in the colony's affairs. In particular, Mr. Lee and the United Democrats believe that international pressure on the Chinese and the British is essential to protecting Hong Kong's interests.

THE AMERICAN STAKE IN HONG KONG

Hong Kong is a major U.S. trading partner and a key link in the world trade network. The United States is tied with Japan (and far ahead of Britain) in its economic presence in Hong Kong, with over 800 U.S. corporations located there and investments of about $6 billion in the colony. In addition, Hong Kong is one of America's largest trading partners, with 1990 U.S. imports of almost $7 billion and exports to the U.S. of over $9 billion. In its global commercial importance, Hong Kong's foreign trade of nearly $100 billion outstrips that of the whole of mainland China. Hong Kong's demise as a commercial and financial center would send shock waves throughout East Asia and the Pacific region, with a negative impact on the U.S. economy.

But the crisis in Hong Kong cannot be measured purely in economic terms. The United States has taken the lead in promoting democratic and free market values in the developing world and, in particular, in the formerly communist countries of the Soviet Union and Eastern Europe. The collapse of the "Evil Empire" represents a triumph of

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humane and civilized values over communist tyranny—the same tyranny that will swallow up almost 6 million Chinese people in Hong Kong in less than 6 years. Since 1984, Hong Kong has experienced an intensifying "brain drain" as its most talented people cast about with increasing desperation for a place of escape: Britain, Australia, Canada, Europe, the United States. As 1997 approaches, fears of public disorder and economic collapse are increasing.

A NEW U.S. POLICY NEEDED

What can the United States do? As of 1991, it is unlikely that the scheduled transfer of sovereignty can be avoided. The United Kingdom remains determined to abide by its agreement with Beijing. However, the United States must begin to make it clear to both Britain and the Chinese communists that the United States has important and independent interests in Hong Kong, and that disregard for these interests will have consequences.

It is important that the U.S. government distance itself from British policy (as it has begun to do, for example, over the recent British agreement to forcibly repatriate Vietnamese "boat people" from Hong Kong) and establish direct contacts with spokesmen for the people of Hong Kong, such as Martin Lee. Indeed, the recent meeting between Vice-President Dan Quayle and Martin Lee is a significant step in the development of such relationships.

Another significant step that can be taken to reassure the people of Hong Kong that America is both interested and concerned about their future is the adoption of the U.S.-Hong Kong Policy Act. Sen. Mitch McConnell (R-KY) has introduced this legislation that would formalize the U.S.'s bilateral relationship with Hong Kong. He correctly argues that "the more extensive and established U.S.-Hong Kong ties are before 1997, the more likely that they will be maintained after 1997."

Finally, and most importantly in my view, the United States must insist on democratization of Hong Kong institutions to guarantee the autonomy and respect for human rights promised in the Joint Declaration. The United States has been a beacon of democracy which has helped steer Eastern Europe and the Soviet Union away from totalitarianism. For the United States to passively allow the absorption of six million free Hong Kong citizens into an authoritarian China without democratic safeguards is unthinkable.

There are four steps which must be taken to provide for the development of democratic institutions in Hong Kong:

(1) All members of the Legislative Council of Hong Kong must be democratically elected—a requirement consistent with the Joint Declaration and contemporaneous commitments of the United Kingdom and the People's Republic of China;

(2) All democratic institutions and practices should be firmly established before sovereignty over Hong Kong is transferred to the People's Republic of China in 1997;

(3) The Basic Law should be amended to be consistent with the Joint Declaration's commitments to democratic and autonomous government; and

(4) The governments of the United Kingdom and the People's Republic of China should respect the will of the Hong Kong people to further establish democratic institutions and practices and to take steps consistent with the Joint Declaration to safeguard their basic human rights before and after 1997 by permitting the Hong Kong people to determine by referendum these matters which so dramatically affect their future.

It is time for the United States to take an active role in aiding the Hong Kong people to fulfill their desire for democracy. A democratic Hong Kong will assure both the freedom of its people and the vitality of its economy.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION NO. 234—RELATING TO COMMERCIAL AIRCRAFT SALES

Mr. BINGAMAN (for himself, Mr. EXON, Mr. GORE, Mr. GLENN, Mr. BRYAN, Mr. LIEBERMAN, Mr. ADAMS, Mr. HARKIN, Mr. FORD, Mr. DASCHLE, Mr. LEAHY, Mr. DODD, Mr. KERREY, and Mr. WELLSTONE) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 234

Whereas the United States would market position in many manufacturing and high-technology areas has deteriorated in part because of the sale of United States companies with developed technologies to foreign interests;

Whereas development of advanced technology industries, and the aerospace industry in particular, has been vigorously supported by the governments of most other industrialized nations;

Whereas the commercial aircraft industry is regarded as a strategic industry by most industrialized nations and is directly subsidized by foreign governments to the degree that it is often difficult to separate government from industry;

Whereas McDonnell Douglas has derived benefits for its commercial aircraft program from its contracts with the Department of Defense for research, development, and procurement of military transports, and there are close links between the technology of commercial airliners and of military transports;

Whereas current United States law restricts foreign equity investment in United States airlines on national security grounds;

Whereas Taiwan, in furtherance of its six-year economic plan to develop and promote high-technology industry, would instantly acquire world-class status in this strategic industry as a part of the world's third largest commercial aircraft firm for an investment of a mere $2,000,000,000, which is a small fraction of the investment already made by United States taxpayers and McDonnell Douglas' shareholders;

Whereas the United States has allowed Taiwan to pursue mercantile trade policies and run a cumulative trade surplus of $100,000,000,000 during the last 10 years, that is now being used to purchase a United States high technology company;

Whereas United States trade policy has allowed Airbus Industrie, a company that receives enormous direct subsides from European governments for aircraft manufacture in Europe, to compete unfairly with United States aerospace companies and to surpass McDonnell Douglas and become the second-largest aircraft producer in the world in the twenty-one years since it was established;

Whereas McDonnell Douglas has suffered gravely as a result of this unfair competition, and United States policy over the past decade has been ineffective in preventing the damage to McDonnell Douglas by Airbus;

Whereas if this proposed sale occurs, up to sixty percent of the manufacturing work on the MD-12 will be done in Taiwan, accelerating the transfer of high-technology manufacturing jobs to other countries over the long term;

Whereas the Exon-Florio law gives the President the power to suspend or prohibit a transaction if such transaction would result in a foreign interest exercising control over a United States company in a manner that might impair the national security of the United States;

Whereas United States foreign investment policy must not ignore serious national security concerns regarding foreign purchases of United States companies and technologies;

Whereas other nations have strategic technology, manufacturing, and trade policies that promote research, development, production, and domestic equity ownership of strategic technologies and industries such as aerospace; and

Whereas a strong American aerospace sector is critical to the economic security and long-term defense of the United States, and the best interest of the United States can only be served by thoroughly examining the long-term impact of the proposed sale on the United States industrial base: Now, therefore, be it

Resolved, That (a) the Senate has strong reservations about the long-term impact on the United States aerospace industry, including the supplier base, skilled workers, and technology and manufacturing capabilities, of the proposed sale of forty percent of McDonnell Douglas' commercial aircraft division to a corporation that is owned in large part by a foreign government.

(b) It is the sense of the Senate that the President should—

(1) conduct a 60-day review of the proposed sale, consulting with the departments and agencies of the United States that he deems appropriate;

(2) examine closely the proposal's long-term impact on the health and competitiveness of the United States aerospace industry, including the supplier base;

(3) examine closely the relationship between the civilian and defense sectors of the aerospace industry, with special attention to the impact of declining defense budgets, including cancellations and cutbacks in research and development and weapons procurement programs, on the industrial base of the United States, on the economic health of dual military-civilian aerospace firms, and on the retention of highly skilled, high-value American jobs;

(4) examine closely the proposal's short- and long-term impact on manufacturing employment in the United States aerospace sector, including at the second and third tier supplier levels;

(5) examine closely United States policy toward the support and promotion of the export of United States aerospace products and options that would allow McDonnell Douglas to compete in foreign markets against subsidized producers such as Airbus;

(6) examine closely the options available to the Federal Government for ending foreign unfair trading practices in high-technology products, particularly aerospace products;

(7) investigate, with McDonnell Douglas, its supplier base, and other representatives of United States industry and labor, available Federal options in areas, including technology policy, manufacturing policy, trade

policy, and foreign investment policy, that would preserve high-technology research, development and manufacturing jobs in the United States, as well as preserving American equity ownership of McDonnell Douglas' commercial aircraft division while maintaining the company as a viable commercial entity; and

(8) submit a report containing his findings within 60 days of the adoption of this resolution to the President of the Senate.

• Mr. BINGAMAN. Mr. President, I rise today to introduce a Senate Resolution concerning the proposed sale of forty percent of McDonnell Douglas's commercial aviation division to the Taiwan Aerospace Corp. I am joined in offering this resolution by Senators EXON, GORE, GLENN, LIEBERMAN, BRYAN, ADAMS, HARKIN, KERREY, FORD, DASCHLE, LEAHY, DODD, and WELLSTONE.

This resolution calls upon the President to review the proposed sale and report on its implications for America's competitive position in the aerospace sector. It is not a resolution to block the deal. It is a resolution that calls upon the President to seek to define an alternative more favorable to this Nation's long-term prospects that the current deal, which may ultimately result in 49.9 percent of the equity in McDonnell Douglas' commercial aircraft division being in foreign hands.

Mr. President, over the last two decades, the U.S. share of world export markets has remained flat or declined in virtually every key area of manufacturing. We make less and less of the manufactured products sold in our own domestic market. The examples are too numerous to cite: cars, steel, VCR's, TV's, semiconductor chips, machine tools, industrial robots, telecommunications equipment, and yes, commercial aircraft, to name but a few. The average American need only look around to see how few of the manufactured products he or she purchases are still made in this country. And our losses are not just in established industries, but in key emerging products like optoelectronics, fuel cells, and superconducting materials.

In fact, it is hard to find a single area in which the relative American position was strengthened during the 1980's. This includes the aerospace sector, although it continues to be our leading export industry, surpassing all others in the contribution it makes to our trade balance. More than ever before our aerospace firms are challenged from abroad. And much of this challenge is the result of the combination of the industrial and trade policies of our trading partners with the indifference of our Government over the past decade to the health of U.S. firms affected by those policies.

The development of advanced technology industries has been vigorously supported by the governments of most other industrialized nations. The European Community, Japan, and the other nations of the Pacific Rim, our chief economic rivals, have pursued numerous government-led and/or government-funded efforts to upgrade capabilities in a wide range of high technology industries.

The aerospace industry in particular has received vigorous support from foreign governments. Aerospace is regarded as a strategic industry by most industrialized nations. This fact is even acknowledged in the preamble to the General Agreement on Tariffs and Trade, which recognizes that the commercial aircraft sector is viewed as an important component of economic and industrial policy. The industry is subsidized abroad to the degree that it is often difficult, if not impossible, to separate government from industry.

It is true, as other nations point out, that McDonnell Douglas, like Boeing, has derived some benefits for its commercial aircraft program from its contracts with the Department of Defense for research, development, and procurement of military transports, including the current C-17 program and the earlier KC-10 program. The technological synergies between civilian and military technology are such that many technological innovations first funded by the Department of Defense have been spun off into the commercial sector. But these benefits have been indirect, and they are likely to decrease in the future as defense budgets decline.

The defense budget downturn comes at a time when the EC, Japan, and rapidly developing Pacific Rim industrialized countries such as Korea and Taiwan are actively pursuing the development of strategic high-technology industries, including commercial aerospace. At the same time, high-technology developments with implications for defense are increasingly being made in the commercial sector rather than the military sector. The defense market will increasingly become a niche market for firms whose main business will be the far larger commercial marketplace. In those circumstances, a decline in the competitive position of United States high-technology industry may well result in a decline in the ability of our defense sector to maintain the technological superiority of our weapon systems.

U.S. efforts to support the domestic commercial aircraft manufacturing industry directly have been infrequent and ad hoc, and not part of a coherent strategy to support the sector. That in my view needs to change. Our Government cannot leave the playing field entirely to other governments. We need to relearn lessons from our past when laissez-faire ideology did not dominate our policymaking. In that regard it is interesting to note that the Johnson administration provided a $75 million loan guarantee in 1967 to ease the merger of Douglas Aircraft Co. and McDonnell Aircraft Co. and save the company's commercial aircraft business.

Foreign governments consider the commercial aircraft industry a critical sector which should be supported. The United States has considered it critical enough to support in the past. And current U.S. law restricts foreign equity investment in U.S. airliners on national security grounds. If foreign influence on United States airliners represents an unacceptable national security risk, should we not at least think through the implications of having 49.9 percent of McDonnell Douglas under foreign control? What if a few years from now, McDonnell Douglas needs a new infusion of capital and its foreign collaborators are again happy to oblige? Is majority foreign-ownership acceptable?

The Government of Taiwan, like many other nations which pursue coordinated industrial policies, has targeted various industrial sectors for support. State-owned enterprises spearheaded Taiwan's move into industries such as steel, aluminum, and petrochemicals, and through the 1970's the share of Taiwan's industrial production of these enterprises averaged over 22 percent. By 1988, despite rapid growth in its GNP and a burgeoning trade surplus with the United States, state-owned companies continued to account for 18 percent of Taiwan's industrial production.

The Taiwan Aerospace Co. [TAC] is one such enterprise, set up recently by the Government of Taiwan and various Taiwanese firms, many with close ties to the government, in furtherance of its 6-year economic plan to develop and promote high-technology industry. If McDonnell Douglas's deal with TAC is finalized, Taiwan would instantly acquire world-class status in the strategic commercial aircraft industry through the purchase of 40 percent of the world's third largest commercial aircraft firm for an investment of a mere $2 billion, which is a small fraction of the investment already made by U.S. taxpayers and McDonnell Douglas's shareholders.

If this deal were to go through as planned, it would be difficult to argue that foreign government support of strategic industries is a poor policy choice for those governments. The world will see that the investment of only $2 billion is sometimes enough to propel a country into world-class status in an industry which generates tens of billions of dollars in sales annually. The reluctance of this and the previous administration to even consider the possibility that some industries must be supported directly in the face of other governments' policies will have made this possible.

The past two administrations' policies toward trade have clearly helped propel McDonnell Douglas into the arms of Taiwan Aerospace Corp. We have allowed Taiwan to pursue mercantile trade policies and run a cumulative trade surplus with the United States of over $100 billion over the last 10 years. This huge cash horde is now available to purchase key U.S. high-technology companies. We are apparently about to start selling not just New York and Los Angeles office buildings to pay for a decade of failure in our trade policy, but our key industrial firms as well.

Administration policy has also allowed Airbus Industrie, a company that receives enormous direct subsidies from European governments for aircraft manufacture in Europe, to compete unfairly with U.S. aerospace companies and to surpass McDonnell Douglas and become the second-largest aircraft producer in the world in the 21 years since it was established. A recent Office of Technology Assessment report titled "Competing Economies: America, Europe, and the Pacific Rim" points out that Airbus has received funding equal to 75 percent of the development costs of every Airbus model that has been developed. Chapter 8 of the OTA report examines government support of the large commercial aircraft industries of Japan, Europe, and the United States, and I ask that the chapter be included in the Record at the end of my statement.

You cannot read that chapter and conclude anything but that other nations do not accept the pure laissez-faire doctrine the administration espouses and largely chooses to live by. They pursue targeted industrial policies and mercantile trade policies in a coordinated fashion. We leave our firms to compete with national governments. That ultimately will mean our industrial structure in a variety of industries, from commercial airliners to space launch vehicles to advanced electronics, will be determined by the industrial and trade policies of other nations. I find that unacceptable. Future generations of Americans will find that unforgivable.

McDonnell Douglas has suffered gravely as a result of this unfair competition, and U.S. policy over the past decade has been totally ineffective in preventing damage to the company by Airbus. And the administration's unwillingness to address this issue has now led McDonnell Douglas to propose this sale of its equity.

If this sale were to occur, up to 60 percent of the manufacturing work on the MD–12, McDonnell Douglas's next generation commercial aircraft, will be done in Taiwan. As United States world market share for high-technology products declines, this will have the effect of accelerating the transfer of high-technology manufacturing jobs to other countries over the long term. It will be especially damaging to McDonnell Douglas's subtier suppliers in this country. And it won't be long before research and engineering design will follow manufacturing.

Mr. President, the Exon-Florio law gives the President the power to suspend or prohibit a transaction if such transaction would result in a foreign interest exercising control over a U.S. company in a manner that might impair the national security of the United States. The Committee on Foreign Investment in the United States [CFIUS], chaired by the Department of the Treasury, is the body that studies transactions and determines whether or not they might impair our national security. I believe that CFIUS should study this transaction.

I do not know whether this sale would impact national security in the narrow sense of that term, which CFIUS has thus far chosen to employ. But I would point out the other nations, such as Japan, with similar national security restraints on foreign equity ownership in key sectors do not interpret the term narrowly. Nor should we. Our national security is fundamentally tied to the strength of our manufacturing sector. We cannot allow that sector to be hollowed out indefinitely.

This administration's policy has been captured in a remark once made by an unknown administration official: "Semiconductor chips, potato chips, what's the difference?" Well, I think most Americans think there is a difference. Our vision of our Nation's future involves good jobs for our children developing and producing the most advanced products for world markets. Administration policy today and for the past decade has simply not embraced or served that vision.

However, I want to again reiterate that a CFIUS decision to simply suspend or block this transaction is not my goal. In this case, if the sale were blocked and no effort was made to address the company's legitimate need for capital or the unfair competitive pressures that have driven it to seek out a foreign government as an investor, McDonnell Douglas would almost certainly be forced out of the commercial aircraft business in the long run. This is not an acceptable alternative.

Other nations have strategic technology, manufacturing, and trade policies that promote the research, development, production, and domestic equity ownership of strategic technologies and industries such as aerospace. If the United States is to maintain its position in high-technology industries over the long term, we need to develop policies in these areas, or run the risk of having our industrial structure determined by the industrial policies of other nations.

Mr. President, this resolution calls upon the President to review the proposed deal. It asks him to consult with whichever departments and agencies he deems appropriate to examine closely the proposal's long-term impact on the health and competitiveness of the United States aerospace industry, including the supplier base. The impact on the supplier base is particularly important. If 60 percent of the manufacturing of the most technologically sophisticated commercial aircraft McDonnell Douglas has developed is done abroad, it is likely that the high-technology supplier base will also move abroad. The loss of that supplier base would make future U.S.-based manufacture of advanced aircraft less likely and hold implications for the United States maintaining its position as the world leader in aerospace.

This resolution calls upon the President to examine closely the relationship between the civilian and defense sectors of the aerospace industry, with special attention to the impact of declining defense budgets on the industrial base of the United States, the economic health of dual military-civilian aerospace firms, and on the retention of highly skilled, high-value-added American jobs.

Given the synergies between commercial and military technology not just in aerospace but in most of the critical areas identified by the Department of Defense in its first three Critcial Technology Plans, the loss of U.S. high-technology companies will have national security implications, particularly growing dependence on foreign sources for critical components and diminishing ability to reconstitute the defense base in case of need. In the absence of Federal policies that support commercial high-technology industry, directly or indirectly, to the extent that military research, development, and procurement has since World War II, the impact on those companies of lower defense budgets is likely to accelerate the loss of United States capabilities in the face of targeted civilan industry assistance programs by foreign governments.

The loss of highly skilled workers in high-technology manufacturing sectors should be of particular concern because of the difficulty in reconstituting and retraining a skilled workforce once it has been disbanded. Thus the resolution calls upon the President to examine closely the proposal's short- and long-term impact on manufacturing employment in the aerospace sector, including at the second and third tier supplier levels. The resolution also calls upon the President to examine closely U.S. policy toward the support and promotion of the export of U.S. aerospace products, and options that would allow McDonnell Douglas to compete in foreign markets against subsidized producers such as Airbus. With its government backing, Airbus has been able to offer financing packages for purchase of its aircraft that McDonnell Douglas and other commercial aircraft manufacturers cannot match. Given the policies of other advanced industrialized nations, I believe that the Federal Government should be more active in promoting the export of high-technology manufactured goods made in the United States. The proposed sale should be taken as an opportunity to begin addressing these issues through an examination of trade policy as it applies to the aerospace sector.

The United States should also be more active in trying to end foreign unfair trading practices in high-technology products, particularly direct subsidies such as those received by Airbus. By one means or another, we need to reestablish fair trade in foreign government-targeted industrial sectors. We cannot have our industrial structure determined by the industrial policies of other nations. We can not continue to concede sector after sector of high technology industry to other nations.

Finally, the resolution calls upon the President to investigate, with McDonnell Douglas, its supplier base, and representatives of U.S. industry and labor, federal initiatives that might provide McDonnell Douglas with options that go beyond seeking the assistance of a foreign government. Efforts need to be made in areas such as development of a coherent technology policy, development of a manufacturing policy that assists firms in upgrading their manufacturing capabilities, development of a strategic trade policy that promotes the export of high value-added U.S. goods, and development of a foreign investment policy that makes sense in light of vigorous foreign efforts to target strategic industries.

The goal of these efforts should be the preservation of high-technology research, development, and manufacturing jobs here in America. Using McDonnell Douglas as a case study, we should explore the various options in these areas and try to develop a plan of action that would preserve American equity ownership of McDonnell Douglas's commercial aircraft division while maintaining the company as a viable commercial entity.

Mr. President, this resolution is not intended to tie McDonnell Douglas's hands. It is not intended to bash Taiwan. It is intended to begin a long-overdue debate in America on how we are going to treat the U.S. high-technology industrial sectors that are targeted by coordinated, foreign government-led development efforts. This proposal provides an opportunity to examine the impact of foreign government-subsidized development of strategic industries and begin to develop policies of our own that will support American industry in the world market.

Mr. President, if we choose to stand idly by while the industrial policies of Pacific Rim nations and the European Community dictate our industrial structure in the aerospace sector, one of the few high-technology manufacturing sectors where the United States holds a clear edge, when will we take action?

There are alternatives. For example, the Aerospace Industries Association recently released a report titled "The U.S. Aerospace Industry in the 1990's: A Global Perspective," that lays out numerous recommendations for industry and government that would aid the aerospace sector. Rather than listing my own proposals, I would ask my colleagues to consider the proposals developed by industry, developed in part to prevent the need for the sale which McDonnell Douglas is now proposing. I ask that the summary and highlights of the report be included in the Record at the end of my statement.

Mr. President, the McDonnell Douglas transaction should be a wakeup call for this Nation. It is testimony to the failure of a decade of pure laissez-faire ideology guiding our economic policymaking. We can no longer afford to deal with the rest of the world as we wish they were. We need to deal with them as they are. Many of the steps we need to take to begin to deal with this self-inflicted problem are clear. The question is whether this administration is prepared to change course and take those steps.

Government Support of the Large Commercial Aircraft Industries of Japan, Europe, and the United States

(Chart and figures referred to are not reproducible in the Record.)

The commercial aircraft industry is often characterized by superlatives. It has the largest trade surplus of any U.S. Industry. There are fewer large firms dominating the world market than in perhaps any other industry. It is marked by larger economies of scale than most other industries. In every country that has a domestic commercial aircraft assembler, the hand of government is prominent in the industry's behavior and performance. Because of the industry's distinctive characteristics, it pays to be cautious in drawing broader lessons about the efficacy of government involvement in the industry's competitiveness.

Even with an appropriate dose of caution, however, some conclusions about the nature of government/business relationships in the commercial aircraft industry sound familiar. The United States has influenced the commercial aircraft industry primarily through spinoffs from other programs, rather than directly or with the intent of improving competitiveness. Four European nations (France, Germany, Great Britain, and Spain) have played a much more decisive role in boosting the competitiveness of their aircraft consortium. Airbus Industrie. The amount and kind of support extended to Airbus from these governments has been far more effective in improving its competitiveness than the military spinoffs and basic research programs of NASA in the United States. While Japanese industrial policy has failed to produce a domestic assembler of large commercial aircraft, Japan, like Europe, has expended a great deal of money and effort aimed directly at improving competitiveness in the aircraft industry. Japanese firms have become world-class subsystems makers. In short, both Japan and Europe have directly aimed public policies and supports at competitiveness, and have gotten results. In comparison, American companies have gotten much less consistent or effective boosts from policies that were directed toward other goals.

Several advanced countries and even some developing nations have decided that the capacity to build commercial aircraft is important to their national self-interest. The preamble to the General Agreement on Tariffs and Trade (GATT) Agreements on Trade in Civil Aircraft acknowledges this, stating that countries have made that pact recognizing that the aircraft sector is viewed as a particular important component of economic and industrial policy. The principal reasons are the industry's links to national security, the generation of technologies that may spill over the other industries, and contributions of aircraft exports to a positive balance of payments, the creation of well paying jobs, and national pride.

Government supports of the commercial aircraft industry have taken various forms: synergies between military and commercial work, funding of civil R&D, direct financial supports for specific commercial projects, encouragement of the growth of domestic demand and efforts to steer it toward domestic suppliers, export assistance, and efforts to organize industry so it is well suited to international competition. The most important effects in the United States have come from the National Aeronautics and Space Administration (NASA) and Department of Defense (DoD) programs. While promoting competitiveness has been a goal of NASA's aeronautics program, other benefits include the side effects of actions taken for reasons unrelated to competitiveness. As a result, the benefits have consistently been smaller than if promotion of international competitiveness had been a major policy objective. In particular, the indirect benefits U.S. Companies received from DoD programs were substantial in the past, but have declined as military and civil technologies have diverged and the air transport industry has matured. In contrast, the direct financial supports used heavily in Europe and Japan have been provided specifically for the purpose of improving competitiveness. While they have been costly, they have also been effective and appear likely to continue.

Table 8–1 assesses the relative importance of each of the major types of support to the success of commercial aircraft manufacturers in Europe, Japan, and the United States.

TABLE 8–1—BENEFITS TO COMMERCIAL AIRCRAFT AND COMPONENT MANUFACTURERS OF VARIOUS TYPES OF GOVERNMENT ACTIONS[1]

	U.S.	Japan	Europe
Direct financial aid	Small (↓)	Large (=)	Very large (=)
Military R&D plus procurements	Medium (↓)	Small (↑)	Medium (↓)
Civil R&D	Medium (=)	Small (=)	Small (=)
Control of domestic demand	None (=)	Small (=)	Medium (↓)

TABLE 8–1—BENEFITS TO COMMERCIAL AIRCRAFT AND COMPONENT MANUFACTURERS OF VARIOUS TYPES OF GOVERNMENT ACTIONS [1]—Continued

	U.S.	Japan	Europe
Export assistance	Small (=)	None (=)	Small (=)
Organizing the industry	None (=)	Small (=)	Medium (=)

Legend: (↑) increasing in importance; (=) remaining at about the same level of importance; (↓) decreasing in importance.

[1] This table compares total benefits, not efficiency. The fact that two categories get the same rating does not mean that the costs of providing those supports are necessarily equal. Also, some types of government actions affect some parts of the industry more than others—e.g., military/civil synergies are greater for engine makers than airframers. This table represents a rough average for the whole industry.

Source: Office of Technology Assessment, 1991.

RISK AND THE ROLE OF GOVERNMENTS

The principal way these supports benefit manufacturers is by reducing risk. Risk in the commercial aircraft business is higher than in most others. Both technological and market uncertainties are great, and the costs of launching a new model are enormous. This combination of uncertainties and high costs adds up to big risks. Bringing out a new airplane can mean betting the company—and more than one company has lost the bet. Government support can reduce these risks to a point where the relation between risks and expected rewards is favorable and a company can proceed to launch a new model or adopt a new technology.

The use of state-of-the-art systems in each new generation of aircraft confronts manufacturers with significant technological risks. A project may be years and billions of dollars into its development before a technical obstacle is discovered that delays or stops the effort. Rolls Royce's effort to make all-comprosite fan blades for the Lockheed L–1011 engine failed, causing delay in the plane's introduction and ultimately the bankruptcy of both companies. Boeing's 747 got heavier and heavier throughout the development process, requiring more and more powerful engines and driving up costs. Pan Am, the 747's launch customer, Pratt & Whitney, the engine makers, and Boeing were all nearly bankrupted by the effort. Even when technological uncertainty does not threaten the launch of a model, it affects the manufacturer's decision about whether to adopt advanced subsystems and components. The opportunity to develop and prove advanced technology at the expense of the government, in either military or civil R&D projects, can help give companies enough confidence in the cost and performance of the new systems to justify incorporating them into products.

More than technological failure, failure in the market has been the source of disasters in the aircraft business. As a rule, an aircraft manufacturer needs to sell at least 500 units of a model for it to break even. Of the 26 basic airplane types introduced worldwide since the beginning of the jet age, only 6 have sold as many as 500 (another 4 are likely to do so before their production runs end). Seven sold less than 120 copies. Only four or five have been profitable. A report by First Boston Corp. concludes that in 1984, the jet transport aircraft programs then launched had accumulated total losses of $40 billion on total sales of $180 billion (in 1984 dollars). "The essential message [of these figures] is that economic failure is the norm in the civil aircraft business."

Considering this record, no one in this business commits to building a new design before assembling a number of launch customers. These early orders not only assure the manufacturer that it will sell at least that many units, they are needed to convince the manufacturer's financial backers that the model has sufficient appeal to airlines to justify committing funds. Government influence over airlines' choice of which aircraft to buy when a launch is pending can directly affect the manufacturer's decision, as can large government orders of military aircraft that are similar or identical to commercial models. Governments naturally favor domestic suppliers for their military needs, but in the commercial business, airlines' purchase decisions frequently turn on narrow differences in performance and price among competing airlines. A nudge from the airline's government—e.g., to choose a domestic company or one that buys some parts or subsystems from domestic companies—can be decisive.

In addition to technological and market uncertainties, financial risks are also high. Aircraft development costs have risen dramatically since the early days of air transport, as table 8–2 shows.

The $1.2 billion development costs of the 747, spent between December 1965 and January 1969, were over 3 times the $372 million capitalization of the Boeing company. The $1.1 billion cost of developing the DC–10 was over 3 times greater than the $364 million capitalization of the Douglas company. The combined launch costs of Boeing's 757 and 767 in the late 1970s again exceeded the net worth of the company. Coupled with these tall investment requirements are long lead times before the project reaches positive cash flow, and an even longer wait before the break-even point. Typically, it takes 4 to 5 years to develop, test, and certify a new aircraft, 2 years longer for the engines, and as much as 10 years from then to recover the initial investment—if that point is ever reached. Figure 8–1 shows the cash flow of a typical aircraft program.

Unless they have government support, manufacturers finance these costs from four sources:

1. retained earnings,
2. issues of debt and equity,
3. progress payments from customers, and
4. cost-sharing with subcontractors and partners.

These sources may not be sufficient to enable a manufacturer to launch a new model, and in some instances, only if governments are willing to directly assume much of the financial risk can the project proceed. Governments can offer loan guarantees or credits with payback contingent on success; or they may pay outright some costs of developing new projects, either by providing funds at preferential rates or by contracting for development work.

Although government assistance to the large commercial aircraft industry is undeniably important overall, the effects of individual government supports vary greatly. Government support for R&D may not advance a company's technological development. On the one hand, it may stimulate a company to increase its own funding for R&D, or it may supplement the firm's own R&D program. Alternatively, it may supplant R&D the company would have done anyway. Financial assistance with the launch of new designs may enable firms to proceed with models that otherwise would never have made it past paper studies, but it may also remove market disciplines and encourage a firm to proceed without first establishing that sufficient demand exists, leading to costly market failures. Government-provided financing to ease companies' cash flows during production may enable firms to increase production rates and improve market share, but it may diminish pressures for the firm to institute needed cost-controlling measures. The effectiveness of government support depends not only on the degree to which it is offered but also on the type given and the way in which it is delivered.

The following sections describe government policies related to the aircraft industries of the United States, Japan, and Europe, focusing on the motives, content, and results of government interactions with the industry.

TABLE 8–2.—AIRCRAFT DEVELOPMENT COSTS

[Dollar amounts in millions]

Aircraft	Entered service	Development cost in dollars	Development cost in 1991 dollars	Development cost per seat in 1991 dollars
DC–3	1936	$0.3	$3	$0.1
DC–6	1947	14	90	1.7
DC–8	1959	112	600	3.75
747	1970	1,200	3,300	7.3
777	[1] 1995	[1] 5,000	[1] 4,300	[1] 14.0

[1] Estimate.

Source: U.S. Department of Defense, National Aeronautics and Space Administration, and Department of Transportation, R&D Contributions to Aviation Progress (RADCAP) (Springfield, VA: National Technical Information Service, August, 1972), vol. II, app. 9, p. 21. 1991 values are computed using aerospace industry price deflators for 1965–1989 and GNP deflators and estimates for other years.

UNITED STATES

Motives

The U.S. Government today avoids helping any particular industry compete in world markets. However, the government does have policies related to national defense and trade, and takes actions that affect transportation and technology. The U.S. commercial aircraft industry has benefited from measures taken in these areas.

The greatest benefits for U.S. commercial aircraft manufacturers have been side effects of the government's commitment to building and maintaining a strong defense industrial and technology base. The use of advanced technology in national defense has generated both financial and technological benefits for companies that produce commercial as well as military aircraft. Several factors make the commercial aircraft industry of special interest to defense policymakers. Technological advances made for commercial aircraft show up in military hardware and concurrent production of commercial aircraft reduces military aircraft costs. The supplier base and work force skills needed for rapid military buildups are maintained by civil aircraft production, and the design teams needed for military projects are kept together by commercial work during periods of weak military demand. These benefits are likely to become even more important in the future as defense spending is scaled back and military hardware comes to rely more heavily on dual-use technologies.

Support for civil aeronautical R&D is strong in the United States, compared with

that for most other areas of the civilian economy. The traditional rationale for government support of NASA technology programs is that the resulting R&D compensates for the tendency of private firms to do less than the socially optimal levels of R&D because they are unable to capture fully the returns of their investments. This is the standard economic justification for civil technology policies in general. Although NASA's official mission does not go farther towards helping U.S. aircraft manufacturers compete, this alone does provide some competitiveness benefits to U.S. firms.

The belief that air travel is important for U.S. transportation needs has led to measures such as airline regulation, subsidies for air mail, Federal and local subsidies for airports, safety monitoring, and the management of the air traffic environment. Though most of these measures were aimed primarily at air transportation, they fostered the early growth of a strong domestic market for commercial aircraft, which in turn benefited U.S. producers.

As for trade policy, U.S. commitment to free trade served the country's aircraft manufacturers well for many years after World War II. During the war, the United States had become the world's greatest producer of aircraft and it emerged at war's end with the industry intact; this helped establish the industry's dominance. With the strong domestic market and continuing military-civil connections giving U.S. producers significant advantages, a liberal trade environment favored the American industry. The government also used its influence to discourage foreign support for competitors (though with limited success), maintained a tariff of 5 percent or more on aircraft imports until 1980, and provided export assistance to U.S. producers to compensate for perceived unfair practices. In the 1980s, while U.S. trade deficits reached record levels, commercial aircraft exports rose. Indeed, aircraft is the United States' largest exporting industry. The U.S. trade surplus in transport aircraft (not counting spare parts) from 1985 to 1989 (the latest year for which firm figures are available) was $35 billion. Although sales of commercial transport aircraft represented less than 0.3 percent of U.S. gross national product (GNP) in 1989, they accounted for nearly 3.4 percent of the dollar value of U.S. merchandise exports.

Among this list of U.S. Government actions and policies, only NASA's support for civil aeronautical R&D constitutes a deliberate effort to help the competitiveness of commercial aircraft builders. Benefits the industry has received in other areas, especially from the synergies between military and civil aircraft work, have been the results of government actions taken with goals other than competitiveness in mind.

Military-Commercial Synergies

The U.S. Government policy that has most affected the competitiveness of the commercial aircraft industry is procurement of military aircraft and funding of the related R&D. Most important among the effects of military work are technological synergies. In a few cases, whole systems developed for the military have been spun off to commercial applications, reducing development costs and risks to the commercial users. In others, large military orders for products or technologies designed for commercial uses (or those closely related) have boosted production runs, and therefore lowered costs by allowing companies to achieve economies of scale, learn the production process, and share overhead costs. Military development programs have assumed the risks of proving advanced technologies, giving commercial users the confidence to adopt them. Often, the benefits accrue not so much to aircraft assemblers, but at the subsystem level, in materials, or in manufacturing process technology. Though synergies appear to be declining, the boost the industry was given in the past when military and civil technology were more similar accounts for a portion of the success of the industry today.

Examples of these synergies are numerous. Boeing's civil 707 and the military KC–135 tanker were both developed from a common prototype and shared 20 percent of the tooling, reducing costs to both commercial and government customers. The prototype itself drew heavily on advances made in the B–47 and B–52 bomber programs, including the flexible swept wing and the podded engine. The core of General Electric's largest commercial engine was originally developed for the C–5 military transport, and the core of the company's medium-sized commercial engine came from the B–1 bomber. At the GE Aircraft Engines plant in Evendale, Ohio, commercial and military engines move through many of the same production stations. Both sides of the business share a common management structure, common ordering and inventory, common manufacturing processes, and common R&D facilities. Only finance and marketing are separated. McDonnell Douglas sold 60 of its commercial DC–10s to the Air Force for use as air refueling tankers, thus increasing the total profits of the program and helping to keep production going until the company was ready to commit to the derivative MD–11. The development of lightweight composite materials is being led by the military; commercial users have been unwilling to adopt the materials until they have acquired sufficient service experience that their safety is assured. Military users are providing that experience. Though much of the development cost of the ring laser gyroscope for internal reference systems was borne by companies, military funding at key moments in the development process, together with the promise of combined military and civil market, spurred the private investment. Pratt & Whitney's F–117 engine for the Air Force C–17 cargo plane was adapted from the commercial P&W 2037 engine and bought "off the shelf" by the military, thereby increasing production runs, spreading development and overhead costs, and decreasing costs to both military and commercial users.

Military projects help train aeronautical engineers. The original 747 design team consisted of engineers who had been trained and familiarized with the tasks involved in designing wide-bodies during the C–5A military transport competition. One McDonnell Douglas official suggested that even if the C–17 program were canceled, it would still have had the beneficial effect of training 2,000 engineers the company could then employ on commercial work.

Until the last decade, military work was profitable. This, combined with the often alternating cycles of the commercial and military sides of the business, generated some financial benefits for companies involved in both commercial and military work. For example, according to a leading aircraft industry analyst, Boeing's commercial activities lost money during the first 20 years of jet production; the company was carried during that period by steady profits in its military business, especially the B–52 and Minuteman missile. In 1967, despite an order backlog of $2.3 billion in commercial aircraft, the commercial Douglas Co. was forced to merge with the primarily military McDonnell Aircraft Corp. The cash infusion from McDonnell not only saved Douglas from bankruptcy but enabled the company to bring out the DC–10 (introduced in 1971).

However, the defense connection has not been an unqualified boon. Defense and commercial technologies have been gradually diverging since the beginning of the jet age, so opportunities for the commercial side to benefit from military developments are shrinking. Commercial requirements are driving high reliability, low fuel consumption, and low noise technologies, while defense needs are pushing low radar detection, high speeds, and high maneuverability. Some synergies remain, but they are smaller than they once were.

Other aspects of the defense business are negative as well. Military projects can divert limited resources (e.g., highly specialized aeronautical engineers) away from commercial projects. Export controls limit international markets, military requirements may entrench processes and mentalities ill-suited to commercial competition, and efforts to standardize military hardware with allies may have transferred commercially relevant technology to competitors. Classification of defense systems often makes advances in military technology unavailable to commercial divisions even within the same company, and much of the DoD aircraft development and procurement budget is spent with firms that have no significant commercial activity. In the late 1980s and early 1990s, defense aircraft work in the United States has become less profitable than it once was, creating a burden on profitable commercial operations.

DoD's procurement regulations often create de facto requirements for firms to separate their military and commercial development and production, reducing the potential benefits of simultaneous involvement in both sides of the business. The costs generated by DoD's close oversight or detailed specification of hardware and production processes cause some companies to separate military and commercial production that they might have combined if DoD provided for more latitude. Even when companies still find it beneficial to combine military and commercial production, the benefits are less than if DoD procurement regulations and contract specifications allowed more flexibility. Burdensome military requirements are unlikely to leave commercial producers less competitive than if the companies had no military business at all, but they do interfere with the ability of firms to take maximum advantage of available synergies.

The defense business has generated benefits for and imposed extra costs on firms also involved in commercial work. These benefits have been far less than they could have been if promoting commercial competitiveness were a major policy goal.

Government Funding for Civil Aeronautical R&D

In addition to the often indirect and generally unintended benefits to commercial manufacturers of military aircraft, the U.S. Government has directly funded R&D for civil applications through the aeronautics program at NASA and its predecessor, the National Advisory Committee on Aeronautics (NACA). Figure 8–2 shows the funding history for NASA's aeronautics program. Their research projects have produced many advances that improved the performance and safety of aircraft. However, the gains for the competitiveness of U.S. aircraft manufacturers have been less clear.

One undisputed benefit has been the research and test facilities NASA provides. Since companies are relieved of the need to maintain redundant facilities of their own, the NASA facilities reduce costs for individual firms and improve the efficiency of the industry as a whole. Most used by companies are the wind tunnels. According to NASA officials, every commercial aircraft built in the United States has been tested in NASA wind tunnels. Computers, simulators, aircraft for flight testing, and other specialized equipment are also used by industry, sometimes quite heavily. Aircraft companies account for 15 to 20 percent of the use of the Numerical Aerodynamic Simulation computers, the world's most advanced facility for computational fluid dynamics (CFD). In 1984, the replacement value of all of NASA's aeronautics facilities was estimated at $10 billion.

NASA's aeronautics R&D program also benefits U.S. aircraft producers, though it does not always bestow a competitive advantage. The program helps U.S. aircraft manufacturers develop and adopt new technologies by conducting research inhouse and then transferring the results to companies and by contracting with companies to perform specific research tasks, usually in cooperation with inhouse NASA research. Further, NASA researchers act as a free consulting service for industry engineers having technical problems. The availability of technologies developed and tested at NASA's expense and risk helps aircraft manufacturers incorporate new capabilities into their products at diminished cost or risk, just as military developments do.

Sometimes, these technological advances result in gains in competitiveness for the firms that use them. Examples include NASA's work in CFD, which helped Boeing find positions to locate the nacelles on the wings of the 737, 757, and 767 to minimize drag. NASA's energy efficiency projects of the late 1970s and 1980s helped U.S. engine makers decrease fuel consumption of their engines, increasing their appeal to airlines looking for ways to cut operating costs. NASA's noise reduction projects helped U.S. engine makers build quieter engines, which resulted in significant competitive advantages when Congress passed noise limitations in 1968 and tightened them in 1974.

Howver, NASA's technology advances can provide U.S. firms with a competitive advantage only if they are able to apply the technology before their foreign competitors. The record has been mixed. Cases in which foreign competitors have applied NASA research first are numerous. Winglets made their first commercial appearance on Airbus planes. The supercritical wing are first employed on the Airbus A320. In Japan, the Shin-Meiwa Co.,·which builds some composite parts for Boeing, claims to have learned much of its carbon fiber technology from NASA publications. NASA advances in engine technology will be applied by Société Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA), the French aircraft engine company, in its high-pressure compressor for the GE–90. Advances made in short take-off and landing (STOL) technology have been used more by the Canadian company DeHavilland (to the degree that they have been used at all) in its Dash-7 aircraft than by U.S. firms. Safety-related research, such as that on the prevention of icing, transfers quickly—as indeed it should.

NASA publishes nearly all of its research in open literature. Even when U.S. companies do get access to NASA technology first, they may transfer this technology overseas in technology licensing arrangements and through joint ventures. Foreign governments' support of their own aircraft industries in ways that reduce the risks of adopting new technologies is a major reason for foreign firms taking advantage of NASA-generated advances sooner than U.S. firms do.

U.S. firms do have some advantages in getting to NASA R&D first. Most importantly, they often participate in the research projects, gaining valuable "hands-on" experience. NASA also tries to limit the distribution of the most valuable results, though with limited success.

It is likely that the competitiveness benefits to U.S. firms equal only a portion of the cost of NASA's aeronautical R&D program. While the facilities and some portion of NASA's aeronautics R&D budget may be viewed as a support to the industry, to view the whole budget as such is an overestimate of those effects.

Direct Financial Assistance

Though synergies between military and civil work and NASA's aeronautics R&D program are the main sources of U.S. Government benefits to commercial producers, other government actions have also helped. On three occasions, the U.S. Government has provided direct financial supports to the industry. In the late 1960s, poor sales and costs overruns of the L–1011 drove Lockheed to the brink of bankruptcy. In 1971, the Nixon administration approved a loan guarantee of $250 million, which saved the company but failed to prevent it from exiting the commercial business within a decade. In any case, the government's main purpose was to save a defense contractor, not a commercial aircraft producer. Commercial interests were more directly involved in the case of the Douglas Aircraft Co. When the company approached bankruptcy in 1967, the government eased its merger with the McDonnell Aircraft Co. by providing a loan guarantee of $75 million, helping to save its commercial aircraft business. Here, the government's interest was more in the realm of the domestic economy—jobs and community economic base—than in international competitiveness. In neither situation was the guarantee called upon. In the third case, the U.S. Government spent roughly $1 billion between 1961 and 1971 on the development of a supersonic transport (SST) to rival the Concorde. The program was canceled long before an aircraft flew but did generate some technology that appeared in later subsonic aircraft.

The Lockheed and Douglas loan guarantees and the SST program are the most significant direct financial assistance the U.S. commercial aircraft industry has received from the U.S. Government, yet they pale in comparison to the funding available in other countries. Further, these interventions were infrequent and ad hoc, not part of a coherent strategy to support the commercial aircraft manufacturing industry.

Promotion of a Domestic Market

The government has helped U.S. aircraft manufacturers indirectly through its efforts to promote the growth of domestic air travel. The size and strength of the American market is a major reason for the success of U.S. commercial aircraft manufacturers. The earliest commercial use of air transport was in carrying the mail. Deliberate government subsidies enabled carriers to use larger, faster planes better suited to carrying passengers as well. In 1938, the Civil Aviation Administration (CAA) was set up within the Department of Commerce to provide "direct subsidies to promote passenger travel, economic regulation of the airlines, air traffic control, and safety." In 1948, the CAA was divided into the Civil Aeronautics Board (CAB), with responsibility to regulate routes and fares, and the Federal Aviation Administration (FAA) to oversee safety and the air-traffic environment. Safety standards, efficient management of the airspace, and technical support for the construction of airports provided by the FAA all helped to make air travel a safe and desirable means of transport. Regulation, which ended in 1978, enabled airlines to pass on the costs of more expensive, more advanced aircraft to the traveling public, so airlines were quick to replace old aircraft and to introduce technological innovations. Though these benefits have largely disappeared in the last decade, historically they were very important to the industry.

Export Assistance

Finally, the U.S. Government has helped aircraft manufacturers export by providing credit on favorable terms through the Export Import bank (Eximbank). Over the decade from 1967 to 1977, the Eximbank provided $5.77 billion in loans covering the export sales of 1,185 commercial jets worth $12.8 billion. In the early 1970s, when the aircraft market was so weak that U.S. aircraft manufacturers faced serious threats to their survival, the Eximbank became so heavily involved in financing aircraft exports that it acquired the nickname "Boeing's bank." However, two developments have greatly undermined the importance of export financing. First, an agreement among the major aircraft exporters called the Large Aircraft Sector Understanding (LASU), concluded under the auspices of the Organization for Economic Cooperation and Development (OECD), established a minimum rate governments could offer. Second, in the mid-1980s, the financial markets realized that aircraft retain their value well and can be held as collateral against the loans used to buy them. Bank rates for aircraft purchase loans consequently dropped very close to rates available with government guarantees, greatly diminishing the role of export financing. Boeing officials state the Eximbank now finances only five to seven sales of Boeing planes annually, or about 2 percent of the company's sales.

JAPAN

Motives

In contrast to the United States, the explicit goal of the Japanese Government in its support for commercial aircraft manufacturers was and still is promoting the industry's development. Japanese Government support for this industry is properly seen as another step up the technological ladder in a long succession of targeted industries.

After the U.S. occupation of Japan ended, most of the companies that had built military aircraft during WWII returned to the business. Their first significant work came from the overhaul of U.S. military aircraft used in the Korean War, followed by licensed production of U.S. military designs. In the 1960s, a project to build a twin-engine turboprop gave companies their first experience designing commercial transports and their first taste of the business. Following the costly failure of this domestic venture, airframe work shifted to subcontracting for Boeing and engine work focused on the multinational V2500. Military work dominates the industry today, though the proportion of commercial work is increasing rapidly. The

total civil production remains less than 5 percent of that of the United States.

The legal foundation for Japanese Government support of the industry was laid with the passage of the Aircraft Industry Manufacturing Law in July, 1952, barely 2 months after the end of the occupation made aviation activities possible.The First Aircraft Industry Promotion Law of 1954 led to heavy subsidization of the industry in the 1960s. Aircraft were first designated a "targeted industry" by Japan's Ministry of International Trade and Industry (MITI) in its "vision" for the 1970s, and then again in the document for the 1980s. (The 1990s vision did not name any specific industries.)

As in the United States, military work has helped Japanese companies' efforts to become major commercial suppliers, though relatively small government orders, use of licensed designs (rather than domestically developed ones), and restrictions on exports of military goods have limited the spillover benefits. Although Japanese planners may use military aircraft production to help develop their commercial aircraft industry, the overall benefits from the military connection is less than in the United States.

Promoting economic growth has been and remains the prime motivation for Japanese Government support of industry, and the nation's GNP is now the fastest growing among advanced nations. Partly as a result, Japanese firms now face an acute labor shortage. The need for growth to increase employment is not great. Instead, Japanese planners see the commercial aircraft industry as an opportunity to learn advanced new technologies that may spill over into other sectors, moving firms into more knowledge intensive and higher added-value work. Planners see aircraft production as an area in which recently industrialized countries are unlikely to threaten more technologically advanced nations as they have in industries like steel and ship building..

Japanese companies produced 159 billion yen worth ($1.2 billion at 135 yen to the dollar) of commercial aircraft-related goods and services in 1989. Though government supports have greatly helped Japanese companies achieve such successes as they have, these supports have not been sufficient to fully overcome the obstacles the industry faced in the post-WWII period.

Direct Financial Supports

Early Japanese Government efforts to promote the development of a domestic commercial aircraft industry involved heavy government funding in the hope of rapidly catching up with the West. However, after the failure of its first effort and the high costs it entailed, the government switched to a more gradual approach. In the projects of the 1960s, most of the risk was borne by the government. Now much more of the risk is borne by companies, though the government funds involved are still substantial. The Japanese Government appears to have accepted that catch-up will be a decades-long process.

Government support remains very important to the Japanese industry. Japan's postwar hiatus in aircraft manufacture, its history of licensed production of military aircraft, and limited defense budgets have left Japanese aircraft companies in a weak position from which to compete in international markets. Because commercial aircraft manufacturers in Europe, the United States, and other countries have received many benefits from their governments, the prices of aircraft made in those countries do not reflect their full cost. Without government support, Japanese aircraft manufacturers would have to be far more efficient producers and have better products to offer than their foreign competitors in order to make a profit. They have not yet achieved that. Each of the major Japanese aircraft companies has suffered several costly failures in commercial aircraft ventures, and they are reluctant to repeat the experience. Japan's major aircraft manufacturers are all large, highly diversified companies, and senior management is reluctant to divert too much of their technical talent to the aircraft business.

The Japanese Government has offered aircraft firms direct financial supports in various forms. Though funds involved have been far less than those provided in Europe, they have been large in relation to the size of the industry in Japan. Initially, Japan's Ministry of International Trade and Industry (MITI) used equity participation and guarantees against losses incurred during the production phase of a project. For the YS–11 airplane, a 64-passenger, twin-engine turbo-prop of the 1960s, MITI provided 54 percent of the initial capitalization and guaranteed the participating firms against production phase losses. By the time production was canceled in 1973, only 182 YS–11s had been sold, two-thirds of those to domestic customers, and the project had accrued debts of 28 billion yen ($207 million), four times its initial capitalization of 7.8 billion yen. Most of these debts were never repaid and were quietly forgiven by the government when the management organization was dissolved in 1986.

Later, MITI used *hojokin*—loans offered directly from the Ministry, to be repaid only if the project is successful. The *hojokin* were offered only for expenses incurred during the product development phase, not during production. In 1977, Japan's three largest aircraft manufacturers formed a consortium to make 15 percent of Boeing's 767 (first delivered in 1982). The Japanese partners' total costs came to 29 billion yen during the official development phase, 1978 through 1983, MITI-directed funding covered 14.7 billion yen . In addition, companies spent on their own an estimated 20 billion yen on production facilities and tooling, for a total investment of about 49 billion yen before revenues started flowing. The Japanese companies lost money on the venture for several years because of the fall of the dollar and because production was low. However, the terms of the development loans were favorable to the companies; MITI slowed the loans' early repayment because the program was so costly to the Japanese producers.

In 1986, MITI introduced a new system whereby loans for up to 50 percent of the product development costs of aircraft projects are made available by the government-owned Japan Development Bank (JDB). MITI pays the interest on these JDB loans with further loans from a new government-funded organization called the International Aircraft Development Fund (IADF). Companies begin repaying the IADF loans only when the project reaches the break-even point, so the JDB and IADF loans combined provide firms with nearly interest-free financing. Though companies are officially required to fully repay the loans' principal, if projects funded through this system ran into severe difficulty it is likely MITI would ease repayment requirements. The result is a system of launch aid similar to that used in Europe. Japanese companies' 20-percent participation in Boeing's 777, launched in late 1990, will probably cost $1.2 to $1.3 billion. Of this, $700 million is development expense, half of which is eligible for MITI support (the remaining costs are for facilities, tooling, and operating expenses, which MITI does not cover). JDB has committed to supply 17.4 billion yen ($129 million) for the 777 for 1991, and MITI has requested 798 million yen ($6 million) in IADF funds that "will be applied as a subsidy for 50 percent of the especially high-risk development cost and for the interest on the JDB loan."

While the Japanese Government is gradually reducing its share of the costs and risks of commercial aircraft projects, direct financial supports continue to benefit Japanese firms. MITI supports enable companies to make much larger investments in commercial aircraft projects than they would otherwise, thereby speeding the development of the industry.

Military-Commercial Synergies

Japanese aircraft companies have achieved synergies between their military and commercial businesses in many of the same ways U.S. firms have. The total benefits, however, are much lower than in the United States because Japanese procurement budgets are far smaller and the R&D budgets smaller still. Japan's defense budget has hovered around 1 percent of the country's GNP for four decades. In 1988, Japan spent Y3.7 trillion ($27.4 billion) on its military. Military aircraft procurements have ranged between 7 and 12 percent of the total defense budget (Y381 billion in 1988) for the last two decades. In comparison, the U.S. defense budget for 1988 was $290.4 billion, $28.2 billion of which was for aircraft procurement. The contrast is even greater for R&D. In fiscal year 1991, U.S. Department of Defense R&D was $37.8 billion and about 15 percent of the $285.6 billion defense budget, while Japan's military R&D spending was only Y114 billion ($844 million) and 3 percent of the defense budget (the highest percentage it has ever been).

Synergies between military and civil work are reduced by Japan's propensity to license U.S. designs, rather than developing them domestically. This has denied Japanese firms the opportunity to develop valuable design and development skills. In fiscal year 1991, Japan paid the United States $816 million in royalties for these licenses, roughly the equivalent of the entire Japanese military R&D budget.

On the positive side is the flexibility the Japanese Defense Agency allows its contractors, enabling Japanese aircraft manufacturers to realize some synergies much more easily than U.S. producers. For example, the JDA allows contractors to retain any intellectual property rights generated in development projects, enabling firms to use research results in commercial products at their discretion. Further, the JDA deliberately seeks out technologies with dual-use potential, increasing chances for synergies.

Other Mechanisms

Japan has a civil aeronautical R&D program similar to NASA's, which generates some competitive benefits for Japanese firms. The mission and activities of the National Aerospace Laboratories (NAL) are much like NASA's; however funding is less than one-tenth as much. In translating its technical advances into competitive benefits for Japanese firms, NAL suffers from some of the same difficulties NASA faces. The technology development programs run by MITI's Agency of Industrial Science and Technology have been more important than NAL's efforts. The FJR–710 engine program, which was almost entirely funded by MITI through its Agency of Industrial Science and Technology (AIST) for a total of 19.8 billion yen ($147 million) between 1971 and 1981, formed the basis for Japan's current 23-percent share of the V2500 engine program. Officials at Ishikawajima Harima Heavy Industries state that without strong government support, they would never have attempted such a technologically risky venture. Currently, AIST is funding a research project in hypersonic propulsion systems, aimed at putting Japanese manufacturers in a position to participate in building a high-speed commercial transport that may be built early in the next century.

The Japanese Government has aided its aircraft manufacturers in two other significant ways. First, by creating a preference among domestic airlines for aircraft that have large portions built in Japan, the Japanese Government encourages foreign manufacturers to increase the amount of work they subcontract in Japan. A combination of close relationships between government officials and senior airline executives and roughly $1 billion in preferential interest rate loans that MITI can offer for aircraft imports gives the government great influence. This is not to say that the government makes overt demands of foreign manufacturers. Rather, foreign companies are aware of these interactions and take into account that substantial subcontracting in Japan may help them sell to Japanese airlines.

Second, the Japanese Government has helped Japanese firms to pool their resources in consortia, decreasing the risk any one firm faces and increasing their bargaining power with potential partners. The main purpose of the First Aircraft Industry Promotion Law of 1954 was to create cartels within the industry. That law and its successors not only offer inducements for cooperation among firms; they require Japanese companies to obtain formal MITI approval before entering the aircraft business. Consortia in the aircraft industry are remarkable because unlike those in other Japanese industries, which handle R&D only up to the precompetitive stage, these extend into the production stage. All of Japan's major international projects—the 767, the V2500, and the 777—have been handled through such consortia.

EUROPE

Motives

In contrast to the predominantly indirect benefits U.S. commercial aircraft manufacturers have received from the U.S. Government, European firms have benefited from government policies aimed directly at promoting their competitiveness. Several motives lie behind this direct support. European planners value aircraft manufacture explicitly for the employment it creates. An Airbus official explained that the main reason the collaboration works is that by creating jobs in an export industry, Airbus enables the member countries to capture jobs from other parts of the world (Figure 8–3 shows the historical and expected growth in Airbus' share of the world market. For a brief description of the history and current structure of Airbus, see box 8–A.) The member governments are less concerned about global economic efficiency and rules of comparative advantage than with meeting immediate domestic needs. With government commitment to full employment, policymakers view the thousands of jobs Airbus creates in England, France, Germany, and other European countries as well worth the costs of the supports provided.

Another reason European government support the industry is concern that without support for their domestic manufacturers, European airlines will be forced to rely solely on two U.S. suppliers. By supporting a challenger, European governments force U.S. manufacturers to keep their prices low. As a result, some portion of every dollar European governments spending supporting Airbus is returned to their economies in lower airplane costs. Baldwin and Krugman examined the competition between the Airbus A300 and the rival Boeing 767 and concluded that European consumers do benefit, but by less than what they estimate European taxpayers paid for those benefits. "Overall it seems that the A300 project constituted a beggar-thy-neighbor and beggar-thyself policy for Europe."

National prestige plays a big role. Though the influence of pride is difficult to trace, aircraft projects have broad popular support, making them an easy cause for politicians to endorse. Europeans are proud of a long history of achievement in aeronautics, including the first supersonic transport, the first jet transport, the first jet engine, and even claims of the first powered flight. Airbus Industrie (AI) executives describe an "Airbus reflex" in the French Government. Airbus does not even have to go to government offices to solicit help; the venture is so highly regarded that the relevant ministries come to Airbus on their own and ask, "How can we help?"

Just as in the United States, national defense policies aimed at maintaining autonomous and technologically advanced military production capabilities have greatly increased the ability of firms to design, develop, and build large commercial transports. In addition, regulation and state ownership of airlines, put in place to meet air transport policy goals, provide European aircraft manufacturers with reliable domestic customers. Support for aircraft manufacture is justified on trade grounds as substituting domestic goods for imports and boosting exports. Planners perceive the products as driving technological advance and moving jobs to higher added-value and more knowledge-intensive areas.

Direct Financial Support

Direct financial supports have been the principal mechanisms used by European governments to assist their commercial aircraft manufacturers. This support has taken the form of government contracts for the development of commercial models (in effect, grants), loans and loan guarantees on favorable terms covering both development and production costs, guarantees against losses caused by exchange rate changes, equity infusions, tax breaks, debt forgiveness, and bail outs. Without these supports, it is likely that no European firms would be in the large commercial aircraft manufacturing business.

Beyond simply enabling companies to operate at a loss, government financing has several benefits over commercially available financing. Governments, unlike commercial lenders, will finance specific projects. This enables manufacturers to move quickly to fill market openings with new models even when the cash flow from previous models is insufficient to convince banks to lend. This may give the manufacturers a head start on their competitors, and because of the steep learning curve of this industry, a head start is an important advantage. Ideally, by getting into the new market first, the firm will be able to deter the entry of any competitor and so be able to establish a monopoly position. Also, since government funding is usually provided during the development phase and paid back as a levy on sales, the government assumes much of the risk if sales are poor. This encourages companies to shift as many costs as possible to the development phase. For example, adopting advanced manufacturing methods and higher levels of automation in the production process may increase development costs but decrease production costs. Similarly, use of more advanced product technologies may increase development costs but reduce operating costs in airlines. Since the government bears the risk for the development expenses, companies are encouraged to make the most advanced aircraft in the most advanced way possible.

Before Airbus, British, French, and German jet transport manufacturers had launched 8 different models of jet transport of which only 2 sold more than 200 (total sales of 239 and 279), 2 sold between 100 and 200 (total sales of 112 and 117), and the other 4 were catastrophic failures (total sales of 14, 11, 54, and 10). Judging by the experiences of Douglas (driven to bankruptcy even while its planes were selling well), Lockheed (driven to bankruptcy by the L–1011, which ultimately sold 249 units), and Convair (driven from the commercial aircraft business by the 880/990, which sold 102 units), any one of these European ventures should have forced its manufacturers into bankruptcy, or at least from the commercial aircraft business. However, not one of the firms responsible for any of these aircraft has left the field, though some have been consolidated.

The ability of these firms to launch further aircraft models after their failures with previous designs is directly attributable to government intervention. From 1945 to 1974, the British Government spent £1,504 million at 1974 prices ($9.3 billion inflated to 1991 values) in launch aid for civil projects, including the Concorde, and were repaid less than £150 million ($929 million inflated to 1991 values) of that. The total cost of jet transport programs to the British Government rises to several times that amount if the cost of bailouts is included. From 1962 to 1977, the French Government spent an average of $829 million (at 1991 values) per year on civil projects, during that period repayments averaged only about $23 million per year. Costs to the German Government were lower, as they had no part in the Concorde project, but Germany had other costly failures. Not only has government funding made European prime assemblers more competitive in international markets, at the supplier level it has made companies more desirable partners for U.S. firms looking to share the burdens of launching expensive, risky projects. Government support of the European partners made European participation in ventures like the CFM–56 and V2500 much more appealing for U.S. firms.

Because of Airbus, direct financial supports have come more into the international limelight, including a formal GATT complaint from the United States in early 1991. Most of the support the British, French, and German (and Spanish) Governments have provided to their aircraft manufacturers has been in the form of launch aid, although the British Government has been more hesitant in this regard than the French and German Governments. As of the end of 1989, the governments of France, England, and Germany had disbursed a total of $5.4 billion to the Airbus member companies in launch aid. Of this, roughly $500 million had been repaid. Repayment of the remainder has been either forgiven or deferred, or was never intended. An additional $2.3 billion had been pledged for the A330/A340, and the German Government had committed a further $3 billion as part of the Daimler-MBB merger. This government financing represents almost 75 percent of the development funds required for the Airbus models developed to date. As table 8–3 shows, as of the end of 1990, the $5.6 billion would have been $10.7 billion if the governments had charged firms the cost of the funds at rates the government themselves have to pay for borrowed money, and $18.0 billion if the firms had had to pay a corporate prime rate.

In addition to launch aid, the German Government (through not the French or British Governments) has provided its commercial aircraft manufacturers with loans to cover losses incurred during the production phase of Airbus projects. In 1988, the German Government paid off the outstanding production-phase debt its aircraft manufacturer had accumulated in the A300/310 projects so that no more interest charges would accumulate. Accumulated capital and interest had reached $1.05 billion. Further, the German Government agreed in 1988 to guarantee against losses caused by the exchange rate falling below 1.8 DM to the dollar. Analysts estimate the government's maximum liability for the guarantees through 1996 is $1.3 billion and for the period from 1997 to 2000 is $863 million. With exchange rates at levels (as low as the 1.5 DM to the dollar since the guarantee began, around 1.7 in mid-1991), the German Government is likely to have to pay nearly the full amount of the guarantee. Finally, at various times all of the Airbus members were government owned; Aerospatiale and Construziones Aeronautics S.A. (CASA) still are. Some of the equity bought by the governments constitutes a further subsidy.

TABLE 8–3.—LAUNCH AID FOR AIRBUS MEMBERS[1]

[In billions of dollars]

	A300 and A310			A320			A330 and A340		
	France	United Kingdom	FRG	France	United Kingdom	FRG	France	United Kingdom	FRG
Commitments	1.2	0.1	3.0	0.7	0.4	0.9	0.8	0.7	1.6
Disbursements	1.1	.1	1.5	.7	.4	1.0	.3	.3	.3
Value at government[2]	3.3	.3	3.1	1.2	.6	1.1	.3	.4	.3
Value at corporation[3]	7.5	.3	5.7	1.8	.7	1.2	.4	.4	.3

	Program totals[4]			Country totals			All airbus
	A300 and 310	A320	A330 and 340	France	United Kingdom	FRG	
Commitments	4.3	2.0	3.2	2.7	1.2	5.5	9.5
Disbursements	2.7	2.1	.8	2.1	.8	2.8	5.6
Value at government	6.7	2.6	1.1	4.8	1.3	4.7	10.7
Value at corporation	13.3	3.7	1.0	9.6	1.3	7.1	18.0

[1] These figures represent all launch aid and include funds allotted to non-Airbus aircraft projects such as the French ATR 42 and 72. Officials in France, Germany, and England state that the numbers are accurate. Neither firms nor governments in Europe disclose public supports at a level more detailed than those used here, so it is impossible to tell by how much the table overestimates the Airbus aid. Since Airbus is by far the largest aircraft venture currently receiving public financing in Europe, it is likely these figures overestimate the total Airbus launch aid by only a little.

[2] Value of the disbursed funds as of Dec. 31, 1988, including interest accrued assuming government rates (10-year T-bills). The effects of staggered disbursements and loan repayments during the course of the programs have been factored in, and end-of-1988 currency exchange rates used.

[3] Value of the disbursed funds as of Dec. 31, 1988, including interest accrued assuming corporate prime rates. The effects of staggered disbursements and loan repayments during the course of the programs have been factored in, and end-of-1988 currency exchange rates used.

[4] The development costs of Airbus' most recent launch, a stretched version of the A320 designated the A321, are being financed without government assistance. The A321 was financed on commercial terms with a line of credit from the Euro Investment Bank. The financing was not project based but rather based on AI's credit standing as backed by the liability of the members under the GIE structure. The A321 thus represents not only the first time a new or derivative Airbus model was launched without government aid, it is also the first time that AI and not the members arranged the financing.

Source: U.S. Department of Commerce, unpublished data collected from publicly available data.

Government Influence Over Airline Procurement Decisions

European governments have also created benefits for their commercial aircraft producers by influencing the procurement decisions of domestic airlines. Government ownership of airlines, close relationships between high-level officials and airline executives, and regulatory clout combine to give European governments sufficient influence to swing airlines' choice of manufacturers. (Table 8–4 shows government ownership of major European airlines.)

Examples of government intervention in procurement decisions are numerous. The British Government directed British European Airways to buy the British-made BAC 1–11 and British Overseas Airways to buy the VC–10 in the 1960s and 1970s. All of British Airways' current fleet uses Rolls Royce engines. The French Government pressured French airlines to buy the French-made Caravelle, and Air Inter, France's domestic airline, was the only airline ever to buy the short-lived Mercure. The French Government tried to force Air France to buy DC–9s instead of Boeing's 737s in order to help negotiations between McDonnell Douglas and Dassault over the proposed Mercure 200. The French Government succeeded in forcing the airline to buy GE engines instead of Pratt & Whitney engines for the A310 because of GE's close ties to the French engine-maker SNECMA. Overall, the preference of European airlines for Airbus planes is pronounced, as figure 8–4 shows. In the categories where U.S.-made and Airbus aircraft compete directly, both Air France and Lufthansa have only Airbus planes in their inventories. In fact, the willingness of national airlines to buy Airbus planes was an essential part of the original agreement by which Airbus was established.

The significance of government-steered procurements has come less from the total volume of these orders than from their timing. French, British, and German airlines have provided the key launch orders, without which few of Europe's commercial aircraft programs would ever have proceeded. Without these orders, no Airbus models would likely have been launched.

The preference the Airbus members have shown for sourcing domestically has also been effective at promoting the development of a European supplier industry and at convincing U.S. manufacturers to transfer workshare and technology to European suppliers in return for access to Airbus contracts. During the selection of engines for the A300, Pratt & Whitney offered European firms subcontracts, but GE offered SNECMA and MTU a full partnership, giving them 16 and 10 percent respectively of the workshare of GE's CF–6–50 engine, and a say in the program's management. This offer was sufficient to convince the French and German Governments to specify the GE engine for the launch of the A300. Again, in the A310 engine competition, the GE partnership with SNECMA convinced the French Government to override Air France's preference for Pratt & Whitney engines. This selection led to GE's and SNECMA's 50/50 venture to build the CFM–56 engine, which is now used on the A320. Needless to say, Air France has specified the CFM–56 for all of its A320s.

TABLE 8–4.—GOVERNMENT OWNERSHIP OF MAJOR EUROPEAN AIRLINES

Airline	Country	Government ownership
British Airways	Great Britain	0 percent (100 percent until 1987).
Air France	France	Almost 100 percent (previously private UTA bought in 1990).
Lufthansa	Germany	52 percent (72 percent in 1987).
Iberia	Spain	Almost 100 percent.
Sabena	Belgium	Almost 100 percent (trying to privatize parts).
KLM	Netherlands	34 percent (declining from over 70 percent in early 80s).
Alitalia	Italy	100 percent.
Swiss Air	Switzerland	NA.
SAS	Scandinavian	100 percent (Sweden, Norway, and Denmark).

NA=not applicable.

Source: County NatWest Bank.

Government Promotion of Cooperation and Consolidation

European governments have also tried to improve the competitiveness of their aircraft manufacturers by promoting domestic consolidation and intra-European cooperation. European planners believe that to compete internationally in this industry, bigger companies are better. Domestic competition is seen as inefficient and has been sacrificed willingly to form larger firms better able to compete with American rivals. In England, France, and Germany, the dozens of aircraft companies that emerged from WWII were gradually consolidated into one commercial airframer and one commercial engine maker in each country. Consolidation at the supplier level followed. Competition within Europe has been discouraged in favor of cooperation, leading to a string of multinational ventures.

The rise of intra-European cooperation is an extension of the desire to achieve economics of scale that motivated consolidation within countries. The Concorde was the first major collaborative civil project, followed by the ill-fated VFW-614 project between MBB and Fokker. Civilian collaboration really took off, however, with Airbus. Collaboration in military aircraft ventures is even more common than in civil projects. The Transall and the Toranado have been the biggest to date. Currently over 70 percent of Deutsche Aerospace's turnover is derived from collaborative projects, a proportion that is likely to rise to 80 percent by the end of the decade. Though it is impossible to know exactly what the competitive benefits of all this consolidation and cooperation have been, European policy makers seem well satisfied by the results.

Military-Commercial Synergies

In addition to all the benefits described above, European manufacturers have profited from synergies between their military and commercial businesses, from funding of civil aeronautical R&D, and from export assistance much as U.S. companies have.

Examples of military/civil synergies in Europe are numerous. Rolls Royce's early engines, the Avon, the Olympus, and the Spey, all began as military engines. Among Rolls' current commercial engines, none has a direct lineage in a military predecessor, but strong military R&D programs and sales, especially to the Middle East, contributed to Rolls Royce's recent recovery in the commercial engine business. SNECMA has benefited from combined civil and military sales of the CFM-56 just as GE has. GEC of the United Kingdom is developing a heads-up-display (HUD) combined with an infrared sensor to create a so-called "synthetic vision system" for use on commercial aircraft. The needed technologies came out of military developments for night flying. The Transall military transport collaboration between France and Germany ran from the late 1950s until the early 1970s and provided both specific technical synergies and broader business synergies with the commercial sides of the companies involved.

Some differences between the European and U.S. defense businesses affect the ability of commercial aircraft manufacturers to realize benefits from their military work. On the negative side, European governments have spent less on military aircraft than the U.S. Government, and military R&D has been a lower percentage of procurement, creating fewer opportunities for spillovers to the commercial side of the business. Duplication of R&D among various countries, each wanting to maintain autonomous defense production capabilities, has led to inefficient use of total European military R&D funds, resulting in fewer opportunities for commercial spin-offs than if the countries' R&D programs had been coordinated. European governments have spent less on the development of bombers, tankers, and military transports, which generate the most benefits for commercial aircraft.

On the positive side, European military exports are a greater percentage of total military production, partly compensating for lower domestic sales. Further, a higher proportion of the funds spent on military aircraft in Europe go to the same companies that build commercial planes than in the United States, which has many dedicated military contractors. As table 8-5 shows, total military production of all the Airbus members (excluding the rest of Daimler-Benz) is comparable to that of Boeing and McDonnell Douglas, and the reliance of these firms on military sales is higher than Boeing's, though not quite as high as McDonnell Douglas'.

European governments have mostly paid to develop military aircraft domestically rather than licensing from the United States. This practice has generated more commercially useful design and development capabilities than licensed production. The generally close relationships among European governments and their aircraft manufacturers create an atmosphere of trust in which companies are given substantial flexibility in the organization of their military work, leaving them more free than U.S. companies to achieve possible commercial-military synergies. Consolidation has left most countries with only one manufacturer in each product category, which increases the bargaining power companies have in concluding contracts with their governments. This may enable firms to achieve higher profits on military work, and those funds may then be used to finance commercial programs. Finally, most of the European companies interviewed for this study appear to do as well or better than U.S. firms at combining military and civil overhead functions, reducing costs.

TABLE 8–5.—REVENUES FROM MILITARY AIRCRAFT AND RELATED SALES, 1989

Company	Military sales[1]	Percent of total
MBB	783	47.0
Aerospatiale[2]	1,335	33.5
British Aerospace	3,470	53.6
All Airbus	5,588	46.1
Boeing	4,361	23.4
McDonnell Douglas	5,919	55.5

[1] In dollars.

[2] Includes some nonmilitary government sales.

Source: Company annual reports.

Government Funding for Civil Aeronautical R&D

Civil aeronautical R&D in Europe is similar to that in the United States. The Deutsche Forschungsund Versuchsanstalt für Luft- und Raumfahrt (previously DFVLR, now DLR) in Germany, Britain's Royal Aircraft Establishment (RAE) and the Office National d'Etude et de Recherches Aerospatiale (ONERA) in France all perform functions similar to NASA's aeronautics program. They supply some of Europe's largest, most expensive research and test facilities and conduct research in areas in which firms would otherwise underinvest. These activities generate some competitive benefits for European firms, but the benefits are limited by the same difficulties NASA faces. Also, their combined aeronautics budget is smaller than NASA's, and redundancy among the three organizations reduces their effectiveness. The prospects for increased cooperation are good. While the benefits to European manufacturers of government-funded technology programs are unlikely to equal those for U.S. manufacturers, at least they are likely to increase for the level they are at now.

Export Assistance

Finally, European governments have helped their aircraft manufacturers export. In Europe, as in the United States, export financing has become much less important in the last decade than it once was. However, before the Large Aircraft Sector Understanding (LASU) agreement and the improvement of commercially available export financing, European governments helped aggressively. Until the late 1970s, Airbus sold so few planes that each sale was critically important. One order could represent a year's production. These circumstances drove Airbus to offer extreme deals to win orders. Even now, U.S. companies claim Airbus can offer better deals than they can because of the government support the members receive. European governments are also involved in providing offsets as sales incentives, whereas the U.S. Government refuses to become involved in such practices. Desirable landing rights for purchasing countries' airlines and development assistance to poorer countries are the most commonly cited examples.

Overall, Airbus deserves credit for the technical excellence of its aircraft and its improvements in production efficiency and product support. However, the importance of direct financial supports, other direct supports, and indirect benefits such as civil/military synergies are so great that it is fair to say that Europe has bought itself an aircraft industry.

CONCLUSIONS

The principal lesson of this study is that, for governments that believe some industries are more important to national welfare than others, many tools are available to speed the development of those industries. some of the means of promoting development described here are expensive, and the task of weighing the cost of acquiring the desired industry against the benefits derived must be done carefully. In many cases, government supports have undesired side effects that undermine the intended positive effects. However, other cost little and all that is required of a government is the will to employ them. Sometimes, actions the government would take anyway naturally help the competitiveness of a desired industry, and all that is needed is that the government not prevent the benefits from accruing. Without doubt, effectively supporting an industry is difficult. However, as the world's aircraft industries show, it is possible.

THE U.S. AEROSPACE INDUSTRY IN THE 1990'S—A GLOBAL PERSPECTIVE

The United States is the world leader in aerospace design and manufacturing but other countries are strong competitors. In a new report, "The U.S. Aerospace Industry in the 1990s: A Global Perspective" the Aerospace Industries Association takes a hard look at where it stands and how it can maintain or increase its market position.

The aerospace industry of the 1990s is global, dynamic, and complex—driven by fast-paced technological change and heavily influenced by national government support. The aerospace market is also characterized by numerous international partnerships of every sort. In this environment, the traditional "modus operandi" of many U.S. firms and the U.S. Government may be inappropriate for continuing success.

THE U.S. AEROSPACE INDUSTRY IN 1991

Since AIA published its 1988 report on The U.S. Aerospace Industry and the Trend Toward Internationalization, the U.S. industry has increased its international activities. As a result, both exports and imports continue to rise, but export growth has been considerable enough to ensure a continuing string of record trade surpluses. Aerospace has the largest positive trade balance of any U.S. manufacturing sector. Still, the U.S. world market share in aerospace is declining. Despite growing demand for aerospace products, there are an increasing number of market competitors.

In a changing world, where market access is often on a quid pro quo basis, U.S. companies cannot depend only on direct sales abroad of U.S. products manufactured in the United States. Other avenues of trade must be pursued. Consequently, the number of

U.S./foreign partnerships is rising and U.S. companies are exploring new roles in these relationships.

U.S. aerospace manufacturers are producing for two very different markets, although strong foreign competition and international cooperation—to one degree or another—are characteristic of both.

Defense Aerospace Market

With the end of the Cold War, and despite lingering concern over a Soviet threat, the United States and its allies are more concentrated on regional threats to global peace. A lesson of the Persian Gulf War is that a strong defense is still necessary; at the same time, that lesson will not prevent the decline of the defense budgets of the United States and its allies. Instead, there will be increased emphasis on tactical systems, and on force mobility and deployment.

The U.S. defense industry is entering this new era from a weakened financial position resulting from government policies that limited profits and reduced the cash flow needed to meet increased operating capital requirements. Defense exports can offset some of the lost sales as the U.S. Government cuts defense spending. However, any number of sales are politically problematic for the United States, and with enormous excess defense production capacity in the world, American companies can easily be supplanted as suppliers. The loss of key defense markets could mean loss of national influence in certain regions of the world.

The issue of economic competitiveness has grown in importance relative to purely defense-related concerns in the United States. Worries about the industrial/technology base have heightened discussion over foreign sourcing for defense system components, foreign investment in the United States, offset sales arrangements, and technology export through international defense cooperation. While many would have the United States pull back from cooperative relationships, other countries, particularly in Europe, are forging closer ties; this could limit U.S. participation in those markets. European countries are also strong competitors for defense sales around the globe.

Civil Aerospace Market

The market for civil areospace products is more promising than the defense market. Commercial production is the growing share of total U.S. industry output and commercial products have long dominated U.S. areospace exports. With world airline capacity expected to double by 2005, prospects for the commercial transport sector are particularly bright.

Problems confronting U.S. producers include economic recession and airport congestion, which could limit expected expansion of this market. Another concern is the need to harmonize airworthiness requirements to prevent additional costs to U.S. manufacturers, and to preclude these requirements becoming technical barriers to trade between nations, Probably the most serious threat to all U.S. civil aircraft and space vehicle manufacturers is foreign government support of their aerospace companies.

The U.S. civil helicopter industry is not faring as well as the commercial transport sector. Strong foreign competition, often subsidized, has made substantial market inroads. Rotorcraft manufacturers have suffered from recession in the oil industry. Today, they are pinning hopes on the need to replace aging fleets, a rebound in energy markets and the economy, and new technology models under development. Long-term, expansion of this market depends on development of an infrastructure to support regularly scheduled rotorcraft operations.

American general aviation manufacturers have experienced serious decline in the piston-powered aircraft market, due to excessive product liability claims and the resulting high cost of insurance. Higher value commuter and business turboprops and business jets are selling well and exports are rising. New technology aircraft and sizable military contracts should lead to stronger sales.

The space vehicles and launch services sector is expanding steadily. Military requirements for space systems will continue to grow. The commercial space market will develop more slowly and require substantial government support and encouragement.

Two regional markets are particularly important to the U.S. aerospace industry in the 1990s—Western Europe and the Asia-Pacific Rim.

Western European Aerospace Market

The market landscape is being altered for U.S. manufacturers by the emergence of a unified Western European economy, parallel efforts to integrate the European defense market (which already has significant cross-border relationships), the unification of East and West Germany, and the opening of other Eastern European countries. The U.S. relationship with Europe through NATO has been a cornerstone of the American defense market. Events in Eastern Europe and the Soviet Union may mean that the NATO alliance will take on a more political than military cast—with considerable effect on European defense purchases and U.S./European manufacturing arrangements.

Western countries will continue to need defense equipment such as deep strike, theater ballistic missile defense, air defense, chemical/biological warfare protection, command and control, surveillance and verification, early warning and reconnaissance, and long-range targeting systems. These needs should provide opportunities for joint U.S.-European cooperation. However, joint programs have not occurred on any significant scale. Instead, European countries are cooperating among themselves—as are American companies—to a greater degree.

Cross-border relationships have been central to European strategic planning for years, and they have been a key element in keeping the European aerospace sector viable. Meanwhile, U.S. defense manufacturers were able to be successful by concentrating on the large U.S. domestic market, and competing against each other.

Exports have been extremely important to European aerospace manufacturers for years, and—as the U.S. defense market shrinks—their importance to U.S. companies is growing. Both U.S. and European aerospace companies lean heavily on direct exports and on licensing to achieve foreign sales objectives. In addition, European manufacturers are pursuing international joint ventures and mergers at a pace unparalleled in the industry. While most of these efforts are aimed at consolidating their regional position, European manufacturers are also making inroads in the U.S. and Asian markets. The emergence of these larger corporate entities and interfirm alliances is spearheading a global change in the industry.

Factors that figure prominently in the European embrace of a transnational strategy, and the development of larger companies, include: the rising price of advanced technology, the increasing risk of undertaking aerospace programs, regional overcapacity, and the need to balance the United States' competitive advantages in terms of greater sales base and strong R&D funding.

European governments have fostered international aerospace alliances by:

Allowing companies to participate in transnational partnerships—particularly those involving defense contracts and nationalized firms. European governments have not overburdened partnerships with oversight and technology-transfer restrictions.

Continuing to fund joint venture projects which, in many cases, would have been impossible without government assistance.

Supporting European economic unification, joint aeronautical R&D, and the efforts of the Independent European Program Group, which has called for cooperative R&D and greater regional competition to strengthen Europe's defense industrial base.

Nine of the 12 European Community members can produce some form of air craft and several have the capability to design and assemble state-of-the-art products. Depending on the extent of their current capabilities, these countries use international collaboration to supplement their domestic programs, build their credentials in the world aerospace market or, in the case of new market entrants—Greece, Portugal and Turkey—to build their industrial base.

Japan and the Asia-Pacific Rim Aerospace Market

Twenty-three countries comprise the Asia-Pacific Rim region and the robust economic growth of this region will continue to create demand for aerospace products. Commercial air traffic is in a growth mode. Defense spending is also on the increase, with annual regional increases of 6 percent. The region is an important market for U.S. aerospace manufacturers and commercial sales, particularly, have shown growth. European manufacturers have also gained a share of this market—once totally dominated by U.S. industry. European firms are currently engineering a more aggressive marketing campaign in the region.

Many nations in the Asia-Pacific Rim are launching their own aerospace programs. Japan has ambitions to be a major player in the world aerospace market. While its efforts have not always met with success, Japan continues to move forward and is currently involved in several important aerospace projects. China is another active regional aerospace market participant, although with more limited capabilities. Taiwan and South Korea both have programs underway, which they hope will provide the start necessary to build at least some aerospace capacity within their countries. While these nations will not be able to challenge U.S. "big-ticket" programs such as the manufacture of commercial transports, they will increase competition in other segments of the market—e.g., in the production of components and parts. Because a large national commitment will be needed for success, government support of aerospace programs in the Asia-Pacific Rim will be substantial and long-term.

Japan is the economic power in the region and its actions may be a guide to its neighbors. In the defense sector, the Japanese aerospace industry has used its strong position as a buyer to obtain technology and manufacturing skills from foreign companies, particularly those in the United States. The Japanese domestic market alone is not of sufficient size to allow Japan to sustain a large commercial aircraft manufacturing effort. Instead, the Japanese have concentrated on niche markets, such as parts and subassembly production, and have targeted export demand.

The Japanese government has been strongly behind the development of its aerospace industry. It has identified projects, solicited foreign collaboration, set up and coordinated domestic consortia, and arranged financing and R&D funding. Japan considers cooperation between government and industry in developing market capabilities not only desirable, but necessary. The government sees aerospace as a strategic industry, and the key to advancing high-technology development generally.

Japan is pursuing an airspace development strategy centered on:

Continuing R&D aimed at enabling Japanese manufacturers to shoulder a larger role in development and production of future or next-generation technology (e.g., high speed civil transport). Japan will seek an equal partner role in such an effort.

Attempting to launch a regional aircraft program with foreign partners.

Improving design and production processes by remaining a high-quality reliable supplier of aircraft parts and sections, particularly fuselage subassemblies and wing parts.

Becoming a world leader in aerospace systems and components production. Japanese industry is looking for joint development opportunities in this area.

Developing high technology space systems, including unmanned launch vehicles and manned space stations.

At the subcontractor level, Japanese firms compete against each other and foreign companies for business. For large projects, which require high levels R&D funding, national competition is limited; major Japanese aerospace firms form domestic consortia and negotiate workshares. Consortia enable Japan to present a stronger position on the international market.

Changing U.S. Role in International Space Activities

For years, the United States dominated free world space efforts, cooperating with other nations to establish world-wide satellite communication capabilities, but continuing to develop guidance systems, electronics, computer software, new materials, propulsion equipment, and so forth, in the United States—and almost solely for government needs. Today many nations have space capabilities and any nation with the ability to pay for a launch can have access to space. At least seven nations offer launch facilities and vehicles. Space is on the way to becoming a business, not simply a function of national prestige or dominance driven by political and military considerations.

Worldwide, it is estimated, nearly $80 billion a year is being spent on space-related activities. Of that $80 billion, the United States accounts for about 42 percent, the Soviet Union 45 percent, and the rest of the world 13 percent. Of that 13 percent, Europe predominates followed by China and Japan. Many newcomers to space have piggybacked on American technology.

In a world of tighter space transportation and R&D budgets, the United States must make decisions about its investment. Billions of dollars have been spent to support a serious space program. However, large near-term outlays for long-range, visionary programs may be in doubt in light of program setbacks and budget deficits. The United States will maintain a broad capability in space—in part, for national security reasons. But it must better position itself to capture the benefits of space in the commercial sector.

Over the next few years, it will be important to maintain confidence in the U.S. space program, and to sustain an appropriate level of funding. In addition, space programs need stronger coordination and focus within the government. With a spotty history of success in international cooperative programs, the nation also needs to recognize that international partnerships will be necessary for many new space endeavors—and operate accordingly. Finally, there are some tough trade issues to be faced including how to ensure that U.S. private companies can compete against the space products and services of nonmarket economies.

Aerospace Technology—Trends and Strategies

Technology development and technology export are priority concerns for the aerospace industry. Technology is a key issue in either creating or impending international partnerships. The high cost and risk of new technology, access to technology advantages of partners, and market entry are reasons favoring cooperation. But technology leaders such as the United States also face the possible loss of a key element of business advantage. It is important to ask: What must be held back to protect future competitive advantage? What can be shared to achieve today's sales, today's market access, today's mutual benefit?

Nations are collaborating more to develop and apply new aerospace technology, and the capabilities of U.S. competitors are growing. An additional complication is that some technology being applied in aerospace is "dual-use," with both military and civil applications. This has led to a situation where some U.S. products are—or may be—restricted from export, while similar products of competitors are not.

The issue of technology transfer was at the heart of the controversy over the FSX fighter project with Japan. The issue has also caused problems between Europe and the United States. If the United States is not willing, or U.S. companies not allowed, to pursue cooperative efforts—sometimes from initial R&D on—companies from other nations will not hesitate to fill the void. The agreement between Germany's Daimler-Benz and Mitsubishi of Japan to discuss a range of collaborative efforts is a striking example.

What can be lost in discussions about cooperation between the United States and other countries is the fact that technology flows both ways. Other countries have made advances from which the United States can benefit. Agreements can be structured to protect critical, proprietary information while taking advantage of the market potential cooperative arrangements provide.

The United States has no strategy to foster technology development and satisfactorily address technology-sharing questions. Its approach is an *ad hoc* blend of government and private industry initiatives, offensive and defensive. Defensive initiatives include Buy American legislation, offset restrictions, anti-foreign direct investment measures, and export controls. Unfortunately, export controls are not coordinated, delays in issuing export licenses can be extreme and American manufacturers are often prevented from making, or must report at length, special arrangements needed to secure foreign sales.

Strategies that place the United States on the offensive include research and development incentives, teaming domestically for research and development, and targeted spending on critical technologies. The Aerospace Industries Association has launched a Key Technologies initiative to keep the United States aerospace industry in the forefront. AIA identified important enabling technologies, and is developing technology roadmaps and development plans, and working cooperatively with the government and universities to focus funding and research.

Government policy makers and industry continue to debate what a national technology strategy should be, and the issue is often contentious. Technology strategy is frequently cast, and negatively, in terms of "industrial policy"—the choosing of winners and losers. The question is: what middle ground can be found between a government-directed and supported approach to business and leaving things as they are? Meanwhile, U.S. companies compete in a marketplace where other nations' resolve to subsidize and otherwise assist their industries in influencing the outcome of sales.

CONCLUSIONS

The World Aerospace Market

The aerospace market is a global market that will strongly challenge U.S. aerospace firms in the 1990s.

The aerospace market is characterized by numerous international business partnerships—from joint ventures through subcontracting relationships. In this environment, the traditional *modus operandi* of many U.S. firms and the U.S. Government may be inappropriate for achieving success.

The U.S. aerospace industry will continue as the world leader in aerospace for the foreseeable future—given the right balance of policy and programs. It will not maintain as dominant a position as in the past in all segments of the market.

The prescription for market success calls for maintaining the industry's scientific and technical strengths and enhancing them with greater manufacturing capability. Success depends upon the industry's ability to export, its access to affordable investment capital—and to well-educated workers.

New market opportunities are available for U.S. aerospace firms.

With sales and exports at record levels, the U.S. aerospace industry is in a strong position to capitalize on the market opportunities of the next decade. The world's defense market will continue to be an important source of sales. However, the commercial sector is now the area of market growth.

U.S. aerospace producers face greater competition.

Every national market will be more competitive. Manufacturers from the Soviet Union and Eastern Europe will be moving into Western markets for the first time. Aerospace firms in Western Europe will be stronger and more capable than ever. Countries in the Asia-Pacific Rim are intent on developing their own aerospace industries.

Trends In International Aerospace Cooperation

Foreign firms will continue to seek out U.S. companies for collaborative efforts, particularly on commercial projects.

Aerospace companies are cooperating internationally in order to compete. The size of the U.S. military and commercial markets makes U.S. companies attractive partners. At the same time, foreign companies—particularly European firms—are competing with the United States for key roles in international partnerships.0

Defense cooperation between the United States and other nations will not live up to recent expectations.

The decline in defense funding and the changing threat will reduce defense cooperation between the United States and other countries from expectations of several years ago. Paradoxically, these same trends and events will highlight the usefulness of cooperation as a means of spreading costs, sharing risk, and increasing market access.

In Western Europe and Japan, cooperation is viewed as a fundamental part of the defense industrial strategy. In general, in the United States, cooperation is not seen as essential to building an effective defense.

Cooperation among U.S. Defense Contractors is increasing.

American companies are beginning to work together, as are the Europeans, to rationalize their defense technology resources.

International collaboration will often take different forms than in the past.

The competitive pressure on the United States for more genuine collaboration is resulting in new types of partnership and new, sometime subordinate, roles for U.S. manufacturers. But critical U.S. technologies will be more closely guarded by both companies and the government for competitive reasons.

The Space Market

The United States will continue to be a leader in space but will face increasing competition in commercial markets.

U.S. space leadership will continue thanks to the large investment in space-related research and the significant space infrastructure the United States has created. However, the trend is towards sharing of a larger space market and away from the dominance of the United States and the Soviet Union.

In the years just ahead, it will be difficult for NASA to do ambitious "big ticket" projects.

Political consensus is necessary to fund ambitious large-scale space projects and, at a time of budget restraints, that will be difficult for the United States to achieve. A new attitude of long-term commitment by the government is necessary in order to accomplish the goals of large-scale program. It will be necessary to establish discrete short-term goals, concentrated on enabling technologies.

U.S. commercial space business prospects could be enhanced by more centralized decision-making.

Programs that could lead to competitive products and services suffer from a lack of focused, business-oriented management. The diffusion of responsibility and lack of focus make funding decisions difficult for Congress.

U.S. government help will be needed to get the commercial space sector established.

The U.S. Government should support space-oriented commercial business—as other governments are doing.

International space consortia are proceeding without U.S. participation.

The United States will be excluded from some international arrangements because of its reputation as an unreliable partner and its restrictive technology transfer policies.

Technology Trends and Strategies

The United States needs a national technology strategy and commitment to a strong industrial/technology base.

The United States does not yet have a coherent strategy to support industry on high technology issues. A strong case is building for a strategy of nurturing generic, enabling technolgies—technologies that encompass both civil and military applications and are vital to worldwide competitiveness.

The United States needs to step up its investment in manufacturing capability.

While maintaining the vitality of science and technology, the United States cannot afford to underinvest in manufacturing technology. The true cutting edge in world competition is how fast, how well and how cost-effectively products are manufactured.

The prospects of the U.S. aerospace industry will be affected by tighter R&D budgets and the debate over how technology dollars should be spent.

Technology demonstration will become more important than ever in order to shorten the time from concept to application and to learn how various advanced technologies work together.

Validation of generic technology—to reduce the risk of application for manufacturers—is as important in the civil as in the military sector. Over the long term, lack of validation funding will inhibit technological preeminence in civil aeronautics.

More development and coproduction among American companies will strengthen the competitive position of the United States.

Coproduction ventures among U.S. firms will help companies build upon joint research, and create profits they can reinvest in the technology base.

Trying to stop the international flow of advanced technology through excessive restrictions on products or on cooperative programs is nonproductive.

Company proprietary know-how and technologies critical for national security must be protected. Beyond that, restrictions on technology are less productive than working to continually advance the state-of-the-art, improve manufacturing technology, and speed up the cycle of concept to application.

An educated, motivated work force is one of the most important components of competitive success for aerospace.

The aerospace industry will be challenged to meet its future work force needs. Other countries are doing a better job of preparing workers who can meet the requirements of high technology industries.

RECOMMENDATIONS

Create Better, Lower-cost Products Faster Than Competitors

Industry

Give technology planning and development as much priority in business planning as profits.

Expand the use of concurrent engineering whereby engineering designers and manufacturing planners work hand in hand from the first stages of product development.

Pursue the aerospace industry's Key Technologies for the Year 2000 program.

Comment to a strong, continuing investment in manufacturing capability.

Emphasize use of Total Quality programs to motivate employees and improve the productivity of the aerospace work force.

Put more effort into building better working teams, both in domestic partnerships and with foreign companies.

Government

Support industry-led Key Technologies program and work with industry to develop consensus technology development plans.

Provide sustained, strong, balanced funding of the technology base and technology demonstration/validation.

Provide incentives for private R&D investment.

Enact legislation supporting formation of U.S. production-based consortia.

Support major space initiatives such as Space Station Freedom, the Missions to and from Planet Earth, and the Space Exploration Initiative within the context of a strong overall U.S. space program and the incremental development of technology.

Pursue bilateral or multilateral cooperative efforts in space.

Support a competitive commercial space industry in the United States through a strong public-private partnership.

Increase IMIP funding within the DoD budget, set unified policy for management of programs across services, and streamline IMIP contract implementation.

Support development of the National Defense Manufacturing Technology Plan.

Foster use of management concepts for continuous productivity improvement.

Establish An Investment Climate That Supports A Strong Industrial/Technology Base

Industry

Build partnerships with U.S. suppliers and promote productivity through assistance with employee training, R&D, manufacturing investment.

Develop international partnerships that provide a strong flowback of financial and technology resources.

Government

Pursue fiscal and spending policies that will make capital available and affordable for business investment.

Place greater effort into improving the dialogue between government and industry, and involving industry in the development of program requirements.

Encourage industry's investment in technology and innovation by allowing full recovery of the costs of IR&D/B&P.

Increase progress payments to defense contractors.

Reorient the defense budget cycle to allow more multi-year procurements.

Rescind the current DoD policy on recoupment of RDT&E costs and apply recoupment surcharges only to major defense equipment sold to foreign countries.

Educate, Attract, and Develop a High-Caliber Work Force

Industry

Continue and strengthen support of the public education system, particularly science, math and language programs from K-12 through university level.

Expand enhanced in-house education programs for those with specialized and critical skills, and to increase productivity and competitiveness of the work force as a whole.

Expand in-house remedial education for workers, stressing fundamentals such as English, communications, and computations.

Expand recruitment and training of women and minorities.

Continue to pursue and develop ties with the university community in support of research objectives and development of an educated work force.

Continue to provide Key Technologies information to universities to help guide curriculum changes.

Government

Provide strong support nationwide for the study of science, math and languages.

Provide financial incentives to develop university-industry partnerships.

Academia

Work with industry to develop and integrate curricula that respond to the needs of knowledge-intensive production.

Work with industry and government to develop sound Key Technology development plans; coordinate with them on university-based research efforts and relate curriculum where possible to important generic technologies.

Remove Barriers To Trade

Government

Work toward a free and open climate for international trade and investment including greater harmonization of country practices on R&D and production subsidies, and elimination of non-tariff barriers and technical barriers such as some standards, testing and certification requirements.

Take aggressive action against violators of international trade agreements.

Continue to support the Uruguay Round of the GATT and work to strengthen the multilateral trading system.

Effectively regulate the entry of space launch systems developed in nonmarket economies into the limited commercial market.

Establish Pro-trade policies

Government

Seek active FAA role in promotion of U.S. aviation interests world-wide, including strong efforts to maintain the integrity of U.S. federal airworthiness regulations (FARs).

Work toward speedy harmonization of product liability laws in the international arena, and reform present U.S. product liability laws and penalties.

Affirm an Administration policy on defense exports and international cooperative programs.

Work toward a multilateral framework on offset understandings and take no unilateral action to limit offset.

Ensure adequate financing for all exports.

Implement Technology Export Policies That Make National Security And Market Sense

Industry

Foster discussion of industrial/technology base issues from a global perspective.

Focus internal activities on key company strength—critical product and process technology—while cooperating internationally to enhance U.S. market opportunities.

Structure cooperative agreements for strategic acquisition—as well as sharing—of technology.

Government

More clearly define products and technologies to be controlled rather than imposing broad, generalized prohibitions.

Provide a single DoD policy guidance on defense exports, technology transfer, the industrial base, and arms cooperation.

Clarify jurisdiction between Departments of State and Commerce with respect to "dual-use" commodities, with final appeal to the President.

Conform U.S. Munitions List to COCOM International List to put U.S. suppliers on equal footing with foreign competitors.

More narrowly define "defense articles and services."

Streamline export controls administration.

Pursue technology developed abroad through government to government efforts.●

SENATE RESOLUTION 235—RELATIVE TO THE BLOODSHED IN CROATIA

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 235

Whereas the history and culture of the Croatian people dates back well over 1000 years;

Whereas Croatian and Serbian borders have shifted over the centuries, with each ethnic group having more or less territory at different times in history;

Whereas some of the finest remaining treasures of the Ancient Greek and Roman civilizations, like the Roman amphitheater in Pula, the Emperor Diocletian's Palace in Split, and the archeological riches of Vucedol near Vukovar, are in Croatia;

Whereas many magnificent churches, cathedrals, palaces, castles, museums and libraries were built in Croatia from ancient times to the present day;

Whereas the Yugoslav army has been targeting many of these cultural landmarks for destruction in attacks from land, air, and sea;

Whereas the Yugoslav army and Serbian insurgents have been destroying hospitals, and ambulances and relief workers are being fired upon;

Whereas the historic city of Dubrovnik holding no military significance, has been subjected to malnutrition, thirst and disease due to an extended siege without supplies, water or electricity;

Whereas the city of Vukovar has been leveled and its population killed, injured, or displaced;

Whereas the Yugoslav army is targeting Osjek and other Croatian cities for similar destruction;

Whereas Serbians and Croatians have each alleged that members of the other group are perpetrators of atrocities, summary executions, and terrorism against civilians as well as soldiers: Now, therefore, be it

Resolved, That it is the sense of the Senate that bloodshed must be stopped and that:

(1) the United Nations should intervene and send peacekeeping forces to Yugoslavia,

(2) Yugoslav army forces and Serbian insurgents should pull back to internationally recognized pre-war borders,

(3) destruction of cultural artifacts and buildings must cease,

(4) destruction of churches, synagogues, and other places of worship, as well as hospitals, must cease,

(5) attacks on internationally recognized relief workers and their organizations must cease,

(6) warring factions must stop summary executions, torture, abuse, and terrorism,

(7) an independent authority should investigate allegations of atrocities by warring factions.

(8) warring factions must respect the rights of all ethnic groups and halt the killing of innocent people.

SENATE RESOLUTION 236—RELATIVE TO GAYS AND LESBIANS IN THE ARMED SERVICES

Mr. ADAMS (for himself, Mr. CRANSTON, Mr. AKAKA, Mr. INOUYE, and Mr. WIRTH) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 236

Whereas the capacity of the Armed Forces of the United States to carry out the mission of such forces is hindered when competent and qualified individuals are denied the opportunity to serve in such forces;

Whereas an estimated 1,000 men and women are discharged from the Armed Forces each year simply because of their sexual orientation;

Whereas such discharges cost American taxpayers millions of dollars each year;

Whereas studies authorized by the Department of Defense have shown that there is no correlation between sexual orientation and the successful performance of service in the Armed Forces;

Whereas Secretary of Defense Richard Cheney has acknowledged that men and women who would be prohibited from service in the Armed Forces by reason of their sexual orientation under Department of Defense Directive 1332.14, section II.1, are currently permitted to serve in sensitive civilian positions in the Department of Defense;

Whereas men and women who would have been banned from service in the Armed Forces under the directive have served in the Armed Forces in war and in peace throughout the history of the United States;

Whereas such men and women have received military honors and decorations for their valor and service to the United States;

Whereas men and women who could be banned from service in the Armed Forces under the directive presently serve in the Armed Forces and carried out combat missions in the Persian Gulf War as part of such service;

Whereas in an appearance before Congress, Secretary of Defense Richard Cheney testified that the directive contains a policy that he believes the Department of Defense has "inherited" and that the rationale for the directive, that it protects against security risks, is "a bit of an old chestnut"; and

Whereas, regardless of their sexual orientation, all Americans who qualify for service in the Armed Forces deserve an opportunity to serve in the Armed Forces in defense of the United States; Now, therefore, be it

Resolved, That the Senate urges the President to rescind Department of Defense Directive 1332.14, section H.1, so that all Americans, regardless of sexual orientation, who currently serve the United States through service in the Armed Forces and all Americans who wish to serve the United States by such service, will not be prevented from, or punished for, doing so.

● Mr. ADAMS. Mr. President, I am pleased to be joined today by Senators CRANSTON, AKAKA, INOUYE, and WIRTH in introducing a resolution urging repeal of the military's policy banning gay men and lesbians from service. The resolution calls on the President to rescind Department of Defense Directive 1332.14, section H.1, which bans gay, lesbian and bisexual Americans from military service.

This policy is based on stereotypes and prejudice. It is bigoted. It wastes millions of American taxpayers' dollars.

The Pentagon defends itself with the same tired arguments used to deny African-Americans the right to serve their country. The same arguments were raised against women joining the service. The United States has the most modern military in the world. And an antique personnel policy. It is time to discard the policy.

I have a special interest in overturning the ban on gays in the military. It is likely to cause Washington State—and our Nation—to lose a truly outstanding officer, Col. Margarethe Cammermeyer.

Colonel Cammermeyer has served our Nation and all Americans with great distinction for 26 years. She was awarded the Bronze Star for service in Vietnam. She has received the highest professional awards from the Surgeon General. Since 1986, she has served as the State Chief Nurse of the Washington State National Guard. She was on her way to becoming Chief Nurse of the U.S. National Guard when she responded honestly to a question about her sexual orientation. This prompted the 6th Army to begin discharge proceedings against her.

In response to my request that the Army terminate such proceedings, the Department of the Army wrote, in part:

> We agree that the service record of colonel Cammermeyer is impressive. She has had a distinguished military career on active duty in the Army and Army National Guard.

Not surprisingly, the Washington National Guard supports retaining Colonel Cammermeyer. Her supervisor, State Surgeon Col. George Koss, has requested that she be retained.

What did Colonel Cammermeyer do wrong? Nothing. After 26 years of exceptional service to our country, the move to discharge her is based solely on her sexual orientation. This is disgraceful.

But it is not unusual. Since 1982, more than 13,200 gays and lesbians have been forced out of the military. Every year the military boots more than 1,000 talented individuals from service because they may be a gay or lesbian. It has nothing to do with conduct. One was a naval cadet near the top of his class at Annapolis. Many have won the highest military honors. This discriminatory policy deprives our country of talented and truly dedicated individuals.

The Pentagon's own studies offer nothing to substantiate this policy. Department of Defense evaluations have revealed no correlation between successful military service and sexual orientation. One Pentagon study, prepared several years ago by the Defense Personnel Security Research and Education Center [PERSEREC], shows gays and lesbians often perform better than other soldiers. A more recent PERSEREC study dispels the myth that gays pose a higher security risk than their heterosexual counterparts.

A 1989 Gallup poll indicated that 60 percent of the American public support the inclusion of gays in the military. A September 1, 1991 New York Times editorial found: "The ban deprives the armed forces of talent and discharges damage thousands of careers and lives. All for a policy with not a shred of hard evidence to support it."

When asked earlier this year about the DoD policy, Secretary of Defense Cheney conceded it is one he inherited. He acknowledged it is two-faced: it does not apply to civilians holding even the most sensitive positions in the Department. Secretary Cheney admitted it is a "bit of an old chestnut."

The fact is: gays and lesbians have served in the military throughout history. Some estimate that as many as 50,000 served in the Persian Gulf war. The Pentagon has allowed gay men and lesbians to risk their lives during times of war, when it needs them. What makes the same individuals unfit to serve in peacetime?

In 1941, a Navy memorandum asserted that blacks and whites living together could lead to "disruptive and undermining conditions." President Truman put an end to that policy of segregation by Executive Order in 1948. President Bush could do the same thing today.

My resolution urges the President Bush to rescind the directive so that all Americans, regardless of sexual orientation, may serve their country. No one should be prevented from serving or punished for serving solely on the basis of sexual orientation.

My resolution is a matter of justice. It is a matter of fundamental human decency. It is also good policy.●

SENATE RESOLUTION 237—RELATIVE TO DEFORESTATION IN THE PHILIPPINES

Mr. GORE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 237

Whereas, illegal logging is a chronic problem worldwide and particularly in the Philippines, a nation that retains less than 3 percent of its original primary forest cover,

Whereas illegal logging is a practice occurring also in other areas exporting tropical timber, including Burma, Thailand, Papua New Guinea,

Whereas illegal logging deprives native and local communities of legitimate control and benefits from forest resources, and the corruption and violence inherent in illegal trading in timber undermines the healthy development of democracy,

Whereas devastating floods that killed over 6,000 people this November in the Philippines were exacerbated by the removal of forest cover, reportedly caused by illegal logging.

Whereas the problem of illegal logging in the Philippines is exacerbated by the involvement of corrupt military and paramilitary personnel who reportedly have harassed and killed environmentalists, indigenous leaders, and priests working to preserve forests, as is suspected in the cases of Henry Dumoldol, Fr. Nerilito Satur, and Fr. Kark Schmitz, S.P.,

Whereas the International Tropical Timber Organization is an international commodity trading organization established to monitor and regulate the trade in tropical timber, issue recommendations for the policies of members countries, including for the purpose of maintaining the ecological balance in the region concerned; and,

Whereas the ITTO has not sufficiently addressed the issue of illegal logging nor made efforts to ensure that the international trade in tropical timber does not support the socially and environmentally devastating effects of illegal logging, now, therefore be it

Resolved, that the government of the United States, in its participation in the International Tropical Timber Organization, requests the International Tropic Timber Organization fully to recognize the problem of illegal logging in many timber exporting countries, and asks the International Tropical Timber Organization to prioritize efforts to develop a system to prevent the illegal cutting and trade in tropical timber through monitoring, certification, and control of timber traded;

That it should be the policy of the government of the United States to ensure that military and other assistance to the Philippines does not support illegal logging activities undertaken by officials of the Philippine military,

That it is the sense of the Senate that the government of Japan should undertake an investigation through ITTO to determine the amount of illegal tropical timber imported into Japan by individuals and corporations involved in the Philippines tropical timber trade.

● Mr. GORE. Mr. President: Every day, 140,000 acres of tropical rainforest are torn down. By the end of this year, at least 50 million more acres of tropical forest will be gone forever.

The price of our rampant destruction of the forests is high. Though constitutioning only a small fraction of the earth's entire landmass, tropical forests are home to over half of all animal and plant species. In indiscriminantly cutting and burning the trees, we are severing the very threads of life, and jeopardizing the ability of all life forms to evolve and flourish.

Our planet's delicate climatic balance is also jeopardized by our destruction of the forests. With the loss of trees, we lose one of nature's most effective mechanisms for cleansing the atmosphere of carbon dioxide and other trace gases. In addition, trees play a vital role in continuing the cycle of water from the air to the earth; the loss of trees, particularly in tropical regions, often leads to desertification and severe soil erosion. Studies have shown that, within 3 to 4 years, many deforested regions are wastelands—unable to support life.

Advances in science are making us aware of these and other environmental catastrophes that result from rampant burning and cutting of the forest. What we are still largely blind to, however, is the devastating impact these practices are also having on the communities and villages of the forest.

Today I rise to introduce a resolution that calls attention to the shocking situation of one country, the Philippines, where human rights abuses of the worst kind are part and parcel of a seemingly tireless campaign waged by logging companies—and by corrupt government and military officials—to strip the country bare of its once rich forest resources.

As reported by the Philippine Center for Investigative Journalism, "Through the years, logging companies have made big money from the island's forests but have left the people * * * little except a legacy of death and destruction." Whole villages have been left in ruin as the chainsaws and bulldozers rip through the countryside. Though promised new land, medical and financial help, communities have instead been left in utter devastation.

And the loss to the villagers is not only financial. For thousands of people, the consequence has been death. Denuded of trees, the islands—and hillside communities—are extremely vulnerable to floods. In November alone, some 6,000 people perished as the torrential downpours swept tons of mud from the hills. Reports abound of families literally buried alive as the landslides enveloped their homes.

Some have tried to raise their voices against these abuses. Many of these courageous individuals, however, have lost their lives as a consequence. Those profiting from these disastrous practices have little tolerance for those who would jeopardize their profiteering schemes, and they have been willing to go to any length to put an end to potential interference with their plunder of the forests and enslavement of forest communities.

Newspaper accounts of the devastation indicate that mayors and other political operatives are at the heart of the corruption. And the military, too, is playing a big role. The Chronicle, for example, reports that "Military officials in this province (Nueva Ecija) have reportedly taken turns in stealing and selling illegally-cut lumber and banned narra species."

In 1934, more than 57 percent—some 17 million hectares—of the Philippines were covered by rich forest. Today, only 6 million hectares of forest remain, and only a small part of the remainder is virgin forest. If nothing is done to stop the present feverish rate of deforestation, all of the country's virgin forests will be gone in just 9 years.

Mr. President, deforestation in the Philippines has brought untold devastation to the country and untold misery to her citizens. Action must be taken now to stop the abuses. In this resolution, I call on the International Tropical Timber Organization—the international body charged with regulating and monitoring tropical forestry practices—to prioritize efforts to bring an end to illegal logging. The resolution also declares it to be the policy of the United States to ensure that military and other financial assistance we provide to the Philippine Government is not used in support of the rampant deforestation and calls on the Government of Japan to ensure that logs illegally taken from Philippine forests are not imported there.

Mr. President, I urge my colleagues to join me in support of this measure and in sending a loud message to those who would destroy human lives and the forests and the many species that depend on the forests, that there corrupt practices will not long be tolerated.●

AMENDMENTS SUBMITTED

MEDICAID MORATORIUM AMENDMENTS

DURENBERGER (AND RUDMAN) AMENDMENT NO. 1446

Mr. DURENBERGER (for himself and Mr. RUDMAN) proposed an amendment to the reported amendment to the bill (H.R. 3595) to delay until September 30, 1991, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a States expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source, as follows:

In lieu of the matter proposed to be inserted, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii), subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) of subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection, the term 'health care related tax' means a tax (as defined in paragraph (7)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that violates the standards in subparagraph (E)(ii) (I) and (II) or paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment may be made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax is imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of subclause (II).

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State-owned teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) Conforming Amendments.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not of general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) Effective Date.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) Repeal of Prohibition of Upper Payment Limit for Disproportionate Share Hospitals.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

(b) Limitation on Aggregate Payment Adjustments.—

(1) In general.—Section 1923 of such Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(f) Denial of Federal Financial Participation for Payments in Excess of certain Limits.—

"(1) In general.—

"(A) Application of state-specific limits.—Payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made in accordance with the State plan in effect or submitted to the Secretary by September 30, 1991, or in accordance with the State plan in effect or submitted to the Secretary by November 26, 1991 or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date, or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (hereinafter referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) National dsh payment limit.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) Publication of state dsh allotments and national dsh payment limit.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(2) Determination of state dsh allotments.—

"(A) In general.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) Exceptions.—

"(i) Limit to 12 percent or base allotment.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) Exception for minimum required adjustment.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) State supplemental amounts.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) Determination of redistribution pool.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) Distribution of pool based on total medicaid expenditures for medical assistance.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ratio of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) Definitions.—In this subsection:

"(A) High dsh state.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) State.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) State base allotment.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

"(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments based on the State plan described in subparagraph (A)(i)(I), or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date.

"(D) State growth amount.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) State growth factor.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) Conforming amendments.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) Prohibiting Use of DSH Payment Adjustment To Hold Hospitals Harmless for Taxes.—Subsection (c) of such section if further amended by adding at the end the following: "A payment adjustment that varies by type of hospital after the effective date specified in section 1903(w)(1)(F) is not consistent with this subsection if its purpose or effect is to reimburse providers for health care related taxes without regard to their low-income utilization rate or medicaid inpatient utilization rate (as such terms are defined in subsection (b)).".

(d) Limits on Authority To Restrict DSH Designations.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section, except as provided in the last sentence of subsection (c).".

(e) Effective Date.—The amendments made by this section shall take effect January 1, 1992.

SEC. 4. REPORTING REQUIREMENT.

(a) In General.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) Effective Date.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5. INTERIM FINAL REGULATIONS.

The Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act. The Secretary of Health and Human Services shall consult with the States before issuing any regulations under this Act.

HEALTH PROFESSIONALS EDUCATION

KENNEDY (AND HATCH) AMENDMENT NO. 1447

Mr. REID (for Mr. Kennedy, for himself and Mr. Hatch) proposed an amendment to the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991".

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—PROVISIONS RELATING TO TITLE VII

Sec. 100. Short title.

Subtitle A—General Provisions

Sec. 101. Revision of title heading.
Sec. 102. Definitions.
Sec. 103. National Advisory Council.
Sec. 104. Prohibition of discrimination.
Sec. 105. Health professions data.
Sec. 106. Required assurances.
Sec. 107. Priority in awarding of grants.
Sec. 108. Savings provision with respect to current grants or contracts.
Sec. 109. Evaluation and Report.

Subtitle B-Student Assistance

Sec. 110. Limitations on scope of Federal loan insurance program.
Sec. 111. Loan deferral and loan consolidation.
Sec. 112. Maximum interest rates to be assessed.
Sec. 113. Participation of institutions in loan collection.
Sec. 114. Default penalty fees.
Sec. 115. Elimination of statute of limitations for loan collections.
Sec. 116. Student loan insurance fund.
Sec. 117. Powers and responsibilities.
Sec. 118. Annual report concerning default rates.
Sec. 119. Eligibility of institutions.
Sec. 120. Office for Health Education Assistance Loans.
Sec. 121. Authorization of appropriations for certain loans.

Subtitle C—Direct Student Loan Health Demonstration Program

Sec. 131. Direct student loan health demonstration program.
Sec. 132. Loan repayment program for allied health personnel.
Sec. 133. Scholarships for students of exceptional financial need.
Sec. 134. Repeal of Lister Hill scholarship program.
Sec. 135. Scholarships for students from disadvantaged backgrounds.
Sec. 136. Faculty loan repayment program.

Subtitle D—Grants and Contracts for Programs and Projects

Sec. 141. Departments of family medicine.
Sec. 142. Area health education centers.
Sec. 143. Programs of excellence in health professions education for minorities.
Sec. 144. Training, traineeships, and fellowships in general internal medicine and general pediatrics.
Sec. 145. Dentistry.
Sec. 146. Family medicine residencies.
Sec. 147. Educational assistance to individuals from disadvantaged backgrounds.
Sec. 148. Retention program for certain health professionals.
Sec. 149. Minority faculty development training fellowships.
Sec. 150. Special demonstration projects.
Sec. 151. AIDS education and training.
Sec. 152. Geriatric education centers and geriatric training.

Subtitle E—Personnel in Public Health, Health Administration and Allied Health

Sec. 161. Special projects, schools of public health.
Sec. 162. Graduate programs.
Sec. 163. Public health traineeships.
Sec. 164. Project grants and contracts.
Sec. 165. Advanced training of allied health personnel.
Sec. 166. Division of Allied Health.

Subtitle F—Miscellaneous Programs

Sec. 171. Council on Graduate Medical Education.
Sec. 172. Rural health training program.
Sec. 173. Creation of Advisory Council on Medical Licensure.
Sec. 174. Grants for certain postdoctoral fellowships.

Subtitle G—Repealers and Technical and Conforming Amendments

Sec. 181. Repeal of facilities construction grant program.
Sec. 182. Technical and conforming amendments.

TITLE II—PROVISIONS RELATING TO TITLE VIII

Sec. 201. Short title.
Sec. 202. Special projects grants and contracts.
Sec. 203. Advanced nurse education programs.
Sec. 204. Nurse practitioner and nurse midwife programs.
Sec. 205. Capacity building.
Sec. 206. Nursing education opportunities for individuals from disadvantaged backgrounds.
Sec. 207. Traineeships for advanced education of professional nurses.
Sec. 208. Nurse anesthetists.
Sec. 209. Authorization of appropriations for loan repayments.
Sec. 210. Allotments and payments.
Sec. 211. Distribution.
Sec. 212. Undergraduate education of professional nurses.
Sec. 213. Employer loan repayment program.
Sec. 214. Prohibition on discrimination.
Sec. 215. Evaluations.
Sec. 216. Grants for nurse education in long-term care facilities.

Sec. 217. Primary care training program.
Sec. 218. Assurances regarding transmission of bloodborne diseases.
Sec. 219. Technical amendments.
TITLE III—COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE
Sec. 301. Short title.
Sec. 302. Migrant and community health center initiatives.
Sec. 303. Expansion of immunization programs for young children.
Sec. 304. Project grants for maternal and child preventive health. and health care services.
Sec. 305. Birth defects proposal.
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Preemption exclusion.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—PROVISIONS RELATING TO TITLE VII

SEC. 100. SHORT TITLE.

This title may be cited as the "Health Professions Training Improvement and Reauthorization Act of 1991"

Subtitle A—General Provisions

SEC. 101. REVISION OF TITLE HEADING.

The heading for title VII (42 U.S.C. 292 et seq.) is amended by striking out "HEALTH RESEARCH AND TEACHING FACILITIES AND".

SEC. 102. DEFINITIONS.

Section 701 (42 U.S.C. 292a) is amended—

(1) by striking out paragraphs (1), (3), (7) and (9);

(2) by redesignating paragraphs (2), (4), (5), (6), (8) and (10) through (13) as paragraphs (1) through (9), respectively;

(3) in paragraph (2) (as so redesignated)—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

"(B) The term 'graduate program in clinical social work' means an accredited graduate program in a public or nonprofit private institution in a State that provides training in a concentration in health or mental health care leading to a graduate degree in social work.

"(C) The term 'graduate program in marriage and family therapy' means an accredited graduate program in a public or nonprofit private institution in a State which provides training in a concentration leading to a graduate degree in marriage and family therapy.";

(4) in paragraph (3) (as so redesignated), by striking out "or a graduate program in clinical psychology" and inserting in lieu thereof "a graduate program in clinical psychology, and a graduate program in clinical social work that offers a training concentration in health or mental health care, and a graduate program that provides training in a concentration leading to a graduate degree in marriage and family therapy"; and

(5) in paragraph (9) (as so redesignated) by adding at the end thereof the following new sentence:

"Such term shall not include any registered nurse or physician assistant."

SEC. 103. NATIONAL ADVISORY COUNCIL.

Section 702 (42 U.S.C. 292b) is amended—

(1) in subsection (a)—

(A) by striking out "twenty-one" in the matter preceding paragraph (1) and inserting in lieu thereof "22";

(B) by striking out "thirteen" in paragraph (1) and inserting in lieu thereof "fourteen"; and

(C) by striking out "and graduate programs in clinical psychology" in paragraph (1)(A) and inserting in lieu thereof ", graduate programs in clinical psychology and clinical social work"; and

(2) by adding at the end thereof the following new subsection:

"(e)(1) There is established a subcommittee of the National Advisory Council on Health Professions Education to be known as the Subcommittee on Allied Health (hereafter in this section referred to as the 'Subcommittee') which shall meet at least twice annually until such time as the final report is submitted under paragraph (4). The Subcommittee shall—

"(A) provide advice and make recommendations to the National Advisory Council, the Secretary, and to the Committee on Labor and Human Resources and Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, with respect to—

"(i) the supply and distribution of allied health personnel throughout the United States;

"(ii) current and future shortages or excesses of allied health personnel, particularly in medically underserved and rural communities;

"(iii) priority research needs within the allied health professions;

"(iv) appropriate Federal policies relating to the matters described in clauses (i) through (iii), including policies concerning changes in the financing of undergraduate and graduate allied health programs, changes in the types of allied health education, and the appropriate Federal role in the development of a research base in the allied health professions;

"(v) appropriate efforts to be carried out by health care facilities, schools and programs of allied health, and professional associations with respect to the matter referred to in clause (i), including efforts for changes in undergraduate and graduate allied health education programs, and private support for research initiatives;

"(vi) deficiencies and needs for improvements in existing data bases concerning the supply and distribution of training programs for allied health in the United States and steps that should be taken to eliminate such deficiencies; and

"(vii) problems, and recommendations for the resolution of such problems, relating to the roles and functions of professionals within the allied health fields and other fields such as medicine and dentistry;

"(B) encourage entities providing allied health education to conduct activities to voluntarily achieve the recommendations of the Subcommittee;

"(C)(i) conduct a study concerning the shortage of clinical laboratory technologists for the purpose of—

"(I) determining the extent of such shortage;

"(II) determining the causes of such shortage; and

"(III) developing recommendations concerning the manner in which such shortage can be alleviated; and

"(ii) in conducting the study required under clause (i)—

"(I) consider any special or unique factors affecting the supply of clinical laboratory technologists in medically underserved and rural communities; and

"(II) conduct an assessment of alternative routes for certification of the competence of individuals to serve as such technologists, and consider the role of entities that provide such certifications; and

"(D) not later than October 1, 1993, prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report concerning the results of the study conducted under subparagraph (D).

"(2) In addition to select members of the National Advisory Council, the Subcommittee shall be composed of—

"(A) the Assistant Secretary for Health;

"(B) the Administrator of the Health Care Financing Administration;

"(C) the Assistant Secretary for Defense for Health Affairs;

"(D) the Chief Medical Director of the Department of Veterans Affairs;

"(E) the Commissioner of the Bureau of Labor Statistics of the Department of Labor;

"(F) a representative of the National Center for Education Statistics of the Department of Education;

"(G) a representative of the Bureau of Health Professions, Health Resources and Services Administration to be appointed by the Secretary;

"(H) five individuals appointed by the Secretary to represent allied health professionals, of which—

"(i) two such individuals shall be representatives of allied health professionals who provide occupational, speech, respiratory or physical therapy services;

"(ii) two such individuals shall be health professionals who provide primary care services in underserved areas or to underserved populations; and

"(iii) one such individual shall be a health professional who provides primary care services to the elderly;

"(I) five individuals appointed by the Secretary, including representatives of schools and programs of allied health, health care facility employers of allied health personnel, health insurers, and professional organizations representing the allied health professions;

"(J) a professional knowledgeable about health occupations and professions and data policy to be appointed by the Secretary; and

"(K) a representative of the general public to be appointed by the Secretary.

"(3) Not later than April 1, 1992, the Secretary shall appoint the members of the Subcommittee in accordance with paragraph (2).

"(4) Not later than 6 months after the date on which the initial meeting of the Subcommittee is held, the Subcommittee shall prepare and submit to the individual and entities described in paragraph (1)(A) a progress report concerning the activities of the Subcommittee. Not later than April 1, 1994, the Subcommittee shall prepare and submit to such individuals and entities a final report.

"(5) The Secretary shall ensure that necessary resources are made available to implement the provisions of this subsection.

"(6) The Subcommittee shall terminate upon the submission of the final report required under paragraph (4).".

SEC. 104. PROHIBITION OF DISCRIMINATION.

Section 704 (42 U.S.C. 292d) is amended—

(1) in the section heading by striking out "ON BASIS OF SEX";

(2) by striking out "sex" each place that such occurs and inserting in lieu thereof

"race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation"; and

(3) by striking out "or graduate program in clinical psychology" and inserting in lieu thereof "graduate program in clinical psychology or graduate program in clinical social work".

SEC. 105. HEALTH PROFESSIONS DATA.

(a) IN GENERAL.—Section 708 (42 U.S.C. 292h) is amended—

(1) in subsection (a)—

(A) by inserting after "clinical psychologists," the following: "physician assistants, clinical social workers practicing in health or mental health care"; and

(B) by adding at the end thereof the following new sentence: "Data shall also be collected with respect to health professional shortage areas as designated under section 332, and other medically underserved communities (as defined in section 711(c)(2)) and underserved populations."; and

(2) in subsection (d)—

(A) by inserting "health professional shortage areas, rural areas, and medically underserved areas and populations," after "profession," in paragraph (1); and

(B) by inserting ", service in health professional shortage areas and to medically underserved communities (as defined in section 711(c)(2) and populations," after "geographic location" in paragraph (2).

(b) TRANSFER OF PROVISIONS WITH RESPECT TO STATISTICS AND REPORT.—

(1) IN GENERAL.—Section 794 (42 U.S.C. 295h-2)—

(A) is transferred to part A of title VII;

(B) is redesignated as section 708A; and

(C) is inserted after section 708 of such part A.

(2) REVISION.—Section 708A (as transferred and added by paragraph (1), is amended—

(A) in the section heading by striking out "ANNUAL" and inserting in lieu thereof "BIENNIAL"; and

(B) in subsection (c)—

(i) by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources" in the matter preceding paragraph (1); and

(ii) by striking out "under this subpart" and inserting in lieu thereof "under subpart I of part G" in paragraph (2).

SEC. 106. REQUIRED ASSURANCES.

Section 709(c) (42 U.S.C. 292i(c)) is amended by adding at the end thereof the following new sentence: "The applicant is further required to provide assurances to the Secretary that all trainees will receive instruction in the utilization of universal precautions and infection control procedures for the prevention of transmission of bloodborne diseases."

SEC. 107. PRIORITY IN AWARDING OF GRANTS.

Part A of title VII (42 U.S.C. 292 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 711. PRIORITIES IN AWARDING OF GRANTS.

"(a) ALLOCATION OF COMPETITIVE GRANT FUNDS.—In awarding competitive grants under this title or title VIII, the Secretary shall, among applicants that meet the eligibility requirements under such titles, give priority to entities submitting applications that—

"(1) can demonstrate that such entities have training programs that demonstrate the presence of, or progress toward the development and integration of effective approaches and educational strategies to promote health and prevent disease and disability, especially in primary care, that will help meet the Healthy People 2000: National Health Promotion and Disease Prevention Objectives established by the Public Health Service; and

"(2)(A) have a high permanent rate for placing graduates in practice settings which serve residents of medically underserved or rural communities; or

"(B) will provide for not less than four of the following—

"(i) the rotation of health professionals and students to clinical settings whose focus is to serve medically underserved communities or rural areas;

"(ii) the appointment of health professionals whose practices serve medically underserved or rural communities to act as preceptors to supervise training in such settings;

"(iii) a plan that insures that all health professionals and students receive information on practice opportunities involving medically underserved or rural communities;

"(iv) service contingent scholarship or loan repayment programs for students and health professionals to encourage practice in or service to medically underserved or rural communities;

"(v) the recruitment and admission of students from medically underserved or rural communities; and

"(vi) other training methodologies that demonstrate a significant commitment to the expansion of the proportion of graduates that elect to practice in or serve the needs of medically underserved or rural communities.

"(b) SERVICE IN MEDICALLY UNDERSERVED OR RURAL COMMUNITIES.—Of the amounts appropriated for fiscal year 1995, and for each subsequent fiscal year, for competitive grants under this title or title VIII, the Secretary shall give preference in awarding grants to schools or programs that are otherwise eligible for grants under such titles, and that can demonstrate that—

"(1) not less than 20 percent of the graduates of such schools or programs during the preceding 2-year period are engaged in full-time practice in a health professions shortage specialty in a medically underserved or rural community; or

"(2) the number of the graduates of such schools or programs that are practicing in a medically underserved or rural community has increased by not less than 50 percent over that proportion of such graduates for the previous 2-year period.

Among the pool of applications that have been approved by the standard peer review process, funding preference shall apply only to those applications that score in the upper 80th percentile of those approved applications.

"(c) DEFINITIONS.—As used in this section:

"(1) GRADUATE.—The term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training and residency requirements necessary for full certification in the health professions discipline that such individual has selected.

"(2) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means—

"(A) an area designated under section 332 as a health professional shortage area;

"(B) an area or population designated as a medically underserved area under section 330(b)(3), including areas designated under section 330(b)(6);

"(C) populations served by migrant health centers under section 329, community health centers under section 330, programs providing health services for the homeless under section 340, or Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

"(D) a community that is certified as underserved by the Secretary for purposes of participation in the rural health clinic program under title XVIII of the Social Security Act; or

"(E) a community that meets the criteria for the designation described in subparagraph (A) or (B) but that has not been so designated.

"(3) RURAL COMMUNITY.—The term 'rural' refers to geographic areas that are located outside of standard metropolitan statistical areas.".

SEC. 108. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

Part A of title VII (42 U.S.C. 292 et seq.) (as amended by section 107) is further amended by adding at the end thereof the following new section:

"SEC. 712. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

"Notwithstanding any other provision of law, in the case of any authority for the provision of a grant or contract under this title or title VIII (as such titles existed prior to the date of enactment of the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991) that is terminated by any provision of the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991 (as it amends such titles), the Secretary shall, notwithstanding the termination of such authority, continue in effect any grant or contract awarded or entered into under the authority that is in effect on the day before the date of enactment of such Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such grant or contract, or in approving the most recent request made (prior to such date of enactment) for the continuation of such grant or contract, as the case may be.".

SEC. 109. EVALUATION AND REPORT.

Part A of title VII (42 U.S.C. 292 et seq.) (as amended by sections 107 and 108) is further amended by adding at the end thereof the following new section:

"SEC. 713. EVALUATION AND REPORT.

"(a) EVALUATION.—The Office of Technology Assessment shall, in accordance with Technology Assessment Act of 1972 (Public Law 92-484), conduct a program evaluation of the programs, projects and activities of the Secretary under this title and title VIII (as amended by the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991), to determine their effectiveness in—

"(1) increasing the number of primary care providers (physicians, physician assistants, nurse midwives, nurse practitioners and general dentists), nurses and allied health personnel; and

"(2) improving the geographic distribution of health professionals in medically underserved and rural areas.

"(b) CONTENT.—The evaluation conducted under subsection (a) should determine—

"(1) whether or not funding under this title (as amended by the Act referred to in subsection (a)) has increased the number of primary care practitioners (family medicine, general internal medicine, general pediatrics, general dentistry, and physician assistants) in medically underserved or rural communities;

"(2) whether or not funding under this title (as amended by the Act referred to in sub-

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section (a)) has increased the number of allied health professionals in medically underserved or rural communities;

"(3) whether or not funding under title VIII (as amended by the Act referred to in subsection (a)) has increased the number of nurses in medically underserved or rural communities;

"(4) whether or not access to health care services in medically underserved or rural communities has been affected by programs funded under this title or title VIII (as amended by the Act referred to in subsection (a));

"(5) whether or not the various mechanisms (such as scholarships, fellowships, traineeships, loan repayment programs, project grants, and education centers) have been effective in producing health care professionals who work or practice in medically underserved or rural communities and the relative impact or effectiveness of each mechanism;

"(6) the duration of service in medically underserved or rural communities of health professionals whose training was funded by this title and title VIII (as amended by the Act referred to in subsection (a)) or who received financial incentives to practice in these communities;

"(7) the geographic distribution of former trainees under this title and title VIII (as amended by the Act referred to in subsection (a)) working in medically underserved or rural communities; and

"(8) other such factors as may be relevant to the reauthorization of this title and title VIII.

"(c) REPORT.—Not later than March 31, 1996, the Office of Technology Assessment shall prepare and submit to the Labor and Human Resources Committee of the Senate, and the Subcommittee on Labor, Health and Human Services of the Committee on Appropriations of the Senate, and the Committee on Energy and Commerce of the House of Representatives, and the Subcommittee on Labor, Health and Human services of the Committee on Appropriations of the House of Representatives, and the Secretary a report concerning the findings and recommendations of the Office concerning the best strategies for future funding of allocations under this title and title VIII.".

Subtitle B-Student Assistance

SEC. 110. LIMITATIONS ON SCOPE OF FEDERAL LOAN INSURANCE PROGRAM.

Section 728(a) (42 U.S.C. 294a(a)) is amended—

(1) in the first sentence by striking out "$500,000,000" and all that follows through the end thereof and inserting the following: "$400,000,000 for fiscal year 1992, $425,000,000 for fiscal year 1993, $475,000,000 for fiscal year 1994, $525,000,000 for fiscal year 1995, and $550,000,000 for fiscal year 1996."; and

(2) in the third sentence by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1999".

SEC. 111. LOAN DEFERRAL AND LOAN CONSOLIDATION.

(a) LOAN DEFERRAL.—Section 731(a)(2)(C) (42 U.S.C. 294d(a)(2)(C)) is amended—

(1) in clause (viii)—

(A) by striking out "clauses (i) through (vii)" and inserting in lieu thereof "clauses (i) through (x)"; and

(B) by striking out "clauses (i) through (viii)" and inserting in lieu thereof "clauses (i) through (xi)";

(2) by redesignating clauses (vii) and (viii) as clauses (x) and (xi), respectively; and

(3) by inserting after clause (vi), the following new clauses: "(vii) not in excess of 3 years, for a borrower who has (I) completed an accredited internship or residency training program in osteopathic general practice, family medicine, general internal medicine or general pediatrics, or (II) completed training in general dentistry, public health dentistry, clinical psychology or clinical social work and is currently serving as a primary care provider in a medically underserved or rural community as defined in section 711(c), (viii) not in excess of 1 year, for borrowers in the health professions that do not require residency training, (ix) not in excess of 2 years during which the borrower is providing care in a medically underserved or rural community as defined in section 711(c),".

(b) LOAN CONSOLIDATION.—Subsection (f) of section 732 (42 U.S.C. 294e(f)) is amended to read as follows:

"(f) Nothing in this section shall be construed to preclude the consolidation of all of the borrower's debts into a single instrument on the same terms and conditions as those provided in the Higher Education Act of 1965.".

(c) TECHNICAL AMENDMENTS.—Section 728(c) (42 U.S.C. 294a(c)) is amended—

(1) by striking out paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 112. MAXIMUM INTEREST RATES TO BE ASSESSED.

Section 731 (42 U.S.C. 294d) is amended—

(1) in subsection (a)(2)(D), by striking out "semiannually" and inserting in lieu thereof "annually"; and

(2) in subsection (b)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out "No maximum" and inserting in lieu thereof "The";

(C) by striking out "subsection (a) may exceed the average" and inserting in lieu thereof "subsection (a) may not exceed the average";

(D) by inserting before the period, the following: "with a maximum rate of interest of 12 percent per year"; and

(E) by adding at the end thereof the following:

"(2)(A) A special allowance may be paid to an eligible holder of an eligible loan under this subpart for each of the 3-month periods ending on March 31, June 30, September 30, and December 31 of each year. The amount of a special allowance paid to any holder under this paragraph with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to such principal) on all eligible loans held by such holder during such period.

"(B) Subject to subparagraphs (D) and (F), a special allowance paid under this paragraph to a holder shall be computed—

"(i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 3-month period for which the allowance is to be paid;

"(ii) by subtracting the maximum applicable interest rate on the loans that are subject to such allowance from such average,

"(iii) by adding 3 percent to the amount determined under clause (ii); and

"(iv) by dividing the amount determined under clause (iii) by 4.

"(C) The holder of an eligible loan under this subpart shall have a contractual right against the United States, during the life of such loan, to receive the special allowance under this paragraph. The special allowance determined for any 3-month period under this paragraph shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established under regulations promulgated under this paragraph.

"(D)(i) If payment of a special allowance to a holder under this section has not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment from such holder, the amount of such allowance shall be increased by an amount equal to the daily interest accruing on such allowance, as determined under clause (ii).

"(ii) The amount of the daily interest referred to in clause (i) shall be computed at the daily equivalent rate of the sum of the special allowance rate determined under subparagraph (B) and the interest rate applicable to the loan, and shall be paid for the later of—

"(I) the 31st day after the receipt of a request for payment of an allowance under this paragraph by the holder; or

"(II) the 31st day after the final day of the period or periods covered by such request;

and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(iii) For purposes of reporting to Congress the amounts of special allowances paid under this paragraph, amounts so paid shall be segregated and reported separately.

"(E) The Secretary shall pay the holder of an eligible loan a special allowance under this paragraph, at such time or times as are specified in regulations promulgated under this paragraph, subject to the condition that such holder shall submit to the Secretary, at such time or times, and in such manner as the Secretary determines appropriate, such information as may be required under such regulations for the purpose of enabling the Secretary to carry out this section and to carry out the purposes of this section.

"(F) The quarterly rate of the special allowance for holders of loans that were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1986, shall be one half the quarterly rate of the special allowance established under subparagraph (B). Such rate shall also apply to holders of loans that were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, loans made or purchased with funds described in the preceding sentence or from income on the investment of such funds.".

SEC. 113. PARTICIPATION OF INSTITUTIONS IN LOAN COLLECTION.

(a) ELIGIBILITY.—Section 731(a)(2) (42 U.S.C. 294d(a)(2)) is amended—

(1) in subparagraph (G), by striking out "and" at the end thereof;

(2) in subparagraph (H), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) authorizes an institution or postgraduate training program attended by the borrower to assist in the collection of any loan that becomes delinquent, by providing information concerning the borrower to the Secretary and to past and present lenders and holders of the borrower's loans.".

(b) FEDERAL LOAN INSURANCE PROGRAM.—Section 733 (42 U.S.C. 294f) is amended—

(1) by adding at the end of subsection (a) the following new sentence: "The Secretary shall establish by regulation performance standards and fees to be paid by lenders and loan holders for the servicing of HEAL loans and for the processing of loan default claims filed by insurance beneficiaries under this subsection.";

(2) in subsection (e)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the term 'default rate', in the case of an eligible entity, means the percentage constituted by the ratio of—

"(A) the principal amount of loans insured under this subpart—

"(i) that are made with respect to the entity and that enter repayment status after April 7, 1987; and

"(ii) for which amounts have been paid under subsection (a) to insurance beneficiaries, exclusive of any loans for which amounts have been so paid as a result of bankruptcy under title 11 of the United States Code, or the death or total and permanent disability of the borrowers, and exclusive of any amounts of principal actually repaid by the borrowers subsequent to payment of the claim; to

"(B) the total principal amount of loans insured under this subpart that are made with respect to the entity and enter repayment status after April 7, 1987.";

(3) in the first sentence of subsection (f), by striking out "The Secretary may" and inserting in lieu thereof "The Secretary shall"; and

(4) in subsection (h)(1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period in subparagraph (C), and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) in the judgment of the Secretary, in consultation with the lender or holder, there is not a reasonable likelihood of recovering, within 6 months of the date on which active enforcement of the judgment begins, at least one-half of the outstanding debt owed by the borrower (including collections costs and associated charges) or $10,000, whichever is less.".

SEC. 114. DEFAULT PENALTY FEES.

(a) IN GENERAL.—Part C of title VII is amended by inserting after section 732 (42 U.S.C. 294e) the following new section:

"SEC. 732A. DEFAULT PENALTY FEES.

"(a) AUTHORITY.—With respect to a loan made under this subpart, the Secretary, in accordance with subsection (b), shall assess a risk-based premium on an eligible borrower and, if required, an eligible institution that is based on the default rate of the eligible institution involved.

"(b) ASSESSMENT OF PREMIUM.—Except as provided in subsection (d)(2), the risk-based premium to be assessed under subsection (a) shall be as follows:

"(1) LOW-RISK RATE.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of not to exceed five percent, such borrower shall be assessed a risk-based premium in an amount equal to 6 percent of the principal amount of the loan.

"(2) MEDIUM RISK RATE.—

"(A) IN GENERAL.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of five percent but not to exceed 15 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 5 percent of the principal amount of the loan.

"(B) REDUCTION IN LOAN LEVEL.—The maximum loan amount for which a borrower of the type described in subparagraph (A) shall be eligible to receive shall be reduced by an amount equal to 10 percent of the maximum loan amount that such borrower would otherwise be eligible to receive under this subpart prior to the date of enactment of this section.

"(C) DEFAULT MANAGEMENT PLAN.—An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval, an annual default management plan, that shall specify the detailed short-term and long-term procedures that such institution will have in place to minimize defaults on loans to borrowers under this subpart. Under such plan the institution shall, among other measures, provide an exit interview to all borrowers that includes information concerning repayment schedules, loan deferments, forbearance, and the consequences of default.

"(3) HIGH RISK RATE.—

"(A) IN GENERAL.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of 15 percent but not to exceed 25 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan.

"(B) REDUCTION IN LOAN LEVEL.—The maximum loan amount for which a borrower of the type described in subparagraph (A) shall be eligible to receive shall be reduced by an amount equal to 25 percent of the maximum loan amount that such borrower would otherwise be eligible to receive under this subpart prior to the date of enactment of this section.

"(C) DEFAULT MANAGEMENT PLAN.—An institution of the type described in subparagraph (A) shall, in addition to complying with the provisions of paragraph (2)(C), become a co-signer of the loan. The Secretary may require a performance bond on behalf of such an institution.

"(4) INELIGIBILITY.—A borrower shall not be eligible to obtain a loan under this subpart for attendance at an institution that has a default rate of in excess of 25 percent.

"(c) REDUCTION OF AT-RISK PREMIUM.—Lenders may reduce by 50 percent the at-risk premium to eligible borrowers if a credit worthy parent or other responsible party co-signs the loan note.

"(d) ADMINISTRATIVE WAIVERS.—

"(1) HEARING.—The Secretary shall afford an institution not less than one hearing, and may consider mitigating circumstances, prior to assigning an institution to a risk-based category under subsection (b) or making such institution ineligible for participation in the programs under this subpart.

"(2) EXCEPTIONS.—In carrying out this section with respect to an institution, the Secretary may grant an institution a waiver of requirements of subsection (b) if the Secretary determines that—

"(A) the default rate for such institution is not an accurate indicator because the volume of the loans under this subpart made by such institution has been insufficient; or

"(B) the institution can justify the default record using other sources of information.

"(3) TRANSITION FOR CERTAIN INSTITUTIONS.—Effective January 1, 1992, Historically Black Colleges and Universities and tribally controlled schools shall be exempt from the ineligible requirements of subsection (b)(4) for the 3-year period beginning on the date of enactment of this section. Such institutions with default rates on loans under such programs greater than 25 percent shall be required to comply with all guidelines applicable to institutions in the high risk default categories.

"(e) PAYOFF TO REDUCE RISK CATEGORY.—An institution may payoff the outstanding principal and interest owed by the students of such institution who have defaulted on loans made under this subpart in order to reduce the risk category of the institution.".

(b) TECHNICAL AMENDMENT.—Section 732 (42 U.S.C. 294e) is amended by striking out subsection (c).

SEC. 115. ELIMINATION OF STATUTE OF LIMITATIONS FOR LOAN COLLECTIONS.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 733 (42 U.S.C. 294f) is amended by adding at the end the following new subsection:

"(j)(1) It is the purpose of this subsection to ensure that obligations to repay loans are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

"(2) Notwithstanding any other provision of Federal or State statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by the Secretary, the Attorney General, or other administrative head of another Federal agency, as the case may be, for the repayment of the amount due from a borrower on a loan made under this subpart that has been assigned to the Secretary under this subpart.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective with respect to actions pending on or after the date of enactment of this Act.

(b) TECHNICAL AMENDMENT.—Section 733(h)(1)(A)(ii) (42 U.S.C. 294f(h)(1)(A)(ii)) is amended by striking out "fruitless" and inserting in lieu thereof "inappropriate".

SEC. 116. STUDENT LOAN INSURANCE FUND.

Section 734 (42 U.S.C. 294g) is amended—

(1) in the first sentence of subsection (a), by striking out "in connection with the collection or default of loans" and inserting in lieu thereof "in connection with the administration, collection and default of loans"; and

(2) by adding at the end thereof the following new subsection:

"(c) The Secretary may utilize not to exceed $1,000,000 of amounts available under this section for each of the fiscal years 1992 through 1996 to support the activities of the Office for Health Education Assistance Loans.".

SEC. 117. POWERS AND RESPONSIBILITIES.

Section 735(c) (42 U.S.C. 294h(c)) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively; and

(2) by inserting immediately before paragraph (2) (as so redesignated) the following new paragraph:

"(1) Borrowers under this subpart who enter and remain in the primary care fields of osteopathic general practice, general internal medicine, general pediatrics and family medicine shall receive preference for participation in the National Health Service Corps Loan Repayment Program under section 338B."

(3) in paragraph (2) (as so redesignated), by striking out "not to exceed $10,000 in any 12-month period" and inserting in lieu thereof "not to exceed $35,000 in any 12-month period";

(4) in paragraph (3) (as so redesignated)—

(A) by striking out "paragraphs (3) and (4)" and inserting in lieu thereof "paragraphs (4) and (5)"; and

(B) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (2)";

(4) by striking out paragraph (4) (as so redesignated) and inserting in lieu thereof the following new paragraph:

"(4) The obligation of a borrower to pay damages under this subsection shall be canceled only in the case of the death, bankruptcy or total permanent disability of the borrower. A borrower may not be permitted to discharge in bankruptcy a loan made under this section within 5 years of the first date on which repayment of the damages is required."; and

(5) in paragraph (5) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

SEC. 118. ANNUAL REPORT CONCERNING DEFAULT RATES.

Subpart I of part C of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 737B. ANNUAL REPORT CONCERNING DEFAULT RATES.

"(a) REPORT.—Not later than September 30, 1992, and annually thereafter, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning the default rates for each—

"(1) institution described in section 737(1) that is participating in the loan programs under this subpart;

"(2) lender participating in the loan program under this subpart; and

"(3) loan holder under this subpart.

"(b) LIST OF DEFAULTERS.—As part of the report submitted under subsection (1), the Secretary shall compile, and publish in the Federal Register, a list of the borrowers who are in default under this subpart.

"(c) NOTICES OF DEFAULT.—The Secretary shall annually send notices of default with respect to the borrowers identified on the list under subsection (b), to relevant Federal agencies and to organizations such as State licensing boards, hospitals with which such borrowers may be associated, and specialty organizations.".

SEC. 119. ELIGIBILITY OF INSTITUTIONS.

(a) IN GENERAL.—Section 739(a) (42 U.S.C. 294l) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(5) the assessing of tuition or fees to borrowers in amounts that are the same or less than the amount of tuition and fees assessed to non-borrowers;

"(6) the submission, by the institution and the lender to the Office of Health Education Assistance Loans, of information concerning each loan made under this subpart, including the date when each such loan was originated, the date when each such loan is sold, the identity of the loan holder and information concerning a change in the borrowers status;

"(7) the withholding of services, including academic transcripts, financial aid transcripts, and alumni services, by an institution from a borrower upon the default of such borrower of a loan under this subpart, except in case of a borrower who has filed for bankruptcy; and

"(8) the offering, by the lender to the borrower, of a variety of repayment options, including fixed-rate, graduated repayment with negative amortization permitted, and income dependent payments for a limited period followed by level monthly payments.".

(b) WORKSHOP FOR BORROWERS.—Section 739 (42 U.S.C. 294l) is amended by adding at the end thereof the following new subsection:

"(c) Each participating institution must have, at the beginning of each academic year, a workshop concerning the provisions of this subpart that all student borrowers shall be required to attend.".

SEC. 120. OFFICE FOR HEALTH EDUCATION ASSISTANCE LOANS.

Subpart I of part C of title VII is amended by adding at the end thereof the following new section:

"SEC. 739B. OFFICE FOR HEALTH EDUCATION ASSISTANCE LOANS.

"(a) ESTABLISHMENT.—The Secretary shall establish, within the Bureau of Health Professions, an office to be known as the Office for Health Education Assistance Loans (hereafter referred to in this section as the 'Office').

"(b) PURPOSE AND FUNCTIONS.—It shall be the purpose of the Office to achieve a reduction in the number and amounts of defaults on loans made or guaranteed under this part. In carrying out such purpose the Office may—

"(1) conduct analytical and evaluative studies concerning loans and loan defaults;

"(2) carry out activities designed to reduce loan defaults;

"(3) respond to special circumstances that may exist in the financial lending environment that may lead to loan defaults;

"(4) coordinate with other Federal entities that are involved with student loan programs, including—

"(A) with respect to the Department of Education, to develop a single student loan application form, a single student loan deferment form and a single disability form; and

"(B) with respect to the Department of Justice to recover payments from health professionals who have defaulted on loans made or guaranteed under this part;

"(5) provide technical assistance to lenders, servicers and schools concerning deferments and collection activities;

"(6) establish a central student loan database; and

"(7) carry out any other activities that the Secretary determines appropriate.".

SEC. 121. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN LOANS.

(a) CONSTRUCTION.—Subsection (a) of section 742 (42 U.S.C. 294o) is repealed and subsections (b) and (c) of such section are redesignated as subsections (a) and (b), respectively.

(b) AUTHORIZATION.—Section 742(b)(1) (as so redesignated) (42 U.S.C. 294o(c)(1)) is amended by striking out "$15,000,000" and all that follows through the end thereof and inserting the following: "$15,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle C—Direct Student Loan Health Demonstration Program

SEC. 131. DIRECT STUDENT LOAN HEALTH DEMONSTRATION PROGRAM.

(a) Purpose.—It is the purpose of this section to establish a direct student loan demonstration program for health professions students to examine the viability of such a program and determine—

(1) whether such a program will—

(A) reduce default costs to the Federal Government; and

(B) provide loans on more favorable terms to students; and

(2) whether the existing HEAL program under part C of the Public Health Service Act should be replaced by a direct loan program in which health professions schools, rather than lenders, make such loans directly to borrowers.

(b) ESTABLISHMENT OF PROGRAM.—Part C of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart VII—Demonstration Programs

"SEC. 765. ESTABLISHMENT OF DIRECT STUDENT LOAN HEALTH DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a direct student loan health demonstration program under which the Secretary will make assistance available to certain institutions who shall utilize such assistance to make direct loans to health professions students to assist such students in meeting the costs associated with attending such institutions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $50,000,000 for each of the fiscal years 1992 through 1996.

"(c) PARTICIPATING INSTITUTIONS.—

"(1) SELECTION.—The Secretary shall select not to exceed 20 eligible institutions to participate in the program established under this section. In making such selections, the Secretary shall, to the maximum extent practicable, ensure that a wide range of health professions institutions participate in such program, except that the Secretary may refuse to permit the participation of any institution that has a default rate under the program established under subpart I that is in excess of 15 percent.

"(2) ELIGIBLE INSTITUTIONS.—To be eligible for selection under paragraph (1), an institution shall—

"(A) be eligible to participate in the program established under subpart I;

"(B) have annually accepted for enrollment not less than 20 student borrowers under such subpart;

"(C) prepare and submit to the Secretary an application, at such time, in such form, and containing such information as the Secretary may require, including demonstrable evidence that the institution possesses the administrative capacity to implement the direct loan program either in-house or through the employment of an outside entity;

"(D) agree to assume full liability, as assessed by the Secretary, for errors relating to the origination of loans or other administrative responsibilities of institutions under this title;

"(E) agree to provide all information and maintain such records as required by the Secretary in order to assist in the evaluation of the program authorized under this section; and

"(F) otherwise meet the requirements of this section.

"(3) REQUIREMENTS.—An institution participating in the program established under this section shall—

"(A) be responsible for originating loans under the program, conducting interviews with borrowers prior to the origination of such loans, conducting exit interviews with

borrowers (which shall include the provision of all pertinent documentation as required by the Secretary), and assisting collection agencies in locating and collecting repayments from borrowers who become delinquent;

"(B) increase tuition and required fees at a rate that does not exceed 150 percent of the increase in the cost of living in the previous year;

"(C) not later than 15 working days after a borrower is determined to have lost his or her status as a full-time student, proceed with in-house collection activities or forward the loan of the borrower to a collection agency selected by the Secretary.

"(d) BORROWERS.—

"(1) ELIGIBILITY.—A student who has not previously obtained a loan under subpart I shall be eligible to participate in the program established under this section. The provisions of section 731 (except for subsection (a)(1)(B) and (b) of such section) shall apply to borrowers under this subpart.

"(2) INELIGIBILITY FOR HEAL LOANS.—A student that obtains a loan under the program established under this section shall be ineligible to obtain a loan under subpart I until the expiration of the program established under this subpart.

"(3) EVALUATION AGREEMENT.—A borrower under this section shall agree to participate in an evaluation of the program established under this section.

"(4) LIMITATIONS.—The limitations described in section 729 shall apply to loans made under this subpart.

"(e) TERMS OF LOANS.—

"(1) PROMISSORY NOTE.—A borrower under this section shall be required, at the origination of a loan, to sign a promissory note to the Federal Government promising to repay the loan under the terms and conditions disclosed to the borrower at such origination.

"(2) INTEREST RATES.—With respect to a loan made under this section, a borrower shall be assessed an interest rate on such loan that is equal to one percentage point above the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter. Such interest will accrue on such loan and will be compounded annually.

"(3) ORIGINATION FEE.—A borrower under this section shall pay a loan origination fee equal to 3 percent of the principal amount of the loan. The proceeds generated from such loan origination fees shall be remitted by the institution to the Secretary to assist in offsetting the costs of the administration of the program.

"(4) REPAYMENT.—Repayment on a loan made under this section shall be deferred for the period during which the borrower is a full-time student at the institution. Except as provided in paragraph (5), such repayment shall commence 90 days after the date on which the borrower is no longer a full-time student at such institution.

"(5) FORBEARANCE.—

"(A) ON DEMAND.—A borrower may receive forbearance on a loan under this section on the demand of such borrower for a period of—

"(i) not to exceed 5 years if such borrower is in an accredited postgraduate residency program;

"(ii) not to exceed 1 year beginning on the date on which the borrower leaves the institution if such borrower is not completing a residency or practicing in a medically underserved community; or

"(iii) not to exceed 5 years if such borrower is practicing in a medically underserved community.

"(B) PAYMENTS.—During the period of forbearance under this paragraph, a borrower and an institution may agree on a partial payment schedule based on the income and debt burden of the borrower. In such case the interest shall continue to accrue on the loan and shall be added to the principal amount due on such loan annually. Notwithstanding the preceding sentences, a borrower shall not be required to make any payments of principal or interest on the loan during such forbearance period.

"(6) CANCELLATION.—The obligation of a borrower to repay a loan under this section shall be canceled only in the case of the death, bankruptcy or total permanent disability of the borrower, whichever occurs later. In the case of bankruptcy, the provision of section 733(g) shall apply.

"(f) COLLECTION AGENCIES.—

"(1) REQUIREMENT.—In establishing the program under this section, the Secretary shall enter into contracts with not less than two collection agencies for the collection of repayments under loan made to borrowers under this section.

"(2) SELECTION BY SECRETARY.—In entering into contracts under paragraph (1), the Secretary shall select collection agencies—

"(A) with experience in Federal student loan collections, a comprehensive program of repayment options for borrowers, and modest costs; and

"(B) that provide evidence of being able to work cooperatively with participating institutions.

"(3) SELECTION BY INSTITUTION.—A participating institution under this section shall proceed with in-house collection activities or select an agency that is a party to a contract under paragraph (1) for the collection of repayments on loans originated by the institution.

"(4) REIMBURSEMENT.—A collection agency selected by an institution under paragraph (3) shall be reimbursed by the Secretary for collection activities in an amount that is based on the number of students served by such collection agency under this section. Such agencies shall agree to accept loans from any institution participating in the demonstration program under this section.

"(g) SUSPENSION.—The Secretary may suspend the eligibility of any institution to participate in the program under this section if the Secretary determines that the institution is not successfully implementing the program.

"(h) EVALUATION.—Not later than 1, 5, 10, and 15 years after the date of enactment of this section, the Secretary shall conduct an evaluation of the program established under this section to identify any problems in the program that need correction. The evaluation shall, among other things, assess the cost of the program to the Federal Government, the cost of the program to the borrower, the cost of the program to institutions, the default record of institutions in the program compared to institutions in the program under subpart I, administrative problems that arise from the program, and the impact of the program on the borrower's choice of specialization and residency or practice decisions.

"(i) TERMS AND CONDITIONS.—Unless otherwise specified, all loans made under this subpart shall be subject to the same terms and conditions as loans made under subpart I.

"(j) TERMINATION.—The authority to make loans under this section shall terminate 5 years after the date of enactment of this section.".

SEC. 132. LOAN REPAYMENT PROGRAM FOR ALLIED HEALTH PERSONNEL.

Section 751 (42 U.S.C. 294r) is amended—

(1) in subsection (a), by striking out "an Indian Health Service" and all that follows through the end thereof and inserting "a medically underserved or rural community that can demonstrate a shortage of allied health professionals in a recognized discipline."; and

(2) in subsection (d), by striking out "$2,000,000" and all that follows through the end thereof and inserting "$5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 133. SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.

(a) IN GENERAL.—Section 758(d) (42 U.S.C. 294z(d)) is amended by striking out "$16,000,000" and all that follows through the end thereof and inserting "$30,000,000 for each of the fiscal years 1992 through 1996.".

(b) TECHNICAL AMENDMENT.—Part C of title VII (42 U.S.C. 294 et seq.) is amended by striking out the subpart heading for subpart IV.

SEC. 134. REPEAL OF LISTER HILL SCHOLARSHIP PROGRAM.

Section 759 of title VII (42 U.S.C. 294aa) is repealed.

SEC. 135. SCHOLARSHIPS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Section 760 (g)(1) (42 U.S.C. 294bb(g)(1)) is amended by striking out "$17,000,000" and all that follows through the end thereof and inserting "$17,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 136. FACULTY LOAN REPAYMENT PROGRAM.

Section 761 (42 U.S.C. 294cc) is amended—

(1) in subsection (b), by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(b) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals from disadvantaged backgrounds who are newly employed as faculty of the eligible school and who have not been members of the faculty of any school at any time during the 18-month period preceding the date of application, and who—";

(2) in subsection (d)—

(A) by striking out "for such year"; and

(B) by striking out "equal to 50 percent" and inserting in lieu thereof "equal to 20 percent"; and

(3) in subsection (h), by striking out "$4,000,000" and all that follows through the end thereof and inserting "$5,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle D—Grants and Contracts for Programs and Projects

SEC. 141. DEPARTMENTS OF FAMILY MEDICINE.

Section 780 (42 U.S.C. 295g) is amended—

(1) in subsection (b)—

(A) by striking out "and" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1), the following new paragraph:

"(2) in the case of an applicant with an existing department or division of family medicine, assurance satisfactory to the Secretary that such applicant will secure financial support from non-Federal sources in amounts that shall increase annually, and that the applicant has developed a plan for future self-sufficiency; and";

(2) in subsection (c), to read as follows:

"(c) In making grants under subsection (a), the Secretary shall give priority to applications that—

"(1) establish new Departments of Family Medicine; or

"(2) demonstrate the substantial expansion of program activities in existing Departments of Family Medicine."; and

(3) in subsection (d), by striking out "$10,000,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 142. AREA HEALTH EDUCATION CENTERS.

(a) Terms of Agreements.—Section 781(a) (42 U.S.C. 295g-1(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), an agreement entered into under this subsection for establishment of a center shall remain in effect for a period of 6 years from the date on which such agreement was executed. Such agreement shall be extended to the extent necessary to provide Federal funds under such agreement, for a 6-year period, to all centers operated or developed with funds provided under such agreement.

"(B) The agreements referred to in subparagraph (A) may be terminated by the Secretary on a determination by the Secretary that a center, developed and operated with funds received under such agreement, has not performed in a satisfactory manner.".

(b) Requirements.—Section 781(c) (2 U.S.C. 295g-1(c)) is amended—

(1) in paragraph (4), by inserting after "school of dentistry" the following: "or program in clinical psychology"; and

(2) by adding at the end thereof the following new sentences: "The Secretary shall give preference in awarding contracts under this section to applicants that will establish new programs. The Secretary shall give priority in awarding contracts under this section to applicants that establish linkages with a school of public health, if such a school exists within the area being served by such center and desires to participate.".

(c) Health Education Training Centers.—Section 781(f) (42 U.S.C. 295g-1(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "and in other high-impact urban or rural areas (as determined by the Secretary)" before the semicolon in subparagraph (A); and

(B) by inserting "and other high risk" after "Hispanic" in subparagraph (B);

(2) in paragraph (3)—

(A) by inserting "or high impact" after "Each border"; and

(B) by inserting "or a high impact urban or rural area (as determined by the Secretary)" before the period at the end thereof;

(3) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(4) by inserting after paragraph (5), the following new paragraph:

"(6) The Secretary shall give priority in the funding of a health education training center under such agreement to applicants that establish linkages with a school of public health, if such a school exists within the area being served by such center and desires to participate.".

(d) State Matching Area Health Education Center Programs.—Section 781 (42 U.S.C. 295g-1) is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f), the following new subsection:

"(g)(1)(A) The Secretary may enter into agreements with eligible schools of medicine and osteopathic medicine for the planning, development and operation of State supported area health education center programs that meet the requirements of subparagraph (B).

"(B) To be eligible to receive an agreement award under this section, the applicant shall ensure that the program supported with amounts received under the agreement will—

"(i) meet the other requirements of subsections (b) and (c);

"(ii) create and maintain preceptorship educational experiences for health science students;

"(iii) develop or affiliate with community-based primary care residency programs;

"(iv) institute or coordinate with continuing education programs for health professionals;

"(v) establish and maintain learning resource and dissemination systems for information identification and retrieval;

"(vi) enter into agreements with community-based organizations for the delivery of services supported under this authority;

"(vii) become involved in the training of nurses, allied and other health professionals and, where consistent with State laws, nurse practitioners and physicians assistants;

"(viii) carry out recruitment programs for health science professions among minority and other elementary or secondary students from areas the program determines to be medically underserved; and

"(ix) carry out not less than three of the activities described in subparagraph (C).

"(C) The activities referred to in subparagraph (B)(ix) shall include—

"(i) coordinating with an Office of Rural Health in the State that is operating in the area served by the center, wherein one exists;

"(ii) administering appropriate National Health Service Corps program activities in the area serviced by the center, except that such center shall provide only support services if the responsibility for such administration has been assigned to any other State agency;

"(iii) working directly with local health departments in the area served by the center;

"(iv) participating in community and migrant health centers and similar provider activities in the area to be served by the centers; or

"(v) cooperating with other federally and State funded health service provider recruitment and retention programs operating in the area to be served by the center.

"(2) Amounts received under an agreement entered into under this subsection shall be sufficient to enable a State supported area health education program to carry out demonstration projects concerning subjects determined appropriate by the Secretary, including, but not limited to—

"(A) the establishment of computer-based information programs or telecommunication networks that will link health science centers and service delivery sites;

"(B) the provision of disease specific educational programs for health providers and students in areas of concern to the United States;

"(C) the development of information dissemination models to make available new information and technologies emerging from biological research centers to the practicing medical community;

"(D) the institution of new minority recruitment and retention programs, targeted to improved service delivery in areas the program determines to be medically underserved;

"(E) the establishment of State health service corps programs to place physicians from health professional shortage areas into similar areas to encourage retention of physicians and to provide flexibility to States in filling positions in health professional shortage areas; and

"(F) the establishment or improvement of education and training programs for State emergency medical systems.

"(3) The Secretary shall not provide in excess of $2,000,000 per annum per State, or per program where that program serves more than one State, or an aggregate amount based on an average award of $250,000 per center to be supported in the States in which the program is operating, whichever is less, to programs under this subsection.

"(4) An agreement entered into under this subsection shall require that the program—

"(A) ensure that at least 75 percent of the amounts received under the agreement be distributed to area health education centers within the area served by the program, through a formal agreement; and

"(B) use amounts provided under such agreement to supplement, not supplant, State funds provided for similar programs prior to the execution of the agreement.".

(e) Authorization of Appropriations.—Section 781 (42 U.S.C. 295g-1) is further amended—

(1) in subsection (f)(8)—

(A) by striking out "(h)(2)" in subparagraph (A) and inserting in lieu thereof "(i)(2)"; and

(B) by inserting "and Native American" after "Hispanic" in subparagraph (B)(i); and

(2) by striking out subsection (i) (as so redesignated by subsection (b)(1)), and inserting in lieu thereof the following new subsection:

"(i)(1)(A) For purposes of carrying out this section other than subsection (f), there are authorized to be appropriated $40,000,000 in each of the fiscal years 1992 through 1996. Any amounts appropriated with respect to fiscal year 1992 or 1993 in excess of $19,200,000 and with respect to fiscal years 1994 through 1996 in excess of $18,700,000 shall be used to carry out the activities authorized under subsection (g). Not more than 10 percent of any amount appropriated in a fiscal year in excess of $21,000,000 shall be used to fund the activities authorized under subsection (g)(2).

"(B) The Secretary may obligate not more than 20 percent of the amount appropriated under this paragraph in each fiscal year, or up to $4,000,000, whichever is less, for special area health education center initiatives under section (a)(2)(A).

"(2) For purposes of carrying out subsection (f), there are authorized to be appropriated—

"(A) $5,000,000 for fiscal year 1992;

"(B) $6,000,000 for fiscal year 1993;

"(C) $7,000,000 for fiscal year 1994;

"(D) $8,000,000 for fiscal year 1995; and

"(E) $9,000,000 for fiscal year 1996.".

(f) Matching Requirement.—Section 781 (42 U.S.C. 295g-1) is further amended by adding at the end thereof the following new subsection:

"(j) An agreement entered into under subsection (g) after the date of enactment of this subsection shall require that the entity awarded such agreement make available (directly through cash donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for every $1 of Federal funds provided under the agreement in such year.".

(g) Technical Amendments.—Section 781 such Act (42 U.S.C. 295g-1) is further amended—

(1) by striking out "contract" each place that such appears and inserting in lieu thereof "agreement"; and

(2) by striking out "contracts" each place that such appears and inserting in lieu thereof "agreements".

SEC. 143. PROGRAMS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION FOR MINORITIES.

(a) Definitions.—Section 782(g)(1)(A) (42 U.S.C. 295g-2(g)(1)(A)) is amended by striking out "a school of dentistry" and all that follows through the end thereof and inserting "a school of osteopathic medicine, a school of dentistry, a school of pharmacy, a school of public health, or a graduate program in clinical psychology.".

(b) Authorization of Appropriations.—

(1) Authority.—Section 782(a) (42 U.S.C. 295g-2(a)) is amended by inserting ", or enter into contracts with," after "make grants to".

(2) Appropriations.—Section 782(h) (42 U.S.C. 295g-2(h)) is amended—

(A) in paragraph (1)—

(i) by striking out "grants" and inserting in lieu thereof "grants or entering into contracts"; and

(ii) by striking out "such sums" and all that follows in paragraph (1) through the end thereof and inserting "$28,000,000 for each fiscal year 1992 through 1996.";

(B) in paragraph (2)—

(i) by striking out "grants" each place that such appears and inserting in lieu thereof "grants or contracts"; and

(ii) by striking out "$2,500,000" in subparagraph (B), and inserting in lieu thereof "$5,000,000"; and

(C) in paragraph (3)—

(i) by striking out "grants" the first place that such appears and inserting in lieu thereof "grants or contracts";

(ii) by striking out "for the grants"; and

(iii) by striking out "to making grants".

SEC. 144. TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

(a) Grants.—Paragraphs (1) and (2) of section 784(a) (42 U.S.C. 295g-4(a)) are amended to read as follows:

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of internal medicine or pediatrics for allopathic and osteopathic medical students, interns, residents, or practicing physicians, that emphasizes training for the practice of general internal medicine or general pediatrics;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to allopathic and osteopathic students, interns, residents, practicing physicians, or other medical personnel, who are in need of such assistance, who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine and general pediatrics;".

(b) Authorization of Appropriations.—Section 784(c) (42 U.S.C. 295g-4(c)) is amended by striking out "$10,000,000" and all that follows through the end thereof and inserting "$35,000,000 for fiscal year 1992, $36,000,000 for fiscal year 1993, $37,000,000 for fiscal year 1994, $38,000,000 for fiscal year 1995, and $39,000,000 for fiscal year 1996.".

SEC. 145. DENTISTRY.

(a) Residency Programs.—Section 785 (42 U.S.C. 295g-5) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period in paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) to fund innovative, nontraditional models for the provision of postdoctoral General Dentistry training."; and

(2) in subsection (b), by striking out "$4,000,000" and all that follows through the end thereof and inserting "$8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.".

(b) Training Grants.—Part F of title VII is amended by inserting after section 785 (42 U.S.C. 295g-5) the following new section:

"SEC. 785A. TRAINING IN DENTAL PUBLIC HEALTH.

"(a) In General.—The Secretary may award grants to and enter into contracts with schools of dentistry, schools of public health, accredited postgraduate dental training institutions, or State or local public health agencies to assist such entities in meeting the costs of projects—

"(1) to plan, develop or participate in new residency programs and expand or improve existing residency programs in dental public health; and

"(2) to provide financial assistance in the form of traineeships to dental residents or practicing dentists who participate in any program of the type described in paragraph (1) and who plan to work in the field of public health.

"(b) Eligibility.—To be eligible to receive a grant or contract under subsection (a), an entity of the type described in such subsection shall—

"(1) prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require; and

"(2) demonstrate to the Secretary that such entity has available full-time faculty or staff with training and experience in the field of public health, preventive dentistry or community dentistry and other related specialties or disciplines.

"(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 146. FAMILY MEDICINE RESIDENCIES.

Section 786 (42 U.S.C. 295g-6) is amended—

(1) in subsection (b)—

(A) by striking out "priority" and inserting in lieu thereof "preference"; and

(B) by inserting after "family medicine" the following: "and who demonstrate a substantial linkage to one or more medically underserved or rural communities (as defined in section 711(c))";

(2) in subsection (c), by striking out "$37,900,000" and all that follows through the end thereof and inserting "$50,000,000 for fiscal year 1992, $51,000,000 for fiscal year 1993, $52,000,000 for fiscal year 1994, $53,000,000 for fiscal year 1995, and $54,000,000 for fiscal year 1996."; and

(3) by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, after October 1, 1993, only those schools or hospitals with departments or divisions or approved residencies providing clinical instruction in family medicine shall be eligible to receive assistance under this section."

SEC. 147. EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 787 (42 U.S.C. 295g-7) is amended—

(1) in subsection (a)(1), by inserting "or clinical social work" after "clinical psychology";

(2) in subsection (b)—

(A) by inserting "or clinical social work" after "clinical psychology" in paragraph (1);

(B) by striking out "priority" and inserting in lieu thereof "preference" in the matter preceding subparagraph (A) of paragraph (2);

(C) by striking out "and" at the end of subparagraph (A) of paragraph (2);

(D) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following new subparagraph:

"(B) to schools that—

"(i) maintain an enrollment of individuals from disadvantaged backgrounds at a level that exceeds 200 percent of the national average of such individuals enrolled in such schools;

"(ii) secure financial support from non-Federal sources in amounts that increase annually; and

"(iii) involve or consult with appropriate State and local health and educational agencies and entities in the planning and conduct of the project.";

(3) in subsection (c)—

(A) by striking out "$20,000,000" and all that follows through the first period and inserting "$36,000,000 for fiscal year 1992, $37,000,000 for fiscal year 1993, $38,000,000 for fiscal year 1994, $39,000,000 for fiscal year 1995, and $40,000,000 for fiscal year 1996."; and

(B) by striking out the third and fourth sentences; and

(4) by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law relating to a limitation on the amount of stipends that may be paid under this section, the Secretary may provide for the payment of stipends under this section in an amount not to exceed $40 per day.".

SEC. 148. RETENTION PROGRAM FOR CERTAIN HEALTH PROFESSIONALS.

Section 787A(d) (42 U.S.C. 295g-7a(d)) is amended by striking out "and 1991" and inserting in lieu thereof "through 1996".

SEC. 149. MINORITY FACULTY DEVELOPMENT TRAINING FELLOWSHIPS.

Part F of title VII is amended by inserting after section 787A (42 U.S.C. 295g-7a) the following new section:

"SEC. 787B. MINORITY FACULTY DEVELOPMENT TRAINING FELLOWSHIPS.

"(a) In General.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology, and other public or private nonprofit health or educational entities of the type described in section 701, to assist such schools in increasing the number of underrepresented minority faculty members at such schools.

"(b) Applications.—To be eligible to receive a grant or contract under this section a school shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that amounts received under such a grant or contract will be used to award a fellowship to a new member of the faculty of such school who meets the requirements of subsections (c) and (d), that shall include a stipend in an amount that does not exceed 50 percent of the regular salary of a similar faculty member position up to a maximum of $30,000.

"(c) Eligibility.—To be eligible to receive a grant or contract under subsection (a), an applicant shall demonstrate to the Secretary that such applicant has or will have the ability to—

"(1) identify, recruit and select individuals from underrepresented minorities in health professions who have the potential for teaching, administration, or conducting research at a health professions institution;

"(2) provide such individuals with the skills necessary to enable them to secure a tenured faculty position at such institution, which may include training with respect to pedagogical skills, program administration, the design and conduct of research, grants writing, and the preparation of articles suitable for publication in peer reviewed journals;

"(3) provide mentoring or other services designed to assist such minorities in their preparation for an academic career; and

"(4) provide health services to rural or medically underserved populations.

"(d) REQUIREMENTS.—To be eligible to receive a grant or contract under this section an applicant shall—

"(1) provide an assurance that such applicant will make available (directly through cash donations) $1 for every $1 of Federal funds received under this section for the fellowship;

"(2) provide an assurance that institutional support will be provided for the individual for a second year at a level that is not less than the total amount of Federal and institutional funds provided in the year in which the grant or contract was awarded;

"(3) provide an assurance that the individual that will receive the fellowship will be a member of the faculty of the applicant school; and

"(4) provide an assurance that the individual that will receive the fellowship will have, at a minimum, appropriate advanced preparation (such as a master's or doctoral degree) and special skills necessary to enable such individual to teach and practice.

"(e) DEFINITION.—As used in this section, the term 'minority' means an individual from a racial or ethnic group that is underrepresented in the health professions.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 in each of the fiscal years 1992 through 1996.".

SEC. 150. SPECIAL DEMONSTRATION PROJECTS.

(a) GRANTS FOR STUDIES AND DEMONSTRATIONS.—Subsection (a) of section 788 (42 U.S.C. 295g-8(a)) is amended to read as follows:

"(a) GRANTS FOR STUDIES AND DEMONSTRATIONS.—The Secretary may award grants to and enter into contracts with public or nonprofit private entities to enable such entities to conduct studies and demonstration projects related to—

"(1) the improvement of health professions education, including studies and projects to determine—

"(A) the effectiveness of various methods of training health professionals (including nurses) to practice in primary care specialties or to provide services to underserved populations;

"(B) the merits of major curricular innovations (such as the increased integration of undergraduate and graduate medical education and various approaches to interdisciplinary training programs);

"(C) the effect of Medicare graduate medical education funding and medical research grant funding on medical schools and residency programs, particularly as such funding may affect institutional support for primary care training and student choices regarding medical specialty and location of practice;

"(D) the effectiveness of education targeted toward meeting the needs of particular population groups (such as the elderly, women, children, adolescents, the disabled, individuals residing in rural areas);

"(E) the impact of student indebtedness on specialty choice and practice location; and

"(F) the impact of underrepresented minority and disadvantaged health professions programs in minority and majority schools on recruitment, retention, and practice choices of underrepresented minority and disadvantaged health personnel;

"(2) the assurance of the competency of health personnel, including studies and projects to determine—

"(A) the effect on quality and service of adopting alternative approaches to the licensure and credentialing of health personnel;

"(B) the efficacy of different approaches to providing for continuing competency of such personnel;

"(C) the effectiveness and variation of State licensing authorities in identifying problem providers and undertaking disciplinary actions;

"(D) the usefulness of various types of certification programs in assuring the quality of health personnel; and

"(E) the appropriate differentiation of functions of various types and levels of health professions personnel.".

(b) CHIROPRACTIC TRAINING AND DEMONSTRATION PROJECT.—Subsection (b) of section 788 (42 U.S.C. 295g-8) is amended to read as follows:

"(b) CHIROPRACTIC TRAINING AND DEMONSTRATION PROJECT.

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with, colleges and universities of chiropractic to assist such colleges and universities in—

"(A) meeting the costs of projects designed—

"(i) to plan, develop, establish, expand and operate advanced degree programs or postdoctoral programs in chiropractic for the advanced specialty training of chiropractic health care professionals who plan to teach and conduct research in chiropractic;

"(ii) to support interdisciplinary training programs that promote the effectiveness of chiropractic in prevention, diagnosis and treatment of chronic lower back, musculoskeletal, and spinal problems;

"(iii) to develop innovative models to link chiropractic, chiropractic education and chiropractic research;

"(iv) to identify, recruit and train individuals from disadvantaged backgrounds;

"(v) to improve and strengthen the curriculum of such colleges or universities by including or expanding the knowledge and practice concerning disease prevention and health promotion; or

"(vi) to develop new and innovative methods to train chiropractors to provide services in rural and medically underserved areas; or

"(B) establishing a demonstration project to develop the collaboration of a college or university of chiropractic and a traditional health professions academic institution training program, including medical schools. The demonstration project referred to in subparagraph (B) shall address the manner in which to effectively integrate chiropractic into the traditional health care provider systems and medical education programs, with particular emphasis on the reduction of health care costs for lower and spinal-related back problems.

"(2) METHODS.—A recipient of funds under paragraph (1) may use various methods in carrying out the projects described in subparagraphs (A) and (B) of such paragraph, including—

"(A) the distribution of stipends to students and faculty of eligible applicants;

"(B) the establishment of a post-doctoral fellowship program;

"(C) the training of faculty in preparation for graduate and post-doctoral education and training activities; and

"(D) the purchase of equipment and training materials where the need for such equipment due to unique characteristics of the project is demonstrated by the recipient.

"(3) ADMINISTRATION.—An applicant for a grant or contract under this subsection shall not use in excess of five percent of the funds made available to such applicant under this subsection for administrative expenses and not more than five percent of such funds for indirect costs.

"(4) ELIGIBLE APPLICANTS.—To be eligible to receive funds under paragraph (1)(A), an applicant for a grant or contract shall be an accredited college or university of chiropractic. Such eligible applicants shall not include for-profit entities, either directly or through a subcontract or subgrant. Applications for a grant or contract under paragraph (1)(B) shall be jointly submitted by a college or university of chiropractic and by one or more of the following:—

"(A) State or local health departments;

"(B) public and nonprofit colleges, universities, schools of allopathic or osteopathic medicine; or

"(C) public or nonprofit hospitals.

"(5) PEER REVIEW.—

"(A) IN GENERAL.—Each applicant for a grant or contract under this subsection shall be submitted to a peer review group for an evaluation of the merits of the proposals contained in the application.

"(B) ESTABLISHMENT.—The Secretary shall establish such peer review groups as may be necessary to carry out subparagraph (A). The Secretary shall make appointments of individuals to the peer review group from among appropriately qualified individuals who are not officers or employees of the United States. The peer review group shall consist of not more than six members, at least three of which shall be chiropractors. Of such chiropractor members—

"(i) one shall represent the Consortium for Chiropractic Research;

"(ii) one shall represent a college or university of chiropractic; and

"(iii) one shall be a practicing chiropractor.

"(6) EXPEDITING AWARD OF GRANTS/CONTRACTS.—The Secretary shall expedite the awarding of grants or contracts to eligible applicants under this subsection. To the maximum extent practicable, such grants or contracts shall be awarded by the Secretary not later than 120 days after the date of the receipt of the final recommendation of the peer review group established under paragraph (5) concerning applications submitted under this subsection.

"(7) REPORT.—Not later than April 1, 1995, the Secretary shall prepare and submit to the Committee on Labor and Human Resources and the Subcommittee on Labor, Health, and Human Services, Education and Related Agencies of the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations of the House of Representatives, a comprehensive report summarizing the applications that were submitted and the grants and contracts that were awarded under this subsection, and the effectiveness of programs established using such grants or contracts.".

(c) PREVENTIVE MEDICINE.—

(1) REPEAL.—Section 793 (42 U.S.C. 295h-1c) is repealed.

(2) TRANSFER OF PROVISIONS WITH TRAINING AND PREVENTIVE MEDICINE.—

(A) IN GENERAL.—Subsection (c) of section 788 (42 U.S.C. 295g-8)—

(i) is transferred to subpart I of part G of title VII;

(ii) is redesignated as section 793(a); and

(iii) is inserted after section 792.

(B) REVISION.—Section 793 (as transferred and added by subparagraph (A), is amended—

(i) by inserting immediately preceding subsection (a) the following:

"SEC. 793. TRAINING IN PREVENTIVE MEDICINE.";

(ii) in the subsection heading of subsection (a) to read as follows:

"(a) TRAINING GRANTS AND CONTRACTS.—"; and

(iii) by adding at the end thereof the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 in fiscal year 1992, $7,000,000 in fiscal year 1993, $8,000,000 in fiscal year 1994, $9,000,000 in fiscal year 1995, and $10,000,000 in fiscal year 1996.".

(d) PHYSICIAN ASSISTANTS.—

(1) TRANSFER OF PROVISIONS WITH TRAINING AND PREVENTIVE MEDICINE.—Subsection (d) of section 788 (42 U.S.C. 295g-8)—

(A) is transferred to part F of title VII;

(B) is redesignated as section 786A(a); and

(C) is inserted after section 786.

(2) REVISION.—Section 786A (as transferred and added by paragraph (1), is amended—

(A) by inserting immediately preceding subsection (a) the following:

"SEC. 786A. PHYSICIAN ASSISTANT PROGRAMS.";

(B) in the subsection heading of subsection (a) to read as follows:

"(a) GRANTS AND CONTRACTS.—"; and

(C) by adding at the end thereof the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.".

(e) PODIATRIC MEDICINE.—Section 788 (42 U.S.C. 295g-8) is amended by redesignating subsection (e) as subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—Subsection (f) of section 788 (42 U.S.C. 295g-8(f)) is amended to read as follows:

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SUBSECTION (a).—There are authorized to be appropriated to carry out subsection (a), $5,000,000 for each of the fiscal years 1992 through 1996.

"(2) SUBSECTION (b)(1).—

"(A) SUBPARAGRAPH (A).—There are authorized to be appropriated to carry out subsection (b)(1)(A), $1,000,000 for each of the fiscal years 1992 through 1996.

"(B) SUBPARAGRAPH (B).—There are authorized to be appropriated to carry out subsection (b)(1)(B), $500,000 for each of the fiscal years 1992 through 1994.

"(4) SUBSECTION (c).—There are authorized to be appropriated to carry out subsection (c), $1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 151. AIDS EDUCATION AND TRAINING.

(a) IN GENERAL.—Section 788A (42 U.S.C. 295g-8b) is amended—

(1) in subsection (a)—

(A) by inserting "and other public or private nonprofit health or educational entities" after "science centers" in the matter preceding paragraph (1); and

(B) by striking out paragraphs (1) through (3) and inserting in lieu thereof the following new paragraphs:

"(1) to train health professions faculty to teach health professions practitioners and students to provide for the health care needs of individuals infected with the human immunodeficiency virus and individuals who are at high risk of contracting such infection;

"(2) with respect to improving skills in the diagnosis, treatment, and prevention of such infection, to educate and train health professions practitioners and students; and

"(3) to develop and disseminate health professions curricula and related resource materials relating to the care and treatment of individuals infected with the human immunodeficiency virus and to the prevention of such infection in individuals who are at high risk of contracting such virus.";

(2) in subsection (b)—

(A) by striking out "treatment for minority individuals with acquired immune deficiency syndrome" in paragraph (1), and inserting in lieu thereof "health care to minority individuals who are infected with the human immunodeficiency virus"; and

(B) by striking out "treatment for individuals with acquired immune deficiency syndrome" in paragraph (2), and inserting in lieu thereof "health care to individuals who are infected with the human immunodeficiency virus and other individuals who are at high risk of contracting such infection"; and

(3) in subsection (e), by striking out "such sums" and all that follows through the end thereof and inserting "$21,000,000 for fiscal year 1992, $23,000,000 for fiscal year 1993, $25,000,000 for fiscal year 1994, $27,000,000 for fiscal year 1995, and $29,000,000 for fiscal year 1996.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (f)(5) of section 788A (42 U.S.C. 295g-8b(f)(5)) is amended by striking out "such sums" and all that follows through the end thereof and inserting "$6,000,000 for fiscal year 1992, $8,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $12,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 152. GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.

(a) EDUCATION.—Section 789(a)(1) (42 U.S.C. 295g-9(a)(1)) is amended by striking out "and programs referred to in section 701(8)" and inserting in lieu thereof ", programs referred to in section 701(5) and schools referred to in section 853".

(b) TRAINING.—Section 789(b) (42 U.S.C. 295g-9(b)) is amended—

(1) in paragraph (1), by inserting ", geriatric psychiatry," after "geriatric medicine";

(2) in paragraph (2)—

(A) by inserting "or geriatric psychiatry" after "geriatric medicine" in subparagraph (A); and

(B) by inserting "or in a department of geriatric psychiatry" after "department of geriatrics" in subparagraph (C); and

(3) in paragraph (3)(B)—

(A) by striking out "1-year or" in the matter preceding clause (i); and

(B) by striking out clause (ii) and inserting in lieu thereof the following new clause:

"(ii) dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 789(c) (42 U.S.C. 295g-9(c)) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $26,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle E—Personnel in Public Health, Health Administration and Allied Health

SEC. 161. SPECIAL PROJECTS, SCHOOLS OF PUBLIC HEALTH.

(a) TRANSFER OF PROVISIONS.—Section 790A (42 U.S.C. 295g-11)—

(1) is transferred to subpart I of part G of title VII;

(2) is redesignated as section 794; and

(3) is inserted after section 793.

(b) REVISION.—Section 794 (as transferred and added by subsection (a), is amended—

(1) in subsection (a)—

(A) by striking out "schools of public health" and all that follows through "evaluating projects" in the matter preceding paragraph (1) and inserting in lieu thereof "accredited schools of public health for the costs of planning, developing, demonstrating, operating, and evaluating projects to accomplish the Healthy People 2000: National Health Promotion and Disease Prevention Objectives, including projects";

(B) by striking out "and quality in health care." in paragraph (4) and inserting in lieu thereof "to preventive services and quality in health care;"; and

(C) by inserting after paragraph (4), the following:

"which shall provide graduate students with comprehensive knowledge and skills, recruit candidates for graduate education in preparation for public service in specialties that are in short supply, strengthen existing departments of instruction to cope with specific and especially severe health problems, strengthen continuing education and non-degree teaching programs, and establish firm links with governmental and private health agencies and institutions as sites for field practice training."; and

(2) in subsection (d), by striking out "$1,500,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 162. GRADUATE PROGRAMS.

(a) HEALTH ADMINISTRATION PROGRAMS.—Section 791(d) (42 U.S.C. 295h(d)) is amended by striking out "$3,250,000" and all that follows through the end thereof and inserting "$1,700,000 for each of the fiscal years 1992 through 1996.".

(b) HEALTH ADMINISTRATION TRAINEESHIPS.—Section 791A(c) (42 U.S.C. 295h-1a) is amended by striking out "$2,500,000" and all that follows through the end thereof and inserting "$1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 163. PUBLIC HEALTH TRAINEESHIPS.

(a) GRANTS.—Subsection (a) of section 792 (42 U.S.C. 295h-1b(a)) is amended to read as follows:

"(a)(1) The Secretary may make grants to—

"(A) accredited schools of public health; and

"(B) other public or nonprofit private institutions that provide graduate or specialized training in public health and that are not eligible to receive a grant under section 791A;

to provide traineeships to increase the number of graduate students preparing to serve the Healthy People 2000: National Health Promotion and Disease Prevention Objectives.

"(2) Traineeships under paragraph (1) shall be awarded primarily to—

"(A) minority and disadvantaged students;

"(B) physicians, scientists and engineers who are determined by the Secretary to be in short supply in the public health field;

"(C) students in other areas of severe personnel shortage such as epidemiology and preventive medicine; and

"(D) students committed to service that involves severe health problems that are targeted in the Healthy People 2000: National Health Promotion and Disease Prevention Objectives, including AIDS prevention and control, maternal and child health, drug abuse, infant mortality, injury prevention and control, environmental protection and chemical hazards, including toxic wastes, chronic disease prevention and control, health problems in minority populations, health problems of the elderly, migrants and immigrants, and specific health promotion programs in underserved areas.".

(b) Preferences.—Subsection (b) of section 792 (42 U.S.C. 295h-1b(b)) is amended by striking out paragraphs (2) through (4) and inserting in lieu thereof the following new paragraph:

"(2) When considering applications submitted for grants under this section, the Secretary shall give preference to—

"(A) projects that provide for increased involvement of State and local governments in the planning and support of training initiatives to help mobilize State and local financial support for needed activities as well as to enhance the responsiveness of educational and training programs to State, local and regional health personnel needs; and

"(B) projects that can demonstrate effectiveness in meeting priority health care needs of underserved populations, especially public health, environmental health and allied health training.".

(c) Authorization of Appropriations.—Subsection (c) of section 792 (42 U.S.C. 295h-1b(c)) is amended by striking out "$7,500,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 164. PROJECT GRANTS AND CONTRACTS.

Section 796 (42 U.S.C. 295h-5) is amended to read as follows:

"SEC. 796. PROJECT GRANTS AND CONTRACTS.

"(a) Projects Related to Allied Health Professions with Personnel Shortages.—The Secretary may award grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with increasing program enrollments or establishing programs that will increase the number of individuals in those allied health professions with demonstrated personnel shortage (including occupational therapy, physical therapy, respiratory therapy, clinical laboratory personnel and dental hygienists) to provide individuals to serve in a medically underserved or rural communities (as defined in section 711(c)). Programs and activities funded under this section may include—

"(1) the expansion of program enrollments in those professions with the greatest shortages and whose services are most needed by the elderly;

"(2) projects to provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

"(3) the establishment of innovative outreach programs that link academic resources with rural clinical settings to establish community-based allied health training programs;

"(4) the development of interdisciplinary training programs that promote formal education and professional certification of allied health professionals in more than one discipline;

"(5) projects that provide career advancement training for practicing allied health professionals; and

"(6) projects that by expanding or establishing clinical training sites for allied health professionals in medically underserved or rural communities will increase the number of individuals so trained.

"(b) Strengthening Allied Health Professions.—The Secretary may award grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with the planning, development, establishment and operation of projects relating to—

"(1) the development of a curriculum that will emphasize knowledge and practice concerning prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

"(2) the expansion or establishment of interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

"(3) the expansion or establishment of demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research; and

"(4) the improvement and strengthening of the effectiveness of allied health administration, program directors, faculty, and clinical faculty.

"(c) Training Centers for Allied Health Professions.—

"(1) Grants and contracts.—The Secretary may award grants to and enter into contracts with training centers for allied health professions to assist such centers in meeting the costs associated with projects designed to provide financial assistance in the form of traineeships to students—

"(A) pursuing a career in the allied health fields that have demonstrated personnel shortages; and

"(B) who agree upon completion of their training program to practice in a medically underserved or rural community (as defined in section 711(c)).

"(2) Use of funds.—Amounts provided under grants and contracts awarded under paragraph (1) shall be utilized to assist in the payment of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary.

"(d) Application.—

"(1) Requirement.—No grant may be awarded or contract entered into under subsections (a), (b), or (c) unless an application therefore has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) Preference.—In considering an application submitted for a grant under this section, the Secretary shall give preference to applicants that plan to increase their first-year enrollments by not less than 10 percent over the number of such enrollments in 1991.

"(3) Amount.—The amount of any grant awarded under subsections (a), (b), or (c) shall be determined by the Secretary.

"(e) Eligible Entities.—For purposes of this section, the term 'eligible entities' means entities that are—

"(1) public or private nonprofit schools, universities, or other educational entities that provide for allied health personnel education and training and that meet such standards as the Secretary may by regulation prescribe; or

"(2) public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsections (a), (b), and (c).

"(f) Authorization of Appropriation.—

"(1) In general.—For the purpose of carrying out activities under this section, there are authorized to be appropriated $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

"(2) Availability of amounts.—Of the amounts appropriated pursuant to paragraph (1) for each fiscal year, the Secretary shall make available not less than 70 percent of such amounts in each such fiscal year to carry out subsection (a), not more than 10 percent of such amounts in each such fiscal year to carry out subsection (b), and not less than 20 percent of such amounts in each such fiscal year to carry out subsection (c).".

SEC. 165. ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h-6) is amended to read as follows:

"SEC. 797. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

"(a) Grants.—The Secretary may award grants to and enter into contracts with training centers for allied health professions to assist such centers in meeting the costs associated with projects designed to—

"(1) plan, develop, establish or expand postbaccalaureate programs for the advanced training of allied health professionals in demonstrated shortages who commit to teaching in an allied health training program; and

"(2) provide financial assistance, in the form of traineeships or fellowships, to postbaccalaureate students who are participants in any such program and who commit to teaching in an allied health discipline.

"(b) Preference.—In awarding grants under subsection (a), the Secretary shall give preference to projects that can demonstrate that—

"(1) not less than 50 percent of the graduates of such schools or programs during the preceding 2-year period are engaged as full-time teaching faculty in an allied health shortage specialty; or

"(2) the number of the graduates of such schools or programs that are practicing as full-time teaching faculty in an allied health shortage specialty has increased by not less than 50 percent over that proportion of such graduates for the previous 2-year period.

"(c) Limitation.—The Secretary shall limit grants and contracts awarded or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners including clinical laboratory technologists, respiratory therapists, dental hygienists;

"(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; or

"(3) a significant role in the care and rehabilitation of patients who are elderly or disabled including physical therapists and occupational therapists.

"(d) Authorization of Appropriations.—For the purpose of carrying out activities under this section, there are authorized to be appropriated $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

"(e) Availability of Funds.—Amounts appropriated under this section for any fiscal year shall remain available until expended or through fiscal year 1996.".

SEC. 166. DIVISION OF ALLIED HEALTH.

Section 798 (42 U.S.C. 295h-7) is amended to read as follows:

"SEC. 798. DIVISION OF ALLIED HEALTH.

"(a) Establishment.—The Secretary shall establish, within the Bureau of Health Professions, a division to be known as the Division of Allied Health (hereafter referred to in this section as the 'Division').

"(b) Purpose.—It shall be the purpose of the Division to exercise responsibility over allied health programs administered by the Secretary under this title, including oversight over the Subcommittee on Allied Health and other related matters concerning allied health professions.".

Subtitle F—Miscellaneous Programs

SEC. 171. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Section 799 (42 U.S.C. 2951) is amended—

(1) in subsection (a)(1)—

(A) by redesignating subparagraphs (C) through (F) as subparagraphs (F) through (I), respectively;

(B) by inserting after subparagraph (B) the following new subparagraphs:

"(C) the adequacy of current and future supplies of primary care physicians to serve health professional shortage areas and medically underserved areas and populations as designated in section 338B;

"(D) the effect of Medicare graduate medical education funding and medical research grant funding on medical schools and residency programs, particularly as such funding may affect institutional support for primary care training and student choices regarding medical specialty and location practice;

"(E) the inclusion of health promotion and disease and disability prevention as a part of graduate medical education, in order to address those objectives contained in Healthy People 2000: National Health Promotion and Disease Prevention Objectives relevant to the provision of preventive services and education of health professionals;";

(C) in subparagraph (G) (as so redesignated) by striking out ", (B), and (C)" and inserting in lieu thereof "through (F)"; and

(D) in subparagraph (H) (as so redesignated) by striking out ", (B), and (C)" and inserting in lieu thereof "through (F)";

(2) in subsection (b)(4), by inserting before the colon "(including those physicians practicing in a medically underserved or rural community (as defined in section 711(c))"; and

(3) in subsection (k), by striking out "1989, 1990, and 1991" and inserting in lieu thereof "1992 through 1996".

SEC. 172. RURAL HEALTH TRAINING PROGRAM.

(a) Part Heading.—The heading for part I of title VII (42 U.S.C. 295j et seq.) is amended to read as follows:

"*Part I—Rural Health Training Program*".

(b) Training Program.—Section 799A (42 U.S.C. 295j(c)) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"**SEC. 799A. RURAL HEALTH TRAINING PROGRAM.**";

(2) in subsection (b)(1)—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period in subparagraph (E) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(F) conduct research concerning the social and psychological processes involved in health-related decisionmaking, the perception of assessments of risk, and health risk reduction relating to individuals in rural areas; and

"(G) design training models for rural areas that focus on illness prevention and health promotion that may include programs in areas such as—

"(i) rehabilitation;

"(ii) health concerns of minorities or economically disadvantaged individuals;

"(iii) environmental health;

"(iv) women's health;

"(v) infant, prenatal, and developmental care;

"(vi) adolescent health;

"(vii) the process of health-care seeking, decisionmaking, and compliance behavior;

"(viii) developmental life span perspective;

"(ix) rural occupational health and safety;

"(x) geriatrics; and

"(xi) other areas determined to be appropriate by the Secretary.";

(3) in subsection (b)(2)—

(A) by adding "or" at the end of subparagraph (B);

(B) by striking out "; or" in subparagraph (C) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (D);

(4) in subsection (b)(3), by adding at the end thereof the following new subparagraph:

"(C) Limitation.—An institution that receives a grant under this section shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (b)(1) in the fiscal year preceding the year for which the grant is received.";

(5) in subsection (c)—

(A) by inserting "clinical" before "psychology" and before "social work"; and

(B) by inserting "marriage and family therapy" after "social work";

(6) by striking out subsection (e) and redesignating subsections (f) through (h) as subsections (e) through (g), respectively;

(7) in subsection (f) (as so redesignated) to read as follows:

"(f) Definitions.—As used in this section:

"(1) Medically underserved community.—The term 'medically underserved community' has the same meaning given such term in section 711(c).

"(2) Rural.—The term 'rural' refers to geographic areas that are located outside of standard metropolitan statistical areas."; and

(8) in subsection (g) (as so redesignated) to read as follows:

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $10,000,000 in fiscal year 1992, $11,000,000 in fiscal year 1993, $12,000,000 in fiscal year 1994, $13,000,000 in fiscal year 1995, and $14,000,000 in fiscal year 1996.".

SEC. 173. CREATION OF ADVISORY COUNCIL ON MEDICAL LICENSURE.

Title VII (42 U.S.C. 295j et seq.) is amended by adding at the end thereof the following new part:

"*Part J—Advisory Council on Medical Licensure*

"SEC. 799D. CREATION OF ADVISORY COUNCIL ON MEDICAL LICENSURE.

"(a) Advisory Council.—

"(1) In general.—The Secretary of Health and Human Services shall establish a Council to be known as the 'Council on Medical Licensure'.

"(2) Duties.—

"(A) Advice.—The Council shall provide advice to the Secretary regarding the establishment and operation of the system established by the American Medical Association for the purpose of verifying and maintaining information regarding the qualifications of individuals to practice medicine, and advice regarding the establishment and operation of any similar system.

"(B) Activities.—In carrying out subparagraph (A), the Council shall—

"(i) monitor and review the operation of the private credentials verification system and develop recommendations regarding methods by which the system can be improved, and make recommendations for the establishment of nondiscriminatory policies and practices for the operation of the system;

"(ii) determine to what extent the system has expedited and otherwise improved the efficiency and equitable operation of the process in the States for licensing individuals to practice medicine who previously have been licensed by another State (commonly known as licensure by endorsement); and

"(iii) review the policies and practices of the States (including any relevant laws) in licensing international medical graduates and in licensing domestic medical graduates, and determine the effects of the policies.

"(3) Composition.—

"(A) In general.—The Council shall be composed of 13 voting members selected in accordance with subparagraphs (B) and (C).

"(B) HRSA.—The Secretary shall designate one official or employee of the Health Resources and Services Administration to serve as a member of the Council. The official or employee so designated shall be a graduate of a medical school located in the United States.

"(C) Appointments.—From among individuals who are not officers or employees of the Federal Government, the Secretary shall, subject to subparagraph (D), make appointments to the Council as follows:

"(i) one individual from an organization representing State authorities that license individuals to practice medicine;

"(ii) one individual representing a national organization that represents practicing physicians in the United States;

"(iii) one individual representing an organization in the United States that tests international medical graduates regarding medical knowledge;

"(iv) one individual representing an organization in the United States that tests individuals who are graduates of medical schools located in the United States regarding medical knowledge;

"(v) one physician representing a medical school or medical schools in the United States;

"(vi) one individual who is a representative of the private credentials verification system;

"(vii) one individual who is a gradnate of a medical school in the United States, licensed to practice medicine in a State for at least 20 years, and who has applied for and received licensure by endorsement within the past 5 years;

"(viii) one individual who is an international medical graduate and who is representing a coalition representing international medical graduates;

"(ix) one individual who is a native of the United States who is a graduate of a medical school located in a country other than the United States or Canada;

"(x) one international medical graduate who is a native of a country located in southern or eastern Asia (including southern or eastern Asian islands), and who is a graduate of a medical school located in such a country;

"(xi) one international medical graduate who is a native of a European country and who is a graduate of a medical school located in such a country; and

"(xii) one international medical graduate who is a native of a country located in a Latin American or Caribbean country and who is a graduate of a medical school located in such a country.

At least one member appointed by the Secretary under this subparagraph should be practicing in a medically underserved or rural area as defined in section 711(c).

"(D) CONSULTATION.—The Secretary shall make the appointments described in subparagraph (C) only after consultation with relevant organizations and coalitions.

"(4) DURATION.—The Council shall continue in existence until the submission of the report required under paragraph (6), or not later than September 30, 1995, whichever is earlier.

"(5) ANNUAL REPORT.—The Council shall annually submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report describing the findings and recommendations of the Council pursuant to the duties established in paragraph (2). The Secretary shall provide a copy of each such report to the private credentials verification system.

"(6) FINAL REPORT AND RECOMMENDATIONS.—

"(A) IN GENERAL.—Not later than September 30, 1995, the Council shall prepare and submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a final report that shall include recommendations regarding activities conducted pursuant to paragraph (2), that shall include a determination as to whether the private credentials verification system is operating with a reasonable degree of efficiency and whether the policies and practices of the system are nondiscriminatory.

"(B) RECOMMENDATIONS.—If the Secretary determines that the private credentials verification system fails to meet either of the criteria with respect to the determination described in subparagraph (A), the Secretary, in consultation with the Council and relevant organizations, shall make a recommendation concerning the establishment of an alternative private system and concerning the specifications for such a system as described in paragraph (2)(B).

"(b) STUDY OF STATE LICENSURE PROCESS.—

"(1) IN GENERAL.—With respect to the licensure by the States of individuals to practice medicine, the Secretary, in consultation with the Council, shall annually conduct a study of not less than 10 States for the purpose of determining—

"(A) the average length of time required for the States involved to process the licensure applications of domestic medical graduates and the average length of time required for the States to process the licensure applications of international medical graduates, and the reasons underlying any significant differences in such times; and

"(B) the percentage of licensure applications from domestic medical graduates that are approved and the percentage of licensure applications from graduates of international medical schools that are approved, and the reasons underlying any significant differences in such percentages.

"(2) REPORT.—The Secretary each fiscal year shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the findings made as a result of the study required in paragraph (1) for the fiscal year.

"(c) DEFINITIONS.—For purposes of this section:

"(1) COUNCIL.—The term 'Council' means the Council on Medical Licensure established in subsection (a)(1).

"(2) DOMESTIC MEDICAL GRADUATE.—The term 'domestic medical graduate' means an individual who is a graduate of a medical school located in the United States or Canada.

"(3) INTERNATIONAL MEDICAL GRADUATE.—The term 'international medical graduate' means an individual who is a graduate of a medical school located in a country other than the United States or Canada.

"(4) MEDICAL SCHOOL.—The term 'medical school' means a school of medicine or a school of osteopathic medicine, as such terms are defined in section 701(2).

"(5) NONDISCRIMINATORY.—The term 'nondiscriminatory' with respect to policies and practices means that such policies and practices do not discriminate on the basis of race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation.

"(6) PRIVATE CREDENTIALS VERIFICATION SYSTEM.—The term 'private credentials verification system' means the system described in subsection (a)(2)(A) and established by the American Medical Association.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(8) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(d) NECESSARY RESOURCES.—The Secretary shall ensure that necessary resources are made available to implement the provisions of this section.".

SEC. 174. GRANTS FOR CERTAIN POSTDOCTORAL FELLOWSHIPS.

Title VII (42 U.S.C. 295j et seq.) (as amended by section 173) is further amended by adding at the end thereof the following new part:

"Part K—Miscellaneous Provisions

"SEC. 799G. GRANTS FOR POSTDOCTORAL FELLOWSHIPS IN CLINICAL PSYCHOLOGY, CLINICAL SOCIAL WORK, AND PSYCHIATRY

"(a) IN GENERAL.—The Secretary shall establish a postdoctoral clinical psychology, clinical social work, and psychiatry program to award grants to or enter into contracts with eligible entities to enable such entities to provide financial assistance (in the form of traineeships and fellowships) to participants who will train and provide mental health services in Federal, State or local prisons or correctional facilities or public mental health facilties.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an institution shall submit an application to the Secretary at such time, in such form and containing such information as the Secretary shall require, including a certification that such institution—

"(1) is an entity, accredited public or nonprofit school, or program in a State that provides training leading to a degree of doctor of psychology, social work, allopathic or osteopathic medicine and will provide mental health services in Federal, State or local prisons or correctional facilities or public mental health facilties;

"(2) will use amounts provided to such institution under this section to provide financial assistance in the form of traineeships or fellowships to qualified individuals who meet the requirements of subsection (c);

"(3) will not use in excess of 10 percent of amounts provided under this section to pay for administrative costs; and

"(4) will provide any other information or assurance as the Secretary determines appropriate.

"(c) INDIVIDUALS.—To be eligible to receive a traineeship or fellowship under this section an individual—

"(1) shall have received a doctoral degree through a graduate program in psychology or social work, a degree in allopathic or osteopathic medicine and is licensed to provide mental health services; and

"(2) will spend not less than 50 percent of the fellowship providing mental health services in a Federal, State or local prison or correctional facility or public mental health facilty.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle G—Repealers and Technical and Conforming Amendments

SEC. 181. REPEAL OF FACILITIES CONSTRUCTION GRANT PROGRAM.

Part B of title VII (42 U.S.C. 293 et seq.) is repealed.

SEC. 182. TECHNICAL AND CONFORMING AMENDMENTS.

(a) PUBLIC HEALTH SERVICE ACT.—Title VII is amended—

(1) in section 701(3) (as so redesignated) by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(2) in section 731(a)(1)(A)(iii) (42 U.S.C. 294d(a)(1)(A)(iii)), by striking out "tuition," and inserting in lieu thereof "tuition and ";

(3) in section 740(c)(1)(B) (42 U.S.C. 294m(c)(1)(B)), by striking out "such paragraph" and inserting in lieu thereof "such subparagraph";

(4) in section 741(c) (42 U.S.C. 294n(c)), by striking out "podiatry, optometry," and inserting in lieu thereof "podiatric medicine, optometry, or";

(5) in section 741(f)(1)(B) (42 U.S.C. 294n(f)(1)(B)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(6) in section 760(a)(1)(A) (42 U.S.C. 294bb(a)(1)(A)), by striking out "individuals";

(7) in section 787(b)(1) (42 U.S.C. 295g-7(b)(1)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(8) in section 787A(a) (42 U.S.C. 295g-7a(a)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(9) in the first sentence of section 790(5)(A) (42 U.S.C. 295g-10(5)(A)), by striking out "evaluation." and inserting in lieu thereof "application."; and

(10) in section 799A(c) (42 U.S.C. 295j(c)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine".

(b) IMMIGRATION AND NATIONALITY ACT.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(5)(B)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the second sentence and inserting in lieu thereof "medical science examinations";

(2) in subsection (a)(32)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the third sentence and inserting in lieu thereof "medical science examinations"; and

(3) in subsection (j)(1)(B)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the second sentence and inserting in lieu thereof "medical science examinations".

(c) AMENDMENTS RELATING TO DEFINITIONS.—The Act is amended—

(1) in section 2(f) (42 U.S.C. 201(f)), by striking out "701(9),";

(2) in section 737(4) (42 U.S.C. 294j(4)), by striking out "701(10)" and inserting in lieu thereof "701(6)";

(3) in section 747 (42 U.S.C. 294q-3), by striking out "701(5)" and inserting in lieu thereof "701(3)";

(4) in section 781(c)(3) (42 U.S.C. 295g-1(c)(3)), by striking out "(as defined in section 701(7))";

(5) in section 782(c)(2)(A)(i) (42 U.S.C. 295g-2(c)(2)(A)(i)), by striking out "701(4)" and inserting in lieu thereof "701(2)";

(6) in section 786A(a)(1) (42 U.S.C. 295g-8(d)(1)), by striking out "701(8)" and inserting in lieu thereof "701(5)";

(7) in section 789(a)(1) (42 U.S.C. 295g-9(a)(1)), by striking out "701(4) or 701(10) and programs referred to in section 701(8)" and inserting in lieu thereof "701(2) or 701(6)";

(8) in section 1706(d) (42 U.S.C. 300u-5(d)), by striking out "701(4)" and inserting in lieu thereof "701(2)"; and

(9) in section 1910(c)(1) (42 U.S.C. 300w-9(c)(1)), by striking out "701(4)" and inserting in lieu thereof "701(2)".

TITLE II—PROVISIONS RELATING TO TITLE VIII

SEC. 201. SHORT TITLE.

This title may be cited as the "Nurse Education Improvement and Reauthorization Act of 1991".

SEC. 202. SPECIAL PROJECTS GRANTS AND CONTRACTS.

Section 820 (42 U.S.C. 296k) is amended—

(1) in subsection (a)—

(A) by inserting "serving in medically underserved or rural communities as defined in section 711(c)" before the semicolon in paragraph (1);

(B) by striking out ", through geriatric health education centers and other entities," in paragraph (2);

(C) by striking out "through telecommunications via satellite" in paragraph (3)(B); and

(D) by adding "or" at the end of paragraph (4);

(E) by inserting after "settings" in paragraph (5) the following: ", including providing nursing care as a component of nursing training in one or more medically underserved or rural communities (as defined in section 711(c))";

(F) by striking out "; or" at the end of paragraph (5) and inserting in lieu thereof a period; and

(G) by striking out paragraph (6);

(2) by striking out subsection (b);

(3) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively;

(4) in subsection (b)(1) (as so redesignated), by inserting "and innovative nursing practice models in primary care and long-term care settings" after "nursing practice models" in paragraph (1);

(5) in subsection (b)(2) (as so redesignated)—

(A) by striking out "hospital" each place that such appears;

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new subparagraph:

"(D) to evaluate the effectiveness of providing incentives to practice in rural and underserved areas."; and

(6) in subsection (f) (as so redesignated), to read as follows:

"(f) For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 203. ADVANCED NURSE EDUCATION PROGRAMS.

Section 821(b) (42 U.S.C. 296l(b)) is amended by striking out "$13,000,000" and all that follows through the period and inserting in lieu thereof "$20,000,000 for fiscal year 1992, $21,000,000 for fiscal year 1993, $22,000,000 for fiscal year 1994, $23,000,000 for fiscal year 1995, and $24,000,000 for fiscal year 1996.".

SEC. 204. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

Section 822 (42 U.S.C. 296m) is amended—

(1) in subsection (a)—

(A) by striking out the second sentence of subsection (a)(1); and

(B) by striking out "including primary health care" in paragraph (2)(A) and inserting in lieu thereof "including health care";

(2) in subsection (b)(1)—

(A) by striking out "give special consideration" and inserting in lieu thereof "give preference"; and

(B) by striking out "health professional shortage areas designated under section 332" and inserting in lieu thereof "medically underserved or rural communities as defined in section 711(c)"; and

(3) in subsection (d), by striking out "$12,000,000" and all that follows through the period and inserting in lieu thereof "$25,000,000 for fiscal year 1992, $27,000,000 for fiscal year 1993, $29,000,000 for fiscal year 1994, $30,000,000 for fiscal year 1995, and $31,000,000 for fiscal year 1996.".

SEC. 205. CAPACITY BUILDING.

Subpart I of part A (42 U.S.C. 296k et seq.) is amended by adding at the end thereof the following new section:

"SEC. 823. CAPACITY BUILDING IN NURSING EDUCATION FOR PRACTICE.

"(a) GRANTS AND CONTRACTS.—The Secretary may award grants to and enter into contracts with public and private nonprofit schools of nursing for the purpose of providing support (including traineeships and fellowships) for projects to enable such schools to develop resources or strengthen programs or faculty to address the National Health Objectives for the Year 2000.

"(b) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section a school shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require.

"(2) CONSIDERATION.—The Secretary shall give special consideration to applications submitted by schools that provide outreach programs that are taught in medically underserved or rural communities (as defined in section 711(c)) in which advanced nursing education is not readily available or that, as a result of such location, may have difficulty recruiting qualified faculty, or schools that can demonstrate that graduates of the nursing program serve rural or underserved populations.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,500,000 for fiscal year 1992, $2,000,000 for fiscal year 1993, $2,500,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $3,500,000 for fiscal year 1996.".

SEC. 206. NURSING EDUCATION OPPORTUNITIES FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 827(c) (42 U.S.C. 296r(c)) is amended by striking out "$3,000,000" and all that follows through the period and inserting in lieu thereof "$5,000,000 for fiscal year 1992, $5,500,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, $6,500,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996.".

SEC. 207. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 (42 U.S.C. 297) is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "for nurses" and inserting in lieu thereof "for individuals"; and

(B) by striking out "programs in order to educate such nurses to" and inserting in lieu thereof "nursing programs in order to educate such individuals to";

(2) by adding at the end of subsection (a)(1), the following new subparagraph:

"(C) Non-nurses enrolled in masters of nursing programs shall be eligible for traineeship support only after completion of basic nursing preparation as defined by the school of nursing consistent with State nurse practice Acts.";

(3) by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(4) in subsection (c) (as so redesignated) to read as follows:

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"(c) For the purpose of carrying out this section, there are authorized to be appropriated $17,000,000 for fiscal year 1992, $19,000,000 for fiscal year 1993, $21,000,000 for fiscal year 1994, $23,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996.".

SEC. 208. NURSE ANESTHETISTS.

Section 831(c) (42 U.S.C. 297–1(c)) is amended by striking out "$1,800,000" and all that follows through "1991" and inserting in lieu thereof "$3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, $6,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996".

SEC. 209. AUTHORIZATION OF APPROPRIATIONS FOR LOAN REPAYMENTS.

(a) IN GENERAL.—Section 837A (42 U.S.C. 297c–1) is amended by striking out "$5,000,000" and all that follows through the period and inserting in lieu thereof "$5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, $8,000,000 for fiscal year 1995, and $9,000,000 for fiscal year 1996.".

(b) REPEALER.—Section 837 (42 U.S.C. 297c) is repealed.

SEC. 210. ALLOTMENTS AND PAYMENTS.

Section 838(a)(3)(A) (42 U.S.C. 297d(a)(3)(A)) is amended in the first sentence by striking out "in such fiscal year and in the fiscal year succeeding the fiscal year" and inserting in lieu thereof "until expended".

SEC. 211. DISTRIBUTION.

Section 839 (42 U.S.C. 297e) is amended—

(1) in subsection (a), by striking out "1991" and inserting in lieu thereof "1996"; and

(2) by striking out "1994" each place that such appears and inserting in lieu thereof "1999".

SEC. 212. UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

Section 843 (42 U.S.C. 297j) is amended—

(1) in subsection (c), by striking out "serve as a nurse for a period not less than two years" and inserting in lieu thereof "serve as a nurse for a period equal to the number of years of the scholarship award"; and

(2) in subsection (f), by striking out "$15,000,000" and all that follows through the period and inserting in lieu thereof "$30,000,000 for fiscal year 1992, $31,000,000 for fiscal year 1993, $32,000,000 for fiscal year 1994, $33,000,000 for fiscal year 1995, and $34,000,000 for fiscal year 1996.".

SEC. 213. EMPLOYER LOAN REPAYMENT PROGRAM.

Section 847 (42 U.S.C. 297n) is repealed.

SEC. 214. PROHIBITION ON DISCRIMINATION.

Section 855 (42 U.S.C. 298b–2) is amended—

(1) in the section heading by striking out "ON THE BASIS OF SEX"; and

(2) by striking out "sex" each place that such occurs and inserting in lieu thereof "race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation".

SEC. 215. EVALUATIONS.

Section 859(b) (42 U.S.C. 298b–6(b)) is amended—

(1) by striking out paragraph (1); and

(2) in paragraph (2)—

(A) by striking out "(2)"; and

(B) by striking out "biannually" and inserting in lieu thereof "every 2 years".

SEC. 216. GRANTS FOR NURSE EDUCATION IN LONG-TERM CARE FACILITIES.

Part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart IV—Grants for Nurse Education in Long-Term Care Facilities

"SEC. 848. ESTABLISHMENT OF NURSE EDUCATION GRANT PROGRAM WITH RESPECT TO SERVICE IN LONG-TERM CARE FACILITIES.

"(a) IN GENERAL.—The Secretary may award grants to public and private nonprofit undergraduate schools or programs accredited for the training of professional nurses for the purpose of providing fellowships to licensed vocational or practical nurses, nursing assistants and other paraprofessional nursing personnel to assist such individuals in obtaining professional nursing education to attain the level of registered nurse.

"(b) PREFERENCES.—The Secretary may not award a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the applicant will give preference to—

"(1) disadvantaged and minority individuals who are underrepresented in the nursing profession, as determined in accordance with appropriate criteria established by the Secretary; and

"(2) individuals participating in rapid transition programs targeted towards the achievement of professional nursing degrees.

"(c) CERTAIN REQUIREMENTS WITH RESPECT TO STUDENTS.—The Secretary may not award a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the applicant will provide a fellowship to an individual only if—

"(1) the individual is enrolled or accepted for enrollment as at least a half-time student in a public or nonprofit school of nursing or other training program accredited to provide the requisite education and training for the level of professional certification sought by the individual;

"(2) the individual agrees to expend amounts received under the fellowship solely for the payment of the costs of tuition, books, fees, reasonable living expenses, or necessary transportation related to the training program referred to in paragraph (1);

"(3) the individual agrees that, if the individual is dismissed from the school or program referred to in paragraph (1) for academic reasons, voluntarily terminates such education or training, or violates the contract entered into pursuant to paragraph (4), the individual will be liable to the United States in an amount equal to 100 percent of the amount of the fellowship, plus interest at a rate of 5 percent per annum; and

"(4) the individual enters into a contract with a long-term care facility that is certified under title XVIII or XIX of the Social Security Act to engage in full-time employment at the higher level of professional skill acquired under this section for a period of time equal to not less than the period of time during which the individual receives assistance under this section.

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO LONG-TERM CARE FACILITIES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the amount of a fellowship provided for an individual attending the school will not exceed the amount described in subsection (c)(2).

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not award a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 217. PRIMARY CARE TRAINING PROGRAM.

Subpart I of part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 832. PRIMARY CARE TRAINING PROGRAM.

"(a) IN GENERAL.—The Secretary may award grants to public or nonprofit private schools of nursing for the establishment or expansion of clinical training sites or training affiliations that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinical training sites or new training affiliations to be run and staffed by the faculty and students of such grantee school, to provide nursing students with training in the delivery of primary care in rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The training sites established under subsection (c)(1) shall be designed to provide at least 25 percent of the school's nursing students with a structured clinical experience in primary care.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 218. ASSURANCES REGARDING TRANSMISSION OF BLOODBORNE DISEASES.

Title VIII (42 U.S.C. 296K) is amended by adding at the end thereof the following new section:

"SEC. 860. ASSURANCES REGARDING TRANSMISSION OF BLOODBORNE DISEASES.

"Applicants under this title are required to provide assurances to the Secretary that all trainees will receive instruction in the utilization of universal precautions and infection control procedures for the prevention of transmission of bloodborne diseases.".

SEC. 219. TECHNICAL AMENDMENTS.

Title VIII is amended—

(1) in section 836(b)(1) (42 U.S.C. 297b(b)(1)) by striking out the period and inserting in lieu thereof a semicolon;

(2) in section 851(a) (42 U.S.C. 298(a)) by striking out "a Advisory" and inserting in lieu thereof "an Advisory"; and

(3) in section 859(a) (42 U.S.C. 298b–6(a)) by striking out "as result of" and inserting in lieu thereof "as a result of".

TITLE III-COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE

SEC. 301. SHORT TITLE.

This title may be cited as the "Comprehensive Maternal and Early Childhood Health Care Act".

SEC. 302. MIGRANT AND COMMUNITY HEALTH CENTER INITIATIVES.

(a) MIGRANT HEALTH CENTERS.—Paragraph (2) of subsection (h) of section 329 (42 U.S.C. 254b(g)) is amended to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist, and expand the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where Migrant Health Centers are currently operating Comprehensive Perinatal Care Programs. The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Migrant Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary for the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and through others) to ensure access and coordination.".

(b) COMMUNITY HEALTH CENTERS.—Subsection (g) of section 330 (42 U.S.C. 254c(g)) is amended:

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(C) Of the amounts appropriated under subparagraph (A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such subparagraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year to make grants under subsections (c) and (d) for the planning and development of health centers to serve medically underserved populations. New community health centers shall be equitably distributed between underserved urban and rural areas with satellite models used where appropriate."; and

(2) in paragraph (2) to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where community health centers are currently operating Comprehensive Perinatal Care Programs in areas with high infant mortality.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Community Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C.

1786), by drug treatment service providers and by others) to ensure access and coordination.".

(c) Programs for the Benefit of Homeless Individuals.—Subsection (q) of section 340 (42 U.S.C. 256(q)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where grantees under this section are currently operating Comprehensive Perinatal Care Programs.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to grantees under this section to assist such grantees in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services should include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at a health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and by others) to ensure access and coordination.".

SEC. 303. EXPANSION OF IMMUNIZATION PROGRAMS FOR YOUNG CHILDREN.

(a) Vaccine Bulk Purchase Program.—Part B of title III is amended by inserting after section 317A the following new section:

"SEC. 317B . VACCINE BULK PURCHASE PROGRAM.

"(a) In General.—The Secretary acting through the Director of the Centers for Disease Control and in accordance with the preventative health grant provisions of subsections (a) and (j)(1)(B) of section 317, shall provide to the health department of each State or large city that is operating an immunization project, vaccines for immunization purposes.

"(b) Distribution.—Vaccines provided to grantees with existing immunization projects under subsection (a) shall be made available for distribution and immunization services through the public health departments of such States or cities, recipients of grants under section 329, 330, and 340 in the State or city, Federally qualified health centers under section 1905(1)(2)(B) of the Social Security Act operating in the State or city, and public health professionals.

"(c) Quantity.—In determining the quantity of vaccine that is needed by a grantee under subsection (a), the Administrator of the Health Resources and Services Administration shall make available to the Director of the Centers for Disease Control data from annual reports submitted by recipients of grants under section 329, 330, and 340 and from entities certified as Federally qualified health centers under section 1905(1)(2)(B) of the Social Security Act. The Director of such Centers shall direct the health department of the State, county or city to equitably allocate vaccines made available under the bulk purchase program among those recipients described in subsection (b) who are providing immunization services to children, except that the amounts received by each provider on the date of enactment of this section shall not be diminished relative to the population served, and that grantees shall receive not less than the amount such grantees received under their bulk vaccine allotment as of January 1, 1991.

"(d) Maintenance of Supply.—The provisions of this section shall be effective only to the extent to which the Secretary, acting through the Director of the Centers for Disease Control, provides assurances that the implementation of this section will not result in a reduction in the supply of vaccines available to grantees receiving vaccine allotments under the bulk purchasing programs as of January 1, 1991.".

(b) Immunization Demonstration Projects for Outreach Programs.—Subsection (b) of section 2 of the Vaccine and Immunization Amendments of 1990 (Public Law 101-502) is amended to read as follows:

"(b) Demonstration Projects for Outreach Programs.—

"(1) In general.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of carrying out demonstration projects—

"(A) to provide, without administrative charge, immunizations for vaccine preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low income individuals, increasing the capacity of public health departments to deliver vaccines and facilitating outreach activities to improve the percentage of fully immunized children;

"(B) to expand the capacity of public health departments, recipients of grants under sections 329, 330, and 340 of the Public Health Service Act, and other health provider entities that are co-located with centers providing services under section 17 of the Child Nutrition Act of 1966 in order to provide immunizations to participants in the program established under such section 17 during regular hours, and to enable State health departments working through State directors of the program established under such section 17 to make available to such centers vaccines and adequate funds to administer immunizations; and

"(C) to maintain private provider participation in the provision of immunization services and to encourage private physicians to provide such services to infants and children enrolled for benefits under title XIX of the Social Security Act.

"(2) Authorization of Appropriations.—For the purposes of carrying out paragraph (1), there are authorized to be appropriated $25,000,000 in fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 304. PROJECT GRANTS FOR MATERNAL AND CHILD PREVENTIVE HEALTH AND HEALTH CARE SERVICES.

Section 314 (42 U.S.C. 246) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary is authorized to award grants to eligible entities for the development and operation of Comprehensive Perinatal and Early Childhood Health Programs, to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development.

"(2)(A) To be eligible to receive a grant under this subsection, an entity shall be a public health department or public or private nonprofit health entity that—

"(i) does not receive assistance under section 329 or 330;

"(ii) is located in a medically underserved or health professional shortage area not served by an entity receiving funds under section 329 or 330; and

"(iii) has demonstrated a commitment to serving low income and uninsured individuals and families.

"(B) Notwithstanding subparagraph (A), entities located in areas served by grantees under section 329 or 330 may apply for and receive a grant under this subsection, if such 329 or 330 grantees do not intend to apply for expanded funding for prenatal and early childhood health care services, and if such entities can demonstrate that—

"(i) the women and children to be served, or the services to be provided, using funds provided under the grant are in addition to those populations served and services offered by such existing section 329 or 330 grantees; and

"(ii) the entity will not use funds provided under this subsection to supplant State expenditures.

"(3) Services to be provided with funds under a grant awarded under this subsection shall be delivered in a culturally sensitive manner and made accessible to the population to be served. Such services shall include—

"(A) public information, outreach, or case finding services provided through the use of media, community canvassing (including the use of volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(B) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(i) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(ii) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(C) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children and families;

"(D) substance abuse screening, outpatient substance abuse counseling services, or referral to substance abuse treatment services for women with substance abuse problems;

"(E) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(F) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both counseling provided directly by the grantee, and through distribution of the Maternal Child Health Handbooks as available.

Services described in subparagraphs (D), (E) and (F) shall be provided by grantees under this subsection to the maximum extent practicable.

"(4) To the maximum extent practicable, services provided under this subsection shall be delivered in a single location by the grantee, except that such may include multiple sites if mobile health care provider units are utilized (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act, by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966, by drug treatment service providers, and by others) to ensure access and coordination.

"(5) The Secretary may not award a grant under this subsection unless—

"(A) the applicant for the grant has entered into, or will enter into, a participation agreement within 180 days of the date of the grant award with the State agency administering funds under title XIX of the Social Security Act and is qualified to receive such payments for services provided;

"(B) the applicant for the grant has prepared a schedule of fees or payments for the provision of services under paragraph (3) consistent with locally prevailing rates or charges, and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, such discounts to be adjusted on the basis of the patient's ability to pay;

"(C) the applicant for the grant provides assurances that every reasonable effort will be made to secure from patients and third party reimbursement entities, including any State compensation program, health insurance entity, any entity providing health services on a prepaid basis, or any Federal or State health benefits program, full payment for the services provided under paragraph (3). Amounts awarded under this subsection shall be used as the payment source of last resort for services provided.

"(6) In addition to providing the services required under paragraph (3), a grantee may use amounts provided under the grant for minor remodeling and rehabilitation of the facilities needed to support the delivery of such services. No funds may be used for the construction of new buildings or the acquisition of properties.

"(7) A grantee shall not use in excess of 5 percent of the amounts received under a grant awarded under this subsection for administration, accounting, reporting and program oversight functions.

"(8) To be eligible to receive a grant under this subsection, an entity, in addition to meeting the requirements of paragraph (2), shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

"(A) that funds received under a grant awarded under this subsection will be utilized to supplement not supplant State funds made available to the entity for the provision of maternal and child health and social services, with identification of funding received from other sources for such purposes;

"(B) that prenatal and early childhood health care will be provided under a case management model, that continuity of care will be provided for all individuals, and that services to be provided are accessible to the target population to be served;

"(C) that the entity will serve low income women and children in the service delivery area, and have a plan for outreach to those at risk of inadequate health care services;

"(D) that the entity has outlined a needs assessment of the health care delivery system in the service delivery area, to include health status indicators for women of childbearing age and young children, and identification of other health care provider groups in the area;

"(E) that the entity has reviewed the application for a grant under this section with the State agency administering amounts received under title V of the Social Security Act and the local health department, and that such application is consistent with the State plan for the delivery of maternal and child health services; and

"(F) that the entity will submit a report to the Secretary and to the State and relevant local health departments that will include demographic data on the number of individuals served and those services provided with funds provided under this subsection, and a description of the manner in which services provided by the entity are integrated with those services provided by other health care agencies or provider groups in the service delivery area.

"(9) In awarding grants under this subsection, the Secretary should give priority to—

"(A) those applications snbmitted by entities that are an association of one or more public, and one or more nonprofit private health care and social service providers, except that in areas where such an association would not be possible as a result of the absence of more than one provider entity, no such priority shall be given; and

"(B) those applications providing evidence of local investment (such as State, health care provider, local charity, and volunteer organization contributions) in maternal and child health initiatives, through a 10 percent local contribution to match Federal funds, in cash or in kind, fairly evaluated, not including any portion of any service subsidized by the Federal Government or other copayments under paragraph (5).

Grants under this subsection shall be awarded on an equitable basis among eligible rural and urban applicants.

"(10) Not later than 30 months after the date of enactment of this subsection, the Secretary shall prepare and submit, to the Senate Committee on Labor and Human Resources, the Senate Finance Committee, and the House Committee on Energy and Commerce, an evaluation of the program established under this subsection, that shall include—

"(A) an analysis of the manner in which funds provided under this subsection have been used by grantees, with a review of the services provided;

"(B) the infant mortality rates and immunization rates in the communities served by grantees prior to the receipt of such a grant and at the time such evaluation is prepared, and an assessment of the impact of enhanced services on such rates;

"(C) an analysis of the manner in which entities receiving grants under this subsection have integrated the services provided under such grants with other available health and social service providers in the service delivery area; and

"(D) recommendations concerning any modifications necessary to improve program effectiveness in reaching the stated goals of the program in a cost-effective manner.

"(11) There are authorized to be appropriated for each of the fiscal years 1992 through 1994, such sums as may be necessary to carry out this subsection.".

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SEC. 305. BIRTH DEFECTS PROPOSAL.

Part B of title III (42 U.S.C. 243 et seq.) (as amended by section 303) is further amended by inserting after section 317B, the following new section:

"SEC. 317C. COORDINATION OF BIRTH DEFECTS SURVEILLANCE AND EPIDEMIOLOGY RESEARCH PROGRAMS.

"(a) FINDINGS.—Congress finds that—

"(1) birth defects are the leading cause of infant mortality, directly responsible for one out every five infant deaths;

"(2) thousands of the 250,000 infants born with a birth defect annually face a lifetime of chronic disability and illness; and

"(3) there is no national effort to record birth defect data and perform epidemiologic surveillance even though such data would aid research efforts to understand and reduce the incidence of preventable birth defects.

"(b) PLAN FOR IMPLEMENTING A NATIONAL BIRTH DEFECTS MONITORING SYSTEM AND SURVEILLANCE PROGRAM.—

"(1) DEVELOPMENT.—The Secretary, acting through the Centers for Disease Control, shall develop a plan to establish regional birth defects monitoring programs to serve all States for the purpose of collecting and analyzing data on the incidence of birth defects with relevant epidemiologic data. Such plan shall specify how collaborative efforts between the Centers for Disease Control and responsible State agencies will be carried out, and may include the provision of grants or cooperative agreements, and technical assistance.

"(2) CLEARINGHOUSE.—The Centers for Disease Control shall develop a program plan to serve as the national clearinghouse of the collection and storage of data and information generated from birth defects monitoring programs developed under paragraph (1). Functions of the clearinghouse will include facilitating the coordination of birth defects research.

"(3) REPORT.—The Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the plan required under paragraph (1), together with recommendations to facilitate the immediate implementation of such plan, on or before July 1, 1993.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECTIVE DATE.

Notwithstanding any other provision of law, section 403A(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)(1)) shall not apply with respect to any requirement of any State or political subdivision regarding maple syrup until December 1, 1993.

JUDICIAL NATURALIZATION AMENDMENTS

KENNEDY (AND SIMPSON) AMENDMENT NO. 1448

Mr. REID (for Mr. KENNEDY, for himself and Mr. SIMPSON) proposed an amendment to the bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority on courts to administer oaths of allegiance for naturalization, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous and Technical Immigration and Naturalization Amendments of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

Sec. 101. Short title of title.
Sec. 102. Court authority to administer oaths of allegiance for naturalization.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

Sec. 201. Short title of title.
Sec. 202. Repeal of numerical limitations on P-1 and P-3 nonimmigrants; GAO report.
Sec. 203. Standards for classification of P-1 and P-3 nonimmigrants.
Sec. 204. Consultation requirement.
Sec. 205. Amendments relating to O nonimmigrants.
Sec. 206. Amendments relating to P nonimmigrants.
Sec. 207. Other amendments.
Sec. 208. Effective date.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

Sec. 301. Short title of title; reference to the Immigration and Nationality Act.
Sec. 302. Corrections relating to Title I of the Immigration Act of 1990.
Sec. 303. Corrections relating to Title II of the Immigration Act of 1990.
Sec. 304. Corrections relating to Title III of the Immigration Act of 1990.
Sec. 305. Corrections relating to Title IV of the Immigration Act of 1990.
Sec. 306. Corrections relating to Title V of the Immigration Act of 1990.
Sec. 307. Corrections relating to Title VI of the Immigration Act of 1990.
Sec. 308. Corrections relating to Title VII of the Immigration Act of 1990.
Sec. 309. Additional miscellaneous corrections.
Sec. 310. Effective dates.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Judicial Naturalization Ceremonies Amendments of 1991".

SEC. 102. COURT AUTHORITY TO ADMINISTER OATHS OF ALLEGIANCE FOR NATURALIZATION.

(a) IN GENERAL.—Subsection (b) of section 310 of the Immigration and Nationality Act (8 U.S.C. 1421), as amended by section 401(a) of the Immigration Act of 1990, is amended to read as follows:

"(b) COURT AUTHORITY TO ADMINISTER OATHS.—

"(1) JURISDICTION—Subject to section 337(c)—

"(A) GENERAL JURISDICTION.—Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the attorney general or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

"(B) EXCLUSIVE AUTHORITY.—An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 377(a) to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

"(2) INFORMATION.—

"(A) GENERAL INFORMATION.—In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

"(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

"(ii) the Attorney General—

"(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 337(a) and

"(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

"(B) ASSIGNMENT OF INDIVIDUALS IN THE CASE OF EXCLUSIVE AUTHORITY.—If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), as the time of the approval of the person's application for naturalization, of—

"(i) the court's exclusive authority to administer the oath of allegiance under section 337(a) to such a person during the period specified in paragraph (3)(A)(i), and

"(ii) the date or dates (if any) under paragrah (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

"(3) SCOPE OF EXCLUSIVE AUTHORITY.—

"(A) LIMITED PERIOD AND ADVANCE NOTICE REQUIRED.—The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

"(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

"(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

(B) AUTHORITY OF ATTORNEY GENERAL.—Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

(C) WAIVER OF EXCLUSIVE AUTHORITY.—Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 337(a) to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

"(4) ISSUANCE OF CERTIFICATES.—The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

"(5) ELIGIBLE COURTS.—For purposes of this section, the term 'eligible court' means—

"(A) a District Court of the United States in any State, or

"(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.".

(b) CONFORMING AMENDMENTS.—

(1) FUNCTIONS OF CLERKS.—Section 339(a) of such Act (8 U.S.C. 1450(a)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) deliver to each person administered the oath of allegiance by the court pursuant to section 337(a) the certificate of naturalization prepared by the Attorney General pursuant to section 310(b)(2)(A)(ii),",

(B) in paragraph (2), by inserting "a list of applicants actually taking the oath at each scheduled ceremony and" after "Attorney General",

(C) by striking paragraph (3),

(D) in paragraph (4), by striking the period at the end and inserting ", and" and by redesignating such paragraph as paragraph (3),

(E) by inserting after paragraph (3), as so redesignated, the following new paragraph:

"(4) be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General and shall account to the Attorney General for them whenever required to do so.", and

(F) by adding at the end the following:

"No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein-provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.".

(2) EXPEDITED ADMINISTRATION OF OATH.—Subsection (c) of section 337 of such Act (8 U.S.C. 1448) is amended to read as follows:

"(c) Notwithstanding section 310(b), an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant's immediate family, permanent disability sufficiently incapacitating as to prevent the applicant's personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.".

(3) FEES.—Section 344 of such Act (8 U.S.C. 1455) is amended by adding at the end the following new subsection:

"(f)(1) The Attorney General shall pay over to courts administering oaths of allegiance to persons under this title a specified percentage of all fees described in subsection (a)(1) collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion, of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

"(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.".

(c) EFFECTIVE DATE.—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

SEC. 201. SHORT TITLE OF TITLE.

This title may be cited as the "O and P Nonimmigrant Amendments of 1991".

SEC. 202. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) IN GENERAL.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)), as added by section 205(a) of the Immigration Act of 1990, is amended—

(1) by adding "or" at the end of subparagraph (A),

(2) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(3) by striking subparagraph (C).

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 203. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) SUBSTITUTION OF NEW STANDARDS.—Clause (i) of section 101(a)(15)(P) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended to read as follows:

"(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);".

(b) NEW STANDARDS.—Section 214(c)(4) of such Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by redesignating subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

"(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

"(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

"(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time.

"(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

"(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

"(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

"(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

"(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

"(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.".

SEC. 204. CONSULTATION REQUIREMENT.

Section 214(c) of the Immigration and Nationality Act, as amended by section 207(b)(2) of the Immigration Act of 1990, is amended—

(1) in paragraph (3)(A), by striking "after consultation with peer groups in the area of the alien's ability" and inserting "after consulation in accordance with paragraph (6)",

(2) in paragraph (3)(B), by striking "after consultation with labor organizations with expertise in the skill area involved" and inserting "after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability",

(3) in paragraph (4)(C), as redesignated by section 203(b), by striking "clause (ii) of",

(4) in paragraph (4)(D), as redesignated by section 203(b), by striking "after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved" and inserting "after consultation in accordance with paragraph (6)",

(5) by redesignating paragraph (6) as paragraph (7), and

(6) by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) To meet the consultation requirements of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.

"(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

"(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

"(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

"(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

"(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

"(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

"(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

"(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate."

SEC. 205. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) Definition of Extraordinary Ability in the Arts for O Nonimmigrants.—Section 101(a) of the Immigration and Nationality Act, as amended by sections 123 and 204(c) of the Immigration Act of 1990, is amended by adding at the end the following new paragraph:

"(46) The term 'extraordinary ability' means for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.".

(b) Eliminating Additional Paperwork Requirement for O–1's.—Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, as amended by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", but only" and all that follows up to the semicolon at the end.

(c) Clarification of Significant Photography for O–2s.—Section 101(a)(15)(O)(ii)(III)(b) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking "signification principal photography" and inserting "significant production (including pre- and post-production work)".

(d) Clarification of Multiple Events for Visas for O Nonimmigrants.—Section 214(a)(2)(A) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by inserting "(or events)" after "event".

(e) Consultation with Respect to Readmitted O–1 Nonimmigrants.—Section 214(c)(3) of the Immigration and Nationality Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by adding at the end the following: "The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.".

SEC. 206. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) Eliminating 3-Month Out-of-Country Rule for P–2 and P–3 Nonimmigrants.—Section 214(a)(2)(B) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended—

(1) by striking "(B)(i)" and inserting "(B)", and

(2) by striking clause (ii).

(b) Treatment of Foreign Organizations for P–2 Nonimmigrants.—Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by inserting "or organizations" after "and an organization".

(c) Treatment of P–2 Nonimmigrants.—(1) Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", between the United States and the foreign states involved".

(2) Section 214(c)(4)(E) of the Immigration and Nationality Act, as added by 207(b)(2)(B) of the Immigration Act of 1990 and as redesignated by section 203(b) of this title, is amended by striking ", in order to assure reciprocity in fact with foreign states".

(d) Performance of Teaching and Coaching Functions by P–3 Nonimmigrants.—Section 101(a)(15)(P)(iii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended—

(1) by striking "for the purpose of performing" and inserting "to perform, teach, or coach", and

(2) by inserting "commercial or noncommercial" before "program".

SEC. 207. OTHER AMENDMENTS.

(a) Return Transportation Requirement for O and P Nonimmigrants.—Section 214(c)(5) of the Immigration and Nationality Act, as added by section 207(b)(2) of the Immigration Act of 1990, is amended by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) of 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.".

(b) Entry of Fashion Models Under H–1B.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended—

(1) by inserting "or as a fashion model" after "214(i)(1)", and

(2) by inserting "or, in the case of a fashion model, is of distinguished merit and ability" after "214(i)(2)".

(c) Annual Report.—

(1) In general.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(3)), as amended by section 207(b)(2) of the Immigration Act of 1990 and by section 204 of this title, is amended by adding at the end the following new paragraph:

"(8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the State a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

"(A) The number of such petitions which have been filed.

"(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

"(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

"(D) The number of such petitions which have been withdrawn.

"(E) The number of such petitions which are awaiting final action.".

(2) Deadline for first report.—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 208. EFFECTIVE DATE.

The provisions of, and amendments made by, this title shall take effect on April 1, 1992.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

SEC. 301. SHORT TITLE OF TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This title may be cited as the "Immigration Technical Corrections Act of 1991".

(b) In this title, the term "INA" means the Immigration and Nationality Act.

SEC. 302. CORRECTIONS RELATING TO TITLE 1 OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 201 of the INA as amended by section 101(a) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(3), by striking "(3) The number computed under this paragraph for a fiscal year" and inserting the following:

"(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year"; and

(B) in subsection (d)(2), by striking "(2) The number computed under this paragraph for a fiscal year" and inserting the following:

"(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year".

(2) Section 101 of the Immigration Act of 1990 is amended by adding at the end the following new subsection:

"(c) Transition.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of an alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.".

(3) Section 202(a)(4)(A) of the INA, as amended by section 102(I) of the Immigration Act of 1990, is amended by striking "MINIMUM".

(b)(1) Section 112 of the Immigration Act of 1990 is amended—

(A) in subsection (c), by striking "temporary or" before paragraph (1), and

(B) by adding at the end the following:

"(d) Definitions.—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.".

(2) Section 203(b) of the INA, as inserted by section 121(a) of the Immigration Act of 1990, is amended—

(A) in paragraphs (1), (2), and (3), by striking "40,000" and inserting "28.6 percent of such world-wide level" each place it appears,

(B) in paragraph (1)(C), by striking "who seeks" and inserting "the alien seeks",

(C) in paragraphs (4) and (5), by striking "10,000" and inserting "7.1 percent of such world-wide level" each place it appears, and

(D) in paragraph (2)(B), by inserting "professions," after "arts,".

(3) Section 216A of the INA, as inserted by section 121(b)(1) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(2)(A), by inserting "(and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216)" after "status of the alien", and

(B) in subsections (c)(3)(B) and (d)(2)(A), by striking "obtaining the status of".

(4) Section 121(b)2) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "deportation".

(5) Section 124(a) of the Immigration Act of 1990 is amended—

(A) in paragraph (1)—

(i) by inserting "(or paragaph (2) as the spouse or child of such an alien)" after "paragraph (3)", and

(ii) by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year."; and

(B) in paragraph (3)(A), by striking "(and has been so employed during the 12 previous, consecutive months)" and inserting "except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months".

(6) Section 132 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)";

(B) in subsection (a), by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.";

(C) in subsection (b)(1), effective after fiscal year 1992, by striking "that is not contiguous to the United States and ";

(D) in subsection (c)—

(i) effective beginning with fiscal year 1992, by striking "in the chronological order in which aliens apply for each fiscal year" and inserting "strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State",

(ii) by inserting before the period at the end the following: "and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided", and

(iii) by adding at the end the following: "If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives the shortfall shall be added to the number of such visas to be made available under this section to such natives in the suceeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland."; and

(E) in subsection (e)—

(i) by striking "the grounds" and all that follows through "shall not apply, and",

(ii) by striking "of such section" and inserting "of section 212(a) of the Immigration and Nationality Act", and

(iii) by adding at the end the following: "In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.".

(7) Section 134(a) of the Immigration Act of 1990 is amended by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)".

(c)(1) Section 141 of the Immigration Act of 1990 is amended—

(A) in the heading, by striking "Legal",

(B) in subsection (a), by striking "Legal",

(C) in subsection (a)(1)(B), by striking "of the Subcommittee" and all that follows through "International Law", and

(D) by adding at the end the following new subsection:

(i) Presidential Report.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).".

(2) The item in the table of contents of such Act relating to section 141 is amended to read as follows:

"Sec. 141. Commission on Immigration Reform.".

(d)(1) Section 152(b)(1)(A) of the Immigration Act of 1990 is amended by striking "who has performed faithful service" and inserting "and has performed faithful service as such an employee".

(2) Section 245 of the INA, as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended—

(A) in subsection (c)(2), by inserting "(J)," after "(I),", and

(B) by adding at the end the following new subsection:

(h) In applying this section to a special immigrant described in section 101(a)(27)(J)—

"(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

"(2) in determining the alien's admissibility as an immigrant—

"(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

"(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.".

(3) Section 241(h) of the INA, as amended by section 153(b) of the Immigration Act of 1990, is amended by striking the comma after "(3)(A)".

(4) Section 154 of the Immigration Act of 1990 is amended—

(A) in subsection (b)(1)(A), by inserting "or China" after "Hong Kong",

(B) in subsection (b)(1)(B)(i), by inserting "of" after "of section 203(a)", and

(C) by striking paragraph (3) of subsection (c).

(5) Section 155 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or section 203(e), in the case of fiscal year 1992)" after "203(c)", and

(B) in subsection (b), by striking "or the child" and inserting "or who are the spouse or child".

(e)(1) Section 161(a) of the Immigration Act of 1990 is amended by striking "in this section," and inserting "in this title, this title and".

(2) Section 161(c)(1) of the Immigration Act of 1990 is amended—

(A) by inserting "or an application for labor certification before such date under section 212(a)(14)" after "before such date)".

(B) in subparagraph (A), by inserting "or application" after "such a petition",

(C) in subparagraph (A), by inserting ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993" after "(by not later than October 1, 1993". and

(D) by adding at the end the following new sentence:

"In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half of the fee for the filing of the new petition referred to in subparagraph (A).".

(3) Section 203(f) of the INA, as inserted by section 162(a) of the Immigration Act of 1990, is amended—

(A) by striking "PRESUMPTION.—" and all that follows through "so described." and inserting "AUTHORIZATION FOR ISSUANCE.—", and

(B) by striking "201(b)(1) or in subsection (a) or (b)" and inserting "201(b)(2) or in subsection (a), (b), and (c)".

(4) Section 204(a)(1) of the INA, as amended by section 162(b) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by adding at the end the following: "An alien described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney General under this subparagraph for classification under such section.",

(B) in subparagraph (F), by striking "Secretary of State" and inserting "Attorney General", and

(C) in subparagraph (G)(iii), by striking "or registration".

(5) Section 204(e) of the INA, as amended by section 162(b)(3) of the Immigration Act of 1990, is amended by striking "a immigrant" and inserting "an immigrant".

(6) Paragraph (1) of section 162(e) of the Immigration Act of 1990 is repealed, and the provisions of law amended by such paragraph are restored as though such paragraph had not been enacted.

(7) Section 245(b) of the INA, as amended by section 162(e)(3) of the Immigration Act of 1990, is amended—

(A) by striking "201(a)" and inserting "202 and 203", and

(B) by striking "for the succeeding fiscal year" and inserting "for the fiscal year then current".

(8) Effective as if included in section 162(e) of the Immigration Act of 1990—

(A) clauses (ii)(II) and (iii)(II) of section 101(a)(27)(I) of the INA are amended by striking "applies for a visa or adjustment of status" and inserting "files a petition for status",

(B) section 216(g)(1) of the INA is amended by striking "203(a)(8)" and inserting "203(d)"; and

(C) section 221(a) of the INA is amended by striking "nonpreference,".

(9) Effective as if included in the Immigration Nursing Relief Act of 1989, section 212(m)(2)(A) of the INA is amended, by inserting after the first sentence following clause (vi) the following: "Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off.".

(10) Effective as if included in the Immigration Nursing Relief Act of 1989, as amended by section 162(f)(1)(B) of the Immigration Act of 1990, section 2(b) of the Immigration Nursing Relief Act of 1989 is amended by inserting after "registered nurse," the following: "who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status,".

SEC. 303. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 217 of the INA, as amended by section 201(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(4), by striking "BY SEA OR AIR" and inserting "INTO THE UNITED STATES", AND

(B) in the heading of subsection (b), by striking "RIGHTS" and inserting "RIGHTS".

(2) Section 217(e)(1) of the INA, as redesignated by section 201(a)(7) of the Immigration Act of 1990, is amended by striking "(a)(4)(C)" and inserting "(a)(4)".

(3) The second sentence of section 251(d) of the INA, as inserted by section 203(b)(2) of the Immigration Act of 1990, is amended by striking "charterer" and inserting "consignee".

(4) Section 258(c)(2)(B) of the INA, as inserted by section 203(a)(1) of the Immigration Act of 1990, is amended by striking "each such list" and inserting "each list".

(5)(A) Section 101(a)(15)(H)(i)(b) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by inserting "subject to section 212(j)(2)," after "(b)".

(B) Section 212(j) of the INA is amended by striking paragraph (2) and inserting the following:

"(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

"(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

"(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

"(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).".

(6) Section 212(n)(1)(A)(ii) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by striking "for such aliens" and inserting "for such a nonimmigrant".

(7)(A) Section 101(a)(15)(H)(i) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by striking ", and had approved by,".

(B) Section 212(n) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended—

(i) in paragraph (1)(A)—

(I) by striking "and to other individuals employed in the occupational classification and in the area of employment" and inserting "admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b)".

(II) by amending subclause (I) to read as follows:

"(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or".

(III) after subclause (II), by striking "determined" and inserting "based on the best information available";

(ii) in paragraph (1)(D), by striking "(and accompanying documentation)" and inserting "(and such accompanying documents as are necessary)";

(iii) in paragraph (1), by moving the matter after the first sentence of subparagraph (D) flush with the left margin and by adding at the end the following:

"The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary finds that the application is incomplete or obviously inaccurate, the Secretary shall provide the certification described in section 101(a)(15)(H)(i)(b) within 7 days of the date of the filing of the application.";

(iv) in paragraph (2)(C), by striking "(or a substantial failure" and all that follows through "misrepresentation" and inserting "of paragraph (1)(B). a substantial failure to meet a condition of paragraphs (1)(C) or (1)(D), a willful failure to meet a condition of paragraph (1)(A), or a misrepresentation";

(v) in paragraph (2)(D), by striking "In addition to the sanctions provided under subparagraph (C), if" and inserting "If"; and

(vi) in paragraph (2)(D), by inserting before the period at the end the following: ", whether or not a penalty under subparagraph (C) has been imposed".

(8) The Secretary of Labor shall issue final or interim final regulations to implement the changes made by this section to section 101(a)(15)(H)(i)(b) and section 212(n) of the Immigration and Nationality Act no later than January 2, 1992.

(9) Section 206(a) of the Immigration Act of 1990 is amended by inserting "and section 124(a)(3)(A) of this Act" after "Immigration and Nationality Act".

(10) Section 214(c)(2) of the INA, as added by section 206(b)(2) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by striking "individuals petitions" and inserting "individual petitions". and

(B) in subparagraph (D)(ii), by striking "involved" and inserting "involves".

(11) Section 214(a)(2)(A) of the INA, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by striking "under section 101(a)(15)(O)" and inserting "described in section 101(a)(15)(O)".

(12) Section 214(c)(5) of the INA, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by striking "101(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(b)"

(13) Section 207(c) of the Immigration Act of 1990 is amended by inserting "of the Immigration and Nationality Act" after "101(a)(15)(H)(ii)(a)" each place it appears.

(14) Section 101(a)(15)(Q) of the INA, as added by section 208(3) of the Immigration Act of 1990, is amended by striking "designated" and inserting "approved".

(b)(1) Section 221(a) of the Immigration Act of 1990 is amended—

(A) in the matter before paragraph (1), by striking "in a position unrelated to the alien's field of study and", and

(B) in paragraph (1), by inserting "academic" before "year".

(2) Section 221(b) of the Immigration Act of 1990 is amended—

(A) by inserting "and the Secretary of Labor" after "the Commissioner of the Immigration And Naturalization", and

(B) by inserting "a report" after "to the Congress".

(3) Section 222(a) of the Immigration Act of 1990 is amended by striking "subject to the succeeding provisions of this section" and inserting "Subject to subsection (b)".

(4) Section 223(a) of the Immigration Act of 1990 is amended—

(A) by striking the period at the end of paragraph (2) and inserting a comma, and

(B) by adding at the end the following: "or who is the spouse or minor child of such an alien if accompanying or following to join the alien.".

SEC. 304. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) Section 302(c) of the Immigration Act of 1990 is amended by striking "AFFECT", "supercede", and "affect" and inserting "EFFECT", "supersede", and "effect", respectively.

(b) Section 244A of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(1) in subsection (a)(1), by inserting after "designated under subsection (b)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)",

(2) in paragraph (1)(B), by adding at the end the following: "In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section,", and

(3) in subsection (c)(1)(A), by inserting after "designated under subsection (b)(1)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)".

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorizes departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 305. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) Section 310(b) of the INA, as amended by section 401(a) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(b) Section 407(c)(11) of the Immigration Act of 1990 is amended by striking ", other than subsection (d)".

(c) Section 407(d)(8) of the Immigration Act of 1990 is amended by striking "Section 328(c) (8 U.S.C. 1439(c)) is amended" and inserting "Subsections (b)(3) and (c) of section 328 (8 U.S.C 1439) are amended".

(d) Subsection (g) of section 334 of the INA, as redesignated by section 407(d)(12)(E) of the Immigration Act of 1990, is redesignated as subsection (f).

(e) Section 407(d)(12(B) of the Immigration Act of 1990 is amended by adding "and" at the end of clause (i).

(f) Section 335(b) of the INA, as amended by section 407(d)(13(C)(iii) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(g) Section 407(d)(14)(D)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(h) Section 407(d)(14)(3)(ii) of the Immigration act of 1990 is amended by striking "persons" and inserting "person".

(i) Section 337(c) of the INA is amended by striking "before".

(j)(1) Section 407(d)(16)(C) of the Immigration Act of 1990 is amended by striking the comma after "venue".

(2) Section 338 of the INA, as amended by section 407(d)(16)(C) of the Immigration Act of 1990, is amended by striking "District" and inserting "district".

(k) Section 340 of the INA, as amended by section 407(d)(18) of the Immigration Act of 1990, is amended—

(1) in the first sentence of subsection (a), by striking "District Court" and inserting "district court", and

(2) in the second sentence of subsection (g), by striking "clerk of the court" and inserting "clerk of court".

(l) Section 407(d)(19)(A)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(m) Effective as if included in section 407(d) of the Immigration Act of 1990:

(1) Paragraph (24) of section 101(a) of the INA is repealed.

(2) Section 312 of the INA is amended by striking "petition" and inserting "application" each place it appears.

(3) The heading of section 322 of the INA is amended by striking "PETITION" and inserting "APPLICATION".

(4) The item in the table of contents of the INA relating to section 322 is amended by striking "petition" and inserting "application".

(5) Section 330 of the INA is amended by striking "of this subsection" and inserting "of this section".

(6) Section 332(a) of the INA is amended by striking "petitioners" and inserting "applicants".

(7) Section 334(a) of the INA is amended by striking ", in duplicate,".

(8) Section 341(a) of the INA is amended by striking "a petitioner" and inserting "an applicant".

(n) Section 408(a)(2)((B) of the Immigration Act of 1990 is amended by striking "on the date of the enactment of this Act" and inserting "on January 1, 1992".

SEC. 306. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 101(a)(43) of the INA, as amended by section 501(a)(4) of the Immigration Act of 1990, is amended by striking" "and inserting a period.

(2) Section 502(a) of the Immigration Act of 1990 is amended by striking "(8 U.S.C. 1152a(a)(1))" and inserting "(U.S.C. 1105a(a)(1))".

(3) Section 287(a)(4) of the INA, as amended by section 503(a)(2) of the Immigration Act of 1990, is amended by striking ", and" at the end and inserting "; and".

(4) Subparagraph (B) of section 242(a)(2) of the INA, as added by section 504(a)(5) of the Immigration Act of 1990, is amended to read as follows:

"(B) The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(5) Section 236(e)(1) of the INA, as amended by section 504(b) of the Immigration Act of 1990, is amended by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)".

(6) Section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 507 of the Immigration Act of 1990, is amended—

(A) by striking "the certified records" and inserting "notice", and

(B) by inserting before the period at the end the following: "and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record".

(7) Section 509(b) of the Immigration Act of 1990 is amended by inserting before the period at the end the following: ", except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction".

(8) The last sentence of section 510(b) of the Immigration Act of 1990 is amended by striking "for".

(9) The last sentence of section 510(c) of the Immigration Act of 1990 is amended by striking "been been" and inserting "been".

(10) The last sentence of section 212(c) of the INA, as added by section 511(a) of the Immigration Act of 1990, is amended by striking "an aggravated felony and has served" and inserting "one or more aggravated felonies and has served for such felony or felonies".

(11) Section 513(b) of the Immigration Act of 1990 is amended—

(A) by striking "petitions to review" and inserting "petitions for review", and

(B) by inserting before the period at the end the following: "and shall apply to convictions entered before, on, or after such date".

(12) Section 514(a) of the Immigration Act of 1990 is amended by striking "10 years" and inserting "ten years".

VOL
137
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(13) Paragraphs (1) and (2) of section 515(b) of the Immigration Act of 1990 are amended to read as follows:

"(1) The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

"(2) The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.".

(b)(1) Section 274B(g)(2)(B)(iv)(II) of the INA, as amended by section 536(a) of the Immigration Act of 1990, is amended by striking "subclause (IV)" and inserting "subclauses (III) and (IV)".

(2) Section 274A(b)(3) of the INA, as amended by section 538(a) of the Immigration Act of 1990, is amended by striking the comma after "officers of the Service".

(3) Section 274B(g)(2)(B) of the INA, as amended by section 539(a) of the Immigration Act of 1990, is amended—

(A) in clause (iv)(IV), by striking the period at the end and inserting a semicolon,

(B) in clauses (v) and (vi), by striking the comma at the end and inserting a semicolon,

(C) in clause (vii), by striking ", and" and inserting "; and",

(D) in clause (vii), by striking "to order (in an appropriate case) the removal of" and inserting "to remove (in an appropriate case)", and

(E) in clause (viii), by striking "to order (in an appropriate case) the lifting of" and inserting "to lift (in an appropriate case)".

(c)(1) Section 274B(g)(2)(D) of the INA is amended by striking "physicially" and inserting "physically".

(2) Section 543(a)(3) of the Immigration Act of 1990 is amended by inserting "each place it appears" before "and inserting".

(3) Sections 252(c) and 275(a) of the INA, as amended by section 543(b) of the Immigration Act of 1990, are each amended by striking "fined not more than" and all that follows through "United States Code)" and inserting "fined under title 18, United States Code,".

(4)(A) The second sentence of section 231(d) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(B) The third sentence of section 237(b) of the INA is amended by striking "district director of customs" and inserting "Commissioner".

(C) The second sentence of section 254(a) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(D) The second sentence of section 273(b) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(5)(A) Section 274C(a) of the INA, as added by section 544(a) of the Immigration Act of 1990, is amended—

(i) in paragraph (2), by inserting "or to provide" after "or receive",

(ii) in paragraph (3), by inserting "or to provide or attempt to provide" after "attempt to use", and

(iii) in paragraph (4), by inserting "or to provide" after "receive".

(B) Section 544 of the Immigration Act of 1990 is amended by striking "(c) EFFECTIVE" and inserting "(d) EFFECTIVE".

(6) Section 242B of the INA, as inserted by section 545(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(1)(E), by striking ", upon request,";

(B) in subsection (a)(2)(A)(ii), by inserting ", except under exceptional circumstances," after "failure";

(C) in subsection (a)(2), by adding at the end the following:

"In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).";

(D) in subsection (b)(1), by inserting before the period at the end of the following: ", unless the alien requests in writing an earlier hearing date";

(E) in subsection (b)(2)—

(i) by inserting "pro bono" after "to represent", and

(ii) by adding at the end the following "Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.";

(F) in subsection (c)—

(i) in paragraph (1), by striking "except as provided in paragraph (2)," each place it appears,

(ii) in paragraph (1), by adding at the end the following: "The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).", and

(iii) by striking the second sentence of paragraph (2);

(G) in subsection (c)(4), by inserting "(or 30 days in the case of an alien convicted of an aggravated felony)" after "60 days";

(H) in subsection (d), by striking "the Board" and inserting "the Attorney General";

(I) in subsection (e)(4)(B), by inserting "a" after "with respect to"; and

(J) in subsection (e)(5), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(7) The 8th sentence of section 242(b) of the INA, as amended by section 545(e) of the Immigration Act of 1990, is amended to read as follows: "Such regulations shall include requirements that are consistent with section 242B and that provide that—

"(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held,

"(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

"(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

"(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.".

SEC. 307. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

(a) Section 212(a) of the INA, as amended by section 601(a) of the Immigration Act of 1990, is amended—

(1) in paragraph (1)(A), by adding "or" at the end of clause (ii);

(2) in paragraph (3)(A)(i), by inserting "(I)" after "any activity" and by inserting "(II)" after "sabotage or";

(3) in paragraph (3)(B)(iii)(III), by striking "an act of terrorist activity" and inserting "a terrorist activity";

(4) in paragraph (3)(D)(iv), by striking "if the alien" and inserting "if the immigrant";

(5) in paragraph (3)(C)(iv), by striking "identities" and inserting "identity";

(6) in paragraph (5)(C), by striking "preference immigrants" and all that follows through the end and inserting the following: "immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).";

(7) in paragraph (6)(B)—

(A) by striking "who seeks" and inserting "(a) who seeks",

(B) by striking "(or" and inserting ", or (b) who seeks admission", and

(C) by striking "felony)" and inserting "felony,";

(8) in paragraph (6)(E)—

(A) by redesignating clause (ii) as clause (iii), and

(B) by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(9) in paragraph (8)(B), by striking "alien" the first place it appears and inserting "person"; and

(10) in paragraph (9)(C)—

(A) in clause (i), by striking everything that follows "entry of" and inserting "an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.", and

(B) in clause (ii), by striking "to an alien who" and all that follows through "signatory" and inserting "so long as the child is located in a foreign state that is a party".

(b) Section 212(c) of the INA, as amended by section 601(d)(1) of the Immigration Act of 1990, is amended by striking "subparagraphs (A), (B), (C), or (E) of paragraph (3)" and inserting "paragraphs (3) and (9)(C)".

(c) Section 212(d)(3) of the INA, as amended by section 601(d)(2)(B)(i) of the Immigration Act of 1990, is amended—

(1) by striking "(3)(A)," and inserting "(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii)," each place it appears, and

(2) by striking "(3)(D)" and inserting "(3)(E)" each place it appears.

(d) Section 212(d)(11) of the INA, as added by section 601(d)(2)(F) of the Immigration Act of 1990, is amended by inserting "and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof)" after "section 211(b)".

(e) Section 212(g)(1) of the INA, as amended by section 601(d)(3) of the Immigration Act of 1990, is amended by striking "section (a)(1)(A)(i)" and inserting "subsection (a)(1)(A)(i)".

(f) Section 212(h) of the INA, as amended by section 601(d)(4) of the Immigration Act of 1990, is amended—

(1) in the matter before paragraph (1), by striking "in the case of" and all that follows through 'permanent residence"; and

(2) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting "(A) in the case of any immigrant" after "(1)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking "and" at the end of subparagraph (C) and inserting "or",

(D) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and

(E) by adding at the end the following:

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and".

(g) Section 212(i) of the INA, as amended by section 601(d)(5) of the Immigration Act of 1990, is amended by striking "alien" and "alien's" each place it appears and inserting "immigrant" and "immigrant's", respectively.

(h) Section 241(a) of the INA, as amended by section 602(a) of the Immigration Act of 1990, is amended—

(1) by striking "deportable as being", and by inserting "deportable" after "the following classes of";

(2) in paragraph (1)(D)(i), by inserting "respective" after "terminated under such";

(3) in paragraph (1)(E)(i), by inserting "any" before "entry" the second and third places it appears;

(4) in paragraph (1)(E), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(5) in paragraph (1)(G), by striking "212(a)(5)(C)(i)" and inserting "212(a)(6)(C)(i)";

(6) in paragraph (1)(H), by striking "paragraph (6) or (7)" and inserting "paragraph (4)(D)";

(7) in paragraph (2)(D), by inserting "or attempt" after "conspiracy";

(8) in paragraph (3), by adding at the end the following:

"(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.";

(9) in subparagraphs (A) and (B) of paragraph (4), by striking "after entry has engaged" and inserting "after entry engages"; and

(10) in paragraph (4)(C)(ii), by striking "excluability" and inserting "excludability".

(i) Section 102 of the INA, as amended by section 603(a)(2) of the Immigration Act of 1990, is amended by striking "paragraph (3) (other than subparagraph (E)) of section 212(a)" each place it appears and inserting "subparagraphs (A) through (C) of section 212(a)(3)".

(j) Effective as if included in section 603(a)(5) of the Immigration Act of 1990, section 210(b)(7)(B) of the INA is amended by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)".

(k) Effective as if included in section 602(b) of the Immigration Act of 1990, section 241 of the INA is amended—

(1) by striking subsection (d), and

(2) in the subsection (h) (added by section 153(b) of the Immigration Act of 1990) by striking "exist" and inserting "existed" and by redesignating the subsection as subsection (c).

(l) Effective as if included in section 603(a) of the Immigration Act of 1990:

(1) Sections 207(c)(3) and 209(c) of the INA as amended by section 603(a)(4)(B) of the Immigration Act of 1990, are each amended by striking "subparagraphs (A)" and inserting "subparagraph (A)".

(2) Section 210A(e)(2)(B) of the INA is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) Paragraph (3) (relating to security and related grounds).".

(3) Section 217(a) of the INA is amended by striking "(26)(B)" and inserting "(7)(B)(i)(II)".

(4) Section 218(g)(3) of the INA is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)(i)".

(5) Section 244A(c) of the INA as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(A) in paragraph (2)(A)(iii)(I), by striking "paragraphs (9) and (10)" and inserting "paragraphs (2)(A) and (2)(B)"; and

(C) by amending subclause (III) of paragraph (2)(A)(iii) to read as follows:

"(III) paragraphs (3)(A), (3)(B), (3)(C), or (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).".

(6) Section 245A(d)(2)(B)(ii) of the INA is amended—

(A) by striking subclause (IV),

(B) by redesignating subclause (II) as subclause (IV) and by transferring and inserting it after clause (III).

(C) by redesignating subclause (III) as subclause (II),

(D) by inserting after subclause (II) (as so redesignated) the following new subclause:

"(III) Paragraph (3) (relating to security and related grounds).", and

(E) by striking "Subclause (II)" and inserting "Subclause (IV)".

(7) Section 272(a) of the INA is amended by striking the comma before "shall pay".

(8) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended by section 603(a)(20)(B) of the Immigration Act of 1990, is amended by striking "(D)" and inserting "(E)".

(9) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking "(23)(B), (27), (29), or (33)" and inserting "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

(10) Section 2(a)(3) of the Immigration Nursing Relief Act of 1989 is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)".

(m) Effective as if included in section 603(b) of the Immigration Act of 1990—

(1) paragraph (4)(B) of such section is amended by striking "in paragraph (2)", and

(2) section 242(e) of the INA is amended by striking "paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3), or (4)".

SEC. 308. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

(a) Effective October 1, 1991, section 245(e)(3) of the INA, as added by section 702(a)(2) of Immigration Act of 1990, is amended by striking "204(h)" and inserting "204(g)".

(b) Section 702(b) of the Immigration Act of 1990 is amended by striking "204(h) (8 U.S.C. 1154(h))" and inserting "204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act,".

(c) Section 304(f) of the Immigration Reform and Control Act of 1986, as amended by section 704(b) of the Immigration Act of 1990, is amended—

(1) by striking "appointment in the and" and inserting "appointment and". and

(2) by striking "civil" the first place it appears and inserting "competitive".

(d) Section 404(b)(2)(A) of the INA, as added by section 705(a)(5) of the Immigration Act of 1990, is amended by adding at the end the following new sentence:

"In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district."

SEC. 309. ADDITIONAL MISCELLANEOUS CORRECTIONS.

(a)(1)(A) Section 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100–459, 102 Stat. 2203) is amended—

(i) in subsection (a)—

(I) by striking "Title 8, United States Code, section 1356 is amended by adding" and inserting "Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end", and

(II) in the subsection (o) added by such subsection, by striking "will" and inserting "shall"; and

(ii) by amending subsection (b) to read as follows:

"(b) Section 344(g) of the Immigration and Nationality Act (8 U.S.C. 1455(g)) is amended by inserting after 'Treasury of the United States' the following: 'except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 286(m)'.".

(B) The fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101–162, 103 Stat. 1000) is amended to read as follows: ": *Provided further*, That section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by striking 'in excess of $50,000,000' and by striking the second sentence".

(2)(A) Section 286 of the INA, as amended by section 210 of the Department of Justice Appropriations Act, 1991, is amended—

(i) in subsection (h)(1)(A), by inserting a period after "available until expended",

(ii) in subsection (m), by striking "additional" and inserting "additional",

(iii) by moving the left margins of subsection (q)(2) and the matter in subsection (q)(3)(A) (before clause (i)) 2 ems to the left,

(iv) in subsection (q)(3)(A), by inserting "the" after "The Secretary of", and

(v) in subsection (q)(5)(B), by striking "subsection (q)(1)" and inserting "paragraph (1)".

(B) Section 210(a)(2) of the Department of Justice Appropriations Act, 1991, is amended by striking "in which fees" and inserting "in which the fees".

(3) The amendments made by paragraph (1) and (2) shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(b)(1) Section 101(a)(15)(D)(i) of the INA is amended by inserting a comma after "States)".

(2) The item in the table of contents of the INA relating to section 242A is amended by striking "Procedures" and inserting "procedures".

(3) The item in the table of contents of the INA relating to section 345 is repealed.

(4) Section 101(c)(1) of the INA is amended by striking "322, and 323" and inserting "and 322".

(5) Section 204(f)(4)(A)(ii)(II) of the INA, as redesignated by section 162(d)(6) of the Immigration Act of 1990, is amended by striking "section 652 of such Act" and inserting "the second and third sentences of such section".

(6) Paragraph (3) of section 210(d) of the INA is amended—

(A) by indenting the paragraph (and its subparagraphs) 2 ems to the right;

(B) by striking "Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA)" and inserting "Service pursuant to this subsection";

(C) in the matter before subparagraph (A), by striking "INS" each place it appears and inserting "Service";

(D) in subparagraph (A), by striking "as defined in section 210(a)(1)(A) of the INA the INS" and inserting "described in subsection (a)(1)(A) the Service";

(E) in subparagraph (A), by striking "in the INA"; and inserting "in this Act";

(F) in subparagraph (B), by striking "as defined in section 210(a)(1)(B)(1)(B) of the INA" and inserting "described in subsection (a)(1)(A)"; and

(G) in subparagraph (B), by striking "section 210(b)(1)(A)" and inserting "subsection (b)(1)(A)".

(7) Section 212(j) of the INA is amended by striking "International Communication Agency" in paragraphs (1)(D) and (3) and inserting "United States Information Agency".

(8) Section 218(i)(1) of the INA is amended by striking "274A(g)" and inserting "274A(h)(3)".

(9) Section 242(h) of the INA is amended by inserting a comma after "Parole".

(10) Section 242(a) of the INA is amended by striking "101(a)(43)" and inserting "101(a)(43))".

(11) Section 274A(b)(1)(D)(ii) of the INA is amended by striking "clause (ii)" and inserting "clause (i)".

(12) Section 286(e)(1)(D) of the INA is amended by striking "of this title".

(13) Section 313(a)(2) of the INA is amended by inserting "and" before "(F)" and by striking "; (G)" and all that follows through "of 1950" the second place it appears.

(14) Section 344(c) of the INA is redesignated by section 407(d)(19)(F) of the Immigration Act of 1990, is amended by striking "of this subchapter" and inserting "of this title".

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99-653).

SEC. 310. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 302 through 308 shall take effect as if included in the enactment of the Immigration Act of 1990.

(2) section 309(a) shall be effective with respect to allotments for fiscal years beginning with fiscal year 1989, and

(3) section 309(c) shall take effect on the date of the enactment of this Act.

Amend the title to read as follows: "A bill to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws."

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS

LEVIN (AND OTHERS) AMENDMENT NO. 1449

Mr. REID (for Mr. LEVIN, for himself, Mr. KASTEN, and Mr. RIEGLE) proposed an amendment to the amendment of the House to the bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes, as follows:

In the appropriate place in the bill insert the following new section:

"SEC. . Amend Section 105 of the Older Workers Benefit Protection Act (P.L. 101-433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following: '; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;'"

NOTICE OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Oversight of DOD Hospital and Medical Supply System, on Thursday, December 5, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for my colleagues and the public that two field hearings have been scheduled before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The purpose of the hearings is to receive testimony on S. 433, the Mining Law Reform Act of 1991.

The hearings are scheduled to take place on December 18, 1991, in Salt Lake City, UT, and December 19, 1991, in Bayard, NM. The exact time and locations for the hearings are to be announced.

Testimony will be by invitation only. For further information, please contact Lisa Vehmas of the subcommittee staff at 202/224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 26, 1991, at 10 a.m. to hold a hearing on cutting taxes for middle-income Americans.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Tuesday, November 26, 1991, after the first vote of the afternoon, to hold a business meeting to vote out the nominations of Charles Hilty to be Assistant Secretary of Agriculture, and Gary Byrne to be a member of the Farm Credit Administraion Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed/executive session on Tuesday, November 26, 1991, at 2:30 p.m., to discuss the nomination of Lt. Gen. Thomas J. Hickey, USAF, to be placed on the retired list in the grade of lieutenant general; and to discuss other pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 26, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate an original bill providing for an amendment to the 1956 Lumbee Act, and to meet on S. 1602, the Fort Peck Indian Tribes-Montana Compact Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 26, at 10 a.m. to receive a closed briefing on recent developments with regard to chemical and biological weapons proliferation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, November 26, 1991, at 9:30 a.m., to hold a hearing by the Juvenile Justice Subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECOGNITION OF BUFORD BIBLE, KNOXVILLE, TN

• Mr. SASSER. Mr. President, in a time when American industry is under siege by a rising flood of foreign competition, I would like to take a moment to recognize Mr. Buford Bible of Knoxville, TN, who recently bought his 35th Chevrolet. This is the first time that a single customer has bought his 35th car from the same Chevrolet dealer, and I believe this event is quite an achievement for both Mr. Bible and Tarr Chevrolet, where Mr. Bible bought his car. In my view, Mr. Bible's purchase illustrates that the American automotive industry still offers products that are beyond compare, and I ask to submit into the RECORD a letter I wrote to Mr. Bible commending him on this accomplishment.

The letter follows:

U.S. SENATE,
Washington, DC, November 25, 1991.

Mr. BUFORD BIBLE,
Knoxville, TN.

DEAR MR. BIBLE: Mr. Lonas Tarr has informed me that you recently purchased your 35th Chevrolet from Tarr Chevrolet. This purchase is indeed an historic milestone, and I would like to take this opportunity to commend you on this accomplishment.

As an educator, you have been a role model for generations of Tennesseans, and your career was certainly a successful one. In this time of increasingly stiff competiton in the automotive market, once again you offer a shining example for all of us to follow.

I have heard many complain that American industry no longer offers quality products at an affordable price, but I believe that American products meet and often surpass world standards of quality. With your 35th Chevrolet, you prove that American industry is still second to none, and I challenge all Americans to follow your lead.

I have known Lonas Tarr for a number of years. I am sure that the service you received at his dealership over the last 40 years has been beyond compare. It is this effective relationship between salesman and customer on which this nation was built. Satisfied customers—like you—reflect the capitalist ideal and are the engine for an American democracy that is the envy of the world.

Once again, I would like to commend you on purchasing your 35th Chevrolet. I would welcome the opportunity to be of assistance to you or your family should the occasion arise.

Best wishes and keep in touch.

Sincerely,

JIM SASSER,
U.S. Senator.•

UNIVERSITY OF FLORIDA WINS FIRST OFFICIAL SOUTHEASTERN CONFERENCE FOOTBALL TITLE

1991 IS THE YEAR OF THE GATOR

• Mr. MACK. Mr. President, on Saturday, November 16, the University of Florida Fightin' Gator Football Team won its first official Southeastern Conference Football Championship.

From its humble beginnings in 1906 to the present, the University of Florida football program has had a rich and proud history. And now, this 1991 team has built on the enthusiasm and excitement of the last 85 years of gridiron competition and started a new chapter in the annals of Florida football.

Not only is this SEC championship special for the players and coaches who won it on the field, but it's also a moment to savor for the many past and present Gator fans who have lived and died Florida football.

It is also important to note that 25 years ago this season, for the first time a player from the University of Florida won college football's most distinguished honor—the Heisman Trophy. That same legend, Steve Spurrier, has now returned as coach to lead his alma mater to its first official SEC championship. Both as a player and now as a coach, he has brought excitement and excellence to Florida football.

This is indeed a joyous occasion for Gator fans in Florida and around the country. After 58 years of disappointment and frustration and "Wait 'til Next Year" in SEC football competition, the orange and blue can truthfully say with pride that 1991 is "The Year of the Gator."

As the Senator from Florida and an alumnus of the University of Florida, I would like to extend my congratulations on a job well done to the players, coaches and staff of the 1991 fightin' Gators.

UNIVERSITY OF FLORIDA'S 1991 SEC SCHEDULE AND RESULTS

Home	Score	Visitor	Score
Florida	35	Alabama	0
Florida	29	Mississippi State	7
Florida	16	Louisiana State	0
Florida	35	Tennessee	18
Florida	31	Auburn	10
Florida	45	Georgia	13
Florida	35	Kentucky	26

FIGHTIN' GATOR 1991 SEC CHAMPIONSHIP TEAM

PLAYERS

Brady Ackerman, Myrick Anderson, Pete Archie, Ephesians Bartley, Chris Bilkie, Norm Bolduc, Mike Brandon, Craig Carey, Kevin Carter, Michel Cohen, Kendall Cook, Gantt Crouch, Brad Culpepper, Aeden Czyzewski, Judd Davis, Charlie Dean, Terry Dean, Gregg Diamond, Cal Dixon, Monty Duncan, Shayne Edge, Tre Everett, Kevin Freeman, Brian Fisher, Brian Fox.

William Gaines, Michael Gilmore, Greg Gingeleski, Kevin Glenn, Dean Golden, Monty Grow, Bill Gunter, Henry Haston, Lawrence Hatch, Aubrey Hill, Harrison Houston, Matt Hurbanis, Hesham Ismail, Terrell Jackson, Willie Jackson, Ellis Johnson, Leroy Jones, Greg Keller, Larry Kennedy, Eddie Lake, Kedra Malone, Shane Matthews, Willie McClendon, Tony McCoy, Dexter McNabb.

Darren Mickell, Carlton Miles, Harold Monk, Brian Montgomery, Johnny Nichols, Marquette Oliver, Tim Paulk, Carlton Pouncy, Kelvin Randolph, Errict Rhett, Ed Robinson, Kirk Robinson, Tony Rowell, George Rushing, Ryan Ruland, Sam Scavella, Dexter Smith, Lex Smith, Del Speer, David Swain, Ryan Taylor, Harvey Thomas, Jim Watson, Mark White, Wil White, Rod Whited.

COACHES

Steve Spurrier, Jerry Anderson, Jim Collins, Dwayne Dixon, Carl Franks, Rich McGeorge, John Reaves, Bob Sanders, Charlie Strong, Ron Zook.

STAFF

Dr. John Lombardi, President, Bill Arnsparger, Norm Carlson, Ross Davis, Bud Fernandez, Jeremy Foley, John Humenik, Dr. Pete Indelicato, Doug Kaufman, Betty Ling, Chris Patrick, Tim Sain, Dr. Richard Shaara, Jamie Speronis.•

WORKER'S FAMILY PROTECTION ACT

• Mr. GLENN. Mr. President, I rise today to join my colleagues in cosponsoring S. 353, the Workers' Family Protection Act of 1991. This legislation addresses the growing problem of employee transported contaminant releases, a issue which has received very little attention. By providing grants for further research, hopefully we can ascertain the effects of such contaminant releases and then work to address a solution for this problem.

In the past, I have sponsored many bills which would protect employees who work with hazardous materials. But we have not adequately addressed the issue of the home. Knowing that chemical compounds such as lead and mercury have dangerous effects on people, we need to ensure people are properly protected from such toxins. Families remain in the dark about the possible risks of this toxic contamination. In fact, we ourselves do not know the magnitude of this problem. As my colleague from Vermont and sponsor of S. 353 pointed out, we have not studied this problem since the 1970's.

S. 353 will ease the family's anxieties by sponsoring additional research. With such information we will have the information not only to answer the queries of families, but also to solve the problem of contamination releases.

Mr. President, we cannot afford to ignore such a problem with the health of so many on the line. Under the Workers' Family Protection Act, we can finally gather the information needed to prevent these poisons from entering the home.•

OUTSTANDING SCHOOL NURSE OF 1991—BEVERLY ANN SHIPE

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to Beverly Ann Shipe who has been selected Outstanding School Nurse of 1991 by American School Health Association.

Beverly Ann Shipe is a teacher/practitioner school nurse in the Sweet Home School District in Amherst, NY. Mrs. Shipe functions as a school nurse

VOL 137 PT 24 NO 26 1991 — JA 3 1992 UMI

practitioner in an expanded role, and as an elementary health education teacher.

Beverly Ann received her R.N. and B.S.N. degrees from D'Youville College in 1976. She went on to complete the School Nurse Practitioner Program at SUNY, Buffalo. She earned her M.S.N. degree in 1983. She is a New York State Board of Regents certified School Nurse Teacher and holds two national board certifications: School Nurse Practitioner from the American Nurses Association and Pediatric Nurse Practitioner from the National Certifying Board of Pediatric Nurse Practitioners and Nurses. She is a fellow of the National Association of Pediatric Nurse Associates and Practitioners.

Mrs. Shipe is a recipient of many prestigious awards including the National Association of School Nurses' Lina Rogers Collaborative Research Award, 1991 New York State Legislature Nurse of Distinction Award, and the 1986 Metropolitan Life Foundation Excellence in Health Education Initiative Healthy Me Award; among others.

She is the organizer of many health-related activities and health fairs. Mrs. Shipe believes that providing a positive clinical and educational experience in school can help interdict many of the social and health-related problems in society today.

For these and many other great contributions that Beverly Ann has made and continues to make in the lives of our young people I salute her and wish her well. Thank you, Beverly Ann and thank you, Mr. President.●

AMBASSADOR SMITH HEMPSTONE

● Mr. SIMON. Mr. President, the situation in Kenya has deteriorated.

But the one thing that Americans should note with pleasure is that our Ambassador, Smith Hempstone, has stood up courageously and forthrightly for the cause of human rights and the cause of democracy in that country.

Obviously, the hope of all of us is that President Moi will recognize that change is coming and will lead on that change and permit it to take place. He should do it graciously, as President Kaunda did in Zambia.

I confess that when Smith Hempstone was named, I was not that enthusiastic. While I continue to differ in political philosophy from Smith Hempstone, I recognize that he has shown skills and courage that a more traditional foreign service officer might not have.

He has not softened his message in any way, calling for democracy and freedom for the people of Kenya, and I applaud him for that.●

HONORING THE EMPLOYEES OF THIOKOL CORP., SPACE OPERATIONS

● Mr. HATCH. Mr. President, I rise today to honor the fine employees of Thiokol Corp., space operations, Ogden, UT. Recently, NASA awarded the George M. Low Trophy to this outstanding Utah company for its achievements in quality and productivity improvement and total quality management. This award recognizes the best NASA contractors who work on the space program. The award criteria, developed by NASA in conjunction with the American Society for Quality Control, were used to judge nominees on performance achievements and improvements in customer satisfaction, quality, and productivity levels. Thiokol Corp., documented four areas of excellence for consideration by NASA: First, continued high reliability of the space shuttle solid rocket motors; second, increased quality of products and services; third, dedicated employees and suppliers and; fourth, commitment to continuous improvement.

Mr. President, Thiokol's rocket motor redesign, which produces most of the thrust for the space shuttle liftoff, and its reliability that has proved dependable in more than a dozen flights since 1988, and the high quality of its products and services, all show the extremely high commitment and devotion of Thiokol's employees. The George M. Low Trophy is the highest award that NASA presents to its contractors, and I am extremely proud of the fine men and women of Thiokol Corp., who have brought honor to the corporation they work for and the great State of Utah in which they live.●

AMERICAN JEWISH COMMUNITY SUPPORT FOR LAND-FOR-PEACE IN ISRAEL

● Mr. WELLSTONE. Mr. President, the Middle East peace conference which opened in Madrid last month represents an historic opportunity to bring peace to a troubled region. Simply by sitting down together and listening to one another, the protagonists have taken the first step toward a durable and peaceful settlement between Israel, the Arab States, and the Palestinians. I commend President Bush and Secretary of State Baker for the skill and dedication they demonstrated in getting this peace process underway.

The next step in this process requires hard negotiations between Israel and the Palestinians and her Arab neighbors. Peace cannot be imposed from the outside by the United States or anyone else. However, Israel's future concerns all Americans, as well as Jews the world over. American Jews, in particular, have given Israel crucial financial, moral, and political support since her founding.

Many leaders of the American Jewish community ardently hope that the Israeli Government will seize the current opportunity to engage in meaningful negotiations with the Palestinians. Two hundred American rabbis last week presented Prime Minister Yitzhak Shamir with a letter urging him to freeze Israeli settlement activities in order to advance the peace process. The Prime Minister was in the United States to address the annual meeting of the Council of Jewish Federations. A survey of officers and board members of the council revealed that a majority of these Jewish leaders believes that Israel should accept an eventual demilitarized Palestinian State, and swap land in return for recognition of Israel by their Arab neighbors.

Mr. President, I want to draw the attention of my colleagues to the views of these two influential segments of the American Jewish community. I request that the text and signatures of the rabbis' letter to Prime Minister Shamir, and a Washington Post article on the survey of Council of Jewish Federation leaders, are printed in the CONGRESSIONAL RECORD.

The material follows:

[From the Washington Post, Nov. 21, 1991]

POLL FINDS DISAGREEMENT WITH SHAMIR'S POSITION

(By John M. Goshko)

A significant number of American Jewish community leaders strongly disagree with Israel's unwillingness to seek a Middle East peace settlement that would be based on giving up Israeli-occupied territory, according to a survey made public yesterday.

The survey covers the views of 205 of the more than 300 officers and board members of the Council of Jewish Federations, who are holding their annual meeting in Baltimore. The council is the umbrella for 153 local federations serving Jewish communities throughout this country.

Israeli Prime Minister Yitzhak Shamir is scheduled to address the conference today, following a tradition in which Israeli prime ministers have appeared at the conference in recognition of the council's large role in American Jewish life.

However, according to the survey, the audience that Shamir will be addressing this year disagrees with his refusal to freeze Jewish settlements in the West bank and the Gaza Strip, and the group believes Israel should accept a demilitarized Palestinian state and swap land in return for recognition of Israel by Arab neighbors.

While American Jews differ about specifics of the Middle East peace process, past polls have indicated that most favor a settlement based on "land for peace." Nonetheless, the major American Jewish organizations have been reluctant to express their reservations about Shamir's hard-line policies out of a sense of solidarity with Israel.

Organizers of this most recent survey said yesterday that the start of a renewed peace process, begun at talks in Madrid last month, has put added pressure on Israel to show more flexibility and has made American Jewish leaders willing to differ more openly with Shamir. They also said that many American Jews want to avert a clash between Israel and President Bush, an outspoken foe of additional Israeli settlements in the occupied territories.

This week, 200 American rabbis wrote to Shamir calling on him to freeze settlements.

The survey was conducted for the Los Angeles-based Wilstein Institute of Jewish Pol-

icy Studies, which is associated with the conservative branch of American Judaism. The questionnaire was designed and analyzed by Prof. Steven M. Cohen of Queen's College in New York and Prof. Seymour Martin Lipset, a political scientist now at George Mason University.

At a news conference yesterday, Lipset said telephone interviews with prospective attendees at the Baltimore meeting revealed that the 205 who responded are largely business people and professionals with a median age of 55 and a median annual income of more than $200,000; they are highly knowledgeable about Israeli affairs, give an average of more than $20,000 a year to Israel and regard themselves politically as liberal to middle-of-the-road.

Lipset characterized the respondents as "security-oriented doves" who are near-unanimous in agreeing that Israel's safety requires a strong military, including forces in the occupied territories, for many years to come; Jerusalem must remain Israel's undivided capital; and Arab refusal to accept the Jewish state's legitimacy is "the major obstacle to peace."

At the same time, a large majority endorsed a freeze on settlements in exchange for U.S. loan guarantees and most disagreed with Shamir's opposition to returning even "one inch" of occupied territory. A substantial majority also differed with Shamir's categorical refusal to eventually allow a Palestinian state and to conduct negotiations with the Palestine Liberation Organization if it recognizes Israel and ceases terrorism.

AMERICANS FOR PEACE NOW,
November 21, 1991.

DEAR PRIME MINISTER YITZHAK SHAMIR: We, American rabbis who are deeply committed to the State of Israel, its survival, security, and well-being, extend a warm welcome to you.

Like our ancestor Jacob in this week's portion of the Torah, Parashat Vayishlah, you, as Prime Minister, and we as the Jewish people, stand at a crossroads of Jewish History. Like Jacob—crossing the ford of Yabbok and preparing to reconcile with Esau, and achieve his new name and destiny as Israel—historical opportunities present themselves to Zionism, our thousands' years hope. We urge you for the sake of Zion and Jerusalem to listen to the voices of the majority of American Jews and the majority of Israelis who in their hearts hold the following beliefs:

A greater Israel is not identical with the size of its boundaries. Israel's security is the most crucial issue. Territorial compromise that enhances the possibility of peace and long-term security is for us a religious obligation, not a political expediency and not a weakness. Netzach Israel (the eternity of Israel) is a moral principle, not a geographical issue.

Furthermore, the resettlement of our brothers and sisters from abroad means more to us than the settlements in the West Bank and Gaza. Continued settlement activities are not only detrimental to the peace process, but also to the successful absorption of the new Olim in Israel. Therefore we encourage a freeze on settlements.

The opening of the peace conference reminded us that our enemies are still our enemies, that living together with Esau remains a future hope. Therefore, all the more reason to follow Jacob's example and Sarah's wisdom and accept the principles of separation of the two people and partition of the land. This is the only realistic hope, it is the historic path of Zionism and the wishes of the majority of Israelis, American Jews, the world community, and finally, after years of rejectionism, of the Palestinian people too.

As American Jews and religious leaders, we are acutely aware of the unique and vital role the U.S. government holds regarding the peace process. Therefore we strongly support the efforts of our government to bring about a durable and peaceful settlement between Israel, the Arab states, and the Palestinians. As in the case of the Camp David Accords, we will support positive U.S. incentives to all parties to bring about a reconciliation.

We respect your strength and congratulate you for your perseverance in leading Israel to the peace conference. The ultimate priority of peace may lead you and the Israeli people to take substantial risks with regard to territory. If this is your course, you will have the overwhelming support of the Jewish people.

This week's Torah portion concludes with Esau and Jacob reuniting to attend to the burial of their father Yitzhak. We hope and pray that the legacy of Yitzhak Shamir will also be one of peacemaker.

Signatories listed in formation:

Rabbi Kass Abelson, Minneapolis, MN.
Rabbi Jeffrey Ableser, Phoenix, AZ.
Rabbi Arik W. Ascherman, Berkeley, CA.
Rabbi Richard F. Address, Philadelphia, PA.
Rabbi Daniel Alder, New York, NY.
Rabbi Rebecca T. Alpert, Philadelphia, PA.
Rabbi Joel Alpert, Elkins Park, PA.
Rabbi Miriam Ancis, New York, NY.
Rabbi Akiva Annes, Tarzana, CA.
Rabbi Charles Arian, Washington, DC.
Rabbi Albert S. Axelrod, Waltham, MA.
Rabbi David Azen, Philadelphia, PA.
Rabbi Andrew Baker, Washington, DC.
Rabbi Martin Ballonoff, Petaluma, CA.
Rabbi Samuel Barth, New York, NY.
Rabbi Lewis M. Barth, Los Angeles, CA.
Rabbi D'vorah Bartnoff, Philadelphia, PA.
Rabbi Haim Dov Beliak, Los Angeles, CA.
Rabbi Maynard Bell, Paradise Valley, AZ.
Rabbi Michael Berenbaum, San Rafael, CA.
Rabbi William C. Berk, Phoenix, AZ.
Rabbi Howard Berman, Chicago, IL.
Rabbi Sol Bernards, Brooklyn, NY.
Rabbi Leila Berner, Media, PA.
Rabbi Joseph R. Black, Minneapolis, MN.
Rabbi Barry Block, Chicago, IL.
Rabbi Marc Blumenthal, Denver, CO.
Rabbi Alan Breqman, Highland Park, IL.
Rabbi Barnett J. Brickner, St. Louis, MO.
Rabbi Caryn Broightman, Philadelphia, PA.
Rabbi Herbert Bronstein, Chicago, IL.
Rabbi Deborah R. Bronstein, Los Angeles, CA.
Rabbi Jan Gerald Brown, Los Angeles, CA.
Rabbi Harold F. Caminker, Long Grove, IL.
Rabbi Debra S. Cantor, Brooklyn, NY.
Rabbi Steven A. Chester, Oakland, CA.
Rabbi Samuel Chiel, Newton, MA.
Rabbi Stanley F. Chyet, Los Angeles, CA.
Rabbi Sharon Cohen, Medford, MA.
Rabbi Jordan D. Cohen, Santa Barbara, CA.
Rabbi Stephen Cohen, Santa Barbara, CA.
Rabbi Hillel Cohn, San Bernardino, CA.
Rabbi Neil Comess-Daniels, Los Angeles, CA.
Rabbi Rachel Cowan, New York, NY.
Rabbi Robert Daum, San Rafael, CA.
Rabbi James Dennett, St. Louis, MO.
Rabbi James S. Diamond, St. Louis, MO.
Rabbi Dan Dorfman, San Francisco, CA.
Rabbi Israel Dresner, Wayne, NJ.
Rabbi Ellen W. Dreyfus, Park Forest, IL.
Rabbi Larry Edwards, Ithaca, NY.
Rabbi Denise L. Eger, Los Angeres, CA.
Rabbi Michael B. Eisenstat, Coral Gables, FL.
Rabbi Steven Fager, Durham, NC.
Rabbi David S. Fass, New City, NY.
Rabbi David Feder, Detroit, MI.
Rabbi Emily H. Feigenson, Los Angeles, CA.
Rabbi Edward Feld, Princeton, NJ.
Rabbi Louis Feldstein, Miami, FL.
Rabbi Reuven Firestone, Boston, MA.
Rabbi Frank Fischer, Chapel Hill, NC.
Rabbi Alan Flam, Providence, RI.
Rabbi Lori Forman, New York, NY.
Rabbi David Frank, Encinitas, CA.
Rabbi Daniel Freedlander, Paramus, NJ.
Rabbi Allen I. Freehling, Los Angeles, CA.
Rabbi Lee Friedlander, Roslyn, NY.
Rabbi Ronne Friedman, Boston, MA.
Rabbi Dale Friedman, Philadelphia, PA.
Rabbi John Friedman, Durham, NC.
Rabbi Joan Friedman, Bloomington, IN.
Rabbi Nancy Fuchs-Kreimer, Bala Cynwyd, PA.
Rabbi Roy Furman, Chicago, IL.
Rabbi Hilel Gamoran, Palatine, IL.
Rabbi Robert T. Gan, Los Angeles, CA.
Rabbi Dov Gartenberg, Seattle, BA.
Rabbi Laura Geller, Los Angeles, CA.
Rabbi Roland Gittelshon, Boston, MA.
Rabbi Mark Glickman, Dayton, OH.
Rabbi Robert Gluck, Philadelphia, PA.
Rabbi Rosalind A. Gold, Reston, VA.
Rabbi Jerrold Goldstein, Northridge, CA.
Rabbi Donald Goor, Tarzana, CA.
Rabbi David Gordis, Los Angeles, CA.
Rabbi Samuel Gordon, Wilmette, IL.
Rabbi Jerome Gorelman, St. Louis, MO.
Rabbi Arthur Green, Philadelphia, PA.
Rabbi Julie Greenberg, Philadelphia, PA.
Rabbi Howard R. Greestein, Jacksonville, FL.
Rabbi Jerome W. Grollman, St. Louis, MO.
Rabbi Susan Grossman, New York, NY.
Rabbi Stephen Hart, Chicago, IL.
Rabbi Floyd Herman, Baltimore, MD.
Rabbi Arthur Hertzberg, Englewood, NJ.
Rabbi Norman D. Hirsh, Seattle, WA.
Rabbi Seth Hochberg-Miller, Long Beach, CA.
Rabbi Lisa Hochberg-Miller, Long Beach, CA.
Rabbi Vicki Hollander, Seattle, WA.
Rabbi Linda Holtzman, Philadelphia, PA.
Rabbi Jeff Huntting, Beverly Hills, CA.
Rabbi Yitzhak Husbands-Hankin, Eugene, OR.
Rabbi Robert P. Jacobs, St. Louis, MO.
Rabbi Steven Jacobs, Encino, CA.
Rabbi Devorah Jacobson, Claremont, CA.
Rabbi Garry Johnson, Agora, CA.
Rabbi Yoel Kahn, San Francisco, CA.
Rabbi Arnold Kaiman, Chicago, IL.
Rabbi Allen Kaplan, New York, NY.
Rabbi Patricia Karlin-Neuman, Alameda, CA.
Rabbi Jan Katzew, Chicago, IL.
Rabbi Jan Kaufman, Washington, DC.
Rabbi James Kaufman, North Hollywood, CA.
Rabbi Ralph Kingsley, Miami, FL.
Rabbi Sharon Kleinbaum, Washington, DC.
Rabbi Bonnie Koppell, Meza, AZ.
Rabbi Michael Kramer, Bowie, MD.
Rabbi Douglass E. Krantz, Armonk, NY.
Rabbi Aaron Kriegel, Los Angeles, CA.
Rabbi Fred Krinsky, Claremont, CA.
Rabbi Howard Laibson, Long Beach, CA.
Rabbi Martin Lawson, San Diego, CA.
Rabbi Barton Lee, Tempe, AZ.
Rabbi Allan Lehman, Gainesville, FL.
Rabbi Arthur Lelyveld, Cleveland, OH.
Rabbi Joy Levitt, Roslyn, NY.
Rabbi Naomi Levy, Venice, CA.

VOL
137
PT
24
NO
26
1991
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JA
3
1992
UMI

Rabbi Richard N. Levy, Los Angeles, CA.
Rabbi Mordechai Liebling, Philadelphia, PA.
Rabbi Eugene Lipman, Washington, DC.
Rabbi Serge A. Lippe, Paradise Valley, AZ.
Rabbi Charles D. Lippman, New York, NY.
Rabbi Jane Litman, Manhattan Beach, CA.
Rabbi Mark Loeb, Baltimore, MD.
Rabbi Tom Louchheim, Tucson, AZ.
Rabbi Jack Luxemburg, Rockville, MD.
Rabbi Janet R. Marder, Los Angeles, CA.
Rabbi Shana Margolin, Bell Meade, NJ.
Rabbi Marc Margolius, Narbeth, PA.
Rabbi Susan Marks, Santa Monica, CA.
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Rabbi Sanford Ragins, Los Angeles, CA.
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Rabbi Paula Reimers, Long Beach, CA.
Rabbi Steven Carr Reuben, Pacific Palisades, CA.
Rabbi Steve Robbins, Beverly Hills, CA.
Rabbi Jeff Ronald, Davis, CA.
Rabbi John Rosove, Hollywood, CA.
Rabbi Morris L. Rubinstein, Sun Valley, CA.
Rabbi James Sagarin, Chicago, IL.
Rabbi Paul Z. Saiger, Rochester, NY.
Rabbi Melvin Sands, Claremont, CA.
Rabbi Dennis C. Sasso, Indianapolis, IN.
Rabbi Sandy E. Sasso, Indianapolis, IN.
Rabbi Stanley T. Schickler, Port Washington, NY.
Rabbi Ira Schiffer, Baltimore, MD.
Rabbi Robert D. Schreibman, Northfield, IL.
Rabbi Barry L. Schwartz, Chevy Chase, MD.
Rabbi Sidney Schwarz, Rockville, MD.
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Rabbi Gerald Serotta, Washington, DC.
Rabbi Isaac Serotta, Washington, DC.
Rabbi Rami Shapiro, Miami, FL.
Rabbi Rona Shapiro, Springfield, MA.
Rabbi Mark Shapiro, Springfield, MA.
Rabbi Alexander Shapiro, South Orange, NJ.
Rabbi Henry M. Shreibman, Chicago, IL.
Rabbi Marion Shulevitz, New York, NY.
Rabbi Daniel I. Siegel, Dartmouth College.
Rabbi James Simon, Wooster, MA.
Rabbi Marjorie Slome, Brooklyn, NY.
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Rabbi Sharon Stiefel, Philadelphia, PA.
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Rabbi Michael Strassfield, New York, NY.
Rabbi Marla Subeck, Northfield, IL.
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Rabbi Joseph Wolf, Portland, OR.
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Rabbi David S. Wolfman, Lexington, MA.
Rabbi Gordon Yaffe, Stratford, CT.
Rabbi Cary D. Yales, Lexington, MA.
Rabbi Elaine S. Zecher, Boston, MA.
Rabbi Daniel G. Zemel, Washington, DC.
Rabbi Marcia Zimmerman, Minneapolis, MN.
Rabbi Daniel Zucker, Los Angeles, CA.●

TRIBUTE TO MINNESOTAN JOHN BERKEY, 1991 CHRISTMAS STAMP DESIGNER

● Mr. DURENBERGER. Mr. President, it is with pride that I rise today in honor of Minnesotan John Berkey, designer of the 1991 Christmas stamp. Millions of Christmas greetings will be received in homes across the Nation during this holiday season and attached to those cards and letters will be John's contemporary designs of Santa in a variety of Christmas scenes.

This year's Christmas series marks a continuation of a successful career for John Berkey. In addition to holiday stamps, John has been commissioned by the U.S. Postal Service to design the 1983 Christmas stamp as well as the recently issued Hubert H. Humphrey postage stamp. A resident of Excelsior, MN, since 1941, John's artwork has been seen by millions of Americans in films as well as his sketches and paintings. Anyone picking up the upcoming book "Painted Space" will easily recognize John's work.

Mr. President, again I salute John Berkey on being chosen as the designer of the 1991 Christmas stamp, and I thank him for allowing us to share in the gift of his marvelous talents.●

LIFE STORY: BURDENS, DREAMS MINGLE FOR INMATE, 20

● Mr. SIMON. Mr. President, crimes are not committed in some vacuum. I do not suggest that criminals should not be punished for their actions, nor should we say that society is always to blame and, therefore, we have to treat those who commit crimes with great leniency.

But just as we have been told that unemployment is a major cause of alcohol and drug abuse, social conditions create other crimes.

Recently, I read an article of one prison inmate written by Bill Smith of the St. Louis Post-Dispatch.

It is a moving story, and it is a reminder that we have to pay attention to our social problems if we are to significantly reduce the crime problem.

I ask that the article be printed in the RECORD at this point.

The article follows:

[From the St. Louis Post-Dispatch, Nov. 19, 1991]

LIFE STORY: BURDENS, DREAMS MINGLE FOR INMATE, 20

(By Bill Smith)

Sometimes, on these cold November afternoons, Richard Perry says, he will sit and read to his friend inside the stark third-floor walls of City Hall.

"You got to start off with the easy books," said Perry, who is jailed on a murder charge. "I've been reading him a book called 'Lady Bug' from the library. It's a little cartoon book about kids and animals. I try to teach him the words.

"We'll watch a little TV, or play some spades or some checkers. Some of us play chess; Donald doesn't play chess."

On November 19, Donald Earl McCarthy will turn 21.

He can't read.

He can't write.

He doesn't know the name of the president of the United States.

He never has held a steady job.

Nov. 19 will mark his 94th straight day as a prisoner of the city of St. Louis—the 94th day since police discovered him and his younger brother hiding atop a walk-in cooler inside Flayer's Tavern. It was 4 a.m. on a warm August morning, and he had $14 stuffed in his pockets—all in quarters, dimes and nickels.

"I ain't going to lie about it," he said in an interview. "We went in there to get some money."

In nine days, Donald McCarthy legally will be a man.

He doesn't have a drivers license.

He is deaf in one ear and hearing impaired in the other.

His speech is crude, slurred and difficult to understand.

If he could travel anywhere in the world, he said, "I think I'd go to a bingo game.

"Do you think," he asked a reporter, "that I could get out for my birthday? I'd like to go to see a movie—maybe the one about that little dude who got in all that trouble at Christmas. I saw a thing for that one in the newspaper."

He spent part of last summer living in a storage shed in Lawrence Cooley's junkyard in the Cote Brillante neighborhood, eating White Castle hamburgers when he could get some money and earning a few dollars by helping Cooley and the boys load old tires onto trucks.

He's a good little worker, but I can't be responsible for him," Cooley said. "You got to watch him so he don't hurt himself.

"He'll call from jail almost every day, asking me, "if he get out can he have a job."

His mother and his stepfather say they can't scrape together $250 to pay his bond. They don't even have enough to pay this month's rent, said John Alsup, McCarthy's stepfather.

They are too poor, they say, to put gas in the family's old truck to drive the five miles to the jail to visit their son.

Maybe she can visit on Sunday, his mother said, "if something doesn't come up."

Last month, the couple said, they had to get an unlisted telephone number so Donald would stop calling them collect from the jail. "We owe the phone company $303 from last month," his stepfather said. Inmates' calls are collect, even in town.

"He's not a kid any more," said John Alsup. "Sometimes, I think he's a genius. He can fix old radios nobody can figure out. He can fix cars nobody can figure out."

GUILTY PLEAS AND APOLOGIES

In a year plagued by murder and other violence in the city, the people who know Donald McCarthy say he is anything but violent.

"He's not a hardened criminal; he's too fragile," said Bob Fleming, manager of Flayer's. Fleming was there that August morning when police brought Donald McCarthy out of the tavern.

"There's not a doubt in my mind that that kid can be rehabilitated. But he's got a lot of strikes against him."

Paul Thornton operates a hauling and salvage company in the city and has known McCarthy for several years.

Says Thornton: "He isn't a bad fellow.

"He'd take a battery charger or a TV from the shop, and his little brother would come and tell us about it. And then Donnie would bring the stuff back, and he'd apologize for taking it.

"He wants to learn; if somebody would just take the time."

Donald McCarthy is in the most serious trouble of his young life.

And he knows it.

On Thursday, he stood in Judge Anna C. Forder's courtroom and admitted that he had broken into the tavern.

Yes, he told the judge, he knew that he had a right to trial by jury.

Yes, he said, he knew he could go to prison.

The circuit attorney's office is asking for seven years.

His public defender is asking for probation.

Records say McCarthy is 5 feet 8 inches tall and weights 140 pounds. But in the big courtroom on Thursday, he seemed much smaller.

Forder leaned across the bench and spoke loudly to him to make sure he could understand.

It was the third time in three years that McCarthy had stood before a judge and pleaded guilty of a theft-related charge. In December, he pleaded guilty of stealing a truck, although he says now that he can't remember that incident at all.

Two years earlier, in July 1988, he pleaded guilty of second-degree burglary for breaking into a city service station.

"I wanted to get some tools so I could work on cars and make some money; I know I shouldn't have done it," he says.

Sometimes, he says, he lies in his bunk late at night and remembers back to a day some 10 years ago when he was struck by a car while playing baseball near Elliot School.

"I think I might go in front of a car again and get killed," he said. "What else is there to do?"

"SLOW LEARNER" TO DROPOUT

Donald McCarthy's childhood—at least a part of it—is in his city public school file. School officials made the file available to a reporter after McCarthy and his family gave their permission.

When he was 5, a psychological examiner with the school system labeled him a "slow learner." One test reported an IQ of 50, indicating moderate retardation. A second showed an IQ of 72, indicating a more mild retardation.

As a 6-year-old special education student at Stix School, he was described by a teacher as "a small boy who is very unhappy."

"It would appear that he wants much attention at school. Does try to please teachers by running tasks, cleaning up classroom."

His personal appearance was described as poor. "He comes to school every day with dirty face and hands," says the evaluation.

"Seldom smiles."

In 1979, at the age of 9, records show, Donald and his two brothers were placed in foster care for a year and a half as a result of suspected child abuse.

His mother and stepfather said it was a drummed-up charge.

"They came in and sprayed green stuff on the food so it looked like mold," said Victoria Alsup, McCarthy's mother.

In September 1984, when Donald was 13, a school psychologist at Blewett Middle School wrote:

"Tires quickly, daydreams, is usually preoccupied, does not make friends, lacks self-confidence, gives up easily, withdrawn, overconforms, unable to express ideas, depressed, worried, does not trust others, disoriented, overly dependent, poor grooming * * *"

He was reading at a primer level; his mathematics ability was at a first-grade level. A speech therapist noted that he had a severe speech impairment. "Speech is unintelligible to the casual listener," the therapist wrote. An intelligence test showed him with an IQ of 55; 100 is normal.

A final report is dated April 28, 1986. It was one month before Donald McCarthy would leave Blewett Middle School. The next summer he would be enrolled at Vashon High School.

That final report showed that he was reading at a first-grade level. "The student is functioning within the range of mildly handicapped abilities."

The report showed that at least three attempts had been made to reach his parents. After each attempt there is the notation, "Negative response."

In the fall of 1986, Donald McCarthy said, he was in his first high school class as a special education student at Vashon when the teacher asked the class to read and answer some questions in a textbook.

He says he raised his hand and said he could not read; he says the teacher took him to the principal. He says he never went back to that class.

He only went to school sporadically for the next two and a half months. When he turned 16, Donald McCarthy left school for good.

After all, he said, his older brother had done the same.

DREAMS AND A DAY IN COURT

Her older son, now 24, "can't read or write either," Victoria Alsup said.

He knows he faces a tough, uphill battle, Donald McCarthy says, but there are still things he wants to do one day.

"I don't want to go to the penitentiary," he said. "I want to go back to the junkyard. Or I want to go back home to live with my mom and dad.

"I could live in an apartment," he said, "if I could get somebody to come in and cook for me."

Before his arrest, McCarthy did work for neighbors in the area near the old water tower on North Grand, where his family lives.

"If he gets out," his mother said, "I want to get him in with the Job Corps."

But he has his own ideas, too.

"If I can get out of there, I want to get me a garage, some place in the city and work on cars and whatnot. I have a dream about that—me working on cars and making some good money. Have my own tow truck. when somebody calls up on the phone, I can go out and get them."

Now, though, Donald McCarthy plays checkers and looks at the pictures in hot rod magazines. "I could get an old car at the junkyard for $50 and fix it up real nice," he said.

Sometimes, when he gets a few dollars from his parents, he buys popcorn and candy bars.

His parents get $407 a month in Social Security for Donald as a result of his retardation, his mother says. They also get $407 for their daughter, 11. That is the family's total income, they said. They say they wish they could save enough to post bond for their son, but it's just not possible.

"We just got the checks at the first of the month," John Alsup told McCarthy on the phone last week, "and it's gone already."

Except for a reporter and his public defender, he has had no visitors in the three months he has been shuttled between City Jail and the Workhouse.

Still, he knows the visiting hours.

"To 5:45 to 7:45 on Mondays and Fridays; to 12 to 2 on Wednesdays.

"Do you think you could get my mom and dad's phone number? Do you think you could ask them to visit me?

"Sometimes I get mad," he said. "Sometimes I think why nobody can't bond me out.

"Yeah, I know whose fault it is that I'm here. It's my fault. I know that."

He can see the cars come and go through the cloudy, barred windows. He can see the people on the sidewalks, hurrying from one building to the next.

Sometimes, he says, it seems like summer was just yesterday. Soon it will be Thanksgiving and then Christmas.

He doesn't know where he will be on Christmas.

"It's in judge Forder's hands," said public defender Janis Good.

Donald McCarthy is scheduled to be sentenced on Dec. 13—a Friday the 13th, Judge Forder noted as she marked it on her calendar.

"I don't like that," Donald McCarthy said. "I don't like Friday the 13th. It's bad luck.

"My mom and dad don't even go out of the house."●

TRIBUTE TO MISSOURI'S ENVIRONMENTAL IMPROVEMENT AND ENERGY RESOURCES AUTHORITY

● Mr. BOND. Mr. President, I rise today to pay tribute to Missouri's Environmental Improvement and Energy Resources Authority, which along with the University of Missouri Extension, was recently recognized with a 1991 Presidential Envoronmental Conservation Challenge Award.

The working partnership between EIERA and University of Missouri Extension culminated in the household hazardous waste project, which was created to inform the citizens of Missouri about the importance of safe disposal and storage on hazardous waste products from household chemicals. The project has helped increase awareness of the dangers that can result from improper use and disposal, and contribute to a safer environment. The household hazardous waste project began as a grassroots community effort that was expanded statewide due to the hard work and efforts of the EIERA and University of Missouri Extension.

We are proud that Missouri's efforts to increase community awareness on this important issue have resulted in the household hazardous waste project being adopted as a nationally recognized model used by the United Nations and countless others. On behalf of my fellow Missourians, I congratulate our Environmental Improvement and Energy Resources Authority and the University of Missouri Extension on the national recognition their efforts have earned.●

CBO ESTIMATE ON S.J. RES. 23

● Mr. JOHNSTON. Mr. President, on September 20, the Committee on Energy and Natural Resources reported Senate Joint Resolution 23, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920. The committee submitted a report on this resolution but the budget impact estimate from the Congressional Budget Office was not ready at the time of the submittal. That estimate has now been received by the committee and I ask that it be printed in the RECORD.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 25, 1991.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S.J. Res. 23, a joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920, as ordered reported by the Senate Committee on Energy and Natural Resources, November 20, 1991. Enactment of this resolution would result in no cost for the Federal Government or for State or local governments. Enactment of S.J. Res. 23 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to this bill.

S.J. Res. 23 would grant the consent of the United States to a number of amendments to the Hawaiian Homes Commission Act, 1920, already adopted by the State of Hawaii. These amendments generally concern the administration and development of the Hawaiian home lands.

If you wish further on this estimate, we will be pleased to provide them. The CBO staff contact is Marjorie Miller, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER.●

VETERAN OBSERVANCE OF PEARL HARBOR

● Mr. D'AMATO. Mr. President, it is incumbent upon all of us to remember Pearl Harbor today, November 26, 1991. It was 50 years ago today that six Japanese aircraft carriers, and a full complement of cruisers, destroyers and support vessels set sail from Hitokappu Bay led by Admiral Chuichi Nagumo's flagship, the *Akagi*, on their way to that day of infamy at Pearl Harbor.

While a pressing prior commitment precludes my attendance at the Syracuse, NY, VA Medical Center observance of the 50th anniversary of the raid on Pearl Harbor, I want to join in their observance by recalling that day.

It has been 50 years since that fateful day when the dreaded news of death and destruction reached our parents, grandparents, and other relatives. The surprise attack by the Imperial Japanese naval air forces upon our naval base at Pearl Harbor and the airfields around the island of Oahu was to shake the world as we knew it to its very foundation. Reactions to the news varied from disbelief, shock, and surprise to anger. Later, these feelings would translate into a sense of mission, duty, and responsibility which would drive the American war machine and keep the recruitment offices jammed with volunteers.

The raid on Pearl Harbor is an event which will be forever ingrained in the hearts and minds of all of us old enough to remember. The war is over, but we shall never forget. We shall not forget the destruction and sorrow of the day which drew us into World War II. Today as we remember that "day of infamy," let us also remember that we fought for peace, for a lasting peace that will carry us through in future generations.●

THIRD COUNTRY MEAT DIRECTIVE—S. 1738

● Mr. COATS. Mr. President, today, I rise in support of S. 1738. The so-called third country meat directive bill. This bill, in my opinion does a great deal to make the point that we in the United States—lawmakers, processers, farmers, and consumers—are serious indeed about promoting and insisting upon fair trade practices.

For many years, the European Community has had in place what it calls the third country meat directive. By their standards, this directive seeks to restrict U.S. meat and meat products processed in plants which do not meet the standards of the directive. Mr. President, in my opinion, this is no more than a clever name for an unfair nontariff trade barrier.

The third country meat directive is an arbitrary standard arranged and rearranged to meet the import needs of the day by the European Community. Unfortunately, of late, there seems to be very little need for U.S. meat products in the European Community. Last year the United States exported 809,386 metric tons of meat and meat products—only a small percentage of which went to the European Community. By contrast, the United States in 1988 imported nearly 6 million metric tons of European Community meat and meat products.

I have been pleased to see that recently, the European Community has decided to relist 14 meat processing plants as eligible to ship meat and meat products to the European Community. This is a move in the right direction. However, it is not a move far enough. We must move to eliminate all trade barriers, especially those which are unfair and unnecessary.

As I have traveled across the State of Indiana, I continue to hear from pork producers, sheep producers, poultry producers, and cattlemen, who just want the opportunity to compete in a fair and impartial fashion. They are not asking to automatically be declared the winner, only to compete on a level playing field. It is their feeling, and mine I might add, that if we play with even odds that the Hoosier farmer and the American farmer will prevail.

S. 1738 seeks to bring this misalignment a little bit more in line. Specifically, it will prohibit the import of meat products from the European Community until these unfair trade barriers are removed. It is for this reason, that I join as a cosponsor today of S. 1738.●

INTERNATIONAL COMPARISONS OF SCIENCE AND MATHEMATICS ACHIEVEMENT

● Mr. HATFIELD. Mr. President, in recent weeks, I have been following a disturbing colloquy that is taking place in the print media. I refer to the sequence of articles claiming that the achievement of U.S. students is or is not at tragically low levels, particularly in international comparisons.

When systems analysts at the Sandia National Laboratories examined data on the status of United States education, they represented an objective outsider perspective. Their conclusions, which ran counter to others that report dreadful crises in American education, were quashed by the administration for being a call for complacency at a time when just the opposite is required. One antonym of complacency is "panic"—as in fear, trepidation, or hysteria—which I doubt was being advocated.

Other parties joined in the see-saw dialog. Testing experts issued their analyses of international testing procedures and test results, challenging the validity of international rankings. The Department of Education insisted that those claims are foolish, since U.S. students definitely lag in math and

science achievement. A research psychologist, highly profiled in this analyses of the gloom and doom critics of U.S. education, was hired by a leading education association then released when he continued to participate in the media coverage.

Both sides of these public conversations have made significant contributions to advances in mathematics and science education in the Nation. Both sides have displayed their confidence in the commitment of American educators to improving the substance, content, delivery, and environment of schooling. So, as an outdated commercial inquired, "Where's the beef?"

Mr. President, my own beef with this situation—perhaps I should say my concern, disappointment, or distress—is with what I think are unintended consequences of some of our official reporting on and resulting media coverage of the status of U.S. students. The Washington Post quoted the coordinator of the 1993 international comparison of mathematics and science achievement as saying:

> I find it scary when I look at a magazine and see a graph ranking countries with virtually no explanatory material. The graph makes it look like the Japanese system is wonderful and the United States system is the pits.

Even if there were explanatory text, we all know that people often look at a graph and ignore the written analyses. That's a fundamental technique of advocacy: Present your data in eye-catching pictorials that back up your position,

That's my concern: What is our position regarding American precollege education? What are we advocating?

First, I must comment that there is a continuum connecting the extreme perspectives of complacency and panic. It's not a case of either one or the other. Second, the public quibbling between researchers and government officials does nothing to enlist the general public's support for educational improvement efforts. And, third, to my regret, I am compelled to point out that the fourth national educational goal adds fuel to this debate and that it is inconsistent with the other five goals.

The fourth goal states, "By the year 2000, U.S. students will be the first in the world in science and mathematics achievement." This is the only national education goal that imposes an external comparison; the other five commit the Nation to improving our status quo in school readiness, graduation rate, academic competency, literacy and citizenship, and freedom from drugs and violence. The other five goals embody an American tradition: We can always do better.

If an industry spokesman were to predict, "By the year 2000, the U.S. automobile industry will be the first in the world," or an alumnus, "By the year 2000, the Willamette Bearcats will be the best football team in the world," people may jeer good-naturedly but will recognize the bravado as statements of hope. If officials claim, "By the year 2000, the military power of the United States will be the strongest in the world," or "By the year 2000, the American space exploration program will be the most advanced in the world," listeners might just shrug while advocates would point to missiles or missions.

I am certainly not opposed to U.S. students being the first in the world in science and mathematics achievements. My legislative history will confirm the leading role I have to support math-science education. However, I don't consider first in the world to be a valid goal, for a very fundamental reason. The National Assessment of Educational Progress is expending enormous efforts to develop valid instruments to measure mathematics and science achievement in just our own country, instruments that are as valid in the schools of Evanston as in the Andrews school district in Princeton, OR, which consists of only one school with 6 students. How much more complicated it must be to ensure validity in international comparisons!

The third national goal includes mathematics and science among the challenging subject matter in which American students will demonstrate their competency in grades four, eight, and twelve. Just as importantly, the third goal also includes competency in English, history, and geography. This is the goal I support. We must establish competency standards and see whether our students progress toward them. In the process, if they somehow produce the best test results among fourth graders in the world, that's icing on the cake. But that would still not make them the first in the world. It would just make their test scores the highest.

The mathematics and science education communities, through their professional societies, have made great investments of membership funds and time for improvement efforts. It is ironic that these are the groups whose so-called failures are pointed to by writers who use international test scores as weapons of aggression. The math teacher groups have developed national standards for curriculum, teacher preparation, and teaching. Those standards are now being used to frame training activities and conferences across the country. Science teachers have also begun the process of developing similar standards for science education. Partial funding, in fact, have been given to these activities by the National Science Foundation and the Department of Education.

Another significant achievement in this country is that a greater percentage of students stay in school for longer portions of their lives than in any other country in the world. Our higher education system of universities, liberal arts colleges, community colleges, and technical institutions is unmatched in the world. We are also the only country on earth to mention nontraditional students in our academic literature and in legislation, making the expansion of educational opportunities well beyond the teen years.

I am convinced that we must work together to continue to improve our schools. I will keep reading newspapers and journals to see whether other educators, policymakers, and bureaucrats share my belief or whether they will continue their campaign to convince the Nation of the mediocrity of U.S. students in mathematics and science.

Mr. President, I ask that a recent article in Science summarizing this situation be printed in the RECORD.

The article follows:

QUESTIONS RAISED ON MATH RANKINGS

(Edited by Constance Holden)

A reversal of the old question "If you're so smart why aren't you rich?" has been posed by a National Science Foundation official: If our science education system is so rotten, how come the United States still enjoys overwhelming dominance in scientific productivity?

Iris C. Rotberg, writing in a National Academy of Engineering publication, The Bridge, says the answer may be that international comparisons of student achievement in science and math have been providing "highly misleading indicators" of the actual quality of education systems and student expertise.

Rotberg, a program director with the Directorate for Education and Human Resources, argues that a major problem stems from sampling biases: The percentage of teenagers enrolled in high school is much higher in the United States than in many other countries—and the less selective the test-taking population, the lower the scores will be. By the same token, distortions are imposed by huge variations in the proportions of students who take advanced math courses. For example, according to the International Association for the Evaluation of Educational Achievement, Hungary ranks near the top in 8th-grade math achievement. But by the 12th grade, the country falls to the bottom of the list because it enrolls more students than any other country—50%—in advanced math. Hong Kong, in contrast, comes in first, but only 3% of its 12th graders take math.

Rotberg says these problems also affect the Educational Testing Service's [ETS] International Assessment of Education Progress, initiated in 1988. In the first project, only six countries participated, sample sizes were small, and there was no way of knowing if the results reflected differences in students' socioeconomic status rather than differences in the quality of schooling. Rotberg says sampling problems have gotten even more complicated with the recent expansion of the project to 20 countries. In some countries—particularly poor ones, where many students have already left school by the 8th grade—only the elite will be sampled, while countries attempting to democratize education will appear to fall short. Logistical decisions—like including only Mandarin-speaking Chinese in the China sample—also result in an elite bias. The solution? "Let's focus our attention on the difficult public policy issues . . . rather than on comparisons and rankings," says Rotberg.

Both the Department of Education and the ETS disagree with Rotberg and other critics. According to The Washington Post, Diane S. Ravitch, assistant secretary for educational research and improvement, argues that in the first ETS assessment, 99% of the teenagers in all the countries surveyed were in high school. Archie Lapointe of ETS is quoted as saying the surveys "don't overstate anything * * * The fact is students in other countries do better than our students in mathematics."

HUMANS, NOT MASCOTS

• Mr. SIMON. Mr. President, I am one who has long been offended by the use of the term "Redskins" or anything like that for team mascots.

I got into difficulty in Illinois when I publicly said I favored moving away from Chief Illiniwek as the University of Illinois symbol. But I'm pleased to say that the discussion that caused has done some good. The student senate at the University of Illinois voted 34–2 to change the mascot, and I am sure one of these days the University of Illinois is going to be sensitive enough to do that.

I hope that others, including the Washington Redskins, will do the same.

Recently, the Lakota Times, published by Tim Giago in South Dakota, had an editorial on this question.

For those who may wonder what the feeling of American Indians is on this question, this editorial is a clear answer.

I ask unanimous consent that it be printed in the RECORD at this point.

The editorial follows:

[From the Lakota Times, Nov. 13, 1991]

WE ARE HUMANS, NEVER MASCOTS

Most readers of the Lakota Times are now aware of the overt racism that still abounds in America, evidenced by the bitter comments hurled at those Indians protesting the use of Indian tribes and Indian names for baseball and football teams.

Last week's Lakota Times had a very profane letter written by a woman from Phoenix, Ariz., that really came down on Indians for speaking out about this strangely American phenomenon of naming a football team after the color of a people's skin. She vented her spleen against us.

But that just shows there is a pervasive ignorance about this topic and that we must begin to educate the rest of Black, White, Brown and Yellow America about the fact that although we are referred to as Redskins, Redmen, etc., We are not mascots, we are human beings.

As long as we have those members of our own people willing to go on the air or be interviewed by a newspaper and say that they don't mind being called "mascots" or they are making big bucks from selling tomahawks to the Atlanta Braves fans so these very fans can further insult us by using them in a derisive fashion, we will never break this mold.

We must consider those Indian people who would profit at the expense of their own culture and spirituality by selling sacred artifacts to tourists or to professional sporting teams as traitors to their own kind. We can think of no other way to phrase this.

Surely there are other items these profiteers can sell that will not be used to degrade or insult us. There is a lot more support for our beliefs out there than one can imagine, but that support can easily become confused when sell-out Indians say, "We don't mind being used as mascots."

We are not mascots, we are human beings.

From the outpouring of cards, letters and phone calls we have received since we started to protest use of Indians as mascots—99 percent supportive of our stand—we know for a fact that most traditional Indians do resent and detest being used as mascots for sporting teams and sporting events.

To have someone like Princess Pale Moon, a supposed Indian, sing at the Redskin football game at RKF Stadium while Indian people protesting outside the stadium were being spit upon by angry white and black football fans is situation all grassroots Indians should find intolerable.

If there are those Indians who don't mind being mascots, that is their prerogative, but don't get up on national TV and show the rest of America how ignorant you are. If you want to be a mascot—be one—but please understand that most of Indian America will consider you a sellout.

As for most Lakota and Dakota people: We are not mascots, we are human beings. Is that so hard to understand?

If the Washington Redskins advance to the playoffs and then to the Super Bowl, you bet your last dollar that this situation will become even more heated. We must stand together as Indian people to bring this disgraceful use of our heritage and our race to promote fun and games for black and white sports fans to an end. These racial slurs and insults must cease!

The only thing we should remember is: We are not mascots. We are human beings.•

COLLOQUY ON LAMPF DECISION SENATE BANKING BILL, S. 543

• Mr. DOMENICI. I am pleased that, with the cooperation of the Senator from Nevada [Mr. BRYAN] and the help of the chairman and ranking member of the Banking Committee, we were able to work out a strategy for dealing with the several issues associated with the Lampf versus Gilbertson Supreme Court decision. We have been dealing with basically these related issues: What should Congress do about the cases that have been dismissed because of a retroactive application of the Lampf decision? Should the Congress overturn the Supreme Court and, if so, what additional measures should be adopted to eliminate the excessive amount of frivolous securities fraud litigation?

Senator BRYAN made a very compelling case that the dismissed lawsuits should not have been dismissed. I wholeheartedly agree. I believe we are enacting good public policy in addressing this retroactivity issue now.

I commend Senator BRYAN for bringing this urgent problem to the attention of the Senate.

The language included in the manager's amendment means that the Lampf decision would be applied prospectively only.

Mr. BRYAN. I felt that there was a great deal of urgency in dealing with this issue. The most time sensitive aspect of this situation has been resolved once and for all. The cases that have been dismissed can be refiled or reinstated.

Mr. DOMENICI. We are nearing the end of the session and I think the accommodation that has been worked out is in everyone's best interests. Were it not the end of the session I would have insisted on taking the Senate's time to fully consider these issues. I am committed to enacting meaningful securities litigation reforms.

I am convinced that the ability of plaintiffs' lawyers to bring frivolous lawsuits, and the burdens of joint and several liability, under section 10(b) of the Securities Exchange Act are having a very detrimental effect on American companies' ability to compete. It is hurting our economy.

Under our agreement we will postpone until next year the issue of necessary changes to section 10(b), including the appropriate statute of limitations and measures to reduce meritless litigation. This will allow the Congress time to carefully consider the statute of limitations and section 10(b) litigation reforms as a comprehensive package. Since Congress has never really considered the court-created private right of action under section 10(b), it should be an important agenda item for next year.

I look forward to working with the committee to convene hearings on this problem of unwarranted litigation as well as prospective statute of limitations.

Mr. MCCONNELL. I have been a proponent of comprehensive tort reform and I am pleased that the Banking Committee will be examining the litigation explosion in this area of the law.

Mr. DOMENICI. There are similar concerns about this issue in the House. Is it the chairman's position that if this provision becomes an issue during the conference that the Senate will insist upon the compromise that has been worked out today and under no circumstances expand it in conference to cover a new prospective rule?

Mr. RIEGLE. That is my intention to all Senators who have helped resolve this matter.

Mr. GARN. That is my position as well.

Mr. BRYAN. Since it is uncertain which version of the banking bill will actually be sent to the President, is it the chairman and ranking Member's understanding that this provision will be included in any such legislation?

Mr. RIEGLE. Absolutely; this is a critical situation and it must be corrected. Senator BRYAN has been extremely effective in educating the

members of the Senate about this issue.

Mr. GARN. That is my understanding as well. It would be irresponsible for Congress to adjourn without providing for the dismissed cases.•

NORTH DAKOTA PEARL HARBOR SURVIVORS

• Mr. CONRAD. Mr. President, on December 7, 1991, our Nation will pause to commemorate and remember one of the most solemn events of our country's history—the attack on Pearl Harbor during the early days of World War II.

December 7, is of special significance this year as the date marks the 50th anniversary of the attack on Pearl Harbor and America's entry into World War II.

The day of the attack on Pearl Harbor is one of the darkest days in our Nation's history. More than 3,200 American servicemen were killed on that tragic day, and the country's Pacific fleet was severely damaged. Despite these tremendous losses, our Nation stood united, restoring peace to the Pacific, and helping to end the reign of terror in Europe.

The men and women who fought for the cause of democracy and to restore peace in the Second World War deserve the highest praise and appreciation of our Nation. It is most important as we remember this most solemn occasion, that we honor and pay tribute to the sacrifices that our servicemen and their families have made for our country.

It is also most appropriate that we recognize and pay special tribute, on this 50th anniversary of Pearl Harbor, to the survivors of the attack as well as the families of the more than 3,200 servicemen who were killed on that day.

Mr. President, earlier this month, Gov. George Sinner at the State Capitol in Bismarck, honored 23 North Dakota Pearl Harbor survivors and their families with the presentation of the Congressional Pearl Harbor Commemorative Medal.

The Pearl Harbor Commemorative Medal is a well deserved and distinguished tribute to the survivors of the attack on December 7. It is also a fitting memorial to the families of the more than 3,200 servicemen who died on that tragic day.

The Pearl Harbor Commemorative Medal along with the special recognition that we give to December 7 during this 50th anniversary commemoration, is a solemn reminder to all Americans of the many sacrifices made by veterans and their families during World War II—sacrifices that we must never forget, and that take on special importance in 1991 as we witness some of the most dramatic political changes on behalf of democracy across Europe and the Soviet Union.

Mr. President, I ask that an article from the Bismarck Tribune of November 11, 1991, regarding the Pearl Harbor Commemorative Medal ceremony be printed at the conclusions of my remarks in the RECORD.

The article follows:

[From the Bismarck Tribune, Nov. 11, 1991]

N.D. SURVIVOR WON'T FORGET PEARL

(By Jayme Fritel)

HAZEN.—Ed Bridge is among 26 North Dakota survivors of Pearl Harbor who will receive the first Congressional Commemorative Medals Tuesday at the Capitol.

The ceremony in Bismarck will honor survivors, friends and family.

"Remember Pearl Harbor" was the rallying cry for the United States during World War II. With the 50th anniversary of the Dec. 7, 1941, attack approaching, "Remember Pearl Harbor" has renewed significance for those who were there.

Bridge, a retired electrical engineer, joined the Navy when he was 17 and was put on a "kiddie car cruise" until he turned 21.

In February 1941 he was sent to Pearl Harbor. He was at a receiving barracks within eyeshot of Battleship Row waiting for his assignment when the Japanese attacked.

Because the U.S. ships were doing year-end overhauls and weapons checks, Bridge didn't even have a weapon readily available when the Japanese struck.

He remembers standing on a dock, and hastily putting together a single-shot rifle to fire at the enemy planes. The rifle parts were still in Cosmolene grease and he had to tear off his T-shirt to wipe away the grease before assembling the gun.

"The planes came so low in the harbor you could distinguish the pilot. There was not much we could do" he said.

He watched as the battleship Arizona went down and the beleaguered Nevada steamed itself aground so as not to plug up the harbor. He also witnessed a hit to the Utah.

The attack was brief and soldiers immediately prepared for a second wave. Bridge recalls setting up a machine gun along the wharf. Suddenly American planes flew over and Americans fired at them, but fortunately hit none.

The attack was a horrendous ordeal, but, Bridge said, not nearly as terrible as being on burial detail—seeing drowning victims, burning oil and bodies afloat in the bay.

Bridge's wife, Maureen, was in California when word of the attack was received. She was told the Japanese had taken Pearl Harbor and Los Angeles and were on their way to San Diego.

Being young, Maureen was more curious than frightened. She recalls looking skyward for planes.

It took three weeks for Bridge's letter—even burned a bit—to reach Maureen, telling her he was all right. Six weeks later he mailed her an engagement ring and proposed marriage. They were married while he was on leave.

"You grow up fast in a situation like that," Maureen said.

While Pearl Harbor survivors were admittedly unprepared for the attack, Harold Bruschwein said the attack was "not due to them not doing their jobs."

Bruschwein was in an Army antisabotage battalion at the time of the Japanese attack. Americans had been expecting the Japanese to attack the Philippines, and for 11 days before the attack on Pearl Harbor his battalion had patrolled Honolulu and other places to prevent land sabotage and terrorism.

Bruschwein, of Wahpeton, is the state chairman of the Pearl Harbor Survivors Association, which has the motto "Remember Pearl Harbor—Keep America Alert."

Those receiving medals Tuesday have furnished proof that they were at Pearl Harbor. Others can receive medals later after proper documentation is furnished.

Medal recipients are Peter Muth, Dickinson; John Pauek, Fargo; Russell Arhart, Fargo; Bridge; Bruschwein; Charles Christie, Velva; Alfred Dobler, Venturia; John Emery, Fargo; Eugene Finz, Mandan; Milton Gittel, Bismarck; Floyd Graff, Stanley; Clement Lonski, Jamestown; Donald Marman, Beach; John M. Martin, Bismarck; Steven Mozinski, Minto; Gordon Nelson, Fargo; Arthur Neuenschwander, Minot; Arthur Paschke, Grand Forks; George Paul, Mandan; E.J. Penn, Grand Forks; Harold Rivinius, Bismarck; Marcel Saint, McHenry; Everett Severinson, Grand Forks; Robert Shapland, Hettinger; Jacob Suko, Jamestown; and Albert Vennes, Williston.•

THE OUTSTANDING SERVICE OF LISA MOORE

• Mr. MURKOWSKI. Mr. President, when the motion to adjourn is agreed to, and the bells ring to mark the closing of the first session of the 102d Congress, they will signal more than the end of a legislative year. These bells will signal a transition in the life of a person who, for over 7 years, has served America's veterans, Alaska's citizens, and this Senator with distinction.

Mr. President, Lisa Moore began her work in Washington in 1984 when she served as an intern for the Committee on Veterans' Affairs, then chaired by the Senator from Wyoming. At the end of the summer it was evident that her work was outstanding and Lisa was hired full-time with the committee as a research assistant. A few short months later, this Senator had the honor of succeeding my good friend from Wyoming as the chairman of the committee and I retained Lisa as a valued member of my team on the committee staff.

Mr. President, the Committee on Veterans' Affairs has been entrusted by this body, and by the American people, with responsibility for questions of extraordinary importance and sensitivity. For over 6 years, first as chairman and then as ranking member, when those questions were questions of veterans' health or health care I turned to Lisa Moore for research, analysis, and counsel. For more than 6 years Lisa provided these services with the perception, sensitivity, and excellence called for by the significance of the issues.

Earlier this year, when I stepped down as ranking member of the committee, I was fortunate to have Lisa join my personal staff. With this move, Lisa's portfolio was expanded from veterans' issues to all issues relating to health care. Here again, Lisa served with distinction.

Mr. President, this past August I had an opportunity to travel with Lisa to many communities in Alaska to discuss issues with Alaska's veterans and health care providers. The issues were complex and the hours were long, but Lisa's energy was unwavering. Alaskans were well served by the expertise and experience she brought with her.

Mr. President, Lisa Moore is leaving the Senate to begin her own family. For the past 7 years Lisa has been a valued member of the "family" that has worked on the Veterans Affairs Committee. This Senator would like to express his thanks for 7 years of dedication, sound advice, and friendship. We all wish Lisa and her family the best.•

COMMEMORATING UNIVERSITY OF OREGON ASIAN STUDIES PROGRAM

• Mr. **HATFIELD**. Mr. President, I rise today to commemorate the 50th anniversary of the Asian Studies Program at the University of Oregon. In 1941 the University of Oregon became one of the first institutions in the Nation to establish an interdisciplinary Asian studies program. Long before anyone coined the term "Pacific Century," the University of Oregon knew that the future would be shared with Asia.

The first Asian studies program grew out of faculty concern that friends and colleagues elsewhere failed to notice Japan's growing economic, political, and military power. There already were modest contacts even earlier than 1941 that helped to establish ties between Oregon and the Asian region. By 1925, relations between Oregon and Japan had grown such that Meiji University defeated Oregon, 11 to 6, in a friendly game of baseball play in Tokyo. In 1927 and again 1931, the University of Oregon's Pacific Basin Good-Will Team made a 35,000-mile speaking and debating tour of the countries of the Pacific. And in the 1930's the University of Oregon sent student representatives to several meetings of the Japanese-American Good-Will Conference, held alternatively on the west coast of the United States and in Tokyo.

Mr. President, much has changed in the Asia-Pacific region since the inception of the Asian Studies Program at the University of Oregon. Japan has come from being one of the United States most bitter adversaries to one of our largest trading partners and valued allies.

In my home State of Oregon, Japanese companies have invested heavily, mostly into the high technology industries. These companies have positive impacts in Oregon communities, employing several thousand workers. I believe that it is the people of Oregon—the students and faculty at the University of Oregon—and their devotion and effort to understand others, who have truly brought the "Pacific Century" to Oregon.

As the complexity and nature of the relationship between the United States and the entire Asian region have changed over the past 50 years, so has the Asian Studies Program at the University of Oregon. Today, the Center of Asian and Pacific Studies at the University of Oregon, of which the Asian Studies Program is a part, focuses the diverse, interdisciplinary interests of some 70 faculty members, on China, Japan, Burma, and Korea, among others. By broadening the student perspective, to not limit the students to just a Western perspective on the Asian region, the University of Oregon offers firsthand experience of Asia through study abroad programs for students in 11 Asian nations. In addition, some 770 foreign students from the Asian region, compromising nearly 59 percent of the foreign student body, come to the University of Oregon every year.

The Oregon Asian studies prepare students to work with the many complex business, cultural, and political issues surrounding the Asia-Pacific region. The work of the students and faculty at the University of Oregon will help us all as we try to understand an increasingly global economy and environment.•

ECONOMIC CONVERSION CHALLENGE

• Mr. **SIMON**. Mr. President, a longtime friend of mine, Henry Bieniecki, sent me an article from Aerospace America titled "The Challenge of Economic Conversion" by Eric Lerner, as well as an editorial from the same journal written by Elaine J. Camhi titled "Peace Should Not Mean Hard Times."

I am asking that both be printed in the RECORD.

On the fiscal year 1991 bill authorizing funding for the Arms Control And Disarmament Agency, I introduced an amendment to ask that Agency to study the question of economic conversion.

The response that we got was not an in-depth study, but it did suggest that the fears of much of industrial America about the problems of conversion tend to be exaggerated.

However, particularly in a time of economic recession, that adjustment may not be as easy as has been suggested by the ACDA study.

There is no question that we have to shift to civilian investment and production, and in the long run, our economy will benefit by that. We will raise the standard of living of our people.

If we can produce cars and refrigerators instead of tanks and bombers, that helps our standard of living more.

And if we put the research money into civilian improvements and into things like medical research, we will ultimately benefit our population.

But the fears and concerns in an industry like the aerospace industry are very real and understandable.

And the paucity of investment in civilian industry compounds our problem. That problem is obviously severely aggravated by our deficit which causes our long-term interest rates to be much higher than they should be.

The article and editorial should be matters of concern to all of us, not just those involved in the aerospace industry.

The material follows:

THE CHALLENGE OF ECONOMIC CONVERSION

Profound crisis in the Soviet Union, the collapse of the Warsaw Pact, and the end of the Cold War have left the Pentagon with no enemies worthy of its titanic arsenal. Despite the brief respite provided by the conflict in the Persian Gulf, a huge budget deficit and even greater unmet domestic needs have made sharp cuts in the size of the armed forces inevitable.

But if the armed forces are to contract sharply, what becomes of the giant defense industry? It is extremely difficult to justify spending billions on new weapons when existing ones are being moth-balled or destroyed. Sooner or later defense production will have to fall, and far more sharply than the size of the remaining armed forces. What happens now to more than a million engineers, scientists, and skilled workers employed in defense industries and to the modern defense plant and its equipment? Will they lie idle, squandering the nation's most technically advanced productive resources? Or will these plants, engineers, and workers be redirected to the great tasks of modernizing U.S. industry and rebuilding America's neglected and crumbling cities?

The answer will determine to a large extent the prosperity of not only those now involved in the defense industry, but of the nation as a whole, for the resources involved in defense production are vast. Moreover, the debate over military-civilian conversion and the fate of the arms industry will, in the view of many observers, dominate much of American politics in the next few years. For the question of how to spend the "peace dividend" is tied up with the other dilemmas facing America's economy—the federal deficit, the banking crisis, the obsolescence of industry, and the decaying infrastructure.

Yet despite the importance of the conversion question, relatively little about the problem's dimensions and potential remedies has been reported outside highly specialized journals. This two-part report will highlight current debate on this issue and assess prospects for the future of the aerospace-defense industry.

If there is one thing certain about the defense industry it is its importance to the U.S. economy. Some have minimized its impact, pointing out that the Pentagon's expenditures amount to only 7% of the nation's $4 trillion gross national product. But that comparison is misleading. With over $300 billion in expenditures, the Dept. of Defense dwarfs any single industry in the U.S., even the auto industry, with its roughly $200 billion in sales.

Of the total defense budget, over $100 billion is allocated to procurement of goods and another $30 billion to research and development for new armaments. By this measure, which excludes the $170 billion spent on the operations of the armed forces, the defense industry is still two-thirds the size of the auto industry. By other measures, the defense industry is larger. Some 1.4 million people work in defense production, significantly more than the 1.2 million in automotive production, and these are among the most highly skilled and educated in the workforce, including 300,000 scientists and engineers.

Another comparison may be made between arms production and the production of industrial capital goods. Armaments—whether aircraft, ships, missiles, or tanks—are the capital goods of defense, the machinery of war. The plants that produce them are broadly similar to those that produce complex machinery for industry, such as machine tools. Some $80 billion of the total $100 billion in defense production goes for armaments proper (excluding construction and procurement of non-arms goods such as uniforms). By comparison, in 1989 all of U.S. industry purchased some $90 billion worth of industrial machinery. So at present U.S. investment in military equipment nearly equals investment in civilian industry. Similarly, military R&D is nearly half that of the civilian economy.

Thus the defense industry remains a highly significant part of the American economy. Within that sector, aerospace is dominant. Of the $80 billion in arms expenditures last year, nearly $50 billion was for aircraft, missiles, and associated electronics. Of this, aircraft accounted for $24 billion, missiles for $20 billion.

Very little of this industry is invulnerable to the spending cuts likely to come in the wake of global political change. With the Soviet Union and U.S. agreeing to cut strategic nuclear forces by 30% or more, congressional support for additional production of MX missiles and B–2 bombers is evaporating. Congress has already canceled additional Trident submarines.

For conventional forces, the situation is similar. Soviet forces will soon have withdrawn from most or all of Eastern Europe, and the Warsaw Pact has dissolved. U.S. forces in Europe are being drawn down, and all three services are planning size reductions, with the Army having already announced plans for a 25% cut. Tank production is to halt no later than 1993 for the first time since WW II, and with the major force reductions, continued production of Bradley fighting vehicles and Blackhawk helicopters will be increasingly difficult to defend.

The Navy faces similar demands for cuts in its major programs, the Aegis destroyer and SSN–21 attack subs, as does the Air Force for its big ticket items, the F–16 (to end production in FY93) and the C–17 transport. Already F–14 and F–15 production is terminating, and so are new programs such as the Navy P–7A and others. With even former defense secretaries recommending cuts of 50% in the overall defense budget, capital expenditures for new arms are likely to drop far more in the next decade, perhaps by 75%.

Defense spending, 1990

	Billions
Operations	$171
Research and development	31
Construction	7
Non-durables	11
Durables	82
Aircraft	27
Airframes	17
Engines	6
Other	4
Missiles and space	14
Electronics	18
Ships	10
Tanks and armored vehicles	4
Weapons and ammunition	6
Other	3
Total	302

Source: Dept. of Defense.

Some layoffs have already occurred. Over the past two years defense employment has fallen by about 4%, or by 40,000 jobs. Hundreds of thousands more layoffs are likely to take place unless defense plants can be converted to other uses. McDonnell Douglas has announced layoffs of 17,000, nearly 15% of their workforce, for example. To some in the industry, prospects appear hopeless. General Dynamics, which runs the only two tank plants in the U.S., has already stated that it would close the plants rather than convert if defense production ceased. "What can you do with a tank factory?" General Dynamics vice president Michael Wynne asked in the New York Times interview.

Yet the U.S. has vast needs that defense production could help meet, say those who have studied conversion. For example, the nation's stock of housing has fallen far behind needs. The 2 million units of housing produced in the best of years is barely enough to keep up with new family formation, and a million more housing units deteriorate each year without replacement. The net result has been an accumulated deficit of nearly 15–17 million units of housing—and 2–3 million homeless. The housing gap will take over $150 billion to close. Underinvestment in the nation's roads, bridges, and water supply has generated another massive deficit estimated at $300 billion or more. Environmental cleanup of the atomic weapons industry itself is projected to cost over $175 billion and toxic waste cleanup more than $100 billion. More billions are needed to expand mass transit facilities.

There is certainly work to be done—but the nation lacks the industrial capacity to do it. Over the past 15 years, the nation's industrial base has become increasingly obsolescent, and in many industries has shrunk in absolute terms. "Steel capacity has dropped by a third, and the number of machine tools by more than a quarter, since 1973," points our Hofstra Univ.'s John E. Ullman, a member of the National Commission for Economic Conversion and Disarmament, a private conversion study group.

Engineering and scientific employment in defense aerospace

	Thousands
Electrical and electronics engineers	$99
Computer scientists	40
Mechanical engineers	38
Industrial engineers	21
Aeronautical, astronautical engineers	19
Chemical engineers	5
Metallurgical and materials engineers	3
Nuclear engineers	2
Other engineers	49
All engineers	276
Physicists	5
Mathematics	5

Source: Dept. of Defense.

Over the past five years, net investment in industrial equipment has been virtually zero—new equipment has merely replaced worn out machinery, according to the U.S. Bureau of Economic Analysis. This stagnation of U.S. industry has led to a steady decline in American standards of living, with family income falling 12% and real wages falling nearly 20% in the past two decades. This decline has occurred despite a huge increase in the trade deficit, which represents a net shift of material goods to the U.S. from the rest of the world.

To a large extent, this situation is a direct consequence of heavy investment in armaments in past decades, as Seymour Melman of Columbia Univ., a leading expert on conversion, emphasizes. "Money spent on armaments is money that's unavailable for investment in new industrial equipment, and it monopolizes the very resources that are needed to produce that equipment," he explains. (A second key factor is the heavy diversion of money into speculative acquisitions and leveraged buyouts. The $5 billion General Motors spent on acquiring defense contractor Hughes Aircraft, for example, was $5 billion that did not go to modernizing General Motors automobile factories.)

So there is work to be done in rebuilding American cities and factories. But can the current defense industry be converted to do the job? From a technical standpoint, the answer is clearly yes. There are three key components of the defense industry that have to be realigned to new tasks—the productive equipment (plant and machinery), the productive workforce, and the engineering and technical workforce.

The productive equipment is perhaps the easiest part to convert. As studies by Melman and others have documented, the basic equipment in the airframe and aircraft engine sectors of the defense industry, and in large parts of defense shipbuilding and tank reproduction as well, is essentially the same as that needed to produce advanced automated machinery for U.S. industry. The primary equipment is metalworking machinery of various sorts, especially metal cutting machine tools. The productive capacity of the defense aircraft industry alone is comparable to that of the entire metalworking machinery industry, and the equipment used is more modern and efficient. For example, 20% of all machine tools in the aircraft industry are numerically controlled, compared with only 10% in the metalworking machinery industry, according to a recent survey by *American Machinist* magazine.

Investment in manufacturing, 1989

	Billions
Equipment purchase	$63
Structure purchase	16
Total investment	79
Depreciation	80
Net investment	−1
Total manufacturing equipment stock	560
Defense capital goods production	82

Source: U.S. Bureau of Economic Analysis.

While much of the aircraft industry equipment is ideally suited for machinery production, the equally large electronics defense industries are suited to the production of automation equipment used to direct such machinery. Electronics plants are extremely similar to one another, whether the chips involved go to building missiles or industrial robots; only the design and programming of the circuitry change. Indeed, some small defense electronics firms have already made the leap to commercial products. Kavilco, a Moorpack, Calif., contractors, switched from complete dependence on high-tech sensors for military aircraft and missiles to a range of electronic systems for the automotive, air conditioning, and refrigeration industries.

Most of the productive workforce, which will be using the same machines and working in the same plants, is similarly flexible. "Standards and tolerances are, of course, different in civilian work," comments Carl Schwartz, a Boeing inspector and activist with the International Association of Machinists. "But we've found that when people shift to civilian work they need only several weeks of retraining. Basically you just change the number punched into the machine."

The economic impact of any large-scale conversion to the production of metalwork-

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ing and other industrial machinery could be profound. Studies of factory-built housing have indicated that the investment of roughly $15 billion a year in the manufacture of highly automated equipment for housing production could more than double the nation's capacity for housing construction and eliminate the housing deficit in a decade. Over a five-year period, a $10-billion annual level of investment in the metalworking machinery industry could more than double capacity. In less than a decade, the overall production level of industrial equipment could double as well. This would mean an annual increase in industrial capacity approaching 10% instead of today's near-zero rate, with investment barely making up for depreciation and obsolescence.

MACHINE TOOLS AND MANUFACTURING CAPACITY

Industry	Metal cutting machine tools	Total capital equipment (billions)	Machinery production capacity (billions/year)
Metalworking machinery	221,000	$16	$30
General industrial machinery	154,000	16	36
Military aircraft	82,000		
Shipbuilding	28,000		30
Tanks	14,000		

Not only would such a conversion plan modernize U.S. industry and preserve the million and a half jobs currently in the defense sector, but the expansion of industrial capacity would increase the number of high-paying industrial jobs by over a million a year, rapidly absorbing long-term unemployment created by the past decade's contraction of industry.

To be sure, not all productive equipment is sufficiently generalized for easy conversion. Much of the equipment in the missile and space sector is so specialized that it would be difficult to redirect outside the civilian space effort. A small part of the airframe industrial equipment is similarly specialized, and it might be used for tasks such as production of high-speed magnetic levitation trains or similar vehicles. But for the most part, the equipment poses no real technical problems.

For the engineering and technical staff the situation is more complex. "The industrail culture in the civilian sector and in defense are utterly different," Melman emphasizes, and others concur. Extensive retraining would be needed to reorient many engineers toward the cost requirements of commercial products. "The problem is that many engineers in the defense industry are assigned to narrow, fractional jobs that limit their flexibility," comments David Levinger, a Boeing flight test engineer who has been active in groups planning for conversions. "A lot of them aren't sure that they could relearn new jobs, mainly because they have been allowed so little initiative in their existing work." However, he believes that if engineers were retrained to work in teams that tackle whole design problems rather than isolated in fractional tasks, "then they could work on anything."

Given adequate retraining in the work methods needed in the civilian realm, most defense engineers have backgrounds that could be used in designing products as dissimilar from aircraft as industrial machinery. Only 10% of aerospace engineers are propulsion or aeronautical engineees, whose specialities would be harder to use outside the aerospace sector. Most are mechanical, electronics, and industrial engineers who will not be so closely tied to the existing products. For those engaged in defense R&D, there are agian large areas in the civilian economy that require intense high-technology efforts. Problems such as the development of fusion power, the efficient destruction of pollutnats, or the development of an ultra-high-speed magnetic levitation rail network provide technical challenges as great as any in defense. In fact, for some scientists and engineers, conversion would mean returning to previous areas of work.

Conversion thus appears to be technically possible—the current defense industry could design and produce advanced industrial machinery needed to solve pressing problems such as the housing shortage and the decay of the infrastructure and environment. But is conversion possible economically and politically? It is these more complex issues that we examine in the second part of this report.

PEACE SHOULD NOT MEAN HARD TIMES

The world appears to be lurching its way, in fits and starts, toward peace. For all intents and purposes the Cold War is over, and our former adversaries are now engrossed in their own internal problems. This is certainly a welcome turn of events, but as the global picture changes, new domestic problems must be addressed.

In a world that is redefining itself almost daily, those who cannot change with the times may be swept away. So it may be with aerospace companies that are primarily or solely defense driven. Certainly the U.S. will always need to be prepared for conflict. But the arms race of the past four decades is essentially over, and economic survival in the 1990's will depend upon innovation and education. For defense industries, the approach should be twofold: identifying new applications and markets for their resources and abilities and then pursuing them.

This country was built on imagination and innovation. The creative minds that revolutionized the conduct of military campaigns can surely find new roles to play. As innovative as this country may be, it is starting to fray around the edges. Taking the energy and creative spark that produced the most technologically advanced military machinery in history and redirecting it toward the reconstruction of a sometimes crumbling infrastructure is just one potential opportunity.

Identifying areas of opportunity may only require close examination of our everyday surroundings. Better and faster public transportation and sturdier bridges and highways come to mind almost immediately as just a few of the country's needs that could be addressed by the right combination of skill and ingenuity. Reconfiguring a plant or facility to branch off in a new direction may be difficult, but it is not an insurmountable task.

Just as plants and machinery will need to be retooled for new applications, so our most valuable natural resource—the work force—may need re-education. Here, enlightened self-interest might stimulate the federal government to help fund this retraining. Surely it is less expensive to subsidize retraining programs than it is to support longer and longer term unemployment insurance payouts and growing welfare rolls. Workers who are not working spend less, creating problems for other, non-defense industries that deal in goods and services. And workers who are not working do not pay taxes, thereby increasing the federal deficit.

The U.S. has always been at its best when faced with a challenge. Finding a solid economic ground in these times of flux may be the most difficult task the country has faced in a long time. But we can meet the challenge. Peace can bring prosperity.

ELAINE J. CAMHI,
Editor.●

DOWNTOWN MEMPHIS OPTIMIST CLUB

● Mr. SASSER. Mr. President, I rise today to commend the Downtown Memphis Optimist Club for sponsoring Project 1991—Liberty Appreciation Week. In observance of the bicentennial of the Bill of Rights, the club has planned activities to bring together the Memphis community during the week of December 15–21, 1991, in celebration of the rights and privileges guaranteed all Americans by the Bill of Rights.

The Downtown Memphis Optimist Club recognizes as invaluable the rights enumerated in the Bill of Rights and hopes to convey their importance to the citizens of Memphis. The liberties that were fought for by the original 13 States are to be held dear by all the Nation's people. In this spirit, the Project 1991 logo features an eagle as a symbol of the eternal vigilance that accompanies liberty. While the eagle offers an olive branch of peace and friendship, he also carries weapons to defend the liberties should his peace offer be refused.

The Downtown Memphis Optimist Club was founded in 1940 and thrives today as a group of 20 successful businessmen and women from the Memphis community. The organization improved the quality of life of the people of Memphis through its commitment to youth and its financial support for charitable organizations providing needed services. The club focuses its efforts on the development of youth in the community by sponsoring a little league footfall team as well as adopting a local elementary school where they provide antidrug programming and career counseling.

I extend my best wishes to the Downtown Memphis Optimist Club in their celebration of Liberty Appreciation Week. I am glad to recognize this distinguished chapter of the Optimist Club for its contributions to Memphis, TN, Nation. I wish them continued success and thank them for the positive impact they have made on the State of Tennessee and its people.●

CONSTRUCTION OF FEDERAL COURT FACILITIES

● Mr. BURDICK. Mr. President, I must make special note of Senator MOYNIHAN'S proposal, which I have cosponsored, to reform the process whereby the Federal judiciary receives the approval of the Congress for the construction of Federal court facilities. As the Federal judicial system confronts an unprecedented case load, and as the need to expand the number of Federal courts rises with it, it is important for

Congress to have a process in place which will allow for a review of the long-term building needs of the courts; expedite the review of specific proposals for court construction; and reestablish the separation of powers between the judiciary and the executive branches of our Government with regard to the construction of these facilities.

I would hope, Mr. President, that the Administrative Office of the Courts, the General Services Administration, and other interested parties would take the time in the coming weeks to review this particular piece of legislation. I believe that Senator MOYNIHAN has crafted a workable proposal, and it is my sincere wish to act on this measure as soon as possible next year.●

FLORIDA VETERANS DENIED FAIR SHARE OF BENEFITS

Mr. GRAHAM. Mr. President, an editorial in the November 23, 1991, St. Petersburg Times details the limitations on access to health care for Florida veterans. The theme is one which I have brought before the Senate on numerous occasions—veterans should not be denied health care simply based on where they live.

The problem, Mr. President, is that many of the veterans' health care facilities were built in geographical locations where there is no longer a large concentration of veterans. But with limited budgets, the VA is unable to relocate or build new facilities in the areas where veterans are moving—South.

Although a new hospital is being constructed in West Palm Beach and another slated for the east central Florida area, veterans in Florida will, at least in the short run, continue to wait longer for limited health care resources than their counterparts in other parts of the country.

The Commission on the Future Structure of Veterans Health Care reported this month that there is a mismatch between the location of VA facilities and veterans' residences and that this maldistribution will worsen by 2010 if adjustments are not made.

The Commission stated, "Our guiding principle for planning is that eligible veterans' health care needs and locations of veteran population concentrations should become the major factors in how VA plans the size, type, and geographic distribution of health care services."

Mr. President, it is my intention to ensure that Congress and the VA heed these words of the Commission and begin appropriating funds for veterans' health care to those parts of the country where the veterans live, and not just where powerful Members of Congress live.

I ask that the text of the St. Petersburg Times' editorial be printed in the RECORD.

The editorial follows:

FLORIDA VETERANS' UNFAIR SHARE

Veterans' hospitals are federal facilities, but no federal law mandates that veterans be offered equal care in every state. In Florida, for instance, there are roughly two beds for every 1,000 military veterans eligible for medical care. Nationwide, the ratio is about three beds for 1,000 veterans. Only five states have worse patient/bed ratios than Florida: Colorado, Idaho, Oklahoma, Nevada and New Hampshire. The District of Columbia has the best, with more than 10 beds per 1,000. Among the states with large concentrations of veterans, Florida has a clear disadvantage.

Veterans who can claim service-related disabilities or squeeze into a handful of other narrow categories won't have a problem in Florida. Others, however, may be lopped from the bottom rungs of the government's priority ladder. Eligible for treatment in states with empty hospital beds, they may find themselves ineligible in Florida.

"All the rest are 'may treat' as available," explained John Vogel, director of the Veterans Administration (VA) medical center at Bay Pines. "Essentially, there is no 'may treat' availability. That's just the reality of things. There is no excess capacity here."

VA hospitals don't turn emergency cases away; the problem is much more subtle. Of the 170 unscheduled patients who turned up at Bay Pines on Monday, for example, some were treated and some were referred elsewhere. "There is a priority for delivering care, and every veteran in the U.S. is not going to get it," Vogel said.

The federal government spends about $12-billion annually on veterans' medical care; some $546.6-million goes to Florida. State experts say that Florida veterans are shortchanged by about $200-million in care each year, money that is made up by shrinking the patient pool. "We can tell how many patients were seen," one expert said, "but we can't tell how many weren't seen."

"The VA has, I believe, an unparalleled ability to manipulate its work load," said Michael Hahn, legislative affairs' director for the Florida Department of Veterans Affairs. "There are terms such as 'constrained or 'restricted' demand. A veteran population can be told 'no' frequently enough that they stop asking. In Florida . . . people have been told no, frequently."

If VA dollars were allocated according to the number of veterans in an area, Florida's share would be much more generous. If the percentage of elderly and disabled wartime era veterans was also brought to the equation, the portion would be larger still. Add the fact that veterans are continuing to migrate to Florida at a rapid rate, and support for medical services in the state might come up to par.

Instead, the federal government hands out money according to a formula that reflects the number of treatment facilities available. Florida has five VA medical centers, in St. Petersburg, Tampa, Gainesville, Lake City and Miami.

A new facility is under construction in the West Palm Beach area, though, and another is planned for the state's east central region. Each new medical complex will include a nursing home, acknowledging the burgeoning needs of veterans in the oldest category.

The real problem with VA allocations is not demographic naivete, but congressional unwillingness to treat the program as an even-handed federal entitlement. Michael Hahn, fighting for Florida's fair share, doesn't hesitate to use the old-fashioned term, "pork barrel." When elected officials stop treating VA facilities as local fiefdoms to be defended, veterans in every state will have a chance to claim the benefits they need and deserve.●

WINNING THE PEACE DIVIDEND: SAVINGS AND SECURITY FOR THE 1990's

● Mr. MCCAIN. Mr. President, the American people deserve a peace dividend; they have earned it. For more than half a century they have sacrificed in the cause of democracy and to deter war. The end of the Warsaw Pact and the ongoing collapse of the Soviet Union make such a dividend possible, and the time has come to reshape American defense spending and American strategy.

The Bush administration deserves credit for the fact that we have already received a major peace dividend over the last 6 years. Real defense spending has dropped each year. The net result is a 24-percent cut in real defense spending between fiscal year 1985 and fiscal year 1992, and that our defense budget has dropped from $350 to $278 billion in constant fiscal year 1992 dollars. Its current plans call for annual cuts of 3 percent through fiscal year 1996.

These plans, however, were formulated back in late 1990, and before the failure of the Soviet coup and the complete breakup of the Warsaw Pact. It is clear that we can and must go further. The American taxpayer has earned relief, and our highest single priority in government is to reduce our budget deficit and free the economy from the shackles of Federal spending.

Cutting defense can only provide part of the funds needed for deficit reduction. Although the American economy has grown 150 percent since 1962—a high point in the cold war—real defense spending has grown only 13 percent, while domestic discretionary spending has grown 187 percent and mandatory Federal spending or "entitlements" have grown 448 percent. Nevertheless, increased cuts in real defense spending might still cut the currently projected Federal deficit in half by fiscal year 1997, and this would have a major impact in raising real personnel income, increasing jobs, and stimulating economic growth.

I have examined this situation in depth, and have costed the alternatives with the aid of the Congressional Budget Office and the Defense budget project. I have prepared a detailed analysis of our strategic requirements, and the options for a peace dividend, an analysis that I respectfully request be placed in the Record immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. MCCAIN. Mr. President, as a result, I feel that such cuts can reach levels as high as an average of 6 percent per year during the next 5 years. This would cut real defense spending by another third by fiscal year 1997, and cut annual real defense spending by a total of 54 percent of discretionary spending from the peak levels under the Reagan buildup.

Such a shift in our forces would save some $235 billion compared to continuing to spend at today's level of defense spending. More important, it would reduce defense spending to about 3 percent of the GNP, and 15 to 16 percent of the Federal budget, levels that could be sustained indefinitely without a major burden on the American taxpayer.

Equally important, a 6-percent annual cut would be slow enough to allow us to react to any unanticipated changes in the Soviet Union or Eastern Europe. It would allow us to cut our all volunteer forces without creating massive unemployment, or treating our men and women in uniform unfairly. It would allow our defense industrial base to adapt, it would minimize the impact on communities with defense bases and industries, and it would allow our allies to adapt to the changes in our posture.

Major additional cuts in defense spending are not easy to accomplish. Our current force plans already call for reducing our combat forces by an average of 25 percent by fiscal year 1997, for cutting active and reserve military manpower by more than 500,000, and defense civilians by more than 200,000. This requires cuts of 33 percent in our Army divisions, 38 percent of our tactical air wings, and 100 ships in our Navy, a cut that will produce a 451-ship fleet where our force goal was once 600.

I believe, however, that additional spending reductions can be achieved through a combination of three major types of cuts. First, by terminating major weapons systems that are vestiges of the cold war. Second, by aggressively moving forward with President Bush's new nuclear arms control initiatives to reduce our strategic forces from roughly 10,000 warheads to levels of 6,000 to 3,000. Third, by recognizing the fact we must convert from our present Europe-oriented cold war strategy to a power projection strategy designed to deal with the emerging risks in Asia and the developing world.

The weapons system terminations I recommend include the B–2, the small ICBM, and the SSN–21. The total cost of these three programs is in excess of $100 billion. At the same time, we should slow down high technology programs whose main rationale was an evolving Warsaw Pact threat that no longer exists. These include the U.S. Army Armored System Modernization Program, the advanced technology fighter, and the high-technology/high-cost mix of escorts for our carrier battle groups. This could save up to $25 billion more.

The cuts in strategic forces I recommend would build on cancellation of the B–2 and SICBM to sharply reduce the number of Minutemen, eliminate the Peacekeeper, cut the bomber force, and shift the remaining B–52's to the conventional role, down-load and detube the SSBN force while buying fewer D–5 missiles, and make further reductions in our theater nuclear forces. These cuts would depend on matching cuts by the Soviet Union, but could save $6 to $12 billion a year.

The key to such an aggressive approach to nuclear arms control is, however, to go forward with strategic defenses. The plan advanced by the Senate Armed Services Committee would provide a means for the United States and Soviet Union to eliminate the risk of accidental or unauthorized launch and any remaining incentives for a first strike. It would guard against proliferation, and ensure that our forces and our allies could protect against shorter range threats without relying on the threat of offensive escalation.

The most critical aspect of my proposal, however, is to shift our strategy and force posture to focus on power projection. It is time that Europe assumed the responsibility for the defense of Europe. However, our current force plan would still deploy 150,000 men in Europe in fiscal year 1997. More importantly, it would deploy nearly half of the 2.5 million people planned to be in our force structure in the "Atlantic package," a mission whose rationale is essentially to refight World War II in a prolonged conventional war in Europe.

I believe that no more than 50,000 to 100,000 men and women will be needed in Europe. We also believe that we can phase out large numbers of active and reserve units whose primary, if not only, contingency mission is to mobilize and move from the United States to Europe. This would allow cuts in active and reserve manning of up to 500,000. It would allow us to eliminate two to four active Army divisions, three to four Reserve and two cadre divisions, one to one and one-half Active Air Wings, five to seven Reserve Air Wings, and a substantial number of frigates and other ships, as well as make suitable cuts in headquarters and support and other associated activities.

The precise pace and scale of these cuts could be adjusted to the events in Europe and the rest of the world. Nevertheless, it is clear that this pool of resources is large enough to allow us to reach the goal of a 6 percent annual cut in defense spending, and to do so without cutting the power projection forces we really need.

We are not present at the end of history but rather at the creation of a new role for America and a new strategy. We must be prepared to deal with major threats like a North Korea that is likely to have nuclear weapons by the mid–1990's. We must remember that we have used our military forces more than 220 times in the developing world since World War II, to secure our interests and those of our allies, in contingencies that had little or nothing to do with the Soviet or Warsaw Pact threat.

We are dealing with a developing world where 14 countries have or are developing chemical weapons, 7 have biological warfare capabilities, 21 countries have tactical ballistic missiles, and at least 7 have or are developing nuclear weapons.

We are dealing with a developing world that has imported an average of 1,500 main battle tanks, 2,000 artillery weapons, 3,000 other armored vehicles, 100 combat ships, 350 supersonic combat aircraft, and 5,500 surface-to-air missiles a year.

In advocating a peace dividend, we must recognize that there is a floor beneath which we must not go. We must keep our Marine Corps and Army contingency forces strong and fully combat capable. We must give them the airlift and rapid sealift and other enhancements that are key lessons of the gulf war. We must keep our carrier forces strong enough to maintain a global presence and help deter local conflicts. We must preserve the rapidly deployable elements of our Air Force, and provide enhanced long range tactical strike capability.

Mr. President, we must recognize that we cannot take a peace dividend at random, or waste it by using it to subsidize further Federal spending. A major peace dividend will affect millions of lives in our active forces, reserves, and defense industry. It will affect our security and perceptions of American strength that are critical to world peace and arms control. The systematic changes in spending, strategy, and force structure we advocate will produce both the dividend and security we need. Any less structured approach is almost certain to undermine our security and to waste the funds taken away from our defense.

EXHIBIT 1

MATCHING A PEACE DIVIDEND WITH NATIONAL SECURITY—A NEW STRATEGY FOR THE 1990'S

(By Senator John McCain)

During the next few months, the U.S. will have to begin to make hard choices between a "peace dividend" and national security. The end of the Cold War means that the United States can and should take a peace dividend in the form of additional reductions in defense spending. This peace dividend should provide direct benefits to the Americans taxpayer in terms of deficit reduction and reduced taxes. It should be used to fund the economic growth and competitiveness that can only come from stimulating consumer demand and reducing the federal drain on the nation's credit.

At the same time, new threats are arising and the world remains an unstable and often threatening place. The U.S. must maintain a stable core of combat ready forces to protect its interests, its citizens, its allies, and its

friends. The U.S. must recognize the fact that it may be decades before it can create anything approaching a new world order. History is grimly unpredictable. The improvements in East-West relations may well be replaced with North-South and South-South conflicts. North Korea's efforts to develop nuclear weapons, the war between Iran and Iraq, and the tensions between India and Pakistan—both of which have nuclear and chemical weapons. In such circumstances, there is a level of military capability, and level of defense spending, we must maintain.

We also must recognize the fact that sudden cuts in defense spending have a drastic impact on our men and women in uniform, on communities throughout the United States, on our defense industrial base, and on our economy. A peace dividend must be taken with care, not only to protect our security, but to protect our fellow Americans and our recovery from the current recession.

CREATING THE RIGHT KIND OF PEACE DIVIDEND

There is no easy way to make such tradeoffs, and to choose between the size of the peace dividend we can take and national security. The end of the Cold War means, however, that it is now possible to provide a substantial peace dividend without depriving our nation of the power projection forces it must have in the 1990s, and without acting so precipitously that we will not be able to react if new threats arise.

To be specific, it should be possible to double the rate of cuts in real defense spending that the Bush Administration planned in early 1991, and to go from an average cut of 3 percent in annual defense spending during FY1991–FY1997 to a rate of 6 percent.

In practice, this would mean cutting defense spending during FY1993 from $278 billion in budget authority to $261 billion. Real defense spending in constant FY1992 dollars could than be cut to $245 billion in FY1994, $230 billion in FY1995, $216 billion in FY1996, and as little as $203 billion by FY1997.

There are many different ways that the resulting peace dividend can be calculated, but if we use the present level of $278 billion as our base, it would be $17 billion in FY1993, $33 billion in FY1994, $48 billion in FY1995, $62 billion in FY1996, and $75 billion by FY1997. This would total $235 billion over the next five years.

In all frankness, it is uncertain whether real defense spending should ever drop below $200 billion in constant FY1992 dollars unless we face severe new economic problems and the world remains an extraordinarily peaceful place. A properly phased approach to a peace dividend would, however, avoid any substantial risk in the initial years, and build towards a major saving in the out years.

This approach not only limits risk, it allows us to cut our forces and defense spending in ways which minimize the disruptive impact on the men and women in our armed forces, on communities with defense bases and facilities, and on our economy and defense industry.

Capping defense spending as a percent of Federal spending and the gross national product

The best way of obtaining a peace dividend is not to cut defense to the point we could be forced into crash efforts to rebuild our forces in an emergency—to repeat the "boom and bust" cycle in defense spending that has characterized so much of U.S. history. It is rather to establish a stable level of defense spending that provides the resources that are needed but that steadily reduces defense spending as a share of total federal spending and our gross national product as our economy expands.

To put this issue in perspective, defense spending as a percent of federal spending has already dropped from a post war high of 57%, and a high of 27% during the Reagan Administration, to around 20%. Such cuts would reduce defense spending to around 15–16% of the federal budget by FY1996–FY1997. Similarly, defense spending has dropped from a post war high of 11.9% of the GNP, and 6.3% during the Reagan Administration, to about 4.7% of the GNP today.

The proposed cuts would allow defense spending to drop to as low as 3% of the GNP by the mid to late 1990s. Capping defense at these levels of our federal budget and GNP would still provide around $215–$240 billion in constant FY1992 dollars, but would shrink the burden defense places on the American taxpayer to a small fraction of federal spending, and a far smaller fraction of our total economic activity. At the same time, it would allow us to deter or halt the kind of aggression or conflict that—without American military action—would force us into massive new expenditures and possibly into another major war.

Where the peace dividend would come from

There is no royal road to obtaining a peace dividend. We have already been cutting our real defense spending during each of the last six years, and it has already dropped by 20.5% since FY1986, or from $349.9 billion to $267.3 billion in constant FY1992 dollars. The Bush Administration has already planned on cuts during FY1991–FY1997 that would cut our forces by:

360,000 active duty men and women in uniform.

271,000 men and women in the reserves.

At least 180,000 defense civilians.

About 25% of out total force structure.

33% of our active Army divisions, a cut from 18 to 12.

40% of our Army divisions, a cut from 10 to 6.

100 ships or 18% of our total naval battle force, a drop from 545 to 451 ships.

38% of our tactical air wings, with a cut in active wings from 24 to 15, and from 12 to 11 reserve wings.

33% of our strategic bombers, a cut from 268 to 181.

It is not easy to add to these cuts without being disruptive or eliminating forces we are going to need in the future. Nevertheless, such cuts are possible through two mechanisms. The first is major program terminations. These allow limited near term savings. The second is by eliminating those forces and functions that are largely vestiges of the Cold War as soon as possible, and concentrating on preserving our key conventional power projection capabilities.

Major program terminations

We can terminate or reduce the following programs without taking unacceptable risks with our security:

Eliminate the Small ICBM program, and continuing to rely on upgrades of a single warhead silo deployed version of the Minuteman III. The only justification for a new SICBM is mobility and President Bush has canceled this aspect of the program. Relying on an upgrade of the Minuteman could save a total of up to $35 billion.

Terminate the B–2 program. This aircraft is a technical triumph, but it no longer can be justified for strategic nuclear missions and is far too expensive and mission limited for conventional missions. Canceling this program could save $20.9 billion to $25.9 billion over the next five years, and more than $35 billion over the life of the program if associated support, construction, and weapons costs are included.

Terminate the SSN–21 submarine. This submarine will cost some $2–$3 billion a ship at a time when there is virtually no chance of fighting a Battle of the Atlantic or sea control battle with the Soviet Union. Its practical mission advantages over the SSN–688 are uncertain, and increasingly so because of problems in developing the new weapons systems it is intended to use. Relying on existing SSN–688s, while we develop a new submarine some five or more years in the future could save $15 to $30 billion. Replacing the SSN–21 immediately with the SSN–688I and Centurion type submarine we need, would save $4.6–$5.0 billion over the next five years.

Reduce the construction of high cost escorts like the DDG–51 to take account of the reductions in the threat to our carrier battle groups. We continue to need carriers as a key element of our power projection capability. We do not need to give them the kind of protection needed for an extended naval war with a threat as sophisticated as the Soviet Navy. This could save up to $5 billion.

Slow the advanced technology fighter program, and delaying a production decision until it is clear that a threat exists that forces deployment of this aircraft, could save $4.6 billion. This step is particularly important because the current design is optimized around air combat missions at a time when the primary need of both the Air Force and Navy is for an advanced long range strike fighter, and funding effective production rates requires a high degree of commonality between the Air Force and Navy aircraft.

Reduce funding of the U.S. Army Armored System Modernization (ASM) program. This program was developed to meet the challenge of a Warsaw Pact that no longer exists, and the Gulf War indicates it was based on an exaggerated view of Soviet capabilities. Upgrading existing systems and designing a new family of equipment for power projection could save $2.3–$2.8 billion over the next five years and as much as $25 billion in total program costs.

It is important to note that while some of these cuts produce large cumulative savings, many involve short term termination costs. Further, no combination of major program terminations can—by itself—produce a sustained peace dividend of the scale necessary to double the Bush Administration's planned rate of a 3% annual cut in real defense spending.

Producing a near term peace dividend requires cuts in budget outlays as well as in budget authority. This is often difficult in terminating major procurements, and the end result is likely to be a significant gap between what can be achieved through program terminations and the required cut in expenditure that can only be made through rapid additional involuntary separations of manpower or by slashing readiness and sustainability. This would, almost inevitably, create hollow elements in at least part of our force structure.

Emphasizing cuts in nuclear forces and conventional force structure

In contrast, careful and properly planned changes in strategy and force structure provide a basis for making more substantial force cuts in ways that preserve military capability. This allows a peace dividend to be taken from those elements of our force structure which are least necessary, given the end of the Cold War, and provides sufficient flexibility to fund selected improvements in those forces that remain necessary.

This can best be accomplished in two ways. First, by focusing on President Bush's nuclear arms reduction initiatives to examine ways in which we can use a combination of unilateral action and arms control to accelerate reductions in our nuclear forces and other selected elements of our force structure.

Cuts in nuclear forces: Savings through arms control

The termination of the B-2 and SICBM are tangible reflections of what we can do immediately. In addition, the measures that the President suggested to cut theater and strategic nuclear systems would save at least $5 billion in FY1992-1997 and $13 billion during FY1992-FY2010.

It should, however, be possible to build on President Bush's initiatives by moving aggressively to eliminate land-based MIRV'd ICBMs, freeze most aspects of offensive strategic and theater nuclear technology, and seek additional cuts in strategic warheads of at least 1,000-2,000 warheads. The U.S. should work aggressively towards reductions from the present total of roughly 10,000 warheads on each side to levels as low as 6,000 or 3,000.

Recent work by the Congressional Budget Office indicates that a reduction to 6,000 warheads could eventually save the U.S. up to $6 billion a year, and a reduction to 3,000 warheads could save up to $11.9 billion.

These cuts could be accomplished by downloading bombers and SLBMs/SSBNs, by using the B-1B and ACM to provide future bomber strike capabilities, by further reductions in ICBM numbers, and by seeking cuts in the SSN forces of the U.S. and Soviet Union to reduce any threat to the SSBN forces of either side. This would still allow both sides to maintain a significant retaliatory deterrent, to improve their warning and attack assessment systems, and to deter any attacks by third party nations.

A cut to a force of 6,000 warheads could be accomplished by cutting the number of remaining Minutemen to less than 300 missiles, rather than the 500 permitted under START. Bomber forces would be cut, the first eight Ohio-class SSBNs would not be fitted with D-5 missiles, and fewer D-5 missiles would be purchased. The remaining force of theater nuclear weapons would be cut from 7,000 to 4,000.

A cut to a force of 3,000 warheads would mean a force about one-third the level the U.S. seems likely to retain after START, and would reduce the 6,000 warheads countable under START by about 50%. It would require elimination of the M-X force, and downloading each SLBM remaining in service to three warheads—maintaining the currently programmed number of SSBNs to reduce vulnerability. Detubing would be a possible alternative. The bomber force would consist solely of the B-1 equipped with the ACM or a similar system. All B-52s would be shifted to conventional missions.

Such options will, however, involve risks that arms control alone cannot alleviate. This is why the U.S. must move forward, hopefully in cooperation with the Soviet Union and smaller nuclear powers like Britain, France, and China to do everything possible to reduce the threat of accidental launch, further proliferation, and a political faction or extremist group seizing control of a nuclear armed long-range ballistic missile.

Further, the U.S. cannot rely on offensive nuclear weapons alone under any foreseeable options to deter the risk of long range missile attacks on its allies, its forces, and its territory. As has already been stated, it must proceed with a limited strategic defense system of the kind proposed in the Senate Armed Services Committee plan.

This system must include a mix of modern space borne sensors, land based missile defenses, and space based intercept capabilities. It must involve an active effort to cooperate in strategic defense with the USSR to eliminate any vestigial risk of nuclear attack, "breakout" in offensive weapons, and efforts to seek a first strike advantage. It must also include the development of theater ballistic missile defenses for our friends and allies, and U.S. forces.

It is impossible to estimate the schedule and size of the resulting annual savings, since this would depend on the outcome of arms control negotiations with the USSR, but they should rapidly reach a level of at least $1 billion a year and could reach a level of $4 billion to $8 billion by the mid 1990s if both sides accepted the need to achieve major savings in military spending. This could total $16 billion over the next five years.

The importance of strategic defenses

Such an aggressive approach to arms control does, however, involve risks. No one can be certain of the unity and stability of the Soviet Union. At the same time, a reliance on conventional weapons presents risks in a proliferating world. For this reason, it is essential that the U.S. proceed with a limited strategic defense system that can guard against accidental or limited nuclear strikes, help protect it and its allies from the emerging nuclear forces in the developing world, and deter any future successor regime in the Soviet Union from attempting to gain nuclear superiority by rushing to rebuild or redeploy nuclear forces.

The proposal advanced by the Senate Armed Services Committee represents a prudent and vital approach to providing this capability. It would seek to deploy a limited land based system by FY 1996, continue to fund development of an economic space based system, and encourage active negotiations with the Soviet Union to renegotiate the ABM Treaty. It also allows for cooperative development of such a system with the USSR—which would be as important in preventing the long term risk of nuclear war as any currently foreseeable cut in nuclear offensive forces.

Cuts in conventional forces

Conventional forces make up at least 80% of the forces funded in the defense budget, and any peace dividend must come primarily through cuts in such forces. Many proposals for such cuts, achieve their savings through sweeping cuts in total unit numbers, manpower, or equipment. They do not attempt to focus on the need for major changes in our strategy to reflect the changing threat and the end of the Cold War.

The bulk of such cuts must be based on shifting from an East-West to a power projection strategy that focuses on the existing and emerging threats in other parts of the world. Such a power projection strategy allows us to reduce and/or eliminate forces whose primary mission has been the defense of Europe, particularly in a prolonged conventional war.

While no one can dismiss the possibility of a successful hard line coup in the Soviet Union, or further problems in Eastern Europe, this prospect now seems so unlikely that the force packages developed in August, 1990 have become obsolete. Europe is now capable of assuming primary responsibility for its own defense, and this allows major cuts in the U.S. forces deployed in Europe, reinforcement forces in the U.S., and naval forces whose primary mission is sea control and the battle of the Atlantic, rather than power projection.

As General Powell said in a recent press conference:

> "* * * the force structure was to do something about a massive Red Army assault coming west through the Fulda Gap. There is no Fulda Gap, except to tourist traffic. It was once an armed camp. And the Red Army has gone hundreds of kilometers to the east and is in the process of doing that. So that general battlefield situation has changed fundamentally." (9/27/91)

It is time to make it clear to our allies that they must assume far more of the burden of ensuring their future security than in the past. The United States should not abandon its Allies or withdraw from Europe.

At the same time, the U.S. should not assume the responsibility for overseeing the coming massive changes in NATO strategy and force posture. Europe must assume responsibility for Europe's post-CFE defense posture. The FRG, Belgium, Denmark, France, the Netherlands, and United Kingdom must take the lead in restructuring NATO's defense posture in the Central Region.

Further, the U.S. forces that are left in Europe must not be seen as being assigned or earmarked on a full time basis to NATO and SACEUR. They must be treated as contingency forces that the U.S. can use for power projection as long as the Soviet threat remains as low as it is today. It must be made forcefully clear to our German allies that they must increase their burden sharing efforts in terms of the costs they pay for the U.S. forces that remain in Europe, and to our other allies that our forward deployed tactical air, carrier, and Marine Corps forces are power projection forces and we must have the freedom to deploy and sustain them for such missions.

The U.S. must cease responsibility for missions like airborne command and control, surface-to-air missile defenses, emergency resupply, and a host of other infrastructure and support missions it now assumes in NATO. These should be firmly shifted to Europe by FY1996, and the U.S. share of NATO infrastructure expenditures should be steadily cut to reflect both these changes in U.S. strategic alignments and the role the U.S. undertakes for the entire alliance in terms of out of area operations.

We need to make even more serious cuts in our reinforcement forces for Europe in the United States, and in the so-called "reconstitution mission". It is prudent to have power projection forces that can reinforce Central Europe, as well as meet contingency needs for forces that can fight in high and medium intensity combat in other parts of the world. It is another thing entirely to assume that the U.S. must dedicate forces to serve as, "the bedrock of reconstitution capability should we receive warning of a Soviet return to a posture of direct military confrontation with the West."

The current force plan, as presented by General Powell on September 25, 1991, shows that the Atlantic part of the U.S. force structure in FY1997 would total about 1.35 million men, out of a total active and reserve force structure of 2.5 million men. This makes the Atlantic Force package larger that the manpower in all other functions, including the Pacific (550,000 personnel), Contingency (380,000 personnel), and Strategic (100,000 personnel) force packages.

Roughly 60% of the personnel in the Atlantic force package would be reserves in the U.S., of which about 66% are in support functions. The remainder would be active, of which over 75% would be deployed in the United States. This means that close to half of our FY1997 force structure would be reinforcement whose primary mission would essentially consist of refighting World War II against a Warsaw Pact enemy that no longer exists.

Enough is enough. This is not 1945, 1960, or even 1985. If there is a reconstitution mission for the defense of Europe—and that is increasingly doubtful given the end of the Warsaw Pact as a military alliance and the continued pattern of change in the USSR—the cost must be born by our European allies.

We have now lived for two decades with the illusion, if not the lie, that the U.S. can credibly plan to fight an extended conventional war in Europe. First, our allies show no serious interest or capability for such a conflict. Second, we have never funded the strategic lift, sustainability, or readiness to make good on commitments like sustaining 10 divisions in Europe within 10 days, and have no prospect of doing so.

Limiting the reinforcement and reconstitution mission in the mid to late 1990s to those forces needed for global power projection would free substantial resources to fund the modernization, readiness, and forward deployed forces we really need. It would fund the strategic lift and sustainability the Army needs for quick reaction deployments and allow the Marine Corps to remain at its present strength.

The specific force reductions that should result from the end of the Cold War, and the changing situation in Europe are:

Cutting the total active forces the U.S. has in Europe in 1995-1997 to levels of 50,000 (100,000) men, with matching cuts in active army and air force combat strength, and the proper slice of support, logistic, and headquarters forces and bases. This option would be equivalent to a 50% to 66.6% cut in the present "forward presence" part of the Atlantic Forces package.

This would require eliminating 3-4 active brigades from the 1 Corps and 2 divisions currently planned for deployment in Europe in FY1995, and 1.5-2.5 tactical fighter wings, plus associated support, logistics, and headquarters personnel. The heavy equipment for two full divisions, and suitable stocks, could, however, remain prepositioned at least until the end of the 1990s.

Cutting the forces in the U.S. that are scheduled to become the Crisis Response part of the Atlantic Forces package to 50% or 33.3% of their current level. It would require a cut of at least 1-2 active Army divisions, 3-4 reserve Army divisions, 1-1½ active fighter wings, and 5-7 reserve fighter wings, and the proper slice of support, logistic, and headquarters forces and bases. This could save $12.8 to $18.5 billion over the next five years.

Eliminating the Reconstitution Forces portion of the Atlantic Forces package (2 Army cadre divisions, navy frigates, and other related forces.) by FY1995-FY1997. This could save at least $2.2 billion over the next five years.

Eliminating by 1995-1997, any other active and reserve forces whose primary contingency role is the reinforcement of Europe in a prolonged major conventional war.

Options for cutting the overall mix of submarines, ASW forces, and related R&D and procurement programs to reflect the lower Soviet threat, and reduced need for any battle of the Atlantic contingency to supply NATO.

Reducing the number of active carrier battle groups to 10-12 carrier battle groups. Cut the cost of maintaining the present number of active carrier battle groups by delaying aircraft modernization, cutting the number of escort ships to reflect a smaller Soviet threat, and/or delaying construction of a new carrier. This could save $2.2 billion to $26.1 billion over the next five years.

In addition, there are other forces that can be cut or eliminated:

Cut the active army units in Alaska from the force structure, and reduce active air strength to minimum levels.

Eliminate and consolidate the active and reserve components of non-combat Army, Air Force, and Navy support units in the U.S. by an additional 15%-30% beyond the currently programed level by 1995-1997. This could save $35.8 billion to $71.8 billion over the next five years.

This rapid shift away from a Europe-oriented to a power projection strategy will allow us to make further major adjustments that might be made in procurement and research and development expenditures. These adjustments include:

Shifting the mix of major procurements planned for the mid-1990s and early 2000s to rely on upgrades of current major weapons while limiting expenditure on such systems to R&D. This should be able to save at least $2 to $4 billion a year by FY1994.

Reduce funding of R&D, less SDI/TMDI, to 1976-1991 share. These savings would vary by year, but would approach $6 billion in FY1993, $4.6 billion in FY1994, and $1.0 billion in FY1995. This could total $7.1 billion over the next five years.

Mandating a shift away from reliance on MILSPEC and a military industrial base to reliance on civilian technology over the next 5-10 years in all those areas where a shift to a civilian industrial base is possible. These include areas like electronics, engines, and other high cost components.

The U.S. has the option of reducing its active military strength in South Korea to no more than one active Army brigade and one active tactical fighter wing by 1995-1997. Such an option may be possible if the political situation in North Korea should change radically by the mid-1990s. However, the U.S. already has plans to reduce its forces in the Pacific to levels where further major cuts do not seem prudent at this time.

This highlights the need to maintain forward deployed active forces in the areas where these play a powerful deterrent and stabilizing role, and can contain contingencies that might otherwise require far larger force deployments from the U.S.

Tailoring force cuts to provide the peace dividend goal

While it is tempting to propose price tags for each of the above savings, the exact amount of money that can be saved from such cuts in force structure must be tailored to the most desirable pace of reductions shaped by developments in the Soviet Union and Europe. In fact, one of the advantages of these cuts is that they provide a pool of actions where the exact cut in each area can be shaped to minimize the disruption in our capabilities, all volunteer force structure, and defense industrial base.

It is clear, however, that such cuts are drastic enough to meet the annual goals set forth for a six percent reduction in real defense spending. These goals require a saving of $17 billion in FY 1993, $33 billion in FY 1994, $48 billion in FY 1995, $62 billion in FY 1996, and $75 billion by FY 1997, or a total of $235 billion over the next five years. Just the reductions proposed for U.S. forces in Europe, in the reinforcement forces for Europe in the U.S., and in associated headquarters and support forces should be more than adequate to meet these levels of reduction.

SETTING A FLOOR FOR FORCE CUTS AND CUTS IN DEFENSE SPENDING: THE NEED FOR A POWER REDUCTION STRATEGY

At the same time, we must set limits to the cuts we make in defense spending. We must be prepared to shift away from many of the roles and missions of the Cold War era and to focus on our capabilities for power projection: The capabilities that are necessary to deal with regional aggressors, proliferation, and other challenges to world peace that emerge from the continued instability in the Third World. These power projection missions require strong, fully combat, ready, and rapidly deployable forces, and they will consume most of the defense resources we will have available in the 1990s.

As the Gulf War has just shown, wars in the Third World can require heavy armored forces and the most advanced air powers available. They can require all our naval and amphibious capability, and they can place a massive strain on our existing strategic lift and prepositioning capabilities. They also require advanced technology, and the kind of military professionalism and readiness that can win quick and decisive military victories. We cannot realistically hope to engage in prolonged conflicts that lead to high casualties and that do not produce a clear strategic result.

We had a decisive technical and military superiority in the Gulf War, but we must not take such superiority for granted or underestimate its importance. This superiority is essential to minimize American and allied casualties and bring a conflict to a quick and decisive end.

The growing threat in the Third World

It is easy to talk about a new world order, but it may be exceptionally difficult to create one. The end of the Cold War does not change the fact that there have been an average of 20-25 conflicts and civil wars raging in the Third World during every year since 1945. It does not change the fact that the U.S. had had to use military force more than 200 times since the end of World War II to protect its allies, its citizens, and its strategic interests in areas where no element of Soviet bloc forces was involved.

The Third World is not becoming a kinder and gentler place. Third World nations spend nearly 5% of their gross national product, and 20% of all government expenditures on military forces: A total of $175 to $200 billion a year. They take delivery on an average of over $40 billion worth of arms a year, including approximately 1,500 modern main battle tanks, 2,000 artillery weapons, 3,000 other armored fighting vehicles, over 100 combat ships, 350 supersonic jet combat aircraft, and 5,500 surface-to-air missiles.

As Iraq has shown, some such nations can become massive threats to the security of their region, and this threat is likely to grow:

At least fourteen developing countries now have offensive chemical weapons.

Seven developing countries have biological warfare capabilities.

Twenty-one countries now have tactical ballistic missiles. Eighteen developing nations are likely to possess long range tactical ballistic missiles by the year 2000, and up to fifteen countries may be able to manufacture them.

Nine developing countries seem likely to acquire imagery satellites by 2000.

Forty-seven developing countries have modern main battle tanks.

Fifty-eight countries have modern jet fighter aircraft.

103 countries have cruise missiles.

Seventy-one countries have anti-ship cruise missiles, and 46 countries have naval mines.

Over 30 developing countries have submarines.

We must have combat forces that can deal with any foreseeable combination of threats in the Third World, and these threats are not theoretical or ones that may appear in the future. If Iraq's offensive capabilities have been destroyed, those of North Korea remain, and North Korea has chemical and biological weapons and seems to be rapidly moving towards a nuclear capability.

Our forces also must have enough combat readiness, forward deployed capability, and strategic life to deter conflict wherever possible, and to rapidly contain and limit conflict when deterrence fails. Most conflicts in the Third World occur without significant strategic warning, and many take an unpredictable form. In virtually all cases, the level of escalation in such crises and conflicts is dependent on how quickly action is taken to control them.

The role of the U.S. in power projection

There have been an average of more than 25 ongoing civil and international conflicts in the developing world every year since the end of World War II. There are now more than 10 low level conflicts going on in the Middle East and the Gulf.

The U.S. cannot aspire to be the global policeman and intervene in every low level conflict. The fact remains, however, that the U.S. has global interests that can be affected by regional disputes whether it wishes it or not. The U.S. is also the only power capable of assuming a leadership role for the community of democratic nations to focus international efforts on a global basis toward a common goal.

These realities were demonstrated all too clearly during the Gulf War. The world community simply could not risk hostile control of Persian Gulf oil. Important as UN and allied action proved to be, the U.S. was the only nation with the naval power to take the lead in keeping the Gulf open.

We also need to recognize that our interests have changed fundamentally since the beginning of World War II. The U.S. economy is dependent on trade and the flow of high technology goods, and even more dependent on raw materials. The U.S. is critically dependent on imported energy, a dependence that seems certain to increase during the next few decades. The U.S., and U.S. citizens, are also far more involved in political and commercial activities throughout the world. Many are in states vulnerable to internal instability or outside threats, where the U.S. may be called upon to protect its interests with little or no warning.

The balance of power has also changed in ways that have nothing to do with the Soviet or Warsaw Pact threat. Before World War II, European powers defended Western interests, and often those of the U.S. While the U.S. emerged as a major maritime power between 1776 and 1941, it never had to act as the dominant power.

In the years since 1941, the U.S. has emerged as the dominant power securing the West's interests throughout the world and has become the only free world power that can secure the interests of all free world states. Decolonization began an irreversible process that has already stripped Europe's power projection capabilities to largely symbolic levels and is leading to a continuing decline in the forces that remain.

Even the term "Western interests" has become a strategic anachronism as the balance of economic power has shifted to favor Asia and as free nations have become at least partially dependent upon the U.S. in Latin America, the Middle East, the Gulf, and Asia. Japan and the NICS, however, have never developed power projection capabilities, and it is not in our interest for them to do so when they can make far more important contributions in the form of economic aid.

Future contingency requirements

No one has yet been able to predict the contingencies that have been most critical to our security. We became involved in two World Wars despite strong isolationist sentiment. We have been involved in several major, and numerous minor, military actions since the end of World War II that were not foreseen. By contrast, the long awaited Der Tag with the Soviet Union never came despite several promising opportunities. In short, the cumulative probability of having to deal with wild card scenarios has always proven greater than the probability of having to deal with the most frequently predicted case.

It is virtually certain that the future will involve fewer opportunities for confrontation with the Soviet Union or the Warsaw Pact, particularly in the Central Region. The fundamental issue dividing the U.S. and the Soviet Union has been the fate of Europe and the potential impact on the U.S. if Europe were to fall under Soviet domination. There does not appear to be any other issue that would compel the U.S. and Soviet Union to risk general war with each other as this issue fades into history. Regardless of the final form of "Glasnost", however, the world will remain a very troubled place.

As a result, our strategy, our forces, and the roles and missions of our forces must change to reflect both the decline in our real defense resources and the fact that most of the threats to our interests, and our friends and allies, outside of Europe remain and may even intensify.

Unfortunately, our dependence on energy imports is growing again and is projected to continue growing well into the next century with more than 35% of our petroleum products imported in the last year. We continue to be heavily dependent on imports for virtually all our critical minerals and most of our other raw materials.

Equally important, we are critically dependent on the smooth flow of world trade. The total volume of U.S. imports rose from $16.3 billion in 1960 to $42.6 billion in 1970, and $257 billion in 1980. U.S. imports have virtually doubled again since 1980, reaching $460 billion in 1988. Global trade in high technology has also more than doubled in the last five years. Trade in the five most critical technologies has risen from less that $90 billion in 1984 to more than $200 billion today.

The changes in the Soviet Union and Warsaw Pact threat have an important but limited impact in reducing the requirements for U.S. power projection forces. The U.S. still faces the risk of a significant conflict in Northeast Asia and in the Gulf. The U.S. has forces to meet such contingencies, but either one would require most of our power projection capability including forward deployed forces and prepositioned equipment.

Essential forces and force improvements for the 1990's

Given this strategic background, we can see the essential military capabilities we must preserve while seeking a peace dividend. They include:

Maintaining the U.S. Army capability to deploy contingency forces like the XVIIIth Corp to provide a mix of combat ready airborne and air assault capabilities for low intensity conflicts plus a rapidly deployable mix of mechanized and armored forces for medium and high intensity conflicts and sufficent reserve and National Guard forces to provide reinforcement in prolonged medium and high intensity conflicts.

Maintaining sufficient carrier task forces, rapid sealift, amphibious forces, and mine warfare capabilities for our power projection needs in the Atlantic, Pacific, Mediterranean, and Indian Ocean/Gulf.

Maintaining the three MEFs of the Marine Corps as an active forward deployed power projection forces with sufficient prepositioning, lift, and modernization to operate in both low and medium intensity conflict.

Maintaining sufficient conventional bomber, tactical air, and strategic airlift strength to deploy decisive amounts of air power in power projection missions for low, medium, and high intensity conflicts outside Europe.

It is important to note that some elements of these forces are currently underfunded. As a result, the U.S. must make the following investments in its power projection capabilities over the next ten years:

Give the Army's rapidly deployable combat forces the active combat and service support necessary to allow at least medium intensity combat without calling up reserve and National Guard units.

Provide the additional prepositioning and fast sea lift needed to provide suitable strategic mobility for the Marine Corps and the rapidly deployable Army forces requiring fast sealift.

Provide a suitable package of strategic airlift for the power projection of U.S. Army, Air Force, and Marine Corps forces for missions other than a major combat contingency in the central region of Europe.

Develop and deploy an advanced long range attack aircraft to compensate for the range, vulnerability, and mission limits of the F–16 and F–18, and provide suitable improvements in the theater air and tactical amphibious lift of the Marine Corps.

Bring the Marine Corps to three fully combat ready MEFs with the sustainability and equipment modernization necessary for medium intensity combat in the 1990s.

Correct the currently programmed obsolescence of the amphibious force.

These forces can be provided by combining the remaining forces in the Atlantic Force package with the forces in the other two packages of conventional forces presented in the Bush Administration force plans for fiscal year 1992–fiscal year 1996. These two packages include:

Pacific Forces whose primary mission is the defense of Northeast Asia and the Pacific Rim, including Southeast Asia. They seem to split the mission of covering the Indian Ocean, although this is unclear in the material issued to date.

Contingency Forces in the U.S. to provide global crisis and contingency response capability across the spectrum of conflict from counterinsurgency to major conventional conflict.

By the mid-1990s, the forces assigned to Pacific Forces are planned to include 1 Army

division and 1–2 Air Force fighter wings in South Korea; 1–2 Air Force fighter wings, 1 carrier battle group, and 1 Marine MAGTF in Japan; 1 light Army division in Hawaii and Alaska; and 5 carrier battle groups and support ships, and 1 Marine Expeditionary Brigade in the U.S. There will be roughly 30,000 military personnel in South Korea and 35,000 in Japan by the mid-1990s, a reduction from 45,183 in South Korea and 46,824 in Japan in 1990.

The forces assigned to Contingency Forces will include 4–5 Army Divisions, 7 Air Force fighter wings; Air Force Strategic Airlift, undefined remaining Navy and Marine Corps forces from the Atlantic and Pacific, the 8 SL–7 fast sealift ships, and the remainder of the Ready Reserve Fleet. The bulk of the Army forces in the Contingency Forces package will be drawn from the present XVIIIth Corps. They will include the 82nd Airborne and 101st Air Assault Division, and will probably include the 24th Mechanized Division and one to two other Army active divisions.

Preserving the power projection capabilities of the U.S. Army

If one looks at this pool of forces by service, an effective power projection strategy must be founded on a mix in which the U.S. Army provides the bulk of U.S. capability for sustained medium and high intensity combat and reinforcement, as well as Special Forces.

The most critical Army contingency forces now include the XVIIIth Airborne Corps with the 82nd Airborne Division (Ft. Bragg), the 101st Airborne Division (Ft. Campbell), the 7th Infantry Division (Ft. Lewis), the 24th Infantry Division Mechanized (Ft. Stewart), and the 10th Mountain Division (Ft. Drum)—and the three active divisions that are dedicated to the defense of the Pacific region and South Korea.

What is also needed, however, is a mix of 3–5 highly mobile heavy divisions in CONUS and Europe that can deploy within a few weeks to several months and provide the armor, artillery, and heavy weapons necessary for medium and high intensity combat anywhere in the world. These forces will need suitable training, equipment, sustainability, and strategic lift. They will have to be combat ready, although not necessarily at levels of 100% and be able to draw on reserves for combat and service support.

The elements of such a force are already present in the units the U.S. has developed for Europe. What is lacking is the fast sealift and maritime prepositioning and the detailed programming priorities necessary to convert these forces from NATO-oriented to power projection forces. Such changes should be accomplished over the FY1992–FY1996 period.

The role of seapower and the carrier battle group

The U.S. has already cut back to 14 carrier battle groups and two surface action groups centered around our two remaining battleships. It now plans to drop to 12 carrier battle groups and 13 carrier air wings, and eliminate all its surface action groups by 1991. The cuts suggested in this plan would entail further cuts to a force of 10–12 carrier battle groups with each of the remaining battle groups built around a smaller force of escorts.

The importance of the carrier is illustrated by its role in recent power projection missions. Throughout our history, and even during the height of the Cold War, the U.S. has primarily used military forces in the context of regional conflicts. We have used military force well over 200 times since the end of World War II. The numbers are not precise and some regional conflicts obviously derived from the central confrontation between the U.S. and the Soviet Union, however, it remains clear that seapower was used in over 80% of these incidents and carrier forces were needed in over half.

The figures are more precise for the period between 1945 and 1989. We have used our naval forces 187 times in the period between 1945 and November, 1989. We used our carriers in 125 of these 187 cases, 67% of the total.

While it is impossible to characterize our uses of sea power it terms of simple categories or patterns, the vast majority of our naval deployments provided the kind of rapid reaction capability necessary to keep a crisis from escalating. We used force to prevent war, to limit escalation; or to protect American citizens, friends, and allies. There have been, however, many cases where seapower played a critical combat role, including South Korea, Vietnam, Grenada, and the raid on Libya—just to name a few.

What is equally important in terms of our future strategic needs is that we relied primarily on the U.S. Navy and Marine Corps teams. We used amphibious ships in 101 of 187 cases, just over half the time. During 97% of the times we deployed Marine Corps forces we used the U.S. Navy as well. The U.S. Navy has also worked closely with the power projection elements of the U.S. Air Force and U.S. Army. U.S. Navy and U.S. Air Force units were involved in 54 of the 187 cases, or 29%. U.S. Army forces were involved in 34 cases, or 18%.

It is easy to forget that we have never funded the number of carrier task forces necessary to meet the Soviet and Warsaw Pact threat. During the last two decades, requirement study after requirement study has shown that the U.S. would need in excess of twenty carriers in the event of war between NATO and the Warsaw Pact. As a result, even "Peacetime" deployments to the Persian Gulf have forced us to extend carrier tours of duty well beyond the desired time in order to maintain an effective naval presence in other areas.

This sharply limits the "peace dividend" in the form of surplus carriers that we can eliminate because of the changes in the Soviet and Warsaw Pact threat. The potential loss of significant overseas bases—which will probably be increased by the decline of the Soviet Empire—may also make the future burden heavier yet.

We have further increased the burden on our carriers by making cuts in the size of our battleship forces in FY1991. The role of the battleship is badly misunderstood. We have stressed its ability to provide naval gunfire and there is no doubt that such capabilities are important and that the carrier must now assume the role of providing close air support as a substitute for naval gunfire.

We should, however, be willing to adjust the strength of our supporting surface fleet—and the rate of modernization of naval air power, nuclear attack submarines, and fleet weapons systems—to deal with a less sophisticated threat than the Soviet Navy.

The Bush Administration has already recognized this fact in plans that call for cuts in battle force ships from 545 to 451 ships. These plans, however, call for major reductions in amphibious capability from 59 active and 3 reserve ships to around 50 active ships and no reserve ships.

In contrast, the Navy places too much emphasis on preserving capability to fight a major action with the Soviet navy. While the number of major surface combatants is planned to drop from around 140 ships today to 134 ships by the mid-1990s, it will rise towards the end of the decade and reach nearly 150 ships.

The U.S. does not need the capability for a "forward strategy" that would attack the Soviet fleet in its bastions in the North Atlantic and Pacific. Such a strategy and force posture have become needlessly provocative and needlessly costly.

The U.S. can afford to unilaterally adjust its naval force posture and exercise activity to convince the Soviet Union that the primary mission of the U.S. Navy is power projection and sea control and not to directly threaten the Soviet homeland. At the same time, the U.S. can join with the USSR in strengthening existing agreements and confidence building measures that provide both nations with increased confidence that seapower will not be used to threaten each other's territory.

The end result would be smaller battle groups with a focus on modernization, rather than maintaining force strength. The 600 ship navy never had strategic justification and wasted precious U.S. power projection assets. By cutting fleet strength, and converting added ships to the naval reserves, the U.S. can provide the modern escorts, mine warfare ships, and other "coastal combat" capabilities needed to deal with increasingly sophisticated Third World threats and still cut costs.

The Navy can also help improve the carrier force by ensuring that the new F–18E/F program is re-examined to ensure that it will fully meet the need for a longer range and more attack capable multi-role fighter. At the same time, it is difficult to see what justification exists for a separate AX program when there is a clear need for a high degree of commonality with the Air Force for a high performance attack fighter.

The Air Force and Navy should be directed to restructure the ATF program to emphasize attack capabilities. The U.S. simply cannot afford two major aircraft programs at this level of sophistication for the late 1990s and early 2000s. If this entails major delays in the Navy's schedule for the A–X, it should be directed to remanufacture the F–14 to provide a suitable interim capability. The resulting program savings should allow the U.S. to modernize other naval aircraft, maintain the necessary mix of active and reserve air wings, and still cut defense expenditures.

Finally, the Navy now has 87 commissioned SSNs. It should be able to reduce this force to 80 SSNs by the end of the decade, even without any naval arms control agreements with the Soviet Union. These force reductions seem well judged, but the Navy's force improvement plans do not.

Maintaining the active strength of the U.S. Marine Corps

The United States Marine Corps is an elite force designed to provide quick reaction global power projection capabilities. It now has a strength of three active Marine Expeditionary Forces: These are land-air-amphibious task forces built around three divisions.

Two of these divisions are oriented towards the Pacific and Indian Ocean area: The First Division at Camp Pendelton and Twentynine Palms and the Third Division at Okinawa and Hawaii. The other division is oriented towards the Atlantic and Mediterranean Basin: The Second Division at Camp Lejune, North Carolina, and one in Okinawa. The key element of the Corps located outside the main division bases include a brigade in Virginia, a brigade and air group in Hawaii, air units in Arizona, and a wing in Japan.

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Some reductions in Marine Corps manpower strength are possible by cutting smaller units, but the Bush Administration now plans cuts that are too large. The MEFs now have only two brigades and one air wing each. Some are units assigned a secondary training role. The U.S. cannot achieve meaningful economies by cutting fully ready power projection forces, particularly since they already have seaborne prepositioning and sustainment. If the U.S. should destroy this existing capability, it will almost certainly find that it will have to be recreated later at greater cost.

Further, the Marine Corps must be given all the contingency capabilities needed for power projection in medium intensity, as well as low intensity combat, and mission capabilities with added sustainability and combat capability that is less tied to amphibious operations. The present structure of the Corps has created a force that is too light for many of the power projection missions of the 1990s, and which is too tied to a traditional role in "over-the-beach" operations. The U.S. cannot afford to limit one of its most critical power projection capabilities in this manner.

The Marine Corps must have the strategic and theater lift it needs to be effective, and the artillery and tanks to sustain itself in medium and high intensity combat. In the case of strategic and tactical lift, this requires a comprehensive re-examination of current U.S. amphibious lift plans which will now severely weaken the Corps' contingency capabilities after the mid 1990s, and a firm decision regarding procurement of the V–22. It also requires the development of an integrated long term plan that ties together amphibious lift, tactical airlift, maritime prepositioning, and overall sustainability.

The Corps also needs enough firepower and maneuver capability to deal with the armored forces of the best equipped developing nations. Marine forces are now too lean to provide its forces with the modern tanks and self-propelled artillery that are vital to effective future operations.

Marine Corps divisions with clear contingency missions are far less well equipped than Army reserve heavy divisions, whose European contingency mission no longer has its past priority. During the Gulf War, this led to a situation where Marine Corps divisions had obsolete M–60A1 tanks, while reserve units that remained in the U.S. had M–1s. This situation needs to be fully reexamined. It may be possible to upgrade Marine Corps land forces by reprogramming procurement funds away from Army reserve units.

Similar problems exist in Marine Corps tactical aviation. The problems in modernizing U.S. Navy aircraft have led to a situation where no clear plan exists to fund the modernization of Marine Corps tactical aircraft. The AV–8B badly needs upgrading and modernization and a clear plan is needed for the overall modernization of Marine Corps fixed wing and rotary wing aircraft.

Finally, we must firmly accept the fact that the basic rationale for the Marine Corps is that its forces already exist, are fully funded and ready, and provide a vital strategic capability. The issue of whether the Marine Corps does or does not duplicate the Army in some capabilities is moot. Combining the forces, or "rationalizing" them in some other fashion would not save money or improve U.S. power projection capabilities, and would almost certainly leave a lasting legacy of problems in morale.

Preserving the power projection capabilities of the U.S. Air Force

The Air Force provides high technology strike power, air defense capabilities, and strategic lift that can rapidly deploy to any friendly base, rapidly changing the regional balance of power in most non-NATO contingencies. In combination with Navy and Marine Corps aviation, it forms the most effective single branch of our power projection capabilities in terms of the ability to react quickly to an unforeseen crisis, support allied and friendly forces, and confront hostile Third World states with capabilities they cannot defend against effectively or match in strike power.

The Bush Administration plans to cut the total number of Air Force tactical fighter wings from 36 to 26 wings, with active wings being cut from 24 to 16 wings. The suggested force cuts would add 2 to 4 active and 5 to 7 reserve wings to this total. The remaining force is a bare minimum to provide power projection capability while providing a prudent reserve for other contingencies. The U.S. must not risk cutting this strength further, or its mix of Navy and Marine Corps aviation.

There is a high risk, however, that such forces will be inadequate because the Air Force has not funded the F–15E or any other long range high capability strike fighter for the late 1990s or early 2000s. The present program calls for a moderate range and capability multi-role fighter and an extremely expensive fighter oriented for air defense may—like funding of the B–1—be an outdated expression of the past mission emphasis of the Air Force and the Cold War.

Emphasis should be given to developing an upgrade of the F–16 or F–15 to provide improved attack capability in a multi-role fighter, while reorienting the ATF program to emphasize long range and high performance attack capability.

If the U.S. Air Force slows the pace of other aircraft and weapons modernization, as has been suggested earlier, and makes the proper cuts in strategic forces, it should be able to fund the mix of active and reserve tactical air forces it will need for the 1990s. The Air Force should also have sufficient resources for its airlift and surveillance and reconnaissance missions.

The Air Force and Navy both need to reexamine their plans for air munitions. Both are now committed to a number of very advanced missile programs, and are canceling production of proven systems like the Phoenix and Maverick. It may well be able to sustain the munitions levels it needs for proper sustainability by continuing production of advanced versions of existing missiles, and slowing the procurement schedule for more advanced systems.

Changes in U.S. strategic lift

Operation Desert Shield and Operation Desert Storm were only possible because of U.S. strategic lift. During the period before the war started (through December 31, 1990), the U.S. was able to move more than 300,000 troops and 305,000 short tons of cargo by air, 220,000 ton of equipment and supplies and 190,000 barrels of fuel from its prepositioned ships and tankers, and 2.5 million short tons of cargo using sealift.

Current U.S. strategic lift plans are sized to provide two major capabilities. First, to deploy about five Army divisions, along with tactical fighter and naval forces, in about six weeks. Second, to augment the U.S. forces in Europe with about 4 Army divisions, 30 tactical fighter squadrons, 1 Marine Expeditionary brigade, and their associated support within 10 days, and to deploy the remaining forces in two to three months. In addition, the U.S. has nine Maritime Prepositioning Ships (MPS), 8 afloat prepositioned ships, and 2 prepositioned tankers.

The U.S. no longer needs all the lift required for the European augmentation mission. This is a vestige of the Cold War. The U.S. does, however, need sufficient lift to deploy heavy Army divisions for a high intensity conflict in the Third World, suitable lift for its tactical air forces, and the amphibious lift and prepositioning ships needed for the Marine Corps.

The U.S. now has an aging fleet of air transport aircraft, and one key aircraft—the C–141—may have to retire earlier than planned. This makes procurement of the C–17 a critical priority for power projection. The U.S. is also dependent on eight fast deployment ships, 23 other cargo ships, 41 tankers, and an aging Ready Reserve Fleet assigned to the Maritime Administration, which currently has very low operational readiness.

The U.S. must create a new affordable mix of strategic and tactical lift that ensures the C–17 will be procured on schedule, and that sufficient fast sea lift ships are available to rapidly move several Army divisions. It needs at least one more maritime prepositioning ship for the Marine Corps. It does not need to fund sealift for a major European war.

The Air Force may have suitable funding plans for the C–17 in the FY1992–FY1996 program—although much depends on the ability to avoid past problems in cost growth and program management. The Navy, however, is again "studying" the sealift problem, plans major cuts in the amphibious force, and force of ammunition, supply, repair, and salvage ships. It also has not funded the added maritime prepositioning needs of the Marines.

Secretary Garrett has stated that, "The lessons learned in Desert Shield and initial analyses conducted in the requirements study indicate that large, roll-on/roll-off ships in the speed range of 19 to 25 knots should be the general target of our acquisition program, and that, "we hope our analysis will be completed some time this summer to provide a firm requirement . . ."

This issue has been studied long enough. The FY1993 budget submission should have a clear request for funding and operating the additional fast sealift ships needed for power projection, it should fund at least one more MPS ship, and should fund an adequate level of amphibious forces and modernization. It should also examine buying maritime prepositioning for the Army and accelerating the draw down of Army prepositioned equipment in Europe. At the same time, the U.S. military cannot and should not subsidize the U.S. commercial fleet and ship building industry. The sealift we need should be procured in the most cost-effective manner possible.

Further, both sea and air lift requirements should be sized for power projection. Present requirements are sized for long, relatively intensive wars that begin with little or no warning. Major improvements in airlift are funded around a troubled program—the C–17—with sealift given lip service. Strategic lift capabilities are not adequately tied to theater lift, and lift requirements have not been regularly updated to deal with changes in contingency requirements.

The U.S. needs to eliminate reserve fleet ships and subsidies to merchant shipping geared to long wars in Europe. Clear decisions are also needed regarding the relative merits of a C–130 follow-on, the V–22, and heliborne lift. This will not achieve savings, but it will create a more effective force mix with the lower strategic lift budgets planned for the 1990s.

Savings in support and infrastructure

Even in the case of power projection forces, it should be possible to achieve major savings by making major cuts in the large numbers of headquarters units, support commands, and other "infrastructure" forces and facilities in the U.S., and in costly overexpansion efforts like "homeporting".

Too much of our current debate over defense spending focuses on the units we need most, and ignores the fact that behind our combat forces is a massive structure of other elements tailored for the contingency of a massive conventional war in Europe. This is the real "fat" in our defense effort and it should be possible to make 10–15% cuts in all headquarters and infrastructure forces over the next two fiscal years. This will achieve a major additional "peace dividend" with minimal impact on our contingency capabilities.

At the same time, it is essential that we restructure our reserve and National Guard forces to provide the kind of reinforcement and sustainability we need for regional contingencies. Reserve and National Guard forces are highly cost-effective—when they are given the resources they need—and they are tailored to missions they can perform without major additional training in a crisis. We need to restructure our reserves to support power projection, rather than a war in Europe.

Creating a new total force concept to balance active and Reserve Forces

This shift to a power projection force posture must be accompanied by the creation of a new total force concept. In spite of recent reports by the Department of Defense, there is no total force concept that ties together plans for active and reserve force strength, manning levels, training readiness, lift and sustainability. Each of these areas tends to be dealt with separately, and "war stoppers" often exist in one or more areas while the others are fully funded.

These problems are compounded by a command structure that originated at the height of the Cold War. We need to re-examine present command structures and the roles and missions of these commands. In particular, it does not seem useful to continue to put Africa under USEUCOM, or leave USCENTCOM so vaguely defined in terms of its associated forces and supporting seapower.

TECHNOLOGY, PROCUREMENT, AND DEFENSE INDUSTRIAL POLICY

Implementing the preceding plans will ease some of the growing problems in preserving our defense industrial base in the areas where we need it most by maintaining the production of existing systems and slipping advanced technologies until they are more mature and affordable.

There is no question, however, that the Department of Defense must stop attempting to deal with the defense industrial base as if a government subsidized mix of highly specialized companies could adjust to defense cuts on the basis of market forces and still preserve the ongoing surge production capabilities, and mix of overall production capabilities, needed during the next decade.

The Department of Defense needs an integrated plan for research and development, procurement, and the defense industrial base which uses competition where this is still possible, but which ensures that a mix of low rate production and emphasis on "centers of excellence" and contingency production capabilities in the U.S. can meet its future needs.

This requires a fundamental change in the way the Department of Defense treats procurement and in the way the Congress reviews both R&D and procurement. The Department has consistently ignored the economic realities that defense industry faces, and has tried to shift the burden of defense cuts to industry without considering what must be done to keep production capability alive.

It has cancelled existing production programs, and created potential production gaps of half a decade or more, as if private industry could somehow "mothball" design and production capabilities. It has stressed efficient rates of production to produce short term savings in unit cost without adequate consideration of what this is doing to the long term efficiency of the American defense industry.

The Department has also failed to come to grips with the need to make clear choices between the preservation of critical production capabilities in the U.S. and interdependence with our friends and allies. The U.S. cannot afford either excessive dependence or futile efforts at autarchy.

At the same time, the Congress has increasingly attempted to micromanage the Department's research and development programs in ways that serve various state and local interests, but are divorced from the fact that no lead in technology is meaningful unless it can be transformed into affordable military equipment. It has risked overfunding research that cannot be translated into procurement, and underfunding the development activity defense industries needed for actual production.

Both the Department and Congress have also failed to put sufficient emphasis on finding ways to transform military designs to make increasing use of technology and production capabilities in the civil sector. The need to shift the design focus of military procurement away from specialized components and production capabilities has been given little more than lip service.

In short, the U.S. must develop a clear plan for defense production and maintaining the key elements of our defense industrial base that focuses on meeting military needs, while carefully avoiding subsidies to given industries and "critical technologies".

While the Bush Administration has indicated that it will address these issues in its FY 1993 defense budget request, its plans remain vague and poorly defined. They are also limited by a Congressional focus on cooperative projects with our allies that have generally failed to save money, produce effective equipment, and meet U.S. requirements, and by a focus on "critical technologies" which involve extensive guesswork about future military needs, are often isolated from the needs of civil industry, and are more suitable to the Cold War than power projection.

What is clearly needed is a focus on actual procurement needs and the production and R&D base necessary to meet them. We need to preserve critical production capabilities or we will never be able to make effective use of critical technologies. We also need to know when we must turn to production methods and technologies available in the civil sector because we can no longer afford to maintain a defense industrial base that is decoupled from the civil economy.

This requires a new type of industrial planning by the Department of Defense, and we must recognize the special nature of the defense industry and the fact that the only way we can deal with the coming cuts in defense procurement is to have a clear defense industrial plan. Half measures, and a focus on technology, will not cope with the problems we face in reshaping key industries like aerospace, electronics, ship building, and nuclear reactor construction to meet our future needs.

BURDENSHARING AND COOPERATION: THE OTHER ELEMENTS OF A PEACE DIVIDEND AND EFFECTIVE STRATEGY

Finally, a peace dividend and power projection strategy must take into account the need for improved cooperation with our allies, and effective burdensharing. The U.S. must not plan its forces in a vacuum. It must accept the need for regional and global partnerships.

The role of allied nations

In the case of Europe, the end of the Cold War means that the defense of Europe should become a European problem. This does not mean that the U.S. should abandon Europe. It does mean that Europe should contribute a far larger portion of Europe's defense, that it should cease to ask the United States to dedicate land and air forces solely to the defense of NATO, and that the U.S. should act quickly and decisively to make Europe assume responsibility for a greatly increased role in its defense.

In the case of Japan, Japan does not need to expand its forces, but it does need to formally accept the fact that the primary function of the strategic partnership between the U.S. and Japan has shifted from the defense of Japan against a Soviet threat to the preservation of strategic stability in Northeast Asia, the Pacific, and Southwest Asia.

More broadly, our wealthier European, Japanese, and Gulf allies must share at least the financial burden of executing those power projection missions that serve their regional and global interests. If they do not play an active military role, they must use their wealth to aid those who do, and to match military action with the economic and military assistance which is often a vital supplement to, or substitute for, the use of military force. There is no partnership without participation, and Germany and Japan must realize that the time has ended when they can stand aside from their responsibilities.

The role of military assistance

Like burdensharing, military assistance is a critical "force multiplier" in an era where the U.S. must cut its own forces and capabilities. The U.S. cannot afford to be the world's policeman; it can only act in conjunction with regional allies, and its allies must be strong enough to deter or counter low to mid-intensity threats wherever possible.

This requires the U.S. to make fundamental shifts in its approach to military assistance from an approach centered around containment of the Communist threat to one centered on regional peace and stability. In many regions, particularly the Gulf and Asia, military assistance also now means providing the weapons and technical assistance our allies need at fair market value, rather than through grants or preferential loans.

This does not mean that the U.S. should encourage massive arms transfers to its allies, or see such arms transfers as the solution to regional arms races. It does mean that the U.S. should do everything possible to encourage regional solutions to regional problems, and should limit its forward deployed and over-the-horizon forces to roles that its allies cannot assume.

Using the advantages of foreign deployment while minimizing costs

The U.S. must adopt a clear strategy towards foreign deployment and basing (with its attendant reliance on allies), burdensharing and military assistance. Both we and our allies need to recognize that we cannot base our strategy and force structure on a "go it alone" approach to power projection. The U.S. must limit its commitments and costs by steadily integrating its power projection concepts with those of regional friends and allies.

The U.S. can almost certainly make reductions in its present overseas strength—even in major threat areas like Northeast Asia. We need to recognize, however, that these forward deployed forces offer the maximum degree of deterrence and ability to deal with a crisis or conflict early enough to minimize the required use of force.

In many cases—particularly Japan and South Korea—our allies have already increased their burden sharing efforts to the point where forward deployment will be cheaper than relocating and maintaining these forces in the U.S. and paying for the strategic mobility required to send them back under emergency conditions. In all cases, active forces in the U.S. will have far less deterrent value and reserve forces will be so intangible that they may have no deterrent value at all.

The role of arms control

Wherever possible, we must use arms control as a substitute for arms, and we must reexamine how arms sales and military assistance can act as a substitute for U.S. military power.

START and CFE already are examples of the kind of agreements that both help achieve military stability and deter war, and that offer both the U.S. and USSR the ability to substantially reduce defense spending in areas that no longer have a major priority for either nation.

We need to aggressively push arms control options in the other parts of the world. Arms control efforts like the renegotiation of the Nuclear Non-Proliferation Treaty, Biological Weapons Convention, draft Chemical Weapons Convention, and Missile Technology Control Regime offer the safest and cheapest road to eliminating the risk of conflicts involving the use of weapons of mass destruction. The end of the Cold War offers a steadily expanding range of opportunities for East-West action in each area, and allows us to rethink all our present objections to intrusive inspection.

We also need to explore every possible route to halting the shipment of conventional arms and military technology to aggressor and terrorist states. The supplier's conference is a first step to this end, but we need to develop a clear recognition on the part of both East and West that there are no real profits in the arms trade to such countries. The end result inevitably conflicts with which cost supplier nations far more in terms of overall trade, aid, and military action than any such arms sales are worth.

Finally, we need to consider whether we can enhance our security and achieve major savings by seeking naval arms control with the USSR in sizing our respective submarine forces. The SSN is the primary threat to the SSBN forces of each side, to the maritime traffic of the West, and to the security of Soviet naval bastions. The ASW/SSN race is also one of the most expensive aspects of defense activity by both the US and USSR.

While most forms of naval arms control present the problem that the U.S. and USSR have fundamentally asymmetric strategic needs, reducing SSN strength and modernization rates might well suit the needs of both sides. They could also achieve broader strategic stability and permit larger reductions in strategic weapons.●

AIDS UPDATE

● Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of October 31, 1991, 199,406 Americans have been diagnosed with AIDS; 126,491 Americans have died from AIDS; and 72,895 Americans are currently living with AIDS.

Mr. President, two recent events will likely change—perhaps dramatically—the face of the AIDS epidemic in the United States. One is the announcement of basketball star Magic Johnson of his HIV-positive status, prompting an awakening by many Americans to the reality of who gets AIDS and how. The other is a new definition of AIDS by the Centers for Disease Control, a move that will broaden the current clinical disease manifestation diagnosis definition to include anyone who is HIV positive and shows evidence of immune system suppression.

The disclosure by Magic Johnson shattered the stereotypes much of our society holds about those who acquire AIDS. Johnson is one of the world's most accomplished and admired athletes. He acquired the AIDS virus, by his own account, through unprotected heterosexual sex. For millions of Americans, the implication is clear: As medical authorities have long warned us, the AIDS virus is not a respector of sexual orientation, or gender; drug abuse is not always a cofactor. So-called high-risk groups are not the only ones to get AIDS—in fact, who you are has nothing to do with whether a person is in danger of being infected. What matters is what a person does.

Magic Johnson's decision to go public about being HIV-positive is a profound public service. Millions of Americans, especially young Americans, are getting a critically important lession in the epidemiology of AIDS. Lives will have been saved by Magic Johnson's selfless action. More lives will be saved by his decision to making fighting the AIDS epidemic a personal mission. I am heartened, too, by President Bush's announcement that he intends to appoint Magic Johnson to the National Commission on AIDS.

In January 1992, the Centers for Disease Control will redefine AIDS, replacing the definition last revised in 1987. The proposed new CDC guidelines will measure the degree of immune suppression by the loss of T-helper (CD4) cells and will no longer rely solely on clinical disease diagnosis. Under the previous AIDS definition, persons were diagnosed as having AIDS when certain medical symptoms appeared, many of which are now seen as advanced indicators of the disease. The new definition will allow for an earlier diagnosis of AIDS, triggered by reliable indications of a compromised immune system, which will allow many people to get earlier treatment and to plan better for the long-range effects of their illness, both medically and financially.

Dr. James Curran, head of the AIDS division at the CDC's National Center for Infectious Diseases, predicts that the broader definition could add 150,000 to 200,000 to the national AIDS caseload. Early drug therapy, already proven to be very important, will become vitally important, as will the need for early treatment and counseling of lifestyle changes. As we now know, the onset of more serious manifestations of the AIDS virus can be at least delayed by early diagnosis and treatment and the quality, even the quantity, of life for the HIV-positive person can be greatly enhanced.

As we look ahead in Federal policy making, there are issues raised by the redefinition of AIDS that will require attention. Federal funding formulas are often linked to the CDC definition of AIDS. Under the Ryan White CARE Act, for example, as many as nine new title I cities—cities heavily impacted by AIDS cases—may qualify for Federal assistance under the new AIDS definition. Under programs such as Social Security the new definition will likely affect the criteria for presumptive eligibility. There will be an impact on the drug approval process, since the CDC definition of AIDS is often used as an endpoint in clinical trials and CDC counts are often the basis for determining the efficacy and approval of experimental therapies.●

THE VETERANS HEALTH CARE AMENDMENTS ACT OF 1991

● Mr. KERREY. Mr. President, I am pleased to support S. 869, the Veterans Health Care Amendments Act of 1991.

This legislation will expand the medical services available through the Veterans' Administration, especially in the areas of post-traumatic stress disorder [PTSD] and mental health research and education. It also includes a new effort to meet the needs of homeless veterans.

The National Vietnam Veterans Readjustment Study [NVVRS] documented a large unmet need for PTSD treatment and services. Yet attention to this need has been slow to materialize. We have added some funds in the appropriations process over the past several years to initiate programs but it is only with this legislation that service people will qualify for care without going through the lengthy process for formal adjudication of service connection. In addition, various outreach and counseling services for PTSD are authorized.

S. 869 also requires the VA to establish five mental illness research, education, and clinical centers. The purpose is to improve and expand the capability of VA health facilities to respond to mental illness disabilities, such as PTSD, schizophrenia, and drug and alcohol abuse. They would be charged with research, training and education of professionals, and development of new models for care and treatment. The centers are to be affiliated with medical schools.

Studies have suggested that the number of homeless veterans probably ranges between 150,000 and 250,000. Many of these veterans are mentally ill and/or have serious medical problems. The legislation builds upon the efforts that are underway, extending the Homeless Chronically Mentally Ill Veterans Program, requiring a new assessment of needs of homeless veterans, authorizing a new pilot program of cooperation between the VA and community-based organizations at 15 sites and expanding the domiciliary care program.

Finally, the bill makes numerous other changes in VA health care which are designed to make the VA health care system more responsive and efficient.

My experience as a veteran has taught me the need for quality health care. My experience as a member of the VA-HUD-Independent Agencies Appropriations Subcommittee has taught me the scope and complexity of health care problems facing our veterans today and in the future as our veterans population continues to age. This legislation is another step in our efforts to provide the quality of care which our veterans need and deserve.●

TRIBUTE TO JOHN FINNAN

● Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky businessman who has left behind 17 years of success in the corporate banking world to pursue his dream of opening a small community bank in northern Kentucky.

This summer, John Finnan left his job as senior vice president of the largest financial institution in northern Kentucky to begin working on plans for Peoples Bank of Northern Kentucky, an institution he envisions as a local, personal bank. Since August, Mr. Finnan has been working around the clock from his Fort Mitchell dining room, lining up investors. Already, the new bank shows promise of success.

The Federal Deposit Insurance Corporation has approved Finnan's bank, and Peoples Bank of Northern Kentucky is now scheduled to open January 2, 1992. Mr. Finnan had originally planned to sell $4 million in stock for startup capital. However, interest has been much higher than expected—more than 200 people have invested $6.5 million in the bank, and Mr. Finnan expects the total to reach $7 or $8 million by January.

John Finnan's decision represents his ongoing commitment to the people of northern Kentucky. He says he's always dreamed of operating a bank where the customers are known by their first names, and are more than just account numbers.

Mr. Finnan is also an active community leader. He has been a member of the Spiral Festival board, Junior Achievement board, and Greater Cincinnati Red Cross board. He also just finished a stint as chairman of the Northern Kentucky Chamber of Commerce.

Mr. President, I congratulate John Finnan for his efforts, both personal and professional, to further enhance the quality of life in northern Kentucky. Please insert the following article from the Kentucky Post into the RECORD:

[From the Kentucky Post, Oct. 22, 1991]

BANKER TAKES CHANCE ON DREAM

(By Tim Stein)

After 17 years climbing the corporate ladder at established banks, John Finnan quit.

Since Aug. 1, he's worked 12- to 18-hour days in his Ft. Mitchell dining room lining up investors in his dream.

That dream will take Finnan from senior vice president of Star Bank, the largest financial institution in Northern Kentucky, to president of a small community bank that will first open in a Kenton County trailer.

"It was a big chance, but it was one I needed to take," Finnan said. "I've always thought there was a market for a local, personal bank. But unless I took the chance there was never going to be a way for me to find out."

Finnan will find out soon.

The new bank has been approved by the Federal Deposit Insurance Corp. and will open Jan. 2 near Lookout Farms in Crestview Hills.

Already, the new bank shows promise of success.

Finnan had planned to sell $4 million in stock for start-up capital. But more than 200 people have invested $6.5 million in the new bank. Finnan expects that total to reach $7 million or $8 million before it opens.

"It's already gone way beyond my complete expectations," said the 38-year-old Finnan. "It's been very reassuring that people believe in me and the concept of the new bank enough to purchase that much stock."

Most of the bank's founders are not bankers, Finnan said.

"The people who are investors are neighbors, are friends, are people who I've dealt with on a professional level for the 10 years that I've been here," he said.

"Never in my wildest dreams did I think it would take off like this," Finnan said.

But success has followed Finnan throughout his banking career.

Finnan, 38, who grew up in Richmond, Ind., graduated in 1975 from Miami University, Oxford, Ohio, with a degree in business administration.

His first banking job was as a teller at Richmond Bank during the summer of 1974.

"I fell in love with banking that summer and decided that's what I was going to do for a living," Finnan said.

After graduating, Finnan became a management trainee with Richmond Bank, then moved up to branch manager in 1976.

He graduated from Ball State University, in Muncie, Ind. in 1978 with a masters degree in management, and progressed to installment loan officer, commercial loan officer and in charge of branch banking with Richmond Bank.

In 1980, Finnan went to work in Jacksonville, Fla. for a statewide banking institution that loaned money to retail businesses.

In December 1981 he moved to Northern Kentucky, where he became vice president of branch adminstration and marketing for Peoples Liberty Bank.

He moved up to executive vice president of Peoples in March 1986, and became president of Peoples Liberty Banking Corp., in December 1987.

When Star Bank bought Peoples Liberty in 1988, Finnan remained with Star as president of its Kenton County affiliate bank, and then as senior vice president when its Northern Kentucky operations merged.

The merger of Star's Northern Kentucky operation and Kentucky National Bank earlier this year created the largest bank in the area, but Finnan felt it also left a void.

He saw his chance to open a community bank.

The new bank will be called Peoples Bank of Northern Kentucky. "It (the name) has name recognition from Peoples Liberty Bank name and it also gives the image that we're trying to project," Finnan said.

"I've always dreamed of operating a bank where you know your customers by a first name basis, and where people are more than a checking account for loan number," Finnan said.

"I could have played it safe and stayed with Star, which is a fine institution," he said. "But this was an opportunity for me to proceed with my dream."

Finnan works on that dream from 6:30 a.m. until after midnight most days.

"I really thought I would have some time to myself since I was working out of the house, but boy, I was sure wrong," he said. The phone rings more than 25 times a day with people interested in buying stock or finding out more about the new bank.

"If I'm not on the phone then I'm doing paperwork. If I'm not doing paperwork I'm out somewhere at a meeting.

"I'm all there is right now, and I really don't mind the long hours," he said. "When the bank finally gets off the ground, I'll probably have some time to myself."

At least he hopes so.

Finnan, who is divorced, plans to remarry next month.

A year or so ago Finnan attended his high school reunion in Richmond, and remet classmate Susan Kinder. Although they didn't date in high school, Finnan said they hit it off well and fell in love. The couple plans to take a short honeymoon.

"We'll take an extended honeymoon next summer after the bank opens," Finnan said. Finnan has an 8-year-old daughter, Stephanie, who lives with him.

Finnan has also been very active in the Northern Kentucky community.

He has been a member of the Spiral Festival board, the Community Chest board, Junior Achievement board, Greater Cincinnati Red Cross board, just finished a stint as chairman of the Northern Kentucky Chamber of Commerce, and was in charge of the United Way drive in Northern Kentucky several years ago.

"I love this area, and I plan to stay here for the rest of my life," he said.●

RETIREMENT OF WILLIAM NAHAS

● Mr. DODD. Mr. President, I rise to pay tribute to Mayor William "Willie"

Nahas, whose inestimable contribution to the city of New London cannot be overstated. Last week, Mayor Nahas passed the reigns of city governance to his successor, Mr. Anthony R. Basilica, after 20 years of faithful service on New London's city council. Swinging the gavel for the last time as Mayor on November 18, Mayor Nahas presided over the changing of New London's guard with amiable grace and honesty that has characterized his political career and earned for him the trust, respect, and reverence of the community.

Known affectionately to all, from constituent to colleague, as Willie, Mayor Nahas' approach to leadership placed the city's needs before party affiliations and personal advancement and, by the strength of his example, achieved a spirit in municipal government of true bipartisanship. Indeed, Willie's ties to the Republican Party have always been incidental to his politics, guided as he is by a devotion to the well-being of New London and an ardent parochial loyalty in short supply these days.

The adjournment of Monday's city council meeting marked the resignation of this mayor for all seasons who has sometimes stood alone, amidst a furor of doomsayers, in his unflagging optimism and belief in the certain recovery of the beleaguered New London economy.

No one who knows Willie doubts that his rich trove of experience and his great commitment to seeing New London on top again will continue to influence and enhance that city's political landscape. For me and all these who have been privileged to witness the effect of Willie's terrific spirit on a community determined to carry out his vision for it, Willie will always be on top.●

THE CONVENTIONAL FORCES IN EUROPE TREATY

● Mr. KERREY. Mr. President, I would like to express my strong support for ratification of the Conventional Forces in Europe [CFE] Treaty.

While the world has changed dramatically since this treaty was negotiated, and even since it was signed, it represents an important step that will assist us in making greater arms reductions down the road with the START Treaty and beyond.

The CFE Treaty's preamble lays out three primary objectives: To establish a secure and stable balance of conventional armed forces in Europe at lower levels; to eliminate disparities prejudicial to stability and security; and to eliminate the capability of a State or States to launch a surprise attack or to initiate large-scale offensive action in Europe.

On all three counts, I believe ratification of the treaty is justified. By requiring major cuts in Soviet Armed Forces, the treaty will enhance the security of NATO nations and also the emerging democracies of Eastern Europe. It codifies the Soviet Union's military withdrawal from Eastern Europe and promotes stability in the region. It will allow us to continue to move beyond the framework of the cold war to a new era characterized by cooperation rather than competition.

The treaty is an important benchmark. It requires that the Soviet Union destroy or disarm more than 20,000 of the 73,000 tanks, artillery, and other heavy weapons used by its forces west of the Urals. This figure, however, does not include the reductions in Soviet conventional power in Europe since the CFE negotiations began in 1989. When measured against the level of Soviet weapons deployed less than 3 years ago, the Soviet Union's arsenal will be reduced by more than two-thirds under the treaty.

I am pleased that the Senate adopted amendments related to the potential impact of future events in the Soviet republics. In particular, I support a move requiring that the administration seek Senate approval of any treaty changes required if the Soviet Republics split off and disavow the agreement. I also support Senator COHEN's effort to require the President to seek a Senate resolution of support if the decision is made to stick with the treaty even if a republic does not observe the weapons ceilings. The issue of republics' adherence to the treaty is an important one. In the event that one or more republics decline to respect the treaty it is important that we make their adherence to the treaty a high priority.

I welcome the changes called for in this agreement.●

YOUTHBUILD ACT OF 1991

● Mr. D'AMATO. Mr. President, today I am pleased to join my distinguished colleague from Massachusetts, Mr. KERRY, as a cosponsor of Senate bill 1100, the YouthBuild Act of 1991.

The effects of this legislation are far-reaching. By coordinating education and employment opportunities, it provides school dropouts the opportunity to develop technical skills while allowing apprentices to gain on the job experience and training. There is also a second and equally important facet to this legislation, and that is the role that it will play in combating homelessness and fostering neighborhood improvement.

The need for this type of program is overwhelming. Just last year we had 36,471 high school dropouts in my State alone. We also have countless numbers of homeless people on the street every night. Millions of people nationwide are being priced out of their homes. We need affordable housing. We need skills training for disadvantaged youth. This program merges those desperate needs.

Already there are three highly successful YouthBuild programs in my State alone. These programs have become models for similar programs nationwide and in fact serve as the model for this legislation.

The roots of YouthBuild came out of Manhattan and the Youth Action Program of East Harlem. The Youth Action Program provides a comprehensive approach toward expanding life choices and work opportunities for Latino and Afro-American youth. Youth Action's Construction Training Program provides school dropouts with construction skills while they rehabilitate abandoned buildings for badly needed housing for the homeless and low-income families.

In New York City, the Youth Action Program is currently rehabilitating a row of abandoned tenant buildings in East harlem which at one time housed a local gang. These programs are working in neighborhoods of high crime and drug activity. They have become a ray of hope for disadvantaged youth who would not otherwise have this opportunity to improve their life.

But there is more to the YouthBuild Program than the benefits attained from the skills, training, and workplace experience for disadvantaged youth. In preparation for employment in the construction field the individuals involved in these programs supplement their work experience with classroom academics and have the opportunity to earn their graduate equivalency diploma. Individual counseling, peer support, drivers training, parenting skills, and a host of other activities help make this a successful program.

The YouthBuild Program, and this legislation, contain valuable ideas. I believe that the Congress should include these ideas in next year's housing bill or other legislation. The Federal Government ought to support local efforts to revitalize communities and build a high skills, high quality, high performance work force for tomorrow. It's time that we invested in human capital, an idea that has been overlooked for too long.

Finally, Mr. President, let me reiterate how this program simultaneously addresses many serious problems affecting our youth, our cities, and our country. This bill supports a proven program that encourages and enhances the opportunities for disadvantaged youth to obtain education and develop employment-related skills that will enable them to enter the work force as productive employees and good citizens.

The youth are weighed down by anchors of drugs, crime, poor public education, and scarce employment opportunities. This bill attempts to cast off those anchors and enables the program's participants to chart their own course in the Nation's economic waters. As they do so, they will contribute to the economic growth of the entire country—increasing productivity, unleashing potent economic forces, and improving the financial position of all citizens.●

THE PRIMARY HEALTH CARE INVESTMENT ACT OF 1991—S. 1912

● Mr. PACKWOOD. Mr. President, I have signed on as a cosponsor of S. 1912, the Primary Health Care Investment Act of 1991.

This bill, introduced by my distinguished colleague, Senator DOMENICI of New Mexico, would be a transfusion of hope into our community health centers. This is particularly true in the rural areas of my State of Oregon, where many people will be the recipients of this primary care.

At the present time, 6 million people receive comprehensive primary and preventive health care through our Nation's community health centers. Eight million more people who presently do not have any health insurance will be helped by this legislation. The bill expands the Community Health Center Program by authorizing a 20-percent increase in funding for each of the next 5 years.

The Community Health Center Program is often overlooked as one of the very bright spots in our oft-maligned health care delivery system. Specifically, Mr. President, at a time when health care access and costs are one of our country's most talked about concerns, this bill goes a long way toward helping those Americans with no primary and preventive health care. There is just not another health care program for so many people for so few dollars.

According to the Congressional Budget Office, the community health centers provide primary care to the uninsured for under $90 per patient a year. Under the Medicaid Program, the cost to the system is $625 per person, 600 percent more. Imagine, $90 instead of $625 per person.

The bill also helps those rural areas where there is a critical shortage of health care professionals. It increases the funding for the National Health Service Corps [NHSC] Recruitment Program.

The legislation helps get more caregivers to our underserved rural areas and also into our inner cities. It also encourages hospitals to start recruiting and training more primary care physicians right now.

Mr. President, I am pleased to add my name as a cosponsor of S. 1912 and urge my colleagues to consider doing the same.●

● Mr. DODD. Mr. President, I rise today to pay tribute to a remarkable woman known for her outstanding work for her State of Connecticut and for the entire Nation. Mr. President, this woman is Marian L. Heard, and I am proud to announce that she has recently been named the first woman and the first African-American to head the United Way of Massachusetts Bay.

Marian has been with the United Way of Eastern Fairfield County since 1974, having joined as a child care program specialist. At the United Way, Marian has served in a wide range of positions including director of membership, director of allocations, director of operations, and associate executive director. In 1989, she was appointed executive director and in 1990 was appointed president and chief executive officer. As president and chief executive officer Marian played an integral role in the administration of the United Way community service system affecting the towns of Bridgeport, Fairfield, Easton, Stratford, Trumbull, and Monroe.

In addition to serving on several regional United Way committees, Marian has served her Bridgeport community as a member of the Governor's child day care council, as an instructor at Housatonic Community College, and as a leader in fighting the battle against cocaine use in Bridgeport.

It comes as no surprise, Mr. President, that Marian has received much recognition for her community service. She has won awards from such social service organizations as the American Cancer Society, Big Brothers and Big Sisters of Fairfield County, the United Way of America, and the YWCA.

At the national level, Marian is an active member of President Bush's Points of Light Foundation. She has served as interim president and chief executive officer of the foundation. Most recently, Marian was elected to the board of directors and currently serves as vice chairman.

Mr. President, Marian Heard's drive to treat the serious social ills which plague our communities, our States, and our entire Nation should be an inspiration to us all. While Connecticut will greatly miss this remarkable woman and her commitment to the Bridgeport community, we rejoice in her new challenge as the head of the United Way of Massachusetts Bay and wish her every success.●

ENDANGERED SPECIES ACT

● Mr. SYMMS. Mr. President, in the interest of ensuring that you and my other colleagues in the Senate are well informed on threatened and endangered species issues and, specifically, the Endangered Species Act itself, I ask to submit into the RECORD several articles which I believe are both timely and informative. These articles were recently produced by the National Wilderness Institute which has been conducting ongoing research on this topic. The first is the cover story from volume II, issue 1, of the institute's quarterly magazine, the NWI Resource, published in February of 1991. The second article, "The Art of Statistics," is taken from fall, 1991 edition of the NWI Resource, volume II, issue 3. The third is an excerpt from the October 1991 issue of the institute's bimonthly newsletter, Fresh Tracks. I would also like to submit for the RECORD a recent column published in the Washington Times by nationally syndicated journalist Warren Brookes which discusses the results of research conducted by the National Wilderness Institute on the Fish and Wildlife Service's Endangered and Threatened Species Recovery Program.

Frankly, Mr. President, the information brought forth in these articles is very disturbing, and I believe merits close examination during the upcoming session. So I would urge my colleagues in the Senate to review this material in the interim to more fully understand the many important issues surrounding current endangered species legislation. The manner in which we manage and recover endangered and threatened species is undoubtedly of great importance to the American people. It is our duty, therefore, as elected representatives of the people to first educate ourselves on every aspect of this issue, however contentious or unsavory, and second, accept the responsibility of addressing all aspects of an issue which, in one way or another, will deeply affect the lives and work and future opportunities of Americans for years to come. The material I have submitted here today is an important, much needed step toward fulfilling that obligation.

RESOURCE

(By Robert E. Gordon, Jr.)

One of these two owls is considered threatened by the Federal Government. Can you tell which one? Without knowing where the pictures were taken it would be pretty tough. The one on the left is a threatened Spotted owl of the Northwest. The one on the right is a Spotted owl from California and not threatened. They are nearly identical in appearance and genetic structure. The primary difference may be that they live in different places.

The Northwest-Spotted owl is now part of an exclusive club. According to the 1991 Budget Justification for the Fish and Wildlife Service, there were some 1,070 endangered and threatened plans and animals listed as of 1989. The Service states that "ultimate goal of threatened and endangered species conservation is to recover populations to levels where protection under the Act is no longer required." While that may sound pretty straightforward a close look at the Endangered Species Act, the listed plants and animals, and their record of recovery tells quite a different story.

The Service assesses different animals and plants for listing primarily on the "degree and immediacy of threat and taxonomic uniqueness." What is and isn't taxonomically unique has become extraordinarily hazy in recent years. The species is the basic category for taxonomical classification of living things—it is a kind of animal. A fairly common definition, as stated in one of the National Wildlife Federation-sponsored Peterson Field Guides, is that, "two animals are considered to be of the same species, or kind, if they are fundamentally similar in structure and interbreed to produce offspring but do not ordinarily interbreed with other groups." Harvard biologist E. O. Wilson would content that "under naturally occurring circumstances" should be added. What is and isn't a naturally occurring circumstance can be subjectively interpreted in any number of ways. Consequently, many of the species and subspecies currently listed may not merit such distinct taxonomic classification.

The degree to which truly taxonomic uniqueness is an important prerequisite for listing is questionable. About 30% of the animals listed as endangered or threatened in the U.S. are subspecies, something many scientists consider an unreliable unit of classification. For example, some antelope in Arizona are called *Antilocapra americana sonoriensis* and list as endangered, while antelope at the species level *Antilocapra americana*—which is not listed, and includes all the antelope in Arizona—is increasing in number in much of its range. In other cases, the listing at the species level is debatable. In addition to species and subspecies, Fish & Wildlife lists populations—a group of a kind of animals living somewhere. Some argue that (what they consider) distinct populations may eventually evolve into entirely different creatures and therefore merit listing. Smaller groups of creatures with smaller odds for a beneficial random mutation in genetic structure is certainly a debatable basis for listing.

Undaunted, Fish & Wildlife projects an increase for listed species from 1,070 in 1989 to 1,170 in 1991. According to the '91 Budget Justification, "the Service has set an expanded goal of 55 species proposed for listing in '91." This is only a minute fraction of what could be considered since "nearly 4,000 species are formally recognized as potential candidates for listing." This figure undoubtedly includes many subspecies and populations. But listing is supposed to be only the first step, with recovery as the "ultimate goal".

The first tactical step in recovering an endangered species is preparing a recovery plan. The Service admits a "backlong" and states that "recovery efforts shifted towards * * * increasing multi-species recovery plans." As of 1989, and were 550+ U.S. listees of which 291 are covered by plans. More than 40 plants and animals are covered by the multi-species plans. The Ash Meadows plan, for example, including four fish, one insect and seven plants. *Peromyscus polionotus*, a mouse which inhabits beaches, has five subspecies listed. It might be on sounder taxonomic grounds to have only one listing and do as well with one plan. But if the total population of each of the variants listed were combined, one must wonder whether the mouse would merit listing at all?

It's been said that failing to plan is planning to fail; that certainly holds true for Fish and Wildlife's record of achieving its "ultimate goal" in endangered species conservation—"recovery". Through 1989, a total of 27 species had been downlisted and 17 delisted since the Act was passed nearly 20 years ago. Not too good when you consider there were over 100 U.S. animals already listed prior to the Act's passage in 1973. It is even worse when you look at what 'delisted' means. For of the 17 were removed because of original data error. Six of the 17 were removed because they are now considered extinct. In five of those cases the creature was a subspecies, and in at least four of them introgression, or breeding, (recall the confusion over the definition of species) with other subspecies was considered a contributing factor to "extinction." Seven of the 17 are considered recovered. Three of the seven recovered species are found on a Pacific Trust Terriroty, Palau Island. According to one Fish & Wildlife official, early population counts of these animals may have been inaccurate. Additionally, their numbers improved following natural habitat recovery since the end of WWII. The Palau owl recovered in part because locals eradicated a coconut beetle which it ate, causing it to die of internal wounds inflicted by a spine on the beetle. Another "recovered" animal is the American alligator which Dennis David of the Florida Game and Fresh Water Commission surmises would not even have been put on the '73 list by today's standards.

He ought to know, considering there may be as many as a million alligators in Florida.

The Service states it "has increased emphasis on . . . implementation of highest priority recovery action . . ." Such actions included $580,000 worth of programs for the Bruneau Hot Springs snail in 1990. The Service also states "that for many species, particularly those that are habitat-limited, maintenance of remaining populations to prevent extinction may be a more realistic objective."

Many of the listed species have severely restricted natural ranges such as islands: there are at least 44 in Hawaii, 27 in Puerto Rico and 17 inhabiting other Trust Territories. Additionally, some are naturally rare in the U.S. like the ocelot that wanders up from Mexico to the extreme northern part of its range in Texas, Arizona and New Mexico. Furthermore, many of the listed populations of subspecies may be losing the battle for survival of the fittest. There are, for example, at least 11 animals on the list limited to a cave or cave system, and one salamander known only from algae mats in a system of spring-fed pools in Texas. The natural rarity of another listee, the New Mexican ridge-nosed rattlesnake, Crotalvs willardi obscurus (read: obscure), is revealed by its name. As Greg Easterbrook states in The New Republic: "More than 99% of the creatures to have ever come into existence have been rendered extinct . . . Nature discards creatures with a pitilessness that makes humity seem saintly."

These examples are not uncharacteristic of this issue. There are undoubtedly many valid cases that deserve our attention, including some in the above statistics. However, there are clearly many problems with the current approach that detract from the ability of the talented biologists and others at Fish & Wildlife to achieve their ultimate endangered species conservation goal—recovery. Sticking things on the list seems to be a priority—something for which we in the environmental community must bear some responsibility. Additionally, it appears evident that serious taxonomic ground rules are needed. And finally, it would seem logical that the Service be required to succeed in recovering at least a few more listees before it considers increasing the rate at which it lists things. One bright point in the '91 budget justification is the statement that the service intends to "encourage greater public participation in the recovery planning process." Hopefully this is true because the current record of performance would not be tolerated in the private sector.

The Art of Statistics: Fish and Wildlife's Report to Congress on the Endangered and Threatened Species Recovery Program

(By Robert E. Gordon, Jr.)

On October 7, 1988 President Reagan signed into law a bill amending the Endangered Species Act which, among other things, makes more specific the general requirement that the Secretary of Interior develop and implement recovery plans. The Amendment further directs the Secretary to report every two years on the status of efforts to develop and implement recovery plans for all listed species and on the status of all species for which recovery plans have been developed. Accordingly, the Fish and Wildlife Service has just released the "first comprehensive accounting" of its efforts since 1967 to conserve and recover endangered species. It is a huge glossy document with lists, codes, graphs and pie charts. The document raises questions about the trends in endangered species recovery work at F&W and, when deciphered, about their success in reaching the ultimate goal of endangered species conservation, recovery of populations "so that protection under the Act is no longer required."

PLANNING TO PLAN

In accordance with the law, the beginning step in endangered species recovery is the development of a recovery plan for each listed species. For 224 of the 581 listees that first step was not taken as of October 1, 1990. Rather oddly, F&W states that it "recognizes the need to develop recovery plans" and further states that after more than two decades "target time frames have been established to guide the development of draft and final plan preparation." While the ostensible objective of the plans is to recover endangered species, the Service repeatedly states that "the most significant recovery status difference between the species with and without recovery plans is the number of 'unknowns' for those species without recovery plans (25% 'unknowns' without plans versus 16% with plans)." Regrettably, this statement appears to be accurate.

RECOVERY . . . "A MAJOR PART OF THE SERVICE'S ENDANGERED SPECIES PROGRAM"

Fish and Wildlife states, in a rather passive voice, that "reclassifications and delistings demonstrate that there can be successes in recovery" but neglects to mention any delisting except the alligator. Dennis David of the Florida Game and Fresh Water Commission surmises that the alligator would not even have been put on the '73 list by today's standards. The only other "delisted" species include three from a U.S. trust territory several hundred miles east of the Philippines (the Palau owl, dove and fantail) and the Rydberg milk-vetch, of which the Service was unable to provide a photograph. According to one F&W official, early counts of the endangered species from Palau may have been underestimated; their habitat recovered naturally following WWII. The owl recovered in part because locals eradicated a coconut beetle which the owl ate with tragic results. A spine on the beetle inflicted fatal internal wounds.

The Report goes on to state that "implementation of recovery plan tasks provide for significant gains towards positive species recovery" and mentions such things as the successful captive breeding of California condors which F&W officials originally opposed. Rather than being presented in straight figures, the percentage of a "species' recovery objective(s) that have been met" are denoted

by an integer of 1-4 representing 0-25%, 26-50%, 51-75% and 76-100%, respectively. As of October 1, 1990, 439 of the 581 U.S. species listed, or 76%, had only between 0-25% of their recovery objectives achieved. In a high percentage of these cases zero would seem the most appropriate percentage for recovery objectives achieved. Several species presumed extinct are status "1" and numerous other "1's" have no anticipated "major recovery activity over the next reporting period", In other instances the planned activities are not impressive. The Sonoran pronghorn, for example, has been listed since 1970 and the next anticipated "major recovery activity" is to "convene a meeting of knowledgeable professionals . . . to evaluate recent information."

On the other end of the spectrum are the "Recovery Objective(s) Achieved" "4's" having 75-100% of their recovery objectives achieved of which there are only 11, or less than 2% of the list. Upon examination the "4's" as additional populations were found by the Bureau of Land Management and taxonomic studies showed that this daisy and another daisy thought to be a different kind were the same thing. In the case of another "4", the Pahrump killifish, F&W wrote a plan and Nevada Department of Wildlife personnel sprayed cattails destroying the fish's habitat with "Rodeo" (an herbicide). The Tinnean monarch, a bird found on a Pacific island, is also a "4" after 20 years without a plan and a population survey nearly a decade ago showed 40,000 birds.

The Report goes on to repeatedly state that "removal from the list is not a reasonable goal for all endangered species" and that "a more realistic measure of the Service's recovery efforts than the number of species delisted is *probably* the portion of listed species whose status as been stabilized" (emphasis added). "Stable" is one of the five status categories the Service assigns each listee. The Report includes an extraordinarily misleading graph of "declining" species to support their statement about the stabilizing effect of the list. The "82%" depicted in F&W graph represents less than 6% or 38 of the total listed species. The other three columns represent over 94% (approx. 269, 152 and 122 respectively) of the listed species unequally and are grouped in time periods of unequal length. The groupings conveniently incorporate a zero percent (from years in which there are less than 10 listees) into columns with the lowest overall percentage.

The statistical artist or artists who designed this graph are deceptively implying that it represents improvement of declining species over time. The selection of time spans which appear to be part of a continuum, the symbols "<" and ">", and the term "function" lead one to believe that these figures were generated over time. Yet, as this graph is a snapshot of "declining" species on October 1, 1990, there is no way to determine if there has been *any* change ever. A graph through time, not at a moment in time, would depict a changing condition of listees. It is, however, impossible to determine trends from the Report as no base year figures are supplied for comparison. A more appropriate name for the graph would be "Percentage of Species Declining as of Oct. 1, 1990 Selectively Grouped by Year Listed".

Additionally, the possible error in the percentage figures for "decreasing" species is tremendous because 19% of all listees are "unknowns" and therefore, possibly, "declining". The probability of this is relatively high as more than 37% of listees are considered "declining" and they are, after all, federally endangered or threatened species. It also seems strange that such a high percentage of the first year listees are known to be "declining" when none of them have plans and F&W itself states that "the most significant recovery status difference between the species with and without recovery plans is the number of unknowns for those species without recovery plans." Is it random chance that the percentage of "declining" species listed the year the Report was produced exceeds every other year's group of listees from nearly 20 to over 60 percent; or could the fact that this Report is being produced prior to the Endangered Species Act's reauthorization have affected the listing process?

This graph reminds one of the sort of figures generated by Soviet economists and would seem to be a deliberate attempt to mislead Congress and the public. One must wonder if the Service has any data to support its claim that "species listed longer appear to have a better chance of becoming stable or improving" or if it only appears that way through contrived graphs.

In explaining this rather bleak record the Report states "though the time frame involved may be perceived as long, recovery can and does happen" and goes on to state that "a serious commitment of both personnel and money are important to ensure stabilization and recovery . . ."

MONEY

According to the Report "the goal of [recovery] is the maintenance of secure, self-sustaining wild populations of species with the minimum necessary investment of resources." According to recent audits by the Interior's Inspector General the potential recovery costs for currently listed species is approximately $4.6 billion. This is an average of over $7.9 million per listed species. If that average were applied to the some 600 candidate species the Service believes "warrant listing" it would amount to another $4.7 billion; furthermore, if that average were applied to the 3,000 candidate species which the Service believes "may warrant listing" it would amount to an additional $23.7 billion. In addition to the recovery costs, the report states that "approximately 25% of all listed species have conflicts with development projects or other forms of economic activity" which certainly entails staggering costs to the economy. Even with its poor recovery record and huge economic impact, the Service argues that it "must be allowed to exercise management discretion in order to achieve the greatest conservation benefits for resources expended."

"MANAGEMENT DISCRETION"

How the Service exercises "management discretion" is also disturbing. The Report states that "Fundamentally, the Endangered Species Act is habitat-oriented. It seeks to conserve the ecosystems upon which endangered species and threatened species depend * * * this orientation has been embraced by the Service.* * *" In part, this appears to mean that the Service is trying to add to the over 87 million acres it already controls. For example, recovery actions for at least 28% of the mammals listed include plans for acquiring more land into the already enormous Federal estate. What is most disturbing is that there appears to be a definite bias within the Service against private property. In the case of the Utah prairie dog, for example, recovery criteria consist of "maintaining 3 populations [for 5 years] on public lands with a minimum number of 813 animals each as counted in Spring censuses." The actnal total population of Utah prairie dogs reached 9,200 *adults* in 1989 but *"only 34% were on public property"* (emphasis added). Strangely, F&W states that "population densities are increasingly to a point where a crash is imminent" but that none of the populations have reached "the minimum size for delisting on public lands."

The Service's view of the Endangered Species Act as a beginning rather than a final legal step in endangered species conservation is another disturbing aspect of their management discretion. The Report states "recovery of many species requires concerted efforts on the part of Federal and State authorities, as well as private parties, to enact laws and regulations and to reach agreements to protect listed species independent of the Endangered Species Act." If and when a species actually recovers it may not be delisted. The Service states: "biologically recovered species may still need the Act's protection in order to sustain population levels." F&W seems to be focusing more on empire-building than on the implementation of deeds that actually improve the condition of flora and fauna.

SUMMARY

Rather than directing their efforts toward achieving the "ultimate goal" of endangered species conservation—recovery, the Service seems to focus almost entirely on listing more species, keeping them on the list, acquiring land and budget increases, and because the law mandates, drafting past due plans. As can be seen in the statistics and examples provided, F&W's recovery record is abysmal. After decades of endangered species work with few, if any, legitimate delistings to show,the Service states that "a commitment to endangered species recovery is needed for a long time to show noticeable results." In support of their efforts, the Service states that "species listed longer appear to have a better chance of becoming stable or improving." *Appearances* can be [deliberately] deceiving as in the case of the Report's graph on percentage of declining species. Hopefully, as accurate information reaches the public and our legislators, reforms will be undertaken which result in endangered species conservation that works for those species of wildlife and plants which are truly diminishing.

Endangered Species Act Coming up for Reauthorization

Proponents and critics of the Endangered Species Act appear to be gearing up for debate. Word is that Rep. Gerry Studds (D-MA) will try to get a quick multi-year re-authorization of the Endangered Species Act to avoid opening the Act up for debate. Fish & Wildlife has demonstrated considerably more success at listing and keeping species on the list than recovering them. Critics of the Act argue that it is used to promote "Not In My Back Yard" (NIMBY) politics rather than care for rare plants and wildlife. As more candidate species are reviewed, the list will be increasingly composed of snails, mussels, beetles and minnows rather than the "warm and fuzzy" animals the general public tends to associate with endangered species. Unfortunately, there is little, if any, provision in endangered species legislation made for private recovery efforts. Here are some background facts:

According to the U.S. Fish and Wildlife Service, "the ultimate goal of threatened and endangered species conservation is to recover populations to levels where protection under the Act is no longer required." However, as of April 1990, nearly two decades since the Act was passed, there were only 16 delistings: 6 extinct; 4 removed due to data error; and 6 "recovered". This already dismal recovery record declined according to the July 1991 report in which one listee (purple-spined hedgehog cactus) previously classified as "recovered" was re-classified as "original data error."

The "recovered": 3 of 5 are indigenons to Palau Island, a tiny Pacific Trust Territory located five hundred miles east of the Philippines. According to at least one F&W official, early population counts may have been inaccurate and their habitat recovered naturally, not through Fish & Wildlife efforts, following World War II.

41% of listees are plants; 59% are animals-of which 24% are invertebrates (i.e. insects, spiders, snails, etc.) 12% are reptiles and amphibians, 25% are fishes, 25% are birds, 14% are mammals.

There are currently 1,116 listed species, about 600 of which are U.S., and the Service formally recognizes 3,600 U.S. species as candidates for listing.

Of 3,600 candidate species, Fish and Wildlife "believes 600 warrant listing" and states that "3,000 may warrant listing but sufficient information is not presently available."

Endangered species listings plummet property values. According to the Deputy Chief Tax Appraiser in Travis County, Texas property values have decreased $358.7 million since the federal listing of two songbirds, the Golden-cheeked warbler and the Black-capped vireo. Estimated shortfall in tax revenues next year to the city of Austin, Texas is $2.1 million. With this real estate having a market appraisal ten times less than before the species listing, U.S. Fish and Wildlife's Office of Endangered Species plans to create a wildlife refuge in the area. Landowners have little recourse except to sell. An interesting Constitutional question raised by such events is whether a declaration which results in property devaluations constitutes a taking.

[From the Washington Times, Oct. 18, 1991]

ENDANGERED SPECIES TURF GAME

(By Warren Brooks)

Putting any government agency in charge of solving a problem is certain to make the problem bigger and worse, because a bureaucracy now has a stake in that outcome.

There may be no better illustration of that than the U.S. Fish and Wildlife Service's report released this week on the Endangered and Threatened Species Recovery Program, which alleges great progress, but in fact demonstrates only a bureaucracy bent on expanding its turf.

The primary purpose of the Endangered Species Act is not merely listing and protection, but the development of plans to recover the species, return it to normal levels, and thus take it back off the endangered list.

But this first accounting of FWS efforts since the original act passed shows that virtually all of its activities have been directed not at "recovery" but at listing. Since 1967, some 581 species have been put on the Endangered list, but as the National Wilderness Institute notes in a special report by Director Robert Gordon, as of October 1990, recovery plans have not even been developed for 224 of those species. Yet "in accordance with the law, the beginning step in endangered species recovery is the development of a recovery plan."

FWS admits that such plans are badly needed because, it argues, that "reclassifications and delistings demonstrate that there can be successes in recovery," but as Mr. Gordon points out it "neglects to mention any delisting except the alligator," and "the alligator would not even have been put on the 1973 list by today's standards." The only other delisted species include three from Palau (several hundred miles east of the Philippines) and a plant called the Ryberg Milk-Vetch "of which the FWS was unable to provide a photograph."

What is most troubling in this report, Mr. Gordon argues, is the FWS attempt to use highly misleading graphics to suggest far more recovery has taken place than actually has. One chart shows four bars showing the percentage of species declining in each period ranging from 82 percent in the most recent year to 30 percent for those listed 15 years or more.

Yet the way the chart has been constructed, "there is no way to determine if there has been any change in the groups since listing," and because the periods chosen vary in length and the availability of data itself, it is impossible to make any inference about whether FWS is accomplishing any "recovery" at all.

As Mr. Gordon charges, the data presented "reminds one of the type of figures generated by out-of-work Soviet economists. There can be no doubt that it is part of a deliberate attempt to mislead Congress and the media.

Worse, the 2 percent of all species that are said to have achieved 75 percent to 100 percent (only 11) include species where additional populations have been discovered, suggesting they shouldn't have been listed in the first place, and one bird whose population today is identical to what it was 10 years ago, and for whom no recovery plan has ever been written! Indeed, without such plans the FWS admits there are so many "unknowns" it is almost impossible to determine whether that species is declining or rising, suggesting that entire report alleging progress is in fact fatuous in the extreme.

What is more curious about the FWS report is its frank admission it has no intention of really trying to push species back off the list as "recovered." Instead it says "removal from the list is not a reasonable goal for all endangered species," and even so, "biologically recovered species may still need the Act's protection in order to sustain population levels."

In short, the FWS is using the Act primarily as a way of expanding the total turf it already controls, with the premise that each endangered species listed adda to that turf control.

As the report frankly admits, "Fundamentally the ESA is habitat-oriented. It seeks to conserve the ecosystems upon which endangered species and threatened species depend," which is shorthand, in Mr. Gordon's eyes, for saying "the Service is trying to add to the more than 87 million acres it already controls."

What worries NWI, a market-oriented conservation group that tends to be suspicious of public land ecological policies is "the definite bias within the Service against private property."

As an example, Mr. Gordon cites the Utah prairie dog for which the FWS recovery plan lists as its criteria, "maintaining three populations [for five years] on public lands with a minimum number of 813 animals each [2,439 in all]." Yet as he points out, "the total population of Utah prairie dogs reached 9,200 adults in 1989," but the FWS complains that "only 34 percent were on public property." Worse, even though FWS now admits that the density of population of this "endangered species" has increased to a point "where a crash is imminent," FWS contends that "none of the populations have reached "the minimum size for delisting on public lands."

In others words, even though private lands are teeming with Utah prairie dogs, because the public habitats are not, the animal is endangered. There is of course something classically federal and bureaucratic about such a posture.

In that sense, NWI's Mr. Gordon argues the FWS endangered species program exhibits all the classic elements of "public choice" economics: "Rather than directing their efforts toward achieving the 'ultimate goal' of endangered species conservation, recovery, the Service seems to focus almost entirely on listing more species, keeping them on the list, acquiring land and budget increases; and because the law mandates, drafting past-due recovery plans."

We shouldn't be surprised the FWS report concludes by arguing that "a commitment to endangered species recovery is needed for a long time to show noticeable results." Like forever?

Warren T. Brookes is a nationally syndicated economics columnist.

HONORING THE FORGOTTEN VICTIMS OF THE DECEMBER 7, 1941, ATTACK ON PEARL HARBOR

• Mr. AKAKA. Mr. President, I rise today to recognize the forgotten victims of the December 7, 1941, attack on Pearl Harbor—the innocent civilians who were killed that fateful morning 50 years ago.

In less than 2 weeks, our Nation will commemorate the 50th anniversary of the attack on Pearl Harbor. On behalf of the congressional delegation from the State of Hawaii, I request that a copy of the Delegation Joint Resolution No. 6 be printed in the RECORD following my remarks. The Delegation Resolution honors these forgotten casualties of the war. A copy of the resolution and an accompanying certificate of special recognition will be presented to the surviving families.

Mr. President, I would like to take this opportunity as well to express my appreciation to Ms. Nanette Purnell, a resident of my State, who has done extensive research on this issue; and to the Arizona Memorial National Park Service personnel, especially Mr. Jim Harpster and Mr. Kam Napier, who provided the background and research information for this important endeavor.

Mr. President, it is fitting and proper that we recognize these forgotten victims. As the 50th anniversary of the attack on Pearl Harbor draws near, let us honor all those Americans, both in uniform and in civilian occupations, who gave the greatest sacrifice so that freedom might flourish in this world.

The resolution follows:

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

DELEGATION JOINT RESOLUTION 6

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., first wave of bombers from

the Imperial Japanese Combined Fleet attacked military facilities in the Territory of Hawaii, United States of America; and

Whereas the first bombs fell on Kancohe Naval Air Station, and other military facilities across Oahu soon became targets to incoming bombers; and

Whereas as a result of this unprovoked attack by the Imperial Forces, there were over two thousand American military and civilian casualties; and

Whereas of the two thousand killed in connection with the attack on Pearl Harbor, over 60 were civilians; and

Whereas at least 35 civilians were killed as a result of the inadvertent explosion of American anti-aircraft ordnance which landed at approximately 12 sites on the island of Oahu; and

Whereas at least nine civilians died from direct enemy fire; and

Whereas during the commemoration of the Fiftieth Anniversary of the attack on Pearl Harbor, it is fitting and proper that we honor these innocent victims; now, therefore, Be it

Resolved That: The Hawaii Delegation to the 102nd Congress of the United States calls upon the people of Hawaii and the Nation to remember the innocent victims of that fateful morning fifty years ago; and be it further resolved that,

The Hawaii Delegation, on this Fiftieth Anniversary of the attack on Pearl Harbor, extends its deepest sympathies and compassion to the families, friends, and colleagues of those brave men and women who fell; and be it further resolved that,

A copy of this Joint Resolution of the Hawaii State Congressional Delegation be printed in the Congressional Record and that copies be distributed to Pearl Harbor civilian survivors or their next of kin and interested parties.•

ECONOMIC CRISIS CONFRONTING AMERICA

• Mr. LIEBERMAN. Mr. President, last week my colleague from Connecticut, Senator DODD, rose to speak of the economic crisis we are in and to ask that we stay here until we can offer some real help to the American people. I rise now to support my colleague.

When I think of how the administration is responding to the economic crisis confronting America, something like a cross between the Emperor Nero and Alfred E. Newman comes to mind. Nero fiddled while Rome burned, and Mr. Newman's famous line is, "What? Me Worry?"

There are some who say the President's inaction in the midst of this terrible recession is a real boon for our Democratic Party. That may be so, but, frankly, America cannot afford the luxury of politicizing our economic woes. We need the President to take charge, to lead the way to solutions to our fiscal problems. We need him to act as he did in the gulf war, when he put together an unprecedented global coalition to defeat the aggression of Iraq. We need a domestic equivalent to Operation Desert Storm.

But, we may be waiting in vain. For the President seems to believe that our problems will work themselves out through the market, which is an extremely limited and timid view, particularly in emergencies like the one we face now.

I believe it is time for all of us, Republican or Democrat, to put aside our ideological blinders and get working on a program that's practical, and that can get our economy growing again and our people back to work. Despite rhetoric to the contrary, Government has always been actively involved in the marketplace; witness Government's role in aerospace, defense, and agriculture, for example. Government can and must act in partnership with business to identify ways to promote economic growth and job creation.

The President has said he will propose nothing to Congress in the way of an economic plan, at least not until the State of the Union in January. Mr. President, our economy cannot wait for a midwinter Presidential speech to find relief. We must begin to work now on a plan that will bring relief to millions of Americans who have lost, or are at risk of losing, their jobs.

With that in mind, I believe we owe it to the American people to remain at our posts here in Washington—beyond Thanksgiving—to put together an economic recovery and growth plan. We did pass unemployment compensation legislation, which was desperately needed, and which will help millions of people whose jobless benefits are running out. But we must do more than treat the symptoms of this recession. We must work on a cure.

That means tax relief for working families. That also means tax incentives for business, to help them get back on their feet, growing, keeping and adding jobs for working people. That means passing transportation legislation, which will funnel billions of dollars into the economy in the way of construction and other kinds of jobs.

The American people are demanding answers from their Government, not adjournment. I believe we must remain on the job as long as it takes to bring more relief to our beleaguered economy.

We should stay here, passing legislation, and sending it to the President. If the President will not act on his own to help lead us out of our economic crisis, we must present him with our own solutions, and ask him to take a stand—for or against Government's help in solving this nation's recession.

Nero fiddled while Rome burned. Frankly, I do not know what the Roman Senate did at that time. Clearly, they did not do enough. Let us not make the same mistake. The American people are demanding action, and we should give them results. They do not care about the politics of it all, they just want relief. Let us stay here at work until relief is on the way.•

WILMINGTON LIONS CLUB

• Mr. BIDEN. Mr. President, in towns throughout all of our States, there are organizations that represent the best of our shared community spirit. Through caring service to those in need, active concern for neighbors and a commitment to the basic values that have strengthened our country throughout its history, those community leaders serve and inspire each of us, and help lead the way to a brighter future.

One such organization, familiar to all of us, is Lions International. I pay tribute today to the Lions Club of Wilmington, DE, which will commemorate its 70th anniversary on December 6. Over the years, it has been my privilege to work closely with members of the Lions Club, and I am pleased to have this opportunity to express my respect and appreciation for their efforts.

It would be impossible to list all the contributions and community projects of the Lions Club of Wilmington, but a few examples make clear the depth and breadth of their efforts:

In 1952, the Lions Club organized a children's zoo in Wilmington, which has since become part of the county parks system and is a center of education and enjoyment for Delawareans of all ages.

The Lions have worked with newly naturalized citizens since 1945, helping to make each new American more at home in their new country.

A leader in programs for Delawareans with special needs, the Lions Club invests thousands of dollars every year to help neighbors overcome the challenge of disability and disadvantage.

To help encourage the talents and good citizenship of our young people, and to promote the promise or our future, the Lions Club runs the Teenager of the Year Program, recognizing academic achievement and community service.

The upcoming 70th anniversary is more than a celebration of the spirit of the Lions Club of Wilmington, it is a celebration of the spirit of America—a spirit of caring and service, of pride in the past and hope for the future. I am grateful and proud that on the anniversary of one of the outstanding organizations in my home town, I can share both the meaning and the inspiration of the celebration with the Senate and the Nation.•

ALCOHOL AND DRUG ABUSE

• Mr. GORE. Mr. President, I have been following with interest the efforts of Surgeon General Antonia Novello to educate Americans about alcohol abuse. I speak today to encourage those efforts, particularly as the Surgeon General prepares for a December meeting with members of the alcohol beverage industry, a meeting where she is expected to urge those in the alcohol beverage industry to eliminate advertising aimed at young people.

The problems associated with alcohol abuse also threaten pregnant women who use alcohol unaware of its deadly impact on their pregnancy. I am very concerned about the number of women who are using alcohol during pregnancy. Study after study confirms that pregnant women are drinking alcohol not realizing that their child is very likely to be permanently damaged by fetal alcohol syndrome. We have had 17 years of research on this issue, most of it supported by the National Institute on Alcohol Abuse and Alcoholism. All of that research has proven that alcohol is a teratogenic drug—it causes birth defects.

Children who suffer from fetal alcohol syndrome have growth deficiencies that are apparent at the moment of birth. Their behavior reflects central nervous system problems. They are hyperexcitable, have poor concentration and attention. They are dependent, stubborn, sullen, or withdrawn.

Children who suffer from fetal alcohol syndrome cry and laugh too easily, and suffer periods of high anxiety. They are permanently affected by the alcohol drinking habits of their mothers. They miss most of life as you and I know it. And they miss it unnecessarily. I believe that if their mothers knew what their children would miss and the struggle their children would face just to live, then these mothers would make very different decisions about drinking alcohol during their pregnancies.

Recently, I learned that the consequences of fetal alcohol syndrome can be even more dire. Michael Dorris, the author of "The Broken Cord" wrote about his adopted son, Adam. Adam, a child of native American descent was finally diagnosed, after much searching, as a child suffering from fetal alcohol effects. Typical of FAS children, Adam could not understand or connect his actions with their consequences. He didn't understand that he should not wear black and walk home late at night along rural roads. His father had told him many times, but Adam couldn't remember that or connect it to his life. He was killed by a driver late one night. She didn't even see him.

I believe, we can prevent the disease that killed Adam. If mothers knew, they could take action to prevent this disease from hurting their children. Fetal alcohol syndrome is totally preventable. That's why I am working with my colleagues here to pass the Alcohol Beverage Advertising Labeling Act. The warning labels this bill requires can help pregnant women learn about fetal alcohol syndrome, what causes it, and what stops it.

The Surgeon General deserves credit for her efforts to stop and prevent alcohol abuse. Clearly, the stakes involved in her efforts and ours are high—they affect our children and our future.●

TRIBUTE TO BRUCE SEATON

● Mr. BREAUX. Mr. President, I would like to call to the attention of the Senate the upcoming retirement of Bruce Seaton, chairman of the board of directors and chief executive officer of American President Companies, Ltd.

Bruce is known by many members of the Senate, particularly those of us involved in the maritime and intermodal transportation communities. He became the president and chief operating officer of American President Lines in 1977, and led the company through a number of periods of growth to become the state-of-the-art intermodal transportation company it is today.

Bruce Seaton has been a visionary and an innovator within the maritime and transportation communities. Well ahead of many of his peers, he recognized that shippers would be best served by transportation companies which blended the advantage inherent in each mode of transportation and linked those modes together through sophisticated information networks.

Bruce's contributions have strengthened the U.S. maritime industry, virtually created America's leading double stack rail network, enhanced the competitiveness of U.S. goods overseas and upgraded out national defense transportation system.

Mr. President, in 1989 Bruce Seaton was named an Admiral of the Ocean Seas [AOTOS], considered by many to be the most prestigious industry award in the U.S. maritime community. By this, and many other measures, Bruce Seaton has made tremendous contributions to the transportation industry and his country.

We wish Bruce Seaton well as he retires from his current position, and look forward to his continued involvement as our Nation wrestles with the challenges of the 1990's.●

WAR ON DRUGS IS FAR FROM OVER

● Mr. DECONCINI. Mr. President, for some time now, the Bush administration has been claiming great progress in the Nation's ongoing war on drugs. This past week, two items caught my attention which would suggest that the progress may not be as great as the administration would like us to believe.

First, the Washington Post on Sunday, November 17, 1991, reported that for the first time in over a year, cocaine-related visits to hospital emergency rooms were on the rise. Since 1989, the number of cocaine-related emergencies had been decreasing slowly, however, according to a study to be released within the next 2 weeks by the drug abuse warning network and the National Institute on Drug Abuse, there was an alarming increase during the first 3 months of 1991. These figures seem to indicate that hard core cocaine use in the United States is again on the rise and remains a serious threat to the public health. It is incumbent on the President and the Director of the Office of National Drug Control Policy, Governor Martinez, to look closely at the results of this study before trying to convince Congress next year that their efforts to eradicate this country's drug problem are succeeding.

The second item which caused me enormous concern occurred on the international front. The Los Angeles Times on November 20, 1991, carried a story which comes at a critical point in the United States' relations with Mexico on counternarcotics activities. It appears that on November 7, 1991, during an inspection of a private aircraft suspected of carrying illegal drugs into Mexico, on a remote airstrip near Veracruz, Mexico, a team of Mexican-Federal law enforcement agents, working as part of a special response team cooperating with United States drug agents, were ambushed and murdered by Mexican Army troops.

According to the Times article, a group of Mexican-Federal law enforcement agents were dispatched to an airstrip where the suspect aircraft found to be carrying 800 pounds of cocaine, was brought down, only to be met by a hailstorm of gunfire and Mexican Army soldiers. Seven Mexican drug agents were killed. Two were shot in the back at close range and one was shot point blank in the mouth.

Mr. President, the Mexican Army initially depicted the attack as a tragic mistake. I find this hard to believe, particularly since the operation took place during a 2-hour period, throughout which a great deal of information concerning the operation was communicated to the Mexican Army commander. From the information in the article, it is absurd to believe that the troops responsible for the slaying could not have known that the men they were aiming fire at were their own Federal drug agents. The aircraft from which the drug agents departed carried the insigna of the Federal Attorney General's office.

Mr. President, I am outraged by this deplorable and inhumane act of criminal wrongdoing. It just demonstrates to what lengths those involved in drug trafficking will go to continue their criminal activities. The article stated that President Salinas has directed the Mexican National Human Rights Commission to investigate the incident. I hope President Salinas is serious about this investigation. Those responsible for this vicious and heinous crime must be vigorously pursued, brought to justice, and prosecuted to the fullest extent of the law.

This incident not only offends my senses, but it may as well have very serious consequences for continued United States cooperation with Mexico on drug enforcement. Since President Salinas took office, United States-Mexico

cooperation on drug interdiction has improved significantly. President Salinas has taken several positive steps to eliminate corruption and reduce the amount of drug traffic transitting Mexico. He has enacted sweeping reforms of the criminal justice system and has directed the Attorney General's office to act on recommendations made by the Human Rights Commission on allegations of abuse of individual rights. He has engaged in a cooperative drug interdiction program with the United States Customs Service allowing United States pilots to fly radar-equipped interception aircraft to conduct operations in Mexico with his law enforcement agents. He has also resumed the authority for the United States Customs Service to overfly Mexico with its P3 aircraft for detecting suspect targets destined for the United States. In fact, it was the Customs Service who altered its Mexican counterparts to the particular suspect target from South America outlined in the Times article.

Unless President Salinas takes swift and forceful action on this incident, the good will and cooperation built by his administration will be lost. How can the United States continue sensitive joint counternarcotics operations without a firm conviction that all of those involved in this partnership, including the Mexican Armed Forces, will work for the common good? How can any relationship continue if we are not convinced that the Mexican Government will take whatever action it must to prove to the world that criminal acts on the part of its own military officials will not be tolerated?

Mr. President, what if those individuals who were killed on that remote airstrip in Mexico were United States agents? Mexico would have an international incident on its hands. I want to make sure that our own United States law enforcement agents are not put at risk due to the greedy and criminal objectives of Mexican citizens, military, or otherwise. It would be irresponsible to do any less.

Mr. President, I would hate to see the progress our two countries have made over the past few years shattered, because powerful drug lords have secured protection of their operations from within. President Salinas has an opportunity to send a strong message to the United States and all those countries trying to rid their countries of drug trafficking. That message should be that Mexico is, indeed, a serious and willing partner in the international fight against drugs and here is a perfect opportunity for Mexico to demonstrate its seriousness to achieve that objective. Much of what will happen in our future dealings with Mexico in this Senator's mind will depend on the recommendations and findings of the Human Rights Commission's investigation. In the meantime, I hope that President Bush and his administration will monitor this situation closely and send a strong communication to the Mexican Government demanding justice.

Mr. President, separately, these two events over the past few weeks would be cause enough for concern. Coming within a week of one another, they only emphasize that the war on drugs needs to be more than a war of rhetoric. It is a war which affects lives here and on foreign soil. Its casualties can be found in hospital emergency rooms here in the United States, as well as on clandestine airstrips in Mexico. Mr. President, it is a war which is far from over.

Mr. President, I ask that the two articles referred to in my remarks be printed in the RECORD in their entirety.

The articles follow:

[From the Los Angeles Times, Nov. 20, 1991]

MEXICO SOLDIERS ACCUSED IN DRUG AGENT KILLINGS

(By Majorie Miller and Douglas Jehl)

MEXICO CITY.—Scores of Mexican soldiers deliberately opened fire and killed seven federal drug agents at a clandestine Veracruz airstrip earlier this month to protect a Colombian cocaine shipment, U.S. and Mexican officials now believe.

The attack had been characterized as a tragic mistake. But autopsies of the victims revealed that two of the slain Mexican agents were shot in the back at close range and a third was shot point-blank in the mouth, leaving powder burns, sources said Tuesday.

"They gave them the coup de grace there at the end," a U.S, drug enforcement official said.

The Americans and Mexicans had been cooperating in tracking the shipment of cocaine from South America to Veracruz.

The attack on the planeload of Mexican police agents, which lasted for more than two hours on the morning of Nov. 7, was filmed from another government aircraft that circled overhead, providing key evidence that has been viewed by U.S. and Mexican officials.

The three traffickers under pursuit by the Mexican agents escaped and remain at large. Sources said that a Mexican army general, based in the area, is suspected of overseeing an operation that offered the smugglers protection and resulted in the attack on the police.

The assault brought a bloody end to an anti-drug mission that began when a U.S. Customs Service radar surveillance plane guided the two planes to the airstrip, pursuing the traffickers' aircraft, sources said.

After Police Cmdr. Eduardo Salazar Carrillo climbed out of the government plane—a Beech King Air with the federal attorney general's insignia on its tail—and began to inspect the traffickers' Cessna, soldiers opened fire on him. That began the fusillade that was fatal to seven officers, although three others from the government plane, including Salazar, survived, the sources said.

An official account of the incident issued that day by the Mexican Defense Ministry and the attorney general's office explained that the seven agents were killed by mistake during a shootout between the two anti-drug forces in the predawn confusion. Other bullets issued by the Mexican government described the government craft as unmarked and said the federal police started shooting at the soldiers about 1,200 feet away.

But the U.S. and Mexican sources say that compelling evidence indicates that the soldiers attacked intentionally, first only one police agent fired a weapon and that some drug agents were shot at such close range that there could have been no doubt as to their identity as police officers.

"This was no accident, a furious senior Bush Administration official said. Added another senior U.S. official: "There is a strong belief that the Mexican army is lying through its teeth on this."

The incident has raised fears among U.S. and Mexican officials of a fracture in the 18-month-old partnership between Washington and Mexico City over the use of U.S. Customs planes to help Mexican officials interdict drug shipments.

The arrangement relies extensively on Mexican army forces and could be jeopardized if drug corruption in the military has penetrated as deeply as the clash between soldiers and police suggests, the officials warned. But U.S. and Mexican officials have gone out of their way to play down the attack and stress that their cooperation will continue.

Under orders from President Carlos Salinas de Gortari, the Defense Ministry has asked the government's National Human Rights Commission to investigate the deaths. "The president wanted an impartial investigation of this," said a Mexican source.

In Washington, spokesmen for Customs, the Drug Enforcement Administration, the State Department and other U.S. agencies declined official comment on the incident and referred inquiries to the Mexican government. The Mexican attorney general's office declined to comment, saying it will wait for the Human Rights Commission's investigation. Defense Ministry officials could not be reached for comment.

But an emerging picture of the incident, based on extensive interviews with U.S. and Mexican sources, provided this account of a brutal, deliberate assault on the police agents at the clandestine airstrip near Tlalixcoyan, 25 miles south of Veracruz.

American drug officials based at the DEA's El Paso intelligence center spotted the Cessna off the coast of Nicaragua as they monitored radar signals from an airborne Customs plane Nov. 7.

The U.S. authorities alerted Mexican drug agents. The Mexican attorney general's office, which oversees the federal judicial police, dispatched two aircraft to pursue the cocaine-laden Cessna from Mexico's southern border to its landing on the airstrip near Tlalixcoyan at about 6:15 a.m.

A truck with eight barrels of fuel was waiting on the ground for the drug plane at the strip, surrounded by more than 100 Mexican soldiers. Despite the soldiers' presence two men and woman escaped from the Cessna, discovered to be transporting more than 800 pounds of cocaine.

The first of the government planes—the King Air with government insignia—landed about half an hour after the drug plane. As Salazar inspected the Cessna, the soldiers fired on him and his agents.

Shortly after the shooting began, the attorney general's office in Mexico City advised the Veracruz army commander, Gen. Alfredo Moran Acevedo, that his troops were firing on federal police. But the soldiers continued firing for another two hours.

The army has asserted that the police agents refused to identify themselves, and a senior U.S. official said that question "remains in some dispute." But the weekly magazine Proceso reported that the surviving pilots and police commander have given sworn statements that the agents identified themselves by shouting.

U.S. and Mexican sources said that when the second government plane landed at about 8:30 a.m., the soldiers took the pilot and agents into custody while continuing to shoot at officers from the first plane.

"It is unclear whether the seven agents were killed before or after the second plane landed," said a source. But he said that two of the agents had bullet wounds in their backs and had been shot from a distance of less than 12 yards. A third agent had been shot in the mouth at close range, he said. Only one of the victims showed evidence of having fired his weapon.

In Washington, U.S. officials said the Mexican drug agents killed during the raid had been working closely with the DEA for months as part of the new response team, which relied heavily on the radar intelligence gathered by military and U.S. Customs radar planes operating off the Mexican coast. "People around here are really pissed off," one DEA official said "This is a story that really should be told."

But the Administration spokesmen who refused to comment directly on the incident went out of their way —when told that others had provided detailed accounts of the shooting—to praise the Mexican government in what seemed an attempt to forestall any rupture in relations.

[From the Washington Post, Nov. 17, 1991]

REVERSING COURSE, COCAINE-USE INDICATOR IS RISING

(By Michael Isikoff)

Federal health officials will report shortly that the number of cocaine-related visits to hospital emergency rooms has risen for the first time in more than a year, according to sources, familiar with the figures.

"This 15 percent jump in such visits recorded by the government's Drug Abuse Warning Network (DAWN) during the first three months of this year might indicate a resurgence of the nation's hard-core cocaine problems."

"This is a disturbing trend. . . . It's a real jump," said Adele Harrell, senior research analyst at the Urban Institute, who specializes in drug abuse trends. "This indicates an increase in negative health consequences from cocaine use."

The figures also tend to support the view of some federal anti-drug officials that the country may be facing a renewed heroin problem. Herion-related hospital emergencies also rose from the final three months of 1990 to the first three months of this year. But even with the 13 percent increase, the number of heroin-related emergencies was still below the total for the first three months of 1990.

White House drug advisers have used the DAWN figures as one of their principal yardsticks in measuring the nation's progress in fighting drug abuse.

When declines in cocaine emergencies were first reported last year, Secretary of Health and Human Services Louis W. Sullivan hailed it as evidence of "significant headway" in the war against drug use, a theme that has been repeated frequently by President Bush.

But the recent increase—especially if it continues—could undermine the president's ability to make that argument during next year's campaign and give Democrats new ammunition that his war on drugs has failed, particularly in the inner cities.

Rep. Charles B. Rangel (D-N.Y.), chairman of the Select Committee on Narcotics Abuse and Control, said the new figures belie "ridiculous" claims by the administration of progress. "The administration is constantly talking about DAWN reports. . . . They're always looking for good news," he said. "But the truth of the matter is they don't want to acknowledge that in the inner cities, there is still an explosion of cocaine use."

Ingrid Kolb, acting deputy director for demand reduction in the Office of National Drug Control Policy, said the drug office had not seen the new DAWN figures and could not comment. The figures had been scheduled to be released by the National Institute on Drug Abuse within the next two weeks. But a spokeswoman for NIDA said Friday the agency will wait until mid-December to release the study so it can include updated figures for the spring of 1991 that have not yet been analyzed.

Some anti-drug analysts said it is too early to draw hard conclusions from the increase, emphasizing that it could represent a number of factors: higher street purities causing an increase in overdoses, an overall growth in the number of users or possible differences in reporting methods among hospitals in the DAWN system.

Nevertheless, the DAWN system is considered one of the only government indicators capable of measuring that aspect of the drug problem that has proven most intractable: hard-core abuse, especially among the poor, unemployed and other groups that tend to be underrepresented in government-sponsored surveys of drug use.

The DAWN system consists of reporting from a sample of 535 hospital emergency rooms in 21 cities. Throughout the last half of the 1980s, cocaine-related hospital emergencies reported by DAWN skyrocketed as hospitals were flooded with the victims of the crack cocaine epidemic.

Although DAWN's reporting system has changed, the government's adjusted numbers show that the number of cocaine emergencies peaked in the summer of 1989 at 29,939. In the last three months of that year, they began to drop, with the figure leveling off at 19,381 during the last quarter of 1990.

But the trend reversed itself in the first three months of this year as cocaine emergencies rose to 22,282. In addition, heroin-related emergencies increased from 7,510 in the last quarter of 1990 to 8,465 in the first quarter of 1991, although they were still below the 9,967 during the first quarter of 1990.

The total number of drug-related hospital emergencies, which include visits for alcohol, also climbed during this period from 89,325 in the final months of last year to 96,406 in the first quarter of 1991.

Some anti-drug officials noted that there is considerable variation in DAWN figures from city to city.

For example, there was no appreciable increase in cocaine emergencies in the District of Columbia. In Miami, the number of such visits nearly doubled, from 186 to 358.

The increase in Miami is particularly ominous, some analysts said, because South Florida is an entry point for much of the nation's cocaine. A big increase in Miami might suggest that cocaine imports, after being temporarily disrupted over the past two years because of enhanced interdiction, might again be on the rise, some analysts said.●

AOJ IN EASTERN EUROPE: WHAT ADMINISTRATION? WHOSE JUSTICE?

● Mr. CRANSTON. Mr. President, I rise today to express my great dismay over the administration's failure to provide appropriate administration of justice support for the emerging democracies of Eastern Europe.

Earlier this year I introduced, together with my friends and colleagues, the Senator from South Carolina [Mr. THURMOND] and the Senator from Massachusetts [Mr. KERRY], the Omnibus Eastern European Security Assistance Act of 1991.

The purpose of this bill was to provide the emerging democracies of Eastern Europe with knowledge of, and training in, U.S. law enforcement practices.

Mr. President, the U.S. model of civil-military relations and our system of administration of justice are perhaps two of the most successful yet little-promoted underpinnings of our democracy.

Based on the essential distinction between internal security and national defense, the principle of posse comitatus has ensured that our military remain nonpartisan and our police forces professional.

Mr. President, when I introduced our legislation I pointed out the importance of drawing upon our own expertise and experience in this area in offering assistance to the governments of an Eastern Europe whose security establishment was synonymous with misrule and fear.

I pointed then to the growing sense of unease in the region, where economic dislocation, xenophobia, and a resurgence of hate crimes made it imperative that the Soviet-trained security forces in those countries be exposed to democratic models.

I called attention to the fact that foreign investment, the lode star to which so many hopes there are being attached, was a mere chimera unless contracts could be enforced, unless the criminal justice system showed signs of working, and unless businessmen were free of fears of extortion, or crime on the streets.

Mr. President, yesterday the Senator from Delaware [Mr. BIDEN] took to the floor to point out that much of what we've been dealing with on an emergency basis for the former Soviet Union could have been taken care of with strong bipartisan support for the SEED legislation we offered 2 years ago.

Today, I must point out that, in similar fashion, the administration is shooting itself in the foot because of its catch-as-catch-can attitude concerning administration of justice concerns in Eastern Europe.

When we made our proposal last spring, the State Department moved to block it. When it became part of the

discussions in the House-Senate conference on foreign aid, State moved quietly to kill it.

The word went out: Eastern Europe is not ready for an administration of justice program. What it needs they said, is antinarcotics and antiterrorism assistance.

What administration of justice support there is, comes from a $750,000 Rule of Law Program administered by USIA; $750,000 for the entire Eastern European region. Compare that to this administration's continued willingness to throw military assistance at nations with much less democratic vocation.

It is truly unfortunate, Mr. President, the realization that the administration will not work with Congress to ensure that a mere $5 million out of funds already allocated for the region be used to address this problem.

It is truly a cause for confusion to see the State Department, in the person of Special Assistant for Eastern European Affairs Bob Barry, weigh in against such a modest proposal—then have his office find that, on an important request for assistance by the Polish Interior Minister, it lacks the kind of congressional authorization provided in the Cranston-Thurmond bill.

And it is truly a moment for reflection, Mr. President, knowing that requests for assistance from our beleaguered democratic allies in Eastern Europe often go unfulfilled because Ambassador Barry and the State Department choose to kill anything that doesn't have the stamp: "Made Here."

Mr. President, the request by Polish Interior Minister Henryk Majewski included 19 areas that needed assistance. It was finally acted up at an interagency meeting in which the attending players had to pledge money from their existing budgets.

There was no mechanism for central coordination, there was no money available specifically dedicated for these purposes, and one can only wonder what the followthrough will be. This was, of course, only one request. Yet, inquiries by my office have revealed an ad hoc approach to this very important issue, and this one request is just a part of a much larger number that demand urgent attention.

Mr. President, if administration of justice concerns are being addressed in a timely and appropriate manner, why then are private individuals bankrolled by private interests rushing to fill the void, as they are? Why are businesses finding that they have to finance efforts where the U.S. Government can and should be taking the lead?

The assistance being provided is not in question. I must stress that there is not a hint of wrongdoing in the assistance that is being offered.

Yet it is unseemly, this privatization of law enforcement training. In a democracy, the administration of justice is not the concern of a select or well-heeled few.

Unfortunately, this message appears to fall on deaf ears over at the State Department.

How else to explain this scramble for money and authorities, when proposals that would give both are there for the taking?

When will the administration learn that antiterrorism and antinarcotics efforts can only be as effective as the justice system which backs them up?●

CABLE TELEVISION CONSUMER PROTECTION ACT

● Mr. DANFORTH. Mr. President, before this session of Congress draws to a close, I want to thank the majority leader for scheduling S. 12, the Cable Television Consumer Protection Act, for consideration in January. The decision to make this cable reform legislation a high priority for early next year is a victory for the consumer. It is a victory because this much-needed legislation encourages competition to cable, protects the consumer where there is no competition, and helps to ensure the continued existence of free TV.

For too long, the cable industry has been permitted to operate as an unregulated monopoly. The rate increases slated for the new year underscore this fact.

In addition to thanking the majority leader for his assistance and his commitment to bring this bill before the Senate, I want to commend Senator INOUYE, the chairman of the Communications Subcommittee, and Senator HOLLINGS, the chairman of the Commerce Committee, for their hard work on this consumer legislation.●

VIEWS ON S. 543

● Mr. SIMON. Mr. President, on Thursday November 21 the Senate passed S. 543, the banking bill, by voice vote. I wish to go on the Record to state that had there been a rollcall vote, I would have voted no on this measure.

There is little debate that Congress needs to act to recapitalize the nearly bankrupt bank insurance fund in the FDIC. It is this fund that insures deposits in banks throughout the country. The soundness of this bank insurance fund is crucial to the soundness of our banking system and indeed to our entire economy. If all we were voting on last week was a replenishing of the BIF, there would have been little argument, little negotiation. It would have been enacted swiftly and with broad consensus.

Without going through a long history of what was originally intended in bank restructuring legislation, there are two key points in S. 543 I wish to address.

First, S. 543 contains provisions changing long-standing Federal laws preventing banks from establishing national branches. This law was originally written to prevent a few large money-center banks from dominating the allocation and distribution of credit in small communities, rural areas, and even in large cities outside of the country's large commercial centers. It was intended to prevent a few large banks from absorbing deposits in States like Illinois and not providing loans and credit in those areas. I have many serious concerns about this provision in the Senate bill. That is why I voted for the Bumpers amendment insuring that only those States that affirmatively choose to "opt-in" interstate banking will be subject to these new Federal laws.

I hope that this provision will be dropped in conference. But if it is not dropped, I will oppose the conference report and I will request a rollcall vote.

Second, S. 543 originally contained several vital consumer provisions, provisions requiring banks to provide basic banking services and government check cashing services to low-income bank customers. These provisions were deleted during Senate consideration of S. 543 and were not in the bill when it was finally voted out of the Senate. I find it curious that the Senate was willing to provide to the large banks something they very much wanted, interstate banking, but did not require them to provide any services to low-income customers who will tend to be overlooked if banks continue to gain sweeping new powers.

Restructuring the financial industry is a complex project. I hope and assume the Senate will return to this task next year. I also hope that the Senate can address the issues facing the financial industry and still protect the interests of small communities, depositors, consumers, and low-income people.●

KEIRETSU AND THE BUSH ADMINISTRATION

● Mr. BAUCUS. Mr. President, in recent weeks, a host of Bush administration officials have urged Japan to address the central source of United States-Japanese friction—trade relations between our two countries.

I have frequently stated that trade should be the top issue on our agenda with Japan. I doubt that trade is yet atop the administration's agenda, but perhaps it is finally rising.

For as long as I have been involved with international trade issues, the United States has struggled to open the Japanese market.

Prime ministers and presidents change.

Exchange rates ebb and flow.

But one thing seems always to stay the same: It is extremely difficult to sell American goods in Japan. Few challenges we face have proved as illusive as reducing Japanese trade barriers.

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I believe Japan's keiretsu system may be the single most important impediment to better trade relations with Japan.

KEIRETSU AND UNITED STATES-JAPANESE TRADE

Most Americans have never heard of keiretsu—Japan's unique system of interlocking corporate families.

In fact, part of the problem is that we're still not sure exactly what we're dealing with. Yet if the precise definition of keiretsu is unclear, the effects are increasingly evident.

Japan can attribute its economic success in large part to the opportunities it enjoys in the American market.

Unfortunately, the United States has not enjoyed reciprocal access. Last year the Japanese surplus with the United States topped $40 billion—four times larger than the United States deficit with any other country.

The anecdotal evidence of keiretsu is also strong. This year's National Trade Estimate—a listing of foreign trade barriers—refers to the effects of keiretsu in blocking access to the Japanese markets for paper, auto parts, and motor vehicles. Strong evidence has been presented about the effects of the keiretsu system on the U.S. glass industry.

The Japanese Government's own report in connection with the structural impediments initiative recognizes the negative effects of keiretsu on trade and investment.

CURRENT EFFORTS TO ADDRESS KEIRETSU

Current efforts to address keiretsu arise out of the structural impediments initiative [SII]. SII has succeeded in sharpening our understanding of the underlying causes of United States-Japanese trade disputes.

Unfortunately, SII has been less effective in crafting remedies. This is particularly true in addressing the problems created by keiretsu.

In fact, U.S. negotiators stated in their first annual SII report that dealing with keiretsu had been one of the biggest disappointments of the SII process.

My experiences in dealing with Japan have convinced me of one thing: The United States achieves results only through sustained pressure. We need mechanisms that establish priorities, deadlines, and criteria for measuring results.

NEW REMEDIES FOR ADDRESSING KEIRETSU

I believe that keiretsu should be addressed using a coordinated combination of multilateral and bilateral mechanisms.

Frankly, what we really need to address the keiretsu system is a renewal of Super 301.

Even without its "super" provisions, "normal" section 301 has been an extremely successful in addressing unfair Japanese trade practices. The United States has used it to open markets in wood products, satellites, supercomputors, leather, footwear, construction, semiconductors, tobacco, and oranges.

It is important to emphasize that section 301 is not inconsistent with multilateral dispute resolution under the GATT.

In tandem with a section 301 investigation, and consistent with section 301 deadlines, the United States should urge the formation of a GATT panel under article XXIII—the nullification and impairment provision.

Keiretsu are not specifically addressed in the GATT. However, article XXIII of the GATT addresses the situation in which a country's practice, although not specifically outlawed, "nullifies" or "impairs" a GATT benefit.

I believe article XXIII should be applied to keiretsu. Keiretsu nullify and impair GATT benefits the United States would otherwise receive. For example, Japan's average tariff rates are quite low. U.S. exporters cannot take advantage of this benefit, however, where keiretsu block access to the market.

FOCUSING ON RESULTS

Whether a resolution to the keiretsu problem is negotiated multilaterally or bilaterally, a solution should focus on results.

Do not get me wrong. I am not talking about assigning market shares.

However, benchmarks can be used to evaluate Japan's progress in a number of areas. We can use benchmarks to compare the openness of the Japanese market to other markets, and to measure progress in addressing a particular barrier.

Benchmarks already are being used with significant effect in addressing Japanese barriers to United States semiconductors. Benchmarks also should be used in evaluating whether prices and import levels in Japan are consistent with other developed countries.

CONCLUSION

There is a lot we can learn from the Japanese. I have been reading with great interest the MIT study, "The Machine that Changed the World." This important book outlines the revolutionary contributions of Japan to the development of industrial processes.

There is much that we Americans must do for ourselves. We have our own structural impediments. There may be aspects of keiretsu that we should emulate.

But it is absolutely clear that keiretsu have seriously protectionist effects. These effects act as a unfair impediment to U.S. goods.

Our ability to eliminate the trade distorting aspects of the keiretsu represents one of the single most important challenges the United States faces in this new era of economic competition.

If President Bush travels to Japan in January, one point must be made loud and clear: Japan must reform its keiretsu system, or relations with the United States will deteriorate.●

ACCESS TO AFFORDABLE HEALTH CARE

● Mr. KERREY. Mr. President, I have made it clear in the past, that the time to reform our Nation's system of financing health care is long overdue. Reforming our Nation's health care system is not only a humanitarian issue, it is a vital economic issue. It is eroding our standard of living and threatening our ability to compete in an aggressive international marketplace.

Access to affordable health care is moving beyond the reach of the working American families. Health care costs are rising as incomes are falling. Individuals and families are spending more for health care and receiving less coverage while they are earning lower wages.

Last July, I introduced the Health USA Act of 1991 to restructure how our Nation pays for health care. Since then, I have received many letters from Nebraskans on the topic of health care and the adverse effects of its rising costs. In a recent letter from Mr. Timothy Deal of Hastings, NE, he illustrates very specifically and honestly how an increase in his families' health care premiums, accompanied by a decrease in the amount of coverage, has put his family on the edge of financial devastation.

Mr. Deal's situation is extremely troublesome. But, tragically, it's not that unusual. Rapidly rising health care costs are crowding out wage and salary increases, impairing the American people's standard of living, and putting the fear of financial ruin resulting from a serious illness into their hearts.

Mr. President, I ask that Mr. Deal's letter be printed in the RECORD. I encourage all of my colleagues to read this letter and realize that the specific situation that Mr. Deal has shared with us, is the norm throughout the Nation.

The letter follows:

HASTINGS, NE, *August 4, 1991.*

DEAR SENATOR KERREY: May I begin by saying that it is indeed a privilege of fortune to enjoy the benefits of life in America. Furthermore, should the wheels of corporate gains and industrial economics suddenly and unexpectedly cease to turn, there is no better place in the world than the USA that I would choose to be. Having made this clear, I do however wish to share with you my personal opinion and perception of present social and economic concerns.

I am well aware that you have great concerns, as do I, of current existing health care deficiencies, and have addressed these pending concerns with your own innovative health care plan. I applaud your efforts and want you to know I support your philosophy with regard to this issue. I am also aware that many have been critical of this plan and voiced openly their opposition toward its economic support. Please share my letter with them! Please note the following information reflects an honest glimpse of my family's personal income and dispersement of spending. Note as well that I am not venting discontent with these salaries, as they likewise reflect an economic portrait far above the numbers realized by many less fortunate than myself.

My wife and I are both gratefully employed full time and our family's net monthly income is $1150.00 after deductions for federal and state taxes, social security, health insurance, daycare, and education savings. Our monthly expenses are as follows:

$550.00—Housing (house payment and average utilities).

$100.00—Transportation (1977 Honda, 1981 Escort, no maintenance).

$50.00—Auto and Home Insurance.

$25.00—Medical insurance deductible.

$25.00—Dental and Optical expenses (not covered by insurance).

$25.00—Copayment of insured medical expenses (Blue Cross/Blue Shield 80/20 on all medical expenses covered under the current policy).

Total—$775.00.

As you can see, this allows only $375.00 to be appropriated for food for four, household purchases, recreation and entertainment, gifts and contributions, telephone and postal, newspaper and garbage expenses. Clothing, I do not include, but with the exception of socks and undergarments, all clothing for the family is purchased from garage sales and thrift shops.

We have been able to juggle these appropriations each month without the use of credit cards, thus we have our needs met and have therefore remained secure economically. Recently, however, our medical insurance premiums increased from $80.00 a month to $95.00 while our coverage decreased. Please note the seriousness that this change has invoked with regard to our economic stability. As of August 1st, our policy, which previously covered 100 percent of hospitalization and emergency costs with the exception to a small number of exclusions, has been amended to cover 80 percent of all medical whether basic or major medical. This policy included a $3000.00 copayment stop loss annually. I can not express effectively, the concern this presents our family. Allow me to convey it this way. I have two young children, ages 6 and 1, both of which have been hospitalized in the past 2 months for ear surgery. One of the children, our 6 year old, was hospitalized twice as an inpatient and once as an outpatient. Altogether, these medical expenses totaled several thousands of dollars. Had this medical dilemma occurred now, instead of prior to August 1st, our family could be faced with an economic hardship of such magnitude that I hesitate to ponder it. Sad as it seems, more and more medical policies have increasingly diminished in coverage while premiums increase.

Please Mr. Kerrey, I have been frank with you throughout this letter, I have disclosed valid information reflecting average midwestern economics. Please take this letter to the Senate floor and read it. If your opponents scoff at its contents, then they, not I, suffer greater social inequity.

Sincerely yours,
Timothy J. Deal

P.S. note that the $95.00 premium makes up only 20 percent of the policy's total monthly cost. My employer's benefit is nearly $400.00 a month.●

ACCESS TO QUALITY MAMMOGRAPHY SCREENING

● Mr. D'AMATO. Mr. President, I rise today to cosponsor two bills that address the urgent need for expanded access to quality mammography screening for all American women.

Expanding access to mammography screening and ensuring that such screenings meet the highest standards of quality is vital to reducing the unacceptably high death rate associated with breast cancer in this country. It is estimated that in 1991, 175,000 women will be diagnosed with breast cancer, and 44,500 women will die from the disease. This makes breast cancer the second leading cause of cancer death among women in the United States.

Mr. President, next to a cure—and we must do far more at the Federal level to speed research on effective treatments for breast cancer—our best defense against this horrible disease is early detection and treatment. Such early detection, through regular mammograph screening, can, according to the Centers for Disease Control, reduce breast cancer mortality by 30 to 40 percent for women aged 50 and older.

Unfortunately, far too few Americans women receive early cancer detection tests on a regular basis. In 1987, only 25 percent of women over age 50 reported having a mammogram within the preceding 2 years.

We need to encourage and facilitate the use of these tests by American women—and that is why on April 23, 1991, I joined Senators MACK and BREAUX in introducing S.891, legislation which provides a tax credit of up to $250 against the costs of early cancer detection procedures.

Today, I am cosponsoring two bills that I believe will further promote the availability of quality mammograms. The first, Senate Resolution 184, is a sense-of-the-Senate resolution that calls on insurance companies throughout the country to include periodic mammography screening services as part of their basic coverage for women. New York State has required health insurance policies to include coverage for annual mammography screenings since 1988. I am hopeful that this far-sighted bill, introduced by my colleague from Illinois, Senator DIXON, will encourage insurance companies in every state to follow suit.

The second bill, S.1777, will establish national quality standards for mammography to assure that every mammogram a woman receives is safe and accurate. The need to establish national standards was underscored by the findings of a recent General Accounting Office report which found that existing professional standards are not uniformly followed at many screening facilities. The same study found a need for strong Federal standards to assure the quality of mammography screening, and sufficient legal mechanisms to enforce them. S.1777 addresses this need by requiring the Secretary of Health and Human Services to develop national quality standards in the areas of equipment, personnel, oversight, quality control, and enforcement. I commend my colleague from Washington, Senator ADAMS, for introducing this bill, which, by improving the quality of mammography screening, will surely save numerous lives.

Mr. President, we know that one in every nine American women will develop breast cancer at some point in her life. We need to guarantee these women access to the best preventive health care available. These bills will help us do just that. I encourage my colleagues to join me in cosponsoring these measures, and I urge their prompt passage.●

● Mr. GLENN. Mr. President, last year, Congress passed the Chief Finance Officers Act, the first comprehensive effort in years to overhaul the Government's antiquated, inefficient and abuse-ridden financial systems.

I was very pleased to have sponsored the CFO Act, and to have taken the lead in its passage. Federal agencies desperately need to get their financial houses in order, to know what tax dollars are being spent for, and to know if they are being spent wisely. With a trillion-and-a-half-dollar budget to administer every year, Uncle Sam simply can't afford to have holes in his pockets.

With the CFO Act, in fact, I hoped that the Government was finally on its way to eliminating shoddy and duplicative accounting, mismanagement, faulty financial statements, and the unprecedented waste, fraud and abuse that so rightfully disgusts taxpayers and undermines the Government's credibility. I was initially pleased that the administration recognized the importance of the CFO Act, but after a year of watching the White House implement this legislation, I am concerned that the CFO Act is not working as its sponsors intended.

I feel the CFO Act is turning into the Complacency Act, because the White House is nominating some people with limited, if any, direct financial management experience to be agency chief financial officers. In some cases, CFO positions are being tacked onto the already overburdened shoulders of their assistant secretaries for administration or management as an afterthought. This practice all but ensures that these very important jobs—and thus financial management—will get short shrift in many agencies.

Agencies, I might add, are not unlike our country's largest corporations, in that they must account for and spend billions of dollars a year. The difference is that America's leading corporations take their financial management jobs seriously, and the people who hold corporate CFO positions generally are well-qualified for those jobs.

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

One of the purposes of the CFO Act was to bring individuals with superior qualifications into positions where they have the power and authority to make significant improvements. In fact, the CFO Act is quite specific about CFO qualifications—more so than almost any other law which authorizes Presidentially appointed, Senate-confirmed, positions.

The relevant language in the Act reads as follows: Each agency chief financial officer shall be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in, financial management practices in large governmental or business entities.

But even this statement, strong as it is, is not the last word on CFO qualifications. In addition to the language in the law, the administration itself, through the Office of Management and Budget, has approved qualification standards for CFO's and deputy CFO's. These standards were drafted in consultation with Congress and the General Accounting Office [GAO].

Thus, the administration's own standards for CFO's require that nominees should have practical involvement with financial management in large public or private organizations; direct knowledge and experience with budgets, internal controls, accounting and financial reporting; and finally, substantial familiarity with the design or operation of large financial or management information systems.

These standards—the administration's standards—clearly envision CFO's who bring to their positions solid knowledge of, and experience in, financial management.

But, Mr. President, I think it's safe to say that the standards in the law and in OBM's own guidelines are being ignored. We now have CFOs nominated by the President, and expecting Senate confirmation, who have essentially no direct financial management experience. There is a pattern emerging that disturbs me. In several cases now, the Senate has been asked to confirm CFO's who, while perhaps qualified generally in management or policy issues, have little of the financial knowhow necessary to guide changes in major cabinet agencies. While they may be perfectly bright, hard working individuals, and qualified to assume the duties of an assistant secretary for management, I am very concerned about their abilities to fulfill the CFO mandate.

The enormous job of cleaning up the books and hauling the government into the modern financial management age cannot be undertaken by just any political appointee simply looking to polish a resume. The CFO Act envisioned and deserves must more. The taxpayers and the elimination of waste, fraud and abuse deserve much more.

I will not believe that the White House, and, yes, the Senate, are serious about financial management until they get serious about CFO nominations. Unless we appoint CFO's who understand the financial problems of our government agencies and can quickly act to fix them, then I can assure my colleagues that the CFO Act will not work—business as usual is all we will get. And if the administration and this Senate are unable to muster the interest and the political will to hold our standards high, to bring in the best and the brightest, then I would suggest that business as usual is all we deserve.

While I will not hold up the CFO nominations at the Departments of Agriculture and Health and Human Services that the authorizing committees have already seen fit to approve, I regret that I cannot support them, either. I recognize that assistant secretaries for management have responsibilities that go beyond their CFO duties, and that as a result, the authorizing committees must judge the nominees on many issues. But that is part of the problem.

The authorizing committees have chosen to report these nominations out favorably, and for that reason I am not going to oppose them. But very simply, we need to do better. The administration, the authorizing committees, this Senate, need to do better in nominating and confirming people for CFO positions.

Granted, these are not high profile jobs, but they are very important. If we are to make any progress at all, they cannot be handed out cavalierly, or like some trophy. Make no mistake, CFO jobs will be hard—their problems are tough and their responses must be tough. Our only chance to get the job done is to put in place people with the skills and experience who know what must be done, and then let them do it. That's what the CFO Act envisioned and that's what the CFO Act deserves. Financial Management, and sewing up the holes in Uncle Sam's pockets, are just too important for anything less.•

THE NEED FOR FARMLAND PRESERVATION

• Mr. WOFFORD. Mr. President, I rise today to support the need for farmland preservation. As part of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 the State of Vermont will be eligible for funding from the Commodity Credit Corporation [CCC] to support the purchase of development rights on prime farmland. I strongly support this measure because it is the first Federal program that recognizes the need for such protection and builds on existing State farmland protection programs.

The Farms for the Future Act, if expanded to other eligible States, will assist Pennsylvania and other States with approved preservation programs in preserving their most valuable resource. It will also encourage those States which currently do not have programs to initiate the process. This program is an excellent opportunity to leverage scarce public funds at both the Federal and State levels.

As many States know, land conservation is costly. But, it is a resource worth preserving in view of the billions of dollars in economic activity generated annually by agriculture industry. That economic benefit reaches into all parts of the economy making farmland preservation important to all States.

Mr. President, I support farmland preservation. It has preserved many prime farms in Pennsylvania. The assistance received from the Federal level will greatly assist States in their efforts to conserve this natural resource.•

PROPOSED SCIENCE AND TECHNOLOGY STUDY CONFERENCE

• Mr. GORE. Mr. President, in April 1988, the Carnegie Corporation created the Carnegie Commission on Science, Technology, and Government to study how Federal and State Governments could better deal with science and technology issues. The 22 members of the Commission are leaders from industry, government, and academia who have a great deal of experience dealing with science and technology issues. President Jimmy Carter and former Senators Daniel Evans and Charles McC. Mathias are among the members.

To examine how Congress deals with science and technology issues, the commission formed a Committee on Science, Technology, and Congress, chaired by John Brademus. For the last 2 years, several of my colleagues and I have served on a Congressional Advisory Council which has provided the Committee with advice and direction.

So far, the Committee has prepared two very useful reports on how the Congress gathers and utilizes information on scientific and technical questions. The first report, "Science, Technology, and Congress: Expert Advice and the Decision-Making Process," contained a number of insightful observations on the congressional process and made some helpful recommendations to the Congress.

I found one recommendation particularly useful; the report call for creation of a Science and Technology Study Conference which would help Congress deal with the increasing complicated science and technology policy issues that we face. The Study Conference would be modeled on the very successful Environmental and Energy Study Conference [EESC] which was created in 1975 to provide members and staff with information on legislation relating to energy and environment matters. Today, more than 380 members of the House and Senate contribute to the EESC and benefit from the newsletters, bulletins, and briefings that it provides.

Ten years ago, most science and technology issues were put on the back burner—they just did not get much attention on the Hill. That's not the case today. This year, there have been extended floor debates on a number of scientific programs, including the Space Station and the Superconducting Super Collider. The Commerce Committee, chaired by Senator HOLLINGS, and the Commerce Committee's Science Subcommittee, which I chair, have held numerous hearings on how the government could do more to work with industry and academia to develop new technologies. The Commerce Committee and others are working to formulate a coherent, pro-active U.S. technology policy to do just that. At the same time, the Energy committee is hard at work defining new roles for the Department of Energy's national laboratories so that they can contribute more to America's technological competitiveness. On the Armed Services Committee, Senator NUNN, Senator BINGAMAN, and I are seeking ways to leverage the billions of dollars that the Defense Department spends on technology development in order to help our civilian high-technology industries. The Judiciary Committee is grappling with difficult issues involving intellectual property rights, computer security, and bioethics. Both the Environment Committee and the Agriculture Committees face a number of thorny scientific and technological questions, too, ranging from the control of genetically-engineered organisms to the development of new technologies for less-polluting farming practices.

With so many congressional committees working on science and technology issues, I feel it would be useful to have a Science and Technology Study Conference [STSC] to keep everyone informed about developments in the Congress. We cannot hope to coordinate our science and technology policy if the right hand does not know what the left hand is doing. To coordinate you need to communicate. In addition to tracking congressional activities, the STSC could help us keep up with developments in the administration, in industry, and in the laboratories.

The Science and Technology Study Conference could publish a weekly bulletin like the EESC Bulletin that could keep congressional offices up-to-date on new legislation and new scientific developments. It could organize briefings by researchers, administration officials, and industry representatives for members and staff. It could provide a forum for discussions of key issues that span more than one committee or subcommittee.

The STSC, like other legislative service organizations, would rely on contributions from Members' clerk hire accounts. I know that none of us have extra money in our office accounts, but I think if 70 to 100 Members in the House and Senate can chip in, we can create a viable organization that could help us all keep up with fast-moving developments in science and technology. In addition, if we can get adequate funding from Members, it is likely that we would be able to attract outside funding from foundations and elsewhere to fund an institute, like the Environmental and Energy Study Institute, which could supplement the efforts of the STSC.

During the recess, my staff and I will be contacting Member's offices to gauge interest in forming a Science and Technology Study Conference and to discuss how to organize such a study conference to best help the Congress deal with the many complex issues we face. We are clearly in the formative stages, but I have already found a lot of interest. here in the Senate, Senators DOMENICI, SANFORD, and BINGAMAN and others on the Carnegie Committee's Advisory Committee have expressed interest. In the House, Congressmen TIM VALENTINE, BILL GREEN, GEORGE BROWN, and others are interested in exploring the idea. I think we all understand that there is a need here, and I look forward to working with my colleagues to address that need.•

HERE'S A WAY TO GET OUT THE VOTE

• Mr. WOFFORD, Mr. President, it is unfortunate that a constitutional right of Americans—the right to participate in the elective process—is exercised by decreasing numbers of eligible voters. In 1988, only 50.1 percent of those eligible to vote for President did so. That was the lowest voter turnout rate in 64 years. Worse still, the President of the United States was chosen by only 26.8 percent of eligible voters.

There are many reasons why people choose not to vote. But if we are to maintain Lincoln's vision that a "government of the people, by the people, for the people, shall not perish from the earth," we must find ways to encourage fuller participation in the political process.

Recently, Mr. Andrew Henshel of Philadelphia wrote an article that appeared in the Philadelphia Inquirer on this topic. In that article, Mr. Henshel offers a thoughtful, well reasoned argument on the necessity of reforming this nation's voter registration laws which I recommend to my colleagues. I ask that this article be printed in the RECORD.

[From the Philadelphia Inquirer, Sept. 16, 1991]

HERE'S A WAY TO GET OUT THE VOTE

(By Andrew Henshel)

With about one-third of eligible Americans not registered to vote, there is a clear need for national voter registration reform. According to the Federal Election Commission, only about 50 percent of the eligible voters participated in the 1988 presidential election, while less than 40 percent turned out in the 1990 congressional elections.

These deplorable rates of participation, which one congressional committee has suggested could create "serious problems for our democratic society," can be attributed in large part to archaic and restrictive voter registration laws and procedures.

The proposed National Voter Registration Act of 1991 (Senate Bill 250), which is expected to come before the Senate for consideration in the next few weeks, responds to these dismal rates of voter participation in a fair, sensible manner. The bill, sponsored by Sen. Wendell H. Ford (D., Ky.), chairman of the Rules Committee, is the most important proposed expansion of voting rights and opportunities since the passage of the Voting Rights Act of 1965. It would remove barriers to registration that presently exist in a number of states and localities.

This comprehensive measure would, for the first time, establish clear national standards for voter registration. It calls for each of the states to implement a variety of procedures to increase voter participation, including registration by mail, "motor-voter" registration and registration at government agencies that serve the public.

The bill approved by the Senate Rules Committee contains the following key provisions:

The application for a driver's license, renewal, change of address or a non-driving ID card would also serve as an application to register to vote, unless the individual is ineligible to vote or declines to exercise this option. It has been estimated that this system, which has been implemented successfully in a number of states, would enfranchise as many as 90 percent of eligible voters.

In order to reach eligible citizens who are less likely to have driver's licenses, the bill provides for agency-based voter registration and assistance in completing registration applications at government offices, such as unemployment, public assistance and vocational rehabilitation offices. In addition, such locations as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus and tax offices, would be required to make voter registration applications available, Federal offices, as well as voluntary private sector agencies, also would be encouraged to participate.

A uniform mail registration system, allowing citizens the opportunity to register by mail, would be adopted nationwide. Already, more than half the states, including Pennsylvania and New Jersey, utilize some form of voter registration by mail.

The present system of "purging," or removing voters from the registration rolls for failing to vote in a prescribed number of elections would be eliminated entirely. Removal of a voter's name from the registration rolls would be permitted only at the request of the voter, because of a verifiable change of residence, upon the death of the voter, or as provided by state law for criminal conviction or mental incapacity. Any programs used by the states to update and

VOL 137 PT 24
NO 26
1991
—
JA 3
1992
UMI

maintain the accuracy of voter registration lists would be required to be uniform, nondiscriminatory, and in compliance with the provisions of the Voting Rights Act.

To prevent electoral fraud or abuse in federal elections, the submission of false or fraudulent registrations and other abuses of the election process would be made a federal crime.

There is widespread support for voter registration reform. A similar bill was approved overwhelmingly by the House in February 1990 and only the threat of a filibuster prevented Senate consideration of the bill.

Although the need for this legislation is clear, a tough fight to get it enacted into law is a strong possibility. Any effort to attach amendments that would weaken the proposed bill should be opposed.

At a time when people of countries around the world are risking their lives for the principles of freedom and democracy, and the right to vote, we must increase active participation and involvement by citizens in our democratic system of government.

In this 200th anniversary year of the Bill of Rights, passage of this vital legislation would demonstrate a renewed national commitment to the revitalization of American democracy and citizen participation. As Thomas Jefferson said, "In democracy, agreement is not essential, but participation is."●

CURRENT GATT NEGOTIATIONS

● Mr. **LEAHY**. Mr. President, the recession is hitting rural America hard.

One in every eight rural Americans is now out of work—20 percent more than a year ago. Unemployment in rural areas is 27 percent higher than in urban areas.

While rural America pleads for help in these times of economic hardship, the administration turns its back.

Last week, the administration successfully blocked—for the third time this year—help for our Nation's dairy farmers. Farmers will lose thousands of dollars. Some will lose their farms.

While many farmers are wondering how they will make it through the next year, the administration is working quietly behind closed doors in Geneva on a new trade policy that could intensify their attack on dairy farmers, as well as other parts of American agriculture.

Reports from the GATT (General Agreement on Tariffs and Trade) negotiations suggest that the administration has effectively given away section 22 import protections for dairy and other commodities without any assurances that we will get a commensurate response from other countries. The administration's blanket acceptance of tariffication while leaving the details to be worked out later could undermine our ability to achieve a fair and balanced outcome for American agriculture.

Our GATT negotiators have established an artificial deadline of late December to reach a basic agreement. I am worried that this new trade package could be the kind of unwanted Christmas gift that only Ebenezer Scrooge would think of delivering.

I have long been a supporter of efforts to lower trade barriers to end subsidy wars to expand overseas markets. This is why I supported a free-trade agreement with Canada and the initial fast track GATT negotiating authority 4 years ago.

In fact, early in the GATT negotiations, I believed an agreement could benefit all agricultural commodities. In 1987, the administration calculated that 40 percent of U.S. agricultural spending was required just to offset the money spent by other nations to subsidize their exports.

It clearly makes no sense for the United States and Europeans to bid against each other and bribe other countries to buy their farm products. This only drives prices down and raises taxpayer costs. I believed our negotiators deserved the chance to end this chaos and rid agricultural trade of direct export subsidies.

But I have become increasingly concerned about the administration's trade negotiating strategy. We appear to be rushing headlong into a GATT agreement simply for the sake of getting an agreement. But we must not let our desire for an agreement lead us to an agreement that is not fair for every part of American agriculture.

As Chairman of the Senate Agriculture Committee and the Judiciary Committee's Technology Subcommittee, I met privately with administration officials, pushing them to specify their negotiating goals and positions. I also chaired hearings to flesh out the pros and cons of the GATT negotiations.

I have been troubled by the administration's refusal to give the American public greater assurances on U.S. negotiating strategy. While the administration cannot be expected to spell out each and every detail of its negotiating strategy, the public and those industries affected by the negotiations have the right to know more about how the administration plans to prevent the loss of American jobs. They need more than vague promises that these issues can be resolved in some foreign capital.

For these reasons, I voted last May against the administration's request for the extension of GATT fast track negotiating authority. I felt then—as I do now—that the administration has not shown that it is willing only to negotiate a GATT agreement that is fair for all of American agriculture.

The administration won its fast track request and continued GATT negotiations. Now, as the negotiators appear to be moving quickly to a close, my worst fears may be realized.

And despite its efforts that could negotiate away section 22 and other programs that protect American farmers from unfair foreign competition, the administration continues to refuse to promise income protection to American farmers hurt by a GATT agreement.

Despite the ominous signs for the farm community, the GATT negotiations could have potential benefits, particularly on the issue of achieving stronger protection for U.S. intellectual property—such as computers, software, motion pictures, sound recordings, and pharmaceuticals.

Intellectual property is one of the crown jewels of our economy. While smokestack industries—like steel and autos—used to fire the engine of our economic growth, more and more that engine is being fired by the works of our imagination—software, motion pictures, sound recordings, and the like. Our core copyright industries in 1989 alone accounted for $22 billion in foreign sales, more than the entire U.S. aerospace industry.

At the same time, success carries risks. Products like computer programs, pharmaceuticals, and movies are expensive to make, but easy to copy. It takes no great genius for an overseas bootlegger to duplicate a U.S.-made floppy disk or a video cassette or for a foreign chemist to break down the components of a new wonder drug.

Modern-day pirates who steal the creations of American artists, scientists, and engineers cheat the American economy of billions of dollars each year.

We must demand the highest level of worldwide protection for intellectual property. We must demand strict standards of protection and serious enforcement.

Earlier this year, the administration sent China, Thailand, and India the right messages under section 301 of the 1988 Trade Act: Entry into the United States market is not a one-way street; reciprocity must guide our trade relations; and countries that raise barriers to American goods cannot expect a free ride into our open market.

But with respect to GATT negotiations on intellectual property and services, we know that after 4 long years of negotiations, serious problems still exist. These include: the level of protection for computer software and for semiconductor chip designs; the European determination to exempt cultural industries from a Services agreement; the conditions under which countries may grant compulsory licenses for patented products; and the right, if any, of producers of sound recordings and software to prohibit rental.

Other issues remain as well. I am troubled that an agreement may preclude us from taking a unilateral action under section 301—our most potent tool for securing tougher protection for intellectual property and other industries. The last thing we want is a watered-down, least-common-denominator agreement on intellectual property that codifies inadequate levels of protection while curtailing our ability to act.

Also affected by GATT negotiations are a number of environmental issues.

For example, in a troubling ruling, a GATT panel earlier this year invalidated a United States environmental statute requiring Mexican exporters to reduce the number of dolphins killed by tuna fishermen. This means that U.S. tuna fishermen must follow one environmental standard while foreign fishermen follow another. It is unclear how a GATT negotiated agreement will affect other American environmental standards.

It is in the details of this agreement—not in the symbolism of international cooperation or in the political imperative of getting a deal—that American jobs will be won or lost.

In the end, this GATT agreement will be judged not on whether it is ideologically correct, but on whether it improves the lives of American families.●

LAWRENCE B. LINDSEY'S NOMINATION TO THE FEDERAL RESERVE BOARD OF GOVERNORS

● Mr. **MACK**. Mr. President, last Friday the Senate confirmed the nomination of Lawrence B. Lindsey as member of the Board of Governors of the Federal Reserve System. This action was a significant step toward improved Government economic policymaking.

The current economic state of affairs has us all concerned. The credit crunch is stifling business activity. Rising unemployment and bankruptcies are shaking the confidence of consumers nationwide. Plummeting real estate values are rocking our construction and financial industries. Exploding budget deficits are wiping out what little faith people had that Government can effectively deal with these problems.

What we need is some good, old-fashioned economic growth. But it's as though the burst of energy which spurred the thousands of new businesses and millions of new jobs during the 1980's has been stamped out. The avalance of Federal State and local tax and regulatory increases over the last few years have considerably slowed down the ability of the U.S. economy to grow. Frankly, Mr. President, we in Congress have forgotten that the things we do—the laws we pass, the taxes we raise, the regulations we impose—all have consequences. They affect real people with real jobs and real families.

I would like to share with you some startling numbers. Both OMB and CBO are forecasting rates of growth over the next 5 years that are well below the post-WWII trendline of 3 percent economic growth. If OMB's forecast of 2.6 percent is right, economic output over the next 5 years will be $1.6 trillion less than it would be if the economy would grow at its post-war average.

CBO's projections are even worse. It predicts an average growth rate of 2.3 percent throught 1996. If this would hold true, economic output would be $1.8 trillion less. Larry Kudlow, who is the Chief Economist for Bear Sterns in New York, calculates that this loss in output implies a stunning 6 million lost jobs!

Clearly, Congress absolutely must get its act together and correct its past fiscal policy mistakes. The luxury taxes, high capital gains taxes, arbitrary real estate tax law changes, inflexible banking and environmental regulations all must go.

Under these circumstances, it is critical that the key insitution involved in formulating monetary policy—the Board of Governors of the Federal Reserve System—be comprised of individuals who understand that strong economic growth and zero inflation are not mutually exclusive policy achievements.

Such an individual is Lawrence Lindsey. Dr. Lindsey is a highly regarded economist whose background includes President Reagan's Council of Economic Advisors, the Harvard economics faculty, and President Bush's White House Office of Policy Development.

Today's economy is globally integrated to such a degree that it is inappropriate, if not impossible, for the Federal Reserve to conduct monetary policy without a careful assessment of fiscal policy. Monetary policy's goal of negligible inflation is highly dependent upon international capital flows, exchange rate fluctuations, and domestic/international exchange rate and interest rate differentials—all of which are affected by the Government's tax, spending, and regulatory decisions.

This is precisely why Larry's presence on the Federal Reserve Board will prove valuable. He is a renowned expert on tax policy whose credentials have been earned through astute analysis of the relationship between tax policy and economic growth. His unique skills will complement those of existing Board members.

I am very pleased that the Senate has confirmed his nomination. I am confident that his impact on the shape of monetary policy will be significant.●

LIGHT OF THE WORLD CHRISTIAN CHURCH, 125TH ANNIVERSARY

Mr. **LUGAR**. Mr. President, I bring to your attention today one of the largest and fastest growing Disciples of Christ congregations in the world. Light of the World Christian Church, formerly known as Second Christian Church, was organized in Indianapolis as a mission project in 1866. It was later remodeled from materials removed from the Civil War barracks in Military Park.

Beginning November 24, 1991, Light of the World Christian Church will celebrate "125 Years of Excellence: The Victory is in the Vision." Their plan includes construction of a campus that will encompass a community and family center, the senior saint complex and the academy, which will provide Christian and cultural learning in a drug-free, gang-free and violence-free environment.

The ministry has grown and prospered under the able and visionary leadership of Dr. T. Garrett Benjamin. Technological advances have allowed the work of the church to reach some 35 million viewers.

Please join with me in congratulating my good friends, Dr. and Mrs. Benjamin, for their leadership and spiritual guidance. The Light of the World Christian Church has made a great difference in the city of Indianapolis, the State of Indiana and our Nation.

HIDTAs ARE MAKING A DIFFERENCE

Mr. **DeCONCINI**. Mr. President, I rise today to turn this body's attention to the war on drugs. It is an ongoing war that confronts us everyday in newspapers and on newscasts in every part of the country and the sad truth is that the story is always the same. Drug crime remains a front-page issue and is not likely to be fully under control in the near future. I chair the Appropriations Subcommittee on Treasury, Postal Service and General Government which has funding jurisdiction over the Treasury law enforcement bureaus, including the Customs Service, the Bureau of Alcohol, Tobacco and Firearms [ATF], the Secret Service, and the IRS as well as the Office of National Drug Control Policy [ONDCP]. They do a Herculean amount of work in the drug war, and the word from them is that they have more business than they can handle.

Halting drug trafficking is a long-term proposition demanding an intensive and aggressive approach. Drug traffickers are constantly changing their methods to adapt to existing law enforcement practices. The creativity of these traffickers in coming up with new ways to circumvent law enforcement efforts means that enforcement must have the resources to meet the fluid environment of the drug trade. We are making progress, but our future success depends on the continued support of Federal, State and local law enforcement agencies. We cannot afford to focus attention away from this Nation's drug problem. Just as importantly, is the recognition and support of enforcement programs that have proven to be effective and are slowly gaining ground in this uphill battle.

Mr. President, there is a program that is making a difference. It is the designation of certain areas in this country as High Intensity Drug Trafficking Areas [HIDTAs]. The purpose of the HIDTAs is to concentrate manpower and funds to curtail the especially high level of illegal drug trafficking in these regions. In the 1988 Anti-Drug Abuse Act, Congress authorized the designation of High Intensity Drug Trafficking Areas [HIDTAs] and directed that they be coordinated by the Office of National Drug Control Policy [ONDCP]. ONDCP designated the five areas of New York City, Houston, Los Angeles, Miami, and the southwest border as priority drug trafficking points. Following the designation of these areas, Congress provided ONDCP $25 million in the 1990 supplemental appropriations bill to support Federal anti-drug trafficking efforts in the HIDTAs. Subsequently in FY 1991, Congress increased the appropriations to $82 million for the HIDTAs with $50 million for Federal programs. Congress increased the amount for HIDTA activities in fiscal year 1991 above the Administration's request and instituted an earmark for this increase of $32 million for direct assistance to State and local law enforcement agencies in the HIDTAs. This year, despite ONDCP's failure to request funds for State and local law enforcement, we appropriated $86 million to the HIDTAs, or $36 million above the request while maintaining the $50 million for Federal programs and earmarking $36 million for State and locals. Mr. President, despite early skepticism, over the past few years the HIDTA Program has proven its value and effectiveness in combating drug trafficking. It is a program that we can be proud of. In spite of this success, yearly we receive a budget from the President that fails to request increased resources for maintaining the vigilant law enforcement activities in the HIDTA's by ignoring State and local needs.

Recently, federally funded task forces in the HIDTA's have achieved significant victories in the drug war. A few weeks ago a High-Intensity Drug Trafficking Area [HIDTA] Violent Gang Task Force made up of agents from Federal, State, and local law enforcement agencies in New York City arrested seventeen members of a vicious Dominican drug gang known as the "Gerry Curls." Months of undercover work and dedication by members of the task force culminated in the bust. The Gerry Curls are believed to be responsible for a cocaine operation worth more than $11 million. For over 2 years, they have terrorized the residents of the West 157th Street neighborhood where the gang bases its operations. It is indicative of the gang's reign of terror that even after the arrests neighbors refused to speak with the media for fear of retaliation. Two murders are directly attributed to the Gerry Curls and they are certainly responsible for many more. One of the killings was the brutal slaying of a 66-year-old resident who tried to organize tenants to oust the gang members.

Mr. President, the Gerry Curls' flamboyant manner, identified by members' distinctive hair styles and flashy gold cars, typifies the lack of fear these drug gangs have of law enforcement. Often these gangs operate on the streets and out of apartment buildings with no fear of retribution. The efforts of the New York City HIDTA Violent Gang Task Force show these gangs that such activities are no longer tolerable. The crippling of the Gerry Curls illustrates the effect organized law enforcement can have in the drug war and reinforces the importance of supporting Federal, State, and local law enforcement in the HIDTA's. I would like to congratulate the agents and officers who make up the HIDTA Task Force as well as New York County District Attorney, Robert Morgenthau, on the success of this operation.

In my own State of Arizona, a large-scale drug operation that brought an average of 16 kilos of cocaine a week into Arizona through California and Mexico was significantly curtailed by a task force supported by HIDTA funding to State and locals. Rex Holgerson of the Arizona Criminal Justice Commission said that this effort would not have been successful without HIDTA funds. The city of Phoenix used its entire allotment of 1991 HIDTA money to purchase equipment and support a multijurisdictional effort with the DEA. About 250 officers served 32 search warrants and seized 19 kilos of cocaine, over $171,000 in cash, 48 vehicles, and numerous weapons including an AR15 assault weapon and a grenade launcher. Forty-eight arrests have been made and 90 indictments are expected with the investigation still ongoing. This was a massive effort with remarkable results. Mr. President, it is gratifying to know that the money we provide to the HIDTA's, although not nearly the amount I would like, is having a strong effect in curbing drug trafficking.

Contrary to what we have heard and read lately, I can assure you that the war on drugs has not been won. Arizona, the Southwest Border States, and the other HIDTA's are still inundated with illegal drugs. Decreasing emergency room admissions cannot be used as a measure of the incidence of drug-related crime. It is wrong to claim that halting drug trafficking no longer requires an aggressive approach. Law enforcement, however, is doing its level best fighting day in and day out to put a dent into operations like the Gerry Curls and the one in Arizona. The concentration of resources in the HIDTA's makes such efforts possible. The officers in the HIDTA task forces deserve our sincere thanks and continued support as they wade into the daily battle to keep our streets and homes safe from drug crime and violence.●

TRIBUTE TO JAMES EARL COWART; ONE OF MISSISSIPPI'S FINEST

● Mr. LOTT. Mr. President, in a few weeks our Nation will pause to remember the service and dedication of the men and women who served in America's Armed Forces in Southwest Asia 1 year ago. In that campaign our cause was noble, our principle just, and our determination strong.

Our Nation's history is filled with accounts of noble pursuits and sacrificial dedication. And each time our great country sought to strike a blow for freedom, the blood of America's best was shed. Such was the case on September 16, 1964.

James Earl Cowart was a boiler technician aboard the U.S.S. *Coontz* (DLG-9) and enjoyed the good fortune of being from Poplarville, MI. On a special operation in the South China Sea, the U.S.S. *Coontz* was operating in support of the U.S.S. *Ranger* in its plane guard position while answering flank speed turns for 32 knots.

Serving on his upper level duty station, James suffered second and third degree burns over 60 percent of his body when several rear wall boiler tubes burst in the 1B boiler. James managed to escape the scalding confines of the boiler room and was transferred to the U.S.S. *Ranger* for medical attention. Sadly, 4 days later James Earl Cowart died from his injuries.

Like tens of thousands of other Americans who gave their life in pursuit of a cause, James lost his life in service to his country. Later his brother Donald was also killed while serving in the National Guard. The Cowart family endured the pain and loss twice, all in service and dedication to our country.

So it is with patriots—men whose goals are noble and dedication supreme. James was like many great Americans—Americans who sacrificed ultimately out of courage—because they had hope for the future. Napoleon once said, "Courage is like love; it must have hope for nourishment."

As the anniversary of America's involvement in Iraq approaches, I am compelled to think of all the young men and women—many of them from Mississippi—who have sacrificed with courage and hope. As the United States begins to savor our victory over communism and Soviet oppression, we can clearly see that the hope of James and the thousands of men and women like him has not been lost. Theirs is an investment which is now reaping great returns.

It is with honor and admiration that I recognize James Earl Cowart's life, his death and his sacrifice. May God bless him, his family, the state of Mississippi, and God bless the United States.●

CHAMPUS REFORM INITIATIVE CONTRACT

● Mr. McCAIN. Mr. President, last week Congress passed both a Department of Defense authorization and appropriation bill, and these bills have been forwarded to the President for his signature. The relationship between these two bills was the subject of much discussion on the Senate floor. I myself offered some remarks on this relationship when the Senate considered the appropriation bill. I believe that one particular subject area that is addressed in both bills, and on which I spoke briefly last week, deserves further clarification.

Specifically, I wish to clarify the relationship between the treatment by the two bills of the delivery of medical services under the CHAMPUS reform initiative beyond the scheduled termination of the current vendor contract on January 31, 1993. The appropriation bill directs the Secretary of Defense to extend the current contract for an additional year without the benefit of competitive bidding or any other customary procurement practices. The authorizing committees of both Houses, however, have a different position. And, that is, that competitive bidding must be the practice for such contracts as opposed to political favors. Accordingly, the authorization bill requires that the Secretary utilize competitive bidding and other customary procurement practices in any award of the right to provide services under the CHAMPUS reform initiative program beyond the scheduled termination of the current contract on January 31, 1993.

The two provisions are directly at odds. In essence, it is the intent of each provision to repeal the other and substitute its own direction to the Secretary for that provided by the other bill. For this reason, I believe that the latter of the two bills to be signed into law must prevail on this issue and effectively extinguish the earlier signed measure.

While I believe that the course taken in the authorization is the correct one, it is not my purpose here to argue that case. I am simply making clear for the record, prior to the signing of these bills by the President, my understanding as ranking member of the Subcommittee on Manpower and Personnel of the Committee on Armed Services as to the relationship between these conflicting CHAMPUS Reform Initiative provisions.●

TRIBUTE TO WILLIAM H. HUDNUT III

● Mr. LUGAR. Mr. President, I rise today to honor a man who, for the past 16 years, has served the city of Indianapolis with distinction. He was honored by the Indianapolis Star in 1979, as "Man of the Year," and in 1988, City and State magazine named him the "Nation's Outstanding Mayor."

Bill Hudnut's commitment to public service began at an early age. He graduated from Princeton University in 1954, with high honors and was selected for Phi Beta Kappa. He then attended Union Theological Seminary in New York City, where he graduated summa cum laude, and subsequently became a third generation Presbyterian minister. Prior to coming to Indianapolis, Bill served in two churches located in New York and Maryland.

In 1972, Bill Hudnut was elected to Congress. During his tenure, he sponsored 17 bills which are now public law. In 1975, he was elected mayor of Indianapolis, where he has served for 4 consecutive terms.

As a former president of the National League of Cities and the Indiana Association of Cities and Towns, Bill Hudnut has helped Indianapolis achieve spectacular growth while maintaining a small town feel. Under Bill's leadership, more than 100,000 jobs have been created and 5,000 new businesses have opened their doors. Public-private partnerships have spirited the redevelopment of downtown Indy, while preserving the historic older neighborhoods.

Mayor Hudnut has demonstrated a solid commitment to the advancement of Indianapolis' minority population. He promoted the appointment of minority candidates in the highest levels of his administration. He has also supported investment intiatives which fostered the growth of minority-owned business enterprises in the city.

I ask my colleagues to join me in saluting this outstanding public servant for his forward-looking leadership in building a better Indianapolis.●

ALLEGHENY WILD AND SCENIC RIVER BILL

● Mr. SPECTER. Mr. President, I am pleased to support passage of S. 606, the Allegheny Wild and Scenic River bill, which designates certain segments of the Allegheny River of Pennsylvania as a part of the National Wild and Scenic River System.

Our friend and colleague, Senator John Heinz, was the original sponsor and an ardent supporter of this bill. As you know, John Heinz was noted for his dedication to environmental protection and his innovative efforts to find solutions to the complex environmental threats that confront us. I feel that it would be a fitting tribute to Senator Heinz to pass this year the Allegheny Wild and Scenic River bill, which is representative of his passionate commitment to the preservation of our natural resources.

Mr. President, 22 years ago, Congress enacted the Wild and Scenic River Act to set the policy of our country in protecting and preserving certain rivers in the United States that possess remarkable scenic, geologic, historic, cultural, or recreational attributes. The Wild and Scenic Rivers System represents a balanced approach to land management that allows for productive interaction between man and nature. This program affords the people of this country the opportunity to enjoy fully the natural values of rivers such as the Allegheny while ensuring the long-term preservation of those assets so that future generations may enjoy the same benefits.

For those who have not had the pleasure to visit, the Allegheny River is located in northwestern Pennsylvania and flows through portions of the Allegheny National Forest, one of the most beautiful forests in the country. Seventy-three percent of the Allegheny River corridor is forested, predominantly with oak, hemlock, and northern and Allegheny hardwoods. The Pennsylvania Fish and Wildlife Service lists 394 species of mammals, birds, amphibians, reptiles, and fish that are likely to be found along the river corridor. Of these, 34 are designated as threatened, endangered, or of special concern in the State of Pennsylvania. Passage of this bill would extend added protection to the bald eagle, the only federally listed endangered species known to live in the corridor.

In 1978, Congress directed the Forest Service to conduct a study to determine which portions of the Allegheny River were eligible for protection under the Wild and Scenic Rivers Act. The study, completed earlier this year, concluded that 85 miles of the river contained outstanding remarkable values. In addition to the beautiful scenic value of the river, there are 109 islands containing significant ecological and recreational value. The Allegheny River also has cultural value as a principal travel route for more than 12,000 years, marked by a site known as Indian God Rock, which is listed on the National Register of Historic Places.

As no section of the Allegheny River was remote enough to be classified as a wild river area, the 85 miles of the river will be designated as a recreational river. This is fitting, as this beautiful river supports a strong tradition of fishing, canoeing, camping, and other recreational activities.

Mr. President, this bill has been developed through extensive consultation with the Forest Service, local and county governments, and members of the public. The Allegheny River is located within 3 hours of several major metropolitan areas, and there are 2,000 cottages and permanent homes located within the eligible river segments. In addition, the Allegheny study report estimates that recreational use could increase by 30 percent within 6 years following designation, creating jobs in the region and stimulating the local economy by $315,000 each year.

Mr. President, this legislation represents another step in our efforts to preserve, enhance, and protect the natural heritage and beauty of our great Nation. I am proud to join in support of this legislation to preserve a piece of our natural heritage for future generations of Pennsylvanians and all Americans.●

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I had several discussions throughout the evening with the Speaker and with the distinguished Republican leader and other Members of the leadership—both House and Senate, Republican and Democratic—in an effort to determine the best way to proceed to complete action on the important measures remaining before the Congress.

I am advised by the Speaker that the House will remain in session throughout the night in an effort to act upon several of those important measures, including the surface transportation conference report and, if it is available during the night, the banking bill conference report, and perhaps other measures as well.

Since, under our procedures, the Senate cannot act on those measures until after they have been acted upon by the House and transportated to the Senate, we are now in the position of awaiting House action before we can act here in the Senate.

It is my conclusion that under those circumstances it is the most sensible and prudent thing for the Senate to recess now for a period of time while we await action in the House on these measures so that, to the extent possible, Senators can get some sleep and be ready to go tomorrow morning when we do have these measures from the House.

Since at this time I am not in a position to make a judgment on precisely when those actions will occur in the House, I am going to suggest that we recess subject to the call of the Chair, with the intention of reconvening the Senate at about 9 a.m. this morning.

If a decision is made to reconvene prior to that, Senators will, of course, be given as much notice as possible.

I do not think that is likely to occur, but, of course, we do not know as we await these actions by the House.

I have discussed this with the distinguished Republican leader and I intend to meet with the Speaker shortly, to talk with the Speaker again, shortly, to get a better and perhaps more up-to-date view on the timing of the action in the House on these various measures.

Mr. President, before I do so, I will yield to the distinguished Republican leader for such comments as he may wish to make.

Mr. DOLE. Mr. President, I concur in the statements by the majority leader. I think this would permit Senate staff to get some rest, too, is that correct? So they would not have to stay here subject to the call of the Chair.

As I understand it, we are still on target. It just happens in this time we are a little ahead of the House. Generally I think the House is sometimes waiting for us. This time we are waiting for them.

It is my understanding tomorrow morning we will have the supplemental appropriation measure available. Shortly thereafter, maybe the highway bill. And they are still in conference on the banking bill. And I am not certain about Medicaid.

It seems to me we are pretty much on target. We could complete action on most of those sometime tomorrow morning, early afternoon.

Mr. MITCHELL. That is my hope and expectation.

Mr. President, so there is no misunderstanding, I may have misspoken, my intention is to, at least at this point, recess subject to the call of the Chair. Following further discussion with the Speaker, perhaps recess over to a definite time this morning.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Mr. President, for now, unless the distinguished Republican leader has anything further he wishes to say, or any other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 12:14 a.m., the Senate recessed subject to the call of the Chair; whereupon, the Senate reassembled at 1:02 a.m. when called to order by the Presiding Officer (Mr. FORD).

The PRESIDING OFFICER. The distinguished majority leader.

RECESS UNTIL TODAY AT 9 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 9 a.m. this morning.

There being no objection, the Senate, at 1:02 and 15 seconds a.m., recessed until Wednesday, November 27, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 26, 1991:

THE JUDICIARY

JAMES B. FRANKLIN, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF GEORGIA VICE ANTHONY A. ALAIMO, RETIRED.

EDUARDO C. ROBRENO, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE LOUIS H. POLLAK, RETIRED.

URSULA MANCUSI UNGARO, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF JUSTICE

DAVID JAMES JORDAN, OF UTAH, TO BE U.S. ATTORNEY FOR THE DISTRICT OF UTAH FOR A TERM OF 4 YEARS, VICE DEE V. BENSON, RESIGNED.

THE FOLLOWING NAMED PERSONS TO BE COMMISSIONERS OF THE U.S. PAROLE COMMISSION FOR THE TERMS INDICATED:

EDWARD F. REILLY, OF KANSAS, FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997, VICE BENJAMIN F. BAER.

JOHN R. SIMPSON, OF MARYLAND, FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997, VICE CAMERON M. BATJER, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD:

HERMAN J. COHEN, OF NEW YORK

CONFIRMATION

Executive Nomination Confirmed by the Senate November 26, 1991:

DEPARTMENT OF EDUCATION

CAROLYNN REID-WALLACE, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, November 26, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

During this season of Thanksgiving, we earnestly pray, O God, that Your spirit will touch the lives of people and that deeds of generosity and acts of kindness will be the standard for people everywhere. May the reality of violence in communities or in our world be conquered by acts of understanding and compassion; may the spirit of hatred or suspicion be overcome with reconciliation; may the grasp for power be tempered with respect for others; and may enthusiasm for success be measured by an enthusiasm for faithfulness and for truth. Gracious God, You have created us to be Your people and to give thanks for the gifts we have received, we pray for the strength and the courage to do justice, to love kindness, and to walk humbly with You. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DERRICK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 112, not voting 39, as follows:

[Roll No. 428]

YEAS—283

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Atkins
AuCoin
Bacchus
Barnard
Bateman
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Callahan
Campbell (CO)
Cardin
Carper
Carr
Clement
Clinger
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Rhodes
Richardson
Rinaldo
Roe
Roemer
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Schiff
Schulze
Schumer
Serrano
Sharp
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—112

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cox (CA)
Cunningham
Dannemeyer
DeLay
Doolittle
Duncan
Edwards (OK)
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (TX)
Kanjorski
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
McCandless
McDade
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Murphy
Nussle
Oxley
Paxon
Porter
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—39

Alexander
Anthony
Aspin
Beilenson
Boxer
Byron
Chapman
Collins (IL)
Crane
Davis
Dickinson
Dixon
Dornan (CA)
Eckart
Ford (MI)
Ford (TN)
Hammerschmidt
Ireland
Lowery (CA)
Markey
McCrery
Miller (WA)
Morella
Mrazek
Oberstar
Pelosi
Ridge
Ritter
Rose
Sanders
Scheuer
Shaw
Smith (NJ)
Tallon
Towns
Waters
Weber
Wilson
Young (AK)

☐ 1028

Mr. JAMES changed his vote from "yea" to "nay."

Mr. JOHNSTON of Florida changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from West Virginia [Mr. WISE] please come forward and lead the House in the Pledge of Allegiance.

Mr. WISE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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NO
26
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MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes; and

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding to feasibility of establishing a Native American cultural center in Oklahoma City, OK.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1891) entitled "An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the amendment of the House to the bill (S. 1193) entitled "An act to make technical amendments to various Indian laws."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 756. An act to amend title 17, United States Code, the copyright renewal provisions, and for other purposes;

S. 1595. An act to preserve and enhance the ability of Alaska Natives to speak and understand their native languages;

S. 2047. An act to establish a commission to commemorate the bicentennial of the establishment of the Democratic Party of the United States; and

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3816

Mr. DICKS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3816.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

☐ 1030

McPEAK FAMILY STRUGGLES WITH HEALTH CARE EXPENSES

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, this morning I would like to introduce another West Virginia family from Harpers Ferry that is having trouble receiving health care.

Kare McPeak has two hemophiliac sons, Anthony and Thomas, 10 and 11 years old respectively. A service agency has been covering the boys' medical expenses since their father, while he works, does not have insurance that covers the boys. His insurance does not cover preexisting illness.

Recently Mrs. McPeak just got a new job to help foot their huge medical bills. The additional income unfortunately will knock her out of the assistance she is getting from the service agency, and their medical expenses total over one-half-million-dollars per year. She and her husband together make a good income. They consider themselves middle America. But they just lost their home because they had to make a choice between paying for their mortgage and paying for the boys' medication.

Does anyone really consider that a choice?

Mr. Speaker, how much longer must citizens like Mrs. McPeak choose between working to help provide for her family and having medical care for her children? How long must families choose between paying the mortgage and paying for medicine? How much longer until Congress enacts a national health care strategy which says Anthony and Thomas will have access to affordable health care?

STATUS OF REPUBLICAN ECONOMIC GROWTH PACKAGE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, last night BOB MICHEL and I met with the President on our economic growth legislation. At the end of that meeting we had to rush back to the House to vote on the campaign reform bill.

The haste of our departure led some White House reporters to be confused about the tenor of that meeting.

This morning the White House issued the following statement on behalf of the President and I quote:

> Congress has had many months to pass our economic growth package. The President regrets Congress' inaction. He is enthusiastic about the House Republicans' efforts to advance a responsible growth package. As we said last night, the President reviewed the package with Bob Michel and Newt Gingrich and told them unequivocally that he liked the package, and supports their efforts to advance the growth agenda.

I hope, given this statement, that the Democratic leadership will make in order an up-or-down vote on the growth package today.

STATUS OF PRESIDENT'S INTENTIONS ON REPUBLICAN ECONOMIC GROWTH PACKAGE

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, what I said to the press publicly I also want to say on the floor of the House.

We have had confusing statements from the White House and from Members of the House of Representatives on the Republican side about the President's intentions with regard to the possible continuation of this session for the purpose of considering issues relating to various proposals having to do with taxes and other matters.

Every bit of information that I have received in a private way indicates that the President does not wish that this session be extended beyond the time required to complete the announced program for the purpose of considering any so-called growth package offered by the Republican Members of the House.

I have not received any information to the contrary.

It is important to be clear about this because of suggestions that the President is willing or might be willing or that members of the White House staff might be willing or interested, and so forth. This is something that can be settled very easily.

If the President communicates directly to me, or to the majority leader, or to the majority leader and the Republican leader simultaneously today that he desires us to extend this session of the 102d Congress for the purpose of considering legislation dealing with tax reductions for middle-income taxpayers and other proposals of this kind—despite the previous indications that he wishes to consider these after the State of the Union Message—I will urge that we stay in session.

However, I believe the time has come for an end to the gamesmanship of indirect suggestions back and forth. This is not a matter on which there should be any confusion. The President either wishes us to conclude our business and adjourn this session of the Congress or he does not. We will accommodate the President's desires in this regard but he must articulate them clearly, unequivocally, and directly and should do so today.

CLARIFICATION OF PRESIDENT'S INTENTIONS WITH RESPECT TO REPUBLICAN GROWTH PACKAGE

(Mr. DELAY asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, it is not confusing that this Government is based on separation of powers. This House is just as important as the executive branch and this House if it wants to do something about jobs in America can do it on its own and does not need directions from the President.

The point here is that the Democrats do not want to address jobs in America.

There still is not order but I will continue because obviously the Democrats would rather talk on the floor of the House than listen about jobs in America. We are talking about jobs and this House can take any action it wants. It can vote on a growth package today or it can call us back into session after the Thanksgiving recess or we can work through Thanksgiving. The point is that America's economy is hurting and we need jobs in America. We can call this session back after Thanksgiving if we so desire. We do not need the President of the United States to tell us.

The President of the Untied States told us last night that if we pass a growth package similar to what the Republicans are offering, he will sign it, which means that we can pass it on the floor of the House today or we can come back after Thanksgiving and do what is the will of the Congress.

It is obvious to me that the Democratic leadership, Mr. Speaker, does not care about jobs in America.

DISTRIBUTION OF TRANSPORTATION FUNDS TO THE STATES

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, later today we are scheduled to consider the transportation reauthorization conference report. As of this hour, we have not received an updated analysis of how the transportation funds will be distributed to the States, nor have we seen bill language. I ask you—how can we be expected to support legislation which we have not seen and that leaves us in the dark as to how fairly or unfairly highway money is to be distributed? I don't think we can.

I have been criticized in various circles over the last 24 hours for inaccurately portraying how poorly donor States will do under this conference report. However, my analysis is based on distribution tables produced by the Federal Highway Administration on Sunday. I must stress that these are the most recently released tables from the administration. Committee leaders have told me that the numbers have changed, but when asked, they cannot produce new tables to refute those I have been distributing. I always say, "trust, but verify;" and while I believe in the integrity of the Public Works Committee, I owe it to my State and you owe it to yours to verify, on paper, the committee's claims. It is the committee that has the burden of proof and if they cannot meet the burden, we are compelled to oppose the conference report.

In reviewing the latest available material from the transportation reauthorization conference, it appears that those of us who represent donor States have every reason to be concerned. According to my analysis, as of now, the conference report that we are to vote on uses Senate formulas and only applies the 90 percent minimum allocation to about 75 percent of the total program. Gone are the FAST formulas that I, and so many of you, fought for so vigorously, and we are stuck with the continued use of an antiquated distribution system that was developed 35 years ago to construct this Nation's interstate system. Now that the system is nearly complete, it is time to move forward in an effort to meet modern transportation needs with a modern formula. This bill does not seem to do that.

Even more disconcerting is the fact that the 90 percent minimum allocation program, intended to be a safety net, has such limited application. In many cases, this means that donor States will do worse under the conference report than under either the House or Senate bill. Most States cannot live with that and neither should we. The equity and fairness that we achieved in the House bill has been lost and I can see no reason to support the conference report.

☐ 1040

THE ANGELS OF THE WORLD FOUNDATION

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, this is the ninth year I have had the honor and pleasure of delivering one of your first gifts of the holiday season.

You should have already received the 1991 Angels of the World Christmas ornament from the T&M Ranch in Indiantown, FL.

Many of you will recall the T&M Ranch is a home and school for mentally handicapped adults. There they learn the necessary skills to become working members of their community.

They craft these beautiful angel ornaments designed by sculptor Laszlo Ispanky. The project teaches them to make something with their hands, prepare it for delivery and to manage the money they earn from their efforts.

The T&M Ranch and the Angels of the World Foundation use proceeds from the sale of the ornament to create scholarships for mentally disabled persons.

It has been a great pleasure of mine to bring their gift of love to you. I hope you have a special place for the 1991, ninth edition angel, Anna of Germany. Happy holidays to you all.

WE MUST ENCOURAGE OTHER COUNTRIES TO ACCEPT HAITIAN REFUGEES

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, as we try to decide today whether or not we have a sufficient amount of votes to extend the death penalty for 50 additional Federal crimes, which would include Indians and other people in this country, I would want to share the thought that, if we walk away from this Congress and do nothing about the Haitian refugees, that indirectly we may be responsible for the lives of many poor people that will be directed back to Haiti. The only thing that prevents these refugees from returning is that a Federal court order out of Miami restrains the administration from sending the Haitians back to Haiti where many would face certain death. Mr. Speaker, the Committee on the Judiciary is now considering a Mazzoli bill that would codify the law and encourage other countries to take these people, but says, "any place but Haiti."

Religious leaders around the country, Catholics, Protestants, Jewish people, and gentiles, have come together to say that at this holiday season, as Mary and Joseph found themselves homeless, let us not return these people without a country, without homes and without hope back to Haiti. We can at least go and have that Thanksgiving knowing that we have taken a vote to encourage other countries' leaders to accept these poor people rather than to send them to Haiti where they can face certain death.

THE UNFAIR BURDEN OF THE EARNINGS TEST ON AMERICA'S WORKING SENIORS

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, once again Washington bureaucrats are telling us they know more about seniors than seniors themselves. And to add insult to injury, they are spending our tax dollars to do it.

The bureaucrats at the Social Security Administration are trumpeting the results of a study that suggests Americans aged 65 to 69 who are receiving Social Security benefits won't go back to work if the Social Security earnings penalty is repealed. The earnings penalty, you'll recall, is that Depression-era fossil that takes away $1 in Social Security benefits for every $3 a senior earns over $9,720 annually. For seniors earning as little as $10,000 a year, that amounts to an effective marginal tax rate of 56 percent—nearly twice the tax rate millionaires pay.

The study the SSA bureaucrats are touting says that repeal of this discriminatory law will have no effect on seniors. Mr. Speaker, nothing could be further from the truth.

Maybe if the Social Security Administration bureaucrats left their comfortable offices and actually talked to some of America's working seniors, they would realize the unfair burden the earnings test places on seniors, our Nation's businesses, and the national economy. They might even discover that tens of thousands of otherwise honest citizens have been forced into an underground cash economy.

Many seniors are forced to work after they reach retirement age simply because they cannot make ends meet on Social Security alone. With increasing property taxes, skyrocketing health care costs, and extremely low interest rates on their modest savings, more and more seniors must work.

As I walk the streets in my district every weekend, I talk to seniors who tell me they would work all year if they could do so without losing their benefits—but who quit in midfall because it is more cost effective for them to do so.

Businesses rely on seniors because older Americans respect the work ethic and are reliable. And with more people working and spending, the economy would get a badly needed shot in the arm.

And finally, Mr. Speaker, the numbers speak for themselves. According to the National Center for Policy Analysis, more than 700,000 seniors would return to the work force or emerge from the underground economy if the earnings test was repealed.

The SSA bureaucrats who want to continue to penalize seniors are afraid that repeal of the earnings test means fewer of them will be needed to push papers. But keeping bureaucrats busy is a poor reason to retain this foolish law.

A DOMESTIC PROGRAM AND A TAX CUT BY CHRISTMAS IS POSSIBLE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, my colleagues, if the indecision and confusion down at the White House was not so dangerous, it would be providing us with great yearend entertainment. In his final year, entering his final year of his term, President Bush cannot decide whether or not he is even for the domestic agenda, which is being offered by the Republicans here in the House. First it was, "Don't offer it." Now it is, "Maybe offer it." First it was, "You won't vote." Now, "Maybe you shall vote." It is dangerous.

The President has got to pay more attention to the domestic economy, and he has got to make up his mind, but from the Democratic side we tell him this: "If you don't threaten to veto, Mr. President, if you want us to stay in session, the Democrats on our side would like to give middle-income Americans a tax cut to put under their Christmas tree."

So, join us, Mr. President. Invite us to stay in session. We will do it, and we will provide middle-income Americans with a domestic program and a tax cut by Christmas.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would remind Members that comments in the House are to be directed to the Chair and not to persons outside the Chamber.

INVESTIGATION OF THE OCTOBER SURPRISE IS A FRIVOLOUS WASTE OF TAXPAYER DOLLARS

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, talk about gamesmanship. Where in the world are the priorities of the Democrat leadership of this House?

As my colleagues know, despite what the Democrat candidates for President have been saying for the last few months, despite what everybody acknowledges to be big problems in this country—the economy, health care, education and the like, the fact is that the priorities of this House leadership lead us to spend time and substantial money on a spurious October surprise investigation.

Mr. Speaker, that was all 12 years ago. The ordinary statute of limitations is 5 years, and other investigations have thrown cold water on the idea. There was the GAO report, the Senate Intelligence Committee, the Iran-Contra investigation, the independent counsel, and even Newsweek and New Republic have debunked this thing entirely, yet a majority of the Committee on Rules of this House voted to go ahead with this investigation.

Why, Mr. Speaker? We have big problems. There is substantial evidence of other matters that could be investigated, like the relationship of Members of the House to the Sandinista communists in the late 1980's. But why this?

What it comes down to is that we are not about to study economic problems, not address an economic program, but instead we will frivolously waste the taxpayers' dollars and our important time on this worthless investigation of the "October Surprise"—for no other reason than partisan advantage in a presidential election year.

AMENDMENTS TO THE HAWAIIAN HOMES COMMISSION ACT OF 1920

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, today I have introduced companion legislation to Senate Joint Resolutions 23 through 34. This action is to provide for the consent of the United States to certain amendments to the Hawaiian Homes Commission Act, 1920, as amended, made in 1986, 1987, and 1989, and 1990 through the enactment of laws by the State of Hawaii.

It is my hope that by introducing companion legislation to the House of Representatives that consent to these amendments will be agreed upon without further delay.

Approval of these amendments will allow more native Hawaiians to acquire homesteads more quickly and thus fulfill the original Homesteaders Act of 1920.

Mahalo and Aloha.

THE DEMOCRATS HAVE NOT DONE ONE THING TO PUT AMERICANS BACK TO WORK

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, and colleagues, I am absolutely amazed when Democrat Members of this institution stand up and say, "Mr. President, tell me what you want, and we will do it."

Mr. Speaker, I say to them, "You have already sent to the President of the United States no less than 24 bills he had to veto. He has told you clearly and unequivocally this crime bill will be vetoed. If you believe what you have said this morning, then don't even bring the crime bill up. Go back to conference, and do a real crime bill. You want to adjourn so you can go across this country and ask the American people if they're better off than they were 4 years ago, but I urge caution when you do that because, if you make that statement, if you ask that question, the American people very properly will ask you back, 'And what, Mr. Democratic Congressman, have you done about it?' "

Mr. Speaker, the hard cold reality is that, unless a growth package is made in order to the RTC bill later today,

the Democrats will have to admit to the American people that in the midst of the recession that they, the Democrats who control this Congress, have not done one thing to put one American back to work.

☐ 1050

ARKANSAS EDUCATIONAL TELEVISION CELEBRATES SILVER ANNIVERSARY

(Mr. THORNTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNTON. Mr. Speaker, my State will pass an educational milestone next month, marking the silver anniversary of its venture into educational television.

On December 4, 1966, Arkansas placed into operation the first of what would become five television stations, which now broadcast educational programming to over 90 percent of our State.

The Arkansas Educational Television Commission has been working on this silver anniversary celebration all year, using its award-winning theme, "Where Learning Never Ends," to stress the excellent variety of programming that is available to Arkansas because of its work.

The network is active 18 hours a day, offering Arkansas viewers education that ranges from "Sesame Street" to college telecourses, with geography, science, math, and GED programming in between; cultural productions that include opera, ballet, and drama; and an informative schedule of public affairs programming that includes the "MacNeil/Lehrer Newshour," "Washington Week in Review," and its own production, "Arkansas Week."

AETN and its five transmitters present to Arkansas the best in public broadcasting while helping to educate our children and to raise the levels of scholastic accomplishment in our State. AETN also presents programs like the "Arkansas Traveler" and "Ozark Mountain Christmas"—programs that make our State proud.

Mr. Speaker, I am pleased to call my colleagues' attention to this great Arkansas resource and to congratulate the staff and management of AETN for this achievement.

ELEVATING EPA STATUS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, this is the time of year when we ask, what happened to such and such bills? My colleague, the gentleman from New York [Mr. BOEHLERT] has been making inquiries this week to find out whatever happened to legislation to elevate the EPA to a Cabinet level.

Incredibly, this is something that has been on the agenda since I first came to Congress almost 3 years ago. The other body has already taken positive action on such a measure, all the major environmental groups and the administration has long been asking for such action. Not surprisingly, the American people support it too. It is astonishing to note that all of this support is apparently being frustrated by the will of one House committee, of one committee chairman who has so far refused to bring this legislation to the floor. Mr. Speaker, if it looks like a Cabinet-level agency, acts like a Cabinet-level agency, and is expected to be treated like a Cabinet-level agency, then why can't this body do the right thing and finally give the EPA the forum that its responsibilities demand?

DEFICIT CONSEQUENCES TO THE REPUBLICAN GROWTH PLAN

(Mr. DURBIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, it is time to take a closer look at the Republican growth package. This growth package which the gentleman from Georgia [Mr. GINGRICH] described this morning will add $25 billion to our national deficit over the next 5 years.

After all the carping and crying about our national debt, the House Republicans believe a bigger deficit is the answer to our economic problems.

Now, what is the centerpiece of the Gingrich Republican growth plan? Surprise, surprise. The Republican plan would cut the capital gains tax on the wealthiest Americans. The Joint Committee on Taxation estimates that 57 percent of this tax break would go to those Americans earning over $200,000 a year. For those Americans it means a tax reduction each year of over $11,000.

Let us go back on this chart to the middle-income Americans, the working families. The Republican growth package gives the working family a whopping $65 to $84 tax break. The Republican growth package would help the incomes of the wealthiest Americans grow dramatically.

Does this sound familiar? Have we heard this song before? It is the same supply side, voodoo, trickledown economics that got our country into this economic mess.

RECOGNITION OF MEMBERS

The SPEAKER pro tempore (Mr. MAZZOLI). For what purpose does the gentleman from California [Mr. DORNAN] seek recognition?

The House will be in order. The Chair will repeat, the House will be in order.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. MAZZOLI). When the House is in order, the gentleman will be recognized.

Mr. DANNEMEYER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, when one Member of the House uses a chart as part of a presentation, do the rules provide that another Member can make a reference to that chart?

The SPEAKER pro tempore. References can be made, but the use of the chart is not guaranteed.

Mr. DANNEMEYER. Mr. Speaker, is it appropriate to make a parliamentary inquiry to ask the Chair to ask the Sergeant at Arms to go and find that chart?

The SPEAKER pro tempore. That is not a proper parliamentary inquiry.

THE ELUSIVE CHART

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I want to revise and extend my remarks and take that chart and put it to literary prose and put it in immediately following my remarks. I like that chart.

I wanted to talk about that chart. I am going to go and look for it in the Speaker's Lobby afterwards and study that chart and memorize that chart, because I noticed the next item up, which was the second highest paid Americans on that chart, was U.S. Congressmen and Senators. The next category up was $100,000 to $200,000, and we pull down about $125,000 here.

I thought I would point out that under that Republican plan Members of Congress were going to get a 13.7-percent tax break, so I thought when we go home on Thanksgiving and have our town hall meetings, we may hear people stand up and say, "Mr. Congressperson, you make $125,000. Why wouldn't you give us a growth package so that we could begin to create jobs again in America?"

Under President Reagan we were creating 300,000 jobs a month, and George Bush had hoped to break that record, but because of the Democratic-controlled Congress, the House and the Senate, we are losing 50,000 jobs a month. I ask, "Why don't we stay and come back after Thanksgiving and pass this growth package? We will let you call it the Democratic growth package."

Mr. Speaker, I am going to go and look for that chart now. It is fascinating.

THE 70-PERCENT MINIMUM WAGE INCREASE WILL HURT WORKERS AND SMALL BUSINESSES IN DISTRICT OF COLUMBIA

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I could not believe my eyes when I read that the District of Columbia Wage-Hour Board has decided to increase District of Columbia's minimum wage from $4.25 to $7.25.

That's a 70-percent wage increase that will be devastating to small business men and women in the District of Columbia.

While the wage-hour board certainly had good intentions, it's decision will hurt those it intends to help—low-income workers.

The Washington Post reported yesterday that a day care center in southeast Washington will begin to lay off or close entirely because of the board's decision. This day care center has provided service to low-income families for 23 years.

The chairman and CEO of Colonial Parking, which employs 250 cashiers, also said he is considering massive layoffs.

Mr. Speaker, the way to help low-income workers is through an expanding economy that creates new jobs to give people employment options. By increasing wages by 70 percent, the D.C. Wage-Hour Board will shrink the job pool and will chase small businesses out of the city. That's no way to help the people of Washington.

BUREAUCRATIC REDTAPE HAMPERS IMPLEMENTATION OF ASSISTANCE PROGRAMS

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, Complexity cripples the food stamp, AFDC, and Medicaid Programs and increases the potential that families will be denied assistance because of red-tape rather than for eligibility reasons.

And taxpayer dollars are paying for ever more bureaucracy as the need for these vital programs grows.

My bill simply calls for USDA and HHS to compile a document to delineate what statutory and regulatory changes may be made to streamline and coordinate program rules.

If we pass this bill, policy makers will have, for the first time, a document from which meaningful and lasting changes can be made for the benefit of recipients and taxpayers.

To be denied assistance simply because government bureaucracy cannot keep up with itself is an inefficiency that we should not tolerate.

PORNOGRAPHY BOYCOTT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, our first amendment right of free speech is the cornerstone of all other civil liberties. Without it religious liberty would be diminished, the right to freely associate would be meaningless, and the right to vote would be irrelevant.

But with this precious right comes responsibility. Interestingly, this right of free speech cuts both ways. That is, we can use our collective voice to rise up against that which fails to uplift the human spirit or which does not quite meet an accepted standard. Environmentalists use this right to announce boycotts against tuna manufacturers. Some black Americans once sought to boycott businesses operating in South Africa. And some people use this right to boycott the promotion of cultural decay.

Mr. Speaker, I fit in with this latter group. I have chosen to boycott the K-Mart Corp., owners of Waldenbooks, who choose to sell pornography in their stores. I am just one consumer, but I will not knowingly allow my money to go to porn merchants no matter how respectable they try to make themselves seem.

PASS THE CRIME BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the crime bill, which I hope comes to the floor later today, is being hit from the left by liberals among us because it includes additional death penalties, because it eases the exclusionary rule, and limits to some extent habeas corpus death row petitions.

That same bill is being hit from the right by the conservatives because it includes handgun waiting periods and it does not go far enough to ease the exclusionary rule or to limit habeas corpus or to add death penalties.

There is a legislative rule of thumb that I have generally lived by these 20 years I have been in political office. And that is any bill which is assaulted and decried from the left and any bill which is at the same time assaulted and decried from the right is probably a pretty good bill.

So I say the crime bill is not a great bill. But, it is a pretty good bill. I hope that that bill passes today.

JAPANESE APOLOGY FOR PEARL HARBOR ATTACK

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, December 7, 1991, marks the 50th anniversary of the Imperial Japanese Navy's attack on the United States Pacific Fleet at Pearl Harbor in Hawaii. That act resulted in more than 2,400 American deaths, including 1,102 Navy personnel on the battleship *Arizona*, plus numerous other military and civilian casualties.

Not only has there never been an apology for these deaths and casualties, but it appears that Japan no longer is acknowledging responsibility inasmuch as our information indicates that Japan's history books are to be rewritten without any references to the Pearl Harbor Sunday morning attack.

Therefore, over the weekend I submitted a resolution calling upon the Japanese Government to formally apologize on or before December 7, 1991, to the widows, parents, children, other survivors, and to the people of the United States. I urge my colleagues who believe in America to join me and several other Members in supporting this bipartisan resolution concerning Pearl Harbor 50 years later.

GOVERNMENT SERVICE IS PUBLIC SERVICE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, today my colleague, the gentleman from Washington [Mr. CHANDLER] and I are introducing legislation that would create a lifetime ban on working for a foreign government or foreign-controlled corporation for certain high-level appointees of the executive branch and officials involved in trade negotiations, which would involve people at the U.S. Trade Representative's Office, the International Trade Commission, the Commerce Department and the Defense Department.

The purpose is manifold: To stop opportunists who used political influence to get trade jobs in the Government, blocking out people who would choose public service as a career rather than a pit stop, to remove the financial incentives for experienced trade negotiators to leave public service, to stop the flow of insider information about trade negotiations and individual corporations to foreign interests, and to remove the unfair advantage foreign competitors gain by having a former high-level U.S. official represent them before a Federal agency, Congress or the White House.

The purpose of this bill is clear. Government service is public service, not a training program for financial self-enrichment. We need to begin to fight for our own, to keep U.S. corporations strong and to preserve American jobs.

WHY NOT AN ECONOMIC GROWTH PACKAGE TODAY?

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, today we are about to embark on what the majority leader has termed the mother of all sessions. We are going to knuckle down here in the House of Representatives, and we are going to spend day and night and possibly morning solving the problems of our country. But in that expanse of time, there is no room to consider a growth package.

We have heard here this morning that if we got a call from the President of the United States to stay over that we could deal with the growth package.

This is nothing new. This is nothing new. These growth packages have been around for a year. We have been asking for them for a year. This is another delay.

We have 1 full day. We have 24 hours. We have plenty of time to come here to the floor today to do this for America today.

There are unemployed people who are sitting at home because they do not have a job right now watching us who want our help. Let us help them.

LET US DEAL WITH THE UNDERLYING CANCER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Republicans have another economic growth plan which constitutes tax cuts around election time. I am not going to put the Republicans down because the Democrats also have a similar type of plan.

My colleagues in the Congress, I say the real problem is we are treating the symptoms: crime, drugs, prostitution, welfare. No one is dealing with the underlying cancer.

In my opinion, no one is looking at trade reform, tax loophole reform, because those parties are looking exactly alike. It is getting so bad, when we have a sitting President that is agreeing to an economic growth package from a group of Republican Congressmen that he has never read, then our economy is in deep trouble, big time.

I say before we go on with any more 10-year plans, 5-year plans, let us start with taking a look at the trade and tax policies of our country that are sending our jobs overseas and ruining, ruining our communities.

SOME ASPECTS OF THE GROWTH PACKAGE

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, the majority leader said that it would require the President to extend Congress. We can do that on the RTC bill that is coming up, but let me go through just a couple of items that the package includes, not for the rich but a 30-percent inclusion from taxable income from any taxable asset. That means a home, whether it is a $15,000 home or a $200,000 home. Adjust value asset for effects of inflation. No penalty for a first-time home buyer. I know my daughter and my son are coming up to buy a home. I do not think they can do it.

The most highly taxed group in America. I do not call them senior citizens, I call them chronically gifted, a Social Security earnings limitation reduction. That is important, Mr. Speaker.

This is not for the rich. Leading employees apprentice program. This is where employers can invest to create jobs in our shipbuilding industry. In San Diego they are already doing that. They are providing jobs for young men and women coming out of high school.

We can give them a tax credit. Repeal the excise tax on boats, aircraft, and passenger vehicles. This costs the Government money.

Those are all but about 15 of the items, Mr. Speaker.

THE TRANSPORTATION BILL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, we hope we are going to have a transportation bill out today. We do not have all of the numbers together yet so we do not know where all the money is going to go, and I think it is a disservice to the Members of the House to come out with figures that are not accurate because we do not have the figures and to be telling people that they are going to be hurt.

We are looking at the donor States, and we know, and I am a donor State, I want to get everything back into my district that I can because that is what the people want. But at the same time we are looking at a national bill, we are looking, if we want to jump-start the economic engine, this is the way to do it because we are talking about 2 million jobs, something that would put the economic stimulus into the Nation and help to get us back on the road again.

But we cannot do it if it is not going to be given a fair chance and a fair opportunity today. Today we are going to vote on it. Please, wait and look and listen and find out what is going to be in the bill before making any serious mistakes and saying, "No, I am not going to do it because there is not enough in my pocket."

□ 1110

ENCOURAGING RECOGNITION OF UKRAINIAN INDEPENDENCE

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, in just a few days the nearly 52 million people of Ukraine will vote overwhelmingly to declare their independence from the former Soviet Union. The United States should be among the first to recognize Ukrainian independence. It is vitally important that the United States side with the people of Ukraine instead of continuing to prop up a Kremlin still run by barely reconstructed Communists. In particular it is important that America not repeat the performance so embarrassing to all of us in which our Nation was nearly the last on Earth, save our Cuba, to recognize the independence of the Baltic nations.

Those who argue that Kremlin control over the military, economic, and social policies of Ukraine is somehow in America's interests are wrong. America now has the opportunity to negotiate with an independent Russia and then independent Ukraine for the wholesale destruction of nuclear weapons and for the implementation of free market reforms.

I urge my colleagues to sign a letter I have prepared for President Bush encouraging him to accept the advice of several in his administration, including Secretary Cheney, to recognize Ukraine upon their declaration of independence this weekend.

SAME OLD REPUBLICAN TRICKLEDOWN ECONOMICS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I listen to my colleagues on the other side, and I wish so much that it was as simple as they would like to portray it. We keep hearing about this wonderful tax package that they have, and I feel like it is a movie. This is where we came in. This is how we got in trouble. So what should we do? Do more of it?

They are talking about more cuts for luxury taxes, more cuts for the rich on their capital gains taxes. I suppose that means we are going to get trickled on one more time. For the people who have still been waiting to be trickled on for the last 10 years of tax cuts and are not even damp, I do not think this will do it.

The gentleman from Ohio makes a very good point. What is wrong with this economy is very serious and we should stay here and we should deal with it. But it goes to trade, it goes to jobs, it goes to global market, it goes to all sorts of things. It is not about a tax on boats alone, believe me.

DEMOCRATS' FOREIGN POLICY LEGISLATION IGNORES DOMESTIC NEEDS

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, for weeks our Democrat colleagues have been attacking the President on foreign policy matters. The chief Democrat accuser has been the majority leader, who has called for putting America first. Now here we are in the last day of the session and what is the only bill that the majority leader chooses to bring up? It is the Democrat $25 billion foreign aid bill.

We have voted on this bill now for the third time, but 178 days ago the President of the United States asked for a highway bill. Where is it? We have not voted on it once. But in this foreign aid there are $3 billion to build highways overseas, but not 1 cent to build highways here at home.

Senior citizens are asking. The leading tax writer, the gentleman from Illinois [Mr. ROSTENKOWSKI], sends us a "Dear Colleague" letter, "Vote for the foreign aid bill." Senior citizens are asking if the Democrats have enough money to spend $25 billion overseas, why don't they have enough money to restore the Social Security benefits that were taken away by a Democrat Congress and a Democrat President in 1977.

In 5 months we have voted on foreign aid three times. We are shoveling it overseas so fast they cannot spend it fast enough, but in 13 years we have not voted on notch once. Now go home and tell your notchers that.

FOREIGN AID BILL REFLECTS THE PRESIDENT'S REQUESTS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, never have I heard more fantasy engaged in on the House floor than by the previous speaker. The previous speaker just indicated that the Democratic foreign aid bill may be before the House today. What absolute baloney.

The fact is that virtually every dollar of that foreign aid bill is in the bill at the request of George Bush in the big White House down on the other side of Pennsylvania Avenue.

The second fact which the gentleman chooses to ignore is that the IMF, which is a $13 billion piece of that bill, is in the bill at the specific request of the President of the United States. This is one Democratic chairman who is going to make very certain that that IMF never sees the light of day in the appropriations bill.

But if the Members want to know who is responsible for that $13 billion request, do not tell the American people a falsehood. Do not pretend that that bill is a Democratic bill. Virtually every dollar in that bill is at the request of the Republican White House and $13 billion IMF is in that bill because Nick Brady, the Secretary of the Treasury and the President's best friend in the Cabinet, is demanding that it be in there. So let us tell the truth.

AMERICA NEEDS GREATER CONTRIBUTION FROM ITS ALLIES

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, last week in Tokyo, Secretary Dick Cheney made what I think is a very significant speech. During his remarks he called on Japan to play a more active role, militarily and politically, in the world today, and to take on greater world responsibilities, particularly by helping the emerging democracies in Eastern Europe and the Soviet Union.

I would quote directly from his remarks, as follows: "Japan can do more. Japan's economic strength gives it worldwide political influence." I think this is a very important policy statement by the Secretary of Defense. At least we are saying to one of our allies, and we should say to all of them, "You must take greater responsibility, financial and otherwise, for world peace."

We have 56,000 American U.S. service personnel stationed in Japan today. This number should be reduced substantially. This is a very expensive cost to the United States. I think it is vital that we get a greater contribution from our allies, not only Japan but also others in paying the security costs for maintaining world peace.

I commend Secretary Cheney for taking that message to our ally in the Pacific.

LAST MINUTE REPUBLICAN GROWTH PACKAGE RHETORIC

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, once again the Republicans want to repeat history. They want us to consider one of their economic growth packages in the middle of the night on the last day of the session.

Mr. Speaker, we did that in 1981 and we had the largest deficits in the history of this country created, deficits that are now crippling our economy and crippling the American family and crippling our ability to create jobs.

In 1986 the Republican-led Senate, with the full support of President Reagan and then-Vice President George Bush, took capital gains out of the Tax Code, took passive losses out of the Tax Code, took the IRA's out of the Tax Code, and told us it would create economic growth. Now George Herbert Walker Bush is back here telling us, and the Republicans are saying, put it all back in and it will create economic growth.

Which is it, folks? You ought to settle this debate within your party before you try to get us to consider it in the middle of the night. This is not so much about economic growth as it is about the growth of the bank accounts of the wealthiest people in this country who would benefit under the Republican proposal. This is not so much about their willingness to stay here in session as it is the Republicans' fear to go home and find out what they have done to the American people and this economy.

MUSINGS OF MARIO

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, it was another weekend of the musings of Mario. Get used to it, America. We in New York have watched this sideshow for years. Last weekend Mario Cuomo laid every problem in New York at the doorstep of President Bush.

Let us set the record straight. It was Mario Cuomo who raised taxes by $1 billion in each of the last 3 years, making New York Money Magazine's tax hell. It was Mario Cuomo who moved New York to dead last on the list of Tax Freedom Days. The Center for Study of the States says our Governor accumulated the worst record for balancing the budget. Cuomo added 30,000 new State jobs, raised State spending 98 percent, and has given us the third lowest bond rating in all of America.

Financial World Magazine rates Mario Cuomo 43d in fiscal management. On his watch, SAT scores have dropped from 36th to 45th in the Nation. Now New York's biggest and fastest export is our educated youth, who leave to look for jobs elsewhere.

The Washington Post said last month, and I quote here, "Cuomo says he would have to quit as Governor to run for presidency." That is the best news New Yorkers have heard in years. Please do not disappoint us.

□ 1120

BEWARE OF STRANGERS BEARING GIFTS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, there is an old saying, "Beware of strangers bearing gifts." Never is it more important to understand that than in the 11th hour of a legislative session.

Now we have the Republicans coming to us with their economic growth package. I call it the dollar and-a-quarter package. $1.25 a week is what they offer to middle-income families. Some stimulus, is it not?

But look a little closer at this package. Down at the bottom, those families that make over $200,000 a year, almost $12,000 a year in tax cuts. In fact, 70 percent of their tax cuts go to people with incomes over $100,000.

There is nothing new about this, but there is certainly something Republican about it. The same old tired nonsense. They continue to believe that the key of the kingdom of economic growth is in the bank accounts of the rich.

When will they understand that the middle-income families drive this economy, and if ever we would give the middle-income families a little something to work with, America would get to work again.

When will we see an economic growth package that is fair from Republicans? I hope it is soon.

THE DISTRICT OF COLUMBIA'S INTERSTATE GUN CONTROL

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, much as I hate to change the subject from this very interesting topic today, I would like to recall that on Tuesday, November 5, the District of Columbia passed into law a measure that holds firearm manufacturers and sellers liable for injuries caused by the persons who purchase their guns.

This is just another gust of wind in the storm called gun control. The media and proponents of gun control have somehow fooled the public into believing that if we get rid of the firearm, we get rid of the fired upon.

We seem to be forgetting who is doing the killing. We seem to be forgetting that a person using a steak knife can kill somebody, a person driving an automobile can murder someone, a person using something as harmless as a pillow can commit a homicide. But do we hold the Sheffield Knife Co. liable, do we hold General Motors liable, do we hold the Cannon Linen Co. liable. I don't think so.

So, where are the gun control enthusiasts leading us? First to court and then on to being a totally defenseless nation. If measures like the one passed here in the District prevail, they will make a mockery of our Nation's interstate commerce laws.

Forget the fact that a dealer in Oklahoma legally sold an individual, with sporting intentions, a firearm. The lawsuits will quickly drive gundealers and manufacturers out of business and the only winners will be the incessant lawyers that feed on these types of statutes.

Mr. Speaker, when I read about the D.C. referendum in the paper, I was reminded of England between the two World Wars. Well-meaning lawmakers in the Labor Party convinced the people that by giving up their guns they would then disarm the IRA rebels and have peace. The Firearms Acts of 1922 and 1937 set up gun registration that led to confiscation. It was only when Adolph Hitler had invaded their homeland and taken away what little defense they had at Dunkirk that they realized their predicament.

They found out they had a dried-up arms industry and they had to come to barbaric America to bail them out.

A few minutes ago the gentleman from California [Mr. MILLER] talked about remembering history. I hope that we can remember this bit of history as we act on these gun control measures in this country.

Today we face the same predicament with the rebels on our own streets. Let us not make the same mistake. Only tougher laws against criminals will bring down crime rates.

Mr. Speaker, the only winners in the D.C. referendum will be criminals and lawyers.

GIVE WORKERS A CHANCE TO HAVE A REAL THANKSGIVING

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, Thanksgiving is coming Thursday, but almost 8,000 workers in North Carolina will not be able to afford a turkey, because this House passed the luxury tax that has destroyed the boat building industry and their jobs.

Mr. Speaker, we could pass a Democrat growth package in a couple hours. Time is not the stumbling block that prevents our vote on the Republican growth package, politics is. We have been wasting time here doing nothing but 1-minute speeches, suspensions, and special orders, so there is plenty of time for a serious effort.

Give us a chance to vote on our growth package which would help those North Carolina workers to get their jobs back and have a real Thanksgiving.

ANOTHER NEW LOW

(Mr. McEWEN asked and was given permission to address the House for 1 minute to revise and extend his remarks and to include extraneous materials.)

Mr. McEWEN. Mr. Speaker, just when you think you have heard it all, then you find out that there is another new low.

I wish to bring to the attention of my colleagues H.R. 3807 which will be messaged over from the Senate later on this afternoon. There is a provision in there to give $700 million to the Soviet Union, $700 million; but listen to this, line 19 of section 5 says this:

> The value of assistance from existing stocks and inventories of the Department of Defense or any other federal Department or agency may not be charged against those funds.

Now, not only are we going to give $700 million in cash, we can take anything that America possesses and give to them free with no accountability under any circumstances.

Now, rest assured if this amendment is allowed to pass this afternoon, I swear, I guarantee, we are going to be sending trucks to the Soviet Union to transport food, rest assured; not to your local hospital board, not to a fire department, not to a police department. We are going to be sending it to the Soviet Union so they can build aircraft.

Mr. Speaker, from Jane's Defense Weekly of November 16, 1991, I include an article as to how they are accelerating their fighter construction in order to sell on the market for hard cash; so we will pick up their expenses at home so they can sell arms abroad:

[From Jane's Defense Weekly, Nov. 16, 1991]

NEW "FROGFOOT" IN THE WINGS—RUSSIANS SEEKING FOREIGN CASH

Russia, soon to assume control of its own aircraft programmes, may have to seek foreign investment to keep its fly-by-wire MiG-29 "Fulcrum" programme alive, according to Vladimir Laptev, Deputy Minister for the Soviet Union's soon-to-be disbanded Ministry of Aviation Industry.

The MiG-29M, as it is called, is one of several combat aircraft programmes eligible for foreign participation: another is the Soviet Air Force's next-generation jet trainer.

"We're due to make a final decision in January," Laptev said. Principal bidders for the twin-engine trainer are Mikoyan, Sukhoi and Yakovlev.

So far, both sub-and supersonic designs are under consideration. The aircraft should be able to cater for both basic and advanced instruction.

The air force is fighting to maintain next year's R&D budget at current funding levels, Laptev said. Even so, programmes are having to be strictly prioritized in the scramble for the scant cash available.

"There will be a concentration of funds on the most important programmers at the expense of secondary programmes," Laptev told JDW. The MiG-29M has been sacrificed because it is not a core air force programme, he said. "We may look for a foreign partner to continue (with it)," he added.

Asked whether any next-generation combat aircraft programmes had fallen at the cash hurdle, Laptev said: "Naturally, there are financial constraints, but so far, no, none had been stopped.

"Some of these programmes are so advanced that it would be most damaging to stop them now," He added.

In September, Laptev said work for the Soviet Air Force was underway on improvements to existing MiG-29 "Fulcrums" and Su-27 "Flankers" as well as development of new fighters comparable to NATO's next-generation aircraft.

Other combat aircraft designs, notably the Yak-141 "Freestyle" and the multi-role Su-37 fighter, are open to foreign investment both to complete and—in the case of the Su-37—to start their development.

SEND BACK EDWARD LEE HOWARD, AN AMERICAN TRAITOR

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROOMFIELD. Mr. Speaker, yesterday the other body voted to transfer $500 million from the Pentagon budget to help dismantle Soviet nuclear weapons.

I suspect that is just the opening round in a series of proposals to help the people in the various Republics once controlled by the Soviet Union get back on their feet.

The Soviets are not in a position to give us much in return for our financial aid, but there is one thing they surely can do: Send back Edward Lee Howard.

He is the first American CIA operative ever to defect to the Soviet Union. According to a story in today's Washington Times, "U.S. officials have said his disclosures caused the deaths of several agents working secretly in Moscow."

Edward Lee Howard betrayed his friends, betrayed his Government, and betrayed his country. We should demand his return.

I include the Washington Times article for printing in the RECORD:

[From the Washington Times, Nov. 26, 1991]

CIA DEFECTOR NOW UNGUARDED

(By Bill Gertz)

CIA defector Edward Lee Howard has lost the round-the-clock protection provided by the KGB in Moscow and worries that he could be turned over to U.S. authorities for prosecution, according to Bush administration intelligence officials.

A Western reporter recently approached Howard at his Moscow apartment and the defector tried to have the reporter thrown out, said officials who spoke on condition of anonymity.

However, no security guards were present or came to Howard's aid in trying to oust the journalist from the apartment building, the officials said.

The officials said the incident was a clear sign the Soviets have abandoned the blanket protection once afforded their prize CIA defector.

FBI spokesman Bill Carter declined to comment on whether Howard has lost his security protection. But he said the former CIA operative still is wanted on espionage charges.

In Moscow, Alexi Zakharov, a spokesman for the Soviet security police, said of Howard: "I don't know the man, but in our country everything is possible."

Asked if someone like Howard might leave the country someday, the spokesman said of the spy business: "In these days, ours leave, and yours come, so in general everything is possible."

Howard, a CIA operative from 1981 to 1983, slipped away from FBI surveillance agents watching his New Mexico home in September 1985. Several months later he was granted political asylum in Moscow.

Trained as a Moscow case officer, he is the first CIA officer ever to defect to the KGB, and U.S. officials have said his disclosures caused the deaths of several agents working secrecy in Moscow.

The KGB, a central pillar of Soviet power, was disbanded following disclosures that its chairman, Vladimir Kryuchkov, and several top aides helped engineer the abortive coup last August.

In its place, several new organizations were set up. The internal security and conterintelligence police is called the Interrepublican Security Service. A separate foreign espionage branch was renamed the Central Security Service.

Howard told The Washington Post last year that he lived in a country house outside Moscow with two KGB guards who provided 24-hour protection against possible kidnapping by Western spy services.

At the time the defector said he regularly played chess with his guards.

David Wise, author of the 1988 book on Howard, "The Spy Who Got Away," said the defector also lives in an apartment provided by the KGB near the Arbat, a shopping area of Moscow.

It was at this second-floor apartment where the recent confrontation between Howard and a Western correspondent took place, the officials said.

"He worries a lot about being abducted," Mr. Wise said in an interview.

According to Mr. Wise, Howard told him during a series of interviews in Hungary several years ago that he feared the CIA would abduct him or poison food sent to him from abroad.

"I have to worry that the agency might try to kidnap me," Howard was quoted as saying in the Wise book. "It wouldn't take much, a hypodermic needle, throw me in the trunk of the car, and it's only two hours to the [Austrian] border."

Thomas DuHadway, the late chief of the FBI's intelligence division, said in September that the United States should press the Soviets to extradite Howard in exchange for U.S. economic assistance.

THE UNITED STATES IS THE ONLY NATION WITHOUT AN ENVIRONMENTAL DEPARTMENT

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, the United States is the only nation in the developed world that does not have an environmental department at the highest level of government, yet the American people repeatedly tell us they want the top environmental administrator, for our Government sitting at the President's Cabinet table.

We have a bill, Mr. Speaker, at the Speaker's table already passed by the Senate that would fix this problem, and yet the chairman of the Government Operations Committee refuses to act. We have a bipartisan coalition, a majority in this Chamber that wants to pass that legislation to elevate the EPA to Cabinet level status, yet the chairman of the Government Operations Committee refuses to act.

Every major environmental group in America and the administration has endorsed this bill, yet the chairman of the Government Operations Committee refuses to act.

The American people, the environmentalists, all of us who are so vitally concerned, Republicans and Democrats alike, know who to blame if we do not pass this legislation by the end of this session. It is the chairman of the Government Operations Committee.

ECONOMIC GROWTH, A PRIORITY

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, when Speaker FOLEY was down here in the well a few minutes ago at the beginning of the 1-minute speeches, he did say one thing that struck me as right. He said the issue is too important for gamesmanship. But what did he describe as the issue? Taxes, tax cuts, tax breaks. He could not bring himself to use the words "economic growth."

Well, Mr. Speaker, our priority before we go home, before we adjourn for the year is economic growth, because we realize that extending unemployment insurance benefits, recapitalizing the bank insurance fund, appropriating billions more for the savings and loan bailout without addressing underlying economic conditions is like pumping blood into a hemorrhaging patient without first closing the wound.

Yes, our package does have capital gains, which is an item very much supported by America's farmers and small business people.

Yes, we would repeal the luxury taxes which have cost working Americans their jobs, but we would also reinstate passive losses and repeal the Social Security's earnings limit, both ideas which have tremendous Democratic support in this House.

Mr. Speaker, it is a sad commentary on this place that we cannot have a debate on economic growth because the liberal Democratic majority that runs the place, that sets the schedule, that controls the rules, will not allow that debate to take place.

THE REPUBLICAN CHRISTMAS TREE

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, imagine the so-called Republican growth package as a Christmas tree down at the White House. The President has invited in his wealthy friends. And what do we find under the tree? Well, of course, we find capital gains, because 31 percent is an egregious amount for the richest people in America to pay in terms of taxes on their income. It used to be 71 percent, but they are a little greedy; 31 percent, that is too much, let us take them to 18 and, well, it will trickle down to the rest of us for next Christmas.

Now, this bizarre thing about the tax on boats, they are not concerned about the fact that we levied a registration tax on every small boatowner in America, the people who cannot afford it; but no, those people will not find yachts under the Christmas tree.

Get this one. If a yacht costs $120,000, with this surtax it will cost $122,000.

□ 1130

And those people who can afford $120,000 yachts just will not buy them when they cost $122,000. They will not be under Christmas trees, and those people who build the yachts will be out of work.

If you believe that, I have got something special to put under your Christmas tree.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each scheduled motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

SAN CARLO APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 291) to settle certain water rights claims of the San Carlos Apache Tribe, as amended.

The Clerk read as follows:

S. 291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Apache Tribe Water Rights Settlement Act of 1991".

SEC. 2. CONGRESSIONAL FINDINGS.

(a) SPECIFIC FINDINGS.—The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water righte are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately 58,735 acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) PURPOSES OF THIS ACT.—It is the purpose of this Act—

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 10(c) and 11(a)(7) of this Act.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona, and all decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Act of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(8) "Secretary" means the Secretary of the Interior.

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

SEC. 4. WATER.

(a) REALLOCATION OF WATER.—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of October 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) Partial Satisfaction of Claims.—Notwithstanding any other provision of this Act, in the event the authorizations contained in section 8(b) do not become effective, the water referred to in subsection 4(a) of this Act shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source, Maricopa County Superior Court Nos. W-1, W-2, W-3, and W-4 (consolidated), as against the parties identified in section 3(2) of this Act.

(c) Additional Allocations.—The Secretary shall reallocate to the Tribe an annual entitlement to 14,655 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and non-Indian water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12446 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) Additional Allocation.—The Secretary shall reallocate to the Tribe and annual entitlement to 3,480 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments of such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) Water Storage Pool.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP or irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of 12,700 acre-feet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 10(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII(2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) Execution of Agreement.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 10(D) of this Act, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 8(b) of this Act, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) Gila River Exchanges.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

SEC. 5. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) Ratification of Contract.—Except as provided in section 10(i), the contract between the SRP and the RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) Subcontract.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of Exhibit "A" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) Restrictions.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) Disclaimer.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this Act.

(e) Full Cost Pricing Provisions.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(g) Certain Extensions Authorized.—Notwithstanding any other provision of law or any other provision of this Act, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to 100 years, subject to payment of rental at a rate based upon fair market retail value.

SEC. 6. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) Amendment of Contract.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community dated October 2, 1985, as is necessary to satisfy the requirements of section 4(a) of this Act.

(b) Contract Amendment.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows:

water from those sources described in subsections (a), (c), and (d) of section 4 of this Act; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to delivery CAP water shall not exceed the cost of construction of the delivery and distribution system for the 12,700 acrefeet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the term and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Temple and the town of Gilbert.

(c) Approval of Amendments.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) Charges Not To Be Imposed.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) Water Lease.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as authorized by section 6 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d) of section 4, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charge for any water use or lease from the effective date of this Act through September 30, 1995.

(f) Allocation and Repayment of Costs.—For the purpose of determining allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) Agreements.—The Secretary shall, in consultation with the Tribe, enter into agreements necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to it under its Tribal CAP Delivery Contract, as amended.

(h) Ratification.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) Use of Water.—As among the parties to the Agreement, the right of the city of Stafford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) Withdrawal and Use of Water.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) Prohibitions.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this Act may be sold, leased, transferred or in any way used off the Tribe's Reservation.

SEC. 7. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) Duties.—The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) to design and construct new facilities for the delivery of 12,700 acre-feet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this Act; and

(2) to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07-81-000210, to provide that all remaining repayment obligations, owing to the United States on the date of the enactment of this Act are discharged.

(b) Fund.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the $3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from leases or options to lease water authorized by section 6 of this Act.

(c) Authorization.—There are authorized to be appropriated $18,800,000 in fiscal year 1993, and $19,600,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this Act at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) Use of Fund.—When the authorizations contained in section 8(b) of this Act are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges as appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: *Provided, however,* That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, the Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure the use of the funds shall be in accordance with the approved budget.

(e) Regulations.—The Secretary shall, no later than 30 days after the date the authorizations contained in section 8(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) Disclaimer.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Fund.

SEC. 8. SATISFACTION OF CLAIMS.

(a) Full Satisfaction of Claims.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this Act shall constitute full and compete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this Act. Notwithstanding the foregoing, nothing in this Act shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) Release.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this Act, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) Additional Releases.—Except as provided in the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) SAVINGS PROVISION.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 11(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) DISCLAIMER.—Nothing in this Act shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

SEC. 9. ENVIRONMENTAL COMPLIANCE.

(a) NO MAJOR FEDERAL ACTION.—Execution of the settlement agreement by the Secretary as provided for in section 10(c) shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the settlement under this Act, including mitigation measures adopted by the Secretary.

(c) LEAD AGENCY.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) ENVIRONMENTAL ACTS.—The Secretary shall comply with all aspect of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this Act or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) CERTAIN CLAIMS PROHIBITED.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) APPROVAL OF AGREEMENT.—Except to the extent that the Agreement conflicts with the provisions of this Act, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) GROUND WATER MANAGEMENT PLAN.—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this Act, will have the same effect as a management plan developed under Arizona law.

(e) AMENDMENT TO THE ACT OF APRIL 4, 1938.—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390) is amended by inserting immediately before the period at the end thereof a colon and the following: "Provided further, That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe."

(f) SAN CARLOS RESERVOIR.—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which the Gila River Indian Community and the San Carlos Irrigation and Drainage District had a right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) LIMITATION.—No part of the Fund established by section 7(b) of this Act, including principal and income, or income from options to lease water or water leases authorized by section 6, may be used to make per capita payments to members of the Tribe.

(h) DISCLAIMER.—Nothing in this Act shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) WATER RIGHTS.—Nothing in this Act shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, including, but not limited to, the Gila River Indian Community and the White Mountain Apache Tribe, other than the San Carlos Apache Tribe.

(j) PLANET RANCH.—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located on the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14-06-W-245, Amendment No. 1, between the Untied States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: Provided, however, That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) REPEAL.—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of the Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries.

(l) WATER RIGHTS.—Nothing in this Act shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this Act be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

SEC. 11. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF AUTHORIZATION.—The authorization contained in section 8(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 4 and 6;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as appropriated in section 5(b);

(3) the funds authorized by section 7(c) have been appointed and deposited into the Fund;

(4) the contract referred to in section 7(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this Act, and has been executed by the Secretary.

(b) CONDITIONS.—

(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this Act have not occurred by December 31, 1994, subsections (c) and (d) of section 4, subsections (a) and (b), of section 5, section 6, subsection (a)(2), (c), (d), and (f) of section 7, subsections (b) and (c) of section 8, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 10 of this Act, together with any contracts entered into pursuant to such section or subsection, shall not be effective on and after the date of enactment of this Act, and any funds appropriated pursuant to section 7(c), and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 5 of this Act have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 291, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support on S. 291, the San Carlos Apache Tribe Water Rights Settlement of 1991.

The House passed a similar bill in the 101st Congress. Earlier this year, the Committee on Interior and Insular Affairs held a joint hearing on this legislation with the Senate Select Committee on Indian Affairs. The Senate passed S. 291 on October 8, 1991.

The State of Arizona and its Indian and non-Indian residents have all shown tremendous leadership in formulating settlements to Indian water disputes. I congratulate all those who have participated in putting the San Carlos settlement together.

The House amendment to S. 291 deletes section 8(f) of the Senate bill. This provision would have exempted non-Indian irrigators who use water from the central Arizona project from the acreage limitation and full-cost pricing provisions of reclamation law.

This provision was included in the Senate-passed bill as a quid pro quo for the non-Indian irrigators, who have agreed to waive their claims to 33,300 acre-feet per year of water that will now become a part of the San Carlos stettlement. The non-Indians believe they had an entitlement to that water, and asked for relief from the requirements of reclamation law in return for waiving their claims.

Our review of the facts of this matter indicates that no such entitlement exists. In particular, I call the attention of my colleagues to a letter dated April 22, 1991, from Mr. Timothy W. Glidden, who chairs the Interior Department's working group on Indian water settlements. Mr. Glidden's letter presents the facts which justify deletion of section 8(f) of the Senate version of the bill. It is my understanding that the minority is agreeable to this amendment. I ask that this letter be inserted in the RECORD.

Mr. Speaker, the terms of the San Carlos settlement included in S. 291 will go a long way toward resolving years of water disputes in Arizona. Everyone agrees that the water rights of tribes in Arizona and elsewhere in the West have been wrongfully taken from them by non-Indians in many cases. Enactment of S. 291 will right some of these wrongs.

I urge my colleagues to support passage of this important bill.

Mr. Speaker, the letter to which I referred is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 22, 1991.

Hon. GEORGE MILLER,
Vice Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. VICE CHAIRMAN: On March 21, 1991, the Department of the Interior (Department) provides testimony at the joint Senate-House Hearing on H.R. 748 and S. 291, the "San Carlos Indian Water Rights Settlement Act of 1991." During the hearing, Mr. Hayes and Mr. Swan identified several specific concerns which needed to be addressed before the Administration could support the settlement. They also stated the Administration's belief as to how important it was to outline the Administration's position on two critical aspects of the subject legislation—the Scottsdale/Planet Ranch land exchange and the Ak Chin component of the water budget. Resolution of these two issues would be moving the settlement in the proper direction; however, the Administration remains opposed to the settlement unless the subject legislation is amended to address all of the concerns identified in the testimony.

First, it is our understanding that the San Carlos Tribe (Tribe), the local settlement participants and the Arizona delegation all favor the addition of a provision which would facilitate a land exchange between the Federal Government and the City of Scottsdale. This exchange would transfer Bureau of Reclamation acquired lands (mostly within the City's limits) to the City in exchange for the City's land and water rights along the Bill Williams River in Western Arizona.

This new provision is an important component to this legislation for two reasons. First, the water lease between the Tribe and the City provided by the settlement makes it possible for the City to consider the transfer of its Planet Ranch property to the Federal Government. The new land and water rights will be an important addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, which will relieve tension between the Federal Government and the City in the area of water rights. Second, by acquiring the City's existing water rights and by perfecting a right for which the City has applied under state law, the Federal Government will ensure in perpetuity the constant flow of a sizeable quantity of water into Lake Havasu for the benefit of the Central Arizona Project (CAP).[1]

We cannot overstate the importance of acquiring the Planet Ranch property from the perspective of maintaining the health and viability of the Bill Williams Wildlife Refuge. As a result, we have worked diligently with the City's representatives to make the exchange possible. Set forth below is our proposed language, which we urge you to add as an amendment to this legislation:

Section 10. Miscellaneous Provisions

(1) The Secretary is authorized to acquire, upon terms mutually acceptable to the City of Scottsdale ("the City") and Secretary, all of the City's right, title and interest to the Planet Ranch located on the Bill Williams River in Arizona; including all water rights appurtenant to that property and the City's January 1988 application to appropriate water from the Bill Williams River ("City Property"). The Secretary shall acquire full fee simple title to the City Property through a land exchange pursuant to authorities in the National Wildlife Refuge System Administration Act of 1966. All lands and interests acquired by the Secretary under this provision, including all water rights appurtenant to that property, shall be managed as an addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, hereafter designated the Bill Williams National Wildlife Refuge, a unit of the National Wildlife Refuge System.

(2) If an exchange is made with land acquired by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, the original cost of those lands so exchanged shall be deducted from the cost of said project to be allocated for determining repayment to the United States; provided however, that the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection; provided further, that said lands shall be exchanged at their fair market value.

For the reasons stated above, the Planet Ranch exchange is a critical aspect of this legislation. We, therefore, urge that it be included as a part of the final bill. If you have any questions about this proposal we will be pleased to respond.

The second critical aspect is the proposed use of the excess Ak Chin water as a part of this settlement. At the hearing on similar legislation introduced in 1990, both the Arizona Department of Water Resources (DWR) and the Central Arizona Water Conservation District (CAWCD) opposed the settlement legislation on the basis of their opposition to the utilization of the Ak Chin supply. We want to provide the committees with our position and give you the benefit of our thinking on this matter.

We favor the use of the excess Ak Chin water for this settlement. In fact, we see the Ak Chin water as a critical component, since without it we fully expect that the settlement will not work and that viable alternative sources will not be found. In order for you to understand our position, it is necessary that we explain a number of points.

1. The history of the 1984 Ak Chin Settlement is thoroughly explained in the September 14, 1984, House of Representatives Report (House Report); and therefore, it need not be repeated here. It is sufficient to note that the Ak Chin Settlement was structured solely with water from Arizona's 2.8 million annual entitlement from the Colorado River. In

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[1] The exchange will transfer to the U.S. Fish and Wildlife Service state law certificated water rights in the amount of approximately 14,400 acre-feet (A/F) per year, which will be changed from consumptive uses to instream flow type uses. The exchange will also transfer Scottsdale's pending application for an additional water right on the Bill Williams River. The Fish and Wildlife Service will perfect this right under State law for non-consumptive instream flow type purposes. Together these new rights will amount to approximately 40-50,000 A/F per year. The acquisition of the Planet Ranch property and the maintenance and perfection of the water rights involved will be totally a result of the utilization of government resources. If the Bureau of Reclamation acquired lands were not used for these purposes, they would be sold at public auction and the proceeds would be credited to the CAP costs with any excess over the original acquisition costs being deposited in the U.S. Treasury.

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

other words, there were no contributions, either in water or money, from the local parties who would have faced litigation against the Ak Chin Community and the United States.

In order to provide for the settlement, the Secretary obtained, with the approval of Congress, 50,000 acre-feet (A/F) of Colorado River water from the Yuma-Mesa Division of the Gila Project, and then reallocated that water for use on the Ak Chin Reservation, to be delivered via the CAP canal system.[2] The 50,000 A/F were added to the Ak Chin Tribe's existing CAP allocation of 58,300 A/F per year for a total of 108,300 A/F available for settlement purposes.

However, the settlement provided that in most years a quantity of 75,000 A/F per year would be delivered to the Ak Chin Community—see section 2(a) of P.L. 98–530, 98 Stat. 2698. This leaves an ordinary year surplus of 33,300 A/F per year, and it is this surplus which is proposed for use in the San Carlos Settlement. Importantly, the San Carlos Settlement expressly provides that the use of this supply in the San Carlos Settlement shall in no way impact the rights of the Ak Chin Community under the Ak Chin Settlement.

2. The essence of the argument against the use of the excess Ak Chin water in this settlement is that in the Ak Chin legislation the excess water was somehow committed to general CAP uses, and could thereafter not be used for dedicated Indian purposes. We disagree with this conclusion.

The 58,300 A/F allocation to the Ak Chin Community was made in the Secretary's CAP allocation order published in the Federal Register on March 24, 1983. That decision created an Indian CAP water pool of 309,828 A/F. In our view, that pool was not changed by the Ak Chin legislation, and the Secretary has never taken any administrative action to reduce the pool. Thus, that pool of CAP water remains available for use on Indian reservations, unless the Secretary decides to reallocate the water for some other CAP purpose, including allocation to non-Indians.

Our conclusion that the excess water remains where it was first allocated is supported by the House Report. On page 12, the House Report states: "It is the intent of the Committee that the Yuma-Mesa Division reallocation be the first segment of the permanent supply the Secretary is obligated to deliver. Any water in excess of the Secretary's obligation [to deliver 75,000 A/F per year] would be from the Ak Chin's CAP allocation." We strongly agree with the Committee's views, and it has always been the Department's position that the higher-priority Yuma-Mesa reallocation water should be the first-used foundation for the Ak Chin excess supply. As a result, the excess water will always be the unused portion of the Ak Chin CAP allocation, which was allocated as a part of the Indian CAP pool in 1983.

Most importantly, in the Ak Chin legislation Congress did not expressly direct the Secretary to utilize the excess Ak Chin water in a specific manner. Rather, section 2(k) of the Ak Chin Act speaks in general terms as to what the Secretary may do with the excess water:

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever, the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

The House Report underscores the conclusion that the decision as to how the excess water was to be used was left to the Secretary's discretion. Again on page 12 of the House Report, the committee states: "It is the intent of the Committee that water not needed to satisfy the Secretary's delivery obligation [75,000 A/F per year] be available for allocation in the State of Arizona." Similarly, on page 13 of the House Report, in specific reference to section 2(k) of the Ak Chin legislation, the Committee explains the purpose of section 2(k) and states that: "It is the intent of the Committee that any such excess water be allocated for use in Arizona." Senator Goldwater's comments on the Senate floor, printed in the Congressional Record (September 25, 1984), also support this position: "The second amendment [in section 2(k)], technical in nature, merely reconfirms the fact that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the [Ak Chin] Indians goes to the Central Arizona Project."

These comments reflect an understanding by the Committee, and the Congress, of the Secretary's broad authority under section 5 of the 1929 Boulder Canyon Project Act, 43 U.S.C. 617, et seq., to allocate and contract for the use of water from the Colorado River within the lower basin area. In order to change that authority, or to circumscribe the Secretary's discretion in this area, we believe that the words of Congress must be clear and express. That did not happen in the Ak Chin legislation.

3. A second argument, which has been made, is that certain verbal understandings were established in the final hours of the Ak Chin legislation wherein the excess water was committed to non-Indian CAP users. The stated reason for the understanding was that the non-Indian CAP users deserved such a benefit in return for the utilization of the Yuma-Mesa water (50,000 A/F) which would have been diverted by the CAP in future years if that supply was not needed at the Yuma-Mesa Division. In other words, since that portion of the Yuma-Mesa water was not being used, the diversion of that water by the CAP was expected and that expectation was impacted by the reallocation.

We believe that this is not a case where the words of Congress are unclear, and if there were any ambiguity, the House Report provides the legislation history to support the conclusion that the Secretary retained the authority to use the excess water as he determines—as long as the use is within Arizona.

There is an alternate argument that the non-Indian CAP users were entitled to the Yuma-Mesa water, and therefore deserved some compensation in the form of a deal concerning the excess water. We do not give this argument great weight.

First, the fact that CAP may have used the unused Yuma-Mesa water would not have given the CAP a contract right to that water. The entitlement belonged to the Yuma-Mesa District; and therefore, at best the CAP only had an expectation of using that water. Even if Bureau of Reclamation or DWR water supply studies contributed to the expectation, that expectation did not ripen into a right.

Second, this Department must give full respect to the contract water rights of Colorado River users until such rights are withdrawn, canceled, or reduced by action of the Secretary or the Supreme Court. Thus, we cannot view all unused entitlements or portions of entitlements along the Arizona side of the Colorado River as somehow belonging to the CAP. For example, CAP may presently divert the unused City of Kingman entitlement, but the City of Kingman has projections for the use of that water. Even if Kingman cannot put its unused water to beneficial use, we have a clear expectation that the Kingman entitlement will be reallocated in the future for use within Mojave County. In other situations, unused supplies may be secured for use by the CAP.

Third, the Yuma-Mesa water was not simply reallocated by unilateral action of the Secretary. Rather, an agreement was reached with the Yuma-Mesa Division, and various forms of compensation were provided in order to obtain the consent of the Division in regard to the reduction of its contract entitlement. Thus, the notion that the non-Indian CAP users were entitled to "compensation" for the utilization of that water in the Ak Chin Settlement when the Government had already provided compensation to the Yuma-Mesa Division for the same water, seems to ignore the circumstances which led to the acquisition of the Ak Chin water.

4. We feel it is important to note that the Ak Chin Settlement was somewhat unique in that it was not supported by local contributions. The Federal Government provided the whole solution to the Ak Chin Settlement via the Community's CAP allocation and the acquired Yuma-Mesa water. In addition, the Government even faces money damage penalties if the Congressionally established supply is not delivered annually by the Secretary.

We see this as significant in light of opposition to the San Carlos legislation. As we believe you understand, only a few of the many CAP subcontractors are opposing this legislation on the basis of the Ak Chin excess water. Among that small group are the large CAP-user irrigation districts in Pinal County, such as Maricopa Stanfield and the Central Arizona Irrigation and Drainage District (CAIDD). These entities apparently support proposition that any uncommitted CAP water, which in their view is the excess AK Chin water, would enure to the benefit of the CAP agricultural users.

This position contains an inherent contradiction. The Ak Chin water was allocated by the Secretary; and therefore, was never available for use by other CAP water users. In addition, the United States bore the cost of purchasing the Colorado water used to satisfy the Ak Chin water claims. Therefore, since the United States acquired the water for the Ak Chin settlement, there could be no rights which would accrue to other CAP water users.

We disagree with the position that CAP agricultural users obtained some type of commitment to benefit from the excess Ak Chin water. We are confident that these CAP water users do not have valid legal claims to the excess water. If this legislation is enacted, a few of the agricultural entities may persist and take their claims to the Claims Court; however, we feel strongly that such claims will be rejected in that forum.

5. Finally, we wish to address this problem on a scale which is broader than the technical argument.

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[2] By the Act of July 30, 1947, Congress had authorized the use of up to 300,000 A/F of water per year for use within the Yuma-Mesa Division. Since a need for that much water had not been demonstrated, the Division's annual entitlement was contractually reduced to 250,000 A/F as a result of the Ak Chin settlement.

Many of the CAP subcontractors are the same entities at risk in the Gila River adjudication as a result of Indian water claims.

These entities at risk face essentially three choices: (1) litigation, (2) reach a settlement by giving up some of their present uses from local sources, or (3) acquire or consent to the use of some other source of water which can be used as the basis for a settlement. Clearly the excess Ak Chin water represents a utilization of alternative number 3.

By supporting the use of the excess Ak Chin water for this settlement, which could have been reallocated by the Secretary to non-Indian users at some point in the future, the non-Indian settlement participants are making a choice to utilize an available component of the CAP supply to structure this settlement as opposed to giving up some of, or more of, the water they presently enjoy from local supplies. We see using this future water which may or may not become an entitlement as a reasonable choice.

The point is that the Ak Chin water is a critical component of this settlement in that it provides a significant portion of the settlement water budget. Without this source we assume that the settlement will fail, and we see no viable alternative solutions. Accordingly, all of us are left with no choice. Is the excess Ak Chin water an acceptable component to this settlement, or do we oppose that action to the detriment of the settlement? Based on the reasons outlined above, we support the use of the excess Ak Chin water.

In conclusion, let me say that we recognize that the Ak Chin matter is complex and the historical record is important to a clear understanding of our position. We also want the committees to have a full and complete understanding or our analysis so that you can see that we have carefully considered the problem.

Our recommendation is that you support the inclusion of the excess Ak Chin water in this settlement. We also recommend that you add the Planet Ranch exchange provision set forth herein as a way to greatly protect and enhance a unit of the national wildlife refuge system, and provide a tangible and long-term benefit to the State and CAWCD in regard to the security of the CAP water supply.

The Office of management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Thank you for your attention to our concerns.

Sincerely,
TIMOTHY W. GLIDDEN,
Chairman, Working Group on Indian Water Settlements.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I naturally rise in support of this legislation, and I would be remiss if I did not begin by thanking the chairman of the full committee, the gentleman from California, Mr. MILLER, for his assistance in getting this Senate bill to the floor with the House amendment so that we can pass the bill here in the last day of the session and proceed to conference with the Senate to resolve the remaining differences which exist in the bill.

The chairman has very, very adequately explained the process that got us to this point, and I am in full agreement with 95 percent of the chairman's statement. The chairman knows which 5 percent I am not in agreement with, and we will be continuing discussions about that 5 percent as we go along toward conference with the Senate.

This is a very important bill for the State of Arizona. It resolves a longstanding dispute and it rights many longstanding wrongs in favor of the San Carlos Apache Indians.

But as important as righting those wrongs is the fact that, with resolution of this dispute, the parties to the dispute now have an element called certainty. They now know, or will know, what their rights are as it pertains to certain quantities of water, ground water and surface water, in the State of Arizona.

This is important to the Indians; it is important to the cities who are parties to the settlement; it is important to the State of Arizona.

Without this element of certainty being acquired by the parties to this agreement, they all faced years and years of costly and expensive litigation in order for a judicial determination of various and sundry rights they have.

While that litigation is continuing, they are unable to plan for their futures, unable to know what degree of certainty they have to their wear rights and their ability to go forth into the next century.

So, achieving this negotiated settlement is an extremely important event in the lives of the participants and the lives of those who are parties to the agreement. I commend everybody who has been involved.

I certainly want to thank my fellow members of the Arizona delegation here in the House, our two Senators, Senator MCCAIN and Senator DECONCINI, for their assistance.

I again thank the gentleman from California [Mr. MILLER] and all of our staffs who worked very hard on this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank my colleague for yielding. I would like to express my appreciation to him and to Chairman MILLER for their work on this bill. I too support the bill.

The San Carlos Indian Tribe is in my congressional district, as are many of the communities which will benefit from the resolution of the disputes which this bill will help resolve. The only concern that we have is the change that has been made in the legislation that was alluded to by the chairman. The compromise that was delicately put together here is, to some extent, disrupted as a result of this change, but time is of the essence here. It is important this bill move to conference so these issues can be discussed.

One of the most critical things is the fact that litigation is pending, as my colleague from Arizona pointed out, and the longer that litigation proceeds and the further down the road it gets, the more difficult it is to reach these kinds of compromise agreements..

We are very concerned that unless we can bring it up soon and get this legislation passed, we may have missed the opportunity to reach a negotiated settlement which would be in the interests of all of the parties.

So, time is important. We do urge that our colleagues support this legislation, move the bill to conference, and there we can try to iron out those items upon which we currently differ.

It is legislation well worth supporting.

Mr. RHODES. Mr. Speaker, I urge our colleagues to support passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 291, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

TELEPHONE CONSUMER PROTECTION ACT OF 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1462) to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment, as amended.

The Clerk read as follows:

S. 1462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Consumer Protection Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and,

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals' privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, consistent with the free speech protections embodied in the First Amendment of the Constitution.

(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) Amendment.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

“SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

“(a) Definitions.—As used in this section—

“(1) The term ‘automatic telephone dialing system’ means equipment which has the capacity—

“(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

“(B) to dial such numbers.

“(2) The term ‘telephone facsimile machine’ means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

“(3) The term ‘telephone solicitation’ means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person's prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

“(4) The term ‘unsolicited advertisement’ means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

“(b) Restrictions on the Use of Automated Telephone Equipment.—

“(1) Prohibitions.—It shall be unlawful for any person within the United States—

“(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

“(i) to any emergency telephone line (including any ‘911’ line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

“(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

“(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

“(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Commission under paragraph (2)(B);

“(C) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine; or

“(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

“(2) Regulations; Exemptions and other provisions.—The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

“(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent; and

“(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

“(i) calls that are not made for a commercial purpose; and

“(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

“(I) will not adversely affect the privacy rights that this section is intended to protect; and

“(II) do not include the transmission of any unsolicited advertisement.

“(3) Private right of action.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

“(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

“(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater, or

“(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

“(c) Protection of Subscriber Privacy Rights.—

“(1) Rulemaking proceeding required.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

“(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific ‘do not call’ systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

“(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

“(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

“(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

“(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

“(2) Regulations.—Not later than 9 months after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

“(3) Use of database permitted.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

“(A) specify a method by which the Commission will select an entity to administer such database;

“(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

“(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

“(D) specify the methods by which such objections shall be collected and added to the database;

“(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

“(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

“(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

“(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

“(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

“(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

“(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

“(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

“(4) Considerations required for use of database method.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

“(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

“(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

“(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

“(ii) reflect the relative costs of providing such lists on paper or electronic media; and

“(iii) not place an unreasonable financial burden on small businesses; and

“(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

“(5) Private Right of Action.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

“(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

“(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater, or

“(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

“(6) Relation to subsection (b).—The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

“(d) Technical and Procedural Standards.—

“(1) Prohibition.—It shall be unlawful for any person within the United States—

“(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

“(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

“(2) Telephone facsimile machines.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after one year after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual.

“(3) Artificial or prerecorded voice systems.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

“(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

“(B) any such system will automatically release the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

“(e) Effect on State Law.—

“(1) State law not preempted.—Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

“(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

“(B) the use of automatic telephone dialing systems;

“(C) the use of artificial or prerecorded voice messages; or

“(D) the making of telephone solicitations.

“(2) State Use of Databases.—If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national database that relates to such State.

“(f) Actions by States.—

“(1) Authority of states.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

“(2) Exclusive jurisdiction of federal courts.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

(c) DEADLINE FOR REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by this section not later than 9 months after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The requirements of section 228 of the Communications Act of 1934 (as added by this section), other than the authority to prescribe regulations, shall take effect one year after the date of enactment of this Act.

SEC. 4. AM RADIO SERVICE.

Section 331 of the Communications Act of 1934 is amended—

(1) in the heading of such section, by inserting "AND AM RADIO STATIONS" after "TELEVISION STATIONS";

(2) by inserting "(a) VERY HIGH FREQUENCY STATIONS.—" after "SEC. 331."; and

(3) by adding at the end the following new subsection:

"(b) AM RADIO STATIONS.—It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. The Commission shall report to the appropriate committees of Congress within 30 days after the date of enactment of this Act on how it intends to meet this policy goal.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider a substitute amendment to Senate 1462 that embodies the text of H.R. 1304, the Telephone Advertising Consumer Rights Act, which passed this body on November 16. I am offering this compromise amendment with the gentleman from New Jersey [Mr. RINALDO]. The compromise effectively merges and improves legislation passed by the Senate dealing with automatic dialing systems and unsolicited facsimile messages.

☐ 1140

In short, Mr. Speaker, the compromise will finally give the public the opportunity to just say no to unsolicited phone or fax advertisements. The compromise gives the public a fighting chance to start to curtail unwanted telemarketing practices by requiring the FCC to conduct a rulemaking and weigh the alternative methods for protecting consumers' privacy rights and to put them in place before our home telephones become the receptacles of junk calls in the same way that junk mail often inundates our mailboxes.

Mr. Speaker, today in America more than 300,000 solicitors make more than 19 million calls every day, while some 75,000 stockbrokers make 1.5 billion telemarketing calls a year. Automatic dialing machines, on the other hand, have the capacity to call 20 million Americans during the course of a single day, with each individual machine delivering a prerecorded message to 1,000 homes.

In addition, automatic dialing machines place calls randomly, meaning they sometimes call unlisted numbers, or numbers of hospitals, police and fire stations, causing public safety problems. Our bill, H.R. 1304, would prohibit advertising calls to public safety numbers, as well as to paging, specialized mobile radio and cellular equipment.

In the final analysis a person's home is his castle. Preservation of the tranquility and privacy of that castle should compel us to avail consumers of the opportunity to place the telephone line into their home, the sanctuary from which they escape all the other trials that society and Congress cause them, off limits to intrusive and annoying interruptions. I believe that telemarketing can be a powerful and effective business tool, but the nightly ritual of phone calls to homes from strangers and robots has many Americans fed up.

Mr. Speaker, the aim of this legislation is not to eliminate the brave new world of telemarketing, but rather to secure an individual's right to privacy that might be unintentionally intruded upon by these new technologies. For this reason the legislation addresses live unsolicited commercial telemarketing to residential subscribers. If a live call is being made for the purpose other than for a commercial solicitation, then it is not regulated under this bill. In the context of the legislation a telephone solicitation is a call to encourage the purchase, rental of, or investment in property, goods, or services.

In addition, the compromise bill makes it unlawful for any person to initiate any telephone call to any residence using an artificial or prerecorded voice to deliver a message. The legislation makes two absolute exceptions to this prohibition:

First, where there is the prior express consent of the called party; and second, where the call is initiated for emergency purposes. The term "emergency purposes" is also intended to include any automated telephone call that notifies consumers of impending or current power outages, whether these outages are for scheduled maintenance, unscheduled outages caused by storms, or power interruptions for load management programs.

Second, the bill also allows the Federal Communications Commission to exempt, by rule or order, classes or categories of calls made for commercial purposes that do not "adversely affect the privacy rights" that this section of the bill is intended to protect and, that "do not include the transmission of any unsolicited advertisement." An example of such a use may be to leave messages with consumers to call a debt collection agency to discuss their student loan or to notify a consumer that a product they have ordered is ready to be picked up at the store. I fully expect the Commission to grant an exemption, for instance, for voice messaging services that forward calls. For example, if a consumer is late catching a plane and calls his home to tell his wife he'll be arriving late and can't get through to her, this service allows him to leave a

message and board the plane. While he is traveling, the service automatically dials the number repeatedly until the message is delivered. Such a voice messaging service is a benefit to consumers and should not be hindered by this legislation.

I believe we have put together a consensus compromise, one that reflects a responsible approach to address what the record indicates is of greatest concern to consumers.

I, as usual, want to thank the gentleman from New Jersey [Mr. RINALDO] for his leadership, for his cooperation, for his steadfast support in the development of this legislation. It is typical of the working relationship that we have had on the subcommittee for the last 5 years that we could produce such a complex piece of legislation. As well, I would like to thank the gentleman from New York [Mr. LENT] on the minority side who, along with his staff, have worked with us in the development of the legislation, the gentleman from Tennessee [Mr. COOPER], the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Massachusetts [Mr. FRANK], along with the gentleman from Texas [Mr. BRYAND]. Each and every one of them has played a role in helping to craft this legislation and, working with the majority staff of David Leach at the full committee level and Mick Regan on the minority side, we have been able to put this legislation together. So, I want to thank all of the parties involved.

Mr. Speaker, I think this is an excellent piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting S. 1462, the Automated Telephone Consumer Protection Act of 1991. This bill is substantially similar to H.R. 1304, the Telephone Advertising Consumer Rights Act, a bill that the House recently passed.

This bill addresses widespread and growing concern about abuses associated with automatic dialers, junk faxes, and unwanted telephone solicitations. Under this bill, those who use automatic dialers would be prohibited from making computer-generated calls to emergency lines at health care facilities, fire protection, or law enforcement agencies, any telephone line at a patient room in a hospital, or paging or cellular telephone numbers.

In addition to addressing these serious health and safety concerns, the bill would prohibit autodialed calls to anyone that has not given the caller prior express consent. This bill also requires the FCC to restrict only those categories of artificial or prerecorded voice calls which are made for commercial purposes and will affect the privacy rights that the bill intends to protect. Among categories which should be made available to the public are voice messaging services which deliver legitimate personal messages to one or more persons.

The FCC has already authorized as in the public interest a service which allows a caller from a coin telephone to record a message for later delivery when encountering a busy signal or no answer. Likewise, a similar service which the FCC has also authorized would allow a person to send a message to a group of people through a recorded message. Clearly, these types of personal voice messaging services are not invasive of a person's privacy rights, and this bill is not intended to prohibit these or other such services yet to be developed.

S. 1462 also directs the FCC to determine the most effective and efficient method of allowing telephone subscribers to avoid live telephone solicitation calls. Specifically, the Commission must consider an electronic database, special directory markings, industry-based or company-specific "do not call" systems, as well as other alternative solutions to the problem of unsolicited calls.

In drafting this legislation, we recognized that many legitimate businesses make telephone calls, including solicitations, without annoying consumers. Thus, the bill exempts businesses that have a preestablished business relationship with a customer as well as telephone calls from nonprofit organizations. In addition, the bill mandates that the FCC consider whether different methods and procedures should apply for local telephone solicitations, particularly from small businesses and holders of second-class mail permits, such as newspapers.

I want to briefly mention an important issue relating to a person's change in residence and change in telephone number. In the committee report on H.R. 1304, we state that during the first 6 to 12 months after a change in a person's telephone number, a telephone subscriber should reasonably expect to receive telemarketing calls. No matter what telemarketing control alternatives are selected by the FCC, implementation may take up to 12 months for a new resident. This initial contact during that period may actually help introduce new residents to local goods and services available in their new community. We expect that such calls will be allowed during the first 6 to 12 months.

To ensure a uniform approach to this nationwide problem, this bill would preempt the States from adopting a database approach, if the FCC mandates a national database. From the industry's perspective, this preemption has the important benefit of ensuring that telemarketers are not subject to duplicative regulation.

Finally, this bill promotes the allocation of fulltime AM radio channels to medium-sized cities located in or adjacent to major metropolitan markets that lack a fulltime AM station.

I would like to thank Messrs. DINGELL, LENT, and MARKEY for their help and leadership in crafting this important bill. I would also like to thank Senators HOLLINGS, DANFORTH, and PRESSLER for their hard work in developing consensus, bipartisan legislation. I urge my colleagues to support this important measure.

Mr. Speaker, I would like to once again particularly thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for his help, for his leadership, for his cooperation in seeing that this bill got to the floor and in working out some of the problems associated with the legislation. I would also like to thank Senators DANFORTH, HOLLINGS, and PRESSLER for their hard work in developing consensus bipartisan legislation. In addition, I think it should be noted that the gentleman from Michigan [Mr. DINGELL], the chairman of the full Committee on Energy and Commerce, and my good friend, the gentleman from New York [Mr. LENT], the ranking minority member of that committee, exhibited a great amount of leadership in seeing that the bill got through the full committee and onto the floor.

Finally, Mr. Speaker, I would like to thank the members of the committee and acknowledge their hard work and dedication in seeing that this bill would get to the floor. I thank my good friend and colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA], who worked extremely hard to see to it that this bill got to where it is today and will be on the President's desk shortly.

Mr. Speaker, I reserve the balance of my time.

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Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I represent the home area of MessagePhone, Inc., a company which is engaged in the business of message forwarding. Senator HOLLING's legislation, as it passed the Senate—the Automated Telephone Consumer Protection Act, S. 1462, would have inadvertently ended their operations. The bill however has been corrected to avoid this inadvertent result.

Automatic message delivery, developed by MessagePhone, gives a caller, who encounters a busy or unanswered telephone call, the opportunity to record a short message for subsequent delivery. For example, the technology for this service could call the original destination number every 15 minutes for several hours or until the telephone was answered and the message was delivered. For the purpose of privacy, after delivery, the call attempts are stopped and the message is destroyed.

MessagePhone designed the service to give the calling party an alternative to busy and unanswered telephone calls which make up 30 percent of all telephone calls.

Unlike the technology used by telemarketers for their random solicitations, this service is a prepaid, person-to-person communication, not all that different from a regular telephone call. The service is designed so that the messages are short and the content is personal in nature.

Take for instance the scenario where you are at an airport, you missed your flight and only have a few minutes to call your spouse with the updated flight information. The line is busy and you have to leave. With my constituent's service, you could record a message; they would attempt to deliver a few minutes later, even if you were completely removed from a telephone.

Furthermore, Bell Atlantic currently offers this very service from its payphones. In order to do so, Bell Atlantic had to receive a waiver from the FCC's Computer II rules. To qualify for the waiver, the service had to pass a rigorous public interest test. A similar request that must meet the same public interest test recently was filed by BellSouth. In comments to the FCC, these two Regional Bell Companies have demonstrated that there are well over 1 billion busy and unanswered telephone calls, from payphones, annually.

It is important to note that, in 1988, Judge Greene granted the Regional Bell Operating Companies a waiver of the modified final judgment, concluding that automatic message delivery services were little more than a delay in a standard telephone transmission and that the Regional Bells should be allowed to offer these caller-directed services to the public.

MessagePhone's automatic message delivery services does not consist of random calls with prerecorded messages that invade the privacy of our constituents. Rather, they provide a message service that clearly is beneficial to the public. It is important that existing and emerging technologies and services that are beneficial to the public should not be prohibited by this legislation.

The broadness of the Senator's original definition of an autodialer would have prevented the telemessaging services I have described.

MessagePhone, Inc., has been providing the messaging service described above which has been favorably perceived by the public. Family members, friends, or business associates can receive a recorded message of very limited duration for subsequent delivery when the telephone line is answered or free.

I understand that the legislation we have before us now does not shut down all telemessaging services. The bill allows the Federal Communications Commission to exempt:

(i) calls that are not made for a commercial purpose; and

(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

(I) will not adversely affect the privacy rights that this section is intended to protect; and

(II) do not include the transmission of any unsolicited advertisement.

I am pleased that this issue was resolved without a formal conference with the Senate, and I further understand that the FCC is amenable to this language as a means of preserving these valuable telemessaging services.

I thank you for your valuable assistance on this issue.

Mr. Speaker, I would like to ask the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY] if I am correct in my understanding of the bill.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, the gentleman has accurately described the intention of the legislation. We have made the commonsense exceptions that in fact improve communications between individuals using the modern telecommunications technologies while at the same time targeting that abusive robotic use of the technology which has become such an intrusive part of the American society.

Mr. BRYANT. Mr. Speaker, I further understand that the FCC is amenable to the direction that the bill is taking now with regard to this automated type of messaging service; is that correct?

Mr. MARKEY. The gentleman is correct.

Mr. BRYANT. Mr. Speaker, I would like to express my very deep thanks to the gentleman from New Jersey [Mr. RINALDO], too, for allowing us to make this needed correction to the bill.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the ranking minority member of the full committee, the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I urge my colleagues to support S. 1462, the Telephone Protection Act of 1991. This bill contains many of the same provisions included in H.R. 1304, the Telephone Advertising Consumer Rights Act, which the House passed last week. The bill reflects a consensus that has been worked out between the House and the Senate on concerns about the telemarketing industry. I want to commend both the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] as well as the gentlelady from New Jersey [Mrs. ROUKEMA], for an outstanding job and Mike Regan, Jerry Waldron, David Leach, and other Energy and Commerce Committee staff for helping to bring this bill to the floor.

This is important legislation with bipartisan support designed to address various consumer concerns without unnecessarily burdening the telemarketing industry. The bill before the House today reflects a further effort to address problems in the telemarketing industry, while accommodating legitimate concerns of telemarketers that their industry not be unfairly stifled.

S. 1462 explicitly recognizes that there are certain classes and categories of calls that consumers do not mind, and in fact would probably like to receive. Calls informing a customer that a bill is overdue, or a previously unstocked item is now available at a store are clearly not burdensome, and should not be prohibited: Similarly, the bill grants the FCC the latitude to exempt certain services that telephone companies presently offer, or in the future are likely to offer, to send messages and other important information.

While the telemarketing industry is understandably concerned about being subject to excessive regulation, I believe that the Nation's consumers have a reasonable concern regarding privacy. S. 1462 balances both of these concerns, and I urge my colleagues to join me in supporting the bill.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding time to me. I congratulate him for his leadership in moving this legislation. And I add my congratulations to the distinguished ranking member, the gentleman from New Jersey.

Mr. Speaker, I rise in support of this legislation because it effectively addresses the nightly assault by telemarketing machines and operators on the privacy of our homes. Yet it does so in a balanced way that permits telemarketing to continue its important function of promoting commerce.

I have said here before that some of these calls are much more annoying than others. For example, I regard and I hope the FCC will regard, robotic calls by machines such as autodialers and computer-generated voices to be a much greater threat to the privacy of our homes than calls by live operators. At least you can vent your anger to a real person if they have interrupted your dinner. You can ask them questions and hold them accountable to some extent. At least a live person can only call one person at a time.

Among calls placed by live operators, there are some that we may not mind so much. Some are even helpful. We may not mind a call from a local business in town reminding us of a special sale or opportunity. If they are rude or intrusive, they are accountable in the local area by the damage to their reputation among the people who live there. For interstate calls, especially

there. For interstate calls, especially from other time zones, there is no such accountability. Unwanted calls are tainting the wanted ones and make us cringe at the thought of answering the telephone at night. As I have said before, it's a classic case of the bad apples spoiling the whole barrel.

Chairman MARKEY and the Subcommittee on Telecommunications and Finance crafted an excellent bill that would enable the Federal Communications Commission to protect consumers from the calls they don't want, but not restrict their ability to receive the calls they do want. The FCC was given broad flexibility to fashion regulatory approaches to achieve this result. I am pleased to see that in working out a compromise on the legislation passed by the other body, the chairman preserved this flexibility. I commend him for preserving the opportunity for a choice by the consumer.

Under the legislation before us the FCC still has the same breadth of options available to address this issue. Some options are spelled out as examples for the Commission's consideration, but they are not limiting. I was concerned that the compromise with the other body might narrow the options and tilt the regulatory process toward adoption of a national data base. That has clearly not occurred here.

My own belief is that the national database will not bear up well under close scrutiny. I think the company-specific do-not-call approach offers consumers greater choice. To me, it seems more efficient in terms of the cost of implementation and the lag times required to implement it, as compared to the national database. But that is for the FCC to decide.

I am especially pleased that the Commission still has the opportunity to prescribe methods and procedures for local telephone solicitations that are different from that selected for the non-local calls. This will enable the Commission to take into account that telemarketers making local calls already have an accountability within the community by virtue of their reputation as businesses and as individuals. The other methods and procedures available to the Commission for the local option might be entirely different approaches from that selected for the nonlocal calls. For example, the Commission might decide to use a hybrid approach of a mandatory, company-specific do-not-call system at the local level and something else, perhaps even a national database for other calls.

Overall, Mr. Speaker, this is a good compromise. The FCC has the latitude, the tools, to strike a good balance between curbing annoying telemarketing while preserving telemarketing's contribution to commerce. I thank the chairman for his leadership and I wholeheartedly support and endorse this legislation.

Mr. RINALDO. Mr. Speaker, I yield 1 minute to the distinguished minority whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I simply want to report to the House that the President 5 minutes ago met with the press and, in response to the Speaker's request for instructions on economic growth, said this House has had a full year to play around with the issue. He is requesting that the Democrats make in order this afternoon a vote on the Republican growth plan.

As soon as the transcript of his exact comments is available, I will bring the transcript to the floor and read his exact words into the RECORD. I think it is now up the Speaker to make in order a vote on the bill.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I thank the chairman of the subcommittee for yielding this time to me.

Mr. Speaker, I rise in support of today's legislation, and I want to commend the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Massachusetts [Mr. MARKEY], as well as the staffs of the majority and the minority for the outstanding job that they have done to bring us this legislation today.

I also want to particularly commend the chairman of the subcommittee for his statement in which he says that the term "emergency purposes" is also intended to include any automated telephone calls that notify consumers of impending or current power shortages, whether these outages are for scheduled maintenance or unscheduled outages caused by storms or power interruptions for load management programs. That language is inserted, I'm told, in order to try to accommodate the concerns many of our rural electric cooperatives have had with respect to doing normal maintenance on their lines.

Mr. Speaker, I appreciate the personal attention of the subcommittee chairman, and I will convey to the REC's their concerns have been addressed by this legislation.

☐ 1200

Mr. RINALDO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from my home State of New Jersey [Mrs. ROUKEMA].

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey.

The SPEAKER pro tempore. The gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 2 minutes.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of S. 1462, the Telephone Advertising Regulation Act. I also want to thank the distinguished chairman of the Subcommittee on Telecommunications and Finance, Mr. MARKEY, and the distinguished ranking member, my colleague from New Jersey, Mr. RINALDO, for their expeditious handling of this compromise legislation, which preserves the rights of consumers and protects the health and safety of the public. At long last a reliable law will be passed.

Telecommunications and computer technology advances have made information exchange easier, and brought our Nation and the world closer together. However, as with any vital technology, telecommunications and computer equipment may be used in a counterproductive and abusive fashion.

Today, we unfortunatley find that automatic dialing recorded message players are being used in record numbers to systematically solicit unsuspecting and unwilling residential and commercial telephone subscribers. This practice is an unwarranted invasion of privacy, and it can be dangerous and life-threatening. This Congress can no longer stand by the wayside and allow telephones to become a potential health hazard.

I am sure my colleagues have heard many complaints about computer-generated phone calls from their constituents. In my case, I have been contacted by a number of physicians in my district who have justifiably complained that their office emergency lines, typically reserved for critical cases, are being clogged with unsolicited computer calls. One of these physicians also happens to be my husband, Dr. Richard W. Roukema, who has repeatedly suffered this problem on his phone lines reserved for emergency calls from the hospital. I especially appreciate the support of Chairman MARKEY in this respect. His wife, also a practicing physician, understood the problem immediately.

This is harassment.

Computer calls are also harassing police and fire emergency numbers. This problem is particularly serious when the computer-generated call will not disconnect and free up the phone line until after its message has been completed. Mr. Speaker, this practice must stop before lives are lost.

S. 1462 contains a provision which prohibits computer-generated calls to emergency phone lines or pagers at hospitals, physicians' or medical service offices, health care facilities, and fire protection and law enforcement agencies.

Yet, as alluded to earlier, it is not just calls to doctors' offices or police and fire stations that pose a public health hazard. I have previously recounted the story of a New York mother who tried to call an ambulance for her injured child, and the sheer terror she experienced when she picked up her

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phone only to find it occupied by a computer call that would not disconnect. Fortunately, that injured child survived, but, Mr. Speaker, let us not wait for tragedy before we act.

S. 1462 also contains a provision requiring computer-generated calls to disconnect as soon as the receiver seeks to terminate the message. This is a commonsense provision which ensures the saftey of telephone customers who may have received unsolicited and unwanted computer-generated calls.

Another important aspect of S. 1462 is that it protects the privacy of telephone subscribers by allowing those citizens who object to receiving computer-generated phone calls to add their names to a national database or a comparable substitute as determined by the FCC. This key provision finally guarantees telephone subscribers freedom from unwanted intrusions into their privacy.

The Senate language has tightened up the prohibition on automatic dialing computers by completely prohibiting their use unless the FCC grants an exemption in the public interest. Such an exemption would include emergency information about natural disasters and health-related evacuations.

Under the provisions of the bill, live telemarketers will still be able to make commercial calls to those customers who have not requested an exemption from such calls. This will allow legitimate telemarketers to conduct business in a safe and responsible fashion, without penalty.

In conclusion, this compromise is faithful to the basic purposes of the original intent of the legislation. It preserves the privacy of the consumer through the ban on autodialers except where consumers choose the exemption.

I support the bill.

Mr. MARKEY. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I would like to make it quite clear that that particular provision is a direct result of the interest which the husband of the gentlewoman from New Jersey [Mrs. ROUKEMA] showed on this subject.

Mrs. ROUKEMA. My husband and your wife.

Mr. MARKEY. Mr. Speaker, I would simply like to point out that when the gentlewoman from New Jersey [Mrs. ROUKEMA] a year or a year and a half ago approached me with this problem that her husband, a physician, had with the inability for him to have complete control over his telephones for emergency purposes, that that triggered the discussion, the process, which has resulted in the provision being built into this legislation which will protect not only your husband, but my wife, who is also a physician, and the other tens of thousands of physicians and emergency personnel across the country, from having their lines stopped up by these junk calls which in dire circumstances could prevent the proper treatment by physicians of some very serious medical problems in the country.

Mr. Speaker, I want to congratulate the gentlewoman from New Jersey [Mrs. ROUKEMA] and congratulate her husband, because this provision is really in the name of her husband.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to once again thank the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], for his work, along with his work, along with his staff on these issues. I would like to thank Senator HOLLINGS, Senator PRESSLER, Senator INOUYE, and Senator DANFORTH for their work on these issues.

I would like to thank John Windhausen and Mary McManus from the Senate Commerce staff for their work, and the yeoman work, to use the words of the gentlewoman from New Jersey [Mrs. ROUKEMA], of Steve Cope from legislative counsel, who has helped us enormously.

When a bill of this magnitude is passed, I recognize my indebtedness to the people who work for me directly on an ongoing basis. At this juncture I would just like to personally acknowledge the work of Gerry Salemme and Jerry Waldron and Colin Crowell and Ed Joseph, who each have participated in this long process. Also I would like to note as well, so that all of the proper thank yous are made, Justin Lilley on the minority side as well, who helped to construct this effort that has produced a piece of legislation which the gentleman from New Jersey [Mr. RINALDO] and I, the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT], have been able to bring out to the floor here today.

Mr. RINALDO. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Speaker, I just want to underscore what the chairman of the committee has stated. I think it is important to note for the RECORD that we have a situation on the Subcommittee on Telecommunications and Finance where both majority and minority staffs work very well together in an effort to work out problems with legislation, to compromise effectively, to negotiate, and to come up with the kind of package that meets the needs of the people we represent and the people of this great country of ours, and I would particularly acknowledge the endeavors of David Leach, Jerry Waldron, Colin Crowell, Mike Regan, Justin Lilley, and Cathy Reid, for the fine job they have done, not working for any partisan interest, but working together to achieve the kind of results that we see here this morning, of course once again, in the very bipartisan and fair manner in which Chairman MARKEY runs the subcommittee.

Mr. MARKEY. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey [Mr. RINALDO].

Mr. Speaker, I would just like to say that this is the beginning of the end for junk faxes and junk calls in America. This knows no partisan line. This is not a Democrat or Republican issue, this is not a liberal or conservative issue. When those junk faxes start coming over your machine, you do not think like a Republican or a Democrat, you just think how are you going to be able to get your hands around the neck of the person making you pay with your paper for whatever message they are trying to send you.

We are sending instructions over to the FCC that we want them to begin the process here of shutting down the abuse of the telephones and fax machines that have grown over the last half a decade.

Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I want to just attest to the effective bipartisanship of both the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] on a number of telecommunications issues.

Last night we passed the Corporation for Public Broadcasting bill that had a number of provisions important to women and minorities in rural areas, giving them access to telemarketing. I especially want to note the cooperation I got from the gentleman from Massachusetts [Mr. MARKEY] on a number of issues relating to exemptions when there are medical emergencies and safety issues.

Mr. Speaker, I can attest again to the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Massachusetts [Mr. MARKEY] effectively working on a number of bills. I think we have had a lot of suspensions in this area, and I just want to join in commending them for this very strong effort and their excellent staffs.

Mr. Speaker, I rise today in strong support of S. 1462, the Automated Telephone Consumer Protection Act. I commend the gentlemen from Massachusetts and New Jersey for producing a final product that strikes an appropriate balance so that individuals will be protected from unwanted calls while still having the ability to take advantage of doing some of their shopping and subscription renewals at home over the telephone.

As an early cosponsor of the House version of the bill, H.R. 1304, I am a strong supporter of the effort to control unwanted calls. The question, however, was how to do this while still allowing those telephone solicitation calls

that consumers might want: From their alma mater, from their favorite charity, from their newspaper or magazine about a lapsed subscription. This bill gives the Federal Communications Commission [FCC] a way of regulating these types of calls and provides some necessary guidance and considerations for the FCC as part of their deliberations.

The bill appropriately singles out calls in which there is an existing business relationship between the caller and the consumer. Different rules should apply to these types of calls. Businesses need to be able to contact customers with whom they have a prior or existing business relationship. Generally, these calls are not objectionable to the recipient; they allow the customer to take advantage of special promotions and other offers from vendors with whom they are already familiar. At the same time, I want to emphasize that these vendors should be keeping track of customers' wishes regarding telephone calls and where and when he likes to receive them or not. Responsible telemarketers should respect certain basic privacy concerns irregardless of whether there is an existing business relationship.

Responsible telemarketing practices will not be restricted by this legislation, and the industry will continue to play a beneficial consumer role in our society. For example, newspapers often use telemarketing to renew lapsed subscriptions or offer special promotions to people who receive the paper only a few days a week. Customers are familiar with these calls and generally find it a convenience not to have to get in touch with their distributor about renewal.

Finally, the bill allows the FCC to evaluate alternatives for protecting residential phone customers from unwanted calls. The FCC is authorized to consider several options for how best to accomplish this. It is my personal opinion that the creation of a giant national database containing the names of people who do not wish to receive telemarketing calls is not the best way to go. This proposal is extremely problematic and may cause more harm than good. I would, therefore, urge the FCC to adopt another, less intrusive, means of protecting residential telephone customers from unwanted telemarketing.

Once again, let me congratulate the sponsors of the bill for their extraordinary efforts to produce a final products that deals with various concerns raised by different parties. Because of the leadership of the subcommittee chairman and ranking Republican member, we are able to pass this consensus bill before the end of the first session. I would urge my colleagues to vote for the bill.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to note that, as usual, from my 5 years as subcommittee chairman, the gentleman from New Mexico [Mr. RICHARDSON] has, as he has on every single piece of legislation, inserted provisions that are going to be very important and vital for the protection of the American public. I would like to make that notation here before we conclude debate.

Mr. Speaker, again, we worked in a bipartisan fashion. We hope that the House sees fit to accept this legislation today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the Senate bill, S. 1462, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

REGARDING UNFAIR IMPRISONMENT OF DR. NGUYEN DAN QUE BY GOVERNMENT OF VIETNAM

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 78) regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

The Clerk read as follows:

S. CON. RES. 78

Whereas the normalization of relations with the Socialist Republic of Vietnam and the potential lifting of the economic embargo depend in part on that nation taking certain steps related to the recognition of certain human rights;

Whereas Dr. Nguyen Dan Que is a nonviolent advocate for human rights and democracy in the Socialist Republic of Vietnam;

Whereas Dr. Nguyen Dan Que's right to free expression is guaranteed by Article 19 of the Universal Declaration of Human Rights;

Whereas Dr. Nguyen Dan Que has been imprisoned for 12 of the last 13 years and has for 14 years suffered from ill health;

Whereas Dr. Nguyen has finally been charged with treason and trying to overthrow the Vietnamese government;

Whereas Dr. Nguyen is scheduled to go on trial on November 29, 1991; and

Whereas numerous international human rights organizations have called for the release of Dr. Nguyen: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Dr. Nguyen Dan Que should be accorded a fair and impartial trial as is his right under Articles 10 and 11 of the Universal Declaration of Human Rights;

(2) to ensure fairness and impartiality during his impending trail, international observers should be permitted access to all court proceedings and evidence; and

(3) if Dr. Nguyen is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the following persons: the Permanent Representative of Vietnam to the United Nations, the Speaker of the Vietnamese National Assembly, the Foreign Minister and the Prime Minister of the Socialist Republic of Vietnam, as well as the Secretary of State and the President of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution was introduced by Senator ROBB and passed by the other body on Saturday. It expresses the deep concern of the Congress about the impending trial of Dr. Nguyen Dan Que of Vietnam.

Dr. Que, a human rights activist who has spent most of the past 14 years in prison, was arrested in Ho Chi Minh City on June 14, 1990, apparently for the high crime of signing a petition for nonviolent political reform and respect for human rights in Vietnam.

According a Asia Watch, one of the most respected human rights organizations in the world, which is noted in particular for the excellence of the people who work for it, Dr. Que's crime is the exercise of basic human rights of speech and association, as guaranteed, believe it or not, by Vietnam's own constitution, as well as by the International Covenant on Civil and Political Rights, to which the government of Vietnam has acceded.

According to a Ho Chi Minh City law journal, Dr. Que's accusers take as evidence of his so-called criminal intent such alleged facts as—now, listen to this one—his interest in studying Russian, his membership in Amnesty International, his letters protesting human rights abuses in China, Turkey, Greece, Colombia, and the Philippines, his sending a telegram to the government of Japan protesting the repatriation of a defecting Chinese pilot, and testimony from others that Dr. Que is apparently the sort of person who "asks others to join him in action, the same way Western politicians do."

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My friends, these may be serious crimes in Vietnam, but in the United States and most other countries around the world, they would be seen not as evidence of criminality, but as a manifestation of decency and good will and a commitment to the cause of fundamental human rights.

The resolution before us today urges that Dr. Que be accorded a fair and impartial trial and that international observers be permitted access to all court proceedings and evidence.

It also states that if Dr. Que is merely guilty of the nonviolent expression of his views, as Asia Watch and other groups assert, he should be released immediately.

Mr. Speaker, this is a significant resolution, as it reaffirms the importance of human rights in the evolving bilateral relationship between the United States and Vietnam. I think it is very important for the leadership in Hanoi to know that the continued and systematic violation of basic human rights will inevitably limit the degree of bilateral cooperation between our two countries.

I also hope that the adoption of this resolution will serve to encourage the government in Vietnam to expedite the release and emigration of those so-called reeducation camp detainees who remain in long-term detention and who have been there in most if not all instances for nearly 17 years.

The fact is, of course, that the Government of Vietnam has released most of the thousands of people who had been held in reeducation camps since 1975, and a number of us worked long and hard to bring that about, but the State Department and human rights groups have contended that there are about 100 who remain in long-term detention in these reeducation camps, and we hope the day will soon come when literally all of them are released.

Finally, Mr. Speaker, I want to express my appreciation to the gentleman from Virginia [Mr. WOLF], my very good friend, who encouraged the Committee on Foreign Affairs to move this resolution expeditiously to the floor. For many years now he has been an outspoken advocate on behalf of the cause of human rights in Vietnam in general and the plight of the reeducation camp prisoners over there in particular.

I think we all owe him a debt of gratitude for reminding us of our continuing obligation to speak up on behalf of these people, who suffer either by virtue of their association with our country during the course of the war in Vietnam or because they espouse the fundamental ideals and principles upon which our own great republic was founded 200 years ago.

This resolution will probably not attract much attention over here. I doubt it will be on the front page of the Washington Post tomorrow. But I suspect that Dr. Que somehow or other will learn about it, and I have no doubt it will embolden him and greatly enhance his morale.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I am pleased to yield to the gentleman from Florida [Mr. FASCELL], my beloved chairman.

Mr. FASCELL. Mr. Speaker, I simply want to join my colleague in his eloquent statement with regard to this legislation and commend the original sponsor, the gentleman from Virginia [Mr. WOLF] and my distinguish ranking member or the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

It is important. The time has come to normalize our relationship after a long, bitter confrontation.

In that process, as we move along, the gentleman is absolutely correct, if there is one constancy about the United States and its people it is our strong conviction with regard to the nonviolent expression of political opinion and human rights.

It is the one thing that is respected around the world by all people regardless of what language they speak. We have seen the constancy of the American people in a firm belief of their value system as the one thing that changed the world and certainly what we see happening all over the world now is ample proof of that.

None of us should take lightly the importance of passing a resolution expressing the conviction of the American people in a matter of this kind.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 78 and urge its immediate adoption by the House. This resolution expresses the sense of the Congress that the Government of Vietnam should accord Dr. Nguyen Dan Que, an outspoken advocate for democracy in that country who is scheduled to go on trial for treason this Friday, his internationally recognized human right to due process of law.

The resolution further calls on the Government of Vietnam to release immediately Dr. Nguyen Dan Que who, in our opinion and that of the international human rights community, has been imprisoned solely for the nonviolent expression of his political views.

Mr. Speaker, as the process of normalizing the relations between the United States and Vietnam begins, it is essential that the United States Government insist that respect for human rights and greater political freedoms for the people of Vietnam be on the bilateral diplomatic agenda. One of the first steps the Government of Vietnam can take—and for which the United States Government should press—is the release of Dr. Nguyen and all others who languish in Vietnamese prisons for their attempts to exercise their internationally recognized human rights, including freedom of thought, expression, association and assembly.

I urge unanimous passage of this resolution.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for his observation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to express my strong support for this resolution.

Senate Concurrent Resolution 78 calls on Vietnam to give Dr. Nguyen Dan Que a fair trial and to release him if in fact his only crime is expressing his views.

Several years ago, Dr. Que, a Vietnamese physician, criticized the lack of medical supplies available to doctors. The Vietnamese authorities punished him for his candor by throwing him in a reeducation camp for 10 years.

After his release in 1988, Dr. Que remained steadfast in his determination to speak the truth about conditions in his country. He continued to speak out for nonviolent political change in Vietnam. The Government has responded by charging him with treason and trying to overthrow the regime.

For 35 years, the Communist government in Hanoi has boasted of its achievements. During the Vietnam war, there were some who were willing to believe that the Communists in Hanoi were only patriots who wanted to build a better future for their country.

Today, the failure of communism in Vietnam is obvious to all except the Government in Hanoi. The country is poor and has a few friends. But the Communists continue to stamp out human rights, and seek to silence men such as Dr. Que, who try to speak out.

For the past few years, the Vietnamese Government has called for an end to the American economic embargo and for normalization of relations between our two countries. Vietnam says that we should bury the past and seek a better relationship with their country.

I'm all for seeking reconciliation with former enemies, including Vietnam. But it seems to me that while the American people's attitudes towards Vietnam have changed, the men in Hanoi are still playing by the old rules and attitudes.

It's time that the Government in Hanoi begins to respect the human rights of its citizens. Senate Concurrent Resolution 78 sends a message to Vietnam that the United States is following Dr. Que's case closely, and that we expect Vietnam to fully respect the principles of the Universal Declaration on Human Rights.

I urge my colleagues to support this important resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I want to thank the gentleman from Florida [Mr. FASCELL], the committee chairman, the gentleman from New York [Mr. SOLARZ], and the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican member, for moving this and for their work on this and other pieces of legislation like this.

I think the Vietnamese Government will know now that the three of them are interested in this, and with the threat of them watching to see what the outcome of this trial would be, I feel much better about it, and I am sure that they know that the three of them are going to be looking to see how it goes and what the results are of the trial.

So to the three gentleman, I appreciate their putting this on and moving it so quickly.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 78 which calls on the Vietnamese Government to guarantee a fair and impartial trial for Dr. Nguyen Dan Que, a prisoner of conscience, who will be brought to trial on November 29, 1991, in Ho Chi Minh City and formally charged with "activities aimed at overthrowing the people's

government." Dr. Que could face the death penalty for this offense.

According to Amnesty International, Dr. Nguyen Dan Que was born in 1942 in northern Vietnam, studied medicine at Saigon University and, on graduation, joined the teaching staff of the university medical school. Dr. Que remained in Ho Chi Minh City after the end of the Vietnam war in 1975, and was appointed director of Cho-ray Hospital. Concerned by the shortage of medicines and standards of medical care in the country, he became disillusioned with the new Government's health care policies and expressed criticisms openly. This led to his dismissal as hospital director and in February 1978, he was arrested and accused of "rebelling against the regime." He was imprisoned for 10 years without charge or trial.

Dr. Que was released in February 1988, and later became a founding member of a political movement established in 1990 under the name of the High Tide of Humanism Movement. In May 1990 this organization launched a petition calling for nonviolent political, social and economic change in Vietnam, including the introduction of a multiparty system for government. In clear violation of the Universal Declaration of Human Rights, Dr. Que was re-arrested one month later, on June 14, 1990, and has been held without charge or trial since. He has allegedly been ill-treated and tortured and is currently suffering ill-health.

Dr. Que will be brought to trial on November 29, and could be put to death for "activities aimed at overthrowing the people's government."

The freedom of expression, the bedrock of free societies, the first amendment of our own Constitution, is being suppressed in Vietnam. Dr. Que will be tried on Friday for non-violently calling for change. As the United States moves toward normalizing relations with Vietnam, the Congress cannot stand by and allow the same country to suppress the most fundamental freedoms.

I call on the Congress to send a message to Vietnam that the United States will not tolerate Vietnam's shirking of international standards of human rights and demand that if Dr. Que is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

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Mr. SOLARZ. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I thank the gentleman for yielding the time and thank the subcommittee chairman and commend him and the ranking minority members for this very forceful and appropriate resolution. I rise in strong support of the resolution.

Mr. Speaker, freedom is winning around the world, but it has not yet won. This is chilling evidence of the fact that there are places in the world where when a man or woman speaks his or her mind or takes an act of political conscience, the penalty can still be severe. I commend the committee for pointing this out, and I would suggest that the only way that the momentum of freedom that we have seen in the last few years can be reversed is if good people of good faith like the members of this committee fail to act and fail to tell Vietnam, in this case, that the world is watching this trial.

So I thank and commend the members of the committee.

Mr. SOLARZ. Mr. Speaker, I simply want to thank the gentleman from New Jersey and let him know that anytime he cares to make remarks like that he will always be eligible for time from the Committee on Foreign Affairs. We appreciate it very much.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 78.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SENSE OF HOUSE WITH RESPECT TO LEGISLATION RELATING TO AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 292) expressing the sense of the House of Representatives with respect to legislation relating to the amortization of goodwill and certain other intangibles.

The clerk read as follows:

H. RES. 292

Resolved, That it is the sense of the House of Representatives that any legislation enacted with respect to amortization of goodwill and certain other intangibles for Federal income tax purposes should contain a provision permitting taxpayers to elect in a consistent manner the provisions of such legislation with respect to transactions after the date on which H.R. 3035 of the One Hundred Second Congress was introduced and before the otherwise prescribed effective date of such legislation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 292, expressing the sense of the House with respect to the effective date of legislation to simplify the tax treatment of intangible assets.

As reported by the Committee on Ways and Means, this sense of the House resolution would promote economic stability by ensuring that normal business transactions are not held up while tax simplification legislation works its way through the legislative process.

Last July, I introduced H.R. 3035, which would eliminate much of the controversy over the tax treatment of intangible assets by providing a uniform, predictable set of rules for amortizing these assets. This bill was one of a series of bills that I introduced this year relating to tax simplification.

The Committee on Ways and Means has held 2 days of hearings on H.R. 3035 and the issue of the tax treatment of intangibles. While some problems remain to be worked out, I have been encouraged by the public response to the bill, which has been overwhelmingly favorable. I am also gratified by the Treasury Department's position in support of the bill.

As introduced, H.R. 3035 would become effective on the date of enactment of the bill. Concern has recently been expressed that business transactions are being held up because of uncertainty as to when this legislation might be enacted.

House Resolution 292 would alleviate these concerns by stating the sense of the House that in the event that intangible legislation is enacted into law, taxpayers should be allowed to elect to apply the legislation to all acquisitions of intangible assets taking place after the date of introduction of H.R. 3035—July 25, 1991—and before its enactment.

Because it is an election at the taxpayer's choice, this sense of the House resolution would not harm any taxpayer, but instead would ensure that taxpayers could proceed with business as usual without fear of losing the benefit of pending tax simplification.

I want to emphasize, Mr. Speaker, that passage of this resolution today is not intended to prejudge or otherwise prejudice important issues that must be worked out next year with respect to H.R. 3035. Issues such as the treatment of computer software, government licenses, movie distribution rights, and retroactivity all must be resolved on their merits in the substantive markup anticipated next year House Resolution 292 is merely intended to allow business transactions to proceed while the underlying intangibles bill works its way through the legislative process.

Mr. Speaker, I urge all my colleagues to support this sense of the House resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, frequently, the mere anticipation of congressional action influences significant business and personal decisions.

A significant change in the law is proposed by a leading lawmaker, and people naturally begin to ask themselves how the proposal might affect them. They may change or delay action they were planning to take.

That has apparently been the case with legislation proposed by Chairman ROSTENKOWSKI on July 25 to change the taxation of intangible assets such as goodwill, customer lists, computer software, know how, and the like.

There is anecdotal evidence that the uncertainty over changes in the amortization of intangibles may be delaying business transactions that would otherwise be taking place.

This resolution attempts to alleviate some of that uncertainty. The last thing the economy needs now is people postponing investments and acquisitions that could produce jobs.

I commend the chairman for moving House Resolution 292 forward. It is a responsible attempt to ease taxpayer concerns while the amortization of intangibles issue is still being considered.

It says that if Congress should enact legislation changing the taxation of intangible assets, we intend to allow taxpayers an election to use the benefits of the new law back to July 25, 1991—if it is to their advantage.

The resolution does not attempt to settle the underlying question of the tax treatment of intangibles. That is a separate issue for another day.

I personally have real concerns about forcing taxpayers to amortize any asset—intangible or otherwise—over a period longer than its economic life.

Importantly, a vote for this resolution today does not obligate anyone to support the chairman's intangibles bill or any other bill. The resolution has no bearing on whether or when amortization legislation will be enacted—or how it would be structured.

It says only that we plan to give taxpayers a choice of new or old law—retroactive to July 25, 1991—if we pass a law on intangibles.

The resolution does not carry with it the force of law. It makes no guarantees. It will however, give taxpayers some degree of assurance that the House doesn't intend to penalize taxpayers who go forward now.

House Resolution 292 deserves our support. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

□ 1230

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I just wanted to take this opportunity to engage in a colloquy with the distinguished ranking minority member of the committee.

Mr. Speaker, just to repeat this gentleman's understanding that this resolution does not bind the members of the Ways and Means Committee to vote one way or the other on any procedure, including the issue of retroactivity. Is that the gentleman's understanding?

Mr. ARCHER. Mr. Speaker, if the gentleman will yield, that is my understanding. It is a nonbinding resolution.

Mr. STARK. And that therefore an attorney out on Wall Street today advising his or her clients on a merger or an acquisition when it comes to the possibility of tax treatment of intangibles could not use this as a basis for a legal opinion; would that be the gentleman's understanding?

Mr. ARCHER. Mr. Speaker, if the gentleman will yield further, I am afraid I cannot speculate on legal opinions.

Mr. STARK. All right, but so far as the gentleman knows, there is nothing in this bill that in effect has the force of law?

Mr. ARCHER. I do not think that it is of any benefit to expand on the response that I made initially, but I would simply add, if the gentleman will yield further, that any individual who does enter into an acquisition on the assumption that the intangibles bill will pass is taking a very real risk, because I do not think it is at all certain that it is going to pass.

Mr. STARK. Mr. Speaker, I thank the gentleman. To go on further, that is what I wanted to suggest, that in its most definitive interpretation, this bill could merely represent that a majority of the Ways and Means Committee favored bringing it and that as far as we know, at least two-thirds of the House of Representatives would not object to it as a policy, but that it otherwise would have no force and effect at this moment.

Mr. ARCHER. That is my understanding.

Mr. STARK. Mr. Speaker, I thank the gentleman.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and agree to the resolution, House Resolution 292.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTIONS ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1555) to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technical Corrections Act of 1991".

TITLE I—REVENUE PROVISIONS

SEC. 101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 102. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "24".

(3) Clause (ii) of section 32(b)(1)(B) is amended by inserting a comma after "greater".

(4) Section 541 is amended by striking "28 percent" and inserting "31 percent".

(5) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF DEDUCTION FOR MEDICAL INSURANCE OF SELF-EMPLOYED.—In determining the amount of adjusted gross income for purposes of this section, the amount of the

deduction under section 162(l) shall be determined without regard to section 162(l)(3)(B)."

(6) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(7) Subparagraph (B) of section 402(e)(1) is amended by striking the last sentence thereof.

(8) Subsection (b) of section 1 is amended by striking "$26,500" in the table contained therein and inserting "$26,050".

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

(2) Subsection (b) of section 4082 is amended to read as follows:

"(b) TAX ON CERTAIN USES.—If any person uses gasoline (other than in the production of gasoline or special fuels referred to in section 4041), such use shall for purposes of this chapter be considered a removal."

(3)(A) Subparagraph (B) of section 4093(c)(2) is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l) is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(4) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(5) Paragraph (1) of section 9502(e) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990."

(6) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(7) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

"(6) CREDIT FOR TRANSFEREE IN BOND.—If—

"(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

"(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

"(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

"(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons during a calendar year, and

"(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year."

(8) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(f),".

(9) Section 5354 is amended by inserting "(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))" after "any one time".

(10) Effective on the date of the enactment of this Act, paragraph (7) of section 11202(i) of the Revenue Reconciliation Act of 1991 is amended by adding at the end thereof the following: "The Secretary may treat any person who bore the ultimate burden of the tax imposed by this subsection as the person to whom a credit or refund under such provisions may be allowed or made."

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraph (I) as subparagraph (H).

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause added by section 11212(e) of the Revenue Reconciliation Act of 1990 and inserting ", or", and

(C) by redesignating the clause added by section 11323(c)(2) of such Act as clause (xiii).

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates."

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary."

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Paragraph (9) of section 132(h) is amended by striking "or the last sentence of subsection (c)(1) thereof".

(2) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(3) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1) Subsection (d) of section 39 is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), and

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2).

(2)(A) Subsection (h) of section 56 is amended—

(i) by striking "subsection (g)(4)(G)" in paragraph (5) and inserting "subsection (g)(4)(F)", and

(ii) by striking "section 613(e)(3)" in paragraph (7)(B) and inserting "section 613(e)(2)".

(B) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A)."

(C) Subparagraph (B) of section 56(g)(1) is amended by striking "and the alternative tax net operating loss deduction" and inserting ", the alternative tax net operating loss deduction, and the deduction under subsection (h)".

(3) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(4) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(5) Paragraph (2) of section 55(c) is amended by striking "29(b)(5)" and inserting "29(b)(6)".

(6) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

(7) Clauses (iii) and (iv) of section 53(d)(1)(B) are each amended by striking "section 29(b)(5)(B)" and inserting "section 29(b)(6)(B)".

(8) Subparagraph (B) of section 56(h)(4) is amended by striking "For purposes of subparagraph (A), the" and inserting "The".

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section."

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3) (B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse."

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes "shall be treated as holding" and inserting:

"(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual".

(C) Section 2704(c)(3) is amended by striking "section 2701(e)(3)(A)" and inserting "section 2701(e)(3)".

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

"(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,".

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

"(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments."

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: "A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election."

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for calendar year 1991.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest."

(10) Section 2701(e)(6) is amended by inserting "or to reflect the application of subsection (d)" before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking "to the extent" and inserting "if" in clause (i),

(ii) by striking "or" at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting ", or", and

(iv) by adding at the end thereof the following new clause:

"(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section."

(B)(i) Section 2702(a)(3) is amended by striking "incomplete transfer" each place it appears and inserting "incomplete gift".

(ii) The heading for section 2702(a)(3)(B) is amended by striking "INCOMPLETE TRANSFER" and inserting "INCOMPLETE GIFT".

(12) Section 2703(b)(2) is amended by striking "members of the decedent's family" and inserting "natural objects of the bounty of the transferor".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking ", or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock" in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: "For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock."

(B) Paragraph (1) of section 1248(e) is amended by striking "or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock".

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking "or 361(c)(1)" and inserting "355(c)(1), or 361(c)(1)".

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section."

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking "section 408(b)" and inserting "section 408(b)(12)".

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting ", but only with respect to taxable years beginning after December 31, 1989" before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end thereof the following new subclause:

"(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)."

(B) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(b), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.".

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended—

(A) by striking "in a trade or business" and inserting "a trade or business", and

(B) by adding at the end thereof the following new sentence: "Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units and horses".

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subsections (a)(45), (b)(14), and (c)(21) of section 11801 of the Revenue Reconciliation Act of 1990 are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted.

(15) Subparagraph (E) of section 1367(a)(2) is amended by striking "section 613A(c)(13)(B)" and inserting "section 613A(c)(11)(B)".

(16) Subparagraph (B) of section 460(e)(6) is amended by striking "section 167(k)" and inserting "section 168(e)(2)(A)(ii)".

(17) Subparagraph (C) of section 172(h)(4) is amended by striking "subsection (b)(1)(M)" and inserting "subsection (b)(1)(E)".

(18) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(19) Paragraph (4) of section 1250(e) is hereby repealed.

(i) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 103. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

"(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

"(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.".

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) IN GENERAL.—Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: "(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking "to the extent" and all that follows down through "subparagraph (A)" and inserting "to the extent that the allocable interest exceeds the interest described in subparagraph (A)".

(ii) The second sentence of section 884(f)(1) is amended by striking "reasonably expected" and all that follows down through the period at the end thereof and inserting "reasonably expected to be allocable interest.".

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

"(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States."

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking "863(b)" and inserting "863".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking ", and" at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding "and" at the end of paragraph (2), by striking ", and" at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) TREATMENT OF ASSIGNMENT OF INTEREST IN CERTAIN BOND-FINANCED FACILITIES.—

(1) IN GENERAL.—Subparagraph (A) of section 1317(3) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: "A facility shall not fail to be treated as described in this subparagraph by reason of an assignment (or an agreement to an assignment) by the governmental unit on whose behalf the bonds are issued of any part of its interest in the property financed by such bonds to another governmental unit."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in such section 1317 on the date of the enactment of the Tax Reform Act of 1986.

(h) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

"(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause before the close of the 36-month period beginning on the date the covered employee became so entitled."

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

"(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

(i) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "adusted" and inserting "adjusted".

(4)(A) The heading for section 112 is amended by striking "**COMBAT PAY**" and inserting "**COMBAT ZONE COMPENSATION**".

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1)(A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subparagraph (B) of section 4092(b)(1) is amended by striking "or" at the end of clause (i).

(9) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(10) Section 1463 is amended by striking "this subsection" and inserting "this section".

(11) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(12) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(13) Paragraph (2) of section 4978(b) is amended by striking the period at the end of subparagraph (A) and inserting a comma, and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(14) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(15) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(16) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(17) Subsection (k) of section 6166 is amended by striking paragraph (6).

(18) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(19) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(20) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(21) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(22)(A) Section 7232 is amended—

(i) by striking "**LUBRICATING OIL,**" in the heading, and

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(23) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(24) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(25) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(26) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)".

(27) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(28) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(29) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

(30) Paragraph (1) of section 460(b) is amended by striking "the look-back method of paragraph (3)" and inserting "the look-back method of paragraph (2)".

(31) The heading for paragraph (2) of section 6427(b) is amended by striking "3-CENT" and inserting "3.1-CENT".

TITLE II—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 200. REFERENCES TO OBRA-1990; EFFECTIVE DATE.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this title, the term "OBRA-1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) EFFECTIVE DATE.—Except where otherwise provided, the amendments made by this title and the provisions of this title shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

Subtitle A—Amendments Relating to Part A of the Medicare Program

SEC. 201. EXCLUDING DISTINCT PSYCHIATRIC AND REHABILITATION UNITS FROM ADJUSTMENT TO PAYMENT AMOUNTS FOR PPS-EXEMPT HOSPITALS (SECTION 4005 OF OBRA-1990).

(a) IN GENERAL.—Section 1886(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(b)(1)(B)(ii)), as amended by section 4005(a)(1) of OBRA-1990, is amended by striking "(ii) in the case of" and inserting "(ii) for a hospital that is not a subsection (d) hospital (other than a unit of a hospital described in subsection (d)(1)(B)(ii)), in the case of".

(b) CONFORMING AMENDMENT.—Section 1886(d)(1)(B) of such Act (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(1) in clause (i), by striking "1861(f)," and inserting "1861(f)) or a rehabilitation hospital (as defined by the Secretary),";

(2) by amending clause (ii) to read as follows:

"(ii) in accordance with regulations of the Secretary, a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary),"; and

(3) by striking the semicolon at the end of clause (v) and all that follows and inserting a period.

SEC. 202. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION (SECTION 4003 OF OBRA-1990).

(a) APPLICATION TO WHOLLY OWNED ENTITIES.—Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as amended by section 4003(a) of OBRA-1990, is amended—

(1) in the first sentence, by striking "wholly owned or operated by" and inserting "related to"; and

(2) by adding at the end the following new sentence: "In the first sentence of this paragraph, an entity is 'related to' a hospital if the hospital is to a significant extent associated or affiliated with or has control of or is controlled by the entity.".

(b) NON-APPLICATION TO PPS-EXEMPT HOSPITALS.—The first sentence of section 1886(a)(4) of such Act (42 U.S.C. 1395ww(a)(4)) is further amended by striking "and includes" and inserting "and (in the case of a subsection (d) hospital) includes".

SEC. 203. ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) of the Social Security Act (42 U.S.C. 1395i-4(a)(1)) is amended by striking "7" and inserting "9".

(b) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—Section 1820 of the Social Security Act (42 U.S.C. 1395i-4) is amended—

(1) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(2) in subsection (e)(1)(A) (as redesignated by paragraph (1)—

(A) by striking ", (ii)" and inserting "or (ii)",

(B) by striking "or (iii)" and all that follows through "section,", and

(C) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(c) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(1) IN GENERAL.—Section 1820 of such Act (42 U.S.C. 1395i-4) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital; and

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection.

"(3) a hospital or facility designated by a State pursuant to paragraph (1) shall be eligible to receive a grant under subsection (a)(2).".

(2) CONFORMING AMENDMENT.—Section 1820(c)(1) of such Act (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(d) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) of such Act (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(e) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) of such Act (42 U.S.C. 1395x(a)) is amended—

(A) in paragraphs (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

SEC. 204. CARE OF PATIENTS RECEIVING QUALIFIED PSYCHOLOGIST SERVICES.

Section 1861(e)(4) of the Social Security Act (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 205. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for services provided during the period beginning October 1, 1986, and ending December 31, 1989.

(2) FACILITIES DESCRIBED.—The facilities referred to in paragraph (1) are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(b) STUDY OF JOINT MEDICAL FACILITY.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense, shall conduct a study of the feasibility and desirability of establishing a joint medical facility among the Department of Defense, the Department of Veterans' Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facility.

(2) REPORT.—Not later than June 1, 1992, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives.

SEC. 206. TECHNICAL CORRECTION RELATING TO NURSING HOME REFORM (SECTION 4008 OF OBRA-1990).

Section 1819(b)(3)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)), as amended by section 4008(h)(2)(C) of OBRA-1990, is amended by striking "not later than" before "14 days".

Subtitle B—Amendments Relating to Part B of the Medicare Program

SEC. 211. PHYSICIAN PAYMENT PROVISIONS (SECTIONS 4101 THROUGH 4118 OF OBRA-1990).

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) of the Social Security Act, as added by section 4101(b) of OBRA-1990, is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA-1990).—(1) Section 1834(b)(4) of the Social Security Act is amended by redesignating subparagraphs (E) and (F) (as previously redesignated by section 4102(a)(1) of OBRA-1990) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) of the Social Security Act, as inserted by section 4102(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA-1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) of the Social Security Act, as inserted by section 4102(d) of OBRA-1990, is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) of the Social Security Act, as added by section 4102(g)(2)(B) of OBRA-1990, is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) of the Social Security Act, as inserted by section 4103(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA-1990).—(1) Section 1848(i)(2)(B) of the Social Security Act, as added by section 4107(a)(1) of OBRA-1990, is amended by striking "performed under this part" and inserting "paid under this part".

(2) Section 4107(c) of OBRA-1990 is amended by inserting "(a)(1)" after "subsection".

(3) Section 4107(a)(2) of OBRA-1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA-1990).—Section 1842(b) of the Social Security Act is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA-1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA-1990).—Section 4117 of OBRA-1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) Reciprocal Billing Arrangements (Section 4110 of OBRA-1990).—Clause (D) of section 1842(b)(6) of the Social Security Act, as inserted by section 4110(a)(2) of OBRA-1990), is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first provider".

(h) Study of Aggregation Rule for Claims of Similar Physician Services (Section 4113 of OBRA-1990).—Section 4113 of OBRA-1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(i) Other Miscellaneous and Technical Amendments.—(1) The heading of section 1834(f) of the Social Security Act (42 U.S.C. 1395m(f)), as amended by section 4104(a) of OBRA-1990, is amended by striking "Fiscal Year".

(2)(A) Section 4105(b) of OBRA-1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) of the Social Security Act (42 U.S.C. 1395w-4(f)(2)(C)), as added by section 4105(c)(2) of OBRA-1990, is amended by inserting "Performance standard rates of increase for fiscal year 1991.—" after "(C)".

(C) Section 4105(d) of OBRA-1990 is amended by inserting "Publication of performance standard rates.—" after "(d)".

(3) Section 1842(b)(4)(F) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)), as amended by section 4106(a)(1) of OBRA-1990, is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)(ii)(I)), as amended by section 4106(a)(1) of OBRA-1990, is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA-1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA-1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) of the Social Security Act, as added by section 4118(c)(2) of OBRA-1990, is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA-1990 is amended by striking "is amended".

(9) Section 4116(f)(1)(N)(ii) of such Act is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) of the Social Security Act (42 U.S.C. 1395w-1(e)), as amended by section 4118(j)(1)(D) of OBRA-1990, is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA-1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) of the Social Security Act, as added by section 4118(k) of OBRA-1990, is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) of the Social Security Act is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

SEC. 212. SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS (SECTION 4151 OF OBRA-1990).

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—(1)(A) Section 1833(i)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than July 1, 1993, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) of such Act (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(ii) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1994), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.".

(C) The second sentence of section 1833(i)(1) of such Act (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA-1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

SEC. 213. DURABLE MEDICAL EQUIPMENT (SECTION 4152 OF OBRA-1990).

(a) Updates to Payment Amounts.—Subparagraph (A) of section 1834(a)(14) of the Social Security Act, as added by section 4152(b)(4) of OBRA-1990, is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) Treatment of Potentially Overused Items and Advanced Determinations of Coverage.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) of the Social Security Act, as added by section 4152(e) of OBRA-1990, is amended to read as follows:

"(15) Special treatment for potentially overused items.—

"(A) Development of list of items by secretary.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) Items subject to special carrier scrutiny.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1992, section 1834(a)(11) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) Carrier determinations for certain items in advance.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) of such Act, as added by section 4153(a) of OBRA-1990, is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) Study of Variations in Durable Medical Equipment Supplier Costs.—

(1) Collection and analysis of supplier cost data.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) Development of geographic adjustment index; reports.—Not later than January 1, 1993—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) Oxygen Retesting.—Section 1834(a)(5)(E) of the Social Security Act (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) Orthotic and Prosthetic Fee Schedules.—Section 1834(h)(2) of the Social Security Act (42 U.S.C. 1395m(h)(2)) is amended—

(1) in subparagraph (A)(ii)(II), by striking "1992 or 1993" and inserting "1992, 1993, or 1994";

(2) in subparagraph (B)(i), by striking "1992" and inserting "1993"; and

(3) in subparagraph (C)—

(A) in clause (i), by striking "or 1991" and inserting "1991, or 1992",

(B) in clause (ii), by striking "1992" each place it appears and inserting "1993",

(C) in clause (iii), by striking "1993" each place it appears and inserting "1994", and

(D) in clause (iv), by striking "1994" and inserting "1995".

(f) Other Technical and Conforming Amendments.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) of the Social Security Act, as inserted by section 4152(c)(2)(D) of OBRA-1990, is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) of the Social Security Act, as added by section 4152(c)(2)(F) of OBRA-1990, is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) of the Social Security Act (42 U.S.C. 1395m(a)(3)), as amended by section 4152(c)(3) of OBRA-1990, is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA-1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking "Reconcilliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) of such Act (42 U.S.C. 1395m) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

SEC. 214. OTHER PART B ITEMS AND SERVICES (SECTIONS 4154 THROUGH 4164 OF OBRA-1990).

(a) Revision of Information on Part B Claims Forms.—Section 1833(q)(1) of the Social Security Act (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) Consultation for Social Workers.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "and clinical social worker services" after "psychologist services"; and

(B) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) Reports on Hospital Outpatient Payment.—(1) The Omnibus Budget Reconciliation Act of 1989 is amended by striking section 6137.

(2) Section 1135(d) of the Social Security Act (42 U.S.C. 1320b-5(d)) is amended—

(1) by striking paragraph (6); and

(2) in paragraph (7)—

(A) by striking "systems" each place it appears and inserting "system"; and

(B) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "1989" and inserting "1989 and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) Payments to Nurse Practitioners in Rural Areas (Section 4155 of OBRA-1990).—(1) Section 1833(a)(1) of the Social Security Act, as amended by section 4155(b)(2) of OBRA-1990, is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA-1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(2) Section 1833(r)(1) of such Act, as added by section 4155(b)(3) of OBRA-1990, is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(3) Section 1833(r)(2)(A) of such Act (42 U.S.C. 1395l(r)(2)(A)), as added by section 4155(b)(3) of OBRA-1990, is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(4) Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(5) Section 1861(aa)(5) of such Act, as amended by section 4155(d) of OBRA-1990, is amended by striking "this Act" and inserting "this title".

(6) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(7) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) Other Technical and Conforming Amendments.—

(1) Immediate enrollment in part B by individuals covered by an employment-based plan.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) of the Social Security Act (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) of the Social Security Act (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)), as amended by section 4151(c)(1)(A) of OBRA-1990, are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5) of OBRA-1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA-1990).—Section 4157(a) of OBRA-1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA-1990).—Section 1833(l)(4)(B)(ii)(VII) of the Social Security Act, as inserted by section 4160(3) of OBRA-1990, is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—(A) The fourth sentence of section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)), as added by section 4161(b)(1) of OBRA-1990, is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA-1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA-1990).—(A) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(i) in subsection (s)(13), as added by section 4163(a)(1) of OBRA-1990, by striking "subsection (jj)" and inserting "subsection (kk)"; and

(ii) in the subsection (jj) inserted by section 4163(a)(2) of OBRA-1990, by striking "(jj) The term" and inserting "(kk) The term".

(B) Section 1834(c)(1) of the Social Security Act, as added by section 4163(b) of OBRA-1990, is amended in the matter preceding subparagraph (A) by striking "1861(jj)" and inserting "1861(kk)".

(C) Section 4163 of OBRA-1990 is amended—

(i) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(ii) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) of the Social Security Act inserted by section 4156(a)(2) of OBRA-1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) Section 1861(jj) of the Social Security Act (42 U.S.C. 1395x(jj)) is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) of such Act (42 U.S.C. 1395x(m)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (jj), but excluding other".

(iii) Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N); and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(jj)))"; and

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to covered osteoporosis drug (as defined in section 1861(jj)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) of such Act (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(jj))".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA-1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) of the Social Security Act, as inserted by section 4164(b)(1) of OBRA-1990, is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA-1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA-1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

Subtitle C—Amendments Relating to Parts A and B

SEC. 221. PROVISIONS RELATING TO PARTS A AND B (SECTIONS 4201 THROUGH 4207 OF OBRA-1990).

(a) ESRD (SECTION 4201 OF OBRA-1990).—(1) Section 4201(b)(3) of OBRA-1990 is amended by striking "The Commission" and all that follows through "1993)" and inserting 'Not later than June 1, 1992 (in the case of fiscal year 1993), and not later than March 1 before the beginning of each fiscal year thereafter, the Commission".

(2) Section 1881(b)(1)(C) of the Social Security Act, as inserted by section 4201(d)(2) of OBRA-1990, is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(O)".

(3) Section 4201(d)(2) of OBRA-1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(b) HOME DIALYSIS DEMONSTRATION PROJECT (SECTION 4202 OF OBRA-1990).—Section 4202 of OBRA-1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels);

(3) in subsection (c)(1)(A), by striking "skilled";

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)";

(5) in subsection (f)—

(A) by striking "AUTHORIZATION OF APPROPRIATIONS.—The Secretary" and inserting "FUNDING.—(1) The Secretary";

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E); and

(C) by adding at the end the following new paragraph:

"(2) Funds provided under subparagraphs (B) through (E) of paragraph (1) to carry out the demonstration project established under subsection (a) in a fiscal year shall remain available until expended.".

(c) EXTENSION OF SECONDARY PAYOR PROVISIONS (SECTION 4203 OF OBRA-1990).—(1) The sentence in section 1862(b)(1)(C) of the Social Security Act added by section 4203(c)(1)(B) of OBRA-1990 is amended—

(A) by striking "on or before January 1, 1996," and inserting "before January 1, 1996"; and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1862(b)(1) of the Social Security Act is amended.—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Section 4203(c)(2) of OBRA-1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(4) Section 4203(d) of OBRA-1990 is amended by striking "this subsection" and inserting "this section".

(d) HEALTH MAINTENANCE ORGANIZATIONS (SECTION 4204 OF OBRA-1990).—(1) Section 4204(b) of OBRA-1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) The Secretary of Health and Human Services shall revise the payment method for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act for years beginning with 1993.

"(B) In making the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas; and

"(iii) the difference in costs associated with medicare beneficiaries 65 years of age or older for whom medicare is the secondary payor under section 1862(b)(1)(A) of the Social Security Act and beneficiaries for whom medicare is the primary payor.

"(2) Not later than March 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule describing the proposed revisions in the payment methodology.

"(3) Not later than May 1, 1992, the Comptroller General shall review the proposal made pursuant to paragraph (1), and shall report to Congress on the appropriateness of the proposed modifications.

"(4) Taking into account the recommendations in the report made pursuant to paragraph (3), not later than August 31, 1992, the Secretary shall issue a final rule implementing the revised payment methodology, effective for contract years beginning on or after January 1, 1993.".

(2) Section 1876(a)(3) of the Social Security Act (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) Section 4204(c)(3) of OBRA-1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(4) Section 4204(d)(2) of OBRA-1990 is amended by striking "amendment" and inserting "amendments".

(5) Section 1876(a)(1)(E)(ii)(I) of the Social Security Act, as added by section 4204(e)(1)(B) of OBRA-1990, is amended by striking the comma after "contributed to".

(6) Section 4204(e)(2) of OBRA-1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(7) Section 4204(f)(4) of OBRA-1990 is amended by striking "final".

(8) Section 1862(b)(3)(C) of the Social Security Act, as added by section 4204(g)(1) of OBRA-1990, is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(e) PEER REVIEW ORGANIZATIONS (SECTION 4205 OF OBRA-1990).—(1) The third sentence of section 1156(b)(1) of the Social Security Act, as inserted by section 4205(a)(1)(B) of OBRA-1990, is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) of the Social Security Act, as added by section 4205(d)(1)(A)(ii) of OBRA-1990, is amended by striking "this subsection" and inserting "section 1156(a)".

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) of the Social Security Act (as added by section 4205(e)(1) of OBRA-1990) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA-1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(f) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 of the Social Security Act (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(g) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA-1990 as subsection (s).

(2) Section 1866(f)(1) of the Social Security Act (42 U.S.C. 1395cc(f)(1)), as added by section 4206(a)(2) of OBRA-1990, is amended by striking "1833(r)" and inserting "1833(s)".

(3) The section following section 4206 of OBRA-1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subsection is referred to as section 4207 of OBRA-1990.

(4) Section 4207(a)(1) of OBRA-1990 is amended by adding closing quotation marks and a period after "such review.".

(5) Section 4207(a)(4) of OBRA-1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(6) Section 4207(b)(1) of OBRA-1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(7) Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(A) in the fourth sentence of subsection (f)—

(i) by striking "provided" and inserting "furnished", and

(ii) by striking "provides" and inserting "furnish".

(B) in the fifth sentence of subsection (f)—

(i) by striking "providing" each place it appears and inserting "furnishing",

(ii) by striking "with respect to the providers" and inserting "with respect to the entities", and

(iii) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial tomography scans, and ultrasound services";

(C) in subsection (h)(1)—

(i) by striking "; REMUNERATION.—(A)" and inserting ".—",

(ii) in subparagraph (A), by striking "any remuneration" and all that follows and inserting "any payment (whether directly or indirectly, overtly or covertly, in cash or in kind) made by an entity to a physician (or immediate family member).", and

(iii) by striking subparagraph (B); and

(D) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(8) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA-1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(9) Section 4207(b)(4)(B)(iii)(III) of OBRA-1990 is amended by striking the period at the end and inserting a semicolon.

(10) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(11) Section 4207(c)(2) of OBRA-1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(12) Section 4207(d) of OBRA-1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(13) Section 4207(i)(2) of OBRA-1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(14) Section 4207(j) of OBRA-1990 is amended by striking "title" each place it appears and inserting "subtitle".

Subtitle D—Medicare Supplemental Insurance Policies

SEC. 231. CORRECTIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES (SECTIONS 4351 THROUGH 4361 OF OBRA-1990).

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES (SECTION 4351 OF OBRA-1990).—

(1) Section 4351 of OBRA-1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) of the Social Security Act, as added by section 4351 of OBRA-1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(3) The Secretary of Health and Human Services shall publish in the Federal Register a list described in section 1882(p)(10) of the Social Security Act by not later than December 31, 1991.

(4) For purposes of section 1882 of the Social Security Act, when the National Association of Insurance Commissioners modifies its 1991 NAIC Model Regulation (adopted in July 1991) to delete from section 15C the exception which begins with "unless", such modification shall be considered to be part of that Regulation under such section. If subsection (p)(1)(A) of such section is applicable, until the Association makes such modification, such section shall be applied as if such exception had been deleted. Any 1991 Federal Regulation adopted under such section shall not include such exception. If the Secretary of Health and Human Services identifies a State as requiring legislative action in order to conform its regulatory program to the modification described in this paragraph, the State regulatory program shall not be considered to be out of compliance with the requirements of such section due solely to failure to make such modification until the close of the first regular legislative session that begins after the date of the enactment of this Act.

(b) Guaranteed Renewability (Section 4352 of OBRA-1990).—Section 1882(q) of the Social Security Act, as added by section 4352 of OBRA-1990, is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) Enforcement of Standards (Section 4353 of OBRA-1990).—

(1) Section 1882(a)(2) of the Social Security Act, as added by section 4353(a)(2)(B) of OBRA-1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) of the Social Security Act added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) of the Social Security Act is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) of such Act is amended by striking "the the Secretary" and inserting "the Secretary".

(d) Preventing Duplication (Section 4354 of OBRA-1990).—

(1) Section 1882(d)(3)(A) of the Social Security Act, as amended by section 4354(a)(1) of OBRA-1990, is amended—

(A) by inserting before the first sentence the following:

"(i) Effective before January 1, 1994, it is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the current first sentence as clause (ii) and, in such clause, by striking "It is unlawful" and inserting "Effective January 1, 1994, it is unlawful";

(C) by designating the current second sentence as clause (iii) and, in such clause, by striking "the previous sentence" and inserting "clause (i) or (ii)";

(D) by designating the current third sentence as clause (iv) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) or (ii) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "the sale of the policy will not duplicate health benefits to which the individual is otherwise entitled" and inserting "the individual is not entitled to benefits under another medicare supplemental policy"; and

(E) by striking the last sentence.

(2) Section 1882(d)(3)(B) of the Social Security Act, as amended by section 4354(a)(2) of OBRA-1990, is amended—

(A) in clause (i)(I), by striking "clause (II)" and inserting "clause (ii)",

(B) in clause (ii)(II), by striking "65 years of age or older",

(C) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(D) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(E) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(F) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the individual's full liability for medicare cost-sharing (as defined in section 1905(p)(3)).".

(3)(A) Section 1882(d)(3)(C) of the Social Security Act is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance before January 1, 1994, of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if there is disclosed in a prominent manner as part of the application a statement of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance before January 1, 1994, of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 90 days after the date of the enactment of this Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5)(A) of the Social Security Act, as added by section 4354(b) of OBRA-1990, is amended by striking "of the Social Security Act".

(5) The second subsection (b) of section 4354 of OBRA-1990 (relating to effective date) is amended by redesignating such subsection as subsection (c).

(e) Loss Ratios and Refunds of Premiums (Section 4355 of OBRA-1990).—

(1) Section 1882(r) of the Social Security Act, as added by section 4355(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all policies issued by an insurer in a State and shall be based only on aggregate benefits provided and premiums collected under the policies after such date.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue. In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 12 months following such date.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(J) in paragraph (4), by striking "disiIlowance", "loss-ratios", and "loss-ratio" and inserting "disallowance", "loss ratios", and "loss ratio", respectively;

(K) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(L) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) of the Social Security Act is amended by transferring and inserting the subparagraph (G) added by section 4355(c)(3) of OBRA-1990 immediately after the subparagraph (F) added by section 4353(c)(3) of that Act.

(3) Section 4355(d) of OBRA-1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(f) Treatment of HMO's (Section 4356 of OBRA-1990).—

(1) Section 1882(g)(1) of the Social Security Act, as amended by section 4356(a) of OBRA-1990, is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the 1-year period beginning on the date specified in subsection (p)(1)(C), a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA-1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) Pre-Existing Condition Limitations (Section 4357 of OBRA-1990).—Section 1882(s) of the Social Security Act, as added by section 4357(a)(2) of OBRA-1990, is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or", and

(2) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) Medicare Select Policies (Section 4358 of OBRA-1990).—

(1) Section 1882(t) of the Social Security Act, as added by section 4358(a) of OBRA-1990, is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) of the Social Security Act, as amended by section 4358(b)(3) of OBRA-1990, is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) Health Insurance Counseling (Section 4360 of OBRA-1990).—Section 4360 of OBRA-1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide", and

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) Telephone Information System (Section 4361 of OBRA-1990).—

(1) Section 1804 of the Social Security Act is amended—

(A) by adding at the end of the heading the following: "; Medicare and Medigap Information",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 of the Social Security Act, as inserted by section 4361(a) of OBRA-1990, is repealed.

TITLE III—CORRECTIONS RELATING TO SOCIAL SECURITY, INCOME SECURITY AND HUMAN RESOURCES, AND TARIFF AND CUSTOMS

Subtitle A—Social Security

SEC. 301. TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) Amendments Related to Provisions in Section 5103(b) Relating to Disabled Widows.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(1) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(2) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or".

(b) Amendments Related to Provisions in Section 5105(d) Relating to Representative Payees.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(2) by redesignating the paragraph (5) as amended thereby as paragraph (6).

(c) Amendments Related to Provisions in Section 5106 Relating to Coordination of Rules under Titles II and XVI Governing Fees for Representatives of Claimants with Entitlements under Both Titles.—

(1) Calculation of fee of claimant's representative based on amount of past-due supplemental security income benefits after application of windfall offset provision.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

"(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase '(determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a))' for the parenthetical phrase contained therein; and".

(2) Calculation of past-due benefits for purposes of determining attorney fees in judicial proceedings.—

(A) In general.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(i) by inserting "(A)" after "(b)(1)"; and

(ii) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph—

"(i) the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

"(ii) amounts of past-due benefits shall be taken into account to the extent provided under the rules applicable in cases before the Secretary.".

(B) Protection from offsetting SSI benefits.—The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a-6(a)) is amended by striking "section 206(a)(4)" and inserting "subsection (a)(4) or (b) of section 206".

(3) Application of single dollar amount ceiling to concurrent claims under titles II and XVI.—

(A) IN GENERAL.—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

"(C) In any case involving—

"(i) an agreement or agreements described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

"(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement or agreements only if the total fee or fees specified in such agreement or agreements do not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).".

(B) CONFORMING AMENDMENT.—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(d) AMENDMENT RELATED TO PROVISIONS IN SECTION 5115 RELATING TO ADVANCE TAX TRANSFERS.—Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended in the last sentence by striking "and" the second place it appears.

(e) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates.

Subtitle B—Income Security and Human Resources

SEC. 311. REPEAL OF PROVISION INADVERTENTLY INCLUDED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

SEC. 312. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking "a semicolon" and inserting " '; and' ".

(b) AMENDMENTS RELATED TO SECTION 5105(d)(T11)(b).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) by striking "Section 1631(a)(2)(E)" and inserting "Section 1631(a)(2)(F)"; and

(2) by redesignating the subparagraph (E) as amended thereby as subparagraph (F).

(c) AMENDMENT RELATED TO SECTION 5105(a)(1)(b).—The second paragraph of section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(d) AMENDMENTS RELATED TO SECTION 5106(b).—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(e) AMENDMENTS RELATED TO SECTION 5107(a)(2)(b).—Section 1631(c)(1)(B) of the Social Security Act (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(f) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(g) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(h) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 313. CORRECTION RELATED TO SECTION 8006 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989.

(a) CORRECTION.—Section 473(a)(6)(B) of the Social Security Act (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect as if included in section 8006 of the Omnibus Budget Reconciliation Act of 1989 at the time such section 8006 became law.

SEC. 314. AMENDMENT RELATED TO SECTION 13101(d)(2) OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) IN GENERAL.—Section 256(k)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "—" the second place it appears and all that follows through "(I)"; and

(2) by striking "; or" and all that follows through "(II)" and inserting ", except that a State may not be allotted an amount under this subparagraph that exceeds".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall take effect as if included in section 13101(d)(2) of the Omnibus Budget Reconciliation Act of 1990 at the time such section 13101(d)(2) became law.

Subtitle C—Tariff and Customs

SEC. 331. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) IN GENERAL.—The Harmonized Tariff Schedule of the United States is amended as follows:

(1) REMOVAL OF ODR FROM COLUMN 2 RATE LIST.—General Note 3(b) is amended by striking "German Democratic Republic".

(2) TAPESTRY AND UPHOLSTERY FABRICS.—The article description for subheading 5112.19.20 is amended by striking "of a weight exceeding 300 g/m²".

(3) GLOVES.—

(A) Chapter 61 is amended by redesignating subheading 6116.10.45 as subheading 6116.10.48.

(B) Chapter 62 is amended by striking the superior text "Other:" that appears between subheadings 6216.00.46 and 6216.00.52.

(4) AGGLOMERATE STONE FLOOR AND WALL TILES.—The article description for subheading 6810.19.12 is amended to read as follows: "Of stone agglomerated with binders other than cement".

(5) 2,4-DIAMINOBENZENESULFONIC ACID.—The article description for heading 9902.30.43 is amended by striking "2921.51.50" and inserting "2921.59.50".

(6) MACHINES USED IN THE MANUFACTURE OF BICYCLE PARTS.—The article description for heading 9902.84.79 is amended by striking "8479.89.90" and inserting "8462.49.00, 8479.89.90 or 9031.80.00".

(7) COPYING MACHINES AND PARTS.—The article description for heading 9902.90.90 is amended by inserting "or 8473.40.40" after "8472.90.80".

(b) STAGED RATE REDUCTIONS FOR GLOVES.—Any staged reduction of a special rate of duty set forth in subheading 6116.10.45 of such Schedule that takes effect on or after October 1, 1990, by reason of section 10011(a)(2) of Omnibus Budget Reconciliation Act of 1990 shall apply to the corresponding rate of duty in subheading 6116.10.48 (as redesignated by subsection (a)(3)(A)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry—

(i) that was made after the applicable date and before the 15th day after such date of enactment; and

(ii) with respect to which there would have been a lesser or no duty if any amendment made by subsection (a) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(B) For purposes of this subsection, the term "applicable date" means—

(i) if such amendment is made by subsection (a)(4) or (a)(7), December 31, 1988; and

(ii) if such amendment is made by subsection (a)(2), (a)(3), (a)(5), (a)(6), September 30, 1990.

SEC. 322. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) by striking out "and" at the end of clause (iv);

(2) by striking out the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the merchandise subject to duty under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

SEC. 323. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) IN GENERAL.—Paragraph (2) of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "the date of enactment of this Act" and inserting "January 1, 1989"; and

(B) by striking "such date of enactment" and inserting "January 1, 1989"; and

(2) in subparagraph (B), by striking "such date of enactment" and inserting "January 1, 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for;

be treated as the rate in effect on January 1, 1989.

SEC. 324. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include herein extraneous material on H.R. 1555, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House H.R. 1555, the Technical Corrections Act of 1991, as unanimously approved by the Ways and Means Committee.

The primary purpose of this legislation is to make technical corrections to the provisions of the Omnibus Budget Reconciliation Act of 1990 within the jurisdiction of the Ways and Means Committee. It includes technical corrections relating to past tax, Social Security, health, human resources, and trade legislation.

Mr. Speaker, I want to assure my colleagues that this bill is not intended to make substantive changes to the 1990 act or other recent legislation. Like past technical corrections bills, H.R. 1555 is revenue neutral. The Joint Committee on Taxation and the Congressional Budget Office have certified that the bill will not cause any overall loss of Federal revenues.

H.R. 1555 has broad bipartisan support, including the support of the administration. The legislation is the product of the majority and minority staffs of the Ways and Means Committee working with the staff of the Joint Committee on Taxation, appropriate administration departments and agencies, and the Office of the Legislative Counsel to review and make recommendations for technical corrections and clarifications. In addition, our staff worked with the staff of the Energy and Commerce Committee on the relevant Medicare provisions. I want to particularly thank Chairman JOHN DINGELL and other members of the Energy and Commerce Committee for their cooperation and the cooperation of their staffs in bringing H.R. 1555 to the floor today.

Mr. Speaker, it is important to pass this legislation as expeditiously as possible. To the extent that the bill corrects or clarifies Tax Code provisions, it will guide taxpayers in properly filing their tax returns; it will also help the Internal Revenue Service in its task of interpreting and administering the laws consistent with congressional intent. The Medicare corrections are needed to clarify provisions affecting payments to hospitals, physicians, and other health care providers.

Therefore, Mr. Speaker, I urge my colleagues to support this important measure.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to join the chairman of the Ways and Means Committee in support of H.R. 1555, the Technical Corrections Act of 1991.

H.R. 1555 contains necessary technical corrections to prior tax, trade, and health legislation. The provisions of the bill have been worked out in cooperation between the minority and majority staffs of the Ways and Means Committee and the Joint Committee on Taxation. The bill is supported by the Treasury. These provisions are all nonsubstantive changes to current law and I urge their adoption.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I just want to suggest to the Members that title II of this bill contains a number of miscellaneous and technical amendments to the Medicare statute. These amendments have been developed in a cooperative effort with our ranking minority member, Mr. GRADISON, and with the Energy and Commerce Committee majority and minority.

These provisions are all truly no-cost items according to the CBO. In addition there are no spending items with offsetting savings provisions which redistribute Medicare funds in any way.

These provisions clarify payments to hospitals exempt from prospective payment, the DRG payment window, the EACH program, payments to ambulatory surgery centers, payments for durable medical equipment, and end-stage renal disease benefits.

Title II also amends the Medigap sections of OBRA '90. These provisions make clarifications in the areas of duplicate coverage and loss ratios. In addition, they include a number of minor, technical, and conforming changes in the statutory language of OBRA '90.

Again, let me reiterate that these amendments are all minor and no cost. I urge my colleagues to support this bill.

Mr. DONNELLY. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Massachusetts.

Mr. DONNELLY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it is my understanding that the Medicare technical corrections bill contains provisions that are only technical in nature. There are no policy changes or substantive changes in the document before the House.

Mr. STARK. The gentleman's understanding is correct.

Mr. DONNELLY. Mr. Speaker, I thank the gentleman.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 1555, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TAX EXTENSION ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3909) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

VOL
137
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NO
26
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SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the "Tax Extension Act of 1991".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—6-MONTH EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 101. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) Extension.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) Years to which rule applies.—

"(A) In general.—This subsection shall apply to the taxpayer's first 3 taxable years beginning after August 1, 1989, and on or before August 1, 1992.

"(B) Reduction.—Notwithstanding subparagraph (A), in the case of the taxpayer's first taxable year beginning after August 1, 1991, this subsection shall only apply to qualified research and experimental expenditures incurred during the first 6 months of such taxable year."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 102. RESEARCH CREDIT.

(a) Extension.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "December 31, 1991" each place it appears and inserting "June 30, 1992", and

(2) by striking "January 1, 1992" each place it appears and inserting "July 1, 1992".

(b) Conforming Amendment.—Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 103. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) Extension.—

(1) In general.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) Special rule.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for educational assistance for the employee shall be taken into account in determining the amount excluded under section 127 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 104. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) Extension.—

(1) In general.—Subsection (e) of section 120 (relating to amounts received under qualified group legal service plans) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) Special rule.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for coverage for the employee, his spouse, or his dependents, under a qualified group legal services plan for periods before July 1, 1992, shall be taken into account in determining the amount excluded under section 120 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 105. TARGETED JOBS CREDIT.

(a) In General.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) Effective Date.—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 1991.

SEC. 106 ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

Subparagraph (B) of section 48(a)(2) (relating to energy percentage) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

SEC. 107. LOW-INCOME HOUSING CREDIT.

(a) Extension.—

(1) Paragraph (1) of section 42(o) is amended—

(A) by striking ", for any calendar year after 1991",

(B) by inserting before the comma at the end of subparagraph (A) "to any amount allocated after June 30, 1992", and

(C) by striking "1991" in subparagraph (B) and inserting "June 30, 1992".

(2) Paragraph (2) of section 42(o) is amended—

(A) by striking "1992" each place it appears and inserting "July 1, 1992",

(B) by striking "December 31, 1991" in subparagraph (B) and inserting "June 30, 1992",

(C) by striking "December 31, 1993" in subparagraph (B) and inserting "June 30, 1994", and

(D) by striking "January 1, 1994" in subparagraph (C) and inserting "July 1, 1994".

(b) Effective Date.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 108. QUALIFIED MORTGAGE BONDS.

(a) In General.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "June 30, 1992".

(b) Mortgage Credit Certificates.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) Effective Dates.—

(1) Bonds.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1991.

(2) Certificates.—The amendment made by subsection (b) shall apply to elections for periods after December 31, 1991.

SEC. 109. QUALIFIED SMALL ISSUE BONDS.

(a) In General.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after December 31, 1991.

SEC. 110. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) Extension.—

(1) In general.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) Special rule.—In the case of any taxable year beginning in 1992—

(A) only amounts paid before July 1, 1992, by the individual for insurance coverage for periods before July 1, 1992, shall be taken into account in determining the amount deductible under section 162(l) of the Internal Revenue Code of 1986 with respect to such individual for such taxable year, and

(B) for purposes of subparagraph (A) of section 162(l)(2) of such Code, the amount of the earned income described in such subparagraph taken into account for such taxable year shall be the amount which bears the same ratio to the total amount of such earned income as the number of months in such taxable year ending before July 1, 1992, bears to the number of months in such taxable year.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 111. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) In General.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 112. CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.

Subparagraph (B) of section 57(a)(6) (relating to appreciated property charitable deduction) is amended by adding at the end thereof the following new sentence: "In the case of a contribution made before July 1, 1992, in a taxable year beginning in 1992, such term shall not include any tangible personal property."

TITLE II—MODIFICATION TO CORPORATE ESTIMATED TAX PROVISIONS

SEC. 201. TEMPORARY INCREASE IN AMOUNT OF CORPORATE ESTIMATED TAX PAYMENTS.

(a) General Rule.—Subsection (d) of section 6655 (relating to amount of required installment) is amended by adding at the end thereof the following new paragraph:

"(3) Temporary increase in amount of installment based on current year tax.—In the case of any taxable year beginning after 1991 and before 1997—

"(A) Paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting for '90 percent' each place it appears the current year percentage determined under the following table:

In the case of a taxable year beginning in:	The current year percentage is:
1992	93
1993 or 1994	94
1995 or 1996	95.

"(B) Appropriate adjustments to the table contained in subsection (e)(2)(B)(ii) shall be made to reflect the provisions of subparagraph (A)."

(b) Conforming Amendment.—Paragraph (1) of section 6655(e) is amended by striking "modified by subsection (d)(2)" and inserting "modified by paragraphs (2) and (3) of subsection (d)".

(c) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. Rostenkowski) will be recognized for 20 minutes, and the gentleman from Texas [Mr. Archer] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Rostenkowski].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3909, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1240

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as reported by the Committee on Ways and Means, this bill would extend for 6 months 12 expiring provisions of the Internal Revenue Code that were enacted to provide incentives for low-income housing, research and development, education, and other activities beneficial to the economy. Many Members of the House have written to me and the Ways and Means Committee urging us to act on the expiring provisions prior to adjournment.

H.R. 3909 will allow these important programs to continue beyond their scheduled expiration of December 31, 1991. Without this emergency legislation, these programs will expire at year-end, causing injury to millions of taxpayers who benefit from these provisions, and further jeopardizing important sectors of the economy. The 6-month extension contained in H.R. 3909 should be adequate to allow for the development of a permanent solution in the event that there is a tax bill next year.

The Senate Finance Committee has reported identical legislation. It is my hope that both Houses will pass the identical legislation before we adjourn, so that it may be signed into law as soon as possible.

Mr. Speaker, I want to express my intention that this will be the last temporary extension of these 12 expiring tax provisions. Over the past few years, these temporary extensions have become an annual ritual. Such on-again, off-again legislation is bad for government and bad for taxpayers, who cannot plan ahead to utilize the incentives. This annual uncertainty does not reflect well on the Congress or the administration, and creates needless instability in the economy.

Yet the current budgetary and political realities in the closing days of the first session of this Congress demand such a temporary solution. Early next year, however, the Ways and Means Committee will hold hearings to review all the expiring tax provisions and will vote on each one individually, to decide whether each one should be made permanent or allowed to expire. The burden will be on those who support individual extensions, both in the administration and in the Congress, to present the case for a permanent extension and to recommend ways to pay for them.

Mr. Speaker, in compliance with the budgetary pay-as-you-go requirements, H.R. 3909 contains a revenue offset which would speed up estimated tax payments for large corporations. Under current law, these corporations are required to make estimated tax payments equal to 90 percent of their current tax liability. The bill would temporarily raise this required percentage to 95 percent, after a 3-year phasein period.

Commitments have been made in both Houses of Congress to keep this legislation clean of all amendments. I would urge that these commitments be honored, so this important emergency legislation is not jeopardized. I strongly urge my colleagues to vote for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume and ask unanimous consent to revise and extend my remarks.

H.R. 3909, the Tax Extension Act of 1991, provides for a 6-month extension of a dozen tax provisions that are generally due to expire at the end of this year.

These tax provisions have become known euphemistically as the extenders inasmuch as Congress has extended these provisions generally 1 year at a time for the past several years.

These expiring tax provisions include such provisions as the research and experimentation tax credit—deduction of health insurance costs for self-employed individuals, the exclusion for employer-provided educational assistance, extension of qualified mortgages bonds which provides low interest mortgage for first time home buyers, and the low-income housing tax credit.

Several of the expiring provisions are of such unquestionable merit that they should have been extended permanently years ago. Unfortunately, revenue constraints in recent years have led us to extend them for only short periods of time.

I look forward to working with Chairman Rostenkowski next year in reviewing the entire list of expiring provisions. We should extend permanently those provisions that merit permanent extension and eliminate those that do not.

The bill is funded through a modification to the estimated tax payments for corporations. Under current law, a corporation generally is required to pay estimated tax payments equal to 90 percent of the corporation's final tax liability.

Under the bill, this 90-percent requirement would be increased to 95 percent.

While this revenue raiser may sound rather innocuous at first blush, I have serious concerns about the proposal. No hearings have been held. I seriously doubt that 5 percent of the corporate tax directors in this country are even aware we are considering this proposal today.

Second, the Ways and Means Committee recently considered a similar modification to the estimated tax payment rules for individuals in the context of the unemployment bill. The committee soundly rejected the proposal until numerous concerns had been remedied.

The estimated tax payment process is not a simple one for small businesses that lack the sophistication to adequately comply.

The current law 90-percent rule provides a 10-percent margin of error to accommodate the good faith estimated tax calculations taxpayers are required to make four times each tax year. Increasing the degree of accuracy to 95 percent will strain the practical ability of many small business owners.

Unfortunately, the problem can be far worse for large corporations.

I recently heard from 1 corporation in my district that has approximately 300 domestic subsidiaries and 150 foreign subsidiaries. It is virtually impossible for this corporation to gather accurate tax information from this far-flung enterprise in order to file accurate estimated taxes. Because penalties for underpayment of estimated tax are nondeductible, this company will be forced to overpay its taxes, thereby providing an interest-free loan to the U.S. Government. This is fundamentally unfair.

In the coming months, we will have an opportunity to monitor the problems raised by this and past modifications to the estimated tax rules. I hope that we will have an opportunity next year to comprehensively review the estimated tax payment rules in order to simplify and improve these rules.

Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. Machtley].

Mr. MACHTLEY. Mr. Speaker, I rise in strong support of H.R. 3909.

I wish to thank the chairman and the ranking member as well as the members of the committee for extending these very important programs; specifically, the mortgage revenue bond and the low-income housing tax credit. These programs provide 1.3 million Americans with homes, provides some 400,000 rental units. I believe these are the types of programs which have worked and which I hope, as the committee goes back to review this, they will make permanent.

I think our country needs the housing program; I think these are programs which have been proven.

VOL
137
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Mr. Speaker, I commend the committee for extending these programs so that there is no disruption in the building programs and the housing for our homeless.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, we have heard a lot of talk today dealing with the need for action on our economy. There is no question that we must take action to reverse this recession and its damaging impact on families across this great land.

Make no mistake about it, Democrats have a plan and are ready to act if the President will join us productively, rather than merely threaten another veto.

In the interim, I want to commend the chairman of the Ways and Means Committee for bringing this bill, extending critical expiring tax provisions to keep investment going in our economy. As I discussed with the chairman, this bill is a lifeline to our home building industry, without which this recession will only become deeper and more severe.

Housing starts are now at the lowest level of any year since World War II. Over 15 percent of those employed by the homebuilding industry on a national level—and over 60 percent in the Washington metropolitan region—are out of work today. This industry and its impact on our economy are clearly in a crisis.

At the same time, it is important to note that Housing has led our Nation out of every recession. Without a turnaround in the housing industry, we may continue to flounder and sink in the rough seas in which we now find ourselves.

This legislation will keep in place critical lifelines to the homebuilding industry. Without these extensions, financing that is now available through mortgage revenue bonds and capital that is available for low-income housing would dry up and turn a crisis into a disaster and a recession into a depression.

To point out the importance of these provisions, it is important to note that State-issued mortgage revenue bonds have funded more than 1.3 million lower income mortgages—and over 131,000 in 1990 alone. Local housing authorities have provided another 474,000 mortgage revenue bond [MRB] loans. In 1990, in Maryland, over 4,400 families have received MRB-assisted loans. This means jobs for employees of the homebuilding industry and means the recession is that much less painful.

The Chairman's bill will allow us to get to next year, when we can include these provisions in an overall package that focuses on spurring and sustaining economic growth.

I also commend the chairman on his commitment to review these issues next year and make them permanent if they are found to be productive. At long last we can stop the gameplaying of making these issues a political football on an annual basis and provide some confidence and stability to capital markets for the homebuilding industry. I thank the chairman for this action today and urge adoption of this important legislation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, let me congratulate the Chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and also the ranking Member, the gentleman from Texas [Mr. ARCHER], for coming together to make such an important issue to the American people and the Nation a nonpartisan issue.

Clearly, all 12 of these extenders have a great constituency, but I am concerned about the creation of jobs for the underprivileged, especially our teenagers, and the targeted job credits where we reach out and encourage people to hire the disadvantaged and give them the training necessary to keep them working, off the welfare rolls and out of trouble.

In addition, we are talking about the low-income housing credit, where 95 percent of all the housing that has been built in the last 3 years where the rent has been $450 or less per month has been built under the low-income housing credit.

So I do join with the minority and the majority, hoping that it soon will become permanent. But it took a lot of cooperation and a lot of work for us to get where we are today, and I congratulate both of these gentlemen.

□ 1250

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise today in strong support of the bill, and I rise in relief that we are considering H.R. 3909. I thank the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and certainly thank the gentleman from Texas [Mr. ARCHER].

This legislation would extend the 12 tax provisions that are slated to expire on December 31, 1991. These include important programs like mortgage revenue bonds, the low-income housing tax credit, and the research and development tax credit.

Extending these proven programs is the least complicated and least costly way to stimulate the economy. I am the lead sponsor of the mortgage revenue bond extender. This is a vital program that helps working families purchase their first home. It is supported by 391 Members of the House.

The Mortgage Revenue Bond Program helped more than 605,000 families become homeowners in 1990 alone. Since 1988, 10,239 families in Connecticut have become first time homebuyers with the assistance of mortgage revenue bonds.

The Mortgage Revenue Bond Program is a proven program. It is one of the few things that is still moving homes in the residential real estatemarket. In addition, more than 60 percent of all lower priced RTC home sales have been financed by the Mortgage Revenue Bond Program, the only gold star the RTC can claim.

The extension of the Low-Income Housing Tax Credit Program will also provide much needed stimulus for our fragile economy. The low-income housing tax credit is the most important housing program we have today, providing for more new construction than any other Federal program. The credit produces 120,000 units of low-income rental housing each year. And since its inception this vital program has added 28,000 new low-income housing units in Connecticut.

If my colleagues really want to do something for jobs, and if they want to do something for real estate, and, most importantly, if they want to do something for the American people, here it is. Here is something practical we can do in this very good economic package in front of us, and I am delighted we have it and hope everybody comes together, as they have on the committee, to support it.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from Connecticut [Mrs. KENNELLY] who just spoke is absolutely correct. The public would like for this Congress to come together without partisan bickering to try to help the economy, and this is one step today in this bill where we have come together, where we can go arm and arm, Democrats and Republicans, to the American people and say, "We do want to create jobs."

Mr. Speaker, this targeted jobs tax credit, which will be renewed by this bill, creates job opportunities for Americans. The mortgage revenue bond provision, which is renewed, will create the construction of more homes, and the sale of more homes and the creation of more jobs. The R&D tax credits will create more jobs for those people who are at the cutting edge of developing technology that will keep this country in the forefront and competing with its foreign trading partners. That is in addition to low income housing. The credit there will create more jobs.

So, this Congress is taking at least a small step forward in a positive way today to help to move us out of a recession and into greater job creation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me, and let me say that I was pleased yesterday when the Committee on Ways and Means Democrats and Republicans decided together to do what I think all of us understand is necessary for the economy. These are public policies that are important, and we have decided to extend these extended tax provisions so we do not get in positions where our failure to extend

them depresses the economy further and causes further loss of jobs. This is a package that will help stimulate and help produce some economic activity, and I am pleased to see that we can work together and can have a spirit of bipartisanship and harmony on these issues.

I do want to take one of these extenders and discuss it just for a moment. That is the 25-percent health insurance deduction for self-employed. I am pleased that that is not allowed to expire, that that is in fact extended, but it is not nearly enough. There is no excuse at all in these times when we talk about the need for incentives to have health insurance to say to a small business or a farmer on one side of the street, "You get a 25-percent deduction for your health insurance on your income tax, but your competitor across the street is incorporated, and you get, Mr. Competitor, a 100-percent deduction. If you're incorporated, you get a full 100-percent deduction for health insurance costs, but if you're a self proprietor or self-employed, you only get 25 percent."

Mr. Speaker, we have to correct that, and we have to do it soon. I am hoping next year when we discuss this we will decide that the self-employed, the unincorporated businesses of America, will have a 100-percent education for health insurance costs, just as the incorporated businesses have. There is no justification of that difference in public policy.

Once again let me say in the midst of all of this partisan chaos around there that this is at least one small shining example of how Republicans and Democrats can work together to bring something to the floor that is good for the country, and I congratulate the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and I congratulate the ranking member, the gentleman from Texas [Mr. ARCHER] and the folks on that side of the aisle as well.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me, and let me agree with my friend, the gentleman from North Dakota [Mr. DORGAN] on the timeliness and importance of extending these expiration provisions. I salute the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI]. I salute the gentleman from Texas [Mr. ARCHER] and will expand only for a moment on how this is a small way is a package that Members on both sides of the aisles can take home and say, "We have done something for growth and for competitiveness."

The gentleman from North Dakota [Mr. DORGAN] expanded on the 25-percent deductibility, which is really not so much a tax issue as it is a fairness issue, and I will not elaborate on that except to say that both he and I have sponsored legislation to expand that deductibility to 100 percent, and indeed that proposal is incorporated in many of the health care reform packages that both Republicans and Democrats have offered.

But, as a Representative from a rural area, Mr. Speaker, let me highlight some provisions that I think are terribly important to rural communities that have suffered outmigration and has sustained a lack of growth for many years. In addition to health care deductibility for self-employed individuals, and in our case that usually means farmers, there are two other provisions that are terribly important. The provisions which extends the qualified small new manufacturing bonds are those bonds from which beginning farmer lender programs grow. Iowa has had a very successful beginning farmer program. It depends on these private activity bonds and will be allowed to continue at least for 6 months, which is good news for a lot of young farmers who otherwise would not be enfranchised in agriculture.

Similarly, the low-income housing tax credit more and more in rural areas where we are suffering a tremendous shortage in housing is now combining with Farmers Home and FHA to provide housing needs for the rural poor. That is a tremendously important extension.

Let me add one more personal note. To reauthorize section 127, which is employer-provided education assistance, is not only good tax policy, it is good competitive policy for this country. We all know and have heard in the Committee on Ways and Means and on the floor of this House how important it is to move our work force to a skill force. Unless employers get involved, this will not happen, so this provision, and hopefully others to come, provide a tremendous opportunity for growth and competitiveness.

I salute the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and I salute the gentleman from Texas [Mr. ARCHER], and I encourage all Members to support enthusiastically the expiring provisions.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Speaker, I rise, too, in support of this important bipartisan legislation, the Tax Extension Act of 1991. This may be one of the most significant pieces of legislation that Congress considers this session to encourage risk-taking, investment, and jobs creation.

Mr. Speaker, history has shown us that the research and development tax credit has helped businesses develop new products that stimulate economic growth and make us more competitive with our trading partners. It is absolutely critical that we extend this important credit.

Second, Mr. Speaker, the targeted jobs credit has enabled many businesses to employ the disadvantaged. Over a half a million workers benefit from this specific tax provision.

Finally, the extension of the 25-percent tax deduction for the self-employed is absolutely critical if we are going to control insurance costs for small businesses. This is an issue that we must address as a Congress and in the Ways and Means Committee in this next legislative session. But today we are saying to the small businessman that we must keep their insurance costs from going up. We are, therefore, extending this important deduction.

Mr. Speaker, the Ways and Means Committee will be back 6 months from now to review these provisions and to look at other provisions that can encourage growth in our economy.

I want to commend the chairman and the ranking minority member. This is a bipartisan bill; it is an important piece of legislation, and I encourage its passage.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise today to thank Chairman ROSTENKOWSKI for bringing this important legislation to the floor before adjournment. The extension of these provisions of the Tax Code are critically important as my letter to the committee last week, signed by 94 of our colleagues, pointed out. This bill is essential to the stability of our economy, particularly during this recession.

Among the programs extended are the low-income housing tax credit and Mortgage Revenue Bond Program which are very important to our housing industry, especially at this difficult time. The bill also extends the targeted jobs tax credit which has clearly served to create jobs that we need now more than ever. The research and experimentation tax credit is also important to expanding our economy, and this bill keeps that credit in operation as well. It also preserves the tax exclusion for employer-provided educational and legal expenses and tax provisions related to the value of donated works of art.

Mr. Speaker, we all know that these particular tax provisions have histories of success, and it is indeed good news that this bill is being moved quickly through the Congress before adjournment. I commend the committee for its timely action and urge my colleagues to lend their full support to its passage today. I submit my letter of November 22 along with the list of signers to be printed at this point in the RECORD.

House of Representatives,
Washington, DC, November 22, 1991.
Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means,
Longworth Building, Washington, DC.

Dear Mr. Chairman: We respectfully urge you to convene your committee at the first opportunity to consider a short term extension of the expiring provisions of the tax code before we adjourn for the year. At this time, when our economy is mired in recession, we must maintain the viability of these programs, all of which have positive economic and societal impacts.

Although we would urge a long term or even permanent extension of these provisions, we are aware of the constraints imposed by the 1990 Budget Agreement. Hence, we want you to know of our support for a short-term extension, even as short as three months, to keep these programs operating while we grapple with the tough economic and tax questions which we all know must be addressed in early 1992.

Mr. Chairman, we understand your reservations about opening up the tax code so late in the year, but we ask that you do so to ensure that the social and economic benefits from these important programs are not jeopardized at this critical time. While all of us have changes we would like to see in the tax code, we realize the overriding importance of maintaining continuity for these long-standing provisions which are set to expire December 31. We encourage you to bring an extension bill to the floor under suspension of the rules before we adjourn.

Sincerely,

Nita M. Lowey, Mike Espy, Claude Harris, John Cox, Jr., Lane Evans, W.G. Hefner, Frank Pallone, Jr., Tim Johnson, Hamilton Fish, Jr., Matthew J. Rinaldo, William H. Zeliff, Jr., Chalmers P. Wylie, Stephen L. Neal, and Beverly Byron.

John Conyers, Jr., Les AuCoin, Collin Peterson, David R. Nagle, James H. Bilbray, Glen Browder, Robert E. Cramer, Jr., Ben Nighthorse Campbell, William Lehman, Matthew McHugh, Glenn Anderson, Patricia Schroeder, J. Roy Rowland, David Price, Vic Fazio, and Robert J. Mrazek.

Ileana Ros-Lehtinen, Ben Jones, Bill Emerson, Robin Tallon, Richard Lehman, Jon Kyl, Scott Klug, Peter H. Kostmayer, Joseph Gaydos, Walter Jones, Thomas Ewing, Norman F. Lent, Mary Rose Oakar, and Henry J. Nowak.

John Tanner, Jim Jontz, Bernard J. Dwyer, James F. Sensenbrenner, Jr., Randy "Duke" Cunningham, Jack Reed, Craig Thomas, Robert A. Borski, Terry Bruce, Dick Swett, Dan Burton, Jose E. Serrano, James V. Hansen, Constance Morella, Howard Coble, Wally Herger, William L. Dickinson, Joel Hefley, Dan Schaefer, and Tom Lewis.

Tom Bevill, Larry Smith, Bill Alexander, Ronald K. Machtley, Porter Goss, Robert W. Davis, Charles Taylor, James H. Scheuer, Arthur Ravenel, Jr., Bill Lowery, Gerry Studds, Jerry F. Costello, Marilyn Lloyd, and Floyd Spence.

Gary Ackerman, Dave Camp, Thomas McMillen, Bart Gordon, Chester G. Atkins, Sam Gejdenson, Glenn English, Douglas "Pete" Peterson, Charles A. Hayes, Robert J. Lagomarsino, Dale E. Kildee, Wayne Owens, John M. Spratt, Jim Bacchus, Tom Andrews, Susan Molinari, and Alex J. McMillan,

Members of Congress.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. Levin].

Mr. LEVIN of Michigan. Mr. Speaker, I would like to congratulate the chairman of the committee for finding a way to bridge this gap. The extenders are being extended because they have stood the test of time. These are deserving provisions. They have been placed in the rather unusual situation of every so often having to be renewed. But they are renewed because they serve basic economic needs for employers, large and small, for employers of all kinds.

Next year they are going to have to stand the rest of financial stringency, and I hope all of us who support the essence of these provisions will look ahead and try to find a way to fit these provisions into an overall tax package on a permanent basis.

So, Mr. Speaker, I rise in strong support of this action. It is a responsible one. In 6 months we will take another look and make sure we can handle this on a permanent basis.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island [Mr. Reed].

Mr. REED. Mr. Speaker, I rise in support of this measure and commend the chairman of the committee for his leadership.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Panetta].

Mr. PANETTA. Mr. Speaker, I want to commend the chairman of the committee and the committee for bringing this proposal to the floor.

I have some concerns obviously about the on-and-off nature of these extenders, but I think the most important point made by the committee is that in advancing these extenders they paid for them. The cost of these extenders for 5 years is $3.1 billion. They raised $3.1 billion by increasing the corporate estimated tax in terms of its payment.

There are a lot of tax proposals that are being thrown around here. Some of them are paid for, some of them are not. The worst thing we could do is to cut taxes for some people while increasing the worst tax of all, which is the deficit on the American people. That is a lesson that both the President and my colleagues need to learn.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. Cardin].

Mr. CARDIN. Mr. Speaker, I want to thank my chairman for yielding me the time, and I want to congratulate the gentleman from Illinois [Mr. Rostenkowski] and the gentleman from Texas [Mr. Archer] for finding a way to bring this extender bill to the floor.

These expiring tax provisions are very important to our economy and very important to many programs that we have in our State and local governments and throughout our communities.

I want to underscore the point that the gentleman from Illinois [Mr. Rostenkowski] made earlier, and that is that we need to take up these expiring tax provisions next year. I hope at that time that we will be able to look at permanent extensions for these tax provisions and also look at ways in which we can modify some of these provisions to make them more effective. Unfortunately, we just extend many of these provisions without looking at each individual one. I think that is important, and I thank the chairman of the committee for giving us that opportunity again next year.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Thomas], a member of the committee.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is ironic that the morning after the House passed a multimillion dollar campaign finance bill with no funding source, there is a discussion about a tax package that actually pays for itself. We are talking about $3.1 billion in which a committee, on which it is my pleasure to be a member, was at least responsible enough to include sufficient revenue for the revenue lost.

Last night in a fit of orgy this House passed a bill that includes tax credits that the Joint Tax Committee estimates will, over a 5-year period, cost about $780 million. It included a postage subsidy which was between $50 and $75 million a year, and it included matching funds which the other side of the aisle said all last night were to be paid for out of voluntary funds. If we would take a look at this morning's Washington Post, we would see that the gentleman from Connecticut has already reneged on that commitment and says he reserves the right to use tax dollars.

Mr. Speaker, I wish those Members who just took the microphone and talked about responsibility in terms of covering the cost of requests would have been at the microphone last night when this body unfortunately passed a multibillion-dollar package financing campaigns with taxpayers' money and did not have the coverage to pay for it.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. Johnson].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

Mr. Speaker, I rise in strong support of this bill to extend key expiring tax provisions.

There are disagreements in this House, and they are legitimate disagreements. We fight tough battles about what the future tax policy of

this Nation ought to be and these are valid battles. But it indeed would be a shame if we were unable to provide the predictability of policy that is so important to the success of the programs that we currently have in place.

These extenders are the most successful housing policy the Federal Government participates in in my district and in my State. These extenders provide the most powerful and successful educational assistance to working people that my constituents enjoy. It is imperative in an era of skyrocketing health care costs that we preserve the right of self-employed, small businessmen and women to deduct at least 25 percent of their health care premiums. Failure to renew the targeted jobs tax credit would throw a new round of people into the unemployment lines in Connecticut. These programs funded through tax expenditures create opportunity for millions of Americans, and thousands of my constituents.

So, Mr. Speaker, I commend the chairman and the ranking member for being able to create the discipline in this and the other body to bring the bill to the floor. By so doing we restore the predictability and certainty that makes sound tax policy. We restore benefits to thousands of folks out there that are crucial to their well-being and to the opportunity they have to realize new dreams and we restore Congress' credibility as the steward of the people's interests.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. Murtha].

Mr. MURTHA. Mr. Speaker, I just wonder if there is a message in all the compliments that are being paid to the chairman. I usually only see these kinds of compliments when someone has either died or is retiring.

May I ask the chairman if there is a message there?

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the chairman of the committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I am sure that the gentleman was aware that the extensions of gratitude were rendered to both Mr. Rostenkowski and the gentleman from Texas [Mr. Archer].

The SPEAKER pro tempore (Mr. Mazzoli). The time of the gentleman from Pennsylvania [Mr. Murtha] has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. Orton].

Mr. ORTON. Mr. Speaker, I rise in enthusiastic support of extending these provisions in a manner that they may be paid for as we go.

Mr. ARCHER. Mr. Speaker, I think we should quit while we are ahead.

Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one certain evidence we have seen here is that the Congress can work together. These are very important provisions. They are provisions that both the minority and the majority, not only in the Committee on Ways and Means but in conference as well, have been struggling with for a long time. That is one of the reasons why in the past we did extend them permanently, and only because of budget constraints and revenues we continuously cut them back to a point where only this year we had them for 9 months.

I think there is much to be said about the Ways and Means Committee reviewing these extenders, as they are known, and doing something about them on a permanent basis.

Mr. Speaker, in conclusion, I wish to say that I am especially pleased that by this bill we are able to extend the low-income-housing tax credit for 6 months.

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In Chicago alone it will enable us to create 2000 new units of housing for the poorest of the citizens. It is of the utmost importance to me, and I think to generally the poor people of the country, that we pass this legislation, both for our inner cities and rural areas. They certainly deserve it, are counting on it, and I think we should move with great dispatch.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise in strong support of passage of H.R. 3909, which authorizes the extension of 12 expiring tax provisions.

It is fitting that as we begin to celebrate the holiday season, we can point to an issue which has united both sides of the aisle.

For too long, the Congress has delayed taking action on these expiring tax credits which have been an essential part of our economy.

While the 6 month extension of these tax credits will show the business community that Congress supports these credits and that we have a strong interest in seeing them continued, I hope Members will continue to support efforts to extend them permanently or on a yearly basis.

Premanent extension of these provisions will allow businesses to make the financial plans to fully utilize their credits on a yearly basis.

Earlier this year, I introduced the Small Business Jobs and Tax Benefits Act which would extend 5 of the 12 expiring provisions which I believe are crucial to the success and expansion of the small business community. I am pleased that these five expiring provisions were included in H.R. 3909.

Real long-term economic growth and expanded job opportunities will depend on Congress passing measures such as H.R. 3909 which create incentives for business to invest and expand.

These provisions will also assist employers who offer educational programs, target jobs to disadvantaged and disabled workers, relieve the burden of insurance for self-employed individuals, assist in the development of solar and geothermal energy equipment and exclude employer provided group legal services from taxes.

Mr. Speaker, I am also very concerned about the ability of working families to find affordable housing.

That is why I am very pleased two other provisions will be extended—the Mortgage Revenue Bond Program and the Low Income Housing Tax Assistance Program.

These will be the first step that Congress takes in passing legislation which will get our economy up and running again.

Mr. Speaker, I urge all Members to support this bill.

Mr. MOODY. Mr. Speaker, I rise in strong support of H.R. 3909, the bill to extend the 12 tax provisions that will expire at the end of this year. I commend Chairman Rostenkowski and my fellow members of the Ways and Means Committee for working together to find a way to extend these provisions.

I cosponsored legislation to extend these crucial provisions because each of them serves an essential need in our communities. Several of these items are among the most successful that we have enacted in the Ways and Means Committee in recent years.

I'd like to single out the targeted jobs tax credit and the low-income housing tax credit for special notice. Both of these tax credits are very important in my district and in my State. This Wisconsin Housing and Economic Development Authority has been especially supportive of the low-income housing credit, and have proclaimed it to be a major success in Milwaukee. Several other nongovernmental, nonprofit community groups make extensive use of these credits to build affordable housing for low-income families without the direct involvement of the Government.

The targeted jobs tax credit is another good example of a successful approach to using the private sector to address a public need by providing the necessary resources without Government micromanagement. This credit helps defray the costs of hiring young men and women that have had difficulty getting into or staying in the work force. It gives these workers real jobs in the private sector, providing them with experience and training.

This legislation also extends the 25-percent deductibility of health insurance for the self-employed. This is obviously a minimum necessity given the high and ever-growing cost of health insurance. However, it is only a stop-gap measure. I have introduced legislation with my colleague Byron Dorgan to make health insurance fully deductible for the self-employed. There is no reason that one set of businesses should be allowed to deduct 100 percent of this cost, and another set of businesses denied this benefit. The real long-term solution to this problem, however, is a fundamental reform of the health insurance system that puts serious controls on rising health costs. I hope we achieve this reform in this Congress by adopting a bill I have introduced to establish a single-payer health insurance system that will reduce costs for the vast majority of American families and businesses.

There are other provisions in this bill which I heartily support, including: mortgage revenue bonds to help working families buy their own homes; small issue manufacturing bonds to help communities attract and retain business for economic development; and the research and experimentation tax credit which continues to give American business the incentive to invest in research projects that will contribute to the long-term competitiveness of this economy.

While I am extremely happy that we are able to extend these provisions for 6 months, I think that it is essential that we make it a priority to permanently extend each of them before they expire next year. I look forward to working with Members of the committee and the House to find a way to do this.

Mr. REED. Mr. Speaker, I rise today in strong support of H.R. 3909 and in recognition of Chairman ROSTENKOWSKI's efforts to bring this legislation to the floor.

H.R. 3909 demonstrates our commitment to improving the economy, affordable housing, health care, jobs, and research. Its passage will continue for 6 months a host of programs of vital importance to our States. I would like to highlight a few.

The Mortgage Revenue Bond Program and the low-income housing tax credit are two of the most effective tools we have to create affordable housing as well as meet our goal of providing all Americans with decent, accessible, and safe housing.

Since its inception 12 years ago, the targeted jobs tax credit has helped millions of low-income Americans go from tax users to tax payers. At the same time, the targeted jobs tax credit also affords businesses, large and small, the opportunity to reduce their tax burden. The targeted jobs tax credit also increases hiring from groups in our society which are historically disadvantaged and structurally unemployed, and thus begin to break the vicious cycle of poverty.

While health insurance costs have been escalating dramatically for all businesses, the costs have been significantly higher for small business. New data on health coverage in small firms indicates that they still employ a disproportionately large share of workers without employer provided health insurance. Moreover, nearly half of the self-employed workforce is uninsured.

The continuation of the 25 percent deduction for health insurance costs provides an incentive for more small business owners to purchase health insurance for themselves and their employees.

Again, I would like to state my support for the worthy programs I mentioned above as well as continuing the authority of States to issue tax-exempt small issue manufacturing bonds.

Mr. BLACKWELL. Mr. Speaker, I rise today to express my strong support for H.R. 3909. This economy needs a jump start and I can think of no better way to help get it going than by supporting this bill that will give tax credits for the construction of low-income housing. The low-income housing tax credit is the Nation's primary affordable housing tool, responsible for 94 percent of all low-income housing starts and more than 35 percent of all rental housing starts each year. In addition, this bill allows tax exempt status for mortgage revenue bonds, and gives tax credit for the hiring of disabled and disadvantaged workers. I firmly believe that we need affordable housing for the poor and the working class. We need jobs for all Americans, including the disabled, and we must support programs that encourage people to further their education. This comprehensive bill will offer millions of people the push that they need to get on with their lives. By supporting this legislation, we can help these people, and stimulate our fragile economy at the same time.

Ms. SLAUGHTER of New York. Mr. Speaker, I rise in support of the H.R. 3909, the compromise bill on extenders that will temporarily rescue the 12 expiring provisions of the Tax Code. I commend the wisdom of the Ways and Means Committee and the Senate Finance Committee in recognizing the importance of these expiring provisions.

While I strongly support the tax breaks for low-income housing, research and experimentation, and employer-provided educational assistance, among others, there is one expiring provision about which I have been particularly concerned. That provision is the deduction for interest on industrial revenue bonds, [IDB's] issued to provide capital for small manufacturers.

By providing a sound, responsible, reliable means of capital development, IDB's have played a critical role for small manufacturing firms. Such firms have long been a key component of the economy of my district, which includes parts of Greater Rochester, NY. While the manufacturing sector of our economy has been in decline in recent years, IDB's have been a useful mechanism in the struggle to reverse this trend. By reducing the cost of capital, IDB's encourage investment by small manufacturing firms. In recent years in New York, estimates are that $1 of every $10 invested in the small manufacturing industries has involved IDB's. In the Rochester area alone, IDB-financed projects have created more than 1,000 new jobs over the last 4 years.

I have fought to keep open the manufacturing sector's access to needed capital by introducing legislation, both this year and last, to extend the tax exemption on IDB's for a 5-year period. A 5-year extension is needed because our practice of piecemeal extensions of shorter time periods has discouraged some manufacturers from using IDB financing. While IDB's do work, small manufacturers need a program in place that provides continuity and an adequate planning horizon. Accordingly, H.R. 3909's 6-month extension is only a partial victory for small manufacturers. Congress must recognize the job creation and economic stimulus potential of a full 5-year extension of the IDB exemption.

As American manufacturers struggle to survive a recession, a credit crunch, and stiffening foreign competition, we owe nothing less to this backbone sector of our Nation's economy.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of H.R. 3909, to extend 12 expiring tax provisions for 6 months. I would like to commend Chairman ROSTENKOWSKI and Ranking Member ARCHER for their work to develop this package. I know that bringing this bill to the floor today was not easy and required persistence, creativity, and commitment.

Included in these provisions are a number of important programs. Of particular interest to my constituents are the extension of the low-income housing tax credit and the mortgage revenue bond [MRB] programs. These two programs provide much need assistance for the development of affordable housing. I was pleased to work with Representative MACHTLEY in initiating a letter to Chairman ROSTENKOWSKI and Ranking Member ARCHER, cosigned by 225 of our colleagues, urging that these 2 worthy programs be extended.

The tax credit is a significant Federal incentive for the production and rehabilitation of low-income rental housing. Fully utilized, the credit is capabile of facilitating the production and rehabilitation of over 120,000 units of low-income house annually. If made permanent, the tax credit over the next decade could save approximately 620,000 low-income rental units which would otherwise be lost from the house stock. In the San Francisco Bay area, the tax credit has been used in a number of innovative affordable projects. I am very pleased that today we are acting to prevent its expiration.

The Mortgage Revenue Bond Progam, too, plays a significant role in providing affordable housing. The MRB Progam help to reduce home mortgage costs for lower income families, and in my city of San Francisco, helps to provide for moderate-income workers in the city who would otherwise not able to afford to live there. Nationwide, MRB's have assisted over 1.3 million low- and moderate-income families become homeowners.

The bill before us today takes a step in the direction of reordering our domestic priorities. The mechanism developed to raise the revenue needed to extend these expiring tax provisions will speed up tax collections on corporations. Currently, corporations pay taxes based on 90 percent of the current year's tax liability without having to pay an assessment for failure to pay estimated tax. H.R 3909 will require corporations with taxable income over $1 million to pay quarterly taxes based on 95 percent of their income. We implemented a similar change for individuals in orfer to fund the extension of unemployment benefits. It is fitting that today we are using changes to coporate taxation to fund the development of affordable housing.

Again, I would like to commend Chairman ROSTENKOWSKI and Congressman ARCHER for their success with this measure. I urge my colleagues to support H.R. 3909.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of H.R. 3909, a bill to extend for 6 months 12 vital tax provisions that are due to expire on December 31, 1991.

On November 23, I wrote to the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, urging that he bring before the full House, prior to adjournment of this first session, legislation to extend these crucial tax provisions. I wish to thank both the chairman and the ranking Republican member of the Ways and Means Committee, Mr. ARCHER, for their efforts to bring this bill before us today.

Given our current recessionary economy, this bill is among the most important legislative initiatives that we will consider prior to adjournment. A number of New Jersey businesses have brought to my attention their strong support for extending various of these 12 tax provisions that they view as crucial to their operations. Also, I wish to point out that

this bill will help to ensure the availability of affordable housing for low- and moderate-income families, health insurance benefits for self-employed persons and their families, and employer-sponsored educational benefits for many Americans.

As the ranking Republican member of the Banking, Housing and Urban Affairs Subcommittee on Housing, and a strong proponent of affordable housing alternatives, I am particularly pleased to note that H.R. 3909 extends both the low-income housing tax credit and the authority of States to issue tax-exempt mortgage-revenue bonds. Earlier this year, I cosponsored H.R. 413 and H.R. 1067, bills to extend on a permanent basis the low-income housing tax credit and mortgage-revenue bond programs, respectively. Government entities and individual groups, together with many Members of this body committed to affordable housing, know the successful history of these programs.

Mr. Speaker, the mortgage-revenue bond program has enabled many low- and moderate-income Americans to purchase their own homes. In New Jersey, where real estate prices are amongst the highest in the Nation, and the gap between household income and home purchase prices has widened, mortgage-revenue bonds and the low-income housing tax credit are the only forms of Federal assistance remaining to facilitate affordable housing.

Mr. Speaker, the bill before us also extends the health insurance deduction for self-employed individuals and their families. Without this provision, many more American families would likely find themselves without necessary health care coverage. One illness or medical emergency could thrust such families into poverty. Thus, the extension of this provision will serve to protect the health and economic well-being of self-employed persons and their families.

I also wish to address the extreme importance of extending tax credits for business research and experimentation [R&E]. Since its enactment in 1981, this tax credit has proven to be an extremely effective incentive to American companies to increase their level of research on new technologies and new products. American businesses would be severely disadvantaged in international markets if the research and experimentation tax credits were allowed to lapse. It is estimated that the extension of these tax credits could lead to $27.5 billion in increased spending for R&E from 1991 to 1995. In addition to the obvious technological research benefits of this increased R&E spending, it would also serve to stimulate jobs, thereby bolstering local economies and businesses.

Last year, during the final hours of the budget debate, Congress approved a 12-month extension of these tax provisions. This year, under the resulting 1990 budget agreement, we must offset this 6-month extension of these tax provisions. This bill does so by speeding up tax collection from certain corporations who make quarterly estimated tax payments. Since a large number of such corporations benefit from these tax provisions, this is an appropriate offset.

While a permanent extension of these credits would be preferable, I believe that we will revisit this issue next year when we tackle the difficult economic and tax issues that we all know must be addressed at the earliest possible opportunity.

Mr. Speaker, I urge my colleagues to lend their support to this bill. It is good for business, good for job creation, good for the economy, and good for America. I also urge our colleagues in the other body to act quickly on this high-priority measure so that we may ensure that there will be no interruption in the operation of these 12 essential programs.

Ms. DELAURO. Mr. Speaker, today, on the last day of this legislative session, we are debating one of the most important bills we have considered this year. H.R. 3909, which will extend a number of crucial tax incentives, is good news for businesses in my State and around the country.

The Government policies addressed in this legislation will help businesses that are struggling to survive this recession—they must not be allowed to lapse. Between 1980 and 1990, an average of 183 businesses per year declared bankruptcy in my State of Connecticut. This year, 526 businesses declared bankruptcy in the first 8 months. Clearly, something must be done.

This bill would extend a dozen vital tax measures scheduled to expire at the end of this year. The incentives in this bill will help businesses, expecially in the slumping real estate sector, to endure these tough economic times. If we allow them to expire, we risk doing serious damage to businesses already weakened by the recession.

Some of the most significant provisions are: Tax credits for business research and experimentation, which will help American businesses and universities invest in the future; low-income housing tax credits and mortgage-revenue bonds, which are vital to the development of affordable housing for low- and moderate-income Americans; deductions of health insurance costs for the self-employed, which allow self-employed individuals to deduct their health care costs in the same manner as larger businesses; and the targeted jobs tax credit, which encourages businesses to hire disabled and disadvantaged workers.

Other provisions in this bill include: Exclusion from taxes of employee-provided education assistance, tax credits for business investment in solar and geothermal energy equipment, and authority to issue tax-exempt small issue manufacturing bonds.

This legislation will not solve the economic ills facing our country. We need to do much, much more. The bill before us extends most of the expiring tax incentives only through the first 6 months of next year. Many, if not most, of these provisions will need to be extended further, and some are worthy of permanent extension.

But this bill represents our commitment to helping businesses through this devastating period and creating new growth, new jobs, and new hope for the future. For businesses surviving on the edge, this legislation will bring a much needed reprieve from the economic pressures they face.

Mr. Speaker, we cannot afford to allow these vital programs to expire. I call on my colleagues to join me in supporting this important proposal.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore, (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill (H.R. 3909) as amended.

The question was taken.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 305) concurring in the Senate amendment to H.R. 3029 with an amendment.

The Clerk read as follows:

H. RES. 305

Resolved, That upon adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill (H.R. 3029) to make technical corrections to agricultural laws, with the Senate amendment thereto, and to have concurred in the Senate amendment with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

Sec. 101. References.
Sec. 102. Conserving use acres.
Sec. 103. Double cropping of 0/92 acres.
Sec. 104. Announcement of acreage reduction programs for rice.
Sec. 105. Corn and sorghum bases.
Sec. 106. Cover crops on reduced acreage.
Sec. 107. Cotton user marketing certificates.
Sec. 108. Malting barley.
Sec. 109. Deficiency payments for wheat, barley, and oats.
Sec. 110. Minor oilseed loan rates.
Sec. 111. Sugar.
Sec. 112. Crop acreage base.
Sec. 113. Miscellaneous amendments to the Agricultural Act of 1949.
Sec. 114. Miscellaneous amendments relating to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 115. Miscellaneous amendments to the Agricultural Adjustment Act.
Sec. 116. Miscellaneous amendments to the Agricultural Adjustment Act of 1938.
Sec. 117. Section redesignation.
Sec. 118. Other miscellaneous commodity amendments.
Sec. 119. Sense of Congress regarding imported barley and oats.

Sec. 120. Cotton classing fees.
Sec. 121. Sense of Congress regarding targeted option payments.
Sec. 122. Transfer of peanut quota undermarketings.
Sec. 123. Cotton futures contracts.
Sec. 124. Lamb price and supply reporting services report and system.
Sec. 125. Cotton first handler marketing certificates.
Sec. 126. Production of black-eyed peas for donation.
Sec. 127. Milk price support program limited to 48 contiguous States.
Sec. 128. Modification of milk production termination program.
TITLE II—CONSERVATION
Sec. 201. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 202. Amendment to the Soil Conservation and Domestic Allotment Act.
Sec. 203. Farms for the Future.
Sec. 204. Amendments to the Food Security Act of 1985.
TITLE III—AGRICULTURAL TRADE
Sec. 301. Superfluous punctuation in farmer to farmer provisions.
Sec. 302. Punctuation correction in Enterprise for the Americas Initiative.
Sec. 303. Spelling correction in section 604.
Sec. 304. Missing word in section 606.
Sec. 305. Punctuation error in section 607.
Sec. 306. Typographical correction in section 612.
Sec. 307. Erroneous quotation.
Sec. 308. Punctuation correction.
Sec. 309. Date correction.
Sec. 310. Missing subtitle heading correction.
Sec. 311. Redesignation of subsection.
Sec. 312. Date correction to section 404.
Sec. 313. Date correction to section 416.
Sec. 314. Redesignation of section.
Sec. 315. Cross reference correction.
Sec. 316. Placement clarification.
Sec. 317. Punctuation correction.
Sec. 318. Elimination of obsolete cross reference.
Sec. 319. Cross reference correction.
Sec. 320. Correcting clerical errors in section 204 of the Agricultural Trade Act of 1978.
Sec. 321. Capitalization correction.
Sec. 322. Correction of error in date.
Sec. 323. Correction of typographical error.
Sec. 324. Cross reference correction.
Sec. 325. Elimination of superfluous word.
Sec. 326. Cross reference correction.
Sec. 327. Amendment to section 602.
Sec. 328. Section 407 corrections.
Sec. 329. Section 407(b) amendment.
Sec. 330. Supplemental views in annual report.
Sec. 331. Consultations with Congress.
Sec. 332. Statute designation.
Sec. 333. Correction of placement and indentation of subparagraph.
Sec. 334. Export credit guarantee program.
Sec. 335. Technical amendments to the Food for Progress Program.
Sec. 336. Miscellaneous amendment to the Agricultural Trade Development and Assistance Act of 1954.
Sec. 337. Reporting requirements.
Sec. 338. Sharing United States agricultural expertise and information.
Sec. 339. Conforming amendment relating to the Environment for the Americas Board.
TITLE IV—RESEARCH
Sec. 401. Competitive, special, and facilities research grants.
Sec. 402. National Agricultural Research, Extension, and Teaching Policy Act of 1977.
Sec. 403. Rural development and small farm research and education.
Sec. 404. National Genetic Resources Program.
Sec. 405. Alternative agricultural research and commercialization.
Sec. 406. Deer tick research.
Sec. 407. Miscellaneous research provisions.
Sec. 408. Sustainable agriculture research and education.
TITLE V—CREDIT
Sec. 501. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 502. Amendments to the Farm Credit Act of 1971.
Sec. 503. Federal Agricultural Mortgage Corporation.
TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE
Sec. 601. Federal crop insurance.
Sec. 602. Disaster relief.
TITLE VII—RURAL DEVELOPMENT
Sec. 701. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 702. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 703. Amendments to the Rural Electrification Act of 1936.
Sec. 704. Rural health leadership development.
TITLE VIII—AGRICULTURAL PROMOTION
Sec. 801. Short title.
Sec. 802. Pecans.
Sec. 803. Mushrooms.
Sec. 804. Potatoes.
Sec. 805. Limes.
Sec. 806. Soybeans.
Sec. 807. Honey.
Sec. 808. Cotton.
Sec. 809. Fluid milk.
Sec. 810. Wool.
TITLE IX—FOOD AND NUTRITION PROGRAMS
Subtitle A—Food Stamp Program
Sec. 901. Application of Food Stamp Act of 1977 to disabled persons.
Sec. 902. Categorical eligibility for recipients of general assistance.
Sec. 903. Exclusions from income.
Sec. 904. Resources that cannot be sold for a significant return.
Sec. 905. Resource exemption for households exempt under AFDC or SSI.
Sec. 906. Technical amendment on transitional housing.
Sec. 907. Performance standards for employment and training programs.
Sec. 908. Suspension of certain requirements, and study, of food stamp program on Indian reservations.
Sec. 909. Value of allotment.
Sec. 910. Prorating within a certification period.
Sec. 911. Recovery of claims caused by nonfraudulent household errors.
Sec. 912. Demonstration projects for vehicle exclusion limit.
Sec. 913. Definition of retail food store.
Subtitle B—Commodity Distribution
Sec. 921. Extension of elderly commodity processing demonstrations.
Sec. 922. Reduction of Federal paperwork for distribution of commodities.
Subtitle C—Indian Subsistence Farming Demonstration Grant
Sec. 931. Purposes.
Sec. 932. Definitions.
Sec. 933. Indian subsistence farming demonstration grant program.
Sec. 934. Training and technical assistance.
Sec. 935. Tribal consultation.
Sec. 936. Use of grants.
Sec. 937. Amount and term of grant.
Sec. 938. Other requirements.
Sec. 939. Authorization of appropriations.
Subtitle D—Technical Amendments
Sec. 941. Technical amendments to the Food Stamp Act of 1977.
Sec. 942. Amendment relating to the Hunger Prevention Act of 1988.
TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS
Sec. 1001. Organic certification.
Sec. 1002. Agricultural fellowships.
Sec. 1003. Outreach and assistance for socially disadvantaged farmers and ranchers.
Sec. 1004. Protection of pets.
Sec. 1005. Critical agricultural materials.
Sec. 1006. Amendments to FIFRA and related provisions.
Sec. 1007. Grain standards.
Sec. 1008. Packers and stockyards.
Sec. 1009. Redundant language in Warehouse Act.
Sec. 1010. Clarification of Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 1011. Perishable agricultural commodities.
Sec. 1012. Egg products inspection.
Sec. 1013. Prevention of introduction of brown tree snakes to Hawaii from Guam.
Sec. 1014. Grant to prevent and control potato diseases.
Sec. 1015. Collection of fees for inspection services.
Sec. 1016. Exemption and study of certain food products.
Sec. 1017. Fees for laboratory accreditation.
Sec. 1018. State and private forestry technical amendments.
TITLE XI—EFFECTIVE DATES
Sec. 1101. Effective dates.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) RICE.—Section 101B(c)(1)(E) (7 U.S.C. 1441–2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) ALTERNATIVE CROPS.—The Secretary" and inserting the following:

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) SESAME AND CRAMBE.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(b) COTTON.—Section 103B(c)(1)(E) (7 U.S.C. 1444–2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) ALTERNATIVE CROPS.—The Secretary" and inserting the following:

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) SESAME AND CRAMBE.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(c) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

(d) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

(b) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441–2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(C) ANNOUNCEMENTS.—

"(i) PRELIMINARY ANNOUNCEMENT.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after the date of enactment of this subparagraph). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) FINAL ANNOUNCEMENT.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) CORN AND SORGHUM BASES.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) RICE.—Clause (i) of section 101B(e)(4)(B) (7 U.S.C. 1441–2(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committees, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(b) COTTON.—Clause (i) of section 103B(e)(4)(B) (7 U.S.C. 1444–2(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(c) FEED GRAINS.—Clause (i) of section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(d) WHEAT.—Clause (i) of section 107B(e)(4)(B) (7 U.S.C. 1445b–3a(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) ISSUANCE.—Section 103B(a)(5)(E) (7 U.S.C. 1444–2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) ISSUANCE.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(iv) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.".

(b) PREVAILING WORLD MARKET PRICE.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444–2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation under this paragraph and shall announce such determination in the Federal Register."; and

(2) by striking subsection (p) and inserting the following new subsection:

"(p) MALTING BARLEY.—

"(1) ASSESSMENT REQUIRED.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on program payment acres on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

"(2) VALUE OF MALTING BARLEY.—The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

"(3) EXCEPTION TO ASSESSMENT.—In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.".

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking "sections" and inserting "section";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) With respect to wheat, barley, and oats, the final projected deficiency payment

for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.".

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (2), by striking "flaxseed" and inserting "flaxseed, individually,";

(2) in paragraph (3), by striking "that, in the case of cottonseed, in no event less" and inserting "in no event shall the level for such oilseeds (other than cottonseed) be less"; and

(3) by adding after and below paragraph (3) the following new sentence:

"To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.".

SEC. 111. SUGAR.

(a) SUGAR PRICE SUPPORT AND MARKETING ASSESSMENTS.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking "announce the loan rate" and inserting "announce the basic loan rates for beet sugar and cane sugar";

(2) in subsection (f), by striking "Loans" and inserting "Except as provided in subsection (g), loans";

(3) by striking subsection (g) and inserting the following new subsection:

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in 9 months less the quantity of time that the first loan was in effect."; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) SUGARCANE.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(2) SUGAR BEETS.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

"(3) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable."; and

(B) in paragraph (4), by striking "collect or remit the reduction" and inserting "remit the assessment".

(b) SECURITY INTERESTS.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

"(b) SUGARCANE AND SUGAR BEETS.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 401(e)(2).".

(c) SUGAR INFORMATION REPORTING.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) DUTY OF PROCESSORS, REFINERS AND MANUFACTURERS TO REPORT.—

"(1) PROCESSORS AND REFINERS.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) MANUFACTURERS OF CRYSTALLINE FRUCTOSE.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) DUTY OF PRODUCERS TO REPORT.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "data on imports," and inserting "data on production, imports,"; and

(B) by inserting "composite data on distributions of" after "sugar and".

(d) MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

"(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SUGAR ALLOTMENTS.—

"(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) PRODUCTS.—The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part."; and

(3) in subsection (d)(4), by inserting after "the United States" the following: "(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)".

(e) ESTABLISHMENT OF MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking "from the estimated sugar consumption" and inserting "from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)"; and

(B) in subparagraph (A), by striking "(representing minimum imports of sugar for consumption in the United States during the fiscal year)";

(2) in subsection (b)(2), by striking "prevent the accumulation of sugar acquired by" and inserting "avoid the forfeiture of sugar to";

(3) in subsection (f)—

(A) in the subsection heading, by striking "Sugarcane Allotment" and inserting "Cane Sugar Allotments"; and

(B) by striking "allotted among the 5 States in the United States in which sugarcane is produced" and inserting "allotted, among the 5 States in the United States in which sugarcane is produced,";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) In general.—The Secretary shall, based on reestimates under section 359b(a)(2)—

"(A) adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner;

"(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

"(C) suspend the allotments,

as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.".

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) Reductions.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed."; and

(5) by striking subsection (h) and inserting the following new subsection:

"(h) Filling Cane Sugar and Beet Sugar Allotments.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.".

(f) Allocation of Marketing Allotments.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking "after such hearing" both places it appears and inserting "after a hearing, if requested by interested parties,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) Filling Cane Sugar Allotments.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.".

(g) Reassignments of Deficits.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) Estimates of Deficits.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

"(b) Reassignment of Deficits.—

"(1) Cane sugar.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) Beet sugar.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) Corresponding increase.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.".

(h) Provisions Applicable to Producers.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking "250 producers in such State" and inserting "250 sugarcane producers in the State (other than Puerto Rico)";

(2) in paragraph (2), by striking "establish proportionate shares for the crop of sugarcane that is harvested during" and inserting "establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during"; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

"(3) Method of determining.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

"(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

"(4) Acreage base.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) Violation.—

"(A) In general.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) Civil penalty.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) Special Rules.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Transfer of Acreage Base History.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) Preservation of Acreage Base History.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) Regulations.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) Regulations.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) Appeals.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(2) Hearing.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.".

SEC. 112. CROP ACREAGE BASE.

(a) Acreage Considered Planted.—Section 503(c) (7 U.S.C. 1463(c)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8) respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) acreage in an amount not to exceed 20 percent of the crop acreage base for a crop of feed grains or wheat if—

"(A) the acreage is planted to dry peas, (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils; and

"(B) payments are not received by producers under sections 105B(c)(1)(E) and 107B(c)(1)(E), as the case may be;".

(b) Adjustment of Bases.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "Bases.—The county" and inserting the following: "Bases.—

"(1) In general.—The county"; and

(2) by adding at the end the following new paragraph:

"(2) Restoration of crop acreage base.—

"(A) In general.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) Eligible producer defined.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) Regulations.—The Secretary shall issue regulations to carry out this paragraph.".

(c) Planting Flexibility.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) mung beans.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441–2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444–2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444–2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) Barley Calculations.—" and inserting "(bb) Barley calculations.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b–3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o);

(ii) by striking "(o) In" and inserting "(o) Review.—In"; and

(iii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a)—

(A) by striking "Administrator of Veterans' Affairs" each place it appears and inserting "Secretary of Veterans Affairs"; and

(B) by striking "Administrator" each place it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,"; and

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) In General.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) Funds.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

(1) IN GENERAL.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

"(1) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.".

(2) CONFORMING AMENDMENT.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f–1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c–2)" and inserting "(7 U.S.C. 1445c–3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(l) (7 U.S.C. 1314e(l))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) SECTION REDESIGNATION.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) CONFORMING AMENDMENTS AS RESULT OF REDESIGNATIONS.—

(1) PRICE SUPPORT PROGRAM.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c–2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c–3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) MARKETING QUOTAS.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358–1(e)(3) (7 U.S.C. 1358–1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) MISSING LANGUAGE.—Section 5(i)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) MISSING LANGUAGE.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) EXTRA LANGUAGE.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(2)) is amended by striking "0 to".

(d) AMENDMENT TO FOOD AND AGRICULTURE ACT OF 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.".

(e) AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) CLARIFICATION OF AMENDMENT.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "SEC." and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) USE OF PAYMENTS.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) FINDINGS.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) SENSE OF CONGRESS.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. COTTON CLASSING FEES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a)

is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 121. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(e)(3), 1444f(e)(3), 1444–2(e)(3), and 1441–2(e)(3)), respectively.

SEC. 122. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 123. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 124. LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.

SEC. 125. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444–2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

SEC. 126. PRODUCTION OF BLACK-EYED PEAS FOR DONATION.

(a) 50/92 PROGRAM FOR COTTON.—Section 103B(c)(1)(D) (7 U.S.C. 1444–2(c)(1)(D)) is amended by adding at the end the following new clause:

"(ix) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, all or any part of the acreage required to be devoted to conservation uses as a condition for qualifying for payments under this subparagraph to be devoted to the production of black-eyed peas if—

"(I) the producer agrees to donate the harvested peas from the acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(II) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

(b) ACREAGE REDUCTION PROGRAM.—Section 103B(e)(2) of such Act (7 U.S.C. 1444–2(e)(2)) is amended by adding at the end the following new subparagraph:

"(G) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, producers on a farm to plant black-eyed peas on not more than one-half of the reduced acreage on the farm if—

"(i) the producer agrees to donate the harvested peas from such acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(ii) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

SEC. 127. MILK PRICE SUPPORT PROGRAM LIMITED TO 48 CONTIGUOUS STATES.

(a) IN GENERAL.—Section 204 (7 U.S.C. 1446e) is amended—

(1) in subsection (a), by inserting "produced in the 48 contiguous States" after "the price of milk";

(2) in subsection (c)(1), by inserting before the period the following: "produced in the 48 contiguous States";

(3) in subsection (d)(5)(B), by striking "United States" both places it appears and inserting "48 contiguous States and the District of Columbia"; and

(4) in subsections (g)(1) and (h)(1), by striking "United States" each place it appears and inserting "48 contiguous States".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of January 1, 1991.

SEC. 128. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b)—

(A) by striking "AFFECT" and inserting "EFFECT"; and

(B) by inserting "and section 1499A" after "subsection (a)"; and

(3) in subsection (c), by inserting "and" after "Animal".

(h) NEW SECTION.—

(1) EDUCATION PROGRAM.—Such Act is amended by inserting after section 1499 (7 U.S.C. 5506) the following new section:

"SEC. 1499A. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

"Subject to the availability of funds appropriated in advance, the Secretary of Agriculture shall direct the Extension Service to operate a program in each State to catalogue the Federal, State, and local laws and regulations that govern the handling of unused or unwanted agricultural chemicals and agricultural chemical containers in the State. The program established under this section shall make available to producers of agricultural commodities and the general public, and provide on request, educational materials developed or collected by the program.".

(2) The table of contents in section 1(b) of such Act (104 Stat. 3363) is amended by inserting after the item relating to section 1499 the following new item:

"Sec. 1499A. Education program regarding handling of agricultural chemicals and agricultural chemical containers.".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

(a) IN GENERAL.—Sections 1465 through 1469 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) are amended to read as follows:

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan (including the interest paid by the State trust fund, State, or State agency on bonds or other obligations described in paragraph (2)).

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund, or to the State acting in conjunction with the State trust fund, to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) STATE TRUST FUND.—The term 'State trust fund' means any trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, where such eligible State is approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—

"(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for eligible loans described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds.

"(2) ASSISTANCE.—Under the program the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds and shall for each such 10-year period subsidize the interest on such eligible loans at the allowable interest rate for the first 5 years after the loan is made, or issued, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) MANDATORY ASSISTANCE TO EACH STATE TRUST FUND.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund during each of the first 5 years after the date

on which each such loan was made or issued; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made to, or issued for the benefit of, the State trust fund, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each such loan made to, or issued for the benefit of, the State trust fund, as determined under procedures established by the Secretary.

"(c) FUNDING.—

"(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the raising of funds to purchase stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall promptly purchase the stock (within 60 days) being offered by the Secretary of Agriculture.

"(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Agriculture fails to issue stock as required under this chapter, or if funding is otherwise not provided as set forth in this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall promptly purchase stock (within 60 days) offered by the Secretary under subsection (c) and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in subsection (b).

"(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under subsection (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) ELIGIBLE USES FOR GUARANTEED LOAN FUNDS.—

"(1) IN GENERAL.—Funds from eligible loans (including proceeds from the sale of bonds or other obligations described in section 1465(c)(2)) guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings (including through investments not exceeding 10 years in duration for each eligible loan), to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) COLLATERAL FOR LOANS.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) STATE USE OF GUARANTEED LOAN FUNDS.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the eligible loans (described in section 1465(c)(2)) guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loans guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) SPECIAL RULES FOR THE PILOT PROJECT STATE.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) PROVISION OF LOAN GUARANTEE AND INTEREST ASSISTANCE AGREEMENT.—Within 30 days of the date any State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) APPROVAL OF APPLICATION.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) AMOUNT OF GUARANTEES.—The Secretary shall calculate the total amount of guarantees to be provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board regardless of whether the fund had been approved by the Secretary in fiscal year 1991), by the State described in section 1465(c)(3)(A), political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for fiscal year 1992 for the State.

"(k) MISCELLANEOUS PROVISIONS.—

"(1) OPERATION.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) EARNINGS.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) ACCOUNTS.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

"(b) COMPLIANCE.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) APPLICATIONS.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any funds provided, or guaranteed, by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) ANNUAL APPLICATIONS.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) MATCH AND MAXIMUM AMOUNT.—

"(1) IN GENERAL.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund (including matching funds described in paragraphs (2) through (4)) in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) EARNINGS.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) OBLIGATIONS.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) LAND.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) CLARIFICATION OF FEDERAL LAW.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.".

(b) REGULATIONS.—Section 1470 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended—

(1) by striking "This" and inserting "(a) IN GENERAL.—This"; and

(2) by adding at the end the following new subsection:

"(b) REGULATIONS.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.".

(c) REPORTS; STOCK ISSUANCE.—Such Act is amended by adding at the end the following new sections:

"SEC. 1470A. COMPTROLLER GENERAL REPORTS.

"On February 15 of 1992, and on December 1 of each of the years 1992 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1470B. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

(1) in section 1211 (16 U.S.C. 3811)—

(A) in paragraph (1)(D), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(B) in paragraph (3)(D), by inserting "of subtitle D" after "chapter 2"; and

(C) in paragraph (3)(E), by inserting "of subtitle D" after "chapter 3";

(2) in section 1212 (16 U.S.C. 3812)—

(A) in subsection (f)(4)(A), by striking "such violations" and inserting "such violation"; and

(B) in subsection (g)(2), by striking "XIII,". and inserting "XIII";

(3) in section 1221(1)(D) (16 U.S.C. 3821(1)(D)), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(4) in section 1223 (16 U.S.C. 3823), by striking "and" at the end of paragraph (3);

(5) in section 1232(a) (16 U.S.C. 3832(a))—

(A) by striking the extra semicolon at the end of paragraph (6); and

(B) in paragraph (7)—

(i) by striking "fall and winter"; and

(ii) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

(6) in section 1237(d) (16 U.S.C. 3837(d)), by striking "subsection (d)" and inserting "subsection (c)";

(7) in section 1239(b)(1)(A) (16 U.S.C. 3839(b)(1)(A)), by striking "corridors," and inserting "corridors;"; and

(8) in section 1247(b) (16 U.S.C. 3847(b)), by striking "subsection 1234(b)" and inserting "section 1234(b)".

TITLE III—AGRICULTURAL TRADE

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title I and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "AGENCY OR PRIVATE PARTIES" in the heading and inserting "AGENCIES"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) SUBSECTION (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) ELIMINATION OF WORD.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

" '(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.' ".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. TECHNICAL AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (l), by striking "September 30," where it appears immediately before "December 31";

(2) in subsection (m), by striking "this Act" each place it appears and inserting "this section"; and

(3) by redesignating subsections (l) and (m) (as amended by paragraphs (1) and (2)) as subsections (k) and (l), respectively.

SEC. 336. MISCELLANEOUS AMENDMENT TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

SEC. 337. REPORTING REQUIREMENTS.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509(f)) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXCEPTIONS.—The reporting and recordkeeping requirements of this section shall not apply with respect to cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging. In order to qualify for the exception under this subsection, the tobacco must have a certification that its end use is for cigars, cigar tobacco, pipe tobacco, chewing tobacco in retail packaging, or snuff in retail packaging.".

SEC. 338. SHARING UNITED STATES AGRICULTURAL EXPERTISE AND INFORMATION.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) by striking the subsection heading and inserting the following:

"(d) E (KIKA) DE LA GARZA AGRICULTURAL FELLOWSHIP PROGRAM.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall establish a program, to be known as the 'E (Kika) de la Garza Agricultural Fellowship Program', to develop agricultural markets in emerging democracies and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and the Soviet Union, as follows:

"(1) DEVELOPMENT OF AGRICULTURAL SYSTEMS.—";

(2) in paragraph (1), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(3) in paragraph (2), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(4) by indenting 2 ems the left margin of paragraphs (1) through (9) and redesignating

such paragraphs as subparagraphs (A) through (I), respectively;

(5) by striking "subsection" each place it appears and inserting "paragraph";

(6) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(7) by striking "paragraph (2)(A)" each place it appears and inserting "subparagraph (B)";

(8) by striking "paragraph (2)(B)" each place it appears and inserting "subparagraph (B)";

(9) in paragraph (1)(B) (as so redesignated)—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following new clause:

"(iii) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies.";

(10) in paragraph (1)(I) (as so redesignated), by striking "$5,000,000" and inserting "$10,000,000"; and

(11) by adding at the end the following new paragraph:

"(2) Agricultural information program.—

"(A) Establishment of program.—The Secretary shall establish a program, administered to complement the emerging democracies export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in the Soviet Union in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of a free market food production and distribution system in the Soviet Union and the enhancement of agricultural trade with the United States.

"(B) Implementation.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

"(i) compile, through contacts with the Government of the Soviet Union and private sector officials in the Soviet Union, a list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

"(ii) make such information available through an appropriate agency of the Department of Agriculture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

"(iii) carry out a program—

"(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

"(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i); and

"(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and the Soviet Union, which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises.

"(C) Consultation and coordination.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to the Soviet Union.

"(D) Definition.—For the purposes of this subsection, the term 'Soviet Union' means the Soviet Union, its successor entities, or any of the individual republics of the Soviet Union.

"(E) Authorization for appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.".

SEC. 339. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

Section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "five" and inserting "six"; and

(B) by inserting ", at least one of whom shall be a representative of the Department of Agriculture" after "Government"; and

(2) in subparagraph (B), by striking "four" and inserting "five".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) Short Title.—Subsection (a) of section 2 of Public Law 89–106 (7 U.S.C. 450i) is amended—

(1) by inserting "(1)" before "In order"; and

(2) by adding at the end the following new paragraph:

"(2) Short Title.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) Other Amendments.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "Record Keeping.—" and inserting "Inter-Regional Research Project Number 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR–4 program" and inserting "IR–4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "Limits on Overhead Costs.—" and inserting "Record Keeping.—";

(4) in subsection (g), by striking "Authorization of Appropriations.—" and inserting "Limits on Overhead Costs.—";

(5) in subsection (h)—

(A) by striking "Rules.—" and inserting "Authorization of Appropriations.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "Application of Other Laws.—" and inserting "Rules.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "Application of Other Laws.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)), by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "Sec. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) Programs Authorized.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "Competitive Grants for Financially Stressed Farmers, Dislocated Farmers, and Rural Families.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) Rural Development Extension" and inserting "(h) Rural Development Extension";

(B) by striking "(h) Rural Health" and inserting "(i) Rural Health";

(C) by striking "(h) Research Grants.—" and inserting "(j) Research Grants.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) Distribution of Funds.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) In General.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3744) is amended—

(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) Table of Contents.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) Punctuation Correction.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) Establishment of Regional Centers.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. DEER TICK RESEARCH.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (i), by striking "Agricultural Research Service" and inserting "Secretary of Agriculture, acting through the Cooperative State Research Service, to make competitive grants"; and

(2) in subsection (k)(1), by striking "Except for research funded under subsection (i), research" and inserting "Research".

SEC. 407. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101–624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(1) (7 U.S.C. 5843(1)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "Witholdings" and inserting "Withholdings";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c) (7 U.S.C. 5928(c))—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) Establishment.—Notwithstanding subsection (g)(1), the Secretary shall establish not more than four centers."; and

(B) in paragraph (2), by striking "Periods and preferences.—Grants" and inserting the following: "Operating grants.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 408. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) Amendments to Section 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) Amendment to Section 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) Amendments to Section 331.—

(1) Direct amendments.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) Indirect amendments.—

(A) Clarification of repeal.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) Payment of Accrued Interest.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) Clarification of technical corrections.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) Amendments to Section 331E.—

(1) In general.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) In General.—The"; and

(B) by adding at the end the following new subsection:

"(b) Calculation of Yields.—

"(1) In general.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) Affected by a disaster.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) Application of subsection.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) Regulations.—

(A) Interim regulations.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) Final regulations.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) Effective Date.—

(A) In general.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) Exception.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) Amendments to Section 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) Amendments to Section 335(e)(1).—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (F)"; and

(2) by adding at the end the following new subparagraph:

"(F) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) Amendments to Section 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) Amendments to Section 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) Amendments to Section 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) Amendments to Section 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) Agricultural or Aquatic Purposes";

(2) by striking "(1) In general" and inserting the following:

"(1) In general"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) Limitation on loans for basic processing and marketing operations".

(b) Amendment to Section 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) Amendment to Section 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) Amendment to Section 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) Amendment to Section 3.7(b).—

(1) In general.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products thereof" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance—

"(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

"(ii) is issued on or before September 30, 1995.

"(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this Act.".

(2) Conforming amendment.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) Amendments to Section 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1), by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C).".

(g) Amendment to Section 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(h) Amendment to Section 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(i) Amendment to Section 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(j) Amendment to Section 5.58(4)(B).—Section 5.58(4)(B) of such Act (12 U.S.C. 2277a-7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(k) Amendments to Section 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a-14(d)(1)) is amended by striking "insured".

(l) Amendments to Section 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a-2(d)) is amended by striking "subchapter 1" each place such term appears and inserting "subchapter I".

(m) Amendments to Section 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b-3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(n) Amendment to Section 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

SEC. 503. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

(a) Section 8.11 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-11) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Authority.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

"(A) for the examination of the Corporation and its affiliates; and

"(B) for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this title, including through the use of the authorities granted to the Farm Credit Administration under—

"(i) part C of title V; and

"(ii) beginning 6 months after the date of enactment of this section, section 5.17(a)(9).";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3) Office of Secondary Market Oversight.—

"(A) Not later than 180 days after the date of enactment of this paragraph, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight.

"(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Supervision.

"(C) The Office of Secondary Market Supervision shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.";

(3) by adding at the end thereof the following new subsection:

"(f) The Farm Credit Administration Board shall ensure that—

"(1) the Office of Secondary Market Supervision has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

"(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.";

(b) Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) is amended—

(1) by inserting after section 8.0 the following:

"Subtitle A—Establishment and Activities of Federal Agricultural Mortgage Corporation"; and

(2) by inserting after section 8.14 the following new subtitle:

"Subtitle B—Regulation of Financial Safety and Soundness of Federal Agricultural Mortgage Corporation

"SEC. 8.31. DEFINITIONS.

"For purposes of this subtitle:

"(1) Compensation.—The term 'compensation' means any payment of money or the provision of any other thing of current or potential value in connection with employment.

"(2) Core capital.—The term 'core capital' means, with respect to the Corporation, the sum of the following (as determined in accordance with generally accepted accounting principles):

"(A) The par value of outstanding common stock.

"(B) The par value of outstanding preferred stock.

"(C) Paid-in capital.

"(D) Retained earnings.

"(3) Director.—The term 'Director' means the Director of the Office of Secondary Market Oversight of the Farm Credit Administration, appointed under section 8.11(a)(3).

"(4) Office.—The term 'Office' means the Office of Secondary Market Oversight of the Farm Credit Administration, established in section 8.11(a).

"(5) Regulatory capital.—The term 'regulatory capital' means, with respect to the Corporation, the core capital of the Corporation plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

"(6) State.—The term 'State' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 8.32. RISK-BASED CAPITAL LEVELS.

"(a) Risk-Based Capital Test.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the Director of the Office of Secondary Market Oversight shall, by regulation, establish a risk-based capital test under this section for the Corporation. When applied to the Corporation, the risk-based capital test shall determine the amount of regulatory capital for the Corporation that is sufficient for the Corporation to maintain positive capital during a 10-year period in which both of the following circumstances occur:

"(1) Credit risk.—With respect to securities representing an interest in, or obligations backed by, a pool of qualified loans owned or guaranteed by the Corporation and other obligations of the Corporation, losses on the underlying qualified loans occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing industry practice in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (as established by the Director), experienced the highest rates of default and severity of agricultural mortgage losses, in comparison with such rates of default and severity of agricultural mortgage losses in other such areas for any period of such duration, as determined by the Director.

"(2) Interest rate risk.—Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (A) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (B) 600 basis points, and remain at such level for the remainder of the period. This paragraph may not be construed to require the Director to determine interest rate risk under this paragraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

"(b) Considerations.—

"(1) Establishment of test.—In establishing the risk-based capital test under subsection (a)—

"(A) the Director shall take into account appropriate distinctions based on various types of agricultural mortgage products, varying terms of Treasury obligations, and any other factors the Director considers appropriate;

"(B) the Director shall conform loan data used in determining credit risk to the minimum geographic and commodity diversification standards applicable to pools of qualified loans eligible for guarantee;

"(C) the Director shall take into account retained subordinated participating interests under section 8.6(b)(2);

"(D) the Director may take into account other methods or tests to determine credit risk developed by the Corporation before the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991; and

"(E) the Director shall consider any other information submitted by the Corporation in writing during the 180-day period beginning on the date of the enactment of such Act.

"(2) Revising test.—Upon the expiration of the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Director shall examine the risk-based capital test under subsection (a) and may revise the test. In making examinations and revisions under this paragraph, the Director shall take into account that, before the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Corporation has not issued guarantees for pools of qualified loans. To the extent that the revision of the risk-based capital test causes a change in the classification of the Corporation within the enforcement levels established under section 8.35, the Director shall waive the applicability of any additional enforcement actions available because of such change for a reasonable period of time, to permit the Corporation to increase the amount of regulatory capital of the Corporation accordingly.

"(c) Risk-Based Capital Level.—For purposes of this subtitle, the risk-based capital level for the Corporation shall be equal to the sum of the following amounts:

"(1) Credit and interest rate risk.—The amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation, adjusted to account for foreign exchange risk.

"(2) Management and operations risk.—To provide for management and operations risk, 30 percent of the amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation.

"(d) Specified Contents.—The regulations establishing the risk-based capital test under this section shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to value ratios; taxes, yield curve slopes, default experience, prepayment rates, and performance of pools of qualified loans). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

"(e) Availability of Model.—The Director shall make copies of the statistical model or models used to implement the risk-based capital test under this section available for public acquisition and may charge a reasonable fee for such copies.

"SEC. 8.33. MINIMUM CAPITAL LEVEL.

"(a) In General.—Except as provided in subsection (b), for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 2.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.45 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(b) 18-Month Transition.—During the 18-month period beginning upon the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.40 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(c) Linked Portfolio Assets.—The percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is referred to in subsections (a)(3) and (b)(3) of this section (and in section 8.34(3)(A)) shall be—

"(1) during the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991—

"(A) 0.45 percent of any such assets not exceeding $1,000,000,000;

"(B) 0.75 percent of any such assets in excess of $1,000,000,000 but not exceeding $2,000,000,000;

"(C) 1.00 percent of any such assets in excess of $2,000,000,000 but not exceeding $3,000,000,000;

"(D) 1.25 percent of any such assets in excess of $3,000,000,000 but not exceeding $4,000,000,000;

"(E) 1.50 percent of any such assets in excess of $4,000,000,000 but not exceeding $5,000,000,000; and

"(F) 2.50 percent of any such assets in excess of $5,000,000,000.

"(2) after the expiration of such 5-year period, 2.50 percent of any such aggregate assets.

"SEC. 8.34. CRITICAL CAPITAL LEVEL.

"For purposes of this subtitle, the critical capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.25 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) a percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g), which shall be—

"(A) during the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, one-half of the percentage that is determined under section 8.33(c)(1); and

"(B) after the expiration of such 5-year period, 1.25 percent of any such aggregate assets.

"SEC. 8.35. ENFORCEMENT LEVELS.

"(a) IN GENERAL.—The Director shall classify the Corporation, for purposes of this subtitle, according to the following enforcement levels:

"(1) LEVEL I.—The Corporation shall be classified as within level I if the Corporation—

"(A) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established under section 8.32; and

"(B) equals or exceeds the minimum capital level established under section 8.33.

"(2) LEVEL II.—The Corporation shall be classified as within level II if—

"(A) the Corporation—

"(i) maintains an amount of regulatory capital that is less than the risk-based capital level; and

"(ii) equals or exceeds the minimum capital level; or

"(B) the Corporation is otherwise classified as within level II under subsection (b) of this section.

"(3) LEVEL III.—The Corporation shall be classified as within level III if—

"(A) the Corporation—

"(i) does not equal or exceed the minimum capital level; and

"(ii) equals or exceeds the critical capital level established under section 8.34; or

"(B) the Corporation is otherwise classified as within level III under subsection (b) of this section.

"(4) LEVEL IV.—The Corporation shall be classified as within level IV if the Corporation—

"(A) does not equal or exceed the critical capital level; or

"(B) is otherwise classified as within level IV under subsection (b) of this section.

"(b) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing (and provides written notification to the Corporation and the Farm Credit Administration) that the Corporation is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages securitized by the Corporation or property underlying securities guaranteed by the Corporation, has decreased significantly, the Director may classify the Corporation—

"(1) as within level II, if the Corporation is otherwise within level I;

"(2) as within level III, if the Corporation is otherwise within level II; or

"(3) as within level IV, if the Corporation is otherwise within level III.

"(c) QUARTERLY DETERMINATION.—The Director shall determine the classification of the Corporation for purposes of this subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made for the quarter ending March 31, 1992.

"(d) NOTICE.—Upon determining under subsection (b) or (c) that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

"(1) that the Corporation is within such level;

"(2) that the Corporation is subject to the provisions of section 8.36 or 8.37, as applicable; and

"(3) stating the reasons for the classification of the Corporation within such level.

"(e) IMPLEMENTATION.—Notwithstanding paragraphs (1) and (2) of subsection (a), during the 30-month period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 8.33.

"SEC. 8.36. MANDATORY ACTIONS APPLICABLE TO LEVEL II.

"(a) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level II, the Corporation shall, within the time period provided in section 8.40(b) and in consultation with the Director, submit to the Director a capital restoration plan that complies with section 8.40 and, after approval, carry out the plan.

"(b) RESTRICTION ON DIVIDENDS.—If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level III or IV.

"(c) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 8.37), if—

"(1) the Corporation is within level II; and

"(2)(A) the Corporation does not submit a capital restoration plan that is substantially in compliance with section 8.40 within the applicable period or the Director does not approve the capital restoration plan submitted by the Corporation; or

"(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(d) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 30-month period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991.

"SEC. 8.37. SUPERVISORY ACTIONS APPLICABLE TO LEVEL III.

"(a) MANDATORY SUPERVISORY ACTIONS.—

"(1) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level III, the Corporation shall, within the time period provided in section 8.40(b) and in consultation with the Director, submit to the Director a capital restoration plan that complies with section 8.40 and, after approval, carry out the plan.

"(2) RESTRICTIONS ON DIVIDENDS.—

"(A) PRIOR APPROVAL.—If the Corporation is classified as within level III, the Corporation—

"(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

"(ii) may make any other payment of dividends only if the Director approves the payment before the payment.

"(B) STANDARD FOR APPROVAL.—If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

"(3) RECLASSIFICATION FROM LEVEL III TO LEVEL IV.—The Director shall immediately reclassify the Corporation as within level IV (and the Corporation shall be subject to the provisions of section 8.38), if—

"(A) the Corporation is classified as within level III; and

"(B)(i) the Corporation does not submit a capital restoration plan that is substantially in compliance with section 8.40 within the applicable period or the Director does not approve the capital restoration plan submitted by the Corporation; or

"(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

"(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

"(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

"(3) PROHIBITION ON DIVIDENDS.—Prohibit the Corporation from making any payment of dividends.

"(4) ACQUISITION OF NEW CAPITAL.—Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

"(5) RESTRICTION OF ACTIVITIES.—Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

"(6) CONSERVATORSHIP.—Appoint a conservator for the Corporation consistent with part C of title V.

"(c) EFFECTIVE DATE.—This section shall take effect on January 1, 1992.

(c) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa-3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(d) AMENDMENT TO SECTION 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa-6) is amended by adding at the end the following new subsection:

"(g) PURCHASE OF GUARANTEED SECURITIES.—

"(1) PURCHASE AUTHORITY.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) ISSUANCE OF DEBT OBLIGATIONS.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) TERMS AND LIMITATIONS.—

"(A) TERMS.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) REQUIREMENT.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) AUTHORITY.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (l)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 ACT.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 ACT.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "SUNFLOWER SEED" and inserting "SUNFLOWERSEED"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i);

(B) by striking "such Act" in clause (i) and inserting "such section"; and

(C) by striking "sunflower seed" in clause (iv) and inserting "sunflowerseed".

(c) CLARIFICATION OF AMENDMENT.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) AMENDMENTS TO SECTION 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) AMENDMENTS TO SECTION 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "GRANTS TO BROADCASTING SYSTEMS.—The Secretary.

(d) AMENDMENTS TO SECTION 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) AMENDMENTS TO SECTION 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) AMENDMENT TO SECTION 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) AMENDMENT TO SECTION 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) MISCELLANEOUS AMENDMENTS.—

(1) IDENTICAL AMENDMENTS.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) OTHER MISCELLANEOUS AMENDMENT.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENT TO SECTION 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) AMENDMENTS TO SECTION 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(l)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) AMENDMENTS TO SECTION 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) AMENDMENT TO SECTION 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) AMENDMENT TO SECTION 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) AMENDMENTS TO SECTION 2322.—Section 2322 of such Act (7 U.S.C. 1926-1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) AMENDMENT TO SECTION 2332.—Section 2332 of such Act (7 U.S.C. 950aaa-1) is amended by striking "Federal government" and inserting "Federal Government".

(h) AMENDMENTS TO SECTION 2388(h).—

(1) AMENDMENTS.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) SPECIAL RULE.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) REPEAL OF SECTION 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) AMENDMENT TO SECTION 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) REPEAL OF SECTION 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) AMENDMENTS TO SECTION 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) AMENDMENT TO SECTION 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa-1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) RURAL HEALTH LEADERSHIP DEVELOPMENT.—The Secretary, in consultation with the Office of Rural Health Policy of the Department of Health and Human Services, may make grants to academic medical centers or land grant colleges and universities, or any combination thereof, for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) CONFORMING AMENDMENT.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or entities described in paragraph (1)(C)".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Argicultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) COTTON PROMOTION ACT.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) REPORTS.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 902. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 903. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "to the extent" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 904. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.".

SEC. 905. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 906. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 907. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes, including increases in earnings.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) LIMITATION.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995, of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 908. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) SUSPENSION OF REQUIREMENTS.—

(1) STAGGERED ISSUANCE OF COUPONS.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) EXEMPTION FROM MONTHLY REPORTING SYSTEMS.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) COMPONENTS.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) CONSULTATION.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 909. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 910. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 911. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 912. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

The Secretary of Agriculture shall solicit requests to participate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by May 1, 1992. The projects shall commence operations no later than January 1, 1993.

SEC. 913. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

(a) HUNGER PREVENTION ACT.—Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in paragraphs (1) and (2) of subsection (c), by inserting after "to needy persons" each place it appears the following: "and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons"; and

(2) by adding at the end the following new subsections:

"(j) PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.—

"(1) SOUP KITCHENS.—In distributing commodities under this section, the distributing

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agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) INSTITUTIONS THAT SERVE ONLY LOW-INCOME RECIPIENTS.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) OTHER INSTITUTIONS.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy persons.

"(k) SETTLEMENT AND ADJUSTMENT OF CLAIMS..—

"(1) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under this section; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of this section.

"(2) LITIGATION.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(b) EMERGENCY FOOD ASSISTANCE ACT.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end the following new section:

"SEC. 215. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

"(a) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(1) determine the amount of, settle, and adjust any claim arising under this Act; and

"(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this Act.

"(b) LITIGATION.—Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(c) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end the following new subsection:

"(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

"(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Indian Subsistence Farming Demonstration Grant

SEC. 931. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) have income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

SEC. 932. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) has income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 933. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 934. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses, training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 935. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 936. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 937. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 938. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 939. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle D—Technical Amendments

SEC. 941. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centun" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at";

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)"; and

(E) in subsection (d)(4)(I)(i)(II)—

(i) by striking "601 et seq.))" and inserting "601 et seq.)"; and

(ii) by striking ", but in" and inserting "), but in";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,

and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 942. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a–1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "APPPLICATORS" and inserting "APPLICATORS";

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 136l(a)(2))—

(A) by striking ": *Provided*, That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w-1(c)), by striking "use" and inserting "uses".

(b) Gender.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) Unexecutable Amendment.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100-532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) Recordkeeping.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i-1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) Maintenance Fee.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended to read as follows:

"(5) Maintenance fee.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) Registration and Expedited Processing Fund.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a-1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the";

(2) in section 16(a) (7 U.S.C. 87e(a)), by striking "Administrtor." in the second sentence and inserting "Administrator."; and

(3) in section 17B(a) (7 U.S.C. 87f-2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. CLARIFICATION OF FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

Notwithstanding any other provision of law, the Secretary of Agriculture is directed immediately to implement the establishment within the Department of Agriculture of the Rural Development Administration established by subtitle A of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f et seq.) and the amendments made by such subtitle.

SEC. 1011. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) Short Title.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) Definitions.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1012. EGG PRODUCTS INSPECTION.

(a) Findings and Purposes.—

(1) Findings.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) Purposes.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) Inspection of Egg Products.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) Prohibited Acts.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) Penalties.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) Reporting of Violation to United States Attorney for Institution of Criminal Proceedings.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) Imports.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) Relation to Other Authorities.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) Effective Date.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1013. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) In General.—The Secretary of Agriculture shall, to the extent practicable, take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) Introduction Into Hawaii.—The Secretary shall initiate a program to prevent, to the extent practicable, the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) Authority.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) Control of Brown Tree Snakes.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes," after "rabbits,".

(e) Importation of Brown Tree Snakes.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1014. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1015. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) QUARANTINE AND INSPECTION.—The Secretary" and inserting the following:

"(1) QUARANTINE AND INSPECTION.—

"(A) In general.—The Secretary";

(B) by indenting 2 ems the left margin of paragraph (1); and

(C) by adding at the end the following new subparagraphs:

"(B) Airport Inspection Services.—For airport inspection services, the Secretary shall collect no more than $69,000,000 in fiscal year 1992 and $75,000,000 in fiscal year 1993 from international airline passengers and commercial aircraft operators.

"(C) Commercial Truck and Railroad Car Inspection Services.—For commercial truck and railroad car inspection services, the Secretary shall collect no more than $3,667,000 in fiscal year 1992 and $3,890,000 in fiscal year 1993 from commercial truck and railroad car operators.

"(D) Costs.—Fees, including fees from international airline passengers and commercial aircraft operators, may only be collected to the extent that the Secretary reasonably estimates that the amount of the fees are commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of such services with respect to passengers as a class includes the costs of related inspections of the aircraft.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) Reimbursement.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws. Any such reimbursement shall be subject to appropriations under clause (v)."; and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1016. EXEMPTION AND STUDY OF CERTAIN FOOD PRODUCTS.

(a) Amendments to Federal Meat Inspection Act.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under section 24 that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a meat food product from the inspection requirements of this Act if—

"(A) the meat food product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(b) Amendments to Poultry Products Inspection Act.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under this section that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a poultry product from the inspection requirements of this Act if—

"(A) the poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(c) Regulations.—No later than August 1, 1992, the Secretary of Agriculture shall issue final rules, through prior notice and comment rulemaking procedures, to implement the exemption authorized by section 23(c) of the Federal Meat Inspection Act (as added by subsection (a)) and the exemption authorized by section 15(d) of the Poultry Products Inspection Act (as added by subsection (b)). Prior to the issuance of the final rules, the Secretary shall hold at least one public hearing examining the public health and food safety issues raised by the granting of each of the exemptions.

(d) Studies.—

(1) In general.—Not later than 24 months after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the National Academy of Sciences, shall conduct—

(A) a study to develop criteria for, and evaluate, present and future inspection exemptions for meat food products and poultry products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), respectively, which shall examine the potential effect on consumers, on the affected industries, on public health and food safety, on the role of the Department of Agriculture, and the scientific basis for the exemptions; and

(B) a study of the appropriateness of granting an exemption from the requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act, as appropriate, for wholesale meat outlets selling to hotels, restaurants, or other similar institutional users provided that the processing of meat by the outlets is limited to cutting, slicing, grinding, or repackaging into smaller quantities.

(2) Results.—On completion of each study required under paragraph (1), the Secretary shall provide the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1017. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) In General.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e), shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) Amount of Fee.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) Reimbursement of Expenses.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) Adjustment of Fees.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a).

"(e) Appropriations Prerequisite.—No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f).

"(f) Authorization of Appropriations.—There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.".

SEC. 1018. STATE AND PRIVATE FORESTRY TECHNICAL AMENDMENTS.

(a) Cooperative Forestry Assistance.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended—

(1) in section 5(d) (16 U.S.C. 2103a(d)), by striking "State Foresters" each place it appears and inserting "State foresters";

(2) in section 7 (16 U.S.C. 2103c)—

(A) in subsection (d)(2), by striking "Not later than 1 year after the date of enactment of this section," and inserting "Not later than November 28, 1991,";

(B) in subsection (e), by striking "Within 1 year from the date of enactment of this section and in consultation with State Forest Stewardship Advisory Committees established under section 15(b)" and inserting "Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 19(b)"; and

(C) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)";

(3) in section 9 (16 U.S.C. 2105)—

(A) in subsection (g)(1)(C), by striking "subsection (e)" and inserting "subsection (f)";

(B) in subsection (g)(3)(E), by striking "subsection (e)" and inserting "subsection (f)";

(C) in subsection (h)(1), by striking "subsection (f)" and inserting "subsection (g)"; and

(D) in subsection (h)(2), by striking "subsection (f)(3)" and inserting "subsection (g)(3)"; and

(4) in section 10(g)(2) (16 U.S.C. 2106(g)(2)), by striking "fire fighting organization" and inserting "firefighting organization".

(b) Commission on State and Private Forests.—Section 1245(g)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3549; 16 U.S.C. 1601 note) is amended by striking "the Director of the Office Technology Assessment may furnish".

(c) Forest Products Institute.—Section 1247(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3551; 16 U.S.C. 2112 note) is amended by striking "in this section" the second place it appears.

(d) Renewable Resources Extension.—Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of the first paragraph (9) (as added by section 1219(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3539) and inserting "; and"; and

(3) by redesignating the second paragraph (9) (as added by section 1251(b)(3) of such Act (104 Stat. 3552) as paragraph (10).

(e) America the Beautiful.—Section 1264(n)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3556; 16 U.S.C. 2101 note) is amended by striking "this Act" and inserting "this subtitle".

(f) Reforestation Assistance.—Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3558; 16 U.S.C. 2106a) is amended—

(1) by inserting "(16 U.S.C. 2101 et seq.)" after "1978"; and

(2) by striking "(16 U.S.C. 590h, 590l, or 590p)" and inserting "(16 U.S.C. 590p(b))".

SEC. 1019. REPEAL.

Public Law 76–543 (54 Stat. 231) is hereby repealed.

TITLE XI—EFFECTIVE DATES

SEC. 1101. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Inclusion in Food, Agriculture, Conservation, and Trade Act of 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) to which the amendment relates:

(1) Section 201 (other than section 201(h)).

(2) Section 307.

(3) Subsections (a) through (c), (e), (h), and (i) of section 501.

(4) Subsections (a), (b), (f) through (i), and (l) of section 502.

(5) Section 602(c).

(6) Section 701 (except as provided in subsection (c) of this section).

(7) Section 702.

(8) Section 703(c).

(c) Miscellaneous Amendments to Consolidated Farm and Rural Development Act.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) Food and Nutrition Programs.—

(1) In general.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

(2) PASS accounts exclusion.—

(A) In general.—The amendment made by section 903(3) of this Act shall take effect on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) Limitation on application of section.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) Performance standards for employment and training programs.—The amendments made by section 906 of this Act shall take effect on September 30, 1991.

(4) Recovery of claims caused by nonfraudulent household errors.—The amendment made by section 911 of this Act shall take effect on the date of enactment of this Act.

(5) Definition of retail food store.—The amendment made by section 913 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. de la Garza] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. Coleman] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. de la Garza].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House amendment to the Senate amendment to H.R. 3029, the Food, Agriculture, Conservation and Trade Act Amendments of 1991, is a bipartisan, House-Senate compromise making technical and a limited number of substantive changes in our agriculture, export promotion and nutrition programs.

The House version of H.R. 3029 was overwhelmingly approved 417 to 5 on July 31. The Senate measure was approved by voice vote just last Friday, November 22. Over the weekend the staff of the House and Senate Agriculture Committees worked quickly to resolve the areas of minor differences between the two bills and today Members of the House and Senate resolved the remaining outstanding issues.

The bulk of the compromise language on H.R. 3029 involves correcting technical and drafting errors and clarifying various provisions in Public Law 101–624, the Food, Agriculture, Conservation and Trade Act of 1990, that was signed into law last November.

There are some provisions in this bill that contain somewhat more substantive policy changes. Most of these provisions seek to correct implementation problems which have come to our attention since enactment of the 1990 Farm Act. These problems involve unclear wording in last year's farm bill or issues raised by farmers and others in the initial interpretations of the law made by the U.S. Department of Agriculture.

This bill also contains some substantative policy changes that originated in the other body that were found acceptable by our side and are included in this House amendment.

We have worked closely with the Department of Agriculture in drafting this bill, and although we do not have a formal statement of administration views on this bill, I believe the administration will support this legislation.

Basically, the compromise on H.R. 3029 seeks to achieve the original intent of the 1990 farm bill by providing the Department of Agriculture the direction it needs to carry out these programs in a fair and equitable manner.

Mr. Speaker, I briefly want to highlight the major provisions in each title of the House amendment to the Senate amendment of H.R. 3029:

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

The bill clarifies various provisions in the operations of various commodity programs that were reauthorized in the 1990 Farm Act. Provisions contained in the bill also ensure that farmers can take full advantage of the planting flexibility provisions of last year's farm act.

TITLE II—CONSERVATION

The bill contains several provisions making technical improvements to the conservation and environmental aspects of commodity program operations authorized or reauthorized in the 1990 Farm Act.

TITLE III—AGRICULTURAL TRADE

The bill contains mainly technical corrections to the 1990 Farm Act's trade title.

TITLE IV—RESEARCH

The bill contains various technical corrections to the 1990 Farm Act's research title, including a clarification on the number of regional Alternative Agricultural Research and Commercialization Centers to be created out of appropriated funds.

TITLE V—CREDIT

The bill requires Farmers Home Administration to allow a farmer borrower who has been affected by disaster during at least 2 previous crop years to exclude the lowest yield from the calculation of the farm's future yields. The bill also authorizes the bank for cooperatives to make loans for the export of agricultural commodities if certain conditions are met.

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TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

The bill makes a limited number of technical corrections in the wording of the 1990 Farm Act's crop insurance and disaster relief title.

TITLE VII—RURAL DEVELOPMENT

The bill makes various technical changes to the operations of the rural development lending programs administered by Farmers Home Administration and the Rural Electrification Administration. The bill also authorizes the establishment of a rural health leadership development program by the U.S. Department of Agriculture, in consultation with the Department of Health and Human Services, to help rural areas develop health care services and facilities.

TITLE VIII—AGRICULTURAL PROMOTION

The bill makes various technical corrections to the research and promotion programs for pecans, mushrooms, potatoes, limes, soybeans, honey, cotton, fluid milk, and wool that were authorized in the 1990 Farm Act.

TITLE IX—FOOD AND NUTRITION PROGRAMS

The bill has several provisions which clarify and makes explicit certain changes in the Food Stamp and Nutrition Programs to benefit low-income Americans. The bill also establishes a grant program and technical assistance to help Indian tribes and Alaska Natives develop and operate subsistence farming programs to improve the nutrition and health of Indians living on or near Indian reservations.

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

The bill makes various technical changes or corrections in the 1990 Farm Act's provisions on organic certification, pesticide programs, forestry programs, and the maintenance fees authorized for pesticide registrations, for international passenger inspection services, and for laboratory accreditation. In addition, the bill contains provisions regarding the inspection of eggs, preventive measures to stop the spread of brown tree snakes from Guam, and exempting pizzas containing meat products from duplicative inspection under certain circumstances.

The Committee on Agriculture has been and wants to continue to be sensitive to the budget problems our Nation faces. I would point out to my colleagues that this technical corrections bill is not only budget neutral—it actually provides us with some budget savings over the next 5 years.

Based on preliminary estimates by the Congressional Budget Office, the bill is scored as saving about $2 million in fiscal year 1992 and $0.3 million over the next 5 years. Preliminary estimates by the Department of Agriculture indicates the bill will cost nothing in fiscal year 1992 and save $7 million over the next 5 years.

Mr. Speaker, this bill will help our farm programs operate more effectively and as we in Congress intended when we debated and passed the 1990 farm bill. This bill will benefit the entire agricultural sector of our economy and it will strengthen the interests of consumers who are concerned about the availability of a safe, abundant and affordable supply of food and fiber. I urge my colleagues to support passage of this very necessary piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3029, a bill making technical corrections to the 1990 Food, Agriculture, Conservation, and Trade Act.

This bill passed the House last July 31 by a vote of 417 to 5, and the legislation has changed relatively little since it was acted upon by the House. It does make minor, technical corrections to the 1990 farm bill, and I understand the administration has no objections to its adoption.

For instance, the bill deals with conserving use acres, double cropping on 0/92 acres, clarifying corn and sorghum bases, and deficiency payments for wheat, barley, and oats to name four of the technical provisions contained in the commodity program title.

Other provisions of the bill concern conservation, agricultural trade, research, credit, rural development, agricultural promotion programs, food and nutrition matters and other technical, miscellaneous corrections to the bill.

In concluding, Mr. Speaker, I want to assure my colleagues in the Banking Committee who are concerned about the provisions dealing with Farmer Mac's linked portfolio strategy: the Agriculture Committee will actively oversee the Farm Credit Administration's regulation of Farmer Mac. We will work closely with the Banking Committee in carrying out that responsibility. I appreciate the Banking Committee's agreeing to this compromise.

Mr. Speaker, I urge the House to agree to the Senate amendments and finish this important piece of legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise to support the 1990 farm bill technical corrections measure since it has many important provisions including the provisions related to feed grain base flexibility, introduced by my distinguished colleague from Nebraska [Mr. BARRETT], and this Member and important provisions on wheat deficiency payments. It also clarifies the authority of the Federal Agricultural Mortgage Corporation, so called Farmer Mac, to engage in certain activities. However, I support the legislation with reservations because of some of the provisions related to the Farm Credit Administration relations to Farmer Mac.

As provided by the bill, the Corporation, known as Farmer Mac, would be allowed to undertake secondary market activities—for example, set up subsidiaries and go to debt markets—in a manner similar to those engaged by the Fannie Mae and Freddie Mac. Farmer Mac has called its activity the linked portfolio strategy and is intended to offer more attractive interest rates to borrowers.

Specifically, however, this Member would like to draw the attention of this body to other provisions pertaining to regulation of Farmer Mac. In exchange for authorizing the linked portfolio strategy, some members of the Agriculture Committee have insisted that the Farm Credit Administration retain regulatory and rulemaking authority over Farmer Mac—through a separate Office of Secondary Market Supervision to be established within the Farm Credit Administration.

This Member again states that allowing the Farm Credit Administration to regulate Farmer Mac is the worst of all options. It is a blatant conflict of interest to allow a regulator to supervise a secondary market as well as the market's participants, in this case, the Farm Credit System institutions.

Mr. Speaker, this Member expects only the worst in terms of quality of regulation from the Farm Credit Administration and it will be up to the agency to prove me wrong.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. ENGLISH], the chairman of the Subcommittee on Conservation, Credit and Rural Development.

Mr. ENGLISH. Mr. Speaker, I, too, would like to rise in support of this legislation. I think that as the chairman has stated, whenever this legislation left the House of Representatives it was primarily a technical corrections bill. Most of the provisions in it still are.

The other body did add a few substantive items, and one of those dealt with, as has been referred to before, Farmer Mac. The provisions that are contained in the bill are a compromise between various concerns with regard to the Farmer Mac operation.

Mr. Speaker, I think this legislation contains a proper approach, one that is balanced and one that I wholeheartedly support.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I rise in strong support of the conference report to the 1990 farm bill technical corrections bill. This legislation contains technical changes to the 1990 farm bill. These alterations resolve minor problems which have been discovered during implementation of farm programs. Section 107, black-eyed peas for donation, is one such provision which will help ease the ability of farmers to satisfy the rising demand for food donations to food banks, food pantries and soup kitchens. This is the same provision, with minor modifications, which was offered to the House Agriculture Cotton, Rice and Sugar Subcommittee mark-up of the technical corrections legislation.

The intent of the language is to give the U.S. Department of Agriculture [USDA] the authority to allow mechanical harvesting of black-eyed peas on cotton-conserving-use acres and set-aside acreage for donation to charitable organizations. The language in section 107 provides that the Secretary of Agriculture shall not prohibit implementation of this section unless he determines that it would disrupt the normal channels of trade. The Secretary should implement the section in such a manner to ensure optimum producer participation. Clearly, the intent of the legislation is not designed to negatively impact the market for black-eyed peas raised for sell but rather it is designed to provide for the mechanical harvest of black-eyed peas for donation to food-bank-type charitable organizations.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of H.R. 3029 which makes technical changes to farm programs enacted by the farm bill, the Food, Agriculture, Conservation, and Trade Act of 1990.

Since February, the Committee on Agriculture has taken an active oversight role in the implementation of the 1990 farm bill. I appreciate and compliment Chairman DE LA GARZA and ranking member, Mr. COLEMAN, for their efforts in getting this bill to the floor today. I know producers in Kansas and all over rural America, preparing for spring planting, appreciate your efforts as well.

Last March the Subcommittee on Wheat, Soybeans, and Feed Grains, held a hearing in Washington to discuss with producer groups their problems with the farm bill. The subcommittee then traveled to Bonner Springs, KS, to hear from farmers themselves about how they are dealing with the farm bill's new programs.

I am sure the subcommittee will stay active in overseeing this farm bill as the years progress, but I must say these two hearings were very helpful in outlining a few issues the House and Senate Agriculture Committees overlooked when completing the details of the 1990 farm act.

Mr. Speaker, the provisions contained in H.R. 3029 are budget neutral, so they will not cost the Government any additional money to implement. They will, however, make sure the programs of the 1990 act are implemented the way in which we intended.

Second, Mr. Speaker, the provisions in H.R. 3029 expand upon a number of objectives established in the 1985 Food Security Act and then again extended in the 1990 Farm Act. First and foremost of these objectives was the committee's desire to include more planting options for producers participating in farm programs. For many years, farmers were restricted to growing only the crops for which they have a history of planting. The committee remedied this in the 1990 farm bill by allowing them to divert a percentage of their acres to other crops.

Because producers are receiving less Government support on their acres than ever before, H.R. 3029 comes at an important time. In short, the bill lifts planting restrictions to enable farmers to respond even better to market prices. The provisions outlined below, which are amendments to the wheat, feed grains, and oilseeds titles of the 1990 farm bill, are an attempt to do just that; they loosen program constraints and expand certain programs.

One, H.R. 3029 allows the planting of certain minor use, experimental, and industrial-use crops on conserving-use acres—0/92 program.

Two, H.R. 3029 allows producers who plant minor oilseeds, or minor use, experimental, or industrial-use crops, on conserving use acres to double crop that acreage with soybeans. However, the producer must have a history of double-cropping soybeans to take advantage of this option.

Three, H.R. 3029 gives the State and county ASCS committees more control over the types of cover crops that must be planted on set-aside acres. It also gives the State committees discretion to exempt certain arid areas of their States from this planting requirement.

Four, H.R. 3029 requires the Department of Agriculture to provide wheat, oats, and barley producers' income-support payments more expeditously than provided in the 1990 farm bill.

Five, corn and grain-sorghum producers will be allowed once again, as they were under the 1985 farm bill, to combine their corn and grain-sorghum acreages and plant whichever crop best fits their crop rotation practice. This provision is particularly important to producers in Kansas and the Plains States.

Six, H.R. 3029 allows producers, through the 1995 crop year, to plant as much as 20 percent of a crop-acreage base to peas and lentils. This provision extends a similar provision which was in effect for the 1989 through 1991 crop years.

Mr. Speaker, I know that my producers in Kansas and all other wheat and feed grains producers in this country will benefit from these changes in the farm programs. In fact they have been waiting for us to act on this bill. At a time when Government support for agriculture is declining, farmers need the flexibility to grow different crops for the best market return without being penalized by the farm program. My subcommittee worked very hard in analyzing different flexibility options and I believe this bill incorporates the best of those options.

Finally, Mr. Speaker, in the 1990 farm bill, we created a new oilseed program, providing marketing loans or price supports to oilseeds such as sunflower, canola, flaxseed, and rapeseed. As with all new programs, the potential for problems to arise is not uncommon. I want to take this time to recognize one potential problem and assure my colleagues that I will actively monitor this and, if required, to address it further through legislation.

In implementing the new minor oilseeds program, the Department decided to establish separate loan programs for oil-type and confection sunflowerseed. Under normal circumstances, processors of confection seed must offer a premium of 2 to 3 cents per pound over prevailing prices for oil-type seed to ensure sufficient production. This incentive is required to offset higher management and input costs and risk involved in production of confection seed.

With loan support of 8.9 cents per pound under the 1990 farm bill for oil-type seed, confection processors will, under normal circumstances, need to offer 11 cents or higher to encourage production of confection seed. In the event prices for oil-type sunflower fall below the prevailing loan level, the price differential between oil-type and confection seed could widen beyond the traditional 2 to 3 cent spread. This situation could well result in making U.S. confection seed and products uncompetitive in foreign markets, and encourage confection seed production in other countries.

If this happens, I will take the necessary action to correct it. This program was created to spur the production of minor oilseeds, especially sunflowers, not to spur the growth of imports.

In closing, I strongly encourage my colleagues to vote for this bill. To jog your memories, the House passed almost the same bill on July 30th of this year. These technical changes, will undoubtedly make the 1990 farm bill a better bill and a better bill for farmers.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank members of the committee and staff on both sides who have worked so diligently to get us to the point where we are at. Everything to my knowledge is in agreement and accord. Not everyone is entirely happy, but I appreciate this very much.

Mr. WEBER. Mr. Speaker, I intend to support this legislation because it will help Minnesota farmers. However, I rise to express my opposition to the provision concerning exemptions from inspection under the Federal Meat Inspection Act. While the amendment does contain significant provision to assure protection of public health, I remain concerned that the structure of this amendment grants an exemption from Federal meat inspection before undertaking the assessment of public health implications. It is shoot public health first and ask questions later approach. A sounder policy for granting exemptions from a major requirement of a public health protection statue would be for the assessment of the public health implications to precede the grant of the exemption.

The Federal Meat Inspection Act and the Poultry Products Inspection Act are among the Nation's oldest statutes designed to protect the public health. These acts achieve their purpose by requiring the daily presence of a Government inspector at facilities manufacturing meat and poultry products for resale. Such inspection ensures that exacting manufacturing and processing requirements result in wholesome and properly labeled meat and poultry products. In effect, these inspectors are the eyes of consumers.

This continuous inspection is necessary because products of animal origin can be carriers for disease and microbiological contaminants that could jeopardize the public. Hence inspection is generally required of all further processing of the cured/cooked product when it is used in further processed products designated for resale. There are many reasons for such inspection. First, further processing of the meat may reintroduce old dangers or create new dangers, such as under processing a canned meat product. Second, a safe cooked/cured product may be recontaminated during processing or distribution. Third, manufacture for resale, by definition, means a third party will handle the product and may introduce new dangers of mishandling.

Notwithstanding the above, it is appropriate, from time to time, to review whether inspection is necessary in every instance. There may be limited situations when the risks discussed above are not present, or where there are protections available other than continuous Federal inspection. If such situations are identified, consideration should be given to exempting the processing of such products from inspection.

However, before protections are lowered or altered, it must be clearly established that consumers will not be placed at risk; microbiological contaminants are an ever present threat. This provision does not abandon these principles nor, if properly implemented, does it lower public health protections.

SECTION-BY-SECTION ANALYSIS

This section requires the Secretary to exempt pizzas from inspection requirements of the FMIA. However, this authority is limited both procedurally and substantively. Further, the section mandates the Secretary, in consultation with NAS, to conduct a study to evaluate present and future exemptions.

Subsection (a) would amend section 23 of the FMIA, 21 U.S.C. §623, to require the Secretary to exempt from inspection, by regulation, the processing of pizzas containing previously inspected and passed meat components in a cured or cooked form. In promulgating regulations to implement this provision, the Secretary shall prescribe whatever terms and conditions are necessary to ensure food safety and public health. These terms and conditions are to be issued under §§21 and 24 of the FMIA. Section 21 is the Secretary's general rulemaking authority to adopt regulations for the efficient execution of the act. It is not expressly cited in the statute as the Secretary has the clear authority to adopt any and all needed conditions for the exemption. Section 24 authorizes the establishment of storage and handling requirements for facilities not processing under inspection. It is anticipated that these requirements will include those applicable to inspected establishments, as is the case for exempt custom operations. 9 CFR §30.31(a)(2)(i). It is also expected the Secretary will impose whatever additional requirements may be necessary to ensure that public health problems do not arise. Thereby, the Secretary will ensure public safety in the absence of the daily inspection.

Further, the exemption may be granted for the processing of pizzas which contain only cooked or cured meat and if the product will be distributed only to public or private nonprofit institutions that operate under supervision that the Secretary determines will protect public health, such as the direct supervision of a registered dietician. The Secretary has broad authority to withdraw or modify any exemption.

Subsection (b) requires the Secretary to implement subsection (a) through notice and comment rulemaking, which shall include at least one public hearing examining public health and food safety issues raised by the granting of this exemption. In such rulemaking, the Secretary is required to develop such terms and conditions as may be necessary to ensure food safety and protect the public health from any increased risk associated with granting of an exemption under subsection (a). This rulemaking should be completed by August 1, 1992.

Subsection (c) requires the Secretary, in consultation with the National Academy of Sciences, to conduct a study to evaluate and develop criteria for exemptions from inspection of meat food products, as well as reviewing existing exemptions.

ANALYSIS

The legislation would provide a procedural and substantive framework for the Secretary to grant an exemption from inspection of pizzas.

As an initial matter, the new authority granted by this legislation would exempt the processing of pizzas from the requirement of daily inspection if certain conditions are met. The processing operation and products manufactured under such an exemption would still remain within the Secretary's authority and would be subject to the adulteration, misbranding, and other provisions of the FMIA or the PPIA, including storage, handling, processing and facility requirements.

The Secretary has broad authority to impose additional requirements upon an exemption as necessary to assure the exemption does not endanger public health. Moreover, the Secretary has broad discretionary authority to withdraw or modify such exemptions to effectuate the purposes or provisions of the act. The Secretary would expressly be given the authority to withdraw or modify any exemption in particular instances or at particular facilities, subject to appropriate due process protections. Further, the Secretary may indefinitely suspend a previously granted exemption and then reassess the exemption through a new rulemaking proceeding if there is basis to believe a risk to public health exists.

Subsections (a) would impose several procedural preconditions on the grant of an exemption. The requirement to grant an exemption applies only where such an exemption would not enganger public health. Since an exemption from inspection would not necessitate continuous inspection, the Secretary must obtain the broadest public review and comment in assessing whether an exemption creates unacceptable public health risks. Notice and comment rulemaking provides an appropriate structure for the Secretary to receive such input, and hence is required. Such rulemaking, which includes a public hearing, shall focus on evaluating the public health implications of granting any proposed exemption. The notice and comment rulemaking is to identify public health problems that may arise through such an exemption, and to guarantee that such risks must be fully eliminated through the terms and conditions, the Secretary must adopt as a precondition of implementation of the exemption. The Secretary's duty with respect to such terms and conditions could not be cast in stronger terms. School children and, perhaps, the ill or elderly are likely consumers of these noninspected pizzas. Therefore, such terms and conditions must go beyond merely providing for food safety.

The requirement for the Secretary to grant an exemption from inspection of pizzas must not be construed as a statutory mandate to lower food safety protections for the vulnerable populations of private and nonprofit institutions. Indeed, the mandate to ensure food safety and protect public health in the absence of continuous inspection premised on the expectation that the Secretary will prescribe existing terms and conditions on these facilities. Even if the inspector is not present on a daily basis, equipment and facilities must adhere to high standards of cleanliness and safe food handling must be assured. Only when the Secretary has developed such terms and conditions should the Secretary promulgate a final rule to implement subsection (a). If such terms and conditions cannot be established, no regulations to grant the exemption should be published.

Earlier versions of this provision, passed by both the House and Senate, authorized, but did not require, the Secretary to grant exemptions. In this provision, the word "shall" replaces the word "may" to make clear that it is the firm intent of Congress that the Secretary must address this issue. The new authority established herein is not mere discretionary authority for the Secretary to exercise to the extent, and at whatever time, the Secretary deems appropriate. The Secretary is obliged by this authority to prosecute a thorough and carefully considered rulemaking. However, this requirement does not relieve the Secretary of his public health protection duties.

The substantive requirements of the legislation have been designed to make certain that a product exemption will not be granted where there are substantial risks inherent in manufacturing the pizza for resale. To be eligible for exemption, the meat component of the pizza must have been previously inspected and passed by USDA in a cured or cooked form. Failure to start with such meat would clearly entail risk. Furthermore, there are risks inherent in the storage handling and processing of meat. The legislation requires the Secretary to mandate requirements for facilities processing without daily inspection. Sanitary specifications for facilities, equipment, and storage rules, as well as acceptable processing methods must be adopted to fully eliminate the risks preparing meat food products. Finally, the pizza may only be distributed to public or nonprofit private institutions. Such institutions may purchase such products for immediate consumption, thereby avoiding some food handling risks. Given that these institutions, by definition, do not have a profit motive, there is a presumption that they are insulated from pressures to compromise public health. The sponsors envision that such institutions will be op-

erated under supervision that assures that food handling and sanitation practices protect public health, such as the direct supervision of a registered dietician.

Admittedly, the Secretary bears a substantial burden to develop terms and conditions that are so effective as to ensure food safety when an inspector is not present on a daily basis. However, development of such terms and conditions is more appropriately within the exercise of the Secretary's informed expertise, including consideration of pertinent operational data and the relevant scientific basis, and public comment. In the evaluation of information from these sources, the Secretary would consider the history and nature of the product, whether a pattern of insanitary conditions may exist in the industry, educational level and training of personnel, compliance with ingredient specifications, and the health status and vulnerabilities of likely consumers, among others.

The Secretary retains broad discretion to withdraw or modify such exemption to effectuate the purposes of the act. When this authority is exercised with respect to a particular facility, due process protections must, of course, be afforded. Regarding an exemption generally, in the event new evidence arises or the Secretary, in his discretion, otherwise determines that a risk to public health exists, such exemption should be suspended pending completion of a rulemaking to reevaluate the matters and promulgate such new terms and conditions as are required to ensure food safety and protect public health or eliminate the exemption.

In addition, the Secretary is expected to assure that manufacturers of exempt products comply with all relevant labeling requirements. Failure to require scrupulous adherence to such labeling requirements would result in an unlevel playing field for competitors and disserve institutional consumers who increasingly rely on product labeling. The Secretary is expected to promptly exercise his discretionary authority to refuse or withdraw an exemption from inspection in any case where an exempt facility manufactures for resale a product that fails to fully comply with relevant labeling requirements.

In the development of this legislation, concerns were expressed regarding current exemption provisions of the FMIA. It is alleged that these provisions have resulted in a patchwork of inconsistent exemption decisions, not based on a public health standard. Accordingly, subsection (c) of the legislation would require the Secretary to begin reviewing these exemptions by directing the Secretary to undertake a study, in consultation with the National Academy of Sciences, to develop criteria for, and evaluate, present and future exemptions for meat and poultry products, as well as the affects those exemptions would have on public health. Once that study is completed, within 24 months from the date of enactment, it is anticipated that the Secretary will work with the Congress to resolve the controversy and ensure public health protection. The sponsors envision the fruit of this study to be a coherent policy for product exemptions.

Mr. Roberts. Mr. Speaker, I rise in support of H.R. 3029, the Flood, Agricultura, Conservation and Trade Act Amendments of 1991.

It was about this time 1 year ago when we completed action on the 1990 farm bill—a bill designed to bring consistency and predictabiliy into our Federal farm programs, and to assist this Nation's farmers and stockmen in their efforts to provide this Nation's consumers with a high quality, low cost, food supply second to none in terms of wholesomeness and variety.

Unfortunately during our efforts to complete the 1990 farm bill, technical mistakes with the language were overlooked. And, as the USDA worked to implement the legislation, they discovered the authority to make common sense adjustments to the Federal farm programs in certain areas, was severly limited.

This legislation is aimed at correcting those mistakes and providing other critically needed technical changes to the 1990 farm bill.

For example, this bill will correct the problem faced by feed grain producers who lost an important flexibility option. In the 1985 farm bill, Congress authorized USDA to allow corn and grain sorghum producers to interchange plantings of these two feed grains on their crop bases. Congress fully intended to extend this option for the term of the 1990 farm bill.

A technical glitch in the commodity program provisions effectively eliminated the corn/sorghum substitution option.

I strongly support this bill's correction provision to restore the feed grain flexibility needed by corn and sorghum producers to meet farm management challenges such as safer pest control, water conservation and marketing options.

I also appreciate the provisions to correct the Secretary of Agriculture's problem in implementing the high moisture loan program. This program option helps stockmen meet the feeding needs of their livestock operations, as well as providing a viable marketing option for feed grain farmers.

I am disappointed that the urgency of adjournment has affected the reconciliation of the differences between the two technical correction bills, forcing the omission of various report language statements intended to clarify congressional intent relative to certain 1990 farm bill provisions.

Originally, for example H.R. 3029 included report language addressing concerns over the administration of the sunflower marketing loan program relative to the establishment of separate loan programs for oil and confection sunflowers. Historically, confection sun seed processors must pay a 2-to 3-cent premium to ensure sufficient production to meet processing needs.

The major concern involves a scenario where sunflower oilseed prices fall below the announced loan rate forcing confection sunflower seed market rates to be set at an uncompetitive price relative to foreign markets. USDA's Foreign Agriculture Service has worked hand-in-glove with the U.S. sunflower industry to establish stable markets for U.S. grown confection sunflower seed products.

I remain concerned that if the current two-program loan system causes confection sunflower market prices to go beyond the historical price spread, there is a significant potential for our domestic sunflower industry to be dealt a severe blow by foreign competitors. I strongly urge the USDA to keep vigilant in monitoring the sunflower marketing loan programs, market prices and the activities of U.S. competitors in these newly developed markets. In addition, I ask my colleagues to be prepared to address this issue in the future.

Finally, Mr. Speaker, I want to mention this bill contains language to address a problem faced by the Environmental Protection Agency in their efforts to fulfill the mandates of the 1988 amendments of FIFRA. Due to unforseen circumstances, the EPA has been unable to meet the goal of collecting $14 million in reregistration fees as was agreed to by EPA and the chemical industry. The provisions in this bill, which were cooperatively worked out by the Agency and registrants, will enable EPA to meet the fee collection goal and help keep the reregistration process on schedule to the extent possible.

I would inform my colleagues that FIFRA will be a major item on agriculture's agenda next year and look forward to working with my colleagues on the issues of food and pesticide safety.

Certainly there are many other noteworthy provisions of this package that time does not permit us to discuss in detail. I want to commend the staff who worked very hard and diligently to prepare this urgently needed corrections package for our consideration before adjournment. I urge my colleagues support of its passage.

Mr. PENNY. Mr. Speaker, I strongly support the technical amendments to the 1990 farm bill. I applaud the efforts of Chairman DE LA GARZA, Congressman THOMAS COLEMAN, ranking minority member, and our counterparts on the Senate Aguriculture Committee for their hard work on this legislation. Included in this package are several provisions of great importance to farmers in Minnesota, and throughout the nation.

The amendments will restore the price support loan program for high-moisture corn established in the 1985 Food Security Act. This program is especially important for dairy farmers for corn used on the farm for feed or sold as silage. This loan program has kept many of our family dairy farmers in Minnesota in business by providing short-term operating loan funds.

The legislation also makes clarifications of the planting requirements for cover crops on acreage set aside for conserving uses. This is an important provision for plantings to reduce erosion and provide wildlife habitat on farms that are enrolled in commodity acreage reduction programs. The bill will allow producers to plant and maintain perennial grasses as cover crops rather than planting a new crop each year.

Finally, the bill gives producers additional flexibility to plant alternative crops on acreage enrolled in the acreage reduction programs. A major focus of the 1990 farm bill was increased planting flexibility for farmers to allow them to respond more easily and quickly to rapidly changing market forces and reduced federal agricultural price supports. This amendment will allow the planting of certain minor-use, industrial, and experimental crops on such acreage, thus giving our farmers more viable options in their cropping programs.

Mr. BARRETT. Mr. Speaker, I rise in support of H.R. 3029, legislation making technical

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corrections and amendments to the 1990 farm bill. I'm particularly pleased with a provision of the bill that addresses problems farmers would face in coming seasons, because of an unintended effect of last year's farm bill.

Under the 1985 farm bill, producers could plant corn or grain sorghum on a combined corn and grain base, in a manner that is best suited to their rotation and production needs. Unfortunately, the 1990 farm bill unintentionally took away that flexibility. The 1990 act separates corn and sorghum base acres and does not allow their interchange—thereby eliminating the farmer's ability to undertake the best management practices in the farm operation.

The loss of this flexibility could have a dramatic impact on Nebraska's economy. The value of our corn and grain sorghum production reaches over $2.2 billion annually, and generated more than $1.8 billion in cash receipts in 1989 for Nebraska farmers. If Secretary of Agriculture Clayton Yeutter had not found a way to provide for the fair and equitable establishment of corn and sorghum bases during the 1991 crop year, we would have seen a decline in farm income.

To address this problem, I introduced H.R. 980, the Corn and Grain Sorghum Base Clarification Act. This would expressly provide the Secretary of Agriculture the authority to allow producers to interchange corn and sorghum base acres. I am pleased that the committee included language in section 105, similar to H.R. 980 in the legislation we are considering.

Mr. Speaker, I strongly urge my colleagues to join me in supporting H.R. 3029.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 3029. I would like to take this opportunity to thank Chairman DE LA GARZA for the cooperation of the Committee on Agriculture in working to accommodate the concerns of the Committee on Foreign Affairs with regard to the trade title of this bill, over which the Foreign Affairs Committee has a jurisdictional interest.

The bill before us today contains an agricultural information program to support collaboration between the United States Department of Agriculture, United States agri-businesses, and appropriate agricultural institutions in the Soviet Union. At the request of the Committee on Foreign Affairs, the bill now provides that the Secretary of Agriculture is required to consult and coordinate with the Secretary of State and the Administrator of the Agency for International Development on the formulation and implementation of this program. While it is my understanding that the primary purpose of this program is to promote United States agricultural exports, coordination with other United States Government programs being developed for the Soviet Union is necessary to assure that various agencies of the United States Government do not work at cross purposes or with incomplete information as to what other agencies may be undertaking.

Chairman DE LA GARZA has proposed that United States land-grant universities should receive support for the establishment of programs of linkage and exchange with agricultural institutions in the republics of the former Soviet Union. Indeed, I understand that a number of U.S. universities have already on their own initiated such programs. The Agency for International Development has for many years supported the land-grant universities and other universities with similar programs in other countries, and I urge A.I.D. to support the efforts of United States universities to establish linkages with institutions in the Soviet Union. I would hope, however, that other United States Government agencies would not seek to establish similar programs of university-to-university exchange just for the former Soviet Union.

I appreciate the concern of the Committee on Agriculture concerning the need for stability in the agricultural sector of the former Soviet Union as it seeks to make a difficult and perhaps painful transition to a free-market agricultural economy. I hope that resources of the Department of Agriculture can be used effectively in coordination with other resources of the U.S. Government to support this transition.

Mr. COLEMAN of Missouri. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and agree to the resolution House Resolution 305.

The question was taken; and (two-thirds having voted in favor thereof) the resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING CORRECTION OF ENROLLMENT OF H.R. 3029, FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991, PURSUANT TO H. RES. 305

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the clerk be authorized to correct spelling, punctuation, section designation, errors, and conform the table of contents necessary to reflect the action of the House in agreeing to H. Res. 305.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now redesignate the time for further proceedings on questions postponed on today and on the legislative day of November 23. Such proceedings will be resumed today after further consideration of H.R. 2929 in the Committee of the Whole pursuant to House Resolution 279.

MODIFICATION TO BLAZ AMENDMENTS EN BLOC NO. 10 TO H.R. 2929, THE CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. BLAZ. Mr. Speaker, I ask unanimous consent that when H.R. 2929 is considered in the Committee of the Whole, in lieu of my amendment No. 10 made in order under the rule, I be permitted to offer a modified amendment in the form of an amendment at the desk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam [Mr. BLAZ]?

Mr. VENTO. Mr. Speaker, I reserve the right to object so that I may again ask the gentleman from Guam to confirm that this is the same proposed amendment that he and I agreed upon earlier.

Mr. BLAZ. Mr. Speaker, will the gentleman from Minnesota yield under his reservation?

Mr. VENTO. I am glad to yield to the gentleman.

Mr. BLAZ. Mr. Speaker, I thank the gentleman for yielding, and I can assure him that this is the same modification to my amendment that he and I have worked out together. I am renewing my unanimous-consent request of Friday.

Mr. VENTO. Mr. Speaker, I again thank the gentleman from Guam for his cooperation and persistence with regard to this important matter. I believe that this Vento-Blaz form of the Blaz amendment fully and properly addresses both the genuinely necessary renewal of the military withdrawals of the China Lake and Chocolate Mountain areas, and the perceived need of the military for a disclaimer concerning continued overflights by military aircraft of the lands dealt with in this bill. I fully support the proposed amendment, and so I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

The SPEAKER pro tempore. The modification will be printed in the RECORD at this point.

The text of the amendment, as modified, is as follows:

Amendment as modified, offered by Mr. BLAZ: Instead of the matter proposed to be inserted, insert the following: Page 65, after line 15, and the following new title:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on

Federal lands in the California desert area are not readily available;

(3) While changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragarph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management of public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 805. DURATION OF WITHDRAWALS.

(a) Duration.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) Draft Environmental Impact Statement.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) Extensions or Renewals.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) Program.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) Reports.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) Notice and Filing.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) Contamination.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) Decontamination.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) Alternatives.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) Status of Contaminated Lands.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) Revocation Authority.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) Defense.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) Interior.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1994, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1994, unless authorized by subsequent Act of Congress.

SEC. 812. MILITARY OVERFLIGHTS.

(a) Disclaimer.—Nothing in this Act shall preclude low-level overflights by military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over the new units of the National Park or National Wilderness Preservation Systems (or any additions to existing units of such Systems) designated by this Act.

(b) Monitoring.—The Secretary of the Interior shall monitor the effects of aircraft overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and on visitor enjoyment of such units. The Secretary of the Interior shall actively seek the assistance of the Secretary of Defense, consistent with national security needs, to resolve concerns related to such overflights and to prevent, eliminate, or minimize the derogation of resources and values and of visitor enjoyment associated with overflight activities.

□ 1320

PRESS CONFERENCE FROM THE OVAL OFFICE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, as I promised earlier, I wanted to read into the Record the transcript, 11:35 a.m. this morning, the Oval Office.

Question. Mr. President, what do you really think about the economic package that was presented to you yesterday?

The President. I'm for it.

Question. You're for it?

The President. Yes.

Question. How strongly?

The President. That's what I've said.

Question. Enough to keep Congress in session?

The President. Listen, Congress has been here all year long. If they want to pass this, let them pass it today.

Question. You're not going to ask them to stay in?

The President. I want the package passed and I want to see it done fast. And I've wanted a lot of legislation that they've had all year to pass. And this kind of ploy at the end is just that—it's a ploy. We've got a good package up there. I've had one up there all year long. Now there's another good one. Let's see them vote on it. They can vote if they want to. This idea of dancing around, that's not good enough for the American people.

Question. The Republicans——

The President. Look, we've got to get on with our business here. Put me down as enthusiastically for it.

Question. You were misinterpreted, weren't you?

The President. Misinterpreted. If they just print what I say, what our statements say, then we would avoid some of this intepretation. I am for this; would like to see it voted on today. And there's no point in Congress sticking around, in my view.

Question. Sir, the economy troubled ordinary Americans wonder why not keep them in?

The President. Because they've been here all year long and the economy is in trouble. That's the answer.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. Mazzoli). The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, did the gentleman read the entire transcript or read it selectively? I have the transcript here, and I notice he has left key words out at key points.

The SPEAKER pro tempore. The Chair would advise the gentleman that that is not a parliamentary inquiry.

CALIFORNIA DESERT PROTECTION ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 279 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2929.

□ 1322

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Park, and for other purposes, with Mr. Glickman, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. Glickman). When the Committee of the Whole rose on Friday, November 22, 1991, amendment No. 1 offered by the gentleman from California [Mr. Lewis] has been disposed of.

It is now in order to consider amendment No. 2 printed in House Report 102–314.

Mr. LEHMAN of California. Mr. Chairman, if I might, that amendment will be offered later in the en bloc amendment offered by the gentleman from California [Mr. Miller]. We are not going to offer it at this time.

The CHAIRMAN pro tempore. Since that amendment will be deferred, it is now in order to consider amendment No. 3 printed in House Report 102–314.

PARLIAMENTARY INQUIRY

Mr. LEWIS of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. LEWIS of California. Mr. Chairman, the bill has been brought up in relatively short notice in terms of the circumstance of these closing moments. Is there a way of giving reasonable notice, of deferring this?

I do not want to see a Member lose their opportunity because they do not know that we are up yet.

Mr. LEHMAN of California. Mr. Chairman, I have no objection, if the gentleman from California [Mr. Dannemeyer] wants to reserve his space.

Mr. LEWIS of California. Mr. Chairman, it is clear that really none of these Members are here. It is a delicate circumstance.

The CHAIRMAN pro tempore. Without objection, the gentleman may strike the last word. In the Committee of the Whole, the Chair cannot entertain the request to change the order of amendments when it was stated in the rule.

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

My concern is that we do have a number of amendments that Members are serious about because we are in the closing day and because of the confusing schedule.

I would hope that we could give Members who have amendments filed notice immediately, if we could proceed with that, so that we do not literally cut the sand from under the feet of a Member who is legitimately in line to be heard but may not know that he is up yet, if there is a way we can handle that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Minnesota.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, I have a parliamentary inquiry.

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The CHAIRMAN pro tempore. The gentleman will state it.

Mr. VENTO. Mr. Chairman, I note that the gentleman from Guam [Mr. BLAZ] has an amendment that is not controversial and the gentleman is present. If we could ask unanimous consent, I thought perhaps we could move ahead with that.

The CHAIRMAN pro tempore. The Chair would state that the gentleman from California [Mr. MILLER] chairman of the committee can offer amendments en bloc at any time. The Chair unfortunately cannot by unanimous consent recognize for amendments out of order since in the Committee of the Whole and the order was provided in the rule.

The Chair would recommend either that the gentleman from California be recognized or else the Chair would recognize Members to strike the last word, without objection, if there is no objection, for a short period of time until such time as we get reasonable notice to Members.

The Chair agrees with the gentleman from California, this bill did come up instantly.

It is now in order to consider amendment No. 3 printed in House Report 102-314.

AMENDMENTS EN BLOC OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

> Amendments en bloc offered by Mr. DANNEMEYER:
>
> Page 43, strike line 11 and all that follows through line 7 on page 54 (all of title IV), and redesignate succeeding titles accordingly.
>
> Page 55, strike lines 11 through 20, and on line 21 strike "(4)" and insert "(3)".

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I rise in support of this amendment to strike from the bill the inclusion of what is known as the East Mohave area. I think it is appropriate to talk about the political force that essentially is driving the consideration by the House to lock up this area of our State.

Three years ago I sent an intern to the records of the Federal Elections Commission and asked that intern to check an analysis of the records on file there for some of the organizations that comprise the Environmental Party in American politics.

This list is by no means exclusive, but the organizations in that unit include the following: The Center for Marine Conservation, the Clean Water Action Project, the Environmental Defense Fund, Greenpeace U.S.A., National Audubon Society, National Wildlife Federation, Natural Resources Defense Council, the Nature Conservancy, Public Interest Research Groups, the Sierra Club, the Wilderness Society, and the World Wildlife Fund.

This is a short list, by no means exclusive. These organizations have a combined membership in the country of a little less than 13 million people who annually put up $335 million to influence public policy.

□ 1330

Of that sum, about $127 million is spent on grassroots lobbying. The two major political parties in the country, the Democratic Party and the Republican Party, have a contributing base of about 2.3 million people, that is at the national level, who annually put up about $93 million to influence all aspects of public policy. So the Environmental Party has four times the contributing base and four times the resources to influence public policy.

No one who hears my comments should believe that these people do not have the right to organize into a party and influence public policy. I am not saying that at all. I am just saying that we Americans better wake up to the reality that this Environmental Party seeks to change our society to one that worships the creation rather that the creator. If you wander through life and you do not believe in a hereafter, which I believe the leaders of the Environmental Party do not, what they see in this world is all there ever will be and they get disturbed when anybody wants to tear down a tree and make a piece of lumber to build a house, or if somebody wants to catch a fish or if somebody wants to bag a deer and eat that meat or share it with somebody else, these people in the Environmental Party get real uptight. This is the movement we are dealing with in this issue.

In the East Mojave area I think we should understand something. It is comprised of 210,000 acres. The Union Pacific Transcontinental Railroad cuts across the area for 55 miles and forms 35 miles of the southwest boundary. We have about 40,000 miners mining the minerals in the State of California, and about 20,000 have their jobs in this area. The reality is if this bill passes is that these 20,000 jobs are going to be gone.

I have never been able to understand why the proponents of this legislation who profess such a tender concern for the working men and women of our society; namely, the members of the Democratic Party, are so unconcerned about the loss of jobs and economic growth and activity that is going to take place in the State of California if this measure is adopted.

Let me just recite to my colleagues some of the activity that is going on in this area. Over 10,000 mining claims exist. Four hundred and thirty thousand acres in the East Mojave have been leased for oil and gas development. Over 2,500 miles of major and secondary roads cover the proposed monument. Since grazing allotments encompass more than 90 percent of the East Mojave, over 700 miles of cattle fence, water pipelines, tanks, troughs, an corrals exist in this area.

AT&T, Sprint, and Wiltel have miles of cable, including fiberoptics, running across the area. A natural gas pipeline runs almost 40 miles along the southern section of the proposed monument. Southern California Edison maintains 75 miles of wood pole power lines. Pacific telephone lines wind on for 120 miles inside the designated area. High voltage steel tower transmission lines criss-cross the area. Southern California Edison shares 425 miles of power lines with the Los Angeles Department of Water and Power.

In short, this is a developed area of southern California. It is desert area, it is true, but it is a vast resource of minerals that the people of this country need, the 20,000 people working in this region of our State need for a livelihood.

I ask for an "aye" vote for this amendment that would delete this portion from the bill.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Does the gentleman from California [Mr. LEHMAN] oppose the amendment?

Mr. LEHMAN of California. Mr. Speaker, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] is recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is hard to take this amendment seriously, but I will, and it is certainly not my intention to get into a theological discussion this afternoon with my good friend, the gentleman from California [Mr. DANNEMEYER].

This is one of the most important parts of this legislation that Mr. DANNEMEYER seeks to gut, the designation of the East Mojave as a national monument. When we examined all of the areas in the California Desert, 25 million acres, we found the East Mojave to be one of the most deserving of protection, and in fact so well deserving that we decided to give it a higher designation. The original proposal had this area designated as a national park. We made it as a national monument in the legislation on the floor to facilitate some more multiple use planning.

Both the Bureau of Land Management and the National Park Service professional staff have studied the Mojave's resources and have made strong recommendations for designation of the area as a national park. I quote from the Park Service study on the East Mojave:

> Cultural and natural resource values of the East Mojave study area are so diverse and outstanding that the area readily qualifies for national park or monument status. In all the California Desert, and I am quoting from this study by the Park Service, there is no finer grouping of different wildlife habitats than the East Mojave.

What about the mineral and geological aspects of the East Mojave? Well, it is not as Mr. DANNEMEYER has stated. According to a recent U.S. Geological Survey report on the East Mojave, and I quote from it,

> The prospects for further mineral discoveries in the Mojave are relatively poor.

In the parlance of mineral resources, this does not appear to be an area of world class deposits.

Again with respect to the wilderness areas in this bill, the mining can continue. Mining has not been prohibited and will not be. Indeed, with respect to the major mine in the East Mojave we have not designated that land as wilderness to even give them a further protection there in the park to continue to mine under the auspices of the Park Service.

The East Mojave is the gem of the California Desert. We recognize it as such in this legislation. Not even the gentleman from California [Mr. LEWIS], who in his substitute last week changed the designations of this area went as far as the gentleman from California [Mr. DANNEMEYER] and removed all protections of this area, whether it is wilderness or Park Service. This takes all protection from the East Mojave and keeps the status quo.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands.

Mr. VENTO. Mr. Chairman, I rise in opposition to these Dannemeyer amendments en bloc.

These amendments would delete from the bill the sections that establish the East Mojave National Monument and that designate as wilderness some of the lands within that unit of the National Park System.

As has been noted before, national monument status for the East Mojave area has been supported by the professional judgment of the land managers: In 1979, the BLM reported that—

> Cultural and natural resource value of the East Mojave area are so diverse and outstanding that the area readily qualifies for national park or monument status.

And in 1987, after reviewing the proposed designation of the area as a national park, the professional staff of the National Park Service's western region found that the area met the required criteria specified in the service's management policies, and they concluded that the area would be a worthy and valuable addition to the National Park System.

The Interior Committee agreed with those professional judgments, and the House should do so, too, and should reject these Dannemeyer amendments en bloc.

The Dannemeyer amendments also should be rejected because they would delete from the bill all the wilderness designations for lands within the East Mojave area. The President has proposed that some of these lands be designated as wilderness.

The substitute offered by the gentleman from California [Mr. LEWIS], designated some of these lands as wilderness. The gentleman offering these amendments voted for that substitute, so he evidently supports designation of some wilderness in the East Mojave. The gentleman's amendment has consequences that he doesn't intend or he has changed his views.

The lands that would be designated as wilderness by the bill have wilderness values, and they should be so designated and managed, which would not occur if these Dannemeyer en bloc amendments were adopted. I urge the House to reject the Dannemeyer amendments.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I rise in opposition to this amendment. The amendment would gut the essence of this legislation. It is extremely important to protect this extraordinarily fragile and vital resource. The East Mojave, as the chairman of the subcommittee indicated, was originally designated a national park. It is now designated a national monument. The subcommittee chairman read quotes that are extremely important that emphasize that the staff of both the BLM and the National Park Service have come to the conclusion that the East Mojave is worthy of national park status.

I would like to respond briefly to two points of the proponent, one to suggest that this is a lockup, a canard. The fact is this is a preservation provision that is essential to this extraordinary resource. Second, although I do not intend, either, to get into a theological debate, to suggest that this amendment should be passed because somehow environmentalists are subversive or ungodly is not worthy of a response, but certainly is not an appropriate reason to not protect this extraordinarily precious resource.

Mr. LEHMAN of California. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from California is recognized for 1 minute.

Mr. LEHMAN of California. Mr. Chairman, the quote I read earlier was from the Bureau of Land Management desert planning staff that was submitted to the Park Service on the study of the East Mojave. As I alluded to, a study was also done by the National Park Service. The Regional Director of the Park Service recommended that the Mojave, and I quote, "would be a worthy and valuable addition to the National Park System."

□ 1340

In addition, we have allowed for in the bill under national monument status that we can make some adjustments outside just the domain of being in the park as far as land use management in the area is concerned. We have accommodated the utilities that exist in the area and none of them are opposed to this legislation. We have worked with the cattle interests in the area and have gone beyond what is usually done in a national park in terms of the 10-year phaseout or an immediate phaseout and given them up to 25 years for those six operations in the area.

Mr. Speaker, this is a bad amendment. It kills our bill. I ask for a "no" vote.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from California [Mr. DANNEMEYER].

The amendments en bloc were rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Rept. 102-314.

For what purpose does the gentleman from Montana [Mr. MARLENEE] rise?

AMENDMENTS OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

> Amendments offered by Mr. MARLENEE:
>
> Page 44, line 16, insert "(a)" after "402.".
>
> Page 44, after line 25, add the following:
>
> (b) The Secretary shall permit hunting on all lands within the monument in accordance with applicable Federal and State law. The Secretary may, after consultation with the California Department of Fish and Game, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat, or public use and enjoyment, subject to terms and conditions as he deems necessary in furtherance of this Act. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilites of the State of California with respect to fish and wildlife.

The CHAIRMAN. Under the rule, the gentleman from Montana [Mr. MARLENEE] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman I rise in strong support of the Marlenee amendment to H.R. 2929, the California Desert Protection Act. The Marlenee amendment would protect hunters rights in the Mojave National Monument created by H.R. 2929.

Public lands provide access to hunters who don't have the financial ability to own their own land or belong to a private hunting club.

Restricting access to an additional 1.5 million acres would further diminish the multiple use of our public lands. In addition to prohibiting hunting on the Mojave Monument, the designation of 4.3 million acres of wilderness in H.R. 2929 further restricts the opportunity for hunters.

Although hunting is allowed in wilderness areas, restricted access to those areas makes it much more difficult for the hunter to utilize the area.

Hunting and hunters have contributed greatly to wildlife and wildlife management. The foundation for the conservation of desert bighorn sheep and many other conservation organizations should be commended for their work in reestablishing viable wildlife populations.

They should not be punished by having access to public lands denied or restricted.

Allowing hunting in this area will contribute greatly to the management of wildlife species. In my home State of Pennsylvania, we have the Gettysburg National Military Park and the Eisenhower National Historic Site. Both of these areas are managed by the Park Service and hunting is not allowed.

Because no hunting is allowed, deer populations have soared and are six times greater than the carrying capacity of the ecosystem. This is causing severe economic and environmental stress.

Do not let this happen in the Mojave National Monument. For the conservation of our Nation's wildlife, I urge my colleagues to support the Marlenee amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I oppose this amendment. The gentleman from Minnesota [Mr. VENTO] will go into the arguments with regard to Park Service rules.

The desert has 25 million acres in it, my friends. Three million acres are in the Mojave area and have always been off limits to hunting. Less than 1 million acres are in Joshua Tree and have always been off limits. That leaves 21 million acres.

With this bill, an additional 1.5 million acres out of the mix would be put in the national monument and hunting will not be allowed in that area. There will still be almost 19 million acres on the desert where you can hunt.

Now, the good gentleman talks about wildlife in this area. The facts should be clearly on top, especially with respect to deer. Last year in California we shot 30,000 deer statewide. How many were shot in the East Mojave? Exactly 25.

In response to that statistic, in committee the gentleman from Montana [Mr. MARLENEE] said, well, a lot of us like maybe not just to shoot, but to go walk around out there.

Well, that is fine, but you still have 19 million acres on which to do that.

Everyone in this bill in order to protect the California desert is being asked to give just a little. The utilities have given a little. The cattle interests are giving a little. The mining interests are giving a little. This should not be the only group not to give anything to protect the species in the area.

Mr. Chairman, I ask for a no vote.

Mr. MARLENEE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, recently a "Dear Colleague" letter was circulated by those who oppose this amendment. That "Dear Colleague" letter said this would destroy the few remaining big game species in that area. What a misleading statement that is; what a blatantly/misleading statement that is.

I assure you and I assure all my colleagues that it must be an insult to the California State Fish and Game Department, under those whose control the harvesting of wild game takes place.

It further states that there are very few animals to hunt and very few animals taken. That is not the question. What we are trying to do here is protect the areas and the accessibility and the opportunity for sportsmen across the United States of America, sportsman who in fact have put waterholes and water out there, reintroduced the big horn desert sheep in that particular area, and now the antihunters are going to tell those sportsmen they are going to remove 1.5 million acres because somebody said we ought not to allow hunting.

They will also tell you that this is unprecedented that we are allowing hunting on national parks, but there is a precedent. In these particular areas, Big Cypress Reserve of Florida, Delware Water, Fire Island National, Glenn Canyon area, all these areas are in the National Park System and allow hunting to take place.

The harvesting of game is natural and it must take place to prevent overpopulation and degradation of the environment.

I am chagrined that such a misleading "Dear Colleague" letter would be sent out.

You know, this amendment is simple. It is either you are for the sportsmen or you are against them.

We want no net loss of hunting or hunting areas to take place.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the amendment, which would open to hunting the new East Mojave National Monument designated by this bill.

I am a hunter and I do not think we need to hunt in national parks and monuments.

The fact of the matter is the list the gentleman from Montana placed up there are not national parks or monunments. There is only one national park on that list, and that is the Grand Tetons, and that is the hunting of elk, and the individuals who do that have to be deputize to do so, so what we are about to do or what the gentleman proposes to do is to throw our a 75-year history of policy with regard to national parks and monuments that are established to preserve the species in perpetuity, but the gentleman would say we are going to reverse this whole policy. We are going to stand it on its head because the hunters of America look at this as a symbol. I do not think this is a symbol. I think we have to get down to the facts, and the facts are that in order for people to hunt, there has to be game in these particular areas. There is very little game in these areas.

What we are saying in this type of Mojave Desert area is that we want to see the natural processes take place without being interfered with by man, permitting the types of desert species that occur there to live in as natural a condition as possible.

We know that most hunters are good people; they are conservationists. We also know that there are a lot of directional and informational signs that get shot up and a lot of other damage that goes on in some of these areas because some people—some hunters—are not as responsible.

So I will just emphasize, Mr. Chairman, we are being asked here to reverse a 75-year time-honored policy with regard to the National Park System. All the other units that permit such activities are preserves. In Alaska we have some examples, and the Tetons, where individuals have to be deputized in order to hunt.

The amendment would undermine one of the basic, longstanding principles under which National Park System monuments and national parks are managed—that they are sanctuaries for wildlife, and are off limits to sport hunting.

I understand that supporters of this amendment claim that it is necessary in order to save hunting on public lands in California. Of course, that is not the case. Just in the California desert alone, there are millions and millions of acres of public lands that would be left wide open to hunting by this bill. Establishment of the East Mojave National Monument is not a threat to hunting on these other lands, and there is no need to save hunting through this amendment.

Furthermore, hunters hunt game—they don't hunt acres. It's true the East Mojave is a fairly large area, but it is not really one that is important for hunters. We have been told that of some 30,000 deer taken by hunters in California annually, only about 25 or 30 come from the East Mojave area.

Twenty-five or thirty deer out of 30,000 deer taken annually in California. Obviously, the East Mojave is not an important part of the deer hunting scene in California. And the story is the same for other game species as well.

The fact is, the East Mojave is a rugged desert area, remote from any major population centers. Closing it to hunting will not have any significant effect on hunting opportunities for the sportsmen of California.

The author of the amendment is well aware that there are some types of National Park System units where hunting is permitted—but he is not proposing to change the designation of the East Mojave. So, what is the purpose of this amendment? The answer is, It is an attack on the principle that national parks and national monuments are off limits to hunting.

Finally, Mr. Chairman, I note that many of the backers of this amendment are opposed to the bill, and at the same time they urge a vote for the amendment, they urge opposition to final passage. That tells me that this amendment isn't intended to address any real need to save hunting, but is strictly an attempt to derail the conservation designations in this overall desert legislation and it generally damages 75 years of time honored policy. Not to hunt in national parks and monuments.

I urge the House to reject the amendment.

Mr. MARLENEE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman and my colleagues, this is another part of the desert lockout bill. I told you the other day that the desert lockout bill locks out 100,000 blue collar families from the California desert, and the South Algodones is doomed.

In this particular area, they are locking out 22,000 blue collar families that, yes, they cannot go deer hunting north in Montana or Wyoming, but they do take the kids and they go out with their campers from L.A., from San Diego and other points in the inland empire to go hunting for a couple days for dove, for quail, and for rabbits in the desert.

□ 1350

This is another part of the Democrat lockout bill.

Support the Marlenee amendment.

Mr. MARLENEE. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield my remaining 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

Mr. Chairman, let me begin by responding to my friend from California who talked about 22,000 hunters in this area. Those 22,000 hunters bagged all of 25 deer last year in the East Mojave.

Now there may be 22,000 hunters, there may be 22,000 hunters in the entire wilderness area, but let us get our facts straight. This bill leaves 9 million wilderness acres available for hunting. The part of the bill that we are talking about is an area which claimed 25 deer, 25 deer.

Now we are talking about the East Mojave. When people claim this is a lockout, which the other side consistently does, let us talk about what we are protecting. We are protecting an essential part of the fragile resource, which we discussed in the last amendment, which was defeated on a voice vote.

This amendment is nothing more than a subterfuge for eroding protection in National Park Service land, national parks and national mounuments in those areas.

It is an effort to allow hunting in parks. It is extraordinarily important to understand what is at stake here. We are simply suggesting that this fragile resource in the East Mojave, leaving 9 million wilderness acres available for hunting, should be protected.

To my friends on the other side who suggest that somehow there is an over-population-of-wildlife problem here, that is simply contravened by the facts. This area, this entire area, netted 25 deer. And for the extraordinary effort that is occurring to try to keep hunting in an area which claimed 25 deer in the last year, I believe that tells us what the real intent of this amendment is. The real intent of the amendment is to open up our national parks and to open up our national monuments to hunting.

The CHAIRMAN. The Chair recognizes the gentleman from Montana [Mr. MARLENEE] for 30 seconds.

Mr. MARLENEE. I yield myself 30 seconds.

Mr. Chairman, this is not to open up a national park. They are the ones on that side of the aisle who are creating a new national park that will reserve, 1.5 million acres and take it away from the sportsmen, the sportsmen who have developed the area, who provided watering holes and reintroduced species.

We are not talking about how many game animals that have been harvested during this period of time. We are talking about the opportunities, as my good friend, DUNCAN HUNTER, understands very well, the opportunity to go out there with your family and enjoy a day of hunting and field activity.

The CHAIRMAN. The time of the gentleman from Montana [Mr. MARLENEE] has expired. All time has expired.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Montana.

The CHAIRMAN. The gentleman is recognized.

Mr. VENTO. Regular order, Mr. Chairman.

Mr. Chairman, under the rule there are 10 minutes given to this amendment. I would ask would it not be appropriate at this time to call for the question?

The CHAIRMAN. The Chair would remind the gentleman from Minnesota [Mr. VENTO] that under the rule the chairman or ranking minority member of the Committee on Interior and Insular Affairs may offer pro forma amendments.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, as the chairman, I would make a parliamentary inquiry: Has Mr. BLAZ assumed that role?

The CHAIRMAN. Yes. Mr. BLAZ assumed that position during the entire general debate.

The Chair is trying to be consistent.

The gentleman from Montana [Mr. MARLENEE] is recognized.

Mr. MARLENEE. Mr. Chairman, I realize there is an attempt to muzzle this side of the aisle continually, and particularly to muzzle this side of the aisle——

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, a point of parliamentary inquiry. Is a different amendment being offered by the gentleman from Guam?

Mr. MARLENEE. Mr. Chairman, I do not yield. I do not yield. I do not yield.

The CHAIRMAN. The Chair would remind the gentleman from Minnesota the gentleman from Montana [Mr. MARLENEE] has been recognized.

Mr. MARLENEE. Mr. Chairman, as I said, I realize there is a continual attempt by the animal activists to eliminate hunting wherever that opportunity exists. If it was of no significance, why is this amendment supported to such a great degree by the National Rifle Association and other conservation groups such as Quail Unlimited, California Wildlife Federation, California Chapter of the Izaak Walton League, Society for the Conservation of Bighorn Sheep, Safari Club International, Fish and Wildlife Legislative Fund, the International Association of Fish and Wildlife Agencies.

They recognize that we have got to be in a position of no net loss on hunting. Otherwise, we are going to have those strict preservationists take from the American sportsman all of the opportunity to enjoy and participate in outdoor activity.

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] controls the time, and it will be designated by the gentleman from Guam and not by the Chair.

Mr. BLAZ. I thank the Chair.

Mr. Chairman, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, at this point in the debate I also want to offer my thanks to the gentleman from Guam for his very statesmanlike handling of this particular piece of legislation that has been, I think, a very difficult piece of legislation.

Let me just say to the people on the other side of the aisle who have talked about deer hunting on the Mojave and said, "You are not shooting any deer, so let us lock it up," the Mojave is not a deer hunting area. The Mojave is a place where blue-collar families can get on highway 10 from Los Angeles, millions of them, and you will see literally thousands and thousands of pickups and campers leaving on an exodus every Friday night to go out to the Mojave with their family and to go hunting for a few duck, quail, chukar partridge, maybe jackrabbits and cotton-tail rabbits.

It is not a deer hunting area, but it is a place where the average family in California that cannot afford to go fly fishing in New Zealand, like some of the Sierra Clubbers can, can go out and have a decent time.

We are locking up California, and we are locking it up from precisely the same people, blue-collar people who lost 114,000 jobs over the last year. The Democratic leadership ought to be concentrating on a jobs package, which they refused to bring up today, that will help middle-class America instead of locking them out of national lands.

Mr. SCHULZE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from Pennsylvania.

Mr. SCHULZE. I thank the gentleman for yielding.

Mr. Chairman, earlier one of our colleagues referred to the fact that there were something like 30,000 deer harvested in all of California. Let me tell you that close to 40,000 deer a year are killed on the highways in the Commonwealth of Pennsylvania, at an average cost of about $1,000 per incident, not counting the loss of life and limb and hospital bills associated with that. Much of this is due to some unwise utilization of hunting and preservation in certain areas. We have got to have a balance.

The greatest conservationists in the United States of America are the sportsmen of America. They do not want to eliminate species. They have spent thousands and thousands of dollars continuing the propagation of bighorn sheep in this very area.

Mr. HUNTER. I thank the gentleman for his comments. The people who built water guzzlers, they have gone out there and built water guzzlers for small game and big game in the 110-degree heat in the desert, have been sportmen. They have been people who like to hunt and fish. They developed this desert so that Californians can use it.

We are now in the process of locking Californians out of their own desert.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. Chairman, I note the "Dear Colleague" said that opening up this hunting would destroy the few remaining species of big-game species. How would they do that? That is an incredible statement. How would they do that?

Mr. HUNTER. In the first place, they would not do it because the vast majority of the people who hunt in the Mojave are people who hunt small game, like dove and quail and rabbits.

Second, you have very stringent game laws, and you have game management very effective in California. We can see to it that you have no overharvest.

The facts are that American sportsmen and Californians ought to be trusted. The whole theme of the Democratic side is you cannot trust Californians to use their own public lands. Let us lock them out with their off-road vehicles, they cannot use them in the desert where you have sand dunes; let us lock them out of the hunting areas because you cannot trust them.

You cannot trust them. You have to trust people who live in condominiums in San Francisco and who can go off to foreign countries and have great vacations and come back and say, "Now, for an encore, I am going to lock out some middle-class people."

The CHAIRMAN. The time of the gentleman from Guam [Mr. BLAZ] has expired.

The question is on the amendments offered by the gentleman from Montana [Mr. MARLENEE].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VENTO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 193, not voting 6, as follows:

[Roll No. 429]

AYES—235

Alexander
Allard
Allen
Anderson
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bevill
Bilbray
Bliley
Boehner
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Callahan
Camp
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLay
Derrick
Dickinson
Dingell
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (TX)
Emerson
English
Erdreich
Espy
Ewing
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kolter
Kopetski
Kyl
Lagomarsino
LaRocco
Laughlin
Leach
Lent
Lewis (CA)
Lightfoot
Livingston
Lloyd
Marlenee
Martin
Martinez
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McMillan (NC)
McNulty
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Morrison
Murphy
Myers
Nagle
Neal (NC)
Nichols
Nussle
Olin
Ortiz
Orton
Owens (UT)
Oxley
Packard
Parker
Pastor
Patterson
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Pursell
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Roth
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wilson
Wise
Wolf
Wyden
Yatron
Young (AK)
Young (FL)
Zeliff

NOES—193

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bereuter
Berman
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brown
Bustamante
Campbell (CA)
Cardin
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (IL)
Coyne
de la Garza
DeLauro
Dellums
Dicks
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Evans
Fascell

Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Goss
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
James
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Mrazek
Murtha
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olver
Owens (NY)
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Porter
Price
Rangel
Ravenel
Richardson
Ridge
Riggs
Rinaldo
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Skaggs
Slaughter
Smith (FL)
Solarz
Stark
Stokes
Studds
Swett
Swift
Synar
Thornton
Torres
Torricelli
Traficant
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wolpe
Wylie
Yates
Zimmer

NOT VOTING—6

Byron
Edwards (OK)
Ford (MI)
Lowery (CA)
Reed
Towns

□ 1420

The Clerk announced the following pairs:

On this vote:

Mr. LOWERY of California for, with Mr. TOWNS against.

Mrs. SCHROEDER, Mr. JAMES, and Mr. HUGHES changed their vote from "aye" to "no."

Mrs. LLOYD and Messrs. TRAXLER, WILSON, CARR, PICKLE, SIKORSKI, BARNARD, ERDREICH, MARTINEZ, and BRYANT changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

□ 1420

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 102-314.

AMENDMENTS EN BLOC OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. DELAY: Page 54, beginning on line 1, strike "thereof" and all that follows through "title." on line 7, and insert "thereof.".

Page 65, after line 6, insert the following new section:

LAND ACQUISITION ON A WILLING SELLER BASIS

SEC. 612. Lands may not be acquired by the Secretary for the purposes of this Act without the consent of the owner thereof.

Mr. DELAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DELAY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is the gentleman from California [Mr. LEHMAN] opposed to the amendments?

Mr. LEHMAN of California. I am opposed to the amendments, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, currently the Federal government may acquire land without the consent of the owner. This is an infringement on property rights, and should not be allowed to occur except in the gravest of situations. The situation described in H.R. 2929 is not grave. In fact, the bill has been criticized by many, including members of the California delegation, for designating lands that do not meet minimum wilderness protection standards, as well as protecting more land than necessary to preserve the California desert.

My amendment would establish some reason and fairness by requiring that the Federal Government obtain the consent of the property owner before taking his or her land for public use. Already the Federal Government owns, manages, or controls approximately one-third of all of the Nation's land. If one includes State and local government holdings, the total Government land ownership of the United States jumps to about 40 percent. Most of this federally-owned land is located in the West, with about 63 percent of all the land in the 13 Western States owned by the Federal Government.

We have to establish some restraints on this outrageous land grab. Do you realize that the millions of acres of land affected by this bill will be the second largest land withdrawal in U.S. history after Alaska? As Mr. John Kenneth Galbraith, a well-known liberal perceptfully observed:

> The public lands of the United States exceed the combined areas of Germany, France, Italy, Belgium, Holland, Switzerland, Denmark, Hungary, and Albania. Where socialized ownership of land is concerned, only the U.S.S.R. and China can claim company with the United States.

This statement clearly shows that the U.S. Government is far exceeding its bounds in the taking of land. The irony is that the Soviet Government is finally selling its land to private citizens, while the United States continues to move in the opposite direction by taking land away from its citizens. Considering our country was founded with the belief that the cornerstone of all our freedom depends upon the widest possible distribution of property, securely protected under a system of private ownership, this is a staggeringly high percentage of government ownership of land and resources.

H.R. 2929, the California Desert Protection Act, if passed, will add another 828,000 acres of State and privately owned land to the Federal inventory. This may be a silly question, but do we need this?

Furthermore, this bill does not account for either the wishes of the landowners or how they will be compensated. H.R. 2929 allows the Federal Government to acquire these lands through exchange, but considering there are only 550,000 acres of suitable land available in California for exchange, this still leaves several hundred thousand acres of land unaccounted for. And, although the bill also allows for the purchase of land, we must keep in mind that we are deeply in debt at this time. While the Constitution allows the taking of land for public use, the fifth amendment requires that there be just compensation. This bill does not reflect the constitutional mandate.

Giving the Government the power to take land without any restraints regarding the willingness of the property owner will only tempt it to continue to acquire more land which we do not need. My amendment will require the consent of the owners of the land included in this bill before the Federal Government may purchase it, which will help curb the Government's hungry appetite. I urge you to support this amendment to H.R. 2929 and help keep these lands in the hands of citizens, where it belongs.

□ 1430

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, the gentleman from Texas has completely misstated the language in the bill and has completely misinterpreted existing law. Under existing law, condemnation is prohibited in the Wilderness Act and thus, in over half the acreage in the bill, no condemnation could take place anyway.

Second, there is language in this bill which we inserted requiring consent of a property owner in the Mojave before an action could take place unless they were using the land in such a way that was adverse to the monument.

Third, over seven eighths of the holdings in this bill, that is over 85 percent, are owned by two entities, the State of California and the Catellus Land Co.

We have already worked out the details for change with regard to those, those entities, at their request. There is no taking of private land in the bill, as I just said. We have developed an exchange procedure for seven eighths of the holdings.

The experience in the area is exactly the contrary to what the gentleman has stated. In the Death Valley National Monument there has been absolutely no condemnation since it was created.

It is interesting how some opponents get upset regarding Federal ownership of land. Remember that this is BLM desert land, leftover land in the West that no one else wanted. Suddenly, when we try to protect it from destruction, we are told it ought to be put in private hands.

It has long been the goal of the land management agencies to consolidate land holdings.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to these amendments en bloc by the gentleman from Texas. This legislation has no or insignificant impact on public land ownership. It deals with how we manage such lands. Public lands are the heritage of all Americans. We don't have to apologize for that.

The amendments would restrict the authority of the Secretary of the Interior with respect to acquisition of lands—authority that he has today. The effect of the amendments would be to limit the Secretary so that acquisitions would occur only on a willing-seller basis. The basic law that governs BLM lands provides this authority nationwide. Just the classification changes are no basis for such a restriction; if anything, such a tool is needed even more under these designations.

As a practical matter, Mr. Chairman, it is unlikely that there will be any significant acquisitions in the desert on any other basis. The American people, through the National Government, are already the major landowner there. The second largest landowner is the State of California which has school lands granted by the United States at the time California was admitted to the Union—and the State is not only willing, but eager, to transfer these lands to the National Government under the exchange provisions of the bill.

So, the amendments are not necessary. Furthermore, Mr. Chairman, as a matter of sound land management, the National Government should retain the option of making unrestricted acquisitions in those exceptional circumstances that may arise where that would be necessary to protect the public interest. By denying that option, these amendments en bloc would place an unnecessary and unwise restriction on the National Government.

Mr. Chairman, it is interesting that the gentleman from Texas wants to amend the bill in order to restrict the National Government in this way. The substitute bill offered by the Gentleman from California [Mr. LEWIS] did not include any such restriction—and the gentleman from Texas voted for that substitute, which suggests that his support for these restrictions is selective, and not across the board.

The en bloc amendments are unnecessary, unwise, and would be bad public policy. I urge their rejection by the House.

Mr. DELAY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of this amendment. If there is no private land under this bill that is taken without the consent of the owner, then there should be no objection to the amendment. May I suggest respectfully, we have already $3 and $5 billion authorized private land that the Congress has not acquired. I believe very strongly that the protection of the private land is crucial. In fact, if the individual does not want to sell his land, he should not be required to do that.

The gentleman from Texas is absolutely correct. We own over 647 million acres of land in the United States and it does not take one nickel of taxes.

Remember, every acre of land that we take out and put into public ownership does not produce $1 for the workingman, nor does it produce any dollar for the Treasury to conduct the programs. Yet we continue to do that. So this is wrong. This is a simple amendment that says if the owner does not wish to sell that land, he does not have to sell the land. There is private land in this bill.

I urge adoption of the amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, the suggestion is somehow that this is a great land grab if we look here at the map, the blue is the State land. In the bill it says upon request of the State Lands Commission. The same is true for the biggest private land holder; 735 acres out of 830,000 acres is upon request of those landowners to engage in the exchange. The rest of it is protected not by the amendment of the gentleman from Texas [Mr. DELAY], not by this bill, but by the Constitution of the United States.

There is nothing we can do about that. People are entitled to that compensation should there be a taking. There will be no taking without compensation. That is the Constitution.

So the gentleman ought not to misrepresent the bill or misrepresent the facts. It is about upon request. On page 51, section 610 "Upon request the California State Lands Commission," and I think it is very important for Members to understand that.

The suggestion is here somehow this committee is willy-nilly going around scooping up lands in the California desert, and that is simply not the case. This is after years of study, and the private landowners, the State landowners have come to us and asked for those exchanges.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

The last amendment passed, and I think a number of Members were not aware fully of its impact. But they better be aware of the full impact of what this amendment does. This is the Liberty Lobby amendment.

Oh, it hurts. This will start unraveling the capability of the Federal Government to protect anything in this country; the Liberty Lobby would like to take all Government lands away from Government ownership.

This will start the ball rolling in that direction. Be very careful, my colleagues, there will be no protection of anything in this country, not the Everglades in Florida, not the national parks, and certainly not this property in California if we vote yes.

I urge my colleagues to vote "no." This can be one of the most devastating votes that they could make on this bill. It is wrong and the concept is wrong.

I say to our Republican colleagues, if they do not like it, they can vote against it, too.

Mr. LEHMAN of California. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I would just like to underscore two of the key issues here. No. 1, there is no taking of private land required by this bill, and we ought to get the facts straight.

In terms of the Catellus property and the State Lands property, seven-eighths of the properties here, those entities prefer exchanges. The exchange has been worked out. This is a red herring.

It is not necessary. It presents a danger that does not exist in the bill. I strongly urge a no vote on the DeLay amendment. It raises an assertion that is flatly false.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I would like to ask the gentleman from California [Mr. LEHMAN] a question. I

do not want to misstate him, but I thought I heard him say there is no private land to be taken in this land grab.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, that is correct.

Mr. DANNEMEYER. Mr. Chairman, if the gentleman will continue to yield, I ask the gentleman from California [Mr. LEHMAN] does he see this map?

Mr. LEHMAN of California. Mr. Chairman, if the gentleman will continue to yield, that is by request, as the gentleman from California stated it.

Mr. DANNEMEYER. Mr. Chairman, this is a map of the East Mojave area. On the legend the white is the private ownership that has existed there for sometime. The blue is the State land. The yellow is the BLM and look at the checkered white land on this map. This is private land. People are using it for all of the purposes for which private property exists in this country. And all the amendment of the gentleman from Texas [Mr. DELAY] says is that before this land grab can be successful with this private land, these private property owners have to consent.

I concede that the Government could take private land for building a road, or a school, or a highway, that is part of America.

1440

But this is different. Right now the Environmental Party in America wants to grab to itself all the land that it can. There are people in this movement in this country who believe that all undeveloped land belongs only in public ownership. I suggest that these private property owners have the right to say that before their land is part of this land grab they have to consent.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman for yielding.

I want to follow up on the point Mr. DANNEMEYER has been making. There are a minimum of 584,000 acres of private land which would be affected by passage of H.R. 2929. Some suggest that these lands can be negotiated away by way of a trade for other public lands. The fact is that there has been no trade. Any private holder, whether they are a public interest or otherwise, that wants to try to trade with our agencies faces considerable delay and substantial doubt as to the final outcome.

In the meantime, the private landholders have been there for generations. They deserve a fair hearing, and assurance that they will get fair compensation for their land. Their voice should be heard when they agree to a transfer, before they agree to a transfer of that land.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding.

I think we should listen to the chairman of the committee very carefully. What he said was a right was guaranteed in the Constitution, and that is correct, a right for compensation. That is not what this amendment is about. The Chairman knows that.

There was the only asbestos-free talc mine in the United States that was taken, that was taken. Was there compensation? Yes. Was there permission? No. This amendment requires permission. That is all.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding.

I cannot believe what I am hearing. I have to charge that there are some serious misrepresentations going on here. I am not trying to inflame the passions of people that want to grab this land. All I am saying is let us have a little fairness here. If a group does not want to give up their land, then they should not have to. I am not attempting to do anything to compensation. If they have a land swap deal with private ownerships that went consent, my amendment does not touch that at all. But if in this case, if there is a landowner here that does not want to give up his land and there are private landowners here that do not want to give up their land, then they should not be made to do so.

I have a list of 23 organizations that agree with me. I think Members ought to really pay attention to what is going on here. What I am talking about is a land grab for no outrageous reason other than an environmental group wants to take land, more land, and put land into the environmental system. I am just trying to slow down what is happening here.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes under the rule.

Mr. LEHMAN of California. Mr. Chairman, I yield to the gentleman from Minnesota, [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I will just reiterate that we are not changing any of the laws with regard to the powers of the Secretary of the Interior. The Secretary of the Interior has the same powers under the proposals that are being made here generally that he has in terms of the public domain. In fact, with respect to the lands that have been illustrated here in terms of the Mojave National Monument, there is a special provision on page 53 of the bill that points out, and I will read it, Mr. Chairman, "Lands or interests therein within the boundary of the monument which are not owned by the State of California or any political subdivision may be acquired only with the consent of the owner," only with the consent of the owner.

There is an exception made if after written notice the owner had the opportunity for comment that the property was to somehow be developed in an adverse way within a national monument, that then we would have the opportunity, for instance, to stop such development, Mr. Chairman.

So the provisions of this bill are very reasonable. The powers that the Secretary has today are reasonable. We are not changing those powers generally. If anything, we are restricting them in this bill. We should not accept this type of general amendment which would take away the power of the Secretary of the Interior to manage the public lands and the designations that we are making in this bill.

Mr. Chairman, I request a no vote on the DeLay amendment.

Mr. LEHMAN of California. Mr. Chairman, it is amazing to me how selective Mr. DELAY is being with this amendment. Imagine the mischief in this country if this amendment were applied to the highway system. Imagine the mischief in this country if this amendment were applied to the military and expansion of military bases, one of which is being proposed under this legislation. There are no trades in the bill. There is a provision to allow for trades, a provision that has already been negotiated out with the entities that own seven-eighths of the property. There is no controversy over it.

We are talking here also, the Members should know, about State lands in California, land use for the State Teachers Retirement System. I hope the gentleman from California on the other side has no objection to that.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think the gentleman from California [Mr. LEHMAN] just put his finger on it. Later tonight hopefully or early tomorrow morning you are going to vote on a $151 billion highway bill and transit bill. Which of you would put in the way of the transit or highway system in your State or your district this requirement, that one willing seller would hold up a highway, or buyer, because they chose not to do it?

For 75 years the Department of Interior has amassed what many of us refer to when we go back to our districts as

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

the crown jewels of this country: The National Park System, the national monuments, some of the wilderness areas. We talk about how proud we are, and the millions and millions of Americans that have visited them every day. This bill seeks to do for the desert that which we do for the Grand Tetons, that which we did for Yellowstone or for Glacier or for Olympic National Park, that which we did for Fire Island.

It is the same process but now we are into an ideological debate here about the Environmentalist Party seeking to violate the Constitution or people's rights.

But when you come here to expand a military base there will be no amendment about willing sellers and willing buyers. Later tonight, in a $151 billion transportation bill, none of you will give the right to a landowner in your district to delay a single highway, an off ramp, an access road, or a transit pass. None of you will do that because you know what this amendment does. This amendment simply creates mischief.

Yes, utilities and cities and States and the Federal Government from time to time have a right under eminent domain to take property. In this particular case, we have some three-quarters of the land where the sellers are excited to engage in an exchange. So let us keep our eye and understanding out of the ideological debate here about whether or not this is a taking or a willing seller and willing buyer. The gentleman knows exactly what his amendment does.

There will later be amendments offered in this process to expand Fort Irwin or to engage in the military, and I suspect that not the gentleman or anyone else will suggest that the willing seller, willing buyer provision would stand in the way of that provision.

The CHAIRMAN. All time has expired.

The question is on the amendment en bloc offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chair being in doubt, the Committee divided and there were—ayes 43, noes 43.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 143, noes 289, not voting 2, as follows:

[Roll No. 430]

AYES—143

Allard
Allen
Anderson
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Laughlin
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Marlenee
Martin
McCandless
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Ortiz
Orton
Oxley
Packard
Panetta
Paxon
Penny
Peterson (MN)
Petri
Poshard
Pursell
Quillen
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Santorum
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Walsh
Wylie
Young (AK)
Young (FL)

NOES—289

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Pickett
Pickle
Porter
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Richardson
Riggs
Rinaldo
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Solarz
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Zeliff
Zimmer

NOT VOTING—2

Lowery (CA)
Roe

☐ 1512

Mr. REED changed his vote from "aye" to "no."

Mr. APPLEGATE and Mr. RIDGE changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 102–314.

AMENDMENTS EN BLOC OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. ALLARD:

Page 60, line 17, after "by this Act," insert the following: "and subject to the limitations set forth in subsection (e),".

Page 61, after line 15, insert the following:

(e) With respect to the Havasu and Imperial Wilderness areas designed by section 111(a) of this Act, no rights to water of the Colorado are reserved, either expressly, impliedly, or otherwise.

The CHAIRMAN. Under the rule, the gentleman from Colorado [Mr. ALLARD] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from California [Mr. LEHMAN] rise in opposition to the amendment?

Mr. LEHMAN of California. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I offer amendments en bloc today to prevent a Federal reserve water right created in the California Desert Protection Act from interfering with the Colorado River Compact. The amendment I have today has been voted on by this body before. It was passed in the Arizona Wilderness Act of 1990.

Mr. Chairman, this amendment has been taken word for word from that provision. This amendment applies to the same refugee areas, the Imperial and the Havasu refuge areas. It has an unintended consequence not brought to our attention until after the full committee. The only difference is this bill affects the California side of the Colorado River which divides these same refuge areas.

Mr. Chairman, this is an important issue. I know it was not the intent of the sponsors to introduce a bill to this body that will undo the extremely complicated and fragile Colorado River Compact system. We must not let Federal reserve water rights take precedence over the Colorado River Compact worked out by California, Arizona, Nevada, Utah, New Mexico, Colorado, and Wyoming.

Mr. Chairman, the Committee on Interior and Insular Affairs in its report on H.R. 2889 states its intent that the bill would not affect water rights on the Colorado River, but the report is not legally binding. The report language offered by the committee after passing the Arizona bill recognized the fact that it does not have the law behind it. My amendment puts into law this clarification.

I hope the sponsors will view this as a friendly amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I thank the gentleman from Colorado [Mr. ALLARD] for yielding this time to me.

Mr. Chairman, I rise in support of the amendment offered by my friend, the gentleman from Colorado [Mr. ALLARD]. Mr. ALLARD's amendment clarifies the intent of Congress with respect to wilderness water rights for the Colorado River. This amendment is identical to one added to last year's Arizona Desert Wilderness Act. That law has now been embraced as boilerplate for the water law throughout the Western States.

Mr. Chairman, the Colorado River supplies water for the rest of the West. The Colorado is at the center of a body of law intended to safeguard the rights and needs of all. It is essential then that any legislation be neutral in its impact on the river or on the water compacts and water rights associated with it.

The amendment of the gentleman from Colorado [Mr. ALLARD] provides this safeguard in a way that builds on past precedent and improves the underlying bill, and I urge my colleagues to join me in voting for this amendment.

Mr. ALLARD. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am rising in opposition to the amendments en bloc offered by the gentleman from Colorado [Mr. ALLARD], and I understand the gentleman's statement, that he means this not as a harmful amendment to the bill. He is trying to clarify something.

Mr. Chairman, we are opposed on this side. We think the amendment is unnecessary, and we fear it could create problems that might not be anticipated right now.

The boundaries of the wilderness area in question were specifically drawn above the historic high-water mark just to make sure that there was no question as to whether the Colorado River would be involved. The lines were drawn above the high water mark.

The report language specifically states, and I quote from it:

> The Committee notes, with regard to this section on water rights, that boundaries of both of the Wildlife Refuge wilderness units designated in section 111 are above the historic high water mark of the Colorado River. Neither of these wilderness areas include any portion of the Colorado River. Therefore, the express reservation of water for wilderness purposes in section 608 does not affect the Colorado River, its water management or any compacts associated with it.

☐ 1520

Finally, the Colorado River is 100 percent appropriated whether we in California like that or not, and there is no water right there for the Federal Government to obtain. We have taken care of the problem in the legislation. The area in question is not included, and the report language adequately clarifies that.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I appreciate what the gentleman from Colorado [Mr. ALLARD] is trying to do, and I understand why they are offering the amendment, but I must say that I think that in fact this amendment is somewhat mischievous as to what is really settled law with respect to the compact, and to suggest that somehow a Federal water right could be perfected in the lower basin and then somebody could go to the northern basin to perfect that water right is to stand the compact on its head. I would really raise the question with the gentleman that to pursue this amendment and lend that suggestion, whether it is in this bill or whether it is the question of that being opened up, raises a question, and I would ask him if he might reconsider.

We have worked with the gentleman. We recognize the concerns of all the parties to the compact. As the gentleman from California [Mr. LEHMAN] pointed out, the boundaries have been drawn in a very conservative fashion, recognizing there is no abutment to the Colorado River. I really raise this issue in all sincerity, that to suggest anybody in the southern basin could perfect a water right in any fashion where there is no water and then somehow go and deal with that in the north, I think the legislation speaks to that and I would hope the Members would oppose the amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. MILLER].

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I would just like to point out to the gentleman from California that the language we have in this amendment is the exact same language that is in the Arizona Wilderness Act, and this particular language was a hard-fought compromise in 1990 when that language came through, and the same set of facts that applied in that period of time still apply at this time.

I think this is a very important amendment, and I would ask that the sponsor of the bill go ahead and accept the amendment. It is really a technical amendment.

Mr. MILLER of California. Mr. Chairman, reclaiming my time, I understand that.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

Mr. ALLARD. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RHODES.]

Mt. RHODES. Mr. Chairman, I thank the gentleman for yielding time to me.

The Imperial Havasu Refuge is astraddle the river. On the Arizona side of the river, the law specifically says that as to those refuges there is no Federal reserve water right in the Colorado River. If as to the California side of the two refuges we are silent except for report language, my concern is that we are lending confusion to the managers of those lands.

My concern also is having the report language refer to the historical high-water mark of the river. Those of us who live in both Arizona and California know that that river fluctuates both in terms of width and breadth and also

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

height frequently and historically, and the historical high-water mark of the river could well not be the historical high-water mark of the river once you Californians get over your drought and the river gets back to where it is supposed to be.

It simply seems to me that consistency calls for having the language defining the water rights or the lack of water rights of these two refuges be consistent on both sides of the river.

Mr. Chairman, I urge adoption of the Allard amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] has 1 minute remaining, and the gentleman from California [Mr. LEHMAN] has 2½ minutes remaining.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to reiterate what Chairman MILLER suggested here. We do not mean any mischief on this side as far as what water rights are going to be under the legislation. There is a possibility of talking about this and trying to work it out. If you think the language on this side does some harm to you, let me just say that we are not willing at this time to accept the language that you have, not knowing what the impacts of it might be down the line.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would ask the gentleman from Colorado whether there are any areas of this wilderness in the bill that touch the Colorado River. The fact is that they do not, so that being the case, does the gentleman believe a wilderness could have a water right outside the wilderness boundaries?

That is what this is about. We are setting some precedents here in terms of granting water rights outside. A lot of people argue about water rights within a wilderness. Now, this language would suggest that the water rights of the wildness somehow go outside. This does not even touch the Colorado River.

I might say, with reference to the hard-fought Arizona water language, that we really did not have any debate at all on that particular portion of the water rights. It came back from the Senate. I was the manager, along with Congressman Udall. We accepted it. It was not necessary in the Arizona bill, and it is not necessary in this bill.

I think the mischief is that you are, I think, accidentally trying to create water rights outside of a wilderness that do not exist. We argue about them within. There is no reason to try to suggest there are water rights outside. We are not suggesting that, and we hope the gentleman from Colorado is not suggesting it.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Colorado.

Mr. ALLARD. The precedent has been set in the Arizona wilderness bill. We are just using the same language. We are even applying it to the same refuge area.

Mr. VENTO. Mr. Chairman, if the gentleman from California will yield further, yes, the precedent has been set. It is a bad precedent, and we ought not duplicate it here, because you are extending it outside the wilderness where there is no wilderness designation. It is a bad precedent, and we should not set it.

Mr. LEHMAN of California. Mr. Chairman, I would suggest that the gentleman is also setting a bad precedent for his own purposes in that if this were to pass, in future acts, if there were nothing done with respect to rivers outside a wilderness area, somebody might interpret that because nothing was done, there might be a right there, and that would certainly harm interests that were not intended to be harmed under this legislation.

Mr. Chairman, I urge a "no" vote on the amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] has 1 minute remaining.

Mr. ALLARD. Mr. Chairman, I yield my remaining 1 minute to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I rise in strong support of this amendment. It is designed to accomplish one simple but essential goal. It clarifies that the California Desert Protection Act has absolutely no impact on the carefully balanced compact which determines water rights in the Colorado River.

Water is absolutely essential to life for those of us who live in the arid west. Our agriculture, industry, and even the population density in our dry Western States could not exist without a very well-developed system to store, transport and efficiently utilize water. My own State of Utah is the second driest in the Nation. Water is our life blood and is an issue of overriding importance to us. I realize that it is hard for those of my colleagues from States with higher levels of precipitation to understand our overriding preoccupation with water.

Almost 40 years ago, the States in the Colorado River Basin finally arrived at an agreement on how the flow of the Colorado River would be utilized. This Colorado River Basin compact was enacted into law and has worked well in the years since. Like most water agreements, it is a very delicately balanced compromise between competing interests.

In the Western States there is never enough water. That is the reality we must always live with. So the water which is available must be clearly allocated among many competing uses.

What this amendment will do is simply ensure that the carefully crafted agreement among the Colorado River Basin States is not inadvertently upset by the legislation before us to designate wilderness in California.

This is a simple amendment which is identical to one which the House has placed in previous legislation. When the Congress enacted the Arizona wilderness bill in the last session, it included this identical provision. We are asking for nothing more than what has already been agreed to in the past to ensure that the rights to water in the Colorado are not affected by wilderness designation.

There is another important element of this issue which I hope all of my colleagues will consider. When the Congress enacted the Wilderness Act in 1964, and FLPMA in 1976, it created wilderness designation as a category or system of management of public lands. I can find no provision of either act which would create any water rights attached to public lands or being reserved to the Federal Government. Water rights lie within the jurisdiction of the separate States and must be reserved to the States, not preempted by the Federal Government. While water is perhaps more essential to those of us who live in areas where it is scarce, the question raised by claims of Federal reserved water rights is one which goes far beyond the arid public land States of the West. I would submit that ownership of water rights is vital to every State. Whether it is for municipal use, transportation, agriculture, industry, or recreation, the rights and responsibilities of the various States versus the Federal Government is a question which must be reserved to State statute.

I would urge all my colleagues to realize the true implications of this amendment and support it.

The CHAIRMAN. All time for debate has expired.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] is recognized for 5 minutes.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for his time.

There is no question for those of us who come from the arid public land States that there is nothing more important than water rights. There is nothing more important to us than having it clearly defined in the law where we stand in the future with regard to water. It has to do with the shifting of rivers, it has to do with the use of the boundary, a boundary of the wilderness or a park area. The shifting may change that. It has particular importance in the Colorado River where we have now congressionally approved compacts between the upper and the lower.

I think this amendment is simply designed to make it certain that we do not find ourselves in court wondering what the interpretation of the law would be, and I certainly stand in support of the amendment offered by the gentleman from Colorado [Mr. ALLARD].

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I rise in strong support of the Allard amendment.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Colorado [Mr. ALLARD].

□ 1530

MR. ALLARD. Mr. Chairman, I would just summarize by quickly saying I think this is an important amendment. I think a precedent has been set prior to this time, and we need to continue it in order to honor it in this body. So I am going to ask for a yes vote on the Allard amendment.

Mr. OWENS of Utah. Mr. Chairman it is clear from the report language of the committee that there is no intention to effect a reserved water right to the Colorado River in this wilderness bill. The boundaries of the wilderness areas in the Imperial and Havasu National Wildlife Refuges next to the river do not even extend to the historic high water mark—a sure indication that no reserved water right is sought on the Colorado River.

That having been said, while there is no clear need for this amendment, I also do not see the harm in clarifying the committee's intent directly in the text of the bill. In any case, this legislation is not likely to emerge from the Senate without this language which mirrors the language the Senate added to the Arizona Wilderness Area last year for the same refuges on the other side of the Colorado River.

Nothing causes as much suspicion and consternation in the West, especially in Upper Basin States like Utah, as the possibility that rights under the Colorado River Compact might be affected. We can allay those fears simply by establishing that the intent of this bill was not to establish a Federal reserved water right on the Colorado. When proponents of wilderness, myself included, can make rational compromises, then I think we should. Even as I vote for this amendment, I want my colleagues to understand that I am in no way repudiating the Winters Doctrine and the importance of Federal reserved water rights to wilderness areas. I believe that wilderness is entitled to the water necessary to fulfill the purpose of its establishment. I am simply saying that we should, as much as possible, signal our willingness to work to calm fears and exhibit a spirit of compromise on issues this emotionally powerful.

Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Colorado [Mr. ALLARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALLARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 274, not voting 5, as follows:

[Roll No. 431]

AYES—155

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CO)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kasich
Klug
Kolbe
Kolter
Kyl
LaRocco
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Pastor
Paxon
Pickle
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swift
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—274

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Rinaldo
Ritter
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Walsh
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—5

Hammerschmidt
Johnston
Roe
Washington
Wilson

□ 1554

Mr. HYDE changed his vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 102-314.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DANNEMEYER: Page 61, line 7, after section 611 insert the following new section:

ECONOMIC IMPACT STATEMENT

SEC. 612. (a) Notwithstanding any other provision of this Act, lands in the State of California designated in sections 102, 402, and 501 of this Act shall not be designated as wilderness or established as a national park or monument unless—

(1) the Secretary has prepared an economic impact analysis with respect to each land designation;

(2) the Secretary determines, based on that analysis, that the environmental benefits of each land designation outweigh the economic costs of each land designation; and

(3) the Secretary publishes an economic impact statement describing the findings of that analysis.

(b)(1) The Secretary shall perform an economic impact analysis in accordance with this paragraph with respect to each land designation in sections 102, 402, and 501.

(2) An economic impact analysis under this paragraph shall include the following:

(A) The economic consequences of each land designation, including aggregate statistical data which indicates—

(i) identifiable and potential job losses or diminishments resulting from a designation,

(ii) identifiable losses or diminishments in the value of real property resulting from a designation; and

(iii) losses or diminishments in the value of business enterprises resulting from a designation.

(B) The effect that a designation will have on revenues received by the Federal Government or by State and local governments, including any revenue losses attributable to losses or diminishments in value described in clause (i).

(C) The effects that a designation will have on outlays by Federal, State, and local governments, including—

(i) effects on payments made pursuant to paragraph (1),

(ii) effects on expenditures required for Federal unemployment compensation, aid to families with dependent children, medicaid, and other Federal, State, and local programs,

(iii) the effect that a designation will have on the competitive position of any individual business or aggregate industry affected by a designation, determined jointly with the Secretary of Commerce, and

(iv) any other potential economic, budgetary, or ecological effects that the Secretary considers appropriate.

(c) Not later than one year after the date of enactment, the Secretary shall determine, based on the analysis performed under paragraph (2), whether the economic costs of each designation outweigh the environmental benefits of each designation.

(d) In implementing this Act with respect to each land designation in subsections 102, 402, and 501, the Secretary shall limit losses incurred by persons as a result of each land designation.

(e) The Secretary shall pay to any person who incurs an economic loss as a result of a land designation the amount of that loss, including—

(1) any diminishment in the value of tangible or intangible property, and

(2) any loss resulting from the loss or diminishment of a job.

(f) The Secretary shall issue regulations establishing procedures for obtaining payments under this subsection.

(g) A person may not recover any amount under this subsection for any de minimis or wholly speculative loss.

(h) Any denial by the Secretary of an application for payment under this subsection may be appealed in the appropriate Federal district court of the United States, including any determination by the Secretary that a person is ineligible for payment by reason of paragraph (3).

(i) Any person (including any State or local governmental entity) may intervene in any proceeding under this subsection for the purpose of assisting the Secretary in issuing payments under this subsection to individuals or businesses who suffer demonstrable loss as a result of a land designation.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Is the gentleman from California [Mr. LEHMAN] opposed to the amendment?

Mr. LEHMAN of California. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this map to my left tells quite a story. The western United States is owned predominantly by the Federal Government. Government ownership of land in my State of California is about 46 percent of the 100 million acres.

These landgrabbers today want some more land, another 4.5 million acres.

Our world really is turned upside down, because we have an Endangered Species Act which has been in the law since 1973, which requires an environmental impact statement to determine whether or not we are going to list one of these critters on the list of endangered species.

In my State of California we have seen thousands of people in the lumber industry in northern California out of work because of the spotted owl. In my area of southern California, the Least Bell's bireo, a little bird, threatens the whole Santa Ana River flood control project.

There is nothing in this Endangered Species Act that gives any consideration to the impact on jobs and businesses and private property when we list one of these critters. I say it is high time in this country, Mr. Chairman, that we have a law which says that we should recognize jobs, and people, and businesses, and private property at least on the same basis as we recognize critters. What is more important in this world, people or animals?

Our world is turned upside down. The Environmental Party likes it that way. They want to preserve the creation, worship the creation rather than the Creator, and I say just the opposite should be the case.

All my amendment does is say that we have to prepare an economic impact statement in order to determine what the impact is going to be on jobs, on property and businesses if this law comes into existence.

When Members read the report on pages 70 and 71, it is uncertain as to what the cost is going to be. Now they have conveniently shunted aside any evaluation of the minerals under the ground. It so happens in my State of California that the mineral reserves are estimated at $360 billion.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend from California.

Mr. ROHRABACHER. Mr. Chairman, let us note that in the middle of the worst drought in California history, 1.8 billion gallons of water were dumped into the ocean because of a bird nest on the Prado Dam. Things are topsy-turvy. The gentleman is right. We are putting more value on the life of small critters and things rather than on human life and the lifestyles of the people themselves.

I think that this body should have some reflection on the values that our legislation maintains in this country.

☐ 1600

Mr. DANNEMEYER. I thank my colleague for his comment.

Mr. Chairman, this economic impact statement that I ask be adopted would show that we in California lead all States in the production of asbestos, borates, portland cement, diatomite, calcined gypsum, construction sand and gravel, tungsten, yttrium, and rare earths.

We have over 40,000 people working in the mining industry in the State of California, about 20,000 of them are going to be put out of work.

Now, the unemployment rate in California today is 7.3 percent. That is a half a percentage point higher than the Nation.

We have been talking in this Chamber in the last few days about jobs creation. This bill is a Job Unemployment Act of 1991 waiting to be adopted.

Where in the world in the tender concern in the hearts of the Democrat leadership who are pushing this bill for the 20,000 people who are going to be put out of work in the mining industry in the State of California if this turkey becomes law?

I do not understand this at all, and this is the reason for this economic impact statement which would also show that each $1 million in mining output in the desert provides about 15.1 jobs, $334,000 plus of personal income, $28,000 in local tax revenues, $47,000 in State tax revenues, and $1.8 million overall to the southern California economy.

Gold production in the desert area is about 400,000 ounces in 1989.

We have 12 of 21 geothermal sites in California or in the desert that supply about 450,000 watts of power.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield for a question?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, there has been a lot of talk in this body about which party represents the working men and women of America.

I would like to know how this proposal the gentleman is making today affects them.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the other gentleman from California has talked here for 5 minutes about the Endangered Species Act. The Endangered Species Act is not in this bill. The Endangered Species Act is not affected by this bill, nor will it be affected by the gentleman's amendment.

No one who wants any level of protection, no matter how minimal it is on the California desert, could support the amendment of the gnetleman from California [Mr. DANNEMEYER].

The gentleman from California [Mr. LEWIS] did not have this provision in his substitute before us last week. Even in the substitute of the gentleman from California [Mr. LEWIS] the findings state:

> It is in the national interst that these wilderness areas be promptly designated as components of the National Wilderness Preservation system.

The purpose of this amendment is to make sure that they are never designated. It is an amendment to delay forever.

But what about the economic consequencies? It is not as if they had not been studied.

Again I quote from the U.S. Geological Survey:

> The prospects for future mineral discoveries in the Mojave are relatively poor. In the parlance of mineral resources, this does not appear to be an area of world calss deposits.

None of the 14 minerals identified by the Office of Technology Assessment of meeting the criteria for strategic minerals is produced anywhere in the Calfiornia desert conservation area.

The Mountain Pass Mine which produces 97 percent of the U.S. output of rare earth minerals is excluded from the boundaries of the Mojave Monument.

This idea that there are thousands of jobs lost is ludicrous. In 1990, the U.S. Department of Commerce statistics state there were 1,100 mining jobs in all of San Bernardino County, and understand that the mines in wilderness areas are protected. Understand that the other major ones have been taken out. Understand that when the national monument is created there will be many, many new jobs associated with that monument in its place.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I actually think in general in concept the idea of an economic impact statement has some merit, I do not believe it has any merit as applied to this particular bill for several reasons.

First of all, this bill has been around now for 5 years. This is the third Congress that has looked at this bill. We have had extensive hearings.

This proposal, this suggestion, has never been made at the committee level, has never been made at the subcommittee level, and frankly what an impact statement would be designed to review has been studied very thoroughly in the deliberations leading up to the floor consideration of this bill.

As the gentleman from California [Mr. LEHMAN] has indicated, mines within the boundaries of this legislation are protected.

This does not put people out of work. This does not cost jobs. This bill simply does not deal with any of the things that the author of the amendment suggested that it would do.

The fact of the matter is that this is a proposal in terms of Death Valley, in terms of Johua Tree, in terms of the East Mojave. It has been looked at carefully. It has been analyzed carefully.

The economic consequences of these provisions have been evaluated and analyzed and studied and all the representations that have been made have been found wanting.

I would say that if there was a serious suggestion to have an economic impact statement, that that could have been made at any point in time during the 5 years in which this bill was considered, but to bring it up today at the 11th hour on the House floor and to support it with a range of arguments that have been repudiated thoroughly throughout this process simply is an effort again to delay extraordinarily important desert protection legislation that Congress should act upon positively today.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

The Dannemeyer amendment providing for an economic impact statement may sound appealing on the surface, but I assure my colleagues that this would lead us into unchartered waters.

The bottom line of this amendment as an example states that the Secretary of the Interior shall pay to any person who incurs any economic loss as the result of land designation the amount of that loss.

Then it goes on to include all sorts of tangible and intangible losses, an appeals process. This could subject the Federal Government to unreasonable and unlimited costs.

Where is the CBO estimate on this?

The fact of the matter is they have been arguing in the courts and the Supreme Court for years about whether the classification or zoning of land is an authority of the National Government or any local government.

This particular amendment makes a finding in favor of the landowners. It comes down and states that classification changes must be paid for by the Federal Government.

The truth of the matter is that we have very little understanding of many of the impacts of the environmental classification and the species. The fauna and flora. We ought to do a much better job regarding the science of such ecosystems.

This is not a debate about the Endangered Species Act. This is simply a stumbling block that is attempting to be placed in the way of the designation of the California Desert Act, and as such it should be defeated.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the delegate from Guam [Mr. BLAZ] for yielding to me.

I want to say one more time to the Members that I appreciate the very fine job the gentleman has done in helping to add some balance to this debate.

Mr. Chairman, it was suggested earlier by the gentleman from California [Mr. LEVINE] and others that I did not include an economic impact statement in my substitute.

Mr. Chairman, we do have economic impacts regarding this bill versus the substitute that I had before the House the other day. The Bureau of Land Management did give us a guesstimate. If H.R. 2929 became law, the cost would be somewhere between $290 and $610 million.

If our substitute had been implemented instead, the Bureau of Land Management suggested the spread might be between $45 and $170 million.

To say the least, there is a huge difference reflected in these estimates.

The guesstimates were that if H.R. 29 was implemented that the loss of jobs would be in the neighborhood of 20,000 jobs, versus less than 2,000 jobs in the substitute.

Indeed, this proposal is going to have a huge economic effect. Detailed economic impact analysis is appropriate for H.R. 2929 since it was not a product of a public process.

☐ 1610

Let me make the point in this way: Two organizations have very sizable holdings in this territory. The California Public Employees Retirement System has large holdings that they had planned to be developed for the benefit of retirees. Everybody admits that there is potential resource value that has not been evaluated or tapped.

The California Teachers Association has similar holdings. Their retirees are at risk without effective evaluation of the underlying resource potential here. To suggest that economic impact evaluation would not help them in their eventual decisions as to what is required for a trade of land, for example, is unreasonable.

These lands have great economic potential for the retired teachers of California and for the retired employees of California.

Mr. Chairman, are the ranking members suggesting that we should ask them to trade their land without an economic evaluation first? Certainly not.

Mr. DANNEMEYER is simply suggesting that, up front, such evaluation should be made because the studies, the detailed have not been done. The people who will lose if you do not accept this kind of approach are the people of California. A very significant number of the landholders are the retired former employees of the people of California.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Let me tell my colleagues just what my amendment would do. It would require the Secretary to determine that environmental benefits must outweigh economic losses or costs before land in the above sections can be designated. Now, that is a balance in our law that I think is missing in a very significant way today because what we have done—look at this map. At least a third of the western part of the United States is already in public ownership.

How much land is enough? How much land does the environmental party need before it satisfies its lust to take all land in private ownership and put it into public ownership?

Now, it may create a world where we have clean air and clean water in America, but I ask you one simple question: Where are the jobs going to be for the people of this country who want to work and make a living? Somebody has to watch out for these people, and that is what this amendment does. It just says there has got to be balance when we make these environmental decisions.

The CHAIRMAN. The time of the gentleman from Guam [Mr. BLAZ] has expired.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the penultimate word.

Mr. Chairman, first of all, contrary to the presentation just made, there is no increase in the amount of Federal land owned under this legislation. The land that is being changed is having its designation changed, not its ownership. The Federal Government owns the land now, and the Federal Government will continue to own the land in the future. We are changing the way in which the land is managed.

The provisions in the bill allowing for acquisition on a case-by-case basis in the future provide for exchange of land. Again, there is not going to be a change in the value of land owned by the Federal Government, and probably not in the amount.

So that is not really an issue here. The CBO estimate of the cost of this legislation shows that it is negligible. As far as mining is concerned, it says:

> Loss of receipts from mining activities relative to current law, we do not expect the loss of receipts to the Federal Government from mineral leasing activities to be significant over the next 5 years.

The report shows zero, zero outlays for 1990, 1991, 1992, 1993, 1994, and 1995.

The costs here are not significant. The great cost is not acting to protect the desert. The great cost is to those of us in California and those around the country if we fail to act to save the desert now while we still have a chance.

Are we going to let amendments like this drive off the day of decision until it is too late to protect the endangered species? Until it is too late to protect the land from total degradation?

Or are we going to do it now while we still have a chance?

That is the issue. That is the heart of the matter.

Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman's amendment goes to a different direction; it has nothing to do with public ownership of land versus nonpublic. It has to do with how we conduct the policy on public lands, the designations. He is saying that the Secretary "shall pay to any person who incurs an economic loss as a result of land designation, that means zoning, the amount that that loss, including," and then he goes through all that. So he is on uncharted waters in terms of in fact committing the Congress and the U.S. Government to such payment.

The other thing the gentleman says is that we are going to turn over to the Secretary of the Interior the right to make the decision on how this land should be designated.

Well, Mr. Chairman, the reason that our committee has so many measures on the floor is because Congress has reserved to itself the right to make designations as to wilderness, as to parks and other uses of our land.

We do not give that job to the bureaucrats the unelected in this country. We think it is an important decision that ought to rest with Congress.

I do not care if it is done under an economic impact statement excuse or done on some other basis; in other words, Congress ought to be involved in the terms of making such decisions.

I think that that by itself is enough reason to vote "no" on this amendment. We should not transfer this unlimited power in the California desert to the Secretary of the Interior or to anyone else. We ought to make the decisions on the floor ourselves with regard to wilderness, with regard to parks and monuments. That is what we have been struggling to do this week, and I hope we will do so by defeating this poorly crafted amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

Mr. Chairman, in a nutshell this amendment is an amendment designed to kill desert protection. Let us be candid about what we are trying to do here.

This is an amendment that seeks to impose requirements on this legislation that simply cannot be met. It is impossible, it is simply impossible to quantify the educational, the scientific, the scenic, the historic, and natural values associated with preserving desert lands for future generations. That is the essence of this legislation.

One point on cost: Mr. LEWIS raises a number of cost figures. It is important to understand that CBO spells out $6 million in cost beyond those that are currently undertaken by the Federal Government in order to provide this type of desert protection.

For an additional $6 million a year, that is an extraordinary good deal for the American taxpayer, for the American citizen and those future taxpayer, for the American citizen and those future generations who will, I think, be pleased that this legislation is enacted into law.

Mr. LEHMAN of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 316, not voting 8, as follows:

[Roll No. 432]

AYES—110

Allard
Allen
Anderson
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Gilman
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hayes (LA)
Hefley
Herger
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McEwen
McMillan (NC)
Michel
Miller (OH)
Moorhead
Myers
Nichols
Oxley
Packard
Paxon
Pursell
Rhodes
Roberts
Rogers
Rohrabacher
Roth
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Wolf
Young (AK)
Young (FL)

NOES—316

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hutto
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Zeliff
Zimmer

NOT VOTING—8

Hughes
Mrazek
Obey
Ridge
Riggs
Smith (TX)
Whitten
Wilson

☐ 1638

Mr. GLICKMAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 102–314.

AMENDMENT OFFERED BY MR. NICHOLS

Mr. NICHOLS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. NICHOLS: Page 61, line 17, insert "(a)" after "SEC. 609.
>
> Page 61, after line 19, insert the following:
>
> (b) EFFECTIVE DATE.—This section shall take effect in the fiscal year following the first fiscal year after the date of enactment of this Act in which Federal revenues are equal to or greater than Federal expenditures.

☐ 1640

The CHAIRMAN. Under the rule, the gentleman from Kansas [Mr. NICHOLS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Kansas [Mr. NICHOLS].

Mr. NICHOLS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Department of Interior already faces a budget shortfall of astronomical proportions. When I say astronomical, I mean approaching $8½ to $10½ billion. That may not seem like much here in Washington, but that is an awful lot of money to the citizens of this country.

To break that down, this means that the U.S. Department of the Interior already faces a $3 to $5 billion backlog of land acquisition—a $5 billion backlog in major repairs and construction—and a $375 million shortfall in their annual operations budget. Why are we proposing to spend more money than the department has?

We, as a nation, must learn fiscal responsibility. We are writing checks on a line of credit that long ago went bad—the pot of gold is empty. We have absolutely no right, no right whatsoever, to authorize any additional spending unless it is an urgent investment in the ongoing prosperity and well-being of the citizen taxpayers of this country. And that, my colleagues, is why I offer this amendment today.

I am not against protecting the very fragile and uniquely beautiful environment and ecosystem of the California desert. I have visited the area with my family. We have driven through Death Valley and marveled at the region.

I wholeheartedly understand the desire to add to the already existing expanses of protected desert wilderness in the California desert. However, now is not the time. Not with a record deficit of $269 billion this year alone. Not at a time when our Government needs to drastically reevaluate its spending practices. Not when the taxpayers of our Nation are frustrated by the political process that is supposed to be protecting them.

My amendment merely places a condition on the expenditures of funds for the enactment of this act until Congress is able to balance the budget.

All across America, families are having to carefully limit their spending for the upcoming holiday season, while Congress continues to spend like everyday is Christmas. Why can't this great body, full of so many honorable and distinguished Members, use good, sound judgment when it comes to spending money. The time to reduce spending is not some time in the future, it is now. . .

I urge you to vote "aye" on my balanced budget amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

This is not a balanced budget amendment. In fact, it has nothing to do with the balanced budget. All of the expenditures by the Park Service can continue to go on even with this amendment..

All the amendment affects is the ability of the Federal Government to enter into the land exchange after 1996 with the State teachers retirement system in California. Under this amendment none of those exchanges will be allowed to take place. Those exchanges are not going to cost the Federal Government any money.

As the bill states, property will be exchanged value for value and we will have an even playing field.

We have done that to ensure that the Federal Government does not lose any money and that the State teachers retirement system is held whole in its land holdings and so that we can consolidate the national monument.

This amendment will not pay them any money. It will place a hardship on the State teachers retirement system and do great damage to this bill.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Nichols so-called balanced-budget amendment. The fact of the matter is that almost all these lands that are being designated here are already managed by the Federal land management agencies, by the Park Service, by the Bureau of Land Management. So we are transferring some of these lands from the jurisdiction of the BLM to the Park Service. There may be some turf battles involved, but the fact of the matter is the money within the Department of the Interior can flow to the Park Service in these instances.

Likewise, they may, for instance, as we look at these designations, we are asking the BLM to manage some of the lands as wilderness area and releasing other lands from being managed as wilderness.

Furthermore the private land would be insignificant because most of this is public land.

I would challenge the gentleman's figures that he has on the chart concerning the backlog; the figure is closer to $3 billion. In any case the land acquisition funding is not based on a pot of gold. It is based on a pot of oil, offshore Continental Shelf receipts, the land-water conservation fund which are credited to the land-water acquisition programs which has over $7 billion available until appropriated.

Mr. NICHOLS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Smoke and mirrors, Mr. Chairman. They say there will be no cost. What about the cost of the 20,000 jobs that will be lost?

I would hate to manage millions of dollars and millions of acres myself. The gentleman said it is all BLM land. I thought we were just talking about exchange of millions of acres of land that would come into this. Who is going to maintain that? Who is going to maintain the roads? Who is going to maintain the water? Who is going to maintain the rest of it?

We the taxpayers are going to do that. It is going to take this public land off the tax rolls.

What about the revenue from the mineral sources? The other side of the aisle and many Members on this side of the aisle are always looking for alternative fuel sources. What about the geothermal that will not be looked into because this bill only covers, as I understand it, existing lines, existing coverages.

Some of my friends say, I've got to protect my environment vote. My heart bleeds for them. How about protecting the people instead of their environmental vote?

Take a look at the map that was up here before. If Members on the east coast had to live with the amount of Government-owned land, I do not think they could stand it. Remember the four Congressmen that represent that area want "no" on 2929 and "yes" on this amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I will just mention briefly that the common thrust of these amendments is to do one thing. It is to delay this bill so long that California desert protection will never occur. I do not know that there is a coordinated effort with regard to these amendments. I suspect there is not. But there is one common theme. It is delay, delay, delay until this basically cannot occur.

The other point that I just want to emphasize is that that the subcommittee chairman emphasized. We have gone to great lengths to protect the retired teachers of the States of California in this bill. The lands that are being exchanged are lands that are very important to the retired teachers in California. This provision would hurt California's retired teachers by blocking the exchange that has been very carefully worked out and that the State retired teachers and the public lands commission are strongly supporting.

I strongly urge a "no" vote on this amendment.

□ 1650

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the House had a similar amendment before us when we were dealing with the Flint Hills Prairie Park. That amendment was defeated on a vote of 153 to 249. I think the House would do well to defeat this amendment on the same basis it defeated that amendment.

Mr. NICHOLS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I appreciate the gentleman from California trying to make this my amendment by saying this is delay, delay, delay, delay, but I must point out that it is the gentleman from Kansas [Mr. NICHOLS] that brought the amendment and it is not a delay tactic. What it is is fiscal responsibility.

What we are saying is right now we cannot pay for the land that we have tried to acquire. I am told that the Park Service is in arrears right now $4 to $5 billion, trying to pay for the land they have already acquired. Since they cannot pay for it, land not only in this desert but in other areas of the country, this land cannot be used, it cannot be sold, nobody will use it. It is amazing to me that if we do not have the money now to pay for land, and we do not have the money, even if it is not true, I am just told that it is true, but even if it is not true, we do not have the money when we are talking about a $350 billion deficit, we do not have the money for this kind of action. All the gentleman is saying is we cannot do it until we have the money.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER], the chairman of the full committee.

Mr. MILLER of California. Mr. Chairman, I would hope that we would reject this amendment. I think we should understand that what is happening in this legislation is that we seek for the most part the exchange of lands. There are very substantial private inholdings within the boundaries of this area. Many in the private sector would like to exchange those lands out. Their lands are not productive for any economic purpose. They are valuable from an environmental point of view, from a cultural point of view, from an anthropological point of view, but the fact is they have no economic value for that company, that holding. They believe they can trade those off for lands of economic value which they can then use, they can use in their endeavors to create jobs, to create economic activity. We will be able to put the park and the monument and others together for the purposes of better management.

So this makes sense all around. This is a win-win. This allows the private sector to go out and utilize its expertise and talents on those lands. It allows the public sector to have the most economical unit in order to run. This is a very foolish amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] has 45 seconds remaining.

Mr. LEHMAN of California. Mr. Chairman, I yield myself the 45 seconds.

Again, this amendment has nothing to do with anything except some land that the State teachers' retirement system in California owns. It has nothing to do with purchasing any other land. The provisions of the bill allow that the State of California, the State lands commission, may exchange those lands with lands offered to it by the Federal Government after the year 1996. That is all we allow for in the bill.

The losers, if this amendment is going to pass, are going to be the State of California and the State teachers' retirement system in California, an innocent party. It is not going to be anything else and it is not going to be anyone else.

We have carefully worked out the compromise with the State lands commission and the state teachers' retirement system over months and months of work. This House should abide by that work at this time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Kansas [Mr. NICHOLS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. NICHOLS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 292, not voting 9, as follows:

[Roll No. 433]

AYES—133

Allard
Allen
Anderson
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bilirakis
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gingrich
Goodling
Goss
Orandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kasich
Kolbe
Kyl
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Murphy
Myers
Nichols
Nussle
Oxley
Packard
Parker
Paxon
Petri
Porter
Quillen
Ramstad
Ray
Regula
Rhodes
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Schaefer
Schulze
Sensenbrenner
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Wylie
Young (AK)

NOES—292

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
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Dorgan (ND)
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Edwards (CA)
Edwards (TX)
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Erdreich
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Fascell
Fawell
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Foglietta
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Ford (TN)
Frank (MA)
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Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Glickman
Gonzalez
Gordon
Gradison
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Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hougbton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
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Lagomarsino
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Lehman (CA)
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Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
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Mink
Moakley
Mollohan
Moody
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Morella
Morrison
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Murtha
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Neal (NC)
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Obey
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Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NOT VOTING—9

Anthony
Derrick
Oilman
Lloyd
Pelosi
Ridge
Washington
Williams
Wise

□ 1713

Mr. MOODY change is vote from "aye" to "no."

Mr. JAMES and Mr. RAY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 10, printed in House Report 102–314.

AMENDMENT AS MODIFIED OFFERED BY MR. BLAZ

Mr. BLAZ. Mr. Chairman, I offer an amendment as modified.

The CHAIRMAN. The Clerk will designate the amendment as modified.

The text of the amendment, as modified, is as follows:

Amendment as modified; offered by Mr. BLAZ; instead of the matter proposed to be inserted, insert the following:

Page 65, after line 15, add the following new title:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) while changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1994, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1994, unless authorized by subsequent Act of Congress.

SEC. 812. MILITARY OVERFLIGHTS.

(a) DISCLAIMER.—Nothing in this Act shall preclude low-level overflights by military aircraft, the designation of new units of special airspace, or the use or establishment of military flight telephone routes over the new units of the National Park or National Wilderness Preservation Systems (or any additions to existing units of such Systems) designated by this Act.

(b) MONITORING.—The Secretary of the Interior shall monitor the effects of aircraft overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and on visitor enjoyment of such units. The Secretary of the Interior shall actively seek the assistance of the Secretary of Defense, consistent with national security needs, to resolve concerns related to such overflights and to prevent, eliminate, or minimize the derogation of resources and values and of visitor enjoyment associated with overflight activities.

The CHAIRMAN. Under the rule, the gentleman from Guam, Mr. BLAZ, will be recognized for 5 minutes, and a member opposed will be recognized for 5 minutes.

Does the gentleman from California [Mr. LEHMAN] oppose the amendment?

Mr. LEHMAN of California. I do not, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] does not oppose the amendment.

The Chair recognizes the gentleman from Guam [Mr. BLAZ].

Mr. BLAZ. Mr. Chairman, I have an inquiry then. If the gentleman from California [Mr. LEHMAN] does not oppose the amendment, since 10 minutes are allowed for this amendment, do I have 10 minutes to dispense?

The CHAIRMAN. The Chair will then ask is there any opposition to the amendment?

Without objection, the gentleman from Guam [Mr. BLAZ] will be recognized for 10 minutes.

There was no objection.

Mr. BLAZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, prior to the debate I sought unanimous consent that the proposed Blaz amendment and the proposed vento amendment be merged. That was granted. My comments, then, relate to the Vento-Blaz formulation.

Mr. Chairman, I offer this amendment in conjunction with Mr. Vento because it has become apparent to all of us that the end of the cold war has, sadly, not opened an era of world peace. Rather, the fall of the Iron Curtain has revealed an array of regional conflicts which previously had been concealed by the global nature of the stand-off between the United States and the Soviet Union.

The Persian Gulf war is only one example of how these smaller conflicts can reach the United States with devastating impact. Or course, we all applaud the military cutbacks which the end of the cold war will permit. But we must not persuade ourselves that our military is superfluous. Indeed, if we learned anything from the Persian Gulf, it is that as our military becomes smaller, its training must be enhanced to assure that our vital interests as a Nation will be preserved.

As technologically advanced as our arsenal is, it will prove no more effective than a club and a rock, unless the personnel who man it have acquired the necessary skills. The California desert provides the area and the facilities where these skills can be honed. This amendment, which I join Mr. VENTO in offering, will help assure that when we must next send our young people in harm's way, they will be going forth fully prepared. It is the most that we can do for our brave men and women in uniform, and it is the least that should be expected of us as a Nation.

I urge all my colleagues in the House to support this amendment.

Mr. Chairman, it is my understanding since some of my colleagues on both sides would like some time, that I am now prepared to yield time to those who wish time. But before I yield to the gentleman who is standing, let me say I mentioned last week and I mentioned today again this gentleman absolutely enjoyed working with the gentleman from Minnesota [Mr. VENTO], the gentleman from California [Mr. LEHMAN], and the gentleman from California [Mr. MILLER], and the gentleman from California [Mr. LEVINE] as well.

☐ 1720

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of this amendment. As modified by the gentleman from Guam under his unanimous-consent request, the new Vento-Blaz amendment is similar to my own amendment, which is made in order under the rule.

Mr. Chairman, this amendment would add to the bill provisions related to continued military use by the Navy of more than 1.3 million acres of Federal lands in the California desert and continued low-level overflights by military aircraft of other areas covered by the bill.

The amendment is similar to a bill—H.R. 3565—which I introduced last month and that was cosponsored by Chairman MILLER of the Interior Committee and the gentlemen from California, Mr. LEHMAN and Mr. LEVINE. It is also similar to a bill, sponsored by our colleague from Maryland, Mrs. BYRON, that the House passed in 1987 but on which the Senate did not complete action.

The lands covered by this amendment have been used by the Navy for many yuears and for a variety of important purposes. Past withdrawals for military use have expired—and under the Engle Act such withdrawals in peacetime can be renewed only by congressional action such as this amendment.

The amendment would add a new title, title VIII, to the bill. It would renew the military withdrawal of the China Lake Naval Weapons Center and the Chocolate Mountain Aerial Gunnery Range and would also authorize continued military use of certain other lands in Imperial County, CA, by the Navy.

The Subcommittee on National Parks and Public Lands, which I chair, held a hearing on these provisions on November 5, and this Vento-Blaz amendment includes some revisions made in response to suggestions by the administration.

For example, the amendment would delete from the Chocolate Mountain withdrawal 640 acres, as proposed by the Interior Department, to accommodate mineral exploration. At the hearing, the Defense Department indicated that this was acceptable to them. Similarly, language related to possible recreational use of the withdrawn lands has been narrowed so that it applies only to China Lake—again, as suggested by the Interior Department.

In the same way, this Vento-Blaz amendment includes language related to military overflights that is based on administration suggestions at that same hearing. That language would add to H.R. 2929 a provision stating that nothing in the bill is to be construed as precluding low-level military overflights of lands covered by the bill or as prohibiting either the designation of new units of special airspace of the establishment of military flight training routes over the lands covered by the bill.

Mr. Chairman, provisions related to overflights are not actually a necessary part of this or any bill designating wilderness areas or to provide for adding lands to the National Park System. Such designations, by themselves, do not have any direct effect on low-level overflights, civilian or military,

which are regulated by other existing laws and policies.

However, because some have argued that enactment of legislation like H.R. 2929 could have such a direct effect on existing patterns of military overflights, I think adding language to clarify this matter may be helpful—and that is what this amendment does.

In summary, Mr. Chairman, this amendment will assure continued military use of the important China Lake and Chocolate Mountain areas, and will clarify that the designation of other California desert lands as wilderness or National Park System areas will not by itself block continued military overflights of those lands. I urge adoption of the amendment.

Mr. BLAZ. Mr. Chairman, I have an inquiry at this point. I must admit that I did not hear what was said at the beginning. Do I have 5 minutes or do I have 10 minutes?

The CHAIRMAN. There was no Member rising in opposition. The gentleman from Guam [Mr. BLAZ] had 10 minutes, and he has 3½ minutes remaining.

Mr. BLAZ. Mr. Chairman, in that case, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I would like to have the Members of the House consider that, if they think there is no cost in H.R. 2929, when they come to pay for their parks and recreation on the east coast, think about where the money is going to come from. It is all going to California.

Mr. Chairman, I would like to thank the gentleman from Guam [Mr. BLAZ]. Not many people know General BLAZ. He, as a boy, came from Guam, and looked at the 9th Marine Regiment and said, "I think I can do that." Well, General BLAZ grew up to lead the 9th Marine Regiment and is very noteworthy in his attempts in what he is trying to do.

However, Mr. Chairman, I would like to point out some shortfalls. I rise in support of the amendment of the gentleman from Guam [Mr. BLAZ], but opposed to H.R. 2929.

The amendment of the gentleman from Guam [Mr. BLAZ] does a lot of different things. One of the points in the whip notice is it says 30 years for renewals. It is actually 15 years, as combined, as I understand it, with Mr. VENTO'S. One of the things with the gentleman from Minnesota [Mr. VENTO] is the El Centro ranges that go out in 1994. Those are the ranges where I, as a pilot, Jonathan Livingston Seagull trained on Inky Barley Pitty Baggage Rakey's Litter. That is where we drop our practice bombs, and I know that they can request a renewal, but then they have to support and requisition an environmental-impact statement, and the Navy has to give a report of decontamination.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would just point out that this is because they had not made a formal request under the Engel Act. We have no illusions about anything, and these are standard procedures under the Engel Act, as is the 15 years.

Mr. Chairman, I thank the gentleman from California [Mr. CUNNINGHAM] for yielding.

Mr. CUNNINGHAM. Mr. Chairman, 15 years is not my point. It is that they phased out in 1994, and that this training is critical. This is where our young pilots train from the training squadrons, and without that we are lost. If my colleagues want to cut the military, they want them well equipped, well trained, well, there needs more in this amendment. We also need buffer zones around.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, let me thank the gentleman from Guam [Mr. BLAZ] and the gentleman from California [Mr. CUNNINGHAM] who has just spoken from the well.

Mr. Chairman, I have been assured by the Department of Defense that by 1994, that is adequate time for them to get the request in for a continuation of the use of those areas.

Let me say to my colleague, the gentleman from Guam [Mr. BLAZ] who serves on both the Committee on Armed Services and the Committee on Interior and Insular Affairs with me, and also to the gentleman from Minnesota [Mr. VENTO], chairman of the Subcommittee on National Parks and Public Lands, that I want to thank him for putting the language of a bill that I had passed by this body in 1987. Once again DOD was here in November to testify in a hearing that we had, and the testimony was that they stated at the time with a modification of the gentleman's amendment it met all of their concerns and, therefore, they are in favor of the amendment as drafted.

As my colleagues know, we spent a great deal of time on Friday discussing this amendment. My colleagues from California, Top Gun CUNNINGHAM, and I had a discussion, but I think this amendment answers the questions that DOD was concerned about.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the last word, and I will only take 30 seconds. I just want to get on the record the answer to two questions.

I ask the gentleman from Guam, "Mr. BLAZ, are the land withdrawal provisions in your amendment the ones the Navy wants?"

Mr. BLAZ. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Guam.

Mr. BLAZ. Yes, it is.

Mr. LEHMAN of California. And is the overflight language which is put forth in the amendment the overflight language that the Defense Department has asked for?

Mr. BLAZ. Yes, it is.

Mr. LEHMAN of California. Mr. Chairman, I thank the gentleman from Guam for his good work in this area.

Mr. BLAZ. Mr. Chairman, I move to strike the last word on my own amendment.

The CHAIRMAN. The gentleman from Guam is recognized for 5 minutes.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman from Guam [Mr. BLAZ] yielding this time to me.

Mr. Chairman, the amendment presented by the gentleman from Guam and the gentleman from Minnesota is very helpful to some of the concerns that we have about the military mission that is so critical to this country's role in the world. The National Training Center for the Army and the Marine Corps base at Twentynine Palms were very fundamental to the kind of training that caused us to be so successful in our venture in the Middle East. I know that the gentleman presenting this amendment and the Department of Defense feel very strongly that this amendment does not solve all of the problems involved.

I have a letter dated November 21 of this year to the chairman of the Committee on Armed Services that says:

> DEAR MR. CHAIRMAN: We oppose the California Desert Protection Act, 2929, and support the California Public Lands Wilderness Act, H.R. 3066. Adoption of amendments to H.R. 2929 expected to be offered by Congressman VENTO and Congressman BLAZ would address defense concerns relating to military overflight, the National Training Center and land withdrawals, but H.R. 2929 still would not address the following needs.

They list three critical needs which have been previously addressed in the RECORD. Can we carry forward the training mission that is so vital to the future of our national defense H.R. 2929 is in effect?

The answer to that according to the Secretary of Defense is no.

So, Mr. Chairman, while I rise in support of the amendment of the gentleman from Guam [Mr. BLAZ], let us state clearly for the record that we have not met the challenge of meeting the tremendous potential of this region. Our ability to defend ourselves and to move forward in our support of freedom throughout the world, depends on resolving these issues.

☐ 1730

Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Guam [Mr. BLAZ].

VOL 137
PT 24
NO 26
1991
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1992
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The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in House Report 102–314.

AMENDMENT OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DELAY:

Page 65, after line 15, add the following new title:

TITLE VIII—REQUIREMENT FOR LAND DISPOSAL UPON LAND ACQUISITION

LAND DISPOSAL UPON LAND ACQUISITION

SEC. 801. Within one year of acquiring any non-Federal land or interest therein for any purpose of this Act, the Secretary shall dispose of all right, title, and interest in and to a quantity of Federal lands equal in value to the non-Federal land or interest acquired, as determined by the Secretary.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DELAY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I am opposed to the amendment and would ask for the time.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair now recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, although our operating deficit currently stands at $412 billion, H.R. 2929 requires the Federal Government to spend even more money for the management and acquisition of land. This is simply fiscally irresponsible.

The Federal Government already owns approximately one-third of all of the land in the United States. We certainly do not need more. More importantly, we cannot afford it.

The Bureau of Land Management [BLM] estimates that there are 828,000 acres of non-Federal land included in the land covered by the conservation and protection provisions of H.R. 2929. Using current appraisal data and mapping the area by value, BLM has estimated that the value of these 828,000 acres of land ranges from a low of $180 million to a high of $500 million. In addition, the total of all administrative costs and clearances could exceed $49 million. These are not insignificant amounts of money which we would have to spend if this bill were passed.

Furthermore, as these figures provided by the National Park Service show, the NPS currently has a total shortfall of $8.38 to $10.38 billion; $3–$5 billion of this shortfall is in land it is authorized to acquire and has not yet paid for. It also has a shortfall of $5 billion in major facility repair and construction costs, and needs $375 million for annual park operations. It is unbelievable that some Members of this body are supporting H.R. 2929, a bill which will only add to the National Park Service's debt and burden it with additional land it will not be able to care for.

H.R. 2929 would also add to the Federal backlog of land it owes. Most people do not realize that the State of California is still negotiating for 51,000 acres of land that were part of its original statehood grant and have not yet been received. How can we even consider acquiring more of California's land before we have paid off our decades-old debt?

Even more outrageous is the fact that H.R. 2929 delays payment for the acquisition of land until after the budget agreement expires. The supporters of this bill know that we do not have the money or enough California land to pay for what it requires and are blatantly trying to avoid following the rules that this House passed to try to stem the growth of the deficit. The bill instead establishes the California desert lands credit account in the amount of the appraised value of the remaining land which has not been accounted for, with the intent to pay for it after October 1, 1995. If this is not a sign of fiscal irresponsibility then I don't know what is.

I am offering an amendment which will curb these fiscal excesses. My amendment will require the Federal Government to sell land of an equal value in exchange for acquiring additional land. If the land in question is considered truly vital for the public good and the Federal Government feels it necessary to acquire it, there must be some other less valuable piece of land which the Government could exchange for it. This will serve to keep the Government from purchasing more and more land which it cannot pay for.

I am merely asking that we maintain an equilibrium. I am not asking that we get rid of land, just that we have no net gain of Federal land so as not to continue to plunge further into debt. I urge you to support my amendment as an act of fiscal responsibility.

Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Mr. Chairman, I think that Members should be aware of the ramifications of this. It is hard to take this amendment too seriously due to the enormous impact it might have beyond the bill we are talking about today.

The requirement that we sell off Federal land whenever we acquire any Federal land, as written in this amendment, would impact all the 50 States, not just the State of California vis-a-vis the actions we take in the California desert. If we acquire land with respect to the desert, we would have to sell land anywhere in the United States, not just in the vicinity of the desert.

Again we have required in the bill, in the exchange provisions, that there be a value-for-value trade at the time each exchange is made. Where there is Federal land available and where we need to acquire Federal land from the State teachers or in the amendment that the gentleman from California [Mr. MILLER] will offer in a couple of minutes, from Catallas, we will be able to do so by trading for other Federal land of equal appraised value somewhere else. The requirement placed here would make it virtually impossible to carry out the purposes of the act.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair will state that the gentleman from Texas [Mr. DELAY] has 1 minute remaining, and the gentleman from California [Mr. LEHMAN] has 3½ minutes remaining.

Mr. DELAY. Mr. Chairman, I will just quickly use my remaining 1 minute.

Mr. Chairman, I appreciate what the chairman of the subcommittee is saying, but it is obvious that they do not want to stop here. They want to increase the bank of Federal lands in this country. The fiscal irresponsibility embodied in this bill is truly astounding. How much clearer can it be?

Proponents of the Desert Protection Act claim that the land would be paid for through the exchange, as the subcommittee chairman says. However, there is only 550,000 acres of Federal land available in California for disposal, and H.R. 2929 will require the acquisition of 828,000 acres. To pay for all that land through equal exchange, California would have to be given Federal land outside the State, which means California would end up owning land in Oklahoma or New York, it is that crazy. Obviously this would not be a very good solution.

I am just saying that we should not be increasing the bank of Federal land in this country if we do not have the money for it. We can sell land if we want more land, but we should sell land in an equivalent amount.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

The amendment provides a solution where no problem exists. California has no problem in terms of the exchanges because there is Federal land in California which can provide the exchanges to block up and provide for the conservation units in the California desert. This reaches out and grabs into every 1 of the 50 States. You could have a 100-acre exchange in California and lose land in Minnesota or Washington or someplace else. The truth of the matter is that there is no great Federal grab that is going on. Our Nation has tried throughout its history to provide lands for homesteads, for schools, and for other purposes.

☐ 1740

The lands that remain here are the lands that nobody wanted. These were considered the wastelands.

We see special value in these lands. We want to take and preserve them for the parks, for the wilderness, and other areas in this country for future generations. This is our American heritage. Let us try and hold it together.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I would just say that the President had a policy of no new net wetlands. This is a sort of a no new net national park.

If we create the Mojave National Park, then we have to give back land out of the Grand Tetons. And if we want to expand Yellowstone to protect the park, we can give back some of Colorado, the Colorado National Park. Or if we want to expand Yosemite, we can give back Fire Island.

The bill provides for the exchange of lands between the private sector and the public sector. That is what the legislation does. For this amendment to come along is just ludicrous at this point, to suggest that somehow this is a workable policy or that this will save the taxpayers money.

These lands are there. They are there to be exchanged. For the gentleman from the State of Texas, which has so much RTC property, he ought to be happy that the California State teachers retirement system is even thinking of bidding on RTC properties down the road.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

I think the amendment is seriously flawed from a practical aspect. The requirement that Federal lands be disposed of within 1 year is totally impractical and in fact would have serious consequences right now when there is so much real estate on the market. It is flawed. We have worked out the problems in this bill with respect to exchange. I ask for a no vote on the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 49, noes 379, not voting 6, as follows:

[Roll No. 434]

AYES—49

Archer
Armey
Ballenger
Barton
Burton
Coble
Combest
Crane
Dannemeyer
DeLay
Doolittle
Duncan
Edwards (OK)
Emerson
Fields
Gekas
Grandy
Hall (TX)
Hancock
Hayes (LA)
Herger
Holloway
Hunter
Inhofe
Johnson (TX)
Kolbe
Kyl
Lightfoot
Livingston
Marlenee
McCandless
McEwen
Miller (OH)
Myers
Nichols
Packard
Payne (VA)
Rhodes
Rohrabacher
Skeen
Smith (OR)
Smith (TX)
Stump
Tauzin
Taylor (NC)
Thomas (WY)
Vucanovich
Young (AK)
Zimmer

NOES—379

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff

NOT VOTING—6

Dymally
Gephardt
Kleczka
Nagle
Rangel
Ridge

☐ 1801

Mr. HEFLEY and Mr. ROSTENKOWSKI changed their vote from "aye" to "no."

Mr. SMITH of Texas changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS, EN BLOC AS MODIFIED, OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will report the amendments en bloc.

The Clerk read as follows:

Amendments en bloc, as modified, offered by Mr. MILLER of California:

Page 7, lines 1 and 2, strike "seven hundred and thirty" and insert in lieu thereof "three hundred and eighty".

Page 13, line 14, move section 102(25) to page 8, line 10, and renumber all the remaining wilderness areas in section 102 in sequential order.

Page 16, line 2, strike "twenty-eight thousand eight hundred and twenty" and insert in lieu thereof "twenty-nine thousand five hundred and eighty".

Page 16, lines 3 through 8, strike "two maps" and everything that follows through line 8, and insert in lieu thereof "a map entitled 'Kelso Dunes Wilderness—Proposed 1', dated October 1991, a map entitled 'Kelso Dunes Wilderness—Proposed 2', dated May 1991, and a map entitled 'Kelso Dunes Wilderness—Proposed 3', dated September 1991, and which shall be known as the Kelso Dunes Wilderness.".

Page 16, line 21, strike "forty-eight acres" and insert in lieu thereof "three hundred and sixty-eight acres".

Page 17, line 6, strike "forty-five thousand six hundred and eighty acres" and insert in lieu thereof with "forty-six thousand four hundred and sixty acres".

Page 17, line 15, strike "three hundred", and insert in lieu thereof "four hundred".

Page 18, line 6, strike "twenty-five", and insert in lieu thereof "five".

Page 19, line 16, strike "five hundred and eighty", and insert in lieu thereof "two hundred and forty".

Page 20, lines 7 through 11, strike "two maps" and everything that follows and insert in lieu thereof "a map entitled 'Old Woman Mountains Wilderness—Proposed 1', dated May 1991 and a map entitled 'Old Woman Mountains Wilderness—Proposed 2', dated October 1991, and which shall be known as the Old Woman Mountains Wilderness.".

Page 25, line 23, strike "five hundred and forty", and insert in lieu thereof "eight hundred".

Page 25, line 25, strike "dated May 1991", and insert in lieu thereof "dated October 1991".

Page 33, line 12 and 13, strike "a map entitled 'Havasu Wilderness'" and insert in lieu thereof "a map entitled 'Havasu Wilderness—Proposed'".

Page 33, lines 18 and 19, strike "a map entitled 'Imperial Refuge Wilderness'", and insert in lieu thereof "two maps entitled 'Imperial Refuge Wilderness—Proposed " and 'Imperial Refuge Wilderness—Proposed 2,'".

Page 33, line 20, strike "known as Imperial Wilderness" and insert in lieu thereof "known as Imperial Refuge Wilderness".

Page 40, line 7, strike "dated May 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 44, line 8, strike "service" and insert in lieu thereof "services".

Page 48, line 23, strike "in a right-of-way identified in paragraph (1)" and insert "in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way".

Page 49, line 14, strike "replacement" and insert "upgraded".

Page 49, line 23, strike "Eldorado rights-of-way" and insert in lieu thereof "Eldorado rights-of-way and Mojave right-of-way".

Page 50, line 3, strike "in the Mojave right-of-way".

Page 55, line 3, strike "six hundred" and insert "seven hundred".

Page 55, lines 12 and 13, strike "ninety-four thousand five hundred acres" and insert in lieu thereof "ninety-five thousand fifty-six acres".

Page 55, line 16, strike "dated September 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 55, line 19, strike "dated September 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 64, line 5, strike "October 1, 1995" and insert "October 1, 1996".

Page 26 lines 17 through 23; page 26, strike lines 11 through 19; page 27, strike lines 3 through 9; and redesignated the paragraphs in section 102 accordingly.

Page 31, line 20, insert "(a)" after "Sec. 108.".

Page 31, line 23, insert ", except for those areas provided for in subsection (b)," after "Act".

Page 32, after line 5, insert the following new subsection:

(b) Subject to valid existing rights, the Federal lands identified on maps as "Avawatz Mountains Wilderness—Proposed", dated May 1991; "South Avawatz Wilderness—Proposed", dated May 1991; and two maps entitled "Soda Mountains Wilderness—Proposed 1", dated May 1991, and "Soda Mountains Wilderness—Proposed 2", dated January 1989, are hereby withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and form operation of the Geothermal Steam Act of 1970.".

Page 65, lines 5 and 6 and insert in lieu thereof the following:

EXCHANGES

SEC. 611. (a) Upon request of the Catellus Development Corporation (hereafter in this section referred to as "Catellus"), the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) of this section for lands of Catellus or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to Catellus and to the Committees a list of the following:

(1) Lands of Catellus or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands, wherever located, under the Secretary's jurisdiction to be offered for exchange, in the following priority:

(A) Lands, including lands with mineral and geothermal interests, which have the potential for commercial development but which are not currently under lease or producing Federal revenues.

(B) Federal lands managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for (A) an exchange involving lands outside the State of California, (B) more than 5,000 acres of Federal land or interests therein in California, or (C) Federal lands in any State valued at more than $5,000,000, the Secretary shall provide to the Committees a detailed report of such land exchange agreements.

(2) All land exchange agreements shall be consistent with the Federal Land Policy and Management Act of 1976.

(3) Any report submitted to the Committee under this subsection shall include the following:

(A) A complete list and appraisal of the lands or interests in land proposed for exchange.

(B) A complete list of the lands, if any, to be acquired by the United States which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law, together with the estimated costs of any such action.

(4) An agreement under this subsection shall not take effect unless approved by a joint resolution enacted by the Congress.

(d) The Secretary shall provide the California State Lands Commission with a 180-day right of first refusal to exchange for any federal lands or interests therein, located in the State of California, on the list referred to in subsection (b)(2). Any lands with respect to which a right of first refusal is not noticed within such period or exercised under this subsection shall be available to Catellus for exchange in accordance with this section.

(e) On January 3, 1996, the Secretary shall provide to the Committees a list and appraisal consistent with the Federal Land Policy and Management Act of 1976 of all Catellus lands eligible for exchange under this section for which an exchange has not been completed. With respect to any of such lands for which an exchange has not been completed by October 1, 1996 (hereafter in this section referred to as "remaining lands"), the Secretary shall establish an account in the name of Catellus (hereafter in this section referred to as the "exchange account"). Upon the transfer of title by Catellus to all or a portion of the remaining lands to the United States, the Secretary shall credit the exchange account in the amount of the appraised value of the transferred remaining lands at the time of such transfer.

(f) Catellus may use the credit in the exchange account to bid, as any other bidder, for any property real, personal, or mixed, wherever located, owned or controlled by the United States, including in a corporate capacity or as a receiver, conservator, or similar fiduciary capacity to be sold in accordance with the applicable laws and regulations of the Federal agency or instrumentality, or any element thereof, offering such property for sale. Upon approval by the Secretary in writing, the credits in Catellus's exchange account may be transferred or sold in whole or in part by Catellus to any other party, thereby vesting such party with all the rights formerly held by Catellus. The exchange account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales.

(g)(1) The Secretary shall not accept title pursuant to this section to any lands unless such title includes all right, title, and interest in and to the fee estate.

(2) Notwithstanding paragraph (1), the Secretary may accept title to any subsurface estate where the United States holds title to the surface estate.

(3) This subsection does not apply to easements and rights-of-way for utilities or roads.

(h) In no event shall the Secretary accept title under this section to lands which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law unless such remedial action has been completed prior to the transfer.

(i) For purposes of the section, any appraisal shall be consistent with the provisions of section 206 of the Federal Land Policy and Management Act of 1976.

(j) As used in this section, the term "Committees" means the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 10 minutes and the gentleman from Guam [Mr. BLAZ] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my understanding that the amendment that we are now offering has no opposition. There is no controversy to the amendment. We will quickly move and hopefully pass this by a voice vote and then we will go to a vote immediately on final passage. That is my understanding from the other side of the aisle. Is that correct?

Mr. BLAZ. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. MILLER of California. Mr. Chairman, I offer these en bloc amendments. They are mainly technical amendments to the bill that have been worked out with the minority and the majority of the staffs of the subcommittee. I would hope the Members would support them.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to my colleague, the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding to me.

Mr. Chairman, as I understand the amendment, it is designed to address certain public employee lands in order that those lands might be disposed of in a way that at least the author of the amendment deems to be appropriate. Is that correct?

Mr. MILLER of California. That is correct.

Mr. LEWIS of California. The point of this amendment that does concern me is that there are very sizable numbers of acres of land in the territory that we are dealing with here in this bill in which a combination of two very important groups of public employees have significant investments.

The Members should know that in this case the California Teachers' Association has very sizable investments in thousands of acres of land. The teachers have investments by way of their retirement funds in thousands of acres of lands, invested because they hoped they would be kept for various natural resources to benefit their retirees.

There is a process whereby those lands will be dealt with.

As I understand, this amendment deals with public employees who have a similar investment in acres of land. They invested those retirement dollars in order to hope for future potential resources that might be discovered. So I have a couple of questions in connection with that.

The provisions that relate to the teachers indicate that the teachers get a buyout after the year 2000 for whatever is left in their credit exchange account, as I understand it.

Mr. MILLER of California. Should the money be appropriated; that is correct.

Mr. LEWIS of California. Should the money be appropriated—I do not think there is any doubt about that, is there?

Mr. MILLER of California. The teachers do not doubt it; the gentleman is correct.

Mr. LEWIS of California. The State teachers get a buyout after the year 2000 for any amount left in their credit account, and I am asking, do the public employees have such a right?

Mr. MILLER of California. That is correct. That is in the body of the bill.

Mr. LEWIS of California. I am not sure it is correct. My understanding is that the teachers have that right, but the public employees do not have that right.

Mr. MILLER of California. Mr. Chairman, I cannot hear the gentleman.

Mr. LEWIS of California. It is my understanding that the teachers have that right, but the public employees' language does not provide them with that right; they have a different disposal mechanism.

Mr. MILLER of California. That is correct.

Mr. LEWIS of California. The public employees, as I understand it, can exchange for public lands outside the State of California, is that correct?

Mr. MILLER of California. That is provided that it is approved by the Congress.

Mr. LEWIS of California. It is my understanding that the State teachers cannot—they cannot exchange lands outside the State of California under this bill.

Mr. MILLER of California. That is at their request; the gentleman is correct. They have requested that they not be provided lands outside of California.

Mr. LEWIS of California. Well, Mr. Chairman, I appreciate the gentleman responding to my questions. I will ask for my own time and then comment on the amendment on my own time.

Mr. Chairman, I thank the gentleman.

Mr. BLAZ. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I take this time because I believe a very important problem continues to exist with the bill.

Mr. Chairman, one of the complications of this bill that is very, very important to the citizens of California, but particularly important to retired former employees in California, is the fact that this bill has not settled the potential erosion of very significant investments for the retired teachers and the retired public employees in our State.

I had planned a motion to recommit in order to have a thorough and extensive discussion of this matter, but I am not sure that the House is either patient enough to put up with more dialog on this bill or that all that time is necessary. The points I wish to make now are pretty fundamental.

A wilderness package was put together that provided for 2.3 million acres of wilderness land and minimized these conflicts. If it had been enacted, it would have become the largest wilderness area in the continental United States.

□ 1810

That bill did not begin to create problems that might erode the future retirement benefits of former public employees of our State. As of this moment, the California Teachers Association literally owns nearly 300,000 acres of land in the territory that would be put in a wilderness area under H.R. 2929. Those lands were purchased because of their considered judgment about future retirement potential from the natural resources that can be tapped over time.

The teachers were somewhat ahead of the game. Some time ago they recognized the tremendous potential and resource value in those lands.

Looking around the scene, the investment advisers for the public employees said, "I wonder why the teachers are investing in all that land out there?" After they got a lot of advice and counsel from highly paid experts, they came to the conclusion it was because the teachers saw a tremendous profit potential there.

The public employees said, "How can we possibly take advantage of a similar circumstance for our retired employees?" Well, there was not very much land left that had huge investment potential. So they looked around in the private sector. It turned out, lo and behold, that the Santa Fe Railroad had an investment corporation that held hundreds of thousands of acres of land in this same territory.

What happened? The public employees bought 20 percent of the Santa Fe Railroad's property firm. Can you imagine that? Now, why would the public employees do that? Well, simply because they were looking for the investment potential in terms of America's natural resources in that very land.

They both were negotiating with the public commission that was drafting the bill which I offered earlier as a substitute. That bill excluded most of these territories, so that the teachers and the public employees could take advantage of that speculation for their future retirees' benefit.

In this bill, we give them a beg and a promise. We kiss them on the cheek, and we say, "Hey, we are your friends. We will give you a promise about the future. We will trade that land off. But remember, friend, you teachers, you retired employees, you are our constituents. We got the votes, we will tell you what to do." So they forced some of their leadership to sign off in a haphazard fashion to a solution that is not a solution at all.

There is huge investment potential here that can cause retired employees and retired teachers in our State to hope that they will be able to keep up with inflation from those investments. This bill will totally undermine that future potential.

It is important that the Members know that this bill, H.R. 2929, does create unnecessary problems for retired teachers and retired public employees in our State. That is the reason I was asking for an "aye" vote the other day on our substitute. It is one of the many substantive reasons why we ought to vote "no" on this bill on final passage.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the subcommittee chairman, the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, the facts here ought to be very clear. There is a difference between the land owned by the old Santa Fe Land Co. and the land owned by the California State retired teachers.

Over 100 years ago, the Federal Government gave land to the State of California, land that no one else wanted, including the Federal Government, for the purposes of education. The State of California turned the land over to State teachers, and it ended up in their retirement system.

It was a land grant over 100 years ago from the Federal Government, far different from the situation with Catellus, the successor to the Santa Fe Land Co., which 1 year ago was invested in by CALPERS, the California Public Employee Retirement System. Now, this bill has been around for over 5 years, and it has been around the House, and this issue, in a form very similar to what it is today.

They made that investment 1 year ago, a 20-percent investment in Catellus.

They could sell that land tomorrow, just like they could sell any investment, but the obligation of the Federal Government here with respect to the two, I believe, is quite different. The State teachers system did not select their lands on the basis of any plan as the gentleman suggested. They received those lands as a grant from the National Government when California was admitted as a State. And all during the 100 years, the teachers retirement system has held that land, they have not sought to develop that land in any manner whatsoever. We have worked this out. I ask for a "no" vote.

Mr. BLAZ. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] has 5 minutes remaining, and the gentleman from California [Mr. MILLER] has 5 minutes remaining.

Mr. BLAZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman for yielding.

I just think it is kind of telling that what we have in this amendment is an offering for a land exchange. We had an amendment defeated earlier, in which people who had paid their own money privately invested in the land were going to be forced from the land even if they were unwilling sellers.

They were going to be forced from the land because the gentleman from California, the chairman of the committee, has said there was a constitutional provision which would allow the Government to take the land and give them what the Government thought was reasonable compensation.

Mr. Chairman, I think it is ironic that the company that was mentioned in this amendment is the successor to the railroad which the Government gave the land to as an inducement for it to build the railroad.

What the chairman is engaged in is taking the public's land, which was given to a private corporation as a stimulus to build the railroad and which has been held over the years and has accumulated value, and now they have a special amendment to allow them to exchange that land, some of it valuable, some of it less valuable, for other land, some of it valuable, some of it less valuable, rather than using another approach. It just seems to me that for all of the arguments about the encroachment of corporations, of individuals, and of rights, that most ironic amendment offered today is the fact that the public-used land to induce growth through a private company, and here we are coming full circle with an amendment which will bribe these folks with yet more land.

It was public land, should be public land, and you are going to use public land to buy them out.

Mr. MILLER of California. Mr. Chairman, I yield 30 seconds to the author of the bill, the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

I think, for the record, in light of the comments we have just heard on a technical amendment that does not deal with a land exchange, but with regard to the land exchange the record should reflect, No. 1, the California Retired Teachers Association, in a letter to the committee on October 25, supports the bill. And the company that includes the public employees retirement investors, in a letter to the committee of November 13, states, "We fully support the amendment and would no longer oppose the bill if the amendment is adopted." Both TERS and the retired teachers are happy with the amendment and urge support for the bill.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I rise only to make a final point regarding this measure.

I want to remind those Members who either may have forgotten or were not able to be here when we had the first discussion regarding this bill: There were four Members of Congress who stood at once as we began this debate. We represent the territory that we are dealing with in this bill. Together, the population they represent would make us the 23d largest State in the country.

☐ 1820

We represent territory that would make us the 29th State in terms of size, and yet as this bill went together the four Members who represent the territory, as well as the people they represent, were not consulted. In turn, those Members supported the substitute on the floor that was the result of almost 10 years of public dialog, 4 years of public hearings, and some 40,000 individual citizens' input.

Mr. Chairman, if we care about anything around here as a body, at least we should be willing to focus upon the Members who represent these districts.

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 2 minutes.

Mr. MILLER of California. Mr. Speaker and Members of the House, perhaps the California delegation is giving the Members the finest Christmas present they could have received today because those of my colleagues who feared a powerful, unified delegation of 52 Members after reapportionment can now rest easy.

This bill has been attacked by my colleagues within the delegation and by those from without the delegation. They have tried numerous efforts today. My colleagues have voted every 10 minutes as they have attacked this bill, trying to lead us to believe that this is some kind of effort to create a park where a park is not justified.

The fact is over the last decade a park has been justified, and that is what all of the studies have found, and now we seek to implement it. We seek to implement it through the regular order. We seek to implement it through the hearings that were held, and the witnesses that were heard and the participation of all the members of our committee.

Now we come to the last noncontroversial amendment, an amendment that was asked for, and I cannot quite get this clear between my two colleagues whether we are doing too much for the teachers and these people or whether we are doing too little. That is not quite clear, but they asked for this amendment because they want to be able to exchange their lands out, and that is what we do in this bill which my colleagues have already voted on. This is just a technical amendment.

Mr. Chairman, I say to my colleagues, "One of these groups was given the lands when California became a State. Can't do much with the land. It's valuable from an environmental point of view, but it doesn't generate much income. They'd like to see if they can swap it out. The other is a private sector company that believes that they would like to swap their land out of the holdings of the monument so that they could see if they could become more productive on some other land because this land isn't terribly productive."

That is what we do, that is the regular order, that is what we have done in parks, and monuments and wilderness all over the country.

Mr. Chairman, I would urge my colleagues to support this amendment, there is no opposition to it, and then I would urge my colleagues to support the final passage of this legislation because this has been a long tortuous task, but is is clearly the right thing to do, and I urge an aye vote.

This amendment addresses concerns raised by the Catellus Development Corporation and the 950,000 members of the California Public Employees Retirement System.

Catellus and its stockholders, including the members of the California Public Employees Retirement System, own approximately 410,000 acres of land that would become inholdings within the park unit and monument areas designated in the California Desert Protection Act.

Mr. Chairman, using the numbers provided in the BLM's report inholding acquisition costs, the lands owned by Catellus are located in areas where land values range from $100 to $400 per acre. If we assume BLM's numbers are accurate, and some people including Catellus say they are high—this means the 410,000 acres of Catellus lands are worth from $41 to $164 million. Our amendment would allow Catellus to realize the value of these lands, while at the same time protecting the taxpayer's pocketbook.

The amendment is very similar to a provision included in the California Desert Protection Act to address concerns raised by the California State Lands Commission and the retired teachers in California.

The amendment directs the Secretary of the Interior to enter into land exchange negotiations with Catellus. The agreement would provide for the exchange of lands owned by Catellus for surplus nonrevenue producing Federal lands under the Interior Department's jurisdiction.

All land exchange agreements must be consistent with the Federal Land Policy and Management Act. Any land exchange agreement involving more than 5,000 acres of Federal land, any transaction valued at more than $5,000,000, or any exchange involving lands outside the State of California must be approved by a joint resolution of Congress.

Mr. Chairman, it is our hope that land exchanges will be successfully completed. However, if Catellus continues to own inholdings in the park units, and monument or wilderness areas after October 1, 1996, the Secretary is directed to establish a monetary credit account in the name of Catellus. The amount of the account shall be equivalent to the appraised value of the remaining inholdings. Catellus could then use this account to bid as any other bidder for excess or Federal property offered in a public sale.

Mr. Chairman, this amendment has the support of environmental organizations, as well as the California Public Employees Retirement System, and Catellus. It is an attempt to fairly deal with the largest inholder within the park, wilderness, and monument areas designated by this bill. The amendment allows the landowner to receive fair market value for its lands at the same time as it ensures that Federal taxpayers will receive fair market value for their public land. The exchange only occurs if Catellus wishes to give the Federal Government title to the Catellus lands.

Mr. BLAZ. Mr. Chairman, I am about to yield back the remaining time, but, before I do that, I just want to say to you that I appreciate more than I can express your indulgence and your courtesy to the gentleman from Guam.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Vento-Blaz amendment to H.R. 2929, the California Desert Protection Act. The amendment is similar to H.R. 3565, which was referred jointly to the Committees on Armed Services and Interior and Insular Affairs.

This amendment withdraws 1.3 million acres of land from appropriation under the public land laws, allowing for its continued use for military purposes. The withdrawal for China Lake Naval Weapons Center in Inyo, Kern, and San Bernardino Counties and the Chocolate Mountain Aerial Gunnery Range in Imperial County would last for 15 years.

The area covered by the withdrawal meets the requirement of the Department of Defense for these two locations. Previous withdrawals of these lands for military purposes expired many years ago. The amendment also permits use by the Navy of the El Centro Ranges, also in Imperial County, until January 1, 1994.

The Vento-Blaz amendment also addresses the issue of military overflights. In section 812, the amendment clearly states that nothing in this bill precludes current or future military use of airspace. The section requires the Secretary of Interior to monitor the effects of overflights, and to work with the Secretary of Defense to prevent, eliminate, and minimize any adverse impact on resources, values, and visitor enjoyment caused by overflights.

This amendment is very similar to a bill passed by the House in the 100th Congress, H.R. 1548, and is modeled closely on the Military Lands Withdrawal Act of 1986, Public Law 99–606, 100 Stat. 3457–68. It has been slightly modified from the bill originally introduced this year, H.R. 3565, to address concerns raised by the Departments of Interior and Defense during hearings by the Interior Committee.

As chairwoman of the Armed Services Subcommittee on Military Installations and Facilities, I support the withdrawal of these lands from the protected California desert to allow for the continuation of military purposes set forth in the amendment. I salute the chairman of the National Parks and Public Lands Subcommittee, the gentleman from Minnesota [Mr. VENTO] and my colleague on the Armed Services Committee, the gentleman from Guam [Mr. BLAZ] for offering this amendment to address specific military concerns raised by the California Desert Protection Act.

Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield back the balance of my time

Mr. LEHMAN of California. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman form California [Mr. MILLER].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. KENNELLY) having assumed the chair, Mr. BARNARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, pursuant to House Resolution 279, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

VOL
137
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The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 297, noes 136, not voting 1, as follows:

[Roll No. 435]

AYES—297

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Goss
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NOES—136

Allard
Allen
Anderson
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Gillmor
Gingrich
Goodling
Gradison
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Myers
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Quillen
Ray
Regula
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Roth
Schaefer
Schulze
Sensenbrenner
Shuster
Skeen
Skelton
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Wolf
Wylie
Youug (AK)
Young (FL)
Zeliff

NOT VOTING—1

Ridge

☐ 1845

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, although I was present on the floor of the House, my vote was not recorded on rollcall No. 433, the Nichols amendment to H.R. 2929. Had my vote been recorded it would have been a "nay."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 2929, CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. LEHMAN of California. Madam Speaker, I ask unanimous consent that in the enrollment of H.R. 2929, the Clerk may correct cross-references, change section, subsection, and paragraph numbers, and make other necessary technical and conforming changes.

The SPEAKER pro tempore (Mrs. KENNELLY). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. LEHMAN of California. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2929, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2797

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2797.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2540

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent that to have my name removed from cosponsorship of H.R. 2540.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

CEILING WITH RESPECT TO HEALTH EDUCATION ASSISTANCE LOANS

Mr. WAXMAN. Mr. Speaker, I ask unainmous consent to take from the Speaker's table the Senate bill (S. 2050) to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LENT. Mr. Speaker, reserving the right to object, while I do not object, I make this reservation for the purpose of asking the gentleman from California [Mr. WAXMAN] if he will explain what is in this bill.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

The purpose of S. 2050 is to authorize the Secretary of Health and Human Services to approve Federal loan insurance to new borrowers in the Health Education Assistance Loan [HEAL] Program. We have been advised by the Department that in the absence of legislation reauthorizing the HEAL Program for fiscal year 1992, the Department would be limited to insuring loans only to students who had previously received assistance. This would impose severe hardship upon students entering school who had depended upon these loans for their tuition. Legislation extending the HEAL Program has passed the House and is awaiting conference with the Senate. Although we anticipate swift resolution of the differences between House and Senate bills, this cannot occur until early next year. In the interim it is essential that the Department have sufficient authority to make new loans.

At the appropriate time, I will offer an amendment that will make a technical correction in the Senate-passed bill and authorize a small pilot program for training individuals in clinical pharmacology. If successful, this program can assist the Food and Drug Administration in attracting skilled scientific personnel to promote public health by improving the quality and speed of the drug approval process.

I know of no objection to the legislation.

Mr. LENT. Mr. Speaker, continuing my reservation, I rise in support of S. 2050, as amended. This legislation has been worked out with the Senate and includes the following two provisions.

An extension of the credit limit for the Health Education Assistance Loan [HEAL] Program for new borrowers. Since the Congress has not yet completed its work on the reauthorization of the health manpower programs contained in title VII of the Public Health Service Act, this provision is necessary to address an immediate problem. For students who are first time borrowers under the HEAL Program, current law only authorizes such loans through fiscal year 1991. This bill extends that authority for another year.

A provision to authorize $750,000 per year for fiscal year 1992–1996 for a pilot Clinical Pharmacology Training Program to be administered by the Food and Drug Administration. There is currently a shortage of trained clinical pharmacologists, which is hindering the development of new drugs. In addressing this need, it is particularly important to determine the feasibility of expanding clinical pharmacology programs into medical schools currently without such programs.

Mr. Speaker, I know of no objection to this bill.

Mr. LENT. Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled an Act "Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WAXMAN:

Strike all after the enacting clause and insert the following:

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of title VII of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.".

SEC. 2. PILOT PROGRAM IN CLINICAL PHARMACOLOGY.

(a) ESTABLISHMENT.—The Commissioner of Food and Drugs is authorized to award through a competitive bid process a grant for a pilot program for the training of individuals in clinical pharmacology at an appropriate medical school without such a program. Such grant shall be for the purpose of evaluating the extent to which such a program can contribute to an identifiable increase in the number of trained biomedical, scientific personnel in clinical pharmacology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 1992 through 1996 $750,000 for each fiscal year to carry out this section.

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. WAXMAN].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT, FRIDAY, DECEMBER 6, 1991, TO FILE SUNDRY REPORTS

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology have until midnight, Friday, December 6, 1991 to file the following late reports: H.R. 191, Technology Transfer Improvements Act of 1991, H.R. 2941, Surface Transportation Research and Development Act of 1991, and, H.R. 3507, American Industrial Quality and Training Act of 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1850

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHARP). Pursuant to clause 5 of rule I, the Chair will now redesignate the time for further proceedings on suspension requests postponed on today and on the legislative day of Saturday, November 23, 1991. Such proceedings will be resumed later today.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

for which Federal financial participation is available under the Medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 754. An act to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; and

S.J. Res. 229. Joint resolution designating the month of May, 1992, as "National Trauma Awareness Month".

The message also announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) "An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary."

REPORT ON RESOLUTION WAVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1724, EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS; AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Ms. SLAUGHTER of New York, from the Committee on Rules, submitted a privileged report (Rept. No. 102–389) on the resolution (H. Res. 306) waiving all points of order against the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2212, UNITED STATES-CHINA ACT OF 1991

Ms. SLAUGHTER of New York, from the Committee on Rules, submitted a privileged report (Rept. No. 102–390) on the resolution (H. Res. 307) waiving all points of order against the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 1724, EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS: AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL

Ms. SLAUGHTER of New York. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 306 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 306

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 306 waives all points of order against the conference report on H.R. 1724 and against its consideration. The rule also provides that the conference report will be considered as having been read.

The House passed H.R. 1724 under suspension of the rules on October 8, 1991. The Senate, after enacting the Emergency Unemployment Compensation Act of 1991 without amendment, took up H.R. 1724 and added one amendment, to change the extended unemployment benefits.

Mr. Speaker, the Senate unemployment amendment provides all States with at least 13 weeks of extended unemployment benefits and provides reachback for all States. The program is shortened from July 4, 1992, the program would now expire June 13, 1992.

Last week, the House took up H.R. 1724, agreed to the Senate amendment and further amended the bill to add the text of four bills: H.R. 3347, repeal of the ban on importing Soviet gold coins; H.R. 3313, extension of MFN treatment to Estonia, Latvia, and Lithuania; H.R. 661, trade preference for the Andean region; and H.R. 3409, control of chemical and biological weapons act.

Mr. Speaker, the conference report is identical to the most recent House-passed version, with one exception. The conference report strikes certain provisions from the text of H.R. 3409, the chemical and biological weapons; the provisions that are removed are identical to provisions already enacted into law in Public Law 102–138, the State Department Authorization Act for fiscal year 1992.

Mr. Speaker, this is the customary rule for conference reports. I urge my colleagues to adopt the rule and move this important legislation forward.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from New York [Mrs. SLAUGHTER] has ably described the rule.

This conference report contains a number of important trade provisions. Among other things, it extends most-favored-nation treatment to Hungrary and Czechoslovakia, repeals the ban on importation of Soviet gold coins, and provides for controls and sanctions against foreign persons and countries involved in the production and use of chemical and biological weapons.

The conference report also includes the Andean initiative to provide trade alternatives for the Andean nations of South America to combat illegal drugs. This initiative was proposed by the administration. I would like to note here, Mr. Speaker, that the administration does support this conference report.

Most importantly, Mr. Speaker, this conference report provides for modifications to the Emergency Unemployment Compensation Act of 1991 which the President recently signed. It replaces the three-tier benefit system of 6, 13, or 20 weeks of extended benefits in that legislation with a two-tier system. This new system provides all States with at least 13 weeks of extended unemployment benefits and 20 weeks for unemployed in the same 9 States plus Puerto Rico that would have received 20 weeks under the prior legislation.

Mr. Speaker, I support this rule so that the House may proceed with passage of the conference report.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. JACOBS].

ADJOURNMENT TOMMYROT

(By unanimous consent, Mr. JACOBS was allowed to proceed out of order.)

Mr. JACOBS. Mr. Speaker, a few nights ago CBS rebroadcast some of Ed Sullivan's old programs, and they included Richard Burton in Camelot.

That, together with the nasty rumor that is going about whether the sun will rise on Wednesday of this week at adjournment, has brought out the poet in me.

Each evening between now and December,
Before you drift to sleep upon your cot,
Think back on all the tales that you remember,
About adjournment tommyrot.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1900

Mr. ROSTENKOWSKI. I submitted the following conference report and statement on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary:

CONFERENCE REPORT (H. REPT. 102–391)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SEC. 4. REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS.

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5100) is repealed.

TITLE I—EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA.

SEC. 101. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The Government of the United States extended full diplomatic recognition to Estonia, Latvia, and Lithuania in 1922.

(2) The Government of the United States entered into agreements extending most-favored-nation treatment with the Government of Estonia on August 1, 1925, the Government of Latvia on April 30, 1926, and the Government of Lithuania on July 10, 1926.

(3) The Union of Soviet Socialist Republics incorporated Estonia, Latvia, and Lithuania involuntarily into the Union as a result of a secret protocol to a German-Soviet agreement in 1939 which assigned those three states to the Soviet sphere of influence; and the Government of the United States has at no time recognized the forcible incorporation of those states into the Union of Soviet Socialist Republics.

(4) The Trade Agreements Extension Act of 1951 required the President to suspend, withdraw, or prevent the application of trade benefits, including most-favored-nation treatment, to countries under the domination or control of the world Communist movement.

(5) In 1951, responsible representatives of Estonia, Latvia, and Lithuania stated that they did not object to the imposition of "such controls as the Government of the United States may consider to be appropriate" to the products of those countries, for such time as those countries remained under Soviet domination or control.

(6) In 1990, the democratically elected governments of Estonia, Latvia, and Lithuania declared the restoration of their independence from the Union of Soviet Socialist Republics.

(7) The Government of the United States established diplomatic relations with Estonia, Latvia, and Lithuania on September 2, 1991, and on September 6, 1991, the State Council of the transitional government of the Union of Soviet Socialist Republics recognized the independence of Estonia, Latvia, and Lithuania, thereby ending the involuntary incorporation of those countries into, and the domination of those countries by, the Soviet Union.

(8) Immediate action should be taken to remove the impediments, imposed in response to the circumstances referred to in paragraph (5), in United States trade laws to the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of those countries.

(9) As a consequence of establishment of United States diplomatic relations with Estonia, Latvia, and Lithuania, these independent countries are eligible to receive the benefits of the Generalized System of Preferences provided for in title V of the Trade Act of 1974.

SEC. 102. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

(a) IN GENERAL.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) or any other provision of law, nondiscriminatory treatment (most-favored-nation treatment) applies to the products of Estonia, Latvia, and Lithuania.

(b) CONFORMING TARIFF SCHEDULE AMENDMENTS.—General Note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking out "Estonia", "Latvia", and "Lithuania".

(c) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (b) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 103. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS.

Title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply to Estonia, Latvia, and Lithuania effective as of the 15th day after the date of the enactment of this Act.

SEC. 104. SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that the President should take prompt action under title V of the Trade Act of 1974 to provide preferential tariff treatment to the products of Estonia, Latvia, and Lithuania pursuant to the Generalized System of Preferences.

TITLE II—TRADE PREFERENCE FOR THE ANDEAN REGION

SEC. 201. SHORT TITLE.

This title may be cited as the "Andean Trade Preference Act".

SEC. 202. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 203. BENEFICIARY COUNTRY.

(a) DEFINITIONS.—For purposes of this title—

(1) The term "beneficiary country" means any country listed in subsection (b)(1) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "HTS" means Harmonized Tariff Schedule of the United States.

(b) COUNTRIES ELIGIBLE FOR DESIGNATION; CONGRESSIONAL NOTIFICATION.—(1) In designating countries as beneficiary countries under this title, the President shall consider only the following countries or successor political entities:

Bolivia
Ecuador
Colombia
Peru.

(2) Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(c) LIMITATIONS ON DESIGNATION.—The President shall not designate any country a beneficiary country under this title—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce, unless the President—

(A) has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and

(B) reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this title if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(d) FACTORS AFFECTING DESIGNATION.—In determining whether to designate any country a beneficiary country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to protect its own economic development;

(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) of the Foreign Assistance Act of 1961 for eligibility for United States assistance; and

(12) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this Act.

(e) WITHDRAWAL OR SUSPENSION OF DESIGNATION.—(1) The President may—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this title to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such a country should be barred from designation as a beneficiary country.

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days before taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) TRIENNIAL REPORT.—On or before the 3rd, 6th, and 9th anniversaries of the date of the enactment of this title, the President shall submit to the Congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (c) and (d). In reporting on the considerations described in subsection (d)(11), the President shall report any evidence that the crop eradication and crop substitution efforts of the beneficiary are directly related to the effects of this title.

SEC. 204. ELIGIBLE ARTICLES.

(a) IN GENERAL.—(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in a beneficiary country or 2 or more beneficiary countries under this Act, or a beneficiary country under the Caribbean Basin Economic Recovery Act or 2 or more such countries, plus

(ii) the direct costs of processing operations performed in a beneficiary country or countries (under this Act or the Caribbean Basin Economic Recovery Act),

is not less than 35 percent of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out subsection (a) including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expense of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, interest, and salesmen's salaries, commissions or expenses.

(4) If the President, pursuant to section 223 of the Caribbean Basin Economic Recovery Expansion Act of 1990, considers that the implementation of revised rules of origin for products of beneficiary countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) would be appropriate, the President may include similarly revised rules of origin for products of beneficiary countries designated under this title in any suggested legislation transmitted to the Congress that contains such rules of origin for products of beneficiary countries under the Caribbean Basin Economic Recovery Act.

(b) EXCEPTIONS TO DUTY-FREE TREATMENT.—The duty-free treatment provided under this title shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(6) articles to which reduced rates of duty apply under subsection (c);

(7) sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

(8) rum and tafia classified in subheading 2208.40.00 of the HTS.

(c) DUTY REDUCTIONS FOR CERTAIN GOODS.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in 5 equal annual stages with the first 1/5 of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

(d) SUSPENSION OF DUTY-FREE TREATMENT.—(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the United States International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation providing solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974, determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 202 of this title shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed under section 202 of this title, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 204 of the Trade Act of 1974.

(e) EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection —

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203(b)(2) of such Act becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day of the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheadings 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; or

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(f) SECTION 22 FEES.—No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

SEC. 205. RELATED AMENDMENTS.

(a) INCREASE IN DUTY-FREE TOURIST ALLOWANCE.—Note 4 to subchapter IV of chapter 98 of the HTS is amended by inserting before the period the following: "or a country designated as a beneficiary country under the Andean Trade Preference Act".

(b) TREATMENT OF INSULAR POSSESSIONS PRODUCTS.—General Note 3(a)(iv) of the HTS (relating to products of the insular possessions) is amended by adding at the end thereof the following:

"(E) Subject to the provisions in section 204 of the Andean Trade Preference Act, goods which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.".

SEC. 206. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress, a report regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, during—

(1) the 24-month period beginning with the date of enactment of this title; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 208(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b) REPORT REQUIREMENTS.—(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report, of this title on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries;

(B) the probable future effect that this title will have on the United States economy generally, as well as on such domestic industries, before the provisions of this title terminate; and

(C) the estimated effect that this title has had on the drug-related crop eradication and crop substitution efforts of the beneficiary countries.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this title, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this title.

(c) SUBMISSION DATES; PUBLIC COMMENT.—(1) Each report required under subsection (a) shall be submitted to the Congress before the close of the 9-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide an opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

SEC. 207. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact that the implementation of the provisions of this title has with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

SEC. 208. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment.

(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect 10 years after the date of the enactment of this title.

TITLE III—CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

SEC. 303. MULTILATERAL EFFORTS.

(a) MULTILATERAL CONTROLS ON PROLIFERATION.—It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) MULTILATERAL CONTROLS ON CHEMICAL AGENTS, PRECURSORS, AND EQUIPMENT.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 304. UNITED STATES EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (m) through (r) as subsections (n) through (s), respectively; and

(2) by inserting after subsection (l) the following:

"(m) CHEMICAL AND BIOLOGICAL WEAPONS.—

"(1) ESTABLISHMENT OF LIST.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the list maintained under this section, a list of goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability.

"(2) REQUIREMENT FOR VALIDATED LICENSES.—The Secretary shall require a validated license for any export of goods or technology on the list established under paragraph (1) to any country of concern.

"(3) COUNTRIES OF CONCERN.—For purposes of paragraph (2), the term 'country of concern' means any country other than—

"(A) a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of goods or technology on the list established under paragraph (1); and

"(B) such other countries as the Secretary of State, in consultation with the Secretary and the Secretary of Defense, shall designate consistent with the purposes of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.".

SEC. 305. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) AMENDMENT TO EXPORT ADMINISTRATION ACT.—The Export Administration Act of 1979 is amended by inserting after section 11B the following:

"CHEMICAL AND BIOLOGICAL WEAPONS
PROLIFERATION SANCTIONS

"SEC. 11C. (a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act, or

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

(b) AMENDMENT TO ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by inserting after chapter 7 the following:

"CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 81. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

"(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHOM SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall *apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.*

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

SEC. 306. DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of the enactment of this title, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 307 applies if the President determines that that government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 307.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

SEC. 307. SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 306(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—Unless, within 3 months after making a determination pursuant to section 306(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) SANCTIONS.—The sanctions referred to in paragraph (1) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTIAL ACTION REGARDING AVIATION.—(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 306(a)(1) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 306(a)(1), in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(c) REMOVAL OF SANCTIONS.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) WAIVER.—

(1) CRITERIA FOR WAIVER.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) REPORT.—In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(e) CONTRACT SANCTITY.—

(1) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 306(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 306(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 308. PRESIDENTIAL REPORTING REQUIREMENTS.

(a) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this title, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

(1) a description of the actions taken to carry out this title, including the amendments made by this title;

(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

(3) a description of—

(A) the use of chemical weapons by foreign countries in violation of international law,

(B) the use of chemical weapons by subnational groups,

(C) substantial preparations by foreign countries and subnational groups to do so, and

(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) PROTECTION OF CLASSIFIED INFORMATION.—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.

SEC. 309. REPEAL OF DUPLICATIVE PROVISIONS.

(a) REPEAL.—Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), and the amendments made by that title, are repealed.

(b) REFERENCES TO DATE OF ENACTMENT.—The reference—

(1) in section 11C(a)(1) of the Export Administration Act of 1979, as added by section 305(a) of this Act, to the "date of the enactment of this section",

(2) in section 81(a)(1) of the Arms Export Control Act, as added by section 305(b) of this Act, to the "date of the enactment of this section", and

(3) in section 306(a)(1) of this Act to the "date of the enactment of this title",

shall be deemed to refer to the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM GIBBONS,
Managers on the Part of the House.

LLOYD BENTSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill inserted a new section at the end of the bill.

The House agreed to the Senate amendment with an amendment which inserted after the matter inserted by the Senate the combined texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409 as reported to the House.

The Senate recedes from its disagreement to the amendment of the House inserting the texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409, with an amendment to the text of H.R. 3409. The House recedes to the amendment of the Senate. The differences between the text of the bill as amended by the Senate, the House amendment, and the amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TERMINATION OF THE APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY

(Sections 1 and 2 of House bill; sections 1 and 2 of House bill as amended by Senate; sections 1 and 2 of conference agreement.)

CONGRESSIONAL FINDINGS AND PREPARATORY PRESIDENTIAL ACTION

(Section 1 of House bill; section 1 of House bill as amended by Senate; section 1 of conference agreement.)

Present Law

No provision.

Section 1 contains Congressional findings and notes preparatory Presidential action. Subsection (a) makes a number of findings related to Hungary's and Czechoslovakia's respect for fundamental human rights; their policies of free emigration for their citizens; and the political and economic reforms undertaken by both countries. Subsection (b) notes that the President, in anticipation of the enactment of the bill, has directed the U.S. Trade Representative to negotiate with both countries to preserve the commitments contained in the bilateral commercial agreements that are consistent with the General Agreement on Tariffs and Trade; and to obtain other appropriate commitments.

House Bill as Amended by Senate

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY

(Section 2 of House bill; section 2 of House bill as amended by Senate; section 2 of conference agreement.)

Present Law

Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990, sets forth three requirements relating to freedom of emigration which must be met, or waived by the President, in order for the President to grant nondiscriminatory, most-favored-nation (MFN) status to a nonmarket economy country. Title IV also requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status and sets forth minimum provisions which must be included in such an agreement.

Presidential waivers and reports under Title IV—and thus a country's MFN status—are subject to disapproval by Congress. If the President determines that a country is in full compliance with the Jackson-Vanik freedom of emigration requirements, section 402(b) requires that he submit a report to the Congress by June 30 and December 31 of each year that such country receives MFN treatment, describing the nature of the country's emigration laws and policies. The country's MFN status may be revoked, if a joint resolution disapproving the December 31 compliance report is enacted into law within 90 legislative days of the delivery of the report to Congress. If such a resolution is enacted, the country's MFN status is rescinded, effective 60 calendar days after enactment.

Annual Presidential recommendations under section 402(d) for a 12-month extension of authority to waive Jackson-Vanik freedom of emigration requirements (either generally or for specific countries) are subject to a joint resolution of disapproval passed by the Congress within 60 calendar days after expiration of the previous waiver extension. An additional 15 legislative days, following the 60 calendar day period for initial passage, is available for consideration of any veto message. If such a resolution is enacted, the country's MFN status is rescinded, effective 60 calendar days after enactment.

House Bill

Section 2 provides for the termination of application of Title IV of the Trade Act of 1974 to Czechoslovakia and Hungary. Subsection (a) authorizes the President to determine that such title should no longer apply to Hungary or Czechoslovakia, or to both; and after making such a determination, proclaim the extension of nondiscriminatory, MFN treatment to the products of that country. Subsection (b) provides that after the extension under subsection (a) of MFN treatment to the products of a country, Title IV of the Trade Act of 1974 shall cease to apply to that country.

House Bill as Amended by Senate

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

AMENDMENTS TO THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

(Section 3 of House bill as amended by Senate; section 3 of conference agreement.)

Present Law

All States are eligible to provide Emergency Unemployment Compensation (EUC) benefits to unemployed workers who have exhausted their unemployment benefits under existing programs. These benefits are available between November 17, 1991, and July 4, 1992.

There are three levels of weeks of eligibility for EUC benefits. The number of weeks of benefits payable to an unemployed worker in a particular State is determined by combinations of State adjusted insured unemployment rates (AIURs), exhaustion rates (ERs), and total unemployment rates (TURs). All rates are rounded to the nearest tenth of a percentage point. For example, 2.95 percent would be rounded to 3.0 percent.

The AIUR for a State is the insured unemployment rate for a given month plus the number of workers who have exhausted their regular State benefits in the last three months added to the numerator.

The ER is the percentage obtained by dividing the average monthly number of workers who have exhausted their regular State benefits during the last 12 months by the average monthly number of individuals filing initial claims for regular State benefits during the last 12-month period ending 6 months earlier. (For the reachback and initial benefit periods an eight-month average ending with September was used.)

The TUR is the percentage obtained from the ratio of all unemployed workers to all workers in the labor force in that State during the last six months for which data are published.

States can receive 6, 13, or 20 weeks as follows:

All States get at least 6 weeks.

States with AIURs of at least 4 percent *or* AIURs of at least 2.5 percent *and* exhaustion rates of at least 29 percent get at least 13 weeks.

States with AIURs of at least 5 percent or TURs of at least 9 percent get 20 weeks.

Once a State has "triggered on" for a 6, 13, or 20 weeks period of EUC benefits, the State remains triggered on that tier for at least 13 weeks, even if it drops to a lower tier during that period. Alternatively, if a State's moves to a higher tier during that period, workers in that State qualify for the additional benefits.

Also, once an unemployed worker becomes eligible for 6, 13, or 20 weeks of EUC benefits, the worker is paid for all weeks to which he is entitled, even if the State drops to a lower tier or the program expires before the worker has received the full number of weeks of benefits.

Unemployed workers who have exhausted their benefits under the regular unemployment program between March 1 and November 16 are eligible to receive EUC benefits in States which qualify as 13- or 20-week States or which had AIURs of at least 3 percent. Qualifying States are eligible for a minimum of 6 weeks of "reachback" benefits, however, States on the second and third tiers are eligible to pay for 13 or 20 weeks, respectively.

House Bill

No provision.

Senate Amendment

The Senate amendment replaces the three tier system of 20, 13, and 6 weeks of emergency unemployment compensation with a two tier system of 20 and 13 weeks. The 9 States and Puerto Rico with total unemployment rates of at least 9 percent or adjusted insured unemployment rates of at lest 5 percent still would receive 20 weeks of benefits. The other 41 States and the District of Columbia and Virgin Islands would receive 13 weeks of benefits. In addition, reachback coverage would be added for all States so that the 18 States and the Virgin Islands that do not currently receive these benefits would become eligible to provide them. Finally, the expiration date of the program would change from July 4, 1992, to June 13, 1992.

Conference Agreement

The conferees agree to the Senate amendment.

REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS

(Section 4 of House amendment; section 4 of conference agreement.)

Present Law

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 prohibits the importation into the United States by any person, including a bank, of any gold coins minted in the Union of Soviet Socialist Republics (USSR) or offered for sale by the Government of the USSR. Any individual who violates the prohibition or implementing regulations is subject to a fine of not more than five times the value of the gold coins involved.

Imports of gold coins enter the United States duty-free.

House Amendment

Section 4 repeals section 510 of the Comprehensive Anti-Apartheid Act of 1986.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA

(Title I of House amendment; Title I of conference agreement.)

CONGRESSIONAL FINDINGS

(Section 101 of House amendment; section 101 of conference agreement.)

Present Law

No provision.

House Amendment

Section 101 makes a number of findings relating to the history of U.S. diplomatic relations with the Baltic states; their forcible incorporation into the Soviet Union in 1940; and their successful efforts to restore their independence from the Soviet Union, which occurred on September 6, 1991.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

(Section 102 of House amendment; section 102 of conference agreement.)

Present Law

The law governing U.S. trade relations with nonmarket economy counties is Title IV of the Trade Act of 1974 (the so-called Jackson-Vanik amendment), as amended by the Customs and Trade Act of 1990. That title requires the President to deny MFN status to those nonmarket economy countries which did not receive such status on the date of enactment. Because Estonia, Latvia, and Lithuania on the date of enactment were under the forcible control of the Soviet Union, this prohibition applied to those states.

Title IV also authorizes the President to extend MFN status to a nonmarket economy country, if that country meets three requirements relating to the freedom of emigration of its citizens. Alternatively, the President may waive those requirements and extend MFN status on an annual basis to a nonmarket economy country, subject to disapproval by Congress. Finally, Title IV requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status; and it sets forth minimum provisions which must be included in such an agreement.

General Note 3(b) of the Harmonized Tariff Schedule of the United States includes Estonia, Latvia, and Lithuania on the list of countries subject to Column 2 (non-MFN) rates of duty.

House Amendment

Section 102 applies nondiscriminatory, MFN treatment to the products of Estonia, Latvia, and Lithuania, notwithstanding Title IV or any other provision of law. It amends General Note 3(b) to remove these three countries from the application of Column 2 (non-MFN) rates of duty.

These provisions apply with respect to goods imported on or after the 15th day after the date of enactment of the Act.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS

(Section 103 of House amendment; section 103 of conference agreement.)

Present Law

Title IV of the Trade Act of 1974, as amended, has applied to Estonia, Latvia, and Lithuania by virtue of their forcible incorporation into the Soviet Union in 1940.

House Amendment

Section 103 provides that title IV shall cease to apply to Estonia, Latvia, and Lithuania, effective as of the 15th day after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

(Section 104 of House amendment; section 104 of conference agreement.)

Present Law

Title V of the Trade Act of 1974 authorizes the President to provide duty-free, Generalized System of Preferences (GSP) treatment to any eligible article from designated beneficiary developing countries, subject to certain conditions and limitations. Under Section 502, the President is prohibited from designating as beneficiary developing countries certain specified developed countries, including the Soviet Union; communist countries unless certain criteria are satisfied; and countries which do not meet other specified criteria. Because Estonia, Latvia, and Lithuania are now independent of the Soviet Union, they are eligible for GSP benefits, subject to the criteria of Title V.

House Amendment

Section 104 expresses the sense of the Congress that the President should take prompt action under Title V to provide GSP benefits to the products of Estonia, Latvia, and Lithuania.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TRADE PREFERENCE FOR THE ANDEAN REGION

(Title II of House amendment.)

SHORT TITLE

(Section 201 of House amendment.)

Present Law

No provision.

House Amendment

Section 201 provides that the title may be cited as the "Andean Trade Preference Act" (ATPA).

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

AUTHORITY TO GRANT DUTY-FREE TREATMENT

(Section 202 of House amendment.)

Present Law

Bolivia, Ecuador, Colombia, and Peru receive most-favored-nation, column 1 rate of duty treatment and are designated as beneficiary countries for duty-free treatment on eligible articles under the Generalized System of Preferences (GSP) program.

House Amendment

Section 202 authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

BENEFICIARY COUNTRY

(Section 203 of House amendment.)

Present Law

No provision. The designation authority and criteria that apply under section 212 (b) and (c) of the Caribbean Basin Economic Recovery Act (CBERA) to beneficiary countries under the Caribbean Basin Initiative (CBI) program, are nearly identical to the provisions of section 203. Section 212 of the CBERA has similar withdrawal and suspension authorities and notification and reporting requirements with respect to CBI beneficiary countries.

House Amendment

Section 203 authorizes the President to consider only Bolivia, Ecuador, Colombia, and Peru for designation as beneficiary countries under the ATPA. Before designating any country, the President must notify the Congress of his intention to make the designation, together with the considerations entering into the decision. Designation by the President of a country as a beneficiary country is subject to 7 specific conditions, most of which are subject to waiver if he determines that designation of the country will be in the national economic or security interest of the United States and reports that determination and the reasons therefor to the Congress. The President must also take 12 other specific factors into account in designating any beneficiary country.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article of any beneficiary country if he determines after designation that the country should be barred from designation because of changed circumstances. The President must submit to the Congress every 3 years a complete report on the operation of the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

ELIGIBLE ARTICLES

(Section 204 of House amendment.)

Present Law

Imports from the Andean countries are subject to normal customs provisions for determining origin, except that articles eligible for duty-free treatment under the GSP program are subject to the rules-of-origin specified under section 503 of the Trade Act of 1974. The rule-of-origin requirements for duty-free treatment under the ATPA are nearly identical to the requirements under section 213(a) of the CBERA for determining origin under the CBI program.

Section 223 of the CBERA provides that if the President considers that implementation of revised rules of origin for products of CBI beneficiary countries would be appropriate, he shall transmit such legislation to the Congress, after taking into account a report and recommendations of the U.S. International Trade Commission (ITC) and advice from various sources.

The product exclusions from eligibility for duty-free treatment and the duty reductions on imports of certain leather products under the CBI program are identical to the ATPA, except that rum is eligible for duty-free treatment under the CBERA.

Additional U.S. Notes 2, 3, and 4 of Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) authorize the imposition of duties or quotas on imports of sugars, syrups, and molasses. Presidential Proclamation 6179, signed on September 13, 1990, provided for the establishment of tariff-rate quotas on sugar imports beginning on October 1, 1990, to replace the system of absolute quotas. Under the tariff-rate quota system, the Secretary of Agriculture announces a quantity of sugar that will be subject to current tariff rates (the "lower tier" tariff rate), which is then allocated among country suppliers. Any additional quantities of sugar above these allocated amounts are subject to a tariff rate of 16 cents per pound, raw value (the "upper tier" tariff rate). GSP and CBI beneficiary countries are eligible to receive

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duty-free treatment on the quantities of sugar permitted entry at the lower tier tariff rate. All four Andean countries currently have sugar import allocations subject to GSP duty-free treatment.

The CBI program contains identical authorities for granting import relief and taking emergency action on agricultural perishable products.

House Amendment

Section 204 requires duty-free treatment on any article, not otherwise excluded from eligibility, which is the growth, product, or manufacture of a beneficiary country if (1) that article is imported directly from a beneficiary country into the U.S. customs territory; and (2) the sum of (a) the cost or value of materials produced in one or more Andean beneficiary countries or one or more CBI beneficiary countries, plus (b) the direct costs of processing operations performed in one or more Andean or CBI beneficiary countries is not less than 35 percent of the appraised value of the article (which may include Puerto Rico and Virgin Islands content and up to 15 percent of the value of U.S. content). Section 204 also specifies requirements which the Secretary of the Treasury must prescribe in regulations. The President may include revised rules of origin for duty-free treatment under the ATPA similar to revised rules for CBI duty-free treatment in any suggested legislation submitted to the Congress pursuant to section 223 of the CBERA.

Section 204 excludes from eligibility for duty-free treatment: (1) Textiles and apparel articles, which are subject to textile agreements; (2) footwear ineligible for GSP duty-free treatment; (3) canned tuna; (4) petroleum or petroleum products; (5) certain watches and watch parts; (6) handbags, luggage, flat goods, work gloves, and leather wearing apparel ineligible for GSP duty-free treatment, which are subject to 20 percent duty reductions not to exceed 2.5 percent ad valorem implemented over 5 years; (7) sugars, syrups, and molasses subject to over-quota rates of duty; and (8) rum.

The President may suspend duty-free treatment on any eligible article under import relief or national security authorities. In any report to the President on an import relief investigation involving a duty-free article under the ATPA, the ITC must state whether and to what extent its injury findings and remedy recommendations apply to imports from beneficiary countries. Under emergency relief provisions for imports of perishable agricultural products, within 7 days after receiving a recommendation from the Secretary of Agriculture (within 14 days after the filing of a petition) that emergency action is warranted, the President must withdraw duty-free treatment or determine not to take emergency action. No proclamation under the ATPA shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

RELATED AMENDMENTS

(Section 205 of House amendment.)

Present Law

Note 4 and tariff items under subchapter IV of chapter 98 of the HTS provide a duty-free tourist allowance to returning U.S. residents arriving directly or indirectly from foreign countries (including Andean countries) of $400, or $600 in the case of CBI beneficiary countries. U.S. residents returning from foreign countries may bring in not more than one liter of alcoholic beverages duty-free and excise-tax free; residents returning from CBI beneficiary countries may enter one additional liter duty-free if produced in a CBI beneficiary country.

General Note 3(a)(iv) of the HTS provides that goods imported from U.S. insular possessions shall receive no less favorable duty treatment than accorded to eligible articles imported from beneficiary countries under the GSP or CBI programs.

House Amendment

Section 205 increases the duty-free tourist allowances for U.S. residents returning directly or indirectly from Andean beneficiary countries from $400 to $600 and for one additional liter of alcoholic beverages if produced in an Andean country.

Goods imported from U.S. insular possessions will receive duty treatment no less favorable than the treatment afforded such goods imported from a beneficiary country under the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT

(Section 206 of House amendment.)

Present Law

No provision. Section 215 of the CBERA requires a similar report by the ITC with respect to the CBI program.

House Amendment

Section 206 requires the ITC to prepare and submit to the Congress a report on the economic impact of the ATPA on U.S. industries and consumers and on the effectiveness of duty-free treatment in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, initially on the first two years of the program and annually thereafter.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

IMPACT STUDY BY SECRETARY OF LABOR

(Section 207 of House amendment.)

Present law

No provision. Section 216 of the CBERA contains an identical requirement with respect to the CBI program.

House Amendment

Section 207 requires the Secretary of Labor to make an annual report to the Congress of its review and analysis of the impact of the ATPA on U.S. labor.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT

(Section 208 of House amendment.)

Present Law

No provision.

House Amendment

Section 208 provides that the ATPA takes effect on the date of enactment, and that duty-free treatment terminates 10 years after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

(Title III of House amendment; Title III of conference agreement.)

SHORT TITLE

(Section 301 of House amendment; section 301 of conference agreement.)

Present Law

Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138) entitles the provisions of that title the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

PURPOSES

(Section 302 of House amendment; section 302 of conference agreement.)

Present Law

Title V of Public Law 102–138 states the purposes of the title as mandating U.S. sanctions and encouraging international sanctions against chemical and biological weapons (CBW) country violators, supporting multilateral proliferation controls, urging cooperation with the Australia Group and other suppliers' groups, and requiring Presidential reports on chemical and biological weapons proliferation.

House Amendment

Same as present law.

Senate Amendment.

No provision.

Conference Agreement

The Senate recedes.

MULTILATERAL EFFORTS

(Section 303 of House amendment; section 303 of conference agreement.)

Present Law

Title V of Public Law 102–138 specifies measures that the United States shall take to lead and coordinate multilateral efforts to control the proliferation of chemical and biological weapons.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

UNITED STATES EXPORT CONTROLS

(Section 304 of House amendment; section 304 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President to use the authorities of the Arms Control Act and the Export Administration Act of 1979 to control the exports of defense articles and services and other goods and technologies which he determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. It also provides for a list of goods and technology.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SANCTIONS AGAINST CERTAIN FOREIGN PERSONS

(Section 305 of House amendment; section 305 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President to impose sanctions on foreign persons who have knowingly and materially contributed to efforts by certain countries, projects, or entities to use, develop, produce, stockpile, or acquire chemical or biological weapons. It urges the President to undertake consultation with the country of jurisdiction in order to secure corrective action. It permits the President to delay imposition of sanctions against a foreign person for up to 90 days to pursue consultations and corrective action. It requires the President to report within 90 days after his determination on the status of the consultations and permits him to delay the imposition of sanctions for an additional 90 days if the President determines and certifies to Congress that the government is pursuing corrective actions. Upon making a determination that a foreign person has engaged in the prohibited activities, the President is required to impose government procurement sanctions against that person for at least 12 months, after which the sanctions may be terminated if the President determines and certifies that the violations have ceased. Certain exceptions also are provided (e.g., for certain defense articles and services or existing contracts). This section also provides for a Presidential waiver after 12 months, based on the President's determination that such a waiver is important to the national security interests of the United States.

House Amendment

Section 305 adds import sanctions to the sanctions which must be imposed against a foreign person found to be engaged in prohibited activities.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS

(Section 306 of House amendment; section 306 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President, once information becomes available to him, to determine, within 60 days of his receipt of pertinent information, whether any foreign country has used or made substantial preparation to use chemical weapons in violation of international law or against its own nationals. It also stipulates that the Senate Foreign Relations Committee and House Foreign Affairs Committee Chairmen, upon consultation with their ranking Minority Members, may request from the President a report on the information held by the Executive branch pertinent to the suspected violation.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS

(Section 307 of House amendment; section 307 of conference agreement.)

Present Law

Title V of Public Law 102–138 applies to any government which the President determines has used, or is making substantial preparation to use, chemical or biological weapons in violation of international law or against its own nationals. It establishes a two-tier sanctions regime. Once a determination is made, the President shall impose immediately the specified U.S. Government-associated sanctions (foreign assistance, arms sales, arms sales financing, government credit or financing, exports of national security-sensitive goods and technology). If, after 3 months, the President is not able to certify to Congress that the violation has ceased, that the government in question has provided assurances about no further use, and that the government is willing to allow on-site inspections by international observers, then the President shall impose three out of five possible sanctions (multilateral development bank assistance, bank loans, further export restrictions, diplomatic relations, landing rights). The President may remove the country sanctions after 12 months if he determines and can certify these same changes in conduct by the government in question.

The Presidential waiver authority in present law allows the President to waive the imposition of sanctions if he determines and certifies to Congress that it is essential to the national security interests of the United States; and if the President notifies the Committee on Foreign Relations in the Senate and the Committee on Foreign Affairs in the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with foreign aid reprogramming procedures. The President also must report on the rationale for, and circumstances of, his waiver.

The President also may waive the sanctions if he determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of the sanctioned country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

Present law also provides contract sanctity for contracts and agreements entered into before the date on which the President imposes sanctions unless such contract sanctity would assist the country in using chemical or biological weapons in violation of international law.

House Amendment

The landing rights sanction in section 307 specifies the steps to be taken by the Secretary of Transportation in implementing this sanction and providing for emergency procedures.

With respect to import sanctions, the President must notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, rather than the Committees on Foreign Relations and Foreign Affairs, of his determination and certification at least 15 days before the waiver takes effect. The notification requirement with respect to sanctions other than import sanctions is unchanged.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

PRESIDENTIAL REPORTING REQUIREMENTS

(Section 308 of House amendment; section 308 of conference agreement.)

Present Law

Title V of Public Law 102–138 requires a Presidential report to Congress 90 days after enactment of the amendment and every 12 months thereafter. This report is intended to be comprehensive and to include such information as a description of actions taken to carry out this title; efforts by countries and subnational groups to develop, produce, and use chemical or biological weapons; and any use of such weapons by a country in violation of international law.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

REPEAL OF DUPLICATIVE PROVISIONS

(Section 309 of Senate amendment to House amendment; section 309 of conference agreement.)

Present Law

Title V of Public Law 102–138 establishes a framework of sanctions for the proliferation and use of chemical and biological weapons.

House Amendment

No provision.

Senate Amendment to House Amendment

Section 309 repeals Title V of Public Law 102–138 and the amendments to other laws made by that title. It establishes the effective date of Title III of H.R. 1724 and the amendments to other laws contained therein as the date of enactment of Public Law 102–138.

Conference Agreement

The House recedes.

DAN ROSTENKOWSKI,
SAM GIBBONS,
Managers on the Part of the House.

LLOYD BENTSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 306, I call up the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SHARP). Pursuant to the rule, the conference report is considered as having been read.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 1724. This report contains modifications to the recently enacted Emergency Unemployment Compensation Act of 1991 and a number of very important trade provisions.

The original bill provides for termination of the Jackson-Vanik provisions of the Trade Act of 1974 and permanent extension of most-favored-nation treatment to Hungary and Czechoslovakia.

On November 20, the House concurred in the Senate amendment to H.R. 1724, which replaces the three-tier benefit system enacted in the Emergency Unemployment Compensation Program of 6, 13, and 20 weeks with a two-tier system of 13 and 20 weeks. An additional 24 State programs could provide 13 weeks of extended benefits instead of 6 weeks, and 19 additional State programs would be eligible for the reachback provisions under the new program. To pay for these two changes, the duration of the program would be cut by 3 weeks, from July 4 to June 13, 1992, but no State would lose benefits.

Because this bill will be enacted after the effective date of the program, there are certain requirements in present law relating to eligibility requirements for extended benefits that States will not be able to meet. I want to clarify that it is the expectation of the conferees that the Department of Labor will waive these requirements, in order that States will not be penalized for failure to take actions that, given the retroactive nature of this legislation, they cannot reasonable be expected to take.

The conference report includes the provisions of all four trade bills which the House passed by voice voter on November 20 as a composite amendment to the Senate-passed bill. The Senate agreed to repeal of the ban in the Comprehensive Anti-Apartheid Act of 1986 on importation of Soviet gold coins, the extension of unconditional most-favored-nation status to the Baltic States of Estonia, Latvia, and Lithuania, and United States export controls and sanctions against foreign persons and countries involved in the production and use of chemical and biological weapons.

Finally, Mr. Speaker, the Senate agreed to the provisions of H.R. 661, the Andean Trade Preference Act, an administration initiative to provide economic alternatives for the Andean nations to combat illegal drugs. The conference agreement fulfills the instruction passed on November 21 to the House conferees to insist on the position of the House with regard to this legislation.

Mr. Speaker, I urge my colleagues to support the conference report on H.R. 1724.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House conferees were very successful in winning approval of all of H.R. 1724's trade provisions. Those initiatives are important. The conference acted wisely.

Several of the provisions are reflective of the improved international situation in which we find ourselves.

They achieve permanent normalized trade relations with Hungary, Czechoslovakia, and the Baltic nations of Estonia, Latvia, and Lithuania.

Permanent most-favored-nation treatment is a positive signal we can send those who have struggled for economic reform and political freedom.

MFN for the Soviet Union is not contained in this bill. It is addressed, however, in a separate resolution which we passed last week—and which passed the Senate yesterday. This conference report does, however, contain a related measure.

It repeals the prohibition on the importation of gold coins from the Soviet Union—fulfilling a commitment made by the United States during talks on the bilateral trade agreement.

The chemical and biological weapons control measure contained in the conference report retains important waiver authority and flexibility for the President. It will be helpful in crafting an effective and judicious response to violations in this area.

I was particularly pleased by the inclusion of the Andean trade initiative in the final agreement. It is an important part of the President's war on illicit drug production. It fulfills his commitment to the Presidents of Bolivia, Columbia, Ecuador, and Peru to help them stimulate other exports.

Last week's 416-to-0 vote in the House on Phil Crane's motion to instruct conferees sent a clear signal to the Senate. This antidrug initiative is important.

The Senate got our message. The measure stayed in the conference agreement.

Final passage will send an equally clear signal to the Andean nations. The United States stands with them in their efforts to combat illegal drug trafficking by developing other products for export.

I can't say enough about the tireless efforts of our colleague Phil Crane, the ranking Republican on the Trade Subcommittee. He has been the congressional leader on the Andean initiative and deserves great credit for moving it forward. So does Chairman Rostenkowski—for holding firm on the House position in the face of last minute Senate hesitancy.

These trade issues are important. They deserve our support. I want to vote for them. Once again I can't. They remain packaged with still another unemployment benefit expansion—at levels I cannot support.

Less than 2 weeks ago, President Bush signed into law a $5.2 billion program of temporary extended benefits.

That plan had serious flaws—but at least it targeted relief to workers in States with high unemployment levels.

The package before us today amends that brand new law. It provides 7 more weeks of benefits in States which need them the least. Sixteen of those States have insured unemployment rates under 2 percent. Once again, Congress has cringed before the icon of political expediency.

This expansion strikes a blow at the foundation of the unemployment compensation program. It perverts the basic premise of extended benefits—that they should be concentrated in those areas where it's hardest for unemployed workers to find a job.

It's no fun being a lonely dissenting voice on this issue. The conference report will be adopted with little opposition.

It's important, though, that someone reminds this body of the groundwork we are laying today.

The next time we see the extended benefits issue, the call will be for a costly, permanent, nontargeted program which will require a significant tax increase.

I reserve the balance of my time.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. McCurdy].

Mr. McCURDY. Mr. Speaker, the conference report on H.R. 1724 contains virtually all of the provisions on chemical and biological weapons proliferations found in the conference report on H.R. 1415, the State Department authorization for fiscal years 1992 and 1993, which was passed by the House on October 8, 1991.

When the State Department authorization conference report was on the floor, I engaged in a colloquy with the gentleman from California [Mr. Berman]. The purpose of the colloquy was to clarify the circumstances in which the President could delay a determination that a foreign person had knowing and materially contributed to the proliferation of chemical or biological weapons.

Inasmuch as the provisions which gave rise to the colloquy are contained in the conference report now before us, and the purpose of legislative history, I include at this point in the Record a reflection of the colloquy between Mr. Berman and myself as it appeared on page H7640 of the Congressional Record for October 8, 1991.

Mr. McCURDY. Mr. Speaker, will the gentlemen yield?

Mr. BERMAN. I yield to the gentlemen from Oklahoma.

Mr. McCURDY. Mr. Speaker, if the chairman of the subcommittee would allow it, I would like to engage him in a colloquy.

I would like to clarify the provisions in H.R. 1415 that amend the Export Administration Act and the Arms Export Control Act to provide for sanctions against foreign companies involved in the development or production of chemical and biological weapons. These provisions mandate sanctions once the President makes a determination that a foreign person has "knowingly and materially" contributed to the efforts by any foreign country to develop or use biological or chemical weapons.

I strongly endorse this effort to sanction foreign companies involved in the proliferators of chemical and biological weapons. I rise to clarify one point concerning the Presidential determinations called for in these provisions. It has come to my attention that, in rare circumstances, a premature determination might inhibit the flow of information which is necessary to the full imposition of sanctions against all violators. It seems to me that the President should be allowed to delay such a determination where it is necessary to protect intelligence sources and methods which are being used to acquire further, possibly more important, information on CBW proliferation.

Is it your understanding that the protection of intelligence sources or methods for the stated purpose may be a factor in deciding on the timing of a Presidential determination that a foreign person is contributing to CBW proliferation?

Mr. BERMAN. Mr. Speaker, reclaiming any time, to answer the gentleman from Oklahoma [Mr. McCurdy], chairman of the House Permanent Select Committee on Intelligence, it is my understanding that the President, in rare circumstances, could delay a determination that a foreign person has knowingly and materially contributed to CBW proliferation if such a delay is necessary to protect intelligence sources or methods essential to the acquisition of further intelligence about CBW proliferation. Such a delay would be appropriate, for example, where the United States is using the sensitive intelligence sources or methods to gather information on other CBW proliferation, or where additional time is needed to develop nonsensitive information that could be used to explain publicly the imposition of sanctions. However, such a delay should not be indefinite, because the ultimate purpose of these provisions is to sanction those foreign persons that we know to be knowingly and materially involved in CBW proliferation. Moreover, the delay should only be for the purpose of furthering our policy of sanctioning those proliferators. A delayed determination would not be justified to further any other policy.

Mr. McCURDY. Mr. Speaker, if the gentleman would continue to yield, I thank my colleague for this clarification. I, too, would like to add my congratulations to the chairman of the subcommittee for his stewardship of this bill this year.

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Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois. [Mr. Crane].

Mr. CRANE. Mr. Speaker, I am forced to rise in opposition to this conference report despite the fact that I strongly favor many of the trade-related initiatives within it, including a measure which I sponsored myself. I cannot, however, in good conscience support an unemployment measure which would expand benefits to States which have an unemployment rate of less than 2 or 3 percent. Surely, our country cannot afford to be so generous as to expand such benefits to States which clearly do not have an unemployment problem.

Despite my strong objection to the unemployment provision, I would like to remind my colleagues of the positive aspects of this legislation. H.R. 1724 includes two measures to extend Most-Favored-Nation trading status to Czechoslovakia and Hungary as well as to each of the individual Baltic States. Granting MFN to these deserving nations will show that America is committed to helping the growing number of Democratic nations throughout the world.

I am particularly pleased that the Andean Trade Preference Act has been incorporated into H.R. 1724. Having introduced the bill earlier this year, I have been very interested in seeing it move rapidly through the legislative process. The fact that it has come to the floor this quickly is evidence of this body's firm commitment to the war against drugs.

Drafted by the Administration, the Andean Trade Preference Act is a very important aspect of the President's enterprise for the Americas initiative. This bill is designed to assist the Andean Nations; Colombia, Bolivia, Ecuador, and Peru, in their struggle to eliminate the production, processing and shipment of illegal drugs by removing the duties on a number of products originating in the region. As a result of this measure, the poor peasant farmers—who have been forced to rely on the drug trade to earn their daily bread—will be provided with an opportunity to engage in legitimate crop production.

Since nearly all of the cocaine entering the United States originates in the Andean region, our country stands to gain a great deal from the Andean Trade Preference Act. And while this act alone will not eliminate the flow of cocaine into the United States, this program coupled with the others which fall under the purview of the enterprise for the Americas initiative, will contribute significantly to the growth and prosperity of the Andean countries, thereby giving them the means to address the serious drug problems facing our hemisphere.

In addition, passage of this measure will in effect be an acknowledgement of the substantial sacrifices the Andean countries have already made in the war against drugs. And perhaps today's actions will spur even greater efforts in that direction.

I wish to thank Chairman Gibbons, Chairman Rostenkowski, and the ranking Republican on the Ways and Means Committee, Bill Archer, for all their efforts in helping to move the Andean legislation so swiftly.

It is truly with deep regret that I must vote against H.R. 1724.

Mr. PEASE. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Ohio, the acting chairman, for yielding this time to me, and commend the full committee chairman, the gentleman from Illinois [Mr. Rostenkowski], and our congressional classmate, the gentleman from Texas [Mr. Archer] for the work they have done.

Mr. Speaker, certainly I rise in support of permanent MFN status for the emerging East Bloc nations of Hungary and Czechoslovakia, and also for those brave nations, formerly a part of the U.S.S.R.; but in addition to those wonderful things, I would like to speak momentarily in favor of the amendments made by the distinguished Committee on Ways and Means on the formulas for the extension of unemployment benefits to the states.

My home State of Kentucky was one which would have received only 6 weeks, a very welcome 6 weeks, I must say, under the original bill, but now it will receive 13 weeks, which is even more important to the many thousands upon thousands of unemployed in Louisville and Jefferson County and throughout the Commonwealth of Kentucky.

So I realize it took a lot of doing to reach this point tonight. I want to thank all those responsible and rise in very strong support of this conference report.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Santorum].

Mr. SANTORUM. Mr. Speaker, I thank the distinguished ranking minority member for whom I have as much respect for as any Member in this body for yielding me this time.

I was not going to speak on this bill, but when I heard the gentleman say he was a lone voice speaking out against this unemployment compensation switch, I wanted to join him in that. I voted against this bill the last time for that specific reason.

We in Pennsylvania are hurting and have been hurting for a long time in my area. This recession has taken a very heavy toll, but the people in Pennsylvania under this bill are going to get less benefits than they would

VOL 137
PT 24
NO 26
1991 — JA 3 1992
UMI

under the bill that is currently the law right now, because they shortened the timeframe that allows us to get benefits, so I am voting against this bill. I think every Member from Pennsylvania should vote against this bill.

If we are really serious about extending unemployment compensation benefits to the people who are hurting, who cannot get jobs, not in States in which we have 3-percent unemployment and have healthy economies, but in States where people are really hurting, if that is what this body cares about, about people who are hurting out there who cannot find jobs, then this is a sham. We should be giving those benefits to people who need them and in the States where it is hard to find jobs, and this is the State of Pennsylvania.

So I rise in support of the position of the gentleman on that and I will be opposing the vote, even though there may be many things in this bill, as the gentleman from Illinois just said, that I support and in fact was a cosponsor of the legislation; but I find this absolutely repugnant for this precedent and for this insult to the people who are really hurting in this country.

I also find it very ironic that we are here discussing unemployment compensation extensions when what we should be discussing is getting these people a job and considering a growth package right now before we get out of here for Thanksgiving.

Mr. PEASE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I must say it pains me that my colleagues on the Ways and Means Committee, the distinguished gentleman from Texas [Mr. ARCHER] and the distinguished gentleman from Illinois [Mr. CRANE] like this bill a lot, but they cannot quite bring themselves to vote for it. Some of us, I guess, on this side, are going to have to provide the votes to give not only trade preferences to some very important nations around the world, but also unemployment benefits to workers who badly need them.

I rise to support of all the sections of this bill, particularly the portions dealing with MFN for Czechoslovakia and Hungary and the Batlic states.

Eastern Europe is going through a dramatic transformation. The people of those countries need a great deal of help in adjusting to changing their systems from one of communism to one of free enterprise and democracy. There is a limit to how much we can do in terms of actual aid to those countries, but certainly providing them with trading privileges, allowing them to join the community of nations in the trading arena can mean a great deal to them, can encourage investment in those countries, can allow them over a period of a few years hopefully to transform their economies and that will be the best contribution we can make to those countries.

Mr. Speaker, I had the privilege of being in Estonia in the first part of September of this year on the day that the Supreme Soviet officially recognized the independence of Estonia. On that occasion we were speaking to some Estonian officials about granting MFN and saying that we were going to do it for the Soviet Union and we were not sure whether we ought to make the granting of MFN for Estonia a part of the granting of that MFN for the Soviet Union or whether we ought to act separately.

I remember vividly that the Estonian official with whom we are talking turned and said, "As of today, the Soviet Union is a foreign nation as far as Estonia is concerned."

Last week, as has been noted, we did provide MFN to the Soviet Union. Today we do so for Estonia, Latvia, and Lithuania as well. I think that is a very appropriate step on our part.

Now, as far as unemployment compensation is concerned, I think we ought to set their record straight. We have heard three speakers now on the Republican side of the aisle complain about this bill, complain about what they would term I guess excessive generosity of these benefits.

I would hope perhaps the gentleman from Pennsylvania [Mr. SANTORUM] who spoke just before myself would leave his home in Pittsburgh and drive down the turnpike a little ways to Youngstown, OH, and tell unemployed workers in Youngstown that they are not entitled, that they are not worthy of the employment benefits which we provide in this bill.

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I am from Ohio. We have serious economic problems, high levels of unemployment in Ohio, and I certainly take exception to anybody who claims that we are not deserving, that our workers are not deserving of 13 weeks of unemployment compensation.

Let me enter into the RECORD a little history, as far as the unemployment compensation is concerned.

Early in the Reagan administration, at the insistence of the Reagan administration, the trigger mechanism for extended benefits was changed so it made it virtually impossible for States to trigger onto extended benefits, which I guess is the way the Reagan administration wanted it to be.

We had the anomaly that later on in the 1980's when we had extremely high unemployment in some States it still was not high enough to trigger onto extended benefits because the trigger was what they called the insured unemployment rate, which is those people who are collecting unemployment at any given time. And in many, many States with very high lingering, continuing high unemployment the number of people who are insured and collecting unemployment was rather small because they, most of them, had already exhausted their benefits.

So I and others during the 1980's have been working to make the trigger something other than the insured unemployment rate. We tried to use the total unemployment rate, much more indicative in deciding whether a State needs extended benefits or not. We passed two bills in this House and sent them to the President. Both of them used the total unemployment rate as the trigger mechanism.

The President thwarted our effort both times.

Three weeks ago we reported out of the Committee on Ways and Means again a bill that uses the total unemployment rate as the trigger mechanism. Using that trigger mechanism many States qualify for 6 weeks, some for 13, some for 20, and many of them qualified for reachback, for the persons who had already exhausted their benefits.

But the Bush administration was not happy with that. They could not tolerate so many unemployed people getting benefits. So they insisted on going back to the insured unemployment rate. And what that did was to knock several States back from 13 to 6 weeks and it knocked a number of States out of eligibility for reachback provisions at all.

The Senate in its wisdom during deliberations last week insisted that that injustice be corrected. That injustice has been corrected in the legislation before us now.

Under this legislation those in all States would be eligible for at least 13 weeks, some for 20 weeks, and most would be eligible, in fact, all would be eligible for some reachback provisions.

If my colleagues from the other side of the aisle want to complain that an arbitrary eligibility for at least 13 weeks goes contrary to reasoned determination of how many people are unemployed in any State, I would remind them that the real atrocity of the last 10 years has been the insistence of the Republican administrations, two of them, on using the insured unemployment rate, which certainly did not measure in any reasoned or rational way the necessity in one State or another to have extended benefits.

I think this is a very good package. I commend it to the support of my colleagues.

Mr. GUARINI. Mr. Speaker, I rise in strong support of the conference report on H.R. 1724, particularly as it relates to the Andean Trade Preference Act. I am pleased to be one of the original cosponsors of this most important piece of legislation, and it has been one of my top legislative priorities.

The Andean Trade Preference Act is targeted at four countries—Colombia, Boliva, Peru, and Ecuador. These countries have been waging a life and death struggle against illegal drugs. They are also emerging democracies. This legislation will help promote their

economic development. In so doing, these nations will be able to combat more effectively the narcotics problem and provide a standard of living for their people conducive to democratic development.

Nearly all the world's coca is produced in Peru and Bolivia. Colombia, as we all know, is the major processing point for cocaine. Although there is much that must be done in the United States to curb the demand for drugs, we cannot ignore the supply side of the equation. These countries, at great cost, have made considerable progress in dealing with the drug problem. Assassination and terrorism are scourges that they must live with.

President Bush, at the Cartagena summit, recognized the importance of increasing economic opportunities for these countries if they are to have any chance in their fight against illegal drugs. The President also recognized the mutual economic benefit to both Latin America and the United States of increased trading opportunities within our hemisphere.

This legislation will serve both purposes. The United States will have increased access to goods from the Andean region, as well as new export opportunities. This bill will improve economic prospects in the Andean region and create growth opportunities. It will lead to progress in eradicating the production, processing and shipment of illegal drugs. Improved trade will also enable these countries to buy more of our goods.

I urge my colleagues to support this conference report.

Mr. ARCHER. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CORRECTING TECHNICAL ERROR IN ENROLLMENT OF H.R. 1724

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 249) correcting a technical error in the enrollment of the bill, H.R. 1724.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. ARCHER. Mr. Speaker, reserving the right to object, I shall not object, but I take this time for the purpose of requesting the chairman of the Committee on Ways and Means to explain what is involved.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, this resolution makes clear that individuals whose unemployment insurance benefit year expired after February 28, 1991 would be eligible for so-called reachback benefits under the Emergency Unemployment Compensation Act of 1991. It was requested by the administration, and it is consistent with the intent of this act.

Mr. ARCHER. Mr. Speaker, there is no opposition to this resolution as I understand it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The reading of the concurrent resolution will be dispensed with.

The text of the concurrent resolution is as follows:

H. CON. RES. 249

Resolved by the House of Representatives (the Senate concurring),

That, in the enrollment of the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, the Clerk of the House of Representatives shall make the following correction:

Strike section 3(a)(3) of the bill and insert the following:

(3) Section 102(f)(3)(A) of the Emergency Unemployment Compensation Act of 1991 is amended to read as follows:

"(A) IN GENERAL.—If any individual has a benefit year which ends after February 28, 1991, such individual shall be entitled to emergency unemployment compensation under this Act in the same manner as if such individual's benefit year ended no earlier than the last day of the first week following November 16, 1991."

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2212, UNITED STATES-CHINA ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 307 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk read the resolution, as follows:

H. RES. 307

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 307?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 307.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York, [Mr. SOLOMON], pending which I yield myself such time as I may consume. During debate on this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 307 waives all points of order against the conference report on H.R. 2212 and against its consideration. The rule also dispenses with the reading of the conference report.

Mr. Speaker, H.R. 2212 stipulates that the President may not waive the Jackson-Vanik requirements with respect to granting MFN status to the products of the People's Republic of China unless he reports that China has met certain human rights objectives. In particular, China must account for and release citizens held for the 1989 Tiananmen Square incident.

In addition, Mr. Speaker, the President must report that China has made significant progress on trade and weapons proliferation issues.

Mr. Speaker, Representative PELOSI deserves our praise for her patience and perseverance. This measure is in large part due to her hard work. Chairman ROSTENKOWSKI also deserves our gratitude as does Mr. SOLOMON. They have worked hard to shepherd this measure through the Congress. We hope the President will sign it.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule, providing consideration for the conference report on the Pelosi bill which places conditions on the further extension of most-favored-nation trade status to the People's Republic of China. And I pay special tribute to the bill's sponsor, the gentlewoman from California [Ms. PELOSI], for without her driving determination, my colleagues, this bill would not be before us today.

I can assure you of that, Mr. Speaker, there are so many problems in our relations with Communist China that it's just hard to know where to start.

Whether we look at Chinese missile sales to unsavory governments throughout the World—at Chinese assistance to countries in building nuclear reactors, capable of producing fissionable materials for nuclear bombs—at Chinese repression in Tibet and slave labor production of goods—and so on, it's just plain clear that the Chinese Communist Government must change its ways.

Mr. Speaker, of course, nothing sticks in our craw more than the massacre perpetrated by Communist-led troops in Tiananmen Square, a little over 2 years ago.

Yes. Hundreds of innocent people died.

No. We have not forgotten.

Mr. Speaker, I am pleased to stand here and offer my support for the rule-making in order the conference report on H.R. 2212, a bill that will place conditions on any further extension of United States trade benefits to the so-called People's Republic of China.

Frankly, Mr. Speaker, I would have preferred, to cut off those benefits completely—to place punishing tariffs on their goods, goods—often made with slave labor and often bearing the counterfeit trademark of American-made goods—often secreted into the United States through third countries in clear violation of the bilateral trade agreements that that Government solemnly signed with us.

Mr. Speaker, in each of the last 2 years, I offered this House a chance to end most-favored-nation status for Communist China—to end it outright.

In both cases, an overwhelming majority of the Members voted for that course of action in passing my bills that recinded special trade preference for China.

Regrettably, the Senate failed to uphold the House's action in both cases.

Mr. Speaker, when I stood in the well of this House speaking on behalf of my first effort to cut off most-favored-nation status for Communist China, I pointed out that an article in the Chinese Communist Press, at that time, indicated that the Chinese Communist leadership felt, as early as 1 year after its Tiananmen massacre, that the world was already losing its concern for justice in that bloody crime.

I said then that Communist China would not respect democratic rights any more after the extension of most-favored-nation status, than it did before.

I believe that the facts since then, have borne me out.

Mr. Speaker, the Tiananmen Square massacre took place so soon after the extension of most-favored-nation status in 1989, that we could not act in time.

In 1990, our efforts died in the Senate.

Now, in 1991, a conference report is before us. One that will make it difficult for the so-called People's Republic of China, to get another extension next year without changing its ways.

Yes; I am disappointed that we have not yet cut off MFN.

But, yes; I am pleased at the progress that we are making toward that goal and this bill is a strong step in that direction.

The Communist Chinese Government knows now that we have not forgotten and that we will not forget.

Mr. Speaker, in closing, let me say this. I greatly respect President Bush and how hard he is working—using a carrot-and-stick approach—to get the Communists to respect their people's freedom and rights.

He is working to strengthen the international controls covering Chinese arms sales, and working to cut off Chinese counterfeit and slave-labor-manufactured goods.

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He just recently sent Secretary of State Baker to Beijing with, what I am sure, was a clear message that their actions will have consequences.

But our purpose here today is to show that there is indeed a stick—a big stick—and that there will indeed be consequences for Communist China—if his calls for reform continue to fall on deaf ears.

My colleagues, passage of the bill this rule makes in order will help President Bush get the message across to the old men in the so called Great Hall of the People that we, the American people, will not tolerate a ruthless regime that has no respect for the human rights of decent, helpless people, the citizens of China. Mr. Speaker, that is why I urge support of this rule, and I urge support of the conference report that will follow it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I rise in support of this bill, in very strong support, and I thank our chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], for his active leadership in bringing it to the floor today.

Mr. Speaker, It is going to be unusual, I think for almost anybody to stand up on the floor today and discuss this bill without making reference to the gentlewoman from California [Ms. PELOSI]. If ever there was a bill which owed its progress to one person, this is it. She has been absolutely tenacious in advancing the bill, pushing and retrieving it from various backwaters, making sure that it did not get forgotten and getting it on the floor today, and I would like to commend her for the outstanding job that she has done in getting this piece of legislation before us.

Mr. Speaker, after Tiananmen Square I tried to figure out what our response should be. I introduced very shortly thereafter a bill to condition MFN for China. We had a debate 2 years ago, and last year, earlier this year on that, my bill, and that of the gentlewoman from California [Ms. PELOSI] and others. I am pleased that my bill played a small part in this effort but whatever role I played is small compared to that of the gentlewoman from California [Ms. PELOSI], and I want to give full credit to her.

Mr. Speaker, I rise then in support of this rule and in support of the conference report.

Mr. SOLOMON. Mr Speaker, I yield such time as he may consume to the distinguished gentleman from California. [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of the gentlewoman from California [Ms. PELOSI]. She chose to come over to this side of the aisle with her fight against the MFN for China unless they met certain requirements, and I think that these requirements are in order. It is very seldom, I think, that we can find that on foreign issues that we can support the other side of the aisle, and this is one that I am glad to. Every country that I would ever have fought against in combat, the Chinese, and the Soviets, and even the French, would supply weapons to those countries. It is not just the slavery, it is not just the drug trade, but I think the weapons sales and how they could influence the future of the world.

Mr. Speaker, I think to give them most-favored-nation status would be a crime in itself, and I thank the gentlewoman from California [Ms. PELOSI] for her foresight.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SOLOMON] for yielding this time to me and for his hard work on this bill, and also the distinguished gentlewoman from California [Ms. PELOSI] for her leadership on this bill.

Mr. Speaker, let me simply say that we are right now facing a world in which dangerous technology is being transferred at a very rapid rate, and this technology is going to result in over 15 nations having ICBM capability within a very short period of time, and other lesser missile technology and lesser missile capability that can mean in the end dead Americans in a conflict and dead allies of America.

Mr. Speaker, we saw in the Iraqi situation a lot of Western technology coming back at us and back at our soldiers and sailors in the sands of the Middle East. China can either have a salutary effect on this situation, or they can exacerbate this enormous problem of technology transfer to irresponsible parties. So far China has opted for the latter route, and they have in transferring Silkworm missiles and other technology to adversaries of America placed the men and women of America's Armed Forces in harm's way.

Mr. Speaker, I applaud the authors of this measure for the conditions that they are laying down for China to follow.

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I think China is going to largely determine whether or not the terrorists with high technology, in this new era we are moving into as we leave the Soviet-United States confrontation era, the era with terrorists and their high technology, will be largely affected by the political decisions that China

makes. I hope that China makes the right decisions. If they do not make the right decisions, they certainly should not be the beneficiaries of American trade preferences.

Second, Members of this House have visited Chinese labor camps and have seen for themselves that slave labor indeed is being used to make products that are competing with American products on American shelves at American retail outlets. That is absolutely unacceptable, and I know that this measure offered by the gentlewoman from California [Ms. PELOSI] and the gentleman from New York addresses this area also, that of slave labor being utilized to create indeed exports to the very country that is condemning the activities that took place at Tiananmen Square in actions subsequent to those.

Let me thank the gentlewoman from California [Ms. PELOSI] and the gentleman for their leadership in this area, and I thank the chairman of the full committee, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. Speaker, I stand in full support of the resolution.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to another distinguished Californian, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in strong support of this rule and of the measure.

I want to join in congratulating the gentlewoman from California [Ms. PELOSI] as well as the gentleman from New York [Mr. SOLOMON], along with the many others who have been working on this legislation for a long time now.

I would like to join in the remarks that the gentleman from New York made about President Bush and Secretary of State Baker with regard to this issue. Recently I had the occasion to hear Jim Baker explain what had happened in China. I think some progress is being made, but I think—and he probably would not agree with this—that by passing this resolution we will help them, not hurt them, and get the Chinese to do the right thing.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, I rise in strong support of the legislation, and I want to associate myself with the remarks previously made by the gentlewoman from California [Ms. PELOSI], and the gentleman from New York [Mr. SOLOMON].

I was over there during the summer with a group that was sponsored by the Chamber of Commerce of Hong Kong. Quite frankly, I had never been to the Far East, and we were just absolutely amazed by what we encountered when we went over there. Senator Brown headed the delegation, and there were about a dozen Members of Congress who went with us.

We found that the Chinese people were well-fed and well-clothed, but if they professed themselves politically, they were grabbed up off the street or wherever they happened to be and they were summarily thrown into jail. They disappeared and, I imagine, in some instances worse.

The estimates over there are that there are approximately 10 million people working in prisons in China, and they manufacture every conceivable thing under the sun. Most of those manufactured items are shipped to Hong Kong. The labels are changed, and then they are sold throughout the world. A great many of those prison-made items are sold in the United States.

In my State of South Carolina we are losing approximately 5,000 textile jobs a year, so it affects us directly.

We were denied permission to visit the dissidents who were in prison over there, one in particular, a young man by the name of Wang Juntao. Everywhere we went, we requested permission to see the leaders, and finally we got to the First Secretary of the Communist party in China, and he said, no, he could not make arrangements for us to meet Wang Juntao, who was being held under very severe conditions.

So I asked the man, I said, "Let me tell you something, man. You are the head knocker here in China. If you can't make arrangements for us to meet Mr. Wang Juntao, who in the world can?"

Well, he sloughed that answer off, but subsequently, through some efforts of some good Caucasians who were over there, we were able to meet with his wife, Mrs. Ho. You probably read just the other day when Mrs. Ho tried to meet with some of Secretary Baker's delegation, she was arrested and held overnight. This is a charming young lady. She confirmed what we had been told about the conditions under which these young folks were held.

At one of the meetings we had with the Chinese officials, one of them approached me on a lesser level, I feel sure, and he said, "What do you think we ought to do?"

I said, "We need a sign. We need an expression of good will back in the United States, in the Congress, before we vote on most-favored-nation status."

He said, "What would you suggest?"

I said, "Why don't you let these young kids go? You've got less than a hundred of them now still in jail from the Tianamen Square situation. Why don't you just let them go and let them come to the United States? We will take them as political refugees. They will all continue their education at colleges and universities around our country, and probably in 10 or 15 years they will all be Chinese millionaires. That is the kind of thing you need to do as an expression of good will."

Of course, we have heard nothing from them. They are just as intransigent now as they were back then. I thought surely when Mr. Baker went to China as a representative of the President, he would have more success than our delegation and Ms. PELOSI'S delegation had. But absolutely not. They have absolutely stonewalled the situation.

What they cannot understand is why we associate trade with human rights. They just cannot understand this. We told them repeatedly all of this. We said that in our country the two are inseparable, and the American people do not want to do business with people who treat folks like they are treating them

So I think the legislation provided by this rule is apropos and very much on time. I hope that all the Members will vote for the rule by a substantial margin.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BARTON], who has been so active and helpful in this area.

Mr. BARTON of Texas. Mr. Speaker, I, too, rise in strong support of the rule and the legislation, the conference report granting most-favored-nation trade status for China.

I would like to commend the gentlewoman from California [Ms. PELOSI] for the continuing good work she has done on this issue, as well as the gentleman from New York [Mr. SOLOMON], the gentleman from New York [Mr. GREEN], the gentleman from Washington [Mr. MILLER], the gentleman from Georgia [Mr. JONES], and many, many others for the fine work they have done.

I consider this bill to be a continuing step in our efforts to make the current leadership in communist China understand that the American people will not forget what happened at Tiananmen Square, that we are sincerely dedicated to keeping hope alive that one day freedom will be allowed to flourish in that land. This is another bill that would do that.

I would point out that last week several of my colleagues and I introduced another piece of legislation that will allow those Chinese students and adult nonstudents who are in this country and were in this country when Tiananmen Square occurred to stay in this country permanently should they choose to do so, if the President has not certified that conditions exist so that they would be allowed to return peacefully to China.

We all know that Secretary of State Jim Baker recently returned to China. He went there with high hopes, and unfortunately those hopes were frustrated.

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The Chinese Government refused to make any concessions. In fact, several individuals that wanted to meet with the Secretary were prevented forcefully from meeting with him.

While the Secretary went with all the good intentions, he did not come back with any substantive progress.

This bill that we will vote on later this evening is a cleaned up version of the bill that passed the House overwhelmingly not too many months ago. It is a much cleaner bill. It is much more narrowly drawn, much more straightforward, but still has real conditions for MFN to be granted. It would require that the Chinese release the prodemocracy demonstrators currently imprisoned in China or Tibet; it would require that they commit not to sell missiles to Syria or Iran; it would require that there be significant progress in human rights, in nuclear proliferation, and in trade.

It is a straightforward piece of legislation. If we pass it tonight overwhelmingly, I am sure that when we reconvene in the second session of this Congress, that it will also pass in the Senate, and hopefully the President will sign it and it will set the stage to really begin the process of bringing China back into the League of Nations.

Mr. Speaker, I thank the gentleman for allowing me this time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take a minute to commend my colleague from Texas [Mr. BARTON] who just spoke, who has consistently spoken out on this issue over a long period of time, even when other Members were not calling attention to it.

Mr. SOLOMON. Mr. Speaker, in yielding back the balance of my time, let me just point out that there are few countries left in the world that still operate under the failed political philosophy of communism, a philosophy that has no respect for human life and human decency at all. I guess there is still Cuba, there is still Vietnam, there is still North Korea, and, of course, there is still the People's Republic of China with one-fifth of the world's population.

That is a shame. Many countries throughout the world are throwing off the shackles of communism and moving toward democracy. But it isn't happening yet in China.

If we are going to be successful in China, I just want to say once again that the gentlewoman from California [Mr. PELOSI] in her dogged determination to see this bill through the House and the Senate and back here with this conference report in what we hope are the waning hours of this session this year, will certainly have to get all the credit in the world. I pay deep tribute to her for that.

Mr. Speaker, I hope that every Member will support this rule and then give unanimous support to a very fine bill that will send the right message to the Chinese leadership: That we will not tolerate this kind of treatment of decent human beings.

Mr. Speaker, I urge support of the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–392)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212), regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-China Act of 1991".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Chinese people have provided a dramatic demonstration of their desire for democratic freedoms. Thousands of courageous Chinese students and workers, men and women, demonstrated on June 4, 1989, that they were willing to die, or face imprisonment or exile, in pursuit of democratic self-determination and human rights.

(2) The Government of the People's Republic of China, which is a member of the United Nations and obligated to uphold the Charter of the United Nations and the Universal Declaration of Human Rights, continues to engage in flagrant violations of internationally recognized human rights, including—

(A) torture and cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges and trial and sentencing of persons solely for the nonviolent expression of their political views;

(C) arbitrary arrest and the unacknowledged detention of persons; and

(D) use of forced labor of prisoners to produce cheap products for export to countries, including the United States, in violation of international labor treaties and United States law.

(3) The Government of the People's Republic of China has denied Chinese citizens who support the pro-democracy movement and others the right of free, unimpeded emigration.

(4) The Government of the People's Republic of China has restricted the number of students permitted to study abroad, required some college students to attend military indoctrination courses, and required university graduates to work 5 years after graduation and to pay large sums of money before being eligible to apply for study outside China.

(5) The Government of the People's Republic of China continues to violate the internationally recognized human rights of the people of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom.

(6) The Government of the People's Republic of China is engaging in unfair trade practices against the United States by failing to protect intellectual property rights, raising tariffs, employing taxes as a surcharge on tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries.

(7) The Government of the People's Republic of China has not demonstrated its willingness and intention to participate as a full and responsible party in good faith efforts to control the proliferation of dangerous military technology and weapons, including biological, chemical, and nuclear weapons technologies.

(8) The Government of the People's Republic of China has interfered with the movement toward self-rule by the people of Hong Kong in their political, cultural, and economic activities.

(9) The President of the United States has suspended all government-to-government sales and commercial exports of defense articles and services to China and issued an Executive order to treat sympathetically requests by Chinese students in the United States to extend their stay.

(10) United States policy toward China has failed to prevent or discourage the People's Republic of China from—

(A) committing violations of internationally recognized human rights, including the rights of the people of Tibet;

(B) taking action that results in the proliferation of dangerous military technology and weapons; and

(C) engaging in unfair trade practices against the United States.

(b) POLICY.—It is the sense of the Congress that—

(1) with respect to the actions of the People's Republic of China in the areas of human rights, weapons proliferation, and unfair trade practices, the President should take such actions as necessary to achieve the purposes of this Act, including, but not limited to—

(A) instructing the United States delegation to the United Nations Commission on Human Rights to actively seek the appointment of a special rapporteur to investigate violations of internationally recognized human rights in China and to seek allied and Soviet support for such an investigation;

(B) directing the United States Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States commerce;

(C) interacting more forcefully with our allies, especially Japan and European countries, to accomplish the restriction of transfers of technology to China; and

(D) encouraging members of the Missile Technology Control Regime, and other countries, as appropriate, to set up a working group to develop a common policy concerning missile transfers to other countries by the People's Republic of China;

(2) the sanctions being applied against the People's Republic of China on the date of enactment of this Act should be continued and strictly enforced; and

(3) the President should submit the report required by the Joint Resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China (Public Law 99–183; 99 Stat. 1174).

SEC. 3. ADDITIONAL OBJECTIVES WHICH THE GOVERNMENT OF CHINA MUST MEET IN ORDER TO RECEIVE NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—The President may not recommend the continuation of a waiver in 1992 for a 12-month period under section 402(d) of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such section that the government of that country—

(1) has, in regard to the events that led up to, and occurred during and after, the violent repression of dissent in Tiananmen Square on June 3, 1989—

(A) provided an accounting of citizens who were detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during those events; and

(B) released citizens who were imprisoned after such detention, accusation, or sentencing; and

(2) has made overall significant progress in achieving the objectives outlined in each of the categories of—

(A) human rights, as described in subsection (b);

(B) trade, as described in subsection (c); and

(C) weapons proliferation, as described in subsection (d).

(b) HUMAN RIGHTS.—The human rights objectives described in this subsection are—

(1) taking appropriate action to prevent gross violations of internationally recognized human rights in the People's Republic of China, including Tibet;

(2) preventing exports of products made by prisoners and detainees assigned to labor camps, prisons, detention centers, and other facilities holding detainees, and allowing United States officials and international humanitarian and intergovernmental organizations to inspect the places of detention suspected of producing export goods to ensure that appropriate steps have been taken and are in effect;

(3) terminating religious persecution in the People's Republic of China, including Tibet, and releasing leaders and members of all religious groups detained, incarcerated, or under house arrest as a result of the expression of their religious beliefs;

(4) removing restrictions in the People's Republic of China, including Tibet, on freedom of the press and on broadcasts by the Voice of America;

(5) terminating the acts of intimidation and harassment of Chinese citizens in the United States, including the return and renewal of passports confiscated by authorities as retribution for prodemocracy activities;

(6) ensuring access of international human rights monitoring or humanitarian groups to prisoners, trials, and places of detention;

(7) ensuring freedom from torture and from inhumane prison conditions;

(8) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989;

(9) fulfilling its commitment to engage in high-level discussions on human rights issues; and

(10) adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China.

(c) TRADE.—The trade objectives described in this subsection are—

(1) providing adequate protection of United States patents, copyrights, and other intellectual property rights;

(2) providing American exporters fair access to Chinese markets, including lowering tariffs, removing nontariff barriers, and increasing the purchase of United States goods and services; and

(3) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and which burden or restrict United States commerce.

(d) WEAPONS PROLIFERATION.—The weapons proliferation objectives described in this subsection are—

(1) adopting a national policy which adheres to, and ceasing activities inconsistent with—

(A) the limitations and controls contained in the Missile Technology Control Regime;

(B) the standards and guidelines set by the Nuclear Suppliers Group; and

(C) the standards and guidelines set by the Australia Group on chemical and biological arms proliferation; and

(2) taking clear and unequivocal steps to assure that the People's Republic of China is not assisting and will not assist any nonnuclear weapons state, directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices.

SEC. 4. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1992 under section 402(d) of the Trade Act of 1974 for the People's Republic of China, he shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

SEC. 5. ENFORCEMENT OF PROHIBITION AGAINST IMPORTATION OF CONVICT-MADE GOODS.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) by striking "All goods" and inserting "(a) IN GENERAL.—All goods";

(2) by striking "'Forced Labor,'" and inserting "(b) FORCED LABOR.—'Forced Labor,'"; and

(3) by adding at the end thereof the following new subsection:

"(c) PENALTIES.—

"(1) IN GENERAL.—Any person who—

"(A) enters or imports, or attempts to enter or import, goods, wares, articles, or merchandise into the customs territory of the United States in violation of subsection (a); and

"(B) knew or should have known that such entry or importation, or attempted entry or importation, was in violation of such subsection, shall be liable to pay to the United States a civil penalty.

"(2) AMOUNT OF PENALTY.—Any civil penalty imposed under paragraph (1) shall be in an amount not to exceed—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person previously subject to a penalty for one violation under this section; or

"(C) $1,000,000 in the case of a person previously subject to penalties for more than one violation under this section.

"(3) The Secretary of the Treasury shall by regulation prescribe procedures for imposing penalties under this section, including, but not limited to, prepenalty notice.

SEC. 6. REPORT BY THE PRESIDENT.

If the President recommends in 1992 that the waiver referred to in section 3 be continued with respect to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974 a report on the extent to which the Government of the People's Republic of China has, during the period covered by the report, complied with the provisions of section 3.

SEC. 7. DEFINITIONS.

For the purposes of this Act:

(1) ACTS OF INTIMIDATION AND HARASSMENT.—The term "acts of intimidation and harassment" in section 3(b)(5) means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) DETAINED AND IMPRISONED.—The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(3) FORCED LABOR.—The term "forced labor" has the meaning given to such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(4) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term "gross violations of internationally recognized human rights" in section 3(b)(1) includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(5) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(6) SIGNIFICANT PROGRESS.—(A) The term "significant progress" in section 3(a)(2) means the implementation of measures that will meaningfully reduce, or lead to the termination of, the practices identified in that paragraph.

(B) With respect to section 3(d)(1), progress may not be determined to be "significant progress" if the President determines that, on or after November 26, 1991, the People's Republic of China has transferred to Syria or Iran—

(i) ballistic missiles or missile launchers for the weapons systems known as the M-9 or the M-11; or

(ii) material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

And the Senate agree to the same.

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
From the Committee on Foreign Affairs:
DANTE B. FASCELL,
STEPHEN J. SOLARZ,
Managers on the Part of the House.

From the Committee on Finance:
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

H.R. 2212, REGARDING THE EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA, AND FOR OTHER PURPOSES

1. Short Title (Section 1 of Senate Amendment; Section 1 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

United States-China Act of 1991.

Conference agreement

House recedes.

2. Findings and Policy (Section 2 of Senate Amendment; Section 2 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Sets forth certain findings relating to the prodemocracy demonstrations of the Chinese people; the actions and policies of the Government of China, including its continuing violations of internationally-recognized human rights, the denial of free emigration to citizens supporting the prodemocracy movement, weapons proliferation, support for the Khmer Rouge, restrictive trade practices, and interference in Hong Kong; and the policies of the United States toward China. States the sense of the Congress that U.S. sanctions in the areas of technology exports and international monetary loans should be continued and strictly enforced and that the U.S. Government should consult with the U.S. business community regarding guidelines for corporate activity in China.

Conference agreement

House recedes with an amendment: (1) to make various conforming, clarifying, and technical changes; (2) to drop the finding relating to the Khmer Rouge, and the policy statement relating to guidelines for corporate activity; (3) to merge section 3 of the Senate amendment (relating to Presidential action) into the policy section, with conforming changes; and (4) to add to the policy section a provision that the President should submit the report required by Public Law 99-183 regarding China's nuclear nonproliferation policies.

3. Renewal of MFN Status—Additional Objectives (Section 1(a) of House Bill; Section 4 of Senate Amendment; Section 3 of Conference Agreement)

A. HUMAN RIGHTS OBJECTIVES

Present law

Section 402 of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990, sets forth three objectives relating to freedom of emigration which must be met, or waived by the President, before a nonmarket economy country may be granted MFN status. A Presidential waiver must be renewed annually, in order for a country's MFN status to remain in effect.

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by convict or forced labor, and directs the Secretary of the Treasury to prescribe regulations for the enforcement of the prohibition.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government—

(1) has provided an accounting of citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during and after the June 1989 Tiananmen Square incident;

(2) has released citizens who were imprisoned after such detention, accusation, or sentencing;

(3) is adhering to the Joint Declaration on Hong Kong;

(4) does not support or administer any program of coercive abortion or involuntary sterilization; and

(5) has taken appropriate steps to prevent exports of products made by prisoners and detainees, and has allowed U.S. and international inspection of places of detention.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government—

(1) has accounted for those citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs;

(2) has released those citizens who were imprisoned after such detention, accusation or sentencing;

(3) is adhering to the Joint Declaration on Hong Kong;

(4) does not support or administer any program of coercive abortion or involuntary sterilization; and

(5) has ceased exporting to the United States products made by convict, forced, or indentured labor under penal sanctions.

Conference agreement

Senate recedes with an amendment: (1) dropping the objective relating to abortion; and (2) moving the objectives relating to prison labor exports and Hong Kong to the "significant progress" section, with conforming changes.

B. WEAPONS PROLIFERATION OBJECTIVES

Present law

The Missile Technology Control Act (Title VII of Public Law 101-510) establishes requirements for negotiations and controls on the proliferation of missiles and technology, with trade and foreign policy sanctions required for violations.

House bill

Provides that the President may not recommend the continuation of a wavier in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has provided assurances that it—

(1) is not assisting and will not assist any nonnuclear state is acquiring nuclear explosive devices or the materials and components for such devices; and

(2) will not contribute to the proliferation of missiles and adheres to the Missile Technology Control Regime, at least with respect to countries in the Middle East and South Asia.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has ceased supplying arms and military assistance to the Khmer Rouge.

Conference agreement

The conferees agreed to merge the various provisions in the bill relating to weapons proliferation into one provision and to move that provision to the "significant progress" category. The provision sets forth two objectives relating to weapons proliferation and adds a definition which states that progress may not be determined to be "significant progress," if the President determines that, on or after November 26, 1991, the People's Republic of China has transferred to Syria or Iran certain missiles or nuclear technologies or devices.

Senate recedes on the Khmer Rouge objective.

C. TRADE OBJECTIVES

Present law

No provision.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has moderated its position on Taiwan's accession to the GATT.

Senate amendment

No provision.

Conference agreement

Senate recedes, with an amendment moving the provision to the "significant progress" section.

D. "SIGNIFICANT PROGRESS" OBJECTIVES

(i) Human rights

Present law

No provision.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has made overall significant progress in:

(1) taking appropriate action to prevent gross violations of internationally recognized human rights in China, including Tibet;

(2) ending religious persecution in China, including Tibet;

(3) removing restrictions in China, including Tibet, on press freedom and VOA broadcasts;

(4) terminating intimidation and harassment of China citizens in the United States;

(5) ensuring access of international human rights groups to prisoners, trials, and places of detention;

(6) ensuring freedom from torture and inhumane prison conditions; and

(7) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in:

(1) taking appropriate action to prevent gross violations of internationally-recognized human rights and fundamental freedoms in China and Tibet, including ending religious persecution and restriction on press freedom and VOA broadcasts;

(2) terminating intimidation and harassment of Chinese citizens in the United States;

(3) ensuring access of international human rights groups to prisoners, trials, and places of detention;

(4) fulfilling its commitment to engage in high-level discussions on human rights;

Conference agreement

Senate recedes with an amendment adding an objective relating to high-level discussions on human rights.

(ii) Weapons proliferation

Present law

See description under item 3(b) above.

House bill

No provision

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in adopting a national policy which adheres to, and ceasing activities inconsistent with, the Missile Technology Control Regime and the standards and guidelines set by the Nuclear Suppliers group and the Australia Group on chemical and biological arms proliferation.

Conference agreement

See description under item 3(b).

(iii) Trade

Present law

Section 301 of the Trade Act of 1974 authorize the U.S. Trade Representative (USTR) to take action to enforce U.S. rights under trade agreements or eliminate foreign practices that violate trade agreements or are unjustifiable and burden or restrict U.S. commerce.

"Special" 301 authorizes the USTR to take action to achieve protection of U.S. intellectual property rights, and market access for U.S. persons that rely on intellectual property rights, in priority foreign countries.

House bill

No provision.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in—

(1) providing adequate protection of U.S. intellectual property rights;

(2) providing American exporters fair market access, including lowering tariffs, removing nontariff barriers, and increasing the purchase of U.S. goods and services; and

(3) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and burdensome and restrict U.S. commerce through a variety of unfair trade practices.

Conference agreement

House recedes with an amendment dropping the detailed list of unfair trade practices (which is retained in the "Findings" section).

(iv) Other

Present law

Public Law 99-183, relating to nuclear cooperation between the U.S. and China, prohibits exports and transfers of U.S. nuclear material, facilities, or components to China unless the President certifies and reports to Congress that China has met certain requirements related to nuclear nonproliferation.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President has made the certification and submitted the report required by Public Law 99-183 on China's nuclear nonproliferation policies.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government is reducing assistance to Cuba, whether in the form of subsidized trade, management of trade balances, or in any other form.

Conference report

House recedes, with an amendment to add statement to policy section that the President should submit the report required by Public Law 99-183 regarding China's nuclear nonproliferation policies. See also description under item 3(b) with respect to weapons proliferation.

Senate recedes on objective relating to Cuba.

4. Presidential Action (Section 3 of Senate Amendment; Section 1(b) of Conference Agreement

Present law

No provision.

House bill

No provision.

Senate amendment

Directs the President to take the following actions:

(1) interact more forcefully with U.S. allies and multilateral lending institutions to restrict technology transfer to China;

(2) encourage members of the Missile Technology Control Regime to set up a working group to develop a common policy concerning China's missile transfers to other countries;

(3) direct the USTR to take appropriate action under section 301;

(4) encourage the UN Human Rights Commission to issue a report on human rights conditions in China, and encourage U.S. allies and the Soviet Union to encourage issuance of such a report; and

(5) take any other action the President deems advisable to achieve the purposes of the Act.

Conference agreement

House recedes with an amendment moving the provision to the "Policy" section, with conforming changes.

5. Termination of MFN Status (Section 5 of Senate Amendment)

Present law

Section 402(c)(3) of the Trade Act of 1974, states that the President may, at any time, terminate by Executive order any waiver granted under that subsection. (In addition, the President may choose not to extend the annual waiver of any country upon expiration of the waiver.)

House bill

No provision.

Senate amendment

Requires termination of China's MFN status no later than July 3, 1992, if the President determines after enactment of this Act that China has transferred to Syria or Iran (1) ballistic missiles or missile launchers for the M–9 or M–11 weapons systems or (2) material equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

Conference agreement

See description under item 3(c).

6. Sanctions by Other Countries (Section 6 of Senate Amendment; Section 4 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Delays effective date of any denial of China's MFN status pursuant to this Act for a 60-day period, during which time the President is required to undertake efforts to ensure that GATT members take similar action with respect to China.

Conference agreement

House recedes with an amendment, conforming the provision to the timetable in Title IV of the Trade Act of 1974 relating to the President's waiver notice (i.e., 30 days prior to the expiration of the previous waiver).

7. Enforcement of Ban on Imports of Convict-Made Goods (Section 7 of Senate Amendment; Section 5 of Conference Agreement)

Present law

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by convict or forced labor. Current regulations outline detailed procedures to be followed in enforcing the prohibition.

House bill

No provision.

Senate amendment

Establishes civil penalties for violations of the import prohibition under section 307 of the Tariff Act of 1930 and a procedure for parties to petition the Department of Commerce to enforce such prohibition.

Specifically, requires civil penalties of $10,000 for one violation; $100,000 for two violations; and $1,000,000 for three or more violations. Establishes detailed procedures for prepenalty notice and hearings; and for private petitions by "any public interest group, human rights organization, or entity representing an industry adversely affected by imports of convict-made goods." Provides that the Secretary of the Treasury may prescribe sanctions for abuse of discovery and abuse of process.

Conference agreement

House recedes on provision establishing civil penalties for violations of the import ban, with an amendment adding a "knowing" standard.

Senate recedes on the provision establishing private petition procedures. The conferees note that existing Customs regulations to enforce section 307 (19 CFR 12.42-12.62) establish detailed procedures for petitions from "any person" who has reason to believe that prohibited merchandise is being, or is likely to be, imported into the United States.

VOL 137
PT 24
NO 26
1991
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JA 3
1992
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8. Report by the President (Section 2 of House Bill; Section 4 of Senate amendments; Section 6 of Conference Agreement)

Present law

Section 402(d) of the Trade Act of 1974 provides that if the President determines that further extension of the waiver authority will substantially promote the objectives of freedom of emigration, he may recommend extension of such authority for successive 12-month periods. Any such recommendation must be accompanied a document transmitted to Congress, setting forth his reasons for recommending extension of the waiver authority, and a statement setting forth his reasons for determining that extension of the waiver will substantially promote Title IV's objectives with respect to a particular country.

House bill

Provides that if the President recommends extension of China's waiver in 1992, he must submit as part of the document required in section 402(d) a report on the extent to which the government of China has implemented the measures listed in section 1(a).

Senate amendment

Similar provision.

Conference agreement

Senate recedes.

9. Definitions (Section 1(b) of House Bill; Section 8 of Senate Amendment; Section 7 of Conference Agreement)

Present law

No provision.

House bill

Provides definitions of a number of terms used in the bill, among which: "the term significant progress means the implementation of measures that will meaningfully reduce, or lead to the termination of, the repressive practices identified under item 3."

Senate amendment

Similar provision. However, it defines significant progress as "specific actions taken to achieve the objectives stated" under item 3.

Conference agreement

The conferees agree generally to merge the House and Senate definitions, with conforming amendments. However, the Senate recedes on the definition of "significant progress."

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
From the Committee on Foreign Affairs:
DANTE B. FASCELL,
STEPHEN J. SOLARZ,
Managers on the Part of the House.

From the Committee on Finance:
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
BOB PACKWOOD,
Managers on the Part of the Senate.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 307, I call up the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation to the products of the People's Republic of China, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to order of the House of today, Tuesday, November 26, 1991, the conference report is considered as having been read.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. CRANE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on H.R. 2212.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was not objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 2212, relating to the extension of China's most-favored-nation [MFN] status, is the culmination of months of hard work and tireless effort on the part of a number of Members of Congress. However, I particularly want to commend Congresswoman NANCY PELOSI for the dedicated efforts that she has devoted to keeping the issue of human rights in China squarely before us. The fact that we are here today considering this conference report is due in large measure to her efforts.

H.R. 2212 passed the House on July 10, 1991, with a number of amendments relating to human rights and weapons proliferation. The Senate passed the bill on July 23, with additional amendments, relating not only to human rights and weapons proliferation, but also to trade and other matters.

The conference report on H.R. 2212, in general, merges the two bills, with amendments. It provides that the President may not recommend the continuation of a Jackson-Vanik waiver for China in 1992, unless he reports that China has met two objectives relating to the accounting for, and release of, citizens detained, accused, or sentenced after the June 1989 Tiananmen Square incident. It also provides that the waiver may not be extended unless the President reports that China has made overall significant progress in a number of objectives relating to human rights, trade, and weapons proliferation.

Mr. Speaker, although I had a number of reservations about the bill as it passed the House and Senate, I support the conference report today. The Chinese Government does not seem to have gotten the message which the United States Congress has been trying to send loud and clear—that the American people expect the Chinese leaders to live up to a much higher standard of behavior toward their own people and the security concerns of other countries than they have exhibited to date. Adoption of the conference report on H.R. 2212 should leave no doubt in the minds of China's leaders as to where the American people and their elected representatives stand. I urge my colleagues to join me in support of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the conference report on H.R. 2212. I would like at the outset, however, to pay tribute to our distinguished colleague from California [Ms. PELOSI] for what I deem intentions that are an expression of the sentiments of the overwhelming majority, probably 99.9 percent, of the American people. The gentlewoman is concerned, and properly so, about the condition human rights for minorities in China, she is concerned about issues of arms proliferation, and she would like to see a significant change in the move in direction that more truly reflects the values that we mutually share.

However, I must say that I have serious reservations as to whether doing it in this manner, where you dictate specific terms and in effect back the rulers of the People's Republic of China into a corner and expect them to make concessions, is a way to accomplish the goal.

The Chinese are very proud people. In fact, the Oriental nations are comprised of very proud people.

I remember one time when we were negotiating with some of the Japanese Government officials back in 1981, in terms of seeking to get concessions from them. We were tutored on the eve of each one of those meetings as to how to diplomatically put our proposals on the table, let them mull them over, sleep on it for a night, come back the next day, and move another inch or two in the direction of our goals. It took us the better part of a week before finally the representatives of the Japanese Government said they had listened to our arguments, they found them persuasive, and they accepted our positions.

Mr. Speaker, that was a diplomatic process that runs contrary to our tendency to just lock horns and wrestle across the table and insist that before sundown, or before the crack of dawn, we are going to get the concessions we would like to see.

Mr. Speaker, the administration has been maintaining multilevels of negotiations with the Chinese Government to effect reforms in areas other than trade, but trade is one of those where we are locked into a confrontation with them right now on intellectual property rights, and it does not look good.

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We have the capacity under existing law to effect some kind of retaliatory action, and the administration is going to speak to this point tomorrow. But what I submit to my colleagues is that if these conditions are viewed as demands by the Chinese Government that they do not feel they are capable of capitulating to without losing face, where are we?

The fact of the matter is, we have other nations in this world, in fact, major trading partners of our own that are engaged in routine trade. They tender the equivalent of most-favored-nation treatment to China and simultaneously make no effort whatsoever to effect meaningful reforms in the areas that the gentlewoman from California [Ms. PELOSI] wants to address.

In other words, it is make a buck, get in, get out. We are, I think, the only Nation that has endeavored to try and effect these kinds of reforms. And the only way in which I take issue with the gentleman from California is whether what we are doing is designed to accomplish that objective. I fear quite the contrary, that if they view this as out of the question and slam the door in our faces, as a consequence of that, when we have had this escalating trade, and I think we are now, they are our 10th largest trading partner. And there is a lot of American investment going on in southern China. There is, in addition, by their probably worst enemy in their own perception, namely the Republic of China on Taiwan, they are investing finally and providing jobs and improvement of the economic condition in China.

What if the door is slammed in our face as a consequence of this? What have we accomplished? Did we help the students? Did we cause a deterrence from further commission of this sin that they perpetrated in Tiananmen Square? We enhanced our negotiating condition in terms of trying to get an end to nuclear arms proliferation?

I would argue that quite the contrary, we are putting these same people at risk because the rulers in that country have nothing to worry about. No one is in a position to overthrow them.

They control the guns. They control the Government. And so they go on and only the people suffer.

In addition to that, I would argue that there is a risk involved in this affecting Hong Kong. As we know, in 1997, Hong Kong will, under the agreement between Great Britain and China, be transferred back to the government of the mainland. And when we were over there on a trip that was referred to earlier this summer, there was suddenly a shift in outlook on the part of business people in Hong Kong who initially figured they are going to sell it off and throw it out and sink it or else they were going to incorporate Hong Kong into a slave state. And they concluded that is changing, that there are meaningful reforms that are taking place on the mainland that are positive.

As a result of that, they had a hopeful outlook. And they said this had occurred just within the last 12 months. And primarily because of the business ties and connections especially in southern China.

As the gentleman who spoke about that trip earlier mentioned, what we saw in Beijing, what we saw in Shanghai was mindboggling. We saw all kinds of billboards advertising products in English and Chinese. We saw happy, flourishing people. We saw all the young people in Western attire. We saw kids with English logos on all their T-shirts. We saw a distinct absence of any military presence except for an occasional guard at a government building.

In addition to that, in the middle of the week we visited the Great Wall of China. There were easily a quarter of a million people that we could see there, 99 percent of whom were Chinese, fathers, mothers, children. And we saw hucksters with their little temporary shops peddling goods and wares to the Chinese as well as to Americans.

We went to Shanghai and went down streets that would just boggle the mind where there was shop after shop after shop lining both sides of the street and considerable business activity going on in daylight hours, even a florist shop doing business. We do not find florist shops thriving in impoverished countries.

But this level of economic activity by entrepreneurs, not time clock punchers, these are people that had to make the distinction between gross and net income. These are people who had to understand marketing skills. People who had to understand servicing products. There people had an understanding of free enterprise.

And this Communist representative sitting next to me on the bus, I reminded her that they believe in a command autonomy in communism, and we are the champions of free enterprise in this world, right? I said we can afford to send some people over here and learn from your entrepreneurs on both sides of the street.

What I am saying is the situation is not hopeless but I am arguing is that with this well-intentioned effort on the part of the gentlewoman from California, we run the risk of cutting off our contacts. We run the risk of terminating forthwith the positive influence that we have exerted and we alone have exerted on mainland China.

To be sure, none of us will forget Tiananmen Square and to be sure come next December 7, none of us will forget Pearl Harbor. But on the other hand, there has been progress made, not as great as we would like to see by any manner of means, but I would suggest that we run the very real risk, if we adopt this measure, which the President has indicated he will veto for the same reasons I am advancing, if we terminate this contact, we run the risk of inflicting even greater injury on the very people we want to help.

For that reason, I urge my colleagues to vote no on H.R. 2212.

Mr. Speaker, I rise in strong opposition to the conference report on H.R. 2212. Let there be no mistake. These provisions would end U.S. economic ties to China and plunge this strategically important country into isolationism and economic stagnation. The President has vowed to veto it.

The United States would no longer be able to employ its influence to improve human rights and ensure political freedoms in China, and to preserve democracy and economic independence in Hong Kong. A normalized trade relationship, highlighted by MFN, is essential if we are to reform Chinese policies, both by example and by political and economic leverage. Trade must exist for this strategy to be successful.

This bill is replete with lofty goals and good intentions.

Congress understandably wants to end repression, guarantee human rights, resolve all trade problems and eliminate nuclear proliferation with the stroke of a pen. However, I think we all know how unrealistic this legislation is. We understand the President is right to want to stay engaged in dialog with the Chinese.

This very day, we are engaged in tough negotiations with China on specific trade problems.

So far China has not been responsive on intellectual property rights, and the United States will retaliate in a precise and effective way. The retaliation list will be announced tomorrow.

We should not throw everything out the window with a bill like H.R. 2212. No dialog means no solutions.

The actions of the current Chinese leadership against their own people are abhorrent and painful to contemplate.

The world is outraged at the notorious events in Tiananmen Square. However, these repressive policies will not be transformed by legislation that undermines our President and sacrifices American economic interests.

The President has demonstrated strength of will and purpose in dealing with the complicated foreign policy and economic interests of the United States in China.

For that, he is admired throughout the world. I believe Americans are proud of the leadership role of the United States in defending democracy and individual freedoms.

This bill will save no student from prison and no dissident from censure. Our disengagement will only make their fate more uncertain and shrouded in secrecy. Normalized trade relations are an essential tool for the President in crafting an effective China policy that will result in meaningful reforms.

Mr. Speaker, I urge my colleagues to vote "no" on the conference report to accompany H.R. 2212.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 6 minutes to the gentlewoman from California [Ms. PELOSI], pointing out that the gentlewoman from California did a tremendous amount of work and, a great deal of credit for considering this legislation at this point in time is due to her efforts.

Ms. PELOSI. Mr. Speaker, I thank the chairman for making this opportunity possible for us to bring this legislation to the floor today. He is indeed generous with his remarks, but he is also indeed responsible for us having reached, to be able to reach this compromise.

Many people on the floor said to me today, I want a tougher bill, or I do not want any bill at all. But that is what this is, it is a compromise which I believe reflects the concerns of this body but achieves some doable clear and concise conditions of which China can easily understand in order to receive renewal of most-favored-nation status next year.

I want to also thank the gentleman from Florida [Mr. GIBBONS], the gentleman from New York [Mr. SOLARZ], the gentleman from Ohio [Mr. PEASE], who spoke during rule when the gentleman from Illinois [Mr. ROSTENKOWSKI], brought us all together to begin the forging of a compromise.

I want to thank the gentleman from New York [Mr. SOLOMON], and the gentleman from Massachusetts, [Mr. MOAKLEY], for helping us; the gentleman from Texas [Mr. FROST] for getting the rule to come to the floor so quickly and so many Members on both sides of the aisle who worked so hard, the gentleman from New York [Mr. GILMAN], many of the Members are present and will speak to this.

I would also like, before proceeding, to thank Rob Leonard, Joanna, Shelton, and George Wise of the committee and subcommittee staff and my own staff person, Craig Middleton, for all of their hard work because it has been indeed months that we have been working on this. So to the chairman and the ranking member, the committee and the subcommittee, the staff, I thank them all very much. By persevering with this and not letting this legislation be forgotten, we are sending a clear message that those prisoners who were arrested for peacefully demonstrating in Tiananmen Square are not forgotten by this body as well.

Others have mentioned some of the concerns that are addressed in this legislation. The conditions address three areas of concern: human rights, trade, and nuclear proliferation. Much has been written and said about the repressive policies of the Chinese regime in regard to freedom of speech, religion and press. We were stunned by the massacre in Tiananmen Square 2½ years ago and continue to deplore the ongoing arrest and detention because of the practice of religion, the violations of freedom of the press and jamming of Voice of America.

Americans have heard this over and over. It is well-documented by Asia Watch and Amnesty International and indeed included in the findings in this conference report. Many of us have addressed this issue on the floor before. Improvement of human rights and basic freedoms were the conditions for our original bill.

However, actions taken by the Chinese Government have caused Members of the House and Senate to insist that language regarding nuclear proliferation and violations of our trade relationship be included in this bill. I do not agree that there have been great improvements made as far as the Chinese Government is concerned.

So in addition to principle, there are some very practical reasons, Mr. Speaker, why we ask our colleagues to support conditional renewal.

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As we develop working relations with China we must, I believe, insist that our relationship make the political situation there freer, the world safer, and the trade fairer to American workers. That is why this legislation is important to our constituents.

Since 1989, the Chinese Government has blatantly violated our trade relationship by refusing to remove barriers to our products in China. As a result we have a growing trade deficit—$6 billion in 1989, $9 billion in 1990, and a projected $15 billion for 1991—$30 billion since 1989, nearly all of it since Tiananmen Square.

In addition, American workers are placed at a disadvantage by having to compete costwise with prison labor. The use of transshipments also hurts American workers. This is the process by which fake labels are placed on products or put onto products to indicate that they come from someplace other than China in order to circumvent our import quotas.

This legislation, this conference report, also addresses violation of our copyright and intellectual property rights by the Chinese. We have just heard that the trade representative is going to take action because they have failed to address the situation adequately.

Mr. Speaker, in almost every way the Chinese have violated our trade relationship.

Next, I would like to move on, in the interest of time, to the issue of China's role in nuclear proliferation. In a year when we went to war because of Saddam Hussein's development of nuclear weapons, it is clear that this is an overriding concern to the American people. The conference report clarifies the nuclear proliferation condition by requiring that most-favored-nation status not be granted in 1992, if China sells missiles to Syria or Iran. China must also assure that it will not sell nuclear weapons to nonnuclear states, unsafeguarded states, and will abide by the missile technology control regime.

I commend the Chairman for forging this compromise, because I believe it has resulted in an excellent conference report that is clear, concise, focused—a true instrument for leverage. We do not want to break off the relationship with China or isolate China, so we do want to relate to them based on principle and the practical aspects of our fairness to American workers and making the world safer.

So I think that this bill is not only good for our relationship with China but will stand the scrutiny of being legislation that says in our bilateral relationships we should have terms that make the world safer by addressing nuclear proliferation, that makes trade fairer by being fairer to American workers, instead of clobbering them with the violations that the Chinese have, and by making the world freer by allowing a free discourse on issues in all countries in the world.

I am proud that we are taking up this issue today. I thank all the Members, Democrat and Republican alike, for their assistance in this.

Mrs. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I voted against the original bill but I did so because of my concern over the sale of agricultural products to China. But over the past few months, particularly after talking with my colleague, the gentlewoman from California, [Ms. PELOSI], I have had some serious misgivings and reflections.

In the case of Iraq, it was my amendment to the farm bill a year ago that cut off agricultural sale because of their human rights violations. In the case of the USSR I fought against the renewal of Jackson-Vanik and MFN until their human rights policy changed. The same with El Salvador.

So would China, with an abysmal human rights policy and nuclear proliferation problems, be different? Should it be spared from a uniquely American effort to modify the way it treats its own citizens? I think not.

This conference report is better than the original bill on the merits and it is easier to support on that basis, but I support it because it is right and it may just increase the prospects for freedom in China.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, despite the efforts of the administration, China has continued to violate the norms of international behavior. Some progress has been made in restraining the actions of the Chinese Government, but China still threatens to become the world's largest outlaw state.

We have all seen what mischief can result when even a smaller country like Iraq flouts the principles of acceptable international behavior. Through its policies on human rights, exports of military technology, and trade China threatens the stability of the entire world order.

The world was shocked and stunned when the Chinese Government, in June 1989, turned the guns of the military against peaceful protesters. Since then we have watched in horror as repression continued. And we have been disappointed again and again by the failure of the Chinese to address the fundamental issues in United States-China relations.

We can never close our eyes to what the Chinese Government did at Tiananmen Square. Nor can we, however, afford to close the doors entirely to China.

Despite our repugnance for its government, we must continue if at all possible to engage the Chinese Government and try to aid the Chinese people. The best way to 'promote political change in China is to continue cooperating toward steady economic growth.

The conference report absolutely requires—for continued MFN trade status—only that the Chinese Government address the unresolved human rights issues associated with the Tiananmen Square massacre and its aftermath. On other major issues it requires only "overall significant progress." With respect to missile or nuclear proliferation the only absolute condition is that China not transfer such technology to Iran or Syria.

Mr. Speaker, the conditions set in this bill can easily be met by the Chinese Government. Indeed, they should be our bottom line in dealing with China.

I believe that this bill contains enough flexibility for the President to use in putting pressure on the Chinese Government to resolve human rights abuses and remedy other violations of generally accepted international norms. The administration, through Secretary Baker's recent trip and other actions, has already done much to address these issues.

Let us hope that our action today will help the administration work to change the policies of the Chinese Government.

Mr. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota, [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentlewoman yielding time to me.

Following on the heels of the discussion of my colleague, the gentleman from Kansas [Mr. GLICKMAN], let me say that this is not an issue of boycott. With respect to those of us who come from grain country, and we are concerned about selling grain around the world, this is not a boycott issue. We are not suggesting shutting off trade with the Chinese. The issue here is do we expect, for the extension of MFN, for the Chinese to meet certain acceptable standards, standards we expect them to meet in the course of human dignity.

☐ 2020

The Chinese, frankly, have an enormous trade deficit with us. We have a deficit with them and it is growing radically. It seems to me we ought to expect the People's Republic of China to buy much more grain from us than they now buy.

I support the initiatives of the gentlewoman from California. I think we ought to stand up for something in the country and say that we expect a certain level of behavior coming from that country.

No, I do not want to shut off grain shipments. That is not what the issue is about. The issue is about trying to get the Chinese Government to conform to certain patterns of behavior in exchange for the extension of most-favored-nation status.

Mr. CRANE. Mr. Speaker, I yield 4 minutes to our distinguished colleague, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

As I said before in the debate on the rule, I strongly support this conference report.

Mr. Speaker, at this late hour, and with the politics of the Presidential season now coming upon us, there are many issues that divide us as Democrats and Republicans. However, today there are many other issues that should unite us, and no such issue on which we can all unite is more important than the encouragement and protection of human rights—at home and abroad.

To that end, I believe the conference report on this bill, H.R. 2212, should make a very substantial contribution.

Chairman ROSTENKOWSKI is to be commended for his initiative in putting together a conference report which we can all support on both sides of the aisle. America is always most effective when it speaks with just voice on trade and foreign policy issues. This conference report will enable America's message of support for the suffering people of China to come through loudly and clearly.

And, of course, Mr. Speaker, whenever we consider the plight of the Chinese people, we really have to pay tribute to their champion in this House the gentlewoman from California [Ms. PELOSI], believe me.

Her tenacity in moving this bill forward, and in keeping our attention constantly focused on the needs of the Chinese people, in both the Senate and the House, is an inspiration to us all. It really is to me.

But Mr. Speaker, the Chinese leadership does not seem to get it—it does not seem to understand that membership in the community of nations confers responsibilities along with the privileges that they enjoy from us. The Chinese leadership is always enthused about the privileges, but accepting the responsibilities is another story altogether.

Beijing's continued defiance of every international standard concerning the proliferation of weapons of mass destruction, as well as its continued denial of basic human rights for the Chinese people demands a response from this congress, and we are getting that here today with this bill. The assurances that were supposedly given on these subjects to Secretary Baker 10 days ago just are not enough.

The Chinese leadership has given assurance repeatedly—oftentimes to members of this Chamber from both sides of the aisle. You heard members speak about being there last month, 2 months ago, 3 months ago and the Chinese gave all of us those assurances. But they just do not mean anything.

The Chinese record is filled with broken promises, abusive behavior, and yes, outright lies. But just mention privileges, and the Chinese leadership pushes to the head of the line.

Mr. Speaker, for this year—1991—the Chinese trade surplus against the United States will reach $13 billion, thanks to MFN. Mr. Speaker, we are running a trade deficit with China that is second only to the one we have with Japan. Just think of that.

Mr. Speaker, to run such a deficit with a Government which is undemocratic, which specializes in slave labor for export, and which thumbs its nose at every international norm, is as morally wrong as it is economically idiotic.

Mr. Speaker, many months ago this House passed my resolution to immediately cutoff MFN for China. It passed overwhelmingly, but never got through the other body.

I would have preferred that approach here tonight, but this legislation will send a strong message to the Chinese leadership: Treat people with human decency, or else you are not going to trade with us, with Americans.

Mr. Speaker, I urge unanimous support for the legislation of the gentlewoman from California [Ms. PELOSI]. Please vote for it.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

VOL 137
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Mr. AUCOIN. Mr. Speaker, I was deeply offended, as were the Oregonians that I represent, with the indifferent stonewalling treatment that the Chinese gave our Secretary of State when he recently visited China. He merely asked in the name of all Americans for attention to basic human rights, and to this day the Chinese rulers are resisting and are stonewalling.

So I rise in strong support of this conference agreement tonight because it puts the United States of America on the side of human rights, democracy and justice in China. Since the House passed this bill in July there has been no meaningful improvement in the Chinese Government's incarceration of political prisoners, its oppression in Tibet, or its denial of the most basic human rights for its citizens. Instead, we have seen more reports of China's irresponsible readiness to supply nuclear technology and weapons of mass destruction to Iran, to Iraq, to Algeria, and to other such regimes in unstable parts of the world. These actions by China pose a grave threat to world peace.

Now we are told that high-ranking Chinese officials have promised to behave more responsibly in the future.

Well, I say and Oregonians say, promises are not enough. That is why we must pass this conference agreement.

This bill would allow the President to renew most-favored-nation status for China only if China releases pro-democracy demonstrators imprisoned in China and Tibet, does not sell missiles to Syria or Iran, and makes significant progress in improving human rights, preventing nuclear proliferation, removing trade barriers to United States products and ending the export of prison-made goods. It is a good proposal and it deserves our support tonight.

Mrs. KENNELLY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, I, too, was a part of the delegation back in August which visited China. I must say, first of all, that I rise in strong support of the conference report.

What frustrated all of us and my colleague, the gentleman from South Carolina [Mr. RAVENEL] explained it very genuinely on the floor, he and I held a press conference in Benjing expressing our frustration.

The Chinese officials were personally friendly to all of us. They were very gracious hosts and were very nice personally, but when it came to discussing human rights, they did not budge an inch. In fact, it was as if they had prerecorded their answers to us, anticipating what we would say and they could have just as well pushed a button and that would have been the pre-recorded answer; because we certainly did not get any satisfaction to any of the questions that were asked.

When we spoke about human rights, we were told that there were no human rights violations.

When we said we were very concerned about the actions in Tiananmen Square, we were told that they acted very cautiously and prudently in Tiananmen Square. They said that no other nation on this Earth would have allowed the demonstrations to continue and they said that they actually were very restrained in what they did.

It is almost an insult to one's intelligence to receive the kinds of answers we got from the Chinese officials.

When we spoke about Tibet, they told us that the Tibetan people welcomed them with open arms.

When we asked about sales of missiles to Syria, we were stonewalled.

When we asked the Secretary General, the head man in China, to allow us to see one of the prisoners who was jailed in the Tiananmen Square uprising, he told us that he did not have the power to allow us to see dissidents.

It was very, very frustrating. They tell us not to interfere with the internal affairs of China.

I would say that what is going on in China with the human rights abuses is not simply internal affairs, but it is a concern for all the world, certainly a concern for the United States of America.

Yes, it is important to have good relations with China and I would like to see nothing better than for Chinese-United States relations to improve, but not at the price of terrorism, not at the price of people not having freedom, not at the price to allow those brave young men and women who stood in Tiananmen Square and yearned for the same kinds of freedom that we in America yearn for and take for granted, not at the price of selling them out.

We have to stand up and say that we will never allow these human rights abuses to continue with business as usual. We will never allow the tyranny that goes on.

□ 2030

The insult to injury was when Secretary Baker came back last week and was really not given anything at all. It is time this Congress acted. I am pleased to enthusiastically support the conference report.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the Conference Report on H.R. 2212, legislation to condition renewal of most-favored-nation status to the People's Republic of China [PRC] and I commend the gentlewoman from California [Ms. PELOSI] for her dedicated efforts in support of this measure and Ways and Means Chairman, Mr. ROSTENKOWSKI, for putting together a reasonable compromise measure. The House Foreign Affairs Committee has conducted extensive hearings with regard to China's human rights violations.

Since the Tiananmen Square massacre in 1989, human rights conditions in the PRC have not improved. The PRC government continues to repress any form of prodemocracy sentiments, engages in continuing violations of internationally recognized human rights, uses forced labor on a vast scale to produce exports, and brutally occupies Tibet.

Some of my colleagues have argued that China is an extensively poor country and that we should help it progress by keeping the doors open. Economic progress, we are told, will eventually lead to political pluralism. It is not too difficult to recognize that they have been wrong and that unconditional MFN for China has only served to close the door to progress in both areas. If we truly want a sound economic environment that supports investment, then we should help nurture a democratic form of government in Beijing. By permitting the renewal of unconditional MFN we would be bankrolling the communist regime and perpetuating a fragile political and economic system.

Let me also add that the Communist government ruling the People's Republic of China sells nuclear technology and ballistic missiles to just about any middle eastern tyrant who wants them, nurtures the despicable Khmer Rouge, threatens the emerging democracies in Mongolia, Nepal and Taiwan, undercuts the President's efforts to mount an international campaign to persuade North Korea to halt its nuclear weapons program, and arms the authoritarian rulers of Burma who have placed the latest Nobel prize winner under house arrest and who have oppressed their people.

To understand why China seems so determined to sell arms indiscriminately to practically everyone without regard to the international destabilization it causes, it would help to know a little more about the level of corruption in China's ruling circles. My colleagues should be made aware that we are informed that Deng Xiaoping's son-in-law and the PRC's vice president's son are personally profiting from China's arms sales. They run a company by the name of Polytechnology which is China's leading exporter of arms. Costind, another Chinese arms exporter, is run by the children and spouse of China's military leaders.

If my colleagues really want to see both economic and political progress in China then we need to start pressuring the clans that run, own and enslave it. Accordingly, I urge my colleagues to support the Conference Report on H.R. 2212, which imposes significant conditions on any consideration of most-favored-nation status for the People's Republic of China.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I would also like to thank the gentlewoman from California [Ms. PELOSI] for her leadership on this issue. I have heard her speak in Washington quite eloquently and I have heard her speak in Beijing eloquently. And I think she speaks in the best tradition of the American spirit, but also she has displayed those Chinese traits of patience, perseverance, compassion that make the Chinese people such a great culture.

Mr. Speaker, about 2½ years ago, in June 1989, in Beijing, a young man stood in front of a long column of tanks, and he stopped them, if only momentarily, as the world watched, our imagination captured by his courage.

Tonight, as we deliberate here, in prisons throughout China are hundreds, perhaps thousands of young people who are sitting in prisons, who are looking to us for a sign. They were arrested for doing things that we take for granted, for assembling, for speaking, for speaking freely about their dreams of a democratic China.

The distinguished gentleman from Illinois has talked of face, that Oriental tradition of saving face. I would suggest that it is not just the Marxists, the brutal Marxist dictators who have the Chinese people under their heels that have face, but also the 1.1 billion Chinese people, such as those we speak of in those prisons, who have face and who want to save it.

We can do something about that. We can send a clear message tonight. If you believe that China should release those nonviolent prodemocracy demonstrators from Tiananmen Square and if you believe they should stop the practice of slave labor and prison labor, if you believe they should stop the practice of transshipments, stop the practice of shipping nuclear technology to Syria and Iran, then you should support this resolution.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Indiana [Mr. BURTON].

I rise in support of the conference report which places conditions on the renewal of most-favored-nation status [MFN] for the People's Republic of China [PRC].

On November 17, 1991, Secretary of State James Baker returned from his 3-day visit to China, the first by a high-ranking United States official since the Tiananmen Square massacre in 1989. The visit brought back memories of President Nixon's trip in 1972. The purpose of each was founded in an effort to mend strained Sino-U.S. relations.

The context of the two trips, though, could not have been more different. Efforts to cajole the Chinese into entering strategic partnerships to keep the Soviet Union off balance were not discussed, nor were attempts made to woo the Chinese into the American corner. Rather, the emergence of democracy around the world has placed the U.S. firmly in a position of strength in dealing with China. The content of the meetings last week reflected the shifts: the U.S. consistently demanded change. Meanwhile China is becoming increasingly isolated.

The results of Secretary Baker's trip verify what we already know to be true. One official present at the meetings described the Chinese officials as "recalcitrant"—obstinately defiant. Was there ever any doubt? The Chinese continue to export forced labor products, practice unfair trade policy, and recklessly sell nuclear technology to states such as Pakistan, Syria, Algeria, and now Iran. If this Congress were to step back and observe, I think we would quickly conclude that China is following a well-designed plan to ruin its chances of getting MFN. China remains obstinately defiant.

Today we are considering the conference report which would extend MFN status to China. We have an opportunity to strengthen our position with China, or weaken it. The conference report, if passed, would allow the President to renew MFN for China only if the Chinese Government agrees to a short list of fair and concise conditions.

We have before us an opportunity to help the Chinese people and I encourage my colleagues to send a strong message to China that the United States will no longer tolerate defiance to internationally recognized standards of fundamental human rights.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, 10 million people, 10 million people in prisons, gulags in China, 10 million.

Think about that. That is twice as many people, almost, as there are in the State of Indiana, which I represent. That is more people than there are in the Los Angeles County, one of the biggest counties in the United States. Ten million people suffering under the tyranny of the Communist slave system.

They are providing the slave labor which is making goods that we are buying in this country.

Mr. Speaker, we had a $13 billion trade deficit with them last year. That means we bought $13 billion more in goods then they bought from us. And we do not know about the underground staff that they were sending over here.

It is made by 10 million slave laborers. Now, I do not know how many people saw that "60 Minutes" piece that was on television not long ago, but I watched it twice. They had people going undercover, making deals with people who are in those prisons. Then they would flash over to the people running that government. The people running the governmet said, "No, we don't use any slave labor." Then they would cut back to the guy running the prison and the guy running the prison would say, "Well, yes, we can get you the goods you people want. Our people will make them." Any they said, "Well, what about the the quality? Now are we going to guarantee that?" And the guys running the prison said, "Well, if they don't produce quality goods, we will beat them, we will torture them," and they said that on national television here in the United States, and we saw it time and again.

And yet, we still do business with these guys.

It is my opinion if we really believe in democracy, freedom and human rights, we will send a message to the Communist Government of China that we are not going to do business with them if they continue this attitude and continue using people as slave laborers.

We saw the manifestations of their attitude when they ground those young people who wanted freedom and democracy in Tiananmen Square into dog meat with their tanks. Yet, we still do business with them.

I want to congratulate the gentlewoman from California [Ms. PELOSI]. She has done yeoman service for this body, for the country and for the people who are fighting for freedom and democracy in China.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I commend the chairman, the committee and the very persistent gentlewoman from California [Ms. PELOSI].

This conference report sends the right message at the right time. It tells China, that America will not stand idly by while an isolated leadership tramples on human rights and peddles dangerous military technologies.

All of us applauded the recent release of hostages in Lebanon. But what about the hundreds of hostages languishing in Chinese prisons, facing deprivation, forced labor, and torture? The only crime these people committed was to demonstrate principle and courage. Are we going to remain silent in the face of their suffering?

The Chinese Government calculates that they can violate any internationally held norm of decency and the United States will do nothing. They believe they can sell missiles and nuclear technology to anyone who will pay—and the U.S. will do nothing. They believe they can keep their markets closed to most U.S. exports—(adding $15 billion to the U.S. trade deficit this year alone), and the U.S. will do nothing.

□ 2040

Mr. Speaker, our vote today will send a clear and simple message to Beijing: "Don't be so smug. Don't assume the United States will turn a blind eye while you trample upon rights which we hold sacred and upon which our Nation was founded." These are rights for which Chinese men and women and Tibetan men and women have gone to prison for and died for. It is time for all of us in Congress to stand up with them in their struggle for freedom.

Mr. Speaker, we can do so tonight with our vote.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I want to begin by paying tribute to the gentlewoman from California [Ms. PELOSI] for her efforts, and I know, as a result of this bill tonight, people will be released from prison.

The two points that I would like to cover is, first, when I was there several months ago with Congressman CHRIS SMITH, we visited Beijing Prison No. 1. There were 41 or 42 Tiananmen Square demonstrators who were in the prison for speaking out for democracy. It was a cold day, about 25 degrees and snowing, and the prison was absolutely freezing. They were working on manufacturing socks and plastic shoes called jelly shoes for export around the world in competition with textile manufacturers in South Carolina, and North Carolina, and New England and around this country.

For those men who are in prison tonight this passage of this bill by an overwhelming vote will be so important.

Second, Mr. Speaker, many Members, when we went to Beijing, signed a letter to Li Peng asking that they release those who are in prison for religious freedom. There are 70 priests, ministers, and bishops who are in prison, some up to 32 years, that have not been out of prison for 32 years. The passage of this legislation by an overwhelming vote I believe will open up the prison doors and allow those bishops, and priests and ministers to leave.

Thirdly, for those of my colleagues on my side who voted no the last time I say, "You can vote yes this time. This is a much more watered-down bill. It is a bill that perhaps can even be signed by the President. But your vote makes a difference tonight, and I want to tell you why."

As we met with the families of those people, they told us that, when the Congress acts, and Voice of America then records what happens in this body, it makes a difference. So, tomorrow night, when they are listening with their little crystal sets somewhere in Beijing, or wherever they are, and know that the United States Congress stood with the Chinese people, it will make a difference.

So, Mr. Speaker, I strongly urge those on my side who voted no before on the other bill to please vote yes on this bill to open up the prisons, to let the bishops, and the priests, and the rabbis out, to prohibit the export of slave-labor-made goods into the United States and send a message that we care.

I say to the gentlewoman from California, "Ms. PELOSI, I want to again take may hat off to you and what you're doing here tonight. I know it will make a tremendous difference in the lives of so many people."

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from Connecticut [Mrs. KENNELLY] for yielding this time to me.

Mr. Speaker, I want to join my colleague on the Helsinki Commission, the gentleman from Virginia [Mr. WOLF], who is such a strong fighter for human rights, both within the Helsinki process and around the world. I also want to join him in congratulating the gentlewoman from California [Ms. PELOSI]. Rarely does a single Member make such an impact on an issue as she has done.

The Universal Declaration of Human Rights that the United Nations promulgated said that there was a certain standard that we would expect human beings to be treated by all nations. Subsequently, the United States, the Soviet Union, and 33 other nations signed the Helsinki Final Act, again reiterating a commitment to a certain level of standards for the treatment of human beings by governments. The United States was in the leadership of raising the issue time, after time, after time that the Soviet Union and the other Eastern European nations were not in fact, according to human beings, at that level to which they had agreed. They protested repeatedly year in and year out that those issues were the internal affairs of those nations. We rejected that premise. Instead the United States and most of the Western world adopted the premise that the well-being of any individual human being was the concern of the international community and that there were certain international standards which we would expect those with whom we did business, either politically, or socially, or culturally, in whatever way, would meet those standards. It was not, frankly, just until a few years ago that the Soviet Union, and with the freedom of the Eastern European nations, that the premise of international affairs justifying mistreatment and human abuse was banned.

Mr. Speaker, this bill says the United States will expect certain levels of performance from those with whom we do business. It is the right thing to do. It ought to be adopted unanimously. I urge my colleagues, each and every one, to strongly support this legislation.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, we are not asking that the Communist regime in China be perfect, but we do expect that any regime that has most-favored-nation status at least be evolving in the right direction. The Communist regime is not only tyrannical, not only does it have hands that are dripping with blood of those who are struggling for democracy, but it is not getting any better. It is not going in the right direction.

This administration begged us not to threaten China's most-favored-nation status. Now the boneheads at the State Department act surprised when the gangsters in Peking tell Secretary Jim Baker to shove off and to get our noses out of their business. Well, Mr. Speaker, the butchers of Tiananmen Square are thumbing their nose. They are laughing at us while profiting from a trade policy that should be reserved for free countries.

I believe in free trade. Our goal should be free trade between free people. It is an absolute abomination that products made by slave labor are making their way onto the shelves of America's markets.

Let us set conditions on giving most-favored-nation status to the Communist regime in China. They can still think of us as ugly Americans, but at least they will not think of us as dumb Americans. If we want to get their attention, let us start turning a smiling face toward Taiwan, where they have made great progress in democracy, but, most importantly, let us make it clear to the Communist regime and those struggling for freedom whose side America is on. If there is any question in anybody's mind whose side we are on, something is dreadfully wrong. The legislation of the gentlewoman from California [Ms. PELOSI] will help correct that and make it clear that America is still the land of the free and the home of the brave, the last and best hope for all of mankind.

Mrs. KENNELLY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, when the President asked the Congress to renew most-favored-nation tariff status for China, the challenge we faced was to fashion a response which would make it clear both to the people and to the leaders of China that the United States was on the side of democracy rather than dictatorship, of reform rather than repression, but which was also designed to enhance, rather than diminish, the prospects for democracy and human rights in China.

□ 2050

Basically, we had three options. First, we could have unconditionally renewed MFN, as the President wanted us to do, on the theory that this would enable us to better persuade the leaders of China to make the kind of changes and reforms we sought. But I would suggest that a policy of constructive engagement vis-a-vis China is

no more likely to succeed than was the policy of constructure engagement vis-a-vis South Africa.

Unless the Chinese leaders know that there is a price to be paid, in the absence of their willingness to address our concerns, there can be little hope for any real progress in the PRC.

The second option was to reject MFN for China entirely. But however emotionally satisfying such a response would have been, I suggest that it would have also been counterproductive. It would not have brought the gerontocracy which had seized power in Bejing to its knees. It would have more likely resulted in a decision on the part of the Chinese leaders to crack down than to open up, and this would have badly hurt Hong Kong, in whose economic vitality we have a significant national interest.

The third option was to make the renewal of MFN conditional, as we do in this conference report, on overall progress toward the achievement of our objectives in the area of human rights, economic relations, and the proliferation of weapons of mass destruction.

This conference report gives the President enormous flexibility. It does not require perfection, but it does require progress, and I think the gentlewoman from California [Ms. PELOSI], together with the chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the distinguished ranking minority member, all deserve enormous credit for fashioning a formula which is truly responsible. It encourages the Chinese leaders to move in the right direction. It gives the President ample flexibility in implementing the legislation.

Mr. Speaker, I not only urge its adoption by the House but I urge the President to sign it because I truly believe this is the best way to say to the people of China that we are on the side of democracy, while encouraging the Chinese leaders to move in that direction.

Mr. CRANE. Mr. Speaker, I yield two minutes to our distinguished colleague, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend, the gentleman from Illinois, for yielding time to me.

Mr. Speaker, I rise in support of the conference report conditioning MFN for the People's Republic of China.

Mr. Speaker, the legislation before us permits the President to renew MFN for the PRC provided the Chinese Government:

Releases nonviolent prodemocracy demonstrators imprisoned during and after the Tiananmen Square incident;

Does not sell missiles to Syria or Iran; and

Makes overall significant progress in each of the following three categories:

Human rights: Allowing human rights monitoring groups access to prisoners, ceasing the jamming of Voice of America, ending restrictions on freedom of religion, speech, press and assembly in China and Tibet.

Nuclear proliferation: Assuring that it will not sell nuclear weapons technology to non-nuclear states and will abide by guidelines of the Missile Technology Control Regime, MTCR.

Trade: Removing barriers to United States products entering Chinese markets, ending the export of prison-made goods, stopping violations of intellectual property rights, ending the use of transshipments to evade U.S. import quotas.

In late March, Mr. Speaker, Congressman FRANK WOLF and I spent the better part of a week in Beijing and Shanghai to promote human rights as part of an ongoing human rights effort.

We talked and argued with several government officials and visited Beijing Prison No. 1, a prison that unjustly incarcerates at least 40 political prisoners. We also met with Premier Li Peng and made a strong case—face to face—for human rights with the Chinese leader.

We told Li Peng that all Americans—including the President and Congress—continue to be outraged concerning the brutality by Chinese troops in Tiananmen Square. We urged the immediate release of all political prisoners.

The conference report I am pleased to point out appropriately uses our economic clout to encourage the release of these brave souls.

We raised the issue of convict labor and told Li Peng that products made by inmates—especially political prisoners—are absolutely unwelcomed on our shores and in our markets. The conference report includes language to address this concern.

We asked Li Peng to take steps to reverse the current crackdown on religious freedom. The evidence clearly suggests an all-out assault on people of faith is underway in China. Mr. WOLF presented Li Peng a list of 78 known prisoners of conscience—men and women who languish in gulags solely because of their religious beliefs. The conference report accommodates this concern for which I am grateful.

Finally, we expressed our outrage over the systematic exploitation of women and children—the family—who suffer terribly as a direct result of the PRC's brutal one child per couple policy with its heavy reliance on forced abortion and forced sterilization.

On two occasions this House has condemned this violation of women's rights and children's rights as "crimes against humanity." We have also withheld funds to the U.N. Population Fund for its support and comanagement of coercive abortion. But these modest steps need to be augmented by additional action. This conference report fails on that score.

Mr. Speaker, since 1979, it is estimated that over 120 million babies have been slaughtered by the state—approximately 90 percent of these abortions being the result of coercion. Forced abortion—coercive population control—is a horrible crime against women and babies.

Thus, while I support this compromise conference report, it deeply saddens the heart that the anti-coercion language adopted by this House when the bill was originally considered was dropped in conference.

Chinese women and children deserve better than that.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington, Mr. Speaker, I see so many of my colleagues here who have worked so hard on this issue, including the gentlewoman from California [Ms. PELOSI] and the gentleman from Georgia [Mr. JONES], with whom I traveled to China just a short time ago to discuss this subject of human rights.

People listening to this debate must be wondering, why are we so exorcised about this Chinese Government? Well, this is a government that sends missiles to make trouble in the Middle East. This is a government that sends prison-made goods into our country to compete with goods made by our own labor. This is a government that sends its own people to prison for worshiping God and for speaking out for political freedom.

Now we have a chance to send this Chinese Government a message, and the message is this: that access on favorable terms to the United States market depends in the future on the Chinese Government stopping this conduct and obeying the norms that civilized nations follow.

Mr. Speaker, I am from a trade-dependent area in Washington State. My constituents, however, understand that we cannot ignore what is going on in China. We understand, sure, that in the short run we may risk losing trade by this measure, but we understand that in the longrun there will be more trade and investment in a world where human rights are honored and not ignored.

Mr. Speaker, let us pass this conference report.

Mrs. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, this is really the least that we can do. This is the world's leading democratic government. This is the country that set the standard for the world for human rights and civil liberties, and there should not be one standard for Europeans and one standard for the rest of the world.

The courage of those young people at Tiananmen Square crushed by the Chinese tanks ought not be forgotten. Whether they labor today in prisons to manufacture goods shipped to the United States or whether the entire society with its lack of freedom is the issue, this country's voice ought to be loud and clear, and it gives me great pride that on this issue there is a bipartisan effort within this House to condemn the actions of the Chinese Government and to take a far stronger stand than our own administration has been willing to take.

Mr. Speaker, I would particularly like to commend the gentlewoman from California [Ms. PELOSI] and all the others on both sides of the aisle, including the gentleman from Washington [Mr. MILLER] and the gentleman from Georgia [Mr. JONES], who have led this effort to make sure that America stands on the side of those who are oppressed and not on the side of the oppressors.

Mrs. KENNELLY. Mr. Speaker, I yield back the balance of my time.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have heard that the Chinese are proud. The Asian-American is proud. He has helped to build this country. The families have stressed education in the home, and they teach that if you work hard, you can make it in this country.

These are the same Asian-Americans who have asked us to support conditional renewal of MFN. We need to send a strong message. We support a norm of international behavior that the Chinese will not adhere to. This is a message that life, liberty, and the pursuit of happiness is part of our new world order.

☐ 2100

Yes, if they call if face, if they call it arrogance and they spurn the United States' offer, so be it. There are many countries that want our trade.

Hal Lindsey in "The Lake Great Planet Earth" gives us an inside look at future China. Support conditional renewal of MFN for a safer world, for a better world, and thank the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentlewoman from California [Ms. PELOSI] for this legislation.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the conference report on H.R. 2212, most-favored-nations status for China.

Mr. Speaker, I will not repeat all that has been so eloquently stated by my colleagues about human rights abuses in China, slave labor, near genocide in Tibet and arms sales to terrorist nations.

I do want to add to the charges against the brutal Communist dictators of China one that is seldom mentioned—probably even little known. That is the cruel actions it has taken against the Mongolian people of Inner Mongolia.

The Mongolian people of what used to be called Inner Mongolia, just to the south of the Mongolian Republic have been deliberately subjected to extremely cruel treatment, and because of the sending of thousands of ethnic Chinese to the area, are now a minority in their own land.

Mr. Speaker, in August, as the Chairman of the National Republican Institute, I led a delegation to the Mongolian Republic, the second country in the world to become Communist, the first Communist country in Asia to throw out a Communist government, to see if we could be of assistance in the move toward democracy.

While we were there, we met dissidents who had escaped from imprisonment in Inner Mongolia and fled to Mongolia. Their crime? To say that they would like to have democracy as well.

Mr. Speaker, I want to join in commending Ms. PELOSI, who certainly has been the leader in this fight.

Mr. SCHULZE. Mr. Speaker, I rise in support of the conference report to H.R. 2212.

As I and many of my colleagues have noted during this and last year's debate on whether to extend most-favored-nation trading status to China, that country's emigration and human rights policies clearly have worsened since the brutal massacre at Tiananmen Square. Further, China is steadily adding to its nearly $15 billion trade surplus with the United States through the use of cheap prison labor.

No mystery are they, the worsening conditions within China have been confirmed by several organizations: Amnesty International, ASIA's Watch, the Library of Congress and, even our very own Department of State.

Given that China's emigration policy is not in compliance with title 4 of the Trade Act of 1974, I have argued strenuously that this Nation is not legally entitled to the preferential tariff rates accorded under the MFN program.

For this reason, I and some very committed colleagues—including Messrs. SOLOMON, MARKEY and ROSE—have led a 2-year effort to terminate China's MFN status. In fact, in 1980, I was just as vehement in my opposition to President Carter's recommendation that China be granted MFN treatment in the first place.

Regrettably, over the past decade, the State Department has argued just as strenuously that a policy of appeasement—as opposed to the more heavy-handed approach preferred by most of us—is the way to yield positive change in China. This policy failed in the 1980's, and it will continue to fail in the 1990's. Chinese leaders neither respect nor respond to the carrot approach. Indeed, they arrogantly chew up the carrots and spit them in the faces of those who naively offer them. It is time to wield a stick!

I regret being in the position in which I find myself today. Whether I vote for or against the legislation before us, China still receives most-favored-nation status—and that truly disgusts me!

However, I commend the gentlelady from California, Ms. PELOSI, for her tireless efforts in bringing this conference report to the floor. At this stage, H.R. 2212 represents the strongest message we can sent to the Chinese leaders, and it and its author deserve our strong support.

Mr. LANCASTER. I speak today in full support of the conference report on H.R. 2212, which would allow the President to renew MFN for China only if the Chinese Government does three things: Releases imprisoned pro-democracy demonstrators held in China and Tibet; stops selling missiles to Syria or Iran; and makes "significant progress" in improving human rights, stemming nuclear proliferation, and practicing equitable trade policy.

Each of those provisions is completely defensible in its own right. In combination they represent a package worthy of strong bipartisan support.

The Chinese Government battles words with tanks. The Chinese Government denies its citizens the most basic of human rights. The Chinese Government abides by its own rules as it contributes to nuclear proliferation while most civilized countries work to stem such activity. The Chinese Government enjoys a growing multibillion-dollar trade surplus with the United States as it denies entry of United States products into its own markets. And the Chinese Government remains confident that the United States will continue to extend MFN to China irrespective of its ignoble practices and policies.

It is time for the United States Congress to speak with a loud and unified voice in telling the Chinese Government they are very much mistaken. We will not reward their shameful ways with preferential trade treatment. We will instead pass into law this conference report. We will send the signal that we will do business with China on our terms, not on terms dictated by the Chinese Government—especially when those terms work to the disadvantage of American interests.

The conference report is clear, it makes sense, and it is simply the right thing to do. I urge my colleagues to support the conference report.

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of the conference report and to express my appreciation to the chairman [Mr. ROSTENKOWSKI] and the gentlelady from California [Ms. PELOSI] for their support and leadership.

Mr. Speaker, we are tired of the new China syndrome, where Chinese leaders promise to change, yet China continues to supply nuclear technology to pariah states and sophisticated missiles to terrorist countries. And while the blood of the Tianenmen Square massacre is still fresh, America rewarded China with a high level visit from Secretary Baker.

I do not doubt the President's commitment to human rights, fair trade, and restrictions on the proliferation of nuclear and missile technology. By passing this conference report with a two-thirds majority, we will help the President press these important principles with the Government of the People's Republic of China.

Nearly 2 decades ago, I voted for the Jackson-Vanik Amendment. As my colleagues know, this amendment conditioned the extension of MFN to the Soviet Union on the Soviet's emigration policies.

Today, Mr. Speaker, we can point to a changed Soviet Union. It can no longer be viewed as the evil empire. It has changed its emigration policies, and while minorities still face an uncertain future, the historic Jackson-Vanik Amendment has been waived.

The Soviet Union has changed.

Sadly, the situation in China has deteriorated. Since the Tianenmen Square massacre, over 30,000 pro-democracy activists have been detained. Some, and we don't know exactly whom and how many, have been executed. More than 800 activists have been imprisoned and the Chinese secret police continues to investigate, harass, and persecute others thought to support the democracy movement.

This President, this Congress, this country, must not send a message of weakness. We must not disappoint those Chinese citizens who have sacrificed their lives and their futures for democracy.

As Jackson-Vanik helped lay the groundwork for the changes we are seeing today in the Soviet Union, conditioning MFN to China will set a similar standard for our relations with China and pose a vital, tangible symbol of hope and American commitment for democratic activists in China.

Mr. Speaker, this is not a partisan issue. An overwhelming bipartisan majority voted for the bill. And this is not a political issue. The President shares our goals.

Clearly, the issue here is one of tactics.

I was one who thought that Secretary Baker's trip was premature. That the Chinese had not given even a glint of hope of progress. But I was willing to give the administration the benefit of the doubt.

Secretary Baker was tough. He pressed the hardliners but there was no give. They even arrested two activists just prior to his arrival just to remind us who is boss.

I can imagine the thoughts of Chinese leaders. They are thinking that there will be no price to pay for their intransigence. They are thinking that their gross human rights violations will go without any real American response. That they can continue to provide nuclear and missile technology to terrorist states with impunity. That they can violate U.S. trade laws, export prison-made goods and stomp on the American worker without censure.

Now, after Secretary Baker returned form Beijing empty-handed, we have an obligation to put up or shut up.

I urge my colleagues to support this conference report, and I hope that the other body and the President are listening.

Mr. MARKEY. Mr. Speaker, I rise in reluctant support of the conference report on H.R. 2212, regarding the extension of most-favored nation status for the People's Republic of China.

There is much in the conference report which I strongly endorse, particularly provisions in the bill relating to human rights in China and the status of the pro-democracy protesters who have been imprisoned and mistreated since the Tiananmen Square massacre. At the same time, I must note that the nuclear non-proliferation requirements contained in the conference report are significantly weaker than the language of the House resolution.

Last June I testified in favor of tough nuclear non-proliferation conditions on MFN extension before the Ways and Means Committee last June and I worked with the gentleman from New York [Mr. DOWNEY] and my Republican colleague [Mr. SOLOMON] to craft the language which Mr. DOWNEY attached to H.R. 2212 in the Ways and Means Committee.

The House China MFN resolution would have conditioned extension of MFN status for the People's Republic of China on two factors:

First, the Chinese Government would have had to provide clear and unequivocal assurances to the United States that it is not assisting any non-weapons state—either directly or indirectly—to acquire nuclear explosive devices or the materials and components for such devices.

Second, the House resolution would have required that before MFN status could be extended, the President of the United States must certify to Congress that based on the assurances provided by the Chinese Government, as well as all other information available to the President, that the Chinese were in fact not assisting any state in acquiring nuclear explosives.

Specifically, under the House resolution, in order for MFN status to be extended for the People's Republic of China, the President would be required to submit the report and make the certifications required under the 1985 congressional resolution which approved the United States-People's Republic of China Nuclear Cooperation Agreement. The 1985 legislation conditioned United States-Chinese nuclear cooperation on the People's Republic of China Government providing the United States with additional information regarding its nuclear non-proliferation policies and practices.

Based on this information, the President was required to certify that China was not in violation of section 129 of the Atomic Energy Act. Section 129 of the act bars U.S. nuclear cooperation with any country which has "assisted, encouraged, or induced any non-nuclear-weapons state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices." Section 129 also bars such cooperation with nations which have transferred reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapons state. To date, neither the report or the certifications required under the 1985 resolution have been made, and administration officials have acknowledged that this failure is directly tied to Chinese continuing misbehavior on nuclear non-proliferation.

Unfortunately, the conference report has substantially weakened the nuclear non-proliferation requirements set forth in the original House and Senate resolutions.

Instead of a tough nuclear non-proliferation requirement that actually ties MFN extension to a requirement that China's reckless nuclear non-proliferation practices come to an end, the conference report requires only that China make "overall significant progress" in "adopting a national policy" which: First, adheres to, and ceasing activities inconsistent with the standards and guidelines set by the Nuclear Suppliers Group; and, second takes clear and unequivocal steps to assuring the PRC is not assisting any non-weapons state in acquiring nuclear explosives.

The conference report states that the "significant progress standard" would not be met if the President determined that on or after November 26, 1991, the People's Republic of China had transferred to Syria or Iran material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device. Interestingly, this requirement would not apply to any transfers of equipment or technology to Iran which occurred before today's date—such as the Chinese transfers of calutrons and reactor technology to Iran, which was reported on by the Washington Post earlier this year. It would also not apply to Chinese nuclear assistance to other potential proliferators—such as Algeria or Pakistan—despite substantial evidence that China has previously assisted these countries in acquiring nuclear weapons technologies.

The conference report also expresses the sense of the Congress that the President should submit the report required under the 1985 congressional resolution on United States-People's Republic of China nuclear cooperation.

While I would have preferred tougher nuclear non-proliferation requirements as a condition of MFN extension, I am reluctantly supporting the conference report today because I believe the final language, while less stringent than the house resolution, nonetheless represents an improvement over current law, which does not link MFN for China to nuclear non-proliferation.

Mr. CRANE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. KENNELLY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. KENNELLY. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 409, nays 21, answered "present" 1, not voting 3, as follows:

VOL
137
PT
24
NO
26
1991
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JA
3
1992
UMI

[Roll No. 436]

YEAS—409

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—21

Archer
Armey
Campbell (CA)
Crane
Fawell
Grandy
Johnson (CT)
Kolbe
Kopetski
Lewis (FL)
Matsui
McCandless
Myers
Nussle
Pickett
Roemer
Shays
Taylor (MS)
Traficant
Vucanovich
Wyden

ANSWERED "PRESENT"—1

Murphy

NOT VOTING—3

Davis
LaRocco
Martinez

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Mr. McCANDLESS, Mrs. VUCANOVICH, and Mr. LEWIS of Florida changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair announces that pursuant to the provisions of clause 5, rule I, that he will postpone further proceedings today on each scheduled motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, and votes previously postponed, will be taken after the expiration of a recess.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT AMENDMENTS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnership Act for certain insular areas, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. RESERVATION OF ASSISTANCE.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—

"(A) IN GENERAL.—For each fiscal year, of any amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to the insular areas an amount that reflects—

"(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B).

"(B) SPECIFIC CRITERIA.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) TRANSITIONAL PROVISIONS.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 216(6)(A).".

SEC. 2. DEFINITIONS.

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "the Marshall Islands" and inserting "the insular areas"; and

(2) by adding at the end the following new paragraph;

"(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa."

SEC. 3. EXTENSION OF TIME TO SUBMIT CDBG STATEMENT.

Notwithstanding any other provision of law, the City of Petersburg, Virginia is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1) in connection with a grant to the

City of Petersburg under title I of such Act for fiscal year 1991.

SEC. 4. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay closing of financing under this section of the existence, or occupancy terms, of any such restrictive covenant.".

SEC. 5. FLOOD ELEVATION DETERMINATION.

Notwithstanding the time limit set forth in section 1363(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(c) and (d)), St. Charles Parish, Louisiana, may file an appeal with the Director of the Federal Emergency Management Agency with respect to certain flood elevation determinations for the area in and near the Ormond Country Club Estates located in St. Charles Parish, Louisiana, not later than June 1, 1992.

Mr. GONZALEZ (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. McCANDLESS. Mr. Speaker, reserving the right to object, I do so to ask my honorable chairman, the gentleman from Texas, Mr. GONZALEZ, if he would explain the basis for his request and the subject matter in the request.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, the House passed H.R 3576 as amended, which is what we are offering here, on October 21, and it passed it under suspension of the rules as a technical amendment to the HOME Program to correct a series of unintended problems which would have prevented the four U.S. territories from participating in the HOME Program.

On Saturday last the Senate passed an amendment to H.R. 3576 and has returned the bill to the House for a final consideration. One, in addition to providing funding to the territories under the HOME Program, the bill extends the deadline for filing a final statement under the CDBG Program for Petersburg, Virginia;

Two, it corrects a glitch in the law governing the FmHA section 515 Rural Rental Housing Program to enable loan closings for projects using the low-income housing tax credit, and it extends a time deadline for filing an appeal for floodplain determinations in St. Charles Parish, LA.

These additional provisions have been accepted by both sides of the aisle, and I urge the adoption of H.R. 3576.

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman. It is my understanding that the ranking minority member of our committee has concurred in this.

Mr. RIGGS. Mr. Speaker, I rise today in support of this urgently needed legislation. Amidst all the partisan rhetoric and bitterness generated by our debate over an economic growth package, I ask for a moment of reason and careful consideration of the legislation before us. This body has an opportunity to rise above the petty politics and, by extending this package of productive tax credits, show the American people that the Congress is still looking out for their best interests.

I have heard it said that you can claim to be an advocate for the people all year, but it's your vote that counts. That statement is particularly germane today, while we consider whether we will provide housing for literally hundreds of thousands of people. I would argue that passing this bill does not go far enough and that Congress should make all of the credits contained in this package permanent provisions of the tax code.

My concern with the extension of these tax credits stems from my background as a small businessman in the real estate industry. I know from personal experience how effective incentives can be in driving policy, and how well the low income housing tax credit in particular has been received in the market. I would remind my colleagues that the low income housing tax credit is the last Federal tax incentive remaining which encourages private sector production of affordable housing stock.

I represent the First Congressional District of California, which happens to include 2 of the 10 least affordable housing markets in the entire United States. Based on my own personal experience and the outcry from my constituents, I must conclude that much of America is the victim of a serious social illness in the form of increasing homelessness and general poverty. These programs we are considering have developed an excellent track record of combatting such social problems since their enactment. Thus, unless we're philosophically opposed to the creation of affordable housing or we think that helping low-income families achieve the American dream of home ownership isn't a worthwhile goal, the House of Representatives has no excuse for failing to pass this bill.

As Members of Congress, it is our responsibility to act in a timely manner to extend these successful credits. I honestly do not believe I would be doing my job if I voted against this legislation. I urge my colleagues to affirm the American dream as well as the faith of the people in their leadership by doing what is right and voting for this bill. I am submitting for the RECORD an editorial which speaks eloquently on the need for action and was written by my constituent, Mr. Arnold Sternberg, Director of Burbank Housing Development Corp. of Sonoma County, California.

HOUSING AID VITAL TO SONOMA COUNTY—CLOSE TO HOME

(By Arnold Sternberg)

Ken Harney's syndicated column in Sunday's real estate supplement paints a bleak picture for the future of affordable housing across the nation. In his column, Harney reports that the two federal programs which are the backbone of the nation's affordable housing effort may disappear at the end of this year.

The two programs whose demise he predicts are the mortgage revenue bond program, which provides permanent financing at below market interest rates for the first-time home buyers, and the federal low-income housing tax credit program, which is designed to attract private investment to make low-rent apartment development possible.

To understand what these two programs mean to Sonoma County, one need look no further than the Burbank Housing Development Corporation's experience in utilizing these programs:

In Petaluma, two sweat-equity projects, the 32-unit Magnolia Hills and the 8-house Madison Manor as well as the just-completed 29-unit Cherry Hill home ownership opportunity and the soon-to-start Hillview Oaks (30 town homes in the Corona-Ely annexation area), all rely on mortgage revenue bonds for financing.

In Santa Rosa, the 40-house self-help Rancho Miguel and Gardner Construction's 62-house development—Parkside—now going up at Piner and Fulton, are also largely financed with the same mortgage revenue bond program.

On the rental side, Burbank developed the 23-unit Madrone Village in Petaluma and the 20 senior apartments, Mountain Terrace II, in Healdsburg, using the tax-credit program. Also slated for tax-credit financing is Burbank's 50-unit apartment development in Rohnert Park and the 24-bed Burbank-Community Support Network joint venture, for which ground was just broken on Aston Avenue in Santa Rosa, a development designed to house formerly homeless people with a history of mental illness and other disabilities.

Burbank also utilized mortgage revenue bond financing in developing the 60-unit Gravenstein Apartments in Sebastopol, the 40 apartments at West Avenue in Santa Rosa and the 7-unit Cubernet project for seniors in Sonoma.

Virtually none of these 208 home-ownership opportunities would have been available to first-home buyers without the mortgage revenue bond program and none of these 225 below market rent apartments could have been built without the federal low-income housing tax credit program and mortgage revenue bond financing.

Harney's column should be read, therefore, as a "call to arms" for all those interested in solving, at least in part, the affordable housing program in Sonoma County. Our elected representatives need to know what has been done by just one small nonprofit developer in this county using these two programs.

Harney's predictions notwithstanding, the two programs can be saved and extended if this community, beginning with the Chamber of Commerce's November 15, symposium on affordable housing, can put this effort at the top of its legislative "must" list.

In the House of Representatives the extension vehicle for tax credits is HR–413 and for the mortgage revenue bond bill, it is HR–1067. Congressman Riggs and Congresswoman Boxer, Senators Cranston and Seymour need to hear from you on this subject now.

Mr. MCCANDLESS. Mr. Speaker, based upon that explanation, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

IMPROVING OPERATIONAL EFFICIENCY OF JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Mrs. LOWEY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3932) to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes.

The Clerk read as follows:

H.R. 3932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF JAMES MADISON MEMORIAL FELLOWSHIP ACT

The James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.) is amended—

(1) in subsection (b) of section 803, by adding at the end the following new paragraph:

"(3) A member of the Board whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired."; and

(2) in subsection (a) of section 811—

(A) in paragraph (1)—

(i) by striking "an other" and inserting "and other"; and

(ii) by striking "(1)"; and

(B) by striking paragraph (2).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York [Mrs. LOWEY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3932 is important legislation to allow the James Madison Memorial Fellowship Foundation to begin full operation of its scholarship program.

In general, we all recognize that our Nation urgently needs to expand Federal student aid programs. The James Madison Memorial Fellowship Program, which is aimed at strengthening the teaching of the principles and development of the United States Constitution, is a particularly worthy and important fellowship program.

The bill is very simple. When the Fellowship Foundation was created, it was endowed with a trust fund that has subsequently accrued interest. This bill permits the Madison Foundation to get down to the business of awarding fellowships by using the interest which has accrued on its endowment to fund its fellowship program, while protecting the trust fund itself.

It is important to point out that this legislation requires no Federal funding. It has received bipartisan support within the Committee on Education and Labor, from Chairman BILL FORD and ranking member BILL GOODLING, and it has been endorsed by the administration.

Mr. Speaker, this legislation will help us improve the quality of education in our Nation and will help broaden the understanding and appreciation of our Constitution and our democratic system of government. There are few objectives that are more worthy of our strong support.

I would urge all Members to support this bill, and at this point, I would yield to the gentleman from Virginia, who introduced this important legislation and has worked hard to see that it is enacted.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY] who has produced this important legislation and has worked hard to see that it is enacted.

Mr. SISISKY. Mr. Speaker, I rise today in support of legislation to allow the James Madision Memorial Fellowship Foundation to begin full operation of its fellowship program. It is only fitting that in the year we commemorate the bicentennial of the ratification of the Bill of Rights, we also grant to the foundation—named after the Bill of Right's principal author—the ability to perform its worthy mission assigned by Congress.

Mr. Speaker, the Madison Foundation is a living memorial to James Madison: Father of the Constitution, fourth President of the United States, and truly a great Virginian. It was established by Congress in 1986 as a part of the bicentennial commemoration of the U.S. Constitution. This program will award fellowships nationwide to outstanding graduate students preparing to become secondary school teachers in the fields of American history and government. This program will also award fellowships to experienced high school teachers seeking to strengthen their knowledge in the same area. Madison fellows will agree to teach full-time in secondary schools for at least 1 year for each year of assistance, and will emphasize the U.S. Constitution in their teaching.

The legislation we are considering today is actually very simple. In addition to two house-keeping provisions, this measure permits the Madison Foundation to embark on its mission of strengthening the teaching in our Nation's schools of the framing, principles, and development of the U.S. Constitution. It does so by allowing the Madison Foundation to use the interest which has accrued on its endowment to fund its fellowship program, while protecting the corpus of the Foundation's trust fund.

While enacting this important legislation will require no Federal funding, it will pay dividends for years to come. These dividends will be deeper understanding of American government, increased knowledge of the rights and responsibilities of citizens under the Constitution, and an enhanced spirit of civic participation in both teachers and students * * * the same spirit which inspired our Nation's Founding Fathers.

This bill has the support of the Education and Labor Committee Chairman, Mr. FORD, and the committee's ranking minority member, Mr. GOODLING. In addition, the measure is supported by Senators HATCH and KENNEDY in the other body. Furthermore, it has been scrutinized and endorsed by the Office of Management and Budget. I urge my colleagues to support this worthwhile legislation which promotes a program that emphasizes the Constitution and higher education. It is indeed deserving of our support.

☐ 2130

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the program envisioned here is very laudable. We have a serious problem, however, in that when we put up the $20 million, the Foundation indicated putting up $10 million would be an easy kind of thing to do. Unfortunately, they have not done it.

I just want to make it very, very clear, that when they come back next year and ask to use the interest on the $20 million that the taxpayers put up, that I will do my very best to make sure that it is not granted, unless they have shown a very good faith effort to get their $10 million which they originally said would be easy to do.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. Yes, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, this is sounding a little like a shell game to me. The taxpayers put up $20 million with the idea that the foundation was going to put up $10 million, and now they have not gotten their $10 million, but they are going to come back and use the interest on the money originally put up by the taxpayers, is that right?

Mr. GOODLING. That is right, $4 million.

Mr. WALKER. Now, how much money has been raised by the Foundation so far?

Mr. GOODLING. I will yield to the gentleman from Virginia [Mr. [SISISKY] to anwer that.

Mr. SISISKY. Mr. Speaker, they are in the process of raising money.

Mr. WALKER. Have they raised half of it?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield, I do not believe they have. I do not know the figure, but if the gentleman will let me explain. One of the projects was a coin bill which we are waiting to do in 1993 and this was the problem. We have not yet passed a coin bill for the James Madison Foundation to raise the money.

Mr. WALKER. But as I understand it, this is not a coin bill either. What this is doing is simply saying that we are going to now use the interest money, which is essentially money that the taxpayers have already forwarded.

Now, I am a little confused. How are we going to raise the $10 million that was a part of the $20 million guarantee?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield further, we are in the process of raising the money from foundations and other things. We are having trouble, in all honesty, on the issue of raising the money.

Mr. WALKER. Well, does the figure of $50,000 sound right?

Mr. SISISKY. I think we raised more than $50,000. Is the gentleman saying $50,000?

Mr. WALKER. I have had it indicated to me that the total that has been raised so far out of the $10 million is $50,000.

Mr. SISISKY. I think we have raised more than $50,000, but I am really not sure of the figure, honestly, I am not.

Mr. WALKER. Well, I am concerned about the process that we are using here at the very last minute.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. WELDON. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Speaker, I thank my colleague for yielding to me.

I would just like to ask a question. I am not against this particular bill or the concept, but I understand there was an attempt made, or there has been a bill introduced to offer a coin that would generate approximately $10 million in funding, and now instead of that coin bill, we are offering a bill that will in fact allow the interest to be used, to which I am not objecting.

My question is do the sponsores plan to continue to move the coin bill forward to raise the additional amount of funds necessary to match the $20 million of public funding?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield, we would like to move the coin bills forward.

Mr. WELDON. Well, the only thing I would say to my colleagues in the House, and once again not being against this, but the scenario of what happened here today was that there was going to be a package of four coin bills offered shortly that my colleagues are going to be asked to vote upon.

In the initial package of those coin bills the Madison coin bill was included in that package. It was only removed because there was an outcry nationally from the American Fire Service, the 3 million people who have been working for 2 years to pass a Ben Franklin coin in 1993, which the Madison bill would completely knock out.

Now we are finding that not only are we going to pass this bill, which is going to allow the interest to be used, the $4 million, but we are going to come back and pursue a 1993 coin bill to raise additional funds for the James Madison Foundation, and again jeopardize the number one priority of the National Fire Service, which is the Ben Franklin coin bill.

I really find this somewhat outrageous.

While I do not want to disagree with my friend and told him I did not want to stand up here and oppose it, what is happening is we are going to have the coin bill come back again that will raise the money for this, and I do not know where the Foundation is raising its money on its own.

As a matter of fact, my friend and colleague on the Republican side who is offering the bill with my good colleague and friend, the gentleman from Virginia, was not even aware what this bill was 5 minutes ago. He thought this was the coin bill, because the staff had not told him that they changed it from a coin bill that now allows the Foundation to use the interest on the money generated.

I find this offensive, especially in light of the fact that with the coin bill that was being proposed, there was no limitation on the administrative overhead, the funds to be used for salaries.

I just find this an outrageous way to try to fund what in fact is a very worthwhile project.

Mr. GOODLING. Taking back my time, Mr. Speaker, I again reiterate that I have no objection to the legislation tonight.

I will be very much in opposition to any attempt next year to use the interest, unless the foundation has made a very good-faith effort to raise their part of the money.

Mr. ALLARD. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Speaker, today I join with my distinguished colleague, Congressman NORMAN SISISKY, in supporting H.R. 3932, a bill which will improve the operational efficiency of the James Madison Memorial Fellowship Foundation. Since coming to Congress, I have been a strong supporter of the education programs of the Madison Foundation.

Under the direction of Adm. Paul A Yost, the former Commandant of the U.S. Coast Guard, the foundation is in its first year of full operation. However, Admiral Yost, and the trustees of the foundation have indicated that there are several provisions which need to be addressed in order to improve the operations of the foundation.

This legislation does three things: First, it allows existing members of the board of trustees of the foundation to continue serving at the end of their term until the President of the United States either reappoints that trustee or he appoints that trustee's successor. This will allow the foundation to continue its operations more efficiently because there will be a fully functioning board of trustees at all times to oversee the foundation's activities.

Second, a typographical error is corrected in the foundation's original legislation.

Third, the foundation will be relieved of its current mandate to raise an additional $10 million from private and other sources before fellowships can be awarded. Raising this large amount of funds has proven to be difficult, and there is a great need for the foundation to be in operation before potential donors are comfortable in funding the foundation's educational programs.

I want to assure the members of the House that this legislation does not allow the foundation to spend any of its original $20 million trust fund. The foundation will only be able to use the interest the trust fund has accrued. The foundation fully intends to continue to raise funds from private and other sources.

Finally, I would like to point out to my colleagues that the Office of Management and Budget has reviewed this legislation and has given its approval of its enactment.

I ask that my colleagues join me in supporting this important legislation which will help the Madison Foundation accomplish the mandate on educating our Nation's secondary school teachers.

Mr. GOODLING. Mr. Speaker, I want to make sure that the third gentleman from Pennsylvania just speaking was not speaking of this gentleman, the first gentleman from Pennsylvania, when he said that he did not know what was in the legislation. I know very well what is in the legislation.

Mr. Speaker, I yield back the balance of my time.

Mrs. LOWEY of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentlewoman from New York [Mrs. LOWEY] that the House suspend the rules and pass the bill, H.R. 3932.

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 14, nays 3.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2140

GENERAL LEAVE

Mrs. LOWEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3932 the bill just considered.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentlewoman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONOR OF H.R. 2797

Mr. HANCOCK. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2797.

The SPEAKER pro tempore is there objection to the request of the gentleman from Missouri?

There was no objection.

COMMENDING PEOPLE OF GUAM AND HAWAII FOR SACRIFICES AND CONTRIBUTIONS MADE DURING WORLD WAR II

Mr. DE LUGO. Mr. Speaker, I move the House suspend the rules and pass the resolution (H. Res. 293) commending the people of Guam and Hawaii for the sacrifices and contributions they made during World War II.

The Clerk read as follows:

H. RES. 293

Whereas on December 8, 1941, the Imperial Japanese Forces attacked the territory of Guam;

Whereas such forces bombed the marine barracks of the United States in the village of Sumay, the Piti Navy Yard, the U.S.S. Penguin, and the U.S.S.R.L. Barnes;

Whereas on December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by such forces;

Whereas the residents of Guam, particularly the resident forces of the United States Navy and Marine Corps and the local force known as the Navy Insular Force, valiantly defended the territory in the face of overwhelming opposition;

Whereas the Navy Insular Force was singled out by its commander for its defense of the Governor's Palace at the Plaza de Espana;

Whereas Guam was occupied by the enemy for 32 months, until the armed forces of the United States liberated the territory in July 1944;

Whereas, throughout the occupation, individuals on Guam were beaten or executed for remaining loyal to the United States, for aiding and providing food to imprisoned members of the armed forces of the United States, and for hiding members of the armed forces of the United States from the enemy;

Whereas the people of Guam were denied basic civil liberties and were forced to construct airstrips, dig caves, install antilanding barriers, grow food, and raise livestock for the Imperial Japanese Forces;

Whereas the people of Guam were deprived of sufficient food, clothing, and medical care by such forces;

Whereas a number of Chamorro men were executed for refusing to reveal the whereabouts of a sailor from the United States who was hiding on Guam;

Whereas the people of Guam were forced to live in a concentration camp under inhuman conditions;

Whereas in Tinta on July 15, 1944, and again in Faha on July 16, 1944, 30 residents of Merizo, Guam were taken into a cave and executed by members of the Imperial Japanese Forces;

Whereas on December 7, 1941, military installations of the United States in the territory of Hawaii, including Pearl Harbor, were attacked by armed forces of Japan;

Whereas among the defenders of Hawaii were the 298th and 299th Infantry Regiments, which included large numbers of Hawaii National Guardsmen who had been mobilized previously and residents of Hawaii who had been drafted in 1940 and 1941;

Whereas the 2,403 Americans killed in that attack included 68 civilian residents of Hawaii;

Whereas residents of Hawaii employed in civilian jobs at Pearl Harbor and other military installations responded courageously by manning anti-aircraft guns, fighting fires, tending to the wounded, and performing rescue operations;

Whereas individuals at Pearl Harbor Naval Ship Yard performed heroic work in raising and repairing the ships of the Pacific Fleet of the United States which had sunk or sustained damage during the December 7th attack, which work resulted in the return to active service of 18 out of 21 such ships;

Whereas such individuals played a vital role in making the Pacific fleet fit to fight in subsequent battles of World War II;

Whereas the University of Hawaii Reserve Officers' Training Corps was mobilized to defend Hawaii against the threat of imminent enemy invasion, making such corps the only unit of the Reserve Officers' Training Corps to be mobilized for active duty;

Whereas the members of the such corps and other residents of Hawaii were activated into the Hawaii Territorial Guard for the purpose of defending the Hawaiian islands;

Whereas the loyalty of Americans of Japanese Ancestry came under unjustified suspicion in the aftermath of the attack on Pearl Harbor even though many of the residents of Hawaii who assisted courageously in the defense of Pearl Harbor and other military installations on December 7, 1941, as well as many of those uniform poised in defense of Hawaii, were Americans of Japanese Ancestry;

Whereas such unjustified suspicion resulted in the wrongful internment of some 110,000 Americans of Japanese Ancestry;

Whereas Hawaii was placed under martial law from 1941 to 1944 and its people were denied a number of fundamental constitutional rights, such as the right to petition for habeas corpus;

Whereas the imposition of martial law suspended the constitutional provisions which protected minorities, compounding the difficult situation of Americans of Japanese Ancestry;

Whereas Americans of Japanese Ancestry in the territory of Hawaii were unjustly discharged from the Hawaii Territorial Guard and removed from combat units;

Whereas such individuals, who resolved to demonstrate their loyalty, engaged in volunteer defense work by enlisting in the Varsity Victory Volunteers and similar organizations;

Whereas such individuals, when they were permitted to serve in combat units, demonstrated beyond question their loyalty by volunteering to serve in the armed forces of the United States in record numbers; and

Whereas such individuals compiled extraordinarily distinguished records in the 100th Infantry Battalion, the 442nd Regimental Combat Team, and the Military Intelligence Service: Now, therefore, be it

Resolved, That the House of Representatives commends—

(1) the people of Guam for their patriotism, bravery, loyalty to the United States, and many sacrifices during World War II, particularly during the invasion and occupation of the territory of Guam;

(2) the members of the Navy Insular Force and United States Navy and Marine Corps for the efforts and sacrifices they made in defense of the United States;

(3) the people of Hawaii for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941; and

(4) the members of the Hawaii Territorial Guard, the Varsity Victory Volunteers, the civilian workers at Pearl Harbor Naval Ship Yard and other military installations in Hawaii, the 100th Infantry Battalion, the Military Intelligence Service, and the 442nd Regimental Combat Team for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the title of the resolution states, House Resolution 293 would commend our fellow Americans in Guam and Hawaii for the sacrifices and contributions they made during World War II.

It recounts some of these sacrifices and contributions in great and—in some cases—painful, detail. And as dramatic and horrifying as some of these details may sound, they are not exaggerated.

In fact, there is even more that could be said if a complete description of the suffering of our fellow Americans in Guam and Hawaii were given.

The resolution, further, commends the people of Guam for their patriotism, bravery, loyalty, and sacrifices during the war; those who defended our Nation in what were then both territories; and the people of Hawaii for their sacrifices and contributions, particularly during the attack on Pearl Harbor.

We certainly cannot say too much in these areas.

The 50th anniversary of the attack on Pearl Harbor—and the 50th anniversary of the invasion of Guam—is, of course, an appropriate time for the House to remember the deeds of these Americans and thank them for what they did.

And we should do so with more than just a mere passing through.

One reason is that their sacrifices and contributions were so great and so important.

Another, though, is that while World War II may now be a distant memory for some Americans, the painful memories have not faded for many of the people who were in the front line in the Pacific.

In fact, some of the sadder legacies of World War II are the very real problems related to it that we still face in Guam. Indeed, they are such powerful issues that they affect consideration of the island's relationship to the rest of our country, a matter that is now being reconsidered.

Guam is the only present United States territory with a sizable population occupied by enemy forces during the war. The attack on lightly-fortified Guam—which occurred almost simultaneously with the attack on Pearl Harbor—was followed by the subjugation of the people to enemy military rule.

The hardships of this time were tremendous: Guamanian people were denied basic human rights in their own homeland; they were imprisoned, forced to labor, tortured, and murdered, often by beheading.

They were made to suffer precisely because of their patriotism.

Then, their island was virtually destroyed during its liberation by U.S. forces. And, later, their land was often unfairly taken by their liberators.

I first came to understand the emotion and importance attached to the issues dating to this period when I learned of them from our late colleague Antonio Won Pat, whose own brother was, I believe, executed by the enemy when it occupied the island. Of course, Tony served with distinction for many years in this House.

I have also come to understand this matter from Tony's successor, our colleague BEN BLAZ, who himself suffered hardships inflicted by the enemy during his youth.

The gentleman from Guam has pressed for action on two measures to respond to these issues. One would return land unfairly taken from his people by the U.S. military that is no longer needed by the military. The other would compensate his people for war suffering and losses, an issue on which we have also worked with Senator George Bamba of Guam.

The Subcommittee on Insular and International Affairs, which I am privileged to chair, has spent a lot of time—through oversight and legislation—on both of these matters as well as on the very important question of the future Guam-United States relationship, which they influence.

I know that I am joined by the gentleman from California [Mr. LAGOMARSINO] the ranking Republican of the subcommittee, as well as the gentleman from Guam, when I say that we very much hope that we will be able to reach agreement with all concerned on these matters.

So, I regard this resolution, in part, as a step that we can take now to demonstrate our sincere appreciation to the people of Guam along a path of concluding our responsibilities to them arising out of World War II.

Another step that we can certainly take next year is to provide the funds needed to acquire the land designated as the war in the Pacific National Park in 1978.

I hope that the park will be fully operational before the 50th anniversary of the liberation of Guam 2½ years from now. I also hope that the American Memorial Park in the nearby North Mariana Islands, which would also commemorate World War II suffering, will be fully funded by then.

While it is difficult to resolve many of these issues relating to World War II in our Pacific insular areas, the extent of the sacrifices and the fervor of the people compel us to continue to keep trying to do so.

So, it is with a deep sense of duty and appreciation that I urge the House to approve this resolution, recalling the immeasurable suffering of the people of Guam and Hawaii during that time of adversity and commending them for their bravery and loyalty. It should never be forgotten.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 293 introduced by my colleague BEN GILMAN, Which commends our fellow United States citizens in Guam and Hawaii for their courageous sacrifices and contributions made during World War II. Many of their individual efforts have become legendary particularly among those who joined the U.S. Armed Forces and served with great distinction. SENATOR DANIEL INOUYE of Hawaii is a great example of one who took up the call to arms in defense of our country and was decorated for his bravery on the battlefield.

My good friend from Guam, BEN BLAZ, also lived through the occupation of Guam seeing firsthand the terrors of war and the joys of liberation by the United States Armed Forces. He later joined the Marine Corps and rose through the ranks to become general. It has indeed been a pleasure and an honor to work with General Blaz and to serve with him on the Committee on Interior and Insular Affairs and the Committee on Foreign Affairs. Not only has he distinguished himself in his prior military career, he has made his mark here in the Congress as well. His handling of the very complicated California Desert Protection Act is a testament to the excellence of his work.

There are also many unsung heroes from Guam and Hawaii who gave their lives or parts of their lives as a result of their loyalty to the United States during the war. This became dramatically evident during hearings which were held by the Subcommittee of Insular and International Affairs on which I serve regarding World War II war reparations. Many of the survivors of the atrocities of World War II told horrific tales of torture and forced labor during the occupation of Guam. One woman showed the broad red scar stretching across the back of her neck where enemy forces had attempted a beheading and left her for dead among other victims. This U.S. citizen is only one of many who suffered the trials of World War II while remaining loyal to the United States and who deserve more than public recognition.

I have worked closely with the Chairman of the Subcommittee on Insular and International Affairs, RON DE LUGO, to develop Guam war reparations legislation which would be equitable to all and acceptable to the Senate and the administration. In spite of our efforts in the last Congress, opposition in Guam arose to the war reparations legislative compromise based on the false assumption that greater reparation levels could be obtained.

As we approach the 50th anniversary of the start of World War II, it is fully appropriate and necessary to remember the challenges endured by our fellow U.S. citizens in two great Pacific archipelagoes: the Marianas and Hawaii. I urge my colleagues to join in commending the people of Guam, the southernmost island of the Mariana Islands, and Hawaii for the sacrifices and contributions made during World War II. Perhaps one day restitution will be provided for those who suffered the tribulations of occupation in the same spirit which recognition is given through this resolution.

□ 2150

Mr. Speaker, I reserve the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again want to urge my colleagues to approve this measure so that the people of Guam and Hawaii will know how much the House of Representatives appreciates their tremendous sacrifices and contributions made during World War II. Finally, I want to commend our colleagues, the gentleman from Guam [Mr. BLAZ], the gentleman from New York [Mr. GILMAN], the gentleman from Hawaii [Mr. ABERCROMBIE] and others for proposing this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the author of the resolution.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Resolution 293 along with my colleagues, the gentleman from Guam [Mr. BLAZ], the gentleman from New York [Mr. SOLARZ], the gentleman from Hawaii [Mr. ABERCROMBIE], the gentleman from Iowa [Mr. LEACH], the gentleman from American Samoa [Mr. FALEOMAVAEGA], and the gentleman from California [Mr. LAGOMARSINO] who joined with me in sponsoring this legislation commending the people of Guam and Hawaii for their sacrifices and their contributions to the allied effort during World War II. I want particularly to commend my good friend, the gentleman from Guam [Mr. BLAZ], for his dedication and diligent work on behalf of his constituents and all the veterans, as well as the gentleman from Hawaii [Mr. ABERCROMBIE] on behalf of his constituents, and I thank the gentleman from the Virgin Islands [Mr. DE LUGO], the distinguished subcommittee chairman, and the distinguished ranking minority member of that committee, the gentleman from California [Mr. LAGOMARSINO].

Mr. Speaker, the date of December 7, 1941, is the day that will long live in infamy and will live forever in the minds of all Americans. Virtually every American recognizes the significance of that fateful day which brought the United States into the Second World War. However December 8 also represents a terrible day for Americans and freedom. On that day the Imperial Japanese forces attacked the Territory of Guam, bombing the village of Sumay, the Piti Navy Yard, the U.S.S. *Penguin* and the U.S.S. *R.L. Barnes*, and on December 10, 1941, Guam became the only populated community of the United States to be invaded and forcefully occupied by Japanese forces.

Mr. Speaker, one unfortunate result of these terrible attacks was the suspicion and internment of some 110,000 Americans of Japanese ancestry. This measure appropriately recognizes the partiotism and loyalty of many Americans of Japanese ancestry who served during World War II in the Armed Forces of the United States.

This resolution also specifically recognizes the outstanding contributions of individuals of the 100th Infantry Battalion, the 44th Regimental Combat Team and the Military Intelligence Service, all of whom served in World War II.

Finally, Mr. Speaker, this resolution recognizes the efforts of the Navy Insular Force, and the U.S. Navy and Marine Corps for their efforts and many sacrifices on behalf of our Nation in that part of the world.

Mr. Speaker, the original cosponsor of this resolution, the gentleman from Guam [Mr. BLAZ], regretted that an overseas mission prevented him from taking part in this discussion, and he has asked that his remarks be made part of the RECORD of this debate. The gentleman from Guam, in noting "America's Forgotten Patriots," stated:

> I'd like to remind my colleagues that the word "forgotten" is used bittersweetly, for all too often the people of Guam have had to ask, "How can we be forgotten when we were not remembered in the first place?"

Mr. Speaker, I thank my colleagues for their generous support for this measure, and I again commend the people of Guam and Hawaii for their extensive sacrifices.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I would just like to add my voice of support to this piece of legislation.

As we have heard this evening, the people of Guam were attacked simultaneously with the people of Hawaii and Pearl Harbor, the American sailors there at Pearl Harbor, and, as we also have noted tonight, there was a great deal of heroism that some of our fellow Americans have not remembered, that the people of Guam, they were probably some of the most heroic citizens of the war, and yet for so often now, as we are looking at this 50th anniversary, their heroism has been totally forgotten.

Mr. Speaker, that is why this legislation is so important. These were Americans. The Japanese who invaded those islands knew they were Americans, and they treated them like they were occupying American territory.

Now I will never forget as a kid my dad was a Marine lieutenant colonel, and we know a lot about the Marines and about what was going on in World War II, but one story that I heard about was some of the Marines and some of the military people there who survived the Japanese attack and went into the countryside in Guam, for years Guamanians went and took them at great personal risk. These people, if they would have been caught giving aid to these Americans hiding out from the Japanese; as a matter of fact, some of them were executed, and I think a couple of the Americans survived. I remember reading the story about one of these men, and Harry was telling me about brave Guamanians who would come and give them food. That was the only thing that helped them survive, and then of course, after the harsh years of occupation, what happened? The Americans came to liberate the island, and of course, as is true with a great military, we obliterated everything in our path, and these heroic people who loved this country; their heart just tingles when they see the American flag, and, after going through all this suffering from World War II, and then to have their island obliterated while it was being liberated, it is just something that we Americans cannot afford to forget at this 50th anniversary.

What always brings this to mind is of course that our colleague, this gentleman, but this brave man, this courageous man who serves with us, the gentleman from Guam [Mr. BLAZ], and he of course, as we know, he himself is an American hero, not necessarily for what he did in World War II because I am not sure what it was, and he has told us he did some things then, but we know what he did in Vietnam, we know what he did as a soldier, and we know what Guamanians have been doing these last 50 years to protect this country and to promote the cause of human freedom throughout the world.

Mr. Speaker, this is something we should all be grateful for. This resolution helps us express that in just one little way, just to say we are grateful to these people. We are grateful to the people of Hawaii, but, yes, we are grateful to these Americans, these Americans in Guam who have been such wonderful Americans, and done so much for our country and shown us what kind of people Americans are all about, and they are the people of Guam.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Resolution 293, legislation I introduced along with my colleagues Mr. BLAZ, Mr. SOLARZ, Mr. ABERCROMBIE, Mr. LEACH, Mr. FALEOMAVAEGA, and Mr. LAGOMARSINO commending the people of Guam and Hawaii for their sacrifices and their contributions to the Allied effort during World War II, and I want to particularly commend my good friend, the gentleman from Guam [Mr. BLAZ] for his dedication and diligent work on behalf of his constituents and the gentleman from Hawaii, Mr. Mr. ABERCOMBIE, and all veterans and I thank the gentleman from the Virgin Islands, the distinguished Committee Chairman, Mr. DELUGO, and the distinguished ranking Minority member, the gentleman from California, Mr. LAGOMARSINO.

The day of December 7, 1941, is a day that will live in infamy forever in the minds of Americans. Virtually every American recognizes the significance of that fateful day which brought the United States into the Second World War. However, December 8, 1941, also represents a terrible day for Americans and freedom. On that day the Imperial Japanese forces attacked the Territory of Guam, bombing the village of Sumay, the Piti Navy Yard, the U.S.S. *Penguin*, and the U.S.S. *R.L. Barnes*. On December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by Japanese forces.

One unfortunate result of these terrible attacks was the suspicion and internment of some 110,000 Americans of Japanese ancestry. This measure appropriately recognizes the patriotism and loyalty of many Americans of Japanese ancestry who served during World War II in the Armed Forces of the United States. The resolution specifically recognizes

the outstanding contributions of individuals of the 100th Infantry Battalion, the 44th Regimental Combat Team, and the Military Intelligence Service.

Finally, this resolution recognizes the efforts of the Navy Insular Force, and the United States Navy and Marine Corps for their efforts and sacrifices on behalf of the United States.

Mr. Speaker, the original cosponsor of this resolution, the gentleman from Guam, Mr. BLAZ, regreted that an overseas mission prevented him from taking part in this discussion and has asked that his remarks be made a part of the record of this debate. Mr. BLAZ, in noting "America's Forgotten Patriots," stated: I would like to remind my colleagues that the word forgotten is used bittersweetly, for all too often the people of Guam have to ask "How can we be forgotten when we were not remembered in the first place?"

Mr. Speaker, I thank my colleagues for their support for this measure and I again commend the people of Guam and Hawaii for their sacrifices.

Mr. BLAZ. Mr. Speaker, as we prepare to celebrate this Thanksgiving holiday, I am particularly humbled that the Congress is extending this accommodation and expression of gratitude to the people of Guam for their service to America. At this time, I would like to insert in the Record "America's Forgotten Patriots" remarks I delivered in the House on November 21, 1991. I would like to remind my colleagues, however, that the word forgotten is used bittersweetly, for all to often the people of Guam have to ask "How can we be forgotten, when we were not remembered in the first place?"

I am very grateful to the gentleman from New York, Mr. BENJAMIN GILMAN for extending this courtesy to the people of Guam. It is the most this Congress can give for them, and it is the least that they deserve.

AMERICA'S FORGOTTEN PATRIOTS

Mr. BLAZ. Mr. Speaker, as thousands gather in Hawaii on December 7 to commemorate the 50th anniversary of America's entry in World War II, hundreds of journalists and photographers will memorialize the event and broadcast it to the entire world. A million words will be spoken by the President of the United States and other dignitaries to honor the memories of the hundreds of soldiers, sailors, Marines and civilians who were killed and wounded on that infamous day 50 years ago at Pearl Harbor.

As tragic and as devastating as that assault on Pearl Harbor was 50 years ago, we have learned that little note has been made and even less has been remembered about the attack on that other harbor—Apra Harbor, on Guam. This other attack bears striking similarities to the one at Pearl Harbor: same time, same enemy, same American blood, same shattering of a peaceful island community.

Yet, for all these similarities, there is at least one major difference worth noting: Whereas Hawaii was attacked, Guam was attacked * * * and invaded * * * and captured * * * and occupied. For almost 3 years, our people quietly suffered the burden of hostile occupation by enemy forces. No other American territory has suffered the same fate.

As excruciating and as harrowing as this occupation would later prove to be, our people did not surrender without a fight and did not stop fighting after the surrender. In the face of an overwhelmingly larger enemy force, a handful of U.S. sailors and U.S. Marines stood their ground. Standing beside them, with equal valor and courage but with even greater pride and determination, were the members of the Navy Insular Force. For these men, native Chamorros all, the defense of Guam meant the defense of home, family and honor. Although they wore the same U.S. Navy uniforms, their pay was exactly 1/2 that of their stateside comrades. Although they fought under the same U.S. flag, they were considered only half-brothers in the patronizing, colonial society on Guam at that time. Yet, when it came time to shed blood against foreign invaders, the Chamorros of the Navy Insular Force demonstrated their loyalty to the U.S. in the same way they demonstrated their love for the U.S. principles of freedom and democracy: not halfheartedly, but totally and whole-heartedly.

Regrettably, this chapter of American history appears to have slowly faded into the recesses of our Nation's collective subconsciousness. While our country may not remember the lives that were lost, the families that were torn asunder and the homes that were destroyed on that tragic day 50 years ago, these sacrifices are no less real to us and will forever be burned into the psyches of our people.

As a 13-year-old boy who witnessed these events half a century ago, I am often asked by friends and acquaintances to share my memories of that momentous and pivotal period in our history. There are many horrible and appalling stories I could tell about the atrocities inflicted upon our people—about mysterious disappearances of friends, about discoveries of decapitated corpses tied to trees, about clearing jungles under the barrel of a gun and about the hunger and deprivation of concentration camps. While the sting of remembering these events is very real to those who lived through them and should never be forgotten, I have decided over the years to remember also the brighter sides of that dark period.

There were long hours sitting on a log with our parents sharing their thoughts and experiences with us much like the generations before them had done.

There were the groups of neighboring farmers who pooled their strength to push back the jungle so we could plant.

There were men echoing each other's folk song at twilight as they cut tuba.

There were devout men who emerged among our group as natural leaders to lead us in prayer during our most trying and fearful moments as we labored to finish the airfield under incredible duress.

There was the young Japanese officer who taught me Japanese in exchange for my father teaching him English and who, after getting to know us, innocently asked my father why we were at war.

There were the U.S. Marines who, after hopping island to island, eventually liberated one of their own and seemed almost as glad as we were that they came back to Guam.

Under the adverse conditions of that time, I learned things that no school could ever teach me. I learned to give freely, even when there was nothing to share. I learned to be tolerant, even when conditions were intolerable. I learned to be strong, even though my body was weak. I learned to speak volumes in the silence of eye contact. And I learned the sweetness that can be found in the saltiness of sweat.

Looking around me now, 50 years later, I wonder if those of us who lived and died through those trying times were really ever forgotten—how can we be forgotten if we were never really remembered in the first place?

And those who claim to remember us now, do not really know us: Like the U.S. Postal Commission that just issued in 1991 a set of commemorative stamps for World War II that trivializes and dishonors Guam by labeling it a mere "outpost." Like some of the leaders of our great Nation who will congregate at Pearl Harbor in memory of the brave men and women who died there, but whose continuing unawareness of the Guam chapter of this momentous period in our history prevents them from returning the salute extended by the brave men and women of Guam 50 years ago.

On this, the 50th anniversary of World War II, and for the fathers, mothers, brothers, sisters, sons and daughters of Guam who lived and died through that period, I offer these humble words in proud salute and in eternal gratitude to those patriots whom America may have forgotten but whom Guam shall always remember.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield back the balance of my time.

☐ 2200

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and agree to the resolution, H. Res. 293.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

RELEASE OF FUNDS FOR PROVIDING MEDICAL AND HUMANITARIAN ASSISTANCE TO IRAQI CITIZENS

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 168) expressing the sense of the Congress that a portion of Iraq's frozen assets be released to UNICEF for the sole purpose of providing medical and humanitarian assistance to Iraqi citizens, as amended.

The Clerk read as follows:

H. CON. RES. 168

Whereas the suffering of Iraqi citizens, especially children, continues as verified by studies by the International Study Team led by representatives of Harvard University, by the United Nations, and by UNICEF in conjunction with representatives of Tufts University, and by reports of relief agencies working in Iraq;

Whereas infant and child mortality rates in Iraq reportedly have doubled since Iraq's invasion of Kuwait;

Whereas acute shortages of food and essential medicine, poor sanitation, and lack of clean drinking water have placed a substantial portion of Iraq's population of 18,000,000 at risk to water-borne diseases;

Whereas the Iraqi health care system is operating at a fraction of its former capacity;

Whereas the United States Government and the United Nations Security Council have established a mechanism to provide relief to Iraq through United Nations Security Council Resolutions 706 and 712;

Whereas Saddam Hussein is responsible for the continuing suffering of Iraqi citizens because of his continued intransigence in not cooperating with United Nations Security Council resolutions, his refusal to allow equitable distribution of food and medicines, and his obstruction of the delivery of humanitarian assistance by the United Nations and private relief agencies; and

Whereas the condition of Iraqi children is an international humanitarian concern that must be addressed immediately: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712, preventing an equitable distribution of food and medicine to the Iraqi people, and blocking the delivery of humanitarian assistance by the United Nations and private relief agencies;

(2) commends the President and the United Nations Security Council for their efforts to address humanitarian concerns in Iraq through United Nations Security Council Resolutions 706 and 712 and supports their continued effort to gain Iraqi compliance with these resolutions; and

(3) urges the President, consistent with United Nations Security Council resolutions 706 and 712, to explore alternatives under the auspices of the United Nations to utilize and mobilize resources necessary to get an adequate supply of food and medicine to the vulnerable populations of Iraq, especially children.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution we have before us tonight should be examined very carefully because this resolution has nothing to do with praising or giving any credit to Iraq or Saddam Hussein. It is very specific, and it directs its attention to the vulnerable people of Iraq, especially the children, and directs that we provide some benefit through UNICEF to help these children of Iraq.

Mr. Speaker, I want to commend the gentleman from Minnesota [Mr. PENNY] for his commitment and his courage, because this is not a very popular issue to champion now, because once you mention the word "Iraq," people begin to have reverse reactions to the whole country. But these are children who are victims of man's inhumanity to man, and we are very pleased that the gentleman from Minnesota brought this to the attention of the Committee on Foreign Affairs, and we have today presented it to the Members of the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, this resolution has gone through a variety of changes in the last several days and hours, and I appreciate the work of the many, many Members who have participated in assisting in the development of this legislation.

Mr. Speaker, for 6 long months we have watched as the death toll among young children in Iraq mounts. For the children of Iraq are in peril—not from bombs or bullets but from the effects of malnutrition and disease. This Thanksgiving while thousands of American children are feasting on roast turkey and all the trimmings, one thousand Iraqi children will likely die from starvation or illness.

Since May, study teams from a variety of institutions have been to Iraq and have reported on the troubling situation there. Much credit for drawing attention to the problems of Iraqi children in the aftermath of the gulf crisis should be given to the original Harvard study team whose initial findings reported that 55,000 Iraqi children had already died from starvation and disease and that thousands more would continue to die if conditions did not improve. Nearly concurrent with the Harvard study, a group of Arab-American doctors of the Arab-American Medical Association visited Iraq and publicized their findings with a report and videotape that was shared with every Member of Congress. Dr. Afran J. Al-Hani, a cardiologist from Chicago, has been tireless in his efforts to get assistance to Iraqi children, and it was my personal contact with him that gave me added incentive to move forward with my original resolution in June.

It was already clear in June that the children of Iraq needed assistance from the world community in order to guarantee their survival. Since many of their country's resources, such as the ability to provide electrical power, basic sanitation and clean water had been destroyed and Iraq's assets remained frozen, Iraq's ability to respond to its own children was terribly limited. It seemed that the best way to meet these needs was to use Iraq's own funds, in the form of assets frozen by coalition governments, to pay for humanitarian assistance delivered under United Nations' supervision. The original version of H. Con. Res. 168 proposed that a portion of Iraq's frozen assets be released to UNICEF for the sole purpose of providing medical and humanitarian assistance to Iraqi citizens. This resolution has gained the support of 91 of our House colleagues and I am grateful for their concern.

Other studies—one done on behalf of UNICEF by representations of Tufts University and one done under United Nations' auspices and led by Prince Sadruddin Aga Khan—corroborated and expanded the earlier findings. On August first, the International Task Force of the Select Committee on Hunger held a hearing on the situation in Iraq. Witnesses from Tufts University, UNICEF and Catholic Relief Services—all of which had "on the ground" experience in Iraq—testified to uniformly desperate conditions there—children wading through raw sewage on the streets, the lack of basic medicine, the ever-growing shortage of food.

The United Nations finally addressed the humanitarian crisis in Iraq in August when the Security Council passed Resolution 706 allowing Iraq to sell $1.6 billion worth of oil to pay for relief materials. Even as the resolution was passed, it was already known that the $1.6 billion would fall far short of the true amount needed to finance a minimum humanitarian aid effort in Iraq. The U.S. own estimate of the amount needed was $2.265 billion. However, in order for the flow of oil to begin, the resolution required that Iraq accept U.N. monitoring of relief efforts and oil pumping and that Iraq pay its first installment of reparations to Kuwait. Claiming that the resolution violates its sovereignty, the Iraqi government has thus far refused to comply with terms of the resolution. As a result, the country's children continue to suffer and die.

From August 23 to September 5, the international study team on the gulf crisis comprehensively surveyed the impact of the gulf crisis on the health and welfare of the Iraqi population. The team consisted of 87 researchers from a wide variety of disciplines including agriculture, electrical engineering, environmental sciences, medicine, economics, child psychology, sociology, and public health. The team visited all areas of Iraq and prepared an in-depth report on conditions there. They found: "The economic and social disruption and destruction caused by the gulf crisis has had a direct impact on the health conditions of the children of Iraq. Iraq desperately needs not only food and medicine, but also spare parts to repair basic infrastructure in electrical power generation, water purification, and sewage treatment. Unless Iraq quickly obtains food, medicine and spare parts, millions of Iraqis will continue to experience malnutrition and disease. Children by the tens of thousands will remain in jeopardy. Thousands will die."

With yet another study before us confirming what we had already known

and with Saddam Hussein's continued intransigence in refusing to accept the U.N. mechanism that would bring help and health to the Iraqi people, it left me and others concerned with this situation still asking the question: What can we do?

In an effort to answer that question, on November 13, the Select Committee on Hunger held a second hearing with witnesses from the International Study Team, Catholic Relief Services and the Department of State. In addition, Representative JIM MCDERMOTT from the Seventh District of Washington, who is also a physician, told of his experiences in Iraq during the month of August. By whatever standards used, the situation has not improved since the initial visits by monitoring teams last spring.

Although House Concurrent Resolution 168 proposed the use of assets to provide assistance, I was most willing to go along with either oil sales under the U.N. resolution or with the release of assets as the means by which humanitarian aid gets to Iraq. Since the Iraqis were not accepting the mechanism for oil sales, it seemed that release of assets might again be a reasonable approach to follow. While U.N. Resolution 706 does permit the use of frozen assets for humanitarian purposes in Iraq, the Bush Administration remains opposed to this approach and has advised other governments not to release assets.

It appears that we are at a stalemate on this issue. All the while, time is running out for the children of Iraq. Hundreds more children are dying or having their futures put at risk by lack of proper nutrition and medical care during critical developmental stages in their lives.

The time has passed when we can continue to wait for oil sales to move forward. Therefore, I believe we should press for another creative solution to this situation. One thing is certain: Saddam has put politics ahead of children's lives and futures. In order to save these children it is time for the world community to marshal an international effort equal to the cooperative effort demonstrated during the gulf crisis.

Passage of House Concurrent Resolution 168 as amended makes it clear that we want to act now. The resolution condemns Saddam for refusing to comply with the U.N. resolutions and calls upon President Bush to explore other U.N. alternatives consistent with resolutions 706 and 712 to get an adequate supply of food and medicine to the vulnerable populations of Iraq, especially Iraq's children.

I am grateful for the support and help of many individuals in bringing this resolution to the floor today. My thanks to the Foreign Affairs Committee, particularly Chairman FASCELL and ranking member Mr. BROOMFIELD; and to Chairman HAMILTON and Mr. YATRON whose subcommittees held jurisdiction over the legislation and to their ranking members Mr. GILMAN and Mr. BEREUTER. These subcommittees also graciously allowed me to sit with them on two occasions and ask questions of U.N. Ambassador Pickering on this issue.

The continued activity of the Select Committee on Hunger, under the direction of Chairman HALL and ranking member EMERSON, and, especially the strong leadership demonstrated by International Task Force Chairman DORGAN, was vital to keeping the plight of the children before the Congress and the public. The personal interest of Representative JIM MCDERMOTT in making a private trip to Iraq speaks volumes of the depth of his commitment. Additionally, I gratefully acknowledge the staffs of the Foreign Affairs and Hunger Committees for their assistance and the courtesy shown to me and my staff.

As we act on this legislation today, we say to the children of Iraq: we hear you and we will find a way to help you.

I urge adoption of this resolution.

Mr. DYMALLY. Mr. Speaker, briefly, let me express my thanks to the gentleman from Michigan [Mr. BROOMFIELD] for his cooperation in this matter, as well as to the gentleman from Indiana [Mr. HAMILTON], the gentleman from New York [Mr. GILMAN], and the gentleman from Nebraska [Mr. BEREUTER].

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker as a cosponsor, I strongly support House Concurrent Resolution 168 as amended, and commend Congressman Penny for his perseverance in bringing this matter before the House. I also commend the subcommittees for their work under Chairmen HAMILTON, and YATRON and Congressmen GILMAN and BEREUTER. Finally, I wish to recognize Committee Chairman Fascell for his leadership on this important issue.

This resolution, in its current form, was drafted in close consultation with the administration. The administration has no objection.

Mr. Speaker, what we are witnessing now in Iraq is but the latest chapter in a long saga of contempt for human life by Saddam Hussein. Just when it seemed that the Iraqi dictator had committed every atrocity imaginable, he has manifested a new resourcefulness for inflicting human suffering.

Reports by the United Nations and other organizations indicate that in Iraq there are acute shortages of food and medicine, that there is inadequate sanitation, and that clean drinking water is increasingly scarce. As a result, malnutrition and disease are increasing substantially, particularly among women and children.

How did this catastrophe happen? Did the United Nations target the civilian population of Iraq? Did the United States seek to punish the people of Iraq, or stand in the way of humanitarian relief to vulnerable populations in Iraq? Of course not.

Mr. Speaker, the responsibility for this disaster—like the responsibility for the war which preceded it—lies squarely with the Tyrant from Tikrit, Saddam Hussein. The fact is that food and medicine are not included in the U.N. embargo of Iraq.

Moreover, U.N. Security Council Resolutions 706 and 712—which were adopted under the leadership of the United States—established a mechanism for the Iraqi government to alleviate the suffering that is taking place. These resolutions permit Iraq to sell up to $1.6 billion worth of oil in order to pay for urgently needed food, medicine, and other humanitarian items.

What has been Saddam Hussein's response? He has refused to comply with these Resolutions. Worse, he has thwarted the distribution of food and medicine to vulnerable populations inside Iraq. Instead, he has actually directed humanitarian assistance to his supporters.

This resolution condemns these deplorable actions, and it commends President Bush and the U.N. Security Council for their efforts to alleviate the suffering of the people of Iraq. It also urges the President, in coordination with the United Nations, to explore alternative ways of delivering humanitarian aid to Iraq.

Mr. Speaker, this is an important and timely resolution, and I urge its adoption.

☐ 2210

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I am pleased to rise to strongly endorse H. Con. Res. 168 and I commend the gentleman from Minnesota, Mr. PENNY, for introducing this resolution.

Saddam Hussein's barbarity toward the people of Kuwait is now being exceeded by the atrocities that he is inflicting on his own people. This brutal dictator is engaged in systematically depriving the Iraqi people of access to food, medicine, and other humanitarian supplies. Saddam Hussein continues to flout United Nations security council resolutions number 706 and number 712, diverting supplies to his supporters, and blocking the delivery of humanitarian relief by the United Nations and private relief organizations.

Mr. Speaker, I join in saluting President Bush and the U.N. Security Council for their diligence in establishing a special mechanism to facilitate humanitarian relief for Iraq, and in continuing to seek to obtain Iraq's compliance with security council resolutions number 706 and number 712.

I urge my colleagues to encourage the President, through the United Nations, to consider alternatives to bring timely relief to the people of Iraq as they continue to suffer under the deprivations of their despotic dictator.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], a member who worked very hard on this resolution.

Mr. BEREUTER. Mr. Speaker, as ranking member of the Subcommittee on Human Rights and International Organizations, this member rises in strong support of House Concurrent Resolution 168.

Few things have been more heartbreaking, Mr. Speaker, than the suffering that the Iraqi people have experienced because of the leadership of Saddam Hussein since the end of the gulf war. Because of Saddam Hussein's continued flaunting of the cease-fire agreement and the subesequent U.N. Security Council resolutions, the country of Iraq faces a situation where hundreds of thousands of innocent civilians are at risk. And we know, Mr. Speaker, that countless thousands would have perished had not the United States and other nations come to the assistance of the Kurdish population in northern Iraq through "Operation Provide Comfort."

It is clear that Saddam Hussein is using the suffering of his people for his own perverse political gains. He refuses to use revenue to be generated by the sale of Iraqi oil under U.N. direction. Regions that did not unwaiveringly support Saddam's war effort are now paying the price. We know, for example, that Saddam has targeted specific communities where existing stocks of food and medicine have been seized. It is these communities, in turn, that Saddam Hussein has displayed to visiting media and dignitaries to reflect the suffering of his people. Such is the character of Saddam Hussein.

Moreover, Saddam Hussein has done his best to manipulate international relief efforts. He has diverted food supplied by the World Food Program [WFP], and given that food to the army and to party loyalists. His interference has been so serious that organizations such as the WFP and UNICEF refused to participate as long as Saddam Hussein continues to control the distribution of aid.

There is a U.N. mechanism to fund relief activities through the sale of Iraqi oil, but thus far Saddam Hussein is trying to wait out the international community. He is refusing to sell oil as long as the profits go to support U.N. humanitarian activities.

While we are all rightly outraged at the intolerable behavior of the Iraqi Government, we cannot ignore the starvation of the innocent civilians of that nation. The suffering and starvation are real. The disease and lack of medicine are real. House Concurrent Resolution 168 says that we do not quitely accept the barbarism of Saddam Hussein. It says that the United States should work with the U.N. to look for creative ways to assist the suffering people of Iraq.

Mr. Speaker, while House Cononcurrent Resolution 168 addresses the immediate problem of disease and malnutrition in Iraq, we should not delude ourselves. The problem will persist so long as the Iraq leadership has no regard for its own population. The Subcommittee on Human Rights and International Organizations, together with the Subcommittee on Europe and the Middle East, already have conducted a series of hearings on this very subject. This Member has no doubt that these hearings and appropriate pressure will continue as long as Saddam Hussein remains in power. Simply put, we will not let this issue fade away.

Mr. Speaker, this Member would take a moment to recognize the dedicated efforts of the author of this resolution, the distinguished gentleman from Minnesota [Mr. PENNY]. As a member of the Select Committee on Hunger, he has performed yeoman's work. He has effectively worked to make us all aware of the terrible suffering that is taking place in Iraq and to advance this resolution; this body is in his debt.

Mr. Speaker, this Member urges the adoption of House Concurrent Resolution 168.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of the resolution offered by my colleague from Minnesota, TIM PENNY. I would also like to commend Mr. PENNY for all his fine work and leadership on the issue of humanitarian aid to Iraq. He has pursued this issue tirelessly and with great compassion since he first became aware of the growing humanitarian disaster in much of Iraq. I believe this resolution shows great flexibility in urging the President to assert greater leadership at the United Nations to find more resources to get food and medicine to the vulnerable populations of Iraq, especially children.

Mr. Speaker, this is a resolution that I believe deserves support from every Member of Congress. The United States has tried hard, through United Nations Security Council Resolutions 706 and 712, to get the Iraqi Government to allow more humanitarian aid in by using revenues from its oil sales. However, tragically, Iraq refuses to cooperate with even this measure to help their own people. But this does not mean we can give up trying—we cannot stand by and let the innocent women and children of Iraq continue to die. We have a moral obligation to try harder.

The International Task Force of the Select Committee on Hunger has held two hearings on the humanitarian situation in Iraq. The most recent one, on November 13, was even more depressing than the one last summer. Conditions have continued to deteriorate to the point where the infant and child mortality rates have at least doubled, if not tripled, since the gulf crisis. The International Study Team, a group of public health experts from Harvard and elsewhere, has just issued a second report on conditions in Iraq which paints a picture of a continuing downward spiral. There are widespread shortages of food, essential medicines, and safe water. A witness from the study team reported seeing raw sewage running through a hospital. Not surprising, these conditions have led to a public health disaster; water-borne diseases, such as cholera, are epidemic; and have increased by as much as one hundredfold in some areas.

Mr. Speaker, I know, from my constituents, that the American people don't want the children of Iraq to pay for Saddam Hussein's actions. I know that they strongly support providing humanitarian aid to the children and mothers of Iraq. This resolution urges the administration to do its utmost to provide that aid. I urge my colleagues to support the resolution.

Mr. McDERMOTT. Mr. Speaker, I commend my colleague, Mr. PENNY for sponsoring House Concurrent Resolution 168 and for his efforts to find a way to provide humanitarian aid to the people of Iraq. Mr PENNY has worked for months on this issue. His original proposal to use Iraqi frozen assets to pay for humanitarian aid is worthwhile and I am one of the 92 Members of the House who cosponsored this legislation. However, it is clear this idea is unacceptable to the administration and so we must urge the administration to seek other solutions.

House Concurrent Resolution 168, as it is now written, will not solve the public health crisis in Iraq, but certainly this resolution will send a message to the State Department and the United Nations that Congress is becoming increasingly concerned about the disasterous conditions in Iraq and the United States' response to this situation.

I traveled to Iraq in August with a human rights group as a physician examining the state of its public health system. I saw the devastation of Iraq's infrastructure wrought by the strategic bombing of the Allied Forces. The most essential aspects of a society's public health system—water, electricity, and sewage systems—were destroyed by our military assault, and these systems have yet to be adequately reconstructed.

The health of the Iraqi people is spiraling downward. The hospitals are filled with malnourished children suffering from cholera and typhoid because there is no clean water. Women are dying in childbirth because there is no anesthesia to perform cesearean sections. Diabetics are in comas because there is no insulin, and people are suffering strokes because there is no high blood pressure medication. The health care situation was critical when I was there in August, and surely it is worse today. The recent report released by

the Harvard School of Public Health investigative team confirms this.

A massive humanitarian aid effort is desperately needed in Iraq. This effort must be coordinated among the International Red Cross, the Red Crescent and the Iraqi distribution system. The relief organizations cannot deliver aid in a country of 18 million people without the use of its existing distribution system.

The administration apparently is hopeful that the U.N. resolution allowing Iraq to use proceeds from its oil sales to purchase food and medical supplies will alleviate the suffering of its people. However, the most recent negotiations between the U.N. and Saddam have failed. It is time to explore other options. The prospect that U.S. policy may well remain unchanged while negotiations on the oil sale option continue is distressing. For many innocent Iraqis, death will not wait.

The United States must find a way to move beyond its political agenda to help the people of Iraq. I urge our State Department to make this effort a priority. I realize that it is not our sole responsibility—Hussein must be willing to negotiate—but certainly the United States can increase its efforts to try to find some workable solution to the desperate situation in Iraq. We must do absolutely all that we can to achieve a solution to the food and medical crisis in Iraq.

I hope that House Concurrent Resolution 168 will send the much needed signal to the Bush administration that there is growing concern in the Congress for the health and welfare of the Iraqi people. It was not this country's policy to harm innocent Iraqis in the gulf war and it certainly should not be United States policy today.

I commend Mr. PENNY for his efforts and offer my full support to House Concurrent Resolution 168.

Mr. YATRON. Mr. Speaker, I rise in strong support of the resolution and commend the author, Mr. PENNY as well as Chairman FASCELL, Congressmen BROOMFIELD, HAMILTON, GILMAN, and BEREUTER for their leadership in bringing this legislation to the House floor.

Mr. Speaker, this resolution appropriately commends the President and the U.N. for seeking to address the humanitarian crisis in Iraq through the relevant Security Council resolutions.

The resolution calls for the President and the U.N. to explore alternatives, consistent with U.N. Resolutions 706 and 712, to bring much needed relief to hundreds of thousands of starving and sick people including children. But the resolution rightly places the blame for this tragedy squarely on the shoulders of Saddam Hussein.

Mr. Speaker, in the last year, the Subcommittee on Human Rights and International Orgranizations, which I chair, and the Europe and the Middle East Subcommittee, chaired by Congressman HAMILTON, conducted joint hearings on the U.N. role in the gulf.

Based on the testimony at these hearings, it is clear that Saddam is cynically manipulating the food supply to starve vulnerable populations centers while at the same time ensuring that his political cronies and military leaders are well fed. There are cases in which Saddam has either blocked or diverted U.N. food shipments destined for the suffering people of Iraq.

Saddam is starving the Iraqi people so as to generate anti-Americanism which he hopes will bolster his tenuous political position and he is starving his people to build a case for breaking the strict U.N. sanctions arrayed against his regime.

The current sanctions permit U.N.-administered humanitarian relief operations and the U.N. Security Council has adopted a resolution approving the sale of $1.6 billion of Bagdad's oil of which the bulk of the proceeds would be used for humanitarian assistance under strict U.N. supervision.

Saddam has rejected these arrangements because it prevents him from purchasing goods and technologies to rebuild his warmaking capacity.

The world community has justly maintained the sanctions against Saddam but it must be equally resolute in not allowing Saddam to starve hundreds of thousands of innocent people.

This resolution calls for a more assertive effort, under U.N. auspices, to remedy this ongoing tragedy. Our commitment to human rights and justice calls for no less and I urge the adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 168, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read:

"Concurrent Resolution condemning Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712 and urging the President under the auspices of the United Nations to provide humanitarian assistance to the vulnerable populations of Iraq.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks and include therein extraneous material on H. Con. Res. 168; the concurrent resolution just agreed to.

The SPEAKER, pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

1992 WHITE HOUSE COMMEMORATIVE COIN ACT

Mr. TORRES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3337) to require the Secretary of the Treasury to mint a coin in commemoration of the 200th anniversary of the White House, as amended.

The Clerk read as follows:

H.R. 3337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "1992 White House Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than five hundred thousand (500,000) one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the White House. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 5 SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 6. ISSUANCE OF THE COINS.

(a) TIME FOR ISSUANCE.—The coins authorized under this Act shall be issued beginning on May 1, 1992.

(b) Proof and Uncirculated Coins.—The coins authorized under this Act shall be issued in uncirculated and proof qualities. Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins issued under this Act shall be promptly paid by the Secretary to The White House Endowment Fund (The Fund) to assist The Fund's efforts to raise an endowment to be a permanent source of support for the White House Collection of fine art and historic furnishings, and for the maintenance of the historic public rooms of the White House.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of The Fund as may be related to the expenditure of amount paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to The White House Endowment Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this Act unless the Secretary has received—

(1) full payment thereof;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE I—1992 WHITE HOUSE COMMEMORATIVE COINS

SEC. 101. SHORT TITLE.

This title may be cited as the "1992 White House Commemorative Coin Act".

SEC. 102. COIN SPECIFICATIONS.

(a) One Dollar Silver Coins.—

(1) Issuance.—The Secretary shall issue not more than five hundred thousand (500,000) one dollar coins which shall weigh 26.73 grams, have a diameter of 1,500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) Design.—The design of such dollar coins shall be emblematic of the White House. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) Legal Tender.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 104. SELECTION OF DESIGN.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 105. SALE OF COINS.

(a) Sale Price.—Notwithstanding any provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) Prepaid Orders at a Discount.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(c) Surcharge Required.—All sales shall include a surcharge of $10 per coin.

SEC. 106. ISSUANCE OF THE COINS.

(a) Period for Issuance.—The coins authorized under this title shall be available for issue not later than May 1, 1992, but shall be issued only during the 1-year period beginning on such date.

(b) Proof and Uncirculated Coins.—The coins authorized under this title shall be issued in uncirculated and proof qualities. Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins issued under this title shall be promptly paid by the Secretary to The White House Endowment Fund (The Fund) to assist The Fund's efforts to raise an endowment to be a permanent source of support for the White House Collection of fine art and historic furnishings, and for the maintenance of the historic public rooms of the White House.

SEC. 109. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of The Fund as may be related to the expenditure of amount paid under section 108.

SEC. 110. COINAGE PROFIT FUND.

Notwithstanding any provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to The White House Endowment Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 111. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 102 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE II—WORLD CUP USA 1994 COMMEMORATIVE COINS

SEC. 201. SHORT TITLE.

This title may be cited as the "World Cup USA 1994 Commemorative Coin Act".

SEC. 202. COIN SPECIFICATIONS.

(a) Five Dollar Gold Coins.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) One Dollar Silver Coins.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) Half Dollar Clad Coins.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) Legal Tender.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 203. SOURCES OF BULLION.

(a) Gold.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) Silver.—The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 204. DESIGN.

(a) Design Requirements.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation of the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(b) Design Competition.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the entitlement of this title. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 205. SALE OF COINS.

(a) Sale Price.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) Bulk Sales.—The Secretary shall make bulk sales at a reasonable discount.

(c) Prepaid Orders at a Discount.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) Surcharge Required.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) World Cup Communities.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) International Sales.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

(g) Reports to Congress.—

(1) Required.—Not later than 15 days after the last day of each month which begins before January 1, 1996, the Secretary shall submit a report describing in detail the activities carried out under this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) Contents of Report.—Each report submitted pursuant to paragraph (1) shall include a review of all marketing activities under this section and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

SEC. 206. ISSUANCE OF THE COINS.

(a) Period for Issuance.—The coins authorized under this title shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) Proof and Uncirculated Coins.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(c) Bureau of the Mint.—Not more than 1 facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 208. DISTRIBUTION OF SURCHARGES.

(a) In General.—All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to the Organizing Committee.

(b) Use of Proceeds.—Amounts received under subsection (a) shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with 10 percent of such funds to be made available through the United States Soccer Federal Foundation, Inc., for distribution to institutions for scholastic scholarships to qualified students.

SEC. 209. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 208.

SEC. 210. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 211. FINANCIAL ASSURANCES.

(a) No Net Cost.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 202 shall not result in any net cost to the Federal Government.

(b) Payment Assurances.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE III—SILVER MEDALS FOR VETERANS OF THE PERSIAN GULF CONFLICT

SEC. 301. PURPOSE.

It is the purpose of this title to commemorate the sacrifices made and service rendered to the United States by members of the United States Armed Forces who serve in a combat zone in connection with the Persian Gulf conflict.

SEC. 302. SILVER CONGRESSIONAL COMMEMORATIVE MEDAL.

(a) In General.—The Secretary of the Treasury shall design and strike a silver medal with suitable emblems, devices, and inscriptions to be determined by the Secretary in commemoration of the sacrifices made and service rendered to the United States by members of the United States Armed Forces referred to in section 303(a).

(b) Source of bullion.—The Secretary of the Treasury shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.) and such silver shall be furnished to the Secretary at no cost by the custodian of the stockpile.

SEC. 303. ELIGIBILITY TO RECEIVE MEDAL.

(a) In General.—Any member of the United States Armed Forces who serves in a combat zone in connection with the Persian Gulf conflict shall be eligible for a silver medal referred to in section 302.

(b) Determination.—Eligibility under subsection (a) shall be determined by the Secretary of Defense and such Secretary shall establish a list of the names of such eligible individuals before the end of the 120-day period beginning on the date of the entitlement of this title.

(c) Next of Kin.—If any member referred to in subsection (a) is deceased, the next of kin of such member may receive the medal referred to in section 302.

(d) Delivery.—The medals struck pursuant to section 302(a) shall be delivered by the Secretary of the Treasury to the Secretary of Defense and the Secretary of Defense shall arrange for the distribution of the medals to the eligible individuals.

SEC. 304. NATIONAL MEDALS.

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 305. DUPLICATE MEDALS.

(a) Striking and Sale.—The Secretary of the Treasury may strike and sell duplicates in bronze of the silver medal described in section 302 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost of duplicates and the cost of designing and striking the medals under section 302, including labor, materials, dies, use of machinery, and overhead expenses.

(b) Proceeds in Excess of Cost to be Used to Reduce the National Debt.—Any amount received by the Secretary of the Treasury from the sale of duplicate medals under subsection (a) in excess of the costs described in such subsection shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 306. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 307. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing medals under this title will not result in any net cost to the United States Government.

(b) No Expenditures in Advance of Receipt of Funds.—The Secretary of the Treasury shall not strike, mint, or distribute the medals described in section 302 until such time as the Secretary certifies that sufficient funds have been received by the Secretary under section 305 or from donations from private persons to ensure that striking, minting, and issuing medals described in section 302 will not result in any net cost to the United States Government.

TITLE IV—CHRISTOPHER COLUMBUS QUINCENTENARY COINS AND FELLOWSHIP FOUNDATION

SUBTITLE A—CHRISTOPHER COLUMBUS QUINCENTENARY COINS

SEC. 401. SHORT TITLE.

This subtitle may be cited as the "Christopher Columbus Quincentenary Coin Act".

SEC. 402. SPECIFICATIONS OF COINS.

(a) Five Dollar Gold Coins.—

(1) Issuance.—The Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") shall mint and issue not more than 500,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) Design.—The design of the five dollar coins shall, in accordance with section 404, bear a likeness of Christopher Columbus. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the

year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 4,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 404, be emblematic of the quincentenary of the discovery of America. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 6,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 404, be emblematic of the quincentenary of the discovery of America. Each half dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this subtitle shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 403. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this subtitle pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this subtitle only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 404. DESIGN OF COINS.

The design for each coin authorized by this subtitle shall be selected by the Secretary after consultation with the Christopher Columbus Fellowship Foundation and the Commission of Fine Arts.

SEC. 405. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this subtitle may be issued in uncirculated and proof qualities and shall be struck at the Untied State Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this subtitle may be issued in uncirculated and proof qualities, except that not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

(c) PERIOD OF ISSUANCE.—The Secretary may issue the coins minted under this subtitle during the period beginning on January 1, 1992, and ending on June 30, 1993.

SEC. 406. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this subtitle at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this subtitle at a reasonable discount.

(c) PREPARED ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this subtitle prior to the issuance of each coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this subtitle shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 407. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this subtitle will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this subtitle unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 408. USE OF SURCHARGES.

(a) IN GENERAL.—The surcharges that are received by the Secretary from the sale of coins minted under this subtitle shall be deposited in the Christopher Columbus Fellowship Fund and be available to the Christopher Columbus Fellowship Foundation.

(b) AUDITS.—The Comptroller General shall have the right to examine such books, records, documents, and other data of the Christopher Columbus Fellowship Foundation as may be related to the expenditure of amounts paid under subsection (a).

SEC. 409. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this subtitle.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this subtitle from complying with any law relating to equal employment opportunity.

SEC. 410. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this subtitle shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall make the deposits of the amounts required under section 408(a) from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this subtitle.

SEC. 411. REPORTS TO CONGRESS

(A) REQUIRED.—Not later than 15 days after the last day of each month which begins before July 1, 1993, the Secretary shall submit a report describing in detail the activities carried out under this subtitle to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) CONTENTS OF REPORT.—Each report submitted pursuant to subsection (a) shall include a review of all marketing activities under section 406 and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

SUBTITLE B—CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Christopher Columbus Fellowship Act".

SEC. 422. PURPOSE.

The purpose of this subtitle is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

SEC. 423. CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—There is established, as an independent establishment of the executive branch, the Christopher Columbus Fellowship Foundation (hereinafter in this subtitle referred to as the "Foundation").

(b) MEMBERSHIP.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members as follows:

(1) 2 members appointed by the President in consultation with the President pro tempore of the Senate.

(2) 2 members appointed by the President in consultation with the Minority Leader of the Senate.

(3) 2 members appointed by the President in consultation with the Speaker of the House of Representatives.

(4) 2 members appointed by the President in consultation with the Minority Leader of the House of Representatives.

(5) 5 members appointed by the President.

(c) CHAIRMAN AND VICE CHAIRMAN OF THE FOUNDATION.—The President shall designate a chairman and a Vice Chairman from among the members appointed by the President.

(d) TERMS OF OFFICE; VACANCIES.—Each member of the Board of Trustees appointed under subsection (b) shall serve for a term of 6 years from the expiration of the term of such member's predecessor, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed—

(A) 4 shall be appointed for a term of 2 years;

(B) 5 shall be appointed for a term of 4 years; and

(C) 4 shall be appointed for a term of 6 years,

as designated by the President.

(e) EXPENSES; NO ADDITIONAL COMPENSATION.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

SEC. 424. FELLOWSHIP RECIPIENTS.

(a) AWARD.—The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as "Columbus Scholars".

(b) TERM.—Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

(c) SELECTION.—The Foundation may provide, directly or by contract, for the conduct

of a nationwide competition for the selection of fellowship recipients.

SEC. 425. STIPENDS.

Each person awarded a fellowship under this subtitle shall receive a stipend as determined by the Foundation.

SEC. 426. CHRISTOPHER COLUMBUS FELLOWSHIP FUND.

(a) IN GENERAL.—There is established in the Treasury a fund to be known as the Christopher Columbus Scholarship Fund (hereafter in this subtitle referred to as the "fund"), which shall consist of—

(1) amounts deposited under subsection (d);

(2) obligations obtained under subsection (c);

(3) amounts contributed to the Foundation; and

(4) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

(b) INVESTMENTS.—

(1) DUTY OF SECRETARY TO INVEST.—The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

(2) AUTHORIZED INVESTMENTS.—Investments pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SPECIAL OBLIGATIONS.—The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) SALE OF OBLIGATIONS.—Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accordance with subsection (b)(3)) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) INTEREST.—The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(e) AVAILABILITY OF FUND.—

(1) STIPENDS.—The fund shall be available to the Foundation for payment of stipends awarded under section 425.

(2) EXPENSES.—The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provision of this subtitle.

(f) DISBURSEMENTS.—Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

SEC. 427. AUDITS.

The activities of the Foundation under this subtitle may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

SEC. 428. EXECUTIVE SECRETARY OF FOUNDATION.

(a) DUTIES.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at an annual rate of basic pay not in excess of the amount payable for Executive Level V.

SEC. 429. ADMINISTRATIVE PROVISIONS.

(a) The Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subtitle, except that in no case shall employees (other than the Executive Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS–15 of the General Schedule;

(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extend authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for Executive Level V;

(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31, United States Code;

(8) rent office space;

(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging new discoveries in all fields of endeavor for the benefit of making; and

(10) to make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this subtitle.

Amend the title so as to read: "A Bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. TORRES] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Subcommittee on Consumer Affairs and Coinage of the Committee on Banking, Finance and Urban Affairs, I am calling for consideration of the White House Commemorative Coinage Act.

Mr. Speaker, I might also point out that this particular bill as amended would also involve the World Cup USA, which has passed both the House and the Senate, the Christopher Columbus coin, which has passed the House on three previous occasions, and, moreover, silver medals for veterans of Desert Storm, which has passed this House. It should be noted that the White House commemorative coin has passed the Senate.

Mr. Speaker, the three coins have all had public hearings and have been marked up by the Subcommittee on Consumer Affairs and Coinage. In this instance, the White House commemorative coin has the 40 cosponsors required in the U.S. Senate, and has the strong support of this House, including the sponsorship of the chairman and ranking minority members of the House Committee on Banking, Finance and Urban Affairs.

WORLD CUP USA 1994 COMMEMORATIVE COIN BILL DESCRIPTION OF PROVISIONS

SECTION 2

This section sets forth the specifications of the gold, silver and clad coins. The specifications are identical to previous programs which will allow the Mint a smooth transition into this program.

The mintage levels established in the bill have been questioned by some claiming the level is too low while others argue it is too high. It is impossible to predict with perfect accuracy exactly what the level of sales may be. The mintage level set in the bill is designed to strike a balance.

Since the World Cup is the largest single-sport spectacle in the world, the Committee believes the potential markets are much larger which will present the Mint with a unique opportunity for international sales. The Committee expects the Mint to work closely with the World Cup Organizing Committee in marketing the coins. The Mint's experience combined with the World Cup's international sports and marketing skills will provide an opportunity to reach the sales levels specified.

SECTION 4

This section requires the Mint to sponsor a nationwide open competition for the design of each coin. This section was added to comply with the Mint's view that the American public should be allowed to participate in the design of these coins.

SECTION 5

Subsection (b): The Mint has been criticized for not issuing bulk sale information to dealers until after the programs have begun.

In the case of the Korean Coin Program, the bulk purchase conditions were not released until the final quarter of the program. This does not provide adequate time for bulk dealers to plan marketing programs.

The Committee expects the Mint to consult with leading coin dealers and the respective trade associations in 1993 and to prepare suitable bulk sales terms and conditions. These terms and conditions should be released as soon as possible in 1993.

Subsection (c): The Committee expects the Mint to be very aggressive in marketing the coins. Since the World Cup tournament will not be held until 1994, it is very important that the Mint work closely with the World Cup to secure a substantial number of prepaid orders. The Committee directs the Mint to work closely with the World Cup Organizing Committee to take advantage of every opportunity for early sales.

The Committee expects the Mint to pay the surcharges from prepaid orders to the World Cup Organizing Committee within a reasonable time after they are received.

Subsection (e): The World Cup will be held in several cities across the nation. This affords excellent marketing opportunities for the Mint. The Committee expects the Mint to work with banks and retailers in those venue cities to establish distribution outlets. The Mint may designate these distributors as "Official U.S. Mint World Cup Coin Distributors." The Mint should include in their reports to Congress a report detailing their efforts to develop this distribution system.

Subsection (f): The World Cup is an international sporting event. The Committee believes there is an excellent opportunity for international marketing. The Committee expects the Mint to work with the World Cup Organizing Committee to establish international marketing and distribution systems. The Mint may designate international distributors as "Official U.S. Mint World Cup Coin Distributors" with concurrence of World Cup 1994.

Subsection (g): The Committee intends for the Mint to work in a cooperative fashion with the Congress and World Cup to provide timely information on the performance of the coin program.

The Committee would like to see a very successful program and believes that cooperative reporting will provide the information necessary to help the Mint and World Cup maximize the potential of this program.

Since coin programs are short-term (i.e. one year in duration), it is difficult to react quickly to any potential marketing opportunities unless there is an ongoing update of what is actually occurring with the program.

The Committee anticipates the format of the reports will follow the example provided by the Mint in the Mint Budget Authorization Report—H.R. 2631; July 15, 1987; Page 77. Furthermore, we acknowledge that the Mint was required to provide similar reports by the 1984 Olympic Coin Program (P.L. 97-220). This reporting amendment attempts to follow the earlier reporting requirements so as not to be unnecessarily disruptive to the Mint operations.

The Committee understands that it will be difficult for the Mint to provide actual numbers in the early days of the program. Therefore, we recognize that the Mint will have to estimate many of the early costs. However, the Committee expects the Mint to update their estimates with the actual costs when they become available. Even the estimates will be helpful to show early trends in the programs performance.

SECTION 6

The Committee's intent is to have coins available for sale January 3, 1994. The terms "issued" and "issuance" are to be interpreted broadly, not restrictively. The Committee understands that coins sold on December 31, 1994 cannot practically be delivered to customers until 1995. The Committee expects the Mint to push coin sales through the end of the calendar year even if some deliveries have to be made in 1995.

SECTION 8

Subsection (a): The Committee intends that the purpose of the World Cup 1994 Commemorative Coin Program is to raise surcharges for the World Cup USA 1994 Organizing Committee. However, it is also our intent that the program shall not result in any net cost to the Federal Government.

In prior coin programs, there has often been a residual operating profit at the conclusion of a program. This residual operating profit is the balance remaining from a specific program after the Federal Government has recovered all its costs to operate a program. The profit accrues because in order to comply with Section 11(a), the Mint must make sure it has raised sufficient funds from the sale of each coin to cover the costs associated with producing and marketing the coin. Since it is extremely difficult to predict exactly what those costs may be, the Mint must make sure their estimates are conservative so there is not a shortfall. In other words, this residual operating profit is the difference between the Mint's estimated costs and their actual costs.

While the Committee accepts this practice as a means to insure that a coin program results in no net cost to the Federal Government, the Committee feels strongly that the Mint should not use this practice to generate profits for the Mint. As stated earlier, the intent of the legislation is to generate surcharges for World Cup while incurring no net cost to the Federal Government. If the Committee finds that the Mint has used this practice to generate excessive profits for the Mint, the Committee will revisit this issue.

Subsection (b): Ten percent of the funds made available by subsection 8(a) will be available to the United States Soccer Federation Foundation, Inc. for distribution to institutions for scholastic scholarships to qualified students. The scholastic scholarships shall go to any groups for distribution to qualified students that meet the following criteria:

Definition of "Institutions"—In selecting institutions to provide scholastic scholarships to qualified students, the Committee expects that the United States Soccer Federation Foundation shall select no more than five recipients, provided that the institution:

Is a 501(c)(3) non-profit which includes as its mission increasing the representation of qualified students, as defined in the following section, in higher education by providing scholarship assistance to students pursuing college degrees;

Serves all of the geographic and ethnic subgroups of a target population consisting principally of qualified students; and

Provides educational services, scholastic scholarships and related services to qualified students.

The Committee does not intend that institutions of higher learning, trade associations, for-profit institutions, units of state or local government, or other organizations or entities providing scholastic scholarships that are generally available to persons other than qualified students be considered by the United States Soccer Federation Foundation for participation in the programs authorized by this section.

Definition of "qualified student"—The Committee intends that the term "qualified students" be interpreted narrowly by institutions providing scholastic scholarships. The Committee intends to limit scholarships under this section to the most undereducated persons and groups in American society. The Committee expects that "qualified students" shall be identified based on the following criteria:

Individuals who are "first-generation" college students, i.e., whose parents did not complete a course of study at an accredited institution of higher learning; and

Individuals who are "economically disadvantaged", i.e., who come from families with incomes at or below the median family income of the U.S. population, or who are members of communities with median incomes at or below 70% of the median family income of the U.S. population; and

Individuals who are "educationally disadvantaged," because of developmental disability, national origin, nativity or limited-English proficiency, or attended school districts with dropout rates at least twice as high as the national average; and

The scholastic scholarship fund will be targeted to minority student groups that have a high school completion rate of less than 60 percent.

Provided further,

That at least one such institution serves as an umbrella organization for at least 125 affiliated local community-based organizations. Such institution provides capacity-building assistance, public policy analysis and advocacy, public information efforts, and special catalytic efforts on behalf of economically and educationally disadvantaged persons. Such institution is governed by organizational by-laws that require a Board of Directors reflective of the geographic, gender and ethnic composition of a target population consisting principally of qualified students and their families, as defined in this section. Such institution includes a corporate board of advisors composed of at least twenty senior executives of major corporations.

That at least one such institution is a 501(c)(3) nonprofit organization whose sole mission is to provide scholarship assistance to qualified students in all fifty states and Puerto Rico. Scholarship recipients are selected on the basis of academic achievement and personal strengths, and represent hundreds of both public and private colleges and universities across the nation. Recipients are also reflective of the composition of five national regions. Such institution annually selects scholarship recipients using a process of regional review committees. In addition, such institution is governed by organizational bylaws which require a board of directors comprised of corporate and educational leaders.

That at least one such institution is a 501(c)(3) nonprofit organization with a national scope and a primary goal to provide post high school scholarship assistance to qualified students in all fifty states and the territories of the United States of America. Scholarship recipients are selected on the basis of academic achievement, community leadership and financial need. Such institution is governed by organizational by-laws that require officers, board of directors, and trustees who are business and community leaders throughout the nation and are dedicated to the educational advancement of a target population of qualified students as defined in this section.

Student eligibility: A qualified student who is in attendance or who has been accepted for admission, as a full-time undergraduate or graduate student at an accredited institution of higher education may apply.

The Committee recognizes that institutions must have some flexibility in the selection of scholarship recipients; however, we expect that, except in unusual or exceptional circumstances, each scholarship recipient shall meet three of the four broad criteria in addition to other criteria set forth by the institution.

SECTION 11

As mentioned earlier, the Committee expects the Mint to use best efforts to insure this program results in no net cost to the Federal Government.

Mr. TORRES. Mr. Speaker, I reserve the balance of my time.

□ 2220

Mr. McCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to compliment the subcommittee chairman and his staff for working with us on some areas in which we had some small disagreements and the consensus is a result of a bill that we are able to support entirely. I wanted to express my appreciation here in the House for the cooperation of the gentleman from California [Mr. TORRES] and his staff.

We have before us H.R. 3337, sponsored by the gentleman from Louisiana [Mr. BAKER], and we have essentially four titles to this. The first title is the White House Commemorative Coin, which is to be minted in 1992, given the successful conclusion of this bill. The beneficiary of this coin is the White House Endowment Fund, which has the responsibility of furnishing and preserving the public rooms of the White House.

I might add that no taxpayers' money is used for the preservation and refurbishing of public rooms at the White House. So this indeed is a necessary revenue to continue to perform that function.

Title II deals with the World Cup Commemorative Coin to be minted in 1994, and it is the basis for supporting the World Cup Games here in the United States and the funding necessary to bring that about, one of the first of its kind for the United States.

Title III deals with silver medals, which are to be issued for veterans of the Persian Gulf conflict. And I might add, in that particular case in title III, the funding will be entirely paid for by private donations and the sale of the bronze duplicates. No taxpayers' money or support is going to be involved.

Finally, Part 4, the Christopher Columbus coin, to be minted in 1992, has a beneficiary in the form of the Christopher Columbus Fellowship for scholarships for discoveries, which was passed by the House back in July on a vote of 408 to 2.

That pretty much covers it, Mr. Chairman, along with what our subcommittee chairman has said.

Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Speaker, I certainly wish to express my appreciation to the gentleman as well as the chairman of the subcommittee, the gentleman from California [Mr. TORRES] for their cooperativeness in bringing this resolution to the floor this evening. Of course, it accomplishes a number of important purposes, but the primary concern to me is the White House Commemorative Coin which accomplishes two very important goals: the first being to recognize the laying of the cornerstone of the White House some 200 years ago, an important historical achievement for the City of Washington. And secondarily, to recognize an important responsibility of proceeds from the sale of this coin, and that is to provide the resources to perform an important refurbishment and remodeling of the White House which has not been done for many years.

For these two reasons I think the issuance of this claim is a very important purpose. I simply rise to commend the chairman and the ranking Member for their cooperativeness in providing this opportunity.

Mr. WELDON. Mr. Speaker, will the gentleman yield?

Mr. BAKER. I yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Speaker, will the gentleman answer a question for me? There have been some rumors circulating that there is some involvement of Hallmark Cards in the issuance of this coin. Is the gentleman aware of any involvement of Hallmark Cards?

Mr. BAKER. Mr. Speaker, the only interest expressed to me so far has been a very nice letter from Barbara Bush explaining her interest in the matter and hoping that it is successful for the benefit of the White House Historical Society as well as for the White House staff.

Mr. WELDON. But there is no involvement of Hallmark Cards?

Mr. BAKER. Mr. Speaker, not to my knowledge.

Mr. McCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

I might add in response to the question of the gentleman, again, this money is used by the White House Endowment Fund for the sole purpose of furnishing and preserving the public rooms of the White House, which no taxpayers' money is used for or has been used for in the past.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding.

First of all, let me commend both my colleagues, having served on that subcommittee, most Members cannot appreciate the length of time that it takes normally for a Member of the House or a Member of the Senate to meet the criteria that the subcommittee sets up in order to get a resolution to the floor creating a commemorative coin. I know it takes a great deal of time because I served on that subcommittee and marshalled one through. It took over a period of 2 years to fruition. So I want to commend both gentlemen.

I think particularly the Persian Gulf coin, the World Cup coin and the Christopher Columbus coin were very much involved, my colleague and I, the gentleman from Ohio [TOM SAWYER] have been very much involved in this celebration, the quincentennary celebration, and that will go a long way in meeting some of the goals of that celebration that was identified by Congress in, I think it was 1984, to be enjoyed by this country next year.

I guess just one comment I want to make, and it is perhaps somewhat critical. As I scan the four coins, I certainly support titles II, III and IV. I understand the purpose of title I. I just wish rather than having been sent up a White House commemorative coin, they would have sent out an economic package. I think that is great that they are going to use some of this money to refurbish the White House, and I will question the alacrity with which it managed to get through the hoops and the loops that everybody is normally required to jump through, but I did want to thank my colleagues for their work and recognize publicly that it is normally a very difficult thing to get a commemorative coin to this floor.

I thank them for their efforts and clearly the sponsors of these coins certainly deserve to be congratulated.

Mr. McCANDLESS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I, too, want to thank my colleague, the gentleman from Pennsylvania [Mr. RIDGE] for his cooperation on a number of issues that we have worked together on, one of which is a coin bill that is currently before the Subcommittee on Consumer Affairs and Coinage. I also want to thank the chairman of the Subcommittee on Consumer Affairs and Coinage, the gentleman from California [Mr. TORRES] and the ranking member, the gentleman from California [Mr. McCANDLESS] for their straightforward dialogue with us as we have tried to push forward a coin that recognizes the Nation's Fire Service in the year 1993.

It is not part of this process. I am disappointed in that, but there is no coin yet designated for 1993, and that option is still open.

I am a cosponsor of the coin bills that are in this particular resolution with the exception of the White House

VOL 137
PT 24
NO 26
1991 — JA 3 1992
UMI

coin bill, which I understand was just recently put together within the last month or so.

I applaud my colleagues who have brought forward the Christopher Columbus coin, the World Cup coin, the bill of the gentleman from California [Mr. TORRES] and the silver medal honoring the troops from Desert Storm. I think they are all very valuable and worthwhile functions.

I guess I could add the same thing on the White House coin with the exception that I am also disappointed, as my colleague, the gentleman from Pennsylvania [Mr. RIDGE] has mentioned, that it did not go through the full process of committee hearings and markup even though it is for a very valuable cause.

That disappoints me because we have been pressuring the White House for some 2 years to support the 1993 coin that honors the Nation's Fire Service, and I would hope that they would give the same full support and endorsement for that bill in the second half of this session of Congress as they have for the White House commemorative coin.

The Fire Service bill and coin has no overhead money and it would basically go to benefit the 1½ million direct fire fighters and the 3 million total dependents and family members who are part of the Fire Service family. It is the number one priority of the Fire Service Nationwide and currently has over 270 cosponsors.

It passed the Senate in the last session of Congress. Senators JOE BIDEN and BILL ROTH were the cosponsors of that bill this year.

So it is my hope that we can move that bill forward in the second half of this session. I will not oppose this bill, even though I have some concerns about the White House coin, because the other coins I have publicly cosponsored.

I would ask the committee, subcommittee chairman and the ranking member, to work with us next year for a markup process so that we can move forward with a 1993 coin.

Mr. McCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

I think it would be of interest, with the permission of our subcommittee chairman, to maybe comment a little bit about the circumstances surrounding the White House commemorative coin. I include for the record at this point a copy of a letter addressed to Mrs. Earle Craig, Chairman of the White House Endowment Fund, from Mrs. Barbara Bush.

THE WHITE HOUSE
Washington, October 10, 1991.

Mrs. EARLE M. CRAIG, Jr.
Chairman, The White House Endowment Fund, Midland, TX.

DEAR DOTTIE, The 200th anniversary of the laying of the cornerstone of the White House this coming year—October 13, 1992—is a milestone we all look forward to celebrating. I am delighted both that plans for congressional authorization of a commemorative coin are undeway and that the proceeds from the sale of this coin will go to The White House Endowment Fund toward a permanent endowment for the furnishing and preservation of the public rooms of the White House. As we all know, no taxpayers' money is used for the preservation and refurbishing of the public rooms of the White House, and therefore the funds from the sale of this commemorative coin will be an important contribution to a White House endowment.

George and I are both grateful for the work of the White House Historical Association in seeking authorization of a commemorative coin, and we are grateful to all who are working on behalf of what we consider to be a wonderful opportunity to acknowledge an important date and to augment an endowment for the White House.

Warmly,

BARBARA.

☐ 2230

Mr. McCANDLESS. Continuing, the White House commemorative coin is scheduled to be introduce at the 200th anniversary of the laying of the cornerstone. It is intended to be introduced in 1992 in conjunction with or in the same year, I should say, as the Christopher Columbus coin.

The coin collectors are very dubious about too many commemorative coins, and as a result encouraged the subcommittee to limit the number. I would point out that in this case we have an unusual situation, not because it is the White House commemorative but because there are only going to be 500,000 silver dollars issued based upon the successful conclusion of this legislation commemorating the 200th anniversary of the White House cornerstone laying, as opposed to the normal type, for example, the Christopher Columbus coin, which is scheduled to be introduced in 1992 and will have 500,000 $5 gold pieces, 4 million silver dollars, and 6 million half dollar class.

So we are not really sending up something special that is going to be in conflict, but what it is the subcommittee and the chairman have been attempting to accomplish, and that is to zero in on excellent subjects to give maximum benefit to the commemorative coin, which in turn produces the revenues that continue to support these kinds of projects.

Mr. Speaker, I reserve the balance of my time.

Mr. TORRES. Mr. Speaker, I thank the ranking minority member of the subcommittee for his comments. To be sure, this particular commemorative coin will raise the necessary funds for the endowment fund, which will be utilized, as is well pointed out, for those aspects of the White House, the furnishing, the refurbishing of the rooms, the buying of fine art, the restoration of pieces of furniture and the buying of pieces of antique furniture that are still in private collections.

This is a house for all Americans and I think this is an appropriate way for coins to be sold to the public at no expense to the taxpayers, the money to be used for these important aspects.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio, [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman from California [Mr. TORRES], my friend, and welcome this opportunity to rise and join in support of this entire piece of legislation. I am particularly pleased to associate myself with the remarks of my friend and colleague on the Subcommittee on Census and Population, the gentleman from Erie, PA, Mr. RIDGE, in his comments about the importance of the whole range of these undertakings, but particularly with regard to the Christopher Columbus Quincentennary commemorative coin.

As some may know, this has been a difficult year in terms of trying to focus the work of that Commission and to provide appropriate funding for that work. Among the vehicles for that purpose has been the coining of this particular commemorative piece in recognition of the 500th anniversary of Columbus' voyages. That difficulty has received a considerable amount of publicity in recent weeks.

I rise on this particular occasion to recognize the substantial difference in the work that has gone before that may have been troubled at times, and to distinguish that from the work that goes ahead from this time forward as a result of the good work that is being done on the floor here today in providing a vehicle for the support of the Columbus scholarships and the continuing work of the Columbus Quincentennary Commission under the new leadership of its new chairman, Frank Donnatelli, whose efforts have been of the highest order and worthy of the kind of support we are giving him here today.

Mr. RIDGE. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, as the ranking member on the subcommittee privileged to serve with my friend and colleague, the gentleman from Ohio, I just want to associate myself with his remarks. Mr. Donnatelli has steered this celebration, as the *Nina*, the *Pinta*, and the *Santa Maria*, back out of very difficult waters. It looks like the sailing is going to be a lot smoother, particularly with this effort that our colleagues here brought before the House. It gives them a funding vehicle to not only deal with the scholarship fund but I think it also elevates in a very positive way the kind of celebration we want to engage in this year as a country, and I want to associate myself with his remarks.

Mr. SAWYER. Mr. Speaker, I thank the gentleman for his comments.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I want to commend both the gentleman from Ohio [Mr. SAWYER] and the gentleman from Pennsylvania [Mr. RIDGE] for putting the quincentennary back on the right track. We have had extensive hearings and this coin will certainly help these great ceremonies that they are planning under the direction of Mr. Donnatelli, but it was these two gentleman, the gentleman from Ohio [Mr. SAWYER], and the gentleman from Pennsylvania [Mr. RIDGE], who have helped to bring back the Commission to where it belongs with the proper objectives, the proper resources, and the proper ethics. I thank the gentleman for their work.

Mr. SAWYER. I thank the gentleman for his comments.

Mr. ANNUNZIO. Mr. Speaker, I rise in support of this legislation. The Chairman of the Consumer Affairs and Coinage Subcommittee, Mr. TORRES, is to be congratulated for his work in the field of coinage. His leadership is what has enabled the House to consider this legislation this evening.

I want to address the title of this bill which authorizes the minting of coins in commemoration of the quincentenary of the discovery of America by Christopher Columbus in 1492.

I recognize that there is much debate over whether Columbus was actually the first to discover The New World. There may well have been others that got here first. The difference is that when Columbus discovered America, it stayed discovered.

The Columbus coin title not only provides for the minting of coins in commemoration of the Columbus Quincentenary, but it establishes a Columbus Fellowship program with the surcharges raised from the sale of the coins. These Fellowships would be awarded to scholars, inventors, and the like so that they can work toward discoveries for the benefit of mankind. The scholarships would be awarded by a non-partisan Board of Directors whose members would be appointed by the President after consultation with the leadership of both Bodies of Congress.

If all the coins under this bill were sold, over $50 million would be raised for the Columbus Foundation established under this bill. This money, along with donations which the Foundation could accept, would be used to establish an endowment for the award of the Fellowships.

Mr. Speaker, this bill will establish a lasting memorial to the greatest explorer in history. The time is short for beginning this coin and fellowship program. I urge the passage of the bill.

Mr. McCANDLESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TORRES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from California [Mr. TORRES] that the House suspend the rules and pass the bill, H.R. 3337, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TORRES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in H.R. 3337, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BICENTENNIAL OF THE DISTRICT OF COLUMBIA

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 356) designating December 1991 as "Bicentennial of the District of Columbia Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so, first of all, to acknowledge the work of our colleague, the gentleman from Virginia [Mr. BLILEY] who is the chief sponsor of this joint resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I want to thank my colleagues for the honor and recognition they give to the people of the District of Columbia in House Joint Resolution 356 honoring our bicentennial.

Mr. Speaker, this resolution acknowledges the Democratic majesty of the District of Columbia. As the Nation's city, it praises the creation of the District as an important act of self-government designed to strengthen and preserve the political institutions of a free people. We acknowledge with sincere appreciation the role the District of Columbia has been given to play in the development of the Nation's free institutions. We ask only that the act of self-governance inherent in our creation be extended to the 650,000 people who reside in the District.

Through greater home rule and ultimately statehood we seek to join the family of free and equal States that comprise the United States. We live for that day. Pending its sunrise, we are gratified and delighted with the bipartisan praise in this House for the District, its place in history, and the extraordinary dedication and energy of its people.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I thank my friend from Pennsylvania for yielding and I rise only to express the real gratitude we owe to the gentlewoman from the District of Columbia for the extraordinary effort that she has brought forth to bring this matter before us today. It may not be known to many who listen, the extraordinary effort that some Members have gone through to accomplish this. The gentleman from Richmond had the foresight to introduce the measure, but as much as anyone, it was the gentlewoman from the District of Columbia who today put together the signatures necessary to bring this before us tonight.

☐ 2240

That is an extraordinary accomplishment and I wanted to take just a moment to recognize it.

Mr. RIDGE. Mr. Speaker, I want to join my friend in singing the praises of the gentlewoman. It was definitely through her energetic initiative throughout this day that we were able to bring this matter to the floor this evening.

H.J. RES. 356

Whereas the year 1991 is recognized as the 200th anniversary of the District of Columbia because many of the events important to the founding of the Nation's Capital occurred during that year;

Whereas on January 24, 1791, George Washington selected the site along the Potomac River as the district for the permanent seat of the Government of the United States where the vision of the infant nation dedicated to the principles of self-government could be realized;

Whereas in February 1791, Andrew Ellicott and Benjamin Banneker began to survey the new district, which would become the center of a continent and leader of the free world;

Whereas on September 9, 1791, the Commissioners charged with the founding of the city informed Major Pierre L'Enfant that the Federal district was to be called the Territory of Columbia and the Federal city the City of Washington;

Whereas on December 13, 1791, L'Enfant's grand plan for the development of the Nation's Capital, which included magnificent vistas, radiating avenues, beautiful parks and promenades, cascading fountains, and public spaces for national monuments, and which reflected the patriotic enthusiasm that the Federal city forever serve as a temple to liberty, was submitted to the Congress;

Whereas on December 19, 1791, the State of Maryland forever ceded and relinquished to the Congress and the Government of the United States the final land grant to form the new district;

Whereas the creation of the District of Columbia was an important act of self-government by the first Federal Congress designed to strengthen and preserve the political institutions of a free people, and the District itself is a time-honored symbol of the Republic;

Whereas the grandeur and beauty of the District of Columbia are acclaimed throughout the world;

Whereas the sacrifices of a people dedicated to freedom are forever remembered in the inspiring memorials located in the District of Columbia.

Whereas the people of the District of Columbia have made contributions to the arts, law, music, and culture that have been recognized throughout the Nation and the world;

Whereas the District of Columbia is a national treasure as the repository of much of our Nation's history; and

Whereas the District of Columbia is truly where the people of the United States, through our elected representatives, exercise the right of self-governance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1991 is designated as "Bicentennial of the District of Columbia Month", and the President is authorized and requested to issue a proclamation—

Whereas (1) honoring the 200th anniversary of the founding of the District of Columbia as the Nation's Capital; and

Whereas (2) calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1572

Mr. MACHTLEY. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 1572.

The SPEAKER pro tempore. (Mr. MFUME). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

BASKETBALL CENTENNIAL DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution, House Joint Resolution 372, designating December 21, 1991, as "Basketball Centennial Day" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do simply to acknowledge the work of our colleague, the gentleman from Massachusetts [Mr. NEAL] who is the chief sponsor of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

Whereas basketball, the only major sport funded in America, was invented by Dr. James Naismith in 1891;

Whereas the first basketball game was played by Dr. James Naismith's gymnastics class, using nine players on each side, peach baskets nailed to the wall at both ends of the gym, and a soccer ball;

Whereas basketball was first played by women in 1893;

Whereas basketball, the American Game, grew in popularity over the next two years throughout the United States and several foreign countries, and by the turn of the century was being played in 20 nations;

Whereas basketball became an official Olympic sport in Berlin in 1936, and the United States defeated Canada to win the first Gold Medal;

Whereas basketball at every level of play has been enjoyed by millions of spectators;

Whereas our youth—the future of our Nation—have become involved in various basketball leagues that have contributed to the ideals of dedication, commitment, and teamwork; and

Whereas basketball, the American Game, is played and enjoyed by many people in America and in the rest of the world; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 21, 1991, is designated as "Basketball Centennial Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING CONTRIBUTIONS OF FEDERAL CIVILIAN EMPLOYEES DURING ATTACK ON PEARL HARBOR AND DURING WORLD WAR II

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate Joint Resolution 198, to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do so to identify and acknowledge the work of the sponsor of the resolution, our colleague, the gentleman from Hawaii [Mr. Abercrombie] and also to yield such time as he may consume to our colleague, the gentleman from New York [Mr. GILMAN], a member of the full committee.

Mr. GILMAN. Mr. Speaker I am pleased to rise in support of Senate Joint Resolution 198, a bill recognizing the contributions that Federal employees provided during World War II and specifically during the attack on Pearl Harbor. I would like to commend the gentleman from Hawaii, Mr. ABERCROMBIE for bringing this measure to the floor of the House at this appropriate time.

We all fully recall that infamous date, December 7, 1941 when the Imperial Japanese forces attacked Pearl Harbor, beginning our Nation's involvement in the Second World War. I am pleased to stand here today, nearly 50 years later, as the ranking member of the House Post Office and Civil Service Committee, to recognize the service and self-sacrifice given to our nation by our Federal employees.

The dedication, valor, and contributions made by our Federal employees during the Japanese attack on Pearl Harbor and subsequently throughout World War II exhibited the highest standards of professionalism and patriotism. The men and women employed by the Federal Government provided expertise, vital services to those in uniform, and to the civilian population.

Accordingly, Mr. Speaker, I urge my colleagues to join in supporting the resolution remembering the dedication of our Federal civilian employees.

Mr. ABERCROMBIE. Mr. Speaker, as we approach the 50th anniversary of Pearl Harbor, our thoughts naturally turn to the sacrifices and bravery shown by U.S. personnel on December 7, 1941.

Their heroism inspired the Nation to steel its resolve and settle for nothing less than total victory in World War II.

That ordeal has been seared into our national consciousness.

It is no exageration to say that Pearl Harbor was a defining moment in American history.

This month and next, Pearl Harbor military veterans throughout the Nation are standing tall as they receive the special Pearl Harbor Commemorative Medal authorized last year by Public Law 101–511.

These men and women richly deserve this belated recognition as their memories—and ours—travel a half-century back in time to the day their lives were changed forever in the shattering trauma of Pearl Harbor.

While we rightly commemorate the dedication of the soldiers, sailors and marines of December 7, we can not forget the forgotton heroes of Pearl Harbor.

I am speaking of the Federal civilian employees of the Pearl Harbor Naval Ship Yard, Hickam Field, and other military installations on the island of Oahu.

They, too, demonstrated heroism and suffered casualties in the defense of the United States.

While the attack raged, they fired antiaircraft guns, fought fires, rescued the drowning, rendered first aid and performed a thousand and one other tasks at peril to their lives.

They include—and I cite only a few of the thousands of examples of quiet bravery:

Mary Helen Stevens, the Pearl Harbor base librarian, who organized volunteers to tend the wounded * * *

Ponciano Bernardino, of the submarine base, who led a makeshift group of civilians to fight fires in Drydock One * * *

George Walters, a crane operator, who frustrated dive bombing attacks on the battleship Pennsylvania by moving his crane between the diving planes and the helpless ship * * *

On Tai Pang, of Pearl Harbor's Shop 02, who transported the wounded under fire * * *

And mechanic's helper Clifford Oliver of Hickam Field, who drove a truck into a burning building to remove precious aircraft engines.

As I said, Mr. Speaker, this is only a small sampling of the bravery shown by civilian Federal employees who demonstrated a devotion that went far above and beyond the call of duty for a librarian * * *

a shop worker * * *

a mechanic's helper * * *

a crane operator.

Other civilian employees paid with their lives for their dedication to duty:

August Akina * * *
Philip Eldred * * *
Benigno Cabaay * * *
Tai Ching Loo * * *
Daniel LaVerne.

House Joint Resolution 368 honors these splendid men and women by declaring December 4, 1991, to be Federal Civilian Employee Remembrance Day.

As we mark this turning point in history, I thank every member for their support of this resolution.

Especially the gentleman from Guam and the gentlelady from Hawaii for their help on this measure.

As we remember Pearl Harbor, let us salute its unsung heroes: the Federal civilian employees who rose to the occasion so magnificently.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

S.J. RES. 198

To recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., the first wave of dive and hight level bombers from the Imperial Japanese Combined Fleet attacked Hickam and Wheeler Airfields in the United States territory of Hawaii;

Whereas the first bombs fell on Ford Island at Pearl Harbor;

Whereas American fighter planes were strafed and destroyed on the ground at Pearl Harbor, Hickman Airfield, Kaneohe Naval Air Station, Bellow Airfield, Ewa Marine Corps Air Station, Schofield Barracks, and Wheeler Air field;

Whereas the United States Pacific Fleet was devastated, but its carriers were still afloat, and Pearl Harbor's shipyards, fuel storage area, and submarine base remarkably suffered very little damage;

Whereas Federal civilian employees responded magnificantly that fateful morning and met their country's call to duty with distinction and valor;

Whereas Federal civilian employees were instrumental in the remarkable salvage effort to raise and repair several of the naval vessels that were put back in action before the end of World War II;

Whereas of the 2,403 Americans killed in connection with the attack on Pearl Harbor, 68 were civilians, and of the 1,178 Americans wounded in connection with the attack, 35 were civilians;

Whereas Federal civilian employees exhibited the highest sense of patriotism and exemplary performance at Pearl Harbor and during World War II;

Whereas on December 4, 1991, ceremonies coordinated by the National Park Service will be held in the State of Hawaii to recognize the contributions of Federal civilian employees; and

Whereas we should honor these distinguished individuals during the commemoration of the fiftieth anniversary of the attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 4, 1991, is designated as "Federal Civilian Employees Remembrance Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities recognizing the important contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, and thanking such dedicated and committed individuals for their sacrifice and devotion to their country.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the several resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HEALTH CARE FOR COAL MINERS

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, I rise on behalf of the 35,000 retired coal miners and their families in West Virginia who depend on the UMWA health and retirement funds for health care benefits in support of the Coal Industry Retiree Health Benefit Act of 1991 being introduced today in the House of Representatives.

The pressing need to establish a sound and viable health care delivery system for miners and their families is second to none. Yet, today, the health funds are in deficit, threatening the continuity of benefits to both existing and future retirees.

Currently about 60 percent of all beneficiaries under the health funds are miners who retired from companies that have gone out of business. An additional 15 percent are retired from companies which have, simply put, walked away from their responsibilities to provide health care to their former employees. As such, 75 percent of the retirees served by the funds never worked for, or had any connection with, a currently contributing company.

This is not only causing a growing deficit in the funds, but means that the responsibility for providing these retirees with health care coverage is being shouldered by members of the Bituminous Coal Operators Association. The result: For every dollar current BCOA member companies contribute for their own retirees they pay $3 for other companies' retirees.

I would submit that this is an unjust situation.

It should be noted that the funds are unique, and what would normally be a matter solely for the private sector is not in this instance. There is a federal responsibility to these funds. The genesis for the funds dates back to 1946 in an agreement between then-UMW President John L. Lewis and the Federal Government to resolve a long-running labor dispute. At the time, President Truman had ordered the Interior Secretary to take possession of all bituminous coal mines in the country in an effort to break a United Mine Workers of America strike. Eventually, Lewis and Secretary Julius Krug reached an agreement that included an industrywide, miner controlled health plan.

The legislation being introduced today in the House is identical to the measure sponsored by the junior Senator from West Virginia, JAY ROCKEFELLER. The Senator explained the bill in great detail when he introduced it on November 19, 1991, and I would refer my colleagues to his remarks as to the particulars of this measure. I would, however, note that nobody is eager to place a new tax on the coal industry in this country. Nor, should this be viewed as a matter of union versus nonunion companies.

The bottom line is that we, as a Nation, must ensure that retired coal miners and their families are provided with health care coverage, now and in the future. I believe that the bill being introduced today represents our best chance to reach that goal.

RECESS

The SPEAKER pro tempore (Mr. MFUME). The Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 0040

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. BROWN] at 12 o'clock and 43 minutes a.m., on November 27, 1991 (Legislative day of November 26, 1991).

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 543. An Act to establish the Manzanar National Historic Site in the State of California, and for other purposes.

H.R. 2370. An Act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes.

H.R. 3049. An Act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization.

H.R. 3508. An Act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

The message also announced, That the Senate insists upon its amendment to the bill (H.R. 3508) "An Act to amend Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, Mr. HATCH, and Mrs. KASSEBAUM to be the conferees on the part of the Senate.

The message also announced, That the Senate agrees to the amendments of the House to bill (S. 1532) entitled "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes" with an amendment.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes.

S. 447. An act to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes.

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1187. An act to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes.

S. 1528. An act to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes.

S. 1577. An act to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes.

S. 1707. An act to authorize the establishment of the Fort Totten National Historic Site.

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic River System, and for other purposes.

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration.

S.J. Res 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

ELECTION OF MEMBER TO A STANDING COMMITTEE

Mr. HOYER. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 308), and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 308

Resolved, That the following named Member be, and is hereby elected to the following standing committee of the House of Representatives:

Committee on Public Works and Transportation: Lucien Blackwell, Pennsylvania.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.J. RES. 157, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes:

CONFERENCE REPORT (H. REPORT. 102–394)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 157) "making technical corrections and correcting enrollment errors in certain Acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the joint resolution, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

MISSILE PROCUREMENT, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Missile procurement, Army", $78,000,000, to remain available for obligation until September 30, 1994, and in addition, $67,000,000 to be derived by transfer from "Missile procurement, Air Force, 1991/1993", to remain available for obligation until September 30, 1993.

SHIPBUILDING AND CONVERSION, NAVY

For an additional amount for "Shipbuilding and conversion, Navy", for LSD–41 dock landing ship, cargo variant program, advance procurement of engines and generators, $25,000,000, to remain available for obligation until September 30, 1996.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve equipment", $10,100,000, to remain available until September 30, 1994, for the purchase of one MH–60G helicopter.

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental cost of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation associated with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm) and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense and other Departments pursuant to that Act, not to exceed $3,968,500,000 may be transferred during fiscal year 1992 from either the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund, to the following accounts in not to exceed the following amounts:

OPERATIONS AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additionl amount for "Operation and maintenance, Army", $227,300,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $270,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $75,000,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", $23,200,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $28,300,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $41,900,000.

PROCUREMENT

(TRANSFER OF FUNDS)

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $270,800,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile procurement, Army", $21,800,000, to remain available for obligation until September 30, 1994.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of weapons and tracked combat vehicles, Army", $63,000,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $80,500,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $521,000,000, to remain available for obligation until September 30, 1994.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", $8,100,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other procurement, Navy", $112,700,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $4,300,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $309,500,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $560,000,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement, Defense Agencies", $76,900,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

(TRANSFER OF FUNDS)

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, development, test and evaluation, Army", $47,800,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, development, test and evaluation, Navy", $6,100,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, development, test and evaluation, Air Force", $24,300,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, development, test and evaluation, Defense Agencies", $28,100,000, to remain available for obligation until September 30, 1993.

DEFENSE BUSINESS OPERATIONS FUND

(TRANSFER OF FUNDS)

For an additional amount for "Defense business operations fund", $1,140,000,000.

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,900,000, to remain available for obligation until expended.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION—MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for "Medical care", $10,000,000.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28) and under the terms and conditions of that Act, during the fiscal year 1992, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Act in amounts not to exceed $6,282,400,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal year 1992: Provided, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

To be derived by transfer, $685,000,000 for "Military personnel, Army".

MILITARY PERSONNEL, NAVY

To be derived by transfer, $70,000,000 for "Military personnel, Navy".

MILITARY PERSONNEL, MARINE CORPS

To be derived by transfer, $18,000,000 for "Military personnel, Marine Corps".

MILITARY PERSONNEL, AIR FORCE

To be derived by transfer, $81,000,000 for "Military personnel, Air Force".

RESERVE PERSONNEL, ARMY

To be derived by transfer, $80,000,000 for "Reserve personnel, Army".

RESERVE PERSONNEL, AIR FORCE

To be derived by transfer, $4,000,000 for "Reserve personnel, Air Force".

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $10,000,000 for "National Guard personnel, Army".

NATIONAL GUARD PERSONNEL, AIR FORCE

To be derived by transfer, $3,000,000 for "National Guard personnel, Air Force".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $2,717,500,000 for "Operation and Maintenance, Army".

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $1,080,000,000 for "Operation and maintenance, Navy".

OPERATION AND MAINTENANCE, MARINE CORPS

To be derived by transfer, $165,000,000 for "Operation and maintenance, Marine Corps".

OPERATION AND MAINTENANCE, AIR FORCE

To be derived by transfer, $1,241,400,000 for "Operation and maintenance, Air Force".

OPERATION AND MAINTENANCE, ARMY RESERVE

To be derived by transfer, $6,000,000 for "Operation and maintenance, Army Reserve".

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

To be derived by transfer, $59,200,000 for "Operation and maintenance, Air Force Reserve".

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

To be derived by transfer, $3,600,000 for "Operation and maintenance, Army National Guard".

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

To be derived by transfer, $58,700,000 for "Operation and maintenance, Air National Guard".

GENERAL PROVISIONS—CHAPTER I

SEC. 101. The prohibition in section 132(a)(2) of Public Law 101–189 (103 Stat. 1383) does not apply to the obligation of $70,200,000 provided in "Aircraft procurement, Army" of chapter I, title I for the procurement of AH–64 Apache attack helicopters.

SEC. 102. Of the funds provided in title III of Public Law 101–165 for "Other procurement, Air Force", not more than $80,000,000 shall be available, and may be obligated and expended, for costs arising from the cancellation of the Alaskan OTH–B radar program and powerplant lease: Provided, That such funds will be available for contract termination, site restoration, modification of facilities and other costs associated with the termination of the Alaskan OTH–B radar program and powerplant lease, or the transfer and modification of facilities and material located at or procured for the Alaskan OTH–B radar program or powerplant to any other Department of Defense activitiy or program at the OTH–B radar powerplant site.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

SEC. 103. In addition to other transfer authority granted by this or any other Act, and under the terms and conditions of the "Operations Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28), the Secretary of Defense may transfer not to exceed $100,000,000 for costs incurred during fiscal years 1991 and 1992 from the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund to appropriate Department of Defense appropriations for costs incurred through February 1992 in support of U.S. military forces in and around Iraq and Turkey known as the Kurdish Protection or Ready Reaction Force.

RESTRICTION OF ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a number certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

(d) Any military equipment of the United States, including battle tanks, armored combat vehicles, and artillery, included within the Conventional Forces in Europe Treaty definition of "conventional armaments and equipment limited by the Treaty", which may be transferred to any other NATO country shall be subject to the notification procedures stated in section 523 of Public Law 101–513 and in section 634A of the Foreign Assistance Act of 1961.

MIDDLE EAST HUMANITARIAN RELIEF

Sec. 105. (a) Of the funds appropriated from the Defense Cooperation Account for the Kurdish Ready Reaction Force, up to $15,000,000 may be made available only for the prepositioning of relief supplies in the Middle East to meet emergency Kurdish and other Iraqi-related humanitarian needs and related transportation costs. (b) In addition, the Secretary of Defense may transfer up to $15,000,000 in additional funds from the Defense Cooperation Account to the appropriate appropriations accounts within the Department of Defense for these Kurdish and other Iraqi-related humanitarian purposes.

CLASSIFIED PROGRAM

SEC. 106. (a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "Provided, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

SEC. 107. None of the funds available to the Department of Defense in fiscal year 1992 may be used by the Department of the Army to award a contract for the procurement of four-ton dolly jacks if such equipment is or would be manufactured outside the United States of America and would be procured under any contract, agreement, arrangement, compact or other such instrument for which any provisions including price differential provisions of the Buy American Act of 1933, as amended, or any other Federal buy national law was waived: Provided, That the Secretary of the Army may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 108. In addition to other transfer authority available to the Department of Defense, the Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $400,000,000, to the appropriate accounts within the Department of Defense for reducing the Soviet nuclear threat and for the purposes set forth in the Soviet Nuclear Threat Reduction Act of 1991 contained in H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such Act: Provided, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds.

(TRANSFER OF FUNDS)

SEC. 109. In addition to other transfer authority available to the Department of Defense, the Secretary of Defense, upon the declaration of an emergency by the President under the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $100,000,000, to the appropriate accounts within the Department of Defense, in order to transport by military or commercial means, food, medical supplies, and others types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such section 301 of H.R. 3807: Provided, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds: Provided further, That the Committees on Appropriations be notified of transfers under this provision fifteen days in advance.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Section 518(a) of the "General Provisions" in H.R. 2519, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, is amended by striking out "Section 662A(c)" and inserting in lieu thereof "Section 1722A(c)".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISION—HOME

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriations Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.5 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.".

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "American Samoa,"; and

(2) by adding at the end the following new paragraph:

"(24) The term 'insular area' means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.".

ADMINISTRATIVE PROVISION—STAFFING

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (H.R. 2519), is amended—

(1) in the appropriation paragraph entitled "Personal Services and Travel, Office of Public and Indian Housing" by striking "$10,424,000" and inserting in lieu thereof "$12,788,000" each time it appears in the paragraph;

(2) in the appropriating paragraph entitled "Personal Services and Travel, Office of Policy Development and Research" by striking "$10,705,000" and inserting in lieu thereof "$8,717,000"' each time it appears in the paragraph; and

(3) in the appropriating paragraph entitled "Personal Services and Travel, Office of General Counsel" by striking "$14,985,000" and inserting in lieu thereof "$14,609,000" each time it appeard in the paragraph.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Of the funds made available under this head in Public Law 102–139, not to exceed $950,000, to remain available until September 30, 1993, shall be available for the purpose of providing financial assistance (through grant or contract made, to the maximum extent feasible, not later than 150 days after enactment of this Act) to facilitate the furnishing of legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply, or with other proceedings in the Court, through a program that furnishes case screening and referral, training and education for attorney and related personnel, and encouragement and facilitation of pro bono representation by members of the bar and law school clinical and other appropriate programs, such as veterans service organizations, and through defraying expenses incurred in providing representation to such persons: Provided, That such grants or contracts shall be made by the Legal Services Corporation pursuant to a reimbursable payment from the United States Court of Veterans Appeals for the purposes described herein: Provided further, That the Legal Services Corporation is authorized to receive a reimbursable payment from the United States Court of Veterans Appeals for the purpose of providing the financial assistance described herein: Provided further, That no funds made available herein shall be used for the payment of attorney fees: Provided further, That, not later than 180 days after the enactment of this Act, and, again, not later than one year after a grant or contract is made pursuant to the provisions of this paragraph, the Legal Services Corporation and the United States Court of Veterans Appeals shall report to the appropriate committees of the Congress regarding the implementation of the provisions of this paragraph.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Of the funds appropriated for the wastewater treatment facilities fund under title VI of the Federal Water Pollution Control Act, up to one-half of one per centum may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For emergency disaster assistance payments necessary to provide for expenses in presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for "Disaster relief", $943,000,000, to remain available until expended, of which $143,000,000 shall be available only after submission to the Congress of a formal budget request by the President designating the $143,000,000 as an emergency: Provided, That up to $1,250,000 of the funds made available under this heading may be transferred to, and merged with, amounts made available to the Federal Emergency Management Agency under the heading "Salaries and expenses" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139): Provided further, That hereafter, beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such amounts shall hereafter be so designated.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations, 1990 (Public Law 101–144), is hereby deleted.

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the National Commission on Severely Distressed Public Housing, in carrying out its functions under title V of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235), $250,000, to remain available until expended, to be derived by transfer from amounts provided to the Department of Housing and Urban Development under the heading "Salaries and expenses" in Public Law 102–139.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

In view of the occurrence of recent natural disasters—similar to the volcano eruption of 1980, the earthquake of 1989, and the hurricane of 1989—droughts, floods, freezes, tornadoes, and other catastrophes which resulted in billions of dollars in damages, and in an effort to restore the economy and to alleviate the effects of the disasters, an additional $1,750,000,000, to remain available until expended, is hereby made available for losses associated with 1990 crops as authorized by P.L. 101–624, and for losses associated with 1991 and 1992 crops under the same terms and conditions: Provided, That $995,000,000 of this amount is available for payments to producers for losses on either 1990 or 1991 crops, at the producer's option: Provided further, That the remaining $755,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That this $755,000,000 shall be available for crop losses for one of the years 1990, 1991 or 1992, at the producer's option, but shall not be for a year for which disaster payments were previously provided to the producer: Provided further, That $100,000,000 of the $755,000,000 is set aside for program crops planted in 1991 for harvest in 1992: Provided further, That, consistent with the amounts made available above, emergency loans made with respect to damage to an annual crop planted for harvest in 1991 under subtitle C of the Consolidated Farm and Rural Development Act shall be made available without regard to the purchase of crop insurance under the Federal Crop Insurance Act by the producer who requests such a loan.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

TITLE II–GENERAL PROVISIONS

SEC. 200. FINDING OF DIRE EMERGENCY CONDITIONS.—The Congress finds that—

(a) the President has designated and requested the Congress to designate over $1,140,000,000 in 1991 international assistance funds to meet emergency needs in foreign lands;

(b) natural disasters (including floods, droughts, tornadoes, hurricanes, earthquakes, freezes, and typhoons) have occurred in the United States and its territories causing loss of life, human suffering, loss of income, and property loss or damage with dire emergency financial situations;

(c) since October 1990, there have been 44 presidentially-declared disasters and 89 disasters declared by the Secretary of Argiculture affecting every area of the Nation in almost every State for which Federal funds are not available to meet emergency needs, resulting in calls for the National Guard and other assistance;

(d) as a consequence of these disasters, millions of acres of land are or were under water, millions of acres of farm land are not able to be planted, and highways, dams, roads, and bridges have not been repaired. Many of the people in communities, counties, States, and many private businesses have been dangerously affected, and the local authorities in many cases are unable to meet the financial costs; and

(e) the combination of the effects of these conditions and the current recession constitutes a dire emergency situation (8,582,000 people are unemployed, total employment has declined by over 1,400,000 jobs in the last year, over 7,500 businesses are failing each month, and foreign purchases of United States land and companies are increasing) which will, if not corrected by increased production, necessitate the need for a Job Creation Bill similar to what was enacted in 1983.

SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

CONGRESSIONAL DESIGNATION OF EMERGENCY

SEC. 202. Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as "emergency requirements", the Congress believes that the same or higher priority should be given to helping American people recover from natural disaters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in Titles I and II of this joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RESTRICTIONS ON ASSISTANCE FOR KENYA

SEC. 203. (a) Restrictions.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to advocate the establishment of political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1), and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

SENSE OF THE SENATE REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

SEC. 204. (a) FINDINGS.—The Senate makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of people to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

SEC. 205. The appropriation entitled "Fishing Vessel Obligation Guarantees" in Public Law 102–140 is amended by striking the sum "$10,000,000" and inserting in lieu thereof the sum "$24,000,000".

SEC. 206. From the funds made available for Land Acquisition of the United States Fish and Wildlife Service in the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act (Public Law 102–154), $965,000 is hereby appropriated by transfer to the Resource Management account of the United States Fish and Wildlife Service.

SEC. 207. Notwithstanding any other provisions of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States v. Exxon Corporation and Exxon Shipping Company (Case No. A90–015–1CR and 2CR), hereinafter the Plea Agreement, United States v. Exxon Corporation et al. (Civil No. A91–082–CIV) and State of Alaska v. Exxon Corporation et al. (Civil No. A91–083–CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited into the Natural Resource Damage Assessment and Restoration Fund established by Public Law 102–154. Such amounts, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses for assessment and restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23–24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: Provided, That such amounts (and accrued interest) shall remain available until expended: Provided further, That such amounts may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree: Provided further, That herein and hereafter any amounts deposited into the Natural Resource Damage Assessment and Restoration Fund shall be invested by the Secretary of the Treasury in interest bearing obligations of the United States to the extent such amounts are not, in his judgment, required to meet current withdrawals: Provided further, That interest earned by such investments shall be available for obligation without further appropriation: Provided further, That, for fiscal year 1992, the Federal Trustees shall provide written notification of the proposed transfer of such amounts to the Appropriations Committees of the House of Representatives and the Senate thirty days prior to the actual transfer of such amounts: Provided further, That, for fiscal year 1993 and thereafter, the Federal Trustees shall submit in the President's Budget for each fiscal year the proposed use of such amounts.

WAIVER OF CERTAIN RECOVERY REQUIREMENTS

SEC. 208. Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa–12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. 209. (a) Section 307E of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c), is amended to read as follows:

"SEC. 307E. (a) The Architect of the Capitol, subject to the direction of the Joint Committee on the Library, is authorized to—

"(1) construct a National Garden demonstrating the diversity of plans, including the rose, our national flower, to be located between Maryland and Independence Avenues, S.W., and extending from the Botanic Garden Conservatory to Third Streets, S.W., in the District of Columbia; and

"(2) solicit, receive, accept, and hold gifts, including money, plant material, and other property, on behalf of the Botanic Garden, and to dispose of, utilize, obligate, expend, disburse, and administer such gifts for the benefit of the Botanic Garden, including among other things, the carrying out of any programs, duties or, functions of the Botanic Garden, and for constructing, equipping, and maintaining the National Garden referred to in paragraph (1).

"(b)(1) Gifts or bequests of money under subsection (a)(2) shall, when received by the Architect, be deposited with the Treasurer of the United States, who shall credit these deposits as offsetting collections to an account entitled "Botanic Garden, Gifts and Donations". The gifts or bequests described under subsection (a)(2) shall be accepted only in the total amount provided in appropriations acts.

"(2) Receipts, obligations, and expenditures of funds under this section shall be included in annual estimates submitted by the Architect for the operation and maintainance of the Botanic Garden and such funds shall be expended by the Architect, without regard to section 3709 of the Revised Statutes, for the purposes of this section after approval in appropriations Acts. All such sums shall remain available until expended, without fiscal year limitation.

"(c)(1) In carrying out this section and his duties, the Architect of the Capitol may accept personal services, including educationally related work assignments for students in nonpay status, if the service is to be rendered without compensation.

"(2) No person shall be permitted to donate his or her personal services under this section unless such person has first agreed, in writing, to waive any and all claims against the United States arising out of or in connection with such services, other than a claim under the provisions of chapter 81 of title 5, United States Code.

"(3) No person donating personal services under this section shall be considered an employee of the United States for any purpose other than for purposes of chapter 81 of title 5, United States Code.

"(4) In no case shall the acceptance of personal services under this section result in the reduction of pay or displacement of any employee of the Botanic Garden.

"(d) Any gift accepted by the Architect of the Capitol under this section shall be considered a gift to the United States for purposes of income, estate, and gift tax laws of the United States.".

(b) Pursuant to section 307E of the Legislative Branch Appropriations Act, 1989, not more than $2,000,000 shall be accepted and not more than $2,000,000 of the amounts accepted shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden.

SEC. 210. (a) The caption for section 713 of title 18, United States Code, is amended as follows:

"§713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate."

(b) Subsection (a) of Section 713 of title 18, United States Code, is amended by inserting "or the seal of the United States Senate," after "Vice President of the United States,".

(c) Subsection (c) of section 713 of title 18, United States Code, is—

(1) amended to read as follows:

"A violation of the provisions of this section may be enjoined at the suit of the Attorney General,

(1) in the case of the great seal of the United States and the seals of the President and Vice President, upon complaint by any authorized representative of any department or agency of the United States; and

(2) in the case of the seal of the United States Senate, upon complaint by the Secretary of the Senate."; and

(3) redesignated as subsection (d).

(d) Section 713 of title 18, United States Code, is amended by inserting after subsection (b) the following new subsection:

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than six months, or both.".

(e) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate.".

SEC. 211. Section 311(i) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(i)) is amended by striking out "with respect to sessions of Congress beginning with the second session of the One Hundred Second Congress," and inserting in lieu thereof "beginning on May 1, 1992,".

SEC. 212. The Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101–148) and the Military Construction Appropriations Act, 1991 (Public Law 101–519).

SEC. 213. Unobligated funds in the amount of $990,000 authorized and appropriated under Public Law 102–143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the City of Barre for the Granite Street Bridge, $350,000 to the City of Montpelier for the Bailey Avenue Bridge, $90,000 to the Town of Brandon for the replacement of the Dean Bridge, and $90,000 for the Town of Williston and $110,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are incurred in accordance with sections 101, 106, 110, and 120 of title 23 of the United States Code.

SEC. 214. Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Interanl Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 186, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operations Desert Shield-Desert Storm' Act of 1992".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the joint resolution and agree to the same.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES
(except as to the disposition of sections 213 and 214 of the Senate amendment),
DAVID R. OBEY,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
VIC FAZIO,
W.G. (BILL) HEFNER,
JOSEPH M. MCDADE,
JOHN T. MYERS,
CLARENCE MILLER,
CARL PURSELL,
BILL GREEN,
JOE SKEEN,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, Jr.,
MARK O. HATFIELD,
TED STEVENS,
JAKE GARN,
THAD COCHRAN,
ROBERT W. KASTEN, Jr.,
ALFONSE M. D'AMATO,
WARREN RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
DON NICKLES,
PHIL GRAMM,
CHRISTOPHER S. BOND,
SLADE GORTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONGERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes to the two Houses on the amendment of the Senate to the joint resolution (H.J. Res. 157) making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House in the report accompanying H.R. 3543 (H. Rept 102–255) which is not changed by the report of the Senate (S. Rept 102–216), and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

The conference agreement deletes technical corrections and enrolling error corrections to four fiscal year 1991 appropriations acts that were proposed by the House and stricken by the Senate. These corrections have already been made in an earlier supplemental appropriations act, Public Law 102–27.

SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY PROCURMENT

MISSILE PROCUREMENT, ARMY

(INCLUDING TRANSFER OF FUNDS)

PATRIOT

The conferees have provided $145,000,000, including $67,000,000 derived by transfer from contract savings on the Maverick missile, for the procurement of additional Patriot missiles. The Army is directed to procure as many new missiles as possible with the funding available.

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to provide $25,000,000 in advance procurement funding to finance long lead items, including engines and generators, for the LSD cargo variant.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to provide $10,100,000 for the purchase of one MH–60G helicopter for the Air National Guard.'

TITLE I-EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Chapter I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

The conferees agree to provide $3,968,500,000 for additional incremental costs of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation, as follows:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

The conferees agree not to provide an additional amount for National Guard Personnel, Army, as proposed by the Senate instead of $40,200,000 as proposed by the House in H.R. 3543.

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

The conference agreement on additional transfers for Operation and Maintenance is as follows:

	Conference
Operation and Maintenance:	
Army	$227,300,000
Navy	270,000,000
Marine Corps	75,000,000
Army Reserve	23,200,000
Navy Reserve	28,300,000
Army National Guard	41,900,000
Total	665,700,000

PROCUREMENT

The supplemental request proposed transfers from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund to the procurement accounts in the amount of $1,472,900,000. The conference agreement includes transfers totalling $2,028,600,000 as follows:

Appropriation Account/Line Item	Quantity	Amount
Aircraft Procurement, Army:		
AH–64 Helicopter	6	$70,200,000
CH–47D Modification	2	27,000,000
OH–58D Modifications	12	90,200,000
UH–60 Helicopter	6	38,400,000
UH–60 Helicopter (Replaces UH–1)	7	45,000,000
Total	—	270,800,000
Missile Procurement, Army:		
TOW/STINGER Restockage	—	21,800,000
Total	—	21,800,000
Procurement of Weapons and Tracked Combat Vehicles, Army:		
M1A1 Tanks	18	63,000,000
Total	—	63,000,000
Other Procurement, Army:		
HMMWV	155	4,800,000
HEMTT M977	42	6,600,000
HEMTT M978	161	27,300,000
5 Ton Truck FMTV	436	41,800,000
Total	—	80,500,000
Aircraft Procurement, Navy:		
SH–60B Helicopter	1	17,000,000
F/A–18 Aircraft	5	135,000,000
F/A–18 Aircraft (Replaces A–6)	4	108,000,000

Appropriation Account/Line Item	Quantity	Amount
AV–8B Aircraft	6	230,000,000
AH–1W Helicopter (Replaces AH–1J)	2	18,000,000
OV–10 Series Modifications		13,000,000
Total		521,000,000
Weapons Procurement, Navy:		
5–inch 54 Gun Mount	1	8,100,000
Total		8,100,000
Other Procurement, Navy:		
Civil Engineering Equipment		97,700,000
MK–103 Mine Clearing Sleds		2,100,000
Trucks		300,000
Medical Support Equipment		12,600,000
Total		112,700,000
Procurement, Marine Corps:		
Light Armored Vehicle	4	4,300,000
Total		4,300,000
Aircraft Procurement, Air Force:		
F–15E Aircraft	3	268,800,000
F–117A Aircraft		40,700,000
Total		309,500,000
Other Procurement, Air Force:		
Laser Guided Bomb Kits		460,000,000
Combined Effects Munitions		100,000,000
Total		560,000,000
Procurement, Defense Agencies:		
AC–130 Aircraft (Spec. Ops. Command)	1	71,400,000
UH–60L Helicopter (Spec. Ops. Command)	1	5,500,000
Total		76,900,000
Grand Total		2,028,600,000

AVAILABILITY OF FUNDS

The conference agreement retains Senate language in each of the procurement appropriations making the funds available for obligation until September 30, 1994.

AH–64 APACHE HELICOPTER

The conference agreement includes $70,200,000 for procurement of six AH–64 Apache helicopters, as proposed by the Senate. The conference agreement also retains Senate Section 101 which sets aside a provision of Public Law 101–189 to make this procurement possible.

AIR FORCE MUNITIONS

The Senate bill included a provision permitting the use of $100,000,000 of the $460,000,000 included for procurement of laser guided bomb kits for the procurement instead of combined effects munitions. The conference agreement deletes this provision and includes $460,000,000 for procurement of laser guided bomb kits and $100,000,000 for the procurement of combined effects munitions.

AC–130 GUNSHIP

The conferees agree with the House language in H.R. 3543 that an AC–130 "U" model shall be procured with funding provided under Procurement, Defense Agencies.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The supplemental request proposed transfers from the Defense Cooperation Acccount or the Persian Gulf Regional Defense Fund to the Research, Development, Test and Evaluation accounts in the amount of $108,500,000. The conference agreement includes transfers totalling $106,300,000 as follows:

	Conference
Research, Development, Test and Evaluation, Army:	
Chem-Bio Defense Equipment—Adv. Development	$7,500,000
Night Vision System—Eng. Development	8,000,000
Chemical/Smoke Equipment Defeating Technologies	1,300,000
Special Army Program	1,600,000
Combat Vehicle and Automotive Technology	1,100,000
Military Engineering Technology	1,100,000
TRACTOR HOLE	2,100,000
Materials and Structures Adv. Technology	0
Joint Surveillance and Target Attack Radar System	0
Logistics and Engineer Equipment—Eng. Development	2,100,000
Army Test Ranges	1,400,000
Exploitation of Foreign Items	6,200,000
Base Operations	0
Landmine War/Barrier Adv. Technology	1,700,000
Various Programs Under $1 million	13,700,00
Total, RDT&E, Army	47,800,000
Research, Development, Test and Evaluation, Navy:	
Tactical Command System	1,300,000
Mine Countermeasures	2,200,000
Various Programs Under $1 million	2,600,000
Total, RDT&E, Navy	6,100,000
Research, Development, Test and Evaluation, Air Force:	
Airborne Warning and Control System (AWACS)	7,300,000
C(3) Advanced Development	0
EW Development	1,800,000
Joint Surveillance System	3,300,000
Constant Source	3,800,000
Armament Ordnance Development	700,000
Surface Defense Suppression	3,400,000
Various Programs Under $1 million	4,000,000
Total, RDT&E, Air Force	24,300,000
Research, Development, Test and Evaluation, Defense Agencies:	
Flying Carpet	10,300,000
DART	5,600,000
Other DARPA	6,300,000
OSD	2,800,000
DCA	300,000
SOCOM	2,700,000
DSPO	100,000
Total, RDT&E, Defense Agencies	28,100,000
Total, Research, Development, Test and Evaluation:	$106,300,000

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

MEDICAL RESEARCH

The conferees agree that within the funds appropriated in the Department of Defense Appropriations Act, 1992, for medical technology in Research, Development, Test and Evaluation, Army, $3,000,000 shall be made available for the PYROCAP B–136 project as described in the conference report of the National Defense

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

OVER THE HORIZON TARGETING

The conferees direct that of the $33,977,000 appropriated in fiscal year 1992 for the Tactical Command System (program element 0604231N), $2,974,000 is only for Over the Horizon Targeting which had been requested by the Navy in program element 0604707N. DD Form 1414 for fiscal year 1992 shall show the Over the Horizon Targeting funds as an item of special interest, a decrease to which requires prior Congressional approval.

155MM LIGHTWEIGHT HOWITZER

The report accompanying the National Defense Authorization Act for Fiscal Years 1992 and 1993 recommended the provision of $2,500,000 for the Marine Corps and Army Lightweight 155mm Howitzer program. The conferees on H.J. Res. 157 support that endorsement. The conferees direct that up to $2,500,000 of the funds appropriated in the Department of Defense Appropriations Act, 1992, for Research, Development, Test and Evaluation, Navy, shall be used only for necessary planning and preparation of the fiscal year 1993 Lightweight 155mm Howitzer competitive demonstration program.

DEFENSE BUSINESS OPERATIONS FUND

(TRANSFER OF FUNDS)

The conference agreement on additional transfers for the Defense Business Operations Fund is as follows:

	Conference
Defense Business Operations Fund:	
Army Supply Operations	$410,000,000
Navy Supply Operations	450,000,000
Air Force Supply Operations	280,000,000
Total	1,140,000,000

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

The conferees agree to provide $17,900,000 for an additional amount for operating expenses of the Coast Guard. The conferees further agree that these amounts shall be available until expended.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINSTRATION

MEDICAL CARE

(TRANSFER OF FUNDS)

Transfers $10,000,000 from funds available for the costs of Operation Desert Shield/Desert Storm to medical care, instead of transferring $10,000,000 from the same source and earmarking the funds for marriage and family counseling services for veterans of the Persian Gulf War and their spouses and families, contingent upon authorizing legislation during this Congress, as proposed by the Senate. The conferees agree that the $10,000,000 should be available for a subsequently authorized program for marriage and family counseling services for veterans of the Persian Gulf War and their spouses and famillies (or for similar, currently authorized services if specific legislation is not enacted) and for other medical services for Persian Gulf veterans.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

The conferees agree to provide authority to realign $6,282,400,000 of funds previously transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28).

GENERAL PROVISIONS—CHAPTER I

AH–64 APACHE HELICOPTER

The conferees agree to the Senate general provision (Sec. 101) which enables obligation of funds for the AH–64 Apache helicopter.

OTH–B RADAR

The conferees agree to the Senate provisions (Sec. 102) regarding the Over-the-Horizon Backscatter Radar.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

The conferees agree to provide $100,000,000 by transfer for expenses resulting from U.S. participation in the Kurdish Protection Force (KPF) (Sec. 103). The conferees direct that no later than March 1, 1992, the Secretary of Defense shall provide the Committees on Appropriations of the House and Senate with a report detailing (1) the full costs of the KPF operation, to include the amount paid by other allied participants; (2) the rules of engagement under which the KPF operates, and (3) the assistance being provided to the KPF by the Government of Turkey.

RESTRICTIONS AND ARMS SALES TO SAUDI ARABIA AND KUWAIT

The conferees have included language proposed by the Senate (Sec. 104), which takes effect 120 days after the date of enactment of this joint resolution, restricting the use of funds to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until they have fully paid their mutually agreed commitments to the United States to support Operation Desert Shield/Desert Storm. The House bill contained no similar provision.

The conferees have included further language requiring the notification of United States military equipment transfers to other NATO countries under the provisions of the Conventional Forces in Europe Treaty.

PARKING TICKETS OWED BY DIPLOMATS OF SAUDI ARABIA AND KUWAIT

It has been brought to the attention of the conferees that diplomats of many countries have failed to pay parking fees and fines in both the District of Columbia and the City of New York. Special action was taken to notify foreign ambassadors of the obligation of diplomats to pay these fines in a letter from the Office of Foreign Missions of the Department of State in June, 1991.

Despite this letter, New York City records indicate that for 1989 and 1990 Saudi Arabian diplomats located at the Saudi Consulate and the Saudi Mission in New York City have 1,247 outstanding tickets valued at $41,151. Additionally, District of Columbia records indicate that 2,752 tickets owed by Saudi Arabian diplomats and valued at $121,250 are outstanding from the last three years

Diplomats of Kuwait, according to District of Columbia records, have 56 tickets valued at $2,465 still outstanding despite recent actions clearing up other overdue tickets.

The conferees are disturbed by this failure of foreign diplomats to live within simple domestic laws. The conferees warn that continued failure to pay parking fines by foreign diplomats will result in legislative consideration of measures both to restrict benefits granted to such countries and to restrict diplomatic privileges enjoyed by such countries.

MIDDLE EAST HUMANITARIAN ASSISTANCE

(TRANSFER OF FUNDS)

The conferees have modified language proposed by the Senate (Sec. 105) to give the Secretary of Defense discretionary authority to provide $15,000,000 from the "Defense Cooperation Account for the Kurdish Ready Reaction Force", and $15,000,000 from the "Defense Cooperation Account" for the prepositioning of humanitarian relief supplies in the Middle East. The conferees have included this provision in order to address needs that may occur related to Iraqi Kurds. The House had no similar language.

The conferees also agree that the Department of Defense is to thoroughly coordinate this program with the Office of Disaster Assistance within the Agency for International Development. Fiscal Year 1991 funds remain available for Middle East humanitarian support through the Agency for International Development, and the conferees want to make sure that the AID program and the DOD program are proceeding with proper coordination. The Committees on Appropriations are to be notified in advance on the use of the funds under this authority.

CLASSIFIED PROGRAM

The conferees agree to the Senate amendment (Sec. 106) modifying section 110 of the Classified Annex incorporated by reference into the "Department of Defense Appropriations Act, 1992". Additional guidance by the conferees is contained in a classified letter accompanying this statement of the managers.

FOUR-TON DOLLY JACKS

The conferees agree to include language (Sec. 107) which prohibits the use of fiscal year 1992 appropriated funds to procure four-ton dolly jacks outside the United States unless the Secretary of Defense determines such procurement is necessary in the interest of national security.

In February 1991, the Department awarded a contract to an overseas firm to procure 814 four-ton dolly jacks. Subsequently, this firm has failed to successfully complete first article testing on two occasions.

Therefore, the conferees direct the Department of Defense to terminate contract DAAA09–91–C–0353 if the contractor fails to complete first article testing.

SOVIET NUCLEAR WEAPONS CONTROL AND DESTRUCTION

The conferees agree to a general provision (Sec. 108) which would allow the Secretary of Defense to transfer up to $400,000,000 from fiscal year 1992 operation and maintenance funds and from cash balances in the working capital funds to other Department of Defense appropriation accounts to cover the costs of the United States Government in assisting the Soviet Union and/or emerging political structures on the territory of the former Soviet Union in dismantling nuclear weapons.

The conferees are adamant that any funds used for this purpose cannot come at the expense of the readiness of U.S. forces. In addition, the conferees agree that none of the funds for transfer may be derived from programs which were increased in the Department of Defense Appropriations Act for fiscal year 1992 above the amount requested. Further, no funds shall be transferred from environmental clean-up and natural and cultural resource management activities.

No funds may be transferred to provide U.S. assistance in destroying nuclear weapons unless the President first certifies to the Congress that the potential recipient is committed to making a substantial investment of its resources for dismantling or destroying such weapons; foregoing any military modernization that is designed to replace destroyed weapons of mass destruction; foregoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons; and taking adequate measures to prevent any transfer of nuclear weapons or their components to any third party.

The conferees further stipulate that the Secretary of Defense shall submit to the Committee on Appropriations for prior approval under established reprogramming procedures any proposed transfer authorized by this section.

EMERGENCY TRANSPORTATION

The conferees agree to a general provision (Sec. 109) authorizing the Secretary of Defense at the direction of the President to transfer funds from Department of Defense fiscal year 1992 funds and working capital accounts to the appropriate Department of Defense appropriations to allow the Department of Defense to transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein, in order to address emergency conditions which may arise. The provision of humanitarian assistance shall be carried out under the terms and conditions established as authorized by section 301 of H.R. 3807 as passed the Senate on November 25, 1991.

The conferees are adamant that any funds used for the purposes provided herein cannot come at the expense of the readiness of the United States Armed Forces. Further, the conferees stipulate that none of the funds for transfer may be derived from programs which were increased by the Department of Defense Appropriations Act for fiscal year 1992 above the amount requested. Further, no funds shall be transferred from environmental clean-up and natural and cultural resource management activities.

Finally, the conferees agree that the Secretary of Defense shall submit to the Committees on Appropriations for prior approval under established reprogramming procedures any proposed transfer authorized by this section.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Inserts language reflecting a recodification in a general provision in the 1992 VA, HUD, and Independent Agencies Appropriations Act, as proposed by the Senate. An identical provision is contained in H.R. 3543.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISIONS

Includes language adjusting the amounts appropriated for three salaries and expenses appropriations in the Department of Housing and Urban Development as proposed by the Senate, amended to permit four U.S. territories to participate in the HOME program. Both of these provisions are in H.R. 3543.

Concern has been expressed regarding potential 1992 staffing restrictions in HUD. The Department has recently indicted that it does not anticipate the need for any furloughs. In the future, HUD needs to more accurately estimate personal service costs and to better monitor employment levels in housing to ensure they do not increase beyond levels that can be funded.

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INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Inserts language as proposed by the Senate authorizing that not to exceed $950,000 of 1992 Court of Veterans Appeals' funds be available through a reimbursable payment to the Legal Services Corporation for grants or contracts to organizations that provide legal assistance to veterans in *pro se* cases before the court. The conferees wish to make clear that these funds will provide for a *demonstration* program in fiscal years 1992 and 1993. Further funding of these types of services will depend upon an independent evaluation of the demonstration program and the availability of funds.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Inserts language proposed by the Senate providing that up to one half of one percent of funds appropriated may be available as direct grants to Indian tribes for the construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF FUND

Appropriates $943,000,000 for the disaster relief fund, as proposed by the Senate in H.J. Res. 157 and the House in H.R. 3543. Of this amount, $800,000,000 has been designated as an emergency and therefore is not subject to the spending caps contained in the Budget Enforcement Act of 1990. The conferees have agreed that the remaining $143,000,000 will be available if the President submits a formal budget request and designates these funds as emergency in nature. This supplemental appropriation is urgently needed for disaster assistance to 38 states and territories. The Committees on Appropriations have been assured by both FEMA and OMB that this amount, when combined with unobligated balances, recoveries from prior years and the regular 1992 appropriation, will be sufficient to meet FEMA's costs for all outstanding prior year disasters, and a normal level of disaster activity for the remainder of the fiscal year.

In addition, language has been included that specifies that in future years, commencing with fiscal year 1993, only amounts in excess of either the historical average for disaster relief of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, will be considered "emergency" in nature under the Balanced Budget and Emergency Deficit Control Act of 1985. The conference agreement provides an automatic designation as an emergency on the part of Congress and the President for any amounts that are signed into law in the future that exceed the specified threshold. The conferees and the Administration agree that this language assures that the Committees on Appropriations will not be scored in future years for providing less than the historical average of $320,000,000 for the disaster relief fund.

Language is also included permitting FEMA to transfer up to $1,250,000 to salaries and expenses appropriation, (which would also be designated as an emergency), from the disaster relief fund as proposed by the Senate. These funds will support an additional 25 FTE to meet disaster assistance workload requirements.

The conferees also note that many projects resulting from the Loma Prieta earthquake have not yet been funded. Of the funds allocated for Loma Prieta disaster assistance activities, the conferees urge FEMA to expedit projects, such as Loma Prieta damaged hospitals, where critical and compelling community needs such as health care are at stake.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

Inserts language as proposed by the Senate repealing the development cost "cap" on the Comet Rendezvous Asteroid Flyby/Cassini mission as contained in the fiscal year 1990 VA, HUD, and Independent Agencies Appropriations Act. In the recently enacted 1992 NASA appropriation, the conferees agreed to reduce the CRAF/Cassini mission by $117,300,000. This reduction will cause a delay of approximately one year in the mission. That will result in an increase in the $1,600,000,000 existing development "cap." This proviso would repeal that dollar cap which was included in the 1990 appropriation bill. The conferees direct that a new CRAF/Cassini development cost "cap" be transmitted with the 1992 NASA operating plan. The conferees also want to restate the further direction contained in the conference report accompanying the 1992 bill requiring that NASA submit in connection with the fiscal year 1992 operating plan, proposed "caps" for all development (and where applicable) operations activities covering all programs funded within the agency. The conferees believe that this action is essential in view of the anticipated extremely limited budget resources available in the coming fiscal year.

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

The conferees have included $250,000 for the National Commission on Severely Distressed Public Housing, to be derived by transfer from the salaries and expenses account of the Department of Housing and Urban Development. These funds are necessary to permit the Commission to complete its work. The conferees expect the Commission to deliver its report to the Congress at the earliest possible date, but in no event later than June 1, 1992, to allow for consideration of its contents as part of the fiscal year 1993 appropriations bill.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

The conference agreement includes $1,750,000,000 for disaster payments to farmers and ranchers to compensate them for losses suffered from natural disasters during crop years 1990, 1991, and 1992. The agreement provides the same smount proposed by the House in H.R. 3543 and the same amount proposed by the Senate.

The conference agreement earmarks $995,000,000 for disaster payments authorized by Public Law 101–624 for crop year 1990 and for crop year 1991 under the same terms and conditions. Payments are available for losses which occurred in either 1990 or 1991, at the producer's option.

The conference agreement also provides $755,000,000 for crop years 1990, 1991, and 1992 under the same terms and conditions as authorized in P.L. 101–624 which shall be available only upon receipt of an official budget request or requests.

The conference agreement amends Senate language which provided that for purposes of this Act the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992. The conferees were unable to finance losses of crops planted in 1991 for harvest in 1992 as a dire emergency at this time. But, the conferees have set aside $100,000,000 of the $755,000,000 to meet such problems, subject to receipt of an official budget request or requests.

The conferees will expect that all payment limitations now in law be implemented carefully and all applications for assistance be considered on a case-by-case basis.

CROP INSURANCE WAIVER FOR EMERGENCY LOANS

The conference agreement amends Senate language that waives the requirement to have crop insurance in 1990 and 1991 to obtain emergency loans. H.R. 3543 contained no similar provision. The agreement waives the requirement for 1991 only, since the 1990 requirement was waived previously.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

The conference agreement earmarks $530,000 of existing funds for a grant to the State of Maine Department of Agriculture for potato disease efforts as proposed by the Senate. H.R. 3543 contained no similar provision.

SOIL CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION

The conference agreement deletes the $50,000,000 for the Emergency Watershed Protection Program proposed by the House in H.R. 3543 and the $28,000,000 proposed by the Senate.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

The conference agreement deletes the $5,000,000 for the Emergency Conservation Program proposed by the House in H.R. 3543. The Senate resolution contained no similar provision.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The conference agreement deletes the $100,000,000 for the Special Supplemental Food Program for Women, Infants, and Children (WIC) proposed by both the House and the Senate. The fiscal year 1992 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act provided $2,600,000,000 for the WIC program, an increase of $250,000,000 or 10.6 percent over the fiscal year 1991 level. Since 1980 Congress has increased WIC funding by 253 percent, resulting in average monthly participation increasing from 1.9 million persons in 1980 to 4.9 million persons in 1991.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The conference agreement deletes funding that was proposed by the Senate in H.J. Res. 157 for Flood Control, Mississippi River and Tributaries, Operation and Maintenance, General and Flood Control and Coastal Emergencies.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

The conference agreement deletes language proposed by the Senate regarding the Buffalo Bill Dam Modification project in Wyoming.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

H.J. Res. 157 that would have appropriated $5,000,000 to the State Department, notwithstanding Sec. 15 of the State Department Basic Authories Act, for rewards for information leading to the arrest, return to trail, and conviction of international terrorists. Neither the House version of H.J. Res. 157 nor the House Bill (H.R. 3453) contained such funds.

The Senate amendment has been deleted because this supplemental appropriation of $5,000,000 would not meet the definition of an emergency, and would result in additional spending and thereby cause a sequester of funds in fiscal year 1992.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

The Conference agreement does not include the Senate amendment to H.J. Res. 157 which would have appropriated $300,000 for the Interjurisdictional Fisheries Program for the restoration of shellfishing beds in Rhode Island damaged by Hurricane Bob. Neither the House version of H.J. Res. 157 nor the House Bill (H.R. 3543) contained funds for this purpose.

In addition, the conference agreement does not include the provision in the House Bill (H.R. 3543) which would have appropriated $1,300,000 to restore lost computer and related telecommunications equipment destroyed by a fire at NOAA's Office of Administration in Suitland, Maryland. Neither the House version of H.J. Res. 157 nor the Senate amendment to H.J. Res. 157 included funds for this purpose.

The conference agreement does not include either the House or the Senate supplemental items for NOAA. The conferees now believe there are sufficient funds currently available to NOAA in fiscal year 1992, both from carryover balances and new appropriations, to handle these requirements.

U.S. INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

The conference agreement does not include the Senate language in H.J. Res. 157 that would have provided for a transfer of $5,600,000 to USIA to allow for the continued participation of the United States in the 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy. The transfer comes from funds provided to the Board for International Broadcasting for the Israel Relay Station project. Neither the House version of H.J. Res 157 nor the House Bill (H.R. 3543) contained such a transfer of funds.

The Senate language has been deleted because an identical provision has been included in the conference agreement on the Department of Defense Appropriations Act, 1992, which the House and Senate have already approved.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

Three provisions with respect to Interior and related agencies appropriations which were adopted by the House in H.R. 3543, Making Dire Emergency Supplemental Appropriations and Transfers for Relief from the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" for the Fiscal Year Ending September 30, 1992, and for Other Purposes, were not included by the Senate in H.J. Res. 157. The conference agreements with respect to those provisions are as follows:

First, no funding is provided for emergency reclamation projects under the abandoned mine reclamation fund in the Office of Surface Mining Reclamation and Enforcement. The House had provided $10,300,000 in Title I, Chapter V of H.R. 3543 for emergency abandoned mine reclamation projects. The Congress has recently addressed this issue in Public Law 102–154.

Second, no funding is provided for U.S. Geological Survey emergency assistance to local and State governments to assess geologic and hydrologic effects and develop preparedness and response plans for disasters. The House had provided $5,000,000 in Title I, Chapter V of H.R. 3543 for this program.

Third, no funding is provided for the Forest Service in the Department of Agriculture to address critical health and safety projects included in its maintenance, repair and restoration backlog. The House had provided $25,000,000 in Title I, Chapter V of H.R. 3543 to address the maintenance backlog.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL

The conference agreement deletes appropriation of $90,000,000 for the childhood immunization program proposed by the Senate. The House version of H.J. Res. 157 contained no funds for this purpose. H.R. 3543 as passed by the House included $90,000,000 for the program. The 1992 Labor-HHS-ED Appropriations Bill includes $297,845,000 for this purpose, an increase of $80,314,000 over fiscal year 1991. The conferees have deleted supplemental funding because of budgetary constraints.

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

The conference agreement deletes appropriation of $1,200,000,000 for the Head Start program proposed by the Senate. The House version of H.J. Res. 157 contained no funds for this purpose. H.R. 3543 as passed by the House included $1,200,000,000 for the program. The 1992 Labor-HHS-ED Appropriations Bill includes $2,201,800,000 for Head Start, an increase of $250,000,000 over fiscal year 1991. The conferees have deleted supplemental funding because of budgetary constraints.

It was recently brought to the conferees' attention that the White House Conference on Aging will run out of funds by December 31, 1991. While sufficient funds were provided in the fiscal year 1992 Labor, Health and Human Services and Education Appropriations Act for operations of the Conference, these funds were contingent upon enactment of authorizing legislation. This legislation will probably not be enacted until sometime next year. Therefore, the conferees would entertain a reprogramming request to continue current staff and mandatory costs for operation of the White House Conference until authorizing legislation is enacted. The conferees also expect, within thirty days of enactment of this legislation, to receive a full report on carryover balances and needs for the Conference for fiscal year 1992.

DEPARTMENT OF EDUCATION

FOREIGN LANGUAGE ASSISTANCE

It has been brought to the conferees' attention that final regulations regarding the use of fiscal year 1991 foreign language assistance funds have not yet been issued. The conferees feel that the Department has had more than sufficient time to issue these regulations and therefore direct the Department to issue final regulations within fifteen days of enactment of this legislation.

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

The conference agreement provides no funds for "Salaries and expenses, House of Representatives" instead of $50,000 as provided in H.R. 3543.

TITLE II—GENERAL PROVISIONS

The conference agreement inserts a Finding of Dire Emergency Conditions. Such a finding was included in H.R. 3543. No findings was included in H.J. Res. 157, as amended by the Senate. The conferees agree that dire emergency conditions exist and have repeated this finding in the resolution.

The conference agreement includes a limitation on the obligations of all funds in the joint resolution beyond fiscal year 1992 except as expressly provided as proposed by the Senate. The House parallel bill H.R. 3543 contained a similar provision.

CONGRESSIONAL DESIGNATION OF EMERGENCY REQUIREMENTS

The conference agreement includes a Congressional "emergency requirement" designation at section 202 that designates all funds in Titles I and II of the joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. Under section 251(b)(2)(D) of that Act, amounts appropriated for discretionary accounts that are designated as emergency requirements by the President and by Congress shall constitute automatic adjustments to the appropriate Budget Enforcement Act discretionary spending limits.

The conference agreement deletes a provision proposed by the Senate that would have made available only those funds the President designated, prior to enactment, as emergency requirements. There was no similar provision included in H.R. 3543.

The conference agreement deletes language proposed by the Senate in sections 213 and 214 dealing with abortion.

RESTRICTIONS ON FOREIGN ASSISTANCE FOR KENYA

Section 203. The conferees have modified Senate language on prohibiting foreign assistance to Kenya. The new language clarifies that the Presidential determination for Kenya must indicate that the Government of Kenya has taken significant steps toward allowing for the freedom to advocate the establishment of political parties and organizations. The House bill included no language on Kenya.

RECOGNITION OF UKRAINIAN INDEPENDENCE

Section 204. The conferees have agreed to include Sense of the Senate language concerning the recognition of the Ukraine. The Senate had proposed the language as a Sense of Congress. The House had no similar language.

MONITORING OF FOREIGN GRAIN

The conference agreement deletes Senate language in section 218 and 219 that required monitoring of domestic uses made of certain foreign grain after importation; including certification and quarterly reporting, customs and civil penalties, and suspension or debarment for use of foreign grain in certain agricultural trade programs. H.R. 3543 contained no similar provision.

FIRE BLIGHT

The conference agreement deletes Senate language in section 225 which amended the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that fire blight is included in the definition "damaging weather" for purposes of determining eligibility for disaster payments. Fire blight is a highly infectious bacterial disease of apples, pears, and other orchard crops. H.R. 3543 contained no similar provisions.

The conferees agree that fire blight may be a "related condition" for purposes of section 2251 of the Food, Agriculture, Conservation, and Trade Act of 1990 and losses should be eligible for disaster payments where the condition has been accelerated or exacerbated naturally as a result of damaging weather.

ORCHARD CROPS

The conference agreement deletes Senate language in section 226 which amended the Food, Agriculture, Conservation, and Trade Act of 1990 to expand disaster payments to provide for the rehabilitation or restoration of trees damaged rather than just the replanting of trees. The Senate amendment also increased the payment limitation for the losses from $25,000 to $75,000 per person. H.R. 3543 contained no similar provision.

EXTENSION OF CERTAIN FERC-ISSUED LICENSES

The conference agreement deletes language proposed by the Senate in Section 217 regarding extensions of certain FERC-issued licenses.

Section 205. The conference agreement changes, from $10,000,000 to $24,000,000, the limitation for the loan guarantee program level under "Fishing Vessel Obligations Guarantees" in P.L. 102–140, the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriation Act, 1992. This change in the limitation for the loan program level is consistent with the current subsidy rate estimated by the Office of Management and Budget for that program.

The Senate amendment in Sec. 206 of H.J. Res. 157 would have eliminated the limitation of $10,000,000 on such loan guarantees contained in P.L. 102–140. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained any similar provision.

The conference agreement does not include the Senate provision in Sec. 211 of H.J. Res. 157 that would have added language amending Section 511(e) of the Controlled Substances Act to authorize the Attorney General to transfer forfeited real property to States for use as public areas for recreational or historic purposes. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The Senate language was deleted because this policy issue should be addressed by the appropriate legislative committee of the Congress. In addition, this provision was deleted because it would have violated the Pay-As-You-Go (PAYGO) provisions of the Budget Enforcement Act.

The conference agreement does not include the Senate provision in Sec. 212 of H.J. Res. 157 that would have added language expressing the Sense of the Senate concerning the investigation, arrest and prosecution of individuals involved in the destruction of Pan Am Flight 103. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The conferees agree that: (1) the President of the United States should pursue by any and all legal means the apprehension for trial of the individuals indicted for the destruction of Pan Am Flight 103; (2) the President should offer awards for information leading to the arrest and return of these individuals; and (3) the investigation of the bombing of Pan Am Flight 103 must continue until all individuals involved in the commission of this crime are brought to justice.

The conference agreement does not include the Senate provision in Sec. 222 of H.J. Res. 157 that would have added language amending subchapter IV of chapter 35, United States Code to allow the Secretary of State to waive, for up to three years, the current five-year employment limitation placed on individuals serving with the Intergovernmental Panel on Climate Change. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The Senate provision was deleted since this is a policy matter which should be addressed by the appropriate legislative committee of the Congress.

U.S. FISH AND WILDLIFE SERVICE

Section 206. The conference agreement transfers $965,000 from U.S. Fish and Wildlife Service land acquisition to U.S. Fish and Wildlife Service resource management as proposed by the Senate. The $965,000 is derived from the $3,800,000 provided for water rights acquisition for Stillwater National Wildlife Refuge in Nevada and is to be used for various activities under the Truckee-Carson-Pyramid Lake Settlement Act such as NEPA compliance, endangered species protection, fishery technical assistance and ecological contaminant studies. This provision was included as section 205 in the Senate-passed bill. The House has no similar provision.

EXXON VALDEZ

Section 207. The conference agreement amends Senate proposed section 224 to deposit funds from the Exxon settlement with the United States and Alaska into the Natural Resource Damage Assessment and Restoration Fund in the Department of the Interior rather than in the Oil Spill Liability Trust Fund as proposed by the Senate. The House had no similar provision. The agreement also provides for the earning of interest on funds deposited and Congressional review of the use of the funds.

FIREFIGHTING

The conference agreement deletes section 215 proposed by the Senate which adds the words "emergency presuppression" to the Emergency Department of the Interior Firefighting Fund established in Public Law 102–154. The additional language is unnecessary because funding for emergency presuppression activities historically has been part of wildfire suppression activities already included in the account. It was the intent of the conferees on Public Law 102–124 that emergency presuppression continue to be charged to the emergency account along with wildfire suppression, as defined in the Department's fiscal year 1992 budget justification. The conferees on this bill also expect this practice to continue.

The conference agreement also deletes section 216 proposed by the Senate which adds the words "emergency presuppression" to the Emergency Forest Service Firefighting Fund established in Public Law 102–154. The additional language is unnecessary because funding for emergency presuppression activities historically has been part of the "Fighting Forest Fires" activity which was the basis for the new emergency fund. It was the intent of the conferees on Public Law 102–154 that emergency presuppression continue to be charged to the emergency account along with wildfire suppression, as described in the agency's fiscal year 1992 budget justification. The conferees on this bill also expect this practice to continue.

NATIONAL PARK SERVICE

The conference agreement deletes section 220 proposed by the Senate which directs the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the General Management Plan for the Custer Battlefield National Monument. The House had no similar provision. The conferees agree that the National Park Service is to work with the Bureau of Indian Affairs and the Crow Tribe of Montana and the private sector to implement the Custer Battlefield National Monument general management plan.

Also, in response to language included in Senate Report 102–216, the conferees agree that the National Park Service may perform maintenance at the Bureau of Indian Affairs school in Phoenix Arizona to the extent authorized by law.

HEAL LOAN BORROWING

The conference agreement deletes language proposed by the Senate which would have permitted loan authority for Health Education Assistance Loans (HEAL) to be used for new, as well as continuing, borrowers. The conferees believe that the HEAL loan limitation for fiscal year 1992 contained in H.R. 3839, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992, provides sufficient legal authority for the Department of Health and Human Services to make HEAL loans to new borrowers. This provision was contained in section 209 of H.J. Res. 157. The House bill did not include a similar provision.

Section 208. Mental Health Facilities Cost Recovery: The conference agreement inserts language proposed by the Senate which amends the Public Health Service Act to permit the Secretary of the Department of Health and Human Services to waive recovery rights to Federal funds used for construction of community mental health facilities if the facility is sold or transferred. The Secretary already has authority to waive recovery if the facility is no longer used for its original purpose, but is retained by the original owners. The conferees agree that this authority will only be used when the proceeds of any sale or transfer are used for purposes which are compatible with the original grant award.

Section 209. The conference agreement provides that, for fiscal year 1992, not more than $2,000,000 of donated funds may be accepted or obligated for the preparation of working drawings, specifications, and cost estimates for renovation of the Botanic Garden conservatory, as was provided in the Senate bill, and amends the FY 1989 Legislative Branch Appropriations Act to authorize the Architect of the Capitol, subject to the direction of the Joint Committee on the Library, to construct a National Garden and to solicit and accept certain gifts on behalf of the United States Botanic Garden for the purpose of constructing the National Garden or for the general benefit of the Botanic Garden, to deposit such gift funds in the Treasury of the United States and, subject to approval in appropriations Acts, to expend such sums. The conference agreement authorizes the Architect of the Capitol to accept non-compensated personal services for these purposes, and any gift accepted shall be considered a gift to the United States for purposes of income, estate, and gift tax laws.

Section 210. The conference agreement amends the language of the Senate bill to establish protection and criminal penalties for the unauthorized use of any likeness of the seal of the United States Senate and sets a $250 fine and six month imprisonment for violations, and provides that violations may be enjoined by suit of the Attorney General

upon complaint by the Secretary of the Senate. The conferees have deleted the inclusion of the seal of the House of Representatives, or changes in criminal penalties imposed on unauthorized use of the great seal of the United States or the seals of the President and Vice President, but urge the Committees on the Judiciary of the House and Senate to study the matter, including the appropriate penalties for unauthorized use of government seals.

Section 211. Upon request of the managers on the part of the Senate, the conference agreement includes a provision not included in either the House or Senate bills. The provision delays until May 1, 1992, the effective date specified in Sec. 311(i) for subsection (d) of the Legislative Branch Appropriations Act, 1991.

Section 212. The Senate amendment to H.J. Res. 157 included Section 203 of Title II, General Provisions, which directs the Secretary of Defense to continue construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada. The conferees agree with the Senate provision to continue construction of the facility but have revised the Senate language to correct the citations. The conference agreement also changes the section number.

Section 213. The conference agreement includes a provision allocating $990,000 of previously appropriated funds to certain bridge safety repair projects in the State of Vermont as proposed by the Senate. The House bill (H.R. 3543) contained no similar provision.

Section 214. The conference agreement inserts a provision amending the Employment Retirement Income Security Act of 1974 to define the accountable owner of Trans World Airlines as any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of Trans World Airlines.

The conference agreement does not include the House provision in Sec. 301 of H.R. 3543 that contained language making technical corrections to the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1992. Neither the House version of H.J. Res. 157 nor the Senate amendment to H.J. Res. 157 contained this provision.

The House language was deleted since an identical provision has been included in the Department of Interior Appropriations Act, 1992.

The conference agreement amends the title of the joint resolution as proposed by the Senate. The original title, as passed the House, is no longer appropriate because this resolution is no longer a technical corrections and enrollment error corrections resolution. H.J. Res. 157, as amended by the Senate, and H.R. 3543 are parallel bills. The title to H.J. Res. 157, as amended by the Senate, and the title to H.R. 3543 are identical, and this same title has been agreed to by the conferees.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1992 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 budget estimates, and the House and Senate bills for 1992 follow:

Budget estimates of new (obligational) authority, fiscal year 1992	[1] $3,641,700,000
House bill, fiscal year 1992 .	[1] $7,486,250,000
Senate bill, fiscal year 1992	[1] $7,980,500,000
Conference agreement, fiscal year 1992	[1] $6,889,600,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority fiscal year 1992	[1] +3,247,900,000
House bill, fiscal year 1992	[1] −596,650,000
Senate bill, fiscal year 1992	[1] −1,090,900,000

[1] Includes Desert Shield/Desert Storm funds.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES
(except as to the disposition of sections 213 and 214 of the Senate amendment),
DAVID R. OBEY,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
VIC FAZIO,
W.G. (BILL) HEFNER,
JOSEPH M. MCDADE,
JOHN T. MYERS,
CLARENCE MILLER,
CARL PURSELL,
BILL GREEN,
JOE SKEEN,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
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BROCK ADAMS,
WYCHE FOWLER, Jr.,
MARK O. HATFIELD,
TED STEVENS,
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ALFONSE M. D'AMATO,
WARREN RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
DON NICKLES,
PHIL GRAMM,
CHRISTOPHER S. BOND,
SLADE GORTON,
Managers on the Part of the Senate.

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–395) on the resolution (H. Res. 309) waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 309 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 309

Resolved, that upon adoption of this resolution it shall be in order to consider the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During debate on this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 309 waives all points of order against the conference report on H.J. Res. 157 and against its consideration. The rule also provides that the conference report will be considered as having been read.

The dire emergency supplemental provides necessary funding for the incremental costs of Operation Desert Storm. Funds are appropriated from the Persian Gulf foreign contribution gift account.

Mr. Speaker, the conference report also provides $943 million for disaster assistance through the Federal Emergency Management Agency and provides $1.75 billion for the Commodity Credit Corporation to pay for crop losses caused by agricultural disasters.

There are now 44 Presidentially-declared disasters affecting 33 States. The Secretary of Agriculture has declared 89 agricultural disasters affecting 39 States. It is time, Mr. Speaker, to address American needs. This measure needs to be swiftly enacted.

Finally, Mr. Speaker, we have a bill providing for domestic needs which the President will sign. All funds are either agreed to as an emergency or will only be obligated if the President designates them to be an emergency or the funds are derived from existing funds. The supplemental appropriation act conforms to all budget requirements.

Mr. Speaker, this is the customary rule for conference reports. I urge my colleagues to adopt the rule and move this important legislation forward.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule because it allows this con-

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

ference report to move forward without a separate vote on a very controversial provision. The conferees inserted into it a transfer of $500 million from our defense budget to aid the Soviet Union. Of that amount, $400 million will be earmarked for the destruction of that country's nuclear arsenal, and the other $100 million to deliver private humanitarian aid.

I have no objection to the humanitarian aid funding and, in concept, I support the use of United States expertise and technology to help the Soviet Union dismantle its menacing nuclear capability. But what concerns me about the $400 million earmark is that it does not require that American personnel and know-how be utilized in the dismantling process. In addition, I am still concerned with reports that Soviet aid continues to flow to third world dictators in spite of assurance that it would end.

In addition to the Soviet giveaway, Mr. Speaker, the conference report goes beyond what is necessary for emergency spending, and it evades the pay-as-you-go requirements by requiring the President to come up with the funds when he submits his fiscal year 1993 budget proposal. Once again, we are shirking our responsibility in setting budget priorities by throwing our dirty laundry onto the lap of the only person in this Government who is willing to lead: President Bush.

Mr. Speaker, it may be late in this session of Congress, but it's not too late to produce responsible legislation. For this reason, I urge my colleagues to defeat this rule, and I reserve the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I thank the gentlewoman for yielding.

Let me explain exactly what we did. The Defense Subcommittee met in the last 4 or 5 days with Director Gates of the CIA, and also today we met with General Colin Powell and Secretary Dick Cheney. They all agree the Soviet Union is in disarray. They believe that a crisis is imminent. They believe that the biggest danger in the Soviet Union today is the possibility of nuclear proliferation.

The Senate started this idea, passed it overwhelmingly, and their proposal was to authorize $500 million for dismantling nuclear weapons and $200 million for humanitarian aid. The gentleman from Pennsylvania [Mr. MCDADE], and I did not agree with that. We argued vigorously against the way they had laid it out. We believed that it should be reduced to $400 million for dismantling the nuclear weapons. We believed it should be left to the discretion of the President if he wanted to use the aid. We believed that American personnel should be used in dismantling the equipment overseas.

Our biggest concern is that the independent countries who have talked to Secretary Cheney do not want these nuclear weapons moved back to Russia, they want them dismantled in the independent countries, Ukraine being a perfect example.

We believe it has to be done. We think in the long run it will substantially reduce our defense needs and the expense of defense in this country.

The humanitarian side of it, we did not appropriate any money for humanitarian aid. We appropriated money to transport voluntary aid that may be made available in the United States. We think this balance gives the President a legitimate tool to be able to respond to a crisis which may happen in the next couple of months. I am convinced listening to Secretary Cheney that the military is disintegrating, has disintegrated substantially. I believe that if we do not take action to allow the President to have available to him these tools in the next couple of months we will have a real crisis that he could not respond to because we would not be in session.

We also safeguard the process by insisting on observing reprogramming procedures. The money can come from O&M and there is nobody that protects O&M more carefully than the gentleman from Pennsylvania [Mr. MCDADE], and myself. We believe that is the heart of the defense structure of this country. But we also believe that this money will save money in the long run.

Everything we did in this bill was to make sure that Congress safeguards its rights by making sure that the Defense Department has to request reprogramming of the funds so we know exactly where they come from, and at the same time we allow the President the discretion to make the decision about whether he needs to use this aid, but it will be American military personnel trained to dismantle these weapons.

We think that in the long run it will be substantially safer in this country and reduce our defense expenditure if we give the Soviets this aid. The initial proposal was for $1 billion humanitarian aid. Chairman ASPIN brought this to our attention. We had a concern with that, because we were not sure how it will be distributed. We were not sure it would get to the people it needed to get to.

I think this is a legitimate compromise. I think it is necessary. I think the Soviet Union at this point is in a very dangerous situation. I think we would make a grave mistake if we did not make this money available to the President to use at his discretion.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply say I agree with everything said by the gentleman from Pennsylvania, and I would simply say that I wish every Member of this House could have shared the experience that a number of the Members of the House did have in August when we were in Budapest and had a very sober meeting with Boris Yeltsin's Foreign Minister. If the Members could have heard him describe their concerns about the availability of nuclear warheads in a variety of republics, the Members would understand why this is necessary. I think for anybody who participated in that conversation it was one of the most sobering experiences we have ever had.

It seems to me that this is the single most important thing we can do right now to stabilize that situation and to enable us to reach those weapons and assist in their destruction while we have a window of opportunity to do so.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to simply ask the distinguished chairman of the Subcommittee on Defense, I would like to say that I totally agree with everything that has been said, and it is very clear that every single one of us desperately wants to see an elimination of those 2,000 nuclear warheads that exist in the Ukraine and in the other republics. That is the goal that we have.

The concern that emanates from this side is that we may not be using the very best vehicle possible to assure that. Why is it that we could not see the Pentagon in fact move ahead and do that without this, what is perceived by some on this side as rather vague language which could potentially end up as being nothing but a foreign aid package which would go to the Soviet Union. This has been understandably frustrating for the American people and specifically many Members of this House?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend from Pennsylvania.

Mr. MURTHA. Mr. Speaker, let me say that we tried to be as specific as possible and yet give the President the flexibility he needed to be able to dismantle these nuclear weapons. The supplemental language relects what happened in the authorization bill, they have to stop production of their nuclear weapons or the President has to be assured that they have stopped production, because we do not want them building new weapons while we are, on the other hand, dismantling old weapons.

I do not think there is any other vehicle. Everything came together at once. Director Gates was just confirmed and Secretary Cheney and Colin Powell had focused on the problem, the

Soviets have deteriorated substantially in the last few months, and I really believe it would be a mistake for us not to allow the President to have this opportunity to respond to what I consider could be the major crisis of this century.

Mr. DREIER of California. Mr. Speaker, I know my friend can understand, and I appreciate that answer, the concern about the prospect of a foreign aid package going to the Soviet Union. That is the fear that many on this side have raised

Mr. MURTHA. I think you are absolutely right. For instance, I remember talking to a steelworker, a volunteer who drives me around back in the district, and I said, "Ozzie, what do you think of the idea of giving the Russians new humanitarian aid?" He said, "I never saw any skinny Russians on television."

I think that is the tone of the American people. This is an entirely different situation. We are talking here about making money available to the President to dismantle a real threat to this country, and I believe it is important, it is the right way to do it. It is not foreign aid, it is helping security of this country, in my estimation.

Mr. DREIER of California. Mr. Speaker, let me thank my very healthy and robust colleague for that very adequate response.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I thank my good friend for yielding.

I want to begin by apologizing to all our colleagues in the House in that this comes in at a very late hour, late in the session, and it is natural there should be concerns raised, indeed, on both sides of the aisle about how exactly this is structured, and where it came from. Let me say that I believe that the gentleman from Pennsylvania, Mr. MURTHA, completely described the process which we went through to arrive at his conclusion to make this money available to the President. I support it. I think it is in the national interest of this country to be in a posture to enable the President, should he decide to, and he must come back to us, may I say to my friend from California, should he decide to utilize the authorities that we have granted him in this legislation.

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On Sunday next, as has been mentioned, the Ukraine will vote and in all likelihood they are going to vote for complete independence and become an independent nuclear power.

We had a meeting this morning, as my friend, the gentleman from Pennsylvania said, with the Secretary of Defense and with the Chairman of the Joint Chiefs of Staff, to see if we had the capability should we put this option on the President's list to be able to go into the Ukraine. They are not going to give those missiles back to the Soviet Union, not to Russia, or what was the Soviet Union.

Mr. DREIER of California. We want to assure that they will not.

Mr. McDADE. Well, everybody's opinion is that they will not. I agree with my friend, the gentleman from California.

The question was would we have the capability of using U.S. personnel to be able to go in and demobilize those weapons if the Ukrainians should invite us in and say to the President, "Send us help. We want to get rid of these weapons, but they are not going to go back to the Soviet Union."

The only dismantling plant of the Soviet Union for nuclear weapons is in Russia itself, not in the Ukraine or any of the other Republics.

So we thought it was in the national interest, may I say to my good friend, to make this authority available to the President after it goes through certifications, and he comes back to the Congress.

If he wishes to do it, may I say to my friend, we have given him the authority, but I want to assure my friend there is no pass-through of money to the Soviet Union in any foreign aid form, that this is money going to the President for his discretion.

Mr. DREIER of California. Mr. Speaker, I thank the extraordinarily distinguished ranking member of the subcommittee and the full committee for that excellent explanation.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER], the third Pennsylvanian to whom I will yield.

Mr. WALKER. Mr. Speaker, I thank the gentleman for returning to Pennsylvania.

I appreciate the discussion here on the $500 million of the money going to the Soviet Union.

There are a couple other issues in this bill, though, that I think need to be raised that bother me fairly significantly. I am concerned that we do not let it slip through here in the early morning hours.

For example, I understand there is a provision in this bill giving the Senate an additional 4 months to comply with the Ethics Code. Back when the Senate was getting its pay increase to $125,000, part of the reason for giving them the pay increase was that they were going to comply with the Ethics Code.

Now it turns out that the Senate has decided they are not going to live the same as we in the House, that indeed they want another 4 months in order to come into compliance with that code. I think that is a concern.

As a matter of fact, it has been represented to me that this is taking care of one U.S. Senator who would like to pay off some debts and therefore is requesting that we do not take care of this matter for another 4 months. I think that is a concern.

I think it is terribly wrong that the pay raise went forward and we are still going to have the Senate out of compliance with the Ethics Code that was supposed to accompany it.

Second, I think there is another serious matter that has been buried down in this bill which essentially amounts to a bill of attainder, or an ex-post facto law, whichever one you want, and this involves one executive or one owner of an airline who is being told that he has to assume full financial responsibility ex-post facto and who has indicated that if in fact this law is passed, he intends to shut down the airline, thereby putting 30,000 people out of work.

I think we saw the other day that we make mistakes when we do some of these kinds of things, as we did with the credit card. Here is another instance where we may well be responsible for putting 30,000 people on the streets.

At a time of economic problems, I doubt that it is a very good idea for Congress to take a step which apparently will result in 30,000 more people out of work. That also bothers me.

I do not quite understand why when we are dealing with very serious issues that are in this bill, we all of a sudden find buried down in the language in these many pages that are sitting before us these kinds of provisions, which I think a number of the Members may have some concerns about.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I cannot speak to the TWA issue affecting Mr. Icahan and the airline employees, the second point the gentleman made.

I just want to point out to my colleagues that the first point was thoroughly discussed in the conference on at least two occasions and there was no effort to bury it down deep in the report.

I think we have given the other body 4 additional months to try to reconcile their procedures so that they can make a clean and clear distinction, as we have in this body, between official expenses and political and politically related expenses.

Mr. WALKER. How many months have they had so far?

Mr. FAZIO. They have had a year.

Mr. WALKER. They have had a year. It seems to me any reconciling that could have been done and should have been done could have taken place within that year.

Mr. FAZIO. Mr. Speaker, I tend to agree with the gentleman from Pennsylvania, but I did so to accommodate

Senator STEVENS and other Members of the other body, who felt that they needed additional time.

Now, we have offered the services of the House staff to help them reach some conclusions.

Mr. WALKER. For what reason? Could the gentleman explain to us, I mean, if there was a thorough discussion, for what reason do they need an additional 4 months over the 1 year that they have already had?

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, they seem to think they have been stymied on some very difficult questions about how they can extricate themselves from the situation they are in now, whereby they often comingle their political expenses and their official expenses.

Mr. WALKER. Were they not supposed to stop comingling these funds when they took the pay raise in the bill?

Mr. FAZIO. First of all, Mr. Speaker, if the gentleman will yield further, it has nothing to do with the pay raise. This agreement was reached in the context of reaching some sort of compromise on the franking issue. That is the context in which we then said to the Senate, "We will meet you halfway, but in order to make sure that we are playing on the same field, on a level playing field, we would like you to follow the same procedures the House has."

Mr. WALKER. It was directly related to the pay raise, because of course the pay raise when it passed here, we said we were going to comply with certain new ethical standards and so on.

Now, the Senate also having not taken the pay raise, did not agree to do that. When they took the pay raise, they made that agreement. That is where the tie-in is. That is a personal point here.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, I do not really need to argue with the gentleman. We are both on the same side here. In fact, it was this subcommittee that I chair that forced the Senate to accept these changes.

Mr. WALKER. I agree with the gentleman.

Mr. FAZIO. So I am only pointing out to the gentleman that it was not done in the context of the pay raise. It was done in the context of another disagreement we had between the two bodies.

I can pledge to the gentleman and all my colleagues in both parties here tonight that this is the last extension the Senate is going to get.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. ASPIN], the chairman of the Committee on Armed Services.

Mr. ASPIN. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Let me commend the Committee for the work they did on this issue of helping the Soviets to dismantle their nuclear weapons.

I think the compromises that the gentleman from Pennsylvania and the gentleman from Wisconsin worked out I think are tremendous.

I think the funding here is about as well as we can do under the circumstances, and I think that the effort here is really something that people will look back on from the future. They will look back and say this was an historic turn of events, that this was a very, very sensible policy, that this was not foreign aid. This was defense by another means.

I think that the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from Wisconsin [Mr. OBEY] and all the Members of the Committee here should be commended for their work.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. Yes, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just have a couple questions.

As I understand it, the people from the Ukraine would rather have Americans in there dismantling these weapons than the Soviets?

Mr. ASPIN. Exactly so.

Mr. BURTON of Indiana. Now, what I do not understand, if we are going to have American personnel in there, American military personnel, why is the $400 million for this purpose going to the Soviets? Why is it not going to our Defense Department and the Defense Department will do it? Maybe I missed that point. Perhaps the gentleman could just explain it a little better.

Mr. ASPIN. The $400 million is not going to the Soviets, nor is the $400 million for American transports. Those will be going to Americans to help Americans in the case of the $400 million, and in the case of transportation, technical advisors and other things to get them to the Ukraine, to get them housed and fed and deployed on temporary duty to the Ukraine to help them establish them there so they can dismantle the weapons.

Similarly, for the $100 million, the $100 million does not go to the Soviet Union. It goes to augmenting the costs of transportation of the U.S. military, more fuel, more operating hours of the equipment, so that when they help move the equipment or move the food and medicine to the Soviet Union.

Mr. BURTON of Indiana. One final question, and I think I know the answer. But why did this not come out of the Defense budget instead of having it come out of this Supplemental?

Mr. ASPIN. We would love to have had it come out of the Defense budget. In fact, my original proposal was to take the $100 million out of the Defense budget, but we ran into a buzz saw here a few weeks ago on that issue.

I think as the proposition was reworked by the Appropriations Committee, and indeed the mood has changed slightly, plus the third thing that has happened is that there have been a lot more stories coming out of the Soviet Union about the state of disaster they are in, that therefore the best place they found to put it was on the supplemental.

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But my original proposal was to take it out of the Defense budget and to divert the funds from the Defense budget. Now it is on the supplemental because, frankly, that is the only thing that is left.

Let me yield to the gentleman from Pennsylvania.

Mr. MURTHA. Let me add to the answer: Actually, most of this will be operation and maintenance money, and that is why we felt that is an area where it could come from. We resisted and tried to get some from foreign aid, but it really is an American military project; that is the way it looks to us.

Mr. BURTON of Indiana. If the gentleman would yield further, I was just talking to the other gentleman from Pennsylvania [Mr. MCDade] and he indicated it would come out of the Defense budget.

Mr. ASPIN. That is right. It was originally part of the DOD authorization conference report, but that was dropped out of that. It is now part of the supplemental. But the actual money for the funding for it comes out of the O&M account in the Department of Defense.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to a very able member of the Committee on Armed Services, the gentleman from San Diego, our top gun, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, are we are out of our minds? I heard Mr. SANTORUM this afternoon stand up, saying that we did not have enough money to carry over unemployment.

The Members on the other side of the aisle for the last month are saying we need money for unemployment, we need money here.

This money comes out of defense, out of O&M funds. Let me tell you, for the people who have never been in the military: What does that mean? O&M? That means the kids sitting at Miramar do not have enough fuel to fly and train or have parts. At Nellis Air Force Base, the same thing.

That money comes out of defense.

The original cost was supposed to be $1 billion. Remember, the Soviet Union was not supposed to be a threat anymore. That is why you are cutting defense by 25 percent.

I saw Members of the Democratic side sit up here and fight tooth, hook, and nail over base closures because it cost them jobs. You cut defense by 25 percent, and then you try to take out another $1 billion? That is ludicrous. You are costing Americans lives. You are costing Americans jobs, and I am damn tired of it.

O&M funds go for training people, fuel, parts for machines and aircraft.

We cannot do that. Do you have any idea how many jobs? I read today that McDonnell Douglas is sending some of their work for their airliners to Taiwan. I heard a Democratic Senator saying that the President is not doing enough.

Well, let us take half a billion dollars and maybe supplement our own defense work and maybe building those to help the unions. But a billion dollars or a half-a-billion-dollars to the Soviet Union? Not on my watch.

I sit and watch the Committee on Armed Services pork barrel. A Member of the other body wanted 117's built that the Air Force did not even want. Even if they had the money, they did not want it. But yet the pork barrel in the appropriations, that particular Member forced it through and cost this country F-14 upgrade.

That is pork-barrel spending. I would not send one penny to the Soviet Union, not one penny. Even in the foreign aid bill, we sent money and a message to take money out of Jordan. No; the conference put it back in. Not one penny to the Soviet Union, the Ukraine, or anybody else out of defense. You are costing American lives.

The same way they did in Vietnam, the liberals have cut defense by 25 percent.

Do you have any idea how many jobs? Hundreds of thousands of jobs have been cut; electricians, military—if you sell pizzas or cars or real estate, those jobs have been lost. And you still want to cut it more? Not on my watch.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. I thank the gentlewoman for yielding again.

Let me emphasize this money is not going to the Soviet Union, this money is going to United States personnel to help dismantle weapons that threaten the United States. These independent countries do not want these weapons to go back to Russia.

The Ukraine, for instance, has a couple of thousand nuclear missiles and warheads they want to keep in the Ukraine. They are asking us to help them dismantle those weapons and in the end this will save us substantial amounts of money.

Our O&M budget is $80 billion. Now, there is nobody who protects this budget more than I do. I have offered amendment after amendment over the years to increase O&M. But I think this is a good expenditure of money, not to the Soviet Union but to help the independent countries around the Soviet Union to reduce the threat to this country.

I think it is a wise expenditure of funds in the long run which will allow the President to provide technical assistance if he decides that it is a threat. Listening to Director Gates and Secretary Cheney, they believe, as I believe, that there is a possibility of a real threat in the next couple of months and we need to have U.S. personnel helping them dismantle these weapons systems to reduce the threat to the United States.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding.

Mr. Speaker, I sat on the Coral Sea with 20-year-old airplanes because I did not have enough parts and enough fuel to fly them. O&M, and you say you fight for it, is critical to training. We want to cut defense, but you say you want a smaller force, well equipped, well trained, just like the desert act, where they are taking away some of the training that we have now through the environmentalists. Now we are trying to take some of the same training regardless if it goes to personnel, military, it is still taking it away from O&M budget out of military training.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the Committee on Rules, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding this time to me.

Ladies and gentlemen, I was not going to speak on this appropriations bill. I was going to wait until we take up the next bill, which is the implementation legislation for the CFE Treaty. We really have the cart before the horse here because we are debating a supplemental appropriations bill concerning a bill we are going to take up in the next few minutes, which is the authorizing bill. And as I read the amendments concerning the provision of aid to the Soviet Union that are going to be adopted in the bill that we will be taking up in a few minutes, the language says, "The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics." It goes on to say in this amendment, "Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction."

I am just having a very difficult time trying to figure out why we are taking money for this purpose out of the defense budget. If we are going to use this money for American troops and American vehicles, and those troops and vehicles are going to cross through Poland, Czechoslovakia, and Hungary into the Ukraine or into Russia or wherever they are going, why do we have to take the money out of the defense budget? There are funds right now to go in there and dismantle the nuclear weapons and bring them out back through Poland, Czechoslovakia, and Hungary and into our NATO countries.

So I just do not understand that provision. We really should have debated it, the bill itself, the authorizing bill, before we got into this supplemental.

Lastly, without taking too much time, when we had an emergency situation called Desert Storm, we all put our heads together and, over a period of time, we worked out a cumulative fund whereby Japan and Germany and all of the NATO countries pitched in and helped because Desert Storm was to their mutual benefit.

I heard my good friend, JOHN MURTHA, mention that it is in the best interests of the United States that we support this new provision and that we do it now; it is an emergency. Anything could happen.

Well, I think that same kind of emergency that we had in Desert Storm and that same kind of mutual benefit applies to this. I see my friend, PAT SCHROEDER, sitting over there. She and I have worked for years on burden sharing, trying to get our NATO allies to carry their fair share of the burden.

There needs to be a fair share of the burden in this Soviet aid provision. Why should we be committing $700 million? I give my good friends, JOHN MURTHA and JOE MCDADE, credit for saving us $200 million because they reduced the Senate's authorization down to $500 million, and that is great. But, that is still a lot of money we are talking about in this bill.

As my colleagues know, if this Soviet aid package had been subject to regular order and the Committee on Foreign Affairs had been working on it, and the Committee on Armed Services had been working on it, and the same thing was happening over in the Senate, we would not be taking this up in the middle of the night right now.

The gentleman from Florida [Mr. FASCELL] came up to the Committee on Rules a few minutes ago, and said, "Since receiving this legislation last night, we have worked hard." The gentleman from Wisconsin [Mr. ASPIN] and the gentleman from Florida [Mr. FASCELL] have worked hard. But, as my colleagues know, we are rushing into this thing.

Until hearings are held, until there is a demonstrated need, we should not be passing this aid package tonight. The emergency is not here tonight. We are voting on something about which we do not have any idea of what it is. The phrase I just read which says that we are going to cooperate with the Soviets.

Mr. Speaker, to me that means we are going to give the Soviet Union the

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

money to help them dismantle these weapons. The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics, and then it goes on again to say, "Such cooperation may also involve the funding."

So, it is just so open-ended, there is no legislative intent written here, no hearings to go by.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, let me just point out to the gentleman from New York [Mr. SOLOMON] that there have been hearings. The House Committee on Armed Services held hearings on this issue way back at the beginning of September, so there have been hearings.

Second, on the issue of cooperation, indeed part of our hope is that the administration will take whatever is in this bill and this proviso and go out and leverage a bigger effort on behalf of the objectives in this bill by getting help from our allies. Indeed that was what we hoped they would do and encourage them in a lot of language in there that says we would like the President to take the initiative and organize an international effort along these lines, not just take the money that we are talking about here from the United States taxpayers, but actually go out and get it from the Japanese, and from the Germans, and from other NATO countries, from wherever we can to try and get this program.

Indeed part of the program is going to have to come from some of the others because of the humanitarian aid. The only thing we have got in humanitarian aid here is the transportation part, so it is going to have to be an international effort and a cooperation, and again the money is going to essentially Americans.

We are not going to hand over the dollars here. There is no handing over of cash. That is money down a rat hole with a country that has not straightened out its basic economic infrastructure and its basic pricing system and established a rule of law and private property. We cannot funnel economic aid into that country without losing a lot of it, and that is not what we are doing here.

This is essentially providing American expertise on nuclear weapons and American transportation to move food and medicine. That is what this bill is about.

Mr. SOLOMON. Mr. Speaker, I hope that the gentleman from Wisconsin [Mr. ASPIN] is right. And it seems to me that if the total cost here is going to be $500 million, our share of it compared to all of the NATO countries should be, let us say, 10 or 20 percent. Then we only would be putting up a hundred million. And let us pass the hat around and collect the other $400 million from our friends.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding. I just have one brief question.

Was there any consultation with our NATO allies about this beforehand, and, if so, did anybody raise the issue that the gentleman from New York has raised, and that is would they be willing to pay part of this $400 million cost for dismantling these weapons?

Mr. OBEY. Mr. Speaker, would the gentleman yield so I can answer?

Mr. SOLOMON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, frankly I would be shocked if at this point the costs being incurred by Germany alone for a variety of assistance programs in the Soviet Union, if that cost alone did not exceed $10 billion.

Mr. SOLOMON. Excuse me, gentlemen. There is going to be a meeting in the Committee on Rules on the highway bill. Passing that bill will help us get out of here so that we can go home. And so I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 3 additional minutes to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I am going to yield again to the gentleman from Indiana [Mr. BURTON] to make sure that he gets the answer to his question. Basically, let met try to explain.

We, meaning the Committee on Armed Services and people who have been interested in this proposal, have had a chance to explore it with people who have been coming through the country or coming through the Capitol here to see whether in fact they are interested in doing this, and we got generally a favorable response. We are not in a position to negotiate the deal. The President and the Secretary of State and the Secretary of Defense are really the people who are under the Constitution to negotiate this thing. We have explored it with various government leaders who have come through and found that there was a favorable response. That is basically as far as we could go.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I do not want to belabor the point, but I would like to just end by saying those weapons are much closer to Germany and the other countries over in NATO than they are to us, and it seems to me that they would be very anxious to participate in paying for this dismantlement.

Mr. ASPIN. No question, and that is why they are interested.

Mr. GREEN of New York. Mr. Speaker, will the gentleman yield to me on this point?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Speaker, I cannot believe that anyone in this House wants Germans to start playing with nuclear weapons.

Mr. ASPIN. Definitely we do not, but that is why the Germans are interested in having the United States and an international organization go into the Ukraine and help the Ukrainians dismantle their weapons.

I think there is an opportunity here, as the gentleman from Pennsylvania [Mr. MURTHA] talked about. We have an opportunity here that is open now, a window of opportunity that is opened here, while these countries, and particularly we are going to have a vote, as somebody pointed out, very shortly coming up on Ukrainian independence, and that is an opportunity for us to take advantage of the fact that the Ukrainians do not want to transship those nuclear weapons back to Russia and would welcome outside help in dismantling those weapons. It is an opportunity.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Michigan.

Mr. HENRY. With all due respect, Mr. Speaker, my concern on this, if the Ukrainians need assistance, the quickest thing that is going to stir up a countercoup in the Soviet Union itself or in the Russian republics is going to be unwanted American troops, American vehicles, American assistance dismantling what Russians regard as their armament in the Ukraine, and I think something of this magnitude needs a lot more consideration by this conference, and it concerns me very much.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, let me say that in talking to Secretary Cheney and to Mr. Gates, they both believe that these countries will welcome American troops into their country to dismantle nuclear weapons.

Mr. HENRY. Well, I raise the question because it is, as the gentleman from Pennsylvania [Mr. MURTHA] said, an historic decision being made on very short notice.

Mr. ASPIN. Absolutely historic.

Mr. NAGLE. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. ASPIN] for yielding.

I have spent some specific time on that Ukrainian situation the gentleman made reference to, but that is not the situation there. It is very important that we recognize that the current leadership of the Ukrainians are not necessarily consistent with our own interests or consistent with the problem that we have over there.

As a matter of fact, taking the weapons out from the Ukrainians and this current leadership is probably very, very important. They are not necessarily our friends, and I have not been impressed with this peaceful intention towards the Soviet Union itself, or Russia, and, therefore, I think the point of the gentleman from Wisconsin is very well taken.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been a fascinating debate on the authorization bill, H.R. 3807, the CFE authorization bill, and actually I should remind our colleagues that at this moment we are debating the rule for the supplemental appropriations bill.

Mr. Speaker, I yield 2 minutes to my very good friend, the gentleman from New York [Mr. GREEN], an able member of the Committee on Appropriations.

□ 0130

Mr. GREEN of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have long argued in this House that the major risk of nuclear holocaust that this country and the world faced was not a confrontation with the Soviet Union but the "N-nation" problem, the risk that nuclear weapons will proliferate and so many countries will have them that they will become uncontrollable. Suddenly, we have a situation, with the breakup of the Soviet Union, that that very breakup may create the "N-nation" problem, because so many of the Soviet republics may get their hands on nuclear weapons.

What this rule lets us bring to the floor is a bill which provides $400 million from funds previously appropriated so that, if the President chooses to use those funds, he can become a player in this situation and can help in trying to avoid proliferation of nuclear weapons among those new countries.

I do not see how anyone in this House can be fearful of such a provision. I do not see how anyone in this House can help but think that that is a useful tool to provide to the President of the United States. So I hope that my colleagues would put aside the confusion that seems to have been raised about this issue at this late hour.

Understand that all this bill is doing is giving the President of the United States some additional capacity in terms of dollars to deal with this problem.

Vote for the rule, and then vote for the supplemental appropriation.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I want to say that I rarely take the floor to engage in many debates, because I think too much talk goes on here, but I must tell you how very angry I am about this bill that is coming up.

We have just heard all the things we did moving heaven and Earth. Let me tell you what else happened.

Everything we put in there for children we took out, o-u-t, out. When we get to this dire, urgent supplemental, what we are saying is we are breaking our covenant with our children. We are not even making the first year's commitment.

Both the House and the Senate voted to at least meet the first-year commitment on immunizations, on the WIC program defeat, and on Head Start to keep it on track so that by the year 1996 it would be fully funded.

Now, I do not know about you, but I think 1996 is too long, but, OK, we accepted that. We accepted it as a challenge.

We had CEO's from America's major Fortune 500 companies here saying how important this was that every dollar we spent we saved all sorts of money. We have had testimony up to the wazoo, we have had hearings up to the wazoo. Everybody says they are for Head Start, WIC, and immunizations. The Surgeon General has talked about it, and yet when both the House and Senate passed it, nevertheless in conference it came out.

I must say that I find it shocking that everything else in the world is an important disaster that we have to deal with, but not our children.

One-third of the children under the age of 6 are in poverty in this country, and if we do not invest in them, we will never, never be able to compete, and we are really shooting ourselves in the foot when it comes to the future.

Mrs. BOXER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentlewoman from California.

Mrs. BOXER. Mr. Speaker, I want to say at this very late hour, or early hour, depending on how you look at it, I want to thank the gentlewoman for her clear voice.

I want to say to the gentlewoman that it is very difficult to come here at this hour and be a voice of discontent, and the fact that the gentlewoman is doing it, she is doing it not only as the gentlewoman from Colorado but as Chair of the Select Committee on Children, Youth and Families.

Our country is in trouble. Our children are in trouble, and if we do not move to make sure that those children are educated and fed and nourished and have health care, you know, we are talking about our allies here. Maybe the gentlemen over there ought to understand that our allies immunize 90 percent of their children, and in this country we immunize 50 percent of our children. I guess they are not particularly interested in it.

But, again, I just want to thank the gentlewoman and tell her that I am with her on this, and I think, you know, children do not write checks. Maybe that is why they do not have a voice. I am glad the gentlewoman is here, and I am glad she made her statement.

Mrs. SCHROEDER. I must say that I am very, very dismayed. We did everything we know how to do. We passed it on both sides, and yet the conference took it out.

There are all sorts of reasons, people can say, but it is interesting to me that continually we see everything else is a disaster but out children. It is also interesting to me that we have studies that would fill this Chamber showing that every dollar we spend in the Federal budget this year on a child, on those three programs, we will save anywhere from $3 to $10 next year in the Federal budget, so forget the children, forget anything, this is a phenomenal investment, and yet somehow they just do not count.

I do not know what we do to make them count. I do not know what we do to keep our covenant to America's children, but to think that we are writing off one-third of our youngest kids, to think that only 25 to 30 percent of the children eligible for Head Start are getting it in this country, when we talk about it, to think that 60 percent of the children in New York City have not had their shots and 50 percent of the children in the Nation's Capital have not, I am shocked. I think that is a disaster.

I am just very ashamed to be part of this body tonight and to see how we are treating our future.

Mr. EDWARDS of California. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, I believe the conference also took out the Senate-passed amendment approved by the Senate the other night offered by Senator WIRTH that would have provided or allowed women in the service overseas to pay for their own abortions in military hospitals, and that was also removed by the conference.

Mrs. SCHROEDER. I am so pleased the gentleman from California pointed that out, too. Yes, women and children first.

The Russians got in. We have the Turks off budget. We have the Kurds off budget. Kurds, yes; kids, no. Turks, yes; kids, no.

When do we think about our kids, and when do we think about America's women?

This is a bill that basically is bailing out the final cost of the war, and other things got added to it.

Well, why do not the Kuwaitis help bail us out? They have got megabucks, and gigabucks, and all I can see the main purpose is we got the Emir back on his throne. We can be talking about a little burden-sharing there. He could be helping.

We could find all sorts of things that we could be doing.

But to see American women who went overseas to defend our rights being denied those same rights that they fought for overseas and to see children being treated this way, I think, is an outrage.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would simply want to once again reflect on the comments I made very briefly in my exchange with the gentleman from Wisconsin [Mr. ASPIN].

This is, indeed, a very historic provision in this bill relative to giving the President funds and discretionary authority to assist in the dismantling of the Soviet Union's nuclear stockpile.

I do want to remind our Members, however, that there are three major actors in the process over there right now: the Soviet Union, what there is left of it; the Russian Republic; and the Ukrainian Republic.

The context of this discussion has taken place in terms of what if the Ukraine asserts its independence, what if the Ukraine then asks for assistance in defusing and dismantling these terrible devices? My question is only: What if, in fact, we give that assistance, and what does that do in terms of the potential for Russian reaction, or what is left of the Soviet Union, the Soviet Union's reaction?

I would simply say that the context of the discussion and the context of the legislation troubles me deeply, because this may very well be a two-edged sword in historicity of the moment maybe quite different than what most of us anticipate at this point in time.

☐ 0140

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF], who has some important questions to ask.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to ask a question of the distinguished chairman of the Committee on Armed Services [Mr. ASPIN] or the chairman of the Subcommittee on Defense of the Committee on Appropriations [Mr. MURTHA], because I do not think I heard this question answered earlier.

If this aid is primarily for U.S. forces to help dismantle nuclear weapons inside the Soviet Union, why do we have to take this money out of the defense budget and separately identify it for that purpose? If it were to remain in the defense budget, would it not be available for the same purpose?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I think the President had to have authority, and we were very careful to give him specific authority, to allow him to go forward with a program if he saw fit. In international relations, right now I do not think anybody has any peer. I think he is a good one to make the judgments. But it is primarily for American personnel, for American military personnel or experts in dismantling this equipment. So he needed authority, and we are giving him that authority to send troops or experts in, using O&M money.

I think in the long run it will save us money.

Mr. SCHIFF. Mr. Speaker, reclaiming my time, we are taking $500 million out of the O&M budget.

Mr. MURTHA. Mr. Speaker, if the gentleman will yield further, we will actually save money down the road. It is the ultimate SDI. We are destroying these missiles on the ground, is actually what we are doing. We are being invited in by these independent countries.

Mr. SCHIFF. Mr. Speaker, I would again ask the respected subcommittee chairman this question: There is just one aspect of this that I still find not being answered, and that is simply this: Why in the appropriations process are we taking $500 million out of the Department of Defense budget for the President to be able to use Department of Defense, which is to say military, personnel, to accomplish a task? If the funds were to remain in the DOD budget, then, with the proper authority, is the money not there for the President to use if he sees fit now as Commander-in-Chief?

Mr. MURTHA. Mr. Speaker, if the gentleman will yield further, we think the President needs this appropriation in order to go forward. He had to make the judgment. We leave it up to him. We make the money available. If he thinks it is necessary in the next couple of months, it would be in the defense budget. But this specific authority to send troops or experts into the Soviet Union to dismantle weapons, there is a question. We try to eliminate that question.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I have a question for the gentleman from Pennsylvania [Mr. MURTHA]. Right now, as I understand it, there are over 30,000 nuclear warheads that we are looking at. Over 10,000 of those warheads as we are sitting here today are involved here. I am concerned about nuclear weapons. When we expend half a billion out of our training, it just concerns me that there is a delta there in which we lose the training versus what we actually get out of the Ukranian nuclear weapons.

The SPEAKER pro tempore [Mr. BROWN]. The time of the gentleman has expired. The Chair would announce that the gentleman from California [Mr. DREIER] has 30 seconds remaining.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, would the gentleman from California [Mr. CUNNINGHAM] repeat his question?

Mr. CUNNINGHAM. Mr. Speaker, with us having 30,000 warheads that we are looking at, over 10,000 of those are looking at us right now, the small amount in the Ukraine is a pittance. I am concerned about nuclear weapons, but how would we ever pay to dismantle all of those? I agree, it is like SDI, getting rid of those missiles.

Mr. MURTHA. Mr. Speaker, I do not think any of us can predict how much it will cost. Nobody could give me an estimate from the Department of Defense or from the White House. We are just making money available in case the President feels he needs to help them if they request it. We hope that they do request it. We hope we can dismantle those weapons in the Ukraine or any of the other independent states surrounding the Soviet Union.

As far as reducing our capability in the United States, we say specifically if you use O&M money, you cannot reduce the readiness of U.S. forces. We think if we reduce the capability of the Russians to fire weapons at the United States, or any other country, we obviously need less defense in the United States.

So it kind of balances off in our estimation. We are going to spend over $4 billion this year for SDI, so this is one way to destroy those weapons on the ground.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, section 108 provides money may come from O&M, but it also may come from surplus in the capital account. Section 108 gives discretion to the Department of Defense as well as to the President to use available funds. We suggest two areas. They do have to come back for reprogramming. That all has to be reprogrammed. The President has to

come back and certify that the Soviet Union is doing their part, that none of the fissionable material might be used in building a new weapon.

There are a lot of things we put in here that they must do to get the technical assistance that this provides.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, the fact of the matter is that since I have been here in Congress for the last 11 months, there has not been a whole lot of discussion on this floor that has impressed me terribly much. I did not come here to vote $80 billion for the savings and loan institutions. I did not come here to vote $70 billion for a bailout of the commercial banks, or $290 billion for an inflated military budget.

I did come here to try to do something to address the fact that 20 percent of our children are living in poverty. Several weeks ago the gentlewoman from Colorado [Mrs. SCHROEDER] came up with an intelligent and serious proposal that called for $1.4 billion to go to the Head Start Program, to go to the WIC Program, to go to children's immunization programs.

There was a good debate here, and the people on the floor, Members of Congress, voted that $1.4 billion.

Tonight, at a quarter to 2 in the morning, we have learned that out of nowhere the conference committee rejected that money for children in need.

Mr. Speaker, my proposal and thought is we should reject this rule, send it back to the Committee on Rules, and tell them we want a rule which will once again allow us to vote that $1.4 billion for the children of this country.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from Lomita, CA, (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, maybe our colleague from Colorado, (Mrs. SCHROEDER) could answer this, too: Why, if it was so important, did it take until 2½ weeks ago for the gentlewoman to come up with this idea. How come for all this year, if it is so important as we are talking about it now, the gentlewoman waited until 2½ weeks ago? Why did the gentlewoman wait that long?

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I pointed out in my speech exactly why where we are is where we are. That is that we are at the end of the year where we have a shortfall. At the beginning of the year we made the commitment to attempt to fully fund these three core programs by 1996. So to get there, there is like a stair step of incremental increases.

The problem was while we made that commitment in January, here we are now taking Polaroid shots as to where we are, and some of that money we were to commit has gotten chipped away, plus more children have fallen into poverty. Even today's newspapers talk about how many more children have fallen into poverty, much faster than was projected. So it takes more money to get to that point.

So we are looking at the year-end, and the dire urgent supplemental was the only thing moving that you could then make that course correction to make sure you kept that covenant that you made to at least get to the first year.

☐ 0150

My problem is, if we did this in the very first year, imagine where we are going to be by 1996. There is already talk from the administration and other places to forget it, and maybe we will try and do it by the year 2000.

My question is, How many generations of American kids do we let this happen to?

I really hope that the gentleman understands that.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BROWN). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SANDERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 242, nays 175, not voting 17, as follows:

[Roll No. 437]

YEAS—242

Alexander
Anderson
Andrews (TX)
Anthony
Applegate
Aspin
Bacchus
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Boehlert
Boehner
Bonior
Borski
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Burton
Bustamante
Byron
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Coleman (TX)
Condit
Cooper
Coughlin
Coyne
Cramer
Darden
de la Garza
DeLauro
DeLay
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Dwyer
Eckart
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Fish
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Green
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kleczka
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Luken
Machtley
Manton
Marlenee
Martin
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oberstar
Obey
Olin
Olver
Orton
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Roe
Rogers
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sangmeister
Sawyer
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Solarz
Spratt
Stallings
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walsh
Waxman
Weber
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wylie
Yatron
Young (FL)

NAYS—175

Abercrombie
Ackerman
Allard
Allen
Andrews (ME)
Andrews (NJ)
Annunzio
Archer
Armey
Atkins
AuCoin
Baker
Barton
Berman
Bilirakis
Blackwell
Bliley
Boxer
Bryant
Bunning
Callahan
Camp
Campbell (CA)
Carper
Clay
Coble
Collins (IL)
Collins (MI)
Combest
Conyers
Costello
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
Davis
DeFazio
Dellums
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Early
Edwards (CA)
Edwards (OK)
Fawell
Feighan
Fields
Foglietta
Ford (TN)
Franks (CT)
Gallegly
Gejdenson
Gekas
Gilchrest
Gillmor
Gingrich
Goss
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (IL)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kasich
Kennedy
Kildee
Klug
Kolbe
Kolter
LaFalce
Leach
Levine (CA)
Lewis (FL)
Lloyd
Lowey (NY)
Markey
Martinez

VOL 137
PT 24
NO 26
1991
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JA 3
1992
UMI

Matsui
McCandless
McCollum
McDermott
McEwen
Mfume
Miller (CA)
Mineta
Mink
Molinari
Moody
Murphy
Neal (NC)
Nichols
Nussle
Oakar
Owens (NY)
Packard
Patterson
Paxon
Pelosi
Penny
Petri
Porter
Poshard
Ramstad
Rangel
Rhodes
Ridge
Ritter
Roberts
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Rohrabacher
Ros-Lehtinen
Roth
Russo
Sanders
Santorum
Savage
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stark
Stearns
Stenholm
Stokes
Stump
Swett
Taylor (NC)
Thomas (WY)
Traficant
Unsoeld
Upton
Valentine
Vento
Walker
Washington
Waters
Weiss
Weldon
Williams
Wyden
Young (AK)
Zeliff
Zimmer

NOT VOTING—17

Ballenger
Boucher
Dickinson
Dymally
Flake
Hall (OH)
Lehman (FL)
Ortiz
Pickett
Riggs
Rose
Sarpalius
Saxton
Thomas (CA)
Towns
Traxler
Yates

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Mr. MFUME, Mr. ROBERTS, Ms. PELOSI, and Mr. OWENS of New York changed their vote from "yea" to "nay."

Messrs. MRAZEK, OLVER, and CONDIT changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 585

Mr. OLIN. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of the bill, H.R. 585, the Biological Diversity Conservation and Environmental Research Act.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Virginia?

There was no objection.

CONFERENCE REPORT ON H.J. 157, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts, making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 309, the conference report is considered as read.

(For conference report and statement, see prior proceedings of the House of today.)

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the joint resolution (H.J. Res. 157) making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1992, and for other purposes, and that I may be allowed to include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the debate we just heard is illustrative of what we have to deal with in the Committee on Appropriations.

I have said before and I have said it seriously that we are going to have to give our domestic programs a foreign address to get them taken care of.

We have heard the debate here about the WIC Program and others. Let me tell you what the facts are.

I was one, and I apologize for it, who recommended the Budget Act, and it has not worked at all like it was planned. We recommended the Budget Act because funding was going around the Committee on Appropriations and leading us into debt right and left.

We recommended that the Budget Committee be made up of five members from the Ways and Means Committee, five members from the Appropriations Committee and five members from the various legislative committees so that we might hold the spending of the Government in line with revenues and by enabling the Appropriations Committee to have the strong voice to hold it back.

We did not get that. We got a committee weighted in favor of the legislative committees.

May I say, since 1945 we have held the appropriation bills $180 billion below the recommendations of all the Presidents. However, just since 1980, our debt has gone from less than $1 to $4 trillion. With spending going around the Committee on Appropriations the Budget Act has not succeeded. It has not worked and that causes the situation that we saw tonight.

May I say again that in the conference we were faced with the fact that if we kept funding not only this WIC Program, but several others, we would have had sequestration and everything would be cut, and the certainty of that came from the other side of the Capitol.

We tried to hold the things in line that we had. They were sound, not only the programs referred to, but other items which were very sound.

I say again that if we are going to look after our own country, we are going to have to put first things first and see that we are held up, by Budget Act requirements as we were in our conference.

Now, I am not going to argue with my colleagues who spoke so eloquently about the needs of the youth of this country. We strongly recognize those needs, I will say that conditions are a little better than might be expected in that we have $2.6 billion in the WIC section of the fiscal year 1992 Appropriations Act. Not only that, but we provided $250 million above what we had last year. I do not say that complaining. I just say that we have done the best we could within the limits of what is possible, and I want to say this as we begin this debate.

Now, the other side of this, I am going to say I hope you will take time to read my full remarks in the RECORD, but listen to what I say now.

At this time, I call your attention to the fact that economically and financially as a nation we face a national emergency—a dire emergency. All this year I have been saying that anyone who reads a newspaper, watches television, or talks to neighbors is bound to realize we are in a deep recession and, judging by history, it will take a real effort if we are to avoid a long drawn out depression.

Despite the fact that our Committee on Appropriations has held the total of appropriations bills $180,800 million below the recommendations of our Presidents since 1945, today we owe a debt of $4 trillion and have outstanding loan and deposit guarantees of another $5 trillion. We can work our way out of this only by increasing production and regaining our domestic markets and our normal share of foreign markets. History will decide whose fault it is—and our domestic policy of placing foreign relations ahead of the domestic economy, where we are letting our real wealth deteriorate, will figure prominently in that.

On November 22, I pointed out how the trade deficit has grown by over $1.1 trillion since 1981 as follows:

[In billions of dollars]

	Amount
1981	$34.6
1982	38.4
1983	64.2
1984	122.4
1985	133.6
1986	155.1
1987	170.3
1988	137.1
1989	129.4
1990	123.4

In addition, conditions are terrible because of natural disasters—hurricanes, earthquakes, freezes, drought, floods, tornadoes, and more recently, wildfires—which have been declared disasters by the President and the Secretary of Agriculture which affect every State in the Union. These disasters have created a dire emergency which must be addressed to prevent a cutting back on vital ongoing programs.

Mr. Speaker, it will take time if we are to work out of the present problem. We need to get our country moving, to increase production, to again export more than we import—and we need to start now for we live in a competitive world.

The conference agreement provides agricultural disaster assistance for crop years 1990, 1991, and to some extent, 1992 in the amount of $1,750 million—$995 million now and $755 million when the President submits a budget request.

The agreement also includes $943 million for the Federal Emergency Management Agency—$800 million now and $143 million when the President submits a budget request.

In addition, the conferees agreed to provide $4,083,500,000 for the incremental costs of Operation Desert Shield/Desert Storm.

As a start, we must join together to adopt this Dire Emergency Disaster Assistance Bill.

The conditions resulting from the widespread disasters continue to get worse. There are now 44 Presidentially declared disasters which affect 33 States and an additional 89 disasters have been declared by the Secretary of Agriculture which affect 39 States. With reductions in employment, in production, and exports resulting from these disasters, when added to our mistaken policies, it is apparent that the Nation must take action. It has been over 6 months since we called attention to the problem, the facts of which are well known.

In the years 1990 and 1991, disaster declarations have been declared or are pending for 11 States in the East, 8 States in the Southeast, 8 South Central States, 11 North Central States, 6 States in the Northwest, and 6 States in the Southwest. Thus, in connection with this, the Congress and the President have declared these domestic needs to be dire emergencies so that other essential programs won't be reduced by sequestration as has been done to fiscal year 1991 programs which were reduced thirteen ten-thousandths of 1 percent by the Office of Management and Budget based on its own counting without the approval of the Congress.

To begin to meet these problems, this Dire Emergency Supplemental provides funds to meet the disasters which have hit the Nation since last October and to provide more funds for Hurricane Hugo damage and the 1989 California earthquake.

Recently, Hurricane Bob struck the Northeast coast. To date, estimated costs for the disasters declared due to this hurricane are approximately $52 million.

Farmers in Minnesota and Iowa were unable to plant their crops due to an unprecedented spring and summer rainfall. Furthermore, many crops which may have been planted were destroyed because of flooding.

Since early spring of this year, tremendous storms with accompanying torrential rain and winds have hit areas of the country. At one point, over 4 million acres of land in the Mississippi River Delta were inundated, destroying or damaging drainage ditches, bridges, roads, homes, and farms. Additionally, some of the worst drought conditions of the century have affected other parts of the country.

Since October 1990, there have been disasters which resulted in calls for the National Guard and other assistance. Mr. Chairman, in fiscal 1990 the Guard was called out 292 times in 38 States; in fiscal 1991, 337 times in 42 States. This need will continue and shows the tremendous peacetime mission the Guard has. Because they are local, they play a big part in support of the regular services.

Mr. Speaker, this is a good agreement, and I urge it be adopted.

☐ 0220

I do not know whether any of you have noticed it, but each week whatever groceries you buy have increased in price. For the years 1990 and 1991 the agricultural related disaster declarations have been getting worse.

What we are trying to do in this bill, and what we have done, is to recommend funds for holding our country together.

May I say again that your committee is trying to save our country and restore it. And I point out again the policies that we have been following have contributed greatly to our decline. We have given away billions of dollars of our domestic markets, and we are the ones who set up the European Common Market, not they; we are the ones that financed the defense of Japan so that they could build up their economy, and then we get stuck.

May I say again that in voting for this bill tonight, we are trying to save our country. I want to say right now that just as sure as I am standing here, we are going to be faced with the need for a jobs bill. Since 1981, the 1981 Tax Act has lost over $2.4 trillion in income. In 1982 we had a disastrous year, a rescission of over $14 billion, and by late 1982 we had a recession.

During Easter 1983, at the request of my colleagues, I stayed here and worked out the jobs bill. We came up with a jobs bill which left it up to the local people so that you had something to show for it. In other words, investment spending. We bailed out the country.

At the local level throughout the United States, we tried to be sure we got our money's worth.

May I say again, so many people do not realize or seem to know that wealth and money are not the same thing. They are not. Wealth is solid, material things. We are going to have to try to look after our own country because all this foreign aid and military spending depends on your own country to finance and support it.

May I say again it is not the fault of this committee or this group of conferees that these items that have been complained about are not included. We were faced with sequestration, which means everything would have been cut. We had to bring back the best we could.

So, if you want to go after the real problem, go after that which holds back what we can do—the Budget Act. If you do not stay within the limits, then sequestration takes effect. That is what we have to work with.

That is where your problem is caused.

I repeat again, for what it is worth, for WIC we have $250 million increase over last year to take care of an additional 300,000 participants per month. I agree with you the need is there, and I agree we are right in trying to hold the country together. We are going to have to look after our own country because all the rest depends on our country.

The other thing I want to say to you is that we live in a competitive world. We tried to sell apples in foreign countries, and they turned us down because they have artificial coloring on them. We tried to sell breed stock cattle to England, and they would not let us sell it because of the hoof and mouth disease; they had it, and we did not.

So I say tonight, it is time we look at our situation, see where the cause is, and correct it.

But I would like for you to understand these other facts—we have to regain our foreign markets, maintain our present domestic markets, and get away from being told what we can do by the Office of Management and Budget, and get away from the sequestration.

Mr. Speaker, I urge adoption of this conference report and reserve the balance of my time.

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

Mr. MURTHA. Mr. Speaker, chapter 1 of the bill deals with the matters affecting the Department of Defense:

Approved $4 billion in new authority to finance the costs of Operation Desert Shield/Desert Storm.

These appropriations were requested to replace material lost or consumed during combat and to provide for the rehabilitation and repair of equipment resulting from heavy use during Desert Shield/Desert Storm.

In addition, authority is provided to transfer $6.3 billion among accounts in fiscal year 1991 to adjust funding previously provided in the initial Desert Shield/Desert Storm supplemental enacted last April.

The most recent cost estimate of the conflict is $61.1 billion.

After factoring out: cash contributions from foreign countries; in-kind assistance from various countries; and the fact that various equipment which was destroyed will not be replaced, the actual cost of the conflict not covered by foreign contributions is estimated to be approximately $4.4 billion.

Basically, we have approved the budget request with several exceptions:

We provided $145,000,000 in additional funds to buy Patriot missiles.

We provided $25,000,000 in additional funds for advance procurement of engines and generators for the LSD–41 dock landing ship.

We provided $10,100,000 for the purchase of one MH–60E helicopter for the National Guard and Reserve.

We provided authority to allow the transfer of not to exceed $400,000,000 of defense funds to aid in the destruction of nuclear and other weapons in the Soviet republics and the Soviet Union.

We provided authority to allow the transfer of not to exceed $100,000,000 of defense funds to provide transportation of food, medical supplies, and other humanitarian assistance to the Soviet Union and the Soviet republics.

The SPEAKER pro tempore (Mr. BROWN). The gentleman from Pennsylvania [Mr. MCDADE] is recognized for 30 minutes.

Mr. MCDADE. Mr. Speaker, let me say to my colleagues that I have the long speech and the short speech, and you are going to get the short one at 20 minutes past 2 in the morning

I want to say this is the first time, my friends, in the 5 months this bill has been pending that I have risen in support of this bill. It is not only me, but I want you to know that every member of the conference committee on both sides of the aisle has signed the conference report.

The President, I am authorized to tell you, is waiting, should we decide to send the bill down, to sign it.

It has three principal components in it:

The first component is the funding for the Desert Storm operation, roughly $4 billion, all of which is funded by foreign contributions and is outside of the budget caps.

The second portion of it consists of emergency money for agricultural disasters in the country. That sum is $995 million, and covers crop year 1990 or 1991, at the farmer's choice. There is an additional $755 million that becomes available if the President requests it and designates it as an emergency.

The third major component in the bill is for disaster assistance under the Federal Emergency Management Administrations which is in the bill at $800 million, and covers the backlog of every single natural disaster which has occurred around the country and for which a lot of your communities are sitting and waiting. There is an additional $143 million that becomes available if the President requests it and designates it as an emergency.

That is the essence of the bill.

I urge your approval of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I commend the action of the conferees to correct the practice of the Defense Department of exporting American jobs to foreigners. Section 107 prevents the use of U.S. tax dollars to import 4-ton dolly jacks that are efficiently manufactured here at home. It is anti-American to export jobs to foreign countries when jobs are scarce in the United States. This practice must be stopped. I appreciate the committee for supporting my amendment. This section saves American jobs and keeps our people working so they can support their families.

Mr. Speaker, I would like to engage the chairman of the Subcommittee on Energy and Water, the gentleman from Alabama [Mr. BEVILL] in a short colloquy.

Mr. Speaker, when the Senate passed the fiscal year 1992 dire emergency supplemental appropriations bill, an amendment was adopted regarding an extension of certain FERC license deadlines for hydroelectric power projects which have or are soon to expire. That amendment, which was identical to S. 1283 as passed by the Senate, was dropped during conference consideration of the dire emergency supplemental appropriations measure.

I am aware that the House committee with jurisdiction over S. 1283, and a similar bill, H.R. 2677, which I introduced, plans to take action on these proposed extensions en bloc in the near future. I seek clarification from the chairman that the conferees's action to delete the amendment was in deference to the House authorization committee and in no way reflects on the merits of the proposed extensions.

Mr. Speaker, I ask the gentleman, is this correct?

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the chairman, the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GREEN] a member of our subcommittee.

Mr. GREEN of New York. I thank the distinguished ranking minority member of the Committee on Appropriations for yielding the time to me.

I take this time because I think Members should understand that, in addition to appropriating funds to clean up the FEMA backlog, we have established important new grounds rules for FEMA of which everyone should be aware.

The appropriations for FEMA involve a total of $943 million, of which $800 million is agreed to between the Administration and the Congress as emergency funds for 1990 Budget Act purposes. The balance of $143 million may be spent by the administration only if the administration determines that the purpose for which it seeks the funds qualifies as an emergency under the 1990 Budget Act and will not trigger a sequester. That is what we did for the current fiscal year.

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But in addition to that, as I mentioned, we established some new ground rules, because the administration has been complaining that the shortfall in funds which we were facing this calendar year was the result of congressional failure to provide as much money to the disaster relief account as history had suggested it needed and as the administration had requested, and frankly the administration had a good case in making that claim. As a result, this bill provides that there will be a baseline established of $320 million for a fiscal year, which is agreed to as the recent historical average of emergency needs for the FEMA program, or such lesser amount as the administration may request in its budget recommendations for any fiscal year. That amount will be a baseline which must be met before amounts above that level, which are agreed to by the Congress and the administration, may be deemed to be emergencies.

So, Mr. Speaker, I think that this agreement will deal with the concerns of the administration that by underfunding this account in past years we created an artificial emergency. we shall now have a baseline by which to judge that every year.

Since the report of the managers is a little obscure in its language, let me make it clear that shortfalls below the baseline do not carry over from year to year. So, for example, if the administration requests $320 million, and we appropriate only $250 million, and only $250 million is needed in that fiscal

year, then the $70 million shortfall does not carry over, and we start afresh in the next fiscal year. So there will be no carryover of gaps between the baseline and the amount appropriated if in fact the lower appropriation proves to be all that is needed in that fiscal year.

I apologize to my colleagues for discussing this at this hour of the night, but I think it is important to make clear in the RECORD and for my colleagues' understanding just what the ground rules are going to be as to when FEMA appropriations are going to be considered emergencies and when they are not.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Fazio], a member of the committee.

Mr. FAZIO. Mr. speaker, I appreciate the gentleman from Mississippi [Mr. WHITTEN] yielding this time to me.

Mr. Speaker, I simply want to thank the chairman for help on three different disasters that have faced California in the last years. we are still finding $300 million in the Loma Prieta earthquake in this bill. There will be at least $300 million to deal with the freeze that beset the San Joaquin Valley and $100 million to take care of those people in the city of Oakland who suffered the loss of public facilities.

I know that the California delegation appreciates the committee's assistance in the context of this supplemental, and I am hopeful that a much larger percentage of them will support final passage than supported the rule.

Mr. Speaker, I rise in strong support of the conference report on the dire emergency appropriations bill for fiscal year 1992.

The measure is a good compromise. It will get some immediate relief to the victims of natural disasters throughout our country, affording them the same assistance that we have provided to the victims of natural disaster in other parts of the world.

Despite my strong support for the conference report, Mr. Speaker, I remain disappointed that the President would not agree to make the full $1.75 billion in crop loss disaster assistance and $943 million in FEMA aid, as proposed by the House, immediately available.

The House and Senate have both stated very emphatically the belief that there are emergency requirements outstanding that will reach at least the levels set in the original House and Senate bills. We know, for example, that eligible crop losses across the country may exceed $2 billion.

But the President was unwilling to make immediately available what we believe to be the required level of disaster assistance. Therefore, while under the measure we have made most of the funds immediately available, a portion of the moneys will be made available only if the President determines that an emergency exists and thereby releases the funds. No further action by Congress will be required, however.

Of the $1.75 billion in crop loss assistance, $995 million will be made available immediately and $755 million is provided, contingent upon a Presidential declaration that an emergency exists. Of the $943 million for FEMA, $800 million will be available immediately and $143 million could be made available by the President, if he exercises his emergency authority.

But the conference report appropriates what we believe will be required to meet our Federal disaster assistance obligations and gives the President the authority and flexibility to respond.

Mr. Speaker, for my own State of California this bill is particularly critical. My State has suffered from one major natural disaster after another. The bay area is still recovering from the Loma Prieta earthquake. The Oakland fire last month was among the worst natural disasters to hit our State. And, the farmers and farm communities throughout the State, particularly in the San Joaquin Valley, are still trying to recover from the devastating freeze which hit the State last December.

The measure will provide roughly $100 million to help rebuild fire damaged areas of Oakland, up to $425 million for farmers and farm communities hit by last December's freeze, and an estimated $300 million to clear up Federal obligations still outstanding from the 1989 Loma Prieta earthquake.

Mr. Speaker, all year long, the President has been handing out aid to the victims of disasters in foreign countries. And, while these are laudable causes, he has repeatedly turned his back on those in our own country who have suffered from similar emergencies. We have fought and fought for this aid, and, now, hopefully, the President will sign this bill and get the aid flowing to those in our own country who are entitled to this essential assistance.

I want to also explain another item which affects the legislative branch appropriation.

In section 209, we have provided authority to spend donated funds for construction drawings and specifications for the replacement of the Botanic Garden Conservatory.

All Members should realize that part of this historic building will be torn down within a few weeks. The middle portion—the Palm House—is in such a deteriorated and even dangerous condition that it must be razed.

The balance of the building—the Fern House, the Orangerie, the display halls—all require immediate structural and environmental repair.

The entire project will cost from $20 to $30 million. We did not even have the funds for the construction drawings.

So the good people who are raising donations for the National Garden—Lindy Boggs, the wives of Senator BENTSEN and Senator JOHNSON—came to us and said they would like to raise funds for the design. That will cost almost $2 million.

The Senate bill gave the Architect of the Capitol the authority to expend the $2 million—but subject to an authorization bill being passed.

We were informed that the authorizing committees—Senate Rules and House Administration—would probably not get to that matter this session.

So the conferees on the supplemental decided to insert the authorization also, so that this important design could go forward.

We had to make some adjustments in the authorization introduced by Senator PELL because of the scorekeeping rules. The OMB and CBO agreed those adjustments were necessary to prevent the bill from being scored and perhaps trigger a sequestration.

The conferees have provided authority to accept gifts or bequests of money in the amounts provided in appropriation acts in section 307E(b)(1). It is not the intent of the conferees that gifts or bequests of a nonmonetary nature be included in such limitations.

So all we are doing is trying to use other sources of funds—private donations—to keep our physical plant in repair. I think we owe that to the American people.

Mr. MCDADE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. COLEMAN], the ranking member of the Committee on Agriculture.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise to express my support of language included in this conference report that will protect the pension benefits of thousands of TWA employees. The amendment ensures that up to $1 billion of unfunded pension liability will not, by means of a slick legal maneuver, be transferred to the Pension Benefit Guaranty Corporation.

The owner of TWA, Carl Icahn, is currently negotiating with creditors to develop a prepackaged bankruptcy agreement. Under current law, Mr. Icahn, as the holder of more than 80 percent of the airline's common stock, is deemed in control of TWA. Furthermore, the law holds the other businesses he controls in common with TWA liable for the pension obligations.

Mr. Icahn proposes, as part of the agreement, to decrease his ownership below 80 percent, but to retain control of the TWA board and management. If accepted, this proposal would insulate Mr. Icahn and his financial empire from the liability for the unfunded pension obligations. Those obligations have been estimated to be from $150 to $900 million.

Mr. Speaker, this amendment has been very narrowly drawn, and applies only to the particular situation involving TWA. Without it, the Pension Benefit Guaranty Corporation, already dealing with an accumulated deficit of $1.8 billion, will be forced to pickup some $440 million in guaranteed benefits for TWA employees. And without it, TWA employees will lose an estimated $400 million in promised, but not PBGC guaranteed, pension benefits.

I urge my colleagues to accept this language.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Mississippi [Mr. WHITTEN] very much for yielding this time to me.

Mr. Speaker, I just wanted to say again that, as I read this bill, the congressional designations of emergency

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

points out that, while the President had only designated portions of the funds dealing with Desert Shield and Desert Storm, the Congress believed others should have a higher priority, and that is what I had hoped children would get.

I must say that, as I read this bill, and I have not had time to get through all of it, but I see in here a $1½ million to the State of Maine for potato disease. There is something in here I do not understand where we are increasing $14 million to something called fishing vessel obligation guarantees. Then the Kurdish protection forces, and, as my colleagues know, I can keep reading this about the Kuwaitis and the Saudis not paying their parking tickets to the tune of a lot of money, and on, and on, and on.

Mr. Speaker, I just, as I say, am very sad to stand here and take on the Committee on Appropriations, but, when I look at all of this, I certainly think America's children were entitled to the same kind of coverage, and it saddens me. I have to keep reiterating this over and over again, but the more I read, the more I am horrified at those who got a higher priority than kids, and that makes me very sad.

Mr. McDADE. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. McDADE] for yielding this time to me.

Mr. Speaker and Members of the House, in voting in favor of this resolution, I cast that vote to keep faith with the farmers who will benefit from the impact of this legislation, and with the FEMA personnel who also will benefit, and we who at large know what devastation the farms of our country have faced this past year during the drought.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to myself.

Mr. Speaker, I would like to point out, in view of statements that have been made earlier, the fiscal year 1992 appropriations bill, which was signed into law October 28, 1991, provides $2.6 billion for WIC—an increase of $250 million above the 1991 level. May I say that there were 4.9 million persons in fiscal year 1991 that were served, and, for the present year, 5.2 million persons—an increase of 300,000. Within the limits of the possible we have done the very best we could, and I think the RECORD should show it.

Mr McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. McDADE] for yielding this time to me.

On page 158–200 of the report I come across an interesting item that sounds like a dire emergency to me.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

Mr. Speaker, is this a dire emergency that was requested by the President?

Mr McDADE. Mr. Speaker, I yield myself such time as I may consume.

May I say to my colleague that it was not in the budget submitted by the President, no.

Mr. WALKER. I thank the gentleman from Pennsylvania.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Speaker, I would like to take less than a minute to thank the gentleman from Mississippi [Mr. WHITTEN] for this legislation. I urge my colleagues to support it.

Contained in this bill, the disaster assistance is going to assist agriculture producers all across this country. A number of those are in my northeast Texas district where in May 1990 the Red River was 10 miles wide. Tens of thousands of acres of farmland were flooded. Those folks have had no funding for the authorized disaster programs that Congress has passed.

□ 0240

Tonight we will give them that needed funding, breathe life into those producers, and for that, Mr. Chairman, my constituents owe you a debt of gratitude, and so do I.

I urge my colleagues to support this legislation and help us rebuild the assets that have made this country great and give our agriculture producers around this country a chance to get back on their feet.

Mr. McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Speaker, I rise in strong support of the dire emergency supplemental legislation, which includes much-needed relief for those affected by natural disasters throughout the country, including this summer's Midwest drought.

The country has seen an unusually high level of natural disasters, including drought, flooding, freezing, and fires. In Illinois, many farmers had no rain at all during the critical growing season. Many are facing significant looses, some are facing total losses. Without this legislation, many will go out of business and join the ranks of the unemployed.

While national production may be average, this drought has been spotty, and those who have been hit have been hit very hard. This legislation is critically necessary to thousands of agricultural producers.

This drought comes on the heels of devastating droughts in 1980, 1983, and 1988 and is particularly devastating to many farmers who are still trying to recover financially from this long string of droughts.

Drought relief has been languishing in Congress for over 4 months. The time has come for us to act. I want to thank the President and congressional leaders for reaching this agreement. If we act tonight, we can deliver this much-needed assistance before Christmas.

Mr. Speaker, drought relief is very important for our economy and for thousands of farmers and others throughout the country. I urge my colleagues to support this legislation.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, you are going to get some regular order. I was almost asleep until I saw this in here where they deleted certain provisions from this bill.

I want to ask if I can engage in a colloquy with the chairman of the committee.

What were the reasons for the deletion of the agreement not to include supplemental appropriations for $1.2 billion for Head Start; $100 million for women and children, the WIC Program; and the Nutrition Program; and $90 million for the Childhood Immunization Program?

I cannot go back to my poor kids in my community and not be able to explain why we do not have this kind of money.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. HAYES of Illinois. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I want to say to my friend from Chicago that I do not know of a single Member in this House who is against Head Start, against the WIC Program, or against the Childhood Immunization Program.

The amendment offered by the gentlewoman from Colorado, as the gentleman knows, added $1.2 billion to the Head Start Program. The regular bill, I say to my friend from Chicago, had $2,202,000,000 for Head Start for fiscal year 1992. This is an increase of $250 million. This follows a $400 million increase in Fiscal Year 1991. As far as the Childhood Immunization Program is concerned, in the regular bill we have $298 million, and this is an $80 million increase over 1991.

Not a single dollar of the money added by the gentlelady would have been dropped by the conferees if it had not been for the two letters that the conferees received from OMB. One of them was directed to the Chairman of the Committee on Appropriations in the Senate, Mr. BYRD. The other was directed to my chairman, the gentleman from Mississippi [Mr. WHITTEN]. These letters informed the conferees that if these supplemental amounts remained in the bill, not qualifying under the emergency category, there would be a sequester. This sequester would be up to 2.7 percent across the entire domestic discretionary budget for fiscal year 1992. The gentleman from Illinois would not like it, and I would not like it. Think about it.

Let me say to the gentleman that this 2.7-percent reduction across the entire budget would cover all 10 domestic appropriation bills. Not $1 would have been removed if these amounts added by the gentlewoman from Colorado could have been classified under the emergency category. Every dollar would have remained in there. The gentleman and I are both for Head Start. We are both for the WIC Program. We are also for childhood immunization.

Mr. HAYES of Illinois. I am not sure OMB is, if I can reclaim my time.

Mr. NATCHER. No. I understand. But let me say this to the gentleman; I do not know of a Member in this House that is against any one of these three programs. They would have remained if there had not been the threat of this sequester.

Mr. HAYES of Illinois. I want it clearly understood that I am not blaming the gentleman, but I want it clearly understood, too, that our priorities are on the wrong end. We are not doing enough for poor kids who are tomorrow's leaders in this great Nation of ours. We tend to forget. We do not know where our priorities are. We look at some of the money we spent for bridges and other things within this bill, and when you really look at it, we are really behind the times of where we need to move.

Mr. McDADE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROWN). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 303, noes 114, not voting 17, as follows:

[Roll No. 438]

AYES—303

Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Aspin
Bacchus
Baker
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Camp
Cardin
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Ford (MI)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (LA)
Hefner
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oberstar
Obey
Olin
Olver
Owens (UT)
Oxley
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Poshard
Price
Quillen
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Roberts
Roe
Rogers
Rohrabacher
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schiff
Schulze
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Torricelli
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waxman
Weber
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—114

Abercrombie
Andrews (NJ)
Applegate
Archer
Armey
AuCoin
Barton
Bilirakis
Blackwell
Bliley
Burton
Callahan
Campbell (CA)
Campbell (CO)
Carper
Clay
Collins (MI)
Conyers
Cox (CA)
Crane
Cunningham
Dannemeyer
DeFazio
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (CA)
Erdreich
Fawell
Fields
Foglietta
Ford (TN)
Franks (CT)
Gejdenson
Geren
Gilman
Goss
Guarini
Gunderson
Hancock
Hansen
Hayes (IL)
Hefley
Henry
Herger
Hertel
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kennedy
Kolbe
Laughlin
Lewis (FL)
Lloyd
Luken
McCandless
McCollum
McEwen
Mfume
Moorhead
Nussle
Oakar
Orton
Owens (NY)
Packard
Pallone
Pastor
Pease
Penny
Petri
Porter
Pursell
Rahall
Ramstad
Rangel
Ray
Rhodes
Rinaldo
Ritter
Roemer
Ros-Lehtinen
Santorum
Savage
Schaefer
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Slattery
Solomon
Stark
Stearns
Stenholm
Stump
Swett
Thomas (WY)
Traficant
Valentine
Walker
Washington
Waters
Weiss
Weldon
Zeliff
Zimmer

NOT VOTING—17

Atkins
Ballenger
Collins (IL)
Dickinson
Dymally
Flake
Lehman (FL)
Ortiz
Pickett
Pickle
Rose
Sarpalius
Saxton
Thomas (CA)
Towns
Traxler
Yates

□ 0305

Messrs. CAMPBELL of Colorado, MFUME, and GREEN of Texas changed their vote from "aye" to "no."

Mr. WILLIAMS changed his vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE SUNDRY REPORTS

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m. on Friday, December 20, 1991, to file sundry reports.

The SPEAKER pro tempore (Mr. BROWN). Is there objection to the request of the gentleman from Michigan?

There was no objection.

TAX EXTENSION ACT OF 1991

The SPEAKER pro tempore. The unfinished business is the question of sus-

VOL 137
PT 24
NO 26
1991
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1992
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pending the rules and passing the bill, H.R. 3909, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 3909, on which the yeas and nays are ordered.

The motion was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 439]

YEAS—420

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—14

Atkins
Collins (IL)
Dickinson
Dymally
Flake
Lehman (FL)
Ortiz
Pickett
Rose
Thomas (CA)
Towns
Traxler
Vander Jagt
Yates

□ 0326

Mr. HUTTO changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, I was unavoidably absent on certain rollcall votes on November 6 and 7. I wish to have the RECORD indicate that had I been present, I would have voted "aye" on rollcall votes 283, 376, 385, and 386.

I would have voted "no" on rollcall votes 321, 322, and 363.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 585, THE NATIONAL BIOLOGICAL DIVERSITY CONSERVATION AND ENVIRONMENTAL RESEARCH ACT

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that the name of Hon. JAMES OLIN be removed from the list of cosponsors to H.R. 585, the National Biological Diversity Conservation and Environmental Research Act. His name was placed on the list due to a clerical error.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2824

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2824.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 210

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 210.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3638.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Yesterday the House vacated the ordering of the yeas and nays on Saturday, November 23, 1991, by unanimous consent.

The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3638.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 3807, CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–401) on the resolution (H. Res. 316) providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–402) on the resolution (H. Res. 317) waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

□ 0330

WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 317 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 317

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. HOYER). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN] pending which I yield myself such time as I may consume.

Mr. MOAKLEY. Mr. Speaker, during debate on House Resolution 317, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 317, is the rule providing for the consideration of the conference report on H.R. 2950, the Intermodel Surface Transportation Infrastructure Act of 1991. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as read.

Mr. Speaker, H.R. 2950 provides a total of $151 billion for surface transportation over the next 6 years. The conference report authorizes $119 billion for highway construction and $32 billion for mass transit construction and expansion.

In addition, Mr. Speaker, the conference report authorizes $38 billion for a 155,000-mile National Highway System, $16 billion for a bridge replacement and rehabilitation program, $24 billion for the flexible surface transportation program, and increases from 85 to 90 percent the guaranteed minimum allocation for each State relative to its share of highway trust fund contributions.

Mr. Speaker, Chairman ROE and the ranking Republican member, Mr. HAMMERSCHMIDT, deserve our praise for their relentless efforts in bringing this most important measure to this phase of the legislative process. The gentleman from California, Mr. MINETA and the gentleman from Pennsylvania, Mr. SHUSTER also deserve our gratitude for the many long hours they have spent on this bill.

Mr. Speaker, this conference agreement strikes a reasonable balance and represents a consensus on this important legislation. The effort all the conferees deserves the appreciation of all Members of the House and I urge Members to support the rule and the conference report.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY] in the explanation of the conference report, House Resolution 317, the Intermodal Surface Transportation and Infrastructure Act of 1991.

As was stated by the chairman, the rule does waive points of order and brings before us the major provisions of this important legislation.

I join the chairman in expressing my appreciation to the chairman of the committee, the gentleman from New Jersey [Mr. ROE] and the ranking member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the chairman of the Subcommittee on Surface Transportation, the gentleman from California [Mr. MINETA], and his ranking member, the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. Speaker, only five provisions of the bill that were not mentioned by the chairman that I would make note of. Of the $119 billion for highway construction and repairs, $31.5 billion is for mass transit; a Federal-State match share of 80/20 for all programs except interstate highway projects, which will be 90/10; authorization of $7.2 billion for completion of the Interstate System as well as $16 billion for a rebuilding program for the Nation's bridges; a Corridor of National Significance Program; and a freeze to prevent expanded use of triple-trailer trucks.

Mr. Speaker, it is vitally important that this legislation, which is an authorization beginning October 1, recognizing this is the end of November, it is important for this legislation to be enacted.

Mr. Speaker, I urge the support of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Speaker, the Republicans want a growth package, the Democrats want a growth package, the American people are looking for an economic growth package. This is probably the best economic growth package that the Congress will vote on. This will set in motion high-speed rail, it will complete the intermodal system and our highway system, and this bill will create potentially 2 million jobs, 2 million jobs. This may be the most important economic growth package we will vote on in the next 8 years.

I encourage everybody to vote for the rule.

I appreciate the work done by the committee under the first big time of our committee chairman, the gentleman from New Jersey [Mr. ROE], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from Pennsylvania [Mr. SHUSTER], and the gentleman from California [Mr. MINETA].

This is a good bill.

Mr. MCEWEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3595, MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Messrs. DINGELL, WAXMAN, and LENT.

There was no objection.

JUDICIAL NATURALIZATION AMENDMENTS OF 1991

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous and Technical Immigration and Naturalization Amendments of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

Sec. 101. Short title of title.
Sec. 102. Court authority to administer oaths of allegiance for naturalization.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

Sec. 201. Short title of title.
Sec. 202. Repeal of numerical limitations on P-1 and P-3 nonimmigrants; GAO report.
Sec. 203. Standards for classification of P-1 nonimmigrants.
Sec. 204. Consultation requirement.
Sec. 205. Amendments relating to O nonimmigrants.
Sec. 206. Amendments relating to P nonimmigrants.
Sec. 207. Other amendments.
Sec. 208. Effective date.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

Sec. 301. Short title of title; reference to the Immigration and Nationality Act.
Sec. 302. Corrections relating to title I of the Immigration Act of 1990.
Sec. 303. Corrections relating to title II of the Immigration Act of 1990.
Sec. 304. Corrections relating to title III of the Immigration Act of 1990.
Sec. 305. Corrections relating to title IV of the Immigration Act of 1990.
Sec. 306. Corrections relating to title V of the Immigration Act of 1990.
Sec. 307. Corrections relating to title VI of the Immigration Act of 1990.
Sec. 308. Corrections relating to title VII of the Immigration Act of 1990.
Sec. 309. Additional miscellaneous corrections.
Sec. 310. Effective dates.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Judicial Naturalization Ceremonies Amendments of 1991".

SEC. 102. COURT AUTHORITY TO ADMINISTER OATHS OF ALLEGIANCE FOR NATURALIZATION.

(a) IN GENERAL.—Subsection (b) of section 310 of the Immigration and Nationality Act (8 U.S.C. 1421), as amended by section 401(a) of the Immigration Act of 1990, is amended to read as follows:

"(b) COURT AUTHORITY TO ADMINISTER OATHS.—

"(1) JURISDICTION.—Subject to section 337(c)—

"(A) GENERAL JURISDICTION.—Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

"(B) EXCLUSIVE AUTHORITY.—An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 337(a) to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

"(2) INFORMATION.—

"(A) GENERAL INFORMATION.—In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

"(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

"(ii) the Attorney General—

"(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 337(a), and

"(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

"(B) ASSIGNMENT OF INDIVIDUALS IN THE CASE OF EXCLUSIVE AUTHORITY.—If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), at the time of the approval of the person's application for naturalization, of—

"(i) the court's exclusive authority to administer the oath of allegiance under section 337(a) to such a person during the period specified in paragraph (3)(A)(i), and

"(ii) the date or dates (if any) under paragraph (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

"(3) SCOPE OF EXCLUSIVE AUTHORITY.—

"(A) LIMITED PERIOD AND ADVANCE NOTICE REQUIRED.—The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

"(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

"(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

"(B) AUTHORITY OF ATTORNEY GENERAL.—Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

"(C) WAIVER OF EXCLUSIVE AUTHORITY.—Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 337(a) to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

"(4) ISSUANCE OF CERTIFICATES.—The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

"(5) ELIGIBLE COURTS.—For purposes of this section, the term 'eligible court' means—

"(A) a District Court of the United States in any State, or

"(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.".

(b) CONFORMING AMENDMENTS.—

(1) FUNCTIONS OF CLERKS.—Section 339(a) of such Act (8 U.S.C. 1450(a)) is amended —

(A) by striking paragraph (1) and inserting the following:

"(1) deliver to each person administered the oath of allegiance by the court pursuant to section 337(a) the certificate of naturalization prepared by the Attorney General pursuant to section 310(b)(2)(A)(ii),",

(B) in paragraph (2), by inserting "a list of applicants actually taking the oath at each scheduled ceremony and" after "Attorney General",

(C) by striking paragraph (3),

(D) in paragraph (4), by striking the period at the end and inserting ", and" and by redesignating such paragraph as paragraph (3),

(E) by inserting after paragraph (3), as so redesignated, the following new paragraph:

"(4) be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General and shall account to the Attorney General for them whenever required to do so.", and

(F) by adding at the end the following:

"No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed,

but such certificates shall be returned to the Attorney General.".

(2) EXPEDITED ADMINISTRATION OF OATH.—Subsection (c) of section 337 of such Act (8 U.S.C. 1448) is amended to read as follows:

"(c) Notwithstanding section 310(b), an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant's immediate family, permanent disability sufficiently incapacitating as to prevent the applicant's personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.".

(3) FEES.—Section 344 of such Act (8 U.S.C. 1455) is amended by adding at the end the following new subsection:

"(f)(1) The Attorney General shall pay over to courts administering oaths of allegiance to persons under this title a specified percentage of all fees described in subsection (a)(1) collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion, of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

"(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.".

(c) EFFECTIVE DATE.—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

SEC. 201. SHORT TITLE OF TITLE.

This title may be cited as the "O and P Nonimmigrant Amendments of 1991".

SEC. 202. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) IN GENERAL.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)), as added by section 205(a) of the Immigration Act of 1990, is amended—

(1) by adding "or" at the end of subparagraph (A),

(2) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(3) by striking subparagraph (C).

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 203. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) SUBSTITUTION OF NEW STANDARDS.—Clause (i) of section 101(a)(15)(P) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended to read as follows:

"(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);".

(b) NEW STANDARDS.—Section 214(c)(4) of such Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by redesignating subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

"(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

"(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

"(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

"(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

"(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

"(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

"(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

"(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

"(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.".

SEC. 204. CONSULTATION REQUIREMENT.

Section 214(c) of the Immigration and Nationality Act, as amended by section 207(b)(2) of the Immigration Act of 1990, is amended—

(1) in paragraph (3)(A), by striking "after consultation with peer groups in the area of the alien's ability" and inserting "after consultation in accordance with paragraph (6)",

(2) in paragraph (3)(B), by striking ""after consultation with labor organizations with expertise in the skill area involved" and inserting "after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability",

(3) in paragraph (4)(C), as redesignated by section 203(b), by striking "clause (ii) of",

(4) in paragraph (4)(D), as redesignated by section 203(b), by striking "after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved" and inserting "after consultation in accordance with paragraph (6)",

(5) by redesignating paragraph (6) as paragraph (7), and

(6) by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) To meet the consultation requirement of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.

"(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

"(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

"(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

"(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

"(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time

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period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

"(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

"(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

"(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate.".

SEC. 205. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) DEFINITION OF EXTRAORDINARY ABILITY IN THE ARTS FOR O NONIMMIGRANTS.—Section 101(a) of the Immigration and Nationality Act, as amended by sections 123 and 204(c) of the Immigration Act of 1990, is amended by adding at the end the following new paragraph:

"(46) The term 'extraordinary ability' means, for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.".

(b) ELIMINATING ADDITIONAL PAPERWORK REQUIREMENT FOR O–1'S.—Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, as amended by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", but only" and all that follows up to the semicolon at the end.

(c) CLARIFICATION OF SIGNIFICANT PHOTOGRAPHY FOR O–2S.—Section 101(a)(15)(O)(ii)(III)(b) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking "significant principal photography" and inserting "significant production (including pre- and post-production work)".

(d) CLARIFICATION OF MULTIPLE EVENTS FOR VISAS FOR O NONIMMIGRANTS.—Section 214(a)(2)(A) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by inserting "(or events)" after "event".

(e) CONSULTATION WITH RESPECT TO READMITTED O–1 NONIMMIGRANTS.—Section 214(c)(3) of the Immigration and Nationality Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by adding at the end the following: "The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.".

SEC. 206. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) ELIMINATING 3-MONTH OUT-OF-COUNTRY RULE FOR P–2 AND P–3 NONIMMIGRANTS.—Section 214(a)(2)(B) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended—

(1) by striking "(B)(i)" and inserting "(B)", and

(2) by striking clause (ii).

(b) TREATMENT OF FOREIGN ORGANIZATIONS FOR P–2 NONIMMIGRANTS.—Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by inserting "or organizations" after "and an organization".

(c) TREATMENT OF P–2 NONIMMIGRANTS.—(1) Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", between the United States and the foreign states involved".

(2) Section 214(c)(4)(E) of the Immigration and Nationality Act, as added by 207(b)(2)(B) of the Immigration Act of 1990 and as redesignated by section 203(b) of this title, is amended by striking ", in order to assure reciprocity in fact with foreign states".

(d) PERFORMANCE OF TEACHING AND COACHING FUNCTIONS BY P–3 NONIMMIGRANTS.—Section 101(a)(15)(P)(iii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended—

(1) by striking "for the purpose of performing" and inserting "to perform, teach, or coach", and

(2) by inserting "commercial or noncommercial" before "program".

SEC. 207. OTHER AMENDMENTS.

(a) RETURN TRANSPORTATION REQUIREMENT FOR O AND P NONIMMIGRANTS.—Section 214(c)(5) of the Immigration and Nationality Act, as added by section 207(b)(2) of the Immigration Act of 1990, is amended by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) or 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.".

(b) ENTRY OF FASHION MODELS UNDER H–1B.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended—

(1) by inserting "or as a fashion model" after "214(i)(1)", and

(2) by inserting "or, in the case of a fashion model, is of distinguished merit and ability" after "214(i)(2)".

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(3)), as amended by section 207(b)(2) of the Immigration Act of 1990 and by section 204 of this title, is amended by adding at the end the following new paragraph:

"(8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

"(A) The number of such petitions which have been filed.

"(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

"(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

"(D) The number of such petitions which have been withdrawn.

"(E) The number of such petitions which are awaiting final action.".

(2) DEADLINE FOR FIRST REPORT.—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 208. EFFECTIVE DATE.

The provisions of, and amendments made by, this title shall take effect on April 1, 1992.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

SEC. 301. SHORT TITLE OF TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This title may be cited as the "Immigration Technical Corrections Act of 1991".

(b) In this title, the term "INA" means the Immigration and Nationality Act.

SEC. 302. CORRECTIONS RELATING TO TITLE I OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 201 of the INA, as amended by section 101(a) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(3), by striking "(3) The number computed under this paragraph for a fiscal year" and inserting the following:

"(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year"; and

(B) in subsection (d)(2), by striking "(2) The number computed under this paragraph for a fiscal year" and inserting the following:

"(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year".

(2) Section 101 of the Immigration Act of 1990 is amended by adding at the end the following new subsection:

"(c) TRANSITION.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of a alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.".

(3) Section 202(a)(4)(A) of the INA, as amended by section 102(1) of the Immigration Act of 1990, is amended by striking "MINIMUM".

(b)(1) Section 112 of the Immigration Act of 1990 is amended—

(A) in subsection (c), by striking "temporary or" before paragraph (1), and

(B) by adding at the end the following:

"(d) DEFINITIONS.—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.".

(2) Section 203(b) of the INA, as inserted by section 121(a) of the Immigration Act of 1990, is amended—

(A) in paragraphs (1), (2), and (3), by striking "40,000" and inserting "28.6 percent of such worldwide level" each place it appears,

(B) in paragraph (1)(C), by striking "who seeks" and inserting "the alien seeks",

(C) in paragraphs (4) and (5), by striking "10,000" and inserting "7.1 percent of such worldwide level" each place it appears, and

(D) in paragraph (2)(B), by inserting "professions," after "arts,".

(3) Section 216A of the INA, as inserted by section 121(b)(1) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(2)(A), by inserting "(and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216)" after "status of the alien", and

(B) in subsections (c)(3)(B) and (d)(2)(A), by striking "obtaining the status of".

(4) Section 121(b)(2) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "deportation".

(5) Section 124(a) of the Immigration Act of 1990 is amended—

(A) in paragraph (1)—

(i) by inserting "(or paragraph (2) as the spouse or child of such an alien)" after "paragraph (3)", and

(ii) by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year."; and

(B) in paragraph (3)(A), by striking "(and has been so employed during the 12 previous, consecutive months)" and inserting "except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months".

(6) Section 132 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)";

(B) in subsection (a), by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.";

(C) in subsection (b)(1), effective after fiscal year 1992, by striking "that is not contiguous to the United States and";

(D) in subsection (c)—

(i) effective beginning with fiscal year 1993, by striking "in the chronological order in which aliens apply for each fiscal year" and inserting "strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State",

(ii) by inserting before the period at the end the following: "and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided", and

(iii) by adding at the end the following: "If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives, the shortfall shall be added to the number of such visas to be made available under this section to such natives in the succeeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland."; and

(E) in subsection (e)—

(i) by striking "the grounds" and all that follows through "shall not apply, and",

(ii) by striking "of such section" and inserting "of section 212(a) of the Immigration and Nationality Act", and

(iii) by adding at the end the following: "In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.".

(7) Section 134(a) of the Immigration Act of 1990 is amended by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)".

(c)(1) Section 141 of the Immigration Act of 1990 is amended—

(A) in the heading, by striking "LEGAL",

(B) in subsection (a), by striking "Legal",

(C) in subsection (a)(1)(B), by striking "of the Subcommittee" and all that follows through "International Law", and

(D) by adding at the end the following new subsection:

"(i) PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).".

(2) The item in the table of contents of such Act relating to section 141 is amended to read as follows:

"Sec. 141. Commission on Immigration Reform.".

(d)(1) Section 152(b)(1)(A) of the Immigration Act of 1990 is amended by striking "who has performed faithful service" and inserting "and has performed faithful service as such an employee".

(2) Section 245 of the INA, as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended—

(A) in subsection (c)(2), by inserting "(J)," after "(I),", and

(B) by adding at the end the following new subsection:

"(h) In applying this section to a special immigrant described in section 101(a)(27)(J)—

"(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

"(2) in determining the alien's admissibility as an immigrant—

"(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

"(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.".

(3) Section 241(h) of the INA, as amended by section 153(b) of the Immigration Act of 1990, is amended by striking the comma after "(3)(A)".

(4) Section 154 of the Immigration Act of 1990 is amended—

(A) in subsection (b)(1)(A), by inserting "or China" after "Hong Kong",

(B) in subsection (b)(1)(B)(i), by inserting "of" after "of section 203(a)", and

(C) by striking paragraph (3) of subsection (c).

(5) Section 155 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or section 203(e), in the case of fiscal year 1992)" after "203(c)", and

(B) in subsection (b), by striking "or the child" and inserting "or who are the spouse or child".

(e)(1) Section 161(a) of the Immigration Act of 1990 is amended by striking "in this section," and inserting "in this title, this title and".

(2) Section 161(c)(1) of the Immigration Act of 1990 is amended—

(A) by inserting "or an application for labor certification before such date under section 212(a)(14)" after "before such date)",

(B) in subparagraph (A), by inserting "or application" after "such a petition",

(C) in subparagraph (A), by inserting ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993" after "(by not later than October 1, 1993", and

(D) by adding at the end the following new sentence:

"In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half of the fee for the filing of the new petition referred to in subparagraph (A).".

(3) Section 203(f) of the INA, as inserted by section 162(a) of the Immigration Act of 1990, is amended—

(A) by striking "PRESUMPTION.—" and all that follows through "so described." and inserting "AUTHORIZATION FOR ISSUANCE.—", and

(B) by striking "201(b)(1) or in subsection (a) or (b)" and inserting "201(b)(2) or in subsection (a), (b), or (c)".

(4) Section 204(a)(1) of the INA, as amended by section 162(b) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by adding at the end the following: "An alien described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney General under this subparagraph for classification under such section.",

(B) in subparagraph (F), by striking "Secretary of State" and inserting "Attorney General", and

(C) in subparagraph (G)(iii), by striking "or registration".

(5) Section 204(e) of the INA, as amended by section 162(b)(3) of the Immigration Act of 1990, is amended by striking "a immigrant" and inserting "an immigrant".

(6) Paragraph (1) of section 162(e) of the Immigration Act of 1990 is repealed, and the provisions of law amended by such paragraph are restored as though such paragraph had not been enacted.

(7) Section 245(b) of the INA, as amended by section 162(e)(3) of the Immigration Act of 1990, is amended—

(A) by striking "201(a)" and inserting "202 and 203", and

(B) by striking "for the succeeding fiscal year" and inserting "for the fiscal year then current".

(8) Effective as if included in section 162(e) of the Immigration Act of 1990—

(A) clauses (ii)(II) and (iii)(II) of section 101(a)(27)(I) of the INA are amended by striking "applies for a visa or adjustment of status" and inserting "files a petition for status",

(B) section 216(g)(1) of the INA is amended by striking "203(a)(8)" and inserting "203(d)"; and

(C) section 221(a) of the INA is amended by striking "nonpreference,".

(9) Effective as if included in the Immigration Nursing Relief Act of 1989, section 212(m)(2)(A) of the INA is amended, by inserting after the first sentence following clause (vi) the following: "Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off.".

(10) Effective as if included in the Immigration Nursing Relief Act of 1989, as amended by section 162(f)(1)(B) of the Immigration Act of

1990, section 2(b) of the Immigration Nursing Relief Act of 1989 is amended by inserting after "registered nurse," the following: "who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status,".

SEC. 303. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 217 of the INA, as amended by section 201(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(4), by striking "BY SEA OR AIR" and inserting "INTO THE UNITED STATES", and

(B) in the heading of subsection (b), by striking "RIGHTS" and inserting "RIGHTS".

(2) Section 217(e)(1) of the INA, as redesignated by section 201(a)(7) of the Immigration Act of 1990, is amended by striking "(a)(4)(C)" and inserting "(a)(4)".

(3) The second sentence of section 251(d) of the INA, as inserted by section 203(b)(2) of the Immigration Act of 1990, is amended by striking "charterer" and inserting "consignee".

(4) Section 258(c)(2)(B) of the INA, as inserted by section 203(a)(1) of the Immigration Act of 1990, is amended by striking "each such list" and inserting "each list".

(5)(A) Section 101(a)(15)(H)(i)(b) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by inserting "subject to section 212(j)(2)," after "(b)".

(B) Section 212(j) of the INA is amended by striking paragraph (2) and inserting the following:

"(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

"(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

"(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

"(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).".

(6) Section 212(n)(1)(A)(ii) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by striking "for such aliens" and inserting "for such a nonimmigrant".

(7)(A) Section 101(a)(15)(H)(i) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by striking ", and had approved by,".

(B) Section 212(n) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended—

(i) in paragraph (1)(A)—

(I) by striking "and to other individuals employed in the occupational classification and in the area of employment" and inserting "admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b)",

(II) by amending subclause (I) to read as follows:

"(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or",

(III) after subclause (II), by striking "determined" and inserting "based on the best information available";

(ii) in paragraph (1)(D), by striking "(and accompanying documentation)" and inserting "(and such accompanying documents as are necessary)";

(iii) in paragraph (1), by moving the matter after the first sentence of subparagraph (D) flush with the left margin and by adding at the end the following:

"The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary finds that the application is incomplete or obviously inaccurate, the Secretary shall provide the certification described in section 101(a)(15)(H)(i)(b) within 7 days of the date of the filing of the application.";

(iv) in paragraph (2)(C), by striking "(or a substantial failure" and all that follows through "misrepresentation" and inserting "of paragraph (1)(B), a substantial failure to meet a condition of paragraphs (1)(C) or (1)(D), a willful failure to meet a condition of paragraph (1)(A), or a misrepresentation";

(v) in paragraph (2)(D), by striking "In addition to the sanctions provided under subparagraph (C), if" and inserting "If"; and

(vi) in paragraph (2)(D), by inserting before the period at the end the following: ", whether or not a penalty under subparagraph (C) has been imposed".

(8) The Secretary of Labor shall issue final or interim final regulations to implement the changes made by this section to section 101(a)(15)(H)(i)(b) and section 212(n) of the Immigration and Nationality Act no later than January 2, 1992.

(9) Section 206(a) of the Immigration Act of 1990 is amended by inserting "and section 124(a)(3)(A) of this Act" after "Immigration and Nationality Act".

(10) Section 214(c)(2) of the INA, as added by section 206(b)(2) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by striking "individuals petitions" and inserting "individual petitions", and

(B) in subparagraph (D)(ii), by striking "involved" and inserting "involves".

(11) Section 214(a)(2)(A) of the INA, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by striking "under section 101(a)(15)(O)" and inserting "described in section 101(a)(15)(O)".

(12) Section 214(c)(5) of the INA, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by striking "101(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(b)".

(13) Section 207(c) of the Immigration Act of 1990 is amended by inserting "of the Immigration and Nationality Act" after "101(a)(15)(H)(ii)(a)" each place it appears.

(14) Section 101(a)(15)(Q) of the INA, as added by section 208(3) of the Immigration Act of 1990, is amended by striking "designated" and inserting "approved".

(b)(1) Section 221(a) of the Immigration Act of 1990 is amended—

(A) in the matter before paragraph (1), by striking "in a position unrelated to the alien's field of study and", and

(B) in paragraph (1), by inserting "academic" before "year".

(2) Section 221(b) of the Immigration Act of 1990 is amended—

(A) by inserting "and the Secretary of Labor" after "the Commissioner of the Immigration and Naturalization", and

(B) by inserting "a report" after "to the Congress".

(3) Section 222(a) of the Immigration Act of 1990 is amended by striking "Subject to the succeeding provisions of this section" and inserting "Subject to subsection (b)".

(4) Section 223(a) of the Immigration Act of 1990 is amended—

(A) by striking the period at the end of paragraph (2) and inserting a comma, and

(B) by adding at the end the following:

"or who is the spouse or minor child of such an alien if accompanying or following to join the alien.".

SEC. 304. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) Section 302(c) of the Immigration Act of 1990 is amended by striking "AFFECT", "supercede", and "affect" and inserting "EFFECT", "supersede", and "effect", respectively.

(b) Section 244A of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(1) in subsection (a)(1), by inserting after "designated under subsection (b)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)",

(2) in paragraph (1)(B), by adding at the end the following: "In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section.", and

(3) in subsection (c)(1)(A), by inserting after "designated under subsection (b)(1)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)".

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorized departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 305. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) Section 310(b) of the INA, as amended by section 401(a) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(b) Section 407(c)(11) of the Immigration Act of 1990 is amended by striking ", other than subsection (d)".

(c) Section 407(d)(8) of the Immigration Act of 1990 is amended by striking "Section 328(c) (8 U.S.C. 1439(c)) is amended" and inserting "Subsections (b)(3) and (c) of section 328 (8 U.S.C. 1439) are amended".

(d) Subsection (g) of section 334 of the INA, as redesignated by section 407(d)(12)(E) of the Immigration Act of 1990, is redesignated as subsection (f).

(e) Section 407(d)(12)(B) of the Immigration Act of 1990 is amended by adding "and" at the end of clause (i).

(f) Section 335(b) of the INA, as amended by section 407(d)(13)(C)(iii) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(g) Section 407(d)(14)(D)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(h) Section 407(d)(14)(E)(ii) of the Immigration Act of 1990 is amended by striking "persons" and inserting "person".

(i) Section 337(c) of the INA is amended by striking "before".

(j)(1) Section 407(d)(16)(C) of the Immigration Act of 1990 is amended by striking the comma after "venue".

(2) Section 338 of the INA, as amended by section 407(d)(16)(C) of the Immigration Act of 1990, is amended by striking "District" and inserting "district".

(k) Section 340 of the INA, as amended by section 407(d)(18) of the Immigration Act of 1990, is amended—

(1) in the first sentence of subsection (a), by striking "District Court" and inserting "district court", and

(2) in the second sentence of subsection (g), by striking "clerk of the court" and inserting "clerk of court".

(l) Section 407(d)(19)(A)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(m) Effective as if included in section 407(d) of the Immigration Act of 1990:

(1) Paragraph (24) of section 101(a) of the INA is repealed.

(2) Section 312 of the INA is amended by striking "petition" and inserting "application" each place it appears.

(3) The heading of section 322 of the INA is amended by striking "PETITION" and inserting "APPLICATION".

(4) The item in the table of contents of the INA relating to section 322 is amended by striking "petition" and inserting "application".

(5) Section 330 of the INA is amended by striking "of this subsection" and inserting "of this section".

(6) Section 332(a) of the INA is amended by striking "petitioners" and inserting "applicants".

(7) Section 334(a) of the INA is amended by striking ", in duplicate,".

(8) Section 341(a) of the INA is amended by striking "a petitioner" and inserting "an applicant".

(n) Section 408(a)(2)(B) of the Immigration Act of 1990 is amended by striking "on the date of the enactment of this Act" and inserting "on January 1, 1992".

SEC. 306. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 101(a)(43) of the INA, as amended by section 501(a)(4) of the Immigration Act of 1990, is amended by striking ",." and inserting a period.

(2) Section 502(a) of the Immigration Act of 1990 is amended by striking "(8 U.S.C. 1152a(a)(1))" and inserting "(8 U.S.C. 1105a(a)(1))".

(3) Section 287(a)(4) of the INA, as amended by section 503(a)(2) of the Immigration Act of 1990, is amended by striking ", and" at the end and inserting "; and".

(4) Subparagraph (B) of section 242(a)(2) of the INA, as added by section 504(a)(5) of the Immigration Act of 1990, is amended to read as follows:

"(B) The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(5) Section 236(e)(1) of the INA, as amended by section 504(b) of the Immigration Act of 1990, is amended by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)".

(6) Section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 507 of the Immigration Act of 1990, is amended—

(A) by striking "the certified records" and inserting "notice", and

(B) by inserting before the period at the end the following: "and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record".

(7) Section 509(b) of the Immigration Act of 1990 is amended by inserting before the period at the end the following: ", except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction".

(8) The last sentence of section 510(b) of the Immigration Act of 1990 is amended by striking "for".

(9) The last sentence of section 510(c) of the Immigration Act of 1990 is amended by striking "been been" and inserting "been".

(10) The last sentence of section 212(c) of the INA, as added by section 511(a) of the Immigration Act of 1990, is amended by striking "an aggravated felony and has served" and inserting "one or more aggravated felonies and has served for such felony or felonies".

(11) Section 513(b) of the Immigration Act of 1990 is amended—

(A) by striking "petitions to review" and inserting "petitions for review", and

(B) by inserting before the period at the end the following: "and shall apply to convictions entered before, on, or after such date".

(12) Section 514(a) of the Immigration Act of 1990 is amended by striking "10 years" and inserting "ten years".

(13) Paragraphs (1) and (2) of section 515(b) of the Immigration Act of 1990 are amended to read as follows:

"(1) The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

"(2) The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.".

(b)(1) Section 274B(g)(2)(B)(iv)(II) of the INA, as amended by section 536(a) of the Immigration Act of 1990, is amended by striking "subclause (IV)" and inserting "subclauses (III) and (IV)".

(2) Section 274A(b)(3) of the INA, as amended by section 538(a) of the Immigration Act of 1990, is amended by striking the comma after "officers of the Service".

(3) Section 274B(g)(2)(B) of the INA, as amended by section 539(a) of the Immigration Act of 1990, is amended—

(A) in clause (iv)(IV), by striking the period at the end and inserting a semicolon,

(B) in clauses (v) and (vi), by striking the comma at the end and inserting a semicolon,

(C) in clause (vii), by striking ", and" and inserting "; and",

(D) in clause (vii), by striking "to order (in an appropriate case) the removal of" and inserting "to remove (in an appropriate case)", and

(E) in clause (viii), by striking "to order (in an appropriate case) the lifting of" and inserting "to lift (in an appropriate case)".

(c)(1) Section 274B(g)(2)(D) of the INA is amended by striking "physicially" and inserting "physically".

(2) Section 543(a)(3) of the Immigration Act of 1990 is amended by inserting "each place it appears" before "and inserting".

(3) Sections 252(c) and 275(a) of the INA, as amended by section 543(b) of the Immigration Act of 1990, are each amended by striking "fined not more than" and all that follows through "United States Code)" and inserting "fined under title 18, United States Code,".

(4)(A) The second sentence of section 231(d) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(B) The third sentence of section 237(b) of the INA is amended by striking "district director of customs" and inserting "Commissioner".

(C) The second sentence of section 254(a) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(D) The second sentence of section 273(b) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(5)(A) Section 274C(a) of the INA, as added by section 544(a) of the Immigration Act of 1990, is amended—

(i) in paragraph (2), by inserting "or to provide" after "or receive",

(ii) in paragraph (3), by inserting "or to provide or attempt to provide" after "attempt to use", and

(iii) in paragraph (4), by inserting "or to provide" after "receive".

(B) Section 544 of the Immigration Act of 1990 is amended by striking "(c) EFFECTIVE" and inserting "(d) EFFECTIVE".

(6) Section 242B of the INA, as inserted by section 545(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(1)(E), by striking ", upon request,";

(B) in subsection (a)(2)(A)(ii), by inserting ", except under exceptional circumstances," after "failure";

(C) in subsection (a)(2), by adding at the end the following:

"In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).";

(D) in subsection (b)(1), by inserting before the period at the end the following: ", unless the alien requests in writing an earlier hearing date";

(E) in subsection (b)(2)—

(i) by inserting "pro bono" after "to represent", and

(ii) by adding at the end the following: "Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.";

(F) in subsection (c)—

(i) in paragraph (1), by striking "except as provided in paragraph (2)," each place it appears,

(ii) in paragraph (1), by adding at the end the following: "The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).", and

(iii) by striking the second sentence of paragraph (2);

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

(G) in subsection (c)(4), by inserting "(or 30 days in the case of an alien convicted of an aggravated felony)" after "60 days";

(H) in subsection (d), by striking "the Board" and inserting "the Attorney General";

(I) in subsection (e)(4)(B), by inserting "a" after "with respect to"; and

(J) in subsection (e)(5), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(7) The 8th sentence of section 242(b) of the INA, as amended by section 545(e) of the Immigration Act of 1990, is amended to read as follows: "Such regulations shall include requirements that are consistent with section 242B and that provide that—

"(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held,

"(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

"(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

"(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.".

SEC. 307. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

(a) Section 212(a) of the INA, as amended by section 601(a) of the Immigration Act of 1990, is amended—

(1) in paragraph (1)(A), by adding "or" at the end of clause (ii);

(2) in paragraph (3)(A)(i), by inserting "(I)" after "any activity" and by inserting "(II)" after "sabotage or";

(3) in paragraph (3)(B)(iii)(III), by striking "an act of terrorist activity" and inserting "a terrorist activity";

(4) in paragraph (3)(D)(iv), by striking "if the alien" and inserting "if the immigrant";

(5) in paragraph (3)(C)(iv), by striking "identities" and inserting "identity";

(6) in paragraph (5)(C), by striking "preference immigrants" and all that follows through the end and inserting the following: "immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).";

(7) in paragraph (6)(B)—

(A) by striking "who seeks" and inserting "(a) who seeks",

(B) by striking "(or" and inserting ", or (b) who seeks admission", and

(C) by striking "felony)" and inserting "felony,";

(8) in paragraph (6)(E)—

(A) by redesignating clause (ii) as clause (iii), and

(B) by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(9) in paragraph (8)(B), by striking "alien" the first place it appears and inserting "person"; and

(10) in paragraph (9)(C)—

(A) in clause (i), by striking everything that follows "entry of" and inserting "an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.", and

(B) in clause (ii), by striking "to an alien who" and all that follows through "signatory" and inserting "so long as the child is located in a foreign state that is a party".

(b) Section 212(c) of the INA, as amended by section 601(d)(1) of the Immigration Act of 1990, is amended by striking "subparagraphs (A), (B), (C), or (E) of paragraph (3)" and inserting "paragraphs (3) and (9)(C)".

(c) Section 212(d)(3) of the INA, as amended by section 601(d)(2)(B)(i) of the Immigration Act of 1990, is amended—

(1) by striking "(3)(A)," and inserting "(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii)," each place it appears, and

(2) by striking "(3)(D)" and inserting "(3)(E)" each place it appears.

(d) Section 212(d)(11) of the INA, as added by section 601(d)(2)(F) of the Immigration Act of 1990, is amended by inserting "and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof)" after "section 211(b)".

(e) Section 212(g)(1) of the INA, as amended by section 601(d)(3) of the Immigration Act of 1990, is amended by striking "section (a)(1)(A)(i)" and inserting "subsection (a)(1)(A)(i)".

(f) Section 212(h) of the INA, as amended by section 601(d)(4) of the Immigration Act of 1990, is amended—

(1) in the matter before paragraph (1), by striking "in the case of" and all that follows through "permanent residence"; and

(2) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting "(A) in the case of any immigrant" after "(1)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking "and" at the end of subparagraph (C) and inserting "or",

(D) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and

(E) by adding at the end the following:

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and".

(g) Section 212(i) of the INA, as amended by section 601(d)(5) of the Immigration Act of 1990, is amended by striking "alien" and "alien's" each place it appears and inserting "immigrant" and "immigrant's", respectively.

(h) Section 241(a) of the INA, as amended by section 602(a) of the Immigration Act of 1990, is amended—

(1) by striking "deportable as being", and by inserting "deportable" after "the following classes of";

(2) in paragraph (1)(D)(i), by inserting "respective" after "terminated under such";

(3) in paragraph (1)(E)(i), by inserting "any" before "entry" the second and third places it appears;

(4) in paragraph (1)(E), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(5) in paragraph (1)(G), by striking "212(a)(5)(C)(i)" and inserting "212(a)(6)(C)(i)";

(6) in paragraph (1)(H), by striking "paragraph (6) or (7)" and inserting "paragraph (4)(D)";

(7) in paragraph (2)(D), by inserting "or attempt" after "conspiracy";

(8) in paragraph (3), by adding at the end the following:

"(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.";

(9) in subparagraphs (A) and (B) of paragraph (4), by striking "after entry has engaged" and inserting "after entry engages"; and

(10) in paragraph (4)(C)(ii), by striking "excluability" and inserting "excludability".

(i) Section 102 of the INA, as amended by section 603(a)(2) of the Immigration Act of 1990, is amended by striking "paragraph (3) (other than subparagraph (E)) of section 212(a)" each place it appears and inserting "subparagraphs (A) through (C) of section 212(a)(3)".

(j) Effective as if included in section 603(a)(5) of the Immigration Act of 1990, section 210(b)(7)(B) of the INA is amended by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)".

(k) Effective as if included in section 602(b) of the Immigration Act of 1990, section 241 of the INA is amended—

(1) by striking subsection (d), and

(2) in the subsection (h) (added by section 153(b) of the Immigration Act of 1990) by striking "exist" and inserting "existed" and by redesignating the subsection as subsection (c).

(l) Effective as if included in section 603(a) of the Immigration Act of 1990:

(1) Sections 207(c)(3) and 209(c) of the INA, as amended by section 603(a)(4)(B) of the Immigration Act of 1990, are each amended by striking "subparagraphs (A)" and inserting "subparagraph (A)".

(2) Section 210A(e)(2)(B) of the INA is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) Paragraph (3) (relating to security and related grounds).".

(3) Section 217(a) of the INA is amended by striking "(26)(B)" and inserting "(7)(B)(i)(II)".

(4) Section 218(g)(3) of the INA is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)(i)".

(5) Section 244A(c) of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(A) in paragraph (2)(A)(iii)(I), by striking "paragraphs (9) and (10)" and inserting "paragraphs (2)(A) and (2)(B)"; and

(C) by amending subclause (III) of paragraph (2)(A)(iii) to read as follows:

"(III) paragraphs (3)(A), (3)(B), (3)(C), or (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).".

(6) Section 245A(d)(2)(B)(ii) of the INA is amended—

(A) by striking subclause (IV),

(B) by redesignating subclause (II) as subclause (IV) and by transferring and inserting it after clause (III),

(C) by redesignating subclause (III) as subclause (II),

(D) by inserting after subclause (II) (as so redesignated) the following new subclause:

"(III) Paragraph (3) (relating to security and related grounds).", and

(E) by striking "Subclause (II)" and inserting "Subclause (IV)".

(7) Section 272(a) of the INA is amended by striking the comma before "shall pay".

(8) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended by section 603(a)(20)(B) of the Immigration Act of 1990, is amended by striking "(D)" and inserting "(E)".

(9) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking "(23)(B), (27), (29), or (33)" and inserting "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

(10) Section 2(a)(3) of the Immigration Nursing Relief Act of 1989 is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)".

(m) Effective as if included in section 603(b) of the Immigration Act of 1990—

(1) paragraph (4)(B) of such section is amended by striking "in paragraph (2)", and

(2) section 242(e) of the INA is amended by striking "paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3), or (4)".

SEC. 308. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

(a) Effective October 1, 1991, section 245(e)(3) of the INA, as added by section 702(a)(2) of Immigration Act of 1990, is amended by striking "204(h)" and inserting "204(g)".

(b) Section 702(b) of the Immigration Act of 1990 is amended by striking "204(h) (8 U.S.C. 1154(h))" and inserting "204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act,".

(c) Section 304(f) of the Immigration Reform and Control Act of 1986, as amended by section 704(b) of the Immigration Act of 1990, is amended—

(1) by striking "appointment in the and" and inserting "appointment and", and

(2) by striking "civil" the first place it appears and inserting "competitive".

(d) Section 404(b)(2)(A) of the INA, as added by section 705(a)(5) of the Immigration Act of 1990, is amended by adding at the end the following new sentence:

"In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district."

SEC. 309. ADDITIONAL MISCELLANEOUS CORRECTIONS.

(a)(1)(A) Section 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100–459, 102 Stat. 2203) is amended—

(i) in subsection (a)—

(I) by striking "Title 8, United States Code, section 1356 is amended by adding" and inserting "Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end", and

(II) in the subsection (o) added by such subsection, by striking "will" and inserting "shall"; and

(ii) by amending subsection (b) to read as follows:

"(b) Section 344(g) of the Immigration and Nationality Act (8 U.S.C. 1455(g)) is amended by inserting after 'Treasury of the United States' the following: 'except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 286(m)'.".

(B) The fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101–162, 103 Stat. 1000) is amended to read as follows: ": Provided further, That section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by striking 'in excess of $50,000,000' and by striking the second sentence".

(2)(A) Section 286 of the INA, as amended by section 210 of the Department of Justice Appropriations Act, 1991, is amended—

(i) in subsection (h)(1)(A), by inserting a period after "available until expended",

(ii) in subsection (m), by striking "additonal" and inserting "additional",

(iii) by moving the left margins of subsection (q)(2) and the matter in subsection (q)(3)(A) (before clause (i)) 2 ems to the left,

(iv) in subsection (q)(3)(A), by inserting "the" after "The Secretary of", and

(v) in subsection (q)(5)(B), by striking "subsection (q)(1)" and inserting "paragraph (1)".

(B) Section 210(a)(2) of the Department of Justice Appropriations Act, 1991, is amended by striking "in which fees" and inserting "in which the fees".

(3) The amendments made by paragraph (1) and (2) shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(b)(1) Section 101(a)(15)(D)(i) of the INA is amended by inserting a comma after "States)".

(2) The item in the table of contents of the INA relating to section 242A is amended by striking "Procedures" and inserting "procedures".

(3) The item in the table of contents of the INA relating to section 345 is repealed.

(4) Section 101(c)(1) of the INA is amended by striking "322, and 323" and inserting "and 322".

(5) Section 204(f)(4)(A)(ii)(II) of the INA, as redesignated by section 162(d)(6) of the Immigration Act of 1990, is amended by striking "section 652 of such Act" and inserting "the second and third sentences of such section".

(6) Paragraph (3) of section 210(d) of the INA is amended—

(A) by indenting the paragraph (and its subparagraphs) 2 ems to the right;

(B) by striking "the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA)" and inserting "Service pursuant to this subsection";

(C) in the matter before subparagraph (A), by striking "INS" each place it appears and inserting "Service";

(D) in subparagraph (A), by striking "as defined in section 210(a)(1)(A) of the INA the INS" and inserting "described in subsection (a)(1)(A) the Service";

(E) in subparagraph (A), by striking "in the INA" and inserting "in this Act";

(F) in subparagraph (B), by striking "as defined in section 210(a)(1)(B)(1)(B) of the INA" and inserting "described in subsection (a)(1)(A)"; and

(G) in subparagraph (B), by striking "section 210(b)(1)(A)" and inserting "subsection (b)(1)(A)".

(7) Section 212(j) of the INA is amended by striking "International Communication Agency" in paragraphs (1)(D) and (3) and inserting "United States Information Agency".

(8) Section 218(i)(1) of the INA is amended by striking "274A(g)" and inserting "274A(h)(3)".

(9) Section 242(h) of the INA is amended by inserting a comma after "Parole".

(10) Section 242A(a) of the INA is amended by striking "101(a)(43)" and inserting "101(a)(43))".

(11) Section 274A(b)(1)(D)(ii) of the INA is amended by striking "clause (ii)" and inserting "clause (i)".

(12) Section 286(e)(1)(D) of the INA is amended by striking "of this title".

(13) Section 313(a)(2) of the INA is amended by inserting "and" before "(F)" and by striking "; (G)" and all that follows through "of 1950" the second place it appears.

(14) Section 344(c) of the INA, as redesignated by section 407(d)(19)(F) of the Immigration Act of 1990, is amended by striking "of this subchapter" and inserting "of this title".

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99–653).

SEC. 310. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 302 through 308 shall take effect as if included in the enactment of the Immigration Act of 1990,

(2) section 309(a) shall be effective with respect to allotments for fiscal years beginning with fiscal year 1989, and

(3) section 309(c) shall take effect on the date of the enactment of this Act.

Amend the title to read as follows: "An Act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws.".

Mr. MAZZOLI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Kentucky?

Mr. FISH. Mr. Speaker, reserving the right to object, I do so solely for the purpose of asking the chairman of the subcommittee if he would explain the measure.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. FISH. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, the Senate amendment to H.R. 3049 is extremely meritorious and deserves the House's support.

The House passed H.R. 3049 by voice vote on November 12. The measure, as passed by the House, is quite simple: It restores to our Federal and State courts the authority to conduct naturalization ceremonies for new citizens.

The Senate amendment to H.R. 3049 incorporates the House-passed bill nearly verbatim. The Senate amendment differs only in that it tightens the language of the House bill to ensure that those courts that conduct naturalization ceremonies are fully reimbursed for their costs by the Immigration Service, but will not in fact make a profit. The Judicial Conference of the United States strongly supports this amendment.

The Senate amendment also includes a provision to ensure that if a court is

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unable to conduct a naturalization ceremony it has scheduled, notification will be given promptly to those applicants who would be affected.

Beyond that, the Senate amendment includes, without change, the text of H.R. 3048, a measure that passed yesterday. That measure relaxes the entry requirements for certain types of foreign artists, athletes, and entertainers.

In addition, the Senate amendment includes, with minor changes, the text of H.R. 3670, which is also a measure the House passed yesterday. That bill makes a series of technical amendments to the Immigration and Naturalization Act.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. It there objection to the initial request of the gentleman from Kentucky?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING THE PRESIDENT TO APPOINT MAJ. GEN. JERRY RALPH CURRY TO OFFICE OF ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2098) to authorize the President to appoint Maj. Gen. Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. CLINGER. Mr. Speaker, reserving the right to object, and I will not object, I do so for the purpose of inquiring of the chairman of the subcommittee the purpose of this legislation.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, the legislation now before us would allow Maj. Gen. Jerry Ralph Curry to serve as Administrator of the Federal Aviation Administration while remaining on the retired list of the U.S. Army.

The legislation is necessary because of a provision in the 1958 law establishing the Federal Aviation Administration which requires that the FAA Administrator be a civilian and not on the active or retired list of the armed services. This law is important in the interests of establishing civilian primacy over the regulations of the Nation's airspace.

While it is important to retain generally this provision regarding the Office of FAA Administrator, I believe the requirement should be waived in this instance so that General Curry can be appointed and not lose any of the military retirement benefits he has earned. Without this bill, he would have to resign his commission and be removed from the retirement list of the Army in order to be appointed Administrator which would harm his pension benefits.

The Aviation Subcommittee held hearings on this legislation yesterday and received testimony from General Curry. General Curry is very much aware of the need for civilian control of the airspace, and I do not expect undue military influence to creep into his management of the airspace just because he is a retired officer.

The Congress has passed similar legislation on a number of previous occasions. It is important that we do so again today in order that General Curry can be confirmed and appointed so that there is little loss in the continuity of leadership at this important agency. The current Administrator, James B. Busey, has also been nominated by the President to become Deputy Secretary of Transportation. So without this legislation passing today, the FAA would be without an Administrator for a period of weeks, possibly months.

Finally, I would note that the Senate bill we are taking up is identical to a bill, H.R. 3902, which I introduced on Saturday along with ROBERT A. ROE, Chairman of the Public Works and Transportation Committee, JOHN PAUL HAMMERSCHMIDT, our full committee ranking Republican member, BILL CLINGER, our subcommittee ranking Republican member, and NORMAN MINETA, an active member of our committee on aviation matters.

☐ 0340

The current Administrator, James B. Busey, has also been nominated by the President to become Deputy Secretary of Transportation. Unless we pass this legislation today, the FAA could be without an Administrator for a period of weeks, and maybe even months.

Mr. CLINGER. Mr. Speaker, further reserving the right to object, I yield to the ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I support the request of the distinguished subcommittee chairman.

Mr. Speaker, I support this bill. Current law requires that the Administrator of the FAA be a civilian. This means that he cannot be on either the active or retired list of any military service.

This bill will allow Jerry Curry to become FAA Administrator despite his retired military status. If we do not pass this bill, General Curry would have to resign his commission and lose his pension benefits prior to serving as Administrator.

There is no reason that Jerry Curry should be required to make this sacrifice in order to serve at the FAA. At least four times in the past, we have enacted legislation to allow a military man to assume the top post at the FAA.

General Curry is well qualified for this post. He has served his country well in several capacities, most recently as Administrator of the National Highway Traffic Safety Administration. I am confident that he will make a fine FAA Administrator.

We should move quickly here so that the FAA will not be without a chief for too long. The Senate will soon approve the Curry nomination and pass its bill. I urge quick approval of S. 2098 so that Jerry Curry can move into his new position right away.

Mr. CLINGER. Mr. Speaker, further reserving the right to object, I join with the chairman in support of the unanimous consent request. It is a necessary technicality, but it will ensure that we will have Mr. Curry in the position at FAA promptly and not jeopardize his pension rights.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration. Major General Curry's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Army, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Major General Curry shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Army, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Army, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Major General Curry shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Army.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any fu-

ture appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2098, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REQUEST TO START DEBATE ON CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE. Mr. Speaker, for the benefit of the Members of the House, the printed copy is on its way over here, but in order for us not to delay the start of this debate, I ask unanimous consent that we be able to start the discussion on this proposal pending its getting here, which should be in a few minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Speaker, reserving the right to object, I would observe that the papers are not here yet.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, they are on their way over here now.

Mr. DINGELL. Does that include the signatures of all the House conferees?

Mr. ROE. We do have the signatures, they tell me, for those who chose to sign the report.

Mr. DINGELL. Mr. Speaker, I would note there are portions of that in which the Committee on Energy and Commerce has equal conferees with regard to certain matters relative to rail transit. Are those papers in the hands of my friends?

Mr. ROE. Mr. Speaker, the signature sheets are coming over here with the rest of the papers.

Mr. Speaker, I withdraw my request. We will have to wait until the papers get here.

PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 3807, CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 316 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 316

Resolved, That upon adoption of this resolution it shall be in order to consider a nondivisible motion to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with the Treaty of Conventional Armed Forces in Europe, with the Senate amendments thereto, and to concur in the Senate amendments with amendments printed in the report of the Committee on Rules accompanying this resolution. The motion and the Senate amendments shall be considered as having been read. Debate on said motion shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The previous question shall be considered as having been ordered on the motion to final adoption without intervening motion. All points of order against the motion are hereby waived.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 316?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 316.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

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Ms. SLAUGHTER of New York. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this House resolution makes in order a nondivisible motion to take H.R. 3807 from the Speaker's table, and agree to the Senate amendments with three House amendments. The House amendments are printed in the report to accompany the rule, and all points of order are waived against the motion. Finally, the rule provides 1 hour of debate on the motion.

Mr. Speaker, H.R. 3807 authorizes the President to transfer tanks, artillery, and armored combat vehicles to member countries in NATO to implement the transfer program associated with the Conventional Forces in Europe Treaty negotiated last November in Paris. The program will allow the alliance to modernize forces and become more efficient as the burden of providing an adequate defense shifts among allied countries in Europe.

During its deliberations last night the Senate added three amendments relating to nuclear weapons destruction and emergency humanitarian assistance for the Soviet Union. Members of the Foreign Affairs and Armed Services Committees have met with their counterparts in the Senate and devised language which is mutually agreeable to all parties and—as I understand it—will be agreed to by the Senate once we have returned the legislation to that body.

The compromise agreement is included in the text of House amendments to the Senate amendments to H.R. 3807.

The House amendments authorize $400 million to facilitate the destruction of nuclear, chemical, and other weapons in the Soviet Union and put in place safeguards against the proliferation of such weapons. The amendments authorize $100 million for humanitarian aid, including food and medical supplies, to be supplied by commercial or military means to the Soviet Union, its Republics or successor entities. The amendments also provide that the President encourage the repayment of such assistance through the provision of natural resources.

Finally, the amendments authorize the Arms Control and Disarmament Agency for 2 years and further clarify the congressional oversight activities of the onsite inspection agency.

Mr. Speaker, this rule will facilitate final action on this important legislation without the necessity of convening a conference in the waning hours of the session. I urge my colleagues to adopt this resolution so that we may proceed to the consideration of these important arms control policy initiatives.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from New York has explained what this rule will provide; namely, a self-executing rule to adopt a number of Senate and House amendments, waive all points of order against the consideration of those amendments as a part of the Arms Control Export Act of 1991 as amended, and bring it quickly to the floor.

Because it is a self-executing rule, I cannot support it. Even at this late hour, we should not abandon proper procedures to enact amendments in one fell swoop, without the benefit of considering them here on the floor of the House. And there is much in this that many Members on this side of the aisle would wish to debate.

That wasn't true 1 week ago. This bill passed the House without controversy at that time, and was sent to the Senate. Now, this important bill comes back before the House after Senate amendments to the Conventional Forces in Europe Treaty implementation. Those amendments included funding for the destruction of nuclear weapons in the possession of the Soviet Union. Further, those amendments also provided for funding of humanitarian assistance to the Soviet Union or its Republics.

After passage of those amendments in the Senate last night, the leadership of the House Foreign Affairs Committee along with the leadership of the House Armed Services Committee have spent most of the day and night in consultation with their Senate counterparts trying to work out amendments to the Senate amendments that could be accepted by both Chambers. And the leadership of those committees deserve commendation for their hard work.

Mr. Speaker, this is an important task: First, authorizing some necessary transfers of arms to NATO members countries; second, dismantling some of the nearly 30,000 nuclear warheads in the Soviet arsenal and third, providing the humanitarian assistance mentioned earlier.

It is worth noting, Mr. Speaker, that while the Senate originally asked for $500 million for the Nuclear Weapon Destruction Program, this House-amended form lowers that level to $400 million. The Senate planned a $200 million authorization for transportation of aid to the Soviets, and that has been dropped to $100 million.

Mr. Speaker, I am a firm believer that all the money in all the wallets of all the taxpayers in America would never be enough to bail out a failed, centrally planned economy in the Soviet Union. Granted, this bill does not authorize direct aid—it only authorizes the President to exercise discretion in this area, up to a certain funding level. However, I would submit that most Americans will perceive this as aid to the Soviet Union at a time when many of them are looking for jobs here at home. We must not be perceived as simply giving handouts to the Soviet Union, or its republics. After all, this is a rich country: rich in gold reserves, rich in strategic metals, and incredibly rich in oil reserves.

So, I was pleased that the House included in its amendments to the Senate amendments the notion of compensation for this aid. The amendment will now read that the U.S. Government should be reimbursed by the recipient central or republic government to the extent that the President determines to be appropriate.

Mr. Speaker, I wish to express my appreciation to Representative BENNETT of Florida and make special mention for his insisting on this provision—a provision which I was proud to support.

However, we must accept the fact that we are playing at the margins. The massive, wrecked economy of the Soviet Union and its republics doesn't need aid half as much as they need free markets and investment incentives.

Much hard and important work has been done today on this bill, Mr. Speaker. However, we must ask why we have to rush this through now with a self-executing rule—when we have refused to rush through an economic aid package for America before going home. It doesn't make sense to me, and I think we should follow normal procedure in matters such as this.

For that reason, Mr. Speaker, I urge opposition to the rule even as I recognize the yeoman's duty performed by Mr. FASCELL of Florida and Mr. ASPIN of Wisconsin, the chairmen of the Foreign Affairs and Armed Services Committees, respectively.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, this is a fair rule on a good bill.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 316, I move to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The SPEAKER pro tempore. The Clerk will designate the motion and the House amendments.

The text of the motion and the text of the House amendments are as follows:

Mr. FASCELL moves to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, with Senate amendments thereto, and concur in the Senate amendments with amendments, as follows:

Amendment to Senate amendment numbered 1:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE II—SOVIET WEAPONS DESTRUCTION

Part A—Short Title

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

Part B—Findings and Program Authority

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) Findings.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of Soviet nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among the Soviet Union, its republics, and any successor entities that is not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the Soviet Union, its republics, and any successor entities, that contributs to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union, its republics, and any successor entities, and (B) to assist in the prevention of weapons proliferation.

(b) Exclusions.—United States assistance in destroying nuclear and other weapons under this title may not be provided to the Soviet Union, any of its republics, or any successor entity unless the President certifies to the Congress that the proposed recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) In General.—Notwithstanding any other provision of law, the President, consistent with the findings states in section 211, may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C.

(b) Type of Program.—The program under this section shall be limited to cooperation among the United States, the Soviet Union, its republics, and any successor entities to (1) destroy nuclear weapons, chemical weapons, and other weapons, (2) transport, store, disable, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

Part C—Administrative and Funding Authorities

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) Funding.—

(1) Transfer authority.—The President may, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States code, not to exceed $400,000,000 for use in reducing the Soviet military threat under part B.

(2) Limitation.—Amounts for transfer under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) Department of Defense.—The Department of Defense shall serve as the executive agent for any program established under part B.

(c) Reimbursement of Other Agencies.—The Secretary of Defense may reimburse other United States Government departments and agencies under this section for costs of participation, as directed by the President, only in a program established under part B.

(d) Charges Against Funds.—The value of any material from existing stocks and inventories of the Department of Defense, or any other United States Government department or agency, that is used providing assistance under part B to reduce the Soviet military threat may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) Determination by Director of OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 222. REPAYMENT ARRANGEMENTS.

(a) Reimbursement Arrangements.—Assistance provided under part B to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(b) Natural Resources, Etc.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this section that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

SEC. 223. DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

Part D—Reporting Requirements

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs for which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal years 1992 and 1993, the President shall transmit to the Congress a report on the activities to reduce the Soviet military threat carried out under part B. Each such report shall set forth, for the preceding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which they were spent.

(2) The sources of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of the Department of Defense, and the participation of any other United States Government department or agency, in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

Amendment to Senate amendment numbered 2:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301. AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) Findings.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of antidemocratic forces in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) Authority To Transfer Certain Funds.—

(1) In general.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts sufficient funds, not to exceed $100,000,000 from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the president. As used in this subsection, the term "humanitarian assistance" does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators, and compressors.

(2) Reports by the Secretary of State.—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary's report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) Source of funds.—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) Emergency requirements.—The Congress designates all funds transferred pursuant to this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act or joint resolution that makes funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act or joint resolution to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) Repayment Arrangements.—

(1) Reimbursement arrangements.—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) Natural resources, etc.—The President shall encourage the satisfaction of such reimbursement arrangements through the provisions of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) Dire Emergency Supplemental Appropriations.—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) Prior Notice.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) Reports to the Congress.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. This report shall at a minimum, set forth—

(1) the amount of funds transferred under this title, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the form and number of lift assets planned to be used to deliver assistance pursuant to this title;

(4) the types and purpose of the cargo planned to be delivered pursuant to this title; and

(5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

Amendment to Senate amendment numbered 3:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

SEC. 401. ARMS CONTROL AND DISARMAMENT AGENCY.

(a) Authorization of Appropriations.—Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended—

(1) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(2) in paragraph (1) as so redesignated, by striking out "$36,000,000 for the fiscal year 1990 and $37,316,000 for the fiscal year 1991" and inserting in lieu thereof "$44,527,000 for fiscal year 1992 and $45,862,810 for fiscal year 1993"; and

(3) in paragraph (2) as so redesignated, by striking out "fiscal years 1990 and 1991" and inserting in lieu thereof "each fiscal year for which an authorization of appropriations is provided in paragraph (1)".

(b) Administrative Authorities Regarding Investigations.—Section 41 of that Act (22 U.S.C. 2581) is amended—

(1) by redesignating paragraphs (h) and (i) as paragraphs (i) and (j), respectively; and

(2) by inserting after paragraph (g) the following new paragraph (h):

"(h) administer oaths and take sworn statements in the course of an investigation made pursuant to the Director's responsibilities under this Act;".

(c) ACDA Revitalization.—Not later than December 15, 1992, the Inspector General of the Arms Control and Disarmament Agency (who serves also as the Inspector General of the Department of State) shall submit to the President, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate a report with regard to the Agency's fulfillment of the primary functions described in section 2 of the Arms Control and Disarmament Act (22 U.S.C. 2551). Such report shall address the current ability and performance of the Agency in carrying out these functions and shall provide detailed recommendations for any changes in executive branch organization and direction needed to fulfill these primary functions. Within 60 days after submission of this report, the President shall submit the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate comments on any recommendations contained in the report dealing with executive branch organization and direction.

SEC. 402. ON-SITE INSPECTION AGENCY.

(A) Responsibilities of the On-Site Inspection Agency.—

(1) Additional responsibilities.—Section 61 of the Arms Control and Disarmament Act (22 U.S.C. 2595) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (4), including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;".

(2) Conforming amendments to definitions.—Section 64 of that Act (22 U.S.C. 2595c) is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(C) by adding after paragraph (2) the following:

"(3) the term 'Peaceful Nuclear Explosions Treaty' means that Treaty Between the United States of America and the Union of Soviet Socialist Republic on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

"(4) the term 'Threshold Test Ban Treaty' means the Treaty Between the United States of American and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).".

(b) Improving Congressional Oversight of On-Site Inspection Activities.—Title V of that Act is amended—

(1) by redesignating section 64 as section 65; and

(2) by inserting after section 63 the following:

"SEC. 64. IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.

"(A) Report From the President.—Concurrent with the submission to the Congress of the request for authorization of appropriations for OSIA for fiscal year 1993, the President shall submit a report on OSIA to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Armed Services of the House of Representatives and Senate. The report shall include a review of—

"(1) the history of OSIA, including how, when, and under what auspices it was established, including the applicable texts of the relevant executive orders;

"(2) the missions and tasks assigned to OSIA to date;

"(3) any additional missions and tasks likely to be assigned to OSIA during fiscal year 1993;

"(4) the budgetary history of OSIA; and

"(5) the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

"(b) Review of Certain Reprogramming Notifications.—Any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.".

The SPEAKER pro tempore. The gentleman from Florida [Mr. Fascell] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. Broomfield] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3807, authorizing the President to transfer certain limited equipment pursuant to the CFE Treaty. In addition to provisions that implement the CFE Treaty, H.R. 3807 includes the authority for the United States to facilitate the dismantlement and destruction of Soviet nuclear, chemical, and other weapons of mass destruction.

H.R. 3807 also includes authority to transport by emergency airlift food, medical supplies, and other types of humanitarian assistance. This provision specifically prohibits the transfer to the Soviet Union, its republics or successor entities any construction-related equipment.

Finally, H.R. 3807 provides for the authorization of appropriations for the Arms Control and Disarmament Agency for fiscal years 1990 and 1991 and in that regard delineates the responsibility of the On-Site Inspection Agency.

One year ago, on November 19, 1990, 22 nations met at a summit of the Conference on Security and Cooperation in Europe in Paris and signed the Treaty on Conventional Armed Forces in Europe [CFE Treaty]. The CFE Treaty is an agreement that mandates reductions and limits on military equipment such as tanks, armored vehicles, artillery, combat aircraft, and helicopters in Europe from the Atlantic Ocean to the Ural Mountains. This treaty is another major arms control achievement of the post-cold-war era. It culminates a long, arduous process of negotiations between NATO and the Warsaw Pact on force reductions in Europe, which began in 1973 but didn't become a realistic opportunity until the Berlin Wall came down.

The CFE Treaty requires that each state which is a party to the treaty submit extensive data on its military forces, adhere to detailed provisions for the destruction or conversion of excess equipment, and open military installations to intrusive inspection. The CFE Treaty was formally submitted to the Senate on July 1, 1991, and the Senate considered and ratified the treaty on November 25, 1991.

The legislation that we are considering today is a key component of the CFE Treaty and is considered to be part of the implementation of that treaty. Specifically, the transfer program authorized by this legislation would enable the United States, Germany, and other allies to adjust their reduction liabilities by transferring treaty-limited equipment to other allies, allowing the alliance to achieve an effective overall defense capability at lower force levels.

I would like to also point out that this is a NATO program and not solely a U.S. program, with the U.S. portion representing only 30 percent of the overall program. Therefore, 70 percent of the costs associated with the program will not be incurred by the United States, and 70 percent of the actual equipment transfers will come from other NATO member countries.

Briefly, title I of the legislation:

Clarifies that the transfers are consistent with the obligations incurred by the United States and other allies in connection with the CFE Treaty;

Limits the articles eligible for transfer only to battle tanks, armored combat vehicles, or artillery included within the CFE Treaty's definition of conventional armaments and equipment limited by the treaty;

Clarifies that the United States will not incur any additional costs for such transfers;

Includes language concerning the military balance in the eastern Mediterranean; and

Stipulates congressional reporting requirements prior to any transfer.

This legislation does not include authority requested by the executive branch concerning follow-on support for the initial transfers. This language was deleted to reflect concerns raised by some of our colleagues and with the concurrence of the executive branch.

I would like to commend my colleagues on both sides of the aisle of the Foregn Affairs Committee and also on the Armed Services Committee for working with us to fashion this legislation, which now enjoys broad bipartisan support. I would also note that this legislation in its current form is fully supported by the executive branch.

I believe this treaty enhances stability and security in Europe and that this implementing legislation further complements the treaty objectives, and I urge my colleagues to support this measure.

Other important components of this bill include two provisions dealing with Soviet weapons destruction and emergency humanitarian assistance to the Soviet Union, it's republics and successor entities. Both of these provisions have strong, bipartisan support in the other body. Funding for them is already contained in the Dire Emergency Supplemental Appropriations Act for 1992. Both provisions are narrowly defined and pertain strictly to the dismantling of Soviet nulcear weapons and the provision of emergency humanitarian assistance. No other assistance, technical or otherwise, is contained in this bill.

Soviet President Gorbachev has requested Western help in dismantling Soviet nuclear weapons, and President Bush has proposed that the United States provide such assistance directed at the storage, transportation, dismantling, and destruction of nuclear weapons. It is clearly in the security interests of the United States and its allies to help the Soviets dispose of their nuclear weapons to prevent their possible seizure, theft, or transfer, not to mention use in the looming atmosphere of instability and chaos in the Soviet Union.

Title II of this legislation provides that the President may transfer up to $400 million in fiscal year 1992 from Department of Defense accounts for these purposes. Prior to the expenditures of any of these funds, the President will first certify to the Congress that potential recipients in the Soviet Union, by the republics or what is left of the central authorities, are committed to a series of constructive actions. These include making a substantial investment of their own for the destruction of such weapons, forgoing military modernization, as well as the use of fissionable or other components of the destroyed nuclear weapons, complying with all relevant arms control agreements and facilitating U.S. verification of the weapons' destruction.

Such a program of nuclear weapons destruction will increase U.S. security by:

Avoiding spending billions of dollars on arms production that perpetuates arms race;

Enhancing our country's nonproliferation and antiterrorism efforts;

Enhancing the prospects for a peaceful transition from authortarian to democratic rule in the Soviet Union;

Creating more business opportunities for U.S. disarmament contractors; and making arms disarmament, not just arms control, a reality in the post-cold war environment.

It is important that this program has both a "matched" and a "multilateral" aspect.

Matched—because we expect the Soviets to not only pay their share but to also make the political decisions to get weapons destruction programs moving and funded.

Multilateral—because we expect European countries have a special stake in seeing Soviet weapons destroyed and, therefore, they should also contribute funds and expertise to this mutual security effort.

U.S. leadership is important on efforts such as this and we, in Congress, can be proud of our efforts to initiate the process. Our constituents can be assured that this is not a Soviet aid giveaway program but rather a United States security and arms control enhancement program. Furthermore, the fund will be used to fund U.S. experts, technicians, planners, and contractors to enable them to play a crucial role in initiating these weapons destruction programs.

In short, this program is in our own self-interest. It will enhance United States security by assuring the destruction of Soviet weaponry and by cutting off opportunities that might allow these weapons to proliferate into the wrong hands to be used directly or indirectly against the United States.

Economic chaos in the Soviet Union is mounting and threatens the peaceful transformation of that country. Emergency humanitarian assistance in the form of necessary food stuffs and medical supplies can be helpful in averting potential disaster. Title III provides for up to $100 million to be transferred, at the direction of the President, from Department of Defense funds for the transport, by either military or commercial means of food, medical supplies, and other types of emergency humanitarian assistance to the Soviet Union, it's republics or any successor entities.

The Secretary of State will report to the President in prompt fashion regarding any emergency conditions which may require such assistance. Notification of the Senate and House Committee on Armed Services, Appropriations, Foreign Policy, and Foreign Affairs is required within 10 days of the transfer of these emergency humanitarian funds.

Mr. Speaker, the Soviet Union is at a crossroads in its history, and it needs our help and that of the rest of the developed world. This is not a problem we can simply throw some money or ideas at and think we have done our duty. We must recognize the limits but also the opportunities involved in our efforts to help the Soviets. This legislation carefully targets two areas of immediate concern to the stability and well-being of the Soviet Union, Europe, the United States, and the world: The destruction of Soviet nuclear weapons and the provision of emergency humanitarian assistance. These are straightforward, necessary, and narrow defined steps, and I urge my colleagues to support them.

Title IV of H.R. 3807 also authorizes funding for the Arms Control and Disarmament Agency [ACDA] for fiscal years 1992 and 1993 and addresses the congressional oversight of the activities of the On-Site Inspection Agency [OSIA].

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JA 3
1992
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The post-cold-war, the post-Gulf-war, and the post-Soviet-coup setting poses many new challenges and opportunities for both of these agencies in the field of arms control and disarmament. The activities and importance of these agencies will increase significantly in the coming years as we actively complete and implement some half dozen bilateral and multilateral arms control and disarmament agreements.

The authorization level for ACDA is set at $44.527 million for fiscal year 1992. This modest level is easily explained by ACDA's increased responsibilities related to several arms control negotiations and implementation of three arms control agreements, the INF Treaty and the two nuclear testing treaties—PNET and TTBT. It is our intention that this funding level will enable ACDA to provide for additional external research in support of the Agency's activities.

The other item related to ACDA in this legislation is a provision calling for a report by the inspector general of ACDA to examine ACDA's fulfillment of its primary functions and to review what recommendations he might make regarding ACDA's needs during this period of increasing responsibilities and activities.

The Arms Control and Disarmament Agency is the U.S. Government agency with primary responsibility for the development and implementation of U.S. arms control policies. ACDA is implementing three arms control agreements—the INF Treaty and the two nuclear testing treaties—and is working on as many as nine other arms control accords—START I and II, CFE I and II, two chemical weapons agreements, short-range nuclear forces, biological weapons, and nuclear nonproliferation. That is a very full agenda and that is why the Committee on Foreign Affairs supported modest increases in personnel and research for ACDA.

The On-Site Inspection Agency [OSIA] was established in February 1988 to implement the INF Treaty. OSIA Manages, directs, and implements all the on-site inspections for that treaty, which now total approximately 600 inspections Even though all the INF missiles have now been destroyed, the monitoring, verification, and inspecting under the INF Treaty will continue for the next 10 years. Now, OSIA will also be implementing, monitoring, and overseeing the two nuclear testing agreements, and it will also have several more treaties, such as CW, CFE, and START to work on.

The On-Site Inspection Agency implements arms control and disarmament agreements and it carries out those activities on foreign territory. The Committee on Foreign Affairs has oversight and legislative responsibility for matters involving arms control and for U.S. activities taking place on foreign territory. Therefore, the Committee on Foreign Affairs needs to receive from the administration adequate information on all OSIA activities in order to exercise its proper oversight and legislative responsibilities.

The provision of the House amendment which amends title V of the Arms Control and Disarmament Act regarding congressional oversight of On-Site Inspection Agency activities contains the following:

A requirement for the President to submit a report to the appropriate committees of the Congress concurrent with an authorization request which includes:

A description of how and when OSIA was established, including the applicable texts of the relevant executive orders;

A summary of the mission and tasks assigned to OSIA to date;

Any additional missions and tasks projected with respect to fiscal year 1993;

The budgetary history of the Agency to date, including budget requests, actual authorization and appropriation levels enacted and reprogrammings submitted to Congress; and

A discussion of the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

A requirement that any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall be submitted to the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate shall be subject to review by those committees.

The intent of the provision regarding the reprogramming notification requirement is that the Committee on Armed Services and the Committees on Foreign Affairs and Foreign Relations have equal rights and responsibilities with respect to approval of any request to reallocate funds from or within OSIA. The committee expects that these rights and responsibilities will be conducted consistent with the current Armed Services procedures applicable to reprogrammings.

OSIA is playing a central role in implementing the INF Treaty and two nuclear testing treaties (PNET, TTBT), and it may be implementing six to nine more treaties. OSIA is part of our overall Government arms control community, which must now respond positively to the arms control opportunities before us and assure that these opportunities are turned into agreements in which our Government and people can have confidence and trust that the other side is fulfilling their end of the bargain.

Therefore, OSIA has a rightful claim and, indeed, a clear responsibility to make its arms control policy input into the total Government process. OSIA is not just a nuts and bolts operation, it is a key agency in the total picture of our Government's arms control and disarmament policy.

OSIA's organizational structure currently reflects the importance of the agency's policy component. The Arms Control and Disarmament Agency and the Department of State provide assistant directors to OSIA. Again, it is the Committee on Foreign Affairs which authorizes funds for both the Department of State and ACDA and therefore must oversee the structure and functioning of OSIA's directorate and the overall agency.

President Bush's September 27, 1991, arms control initiative sets in motion unilateral U.S. arms control measures. Congress should not only look to OSIA for its policy evaluation of such unilateral moves but also to OSIA for ways in which it can play some role in assuring that such unilateral moves are reciprocated by the Soviets if that is the understanding. New developments in arms control, such as the President's September 27 initiative, illustrate even more poignantly how important it is to have proper and adequate communication between the Foreign Affairs Committee and the OSIA.

By reflecting for just a minute on the adverse impact to the arms control process that was caused by Soviet violation and compliance questions during the last decade, it is quite easy to realize what an important role OSIA must play in the United States arms control policy process.

The Committee on Foreign Affairs' jurisdiction over U.S. Government activities on foreign soil gives it a special, specific, and significant responsibility regarding the establishment of guidelines for monitoring training inspectors, escorting and collection activities, and the general management of arms control inspections on foreign territory.

The legislation before us is designed to improve the arms control work of both ACDA and OSIA at the same time that it also seeks to improve congressional oversight and legislative activities relating to arms control and disarmament policies.

This legislation establishes the necessary administrative tools and financial support for the effective operation of our major arms control agencies—ACDA and OSIA—in the post-cold-war era.

With this explanation, I am confident these arms control agencies will continue to receive broad bipartisan support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ASPIN], the chairman of the Committee on Armed Services, to explain whatever he wants to explain, and I take this opportunity to thank him and his staff for his valuable cooperation in making it possible to move this bill.

Mr. ASPIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me just say that I want to say how much we appreciate working with the gentleman from Florida and his staff, and we would like to commend them for their hard work in putting together this proposal and putting together this legislation.

I would like to also thank the gentleman from Florida [Mr. BENNETT], whose suggestion we incorporated in one of the amendments, and the gentleman from Ohio [Mr. McEWEN], whose suggestion we also incorporated in one of the amendments.

I would like to thank the gentleman from Florida—the two gentlemen from Florida—and the gentleman from Ohio.

Mr. Speaker, we have today a historic opportunity to reduce the threat Americans face from the Soviet Union. In the span of less than 2 years, we have seen the fall of the Berlin Wall, the collapse of the Warsaw Pact, the utter failure of Soviet communism, and now the disintegration of the Soviet Union itself.

Unlike the earlier developments, the collapse of the union presents Americans with real and tangible dangers as well as challenges and opportunities for a more peaceful world. I wish to address myself to those dangers and opportunities because they are the reason for the legislation before this House today.

We face the disintegration of a nuclear superpower. The former Soviet Union holds within its borders nearly 30,000 nuclear weapons and the bomb-making expertise to spawn new nuclear arsenals around the world. These facts represent real dangers to the United States and its allies.

The legislation before you would take steps to reduce these new threats posed to Americans by events in the Soviet Union.

First, it would help the Soviets make a start on dismantling this enormous and unnecessary nuclear arsenal by authorizing $400 million for a cooperative effort with the United States. For decades we have aimed our defense budgets at buying forces that would scare the Soviets out of using these weapons. Here is a chance to take them off the table for good. We cannot pass up this opportunity to help them reduce this arsenal.

Second, there is the prospect of social chaos this winter in the former Soviet Union due to severe shortages of medicine and food in critical areas. This prospect of social chaos presents us with two dangers.

Danger one: the nuclear danger. There is the possibility that the fabric of Soviet society will become so unraveled that even military discipline fails and nuclear weapons fall into the wrong hands. The prospect of nuclear weapons or fissile materials passing into unfriendly, perhaps undeterrable hands is a danger indeed. And the danger is not limited to materials. At some point, the deterioration of Soviet society will prompt a migration of nuclear expertise, and some of it will surely go to those who do not wish their neighbors or us well.

Danger two: the political danger. If this first winter of freedom in the Soviet Union is a disaster, we have to fear another coup attempt. The hardliners haven't left. They are very likely waiting for another chance. If they get one, they may succeed in ousting the democratic reformers. If democratic reformers are replaced by dictators, our hopes for even further reductions in U.S. defense spending could be dashed.

Therefore, we must defend ourselves against these two new dangers. The legislation before you responds to this urgent need. It is defense by different means, but it is defense, nevertheless. It would allow for urgent and direct action to defend our interests by avoiding social chaos in the Soviet Union this winter. It would authorize $100 million to allow the Department of Defense to airlift food, medicine, and other materials to areas of critical need in the Soviet Union as determined by President Bush. This would bypass the corrupt and collapsing Soviet transport system where so much is now lost or stolen.

Only one institution in the world has this capability. That institution is the U.S. military. The Soviet military could not accomplish it. The centrally directed Soviet transportation system is the problem, so it surely cannot be the solution. The only instrument we have capable of helping to avert social chaos this winter is the U.S. military. That is why this legislation enables President Bush—entirely at his discretion—to use Pentagon assets to transport food and medicine.

Once again, this is defense by other means but clearly defense.

There is a final element to this legislation. It would require that the President—to the extent he deems appropriate—seek reimbursement for any assistance from the recipient Soviet or other government in the former Soviet Union. It is an entirely appropriate addition.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 3807 which authorized the President to transfer certain equipment to NATO allies pursuant to the implementation of the CFE Treaty.

The underlying bill was passed unanimously by the House last week. Yesterday the legislation was amended by the other body adding language regarding United States policy toward the Soviet Union. Today we consider specific amendments to that language.

It is important that the Congress complete consideration of this legislation. Delaying action until early next year will cost the U.S. taxpayer approximately $500,000 a month. In addition, any delay in sending this legislation to the President may prevent the U.S. from meeting its commitments required under the CFE Treaty.

There are additional reasons we should move this legislation forward. In my view, it is imperative that we seize the moment to take advantage of the opportunity to reduce the Soviet military threat at its source—within the Soviet Union itself.

I support the provisions in this bill regarding nuclear weapons destruction in the Soviet Union. The President should be provided with the authority to utilize, if he deems it necessary, appropriate funds to destroy and dismantle nuclear and chemical weapons in the Soviet Union.

I urge support for the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL].

The motion was agreed to.

A motion to reconsider was laid on the table.

□ 0400

COMMENTS ON H.R. 3807, SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991

(Mr. BENNETT asked and was given permission to address the House for 1 minute.)

Mr. BENNETT. Mr. Speaker, the bill we have just been considering was controversial when first suggested by the gentleman from Wisconsin [Mr. ASPIN]. A lot of people did not understand what he had in mind. As revised, with the amendments that worked out in the Committee on Armed Services and the Committee on Foreign Affairs, it provides that the countries that are going to be assisted, the Soviet empire, the independent countries, they are required to do some participation themselves in this. The President is authorized to do the best he can to work out arrangements with regard to things like oil, magnesium, and other assets that Russia has in large quantity. Russia and the Soviet empire are not poor in any respect. They have a lot of materials that we would like to buy. Along with the gentleman from Ohio [Mr. McEWEN], myself and others, we worked out some amendments which make it possible for us to have barter and other ways to keep the taxpayers of the United States from having to carry all of this burden.

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Ohio.

Mr. McEWEN. Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for yielding and wish to commend him for his leadership.

What happens on occasions like this, it seems like the generosity of the American people is so overwhelming we sometimes get our heart in front of our head. The truth of the matter is that much has to be done to rescue the Soviet Union from 70 years of socialism.

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

Mr. Speaker, you will, however, observe that the Japanese do not feel so obligated, the Germans do not feel so obligated, and the British do not feel so obligated, even though all of them would benefit from the actions taking place.

What the gentleman from Florida [Mr. BENNETT] has said is that this is going to cost the taxpayers some money, and it is going to cost the taxpayers of America some money. In the course of doing it, in the benefit of the global welfare of our planet, we should be able to have access to the abundant reserves that are there in the Soviet Union.

Mr. Speaker, the gentleman from Florida [Mr. BENNETT] has mentioned that perhaps the second largest oil reserves in the world are in the Soviet Union. The largest strategic metal reserves are in the Soviet Union. So as they have these capacities, we should be able to establish long-term contracts whereby the expenditures of the taxpayers of the people of America can be rewarded.

Mr. Speaker, if the gentleman would continue to yield, let me just share with you two paragraphs from Jane's Weekly of November 16, 1991, this past week, in which a discussion with the head of the Soviet Air Force was held, where he was asked whether the next generation of combat aircraft programs had fallen upon a cash hurdle due to their dilemmas.

General Laptev said, "Naturally, there are financial constraints, but so far, no, none has been stopped.

"Some of these programs are so advanced that it would be most damaging to stop them now," he added.

"In September Laptev said work for the Soviet Air Force was underway on improvements to existing MiG–29 Fulcrums and Su–27 Flankers, as well as development of new fighters comparable to NATO's next generation aircraft."

The gentleman from Florida [Mr. BENNETT] mentioned the discussion so well that we had, that we cannot pick up for the Soviet Union this burden if they are going to continue their modernization. Sixteen hundred tanks in the last 12 months, 4400 armored personnel carriers in the last 12 months, 575 jet fighters in the last 12 months, as well as they floated 11 new submarines and 40 new strategic bombers.

So in these negotiations what we are saying is as we help clean up the mess, the President of the United States should protect the American taxpayer by making sure we get paid in some kind in return from their natural resources.

Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for his leadership. He has done not only freedom a service, but America a service by demanding that this logical, common sense consideration be included in this bill.

Mr. BENNETT. Mr. Speaker, reclaiming my time, I thank the gentleman from Ohio [Mr. MCEWEN] for his leadership. It is very outstanding.

FUNDING OF NATIONAL INTERMODAL SURFACE TRANSPORTATION SYSTEM

Mr. Speaker, we are in a tight position with regard to allowing time on the transportation bill, so I would like to make some remarks about this.

The transportation bill, the idea of interstate highways, was born in the mind of Eisenhower when he was President, with the assistance of a Florida man, who brought it to his attention about this being an important thing to occur. So really the Eisenhower administration is known today as the father of the interstate system.

When it was started, it did not seem to be a bad thing to have States that were better off make donations in large amounts of money to the trust fund to provide for interstate highways in States where they could not raise that money. So for decades that has been the system.

But the formula under which that money was distributed was an archaic formula. It was based on such things as rural mail carrier routes.

So a few months ago, perhaps more than that, I read in the editorials of Florida about how Florida was getting such a bad drubbing under the existing law with regard to highways. So I wrote to these people that made those comments and I said, "What is the problem?" They explained to me about this antique system to provide for who got how much money under the highway program.

So I asked the heads of transportation in all 50 States to give me suggestions. They worked out a suggestion of a modern formula, things based on six-lane and eight-lane highways, based upon diesel utilization, the length of the roads, and things that make sense and make an entirely different formula, a formula which gives the donor States like California, Texas, Florida, and other growing States, a better chance to be financed in this type of activity.

Mr. Speaker, I took that to the Committee on Public Works and Transportation. They looked at it and they did the best they could with it. As a matter of fact, they did a pretty good job with it. They passed in the House of Representatives a bill which greatly improved that distribution of funds. They greatly improved it.

But now what do we have tonight? I regret to say I myself am going to vote against this bill because of the fact it is so unfair. It is even more unfair than the bill that passed in the Senate. The bill that passed in the Senate, for instance, gave Florida 83 cents on the dollar. This bill gives Florida 82 cents on the dollar. It is not much of an improvement.

Theoretically, and you will be told this by the committee when it gets before you, "Oh, BENNETT is wrong. You get 90 percent. Everybody gets 90 percent."

But that overlooks the fact that the 90 percent does not apply to all the money, it only applies to a portion of the money.

When you get all those other portions worked out, you find out that Florida just give 82 percent on the dollar.

Now, some States get 500 percent of what they pay in. Many States get a much larger amount of money than they pay in.

So it is very unfair in 1991 to have a system of taking care of our interstate highways which is based upon an archaic formula. It is very sad in the closing days of this 102d Congress, this session, that we are having to have a bill like this.

Mr. Speaker, I do not blame the House committee. It worked real hard. The gentleman from New Jersey [Mr. ROE] worked very, very hard, and so did the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

□ 0410

The gentleman from Arkansas [Mr. HAMMERSCHMIDT] if Congress has a gentleman, it is the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT. And also the gentleman from Kentucky, BILL NATCHER, on our side. He is a gentleman. I admire them tremendously.

I would say the Members that worked on both sides of the aisle tried to get out a good bill. They did get out a good bill. The House passed a good bill, but it went to conference.

I want to say something that I have observed about government here much more clearly than I ever observed before and that is, our constitution gives a terrible blow on some types of legislation. Here we have a Member of the U.S. Senate, representing only a small fraction of the population that I represent in the House of Representatives; and others in the Senate who are representing very few people, and they are able to vote down the vast majority of American citizens. So it is almost not democracy.

The majority of Members of Congress are from areas that are contributing to this situation very unfairly. The majority of Members of Congress are. But that is not true in the Senate.

So the Senate stood there adamantly and was able to achieve something unfair which I regret was achieved.

One other point about this. The Speaker in the House and the Presiding Officer in the Senate can help a little bit in a case like this. The way in which they should help is they should have put Members on the conference, even though they were not on the committee, who had something to do with the idea that we should be fairer with regard to the formulas.

I had asked both sides whether they would lend me any time on this bill, and they are pretty cramped for the time. So I am using this opportunity, but I am not mad about anything. Because the House committee worked hard to bring out what it did, and they tried to be fair about it to the very best of their ability.

I am not in any way running them down. I am saying it is a sad thing in 1991 that we are now passing a 6-year highway bill which has a formula that is tied to such things as rural mail carriers instead of 8-lane highways and the modern problems that we have with regard to highways. The modern formula was worked out, and it did do a good, fair thing to this situation and it did pass the House. But regrettably it died in the conference as a lot of good things do.

NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 367) to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, reserving the right to object, although I shall not object, I yield to the gentleman from California [Mr. MILLER] for the purpose of explaining what it is we are doing.

Mr. MILLER of California. Mr. Speaker, as the sponsor of H.R. 907, the Nontraditional Employment of Women Act, I urge my colleagues to support this legislation. H.R. 907 is identical to the NEW provisions in the Job Training Partnership [JTPA] Amendments of 1989, which was passed overwhelmingly in the House last year, and to S. 367.

This legislation is supported by the administration, the National Governors Association, the AFL–CIO, the Homebuilders Institute, and a number of women's organizations, including Wider Opportunities for Women, the National Tradeswomen Network, and the National Displaced Homemakers Network.

I want to thank my colleague from Maryland, Mrs. CONNIE MORELLA, who was the major cosponsor of this legislation, and the other numerous cosponsors from both sides of the aisle who strongly supported NEW.

The purpose of NEW is to increase nontraditional training and employment opportunities for women served by JTPA. Nontraditional occupations are those jobs in which 25 percent or less of the work force is female. Examples of nontraditional jobs are trades workers, electronic technicians, mechanics, and maintenance engineers.

Women in nontraditional jobs earn higher wages which enable them to become economically self-sufficient and support their families. In no way will NEW discriminate against men. They will continue to be eligible for training programs in all occupational areas.

NEW is needed because despite current JTPA language encouraging the elimination of occupational stereotyping, occupational segregation still exists in JTPA programs, and the gap in wages between women and men continues.

A 1991 GAO investigation of the Job Training Partnership Act found that JTPA, the only major source of employment training for the economically disadvantaged, dislocated workers, and others who face significant employment barriers, discriminates against blacks and women in the services it provides.

The GAO found that in one-third of the service delivery areas [SDA's], white participants were more likely to receive occupational training than black recipients; and in two-thirds of the SDA's, men were more likely to receive on-the-job training while women were more likely to receive classroom training for mostly lower wage jobs.

The GAO also found that the Department of Labor [DOL] and State JTPA agencies do not conduct sufficient monitoring activities to identify and address disparities; and when they are able to identify disparities, they do not take corrective actions. These disparities were attributed to the systemic problems in the way projects operate at the local level.

According to a 1989 GAO study, women graduates of JTPA programs earned an average of $4.65 an hour, 51 cents less than male graduates. The GAO found that less than 9 percent of women in JTPA supported classroom training were being trained in nontraditional occupations. These occupations pay an average of 30 percent higher wages than occupations which are traditionally female. Sixty-nine percent of the women who were placed in jobs after participation in JTPA were clustered in the two lowest paying occupational areas—clerical and sales, 43 percent, and service, 26 percent, of JTPA's nine occupational areas.

NEW requires services delivery areas and States to include goals in their annual job training plans for training and placing women in nontraditional employment. It creates a time-limited program out of existing funds, at a cost of $1.5 million annually, to foster the development and institutionalization of programs to train women for nontraditional employment.

NEW complements the Department of Labor's skilled trade initiative to help women gain access to the skilled trades by providing an incentive for JTPA funded training to prepare women for apprenticeships.

Over the last 6 months, three private industry councils have participated in a demonstration to implement the kind of goal setting which the NEW Act would require. These projects are in Hartford, CT, Milwaukee, WI, and Missoula, MT.

In all three service delivery areas, wide community support has already been generated to achieve the goals. It has proven neither costly nor a major administrative burden in any of these three communities to put in place the systems to make nontraditional training accessible to women.

This demonstration effort had been funded by the Ford Foundation, the Rockefeller Family Fund, the Aetna Foundation, and the Women's Bureau of the Department of Labor. The lessons learned in this project will make it easier to implement the NEW Act when it becomes law.

While NEW alone will not solve the inequities in JTPA training programs, it is a vital and important step to help ensure that women are trained in all occupational areas. I urge you to support this legislation.

Mr. GOODLING. Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding to me.

As the cosponsor of H.R. 907, the Nontraditional Employment for Women Act, I am pleased to join my colleague, Congressman GEORGE MILLER in urging passage of this critical bill.

I see this bill as an important elemental step toward achieving the kind of trained and prepared work force that will be needed over the next decades. It is a waste of our resources and human potential to continue the training of low income women in the narrow range of occupations that the Job Training Partnership Act programs have most frequently targeted for women. The concentration of women in training for clerical, sales, and low wage service jobs has had a negative effect on women's wages as well as a negative impact for employers making a good faith effort to find trained women for a broader spectrum of jobs. The NEW Act will address these issues in the Job Training Partnership Act.

The NEW Act is an appropriate strategy for this Congress to bring to the employment and training community at this time. We must be looking for strategies that will insure that economically disadvantaged women—especially those who are struggling to raise their children alone—are receiving services that promise a route out of poverty. Training for nontraditional employment—with its assurance of wages that are at least 30 percent higher in most occupations—is one of the most successful strategies toward this goal. All too often, we have been investing JTPA training dollars in training for jobs that keep women and their children in poverty.

I am pleased to support a bill that has the chance to improve the JTPA and its services to women without substantial new resources being required or burdensome overregulation. The NEW Act requires goal-setting and the development of data systems to measure progress. This is, I think, a good business strategy consistent with the overall direction of the Job Training Partnership Act.

I urge this House to support NEW and to join in moving toward a better trained, more flexible, and diverse work force.

THE NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT: H.R. 906, S. 367

Status: Introduced in both the House and Senate on February 6, 1991. The Senate Labor and Human Resources Committee passed the bill unanimously on February 20, with no amendments. No action has been taken yet by the House Education and Labor Committee.

Summary: The bill is an amendment to the Job Training Partnership Act to increase nontraditional training and employment for women served by the JTPA. The bill:

Requires States and service delivery areas to set goals for training and placing women in traditionally male fields and to report on their results in meeting these goals;

Authorizes the State Job Training Coordinating Council to review the plans and outcomes of the service delivery areas and the governor, to make recommendations for future activities related to improving nontraditional training, and to disseminate successful approaches developed in the States;

Directs the governor and SJTCC to coordinate efforts for training and placing women in nontraditional employment under the JTPA and vocational education system;

Establishes a four year demonstration grants program to be awarded by the Secretary of Labor to no more than six States per year to expand/extend nontraditional training and employment programs throughout the State, utilizing $1.5 million annually from USDOL's national JTPA program monies; and

Directs the Secretary of Labor to report to Congress on the efforts made at the local, State, and national levels to train, place, and retain women in nontraditional occupations and to generate recommendations for legislative and administrative changes necessary to increase nontraditional opportunities for women under JTPA.

Rationale: As of 1988, only 9% of women workers were employed in nontraditional occupations—those in which 25% or less of the work force is female. These occupations pay an average of 30% higher wages than occupations which are traditionally female. Since 1983, however, the number of women in nontraditional jobs has remained relatively unchanged at 4% of the total workforce. In the Job Training Partnership Act, while more than 50% of those served are female, a study of 1986 enrollments showed that less than 9% of women in JTPA-supported classroom training were being trained in nontraditional occupations. In contrast, female participants were most often trained in clerical and caretaking occupations in which placements occurred less often and at lower wages. Given the low income and welfare status of many female JTPA participants training in nontraditional and higher skill occupations should be a priority.

While program models for training women in a wide variety of nontraditional occupations have been successfully implemented since the mid-1960s, these models have not been institutionalized throughout the JTPA system. A few programs, like those listed below, have demonstrated that nontraditional training can be successfully implemented;

T.R.E.E. (Training, Recruiting, Educating and Employing, Inc.) is a JTPA-funded nontraditional training program for women in Middlesex County, New Jersey. TREE provides eight weeks of hands on, pre-apprenticeship training in one of four fields: electrical, plumbing, drywall taping/finishing, and painting. TREE also provides women with support services, linkage to vocational-technical schools for literacy and basic skill training, and job placement assistance upon completion of the program.

STEP-UP of Women is a comprehensive nontraditional skills training program for women located in Vermont and New Hampshire. STEP-UP provides 13 weeks of training to 75 women each year, primarily in construction trades, such as carpentry, plumbing and welding. 80% of women completing the program are placed in jobs which provide further training through on-the-job training or apprenticeships. The program is funded by JTPA and Vocational Education funds.

Women Accessing Technology is a program of the Waukesha County Technical College in Wisconsin. The program assists women and high school girls to enter and complete technical training in fields such as Electronics and Telecommunications. WAT provides hands-on experience, as well as role model and employer contacts, career exploration and job shadowing.

Other examples of nontraditional employment skills training programs for women include: Bergen County Technical schools in Hackensack, NJ; ANEW in Renton, Washington; Nontraditional Employment for Women in New York City; Midwest Women's Center and Chicago Women in the Trades in Chicago; MiCasa in Denver; Women's Technical Institute in Boston; Prep, Inc. in Ohio; Women in the Skilled Trades (WIST) in Oakland, CA; and Women in Apprenticeship/Prep Inc. in San Francisco.

Major Supporting Organizations: The National Governors' Association, Wider Opportunities for Women, The National Tradeswomen's Network, the AFL/CIO, the Homebuilders Institute, the National Displaced Homemakers Network, the National Women's Law Center, Women Construction Owners and Executives, and the New York and Ohio State Employment Bureaus.

Mr. GOODLING. Mr. Speaker, continuing my reservation of objection, I would merely say that the new act is the same as the old act, which the gentleman from California [Mr. MILLER] explained, that was passed in our committee last year and in the House. Unfortunately, it did not make it to the Senate.

I should point out that the Department of Labor does not oppose the act. They do have two concerns. One concern being that it is earmarking some more money, we have already earmarked $8 million of their $35 million, that we earmark another million and a half. And their second concern, of course, is one that we may hear about sometime. They do have some concern about the increased reporting requirements and the administrative costs for the State and local government.

So in case we get that message when we get back home after this kicks in, do not act as if we do not know anything about it. We will just have to come back and fix it.

Mr. MILLER of California. Mr. Speaker, if the gentleman will continue to yield, I would like to recognize the work of our colleague, the gentleman from Kentucky [Mr. PERKINS] for all of the work and effort that he put into bringing this legislation to this point.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nontraditional Employment for Women Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this Act are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl

D. Perkins Vocational and Applied Technology Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 3. DEFINITION.

Section 4 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(30) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

SEC. 4. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), (10), and (11) as paragraphs (6), (7), (8), (9), (10), (11), and (12), respectively;

(2) by inserting after paragraph (4) the following new paragraph:

"(5) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (12), as redesignated in paragraph (1) above, by—

(A) striking "and" at the end of subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) adding after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment.".

SEC. 5. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) of the Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) of the Act is amended by—

(1) redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) inserting after paragraph (8) the following new paragraph:

"(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

SEC. 6. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

SEC. 7. STATE EDUCATION COORDINATION AND GRANTS.

(a) STATE EDUCATION COORDINATION AND GRANTS.—Section 123(a) of the Act is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) inserting the following new paragraph at the end thereof:

"(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

(b) USE OF FUNDS.—Section 123(c) is amended—

(1) in paragraph (2)(B) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)"; and

(2) in paragraph (3) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)".

SEC. 8. USE OF FUNDS.

Section 204 of the Act is amended by—

(1) redesignating paragraphs (27) and (28) as paragraphs (28) and (29), respectively; and

(2) inserting after paragraph (26) the following new paragraph:

"(27) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment,".

SEC. 9. DEMONSTRATION PROGRAMS.

Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

"Sec. 457. (a)(1) From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between the Job Training Partnership Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under the Job Training Partnership Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

SEC. 10. REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 457 of the Job Training Partnership Act.

(b) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 11. DISCRIMINATION.

(a) For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect upon the date of enactment of this Act, except that the requirements imposed by sections 4, 5, and 6 of this Act shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 0420

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS OF 1991

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes, with a Senate amendment to the House amendments thereto, and agree to the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

On page 13, after line 14, of the House amendment to the text of the bill, insert:

SEC. (9) Amend Section 105 of the Older Workers Benefit Protection Act (PL 101–433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following: "; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;' ".

Mr. MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1532 the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE. Mr. Speaker, the final details are now being completed, and the conference report with proper signatures will be here momentarily. I ask unanimous consent that we proceed with the debate on the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleagues for their indulgence in allowing us to proceed because it will save time in the long run.

Mr. Speaker, I wish to thank all of the conferees who literally worked around the clock for weeks, especially my colleagues on the Public Works and Transportation Committee. I do want to pay the highest regard and special tribute to their leadership, particularly the gentleman from Arkansas, Mr. JOHN PAUL HAMMERSCHMIDT, our ranking member; the gentleman from California, Mr. NORM MINETA, the subcommittee chairman; the gentleman from Pennsylvania, Mr. BUD SHUSTER, the ranking member.

I also want to take this time publicly to thank Senator DANIEL PATRICK MOYNIHAN of New York and the other Senate conferees for their tremendous cooperation and support. If ever the Members of the House owed a great deal of praise and regard for a staff that has worked on this bill in the last 3 weeks, day and night, Saturdays and Sundays, 18 hours a day, I would like to highly compliment the staff of the Public Works Committees of both the House and the Senate who have made it possible for us to arrive at this point.

Mr. Speaker, I am proud to present to the House, on behalf of the Committee on Public Works and Transportation and on behalf of the 92 conferees, the Intermodal Surface Transportation Efficiency Act of 1991, a bipartisan bill that will stand as the centerpiece of our domestic and economic agenda for years and decades.

Tonight on this floor we are marking the start of a new transportation era for America. We are bringing to this

House a surface transportation policy bill, an economic agenda, an environmental program and an energy conservation measure, that will touch the life of every American. We are starting to rebuild America.

I wish to thank all of the conferees who have literally worked around the clock for weeks, especially my colleagues on the Public Works and Transportation Committee. I want to pay special tribute to the other members of the committee leadership with whom I have worked so closely during the last few months: JOHN PAUL HAMMERSCHMIDT of Arkansas, NORMAN MINETA of California and BUD SHUSTER of Pennsylvania.

I also want to thank Senator DANIEL PATRICK MOYNIHAN of New York and the other Senate conferees for their tremendous cooperation and support.

All of us in the House owe a tremendous thanks to the staff of the Public Works and Transportation Committee. They have worked on this bill in a totally bipartisan manner for more than 2 years and virtualy continuously for 7 months to get this job done. This has been a humongous job and the staff has risen to the occasion.

Working together, we have produced a bill that will meet the vast and varied surface transportation needs of the entire Nation.

First and foremost, every State will receive back 90 cents on the dollar from the highway trust fund. We labored for 3 weeks over this issue because it is one of simple fairness and equity to all the States. We have worked to balance the interests of all the States: The donor States, the rural States, the urban States, the growth States.

With this bill we are rebuilding America. We will have an increased investment of 46 percent in our Nation's highways and bridges, and a virtual doubling of the Nation's transit commitment.

Never before has there been the enormous investment that this bill authorizes, directs and promotes. It will have a huge impact on the economic dynamics of the entire Nation. Our people need transportation, they need jobs, they need clean air. This bill will bring about a better transportation system through intermodalism, it will result in better coordination with environmental needs and it will improve the quality of life.

The overriding question is what kind of America will we have? How do our people get to their jobs, to their schools, to commercial areas, to airports and to ports? How do we invest in our infrastructure to develop a national intermodal transportation system for the future as we enter the 21st century? We must build on the successful efforts of the past but we must also move in bold and audacious new directions in transportation policy.

This bill is more than a highway bill, it is more even than a surface transportation bill. There is nothing more important today than the economic condition of the Nation. We are bringing before the House an economic program that will create 2 million real jobs for Americans. These are real jobs that are creating the new wealth of the Nation for the 21st century through investment in the transportation infrastructure.

This bill is an investment in the economic and environmental future of America. Everyone here should be aware that there is no more important legislation in this Congress for the quality of life of all Americans than this transportation policy bill.

This legislation will have a dynamic economic effect on America. We will be creating jobs—real jobs. We will be investing in our Nation and we will be preparing for competition in the global economy.

It is time our Nation made this major and significant commitment to upgrading our transportation infrastructure. Our foreign rivals, Germany, France, and Italy have all been engaged in major infrastructure investment programs that have led to significant productivity growth. Japan has embarked on a 10-year, $3.2 trillion infrastructure investment campaign, Taiwan on a 6-year, $300 billion campaign.

We are using the optimum resources of the highway trust fund to put trust back in the trust fund by spending down the balance. Durings the 6 years of the bill, the balance in the highway account will be reduced from $11.4 to $2.3 billion. Most importantly, we are using the American taxpayers' transportation funds for transportation purposes and not for shielding the public deficit. We are rebuilding America.

This bill meets the transportation needs of every part of our Nation: Urban, suburban, and rural. We have worked throughout the year on a bipartisan basis to emphasize flexibility, equity and balance. We ask the support of the Members of this House for this new transportation policy for the Nation, a policy that will provide the direction to lead our Nation into the 21st century.

A list of conferees follows:

PUBLIC WORKS AND TRANSPORTATION COMMITTEE CONFEREES

Mr. Roe, Mr. Anderson, Mr. Mineta, Mr. Oberstar, Mr. Nowak, Mr. Rahall, Mr. Applegate, Mr. de Lugo, Mr. Savage, Mr. Borski, Mr. Kolter, Mr. Hammerschmidt, Mr. Shuster, Mr. Clinger, Mr. Petri, Mr. Packard, Mr. Boehlert, and Mrs. Bentley.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991.

I want to thank all of the 92 conferees from both bodies for their dedication, hard work, and determination to make certain that we reached agreement on a bill that would be acceptable to both Houses and could be sent to the President for his signature.

I especially want to commend my good friend, BOB ROE, chairman of the Public Works and Transportation Committee and chairman of the conference; Surface Transportation Subcommittee Chairman NORM MINETA; and the subcommittee's ranking member, BUD SHUSTER, for their tremendous leadership, perseverance, and cooperative effort in helping bring the conference to a highly successful conclusion. I also add my deepest appreciation to our very professional and dedicated staff.

Mr. Speaker, I am pleased that the conference agreement retains the strengths of the bill passed by the House on October 23. As we provided in the House bill, the conference agreement authorizes $151 billion over 6 years to move the Nation's vitally important Surface Transportation Program forward.

Mr. Speaker, in addition to that this is a jobs bill.

According to the Department of Transportation funding the program at these levels could create up to 4 million jobs. And it's going to happen at an opportune time in our Nation's economic slow down.

The conference agreement also provides for the creation of a 155,000-mile National Highway System, which will include the Interstate System and principal arterial routes, and it funds this new program at the more adequate levels proposed by the House.

This conference agreement also recognizes that many highway corridors were left off the interstate map when it was first drawn. Therefore, the National Highway System will include major transportation corridors that provide the highest level of service and carry the greatest amount of traffic.

As we invest in the Nation's surface transportation infrastructure through this agreement, we will also be spending down the balance in the highway trust fund to about $2.5 billion in fiscal year 1997.

The conference agreement goes to considerable lengths to provide greater equity in the apportionment of funds. It raises from 85 to 90 percent the return that States receive relative to what they contribute to the highway trust fund.

In addition, the agreement provides minimum allocation States with bonus minimum allocation funds, and it provides funds where necessary to ensure that such States receive at least a 90 percent return on their trust fund contributions. Hold harmless funds are also provided to assure that a State's fiscal year 1992 funding level does not fall below its fiscal year 1991 level.

Clearly, the conferees made every effort to provide equity in the distribution of trust fund dollars. And it is important that the Members of this body realize that while some States still may want more than they will be receiving under the agreement, the funding in the bill provides States with a 46-percent increase over the next 6 years relative to the funding they have received over the past 5 years.

This conference committee fully realized the pressing transportation infrastructure needs that exist all over the Nation. I believe that we have provided a strong response in H.R. 2950, and I urge my colleagues to support it.

Mr. Speaker, I would like to take this opportunity to clarify the provision in the bill authorizing high priority cooridors through several States. The table printed in the bill describing the corridor segments lists the States associated with the project. There has been some confusion as to whether this listing somehow prejudices the alignment of the corridor.

Let me give you an example. One of the corridors in the bill is the North-South corridor from Kansas City, MO, to Shreveport, LA. A segment of this corridor from Alma, AR, to the Louisiana border is designated for special funding. The chart lists Texas and Arkansas for this segment.

This does not mean, however, that the alignment must go through Texas to reach the Louisiana border. The corridor ultimately selected could be entirely in Arkansas. There is no requirement that the route go through Texas. The decision on the best alignment for the route is left to the States of Arkansas, Texas, and Louisiana, working cooperatively with the Department of Transportation.

A similar situation exists with respect to the avenue of the Saints. Even though the chart lists three States for this corridor project, this in no way precludes the selection of an alignment which traverses States not listed in the chart.

The listing of States in the charts accompanying the high priority corridors and other projects are not binding and do not prevent States from choosing the best alignments for the projects.

In any event, the corridor program is an important one. I am especially aware of what the upgrading of these corridors can mean to areas of the country undergoing tremendous growth and expansion.

Northwest Arkansas, for example, has experienced such rapid growth that the existing highway system is simply inadequate to meet the demand.

That is why the high priority corridor designation of the North-South Highway 71 corridor from Shreveport to Kansas City and the Highway 412 corridor from Tulsa to Nashville, through Arkansas, is so very important. As such, there 2 routes will be eligible for funding over and above Arkansas' normal apportionments and, thus, construction on them can be expedited.

The conference agreement also authorizes funding for other important Arkansas projects as well. These include a four-lane highway for Harrison to the Missouri line and the extension of Phoenix Avenue in Fort Smith.

An important study is authorized to examine alternate locations for traffic flow on and around Highway 71 in the Bella Vista area.

Funding is also provided for the Devalls Bluff Bridge replacement project over the White River and for the Mississippi Great River Bridge. Needed interchange work at Jonesboro will be able to go forward, as well as construction on the North Belt Freeway in Little Rock.

The conference agreement names the University of Arkansas at Fayetteville as the site of a new National Rural Transportation Study Center, where research and training will be conducted in the development and operation of rural intermodal transportation systems.

Funds will be made available to purchase a needed handicapped-accessible, electrically powered bus for the Eureka Springs Transit System.

The agreement also authorizes the Department of Transportation to test luminous all-weather safety markers, and it permits the State of Arkansas to train county, city and town traffic officials in the use of uniform traffic control devices.

Mr. Speaker, the conference report also includes provisions to modify certain stormwater permit application deadlines established pursuant to the Clean Water Act. This section focuses on municipally owned or operated stormwater discharges associated with industrial activity. It codifies various deadlines established by EPA in its most recent rulemaking for permit applications for industrial operations owned or operated by certain municipalities.

It also modifies certain regulatory requirements set out by EPA. For example, municipalities with populations of less than 100,000 would not be required to apply for permits for stormwater discharges associated with industrial activities except for power plants, uncontrolled sanitary landfills, and airports. The provision also establishes a new statutory deadline for part II group applications for stormwater discharges associated with industrial activities owned or operated by a municipality.

The conference report, however, does not address any permit requirements or deadlines for stormwater discharges associated with industrial activities not owned or operated by municipalities. In my view, this is unfortunate. At the very least, it requires some clarification.

First of all, our decision to focus on municipal discharges does not reflect a lack of concern about the regulatory impacts imposed upon privately owned industries. In fact, a large number of these non-municipal dischargers are small businesses that have limited resources and are relying heavily on group applications or general permits to achieve compliance. It is important that we not lose sight of the regulatory burdens industries will face under the stormwater permitting regime.

It is also important to note, Mr. Speaker, that nothing in the conference report affects most of the dates for submitting stormwater permit applications established in EPA's recent rulemaking published in the Federal Register on November 5, 1991. The rulemaking extended the application deadlines for industries owned or operated by municipalities and those privately owned industries discharging into municipal storm systems. The conference report, while silent on the deadlines for these privately owned industries, is not intended to override the dates established in EPA's rulemaking action.

Nor, Mr. Speaker, is anything in the legislation intended to prejudice or in any manner affect existing litigation, including *Natural Resources Defense Council* v. *U.S. EPA*, case No. 90–70671 and 91–70200 (9th Cir., 1990).

The conference report includes provisions from both the House- and Senate-passed bills relating to wetlands mitigation banks. The legislation authorizes the use of Federal transportation funds for wetlands conservation, restoration, and creation efforts—including the establishment and use of mitigation banks.

The legislation adds some important new authorities to strengthen wetlands protection efforts. For example, State and Federal transportation officials will now have greater opportunities to protect, conserve, and restore our Nation's existing wetlands base while meeting transportation needs.

The conference report will help to encourage further development and use of wetlands restoration and creation efforts. The science of wetlands creation is not without controversy. This legislation, however, will help to provide funds and authorities to explore more opportunities but without waiving any applicable Federal Laws or regulations.

The conference report does not include provisions from the Senate-passed bill relating to the protection of private property rights. From my perspective, this is regrettable; the provisions could have helped to ensure greater deference by Federal regulatory agencies to rights guaranteed by the fifth amendment—particularly in the arena of wetlands regulation under section 404 of the Clean Water Act.

It is important to note that many conferees agreed to delete the provisions primarily because of procedural obstacles or concerns in the final days of the first session. The conference on H.R. 2950 simply was not the best forum to address, at least in a comprehensive manner, this emerging issue of critical importance.

Reauthorization of the Clean Water Act, which I would hope includes revisions to the section 404 wetlands regulatory program, may present a more appropriate context. I look forward to this opportunity next session, and I think a majority of Members in this body does as well.

I am also pleased to note that this conference report includes the Washington airports legislation in exactly the same form as it passed the House last week. This legislation revises the governing structure of the Metropolitan Washington airports authority to resolve constitutional concerns raised by the Supreme Court.

As revised, the airports board of review will become an advisory board that will monitor certain activity at the two airports and screen those actions that are worthy of further congressional consideration. Passage of this legislation now is important, since it will ensure that the capital improvement programs at National and Dulles Airports can move forward without interruption.

Mr. Speaker, this legislation, in its entirety, deserves the support of my colleagues, and I urge its approval.

☐ 0430

Mr. ROE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MINETA], the Chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

I might say to all our colleagues here, that he has done an extraordinarily good job on this bill over the last 2 years. I want to commend the gentleman for the great work he has done for our country.

Mr. MINETA. Mr. Speaker, as everyone well knows, the hour is early and we want to get on with the conference report.

I have got to say that there is nothing that I have been connected with than the Civil Liberties Act of 1988 that I can say I have had more pride in putting together and working with a very fine group, and that is the Intermodal Surface Transportation Infrastructure Act of 1991, working with the likes of the chairman, the gentleman from New Jersey [Mr. ROE], a dedicated, hard-driving person who looks into the details of the bill, with the very fine gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking Republican on the full Committee on Public Works, and with the gentleman from Pennsylvania [Mr. SHUSTER], probably the most knowledgeable person in the House of Representatives when it comes to surface transportation law.

Two-and-one-half-years ago when the members of the Public Works and Transportation Committee elected me to chair the Subcommittee on Surface Transportation, I knew that we had two challenges. One was to arrest the decay of infrastructure in the United States, and the other was to get a bill together that would take us into the 21st century after the completion of the interstate era, so we have done that. For 2½ years we have held hearings across the country. We have listened to people about what they want in their transportation system and what they think they need in the transportation system.

Mr. Speaker, once again, I would like to commend you for your leadership on this issue.

Many of my committee colleagues have heard me say that the House and Senate surface transportation bills were, at one time, like two ships passing in the night.

They were indeed very different.

I do believe, however, that the House and Senate conferees have been able to construct a single 6-year vision for America that will in fact build an innovative and effective transportation network second to none in the world.

As chair of the Surface Transportation Subcommittee, I have spent much of the last 2½ years traveling throughout America, holding hearings, and listening to what the American people want and what their transportation needs are.

My conclusion:

The highways, bridges, and transit systems of the United States have fallen apart because the Federal Government has fallen down on the job and has tried to get States and localities to pick up the tab to fix the mess.

And the message to this Congress could not be more clear:

The cold war is over.

America and freedom won that war.

It is now time to build American roads and transit systems—not American bombers.

In the future, the security of this Nation will depend less on how fast an ICBM travels to the former Soviet Union and more on how fast commerce travels through our transportation network.

Our transportation network is an integral part of our economy and, therefore, our national security.

It is now absolutely essential that America do more than reverse the collapse of our annual transportation investment from 2.3 percent of our gross national product in the 1960's and 1970's to four-tenths of 1 percent from the 1980's to this very day.

That is why we must begin, today, here in this Congress, to build a new transportation age in America.

This conference report embodies a program to rebuild America not the way some faceless bureaucrats in Washington, DC, dictate it, but the way the American people are demanding that it be rebuilt—through us, the Congress.

That is the way it should be.

And that is the way it is in our 6-year, $151 billion plan for America.

This legislation is a genuine new transportation policy for America, and a tremendous investment in our future.

The flexibility designed into this law is unprecedented, and of particular importance to States like my home of California which will grow enormously in the balance of this century, and into the next.

Mr. Speaker, I am also pleased that we were able to include titles addressing our serious highway safety and motor carrier needs.

Studies call for transportation investments of up to $3 trillion during the next 20 years. We can differ about the final cost, but to me there are no more universal truths than these:

First, the transportation needs are there.

Second, how we spend the money we have is at least as important as how much money we spend.

Mr. Speaker, this conference report takes the best of the House and Senate bills and will get the job done.

The final legislation retains the integrity of the proposed National Highway System while enhancing the role of the local officials and metropolitian planning organizations.

Mr. Speaker, I must say at this point that I regret that the conference was unable to accept the state allocation formulas detailed in the House bill.

I believe that these formulas represented a fair return on the highway trust fund contributions of donor States.

However, the conference report does provide States with unprecedented funding levels and flexibility.

During the last 5 years, our Nation spent $86 billion on our National Highway Program.

During the next 6 years, our legislation provides more than $119 billion to make our roads and bridges ready for the 21st century.

As importantly, our legislation authorizes transit funding levels which doubles the wholly inadequate funding levels we have known in the past.

This is a tremendous victory in our efforts to meet the requirements of the Clean Air Act, relieve congestion, and encourage new energy alternatives.

And perhaps most important, Mr. Speaker, this legislation comes at a time when it is desperately needed—both in terms of our infrastructure, and for our Nation's economic health.

At a time when the White House continues to deny the effects of the economic recession, we have before us legislation that will create 2 million jobs over the next 6 years.

And while the people of 1600 Pennsylvania Avenue haven't seen or felt the effects of the recession, Mr. Speaker, you have only to ask the people of Bethlehem, PA, if there is a recession.

Or the people of Chicago.

Or the people of Lafayette, LA.

Or the people of San Jose, CA.

They will tell you that our economy is hurting.

They will tell you that America needs this legislation, and we need it now.

Mr. Speaker, this legislation will improve how Americans get from here to there, as well as the air we breathe, our quality of life, and the future of our economy.

Mr. Speaker, America deserves nothing less.

I urge my colleagues to support the conference report on H.R. 2950.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SHUSTER], the distinguished ranking member of the subcommittee.

Mr. SHUSTER. Mr. Speaker, just as the American people looked back to the creation of the Interstate System a half century ago and see it as the very foundation upon which our transportation system was built in this century, the American people in the 21st century will look back to what we do here today as the foundation upon which an integrated transportation system will be built for the next century.

In fact, today we here create a national highway system for America, building on the Interstate System, adding about 110,000 additional miles and integrating a transportation system not only with highways, but with transit as well.

□ 0440

Here today we have the opportunity to make a major investment in the future of America and, yes, most of the money comes out of the highway trust fund, which means we are not adding to the deficit in the general fund.

One of the few programs here in Washington that we can say is financed on a pay-as-you-go basis.

Mr. Speaker, I certainly should emphasize that this has been a bipartisan effort from the very beginning. Chairman ROE, Chairman MINETA, Congressman HAMMERSCHMIDT, we have all worked together. We have been full partners on both sides of the aisle to craft this legislation.

Mr. Speaker, this afternoon it was announced that the President of the United States does support this bill and he will sign this bill.

Beyond the transportation implications for our country, it is of enormous importance to note that a minimum of 2 million jobs will be created directly by this legislation and perhaps another 2 million on top of that. But if you just take the 2 million jobs and look at a very small State, say a State that gets only 1 percent of the fund from this bill, 1 percent of 2 million jobs is 20,000 jobs, in a small State. Certainly, if there were ever any time when we need this kind of a jobs program that is going to rebuild America and help get this economy moving, now is that time.

Mr. Speaker, I can tell you that the conferees fought very hard to preserve the projects in this bill, and we succeeded in doing that. We preserved the projects which are so important to the Members across America. While those projects represent only 3.3 percent of the dollars in the bill, I know for our colleagues across America those projects are significant, and indeed it is right and proper that the elected Representatives of the people should be able to have some say in what gets built back in their congressional districts.

The faceless, nameless bureaucrats will be making most of the decisions, but it is right that Members be able to say what is most important in their district. Your conferees have preserved that right.

Mr. Speaker, I do not agree with everything in this bill. If I were writing it myself, I would have done some things differently.

It is said that one of the colleagues of John Adams criticized him because they said he fret the extremities without ever focusing on the heart of the matter. I am sure virtually every one of us can fret about some of the provisions in this bill, but more important than fretting about the extremities, I hope we focus on the heart of the legislation, which is: building a fundamental transportation system for America and creating jobs.

Mr. Speaker, I would be derelict if I did not emphasize to the House tonight that our staff on both sides of the aisle performed absolutely magnificently. Led by Jack Doyle and Jack Schenendorf the entire staff worked night and day and weekends.

While we like to think we as conferees work hard, I can tell you they worked much, much harder than we did. So we bring to you today legislation that, indeed, is historic in nature, and we urge you to vigorously support this historic bill.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in support of the conference agreement on the Surface Transportation Assistance Act. I would like to commend Chairman ROE, the ranking minority member, Congressman HAMMERSCHMIDT and all the conferees on their efforts in crafting an excellent final conference report. This report provides flexibility for State and local officials to transfer highway funds to mass transit in areas such as Los Angeles, where unfettered highway construction is clearly not the answer to congestion and gridlock.

I especially want to extend my support to the provisions which authorize the construction of the third segment of the Los Angeles Metro Rail Red Line project, and in particular, the east side extension. The eastern extension will bring metro rail into east Los Angeles for the first time and plan for improved rail transit services to the eastern communities of Los Angeles County as well. In addition, these provisions authorize extensions into the San Fernando Valley and provide for service into west Los Angeles without having to excavate through a methane gas risk zone. An overall amount of $1.2 billion will be divided among the three segments of the MOS–3 portion of the Los Angeles Metro Rail system. With an immediate amount of $695 million available and an additional $535 million in advance construction funds, this long-awaited project will bring metro rail to several communities by 2001.

This extension to east Los Angeles will truly provide a much-needed means of transportation to neighborhoods that have been vastly underserved in the past. With several studies already completed, the estimated ridership for the combined segments serving east and west Los Angeles is well over 360,000 passengers. In east Los Angeles, there is a dire need to upgrade transportation services. As part of a major travel corridor which crosses the city of Los Angeles and unincorporated portions of Los Angeles County, the "east side corridor" encompasses such important areas as the central business district on the west, I–10—the San Bernardino Freeway—on the north, Garfield Boulevard on the east and I–5—the Santa Ana Freeway—on the south. Since 1987, the population on the east side has increased by almost 9 percent, three times the regional growth rate. This creates an even higher demand for transit. At the present time, there are more than 56,000 daily east side bus trtansit boardings, far exceeding the Federal minimum of 15,000 riders required to demonstrate a need for rail transit. Individuals traveling to and from the east side must use heavily congested streets and freeways to reach their jobs and on their return home, further adding to the delay and gridlock of this massively overburdened transportation system. Additionally, the east side is already slated for improvements under the Southern California Association of Governments' Regional Mobility Plan.

Improved transit service will reduce travel times and thereby increase availability of regional connections and socio-economic opportunities for east Los Angeles residents. These benefits will include job, education, medical, shopping, and cultural opportunities. As a representative of a district that is very dependent on public mass transit systems, I feel that this legislation strongly addresses the specific transportation needs of all segments of the diverse communities that make up the Los Angeles area. In additon to the transportation benefits derived by our citizens, this legislation will play a vital role in relieving the problems of air quality and congestion that plague our area.

I am proud to have developed, along with my colleagues in surrounding districts, a unified effort to keep all portions of this interrelated project intact both in construction and funding, thus ensuring that east Los Angeles and other communities will share in the advantages that this system will bring. The invaluable input, concern, and assistance from community organizations and from the Los Angeles County Transportation Commission has helped to develop an excellent foundation for continued neighborhood participation in this profound public endeavor. I wholeheartedly extend my support and will continue to work for completion of this transportation initiative that is of such critical importance to both my constituents and all the residents of Los Angeles. I would also urge my colleagues to vote in favor of this conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I want to join my fellow conferees in strong support of the conference report on H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991.

I want to commend Chairman BOB ROE and NORM MINETA, and the ranking Republicans JOHN HAMMERSCHMIDT and BUD SHUSTER, for their strong leadership in crafting this visionary legislation which will guide America's transportation future into the 21st Century.

What makes this legislation revolutionary is its dramatic shift toward public transit. Never before has Congress made such a strong commitment to transit.

The legislation authorizes $31.5 billion over a 6-year period for public transit, virtually doubling current levels of transit funding and reversing what has been a 10-year decline in transit spending.

But the commitment to public transit extends beyond dollars and cents to a fundamental change in the way we view transit and its relationship to the entire transportation system.

Earlier this year, when Transportation Secretary Skinner testified before the Public Works and Transportation Committee, I asked him why the Urban Mass Transit Administration [UMTA] was not identified as a Federal agency of national scope, as is the case for the Federal Aviation Administration, the Federal Highway Administration, and other agencies which regulate modes of transportation.

My point was simple. Strong public transit is critically important to an integrated national transportation system. Transit is not simply an urban or city transportation system which receives Federal dollars but a system of travel warranting as much Federal attention as highways, aviation, rail, and water navigation.

H.R. 2950 recognizes that fact.

It renames UMTA the Federal Transit Administration.

H.R. 2950 also adopts a bold, new flexible funding program, enabling State and local officials to transfer almost two-thirds of Federal highway funds to transit to meet clean air requirements, reduce congestion, and to provide transportation services for working people and senior citizens.

This legislation places highways and transit on a level playing field by equalizing their Federal matching shares. This will remove incentives for States to build highways over transit, which has always received a smaller Federal match.

Finally, H.R. 2950 contains important provisions strengthening the role of Metropolitan Planning Organizations [MPO's] in project selection.

This will be of great benefit to public transit. MPO's understand the needs of our congested metropolitan areas and they will now have greater say in determining how best to use Federal transportation dollars in urbanized areas.

Clearly, H.R. 2950 represents a new commitment to public transit and one I am proud to support this legislation as a member of the Public Works and Transportation Committee.

No longer is public transit the big loser to highways in surface transportation funding. No longer is transit the ugly stepchild of Federal transportation policy. Instead, transit has finally become an equal member of the transportation family. That will benefit us all.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I too rise in strong support of the bill.

Mr. Speaker, I rise in support of the conference report and thank CHAIRMAN ROE, subcommittee chairman, NORM MINETA, and ranking minority members JOHN PAUL HAMMERSCHMIDT and BUD SHUSTER for their excellent work in this conference.

This legislation creates a comprehensive national transportation system that will move our Nation, our industries, and our people competitively into the 21st century.

It will help restore America's preeminence in the world economy.

In the long term, this important massive investment in our infrastructure will improve our productivity and make us tough competitors around the world in the next century.

In the short term, passage of this legislation will do more to stimulate the economy than any legislation we have considered in this session of Congress.

It will create nearly 2 million jobs—2 million badly needed jobs in today's tough economic times.

Mr. Speaker, this bill is a thoughtful and far-reaching blueprint for the Nation's transportation system.

And it is fair.

As a member of the committee from Virginia, a donor State, I can assure you that this bill will distribute funds more equitably than any previous transportation authorization.

My State, like other donor States, will receive a much greater portion of the money they have contributed to the highway trust fund.

The increased funding level and the fact that Virginia receives about 7 more cents back from each dollar it contributes to the trust fund means that Virginia, which has averaged $290 million per year, will receive about $425 million annually over the next 6 years.

This is good news for all Virginians and, indeed, for all Americans, since other States are being treated similarly.

This legislation will put Americans back to work immediately, and it will make America more competitive well into the future.

Mr. Speaker, this is a good bill for our State.

It is a good bill for all Americans.

I urge my colleagues to support this important piece of legislation.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the Intermodal Surface Transportation Assistance Act of 1991.

This legislation provides a new, creative master plan that is balanced, to meet the transportation needs of the urban, suburban, and rural areas of our Nation.

This creative plan was the vision of the bipartisan leadership of our Committee on Public Works and Transportation—Chairman ROE, Subcommittee Chairman MINETA, the ranking minority members, Mr. HAMMERSCHMIDT and Mr. SHUSTER.

They are to be commended, not only for their dedication to this vision, but also for the limitless energy they displayed in forging this conference report during the last 15 days.

It was a herculean effort.

The result, however, is an epic piece of legislation that will enable our Nation to better meet its infrastructure needs.

This legislation certainly is a package aimed at better moving people and products across our Nation.

Certainly it is also a sorely needed job creating mechanism.

Most importantly, this legislation will enable our Nation to be more competitive in the new global marketplace.

This legislation will enable us to better meet the economic challenges that remain in this decade and that will confront us in the 21st century.

After long negotiations, the conferees achieved fairness for all States and flexibility for all States.

I urge my colleagues to support the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I rise in support of this conference report and want to thank the distinguished chairman of the Subcommittee on Surface Transportation, Mr. MINETA, and the chairman of the Public Works and Transportation Committee, Mr. ROE, for supporting my efforts to secure several provisions affecting indians in this bill.

The legislation authorizes that over $1.1 billion be made available for the Indian Reservation Roads [IRR] Program during the next 6 years. This is a tremendous and long overdue increase in funding.

Indian tribes will be allowed direct access to moneys for bridge replacement and rehabilitation for the first time under this bill. Previously, tribes had to convince a State to designate a bridge on Indian land a priority over a State bridge in order to receive funding. This process resulted in a backlog of dangerous Indian bridges needing repair.

The bill mandates that States fully consult with appropriate tribal governments when developing State transportation plans, and allows

States to give Indian preference in hiring for construction of roads near reservations. Since it is not unlikely for a reservation to be suffering from 70, 80 percent, or even 90 percent unemployment, I hope several states will take advantage of this willing work force through this provision.

Up to 2 percent of the funds available under the IRR Program will be made available through contracts for tribes to develop and plan their road system. This provision along with one which includes tribes in training programs will give tribal governments the ability to become more involved and more educated in the process of choosing tribal priorities for future road construction.

This legislation will also allow the Bureau of Indian Affairs [BIA] to use up to 15 percent of IRR funds for the purposes of road sealing, a very important process which greatly extends the life of a road. I want to point out, however, that these funds are only made available to BIA provided that BIA continues to retain responsibility, including annual funding request for road maintenance programs on Indian Reservation Roads. The BIA knows better then most the horrendous condition of existing Indian roads and the enormous need for new road construction. Funds made available from the highway trust fund is for construction purposes and not to be used for maintaining existing roads nor should that money be used by the administration as an excuse not to fund road maintenance in future budget requests as has been rumored.

The Secretary of Transportation is directed to conduct a study on inequities which exist between Indian Reservation Roads and other highway systems and report to Congress on recommendations to address those inequities. As part of the Federal trust responsibility toward Indian tribes, the Department of Transportation is in a perfect position to address past mistakes in the Indian Roads Program and I look forward to the submission of this report.

Mr. Speaker, these are just some of the provisions in this legislation which will affect Indian tribes and their lands. I believe that enactment of this legislation will afford tribes new opportunities to work with States in partnership agreements to build a safe and adequate transportation system so that Indian children can ride on safe roads over safe bridges to school. I look forward to the day when horror stories about elderly Indians stranded and starving are fed by helicopter drops because of impassable roads and of Indian hospitals and schools built with no road access to them are a thing of the past. This legislation is a step in that direction and I am glad to have been allowed to be a part of it.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the surface transportation authorization bill.

I very much appreciate the hard work of Chairman Bob Roe of the Public Works Committee, Chairman Norm Mineta of the Surface Transportation Subcommittee, our colleagues on the conference committee, and the staff who have worked so hard on this historic measure.

I am very pleased that the conference agreement includes a provision of the House bill that authorizes $515 million in section 3 transit funds for Portland's Westside light rail project.

The highly successful MAX light rail system serves the eastern part of the Portland region.

It carries half a million riders per month; costs 30 percent less per passenger to operate than buses; and has influenced more than $1 billion in development along its route.

The Westside project will extend MAX from downtown into the western suburbs, providing similar benefits to Washington County, with the final terminus in Hillsboro.

Westside is Oregon's highest transportation priority because we want to solve the problems of congestion and air pollution in Portland.

We want to boost our economy by creating 17,000 job-years of employment. We want to protect the environment, save energy, and provide a sound basis for our future growth. MAX and other local success stories are the key to achieving national goals for a healthy economy, clean air, energy conservation, and an efficient transportation network.

I applaud the conference committee for its foresight in accepting the House bill's Westside language. While many other provisions of the conference agreement are worthy of mention, I would like to specifically thank the conferees for authorizing a National Scenic Byway Program. The Oregon State Department of Transportation has worked long and hard to develop this program.

We have an outstanding scenic byway candidate in the tristate Pacific Coast route, U.S. 101. It can be a model for the success of this program and a valuable support for our coastal areas. H.R. 2950 goes far toward meeting the challenges of the post-interstate era. With $151 billion in highway and transit funding, comprehensive planning requirements, and many innovative programs, this conference agreement provides the basis for an integrated transportation network that strengthens the economy, cleans up the air, saves energy, reduces gridlock, and provides mobility for all citizens.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Poshard].

Mr. POSHARD. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, as a member of the Public Works and Transportation Committee, I rise in strong support of H.R. 2950 and encourage my colleagues to offer their support.

This is a highly valuable investment in the future of our Nation. Over the 6-year period covered by this bill, we will invest $151 billion in highways, bridges, and mass transit systems across this country.

In southern Illinois that means a study of the feasibility of a tollway linking my area and St. Louis. This project has tremendous local support and is a crucial element of continuing efforts to improve the economy of our area.

It means millions of dollars to improve Route 13, the primary East-West artery which connects communities in southern Illinois and holds tremendous commercial promise.

It means reconstruction of Feather Trail Road, something essential to the completion of the $800 million Olmsted Locks and Dam project.

It improves conditions on Route 1 in two rural counties in my district, provides funding for a bridge in the community of Du Quoin, and near the community of Sauget it connects a major highway with a developing business park and airport.

Mr. Speaker, just from a review of the economic implications for my district, one can easily determine this is a bill that is good for America. We are investing in the concrete and steel that allow the people of this country to work for a living. And at a time of economic hardship, this bill pumps money into the construction sector and creates millions of new jobs, while providing the economic base for sustained economic development in the future.

I thank all of the members of the Public Works and Transportation Committee who helped produce this final product, especially Chairman Roe and Chairman Mineta, with whom I have had the distinct pleasure of serving as a new member of the committee.

This is the kind of work people send us here to accomplish. This is certainly one of the high points of this or any other legislative session, and I look forward to the continued progress for America made possible by this excellent legislation.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Geren].

Mr. GEREN of Texas. Mr. Speaker, I rise in strong support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. de Lugo].

Mr. de LUGO. Mr. Speaker, I rise in support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Lipinski].

Mr. LIPINSKI. Mr. Speaker, I rise in strong support of the bill.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Flake].

Mr. FLAKE. Mr. Speaker, I rise in support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DeLauro].

Ms. DeLAURO. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, we are here in the early morning hours working to complete the task of reauthorizing the Surface Transportation Act. I want to commend the dedication and effort shown by the members of the conference committee in bringing this legislation to the floor for a vote in a timely manner. I also want to commend Chairman Roe, Mr. Mineta, Mr.

Hammerschmidt, and Mr. Shuster for their leadership and commitment to taking the steps necessary to craft this vital piece of legislation.

Beyond sound transportation policy—and I believe this legislation gives us that—this bill is an essential part of our effort to pull our Nation out of recession and bring about a real economic recovery. It brings with it real hope for recovery because it brings with it the real jobs needed by so many of our citizens and businesses struggling to survive this recession.

Let me speak for a moment to what this bill could mean for the State of Connecticut—really to what it means for each State and for our country. These are perilous times for Connecticut and its citizens. In the last year alone, over 80,000 Connecticuters have lost their jobs. Five hundred and twenty-six Connecticut businesses have been forced into bankruptcy.

This bill—as it helps build a sound transportation system to carry us confidently into the new century—will infuse over $2.2 billion into the State of Connecticut. These badly needed transportation funds could bring as many as 100,000 new jobs to the State. Jobs that mean food on the table for families in need. Jobs that will give people the opportunity to work for a paycheck instead of having to wait in a line for an unemployment check or for no check at all.

Mr. Speaker, the Surface Transportation Reauthorization Act is a bill that the State of Connecticut needs, that New England needs, and that the Nation needs. The bill not only demonstrates this Congress' commitment to improving our Nation's transportation infrastructure, but also its commitment to taking the necessary steps to moving our Nation along the path to a real and lasting economic recovery.

Mr. Speaker, long regarded as the world's policeman, the United States has made the world safe for democracy, yet it has failed to makes it's streets safe for children and families.

Statistics, usually stale and lifeless, speak volumes about the indignities Americans suffer at the hands of criminals here every day. In 1990 alone nearly 35 million Americans—almost 14 percent of the total population—were the victims of crime in this country.

Today, however, we can take an important first step in reclaiming our streets and protecting our people. We have the opportunity to pass the Omnibus Control Act, one of the toughest anticrime measures in U.S. history.

This bill will send a powerful message to those who commit crimes, and an equally strong message to the people of America. Through 50 new crimes punishable by the death penalty, it lets criminals know that they will pay for their crimes.

By providing more cops on the beat and a waiting period on the purchase of handguns, it tells Americans and law enforcement officers that we will back them up, not just with angry rhetoric, but with real, powerful, anticrime measures.

Sadly, it does not ban assault weapons—something many of us fought hard for.

But today we can give people some hope. We can help them restore safety to their streets, security to their homes, and dignity to their lives.

Vote for the Omnibus Crime Control Act.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Kolter].

Mr. KOLTER. Mr. Speaker, I rise in strong support of the bill and ask for its passage.

Mr. ROE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri [Ms. Horn].

Ms. HORN. Mr. Speaker, I rise in strong support of this conference report, the Intermodal Surface Transportation Infrastructure Act of 1991.

The United States invests a smaller percentage of its gross national product on highways and bridges than any other major industrial nation, and this neglect has severely hampered our competitiveness by impeding the movement of people and goods. The conference report addresses this neglect by radically redirecting transportation spending for the coming century.

The situation which our cities face today is extremely bleak. Gridlock is an everyday occurrence in most cities, contributing to decreased productivity and increased air pollution and commuter stress; those able to flee to the surburbs do so, weakening the urban tax base and further slowing infrastructure investments which would reduce gridlock and perhaps stem the urban flight. H.R. 2950 seeks to address this problem by allocating $32 billion for transit projects nationwide, and by allowing the transfer of up to 25 percent of a State's national highway system funds to urban areas. This flexibility, combined with the creation of the National Highway System, is a vital step on the long road toward rebuilding America's infrastructure.

H.R. 2950 will also strengthen the authority of local metropolitan planning organizations [MPO's], giving local planners greater say in how State transportation dollars are spent. Currently, MPO's exist largely in an advisory capacity, their views on mass transit and urban planning often carrying little weight. Last year's Clean air Act imposes stringent pollution-control measures upon our urban areas, but if we expect our cities to enact expensive antipollution measures, we must also give our urban regions the funds they need to effect programs which will accomplish the goals of the Clean Air Act. St. Louis County is a moderate nonattainment region, and any new road construction in the region must conform to the tenants of the Clean Air Act. Empowering the MPO's will allow funds to be spent where and how they are most urgently needed.

According to the House Committee on Public Works, every dollar spent on infrastructure results in a $10 return to the local community through increased jobs, productivity, and efficiency. This $151 billion bill is going to create over 2 million jobs during the 6 years of the program. H.R. 2950 is not an extravagant spending bill; it is an investment in America, in our future, in ourselves. Mr. Speaker, the bill before us today is vital to restoring our large urban areas, and subsequently the rest of the Nation, to health. I urge the most immediate passage of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Savage].

Mr. SAVAGE. Mr. Speaker, I rise in strong support of this bill and commend the House leaders and the members of the conference for doing a tremendous job for our Nation.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. Ray].

Mr. RAY. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, I know that it is very late, and that my colleagues would like to pass a transportation bill before we recess, but in the name of fairness, I ask my colleagues to take a look at what this bill does to the donor States. Georgia gets back only 79 cents for every dollar. California gets back 81 cents, Florida, Michigan, Texas, all of the donor States lose millions and millions of dollars under this bill. Our National Highway System is complete, Mr. Speaker. Donor States have contributed more than their fair share to build a national highway system, instead of rewarding the donor States for their generosity by establishing equity in the funding formulas, this bill perpetuates the antiquated funding system of the past 40 years, and continues to rob the fast growing donor States.

The funding process of this bill can be likened to plugging the holes in a leaky dam. Whenever a State complains, the complaints are stopped with a few more dollars. But this is not a long-term solution. The donor States are still being taken for a ride, Mr. Speaker. This is not an equitable transportation bill. This is highway robbery. I urge my colleagues to send this bill back to conference, adopt the funding formulas the House overwhelmingly passed, and stop taking advantage of the donor States.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Anderson].

Mr. ANDERSON. Mr. Speaker, I rise in strong support of the conference report.

When crafting this conference report I assure my colleagues that the 92 conferees; representing 7 House committees and 5 Senate committees, kept all your interests firmly in mind. I did not check to see how many States these 92 conferees represented, but I would bet it was close to all 50.

As my colleagues before me have alluded, H.R. 2950 represents a turning point in American transportation history. Dwight D. Eisenhower's vision in 1954 of a national contiguous framework of roads has been recognized. Now, almost 40 years later, with the exception of a few remaining segments, not the least of which being portions of the Century Freeway in Los Angeles, the United States' Interstate System has been completed. H.R. 2950 builds upon President Eisenhower's vision and moves this country's transportation system forward to meet the needs of the 20th century.

Up to this point, the United States' Interstate System was billed as the largest public works project in U.S. history.

However, at $151 billion, you have before you the largest public works project in U.S. history. What's more, you have before you a $151 billion Christmas present for millions of unemployed Americans. This bill represents a 46-percent increase in the total amount of highway and transit dollars, and creation of 2 million jobs. Let me repeat that to some of my friends from the donor States, California being the leading donor State. This bill represents a 46-percent increase over previous transportation funding levels, and creation of an estimated 2 million jobs.

If there is one donor State that would have a reason to gripe about not getting its fair share of highway dollars, it would be California. Since the inception of the Interstate Program California has donated 7 billion in highway dollars to other States. I say to my colleagues from Los Angeles, Mayor Tom Bradley strongly supports the bill. To my colleagues from California * * * when I spoke to Governor Wilson this afternoon not only did he tell me that he supported the bill, he had already placed calls to his former colleagues in the Senate asking them to support the bill.

And finally, to my friends from donor States, I tell you that the largest donor State in the Nation, California, supports this compromise.

One final point I wish to make. In 1986, when I was Chairman of the Surface Transportation Subcommittee, I wrote, H.R. 2, the last Highway bill, along with then-Public Works Committee Chairman James Howard. Many of you may recall that President Reagan vetoed that bill in March of 1987, however, it was subsequently overridden. Times are different now, and so is this bill. Earlier today, President Bush spoke in favor of this particular compromise we are debating tonight, and urged the Congress to do the same.

In closing, let me just say that those of you that choose not to support this legislation, that is your prerogative. However, I ask you to think of your constituents that make their living in the transportation industry. These people are bleeding and need a Band-Aid. This compromise is not only the Band-Aid, it is the bandage, and it is the cure. I urge you to support it.

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Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, this is the single, most important legislation we will pass in this session of Congress.

And not just for the obvious reasons. Its magnitude and reach are impressive. A 6 year, $151 billion program charting the course of the Nation's transportation policy for the balance of this century. It's impressive also for what it promises in the short term—a needed shot in the arm to an unhealthy economy. Translate that to mean tens of thousands of jobs in the construction and manufacturing sectors. And jobs is my favorite four letter word.

While some of our colleagues are engaged in meaningful and necessary tax cut debates which might lead to a couple hundred dollars tax benefit in the Spring of 1993, or to a couple of dollars of Federal tax reductions per week sooner, we are gaining approval for a plan which will reap immediate and substantial dividends for our entire economy.

We are told that within a few weeks of enactment, hundreds of millions of dollars in new contract authority will be on the streets. In the transit section alone, and that is the smaller of the two major sections, more than a billion dollars in contract authority will be awarded within 120 days.

That's the kind of action a stagnant economy demands. We are providing it.

And we are doing it the right way. The broad program focuses on flexibility. No longer is the mindset one which maintains we must pave America from coast to coast.

Quality roads and safe bridges are a must, particularly in that wide expanse between our major urban areas. After all, the goods and services produced there have to get to the people.

More than 60 percent of our roads and 40 percent of our bridges are structurally deficient. We're going to fix them.

But a transportation policy is more than quality roads and safe bridges. Economical, efficient, public transit systems benefit the people, particularly the young, the elderly, and the low income among us. Such systems are better for the environment and make us less dependent on foreign oil, two big pluses. The Intermodal Surface Transportation Infrastructure Act of 1991 is so much more than the highway bills of yesteryear, it is indeed a multidimensional intermodal measure—$32 billion of this package is dedicated to transit, the highest level of funding for this purpose ever to emerge from our Committee in its history.

The importance of this legislation is difficult to overstate. Its passage will be good for America.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, while the Senate language called for the establishment of a U.S. designed maglev technology, the conferees agreed on a national Maglev Design Program that recognizes that domestic companies may be able to develop a domestic maglev industry based on existing technology.

We recognize that there is a need to develop this technology expeditiously—hopefully before the expiration of this legislation. We further recognize that Federal involvement is necessary to encourage the development of this industry and have therefore committed significant Federal funding to maglev development.

The conferees agree in the statement of managers that no prototype should be developed if none of the phase II conceptual designs will yield a working prototype at a reasonable cost.

The conferees also agree that a minimum travel distance of 19 miles should be required and that no prototype should be developed that cannot operate safely and efficiently in all domestic climatic situations. The conferees also agree that maglev development should be intermodal in nature, connecting airports, ports, and other modes of transportation. .

Mr. Speaker, our Nation will be well served by the development of a domestic maglev program.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I want to express my support for the conference report to accompany H.R. 2950. With the completion of the Interstate System now in sight, attention has focused on this reauthorization of our surface transportation program. In this legislation, we have attempted to grant more flexibility to the States through increased transferability among programs and to allow cities and States to address their clean air needs. A National Highway System is established which will consist of the Interstate and other major roads which bring together our Nation's commercial and population centers.

In addition, we will begin to spend-down the large balance currently sitting idle in the highway trust fund. These are gas tax dollars paid into the fund for the specific purpose of funding a national transportation network, and it is time that these funds were put to the intended use. As a representative of the donor State of Wisconsin, which has a historic return of 74 cents on the dollar, I would have preferred the more equitable formulas of the House bill. Nevertheless, my own State will see a substantial improvement to a 98 percent return over the next 6 years.

Funding is also provided for improvements to two highways in Wisconsin which have been identified as priorities by the Wisconsin Department of Transportation. Improvements will be made on segments of Highway 41, the road which connects Milwaukee and Green Bay. Congestion is growing rapidly in the Oshkosh area and these funds will provide needed relief and improvements on segments located from the Winnebago County line north to the Green Bay area. Funding is also provided to expand a segment of Highway 29 to a four-lane expressway. This is the most heavily traveled east-west route across central or northern Wisconsin.

H.R. 2950 also establishes a National Recreational Trails Trust Fund so that taxes from nonhighway recreational fuels taxes will be returned to States for the purposes of providing and maintaining recreational trails. Funding is assured for both motorized and nonmotorized trails and all who enjoy trails—whether on foot, bike, or horseback—will benefit from this program.

In conclusion, Mr. Speaker, let me commend the leadership of the Public Works Committee and our hardworking staff for the many hours they have put into this legislation over the course of the last several months.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I rise in support of the conference report on this critically important transportation legislation.

I would like to thank the committee chairman, Mr. ROE, and the ranking member, Mr. HAMMERSCHMIDT. I also want to thank subcommittee chairman, Mr. MINETA, and ranking member, Mr. SCHUSTER. The gentleman from Pennsylvania [Mr. SHUSTER] has been extremely helpful to so many of us, as has been the chairman, Mr. MINETA.

There are three aspects of this monumental legislation that I would like to highlight.

The first deals with funding for two projects, Route 33 and 222, in my district.

The second boosts magnetic levitation and high-speed rail.

And the third accents an important study that may help stimulate the use of recycled materials in highway projects.

Mr. Speaker, let me say that I am extremely pleased that this year's highway bill includes $18.3 milllion in funding for the Lehigh Valley's Route 33 and 222 projects, the full amount proposed by the Public Works and Transportation Committee.

The funding for the two projects was approved as part of the 5-year Intermodal Surface Transportation Act. It provides $16.8 million for the extension of Route 33 from Route 22 in Bethlehem to Interstate 78. It also provides $1.5 million for the relocation of Route 222 from the area east of Route 309 to west of Route 100. The funds for Route 33 will be used for engineering work and land acquisition; the Route 222 funds will be used for engineering and environmental studies.

The Route 33 project consists of constructing a 3.5-mile extension that will connect Route 22 in Bethlehem to Interstate 78. This connection will complete the final leg of a four-lane limited access highway north to the Poconos and south to Philadelphia, linking interstates 78 and 80, two major east-west interstates in Pennsylvania.

Basically, this north/south interconnection makes the east-west Route 22, I–78 and I–80 far more valuable to all of eastern Pennsylvania.

The economic benefits will be significant and far reaching. An economic impact study funded by non-Federal sources has shown that this project could lead to more than 20,000 new jobs by the year 2010, based on projected increases in the demand for industrial land such as that located along the Route 33 corridor.

This area of Pennsylvania has a vibrant and growing economy, however, without improved infrastructure, it will not sustain the present rate of growth. By linking the growing corridors of Route 22 and Interstate 78, and Route 33 extension will prevent Lehigh and Northampton Counties from being strangled by their own growth. I might add that if the project is not built, the study estimates a loss of more than 20,000 jobs, and an economic loss of nearly $300 million per year, including more than $10 million in local tax revenues that would not be realized.

The Pennsylvania Department of Transportation [PennDOT] and the Federal Highway Administration consider the completion of Route 33 as priority. The project is in the first 4 years of PennDOT's 12-year plan and the FHWA has agreed to budget money for the completion of Route 33 in its interstate cost estimate.

This road also affects many New Jersey citizens who work in the Lehigh Valley, as well as my constitutents who work in New Jersey.

Another project in need of funding is Route 222, which follows the alignment of the Old Kings Highway—a road constructed in the 1750's and was designed for horse drawn vehicles. By 1880, most of the existing intersections along U.S. 222 had been established. Up until the 1950's, the area was predominantly rural, so the roadway was sufficient to carry the limited automobile traffic.

In the last 40 years, the population of the townships along Route 222 has more than quadrupled. The population of Lower Macungie has increased 184 percent in the last 20 years, while the population of Upper Macungie has doubled in this time.

In addition to the residential growth, Upper Macungie Township has evolved into a regional industrial center containing 5 of the 10 major industrial employers within Lehigh County.

Route 222 is choking from massive traffic congestion. This is a project that the Lehigh Valley desperately needs.

Looking across the U.S.A., congestion has become a way of life on the highways and at the airports.

We need to make intercity travel much more efficient and convenient for our citizens. We need to look boldly at new transportation modes that can help to relieve the burden on planes and automobiles. We need trains.

The magnetic-levitation and high-speed rail provisions in this bill could go a long way towards relieving intercity travel congestion, whether on the road or at the airport.

Regarding new modes of rail travel, this bill represents an important legislative achievement, made possible by the teamwork of the House committees (Public Works and Transportation; Science, Space, and Technology; and Energy and Commerce) and the Senate committees (Environment and Public Works; and Commerce).

I want to commend all of my fellow conferees for their constructive efforts to fashion a balanced legislative blueprint for the future of high-speed ground transportation. With respect to magnetic-levitation vehicles, or maglev, this bill sets an important precedent by making maglev research and prototype development eligible for direct assistance from the highway trust fund, amounting to about three-quarters of a billion dollars over 5 years.

This is a critical step toward design and actual operation of a U.S.-built maglev system. It is a field that is important to our industrial future, not only because efficient transportation helps make industry efficient, but also because maglev employs vast areas of technology and American industry including many critical areas of advanced technology. Superconductivity and advanced materials. Technologies with broad future applications well beyond transportation would be involved. After dropping the ball 15 years ago, when the United States terminated Federal support of U.S.-invented maglev technology, this bill will put us on track to regain technological leadership in this field.

While maglev is clearly the transportation wave of the future, many areas of the country could benefit from high-speed steel-wheel systems comparable to the French T.G.V., the German I.C.E., and the Japanese bullet train as a less costly near-term improvement in transportation infrastructure. The legislation addresses high-speed rail policy as well, primarily by including high-speed rail projects for the first time in the existing $1-billion loan guarantee program established under section 511 of the Railroad Revitalization and Regulatory Act—4–R Act—of 1976. This assures that as we develop a transportation system for the next century, neither maglev nor high-speed rail will be overlooked or neglected.

We know that highways are not the sole answer to our transportation needs. Construction of major interstate highways has virtually halted, and the Nation has not opened a new major airport since 1974. Congestion of both our roads and our airways is reaching record levels, and is exacting a huge toll in lost economic productivity.

Maglev and high-speed rail represent reliable, all-weather, environmentally benign alternatives to motor vehicle and air transportation. On the under-600-mile corridors where maglev and high-speed rail are most appropriate, huge amounts of existing airport capacity can be freed up by shifting short-haul traffic to mag-lev and rail corridors. A vivid example of this phenomenon is the recently reported shift in passenger traffic on the 290-mile Paris-to-Lyon rail route served by the T.G.V. high-speed train in France. In just 2 years of operation, the train captured 80 percent of the traffic in that corridor. Think what shifting even half of that amount of our short-haul air traffic could mean for airport capacity. It would be equivalent to receiving several new airports for free.

Finally, we cannot overlook the safety record of mag-lev and high-speed rail. In motor vehicles, the United States has already suffered more fatalities than in both World Wars, Korea, and Vietnam combined. But the Japanese bullet train, for example, has operated for 28 years without a single fatality. The French T.G.V. has a similarly impressive record. How can we not support a mode of transportation so vastly superior in safety for our citizens?

To physical safety, we also must add environmental safety. Maglev and high-speed rail are environmentally benign, in that they avoid the heavy emissions of internal-combustion engines, they use our own domestically fueled electrical generating capacity, and are vastly more energy-efficient than other modes of transportation.

We need a balanced national transportation strategy that recognizes legitimate roles for planes, trains, and automobiles. This legislaltion is a key step toward implementing such a strategy.

I wish to take a moment to focus on a small, but important provision on the utilization in highway projects of asphalt containing recycled rubber from scrap tires. Scrap tires are a major headache for cities and towns across the country. As ranking member of the Sub-

VOL 137
PT 24
NO 26
1991 — JA 3 1992
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committee on Transportation and Hazardous Materials, the subcommittee charged with reauthorizing the Resource Conservation and Recovery Act, or RCRA, I am well aware of the environmental problems caused by the 242 million scrap tires that are generated in this country every year. The rubberized asphalt provisions of the legislation before us today are an important part of our strategy to make good use of scrap tires. Thus complementing our efforts in RCRA reauthorization.

One of our major tasks in RCRA reauthorization is to refocus RCRA on recovering and conserving resources, by reducing barriers to recycling and creating incentives to use more materials that would otherwise be discarded. Our interest goes well beyond the use of scrap tires and includes developing markets and environmentally sound techniques to recycle and reuse all types of waste materials.

This legislation contains an important study that may help to stimulate the use of recycled materials in highway projects. The Senate version of the rubberized asphalt provision directed the Secretary of Transportation, in cooperation with the Administrator of EPA, to conduct a program of research on asphalt rubber pavement, its health and environmental risks, its performance and its recyclability. The House version directed the Secretary alone to conduct a more general study on possible uses of recycled materials in highway projects, including the use of asphalt containing reclaimed whole tire rubber.

The conferees have combined these two initiatives into a single, two-part study to be conducted jointly by the Secretary and the Administrator. The first part focuses specifically on asphalt pavement containing recycled rubber, its potential threats to human health and the environment, its performance and its recyclability. The expertise of the two agencies should be put to its best use by having the Secretary conduct that portion of the study relating to the technical performance of the pavement and the Administrator conduct the portion of the study relating to the potential health and environmental threats.

In the conference, the second part of the study was of particular interest and importance to me, particularly in view of my role as ranking member of the subcommittee reauthorizing RCRA. This second part is a broader examination of the economic savings, performance, potential threats to human health and the environment and potential environmental benefits of various uses and techniques for utilizing recycled materials, other than asphalt pavement containing recycled rubber, in highway projects, highway devices and appurtenances.

Some possible uses and techniques are listed in the statute, but this list is in no way intended to be exclusive. In addition to adding rubber to asphalt, the study should look at other additives such as glass and plastic. It should look at techniques for recycling asphalt removed from existing highways when the road is resurfaced. It should look at the use of recycled steel, paper and plastic in highway signs and other devices. It should look at the recycling of materials derived from industrial wastes such as coal ash, incinerator ash, cement kiln dust, construction debris and steel slag in roadbeds. I has to call them wastes because some of these materials, although by-products and residues from one process, are uniquely suited for highway construction projects.

Recovering values from materials otherwise destined for disposal is only one way to use recycle materials. Another important technique of using recycled materials in highway projects is to recover energy values from materials that might otherwise be thrown away. For example, in addition to recovering rubber from tires to actually be placed in or under asphalt, tires may also be recycled by using them as an energy source in an asphalt or cement plant.

An October 1991 EPA report, entitled "Markets for Scrap Tires", identifies several materials for the utilization of waste tires as a fuel. It specifically mentions the suitability of using waste tires to supply heat in the production of cement. While the definition of recycling within the context of the RCRA regulatory scheme remains ambiguous and subject to continuing discussion and controversy, the term as used in the study should not be read narrowly. Rather, in keeping with the broad scope of the second part of the study, the term should be read broadly to include energy recovery without prejudging its meaning in other statues.

Another example is fuel substitutes derived from spent solvents and waste oils that may or may not be hazardous. The study should examine the technical performance of materials made using these various recycling techniques and look at potential environmental impacts such as determining whether cement made with hazardous waste-derived or tire-derived fuel substitutes poses any greater risk than cement made with coal or other traditional fuels. The potential is great, and it is only limited by our technical imagination, as long as we insure that the materials are handled in an environmentally acceptable manner.

In conclusion, the second part of the study should be a broad examination of known and potential techniques of utilizing recycled materials in all aspects of highway construction projects.

I strongly support the approval of the conference report.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I, too, want to congratulate the conferees for doing an outstanding job and for providing a package that will help improve our Nation's economy.

Mr. Speaker, I rise today in support of the conference report on H.R. 2950 the Intermodal Transportation Infrastructure Act and I commend the distinguished chairman of the Public Works and Transportation Committee, the gentleman from New Jersey [Mr. ROE] and the ranking minority member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from California [Mr. MINETA] and the gentleman from Pennsylvania [Mr. SHUSTER] for their tireless work on this measure.

Mr. Speaker, with our transportation system falling apart, this Congress is obligated to do something about it. Our cities are bursting and their infrastructure is not keeping apace of growing needs. Our suburbs are booming and mass transit system hasn't adjusted to reach far enough or carry enough passengers to accommodate our commuters.

Our country's Interstate Highway System is decaying at the same time that our industries are trucking greater loads. Our bridges are collapsing, literally collapsing around us.

In this era of budget deficits and pressing need for fiscal restraint, I believe this bill—with its demonstration projects—represents a practical, moderate plan to revamp our desperate intermodal system.

This transportation bill is a responsive answer to our growing population, energy, and environmental problems. H.R. 2950 would provide funding for many high occupancy vehicles—carpooling—and mass transit programs. These types of programs would not only cut volume on our crowded, gridlocked highways and streets, but they would also cut down on the pollutants emitted by cars and reduce our Nation's overall energy consumption.

Mr. Speaker, H.R. 2950 is a well-planned program to rehabilitate and expand our Nation's intermodal system. I cannot stress enough the inextricable link between a vibrant economy and efficient transportation infrastructure. This Nation simply cannot thrive economically with our existing system. In fact, transportation spending has been proven to be one of the most effective boosts to our domestic economy.

Therefore, this legislation is badly needed in these difficult times. We in the Congress would be abrogating our responsibilities if we did not pass this positive, pro-jobs measure.

Accordingly, I urge all my colleagues to support this conference report.

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in order to get this matter back in sync now that the paperwork is all properly filed, I send to the desk the conference report to accompany H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991.

The Clerk read the title of the bill.

CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE submitted the following conference report and statement on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-404)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Surface Transportation Efficiency Act of 1991".

SEC. 2. DECLARATION OF POLICY: INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.

It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner.

The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the Nation's preeminent position in international commerce.

The National Intermodal Transportation System shall include a National Highway System which consists of the National System of Interstate and Defense Highways and those principal arterial roads which are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.

The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to world commerce.

The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion and other aspects of the quality of life in the United States.

The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly costly construction of the Interstate and Defense Highway System must be confronted and ceased.

The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems", and other new technologies wherever feasible and economical, with benefit cost estimates given special emphasis concerning safety considerations and techniques for cost allocation.

The National Intermodal Transportation System, where appropriate, will be financed, as regards Federal apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.

The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the Nation for the 21st century.

The Secretary shall distribute copies of this Declaration of Policy to each employee of the Department of Transportation and shall ensure that such Declaration of Policy is posted in all offices of the Department of Transportation.

SEC. 3. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

Part A—Title 23 Programs

SEC. 1001. COMPLETION OF INTERSTATE SYSTEM.

(a) DECLARATION.—Congress declares that the authorizations of appropriations and apportionments for construction of the Dwight D. Eisenhower National System of Interstate and Defense Highways made by this section (including the amendments made by this section) are the final authorizations of appropriations and apportionments for completion of construction of such System.

(b) APPROVAL OF INTERSTATE COST ESTIMATE FOR FISCAL YEAR 1993.—The Secretary shall apportion for all States (other than Massachusetts) for fiscal year 1993 the sums authorized to be appropriated for such year by section 108(b) of the Federal-Aid Highway Act of 1956 for expenditure on the Dwight D. Eisenhower National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the Committee Print Numbered 102–24 of the Committee on Public Works and Transportation of the House of Representatives.

(c) EXTENSION OF APPORTIONMENT.—Section 104(b)(5)(A) of title 23, United States Code, is amended by striking "1960 through 1990" each place it appears and inserting "1960 through 1996".

(d) EXTENSION OF ADMINISTRATIVE ADJUSTMENT OF ICE.—Section 104(b)(5)(A) of such title is amended by striking the next to the last sentence and inserting the following new sentence: "As soon as practicable after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 for fiscal year 1992, and on October 1 of each of fiscal years 1993, 1994, and 1995, the Secretary shall make the apportionment required by this subparagraph for all States (other than Massachusetts) using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds, and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds.".

(e) ALLOCATION OF FUNDS TO MASSACHUSETTS.—Section 104(b)(5)(A) of title 23, United States Code, is amended by inserting before the last sentence the following new sentence: "Notwithstanding any other provision of this subparagraph or any cost estimate approved or adjusted pursuant to this subparagraph, subject to the deductions under this section, the amounts to be apportioned to the State of Massachusetts pursuant to this subparagraph for fiscal years 1993, 1994, 1995, and 1996 shall be as follows: $450,000,000 for fiscal year 1993, $800,000,000 for fiscal year 1994, $800,000,000 for fiscal year 1995, and $500,000,000 for fiscal year 1996.".

(f) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of subsection (b) of section 108 of the Federal-Aid Highway Act of 1956 is amended by striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993." and inserting the following: "the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1993, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1994, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1995, and the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1996.".

(g) DECLARATION OF POLICY.—The second paragraph of section 101(b) of such title is amended—

(1) by striking "thirty-seven years'" and inserting "forty years'"; and

(2) by striking "1993" and inserting "1996".

(h) TERMINATION OF MINIMUM APPORTIONMENT.—Section 102(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 104 note) is amended by inserting after "1987," the following: "and ending before October 1, 1991,".

SEC. 1002. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law (other than subsection (f) of this section), the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $16,800,000,000 for fiscal year 1992;
(2) $18,303,000,000 for fiscal year 1993;
(3) $18,362,000,000 for fiscal year 1994;
(4) $18,332,000,000 for fiscal year 1995;
(5) $18,357,000,000 for fiscal year 1996; and
(6) $18,338,000,000 for fiscal year 1997.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;
(2) under section 157 of such title;
(3) under section 147 of the Surface Transportation Assistance Act of 1978;
(4) under section 9 of the Federal-Aid Highway Act of 1981;
(5) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;
(6) under section 404 of the Surface Transportation Assistance Act of 1982; and
(7) under sections 1103 through 1108 of this Act.

Such limitations shall also not apply to obligations of funds made available by subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

(1) GENERAL RULE.—For each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(2) SPECIAL RULE FOR MASSACHUSETTS.—For purposes of this section, funds apportioned to the State of Massachusetts pursuant to the next to the last sentence of section 104(b)(5)(A) of title 23, United States Code, shall be treated as if such funds were allocated to such State under such title. If, before October 1 of each of fiscal years 1992, 1993, 1994, and 1995, the State of Massachusetts indicates it will not obligate a portion of the amount which would be distributed to such State under the preceding sentence, the Secretary shall distribute such portion to the other States under paragraph (1).

(d) LIMITATION ON OBLIGATION AUTHORITY.—During the period October 1 through December 31 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

(e) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsections (c) and (d), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention

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to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses, Federal lands highways programs, and the national high speed ground transportation programs and amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(f) ADDITIONAL OBLIGATION AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State which after August 1 and on or before September 30 of fiscal year 1993, 1994, 1995, 1996, or 1997 obligates the amount distributed to such State in such fiscal year under subsections (c) and (e) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(A) under sections 104 and 144 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(2) LIMITATION ON ADDITIONAL OBLIGATION AUTHORITY.—During the period August 2 through September 30 of each of fiscal years 1993, 1994, 1995, 1996, and 1997, the aggregate amount which may be obligated by all States pursuant to paragraph (1) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(A) under sections 104 and 144 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

(3) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply to any State which on or after August 1 of fiscal year 1993, 1994, 1995, 1996, or 1997, as the case may be, has the amount distributed to such State under subsection (c) for such fiscal year reduced under subsection (e)(2).

(g) OBLIGATION CEILING FOR HIGHWAY SAFETY PROGRAMS.—Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(h) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking the period at the end of the last sentence and inserting "and section 1002(c) of the Intermodal Surface Transportation Efficiency Act of 1991.".

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) FROM THE HIGHWAY TRUST FUND.—For the purpose of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program $2,431,000,000 for fiscal year 1992, $2,913,000,000 for fiscal year 1993, $2,914,000,000 for fiscal year 1994, $2,914,000,000 for fiscal year 1995, $2,914,000,000 for fiscal year 1996, and $2,914,000,000 for fiscal year 1997.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System $3,003,000,000 for fiscal year 1992, $3,599,000,000 for fiscal year 1993, $3,599,000,000 for fiscal year 1994, $3,599,000,000 for fiscal year 1995, $3,600,000,000 for fiscal year 1996, and $3,600,000,000 for fiscal year 1997.

(3) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program $3,418,000,000 for fiscal year 1992, $4,096,000,000 for fiscal year 1993, $4,096,000,000 for fiscal year 1994, $4,096,000,000 for fiscal year 1995, $4,097,000,000 for fiscal year 1996, and $4,097,000,000 for fiscal year 1997.

(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program $858,000,000 for fiscal year 1992, $1,028,000,000 for fiscal year 1993, $1,028,000,000 for fiscal year 1994, $1,028,000,000 for fiscal year 1995, $1,029,000,000 for fiscal year 1996, and $1,029,000,000 for fiscal year 1997.

(5) BRIDGE PROGRAM.—For the bridge program $2,288,000,000 for fiscal year 1992, $2,762,000,000 for fiscal year 1993, $2,762,000,000 for fiscal year 1994, $2,762,000,000 for fiscal year 1995, $2,763,000,000 for fiscal year 1996, and $2,763,000,000 for fiscal year 1997.

(6) FEDERAL LANDS HIGHWAY PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads $159,000,000 for fiscal year 1992 and $191,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(B) PUBLIC LANDS HIGHWAYS.—For public lands highways $143,000,000 for fiscal year 1992, $171,000,000 for each of fiscal years 1993, 1994, and 1995, and $172,000,000 for each of fiscal years 1996 and 1997.

(C) PARKWAYS AND PARK HIGHWAYS.—For parkways and park highways $69,000,000 for fiscal year 1992, $83,000,000 for each of fiscal years 1993, 1994, and 1995, and $84,000,000 for each of fiscal years 1996 and 1997.

(7) FHWA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 by the Federal Highway Administration $17,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(8) FHWA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 by the Federal Highway Administration $10,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts authorized to be appropriated under titles I (other than part B), III, V, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $15,370,000, as adjusted by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are also otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(5) STUDY.—

(A) IN GENERAL.—The Comptroller General shall conduct a study of the disadvantaged business enterprise program of the Federal Highway Administration (hereinafter in this paragraph referred to as the "program").

(B) CONTENTS.—The study under this paragraph shall include the following:

(i) GRADUATION.—A determination of—

(I) the percentage of disadvantaged business enterprises which have enrolled in the program and graduated after a period of 3 years;

(II) the number of disadvantaged business enterprises which have enrolled in the program and not graduated after a period of 3 years;

(III) whether or not the graduation date of any of the disadvantaged business enterprises described in subclause (II) should have been accelerated;

(IV) since the program has no graduation time requirements, how many years would appear reasonable for disadvantaged business enterprises to participate in the program;

(V) the length of time the average small nondisadvantaged business enterprise takes to be successful in the highway construction field as compared to the average disadvantaged business enterprise; and

(VI) to what degree are disadvantaged business enterprises awarded contracts once they are no longer participating in the disadvantaged business program.

(ii) OUT-OF-STATE CONTRACTING.—A determination of which State transportation programs meet the requirement of the program for 10 percent participation by disadvantaged business enterprises by contracting with contractors located in another State and a determination to what degree prime contractors use out-of-State disadvantaged business enterprises even when disadvantaged business enterprises exist within the State to meet the 10 percent participation goal and reasons why this occurs.

(iii) PROGRAM ADJUSTMENTS.—A determination of whether or not adjustments in the program could be made with respect to Federal and State participation in training programs and with respect to meeting capital needs and bonding requirements.

(iv) SUCCESS RATE.—Recommendations concerning whether or not adjustments described in clause (iii) would continue to encourage minority participation in the program and improve the success rate of the disadvantaged business enterprises.

(v) PERFORMANCE AND FINANCIAL CAPABILITIES.—Recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises enrolled in the program.

(vi) ENFORCEMENT MECHANISMS.—A determination of whether the current enforcement mechanisms are sufficient to ensure compliance with the disadvantaged business enterprise participation requirements.

(vii) ADDITIONAL COSTS.—A determination of additional costs incurred by the Federal Highway Administration in meeting the requirement of the program for 10 percent participation by disadvantaged business enterprises as well as a determination of benefits of the program.

(viii) EFFECT ON INDUSTRY.—A determination of how the program is being implemented by the construction industry and the effects of the program on all segments of the industry.

(ix) CERTIFICATION.—An analysis of the certification process for Federal-aid highway and transit programs, including a determination as to whether the process should be uniform and permit State-to-State reciprocity and how certification criteria and procedures are being implemented by the States.

(x) GOALS.—A determination of how the Federal goal is being implemented by the States, including the waiver process, and the impact of the goal on those individuals presumed to be socially and economically disadvantaged.

(C) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this paragraph.

(c) REDUCTION IN AUTHORIZATIONS FOR BUDGET COMPLIANCE.—If the total amount authorized by this Act out of the Highway Trust Fund (other than the Mass Transit Account) exceeds $17,042,000,000 for fiscal year 1992, or exceeds $98,642,000,000 for fiscal years 1992 through 1996, then each amount so authorized shall be reduced proportionately so that the total equals $17,042,000,000 for fiscal year 1992, or equals $98,642,000,000 for fiscal years 1992 through 1996, as the case may be.

SEC. 1004. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause—

(1) the total outlays in any of the fiscal years 1992 through 1995 which result from this Act, to exceed

(2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992,

then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply, notwithstanding any provision of this Act to the contrary.

SEC. 1005. DEFINITIONS.

(a) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to highway safety improvement project is amended by inserting after "marking," the following: "installs priority control systems for emergency vehicles at signalized intersections,".

(b) URBANIZED AREA.—Such section is amended by striking the undesignated paragraph relating to urbanized area and inserting the following new undesignated paragraph:

"The term 'urbanized area' means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Boundaries shall, at a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.".

(c) NATIONAL HIGHWAY SYSTEM.—Such section is further amended by striking the undesignated paragraph relating to the Federal-aid primary system and inserting the following new undesignated paragraph:

"The term 'National Highway System' means the Federal-aid highway system described in subsection (b) of section 103 of this title.".

(d) CONFORMING AMENDMENTS.—Such section is amended—

(1) by striking the undesignated paragraph relating to the Federal-aid secondary system;

(2) by striking the undesignated paragraph relating to the Federal-aid urban system;

(3) in the undesignated paragraph relating to Indian reservation roads by striking ", including roads on the Federal-aid systems,"; and

(4) in the undesignated paragraph relating to park road by inserting ", including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles," before "that is located within".

(e) INTERSTATE SYSTEM.—The undesignated paragraph of such section relating to the Interstate System is amended by inserting "Dwight D. Eisenhower" before "National".

(f) OPERATIONAL IMPROVEMENT.—Such section is further amended by inserting after the undesignated paragraph relating to Interstate System the following new undesignated paragraph:

"The term 'operational improvement' means a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs and such other capital improvements to public roads as the Secretary may designate, by regulation; except that such term does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.".

(g) STARTUP COSTS FOR TRAFFIC MANAGEMENT AND CONTROL; CARPOOL PROJECT; PUBLIC AUTHORITY; PUBLIC LANDS HIGHWAY; RECONSTRUCTION.—Such section is further amended by inserting after the undesignated paragraph relating to Interstate System the following new undesignated paragraphs:

"The term 'startup costs for traffic management and control' means initial costs (including labor costs, administration costs, cost of utilities, and rent) for integrated traffic control systems, incident management programs, and traffic control centers.

"The term 'carpool project' means any project to encourage the use of carpools and vanpools, including but not limited to provision of carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"The term 'public lands highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.".

SEC. 1006. NATIONAL HIGHWAY SYSTEM.

(a) ESTABLISHMENT.—Section 103 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) IN GENERAL.—For purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) PURPOSE.—The purpose of the National Highway System is to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System shall consist of the following:

"(A) Highways designated as part of the Interstate System under subsection (e) and section 139 of this title.

"(B) Other urban and rural principal arterials and highways (including toll facilities) which provide motor vehicle access between such an arterial and a major port, airport, public transportation facility, or other intermodal transportation facility. The States, in cooperation with local and regional officials, shall propose to the Secretary arterials and highways for designation to the National Highway System under this paragraph. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134 of this title. The routes on the National Highway System, as shown on the map submitted by the Secretary to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate in 1991, illustrating the National Highway System, shall serve as the basis for the States in proposing arterials and highways for designation to such system. The Secretary may modify or revise such proposals and submit such modified or revised proposals to Congress for approval in accordance with paragraph (3).

"(C) A strategic highway network which is a network of highways which are important to the United States strategic defense policy and which provide defense access, continuity, and emergency capabilities for the movement of personnel, materiels, and equipment in both peace time and war time. Such highways may include highways on and off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and be subject to approval by Congress in accordance with paragraph (3).

"(D) Major strategic highway network connectors which are highways that provide motor vehicle access between major military installations and highways which are part of the strategic highway network. Such highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and subject to approval by Congress in accordance with paragraph (3).

"(3) APPROVAL OF DESIGNATIONS.—

"(A) PROPOSED DESIGNATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a proposed National Highway System with a list and description of highways proposed to be designated to the National Highway System under this subsection and a map *showing such proposed designations. In preparing the proposed system, the Secretary shall consult appropriate local officials and shall use the functional reclassification of roads and streets carried out under subsection (c) of section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991.*

"(B) APPROVAL OF CONGRESS REQUIRED.—After September 30, 1995, no funds made available for carrying out this title may be apportioned for the National Highway System or the Interstate maintenance program under this title unless a law has been approved designating the National Highway System.

"(C) MAXIMUM MILEAGE.—For purposes of proposing highways for designation to the National Highway System, the mileage of highways on the National Highway System shall not exceed 155,000 miles; except that the Secretary may increase or decrease such maximum mileage by not to exceed 15 percent.

"(D) EQUITABLE ALLOCATIONS OF HIGHWAY MILEAGE.—In proposing highways for designation to the National Highway System, the Secretary shall provide for equitable allocation of highway mileage among the States.

"(4) INTERIM SYSTEM.—For fiscal years 1992, 1993, 1994, and 1995, highways classified as principal arterials by the States shall be treated as being on the National Highway System for purposes of this title.".

(b) CONFORMING AMENDMENTS TO SECTION 103.—

(1) REPEAL OF FEDERAL-AID SECONDARY AND URBAN SYSTEMS.—Subsections (c) and (d) of such section are repealed.

(2) APPROVAL.—Subsection (f) of such section is amended—

(A) by striking "the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and"; and

(B) by striking the last sentence.

(c) FUNCTIONAL RECLASSIFICATION OF HIGHWAYS.—

(1) STATE ACTION.—Each State shall functionally reclassify the roads and streets in such State in accordance with such guidelines and time schedule as the Secretary may establish in order to carry out the objectives of this section, including the amendments made by this section.

(2) APPROVAL AND SUBMISSION TO CONGRESS.—Not later than September 30, 1993, the Secretary shall approve the functional reclassification of roads and streets made by the States pursuant to this subsection and shall submit a report to Congress containing such reclassification.

(3) STATE DEFINED.—In this subsection, the term "State" has the meaning such term has under section 101 of title 23, United States Code, and shall include the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.

(d) PROJECT ELIGIBILITY.—Section 103 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(i) ELIGIBLE PROJECTS FOR NHS.—Subject to project approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

"(1) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of such system.

"(2) Operational improvements for segments of such system.

"(3) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System and construction of a transit project eligible for assistance under the Federal Transit Act—

"(A) if such highway or transit project is in the same corridor as, and in proximity to, a fully access controlled highway designated to the National Highway System;

"(B) if the construction or improvements will improve the level of service on the fully access controlled highway and improve regional travel; and

"(C) if the construction or improvements are more cost effective than an improvement to the fully access controlled highway that has benefits comparable to the benefits which will be achieved by the construction of, or improvements to, the highway not on the National Highway System.

"(4) Highway safety improvements for segments of the National Highway System.

"(5) Transportation planning in accordance with sections 134 and 135.

"(6) Highway research and planning in accordance with section 307.

"(7) Highway-related technology transfer activities.

"(8) Startup costs for traffic management and control if such costs are limited to the time period necessary to achieve operable status but not to exceed 2 years following the date of project approval, if such funds are not used to replace existing funds.

"(9) Fringe and corridor parking facilities.

"(10) Carpool and vanpool projects.

"(11) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(12) Development and establishment of management systems under section 303.

"(13) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.".

(e) APPORTIONMENTS.—Section 104(b)(1) of such title is amended to read as follows:

"(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remaining 99 percent apportioned in the same ratio as funds are apportioned under paragraph (3).".

(f) TRANSFERABILITY.—Section 104 of such title is amended by striking subsection (c) and inserting the following new subsection:

"(c) TRANSFERABILITY OF NHS APPORTIONMENTS.—A State may transfer not to exceed 50 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3). A State may transfer not to exceed 100 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3) if the State requests to make such transfer and the Secretary approves such transfer as being in the public interest after providing notice and sufficient opportunity for public comment. Section 133(d) shall not apply to funds transferred under this subsection.".

(g) CONFORMING AMENDMENTS TO OTHER SECTIONS.—

(1) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by striking the paragraph relating to Federal-aid highways and inserting the following new paragraph:

"The term 'Federal-aid highways' means highways eligible for assistance under this chapter other than highways classified as local roads or rural minor collectors.".

(2) PREVAILING RATE OF WAGE.—Section 113(a) of such title is amended by striking "systems, the primary and secondary, as well as their extension in urban areas, and the Interstate System," and inserting "highways".

(h) NATIONAL DEFENSE HIGHWAYS LOCATED OUTSIDE THE UNITED STATES.—

(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for the reconstruction of such highway or portion of highway.

(2) FUNDING.—The Secretary may make available, from funds appropriated to construct the National System of Interstate and Defense Highways, not to exceed $20,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996 to carry out this subsection. Such sums shall remain available until expended.

SEC. 1007. SURFACE TRANSPORTATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 132 the following new section:

"§133. Surface transportation program

"(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

"(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.

"(2) Capital costs for transit projects eligible for assistance under the Federal Transit Act and publicly owned intracity or intercity bus terminals and facilities.

"(3) Carpool projects, fringe and corridor parking facilities and programs, and bicycle transportation and pedestrian walkways in accordance with section 217.

"(4) Highway and transit safety improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

"(5) Highway and transit research and development and technology transfer programs.

"(6) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(7) Surface transportation planning programs.

"(8) Transportation enhancement activities.

"(9) Transportation control measures listed in section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act.

"(10) Development and establishment of management systems under section 303.

"(11) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.

"(c) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.

"(d) ALLOCATIONS OF APPORTIONED FUNDS.—

"(1) FOR SAFETY PROGRAMS.—10 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out sections 130 and 152 of this title. Of the funds set aside under the preceding sentence, the State shall reserve in such fiscal year an amount of such funds for carrying out each such section which is not less than the amount of funds apportioned to the State in fiscal year 1991 under such section.

"(2) FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall only be available for transportation enhancement activities.

"(3) DIVISION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION AND OTHER AREAS.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (C) and (D), 62.5 percent of the remaining 80 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall be obligated under this section—

"(i) in urbanized areas of the State with an urbanized area population of over 200,000, and

"(ii) in other areas of the State,

in proportion to their relative share of the State's population. The remaining 37.5 percent may be obligated in any area of the State. Funds attributed to an urbanized area under clause (i) may be obligated in the metropolitan area established under section 134 which encompasses the urbanized area.

"(B) SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.—Of the amounts required to be obligated under subparagraph (A)(ii), the State shall obligate in areas of the State (other than urban areas with a population greater than 5,000) an amount which is not less than 110 percent of the amount of funds apportioned to the State for the Federal-aid secondary system for fiscal year 1991.

"(C) SPECIAL RULE FOR CERTAIN STATES.—In the case of a State in which—

"(i) greater than 80 percent of the population of the State is located in 1 or more metropolitan statistical areas, and

"(ii) greater than 80 percent of the land area of such State is owned by the United States,

the 62.5 percentage specified in the first sentence of subparagraph (A) shall be 35 percent and the percentage specified in the second sentence of subparagraph (A) shall be 65 percent.

"(D) NONCONTIGUOUS STATES EXEMPTION.—Subparagraph (A) shall not apply to any State which is noncontiguous with the continental United States.

"(E) DISTRIBUTION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION.—The amount of funds which a State is required to obligate under subparagraph (A)(i) shall be obligated in urbanized areas described in subparagraph (A)(i) based on the relative population of such areas; except that the State may obligate such funds based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

"(4) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

"(e) ADMINISTRATION.—

"(1) NONCOMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State that, if the State fails to take corrective action within 60 days from the date of receipt of the notification, the Secretary will withhold future apportionments under section 104(b)(3) until the Secretary is satisfied that appropriate corrective action has been taken.

"(2) CERTIFICATION.—The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter.

"(3) PAYMENTS.—The Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.

"(4) POPULATION DETERMINATIONS.—The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures for purposes of this section.

"(f) ALLOCATION OF OBLIGATION AUTHORITY.—A State which is required to obligate in an urbanized area with an urbanized area population of over 200,000 under subsection (d) funds apportioned to it under section 104(b)(3) shall allocate during the 6-fiscal year period 1992 through 1997 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction for use in such area determined by multiplying—

"(1) the aggregate amount of funds which the State is required to obligate in such area under subsection (d) during such period; by

"(2) the ratio of the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction during such period to the total sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to an obligation limitation) during such period.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 132 the following:

"133. Surface transportation program.".

(b) APPORTIONMENT OF SURFACE TRANSPORTATION PROGRAM FUNDS.—

(1) IN GENERAL.—Section 104(b)(3) of title 23, United States Code, is amended to read as follows:

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) GENERAL RULE.—For the surface transportation program in a manner so that a State's current percentage share of apportionments is equal to the State's 1987–1991 percentage share of apportionments. For purposes of this paragraph—

"(i) a State's current percentage share of apportionments is the State's percentage share of all funds apportioned for a fiscal year under paragraph (1) for the National Highway System, under section 144 for the bridge program, under paragraph (5)(B) for Interstate maintenance, and under this paragraph; and

"(ii) a State's 1987–1991 percentage share of apportionments is the State's percentage share of all apportionments and allocations under this title for fiscal years 1987, 1988, 1989, 1990, and 1991 (except apportionments and allocations for Interstate construction under sections 104(b)(5)(A) and 118, Interstate highway substitute under section 103(e)(4), Federal lands highways under section 202, and emergency relief under section 125, all allocations under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and the portion of allocations under section 157 (relating to minimum allocation) that would be attributable to apportionments made under Interstate construction and Interstate highway substitute programs under sections 104(b)(5)(A) and 103(e)(4), respectively, for such fiscal years if the minimum allocation percentage for such fiscal years had been 90 percent instead of 85 percent).

"(B) CALCULATION RULES.—In calculating a State's percentage share under this paragraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, each State shall be treated as having received ½ of 1 percent of all funds apportioned for the Interstate construction program under section 104(b)(5)(A) in fiscal years 1987, 1988, 1989, 1990, and 1991. Notwithstanding any other provision of this paragraph, in any fiscal year no State shall receive a percentage of total apportionments and allocations that is less than 70 percent of its percentage of total apportionments and allocations for fiscal years 1987, 1988, 1989, 1990, and 1991, except for those States that receive an apportionment for Interstate construction under paragraph (5)(A) of more than $50,000,000 for fiscal year 1992.".

(2) CONFORMING AMENDMENTS.—Section 104 of such title is further amended—

(A) in subsections (a) and (b) by striking "upon the Federal-aid systems" and inserting "on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System";

(B) in subsection (b) by striking "paragraphs (4) and (5)" and inserting "paragraph (5)(A)"; and

(C) in subsection (b) by striking "and sections 118(c) and 307(d)" and inserting "and section 307".

(c) TRANSPORTATION ENHANCEMENT ACTIVITIES DEFINED.—Section 101(a) of title 23, United States Code, is amended by adding at the end the following new paragraph:

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.".

SEC. 1008. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149 of title 23, United States Code, is amended to read as follows:

"§149. Congestion mitigation and air quality improvement program

"(a) ESTABLISHMENT.—The Secretary shall establish a congestion mitigation and air quality improvement program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program—

"(1)(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clauses (xii) and (xvi) of such section), that the project or program is likely to contribute to the attainment of a national ambient air quality standard; or

"(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section;

"(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.

No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.

"(c) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have a nonattainment area for ozone or carbon monoxide under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104(b)(2) for any project eligible for assistance under the surface transportation program.

"(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.".

(b) APPORTIONMENT.—Section 104(b)(2) of such title is amended to read as follows:

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, in the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States. The weighted nonattainment area population shall be calculated by multiplying the population of each area within any State that is a nonattainment area (as defined in the Clean Air Act) for ozone by a factor of—

"(A) 1.0 if the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act;

"(B) 1.1 if the area is classified as a moderate ozone nonattainment area under such subpart;

"(C) 1.2 if the area is classified as a serious ozone nonattainment area under such subpart;

"(D) 1.3 if the area is classified as a severe ozone nonattainment area under such subpart; or

"(E) 1.4 if the area is classified as an extreme ozone nonattainment area under such subpart. If the area is also classified under subpart 3 of part D of title I of such Act as a nonattainment area for carbon monoxide, for purposes of calculating the weighted nonattainment area population, the weighted nonattainment area population of the area, as determined under the preceding provisions of this paragraph, shall be further multiplied by a factor of 1.2. Notwithstanding any provision of this paragraph, in the case of States with a total 1990 census population of 15,000,000 or greater, the amount apportioned under this paragraph in a fiscal year to all of such States in the aggregate, shall be distributed among such States based on their relative populations; except that none of such States shall be distributed more than 42 percent of the aggregate amount so apportioned to all of such States. Notwithstanding any other provision of this paragraph, each State shall receive a minimum apportionment of ½ of 1 percent of the funds apportioned made under this paragraph. The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"149. Truck lanes."

and inserting

"149. Congestion mitigation and air quality improvement program.".

SEC. 1009. INTERSTATE MAINTENANCE PROGRAM.

(a) LIMITATION ON NEW CAPACITY.—Section 119 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(g) LIMITATION ON NEW CAPACITY.—Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.".

(b) ADEQUATE MAINTENANCE OF THE INTERSTATE SYSTEM.—Section 119(f) of such title is amended by inserting after "Interstate System routes and" the following: "the State is adequately maintaining the Interstate System and".

(c) GUIDANCE TO THE STATES.—The Secretary shall develop and make available to the States criteria for determining—

(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate highway or bridge; and

(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.

(d) NONCHARGEABLE SEGMENTS.—Section 104(b)(5)(B) of title 23, United States Code, is amended by inserting "and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984," after "under sections 103 and 139(c) of this title" each place it appears.

(e) CONFORMING AMENDMENTS.—

(1) NEW HEADING.—The heading for section 119 of such title is amended to read as follows:

"§119. Interstate maintenance program".

(2) ANALYSIS.—The analysis for chapter 1 of such title is amended by striking

"119. Interstate System resurfacing."

and inserting

"119. Interstate maintenance program.".

(3) ELIGIBLE ACTIVITIES.—Section 119(c) of such title is amended to read as follows:

"(c) ELIGIBLE ACTIVITIES.—Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges, and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.".

(4) PREVENTIVE MAINTENANCE.—Section 119(e) of such title is amended to read as follows:

"(e) PREVENTIVE MAINTENANCE.—Preventive maintenance activities shall be eligible under this section when a State can demonstrate, through its pavement management system, that such activities are a cost-effective means of extending Interstate pavement life.".

(5) MISCELLANEOUS.—Section 119 of such title is amended—

(A) in subsection (a) by striking ", rehabilitating, and reconstructing" and inserting "and rehabilitating";

(B) in subsection (a) by striking the last sentence;

(C) in the heading for subsection (f) by striking "PRIMARY SYSTEM" and inserting "SURFACE TRANSPORTATION PROGRAM";

(D) in subsection (f)(1) by striking "rehabilitating, or reconstructing" and inserting "or rehabilitating"; and

(E) in subsection (f) by striking "section 104(b)(1)" each place it appears and inserting "sections 104(b)(1) and 104(b)(3)".

SEC. 1010. OPERATION LIFESAVER; HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended to read as follows:

"(d) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—

"(1) OPERATION LIFESAVER.—The Secretary shall expend from administrative funds deducted under subsection (a) $300,000 for each fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for elimination of hazards of railway-highway crossings in not to exceed 5 railway corridors selected by the Secretary in accordance with the criteria set forth in this paragraph.

"(B) A corridor selected by the Secretary under subparagraph (A) must include rail lines where railroad speeds of 90 miles per hour are occurring or can reasonably be expected to occur in the future.

"(C) In making the determination required by subparagraph (A), the Secretary shall consider projected rail ridership volumes in such corridors, the percentage of the corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line, projected benefits to nonriders such as congestion relief on other modes of transportation serving the corridors (including congestion in heavily traveled air passenger corridors), the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities, and the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in such corridors.".

SEC. 1011. SUBSTITUTE PROGRAM.

(a) HIGHWAY PROJECTS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 103(e)(4)(G) of title 23, United States Code, is amended—

(A) by striking "and" the next to the last place it appears;

(B) by inserting before the period at the end the following: ", $240,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995"; and

(C) by adding at the end the following: "Such sums may be obligated for transit substitute projects under this paragraph.".

(2) DISTRIBUTION.—Section 103(e)(4)(H) of such title is amended—

(A) by adding at the end of clause (i) the following new sentence: "For each of fiscal years 1992, 1993, 1994, and 1995, all funds made available by subparagraph (G) shall be apportioned in accordance with cost estimates adjusted by the Secretary.";

(B) in clause (iii), by striking "1988, 1989, 1990, AND 1991 APPORTIONMENTS" and inserting "1988–1995 APPORTIONMENTS"; and

(C) by striking "and 1991." and inserting "1991, 1992, 1993, 1994, and 1995.".

(b) TRANSIT PROJECTS.—Section 103(e)(4)(J) of such title is amended—

(1) in clause (i) by inserting after "1983," the following: "and ending before October 1, 1991";

(2) by adding at the end of clause (i) the following new sentence: "100 percent of funds appropriated for each of fiscal years 1992 and 1993 shall be apportioned in accordance with cost estimates adjusted by the Secretary.";

(3) in clause (iii) by striking "1988, 1989, 1990, AND 1991 APPORTIONMENTS" and inserting "1988–1993 APPORTIONMENTS"; and

(4) by striking "and 1991." and inserting "1991, 1992, and 1993.".

(c) PERIOD OF AVAILABILITY.—Section 103(e)(4)(E)(i) of such title is amended by adding at the end the following new sentence: "In the case of funds authorized to be appropriated for substitute transit projects under this paragraph for fiscal year 1993 and for substitute highway projects under this paragraph for fiscal year 1995, such funds shall remain available until expended.".

SEC. 1012. TOLL ROADS, BRIDGES, AND TUNNELS.

(a) NEW PROGRAM.—Section 129(a) of title 23, United States Code, is amended to read as follows:

"(a) BASIC PROGRAM.—

"(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Notwithstanding section 301 of this title and subject to the provisions of this section, the Secretary shall permit Federal participation in—

"(A) initial construction of a toll highway, bridge, or tunnel (other than a highway, bridge, or tunnel on the Interstate System) or approach thereto;

"(B) reconstructing, resurfacing, restoring, and rehabilitating a toll highway, bridge, or tunnel (including a toll highway, bridge, or tunnel subject to an agreement entered into under this section or section 119(e) as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991) or approach thereto;

"(C) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

"(D) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility; and

"(E) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under subparagraph (A), (B), (C), or (D);

on the same basis and in the same manner as in the construction of free highways under this chapter.

"(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

"(A) be publicly owned, or

"(B) be privately owned if the public authority having jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

"(3) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in construction of a highway, bridge, or tunnel located in a State, the public authority (including the State transportation department) having jurisdiction over the highway, bridge, or tunnel must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the toll facility will be used first for debt service, for reasonable return on investment of any private person financing the project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation. If the State certifies annually that the tolled facility is being adequately maintained, the State may use any toll revenues in excess of amounts required under the preceding sentence for any purpose for which Federal funds may be obligated by a State under this title.

"(4) SPECIAL RULE FOR FUNDING.—In the case of a toll highway, bridge, or tunnel under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary shall reimburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

"(5) LIMITATION ON FEDERAL SHARE.—Except as otherwise provided in this paragraph, the Federal share payable for construction of a highway, bridge, tunnel, or approach thereto or conversion of a highway, bridge, or tunnel to a toll facility under this subsection shall be such percentage as the State determines but not to exceed 50 percent. The Federal share payable for construction of a new bridge, tunnel, or approach thereto or for reconstruction or replacement of a bridge, tunnel, or approach thereto shall be such percentage as the Secretary determines but not to exceed 80 percent. In the case of a toll facility subject to an agreement under section 119 or 129, the Federal share payable on any project for resurfacing, restoring, rehabilitating, or reconstructing such facility shall be 80 percent until the scheduled expiration of such agreement (as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991).

"(6) MODIFICATIONS.—If a public authority (including a State transportation department) having jurisdiction over a toll highway, bridge, or tunnel subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, requests modification of such agreement, the Secretary shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

"(7) LOANS.—A State may loan all or part of the Federal share of a toll project under this section to a public or private agency constructing a toll facility. Such loan may be made only after all Federal environmental requirements have been complied with and permits obtained. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not more than 5 years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose for which the loaned funds were available. The Secretary shall establish procedures and guidelines for making such loans.

"(8) INITIAL CONSTRUCTION DEFINED.—For purposes of this subsection, the term 'initial construction' means the construction of a highway, bridge, or tunnel at any time before it is open to traffic and does not include any improvement to a highway, bridge, or tunnel after it is open to traffic.".

(b) CONGESTION PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot projects. The Secretary may enter into cooperative agreements with as many as 5 such State or local governments or public authorities to establish, maintain, and monitor congestion pricing projects.

(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund any project for more than 3 years.

(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of a pilot program under this section, but not on more than 3 of such programs.

(5) The Secretary shall monitor the effect of such projects for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic, volume, transit ridership, air quality, and availability of funds for transportation programs.

(6) Of the sums made available to the Secretary pursuant to section 104(a) of title 23, United States Code, not to exceed $25,000,000 shall be made available each fiscal year to carry out the requirements of this subsection. Not more than $15,000,000 of such amounts shall be made available to carry out each pilot project under this section.

(c) ELIMINATION OF PUBLIC OPERATION REQUIREMENT FOR TOLL FERRIES.—Section 129 of such title is amended—

(1) by striking subsections (b), (c), (d), (e), (h), (i), and (k);

(2) by redesignating subsections (f), (g), and (j) as subsections (b), (c), and (d), respectively;

(3) in subsection (c) as so redesignated by inserting "and ferry terminal facilities" after "boats";

(4) in subsection (c) as so redesignated by striking paragraph (3) and inserting the following:

"(3) Such ferry boat or ferry terminal facility shall be publicly owned."; and

(5) in subsection (c)(4) as so redesignated—

(A) by inserting "or other public entity" after "State"; and

(B) by inserting before the period at the end the following: ", debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return".

(d) CONTINUATION OF EXISTING AGREEMENTS.—Unless modified under section 129(a)(6) of such title, as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129.

(e) SPECIAL RULE FOR CERTAIN EXISTING TOLL FACILITY AGREEMENTS.—Notwithstanding sections 119 and 129 of title 23, United States Code, at the request of the non-Federal parties to a toll facility agreement reached before October 1, 1991, regarding the New York State Thruway or the Fort McHenry Tunnel under section 105 of the Federal-Aid Highway Act of 1978 or section 129 of title 23, United States Code (as in effect on the day before the date of the enactment of this Act), the Secretary shall allow for the continuance of tolls without repayment of Federal funds. Revenues collected from such tolls, after the date of such request, in excess of revenues needed for debt service and the actual costs of operation and maintenance shall be available for (1) any transportation project eligible for assistance under title 23, United States Code, or (2) costs associated with transportation facilities under the jurisdiction of such non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of such facilities.

(f) VOIDING OF CERTAIN AGREEMENTS FOR I–78 DELAWARE RIVER BRIDGE.—Upon the joint request of the State of Pennsylvania, the State of New Jersey, and the Delaware River Joint Toll Bridge Commission, and upon such parties entering into a new agreement with the Secretary regarding the bridge on Interstate Route 78 which crosses the Delaware River in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, the Secretary shall void any agreement entered into with such parties with respect to the bridge before the effective date of this subsection under section 129(a), 129(d), or 129(e) of title 23, United States Code. The new agreement referred to in the preceding sentence shall permit the continuation of tolls without repayment of Federal funds and shall provide that all toll revenues received from operation of the bridge will be used—

(1) first for repayment of the non-Federal cost of construction of the bridge (including debt service);

(2) second for the costs necessary for the proper operation and maintenance of the bridge, including resurfacing, restoration, and rehabilitation; and

(3) to the extent that toll revenues exceed the amount necessary for paragraphs (1) and (2), such excess may be used with respect to any other bridge under the jurisdiction of the Delaware River Joint Toll Bridge Commission.

(g) BRIDGE CONNECTING PENNSYLVANIA TURNPIKE SYSTEM AND NEW JERSEY TURNPIKE.—Section 3 of the Act of October 26, 1951 (65 Stat. 653), is amended by striking ": Provided," and all that follows before the period.

SEC. 1013. MINIMUM ALLOCATION.

(a) GENERAL RULE.—Section 157(a) of title 23, United States Code, is amended—

(1) in paragraph (3) by striking "THEREAFTER" and inserting "FISCAL YEARS 1989–1991";

(2) in paragraph (3) by striking "and each fiscal year thereafter," and inserting ", 1990, and 1991"; and

(3) by adding at the end the following new paragraph:

"(4) THEREAFTER.—In fiscal year 1992 and each fiscal year thereafter on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Interstate construction, Interstate maintenance, Interstate highway substitute, National Highway System, surface transportation program, bridge program, scenic byways, and grants for safety belts and motorcycle helmets shall not be less than 90 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.".

(b) CONFORMING AMENDMENTS.—Section 157(b) of such title is amended—

(1) by striking "primary, secondary," and inserting "National Highway, surface transportation program,";

(2) by striking "urban," and inserting "congestion mitigation and air quality improvement program,";

(3) by striking "replacement and rehabilitation"; and

(4) by inserting after the first sentence the following: "½ of the amounts allocated pursuant to subsection (a) after September 30, 1991, shall be subject to section 133(d)(3) of this title.".

(c) DONOR STATE BONUS AMOUNTS.—

(1) FUNDING.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of donor State bonus amounts the following amounts for the following fiscal years:

(A) For fiscal year 1992 $429,000,000.

(B) For fiscal year 1993 $514,000,000.

(C) For fiscal year 1994 $514,000,000.

(D) For fiscal year 1995 $514,000,000.

(E) For fiscal year 1996 $514,000,000.

(F) For fiscal year 1997 $515,000,000.

(2) APPORTIONMENT.—

(A) FORMULA.—The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring each successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(B) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds apportioned under this subsection shall be available for obligation in the same manner and for the same purposes as if such funds were apportioned for the surface transportation program under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended. 1/2 of the amounts apportioned under this subsection shall be subject to section 133(d)(3) of title 23, United States Code, as added by this Act.

SEC. 1014. REIMBURSEMENT FOR SEGMENTS OF THE INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§160. Reimbursement for segments of the Interstate System constructed without Federal assistance

"(a) GENERAL AUTHORITY.—The Secretary shall allocate to the States in each of fiscal years 1996 and 1997 amounts determined under subsection (b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance.

"(b) DETERMINATION OF REIMBURSEMENT AMOUNT.—The amount to be reimbursed to a State in each of fiscal years 1996 and 1997 under this section shall be determined by multiplying the amount made available for carrying out this section for such fiscal year by the reimbursement percentage set forth in the table contained in subsection (c).

"(c) REIMBURSEMENT TABLE.—For purposes of carrying out this section, the reimbursement percentage, the original cost for constructing the Interstate System, and the total reimbursable amount for each State is set forth in the following table:

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	89	0.50	$147
Alaska	....	.50	147
Arizona	20	.50	147
Arkansas	6	.50	147
California	298	5.42	1,591
Colorado	23	.50	147
Connecticut	314	5.71	1,676
Delaware	39	0.71	209
Florida	31	.56	164
Georgia	46	.84	246
Hawaii	....	.50	147
Idaho	5	.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	.50	147
Kansas	101	1.84	540
Kentucky	32	.57	169
Louisiana	22	.50	147
Maine	38	.69	204
Maryland	154	2.79	820
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	.50	147
Mississippi	6	.50	147
Missouri	74	1.35	396
Montana	5	.50	147
Nebraska	1	.50	147
Nevada	2	.50	147
New Hampshire	8	.50	147
New Jersey	353	6.41	1,882
New Mexico	8	.50	147
New York	929	16.88	4,960
North Carolina	36	.65	191
North Dakota	3	.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	.50	147
South Carolina	4	.50	147
South Dakota	5	.50	147
Tennessee	7	.50	147
Texas	200	3.64	1,069
Utah	6	.50	147
Vermont	1	.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	.50	147
Wisconsin	8	.50	147
Wyoming	9	.50	147
D.C.	9	.50	147
Totals	4,967	100.00	29,384

"(d) TRANSFER OF REIMBURSABLE AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (e) of this section, the Secretary shall transfer amounts allocated to a State pursuant to this section to the apportionment of such State under section 104(b)(3) for the surface transportation program.

"(e) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of this title shall not apply to ½ of the amounts transferred under subsection (d) to the apportionment of the State for the surface transportation program:

"(1) Subsection (d)(1).

"(2) Subsection (d)(2).

"(3) Subsection (d)(3).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $2,000,000,000 per fiscal year for each of fiscal years 1996 and 1997 to carry out this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following new item:

"160. Reimbursement for segments of the Interstate System constructed without Federal assistance."

(c) KANSAS PROJECTS.—

(1) UNITED STATES ROUTE 50.—The State of Kansas shall obligate in fiscal year 1996 $24,440,000 to construct the Hutchinson Bypass between United States Route 50 and Kansas Route 96 in the vicinity of Hutchinson, Kansas. Such funds shall be obligated from amounts allocated to the State of Kansas for fiscal year 1996 under section 160 of title 23, United States Code.

(2) UNITED STATES ROUTE 91.—The State of Kansas shall obligate in fiscal years 1996 and 1997 such sums as may be necessary to widen United States Route 91 from Belleville, Kansas, to the Nebraska border. Such funds shall be obligated from amounts allocated to the State of Kansas for fiscal years 1996 and 1997 under such section.

(3) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Sections 160(d) and 133(d)(3) of title 23, United States Code, shall not apply to funds allocated to the State of Kansas for fiscal years 1996 and 1997.

SEC. 1015. APPORTIONMENT ADJUSTMENTS.

(a) HOLD HARMLESS.—

(1) GENERAL RULE.—The amount of funds which, but for this subsection, would be apportioned to a State for each of the fiscal years 1992 through 1997 under section 104(b)(3) of title 23, United States Code, for the surface transportation program shall be increased or decreased by an amount which, when added to or subtracted from the aggregate amount of funds apportioned to the State for such fiscal year and funds allocated to the State for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, under section 202 of such title for the Federal lands highways program, section 160 of such title for the reimbursement program, and section 1013(c) of this Act for the donor State bonus program, will result in the percentage of amounts so apportioned and allocated to all States being equal to the percentage listed for such State in paragraph (2).

(2) STATE PERCENTAGES.—For purposes of paragraph (1) the percentage of amounts apportioned and allocated which are referred to in paragraph (1) for each State and the District of Columbia shall be determined in accordance with the following table:

States:	Adjustment Percentage
Alabama	1.74
Alaska	1.28
Arizona	1.49
Arkansas	1.20
California	9.45
Colorado	1.35
Connecticut	1.78
Delaware	0.41
District of Columbia	0.53
Florida	4.14
Georgia	2.97
Hawaii	0.57
Idaho	0.69
Illinois	3.72
Indiana	2.20
Iowa	1.25
Kansas	1.14
Kentucky	1.52
Louisiana	1.55
Maine	0.50
Maryland	1.69
Massachusetts	4.36
Michigan	2.81
Minnesota	1.58
Mississippi	1.15
Missouri	2.23
Montana	0.97
Nebraska	0.83
Nevada	0.64
New Hampshire	0.48
New Jersey	2.87
New Mexico	1.08
New York	5.37
North Carolina	2.65
North Dakota	0.62
Ohio	3.73
Oklahoma	1.42
Oregon	1.26
Pennsylvania	4.38
Rhode Island	0.54
South Carolina	1.41
South Dakota	0.71
Tennessee	2.08
Texas	6.36
Utah	0.77
Vermont	0.44
Virginia	2.27
Washington	2.06
West Virginia	0.94
Wisconsin	1.70
Wyoming	0.67

(b) 90 PERCENT OF PAYMENT ADJUSTMENTS.—

(1) GENERAL RULE.—For each of fiscal years 1992 through 1997, the Secretary shall allocate among the States amounts sufficient to ensure that a State's total apportionments for such fiscal year and allocations for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, section 202 of such title for the Federal lands highways program, section 1013(c) of this Act for the donor State bonus program, section 160 of such title for the reimbursement program, and subsection (a) of this section for hold harmless is not less than 90 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than Mass Transit Account) in the latest fiscal year in which data is available.

(2) TRANSFER OF ALLOCATED AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (d) of this section, the Secretary shall transfer amounts allocated to a State pursuant to paragraph (1) to the apportionment of such State under section 104(b)(3) for the surface transportation program.

(c) ADDITIONAL ALLOCATION.—Subject to subsection (d) of this section, the Secretary shall allocate to the State of Wisconsin $40,000,000 for fiscal year 1992 and $47,800,000 for each of fiscal years 1993 through 1997 and transfer such amounts to the apportionment of such State under section 104(b)(3) of title 23, United States Code, for the surface transportation program.

(d) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of title 23, United States Code, shall not apply to ½ of the amounts added under subsection (a) to the apportionment of the State for the surface transportation program and of amounts transferred under subsections (b) and (c) to such apportionment:

(1) Subsection (d)(1).

(2) Subsection (d)(2).

(3) Subsection (d)(3).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section such sums as may be necessary for each of fiscal years 1992 through 1997.

SEC. 1016. PROGRAM EFFICIENCIES.

(a) HOV PASSENGER REQUIREMENTS; ENGINEERING COST REIMBURSEMENT.—Section 102 of title 23, United States Code, is amended to read as follows:

"§102. Program efficiencies

"(a) HOV PASSENGER REQUIREMENTS.—A State highway department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes; except that no fewer than 2 occupants per vehicle may be required and, subject to section 163 of the Surface Transportation Assistance Act of 1982, motorcycles and bicycles shall not be considered single occupant vehicles.

"(b) ENGINEERING COST REIMBURSEMENT.—If on-site construction of, or acquisition of right-of-way for, a highway project is not commenced within 10 years after the date on which Federal funds are first made available, out of the Highway Trust Fund (other than Mass Transit Account), for preliminary engineering of such project, the State shall pay an amount equal to the amount of Federal funds made available for such engineering. The Secretary shall deposit in such Fund all amounts paid to the Secretary under this section.".

(b) PROJECT APPROVAL.—Section 106 of such title is amended—

(1) in subsection (a) by inserting "this section and" before "section 117"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SPECIAL RULES.—

"(1) 3R PROJECTS ON NHS.—Notwithstanding any other provision of this title, a State highway department may approve, on a project by project basis, plans, specifications, and estimates for projects to resurface, restore, and rehabilitate highways on the National Highway System if the State certifies that all work will meet or exceed the standards approved by the Secretary under section 109(c).

"(2) NON-NHS PROJECTS AND LOW-COST NHS PROJECTS.—Any State may request that the Secretary no longer review and approve plans, specifications, and estimates for any project (including any highway project on the National Highway System with an estimated construction cost of less than $1,000,000 but excluding any other highway project on the National Highway System). After receiving any such notification, the Secretary shall undertake project review only as requested by the State.

"(3) SAFETY CONSIDERATIONS.—Safety considerations for projects subject to this subsection may be met by phase construction consistent with an operative safety management system established in accordance with section 303.".

(c) STANDARDS.—Section 109(c) of such title is amended to read as follows:

"(c) DESIGN AND CONSTRUCTION STANDARDS FOR NHS.—Design and construction standards to be adopted for new construction on the National Highway System, for reconstruction on the National Highway System, and for resurfacing, restoring, and rehabilitating multilane limited access highways on the National Highway System shall be those approved by the Secretary in cooperation with the State highway departments. All eligible work for such projects shall meet or exceed such standards.".

(d) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Section 109 of such title is amended by adding at the end the following new subsection:

"(p) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.".

(e) HISTORIC AND SCENIC VALUES.—Section 109 of such title is amended by adding at the end the following new subsection:

"(q) HISTORIC AND SCENIC VALUES.—If a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) of this section and section 133(c) if such project is designed to standards that allow for the preservation of such historic or scenic value and such project is designed with mitigation measures to allow preservation of such value and ensure safe use of the facility.".

(f) CONFORMING AMENDMENTS.—

(1) STANDARDS.—Section 109 of such title is amended—

(A) in subsection (a) by striking "projects on any Federal-aid system" and inserting "highway projects under this chapter"; and

(B) in subsection (l)(1) by striking "Federal-aid system" and inserting "Federal-aid highway".

(2) CERTIFICATION ACCEPTANCE.—Section 117 of such title is amended—

(A) in subsection (a) by striking "on Federal-aid systems, except" and inserting "under this chapter, except projects on";

(B) in subsection (a) by inserting "or other transportation" before "construction,";

(C) by striking subsection (b) and inserting the following:

"(b) The Secretary may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards."; and

(D) in subsection (e) by inserting ", section 106(b), section 133, and section 149" after "in this section".

(3) CHAPTER ANALYSIS.—The analysis of chapter 1 of such title, is amended by striking

"102. Authorizations."
and inserting

"102. Program efficiencies.".

(g) LIMITATION ON CERTAIN EXPENDITURES.—No Federal funds may be expended for any highway project on any portion of the scenic highway known as "Ministerial Road" between route 138 and route 1 in the State of Rhode Island unless the Governor of such State and the town council of the town of South Kingstown, Rhode Island, first agree to the design.

SEC. 1017. ACQUISITION OF RIGHTS-OF-WAY.

(a) RIGHT-OF-WAY REVOLVING FUND.—Sections 108(a) and 108(c)(3) of title 23, United States Code, are each amended by striking "ten" and inserting "20".

(b) EARLY ACQUISITION OF RIGHTS-OF-WAY.—Section 108 of such title is further amended by adding at the end the following new subsection:

"(d) EARLY ACQUISITION OF RIGHTS-OF-WAY.—

"(1) GENERAL RULE.—Subject to paragraph (2), funds apportioned to a State under this title may be used to participate in the payment of—

"(A) costs incurred by the State for acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds; and

"(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

"(2) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title when the rights-of-way acquired are incorporated into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

"(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

"(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

"(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by the Governor as consistent with the State plans before the acquisition;

"(D) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this title;

"(E) the alternative for which the right-of-way is acquired is selected by the State pursuant to regulations to be issued by the Secretary which provide for the consideration of the environmental impacts of various alternatives;

"(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 4(f) of the Department of Transportation Act, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

"(G) before the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.".

(c) PRESERVATION OF TRANSPORTATION CORRIDORS REPORT.—The Secretary, in consultation with the States, shall report to Congress within 2 years after the date of the enactment of this Act, a national list of the rights-of-way identified by the metropolitan planning organizations and the States (under sections 134 and 135 of title 23, United States Code), including the total mileage involved, an estimate of the total costs, and a strategy for preventing further loss of rights-of-way including the desirability of creating a transportation right-of-way land bank to preserve vital corridors.

SEC. 1018. PRECONSTRUCTION ACTIVITIES.

(a) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Section 106(c) of title 23, United States Code, is amended to read as follows:

"(c) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Items included in all such estimates for construction engineering for a State for a fiscal year shall not exceed, in the aggregate, 15 percent of the total estimated costs of all projects financed within the boundaries of the State with Federal-aid highway funds in such fiscal year, after excluding from such total estimate costs, the estimated costs of rights-of-way, preliminary engineering, and construction engineering.".

(b) CONFORMING AMENDMENTS.—Section 121(d) of such title is amended—

(1) by striking "120" and inserting "106(c), 120,"; and

(2) by striking the last sentence.

SEC. 1019. CONVICT PRODUCED MATERIALS.

Section 114(b)(2) of title 23, United States Code, is amended by inserting "after July 1, 1991," after "Materials produced".

SEC. 1020. PERIOD OF AVAILABILITY.

(a) DATE AND PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—Section 118 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

"(b) PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—

"(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate construction in a State shall remain available for obligation in that State until the last day of the fiscal year in which they are apportioned or allocated. Sums not obligated by the last day of the fiscal year in which they are apportioned or allocated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All sums apportioned or allocated on or after October 1, 1994, shall remain available in the State until expended. All sums apportioned or allocated to Massachusetts on or before October 1, 1989, shall remain available until expended.

"(2) OTHER FUNDS.—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title (other than for Interstate construction) in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.".

(b) SET ASIDE FOR DISCRETIONARY PROJECTS.—Section 118(c) of such title is amended—

(1) by striking "1983" and inserting "1992";

(2) by striking "$300,000,000" and inserting "$100,000,000"; and

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) SET ASIDE FOR 4R PROJECTS.—

"(A) IN GENERAL.—Before any apportionment is made under section 104(b)(1) of this title, the Secretary shall set aside $54,000,000 for fiscal year 1992, $64,000,000 for each fiscal years 1993, 1994, 1995, and 1996, and $65,000,000 for fiscal year 1997 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 and any toll road on the Interstate System not subject to an agreement under section 119(e) of this title, as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991). Of the amounts set aside under the preceding sentence, the Secretary shall obligate $16,000,000 for fiscal year 1992 and $17,000,000 for each of fiscal years 1993 and 1994 for improvements on the Kennedy Expressway in Chicago, Illinois. The remainder of such funds shall be made available by the Secretary to any State applying for such funds, if the Secretary determines that—

"(i) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(1) other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System which has been submitted by the State to the Secretary for approval; and

"(ii) the applicant is willing and able to (I) obligate the funds within 1 year of the date the funds are made available, (II) apply them to a ready-to-commence project, and (III) in the case of construction work, begin work within 90 days of obligation.

"(B) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under subparagraph (A), the Secretary shall give priority consideration to any project the cost of which exceeds $10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

"(C) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this paragraph shall remain available until expended.".

(c) CONFORMING AMENDMENT.—Section 118(d) of such title is amended by striking "(b)(2)" and inserting "(b)(1)".

(d) ALASKA AND PUERTO RICO.—Section 118(f) of such title is amended by striking "on a Federal-aid system".

SEC. 1021. FEDERAL SHARE.

(a) IN GENERAL.—Section 120 of title 23, United States Code, is amended by striking subsections (a), (b), (c), and (d) and inserting the following new subsections:

"(a) INTERSTATE SYSTEM PROJECTS.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

"(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

"(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

"(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement.

"(c) INCREASED FEDERAL SHARE FOR CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, pavement marking, commuter carpooling and vanpooling, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.".

(b) CONFORMING AMENDMENTS.—Section 120 of such title is further amended—

(1) by striking subsections (j), (k), (l), and (m),

(2) by redesignating subsections (e), (f), (g), (h), (i), and (n) as subsections (d), (e), (f), (g), (h), and (i) respectively, and

(3) in subsection (d) as so redesignated by striking "and (c)" and inserting "and (b)".

(c) LIMITATION ON STATUTORY CONSTRUCTION.—The amendments made by this section shall not be construed to affect (1) the Federal share established by the Supplemental Appropriations Act, 1983 (97 Stat. 329) for construction of any highway on the Interstate System, and (2) the Federal share established by section 120(k) of such title, as in effect on the day before the date of the enactment of this Act, with respect to United States Highway 71 in Arkansas from the I–40 intersection to the Missouri-Arkansas State line.

(d) HIGHER FEDERAL SHARE.—If any highway project authorized to be carried out under section 1103 through 1108 of this Act is a project which would be eligible for assistance under section 204 of title 23, United States Code, or is a project on a federally owned bridge, the Federal share payable on account of such project shall be 100 percent for purposes of this Act.

SEC. 1022. EMERGENCY RELIEF.

(a) EXTENSION OF TIME PERIOD.—Section 120(d) of title 23, United States Code, as redesignated by section 1021(b) of this Act, is amended by striking "90 days" and inserting "180 days".

(b) DOLLAR LIMITATION FOR TERRITORIES.—Section 125(b)(2) of such title is amended by striking "$5,000,000" and inserting "$20,000,000".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall only apply to natural disasters and catastrophic failures occurring after the date of the enactment of this Act.

SEC. 1023. GROSS VEHICLE WEIGHT RESTRICTION.

(a) CONFORMING AMENDMENTS.—Section 127(a) of title 23, United States Code, is amended—

(1) by striking "funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned" and inserting "funds shall be apportioned in any fiscal year under section 104(b)(1) of this title"; and

(2) in the fourth sentence by inserting after "thereof" the following: ", other than vehicles or combinations subject to subsection (d) of this section,".

(b) OPERATION OF LONGER COMBINATION VEHICLES.—Section 127 of such title is amended by adding at the end the following new subsection:

"(d) LONGER COMBINATION VEHICLES.—

"(1) PROHIBITION.—

"(A) GENERAL CONTINUATION RULE.—A longer combination vehicle may continue to operate only if the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 1991, or pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186).

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991; except that subject to such regulations as may be issued by the Secretary pursuant to paragraph (5) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

"(C) WYOMING.—In addition to those vehicles allowed under subparagraph (A), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in subsection (a) and do not exceed 117,000 pounds gross vehicle weight.

"(D) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under subparagraph (A), such State may allow longer combination vehicles with 3 cargo carrying units of 28½ feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

"(E) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under subparagraph (A), such State may allow the operation of longer combination vehicles which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 5, 1991.

"(2) ADDITIONAL STATE RESTRICTIONS.—

"(A) IN GENERAL.—Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection; except that such restrictions or prohibitions shall be consistent with the requirements of sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311, 2312, and 2316).

"(B) MINOR ADJUSTMENTS.—Any State further restricting or prohibiting the operations of longer combination vehicles or making minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (5) of this subsection, shall, within 30 days, advise the Secretary of such action, and the Secretary shall publish a notice of such action in the Federal Register.

"(3) PUBLICATION OF LIST.—

"(A) SUBMISSION TO SECRETARY.—Within 60 days of the date of the enactment of this subsection, each State (i) shall submit to the Secretary for publication in the Federal Register a complete list of (I) all operations of longer combination vehicles being conducted as of June 1, 1991, pursuant to State statutes and regulations; (II) all limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection; and (III) such statutes, regulations, limitations, and conditions; and (ii) shall submit to the Secretary copies of such statutes, regulations, limitations, and conditions.

"(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

"(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual operation on a regular or periodic basis on or before June 1, 1991.

"(D) FINAL LIST.—Except as modified pursuant to paragraph (1)(C) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, longer combination vehicles may not operate on the Interstate System except as provided in the list.

"(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

"(4) LONGER COMBINATION VEHICLE DEFINED.—For purposes of this section, the term 'longer combination vehicle' means any combination of a truck tractor and 2 or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

"(5) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (1)(B).".

(c) STATE CERTIFICATION.—Section 141(b) of such title is amended by adding at the end the following new sentence: "Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)).".

(d) INTERSTATE ROUTE 68.—Section 127 of such title is amended by adding at the end the following new subsection:

"(e) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON INTERSTATE ROUTE 68.—The single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate Route 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of a type of vehicle as was operating in such counties on United States Route 40 or 48 for such purpose on August 1, 1991.".

(e) FIREFIGHTING VEHICLES.—

(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations and the bridge formula for vehicles using the National System of Interstate and Defense Highways, shall not apply, in the 2-year period beginning on the date of the enactment of this Act, to any existing vehicle which is used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which is in actual operation before such date of enactment and to any new vehicle to be used for such purpose while such vehicle is being delivered to a firefighting agency. The Secretary may extend such 2-year period for an additional year.

(2) STUDY.—The Secretary shall conduct a study—

(A) of State laws regulating the use on the National System of Interstate and Defense Highways of vehicles which are used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which are being delivered to or operated by a firefighting agency; and

(B) of the issuance of permits by States which exempt such vehicles from the requirements of the second sentence of section 127 of title 23, United States Code.

(3) PURPOSES.—The purposes of the study under this subsection are to determine whether or not such State laws and such section 127 need to be modified with regard to such vehicles and whether or not a permanent exemption should be made for such vehicles from the requirements of such laws and section 127 or whether or not the bridge formula set forth in such section should be modified as it applies to such vehicles.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (2), together with recommendations.

(f) MONTANA-CANADA TRADE.—The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana; except that such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

(g) TRANSPORTERS OF WATER WELL DRILLING RIGS.—

(1) STUDY.—The Secretary shall conduct a study of State and Federal regulations pertaining to transporters of water well drilling rigs on public highways for the purpose of identifying requirements which place a burden on such transporters without enhancing safety or preservation of public highways.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with any legislative and administrative recommendations of the Secretary.

SEC. 1024. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a

metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) COORDINATION OF MPO'S.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

"(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that would result in increased security in transit systems.

"(g) DEVELOPMENT OF LONG RANGE PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.

"(C) Assess capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act which are consistent with the long range plan developed under subsection (g) for the area. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96-551.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

"(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) or pursuant to the Federal Transit Act shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area.

"(5) CERTIFICATION.—The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of this section and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 8(o) of the Federal Transit Act.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) TRANSFER OF FUNDS.—Funds made available for a highway project under the Federal Transit Act shall be transferred to and administered by the Secretary in accordance with the requirements of this title. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of the Federal Transit Act.

"(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Notwithstanding any other provisions of this title or the Federal Transit Act, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act.

"(n) REPROGRAMMING OF SET ASIDE FUNDS.—Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this section may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135.".

(b) AMENDMENTS TO SECTION 104.—Section 104(f) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "one-half per centum" and inserting "1 percent";

(2) in paragraph (1) by striking "the Federal-aid systems" and inserting "programs authorized under this title";

(3) in paragraph (1) by striking "except that" and all that follows before the period and inserting "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate construction and Interstate substitute programs";

(4) in paragraph (3) by striking "section 120" and inserting "section 120(j)";

(5) in paragraph (4) by striking "and metropolitan area transportation needs" and inserting "attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable requirements of Federal law"; and

(6) by adding at the end the following new paragraph:

"(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.".

(c) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking

"Sec. 134. Transportation planning in certain urban areas."

and inserting

"Sec. 134. Metropolitan planning.".

(2) Section 104(f)(3) of title 23, United States Code, is amended by striking "designated by the State as being".

SEC. 1025. STATEWIDE PLANNING.

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:

"§135. Statewide planning

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve all areas of the State efficiently and effectively. Subject to section 134 of this title, the State shall develop transportation plans and programs for all areas of the State. Such plans and programs shall provide for development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal State transportation system. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall coordinate such planning with the transportation planning activities carried out under section 134 of this title for metropolitan areas of the State and shall carry out its responsibilities for the development of the transportation portion of the State implementation plan to the extent required by the Clean Air Act.

"(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall, at a minimum, consider the following:

"(1) The results of the management systems required pursuant to subsection (b).

"(2) Any Federal, State, or local energy use goals, objectives, programs, or requirements.

"(3) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the State.

"(4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

"(5) The transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.

"(6) Any metropolitan area plan developed pursuant to section 134.

"(7) Connectivity between metropolitan areas within the State and with metropolitan areas in other States.

"(8) Recreational travel and tourism.

"(9) Any State plan developed pursuant to the Federal Water Pollution Control Act.

"(10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.

"(11) The overall social, economic, energy, and environmental effects of transportation decisions.

"(12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in

areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel.

"(13) Methods to expand and enhance transit services and to increase the use of such services.

"(14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans.

"(15) The transportation needs identified through use of the management systems required by section 303 of this title.

"(16) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.

"(17) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identify those corridors for which action is most needed to prevent destruction or loss.

"(18) Long-range needs of the State transportation system.

"(19) Methods to enhance the efficient movement of commercial motor vehicles.

"(20) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(d) ADDITIONAL REQUIREMENTS.—Each State in carrying out planning under this section shall, at a minimum, consider the following:

"(1) The coordination of transportation plans and programs developed for metropolitan areas of the State under section 134 with the State transportation plans and programs developed under this section and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems.

"(2) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development.

"(3) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State.

"(e) LONG-RANGE PLAN.—The State shall develop a long-range transportation plan for all areas of the State. With respect to metropolitan areas of the State, the plan shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. With respect to areas of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in cooperation with such government and the Secretary of the Interior. In developing the plan, the State shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan. In addition, the State shall develop a long-range plan for bicycle transportation and pedestrian walkways for appropriate areas of the State which shall be incorporated into the long-range transportation plan.

"(f) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The State shall develop a transportation improvement program for all areas of the State. With respect to metropolitan areas of the State, the program shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—A transportation improvement program for a State developed under this subsection shall include projects within the boundaries of the State which are proposed for funding under this title and the Federal Transit Act, which are consistent with the long-range plan developed under this section for the State, which are consistent with the metropolitan transportation improvement program, and which in areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act conform with the applicable State implementation plan developed pursuant to the Clean Air Act. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for such project within the time period contemplated for completion of the project. The program shall also reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS LESS THAN 50,000 POPULATION.—Projects undertaken in areas of less than 50,000 population (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) shall be selected by the State in cooperation with the affected local officials. Projects undertaken in such areas on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and approved no less frequently than biennially by the Secretary.

"(g) FUNDING.—Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.

"(h) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section, section 134, and section 8 of the Federal Transit Act, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under this Act if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 134 or section 8 of such Act, as appropriate.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 135 and inserting the following:

"135. Statewide planning.".

SEC. 1026. NONDISCRIMINATION.

(a) FUNDING OF HIGHWAY CONSTRUCTION TRAINING.—Subsection (b) of section 140 of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, not to exceed ¼ of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State highway department to the Secretary.".

(b) ELIGIBILITY FOR TRAINING PROGRAMS.—Subsections (b) and (c) of section 140 of such title are each amended by inserting "Indian tribal government," after "institution,".

(c) INDIAN EMPLOYMENT PREFERENCE.—Section 140(d) of such title is amended by inserting after the first sentence the following new sentence: "States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations.".

SEC. 1027. PUBLIC TRANSPORTATION.

(a) IMPROVED ACCESS BETWEEN INTERCITY AND RURAL BUS SERVICE.—Section 142(a)(2) of title 23, United States Code, is amended—

(1) by striking ", beginning with the fiscal year ending June 30, 1975,";

(2) by striking "Federal-aid urban system," the first place it appears and inserting "the surface transportation program"; and

(3) by striking "104(b)(6)" the first place it appears and all that follows through the period at the end and inserting "104(b)(3) for carrying out any capital transit project eligible for assistance under the Federal Transit Act, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.".

(b) ACCOMMODATION OF OTHER MODES.—Section 142(c) of such title is amended to read as follows:

"(c) ACCOMMODATION OF OTHER MODES OF TRANSPORTATION.—The Secretary may approve as a project on any Federal-aid system for payment from sums apportioned under section 104(b) (other than section 104(b)(5)(A)) modifications to existing highway facilities on such system necessary to accommodate other modes of transportation if such modifications will not adversely affect automotive safety.".

(c) METROPOLITAN PLANNING.—Section 142(d) of such title is amended to read as follows:

"(d) METROPOLITAN PLANNING.—Any project carried out under this section in an urbanized area shall be subject to the metropolitan planning requirements of section 134.".

(d) AVAILABILITY OF RIGHTS-OF-WAY.—Section 142(g) of such title is amended to read as follows:

"(g) AVAILABILITY OF RIGHTS-OF-WAY.—In any case where sufficient land or air space exits within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands, air space, and rights-of-way available with or without charge to a publicly or privately owned authority or company or any other person for such purposes if such accommodation will not adversely affect automotive safety.".

(e) CONFORMING AMENDMENTS TO SECTION 142.—Section 142 of such title is amended—

(1) in subsection (e)(2) by striking "Federal-aid urban system" and inserting "surface transportation program";

(2) by striking subsections (f) and (k);

(3) by redesignating subsections (g), (h), (i), and (j) as subsections (f), (g), (h), and (i), respectively;

(4) in subsection (g), as so redesignated, by striking "or subsection (c) of this section"; and

(5) in each of subsections (h) and (i), as so redesignated, by striking "and subsection (c)".

(f) CONFORMING AMENDMENT TO SECTION 156.—Section 156 of such title is amended by striking "States shall" and inserting "Subject to section 142(f), States shall".

SEC. 1028. BRIDGE PROGRAM.

(a) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—Section 144(c) of title 23, United States Code, is amended by adding at the end the following new paragraph:

"(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on

Indian reservation roads and park roads which are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.".

(b) BRIDGE STRUCTURE PAINTING AND ACETATE APPLICATION.—Section 144(d) of such title is amended—

(1) by inserting after the first sentence the following new sentence: "Whenever any State makes application to the Secretary for assistance in painting and seismic retrofit, or applying calcium magnesium acetate to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting or seismic retrofit of, or application of such acetate to, such structure."; and

(2) by inserting after "projects" the first place it appears in the last sentence the following: "(other than projects for bridge structure painting or seismic retrofit or application of such acetate)".

(c) FEDERAL SHARE.—Section 144(f) of such title is amended by striking "highway bridge replaced or rehabilitated" and inserting "project".

(d) DISCRETIONARY BRIDGE PROGRAM.—Section 144(g)(1) of such title is amended to read as follows:

"(1) DISCRETIONARY BRIDGE PROGRAM.—Of the amounts authorized for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 by section 103 of the Intermodal Surface Transportation Efficiency Act of 1991, all but $57,000,000 in the case of fiscal year 1992, $68,000,000 in the case of fiscal years 1993 and 1994, and $69,000,000 in the case of fiscal years 1995, 1996, and 1997 shall be apportioned as provided in subsection (e) of this section. $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 shall be at the discretion of the Secretary, and $8,500,000 per fiscal year ($8,000,000 in the case of fiscal year 1992) of the amount authorized for each of such fiscal years shall be available in accordance with section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991, relating to highway timber bridges.".

(e) OFF-SYSTEM BRIDGES.—

(1) ALLOCATION OF FUNDS.—Section 144(g)(3) of such title is amended—

(A) by striking "and 1991" and inserting "1991, 1992, 1993, 1994, 1995, 1996, and 1997"; and

(B) by striking "or rehabilitate" and inserting ", rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to".

(2) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—Section 144 of such title is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—A project on a Federal-aid highway not under this section shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.".

(f) SET-ASIDE FOR INDIAN RESERVATION BRIDGES.—Section 144(g) of this title is amended by adding at the end the following new paragraph:

"(4) INDIAN RESERVATION BRIDGES.—Not less than 1 percent of the amount apportioned to each State which has an Indian reservation within its boundaries for each fiscal year shall be expended for projects to replace, rehabilitate, paint, or apply calcium magnesium acetate to highway bridges located on Indian reservation roads. Upon determining a State bridge apportionment and before transferring funds to the States, the Secretary shall transfer the Indian reservation bridge allocation under this paragraph to the Secretary of the Interior for expenditure pursuant to this paragraph. The Secretary, after consultation with State and Indian tribal government officials and with the concurrence of the Secretary of the Interior, may, with respect to such State, reduce the requirement for expenditure for bridges under this paragraph when the Secretary determines that there are inadequate needs to justify such expenditure. The non-Federal share payable on account of such a project may be provided from funds made available for Indian reservation roads under chapter 2 of this title.".

(g) TRANSFERABILITY OF BRIDGE APPORTIONMENTS.—Section 104(g) of such title is amended by inserting before the last sentence the following new sentence: "A State may transfer not to exceed 40 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d)."

SEC. 1029. NATIONAL MAXIMUM SPEED LIMIT COMPLIANCE PROGRAM.

(a) PERMANENT EXTENSION OF 65 MPH SPEED LIMIT DEMONSTRATION PROGRAM.—Section 154(a) of title 23, United States Code, is amended by striking "Clause (3)" and inserting "Clause (4)" and by striking "or (3)" and inserting the following: "(3) a maximum speed limit in excess of 65 miles per hour on any highway within its jurisdiction located outside an urbanized area of 50,000 population or more (A) which is constructed to interstate standards in accordance with section 109(b) of this title and connected to a highway on the Interstate System, (B) which is a divided 4-lane fully controlled access highway designed or constructed to connect to a highway on the Interstate System posted at 65 miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of 65 miles per hour, or (C) which is constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary as part of the Interstate System in accordance with section 139(c) of this title, or (4)".

(b) COLLECTION OF DATA.—Section 154(e) of such title is amended—

(1) by striking "fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour" and inserting "the speed limit on maximum speed limit highways"; and

(2) by adding at the end the following: "Such data shall include, but not be limited to, data on citations, travel speeds, and the posted speed limit and the design characteristics of roads from which such travel speed data are gathered. The Secretary shall issue regulations which ensure (1) that the monitoring programs conducted by the States to collect data for purposes of this subsection are uniform, (2) that devices and equipment under such programs are placed at locations on maximum speed limit highways on a scientifically random basis which takes into account the relative risk, as determined by the Secretary, of motor vehicle accidents occurring considering the classes of such highways and the speeds at which vehicles are traveling on such classes of highways, and (3) that the data submitted under this subsection will be in such form as the Secretary determines is necessary to carry out this section.".

(c) ENFORCEMENT.—

(1) PROPOSED RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a proposed rule to establish speed limit enforcement requirements which, at a minimum, shall—

(A) provide for the transfer of apportionments under section 104(b) of title 23, United States Code (other than paragraph (5)), if a State fails to enforce speed limits in accordance with this section and such rule; and

(B) include a formula for determining compliance with the requirements of this section and such rule which—

(i) assigns a greater weight for violations of such speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit; and

(ii) differentiates between the type of road on which the violations occur.

(2) FACTORS TO CONSIDER.—In developing the compliance formula in accordance with paragraph (1), the Secretary shall consider factors relating to the enforcement efforts made by the States and data concerning fatalities and serious injuries occurring on roads to which subsection (a) applies and any other factors relating to speed limit enforcement and speed-related highway safety trends which the Secretary determines appropriate.

(3) FINAL RULE.—Not later than 60 days after the date of publication of the proposed rule under paragraph (1), the Secretary shall publish in the Federal Register a final rule which meets the requirements of paragraph (1) and which shall take effect no later than 12 months after the date of its publication in the Federal Register.

(d) ADMINISTRATION.—The Secretary shall carry out sections 154 and 141(a) of title 23, United States Code, through the National Highway Traffic Safety Administration and the Federal Highway Administration.

(e) ANNUAL REPORT.—Section 154 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(i) ANNUAL REPORT.—The Secretary shall transmit to Congress an annual report on travel speeds of motor vehicles on roads subject to subsection (a), State enforcement efforts with respect to speeding violations on such roads, and speed-related highway safety statistics.".

(f) ENFORCEMENT MORATORIUM.—No State shall be subject under section 141 or 154 of title 23, United States Code, to withholding of apportionments for failure to comply in fiscal years 1990 and 1991 with section 154 of such title, as in effect on the day before the date of the enactment of this Act, or section 141(a) of such title.

(g) REPEAL OF OBSOLETE ENFORCEMENT PROVISIONS.—On the 730th day following the date of the enactment of this Act, subsections (f), (g), and (h) of section 154 of title 23, United States Code, are repealed.

SEC. 1030. ROAD SEALING ON INDIAN RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentences: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend not more than 15 percent funds apportioned for Indian reservation roads from the Highway Trust Fund for the purpose of road sealing projects. The Bureau of Indian

Affairs shall continue to retain responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.".

SEC. 1031. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 152 the following new section:

"§153. Use of safety belts and motorcycle helmets

"(a) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to a State in a fiscal year in accordance with this section if the State has in effect in such fiscal year—

"(1) a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(2) a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

"(b) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

"(1) EDUCATION.—To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

"(2) TRAINING.—To train law enforcement officers in the enforcement of State laws described in subsection (a).

"(3) MONITORING.—To monitor the rate of compliance with State laws described in subsection (a).

"(4) ENFORCEMENT.—To enforce State laws described in subsection (a).

"(c) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's 2 fiscal years preceding the date of the enactment of this section.

"(d) FEDERAL SHARE.—A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

"(2) in the second fiscal year the State receives a grant, 50 percent of the cost of implementing in such fiscal year such traffic safety program; and

"(3) in the third fiscal year the State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

"(e) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

"(f) ELIGIBILITY FOR GRANTS.—

"(1) GENERAL RULE.—A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

"(2) SECOND-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 75 percent; and

"(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 50 percent.

"(3) THIRD-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 85 percent; and

"(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 70 percent.

"(g) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsections (f)(2) and (f)(3), a State shall measure compliance with State laws described in subsection (a) using methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

"(h) PENALTY.—

"(1) FISCAL YEAR 1994.—If, at any time in fiscal year 1994, a State does not have in effect a law described in subsection (a)(1) and a law described in subsection (a)(2), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 1995 under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

"(2) THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect a law described in subsection (a)(1) and a law described in subsection (a)(2), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

"(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred to the apportionment of section 402 shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 which is determined by multiplying—

"(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year; by

"(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for such fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs carried out by the Federal Highway Administration under section 402 shall apply to funds transferred under this subsection to the apportionment of section 402.

"(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) MOTORCYCLE.—The term 'motorcycle' means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154 of this title.

"(3) PASSENGER VEHICLE.—The term 'passenger vehicle' means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"(4) SAFETY BELT.—The term 'safety belt' means—

"(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1992. From sums made available to carry out section 402 of this title, the Secretary shall make available $17,000,000 for fiscal year 1992 and $24,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

"(k) APPLICABILITY OF CHAPTER 1 PROVISIONS.—All provisions of this chapter that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 152 the following new item:

"153. Use of safety belts and motorcycle helmets.".

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study or studies to determine the benefits of safety belt use and motorcycle helmet use for individuals involved in motor vehicle crashes and motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in the following: the severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; government, employer, and other costs; and mortality and morbidity outcomes. The study shall cover a representative period after January 1, 1990.

(2) REPORT.—The Secretary shall make public a proposed report on the results of the study or studies conducted under this subsection, provide a period of 90 days for public comment on such report, consider such comments, and transmit to Congress a report on the results of such study or studies, together with a summary of such comments, not later than 40 months after the funds for such study are made available by the Secretary.

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(3) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1992 or 1993 (or both) to carry out section 153 of title 23, United States Code, the Secretary shall make available $5,000,000 in the aggregate in such fiscal years to carry out this subsection. Such funds shall remain available until expended.

SEC. 1032. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively;

(3) by inserting after "allocate" in subsection (b), as so redesignated, "34 percent of"; and

(4) by striking the period at the end of subsection (b), as so redesignated, and inserting the following: "which are proposed by a State which contains at least 3 percent of the total public lands in the Nation. The Secretary shall allocate 66 percent of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to these allocations the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through renewable resources and land use planning and the impact of such planning on existing transportation facilities.".

(b) PROJECTS.—Section 204 of such title is amended—

(1) in subsection (a) by striking "forest highways," and by adding at the end of such subsection the following new sentences: "The Secretary, in cooperation with the Secretary of Interior and the Secretary of Agriculture, shall develop appropriate transportation planning procedures and safety, bridge, and pavement management systems for roads funded under the Federal Lands Highway Program. Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.";

(2) in subsection (b)—

(A) by striking "construction and improvements thereof" and inserting "planning, research, engineering and construction thereof";

(B) by striking "forest highways and"; and

(C) by adding at the end the following new sentence: "Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways.";

(3) in subsection (c) by striking "on a Federal aid system" and inserting "eligible for funds apportioned under section 104 or section 144 of this title"; and

(4) by striking subsection (h) and inserting the following new subsections:

"(h) ELIGIBLE PROJECTS.—Funds available for each class of Federal lands highways may be available for the following:

"(1) Transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

"(2) Adjacent vehicular parking areas.

"(3) Interpretive signage.

"(4) Acquisition of necessary scenic easements and scenic or historic sites.

"(5) Provision for pedestrians and bicycles.

"(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities.

"(7) Other appropriate public road facilities such as visitor centers as determined by the Secretary.

"(i) TRANSFERS TO SECRETARY OF INTERIOR.—The Secretary shall transfer to the Secretary of Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.

"(j) INDIAN RESERVATION ROADS PLANNING.—Up to 2 percent of funds made available for Indian reservation roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or metropolitan planning organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.".

(c) FOREST DEVELOPMENT ROADS AND TRAILS.—Section 205(c) of such title is amended by striking "$15,000" each place it appears and inserting "$50,000".

(d) INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions.

(e) REPORT.—The Secretary shall undertake a study to determine if the method for allocating funds authorized for Federal lands highways is adequate to meet the relative transportation needs of the Federal lands served. The report shall be submitted within 2 years of the date of the enactment of this Act.

(f) CONFORMING AMENDMENTS.—Section 203 of title 23, United States Code, is amended by striking "forest highways" each place it appears.

SEC. 1033. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended to read as follows:

"§217. Bicycle transportation and pedestrian walkways

"(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

"(b) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of bicycle transportation facilities on land adjacent to any highway on the National Highway System (other than the Interstate System).

"(c) USE OF FEDERAL LANDS HIGHWAY FUNDS.—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways, and parkways.

"(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

"(e) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

"(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be 80 percent.

"(g) PLANNING.—Pedestrian walkways and bicycle transportation facilities to be constructed under this section shall be located and designed pursuant to an overall plan to be developed by each metropolitan planning organization and State and incorporated into their comprehensive annual long-range plans in accordance with sections 134 and 135 of this title, respectively. Such plans shall provide due consideration for safety and contiguous routes.

"(h) USE OF MOTORIZED VEHICLES.—No motorized vehicles shall be permitted on trails and pedestrian walkways under this section, except for—

"(1) maintenance purposes;

"(2) when snow conditions and State or local regulations permit, snowmobiles;

"(3) when State and local regulations permit, motorized wheelchairs; and

"(4) such other circumstances as the Secretary deems appropriate.

"(i) TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

"(j) BICYCLE TRANSPORTATION FACILITY DEFINED.—For purposes of this section, a 'bicycle transportation facility' means new or improved lanes, paths, or shoulders for use by bicyclists, traffic control devices, shelters, and parking facilities for bicycles.".

SEC. 1034. MANAGEMENT SYSTEMS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 302 the following new section:

"§303. Management systems

"(a) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations for State development, establishment, and implementation of a system for managing each of the following:

"(1) Highway pavement of Federal-aid highways.

"(2) Bridges on and off Federal-aid highways.

"(3) Highway safety.

"(4) Traffic congestion.

"(5) Public transportation facilities and equipment.

"(6) Intermodal transportation facilities and systems.

In metropolitan areas, such systems shall be developed and implemented in cooperation with metropolitan planning organizations. Such regulations may include a compliance schedule for development, establishment, and implementation

of each such system and minimum standards for each such system.

"(b) TRAFFIC MONITORING.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment.

"(c) STATE REQUIREMENTS.—The Secretary may withhold up to 10 percent of the funds apportioned under this title and under the Federal Transit Act for any fiscal year beginning after September 30, 1995, to any State and any recipient of assistance under such Act in the State unless, in the preceding fiscal year, the State was implementing each of the management systems described in subsection (a) and, before January 1 of the preceding fiscal year, the State certified, in writing, to the Secretary, that the State was implementing each of such management systems in the preceding fiscal year.

"(d) PROCEDURAL REQUIREMENTS.—In developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under the Federal Transit Act and shall consider the results of the management systems in making project selection decisions under this title and under such Act.

"(e) INTERMODAL REQUIREMENTS.—The management system required under this section for intermodal transportation facilities and systems shall provide for improvement and integration of all of a State's transportation systems and shall include methods of achieving the optimum yield from such systems, methods for increasing productivity in the State, methods for increasing use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

"(f) ANNUAL REPORT.—Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section.

"(g) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned after September 30, 1991, under subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title for developing and establishing management systems required by this section and funds apportioned under section 144 of this title for developing and establishing the bridge management system required by this section.

"(h) REVIEW OF REGULATIONS.—Not later than 10 days after the date of issuance of any regulation under this section, the Secretary shall transmit a copy of such regulation to Congress for review.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 302 the following new item:

"303. Management systems.".

SEC. 1035. LIMITATION ON DISCOVERY OF CERTAIN REPORTS AND SURVEYS.

(a) IN GENERAL.—Section 409 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§409. Discovery and admission as evidence of certain reports and surveys"; and

(2) by striking "admitted into evidence in Federal or State court" and inserting "subject to discovery or admitted into evidence in a Federal or State court proceeding".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 409 and inserting the following:

"409. Discovery and admission as evidence of certain reports and surveys.".

SEC. 1036. NATIONAL HIGH-SPEED GROUND TRANSPORTATION PROGRAMS.

(a) DECLARATION OF POLICY.—Section 302 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) It is the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by—

"(A) conducting economic and technological research;

"(B) demonstrating advancements in high-speed ground transportation technologies;

"(C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and

"(D) minimizing the long-term risks of investors.

"(2) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.".

(b) NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM.—

(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the "Assistant Secretary"). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the "Maglev Project Office"), which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

(2) PHASE ONE CONTRACTS.—

(A) REQUEST FOR PROPOSALS.—Not later than 12 months after the date of the enactment of this Act, the Maglev Project Office shall release a request for proposals for development of conceptual designs for a maglev system and for research to facilitate the development of such conceptual designs.

(B) AWARD OF CONTRACTS.—Not later than 15 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall, based on the recommendations of the program director, award 1-year contracts for research and development to no fewer than 5 eligible applicants. If fewer than 5 complete applications have been received, contracts shall be awarded to as many eligible applicants as is practical.

(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors and only if the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development and agrees to provide for matching of the phase one contract at a 90 percent Federal, 10 percent non-Federal, cost share.

(3) PHASE TWO CONTRACTS.—Within 3 months of receiving the final reports of contract activities under paragraph (2), and based only on such reports and the recommendations of the program director, the Secretary and the Assistant Secretary shall select not more than 3 eligible applicants from among the contract recipients submitting reports under paragraph (2) to receive 18-month contracts for research and development leading to a detailed design for a prototype maglev system. The Secretary and the Assistant Secretary may only award contracts under this paragraph if—

(A) they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into an operational prototype as described in paragraph (4),

(B) the applicant agrees to submit the detailed design within such 18-month period to the Maglev Project Office and the selection committee described in paragraph (4), and

(C) the applicant agrees to provide for matching of the phase two contract at an 80 percent Federal, 20 percent non-Federal, cost share.

(4) PROTOTYPE.—

(A) SELECTION OF DESIGN.—Within 6 months of receiving the detailed designs developed under paragraph (3), the Secretary and the Assistant Secretary shall, based on the recommendations of the selection committee described in this subparagraph, select 1 design for development into a full-scale prototype, unless the Secretary and the Assistant Secretary determine jointly that no design shall be selected, based on an assessment of technical feasibility and projected cost of construction and operation of the prototype. A selection committee of 8 members, consisting of—

(i) 1 member to be appointed by the Secretary,

(ii) 1 member to be appointed by the Assistant Secretary,

(iii) 3 members to be appointed by the Senate majority and minority leaders, and

(iv) 3 members to be appointed by the Speaker of the House and the minority leader of the House,

shall be appointed not later than 1 year following the award of contracts under paragraph (3). The selection committee, within 3 months of receiving the detailed designs developed under paragraph (3), shall make a recommendation to the Secretary and the Assistant Secretary as to the best prototype design or the unsuitability of any design. The program director shall provide technical reviews of the phase two contract reports to the selection committee and otherwise provide any technical assistance that the committee requires to assist it in making a recommendation. In the event that the Secretary and the Assistant Secretary determine jointly not to select a design for development under this subsection, they shall report to Congress on the basis for such determination, together with recommendations for future action, including further research, development, or design, termination of the program, or such other action as may be appropriate.

(B) AWARD OF CONSTRUCTION GRANT OR CONTRACT.—Unless the Secretary and the Assistant Secretary determine not to proceed pursuant to subparagraph (A), they shall, not later than 3 months after selection of a design for development into a full-scale prototype, and based on the recommendations of the program director, award 1 construction grant or contract to the applicant whose detailed design was selected under subparagraph (A) for the purpose of con-

structing a prototype maglev system in accordance with the selected design. Not more than 75 percent of the cost of the project shall be borne by the United States.

(C) FACTORS TO BE CONSIDERED IN SELECTION.—Selection of the detailed design under this paragraph shall be based on consideration of the following factors, among others:

(i) The project shall be capable of utilizing Interstate highway rights-of-way along or above a significant portion of its route, and may also use railroad rights-of-way along or above any portion of the railroad route.

(ii) The total length of guideway shall be at least 19 miles and allow significant full-speed operations between stops.

(iii) The project shall be constructed and ready for operational testing within 3 years after the award of the contract or grant.

(iv) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(v) The project shall be located in an area that provides a potential ridership base for future commercial operation.

(vi) The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States.

(vii) The project shall have at least 1 switch.

(viii) The project shall be intermodal in nature connecting a major metropolitan area with an airport, part, passenger rail station, or other transportation mode.

(D) ADDITIONAL FACTORS FOR CONSIDERATION.—In awarding a grant or contract under this paragraph, the Secretary shall encourage the development of domestic manufacturing capabilities. In selecting among eligible applicants, the Secretary shall consider existing railroads and equipment manufacturers with excess production capacity, including railroads that have experience in advanced technologies (including self-propelled cars).

(5) LICENSING.—

(A) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed.

(B) COMMERCIAL INFORMATION.—The research, development, and use of any technology developed pursuant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary and the Assistant Secretary may require any grant or contract recipient to assure that research and development be performed substantially in the United States and that the products embodying the inventions made under any agreement pursuant to this subsection or produced through the use of such inventions be manufactured substantially in the United States.

(6) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports to Congress on progress made under this subsection.

(7) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term "eligible applicant" means a United States private business, United States public or private education and research organization, Federal laboratory, or a consortium of such businesses, organizations, and laboratories.

(c) TECHNOLOGY DEMONSTRATION PROGRAM; RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following new section:

"§309. High-speed ground transportation

"(a) The Secretary of Transportation, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Public Works, and the heads of other interested agencies, shall lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems.

"(b)(1) The Secretary may award contracts and grants for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with grants and contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable.

"(2)(A) In connection with the authority provided under paragraph (1), there is established a national high-speed ground transportation technology demonstration program, which shall be separate from the national magnetic levitation prototype development program established under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991 and shall be managed by the Secretary of Transportation.

"(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or system in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

"(ii) Grants or contracts shall be awarded only to eligible applicants showing demonstrable benefit to the research and development, design, construction, or ultimate operation of any maglev technology or high-speed steel wheel on rail technology. Criteria to be considered in evaluating the suitability of a proposal under this paragraph shall include—

"(I) feasibility of guideway or track design and construction;

"(II) safety and reliability;

"(III) impact on the environment in comparison to other high-speed ground transportation technologies;

"(IV) minimization of land use;

"(V) effect on human factors related to high-speed ground transportation;

"(VI) energy and power consumption and cost;

"(VII) integration of high-speed ground transportation systems with other modes of transportation;

"(VIII) actual and projected ridership; and

"(IX) design of signaling, communications, and control systems.

"(C) For the purposes of this paragraph, the term 'eligible applicant' means any United States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

"(D) The amount and distribution of grants or contracts made under this paragraph shall be determined by the Secretary. No grant or contract may be awarded under this paragraph to demonstrate a technology to be incorporated into a project or system located in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such project or system.

"(E) Recipients of grants or contracts made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration proposed, as required by the Secretary.

"(c)(1) In carrying out the responsibilities of the Secretary under this section, the Secretary is authorized to enter into 1 or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and 1 or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

"(A) conducting research to overcome technical and other barriers to the development and construction of practicable high-speed ground transportation systems and to help advance the basic generic technologies needed for these systems; and

"(B) transferring the research and basic generic technologies described in subparagraph (A) to industry in order to help create a viable commercial high-speed ground transportation industry within the United States.

"(2) In a cooperative agreement or funding agreement under paragraph (1), the Secretary may agree to provide not more than 80 percent of the cost of any project under the agreement. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

"(3) The research, development, or utilization of any technology pursuant to a cooperative agreement under paragraph (1), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(4) The research, development, or utilization of any technology pursuant to a funding agreement under paragraph (1), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

"(5) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to Congress regarding research and technology transfer activities conducted pursuant to the authorization contained in paragraph (1).

"(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation systems in the United States. Such study shall consist of—

"(A) an economic and financial analysis;

"(B) a technical assessment; and

"(C) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

"(2) The economic and financial analysis referred to in paragraph (1)(A) shall include—

"(A) an examination of the potential market for a nationwide high-speed ground transportation network, including a national magnetic levitation ground transportation system;

"(B) an examination of the potential markets for short-haul high-speed ground transportation systems and for intercity and long-haul high-speed ground transportation systems, including an assessment of—

"(i) the current transportation practices and trends in each market; and

"(ii) the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation;

"(C) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

"(D) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant relocation of residential, commercial, or industrial facilities;

"(E) a comparison of the projected costs of the various competing high-speed ground transportation technologies;

"(F) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground transportation systems and the completion of a nationwide high-speed ground transportation network;

"(G) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth;

"(H) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities;

"(I) an assessment of the potential for a high-speed ground transportation technology export market;

"(J) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation;

"(K) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed ground transportation systems; and

"(L) any other economic or financial analyses the Secretary considers important for carrying out this section.

"(3) The technical assessment referred to in paragraph (1)(B) shall include—

"(A) an examination of the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

"(B) an examination of the potential role of a United States designed maglev system, developed as a prototype under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, in relation to the implementation of other high-speed ground transportation technologies and the national transportation system;

"(C) an examination of the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

"(D) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems;

"(E) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way;

"(F) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and

"(G) any other technical assessments the Secretary considers important for carrying out this section.

"(e)(1) Within 12 months after the submission of the study required by subsection (d), the Secretary shall establish the national high-speed ground transportation policy (hereinafter in this section referred to as the 'Policy').

"(2) The Policy shall include—

"(A) provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States;

"(B) a determination whether the various competing high-speed ground transportation technologies can be effectively integrated into a national network and, if not, whether 1 or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;

"(C) a strategy for prioritizing the markets and corridors in which the construction of high-speed ground transportation systems should be encouraged; and

"(D) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies.

"(3) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 308 the following:

"309. High-speed ground transportation.".

(d) FUNDING.—

(1) OUT OF HIGHWAY TRUST FUND.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) the following sums:

(A) NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM.—For the national magnetic levitation prototype development program under this section $5,000,000 for fiscal year 1992, $45,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, $125,000,000 for fiscal year 1996, and $125,000,000 for fiscal year 1997.

(B) NATIONAL HIGH-SPEED GROUND TRANSPORTATION TECHNOLOGY DEMONSTRATION PROGRAM.—For the national high-speed ground transportation technology demonstration program under section 309 of title 49, United States Code, $5,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(2) OUT OF GENERAL FUND.—In addition to amounts made available by paragraph (1), there is authorized to be appropriated for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

(A) $225,000,000 for the national magnetic levitation prototype development program under this section;

(B) $25,000,000 for the national high-speed ground transportation technology demonstration program under section 309 of title 49, United States Code; and

(C) $25,000,000 for national high-speed ground transportation research and development under section 309 of title 49, United States Code.

(3) PERIOD OF AVAILABILITY.—Funds made available by and under this section shall remain available until expended.

(4) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant or contract with funds made available by paragraph (1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

(e) GUARANTEE OF OBLIGATIONS.—Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "shall be or have been used";

(B) by striking "or" after "car management systems)," and inserting in lieu thereof "(2)"; and

(C) by inserting ", or (3) to acquire, rehabilitate, improve, develop, or establish high-speed rail facilities or equipment" after "new railroad facilities";

(2) in subsection (g)—

(A) by inserting "or high-speed rail services" after "rail services" both places it appears in paragraph (3);

(B) by inserting "or passengers" after "provide shippers" in paragraph (3);

(C) by striking "or improved" and inserting in lieu thereof "improved, developed, or established" in paragraph (4);

(D) by striking "improved, rehabilitated, or acquired" and inserting in lieu thereof "acquired, rehabilitated, improved, developed, or established" in paragraph (5);

(E) by striking "and" at the end of paragraph (5);

(F) by inserting "or high-speed rail carrier" after "affected railroad" in paragraph (6);

(G) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(H) by adding at the end the following new paragraph:

"(7) in the case of high-speed rail facilities and equipment, at least 85 percent of such facilities and equipment are mined, produced, or manufactured in the United States, unless the Secretary finds in writing that—

"(A) such requirement would be inconsistent with the public interest;

"(B) such facilities and equipment could not be mined, produced, or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality;

"(C) such a requirement would increase the cost of the facilities and equipment by more than 25 percent; or

"(D) such a requirement would result in a violation of obligations of the United States under international trade agreements.";

(3) in subsection (i)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B)(i) will not use any funds or assets from railroad operations for nonrail purposes; and

"(ii) will not use any funds or assets from high-speed rail operations for purposes other than high-speed rail purposes,"; and

(B) by inserting "or high-speed rail services" after "provide rail services"; and

(4) by adding at the end the following new subsection:

"(n) DEFINITIONS.—As used in this section, the term 'high-speed rail' means all forms of nonhighway ground transportation that run on rails providing transportation service which is—

"(1) reasonably expected to reach sustained speeds of more than 125 miles per hour; and

"(2) made available to members of the general public as passengers.

Such term does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation.".

(f) GENERAL ACCOUNTING OFFICE STUDY.—The Comptroller General, within 2 years after the date of the enactment of this Act, and annually thereafter, shall analyze the effectiveness of the application of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 to high-speed rail facilities and equipment, and report the results of such analysis to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 1037. RAILROAD RELOCATION DEMONSTRATION PROGRAM.

Section 163(p) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by striking "and 1991," and inserting "1991, 1992, 1993, and 1994,".

SEC. 1038. USE OF RECYCLED PAVING MATERIAL.

(a) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER DEMONSTRATION PROGRAM.—Notwithstanding any other provision of title 23, United States Code, or regulation or policy of the Department of Transportation, the Secretary (or a State acting as the Department's agent) may not disapprove a highway project under chapter 1 of title 23, United States Code, on the ground that the project includes the use of asphalt pavement containing recycled rubber. Under this subsection, a patented application process for recycled rubber shall be eligible for approval under the same conditions that an unpatented process is eligible for approval.

(b) STUDIES.—

(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall coordinate and conduct, in cooperation with the States, a study to determine—

(A) the threat to human health and the environment associated with the production and use of asphalt pavement containing recycled rubber;

(B) the degree to which asphalt pavement containing recycled rubber can be recycled; and

(C) the performance of the asphalt pavement containing recycled rubber under various climate and use conditions.

(2) DIVISION OF RESPONSIBILITIES.—The Administrator shall conduct the part of the study relating to paragraph (1)(A) and the Secretary shall conduct the part of the study relating to paragraph (1)(C). The Administrator and the Secretary shall jointly conduct the study relating to paragraph (1)(B).

(3) ADDITIONAL STUDY.—The Secretary and the Administrator, in cooperation with the States, shall jointly conduct a study to determine the economic savings, technical performance qualities, threats to human health and the environment, and environmental benefits of using recycled materials in highway devices and appurtenances and highway projects, including asphalt containing over 80 percent reclaimed asphalt, asphalt containing recycled glass, and asphalt containing recycled plastic.

(4) ADDITIONAL ELEMENTS.—In conducting the study under paragraph (3), the Secretary and the Administrator shall examine utilization of various technologies by States and shall examine the current practices of all States relating to the reuse and disposal of materials used in federally assisted highway projects.

(5) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary and the Administrator shall transmit to Congress a report on the results of the studies conducted under this subsection, including a detailed analysis of the economic savings and technical performance qualities of using such recycled materials in federally assisted highway projects and the environmental benefits of using such recycled materials in such highway projects in terms of reducing air emissions, conserving natural resources, and reducing disposal of the materials in landfills.

(c) DOT GUIDANCE.—

(1) INFORMATION GATHERING AND DISTRIBUTION.—The Secretary shall gather information and recommendations concerning the use of asphalt containing recycled rubber in highway projects from those States that have extensively evaluated and experimented with the use of such asphalt and implemented such projects and shall make available such information and recommendations on the use of such asphalt to those States which indicate an interest in the use of such asphalt.

(2) ENCOURAGEMENT OF USE.—The Secretary should encourage the use of recycled materials determined to be appropriate by the studies pursuant to subsection (b) in federally assisted highway projects. Procuring agencies shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency.

(d) USE OF ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

(1) STATE CERTIFICATION.—Beginning on January 1, 1995, and annually thereafter, each State shall certify to the Secretary that such State has satisfied the minimum utilization requirement for asphalt pavement containing recycled rubber established by this section. The minimum utilization requirement for asphalt pavement containing recycled rubber as a percentage of the total tons of asphalt laid in such State and financed in whole or part by any assistance pursuant to title 23, United States Code, shall be—

(A) 5 percent for the year 1994;

(B) 10 percent for the year 1995;

(C) 15 percent for the year 1996; and

(D) 20 percent for the year 1997 and each year thereafter.

(2) OTHER MATERIALS.—Any recycled material or materials determined to be appropriate by the studies under subsection (b) may be substituted for recycled rubber under the minimum utilization requirement of paragraph (1) up to 5 percent.

(3) INCREASE.—The Secretary may increase the minimum utilization requirement of paragraph (1) for asphalt pavement containing recycled rubber to be used in federally assisted highway projects to the extent it is technologically and economically feasible to do so and if an increase is appropriate to assure markets for the reuse and recycling of scrap tires. The minimum utilization requirement for asphalt pavement containing recycled rubber may not be met by any use or technique found to be unsuitable for use in highway projects by the studies under subsection (b).

(4) PENALTY.—The Secretary shall withhold from any State that fails to make a certification under paragraph (1) for any fiscal year, a percentage of the apportionments under section 104 (other than subsection (b)(5)(A)) of title 23, United States Code, that would otherwise be apportioned to such State for such fiscal year under such section equal to the percentage utilization requirement established by paragraph (1) for such fiscal year.

(5) SECRETARIAL WAIVER.—The Secretary may set aside the provisions of this subsection for any 3-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to subparagraphs (A) and (B) of this paragraph, that there is reliable evidence indicating—

(A) that manufacture, application, or use of asphalt pavement containing recycled rubber substantially increases the threat to human health or the environment as compared to the threats associated with conventional pavement;

(B) that asphalt pavement containing recycled rubber cannot be recycled to substantially the same degree as conventional pavement; or

(C) that asphalt pavement containing recycled rubber does not perform adequately as a material for the construction or surfacing of highways and roads.

The Secretary shall consider the results of the study under subsection (b)(1) in determining whether a 3-year set-aside is appropriate.

(6) RENEWAL OF WAIVER.—Any determination made to set aside the requirements of this section may be renewed for an additional 3-year period by the Secretary, with the concurrence of the Administrator with respect to the determinations made under paragraphs (5)(A) and (5)(B). Any determination made with respect to paragraph (5)(C) may be made for specific States or regions considering climate, geography, and other factors that may be unique to the State or region and that would prevent the adequate performance of asphalt pavement containing recycled rubber.

(7) INDIVIDUAL STATE REDUCTION.—The Secretary shall establish a minimum utilization requirement for asphalt pavement containing recycled rubber less than the minimum utilization requirement otherwise required by paragraph (1) in a particular State, upon the request of such State and if the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, determines that there is not a sufficient quantity of scrap tires available in the State prior to disposal to meet the minimum utilization requirement established under paragraph (1) as the result of recycling and processing uses (in that State or another State), including retreading or energy recovery.

(e) DEFINITIONS.—For purpose of this section—

(1) the term "asphalt pavement containing recycled rubber" means any hot mix or spray applied binder in asphalt paving mixture that contains rubber from whole scrap tires which is used for asphalt pavement base, surface course or interlayer, or other road and highway related uses and—

(A) is a mixture of not less than 20 pounds of recycled rubber per ton of hot mix or 300 pounds of recycled rubber per ton of spray applied binder; or

(B) is any mixture of asphalt pavement and recycled rubber that is certified by a State and is approved by the Secretary, provided that the total amount of recycled rubber from whole scrap tires utilized in any year in such State shall be not less than the amount that would be utilized if all asphalt pavement containing recycled rubber laid in such State met the specifications of subparagraph (A) and subsection (d)(1); and

(2) the term "recycled rubber" is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks, or other equipment owned and operated in the United States.

SEC. 1039. HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM.

(a) RESEARCH GRANTS.—The Secretary may make grants to other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity to carry out research on 1 or more of the following:

(1) Development of new, economical highway timber bridge systems.

(2) Development of engineering design criteria for structural wood products for use in highway bridges in order to improve methods for characterizing lumber design properties.

(3) Preservative systems for use in highway timber bridges which demonstrate new alternatives and current treatment processes and procedures and which are environmentally sound with respect to application, use, and disposal of treated wood.

(4) Alternative transportation system timber structures which demonstrate the development of applications for railing, sign, and lighting supports, sound barriers, culverts, and retaining walls in highway applications.

(5) Rehabilitation measures which demonstrate effective, safe, and reliable methods for rehabilitating existing highway timber structures.

(b) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as may be necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interested persons.

(c) CONSTRUCTION GRANTS.—

(1) AUTHORITY.—The Secretary shall make grants to States for construction of highway timber bridges on rural Federal-aid highway.

(2) APPLICATIONS.—A State interested in receiving a grant under this subsection must submit an application therefor to the Secretary. Such application shall be in such form and contain such information as the Secretary may require by regulation.

(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on the following criteria:

(A) Bridge designs which have both initial and long-term structural and environmental integrity.

(B) Bridge designs which utilize timber species native to the State or region.

(C) Innovative bridge designs which have the possibility of increasing knowledge, cost effectiveness, and future use of such designs.

(D) Environmental practices for preservative treated timber, and construction techniques which comply with all environmental regulations, will be utilized.

(d) FEDERAL SHARE.—The Federal share of the costs of research and construction projects carried out under this section shall be 80 percent.

(e) FUNDING.—From the funds reserved from apportionment under section 144(g)(1) of title 23, United States Code, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

(1) $1,000,000 shall be available to the Secretary for carrying out subsections (a) and (b); and

(2) $7,500,000 ($7,000,000 in the case of fiscal year 1992) shall be available to the Secretary for carrying out subsection (c).

Such sums shall remain available until expended.

(f) STATE DEFINED.—For purposes of this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 1040. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—The Secretary shall use funds made available by subsection (e) to carry out highway use tax evasion projects in accordance with this section. Such funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary. The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this section.

(b) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff but only to carry out functions described in this subsection, supplement motor fuel tax examinations and criminal investigations, develop automated data processing tools to monitor motor fuel production and sales, evaluate and implement registration and reporting requirements for motor fuel taxpayers, reimburse State expenses that supplement existing fuel tax compliance efforts, and analyze and implement programs to reduce tax evasion associated with other highway use taxes.

(c) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State under this section in a fiscal year unless the State certifies that aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

(d) REPORTS.—

(1) IN GENERAL.—On September 30 and March 31 of each year, the Secretary shall transmit to the Committee on Environment and Public Works and the Committee on Finance of the Senate and the Committee on Public Works and Transportation and the Committee on Ways and Means of the House of Representatives a report on motor fuel tax enforcement activities under this section and the expenditure of funds made available to carry out this section, including expenses for the hiring of additional staff by any Federal agency.

(2) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which funds are to be allocated to the Internal Revenue Service under this section, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986.

(e) USE OF DYE AND MARKERS.—

(1) STUDY.—The Secretary, in consultation with the Internal Revenue Service, shall conduct a study to determine the feasibility and the desirability of using dye and markers to aid in motor fuel tax enforcement activities and other purposes.

(2) REPORT.—Not later than 1 year after the effective date of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(f) FUNDING.—

(1) HIGHWAY TRUST FUND.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997. Such sums shall be available for obligation in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code; except that the Federal share for projects carried out under this section shall be 100 percent and the sums shall remain available until expended.

(2) GENERAL FUND.—There are authorized to be appropriated to carry out this section $2,500,000 per fiscal year for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term "State" means the 50 States and the District of Columbia.

SEC. 1041. REGULATORY INTERPRETATIONS.

(a) INCLUSION OF COATING OF STEEL IN BUY AMERICA PROGRAM.—Section 635.410 of title 23 of the Code of Federal Regulations and any similar regulation, ruling, or decision shall be applied as if to include coating.

(b) FUNDING OF FUSEES AND FLARES.—Section 393.95 of title 49 of the Code of Federal Regulations shall be applied so that fusees and flares are given equal priority with regard to use as reflecting signs.

SEC. 1042. INDIAN RERVATION ROADS STUDY.

(a) STUDY.—The Secretary shall conduct a study on the funding needs for Indian reservation roads taking into account funding and other quality inequities between Indian reservation roads and other highway systems.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this section, together with any legislative and administrative recommendations of the Secretary for correcting inequities identified under such study.

SEC. 1043. REPORT TO CONGRESS ON QUALITY IMPROVEMENT.

(a) REPORT TO CONGRESS ON QUALITY IMPROVEMENT.—The Comptroller General shall submit within 24 months following the date of the enactment of this title a report to Congress addressing means for improving the quality of highways constructed with Federal assistance. This report shall address Federal design standards, engineering and design services, and construction of Federal-aid highway projects.

(b) SCOPE OF THE REPORT TO CONGRESS.—In preparing such report, the Comptroller shall address, at a minimum, the following:

(1) Alternative modifications to current Federal and State minimum design standards, including but not limited to, the anticipated impacts these alternatives would have on the serviceability, maintenance, expected life, and costs (including engineering and design, construction maintenance, operation and replacement costs).

(2) Inclusion of guarantee and warranty clauses in contracts with designers, contractors, and State highway departments to address, at a minimum, potential costs and benefits of such clauses; any liability or insurance constraints or concerns; implications for small, minority, or disadvantaged businesses; currently existing options for States to require these clauses or other means with similar effect without additional Federal legislation, and the effect these or similar clauses may have on the availability of insurance and bonds for design professionals and contractors and the implication to the public of any change in such availability.

(3) Means of enhancing the maintenance of the Federal-aid Highway System to ensure the public investment in such system is protected.

SEC. 1044. CREDIT FOR NON-FEDERAL SHARE.

(a) ELIGIBILITY.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act and title 23, United States Code, toll revenues that are generated and used by public, quasi-public and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such facilities without Federal funds.

(b) MAINTENANCE OF EFFORT.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

(c) TREATMENT.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non-Federal match other than those to which such agency is already subject.

SEC. 1045. SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 East-West Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION ON ELIGIBILITY.—If, by October 1, 1993, or two years after the date of the enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 East-West Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of the enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under section 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer Interstate construction apportionments to its National Highway System in amounts equal to or less than the costs for additional work on sections of the Interstate System that have been built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate Cost Estimate.

SEC. 1046. CONTROL OF OUTDOOR ADVERTISING.

(a) FUNDING.—Section 131(m) of title 23, United States Code, is amended by adding at the end the following new sentence: "Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.".

(b) REMOVAL OF ILLEGAL SIGNS.—Section 131 of such title is amended by adding at the end the following new subsection:

"(r) REMOVAL OF ILLEGAL SIGNS.—

"(1) BY OWNERS.—Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

"(2) BY STATES.—If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.".

(c) SCENIC BYWAY PROHIBITION.—Such section is further amended by adding at the end the following new subsections:

"(s) SCENIC BYWAY PROHIBITION.—If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section.

"(t) PRIMARY SYSTEM DEFINED.—For purposes of this section, the terms 'primary system' and 'Federal-aid primary system' mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(d) STATE COMPLIANCE LAWS.—The amendments made by this section shall not affect the status or validity of any existing compliance law or regulation adopted by a State pursuant to section 131 of title 23, United States Code.

SEC. 1047. SCENIC BYWAYS PROGRAM.

(a) SCENIC BYWAYS ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish in the Department of Transportation an advisory committee to assist the Secretary with respect to establishment of a national scenic byways program under title 23, United States Code.

(2) MEMBERSHIP.—The advisory committee established under this section shall be composed of 17 members as follows:

(A) The Administrator of the Federal Highway Administration or the designee of the Administrator who shall serve as chairman of the advisory committee.

(B) The Chief of the Forest Service of the Department of Agriculture or the designee of the Chief.

(C) The Director of the National Park Service of the Department of the Interior or the designee of the Director.

(D) The Director of the Bureau of Land Management of the Department of the Interior or the designee of the Director.

(E) The Under Secretary for Travel and Tourism of the Department of Commerce or the designee of the Under Secretary.

(F) The Assistant Secretary for Indian Affairs of the Department of the Interior or the designee of the Assistant Secretary.

(G) 1 individual appointed by the Secretary who is specially qualified to represent the interests of conservationists on the advisory committee.

(H) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of recreational users of scenic byways on the advisory committee.

(I) 1 individual appointed by the Secretary who is specially qualified to represent the interests of the tourism industry on the advisory committee.

(J) 1 individual appointed by the Secretary who is specially qualified to represent the interests of historic preservationists on the advisory committee.

(K) 1 individual appointed by the Secretary who is specially qualified to represent the interests of highway users on the advisory committee.

(L) 1 individual appointed by the Secretary to represent State highway and transportation officials.

(M) 1 individual appointed by the Secretary to represent local highway and transportation officials.

(N) 1 individual appointed by the Secretary who is specially qualified to serve on the advisory committee as a planner.

(O) 1 individual appointed by the Secretary who is specially qualified to represent the motoring public.

(P) 1 individual appointed by the Secretary who is specially qualified to represent groups interested in scenic preservation.

(Q) 1 individual appointed by the Secretary who represents the outdoor advertising industry.

Individuals appointed as members of the advisory committee under subparagraphs (G) through (P) may be State and local government officials. Members shall serve without compensation other than for reasonable expenses incident to functions of the advisory committee.

(3) FUNCTIONS.—The advisory committee established under this subsection shall develop and make to the Secretary recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as all-American roads for purposes of a national scenic byways program to be established under title 23, United States Code. Such recommendations shall include recommendations on the following:

(A) Consideration of the scenic beauty and historic significance of highways proposed for designation as scenic byways and all-American roads and the areas surrounding such highways.

(B) Operation and management standards for highways designated as scenic byways and all-American roads, including strategies for maintaining or improving the qualities for which a highway is designated as a scenic byway or all-American road, for protecting and enhancing the landscape and view corridors surrounding such a highway, and for minimizing traffic congestion on such a highway.

(C)(i) Standards for scenic byway-related signs, including those which identify highways as scenic byways and all-American roads.

(ii) The advisability of uniform signs identifying highways as components of the scenic byway system.

(D) Standards for maintaining highway safety on the scenic byway system.

(E) Design review procedures for location of highway facilities, landscaping, and travelers' facilities on the scenic byway system.

(F) Procedures for reviewing and terminating the designation of a highway designated as a scenic byway.

(G) Such other matters as the advisory committee may deem appropriate.

(H) Such other matters for which the Secretary may request recommendations.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, the advisory committee established under this section shall submit to the Secretary and Congress a report containing the recommendations described in paragraph (3).

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide technical assistance to the States (as such term is defined under section 101 of title 23, United States Code) and shall make grants to the States for the planning, design, and development of State scenic byway programs.

(c) FEDERAL SHARE.—The Federal share payable for the costs of planning, design, and development of State scenic byway programs under this section shall be 80 percent.

(d) FUNDING.—There shall be available to the Secretary for carrying out this section (other than subsection (f)), out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, $4,000,000 for fiscal year 1994, and $14,000,000 for each of the fiscal years 1995, 1996, and 1997. Such sums shall remain available until expended.

(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of activities for which the grant is being made.

(f) INTERIM SCENIC BYWAYS PROGRAM.—

(1) GRANT PROGRAM.—During fiscal years 1992, 1993, and 1994, the Secretary may make grants to any State which has a scenic highway program for carrying out eligible projects on highways which the State has designated as scenic byways.

(2) PRIORITY PROJECTS.—In making grants under paragraph (1), the Secretary shall give priority to—

(A) those eligible projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural, and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities;

(B) those eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated as a scenic byway;

(C) those eligible projects which are included in programs which can serve as models for other States to follow when establishing and designing scenic byways on an intrastate or interstate basis; and

(D) those eligible projects in multi-State corridors where the States submit joint applications.

(3) ELIGIBLE PROJECTS.—The following are projects which are eligible for Federal assistance under this subsection:

(A) Planning, design, and development of State scenic byway programs.

(B) Making safety improvements to a highway designated as a scenic byway under this subsection to the extent such improvements are necessary to accommodate increased traffic, and changes in the types of vehicles using the highway, due to such designation.

(C) Construction along the highway of facilities for the use of pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretive facilities.

(D) Improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation.

(E) Protecting historical and cultural resources in areas adjacent to the highway.

(F) Developing and providing tourist information to the public, including interpretive information about the scenic byway.

(4) FEDERAL SHARE.—The Federal share payable for the costs of carrying out projects and developing programs under this subsection with funds made available pursuant to this subsection shall be 80 percent.

(5) FUNDING.—There shall be available to the Secretary for carrying out this subsection, out of the Highway Trust Fund (other than the Mass Transit Account), $10,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994. Such sums shall remain available until expended.

(g) LIMITATION.—The Secretary shall not make a grant under this section for any project which would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area. The Secretary may not use more than 10 percent of the funds authorized for each fiscal year under subsection (f)(5) for removal of any outdoor advertising sign, display, or device.

(h) TREATMENT OF SCENIC HIGHWAYS IN OREGON.—For purposes of this section, a highway designated as a scenic highway in the State of Oregon shall be treated as a scenic byway.

SEC. 1048. BUY AMERICA.

(a) INCLUSION OF IRON.—Section 165(a) of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 101 note) is amended by inserting ", iron," after "steel".

(b) WAIVERS; INTENTIONAL VIOLATIONS.—Section 165 of such Act is amended by adding at the end the following new subsections:

"(e) REPORT ON WAIVERS.—By January 1, 1995, the Secretary shall submit to Congress a report on the purchases from foreign entities waived under subsection (b) in fiscal years 1992 and 1993, indicating the dollar value of items for which waivers were granted under subsection (b).

"(f) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

"(1) affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

"(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

"(g) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

"(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

"(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.".

SEC. 1049. DESIGN STANDARDS.

(a) SURVEY.—The Secretary shall conduct a survey to identify current State standards relating to geometric design, traffic control devices, roadside safety, safety appurtenance design, uniform traffic control devices, and sign legibility and directional clarity for all Federal-aid highways. The purpose of the survey is to determine the necessity of upgrading such standards in order to enhance highway safety. In conducting the survey, the Secretary shall take into consideration posted speed limits as they relate to the design of the highway.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the survey conducted under this section, and on the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments, and breakaway utility poles for bridges and roadways currently used by States, together with any recommendations of the Secretary relating to the purpose of the survey.

SEC. 1050. TRANSPORTATION IN PARKLANDS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall conduct and transmit to Congress a study of alternative transportation modes for use in the National Park System. In conducting such study, the Secretary shall consider (1) the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands; and (2) methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) FUNDING.—From sums authorized to be appropriated for park roads and parkways for fiscal year 1992, $300,000 shall be available to carry out this section.

SEC. 1051. WORK ZONE SAFETY.

The Secretary shall develop and implement a work zone safety program which will improve work zone safety at highway construction sites by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.

SEC. 1052. NEW HAMPSHIRE FEDERAL-AID PAYBACK.

(a) EFFECT OF REPAYMENT.—The amount of all Federal-aid highway funds paid on account of those completed sections of the Nashua-Hudson Circumferential in the State of New Hampshire referred to in subsection (c) of this section shall, prior to the collection of any tolls thereon, be repaid to the Treasurer of the United States before October 1, 1992. The amount so repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of funds apportioned to the State of New Hampshire in accordance with section 104(b)(1) of title 23, United States Code. The amount so credited shall be in addition to all other funds then apportioned to such State and shall remain available until expended.

(b) USE OF REPAID FUNDS.—Upon repayment of Federal-aid highway funds and the cancellation and withdrawal from the Federal-Aid highway program of the projects on the section in subsection (c) as provided in subsection (a) of this section, such section of this route shall become and be free of any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulation thereunder, with respect to the imposition and collection of tolls or other charges thereon or for the use thereof.

(c) PROJECT DESCRIPTION.—The provisions of this section shall apply to the section of the completed Nashua-Hudson Circumferential between the Daniel Webster Highway in the city of Nashua and New Hampshire Route 3A in the town of Hudson.

SEC. 1053. METRIC SYSTEM SIGNING.

Section 144 of the Federal-Aid Highway Act of 1978 (92 Stat. 2713; 23 U.S.C. 109 note) is repealed.

SEC. 1054. TEMPORARY MATCHING FUND WAIVER.

(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary under title 23, United States Code, and of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, during the period beginning on October 1, 1991, and ending September 30, 1993, shall be the percentage of the construction cost as the State requests, up to and including 100 percent.

(b) REPAYMENT.—The total amount of increases in the Federal share made pursuant to subsection (a) for any State shall be repaid to the United States by the State on or before March 30, 1994. Payments shall be deposited in the Highway Trust Fund and repaid amounts shall be credited to the appropriate apportionment accounts of the State.

(c) DEDUCTION FROM APPORTIONMENTS.—If a State has not made the repayment as required by subsection (b), the Secretary shall deduct from funds apportioned to the State under title 23, United States Code, in each of the fiscal years 1995 and 1996, a pro rata share of each category of apportioned funds. The amount which shall be deducted in each fiscal year shall be equal to 50 percent of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for fiscal years 1995 and 1996 in accordance with title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (b).

(d) QUALIFYING PROJECT DEFINED.—For purposes of this section, the term "qualifying project" means a project approved by the Secretary after the effective date of this title, or a project for which the United States becomes obligated to pay after such effective date, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

SEC. 1055. RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION.

Section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633(c)) is amended by inserting "and the Rural Electrification Administration" after "Tennessee Valley Authority".

SEC. 1056. USE OF HIGH OCCUPANCY VEHICLE LANES BY MOTORBIKES.

Section 163 of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 146 note) is amended—

(1) by inserting before "and acceptance" the following: ", after notice in the Federal Register and an opportunity for public comment,"; and

(2) by adding at the end the following: "Any certification made before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 shall not be recognized by the Secretary until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification.".

SEC. 1057. EROSION CONTROL GUIDELINES.

(a) DEVELOPMENT.—The Secretary shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part under this title.

(b) MORE STRINGENT STATE REQUIREMENTS.—Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) CONSISTENCY WITH OTHER PROGRAMS.—Guidelines developed under subsection (a) shall be consistent with nonpoint source management programs under section 319 of the Federal Water Pollution Control Act and coastal nonpoint pollution control guidance under section 6217(g) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 1058. ROADSIDE BARRIER TECHNOLOGY.

(a) REQUIREMENT FOR INNOVATIVE BARRIERS.—Not less than 2½ percent of the mileage of new or replacement permanent median barriers included in awarded contracts along Federal-aid highways within the boundaries of a State in each calendar year shall be innovative safety barriers.

(b) CERTIFICATION.—Each State shall annually certify to the Secretary its compliance with the requirements of this section.

(c) DEFINITION OF INNOVATIVE SAFETY BARRIER.—For purposes of this section, the term "innovative safety barrier" means a median barrier, other than a guardrail, classified by the Federal Highway Administration as "experimental" or that was classified as "operational" after January 1, 1985.

SEC. 1059. USE OF TOURIST ORIENTED DIRECTIONAL SIGNS.

(a) IN GENERAL.—The Secretary shall encourage the States to provide for equitable participation in the use of tourist oriented directional signs or "logo" signs along the Interstate System and the Federal-aid primary system (as defined under section 131(t) of title 23, United States Code).

(b) STUDY.—Not later than 1 year after the effective date of this title, the Secretary shall conduct a study and report to Congress on the participation in the use of signs referred to in subsection (a) and the practices of the States with respect to the use of such signs.

SEC. 1060. PRIVATE SECTOR INVOLVEMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects when it would be cost effective.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—In conducting the program under this section, the Secretary may make grants in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to not less than 3 States which the Secretary determines have implemented in the fiscal year preceding the fiscal year of the grant the most effective programs for increasing the percentage of funds expended for contracting with private firms (including small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals) for engineering and design services in carrying out Federal-aid highway projects.

(2) USE OF GRANTS.—A grant received by a State under this subsection may be used by the State only for awarding contracts for engineering and design services to carry out projects and activities for which Federal funds may be obligated under title 23, United States Code.

(3) FUNDING.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

(c) REPORT BY FHWA.—Not later than 120 days after the date of the enactment of this Act, the Administrator of the Federal Highway Administration shall submit to the Secretary a report on the amount of funds expended by each State in fiscal years 1980 through 1990 on contracts with private sector engineering and design firms in carrying out Federal-aid highway projects. The Secretary shall use information in the report to evaluate State engineering and design programs for the purpose of awarding grants under subsection (b).

(d) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on implementation of the program established under this section.

(e) ENGINEERING AND DESIGN SERVICES DEFINED.—The term "engineering and design services" means any category of service described in section 112(b) of title 23, United States Code.

(f) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

SEC. 1061. UNIFORM TRAFFIC CONTROL DEVICES.

(a) HIGHWAY PROJECT.—The Secretary shall carry out a highway project in the State of Arkansas to demonstrate the benefits of providing training to county and town traffic officials in the need for and application of uniform traffic control devices and to demonstrate the safety benefits of providing for adequate and safe warning and regulatory signs.

(b) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUNDS.—There is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, for fiscal year 1992 to carry out this section—

(1) $200,000 for providing training; and

(2) $1,000,000 for providing warning and regulatory signs to counties, towns and cities.

Amounts provided under paragraph (2) shall be divided equally between counties with a total county population of 20,000 or less and counties with a total county population of more than 20,000. Such amounts shall be distributed fairly and equitably among counties, cities, and towns within those counties.

(c) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the project under this section shall be 80 percent and such funds shall remain available until expended. Funds made available under this section shall not be subject to any obligation limitation.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to Congress on the effectiveness of the project carried out under this section.

SEC. 1062. MOLLY ANN'S BROOK, NEW JERSEY.

The Secretary shall carry out a project to make modifications to bridges necessary for the Secretary of the Army to carry out a project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4119). Any Federal expenditures under this part for such project shall be treated as part of the non-Federal share of the cost of such flood control project.

SEC. 1063. PRESIDENTIAL HIGHWAY, FULTON COUNTY, GEORGIA.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary shall approve the construction of the Department of Transportation project MEACU–9152(2) in Fulton County, Georgia, as described in the legal settlement agreed to for the project by the Georgia Department of Transportation, the city of Atlanta, and CAUTION, Inc. Execution of the settlement agreement by those parties and approval of the settlement agreement by the DeKalb County, Georgia Superior Court shall be deemed to constitute full compliance with all Federal laws applicable to carrying out the project.

(b) LIMITATIONS ON FEDERAL FUNDING.—With the exception of Federal funds expended for construction of the project described in subsection (a) and with the exception of Federal funds appropriated or authorized for the acquisition, creation, or development of parks or battlefield sites, no further Federal funds, including funds from the Highway Trust Fund and funds appropriated for the Federal-aid highway systems, shall be authorized, appropriated, or expended for expanding the capacity of the project described in subsection (a) or for new

construction of a Federal-aid highway in any portion of rights-of-way previously acquired for Department of Transportation project MEACU–9152(2) which is not used for construction of such project as described in subsection (a) and in any portion of the rights-of-way previously acquired for Georgia project I–485–1(46) in Fulton County, Georgia; Georgia project U–061–1(14) in Fulton and DeKalb Counties, Georgia; and Georgia project F–056–1(12) in Fulton County, Georgia.

(c) LIMITATION ON EFFECT.—In the event that the settlement agreement referred to in subsection (a) is not executed by the parties or approved by the DeKalb County, Georgia Superior Court in Case No. 88–6429–3, this section shall have no force or effect.

SEC. 1064. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of title 23, United States Code.

(b) FEDERAL SHARE.—The Federal share payable for construction of ferry boats and ferry terminal facilities under this section shall be 80 percent of the cost thereof.

(c) FUNDING.—There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for obligation at the discretion of the Secretary $14,000,000 for fiscal year 1992, $17,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996, and $18,000,000 for fiscal year 1997 in carrying out this section. Such sums shall remain available until expended.

(d) APPLICABILITY OF TITLE 23.—All provisions of chapter 1 of title 23, United States Code, that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.

(e) TREATMENT OF CERTAIN ROADS.—For purposes of this section, North Carolina State Routes 12, 45, 306, 615, and 168 and United States Route 421 in the State of North Carolina shall be treated as principal arterials.

SEC. 1065. ORANGE COUNTY TOLL PILOT PROJECTS.

(a) EXEMPTION OF CERTAIN LANDS.—For the purposes of any approval by the Secretary of proposed highway improvements authorized by section 129(d)(3) of title 23, United States Code, in Orange County, California, pursuant to section 303 of title 49, United States Code, and section 138 of title 23, United States Code, those sections (collectively known as "section 4(f)") shall not be applicable to public park, recreation area, wildlife and waterfowl refuge (collectively referred to hereinafter in this section as "parkland")—

(1) that are acquired by a public entity after a governmental agency's approval of a State or Federal environmental document established the location of a highway adjacent to the parklands; or

(2) where the planning or acquisition documents for the parklands specifically referred to or reserved the specific location of the highway.

(b) APPLICABILITY.—Without limiting its prospective application, this section shall apply to any approval of the proposed highway improvements by the Secretary prior to the effective date of this section only if—

(1) the approximately 360 acres comprising the proposed Upper Peters Canyon Regional Park in Orange County, California, is conveyed to a public agency for use as public park and recreation land or a wildlife or waterfowl refuge, or both, within 90 days of such effective date;

(2) the approximately 100 acres of lands described as the Dedication Area in that certain Option Agreement dated April 16, 1991, by and between the city of Laguna Beach and the owner thereof is conveyed to a public agency for use as public park and recreation land for a wildlife or waterfowl refuge, or both, within 90 days of such effective date.

(c) PURPOSE.—This section is adopted in recognition of unique circumstances in Orange County, California, including a comprehensive land use planning process; the joint planning of thousands of acres of parklands with the locations of the proposed highway improvement; the provision of rights-of-way for high occupancy vehicle lanes and fixed rail transit in the 3 transportation corridors; the use of toll financing, which will discourage excessive automobile travel; and the inclusion of a county-wide growth management element and substantial local transit funding commitment in the county's voter-approved supplemental sales tax for transportation.

(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—In no event shall this section be construed to apply to any other highway projects other than the proposed San Joaquin Hills, Foothill, and Eastern Transportation Corridor highways in Orange County, California. Nothing in this section is intended to waive any provision of law (including the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act) other than the specific exemptions to section 303 of title 49 and section 138 of title 23, United States Code. Nothing in this section shall be construed to give effect to or approve regulations issued pursuant to section 4(f) and published in the Federal Register on April 1, 1991 (56 Federal Register 62).

SEC. 1066. RECODIFICATION.

The Secretary shall, by October 1, 1993, prepare a proposed recodification of title 23, United States Code, and related laws and submit the proposed recodification to Congress for consideration.

SEC. 1067. PRIOR DEMONSTRATION PROJECTS.

(a) TAMPA, FLORIDA.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(81) of such section shall be available to the Secretary for carrying out a highway project to widen, modernize, and make safety improvements to interstate route I–4 in Hillsborough County, Florida, from its intersection with I–275 in Tampa, Florida, to the Hillsborough-Polk County line.

(b) SANTA FE, NEW MEXICO.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(107) of such section shall be available to the Secretary for carrying out a highway project to construct a bypass for Santa Fe, New Mexico.

(c) LARKSPUR TO KORBEL, CALIFORNIA.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(41)(B) of such section shall be available to the Secretary for carrying out a highway project to construct a transportation corridor along a right-of-way which is parallel to Route 101 in California and connects Larkspur, California, and Korbel, California.

(d) PASSAIC AND BERGEN COUNTIES, NEW JERSEY.—The highway project authorized by section 149(a)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181), shall include improvements to New Jersey State Route 21, the Crooks Avenue interchange between United States Route 46 and New Jersey State Route 20, and the United States Route 46 bridge over the Passaic River between Clifton and Elmwood Park, New Jersey. Notwithstanding any other provision of law, the Governor of the State of New Jersey shall carry out with respect to the construction of such highway project all of the responsibilities of the Secretary under title 23, United States Code, and all other provisions of law. To provide for expedited completion of the project, the Governor is authorized to waive any and all Federal requirements relating to the scheduling of activities associated with such highway project, including final design and right-of-way acquisition activities.

SEC. 1068. STORMWATER PERMIT REQUIREMENTS.

(a) GENERAL RULE.—Notwithstanding the requirements of sections 402(p)(2) (B), (C), and (D) of the Federal Water Pollution Control Act, permit application deadlines for stormwater discharges associated with industrial activities from facilities that are owned or operated by a municipality shall be established by the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") pursuant to the requirements of this section.

(b) PERMIT APPLICATIONS.—

(1) INDIVIDUAL APPLICATIONS.—The Administrator shall require individual permit applications for discharges described in subsection (a) on or before October 1, 1992; except that any municipality that has participated in a timely part I group application for an industrial activity discharging stormwater that is denied such participation in a group application or for which a group application is denied shall not be required to submit an individual application until the 180th day following the date on which the denial is made.

(2) GROUP APPLICATIONS.—With respect to group applications for permits for discharges described in subsection (a), the Administrator shall require—

(A) part I applications on or before September 30, 1991, except that any municipality with a population of less than 250,000 shall not be required to submit a part I application before May 18, 1992; and

(B) part II applications on or before October 1, 1992, except that any municipality with a population of less than 250,000 shall not be required to submit a part II application before May 17, 1993.

(c) MUNICIPALITIES WITH LESS THAN 100,000 POPULATION.—The Administrator shall not require any municipality with a population of less than 100,000 to apply for or obtain a permit for any stormwater discharge associated with an industrial activity other than an airport, powerplant, or uncontrolled sanitary landfill owned or operated by such municipality before October 1, 1992, unless such permit is required by section 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act.

(d) UNCONTROLLED SANITARY LANDFILL DEFINED.—For the purposes of this section, the term "uncontrolled sanitary landfill" means a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect any application or permit requirement, including any deadline, to apply for or obtain a permit for stormwater discharges subject to section 402(p)(2)(A) or (E) of the Federal Water Pollution Control Act.

(f) REGULATIONS.—The Administrator shall issue final regulations with respect to general permits for stormwater discharges associated with industrial activity on or before February 1, 1992.

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SEC. 1069. MISCELLANEOUS HIGHWAY PROJECT AUTHORIZATIONS.

(a) BALTIMORE-WASHINGTON PARKWAY.—There is authorized to be appropriated $74,000,000 for renovation and reconstruction of the Baltimore-Washington Parkway in Prince Georges County, Maryland. The Federal share of the cost of such project shall be 100 percent.

(b) EXIT 26 BRIDGE.—There is authorized to be appropriated $22,400,000 for construction of the Exit 26 Bridge in Schenectady County, New York. The Federal share of the cost of such project shall be 80 percent.

(c) CUMBERLAND GAP TUNNEL.—There are authorized to be appropriated such sums as may be necessary to complete construction of the Cumberland Gap Tunnel, Kentucky, including associated approaches and other necessary road work. The Federal share of the cost of such project shall be 100 percent.

(d) RIVERSIDE EXPRESSWAY.—There is authorized to be appropriated $53,400,000 for construction of the Riverside Expressway, including bridges crossing the Monongahela River and Buffalo Creek, in the vicinity of Fairmont, West Virginia. The Federal share of the cost of such project shall be 80 percent.

(e) BUSWAY.—There is authorized to be appropriated $39,500,000 for design and construction of an exclusive busway linking Pittsburgh and Pittsburgh Airport. The Federal share of such project shall be 80 percent.

(f) EXTON BYPASS.—There is authorized to be appropriated $11,004,000 for construction of the Exton Bypass, in Exton, Pennsylvania. The Federal share of such project shall be 80 percent.

(g) PENNSYLVANIA ROUTE 33 EXTENSION.—There is authorized to be appropriated $5,400,000 for extension of Route 33 in Northampton County, Pennsylvania. The Federal share of such project shall be 80 percent.

(h) U.S. ROUTE 202.—There is authorized to be appropriated $4,500,000 for construction of U.S. Route 202. The Federal share of such project shall be 80 percent.

(i) WOODROW WILSON BRIDGE.—There is authorized to be appropriated $15,000,000 for rehabilitation of the Woodrow Wilson Bridge. The Federal share of such project shall be 100 percent.

(j) WARREN OUTERBELT IMPROVEMENT, WARREN, OHIO.—There is authorized to be appropriated $1,000,000 for design and construction of Warren Outerbelt improvements, Warren, Ohio. The Federal share of such project shall be 80 percent.

(k) OHIO STATE ROUTE 46 IMPROVEMENTS.—There is authorized to be appropriated $2,000,000 for design and construction of Ohio State Route 46 improvements. The Federal share of such project shall be 80 percent.

(l) OHIO STATE ROUTE 5 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 5 improvements. The Federal share of such project shall be 80 percent.

(m) U.S. ROUTE 62 IMPROVEMENTS, OHIO.—There is authorized to be appropriated $1,000,000 for design and construction of U.S. Route 62 improvements, Ohio. The Federal share of such project shall be 80 percent.

(n) OHIO STATE ROUTE 534 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 534 improvements. The Federal share of such project shall be 80 percent.

(o) OHIO STATE ROUTE 45 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 45 improvements. The Federal share of such project shall be 80 percent.

(p) ROUTE 120, LOCK HAVEN, PENNSYLVANIA.—There is authorized to be appropriated $4,000,000 for the widening of Route 120 and the removal of unstable rockfill area, Lock Haven, Pennsylvania. The Federal share of such project shall be 80 percent.

(q) TRUSS BRIDGE, TIOGA RIVER, LAWRENCEVILLE, PENNSYLVANIA.—There is authorized to be appropriated $3,200,000 to replace the existing Truss Bridge across the Tioga River, in Lawrenceville, Pennsylvania. The Federal share of such project shall be 80 percent.

(r) U.S. ROUTE 6, BRADFORD COUNTY, PENNSYLVANIA.—There is authorized to be appropriated $3,000,000 for the widening of U.S. Route 6 (Wysox Narrows Road), in Bradford County, Pennsylvania. The Federal share of such project shall be 80 percent.

(s) SEBRING/MANSFIELD BYPASS, PENNSYLVANIA.—There is authorized to be appropriated $4,800,000 for design and construction of the Sebring/Mansfield Bypass on U.S. 15, Pennsylvania. The Federal share of such project shall be 80 percent.

(t) I–5 IMPROVEMENTS.—The States of Oregon and Washington should give priority consideration to improvements on the I–5 Corridor. The Secretary shall give priority consideration to funding I–5 improvements in Oregon and Washington from section 118(c)(2) of title 23, United States Code, as amended by this Act. The Secretary shall give the highest priority to those Oregon projects identified in the State's transportation improvement plan.

(u) ROUTE 219.—The Secretary shall designate Route 219 from the Maryland line to Buffalo, New York, as part of the National Highway System.

(v) COALFIELDS EXPRESSWAY.—There is authorized to be appropriated such sums as may be necessary for design and construction of the project known as "Coalfields Expressway" from Beckley, West Virginia, to the West Virginia-Virginia State line, generally following the corridor defined by, but not necessarily limited to, Routes 54, 97, 10, 16, and 93. The Federal share of such project shall be 80 percent.

(w) UNITED STATES ROUTE 119.—There is authorized to be appropriated $70,000,000 for upgrading United States Route 119 to 4 lanes beginning west of Huddy, Kentucky. The Federal share of such project shall be 80 percent.

(x) CHAMBERSBURG, PENNSYLVANIA.—Not later than 30 days after the date of the enactment of this Act, in Chambersburg, Pennsylvania, at both the intersection of Lincoln Way and Sixth Street and the intersection of Lincoln Way and Coldbrook Avenue, the Pennsylvania Department of Transportation shall include an exclusive pedestrian phase in the existing lighting sequence between the hours of 8:00 and 8:30 a.m. and between the hours of 2:45 and 3:45 p.m. on weekdays.

(y) CONSTRUCTION OF AND IMPROVEMENTS TO THE APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.—There is authorized to be appropriated such sums as may be necessary for projects involving construction of, and improvements to, corridors of the Appalachian Development Highway System.

(z) UNITED STATES ROUTE 52 IN WEST VIRGINIA.—(1) There is authorized to be appropriated such sums as may be necessary for projects for the construction, renovation, and reconstruction of United States Route 52 in West Virginia.

(2) The Federal share payable on account of any such project shall be 80 percent of the cost thereof.

(aa) ROUTE 219, NEW YORK.—(1) For the purpose of projects to improve and upgrade Route 219 in New York, from Springeville to the Pennsylvania border Route 219 shall be considered as eligible for funding under the Appalachian Development Highway System.

(2) For purposes of paragraph (1) there is authorized to be appropriated such sums as may be necessary. The Federal share payable on account of such project shall be 80 percent of the cost thereof.

(bb) ROUTES 5 AND 92 CONGESTION MANAGEMENT PROJECT.—There is authorized to be appropriated $20,000,000 to carry out a project to relieve congestion in the vicinity of the intersection of routes 5 and 92 in the Towns of Manlius, New York, and Dewitt, New York.

(cc) ROCHESTER ADVANCED TRAFFIC MANAGEMENT SYSTEM.—There is authorized to be appropriated $15,000,000 to implement an integrated advanced traffic management/advanced driver information system in the city of Rochester, New York.

(dd) RENSSELAER ACCESS PROJECT.—There is authorized to be appropriated $35,000,000 to construct a new interchange (Exit 8) on Interstate Route 90, which includes an access-controlled roadway, in Rensselaer County, New York.

(ee) GOWANUS EXPRESSWAY CORRIDOR IMPROVEMENTS.—There is authorized to be appropriated $200,000,000 to carry out improvements to the Gowanus Expressway Corridor in Brooklyn, New York.

(ff) I–287 CROSS WESTCHESTER EXPRESSWAY HIGH OCCUPANCY VEHICLE LANE PROJECT.—There is authorized to be appropriated $200,000,000 to construct High Occupancy Vehicle Lanes on the Cross Westchester Expressway in Westchester County, New York.

(gg) OAK POINT LINK FREIGHT ACCESS PROJECT.—There is authorized to be appropriated $150,000,000 to complete the construction of the Oak Point Link in the Harlem River in New York City, New York.

(hh) OPERATIONAL IMPROVEMENTS, FRANKLIN DELANO ROOSEVELT DRIVE.—There is authorized to be appropriated $50,000,000 to carry out operational and safety improvements to the Franklin Delano Roosevelt Drive in New York City, New York.

SEC. 1070. MODIFICATIONS OF NIAGARA FALLS BRIDGE COMMISSION CHARTER.

(a) PAYMENT OF COSTS.—

(1) IN GENERAL.—Section 4 of the joint resolution entitled "Joint resolution creating the Niagara Falls Bridge Commission and authorizing said Commission and its successors to construct, maintain, and operate a bridge across the Niagara River at or near the city of Niagara Falls, New York", approved June 16, 1938, as amended (hereinafter in this section referred to as the "Joint Resolution"), is amended to read as follows:

"SEC. 4. The Commission is authorized to issue its obligations to provide funds for the acquisition or construction of bridges (provided the same is authorized by Act or Joint Resolution of Congress of the United States), and the repair, renovation and expansion of the same, working capital and other expenditures and deposits convenient to carrying out the Commission's purposes. The terms of the obligations shall be determined by resolution of the Commission (subject to such agreements with bondholders as may then exist), including provisions regarding rates of interest (either fixed or variable), contracts for credit support, risk management, liquidity or other financial arrangements, security or provision for payment of the obligations and such contracts (including the general obligation of the Commission and the pledge of all or any particular revenues or proceeds of obligations of the Commission). The obligations shall be sold at public or private sale at such prices above or below par as the Commission shall determine. As used herein 'bridges' includes approaches thereto, land, easements and functionally related appurtenances.".

(2) EXISTING CONTRACTUAL RIGHTS.—The amendments made by paragraph (1) shall be subject to the contractual rights of the holders of any of the bonds of the Niagara Falls Bridge

Commission which are outstanding as of the date of the enactment of this section.

(b) REPAYMENTS.—Section 5 of the Joint Resolution is amended—

(1) in the first sentence—

(A) by striking "a fund" and "a sinking fund" each place such terms appear and inserting "funds",

(B) by striking "herein provided" and inserting "provided by resolution",

(C) by striking "bonds" and inserting "obligations,", and

(D) by striking "bridge" and inserting "bridges" each place such term appears, and

(2) by striking the second and third sentences and inserting: "After payment or provision for payment of the foregoing uses, the remainder of the tolls shall be applied, as and when the Commission determines, for purposes convenient to the accomplishment of its purposes.".

(c) TREATMENT OF COMMISSION.—The last sentence of section 6 of the Joint Resolution is amended to read as follows: "The Commission shall be deemed for purposes of all Federal law to be a public agency or public authority of the State of New York, notwithstanding any other provision of law.".

(d) ADMINISTRATIVE PROVISIONS.—Section 8 of the Joint Resolution is amended in the second sentence thereof by striking out "shall not be entitled to any compensation for their services but" and inserting "shall be entitled to reimbursement for actual expenses incurred in the performance of official duties and to a per diem allowance per member of $150 when rendering services as such member (but not exceeding $10,000 for any member in any fiscal year).".

SEC. 1071. PEACE BRIDGE TRUCK INSPECTION FACILITIES.

Notwithstanding any other provision of law, the Administrator of General Services shall lease truck inspection facilities for the Peace Bridge. Such facilities must be immediately adjacent to the intersection of Porter Avenue and the New York State Thruway in Buffalo, New York. Before leasing such facilities, the Administrator must be assured that the facilities will be offered at a fair market price and that the facilities chosen will be connected to the bridge by a secure access road. Provided that these conditions are met, the Administrator shall enter into the lease on or before April 30, 1992.

SEC. 1072. VEHICLE PROXIMITY ALERT SYSTEM.

The Secretary shall coordinate the field testing of the vehicle proximity alert system and comparable systems to determine their feasibility for use by priority vehicles as an effective railroad-highway grade crossing safety device. In the event the vehicle proximity alert or a comparable system proves to be technologically and economically feasible, the Secretary shall develop and implement appropriate programs under section 130 of title 23, United States Code, to provide for installation of such devices where appropriate.

SEC. 1073. ROADSIDE BARRIERS AND SAFETY APPURTENANCES.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such rulemaking shall reflect state-of-the-art designs, testing, and evaluation criteria contained in the National Cooperative Highway Research Program Report 230, relating to approval standards which provide an enhanced level of crashworthy performance to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles.

(b) FINAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete the rulemaking proceeding initiated under subsection (a), and issue a final rule regarding the implementation of revised guidelines and standards for acceptable roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such revised guidelines and standards shall accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles and shall be applicable to the refurbishment and replacement of existing roadside barriers and safety appurtenances as well as to the installation of new roadside barriers and safety appurtenances.

SEC. 1074. DESIGNATION OF UNITED STATES ROUTE 69.

Notwithstanding any other provision of law, upon the request of the Oklahoma State highway agency, the Secretary shall designate the portion of United States Route 69 from the Oklahoma-Texas State line to Checotah in the State of Oklahoma as a part of the Interstate System pursuant to section 139 of title 23, United States Code.

SEC. 1075. SPECIAL PROVISIONS REGARDING CERTAIN HYDROELECTRIC PROJECTS.

(a) Brasfield Dam Project in Virginia.—(1) Notwithstanding section 13 of the Federal Power Act providing for the termination of a license issued by the Federal Energy Regulatory Commission (hereinafter in this subsection referred to as the "Commission") to the Appomattox River Water Authority (hereinafter in this subsection referred to as the "Authority") for the Brasfield Dam Hydroelectric Project (FERC Project No. 9840-001) on the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, and notwithstanding the prior surrender of such license by the Authority, the Commission shall reissue such license to the Authority, together with any amendments necessary and appropriate to carry out this subsection, and extend the period referred to in section 13 of that Act for a period ending 3 years after the enactment of this Act, subject to the requirements of this section and the provisions of Federal Power Act.

(2) During the 3-year period referred to in paragraph (1), the Commission shall issue an order, at the request of the Authority, permitting the Authority to transfer the license for such project to another person designated by the Authority for the purpose of protecting the Authority from challenge in connection with its agreement of trust with the Crestar Bank or under any provision of law of the State of Virginia. Any such transfer shall occur at a time specified in the order which shall not be after the expiration of the 3-year period referred to in paragraph (1).

(3) Any license transfer under this subsection shall require that the licensee shall be subject to, and comply with, the license and the provisions of the Federal Power Act, including the provisions of section 10 thereof (related to fish and wildlife) with respect to such project to the same extent and in the same manner as the Authority would be subject to such license and such Act in the absence of such transfer. Nothing in the transfer of such license shall affect the authority or power of the Commission under the license or under the Federal Power Act. Nothing in the Federal Power Act shall be construed as precluding a transfer of such license for the purposes specified in this section.

.(4) Any license transfer under this subsection shall be subject to revocation, at the request of the Authority, to permit the Authority to surrender the license. No surrender of such license by the Authority (or by any other person) shall be effective until after—

(A) reasonable prior notice (as determined by the Commission),

(B) completion of project construction, including the installation of any facilities for the protection, mitigation, and enhancement of fish and wildlife required under the license (including facilities required by the State fish and wildlife agency); and

(C) delivery to the Commission of a statement certified by the Board of the Authority that the terms of any actual or proposed Commission order with respect to the Brasfield Dam Hydroelectric Project would cause the Authority to act in violation of its Charter or be inconsistent with its bond indentures.

The Commission shall accept the surrender of such license and establish conditions applicable to such license surrender which require the removal of hydroelectric power generation facilities, require that the licensee provide assurances satisfactory to the Commission that, following surrender of the license, the Brasfield Dam will be subject to State laws regarding fish and wildlife and dam safety and require that such surrender will not impose any duty, liability or obligation on the part of any department, agency, or instrumentality of the United States. Nothing in this section shall affect the application of the River and Harbor Act of 1894 (33 U.S.C. Sec. 1).

(b) Projects Nos. 3033, 3034, and 3246.—(1) Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(A) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(B) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(C) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(2) The authorization for issuing extensions under this subsection shall terminate 3 years after the date of enactment of this section.

(3) To facilitate requests under this subsection, the Commission may consolidate the requests.

(c) Union City, Michigan.—Notwithstanding section 23(b) or section 4(e) of the Federal Power Act, it shall not be unlawful for the municipality of Union City, Michigan, to operate, maintain, repair, reconstruct, replace, or modify—

(1) any dam which, as of the date of the enactment of this Act, is owned and operated by Union City, Michigan, and located across a segment of the St. Joseph River, in Branch County, Michigan, approximately 5 miles downstream from such municipality, or

(2) any water conduit, reservoir, power house, and other works incidental to such dam.

No license shall be required under part 1 of the Federal Power Act for the dam, water conduit, reservoir, power house, or other project works referred to in the preceding sentence and, subject to compliance with State laws, permission is hereby granted for such facilities to the same extent as in the case of facilities for which permission is granted under the last sentence of section 23(b) of that Act.

SEC. 1076. SHORELINE PROTECTION.

The project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

Norton Point, authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4135), is modified to authorize the Secretary to construct the project at a total first cost of $69,200,000, based on the New York District Engineer's draft General Design Memorandum dated April 1991, with an estimated first Federal cost of $39,800,000 and an estimated non-Federal cost of $29,400,000, and an average annual cost of $580,000 for periodic nourishment over the life of the project, with an estimated annual Federal cost of $377,000 and an estimated annual non-Federal cost of $203,000. The Secretary shall proceed with the storm damage reduction measures as the first construction feature. The project is further modified to authorize the Secretary to relocate existing comfort and lifeguard stations at full Federal expense, provided such relocations are desired by the non-Federal sponsor. Operation and maintenance of the facilities after relocation will be a non-Federal responsibility. The cost of these relocations shall not be treated as a project cost for purposes of either economic evaluation or project cost-sharing of the project.

SEC. 1077. REVISION OF MANUAL.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the Manual of Uniform Traffic Control Devices and such other regulations and agreements of the Federal Highway Administration as may be necessary to authorize States and local governments, at their discretion, to install stop or yield signs at any rail-highway grade crossing without automatic traffic control devices with 2 or more trains operating across the rail-highway grade crossing per day.

SEC. 1078. DECLARATION OF NONNAVIGABILITY OF PORTION OF HUDSON RIVER, NEW YORK.

(a) DECLARATION OF NONNAVIGABILITY.—Subject to subsections (c), (d), and (e), the area described in subsection (b) is declared to be nonnavigable waters of the United States.

(b) AREA SUBJECT TO DECLARATION.—The area described in this subsection is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York):

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918.003 west 9806.753.

Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44'-20" east, having a radius of 390.00 feet and a central angle of 22°-05'-50", 150.41 feet to a point of tangency.

Thence north 71°-38'-30" east, 42.70 feet.

Thence south 11°-05'-40" east, 33.46 feet.

Thence south 78°-54'-20" west, 0.50 feet.

Thence south 11°-05'-40" east, 2.50 feet.

Thence north 78°-54'-20" east, 0.50 feet.

Thence south 11°05'40" east, 42.40 feet to a point of curvature.

Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 16°37'40", 63.85 feet to a point of compound curvature.

Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°39'00", 101.19 feet to another point of compound curvature.

Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°32'03", 97.69 feet to a point of curve intersection.

Thence south 13°16'57" east, 50.86 feet to a point of curve intersection.

Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°16'57" west, having a radius of 6.00 feet and a central angle of 180°32'31", 18.91 feet to a point of curve intersection.

Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°37'11" east, having a radius of 313.40 feet and a central angle of 4°55'26", 26.93 feet to a point of curve intersection.

Thence south 70°41'45" west, 36.60 feet.

Thence north 13°45'00" west, 42.87 feet.

Thence south 76°15'00" west, 15.00 feet.

Thence south 13°45'00" east, 44.33 feet.

Thence south 70°41'45" west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936.

Thence north 63°08'48" west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein.

Thence north 61°08'00" west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet.

The following three courses being along the lines of George Soilan Park as shown on map prepared by The City of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B. P. C. Development Corp.

Thence north 77°35'20" east, 231.35 feet.

Thence north 12°24'40" west, 33.92 feet.

Thence north 54°49'00" east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941.

Thence north 12°24'40" west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.26 feet to the point or place of beginning.

(c) DETERMINATION OF PUBLIC INTEREST.—The declaration made in subsection (a) shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable discretion, finds that the proposed project is not in the public interest—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project; and

(2) after consultation with local and regional public officials (including local and regional public planning organizations).

(d) LIMITATION ON APPLICABILITY OF DECLARATION.—

(1) AFFECTED AREA.—The declaration made in subsection (a) shall apply only to those portions of the area described in subsection (b) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) APPLICATION OF OTHER LAWS.—Notwithstanding subsection (a), all activities conducted in the area described in subsection (b) are subject to all Federal laws which apply to such activities, including—

(A) sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401, 403), commonly known as the River and Harbors Appropriation Act of 1899;

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1254); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) EXPIRATION DATE.—The declaration made in subsection (a) shall expire—

(1) on the date which is 6 years after the date of the enactment of this Act if work on the proposed project to be performed in the area described in subsection (b) is not commenced before such date; or

(2) on the date which is 20 years after the date of the enactment of this Act for any portion of the area described in subsection (b) which on such date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(f) PROPOSED PROJECT DEFINED.—For the purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (b), commonly referred to as Pier A; and

(2) the area surrounding such structure.

SEC. 1079. CLEVELAND HARBOR, OHIO.

(a) DEAUTHORIZATION OF PORTION OF PROJECT FOR HARBOR MODIFICATION.—That portion described in subsection (b) of the project for harbor modification, Cleveland Harbor, Ohio, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is not authorized after the date of the enactment of this Act.

(b) AREA SUBJECT TO DEAUTHORIZATION.—The portion of the project for harbor modification, Cleveland Harbor, Ohio, described in this subsection is that portion situated in the City of Cleveland, Cuyahoga County, and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue N.E. (70 ft. wide).

Thence South 50°06'52" West on the centerline of relocated Erieside Avenue N.E. a distance of 112.89 feet to a point.

Thence southwesterly continuing on the centerline of relocated Erieside Avenue N.E. along the arc of a curve to the left, with a radius of 300.00 feet and whose chord bears South 42°36'52" West 140.07 feet, an arc distance of 141.37 feet to a point.

Thence North 60°53'08" West a distance of 35.00 feet to a point on the northwesterly right-of-way line of relocated Erieside Avenue N.E.

Thence South 29°06'52" West on the northwesterly right-of-way line of relocated Erieside Avenue N.E. a distance of 44.36 feet to a point.

Thence North 33°53'08" West a distance of 158.35 feet to a point.

Thence South 56°06'52" West a distance of 76.00 feet to a point.

Thence North 78°53'08" West a distance of 18.39 feet to a point.

Thence North 33°53'08" West a distance of 33.50 feet to a point, said point being the true place of beginning of the parcel herein described.

Thence South 56°06'52" West a distance of 84.85 feet to a point.

Thence North 33°53'08" West a distance of 137.28 feet to a point.

Thence North 11°06'52" East a distance of 225.00 feet to a point.

Thence South 78°53'08" East a distance of 160.00 feet to a point.

Thence South 11°06'52" West a distance of 46.16 feet to a point.

Thence South 56°06'52" West a distance of 28.28 feet to a point.

Thence South 11°06'52" West a distance of 89.70 feet to a point.

Thence South 33°53'08" East a distance of 28.28 feet to a point.

Thence South 11°06'52" West a distance of 83.29 feet to a point.

Thence South 56°06'52" West a distance of 4.14 feet to a true place of beginning containing 42,646 square feet more or less.

(c) REIMBURSEMENT NOT REQUIRED.—The Ohio Department of Natural Resources shall not be required to reimburse the Federal Government any portion of the credit received by the non-Federal project sponsor as provided for in Public Law 100–202 (101 Stat. 1329–108).

(d) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary of the Army finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Cleveland Harbor, Ohio, described below, are not in the public interest then, subject to subsections (e) and (f) of this section, those portions of such Harbor, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the City of Cleveland, Cuyahoga County and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue, N.E., (70 feet wide) at Cleveland Regional Geodetic Survey Grid System, (CRGS) coordinates N92,679.734, E86,085.955;

Thence South 56°06'52" West on the centerline of relocated Erieside Avenue, N.E., a distance of 89.50 feet to a drill hole set;

Thence North 33°53'08" West a distance of 35.00 feet to a drill hole set on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., said point being the true place of beginning of the parcel herein described;

Thence South 56°06'52" West on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 23.39 feet to a ⅝ inch re-bar set;

Thence southwesterly on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., along the arc of a curve to the left with a radius of 335.00 feet, and whose chord bears South 42°36'52" West 156.41 feet, an arc distance of 157.87 feet to a ⅝ inch re-bar set;

Thence South 29°06'52" West on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 119.39 feet to a ⅝ inch re-bar set;

Thence southwesterly on the northwesterly right-of-way of relocated Erieside Avenue, N.E., along the arc of a curve to the right with a radius of 665.00 feet, and whose chord bears South 32°22'08" West 75.50 feet, an arc distance of 75.54 feet to a ⅝ inch re-bar set;

Thence North 33°53'08" West a distance of 279.31 feet to a drill hole set;

Thence South 56°06'52" West a distance of 37.89 feet to a drill hole set;

Thence North 33°53'08" West a distance of 127.28 feet to a point;

Thence North 11°06'52" East a distance of 225.00 feet to a point;

Thence South 78°53'08" East a distance of 150.00 feet to a drill hole set;

Thence North 11°06'52" East a distance of 32.99 feet to a drill hole set;

Thence North 33°53'08" East a distance of 46.96 feet to a drill hole set;

Thence North 56°06'52" East a distance of 140.36 feet to a drill hole set on the southwesterly right-of-way line of East 9th Street;

Thence South 33°53'08" East on the southwesterly right-of-way line of East 9th Street a distance of 368.79 feet to a drill hole set;

Thence southwesterly along the arc of a curve to the right with a radius of 40.00 feet, and whose chord bears South 11°06'52" West 56.57 feet, an arc distance of 62.83 feet to the true place of beginning containing 174,764 square feet (4.012 acres) more or less.

(e) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (d) shall apply only to those parts of the areas described in subsection (d) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(f) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (d) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (e) of this section, or if work in connection with any activity permitted in subsection (e) is not commenced within 5 years after issuance of such permit, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 1080. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

The following portion of the project for navigation, Canaveral Harbor, Florida, authorized by the River and Harbor Act of 1945, as modified by the River and Harbor Act of 1962 (Pub. L. 87-874), shall not be authorized after the date of the enactment of this Act:

Begin at the northwesterly corner of the west turning basin, Federal navigation project, Canaveral Harbor, Brevard County, Florida, having a northing of 1,483,798.695 and an easting of 619,159.191 (Florida east zone, State plane transverse mercator standard conical projections) and being depicted on the Department of the Army, Jacksonville District, Corps of Engineers 'Construction Dredging 31 Foot Project', D.O. File No. 11–34, 465 sheet 35, dated October 1984; thence S. 0°18'51" E., along said westerly boundary, a distance of 1320.00 feet; thence N. 89°41'09" E., a distance of 1095.00 feet; thence N. 62°35'15" W., a distance of 551.30 feet; thence N. 56°56'18" E., a distance of 552.87 feet; thence S. 89°41'09" W., a distance of 1072.00 feet to the point of beginning (containing 21.43 acres, more or less).

SEC. 1081. INFRASTRUCTURE INVESTMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "Commission to Promote Investment in America's Infrastructure" (hereinafter in this section referred to as the "Commission").

(b) FUNCTION OF COMMISSION.—It shall be the function of the Commission to conduct a study on the feasibility and desirability of creating a type of infrastructure security to permit the investment of pension funds in funds used to design, plan, and construct infrastructure facilities in the United States. Such study may also include an examination of other methods of encouraging public and private investment in infrastructure facilities.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 7 members appointed as follows:

(A) 2 members appointed by the majority leader of the Senate.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 1 member appointed by the President.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall have appropriate backgrounds in finance, construction lending, actuarial disciplines, pensions, and infrastructure policy disciplines.

(3) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(d) PAY AND TRAVEL EXPENSES.—Members shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Commission in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(e) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairperson may—

(1) appoint and fix the pay of an executive director, a general counsel, and such additional staff as the Chairperson considers necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such staff members may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall transmit to the President and Congress a report containing its findings and recommendations.

(g) TERMINATION.—The Commission shall terminate on the 180th day following the date of the submission of its report under subsection (f).

SEC. 1082. DEAUTHORIZATION OF ACADEMY CREEK FEATURE OF THE BRUNSWICK HARBOR, GEORGIA, PROJECT.

The Academy Creek feature of the Brunswick Harbor, Georgia, project, authorized for construction by the River and Harbor Act of 1907 in accordance with House Document 407, 59th Congress, shall not be authorized after the date of the enactment of this Act.

SEC. 1083. NAMINGS.

(a) WILLIAM H. HARSHA BRIDGE.—The United States Route 68 bridge across the Ohio River between Aberdeen, Ohio, and Maysville, Kentucky, shall be known and designated as the "William H. Harsha Bridge".

(b) J. CLIFFORD NAUGLE BYPASS.—The highway bypass being constructed around the Borough of Ligonier in Westmoreland County, Pennsylvania, shall be known and designated as the "J. Clifford Naugle Bypass".

(c) LINDY CLAIBORNE BOGGS LOCK AND DAM.—

(1) DESIGNATION.—The lock and dam numbered 1 on the Red River Waterway in Louisiana shall be known and designated as the "Lindy Claiborne Boggs Lock and Dam".

(2) REFERENCE.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Lindy Boggs Lock and Dam".

(d) JOSEPH RALPH SASSER BOAT RAMP.—

(1) DESIGNATION.—The boat ramp constructed on the left bank of the Mississippi River at River Mile 752.5 at Shelby Forest in Shelby County, Tennessee, shall be known and designated as the "Joseph Ralph Sasser Boat Ramp".

(2) LEGAL REFERENCE.—A reference to any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Joseph Ralph Sasser Boat Ramp".

SEC. 1084. SIGNING OF UNITED STATES HIGHWAY 71.

The Arkansas State Highway and Transportation Department shall erect the signs along United States Highway 71 from the I–40 intersection to the Missouri-Arkansas State line which are required to be erected by the Arkansas State law designated as Act 6 of 1989.

SEC. 1085. CONTINUATION OF AUTHORIZATION FOR RHODE ISLAND NAVIGATION PROJECT.

(a) CONTINUATION OF AUTHORIZATION.—Notwithstanding section 1001(a) of the Water Re-

sources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary.

(b) TERMINATION DATE.—The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction, including planning and design, of the project.

SEC. 1086. PENSACOLA, FLORIDA.

(a) STUDY.—The Secretary shall conduct a study of the feasibility of constructing, in accordance with standards applicable to Interstate System highways, a 4-lane highway connecting Interstate Route 65 and Interstate Route 10 in the vicinity of Pensacola, Florida.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for the location of a corridor in which to construct the highway described in subsection (a).

SEC. 1087. INCLUSION OF CALHOUN COUNTY, MISSISSIPPI, IN APPALACHIA.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended in the fifth undesignated paragraph of such section by inserting "Calhoun," after "Benton,".

SEC. 1088. HANDICAPPED PARKING SYSTEM.

(a) STUDY.—The Secretary shall conduct a study of the progress being made by the States in adopting and implementing the uniform system for handicapped parking established in regulations issued by the Secretary pursuant to Public Law 100–641 (102 Stat. 3335).

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section.

SEC. 1089. FEASIBILITY OF INTERNATIONAL BORDER HIGHWAY INFRASTRUCTURE DISCRETIONARY PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of the advisability and feasibility of establishing an international border highway infrastructure discretionary program. The purpose of such a program would be to enable States and Federal agencies to construct, replace, and rehabilitate highway infrastructure facilities at international borders when such States, agencies, and the Secretary find that an international bridge or a reasonable segment of a major highway providing access to such a bridge (1) is important; (2) is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; (3) poses a safety hazard to highway users; (4) by its construction, replacement, or rehabilitation, would minimize disruptions, delays, and costs to users; or (5) by its construction, replacement, or rehabilitation, would provide more efficient routes for international trade and commerce.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with any recommendations to the Secretary.

SEC. 1090. METHODS TO REDUCE TRAFFIC CONGESTION DURING CONSTRUCTION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that many highway projects are carried out in a way which unnecessarily disrupts traffic flow during construction and that methods need to be adopted to eliminate or reduce these disruptions.

(b) STUDY.—The Secretary shall conduct a study on methods of enhancing traffic flow and minimizing traffic congestion during construction of Federal-aid highway projects and on costs associated with implementing such methods.

(c) CONSIDERATIONS.—In conducting the study under this section, the Secretary shall consider—

(1) the feasibility of carrying out construction of Federal-aid highway projects during off-peak periods and limiting closure of highway lanes on Federal-aid highways to portions of highways for which actual construction is in progress and for which safety concerns require closure; and

(2) the need for establishment and operation by each State of a toll-free telephone number to receive complaints and provide information regarding the status of construction on Federal-aid highways in the State.

(d) REPORT.—Not later than September 30, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with such recommendations as the Secretary considers appropriate.

SEC. 1091. STUDY OF VALUE ENGINEERING.

(a) STUDY.—The Secretary shall study the effectiveness and benefits of value engineering review programs applied to Federal-aid highway projects. Such study shall include an analysis of and the results of specialized techniques utilized in all facets of highway construction for the purpose of reduction of costs and improvement of the overall quality of Federal-aid highway projects.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to Congress on the results of the study under subsection (a), including recommendations on how value engineering could be utilized and improved in Federal-aid highway projects.

SEC. 1092. PILOT PROGRAM FOR UNIFORM AUDIT PROCEDURES.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program under which any contract or subcontract awarded in accordance with section 112(b)(2)(A) of title 23, United States Code, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal regulations. The pilot program under this section shall include participation of not more than 10 States.

(b) INDIRECT COST RATES.—In lieu of performing their own audits, the States participating in the pilot program shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or audited by an independent certified public accountant, if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, all the recipients of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or defacto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subsection shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subsection, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

(c) REPORT.—Each State participating in the pilot program shall report to the Secretary not later than 3 years after the date of enactment of this Act on the results of the program.

SEC. 1093. RENTAL RATES.

Within 1 year after the date of the enactment of this Act, the Comptroller General shall complete a study on equipment rental rates for use in reimbursing contractors for extra work on Federal-aid projects. Such study shall include an analysis of the reasonableness of currently accepted equipment rental costs, adequacy of adjustments for regional or climactic differences, adequacy of consideration of mobilization costs, loss of time and productivity attendant to short-term usage of equipment, and approvals of rental rate costs by the Federal Highway Administration.

SEC. 1094. STUDY ON STATE COMPLIANCE WITH REQUIREMENTS FOR REVOCATION AND SUSPENSION OF DRIVERS' LICENSES.

(a) STUDY.—The Secretary shall conduct a study of State efforts to comply with the provisions of section 333 of the Department of Transportation and Related Agencies Appropriation Acts, 1991, 1992, relating to revocation and suspension of drivers' licenses.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 1095. BROOKLYN COURTHOUSE.

The Administrator of the General Services Administration is authorized to enter into a lease with the United States Postal Service for space to house the Federal Courts and related Federal agencies in Brooklyn, New York. The Administrator is further authorized—

(1) to advance the amount provided in the fiscal year 1992 Treasury, Postal Service, and General Government Appropriation Act to the Postal Service to expedite the start of construction; and

(2) to transfer the present Emanuel Celler Federal Building and Courthouse in Brooklyn to the Postal Service.

SEC. 1096. BORDER STATION INTERNATIONAL FALLS, MINNESOTA.

The Administrator of the General Services Administration is authorized to provide for the construction of a 9,000 occupiable square foot border station at International Falls, Minnesota, at a total estimated cost of $2,480,000, in accordance with an amended prospectus submitted by the General Services Administration to the Senate Committee on Environment and Public Works on June 19, 1991.

SEC. 1097. MILLER HIGHWAY.

The Secretary shall deem the independent proposals to construct a new highway facility in the Route 9A corridor between the Battery and 59th Street, and to relocate the existing Miller Highway facility, between 59th Street and 72nd Street, on the west side of Manhattan, New York, New York, to be separate and distinct projects for the purposes of compliance with any applicable Federal laws.

SEC. 1098. ALLOCATION FORMULA STUDY.

(a) The General Accounting Office in conjunction with the Bureau of Transportation Statistics created pursuant to title VI of this Act, shall conduct a thorough study and recommend to the Congress within 2 years after the date of the enactment of this Act a fair and equitable apportionment formula for the allocation of Federal-aid highway funds that best directs highway funds to the places of greatest need for highway maintenance and enhancement based on the extent of these highway systems, their present use, and increases in their use.

(b) The results of this study shall be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994, and shall be considered by these committees as they reauthorize the surface transportation program in 1996.

SEC. 1099. ESTABLISHMENT OF INTERSTATE STUDY COMMISSION.

For the National Capital Region, comprised of the Washington, D.C., Metropolitan Statistical Area, a commission is established to recommend new mechanisms, authority, and/or agreements to fund, develop, and manage the transportation system of the National Capital Region, and primarily focusing on interstate highway and bridge systems. The commission shall develop its recommendations consistent with the transportation planning requirements for metropolitan areas as contained elsewhere in this bill. The study commission shall report to the Congress, the Department of Transportation, the Governors of Maryland and Virginia, the Mayor of the District of Columbia, and the National Capital Region Transportation Planning Board, the designated Metropolitan Planning Organization (MPO) for the Washington metropolitan area, no later than 12 months from the date of passage of this legislation. Representatives on the commission shall include a Member of Congress from each of Maryland, Virginia, and the District of Columbia; the Governors of Maryland and Virginia and the Mayor of the District of Columbia; 1 local elected official from each State and the District of Columbia appointed by the National Capital Region Transportation Planning Board; 3 private sector representatives appointed by the Governors and the Mayor; and the commission chairman to be appointed by the Secretary of Transportation. There is authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary for the commission to carry out its functions.

SEC. 1100. EFFECTIVE DATE; APPLICABILITY; CERTAIN UNOBLIGATED BALANCES.

(a) GENERAL RULE.—This title, including the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY.—The amendments made by this title shall apply to funds authorized to be appropriated or made available after September 30, 1991, and, except as otherwise provided in subsection (c), shall not apply to funds appropriated or made available on or before September 30, 1991.

(c) UNOBLIGATED BALANCES.—

(1) IN GENERAL.—Unobligated balances of funds apportioned to a State under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), and 104(b)(6) of title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991.

(2) TRANSFERABILITY.—

(A) PRIMARY SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid primary system before October 1, 1991, to the apportionment to such State under section 104(b)(1) or 104(b)(3) of title 23, United States Code, or both.

(B) SECONDARY AND URBAN SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid secondary system or the Federal-aid urban system before October 1, 1991, to the apportionment to such State under section 104(b)(3) of such title.

(C) APPLICABILITY OF CERTAIN LAWS, REGULATIONS, POLICIES, AND PROCEDURES.—Funds transferred under this paragraph shall be subject to the laws, regulations, policies, and procedures relating to the apportionment to which they are transferred.

SEC. 1101-1102. STUDY ON IMPACT OF CLIMATIC CONDITIONS.

(a) STUDY.—The Secretary shall conduct a study of the effects of climatic conditions on the costs of highway construction and maintenance. The study shall take into account such climatic conditions as freezing, thawing, and precipitation and the impact of climatic conditions on increased highway design costs and decreased highway service life in the various regions of the United States.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with such recommendations as the Secretary considers appropriate. The report shall include a description of the implications of the differing costs on the allocation of highway funds to the States.

SEC. 1103. HIGH COST BRIDGE PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide funds to accelerate construction of high cost bridge projects.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the high cost of bridge projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	*High cost bridges*	*Amount in millions*
1.	*Delaware, Oklahoma*	*Construction of a replacement bridge on U.S. Rt. 59 over Grand Lake in Delaware, Oklahoma*	*9.7*
2.	*Eugene, Oregon*	*Construction of the Ferry Street Bridge*	*23.7*
3.	*Beaver County, Pennsylvania*	*Construction of Aliquippa Ambridge Bridge of Beaver County, Pennsylvania*	*25.0*
4.	*Arkansas*	*For an expanded study of environmental impact and geo technical information for Arkansas-Mississippi Great River Bridge*	*0.8*
5.	*Gloucester Point, Virginia*	*Provide for additional crossing capacity of the York River*	*11.8*
6.	*San Francisco, California*	*For preliminary work associated with the seismic upgrading of the Golden Gate Bridge in San Francisco, California*	*5.9*
7.	*Cape May & Atlantic Counties, New Jersey*	*Replace critically important bridge between Ocean City and Longport, New Jersey*	*18.4*
8.	*Ohio*	*Conduct environmental and feasibility studies for the construction of a bridge or tunnel across the Maumee River in the vicinity of an existing left span bridge*	*1.0*
9.	*Maine*	*Donald B. Carter Memorial Bridge*	*32.1*
10.	*Shakopee, Minnesota*	*Bloomington Ferry Bridge replacement, Shakopee, Minnesota*	*22.0*
11.	*Charleston, South Carolina*	*Highway 17 Bridge replacement projects: Cooper River, Charleston, South Carolina*	*14.2*
12.	*Ft. Lauderdale, Florida*	*17th Street Causeway Tunnel/Bridge replacement, Ft. Lauderdale, Florida*	*13.6*
13.	*Maryland*	*Woodrow Wilson Bridge rehabilitation*	*29.6*
14.	*New York*	*Macomb Dam Bridge, Manhattan Bridge Rehabilitation Project, Queensboro Bridge—Rehabilitation of Main Span, Williamsburg Bridge Rehabilitation Project, Brooklyn Bridge Rehabilitation*	*74.0*
15.	*Miami, Florida*	*Complete construction of Dodge Island Bridge*	*3.4*

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1104. CONGESTION RELIEF PROJECTS.

(a) PURPOSE.—The purpose of this section is to improve methods of congestion relief.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the congestion relief projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal

years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Congestion relief	Amount in millions
1.	Long Beach, California	Construction of HOV Lanes on I–710	7.4
2.	Philadelphia, Pennsylvania	Project to Construct Bridge-Pratt Terminal as part of an I–95 reconstruction mitigation project	34.5
3.	Davidson-Williamson County, Tennessee	Study and construction of the Davidson-Williamson Bike Path	1.0
4.	East St. Louis, Illinois to St. Louis, Missouri	To conduct a study to determine the feasibility of a bridge between East St. Louis, Illinois and St. Louis, Missouri	1.4
5.	St. Louis, Missouri	Relocation of Lindbergh Boulevard and Interstate 70 at St. Louis Lambert Airport	14.8
6.	District of Columbia	Primary Intermodal System, Washington, D.C.	6.8
7.	Buffalo, New York	Construction of Peace Bridge truck inspection facility	19.5
8.	Nashua, New Hampshire	Nashua River Bridge, Nashua, New Hampshire—Construction of second bridge	1.2
9.	Las Vegas, Nevada	Reconstruct and upgrade I–15/U.S. 95 (Spaghetti Bowl)	45.0
10.	San Diego, California	Construct 1 block of Cut and Cover Tunnel on Rt. 15 in downtown San Diego, California	5.0
11.	Los Angeles, California	To extend I–110 North from its current terminus at I–10 into downtown Los Angeles via Central City West Area in Los Angeles, California	10.1
12.	North Dakota	Design and construct 7.5 mile bypass around Lincoln State Park	1.1
13.	Babylon, New York	Construct turning lanes, sign upgrades, traffic signal interconnections and road repair and resurfacing	2.1
14.	Dixon, California	To improve 3 grade crossings in Dixon, California	1.8
15.	Fairfield, California	To construct 2 park & ride facilities, an information center and transfer hub for I–80 express and local bus service	7.7
16.	St. Louis, Missouri	Feasibility study for interchange improvements for I–255 at Rt. 231, St. Louis, Missouri	0.1
17.	Murfreesbro, Tennessee	Conduct a feasibility study of constructing a bicycle system as an alternative form of commuter transportation, air pollution reduction, and enhance recreation	0.4
18.	Long Island, New York	To make improvements on the Van Wyck Expressway to improve traffic flow, Long Island, New York	3.6
19.	Fox River Valley, Illinois	Study, plan and construct up to 8 bridges across the Fox River	8.3
20.	Prince George's County, Maryland	To rehabilitate the Baltimore-Washington Parkway in Prince George's County, Maryland	16.3
21.	Toledo, Ohio	Conduct study of possible safety and traffic delay improvement benefits in 6 corridors	0.24
22.	Boston, Massachusetts	To plan and construct a bicycle and pedestrian path connecting Arlington, Cambridge and Boston, Massachusetts	1.2
23.	Tucson, Arizona	To make interchange improvements at Oracle and Orange Grove Roads in Tucson, Arizona	3.9
24.	Victorville, California	Construct interchange 1 mile north of Palmdale Road on I–15	2.7
25.	Palm Beach, Florida	Acquire right-of-way and construct and widen to 4 lanes 19 mile segment of U.S. 27	5.5
26.	Pennsylvania	Improve River Street, Towanda Borough and North Towanda Township to form highway bypass	8.8
27.	Maine	Topsham-Brunswick Bypass	10.5
28.	Rankin County, Mississippi	East-Metro Center Access Road	4.6
29.	Kansas	West Leavenworth Trafficway Project, Leavenworth, Kansas	8.6
30.	Broward County, Florida	Hallandale Bridge Project, Broward County, Florida	8.5
31.	Idaho	Any of the Federal-aid projects eligible for funding under title 23, United States Code, located in Bannock or Caribou County, shall be eligible for funding	10.1
32.	Michigan	I–75/M57 Interchange improvement in the vicinity of Vienna Township, Michigan	8.9
33.	Prince William County, Virginia	I–95 HOV lane extension	13.5
34.	St. Thomas, Virgin Islands	Construction of Raphune Hill Bypass, St. Thomas, Virgin Islands	18.4
35.	Merrillville, Indiana	Construction of four lane road and overpass	1.8
36.	Milwaukee and Waukesha Counties, Wisconsin	I–794 Bicycle Transportation Project in Milwaukee and Waukesha Counties, Wisconsin	1.5
37.	Richmond, California	I–80 Richmond Parkway Interchange	1.8
38.	New York, New York	Construction of Williamsburg to Holland Tunnel Bypass	3.6
39.	Louisville, Kentucky	Waterfront Development Roadway Improvements	4.7
40.	Sunnyvale, California	HOV lane improvements on Lawrence Expressway	10.1
41.	Ohio	Construction of a bicycle/pedestrian facility from Greene County, Ohio, to Dayton, Ohio	3.0
42.	Jefferson County and Berkeley County, West Virginia	Improvements of State Highway 9 from Martinsburg, West Virginia to Virginia State line	110.0
43.	West Virginia	Construction of the Coal Fields Expressway from Beckley, West Virginia to Virginia State line	50.0
44.	Maine	Improvements to the Carlton Bridge in Bath-Woolwich	10.0

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1106. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) the construction of the Interstate Highway System connected the major population centers of the Nation and greatly enhanced economic growth in the United States;

(2) many regions of the Nation are not now adequately served by the Interstate System or comparable highways and require further highway development in order to serve the travel and economic development needs of the region; and

(3) the development of transportation corridors is the most efficient and effective way of integrating regions and improving efficiency and safety of commerce and travel and further promoting economic development.

(b) PURPOSE.—It is the purpose of this section to identify highway corridors of national significance; to include those corridors on the National Highway System; to allow the Secretary, in cooperation with the States, to prepare long-range plans and feasibility studies for these corridors; to allow the States to give priority to funding the construction of these corridors; and to provide increased funding for segments of these corridors that have been identified for construction.

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) North-South Corridor from Kansas City, Missouri, to Shreveport, Louisiana.

(2) Avenue of the Saints Corridor from St. Louis, Missouri, to St. Paul, Minnesota.

(3) East-West Transamerica Corridor.

(4) Hoosier Heartland Industrial Corridor from Lafayette, Indiana, to Toledo, Ohio.

(5) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, and Detroit, Michigan.

(6) United States Route 80 Corridor from Meridian, Mississippi, to Savannah, Georgia.

(7) East-West Corridor from Memphis, Tennessee, through Huntsville, Alabama, to Atlanta, Georgia, and Chattanooga, Tennessee.

(8) Highway 412 East-West Corridor from Tulsa, Oklahoma, through Arkansas along United States Route 62/63/65 to Nashville, Tennessee.

(9) United States Route 220 and the Appalachian Thruway Corridor from Business 220 in Bedford, Pennsylvania, to the vicinity of Corning, New York.

(10) Appalachian Regional Corridor X.

(11) Appalachian Regional Corridor V.

(12) United States Route 25E Corridor from Corbin, Kentucky, to Morristown, Tennessee, via Cumberland Gap, to include that portion of Route 58 in Virginia which lies within the Cumberland Gap Historical Park.

(13) Raleigh-Norfolk Corridor, Raleigh, North Carolina, to Norfolk, Virginia.

(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota.

(15) Urban Highway Corridor along M–59 in Michigan.

(16) Economic Lifeline Corridor along I–15 and I–40 in California, Arizona, and Nevada.

(17) Route 29 Corridor from Greensboro, North Carolina, to the District of Columbia.

(18) Corridor from Indianapolis, Indiana, to Memphis, Tennessee, via Evansville, Indiana.

(19) United States Route 395 Corridor from the United States-Canadian border to Reno, Nevada.

(20) United States Route 59 Corridor from Laredo, Texas, through Houston, Texas, to the vicinity of Texarkana, Texas.

(21) United States Route 219 Corridor from Buffalo, New York, to the intersection of United States Route 17 in the vicinity of Salamanca, New York.

(d) INCLUSION ON NHS.—The Secretary shall include all corridors identified in subsection (c) on the proposed National Highway System submitted to Congress under section 103(b)(3) of title 23, United States Code.

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) LONG-RANGE PLAN.—The Secretary, in cooperation with the affected State or States, may prepare a long-range plan for the upgrading of each corridor to the appropriate standard for highways on the National Highway System. Each such plan may include a plan for developing the corridor and a plan for financing the development.

(2) FEASIBILITY STUDIES.—The Secretary, in cooperation with the affected State or States, may prepare feasibility and design studies, as necessary, for those corridors for which such studies have not been prepared. A feasibility study may be conducted under this subsection with respect to the corridor described in subsection (c)(2), relating to Avenue of the Saints, to determine the feasibility of an adjunct to the Avenue of the Saints serving the southern St. Louis metropolitan area and connecting with I–55 in the vicinity of Route A in Jefferson County, Missouri.

(3) CERTIFICATION ACCEPTANCE.—The Secretary may discharge any of his responsibilities under title 23, United States Code, relative to projects on a corridor identified under subsection (c), upon the request of a State, by accepting a certification by the State in accordance with section 117 of such title.

(4) ACCELERATION OF PROJECTS.—To the maximum extent feasible, the Secretary may use procedures for acceleration of projects in carrying out projects on corridors identified in subsection (c).

(f) HIGH PRIORITY SEGMENTS.—Highway segments of the corridors referred to in subsection (c) which are described in this subsection are high priority segments eligible for assistance under this section. Subject to subsection (g)(2), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out a project on each such segment the amount listed for each such segment:

	City/State	High priority corridors	Amount in millions
1.	Pennsylvania	For upgrading U.S. 220 High Priority and the Appalachian Thruway Corridor between State College and I–80	50.7
2.	Alabama, Georgia, Mississippi, Tennessee	Upgrading of the East-West Corridor along Rt. 72	25.4
3.	Missouri	Improvement of North-South Corridor along Highway 71, Southwestern, MO	3.6
4.	Arkansas	For construction of highway 412 from Siloam Springs to Springdale, Arkansas as part of Highway 412 East-West Corridor	34.0
5.	Arkansas	For construction of Highway 412 from Harrison to Springdale, Arkansas as part of the Highway 412 East-West Corridor	56.0
6.	Pennsylvania	To improve U.S. 220 to a 4-lane limited access highway from Bald Eagle northward to the intersection of U.S. 220 and U.S. 322	148.0

	City/State	High priority corridors	Amount in millions
7.	S. Dakota/Nebraska	Conduct a feasibility study of expressway from Rapid City, S. Dakota to Scotts Bluff, Nebraska	0.64
8.	Alabama	Construction of Appalachian Highway Corridor X from Corridor V near Fulton, Mississippi to U.S. 31 at Birmingham, Alabama as part of Appalachian Highway X Corridor Project	59.2
9.	Alabama	For construction of a portion of Appalachian Development Corridor V from Mississippi State Line near Red Bay, Alabama to the Tennessee State Line north of Bridgeport, Alabama	25.4
10.	West Virginia	Construction of Shawnee Project from 3-Corner Junction to I–77 as part of I–73/74 Corridor project	4.5
11.	West Virginia	Widening U.S. Rt. 52 from Huntington to Williamson, W. Virginia as part of the I–73/74 Corridor project	100.0
12.	West Virginia	Replacement of U.S. Rt. 52 from Williamson, W. Virginia to I–77 as part of the I–73/74 Corridor project	14.0
13.	North Carolina/Virginia	For Upgrading I–64 and Route 17 Virginia and constructing a new highway from Rocky Mount to Elizabeth City, North Carolina as part of the Raleigh-Norfolk High Priority Corridor Improvements	17.8
14.	Arkansas	Construction of Highway 71 between Fayetteville and Alma, Arkansas as part of the North-South High Priority Corridor	100.0
15.	Arkansas/Texas	For construction of Highway 71 from Alma, Arkansas to Louisiana border	70.0
16.	Michigan	To widen a 60 mile portion of highway M–59 from MacComb County to I–96 in Howell County, Michigan	29.6
17.	South Dakota, Colorado, Nebraska	To improve the Heartland Expressway from Rapid City, South Dakota to Scotts Bluff, Nebraska	29.6
18.	Indiana	To construct a 4-Lane highway from Lafayette to Ft. Wayne, Indiana, following existing Indiana 25 and U.S. 24	9.5
19.	Ohio/Indiana	Conduct feasibility and economic study to widen Rt. 24 from Ft. Wayne, Indiana to Toledo, Ohio as part of the Lafayette to Toledo Corridor	0.32
20.	California, Nevada, Arizona	For improvements on I–15 and I–40 in California, Nevada and Arizona ($10,500,000 of which shall be expended on the Nevada portion of the corridor, including the I–15/U.S. 95 interchange)	59.2
21.	Louisiana	To improve the North-South Corridor from Louisiana border to Shreveport, Louisiana	29.6
22.	Missouri, Iowa, Minnesota	For improvements for Avenue of the Saints from St. Paul, Minnesota to St. Louis, Missouri	118.0
24.	Various States	I–66 Transamerica Highway Feasibility study	1.0
25.	Kentucky, Tennessee, Virginia	To improve Cumberland Gap Tunnel and for various associated improvements as part of U.S. 25E Corridor, except that the allocation percentages under section 1105(g)(2) of this section shall not apply to this project after fiscal year 1992	72.4
26.	Indiana, Kentucky, Tennessee	To improve the Bloomington, Indiana, to Newberry, Indiana, segment of the Indianapolis, Indiana, to Memphis, Tennessee, high priority corridor	23.7
27.	Washington	For improvements on the Washington State portion of the U.S. 395 corridor from the U.S.-Canadian border to Reno, Nevada	54.5
28.	Virginia	Construction of a bypass of Danville, Virginia, on Route 29 Corridor	17.0
29.	Arkansas	Highway 412 from Harrison to Mt. Home	20.0
30.	New York	Improvements on Route 219 between Springville to Ellicottville in New York State	9.5

(g) PROVISIONS RELATING TO HIGH PRIORITY SEGMENTS.—

(1) DETAILED PLANS.—Each State in which a priority segment identified under subsection (f) is located may prepare a detailed plan for completion of construction of such segment and for financing such construction.

(2) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (f) for each high priority segment authorized by subsection (f) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(3) FEDERAL SHARE.—The Federal share payable on account of any project under subsection (f) shall be 80 percent of the cost thereof.

(4) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary may delegate responsibility for construction of a project or projects under subsection (f) to the State in which such project or projects are located upon request of such State.

(5) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(6) APPLICABILITY OF TITLE 23.—Funds authorized by subsection (f) and subsection (h) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under subsection (f) shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by subsection (f) shall not be subject to any obligation limitation.

(7) STATE PRIORITY FOR HIGH PRIORITY SEGMENTS.—Section 105 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following new subsection:

"(k) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a program of

projects under this section, the State may give priority to high priority segments of corridors identified under section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991. In approving programs of projects under this section, the Secretary may give priority of approval to, and expedite construction of, projects to complete construction of such segments.".

(8) SPECIAL RULE.—Amounts allocated by subsection (f) to the State of California for improvements on I–15 and I–40 shall not be subject to any State or local law relating to apportionment of funds available for the construction or improvement of highways.

(h) AUTHORIZATION FOR FEASIBILITY STUDIES.—There is authorized to be appropriated to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) $8,000,000 per fiscal year for each of the fiscal years 1992 through 1997 to carry out feasibility and design studies under subsection (e)(2).

(i) REVOLVING LOAN FUND.—

(1) ESTABLISHMENT.—The Secretary may establish a Priority Corridor Revolving Loan Fund.

(2) ADVANCES.—The Secretary shall make available as repayable advances amounts from the Revolving Loan Fund to States for planning and construction of corridors listed in subsection (c). In making such amounts available, the Secretary shall give priority to segments identified in subsection (f).

(3) REPAYMENT OF ADVANCES.—The amount of an advance to a State in a fiscal year under paragraph (2) may not exceed the amount of a State's estimated apportionments for the National Highway System for the 2 succeeding fiscal years. Advances shall be repaid (A) by reducing the State's National Highway System apportionment in each of the succeeding 3 fiscal years by ⅓ of the amount of the advance, or (B) by direct repayment. Repayments shall be credited to the Priority Corridor Revolving Loan Fund.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, out of the Highway Trust Fund (other than the Mass Transit Account), $40,000,000 per fiscal year for each of fiscal years 1993 through 1997 to carry out this subsection.

SEC. 1106. RURAL AND URBAN ACCESS PROJECTS.

(a) RURAL ACCESS PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to provide funds for projects that ensure better rural access and that promote economic development in rural areas.

(2) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out rural access projects described in this paragraph. Subject to paragraph (3), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Rural access	Amount in millions
1.	Cadiz, Ohio	Improvements of Short Creek Highway from Cadiz, Ohio to Rayland, Ohio	2.5
2.	Boger City, North Carolina	Construction of 4-lane divided highway along Highway 321 to Boger City, NC to NC 127 South	14.2
3.	Utica, New York	Improvement of the Utica North/South Arterial	9.9
4.	Oneida County, New York	Upgrade a highway to 4 lanes in Oneida County, New York	8.0
5.	Southern, Oklahoma	Widening of U.S. 70	0.24
6.	Southern, Oklahoma	Construction of a bridge and approaches at Pennington Creek, OK	1.0
7.	Johnsonburg, Pennsylvania	Relocation of a 2-lane highway from Center Street to PA Rt. 255 along U.S. 219, Johnsonburg Bypass	14.0
8.	Pennsylvania	Construction of truck driving lanes and safety improvements on U.S. 219 between I–80 and the NY State Line	26.0
9.	East St. Louis, Illinois	Feasibility study for 4-lane Access Road to Jefferson Memorial Park	0.24
10.	Illinois	To conduct an Environmental Impact Study & Design Study on a 58-mile stretch of U.S. 67 corridor from Alton, IL to Jacksonville, IL	2.5
11.	Venice, Illinois	For rehabilitation of McKinley Bridge near Venice, IL	5.9
12.	Decatur, Alabama	Project for replacement of Keller Memorial Bridge, Decatur, AL	12.7
13.	Lenoir City, Tennessee	Feasibility Study on Fort Loudon Dam Bridge on U.S. Highway 231 in Lenoir City, TN	0.5
14.	Blount City, Tennessee	Improvement of U.S. Highway #411 in Monroe and Blount Counties, TN	15.7
15.	Missouri	For improvements of Highway 60 in New Madrid, Stoddard, Carter and Butler Counties, MO	21.7
16.	Southern, Missouri	Improvement of Rt. 65 through Greene, Christian and Taney Counties, MO	14.1
17.	Lake Charles, Louisiana	Construction of roads and bridge to provide access to Rose Bluff Industrial Area, Lake Charles, LA	4.1
18.	Louisiana	For improvement and extension of Ambassador Caffery Parkway in Louisiana	14.9
19.	Ohio	Construction of U.S. Rt. 68 Bypass in Clark, Champaign and Logan Counties	15.8
20.	Aliquippa, Pennsylvania	For various 3-R Projects in Aliquippa, PA	12.8
21.	Riverton, Kansas	Construction of a new highway from Riverton, KS to Interstate 44 in Missouri	13.1
22.	North Minnesota	Construction and reconstruction of Forest Highway 11 connecting Aurora-Hoyt Lakes and Silver Bay, MN	9.5
23.	Richfield, Minnesota	77th Street Reconstruction Project, Richfield, MN	11.6
24.	Mississippi	Impovements on Highway 84 in Franklin and Lincoln Counties, MS	9.5
25.	Mississippi	Upgrading of U.S. Highway 98 from County line of Pike and Waltham Counties, MS to Lamar County, MS	0.4
26.	Mississippi	Upgrading Highway 61 from Natchez, MS to Louisiana State line	0.35
27.	Mississippi	Upgrading Highway 84 from Brookhaven, MS to U.S. 49 in Collins, MS	2.1
28.	Chattahouchee, Florida	Construction of Mosquito Creek Bridge	2.4
29.	Florida	To upgrade State Rt. 71 from State Rt. 10 to State Rt. 8	2.9
30.	Florida	To upgrade Florida State Rt. 267 from State Rt. 8 to State Rt. 10	4.7
31.	Illinois	Tollway feasibility study (East St. Louis to Carbondale, IL)	0.32
32.	Mt. Vernon, Illinois	Extension of 34th Street from IL Rt. 15 to County Road 10	0.96
33.	Illinois	Reconstruction of Feather Trail Road from Ullin Road Interchange to Rt. 37, Pulaski County, IL	1.1
34.	Illinois	Resurfacing IL Rt. 1 from Cave-In-Rock to north of Omaha	1.8
35.	Williamson County, Illinois	Upgrading IL Rt. 13 in Williamson County, IL	7.8

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	City/State	Rural access	Amount in millions
36.	Saline County, Illinois	For improvements to Rt. 13 from Williamson-Saline County line to Harrisburg, IL	4.0
37.	Winchester, New Hampshire	Replacement of Winchester Bridge, Winchester, NH	0.8
38.	Hanover, New Hampshire	Ledyard Bridge reconstruction	7.8
39.	Asheville, North Carolina	U.S. 19–23 improvement project, Asheville, NC	11.1
40.	Niles, Ohio	Belmont Street Bridge replacement, Niles, OH	1.2
41.	Struthers, Ohio	Bridge Street Bridge replacement, Struthers, OH	1.2
42.	Niles, Ohio	South Main Street Bridge replacement, Niles, OH	2.5
43.	St. Joseph County, Michigan	U.S. 131, St. Joseph County	0.5
44.	Berrien County, Michigan	U.S. 31 relocation, Berrien County, MI	17.4
45.	Holland, Michigan	U.S. 31 upgrade, Holland, Ottawa County, MI	1.3
46.	North Carolina	I–85 Interchange improvement at State Route 1103 Granville County, NC	1.7
47.	Manchester, New Hampshire	Manchester Airport Road improvements	4.0
48.	New Hampshire	Wetlands mitigation package for New Hampshire Rt. 101/51	10.0
49.	Arkansas	To improve U.S. 65 from Harrison, Arkansas to Missouri Line	38.0
50.	Arkansas	To improve Phoenix Avenue in the vicinity of the Ft. Smith Airport, Ft. Smith, Arkansas	7.9
51.	Arkansas	To study bypass alternatives for U.S. 71 in the vicinity of Bella Vista, Arkansas	3.0
52.	Bedford Springs, Pennsylvania	To construct an access road along Old U.S. 220 to the Springs Project and to construct other facilities to facilitate movement of traffic within the site and construction of a parking facility to be associated therewith	19.7
53.	DeValls Bluff, Arkansas	Construction of a replacement bridge across the White River	2.5
54.	Jonesboro, Arkansas	Complete construction of 3 interchanges on the Highway 63 Bypass at Jonesboro	5.7
55.	Brevard County, Florida	Design and engineer improvements for State Rd. 3 between State Rd. 520 and State Rd. 528	0.16
56.	Louisiana	For construction of a new road from an area in the vicinity of I–55 to Alexandria, Louisiana	1.7
57.	Beaumont, Texas	Widen Highway FM–364 from a 2-Lane to a 4-Lane road	10.4
58.	Farmington Hills, Michigan	To widen 12-mile road corridor in the vicinity of Farmington Hills, Michigan	2.5
59.	Laredo, Texas	Expand capacity of 2-lane highway, construct interchanges and connector highway	7.4
60.	Montewma, Colorado	Upgrade farm to market road serving Ute Indian Reservation	2.9
61.	Lubbock, Texas	Initiate feasibility and route studies and preliminary engineering and design for highway to connect Lubbock with Interstate 20	2.9
62.	Rosenberg, Texas	To purchase right-of-way for Highway 36 Bypass West of Rosenberg, Texas	0.9
63.	Angleton, Texas	For various activities associated with relocation of Highway 288 in vicinity of Angleton, Texas	0.9
64.	Mentor, Ohio	For construction of an interchange on State Rt. 615 at I–90 in Mentor, Ohio	4.7
65.	W. Central, Illinois	For widening of U.S. 34 between Burlington, Iowa and Monmouth, Illinois	1.9
66.	Illinois	To make improvements including construction of a bridge on U.S. 67 in NW Illinois	2.4
67.	Monongahela Valley, Pennsylvania	For construction of southernmost extension of the Monongahela Expressway	14.0
68.	Dauphin County, Pennsylvania	Design, acquire right-of-way and reconstruct 5.1 miles of 4-Lane divided highway from Dauphin Borough to Speeceville, Pennsylvania	12.0
69.	Rutherford County, Tennessee	Replace existing bridge over the west fork of the Stone's River including a 5 foot elevated walkway	0.8
70.	Wayne County, New York	To improve Rt. 104 from Furnace Road to Pound Road in the Wayne County Area of New York	6.4
71.	Chautauqua County, New York	Construct 2 additional expressway lanes from Chautauqua Lake Bridge to Pennsylvania Border	17.0
72.	North Carolina	To reimburse the State of North Carolina for construction and repair of the Bonner Bridge, North Carolina	3.0
73.	North Carolina	Construct interstate link between I–95 and I–40 in vicinity of Wilson and Goldsboro, North Carolina	8.9
74.	Bossier City, Louisiana	To study grade separations along 10 miles of KC Railroad along U.S. 71	0.16
75.	Pennsylvania	Widen 14 mile segment of U.S. 15 from 2 to 4 lanes	13.8
76.	Overland Park, Kansas	I–435 Interchange Project	4.1
77.	Fairmont, West Virginia	Riverside Expressway improvements	5.3
78.	Washington	State Rt. 14 Improvement Projects, Columbia River Gorge, Washington	8.6
79.	Pennsylvania	Pennsylvania Industrial Park access, Washington County, Pennsylvania	6.3
80.	Pennsylvania	Chadville Improvement Project, Southern Fayette County, Pennsylvania	2.4
81.	Pennsylvania	U.S. Rt. 219 Meyersdale Bypass	48.0
82.	Pennsylvania	U.S. Rt. 22 Improvements: Monroeville to Ebansburg	30.3
83.	Pennsylvania	Laurel Valley Expressway, Blairsville, Pennsylvania	5.0
84.	Brownsville, Texas	Brownsville Railroad Relocation Project	6.7
85.	South Carolina	Southern Connector Highway, Greenville County, South Carolina	3.6
86.	Ohio	Rt. 18 Bypass Study, Medina, Ohio	0.4
87.	Ohio	U.S. Rt. 250 Bypass Study, Norwalk, Ohio	0.4
88.	Mankato, Minnesota	Mankato South Rt. Improvements, Mankato, Minnesota	10.0

	City/State	Rural access	Amount in millions
89.	Kentucky	U.S. 119 Upgrading, Pike County, Kentucky	7.6
90.	Michigan	U.S. Rt. 127 Upgrading, Jackson County, Michigan	0.8
91.	Eden Prairie & Cologne, Minnesota	U.S. Trunk Highway 212 improvement project, Eden Prairie/Cologne, Minnesota	8.7
92.	Ohio	Rt. 30 extension: East Canton/Minerva, Ohio	5.3
93.	New Mexico	Raton-Clayton Rd., Clayton, New Mexico	9.3
94.	New Mexico	Jicarilla Apache State Road, New Mexico	1.5
95.	Arizona	Turquoise Trail Highway, Navajo County, Arizona	5.9
96.	Pennsylvania	U.S. Rt. 222 Relocation, Lehigh County, Pennsylvania	1.5
97.	Pennsylvania	Pennsylvania Rt. 33 Extension, Northhampton County, Pennsylvania	16.8
98.	Kentucky	Highway 92 Relocation Study, South Central Kentucky	0.1
99.	Kentucky	U.S. 27 Improvements, Jessamine County, Kentucky	9.2
100.	North Carolina	U–2519/X–2 Highways, Cumberland, North Carolina	15.9
101.	Missouri	Adams Dairy Parkway Project, Blue Springs, Missouri	1.5
102.	Lawrence, Kansas	Lawrence Circumferential Roadway, Douglas County, Kansas	3.3
103.	Kansas	Oakland Expressway, Eastern Shawnee, Kansas	5.9
104.	Missouri	Highway 63 improvements, Columbia, Missouri/Iowa border	5.9
105.	West Virginia	Highway Improvements: Mason County/Kanawha, West Virginia	19.5
106.	Pennsylvania	Warren Street Extension/U.S. 222 Reconstruction, Berks County, Pennsylvania	6.6
107.	Illinois	For construction of the Alton Bypass from the vicinity of Alton and Godfrey, Illinois	4.4
108.	Iowa	Construct Mason City Bypass, Gerro Gordo County, Iowa	14.8
109.	Prince Edward County, Virginia	A highway improvement project one mile south of Farmville in Prince Edward County, Virginia, to increase from two lanes to four lanes approximately two miles of Route 460. Such project shall connect the existing four lanes of Route 460 approaching the segment from the east and the west. The Secretary of the Army, acting through the Chief of Engineers, is directed, upon request of officials representing Prince Edward County, Virginia, to allow the immediate filling of the Sandy River Reservoir in accordance with the terms and conditions of the permit, without further amendment or modification in any respect, issued by the Department of the Army relating to the reservoir, except that no contingency in such permit pertaining to water demand or use shall become effective or shall be enforced prior to seven years from date of completion of such highway project	4.4
110.	Port Lavaca to Cuero, Texas	Construct upgraded, improved four-lane divided highway	43.9
111.	Parker County, Texas (SH199)	Upgrade existing highway to four-lane divided highway	33.5
112.	Howell County, Missouri	Improve Highway 63	3.6
113.	Louisa, Louisiana	Louisa Bridge replacement, Louisa, Louisiana	9.5
114.	Travis County, Texas	Highway 620 bridge improvement	11.4
115.	Latrobe, Pennsylvania	Ligonier Street Reconstruction	0.8
116.	Carroltown/DuBois, Pennsylvania	U.S. 219 Improvements	4.0
117.	Robinson Township, Pennsylvania	Design Work in Town Center	5.0
118.	West Virginia	Chelyan Bridge Replacement	8.5

(3) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by paragraph (2) for each project authorized by paragraph (2) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(4) FEDERAL SHARE.—The Federal share payable on account of any project under this subsection shall be 80 percent of the cost thereof.

(5) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this subsection to the State in which such project or projects are located upon request of such State.

(6) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this subsection shall not be subject to any obligation limitation.

(b) URBAN ACCESS AND URBAN MOBILITY PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to provide funds for projects that enhance urban access and urban mobility.

(2) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out urban access and urban mobility projects described in this paragraph. Subject to paragraph (3), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Urban access & mobility	Amount in millions
1.	Santa Ana, California	Bristol Street Project	4.1
2.	Illinois/Missouri	Metro East/St. Louis, Missouri Bridge Feasibility Study	1.0
3.	Beaver/Butler Counties, Pennsylvania	Construction of Crow's Run Expressway from I–79 to PA Rt. 60, Beaver/Butler Counties, PA	3.5
4.	Atlanta, Georgia	Improvement of Martin Luther King Drive	0.8
5.	Chicago, Illinois	Handicapped Accessibility Projects on various Chicago Streets	2.4

	City/State	Urban access & mobility	Amount in millions
6.	Chicago, Illinois	Feasibility study for a road between existing Lake Shore Drive and Indiana Road	0.16
7.	San Jose, California	Improvement of Interchange at Highway 85/Highway 17	35.0
8.	Gilroy, California	For safety improvements on Highway 152 in vicinity of Gilroy, CA	5.9
9.	New York, New York	Improvements on Miller Highway in New York City, NY	15.6
10.	District of Columbia	Construction of missing segments of Eastern and Southern Avenues (Boundary Street Safety Initiative)	6.8
11.	Buffalo, New York	Scajaquada Expressway Classification study	0.24
12.	Buffalo, New York	NY State Thruway relocation study, Buffalo (Niagara), NY	0.24
13.	Joliet, Illinois	For rehabilitation of Houbolt Road from Jefferson Street to Joliet Jr. College and construction and interchange at Houbolt Road and I–80	1.0
14.	Chicago, Illinois	WPA street improvements bounded on the north by 103rd, the east by Stoney Island, the west by Ashland, and the south by the city limits	3.7
15.	Burnham, Illinois	To improve Dolton Avenue between Torrence Avenue and Indiana State Line, Burnham, IL	1.9
16.	Calumet Park, Illinois	Ashland Avenue Bridge replacement	2.1
17.	Harvey, Illinois	Illinois 1 Interchange improvement from U.S. 6 to I–80	2.5
18.	Markham, Illinois	Sibley Boulevard traffic flow improvement from Dixie Highway	3.5
19.	Chicago, Illinois	Illinois 1 intersection improvement, Harvey, IL (intersection at 155th Street)	1.4
20.	Youngstown, Ohio	Center Street Bridge replacement, Youngstown, OH, including Poland Avenue—Shirley Road connector and ramps at I-680	12.2
21.	Lake Porter and LaPort Counties, Indiana and Illinois	Study linkage roads to connect Lake Shore Drive and surrounding facilities	1.0
22.	Indiana	Acquisition of West Lake Corridor Right-of-Way between Munster, IN and Hammond , IN	1.0
23.	Portage, Indiana	Widen Willow Creek Road to 4 lanes	1.5
24.	Hobart, Lake Station and New Chicago, Indiana	Various improvements to Ridge Road to relieve congestion	4.3
25.	Passaic County, New Jersey	To complete construction of Rt. 21 in Passaic County, New Jersey	98.8
26.	Northeastern, New Jersey	To raise 14 bridges over Molly Ann's Brook Northeastern, New Jersey	9.5
27.	Chambersburg, Pennsylvania	To improve the Wayne Avenue—I–81 Interchange and to widen Wayne Avenue to 5 lanes from Kriner Road to Coldbrook Avenue in the vicinity of Chambersburg, Pennsylvania	1.84
28.	Newark, New Jersey	To construct ramps to provide access to I–78	7.2
29.	Newark, New Jersey	To construct a parking facility as part of a multi-modal transportation facility in the vicinity of United Hospitals Medical Center, Newark, New Jersey	4.9
30.	Lawrence, Massachusetts	Study, design, and construct new road service; road and ramps and widen I–495	4.7
31.	Baltimore, Maryland	To improve various roads as part of project "Project Vision" in Baltimore, Maryland	5.0
32.	Bellevue, Washington	Conduct Phase 1 design study for I–405 interchange at Northeast 8th Street	5.0
33.	Springfield, Illinois	To extend 11th Street from Stevenson Drive to Toronto Road in the vicinity of Springfield, Illinois	8.3
34.	Middlesex, New Jersey	Route 1 widening in Middlesex County, New Jersey from Raritan River to Rahway River	7.4
35.	Perth Amboy & Woodbridge Township, New Jersey	Study whether additional river crossings may be necessary based on condition of 3 existing crossings	2.5
36.	Compton, California	For a grade separation project at W. Alameda Street and the Mealy St. Corridor	6.6
37.	Parsippany, Troy Hills, New Jersey	Construct interchange and ramp improvements for east and west bound traffic on I–280	3.1
38.	Queens, New York	To rehabilitate 39th Street Bridge over rail tracks at the Sunnside Rail Yard in Queens, New York	10.4
39.	Omaha, Nebraska	For improvements to US Highway 6 (W. Dodge Road) from 86th Street to 118th including the intersection with I–680 in Omaha, Nebraska	5.2
40.	Suffolk County/Long Island, New York	Construct various roadway improvements on 7.1 miles of New York Rt. 112, including, resurfacing, widening, adding turning and parking lanes and improving traffic signals	3.4
41.	San Diego, California	To conduct environmental study on feasibility of constructing 4-lane highway from State Rt. 805 to International border near Otay Mesa	1.0
42.	Sarasota, Florida	To construct a bridge interchange at US 301 and University Parkway in the vicinity of Sarasota, Florida	2.4
43.	Hartford, Connecticut	To rehabilitate Connecticut Rt. 99 South of Hartford, Connecticut	5.0
44.	Hartford, Connecticut	For improved access to the Connecticut River as in I–91 Mitigation Project, Hartford, Connecticut	2.3
45.	Chattanooga, Tennessee	Construct an urban diamond interchange to improve capacity and a connector road	3.1
46.	Commerce, California	To relocate a portion of Atlantic Blvd. in the vicinity of Telegraph Rd. as part of a grade separation project	4.7
47.	Scranton, Pennsylvania	Realign 3,000 feet of N. Scranton Expressway to connect with Mulberry Street	7.2
48.	Long Island, New York	Southern State Parkway Improvement	4.6
49.	New York	Exit 26 Ridge Project Schenectady, New York	5.7
50.	Capital Beltway, Springfield, Virginia	Upgrade interchanges on I-495, including Virginia Mixing Bowl Improvements	7.5
51.	Utah	Expansion of State Rd. 5600 West	3.3
52.	Chicago, Illinois	Right-of-way preservation projects (Eisenhower & Stevenson Connector)	4.8
53.	Chicago, Illinois	Museum of Science & Industry: Various intermodal facilities, Chicago, Illinois	35.0
54.	Chicago, Illinois	Chicago Skyway Bridge, Chicago, Illinois	14.2
55.	Chicago, Illinois	Cermak Road Bridge reconstruction, Chicago, Illinois	9.2
56.	Chicago, Illinois	Roosevelt Rd. and Bridge Improvements, Chicago, Illinois	11.8
56A.	Chicago, Illinois	State Street Mall Improvements, Chicago, Illinois	14.2
57.	Chicago, Illinois	Cicero Avenue Improvements, vicinity of Chicago, Illinois	1.1
58.	Chicago, Illinois	183rd Street Reconstruction, Chicago, Illinois	1.5
59.	Chicago, Illinois	111th Street Reconstruction, Chicago, Illinois	2.5
60.	Chicago, Illinois	111th Street Upgrade: Cicero Avenue to Pulaski Road, Chicago, Illinois	2.5
61.	Chicago, Illinois	111th Street Widening; Central Avenue to Cicero Avenue, Chicago, Illinois	4.7
62.	Muncie, Indiana	State Rd. 67 Widening	10.0
63.	Columbus, Indiana	Columbus Entranceway project, Columbus, Indiana	3.3
64.	New Jersey	Rt. 17/4 Interchange Project, Paramus, New Jersey	5.7
65.	New Jersey	Hackensack Avenue/Kinderkamack Road Bridges over Rt. 4, Hackensack, New Jersey	5.7
66.	Los Angeles	Grade separation projects (3), Los Angeles County, California	7.1
67.	New York	Preservation of Rail Corridor (North Shore Rail Line), Staten Island	10.7
68.	Maryland	Improvement of U.S. Route 1 in Baltimore County, Maryland	11.8
69.	Camden, New Jersey	Renovation of South Jersey Port Corporation's Beckett Street Terminal	8.3
70.	Washington, D.C.	Design and construction of noise barriers along Southeast/Southwest Freeway and Anacostia Freeway in D.C.	4.7
71.	Anaheim, California	Construction of public HOV facilities to provide public access to I–5 in the vicinity of the Anaheim Regional Transportation Intermodal Complex	14.8
72.	Atlanta, Georgia	Construction of I–20 interchange at Lithonia Industrial Boulevard	11.2
73.	Buffalo, New York	The Southtowns Connector Buffalo, New York	8.5
74.	Tucson, Arizona	Veterans Memorial Interchange/Palo Verde Overpass Bridge Replacement	2.4
75.	Providence, Rhode Island	Memorial Boulevard Pedestrian/Traffic Improvements	5.0
76.	Renton, Washington	Houser Way Relocation Expansion	3.0

(3) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by paragraph (2) for each project authorized by paragraph (2) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(4) FEDERAL SHARE.—The Federal share payable on account of any project under this subsection shall be 80 percent of the cost thereof.

(5) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this subsection to the State in which such project or projects are located upon request of such State.

(6) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this subsection shall not be subject to any obligation limitation.

SEC. 1107. INNOVATIVE PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for highway projects demonstrating innovative techniques of highway construction and finance. Each State in which 1 of the projects authorized by subsection (b) is located shall select and use, in carrying out such project, innovative techniques in highway construction or finance. Such techniques may include state-of-the-art technology for pavement, safety, or other aspects of highway construction; innovative financing techniques; or accelerated procedures for construction.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the innovative projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Innovative projects	Amount in millions
1.	Cadiz, Ohio	Construction of 4-lane Limited Access Highway from Cadiz, OH to Interstate 70 Interchange at St. Clairsville, OH along U.S. Rt. 250	20.0
2.	Maryland	Construction of Durham Road Bridge #75 in Harford County, MD	0.5
3.	Maryland	Construction of a replacement bridge at Furnace Road Bridge #74, Harford County, MD	0.6
4.	Maryland	Construction of a replacement bridge at South Hampton Road Bridge #47, Harford County, MD	1.0
5.	Maryland	Construction of a replacement bridge at Wheel Road Bridge #9, Harford County, MD	1.0
6.	Maryland	Construction of a replacement bridge at Watervale Bridge #63, Harford, MD	1.1
7.	Baltimore County, Maryland	Replacement of Papermill Road Bridge #123 in Cockeysville Area of Baltimore, MD	5.3
8.	Southern, Oklahoma	Testing of effectiveness of recyclable materials on a resurfacing project on U.S. 70 in Southern, OK	2.1
9.	Tulsa, Oklahoma	Upgrade U.S. 75 to Expressway standards, Tulsa, OK	14.0
10.	Atlanta, Georgia	For various transportation improvements in connection with the 1996 Olympics, including the city of Atlanta advanced traffic management system (IVHS)	58.1
11.	Chicago, Illinois	Computerized infrastructure management systems, Chicago, IL	4.3
12.	Oceanside, California	Construction of A, B, and C segments of State Route 76	14.4
13.	Carlsbad, California	Improvements to the interchange at Palomar Airport Road and Interstate 5	3.4
14.	Danville, Virginia	To replace bridges on Main and Worsham Streets in Danville, VA	10.0
15.	Mokena, Illinois	For construction of Wolf Road to an area between LaPort Road and U.S. Rt. 30 in Mokena, IL	1.4
16.	Frankfort, Illinois	Village of Frankfort Roadway improvement projects	1.3
17.	Plainfield, Illinois	Replacement of E J & E Viaduct over IL Rt. 59 and Dupage River Tributary	1.0
18.	Romeoville, Illinois	Replacement of 135th Street Bridge, Romeoville, IL	5.9
19.	Water Street, Pennsylvania	Construction of a 2 lane bypass around the Borough of Water Street on U.S. 22 of Pennsylvania	8.0
20.	Holidaysburg, Pennsylvania	To relocate U.S. 22 around the Borough of Holidaysburg, Pennsylvania	52.0
21.	Lewistown, Pennsylvania	For safety improvements on the Narrows to eliminate potential problems brought on by rock slides	1.6
22.	Pennsylvania	To relocate U.S. Rt. 22 North of Lewistown, Pennsylvania	58.3
23.	Reedsville, Pennsylvania	For construction of a 4 lane highway between Reedsville and Seven Mountains, Pennsylvania	35.1
24.	Pennsylvania	To relocate section of railroad tracks between Hagerstown, Maryland and Shippensburg, Pennsylvania to eliminate 23 at-grade crossings and to make connection to an existing railroad line	14.4
25.	Roaring Spring, Pennsylvania	To upgrade to 3 lanes by adding a center turning lane to a section of Pennsylvania 36 from New U.S. 220 to the intersection at Roaring Spring, Pennsylvania	8.8
26.	Altoona, Pennsylvania	To widen and extend Chestnut Avenue from Altoona to Juniata, Pennsylvania	7.12
27.	Bedford County, Pennsylvania	To widen Rt. 30 from the Narrows in Bedford to Mt. Dallas, Pennsylvania	48.0
28.	Brevard County, Florida	Design, acquire right-of-way and construct a widened bridge on State Road 3 over the Barge Canal	6.9
29.	Blacksburg, Montgomery County, Virginia	Construction of 6 mile 4 lane highway to demonstrate intelligent/vehicle highway systems	5.9
30.	Mobile, Alabama	For reconstruction of the West Tunnel Plaza Interchange on I-10 from Virginia Street to Mobile River Tunnel, Mobile, Alabama	15.0
31.	Pennsylvania	To widen U.S. Rt. 202 from King of Prussia to Montgomeryville, Pennsylvania	8.9
32.	Galina, Illinois	To conduct environmental, preliminary engineering and design studies to widen a 47 mile stretch of U.S. 20 to 4 lanes	2.0
33.	Areneck County, Michigan	To improve a 12-mile stretch of U.S. 23 between Rt. 13 and Rt. 65, Michigan	4.7
34.	Brooks, Jim Wells, and Live Oak Counties, Texas	To improve, upgrade and widen U.S. 281 to the Mexican Border	27.6
35.	Alabama	To construct a 4-lane access controlled highway to bypass Montgomery, Alabama and connect I-65 and I-85	11.8
36.	North Dakota	To design computerized system to inventory and manage off system bridge repairs or replacement statewide; begin repair activities	8.9
37.	Los Angeles, California	For preliminary work on a project to enhance the capacity of I-5 in Los Angeles and Orange County from the downtown area to the State Rt. 91 interchange in Buena Park	6.7
38.	Mendon, Illinois	To construct 14.8 miles of Highway 336 from Illinois Rt. 61 near Mendon, Illinois to West Point Road	5.0
39.	Bryden, Washington	Construct 3 miles of new and improved highways connecting Clarkston, Washington with Lewiston, Idaho	3.9
40.	Missouri	To widen I-55 between Rt. M and Rt. 67 in Jefferson County, Missouri	5.1
41.	Jefferson County, Missouri	To upgrade 7.9 miles of Missouri Highway 21 in Jefferson County, Missouri	5.1
42.	St. Louis, Missouri	To construct a 4-Lane outer beltway connecting I-55 and I-44 in St. Louis and Jefferson County, Missouri	7.6
43.	Hillsborough, Florida	Widen and enhance safety and drainage features of I-4 from Tampa to the Hillsborough County Line	24.5

	City/State	Innovative projects	Amount in millions
44.	Wichita, Kansas	To construct a 6 lane access controlled highway and interchange at Oliver Street	6.6
45.	Brigham City, Utah	To construct an interchange on I-15 at Forest St. in Brigham City, Utah	3.6
46.	Utah	For the upgrading of U.S. 89 in Davis and Weber Counties, Utah	3.0
47.	Grand Rapids, Michigan	For construction of a bypass around Grand Rapids, Michigan connecting I-96 and I-196	6.9
48.	Suffolk County/Long Island, New York	Avoid erecting costly areas through selective black topping through high noise road segments	2.0
49.	Suffolk County, New York	Evaluate suitability of composting and recycling for use on Federal-aid highway medians and perimeters	0.4
50.	Springfield, South Dakota	Plan, engineer and construct a bridge across the Missouri River to connect South Dakota Rt. 37 to Nebraska Highway 12	4.7
51.	Vermillion, South Dakota	Engineer and construct bridge across the Missouri River in the vicinity of Vermillion, South Dakota	3.6
52.	Pennsylvania	Design, engineer and construct 2 exits off Interstate 81 at Wilkes-Barre and Mountaintop, Pennsylvania	16.7
53.	Genesse, Michigan	Widen and improve pavement in Mundy Township, from Baldwin Rd. to Cook Rd.	0.16
54.	Flint, Michigan	Engineer, design and construct improved and widened 5-lane road	0.5
55.	Flint, Michigan	Engineer, design and construct 1.02 miles of 5-lane roadway	0.9
56.	Flint, Michigan	Right-of-way acquisition, relocation and construction of Bristol Road	3.1
57.	Salem, Oregon	To construct the Salem Bypass around Salem, Oregon	6.0
58.	Montgomeryville, Pennsylvania	To improve U.S. 202 from Montgomeryville to Doylestown, Pennsylvania	10.8
59.	Amherst/Erie County, New York	Widen 2 miles of Rt. 263 from 2 lanes to 4 lanes and rehabilitate a 4 mile stretch of Rt. 78	7.6
60.	Idaho	To improve the Bryden Canyon Rd. in Lewiston, Idaho	5.3
61.	Mojave, California	Widen and reconstruct bridge to CALTRANS height standards	1.8
62.	Freemont, Iowa	For construction of Iowa highway #2 from Sidney, Iowa to I-29 in Freemont County, Iowa	8.7
63.	Council Bluffs, Iowa	For a variety of improvements to the Valley View Corridor in Council Bluffs, Iowa	1.0
64.	Indiana	Construct extension of Interstate 69 to link Evansville and Indianapolis, Indiana	3.8
65.	Aberdeen, Ohio	U.S. 62 Ohio River Bridge	15.5
66.	Jacksonville, Illinois	U.S. 67 Jacksonville Bypass	15.8
67.	Snohomish, Washington	Snohomish County, Washington HOV Lanes	6.5
68.	Portland/S. Portland, Maine	Portland-S. Portland Bridge	134.5
69.	Iowa	Highway 63 Improvements, Waterloo to New Hampton, Iowa	15.1
70.	Brook Park, Ohio	Aerospace Technology Park Access Rd., Brook Park, Ohio	14.2
71.	California	Rt. 156 Hollister Bypass, San Benito, California	0.9
72.	Monterey, California	Rt. 101, Prunedale, California	4.2
73.	New Jersey	Rt. 21 Viaduct, Newark, New Jersey, City of Newark's Project	14.8
74.	New Jersey	Rt. 21 widening, Newark, New Jersey, City of Newark's Project	13.9
75.	North Carolina	U.S. 64 widening in Chatham and Wake Counties, North Carolina	5.3
76.	Tennessee	I-81/Industrial Park South Interchange, Sullivan County, Tennessee	5.8
77.	Tennessee	Foothills Parkway: Pittman Center to Cosby, Tennessee	11.2
78.	Ohio	Kelly Avenue extension, Akron, Ohio	9.5
79.	Exton, Pennsylvania	Exton Bypass, Exton, Pennsylvania	26.8
80.	Alabama	Black Warrier River Bridge, Tuscaloosa County, Alabama	6.4
81.	Brooklyn Park, Minnesota	Highway 610 crosstown project, Brooklyn Park, Minnesota	36.0
82.	California	I-880/Alvarado-Niles Road Interchange, Union City, California	9.5
83.	Merrysville, Washington	Interstate 5 Interchange improvement: 88th Street, Merrysville, Washington	1.9
84.	Myrtle Beach, South Carolina	Carolina Bays Parkway, Myrtle Beach, South Carolina	5.9
85.	Mississippi	U.S. 90 improvements including 6 lane bridge and approaches, Pascagoula, Mississippi	4.3
86.	Bakersfield, California	Rt. 58 Improvements, Bakersfield, California	4.7
87.	Santa Fe Springs, California	Norwalk Blvd. grade separation, Santa Fe Springs	4.7
88.	Hoquiam, Washington	Gray's Harbor Industrial Corridor Bridge, Hoquiam, Washington	4.7
89.	Traverse City, Michigan	Traverse City Bypass, Traverse City, Michigan	4.5
90.	Nevada	Lamoille Highway widening, Elko County, Nevada	2.4
91.	Reno, Nevada	U.S. 395 Extension, in vicinity of Reno, Nevada	14.8
92.	Carson City, Nevada	Carson City Bypass, Carson City, Nevada	7.6
93.	Columbus, Ohio	I-270 North outerbelt widening, Franklin County, Ohio	10.2
94.	St. Thomas, Virgin Islands	Feasibility study of constructing a second road to the west end of the island	1.7
95.	Illinois	DeQuoin Highway Bridge	2.6
96.	Illinois	Tamarack Street Extension	0.6
97.	Indiana	East Chicago Marina Access Road	8.5
98.	District of Columbia	Hybrid Fuel Cell	3.6
99.	Ohio	Rehabilitation of Bridge on U.S. 224 near State Route 616	1.0

VOL
137
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	City/State	Innovative projects	Amount in millions
100.	Arkansas	North Belt Freeway Project, Thornton, Arkansas	8.9
101.	Ft. Worth, Texas	I-35 Basswood Interchange, Ft. Worth, Texas	17.8
102.	Illinois	Illinois 17 road replacement, .2 miles west of Splear Road to Illinois 1: 5.3 miles	1.8
103.	Leroy, Illinois	U.S. 150 road replacement, North of Hemlock Street to South of Gilmore Street in Leroy: 1.6 miles	1.0
104.	Ford County, Illinois	U.S. 24 replacement, 1.1 miles east of Forrest to Ford County Line: 8.0 miles	1.8
105.	Illinois	U.S. 24 road replacement: Crescent City to Illinois 1 in Watseka: 6.3 miles	2.5
106.	Emington, Illinois	Emington Spur road replacement Illinois 47 to Emington: 2.9 miles Emington, Illinois	0.65
107.	Illinois	New Lenox Road Improvement	2.5
108.	Illinois	Shorewood Roadway Improvements	1.3
109.	Illinois	Bridge painting of various moveable bridges to prevent rusting, Chicago, Illinois	2.8
110.	Huntington County, Pennsylvania	Jacobs Timber Bridge over Greater Trough Creek	0.35
111.	Chicago, Illinois	Landscaping, resurfacing, repair and replacement of curbs and gutters, bridge cleaning and repair of lights and redesigning and installation of new signs historic 28 mile Boulevard, Chicago, Illinois	5.4
112.	Cadillac, Michigan	Improvements to highway U.S. 131, north of Cadillac	4.2
113.	Durham County, North Carolina	Accelerated construction of a four-lane divided freeway on Route 147	38.3
114.	Corpus Christi to Angleton, Texas	Construct new multi-lane freeway	41.7
115.	Fort Worth, Texas	Construction of an overpass and frontage road at the Fort Worth Hillwood/I-35 interchange	12.7
116.	West Sacramento, California	Construction of Industrial Boulevard Bridge over Sacramento River Barge Canal in West Sacramento, California	8.3
117.	Baltimore County, Maryland	I-695 Improvements in Baltimore County, Maryland	23.9
118.	Hampton Roads, Virginia	I-64 Crossing of Hampton Roads	5.9
119.	Calumet City, Illinois	Reconstruction of 156th Street and 156th Place from Burkham Avenue to State line	1.3
120.	Frankfort Township, Illinois	Improvements of streets in Frankfort Township	1.0
121.	Matteson, Illinois	I-57 Bridge Improvements	3.6
122.	Illinois	Road Improvement, U.S. 150/Ill. 1 from Belguim to South of Westville	3.8
123.	Illinois	Road Improvement, U.S. 45 from Savoy to Tolono	5.6
124.	Alabama	Patton Island Bridge Project	4.7
125.	Borough of Paulsboro, New Jersey	Construction of a new bridge to improve safety	2.7
126.	Minnesota	Completion of Cross-Range Expressway (Trunk Highway 169)	13.0
127.	Hinckley, Minnesota	Safety and capacity improvements to Trunk Highway 48 and relocation of County Road 134	2.0
128.	Minnesota	Trunk Highway 53, Twig to Trunk Highway 37	9.5
129.	Minnesota	Trunk Highway 169, Grand Rapids to High City	9.0
130.	Minnesota	Trunk Highway 61, Schroeder to Grand Marais	18.0
131.	Wisconsin	Improvements to Highway 41, Oshkosh to Green Bay	41.7
132.	Wisconsin	Improvements to Highway 29, Chippewa Falls to State Trunk Hwy. 73	28.3
133.	Minnesota	Trunk Highway 37 and Hughes Rd	0.5
134.	Pennsylvania	Route 120 widening in vicinity of Lock Haven	4.0
135.	Pennsylvania	Replace U.S. 15 bridge across Tioga River	3.2
136.	Pennsylvania	Wysox Narrows Rd. (U.S. 6)	3.0
137.	Chicago, Illinois	Improvements on Kennedy Expressway, except that the allocation percentages under this section shall not apply to this project and, in lieu thereof, 1/3 of the funds for such projects shall be available for obligation in each of fiscal years 1992, 1993, and 1994	175.0
138.	South Carolina	Southern Connector Highway improvements in Greenville County; Highway 17 Bridge Replacement Projects over Cooper River, Charleston; Carolina Bays Parkway improvements, Myrtle Beach (funds to be equitably divided among these facilities)	11.0
139.	South Carolina	Rail Corridor Revitalization in Columbia, South Carolina	4.0
140.	Rhode Island	For design and construction of a stormdrain retrofit on I-95 and other highway runoff programs to protect Narragansett Bay	13.0
141.	South Kingstown, Rhode Island	For historic renovation and development of an intermodal center at the Kingston Railroad Station	2.0
142.	Lincoln and Cumberland, Rhode Island	For historic rehabilitation of the Albion Bridge and Albion Trench Bridge	2.0
143.	Newport, Rhode Island	To develop the marine mode of the intermodal Gateway Transportation Center	6.0
144.	Bristol, Rhode Island	For road improvements in Bristol, Rhode Island	2.0
145.	Pennsylvania	An applied technology demonstration in advanced technology demonstrations in advanced driver information systems, with a special emphasis on display instrumentation and information communications technology, to be carried out in cooperation with the Center for Advanced Design and Communication Arts Technology at the University of the Arts	2.0
146.	Vermont	Construction of a highway from U.S. 7, North of Bennington, Vermont southwest to NY 7 in Hoosick, NY	20.0
147.	Woonsocket, Rhode Island	For construction of Route 99 Extension	1.96
148.	Woonsocket, Rhode Island	For repaving streets in Woonsocket	1.40
149.	Woonsocket, Rhode Island	For improvements to 3 bridges crossing the Blackstone River	0.35

	City/State	Innovative projects	Amount in millions
150.	Cranston, Rhode Island	For reconstruction and repaving of Park Avenue, Sockanossett Crossroads, Olney Arnold Road, South Comstock Parkway, Wildflower Drive, Aqueduct Road and Mapleton Street	5.7
151.	Rhode Island	For operating expenses of the Rhode Island Public Transit Authority	18.0
152.	New Hampshire	To study corridor protection for New Hampshire Route 16	2.0
153.	North Conway, New Hampshire	To provide congestion relief on U.S. 302 and New Hampshire Route 16	6.3
154.	Kansas	To widen U.S. 81 7-15 miles Belleville to Concordia	7.0
155.	Kansas	To construct Hutchinson Bypass between U.S. 50 and K-96 Hutchinson, Kansas	24.4
156.	Wyoming	For reconstruction of county roads not on the State Highway System by the Wyoming State Department of Transportation	20.0
157.	Virginia	For the rehabilitation, renovation, reconstruction, resurfacing, safety improvements and modernization on the existing 1,069 mile Interstate system in Virginia to be distributed by the Commonwealth Transportation Board, to the maximum extent possible, on an equitable regional basis	63.5
158.	Minnesota	Hennepin County, Minnesota Bloomington Ferry Bridge/C.S.A.H. 18 Replacement Project Bloomington, MN	18.0
159.	Minnesota	Nicollet County, Minnesota C.S.A.H. 41 for roadway stabilization and rockfall control North Mankato, MN	3.0
160.	Minnesota	St. Cloud, Minnesota T.H. 15 bridge across Mississippi River and Interchange with T.H. 10	3.24
161.	Minnesota	Minnesota Safety Initiative Program ($2 million to demonstrate the safety benefits of retroreflective pavement markings and signs, especially for nighttime and older drivers; $1 million to demonstrate the safety and environmental benefits of elastomer modified asphalt in cold weather climates)	3.0
162.	New York, New York	Hell Gate Viaduct: upgrade, repair & paint	55.0
163.	New York, New York	Ferry Landing, Battery Park: Reconstruction of ferry landing within Battery Park	2.0
164.	New York, New York	Foley Square Plaza: Transportation improvements & construction activities for Foley Square Plaza development	5.25
165.	New York, NY	Franklin Delano Roosevelt Drive: To reconstruct & improve several sections of Franklin Delano Roosevelt Drive	10.0
166.	Corning, NY	Corning Bypass Improvements	11.0
167.	Nelson County, North Dakota	Grading & surfacing: from U.S. Highway 2 at Michigan southerly to ND Highway 15 at McVille; and of FAS 3220 from ND 1 to ND 32	8.5
168.	Stutsman County, North Dakota	Surfacing from I-94 north & east through Spiritwood, then north to ND Highway 9	4.0
169.	Steele/Griggs County, North Dakota	Grading & surfacing of FAS 4612 & FAS 2012 from ND 32 to ND 45	2.9
170.	Grand Forks County, North Dakota	Surfacing of FAS 1822 from FAS 1833 to I-29, & FAS 1812 from FAS 1833 to I-29, & FAS 1833 from FAS 1824 to ND 15	2.6
171.	Richland County, North Dakota	Grading & surfacing from Wahpeton to the Froedtert Malting Plant	0.6
172.	Ward/McHenry County, North Dakota	Grading & surfacing FAS 5158 & FAS 2546 from U.S. 83 to ND 41.	4.5
173.	Bottineau County, North Dakota	Grading & surfacing from Bottineau to ND Highway 43	2.4
174.	McKenzie County, North Dakota	Grading & surfacing of FAS 2750 from U.S. 85 west 12 miles	2.3
175.	Wells County, North Dakota	Grading & surfacing of FAS 5215 from FAS 5208 north to the county line, & from U.S. 52, one mile west of Manfred, north to FAS 5208	2.5
176.	Traill County, North Dakota	Grading & surfacing of FAS 4916 from ND 200 east to the Red River	2.8
177.	Eddy County, North Dakota	Grading & surfacing of: FAS 1404 from U.S. 281 east 10.5 miles & from ND 20 west 5.5 miles; & of FAS 1427 from ND 20 south about 8 miles	2.5
178.	Renville/Ward County, North Dakota	Grading & surfacing, starting at FAS 3809 on the Ward County line south 4 miles & then east 2 miles	0.9
179.	Morton County, North Dakota	Grading & surfacing of FAS 3020 from ND 49 southeasterly to FAS 3033	3.1
180.	Walsh County, North Dakota	Surfacing of FAS 5017 from Lankin south to the Nelson County line & FAS 5022 from Fordville east to ND 18	2.5
181.	Dickey County, North Dakota	Grading & surfacing of FAS 1112 from U.S. 281 east to FAS 1127, FAS 1111 from ND 11 south to FAS 1124, & FAS 1137 from ND 11 north to Guelph	4.0
182.	Burke County, North Dakota	Grading & surfacing of FAS 0717 from Lignite south to ND 50	4.4
183.	Morton County, North Dakota	For a bypass from ND 1806 around the westside of Fort Lincoln State Park	3.2
184.	Rolette County, North Dakota	Grading & surfacing from U.S. 281 around the access loop road in the Int'l. Peace Gardens	1.9
185.	Oliver County, North Dakota	Grading & surfacing of FAS 3331 from ND 200A at Hensler southerly to ND 25, & FAS 3304 from FAS 3331 east to FAS 3339	2.9
186.	Williams County, North Dakota	Grading & surfacing at County Rd. 5 from U.S. 2 southerly to ND 1804	2.5

	City/State	Innovative projects	Amount in millions
187.	Plummer, Idaho	Reconstruct a total of 2.9 miles of SH–5 (FAP–14) beginning at M.P. 0.5 in the City of Plummer in Benewah County to M.P. 1.1, and two additional segments located on Peedee Hill from approximately M.P. 3.6 to M.P. 4.9 and M.P. 5.7 to M.P. 6.7	3.6
188.	Lemhi County, Idaho	Reconstruct a 8.3 mile section of U.S. 93 (FAP–35) in Lemhi County at the Idaho/Montana border. 23 U.S.C. 120(a) shall be applicable to the Federal share payable of the cost of such project	25.6
189.	St. Maries, Idaho	Rehabilitate existing pavement structure for a total of 14.2 miles of Idaho Forest Highway 50, the St. Joe River Road between St. Maries and the Benewah/Shoshone County Line	3.4
190.	Lewiston, Idaho	Construct a new road for a total of 2.4 miles along FAU Route 7344, M.P. 0.0–2.4, in Bryden Canyon, Lewiston	3.9
191.	Bear Lake County, Idaho	Reconstruct a 13.0 mile segment of U.S.–89 (FAP–53) between the communities of Montpelier and Geneva	18.5
192.	Alabama	Improvements to Anniston Eastern Bypass, in the vicinity of U.S. 431 and Alabama State Hwy. 21 north of Anniston to the Golden Springs interchange on I–20	11.0
193.	Corning, New York	Additional funding for Corning Bypass (Route 1), except any excess funds from the $13.4 million in total funding for this project shall be available for construction of two additional expressway lanes from Chautauqua Lake Bridge to Pennsylvania border on Route 17	2.4
194.	Billings, Montana	Construction of the Shilo I–90 Interchange	11.0
195.	Missoula, Montana	Construction of the Missoula Airport I–90 Interchange	7.0
196.	Orlando, Florida	Land & right-of-way acquisition & guideway construction for magnetic levitation projection	97.5
197.	Toledo, Ohio	Design & initial construction of a new I–280 Maumee River crossing to replace the Craig Memorial Bridge .	37.0
198.	New London-Groton/Bridgeport/New Haven, Connecticut	Rehabilitate or replace: The Gold Star Bridge over the Thames River I–95 between New London & Groton; the Bridge over the Yellow Mill Channel (Bridgeport); & the Tomlinson Bridge on Rte. 1 over the Quinnipiac River (New Haven)	62.0
199.	Raleigh/Rocky Mount/Elizabeth City, North Carolina	Design & Construction of interstate standard highway from Rocky Mount, NC to Elizabeth City, NC, & for the upgrading of I–64 from Raleigh, NC to Rocky Mount, NC, & Rte. 17 from Elizabeth City to Norfolk. A substantial portion of the funding should be used for magnetic levitation projection to Elizabeth segment	30.0
200.	Binghamton, New York	A study of the feasibility of rehabilitation of the South Washington Street Bridge in Binghamton, NY, to identify plans & specifications for repair if feasible. .	0.5
201.	District of Columbia	Advanced composite bridge deck demonstration at Catholic University	0.2
202.	Georgia	For any highway improvement projects eligible for funding under title 23, United States Code	27.0
203.	Hawaii	For any highway improvement projects eligible for funding under title 23, United States Code	6.0
204.	Oklahoma	For any highway improvement projects eligible for funding under title 23, United States Code	59.0

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) REPORTS.—Not later than 1 year after completion of a project under this section, the State in which such project is located shall submit to the Secretary a report on the innovative techniques used in carrying out such project and on the results obtained through the use of such techniques.

(h) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1108. PRIORITY INTERMODAL PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide for the construction of innovative intermodal transportation projects.

(b) AUTHORIZATION OF PRIORITY PROJECTS.—The Secretary is authorized to carry out the priority intermodal transportation projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Intermodal projects	Amount in millions
1.	Long Beach, California	Interchange at Terminal Island Freeway and Ocean Boulevard	11.8
2.	Wilmington/Los Angeles, California	Widening of Anaheim Street Viaduct	11.8
3.	Wilmington/Los Angeles, California	Grade Separation Project of Pacific Coast Highway near Alameda Suite	11.8
4.	Compton City/Los Angeles County, California	Widening of Alameda Street and grade separation between Rt. 91 and Del Amo Boulevard	11.8
5.	Pennsylvania	Upgrading U.S. Highway 30 from Ohio Border to Pittsburgh International Airport	3.2
6.	Philadelphia, Pennsylvania	Reconstruction of the Old Delaware Avenue Service Road	2.4
7.	Ardmore, Oklahoma	Study of upgraded State Route 53 off U.S. 35 leading to improved Ardmore Airport	2.5
8.	Detroit, Michigan	To relocate Van Dyke Street and construct a road depression under the runway at McNichols Road at the Detroit City Airport ($1,000,000 of the Federal funds shall be for the relocation of Van Dyke Street)	4.3
9.	E. Haven/Wallingford, Connecticut	Improvement of highway and transit projects in East Haven/Wallingford, Connecticut ($8.8 million for East Haven Route 80, $2.4 million for Wallingford I–91, and $0.7 million for Wallingford Oakdale)	10.1
10.	St. Louis, Missouri	Rehabilitation of Eads Bridge, St. Louis, Missouri	8.9
11.	Atlanta, Georgia	Study of 5-Points Intermodal Terminal-Atlanta, Georgia	2.4
12.	Buffalo, New York	Construction of Buffalo River/Gateway Tunnel Project	20.2
13.	Northern California	Purchase right-of-way and develop a transportation corridor in existing rail right-of-way from Larkspur to Korbel, and Novato to Lombard	15.1
14.	Portland, Oregon	To widen 2.7 miles of U.S. 26 from the Zoo interchange to the Sylvan Interchange to accommodate highway lanes and light rail alignment	14.2
15.	Los Angeles, California	For construction of a multi-modal transit parkway that includes both highway and transit improvements on Santa Monica Blvd. from the San Diego Freeway to Hollywood Freeway, Los Angeles, California	8.9
16.	Jacksonville, Florida	Construct new I–295 Interchange and arterial access road to link Jacksonville's seaport, airport terminals and the interstate	7.1
17.	Las Vegas, Nevada	Conduct environmental studies and preliminary engineering for the western and northern portions of the project linking McCarran International Airport with I–15	3.8
18.	Ontario, California	To complete construction of access roads to Ontario International Airport, Ontario, California	4.7
19.	Allegheny County, Pennsylvania	For an expansion of the existing Martin Luther King, Jr. Busway in the vicinity of Allegheny County, Pennsylvania to serve the Greater Pittsburgh International Airport and adjoining communities	21.7
20.	Pierce County, Washington	Conduct feasibility study and analyze expanding Tacoma Narrows Bridge and other transportation alternatives between State Rd. 16 and I–5	0.7
21.	San Jose, California	Upgrade Rt. 87 from 4 to 6 lanes including 2 HOV Lanes, a new freeway interchange and local circulation system for San Jose International Airport	14.8
22.	American Samoa	Rehabilitate 8 miles of Tau Road from Falessao to Fatuita American Samoa	1.1
23.	Manu'a Island, American Samoa	Rehabilitate and otherwise improve 8 miles of roadway from Ofu to Olosfaga and Slie	1.2
24.	Spokane, Washington	Conduct feasibility study of future transportation needs of Southeastern Washington	0.8
25.	Detroit, Michigan	To provide for construction of an access road to Detroit Metropolitan Airport including access on the southern end of the airport in order to provide a link to I–275	33.8
26.	Pittsburgh, Pennsylvania	For design and construction of an exclusive busway linking Pittsburgh and the Pittsburgh Airport	9.8
27.	St. Louis, Missouri	To construct a multi-modal transportation facility in St. Louis, Missouri	5.9
28.	Orange & Rockland, New York	To construct park and ride facilities and establish innovative traffic management system measures to promote efficient transportation usage	4.7
29.	Philadelphia, Pennsylvania	To improve mobility for a variety of traffic flow projects in the vicinity of the Pennsylvania Convention Center, Philadelphia, Pennsylvania	9.5
30.	Oxnard, California	To extend Rice Rd., widen Hueneme Rd. and construct Rt. 1/Rice Rd. interchange in order to improve access to Port Hueneme, Oxnard, California	8.9
31.	Los Angeles, California	To improve ground access from Sepulveda Blvd. to Los Angeles, California	8.9
32.	Mt. Vernon, New York	To construct an intermodal facility at the Mt. Vernon Rail Station, Mt. Vernon, New York	7.1
33.	Orange County, New York	I–87/I–84 Stuart Airport Interchange Project	15.7
34.	Mississippi	I–20 Interchange at Pirate	3.4
35.	Jackson, Mississippi	Jackson Airport Connectors	3.1
36.	Palmdale, California	Avenue P8 Improvements	3.6
37.	Lafayette, Indiana	Lafayette Railroad Relocation Project	24.3
38.	Provo, Utah	South Access Rd. to Provo Municipal Airport	1.0

	City/State	Intermodal projects	Amount in millions
39.	Pennsylvania	Eastside Connector Project/Port of Erie Access, Erie County, Pennsylvania	7.5
40.	Minneapolis, Minnesota	Intermodal Urban connection project, Minneapolis, Minnesota	19.9
41.	Kansas City, Missouri	Bruce Watkins Roadway Improvements	1.4
42.	Missouri	Smith Riverfront Expressway, Jackson/Kansas City, Missouri	12.7
43.	Portland, Oregon	Columbia Slough Intermodal Expansion Bridge, Portland, Oregon	2.1
44.	Ft. Worth, Texas	Ft. Worth Intermodal Center	13.4
45.	Gary, Indiana	Extension of U.S. Highway 12/20 to Lake Michigan	2.2
46.	Carson/Los Angeles Counties, California	Grade Separation Project at Sepulveda Boulevard and Alameda Street	9.5
47.	Williamson, Travis, Caldwell, and Guadalupe, Texas	Feasibility studies (including the effect of closing Bergstrom AFB on traffic corridor), Route studies, preliminary engineering, and right-of-way acquisition for Alternate Route to relieve I–H35 traffic congestion	5.2
48.	Augusta, Georgia	Railroad relocation demonstration project, overpass at 15th Street and Greene Street	5.9
49.	Louisiana	Saint Bernard Intermodal Facility Engineering, Design, and Construction	10.2
50.	Illinois	Interstate 255 Interchange	3.4
51.	Long Beach, California	Long Beach Airport Access	8.5

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

(h) HIGHWAY AND MASS TRANSIT PROJECTS.—Each project authorized by this section or by any other section of this Act is a highway or an urban mass transportation project.

SEC. 1109. INFRASTRUCTURE AWARENESS PROGRAM.

(a) IN GENERAL.—For the purpose of creating an awareness by the public and State and local governments of the state of the Nation's infrastructure and to encourage and stimulate efforts by the public and such governments to undertake studies and projects to improve the infrastructure, the Secretary is authorized to fund the production of a documentary in cooperation with a not-for-profit national public television station.

(b) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section $2,000,000 for fiscal years beginning after September 30, 1991, out of the Highway Trust Fund (other than the Mass Transit Account), which shall remain available until expended. All of the provisions of chapter 1 of title 23, United States Code, shall apply to the funds provided under this section. This section shall not be subject to any obligation limitation.

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

SEC. 1301. SHORT TITLE.

This part may be cited as the "Symms National Recreational Trails Act of 1991".

SEC. 1302. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) STATEMENT OF INTENT.—Moneys made available under this part are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act.

(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is three years after the date of the enactment of this Act, a State shall be eligible to receive moneys under this part only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails;

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this part as provided in subsection (e).

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 percent of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this part;

(B) paying expenses of the National Recreational Trails Advisory Committee;

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this part; and

(D) if any such funds remain unexpended, research on methods to accommodate multiple trail uses and increase the compatibility of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et al).

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 percent of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 percent of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(3) LIMITATION ON OBLIGATIONS.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;
(B) $30,000,000 for fiscal year 1993;
(C) $30,000,000 for fiscal year 1994;
(D) $30,000,000 for fiscal year 1995;
(E) $30,000,000 for fiscal year 1996; and
(F) $30,000,000 for fiscal year 1997.

(e) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this part for—

(A) in an amount not exceeding 7 percent of the amount of moneys received by the State, administrative costs of the State;

(B) in an amount not exceeding 5 percent of the amount of moneys received by the State, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as otherwise permissible, and where necessary and required by a State Comprehensive Outdoor Recreation plan, construction of new trails crossing Federal lands, where such construction is approved by the administering agency of the State, and the Federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this part for—

(A) condemnation of any kind of interest in property;

(B)(i) construction of any recreational trail on National Forest System lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Forest land and resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved land and resource management plan; or

(ii) construction of any recreational trail on Bureau of Land Management lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Bureau of Land Management resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved management plans; or

(C) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by non-motorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this part to make grants to private individuals, organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 percent of the moneys received annually by a State under this part shall be reserved for uses relating to motorized recreation, and not less than 30 percent of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this part in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a State has allocated not less than 40 percent of moneys received under this part in the aforementioned manner.

(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 per centum of all such fuel use in the United States, shall be exempted from the requirements of paragraph (4) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—At the option of each State, moneys made available pursuant to this part may be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—

(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within 4 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of subsection (c)(2)(A), may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreation trail pursuant to this part is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this part diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the National Recreational Trails Trust Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not include motorized conveyances used by persons with disabilities, such as self-propelled wheelchairs, at the discretion of each State.

SEC. 1303. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be 11 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) hiking,
(B) cross-country skiing,
(C) off-highway motorcycling,
(D) snowmobiling,
(E) horseback riding,
(F) all-terrain vehicle riding,
(G) bicycling, and
(H) four-wheel driving;

(2) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations; and

(4) 1 member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The Chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least five of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of three years, except that the members filling five of the eleven positions shall be initially appointed for terms of two years, with subsequent appointments to those positions extending for terms of three years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trail-side and trail-head facilities that qualify for funding under this part; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this part.

(g) Annual Report.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) Reimbursement for Expenses.—Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 1302(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) Report To Congress.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this part, and contains recommendations for changes in Federal policy to advance the purposes of this part.

TITLE II—HIGHWAY SAFETY

PART A—HIGHWAY SAFETY GRANT PROGRAMS

SEC. 2001. SHORT TITLE.

This part may be cited as the "Highway Safety Act of 1991".

SEC. 2002. HIGHWAY SAFETY PROGRAMS.

(a) Uniform Guidelines.—Section 402(a) of title 23, United States Code, is amended by inserting after the third sentence the following: "In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, and (6) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. If the Secretary does not designate as priority programs those programs described in the preceding sentence, the Secretary shall submit to Congress a report describing the reasons for not prioritizing such programs. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall include information obtained by the Secretary under section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents.".

(b) Administrative Requirements and Use of Technology for Traffic Enforcement.—Section 402(b) of such title is amended by adding at the end the following new paragraphs:

"(3) Administrative Requirements.—The Secretary may not approve a State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

"(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

"(C) except as provided in paragraph (5), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

"(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(4) Waiver.—The Secretary may waive the requirement of paragraph (3)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

"(5) Use of Technology for Traffic Enforcement.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.".

(c) Conforming Amendment.—Section 402(d) of such title is amended by striking "Federal-aid primary" and inserting "National Highway System".

SEC. 2003. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

(a) General Authority; Drugs, and Driver Behavior.—Section 403 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority of the Secretary.—

"(1) In general.—The Secretary is authorized to use funds appropriated to carry out this section to engage in research on all phases of highway safety and traffic conditions.

"(2) Additional authority.—In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for—

"(A) training or education of highway safety personnel,

"(B) research fellowships in highway safety,

"(C) development of improved accident investigation procedures,

"(D) emergency service plans,

"(E) demonstration projects, and

"(F) related research and development activities which the Secretary deems will promote the purposes of this section.

"(3) Safety defined.—As used in this section, the term 'safety' includes highway safety and highway safety-related research and development, including research and development relating to highway and driver characteristics, crash investigations, communications, emergency medical care, and transportation of the injured.

"(b) Drugs and Driver Behavior.—In addition to the research authorized by subsection (a), the Secretary, in consultation with other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

"(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

"(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver crash involvement to highway safety.".

(b) Collaborative Research and Development.—Section 403 of such title is amended by striking subsection (f) and inserting the following new subsection:

"(f) Collaborative Research and Development.—

"(1) In general.—For the purpose of encouraging innovative solutions to highway safety problems, stimulating voluntary improvements in highway safety, and stimulating the marketing of new highway safety-related technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, colleges, and universities and corporations, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State or the United States. This collaborative research may include crash data collection and analysis; driver and pedestrian behavior; and demonstrations of technology.

"(2) Cooperative agreements.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in entering into such agreements, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this subsection.

"(3) Project selection.—In selecting projects to be conducted under this subsection, the Secretary shall establish a procedure to consider the views of experts and the public concerning the project areas.

"(4) Applicability of Stevenson-Wydler Technology Innovation Act.—The research, development, or utilization of any technology pursuant to an agreement under the provisions of this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980.".

(c) Conforming Amendment.—Section 403(c) of such title is amended by striking "subsection (b)" and inserting "subsections (a) and (b)".

SEC. 2004. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) In General.—Section 410 of title 23, United States Code, is amended to read as follows:

"§410. Alcohol-impaired driving countermeasures

"(a) General Authority.—Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs.

"(b) Maintenance of Effort.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) Basic Grant Eligibility.—A State is eligible for a basic grant under this section in a fiscal year only if such State provides for 4 or more of the following:

"(1) Establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(C) the State shall provide, in the administrative procedures referred to in subparagraph (B), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in subparagraph (F);

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(E) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(i) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(ii) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(F) the suspension and revocation referred to under subparagraph (D) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with subparagraph (B).

"(2)(A) For each of the first three fiscal years in which a grant is received, any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

"(B) for each of the last two fiscal years in which a grant is received any person with a blood alcohol concentration of 0.08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(3) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol.

"(4) A self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(5) An effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(d) Amount of Basic Grants.—The amount of a basic grant to be made in a fiscal year under this section to a State eligible to receive such grant shall be 65 percent of the amount of funds apportioned to such State in such fiscal year under this section.

"(e) Supplemental Grants.—

"(1) Blood alcohol concentration for persons under age 21.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(2) Open container laws.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(3) Suspension of registration and return of license plates.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides for the suspension of the registration of, and the return to such State of the license plates for an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates on an individual basis to avoid undue hardship to any individual (including any family member of the convicted individual and any co-owner of the motor vehicle) who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration of the motor vehicle, unrestricted return of the license plates of the motor vehicle, or unrestricted return of the motor vehicle.

"(4) Mandatory blood alcohol concentration testing programs.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(5) Drugged driving prevention.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance, a combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body; and

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) has in effect a law which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause under State law to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those persons who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those persons who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect 2 of the following programs:

"(i) An effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances.

"(ii) An effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances.

"(iii) An effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(6) BLOOD ALCOHOL CONCENTRATION LEVEL PERCENTAGE.—A State shall be eligible to receive a supplemental grant in a fiscal of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and requires that any person with a blood alcohol concentration of .08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated in each of the first three fiscal years in which a basic grant is received.

"(7) VIDEO EQUIPMENT FOR DETECTION OF DRUNK AND DRUGGED DRIVERS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment.

"(f) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States.

"(g) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—After the deduction under subsection (f), the remainder of the funds authorized to be appropriated to carry out this section shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States.

"(2) DETERMINATION OF PUBLIC ROAD MILEAGE.—For the purposes of this subsection, the term 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(3) MINIMUM PERCENTAGE.—The annual apportionment under this paragraph to each State shall not be less than ½ of 1 percent of the total apportionment; except that the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

"(4) REAPPORTIONMENT OF NONELIGIBLE STATE FUNDS.—If a State is not eligible for a basic grant or for a supplemental grant under this section in a fiscal year, the amount of funds apportioned to the State in the fiscal year to make such grant shall be reapportioned to the other States eligible to receive such a grant in the fiscal year in accordance with the formula specified in this subsection. The reapportionment shall be made on the first day of the succeeding fiscal year.

"(h) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State and, in the case of an Indian tribe program, the Secretary of the Interior.

"(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(j) FUNDING FOR FISCAL YEARS 1993–1997.—From sums made available to carry out section 402 of this title, the Secretary shall make available $25,000,000 for each of fiscal years 1993 through 1997 to carry out this section.".

(b) STATES ELIGIBLE FOR GRANTS UNDER SECTION 410 BEFORE DATE OF ENACTMENT.—A State which, before the date of the enactment of this Act, was eligible to receive a grant under section 410 of title 23, United States Code, as in effect on the day before such date of enactment, may elect to receive in a fiscal year grants under such section 410, as so in effect, in lieu of receiving in such fiscal year grants under such section 410, as amended by this Act.

(c) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 410 and inserting the following:

"410. Alcohol-impaired driving countermeasures.".

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

For purposes of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NHTSA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration $126,000,000 for fiscal year 1992 and $171,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(2) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 by the National Highway Traffic Safety Administration $44,000,000 for each of the fiscal years 1992 through 1997.

(3) ALCOHOL TRAFFIC SAFETY INCENTIVE GRANT PROGRAM.—For carrying out section 410 of such title $25,000,000 for fiscal year 1992.

SEC. 2006. DRUG RECOGNITION EXPERT TRAINING PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through the National Highway Traffic Safety Administration, shall establish a regional program for implementation of drug recognition programs and for training law enforcement officers (including enforcement officials under the motor carrier safety assistance program) to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol or one or more controlled substances or other drugs.

(b) ADVISORY COMMITTEE.—The Secretary shall establish a citizens advisory committee that shall report to Congress annually on the progress of the implementation of subsection (a). Members of the committee shall include 1 member of each of the following: Mothers Against Drunk Driving; a narcotics control organization; American Medical Association; American Bar Association; and such other organizations as the Secretary deems appropriate. The committee shall be subject to the provisions of the Advisory Committee Act and shall terminate 2 years after the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for each of fiscal years 1992 through 1997.

(d) DEFINITION.—For purposes of this section, the term "controlled substance" means any controlled substance, as defined under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), whose use the Secretary has determined poses a risk to transportation safety.

SEC. 2007. NATIONAL DRIVER REGISTER ACT AUTHORIZATIONS.

Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second place it appears; and

(2) by inserting before the period at the end the following: ", and not to exceed $4,000,000 for fiscal year 1992. From sums made available to carry out section 402 of title 23, United States Code, the Secretary shall make available $4,000,000 for each of fiscal years 1993 and 1994 to carry out this section.".

SEC. 2008. EFFECTIVE DATE; APPLICABILITY.

Except as otherwise provided, this title, including the amendments made by this title, shall take effect on the date of the enactment of this Act, shall apply to funds authorized to be appropriated or made available after September 30, 1991, and shall not apply to funds appropriated or made available on or before such date of enactment.

SEC. 2009. OBLIGATION CEILINGS.

(a) IN GENERAL.—Sums authorized for fiscal year 1992 by sections 2005(1), 2005(3), and 2006(c) of this Act and section 211(b) of the National Driver Register Act of 1982 shall be subject to the obligation limitation established by section 102 of this Act for fiscal year 1992.

(b) OBLIGATION LIMITATION.—If an obligation limitation is placed on sums authorized to be appropriated to carry out section 402 of title 23, United States Code, for fiscal year 1993 or subsequent fiscal years, any amounts made available out of such funds to carry out sections 2004 and 2006 of this Act and section 211(b) of the National Driver Register Act of 1982 shall be reduced proportionally.

PART B—NHTSA AUTHORIZATIONS AND GENERAL PROVISIONS

SEC. 2500. SHORT TITLE.

This part may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

SEC. 2501. AUTHORIZATION OF APPROPRIATIONS.

(a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, $74,044,106 for fiscal year 1994, and $76,857,782 for fiscal year 1995.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, $6,987,224 for fiscal year 1994, and $7,252,739 for fiscal year 1995.

SEC. 2502. GENERAL PROVISIONS.

(a) DEFINITIONS.—As used in this part—

(1) the term "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) the term "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) the term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

(4) the term "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment; and

(5) the term "Secretary" means the Secretary of Transportation.

(b) PROCEDURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any action taken under section 2503 shall be taken in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

(2) SPECIFIC PROCEDURE.—

(A) INITIATION.—To initiate an action under section 2503, the Secretary shall, not later than May 31, 1992, publish in the Federal Register an advance notice of proposed rulemaking or a notice of proposed rulemaking, except that if the Secretary is unable to publish such a notice by such date, the Secretary shall by such date publish in the Federal Register a notice that the Secretary will begin such action by a certain date which may not be later than January 31, 1993 and include in such notice the reasons for the delay. A notice of delayed action shall not be considered agency action subject to judicial review. If the Secretary publishes an advance notice of proposed rulemaking, the Secretary is not required to follow such notice with a notice of proposed rulemaking if the Secretary determines on the basis of such advanced notice and the comments received thereon that the contemplated action should not be taken under the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103 of such Act (15 U.S.C. 1392), and if the Secretary publishes the reasons for such determination consistent with chapter 5 of title 5, United States Code.

(B) COMPLETION.—

(i) PERIOD.—Action under paragraphs (1) through (4) of section 2503 which was begun under subparagraph (A) shall be completed within 26 months of the date of publication of an advance notice of proposed rulemaking or 18 months of the date of publication of a notice of proposed rulemaking. The Secretary may extend for any reason the period for completion of a rulemaking initiated by the issuance of a notice of proposed rulemaking for not more than 6 months if the Secretary publishes the reasons for such extension. The extension of such period shall not be considered agency action subject to judicial review.

(ii) ACTION.—A rulemaking under paragraphs (1) through (4) of section 2503 shall be considered completed when the Secretary promulgates a final rule or when the Secretary decides not to promulgate a rule (which decision may include deferral of the action or reinitiation of the action). The Secretary may not decide against promulgation of a final rule because of lack of time to complete rulemaking. Any such rulemaking actions shall be published in the Federal Register, together with the reasons for such decisions, consistent with chapter 5 of title 5, United States Code, and the National Traffic and Motor Vehicle Safety Act of 1996.

(iii) SPECIAL RULE.—

(I) PERIOD.—Action under paragraph (5) of section 2503 which was begun under subparagraph (A) shall be completed within 24 months of the date of publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date for completion for not more than 6 months and shall publish in the Federal Register a notice stating the reasons for the extension and setting a date certain for completion of the action. The extension of the completion date shall not be considered agency action subject to judicial review.

(II) ACTION.—A rulemaking under paragraph (5) of section 2503 shall be considered completed when the Secretary promulgates a final rule with standards on improved head injury protection.

(C) STANDARD.—The Secretary may, as part of any action taken under section 2503, amend any motor vehicle safety standard or establish a new standard under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

SEC. 2503. MATTERS BEFORE THE SECRETARY.

The Secretary shall address the following matters in accordance with section 2502:

(1) Protection against unreasonable risk of rollovers of passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(2) Extension of passenger car side impact protection to multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(3) Safety of child booster seats used in passenger cars and other appropriate motor vehicles.

(4) Improved design for safety belts.

(5) Improved head impact protection from interior components of passenger cars (i.e. roof rails, pillars, and front headers).

SEC. 2504. RECALL OF CERTAIN MOTOR VEHICLES.

(a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

SEC. 2505. STANDARDS OF COMPLIANCE TEST PROGRAM.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following:

VOL 137
PT 24
NO 26
1991
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JA 3
1992
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"(j) The Secretary shall establish and periodically review and update on a continuing basis a 5-year plan for testing Federal Motor Vehicle Safety Standards that are capable, in the Secretary's judgment, of being tested. In developing the plan and establishing testing priorities, the Secretary shall take into consideration such factors as the Secretary deems appropriate, consistent with the purposes of this Act and the Secretary's other responsibilities under this Act. The Secretary may at any time adjust such priorities to address matters the Secretary deems of greater priority. The initial plan may be the 5-year plan for compliance testing in effect on the date of enactment of this subsection.".

SEC. 2506. REAR SEATBELTS.

The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for fiscal year 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

SEC. 2507. BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS.

Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966, shall publish an advance notice of proposed rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The Secretary shall complete such rulemaking (in accordance with section 2502(b)(2)(B)(ii)) not later than 36 months from the date of initiation of such advance notice of proposed rulemaking. In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall, as part of the rulemaking, consider any such brake system adopted by a manufacturer.

SEC. 2508. AUTOMATIC CRASH PROTECTION AND SAFETY BELT USE.

(a) AMENDMENT OF STANDARD.—

(1) SPECIFICATIONS.—Notwithstanding any other provision of law or rule, the Secretary shall by September 1, 1993, promulgate, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 (to the extent such Act is not in conflict with the provisions of this section), an amendment to Federal Motor Vehicle Safety Standard 208 issued under such Act to provide that the automatic occupant crash protection system for the front outboard designated seating positions of each—

(A) new truck, bus, and multipurpose passenger vehicle (other than walk-in van-type trucks and vehicles designed to be exclusively sold to the United States Postal Service) with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, and

(B) new passenger car,

manufactured on or after the dates specified in the applicable schedule established by subsection (b), shall be an inflatable restraint complying with the occupant protection requirements under section 4.1.2.1 of such Standard. This section supplements and revises, but does not replace, Federal Motor Vehicle Safety Standard 208, including the amendment to such Standard 208 of March 26, 1991 (56 F.R. 12472), extending the requirements for automatic crash protection, together with incentives for more innovative automatic crash protection, to trucks, buses, and multipurpose passenger vehicles.

(2) REQUIREMENT.—The amendment to such Standard 208 shall also require, to be effective as soon as possible after the promulgation of such amendment, that the owner manuals for passenger cars and trucks, buses, and multipurpose passenger vehicles equipped with an inflatable restraint include a statement in an easily understandable format—

(A) that the vehicle is equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt in either or both the front outboard seating positions;

(B) that the airbag is a supplemental restraint;

(C) that it does not substitute for lap and shoulder belts which must also be correctly used by an occupant in such seating position to provide restraint or protection not only from frontal crashes but from other types of crashes or accidents; and

(D) that all occupants, including the driver, should always wear their lap and shoulder belts, where available, or other safety belts, whether or not there is an inflatable restraint.

(3) FINDING.—The Congress finds that it is in the public interest for all States to adopt and enforce mandatory seat belt use laws and for the Federal Government to adopt and enforce mandatory seat belt use rules.

(b) SCHEDULE.—The amendment promulgated under subsection (a) shall establish the following schedule:

(1) NEW PASSENGER CARS.—The amendment shall take effect for 95 percent of each manufacturer's annual production of passenger cars manufactured on and after September 1, 1996, and before September 1, 1997, and for 100 percent of each manufacturer's production of passenger cars manufactured on and after September 1, 1997. Subject to the provisions of subsection (c), the percentage prescribed for passenger cars manufactured on and after September 1, 1997, shall be met entirely by inflatable restraints (accompanied by lap and shoulder belts) for both front outboard seating positions.

(2) NEW TRUCKS, BUSES, AND MULTIPURPOSE PASSENGER VEHICLES.—The amendment shall take effect for 80 percent of each manufacturer's annual production of trucks, buses, and multipurpose passenger vehicles described in subsection (a)(1)(A) and manufactured on and after September 1, 1997, and before September 1, 1998, and for 100 percent of each manufacturer's production of such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1998. Subject to the provisions of subsection (c), the percentage prescribed for such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1998, shall be met entirely by inflatable restraints (accompanied by lap and shoulder belts) for both front outboard seating positions. The incentives or credits available under Standard 208 (as amended by this section) prior to September 1, 1998, shall not be available to the manufacturers to comply with the 100 percent requirement of this paragraph on and after such date.

(c) TEMPORARY EXEMPTION FROM REQUIREMENTS.—Upon application by a manufacturer, in such manner and containing such information as the Secretary shall prescribe in the amendment under this section to such Standard 208, the Secretary may at any time, under such terms and conditions and to such extent as the Secretary deems appropriate, temporarily exempt or renew the exemption of a motor vehicle from the requirements of subsection (a) or (b), or both, if the Secretary finds that there has been a disruption in the supply of any inflatable restraint component, or a disruption in the use and installation by the manufacturer of such component due to unavoidable events not under the control of the manufacturer, that will prevent a manufacturer from meeting its anticipated production volume of vehicles with such restraints. Each application for such exemption must be filed by the manufacturer affected, and must specify the models, lines, and types of vehicles actually affected, although the Secretary may consolidate applications of a similar nature of 1 or more manufacturers. Any exemption or renewal shall be conditioned upon the manufacturer's commitment to recall the exempted vehicles for installation of omitted inflatable restraints within a reasonable time proposed by the manufacturer and approved by the Secretary after such components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements. Notice of each application shall be published in the Federal Register and notice of each decision to grant or deny a temporary exemption, and the reasons for granting or denying it, shall be published in the Federal Register. The Secretary shall require labeling for each exempted motor vehicle which can only be removed after recall and installation of the required inflatable restraint. If a vehicle is delivered without an inflatable restraint, the Secretary shall require that written notification of the exemption be delivered to the dealer and first purchasers for purposes other than resale of such exempted motor vehicle in such a manner, and containing such information, as the Secretary deems appropriate.

(d) CONSTRUCTION.—Nothing in this section shall be construed by the Secretary or any other person, including any court, as altering or affecting any other provision of law administered by the Secretary and applicable to such passenger cars or trucks, buses, or multipurpose passenger vehicles or as establishing any precedent regarding the development and promulgation of any Federal Motor Vehicle Safety Standard. Nothing in this section or in the amendments made under this section to Federal Motor Vehicle Safety Standard 208 shall be construed by any person or court as indicating an intention by Congress to affect, change, or modify in any way the liability, if any, of a motor vehicle manufacturer under applicable law relative to vehicles with or without inflatable restraints.

(e) REPORT.—The Secretary shall biannually report, beginning October 1, 1992 and continuing to October 1, 2000, on the actual effectiveness of an occupant restraint system defined as the percentage reduction in fatalities or injuries of restrained occupants as compared to unrestrained occupants for the combination of inflated restraints and lap and shoulder belts, for inflated restraints alone, and for lap and shoulder belts alone. The Secretary, in consultation with the Secretary of Labor and the Secretary of Defense, shall also provide data and analysis on lap and shoulder belt use, nationally and in each State, by Federal, State, and local law enforcement officers, by military personnel, by Federal and State employees other than law enforcement officers, and by the public.

(f) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies and consistent with applicable provisions of Federal procurement law and available appropriations, shall establish a program requiring that all passenger cars acquired after September 30, 1994, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side inflatable restraints and that all passenger cars acquired after September 30, 1996, for use by the Federal Government be equipped, to the maximum extent practicable, with inflatable restraints for both the driver and front seat outboard seating positions.

SEC. 2509. HEAD INJURY IMPACT STUDY.

The Secretary, in the case of any head injury protection matters not subject to section 2503(5) for which the Secretary is on the date of enactment of this Act examining the need for rulemaking and is conducting research, shall provide a report to Congress by the end of fiscal year 1993 identifying those matters and their

status. The report shall include a statement of any actions planned toward initiating such rulemaking no later than fiscal year 1994 or 1995 through use of either an advance notice of proposed rulemaking or a notice of proposed rulemaking and completing such rulemaking as soon as possible thereafter.

TITLE III—FEDERAL TRANSIT ACT AMENDMENTS OF 1991

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Transit Act Amendments of 1991".

SEC. 3002. AMENDMENTS TO URBAN MASS TRANSPORTATION ACT OF 1964.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601–1621).

SEC. 3003. AMENDMENT TO SHORT TITLE OF URBAN MASS TRANSPORTATION ACT OF 1964.

(a) IN GENERAL.—The Act is amended by striking "That this Act may be cited as the 'Urban Mass Transportation Act of 1964'." and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Federal Transit Act'.".

(b) OTHER REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Act of 1964 shall be deemed to be a reference to the "Federal Transit Act".

SEC. 3004. FEDERAL TRANSIT ADMINISTRATION.

(a) REDESIGNATION OF UMTA.—The Urban Mass Transportation Administration of the Department of Transportation shall be known and designated as the "Federal Transit Administration".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration shall be deemed to be a reference to the "Federal Transit Administration".

(c) AMENDMENTS TO TITLE 49.—

(1) AMENDMENT TO TEXT.—Section 107(a) of title 49, United States Code, is amended by striking "Urban Mass Transportation Administration" and inserting "Federal Transit Administration".

(2) AMENDMENT TO SECTION HEADING.—The heading for section 107 of such title is amended to read as follows:

"§107. Federal Transit Administration".

(3) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of such title is amended by striking the item relating to section 107 and inserting the following:

"107. Federal Transit Administration.".

(d) AMENDMENTS TO TITLE 5.—Title 5, United States Code, is amended—

(1) in section 5314 by striking "Urban Mass Transportation Administrator" and inserting "Federal Transit Administrator"; and

(2) in section 5316 by striking "Deputy Administrator, Urban Mass Transportation Administration" and inserting "Deputy Administrator, Federal Transit Administration".

SEC. 3005. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) is amended—

(1) in paragraph (2) by striking "; and" and inserting a semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) that significant transit improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.".

(b) PURPOSES.—Section 2(b) is amended—

(1) in paragraph (2) by striking "; and" and inserting a semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to provide financial assistance to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.".

SEC. 3006. MAJOR CAPITAL INVESTMENT PROGRAM.

(a) ELDERLY PERSONS AND PERSONS WITH DISABILITIES.—Section 3(a)(1) is amended by striking subparagraph (E) and inserting the following new subparagraph:

"(E) transit projects which are planned, designed, and carried out to meet the special needs of elderly persons and persons with disabilities; and".

(b) CORRIDOR DEVELOPMENT.—Section 3(a)(1) is further amended by adding at the end the following new subparagraph:

"(F) the development of corridors to support fixed guideway systems, including protection of rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes, construction of park and ride lots, and any other nonvehicular capital improvements that the Secretary may determine would result in increased transit usage in the corridor.".

(c) GRANDFATHERED LETTERS OF INTENT.—This Act shall not be construed to affect the validity of any existing letter of intent, full funding grant agreement, or letter of commitment issued under section 3(a)(4) of the Federal Transit Act before the date of the enactment of the Federal Transit Act Amendments of 1991.

(d) ALLOCATIONS.—Section 3(k) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Subject to paragraph (3), of the amounts available for grants and loans under this section for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

"(A) 40 percent shall be available for fixed guideway modernization;

"(B) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(C) 20 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities."; and

(2) by adding at the end the following new paragraph:

"(3) AREAS OTHER THAN URBANIZED AREAS.—At least 5.5 percent of the amounts available for grants and loans under subsection (k)(1)(C) for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 shall be available for areas other than urbanized areas.".

(e) BOND INTEREST ON ADVANCE CONSTRUCTION.—Section 3(l)(2)(B) is amended by striking "the excess of—" and all that follows through the period and inserting "the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financial terms.".

(f) FEDERAL SHARE.—Section 4(a) is amended—

(1) by striking "75 per centum" and inserting "80 percent"; and

(2) by inserting before the period at the end of the second sentence the following: ", unless the recipient of the grant requests a lower Federal grant percentage".

(g) LOCAL SHARE FOR CERTAIN PLANNED EXTENSIONS OF FIXED GUIDEWAY SYSTEMS.—Section 4(a) is amended by adding at the end the following new sentence: "The remainder of the net project cost of a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant demonstrates to the satisfaction of the Secretary that—

"(1) such purchase was made solely with non-Federal funds; and

"(2) such purchase was made for use on the extension.".

(h) FISCAL CAPACITY CONSIDERATIONS.—Section 4 is amended—

(1) by striking subsections (b), (c), (d), (e), (f), and (g) and redesignating subsections (h) and (i) as subsections (b) and (c), respectively; and

(2) by adding at the end the following new subsection:

"(d) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to the funding of projects which include more than the non-Federal share required by subsection (a), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.".

SEC. 3007. CAPITAL GRANTS; TECHNICAL AMENDMENT TO PROVIDE FOR EARLY SYSTEMS WORK CONTRACTS AND FULL FUNDING GRANT AGREEMENTS.

Section 3(a)(4) is amended—

(1) by inserting "(A)" after "(4)";

(2) in the fifth sentence by inserting "not less than" after "complete";

(3) by adding after the sixth sentence the following:

"(B) The Secretary is authorized to enter into a full funding grant agreement with an applicant, which agreement shall—

"(i) establish the terms and conditions of Federal financial participation in a project under this section;

"(ii) establish the maximum amounts of Federal financial assistance for such project;

"(iii) cover the period of time to completion of the project, including any period that may extend beyond the period of any authorization; and

"(iv) facilitate timely and efficient management of such project in accordance with Federal law.

"(C) An agreement under subparagraph (B) shall obligate an amount of available budget authority specified in law and may include a commitment, contingent upon the future availability of budget authority, to obligate an additional amount or additional amounts from future available budget authority specified in law. The agreement shall specify that the contingent commitment does not constitute an obligation of the United States. The future availability of budget authority referred to in the first sentence of this subparagraph shall be amounts to be specified in law in advance for commitments entered into under subparagraph (B). Any interest and other financing costs of efficiently carrying out the project or a portion thereof within a reasonable period of time shall be considered as a cost of carrying out the project under a full funding grant agreement; except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financing terms. The total of amounts stipulated in a full funding grant agreement for a fixed guideway project shall be sufficient to complete not less than an operable segment.

"(D) The Secretary is authorized to enter into an early systems work agreement with an applicant if a record of decision pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary determines that there is reason to believe—

"(i) a full funding grant agreement will be entered into for the project; and

"(ii) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

The early systems work agreement shall obligate an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of project implementation, including land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. An early systems work agreement shall cover such period of time as the Secretary deems appropriate, which period may extend beyond the period of current authorization. The interest and other financing costs of carrying out the early systems work agreement efficiently and within a reasonable period of time shall be considered as a cost of carrying out the agreement; except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financing terms. If an applicant fails to implement the project for reasons within the applicant's control, the applicant shall repay all Federal payments made under the early systems work agreement plus such reasonable interest and penalty charges as the Secretary may establish in the agreement.";

(4) by inserting "(E)" before "The total estimated" and aligning subparagraph (E) with subparagraph (D);

(5) in the sentence that begins "The total estimated"—

(A) by inserting ", and contingent commitments to incur obligations," after "Federal obligations";

(B) by inserting ", early systems work agreements, and full funding grant agreements," after "all outstanding letters of intent,"; and

(C) by inserting "or 50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund, including amounts received from taxes and interest earned in excess of amounts that have been previously obligated, whichever is greater" after "section 3 of this Act"; and

(6) in the sentence that begins "The total amount covered", by inserting "and contingent commitments included in early systems work agreements and full funding grant agreements" after "by new letters issued,".

SEC. 3008. FIXED GUIDEWAY MODERNIZATION.

Section 3 is amended by striking subsection (h) and inserting the following new subsection:

"(h) FIXED GUIDEWAY MODERNIZATION APPORTIONMENTS.—The Secretary shall apportion the sums made available for fixed guideway modernization under this section for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 as follows:

"(1) The first $455,000,000 made available shall be apportioned for expenditure in the following urbanized areas according to the following percentages:

"(A) Baltimore, 1.84 percent.

"(B) Boston, 8.56 percent.

"(C) Chicago/Northwestern Indiana, 17.18 percent.

"(D) Cleveland, 2.09 percent.

"(E) New York, 35.57 percent.

"(F) Northeastern New Jersey, 9.04 percent.

"(G) Philadelphia/Southern New Jersey, 12.41 percent.

"(H) San Francisco, 7.21 percent.

"(I) Southwestern Connecticut, 6.10 percent.

"(2) The next $42,700,000 made available shall be apportioned for expenditure in the following urbanized areas according to the following percentages:

"(A) New York, 33.2341 percent.

"(B) Northeastern New Jersey, 22.1842 percent.

"(C) Philadelphia and Southern New Jersey, 5.7594 percent.

"(D) San Francisco, 2.7730 percent.

"(E) Pittsburgh, 31.9964 percent.

"(F) New Orleans, 4.0529 percent.

"(3) The next $70,000,000 made available shall be apportioned for expenditure—

"(A) 50 percent in the urbanized areas listed in paragraphs (1) and (2) according to the apportionment formula contained in section 9(b)(2); and

"(B) 50 percent in other urbanized areas eligible for assistance under section 9(b)(2) of this Act which contain a fixed guideway system placed in revenue service not less than 7 years prior to the fiscal year in which funds are made available and in other urbanized areas which before the first day of the fiscal year demonstrate to the satisfaction of the Secretary that the urbanized area has modernization needs which cannot be adequately met with amounts received under section 9(b)(2) according to the apportionment formula contained in such section.

"(4) Any remaining amounts made available in a fiscal year shall be apportioned for expenditure in each urbanized area eligible for assistance under paragraphs (1), (2), and (3) in accordance with the apportionment formula contained in section 9(b)(2).

"(5) In any fiscal year in which the full amounts authorized under paragraphs (1) and (2) are not made available, the Secretary shall reduce on a pro rata basis the apportionments of all urbanized areas eligible under either paragraph to adjust for the shortfall.

"(6) Notwithstanding any other provision of law, rail modernization funds allocated to the New Jersey Transit Corporation under this paragraph may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail service regardless of the urbanized area which generates the funding.".

SEC. 3009. BUS TESTING.

Section 3 is amended by adding at the end the following new subsection:

"(m) BUS TESTING.—Of the amounts made available for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus related facilities by subsection (k)(1)(C), the Secretary shall make available $1,500,000 in fiscal year 1992, $2,000,000 in fiscal year 1993, the lesser of $2,000,000 or an amount the Secretary determines to be necessary per fiscal year in each of fiscal years 1994, 1995, and 1996, and the lesser of $3,000,000 or an amount the Secretary determines to be necessary in fiscal year 1997. Such amounts shall be available to the Secretary to pay 80 percent of the cost of testing a vehicle at the facility established under section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608). The Secretary shall make such payments by contract with the operator of the facility. The remaining 20 percent of the cost of testing a vehicle shall be paid to the operator of the facility by the entity having the vehicle tested.".

SEC. 3010. CRITERIA FOR NEW STARTS.

Section 3(i) is amended to read as follows:

"(i) NEW START CRITERIA.—

"(1) DETERMINATIONS.—A grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may not be made under this section unless the Secretary determines that the proposed project—

"(A) is based on the results of an alternatives analysis and preliminary engineering;

"(B) is justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

"(C) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

"(2) CONSIDERATIONS.—In making determinations under this subsection, the Secretary—

"(A) shall consider the direct and indirect costs of relevant alternatives;

"(B) shall account for costs related to such factors as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to implement each alternative analyzed; and

"(C) shall identify and consider transit supportive existing land use policies and future patterns, and consider other factors including the degree to which the project increases the mobility of the transit dependent population or promotes economic development, and other factors that the Secretary deems appropriate to carry out the purposes of this Act.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary shall issue guidelines that set forth the means by which the Secretary shall evaluate results of alternatives analysis, project justification, and degree of local financial commitment for the purposes of paragraph (1).

"(B) PROJECT JUSTIFICATION.—Project justification criteria shall be adjusted to reflect differences in local land costs, construction costs, and operating costs.

"(C) FINANCIAL COMMITMENT.—The degree of local financial commitment shall be considered acceptable only if—

"(i) the proposed project plan provides for the availability of contingency funds that the Secretary determines to be reasonable to cover unanticipated cost overruns;

"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project.

"(D) STABILITY ASSESSMENT.—In assessing the stability, reliability, and availability of proposed sources of local funding, the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which funding sources are dedicated to the purposes proposed; and

"(iii) any debt obligations which exist or are proposed by the recipient for the proposed project or other transit purposes.

"(4) PROJECT ADVANCEMENT.—No project shall be advanced from alternatives analysis to preliminary engineering unless the Secretary finds that the proposed project meets the requirements of this section and there is a reasonable chance that the project will continue to meet these requirements at the conclusion of preliminary engineering.

"(5) EXCEPTIONS.—

"(A) IN GENERAL.—A new fixed guideway system or extension shall not be subject to the requirements of this subsection and the simultaneous evaluation of such projects in more than one corridor in a metropolitan area shall not be limited if (i) the project is located within an extreme or severe nonattainment area and is a transportation control measure, as defined by the Clean Air Act, that is required to carry out an approved State Implementation Plan, or (ii) assistance provided under this section accounts for less than $25,000,000 or less than ⅓ of the total cost of the project or an appropriate program of projects as determined by the Secretary.

"(B) EXPEDITED PROCEDURES.—In the case of a project that is (i) located within a nonattainment area that is not an extreme or severe nonattainment area, (ii) a transportation control measure, as defined in the Clean Air Act, and (iii) required to carry out an approved State Implementation Plan, the simultaneous evaluation of projects in more than one corridor in a metropolitan area shall not be limited and the Secretary shall make determinations under this subsection with expedited procedures that will promote timely implementation of the State Implementation Plan.

"(C) EXCLUSION FOR CERTAIN PROJECTS.—That portion of a project (including any commuter rail service project on an existing right-of-way) financed entirely with highway funds made available under the Federal-Aid Highway Act of 1991 shall not be subject to the requirements of this subsection.

"(6) PROJECT IMPLEMENTATION.—A project funded pursuant to this subsection shall be implemented by means of a full funding grant agreement.".

SEC. 3011. ASSURED TIMETABLE FOR PROJECT REVIEW.

(a) IN GENERAL.—Section 3(a) is amended by striking paragraph (6) and inserting the following new paragraphs:

"(6) ASSURED TIMETABLE FOR PROJECTS IN ALTERNATIVES ANALYSIS, PRELIMINARY ENGINEERING, OR FINAL DESIGN STAGES.—

"(A) ALTERNATIVES ANALYSIS STAGE.—For any new fixed guideway project that the Secretary permits to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis and in preparation of a draft environmental impact statement, and shall approve the draft environmental impact statement for circulation not later than 45 days after the date on which such draft is submitted to the Secretary by the applicant.

"(B) PRELIMINARY ENGINEERING STAGE.—Following circulation of the draft environmental impact statement and not later than 30 days after selection by the applicant of a locally preferred alternative, the Secretary shall permit the project to advance to the preliminary engineering phase if the Secretary finds the project is consistent with the criteria set forth in subsection (i).

"(C) FINAL DESIGN STAGE.—The Secretary shall issue a record of decision and permit a project to advance to the final design stage of construction not later than 120 days after the date of completion of the final environmental impact statement for such project.

"(D) FULL FUNDING GRANT AGREEMENT.—The Secretary shall negotiate and enter into a full funding grant agreement for a project not later than 120 days after the date on which such project has entered the final design stage of construction. Such full funding grant agreement shall provide for a Federal share of the cost of construction that is not less than the Federal share estimated in the Secretary's most recent report required under section 3(j) or an update thereof unless otherwise requested by an applicant.

"(7) PERMITTED DELAYS IN PROJECT REVIEW.—

"(A) IN GENERAL.—Advancement of a project under the timetables specified under paragraph (6) shall be delayed only—

"(i) for such period of time as the applicant, solely at the applicant's discretion, may request; or

"(ii) during such period of time as the Secretary finds, after reasonable notice and opportunity for comment, that the applicant has failed, for reasons solely attributable to the applicant, to comply substantially with requirements of this Act with respect to the project.

"(B) EXPLANATION OF DELAY.—Not more than 10 days after imposing any delay under subparagraph (A)(ii), the Secretary shall provide the applicant with a written statement that (i) explains the reasons for such delay, and (ii) describes all steps which the applicant must take to end the period of delay.

"(C) REPORTS.—The Secretary shall report, not less frequently than once every 6 months, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate in any case in which the Secretary—

"(i) fails to meet a deadline established by paragraph (6); or

"(ii) delays the application of a deadline under subparagraph (A)(ii).

Such report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review of the project.

"(8) TREATMENT OF PROGRAMS OF INTERRELATED PROJECTS.—

"(A) FULL FUNDING GRANT AGREEMENT.—In accordance with the timetables established by paragraph (6) or as otherwise provided by law, the Secretary shall enter into 1 or more full funding grant agreements for each program of interrelated projects described in subparagraph (C). Such full funding grant agreements shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate stages of project review in accordance with the timetables established by paragraph (6) or as otherwise provided for a project by law, and to provide Federal funding for each such program element. Such full funding grant agreements may also be amended, if appropriate, to include design and construction of particular program elements. Inclusion of a nonfederally funded program element in a program of interrelated projects shall not be construed as imposing Federal requirements which would not otherwise apply to such program element.

"(B) CONSIDERATIONS.—When reviewing any project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent that such consideration expedites project implementation.

"(C) PROGRAMS OF INTERRELATED PROJECTS.—For the purposes of this paragraph, programs of interrelated projects shall include the following:

"(i) The New Jersey Urban Core Project as defined by the Federal Transit Act Amendments of 1991.

"(ii) The San Francisco Bay Area Rail Extension Program, which consists of not less than the following elements: an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, and any other program element designated by any modification to Metropolitan Transportation Commission Resolution No. 1876, as well as program elements financed entirely with non-Federal funds, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

"(iii) The Los Angeles Metro Rail Minimum Operable Segment-3 Program, which consists of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

"(I) 1 line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations;

"(II) 1 line running west from the Wilshire/Western station to the Pico/San Vicente station, with 1 intermediate station; and

"(III) the East Side Extension, consisting of an initial line of approximately 3 miles in length, with at least 2 stations, beginning at Union Station and running generally east.

"(iv) The Baltimore-Washington Transportation Improvements Program, which consists of the following elements: 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station and Baltimore-Washington Airport; MARC extensions to Frederick and Waldorf, Maryland; and an extension of the Washington Subway system to Largo, Maryland.

"(v) The Tri-County Metropolitan Transportation District of Oregon Westside Light Rail Program, which consists of the following elements: the locally preferred alternative for the Westside Light Rail Project, including system related costs, set forth in Public Law 101–516 and as defined in House Report 101–584; and the Hillsboro extension to the Westside Light Rail Project as set forth in Public Law 101–516.

"(vi) The Queens Local/Express Connector Program which consists of the following elements: the locally preferred alternative for the connection of the 63rd Street tunnel extension to the Queens Boulevard lines; the bell-mouth portion of the connector which would allow for future access by both commuter rail trains and other subway lines to the 63rd Street tunnel extension; planning elements for connecting both upper and lower level to commuter and subway lines in Long Island City; and planning elements for providing a connector for commuter rail service to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

"(vii) The Dallas Area Rapid Transit Authority light rail elements of the New System Plan, which consists of the following elements: the locally preferred alternative for the South Oak Cliff corridor; the South Oak Cliff corridor extension-Camp Wisdom; the West Oak Cliff corridor-Westmoreland; the North Central corridor-Park Lane; the North Central corridor-Richardson, Plano and Garland extensions; the Pleasant Grove corridor-Buckner; and the Carrollton corridor-Farmers Branch and Las Colinas terminal.

"(viii) Such other programs as may be designated in law or by the Secretary.".

(b) TRANSITIONAL PROVISION.—In the case of a project (including programs of interrelated projects) that, as of the date of enactment of this Act, has reached a particular stage of project review under section 3(a)(6) of the Federal Transit Act, the timetables applicable to subsequent stages of project review contained in such section shall take effect on the date of enactment of this Act.

SEC. 3012. METROPOLITAN PLANNING.

The Act is amended by striking section 8 and inserting the following new section:

"SEC. 8. METROPOLITAN PLANNING.

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) COORDINATION IN MULTI-STATE AREAS.—

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) COORDINATION OF MPO'S.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

"(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that would result in increased security in transit systems.

"(g) DEVELOPMENT OF LONG RANGE PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.

"(C) Assess capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures of the State Implementation Plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act and which are consistent with the long range plan developed under subsection (g) for the area. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96–551.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

"(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the Bridge and Interstate Maintenance programs) or pursuant to the Federal Transit Act shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area.

"(5) CERTIFICATION.—The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of section 134 and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 8(o) of the Federal Transit Act.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) TRANSFER OF FUNDS.—Funds made available for a transit project under title 23, United States Code, shall be transferred to and administered by the Secretary in accordance with the requirements of this Act. Funds made available for a highway project under this Act shall be transferred to and administered by the Secretary in accordance with the requirements of title 23, United States Code.

"(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Notwithstanding any other provisions of this Act or title 23, United States Code, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any transit project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act; or

"(2) to intervene in the management of a transportation agency.

"(n) GRANTS.—

"(1) ELIGIBILITY.—The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof, or enter into agreements with other Federal departments and agencies, for the planning, engineering, design, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include—

"(A) studies relating to management, operations, capital requirements, and economic feasibility;

"(B) evaluation of previously funded projects; and

"(C) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of facilities and equipment.

"(2) CRITERIA.—A grant, contract, or working agreement under this section shall be made in accordance with criteria established by the Secretary.

"(o) PRIVATE ENTERPRISE.—The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in service in the urban areas, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(p) USE FOR COMPREHENSIVE PLANNING.—

"(1) IN GENERAL.—The Secretary shall ensure, to the extent practicable, that amounts made available under section 21(c)(1) for the purposes of this section are used to support balanced and comprehensive transportation planning that takes into account the relationships among land use and all transportation modes, without regard to the programmatic source of the planning funds.

"(2) FORMULA ALLOCATION TO ALL METROPOLITAN AREAS.—The Secretary shall apportion 80 percent of the amount made available under section 21(c)(1) to States in the ratio that the population in urbanized areas, in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this paragraph. Such funds shall be allocated to metropolitan planning organizations designated under section 8 by a formula, developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary, that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act. The State shall make such funds available promptly to eligible metropolitan planning organizations according to procedures approved by the Secretary.

"(3) SUPPLEMENTAL ALLOCATION.—The Secretary shall apportion 20 percent of the amounts made available under section 21(c)(1) to States to supplement allocations under subparagraph (B) for metropolitan planning organizations. Such funds shall be allocated according to a formula that reflects the additional costs of carrying out planning, programming, and project selection responsibilities under this section in such areas.

"(4) HOLD HARMLESS.—The Secretary shall ensure, to the maximum extent practicable, that no metropolitan planning organization is allocated less than the amount it received by administrative formula under section 8 in fiscal year 1991. To comply with the previous sentence, the Secretary is authorized to make a pro rata reduction in other amounts made available to carry out section 21(c).

"(5) FEDERAL SHARE PAYABLE.—The Federal share payable for activities under this paragraph shall be 80 percent except where the Secretary determines that it is in the Federal interest not to require a State or local match.".

SEC. 3013. BLOCK GRANT PROGRAM.

(a) ALLOCATIONS.—Section 9(a) is amended—

(1) in paragraph (1), by striking "Of the amount" and all that follows through the period and inserting the following: "Of the amounts made available or appropriated under section 21(g), 9.32 percent shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of less than 200,000."; and

(2) in paragraph (2), by striking "Of the amount" and all that follows through the period and inserting the following: "Of the amounts made available or appropriated under section 21(g), 90.68 percent shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of 200,000 or more.".

(b) ENERGY AND OPERATING EFFICIENCIES.—Section 9(b) is amended by adding at the end the following new paragraph:

"(4) ENERGY AND OPERATING EFFICIENCIES.—If a recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce revenue vehicle miles but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under paragraph (2)(A) shall not be reduced as a result of such actions.".

(c) EXTENSION OF SAFETY AUTHORITY TO BLOCK GRANT PROGRAM.—Section 9(e)(1) is amended by striking "and 19" and inserting "19, and 22".

(d) ANNUAL SUBMISSIONS.—Section 9(e)(2) is amended by inserting after the first sentence the following new sentences: "Such certifications and any additional certifications required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall annually publish in conjunction with the publication required under subsection (q) a list of all certifications required under this Act.".

(e) STREAMLINED PROCEDURES.—Section 9(e) is amended by adding at the end the following new paragraph:

"(6) STREAMLINED ADMINISTRATIVE PROCEDURES.—The Secretary shall establish streamlined administrative procedures to govern compliance with the certification requirement under paragraph (3)(B) with respect to track and signal equipment used in ongoing operations.".

(f) TRANSIT SECURITY SYSTEMS.—Section 9(e)(3) is amended—

(1) in subparagraph (G) by striking "; and" and inserting a semicolon;

(2) in subparagraph (H) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(I)(i) will expend for each fiscal year not less than 1 percent of the funds received by the recipient for each fiscal year under this section for transit security projects; or

"(ii) that such expenditures for such security systems are not necessary.

For the purposes of subparagraph (I), transit security projects may include increasing lighting within or adjacent to transit systems, including bus stops, subway stations, parking lots, and garages; increasing camera surveillance of areas within and adjacent to such systems; providing emergency telephone lines to contact law enforcement or security personnel in areas within or adjacent to such systems; and any other project intended to increase the security and safety of existing or planned transit systems.".

(g) PROGRAM OF PROJECTS.—Section 9(f) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by inserting after paragraph (4) the following:

"(5) assure that the proposed program of projects provides for the coordination of transit services assisted under this section with transportation services assisted from other Federal sources.".

(h) DISCRETIONARY TRANSFER OF APPORTIONMENT.—Section 9 is amended—

(1) in subsection (j)(1), by inserting after the first sentence the following: "In a transportation management area designated pursuant to section 8, funds which cannot be used for payment of operating expenses under this section also shall be available for highway projects if—

"(A) such use is approved by the metropolitan planning organization in accordance with section 8 after appropriate notice and opportunity for comment and appeal is provided to affected transit providers; and

"(B) in the determination of the Secretary, such funds are not needed for investments required by the Americans with Disabilities Act of 1990."; and

(2) by adding at the end of subsection (j) the following new paragraph:

"(3) Funds under this section may be available for highway projects under title 23, United States Code, only if funds used for the State or local share of such highway projects are eligible to fund either highway or transit projects.".

(i) INFLATION ADJUSTMENT FOR OPERATING ASSISTANCE.—Section 9(k)(2)(B) is amended—

(1) by striking "1988," and inserting "1991,";

(2) by striking "of less than 200,000 population" the first place it appears; and

(3) by inserting after "calendar year" the following: "; except that such increase may not exceed the percentage increase of the funds made available under section 21(g) in the current fiscal year and the funds made available under section 21(g) in the previous fiscal year".

(j) FERRY ROUTES.—Section 9 is amended by adding at the end the following new subsections:

"(r) FERRY SERVICES.—A vessel used in ferryboat operations funded under this section that is part of a State-operated ferry system may occasionally be operated outside of the urbanized area in which service is provided to accommodate periodic maintenance if existing ferry service is not thereby significantly reduced.

"(s) GRANDFATHER OF CERTAIN URBANIZED AREAS.—Any area designated as an urbanized area under the 1980 census which is not so designated under the 1990 census—

"(1) for fiscal year 1992, shall be treated as an urbanized area for purposes of section 12(c)(11) of the Federal Transit Act; and

"(2) for fiscal year 1993, shall be eligible to receive 50 percent of the funds which the area would have received if the area were treated as an urbanized area for purposes of such section 12(c)(11) and an amount equal to 50 percent of the funds which the State in which the area is located would have received if the area were treated as an area other than an urbanized area.".

(k) ADJUSTMENTS OF APPORTIONMENTS.—Section 9 is amended by adding at the end the following new subsection:

"(t) ADJUSTMENTS OF APPORTIONMENTS.—Provided that sufficient funds are available, in each fiscal year beginning after September 30, 1991, the Secretary shall adjust apportionments under this section between the Mass Transit Account of the Highway Trust Fund and the general fund of the Treasury to assure that each recipient receives from the general fund of the Treasury not less than the amount of operating assistance made available each fiscal year under this section that such recipient is eligible to receive.".

SEC. 3014. CONTINUED ASSISTANCE FOR COMMUTER RAIL IN SOUTHERN FLORIDA UNDER SECTION 9 PROGRAM.

Section 329 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. 1607a) is amended—

(1) in the first sentence by striking "in which major onsite" and all that follows before the period; and

(2) in the second sentence by striking "provided as" and all that follows before the period.

SEC. 3015. REPEAL OF EXPIRED PROVISION.

Section 9A, relating to Mass Transit Account distribution for fiscal year 1983, is repealed.

SEC. 3016. TRANSIT DEFINITION.

Section 12(c)(7) is amended—

(1) by striking "term" and inserting "terms"; and

(2) by striking "means" and inserting "and 'transit' mean".

SEC. 3017. RULEMAKING.

Section 12(i) is amended by adding at the end the following:

"(3) LIMITATION.—The Secretary shall propose or implement rules governing activities under this Act only in accordance with this section except for routine matters and matters with no significant impact.".

SEC. 3018. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 12 is amended by adding at the end the following new subsection:

"(k) TRANSFER OF CAPITAL ASSET.—

"(1) AUTHORIZATION.—If a recipient of assistance under this Act determines that facilities and equipment and other assets (including land) acquired, in whole or part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary may authorize the transfer of such assets to any public body to be used for any public purpose with no further obligation to the Federal Government.

"(2) DETERMINATIONS.—The Secretary may authorize a transfer under paragraph (1) for any public purpose other than transit only if the Secretary first determines—

"(A) that the asset being transferred will remain in public use for not less than 5 years after the date of the transfer;

"(B) that there are no purposes eligible for assistance under this Act for which the asset should be used;

"(C) the overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

"(D) that, in any case in which the asset is a facility or land, there is no interest in acquiring the asset for Federal use.

The determination under subparagraph (D) shall be made through an appropriate screening or survey process.

"(3) DOCUMENTATION.—Determinations required by paragraph (2) shall be made, in writing, and shall include the rationale for such determinations.

"(4) RELATION TO OTHER PROVISIONS.—The provisions of this section shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 3019. SPECIAL PROCUREMENT.

Section 12 is further amended by adding at the end the following:

"(l) SPECIAL PROCUREMENT INITIATIVES.—

"(1) TURNKEY SYSTEM PROCUREMENTS.—

"(A) IN GENERAL.—In order to advance new technologies and lower the cost of constructing new transit systems, the Secretary shall allow the solicitation for a turnkey system project to be funded under this Act to be conditionally awarded before Federal requirements have been met on the project so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under this Act may be made available for such a project when the recipient has complied with relevant Federal requirements.

"(B) INITIAL DEMONSTRATION PHASE.—In order to develop regulations applying generally to turnkey system projects, the Secretary is authorized to approve not less than 2 projects for an initial demonstration phase. The results of such demonstration projects (and any other projects currently using this procurement method) shall be taken into consideration in the development of the regulations implementing this subsection.

"(C) TURNKEY SYSTEM PROJECT DEFINED.—As used in this subsection, the term 'turnkey system project' means a project under which a recipient contracts with a consortium of firms, individual firms, or a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time.

"(2) MULTIYEAR ROLLING STOCK PROCUREMENTS.—

"(A) IN GENERAL.—A recipient procuring rolling stock with Federal financial assistance under this Act may enter into a multiyear agreement for the purchase of such rolling stock and replacement parts pursuant to which the recipient may exercise an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

"(B) CONSORTIA.—The Secretary shall permit 2 or more recipients to form a consortium (or otherwise act on a cooperative basis) for purposes of procuring rolling stock in accordance with this paragraph and other Federal procurement requirements.

"(3) EFFICIENT PROCUREMENT.—A recipient may award to other than the lowest bidder in connection with a procurement under this Act when such award furthers objectives which are consistent with purposes of this Act, such as improved long-term operating efficiency and lower long-term costs. Not later than 90 days after the date of the enactment of this Act, the Secretary shall (A) make such modifications to current procedures as are appropriate to make the policy set forth in this paragraph readily practicable for all transit agencies, including smaller and medium sized agencies, and (B) issue guidance clarifying and implementing such policy.".

SEC. 3020. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 12 is further amended by inserting at the end the following new subsection:

"(m) FEDERAL SHARE FOR CERTAIN PROJECTS.—A Federal grant for a project to be assisted under this Act that involves the acquisition of vehicle-related equipment required by the Clean Air Act or the Americans with Disabilities Act of 1990 shall be 90 percent of the net project cost of such equipment attributable to compliance with such Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs attributable to equipment specified in the preceding sentence.".

SEC. 3021. TRANSIT SERVICES FOR ELDERLY AND DISABLED INDIVIDUALS.

Section 16 is amended—

(1) by striking "elderly and handicapped persons" each place it appears and inserting "elderly persons and persons with disabilities";

(2) in subsection (b)(2) by inserting "to the Governor of each State for allocation" before "to private";

(3) in subsection (b)(2) by inserting "or to public bodies approved by the State to coordinate services for elderly persons and persons with disabilities or to public bodies which certify to the Governor that no nonprofit corporations or associations are readily available in an area to provide the service under this subsection" after "inappropriate";

(4) by striking "and" at the end of subsection (b)(1), by striking the period at the end of subsection (b)(2) and inserting "; and", and by inserting after subsection (b)(2) the following:

"(3) eligible capital expenses under this section may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.";

(5) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(6) by inserting after subsection (b) the following:

"(c) APPORTIONMENT AND USE OF FUNDS.—

"(1) STATE PROGRAM OF PROJECTS.—Funds made available for purposes of subsection (b) may be used for transportation projects to assist in the provision of transportation services for elderly persons and persons with disabilities which are included in a State program of projects. Such programs shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Federal sources.

"(2) APPORTIONMENT.—Sums made available for expenditure for purposes of subsection (b) shall be apportioned to the States on the basis of a formula administered by the Secretary which shall take into consideration the number of elderly persons and persons with disabilities in each State.

"(3) TRANSFER OF AMOUNTS.—Any amounts of a State's apportionment under this subsection that remain available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts shall be available to the Governor for transfer to supplement funds apportioned to the State under section 18(a) or section 9(d).

"(4) LEASING OF VEHICLES.—The Secretary shall, not later than 60 days following the enactment of the Federal Transit Act, issue regulations to allow vehicles purchased under this section to be leased to local public bodies and agencies for the purpose of improving transportation services designed to meet the special needs of elderly persons and persons with disabilities."; and

(7) by striking subsection (f), as redesignated by this section, and inserting the following:

"(f) MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.—Transit service providers receiving assistance under this section or section 18(a) may coordinate and assist in providing meal delivery service for homebound persons on a regular basis if the meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers.".

SEC. 3022. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 18 is amended by striking subsection (g) and inserting the following:

"(g) TRANSFER OF FACILITIES AND EQUIPMENT.—A State may transfer facilities and equipment acquired with assistance under this section or section 16(b) to any recipient eligible to receive assistance under this Act with the consent of the recipient currently in possession of such facilities or equipment, if the facility or equipment will continue to be used in accordance with the requirements of this section or section 16(b), as the case may be.".

SEC. 3023. INTERCITY BUS TRANSPORTATION.

Section 18 is further amended by adding at the end the following new subsection:

"(i) INTERCITY BUS TRANSPORTATION.—

"(1) FUNDING OF PROGRAM.—Subject to paragraph (2), a State shall expend not less than 5 percent of the amounts made available to such State under this section in fiscal year 1992, 10 percent of such amounts in fiscal year 1993, and 15 percent of such amounts in fiscal year 1994 and each fiscal year beginning thereafter to carry out a program for the development and support of intercity bus transportation. Eligible activities under such a program include planning and marketing for intercity bus transportation, capital grants for intercity bus shelters, joint-use stops and depots, operating grants through purchase-of-service agreements, user-side subsidies and demonstration projects, and coordination of rural connections between small transit operations and intercity bus carriers.

"(2) CERTIFICATION.—A State shall not be required to comply with paragraph (1) in any fiscal year in which the Governor certifies to the Secretary that the intercity bus service needs of the State are being adequately met.

"(3) SPECIAL RULE.—For fiscal year 1992, a State may meet the requirement of paragraph (1) by expending to carry out the program described in paragraph (1) at least 50 percent of the increase in the amount allocated to the State under this section between fiscal year 1991 and fiscal year 1992.".

SEC. 3024. USE OF POPULATION ESTIMATES.

Section 18(a) is amended in the second sentence by inserting after "the latest available Federal census" the following: ", the population estimate prepared by the Secretary of Commerce following the 4th year after the date of publication of such Federal census, or the population estimate prepared by the Secretary of Commerce following the 8th year after such date of publication, whichever is the most recent.".

SEC. 3025. AUTHORIZATIONS.

Section 21 is amended to read as follows:

"SEC. 21. AUTHORIZATIONS.

"(a) FORMULA GRANT PROGRAMS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, $1,150,000,000 for fiscal year 1993, $1,190,000,000 for fiscal year 1994, $1,150,000,000 for fiscal year 1995, $1,110,000,000 for fiscal year 1996, and $1,920,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute transit projects under section 103(e)(4) of title 23, United States Code, $2,055,000,000 for fiscal year 1993, $1,885,000,000 for fiscal year 1994, $1,925,000,000 for fiscal year 1995, $1,965,000,000 for fiscal year 1996, and $2,430,000,000 for fiscal year 1997, to remain available until expended.

"(3) FISCAL YEAR 1992.—There shall be available from the Mass Transit Account of the Highway Trust Fund for fiscal year 1992, $409,710,000 to carry out section 9B of this Act, to remain available until expended.

"(b) SECTION 3 DISCRETIONARY AND FORMULA GRANTS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $1,725,000,000 for fiscal year 1993, $1,785,000,000 for fiscal year 1994, $1,725,000,000 for fiscal year 1995, $1,665,000,000 for fiscal year 1996, and $2,880,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out section 3 of this Act, $305,000,000 for fiscal year 1993, $265,000,000 for fiscal year 1994, $325,000,000 for fiscal year 1995, $385,000,000 for fiscal year 1996, and $20,000,000 for fiscal year 1997, to remain available until expended.

"(3) FISCAL YEAR 1992.—There shall be available from the Mass Transit Account of the Highway Trust Fund for fiscal year 1992—

"(A) $1,345,000,000 to carry out section 3 of this Act;

"(B) $43,780,000 to carry out section 8 of this Act;

"(C) $55,000,000 to carry out section 16 of this Act;

"(D) $19,460,000 to carry out section 26(a) of this Act;

"(E) $20,050,000 to carry out section 26(b) of this Act, of which $12,000,000 shall be available only for part C of title VI of the Intermodal Surface Transportation Efficiency Act of 1991; and

"(F) $7,000,000 to carry out section 11(b) of this Act.

Such sums shall remain available until expended.

"(4) CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant or contract with funds made available under subsection (a)(1), (a)(3), (b)(1), or (b)(3) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project. Approval by the Secretary of a grant or contract with funds made available under subsection (a)(2) or (b)(2) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project only to the extent that amounts are provided in advance in appropriations Acts.

"(c) SET-ASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection 8(p), an amount equivalent to 3.0 percent of funds made available or appropriated under subsections (a) and (b) shall be made available until expended as follows:

"(1) 45 percent of such funds shall be made available for metropolitan planning activities under section 8(f);

"(2) 5 percent of such funds shall be made available to carry out section 18(h);

"(3) 20 percent of such funds shall be made available to carry out the State program under section 26(a); and

"(4) 30 percent of such funds shall be made available to carry out the national program under section 26(b).

"(d) OTHER SET-ASIDES.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), of the funds made available or appropriated under subsections (a) and (b)—

"(1) not to exceed an amount equivalent to .96 percent shall be available for administrative expenses to carry out section 12(a) of this Act and shall be available until expended;

"(2) not to exceed an amount equivalent to 1.34 percent shall be available for transportation services to elderly persons and persons with disabilities pursuant to the formula under section 16(b) of this Act and shall be available until expended; and

"(3) $7,000,000 shall be available for the purposes of section 11(b) relating to university transportation centers for each of fiscal years 1993 through 1996.

"(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Of the amounts remaining available each year under subsections (a) and (b), after allocation pursuant to subsections (c) and (d), for substitute transit projects under section 103(e)(4) of title 23, United States Code, there shall be available $160,000,000 for fiscal year 1992 and $164,843,000 for fiscal year 1993.

"(f) SET-ASIDE FOR RURAL TRANSPORTATION.—An amount equivalent to 5.5 percent of the amounts remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), and (e), shall be available pursuant to the formula under section 18. Such sums shall remain available until expended.

"(g) SECTION 9 FUNDING.—The funds remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), (e) and (f), shall be available under section 9.".

SEC. 3026. REPORT ON SAFETY CONDITIONS IN MASS TRANSIT.

Section 22 is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 22."; and

(2) by adding at the end a new subsection as follows:

"(b) REPORT.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report containing—

"(1) actions taken to identify and investigate conditions in any facility, equipment, or manner of operation as part of the findings and determinations required of the Secretary in providing grants and loans under this Act;

"(2) actions taken by the Secretary to correct or eliminate any conditions found to create a serious hazard of death or injury as a condition for making funds available through grants and loans under this Act;

"(3) a summary of all passenger-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(4) a summary of all employee-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(5) a summary of all actions taken by the Secretary to correct or eliminate the unsafe conditions to which such deaths and injuries were attributed;

"(6) a summary of those actions taken by the Secretary to alert transit operators of the nature of the unsafe conditions which were found to create a serious hazard of death or injury; and

"(7) recommendations to the Congress by the Secretary of any legislative or administrative actions necessary to ensure that all recipients of funds under this Act will institute the best means available to correct or eliminate hazards of death or injury, including—

"(A) a timetable for instituting actions,

"(B) an estimate of the capital and operating cost to take such actions, and

"(C) minimum standards for establishing and implementing safety plans by recipients of funds under this Act.".

SEC. 3027. PROJECT MANAGEMENT OVERSIGHT.

Section 23(a) is amended—

(1) by striking paragraphs (1) through (5);

(2) by striking "½ of 1 percent of—" and inserting the following:

"½ of 1 percent of the funds made available for any fiscal year to carry out sections 3, 9, or 18 of this Act, or interstate transfer transit projects under section 103(e)(4) of title 23, United States Code, as in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under any such section. In addition to such amounts, the Secretary may as necessary use not more than ¼ of 1 percent of the funds made available in any fiscal year to carry out a major project under section 3 to contract with any person to oversee the construction of such major project.".

SEC. 3028. NEEDS SURVEY.

The Act is amended by inserting after section 26 the following new section:

"SEC. 27. NEEDS SURVEY AND TRANSFERABILITY STUDY.

"(a) NEEDS SURVEY.—In January 1993 and in January of every second year thereafter, the Comptroller General shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing an evaluation of the extent to which current transit needs are adequately addressed and an estimate of the future transit needs of the Nation, including transit needs in rural areas (particularly access to health care facilities). Such report shall include the following:

"(1) An assessment of needs related to rail modernization, guideway modernization, replacement, rehabilitation, and purchase of buses and related equipment, construction of bus related facilities, and construction of new fixed guideway systems and extensions to fixed guideway systems.

"(2) A 5-year projection of the maintenance and modernization needs that will result from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed guideway systems.

"(3) A 5-year projection of the need to invest in the expansion of existing transit systems to meet changing economic, commuter, and residential patterns.

"(4) An estimate of the level of expenditure needed to satisfy the needs identified above.

"(5) An examination of existing Federal, State, and local resources as well as private resources that are or can reasonably be expected to be made available to support public transit.

"(6) The gap between the level of expenditure estimated under paragraph (4) and the level of resources available to meet such needs identified under paragraph (5).

"(b) TRANSFERABILITY STUDY.—

"(1) IN GENERAL.—In January 1993 and in January of every second year thereafter, the Comptroller General shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on implementation of the transferability provisions of section 9(j)(3) of this Act.

"(2) CONTENTS.—The report shall identify, by State, the amount of transit funds transferred for nontransit purposes under such sections during the previous fiscal year and shall include an assessment of the impact of such transfers on the transit needs of individuals and communities within the State. Specifically, the report shall assess the impact of such transfers (A) on the State's ability to meet the transit needs of elderly individuals and individuals with disabilities, (B) on efforts to meet the objectives of the Americans With Disabilities Act of 1990 and the Clean Air Act, and (C) on the State's efforts to extend public transit services to unserved rural areas. The report shall also include an examination of the relative levels of Federal transit assistance and services in urban and rural areas in fiscal year 1991 and the extent to which such assistance and service has increased or decreased in subsequent fiscal years as a result of transit resources made available under this Act and the Intermodal Surface Transportation Efficiency Act of 1991.".

SEC. 3029. STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY.

The Act is amended by inserting after section 27 the following new section:

"SEC. 28. STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY.

"(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary may withhold up to 5 percent of the amount required to be apportioned for use in any State or urbanized area in such State under section 9 for any fiscal year beginning after September 30, 1994, if the State in the previous fiscal year has not met the requirements of subsection (b) and the Secretary determines that the State is not making adequate efforts to comply with such subsection.

"(b) STATE REQUIREMENTS.—A State meets the requirements of this section if—

"(1) the State establishes and is implementing a safety program plan for each fixed guideway transit system in the State which establishes, at a minimum, safety requirements, lines of authority, levels of responsibility and accountability, and methods of documentation for such system;

"(2) the State designates an agency of the State with responsibility to—

"(A) require, review and approve, and monitor implementation of such plans; and

"(B) investigate hazardous conditions and accidents on such systems and require corrective actions to correct or eliminate such conditions; and

"(3) in any case in which more than 1 State would be subject to this section in connection with a single transit agency, the affected States may designate an entity other than the transit agency to ensure uniform safety standards and enforcement and to meet the requirements of this subsection.

"(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (a) from apportionment for use in any State in a fiscal year, shall remain available for apportionment for use in such State until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment for use in a State under paragraph (1), the State meets the requirements of subsection (b), the Secretary shall, on the first day on which the State meets the requirements of subsection (b), apportion to the State the funds withheld under subsection (a) that remain available for apportionment for use in the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year succeeding the fiscal year in which such funds are apportioned pursuant to paragraph (2). Sums not obligated at the end of such period shall be apportioned for use in other States under section 9 of this Act.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment for use in a State under paragraph (1), the State does not meet the requirements of subsection (b), such funds shall be apportioned for use in other States under section 9 of this Act.

"(d) LIMITATION ON APPLICABILITY.—This section only applies to States that have rail fixed guideway mass transportation systems which are not subject to regulation by the Federal Railroad Administration.

"(e) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations which set forth the requirements for complying with subsection (b).".

SEC. 3030. PLANNING AND RESEARCH.

The Act is amended by inserting after section 25 the following:

"SEC. 26. PLANNING AND RESEARCH PROGRAM.

"(a) STATE PROGRAM.—The funds made available under section 21(c)(3) shall be available for State programs as follows:

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—50 percent of that amount shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend mass transportation research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of that amount shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act.

"(A) APPORTIONMENT FORMULA.—Amounts shall be apportioned to the States in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section.

"(B) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under this subsection to be used to supplement funds available under subsection (a)(1), as the State deems appropriate.

"(b) NATIONAL PROGRAM.—

"(1) IN GENERAL.—The funds made available under section 21(c)(4), shall be available to the Secretary for grants or contracts for the purposes of section 6, 8, 10, 11, or 20 of this Act, as the Secretary deems appropriate.

"(2) COMPLIANCE WITH ADA.—Of the amounts available under paragraph (1), the Secretary shall make available not less than $2,000,000 to provide transit-related technical assistance, demonstration programs, research, public education, and other activities that the Secretary deems appropriate to help transit providers achieve compliance with the Americans with Disabilities Act of 1990. To the extent practicable, the Secretary shall carry out this subsection through contract with a national nonprofit organization serving persons with disabilities with demonstrated capacity to carry out these activities.

"(3) SPECIAL INITIATIVES.—Of the amounts available under paragraph (1), an amount not to exceed 25 percent shall be available to the Secretary for special demonstration initiatives subject to such terms, conditions, requirements, and provisions as the Secretary deems consistent with the requirements of this Act, except that the provisions of section 3(e)(4) shall apply to operational grants funded for purposes of section 6. For nonrenewable grants that do not exceed $100,000, the Secretary shall provide expedited procedures governing compliance with requirements of this Act.

"(4) TECHNOLOGY DEVELOPMENT.—

"(A) PROGRAM.—The Secretary is authorized to undertake a program of transit technology development in coordination with affected entities.

"(B) INDUSTRY TECHNICAL PANEL.—The Secretary shall establish an Industry Technical Panel consisting of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in the identification of priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

"(C) GUIDELINES.—The Secretary shall develop guidelines for cost sharing in technology development projects funded under this section. Such guidelines shall be flexible in nature and reflect the extent of technical risk, market risk, and anticipated supplier benefits and pay back periods.

"(5) ADVANCED FARE COLLECTION TECHNOLOGY PILOT PROJECT.—From amounts authorized under section 21(c)(4), the Secretary shall make available $1,000,000 in fiscal year 1992 for the purpose of conducting a pilot project to evaluate, develop, and test advanced fare technology systems. Such project shall be carried out by the Washington Metropolitan Transit Authority.

"(6) INERTIAL NAVIGATION TECHNOLOGY TRANSFER.—

"(A) PROJECT.—There is authorized to be appropriated from amounts made available under section 21(c), $1,000,000 for fiscal year 1992 to support an inertial navigation system demonstration project for the purpose of determining the safety, economic, and environmental benefits of deploying inertial navigation tracking and control systems in urban and rural environments.

"(B) PUBLIC-PRIVATE SECTOR PARTICIPANTS.—The project described in subparagraph (A) shall be conducted by the Transit Safety Research Alliance, a nonprofit public-private sector consortium based in Pittsburgh, Pennsylvania.

"(7) SUPPLEMENTARY FUNDS.—The Secretary may use funds appropriated under this subsection to supplement funds available under subsection (a)(1), as the Secretary deems appropriate.

"(8) FEDERAL SHARE.—Where there would be a clear and direct financial benefit to an entity under a grant or contract funded under this subsection or subsection (a)(1), the Secretary shall establish a Federal share consistent with that benefit.

"(c) SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY PILOT PROJECT.—

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"(1) FULL FUNDING GRANT AGREEMENT.—Not later than 60 days after the fulfillment of the requirements under paragraph (5), the Secretary shall negotiate and enter into a full funding grant agreement under section 3 with a public entity selected under paragraph (4) for construction of a suspended light rail system technology pilot project.

"(2) PROJECT PURPOSE.—The purpose of the project under this subsection shall be to assess the state of new technology for a suspended light rail system and to determine the feasibility and costs and benefits of using such a system for transporting passengers.

"(3) PROJECT DESCRIPTION.—The project under this subsection shall—

"(A) utilize new rail technology with individual vehicles on a prefabricated, elevated steel guideway;

"(B) be stability seeking with a center of gravity for the detachable passenger vehicles located below the point of wheel-rail contact; and

"(C) utilize vehicles which are driven by overhead bogies with high efficiency, low maintenance electric motors for each wheel, operating in a slightly sloped plane from vertical for both the wheels and the running rails, to further increase stability, acceleration, and braking performance.

"(4) COMPETITION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall conduct a national competition to select a public entity with which to enter into a full funding grant agreement under paragraph (1) for construction of the project under this subsection.

"(B) PUBLICATION OF NOTICE.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register notice of the competition to be conducted under this paragraph, together with procedures for public entities to participate in the competition.

"(C) SELECTION OF FINALISTS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall select 3 public entities to be finalists in the competition under this paragraph.

"(D) AWARD OF GRANTS.—The Secretary shall award grants to each of the finalists selected under subparagraph (C). Such grants shall be used by the finalists to participate in the final phase of the competition under this paragraph in accordance with procedures to be established by the Secretary. The amount of such grants shall not exceed 80 percent of the costs of such participation. No finalists may receive more than ⅓ of the amount made available under paragraph (9)(C).

"(E) SELECTION OF WINNER.—Not later than 210 days after the date of the enactment of this Act, the Secretary shall select from among the finalists selected under subparagraph (C) the public entity with which to enter into a full funding grant agreement under paragraph (1).

"(F) CONSIDERATIONS.—In conducting the competition and selecting public entities under this paragraph, the Secretary shall consider the following:

"(i) The public entity's demonstrated understanding and knowledge of the project under this section.

"(ii) The public entity's technical, managerial, and financial capacity to undertake construction, management, and operation of the project.

"(iii) Maximization of potential contributions to the cost of the project by State, local, and private sector entities, including the donation of in-kind services and materials.

"(5) EXPEDITED PROCEDURES.—Not later than 270 days after the date of selection of a public entity under paragraph (4), the Secretary shall approve and publish in the Federal Register a notice announcing either (A) a finding of no significant impact, or (B) a draft environmental impact statement for the project under this subsection. The alternative analysis for the project shall include a determination as to whether or not to actually construct such project. If a draft environmental impact statement is published, the Secretary shall, not later than 180 days after the date of such publication, approve and publish in the Federal Register a notice of completion of a final environmental impact statement. The project shall not be subject to the major capital investment policy of the Federal Transit Administration.

"(6) NOTICE TO PROCEED WITH CONSTRUCTION.—Not later than 30 days following the execution of the full funding grant agreement under paragraph (1), the Secretary shall issue a notice to proceed with construction.

"(7) OPTION NOT TO CONSTRUCT.—Not later than the 30th day following the completion of preliminary engineering and design for the project, the public entity selected under paragraph (1) will make a determination on whether or not to proceed to actual construction of the project. If such public entity makes a determination not to proceed to such actual construction—

"(A) the Secretary shall not enter into the grant agreement under paragraph (1);

"(B) any remaining sums received shall be returned to the Secretary and credited to the Mass Transit Account of the Highway Trust Fund; and

"(C) the Secretary shall use the amount so credited and all other amounts to be provided under this section to award to entities selected under paragraph (4)(E) grants under section 3 for construction of the project described in paragraph (1).

Any grants under subparagraph (C) shall be awarded after completion of a competitive process for selection of a grant recipient. Such process shall be completed not later than the 60th day following the date of the determination under this subsection.

"(8) OPERATING COST DEFICITS.—The full funding grant agreement under paragraph (1) shall provide that—

"(A) the system vendor for the project under this section shall fund 100 percent of any deficit incurred in operating the project in the first two years of revenue operations of the project; and

"(B) the system vendor for the project under this section shall fund 50 percent of any deficit incurred in operating the project in the third year of revenue operations of the project.

"(9) FUNDING.—

"(A) PRECONSTRUCTION.—If the systems planning, alternatives analysis, preliminary engineering, and design and environmental impact statement are required by law for the project under this subsection, the Secretary shall pay by grant the Federal share of such costs (as determined under section 3) from amounts provided under such section as follows: not less than $4,000,000 for fiscal year 1993. Such funds shall remain available until expended.

"(B) CONSTRUCTION.—The grant agreement under paragraph (1) shall provide that the Federal share of the construction costs of the project under this section shall be paid by the Secretary from amounts provided under section 3 as follows: not less than $30,000,000 for fiscal year 1994. Such funds shall remain available until expended.

"(C) GRANTS.—Grants under paragraph (4) shall be paid by the Secretary from amounts provided under section 3 as follows: not less than $1,000,000 for fiscal year 1992. Any amounts not expended for such grants shall be available for the Federal share of costs described in subparagraphs (A) and (B).

"(D) OPERATION.—Notwithstanding any other provision of law, the grant agreement under paragraph (1) shall provide with respect to the third year of revenue operations of the project under this subsection that the Federal share of operating costs of the project shall be paid by the Secretary from amounts provided under this section in a sum equal to 50 percent of any deficit incurred in operating the project in such year of revenue operations or $300,000, whichever is less.

"(10) FEDERAL SHARE.—The Federal share of the cost of construction of the project under this subsection shall be 80 percent of the net cost of the project.

"(11) REPORT.—Not later than January 30, 1993, and annually thereafter, the Secretary shall transmit to Congress a report on the progress and results of the project under this subsection.".

SEC. 3031. NEW JERSEY URBAN CORE PROJECT.

(a) CONTRACTUAL COMMITMENTS.—

(1) FULL FUNDING GRANT AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and enter into a full funding grant agreement under section 3 of the Federal Transit Act for those elements of the New Jersey Urban Core Project which can be fully funded in fiscal years 1992 through 1997. Such grant agreement shall not preclude the allocation of Federal funds for those elements of the project not covered under such grant agreement.

(2) PAYMENT.—The grant agreement under paragraph (1) shall provide that the Federal share of the cost of the New Jersey Urban Core Project shall be paid by the Secretary from amounts provided under section 3 of the Federal Transit Act as follows:

(A) Not less than $95,900,000 for fiscal year 1992.

(B) Not less than $71,700,000 for fiscal year 1993.

(C) Not less than $64,800,000 for fiscal year 1994.

(D) Not less than $146,000,000 for fiscal year 1995.

(E) Not less than a total of $256,000,000 for fiscal years 1996 and 1997.

Nothing in this section shall be construed as precluding other Federal funds from being committed to the project.

(b) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, for the purpose of calculating non-Federal contributions to the net cost of the New Jersey Urban Core Project, the Secretary shall include all non-Federal contributions made on or after January 1, 1987, for construction of any element of the project. Non-Federal funds committed to one element of the project may be used to meet the non-Federal share requirement for any other element of the project.

(c) EXEMPTION FROM CERTAIN REQUIREMENTS.—The requirements contained in section 3(i) of the Federal Transit Act (relating to criteria for new starts) shall not apply with respect to the New Jersey Urban Core Project; except that an alternative analysis and draft environmental impact statement shall be completed with respect to the Hudson River Waterfront element of the project and the Secretary shall approve the recommended locally preferred alternative for such element. No element of the project shall be subject to the major capital investment policy of the Federal Transit Administration.

(d) ELEMENTS OF URBAN CORE PROJECT.—For the purposes of this section, the New Jersey Urban Core Project consists of the following elements: Secaucus Transfer, Kearny Connection, Waterfront Connection, Northeast Corridor Signal System, Hudson River Waterfront Transportation System, Newark-Newark International Airport-Elizabeth Transit Link, a rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station Concourse, and the equipment needed to operate revenue service associated with improvements made by the project. The project includes elements advanced with 100 percent non-Federal funds.

SEC. 3032. MULTIYEAR FUNDING FOR SAN FRANCISCO BAY AREA RAIL EXTENSION PROGRAM.

(a) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—

(1) COMPLETION DEADLINE.—Not later than 60 days after the date of the enactment of this Act and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete a draft environmental impact statement for an extension of the San Francisco Bay Area Rapid Transit District (hereinafter in this section referred to as "BART") to the San Francisco International Airport.

(2) NOTICE OF AVAILABILITY AND REPORTING.—The Secretary shall publish a notice of availability of the draft environmental impact statement for public review. If the Secretary has not published such notice on or before the 60th day following the date of the enactment of this Act, the Secretary shall report to Congress on the status of the completion of such draft environmental impact statement. The Secretary shall continue to report to such committees every 30 days on the status of the completion of the draft environmental impact statement, including any proposed revisions to the statement or to the work plan, until a notice of availability of such document is published in the Federal Register.

(b) PRELIMINARY ENGINEERING GRANT.—

(1) TO BART.—Not later than 30 days after the date of submittal of a locally preferred alternatives report and notwithstanding any other provision of law, the Secretary shall make a grant to BART to conduct preliminary engineering and to complete an environmental impact statement on the locally preferred alternative for the extension of BART to the San Francisco International Airport. The amount of such grant shall be 75 percent of preliminary engineering costs, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(2) TO SANTA CLARA COUNTY.—Not later than 30 days after the date of the enactment of this Act and notwithstanding any other provision of the law, the Secretary shall make a grant to the Santa Clara County Transit District (hereinafter in this section referred to as "SCCTD") to conduct preliminary engineering and to complete an environmental impact statement in accordance with the National Environmental Policy Act of 1969 on the locally preferred alternative for the Tasman Corridor Project. The amount of such grant shall be $12,750,000; except that the Federal share for all project costs may not exceed 50 percent, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent. Local funds expended on the Tasman Corridor Project after the locally preferred alternative was approved by the Metropolitan Transportation Commission on July 31, 1991, shall be considered eligible project costs under the Federal Transit Act.

(c) CONTRACTUAL COMMITMENTS.—

(1) APPROVAL OF CONSTRUCTION.—Notwithstanding any other provision of law, the Secretary shall approve the construction of the locally preferred alternative for the BART San Francisco International Airport Extension (Phase 1a to Colma and Phase 1b to San Francisco Airport) and the Tasman Corridor Project according to the following schedule; provided that the Secretary does not grant approval under subparagraphs (A), (B), and (C) before the 30th day after completion of the environmental impact statement:

(A) Not later than 90 days after the date of the enactment of this Act, the Secretary shall approve such construction for BART Phase 1a to Colma.

(B) Not later than 90 days after the date of the completion of preliminary engineering, the Secretary shall approve such construction for BART Phase 1b to San Francisco International Airport.

(C) Not later than 90 days after the date of the completion by SCCTD of preliminary engineering, the Secretary shall approve such construction for the Tasman Corridor Project.

(2) EXECUTION OF CONTRACT.—Upon approving construction under paragraph (1), the Secretary shall execute a multiyear grant agreement with BART to permit the expenditure of funds for the construction of the BART San Francisco International Airport Extension (Phase 1a and Phase 1b) and with SCCTD for the construction of the Tasman Corridor Project.

(d) FEDERAL SHARE.—

(1) BART EXTENSION.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the project cost for the locally preferred alternative for the BART San Francisco International Airport Extension (Phase 1a and Phase 1b) shall be 75 percent, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(2) TASMAN CORRIDOR PROJECT.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the project cost for the locally preferred alternative for the Tasman Corridor Project, including costs for preliminary engineering, shall be 50 percent, unless that matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(e) PAYMENT.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the cost of the projects shall be paid by the Secretary from amounts provided under section 3 of the Federal Transit Act for construction of new fixed guideway systems and extensions to fixed guideway systems, as follows:

(1) Not less than $28,500,000 for fiscal year 1990.

(2) Not less than $40,000,000 for fiscal year 1991.

(3) Not less than $100,000,000 for each of fiscal years 1992 through 1995.

(4) Not less than $100,000,000 for fiscal years 1996 and 1997.

Apportionment of payments between BART and SCCTD shall be consistent with the Metropolitan Transportation Commission Resolution No. 1876.

(f) ADVANCE CONSTRUCTION.—The grant agreements under subsection (c)(2) shall provide that the Secretary shall reimburse BART and SCCTD from any amounts provided under section 3 of the Federal Transit Act for fiscal years 1992 through 1997 for the Federal share of the net project costs incurred by BART and SCCTD under subsections (c)(1) and (c)(2), including the amount of any interest earned and payable on bonds as provided in section 3(l)(2) of the Federal Transit Act, as follows:

(1) Not later than September 30, 1994, the Secretary shall reimburse BART and SCCTD a total of $368,500,000 (plus such interest), less amounts provided under subsection (e) for fiscal years 1992 through 1994.

(2) Not later than September 30, 1997, the Secretary shall reimburse BART and SCCTD a total of $568,500,000 (plus such interest), less amounts provided under subsection (e) for fiscal years 1992 through 1997.

(g) FULL FUNDING GRANT AGREEMENTS.—

(1) SCHEDULE.—Notwithstanding any other provision of law, the Secretary shall negotiate and execute full funding grant agreements that are consistent with Metropolitan Transportation Commission Resolution No. 1876 with BART for Phase 1a to Colma and Phase 1b to the San Francisco International Airport, and with SCCTD for the Tasman Corridor Project according to the following schedule:

(A) Not later than 90 days after the date of completion by SCCTD of preliminary engineering, the Secretary shall execute such agreement for the Tasman Corridor Project.

(B) Upon completion by BART of 85 percent of final design, the Secretary shall execute such agreement for Phase 1a to Colma.

(C) Upon completion by BART of 85 percent of final design, the Secretary shall execute such agreement for Phase 1b to the San Francisco International Airport.

(2) ADDITIONAL AMOUNTS.—In addition to the $568,500,000 provided under this section, the Secretary shall, subject to annual appropriations, issue full funding grant agreements to complete the projects utilizing the full amount of the unobligated balance in the Mass Transit Account of the Highway Trust Fund.

(h) ALTERNATIVES ANALYSIS.—The Secretary shall permit the Santa Clara County Transit District, in cooperation with the Metropolitan Transportation Commission, to conduct an Alternatives Analysis to examine transit alternatives including a possible BART extension from southern Alameda County through downtown San Jose to Santa Clara, California.

SEC. 3033. QUEENS LOCAL/EXPRESS CONNECTION.

(a) FULL FUNDING GRANT AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and enter into a full funding grant agreement under section 3 of the Federal Transit Act for those elements of the Queens Local/Express Connection which can be fully funded in fiscal years 1992 through 1997. Such grant agreement shall not preclude the allocation of Federal funds for those elements of the project not covered under such grant agreement.

(b) PAYMENT.—The grant agreement under subsection (a) shall provide that the Federal share of the cost of the Queens Local/Express Connection shall be paid by the Secretary from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(1) Not less than $11,000,000 for fiscal year 1992.

(2) Not less than $18,700,000 for fiscal year 1993.

(3) Not less than $77,800,000 for fiscal year 1994.

(4) Not less than $76,800,000 for fiscal year 1995.

(5) Not less than $121,800,000 for fiscal year 1996.

Nothing in this section shall be construed as precluding other Federal funds from being committed to the project.

SEC. 3034. MULTIYEAR CONTRACT FOR METRO RAIL PROJECT.

(a) SUPPLEMENTAL EIS.—Not later than April 1, 1992, and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete preparation of a final supplemental environmental impact statement for Minimum Operable Segment-3 (other than the East Side Extension) and publish a notice of the completion of such statement in the Federal Register. Such statement shall reflect any alignment changes in the Los Angeles Metro Rail Project and any determination of an amended locally

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

preferred alternative for the project. In preparing such statement, the Secretary shall rely, to the maximum extent feasible, upon existing environmental studies and analyses conducted with respect to the project, including the Draft Supplemental Environmental Impact Statement (dated November 1987) and the Final Supplemental Environmental Impact Statement (dated July 1989).

(b) AMENDMENT TO CONTRACT TO INCLUDE CONSTRUCTION OF MOS–3.—

(1) NEGOTIATION.—Not later than April 1, 1992, the Secretary shall begin negotiations with the Commission on an amendment to the full funding contract under section 3 of the Federal Transit Act (dated April 1990) for construction of Minimum Operable Segment–2 of the Los Angeles Metro Rail Project in order to include construction of Minimum Operable Segment–3 (including the commitment described in paragraph (4) to provide Federal funding for the East Side Extension) in such contract.

(2) EXECUTION.—Not later than October 15, 1992, the Secretary shall—

(A) complete negotiations and execute the amended contract under paragraph (1); and

(B) issue a record of decision approving the construction of Minimum Operable Segment–3 (other than the East Side Extension).

(3) PAYMENT OF FEDERAL SHARE.—

(A) FEDERAL SHARE.—The amended contract under paragraph (1) shall provide that the Federal share of the cost of construction of Minimum Operable Segment–3 for fiscal years 1993 through 1997 shall be $695,000,000.

(B) PAYMENT.—The amended contract under paragraph (1) shall provide that the Federal share of the cost of construction of Minimum Operable Segment–3 shall be paid by the Secretary from amounts available under section 3 of the Federal Transit Act in accordance with a schedule for annual payments set forth in such contract.

(4) EAST SIDE EXTENSION.—The amended contract under paragraph (1) shall include a commitment to provide Federal funding for the East Side Extension, subject to completion of alternatives analysis and satisfaction of Federal environmental requirements.

(5) ADVANCE CONSTRUCTION.—

(A) IN GENERAL.—The amended contract under paragraph (1) shall provide that the Commission may construct any portion of Minimum Operable Segment–3 in accordance with section 3(l) of the Federal Transit Act.

(B) AMOUNT.—The Commission may use advance construction authority in an amount not to exceed the sum of $535,000,000 plus the difference (if any) between the Federal share specified in paragraph (3) for fiscal years 1993 through 1997 and the amount of Federal funds actually provided in those fiscal years.

(C) CONVERSION TO GRANTS.—In the event the Commission uses advance construction authority under this paragraph, the Secretary shall convert that authority into a grant and shall reimburse the Commission, from funds available under section 3 of the Federal Transit Act, for the Federal share of the amounts expended. Such conversion and reimbursement shall be made by the Secretary in fiscal years 1998, 1999, and 2000 and shall be equal to the Federal share of the amounts expended by the Commission pursuant to this paragraph (plus any eligible bond interest under section 3(l)(2) of the Federal Transit Act).

(c) FURTHER AMENDMENT TO CONTRACT.—Not later than October 15, 1996, the Secretary shall negotiate and enter into a further amendment to the contract described in subsection (b)(1) in order to provide Federal funding for Minimum Operable Segment–3 for fiscal years 1998 through 2000. The amended contract shall include provisions for the use and reimbursement of advance construction in the manner set forth in subsection (b)(5).

(d) CONTINUING PRELIMINARY ENGINEERING.—Before the date on which an amended contract is executed under subsection (b), the Secretary shall, upon receipt of an application from the Commission, make a grant to the Commission from amounts available under section 3 of the Federal Transit Act for continuing preliminary engineering and environmental analysis work for Minimum Operable Segment–3.

(e) ADDITION OF EAST SIDE EXTENSION.—

(1) ALTERNATIVES ANALYSIS AND ENVIRONMENTAL REVIEW.—The Secretary shall cooperate with the Commission in alternatives analysis and environmental review, including preparation of a draft environmental impact statement, for the East Side Extension. Upon receipt of an application from the Commission, the Secretary shall make a grant to the Commission, from amounts available under section 3 of the Federal Transit Act, for preliminary engineering, design, and related expenses for the East Side Extension, in an amount equal to 50 percent of the cost of such activities. Such funds shall be provided from the amounts made available by the Secretary under subsection (b)(3).

(2) SUPPLEMENTAL EIS.—Not later than December 1, 1993, and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete preparation of a final supplemental environmental impact statement for the East Side Extension and shall publish a notice of completion of such statement in the Federal Register.

(3) AMENDMENT TO CONTRACT TO INCLUDE EAST SIDE EXTENSION.—

(A) NEGOTIATION.—Immediately upon the completion of alternatives analysis and preliminary engineering for the East Side Extension, the Secretary shall begin negotiations with the Commission on a further amendment to the contract referred to in subsection (b)(1) in order to include construction of the East Side Extension.

(B) EXECUTION.—Not later than June 1, 1994, the Secretary shall—

(i) complete negotiations and execute the amended contract under subparagraph (A); and

(ii) issue a record of decision approving the construction of the East Side Extension.

(C) CONTENTS.—The amended contract under subparagraph (A) shall be consistent with the commitment made under subsection (b)(4) and shall include appropriate changes to the existing scope of work to include the East Side.

(f) APPLICABILITY OF FEDERAL REQUIREMENTS.—The amended contracts under this section shall provide that any activity under Minimum Operable Segment–3 that is financed entirely with non-Federal funds shall not be subject to any Federal statute, regulation, or program guidance, unless the Federal statute or regulation in question, by its terms, otherwise applies to and covers such activity.

(g) CRITERIA FOR NEW STARTS.—Minimum Operable Segment–3 shall be deemed to be a project described in and covered by section 303(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(h) NOTIFICATION OF NONCOMPLIANCE.—If the Secretary is unable to comply with a deadline established by this section, the Secretary shall report to Congress on the reasons for the noncompliance and shall provide such Committees a firm schedule for taking the action required.

(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Los Angeles County Transportation Commission (or any successor thereto).

(2) EAST SIDE EXTENSION.—The term "East Side Extension" means that portion of Minimum Operable Segment–3 described in paragraph (3)(C).

(3) MINIMUM OPERABLE SEGMENT–3.—The term "Minimum Operable Segment–3" means that portion of the Los Angeles Metro Rail Project which consists of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(A) One line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(B) One line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(C) One line consisting of an initial line of approximately 3 miles in length, with at least 2 stations, beginning at Union Station and running generally east.

SEC. 3035. MISCELLANEOUS MULTIYEAR CONTRACTS.

(a) HAWTHORNE, NEW JERSEY-WARWICK, NEW YORK, SERVICE.—No later than 120 days after the date of the enactment of this Act, the Secretary shall negotiate and sign a multiyear grant agreement with the New Jersey Transit Corporation which includes not less than $35,710,000 in fiscal year 1992 and not less than $11,156,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of a project to provide commuter rail service from Hawthorne, New Jersey, to Warwick, New York (including a connection with the New Jersey Transit Main Line in Hawthorne, New Jersey, and improvements to the New Jersey Transit Main Line station in Paterson, New Jersey). Such agreement shall provide that amounts provided under the agreement may be used for purchasing equipment and for rehabilitating and constructing stations, parking facilities, and other facilities necessary for the restoration of such commuter rail service.

(b) WESTSIDE LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Tri-County Metropolitan Transportation District of Oregon which includes $515,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act at the Federal share contained in House Report 101–584 to carry out the construction of the locally preferred alternative for the Westside Light Rail Project, including system related costs, set forth in Public Law 101–516 and as defined in House Report 101–584. Such agreement shall also provide for the completion of alternatives analysis, the final Environmental Impact Analysis, and preliminary engineering for the Hillsboro extension to the Westside Project as set forth in Public Law 101–516.

(c) NORTH BAY FERRY SERVICE.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Vallejo, California, which includes $8,000,000 in fiscal year 1992 and $9,000,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out capital improvements under the North Bay Ferry Service Demonstration Program.

(d) STATEN ISLAND-MIDTOWN MANHATTAN FERRY SERVICE.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the New York City Department of Transportation in New York, New York, which includes $1,000,000 in fiscal year 1992 and $11,000,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out capital improvements under the Staten Island-Midtown Ferry Service Demonstration Program.

(e) CENTRAL AREA CIRCULATOR PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Chicago, Illinois, which includes $260,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for the Central Area Circulator Project. Such grant agreement shall provide that the Federal share of the cost of such project shall be paid by the Secretary from amounts provided under such section 3(k)(1)(B) as follows:

(1) Not less than $21,000,000 for fiscal year 1992.

(2) Not less than $55,000,000 for fiscal year 1993.

(3) Not less than $70,000,000 for fiscal year 1994.

(4) Not less than $62,000,000 for fiscal year 1995.

(5) Not less than a total of $52,000,000 for fiscal years 1996 and 1997.

(f) SALT LAKE CITY LIGHT RAIL PROJECT.—No later than August 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Utah Transit Authority, which includes $131,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the initial segment of the locally preferred alternative for the Salt Lake City Light Rail Project, including feeder bus and other system related costs.

(g) LOS ANGELES-SAN DIEGO (LOSSAN) RAIL CORRIDOR IMPROVEMENT PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles-San Diego Rail Corridor Agency which includes not less than $10,000,000 for fiscal year 1992 and not less than $5,000,000 in each of fiscal years 1993 and 1994 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to provide for capital improvements to the rail corridor between Los Angeles and San Diego, California.

(h) SAN JOSE-GILROY-HOLLISTER COMMUTER RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the responsible operating entity for the San Francisco Peninsula Commute Service which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $13,000,000 for capital improvements and trackage rights related to the extension of commuter rail service from San Jose, through Gilroy, to Hollister, California. The Secretary shall allocate to the Santa Clara County Transit District in fiscal year 1992, from funds made available under such section 3(k)(1)(B), $8,000,000 for the purpose of a one-time purchase of perpetual trackage rights between the existing terminus in San Jose and Gilroy, California, to run passenger rail service.

(i) DALLAS LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with Dallas Area Rapid Transit which includes $160,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for the initial 6.4 miles and 10 stations of the South Oak Cliff light rail line. Non-Federal funds used to acquire rights-of-way and to plan, design, and construct any of the elements of such light rail line on or after August 13, 1983, may be used to meet the non-Federal share funding requirement for financing construction of any of such elements.

(j) SOUTH BOSTON PIERS TRANSITWAY/LIGHT RAIL PROJECT.—No later than June 1, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Massachusetts Bay Transportation Authority which includes $278,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the South Station to World Trade Center segment of the locally preferred alternative for the South Boston Piers Transitway/Light Rail Project. Not later than February 28, 1992, the Secretary shall allocate from such $278,000,000 such sums as may be necessary to carry out preliminary engineering and design for the entirety of such preferred alternative. Section 330 of the Department of Transportation and Related Agencies Appropriations Act, 1992, is amended by striking "—", by striking "(a)", by striking "; and" at the end of paragraph (a) and all that follows through the period at the end of such section and inserting a period, and by running in the remaining matter of paragraph (a) following "Administration".

(k) KANSAS CITY LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Kansas City Area Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,500,000 in fiscal year 1992, and $4,400,000 in fiscal year 1993 to provide for the completion of alternatives analysis and preliminary engineering for the Kansas City Light Rail Project.

(l) ORLANDO STREETCAR (OSCAR) DOWNTOWN TROLLEY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Orlando, Florida, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $5,000,000 to provide for the completion of alternatives analysis and preliminary engineering for the Orlando Streetcar (OSCAR) Downtown Trolley Project.

(m) DETROIT LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the city of Detroit, Michigan, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, not less than $10,000,000 for fiscal year 1992, and not less than $10,000,000 for fiscal year 1993, to provide for the completion of alternatives analysis and preliminary engineering for the Detroit Light Rail Project.

(n) BUS AND BUS RELATED EQUIPMENT PURCHASES IN ALTOONA, PENNSYLVANIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with Altoona Metro Transit for $2,000,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of 10 buses, a fuel storage tank, a bus washer and 2 service vehicles.

(o) LONG BEACH METRO LINK FIXED RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles County Transportation Commission which includes $4,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act, to provide for the completion of alternatives analysis and preliminary engineering for the Metro Link Project in Long Beach, California.

(p) LAKEWOOD-FREEHOLD-MATAWAN OR JAMESBURG RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the New Jersey Transit Corporation, which includes, from funds made available to the Northeastern New Jersey urbanized area under section 3(k)(1)(B) of the Federal Transit Act, $1,800,000 in fiscal year 1992 and $3,000,000 in each of fiscal years 1993 and 1994 to provide for the completion of alternatives analysis, preliminary engineering, and environmental impact statement for the Lakewood-Freehold-Matawan or Jamesburg Rail Project.

(q) SAN FRANCISCO, CALIFORNIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement for $2,500,000 from funds made available under section 3(k)(1)(C) for fiscal year 1992 to construct a parking facility as part of a multimodal transportation facility in the vicinity of California Pacific Medical Center, San Francisco, California.

(r) CHARLOTTE LIGHT RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multi-year grant agreement with the City of Charlotte, North Carolina which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $125,000 in fiscal year 1992 and $375,000 in fiscal year 1993 to provide for the completion of systems planning and alternatives analysis for a priority light rail corridor in the Charlotte metropolitan area.

(s) BUCKHEAD PEOPLE MOVER CONCEPTUAL ENGINEERING STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Atlanta Regional Commission which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $200,000 in fiscal year 1992, to provide for the completion of a conceptual engineering study for a people mover system in Atlanta, Georgia.

(t) CLEVELAND DUAL HUB RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Greater Cleveland Regional Transit Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,000,000 in fiscal year 1992, $2,000,000 in fiscal year 1993, and $1,000,000 in fiscal year 1994, to provide for the completion of alternatives analysis on the Cleveland Dual Hub Rail Project.

(u) SAN DIEGO MID COAST LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the San Diego Metropolitan Transit Development Board which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,000,000 in fiscal year 1992, $5,000,000 in fiscal year 1993, and $20,000,000 in fiscal year 1994, to provide for the completion of alternatives analysis and the final environmental impact statement, and to purchase right-of-way, for the San Diego Mid Coast Light Rail Project.

(v) CHATTANOOGA DOWNTOWN TROLLEY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Chattanooga Area Regional Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,000,000 in fiscal year 1992 and $1,000,000 in fiscal year 1993 to provide for the completion of alternatives analysis on a proposed trolley circulator in downtown Chattanooga, Tennessee.

(w) NORTHEAST OHIO COMMUTER RAIL FEASIBILITY STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Northeast Ohio Areawide Coordinating Agency which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $800,000 in fiscal year 1992 and $800,000 in fiscal year 1993 to study the feasibility of providing commuter rail service connecting urban and suburban areas in northeast Ohio.

(x) RAILTRAN COMMUTER RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Cities of Dallas and Fort Worth, Texas, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,480,000, in fiscal year 1992, and $3,200,000 in fiscal year 1993 to provide for preliminary engineering and construction of improvements to the Dallas/Fort Worth RAILTRAN System.

(y) BUS AND BUS RELATED EQUIPMENT PURCHASES IN JOHNSTOWN, PENNSYLVANIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Cambria Coun-

VOL 137
PT 24
NO 26
1991 — JA 3 1992
UMI

ty Transit Authority for $1,600,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of 6 midsize buses; spare engines, transmissions, wheels, tires; wheelchair lifts for urban buses; 20 2-way radios; 29 electronic fareboxes and related equipment; computer hardware and software; and shop tools, equipment and parts for the Cambria County Transit System; and a new 400 HP electric motor and related components; cable replacement; hillside erosion control; park-and-ride facilities; and a handicapped pedestrian crosswalk for the Johnstown Inclined Plane.

(z) BUS PURCHASE FOR EUREKA SPRINGS, ARKANSAS.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with Eureka Springs Transit for $63,600 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of an electrically powered bus which is accessible to and usable by individuals with disabilities.

(aa) TUCSON DIAL-A-RIDE PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Tucson, Arizona which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $8,000,000 in fiscal year 1992 to make capital improvements related to the Tucson dial-a-ride project.

(bb) LONG BEACH BUS FACILITY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the Long Beach Transportation Company to include, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $13,875,000 in fiscal year 1992, to provide for the construction of a bus maintenance facility in the service area of such company.

(cc) PARK-AND-RIDE LOT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the Southeastern Pennsylvania Transportation Authority which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $4,000,000 in fiscal year 1992 to construct a park-and-ride lot in suburban Philadelphia, Pennsylvania.

(dd) NASHVILLE INTERMODAL TERMINAL.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Nashville, Tennessee, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $3,700,000 in fiscal year 1992 to provide for the construction of an intermodal passenger terminal in Nashville, Tennessee.

(ee) MAIN STREET TRANSIT MALL.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Akron, Ohio, which includes, from funds made available to that State under section 3(k)(1)(C) of the Federal Transit Act, $1,450,000 in fiscal year 1992 to provide for preliminary engineering and construction of an extension to the Main Street Transit Mall.

(ff) PEOPLE MOBILIZER.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with PACE which includes, from funds made available to the suburban Chicago urbanized area under section 3(k)(1)(C), $2,300,000 in fiscal year 1992 to make capital purchases necessary for implementing the people mobilizer project in such area. The limitation on operating assistance which but for this section would apply to the people mobilizer project for fiscal year 1992 under section 9(k)(2)(A) of the Federal Transit Act shall be increased by $700,000.

(gg) CENTRE AREA TRANSPORTATION AUTHORITY REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary shall reimburse the Centre Area Transportation Authority in State College, Pennsylvania, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $1,000,000 in fiscal year 1992 for costs incurred by the Centre Area Transportation Authority between August 1989 and October 1991 in connection with the construction of an administrative maintenance and bus storage facility.

(hh) KEY WEST, FLORIDA.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a grant agreement with the city of Key West, Florida, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $239,666 in fiscal year 1992 for the cost of purchasing 3 buses.

(ii) BOSTON, MASSACHUSETTS.—The Secretary shall conduct at a cost of $250,000 in fiscal year 1992 from funds made available under section 3(k)(1)(B) of the Federal Transit Act a feasibility study of a proposed rail link between North Station and South Station in Boston, Massachusetts.

(jj) BUFFALO, NEW YORK.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Niagara Frontier Transportation Authority for $2,000,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the construction of metro bus transit centers in the service area of such transportation authority.

(kk) STATE OF MICHIGAN.—No later than June 30, 1992, the Secretary shall enter into a multiyear grant agreement with the State of Michigan for $10,500,000 for fiscal year 1992, and not less than $10,000,000 for each of fiscal years 1993 through 1997 from funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purchase of buses and bus-related equipment to be distributed among local transit operators. Of the grant amount for fiscal year 1992, $500,000 shall be made available for a study of the feasibility of consolidation of transit services.

(ll) ANN ARBOR, MICHIGAN.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Ann Arbor Transportation Authority for $1,500,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purchase of equipment and software for advanced fare collection technology.

(mm) BAY AREA RAPID TRANSIT DISTRICT PARKING.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the San Francisco Bay Area Rapid Transit District which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $12,600,000 for construction of a parking area for the planned East Dublin/Pleasanton BART station.

(nn) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—The Secretary shall carry out the Baltimore-Washington Transportation Improvements Program as follows:

(1) BALTIMORE-CENTRAL LIGHT RAIL EXTENSION.—By entering into a full funding grant agreement with the Mass Transit Administration of the Maryland Department of Transportation to carry out construction of locally preferred alternatives for the Hunt Valley, Baltimore-Washington International Airport and Penn Station extensions to the light rail line in Baltimore, Maryland. The grant agreement under this paragraph shall provide that the Federal share shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(A) Not less than $30,000,000 for fiscal year 1993.

(B) Not less than $30,000,000 for fiscal year 1994.

(2) MARC EXTENSIONS.—By entering into a full funding grant agreement with the Mass Transit Administration of the Maryland Department of Transportation for service extensions and other improvements, including extensions of the MARC commuter rail system to Frederick and Waldorf, planning and engineering, purchase of rolling stock and station improvements and expansions. The grant agreement under this paragraph shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(A) Not less than $60,000,000 for fiscal year 1993.

(B) Not less than $50,000,000 for fiscal year 1994.

(C) Not less than $50,000,000 for fiscal year 1995.

(3) LARGO EXTENSION.—By entering into a full funding grant agreement with the State of Maryland or its designee to provide alternative analysis, the preparation of an environmental impact statement and preliminary engineering for a proposed rail transit project to be located in the corridor between the Washington Metropolitan Area Transit Authority Addison Road rail station and Largo, Maryland. The grant agreement under this paragraph shall provide that the Federal share shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act in an amount not less than $5,000,000 for fiscal year 1993.

(oo) MILWAUKEE EAST-WEST CORRIDOR PROJECT.—The Secretary shall negotiate and sign a multiyear grant agreement with the State of Wisconsin which includes $200,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the initial segment of the locally preferred alternative as identified in the alternatives analysis of the Milwaukee East-West Corridor Project.

(pp) BOSTON TO PORTLAND TRANSPORTATION CORRIDOR.—If the State of Maine or an agency thereof decides to initiate commuter rail service in the Boston to Portland transportation corridor, $30,000,000 under section 3(k)(1)(B) is authorized to be appropriated for capital improvements to allow such service.

(qq) NORTHEAST PHILADELPHIA COMMUTER RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Southeastern Pennsylvania Transportation Authority, which includes $400,000 from funds made available to the Philadelphia urbanized area under section 3(k)(1)(B) of the Federal Transit Act to provide for a study of the feasibility of instituting commuter rail service as an alternative to automobile travel to Center City Philadelphia on I-95.

(rr) ATLANTA COMMUTER RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Atlanta Regional Commission which includes, from funds made available to the Atlanta urbanized area under section 3(k)(1)(B) of the Federal Transit Act, $100,000 to study the feasibility of instituting commuter rail service in the Greensboro corridor.

(ss) PITTSBURGH LIGHT RAIL REHABILITATION PROJECT.—No later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and sign a multiyear grant agreement with the Port Authority of Allegheny County which includes $5,000,000 from funds made available to the Pittsburgh urbanized area under section 3(k)(1)(B) of the Federal Transit Act, to complete preliminary engineering for Stage II LRT rehabilitation in Allegheny County, Pennsylvania.

(tt) ATLANTA NORTH LINE EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Metropolitan Atlanta Rapid Transit Authority which includes $329,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for a 3.1 mile extension of the North Line of the heavy rail rapid transit system in Atlanta, Georgia.

(uu) HOUSTON PRIORITY CORRIDOR FIXED GUIDEWAY PROJECT.—Provided that a locally preferred alternative for the Priority Corridor fixed guideway project has been selected by March 1, 1992, no later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Metropolitan Transit Authority of Harris County which includes $500,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of such locally preferred alternative.

(vv) JACKSONVILLE AUTOMATED SKYWAY EXPRESS EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Jacksonville Transportation Authority which includes $71.2 million from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for a 1.8 mile extension to the Automated Skyway Express starter line.

(ww) HONOLULU RAPID TRANSIT PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City and County of Honolulu which includes $618,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative of a 17.3 mile fixed guideway system.

(xx) SACRAMENTO LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Sacramento Regional Transit District which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $26,000,000 to provide for the completion of alternatives analysis, preliminary engineering, and final design on proposed extensions to the light rail system in Sacramento, California.

(yy) PHILADELPHIA CROSS-COUNTY METRO RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Southeastern Pennsylvania Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,400,000 to provide for the completion of alternatives analysis and preliminary engineering for the Philadelphia Cross-County Metro Rail Project.

(zz) CLEVELAND BLUE LINE LIGHT RAIL EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Greater Cleveland Regional Transit Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,200,000 to provide for the completion of alternatives analysis and preliminary engineering for an extension of the Blue Line to Highland Hills, Ohio.

(aaa) DULLES CORRIDOR RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the State of Virginia, or its assignee, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $6,000,000 to provide for the completion of alternatives analysis and preliminary engineering for a rail corridor from the West Falls Church Washington Metropolitan Area Transit Authority rail station to Dulles International Airport.

(bbb) PUGET SOUND CORE RAPID TRANSIT PROJECT.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the municipality of metropolitan Seattle, Washington, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $300,000,000 for the Puget Sound Core Rapid Transit Project.

(ccc) SEATTLE-TACOMA COMMUTER RAIL.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the municipality of metropolitan Seattle, Washington, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $25,000,000 for the Seattle-Tacoma Commuter Rail Project.

(ddd) ALTOONA PEDESTRIAN CROSSOVER.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the city of Altoona, Pennsylvania, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $3,200,000 for construction of the 14th Street Pedestrian Crossover in Altoona, Pennsylvania.

(eee) MULTI-MODAL TRANSIT PARKWAY.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the State of California which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $15,000,000 for construction of a multi-modal transit parkway in western Los Angeles, California.

(fff) CANAL STREET CORRIDOR LIGHT RAIL, NEW ORLEANS, LOUISIANA.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the city of New Orleans, Louisiana, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $4,800,000 to provide for the completion of alternatives analysis, preliminary engineering, and an environmental impact statement for the Canal Street Corridor Light Rail System in New Orleans, Louisiana.

SEC. 3036. UNOBLIGATED M ACCOUNT BALANCES.

Notwithstanding any other provision of law, any obligated M account balances remaining available for expenditure as of August 1, 1991, under "Urban Discretionary Grants" and "Interstate Transfer Grants-Transit" of the Federal Transit Administration program shall be exempt from the application of the provisions of section 1405(b)(4) and (b)(6) of Public Law 101-510 and section 1552 of title 31, United States Code, and shall be available until expended.

SEC. 3037. TECHNICAL ACCOUNTING PROVISIONS.

Notwithstanding any other provision of law, any funds appropriated before October 1, 1983, under section 6, 10, 11, or 18 of the Act, or section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, that remain available for expenditure after October 1, 1991, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 3038. REDUCTION IN AUTHORIZATIONS FOR BUDGET COMPLIANCE.

If the total amount authorized by this Act (including amendments made by this Act) out of the Mass Transit Account of the Highway Trust Fund exceeds $1,900,000,000 for fiscal year 1992, or exceeds $13,800,000,000 for fiscal years 1992 through 1996, then each amount so authorized shall be reduced proportionately so that the total equals $1,900,000,000 for fiscal year 1992, or equals $13,800,000,000 for fiscal years 1992 through 1996, as the case may be.

SEC. 3039. PETROLEUM VIOLATION ESCROW ACCOUNT FUNDS.

Notwithstanding any other provision of law, the Federal Transit Administration shall allow petroleum violation escrow account funds spent by the New Jersey Transit Corporation on transit improvements to be applied as credit towards the non-Federal match for any transit project funded under the Federal Transit Act. The New Jersey Transit Corporation shall demonstrate that the use of such a credit does not result in the reduction in non-Federal funding for transit projects within the fiscal year in which the credit is applied.

SEC. 3040. CHARTER SERVICES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—Notwithstanding any provision of law, the Secretary shall implement regulations, not later than 9 months after the date of the enactment of this Act, in not more than 4 States to permit transit operators to provide charter services for the purposes of meeting the transit needs of government, civic, charitable, and other community activities which otherwise would not be served in a cost effective and efficient manner.

(b) CONSULTATION.—In developing such regulations, the Secretary shall consult with a board that is equally represented by public transit operators and privately owned charter services.

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing an evaluation of the effectiveness of the demonstration program regulations established under this section and make recommendations to improve current charter service regulations.

SEC. 3041. GAO REPORT ON CHARTER SERVICE REGULATIONS.

The Comptroller General shall submit to the Congress, not later than 12 months after the date of the enactment of this Act, a report evaluating the impact of existing charter service regulations. The report shall—

(1) assess the extent to which the regulations promote or impede the ability of communities to meet the transportation needs of government, civic, and charitable organizations in a cost-effective and efficient manner;

(2) assess the extent to which the regulations promote or impede the ability of communities to carry out economic development activities in a cost-effective and efficient manner;

(3) analyze the extent to which public transit operators and private charter carriers have entered into charter service agreements pursuant to the regulations; and

(4) analyze the extent to which such agreements enable private carriers to profit from the provision of charter service by public transit operators using federally subsidized vehicles.

The report shall also include an assessment of the factors specified in the preceding sentence within the context of not less than 3 communities selected by the Comptroller General.

SEC. 3042. 1993 WORLD UNIVERSITY GAMES.

Notwithstanding any other provision of law, before apportionment under section 9 of the Federal Transit Act of funds provided under section 21(a)(1) of such Act for fiscal year 1993, $4,000,000 of such funds shall be made available to the State of New York or to any public body to which the State further delegates authority, as the designated recipient for the purposes of this section, to carry out projects by contracts with private or public service providers to meet the transportation needs associated with the staging of the 1993 World University Games in the State of New York. Such funds shall be available for any purpose eligible under section 9 of such Act without limitation. The matching requirement for operating assistance under section 9(k)(1) of such Act shall not apply to funds made available under this section.

SEC. 3043. OPERATING ASSISTANCE LIMITATION FOR STATEN ISLAND FERRY.

The limitation of operating assistance which, but for this section, would apply to the Staten Island Ferry for fiscal year 1993 under section 9(k)(2)(A) of the Federal Transit Act shall be increased by $2,700,000.

SEC. 3044. FORGIVENESS OF CERTAIN OUTSTANDING OBLIGATIONS.

Notwithstanding the fifth sentence of section 4(a) of the Federal Transit Act, the outstanding balance on grant agreement number NC-05-0021 made to the Fayetteville Transit Authority, North Carolina, is forgiven.

SEC. 3045. FORGIVENESS OF LOAN REPAYMENT.

Notwithstanding any other provision of law (including any regulation), the outstanding balances on the following loan agreements do not have to be repaid:

(1) Loan agreement number PA-03-9002 made to the Southeastern Pennsylvania Transit Authority.

(2) Loan agreement number PA-03-9003 made to the Southeastern Pennsylvania Transit Authority.

SEC. 3046. MODIFIED BUS SERVICE TO ACCOMMODATE THE NEEDS OF STUDENTS.

Nothing in the Federal Transit Act, including the regulations issued to carry out such Act, shall be construed to prohibit the use of buses acquired or operated with Federal assistance under such Act to provide tripper bus service in New York City, New York, to accommodate the needs of students, if such buses carry normal designations and clear markings that such buses are open to the general public. For the purposes of this section, the term "tripper bus service" shall have the meaning such term has on the date of the enactment of this Act in regulations issued pursuant to the Federal Transit Act and shall include the service provided by express buses operating along regular routes and as indicated in published route schedules.

SEC. 3047. ELIGIBILITY DETERMINATIONS FOR DISABILITY.

(a) STUDY.—The Secretary shall conduct a study of procedures for determining disability for the purpose of obtaining off peak reduced fares under section 5(m) of the Federal Transit Act. The study should review different requirements, degree of uniformity, and degree of reciprocity between transit systems.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall report to Congress on the results of the study conducted under this section.

SEC. 3048. MILWAUKEE ALTERNATIVES ANALYSIS APPROVAL.

No later than January 15, 1992, the Secretary shall enter into an agreement with the Wisconsin Department of Transportation giving approval to undertake an alternatives analysis for the East-West Central Milwaukee Corridor. The alternatives analysis shall be funded entirely from non-Federal sources.

TITLE IV—MOTOR CARRIER ACT OF 1991

SEC. 4001. SHORT TITLE.

This title may be cited as the "Motor Carrier Act of 1991".

SEC. 4002. MOTOR CARRIER SAFETY GRANT PROGRAM AMENDMENTS.

(a) CONTENTS OF STATE PLANS.—Section 402(b)(1) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302(b)(1)) is amended—

(1) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of a nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;";

(2) by striking "and" at the end of subparagraph (F);

(3) by striking the period of subparagraph (G) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(H) ensures that activities described in paragraphs (1), (2), and (3) of subsection (e) if funded with grants under this section will not diminish the effectiveness of development and implementation of commercial motor vehicle safety programs described in subsection (a);

"(I) ensures that fines imposed and collected by the State for violations of commercial motor vehicle safety regulations will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance;

"(J) ensures that such State agency will coordinate the plan prepared under this section with the State highway safety plan under section 402 of title 23, United States Code;

"(K) ensures participation by the 48 contiguous States in SAFETYNET by January 1, 1994;

"(L) gives satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations pertaining to commercial motor vehicle safety;

"(M) gives satisfactory assurances that the State will promote activities—

"(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

"(ii) to provide an appropriate level of training to its motor carrier safety assistance program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(iii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial drivers' licenses; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials; and

"(N) give satisfactory assurance that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions and local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety.".

(b) MAINTENANCE OF EFFORT.—Section 402(d) of such Act is amended—

(1) by inserting "and for enforcement of commercial motor vehicle size and weight limitations, for drug interdiction, and for enforcement of State traffic safety laws and regulations described in subsection (e)" after "programs";

(2) by striking "two" and inserting "3";

(3) by striking "this section" the second place it appears and inserting "the Intermodal Surface Transportation Efficiency Act of 1991"; and

(4) by adding at the end the following new sentence: "In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs and shall require the State to exclude Federal funds and State matching funds used to receive Federal funding under this section.".

(c) USE OF GRANT FUNDS FOR ENFORCEMENT OF CERTAIN OTHER LAWS.—Section 402 of such Act is amended by adding at the end the following new subsection:

"(e) USE OF GRANT FUNDS FOR ENFORCEMENT OF CERTAIN OTHER LAWS.—A State may use funds received under a grant under this section—

"(1) for enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific geographical locations (such as steep grades or mountainous terrains) where the weight of a commercial motor vehicle can significantly affect the safe operation of such vehicle, or at seaports where intermodal shipping containers enter and exit the United States;

"(2) for detecting the unlawful presence of a controlled substance (as defined under section 102 of the Controlled Substances Act (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of such a vehicle; and

"(3) for enforcement of State traffic laws and regulations designed to promote safe operation of commercial motor vehicles;

if such activities are carried out in conjunction with an appropriate type of inspection of the commercial motor vehicle for enforcement of Federal or State commercial motor vehicle safety regulations.".

(d) FEDERAL SHARE.—Section 403 of such Act (49 U.S.C. App. 2303) is amended by inserting after the first sentence the following new sentence: "In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 404 of such Act (49 U.S.C. App. 2304) is amended—

(1) in subsection (a)(2) by striking "and" before "$60,000,000" and inserting a comma; and

(2) by striking the period at the end of subsection (a)(2) and inserting ", $65,000,000 for fiscal year 1992, $76,000,000 for fiscal year 1993, $80,000,000 for fiscal year 1994, $83,000,000 for fiscal year 1995, $85,000,000 for fiscal year 1996, and $90,000,000 for fiscal year 1997.".

(f) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 404(c) of such Act is amended to read as follows:

"(c) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available by this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and 1 succeeding fiscal year. Funds not expended by a State during those 2 fiscal years shall be released to the Secretary for reallocation. Funds made available under this part which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this subsection.".

(g) ALLOCATIONS.—Section 404(f) of such Act is amended to read as follows:

"(f) ADMINISTRATIVE EXPENSES; ALLOCATION CRITERIA.—

"(1) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds made available for that fiscal year by subsection (a)(2). At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials, to carry out the purposes of section 402.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under section 402, the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (g)(5) and for public education under subsection (g)(6), may designate specific eligible States among which to allocate such funds.".

(h) FUNDING FOR SPECIFIED PROGRAMS.—Section 404 of such Act is further amended by adding at the end of such section the following new subsection:

"(g) FUNDING FOR SPECIFIED PROGRAMS.—

"(1) TRAINING OF HAZMAT INSPECTORS.—The Secretary shall obligate from funds made available by subsection (a)(2) for each fiscal year beginning after September 30, 1992, not less than $1,500,000 to make grants to States for training inspectors for enforcement of regulations which are issued by the Secretary and pertain to transportation by commercial motor vehicle of hazardous materials.

"(2) COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM REVIEW.—The Secretary may obligate from funds made available by subsection (a)(2) for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 not to exceed $2,000,000 to carry out section 407 of this title, relating to the commercial motor vehicle information system.

"(3) TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.—The Secretary may obligate from funds made available by subsection (a)(2) for each of fiscal years 1993, 1994, 1995, 1996, and 1997 not to exceed $2,000,000 to carry out section 408 of this title, relating to the truck and bus accident data grant program.

"(4) ENFORCEMENT.—

"(A) TRAFFIC ENFORCEMENT ACTIVITIES.—The Secretary shall obligate from funds made available by subsection (a)(2) for each of fiscal years 1993, 1994, and 1995 not less than $4,250,000 and for each of fiscal years 1996 and 1997 not less than $5,000,000 for traffic enforcement activities with respect to commercial motor vehicle drivers which are carried out in conjunction with an appropriate inspection of a commercial motor vehicle for compliance with Federal or State commercial motor vehicle safety regulations.

"(B) LICENSING REQUIREMENTS.—The Secretary shall obligate from the funds made available by subsection (a)(2) not less than $1,000,000 for each of fiscal years 1993, 1994, and 1995 to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2701 App. et seq.) by motor carrier safety assistance program officers and employees, including the cost of purchasing equipment for and conducting inspections to check the current status of licenses issued pursuant to such Act.

"(5) RESEARCH AND DEVELOPMENT.—The Secretary shall obligate from funds made available by subsection (a)(2) not less than $500,000 for any fiscal year for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of section 402 and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the State costs, or to other persons as determined by the Secretary.

"(6) PUBLIC EDUCATION.—The Secretary shall obligate from funds made available by subsection (a)(2) for any fiscal year not less than $350,000 to educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the States shall consult with appropriate industry representatives.".

(i) PAYMENTS TO STATES.—Section 404 of such Act is further amended by adding at the end the following new subsection:

"(h) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section and section 402, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.".

(j) MOTOR CARRIER SAFETY FUNCTIONS.—There is authorized to be appropriated for the motor carrier safety functions of the Federal Highway Administration $49,317,000 for fiscal year 1992.

(k) NEW FORMULA FOR ALLOCATION OF FUNDS.—Not later than 6 months after the date of the enactment of this Act, the Secretary, by regulation, shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the motor carrier safety assistance program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety. In particular, the Secretary shall place special emphasis on incentives to States that conduct traffic safety enforcement activities that are coupled with motor carrier safety inspections. In improving the formula, the Secretary shall also take into account ways to provide incentives to States that increase compatibility of State commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations and promote other factors intended to promote effectiveness and efficiency that the Secretary determines appropriate.

(l) INTRASTATE COMPATIBILITY.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety law and regulations with the Federal motor carrier safety regulations under the motor carrier safety assistance program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 153 of title 23, United States Code, as added by this Act, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 4003. COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM.

Part A of title IV of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2301–2305) is amended by adding at the end the following new section:

"SEC. 407. COMMERCIAL VEHICLE INFORMATION SYSTEM PROGRAM.

"(a) INFORMATION SYSTEM.—

"(1) REGISTRATION SYSTEMS REVIEW.—Not later than 1 year after the effective date of this section, the Secretary, in cooperation with the States, shall conduct a review of State motor vehicle registration systems pertaining to license tags for commercial motor vehicles in order to determine whether or not such systems could be utilized in carrying out this section.

"(2) ESTABLISHMENT.—The Secretary, in cooperation with the States, may establish, as part of the motor carrier safety information network system of the Department of Transportation and similar State systems, an information system which will serve as a clearinghouse and depository of information pertaining to State registration and licensing of commercial motor vehicles and the safety fitness of the registrants of such vehicles.

"(3) OPERATION.—Operation of the information system established under paragraph (2) shall be paid for by a system of user fees. The Secretary may authorize the operation of the information system by contract, through an agreement with a State or States, or by designating, after consultation with the States, a third party which represents the interests of the States.

"(4) DATA COLLECTION AND REPORTING STANDARDS.—The Secretary shall establish standards to ensure uniform data collection and reporting by all States necessary to carry out this section and to ensure the availability and reliability of the information to the States and the Secretary from the information system established under paragraph (2).

"(5) TYPE OF INFORMATION.—As part of the information system established under paragraph (2), the Secretary shall include information on the safety fitness of the registrant of the commercial motor vehicle and such other information as the Secretary considers appropriate, including data on vehicle inspections and out-of-service orders.

"(b) DEMONSTRATION PROJECT.—The Secretary shall make grants to States to carry out a project to demonstrate methods of establishing an information system which will link the motor carrier safety information network system of the Department of Transportation and similar State systems with the motor vehicle registration and licensing systems of the States. The purposes of the project shall be—

"(1) to allow a State when issuing license plates for a commercial motor vehicle to determine through use of the information system the safety fitness of the person seeking to register the vehicle; and

"(2) to determine the types of sanctions which may be imposed on the registrant, or the types of conditions or limitations which may be imposed on the operations of the registrant, to ensure the safety fitness of the registrant.

"(c) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

"(d) REPORT.—Not later than January 1, 1995, the Secretary shall prepare and submit to Congress a report assessing the cost and benefits and feasibility of the information system established under this section and, if the Secretary determines that such system would be beneficial on a nationwide basis, including recommendations on legislation for the nationwide implementation of such system.

"(e) FUNDING.—Funds necessary to carry out this section may be made available by the Secretary as provided in section 404(g)(2) of this title.

"(f) COMMERCIAL MOTOR VEHICLE DEFINED.—For purposes of this section, the term 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in intrastate or interstate commerce to transport passengers or property—

"(1) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(2) if such vehicle is designed to transport more than 15 passengers, including the driver; or

"(3) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under such Act.".

SEC. 4004. TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.

Part A of title IV of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2301–2305) is further amended by adding at the end the following new section:

"SEC. 408. TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to States which agree to adopt or have adopted the recommendations of the National Governors' Association with respect to police accident reports for truck and bus accidents.

"(b) GRANT PURPOSES.—Grants may only be made under this section for assisting States in the implementation of the recommendations referred to in subsection (a), including—

"(1) assisting States in designing appropriate forms;

"(2) drafting instruction manuals;

"(3) training appropriate State and local officers, including training on accident investigation techniques to determine the probable cause of accidents;

"(4) analyzing and evaluating safety data so as to develop, if necessary, recommended changes to existing safety programs that more effectively would address the causes of truck and bus accidents; and

"(5) such other activities as the Secretary determines are appropriate to carry out the objectives of this section.

"(c) COORDINATION.—The Secretary shall coordinate grants made under this section with the highway safety programs being carried out under section 402 of title 23, United States Code, and may require that the data from the reports described in subsection (a) be included in the reports made to the Secretary under the uniform data collection and reporting program carried out under such section.

"(d) FUNDING.—Funds necessary to carry out this section may be made available by the Secretary as provided in section 404(g)(3) of this title.".

SEC. 4005. SINGLE STATE REGISTRATION SYSTEM.

Section 11506 of title 49, United States Code, is amended to read as follows:

"§11506. Registration of motor carriers by a State

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Interstate Commerce Commission to prove the lawfulness of transportation by motor carrier referred to in section 10521(a) (1) and (2) of this title.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and providing transportation in that State, register the certificate or permit issued to the carrier under section 10922 or 10923 of this title is not an unreasonable burden on transportation referred to in section 10521(a) (1) and (2) of this title when the registration is completed under standards of the Commission under subsection (c) of this section. When a State registration requirement imposes obligations in excess of the standards, the part in excess is an unreasonable burden.

"(c) SINGLE STATE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, the Commission shall prescribe amendments to the standards existing as of such date of enactment. Such amendments shall implement a system under which—

"(A) a motor carrier is required to register annually with only one State;

"(B) the State of registration shall fully comply with standards prescribed under this section; and

"(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

"(2) SPECIFIC REQUIREMENTS.—

"(A) EVIDENCE OF CERTIFICATE; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the amended standards implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier holding a certificate or permit issued under this subtitle—

"(i) to file and maintain evidence of such certificate or permit;

"(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

"(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

"(iv) to file the name of a local agent for service of process.

"(B) RECEIPTS; FEE SYSTEM.—Such amended standards—

"(i) shall require that the registration State issue a receipt, in a form prescribed under the amended standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this paragraph and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

"(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

"(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

"(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that (I) will be based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates, (II) will minimize the costs of complying with the registration system, and (III) will result in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

"(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

"(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

"(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

"(3) EFFECTIVE DATE OF AMENDMENTS.—Amendments prescribed under this subsection shall take effect by January 1, 1994.

"(d) INTERPRETATION AUTHORITY OF COMMISSION.—This section does not affect the authority of the Commission to interpret its regulations and certificates and permits issued under section 10922 or 10923 of this title.".

SEC. 4006. VEHICLE LENGTH RESTRICTION.

(a) CARGO CARRYING UNIT LIMITATION.—Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311) is amended by adding at the end the following new subsection:

"(j) CARGO CARRYING UNIT LIMITATION.—

"(1) IN GENERAL.—No State shall allow by statute, regulation, permit, or any other means the operation on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid primary system highways as designated by the Secretary pursuant to subsection (e) of this section, of any commercial motor vehicle combination (except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws) with 2 or more cargo carrying units (not including the truck tractor) whose cargo carrying units exceed—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation authorized by statute or regulation of that State on or before June 1, 1991; or

"(B) the length of the cargo carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 1991.

"(2) WYOMING, OHIO, AND ALASKA.—

"(A) WYOMING.—In addition to those vehicles allowed under paragraphs (1)(A) and (1)(B), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in section 127(a) of title 23, United States Code, and do not exceed 117,000 pounds gross vehicle weight.

"(B) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under paragraphs (1)(A) and (1)(B), such State may allow commercial motor vehicle combinations with 3 cargo carrying units of 28 1/2 feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

"(C) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under paragraphs (1)(A) and (1)(B), such State may allow operation of commercial motor vehicle combinations which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 6, 1991.

"(3) MEASUREMENT OF LENGTH.—For purposes of this subsection, the length of the cargo carrying units of a commercial motor vehicle combination is the length measured from the front of the first cargo carrying unit to the rear of the last cargo carrying unit.

"(4) LIMITATIONS.—Commercial motor vehicle combinations whose operations in a State are not prohibited under paragraphs (1) and (2) of this subsection may continue to operate in such State on the highways described in paragraph (1) only if in compliance with, at the minimum, all State statutes, regulations, limitations, and conditions, including but not limited to routing-specific and configuration-specific designations and all other restrictions in force in such State on June 1, 1991; except that subject to such regulations as may be issued by the Secretary, pursuant to paragraph (8) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of any commercial motor vehicle combination subject to this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of this section and of section 412 and section 416 (a) and (b) of this Act. Any State further restricting or prohibiting the operations of commercial motor vehicle combinations or making such minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (8) of this subsection shall advise the Secretary within 30 days after such action and the Secretary shall publish a notice of such action in the Federal Register.

"(5) LIST OF STATE LENGTH LIMITATIONS.—

"(A) SUBMISSION TO SECRETARY.—Within 60 days after the date of the enactment of this subsection, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in each State on the highways described in paragraph (1). The list shall indicate the applicable State statutes and regulations associated with such length limitations. If a State does not submit information as required, the Secretary shall complete and file such information for such State.

"(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

"(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

"(D) FINAL LIST.—Except as modified pursuant to subparagraph (B) or (E) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on the National System of Interstate and Defense Highways and other Federal-aid primary system highways as designated by the Secretary except as published on the list. The list may be combined by the Secretary with the list required under section 127(d) of title 23, United States Code.

"(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list, the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

"(6) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) allow the operation on any segment of the National System of Interstate and Defense Highways of any longer combination vehicle prohibited under section 127(d) of title 23, United States Code;

"(B) affect in any way the operation of commercial motor vehicles having only 1 cargo carrying unit; or

"(C) affect in any way the operation in a State of commercial motor vehicles with 2 or more cargo carrying units if such vehicles were in actual operation on a regular or periodic basis (including seasonal operation) in that State on or before June 1, 1991, authorized under State statute, regulation, or lawful State permit.

"(7) CARGO CARRYING UNIT DEFINED.—As used in this subsection, 'cargo carrying unit' means any portion of a commercial motor vehicle combination (other than the truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo carrying section of a single unit truck.

"(8) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (4).

"(9) REGULATIONS FOR DEFINING NONEASILY DISMANTLED OR DIVIDED LOADS.—For the purposes of this subsection only, the Secretary shall define by regulation loads which cannot be easily dismantled or divided.".

(b) APPLICABILITY TO BUSES.—

(1) GENERAL RULE.—Section 411(a) of such Act is amended by inserting "of less than 45 feet on the length of any bus," after "vehicle length limitation".

(2) ACCESS TO POINTS OF LOADING AND UNLOADING.—Section 412(a)(2) of such Act is amended by inserting ", motor carrier of passengers," after "household goods carriers".

(c) CONFORMING AMENDMENT.—Section 411(e)(1) of such Act is amended by striking "those Primary System highways" and inserting "those highways of the Federal-aid primary system in existence on June 1, 1991,".

SEC. 4007. TRAINING OF DRIVERS; LONGER COMBINATION VEHICLE REGULATIONS, STUDIES, AND TESTING.

(a) ENTRY LEVEL.—

(1) STUDY OF PRIVATE SECTOR.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall report to Congress on the effectiveness of the efforts of the private sector to ensure adequate training of entry level drivers of commercial motor vehicles. In preparing the report, the Secretary shall solicit the views of interested persons.

(2) RULEMAKING PROCEEDING.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall commence a rulemaking proceeding on the need to require training of all entry level drivers of commercial motor vehicles. Such rulemaking proceeding shall be completed not later than 24 months after the date of such enactment.

(3) FOLLOWUP STUDY.—If the Secretary determines under the proceeding conducted under paragraph (2) that it is not in the public interest to issue a rule that requires training for all entry level drivers, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 25 months after the date of the enactment of this Act a report on the reasons for such decision, together with the results of a cost benefit analysis which the Secretary shall conduct with respect to such proceeding.

(b) LCVs TRAINING REQUIREMENTS.—

(1) INITIATION OF RULEMAKING PROCEEDING.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to establish minimum training requirements for operators of longer combination vehicles. This training shall include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary.

(2) FINAL RULE.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall issue a final regulation establishing minimum training requirements for operators of longer combination vehicles.

(c) SAFETY CHARACTERISTICS.—

(1) STUDY.—The Comptroller General shall conduct a study of the safety of longer combination vehicles for the purpose of comparing the safety characteristics and performance, including engineering and design safety characteristics, of such vehicles to other truck-trailer combination vehicles and for the purpose of reviewing the history and effectiveness of State safety enforcement pertaining to such vehicles for those States in which such vehicles are permitted to operate. Such study shall include an assessment of each of the following:

(A) The adequacy of currently available data bases for the purpose of determining the safety of longer combination vehicles and recommending safety improvements.

(B) Whether or not such States are actively monitoring the safety of such operations.

(C) The best available information on the safety of such operations.

(D) Enforcement actions which have been taken in such States to ensure the safety of such operations.

(E) Current procedures and controls used by such States to ensure the safety of operation of such vehicles.

(F) Whether or not any special inspections of equipment maintenance is required to improve the safety of such operations.

(G) The economic and safety impact of longer combination vehicles on shared highways.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall transmit a report on the results of the study conducted under paragraph (1) to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(d) OPERATIONS OF LONGER COMBINATION VEHICLES.—

(1) TESTS.—The Secretary shall conduct on the road tests with respect to the driver and vehicle characteristics of operations of longer combination vehicles for the purpose of determining whether or not any modifications are necessary to the Federal commercial motor vehicle safety standards of the Department of Transportation as they apply to longer combination vehicles. At a minimum, such tests shall examine driver fatigue and stress and time of operation characteristics. Such tests also shall examine the characteristics of longer combination vehicles, including an assessment of on-board computers, anti-lock brakes, and anti-trailer under ride systems to determine the potential safety effectiveness of those technologies as applied to such vehicles.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit a report on the results of the tests conducted under paragraph (1) to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(e) FUNDING.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 per fiscal year for each of fiscal years 1992, 1993, and 1994. Such sums shall remain available until expended.

(f) LONGER COMBINATION VEHICLE DEFINED.—For the purposes of this section, the term "longer combination vehicle" means any combination of a truck tractor and 2 or more trailers or semitrailers which operate on the National System of Interstate and Defense Highways with a gross vehicle weight greater than 80,000 pounds.

SEC. 4008. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

(a) WORKING GROUP.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a working group comprised of State and local government officials, including representatives of the National Governors' Association, the American Association of Motor Vehicle Administrators, the National Conference of State Legislatures, the Federation of Tax Administrators, the Board of Directors for the International Fuel Tax Agreement, and a representative of the Regional Fuel Tax Agreement, for the purpose of—

(1) proposing procedures for resolving disputes among States participating in the International Registration Plan and among States participating in the International Fuel Tax Agreement including designation of the Department of Transportation or any other person for resolving such disputes; and

(2) providing technical assistance to States participating or seeking to participate in the Plan or in the Agreement.

(b) CONSULTATION REQUIREMENT.—The working group established under this section shall consult with members of the motor carrier industry in carrying out subsection (a).

(c) REPORTS.—Not later than 24 months after the date of the enactment of this Act, the working group established under this section shall transmit a report to the Secretary, to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Public Works and Transportation and the Committee on the Judiciary of the House of Representatives, to those States participating in the International Registration Plan, and to those States participating in the International Fuel Tax Agreement. The report shall contain a detailed statement of the findings and conclusions of the working group, together with its joint recommendations concerning the matters referred to in subsection (a). After transmission of such report, the working group may periodically review and modify the findings and conclusions and the joint recommendations as appropriate and transmit a report containing such modifications to the Secretary and such committees.

(d) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The working group established under this section shall not be subject to the Federal Advisory Committee Act.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to States and appropriate persons for the purpose of facilitating participation in the International Registration Plan and participation in the International Fuel Tax Agreement and for the purpose of administrative improvements in any other base State fuel use tax agreement in existence as of January 1, 1991, including such purposes as providing technical assistance, personnel training, travel costs, and technology and equipment associated with such participation.

(2) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the grant.

(f) VEHICLE REGISTRATION.—After September 30, 1996, no State (other than a State which is participating in the International Registration Plan) shall establish, maintain, or enforce any commercial motor vehicle registration law, regulation, or agreement which limits the operation of any commercial motor vehicle within its borders which is not registered under the laws of the State if the vehicle is registered under the laws of any other State participating in the International Registration Plan.

(g) FUEL USE TAX.—

(1) REPORTING REQUIREMENTS.—After September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which has fuel use tax reporting requirements (including tax reporting forms) which are not in conformity with the International Fuel Tax Agreement.

(2) PAYMENT.—After September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which provides for the payment of a fuel use tax unless such law or regulation is in conformity with the International Fuel Tax Agreement with respect to collection of such a tax by a single base State and proportional sharing of such taxes charged among the States where a commercial motor vehicle is operated.

(3) LIMITATION.—For purposes of paragraphs (1) and (2), in the event of an amendment to the International Fuel Tax Agreement, conformity by a State that is not participating in such Agreement when such amendment is made may not be required with respect to such amendment until a reasonable time period for such conformity has elapsed, but in no case earlier than—

(A) the expiration of the 365-day period beginning on the first day that the corresponding compliance with such amendment is required of States that are participating in such Agreement; or

(B) the expiration of the 365-day period beginning on the day the relevant office of the State receives written notice of such amendment from the Secretary.

(4) EXCEPTION.—Paragraphs (1), (2), and (3) shall not apply with respect to a State that participates on January 1, 1991, in the Regional Fuel Tax Agreement and that continues to participate after such date in such Agreement.

(h) ENFORCEMENT.—

(1) ACTION.—On the request of the Secretary, the Attorney General may commence, in a court of competent jurisdiction, a civil action for such injunctive relief as may be appropriate to ensure compliance with subsections (f) and (g).

(2) VENUE.—Such action may be commenced only in the State in which relief is required to ensure such compliance.

(3) RELIEF.—Subject to section 1341 of title 28, United States Code, such court, upon a proper showing—

(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

(B) may require in such injunction that the State or any person comply with such subsections.

(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in subsections (f) and (g) shall be construed as limiting the amount of money a State may charge for registration of a commercial motor vehicle or the amount of any fuel use tax a State may impose.

(j) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 1992 $1,000,000 for funding the activities of the working group under this section and $5,000,000 for making grants under subsection (e). Amounts authorized by the preceding sentence shall be subject to the obligation limitation established by section 102 of this Act for fiscal year 1992. From sums made available under section 404 of the Surface Transportation Assistance Act of 1982, the Secretary shall provide for each of fiscal years 1993 through 1997 $1,000,000 for funding the activities of the working group under this section and $5,000,000 for making grants under subsection (e). Such sums shall remain available until expended.

(k) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle"—

(A) as used with respect to the International Registration Plan, has the meaning the term "apportionable vehicle" has under such plan; and

(B) as used with respect to the International Fuel Tax Agreement, has the meaning the term "qualified motor vehicle" has under such agreement.

(2) FUEL USE TAX.—The term "fuel use tax" means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(3) INTERNATIONAL FUEL TAX AGREEMENT.—The term "International Fuel Tax Agreement" means the interstate agreement for the collection and distribution of fuel use taxes paid by motor carriers, developed under the auspices of the National Governors' Association.

(4) INTERNATIONAL REGISTRATION PLAN.—The term "International Registration Plan" means the interstate agreement for the apportionment of vehicle registration fees paid by motor carriers, developed by the American Association of Motor Vehicle Administrators.

(5) REGIONAL FUEL TAX AGREEMENT.—The term "Regional Fuel Tax Agreement" means the interstate agreement for the collection and distribution of fuel use taxes paid by motor carriers in the States of Maine, Vermont, and New Hampshire.

(6) STATE.—The term "State" means the 48 contiguous States and the District of Columbia.

SEC. 4009. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

(a) FEDERAL REGULATIONS.—The Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2701–2716) is amended by adding at the end the following new section:

"SEC. 12020. VIOLATION OF OUT-OF-SERVICE ORDERS.

"(a) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

"(b) MINIMUM REQUIREMENTS.—Regulations issued under subsection (a) shall, at a minimum, require that—

"(1) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

"(2) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

"(3) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

"(c) DEADLINES.—The regulations required under subsection (a) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of the enactment of this section and shall be issued not later than 12 months after such date of enactment.".

(b) STATE REGULATIONS.—Section 12009(a)(21) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2708(a)(21)) is amended by inserting "and section 12020(a)" before the period at the end.

SEC. 4010. EXEMPTION OF CUSTOM HARVESTING FARM MACHINERY.

Section 12019(5) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(5)), relating to the definition of motor vehicle, is amended by inserting "or custom harvesting farm machinery" before the period at the end.

SEC. 4011. COMMON CARRIERS PROVIDING TRANSPORTATION FOR CHARITABLE PURPOSES.

Section 10723(b) of title 49, United States Code, is amended—

(1) in paragraph (2) by inserting "(other than a motor carrier of passengers)" after "carrier"; and

(2) by adding at the end the following new paragraph:

"(3) In the case of a motor carrier of passengers, that carrier may also establish a rate and related rule equal to the rate charged for the transportation of 1 individual when that rate is for the transportation of—

"(A) a totally blind individual and an accompanying guide or a dog trained to guide the individual;

"(B) a disabled individual and accompanying attendant, or animal trained to assist the individual, or both, when required because of disability; or

"(C) a hearing-impaired individual and a dog trained to assist the individual.".

SEC. 4012. BRAKE PERFORMANCE STANDARDS.

(a) INITIATION OF RULEMAKING.—Not later than May 31, 1992, the Secretary shall initiate rulemaking concerning methods for improving braking performance of new commercial motor vehicles, including truck tractors, trailers, and their dollies. Such rulemaking shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing.

(b) LIMITATION WITH RESPECT TO RULES.—Any rule which the Secretary determines to issue regarding improved braking performance pursuant to the rulemaking initiated under this section shall take into account the need for the rule and, in the case of trailers, shall include articulated vehicles and their manufacturers.

(c) RULEMAKING PROCEDURE.—Any rulemaking under this section shall, consistent with section 229 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2519(b)), be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966.

(d) COMPLETION OF RULEMAKING.—The Secretary shall complete the rulemaking within 18 months after its initiation; except that the Secretary may extend that period for an additional 6 months after giving notice in the Federal Register of the need for such an extension. Such extension shall not be reviewable.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Secretary under this Act (or preventing the Secretary) from simultaneously initiating a rulemaking concerning methods for improving brake performance in the case of vehicles, other than new manufactured commercial motor vehicles, and for considering the necessity for effective enforcement of any rule relating to improving such performance as part of the rulemaking proceeding and for considering the reliability, maintainability, and durability of any brake equipment.

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—For purposes of this section only, the term "commercial motor vehicle" means any self-propelled or towed vehicle used on highways to transport passengers or property if such vehicle has a gross vehicle weight rating of 26,001 or more pounds.

SEC. 4013. FHWA POSITIONS.

To help implement the purposes of this title, the Secretary in fiscal year 1992 shall employ and maintain thereafter 2 additional employees in positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

SEC. 4014. COMPLIANCE REVIEW PRIORITY.

If the Secretary identifies a pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that such motor carrier receives a high priority for review of such carrier's compliance with applicable Federal and State commercial motor vehicle safety regulations.

TITLE V—INTERMODAL TRANSPORTATION

SEC. 5001. NATIONAL GOAL TO PROMOTE INTERMODAL TRANSPORTATION.

Section 302 of title 49, United States Code (relating to policy standards for transportation), is further amended by adding at the end the following new subsection:

"(e) INTERMODAL TRANSPORTATION.—It is the policy of the United States Government to encourage and promote development of a national intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy, and obtain the optimum yield from the Nation's transportation resources.".

SEC. 5002. DUTIES OF SECRETARY; OFFICE OF INTERMODALISM.

(a) DUTIES OF SECRETARY.—Section 301 of title 49, United States Code (relating to leadership, consultation and cooperation), is amended by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) coordinate Federal policy on intermodal transportation and initiate policies to promote efficient intermodal transportation in the United States;".

(b) INTERMODAL TRANSPORTATION ADVISORY BOARD.—

(1) ESTABLISHMENT.—There shall be established within the Office of the Secretary an Intermodal Transportation Advisory Board.

(2) MEMBERSHIP.—The Intermodal Transportation Advisory Board shall consist of the Secretary, who shall serve as Chairman, and the Administrator, or his or her designee, of—

(A) the Federal Highway Administration;

(B) the Federal Aviation Administration;

(C) the Maritime Administration;

(D) the Federal Railroad Administration; and

(E) the Federal Transit Administration.

(3) FUNCTIONS.—The Intermodal Transportation Advisory Board shall provide recommendations for carrying out the responsibilities of the Secretary described in section 301(3) of title 49, United States Code.

(c) OFFICE OF INTERMODALISM.—

(1) ESTABLISHMENT.—The Secretary shall establish within the Office of the Secretary an Office of Intermodalism.

(2) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 6 months after the date of the enactment of this Act.

(3) FUNCTION.—The Director shall be responsible for carrying out the responsibilities of the Secretary described in section 301(3) of title 49, United States Code.

(4) INTERMODAL TRANSPORTATION DATA BASE.—The Director shall develop, maintain, and disseminate intermodal transportation data through the Bureau of Transportation Statistics. The Director shall coordinate the collection of data for the data base with the States and metropolitan planning organizations. The data base shall include—

(A) information on the volume of goods and number of people carried in intermodal transportation by relevant classification;

(B) information on patterns of movement of goods and people carried in intermodal transportation by relevant classification in terms of origin and destination; and

(C) information on public and private investment in intermodal transportation facilities and services.

The Director shall make information from the data base available to the public.

(5) RESEARCH.—The Director shall be responsible for coordinating Federal research on intermodal transportation in accordance with the plan developed pursuant to section 6009(b) of this Act and for carrying out additional research needs identified by the Director.

(6) TECHNICAL ASSISTANCE.—The Director shall provide technical assistance to States and to metropolitan planning organizations for urban areas having a population of 1,000,000 or more in collecting data relating to intermodal transportation in order to facilitate the collection of such data by such States and metropolitan planning organizations.

(7) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Director shall provide administrative and clerical support to the Intermodal Transportation Advisory Board.

SEC. 5003. MODEL INTERMODAL TRANSPORTATION PLANS.

(a) GRANTS.—The Secretary shall make grants to States for the purpose of developing model State intermodal transportation plans which are consistent with the policy set forth in section 302(e) of title 49, United States Code. Such model plans shall include systems for collecting data relating to intermodal transportation.

(b) DISTRIBUTION.—The Secretary shall award grants to States under this section which represent a variety of geographic regions and transportation needs, patterns, and modes.

(c) TRANSMITTAL OF PLANS.—As a condition to receiving a grant under this section, the Secretary shall require that a State provide assurances that the State will transmit to the Secretary a State intermodal transportation plan not later than 18 months after the date of receipt of such grant.

(d) AGGREGATE AMOUNT.—The Secretary shall reserve, from amounts deducted under section 104(a) of title 23, United States Code, $3,000,000 for the purpose of making grants under this section. The aggregate amount which a State may receive in grants under this section shall not exceed $500,000.

SEC. 5004. SURFACE TRANSPORTATION ADMINISTRATION.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

(b) REPORT.—The Secretary shall report to Congress on the findings of the study continued under subsection (a) and recommend appropriate organizational changes no later than January 1, 1993. No organizational changes shall be implemented until such changes are approved by law.

SEC. 5005. NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION.

(a) ESTABLISHMENT.—There is established a National Commission on Intermodal Transportation.

(b) FUNCTION.—The Commission shall make a complete investigation and study of intermodal transportation in the United States and internationally. The Commission shall determine the status of intermodal transportation, the problems that exist with respect to intermodal transportation, and the resources needed to enhance intermodal transportation. Based on such investigation and study, the Commission shall recommend those policies which need to be adopted to achieve the national goal of an efficient intermodal transportation system.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall specifically investigate and study the following:

(1) INTERMODAL STANDARDIZATION.—The Commission, in coordination with the National Academy of Sciences, shall examine current and potential impediments to international standardization in specific elements of intermodal transportation. The Commission shall evaluate the potential benefits and relative priority of standardization in each such element and the time period and investment necessary to adopt such standards.

(2) INTERMODAL IMPACTS ON PUBLIC WORKS INFRASTRUCTURE.—The Commission shall examine current and projected intermodal traffic flows, including the current and projected market for intermodal transportation, and how such traffic flows affect infrastructure needs. The Commission shall make recommendations as to capital needs for infrastructure development that will be required to accommodate intermodal transportation, particularly with respect to surface transportation access to airports and ports.

(3) LEGAL IMPEDIMENTS TO EFFICIENT INTERMODAL TRANSPORTATION.—The Commission shall identify legal impediments to efficient intermodal transportation. Specifically, the Commission shall study the relationship between current regulatory schemes for individual modes of transportation and intermodal transportation efficiency.

(4) FINANCIAL ISSUES.—The Commission shall examine existing impediments to the efficient financing of intermodal transportation improvements. In carrying out such examination, the Commission shall examine (A) the most efficient use of existing sources of funds for connecting individual modes of transportation and for accommodating transfers between such modes, and (B) the use of innovative methods of financing for making such improvements. The Commission shall examine current methods of public funding, the desirability of increased flexibility in the use of amounts in Federal transportation trust funds, and increased use of private sources of funding.

(5) NEW TECHNOLOGIES.—The Commission shall study new technologies for improving intermodal transportation and problems associated with incorporating these new technologies in intermodal transportation.

(6) DOCUMENTATION.—The Commission shall study problems in documentation resulting from intermodal transfers of freight and make recommendations for achieving uniform, efficient, and simplified documentation.

(7) RESEARCH AND DEVELOPMENT.—The Commission shall identify the areas relating to intermodal transportation for which continued research and development is needed after the report required by this section is completed, and propose an agenda for carrying out such research and development.

(8) PRODUCTIVITY.—The Commission shall examine the relationship of intermodal transportation to transportation rates, transportation costs, and economic productivity.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 11 members as follows:

(A) 3 members appointed by the President.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 2 members appointed by the minority leader of the House of Representatives.

(D) 2 members appointed by the majority leader of the Senate.

(E) 2 members appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals interested in intermodal transportation policy, including representatives of Federal, State, and local governments, other public transportation authorities or agencies, and organizations representing transportation providers, shippers, labor, the financial community, and consumers.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(e) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(g) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(h) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(i) REPORT AND PROPOSED NATIONAL INTERMODAL TRANSPORTATION PLAN.—Not later than September 30, 1993, the Commission shall transmit to Congress a final report on the results of the investigation and study conducted under this section. The report shall include recommendations of the Commission for implementing the policy set forth in section 302(e) of title 49, United States Code, including a proposed national intermodal transportation plan and a proposed agenda for implementing the plan.

(j) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (i). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

TITLE VI—RESEARCH

PART A—PROGRAMS, STUDIES, AND ACTIVITIES

SEC. 6001. RESEARCH AND TECHNOLOGY PROGRAM.

Subsections (a), (b), and (c) of section 307 of title 23, United States Code, are amended to read as follows:

"(a) RESEARCH AND TECHNOLOGY PROGRAM.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary may engage in research, development, and technology transfer activities with respect to motor carrier transportation and all phases of highway planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions) and the effect thereon of State laws and may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities or by making grants to, and entering into contracts and cooperative agreements with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, corporation (profit or nonprofit), organization, or person.

"(C) RESEARCH FELLOWSHIPS.—

"(i) GENERAL AUTHORITY.—The Secretary may, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, make grants for research fellowships for any purpose for which research is authorized by this section.

"(ii) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation engineering and research. Such program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program". Of the funds made available pursuant to paragraph (3) for each fiscal year beginning after September 30, 1991, the Secretary shall expend not less than $2,000,000 per fiscal year to carry out such program.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—For the purposes of encouraging innovative solutions to highway problems and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements, as such term is defined under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

"(C) FEDERAL SHARE.—The Federal share payable on account of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent of the total cost of such activities; except that, if there is substantial public interest or benefit, the Secretary may approve a higher Federal share. All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be treated as part of the non-Federal share of the cost of such activities for purposes of the preceding sentence.

"(D) UTILIZATION OF TECHNOLOGY.—The research, development, or utilization of any technology pursuant to a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980.

"(3) FUNDS.—

"(A) IN GENERAL.—The funds necessary to carry out this subsection and subsections (b), (d), and (e) shall be taken by the Secretary out of administrative funds deducted pursuant to section 104(a) of this title and such funds as may be deposited by any cooperating organization or person in a special account of the Treasury of the United States established for such purposes.

"(B) MINIMUM EXPENDITURES ON LONG-TERM RESEARCH PROJECTS.—Not less than 15 percent of the funds made available under this paragraph shall be expended on long-term research projects which are unlikely to be completed within 10 years.

"(4) WAIVER OF ADVERTISING REQUIREMENTS.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements entered into under this section.

"(b) MANDATORY CONTENTS OF RESEARCH PROGRAM.—

"(1) INCLUSION OF CERTAIN STUDIES.—The Secretary shall include in the highway research program under subsection (a) studies of economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and of the feasibility of uniformity in State regulations with respect to such standards. The highway research program shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects.

"(2) SHRP RESULTS.—

"(A) IMPLEMENTATION.—The highway research program under subsection (a) shall include a program to implement results of the strategic highway research program carried out under subsection (d) (including results relating to automatic intrusion alarms for street and highway construction work zones) and to continue the long-term pavement performance tests being carried out under such program.

"(B) MINIMUM FUNDING.—Of amounts deducted under section 104(a) of this title, the Secretary shall expend not less than $12,000,000 in fiscal year 1992, $16,000,000 in fiscal year 1993, and $20,000,000 per fiscal year for each of fiscal years 1994, 1995, 1996, and 1997 to carry out this paragraph.

"(3) SURFACE TRANSPORTATION SYSTEM PERFORMANCE INDICATORS.—The highway research program under subsection (a) shall include a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation system of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors which reflect the overall performance of such system.

"(4) SHORT HAUL PASSENGER TRANSPORTATION SYSTEMS.—The Secretary shall conduct necessary systems research in order to develop a concept for a lightweight, pneumatic tire multiple-unit, battery-powered system, in conjunction with recharging stations at strategic locations. The Secretary shall create a potential systems concept and, as part of the surface transportation research and development plan under subsection (b), make recommendations to Congress by January 15, 1993.

"(5) SUPPORTING INFRASTRUCTURE.—The Secretary shall establish a program to strengthen and expand surface transportation infrastructure research and development. The program shall include the following elements:

"(A) Methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion.

"(B) Expansion of the Department of Transportation's inspection and mobile nondestructive examination capabilities, including consideration of the use of high energy field radiography for more thorough and more frequent inspections of bridge structures as well as added support to State highway departments.

"(C) The Secretary shall determine whether or not to initiate a construction equipment research and development program directed toward the reduction of costs associated with the construction of highways and mass transit systems. The Secretary shall transmit to Congress a report containing such determination on or before July 1, 1992.

"(D) The Secretary shall undertake or supervise surface transportation infrastructure research to develop—

"(i) nondestructive evaluation equipment for use with existing infrastructure facilities and for next generation infrastructure facilities that utilize advanced materials;

"(ii) information technologies, including—

"(I) appropriate computer programs to collect and analyze data on the status of the existing infrastructure facilities for enhancing management, growth, and capacity; and

"(II) dynamic simulation models of surface transportation systems for predicting capacity, safety, and infrastructure durability problems, for evaluating planned research projects, and for testing the strengths and weaknesses of proposed revisions in surface transportation operations programs; and

"(iii) new and innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of existing structures.

"(c) STATE PLANNING AND RESEARCH.—

"(1) GENERAL RULE.—2 percent of the sums apportioned for each fiscal year beginning after September 30, 1991, to any State under sections 104 and 144 of this title and for highway projects under section 103(e)(4) of this title shall be available for expenditure by the State highway department, in consultation with the Secretary, only for the following purposes:

"(A) Engineering and economic surveys and investigations.

"(B) The planning of future highway programs and local public transportation systems and for planning for the financing thereof, including statewide planning under section 135 of this title.

"(C) Development and implementation of management systems under section 303 of this title.

"(D) Studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof.

"(E) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, and maintenance of highway, public transportation, and intermodal transportation systems and study, research, and training on engineering standards and construction materials for such systems, including evaluation and accreditation of inspection and testing and the regulation and taxation of their use.

"(2) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Not less than 25 percent of the funds which are apportioned to a State for a fiscal year and are subject to paragraph (1) shall be expended by the State for research, development, and technology transfer activities described in paragraph (1) relating to highway, public transportation, and intermodal transportation systems unless the State certifies to the Secretary for such fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of such funds and the Secretary accepts such certification.

"(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds which are subject to paragraph (1) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(4) ADMINISTRATION OF SUMS.—Funds which are subject to paragraph (1) shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title.

SEC. 6002. NATIONAL HIGHWAY INSTITUTE.

Section 321 of title 23, United States Code, is amended to read as follows:

"§321. National Highway Institute

"(a) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(1) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (hereinafter in this section referred to as the 'Institute').

"(2) DUTIES.—The Institute shall develop and administer, in cooperation with the State transportation or highway departments, and any national or international entity, training programs of instruction for Federal Highway Administration, State and local transportation and highway department employees, State and local police, public safety and motor vehicle employees, and United States citizens and foreign nationals engaged or to be engaged in highway work of interest to the United States. The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other provision of law for the development and conduct of education and training programs relating to highways.

"(3) TYPES OF PROGRAMS.—Programs which the Institute may develop and administer may include courses in modern developments, techniques, management, and procedures relating to highway planning, environmental factors, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance, contract administration, motor carrier activities, and inspection.

"(b) SET-ASIDE; FEDERAL SHARE.—Not to exceed 1/16 of 1 percent of all funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State highway department for payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) FEDERAL RESPONSIBILITY.—Education and training of Federal, State, and local highway employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

"(2) in any case in which education and training are to be paid for under subsection (b), by the State (subject to the approval of the Secretary) through grants and contracts with public and private agencies, institutions, individuals, and the Institute; except that private agencies and individuals shall pay the full cost of any education and training received by them.

"(d) TRAINING FELLOWSHIPS; COOPERATION.—The Institute is authorized, subject to approval of the Secretary, to engage in all phases of contract authority for training purposes authorized by this section, including the granting of training fellowships. The Institute is also authorized to carry out its authority independently or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), any other national or international entity, or any other person.

"(e) COLLECTION OF FEES.—

"(1) GENERAL RULE.—The Institute may, in accordance with this subsection, assess and collect fees solely to defray the costs of the Institute in developing and administering education and training programs under this section.

"(2) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner which may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount which does not exceed the aggregate amount of the costs referred to in paragraph (1) for the fiscal year.

"(3) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(A) persons and entities for whom education or training programs are developed or administered under this section; and

"(B) persons and entities to whom education or training is provided under this section.

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"(4) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner which ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in paragraph (1) which relate to such person or entity.

"(f) FUNDS.—The funds required to carry out this section may be from the sums deducted for administration purposes under section 104(a). The sums provided pursuant to this subsection may be combined or held separate from the fees or memberships collected under subsection (e) and may be administered by the Secretary as a fund which shall be available until expended.

"(g) CONTRACTS.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements made under the authority of this section.".

SEC. 6003. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Chapter 3 of title 23, United States Code, is amended by adding at the end the following new section:

"§325. International highway transportation outreach program

"(a) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the domestic highway community of technological innovations abroad that could significantly improve highway transportation in the United States, to promote United States highway transportation expertise internationally, and to increase transfers of United States highway transportation technology to foreign countries. Such activities may include—

"(1) development, monitoring, assessment, and dissemination domestically of information about foreign highway transportation innovations that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) informing other countries about the technical quality of American highway transportation goods and services through participation in trade shows, seminars, expositions, and other such activities;

"(4) offering those Federal Highway Administration technical services which cannot be readily obtained from the United States private sector to be incorporated into the proposals of United States firms undertaking foreign highway transportation projects if the costs for assistance will be recovered under the terms of each project; and

"(5) conducting studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development as of the date of the enactment of this section, and in Greece and Turkey.

"(b) COOPERATION.—The Secretary may carry out the authority granted by this section, in cooperation with appropriate United States Government agencies and any State or local agency, authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

"(c) FUNDS.—The funds available to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The funds shall be available for promotional materials, travel, reception and representation expenses necessary to carry out the activities authorized by this section. Reimbursements for services provided under this section shall be credited to the appropriation concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following new item:

"325. International highway transportation outreach program.".

SEC. 6004. EDUCATION AND TRAINING PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following new section:

"§326. Education and training program

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies in (1) urbanized areas of 50,000 to 1,000,000 population, and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into contracts for education and training, technical assistance, and related support service that will—

"(1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas (including pavement, bridge and safety management systems), to improve roads and bridges, to enhance programs for the movement of passengers and freight, to deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials, and developing a tourism and recreational travel technical assistance program;

"(2) identify, package, and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and

"(3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with 2 or more urbanized areas of 50,000 to 1,000,000 population, and (B) rural technical assistance program centers.

Not less than 2 centers under paragraph (3) shall be designated to provide transportation assistance that may include, but is not necessarily limited to, a 'circuit-rider' program, providing training on intergovernmental transportation planning and project selection, and tourism recreational travel to American Indian tribal governments.

"(c) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds deducted under section 104(a). The sum of $6,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 shall be set aside from such administrative funds for the purpose of providing technical and financial support for these centers, including up to 100 percent for services provided to American Indian tribal governments.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following new item:

"326. Education and training program.".

(c) USE OF BUREAU OF INDIAN AFFAIRS' ADMINISTRATIVE FUNDS.—Section 204(b) of such title is amended by adding at the end the following new sentence: "The Secretary of Interior may reserve funds from the Bureau of Indian Affairs' administrative funds associated with the Indian reservation roads program to finance the Indian technical centers authorized under section 326.".

SEC. 6005. APPLIED RESEARCH AND TECHNOLOGY PROGRAM; SEISMIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 307 of title 23, United States Code, is amended by redesignating subsections (e) and (f) as subsections (g) and (h), respectively, and by inserting after subsection (d) the following new subsections:

"(e) APPLIED RESEARCH AND TECHNOLOGY PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish and implement in accordance with this subsection an applied research and technology program for the purpose of accelerating testing, evaluation, and implementation of technologies which are designed to improve the durability, efficiency, environmental impact, productivity, and safety of highway, transit, and intermodal transportation systems.

"(2) GUIDELINES.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue guidelines to carry out this subsection. Such guidelines shall include:

"(A) TECHNOLOGIES.—Guidelines on the selection of both foreign and domestic technologies to be tested.

"(B) TEST LOCATIONS.—Guidelines on the selection of locations at which tests will be conducted. Such guidelines shall ensure that testing is conducted in a range of climatic, traffic, geographic, and environmental conditions, as appropriate for the technology being tested.

"(C) DATA.—Guidelines for the scientific collection, evaluation, and dissemination of appropriate test data.

"(3) TECHNOLOGIES.—Technologies which may be tested under this subsection include, but are not limited to—

"(A) accelerated construction materials and procedures;

"(B) environmentally beneficial materials and procedures;

"(C) materials and techniques which provide enhanced serviceability and longevity under adverse climatic, environmental, and load effects;

"(D) technologies which increase the efficiency and productivity of vehicular travel; and

"(E) technologies and techniques which enhance the safety and accessibility of vehicular transportation systems.

"(4) HEATED BRIDGE TECHNOLOGIES.—

"(A) PROJECTS.—As part of the program under this subsection, the Secretary shall carry out projects to assess the state of technology with respect to heating the decks of bridges and the feasibility of, and costs and benefits associated with, heating the decks of bridges. Such projects shall be carried out by installing heating equipment on the decks of bridges which are being replaced or rehabilitated under section 144 of this title.

"(B) MINIMUM NUMBER OF BRIDGES.—The number of bridges for which heating equipment is installed under this subsection in a fiscal year shall not be less than 10 bridges.

"(5) ELASTOMER MODIFIED ASPHALT.—As part of the program under this subsection, the Secretary shall carry out a project in the State of New Jersey to demonstrate the environmental and safety benefits of elastomer modified asphalt.

"(6) HIGH PERFORMANCE BLENDED HYDRAULIC CEMENT.—As part of the program under this subsection, the Secretary shall carry out a project in the State of Missouri to demonstrate the durability and construction efficiency of high performance blended hydraulic cement.

"(7) THIN BONDED OVERLAY AND SURFACE LAMINATION OF PAVEMENT.—As part of the program under this subsection, the Secretary shall carry out projects to assess the state of technology with respect to thin bonded overlay (including inorganic bonding systems) and surface lamination of pavement, and to assess the feasibility of, and costs and benefits associated with, the repair, rehabilitation, and upgrading of highways and bridges with overlay. Such projects shall be carried out so as to minimize overlay thickness, minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability.

"(8) ALL WEATHER PAVEMENT MARKINGS.—As part of the program under this subsection, the Secretary shall carry out a program to demonstrate the safety and durability of all weather pavement markings.

"(9) TESTING OF HIGHWAY TECHNOLOGIES.—Projects carried out under this subsection to test technologies related to highways shall be carried out on highways on the Federal-aid system.

"(10) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities in carrying out projects under this subsection.

"(11) ANNUAL REPORT.—Not later than 1 year after the date of the enactment of this subsection, and annually thereafter, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and research findings of the program carried out under this subsection.

"(12) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall not exceed 80 percent.

"(13) FUNDING.—The Secretary shall expend from administrative and research funds deducted under section 104(a) of this title and funds made available under section 26(a)(1) of the Federal Transit Act "$35,000,000 for fiscal year 1992 and $41,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out this subsection. Of such amounts, in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall expend not less than $4,000,000 per fiscal year to carry out projects related to heated bridge technologies under paragraph (4), not less than $2,500,000 per fiscal year to carry out projects related to thin bonded overlay and surface lamination of pavements under paragraph (7), and not less than $2,000,000 per fiscal year to carry out projects related to all weather pavement markings under paragraph (8). Amounts made available under this subsection shall remain available until expended and shall not be subject to any obligation limitation.

"(f) SEISMIC RESEARCH PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to study the vulnerability of highways, tunnels, and bridges on the Federal-aid system to earthquakes and develop and implement cost-effective methods of retrofitting such highways, tunnels, and bridges to reduce such vulnerability.

"(2) COOPERATION WITH NATIONAL CENTER FOR EARTHQUAKE ENGINEERING RESEARCH.—The Secretary shall conduct the program under this section in cooperation with the National Center for Earthquake Engineering Research at the University of Buffalo.

"(3) COOPERATION WITH AGENCIES PARTICIPATING IN NATIONAL HAZARDS REDUCTION PROGRAM.—The Secretary shall further conduct the program under this section in consultation and cooperation with Federal departments and agencies participating in the National Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 and shall take such actions as may be necessary to ensure that the program under this subsection is consistent with—

"(A) planning and coordination activities of the Federal Emergency Management Agency under section 5(b)(1) of such Act; and

"(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of such Act.

"(4) FUNDING.—Of amounts deducted under section 104(a) of this title, the Secretary shall expend not more than $2,000,000 per fiscal year in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to carry out this subsection.

"(5) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and research findings of the program carried out under this section.".

(b) HIGHWAY AND BRIDGE CONDITIONS AND PERFORMANCE REPORT.—Section 307(h) of title 23, United States Code, as redesignated by subsection (a), is amended by adding at the end the following new sentence: "The biennial reports required under this subsection shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in different years when such measures are changed.".

SEC. 6006. BUREAU OF TRANSPORTATION STATISTICS.

Chapter 1 of title 49, United States Code, is amended by adding at the end the following new section:

"§111. Bureau of Transportation Statistics

"(a) ESTABLISHMENT.—There is established in the Department of Transportation a Bureau of Transportation Statistics.

"(b) DIRECTOR.—

"(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the compilation and analysis of transportation statistics.

"(3) REPORTING.—The Director shall report directly to the Secretary.

"(4) TERM.—The term of the Director shall be 4 years. The term of the first Director to be appointed shall begin on the 180th day after the date of the enactment of this section.

"(c) RESPONSIBILITIES.—The Director of the Bureau shall be responsible for carrying out the following duties:

"(1) COMPILING TRANSPORTATION STATISTICS.—Compiling, analyzing, and publishing a comprehensive set of transportation statistics to provide timely summaries and totals (including industrywide aggregates and multiyear averages) of transportation-related information. Such statistics shall be suitable for conducting cost-benefit studies (including comparisons among individual transportation modes and intermodal transport systems) and shall include information on—

"(A) productivity in various parts of the transportation sector;

"(B) traffic flows;

"(C) travel times;

"(D) vehicle weights;

"(E) variables influencing traveling behavior, including choice of transportation mode;

"(F) travel costs of intracity commuting and intercity trips;

"(G) availability of mass transit and the number of passengers served by each mass transit authority;

"(H) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

"(I) accidents;

"(J) collateral damage to the human and natural environment; and

"(K) the condition of the transportation system.

"(2) IMPLEMENTING LONG-TERM DATA COLLECTION PROGRAM.—Establishing and implementing, in cooperation with the modal administrators, the States, and other Federal officials a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. Such program shall—

"(A) be coordinated with efforts to develop performance indicators for the national transportation system undertaken pursuant to section 307(b)(3) of title 23, United States Code;

"(B) ensure that data is collected under this subsection in a manner which will maximize the ability to compare data from different regions and for different time periods; and

"(C) ensure that data collected under this subsection is controlled for accuracy and disseminated to the States and other interested parties.

"(3) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis.

"(4) COORDINATING COLLECTION OF INFORMATION.—Coordinating the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) with related information-gathering activities conducted by other Federal departments and agencies and collecting appropriate data not elsewhere gathered.

"(5) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible.

"(6) IDENTIFYING INFORMATION NEEDS.—Identifying information that is needed under paragraph (1) but which is not being collected, reviewing such needs at least annually with the Advisory Council on Transportation Statistics, and making recommendations to appropriate Department of Transportation research officials concerning extramural and intramural research programs to provide such information.

"(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to authorize the Bureau to require any other department or agency to collect data; or

"(2) to reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

"(e) PROHIBITION ON CERTAIN DISCLOSURES.—Information compiled by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of any individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets or allow commercial or financial information provided by any person to be identified with such person.

"(f) TRANSPORTATION STATISTICS ANNUAL REPORT.—On or before January 1, 1994, and annually thereafter, the Director shall transmit to the President and Congress a Transportation Statistics Annual Report which shall include information on items referred to in subsection (c)(1), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

"(g) PERFORMANCE OF FUNCTIONS OF DIRECTOR PENDING CONFIRMATION.—An individual who, on the date of the enactment of this section, is performing any function required by this section to be performed by the Director may continue to perform such function until such function is undertaken by the Director.".

(b) FUNDING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) only for carrying out the amendment made by subsection (a) $5,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, $15,000,000 per fiscal year for each of fiscal years 1994 and 1995, $20,000,000 for fiscal year 1996, and $25,000,000 for fiscal year 1997. Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following new items:

"Sec. 110. Saint Lawrence Seaway Development Corporation.

"Sec. 111. Bureau of Transportation Statistics.".

(d) AMENDMENT TO TITLE 5, U.S.C.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, Bureau of Transportation Statistics.".

SEC. 6007. ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.

(a) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.

(b) FUNCTION.—It shall be the function of the advisory council established under this section to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

(c) MEMBERSHIP.—The advisory council established under this section shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics) have expertise in transportation statistics and analysis.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.

SEC. 6008. DOT DATA NEEDS.

(a) STUDY.—Not later than 1 year after the date of the establishment of the Bureau of Transportation Statistics, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

(b) CONSULTATION.—The Secretary shall enter into the agreement under subsection (a) in consultation with the Director of the Bureau of Transportation Statistics.

(c) CONTENTS.—The study under subsection (a) shall include an evaluation of the Department of Transportation's data collection resources, needs, and requirements and an assessment and evaluation of the systems, capabilities, and procedures established by the Department to meet such needs and requirements, including the following:

(1) Data collection procedures and capabilities.

(2) Data analysis procedures and capabilities.

(3) Ability of data bases to integrate with one another.

(4) Computer hardware and software capabilities.

(5) Information management systems, including the ability of information management systems to integrate with one another.

(6) Availability and training of the personnel of the Department.

(7) Budgetary needs and resources of the Department for data collection.

(d) REPORT.—Not later than 18 months after the date of the agreement under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study under this section, including recommendations for improving the Department of Transportation's data collection systems, capabilities, procedures, and analytical hardware and software and recommendations for improving the Department's management information systems.

SEC. 6009. SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLANNING.

(a) FINDINGS.—Congress finds that—

(1) despite an annual expenditure in excess of $10,000,000,000 on surface transportation and its infrastructure, the Federal Government has not developed a clear vision of—

(A) how the surface transportation systems of the 21st century will differ from the present;

(B) how they will interface with each other and with other forms of transportation;

(C) how such systems will adjust to changing American population patterns and lifestyles; and

(D) the role of federally funded research and development in ensuring that appropriate transportation systems are developed and implemented;

(2) the population of the United States is projected to increase by over 30,000,000 people within the next 20 years, mostly in existing major metropolitan areas, which will result in increased traffic congestion within and between urban areas, more accidents, loss of productive time, and increased cost of transportation unless new technologies are developed to improve public transportation within cities and to move people and goods between cities;

(3) 18,000,000 crashes, 4,000,000 injuries, and 45,000 fatalities each year on the Nation's highways are intolerable and substantial research is required in order to develop safer technologies in their most useful and economic forms;

(4) current research and development funding for surface transportation is insufficient to provide the United States with the technologies essential to providing its own advanced transportation systems in the future and, as a result, the United States is becoming increasingly dependent on foreign surface transportation technologies and equipment to meet its expanding surface transportation needs;

(5) a more active, focused surface transportation research and development program involving cooperation among the Federal Government, United States based industry, and United States universities should be organized on a priority basis;

(6) intelligent vehicle highway systems represent the best near-term technology for improving surface transportation for public benefit by providing equipment which can improve traffic flow and provide for enhanced safety;

(7) research and development programs related to surface transportation are fragmented and dispersed throughout government and need to be strengthened and incorporated in an integrated framework within which a consensus on the goals of a national surface transportation research and development program must be developed;

(8) the inability of government agencies to cooperate effectively, the difficulty of obtaining public support for new systems and rights-of-way, and the high cost of capital financing discourage private firms from investing in the development of new transportation equipment and systems; therefore, the Federal Government should sponsor and coordinate research and development of new technologies to provide safer, more convenient, and affordable transportation systems for use in the future; and

(9) an effective high technology applied research and development program should be implemented quickly by strengthening the Department of Transportation research and development staff and by contracting with private industry for specific development projects.

(b) SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLAN.—

(1) DEVELOPMENT.—The Secretary shall develop an integrated national surface transportation research and development plan (hereinafter in this subsection referred to as the "plan").

(2) FOCUS.—The plan shall focus on surface transportation systems needed for urban, suburban, and rural areas in the next decade.

(3) CONTENTS.—The plan shall include the following:

(A) Details of the Department's surface transportation research and development programs, including appropriate funding levels and a schedule with milestones, preliminary cost estimates, appropriate work scopes, personnel requirements, and estimated costs and goals for the next 3 years for each area of research and development.

(B) A 10-year projection of long-term programs in surface transportation research and development and recommendations for the appropriate source or mechanism for surface transportation research and development funding, taking into account recommendations of the Research and Development Coordinating Council of the Department of Transportation and the plan of the National Council on Surface Transportation Research.

(C) Recommendations on changes needed to assure that Federal, State, and local contracting procedures encourage the adoption of advanced technologies developed as a consequence of the research programs in this Act.

(4) OBJECTIVES.—The plan shall provide for the following:

(A) The development, within the shortest period of time possible, of a range of technologies needed to produce convenient, safe, and affordable modes of surface transportation to be available for public use beginning in the mid-1990's.

(B) Maintenance of a long-term advanced research and development program to provide for next generation surface transportation systems.

(5) COOPERATION WITH INDUSTRY.—A primary component of the plan shall be cooperation with industry in carrying out this part and strengthening the manufacturing capabilities of United States firms in order to produce products for surface transportation systems.

(6) CONFORMANCE WITH PLAN.—All surface transportation research and development within the Department of Transportation shall be included in the plan and shall be evaluated in accordance with the plan.

(7) COORDINATION.—In developing the plan and carrying out this part, the Secretary shall consult with and, where appropriate, use the expertise of other Federal agencies and their laboratories.

(8) TRANSMITTAL.—On or before January 15, 1993, and annually thereafter, the Secretary shall transmit the plan to Congress, together with the Secretary's comments and recommendations. The Secretary shall review and update the plan before each transmittal under this paragraph.

(9) RECOMMENDATIONS FOR ALTERNATIVES.—In the event a different technology or alternative program can be identified that would accomplish the same or better results than those described in this part, the Secretary may make recommendations for an alternative, and shall promptly report such alternative recommendations to Congress.

SEC. 6010. NATIONAL COUNCIL ON SURFACE TRANSPORTATION RESEARCH.

(a) ESTABLISHMENT.—There is established a National Council on Surface Transportation Research (hereinafter in this section referred to as the "Council").

(b) FUNCTION.—The Council shall make a complete investigation and study of current surface transportation research and technology developments in the United States and internationally. The Council shall identify gaps and duplication in current surface transportation research efforts, determine research and development areas which may increase efficiency, productivity, safety, and durability in the Nation's surface transportation systems, and propose a national surface transportation research and development plan for immediate implementation.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—The Council shall—

(1) survey current surface transportation public and private research efforts in the United States and internationally;

(2) examine factors which lead to fragmentation of surface transportation research efforts and determine how increased coordination in such efforts may be achieved;

(3) compare the role of the Federal Government with the role of foreign governments in promoting transportation research and evaluate the appropriateness of United States policy on government-sponsored surface transportation research;

(4) identify barriers to innovation in surface transportation systems;

(5) examine the range of funding arrangements available for surface transportation research and development and the level of resources currently available for such purposes; and

(6) identify surface transportation research areas and opportunities, including opportunities for international cooperation offering potential benefit to the Nation's surface transportation system, assess the relative priority of such research areas and plans, and develop a plan for national surface transportation research and development which includes short-range and long-range objectives.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Council shall be composed of 7 members as follows:

(A) Three members appointed by the President.

(B) One member appointed by the Speaker of the House of Representatives.

(C) One member appointed by the minority leader of the House of Representatives.

(D) One member appointed by the majority leader of the Senate.

(E) One member appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals involved in surface transportation research, including representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community.

(B) INTERNATIONAL ADVISOR.—One of the members appointed by the President pursuant to paragraph (1)(A) shall serve as an international research advisor for the Council.

(3) TERMS.—Members shall be appointed for the life of the Council.

(4) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Council shall be elected by the members.

(e) STAFF.—The Council may appoint and fix the pay of such personnel as it considers appropriate.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist it in carrying out its duties under this section.

(g) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Council, the Administrator of General Services shall provide to the Council, on a reimbursable basis, the administrative support services necessary for the Council to carry out its responsibilities under this section.

(h) OBTAINING OFFICIAL DATA.—The Council may secure directly from any department or agency of the United States information necessary for it to carry out its duties under this section. Upon request of the Council, the head of that department or agency shall furnish that information to the Council.

(i) REPORT.—Not later than September 30, 1993, the Council shall transmit to Congress a final report on the results of the investigation and study conducted under this section. The report shall include recommendations of the Council, including a proposed national surface transportation research plan for immediate implementation.

(j) TERMINATION.—The Council shall terminate on the 180th day following the date of transmittal of the report under subsection (i). All records and papers of the Council shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 6011. RESEARCH ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of transmittal of the report to Congress under section 6010, the Secretary shall establish an independent surface transportation research advisory committee (hereinafter in this section referred to as the "advisory committee").

(b) PURPOSES.—The advisory committee shall provide ongoing advice and recommendations to the Secretary regarding needs, objectives, plans, approaches, content, and accomplishments with respect to short-term and long-term surface transportation research and development. The advisory committee shall also assist in ensuring that such research and development is coordinated with similar research and development being conducted outside of the Department of Transportation.

(c) MEMBERSHIP.—The advisory committee shall be composed of not less than 20 and not more than 30 members appointed by the Secretary from among individuals who are not employees of the Department of Transportation and who are specially qualified to serve on the advisory committee by virtue of their education, training, or experience. A majority of the members of the advisory committee shall be individuals with experience in conducting surface transportation research and development. The Secretary in appointing the members of the advisory committee shall ensure that representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community are represented on an equitable basis.

(d) CHAIRMAN.—The chairman of the advisory committee shall be designated by the Secretary.

(e) PAY AND EXPENSES.—Members of the advisory committee shall serve without pay, except that the Secretary may allow any member, while engaged in the business of the advisory committee or a subordinate committee, travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) SUBORDINATE COMMITTEES.—The Secretary shall establish a subordinate committee to the advisory committee to provide advice on advanced highway vehicle technology research and development, and may establish other subordinate committees to provide advice on specific areas of surface transportation research and development. Such subordinate committees shall be subject to subsections (e), (g), and (i) of this section.

(g) ASSISTANCE OF SECRETARY.—Upon request of the advisory committee, the Secretary shall provide such information, administrative services, support staff, and supplies as the Secretary determines to be necessary for the advisory committee to carry out its functions.

(h) REPORTS.—The advisory committee shall, within 1 year after the date of establishment of the advisory committee, and annually thereafter, submit to the Congress a report summarizing its activities under this section.

(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

SEC. 6012. COMMEMORATION OF DWIGHT D. EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) STUDY.—The Secretary shall conduct a study to determine an appropriate symbol or emblem to be placed on highway signs referring to the Interstate System to commemorate the vision of President Dwight D. Eisenhower in creating the Dwight D. Eisenhower National System of Interstate and Defense Highways.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study under this section.

SEC. 6013. STATE LEVEL OF EFFORT.

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Secretary and the Director of the Bureau of Transportation Statistics shall begin a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

(b) CONTENTS.—The study under subsection (a) shall include collection of data relating to State and local revenues collected and spent on surface transportation programs. Such revenues include income from fuel taxes, toll revenues (including bridge, tunnel, and ferry tolls), sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and such other State and local revenue sources as the Director of the Bureau considers appropriate.

(c) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary and the Director of the Bureau shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study under this section, including recommendations on the most appropriate measure of State level of effort in funding surface transportation programs and comprehensive data, by State, on revenue sources and amounts collected by States and local governments and devoted to surface transportation programs.

SEC. 6014. EVALUATION OF STATE PROCUREMENT PRACTICES.

(a) STUDY.—The Secretary shall conduct a study to evaluate whether or not current procurement practices of State departments and agencies, including statistical acceptance procedures, are adequate to ensure that highway and transit systems are designed, constructed, and maintained so as to achieve a high quality for such systems at the lowest overall cost.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under this section, together with an assessment of the need for establishing a national policy on transportation quality assurance and recommendations for appropriate legislative and administrative actions.

SEC. 6015. BORDER CROSSINGS.

(a) IDENTIFICATION.—The Secretary, in cooperation with other appropriate Federal agencies, shall identify existing and emerging trade corridors and transportation subsystems that facilitate trade between the United States, Canada, and Mexico.

(b) PRIORITIES AND RECOMMENDATIONS.—The Secretary shall investigate and develop priorities and recommendations for rail, highway, water, and air freight centers and all highway border crossings for States adjoining Canada and Mexico, including the Gulf of Mexico States and other States whose transportation subsystems affect the trade corridors. The recommendations shall provide for improvement and integration of transportation corridor subsystems, methods for achieving the optimum yield from such subsystems, methods for increasing productivity, methods for increasing the use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

(c) MINIMUM ELEMENTS.—The highway border crossing assessment under this section shall at a minimum—

(1) determine whether or not the border crossings are in compliance with current Federal highway regulations and adequately designed for future growth and expansion;

(2) assess their ability to accommodate increased commerce due to the United States-Canada Free Trade Agreement and increased trade between the United States and Mexico; and

(3) assess their ability to accommodate increasing tourism-related traffic between the United States, Canada, and Mexico.

The review shall specifically address issues related to the alignment of United States and adjoining Canadian and Mexican highways at the border crossings, the development of bicycle paths and pedestrian walkways, and potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

(d) CONSULTATION.—In carrying out this section, the Secretary shall consult with appropriate Governors and representatives of the Republic of Mexico and Canada.

(e) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall report to Congress and border State Governors on transportation infrastructure needs, associated costs, and economic impacts identified and propose an agenda to develop systemwide integration of services for national benefits.

SEC. 6016. FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.

(a) STUDIES.—The Administrator of the Federal Highway Administration (hereinafter in this section referred to as the "Administrator") shall conduct studies of the fundamental chemical property and physical property of petroleum asphalts and modified asphalts used in highway construction in the United States. Such studies shall emphasize predicting pavement performance from the fundamental and rapidly measurable properties of asphalts and modified asphalts.

(b) CONTRACTS.—To carry out the studies under subsection (a), the Administrator shall enter into contracts with the Western Research Institute of the University of Wyoming in order to conduct the necessary technical and analytical research in coordination with existing programs which evaluate actual performance of asphalts and modified asphalts in roadways, including the Strategic Highway Research Program.

(c) ACTIVITIES OF STUDIES.—The studies under subsection (a) shall include the following activities:

(1) Fundamental composition studies.

(2) Fundamental physical and rheological property studies.

(3) Asphalt-aggregate interaction studies.

(4) Coordination of composition studies, physical and rheological property studies, and asphalt-aggregate interaction studies for the purposes of predicting pavement performance, including refinements of Strategic Highway Research Program specifications.

(d) TEST STRIP.—

(1) IMPLEMENTATION.—The Administrator, in coordination with the Western Research Institute of the University of Wyoming, shall implement a test strip for the purpose of demonstrating and evaluating the unique energy and environmental advantages of using shale oil modified asphalts under extreme climatic conditions.

(2) FUNDING.—For the purposes of construction activities related to this test strip, the Secretary and the Director of the National Park Service shall make up to $1,000,000 available from amounts made available from the authorization for parkroads and parkways.

(3) REPORT TO CONGRESS.—Not later than November 30, 1995, the Administrator shall transmit to Congress as part of a report under subsection (e) the Administrator's findings on activities conducted under this subsection, including an evaluation of the test strip implemented under this subsection and recommendations for legislation to establish a national program to support United States transportation and energy security requirements.

(e) ANNUAL REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and on or before November 30th of each year beginning thereafter, the Administrator shall transmit to Congress a report of the progress made in implementing this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall expend from administrative and research funds deducted under section 104(a) of this title at least $3,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsection (b).

SEC. 6017. RESEARCH AND DEVELOPMENT AUTHORITY OF SECRETARY OF TRANSPORTATION.

Section 301(6) of title 49, United States Code, as redesignated by section 502(a) of this Act, is amended by inserting ", and including basic highway vehicle science" after "to aircraft noise".

SEC. 6018. PURPOSES OF DEPARTMENT OF TRANSPORTATION.

Section 101(b)(4) of title 49, United States Code, is amended by inserting ", through research and development or otherwise" after "advances in transportation".

SEC. 6019. ADVANCED AUTOMOTIVE CONFERENCE AND AWARD.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by inserting after section 17 the following new sections, and by redesignating subsequent sections and all references thereto accordingly:

"SEC. 18. CONFERENCE ON ADVANCED AUTOMOTIVE TECHNOLOGIES.

"Not later than 180 days after the date of the enactment of this section, the Secretary of Commerce, through the Under Secretary of Commerce for Technology, in consultation with other appropriate officials, shall convene a conference of domestic motor vehicle manufacturers, parts suppliers, Federal laboratories, and motor vehicle users to explore ways in which cooperatively they can improve the competitiveness of the United States motor vehicle industry by developing new technologies which will enhance the safety and energy savings, and lessen the environmental impact of domestic motor vehicles, and the results of such conference shall be published and then submitted to the President and to the Committees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"SEC. 19. ADVANCED MOTOR VEHICLE RESEARCH AWARD.

"(a) ESTABLISHMENT.—There is established a National Award for the Advancement of Motor Vehicle Research and Development. The award shall consist of a medal, and a cash prize if funding is available for the prize under subsection (c). The medal shall be of such design and materials and bear inscriptions as is determined by the Secretary of Transportation.

"(b) MAKING AND PRESENTING AWARD.—The Secretary of Transportation shall periodically make and present the award to domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel who, in the opinion of the Secretary of Transportation, have substantially improved domestic motor vehicle research and development in safety, energy savings, or environmental impact. No person may receive the award more than once every 5 years.

"(c) FUNDING FOR AWARD.—The Secretary of Transportation may seek and accept gifts of money from private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, and only such money may be used for that purpose.".

SEC. 6020. UNDERGROUND PIPELINES.

(a) STUDY.—The Secretary shall conduct a study to evaluate the feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.

SEC. 6021. BUS TESTING.

(a) DEFINITION OF NEW BUS MODEL.—Section 12(h) of the Federal Transit Act (49 U.S.C. 1608(h)) is amended by inserting "(including any model using alternative fuels)" after "means a bus model".

(b) DUTIES OF BUS TESTING FACILITY.—Section 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608 note) is amended—

(1) by inserting "(including braking performance)" after "performance"; and

(2) by inserting "emissions," after "fuel economy,".

(c) FUNDING.—The first sentence of section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting before the period at the end the following: ", for expansion of such facility $1,500,000 for fiscal year 1992, and for establishment of a revolving fund under paragraph (6) $2,500,000 for fiscal year 1992".

(d) REVOLVING LOAN FUND.—Section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by adding at the end the following new paragraph:

"(6) REVOLVING LOAN FUND.—The Secretary shall establish a bus testing revolving loan fund with amounts authorized for such purpose under paragraph (5). The Secretary shall make available as repayable advances amounts from the fund to the person described in paragraph (3) for operating and maintaining the facility.".

SEC. 6022. NATIONAL TRANSIT INSTITUTE.

The Federal Transit Act (49 U.S.C. App. 1601–1621) is amended by adding after section 28 the following new section:

"SEC. 29. NATIONAL TRANSIT INSTITUTE.

"(a) ESTABLISHMENT.—The Secretary shall make grants to Rutgers University to establish a national transit institute. The institute shall develop and administer, in cooperation with the Federal Transit Administration, State transportation departments, public transit agencies, and national and international entities, training programs of instruction for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Federal-aid transit work. Such programs may include courses in recent developments, techniques, and procedures relating to transit planning, management, environmental factors, acquisition and joint use of rights-of-way, engineering, procurement strategies for transit systems, turn-key approaches to implementing transit systems, new technologies, emission reduction technologies, means of making transit accessible to individuals with disabilities, construction, maintenance, contract administration, and inspection. The Secretary shall delegate to the institute the authority vested in the Secretary for the development and conduct of educational and training programs relating to transit.

"(b) FUNDING.—Not to exceed one-half of 1 percent of all funds made available for a fiscal year beginning after September 30, 1991, to a State or public transit agency in the State for carrying out sections 3 and 9 of the Federal Transit Act shall be available for expenditure by the State and public transit agencies in the State, subject to approval by the Secretary, for payment of not to exceed 80 percent of the cost of tuition and direct educational expenses in connection with the education and training of State and local transportation department employees as provided in this section.

"(c) PROVISION OF TRAINING.—Education and training of Federal, State, and local transportation employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

"(2) in any case where such education and training are to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

"(d) FUNDING.—The Secretary shall make available in equal amounts from funds provided under section 21(c)(3) and 21(c)(4) $3,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 for carrying out this section. Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this subsection shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.".

SEC. 6023. UNIVERSITY TRANSPORTATION CENTERS.

(a) ADDITIONAL RESPONSIBILITY.—Section 11(b)(2) of the Federal Transit Act (49 U.S.C. App. 1607c(b)(2)) is amended by inserting "transportation safety and" after "training concerning".

(b) ESTABLISHMENT OF NEW CENTERS; PROGRAM COORDINATION.—Section 11(b) of such Act (49 U.S.C. App. 1607c(b)) is amended by striking paragraphs (7) and (8), by redesignating paragraphs (9) and (10) as paragraphs (14) and (15), respectively, and by inserting after paragraph (6) the following new paragraphs:

"(7) NATIONAL CENTER.—To accelerate the involvement and participation of minority individuals and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants under this section to Morgan State University to establish a national center for transportation management, research, and development. Such center shall give special attention to the design, development, and implementation of research, training, and technology transfer activities to increase the number of highly skilled minority individuals and women entering the transportation workforce.

"(8) CENTER FOR TRANSPORTATION AND INDUSTRIAL PRODUCTIVITY.—

"(A) IN GENERAL.—The Secretary shall make grants under this section to the New Jersey Institute of Technology to establish and operate a center for transportation and industrial productivity. Such center shall conduct research and development activities which focus on methods to increase surface transportation capacity, reduce congestion, and reduce costs for transportation system users and providers through the use of transportation management systems.

"(B) JAMES AND MARLENE HOWARD TRANSPORTATION INFORMATION CENTER.—

"(i) GRANT.—The Secretary shall make a grant to Monmouth College, West Long Branch, New Jersey, for modification and reconstruction of Building Number 500 at Monmouth College.

"(ii) ASSURANCES.—Before making a grant under clause (i), the Secretary shall receive assurances from Monmouth College that—

"(I) the building referred to in clause (i) will be known and designated as the 'James and Marlene Howard Transportation Information Center'; and

"(II) transportation-related instruction and research in the fields of computer science, electronic engineering, mathematics, and software engineering conducted at the building referred to in clause (i) will be coordinated with the Center for Transportation and Industrial Productivity at the New Jersey Institute of Technology.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,242,000 in fiscal year 1992 for making the grant under clause (i).

"(iv) APPLICABILITY OF TITLE 23.—Funds authorized by clause (iii) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted with the grant under clause (i) shall be 80 percent and such funds shall remain available until expended. Funds authorized by clause (iii) shall not be subject to any obligation limitation.

"(9) NATIONAL RURAL TRANSPORTATION STUDY CENTER.—The Secretary shall make grants under this section to the University of Arkansas to establish a national rural transportation center. Such center shall conduct research, training, and technology transfer activities in the development, management, and operation of intermodal transportation systems in rural areas.

"(10) NATIONAL CENTER FOR ADVANCED TRANSPORTATION TECHNOLOGY.—

"(A) IN GENERAL.—The Secretary shall make grants under paragraph (10) to the University of Idaho to establish a National Center for Advanced Transportation Technology. Such center shall be established and operated in partnership with private industry and shall conduct industry driven research and development activities which focus on transportation-related manufacturing and engineering processes, materials, and equipment.

"(B) GRANTS.—The Secretary shall make grants to the University of Idaho, Moscow, Idaho, for planning, design, and construction of a building in which the research and development activities of the National Center for Advanced Transportation Technology may be conducted.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,500,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, and $2,500,000 for fiscal year 1994 for making the grants under subparagraph (B).

"(D) APPLICABILITY OF TITLE 23.—Funds authorized by subparagraph (C) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of activities conducted with the grant under subparagraph (B) shall be 80 percent and such funds shall remain available until expended. Funds authorized by subparagraph (B) shall not be subject to any obligation limitation.

"(E) APPLICABILITY OF GRANT REQUIREMENTS.—Any grant entered into under this paragraph shall not be subject to the requirements of subsection (b) of this section.

"(11) PROGRAM COORDINATION.—

"(A) IN GENERAL.—The Secretary shall provide for the coordination of research, education, training, and technology transfer activities carried out by grant recipients under this subsection, the dissemination of the results of such research, and the establishment and operation of a clearinghouse between such centers and the transportation industry. The Secretary shall review and evaluate programs carried out by such grant recipients at least annually.

"(B) FUNDING.—Not to exceed 1 percent of the funds made available from Federal sources to carry out this subsection may be used by the Secretary to carry out this paragraph.

"(12) OBLIGATION CEILING.—Amounts authorized out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection shall be subject to obligation limitations established by section 102 of the Intermodal Surface Transportation Efficiency Act of 1991.

"(13) AUTHORIZATIONS.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1992 and $6,000,000 for each of the fiscal years 1993 through 1997. Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project."

SEC. 6024. UNIVERSITY RESEARCH INSTITUTES.

Section 11 of the Federal Transit Act (49 U.S.C. App. 1607c) is amended by adding at the end the following new subsection:

"(c) UNIVERSITY RESEARCH INSTITUTES.—

"(1) INSTITUTE FOR NATIONAL SURFACE TRANSPORTATION POLICY STUDIES.—The Secretary shall make grants under this section to San Jose State University to establish and operate an institute for national surface transportation policy studies. Such institute shall—

"(A) include both male and female students of diverse socioeconomic and ethnic backgrounds who are seeking careers in the development and operations of surface transportation programs; and

"(B) conduct research and development activities to analyze ways of improving aspects of the development and operation of the Nation's surface transportation programs.

"(2) INFRASTRUCTURE TECHNOLOGY INSTITUTE.—The Secretary shall make grants under this section to Northwestern University to establish and operate an institute for the study of techniques to evaluate and monitor infrastructure conditions, improve information systems for infrastructure construction and management, and study advanced materials and automated processes for construction and rehabilitation of public works facilities.

"(3) URBAN TRANSIT INSTITUTE.—The Secretary shall make grants under this section to North Carolina A. and T. State University through the Institute for Transportation Research and Education and the University of South Florida and a consortium of Florida A and M, Florida State University, and Florida International University to establish and operate an interdisciplinary institute for the study and dissemination of techniques to address the diverse transportation problems of urban areas experiencing significant and rapid growth.

"(4) INSTITUTE FOR INTELLIGENT VEHICLE-HIGHWAY CONCEPTS.—The Secretary shall make grants under this section to the University of Minnesota, Center for Transportation Studies, to establish and operate a national institute for intelligent vehicle-highway concepts. Such institute shall conduct research and recommend development activities which focus on methods to increase roadway capacity, enhance safety, and reduce negative environmental effects of transportation facilities through the use of intelligent vehicle-highway systems technologies.

"(5) INSTITUTE FOR TRANSPORTATION RESEARCH AND EDUCATION.—The Secretary shall make grants under this section to the University of North Carolina to conduct research and development and to direct technology transfer and training for State and local transportation agencies to improve the overall surface transportation infrastructure.

"(6) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 $250,000 per fiscal year to carry out paragraph (1), $3,000,000 per fiscal year to carry out paragraph (2), $1,000,000 per fiscal year to carry out paragraph (3), $1,000,000 per fiscal year to carry out paragraph (4), and $1,000,000 per fiscal year to carry out paragraph (5).

"(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.".

PART B—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

SEC. 6051. SHORT TITLE.

This part may be cited as the "Intelligent Vehicle-Highway Systems Act of 1991".

SEC. 6052. ESTABLISHMENT AND SCOPE OF PROGRAM.

(a) ESTABLISHMENT.—Subject to the provisions of this part, the Secretary shall conduct a program to research, develop, and operationally test intelligent vehicle-highway systems and promote implementation of such systems as a component of the Nation's surface transportation systems.

(b) GOALS.—The goals of the program to be carried out under this part shall include, but not be limited to—

(1) the widespread implementation of intelligent vehicle-highway systems to enhance the capacity, efficiency, and safety of the Federal-aid highway system and to serve as an alternative to additional physical capacity of the Federal-aid highway system;

(2) the enhancement, through more efficient use of the Federal-aid highway system, of the efforts of the several States to attain air quality goals established pursuant to the Clean Air Act;

(3) the enhancement of safe and efficient operation of the Nation's highway systems with a particular emphasis on aspects of systems that will increase safety and identification of aspects of the system that may degrade safety;

(4) the development and promotion of intelligent vehicle-highway systems and an intelligent vehicle-highway systems industry in the United States, using authority provided under section 307 of title 23, United States Code;

(5) the reduction of societal, economic, and environmental costs associated with traffic congestion;

(6) the enhancement of United States industrial and economic competitiveness and productivity by improving the free flow of people and commerce and by establishing a significant United States presence in an emerging field of technology;

(7) the development of a technology base for intelligent vehicle-highway systems and the establishment of the capability to perform demonstration experiments, using existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

SEC. 6053. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) COOPERATION.—In carrying out the program under this part, the Secretary shall foster use of the program as a key component of the Nation's surface transportation systems and strive to transfer federally owned or patented technology to State and local governments and the United States private sector. As appropriate, in carrying out the program under this part, the Secretary shall consult with the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other interested Federal departments and agencies and shall maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of the program, including design, conduct (including operations and maintenance), evaluation, and financial or in-kind participation.

(b) STANDARDS.—The Secretary shall develop and implement standards and protocols to promote the widespread use and evaluation of intelligent vehicle-highway systems technology as a component of the Nation's surface transportation systems. To the extent practicable, such standards and protocols shall promote compatibility among intelligent vehicle-highway systems technologies implemented throughout the States. In carrying out this subsection, the Secretary may use the services of such existing standards-setting organizations as the Secretary determines appropriate.

(c) EVALUATION GUIDELINES.—The Secretary shall establish guidelines and requirements for the evaluation of field and related operational tests carried out pursuant to section 6055. Any survey, questionnaire, or interview which the Secretary considers necessary to carry out the evaluation of such tests shall not be subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

(d) INFORMATION CLEARINGHOUSE.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out pursuant to this part and shall make, upon request, such information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation. If the Secretary delegates such responsibility, the entity to which such responsibility is delegated shall be eligible for Federal assistance under this part.

(e) ADVISORY COMMITTEES.—The Secretary may utilize one or more advisory committees in carrying out this part. Any advisory committee so utilized shall be subject to the Federal Advisory Committee Act. Funding provided for any such committee shall be available from moneys appropriated for advisory committees as specified in relevant appropriations Acts and from funds allocated for research, development, and implementation activities in connection with the intelligent vehicle-highway systems program under this part.

SEC. 6054. STRATEGIC PLAN, IMPLEMENTATION, AND REPORT TO CONGRESS.

(a) STRATEGIC PLAN.—

(1) DEVELOPMENT AND IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop, submit to Congress, and commence implementation of a plan for the intelligent vehicle-highway systems program.

(2) SCOPE.—The plan shall—

(A) specify the goals, objectives, and milestones of the intelligent vehicle-highway program and how specific projects relate to the goals, objectives, and milestones, including consideration of the 5-, 10-, and 20-year timeframes for the goals and objectives;

(B) detail the status of and challenges and nontechnical constraints facing the program;

(C) establish a course of action necessary to achieve the program's goals and objectives;

(D) provide for the development of standards and protocols to promote and ensure compatibility in the implementation of intelligent vehicle-highway systems technologies; and

(E) provide for the accelerated use of advanced technology to reduce traffic congestion along heavily populated and traveled corridors.

(b) INTELLIGENT VEHICLE HIGHWAY SYSTEMS.—The Secretary shall develop an automated highway and vehicle prototype from which future fully automated intelligent vehicle-highway systems can be developed. Such development shall include research in human factors to ensure the success of the man-machine relationship. The goal of this program is to have the first fully automated roadway or an automated test track in operation by 1997. This system shall accommodate installation of equipment in new and existing motor vehicles.

(c) IMPLEMENTATION REPORTS.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on implementation of the plan developed under subsection (a).

(2) SCOPE OF IMPLEMENTATION REPORTS.—In preparing reports under this subsection, the Secretary shall—

(A) analyze the possible and actual accomplishments of intelligent vehicle-highway systems projects in achieving congestion, safety, environmental, and energy conservation goals and objectives of the program;

(B) specify cost-sharing arrangements made, including the scope and nature of Federal investment, in any research, development, or implementation project under the program;

(C) assess nontechnical problems and constraints identified as a result of each such implementation project; and

(D) include, if appropriate, any recommendations of the Secretary for legislation or modification to the plan developed under subsection (a).

(d) NONTECHNICAL CONSTRAINTS.—

(1) REPORT TO CONGRESS.—In cooperation with the Attorney General and the Secretary of Commerce, the Secretary shall prepare and submit, not later than 2 years after the date of the enactment of this Act, a report to Congress addressing the nontechnical constraints and barriers to implementation of the intelligent vehicle-highway systems program.

(2) SCOPE OF REPORT.—The report shall—

(A) address antitrust, privacy, educational and staffing needs, patent, liability, standards, and other constraints, barriers, or concerns relating to the intelligent vehicle-highway systems program;

(B) recommend legislative and administrative actions necessary to further the program; and

(C) address ways to further promote industry and State and local government involvement in the program.

(3) UPDATE OF REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress an update of the report under this subsection.

SEC. 6055. TECHNICAL, PLANNING, AND OPERATIONAL TESTING PROJECT ASSISTANCE.

(a) TECHNICAL ASSISTANCE AND INFORMATION.—The Secretary may provide planning and technical assistance and information to State and local governments seeking to use and evaluate intelligent vehicle-highway systems technologies. In doing so, the Secretary shall assist State and local officials in developing plans for areawide traffic management control centers, necessary laws pertaining to establishment and implementation of such systems, and plans for infrastructure for such systems and in conducting other activities necessary for the intelligent vehicle-highway systems program.

(b) PLANNING GRANTS.—The Secretary may make grants to State and local governments for feasibility and planning studies for development and implementation of intelligent vehicle-highway systems. Such grants shall be made at such time, in such amounts, and subject to such conditions as the Secretary may determine.

(c) ELIGIBILITY OF CERTAIN TRAFFIC MANAGEMENT ENTITIES.—Any interagency traffic and incident management entity, including independent public authorities or agencies, contracted by a State department of transportation for implementation of a traffic management system for a designated corridor is eligible to receive Federal assistance under this part through the State department of transportation.

(d) OPERATIONAL TESTING PROJECTS.—The Secretary may make grants to non-Federal entities, including State and local governments, universities, and other persons, for operational tests relating to intelligent vehicle-highway systems. In deciding which projects to fund under this subsection, the Secretary shall—

(1) give the highest priority to those projects that—

(A) will contribute to the goals and objectives specified in plan developed under section 6054; and

(B) will minimize the relative percentage of Federal contributions (excluding funds apportioned under section 104 of title 23, United States Code) to total project costs;

(2) seek to fund operational tests that advance the current state of knowledge and, where appropriate, build on successes achieved in previously funded work involving such systems; and

(3) require that operational tests utilizing Federal funds under this part have a written evaluation of the intelligent vehicle-highway systems technologies investigated and of the results of the investigation which is consistent with the guidelines developed pursuant to section 6053(c).

(e) AUTHORITY TO USE FUNDS.—Each State and eligible local entity is authorized to use funds provided under this part for implementation purposes in connection with the intelligent vehicle-highway systems program.

SEC. 6056. APPLICATIONS OF TECHNOLOGY.

(a) IVHS CORRIDORS PROGRAM.—The Secretary shall designate transportation corridors in which application of intelligent vehicle-highway systems will have particular benefit and, through financial and technical assistance under this part, shall assist in the development and implementation of such systems.

(b) PRIORITIES.—In providing funding for corridors under this section, the Secretary shall allocate not less than 50 percent of the funds made available to carry out this section to eligible State or local entities for application of intelligent vehicle-highway systems in not less than 3 but not more than 10 corridors with the following characteristics:

(1) Traffic density (as a measurement of vehicle miles traveled per highway mile) at least 1.5 times the national average for such class of highway.

(2) Severe or extreme nonattainment for ozone under the Clean Air Act, as determined by the Administrator of the Environmental Protection Agency.

(3) A variety of types of transportation facilities, such as highways, bridges, tunnels, and toll and nontoll facilities.

(4) Inability to significantly expand capacity of existing surface transportation facilities.

(5) A significant mix of passenger, transit, and commercial motor carrier traffic.

(6) Complexity of traffic patterns.

(7) Potential contribution to the implementation of the Secretary's plan developed under section 6054.

(c) OTHER CORRIDORS AND AREAS.—After the allocation pursuant to subsection (b), the balance of funds made available to carry out this section shall be allocated to eligible State and local entities for application of intelligent vehicle-highway systems in corridors and areas where the application of such systems and associated technologies will make a potential contribution to the implementation of the Secretary's plan for the intelligent vehicle-highway systems program under section 6054 and demonstrate benefits related to any of the following:

(1) Improved operational efficiency.

(2) Reduced regulatory burden.

(3) Improved commercial productivity.

(4) Improved safety.

(5) Enhanced motorist and traveler performance.

Such corridors and areas may be in both urban and rural areas and may be interstate and intercity corridors. Urban corridors shall have a significant number of the characteristics set forth in subsection (b).

SEC. 6057. COMMERCIAL MOTOR VEHICLE SAFETY TECHNOLOGY.

(a) STUDY.—The Secretary shall conduct a study to evaluate technology which is designed for installation on a commercial motor vehicle to provide the individual operating the vehicle with a warning if a turn, lane change, or other intended movement of the vehicle by the operator will place the vehicle in the path of an adjacent object or vehicle.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing findings and recommendations concerning the study conducted under this section.

SEC. 6058. FUNDING.

(a) IVHS CORRIDORS PROGRAM.—There is authorized to be appropriated to the Secretary for carrying out section 6056, out of the Highway Trust Fund (other than the Mass Transit Account), $71,000,000 for fiscal year 1992 and $86,000,000 per fiscal year for each of fiscal years 1993 through 1997. In addition to amounts made available by subsection (b), any amounts authorized by this subsection and not allocated by the Secretary for carrying out section 6056 for fiscal years 1992 and 1993 may be used by the Secretary for carrying out other activities authorized under this part.

(b) OTHER IVHS ACTIVITIES.—There is authorized to be appropriated to the Secretary for carrying out this part (other than section 6056), out of the Highway Trust Fund (other than the Mass Transit Account), $23,000,000 for fiscal year 1992 and $27,000,000 per fiscal year for each of fiscal years 1993 through 1997.

(c) RESERVATION OF FUNDS.—Of the funds made available pursuant to subsection (a), not less than 5 percent shall only be available for innovative, high-risk operational or analytical tests that do not attract substantial non-Federal commitments but are determined by the Secretary as having significant potential to help accomplish long-term goals established by the plan developed pursuant to section 6054.

(d) FEDERAL SHARE PAYABLE.—The Federal share payable on account of activities carried out under this part shall not exceed 80 percent of the cost of such activities. The Secretary may waive application of the preceding sentence for projects undertaken pursuant to subsection (c) of this section. The Secretary shall seek maximum private participation in the funding of such activities.

(e) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any activity under this section shall be determined in accordance with this section and such funds shall remain available until expended. Such funds shall be subject to the obligation limitation imposed by section 102 of this Act.

SEC. 6059. DEFINITIONS.

For the purposes of this part, the following definitions apply:

(1) IVHS.—The term "intelligent vehicle-highway systems" means the development or application of electronics, communications, or information processing (including advanced traffic management systems, commercial vehicle operations, advanced traveler information systems, commercial and advanced vehicle control systems, advanced public transportation systems, satellite vehicle tracking systems, and advanced vehicle communications systems) used singly or in combination to improve the efficiency and safety of surface transportation systems.

(2) CORRIDOR.—The term "corridor" means any major transportation route which includes parallel limited access highways, major arterials, or transit lines; and, with regard to traffic incident management, such term may include more distant transportation routes that can serve as viable options to each other in the event of traffic incidents.

(3) STATE.—The term "State" has the meaning such term has under section 101 of title 23, United States Code.

PART C—ADVANCED TRANSPORTATION SYSTEMS AND ELECTRIC VEHICLES

SEC. 6071. ADVANCED TRANSPORTATION SYSTEM AND ELECTRIC VEHICLE RESEARCH AND DEVELOPMENT CONSORTIA.

(a) GENERAL AUTHORITY.—

(1) PROPOSAL.—Not later than 3 months after the date of the enactment of this Act, an eligible consortium may submit to the Secretary a proposal for receiving grants made available under this section for electric vehicle and advanced transportation research and development.

(2) CONTENTS OF PROPOSAL.—A proposal submitted under paragraph (1) shall include—

(A) a description of the eligible consortium making the proposal;

(B) a description of the type of additional members targeted for inclusion in the consortium;

(C) a description of the eligible consortium's ability to contribute significantly to the development of vehicles, transportation systems, or related subsystems and equipment, that are competitive in the commercial market and its ability to enable serial production processes;

(D) a description of the eligible consortium's financing scheme and business plan, including any projected contributions of State and local governments and other parties;

(E) assurances, by letter of credit or other acceptable means, that the eligible consortium is able to meet the requirement contained in subsection (b)(6); and

(F) any other information the Secretary requires in order to make selections under this section.

(3) GRANT AUTHORITY.—Except as provided in paragraph (4), not later than 6 months after the date of the enactment of this Act, the Secretary shall award grants to not less than 3 eligible consortia. No one eligible consortium may receive more than one-third of the funds made available for grants under this section.

(4) EXTENSION.—If fewer than 3 complete applications from eligible consortia have been received in time to permit the awarding of grants under paragraph (3), the Secretary may extend the deadlines for the submission of applications and the awarding of grants.

(b) ELIGIBILITY CRITERIA.—To be qualified to receive assistance under this section, an eligible consortium shall—

(1) be organized for the purpose of designing and developing electric vehicles and advanced transportation systems, or related systems or equipment, or for the purpose of enabling serial production processes;

(2) facilitate the participation in the consortium of small- and medium-sized businesses in conjunction with large established manufacturers, as appropriate;

(3) to the extent practicable, include participation in the consortium of defense and aerospace suppliers and manufacturers;

(4) to the extent practicable, include participation in the consortium of entities located in areas designated as nonattainment areas under the Clean Air Act;

(5) be designed to use State and Federal funding to attract private capital in the form of grants or investments to further the purposes stated in paragraph (1); and

(6) ensure that at least 50 percent of the costs of the consortium, subject to the requirements of subsection (a)(3), be provided by non-Federal sources.

(c) SERVICES.—Services to be performed by an eligible consortium using amounts from grants made available under this part shall include—

(1) obtaining funding for the acquisition of plant sites, conversion of plant facilities, and acquisition of equipment for the development or manufacture of advanced transportation systems or electric vehicles, or other related systems or equipment, especially for environmentally benign and cost-effective manufacturing processes;

(2) obtaining low-cost, long-term loans or investments for the purposes described in paragraph (1);

(3) recruiting and training individuals for electric vehicle- and transit-related technical design, manufacture, conversion, and maintenance;

(4) conducting marketing surveys for services provided by the consortium;

(5) creating electronic access to an inventory of industry suppliers and serving as a clearinghouse for such information;

(6) consulting with respect to applicable or proposed Federal motor vehicle safety standards;

(7) creating access to computer architecture needed to simulate crash testing and to design internal subsystems and related infrastructure for electric vehicles and advanced transportation systems to meet applicable standards; and

(8) creating access to computer protocols that are compatible with larger manufacturers' systems to enable small- and medium-sized suppliers to compete for contracts for advanced transportation systems and electric vehicles and other related systems and equipment.

SEC. 6072. DEFINITIONS.

For purposes of this part, the following definitions apply:

(1) ADVANCED TRANSPORTATION SYSTEM.—The term "advanced transportation system" means a system of mass transportation, such as an electric trolley bus or alternative fuels bus, which employs advanced technology in order to function cleanly and efficiently;

(2) ELECTRIC VEHICLE.—The term "electric vehicle" means a passenger vehicle, such as a van, primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power; and

(3) ELIGIBLE CONSORTIUM.—The term "eligible consortium" means a consortium of—

(A) businesses incorporated in the United States;

(B) public or private educational or research organizations located in the United States;

(C) entities of State or local governments in the United States; or

(D) Federal laboratories.

SEC. 6073. FUNDING.

Funds shall be made available to carry out this part as provided in section 21(b)(3)(E) of the Federal Transit Act.

TITLE VII—AIR TRANSPORTATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act Amendments of 1991".

SEC. 7002. BOARD OF REVIEW.

(a) COMPOSITION.—Section 6007(f)(1) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(f)(1)) is amended to read as follows:

"(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. The Board of Review shall be established by the board of directors to represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the board of directors as follows:

"(A) 4 individuals from a list provided by the Speaker of the House of Representatives.

"(B) 4 individuals from a list provided by the President pro tempore of the Senate.

"(C) 1 individual chosen alternately from a list provided by the Speaker of the House of Representatives and from a list provided by the President pro tempore of the Senate.

In addition to the recommendations on a list provided under this paragraph, the board of directors may request additional recommendations.".

(b) TERMS AND QUALIFICATIONS.—Section 6007(f)(2) of such Act is amended to read as follows:

"(2) TERMS, VACANCIES, AND QUALIFICATIONS.—

"(A) TERMS.—Members of the Board of Review appointed under paragraphs (1)(A) and (1)(B) shall be appointed for terms of 6 years. Members of the Board of Review appointed under paragraph (1)(C) shall be appointed for terms of 2 years. A member may serve after the expiration of that member's term until a successor has taken office.

"(B) VACANCIES.—A vacancy in the Board of Review shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

"(C) QUALIFICATIONS.—Members of the Board of Review shall be individuals who have experience in aviation matters and in addressing the needs of airport users and who themselves are frequent users of the Metropolitan Washington Airports. A member of the Board of Review shall be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

"(D) EFFECT OF MORE THAN 4 VACANCIES.—At any time that the Board of Review established under this subsection has more than 4 vacancies and lists have been provided for appointments to fill such vacancies, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (4) to be submitted to the Board of Review.".

(c) PROCEDURES.—Section 6007(f)(3) of such Act is amended by inserting "and for the selection of a Chairman" after "proxy voting".

(d) REVIEW PROCEDURE.—

(1) ACTIONS SUBJECT TO REVIEW.—Section 6007(f)(4)(B) of such Act is amended—

(A) by inserting "and any amendments thereto" before the semicolon at the end of clause (i);

(B) by inserting "and an annual plan for issuance of bonds and any amendments to such plan" before the semicolon at the end of clause (ii);

(C) in clause (iv) by striking ", including any proposal for land acquisition; and" and inserting a semicolon;

(D) by striking the period at the end of clause (v) and inserting a semicolon; and

(E) by adding at the end the following new clauses:

"(vi) the award of a contract (other than a contract in connection with the issuance or sale of bonds which is executed within 30 days of the date of issuance of the bonds) which has been approved by the board of directors of the Airports Authority;

"(vii) any action of the board of directors approving a terminal design or airport layout or modification of such design or layout; and

"(viii) the authorization for the acquisition or disposal of land and the grant of a long-term easement.".

(2) RECOMMENDATIONS.—Section 6007(f)(4) of such Act is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) RECOMMENDATIONS.—The Board of Review may make to the board of directors recommendations regarding an action within either (i) 30 calendar days of its submission under this paragraph; or (ii) 10 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) of its submission under this paragraph; whichever period is longer. Such recommendations may include a recommendation that the action not take effect. If the Board of Review does not make a recommendation in the applicable review period under this subparagraph or if at any time in such review period the Board of Review decides that it will not make a recommendation on an action, the action may take effect.

"(D) EFFECT OF RECOMMENDATION.—

"(i) RESPONSE.—An action with respect to which the Board of Review has made a recommendation in accordance with subparagraph (C) may only take effect if the board of directors adopts such recommendation or if the board of directors has evaluated and responded, in writing, to the Board of Review with respect to such recommendation and transmits such action, evaluation, and response to Congress in accordance with clause (ii) and the 60-calendar day period described in clause (ii) expires.

"(ii) NONADOPTION OF RECOMMENDATION.—If the board of directors does not adopt a recommendation of the Board of Review regarding an action, the board of directors shall transmit to the Speaker of the House of Representatives and the President of the Senate a detailed description of the action, the recommendation of the Board of Review regarding the action, and the evaluation and response of the board of directors to such recommendation, and the action

may not take effect until the expiration of 60 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day on which the board of directors makes such transmission to the Speaker of the House of Representatives and the President of the Senate.

"(E) LIMITATION ON EXPENDITURES.—Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.".

(3) CONFORMING AMENDMENT.—Section 6007(f)(4) of such Act is further amended by striking "DISAPPROVAL PROCEDURE.—" and inserting "REVIEW PROCEDURE.—".

(e) CONGRESSIONAL DISAPPROVAL PROCEDURE.—Section 6007(f) of such Act is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

"(A) IN GENERAL.—This paragraph is enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(B) RESOLUTION DEFINED.—For the purpose of this paragraph, the term 'resolution' means only a joint resolution, relating to an action of the board of directors transmitted to Congress in accordance with paragraph (4)(D)(ii), the matter after the resolving clause of which is as follows: 'That the Congress disapproves of the action of the board of directors of the Metropolitan Washington Airports Authority described as follows: .', the blank space therein being appropriately filled. Such term does not include a resolution which specifies more than one action.

"(C) REFERRAL.—A resolution with respect to a board of director's action shall be referred to the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Commerce, Science and Technology of the Senate, by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

"(D) MOTION TO DISCHARGE.—If the committee to which a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of that joint resolution or any other resolution with respect to the board of directors action which has been referred to the committee.

"(E) RULES WITH RESPECT TO MOTION.—A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Motions to postpone shall be decided without debate.

"(F) EFFECT OF MOTION.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

"(G) SENATE PROCEDURE.—

"(i) MOTION TO PROCEED.—When the committee of the Senate has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) LIMITATION ON DEBATE.—Debate in the Senate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(iii) NO DEBATE ON CERTAIN MOTIONS.—In the Senate, motions to postpone made with respect to the consideration of a resolution and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution shall be decided without debate.

"(H) EFFECT OF ADOPTION OF RESOLUTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

"(i) The joint resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it, except in the case of final passage as provided in clause (ii)(I).

"(ii) With respect to a joint resolution described in clause (i) of the House receiving the joint resolution—

"(I) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(II) the vote on final passage shall be on the joint resolution of the other House.

Upon disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution that originated in the receiving House.".

(f) CONFLICTS OF INTEREST; REMOVAL FOR CAUSE.—Section 6007(f) of such Act is further amended by adding at the end the following new paragraphs:

"(10) CONFLICTS OF INTEREST.—In every contract or agreement to be made or entered into, or accepted by or on behalf of the Airports Authority, there shall be inserted an express condition that no member of a Board of Review shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

"(11) REMOVAL.—A member of the Board of Review shall be subject to removal only for cause by a two-thirds vote of the board of directors.".

(g) LIMITATION ON AUTHORITY.—Section 6007(h) of such Act is amended by inserting "thereafter" before "shall have no".

(h) REVIEW OF CONTRACTS.—Section 6007 of such Act is further amended by adding at the end the following new subsection:

"(i) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to determine whether such contracts were awarded by procedures which follow sound Government contracting principles and are in compliance with section 6005(c)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

SEC. 7003. AMENDMENT OF LEASE.

The Secretary of Transportation may amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority's consent to the conditions relating to the new Board of Review to be established pursuant to the amendments made by this Act.

SEC. 7004. TERMINATION OF EXISTING BOARD OF REVIEW AND ESTABLISHMENT OF NEW BOARD OF REVIEW.

(a) TERMINATION OF EXISTING BOARD AND ESTABLISHMENT OF NEW BOARD.—Except as provided in subsection (b), the Board of Review of the Metropolitan Washington Airports Authority in existence on the day before the date of the enactment of this Act shall terminate on such date of enactment and the board of directors of such Airports Authority shall establish a new Board of Review in accordance with the Metropolitan Washington Airports Act of 1986, as amended by this Act.

(b) PROTECTION OF CERTAIN ACTIONS.—The provisions of section 6007(h) of the Metropolitan Washington Airports Act (49 U.S.C. App. 2456(h)) in effect on the day before the date of the enactment of this Act shall apply only to those actions specified in section 6007(f)(4)(B) of such Act that would have been submitted to the Board of Review of the Metropolitan Washington Airports Authority on or after June 17, 1991, the date on which the Board of Review of the Airports Authority was declared unable to carry out certain of its functions pursuant to judicial order. Actions taken by the Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of such Act prior to June 17, 1991, and not disapproved, shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

(c) LIMITATION ON AUTHORITY OF AIRPORTS AUTHORITY.—The Metropolitan Washington Airports Authority shall have no authority to perform any of the actions that are required by section 6007(f)(4) of the Metropolitan Washington Airports Act, as amended by this Act, to be submitted to the Board of Review after the date of the enactment of this Act until the board of directors of the Airports Authority establishes a new Board of Review in accordance with such Act and appoints the 9 members of the Board of Review.

TITLE VIII—EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND

SEC. 8001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Surface Transportation Revenue Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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SEC. 8002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) Extension of Taxes.—The following provisions are each amended by striking "1995" each place it appears and inserting "1999":

(1) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(2) Section 4071(d) (relating to tax on tires and tread rubber).

(3) Section 4081(d)(1) (relating to Highway Trust Fund financing rate on gasoline).

(4) Section 4091(b)(6)(A) (relating to Highway Trust Fund financing rate on diesel fuel).

(5) Sections 4481(c), 4482(c)(4), and 4482(d) (relating to highway use tax).

(b) Extension of Exemptions.—The following provisions are each amended by striking "1995" each place it appears and inserting "1999":

(1) Section 4041(f)(3) (relating to exemptions for farm use).

(2) Section 4041(g) (relating to other exemptions).

(3) Section 4221(a) (relating to certain tax-free sales).

(4) Section 4483(g) (relating to termination of exemptions for highway use tax).

(5) Section 6420(h) (relating to gasoline used on farms).

(6) Section 6421(i) (relating to gasoline used for certain nonhighway purposes, etc.).

(7) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax).

(8) Section 6427(o) (relating to fuels not used for taxable purposes).

(c) Other Provisions.—

(1) Floor stocks refunds.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1995" each place it appears and inserting "1999", and

(B) by striking "1996" each place it appears and inserting "2000".

(2) Installment payments of highway use tax.—Section 6156(e)(2) (relating to installment payments of highway use tax on use of highway motor vehicles) is amended by striking "1995" and inserting "1999".

(d) Extension of Deposits Into, and Certain Transfers From, Trust Fund.—

(1) In general.—Subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1995" each place it appears and inserting "1999", and

(B) by striking "1996" each place it appears and inserting "2000".

(2) Motorboat and small-engine fuel tax transfers.—

(A) In general.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking "1995" and inserting "1997".

(B) Conforming amendments to land and water conservation fund.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended—

(i) by striking "1995" and inserting "1997", and

(ii) by striking "1996" each place it appears and inserting "1998".

(C) Extension of expenditures from boat safety account.—Subsection (c) of section 9504 is amended by striking "1994" and inserting "1998".

(e) Extension and Expansion of Expenditures From Trust Fund.—

(1) Expenditures.—Subsections (c)(1) and (e)(3) of section 9503 are each amended by striking "1993" and inserting "1997".

(2) Purposes.—Paragraph (1) of section 9503(c) is amended by striking subparagraph (D) and inserting the following:

"(D) authorized to be paid out of the Highway Trust Fund under the Intermodal Surface Transportation Efficiency Act of 1991. In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.".

(f) Expansion of Mass Transit Account Expenditure Purposes.—Paragraph (3) of section 9503(e) is amended—

(1) by inserting "or capital-related" after "capital" the first place it appears, and

(2) by striking "in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964." and inserting "in accordance with—

"(A) paragraph (1) or (3) of subsection (a), or paragraph (1) or (3) of subsection (b), of section 21 of the Federal Transit Act, or

"(B) the Intermodal Surface Transportation Efficiency Act of 1991,

as such Acts are in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.".

(g) Use of Revenues for Enforcement of Highway Trust Fund Taxes.—The Secretary of Transportation shall not impose any condition on the use of funds transferred under section 1040 of this Act to the Internal Revenue Service. The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which such funds are to be transferred, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986.

(h) Tax Evasion Report.—The Secretary of Transportation shall also submit each report prepared pursuant to section 1040(d) of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than the applicable date specified therein.

(i) Expenditures From Sport Fish Restoration Account.—Subparagraph (B) of section 9504(b)(2) is amended to read as follows:

"(B) to carry out the purposes of the Coastal Wetlands Planning, Protection and Restoration Act (as in effect on November 29, 1990).".

SEC. 8003. NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) In General.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "National Recreational Trails Trust Fund", consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) Crediting of Certain Unexpended Funds.—There shall be credited to the National Recreational Trails Trust Fund amounts returned to such Trust Fund under section 1302(e)(8) of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) Expenditures From Trust Fund.—Amounts in the National Recreational Trails Trust Fund shall be available, as provided in appropriation Acts, for making expenditures before October 1, 1997, to carry out the purposes of sections 1302 and 1303 of the Intermodal Surface Transportation Efficiency Act of 1991, as in effect on the date of the enactment of such Act.".

(b) Certain Highway Trust Fund Receipts Paid Into National Recreational Trails Trust Fund.—Subsection (c) of section 9503 is amended by adding at the end thereof the following new paragraph:

"(6) Transfers from trust fund of certain recreational fuel taxes, etc.—

"(A) In general.—The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by him) equivalent to 0.3 percent (as adjusted under subparagraph (C)) of the total Highway Trust Fund receipts for the period for which the payment is made.

"(B) Limitation.—The amount paid into the National Recreational Trails Trust Fund under this paragraph during any fiscal year shall not exceed the amount obligated under section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (as in effect on the date of the enactment of this paragraph) for such fiscal year to be expended from such Trust Fund.

"(C) Adjustment of percentage.—

"(i) First year.—Within 1 year after the date of the enactment of this paragraph, the Secretary shall adjust the percentage contained in subparagraph (A) so that it corresponds to the revenues received by the Highway Trust Fund from nonhighway recreational fuel taxes.

"(ii) Subsequent years.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received in the Highway Trust Fund from nonhighway recreational fuel taxes.

"(iii) Amount of adjustment.—Any adjustment under clause (ii) shall be not more than 10 percent of the percentage in effect at the time the adjustment is made.

"(iv) Use of data.—In making the adjustments under clauses (i) and (ii), the Secretary shall take into account data on off-highway recreational vehicle registrations and use.

"(D) Nonhighway recreational fuel taxes.—For purposes of this paragraph, the term 'nonhighway recreational fuel taxes' means taxes under section 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to—

"(i) fuel used in vehicles on recreational trails or back country terrain (including vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain), and

"(ii) fuel used in campstoves and other nonengine uses in outdoor recreational equipment.

Such term shall not include small-engine fuel taxes (as defined by paragraph (5)) and taxes which are credited or refunded.

"(E) Termination.—No amount shall be paid under this paragraph after September 30, 1997.".

(c) Clerical Amendment.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund."

(d) Report on Nonhighway Recreational Fuel Taxes.—The Secretary of the Treasury shall, within a reasonable period after the close of each of fiscal years 1992 through 1996, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate specifying his estimate of the amount of nonhighway recreational fuel taxes (as defined in section 9503(c)(6) of the Internal Revenue Code of 1986, as added by this Act) received in the Treasury during such fiscal year.

SEC. 8004. COMMUTE-TO-WORK BENEFITS.

(a) Findings.—The Congress finds that—

(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

(4) current Federal law allows employers to provide only up to $21 per month in employee benefits for transit or van pools;

(5) the current "cliff provision", which treats an entire commuter transit benefit as taxable income if it exceeds $21 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

(b) Policy.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy "levels the playing field" between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.

SEC. 8005. BUDGET COMPLIANCE.

(a) In General.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause—

(1) the total outlays in any of the fiscal years 1992 through 1995 which result from this Act, to exceed

(2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992,

then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

(b) Coordination With Other Provisions.—The provisions of this section shall apply, notwithstanding any provision of this Act to the contrary.

And the Senate agree to the same.

From the Committee on Public Works and Transportation for consideration of the entire House bill (except title VII), the entire Senate amendment, and modifications committed to conference:

Robert A. Roe,
Glenn M. Anderson,
Norman Y. Mineta,
James L. Oberstar,
Henry J. Nowak,
Nick Rahall,
Douglas Applegate,
Ron de Lugo,
Gus Savage,
Robert A. Borski,
Joe Kolter,
John Paul Hammerschmidt,
Bud Shuster,
William F. Clinger,
Thomas E. Petri,
Ron Packard,
Sherwood Boehlert,
Helen Delich Bentley,

From the Committee on Ways and Means, for consideration of title VII of the House bill, and secs. 140E, 141 through 144, 271(b)(12), and 305 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J.J. Pickle,
Charles B. Rangel,
Pete Stark,
Guy Vander Jagt,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 5, 121(a), 123, 124, 134 (a) and (b), 143, 184, 209, 322(m), 335, title V (insofar as it addresses railroads), secs. 601(b), 608 through 610, 617, and 620 of the House bill, and secs. 103 (b) (1), (2), and (9), 106(a), 107, 113, 114, 115 (a)(2) and (d), 116, 117, 122(b), 127, 128, 131, 140G, 140T, 140U, 239, 261, 262, 319, and 336 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Al Swift,
Gerry Sikorski,
Norman F. Lent,
Don Ritter,

Provided that Mr. Dannemeyer is appointed in place of Mr. Ritter for consideration of secs. 123 and 124 of the House bill, and secs. 103(b)(2), 106(a) (insofar as it addresses 23 U.S.C. 133(a)(10)), 107, 113, 114, and 319 of the Senate amendment:

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 140I, 140N, part A of title II (except secs. 204, 218, and 226), 264, and 271 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Al Swift,
Dennis E. Eckart,
W.J. (Billy) Tauzin,
Jim Slattery,
Rick Boucher,
Thomas J. Manton,
Terry L. Bruce,
Claude Harris,
Mike Synar,
Norman F. Lent,
Carlos J. Moorhead,
Matthew J. Rinaldo,
Don Ritter,
Jack Fields,
Michael G. Oxley,

As additional conferees from the Committee on the Judiciary, for consideration of sec. 409 of the House bill, and sec. 238 and title IV of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Don Edwards,
Barney Frank,
Hamilton Fish, Jr.,
Carlos J. Moorhead,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 141 (a) and (e), 202, 317, 405, 502, 601, 604 through 609, 616 through 618, 651 through 659, and 671 through 673 of the House bill, and secs. 103(b) (9) and (10), 106(a), 107, 115, 116, 127(g), 136(b), 203(e), 204, 232(a), 329, and 341 of the Senate amendment, and modifications committed to conference:

George E. Brown, Jr.,
Tim Valentine,
Dan Glickman,
Tom Lewis
(Except Sections 103(b)(9) and 116),

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference:

John Conyers, Jr.,
Frank Horton,
Managers on the Part of the House.

From the Committee on Environment and Public Works:

Daniel Patrick Moynihan,
Quentin Burdick,
George Mitchell,
Frank R. Lautenberg,
Harry Reid,
John H. Chafee,
Steve Symms,
John Warner,
Dave Durenberger,

From the Committee on Commerce, Science, and Transportation:

J. James Exon,
Richard H. Bryan,
John Danforth,
Slade Gorton,

From the Committee on Banking, Housing, and Urban Affairs:

Don Riegle,
Alan Cranston,
Paul Sarbanes,
Christopher S. Bond,
Alfonse D'Amato,

From the Committee on Finance:

Lloyd Bentsen,
Daniel Patrick Moynihan,
Max Baucus,
Bob Packwood,
Bob Dole,

From the Committee on Governmental Affairs, only for the consideration of the Uniform Relocation Act Amendment:

John Glenn,
Carl Levin,
Bill Roth,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

Program Structure

House bill

The House bill restructures the four major Federal-aid highway systems plus the two safety construction programs (hazard elimination and railroad highway crossings) into five new programs: the National Highway Program, Urban Mobility Program, Rural Mobility Program, Combined Safety Improvement Program, and State Flexible Program.

The State Flexible Program is available to the state for any highway or transit capital projects in urban or rural areas. The urban and rural mobility programs are available for highway and transit capital projects. A state is able to transfer up to 25 percent of its National Highway Program apportionment to its Urban or Rural Mobility Program without conditions, and up to an additional 10 percent with the Secretary's approval if the state can demonstrate that its Interstate System is being maintained. A state may transfer 100 percent of the funds apportioned under the National Highway Program if over 90 percent of the land area of the state is within nonattainment areas.

The National Highway System consists of the Interstate System, the Strategic Highway Network, and principal arterial routes from the primary system. The Secretary through coordination with state and local governments will propose a National Highway System of 155,000 miles that could be adjusted by 15 percent. The National Highway System designation requires approval by Congress.

The Urban Mobility Program consists of the existing Federal-aid urban system and principal arterial routes in urban areas that are not a part of the National Highway System. Funds made available under the urban mobility program may be used for the construction of highway projects and transit capital projects. The Metropolitan Planning Organization (MPO) in the urban area has the authority, along with the state, to determine its transportation priorities.

The Rural Mobility Program consists of the existing Federal-aid secondary system and the arterials not on the National Highway System. Eligibility is provided for transit capital projects. The Federal-aid primary system rural mileage that does not meet the National Highway System criteria is eligible for inclusion in the Rural System. About 125,000–150,000 miles is expected to be added to the existing secondary system to constitute a 525,000–550,000 mile rural Federal-aid system. Roads functionally classified as rural minor collector or rural local are not eligible for inclusion in this rural Federal-aid system; however, funding for off system safety and bridge improvements are eligible under other programs.

The State Flexible Program is an innovative program that for the first time provides each state with funds that can be used for any highway or transit capital purpose eligible under Federal law. The state can use these funds for any purpose that is eligible under the National Highway Program, the Urban Mobility Program, the Rural Mobility Program, or the Combined Safety Improvement Program.

Each state is required to spend a percentage of these funds in clean air nonattainment areas equal to the percentage of its population living in nonattainment areas, up to 50 percent. Thus, if 30 percent of a state's population lives in nonattainment areas, the state would be required to spend at least 30 percent in nonattainment areas. If 70 percent of a state's population lives in nonattainment areas, at least 50 percent is required to be spent in nonattainment areas. These are minimum percentages; each state could choose to spend additional portions of its State Flexibility funds in these areas.

The Hazard Elimination and Rail-Highway Grade Crossings programs are combined into one flexible safety program, at an authorization level which represents 4% of the total funds authorized for the five new programs under the restructured highway program.

Within the combined program, the current funding levels of $160 million for Rail-Highway Crossings and $170 million for Hazard Elimination remain fixed, and any additional amount is available for funding eligible projects under either the Hazard Elimination or the Rail-Crossing programs, at the discretion of the state.

The restructured Federal-aid highway program funds the programs as follows: 49% to the National Highway System, 17% to Urban Mobility, 13% to Rural Mobility, 17% to State Flexible and 4% to the Combined Safety Improvement Program.

Senate amendment

This section establishes a new program that gives the States and local governments greater flexibility in using Federal funds to meet their transportation needs. Funds for the new program may be used for eligible projects on any public roads, except roads functionally, classified as local or rural minor collector, except as approved by the Secretary.

Eligible activities include construction, reconstruction, rehabilitation, resurfacing, restoration and operational improvements of highways including work necessary to accommodate other modes, painting and seismic retrofit of bridges, capital costs for mass transit (including improvements to bus shelters), passenger rail (including high speed rail) and magnetic levitation systems, carpool and vanpool projects, fringe and corridor parking facilities and programs, and bicycle facilities and programs; surface transportation safety improvements; surface transportation research and development programs; transportation enhancement activities as defined in 23 U.S.C. 101; and other activities. This section also authorizes the use of Surface Transportation Program funds to mitigate wetland loss related to past or future highway construction.

This section designates two types of regions in each state for the purpose of dividing Federal funds. The first type of region consists of areas with a Metropolitan Statistical Area population 250,000 or greater and areas with an urbanized area population of 50,000 or greater that are in nonattainment for ozone or carbon monoxide. The second type of region consists of all other areas. Seventy-five (75) percent of funds apportioned to a State under the Surface Transportation Program must be divided between these two types of areas based on their relative share of the State's total population. The remaining 25 percent may be distributed to any area of the State. At least 8 percent of the funds apportioned to a State must be programmed for transportation enhancement activities. Projects must be consistent with requirements for metropolitan planning in 23 U.S.C. 134 and statewide planning in 23 U.S.C. 135.

The basic federal share for projects under the Surface Transportation Program is 80 percent. If funds apportioned under this program are used to construct new facilities or expand existing facilities to be available primarily to single-occupant vehicles, the Federal share is 75 percent. If the State constructs a facility not available to single occupant vehicles and subsequently makes the facility available to single occupant vehicles, the State must repay with interest the increase in the Federal share of the project the State received by constructing a facility not available to single occupant vehicles.

The State must submit an annual certification that it will meet all requirements of this section. The State must also notify the Secretary of the amount of obligations it plans to incur for Surface Transportation Program projects during the fiscal year. Acceptance of the certification and notice of obligation constitutes a contractual obligation of the Federal Government for this estimated amount of obligations for projects not subject to review by the Secretary. The State may adjust the estimated obligation at a later date if it wants to obligate more or less funds. Payments will be made to the State for the Federal share of costs incurred on the subject.

Projects must be designed, constructed, operated and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

A State may inform the Secretary that it does not wish review and approval of design and construction standards for projects except for projects on the Interstate System and other multi-lane limited access control highways.

If the Secretary determines that a State or local government has not complied with a requirement of this section, the State will be notified and have 60 days to take corrective action. If corrective action is not taken within 60 days, future payments will be held until adequate corrective action is taken.

In a departure from the current system whereby funds are apportioned by category according to specific formula factors, funds for the Surface Transportation Program shall be apportioned such that they result in each State receiving a percent share of combined Bridge Program, Interstate Maintenance Program, and Surface Transportation Program funds equal to its percent share of total apportionments and allocations made pursuant to Title 23 U.S.C. for fiscal years 1987, 1988, 1989, 1990 and 1991, subject to certain exclusions and adjustments specified in the bill. The Bridge Program and Interstate Maintenance apportionment formulas thus serve principally to determine the amount of funds a State must devote to each program; the apportionment of Surface Transportation Program funds serves to make each State's percentage of Federal aid equal to its percentage under the five years of the 1987 Act.

Paragraph 133(b)(1)(A), which provides for an energy conservation congestion, mitigation and clean air bonus program, is to provide an incentive for States and metropolitan areas to use the enhanced flexibility in the Surface Transportation Program to reduce traffic congestion, improve air quality and lower fuel consumption. The paragraph alters the apportionment of funds under the Surface Transportation Program by rewarding affected States that control growth in vehicle miles of travel per capita and penalizing affected States that do not.

The provision affects only States with metropolitan areas of 250,000 or more and affects only the Surface Transportation Program funds allocated to metropolitan areas pursuant to section 106(b). Because only large urban areas can make significant cuts in growth of vehicle miles traveled, the provision only affects States with such communities.

By using vehicle miles of travel per capita, rather than absolute growth in VMT, the paragraph does not penalize States facing rapid population growth. Instead, it rewards those States which do a better job of managing growth. Thus, some States with the largest absolute growth in VMT (such as Nevada and Florida), have had slow growth in VMT per capita. The Secretary shall apply the most accurate and timely data available in measuring changes in VMT per capita under this paragraph.

This paragraph affects only the apportionment of Surface Transportation Program funds attributed to metropolitan areas pursuant to section 133(b)(1) of Title 23 U.S.C. The provision does not affect the State's 25 percent share of Surface Transportation Program funds or the funds suballocated to nonmetropolitan areas under section 133(b)(1) of title 23 U.S.C. The paragraph provides that bonuses and funds redistributed from the Bonus Fund shall only be used in metropolitan areas and that they be obligated for projects in metropolitan areas within a State in accordance with section 133 of title 23 U.S.C.

The reallocation of funds provided for in the provision will only come into operation after it is determined that one or more of the States subject to this paragraph has VMT per capita in excess of 110 percent of such State's VMT in 1990 (or 110 percent of 1995 levels commencing in fiscal year 1996). If every State maintains its current VMT per capita, the provision will not affect the apportionments.

However, if one or more States subject to this paragraph has VMT per capita in excess of 110 percent of their 1990 levels (or 1995 levels commencing in 1996), the Secretary is required to reduce the metropolitan area funds which would have been allocated to those States by 10 percent. The reduction funds are then placed into a Surface Transportation Bonus Fund which used to reward States that reduce their VMT per capita to less than 90 percent of 1990 levels in the same year. For example, if a State reduced its VMT per capita to 85 percent of its 1990 level, and several other States allowed increases in VMT per capita in excess of 110 percent of 1990 levels, the State with the reduction would be entitled to receive a bonus of up to 10 percent of its base metropolitan area apportionment, to the extent such funds are available.

If funds remain available in the Bonus Fund after bonuses have been awarded, the remaining funds are redistributed to the metropolitan areas of all States subject to the provision, whether they received a bonus, a reduction, or were unaffected by the provision. The amount each State receives is determined by each State's relative share of all metropolitan area funds allocated.

The provision applies beginning in fiscal year 1993 because of the ongoing development of methodologies to improve the measurement of VMT on road systems within a State. Such methodologies are expected to be available by 1993.

Beginning in fiscal year 1996, the paragraph provides for using 1995 as the base year to measure percentage changes in VMT per capita. This provision is intended to provide a continuing incentive for States which receive bonuses to do a better job over time.

Section 106(c) provides that the Federal share of capital projects that add capacity available to single occupant vehicles is 75 percent. The Federal share for all other projects including projects for high occupancy vehicles that permit single occupant vehicle use during the off-peak periods is 80 percent of the cost of construction. The Secretary will issue guidance on how to determine what portion of a project qualifies for an 80 percent Federal share.

23 U.S.C. 133(b)(2) requires the Secretary to find that the programming and expenditure of funds under section 106 of this bill is consistent with the requirements of section 134. Subsection 133(b)(3) requires that the Secretary also to find that the programming and expenditure of funds for projects in nonmetropolitan areas is consistent with the statewide planning requirements of section 135 of this title.

23 U.S.C. 133(c) states the procedures the Secretary must follow in the event the Secretary determines through the certification review process that a State or local government does not comply with any provision of section 106 of this bill, including the requirement to program and expend funds in a manner consistent with the long range plan and the TIP required by section 134, and the planning requirements of section 135. These procedures require the Secretary to give notice to the State or local government of its failure to comply, and to give the State or local government 60 days to take corrective action. If corrective measures are not taken after the 60-day period has elapsed, the Secretary will not be able to certify that the provisions of section 133 have been complied with, and would have to take actions pursuant to section 134(e)(3).

23 U.S.C. 133(b)(6) requires that States assure equitable distribution of urban Surface Transportation Program funds among metropolitan and nonattainment areas based on relative population. The subsection, however, creates an exception to this general rule where a State and the relevant metropolitan planning organizations "jointly apply to the Secretary for permission to do so and the Secretary grants the request."

Conference substitute

Adopts the Senate provision with modifications.

PROJECT ELIGIBILITY

House bill

The House bill, for the National Highway System, makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; operational improvements; startup costs for traffic management and control; and participation in wetland mitigation banks.

For the Federal-aid mobility systems, the House bill makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; operational improvements; startup costs for traffic management and control; and participation in wetland mitigation banks; and transit.

Senate bill

The Senate bill, for the Surface Transportation Program, makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; off-system bridges; capital costs for mass transit and passenger rail; certain operating costs for Amtrak; bus terminals; magnetic levitation systems; contracted passenger rail costs; transportation enhancement activities; transportation control measures listed in the Clean Air Act; incremental costs of alternative fuels school buses; wetlands mitigation; and any other purpose approved by the Secretary.

Conference substitute

The conference substitute makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; off-system bridges; capital costs for mass transit; bus terminals; certain transportation control measures listed in the Clean Air Act; and wetlands mitigation activities. In certain instances, passenger rail operations provide significant mass transit services. The conferees do not intend to preclude consideration of passenger rail capital costs where those operations provide significant commuter service on a regular basis.

WETLANDS MITIGATION

House bill

Section 108(a) of the House bill amends 23 U.S.C. 103(i) and adds a new subsection (j) to include authority to use highway trust fund money for participation in wetlands mitigation banks and statewide programs to create, conserve, or enhance wetland habitat, including development of statewide mitigation plans and State or regional wetlands conservation and enhancement banks. Contributions may occur in advance of specific project activity to build up credit for future projects which may impact wetlands. Participation in this program does not exempt any highway project from any requirements of Federal law.

Senate amendment

Section 106 of the Senate amendment adds a new section 133 to Title 23 of the U.S. Code, including the authority to use Surface Transportation Program Funds as part of a highway construction project, or as a separate effort, to mitigate wetland loss related to highway construction or to contribute to statewide efforts to conserve and restore wetlands adversely affected by highway construction. Efforts must comply with applicable requirements of and regulations under Federal law. Efforts may include development of statewide wetland conservation plans and other state or regional efforts to conserve and restore wetlands. Contributions may occur in advance of specific highway construction activity only if the state has a planning process which precludes the use of such efforts to influence the environmental assessment of the highway project, decisions related to the need for the project, or the selection of the project design or location.

Conference substitute

The Conference Substitute authorizes the use of Federal transportation funds for wetlands mitigation efforts, including participation in wetlands mitigation banks, consistent with all applicable Federal law and regulations. Mitigation efforts should be undertaken through the application of guidelines promulgated pursuant to Section 404(b)(1) of the Federal Water Pollution Control Act and relevant interagency Memoranda of Agreement. The Managers note that the Section 404(b)(1) guidelines prohibit discharges into aquatic ecosystems, including wetlands, if there is a practicable alternative to the discharge. The guidelines also require appropriate and practicable steps be taken to minimize potential adverse impact upon the aquatic ecosystem. The current Memorandum of Agreement between the Corps of Engineers and the Environmental Protection Agency states that mitigation banking may be an acceptable form of compensatory mitigation depending on the specific circumstances.

The reference to "Federal law and regulations" in this paragraph includes, but is not limited to, the Endangered Species Act, the National Environmental Policy Act, the Federal Water Pollution Control Act, and any applicable regulation promulgated under such Acts.

It is the intent of the Managers that the mitigation efforts if consistent with all requirements of Federal law as described above, may include mitigation outside the acquired right of way and that funding may be made available under this section to carry out mitigation measures, prior to initiation of project construction.

It is the intent of the Managers that, to the extent practicable, mitigation of wetlands losses be undertaken through protection, restoration or creation of similar types of wetlands. For example, if a salt marsh is lost or degraded pursuant to a highway project, it is the intent of the Managers that preference would be given to the restoration of a salt marsh, rather than a fresh-water wetland.

DISADVANTAGED BUSINESS PROGRAM

House bill

Subsection (b) of Section 103 provides for the continuation of the Disadvantaged Business Enterprise program with an adjustment of the 3-year annual average gross receipts limit of $15.37 billion.

Subsection (c) authorizes the Office of the Comptroller General of the Federal Highway Administration to study the disadvantaged business program (DBE) graduation rate; the participation level of disadvantaged business enterprises with out-of-state contracts; training programs, the success rate; and performance and financial capabilities of DBE's. The Comptroller General shall transmit the report to Congress within 12 months after the date of enactment.

The Committee understands that there is no formal "graduation" from the federal highway Disadvantaged Business Enterprise (DBE) Program. In fact, the only way that a DBE is no longer eligible for the DBE program is if it exceeds the size standards, i.e.

average gross revenues over three (3) years exceed $14 million. Thus, in using the term "graduation", the Committee is referring to those DBE firms who have essentially "grown out" of and are no longer eligible for the DBE program.

Since "growing out" of the DBE Program may be highly unlikely after just three (3) years, the Committee in B(i)(IV) directs the "Study" to determine just how many years is reasonable for a DBE to either "grow out" of the Program or no longer need it. Such determination should be made in light of an investigation of barriers DBEs presently face in successfully developing within the highway construction industry.

In addition, a determination of how long it takes a non-DBE to successfully compete in the highway construction field should be determined in order to further justify a definition of what is reasonable. The Study should take into account where the non-DBE gains access to bonding, capital, technical/management expertise, skilled labor and subcontracts and whether such contractor enjoys certain advantages in such areas over the average DBE.

B(i)(VI) directs the GAO to determine to what extent prime contractors continue to use DBEs once they have "graduated" from the program. This clause is to address the possibility that prime contractors do not utilize DBE firms unless there is a legislative requirement to do so.

B(i)(VII) seeks to direct the GAO to determine not only the additional costs incurred by the Federal Highway Administration in meeting the requirement of the DBE program but also whether such costs are offset by benefits of the program. Such benefits might include: additional tax revenues paid to the state by DBE firms; unemployment tax reduction; racial and gender diversity in the highway construction field; economic developing in disadvantaged communities as a result of increased capital to DBEs; and an increase in the number of skilled subcontractors in the highway construction field, thus providing for greater competition among such contractors in the future.

To enhance the evaluation of the disadvantaged business program, the Secretary shall include in the annual reports submitted to Congress, data on the level of participation of disadvantaged business enterprises to reflect the number and dollar awards to ethnic DBE's eligible under this program and the number and dollar awards to women DBE's.

Section 119. Disadvantaged Business Enterprises

This section provides for an ongoing Disadvantaged Business Enterprise (DBE) program. The section is a continuation of section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, which maintained the statutory authority originated in section 105(f) of the Surface Transportation Assistance Act of 1982.

The definition of a "Small Business Concern" has been modified to include an adjustment for inflation.

Senate amendment

Similar to House.

Conference substitute

Adopts the House provision.

Substitute Program

House bill

The bill authorizes $240 million per fiscal year for each of the fiscal years 1992 through 1995 to complete the remaining Interstate substitute highway projects. This Interstate substitute highway funds are apportioned in accordance with cost estimates adjusted by the Secretary.

Funds are made available for the apportionment of Interstate substitute transit funds for fiscal years 1992 and 1993 in accordance with cost estimates adjusted by the Secretary.

Substitute funds are made available until expended.

Senate amendment

This section authorizes $240 million for each of fiscal years 1992 through 1995 for highway or transit assistance projects for the Interstate Substitution Program.

Conference substitute

Adopts the House provision.

APPORTIONMENTS

House bill

The House bill establishes new formulas to be applied to new federal-aid highway programs.

Senate amendment

The Senate amendment provides that each state will receive a percent of funds based on the percent received over the proceeding five year average.

Conference substitute

The Conference substitute includes a modification that provides each state with an amount of funding over six years that is consistent with their historical funding experience.

Program and Project Approval

House bill

The House provision directs the States to submit a program of proposed projects for the Secretary of Transportation's approval.

Senate amendment

The Senate amendment repeals section 105 of title 23, United States Code relating to programs.

Conference substitute

The House recedes to the Senate amendment.

Preconstruction Activities

House bill

Section 106(c) of title 23, U.S.C. is amended to provide for items included in estimates for construction engineering for a state for a fiscal year may not exceed 15 percent of the total estimated costs of Federal-aid projects.

The Secretary is required to consult with the states and report to Congress within two years a national list of rights-of-way that may be included in a Transportation Right-of-Way Land Bank in order to preserve vital transportation corridors. The states are permitted to use funds apportioned for the National Highway System, the urban mobility, and rural mobility systems to purchase right-of-way to preserve transportation corridors. Any right-of-way acquired under the provisions of this subsection may not be converted for non-transportation purposes.

Sentate amendment

The Senate amendment amends 23 U.S.C. 108 to make three changes to current law. First, the period within which construction must be commenced on a right-of-way funded from the right-of-way revolving fund is increased from 10 years to 20 years.

Second, costs incurred by a State to acquire rights-of-ways in advance of Federal approval of authorization and costs incurred to acquire land necessary to preserve environmental and scenic values may be reimbursed with Federal funds if certain conditions are satisfied.

Third, to conform section 108 of title 23 with the other title 23 changes being made by this legislation, this section eliminates the requirement that right-of-way revolving fund advances be for projects "on the Federal-aid system" and authorizes the use of the fund for projects such as passenger rail facilities, magnetic levitation systems, transportation corridor preservation, and long-term transportation planning.

Conference substitute

Adopts House provision.

Letting of Contracts

House bill

This section amends section 112(b)(2) of title 23, U.S.C. to require that any audit of a contract or subcontract awarded as a part of a Federal-aid highway project shall be performed and audited in compliance with the cost principles contained in the Federal acquisition regulations of part 31 of title 48 C.F.R. The indirect cost rates established in accordance with Federal acquisition regulations shall apply for the purposes of contract estimation, negotiation, administration, report, and contract payment and shall not be limited by administrative or de facto ceilings.

The intent of these provisions is to establish a single and uniform audit procedure for qualifications based engineering and design services.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute establishes a pilot program for the implementation of single and uniform audit procedures for qualification based engineering and design services. The Secretary of Transportation may permit up to ten states to participate in the pilot program and report to Congress any recommendations for establishing a single and uniform audit procedure for qualifications based engineering and design services within two years.

Convict Produced Materials

House bill

The bill clarifies the intent of Congress that materials produced by convict labor after July 1, 1991, may not be used for Federal-aid highway construction projects unless produced at a prison facility producing convict made materials for Federal-aid construction projects prior to July 1, 1987.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Period of Availability

House bill

The House amendment provides one-year availability of Interstate Construction funds. After October 1, 1994, these funds would be available until expended. In general, non-Interstate funds will continue to be available for four years.

Senate amendment

The Senate amendment provides one-year availability of Interstate Construction funds. After October 1, 1994, these funds would be available until expended. Interstate Construction funds apportioned or allocated to Massachusetts on or before October 1, 1989, shall remain available until expended. Existing provisions relating to Alaska and Puerto Rico are continued.

Conference substitute

House recedes to the Senate.

Federal Share

House bill

The House bill provides for a Federal share of 80 percent on non-Interstate Federal aid

highway projects, and up to 100% for certain safety projects.

A Federal share of 90 percent is provided for Interstate construction and maintenance projects.

Senate bill

The Senate bill provides for a Federal share of up to 80 percent for all projects, with the exception of construction of new highway capacity not designed for high-occupancy vehicle use, in which case the Federal share would be up to 75 percent.

A Federal share of 90 percent is provided for Interstate construction.

Conference substitute

The conference substitute provides for a Federal share of up to 80 percent for all projects. A Federal share of 90 percent is provided for Interstate construction.

Emergency Relief

House bill

The House extends from 90 days to 180 days the period to receive 100 percent funding for emergency repair work. The annual limitation imposed on the territories for receipt of emergency relief funds is increased from $5 million to $20 million. The Secretary is authorized to advance emergency relief funds to the State of Washington to repair a bridge damaged in November, 1990. Repayment is required if it is determined that the cause of the damage to the bridge was the result of human error. All provisions in this section will apply only to natural disaster and catastrophic failures occurring after enactment of this legislation.

Senate amendment

The Senate amendment contains no comparable provisions, with the exception of the aspect relating to the advance to the State of Washington which is substantially the same as the House bill.

Conference substitute

The conference substitute is the same as the House bill, with the exception that the provision concerning the State of Washington was not adopted. The repayment provision for Washington was resolved in the 1992 Appropriations bill.

Gross Vehicle Weight Restriction

House bill

Subsection (a), Continuation of Certain Longer Combination Vehicles, amends title 23 U.S.C. by adding a new substitution (d).

New subsection (d)(1) provides that except as provided in this subsection, no state may allow a longer combination vehicle to be operated on the Interstate System within its boundaries, without having its apportionment withheld under subsection (a).

New subsection (d)(2) permits a state to continue to allow to be operated on the Interstate System within its boundaries longer combination vehicles with configuration and weight if (a) the state determined on or before June 1, 1991 that such longer combination vehicles with such configuration and weight could lawfully operate on such system pursuant to a state statute or regulation in effect on June 1, 1991; and if the longer combination vehicles with such configuration and weight were in lawful operation on a regular or periodic basis (including seasonal operation or operation pursuant to a permit issued by the state; or if longer combination vehicles with such configuration and weight were in lawful operation on a regular or periodic basis on such System on or before June 1, 1991 pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186); and (B) if all operations of longer combination vehicles with such configuration and weight on the Interstate System continue to be subject to, at a minimum, all state statutes, regulations, limitations, and conditions (including routing-specific and configuration specific designations and all other restrictions) in effect on June 1, 1991; except that subject to guidelines established by the Secretary, the state may make minor adjustments to routing-specific designations for safety purposes and for road construction purposes.

New subsection (d)(3) provides that in addition to the vehicles which may continue to operate in the State of Wyoming under (d)(2), such state may allow commercial motor vehicle combinations not in actual use on June 1, 1991 on the relevant system and highways by enactment of a state law on or before November 3, 1992. The state must notify the Secretary of enactment of such state law within 30 days and the Secretary must publish notice of the enactment of such law in the Federal Register.

New subsection (d)(4) provides that states may further restrict or prohibit vehicles covered by this provision, however, any such restriction or prohibition must be consistent with sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (40 U.S.C. App. 2311, 2312, and 2316). Any such changes must be submitted to the Secretary. Such change must be published in the Federal Register by the Secretary.

New subsection (d)(5) requires that within 90 days after the effective date of this subsection (October 1, 1991) states must complete and file in writing with the Secretary a complete list of all state statutes, regulations, limitations and conditions governing the operation of these types of vehicles.

If the state fails to file within the specified time, the Secretary is given the authority to complete and file the list for the state.

The state is further required to certify in writing that the state had determined pursuant to a state statute on regulation in effect on June 1, 1991 that such longer combination vehicles could lawfully be operated on such relevant system and highways, and such combinations were in operation on a regular or periodic basis on such system and highways on or before June 1, 1991.

The Secretary is required to publish the list in the Federal Register. After publication the Secretary is required to review the certifications and may commence a proceeding, on the Secretary's own initiative or pursuant to a challenge by any person, to determine whether or not the state's certification is inaccurate. The state has the burden of proof.

If the Secretary determines the certification is inaccurate, the Secretary is required to amend the list published in the Federal Register.

This subsection also provides that no state statute or regulation shall be included on the list published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles not in actual operation on a regular or periodic basis on or before June 1, 1991.

This subsection further provides the lists published in the Federal Register shall become final on the 30th day after publication, with the exception of adjustments made pursuant to paragraphs 2(B) 3 and 4 and subparagraph (D) of paragraph 5.

New subsection (d)(6) requires the Secretary to issue regulations establishing guidelines for states to follow in making minor adjustments for safety or road construction purposes.

New subsection (d)(7) provides that nothing in this subsection should be construed to allow operation on the relevant system or highways of any Commercial Motor Vehicle prohibited under section 411(j) of the Surface Transportation Assistance Act of 1992 (49 U.S.C. App. 2311(j)).

New subsection (d)(8) provides that if a state allows a longer combination vehicle to be operated on the Interstate System within its boundaries in violation of this subsection, the state shall have its apportionment of funds withheld under subsection (a).

New subsection (d)(9) defines longer combination vehicle; it further requires that each state certify that it is complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(j); and makes a conforming amendment.

Subsection (b) Interstate Route 68—amends section 127, title 23 by adding at the end the following new subsection (e).

New subsection (e) provides that the single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal and logs if such vehicle is of a type of vehicle as was operating in such counties on U.S. 40 or 48 for such purposes in calendar year 1991.

Subsection (c) makes a conforming amendment.

Subsection (d) requires the Secretary to conduct a study pertaining to transporters of water well drilling rigs on public highways to determine if state and federal requirements place a burden on them. The report is due 2 years after date of enactment.

Subsection (e)(1) provides for a waiver from the axle weight requirements and bridge formula for firefighting equipment. The waiver is for two years, but it may be extended for one additional year. The waiver applies to the Federal requirement.

Subsection (e)(2) provides that during the period in which the waiver is in effect, the Secretary is to conduct a study on this type of equipment and its regulations by the various states, including the issuance of permits by states. The purpose is to determine whether there is a need for a change in Federal and state laws with respect to such vehicles.

Subsection (e)(3) provides that a report on the study, together with the recommendations of the Secretary, shall be submitted to Congress within 18 months of the date of enactment.

Senate amendment

Section 138. Gross vehicle weight restrictions

Summary

This section adds a new subsection (d) to section 127 of title 23, U.S.C., to limit the use of Longer Combination Vehicles (LCV's) on the Interstate System to those places, and under the conditions now imposed, where they are allowed on or before June 1, 1991.

The responsibility for enforcing compliance with the new LCV limitation lies with the Secretary of Transportation, under section 141 of title 23.

The section defines an LCV as a truck tractor with two or more trailers or semitrailers, with a gross vehicle weight of more than 80,000 pounds.

The provision will prevent any further expansion of the use of LCV's. The operation of LCV's on the Interstate System would be illegal unless: (a) they operate under 80,000 pounds gross vehicle weight; or (b) are found by the Secretary to be in "actual, continuing lawful operation" on or before June 1, 1991.

Included in the freeze on LCV operations are those now occurring in Wyoming, pursuant to a specific authorization in the fiscal year 1991 Department of Transportation and Related Agencies Appropriations Act. This section makes the Wyoming provisions in the Act permanent, subject to existing operating restrictions adopted by the State of Wyoming, and consistent with axle and bridge formula specifications in section 127 of title 23, United States Code.

Conference substitute

This section amends section 127 of title 23 by adding new subsections, (d) and (e), to prohibit the expansion of the use of longer combination vehicles on the Interstate System.

New subsection (d)(1) allows only those LCV configurations that were authorized by State statute or regulation and in lawful "regular or periodic" use on or before June 1, 1991. To be considered "regular or periodic" use, operations must have occurred at recurring intervals over a period of time. Moreover, periodic operations must have occurred on an intermittent but consistent basis. Use of an LCV on only one or two occasions pursuant to a special permit would not provide a basis for satisfactorily certifying grandfather rights or operations under this subsection. Seasonal LCV operations, if occurring on a recurring basis, would be allowed to continue. As specified in both the Senate and House provisions, certain LCV operations in the State of Wyoming, other than those that were in regular, periodic operation on or before June 1, 1991, would be allowed, if so directed by the State's voters not later than November 3, 1992. Additionally, limited exceptions to the restrictions of this subsection are provided for certain operations in the States of Ohio and Alaska. Other than those specifically referenced, no additional LCV operations that would otherwise be prohibited under this subsection may be allowed.

New subsection (d)(2) clarifies that States retain the ability to further restrict the use of LCV's, above and beyond the limitations imposed by this subsection. Any such restrictions must be consistent with applicable provisions of title 49. Under the terms of regulations to be promulgated by the Secretary, States are given the ability to make minor adjustments to LCV use of a temporary and emergency nature. The scope of such adjustments is intended to be temporary and very limited; for example, in the case of a bridge failure that would require the re-routing of traffic, including LCV's, to highways on which LCV operations would otherwise be prohibited.

New subsection (d)(3) establishes procedures for determining what specific operations are to be allowed. States are required to submit to the Secretary a list of all information pertaining to LCV use and limitations, including routing-specific and configuration-specific designations and all other restrictions, not later than 60 days after enactment. That information is to be published by the Secretary, and reviewed by the Secretary for accuracy. This review is not intended to provide for a rollback of lawful operations; it is intended to confirm that operations listed by the States were, on or before June 1, 1991, authorized by State statute or regulation, and that they were in regular or periodic operation on or before June 1, 1991. The list of this information, with necessary revisions, is to be published as final not later than 180 days after the date of enactment. Requirements are also established for review and correction of the final list. The provision makes it clear that, in order to be allowed to continue, LCV operations not only must have been authorized by State statute or regulation, but also in lawful regular or periodic operation on or before June 1, 1991.

New subsection (d)(4) defines longer combination vehicles.

New subsection 127(e) allows for the continued operation of certain vehicles in Garrett and Allegany Counties, Maryland.

Subsection (e) provides for a two-year exemption from axle weight limitations and the bridge formula for fire-fighting vehicles. The Secretary is directed to conduct a study to address, long-term, issues involving such vehicles.

Subsection (f) retains identical provisions from the House and Senate bills pertaining to Montana-Canada trade.

Subsection (g) retains the House provisions requiring a study of water well drilling rigs.

CONTROL OF OUTDOOR ADVERTISING

House bill

Subsection (a) authorizes a state to use any Federal-aid highway funds apportioned to the state for the removal of nonconforming signs and the payment of just compensation in accordance with title 23, section 131.

Subsection (b) requires the owner of an illegal sign to remove it within 90 days from enactment of this Act. If the owner of an illegal sign does not remove it within the 90 day period, the state shall remove the illegal sign and assess the costs for removal to the owner of the illegal sign.

Subsection (c) prohibits the erection of any new sign along any highway on the Interstate and Primary system (as in existence on June 1, 1991) that is designated as a scenic byway under a state scenic byway program. This subsection makes it clear that control of outdoor advertising on scenic byways along the Interstate, Primary System and the National Highway System shall be in accordance with title 23, Section 131. This subsection also redefines the Primary System for purposes of application of the Highway Beautification Act as the Primary System in existence on June 1, 1991.

Subsection (d) is intended to avoid confusion among the States in the implementation of these amendments to the Highway Beautification Act. This section makes it clear that the States, in implementing these new provisions, should ensure that signs displays and devices that have received state certification under the existing structure of federal-state agreements and state laws implementing section 131 of title 23 United States Code are not affected in any manner.

Senate amendment

The Senate Amendment has no comparable provision. But the Senate does make funding under the newly defined "Transportation Enhancement Activities" eligible for the removal of outdoor advertising.

Conference substitute

Subsection (a) authorizes a state to use any Federal-aid highway funds apportioned to the state for the removal of nonconforming signs and the payment of just compensation in conformance with title 23, section 131. This provision also applies to signs located along Interstate and Primary system roads designated as Scenic Byways by the states.

Subsection (b) requires the owner of an illegal sign to remove it within 90 days from enactment of this act. If the owner of an illegal sign does not remove it within the 90 day period, the state shall remove the illegal sign and assess the costs for removal to the owner of the illegal sign.

Subsection (c) intends that under the Conference agreement, no signs shall be erected on scenic byways on the Interstate or primary system as those systems are in effect on the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

Subsection (d) is intended to avoid confusion among the States in the implementation of these amendments to the Highway Beautification Act. This section makes it clear that the States, in implementing these new provisions, should ensure that signs displays and devices that have received state certification under the existing structure of federal-state agreements and state laws implementing section 131 of title 23 United States Code are not affected in any manner.

METROPOLITAN PLANNING

House bill

The House Bill revises and strengthens the metropolitan planning process. The general objective of the planning process is to develop transportation facilities that will function as an intermodal transportation system giving emphasis to those facilities which serve important national and regional transportation functions such as moving goods within urbanized areas and to distant markets, enhancing productivity and economic competitiveness, enabling persons to move quickly to and from their homes, jobs, and other destinations, providing access to international border crossings, and connecting roadways within the area with roadways outside the area.

Each urbanized area over 50,000 population is required to designate a metropolitan planning organization to carry out the required planning process. Existing MPOs are treated as continuing and are not required to be redesignated.

The planning process for an area is required to cover the existing urbanized area plus the area expected to be urbanized within the planning forecast period. In addition, the covered area may include the entire metropolitan statistical area or consolidated metropolitan statistical area on an area designated as nonattainment for transportation-related pollutants.

The planning process will include both a long-range plan and a transportation improvement program (TIP). In developing the long range plan and the transportation improvement program, the MPO shall provide affected parties a reasonable opportunity to comment on the proposed plan. The TIP is prepared cooperatively with the state and includes projects proposed for funding under Title 23 and the Urban Mass Transportation Act of 1964 that are consistent with the long-range plan and conform to the applicable clean air state implementation plan in nonattainment areas for transportation related pollutants. A project can only be included in a TIP if it can reasonably be expected to be funded within the time period contemplated for completion of the project. The TIP must be revised at least every two years.

Nothing added by this section of the House bill or the section on statewide planning changes any requirement of the Clean Air Act.

The bill lists a series of factors to be considered in developing plans and programs. In summary these include:

(1) efficient use of existing transportation facilities;

(2) energy conservation goals;

(3) social, economic and environmental effects;

(4) Clean Air Act requirements;

(5) methods to reduce and prevent traffic congestion;

(6) methods to expand and enhance transit use;

(7) effect on land use and land development;

(8) transportation needs identified by management systems;

(9) innovative methods financing;

(10) preservation of transportation corridors;

(11) long range needs;

(12) methods to enhance efficient movement of commercial vehicles;

(13) life cycle costs in design and engineering of bridges, tunnels, and pavements.

In addition to any other requirements, urbanized areas over 200,000 in population must develop plans and programs in cooperation with the state and affected transit operators. Also these urbanized areas must identify methods to reduce congestion that are appropriate for the size of the area and the complexity of the transportation problems in the area. In nonattainment areas, the methods must be coordinated with the development of the state implementation plan for the Clean Air Act.

Finally, the bill provides for the establishment within DOT of an advisory committee to review the metropolitan planning procedures and their relationship with the state planning process.

Senate amendment

Amends 23 U.S.C. 134, Transportation Planning in Certain Urban Areas. The term "certain urban areas" (urban areas of more than 50,000 population) is replaced with the term "metropolitan areas" and the title of Section 134 is now "Metropolitan Planning". Metropolitan area boundaries are determined by the metropolitan planning organization and the Governor, and as a minimum must encompass the existing urbanized area and the area expected to be urbanized within the forecast period. The metropolitan area may encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area. For areas designated as non-attainment for ozone or carbon monoxide, the boundaries must be the boundaries for the non-attainment area unless otherwise provided by the metropolitan planning organization.

The requirement that a metropolitan planning organization (MPO) be designated for each urbanized area over 50,000 population by agreement among the local units of general purpose government and the Governor is continued. Designations made prior to enactment remain valid and redesignation is not required.

The current requirement for a continuing, cooperative, and comprehensive urban transportation planning process in all urbanized areas over 50,000 population is continued with modifications to strengthen the planning process, particularly for metropolitan areas with a metropolitan statistical area (MSA) population of more than 250,000 and in areas classified as non-attainment for ozone or carbon monoxide under the Clean Air Act. Increased emphasis is placed on preserving and making more efficient use of existing transportation facilities; consistency with energy conservation programs, goals and objectives; congestion relief; Clean Air Act requirements; effect of transportation policy decisions on land use and development, and the provisions of land use and development plans; use of innovative financing mechanisms including value capture, tolls, and congestion pricing; programming of transportation enhancement activities; development of transportation improvement programs that are consistent with anticipated funding sources; and establishment of project priorities for implementing the transportation plan.

Transportation improvement programs (TIP) are developed by the MPO, in cooperation with the State and relevant transit operators, and must include all projects to be funded under Title 23 and the Urban Mass Transportation Act. The TIP must be consistent with the long range transportation plan and in nonattainment areas for ozone and carbon monoxide conform with the applicable State implementation plan developed pursuant to the Clean Air Act. The TIP must be approved by the MPO and the Governor, and be updated at least every two years. For metropolitan areas of 250,000 population or less, projects to funded (programmed) with Title 23 funds are selected from the TIP by State in cooperation with the MPO.

In metropolitan areas with a MSA population of more than 250,000, a congestion management system that provides for the effective management of new and existing transportation facilities through travel demand reduction and operational management strategies must be developed through the required technical process. In nonattainment areas for ozone or carbon monoxide where a transportation element of the State Implementation Plan is required by the Clean Air Act, the congestion management system must be coordinated with it. Further in non-attainment areas for ozone or carbon monoxide, Federal funds cannot be used for any highway project that provides a significant increase in carrying capacity for single occupant vehicles unless the project is part of the congestion management system. The conformity review process for transportation plans, programs, and projects funded under Title 23 or the Urban Mass Transportation Act in nonattainment areas must take into account any lack of progress in implementing projects in accordance established priorities and take into consideration the emissions expected from all regionally significant transportation projects regardless of the source of funding. Although emissions from all regionally significant projects will be taken into account, any finding of non-conformity will only delay Federally assisted projects.

In areas over 250,000 population, all projects to be funded under Title 23 (except Bridge and Interstate Maintenance projects) or the Urban Mass Transportation Act must be selected by the MPO and the Governor, and must be consistent with the TIP including the priorities established in the TIP. Bridge and Interstate Maintenance projects are selected by the State in cooperation with the MPO.

In areas over 250,000 population, the Secretary must assure that the requirements of this section are adequately carried out in each metropolitan area and certify the process in each area on annual basis. If at any time after October 1, 1992, the Secretary does not certify the process for an area, the obligation authority for Surface Transportation Program that is attributed to the area automatically lapses and is redistributed to other States.

One percent of the funds authorized for programs under Sections 104 and 144, except for the Interstate Construction and Interstate Substitution programs, is set aside for metropolitan planning. The State must distribute the metropolitan planning funds to MPOs by a formula approved by the Secretary which considers population, status of planning, attainment of air quality standards, metropolitan area transportation needs and other factors necessary to provide an appropriate distribution of funds to carry out applicable statutory requirements. Metropolitan planning funds made available to a MPO and not needed to carry out the provisions of this section may be made available to the State to carry out Statewide transportation planning.

Conference substitute

The Conference Bill incorporates selected provisions from the Highway & Transit Titles of the Senate with the selected provisions of the House Bill to revise and strengthen the metropolitan planning process.

Metropolitan planning organizations are to be designated in each urbanized area over 50,000 population by agreement among the local units of general purpose government and the Governor is modified to require the agreement of local officials representing at least 75 percent of the affected population (including central cities or cities as defined by the Bureau of Census), or as otherwise provided under state or local procedures. All designations whether under this provision or previous provisions of law remain in effect until revoked by agreement between the Governor and local unite of general purpose governments representing at least 75 percent of the affected population. If the Governor and local units of government representing 75% of the affected population decide they want to redesignate the metropolitan planning organization, the existing metropolitan planning organization will remain in effect until a new metropolitan planning organization is designated by the Governor and local officials representing 75 percent of the affected population or the existing metropolitan planning organization is revoked by the Governor and local officials representing 75 percent of the population. A special provision is included to allow metropolitan planning organizations to reorganize under certain conditions that pertain to the Chicago and Los Angeles regions.

The managers recognize that the Lake Tahoe Basin was recognized by Congress in P.L. 96-551 as an ecologically fragile area of national significance. The Federal ownership of lands in this California/Nevada Bi-State Basin is approximately 73% and MPO status for purposes of federal transit and transportation funding and assistance is appropriate.

For redesignations or reorganizations of metropolitan planning organizations in transportation management areas subsequent to enactment where the proposed membership varies from the current membership, the metropolitan planning organization must include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including all agencies included as of June 1, 1991), and appropriate State officials. However, the requirement is not intended to interfere with any authority of public agencies with multimodal transportation responsibility under State law to develop plans and programs for adoption by the metropolitan planning organization.

Metropolitan area boundaries are determined by the metropolitan planning organization and the Governor, and as a minimum must encompass the existing urbanized area and the area expected to be urbanized within the forecast period. The metropolitan area may encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area. For areas designated as non-attainment for ozone or carbon monoxide, the boundaries must be the boundaries for the non-attainment area unless otherwise provided by the metropolitan planning organization and the Governor.

The planning process in metropolitan areas must as a minimum consider the following items:

(1) efficient use of existing transportation facilities;

(2) energy conservation goals;

(3) methods to reduce and prevent traffic congestion;

(4) effect on land use and land development;

(5) programming of expenditures for transportation enhancement activities;

(6) effects of all transportation projects regardless of source of funds;

(7) international border crossings and access to major traffic generators such as ports, airports, intermodal transportation facilities, and major freight distribution routes;

(8) connectivity of roads within the metropolitan area with roads outside the metropolitan area;

(9) transportation needs identified by management systems;

(10) preservation of transportation corridors;

(11) methods to enhance efficient movement of commercial vehicles;

(12) life cycle costs in design and engineering of bridges, tunnels, and pavement;

(13) social, economic and environmental effects.

Each MPO is required to prepare and update a long range transportation plan for its metropolitan area in accordance with a schedule established by the Secretary. The long range plan must identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In nonattainment areas for transportation related pollutants, the metropolitan planning organization must coordinate the development of the long range plan with the process for development of transportation measures of the State Implementation Plan required by the Clean Air Act. The long range plan must be made available for public review prior to approval.

Transportation improvement programs (TIP) are developed by the MPO, in cooperation with the State and relevant transit operators, and must include all projects to be funded under Title 23 and the Federal Transit Act. The TIP must be approved by the MPO and the Governor, and be updated at least every two years. The TIP must be made available for public review prior to approval. In areas that are not designated as transportation management areas, projects are selected by the State in cooperation with the metropolitan planning organization from the approved TIP.

For urbanized areas not designated as transportation management areas, the Secretary may prescribe abbreviated requirements for the development of transportation plans and programs. However, the Secretary may not prescribe abbreviated requirements for any area designated as nonattainment for ozone or carbon monoxide under the Clean Air Act.

Urbanized areas over 200,000 population must be designated as transportation management areas. In addition to the general requirements for all urbanized areas, transportation management areas must develop a transportation management system that provides for effective management of new and existing transportation facilities through travel demand and operational management strategies. In transportation management areas all projects funded under Title 23 (except for National Highway System, Bridge or Interstate Maintenance projects) and the Urban Mass transportation Act are selected by the metropolitan planning organization in consultation with the State. National Highway System, Bridge and Interstate Maintenance projects are selected by the State in cooperation with the metropolitan planning organization.

The Secretary must assure that the requirements of this section are adequately carried out in each transportation management area and certify the process in each transportation management area at least every 3 years. If an area is not certified, the Secretary may withhold, in whole or part, the apportionments under the Surface Transportation Program attributed to the metropolitan area.

In areas classified as nonattainment for ozone or carbon monoxide, Federal funds may not be used for any highway project that will significantly increase the carrying capacity for single occupant vehicles unless the project is part of or consistent with the approved congestion management system.

The Secretary shall prescribe an appropriate phase-in schedule for any new requirements under this section.

One percent of the funds authorized for programs under Sections 104 and 144, except for the Interstate Construction and Interstate Substitution programs, is set aside for metropolitan planning. The State must distribute the metropolitan planning funds to MPOs by a formula approved by the Secretary which considers population, status of planning, attainment of air quality standards, metropolitan area transportation needs and other factors necessary to provide an appropriate distribution of funds to carry out applicable statutory requirements. Metropolitan planning funds made available to a MPO and not needed to carry out the provisions of this section may be made available to the State to carry out Statewide transportation planning.

STATEWIDE PLANNING

House bill

In carrying out statewide transportation planning, the state is required to prepare a long-range plan and a transportation improvement program, taking into consideration the factors listed for the metropolitan planning process. Specifically, the state is required to incorporate, coordinate, and reconcile the plans and programs developed under the metropolitan planning process, provide for comprehensive planning in areas of the state which are not urbanized areas, consult with Indian tribal governments, and establish management and traffic monitoring systems.

Senate amendment

This section would establish a requirement for a statewide transportation planning process in Section 135 of Title 23. Under this section the States would be required to have a Bridge Management System, a Pavement Management System, a Safety Management System, and a Congestion Management System developed in accordance with regulations issued by the Secretary. A State that certifies to the satisfaction of the Secretary that no congestion exists or is expected to exist will not be required to have a congestion management system. These systems are currently in various stages of development. Full development is expected to occur in stages with final implementation by 1995. If a State does not have approved management systems by 1995, the Secretary may: (1) withhold project approvals under 23 U.S.C. 106 and (2) decline acceptance of the State's certification and notice under the 23 U.S.C. 133(c)(2). Each State must also have a Traffic Monitoring System to provide data determined necessary under Title 23. Guidelines and requirements will be established by the Secretary.

The Statewide transportation planning process must take into account the required management systems; Federal, State or local energy use goals, objectives, programs or requirements; and valid state or local development or land use plans, programs, or requirements. The process must provide for comprehensive surface transportation planning for non-metropolitan areas and the integration of any non-metropolitan area plan with any metropolitan area plans. In non-attainment areas for ozone and carbon monoxide, the process must be coordinated with development of the transportation portion on any state implementation plan (SIP) required under the Clean Air Act (CAA) and must provide for compliance with any revelant requirements of the SIP. Any State containing a non-attainment area for ozone or carbon monoxide must develop a State transportation plan and update it at least every two years. In addition to the general requirements for a State transportation plan, the plans in non-attainment areas must incorporate without change metropolitan area plans and provide for coordination in the development of the plan with the SIP.

The funds set aside under 23 U.S.C. 307(c)(1) are available to carry out the requirements of this section.

Conference substitute

The conference Bill incorporates selected provisions from the Senate Bill with the selected provisions of the House Bill to establish a statewide multimodal transportation planning process for the development of transportation plans and programs for all areas of the state. The planning process must consider all modes of transportation and must be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

In developing the transportation plan, the State must provide an opportunity for public involvement and consult with Indian tribal governments having jurisdiction over lands within the State. In developing the transportation improvement program, the State must provide an opportunity for public involvement and cooperate with the metropolitan planning organizations. The transportation improvement programs must include all projects proposed for funding under title 23 or the Federal Transit Act, and must be reviewed and approved at least biennially.

The States would be required to have a Bridge Management System, a Pavement Management System, a Safety Management System, a Congestion Management System, a Transit Management System, and an Intermodal Management System developed in accordance with regulations issued by the Secretary. A State that certifies to the satisfaction of the Secretary that no congestion exists or is expected to exist will not be required to have a congestion management system. These systems are currently in various stages of development. Full development is expected to occur in stages with final implementation by 1995. If a State does

not have approved management systems, the Secretary may: (1) withhold project approvals under 23 U.S.C. 106 and (2) decline acceptance of the State's certification and notice under the 23 U.S.C. 133(c)(2). Each State must also have a Traffic Monitoring System to provide data determined necessary under Title 23. Guidelines and requirements will be established by the Secretary.

The Statewide transportation planning process must provide for or take into account:

(1) transportation needs identified by management systems;

(2) plans for bicycle transportation and pedestrian walkways in the various areas of the State to the degree appropriate;

(3) energy conservation goals;

(4) international border crossings and access to major traffic generators such as ports, airports, intermodal transportation facilities, and major freight distribution routes;

(5) comprehensive surface transportation planning for nonmetropolitan areas through a process that includes consultation with local elected officials;

(6) :metropolitan plan developed under section 134;

(7) connectivity between metropolitan areas within the State and with metropolitan areas in other States;

(8) recreational travel and tourism;

(9) any State plan developed pursuant to the Federal Water Pollution Control Act;

(10) Clean Air Act requirements in non-attainment areas for transportation related pollutants;

(11) transportation system management and investment strategies to make efficient use of existing transportation facilities;

(12) social, economic and environmental effects;

(13) methods to reduce and prevent traffic congestion;

(14) methods to expand and enhance transit use;

(15) effect on land use and land development;

(16) transportation needs identified through use of the management systems required by this section;

(17) innovative methods of financing;

(18) preservation of transportation corridors;

(19) long range needs;

(20) methods to enhance efficient movement of commercial vehicles;

(21) life cycle costs in design and engineering of bridges, tunnels, and pavements.

The Secretary shall prescribe an appropriate phase-in schedule for the requirements of this section.

The funds set aside under 23 U.S.C. 307(c)(1) are available to carry out the requirements of this section.

INDIAN NONDISCRIMINATION

House bill

Section 140 of Title 23 is amended to make Indian tribal governments eligible for grants to develop, conduct and implement highway construction training and skills programs.

Section 140(d) is amended to authorize states to extend Indian employment preference programs to projects near reservations. Currently, such programs are limited to Indians living on or near reservations and to projects on Indian reservation roads.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

PUBLIC TRANSPORTATION

House bill

The House amendment allows for the improved access between intercity and rural bus service.

Senate amendment

No comparable provision.

Conference substitute

The House recedes to the Senate.

BRIDGE REPLACEMENT AND REHABILITATION

House bill

The Secretary, in consultation with the Secretary of Interior is required to conduct an inventory of Indian reservation and park bridges; classify them according to serviceability, safety, and essentiality for public use; assign a priority for replacement or rehabilitation; and determine the cost of replacing or rehabilitating each bridge.

Bridge painting and the application of calcium magnesium acetate is made an eligible cost under the bridge program.

The Federal share is 80 percent.

There is authorized $ million per fiscal year for each of the fiscal years 1992 through 1996 for the bridge discretionary program. Of that amount, $ million per fiscal year is set-aside for timber bridges.

The provisions of the off-system bridge program are extended to permit the cost of bridge painting and the application of calcium magnesium acetate to off system bridges.

No less than 1 percent of the amount apportioned to each state in bridge funds shall be used on Indian reservation bridges. The funds will be deducted in advance of each state's apportionment and allocated to the Secretary of the Interior for expenditure. The Secretary may reduce the set-aside with the concurrence of the Secretary of the Interior after consultation with the state and tribal governments if it is determined that there are inadequate needs to justify such expenditure. The non-Federal share for Indian reservation bridge projects may be paid from amounts made available from the Indian reservation roads program.

Subsection (g) protects any previously apportioned bridge funds.

Funds are authorized and allocated for high cost bridge projects.

Senate amendment

This section amends Section 144 of Title 23, United States Code. The Federal share payable is retained at 80% for bridge projects where rehabilitation or replacement is for structural reasons. It is also retained for replaced or rehabilitated bridges where additional capacity is needed for other than single occupant vehicles. Where expanded capacity is proposed by either replacement or rehabilitation for use by single occupant vehicles, the federal share is 75 percent. For example, an existing two-lane bridge could be rehabilitated or replaced by a new two-lane bridge with a Federal share of 80 percent. However, if an additional third lane primarily available to single occupant vehicles is constructed, the federal share for the third lane would be 75 percent. Pay back provisions are included for those cases where a State uses 80 percent Federal funding for a bridge, but later converts the bridge for use by single occupant vehicles. The Secretary is to develop the criteria for determining the appropriate Federal share of bridge replacement or rehabilitated bridge projects.

Bridge painting and seismic retrofit is made an allowable expense for bridges eligible for bridge program funding. The discretionary bridge program is repealed.

States need to fully consider the environmental effects and long-term economic costs associated with traditional highway and bridge maintenance and safety practices such as the use of road salt in winter. To encourage States to adopt environmentally safer highway maintenance practices, calcium magnesium acetate (CMA) is included as an eligible expense under the Bridge program. This action is a continuation of Section 173 of Public Law 100-17. This provision should encourage States to use CMA on a limited number of bridges in order to extend their useful life, and to protect the surrounding environment.

Level-of-service criteria are to be established for the bridge program by January 1, 1992. The level-of-service criteria are target values against which bridge characteristics are to be compared. The values vary by highway system or functional classification. Using the comparison, bridges can be categorized as needing or not needing rehabilitation or replacement. The bridges thus categorized are those eligible for bridge program funds, and are the bridges used in apportioning these funds to the States. The bill also permits the States to expend up to 35 percent of Federal bridge funds on bridges that are not in the level-of-service inventory.

Conference substitute

The Conference Substitute adopts the House provisions with an amendment that permits seismic retrofit as an eligible expense for bridges.

SPEED LIMIT

House bill

Section 130 of the House bill establishes new compliance requirements to reflect the higher risk associated with higher speeds, road design, and enforcement capabilities. The House bill also modifies the current sanction requirement.

Under the House bill, the Secretary is required to transfer not less than 1 percent and not more than 5 percent of a state's National Highway System funds to its apportionment under section 402 of this title if the percentage of vehicles in such state (A) on 55 mph Interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceed 50%, (B) on 55 mph Interstate highways are traveling at speeds in excess of the speed limit plus 10 miles per hour exceeds 30 percent, (C) on 65 mph Interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceeds 35 percent, (D) on 65 mph Interstate highways are traveling at speeds in excess of the speed limit plus 20 miles per hour exceeds 20 percent, (E) on non-interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceeds 30 percent, or (F) on non-interstate highways are traveling at speeds in excess of the posted speed limit plus 10 miles per hour exceeds 15%.

Fifty percent of any funds transferred to Section 402 must be used for speed enforcement activities and public education and information. At the request of a state, the Secretary may waive this requirement for any fiscal year quarter after a fiscal year quarter the state is found to be in compliance with this section.

The bill also codifies the current provisions that permit states to raise the speed limit up to 65 mph on certain non-Interstate highways built to Interstate standards and located outside of an urbanized area. In addition, it requires the collection of uniform data on 55 mph and 65 mph highways and requires the Secretary to issue regulations that devices and equipment are placed at locations on maximum speed limit highways on a scientifically random basis which takes into account the relative risk of motor vehicle accidents as they relate to speed and class of highways.

The House bill would further transfer the administration of this section and appropriate Federal Highway Administration personnel to the National Highway Traffic Safety Administration.

Senate amendment

Section 139(a) repeals 23 U.S.C. 141(a), which requires each state to certify annually that it is enforcing all speed limits on public highways posted at the national maximum speed limit and requires the Secretary to withhold project approval in any state that fails to certify accordingly. The language of 23 U.S.C. 141(a) is incorporated in 23 U.S.C. 154 as rewritten in subsection (b) of this section.

Subsection (b) rewrites 23 U.S.C. 154, the national maximum speed limit law. As rewritten, section 154:

(1) continues the current national maximum speed limit of 55 mph on public highways other than Interstate highways located outside of an urbanized area and 65 mph on Interstate highways located outside of an urbanized area;

(2) codifies the current permission for states to raise the speed limit up to 65 mph on certain non-Interstate highways built to Interstate standards and located outside of an urbanized area.

(3) requires each state to collect and submit to the Secretary annual speed-related data on public highways posted at or above 55 mph (current data collection and compliance requirements apply only to highways posted at 55 mph);

(4) incorporates the language of the current section 141(a) prohibiting the approval of state highway construction projects in a state that fails to certify that it is enforcing all speed limits on public highways; and

(5) repeals, by omission, current provisions of the national maximum speed limit law that: (a) require states to submit to the Secretary compliance data for a 12-month period on the percentage of motor vehicles exceeding 55 mph on their public highways posted at 55, and (b) establish a process under which a state could lose up to 10 percent of its non-Interstate highway construction funds for the following fiscal year if the state's 12-month compliance data show that more than 50 percent of its motorists exceeded the posted 55 mph limit;

Conference substitute

The Conference Substitute modifies Sec. 154(e), Title 23 U.S.C., to provide that speed limit data to be reported annually to the Secretary include, but not be limited to, data on citations, travel speeds and the posted speed limit and the design characteristics of roads from which such travel speed data are gathered. The Substitute also adopts the House language regarding the collection of data and the adoption of regulations by the Secretary on the placement of monitoring devices.

The House provision relating to enforcement is amended by requiring the Secretary, one year after the enactment of this Act, to publish in the Federal Register a proposed rulemaking to establish speed limit enforcement requirements which shall devise a formula for determining compliance with the requirements of the rulemaking (1) which assigns greater weight for violations of such speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit and (2) which differentiates between the type of road on which speed limit violations occur. In developing the formula, the Secretary is required to consider factors relating to (1) the enforcement of efforts made by the states, data concerning fatalities and serious injuries occurring on roads posted at 55 mph or higher, and (2) any other measure of speed enforcement or speed-related highway safety trends which the Secretary deems appropriate. The Conference Substitute applies the same reprogramming provision and Secretarial discretion with regard to the percentage transferred as in the House bill.

The Secretary must publish the final form of the prescribed regulations in the Federal Register within 60 days after publication of the proposed rulemaking. Such final rule shall take effect no later than 12 months after such publication.

MINIMUM ALLOCATION

House bill

The House bill increases the minimum allocation level from 85 percent to 90 percent, i.e. it assures that each State's share of the Federal-aid program (calculated based on that year's apportionment and prior year's allocations) will not be less than 90 percent of its relative share of contributions to the Highway Trust Fund. The base upon which this calculation takes place includes all Federal-aid programs with the exception of forest highways, Indian reservation roads, parkways and park roads, highway related safety grants, non-construction safety grants, motor carrier safety grants, and projects from either this Act or the 1987 STURAA.

Further, the House bill provides a separate guaranteed minimum for the projects contained in the House bill.

Senate amendment

The Senate amendment contains no comparable provision, thus continuing minimum allocation as in current law.

Conference substitute

The conference substitute retains the minimum allocation concept, increased to a 90 percent level, although the base upon which it is calculated is changed. That base includes apportionments for interstate construction, interstate substitution, interstate maintenance, bridge and surface transportation programs as well as prior years discretionary allocations derived from these programs.

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

House bill

Section 132 amends Section 217 of title 23, United States Code to provide that, with the approval of the Secretary, a state may obligate its Rural and Urban Mobility and Flexible funds to construct pedestrian walkways and bicycle transportation facilities on any Federal-aid highway, except on the Interstate system. No bicycle projects may be carried out that are not principally for transportation rather than recreational purposes. Also with the Secretary's approval, a state may obligate its national highway system funds to construct bicycle transportation facilities on land adjacent to any National Highway System highway other than on the Interstate system. Funds authorized for forest highways, forest and public lands development, roads and trails, park roads, parkways, Indian reservation roads and public lands highways shall be available for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways and parkways at the discretion of the department which administers the funds.

States shall use urban and rural mobility and flexible apportionments to fund a bicycle and pedestrian coordination position with the state department of transportation. The coordinator shall promote and facilitate increased use of nonmotorized modes of transportation, development of pedestrian and bicycle facilities, public education, and promotional and safety programs for using the facilities. At least 50 percent of the coordinator's position shall be dedicated to coordinating and developing such programs and facilities.

On Federally assisted bridge deck replacement or rehabilitation projects and on highways which are not fully access controlled, where bicycles are permitted to operate at each end, accommodations for bicycles may be included in the project if the Secretary determines it is safe to do so and it can be provided at a reasonable cost. Pedestrian walkways and bicycle transportation facilities shall be located and designed as part of an overall plan with due consideration for safety and contiguous routes, and no motorized vehicles shall be permitted on pedestrian walkways and trails except for maintenance purposes or when snow conditions and state or local regulation permit, motorized wheelchairs.

Senate amendment

The Senate amendment continues existing law with conforming amendments. It also includes facilities for pedestrian and bicycles as an eligible item for funding under transportation enhancement activities.

Conference substitute

The Conference Substitute adopts the House provision.

INDIAN RESERVATION ROADS

House bill

The House bill provides for 2% of IRR funding under the Federal Lands Highway Program to be allocated to tribes applying for transportation planning pursuant to the provisions of the Indian Self Determination and Education Assistance Act. In addition, the bill directs the Secretary to conduct a study related to Indian reservation roads.

Senate amendment

The Senate bill also provides for 2% of IRR funding to tribes applying for transportation planning.

Conference substitute

The managers have agreed to the House language with the exception that the 2% of the funding provided has been amended to provide "up to" 2% is provided.

FEDERAL LANDS

Indian Reservation Roads

House bill

The House amendment directs the Secretary to conduct a study on differences between the use of funds from the Highway Trust Fund on Indian reservation roads and other federal-aid highways to identify inequities. The study results, including legislative and administrative recommendations, shall be sent to Congress within one year.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Senate recedes to the House.

House bill

The House bill provides that two percent of each year's Indian Reservation Roads funds

be allocated to tribal governments applying for transportation planning pursuant to the Indian Self-Determination and Assistance Act.

Senate amendment

The Senate bill provides an identical provision.

Conference substitute

The Conference substitute amends the provision for "up to" two percent for such purposes so allocated amount is based on actual applications by tribal governments. Tribes not applying for planning grants under the Self Determination Act will continue to receive such services from the Bureau of Indian Affairs administrative cost account.

Program Structure

House bill

The House bill contains no comparable provisions.

Senate amendment

The Senate amendment restructures the federal land category by consolidating the forest roads and nation-wide discretionary account into a new public lands highway program. Sixty-six percent of the public lands highway account shall be allocated to the Forest Service regional offices for use in 41 states based on forest highway criteria. The remaining 34 percent shall be allocated by the Secretary based on national competition for other forest or public land highways.

The Senate amendment qualifies each class of Federal land highways for transportation planning for tourism and recreational travel and makes certain costs such as interpretative signage and rest areas eligible cost items.

The Senate amendment authorizes the Secretary to transfer appropriate funds to the Secretary of Interior to cover road-related administrative costs of the Bureau of Land Management in connection with public lands highways.

The Senate amendment directs the Secretaries of Transportation, Interior and Agriculture to develop appropriate transportation planning procedures, and safety, bridge and pavement management systems for funds funded under the Federal Lands Highway Program.

CONFERENCE SUBSTITUTE

The Conference recedes to the Senate provisions.

Funding levels

House bill

The House amendment authorizes $268 million for forest roads, $193 million for public lands highways, $292 for parks and parkways, and $1,028 for Indian Reservation Roads over six years.

Senate amendment

The Senate amendment authorizes $1 billion for the new consolidated public land highways program, $600 million for parks and parkways, and $1 billion for Indian reservation roads.

Conference substitute

The Conference substitute provides $1 billion for the public lands highways, $486 million for parks and parkways and $1.114 for Indian reservation roads.

MANAGEMENT SYSTEMS

House bill

The House bill requires the Secretary to issue regulations within one year for the development, establishment, and implementation of six (6) management systems: pavement, bridges, safety, congestion, public transportation, and intermodal. Beginning with FY 96, the Secretary may withhold 10 percent of funds apportioned under Title 23 and the UMTA Act of 1964 for failure to implement and certify implementation of each system in the preceding year. Costs to develop and establish these systems are eligible uses of Federal-aid apportionments.

Senate amendment

The Senate amendment, as part of the Statewide planning process, requires the States to have systems comparable to those of the House bill with the exception of public transportation and intermodal. The penalty for failure to establish approved systems, at the discretion of the Secretary, withholding project approvals and/or decline acceptance for the certification necessary as part of the Surface Transportation Program.

Conference substitute

The Conference substitute adopts the House provision requiring the Secretary to withhold up to 10 percent of the funds apportioned to the states that have adopted and implemented management systems.

LIMITATION ON DISCOVERY OF CERTAIN REPORTS AND SURVEYS

House bill

This section clarifies that no report, survey schedule list, or data compiled for the purpose of complying with Section 130 and 144 of Title 23, United States Code, or for developing any highway safety construction project which may be implemented with Federal-aid highway funds shall be subject to discovery or admitted into evidence in a Federal or state court proceeding.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House Provision.

BUY AMERICA

House bill

This section clarifies the intent of Congress to include products manufactured with iron under the Buy America provisions.

The Secretary of Transportation is required to submit to Congress a report on purchases from foreign entities that include the dollar value of items for which waivers were granted under the Buy America provisions.

This section also contains provisions that establish penalties for certain violations and limitations on the applicability of waivers for products produced in foreign countries that have trade agreements with the United States.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION

House bill

This section exempts the Rural Electrification Administration (REA) from certain rules relating to appraisal required by the Department of Transportation to carry out property acquisitions. If the acquisition activities of the REA result in the dislocation of a person, then REA must follow the rules of adequately compensating a displaced person.

Senate amendment

The Senate amendment amends section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1973. It exempts the Rural Electrification Administration (REA) from the uniform regulation relating to the acquisition of real property under title III of that Act. The relocation provisions in title II of the Act would still apply where the activities of REA (or TVA which is already exempted) result in the displacement of persons or businesses.

Conference substitute

Adopts the Senate provision.

TEMPORARY MATCHING FUND WAIVER

House bill

The House bill contains a provision comparable to that incorporated into the 1987 STURAA, permitting the states to request a waiver of the non-Federal share for a qualifying project, in this case for fiscal years 1992 and 1993. The state shares waived must be fully repaid by March 30, 1994, with payments deposited in the Highway Trust Fund and repaid amounts credited to the appropriate apportionment account of the state.

Any amounts not repaid are to be deducted from the state's fiscal year 1995 and 1996 apportionments and then apportioned to other states which have not received a higher Federal share under this section and to those states which have made the required repayment.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopted the House provision.

HIGH PRIORITY CORRIDORS

House bill

This section identifies 16 high priority corridors that are regionally and nationally important. These corridors are required to be put on the National Highway System.

For all of these corridors, both long-range planning and specific feasibility and design studies will be carried out by the Secretary and the states cooperatively. For work on these corridors the Secretary may use certification acceptance under section 117 of title 23 and shall, to the maximum extent feasible, use procedures for acceleration of projects.

Specific high priority segments are identified for specific funding. The overall funding that is available for these projects is $200 million for FY 1992 and $450 million per year for each of FY 1993-1996. In addition, since this special funding will generally not be sufficient to complete work on these segments, the bill requires states to give priority to funding these segments with apportioned funds.

A separate authorization of $10 million per year is provided for feasibility and design studies. In addition, a revolving loan fund of $200 million is established from a $50 million set aside for each of FY 1993-1996. This Fund would be available to advance amounts to a state for construction of projects in the corridors, with priority given to the high priority segments. A state would repay amounts advanced from National Highway System apportionments.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopted the House provisions with the following changes: (1) various authorization levels for high priority segments were modified, (2) the mandatory "shall" language was made permissive by substituting the word "may," and (3) a new corridor and segment was added in New York. Technical corrections were made to make the advance construction provisions workable for the Cumberland Gap as well as to clarify the intent of establishing contract authority for the feasibility studies funded under this Section.

HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM

House bill

The House amendment directs the Secretary to establish a Timber Bridge Construction and Discretionary grant program, allowing States to receive grants for the construction of highway timber bridges.

Senate amendment

The Senate amendment directs the Secretary to establish a Timber Bridge Construction Discretionary Grant Program, as well as a Program of Research on Wood Use in Transportation Structures.

Conference substitute

House recedes to Senate amendment with funding level to be split between Senate level and the level contained in House bill.

CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

House bill

This section provides that the Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of title 23. The Federal share for construction of ferry boats under this section shall be 80%. There is authorized $36 million for fiscal year 1992 and $43 million per fiscal year for each of the fiscal years 1993 through 1997 out of the Highway Trust Fund and shall be available to the Secretary each fiscal year to obligate at his or her discretion for grants under this section. The funds shall remain available until expended. All the provisions of chapter 1 of title 23 that apply to the National Highway System, except those related to the apportionment formula and Federal share, shall apply to funds made available to carry out this section, unless the Secretary determines they are inconsistent with this section.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with modifications to the funding levels.

ASPHALT PAVEMENT CONTACTING RECYCLED MATERIALS

House bill

Section 143 of H.R. 2950 specifies that, for a period of five years, the Secretary of Transportation may not disapprove any state highway project on the basis that such project utilizes rubber modified asphalt. This section also requires the Secretary to conduct a two-year study on the utilization of recycled materials in paving materials and highway devices and appurtenances.

Senate bill

Section 127 of S. 1204 requires the Secretary of Transportation to withhold grants under title 23, other than for projects or grants relating to safety, from any state which cannot certify to the Secretary that it has met the minimum utilization requirement of the equivalent of 6 pounds of rubber derived from scrap tires for each ton of finished asphalt pavement used in federally-assisted highway projects. The provision allows the Secretary to set aside the requirement for any three-year period upon a determination that 1) the use or application of asphalt rubber pavement creates a risk to human health or the environment; 2) asphalt rubber pavement cannot be recycled to the same degree as conventional pavement; or 3) asphalt rubber pavement does not perform adequately as a paving material.

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is required to conduct research on the environmental risks, technical performance and recyclability of asphalt rubber pavement.

Conference substitute

The Conference Substitute combines the major provisions of both the House and Senate bills. It includes the provision which prevents the Secretary from disapproving a highway project because it includes the use of asphalt pavement containing recycled rubber. It also requires the Secretary and the Administrator of EPA, in cooperation with the states, to conduct a study on the health and environmental threats, recyclability, and technical performance of asphalt pavement containing recycled rubber. In addition, the study will determine the economic savings, technical performance qualities, and environmental threats and benefits of using other recycled materials, including recycled glass, plastic and asphalt, in highway projects. The Secretary is instructed to encourage the use of recycled materials determined to be appropriate by this study. In procuring such materials, procuring agencies as defined in section 1004(17) of the Solid Waste Disposal Act shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency including those issued pursuant to section 6002 of the Solid Waste Disposal Act.

Beginning January 1, 1995, each state is required to certify to the Secretary that it has satisfied the minimum utilization requirement for asphalt pavement contacting recycled rubber, as follows: five percent in 1994; ten percent in 1995; 15 percent in 1996; and 20 percent in 1997 and each year thereafter. The Secretary shall withhold from any state failing to make such certification a percentage of highway construction, rehabilitation and repair apportionments equivalent to the percentage utilization requirements established in this section.

Other recycled materials, as determined appropriate by the Secretary and the Administrator of EPA, pursuant to the study required by this section, may be substituted for recycled rubber under the minimum utilization requirement up to five percent. The conferees recognize that other recycled materials with the potential for exhibiting technical performance qualities may require substantial time for further development and testing. In such case, it is intended that the Secretary will note this in the report submitted to Congress, and that the authorization to substitute will not go into effect until such time as such other recycled materials have been developed and tested, and as a result of such development and testing, demonstrate, to the satisfaction of the Secretary, that asphalt containing recycled material or materials will perform in a manner equivalent to asphalt contacting recycled rubber.

The conferees recognize that a state may not have a sufficient quantity of scrap tires to meet the minimum utilization requirements established by this section, because it is recycling or processing tires (which includes retreading or energy recovery), or shipping tires to another state for such recycling or processing. In such case the state may request that the Secretary, in concurrence with the Administrator of EPA, reduce the minimum utilization requirement for that state.

The term "recycled rubber", as used in this section, is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks or other equipment owned and operated in the United States provided that, such processing does not produce, as a waste, casings or other round tire material that can hold water when stored or disposed above ground.

HIGHWAY USE TAX EVASION PROJECTS

House bill

This section provides in subsection (a) that the Secretary shall use funds made available by subsection (f) to carry out highway use tax evasion projects. At the discretion of the Secretary, the funds may be allocated to the Internal Revenue Service and the states.

Funds may be used only to expand efforts to enhance motor fuel tax enforcement; to fund additional Internal Revenue Service staff solely to carry out the functions described in this subsection; to supplement motor fuel tax examinations and criminal investigations; to develop automated data processing tools to monitor motor fuel production and sales; to evaluate and implement registration and reporting requirements for motor fuel taxpayers; to reimburse state expenses that supplement existing fuel tax compliance efforts; and to analyze and implement programs to reduce tax evasion of other highway use taxes.

The Secretary is authorized to conduct a study to determine the feasibility and the desirability of using dye and markets to aid in motor fuel enforcement activities. The Secretary must transmit a report on the results of the study not later than one year after the effective date of this section.

The Secretary shall establish an advisory committee to prepare a plan to carry out and coordinate highway use tax evasion projects, monitor the results of the projects, provide progress reports, and make recommendations to the Secretary for the distribution of funds under this section, including recommendations for distributing funds among states fairly and equitably. The advisory committee members shall be appointed no later than 180 days after enactment. Members shall include representatives of the Federal Highway Administration, the Internal Revenue Service and the States. The advisory committee shall terminate on September 30, 1996.

The Secretary may not make a grant to a state unless it certifies that the aggregate expenditure of state funds, exclusive of Federal funds, for fuel tax enforcement activities will not fall below the average level expended for the last two years.

On October 1 and April 1 of each year, the Secretary shall transmit to the Senate Committee on Environment and Public Works and the House on Public Works and Transportation a report on motor fuel tax enforcement activities and the expenditure of funds made available under this section including the hiring of additional staff by any Federal agency.

There is $7 million authorized for fiscal year 1992 and $8 million per year for fiscal years 1993 through 1997 to be made available to the Secretary for projects under this section. Funds shall be obligated in the same manner and to the same extent as funds apportioned under chapter 1 of Title 23, except that the Federal share for projects shall be 100% and remain available under expended.

For the purposes of this section "state" means the 50 States and the District of Columbia.

Senate amendment

The amendment authorizes $5 million for each of the fiscal years 1992 through 1996 to carry out highway use tax evasion projects. The funds will be allocated to the Internal Revenue Service at the discretion of the Secretary. The funds may be used only to expand efforts to enhance motor fuel tax enforcement, fund additional IRS staff, supplement motor fuel tax examination and criminal investigation and for other related purposes.

The Secretary shall transmit to the Congress a report on motor fuel tax enforcement activities and the expenditure of funds made available under this section, including the hiring of additional staff by any Federal agency, on October 1 and April 1 of each year.

Conference substitute

Adopts the House provision with an amendment that authorizes $25 million in contract authority and $15 million in General Fund appropriations spread out over the 6-year life of the bill.

SUBSTITUTE PROJECT

House bill

The House provision allows the Secretary to approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of I-94.

Senate amendment

The Senate amendment is similar; however, the source of funding for any transit substitute projects approved shall be the Mass Transit Account of the Highway Trust Fund.

Conference substitute

The Senate recedes to the House.

RENTAL RATES

House bill

The House bill authorizes a study on equipment rental rate for use of reimbursing contractors for extra work on Federal-aid projects.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

SCENIC BYWAYS PROGRAM

House bill

Section 147 of the House bill establishes a Scenic Byways Advisory Committee within the Department of Transportation for the purpose of assisting the Secretary in developing a national scenic byways program and in making recommendations to the Secretary regarding minimum criteria for use by state and Federal agencies in designating highways as scenic byways and all-American roads.

Membership must consist of the Administrator or a designate of the Administrator of the Federal Highway Administration; the Chief or designee of the Chief of the Forest Service of the Department of Agriculture; the Director or designee of the Director of the Bureau of Land Management of the Department of the Interior; the Under Secretary or designee of the Under Secretary for Travel and Tourism of the Department of Commerce; the Assistant Secretary or designee of the Assistant Secretary of Indian Affairs of the Department of the Interior; and appointees of the Secretary to represent the interests of conservationists, recreational users of scenic byways, the tourism industry, historic preservationists, highway users, state highway and transportation officials, local highway and transportations officials, an individual qualified to serve on the advisory committee as a planner, one representative each of the motoring public and of groups interested in scenic preservation, and a representative of the outdoor advertising industry.

Recommendations made by the advisory committee shall include consideration of the scenic beauty and historic significance of highways proposed for designation and the areas surrounding the highways; operation and management standards for scenic byways and all-American roads including strategies for maintaining and improving their scenic and historic qualities, for protecting and enhancing landscape and view corridors and for minimizing traffic congestion; standards for scenic byway-related signs, and other matters.

No later than 18 months after enactment, the advisory committee shall submit to the Secretary and Congress a report with all recommendations described in this section. The Secretary shall provide technical assistance and grants to the states for planning, design and development of state scenic byway programs.

An Interim Scenic Byways Program is created for fiscal years 1992, 1993 and 1994, during which the Secretary may make grants to the States for eligible projects on State-designated scenic byways. The Secretary is to give priority to eligibility projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities; to eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated; to eligible projects included in programs which can serve as models for other States; and to eligible projects in multi-State corridors where the States submit joint applications. Eligible projects include planning, design, and development of State scenic byway programs; making safety improvements to the extent such improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway; construction of facilities for the use of pedestrians and bicycles, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretative facilities; improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation; protecting historical and cultural resources in areas adjacent to the highway; and developing and providing tourist information to the public, including interpretive information about the scenic byway.

Senate amendment

Section 129 provides for the creation of a National Scenic and Historic Byways Program and implements the recommendations from the national study completed by the Federal Highway Administration in January 1991. As part of this program, the Federal Highway Administration will establish the capability to provide information and technical assistance to the state agencies responsible for scenic and historic byway programs. In addition, the Federal Highway Administration will provide grants to these state agencies for the planning, design, and development of State scenic byway programs. These grants may be used for initiating or expanding planning and program development efforts and for providing such road user amenities as information services, maps and brochures, and interpretive displays on existing byways. Criteria for allocating these grants will be established by the Federal Highway Administration consistent with the findings from the national study.

The development of the All American Roads Programs should include a broad-based group of federal, state, local, and private sector representatives having knowledge and experience with scenic byway programs. At a minimum, the federal involvement should include representatives from the Department of Transportation, the United States Forest Service, the Bureau of Land Management, the National Park Service, the Bureau of Indian Affairs, and the U.S. Travel and Tourism Administration. The national study should be consulted in developing the criteria for the All American Roads program. Roads to be considered for this program are to be nominated by the states and federal agencies. For state-owned roads nominated by federal agencies, the state department of transportation shall concur in the nomination. The intent of the All American Roads program is to identify and designate roads having outstanding qualities of scenic, historic, and cultural attractiveness; to preserve and protect these roads and their unique characteristics; and to enhance rural tourism, economic development, and world-class tourism destinations.

Conference substitute

The Conference Substitute adopts the House version, but permits up to 10 percent of scenic highway funds to be used for billboard removal on scenic byways.

The Conferees intend that under the Conference agreement no new billboards shall be enacted on scenic byways on the Interstate or Primary Systems as those systems are in effect on the date of enactment of the Intermodal Transportation Efficiency Act of 1991.

UNIFORM TRAFFIC CONTROL DEVICES

House bill

This section authorizes the Secretary to carry out a project in Arkansas to provide training to country and town traffic officials in the need for and application of uniform traffic control devices and to demonstrate the safety benefits of providing for adequate and safe warning and regulatory signs.

A total of $1.2 million is authorized for fiscal year 1992 to carry out this project.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

RURAL AND URBAN ACCESS PROJECTS

House bill

Subsection (a) authorizes specific projects for the Secretary to carry out to ensure better rural access and promote economic development in rural areas. $100 million is authorized for FY 1992 and $150 million is authorized for each of FY's 1993 through 1996 to carry out these projects.

Subsection (b) authorizes specific projects to enhance urban access and urban mobility. $100 million is authorized for FY 1992 and $150 million is authorized for each of FY's 1993 through 1996 to carry out these projects.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provisions with the following changes:

(1) various authorization levels for projects were modified, and (2)

Molly Ann's Brook, New Jersey

SECTION 150

House bill

The House bill directs the Secretary to carry out a project to make modifications to bridges necessary for the Secretary of the Army to carry out a project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401 of the Water Resources Development Act of 1986. Any Federal expenditures for the raising of bridges over Molly Ann's Brook shall be treated as part of the non-Federal share of the cost of such flood control project.

Senate amendment

No comparable provision.

Conference substitute

Same as House bill.

Passaic and Bergen Counties, New Jersey

House bill

This section creates a model program of delegation to the State of New Jersey of the Administration of the completion of Route 21 in Passaic County. All aspects of law, regulation, policy and practice are delegated to the State and the State is authorized to administer all aspects of the project design and construction process pursuant to State laws, rules and regulations.

It is the intention of the Committee to continue to determine methods of reducing the time required to complete an urban highway project, as was provided for in the Surface Transportation and Uniform Relocation Assistance Act of 1987, Sec. 149(a)(1), when administration of all Federal Highway Administration requirements are delegated to a state. It is also the intention of the Committee that time reduction be demonstrated through acquisition of right-of-way prior to the determination of the preferred alternative.

The Committee expects expeditious construction of this long-delayed and badly needed project and, therefore, all Federal regulatory requirements, including but not limited to procurement of professional services, staging of design and Right-of-Way acquisition, and all Federal procedures, practices and interpretations, are delegated to the State and may be waived by the State if considered in the public interest.

Senate amendment

No comparable provision.

Conference substitute

Adopts House provision with a modification to authorize the Government to waive any and all Federal requirements relating to the scheduling of activities associated with such highway project, including final design and right-of-way activities.

Regulatory Interpretations

House bill

This section requires that any regulations, rulings, or decisions issued by the Department of Transportation relating to the Buy America requirements be applied as if to include coating.

This section also requires that Sec. 393.95 of Title 49 of the Code of Federal Regulations shall be applied so that fuses and flares are given equal priority with regard to use as reflecting signs.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provisions.

Handicapped Parking

House bill

Subsection (a) requires the Secretary to conduct a study on the programs being made by the states in adopting and implementing a uniform system for handicapped parking regulations issued by the Department of Transportation.

Subsection (b) provides for the Secretary to report to the Congress within two (2) years from the date of enactment of this Act the results of the study.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

Roadside Barrier Technology

House bill

This section requires each state use innovative safety barriers for at least 5 percent of the mileage of new or replacement permanent median barrier included in awarded contracts on Federal aid highways. Innovative safety barriers are those barriers, other than guard rail, that are classified by the Federal Highway Administration as experimental or that were classified as operational after January 1, 1985. Each state is required to certify annually to the Secretary its compliance with this requirement.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the House provision with a modification in the requirement. The Conferees agree that 2.5%, rather than 5%, of new or replacement permanent median barrier erected in each state must be "innovative safety barrier".

Design Standards

House bill

Section 155 of the House bill requires the Secretary to conduct a survey to identify current state standards on all Federal-aid highways relating to geometric design, traffic control devices, roadside safety, safety appurtenance designs, uniform traffic control devices and sign legibility and directional clarity for the purpose of determining the need to upgrade such standards.

The Secretary must report to Congress on the results of the Survey and on the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments and breakaway utility poles for bridges and roadways currently used by states, together with any recommendations, within two years after enactment.

Senate bill

The Senate bill contains no comparable provision.

Conference substitute

The Conference substitute adopts the House language.

Effective Date

House bill

The House amendment allows unobligated balances of funds apportioned to the States to be transferred to program categories.

Senate amendment

Identical provision that includes the Senate program categories.

Conference substitute

The Conference substitute includes the Senate provision with comparable Senate categories.

Unobligated Balances

House bill

The House bill provides that the amendments of this title do not apply to funds appropriated before September 30, 1991. It also provides that unobligated balances apportioned before October 1, 1991 shall be obligated according to the law in effect on September 30, 1991. In some cases, the unobligated balances may be transferred to the primary, secondary, interstate 4R or urban system programs if the unobligated funds were apportioned before October 1, 1991.

Senate amendment

The Senate provision provides that unobligated balances apportioned for the primary, secondary and urban systems and the railway-highway crossing and hazard elimination programs may be obligated for the Surface Transportation Program.

Conference substitute

The managers have provided that unobligated balances already apportioned are transferable to the new program.

Innovative Projects

House bill

This section authorizes the Secretary to carry out specific projects demonstrating innovative techniques and advanced technologies in highway construction. $100 million is authorized for FY 1992 and $225 million is authorized for each of Fy's 1993 through 1996 to carry out these projects.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provisions with modifications to various authorization levels for projects.

Orange County Toll Pilot Projects

House bill

This section exempts certain toll pilot projects in Orange County, California, from section 4(f) requirements applicable to public park, recreation area, wildlife and waterfowl refuges.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provision.

Prior Demonstration Projects

House bill

This section amends the provisions of three demonstration projects located in Tampa, Florida; Santa Fe, New Mexico; and Larkspur to Korbel, California, that were authorized in the Surface Transportation and Uniform Relocation Assistance Act of 1987 to make the unobligated balances of funds available for other projects.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

William H. Harsha Bridge

House bill

This section renames the United States Route 68 bridge across the Ohio River between Aberdeen, Ohio, and Marysville, Kentucky, as the William H. Harsha Bridge.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

Commemoration of Dwight D. Eisenhower National System of Interstate and Defense Highways

House bill

This section authorizes the Secretary to conduct a study to determine the appropriate symbol or emblem to be placed on highway signs to commemorate Former President Eisenhower for his efforts to enact legislation authorizing the construction of the Interstate System.

The report shall be submitted to the Congress not later than one year after the effective date of this title.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Use of High Occupancy Vehicle Lanes by Motorbikes

House bill

This section requires the Secretary to not recognize any certification made by a state on the safety of motor bikes on high occupancy vehicle lanes that was made prior to the enactment of the Intermodal Surface Transportation Infrastructure Act of 1991 until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Tourist Oriented Directional Signs

House bill

This section directs the Secretary to encourage states to provide for equitable participation in the use of tourist oriented directional signs, or logo signs, along the Interstate and Federal-aid primary systems as covered under the Highway Beautification Act.

The Secretary is required to report to the Congress on the participation in the use of tourist oriented directional signs within one year of enactment.

There have been reports that new business enterprises opening at exits on Interstate highways are not afforded equal treatment as all competitors. The intent of this provision is to encourage states to administer their tourist oriented directional logo signs program fairly among all interested eligible enterprises.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Pensacola, Florida

House bill

This section authorizes the Secretary to conduct a study of the feasibility of constructing a 4-lane highway, in accordance with all Federal standards applicable to the construction standards of Interstate highways, to connect Interstate Route 65 and Interstate Route 10 in Pensacola, Florida.

The Secretary must transmit the report along with recommendations for the location of a corridor to construct the 4-lane highway connector not later than 2 years after the date of enactment of this Act.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Calhoun County, Mississippi

House bill

This section amends section 403 of the Appalachian Regional Development Act of 1965 to include Calhoun County, Mississippi as an eligible county for receipt of Appalachian Regional Development funds.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Higher Federal Share

House bill

This section authorizes for higher Federal share projects constructed on Federally-owned property and for projects entitled to a higher Federal share under Section 204 of 23 U.S.C.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Work Zone Safety

House bill

Sec. 168 of the House bill requires the Secretary of Transportation to develop a work zone safety program which would improve work zone safety by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.

No later than 2 years after enactment of this title, the Secretary shall submit to Congress such proposed program and recommendations for implementation.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference Report directs the Secretary to develop and implement a work zone safety program.

Miscellaneous Projects

House bill

This section authorizes a series of miscellaneous highway projects to be appropriated.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Railroad Relocation Demonstration Program

House bill

This section extends the amounts ($15 million per fiscal year) authorized for the railroad relocation demonstration program an additional three years through fiscal year 1994.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

J. Clifford Naugle Bypass

House bill

This section designates the highway bypass being constructed around the Borough of Ligonier in Westmoreland County, Pennsylvania, as the "J. Clifford Naugle Bypass." Mr. Naugle is the former mayor of Ligonier and has worked tirelessly to advance the construction of the bypass.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Interim Advance Construction Program

House bill

This section authorizes the reimbursement for the construction of eligible Federal-aid highway projects commenced after September 30, 1991 and before the date of enactment of this Act. The amounts obligated under this provision is limited to the amounts apportioned to the states for fiscal year 1991.

Senate amendment

No comparable provision.

Conference substitute

No provision.

Presidential Highway, Fulton County, Georgia

House bill

The bill authorizes the Secretary to approve the construction of the Presidential Highway as agreed to by the Georgia Department of Transportation, the city of Atlanta, and CAUTION, Inc. The execution of the settlement agreement by the DeKalb County, Georgia Superior Court will be deemed to constitute full compliance with all Federal laws applicable to carrying out the project.

There is also a limitation established on the expenditure of Federal funds for the construction of this project. All limitations on the construction and funding of the Presidential Highway are subject to the approval of the settlement agreement executed by all parties.

Senate amendment

No comparable provision.

Conference substitute

Adopts House provision.

Infrastructure Awareness Program

House bill

This section authorizes $2 million for the purpose of creating an awareness by the public and state and local governments of the state of the Nation's infrastructure and to encourage and stimulate efforts by the public and governments to undertake studies and projects to improve the infrastructure.

The Secretary is authorized to fund the production of a documentary on the state of the Nation's infrastructure with a not-for-profit national public television station.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

United States-Canada Bridges

House bill

This section authorizes the Secretary to collect and analyze data on the volume of traffic crossing at three international bridge crossings under the authority of the Niagara Falls Bridge Commission.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute provides the Niagara Falls Bridge Commission the authority to issue tax exempt bonds.

Use of Compost

House bill

This section expresses the sense of Congress that State and local governments should encourage the environmentally safe use of compost and other products along the rights-of-way of Federal-aid highways.

Senate amendment

No comparable provision.

Conference substitute

No provision.

Study on State Compliance With Requirements for Revocation and Suspension of Drivers' License

House bill

This section authorizes the Secretary to conduct a study of States' efforts to comply with provisions relating to revocation and suspension of drivers' licenses for individuals convicted of drug and alcohol offenses. The study shall be transmitted to Congress not later than 180 days after the date of enactment.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with a change in the date of the report.

Private Sector Involvement Program

House bill

This section authorizes the Secretary to establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects.

The Secretary is also authorized to make grants to States to conduct this program.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with a modification to ensure that any contracts would be cost effective.

New Hampshire Federal-Aid Payback

House bill

This section authorizes the State of New Hampshire to repay to the Treasurer of the United States the amount of Federal-aid highway funds paid on account of those completed sections of the Nashua-Hudson Circumferential. The amounts repaid will be deposited to the credit of the unprogrammed balance of funds apportioned to the State of New Hampshire. The amounts credited to the State will be in addition to all other funds apportioned to the State and shall remain available until expended.

Upon repayment of the Federal share of the cost to construct certain segments of the Nashua-Hudson Circumferential, the State of New Hampshire may impose and collect tolls on the Nashua-Hudson Circumferential.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Metric System Signing

House bill

Repeals the prohibition for the placement of metric signs along Federal-aid highways.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Signing of United States Highway 71

House bill

This section authorizes the Arkansas State Highway and Transportation Department to erect signs along United States Highway 71 from the I-40 intersection to the Missouri-Arkansas State line designating the highway as the "John Paul Hammerschmidt Highway" as required to be erected by the Arkansas State law designated as Act 6 of 1989.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Disposition of Paving Materials

House bill

Section 186 of the House bill requires the Secretary to initiate, no later than 60 days after enactment of this Act, a rulemaking proceeding to establish minimum requirements for the economic reuse and environmentally sound disposition of pavement materials removed during construction, reconstruction, or repaving in any federally assisted highway project.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The House recedes to the Senate since section 143, Recycled Paving Materials, contains a provision requiring the Secretary to study state practices with regard to disposal of pavement materials removed during construction.

Study on Impact of Climatic Conditions

House bill

This section authorizes the Secretary to conduct a study of the effects of climatic conditions on the costs of highway construction and maintenance. The study shall consider various climatic conditions and the impact of the climatic conditions on increased highway design costs and decreased highway service life in the various regions of the United States.

The Secretary shall transmit the results of the study along with any recommendations to Congress not later than September 30, 1993.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Methods To Reduce Traffic Congestion During Construction

House bill

This section expressed a sense of Congress that many highway projects are carried out in a way which unnecessarily disrupts traffic flow during construction and that methods need to be adopted to eliminate or reduce these disruptions.

The Secretary is required to conduct a study on methods of enhancing traffic flow during construction and report to Congress on the results of the study not later than September 30, 1992.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Guaranty and Warranty Clauses

House bill

This section requires the Secretary to develop regulations to permit a State highway department to include a clause in a contract for engineering and design services, or for the construction of any Federal-aid highway projects for work performed.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute authorizes a study to be conducted by the Secretary on the feasibility of requiring the inclusion of warranty or guaranty clauses for work performed on Federal-aid highway projects.

Highway Tree Planting Program

House bill

The bill authorizes $5 million per fiscal year for each of the fiscal years 1992 through 1996 for the Secretary to make grants to States for developing a plan for tree planting, developing, and implementing a program for the planting of trees along the rights-of-way of Federal-aid highways. The maximum aggregate amount of grants to a State in a fiscal year is limited to $500,000 and the Federal share may not exceed 60 percent.

The Secretary is required to take action as necessary to encourage State highway departments to enter into cooperative agreements with State foresters to implement the requirements of this subsection. The donation of trees is permitted for carrying out the provisions of this section.

Senate amendment

No comparable provision.

Conference substitute

House recedes to the Senate.

Federal Share on Special Projects

House bill

This section requires the Federal share payable on account of any demonstration project authorized under certain sections to be 80 percent.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Private Property Rights

House bill

No comparable provision.

Senate amendment

Title IV of the Senate Amendment imposes certain procedural requirements for regulations issued by all Federal agencies. Prior to the promulgation of any regulations by any agency, the Attorney General must certify that the regulation is in compliance with the Executive Order 12630 or similar procedures relating to minimizing the taking of private property as a result of regulatory activity.

Conference substitute

The Senate recedes to the House.

Cleveland Harbor, Ohio

House bill

Section 182 of the House bill deauthorizes a portion of the navigation project for Cleveland Harbor, Ohio to allow for the consideration of permit applications related to construction activities within a portion of Cleveland Harbor. The U.S. Army Corps of Engineers will not consider applications for permits to conduct activities in navigable waters which would impact upon a Federally authorized navigation project.

Senate amendment

No comparable provision.

Conference substitute

The conference Substitute adopts the House provision with an amendment. The Conference Substitute adds language to also declare a certain portion of Cleveland Harbor as nonnavigable waters of the United States.

Stormwater Permits

House bill

No comparable provision.

Senate amendment

Section 140L of the Senate Amendment extends certain application deadlines for and

enforcement of the stormwater permitting requirements of Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) for industrial activities owned or operated by municipalities with a population of under 100,000.

Conference substitute

The conference substitute extends individual and group permit application deadlines for stormwater discharges associated with industrial activities from municipally owned or operated facilities. Individual permit applications must be submitted no later than October 1, 1992, except that where a timely group permit application is denied the applicant would be entitled to an additional six months from the date of the denial to submit an individual application. Group application deadlines are extended until September 30, 1991 for Part I and October 1, 1992 for Part II except that for municipalities of under 250,000 an additional period of time is provided. No stormwater discharge permits for industrial activities for municipalities of under 100,000 are required prior to October 1, 1992 except stormwater discharges from municipally owned or operated power plants, airports, and certain landfills. The conference substitute also requires that general permit regulations for stormwater discharge permits be promulgated no later than February 1, 1992. The conference substitute is not intended to prejudice or in any manner affect any ongoing litigation.

Hudson River, New York

House bill

No comparable provision.

Senate amendment

Section 140U of the Senate Amendment declares a portion of the Hudson River, New York to be nonnavigable waters of the United States. The area declared as nonnavigable is the current location of the structure known as Pier A and its immediate surroundings. The nonnavigability declaration does not affect the application of Federal laws or regulations to activities within the area declared nonnavigable.

Conference substitute

Same as the Senate Amendment.

Providence, Rhode Island, Bridge Removal

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to extend the authorization for a project to remove the center span of the India Point Railroad Bridge over the Seekonk River in Providence, Rhode Island. The project was originally authorized pursuant to Section 1166(c) of the Water Resources Development Act of 1986 but has been deauthorized by operation of law.

Brunswick Harbor, Georgia

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to deauthorize the Academy Creek feature of the Brunswick Harbor, Georgia navigation project. This feature is no longer needed for commercial navigation.

Port Canaveral, Florida

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to deauthorize a portion of the Federal navigation project for Port Canaveral, Florida, to accommodate new, larger cruise ships at the Port's terminals.

Joseph Ralph Sasser Boat Ramp

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to name a boat ramp facility on the Mississippi River in Shelby County, Tennessee on behalf of Joseph Ralph Sasser, the late father of Senator Jim Sasser.

Mr. Sasser joined the Soil Conservation Service—Civilian Conservation Corps in Selmer, Tennessee in 1935. He attained the rank of major in the 1st Marine Division during World War II. After the war, he returned to work with the Soil Conservation Service until 1970. He then went to Tennessee State University as U.S. Department of Agriculture Liaison Officer until his retirement in 1972. He worked tirelessly for the improvement and preservation of the natural resources of Tennessee.

Lindy Claiborne Boggs Lock and Dam

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision renaming lock and dam number 1 on the Red River Waterway in Louisiana as the Lindy Claiborne Boggs Lock and Dam.

Congresswoman Boggs served in the House of Representatives from 1973, succeeding her husband Hale Boggs, who had served in the House for 27 years, until the end of the 101st Congress. She was the first woman from Louisiana to serve in the House. She devoted great energies to improving the lives of children and to protecting the rights of all Americans. She represented the people of New Orleans with grace, wit, and dedication to the best public policies.

Rockaway Inlet to Norton Point, New York

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision modifying the project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to Norton Point, to authorize construction of the project in accordance with the current General Design Memorandum dated April 1991. The project was originally authorized for construction by section 501(a) of the Water Resources Development Act of 1986.

Appomattox River, Virginia

House bill

No provision.

Conference substitute

The conference substitute provides that the Federal Energy Regulatory Commission (FERC) shall re-issue a license under the Federal Power Act to the Appomattox River Water Authority together with any amendments necessary and appropriate and extend the period for construction for three years after enactment. The order would be subject to the requirements of this section and the Federal Power Act. During the three year period FERC is directed to issue an order at the request of the Authority permitting the authority to transfer a license to a third party for the purpose of protecting the Authority from challenge as specified in this provision. The transferee would be subject to, and must comply with, the Federal Power Act, including provisions of section 10 relating to fish and wildlife.

The transferred license would be subject to revocation at the request of the Authority to permit the Authority to surrender the license. That surrender could not take place, however, until notice, the completion of the project construction, including fish and wildlife facilities, and delivery to FERC of a statement by the Board of the Authority that there is a need to surrender because the Authority would be acting in violation of its charter or be inconsistent with bond indentures. The provision requires FERC to accept this surrender.

In addition, the provision includes authority for the FERC to extend the period for construction under section 13 of the Federal Power Act for three identified projects.

Finally, the provision relates to a project in Union City, Michigan and provides that it is not unlawful for the municipality of Union City to operate, maintain, repair, reconstruct, replace or modify the project without a license from FERC.

Interstate Maintenance

House bill

The House bill does not continue Interstate 4R as a separate category, however, it requires that a minimum amount of funds apportioned to the states for the National Highway System must be used for interstate resurfacing, restoring, and rehabilitating. The minimum amount shall be equal to 70 percent of the amounts apportioned to each state in fiscal year 1991 under the Interstate 4R program.

Senate amendment

The Senate amendment renames and modifies the existing Interstate 4R program to eliminate eligibility for projects which expand capacity, except in the case of expansion of capacity for projects where the expansion is for other than single occupant vehicles.

The provisions which allow an unconditional transfer of up to 20 percent of the Interstate Maintenance Program funds to other categories are retained. It requires a positive finding by the Secretary that a State transportation department is adequately maintaining the Interstate system before a State may be allowed to transfer to other categories an amount of Interstate Maintenance funds in excess of 20 percent of its Interstate Maintenance apportionment.

The Federal share for any Interstate maintenance project is established at 80 per centum. The provisions to allow increases in participation ratios up to 95 percent based on the percentage of Indian or Federal lands within the State has been retained.

The Secretary is required to develop guidance for the State transportation departments for determining what share of a project is attributable to the expansion of capacity of an Interstate highway and for what criteria will be used to determine whether the State is adequately maintaining the Interstate system before the State is allowed to transfer to other categories an amount of Interstate Maintenance funds in excess of 20 percent of its Interstate Maintenance apportionment.

Conference substitute

The conference substitute adopts the Senate amendment with some technical changes: (1) eligibility for preventative maintenance is tied to a cost effectiveness determination per recommendations by the General Accounting Office, and (2) eligible for funding for non-chargeable interstate segments.

TOLL FACILITIES

House bill

The House bill amends title 23, United States Code, to permit Federal participation in toll highways, bridges and tunnels at the option of all states. The House bill contains limitations on the kinds of facilities that may be tolled and continues the maximum federal participation at 35%.

Senate amendment

The Senate amendment amends title 23, United States Code, in a manner similar to that of the House. In addition, the Senate would permit up to 80% federal participation in the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities.

Conference substitute

The conference substitute contains the provision allowing all states the option of using federal-aid highway funds on toll road facilities except for Interstate Highways. Other provisions contained in the House bill and Senate amendment thereto have been combined.

NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate amendment declares that it is the policy of the United States to establish in the shortest time practicable a United States designed magnetic levitation technology capable of operating along Federal-aid highway rights-of-way as part of a national transportation system of the United States. It establishes a National Magnetic Levitation Design Program to be managed jointly by the Secretary of Transportation and the Assistant Secretary of the Army for Civil Works and requires development of a strategic plan for the design and construction of a magnetic levitation surface transportation system to be delivered to Congress within 18 months of enactment of the Act.

It establishes a three-phase competitive contract program to ultimately develop and construct an operational prototype maglev system within six years of enactment of the Act. Projects are to be cost-shared with non-federal organizations to encourage collaborative research. The Senate amendment authorizes $750 million for the program, and periodic reports to Congress are required.

Conference substitute

The conference agreement accepts the Senate amendment with substantial modifications. The title of the section is changed to the National High-Speed Ground Transportation Programs, and a National High-Speed Ground Transportation Technology Demonstration Program and high-speed ground transportation research and development are added to the maglev prototype development program. The strategic plan for development of a national maglev transportation system is replaced with a report to Congress in 1995 on the commercial feasibility of one or more high-speed ground transportation systems in the United States, and the time line to develop the maglev prototype is extended by 18 months. Funding for the maglev prototype program is reduced to $700 million, of which $475 million is to come from the Mass Transit Account of the Highway Trust Fund and the rest from general revenues. Authorization for the Transportation Technology and Demonstration Program is $50 million, of which $25 million is to come from the Mass Transit Account and the remainder from general revenues. The research and development program is authorized at $25 million from general revenues.

The Secretary will be required to establish, no later than June 1, 1996, a National High-Speed Ground Transportation Policy. In addition, current law is amended to permit the Secretary to guarantee obligations for qualified high-speed rail systems pursuant to Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831. It is the intent of the conferees that all obligations authorized pursuant to this section, National High-Speed Ground Transportation Programs, will be funded in full.

Section 302 of title 49, United States Code, is amended by declaring it to be the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by conducting economic and technological research demonstrating advancements in high-speed ground transportation technologies, and establishing a comprehensive policy for the development and integration of various high-speed ground transportation technologies, and minimizing long-term risks to investors.

The conferees recognize that increasing delays related to congestion on highways and airports could be mitigated by high-speed ground transportation technologies such as maglev and high-speed steel wheel, but that the risks of development are too great to be borne without government participation. It is the intent of the conferees to encourage development of such technologies, cooperatively with the non-federal organizations, by sharing in the costs and risks of development. The conferees recognize that government subsidies for high-speed ground transportation systems may be appropriate in cases where economic externalities such as pollution, time lost due to congestion, and condemnation of private property to build new airports and highway lanes, are not adequately reflected in the cost of alternative transportation modes.

This section also declares that it is the policy of the United States to establish in the shortest time practicable a United States-designed and constructed maglev technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States. The conferees recognize that maglev technology was originally developed in the United States in the 1970's, but that since that time lack of funding has resulted in technology development for maglev and high-speed steel wheel technology shifting to Japan and Europe. This section reflects the conferees' desire to shift the balance back toward the United States by encouraging development of next-generation U.S. technologies relating to maglev, superconductors, vehicles, switching, and other technology relating to maglev and/or high-speed steel wheel. Because of the significant cost of right-of-way acquisition in congested corridors, the conferees further intend that high-speed ground transportation technologies be developed to take advantage of existing Federal-aid highway and/or railroad rights of way along substantial portions of their route.

There is established a National Magnetic Levitation Prototype Development Program to be managed by a Program Director appointed jointly by the Secretary of Transportation and the Assistant Secretary of the Army for Civil Works. The Director will carry out the program through a National Maglev Joint Project Office. The conferees recognize that if the program is to be successful, it must have a single leader of exceptional capability, who can coordinate the considerable and varied expertise available to the program from the Department of Transportation and the Corps of Engineers, as well as other interested Federal agencies. The conferees intend that the Director should have substantial technical expertise in a maglev-related technology and successful experience in managing large, complex research and development programs. The conferees do not intend for the Maglev Joint Project Office to be larger than the minimum needed to support the activities of the Director.

Development of a maglev prototype shall occur in three phases. Not later than 12 months after enactment of the Act, the Maglev Project Office shall release a request for proposals for research and development of conceptual designs for a maglev prototype system. The conferees extended the time for submission of the request for proposals to allow the technical results from research currently funded under the National Maglev Initiative to be applied to the preparation and review of Phase I proposals.

Not later than 15 months after enactment of the Act, the Secretary and Assistant Secretary shall award up to five Phase I contracts for development of conceptual plans for development of the prototype. Criteria that should be considered in reviewing the proposals include cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along Interstate highway rights-of-way, the potential of a guideway design to be a national standard, the bidder's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors. The conferees intend that these criteria be applied in such a way as to maximize the probability that the conceptual design will successfully meet the criteria for selection of a Phase III contract, and that awards be made according to the technical merits of the proposals as determined by the Director with advice from expert peer reviewers. The conferees do not intend that poor Phase I projects be selected to satisfy the geographic criterion, but do intend that criterion to be applied to technically acceptable proposals. Bidders are to pay ten percent of the Phase I project costs. it is the intention of the conferees that Phase I contracts be funded at $7–10 million each. Phase I project reports are to be completed within 12 months of contract awards.

It is the intention of the conferees that Phase I and all other contracts include opportunities to conduct research and development in support of components of the proposed designs. The conferees recognize the need to conduct research and development in such areas as superconducting magnets, low-weight vehicle technology and aerodynamics, electromagnetic shielding, environmental mitigation, propulsion systems, guideway configuration and manufacturing technology, switching technology, and rider safety and comfort. The conferees believe that such research and development will be more efficient and productive if it is associated with one or more integrated conceptual designs, than if it is conducted in isolation, but believe that it is critical to the success of developing a United States maglev industry.

Within 3 months of receiving the final reports from the Phase I projects, the Secretary and Assistant Secretary shall select not more than three participants to receive 18-month Phase II contracts for development of detailed designs for the prototype. Selection is to be based on technical merit and potential for further development of the design into a prototype. The Director will make recommendations to the Secretary and Assistant Secretary as to technical merit. Phase II contractors must contribute 20 percent of project costs and submit a final report within 18 months of contract awards.

It is the intention of the conferees that Phase II contracts be funded in the range of $40–50 million each and provide substantial requirements for research and development of components of the prototype. The conferees intend that at least two Phase II awards be made in order to allow alternative system designs to be evaluated. The conferees intend that at least one of the Phase II contracts be based on a superconducting suspension system, unless no acceptable design is submitted in Phase I. The conferees are willing to accept some risk and uncertainty in selection of Phase II contracts in return for reasonable prospects of developing an all-American maglev technology, except that the best technical Phase I project should be selected for Phase II, regardless of the technology. The conferees do not intend for a contract to be awarded to any contractor who did not submit a Phase I project report.

Within six months of receiving the detailed designs developed under Phase II, the Secretary and Assistant Secretary shall select one design for development into a full-scale prototype, unless they determine that no design should be selected based on technical feasibility and projected cost. A Maglev Prototype Selection Committee composed of members appointed by the Secretary, the Assistant Secretary, and the Majority and Minority Leaders of both Houses of Congress, is established to make a recommendation to the Secretary and Assistant Secretary on the prototype project to be selected. The conferees intend that the members of the Maglev Prototype Selection Committee be chosen for their technical expertise and experience in transportation systems planning and engineering. The conferees intend that the Director be responsible for providing thorough technical reviews of the Phase II contracts to the Committee, and otherwise assisting the Committee in making its recommendation.

If the Secretary and Assistant Secretary determine not to select a design, they shall report to Congress on the basis for such a determination, together with recommendations for further action, including further research, development or design, or termination of the program, or such other action such as they deem appropriate. The conferees intend that a failure to select a prototype design within the specified period constitutes a decision not to proceed, requiring a report to Congress.

It is the intent of the conferees that no prototype be developed if, in the opinion of the Director and the Selection Committee, none of the Phase II conceptual designs will yield a working prototype at a reasonable cost. The conferees understand that it is difficult accurately to anticipate the risks of implementing a new technology, and are willing to accept a prudent amount of risk in this regard. The conferees also intend that additional research and development will be performed as a component of prototype implementation.

In awarding a prototype contract, the Secretary and Assistant Secretary shall encourage the development of domestic manufacturing capabilities and, in selecting awardees, shall consider existing railroads with excess production capacity, including railroads with experience in advanced technologies, including self-propelled cars. The conferees do not intend to exclude manufacturers of aircraft, automobiles, or other vehicles by this provision.

Selection of a prototype design shall be based on consideration of the following factors, among others:

The project should be capable of utilizing interstate highway rights-of-way along significant portions of its route, and may also use railroad rights of way. The conferees recognize that right-of-way acquisition often represents a significant fraction of guideway cost in congested areas and intend to encourage technologies capable of minimizing such costs by incorporating guideway/vehicle systems capable of operation within the constraints of curve radii, interchanges, overpasses, and other features typical of interstate highway and railroad rights of way.

The project shall have sufficient length, at least 19 miles, to allow significant full-speed operation between stops. The conferees intend that the prototype be capable of evaluating factors that attend sustained high-speed operation which may be relevant to long-distance maglev systems.

No more than 75% of the cost shall be borne by the United States. The conferees intend the substantial non-federal investment to discourage contractors that do not have substantial confidence in completion of a successful operational prototype.

The project shall be constructed and ready for operational testing within 3 years. The conferees intend to attract non-federal cost-sharing by insuring that funding for the prototype will be available within the authorization period covered by this Act, and that the full cost of the prototype be obligated within the authorization period, with funds to be available until expended.

The project shall be located in an area that provides a potential ridership base for future commercial operation. The conferees intend that the maglev prototype be an experimental system capable of fully evaluating the chosen technical design, but the substantial federal investment, including the anticipated non-federal cost sharing, makes it highly desirable that upon completion of adequate testing, the system also be useful for assessing the economics of maglev travel, as well as providing a public service.

The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States. The conferees intend that the site chosen for construction of the project should, to the extent feasible, be so located as to test the technology in the rain and snow, changes in elevation, wind, and heat. To the extent that this is not completely feasible, the conferees intend that these factors be considered as part of the design, even if testing is not possible.

The project shall have at least one switch. The conferees recognize that high-speed switching technology is essential to the commercial application of maglev technology and should be tested in the prototype. The conferees believe that it also would be highly desirable to be able to test the effects of two vehicles passing in opposite directions on a guideway.

The section protects trade secrets and commercial or financial information, and protects any technology developed pursuant to this section under the Stevenson-Wydler Technology Innovation Act of 1980. The section provides contract authority and defines eligible participants as United States private businesses, United States public and private research organizations, Federal Laboratories, and consortia of such businesses, organizations, or laboratories.

The conference agreement amends Subchapter I of Chapter 3 of Title 49, United States Code, to provide for a National High-Speed Ground Transportation Technology Demonstration Program, and a research and development program. It requires the Secretary, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Civil Works, and other heads of interested agencies, to lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems. This subsection also authorizes the Secretary to award grants and contracts for demonstrations of specific technologies in high-speed ground transportation projects or systems under construction or in commercial revenue service to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems.

The conferees intend that under the National High-Speed Ground Transportation Technology Demonstration Program established by this subsection, any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem or system in any revenue-service high-speed ground transportation project or system under construction or in operation at the time the application is made. The conferees intend that one or more of the specific criteria enumerated under this subsection be considered in awarding grants or contracts to applicants showing demonstrable benefit to the research and development, design, construction, or ultimate commercial operation of any maglev technology or high-speed steel wheel on rail technology. A total of $50 million, of which $25 million shall be derived from the Highway Trust Fund, shall be made available for grants and contracts awarded pursuant to this subsection.

The conferees intend that the Secretary shall have discretion over the amount and distribution of grants and contracts made pursuant to this subsection, except that no grants or contracts shall be awarded to demonstrate a technology to be incorporated in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such projects or systems. Applicants eligible to participate under this demonstration program include any United States private business, State government, local government, organization of State or local governments, or any combination thereof. Any business owned in whole or in part by the Federal government is not considered to be eligible for participation. Recipients of grants made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration, during the demonstration or following the demonstration as required by the Secretary.

In establishing a high-speed ground transportation research and development program pursuant to this subsection, the Conferees intend to make available up to $25 million from general obligations to fund broad research and development into all forms of high-speed ground transportation. Specifically with respect to research and development related to maglev technology, several other Federal agencies in addition to the Department of Transportation have participated in the assessment of the future potential for maglev systems, including the Department of Energy, the Army Corps of Engineers within the Department of Defense, the Department of Commerce, and the Environmental Protection Agency. The national laboratories, including the Brookhaven and Argonne National Laboratories, have also been involved in maglev through the National Maglev Initiative program. The Conferees intend for the Secretary to coordinate and cultivate the relationships already established with these various Federal agencies and entities as the present maglev technology assessment phase moves forward into further research, development, design and eventual construction of a prototype system.

In order further to promote research and development of all high-speed ground transportation technologies, including high-speed steel wheel on rail technologies, this section would give the Secretary authority to enter into cooperative research and development agreements (CRADAs) (as defined under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980), and one or more funding agreements (as defined by section 201 (b) of title 35, United States Code), with U.S. companies. These CRADAs and funding agreements would be entered into in order to conduct research to overcome technical and other barriers to the development and construction of high-speed ground transportation systems and to transfer that research and basic generic technologies to industry. The purpose of these agreements would be to help stimulate a viable commercial high-speed ground transportation industry within the United States.

The conferees envision that the Secretary would determine, with assistance from the director of any Government-operated Federal laboratory, which CRADAs to enter into with other Federal agencies; units of State and local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency). The Department of Transportation's Systems Center in Cambridge, Massachusetts, is a Federal laboratory with the demonstrated capability of performing research and development activities pursuant to this legislation. It is, however, the intent of the Conferees to provide the Secretary with sufficient flexibility to contract with any Federal laboratory as the Secretary deems appropriate.

In addition to the CRADA mechanism, the Conferees intend for the Secretary to enter into one or more funding agreements which do not require the participation of a Federal laboratory. Under a "funding agreement," the non-Federal recipient of Federal funds automatically gets the right to ownership of any patentable inventions resulting from research conducted under the agreement. Under a CRADA, the disposition of rights is negotiated. The Federal laboratory may agree to give up its ownership rights, or to grant licensing rights in advance.

The Conferees intend to provide the Secretary with clear authority to commit Federal funds to maglev and other high-speed ground transportation research and development both within and outside of the Federal laboratory environment. The conferees believe the use of funding agreements would provide additional incentives for private industry to participate in the research and development process.

In order to monitor the results of technology research, development and transfer conducted pursuant to this subsection, the conferees intend that the Secretary be required to provide reports to Congress at the end of FY 1993 and FY 1996 on activities conducted as a result of this subsection.

The conference agreement also requires the Secretary of Transportation to complete a study of the feasibility of constructing one or more high-speed ground transportation systems in the United States and to submit the results of such study to Congress by June 1, 1995. The study required under this section would consist of the following three parts: (1) an economic and financial analysis; (2) a technical assessment; and (3) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

The first part of the study is required to include the following components: (1) an examination of the potential market for a nationwide high-speed ground transportation network; (2) an examination of the potential markets for short-haul (e.g., commuter) high-speed ground transportation systems and for intercity and other long-haul high-speed ground transportation systems, including an assessment of the current transportation practices and trends in each market and the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation; (3) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for public and private financing; (4) consideration of the utility and availability of rights-of-way to serve each market, including the possibility of acquiring additional rights-of-way without significant adverse effects on adjacent communities; (5) a comparison of the projected costs of the various competing high-speed ground transportation technologies; (6) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground systems and the completion of a nationwide high-speed ground transportation network; (7) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth; (8) recommendations for the roles appropriated for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities; (9) an assessment of the potential of a high-speed transportation technology export market; (10) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation; (11) an examination of the role of the National Railroad Passenger Corporation (Amtrak) in the development and operation of high-speed ground systems; and (12) any other economic or financial analyses the Secretary considers important for carrying out this title.

The economic and financial analysis described in the previous paragraph will require the Secretary to consider and analyze a broad range of issues. The conferees believe this analysis should provide Congress with an understanding of the current and future transportation marketplace and its relation to high-speed ground transportation, reasonable estimates of the cost of various high-speed ground transportation technologies, reasonable estimates of the cost of constructing high-speed ground transportation systems, possible and practical financial incentives for facilitating the development of high-speed ground systems, the relative benefits of high-speed ground transportation systems compared to current transportation systems, the economic benefits of developing high-speed ground transportation technology and systems, and the potential role of Amtrak in high-speed ground transportation systems in the United States.

The technical assessment required under the second part of the study requires the Secretary to examine: (1) the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system; (2) the potential role of a United States-designed maglev system, developed as a prototype under the National Magnetic Levitation Prototype Development Program of this Act in relation to the implementation of other high-speed ground transportation technologies and the national transportation system; (3) the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988; (4) the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems; (5) the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way; (6) the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and (7) other technical assessments the Secretary deems important for carrying out the study.

This technical assessment uses the Department's expertise in dealing with a number of technological and inter-disciplinary issues. For example, as the Department responsible for issuing regulations with respect to all aspects of transportation safety (including high-speed railroads, as provided in the Rail Safety Improvement Act of 1988), the Department is in an ideal position to fully analyze and assess the progress of efforts to ensure and enhance high-speed ground safety.

The third prong of the study requires the Secretary to make recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems. The conferees recognize the critical role of State and local governments in the development of high-speed ground transportation. States and local governments currently are on the cutting edge of exploring innovative and diverse mechanisms to encourage high-speed ground transportation systems. The conferees believe that States and local governments will continue to lead the way toward actual implementation of high-speed ground transportation systems but that model legislation could help to encourage and coordinate such efforts.

Finally, within 12 months after the submission of the study described above, this act requires the Secretary to establish the National High-Speed Ground Transportation Policy. The Policy is to include: (1) provisions to promote the design, construction and operation of high-speed ground transportation systems in the United States; (2) a determination regarding whether the various high-speed ground transportation technologies can be integrated effectively into a national network and, if not, whether one or more technologies should receive Federal government encouragement in order to enable a national network; (3) a strategy for prioritizing markets and corridors for high-speed ground transportation construction; and (4) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies. The Secretary is required to solicit public comments and may consult with other federal agencies as appropriate in developing the Policy.

The conference agreement also amends section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to provide projects designed to acquire, rehabilitate, improve, develop, or establish high-speed ground transportation facilities or equipment will also be eligible for consideration by the Secretary under section 511. Currently, under section 511, the Secretary is authorized to guarantee the payment of obligations that are used to acquire or to rehabilitate and improve railroad facilities and equipment, or to develop or establish new railroad facilities. The amendment would not alter the terms of the current section 511 program (or applicable regulations issued thereunder; see, 49 CFR Part 260), which includes provisions limiting the rate of interest which may be applicable to an obligation, a requirement that the obligation be adequately secured, a requirement that the terms of the obligation not extend beyond 25 years, a requirement that the financing be justified by the present or probable future demand for rail services, a requirement that the equipment and facilities be economically utilized, a requirement that the prospective earning power of the applicant be sufficient to provide the Federal government with reasonable security and protection, limitations on making discretionary dividend payments, a requirement that the applicant not use funds or assets of the operation for nonrail purposes, authority of the Secretary to assess and collect certain fees from the applicant, and the authority of the Comptroller General to audit operations of the fund established under section 511.

Finally, the bill requires the Comptroller General, within two years after the date of enactment, and annually thereafter, to analyze the effectiveness of application of section 511 of the Railroad Revitalization and Regulatory Reform Act to high-speed ground transportation facilities and equipment, and to report the results of such analysis to the conferees of jurisdiction.

ACCESS TO RIGHTS OF WAY

House bill

No comparable provision.

Senate amendment

This section amends subsection 142(g) of Title 23, United States Code, to require the Secretary to authorize a State to make Federal-aid highway right-of-way available with or without charge to a publicly or privately-owned authority or company for passenger or commuter rail (including high-speed rail), magnetic levitation systems, and other mass transit facilities.

Section 156 of title 23 is also amended to expand the exclusions to the application of section 156 to include governmental use, use by public or private entities for passenger or commuter rail (including high speed rail), magnetic levitation systems, mass transit facilities, and utility use and occupancy necessary for a transportation improvement allowed under this section, in addition to the current exclusions for utility use and occupancy and use for transportation projects eligible for assistance under title 23 U.S.C.

Section 142 is further amended by the deletion of several related subsections; (a)(2), (c), (e)(2), (i), and (k), which, in effect, become redundant because their subject matter is provided in section 106 of this bill which adds Section 133 to title 23 U.S.C.

Conference substitute

The conference substitute contains the Senate amendment.

REIMBURSEMENT

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for an update of the findings of the report required by section 114 of the Federal-Aid Highway Act of 1956 to determine what amount the United States would pay to the States to reimburse the States for segments incorporated into the Interstate System that were constructed at non-Federal expense.

Conference substitute

The conference substitute provides that, during the fifth and sixth year of the bill, the reimbursement program will be implemented.

PROGRAM EFFICIENCIES

House bill

No comparable provision.

Senate amendment

The Senate amendment amends sections 102, 109, and 302 of title 23 U.S.C.

23 U.S.C. 102(a) provides that all Surface Transportation Program projects must be designed, constructed, operated, and maintained in compliance with applicable state and federal requirements. The design and construction standards adopted by states for projects on principal arterials shall be AASHTO standards. Any state may request that the Secretary no longer undertake project-by-project review of design and construction standards for any project, except those on an Interstate highway or a multi-lane limited access control highway. After receiving such a request, the Secretary can only undertake project design and construction review as requested by the State.

23 U.S.C. 102(b) allows a state highway department to approve the design of any pavement rehabilitation or highway resurfacing project. Once the state highway department has approved the design of such a project, the secretary's approval of the design is not required.

23 U.S.C. 102(c) provides that a state highway department may establish its own standards for routine maintenance of projects constructed under title 23. Those standards will be subject to annual review and approval by the Secretary. If a state is meeting its own standards for routine maintenance, as approved by the Secretary, the Secretary may not withhold project approval pursuant to section 106.

23 U.S.C. 102(d) provides that a state may establish the occupancy requirements of vehicles travelling in HOV lanes, except that no fewer than two occupants may be required. Motorcycles and bicycles are not single occupant vehicles for purposes of title 23, and nothing in this section alters the requirement that each state allow the operation of motorcycles in HOV lanes unless the state certifies that such operation would create a safety hazard.

23 U.S.C. 102(e) provides that a state must repay all federal funds for preliminary engineering for any project that has not advanced to construction or acquisition of right-of-way within 10 years after receipt of the federal funds. Current law requires a state to repay federal funds received for preliminary engineering if a project has not advanced after a period of time. This subsection establishes a uniform period of time before such repayment is required.

23 U.S.C. 109 is amended to allow Interstate Substitute, Surface Transportation Program, and Bridge Rehabilitation projects which are located in areas of historic and scenic value to be designed to standards appropriate to preserve the historic and scenic value of the road. The standards in section 109 (a) and (b) may be modified to provide alternative standards to preserve these historic and scenic values as long as safety of the facility is maintained.

23 U.S.C. 302 is amended to authorize the Secretary, at the request of the Governor of any state, to permit the highway department of a city of over 1 million population within the state to perform the duties and responsibilities of the state highway department for projects undertaken within the city.

Conference substitute

Same as the Senate with respect to the provisions regarding HOV occupancy requirements and repayment of preliminary engineering funds. The Senate recedes with respect to highway maintenance standards. With respect to project approval and design and construction standards, the conferees agreed to the following: 23 U.S.C. 109 is amended to establish design and construction standards for the National Highway System (NHS) highway projects and non-NHS highway projects. The design and construction standards for NHS projects are those approved by the Secretary in cooperation with the state highway agencies. For non-NHS projects, the design and construction standards are established in accordance with State laws, regulations, or directives, based on state-of-the-art practices.

23 U.S.C. 106 is amended to allow a State highway agency to request that the Secretary no longer review plans, specifications, and estimates for any project other than an NHS project or an NHS project with an estimated construction cost of $1 million or less.

23 U.S.C. 106 is further amended to allow a state highway agency to approve, on a

project-by-project basis, the plans, specifications, and estimates for any pavement resurfacing, rehabilitation, or restoration project on the NHS. Further, this subsection allows states to meet or exceed standards for eligible work.

23 U.S.C. 106 is further amended to allow safety considerations to be met by phase construction consistent with the Safety Management System developed under section 303.

Subsection delegating duties and responsibilities of the state highway department to the highway department of a city of over 1 million population is deleted.

New subsection is added to state that nothing in this section shall affect or discharge any responsibility or obligation of the secretary under any federal law, including the National Environmental Policy Act of 1969, section 303 of title 49, title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968, and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970.

SECTION 204—GRANTS TO STATES WHICH ADOPT NATIONAL SAFETY BELT AND MOTORCYCLE HELMET USE REQUIREMENTS

House bill

Authorize the Secretary to make grants to a State which has laws which make unlawful both the operation of a motorcycle by an individual who is not wearing a motorcycle helmet and the operation of a passenger vehicle whenever an individual in the front seat (other than a child secured in a child restraint system) is not wearing a seatbelt.

Requires a State to use grants to adopt and implement traffic safety programs in vehicle safety and education, law enforcement training, monitoring of compliance, and enforcement of laws.

Requires a State, as a condition of receiving grants, to maintain their aggregate expenditures for such traffic safety programs at or above their average level in the preceding two fiscal years.

Prohibits any State from receiving a grant in more than 3 fiscal years. Stipulates that federal grants shall be a maximum of 75 percent of a State's cost of implementing such traffic safety programs in the first fiscal year, a maximum of 50 percent in the second year, and a maximum of 25 percent in the third fiscal year.

Limits aggregate amount of grants to a State under this section to 90 percent of such State's apportionment for fiscal year 1990 under section 402 of this title.

Requires as a general condition for receiving grants in any fiscal year that a State enter into an agreement with the Secretary to implement a traffic safety program. Additionally requires for a State to receive a grant in a fiscal year succeeding the first fiscal year it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 70 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 65 percent. Additionally requires for a State to receive a grant in a fiscal year succeeding the second fiscal year that it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 80 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 80 percent.

Provides that each State shall measure compliance using methods which conform to guidelines issued by the Secretary.

Stipulates that if a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times in fiscal year 1994 the Secretary shall transfer 1½ percent of funds apportioned to the State under each of the subsections (b)(1), (b)(2) and (b)(6) of Section 104 of this title to the apportionment of the State under Section 402 of this title. Stipulates that if at any time after September 30, 1994 a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times during a fiscal year, then in the succeeding fiscal year the Secretary shall transfer 3 percent of the funds apportioned to the states under each of the above subsections to the apportionment of the State under Section 402 of this title.

Defines terms.

Authorizes to be appropriated out of the Highway Trust Fund $40,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

Provides that certain provisions of chapter 1 of this title are applicable to the funds authorized to be appropriated under this Section and that funds authorized to be appropriated under this Section shall remain available until expended.

SECTION 122—USE OF SAFETY BELTS AND MOTORCYCLE HELMETS

Senate amendment

Authorizes the Secretary to make grants to a State which has laws which make unlawful both the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet and the operation of a passenger vehicle whenever an individual in the front seat (other than a child secured in a child restraint system) is not wearing a seatbelt.

Requires a State to use grants to adopt and implement traffic safety programs in vehicle safety and education, law enforcement training, monitoring of compliance, and enforcement of laws.

Requires a State, as a condition of receiving grants, to maintain their aggregate expenditures for such traffic safety programs at or above their average level of the preceding two fiscal years.

Prohibits any State from receiving a grant in more than 3 fiscal years. Stipulates that federal grants shall be a maximum of 75 percent of a State's cost of implementing such traffic safety programs in the first fiscal year, a maximum of 50 percent in the second year, and a maximum of 25 percent in the third fiscal year.

Limits aggregate amount of grants to a State under this section to 90 percent of such State's apportionment for fiscal year 1990 under Section 402 of this title.

Requires as a general condition for receiving grants in any fiscal year that a State enter into an agreement with the Secretary to implement a traffic safety program. Additionally requires for a State to receive a grant in a fiscal year succeeding the first fiscal year it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 50 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 75 percent. Additionally requires for a State to receive a grant in a fiscal year succeeding the second fiscal year that it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 70 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 85 percent.

Provides that each State shall measure compliance using methods which conform to guidelines issued by the Secretary.

Stipulates that if a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times in fiscal year 1994 such State shall expend for highway safety programs 1½ percent of funds apportioned to the State under subsection (b)(1) of Section 104 of this title. Stipulates that if at any time after September 30, 1994 a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times during a fiscal year, then in the succeeding fiscal year such State shall expend for highway safety programs 3 percent of funds apportioned to the State under subsection (b)(1) of Section 104 of this title. Provides that States required to expend funds for highway safety programs spend such funds for purposes eligible under Sections 402, 152 (except repavement) and section 130. Stipulates that the federal share for such projects shall be 100 percent. Stipulates that funds required to be set aside under this subsection shall be available only in the year for which they were apportioned and shall thereafter lapse.

Defines terms.

Authorizes to be appropriated out of the Highway Trust Fund $45,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

Provides that certain provisions of chapter 1 of this title are applicable to the funds authorized to be appropriated under this Section and that funds authorized to be appropriated under this Section shall remain available until expended.

Requires the Secretary to conduct a study of the cost and severity of injuries of restrained and unrestrained individuals injured in motor vehicle crashes and of helmeted and non-helmeted motorcyclists injured in motorcycle crashes. Authorizes to be appropriated out of the Highway Trust Fund $5 million for such study. Requires the Secretary to report the results of such study within 40 months after the date of enactment of this Act.

Requires the Secretary to issue regulations to carry out this Section within 180 days of the date of enactment of this Act.

Conference agreement

The conference agreement generally follows the Senate Bill. The agreement adopts the House language on the purposes for which redirected funds may be spent by the States, and adopts the House language on definitions.

House bill

No provision.

Senate bill

Section 123 allows States to use as a credit toward meeting non-Federal match requirements non-Federal capital expenditures on toll facilities that are an integral part of the interstate commerce network.

In receiving such a credit, a State would have to maintain its aggregate transportation capital spending, excluding Interstate and discretionary funding, at or above the average level of such spending for the preceding three fiscal years, as required by the Secretary.

Under this section, an agency from which the credit is generated would not be subject to any additional Federal oversight or regulation, above and beyond any that otherwise exist.

Conference substitute

Same as Senate bill.

The conferees do not intend that these credits would result in a small reduction in non-Federal transportation spending by a State receiving the credit.

ACQUISITION OF RIGHTS OF WAY

House bill

No comparable provision.

Senate amendment

Summary

This section amends 23 U.S.C. 108 makes three changes to current law. First, the period within which construction must be commenced on a right-of-way funded from the right-of-way revolving fund is increasing from 10 years to 20 years.

Second, costs incurred by a State to acquire rights-of-way in advance of Federal approval or authorization and costs incurred to acquire land necessary to preserve environmental and scenic values may be reimbursed with Federal funds if certain conditions are satisfied.

Third, to conform section 108 of title 23 with the other title 23 changes being made by this legislation, this section eliminates the requirement that right-of-way revolving fund advances be for projects "on the Federal-aid system" and authorizes the use of the fund for projects such as passenger rail facilities, magnetic levitation systems, transportation corridor preservation, and long-term transportation planning.

Discussion

This amendment will allow states that have rigorous planning and environmental impact analysis requirements to purchase rights-of-way prior to obtaining Federal approval or authorization and to use Federal funds to reimburse the costs of early acquisition if certain conditions are satisfied. As a result, States will be better able to identify and preserve corridors with the express intent of protecting environmental sensitive areas.

To take advantage of the authority provided in this section, the state must satisfy a number of conditions, including demonstrating to the Secretary that: (1) the state has considered the environmental impacts of the acquisition and various alternatives; (2) the early acquisition did not influence the environmental assessment of the underlying project, the decision to proceed with this project, or the selection of the project design or location; (3) the state has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under state law; (4) the acquisition is certified by the Governor as being consistent with the state planning process; and (5) prior to approval of the use of Federal funds to reimburse the costs of early acquisition, all applicable Federal environmental laws have been complied with, including but not limited to the National Environmental Policy Act, section 4(f) of the Department of Transportation Act, and section 7 of the Endangered Species Act. The directive that the Secretary identify the applicable environmental laws in regulations does not authorize the Secretary to waive or otherwise modify the requirements of any environmental law and failure of the Secretary to identify a law shall not affect the substantive or procedural requirements of the law.

Conference substitute

The conference substitute includes the Senate provision with a study added by the House and technical language amendments.

House bill

No similar provision.

Senate amendment

TRANSPORTATION IN PARKLANDS

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park System. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and the general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands. The study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) Authorization of Appropriations.—From within the sums authorized to be appropriated for subsection 202(d) of title 23, United States Code, $300,000 shall be made available to carry out this section.

Conference substitute

SEC. 125. TRANSPORTATION IN PARKLANDS

(a) IN GENERAL.—Not later than twelve months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park system that is consistent with the findings and purposes of Section 301 of Public Law 95–344. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and the general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park System lands. Such study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) (same as Senate language, except amount authorized and appropriated is $240,000)

TRAFFIC CONTROL STANDARDS

House bill

No comparable provision.

Senate amendment

The Senate amendment directs the Secretary to revise the Manual of Uniform Traffic Control Devices to include a standard minimum maintenance level of retroreflectivity for pavement markings and signs and to define the roads that must have a center line or edge line or both. The functional classification of roads, traffic volumes, and the number and width of the lanes are to be considered in making this standard.

Conference substitute

House recedes.

RIGHT OF WAY REVOLVING FUND

House bill

No comparable provision.

Senate amendment

Summary

Section 128 amends Section 108, title 23 U.S.C. by expanding projects eligible for right-of-way revolving fund advances to passenger rail facilities.

Discussion

The right-of-way revolving fund was established by the Federal-Aid Highway Act of 1956 to facilitate the acquisition of rights-of-way in anticipation of construction on the federal-aid highway system. This change was made to make this program consistent with the intermodal philosophy of this bill and to encourage corridor preservation and long-term transportation planning.

Conference substitute

The conference substitute recedes to the House.

RECODIFICATION

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Secretary to prepare and submit a recodification of title 23, United States Code, to Congress for consideration by October 1, 1993.

Conference substitute

The conference substitute requires the Secretary to prepare and submit a proposed recodification of title 23, United States Code, to Congress for consideration by October 1, 1991.

INDIAN ROAD SEALING

House bill

No comparable provision.

Senate amendment

The Senate amendment amends title 23, United States Code, to establish that the Bureau of Indian Affairs of the Department of the Interior shall be allowed to use Highway Trust Funds for the purpose of the sealing of Indian reservation roads under their jurisdiction.

Conference substitute

The managers have included language authorizing the use of Highway Trust Funds for road sealing projects on Indian reservations but want to make quite clear that these funds are entirely distinguishable from road maintenance funds historically requested in the Bureau of Indian Affairs annual budget. In light of the significant underfunding of Indian reservation roads, the extremely poor conditions of said roads and the need to have an acceptable infrastructure for our Native American communities, it is the Committee's intent that HTF funds are authorized in addition to—and not in lieu of—the BIA's road maintenance program. Pursuant to the provisions of Title 23, Section 116 and 204, and pursuant to the Memorandum of Agreement between BIA and FHWA signed on May 24, 1983, the BIA is clearly responsible for maintaining roads built with Highway Trust Fund dollars. The managers expect the BIA to request funding in FY 1993 that is at least consistent with the level requested and appropriated in FY 1992.

HIGHWAY CONSTRUCTION TRAINING

House bill

No comparable provision.

Senate amendment

The Senate amendment allows one-fourth of 1 percent of funds apportioned to a State for the Surface Transportation Program or Bridge Program may be available for highway construction training.

Conference substitute

House recedes to Senate amendment.

EROSION CONTROL

House bill

No provision.

Senate bill

Section 140B directs the Secretary to develop erosion control guidelines for States to follow in carrying out projects under this Act.

Conference substitute

Same as Senate bill.

INTERNATIONAL TRANSPORTATION OUTREACH

House bill

The House amendment authorizes the Department of Transportation to conduct a

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program to share technological innovations developed abroad with the U.S. highway community and to increase transfere of U.S. highway transportation technology to foreign countries. Chapter 3 of title 23, United States Code, is amended.

Senate amendment

The Senate amendment authorizes the Department of Transportation to conduct a program to share technological innovations developed abroad with the U.S. highway community and to increase transfers of U.S. highway transportation technology to foreign countries.

Conference substitute

The Conference Substitute includes the Senate provision with the House amendment to Chapter 3 of title 23, United States Code.

EDUCATION AND TRAINING PROGRAM

House bill

The House bill authorizes the Secretary of Transportation to make grants and enter into contracts for a transportation assistance program to provide access to modern highway technology for urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary of Transportation is authorized to conduct and report to Congress on the results of a study to determine the appropriate symbol for highway signs to commemorate the Interstate system as the Dwight D. Eisenhower National System of Interstate and Defense Highways.

Senate bill

The Senate amendment contains a provision authorizing the Secretary to make grants and enter into contracts for a transportation assistance programs to provide access to modern highway technology to urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary shall establish and administer the Dwight David Eisenhower Transportation Fellowship Program to attract qualified students to the field of transportation engineering and research. No less than $2,000,000 per fiscal year is provided for the fellowship program.

Conference substitute

The conference substitute contains a provision authorizing such sums as may be necessary for the Secretary to make grants and enter into direct contacts for a transportation assistance program to provide access to modern highway technology to urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary shall establish and administer the Dwight David Eisenhower Transportation Fellowship Program to attract qualified students to the field of transportation and engineering and research. No less than $2,000,000 per fiscal year is provided for this program. Development of new and efficient combinations of transportation infrastructure requires that the nation's brightest minds be attracted to the transportation and engineering and research professions. The Dwight David Eisenhower Transportation Fellowship Program is designed to accomplish this objective.

The conferees recognize that the fellowship program will be most successful if it serves to attract critical masses of students and professors to evolve into centers of excellence. Therefore, the conferees intend that the program shall be limited to no more than fifty universities, to be selected by the Secretary on the basis of their academic reputation in the transportation engineering and research areas. The conferees intend that the fellowships should be awarded competitively, and be available only to students enrolled in work toward a graduate degree in transportation engineering or research, but exceptions can be made for students in the final year of undergraduate engineering degrees who can demonstrate that they intend to specialize in a transportation-related field following graduation.

The Secretary of Transportation is authorized to conduct and report to Congress on the results of a study to determine the appropriate symbol for highway signs to commemorate the Interstate system as the Dwight D. Eisenhower National System of Interstate and Defense Highways.

NATIONAL HIGHWAY INSTITUTE

House bill

The House bill establishes a National Highway Institute within the Federal Highway Administration to provide technical training programs for federal, State and local employees, U.S. citizens, and foreign nationals engaged in highway work. Up to one-fourth of one percent of all funds apportioned to a State for the Federal-aid primary system funds are available to the State highway department for payment of up to 80 percent of the cost of tuition and direct expenses.

Senate amendment

The Senate amendment establishes a National Highway Institute within the Federal Highway Administration to provide technical training programs for federal, State and local employees, U.S. citizens, and foreign nationals engaged in highway work. Up to one-fourth of one percent of all Surface Transportation Program funds apportioned to a State are available to the State highway department for payment of up to 75 percent of, the cost of tuition and direct educational expenses.

Conference substitute

The House recedes with modification of subsection (b) to reflect the 80% federal share provided in the House bill and with modification that any fees collected by the National Highway Institute be placed in a special account for recovering costs for the purpose of this section.

ZEBRA MUSSELS

House bill

No comparable provision.

Senate amendment

Establishes a study and program for the use of Zebra Mussels as an infrastructure building material.

Conference substitute

Senate recedes to the House.

INFRASTRUCTURE INVESTMENT COMMISSION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes the Commission to Promote Investment in America's Infrastructure, to be composed of seven members: two each to be appointed by the Majority Leader of the Senate and the Speaker of the House of Representatives; respectively; and one each to be appointed by the Minority Leaders of the Senate, the Minority Leader of the House of Representatives, and the President of the United States, respectively. Members of the Commission are to have appropriate backgrounds in finance, construction, lending, actuarial disciplines, pensions, and infrastructure policy.

The Commission will conduct a study of the feasibility and desirability of creating a type of infrastructure security which would permit the investment of pension funds in funds used to design, plan, and construct infrastructures in the United States. The Commission can include recommendations for private sector or other innovative public policy alternatives to encourage infrastructure investments at all levels of government. The Commission will report to Congress on its findings and recommendations within 180 days of enactment of this Act.

This section provides for reimbursing Commission members for expenses and for a staff to assist the Director is he so chooses. Such sums as may be necessary are authorized to carry out this section.

Conference substitute

The conference accepts the Senate substitute.

REGULATORY INTERPRETATION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes that steel coating is covered by the federal regulations interpreting Buy America legislation.

Conference substitute

Same as Senate amendment.

CLEAR GASOLINE REQUIREMENT

House bill

No comparable provision.

Senate amendment

The Senate amendment imposes a clear gasoline requirement on refiners pursuant to the Clean Air Act.

Conference substitute

The Senate recedes to the House.

NATIONAL DEFENSE HIGHWAYS

House bill

No comparable provision.

Senate amendment

The Senate amendment declares that upon certification by the Secretary, after consultation with the Secretary of Defense, a highway or portion of highway located outside the territory of the United States is important to the national defense, up to $20,000,000 shall be made available for reconstruction of an eligible highway from the Interstate Construction Program funds.

Conference substitute

House recedes to Senate amendment.

ALLOCATION FORMULA STUDY

House bill

No comparable provision.

Senate amendment

The Senate amendment authorizes a study to be conducted to determine a fair and equitable apportionment formula for the allocation of Federal-aid highway funds.

Conference substitute

The conference substitute contains the allocation formula study.

STORMWATER PERMITS

House bill

No comparable provision.

Senate amendment

Section 140L of the Senate Amendment extends certain application deadlines for and enforcement of the stormwater permitting requirements of Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) for industrial activities owned or operated by municipalities with a population of under 250,000.

Conference substitute

The conference substitute extends individual and group permit application deadlines for stormwater discharges associated with industrial activities from municipally owned or operated facilities. Individual permit applications must be submitted no later than October 1, 1992, except that where a timely group permit application is denied the applicant would be entitled an additional six months from the date of the denial to submit an individual application. Group application deadline are extended until September 30, 1991 for Part I and October 1, 1992 for Part II except that for municipalities of under 250,000 an additional period of time is provided. No stormwater discharge permits for industrial activities for municipalities of under 100,000 are required prior to October 1, 1992 except stormwater discharges from municipally owned or operated power plants, airports, and certain landfills. The conference substitute also requires that general permit regulations for stormwater discharge permits be promulgated no later than February 1, 1992. The conference substitute is not intended to prejudice or in any manner affect any ongoing litigation, including Natural Resources Defense Council v. U.S. Environmental Protection Agency, Case Nos. 90–70671 and 91–70200 (9th Cir., 1990).

INVESTIGATION AND REPORT

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for a study on the feasibility of requiring that trucks be restricted from using the left lanes of Interstate highways.

Conference substitute

The Senate recedes to the House.

USE OF OXYGENATED FUELS

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Secretary, in consultation with the EPA Administrator to submit to Congress a report on the feasibility and effectiveness of requiring all cities and metropolitan statistical areas with a population of 250,000 or more the use of oxygenated fuels (with a percentage of 2.7 or greater).

Conference substitute

Senate recedes to House.

YOUTH JOBS PROGRAMS

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes a youth program in conjunction with highway landscaping and beautification activities and allows States to use up to 0.2 percent of their funds for this purpose.

Conference substitute

The Senate recedes to the House.

INTERSTATE STUDY COMMISSION

House bill

No comparable provision.

Senate amendment

Interstate Transportation Agreements and Compacts. States have Congressional approval to enter into and carry out agreements or compacts to address interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

Conference substitute

The conference substitute establishes the Interstate Study Commission for Transportation for the National Capital Region to make recommendations on funding and management of the transportation system of the region. The Commission will evaluate existing mechanisms and processes by which transportation decisions are made within the region and make recommendations to provide a coordinated regional approach and process for funding and implementing transportation improvements, primarily focusing on interstate highway and bridge systems. The conferees intend that the recommendations developed by the commission will be consistent with the planning requirements for metropolitan areas, and the recommendations will be made to Congress, the Department of Transportation, the governors of Maryland and Virginia, the mayor of the District of Columbia and the National Capital Region Transportation Planning Board.

MONTANA-CANADA TRADE

House bill

Identical provision.

Senate amendment

The Senate amendment states that the Secretary may not withhold funds from the State of Montana on the basis of actions taken by Montana pursuant to a draft memorandum with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana.

Conference substitute

The Conference Substitute contains the Senate amendment.

LEVEL OF EFFORT

House bill

No comparable provision.

Senate amendment

Provides additional funding to states who have a lower than average per capita discretionary spending and higher than average gasoline tax.

Conference substitute

Senate recedes to House.

The conference agreement includes a study to measure a state's total level of effort with regard to state highway expenditures. Three months after the date of enactment, the Secretary and the newly formed DOT Bureau of Statistics are directed to conduct a study of state level of effort. Not later than nine months, the Secretary is to provide such report to the Senate Environment and Public Works Committee and the House Committee on Public Works.

The Secretary is directed to use data reflecting state and local revenue support for highways. This data shall include: income fuel taxes, toll revenues including bridge tolls and highway tolls, sales taxes (if used by a state on highway expenditures), general fund revenues used for highways, property taxes used for highways, bonds, administrative fees such as vehicle registration and driver license fees collected that may be expended by a state for highway expenses, taxes on commercial vehicles and other appropriate state and local revenue sources.

There was much discussion on the Senate floor with regard to how best to measure a state's total level of effort. The conferees direct the Secretary to conduct a comprehensive study that will compare a state's total level of effort comparing revenues raised and expended for highway purposes with per capita income.

NATIONAL POLICY FOR INFRASTRUCTURE REUSE

House bill

No comparable provision.

Senate amendment

The Senate amendment amends Sec. 307 of title 23 of the United States Code by adding a section at the end that requires within 12 months of the date of enactment of this Act, that the Secretary conduct a study of methods to facilitate the reuse of industrial manufacturing facilities. The Secretary shall consult with other government officials to ascertain regulatory, technical, and other barriers or constraints associated with reusing industrial manufacturing facilities. The Secretary shall report the results of the study to Congress upon its completion. $200,000 is authorized to be taken from administration and research funds in Sec. 104 to conduct the study.

Conference substitute

The conference accepts the Senate substitute.

NONNAVIGABILITY DECLARATION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes a nonnavigable status for a portion of the Hudson River adjacent to a bulkhead line.

Conference substitute

The House recedes to the Senate.

SENSE OF SENATE (LEVEL OF EFFORT)

House bill

No comparable provision.

Senate amendment

The Senate amendment directs committee conferees to determine each State's total apportionments in a way that reflects each State's total effort for highways including each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average State per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

Conference substitute

Senate recedes to House.

MILLER HIGHWAY

House bill

No comparable provision.

Senate amendment

No comparable provision.

Conference substitute

The conferees have authorized $14.5 million to undertake engineering and environmental studies and begin to realign Miller Highway inland, between 59th and 72nd Streets, to promote the development of a major public-private works project which will include the creation of a 23-acre public waterfront park to be built with private funds. This authorization shall not be construed to interrupt or interfere with the current rehabilitation of the Miller Highway on its present alignment, which is urgently needed to ensure public safety. Moreover, this project shall be deemed separate and independent from the Route 9A project between the Battery and 59th Street, which has independent utility and logical termini and should be advanced *under* [at] its own *independent engineering and environmental process and* rapid schedule.

REVISION OF MANUAL

House bill

Section 121(m) requires the Secretary to revise the Manual of Uniform Traffic Control Devices and other Federal Highway Administration regulations as may be necessary to permit states and local governments to install stop or yield signs at any rail-highway grade crossing without automatic traffic crossing devices with 2 or more trains operating across such rail-highway crossing.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference Substitute adopts the House provision.

ROADSIDE BARRIERS AND SAFETY APPURTENANCES

House bill

Section 121(c) of the House bill requires the Secretary to initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances. This rulemaking shall reflect criteria related to approval standards contained in the National Cooperative Highway Research Program Report 230 which provide a level of crashworthy performance to accommodate vans, minivans, pickup trucks and 4-wheel drive vehicles, along with all other vehicles.

The Secretary shall issue the final rule no later than one year after the date of enactment of this Act regarding the implementation of such guidelines and standards.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the House provision.

TITLE II—HIGHWAY SAFETY

PART A—HIGHWAY SAFETY GRANT PROGRAMS

SECTION 2000—SHORT TITLE

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The short title of this part is the "Highway Safety Act of 1991".

SECTION 2001—HIGHWAY SAFETY PROGRAMS

House bill

The House bill, in section 2001, amends Section 402 to provide for mandatory and optional programs for Section 402 grants. To qualify for a 402 grant, each state would be required to establish programs on drunk driving; speeding; occupant protection; emergency medical services; motorcycle safety; uniform data collection and reporting; accident location; highway design; construction and maintenance; traffic engineering services. Programs on bicycle, pedestrian, school bus safety, police traffic services, and traffic record systems, would be left to the discretion of the states.

Senate amendment

The Senate bill contains no comparable provisions.

Conference substitute

The substitute adopts the Senate version which, in effect, maintains existing law, but requires that the programs listed as mandatory programs under the House bill be listed as priority items within the guidelines promulgated by the Secretary. If the Secretary does not prioritize the programs, the Secretary is required to submit a report to the Congress describing why there is no need for the prioritization of the programs.

The agreement also provides that the Secretary is to establish a program to provide for a national uniform data collection and reporting system of traffic-related deaths and injuries. The purposes of this program are to allow the Secretary to determine the causes of such deaths and injuries, to develop programs to reduce such deaths and injuries, and to make recommendations to Congress concerning legislation necessary to implement such programs. The program shall include information obtained by the Secretary under section 404 of the Act and provide for annual reports to the Secretary on the efforts being made by the states in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of these efforts. In addition, the Secretary is required to establish minimum reporting criteria to obtain certain accident information necessary to improve analysis at the state and federal levels. Such criteria shall include criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites, on the configuration of commercial motor vehicles involved in motor vehicle accidents, and any other data elements essential for analysis of highway safety issues the Secretary shall develop through the Critical Automated Data Reporting Elements for Highway Safety Analysis (CADRE).

SECTION 2002—HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

House bill

The House bill, in section 202, amends current law to authorize research into all aspects of highway safety and traffic conditions, including the relationship between the use of drugs and its effect on highway safety and driver performance. The bill provides that funds appropriated for Section 403 of 23 U.S. Code be used for training and education of highway safety personnel; research fellowships in highway safety; accident investigation procedures; emergency service plans; demonstration projects; and any other related activities the Secretary believes will promote highway safety. The bill also authorizes the Secretary to undertake collaborative research and development with non-federal entities, including state and local governments, universities, corporations and partnerships, on cost-shared basis.

Senate amendment

The Senate bill contains no comparable provisions.

Conference substitute

The conference substitute adopts the House provision.

SECTION 2003—ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES

House bill

The House bill, in Section 203, maintains the existing program under section 410 of title 23, but establishes new grant requirements for the program. The bill establishes basic and supplemental grant programs. To be eligible for a basic grant, a state would have to institute a program involving (1) highway sobriety checkpoints; (2) prompt license suspension of individuals operating vehicles under the influence of alcohol or drugs; (3) a requirement that any person with a blood alcohol concentration (BAC) equal to or greater than 0.10 percent for the first two years of the program, and 0.08 percent thereafter is deemed to be driving under the influence; and (4) mandatory minimum sentences for persons convicted of impaired driving. States that met the basic grant criteria would receive an amount equal to 80% of their allocation under Section 402 of Title 23.

Supplemental grants would be available for each of the following actions: (1) enhanced enforcement of "21 drinking age" laws; (2) the enactment of laws prohibiting the possession of open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; and (3) the suspension of car licenses and registrations, and the impoundment of vehicles of repeat offenders of impaired driving laws. States that met the supplemental grant criteria would be eligible for an amount equal to five percent of their 402 grant allocation.

The House bill also authorizes, from funds made available to carry out section 402 of Title 23, the use of $17 million for each of the fiscal years 1993–1997 to carry out this program.

Senate amendment

The Senate amendment, in Section 226, amends Chapter 4 of title 23, to establish a new and comprehensive drunk and impaired driving program. The new program would have a structure identical to that of the existing sections 408 and 410 programs, and would replace those programs when the terms of those programs expired. The program would make available to the states basic and supplemental grants for a maximum of five years. States that met certain basic criteria would receive a grant equal to 30 percent of their section 402 grant amount, which would be funded on a declining share basis—75% for the first year, 50% for the second year, and 25% for the third year.

The amendment provides that a state is eligible for a basic grant if it establishes requirements for (1) administrative revocation of drunk drivers' licenses; (2) sobriety checkpoints; (3) a 0.10 BAC standard for persons who are deemed to be driving while under the influence of alcohol, that would have to be reduced to 0.08 BAC after 3 years; (4) videotaping of drunk drivers; (5) mandatory minimum sentences for those convicted of impaired driving; and (6) a requirement that the program be planned to become self-supporting. The bill provides a waiver of any one of the basic grant criteria for any state which achieves a decrease in its alcohol-related fatalities by an average of three percent per calendar year for five consecutive years.

States that met the criteria for a basic grant would be eligible for supplemental grants for each of the following: (1) the adoption of a mandatory blood alcohol testing program for drivers in accidents involving fatalities or serious injuries; (2) providing for enhanced enforcement of "21 drinking age" laws; (3) the establishment of laws preventing drugged driving, including prompt license suspension, presumed driver consent to drug testing, mandatory minimum sentences for those convicted of drugged driving, and a system of detection of drugged drivers; (4) the establishment of a mandatory BAC intoxication level of 0.08 during the first three years of the grant; (5) making it unlawful to possess open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; or (6) and requiring the suspension of car license plates and registrations for repeat offenders of impaired driving laws. For each supplemental grant criteria that is met, a state would receive an amount equal to 10 percent of its section 402 allocation.

The Senate amendment also authorizes appropriations out of the Highway Trust Fund (other than the Mass Transit Account) in the following amounts to carry out this program: $25 million in FY 1992; and $50 million for each of the fiscal years 1993–1996.

Conference substitute

The Conference substitute, in large part, adopts the Senate provisions regarding the grant program. The agreement, however, deletes the waiver provision for the basic requirements, and provides that a state only has to meet five of the six requirements under the basic grant criteria of be eligible for a basic grant. In addition, videotaping of drunk drivers is now a supplemental grant criteria, and distinguishable license for those under 21 is a basic grant criteria.

SECTION 2004—AUTHORIZATION OF APPROPRIATIONS

House bill

The House bill, in Section 205(1), for programs under section 402 of Title 23 U.S. Code, provides for an authorization out of the Highway Trust Fund (other than the Mass Transit Account) of $121 million for FY92, $190 million for fiscal years 1993–1995, and $168 million for fiscal years 1996–1997.

The House bill, in section 205(2), authorizes an appropriation of $25 million for FY 1992, and $50 million each for FYs 1993 through 1997, for the program under Section 403 of Title 23, U.S. Code.

The bill also authorizes $14,000,000 for carrying out Section 410 of Title 23 U.S. Code for fiscal year 1992.

Senate amendment

The Senate amendment, in section 203(d), authorizes expenditures from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 402 of title 23 of the U.S. Code for FY 1992 through 1996. The amendment provides for an authorization of $126 million for FY 1992; $130,788,000 for FY 1993; $135,757,944 for FY 1994; $140,916,745 for FY 1995; and $146,271,537 for FY 1996.

The Senate amendment, in section 203(e), authorizes expenditures out of the Highway Trust Fund to carry out Section 403 of title 23, U.S. Code. The bill provides for an authorization of $45,869,000 for FYs 1992–1996.

The Senate amendment, in section 226(—), authorizes expenditures out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the impaired driving programs set out in that section as follows: $25,000,000 for FY 1991; and $50,000,000 for each of the fiscal years 1992–1995.

The Senate amendment, in Sections 226(a) and 226(b), authorizes appropriations for the National Highway Traffic Safety Administration to carry out its responsibilities under the National Traffic and Motor Vehicle Safety Act of 1966 as follows: FY 1992—$68,722,000; FY 1993—$71,333,436; FY 1994—$74,044,106. These amounts reflect the Administration's budget request for 1992 increased by the inflation factor recommended by the Congressional Budget Office for the remaining fiscal years. It also authorizes appropriations for the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act as follows: $6,485,000 for fiscal year 1992; $6,731,430 for FY 1993; and $6,987,224 for FY 1994.

Conference substitute

The Conference substitute provides new authorization levels for both Sections 402 and 403, and the Impaired Driving Enforcement program. For programs under Section 402, the agreement provides for an authorization of $126 million for FY92; $175 million for FYs 1993–1994; and $171 million for FYs 1995–1997. For programs under Section 403, the agreement provides for expenditures in the amount of $44,000,000 per year for FYs 1992–1997. For the Impaired Driving Enforcement program, the agreement provides for authorization of $25 million per year for FYs 1992–1997.

The Conference substitute adopts the Senate provisions with respect to expenditures for the National Highway Traffic Safety Administration's administration of the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and includes an authorization for FY 1995 for the latter two purposes.

SECTION 2005—DRUG RECOGNITION EXPERT TRAINING PROGRAM

House bill

The House bill, in section 206, provides for the establishment of a drug recognition expert training program. The purpose of the program is to train law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol, a controlled substance, or other drug. The bill also establishes a citizens' advisory committee to monitor the progress of the implementation of the program. The advisory committee is to include one member from the organization Mothers Against Drunk Driving. The bill provides for an authorization of $5 million for FY92, and $6 million each for FYs 1993–1997, from the highway trust fund (other than the Mass Transit Account) to carry out the program.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute adopts the House provision, but reduces the funding to $4 million each for FYs 1992–1997. The agreement also provides that the citizens' advisory committee shall include a member of the American Bar Association, and a member of the American Medical Association.

SECTION 2006—NATIONAL DRIVER REGISTER ACT AUTHORIZATIONS

House bill

The House bill, in section 207, provides an authorization of $4 million each for FYs 1992–1994 for programs under the NDR Act.

Senate amendment

The Senate bill, in section 203, provides for a three year authorization to carry out programs under the National Driver Register Act. The bill authorizes expenditures in the amount of $6,131,000 for FY '92; $6,363,978 for FY '93; and $6,605,809 for FY '94.

Conference substitute

The Conference substitute adopts the House provision.

SECTION 2007—OBLIGATION CEILING FOR FISCAL YEAR 1992

House bill

Section 210 of the House bill established obligation ceilings for a number of highway safety programs.

Senate amendment

No provision.

Conference substitute

The conference substitute provides for the following obligation ceilings:

(1) Fiscal Year 1992—Sums authorized for sections 2004(1), 2004(3), and 2005(c) of this Act, and Section 211(b) of the National Driver Register Act of 1982 for Fiscal Year 1992, are subject to the obligation limitations of Section 102 of this Act.

(2) Fiscal Years 1993–1997—2003, 2004(1) and 2005 of this Act and Section 211(b) of the National Driver Register Act of 1982 should be reduced proportionally if an obligation ceiling is placed on the sums authorized to be appropriated to carry out Section 402 of Title 23, United States Code.

PART B—AUTHORIZATIONS AND GENERAL PROVISIONS

SECTION 2500—SHORT TITLE

House bill

No provision.

Senate amendment

The Senate bill in Section 201, provides the following short title: "National Highway Traffic Safety Administration Authorization Act of 1991".

Conference substitute

The Conference substitute adopts the Senate provision.

SECTION 2501—AUTHORIZATION OF APPROPRIATIONS

House bill

No provision.

Senate amendment

The Senate amendment, in Sections 226 (a) and (b), authorizes appropriations for the National Highway Traffic Safety Administration (NHTSA) to carry out its responsibilities under the National Traffic and Motor Vehicle Safety Act of 1966 as follows: $68,722,000 for FY 1992; $71,333,436 for FY 1993; $74,044,106 for FY 1994. These amounts reflect the Administration's budget request for FY 1992, increased by the inflation factor recommended by the Congressional Budget Office for the remaining fiscal years. The Senate amendment also authorizes appropriations for the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act as follows: $6,485,000 for FY 1992; $6,731,430 for FY 1993; and $6,987,224 for FY 1994.

Conference substitute

The Conference agreement adopts the Senate provisions, with modifications to include an additional authorization for FY 1995 of $76,857,782 for carrying out the National Traffic and Motor Vehicle Safety Act of 1996; and $7,252,739 for the Motor Vehicle Information and Cost Savings Act.

SECTION 2502—GENERAL PROVISIONS

House bill

No provision.

Senate Amendment

The Senate amendment, at Section 202, sets out definitions of terms used in the amendment, including definitions of passenger car and multipurpose passenger vehicles (MPVs). These definitions, according to NHTSA, are identical to those used in current NHTSA regulations.

Conference substitute

The Conference adopts the Senate definitions. The Conference agreement also sets out procedures to be used in carrying out the rulemakings required by the Conference agreements.

SECTION 2503—MATTERS BEFORE THE SECRETARY

House bill

No provision.

Senate amendment

The Senate requires the Secretary of Transportation to conduct rulemakings on a number of issues:

(1) Side impact standard: Section 205 of the Senate amendment requires the Secretary, within 18 months after enactment, to promulgate a final rule to extend FMVSS 214, to MPVs and other light trucks, such as minivans, sport utility vehicles and small trucks.

The Senate notes that approximately 8,000 Americans die each year in side impact crashes, and approximately 23,000 suffer serious, nonfatal injuries. After many years of work, NHTSA recently issued an upgraded side impact protection standard for passenger cars, to prevent injuries to the chest and pelvis in such crashes. At the same time, NHTSA indicated that it would continue its work to address head injury prevention in such crashes. MPVs and other light trucks are not currently required to meet the passenger car standard for protection of the chest and pelvis. This section of the Senate amendment would require that the passenger car standards be applied to MPVs and other light trucks.

This Section also would require that the Secretary complete a rulemaking, within a time certain, to consider methods of preventing head injury in side impact crashes.

(2) Protection against rollover: Section 210 of the Senate amendment requires rulemaking to prevent unreasonable risk of rollover in passenger cars, MPVs and other light trucks. The Senate notes that NHTSA's own research indicates that a significant percentage of accidents involving certain types of MPVs, other light trucks and passenger cars involve vehicle rollover. To date, no rule has been issued to deal with this problem. This section of the Senate amendment would require completion of the rulemaking within 12 months of enactment.

(3) Improved design for seatbelts: Section 224 of the Senate amendment requires a rulemaking, to be completed within 12 months of enactment, to consider whether to amend the current standard for seatbelt design to take into account the needs of children and shorter adults. The Senate notes that there is some evidence that current seatbelt design does not protect adequately such individuals, and that this situation could be remedied easily by minor design changes. The Senate notes that while NHTSA recently terminated a rulemaking on this issue, that analysis did not consider the affect on children of such an amendment to the standard. The rulemaking required by the Senate amendment would have to consider the safety of children.

(4) Safety child booster seats used in passenger cars and other motor vehicles: Section 213 of the Senate amendment requires a rulemaking proceeding, to be completed within 12 months of enactment, to increase the safety of child booster seats. Booster seats, used by toddlers and older children, are designed to elevate children so that they are in the proper position to use lap and shoulder belts. The Senate notes that a study conducted for NHTSA, "Evaluation of the Performance of Child Restraint Systems," indicates that some of these systems may not restrain adequately a child in a crash, and some may put pressure on the child's abdomen during a crash. The Senate amendment is a response to the concerns expressed in this study.

(5) Methods of reducing head injuries: Section 219 of the Senate amendment would require a completion of a rulemaking, within two years of enactment, to consider methods of reducing head injuries caused by contact with the interior components of passenger automobiles, MPVs and other light trucks.

The Senate notes that each year a large number of Americans suffer head injuries in automobile crashes. Many of these victims are permanently disabled. The Senate notes that an airbag can reduce the number of head injuries resulting from frontal crashes. Even if all cars were equipped with airbags, however, head injuries will still occur from rollover, side impact, and other crashes. NHTSA's own research indicates that many of these head injuries could be prevented if additional padding were placed in the interior portions of the vehicles likely to come into contact with a crash victim's head.

Conference substitute

The conference substitute provides in lieu of the above mentioned provisions a process for conducting rulemakings in accordance with the National Traffic and Motor Safety Act of 1966. It also provides that any resulting standards be enforced in accordance with the 1966 statute. The process includes a procedure for initiating a rulemaking either as an Advanced Notice of Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) at the discretion of the Secretary of Transportation. It also provides for completion of the rulemakings consistent with the 1966 statute and the Administrative Procedure Act. Except as otherwise provided, completion could include promulgation of a final rule (with or without changes from the proposed rule), or deciding not to promulgate a rule through termination of the rulemaking process (which decision may include a deferral of a rule, or a decision to start all over at some future time). The Department cannot, however, terminate the rulemaking because it lacked time to complete the rule. Whatever action is taken it must be published in the Federal Register in accordance with the Administrative Procedure Act and the 1966 Act and must include the reasons for that action.

Section 2503 lists five priority matters for which the Secretary must initiate a rulemaking in accordance with these general procedures. They are as follows:

(1) Unreasonable risk of rollovers in passenger cars, MPVs and light trucks.

(2) Extension of passenger car side impact protection to MPVs and light trucks.

(3) Safety of child booster seats in passenger cars and other appropriate vehicles.

(4) Improved design for safety belts.

(5) Improved head impact protection.

With the exception of number five, the listing of these matters for initiating rulemaking decisions is not to be construed as a determination by Congress as to whether or not a rule shall be finalized or if it is finalized what it should contain. The objective of the conferees is to require that the Secretary give priority consideration to these matters without affecting other rulemakings or decisions pending at the Department.

For these five matters, the conferees expect the Secretary to initiate either an ANPRM or a NPRM by May 31, 1992. If the Secretary cannot begin any one of these by that date, he must give notice of the decision to initiate them and provide a date certain for the initiation of either an ANPRM or a new NPRM. Such date certain shall not extend beyond January 31, 1993. He must also explain the reasons for this delay. A decision to provide a new date for that decision will not be reviewable.

Once a rulemaking is initiated, the Secretary must complete the rulemaking within 26 months after initiation, in the case of an ANPRM, and within 18 months after initiation, in the case of an NPRM. However, with the exception of the head injury rulemaking, in the case of an ANPRM, the Secretary may decide not to proceed to an NPRM after issuing the ANPRM if, after consideration of the ANPRM and the comments thereon, he so decides and publishes this decision against continuation of the rulemaking process. He must do this in a manner consistent with the APA and the 1966 Act. The Secretary may in the case of an NPRM extend the 18 month period for an additional 6 months. That extension is not reviewable.

In the case of Section 2503(5) which provides for improved head injury protection regarding interior components of passenger cars (i.e., roofs, pillars, and front headers) there is a special rule. Under that special rule the Secretary must complete the rulemaking and issue a final rule within 24 months after the date of initiation of rulemaking by publication of the ANPRM or the NPRM. That publication must occur either by May 31, 1992 or, as indicated above, by January 31, 1993. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date of completion by an additional six months and publish a notice thereof in the Federal Register. The conferees emphasize that in the case of this special provision a final rule is to be promulgated within the timeframe specified.

Thus, with exception of the head injury protection issue, the conferees do not predetermine the outcome of these rulemakings. The Secretary is free to conclude the rulemaking in any manner consistent with the APA and the 1966 Act. The conferees expect the Secretary to act on these matters in accordance with the time schedule provided.

The conferees expect NHTSA to move quickly on these matters and give preference to rollover protection, and to extension of passenger car side impact protection to light duty trucks and MPVs. In the case of rollovers, the conferees note that in a November 7, 1991 letter to the Committee on Energy and Commerce, the Administrator of NHTSA said:

> The rulemaking process will develop an advanced notice of proposed rulemaking (ANPRM) which will be published late this year. This will be followed by a notice of proposed rulemaking. If the comments and other information in the rulemaking record support the issuance of a final rule, the agency would adopt such a rule.
>
> Since the late 1980s, the agency has conducted research to determine if vehicle attributes exist which are related to vehicle rollover. In a multi-contract effort, the agency has collected engineering data on approximately 60 different vehicles, including MPVs, vans, trucks, and passenger cars. In addition, the agency has collected and analyzed over 100,000 accidents associated with rollover and non-rollover crashes of these vehicles. These two data sets, the physical measurements of the vehicles and the rollover propensity of the vehicles as measured by their actual accident history, were analyzed to determine correlations between vehicle rollover propensity and accident involvement. Correlations were found when controlling for variations in the individual crashes, such as driver demographics, weather conditions, and road conditions. This analysis was completed in the spring of 1991 and will provide the basis for the forthcoming ANPRM.

The conferees would expect NHTSA to issue an ANPRM before May 31, 1992. Indeed, the conferees understand that an ANPRM has recently been submitted to the Office of Management and Budget.

SECTION 2504—RECALL OF CERTAIN MOTOR VEHICLES

House bill

No provision.

Senate amendment

Section 216 of the Senate amendment provides the Secretary with authority to require manufacturers to send a second notification to owners of defective vehicles to enhance safety defect and non-compliance recall response rates. DOT's review of techniques such as postcard reminders to increase recall response rates shows that a follow-up notice can achieve response rates significantly higher than those achieved by the initial notification.

This section further requires that any owner of leased vehicles who receives a recall notice shall send a copy of such notice to the lessee of the vehicle. Finally, the section requires that any dealer who receives a recall notice with respect to any vehicle or item of equipment may not sell or lease that product unless the defect is remedied or the recall order has been restrained or set aside. This provision, according to the Senate, is intended to close a loophole that exists in the Safety Act.

Conference substitute

The conference substitute adopts the Senate provision. The conferees note that according to a letter from NHTSA Administrator Jerry Curry to the Chairman of the House Committee on Energy and Commerce, dated November 7, 1991, 1991, this provision was recommended by the Department of Transportation.

SECTION 2505—STANDARDS OF COMPLIANCE TEST PROGRAM

House bill

No provision.

Senate amendment

Section 207 requires the Secretary to establish a schedule for investigating compliance with each Federal Motor Vehicle Safety Standard in effect which is capable of being tested. This provision is a result of a December 1986 GAO report, "Motor Vehicle Safety: Enforcement of Federal Standards Can Be Enhanced," which found that enforcement of these standards could be enhanced by insuring that each standard is subject to testing on a regular, rotating basis.

Conference substitute

The conference substitute requires the Secretary to maintain, on a continuing basis, a five-year plan for testing Federal Motor Vehicle Safety Standards. The initial plan may be the five-year plan for compliance testing that is in effect on the date of enactment of the substitute. This provision provides the Secretary with considerable leeway in development of the plan and its implementation. The Conferees intend that the Secretary's testing plan will be available to the public, as it is currently.

SECTION 2506—REAR SEATBELTS

House bill

No provision.

Senate amendment

Section 211 of the Senate bill provides that the Secretary expend such funds as are deemed necessary from funds appropriated to carry out the Cost Savings Act for FYs 1992 and 1993 to provide consumers with information about retrofitting their vehicles with rear seat lap-and-shoulder belts. The Senate notes that such belts only recently have been required to be installed as original equipment, and there is ample evidence, compiled in part through NHTSA's rulemaking, to conclude that rear seat shoulder belts enhance vehicle safety.

All rear passenger car seats have been required since 1968 to be equipped with brackets to allow installation of lap-shoulder belts. Consumers and auto dealers should be made fully aware of the availability of retrofit kits.

Conference substitute

The conference adopts the Senate provision, with the modification that the program would be conducted solely during FY 1993.

SECTION 2507—BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS

House bill

No provision.

Senate amendment

Section 222 of the Senate amendment requires a rulemaking, to be completed within 12 months of enactment, to consider whether to adopt a standard requiring antilock brake systems for cars and MPVs. The Senate notes that there is evidence that these systems are useful in avoiding accidents, particularly in bad weather, and this section requires that NHTSA give priority consideration to whether they should be required.

Conference substitute

Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966, shall publish an Advanced Notice of Proposed Rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The rulemaking is to be completed not later than 36 months from the date of initiation of the ANPRM, in accordance with clause 2502(b)(2)(B)(ii). In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall consider as part of the rulemaking, any brake system adopted by a manufacturer.

SECTION 2508—AUTOMATIC CRASH PROTECTION AND SAFETY BELT USE

House bill

No provision.

Senate amendment

The Senate notes that the current regulations of the Department of Transportation (DOT) require that passenger cars be equipped with "passive restraints," which include either airbags or automatic seatbelts that do not require action by the occupant in order to be engaged. When fully effective, in model year 1994, these regulations will require that all cars have one of these forms of passive restraint on both the driver and passenger side of the front seat (i.e. the front outboard seating position). 49 C.F.R. 571.208.

The Senate notes that in March 1991, DOT issued a similar requirement for passive restraints in the "light truck" fleet, which includes minivans, small pickups, and sport utility vehicles. 56 Fed. Reg. 12472-12487 (March 26, 1991). These vehicles, which originally were used primarily for cargo or work purposes, now make up approximately one-third of the new passenger vehicles sold, and are increasingly used by families. Under the DOT rule, "light trucks" will be required to have "passive restraints" (automatic belts or airbags) on both the driver and passenger sides on the following schedule: 20 percent of the vehicles manufactured after September 1, 1994; 50 percent of those manufactured after September 1, 1995; 90 percent of those manufactured after September 1, 1996; and 100 percent after September 1, 1997. However, those manufacturers that install airbags instead of automatic seatbelts on the driver side are permitted through a credit system to delay installation of any airbags on the passenger side until September 1, 1998.

The Senate amendment addresses the fact that the current rule permits manufacturers to choose between two forms of passive restraints. The Senate notes that DOT has estimated that airbags could save over 9,000 lives and prevent 155,000 moderate to serious injuries each year as compared to the situation if no cars were equipped with airbags. 49 Fed. Reg. 28986 (July 17, 1984).

Section 214 of the Senate amendment sets out two requirements with respect to airbags in passenger vehicles.

First, subsection 214(a) requires that, to the extent practicable, the Secretary, in cooperation with the General Services Administration and heads of other federal agencies, insure that passenger automobiles purchased for the federal fleet be equipped with airbags. Driver side airbags would be required for passenger cars acquired after September 30, 1991, and driver and passenger side airbags would be required for passenger cars acquired after September 30, 1993. If only one source of airbag-equipped vehicles is available, so that competitive bidding cannot occur, such purchase may not be practicable. However, since most manufacturers have announced plans to install airbags in their passenger car fleet in the mid 1990s, this problem is not likely to occur.

Second, subsection 214(b) requires that manufacturers equip all passenger cars and other passenger vehicles as defined in the section to include most multipurpose vehicles, with airbags on a phased-in schedule set out in the bill. Specifically, all passenger cars manufactured on or after September 1, 1995 must be equipped with airbags on both the driver and right front outboard seating positions. In addition, all trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less must have a driver side airbag if manufactured after September 1, 1996 and a passenger side airbag if manufactured on or after September 1, 1997.

Conference substitute

Paragraph (a)(1) requires the Secretary to issue a rule, by September 1, 1993, amending FMVSS 208 in a number of ways, including requiring the installation of an airbag that meets the requirements of FMVSS 208 on both the driver and front outboard passenger seating positions of passenger cars and MPVs and other light trucks. The issuance of a rule to accomplish mandatory airbags in the manner specified in this section is required notwithstanding any other provision of law or rule, but the rule is to be promulgated in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 to the extent such Act is not in conflict with this section. This subsection requires a rule that supplements and revises but does not replace existing FMVSS 208, which was amended on March 26, 1991 to extend the standard's requirements to MPVs and other light trucks.

Paragraph (a)(2) requires that after the promulgation of the amendment in (a)(1), the

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

Secretary shall require that owner's manuals contain specific language informing consumers about the need to wear seatbelts even in vehicles equipped with airbags. It states:

(A) that the vehicle is equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt in either or both the front outboard seating positions;

(B) that the airbag is a supplemental restraint;

(C) that the airbag does not substitute for lap and shoulder belts which must also be correctly used by an occupant in such seating positions to provide restraint or protection not only from frontal crashes but from other types of crashes or accidents; and

(D) that all occupants, including the driver, should always wear their lap and shoulder belts where available or other safety belts, whether or not there is an inflatable restraint.

Paragraph (a)(3) contains a finding that it is in the public interest for all States to adopt and enforce mandatory seat belt laws and for the Federal government to adopt and enforce mandatory seat belt rules. The conferees note that nine states have not yet adopted such a law. Also, the DOD and the Interior Department's Bureau of Land Management and National Park Service have adopted such rules.

Subsection (b) sets forth the following schedule for implementation of requirements of subparagraph (a)(1): (1) New Passenger Cars—95% of each manufacturer's production volume of cars manufactured on or after September 1, 1996 and before September 1, 1997, and 100% of all such production manufactured on or after September 1, 1997. (2) New MPVs and other light trucks and buses—80% of each manufacturer's production volume manufactured on or after September 1, 1997 and before September 1, 1998, and 100% of each manufacturer's production volume manufactured on or after September 1, 1998.

Subject to the provisions of subsection (c), the requirements for 100% coverage mean that all of these vehicles actually are equipped with airbags on both sides. This is not to be a mathematical calculation involving credits available under the 208 standard, as amended by this bill, from which the Secretary would derive 100% coverage. Rather, it is actual 100% coverage. The subsection provides that the incentives or credits available to the manufacturers under the amended Standard 208 are no longer available when the requirement for 100% coverage becomes effective.

Subsection (c) provides for a temporary exemption from requirements of this section due to supply and unavoidable disruptions. This exemption authority is permanent and is available even after the 100% requirement.

The Conferees intend that the temporary exemption be granted or renewed where there is a disruption of supply, or a disruption in the use and installation by the manufacturer of such component due to unavoidable events totally beyond the manufacturers' control. The Conferees expect that these exemptions will be rarely necessary. However, history shows that there have been supply problems in the past, as shown by a recent report of the General Accounting Office.

The Conferees expect that the Secretary will require written documentation of the facts that have made the inflatable restraint unavailable. The exemption is not intended to be available in situations in which vehicle production plans are interrupted or altered for reasons unrelated to the inflatable restraint, such as general economic conditions or work stoppages at the vehicle manufacturing plant.

In granting the exemption, the Secretary must require that the manufacturer recall the exempted vehicle and install the inflatable restraint within a reasonable time, which is to be proposed by the manufacturer subject to approval by the Secretary. Thus, each grant of exemption by the Secretary must include a requirement for vehicle recall and installation of the inflatable restraint, and a date by which that recall and installation must be completed.

The substitute directs the Secretary to require labeling for each exempted motor vehicle and to provide that the label can only be removed after recall and installation of the airbag. If the vehicle is delivered to the dealer without an inflatable restraint the Secretary shall require that written notification of exemption be delivered to the dealer and first purchasers of such exempted motor vehicles in such manner and containing such information as the Secretary deems appropriate. The purpose of this notice requirement is to inform the dealer and the consumer once the vehicle has reached the showroom of the dealer. Such notice is not necessary if the exemption is granted for the vehicle, and the vehicle is not sold by the manufacturer to the dealer prior to installation of the airbag. The bill does not specify the contents of the label. However, the intent is to inform the prospective purchaser that the inflatable restraint is absent and will have to be installed within a specified period of time. It is, of course, the intention of the Conferees that, in the case of a label, it be conspicuous and that it not be removed by anyone until the restraint has been installed as required.

With respect to subsection (d), the Conferees, noting NHTSA's letter of November 7, 1991, do not want by this section to change the law on liability as it existed prior to enactment. This section is not intended to be a "sword" or a "shield" in litigation or otherwise.

Subsection (e) provides for the Secretary to report biannually on the actual effectiveness of occupant restraint systems.

Subsection (f) provides for the establishment of a program, consistent with applicable provisions of Federal procurement law and available appropriations, under which light duty vehicles acquired by the Federal Government, to the maximum extent practicable, will have driver and passenger-side airbags.

SECTION 2509—HEAD INJURY IMPACT STUDY

House bill

No provision.

Senate amendment

Section 205 of the Senate amendment requires the Secretary, within 12 months of enactment, to issue a final rule amending Federal Motor Vehicle Safety Standard (FMVSS) 214 to establish performance criteria for passenger cars, to provide improved occupant protection from head injury in a side impact crash.

The Senate notes that approximately 8,000 Americans die each year in side impact crashes, and approximately 23,000 suffer serious, nonfatal injuries. Thirty-five percent of the life-threatening automobile injuries occur in side crashes. After many years of work, NHTSA recently issued an upgraded side impact protection standard for passenger cars, to prevent injuries to the chest and pelvis in such crashes. The Senate notes that, at the same time, NHTSA indicated that it would continue its work to address head injury prevention in such crashes.

Conference substitute

The conferees understand that there are other head injury protection matters which are the subject of research at NHTSA and which are not covered by section 2503(5) of this bill. This could include head injury protection matters from various types of crashes, such as side impact.

This section of the bill directs the Secretary to report on the need for rulemaking regarding this research and the extent of that research. The report would be provided by the end of FY 1993 and would identify such research matters and their status. It would also include a statement of any actions planned by the DOT toward initiating rulemaking not later than FY 1994 or 1995. Such a rulemaking would be either an ANPRM or NPRM and would be completed as soon as possible after proposal.

AUTOMOBILE CRASHWORTHINESS DATA

House bill

No provision.

Senate amendment

Section 206 of the Senate amendment required the Secretary to enter into agreements with the National Academy of Sciences to conduct a study, within specified time frames, to consider means of establishing a uniform rating system to permit consumers to compare the crashworthiness of different vehicles. Upon completion of the study, it is to be furnished to Congress, and the Secretary is to begin a period of public comment on the recommendations made in the study. The Secretary then shall determine whether such a crashworthiness rating system can be developed, and shall publish that determination. If it is determined that such a system can be developed, the Secretary is to conduct a rulemaking proceeding to develop such a rule within established time limits.

The Senate notes that the Motor Vehicle Information and Cost Savings Act currently requires DOT to compile crashworthiness information. However, the only such information available is obtained through random sampling in connection with NHTSA's New Car Assessment Program, and is not available at the vehicle's point of sale. The Senate notes that NHTSA studies indicate that prospective new car purchasers favor the idea of a Government safety rating. While a system that could compare all crashworthiness features with just one rating would be preferable and should be explored, the Senate amendment recognizes that a single rating may not be workable, and that a system of several ratings to indicate crashworthiness in various situations may be necessary. This section would permit either a single rating or multiple ratings.

Conference substitute

Senate recedes. The conferees believe that the development of such a system could be beneficial to consumers and encourage NHTSA to continue to work on providing vehicle purchasers usable, accurate, and timely crashworthiness information, taking into consideration all relevant factors in obtaining and disseminating such information.

INVESTIGATION AND PENALTY PROCEDURES

House bill

No provision.

Senate amendment

Section 208 of the Senate amendment requires the Secretary to establish written guidelines for conducting expeditious and thorough investigations of noncompliance with any requirements issued under the Safety Act, which includes NHTSA safety standards and recall orders. The Secretary also is to develop written guidelines for determining when the results of such investigations shall be the subject of a civil penalty proceeding. This provision was based on recommendations in the 1986 GAO report previously referred to in connection with section 207 of the Senate amendment.

Conference substitute

Senate recedes.

MULTIPURPOSE PASSENGER VEHICLE SAFETY

House bill

No provision.

Senate amendment

Section 209 of the Senate amendment requires that the Secretary complete, within 12 months of enactment, a rulemaking to review the classification system for safety purposes of vehicles that weigh under 10,000 pounds. The Senate notes that in the 1960s, NHTSA defined a number of vehicle classes, including a category referred to as multipurpose vehicles (MPVs) (less than 10,000 pounds and designed for carrying 10 persons or less, constructed either on a truck chassis or for occasional off-road operation). GAO recommended in 1978 that NHTSA review its system of classification of vehicles under 10,000 pounds. The Senate notes that since the original classification of passenger vehicles, the types of vehicles making up the passenger fleet have changed dramatically. The use patterns of multipurpose vehicles (MPVs) have changed from primarily cargo-carrying to primarily passenger-carrying. The Senate notes that there are differences between Customs Service classifications for duty purposes.and NHTSA classification for safety purposes.

The Senate notes that in 1988 NHTSA issued a Notice of Proposed Rulemaking to consider reclassification. NHTSA terminated this rulemaking proceeding in April 1991, finding that although there could be some benefits associated with a new classification scheme, reclassification was less important because many passenger car safety standards had been extended to light trucks. The Senate notes, however, as NHTSA recognizes, the current situation with respect to current safety standards does not resolve the classification issue for the future. The Senate amendment intends that classification review should be completed to insure that the current classifications are logical and accurate, and insure that future safety standards are applied appropriately across the fleet.

In addition, this section requires that any reclassification of vehicles weighing under 10,000 pounds which is undertaken must consider the Customs Service Classification of vehicles and, to the maximum extent practicable, include as a passenger automobile any vehicle classified by the Customs Service as a vehicle principally designed for the transport of persons. The Senate amendment recognizes that there currently is no coordination between NHTSA and Customs, and that vehicles receiving favorable duty treatment as passenger vehicles may not be required to meet passenger car safety standards. While it may not be practicable to conform NHTSA passenger automobile classification completely to the classification made by the Customs Service, it is the intent of this section to insure that NHTSA reviews the Customs classification in the course of its classification process.

Conference substitute

Senate recedes.

IMPACT RESISTANCE CAPABILITY OF BUMPERS

House bill

No provision.

Senate amendment

Section 212 of the Senate amendment establishes two requirements with respect to bumpers. Subsection 212(a) amends the Motor Vehicle Information and Cost Savings Act to require the Secretary to promulgate a rule regarding disclosure by the manufacturers of the speed at which the bumper meets the applicable Federal damage criteria. Such information must be provided to the Secretary and disseminated by the Secretary to consumers in a form to facilitate comparison among various vehicle types. Subsection 212(b) requires the Secretary to amend, within one year of enactment, the current standard for bumper impact capability, in order to return to the standard in effect on January 1, 1982. The current standard requires bumpers to withstand established levels of damage at impact speeds up to 2.5 miles per hour without damage to the safety features or the exterior sheet metal of the vehicle. The standard to be implemented requires the vehicle to withstand certain levels of damage at impact speeds up to 5 miles per hour.

Conference agreement

Senate recedes.

STATE MOTOR VEHICLE INSPECTION PROGRAMS

House bill

No provision.

Senate amendment

Section 215 of the Senate amendment requires the Secretary to report regularly to Congress on its efforts to assist states and coordinate with EPA in establishing state motor vehicle inspection programs. The Senate notes that a recent GAO report, "Motor Vehicle Safety: NHTSA Should Resume Its Support of State Periodic Inspection Programs," found that such inspection programs reduce highway accident rates by reducing the number of poorly maintained vehicles. This section will allow Congress to monitor more effectively NHTSA's activities in this area.

Conference substitute

Senate recedes.

DARKENED WINDOWS

House bill

No provision.

Senate amendment

Section 217 of the Senate amendment requires the Secretary to conduct a rulemaking to consider certain safety issues related to the use of dark tinted windows in passenger vehicles and the adequacy to current safety standards in this regard. The Senate notes that NHTSA completed a study of this issue in March 1991, and determined that rulemaking is appropriate. This section would insure that the rulemaking is completed in a timely fashion.

Conference substitute

Senate recedes.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

House bill

No provision.

Senate amendment

Section 218 of the Senate amendment establishes a grant program to encourage the states to increase the rate of seat belt usage among their citizens, and to educate their citizens about the proper use of child restraint systems. Grants would be available for a maximum of three fiscal years, to fund a declining percentage of the cost to states of their programs to achieve the required goals. Grants would be available to states that (1) have in effect mandatory seat belt use laws applicable to front seat passengers; (2) achieve either 70 percent seat belt usage by those passengers or a stated, and increasing, improvement over 1989 use rates; and (3) have in effect a program determined by the Secretary to encourage the correct use of child restraint systems.

Conference substitute

Senate recedes. A similar grant program is included in Title I of the conference report.

PEDESTRIAN SAFETY

House bill

No provision.

Senate amendment

Section 220 of the Senate amendment required that NHTSA complete a rulemaking, within two years of enactment, to minimize pedestrian injury attributable to vehicle design elements such as hoods, hood ornaments, fenders and grills. The Senate notes that, according to NHTSA, almost 7,000 pedestrians are killed annually in the United States. Since 1981, NHTSA had done considerable research on reducing pedestrian injuries, and identifying sources of these injuries. This section would require that a rulemaking be conducted utilizing that research.

Conference substitute

Senate recedes.

DAYTIME RUNNING LIGHTS

House bill

No provision.

Senate amendment

Section 221 of the Senate amendment required a rulemaking, to be completed within 12 months of enactment, to authorize passenger cars and MPVs to be equipped with daytime running lights. The Senate notes that some preliminary research in other countries has indicated that these lights reduce accidents. However, some state laws on headlight configuration have the effect of prohibiting the use of such lights. This section would allow their use. The section also requires that the Secretary report to the appropriate congressional committees, within two years of enactment, on the safety implications of these lights.

Conference substitute

Senate recedes. The conferees note that on August 12, 1991 NHTSA issued a notice or proposed rulemaking on the issue of whether manufacturers should be permitted to produce vehicles with daytime running lights despite state laws concerning headlight configuration.

HEADS-UP-DISPLAYS

House bill

No provision.

Senate amendment

Section 223 of the Senate amendment required a rulemaking, to be completed within 12 months of enactment, to consider whether heads-up displays, which permit the driver to obtain information on speed, fuel level, and other instrument readings without looking down, should be required in cars and MPVs. The Senate notes that there is some information that such displays may reduce accidents by allowing the driver to keep his or her eyes on the road while obtaining instrument information. The rulemaking required by this section would not have to result in the issuance of a new or different performance standard or requirements. It is presumed, however, that NHTSA would establish such standard if its investigation showed that they were practicable, would meet the need for motor vehicle safety, and could be stated in objective terms.

Conference substitute

Senate recedes.

TITLE III—TRANSIT

House Bill

The House bill provides that unless specifically identified otherwise, all changes to existing law contained in the Act have been made to the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601–1621).

Senate amendment

The Senate bill contains a similar provision.

Conference substitute

Senate recedes to House.

AGENCY NAME CHANGE

House bill

The House contains a provision that would rename the Urban Mass Transportation Administration (UMTA) as the Federal Transit Administration (FTA).

Senate amendment

Senate contained similar provision.

Conference substitute

The conference report includes the House provision.

FINDINGS AND PURPOSES

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would add a new finding that a significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

This section would also amend Section 2(b) to state that an objective of the Act will be to provide State and local governments with financial resources to help implement the national goals related to improved air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

Conference substitute

The conference report includes the Senate provision which has been incorporated into Title I.

CAPITAL GRANTS—ELDERLY AND PERSONS WITH DISABILITIES

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would amend Section 3 of the Act to allow public transit agencies to apply for capital funding under the Section 3 grant program for transportation projects that are specifically designed to meet the needs of elderly persons and persons with disabilities.

Conference substitute

The conference report includes the Senate provision.

SECTION 3—PROGRAM ALLOCATIONS

House bill

The House bill contains a provision not included in the Senate bill that would allocate 10 percent of Section 3 funds for a minimum apportionment program which guarantees that each State will receive ½ of 1 percent of Mass Transit Account funds distributed annually. These funds may be used, at the discretion of the Governor of the state, for any highway or transit capital project eligible for Federal funding. The Federal share for minimum apportionment projects will be 80 percent, unless a lower Federal share in specified under title 23, United States Code.

Senate amendment

The Senate bill contained a provision not included in the House bill that would require the Secretary to allocate Section 3 grant funds in the following way: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities.

Conference substitute

House recede to Senate with an amendment to create a rural transit set aside of 5.5 percent of the 20 percent allocated for the replacement, rehabilitation and purchase of buses and bus related equipment and the construction of bus facilities.

ADVANCE CONSTRUCTION—TECHNICAL AMENDMENT RELATED TO INTEREST COST

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would amend Section 3(l) to make the advance construction mechanism more workable by deleting language that requires grantees to bet on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Conference substitute

The conference report includes the Senate provision with an amendment to ensure that operators use due diligence in obtaining the most favorable interest terms.

CAPITAL GRANTS—EARLY SYSTEMS WORK CONTRACTS

House bill

No similar provision.

Senate amendment

The Senate bill contained a provision not included in the House bill that would authorize the Secretary to enter into full funding contracts and early systems work agreements with applicants to provide for more efficient project management.

Conference substitute

The conference agreement includes the Senate provision with technical amendments.

TRANSIT DEFINITIONS

House bill

The House bill contains a provision not included in the Senate bill that makes the terms transit, public transportation and mass transportation synonymous.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

CAPITAL GRANT OR LOAN PROGRAM

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would rename section 3 of the Urban Mass Transportation Act of 1964 to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program".

Conference substitute

The conference report does not include the Senate provision.

SECTION 3—LETTER OF INTENT

House bill

The House bill contains a provision not included in the Senate bill that eliminates the letter of intent process currently used by the Secretary to make discretionary grants under the UMTA Section 3 program.

Senate amendment

No similar provision.

Conference substitute

House recede to Senate.

SECTION 3—INNOVATIVE TECHNIQUES

House bill

No similar provision.

Senate amendment

The Senate bill contained a provision not included in the House bill that would expand eligible activities under the section 3 discretionary program to include projects that introduce innovative techniques and methods to public transportation. This change merely codifies existing statute by incorporating language from section 4(i) into section 3.

Conference substitution

The conference report does not contain the Senate provision.

SECURITY GRANTS

House bill

The House bill contained a provision not included in the Senate bill that would set aside $10,000,000 annually from the section 3 bus discretionary program for projects which enhance transit security.

Senate bill

No similar provision.

Conference substitution

The conference report contains the House provision with an amendment to provide funding for transit security through the section 9 formula program rather than the section 3, a discretionary program. Section 9 recipients must spend 1 percent of their formula apportionment on transit security projects or certify to the Secretary that transit security needs are adequately met. Transit security would also be added as a factor for consideration in the development of transportation plans and programs.

SECTION 3—GRANDFATHERED JURISDICTIONS

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would clarify that all existing letters of intent, full funding grant agreements and letter of commitment will remain in effect with passage of this Act.

Conference substitute

The conference agreement included the Senate provision.

MATCHING SHARES

House bill

The House bill contains a provision not included in the Senate bill that would increase the Federal share for projects under Section

3 of the UMT Act from 75 percent to 80 percent.

Senate bill

The Senate bill contained a provision not included in the House bill that would establish a higher federal match for those projects funded under sections 3, 9, 16(b), and 18 that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilities (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The Secretary would determine the portion or portions of a project eligible for the higher federal match.

Conference substitute

The conference report includes the House provision and the Senate provision with an amendment to also make vehicle-related equipment required by the Clean Air Act, as amended, or the Americans with Disabilities Act eligible for a 90 percent federal match.

PLANNING

House bill

Section 305 creates an intermodal transportation planning process by combining the fundamental requirements of highway and transit planning under sections 134 and 135 of title 23, United States Code.

Senate amendment

The Senate bill contains a similar provision.

Conference substitute

The Conference agreement contains elements of both the House and Senate bills.

The conferees intend and expect that MPOs when developing long-range plans will cooperate with States and units of local government in outlying areas that are not yet urbanized but are included in the long-range plan since they are expected to become urbanized in the future.

Private Enterprise and MPO Certification

In accordance with this provision, localities shall be afforded wide flexibility in establishing criteria to be used in determining the "feasibility" of private involvement in local programs. However, nothing in this provision shall diminish the responsibility of the Secretary to encourage grantees of federally funded projects to provide for the maximum feasible participation of private enterprise in accordance with Section 8(e).

SECTION 9 PROGRAM

House bill

The House bill contains a provision not included in the Senate bill that would increase the share of formula grant funds allocated to urbanized areas of less than 200,000 population from 8.64 percent to 10 percent and consequently reduce the share of formula grant funds allocated to urbanized areas of 200,000 or more population from 88.43 percent to 85 percent.

The House bill would specifically extend the safety authority of the FTA to the Section 9 formula grant program.

The bill would redefine "materials and supplies" as associated capital maintenance items.

It provides that the operating assistance limitation imposed on urbanized areas under the section 9 formula grant program will be adjusted for inflation according to the Consumer Price Index of the most recent calendar year on October 1, 1991 and each year thereafter.

Senate bill

The Senate bill contained a provision not included in the House bill that would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates.

The bill would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The subsection would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currently required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

The bill would require the Secretary to establish streamlined procedures to govern a recipient's "continuing control" certification with respect to track and signal equipment. Under existing law, a section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that UMTA's interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

The Senate bill contained a provision not included in the House bill that would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds.

The Senate bill contained a provision not included in the House bill that would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Conference substitution

The conference report includes the Senate provisions with the following amendments. The share of formula grant funds allocated to urbanized areas of less than 200,000 population is increased from 8.65 percent to 9.32 percent; the share of formula funds for urbanized areas greater than 200,000 population is consequently reduced from 88.43 to 85.10.

The operating assistance limitation in current law would be adjusted for inflation based on the consumer price index, but such increase could not be greater than the increase in the section 9 appropriations from the previous fiscal year.

Energy Efficiency

"The conferees expect that the FTA will adhere to the energy efficiency policy in this legislation. Grantees are deemed in compliance with this policy should they operate shorter trains during certain time periods in order to achieve energy and operating efficiencies."

Security Grants

"The conferees agree that eligible projects include safety communications equipment, as well as, the design and construction of safety and security facilities located on transit system premises."

SECTION 9 PROGRAM—ELIMINATION OF INCENTIVE TIER

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas.

Conference substitute

The conference report does not include the Senate provision.

SECTION 9 PROGRAM—PROGRAM OF PROJECTS

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Conference substitute

The conference report includes the Senate provision with an amendment to delete the words "maximum feasible."

MODIFIED BUS SERVICE

House bill

The House bill contained a provision not included in the Senate bill that would allow "tripper service" to accommodate the needs of students in New York City.

Senate bill

No comparable provision.

Conference substitute

The conference report includes the House provision with a modification to define express bus service to include special school bus service intended to alleviate pressure on regularly scheduled local bus service.

USE OF POPULATION ESTIMATES AND CENSUS DATA

House bill

The House bill did not include a similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would require more frequent updates of the population statistics used to distribute funds under Section 18 and Section 9 for small urbanized areas. Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. This section would require the Secretary to use interim population estimates provided by the Secretary of Commerce to update the formulas every four years.

The Senate bill also contained a provision not included in the House bill that would require the Secretary to use data from the 1990 census, to the extent practicable, in determining allocation of funds under Sections 9, 16(b)(2) and 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

Conference substitute

The conference agreement contained the Senate provision with an amendment to drop the use of the 1990 Census to the extent practicable for fiscal year 1992 and limiting the use of interim estimates to the Section 16(b)(2) and 18 programs.

VOL 137
PT 24
NO 26
1991 - JA 3 1992
UMI

FORMULA GRANT PROGRAM—DISCRETIONARY TRANSFER OF APPORTIONMENT

House bill

The House bill would allow the Governor of a state to transfer 25 percent of the funds allocated to that state for expenditure in urbanized areas of less than 200,000 population under the section 9 program to any other transportation purpose eligible for Federal funding under title 23, United States Code, and an additional 10 percent if transit services are being adequately maintained in those areas.

The House bill would also allow the Governor of a state to transfer 25 percent of the funds allocated to that state for expenditure in rural areas under the section 18 program to any other transportation purpose eligible for Federal funding under title 23, United States Code, and an additional 10 percent if transit services are being adequately maintained in those areas.

Senate bill

The Senate bill would provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers, (ii) adequate provision is first made for any program of investments required to comply with the Americans with Disabilities Act and (iii) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Conference substitute

The conference report contains the Senate provision with an amendment to remove the Secretary's authority to certify that sufficient funding is available to fund transit projects.

SPECIAL PROCUREMENT

House bill

The House bill contains a provision that would permit the use of "turnkey" procurement in the award of grants for the construction of new transit systems. A "turnkey system project" is defined as one in which a grant recipient contracts with a consortium of firms, an individual firm(s), or a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time. Multiyear rolling stock procurements are also specifically permitted.

Senate amendment

The Senate bill contained a similar provision.

Conference substitute

The conference report includes the House provision with an amendment to ensure that the Secretary must allow at least two projects to pursue turnkey system procurements, and to require the Secretary to consider any other projects using turnkey procurement in the development of regulations. The report also includes a provision to allow transit grantees to select other than the lowest bidder if such selection furthers objectives which are consistent with the purposes of this Act, such as improved long term operating efficiency and lower long term costs.

RULEMAKING

House bill

No comparable provision.

Senate bill

The Senate bill would require the Secretary to use the notice-and-comment rulemaking process on a range of significant Federal Transit Administration policy issues but would not require the process to be followed in the case of emergency rules, routine matters, or matters of insignificant impact.

Conference substitute

The conference report includes the Senate provision. The conferees do not intend that the Secretary publish all of the Federal Transit Administration's instructions or routine requirements as rulemakings. Examples of matters not subject to the rulemaking process include the issuance or revision of grant application circulars, such as those for the section 9 or 18 programs, letters of explanation or interpretation of regulations or policies in response to requests from Members of Congress or the public, internal procedures on administrative issues, and other routine managerial and program issues.

TRANSFER OF FACILITIES AND EQUIPMENT

House bill

The House bill contains a provision not included in the Senate bill that would allow the transfer of capital assets acquired with Federal assistance, which are no longer needed for the purpose for which they were acquired, to any public purpose, provided that the Secretary determines that certain conditions regarding the value and use of the assets have been met.

Senate bill

The Senate bill included a similar provision. The Senate bill also included a provision to allow a similar transfer of assets between the section 18 and section 16 programs.

Conference substitute

The conference report includes the House provision and the Senate provision for transfer of assets under section 18 and section 16.

ELDERLY AND PERSONS WITH DISABILITIES

House bill

The House bill would permit the use of section 16(b) funds for operating expenses. Also, transit service providers receiving assistance under sections 16 or 18 may coordinate and assist in providing meal delivery service for homebound persons on a regular basis if providing the meal service does not conflict with the provision of transit service or result in a reduction of service to transit passengers.

Senate bill

The Senate bill contained a provision not included in the House bill that would clarify existing FTA practice by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The section also requires an assurance that the State's program of projects provides for the coordination of Section 16(b)(2) transportation services with transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

In addition, the section would authorize assistance to public bodies that are approved by a State to coordinate transportation services for elderly persons and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services.

The Senate bill would allow the Governor of each State to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to be used to supplement funds distributed under either the Section 18 program or the Section 9 program.

The Senate bill would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The section specifies that the regulations shall be issued within 60 days of enactment of the bill.

Conference substitute

The conference report includes the Senate provisions with an amendment to clarify that public bodies are eligible for capital funding under Section 16(b)(2) only if they certify to the Governor that no non-profit corporations are readily available in an area to provide transportation for elderly persons and persons with disabilities. The conference report includes a provision to allow eligible capital expenses to include the acquisition of transportation services under a contract, lease or other arrangement. The report includes the House provision regarding meal delivery service for homebound persons.

ELIGIBILITY STUDY

House bill

The House bill contains a provision not included in the Senate bill that requires the Secretary to conduct a study on the eligibility requirements of individuals with disabilities for off-peak reduced transit fares.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

E&H FUNDS FOR PENNSYLVANIA

House bill

Section 329 sets aside an additional $1,000,000 in Section 9 and 18 funds in FY 1992 for the State of Pennsylvania for elderly and handicapped transportation services.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not include the House provision.

INTERCITY BUS TRANSPORTATION

House bill

The House bill contains a provision not included in the Senate bill that would provide that, before apportioning section 18 funds, the Secretary shall set aside $20,000,000 for intercity bus transportation.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision with an amendment to set aside funds for intercity bus service from each State's apportioned section 18 funds rather than provide a discretionary set-aside from the total program. A State would be required to spend 5% of its section 18 allocation in fiscal year 1992, 10% in fiscal year 1993 and 15% in fiscal year 1994 and all years thereafter, for the development of an intercity bus program unless it certifies to the Secretary that the State's intercity bus needs have been adequately met relative to other rural needs in the State.

GAO STUDY ON PUBLIC TRANSIT NEEDS

House bill

The House bill contains a provision requiring the Secretary, beginning in January 1993

and biennially thereafter, to report to the Congress a comprehensive estimate of the future transit needs of the nation, including an assessment of the impact of the transferability of transit funds to highway projects.

Senate bill

The Senate bill contained a similar provision that would require the General Accounting Office, on a biennial basis, to submit a report to Congress that evaluates the extent to which the nation's transit needs are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns. The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

Conference substitution

The Conference Agreement contains the Senate provision requiring the General Accounting Office to conduct a comprehensive study on total funding needs for public transit systems as well as a study on the effects of shifting transit funds to highway projects.

ENGINEERING AND DESIGN SERVICES

House Bill

The House contains a provision not included in the Senate bill that would allow the use of indirect cost rates established in accordance with Federal acquisitions regulations in the performance of, or auditing of, FTA grants.

Senate bill

No simillar provision.

Conference substitute

Recede to Senate.

SAFETY CONDITIONS IN MASS TRANSIT

House bill

The House bill included a provision not in the Senate bill that would require states to establish and implement a safety program for fixed guideway transit systems and require the Secretary to withhold transit funds if the State does not comply with the provisions of the section.

Senate bill

The Senate bill contained a provision not included in the House bill that would require the Secretary to submit a report to Congress within 180 days of enactment on the safety of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by the Secretary in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

Conference substitute

The conference report includes the Senate provision and the House provision with an amendment to limit the ability of the Secretary to withhold transit funds.

AWARD AUDITS

The House bill contains a provision not included in the Senate bill.

House bill

Section 310 clarifies Congressional intent regarding pre-award and post-award audits of rolling stock purchases.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not contain either provision.

M ACCOUNT

House bill

The House bill contains a provision not included in the Senate bill.

Preserves the availability of M account balances available as of August 1, 1991.

Senate amendment

No similar provision.

Conference substitute

The conference report includes the House provision.

PROJECT MANAGEMENT OVERSIGHT

House bill

No comparable provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would increase the percentage of funds reserved for FTA's project management oversight program. The current ½ percent takedown of all funds available to carry out sections 3, 9, 18, interstate transfer projects, and the National Capital Transportation Act (authorizing legislation for D.C. Metro) would be increased to ¾ percent. A technical restriction would be removed that currently limits the use of these "takedowns" from each eligible program to projects funded under that same particular section. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

Conference substitute

The conference report includes the Senate provision with an amendment to limit the increase to ¾ percent set-aside to section 3 projects at the discretion of the Secretary.

PLANNING AND RESEARCH

House bill

Section 317 establishes a combined planning and research program under a new section 26. Of the funds made available annually, one-third is available to the Secretary to make grants under sections 6, 8, 10, 11(a), 18(h), or 20.

The remaining two-thirds is available to the states and metropolitan planning organizations for transit-related planning under sections 134 and 135 of title 23, United States Code.

Senate amendment

The Senate bill included a similar provision with a different funding structure.

Conference substitute

The conference report includes the Senate provision with an amendment to add several research demonstration projects.

The suspended Light Rail System Technology Pilot Project should be administered and implemented by the Federal Transit Administration Office of Technology Assistance and Safety with normal oversight and control by the Office of the Administrator.

The conferees want to make clear their intentions with regard to the transit cooperative research program under Section 317(a) of the House bill and under Section 341 of the Senate bill. It is our intention, as specified under an understanding between UMTA and the transit industry and as outlined in the Floor statement of Public Works and Transportation Chairman Roe, that the Transit Development Corporation be designated as the independent governing board that determines what research and related activities are carried out. In interpreting the statutory language it is the conference committee's expectation that this independent governing board will have the authority to provide its own staffing and that UMTA will pay for such expenses. In addition, while the conferees envision that the Transportation Research Board, under the National Academy of Sciences will conduct the research projects designated by the Transit Development Corporation, they expect that the Transit Development Corporation and the American Public Transit Association will have the opportunity to disseminate the results of such research and that UMTA will support such dissemination costs.

CHARTER SERVICE DEMONSTRATION PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate bill contained a provision that would require GAO to conduct a study on charter service regulation.

Conference substitute

The GAO charter service regulation study is amended to include a demonstration program. In response to the concerns expressed by local transit operators regarding the existing charter service regulation, the Conferees have mandated the Secretary to implement an alternative set of regulations in not more than four states that would permit transit operators to provide charter services.

These regulations should be designed to enable public transit operators to provide charter services to government, civic, charitable and other community organizations that serve a public purpose and help address unmet transit needs. It is intended that these regulations will grant public transit operators with additional flexibility that is not afforded under the existing charter services regulations, but will to the maximum extent feasible, not create undue competition for privately owned charter services.

It is the desire of the Conferees to ensure that the regulations provide proper balance between the interests of public and private operators. Thus, in developing the regulations, the Secretary will be required to consult with an advisory board which has equal representation of public transit operators and privately owned charter services.

The Conferees intend to throughly monitor the demonstration program and to review the results of the study carefully during consideration of the interim surface transportation bill.

The Conferees believe this demonstration program will provide Congress and the Secretary with information to determine: (1) the most effective methods for providing charter services to local communities; and (2) whether the current regulations are in need of modification. The Conferees recommend that the Secretary select the state of Michigan as a participant in the program.

EFFECTIVE DATE

House bill

Section 331 sets an effective date of October 1, 1991 for the Act.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not include the House provision.

BUDGET COMPLIANCE

House bill

Section 332 ensures compliance with budgetary guidelines.

Senate amendment

No comparable provision.

Conference substitute

The conference report includes the House provision with a conforming amendment.

House bill

The House bill contains a provision not included in the Senate bill that would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

Senate bill

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

FORGIVENESS OF OBLIGATION

House bill

The House bill would forgive the balance on a grant agreement made to the Fayetteville Transit Authority.

The House bill would extend the period by which the Southeastern Pennsylvania Transit Authority (SEPTA) must repay certain loans to UMTA by 10 years.

Senate bill

No comparable provision.

Conference substitute

The conference report includes the House provision with an amendment to forgive the SEPTA loan.

MILWAUKEE ALTERNATIVES ANALYSIS

House bill

Section 333 requires the Secretary to approve the undertaking of an alternatives analysis for the East-West Central Milwaukee Corridor.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

Conference agreement included the House provision.

House bill

The House bill would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

The House bill would provide an additional $4,000,000 to the Niagara Frontier Transit Authority for service associated with the 1993 World University Games.

The House bill would increase the operating assistance limitation for the Staten Island Ferry by $2,700,000 in FY 1992.

Senate amendment

The Senate bill would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 Act to permit a commuter rail line (Tri-County Rail Authority) in south-eastern Florida to continue to receive federal operating assistance under section 9.

Conference substitute

The conference report includes the House and Senate provisions.

PETROLEUM VIOLATION ESCROW ACCOUNT FUNDS

House bill

The House bill would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

OPERATINO ASSISTANCE

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Senate amendment

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Conference substitute

The conference report includes the House and Senate provisions.

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Section 333 requires the Secretary to approve the undertaking of an alternatives analysis for the East-West Central Milwaukee Corridor.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference agreement included the House provision.

SECTION 3—NEW STARTS

House bill

The House bill included provisions that would require all new start projects to be authorized in statute in order to receive funds. The bill would require FTA to submit to Congress annually a report on new starts.

Senate bill

The Senate bill included provisions not included in the House bill that would revise the new starts criteria and project development process.

Conference substitute

The conference report contains provisions from both the House and Senate bills.

The Conferees want to make clear that, in establishing guidelines for construction of new fixed guideway systems or extensions to such systems, the Act's directive that the "degree of local financial commitment shall be considered acceptable only if—"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable;" shall not prevent funding for projects for which there is a reasonable expectation of local funding. The conferees expect that the guidelines would include among the types of financial commitment that constitute an acceptable degree of local financing, state and local tax levies or assessments, annual state or local general fund appropriations, anticipated bond revenues, in kind contributions, and other possible funding sources.

3(C)(iii)—The Conferees want to make clear that, in establishing guidelines for construction of new fixed guideway systems or extensions to such systems, the Act's directive that the "degree of local financial commitment shall be considered acceptable only if—"local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project" shall not prevent funding for projects where such proposed projects would provide a substantially similar level of existing transit service. The conferees do not intend such guidelines to prevent initiation of fixed guideway projects that would provide a level of service similar to that already provided through other means.

NEW JERSEY URBAN CORE PROJECT

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a full funding grant agreement for the construction of the New Jersey Urban Core Project.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

SAN FRANCISCO BAY AREA RAIL EXTENSION PROGRAM

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a full funding grant agreement for the construction of an extension of BART to the San Francisco International Airport and for the construction of the locally preferred alternative for the Tasman Corridor Light Rail Project.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

MULTI-YEAR METRO RAIL CONTRACT

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a multi-year grant agreement for the construction of planned extensions to the Metro Rail Rapid Transit System in Loa Angeles, California.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

MISCELLANEOUS MULTI-YEAR CONTRACTS

House bill

The House bill would prescribe terms and conditions which the Secretary must include in various multi-year grant agreements for specified transit projects.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision with amendments.

The conferees expect the Connecticut Department of Transportation to continue to designate the Penquonnock (Peck) River Railroad Bridge project as a high priority project to be completed within available funds. The conferees concurrently direct the federal Urban Mass Transportation Administration, in acting on the Connecticut Department of Transportation's funding request for the Peck Bridge project, to take account of the importance the conferees place on the completion of this project for the state of Connecticut and the proper functioning of the entire Northeast rail corridor.

The managers direct that $250,000 of the funds made available under section 3 be used to initiate an analysis of the possible route, options and incremental phases for assistance necessary for a rail connection between North Station and South Station in Boston, Massachusetts.

This study should include an operating analysis, taking into consideration the option of connecting such service with existing or proposed rail services to and from Boston, including the connection's capability of meeting the regional, intrastate and interstate transportation demands.

This study should include an engineering and financial analysis, taking into consideration a regional commuter railroad service, Massachusetts intercity service and/Amtrak interstate service. UMTA is responsible for the overall study, but should conduct it in coordination, as deemed necessary, with the Federal Railroad Administration, Amtrak, private freight lines and regional transportation authorities.

The study is intended only as an assessment of feasibility, but shall include recommendations for possible federal assistance. This analysis shall be of rail link separate and distinct from the Boston Central Artery/Third Harbor Tunnel project and the Federal Highway Administration.

Of the funds authorized to be appropriated under this Act, the conferees intend that $750,000 be provided to assist the Research Triangle Regional Public Transportation Authority with a regional transit planning study to identify transportation system deficiencies, possible solutions, and evaluate transit technology alternatives.

AUTHORIZATIONS

House bill

The House bill would authorize the following amounts for FTA programs:

FEDERAL TRANSIT ADMINISTRATION

[In millions of dollars]

FTA Program		1992	1993	1994	1995	1996	1997
Sec. 9, 18	(G)	2,130	2,125	2,025	2,125	2,225	2,305
	(M)	0	555	555	555	555	1,555
(Blend)	(M)	180	300	400	300	200	275
Total Sec. 9, 18		2,310	2,980	2,980	2,980	2,980	4,135
Sec. 3	(M)	1,350	1,680	1,580	1,680	1,780	2,485
(Blend)	(M)	180	300	400	300	200	275
Total Sec. 3		1,530	1,980	1,980	1,980	1,980	2,760
Sec. 4(i), 16(b)	(M)	25	35	35	35	35	45
Sec. 16(b)	(G)	20	25	25	25	25	35
Planning [1]	(M)	67	123	123	123	123	158
UTC	(M)	7	7	7	7	7	7
Admin.	(G)	50	50	50	50	50	60
Total		4,009	5,200	5,200	5,200	5,200	7,200
UTC	(H)	7	7	7	7	7	7
Inter-Sub. Transit	(G)	160	160	0	0	0	0
Total		4,176	5,367	5,207	5,207	5,207	7,207

G=General Funds.
M=Mass Transit Account, Highway Trust Fund.
H=Highway Account, Highway Trust Fund.

[1] Combined Planning, Research, Training, and Human Resources program.

Senate amendment

MASS TRANSIT ACT

[Dollars in thousands]

	Fiscal year 1991	Admin 1992	Fiscal year— 1992	1993	1994	1995	1996
Sources of funds:							
Sec. 3 Capital Grants:							
Trust fund	$1,200,000	NA	$535,000	$580,000	$680,000	$750,000	$835,000
General funds	213,100	0	775,000	780,000	798,600	828,900	850,400
Subtotal section 3	1,413,000	NA	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants and other:							
Trust fund—contract	200,000	NA	1,070,500	1,220,000	1,300,000	1,450,000	1,565,000
Trust fund—appropriation	0	0	450,000	525,000	550,000	400,000	300,000
General funds	1,581,483	0	990,000	862,000	801,000	981,000	1,160,000
Subtotal formula and other	1,781,483	NA	2,510,500	2,607,000	2,651,000	2,831,500	3,025,000
All Grants:							
Trust fund—contract	1,400,000	$350,000	1,605,500	1,800,000	1,980,000	2,200,000	2,400,000
Trust fund—Appropriation	0	2,899,499	450,000	525,000	550,000	400,000	300,000
General funds	1,794,583	0	1,765,000	1,642,000	1,599,600	1,810,400	2,010,400
Total FTA funds	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400
Use of funds:							
Sec. 3 capital grants:							
Rail modernization	455,000	(Sec. 9)	524,000	544,000	591,440	631,560	674,160
New starts	440,000	300,000	524,000	544,000	591,440	631,560	674,160
Bus	220,000	(Sec. 9)	262,000	272,000	295,720	315,780	337,080
ADA and clean air	0	50,000	0	0	0	0	0
Subtotal sec. 3	1,115,000	350,000	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants: Section 9 and 9B							
Rail modernization	(sec. 3)	600,000	(sec. 3)	(sec. 3)	(sec. 3)	(sec. 3)	(sec. 3)
Bus	1,156,427	1,446,106	1,330,032	1,382,219	1,507,265	1,610,313	1,720,820
Fixed guideway	578,214	419,802	665,016	691,109	753,633	805,157	860,410
Subtotal section 9 and 9B	1,734,641	2,465,908	1,995,048	2,073,328	2,260,898	2,415,470	2,581,230
Sec. 16(b) elderly/handicapped	35,000	45,000	58,508	60,705	63,144	67,356	71,856
Sec. 18 rural	65,359	89,000	127,343	132,340	144,313	154,179	164,759

MASS TRANSIT ACT—Continued

[Dollars in thousands]

	Fiscal year 1991	Admin 1992	Fiscal year— 1992	1993	1994	1995	1996
Subtotal formula	1,835,000	2,599,908	2,180,899	2,266,374	2,468,355	2,637,005	2,817,845
Planning and research:							
MPOs	45,000	(state)	52,657	54,635	56,830	60,620	64,670
State program	————	62,151	11,702	12,141	12,629	13,471	14,371
Transit cooperative	————	(state)	11,702	12,141	12,629	13,471	14,371
National program	8,000	31,075	35,105	36,423	37,886	40,414	43,114
University centers	5,000	6,000	5,000	5,000	5,000	5,000	5,000
Rural: RTAP	5,000	(TP&R)	5,851	6,071	6,314	6,736	7,186
Administrative Expenses	32,583	40,365	47,586	49,373	51,357	54,783	58,443
Interstate transfer	149,000	160,000	160,000	164,843	0	0	0
Total FTA program	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400

Conference substitute

	1992	1993	1994	1995	1996	1997
Transit account	1.90	2.88	2.98	2.88	2.78	4.80
General funds	1.75	2.36	2.15	2.25	2.35	2.45
Total	3.65	5.24	5.13	5.13	5.13	7.25
Capital grants	1.35	2.03	1.98	1.98	1.98	3.18
Formula grants	1.91	2.61	2.67	2.67	2.67	3.43
Rural	0.06	0.15	0.16	0.16	0.16	0.20
All other	0.33	0.45	0.32	0.32	0.32	0.44

TITLE IV—MOTOR CARRIER ACT OF 1991

House bill

SECTION 401, SHORT TITLE

This title may be cited as the "Motor Carrier Act of 1991".

Senate amendment

This part may be cited as the Motor Carrier Safety Assistance Program Reauthorization Act of 1991.

Conference substitute

Retains the House title.

Motor Carrier Safety Assistance Program Amendments

House bill

Amends section 402 of the Surface Transportation Assistance Act of 1982. The principal changes affect the purposes and goals of the program and the plan that must be submitted by the states participating in the program.

Subsection (a) permits new activities to be initiated in this program. It further provides that state plans must ensure that these new activities will not diminish other aspects of the program. In addition, subsection (a) requires the plan to ensure that fines imposed and collected will be reasonable and appropriate, and that the program will be coordinated with the state highway safety plan under section 402 of Title 23 of the United States Code.

Subsection (b) requires that the states initiating these new efforts must maintain current support for their programs for enforcement of size and weight laws, controlled substance laws and traffic law enforcement laws.

Subsection (c) amends the program to allow states to begin certain new activities and to incorporate these activities into their respective programs. States may incorporate motor vehicle size and weight enforcement, controlled substance interdiction activities, and enforcement of state traffic laws. The size and weight enforcement activities under this program must be directed at weighing vehicles at other than fixed-site weighing stations. The activities can include weighing activities at seaports and at locations such as steep grades or mountainous terrains where weight may cause more acute safety problems. These activities can be carried out only in conjunction with principal activity of this program; namely, roadside safety inspections.

Subsection (d) establishes funding levels for the Motor Carrier Safety Assistance Program established under section 404 of the Surface Transportation Assistance Act of 1982. The levels are $65 million for fiscal year 1992, $80 million for fiscal year 1993, and $100 million per fiscal year for fiscal years 1994, 1995, and 1996.

Subsection (e) provides that grants made under the program will be available to the states for three years, rather than for one year.

Subsection (f) provides that funds made available for this program are now available until expended.

Subsection (g) provides that the Secretary may use one percent rather than one-half of one percent for administrative purposes.

Subsection (h) provides earmarking of funds for training roadside inspectors in the hazardous materials regulations, for making grants to states to adopt uniform accident reporting forms for truck and bus accidents, for research, for essential administrative functions, for public education, and for several specified reports.

Subsection (i) authorizes appropriations for carrying out the motor carrier safety functions of the Federal Highway Administration.

Subsection (j) lists a number of reports which the Secretary is required to make. The reports are to be funded at $150,000.00 per year for fiscal years 1992 and 1993.

Senate amendment

This section amends Chapter 4 of title 23 of the U.S. Code by adding a new section 411. Subsection (a) of this new section authorizes the Secretary to make grants to eligible States for the enforcement of Federal or compatible State commercial motor vehicle safety rules, regulations, standards, and orders, as well as State and local traffic safety laws and regulations.

Subsection (b) of this new section requires the Secretary to formulate procedures for a State to use when submitting its annual Motor Carrier Assistance Program plan. This section requires States to adopt and assume responsibility for enforcing Federal motor carrier safety rules, regulations, standards, and orders, including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement (including interdiction of illegal shipments), or compatible State rules in these areas. This new section provides the Secretary with discretion to approve State plans which designate a lead State agency responsible for administering the plan, ensure qualified personnel and adequate funds to administer the plan, provide a right of entry and inspection and that the State will grant maximum reciprocity for inspections conducted pursuant to the North American inspection standard, provide for the adoption of uniform reporting requirements and use of uniform recordkeeping and inspection forms, ensure participation in databases on drivers, vehicle inspections, and driver compliance with traffic safety laws and regulations, and ensure that size and weight inspection activities will not diminish other safety initiatives. Additionally, this new section requires that a State plan give satisfactory assurances that the State would conduct effective activities in the area of drug and alcohol enforcement, provide training to Motor Carrier Assistance Program officials and employees in drug recognition techniques, promote Commercial Drivers' License enforcement, ensure adequate enforcement of traffic safety, improve the enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities and vehicle loads, promote drug interdiction activities, and attempt to ensure that fines imposed and collected by the State will be reasonable and that the State will seek to implement the recommended fine schedule published by the Commercial Vehicle Safety Alliance.

In the areas of commercial motor vehicle safety and drug and weight enforcement, this new section specifies that a State maintain an average of the expenditures for the last three years, exclusive of Federal funds or State matching funds, in order to receive Program funds for these purposes. If a State chooses to use Program funds for weight enforcement, a State must couple that enforcement with a safety inspection and conduct enforcement at locations other than fixed-weight facilities, such as at specific geographic locations, or on containers being loaded or unloaded at seaports.

Each fiscal year, this new section allows the Secretary to deduct up to 1.25 percent of the funds available for the administration of the Program, of which 75 percent is to be used for the training of non-Federal employees and development of training material. In order for this plan to be approved, a State must maintain a level of motor carrier safety expenditures which does not fall below an average of the previous 3 fiscal years, exclusive of Federal funds and State matching funds required to receive Federal funds. Funds made available to a State are to remain available for the fiscal year in which they were allocated and one succeeding fiscal year. If not expended by a State during those 2 years, the Secretary is to reallocate these funds. This section provides funding for the Motor Carrier Assistance Program at levels not to exceed $70 million in fiscal year 1993, $75 million in fiscal year 1994, $80 million in fiscal year 1995, and $85 million in fiscal year 1996.

Funding is increased to take into account inflationary costs that will raise the cost of

the Program's current inspection and audit work. In addition, the new section's funding level recognizes the need for increased traffic-related enforcement efforts (not less than $7.5 million to be spent for this purpose annually, beginning in fiscal year 1993). The new section requires that each of the States should use Program funds to improve their existing traffic safety enforcement programs affecting operators of commercial motor vehicles, and therefore, each of the States should receive an appropriate portion of the earmarked funds.

Finally, section 2(b) of the bill amends the existing Motor Carrier Assistance Program provisions of the Surface Transportation Assistance Act of 1982. Under that amendment, funding of $65,000,000 is allocated for fiscal year 1982 and is not subject to the new State plan requirements. A State may, however, resubmit its fiscal year 1992 State enforcement plans and seek reimbursement for any of the new activities required in fiscal year 1993.

Conference substitute

The Conference substitute on the funding levels for the Motor Carrier Safety Assistance Program established under Section 404 of the Surface Transportation Assistance Act are $65 million for fiscal year 1992, $76 million for fiscal year 1993, $80 million for fiscal year 1994, $83 million for fiscal year 1995, $85 million for fiscal year 1996, and $90 million for fiscal year 1997.

The substitute retained the general structure of the House bill. The substitute permits new activities to be initiated in this program. It further provides that state plans must ensure that these new activities will not diminish other aspects of the program. In addition, subsection (a) requires the plan to ensure that fines imposed and collected will be reasonable and appropriate, that the program will be coordinated with the state highway safety plan under section 402 of Title 23 of the United States Code, and that the 48 contiguous states participate in SAFETYNET by January 1, 1994.

The substitute allows states to begin certain new discretionary activities and to incorporate these activities into their respective programs. States may incorporate motor vehicle size and weight enforcement, controlled substance interdiction activities, and enforcement of state traffic laws. The size and weight enforcement activities under this program must be directed at weighing vehicles at other than fixed-site weighing stations. The activities can include weighing activities at seaports and at locations such as steep grades or mountainous terrains where weight may cause more acute safety problems. These activities can be carried out only in conjunction with principal activity of this program; namely roadside safety inspections.

The substitute requires that the states initiating these new efforts must maintain current support for their programs for enforcement of size and weight laws, controlled substance laws and traffic law enforcement.

The substitute retains slightly altered House provision on the commercial motor vehicle information system, the truck and bus accident data grant program and the common carriers providing transportation for charitable purposes. It also incorporates amended language on the provisions in the Senate bill dealing with research and development, public education, and the new allocation formula. The Senate provisions on violations of out-of-service orders, intrastate compatibility, and FHWA positions are incorporated into the Conference Substitute.

The conferees expect that local governments receiving motor carrier assistance program funds from the States will continue their existing motor carrier safety and combined motor carrier safety and associated traffic enforcement efforts and use MCSAP funds to supplement their existing efforts.

Commercial Motor Vehicle Information System

House bill

Section 403 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 407.

New subsection 407(a) empowers the Secretary to review state motor vehicle registration systems for license tags in order to determine if such systems could be utilized in establishing a Commercial Motor Vehicle Information System. The system established by the Secretary should be designed to link state registration systems to the Department of Transportation's Safetynet System which contains essential data on the safety fitness of interstate motor carriers. The system is to be maintained by user fees.

The Commercial Motor Vehicle Information System could be operated by the Secretary, by a state or states, or a third party. Uniform data collection and reporting by all states would be required.

New subsection 407(b) provides that as part of the development of this program, the Secretary is empowered to carry out a pilot project with states in order to determine how to provide the needed linkage of the relevant systems and to determine types of sanctions which might be imposed on registrants to ensure safety compliance.

New subsection 407(c) authorizes the Secretary to issue regulations to implement this section.

New subsection 407(d) provides the funding necessary to carry out this section as provided in section 404(g)(2) of this title. The Secretary is provided $2 million per fiscal year for fiscal years 1992–1996 for carrying out the pilot project. The money is from the Motor Carrier Safety Assistance Program.

New subsection 407(e) defines a commercial motor vehicle for the purpose of this section.

Senate amendment

No comparable provision.

Conference substitute

The House bill, with one additional provision. The provision is that the Secretary of the Department of Transportation should prepare and submit a report assessing the costs, benefits, and feasibility of such a system. The report should include legislative recommendations on the nationwide implementation of such system, if the Secretary finds that such a nationwide system would be beneficial.

Truck and Bus Accident Data Grant Program

House bill

Section 404 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 408.

New subsection 408(a) authorizes the Secretary to make grants to states to assist them in adopting and implementing uniform reporting of accident data for trucks and buses.

New subsection 408(b) provides that grants may be made for assisting states in designing appropriate forms, in preparing instruction manuals, in training state and local officers, and for such other activities as are determined to be appropriate.

New subsection 408(c) requires the Secretary to coordinate grants made under this section with the highway safety programs under section 402 of title 23 U.S.C.

Under new subsection 408(d), the Secretary is authorized to make grants of up to $3 million per year for fiscal years 1993 through 1996.

Senate amendment

No comparable provision.

Conference substitute

The House bill, with several changes. The funding level is changed to $2 million per fiscal year for fiscal years 1993 through 1997. Another change adds training language pertaining to accident investigation techniques. Finally, it permits grant money to be used for analyzing and evaluating safety data.

Single State Registration System

House bill

Amends section 11506 of title 49 U.S.C.

Subsection 406(a) provides that effective January 1, 1994 states are prohibited from requiring motor carriers regulated by the Interstate Commerce Commission to file certificates or permits with the states in which they operate. It further eliminates the requirements for displaying a decal to indicate the possession of such a permit or certificate or the collection of a fee for such registration or decals.

States may continue the practice of requiring motor carriers to file and maintain proof of insurance.

Subsection 406(b) authorizes the Secretary to make grants to states to offset revenues lost as a result of subsection (a). A state is eligible if it had imposed and collected fees in 1991. The funding is established at $50 million for fiscal year 1994. Reimbursement is for one year only.

Senate amendment

No comparable provision.

Conference substitute

Section 405 repeals, effective January 1, 1994, the "bingo stamp" program authorized by Congress in 1965 through enactment of P.L. 89–170. The bingo stamp program allowed states to require interstate carriers to register their interstate operating authority with the state and charge a fee for doing so. The interstate carrier then received identification or "bingo" stamps from the state. Currently, 39 states require interstate carriers to carry such a stamp in the cab of each commercial motor vehicle operating within its borders.

The bingo stamp program authorized by P.L. 89–170 has been characterized as inefficient and has been an administrative burden on the trucking industry and the states. The trucking industry estimates that the program costs interstate carriers up to $250 million per year. Meanwhile, the 39 participating states collect only about $50 million under the program. The repeal of the bingo stamp program under Section 405 is intended to benefit the interstate carriers by eliminating unnecessary compliance burdens. It is the hope of the Conferees that, ultimately, consumers will also benefit from the cost savings associated with the elimination of the bingo program.

In order to preserve revenues for the states which had participated in the bingo program, Section 405 establishes a new annual fee system enabling such states to continue to collect funds from interstate motor carriers. The fee is based upon the carrier's filing of proof of required liability insurance. Fee revenues under this system must be collected through a streamlined administrative process established by Section 406 known as the "single state" or "base state" registration

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system. Under the single state registration system, a carrier will pay its annual fees to a single state (its base state) and that state will distribute the collections to other participating states in which the carrier's vehicles operate. This system is to be instituted by the Interstate Commerce Commission, in consultation with the participating states and the trucking industry, in such a manner as to eliminate as much of the paperwork and other compliance burdens as possible. Section 405 specifies that the only evidence of payment or other identification a vehicle must carry under this system is a copy of the receipt given the carrier by the base state.

States which did not collect bingo stamp fees under the former program will not be able to collect the new fees authorized by Section 405. Additionally, states must participate in the base state program in order to collect the fees authorized by Section 405. States are expressly prohibited from charging a fee for the registration of a carrier's interstate operating authority or for any other filings which may be required under Section 405.

The new fee system is to be based upon the number of vehicles which a carrier operates in a state and the number of states in which that carrier operates. States will not be allowed to charge a greater fee under Section 405 than the fee they charged under the former program as of November 15, 1991. The fee cannot exceed $10 per vehicle under any circumstances.

The Conference version of Section 405 does not authorize any funds to be distributed to the states from the Highway Trust Fund.

VEHICLE LENGTH LIMITATION

House bill

Section 407(a) amends the Surface Transportation Assistance Act of 1982 by adding a new subsection (j) to section 411.

New subsection (j)(1) prohibits a state from allowing operation of any commercial motor vehicle combination with two or more cargo carrying units (not including the truck tractor) which units as measured from the front of the first cargo carrying unit to the rear of the last carrying unit are a total length greater than were authorized by state statute or regulation and were being lawfully operated on or before June 1, 1991. The prohibition applies to the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid primary system highways as designated by the Secretary subject to subsection 411(e).

New subsection (j)(2) allows the operation of commercial motor vehicle combinations with two or more cargo carrying units (not including the truck tractor) to continue to operate on the relevant highway system if (A) the state determined on or before June 1, 1991 that such commercial motor vehicle combination could lawfully operate on such relevant system or highways pursuant to a state statute or regulation in effect on June 1, 1991; (B) the commercial motor vehicle combination was in lawful operation on a regular or periodic basis (including seasonal operation or operation pursuant to a permit issued by the state) on the relevant system or highways on or before June 1, 1991; and (C) if all operations of such commercial motor vehicle combinations on such relevant system and highways continue to be subject to, at a minimum, all state statutes, regulations, limitations and conditions (including routing-specific and configuration specific designations and all other restrictions) in effect on June 1, 1991; except that, subject to guidelines established by the Secretary, the state may make minor adjustments to route-specific designations and vehicle operation restrictions for safety purposes and for road construction purposes.

New subsection (j)(3) provides that in addition to the vehicles which may continue to operate in the State of Wyoming under (j)(2), such State may allow commercial motor vehicle combinations not in actual use on June 1, 1991 on the relevant system and highways by enactment of a State law on or before November 3, 1992. The State must notify the Secretary of enactment of such State law within 30 days and the Secretary must publish notice of the enactment of such law in the Federal Register.

New subsection (j)(4) provides that states may further restrict or prohibit vehicles covered by this provision, however, any such restriction or prohibition must be consistent with sections 412 and 416 of this Act. Any such changes must be submitted to the Secretary. Such change must be published in the Federal Register by the Secretary.

New subsection (j)(5) requires that within 90 days after the effective date of this subsection (October 1, 1991) states must complete and file in writing with the Secretary a complete list of all state statutes, regulations, limitations and conditions governing the operation of these types of vehicles.

If the state fails to file within the specified time, the Secretary is given the authority to complete and file the list for the state.

The state is further required to certify in writing that the state had determined pursuant to a state statute or regulation in effect on June 1, 1991 that such commercial motor vehicle combinations could lawfully be operated on such relevant system and highways, and such combinations were in operation on a regular or periodic basis on such system and highways on or before June 1, 1991.

The Secretary is required to publish the list in the Federal Register. After publication the Secretary is required to review the certifications and may commence a proceeding, on the Secretary's own initiative or pursuant to a challenge by any person, to determine whether or not the state's certification is inaccurate. The state has the burden of proof.

If the Secretary determines the certification is inaccurate, the Secretary is required to amend the list published in the Federal Register.

This subsection also provides that no state statute or regulation shall be included on the list published by the Secretary merely on the grounds that it is authorized, or could have authorized, by permit or otherwise, the operation of commerical motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

This subsection further provides the lists published in the Federal Register shall become final on the 30th day after publication, with the exception of adjustments made pursuant to paragraphs 2(C), (3), and (4) and subparagraph (D) of paragraph 5.

New subsection (j)(6) requires the Secretary to issue regulations establishing guidelines for states to follow in making minor adjustments for safety or road construction purposes.

New subsection (j)(7) provides that nothing in this subsection should be construed to allow operation on the relevant system or highways of any commercial motor vehicle prohibited under section 127(d) of title 23, U.S.C., or to affect in any way the operation of commercial motor vehicles having only cargo carrying unit.

New subsection (j)(8) defines cargo carrying unit.

Subsection 407(b) amends section 411(a) to include buses having lengths of 45 feet. States must allow buses of up to 45 feet to utilize the Interstate System and those classes of Federal-aid Primary System highways as designated by the Secretary pursuant to section 411(e). It also includes these vehicles in the access provisions of subsection 412(a).

Senate amendment

The Senate Amendment contains a similar length limitation. A state is prohibited from allowing the operation on the National System of Interstate and Defense Highways and designated Federal-aid Primary highways of any commercial motor vehicle combination with two or more cargo carrying units whose cargo units exceed the maximum state length limitation authorized by state law on or before June 1, 1991, or were not in actual continuing lawful operation in the state on or before June 1, 1991.

A state would not be prevented from further restricting commercial motor vehicle combinations consistent with parameters of current law. If a state further restricted the operations of commercial motor vehicle combinations, it would be required to so advise the Secretary within 30 days and the Secretary would publish a notice of the state's action in the Federal Register.

Combinations of commercial motor vehicles could continue to operate if such vehicles were in actual, continuing operation (including continuing seasonal operation) in that state on or before June 1, 1991, and were authorized pursuant to state law.

The provisions on the preparation of the list of state length limits differs under the Senate Amendment. Specifically, the Secretary would determine and publish within 60 days of enactment the list of applicable state length limitations as of June 1, 1991. The list would become final within 60 days after publication.

The Senate Amendment has no comparable provisions on length of buses as contained in the House bill.

Conference substitute

The Conference Agreement includes the length limitation for commercial motor vehicles as provided by both House and Senate versions. No state can allow by state law or any other means the operation on the National System of Interstate and Defense Highways and designated classes of qualifying Federal-aid primary system highways of any commercial motor vehicle combinations with two or more cargo carrying units whose cargo units exceed the length limitations authorized by state law on or before June 1, 1991, or whose cargo carrying units by specific configuration were not in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in the state on or before June 1, 1991. States could further restrict the operation of commercial motor vehicle combinations consistent with the parameters of current law. A state making such further restrictions must advise the Secretary within 30 days and the Secretary is required to publish notice of such action.

Limited narrow transitional rules for determining the applicable date of state law length limitations are included for the States of Wyoming and Alaska. In addition, a limited narrow exception is included for a 1-mile segment on Ohio State Route 7.

The Conference Agreement length limitation contains a narrow exception for nondivisible vehicles and loads which have been issued special permits under state law.

The Secretary is required to define by regulation nondivisible loads for purposes of this exception. The types of nondivisible loads envisioned by this provision are long loads, e.g., missiles or bridge section on two or more connected flat bed trucks. The Secretary should interpret this exception so as to ensure that no state allows any genuine divisible load to operate contrary to the length limit freeze. Permits issued under this provision shall be on a temporary and exceptional basis. This provision is more narrow than the House bill's original exception for special permits under state law. The Senate Amendment did not contain an express provision on special permits under state law.

The Conference Agreement also contains a modified and more narrow version of the House provision which allowed a state to make minor adjustments to routing-specific and vehicle operation restrictions in effect on June 1, 1991, for safety purposes and road construction. The Senate Amendment did not contain a similar provision. Under the Conference Agreement, a state can only make minor adjustments to route designations and vehicle operating restrictions if the minor adjustments are of a temporary and emergency nature. In addition, such adjustments would have to be for specific situations made necessary by safety purposes and road construction. The Secretary is required to issue regulations establishing criteria for states to follow in making such minor adjustments. Any state making such minor adjustments is required to notify the Secretary within 30 days. The Secretary is required to publish notice of such action.

Preparation of the list of state length limitations under the conference agreement proceeds in the following manner: Within 60 days of the date of enactment, each state is required to submit to the Secretary a complete list of its length limits under state law. This initial list is considered an interim list. No state statute or regulation is to be included on the list submitted by a state merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

Not later than 90 days after enactment, the Secretary is required to publish the interim list in the Federal Register. The Secretary is required to review the list for accuracy and also solicit public comment on the accuracy of the information in the interim list. Not later than 180 days after enactment, the Secretary is required to publish a final list after making any revisions to correct inaccuracies. After publication of the final list, commercial motor vehicle combinations with two or more cargo carrying units may not operate on the National System of Interstate and Defense Highways and designated Federal-aid primary system highways except as published on the list. A procedure is provided for the Secretary to correct any inadvertent mistakes which may later be discovered on the list.

In addition, the Conference Agreement includes the provisions in the House bill requiring states to allow passenger buses of up to 45 feet to utilize the Interstate System and designated classes of Federal-aid Primary System highways and related House language to include passenger buses within the access provisions of subsection 412(a).

LONGER COMBINATION VEHICLE REGULATIONS, STUDIES AND TESTING

House bill

Provides that the Secretary must begin and complete a rulemaking to establish minimum training requirements for operators of longer combination vehicles. A final rule is required two years after October 1, 1991.

New subsection 408(b) provides for a safety study on longer combination vehicles. The report on the study is due two years after October 1, 1991.

New subsection 408(c) requires the Secretary to study the effects on drivers, including driver fatigue, of driving longer combination vehicles. The report is due two years after October 1, 1991.

New subsection 408(b) directs the Secretary to conduct tests on the operation of longer combination vehicles in order to determine whether any modifications to the Federal safety regulations are needed for longer combination vehicles. The Federal safety regulations to be addressed are those contained in Subchapter B of Chapter III of Title 49 of the Code of Federal Regulations. The report is due 3 years after October 1, 1991.

New subsection 408(e) provides $1,000,000 a year out of the Highway Trust Fund for FY 1992–1996 for the Secretary to carry out this section.

New subsection 408(f) defines longer combination vehicles for purposes of this section.

Senate amendment

No comparable provision.

Conference substitute

The conference agreement includes the House (previously section 402 of the House bill) and Senate (previously section 241 of the Senate bill) requirement of a report by the Secretary of Transportation to Congress on the effectiveness of efforts of the private sector to ensure adequate training of entry-level drivers. The due date of the report has been changed to 12 months, with an additional requirement that a rulemaking by the Secretary on the need to require training of all entry-level drivers of commercial motor vehicles be completed not later than 24 months after the date of the enactment. If the Secretary determines that it is not in the public interest to require a rule that requires training for all entry-level drivers, a report on the reasons for such decision is required not later than 25 months after enactment.

The House bill language on the rulemaking to establish training requirements for operators of longer combination vehicles, the safety study and report on longer combination vehicles and the testing of the operations of these vehicles has been included, with several changes. The rulemaking on longer combination training requirements is due within 24 months of enactment of the Act.

The scope of the safety study is expanded to require an assessment of the adequacy of currently available data bases for the purpose of determining the safety of longer combination vehicles and recommendations for safety improvements. The economic and safety impact of these vehicles on shared highways also is to be a component of the study.

The safety report is due 2 years after the date of enactment. The testing language was expanded to include the study of fatigue with a focus on examination of driver stress, and characteristics of longer combination vehicles, including an assessment of on-board computers, anti-lock brakes, and anti-trailer under-ride systems to determine the potential safety effectiveness of those technologies as applied to such vehicles. This report is due not later than 3 years after the date of enactment of this Act. The funding of $1,000,000 to carry out this section remains unchanged.

The title of the section is changed to "Training of Drivers; Longer Combination Vehicle Regulations, Studies, and Testing".

PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT

House bill

The House bill provides that after September 30, 1996, no State except those participating in the International Registration Plan, shall establish, maintain, or enforce any commercial motor vehicle registration law, regulation, or agreement which limits the operation of any commercial motor vehicle within its borders which is not registered under the laws of that state if the commercial motor vehicle is registered under the laws of a state that is a participant in the Plan.

The House bill further provides that after September 30, 1998, no State shall establish, maintain, or enforce any law or regulation which has fuel use tax reporting requirements (including tax reporting forms) which are not in conformity with the International Fuel Tax Agreement.

The House bill establishes a working group to establish procedures for resolving disputes among states participating in the Plan and the agreement and for providing technical assistance. It will be comprised of state and local officials, representatives from the National Governor's Association, the American Association of Motor Vehicle Administrator's and the National Conference of State Legislatures, the Federation of Tax Administrators, and the Board of Directors for the International Fuel Tax Administrators. The bill further provides $1 million per fiscal year for activities of the working group and $5 million per fiscal year for grants to states to facilitate participation in the Plan and Agreement.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute retains the House bill, but changes the preemption date for the International Fuel Tax Agreement from September 30, 1998 to September 30, 1996. It also allows for the continuation of the Regional Fuel Tax Agreement currently in effect in Maine, New Hampshire, and Vermont.

However, nothing in this section should be construed as Congressional authorization for the charging of fees for decals and other markings by RFTA members or as insulating RFTA from court challenge based on the constitutionality of the RFTA system. This statute is silent on those issues and does not disturb the status quo.

Grant funding available for the purpose of facilitating participation in IRP and IFTA may also be extended to those states participating in RFTA for purposes of technical assistance, personnel training, travel reimbursement, and technology and equipment associated with their participation in RFTA. Improvements to the fuel use tax administration in RFTA states benefit the motor carrier industry as well.

Violations of Out-of-Service Orders

House bill

No provision.

Senate amendment

The Senate amendment imposes new penalties and disqualifications for operators of commercial motor vehicles for violating out-of-service orders. Penalties are also imposed upon employers that allow or require an operator to violate such orders.

Conference substitute

Senate Amendment.

BRAKE PERFORMANCE STANDARDS

House bill

No provision.

Senate amendment

The Senate provision required the Department of Transportation to conduct a rulemaking on methods for improved braking performance for commercial motor vehicles. The required rulemaking would be comprehensive, addressing basic brake problems, such as the compatibility between tractor brakes and trailer brakes, methods of ensuring effective brake timing, and antilock braking systems. The Senate provision required such rulemaking to be initiated by July 1, 1991 and completed by April 1, 1992. Antilock brakes have been required on heavy trucks and buses in Europe since October 1, 1990 and will be required in Japan before the end of this year.

Conference substitute

Section 412 requires the Department of Transportation to inititate a rulemaking proceeding concerning methods for improving the braking performance of newly manufactured commercial motor vehicles with a gross vehicle weight of 26,001 or more pounds. This rulemaking is required to be initiated by May 31, 1992 and completed within 18 months after initiation unless the Secretary determines that a six month extension is necessary. The rulemaking proceeding must include an examination of antilock systems, means of improving brake compatibility and methods of ensuring effectiveness of brake timing.

The Conferees note that a critical component of rulemaking on truck brake performance is the issue of stopping-distance performance. On October 21, 1991 NHTSA published a notice in the Federal Register, Vol. 56. No. 203 indicating:

> Accidents involving heavy trucks have a disproportionate (higher) fatality rate than all other motor vehicles. This [planned] rulemaking proposes to reinstate stopping distance performance requirements in Standard 121 so as to help improve heavy vehicle braking performance and hence reduce the number of accidents involving these vehicles. Although a court decision found that Standard 121, as it then existed was unenforceable, additional accident data and technical review have persuaded NHTSA that the court's requirement can now be met.

NHTSA goes on to indicate that it intends to issue a notice of proposed rulemaking on stopping distance in October, 1991. Thus, the Conferees expect that the rulemaking in question under this section as it relates to stopping distance will be initiated through a NPRM rather than an ANPRM.

FEDERAL HIGHWAY ADMINISTRATION POSITIONS

House bill

No provision.

Senate amendment

The Senate amendment provides for two new positions as the Federal Highway Administration. The new personnel will be used to implement this Title.

Conference substitute

Senate Amendment.

COMPLIANCE REVIEW PRIORITY

House bill

No provision.

Senate amendment

The Senate amendment provides that the Secretary shall give priority to compliance safety reviews for motor carriers that have drivers who are found to have a pattern of violations of safety laws.

Conference substitute

Senate Amendment.

TRANSPORTATION DRUG AND ALCOHOL TESTING

House bill

No provision.

Senate amendment

The Senate bill provides a requirement for drug and alcohol testing of transportation workers in the aviation, railroad, motor carrier and mass transportation industries.

Conference substitute

Senate recedes to House. Sections 263 through 266 in Part C of S. 1204 would require drug and alcohol testing of transportation workers in the aviation, railroad, motor carrier and mass transportation industries. Identical provisions were signed into law on October 29, 1991, as a part of the Fiscal Year 1992 Department of Transportation Appropriations Conference Report (Public Law 102–143).

ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS

House bill

No provision.

Senate amendment

The Senate amendment requires the Department of Transportation to initiate, within 3 months of the bill's enactment, and complete, within 12 months after enactment, a model program to enforce the .04 percent maximum blood alcohol concentration standard for commercial drivers which was established by the Department as required under the Commercial Motor Vehicle Safety Act of 1989.

Conference substitute

Senate recedes to House.

NEW FORMULA FOR ALLOCATION OF FUNDS

House bill

No provision.

Senate amendment

The Senate amendment requires certain modification of the allocation formula for the Motor Carrier Safety Assistance Program. It provides incentives based upon certain factors.

Conference substitute

The Senate amendment with language adding special language for states that conduct the discretionary traffic safety enforcement activities as provided for in Title IV.

RESEARCH, DEVELOPMENT, DEMONSTRATIONS AND TRAINING MANUALS

House bill

Section 405 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 409.

New subsection 409(a) authorizes the Secretary to make grants for research and for other specified purposes that will enhance commercial motor vehicle safety. In addition, the Secretary may utilize some of the funds authorized for educating the public on the use of highways with commercial motor vehicles.

New subsection 409(b) provides that grants must be announced publicly and awarded on a competitive basis whenever practicable.

New subsection 409(c) provides that some of the funds may be used to pay for the development, publication, and distribution of training manuals and other training devices for roadside inspectors involved in the Motor Carrier Safety Assistance Program.

New subsection 409(d) earmarks money for educating the public on the use of highways with commercial motor vehicles. Note, funding for this section is contained in 402(h). That section requires the Secretary to spend at least $500,000 annually for this program, but he or she may spend up to $2 million annually for this grant program.

Senate amendment

The Senate amendment provides for the same funding levels; however, it contains separate funding for driver education and includes training and training materials funding in its deductions permitted to be made by the Secretary for administrative purposes. The Senate amendment requires that grants be made on a competitive basis. The funding is at 100 percent.

Conference agreement

The Senate amendment with a cap placed upon research grants at $500,000.00 and driver education at $350,000.00 for each fiscal year. The provision is included in Section 402.

INTRASTATE COMPATIBILITY

House bill

No provision.

Senate amendment

The Senate amendment provides for the issuance of regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws with Federal safety regulations under the Motor Carrier Safety Assistance Program.

Conference substitute

Senate Amendment.

COMMON CARRIERS PROVIDING TRANSPORTATION FOR CHARITABLE PURPOSES

House bill

New section 410 amends Section 10723(b)(2) of title 49, U.S.C. to allow for animals trained to assist blind or disabled individuals to accompany them on common carriers or to allow dogs trained to assist a hearing impaired individual to accompany the individual at a rate equal to that of one individual.

Senate amendment

No comparable provision.

Conference substitute

House Bill.

DRUG-FREE TRUCK STOPS

House bill

No provision.

Senate amendment

The Senate amendment adds to the Controlled Substances Act (21 U.S.C. 801 et seq.), after section 408, a new section 409 entitled "Transportation Safety Offenses." This new section provides that any person who violates section 401(a)(1) or section 416 of that Act by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of a truck stop or safety rest area is subject to a maximum term of imprisonment, fine, or term of supervised release for a first offense that is twice that authorized by section 401(b). A term of imprisonment under this section does not apply to offenses involving 5 grams or less of marijuana.

Additionally, this new section specifies that after a prior conviction under the new section, a person who again violates section 401(a)(1) or section 416 of the Controlled Substances Act shall be subject to the greater of (1) a term of imprisonment of not less than 3 years and not more than life imprisonment, or (2) three times the maximum punishment authorized by section 401(b) for the first offense.

New section 409 prohibits the suspension or probation of any sentence imposed under section 409. Also, an individual convicted under this section is required to serve a minimum sentence prior to being eligible for parole.

The new section uses the term "safety rest area" as it is defined in part 752 of title 23 of the Code of Federal Regulations.

Also, new section 409 requires the U.S. Sentencing Commission, to promulgate or amend sentencing guidelines for a defendant convicted of violating section 409 of the Controlled Substances Act to provide that a sentence is two levels greater than the level that would have been assigned for the underlying controlled substance offense and not less than level 26. This new section also specifies that if the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission should use the instruction in paragraph (1) to achieve a comparable result. These offenses would be subject to only one enhancement as found under the guidelines.

Conference substitute

The Senate recedes to the House based on an understanding of the Conferees that the House and Senate Conferees on the Crime bill have agreed to include a drug-free truck stop provision in the conference report on that bill.

EXEMPTION OF CUSTOM HARVESTING EQUIPMENT

House bill

No provision.

Senate amendment

The Senate amendment provides that states may waive the commercial drivers license requirement with respect to drivers of certain types of vehicles. The vehicles are those used to transport farm supplies from retail dealers to or from a farm, vehicles used for custom harvesting, and to vehicles used to transport livestock feed, whether or not such vehicles are controlled and operated by a farmer.

Conference substitute

The substitute removes custom harvesting farm machinery from the Act. Operators of such machinery are not covered by the Commercial Motor Vehicles Safety Act of 1986. A state, however, may still impose a requirement for a commercial drivers license if it so desires. The change does not apply to vehicles used to transport this type of machinery.

TITLE V—INTERMODAL TRANSPORTATION

NATIONAL GOAL TO PROMOTE INTERMODAL TRANSPORTATION

House bill

The House bill establishes as a national goal the encouragement and promotion by the Federal government of an intermodal transportation system to improve energy-efficiency, productivity growth, international competitiveness and to obtain the optimum yield from the Nation's transportation resources.

Senate amendment

No comparable provision.

Conference substitute

Same as the House provision..

The fundamental transportation challenge facing the Nation today is the development of an intermodal transportation system that will accelerate, expedite, enhance and improve the movement of people and goods in an energy-efficient manner. Audacious and bold new approaches are needed if the nation is to transform the existing separate, balkanized transportation systems into a single, coordinated unit that will provide the foundation for the nation to confront the realities of the 1990s and the 21st century.

An intermodal transportation system—the use of connections between, and improved access to, different forms of transportation to enhance efficiency—will be the key to meeting the economic, energy and environmental challenges of the coming decades. The nation will not be able to meet all of those demands through continued reliance on separate, isolated modes of transportation.

Development of an intermodal transportation system will result in the increased productivity growth the nation needs to compete in the global economy of the 21st century. We can no longer rely on a transportation system designed for the 1950s to provide the support for American industry to compete in the international marketplace.

Since 1973, real wages and the American standard of living have been declining. Transportation advances using new innovative technology as well as better use of our existing transportation systems are essential to reversing this decline in the quality of life.

An intermodal transportation system will provide the means to confront the nation's energy vulnerability. With fully 63 percent of our oil resources devoted to transportation, two-thirds to automobiles, a transportation policy is an energy policy. Events in the Persian Gulf in 1990 and 1991 have shown that the nation can no longer afford to rely on volatile and insecure nations for our oil supply. If the nation is to reduce its dependence on foreign oil sources, reduced use of oil for transportation is required.

The Clean Air Act Amendments of 1990 made air pollution policy an overriding factor in transportation policy. The centerpiece of the plan to reduce air pollution is transportation control measures, many of which focus on reduced Vehicle Miles Traveled (VMT). States and Metropolitan Planning Organizations must develop Transportation Improvement Programs (TIPs) that comply with State Implementation Plans (SIPs) under the Clean Air Act Amendments.

DUTIES OF SECRETARY; OFFICE OF INTERMODALISM

House bill

The House bill creates as a duty of the Secretary of Transportation the coordination of Federal intermodal transportation policy and the initiation of policies to promote efficient intermodal transportation.

To carry out the intermodal responsibilities of the Secretary, an Office of Intermodalism is established within the Department of Transportation to be headed by a Director who must be appointed within six months of the date of enactment.

The Director is required to develop an intermodal transportation data base in coordination with states and metropolitan planning organizations. The compilation of such data, especially along state and regional lines, is crucial to the development of an efficient transportation system. The data base is to include information on the movement of people and goods by intermodal transportation, patterns of movements by intermodal transportation, and information on public and private investment in intermodal transportation facilities and services.

The Director must coordinate Federal research on intermodal transportation and must provide technical assistance to state and metropolitan planning organizations in urban areas with populations of 1 million or more to facilitate collection of data on intermodal transportation.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute adopts the House provision except that the Office of Intermodalism is created within the Office of the Secretary. The Director is required to collect, maintain and disseminate intermodal transportation data through the new Bureau of Transportation Statistics.

In addition, it creates an Intermodal Transportation Advisory Board consisting of the Secretary as Chairman and the administrators of the Federal Highway Administration, the Federal Aviation Administration, the Maritime Administration, the Federal Railroad Administration and the Federal Transit Administration to provide recommendations for furthering the implementation of intermodalism.

An intermodal transportation system is vitally needed to meet the economic realities of the 1990s. The American economy is no longer a separate entity but part of the larger global economy. New methods of shipment of goods and advanced marketing techniques, such as "just-in-time" deliveries, have replaced the outdated warehouse. Fully one-third of the nation's economic activity involves international commerce which is projected to be one-half of the economy in the next 10 to 15 years.

In 1989, 973 million short tons of cargo, worth $438 billion, moved through our nation's ports—an increase of 30 percent in the last half of the 1980s alone. The virtual explosion of trade with the Pacific Rim nations has produced unprecedented growth at many West Coast ports and the development of the "mini-land bridge" to bring imported Asian products to the Midwest and East Coast. East Coast ports are projecting similar substantive growth as a result of Europe 1992.

Air cargo shipments, now being referred to as "flying warehouses," grew by more than 10 percent annually during much of the 1980s. In less than a decade, air cargo tonnage at Newark International Airport, John F. Kennedy International Airport and LaGuardia Airport increased by 41 percent.

An intermodal transportation system is essential to move our goods expeditiously and efficiently to and from harbors and airport facilities. Without adequate landside access, first-rate airport and port facilities are wasted and the ability of U.S. industry to compete and capture our share of the global economy is seriously limited.

This title firmly establishes national intermodal transportation policy. It is intended to bring the need for intermodalism to the forefront of the nation's transportation and economic debate. It establishes the central focal point for intermodalism in the Department of Transportation where policy is currently set through separate administrators for each mode of transportation with very limited interaction and coordination.

The Office of Intermodalism will promote policies which will enhance intermodal connectivity and foster continued development of intermodal transportation systems.

The Office will create a national data base with information on flows of people and goods to and from major metropolitan areas, to indicate the mode of choice and where two or more modes are used. The Office should also maintain policy balance in the Department between transportation modes and

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work to ensure interconnectivity of all transportation modes.

MODEL INTERMODAL TRANSPORTATION PLANS

House bill

The House bill requires the Secretary to award grants of no more than $500,000 for the development of model state intermodal transportation plans. The grants must be awarded to a maximum of six states representing a variety of geographic regions and transportation needs, patterns and modes. States must complete the plans within 18 months of the grant award.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House provision except that the grants for model intermodal plans may be awarded to more than six states.

This title is designed to establish the essential process of developing transportation systems that will include the necessary interconnections and access to seaports, airports, urban centers and rural areas. Some regions have already started the process. In Southern California, the planned $800 million Alameda corridor to move cargo to and from the Ports of Los Angeles and Long Beach through the most efficient intermodal use of trucks and rail is an outstanding example.

SURFACE TRANSPORTATION ADMINISTRATION

House bill

The House bill directs the Secretary to enter into an agreement within 60 days of enactment with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

The Secretary must report to Congress on the findings of the study and recommend appropriate organizational changes no later than January 1, 1993. Organizational changes are prohibited unless approved by law.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House provision.

NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

House bill

The House bill contains no provision.

Senate amendment

The Senate amendment authorizes a transportation assistance program to provide highway and transportation agencies in urbanized areas of 50,000 to 1 million population and in rural areas, access to modern highway technology.

Conference substitute

This section establishes a National Commission on Intermodal Transportation, consisting of 11 members selected to represent diversified transportation expertise on intermodalism, to develop a National Intermodal Transportation Plan with a specific agenda for implementation. The Commission is to submit the Plan and implementing agenda to Congress by September 30, 1993.

It is crucial for the development of an efficient intermodal transportation system that the Commission recognize the need for innovation through the maximum integration of transportation systems and the earliest possible application of advanced technology to increase efficiency. New approaches are needed for the economic, energy and environmental challenges of the 1990s and the 21st century to enhance the nation's leadership in the global economy.

The Commission should review the need for unified decision-making on transportation policy and implementation. The structure of existing modal administrations may no longer be the best means of developing transportation efficiency and advances.

In its Plan, the Commission should recognize the accelerated importance of foreign trade and international commerce to the nation's future economic growth and the finding in the 1990 Census that more than 50 percent of the nation's population now lives in metropolitan areas of more than 1 million. Both of these trends have enormous implications for future transportation policy.

It is important that the Commission pay special attention to economic productivity concerns. The intermodal research agenda should be oriented towards increasing our nation's productivity.

The Commission should focus on creating a public-private alliance to target intermodal projects that are essential to close obvious deficiencies and gaps in our transportation system.

International product standardization, both technological and administrative, is also vital to the promotion of intermodalism. The Commission should review issues such as international freight rates and customs procedures, as well as the development of standardized designs for containers and any other innovative technology to expedite and stimulate intermodal transfers of goods and people. The Commission should review innovative equipment and hub terminal designs to provide for maximum efficiency.

Intermodal use of urban terminals is especially important to make the most efficient use of space and congested transportation corridors in crowded environments. The Commission is to examine the status of intermodal transportation, identify problems, and determine the resources needed to implement policies to achieve the national goal of an efficient intermodal transportation system.

The Commission is specifically directed to investigate and study:

1. The benefits of and impediments to international intermodal standardization, in coordination with the National Academy of Science;
2. Capital investment for infrastructure development necessary to accommodate intermodal transportation, especially surface transportation access to airports and ports;
3. Legal impediments to efficient intermodal transportation, specifically regulation of individual modes of transportation;
4. Impediments to efficient financing of intermodal transportation, including the most efficient use of existing sources of funds to connect individual modes of transportation, to accommodate intermodal transfers. The Commission must address the use of innovative methods of financing, current methods of public funding and increased use of private sources of private funding;
5. New technologies and problems with incorporating new technologies in intermodal transportation;
6. Problems in documentation and the need to achieve uniform, efficient, and simplified documentation;
7. Areas for additional research and development with an agenda for carrying out the research and development program; and
8. The relationship of intermodal transportation to rates, costs and economic productivity.

The Commission will be composed of 11 members, three appointed by the President and two each by the Speaker of the House, the House Minority Leader, the Senate Majority Leader, and the Senate Minority Leader. The Commission members should include representatives of Federal, State and local governments, other public transportation authorities or agencies, transportation providers, shippers, labor, the financial community, and consumers.

The Commission is required to submit its final report to Congress by September 30, 1993.

The following projects in this title are considered by the Managers as necessary to meet the existing transportation needs of the area and are not dependent or conditioned on any future development in the area. Moreover, funds authorized to be appropriated for these projects may be interchanged so long as the Federal contribution on any one project does not exceed 80 percent.

Long Beach, California—Interchange at Terminal Island Freeway and Ocean Boulevard.

Wilmington/Los Angeles, California—Widening of Anaheim Street Viaduct.

Wilmington/Los Angeles, California—Grade Separation Project of Pacific Coast Highway near Alameda Street.

Compton City/Los Angeles County, California—Widening of Alameda Street and grade separation between Rt. 91 and Del Amo Boulevard.

Carson/Los Angeles Counties, California—Grade Separation Project at Sepulveda Boulevard and Alameda Street.

TITLE VI

RESEARCH AND TECHNOLOGY PROGRAM

House bill

The House bill amends the general research authority of the Secretary under Section 307(a) to clarify authority to conduct research on motor carrier transportation, highway planning, and highway operations. The Secretary is authorized to engage in cost-shared collaborative research with non-Federal entities, including state and local governments, foreign governments, colleges and universities, corporations, institutes, partnerships, sole proprietorships, and trade associations. The average Federal share may not exceed 50 percent unless it can be demonstrated that there is substantial public interest or benefit. Funds to carry out collaborative research under this section shall be derived from Section 104(a) administrative funds. Not less than 15 percent of the funds are to be used for long-term projects.

The House bill also directs the Secretary to conduct systems research for a short-haul passenger transportation system, an expansion of transportation infrastructure research and development and implementation of Strategic Highway Research Program results. The Secretary also must continue long-term pavement performance testing.

Section (f) of this section requires 1½ percent of state apportionments under Sections 104 and 144 be reserved to state research and planning purposes only, and requires that states use 25 percent of such funds for research, development, and technology transfer purposes.

Senate amendment

The Senate amendment directs the Secretary to establish a coordinated long-term program of highway research for the development, use and dissemination of performance indicators to measure the performance of the surface transportation system, including the indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system.

Conference substitute

The conference substitute combines the House and Senate provisions. Two percent of state apportionments are to be made available for state research and planning purposes.

EISENHOWER FELLOWSHIP PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for the establishment of a transportation research fellowship program at a level of $2,000,000 per fiscal year.

Conference substitute

The conference substitute is the provision in the Senate amendment. Development of new and efficient combinations of transportation infrastructure requires that the nation's brightest minds be attracted to the transportation engineering and research professions. The Dwight David Eisenhower Transportation Fellowship Program is designed to accomplish this objective. The conferees recognize that the fellowship program will be most successful if it serves to attract critical masses of students and professors to evolve into centers of excellence. Therefore, the conferees intend that the program shall be limited to no more than fifty universities, to be selected by the Secretary on the basis of their academic reputation in the transportation engineering and research areas. The conferees intend that the fellowships should be awarded competitively, and be available only to students enrolled in work toward a graduate degree in transportation engineering or research, but exceptions can be made for students in the final year of undergraduate engineering degrees who can demonstrate that they intend to specialize in a transportation-related field following graduation.

NATIONAL HIGHWAY INSTITUTE

House bill

The House bill provides for the continuation of the National Highway Institute and removes the current limitation on training to allow for training of U.S. citizens and foreign nationals engaged in highway work of interest to the United States.

Senate amendment

The Senate amendment is the same as the House bill but provides for a 75 percent Federal share.

Conference substitute

The conference adopts the Senate amendment with an 80 percent Federal share.

INTERNATIONAL TRANSPORTATION OUTREACH PROGRAM

House bill

The House bill requires the Secretary of Transportation to conduct an international transportation outreach program to (1) seek, evaluate, and disseminate information about innovations abroad for application in the U.S.; (2) to encourage use of American goods and services abroad; and (3) to assist developing countries to improve their surface transportation technology and institutions. Funds provided by cooperating organizations or persons may be held in a special account and used in furtherance of the outreach program.

Senate amendment

The Senate amendment provides authority for an international outreach program but does not require it.

Conference substitute

The Conference substitute is the Senate amendment modified by a House provision requiring coordination with other appropriate Federal agencies.

EDUCATION AND TRAINING

House bill

The House bill continues the Rural Transportation Assistance Program (RTAP) to provide technical assistance to highway and transportation agencies in rural areas and urbanized areas of 50,000 to 1,000,000 in population.

Senate amendment

The Senate amendment contains two provisions continuing the Rural Transportation Assistance Program. Both continue the program as proposed in the House bill, but one expands RTAP activities to include tourism and recreational travel assistance. The provision also requires that four program centers be designated to provide training on intergovernmental transportation planning and project selection and tourism recreational travel for American Indian tribal governments. In 1992 $5 million is provided to fund tourism and recreational travel assistance, and $8 million is provided annually to fund the RTAP program and new services for American Indian tribal governments at a 100 percent share.

Conference substitute

The Conference substitute continues RTAP technical assistance programs and expands RTAP services to include assistance to urban areas between 50,000 and 1,000,000 in population and tourism and recreational travel technical assistance. Two centers must be designated to provide training on intergovernmental transportation planning and project selection and tourism recreational travel to American Indian tribal governments. The RTAP program is authorized at $6 million annually and services to American Indian tribal governments are funded at a 100 percent share. In addition, the Secretary of the Interior may reserve funds from the Indian reservation roads program to finance Indian technical centers.

APPLIED RESEARCH AND TECHNOLOGY PROGRAM; SEISMIC RESEARCH PROGRAM

House bill

The House bill amends Section 307 of Title 23 to require the Secretary to establish and implement an applied research and technology program. The purpose of the program is to accelerate testing, evaluation, and implementation of technologies that may improve the durability, efficiency, environmental impact, productivity, and safety of highway, transit, and intermodal transportation systems. Eighteen months after date of enactment, the Secretary must issue guidelines on selection of technologies, test locations, and collection and evaluation of test data. The Secretary is directed to carry out projects to assess the state of technology for heating bridge decks on a minimum of ten bridges being replaced or rehabilitated, to carry out a project demonstrating the environmental and safety benefits of elastomer modified asphalt, to conduct a program to demonstrate the safety benefits and durability of all weather pavement markings, to assess the state of technology of thin bonded overlay and surface lamination of pavement, and to demonstrate the durability and construction efficiency of high performance blended hydraulic cement. Highway projects carried out under this program must be conducted on the Federal-aid system.

The Secretary is required to transmit to Congress an annual report on the progress and findings of the applied technology program.

Funding for the applied technology program established under this section is derived from administrative and research funds set aside under section 104(a) of title 23 and section 21(h) of the Urban Mass Transportation Act of 1964 as amended at $35 million in fiscal year 1992, and $41 million per fiscal year for each of fiscal years 1993, 1994, 1995, 1996 and 1997. Not less than $4 million per fiscal year must be expended for projects related to heated bridge technologies, not less than $2 million must be expended for projects related to all weather pavement markings, and not less than $2,500,000 per fiscal year must be expended on thin bonded overlay projects.

A seismic research program must be carried out under this section in cooperation with a national earthquake engineering center to study the vulnerability of Federal-aid system highways, tunnels, and bridges to earthquakes and to develop and implement cost-effective methods of retrofitting highway facilities. Program progress and research findings are to be reported to Congress two years after date of enactment. Up to $2 million per fiscal year may be expended for carrying out seismic research under this section. The research is to be carried out in cooperation with the National Center for Earthquake Engineering at the University of Buffalo.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill with clarification that in implementing the seismic research program the Secretary shall consult and cooperate with other Federal agencies participating in the National Earthquake Hazards Reduction Program and ensure the program is consistent with objectives and planning of the Federal Emergency Management Agency.

BUREAU OF TRANSPORTATION STATISTICS
(SEC. 606)

House bill

No comparable provision.

Senate amendment

The Senate amendment amends sec. 303 of title 23 U.S.C. to create a Bureau of Transportation Statistics, to be headed by a Director appointed by the President, to collect information on the performance of the national transportation system, to produce annual estimates of the use, productivity, safety, durability, and environmental effects of transportation systems, and to report these results annually to Congress.

Conference substitute

The conference agreement accepts the Senate language, with several modifications. It changes the reporting interval to once every two years, requires the Bureau to collect data relative to intermodal transportation, and affirms that the existence of the Bureau does not relieve the modal Administrators from responsibility of data collection and dissemination. $90 million is authorized from the Highway Trust Fund to fund the operation of the Bureau.

The Bureau of Transportation Statistics shall be responsible for compiling, analyzing, and publishing a comprehensive set of transportation statistics of sufficient scope, quality, relevance, and reliability that Federal and nonfederal agencies and Congress have adequate and accurate information about the availability, reliability, costs, and benefits of alternative transportation technologies to make informed decisions about how best to allocate Federal funds among transportation projects and programs. Such information should include productivity in various portions of the transportation sector, traffic flows, travel times, vehicle weights, variables affecting the choices people make about travel (including the mode, time, and willingness to pay), the availability and number of passengers served by mass transit for each transit authority, the frequency of vehicle and infrastructure repairs and resulting losses of time and money, frequency of accidents, injuries and fatalities, damage to the environment resulting from transportation, and the condition of transportation infrastructure. All data shall, to the extent practicable, be comparable across transportation modes and intermodal transport systems. The conferees intend that all such statistics must have a sound scientific basis, be as free as possible from bias resulting from data collection or interpretation procedures, and they must be widely accepted by decision-makers as accurate and relevant.

The Director of the Bureau shall, in cooperation with the modal administrators, other federal agencies, the States, and other non-federal entities, pursue a comprehensive program for the collection and analysis of data relating to the performance of the national transportation system.

A necessary step in this process is developing better indicators for productivity, efficiency, energy use, air quality related to vehicle operation, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system. It is the intention of the conferees that the Director be directly involved in planning and review of the research to develop performance indicators for the national transportation systems. The most often reported indicators of productivity of transportation systems today are weight-miles or person-miles per employee-hour. While the underlying data are easily collected, these indicators are inadequate, because they convey little information about important issues such as the amount of fuel consumed, the cost of maintaining and repairing infrastructure and vehicles, the amount of pollution produced, the number of injuries, the reliability of timely arrival, and other factors that affect the costs and benefits of alternative decisions involved in transportation infrastructure planning. It is the intention of the conferees that the Director insure that such indicators are identified, and that data relative to their measurement are collected, analyzed, and reported.

The Director shall assure that data and other information are collected in such a manner as to maximize the ability to compare data from different regions, and over time, such that trends and regional differences, if they exist, can be detected and analyzed for statistical significance. The Director shall insure that the data are quality-controlled for accuracy, and promulgate guidelines for the collection of such information to insure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis.

The Director shall coordinate the activities of the Bureau with related information gathering activities of other agencies. The conferees intend that data managed by the Bureau shall not be limited to highway transportation, but is extended to include rail, maglev, and intermodal transportation systems involving rail, highways, ships, and air transport. The purpose of this change in section 115 of the previous Act is to ensure that the efficiency and productivity of the transportation systems in the United States is maximized. This cannot be done by developing newer technology for highways alone. Strategic research planning must consider the importance of potential and actual products in the context of competing transport modes or economies of intermodal approaches to transport. The conferees intend that the Bureau integrate environmental effects and economics into transportation statistics, and that the Director coordinate data collection activities with those of the Environmental Protection Agency, the Department of Commerce, and other government agencies, wherever appropriate.

The Director shall make transportation statistics readily available to federal and non-federal agencies and other organizations. It is the intention of the conferees that data managed by the Bureau be accessible in computerized format, with adequate documentation and user-services.

The Director shall review information needs at least annually with the Advisory Council on Transportation Statistics and make recommendations to appropriate officials responsible for research programs in the Department of Transportation and other agencies involved in indicator research and development. The Director shall appoint an Advisory Council on Transportation Statistics, comprised of no more than six private citizens who have experience in transportation statistics and analysis (at least one of whom should have expertise in economics) to provide advice on the operation of the Bureau. The Council shall be subject to the provisions of the Federal Advisory Committee Act. It is the intention of the conferees that at least one of the Council members be a professional statistician. No later than one year after the start of Bureau operations, the Bureau shall enter into an agreement with the National Academy of Sciences for a study of the adequacy of the data collection resources, needs, and requirements, including data collection procedures and capabilities, data analysis procedures and capabilities, the ability of data bases to integrate with one another, computer hardware and software capabilities, information management systems (and their ability to integrate with one another, personnel, and budgets. The report shall be delivered within 18 months of initiation of the agreement, and should include recommendations for improving data collection systems, procedures, hardware, software, and information management systems. It is the intention of the conferees that this study serve as the first of the annual data reviews required of the Director.

Nothing in paragraph (1) shall authorize the Bureau to require the collection of data by any other monitoring Department, or to establish observation or monitoring programs. It is the intention of the conferees that the Director use Bureau resources to enhance data collection, analysis, and reporting by other organizations to fill identified data gaps, rather than to organize stand-alone monitoring programs, in order to insure the most cost-effective use of transportation monitoring resources.

The Bureau shall be under the direction of a Director of Transportation Statistics, who shall be appointed by the President, by and with the advice of the Senate. The Director shall have substantial technical experience in the compilation and analysis of transportation statistics. The term of the appointment shall be four years, to begin within 180 days of enactment of this Act. It is the intention of the conferees that the term of office of the Director overlap with that of the President. The Director shall report directly to the Secretary and be compensated at Level V of the Executive schedule. The conferees intend that the Director be given substantial latitude to insure that Bureau data and information are not biased in any way by political considerations, and that release of data shall not be subject to policy review.

Data collected by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of an individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets and commercial or financial information provided by any person to be identified with such person. The conferees recognize that statistics may become biased if the very fact that a datum is being measured causes the object of measurement to change its characteristics or behavior. This may happen if data collected for the purpose of describing a system also can be used to cause harm to someone by legal or economic means. If this happens people may take great pains to conceal the true characteristics of the object. In order to avoid such bias, the conferees intend that the Director establish such procedures as necessary to ensure that all Bureau data are collected and stored in such a way that they cannot be used to prosecute individuals or reveal business information that could harm persons or corporations. The conferees intend that the Director consult with officials involved in other Federal data collection activities to identify the most appropriate means to meet the criteria.

The Director shall produce annual reports on transportation statistics and submit them to Congress, the states, and other interested parties. These reports shall compare transportation statistics among the states and regions, as well as reporting on trends at the state, regional, and national level. The conferees intend that if the statistics are based on estimates, rather than complete censuses, quantitative estimates of precision and statistical significance of trends and changes also shall be provided. The report shall include such indicators as are enumerated in section 303(b), indicators developed under section 115(a)(3), and other indicators, as appropriate for conducting cost-benefit analyses, prioritizing transportation system problems, and analyzing proposed solutions. In the estimation of costs and benefits, the conferees intend that it is not acceptable to set a cost or benefit at zero only because it cannot be quantified precisely. The conferees also intend that opportunity costs and costs such as decreased property values next to rights-of-way should be included, as well as benefits associated with increased reliability, more enjoyable travel, and other social costs and benefits.

The Director should, wherever feasible, use data already collected by the modal Administrators or other agencies. The Director should identify any additional specifications or quality assurance that must be applied to such data to ensure that it meets the needs of the Bureau.

$90 million is authorized to conduct the work of the Bureau. The conferees intend that the Bureau be funded at a minimum of $4 million during fiscal year 1992, plus $500,000 to begin the National Academy of Sciences study. It is the intent of the conferees that the Bureau be funded at no less than $25 million per year in the last year of this authorization.

ADVISORY COUNCIL ON TRANSPORTATION STATISTICS

House bill

No comparable provision.

Senate amendment

The House amendment provides for the establishment of an Advisory Council on Transportation Statistics to advise the Director of the Bureau of Transportation Statistics.

Conference substitute

The Conference substitute is the Senate provision.

DOT DATA NEEDS

House bill

The House bill requires the Secretary to enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

Senate amendment

The Senate amendment requires a similar data needs study but requires the Secretary to consult with the Director of the Bureau of Transportation Statistics in entering into the agreement with the National Academy of Sciences.

Conference substitute

The Conference substitute is the Senate provision.

SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLANNING

House bill

The Secretary is instructed to develop and submit to Congress an annual integrated national surface transportation research and development plan.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute includes the annual surface research and development plan from the House version. The plan's purpose is to more sharply focus research and development activities within the Department. It is to include all ongoing research and development activities throughout the Department, as well as those planned for future years. The plan shall also include a 10-year projection of Department-funded long-term research and development. A plan modelled after the Experimental Program to Stimulate Competitive Research (EPSCoR) at the National Science Foundation should be included to assure that university research efforts are broadly based geographically. Major contracts must be described. Through the plan, specific objectives are to be followed leading to advanced technologies being commercially developed by U.S.-based companies. The plan is being commercially developed by U.S.-based companies. The plan is to be complete, identifying specific scopes of work, organization of personnel, milestone schedules, estimated costs by phase of activity, current state-of-the-art, and accomplishments. Plans and organization for future activities should also be included. For new systems, broad scope preliminary cost estimates are acceptable the first year if followed a year later with firm cost estimates the Congress can use in making informed budget decisions.

NATIONAL COUNCIL ON SURFACE TRANSPORTATION RESEARCH

House bill

The House bill establishes a seven-member National Council on Surface Transportation Research, with three members appointed by the President and one each by the Speaker of the House minority leader, the Senate majority leader and the Senate minority leader, to investigate and study current surface transportation research and technology developments in the United States and internationally.

The Council is to identify gaps and duplication in current surface transportation research efforts, determine research and development areas which may increase efficiency, productivity, safety and durability in the nation's surface transportation systems, and develop a national surface transportation research and development plan for immediate implementation.

The Council is to survey current surface transportation research efforts in the United States and internationally, examine factors causing fragmentation of surface transportation research and determine how to achieve increased coordination, compare the role of the Federal Government with the role of foreign governments in promoting surface transportation, identify barriers to innovation in surface transportation research, examine funding arrangements for surface transportation research and the level of resources currently available and identify surface transportation research areas and opportunities, including opportunities for international cooperation, to develop a short-range and long-range national surface transportation research and development plan.

Council members are to be appointed from among individuals involved in surface transportation research, including all levels of government, other public agencies, colleges and universities, public, private and non-profit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community. One member appointed by the President shall serve as an international research advisor for the Council.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision.

RESEARCH ADVISORY COMMITTEE

House bill

The Research Advisory Committee (RAC) is established in the House bill to ensure that the Department takes maximum advantage of available outside advice in planning and evaluating its research program and projects, especially the long-term efforts. The Department's research must both feed and be fed by the research programs of other organizations and the results of the Department's research must serve the interests of the surface transportation community of the United States. Both these objectives will be furthered by the establishment of the RAC which is to be formed after the report by the National Council on Surface Transportation Research is submitted September 30, 1993.

Appointees to the RAC should be selected on the basis of their technical knowledge of the state-of-the-art and the requirements for the research, rather than as representatives of organizations, but inclusion of a representative sample of major Department constituencies is desirable. Members are to include representatives from labor and universities that have experience in developing the surface transportation technologies that are being examined by RAC. RAC members are not to be paid for their service, but in some instances, individuals can be reimbursed for the transportation and other expenses necessary to participate. The application of certain limitations clauses is intended to make appropriate staffing available to the RAC. There will be a need for certain research advice which is too specialized to be effectively considered by the full RAC. Subordinate committees composed of experts with specialized backgrounds may be used to deal with such issues.

Senate amendment

The Senate amendment contains no comparable provision.

Conference agreement

The Conferees accept the House provision.

COMMEMORATION OF EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

House bill

The House bill requires that a study be conducted to determine an appropriate emblem to be placed on highway signs referring to the Interstate System to commemorate the vision of President Dwight D. Eisenhower.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill.

STATE LEVEL OF EFFORT

House bill

The House bill directs the Secretary to begin a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

The study shall examine data relating to state and local revenues collected and spent on surface transportation programs, including fuel taxes, toll revenue, sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and other state and local revenue sources.

The Secretary is to report to Congress within 12 months of enactment with recommendations.

Senate amendment

The Senate amendment is similar to the House provision except that it requires the study to be conducted jointly by the Secretary and the Director of the Bureau of Transportation Statistics. The report is to be submitted to Congress within nine months of enactment.

Conference substitute

The conference substitute contains the Senate amendment.

EVALUATION OF STATE PROCUREMENT PRACTICES

House bill

The House bill directs the Secretary to conduct a study of whether current procurement practices used by state departments and agencies are adequate to ensure the highest quality of materials and cost-effectiveness of projects. The Secretary is directed to report to Congress within two years with an assessment of the need for a national policy on quality assurance.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision.

BORDER CROSSINGS

House bill

The House bill provides for improvement and integration of intermodal transportation facilities, including methods of achieving the optimum yield from such systems.

Senate amendment

The Senate amendment directs the Secretary to assess the need for transportation infrastructure improvements to facilitate U.S. to Mexico and U.S. to Canada trade. The Senate amendment also directs the Secretary to determine whether U.S. to Canada border crossing are designed for future growth and expansion and whether they will accommodate greater commercial traffic resulting from free trade agreements and increased tourism traffic.

Conference substitute

The conference substitute combines the provisions of the House bill and Senate amendment.

FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Federal Highway Administration to enter into a contract with a nonprofit organization for studies of the fundamental chemical properties and physical properties of petroleum asphalts and modified asphalts used in highway construction. Authorizations of $3 million per fiscal year are provided to fund the studies. A test strip must be implemented to demonstrate energy and environmental advantages of shale oil modified asphalts under extreme climatic conditions. Funds for the test strip are to be made available from funds for parks and park highway.

Conference substitute

The conference substitute directs the Administrator of the Federal Highway Administration to undertake fundamental studies of the performance of petroleum asphalts and modified asphalts used in highway construction. The conferees direct the Administrator to contract with the Western Research Institute, located in Laramie, Wyoming, a nonprofit organization, for purposes of complying with this section, as the prime organization responsible for carrying-out the technical and analytical support and related research. Based on previous research and the volume of performance data that must be considered, the conferees direct the Administrator to provide at least $3 million each year. This funding level will ensure that there is alignment between field performance characteristics of petroleum asphalts with diagnostic chemical and physical property tests designed to predict performance of petroleum asphalts. The conferees further direct the Administrator to enter into such contracts on the basis of the Western Reseach Institute's demonstrated expertise and experience in such related research programs in addition to the organization's past research activities on behalf of the Strategic Highway Research Program.

The Administrator is further directed, in coordination with the Western Research Institute, to implement a test strip of a shale oil-modified asphalt in Yellowstone National Park. The conferees direct this demonstration to be constructed with the expressed purpose of providing findings on whether such shale oil modified asphalt will provide a domestic asphalt feedstock alternative that provides enhanced performance characteristics, economic, and environmental advantages over current technologies. The conferees directed the selection of the demonstration site to ensure that such a test strip is subjected to severe and extreme climate conditions. Because of the importance of this demonstration, the conferees have directed a final report on the findings of this demonstration to be submitted to Congress not later than November 30, 1995.

RESEARCH AND DEVELOPMENT AUTHORITY OF SECRETARY OF TRANSPORTATION

House bill

Title 49 of the U.S. Code, subtitle I, lists the purposes of the Department of Transportation (DOT). The Department purposes should also include basic research if DOT is to promote and undertake research and development related to transportation. The House bill adds the requirement to ". . . include basic automotive highway vehicle science." This provides DOT with a mandate to conduct research in long-term, high-risk basic highway vehicle science.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conferees adopt the House provision.

PURPOSES OF DEPARTMENT OF TRANSPORTATION

House bill

This House bill amends Title 49, USC subchapter I on the duties of the Secretary of the Department of Transportation to include that the Department will stimulate technological advances in transportation "through research and development." Both basic scientific research and research in long-term, high-risk highway vehicle sciences, are very important. Accordingly, the House bill authorizes research to be included in the fundamental mandates of the Department.

Senate amendment

The Senate version contains no comparable House provision.

Conference substitute

The Conference substitute includes the House provision.

ADVANCED AUTOMOTIVE RESEARCH CONFERENCE AND AWARD

House bill

The House bill establishes an Advanced Automotive Research Conference and a National Award for the Advancement of Motor Vehicle Research. It does so through the Stevenson-Wydler Technology Innovation Act of 1980, which established a program to support industry's technology development efforts. The Act also established a National Technology Medal for companies that have made outstanding contributions to the promotion of technology.

In order to examine and analyze the strengths and weaknesses of the U.S. motor vehicle industry, a conference on advanced automotive research and development should be convened. Accordingly, the House bill amends the Stevenson-Wydler Act to mandate that the Department of Commerce convene a conference of automotive experts including representatives of labor and academia to examine ways in which technology transfer of research results from the federal laboratories can improve U.S. motor vehicle industrial competitiveness. The results of the conference would be published and submitted to Congress. The recommendations of the conference should focus on further research necessary to improve U.S. competitiveness in automotive technology. The House bill also amends the Stevenson-Wydler Act to establish a National Award for the Advancement of Motor Vehicle Research. The award consisting of a medal, and potentially a privately supported cash prize, will honor domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel who have substantially improved the domestic motor vehicle in safety, energy savings, or environmental impact.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference substitute contains the House provision.

UNDERGROUND PIPELINES

House bill

The House bill requires the Secretary to study the feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities.

Senate amendment

No comparable provision.

Conference substitute

Same as House bill.

BUS TESTING

House bill

Subsection (a) amends Section 12(h) of the Urban Mass Transportation Act of 1964 to clarify that new bus models required to be tested under that Act include buses using alternative fuels.

Subsection (b) amends 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 to require braking performance and emissions tests be conducted on new bus models. Funding of $1.5 million is provided to the bus testing center to purchase and install new testing equipment in accordance with new testing requirements.

Subsection (c) establishes a revolving loan fund of $2.5 million to fund bus testing facility operations and maintenance. In programming the use of the revolving loan fund, it is intended to allow the operators of the testing facility to borrow from the fund only to cover operating expenses brought on by a lack of vehicles to be tested.

Senate amendment

The Senate has no comparable provision.

Conference substitute

Same as House bill.

NATIONAL TRANSIT INSTITUTE

House bill

The House bill directs the Secretary to make grants for the establishment of a national transit institute to develop and administer training programs on a broad range of transit matters, techniques and procedures for Federal, state and local transportation employees engaged or to be engaged in Federal-aid transit work.

The Secretary is to make available $3 million per fiscal year for carrying out national transit institute activities.

States and public transit agencies may use up to one-half percent of section 3 and 9 funds for up to 80 percent of tuition and direct education and training expenses for state and local transportation department employees.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision, with a modification to provide that the National Transit Institute will be funded equally from the State and national research programs under section 26 of the Federal Transit Act of 1969.

UNIVERSITY TRANSPORTATION CENTERS

House bill

The House bill amends Section 11(b)(2) of the Urban Mass Transportation Act of 1964 to include transportation safety as an area of responsibility for University Transportation Centers. Section 11 is also amended to designate three new centers: a national center for transportation management, research, and development at Morgan State University; a center for transportation and industrial productivity at New Jersey Institute of Technology; and a national rural transportation study center at the University of Arkansas. The Secretary also is directed to make a grant of $2.42 million in fiscal year 1992 to Monmouth College for the James and Marlene Howard Transportation Information Center. Provisions of the 1964 Act requiring a National Advisory Council are deleted and replaced by a requirement that the Centers' studies be coordinated and disseminated by the Secretary. Up to one percent of funds provided for the University Transportation Center program are made available to the Secretary for its administration.

Senate amendment

The Senate amendment calls for the establishment of three new additional National Centers for Transportation Management, Research, and Development to accelerate involvement and participation on the part of minority individuals and women in transportation-related professions.

Conference substitute

The conference substitute in the House provision with the addition of a provision establishing a grant for a National Center for Advanced Transportation Technology at the University of Idaho.

This center shall be similar to the other national centers established under this section but it shall not be subject to all of the provisions of 49 U.S.C. 1607(b) such as the federal share. It shall be specifically funded for three fiscal years at 80% federal share and the funds shall not be subject to any obligation limitation.

UNIVERSITY RESEARCH INSTITUTES

House bill

Section 11 of the Urban Mass Transportation Act of 1964 is amended by the House bill to require the Secretary to make grants to establish and operate an institute for national surface transportation policy studies at San Jose State University, an infrastructure technology institute at Northwestern University, an Urban Transit Institute with the University of South Florida, and an Institute for Intelligent Vehicle Highway Concepts at the University of Minnesota. Funding of $250,000 per fiscal year is authorized for the Institute for National Surface Transportation Policy Studies; $3 million per fiscal year is authorized for the Infrastructure Technology Institute; and $1 million per fiscal year is authorized for each of the Urban Transit Institute and the Institute for Intelligent Vehicle Highway concepts.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute adopts the House provision and establishes at the University of North Carolina an Institute for Transportation Research and Education (ITRE). To support minority participation in urban transit research, grants will be made to North Carolina A&T State University in conjunction with the University of South Florida and a consortium of Florida A&M, Florida State University, and Florida International University for Interdisciplinary Study to address the diverse transportation problems of urban areas experiencing significant and rapid growth.

INTELLIGENT VEHICLE HIGHWAY SYSTEMS

House bill

The house bill establishes a program to research, develop, operationally test, and implement intelligent vehicle/highway systems. The bill requires development and implementation of a strategic plan and provides for planning grants to states and local governments, as well as assistance for operational technical projects. The bill establishes a program of financial and technical assistance for implementation of IVHS corridors.

Senate amendment

The Senate provisions are similar to those in the House bill, but establishes a "Congested Corridors" program for implementation of IVHS Technology.

Conference substitute

The conference substitute combines the provisions of the House bill and Senate amendment. Requirements for development of a prototype by 1997 may be satisfied through a test track, and implementation of IVHS technology in corridors and other areas must make a potential contribution to the Secretary's strategic plan.

ADVANCED TRANSPORTATION SYSTEMS

House bill

The House bill authorizes the Department of Transportation to award grants, matched on the state or local level, to set up capital manufacturing consortia dedicated to the development of cleaner transit systems and electric vehicles. The program provides seed money needed by small and medium size suppliers, larger manufacturers, universities and other research and manufacturing groups to collaborate on pushing an idea from laboratory to market. The program will give states maximum freedom in fostering public/private partnerships based on their own unique situations and recognizes the public benefits of solving mobility and energy problems with cleaner vehicles.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill.

TITLE VII—AIRPORT AUTHORITY

Conference substitute

The Conference Substitute enacts the Metropolitan Washington Airports Act Amendments of 1991. The substitute is the same as H.R. 3762, passed by the House on November 18, 1991. The substitute restores the full authority of the Metropolitan Washington Airports Authority which operates Washington National and Dulles Airports.

The legislation is necessary because of the Supreme Court's decision in Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise, holding unconstitutional the provisions in the MWA Act of 1986 which established a Board of Review of nine Members of Congress with veto power over specified major decisions of MWAA's Board of Directors. As a result of this decision, MWAA, which runs National and Dulles Airports, is unable to take the actions over which the Board of Review held veto power, including adoption of a budget and authorization of the issuance of bonds for airport development.

The Conference Substitute makes the following changes in the 1986 Act and develops a constitutionally acceptable structure[1] which will ensure that decisions of the Airports Authority will take account of the interests of users of the airports.

(1) Under the 1986 Act, the Board of Review members were selected by the Airports Authority from lists provided by the Speaker of the House and the President pro tempore of the Senate. In its decision that the Board of Review procedure was unconstitutional, the Supreme Court criticized the requirements in the 1986 Act that the Board members must be Representatives and Senators from the authorizing and appropriating committees; the absence of a specific authorization for the Airports Authority to reject a list and request additional nominations; the absence of a requirement that the Board members be users of the airport; and the absence of power in the Airports Authority to remove Members of the Board of Review.

The Conference substitute continues the requirements for a Board of Review by directing the Airports Authority to establish a Board of Review of nine members; four from a list provided from the Speaker of the House; four from a list provided by the President pro tempore of the Senate, and one chosen alternately from a list provided by the Speaker and the President pro tempore. However, in response to the matters raised by the Supreme Court, the Conference substitute makes a number of changes in the requirements for the Board. The substitute gives the Airports Authority the right to reject a list and request additional recommendations. The individuals on the list submitted by the Speaker and the President pro tempore do not have to be Senators or Representatives. They are required to have experience in aviation matters and be frequent users of the Metropolitan Washington Airports. The Airports Authority Board of Directors is given authority to remove members of the Board of Review for cause by a two thirds vote.

(2) The 1986 Act requires the Airports Authority to submit to the Board of Review, at least 30 days before their effective dates (60 days in the case of a budget), the Authority's budget, authorizations for the issuance of bonds, actions on an airport master plan, actions on regulations, and appointment of a chief executive officer. The substitute continues the requirements that these actions be submitted to the Board of Review and requires that the following additional matters to be submitted to the Board of Review: amendments to the Airports Authority's annual budget; an annual plan for issuance of bonds and any amendments to such plan; the award of a contract (other than a contract in connection with the issuance or sale of bonds) which has been approved by the Board of Directors of the Airports Authority; any action of the Board of Directors approving terminal design or airport layout or modifications thereof; and an authorization for disposal of land or the grant of an easement.

(3) The 1986 Act is modified to end the Board of Review's authority to disapprove

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[1] See, for example, the opinion of the American Law Division of the Congressional Research Service that the legislation is constitutional. Congressional Record of November 18, 1991 at pp. H10347-10349.

actions submitted by the Airports Authority. Instead, the Board of Review would have authority to recommend changes in an action submitted by the Airports Authority (including recommendations that the Authority not take the proposed action). The time for Board of Review action would be changed from 30 days in existing law, to 30 calendar days or 10 legislative days, whichever period is longer.

If the Board of Review made a recommendation, the Authority could not take the proposed action until the Authority had evaluated and responded in writing to the recommendation of the Board of Review. If the Authority's proposed action followed the recommendations of the Board of Review, the action could be taken. If the Authority did not follow the Board of Review's recommendations, the proposed action could not be taken until the proposal had been submitted to the Congress and sixty legislative days had passed. During this period, Congress would be able to consider a joint resolution (which would have to be signed by the President) disapproving the proposed action.

The substitute establishes special Congressional procedures to ensure that procedural difficulties would not prevent Congress from passing a resolution of disapproval during the sixty day period. The special procedures for resolutions of disapproval are modeled on those in the D.C. Home Rule legislation. Under the procedures in the substitute, a resolution of disapproval of an action of the Airports Authority would be referred to the House Committee on Public Works and Transportation and the Senate Committee on Commerce Science and Technology. If the Committee to which a resolution had been referred had not reported it at the end of twenty calendar days, it would be in order to move to discharge the Committee from further consideration of the joint resolution. A motion to discharge would be highly privileged, and debate would be limited to not more than one hour. An amendment would not be in order, nor would it be in order to move to reconsider. Additional procedures are established for consideration by the Senate of resolutions of disapproval which have been reported or discharged. Debate on a resolution would be limited to not more than ten hours and amendments or motions to recommit would not be in order.

(4) The substitute includes a provision ratifying actions of the Airports Authority which were submitted to the Board of Review before the Supreme Court's decision. This provision basically clarifies existing law on the effect of an adverse court order on the Board of Review's powers.

(5) The substitute includes a provision that until the Airports Authority establishes a new Board of Review, and at any time the Airport Authority fails to fill more than four vacancies on the Board of Review, the Airports Authority will have no power to take the actions which must be submitted to the Board of Review. This will protect against the Airports Authority failing to comply with the statutory requirement that it appoint a Board of Review.

(6) A new provision is added to existing law directing the Comptroller General to review the Airports Authority's contracting procedures for consistency with sound government contracting principles and the provisions of existing law requiring the Authority to use competitive bidding procedures. The Comptroller General would be required to file periodic reports with the House and Senate Aviation committees.

(7) To supplement the new authority given the Board of Review to review contracts of the Airports Authority, the substitute adds a new requirement that every contract must include a provision that no member of the Board of Review may benefit from the contract.

(8) The substitute authorizes the Secretary of Transportation to amend the lease of the airports to the Authority to incorporate the new Board of Review procedures.

Several provisions in the Conference Substitute should be clarified; the exception in section 6007(f)(4)(B)(vi) which states that "a contract in connection with the issuance or sale of bonds" is not subject to review by the Board of Review. It should be clear that this exception applies only to those documents necessary for the bond issuance and not to any contract relating to the selection of underwriters or to contracts funded by the bond proceeds.

Section 6007(h) has been amended to clarify its original intent. Any interruption in the Airports Authority's power was meant to be prospective; actions taken before a court order were not to be invalidated by such an order.

In addition, the Conferees believe that an objective in the redesign of the Metropolitan Washington Airports should be to minimize walking distances between terminals and between terminals and parking facilities. At National Airport, the Authority should make every reasonable effort to construct a permanent system for transporting people between the new North Terminal, the principal on-airport public parking facilities and the southern-most passenger terminal facilities, using a continuous loop system or a system of moving sidewalks. The Authority should periodically report to the Board of Review on the progress of its efforts.

The Conferees have been concerned with the difficulties which new entrants and limited incumbents have faced in obtaining slots at National Airport. In recognition of these difficulties, the Federal Aviation Administration, on February 24, 1984, awarded an exemption to Braniff Airlines to conduct four daily operations at National. These operations were being conducted at the time of passage of the Metropolitan Washington Airports Act of 1986. On January 12, 1990, after Braniff had ceased operations, FAA awarded America West an exemption to operate the slots previously held by Braniff. The rationale for the exemption was "the Department's policy of promoting competition in the airline industry."

The original America West exemption was granted for 6 months. Since then, the exemption has been extended for two one-year periods.

The Conferees agree with the FAA's decision to award four slots to America West in the interest of competition. However, we are concerned that the relatively short term of each renewal of the exemption makes it difficult for the carrier to engage in long-term planning, and may limit the willingness of creditors to advance funds to America West. With the decline in competition and the financial difficulties of the airline industry, the survival of major carriers such as America West is of great importance. Accordingly, we urge FAA to consider a long-term exemption to America West to operate the four slots, subject, of course, to the same rights FAA retains for any of the slots at National Airport.

Another matter of concern to the Conferees has been the expiration of provisions in the 1986 Act guaranteeing to airport employees, for five years, continuation of the rates of pay and other employee benefits which were in effect on the date the airports were leased to the regional Airports Authority. Notwithstanding the expiration of these provisions we expect the Authority to continue to afford employees fair treatment with respect to wages and other conditions of employment. We expect to monitor employee relations at the Airport, and to take appropriate corrective action if necessary.

TITLE VIII—REVENUE-RELATED PROVISIONS

A. HIGHWAY-RELATED EXCISE TAX PROVISIONS

1. TAX RATES

Present law

Current highway motor fuels and other highway excise taxes (the "HTF taxes") are scheduled to expire after September 30, 1995. These taxes include: 11.5 cents per gallon on gasoline and special motor fuels (including motorboat and small engine fuels); 17.5 cents per gallon on highway diesel fuel; 12 percent of retail price on heavy trucks and truck trailers; graduated rates on heavy highway vehicle tires; and a graduated annual use tax on heavy highway vehicles. All revenues from these tax rates are deposited in the Highway Trust Fund ("HTF"), except that revenues from taxes on motorboat and small engine gasoline fuels deposited in the HTF are transferred to the Aquatic Resources Trust Fund ("Aquatic Fund").

Gasoline, special motor fuels, and diesel fuel (including diesel fuel used in trains) are taxed at 2.5 cents per gallon through September 30, 1995. Revenues from these taxes are retained in the General Fund. Further, a separate 0.1-cent-per-gallon tax applies to these fuels to finance the Leaking Underground Storage Trust Fund ("LUST fund").

House bill

The House bill extends current HTF taxes (and exemptions from these taxes) for four years, through September 30, 1999. Also, the House bill extends current trust fund taxes on motorboat and small engine fuels for that period.

The current 2.5 cents-per-gallon deficit reduction rate on motor fuels, including the train diesel fuel tax, is not extended beyond the current 1995 expiration. Thus, from October 1, 1995, through September 30, 1999, the motor fuels tax rates (not including the LUST fund rate) will be 11.5 cents per gallon for gasoline and special motor fuels and 17.5 cents per gallon for highway diesel fuel.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. DEPOSITS AND TRANSFERS OF REVENUES

Present law

Gross revenues from the HTF taxes are transferred to the HTF through September 30, 1995. Gross revenues from the 11.5 cents-per-gallon taxes on certain motorboat fuels and small-engine gasoline fuel are transferred from the HTF to the Aquatic Fund through September 30, 1995.

House bill

The House bill extends the transfers of gross revenues from the current HTF taxes to the HTF through September 30, 1999. The House bill also extends transfers from the HTF to the Aquatic Fund of the fuels taxes currently transferred to the Aquatic Fund through September 30, 1997 (to conform to the HTF expenditure authority termination date).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. HIGHWAY TRUST FUND PROVISIONS

1. TRUST FUND EXPENDITURE AUTHORITY

Present law

HTF expenditure authority is scheduled to expire on October 1, 1993.

The Aquatic Fund consists of two accounts: the Sport Fish Restoration Account for which there is no scheduled expiration date of expenditure authority and the Boat Safety Account for which expenditure authority is scheduled to expire after March 31, 1994.

House bill

The House bill extends HTF expenditure authority through September 30, 1997. Expenditure authority for the Aquatic Fund's Boat Safety Account is extended through March 31, 1998.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. TRUST FUND EXPENDITURE PURPOSES

a. Highway Account Generally

Present law

HTF Highway Account amounts are available, as provided in appropriations acts, to funds obligations incurred under the Highway Revenue Act of 1956, the Surface Transportation Act of 1982, the Surface Transportation and Uniform Relocation Act of 1987 ("1987 Act"), or for amounts for a general purpose authorized under these acts as in effect on the date of enactment of the 1987 Act.

House bill

The House bill adds to the permissible HTF expenditure purposes expenditures for purposes provided under the Intermodal Surface Transportation Infrastructure Act (H.R. 2950).

The House bill further provides that the permissible HTF expenditure purposes include only those specified in each Act cited above, as those Acts are in effect on the date of enactment of H.R. 2950.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

b. Mass Transit Account

Present law

Amounts in the Mass Transit Account of the HTF are available through September 30, 1993, as provided in appropriation acts, for making capital expenditures under section 21(a)(2) of the Urban Mass Transportation Act of 1964 ("UMTA"). UMTA section 21(a)(2) authorizes Mass Transit Account expenditures for construction and purchase of facilities and rolling stock, innovative techniques in public transportation services, planning and technical studies, and grants to assist elderly and handicapped needs.

House bill

The House bill provides that Mass Transit Account amounts are to be available for "capital" and "capital-related" purposes under UMTA sections 21 (a)(2), (b), (c), (g)(2), (h), or (j)(1), as in effect on the date of enactment of H.R. 2950.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

c. Highway Tax Compliance

Present law

Internal Revenue Service ("IRS") highway tax compliance expenditures are financed from General Fund appropriations.

House bill

Provisions contained in the non-revenue titles of the House bill authorize HTF amounts for grants to the IRS and/or States for motor fuels and other highway use tax enforcement activities. These provisions also provide for an Advisory Committee to the Secretary of Transportation (from the Federal Highway Administration, IRS, and the States) to prepare and coordinate the highway tax enforcement projects, with semi-annual reports to be made to the House and Senate authorizing committees ("Public Works") on the expenditure of such monies.

The House bill's revenue title provides that Department of Transportation may not impose any conditions on the use of any funds allocated to the IRS, and that the IRS must submit a report to the Ways and Means and Finance Committees at least 60 days before the start of each fiscal year (after FY 1992) on the projected use of any such funds it receives. Further, the revenue title provides that the semi-annual reports by the Advisory Committee also are to be made to these tax-writing committees.

Senate amendment

The Senate amendment authorizes HTF amounts for grants to the IRS and/or States, to be used only to expand motor fuel tax enforcement activities and to reduce other highway use tax evasion. Semi-annual reports are to be made to the House and Senate Public Works committees on the expenditure of these monies.

Conference agreement

The conference agreement follows the House bill's restrictions on monies allocated to the IRS.

C. NATIONAL RECREATIONAL TRAILS TRUST FUND

Present law

Gasoline used in off-highway business uses is exempt from the HTF and deficit reduction rates of the gasoline excise tax. Off-highway recreational (i.e., nonbusiness) use is not exempt.

Revenues generated at the HTF tax rate that are attributable to nonbusiness off-highway uses are transferred to the HTF. Revenues attributable to the HTF rate on gasoline in a nonbusiness use of small-engine outdoor power equipment are then transferred from the HTF to the Aquatic Fund's Sport Fish Restoration Account.

House bill

No provision.

Senate amendment

Establishment of trust fund and transfer of revenues

The Senate amendment establishes a National Recreational Trails Trust Fund ("Trails Fund") in the Trust Fund Code of the Internal Revenue Code (the "Code"). For the first year of the new Fund's existence, amounts equivalent to 0.3 percent of total HTF receipts and, after the first year, revenues corresponding to those received from "nonhighway recreational fuel taxes," are to be transferred annually from the HTF to the Trails Fund.

Nonhighway recreational fuel taxes are defined as those imposed on gasoline, diesel, and special motor fuels (at the HTF rates) for (1) fuel used in vehicles and equipment on recreational trails or back country terrain (including highway vehicles when used on recreational trails, trail access roads not eligible for Federal highway funding, or back country terrain) and (2) fuel used in camp stoves and other outdoor recreational equipment.

Expenditures from trust fund

The Senate amendment authorizes general expenditure purposes from the Trails Fund by cross-referencing Public Works' provisions of the bill.

The Public Works' provisions in the Senate amendment set specific rules for allocating monies to the States for use on trails and trail-related projects. Among the authorized uses of the funds are (1) acquisition of new trails and access areas, (2) maintenance and restoration of existing trails, (3) State environmental protection education programs, and (4) program administrative costs.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications:

(1) The conference agreement provides that the annual revenue transfers to the Trails Fund may not exceed the annual obligation ceilings contained in the bill; the Treasury Department must report annually the amount of revenues it determines to be attributable to nonhighway recreational fuels taxes to the Committees on Ways and Means and Finance;

(2) The conference agreement clarifies that revenues transferred to the Trails Fund do not include revenues currently transferred to the Aquatic Fund; and

(3) The conference agreement sunsets revenue transfers to and expenditure authority from the Trails Fund on October 1, 1997.

(4) The agreement also includes additional technical modifications to conform the Trails Fund to the Code trust funds.

D. NATIONAL HIGHWAY INSTITUTE FUNDING AND FEES

Present law

There is a National Highway Institute which (among its activities) conducts training programs for Federal, State, and local highway employees.

House bill

No provision.

Senate amendment

The Senate amendment expands the Institute's charter to authorize training programs for employees of private agencies. The Institute also is authorized to establish and collect fees from any entity and to place such fees in a special account to fund its operations.

Conference agreement

The conference agreement follows the Senate amendment, with the modification limiting fees that may be assessed to amounts charged to users of the Institute's training programs, not to exceed the costs of services provided.

E. RURAL TOURISM DEVELOPMENT FOUNDATION

Present law

The Code provides tax-exempt status for any corporation which is organized under an Act of Congress and is an instrumentality of the U.S., but only if the corporation is exempt from Federal income tax under (1) provisions contained in the Code (including sec. 501(e)), (2) the corporation's organizing Act (as in effect before July 18, 1984) or (3) a revenue Act enacted after July 17, 1984.

Contributions and gifts to or for the use of the United States for exclusively public purposes are deductible for Federal income, estate, and gift tax purposes.

House bill

No provision.

Senate amendment

The Public Works' provisions in the Senate amendment establish a charitable, nonprofit corporation to be known as the Rural Tourism Development Foundation to plan and implement projects and programs to attract foreign visitors to rural America. The provisions specifically provide that the Foundation and any income or property received or owned by it, and all transactions relating to such income or property, are exempt from all Federal, State, and local taxation.

The provisions also provide that contributions, gifts, and other transfers made to or for the use of the Foundation are regarded as contributions, gifts, or transfers to or for the use of the United States.

Conference agreement

The conference agreement follows the House bill.

F. Sense of the Congress Relating to Commute-To-Work Benefits

Present law

Present law allows employers to provide employee benefits excludible from gross income of up to $21 per month (recently raised from $15 by the IRS) for mass transit use.

House bill

No provision.

Senate amendment

The Senate amendment includes a "Sense of Congress" resolution that the current dollar limit on the exclusion for employer-provided transit benefits unduly penalizes employer efforts to encourage mass transit use by employees. The Senate amendment urges that the amount excludible from employee gross income be increased.

Conference agreement

The conference agreement follows the Senate amendment.

G. Budget Act Compliance

Present law

The 1990 Budget Enforcement Act provides "spending caps" for certain expenditures and a "pay-as-you-go" requirement for net increases in direct spending and revenues during FY 1991–1995. If net direct spending increases are not offset, a sequester (automatic across-the-board reduction) in non-exempt direct spending programs will occur.

House bill

The House bill provides that notwithstanding any other provision of the House bill, no new direct spending would be created by the bill. The bill requires a proportional reduction in highway and transit obligations for FY 1992 in the event that outlays pursuant to the FY 1992 obligations under the House bill exceed those contained in any transportation appropriations bill for FY 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

From the Committee on Public Works and Transportation for consideration of the entire House bill (except title VII), the entire Senate amendment, and modifications committed to conference:

Robert A. Roe,
Glenn M. Anderson,
Norman Y. Mineta,
James L. Oberstar,
Henry J. Nowak,
Nick Rahall,
Douglas Applegate,
Ron de Lugo,
Gus Savage,
Robert A. Borski,
Joe Kolter,
John Paul Hammerschmidt,
Bud Shuster,
William F. Clinger,
Thomas E. Petri,
Ron Packard,
Sherwood Boehlert,
Helen Delich Bentley,

From the Committee on Ways and Means, for consideration of title VII of the House bill, and secs. 140E, 141 through 144, 271(b)(12), and 305 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J. J. Pickle,
Charles B. Rangel,
Pete Stark,
Guy Vander Jagt,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 5, 121(a), 123, 124, 134 (a) and (b), 143, 184, 209, 322(m), 335, title V (insofar as it addresses railroads), secs. 601(b), 608 through 610, 617, and 620 of the House bill, and secs. 103(b) (1), (2), and (9), 106(a), 107, 113, 114, 115 (a)(2) and (d), 116, 117, 122(b), 127, 128, 131, 140G, 140T, 140U, 239, 261, 262, 319, and 336 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Al Swift,
Gerry Sikorski,
Norman F. Lent,
Don Ritter,

Provided that Mr. Dannemeyer is appointed in place of Mr. Ritter for consideration of secs. 123 and 124 of the House bill, and secs. 103(b)(2), 106(a) (insofar as it addresses 23 U.S.C. 133(a)(10)), 107, 113, 114, and 319 of the Senate amendment:

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 140I, 140N, part A of title II (except secs. 204, 218, and 226), 264, and 271 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Al Swift,
Dennis E. Eckart,
W.J. (Billy) Tauzin,
Jim Slattery,
Rick Boucher,
Thomas J. Manton,
Terry L. Bruce,
Claude Harris,
Mike Synar,
Norman F. Lent,
Carlos J. Moorhead,
Matthew J. Rinaldo,
Don Ritter,
Jack Fields,
Michael G. Oxley,

As additional conferees from the Committee on the Judiciary, for consideration of sec. 409 of the House bill, and sec. 238 and title IV of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Don Edwards,
Barney Frank,
Hamilton Fish, Jr.,
Carlos J. Moorhead,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 141 (a) and (e), 202, 317, 405, 502, 601, 604 through 609, 616 through 618, 651 through 659, and 671 through 673 of the House bill, and secs. 103(b) (9) and (10), 106(a), 107, 115, 116, 127(g), 136(b), 203(e), 204, 232(a), 329, and 341 of the Senate amendment, and modifications committed to conference:

George E. Brown, Jr.,
Tim Valentine,
Dan Glickman,
Tom Lewis
(Except Sections 103(b)(9) and 116),

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference:

John Conyers, Jr.,
Frank Horton,

Managers on the Part of the House.

From the Committee on Environment and Public Works:

Daniel Patrick Moynihan,
Quentin Burdick,
George Mitchell,
Frank R. Lautenberg,
Harry Reid,
John H. Chafee,
Steve Symms,
John Warner,
Dave Durenberger,

From the Committee on Commerce, Science, and Transportation:

J. James Exon,
Richard H. Bryan,
John Danforth,
Slade Gorton,

From the Committee on Banking, Housing, and Urban Affairs:

Don Riegle,
Alan Cranston,
Paul Sarbanes,
Christopher S. Bond,
Alfonse D'Amato,

From the Committee on Finance:

Lloyd Bentsen,
Daniel Patrick Moynihan,
Max Baucus,
Bob Packwood,
Bob Dole,

From the Committee on Governmental Affairs, only for the consideration of the Uniform Relocation Act Amendment:

John Glenn,
Carl Levin,
Bill Roth,

Managers on the Part of the Senate.

Mr. ROE. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

Mr. ROE. Mr. Speaker, I would like to request, if I may, the balance of the time that is allocated to both sides.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. Roe] under his unanimous-consent request has 18 minutes remaining, and the gentleman from Arkansas [Mr. Hammerschmidt] has 17 minutes remaining.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. Oberstar].

Mr. OBERSTAR. Mr. Speaker, I thank the indefatigable chairman of our committee, the gentleman from New Jersey [Mr. Roe] whose relentless pursuit of this legislation has brought us to the successful conclusion we celebrate this morning.

Mr. Speaker, the key word and the key concept in this bill is intermodal. This is the first time in the history of transportation legislation that one bill brings together, knits and threads together in one conceptual and detailed piece of legislation, the several modes by which we move people and goods in this country.

As this legislation unfolds and is put into place in the many programs authorized under it, a person will be able to take a ride to an airport, unload his bicycle from the trunk, get aboard that airplane, fly to the destination, mount that bicycle on a car, take a drive on a scenic byway, dismount, and ride that bicycle on a bike path or on to an abandoned railroad bed that has been paved over for bicycling, dismount the bike and walk a beautiful vista along that pathway, get back into the car, and drive to his final destination and enjoy the beauty of this country through the several modes of transportation made possible.

Mr. Speaker, we chart a whole new course with this legislation. We will relieve urban congestion, we will improve rural transportation, we will improve the highways of this country, we will develop new concepts through the maglev that is included in this legislation, and we will indeed chart the course for transportation now through the beginning of the next century.

Mr. Speaker, I rise in support of H.R. 2950, the Intermodal Transportation Efficiency Act of 1991, and urge its passage. I also commend, in the strongest meaning of that word possible, the leadership of the House Committee on Public Works and Transportation, the indefatigable gentleman from New Jersey [Mr. Roe], the gentleman from California [Mr. Mineta], the gentleman from Arkansas [Mr. Hammerschmidt], and the gentleman from Pennsylvania [Mr. Shuster], as well as the staff of the Subcommittee on Surface Transportation, for the truly heroic effort they have put into this bill over the last 6 months and more.

Along with its other landmark provisions, directing our Nation's transportation policy for the remainder of this century and into the next. H.R. 2950 contains two programs which I initiated, and in which I am particularly interested.

SCENIC BYWAYS

Section 147 of H.R. 2950 authorizes a Scenic Byways Program incorporating a substantial portion of my own bill, H.R. 2957, which my colleague, the gentleman from Oregon [Mr. DeFazio], the Senator from West Virginia [Mr. Rockfeller], and I developed in cooperation with a broad range of groups to meet the need of recreational Americans, particularly the recreational driver, as well as the bicyclist and hiker.

Growing numbers of recreational drivers, particularly, long to escape the fast lanes funded by most of this and past legislation, and to tour slowly the backways and byways of America, savoring at a leisurely pace the richness of America's scenic, recreational, historic, cultural, and archaeological treasures and bringing economic diversity to small towns bypassed by the mainarteries of our highway system.

Many States already have their own Scenic Byways Programs, such as the Blue Ridge Parkway in Virginia, or the 10-State Great River Road, which crisscrosses the mighty Mississippi River along its 2,000-mile course from Minnesota to the Gulf of Mexico.

H.R. 2950 authorizes $80 million, over 6 years, from the highway trust fund under contract authority, for scenic byways.

While the provision of our scenic byways bill authorized an Office of Scenic Byways, this provision was not adopted into H.R. 2950. A complete office may not be necessary, but I would insist that the Department of Transportation and the Federal Highway Administration devote adequate staff to administering this $80 million program. This is a substantial amount of public funds, but more important, the program needs the sensitivity, judgment, and time of a staff dedicated solely to it. If it simply becomes a part-time job, imposed on already overworked staff, the program will not be the success it could be.

Section 147 of H.R. 2950 establishes a Scenic Byways Advisory Committee, to develop and present to the Secretary of Transportation recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as All-American Roads. The section recognizes the need for flexibility in this Federal program, to accommodate State programs, some of which have existed for many years. At the same time, it is important to establish these minimum criteria, so that people's expectations are not disappointed when they make the long trip to travel a road with the scenic byways designation.

The advisory committee has 18 months to develop these minimum criteria and present their recommendations to the Congress and the Department of Transportation. I would expect the Secretary to take these recommendations fully into account in approving funding for projects on State-designated scenic byways. This is especially important because section 147, unlike our bill, makes no provision for the States to nominate, or the Secretary to designate, highways for the scenic byways and All-American Roads systems.

Section 147 does not define All-American Roads, but I would expect the Secretary to adopt the definition contained in H.R. 2957: "those highways designated as scenic byways * * * which are of national significance, are of outstanding natural beauty, are in areas of quintessential scenery, are of high cultural interest, or are of exceptional or unique value."

Section 147 also establishes a 3-year Interim Scenic Byways Program. Under this interim program, the Secretary is required to give priority consideration to certain projects. These priorities are designed to protect the scenic, historical, recreational, cultural, and archeological characteristics for which the byway is designated, while assuring the appropriate local and private roles in project funding. The section gives priority to projects with corridor management plans designed to protect scenic byway values, and to those with a strong local commitment to implementing the management plans and protecting the scenic and other characteristics.

Priority is also accorded to those eligible projects which are included in programs that can serve as models for other States to follow, and to eligible projects in multi-State corridors where the States submit joint applications.

Eligible projects are clearly spelled out. The conference added a provision permitting 10 percent of the funds to be used for billboard removal.

Mr. Speaker, I want to stress, as strongly as possible, that the purpose of the Scenic Byways Program is to maintain and enhance the values associated with scenic byways. These byways are more than concrete and asphalt; more than paving and pothole fixing. The Scenic Byways Program is to be an adjunct to, rather than a replacement for or duplication of, other programs in H.R. 2950.

Finally, section 147 provides specific protections for byways, by stipulating that the Secretary shall not fund any project that would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area.

H.R. 2950 provides for a mid-term review of many programs. It is my clear understanding that scenic byways will be one of those programs reviewed, with the purpose of following the interim program with a full-fledged, adequately funded, permanent Scenic Byways Program.

BICYCLE AND PEDESTRIAN FACILITIES

Mr. Speaker, H.R. 2950 also contains important provisions to assure the construction of many more bicycle lanes, paths and trails, and more pedestrian walkways in urban and rural areas. Many of these provisions are patterned on H.R. 2267, my bicycle and pedestrian facilities bill.

Strategically placed throughout the highway provisions of H.R. 2950 are provisions relating to planning and location of bicycle and pedestrian facilities.

Section 132, bicycle transportation and pedestrian walkways, provides further direction to State Departments of Transportation to use funds apportioned under the National Highway System, the urban and rural mobility programs, the flexible program, and the Federal lands highway programs, for these facilities.

Section 132 also creates the position of State Bicycle and Pedestrian Coordinator in each State Department of Transportation. The coordinator would be responsible for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities. It is vitally important to have an advocate for bicyclists and pedestrians within each State DOT, providing the critical focal point for contact between bicycle and pedestrian groups and their agency.

The same section would provide that any bridge deck replacement or rehabilitating project would have to accommodate bicycles if they, the bikes, are permitted to operate at both ends of the bridge, as long as such accommodation can be provided at reasonable cost.

Finally, the use of motorized vehicles would be prohibited on these trails and walkways, unless State or local regulations permit snowmobiles and motorized wheelchairs, and under other circumstances as the Secretary deems appropriate.

The point I wish to stress is that Congress intends that more trails and walkways be built in conjunction with projects funded under this bill, and independent of these projects, to accommodate the legitimate needs of bicyclists and walkers—who are, for the most part, also drivers who contribute their fair share to the highway trust fund.

Section 217 of title XXIII, which this section amends, has for many years permitted the States to use highway funds for bicycle and pedestrian paths and trails, yet few have been built. It is thus highly appropriate, in the Intermodal Transportation Efficiency Act, to add provisions requiring accommodation of these modes which provide energy efficient, environmentally protective, cost-saving and congestion-lessening transportation to this bill.

As the bicycle and pedestrian provisions are implemented, I will observe closely how well State DOT's respond to citizen demands for bike lanes and trails, and pedestrian walkways. They have had a hard time being heard under the existing, voluntary, construction program. I hope the program established under H.R. 2950 will go much farther toward answering their needs, and toward providing the relief the Nation needs from transportation congestion, pollution, and costs to the taxpayer and the individual commuter.

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Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, first of all, I want to commend the leadership of our committee for the outstanding job that they have done in crafting this legislation which has taken weeks and months and endless hours of work to get to this point. It is absolutely imperative that we pass this bill tonight and get it to the President for signature.

Let me just give you about 34 reasons why we need to pass it tonight. Ten of them are the 10 States that have already run out of money for their highway programs, which means that the jobs involved in those programs are no longer there. The 10 States are Alabama, Arkansas, Connecticut, Florida, Nebraska, North Dakota, Oregon, Tennessee, Virginia, and Wisconsin. So those States at present are doing no highway construction because their funds have dried up. About 24 other States, if we do not pass this bill and move it to the President tonight, will run out of money within the next 3 weeks, and that means that their Highway programs will shut down. They consist of Delaware, the District of Columbia, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Michigan, Missouri, Nevada, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Texas, Utah, and Washington.

My colleagues, these States are going to be out of business as of the 1st of January, if we do not pass this bill.

This is, as it has been said before, a jobs bill. It is a safety bill. It is a competition bill. It is a transit bill. It is all of these things. But most importantly, it is the only bill that we have before us and are going to have before us that really offers some measure of economic recovery and economic development, one that can go onstream immediately. It is going to put people to work. It is going to keep people working.

This is our economic growth bill that we can deal with in this session of this Congress right here, right now, and I urge support for this bill.

Mr. ROE. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of conference report on this bill, H.R. 2950, and particularly in support of those portions of the legislation on which our committee participated as conferees.

I want to especially commend chairman ROE and ranking Republican member HAMMERSCHMIDT of the full committee, as well as chairman MINETA and ranking Republican member SHUSTER of the subcommittee, for their extraordinary leadership in the House and in the conference on this bill and this agreement today.

I also want to thank them and the other members of the Committee on Public Works and Transportation, as well as the Public Works staff on both sides of the aisle, for their great cooperation in ensuring that matters of concern to the Committee on Energy and Commerce were fully protected and properly addressed by our committee.

In addition, I want to commend our committee members, particularly Mr. SWIFT, Mr. LENT, Mr. SIKORSKI, Mr. ECKART, Mr. RITTER, and Mr. OXLEY for their help in developing this compromise. I also want to thank Senators HOLLINGS, BRYAN, DANFORTH, EXON, and GORTON and their staff.

Mr. Speaker, this is a good bill. It preserves the agreements reached between our two committees and the Senate in the last Congress regarding the Clean Air Act and highways.

The conformity provisions of section 176(c) of the Clean Air Act will continue to apply in the same manner and to the same extent as the House and Senate conferees expected when we adopted the 1990 amendments to the Clean Air Act. I expect the Secretary of Transportation, the Environmental Protection Agency, the States, and metropolitan planning organizations to comply fully with section 176(c). In addition, I expect the congestion management program to be carried out in a way to further the purposes of the Clean Air Act.

Importantly, the Senate receded from two energy provisions that would have been inconsistent with our resolution in the Clean Air Act, last year of the reformulated gasoline and oxygenated fuels issues.

The conference report also gives a tremendous boost to high speed rail and magnetic levitation technologies and will help the United States catch up to—and hopefully surpass—the Germans, French, and Japanese in this field. By combining the best elements of Senator MOYNIHAN's maglev provisions and the provisions of our committee's high speed rail bill, H.R. 1087, authored by Mr. SWIFT and Mr. RITTER, the chairman and ranking Republican member of our Subcommittee on Transportation and Hazardous Materials, the Congress has for the first time demonstrated a genuine financial commitment to high speed ground transportation.

One important provision of this demonstration program prohibits grants and contracts from going to support high speed ground transportation projects or systems located in States that by virtue of their own State laws have prohibited State funds or revenues from contributing to the construction or operation of such projects or systems. It is not necessary that a State actually have a present commitment to funding such projects or systems; however, it would be grossly unfair to use the tax dollars of my constituents in Michigan for this purpose, or of taxpayers in any State for that matter, when the State in which the project is located affirmatively prohibits its own State taxpayer dollars from being used for that project.

In support of these efforts, the legislation also includes a new high speed ground transportation research and development program, based on the excellent work of the House Science Committee in this area. This program is authorized to expend $25 million and, coupled with the economic, financial, and technical assessments required by the bill, will provide a sound basis for future decisionmaking in this area. Putting a package of this magnitude required the cooperation of five congressional committees working within very tight time constraints, and I applaud the chairmen and members of all those committees, as well as their staffs, for working so well together.

Mr. Speaker, the House and Senate bills both contained provisions dealing with asphalt rubber paving. The United States discards approximately 242 million tires each year, which are presenting enormous disposal problems and health hazards for local governments. In addition, 2 billion discarded tires have accumulated in piles or dumps

throughout the country. This legislation establishes a minimum utilization requirement on procuring agencies, as they are defined in section 1004(17) of the Solid Waste Disposal Act to use recycled rubber in asphalt pavement. This will help consume millions of old tires which are fouling our landscape and consuming valuable landfill capacity. Much more, however, needs to be done to develop markets for scrap tires. According to an October 1991 EPA report, the total usage of tires for recycling currently is estimated to be less than 7 percent of the annual generation. In the reauthorization of the Solid Waste Disposal Act, the Committee on Energy and Commerce will be pursuing further opportunities to address this troublesome health and environmental problem.

Mr. Speaker, as you know, the Senate added a non-germane amendment to this bill in the form of S. 1012, which the Senate had earlier passed separately and which relates to the activities of the National Highway Traffic Safety Administration, which is under the jurisdiction of this committee. There was no companion House provision.

The Senate committee report on S. 1012 notes that "no legislation" authorizing NHTSA funding has been enacted since 1982, which is true. It also points out that the Senate passed bills since 1986, authorizing such appropriations. That is also true. But those bills covered more than such authorizations. They made significant changes in the basic statutes administered by NHTSA. Until very recently, no similar House bills were introduced.

The lack of annual authorization has not affected NHTSA's duties and obligations under existing law. Moreover, Congress, through the appropriations process, has annually funded NHTSA.

As the Senate Committee on Commerce, Science, and Transportation report on S. 1012 observes, in 1986 both Houses passed separate versions of NHTSA authorization bills (S. 863 and H.R. 2248). Each also included significant changes in the existing NHTSA statutes. Efforts to reconcile informally the differences between the Senate and House proved unsuccessful before the 99th Congress adjourned sine die.

The bills introduced and passed in the Senate in subsequent Congresses did not include any of the provisions where agreements were reached in 1986. Indeed, they were nearly identical to the Senate version in the 99th Congress, which the House had rejected. They did not reflect any of the House view as expressed in H.R. 2248.

Because oversight is often quicker and more effective than legislation, our Committee, including the Subcommittee on Transportation and Hazardous Materials and the Subcommittee on Oversight and Investigations, worked closely with the Subcommittee on Transportation appropriations to commit NHTSA and the DOT to utilize in a timely fashion existing statutory authority to accomplish many of the safety objectives or requirements of S. 863 and H.R. 2248. Our view then and today was that the existing statutes—the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act—provided broad authority that needed to be used in a more timely and effective manner to resolve safety concerns expressed by both Houses in the 99th Congress. This could be done through rulemaking and other means, whether or not legislation was considered. We also urged the industry to be supportive of such rulemaking and its early resolution.

As the Senate committee report observes, much has been done since 1986 by NHTSA or is underway within timeframes that have proved realistic and sensible. I also note that more and more vehicle safety features are being heavily advertised by the manufacturers and dealers, which I applaud. Safety has become important from a competitive standpoint. That is good and should continue.

Indeed, I urge that the industry adopt this same approach for fuel economy and emissions. The industry has achieved much since 1975, in improving fuel economy. They are continuing to do so. I believe that fuel economy needs attention in light of the global warming debate. We need to continue to improve fuel economy without further mandates.

I believe that the House and Senate committees and subcommittees just mentioned, as well as NHTSA and the DOT, deserve credit for these achievements under existing law. Nevertheless, while there are successes, there is always more to be done, and I expect DOT and NHTSA to carry out their commitments to our committee. This conference agreement is in furtherance of them.

Mr. Speaker, I think it is appropriate that at this time I briefly addressed some of the activities of the National Highway Traffic Safety Administration since 1986.

At the outset, I want to make it very clear that the conference agreement today does not provide any new authority for NHTSA. All of the activities covered by this bill relative to auto safety can be carried out and are being carried out under existing law. We are not ploughing new ground. Indeed, in some respects the foreign and domestic manufacturers are being penalized for volunteering to install safety related devices. I am concerned that we not dampen that voluntary approach which stems from competition and good sense.

The conference agreement today which included the provision of S. 1012 when it passed the Senate authorizes appropriations for NHTSA.

In response to my inquiry about this background, NHTSA in its letter to me of November 7, 1991 said:

> It is NHTSA's view that the National Traffic and Motor Vehicle Safety Act of 1966 (Vehicle Safety Act) and the Motor Vehicle Information and Cost Savings Act (Cost Savings Act) give the agency ample regulatory authority to carry out the statutory purposes. Differences of opinion will inevitably arise as to whether a particular regulation should or should not be issued, but the existing statutory framework provides adequate means for interested parties to express their views and to ensure that the agency is acting in accordance with the statutory criteria. The committee oversight process has often helped to focus attention on specific issues and has influenced the general direction of agency rulemaking. We believe that the regulatory process has evolved satisfactorily within the existing statutory framework and that it is proved responsive to matters of Congressional concern.
>
> We believe the responsiveness of the regulatory process is evident in the case of the side impact rulemaking, which was the principal regulatory action debated during consideration of S. 863 and H.R. 2248 in the 99th Congress.
>
> Section 302 of S. 863 would have required the agency to: (1) establish performance criteria for improved occupant protection in side impacts for occupants of passenger cars; and (2) extend the applicability of such a standard to light trucks, vans, and multipurpose passenger vehicles. The agency has completed the following actions under FMVSS No. 214, Side Door Strength:
>
> May 28–29, 1986—Public meeting on upgrading side impact protection for passenger cars.
>
> January 27, 1988—NPRM proposing dynamic side impact test procedure and performance requirements for passenger cars.
>
> January 27, 1988—NPRM proposing side impact test dummy.
>
> August 19, 1988—ANPRM requesting comment on side impact protection for occupants of light trucks and multipurpose passenger vehicles.
>
> December 12, 1989—NPRM to include light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less in the existing FMVSS No. 214 static test requirements.
>
> October 24, 1990—Final rules: (1) establishing dynamic side impact requirements for passenger cars; (2) reporting and record keeping for phase-in requirements; (3) specifications for side impact test dummy; and (4) specifications for side impact moving deformable barrier.
>
> June 14, 1991—Final rule extending FMVSS No. 214 static test requirements to light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less.
>
> The agency estimates that once all passenger cars meet the dynamic side impact test requirements of FMVSS No. 214, the benefits will be a reduction of 512 fatalities per year, and a reduction of 2,636 moderate to critical (AIS 2–5) non-fatal injuries each year. The average consumer cost impact of this dynamic test requirement is estimated to be $51 per passenger car. This cost estimate includes lifetime fuel costs and secondary weight impacts.
>
> In extending the static test requirements of FMVSS No. 214 to light trucks and multipurpose passenger vehicles, the agency esti-

> mates that once all such vehicles complied with the requirements, the benefits would be a reduction of 58 to 82 fatalities per year and 1,569 to 1,889 hospitalized non-fatal injuries per year. The average consumer cost is estimated to be $47 to $59 per vehicle. These cost estimates include lifetime fuel costs and secondary weight impacts.

Mr. Speaker, I want to now discuss the provisions adopted by your conferees regarding NHTSA, as well as some of the Senate provisions not included in the final agreement before us today.

NHTSA APPROPRIATIONS

The bill adopts for fiscal years 1992 through 1994 the Senate dollar amounts. It adds another year, fiscal year 1995, and provides an increase. I note that in discussing the Senate's funding levels, NHTSA's November 7, 1991 letter to me said:

> Funding would not be a significant problem with the implementation of these bills, if they allowed the agency to proceed with the research and rulemaking schedule outlined in its priority plan. The authorization levels would provide adequate funds to carry out the plan. The difficulty arises in the imposition of fixed rulemaking schedules, most of which would distort the agency's current plans and require it to redistribute its research and regulatory resources. The agency would not have the manpower or contract research resources to complete the rulemaking actions dictated by the bills within the timeframes allowed.
>
> For example, the bills do not authorize funds to carry out the National Academy of Sciences study of automobile crashworthiness mandated by Section 202. The estimated $1 million required to conduct this study, whose value we question, would seriously compromise other projects that we believe to have a greater value for motor vehicle safety. Other research and regulatory actions dictated by the bills would have similar effects.

The conferees agreed not to include these crashworthiness provisions of the Senate bill in part due to this funding issue. As to the fixed rulemaking schedules of the Senate bill. I believe the conference agreement is more realistic and provides NHTSA with greater flexibility and should help to avoid deferral of other matters. I commend the Senators for this approach.

As to other funding concerns by our Committee, the NHTSA letter states:

> The article in the August 3, 1991 edition of Status Report discusses NHTSA's research and development budget in relation to a 5-year program plan developed by the agency and published in late 1990. * * *
>
> The article suggests that NHTSA's research and development budget is not sufficient for carrying out the research program described in the plan. This is not the case. The program plan describes the research needed to support the agency's priority safety initiatives. Further, the research budget requests to Congress are based on the funding needed for the research to support these priorities. Neither the safety initiatives nor the research to support them are constrained by any funding limitations. There are no important projects that are lying dormant as the article suggests.
>
> If there were a need to ask for increased funding to support a new safety initiative, the agency would not hesitate to make the request. An example is the request for increased research funding to support the new Intelligent Vehicle/Highway Systems program. We envision that the crash avoidance capability of motor vehicles can be improved substantially through the application of emerging electronics technology. Based on this opportunity, and the recognition of this opportunity by the automotive industry and the safety community, the agency has asked for large increases in its research budget. The agency has also asked for significant increases in other areas where it identifies a need.
>
> The dramatic increase in funding recommended in the Transportation Research Board report on Safety Research for a Changing Highway Environment referred to in the article is based on the research needs perceived by members of the committee rather than on any systematic development of safety initiatives and supporting research needs. The agency's priority safety initiatives and the research to support them were developed from such a systematic approach. While the agency endorses the report's recommendation that increased funding may be needed, the agency disagrees that increases of the magnitude recommended in the report are needed.
>
> Finally, the agency does not envision a drastic change in emphasis from crash protection to crash avoidance. The agency's priority plan and its research plan describe ambitious crash protection, crash avoidance, highway safety, and data collection and analysis activities. The balance between the areas as reflected in budget requests may change from time to time as programs end and new initiatives are needed, but the agency's commitment to all areas remains undiminished.

GENERAL PROVISIONS

Before proceeding to discuss the bill further, I take note of the fact that the motor vehicle is principally regulated by two agencies, namely the NHTSA and the Environmental Protection Agency. When I inquired about this legislation, I asked:

> As we try to resolve one problem relating to safety or emissions, we should not, at the same time, create by statute or regulation a new program that relates to an equally important regulated activity. How does Congress help to ensure that the Federal Government's regulatory actions under the various laws are not counterproductive in the area of emissions, safety, energy, and fuel economy? What are the priorities?

The NHTSA reply was:

> NHTSA is in full agreement with your view that the method used to resolve one problem should not create another. In our view, the appropriate means of resolving potential conflicts between regulatory activities is to include in the statutory authority for each activities a requirement that the regulatory agency must consider the effects of its activity on other problems. The corporate average fuel economy law offers a good example of this, since it requires the Secretary to "consider the effect of other Federal motor vehicle standards on fuel economy." (15 U.S.C. 2002(e)(4)) This requirement obliges the agency to consider safety and environmental issues in its fuel economy rulemaking, and has afforded persons objecting to the agency's action a basis for seeking corrective action in court.
>
> We believe that statutory criteria such as that cited above can be used effectively by Congress in the oversight process. If the Congress has plainly indicated that the agency should consider the effects of its actions in one area on other areas, Congress can act to ensure that the agency does so. In the particular case of fuel economy rulemaking, the agency has consistently taken safety into account in determining the appropriate fuel economy level. It is this experience that underlies our concern about efforts to legislate drastically higher fuel economy levels, since we believe that these levels will not be achieved except through size and weight reductions that will compromise the safety of vehicle occupants.

I fully agree that such a legislative provision could be helpful. But there was none in the Senate bill and of course, there was no House bill.

It is clear, however, that NHTSA, through its memorandum of understanding with the EPA, has the capability now to consider "the effects of its actions in one area on other areas." None of the laws administered by NHTSA preclude that. The Energy and Commerce Committee intends to ensure that NHTSA does this at all times.

The conference substitute provides in lieu of the above mentioned provisions a process for conducting rulemakings in accordance with the National Traffic and Motor Safety Act of 1966. It also provides that any resulting standards be enforced in accordance with the 1966 statute. The process includes procedure for initiating a rulemaking either as an Advanced Notice as Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) at the discretion of the Secretary of Transportation. It also provides for completion of the rulemakings consistent with the 1966 statute and the Administrative Procedures Act. Completion could include promulgation of a rule with or without changes, abandonment of the rule, a deferral of the rule, or starting all over at some future time. The Department cannot, however, terminate the rule because it lacked time to complete the rule. Whatever action is taken it must be published in the Federal Register in accordance with the Administrative Procedure Act and the 1966 Act and must include the reasons for that action.

Section 2503 lists four priority matters for which the Secretary must initiate a rulemaking in accordance with these general procedures. They are as follows:

First, unreasonable risk of rollovers for cars, light duty trucks and multipurpose passenger vehicles;

Second, extension of passenger car side impact protection to multi-purpose passenger vehicles and light duty trucks;

Third, safety of child booster seats in passenger cars; and

Fourth, improve design for safety belts.

The listing of these matters for initiating rulemaking decisions is not to be construed as a determination by Con-

gress as to whether or not a rule shall be finalized or if it is finalized what it should contain. The objective of the conferees is to require that the Secretary give priority consideration to these matters without affecting other rulemakings or decisions pending at the Department.

For these four matters, the conferees expect the Secretary to initiate either an ANPRM or a NPRM by May 31, 1992. If the Secretary cannot begin any one of these by that date, he must give notice of the decision to initiate them and provide a date certain for the initiation of either an ANPRM or a NPRM but which date certain shall not extend beyond January 31, 1993. He must also explain the reasons for this delay. A decision to provide a new date for that decision will not be reviewable.

Once a rulemaking is initiated, the Secretary must complete the rulemaking within 26 months after initiation, in the case of an ANPRM, and within 18 months after initiation, in the case of an NPRM. However, in the case of an ANPRM, the Secretary may decide not to proceed to an NPRM after issuing the ANPRM if based on the ANPRM he decides and publishes this decision against publication of a rule. He must do this in a manner consistent with the APA and the 1966 act. The Secretary may in the case of an NPRM extend the 18–month period for an additional 6 months. That extension is not reviewable.

In the case of section 2503 which provides for improved head injury protection regarding interior components of passenger cars, that is, roofs, pillars, and front headers there is a special rule. Under that special rule the Secretary must complete the rulemaking and issue a final rule within 24 months after the date of publication of the ANPRM or the NPRM. That publication must occur either by May 31, 1992 or, as indicated above, by January 31, 1993. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date of completion by an additional 6 months and publish a notice thereof in the Federal Register. The conferees emphasize that in the case of this special provision that a final rule is to be promulgated within the timeframe specified. The bill does not set forth the content of the rule or what is to be covered. DOT must decide that.

Thus, with exception of the head injury protection issue, the conferees do not predetermine the outcome of these rulemakings. The Secretary is free to conclude the rulemaking in any manner consistent with the APA and the 1966 Act. The conferees expect the Secretary to act on these matters in accordance with the time schedule provided.

The conferees also expect NHTSA to move quickly on these matters and give preference to rollover protection, and to extension of passenger car side impact protection to light duty trucks and multipurpose passenger vehicles. In the case of rollovers, the conferees note that in a November 7, 1991 letter to the Committee on Energy and Commerce, the Secretary said:

> The rulemaking process will develop an advanced notice of proposed rulemaking (ANPRM) which will be published late this year. This will be followed by a notice of proposed rulemaking. If the comments and other information in the rulemaking record support the issuance of a final rule, the agency would adopt such a rule. * * *
>
> Since the late 1980s, the agency has conducted research to determine if vehicle attributes exist which are related to vehicle rollover. In a multi-contract effort, the agency has collected engineering data on approximately 60 different vehicles, including MPVs, vans, trucks, and passenger cars. In addition, the agency has collected and analyzed over 100,000 accidents associated with rollover and non-rollover crashes of these vehicles. These two data sets, the physical measurements of the vehicles and the rollover propensity of the vehicles as measured by their actual accident history, were analyzed to determine correlations between vehicle rollover propensity and accident involvement. Correlations were found when controlling for variations in the individual crashes, such as driver demographics, weather conditions, and road conditions. This analysis was completed in the spring of 1991 and will provide the basis for the forthcoming ANPRM.

The conferees would expect NHTSA to issue an ANPRM before May 31, 1992. Indeed, the conferees understand that an ANPRM has recently been submitted to the Office of Management and Budget.

In addition to the special provisions regarding head injuries just discussed, the conferees require a study and report to the Congress requiring additional types of protection against head injury which the Secretary is currently researching, including head injury prevention to occupants in various types of crashes, such as side impact. This report must also outline the Secretary's plans for initiating a rulemaking in these areas in fiscal year 1994 and 1995. Again, the conferees do not require a final rule or indicate what the rule, if any, would cover or do.

RECALL OF CERTAIN MOTOR VEHICLES

This provision was recommended by NHTSA. Indeed, in its November letter, NHTSA said:

> The Department requested the provision concerning reminder notices in recall campaigns on the basis of experience with campaigns in which such notices had significantly improved the percentage of vehicles returned for repair. We continue to believe that a second notice would be useful in campaigns where the response rate is particularly low. Other measures, such as newspaper publicity, have been attempted without appreciable success.
>
> The forwarding of copies of recall notices by lessors to their lessees will help ensure that leased vehicles are returned for repair. This will be of value not only to the lessees, who might not otherwise learn of a potential safety hazard, but to the subsequent purchasers of the leased vehicles. We do not regard the requirement as burdensome to the lessors, since they would routinely know the whereabouts of their lessees and could readily notify of any recall. From past recalls, NHTSA has noted that leased vehicles have a lower rate of return than other vehicles. This provision would help improve the rate.
>
> The provision relating to the remedy of defects and noncompliances in new vehicles and vehicle equipment before sale or lease also arises from the agency's experience with situations in which vehicles subject to recall were sold to consumers without remedying the condition that led to the recall. While the agency does not believe that this is a frequent occurrence, the potential consequences for a new car buyer could be serious. Section 108(a)(1)(A) of the Vehicle Safety Act currently prohibits the sale of a new vehicle that does not comply with all applicable standards, but there is no corresponding provisions for vehicles that have been determined to contain a safety-related defect. This provision would correct that situation. The provision would apply only to new cars held by dealers before the first sale or lease, and not to used cars, thereby addressing a concern voiced by dealers.

We note that subsection (b) includes an important disclaimer regarding "offers" for sale or lease as opposed to actual sale or lease.

STANDARDS OF COMPLIANCE TEST PROGRAM

This Senate provision was, in the view of our committee and NHTSA, unnecessary, NHTSA said:

> At this time, there are 50 Federal motor vehicle safety standards in effect. Of these, 40 are capable of being tested in a laboratory environment. The other 10 are evaluated by visual inspection. The attached table presents the 5-year plan for the 40 "testable" standards (41 standards are included, since FMVSS 131 will go into effect in September 1992).
>
> It is important to emphasize that we believe all testable standards should be selected for testing over a period of time. We construe this section as permitting us to consider a number of factors in determining the priority of standards for testing, and thus do not strongly oppose it. Beginning with fiscal year 1987, NHTSA revised its testing schedule to respond to recommendations in a General Accounting Office (GAO) report on NHTSA's enforcement program. A legislative remedy to impose the same revisions would be moot.
>
> You asked whether this provision is needed and if it is objectionable. We believe the provision is unnecessary, since we already have such a schedule. Based on test results for a given standard, however, our schedule may change in order to address important safety issues. For example, a compliance failure may dictate that we reallocate compliance test funds to address a critically important compliance problem that has a substantial real-world safety impact. A legislated test schedule would preclude this necessary flexibility. Accordingly, a rigid test schedule is objectionable.

The conferees listened to NHTSA. The conference substitute does not require a "rigid test schedule." The flexibility NHTSA wanted is provided.

REAR SEATBELTS

NHTSA's letter states:

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> NHTSA has undertaken a number of efforts to make the public aware of the benefits of retrofitting vehicles with rear seat lap/shoulder belts. These efforts include requiring information in owners manuals; encouraging manufacturers though direct telephone, letter, and personal contact to make retrofit kits widely available, publishing information directly; providing information to consumer and highway safety groups through NHTSA Regional Offices and State highway offices on the subject; and responding to consumer inquiries through the agency's toll-free Auto Safety Hotline.
>
> However, we must point out that lap-only belts in the rear seat are proven safety devices. Studies of occupant protection from 1968 forward show that the lap-only safety belts installed in rear seating positions are effective in reducing the risk of death and injury, when worn properly. We estimate that there is a much larger potential safety benefit to be gained through working to increase belt usage than would be obtained through working to replace current equipment at today's usage rates. Thus, while lap/shoulder belts offers some increase in safety benefits over lap-only belts, we believe the greatest safety gain will be realized by increasing usage of whatever belt system is available.
>
> In addition, no additional funds are authorized to the agency to cover the cost of an expanded effort in informing the public of the availability of rear seat lap/shoulder belts. In consideration of our current funding level, we believe that the agency is doing an effective job to inform the public of the availability of retrofitting vehicles with rear seat lap/shoulder belts.

Once again, the conferees listened. The program is for fiscal year 1993 only.

BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS

This is an area where the auto and truck manufacturers are voluntarily installing safety equipment. It is in the area of antilock braking systems or ABS. This bill recognizes this fact. ABS is already standard equipment, or at least available on all domestically produced light duty trucks. ABS is also being installed on many passenger cars today—including low-priced autos—as standard or optional equipment. The conference substitute recognizes this fact and requires the NHTSA Administrator to initiate an Advanced Notice of Proposed Rulemaking [ANPRM] to investigate the need for any additional brake performance standards for passenger cars, taking into account manufacturer's voluntary early application of economical and effective anti-lock brake systems on new cars.

AUTOMOTIVE CRASH PROTECTION AND SAFETY BELT USE

It is important to again note that the vast majority of the NHTSA authorization bill puts into law what the domestic auto and truck manufacturers are already doing. In a very real sense the old adage about never volunteering proves out to be true. This is even truer in the case of airbags.

This legislation mandates airbags for cars and light duty trucks and multipurpose passenger vehicles—while the automakers are now voluntarily installing airbags in such vehicles. Consumers already have a wide range of choices in showrooms today of vehicles equipped with airbags.

All of the domestic manufacturers and many of the foreign manufacturers have announced plans for voluntarily installing airbags in their vehicles during this decade. As noted many have already done so and have taken advantage of that effort in their advertising. They have done so, in accordance with their plans which takes into consideration many factors that affect the well-being of their business which in turn effects the well-being of the people who work in this industry. It also reflects the fact that there have been considerable problems with insuring adequate supply of airbags to meet the need. According to a recent Ford paper, Ford suppliers "have gone from producing 70,000 airbags for the 1989 model year to over one million for the 1991 model year." Ford states that the "supply base is still fragile and will be for some time."

The Senate bill attempted to suggest to the manufacturers that Congress knows better and is going to tell the manufacturer exactly how to run their operation. I believe that, particularly in this time of great distress that the auto industry is in because of the economic recession in this country, that such an approach by the Congress is ill-conceived. This industry is faced with enormous problems, including significant regulations under the Clean Air Act and the potential of tighter requirements in the case of fuel economy. In short, this industry is under siege. We need to "let up" and allow the industry and its workers to survive and be productive and profitable.

There were a couple of major concerns with the Senate provisions.

First, there is the problem of a design standard. It is believed to be the first time under the Safety Act, which spans the last quarter of a century, that Congress has told automakers what equipment they must put on their vehicles. Congress has, in the past, told them what we wanted manufacturers to accomplish—we have required performance standards—leaving room innovative technologies to evolve and be installed to meet performance criteria.

Second, the Senate bill failed to address the issue of seat belts.

Third, the Senate bill did not address supply problems.

While I continue to be concerned about any mandate regarding airbags, I believe that the joint conference substitute we are adopting today is reasonable and doable, although not without difficulties for the foreign and domestic industry.

While the conference agreement provides, in essence, a design standard it is not intended to be precedent setting. It is a unique situation. It should be treated accordingly.

I remain concerned that with the installation of airbags, people will become complacent and fail to consistently use their safety belts. Domestic automakers, NHTSA, and others have spent millions of dollars since the mid 1980's to encourage people to wear their safety belts. It has been a tremendous success as we have seen belt use increase from 12 percent to almost 60 percent. That is still not enough.

I emphasize that Congress has a responsibility to ensure that safety belt use continues to increase. Airbags are not substitute for felt use and the conference substitute makes that clear. I applaud that.

Safety belts are needed to hold the occupants in the proper or correct seating position in order for an airbag to be most effective and to provide restraint in the type of accidents where airbags do not work. For example, airbags may not be effective in side and rear impact and rollover accidents.

I am also pleased that this bill does not undo the light truck passive restraint rulemaking that NHTSA promulgated this past March. The new airbag requirement of this conference report recognizes that the manufacturers' product plants have been developed based on the March 1991 Federal rulemaking. This is why it is important to recognize that manufacturers are already installing airbags—both driver and passenger—in many of their vehicles. But just as the rule provided for some limited flexibility by providing for the carrying forward of credits until all light duty trucks must have passive restraints for both the driver and the outboard front seat passenger, this law will provide that those same credits be extended until 100 percent airbags are required on and after September 1, 1998, for both the driver and outboard front seat passenger.

The conference substitute calls for the amendment of the FVMSS 208. That amendment will provide a schedule for passenger cars and for light duty trucks, buses, and multi-purpose vehicles to meet regarding the installation of airbags on both the driver side and the right front seat passenger side of the vehicle. That schedule is reasonable but certainly difficult. It is reasonable, particularly in the case of light duty trucks and multi-purpose vehicles because in amending FVMSS 208, it provides that the credits or incentives available under the rule today will continue to be available until the companies are required to achieve 100 percent front seat inflatable restraints. That is a significant and important provision because it provides the flexibility for the industry to achieve the goal within reasonable bounds. I commend my colleagues in both bodies for agreeing to this provision.

I am also quite pleased to see that the conference substitute recognizes fully that the airbag is only a supplemental device and that it does not suffice for the properly worn lap and shoulder belt. The manufacturers can provide protection and they try to do so in the development of the vehicle. However, if the occupants, including the driver, fail to avail themselves of the means to achieve such protection, they, in effect, endanger themselves and make it more likely that in an accident death or injury could occur. I believe that is sad and I am pleased to see that the Congress agrees that we cannot afford to not recognize the primary benefits of seatbelts.

I am also pleased to see that the conference substitute contains a finding of a need for States to adopt mandatory seat belt use laws. It is my hope that all the remaining States will, in the very near future, adopt such a law. It is also my hope that they will do so in a manner that ensures that they will be enforced on a primary basis. In this regard, I note from the NHTSA letter of November 7, 1991, that at least one State, namely Connecticut, has a rule that if the vehicle is equipped with an airbag the occupant does not have to wear seatbelts. The letter indicates that Connecticut plans to change that law. I certainly think such a change is urgently needed.

The conference substitute also finds that the Federal Government should universally adopt seatbelt use rules. Again, this is a good provision and is consistent with the efforts of this committee to require such rules by the National Park Service, the Bureau of Land Management and the Defense Department.

Subsection (d) contains two disclaimers. The first, in essence, recognizes that the provisions of this section establish a design standard but in doing so the Congress does not intend to alter or affect the existing statutes the Secretary administers regarding the safety of passenger cars, trucks, buses and multipurpose vehicles. It also is intended that this particular design standard provision does not establish any precedent regarding the development and promulgation of any Federal motor vehicle safety standard.

The second indicates that nothing in this section, or in the amendments made by this section, by FMVSS 208 is intended to be construed by anyone to affect, change, or modify in any way existing or future court decisions or other applicable law in regards to vehicles with or without airbags.

The substitute also provides a program regarding the purchase by the Federal Government of airbag-equipped vehicles.

HEAD INJURY IMPACT STUDY

The conferees understand that there are other head injury protection matters which are the subject of research at NHTSA and which are not covered by section 2503(5) of this bill. This could include head injury protection matters from various types of crashes, such as side impact.

This section of the bill directs the Secretary to report on the need for rulemaking regarding this research and the extent of that research. The report would be provided by the end of fiscal year 1993 and would identify research matters and their status. It would also include a statement of any actions planned by the DOT toward initiating rulemaking not later than fiscal year 1994 or 1995. Such a rulemaking would be either an ANPRM or NPRM and would be completed as soon as possible after proposal.

The conferees agreed not to include several provisions regarding such matters as bumpers, crashworthiness, and pedestrian safety that were in the Senate amendment.

In the case of pedestrian safety, NHTSA said:

> About 7,000 fatalities and an additional 21,000 serious injuries occur annually to pedestrians as a result of collisions with motor vehicles. In order of severe injury frequency, the extremities (arms and legs) are injured most frequently (49% of severe injuries), followed by the head/neck/face combined (34%) and the chest/pelvis/abdomen/back combined (17%).
>
> The agency currently is pursuing research activities in the pedestrian protection area. On April 10, 1991, the agency terminated rulemaking on pedestrian leg protection that it had begun in 1981. Based on research results, the agency determined that there were no workable techniques to improve pedestrian leg protection and that the proposal would therefore not lead to improved pedestrian protection.
>
> The agency held a public meeting on August 20, 1991 on the agency's pedestrian head impact protection research. Written comments on the subject of pedestrian head impact protection will be accepted by the agency until November 15, 1991. As noted in our priority plan, we will reach a decision on whether to pursue rulemaking further in this area by the end of this year.
>
> Research on pedestrian thorax protection is continuing and will probably not be completed until sometime in 1993. If the agency decides to pursue rulemaking in this area, a two-year timeframe now for completion is unrealistic.
>
> In activities under the Highway Safety Act, it should be noted that the agency, by notice of October 4, 1991, has expanded the list of most effective program areas under the Section 402 Program to include bicycle and pedestrian safety. The effect of this decision will be to provide simplified funding procedures for these programs.

I believe this is an important issue and observe that the Senate Appropriations Committee said recently:

> The National Highway Traffic Safety Administration Authorization Act of 1991, as passed by the Senate, requires NHTSA to complete a rulemaking in this area within 2 years of enactment. The Committee requests, therefore, that NHTSA submit a report on data it has collected and research conducted regarding ways of reducing pedestrian deaths and injuries through making vehicles more forgiving by removing sharp edges, softening the hood and cowl area, increasing the space between the hood and engine components, and other approaches, the cost of such designs in new cars, and on the numbers of deaths and injuries currently by type of injury and by vehicle type causing the injuries. The report shall include information on vehicle designs for pedestrian protection in other countries.

Although we have not adopted the Senate provision mentioned by the Senate Committee, I believe such a report could be helpful. I look forward to the NHTSA report. I expect, however, that the report will also identify and explain the relevant issues regarding the development and issuance of any possible future rule applicable to pedestrians. This would include the problems, costs and benefits in applying such a rule to passenger cars and light duty and heavy duty trucks, taking into account the extent to which the front end of such a vehicle would need to be changed or modified and the problems and costs of such change or modification, including effects on all actions taken by vehicle manufacturers to meet various Federal safety, fuel economy and emission requirements. The report should also explain the extent to which the Secretary's research and applicable dummy research adequately represents various children and adults and represents accidents that occur between motor vehicles and pedestrians and the extent to which head injuries are attributable, not to the vehicle, but to impacts (occurring after the pedestrian is struck by the vehicle) against roadways, curbs, sidewalks, fences, or other hard surfaces. I will be expecting such information.

In the case of bumpers, NHTSA said:

> Our view on the bumper system labeling disclosure provision of S. 1012 is that it would not be useful to consumers and might be misleading. Relating bumper performance only to impact speed does not account for accident frequency or the cost, including replacement costs, of any added protection attributed to higher speed damage-free bumper systems. In addition, a correlation between low-speed bumper impact tests and real world accident experience is not achievable because data sources for low speed accidents and costs do not exist, and would be extremely difficult, if not impossible, to develop. Data on low-speed damageability have failed to indicate that a viable consumer information program on bumpers could be developed, and the type of labeling proposed would not address the consumer costs associated with higher levels of bumper protection.
>
> With regard to the amendment to the impact speed of the bumper standard as proposed in S. 1012 and H.R. 1967, the bumper standard was lowered from 5 mph to 2.5 mph in 1982, based on extensive analysis of the costs and benefits of 5-mph bumpers. While the agency recognized that 2.5 mph bumpers would lead to more vehicle damage in low-speed crashes, it found that this increase would be more than offset by consumer savings in the original and replacement costs of such bumpers and in fuel savings due to lighter weight.
>
> Subsequently, in 1987 the agency conducted an extensive study comparing the benefits and costs to consumers of 5-mph and 2.5-mph bumper requirements. The study compared the collision damage experience and bumper

system costs of post-1982 passenger vehicles to bumpers on preamendment vehicles.

Among the conclusions of this agency study were that the net costs to consumers have not increased as a result of the modification of the standard from 5.0 mph impact resistance to 2.5 mph, and that the changed standard has not affected the protection of safety related parts. While a 2.5 mph bumper clearly gives a vehicle less protection than a 5 mph bumper in certain low-speed crashes, not every vehicle is involved in such low-speed crashes during its lifetime. Thus, only some car owners, particularly those in urban areas where low-speed crashes are more frequent, benefit from having 5 mph bumper requirements. A standard more stringent than the existing one would cause many passenger car owners to pay for protection that they would not need.

Accordingly, the agency determined that the modified 2.5 mph bumper standard best satisfies the Motor Vehicle Information and Cost Savings Act's mandate to "obtain the maximum feasible reduction of costs to the public and consumers," while considering other statutory factors. We are not aware of any data that would lead us to change this conclusion.

Question 16 also requested an explanation as to the safety nature of these provisions. Passenger car bumpers provide for a minimum level of damageability protection in low-speed impacts. (The bumper standard specifies no sheet metal damage or damage to safety systems when the vehicle is impacted at 2.5 mph.) However, this protection does not contribute significantly to reducing occupant injuries. At the higher crash speeds at which injuries are likely to occur, it is the structural performance of the vehicle as well as safety belts and/or other occupant crash protection equipment which provides occupant protection—not the bumper.

Next, question 16 asks to what extent the proposed amendments are related to insurance issues. The Insurance Institute for Highway Safety expends considerable effort to evaluate bumpers and report their findings in their Status Report. However, at the present time, insurance companies do not extend discounts to owners of vehicles with bumper systems that exceed our bumper standards' impact requirements, nor do they charge higher rates for bumper systems that just meet these requirements. This is an issue between the insurance industry and the auto manufacturers; the consumer, on average, is not affected.

Clearly in any consideration of bumpers, all of these matters must be considered.

In the case of crashworthiness, I think both NHTSA and the National Academy of Sciences have indicated that a study of the nature suggested by the Senate would be extremely costly and not provide the kind of information that all believe would be necessary in this area. However, as the conference report indicated this is a matter that should continue to be evaluated taking into consideration the above correspondence.

Mr. Speaker, I believe that the conferees have done a good job in coming up with a reasonable bill that is a vast improvement over the ones proposed in the Senate. I think it is important that we resolve these matters and put them behind us in the name of safety, and the need to provide some certainty and stability for the auto industry and its workers. I reiterate that this is an industry that is in difficulty. Many of its workers have lost their jobs. Today we know that plants are closed, some temporarily, some indefinitely. All of that has an impact not only on the manufacturers themselves but on the suppliers, who I dare say are located in all of your congressional districts.

I am pleased to be a supporter of this proposal. It will provide greater safety and while that will be costly to the consumer I think it is in the public interest.

I expect NHTSA to administer this program fairly and responsibly and I expect to maintain oversight over the agency in this regard.

Mr. Speaker, I urge adoption.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 4 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], a distinguished member of the committee.

Mrs. BENTLEY. Mr. Speaker, I rise in strong support of the conference report on the transportation reauthorization bill.

I want to commend Messrs. ROSE and HAMMERSCHMIDT, the chairman and ranking minority member of the full Public Work and Transportation Committee, and Messrs. MINETA and SHUSTER, the chairman and ranking minority member of the Subcommittee on Surface Transportation, as well as all of my fellow conferees and the staff for their hard work and diligence during the past several weeks.

I want to assure all of our colleagues in this body, as well as the public, who will benefit from this legislation, that first and foremost, the conferees sought to achieve a compromise between the House and Senate versions of the transportation reauthorization bill that would be fair and equitable to all. I believe we accomplished that goal.

Mr. Speaker, the Intermodal Surface Transportation Efficiency Act indeed is a piece of Federal legislation for America.

It is, without question, the most significant and important public works bill this Congress has considered in the past two decades.

This transportation conference report provides an invaluable boost to the American economy, having an economic impact of $1.5 trillion; it will enable the return to the economy additional billions of dollars now lost to inefficiencies of our transportation network, and, more importantly, it will create almost 2 million jobs for Americans.

Furthermore, Mr. Speaker, the Buy-American clause—again providing many more jobs for Americans.

Improved safety features also are included—one of which I requested—namely to require installation of reflector lane markers so drivers know where their lane is on dark rainy nights.

Maryland is one of the 34 reasons which Mr. CLINGER cited as the reason why this should be approved.

The conference report, Mr. Speaker, will serve as the blueprint for America's transportation system that, in turn, will greatly aid America's productivity, efficiency, and competitiveness in the global arena.

Without its enactment, American businesses will continue to suffer, productivity will continue to stagnate, and gridlock will continue to cripple the movement of commerce and individual travel.

This Congress has invested billions of dollars in foreign aid at a time when our economy and budget deficit can ill afford it. With the use of Federal gas tax revenue and a spend down of the highway trust fund, now is the time for this Congress to invest in America. That is what this conference report does.

Mr. Speaker, I strongly urge my colleagues to vote for this conference report.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the Surface Transportation Act, including the financing title.

America needs renewed investment in infrastructure, and H.R. 2950 is a strong and welcome response to that need. It provides for much needed construction and repair of our Nation's roads and bridges, and strengthens America's mass transit network. It allows considerable transferability among the different transportation accounts, thus providing crucial flexibility for State and local officials to decide the best use of funding in their own locales. It funds infrastructure programs adequately over the next 6 years, but exhibits fiscal responsibility by spending only as fast as the funding allows.

The Public Works and Transportation conferees, under the able chairmanship of chairman ROBERT ROE, have labored long and hard over the last several weeks to present to this Congress a responsible, effective, fully-funded highway authorization bill.

It has been a difficult conference. But, in the end I believe they have successfully satisfied the competing goals of completing construction of the Nation's Interstate Highway System and repairing and maintaining our older well-used highways. They have balanced the needs of our wide-open rural areas with our heavily-populated urban areas. They have addressed safety, congestion, and pollution problems associated with surface transportation. They

have produced an excellent bill. They deserve our praise and our thanks.

The Ways and Means conferees, along with those of the Senate Finance Committee, are happy to join our Public Works colleagues in completing this bill by adding a financing title that will ensure that the necessary funding is available for the improvements in our transportation system provided by H.R. 2950.

The tax conferees' financing title would extend the expiration date of current highway fuels taxes and allow for continued transfers into, and authority to spend out of, the highway trust fund. The financing title would also provide an anti-sequester safeguard mechanism to reduce 1992 obligations from the bill in the event that the official scoring of H.R. 2950 would otherwise create a pay-as-you-go sequester.

Currently, all highway trust fund taxes, as well as the taxes on motorboat and small engine fuels, are scheduled to expire on September 30, 1995. The financing title would extend these taxes through September 30, 1999, to fully fund this bill's new 6-year authorization. The full amount of gross revenues from these existing trust fund taxes would continue to be deposited into the fund.

The 2½-cent deficit reduction tax on motor fuels, enacted last year, is also scheduled to expire on September 30, 1995. The deficit reduction tax is not extended in the financing title.

Mr. Speaker, I believe this bill is important for our country. I also believe it is important for my city, Chicago. I believe this bill will bring jobs to the people of my district. It will allow completion of the badly needed reconstruction of the Kennedy Expressway, which is only a stone's throw from my home. It will fund many important local projects like the State Street Mall redesign and several bridge repair programs.

Mass transit, important to Chicago, will finally be funded at a reasonable level. For Chicago, this will mean the central city circulator can be built to move people around the loop.

Mr. Speaker, I urge that H.R. 2950, including the financing title, be enacted because it is a good, responsible bill that will provide needed improvements in America's transportation system. My colleagues, I strongly urge your support for H.R. 2950 including its fiscally responsible financing provisions.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LENT], the ranking member of the Committee on Energy and Commerce and a conferee.

Mr. LENT. Mr. Speaker, I rise today in support of the conference report and congratulate the Chairman, Mr. ROE, the vice-chairman, Mr. HAMMERSCHMIDT, and all members of the Committee on Public Works, for coming together on a bill that will most probably be signed into law by President Bush. While my colleagues have concentrated their remarks on the highway and transit portions of this bill, I would like to address my remarks to title II.

Highway safety is of great importance to each of us. Every day, hundreds of Americans die on our Nation's highways. I am pleased to report that our annual fatality rate is declining, but we still have much to do.

Title II reauthorizes the National Highway Traffic Safety Administration, which was last reauthorized in 1982. It also calls for the initiation of rulemakings designed to save lives. Under the terms of this legislation, by 1997, all automobiles sold in this country will be equipped with airbags. Head injury protection will be improved, and the National Highway Traffic Administration will undertake a major study for the improvement of braking systems.

While I realize that our domestic automobile industry is currently experiencing financial difficulty, I believe that the provisions of title II have been crafted in such a way as to avoid undue or burdensome regulation.

Mr. Speaker, both majority and minority staff have worked diligently to bring an agreement to us this morn. The balance struck is good for both those who use our highways, and those who make our cars. The legislation is overdue, but is before us tonight. I urge my colleagues to join with me in supporting the bill.

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Mr. ROE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a historic day. We are considering critical legislation that will be the single most important blow Congress will strike against the recession this year. If approved, we will invest $150 billion in improving the Nation's productivity, start rebuilding our once mighty transportation facilities, and create at least 2 million jobs.

We will also be looking ahead. In addition to caring for highway and mass transit needs, this bill takes the extraordinary step of contemplating transportation systems of the future. The conferees have agreed on a package of high-speed ground transportation programs that, if carefully developed, should link major metropolitan areas and transportation hubs of all regions together in a coherent, accessible matrix.

We've all known for some time that high-speed trains, both magnetic levitation and steel-wheel, pose solutions to traditional energy-gulping, polluting forms of transportation. The Transportation Research Board, Office of Technology Assessment, National Research Council, and even the Department of Transportation have all concluded that high-speed trains will move people quickly, safely, and competitively while minimizing pollution and energy consumption.

The package we have crafted ensures the balanced pursuit of both maglev and high-speed, steel-wheel technologies. We are creating a three-phase competitive design program culminating in the construction of a third-generation maglev prototype. We are amending an existing program to make high-speed, steel-wheel development projects eligible for Federal loan guarantees up to $1 billion. And we are creating a basic research and technology demonstration program that will draw together all available knowledge to help advance both technologies.

Industry and Wall Street have indicated significant interest in high-speed ground transportation. They have been waiting for Congress to give the word. Well, I'm pleased to say that Congress has put money where its mouth is: The total package is funded by a $1.8 billion combination of direct financial support and loan guarantees. Indeed, we can now say to States and consortia waiting to make high speed rail inventment decisions, "the word is given."

I am also pleased that we have been able to include some very important, very necessary automobile safety measures within this reauthorization of the National Highway Traffic Safety Administration. Rarely do we have the opportunity to pass a measure that will have such direct and immediate impact upon the health and welfare of the American public. But that is the case here. This legislation will save lives. Many men, women, and children in the future will survive otherwise serious accidents on the Nation's highways because of requirements in this legislation to mandate airbags, to improve head injury protection, to direct NHTSA to target resources to make child booster seats safer, to lower the risk of vehicle rollover, to protect against side impact collisions, and to improve the design of safety belts.

This legislation was crafted with the care and concern that it deserved by Members from both Houses, from both sides of the aisle. Very early in the process there was a unanimous acknowledgment by all conferees that this was an opportunity to pass important reauthorization legislation that has eluded us for many years. I think all conferees can take a great deal of pride in the work we have accomplished, but I would particularly like to single out Chairman DINGELL of the Energy and Commerce Committee for his commitment to this process, and to Senator GORTON for his consistent support for conference efforts to find practicable answers to difficult problems.

There are issues we deal with around here that are arcane or very narrowly

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crafted; there are issues where the anticipated results are far in the future or difficult to quantify. This legislation affects everyone, and the results will be seen every time someone walks away from a crash where before they would have suffered serious injury or death. Highway safety—protecting the public from injury and death—is one of the most important issues that can be addressed, and I think Congress should take a great deal of pride that we have addressed it in this legislation in a direct, effective, and responsible way. We will save lives because this legislation is on the books.

Finally, I would like to commend the conferees for including provisions in the conference report that address the specific congestion problems on the Interstate 5 corridor north of Seattle. The Marysville/Tulalip interchange and the Snohomish County HOV lanes will provide necessary—and long overdue—relief for commuters and businesses who have endured endless frustrations in I–5 snarls.

I would like to conclude by recognizing the herculean efforts that have formed the bedrock of this legislation. The chairman of the committee, Mr. Roe, the subcommittee chairman, Mr. Mineta, and the ranking Republican members, Messrs. Hammerschmidt and Shuster, have done a tremendous job pulling together the Nation's transportation policy for the next 6 years. I thank them for their efforts, and for working with me and the members of my committee in assuring that our repective jurisdictional concerns were addressed in a constructive and productive manner.

Mr. Speaker, the staff of the Committee on Public Works and Transportation has been particularly helpful, and for myself and my staff I want to let them know how much we appreciate that.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Packard], a very able member of our conference and our committee.

Mr. PACKARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to rise in strong support of this piece of legislation and start by congratulating my committee leadership for their magnificent work, the committee members, the conferees, and particularly the staff members. They have done a magnificent job in working this bill for the last several months.

Mr. Speaker, let me touch upon several macropolicy changes that are going to take place in transportation policy in this legislation. No. one, this will be $151 billion into a sagging economy in the next 6 years, over 40 percent more than we have spent in transportation in any other year. This is a magnificent effort in rebuilding this country's infrastructure.

Mr. Speaker, for the last 10 years I and our committee have been looking for the money and the will to start rebuilding the sagging and crumbling infrastructure in this country. This bill starts that process for the first time in the 10 years I have served on the committee. For the last 10 years we have been trying to spend down the highway trust fund and not been successful. This bill will start the process. During the next 8 years we will spend down the highway trust fund down to a safety net level.

This bill for the first time puts flexibility in the spending of our transportation dollars. I served at the local level on one of the local metropolitan planning organizations. We never had the flexibility to make our own decisions and develop our own priorities as to where transportation dollars go. This bill provides that flexibility and sends money directly, not through the States, but directly to the metropolitan and local planning agencies. This is the first time we have ever done that. That will be a magnificent effort.

Mr. Speaker, this bill provides the necessary dollars to fulfill the requirements of the Clean Air Act.

Mr. Speaker, I strongly urge my colleagues to support this bill and vote it into law.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. Bennett].

Mr. BENNETT. Mr. Speaker, before us tonight is the most comprehensive highway bill this Congress has considered in 35 years. I remember being in this Chamber in 1956 when we overwhelmingly supported and passed President Eisenhower's plan to build a national Interstate System. Some people say that that was the most effective piece of legislation in the Eisenhower administration; still others say it was one of the most important pieces of domestic legislation ever enacted into law.

In pursuit of President Eisenhower's dream, we established the Federal highway trust fund in which States contributed according to ability and received according to need. Such a system meant that large, growing States would contribute more in order to supplement those less populated States that could not fund their own interstates alone.

Those States that contribute more than their fair share have become known as donor States. Mr. Speaker, my State of Florida is one of those, and I am here to tell you that we are proud of the contribution Florida has made in helping other States to complete the Interstate System.

But as proud as we are of our efforts, we are as adamant about the need to modernize the distribution formulas. You see, in 1956, we faced unique needs and we developed a unique solution, but no longer does that same need exist, and the solution must be changed. Unfortunately, this conference report does not do that. Instead, it attempts to address modern transportation needs through antiquated formulas.

We are stuck with a formula in this legislation that distributes money, in part, based on rural mail carrier route miles and a State's land area. This is not the way to distribute transportation money to States who are trying to maintain and construct eight-lane superhighways and high-capacity bridges.

Even more unfortunate is the fact that this legislation disregards the formulas we included in the House bill. So many of us from donor States fought vigorously for the inclusion of the so-called FAST formula, which distributed Federal highway trust funds on the basis of modern transportation needs. The new formula analyzed vehicle miles traveled per State, lane miles per State, and State-wide diesel fuel use—factors that truly reflect need. Donor States had high hopes going into conference that our formula would be protected, but that is not the case and I must oppose this conference report and urge my colleagues to do the same.

Mr. Speaker, over the last 48 hours, I have reviewed all available information from the conference and am not pleased by what I've learned. The conference report before us will mean only 82 cents per dollar for my State. That is unacceptable for its unfairness, especially when you consider that we will do worse under the conference report than we did under the Senate and House bills. Many of my colleagues from donor States can make the same claim.

I have been criticized by some Members for distributing inaccurate numbers. They are not. They just tell the whole story. Until 2 o'clock this last afternoon, there was confusion as to what the conference report said. Even now, we have tables produced by the Federal Highway Administration that I am told exceed the level we can spend. Even more disheartening is the fact that few, if any, of us have had the opportunity to read the report language, yet we are expected to vote on the bill. If there is confusion as to what this conference report says or how various States are treated, it's understandable. Because, Mr. Speaker, there has not been enough time to analyze what is before us.

It is my sincere understanding that this conference report is not good for donor States and does not establish a policy which is fair, equitable, or forward thinking. Claims to the contrary are simply an overeager attempt to pass this bill. I am not that eager, Mr. Speaker, to lock my State into a formula for the next 6 years which will force us to contribute so much more to the trust fund than we will receive and

which does not address the equity issue which donor States have fought for so earnestly.

I urge the defeat of this bill, not in an effot to be belligerent or to keep our Nation from funding its transportation system. Rather than looking out for the short-term needs of this country, I am looking out for the long-term needs for the greater good. Mr. Speaker, if we are successful in defeating this legislation, I would support a temporary extension of current law so that time would be available to try to work out a bill that is more fair to donor States. The bill will do a lot of good even if enacted in its present form but it is not fair to donor States.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have to say that the debate has been overwhelming and creates a strong urge to vote for this bill. But my colleague from Florida [Mr. Bennett] earlier this morning made quite an eloquent statement as to the formulas used in the distribution of these funds.

It is important to me as one who is going to be called upon to vote and one who is concerned about fair treatment for a growth State like the State of Florida to know just exactly what the figures are.

The eloquent statement of the gentleman from Florida [Mr. Bennett] was very convincing. I am wondering if one of the managers of the bill could respond to the issue of just how is a growth State like Florida treated in this regard?

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, first, I have before me a document published yesterday by the Federal Highway Administration which reports that Florida, for the past 5 years, in the existing law received 77 cents of return on dollars paid into the highway account for every dollar paid in.

In this conference report Florida will receive return on dollars paid in highway account, 92 cents, according to the Federal Highway Administration. So it is a very substantial increase.

Beyond that, Florida for the past 5 years received $2,471,000,000. Under this legislation Florida will receive $4,637,000,000 or an 87 percent increase in dollars.

Mr. BENNETT. Mr. Speaker, reclaiming my time, as I expressed before, the 92 percent is really very inaccurate. Actually the return is about 82 cents on the dollar. That is because of where the money is applied. The formula, the percentages are applied not across the board in this bill, and it is actually 82 cents, according to the information coming to me from the Department of Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. Zimmer].

Mr. ZIMMER. Mr. Speaker, I rise in support of this conference report. It is a tremendous investment in America's future. It will enable us to be competitive in the year 2000. It is going to create over 2 million jobs.

Mr. Speaker, we have talked for the last several weeks and today particularly of progrowth. This is progrowth. It will help us get our economy moving again. It will have a strong economic impact.

Mr. Speaker, I urge Members to vote in support of this conference report. It is progrowth, it is projobs, it is pro-America. Let us get moving. Let us pass it.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. Rahall], a member of our committee.

Mr. RAHALL. Mr. Speaker, I rise in strong support of the Intermodal Surface Transportation Act of 1991. I commend the bionic leadership of our chairman, the gentleman from New Jersey [Mr. Roe], and his partners in intermodalism, the gentleman from Arkansas [Mr. Hammerschmidt], the gentleman from California [Mr. Mineta], and the gentleman from Pennsylvania [Mr. Shuster]. This is truly an intermodal transportation act of profound ramifications for this country, well into the next century.

It has been said this morning that this bill may well be the most important piece of legislation of this Congress. I think it may be the most important piece of legislation in this decade.

This legislation will certainly cover this country as far as the concerns of the backpackers to the high tech mag lift projects, from the pedestrian walkways to high speed trains. It is indeed intermodal in its ramifications. It will have profound impact upon the workers of this country, providing, as we have already heard, over 2 million jobs over the next 6 years.

Mr. Speaker, I also reminded my colleagues, especially the gentleman from Florida [Mr. Bennett], who just spoke before me, as well as those from donor States, that it is important to look at all of the ramifications of this legislation. Do not just look at the column in regard to highway legislation, because this is not a highway bill. It is a transportation bill. Look at the transit columns as well. Look at all of the formulas. Look at all of the transportation effects that this bill will have on your State before making any harsh judgments.

The transit funding, as the chairman of the subcommittee [Mr. Mineta] has so well said, is the highest transit spending that this country has ever embarked upon.

Mr. Speaker, I urge passage of the pending legislation.

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Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. Applegate].

Mr. APPLEGATE. Mr. Speaker, I would like to just join in some of the accolades and say that I have never been so proud in 30 elected years of serving with such leadership as the gentleman from New Jersey, Bob Roe; the gentleman from Arkansas, Paul Hammerschmidt; the gentleman from California, Norm Mineta; and the gentleman from Pennsylvania, Bud Shuster, the staffs who did an outstanding job, tremendous, and the conferees that I had a chance to work with.

Democrats and Republicans are sparring around a little bit like Holyfield and Tyson. They are not getting anywhere either, as far as an economic growth package is concerned.

We are talking about tax cuts from the Democrat side, tax breaks from the Republican side. I tell my colleagues, if one does not have a job, one cannot get a tax break. One cannot get a tax cut.

Americans want jobs; they do not want the handouts.

This transportation bill, if my colleagues will listen to me, is the jump-start that the Nation's economy needs, and they need it now. It is $151 billion, 6 years, 2 million jobs, and I am not talking about these Wendy's jobs. I am talking about meat and potato jobs, jobs that will put something on the table.

It is a bill for all Americans, and it is one that I understand that the President is going to sign.

As America grows a million and a half people each year, by the year 2000 we are going to have a lot of people. And we will need the better roads of transportation. We will need the better infrastructure. We will need the building of our bridges to bring together everything to move into the 21st century.

I say this: That every State, every State is going to benefit by this to a great amount of money, much more than they have over previous years. Forty to fifty percent more money, we will be able to do a lot of things that we have not been able to do in the past.

America's economy needs this. The people want it. I say to my colleagues, do not go home without it.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I want to thank the chairman. I want to thank him and his fantastic staff for doing such a great job, along with the minority side and others.

I am only sorry that we are debating this wonderful all-American job bill that will repair our infrastructures and

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

provide transportation for the American people. And in Ohio alone, create about 40,000 jobs and sustain jobs for the people in my State and throughout the country.

Mr. Speaker, I want to tell my colleagues what it will do for Ohio because we are a donor State, but I will tell my colleagues with all of the discretionary funds that we anticipate getting, we think we are not going to be a donor State.

Over a 5-year period from 1987–91, we got $2.28 billion. Under this bill, we will have a 47-percent increase to $4.174 billion for the people of Ohio, return of their tax dollars that will generate into a new all-American spirit.

Congratulations, Mr. Chairman. You are terrific.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 1 minute.

I would not want this debate on this conference report to go by without acknowledging the great hope that we receive from the Department of Transportation under Secretary Sam Skinner, especially through Dr. Tom Larson, the Federal Highway Administrator and Bryan Clymer, the Administrator of the Federal Transit Administration.

They gave us invaluable help. They did computer run after computer run. I wanted to acknowledge that in this debate.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I rise to support this bill, although I agree with the gentleman from Florida [Mr. BENNETT] and the gentleman from Florida [Mr. YOUNG]. We still are really not fully satisfied.

If we add the trust fund money that will be spent to the money that Florida will add in and get back, we think it reduces it. But there is an overriding concern beyond that alone. The discretionary money which the gentlewoman from Ohio just talked about that Florida will get, which will create jobs and the rest of that.

People in Florida, like everywhere else in this country, are mobile. People in Florida expect when they drive to other States that there will be a better infrastructure in those States as well. They want the bridges and the roads and the tunnels and the highways to be good in other States, as they drive. They have paid their tax dollars in. They want to see other roads where they are participants, where they are users, to be safe and in satisfactory condition, not only for their residents but for us as well.

This will create jobs. In Florida the unemployment rate is over 8 percent. We need this as well.

We will come back and try to get parity on the formula eventually, but in the mean while America needs this bill. And so does Florida.

I urge my colleagues' support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kansas [Mr. NICHOLS], a member of the committee.

Mr. NICHOLS. Mr. Speaker, I rise in strong support of the intermodal transportation bill. This bill is properly regarded as an investment, not an expense, in America.

The multiplier effect of the moneys ranging from 2 to 10 times as the dollars bounce around will move all of our States in a progress direction. It will help gear us all up for the 21st century.

I strongly urge its passage.

Mr. ROE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the chairman for yielding time to me, and it is a pleasure to rise at this early hour and express my strong support for the work of the chairman and the gentleman from California [Chairman MINETA] and the ranking minority members.

I strongly urge my colleagues to support this legislation, which in my view is one of the great highlights of this session.

There has been a lot of talk about economic growth packages, but my friends, this is the economic growth package that this Congress is going to pass, $151 billion over a 6-year period that will create 2 million jobs, according to the White House 4 million jobs, that is good news for all Americans.

In addition to that, the correction in this legislation as it affects donor States is also good news for many donor States who in the past have contributed a lot more to the highway trust fund than they got back. So that is another very important change in the highway bill as far as I am concerned.

The last point I would make, that I think is very important, is that for the first time we are giving the States the flexibility they need to most efficiently utilize the money that this legislation will provide them.

I urge strong support for this legislation, and I commend all the Members who have worked to move this legislation through the process.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT], a distinguished member of the committee.

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. EMERSON. Mr. Speaker, will gentleman yield?

Mr HASTERT. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I rise in strong support of this bill.

Mr. Speaker, the merits of this bill will be told for years to come through the improved infrastructure it will provide. More importantly, thousands of people will participate in implementing the provisions of the law, and that is very welcome. This is a real jobs bill for real people addressing real needs in making America more competitive.

Mr. HASTERT. Mr. Speaker, I want to extend my congratulations to the ranking member and the ranking member of the subcommittee and certainly the chairman of both the subcommittee and the committee for the great work that they have done. I think it is important that we say the statements in this bill, too, that will change the competitiveness of this country for decades to come, because it sets up a streamlining for our transportation industry, a one-stop shopping and something that will save consumers and shippers billions of dollars as well as the fine work that has gone in to work the highway system and the infrastructure of the country.

I commend the chairman and the ranking member and urge strong support of this bill.

□ 1530

Mr. ROE. Mr. Speaker, I have no further requests for time, but I want to do something in honor of the staff who have worked, Members just have no idea of the extraordinary job that the staff on both sides of the aisle and also in the Senate have done to contribute to this effort. I am going to do something unusual and I am going to name them, and I hope Members will indulge me and give them a response.

They are:

Bob Bergman, John Doyle, Maureen Dubia, Cindy Elliot, Sante Esposito, Jack Fryer, Eunice Goldring, Kathy Guilfoy, Kathy Hoffman, Ken House, Pam Keller, Sheila Lockwood.

Cheryl McCullough, Jimmy Miller, Toby Mullvain, George Noblin, Pepper Riley, Caryll Rinehard, Jack Schenendorf, Jeff Shoaf, Roger Slagle, Dave Smallen, Suzanne Sullivan, Becky Weber, and Susan Byneder.

Mr. Speaker, I think we should give them a big hand.

Mr. GOSS. Mr. Speaker, this is an anxious time of year in Washington. As Congress rushes to complete action on unfinished legislation before we adjourn, I remain gravely concerned that the people of Florida and other donor States are being taken for a ride by the Transportation conference report without serious consideration of its consequences. Florida has historically been badly shortchanged by the funding formula, leaving us to export millions of dollars in jobs and transportation project to other States.

The conference report, brought to the floor sight-unseen and in the middle of the night, does nothing to improve Florida's situation and that of other donor States. Legislators were asked to take at face value committee assurances that the new bill would treat our States fairly, but in light of Florida's past treatment, and the fact that Florida transportation will receive no more than 83 cents for every $1 the Florida taxpayer pays into the highway trust fund, I could not support the bill. These decisions are simply too important to be railroaded through with no ability to analyze and verify the information we were asked to approve. Supposedly, the bill is good for America. We've been down that road before with the now infamous budget agreement, and unfortunately we can all now see what good that did the American people.

Make no mistake, there are some encouraging provisions in this legislation, and perhaps given time and some sleep, the negotiations could have produced a truly good bill. However, the long-term well being of Florida's transportation infrastructure cannot be traded for one-shot buyoffs, but requires a stable, fair funding formula that reflects Florida's position as one of the most populous, fastest-growing States in the country. By voting for this bill, I would have contributed to an effort to lock Florida and other donor States into 6 years of exporting close to $1 billion to pay for transportation projects in other States. This money is desperately needed within our own borders. It has been said that this is a jobs bill, but I fail to see much benefit for Florida in sending Florida dollars to pay for jobs in the District of Columbia, Alaska, and Hawaii over the next 6 years.

Am I frustrated? You better believe it. Once again rational, fairminded legislation was derailed by middle-of-the-night, backroom dealmaking. When I voted against this bill last month, I said Florida seemed to be choosing between getting hit by a Mack truck or a Honda. Well, this morning we got hit by the Mack truck after all, a Mack truck driven by the business-as-usual group in Washington. No wonder the American people are fed up with Congress.

Mr. DE LUGO. I rise to congratulate the distinguished chairman of the House Public Works and Transportation Committee for his efforts in bringing this Transportation conference report on H.R. 2950 to successful passage. As Senator MOYNIHAN said of Chairman ROE during the House-Senate conference proceedings of the last 2 weeks, "This man's energy and dedication are nothing short of a miracle." As a member of the conference I can personally attest to this as well as his extraordinary patience under incredible pressure.

I also want to commend the ranking minority member of the committee, JOHN PAUL HAMMERSCHMIDT, for his extraordinary efforts on this bill, as well as NORM MINETA, the chairman of the Surface Transportation Subcommittee, and its ranking minority member, BUD SHUSTER.

Indeed, this is landmark transportation legislation which will chart a new economic course in this country as it will in my own district, the U.S. Virgin Islands. The entire country owes a tremendous debt of gratitude to these gentlemen for their leadership and vision in enacting this legislation which will benefit the Nation for many years to come.

Finally, the staff of the House Public Works and Transportation Committee deserves special commendation. Their extraordinary skill and talent in working on this most complex bill was trully remarkable. During the final days of the conference on this bill, they performed in an outstanding manner literally around the clock.

Mr. Speaker, it was a privilage to serve as a conferee on this bill and to work with the leadership and staff of the House Public Works and Transportation Committee.

Mr. CONYERS. Mr. Speaker, I strongly support the conferees' deletion from the Intermodal Surface Transportation Infrastructure Act of 1991, H.R. 2950, of the Senate's provision that would have permitted the Attorney General to block any Government agency from issuing regulations if the Attorney General were to decide that the agency does not have adequate procedures for assessing whether its regulations may result in the taking of private property within the meaning of the fifth amendment of the Constitution. This proposal would unwisely give the Attorney General radically new veto powers without any attention given to the processes of openness and accountability that are now required by the Administrative Procedure Act [APA].

This proposal is just the latest saga in the effort by the administration to delay and block health and safety and other critical regulations that Congress has mandated and to do this in secret, behind closed doors, and out of public view contrary to the intent of the APA. In 1981 President Reagan established the Presidential Task Force on Regulatory Relief, which was headed by then-Vice President Bush. In June 1990 President Bush created the Council on Competitiveness to carry on the same functions as the task force and designated Vice President QUAYLE as its chairman.

Vice President QUAYLE has played an active role in orchestrating the current campaign to enact a proposal to permit the Attorney General to delay, perhaps indefinitely, any regulation of any agency. Documents supplied this spring to the Committee on Government Operations by the Council indicate that the Council considered this proposal at least twice. At its September 27, 1990 meeting the Council approved administration support for a "private property amendment." The Council explained that the bill is "an extension of Executive Order 12630—governmental actions and interference with constitutionally protected property rights that was developed by the task force on regulatory relief, chaired by then-Vice President Bush, and signed by President Reagan in 1988." At its December 19 meeting the Council reported that it "is working with the Department of Justice and OMB to develop a legislative initiative to protect constitutional property rights. * * * The Council requested that the legislation be expanded to include all agencies and be codified to define the nature of the individual right of action that would be provided."

Senator SYMMS introduced the Private Property Rights Act, S. 50, incorporating the principles articulated by the Council, and on June 12, 1991 he said that the Vice President had called him that morning and asked him to offer his bill as an amendment to the highway bill. The Senate adopted the bill as title IV of the highway bill.

Title IV affects the regulations of every agency. It would permit the Attorney General to delay indefinitely any regulation of an agency until the Attorney General certifies that the agency has established adequate procedures for assessing the potential of its regulations constituting a taking within the meaning of the fifth amendment.

Under this proposal, the Attorney General could, for example, block a regulation of the Department of Housing and Urban Development [HUD] helping low-income families acquire housing if the Attorney General determined that HUD did not have adequate procedures for deciding whether the loss of revenue to builders was a taking. Or the Attorney General could block Environmental Protection Agency [EPA] regulations dealing with the cleanup of Superfund sites to protect public health because the Attorney General had not approved EPA's procedures for assessing whether the disruption of business was a taking.

The Attorney General would exercise this veto power even if Congress has mandated the regulation. Moreover, the Attorney General would exercise this veto power exempt from the procedures for openness and accountability that Congress has carefully crafted in the APA. No Court would be able to determine whether the Attorney General's decision to block an agency's regulations was based on the public record or on a private telephone call.

Concerned about the sweeping implications of this proposal, the Committee on Government Operations asked the Office of Management and Budget [OMB] for information on the extent to which Government regulations have in fact been held by a court to be a taking within the meaning of the fifth amendment. OMB referred the committee's July 18 request to the Department of Justice [DOJ], which responded on October 11.

The DOJ data show that since January 1, 1988 DOJ has closed 106 cases involving an alleged regulatory taking. In only 27 of these 106 cases—(or 25 percent)—was money paid to the property owner, and the total amount of money awarded over this 3½-year period in these 27 takings cases was only about $28 million, excluding interest, or less than $9 million a year.

Moreover, these 27 cases involved only five Federal agencies: the Department of Agriculture, three cases; the Army, nine cases; the Department of Energy, one case; the General Services Administration, one case; and the Department of the Interior, 13 cases.

The $28 million awarded during the last 3½ years in these 27 regulatory cases is, of course, important to the particular property owners involved in the disputes, and we all want to ensure that regulatory actions pursuant to congressional action minimize encroachments on private property whenever possible.

But the information supplied by the administration makes it clear that there is no basis for believing that there is a significant risk that all regulations of all Federal agencies constitute a taking. It already takes far too long to implement health and safety regulations that Congress has authorized.

Title IV of the Senate highway bill was a radical solution in search of a problem at enormous cost to the protection of the health and safety of Americans, and I strongly support its deletion from the final bill.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of the conference report.

I am not happy with the circumstances in which we find ourselves tonight. It is frustrating when this body constantly finds itself considering major legislation in the dead of night,

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

with perhaps one copy available to the Members. How can we be surprised that the public is disenchanted with our performance. And I cannot help but think we would not be in this situation if we had not wasted months trying to raise gas taxes another 5 cents a gallon.

In late July and early August I joined the majority of this body in not supporting efforts to raise gas taxes by another 5 cents a gallon. Tonight we have to be prepared to accept the consequences of our decision. States are not going to get as much highway money as they would like. Nor will our projects receive as much funding as they deserve. But I believe sacrificing some highway dollars is better than the potentially devastating effect raising gas prices would have on our economy.

Having said that, let's look at the conference report.

Unlike some bills before this House in the last few weeks, it is not loaded with accounting gimmicks to raise the deficit. We spend what we have and no more.

The State of Iowa will receive approximately $1.456 billion in highway funds over the life of the bill. Iowa receives funding for projects of major importance to southeastern and southwestern Iowa. The completion of Iowa Highway 2 from Sydney, IA, to Interstate 29, will stimulate economic development and increase safety in southwest Iowa. The Valley View Drive project in Council Bluffs, IA, will allow the community to safely expand in the only viable direction.

Finally, the bill recognizes the Avenue of the Saints as a corridor of national significance. Funding provided in the bill will be a great help toward the completion of this major transportation project for eastern Iowa. I appreciate the leadership of the Public Works Committee for recognizing the importance of the Avenue of the Saints. But I would also like to pay tribute to the entire Iowa delegation. We worked as a team to keep the avenue where it belongs, in Iowa. All Iowa Members, from both sides of the aisle, gave this serious challenge their maximum effort. It just goes to show what we can do as a team.

I am disappointed the House did not recede to Senate language granting States the authority to waive commercial drivers license requirements for agribusiness. There is not one bit of evidence to indicate agribusiness drivers are any more of a safety hazard than the custom harvesters who did receive an exemption in the bill. This is an important issue in rural America and I will not give up the effort for agribusinesses to receive this commonsense waiver.

My friends, I had the honor to serve on the Public Works Committee for 7 years. No doubt in a week or two we will find provisions in this bill that need correction. But America cannot wait any longer for this major infrastructure bill. I know BOB ROE, JOHN PAUL HAMMERSCHMIDT, NORM MINETA, and BUD SHUSTER. They have worked hard and in a truly bipartisan fashion. They are trying to do right for America and this House and deserve our support tonight. I urge my colleagues to support the bill.

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on the Intermodal Surface Transportation Act.

This conference report is a product of months of hard work by the chairman of the Committee on Public Works, Mr. ROE, his ranking member Mr. HAMMERSCHMIDT, the chairman of the Subcommittee on Surface Transportation Mr. MINETA, and his ranking member, Mr. SCHUSTER. I commend them for their leadership and perseverance in bringing his massive and complex piece of legislation to the floor. On the whole I believe the conference report is an important measure which will help repair our Nation's ailing infrastructure, stimulate economic growth and meet our surface transportation needs into the next century. The mass transit provisions and funding of this bill are particularly worthy.

I rise to express my concerns about a provision in this bill which would establish a new National Recreational Trails Trust Fund. I and several other members of the Interior Committee were conferees on this section of the bill since the recreational trail trust fund provision directly deals with matters under the jurisdiction of the Interior Committee. While I strongly support the overall conference report, I was not able to sign the conference report because of the outcome of the conference with regard to this recreational trail provision. This provision was not contained in the House-passed version of the surface transportation bill. The language adopted in the conference report was not even in the Senate-passed bill, and goes beyond the scope of the Senate bill. While well-intentioned, the trails fund as contained in the conference report is not responsive to the majority of trail users in the country, is administratively inefficient, and could have a negative impact on the natural resource values of out Nation's public lands. Alternatives were presented during the conference which would have resulted in greater funding for trails, greater flexibility for States and greater responsiveness to actual trail use and demand than the proposal finally adopted by the conferees.

As chairman of the Subcommittee on National Parks and Public Lands, I have been involved in recreational trail issues for a number of years. The subcommittee has jurisdiction over the National Trails System Act, the National Wilderness Preservation System Act, the Land and Water Conservation Fund Act and a number of other provisions of law dealing with trails and recreation. Our committee has worked for a number of years on expanding all outdoor recreation opportunities, and has taken a particular interest in trails as a form of outdoor recreation. In addition to bring the committee which authorizes all national scenic, historic and recreational trails, our committee has taken a lead role in investigating trail issues and working for increased funding for trail land acquisition, construction and maintenance.

The Subcommittee on National Parks and Public Lands held a joint hearing on recreational trails in America with the Subcommittee on Energy and the Environment on October 31, 1991. This hearing brought in witnesses representing the National Park Service, the Forest Service and the Bureau of Land Management, State recreation officials, State trails coordinators, trail researchers and a number of motorized and nonmotorized trail user groups. Although all of these witnesses were pleased about the prospect of new trails funding, a number of these witnesses expressed concerns about the specific provisions of the National Recreational Trail Trust Fund in the Senate-passed surface transportation bill. Based on the testimony at this hearing and other communications received regarding this provision, I and Chairman KOSTMAYER of the Energy and Environment Subcommittee began drafting an alternative proposal to address the many concerns that had been raised about this bill. This proposal was the basis for the bipartisan Interior Committee proposal discussed by the conferees on the surface transportation bill. This proposal contained several important advantages over the Senate-passed provision, including:

Requiring funds from the National Recreational Trails Trust Fund to go through the existing Land and Water Conservation Fund, thus providing substantial savings on administrative costs, a 50–50 Federal-State match for all trail projects and a process for prioritizing the recreational trail needs of each State through the State comprehensive outdoor recreation planning [SCORP] process. This approach was strongly favored by the National Park Service.

It allocated funds for recreational trails directly to the Federal land management agencies rather than having them go through States as in the Senate bill. This was appropriate since much motorized and nonmotorized recreational trail use occurs on Federal lands, and since there is a tremendous backlog of trail maintenance needs on Federal lands.

Rather than allocating funds along arbitrary percentages which had little to do with actual trail usage, the Interior proposal provided that funds were to be spent for the use and benefit of safer, more enjoyable and more environmentally sound trail opportunities for motorized and nonmotorized users alike. Trail research demonstrates that the vast majority of trail use is by hikers, bicyclists, horseback riders and other nonmotorized users. Data from the public area recreation visitor study [PARVS] suggest that of the 525 million trail uses on public lands which occur each year, 468 million or 89 percent are nonmotorized and 57 million or 11 percent are motorized. Because the Interior proposal left the allocation of trail funds up to the priorities of each State, it was more respective of States rights than the Senate-passed provision which imposed a mandatory percentage for spending funds on motorized and nonmotorized trail projects. I would have preferred language which would have allowed each State to decide its own trail priorities.

The Interior proposal also contained more strict language regarding construction and reconstruction of motorized trails through potential wilderness areas than the Senate proposal. This language was needed to prevent this legislation from prejudicing future congressional decisions about wilderness designation.

For these and a host of other reasons, the bipartisan Interior Committee proposal for a Recreational Trails Trust Fund was preferred over the Senate version by a number of trail and conservation organizations including the American Hiking Society, the Sierra Club, the National Wildlife Federation, the Wilderness Society, the National Parks and Conservation Association, the Rails to Trails Conservancy, the National Recreation and Parks Association

and the National Association of State Outdoor Recreation Liaison Officers.

I would like to express my appreciation to the conferees on the surface transportation bill for their patience in discussing this matter which dealt with a relatively small level of funding in comparison to other programs in the bill. However, in the rush to complete the conference and the confusion which accompanied the vote on this matter in the conference I believe the conferees missed an opportunity to develop a recreational trails program that would have better served the needs of all recreational trails users.

I am particularly concerned that the conferees went beyond the scope of the bill passed by the Senate by designating the Secretary of Transportation to administer the recreational trails program. The Secretary of Interior is the appropriate Secretary to administer a program dealing with recreational trails. The surface transportation bill passed by the Senate designated the Secretary of Interior as the administrator of this program. The conferees recognized the importance of direct involvement of the Secretary of the Interior in this program by requiring the Secretary of Transportation to consult with the Secretary of the Interior. It is the clear intent of the conferees that the Secretary of Interior be consulted on all matters relating to the National Recreational Trails Trust Fund, including the appointments of the National Recreational Trails Advisory Committee, the establishment of the program for allocating money to the States and the review of the utilization of all funds allocated under this program.

Given the fact that funds can be used to construct and maintain trails on Federal public lands under this jurisdiction of the Interior Committee, I intend to exercise vigorous oversight of the program to ensure that Federal laws governing the management of these lands are fully complied with. Furthermore, I will work to ensure that no funds will be allocated under this Act in a manner that will prejudice the prerogative of Congress to designate as wilderness lands administered by the Forest Service, National Park Service or Bureau of Land management. It is my interpretation of the conference report language that funds made available by this report may not be used in a manner that will in any way impair the suitability of lands which are being reviewed for wilderness designation or which have been reviewed for such designation and have not been released for nonwilderness uses by act of Congress.

The Interior Committee will also be conducting close oversight of this program to ensure that the States shall not implement any shared trails use which may create unsafe conditions for any of the intended trail users. Corridor sharing referred to in the conference report may refer to corridor sharing among various types of nonmotorized trail users, and the States shall attempt to provide corridor sharing on fair and equitable fashion which is not prejudicial to the various user communities. Although the new trail trust fund is denominated "recreational" in nature, the conferees recognize that many bicycle and hiking trails serve important commuting objectives, especially in urban and suburban areas. Further, comparable trails in many parks and recreational areas can serve to reduce air pollution and foster similar environmental goals.

Mr. Speaker, as I previously stated the conferees had several alternatives which could have made this recreational trails proposal more environmentally sound and responsive to the diverse trail user needs which exist in this country. Besides this provision, I support the conference report and urge its prompt passage.

Mrs. BYRON. Mr. Speaker, last year, Americans spent more than $600 billion on health care. If we continue at this rate, we will spend $1.5 trillion on health care by the year 2000. I'm not so sure we can go on like this. As it stands, more than 33 million people have no health insurance, while millions more are underinsured. Those with insurance may be tempted to think that the problem doesn't affect us, well, it does. It is reflected not only in higher insurance premiums each year, but higher Medicaid costs—at the expense of other programs we enjoy. Rising infant mortality rates, and real-life problems with access to health services, are key problems.

I began talking about our health care system more than a year ago. During the summer of 1990, I sponsored four health care forums across my district. Frankly, I was surprised to see so little interest in health care. Beyond the 20 to 30 senior citizens at each stop, very few people seemed to care. Now that it's an election year, health care reform is the issue. I'm pleased to see this. We are fortunate enough to live in a country with one of the best health care systems in the world, but there are recognized shortfalls in access and affordability. We can do a better job here, and I am pleased to be able to participate in bringing it about.

As a member of the rural health care coalition, I have strongly supported efforts to improve preventive health care services. Staying healthy is the key to controlling health care costs. For example, I have cosponsored bills to establish a comprehensive, preventive, health program for Medicare beneficiaries, require States to cover breast and cervical screening for poor women, provide incentives for physicians to locate in rural areas, and encourage medical schools to have departments of family medicine.

I feel very strongly about our Nation's commitment to primary care. Beyond these legislative initiatives, this year I was able to resolve a bureaucratic tangle with the Appalachian Regional Commission to bring about the placement of a pediatrician in Washington County. We are very pleased to have Dr. (Maria) Younes in western Maryland and know that she is doing her part to keep our children healthy.

I also serve on the Leadership's AIDS Task Force and the Task Force on Health. We cannot ignore the impact of AIDS on our health care system. Several years ago, I worked very closely with my colleagues in bringing about the adoption of the Ryan White C.A.R.E. bill on AIDS. Education, prevention, research and development are essential in combatting this fatal disease. My efforts in this area will continue as we confront a rising number of AIDS cases in our cities as well as increases in our rural communities.

The health care discussions that are taking place give us a basis for health care reform to come. Before we simply dismantle what we have, however, we need to understand what shape our health care policy should take. What are we willing to pay for? We need to recognize that a government solution directly involves the taxpayers. We are the payers; and finally, we need to make sure that any reform takes into account the special circumstances of those seeking health care in rural areas. I am committed to finding acceptable changes in our health care system that will best meet the needs and budget of our Nation.

Mr. BROWN. Mr. Speaker, this bill's creation of a National Scenic Byways Program is an important step toward recognizing and protecting the scenic and historic values of qualified highways across America. Driving is one of our great national passions. At one time or another, we have all felt the pull of the open road, enjoyed driving along a curving byway under the canopy of vibrantly green trees, with clouds hovering overhead and a stream bubbling off the side of the road. Designation and protection of national scenic byways is environmentally sound policy and will provide economic benefits as well through increased tourism potential.

Equally important here is the conferees' decision that the Highway Beautification Act's provisions be modified to require a ban on new billboard construction along designated scenic roads. It is most appropriate that the public investment in designated scenic roads be protected by prohibiting the construction of large intrusive signs which would detract from scenic views. The billboard ban on interstate and primary scenic roads is a minimum response, of course. Nothing in this bill will limit States from enacting stronger controls on billboards on State designated scenic byways which are not on interstate and primary roads.

Finally, I am pleased that this bill will amend the Highway Beautification Act provisions to require illegal billboards to come down within 90 days of enactment. Some 33,000 of these illegal billboards line the Nation's highways, but have never been removed due to lax enforcement of the law. I would urge the Federal Highway Administration to structure its rulemaking to ensure that this requirement to remove illegal billboards is closely monitored and strongly enforced.

Mr. ALEXANDER. Mr. Speaker, I rise in support of this highway bill.

If America is to be competitive, we must make sure that our transportation system is up to the task.

Without an efficient transportation system, we will lose the race to countries such as Japan and Germany.

This legislation will begin the process of seeing that America does not fall behind.

Projects in my State are certainly badly needed.

In my State, money in this bill will begin construction planning for a bridge at DeValls Bluff, interchanges on the Highway 63 bypass in Jonesboro and it also identifies Highway 412 as a high priority corridor.

The bridge at DeValls Bluff is dangerous and it's replacement will eliminate one of the major traffic bottlenecks in this area.

The Highway 63 bypass program at Jonesboro has saved lives and made travel in that fast growing city much more efficient.

VOL
137
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There is currently no four-lane system running east-to-west across the northern part of Arkansas. This inhibits growth in the area.

Improving the highway system in the area will foster economic growth.

Also, Mr. Speaker, in addition to its other benefits, this bill will create jobs—jobs which are badly needed to stimulate economic growth.

Mr. GALLO. Mr. Speaker, I want to voice my support for this 6 year national transportation blueprint.

In particular, I am pleased that the House was successful in protecting its $32 billion funding level for mass transit—$11 billion more than the Senate version of the bill.

We have to take the long-term view and I believe this bill does just that. It paves the way for major improvements in our Nation's mass transit systems and gives States greater flexibility to use these funds for projects of particular importance within each State.

In addition to providing increased mass transit funding, this bill also stimulates our nation economy by creating more than 4 million jobs. At a time when our economy is in need of a jump start, it is reassuring to support a piece of legislation that will help us to revitalize our Nation.

This $151 billion authorization provides about $5.5 billion for New Jersey highway and mass transit projects, including $634 million for the New Jersey urban core project for mass transit.

This bill represents a balanced approach. It identifies future needs and addresses them. But it also recognizes our more immediate priorities and allows for improvements in our current highway system, where they are needed.

I am also very pleased that the final bill contains funding to build new ramps to ease the flow of traffic on I–280 in Parsippany.

Mr. Speaker, today marks an important day for the future of transportation policy in America, and I am pleased to offer my support for the conference committee's bill.

This bill authorizes many programs and initiatives that will provide the flexibility to meet changes that have been occuring within our society. As a nation we have set a number of important priorities in order to clean up the air, to relieve traffic congestion, to promote mass transit, and to develop basic ways of providing for a healthier environment.

Last year, Congress passed the Clean Air Act which put in place new air quality standards that States must begin to meet by 1995. This will not be easy unless the Federal Government provides some type of guidance. It is my belief that H.R. 2950 will do just that.

Specifically, the House surface transportation bill includes $32 billion for mass transit construction and expansion programs—which is $11 billion more than the other body's bill. This increased funding will not only relieve traffic congestion that has become so prevalent in the Northeast corridor it will promote cleaner air by offering alternative modes of transportation.

This bill contains a number of demonstration projects designed to alleviate traffic problems. In my State of New Jersey we must concentrate on mass transit programs, but we must also find ways to relieve traffic bottlenecks. These projects will provide such relief and allow traffic to move easier.

In addition, we must have a bipartisan commitment to improve mass transit in New Jersey. This bill makes a major contribution to that effort.

As the author of H.R. 193, I have been pushing legislation in Congress to provide incentives for commuters to use mass transit, but these incentives must be accompanied by improvements in service, if we are to be successful in getting commuters to leave their cars at home.

A decade ago, New Jersey Transit inherited a fragmented and poorly maintained commuter rail network from Conrail and the goal since that time has been to complete missing links and upgrade current service. The New Jersey urban core project, including the Kearny Connection is the most critical part of those efforts.

Mr. Speaker, I commend Chairman ROE and all of the conferees for their dedication and hard work, and urge my colleagues to support this bill.

Mr. BROWN. Mr. Speaker, I rise in support of the conference report on Intermodal Surface Transportation Infrastructure Act of 1991. I want to congratulate the chairman of the Public Works Committee on his tenacity in processing this difficult piece of legislation which will reinforce our infrastructure and strengthen our economy in the forthcoming years.

I want to thank the chairman of the Public Works Committee for accommodating the Committee on Science, Space, and Technology by incorporating many of the research and development provisions reported by the committee which I believe will become assets to future generations.

I also want to thank the gentleman from North Carolina, chairman of the Subcommittee on Technology and Competitiveness, Mr. TIM VALENTINE, for his work in bringing together a carefully constructed program for near- and long-term R&D in the field of surface transportation.

Mr. Speaker, this bill marks a turning point in transportation technology which will provide future generations with models of travel we never dreamed of.

The bill includes research and development in intelligent vehicle highway systems. The objective of this R&D is to build and test a fully automated prototype of the highway of the future, one that cars would travel on between cities under automated guidance systems that would maintain safe spacing and speed control without driver assistance.

The bill also includes a number of other long-term and short-term research and development objectives, including research and development in the area of high frequency dynamic loadings on bridges. These loadings will result from high-speed rail and magnetically levitated systems. The research will also include the use of new data collection and computation methods. These methods will facilitate the design of structures to accommodate these new modes of transportation.

The bill includes the creation of an advisory board composed of members outside the government to assure that industry and Government can work together in rebuilding U.S. transportation systems.

High-speed rail is one of the most promising technologies to alleviate overcrowding at airports. It is technology that can put the United States back in the business of manufacturing its own rail systems. High-speed rail systems have attained speeds of 300 miles per hour, and a 200-mile-an-hour commercial system is achievable through the R&D program called for in this bill.

The bill also includes magnetically levitated train research and development which we hope will bring this technology to practicality by developing levitation and guidance systems which employ superconducting magnets. These systems will require shielding against electromagnetic forces, and we therefore plan to undertake R&D in this area as well as in aerodynamics to assure the stability of magnetically levitated trains under all wind conditions.

As a potential replacement for diesel buses we have called for a short-haul passenger transportation system to be powered by batteries or fuel cells. It is to be trackless, running on pneumatic tires with the capability of being recharged every few miles.

The R&D is also intended to extend the life of the surface transportation infrastructure. New concepts in radiography are expected to facilitate more thorough examination on bridge and highway structures.

The bill also contains provisions for advancements in research to protect the infrastructure against severe damage from earthquakes, and it calls for transportation research centers where minority students can enter the professions to design and build tomorrow's transportation systems.

Mr. Speaker, the R&D provisions in this act are intended to put U.S. industry back on the road to innovation and quality in transportation.

Mr. BLACKWELL. Mr. Speaker, I rise in strong support of H.R. 2950, the surface transportation bill. This legislation marks a true turning point for the urban centers of America. For the first time in nearly a decade, our Nation's mass transit systems will receive the funding that they so desperately need.

As a Representative from one of America's largest—and oldest—cities, I firmly believe that mass transportation systems are the backbone of our great cities. The problem is our backs are almost broken. Bridges are crumbling. Tracks are rusting. Our choice has never been more clearcut. We can pass this comprehensive bill that will benefit those in both rural and urban areas and secure the future of mass transit for our cities, or we can continue to watch these vital systems rot before our eyes.

I do not need to recite the advantages of mass transportation for you tonight—the environmental benefits, the service it provides for the disabled and for those who cannot afford to own cars, the jobs it provides, and so forth. But I will not remain silent while Congress has this prime opportunity to begin rebuilding our Nation's cities, starting with this most important service. I urge my colleagues to save our cities, and pass H.R. 2950.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOYER). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHUSTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 372, nays 47, not voting 15, as follows:

[Roll No. 440]

YEAS—372

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Orton
Oxley
Packard
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NAYS—47

Allard
Andrews (NJ)
Archer
Armey
Bacchus
Ballenger
Bennett
Boehner
Burton
Campbell (CA)
Coble
Condit
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dreier
Early
Fawell
Franks (CT)
Goss
Hancock
Hansen
Hefley
Herger
Jacobs
James
Johnson (TX)
Kyl
Long
Neal (MA)
Owens (UT)
Pallone
Penny
Ray
Rhodes
Roemer
Rohrabacher
Ros-Lehtinen
Schaefer
Solomon
Stump
Taylor (NC)
Walker
Washington
Zimmer

NOT VOTING—15

Collins (IL)
Dickinson
Dymally
Hertel
Lehman (FL)
Marlenee
Ortiz
Owens (NY)
Pastor
Pickett
Thomas (CA)
Towns
Traxler
Waxman
Yates

☐ 0550

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Speaker, During rollcall vote No. 440 conference report to accompany the bill H.R. 2950 I was unavoidably detained, had I been present I would have voted "Yea."

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF CONFERENCE REPORT ON H.R. 2950

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Clerk have the authority to make the necessary technical, clerical, and clarifying changes in the conference report just adopted.

The SPEAKER pro tempore. (Mr. HOYER). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONFERENCE REPORT ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 301 and, pursuant to House Resolution 294, I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 301

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 3371) to control and prevent crime. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, during debate on House Resolution 301, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 301 is the rule providing for the consideration of the conference report on H.R. 3371, the Omnibus Crime Control Act. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as read. Mr. Speaker, this con-

VOL
137
PT
24
NO
26
1991
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JA
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1992
UMI

ference agreement is a comprehensive legislative response to the many facets of criminal activity in our society.

The agreement that the House will consider tonight would expand the Federal death penalty to 53 crimes—including murders in connection with terrorism, assassination of Federal officials, genocide, kidnapping resulting in death, and major drug trafficking offenses.

The conference agreement reforms the habeas corpus procedures by requiring prisoners under death sentences to file habeas corpus petitions within 1 year of their direct appeal; adopts the Seante's 5-day waiting period for handgun purchases; and authorizes $3 billion for hiring law enforcement officials on the Federal, State and local levels.

Mr. Speaker, this conference report is not without controvesy, there are provisions that Members have concerns about. However, I believe this agreement provides a strong Federal commitment to crime control, and I urge my colleagues to adopt this resolution and allow the House to proceed with this vitally important conference report.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this rule and to the conference report on the crime bill it makes in order.

First, at the rules meeting that produced this rule there had not been adequate time for Members to become familiar with the provisions of the conference report.

At the time of the Rules Committee meeting on this conference report, no copy of the text was even available to Members.

This is a major bill and Members should have at least a reasonable opportunity to be aware of what they are going to have to vote on.

At the time of the Rules Committee meeting, I put into the RECORD a letter from the Attorney General, William Barr, which described this conference report as a significant step backwards.

The conference agreement actually overrules several recent Supreme Court decisions favorable to law enforcement.

According to the Attorney General, this conference report does more for those convicted of crime than it does for those victimized by crime.

Mr. Speaker, the current system allows those guilty of the most serious crimes to avoid punishment by filing frivolous habeas corpus petitions that drag on for years. The conference agreement now provides new loopholes by which convicted criminals evade punishment.

The conference agreement would make the current situation worse by overruling certain reasonable limitations recently established by the Supreme Court on successive habeas corpus provisions.

The conference agreement also is a step in the wrong direction on reasonable reform of the exclusionary rule. By rolling back Court decisions which allow for the admissibility of evidence when police have acted on good faith, the conference agreement will handicap police and increase the number of real criminals who avoid punishment because of legal technicalities. The conference agreement rejects the proposal overwhelmingly adopted by the House 247–165.

Mr. Speaker, the conference agreement authorizes $3 billion for law enforcement programs, but the authorization is meaningless without appropriation.

The Congress failed this year to fully fund the President's request for law enforcement.

Congress cut 64 percent of the increases requested by the President. Making promises which are almost certain not to be fulfilled is not the right way to legislate.

Mr. Speaker, backing up the U.S. Attorney General's position, the National District Attorneys Association has also written to oppose this bill. Let me quote briefly from their letter, signed by prominent Democrats and Republicans: "The Nation's prosecutors strongly oppose the so-called "crime control" bill approved in Sunday's conference and urge both House and Senate to reject it."

They say, "This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens."

Who else is opposed to this procriminal bill: Federal judges across this country, including those in the Northern District of New York.

☐ 0600

Finally, Mr. Speaker, I have been handed a letter from President Bush stating that he will veto this conference report if it is presented in its current form. I would ask unanimous consent that the President's letter be inserted in the RECORD at this point.

The SPEAKER pro tempore. (Mr. HOYER). It there objection to the request of the gentleman from New York?

There was no objection.

The letter from the President of the United States is as follows:

THE WHITE HOUSE,
Washington, DC, November 25, 1991.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: Since March, I have been calling on the Congress to pass a tough crime bill that will remove the handcuffs from law enforcement and end needless delays in the criminal justice system. For too long, the scales of justice have been tipped in favor of criminals instead of law-abiding Americans. The American people want a crime bill that will make the system tougher on criminals than it is on law enforcement and crime victims.

After months of delay, the Congress is now presented with a conference report drafted in the last hours of this session. Once again, just as they did last year, Democrat conferees from the Senate and House have demonstrated that they are willing to overlook the will of their colleagues and the American people. Clearly, the American people deserve better.

The crime bill produced by the Democrat-controlled conference is unacceptable. The bill rejects many of the primary goals the Administration set forth as necessary for an acceptable crime bill. One essential goal of our proposal is to end frivolous post-appeal challenges brought by convicted criminals, particularly death row inmates, through meaningful habeas corpus reform. By overturning critical Supreme Court decisions that have reduced the abuse of habeas corpus, the conference bill actually weakens current law by expanding a criminal's ability to frustrate the system.

Another goal of the Administration's bill is to ensure that criminals do not go free on legal technicalities when a police officer is acting in good faith. This conference report does just the opposite. Again, it retreats from current law by throwing out court decisions that recognize the legitimacy of such a good faith exception to the exclusionary rule.

Finally, although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed.

I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it and insist that Congress pass a crime bill that will strengthen our criminal justice system.

Sincerely,

GEORGE BUSH.

Mr. Speaker, I would like to cite just the opening paragraph of the President's letter:

"I have been calling on the Congress to pass a tough crime bill that will remove the handcuffs from law enforcement and end needless delays in the criminal justice system. For too long, the scales of justice have been tipped in favor of criminals instead of law-abiding Americans."

Mr. Speaker, that is the first paragraph. This letter goes on to cite all of his objections, but let me just read the last paragraph to my colleagues because this is what really gets to me.

"Finally," the President says, 'although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed.

"I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it"* * *

Mr. Speaker, this bill should never reach the President; it ought to be sent back to the committee, and let us do it right.

For all these reasons, Mr. Speaker, I must oppose this rule and the conference report it makes in order.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], my friend, for yielding, and I would simply like to underscore a point that my friend made at the opening of his statement, that being the fact that in the Committee on Rules; now keep in mind we are considering the crime bill under martial law at this point in the House; we got to the point where there was not a single paper that was before us when we were considering this rule, and I was told by members of the conference that they were operating under the exact same circumstance as they were trying to report this conference report to us.

So, it seems to me it is absolutely ludicrous to think we can move ahead with something when we did not even have the papers up in the Committee on Rules to consider it.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in opposition to the rule, and my colleague paid reference to the National District Attorneys Association. I would like to read the letter, and not only this, but I say to the chairman on the other aisle, "The eyes of Texas are on you." The attorney general from Texas, along with 31 other attorneys general, have signed a letter saying what a bad bill in its present form that this is, and this is, I quote, and I wish these were my words because they are so eloquent, but this is from the National District Attorneys Association:

The American people have been mugged again, this time by the leadership of the leadership of the United States Congress. The Nation's prosecutors strongly oppose this so-called crime control bill approved in Sunday's conference and urge both House and Senate to reject it. This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens. In fact, passage of this bill is tantamount to handing the jail house keys to thousands of convicted State and Federal prisoners. The conference committee has nearly in every incidence chosen the weakest provisions with respect to law enforcement. It rejects the House Limitation on House application of the exclusionary rule. It overturns the Supreme Court Decision Arizona versus Fulminante through the provision that may have far-reaching effects and which was not even the subject of hearings. Finally, the conference chose the weakest provision on death penalty provisions and procedures.

Mr. Speaker, we have tried time and time again to even pass rules on drug testing for this House and Federal employees, and every single attempt has been turned down. Let us pay attention. Let us get tough on criminals. Let us defeat the rule.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I say to my colleagues that I fully support the rule, and I appreciate the courtesy and the trouble that the leadership and the Committee on Rules has gone to to get this brought to the floor at this time.

Mr. Speaker, as the Members well know, the rule before us provides for the consideration of the conference report on H.R. 3371, the Crime Control Act. This is a matter that has been before this body for weeks now, and the Members should be familiar with its provisions. Just 6 weeks ago, this body spent long hours considering in detail the provisions of the House bill, the abundant majority of which are reflected in the conference agreement before us this morning. The major issues in contention—habeas corpus, the death penalty, the exclusionary rule—have been debated throughout this process, and the Members have had the opportunity to become fully informed about the points of contention.

Mr. Speaker, if we are going to back up our rhetoric about crime with action, we must move H.R. 3371 through the process expeditiously. Everyone in this body feels that the status quo is inadequate for our citizens—that punishment and deterrence must be increased for abhorrent criminal activity. To take no action at this time is to validate the current state of affairs on the streets and on the books. I reject that, as I reject all the dilatory efforts on the other side of the aisle—from blocking the naming of conferees for weeks in the Senate to attempts to derail the conference.

Let us adopt this rule and pass the conference report on this effective and tough piece of anticrime legislation.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, what I have to say is, "Good morning, America. Wait until you see what the Congress of the United States and the House of Representatives has stayed up all night to bring you today, a bill that will make worse the criminal laws, a bill that will make worse the present criminal laws in the United States of America, and this was all done on Sunday in one conference committee meeting which I attended as a conferee, and I want to tell you it was done with another Hail Mary pass, a Hail Mary pass from the Democrats in the House to the Democrats in the Senate."

Mr. Speaker, the bill before my colleagues is what the Democrats agreed between themselves. We brought it to the House floor, and it is walking into a veto. Why? Because it selects provisions which, not only do not improve current law, they send current law back.

Now I want to say that I have heard on the news the outrageous statements that the President of the United States has threatened to veto this bill because it contains some gun control language. Now the President is a skeptic about the effectiveness of gun control. Who can blame him? New York and Washington, DC have the toughest gun control laws in the Nation, and my colleagues have all seen how much that has done for them. Nevertheless, let me debunk that nonsense right now.

Mr. Speaker, let us amend this bill to change the habeas corpus provisions. Let us amend this bill to change the exclusionary rule provision. Let us amend this bill to amend the confession provisions and see then if the President of the United States will veto the bill. I do not think so. These are the key provisions that have been added, that have been selected for the bill. These are the key provisions that weaken it.

Mr. Speaker, I urge defeat of the rule, defeat of the bill.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I do not want the impression to be given that the people in the front line of fighting crime, the police officers of this country, are against this bill. They are not. They are for it. Almost unanimously.

Mr. Speaker, I want to read from some supportive statements by police organizations and people who are responsible for fighting crime in this country in every State of America.

The Fraternal Order of Police:

"We call on the Congress to adopt, and for the President to sign, this bill. It is the toughest anti-crime legislation to emerge from Congress in recent memory and should become law."

The National Association of Police Organizations:

"NAPO believes the version which has been reported out of conference to be tough anti-crime legislation. We urge you to enact this badly needed anti-crime legislation immediately."

The International Brotherhood of Police Officers:

"America needs a crime bill now—in this session, passed by the Congress and signed by the President. IBPO represents rank and file officers on the front lines in the war on crime and drugs and we urge you to adopt the conference report and pass this important legislation."

The International Union of Police Officers:

"We recognized the real need for enactment of the conference committee version of the crime legislation and support it fully."

The same thing with the National Troopers Coalition, the Police Executive Research Forum, the National Association of Black Law Enforcement Executives.

VOL
137
PT
24
NO
26
1991
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Mr. Speaker, every police organization that is out there on the front lines in the State and local communities of this country say, "Pass this legislation."

I say to my colleagues, "It's tough on crime. Don't be mislead by this red herring of district attorneys appointed by the President or the Justice Department being against this bill. This is one of the most effective anticrime pieces of legislation that has ever passed this Congress. It is time to vote yes on this bill."

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. RIGGS] to speak on this farcical piece of legislation. He is a real policeman who just finished serving as a policeman and now is a Member of this House.

☐ 0610

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding me this time.

I have listened to the last speaker with some amusement.

Granted, those law enforcement fraternal organizations which are for the most part labor organizations that I am very familiar with are looking for any kind of support from the U.S. Congress whatsoever in fighting the crime problem. My colleague, the gentleman from Kansas, knows full well that those ladies and men in uniform who, indeed, are in the front lines in the fight against crime, have no idea whatsoever of what is in this conference report.

Let me bring to the gentleman's attention a letter my office received yesterday from the California District Attorneys' Association, and unlike the sort of barbed or thinly veiled reference to attorneys appointed by the President, these are district attorneys for the counties in California who are the elected officials and who represent the people of the State of California in bringing prosecutions against law violators in the State of California.

This is a letter written to the Speaker and to the gentleman from Illinois [Mr. MICHEL]. It says:

CALIFORNIA DISTRICT
ATTORNEYS ASSOCIATION,
Sacramento, CA, November 26, 1991.

Hon. THOMAS S. FOLEY,
Hon. ROBERT H. MICHEL,
U.S. House of Representatives,
Washington, DC.

GENTLEMEN: The members of our association were appalled to read the latest version of the Omnibus Crime Control Bill approved in Sunday's conference. We urge the House to reject it.

The habeas corpus "reform" package reported out by the conference committee represents a gigantic step backwards. The adoption of this measure, which basically overturns *Teague* v. *Lane*, (1989) 489 U.S. 288, would have disastrous consequences to the interests of public safety and the criminal justice system.

We note with great concern the expansion of retroactivity, the expansion of the time period for the filing of writs for those under the sentence of death, and the expansion of the right to file multiple successive writs alleging technical defects having nothing to do with guilt or innocence. We note also the unbelievable qualification standards for appointed counsel in state capital cases.

Clearly, the present bill now serves only to further the interests of convicted criminals and opponents of the death penalty. We urge you to vote no on the present version of the Omnibus Crime Control Bill.

Very truly yours,
EDWARD R. JAGELS,
President.

Believe me, ladies and gentlemen, it is not the rhetoric of the U.S. Congress that the men and women, again, in uniform on the front lines in the fight against crime are going to listen to. It is this kind of very specific guidance and advice from the local prosecutors in California and in other States across the Union that will guide them in their ultimate determination as to whether or not this is good legisltion.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I am sure we are going to hear more from the opponents of this bill about the prosecutors being so strongly against the bill. Of course, most prosecutors are against this bill.

In our hearings, we found that in capital cases, 40 percent of the convictions of these prosecutors, the same prosecutors that are against this bill, are overturned in habeas corpus because they are defective. Nobody is released from prison, but their prosecutions are so defective that they have to be remanded or returned to the courts for rehearing, or retrial in some cases.

Of course, do not expect prosecutors to be for this bill, but ask your local bar association, I say to the gentleman from New York [Mr. SOLOMON]; ask your county bar, and I say to the gentleman from New York [Mr. SOLOMON], ask your State bar association.

Ninety percent of the State bar associations of this country are in favor of this bill. Ask the judicial conference of the United States. They have come out four-square against the President's bill and especially against the President's habeas corpus proposal which would eliminate habeas corpus altogether. That is a little bit like eliminating the Magna Carta, to eliminate it altogether. That is what they want to do.

Let us not hear any more about retroactivity. Section 204 of this conference report specifically prohibits retroactivity. Do not keep saying it does. Do not confuse it with a provision that was turned down in the committee. It happened to be the Berman proposal which did allow a certain amount of retroactivity.

So I really wish the opponents of this bill would look at the bill. As I sat here and listened, and I have read the bill. We wrote the bill.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], a member of the Committee on the Judiciary, and I would hope that at some time we would be enlightened as to what has happened to the gun provision. We understand that they may have changed since the bill left the Committee on Rules. I hope the gentleman from Texas [Mr. BROOKS] could enlighten us.

Mr. HYDE. Mr. Speaker, I just want to address at this point in the proceedings the policemen's letter.

If you want to know about the law, do not ask the prosecutors. Do not ask lawyers. Ask the policemen.

I do not quite follow that logic. I do know that in the bill there is $3 billion in grants to law enforcement. Now, that is a pot of money, and they want that money, because in this letter from the International Association of Chiefs of Police, that was sent to the distinguished junior Senator from Delaware, they applaud, "Additional funding support for State and local law enforcement." That is an attractive feature. However, they damn the bill by faint praise in the next-to-the-last paragraph. They say, "We recognize it does contain some elements that could be strengthened."

By the way, the Fraternal Order of Police says: "The NFOP certainly would have preferred certain language not presently found in the conference agreement such as the Senate provisions on habeas corpus reform, the police officers' bill of rights, semiautomatic assault weapons as well as the House language on good faith warrantless searches by police." That is some limp endorsement.

The problem is that they think they are going to get $3 billion. They say so.

I would point out that the Attorney General of the United States says: "Finally, in authorizing $3 billion for law enforcement, the bill offers only a mirage. Authorization of this funding when there is no appropriation is essentially meaningless. The irony here is that the Congress failed this year to fully fund the President's budget request for law enforcement, slashing it by $472 million, a 64-percent cut in the increase sought by the President."

So I suggest to the Members that the policemen are misled by the illusory carrot of $3 billion.

It is the lawyers, it is the States' attorneys general, and I might say Mary Sue Terry of the State of Virginia, no raving Republican, has signed the letter that says that this bill is an atrocity.

We will have more of that later. But do not be misled by the policemen's union who think they are going to get $3 billion when they are not.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Let me just say this before I yield.

You know, the policemen have been accused of not knowing what they are writing about and not knowing what the bill is about; let me tell you something: I know that the attorneys general do not either. They came into my office, several of them, and I found out they did not know what they were talking about either. After I talked to them and explained the bill to them, the habeas corpus provisions, they said, well, they thought that was fine, and they had no objections to it, so there are a lot of people who do not know about the bill.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, you know, it seems to be a fashion on the other side tonight, because police organizations do not agree with them, to knock them, to say they do not know what they are doing, et cetera, et cetera.

I think that the gentleman from Illinois correctly quoted the FOP. They said, and I will quote the same thing he did, "The NFOP would certainly have preferred certain language not currently found in the conference agreement." So would we all.

Every one of us, every one of the 435 of us, could look at this large bill that does so many different things and say, "I might change this, and I might change that, and I might change this."

☐ 0620

But unlike us, who have the luxury of sitting here safely in this chamber, the police officers of the FOP and NAPO have their lives on the line every day. They do not have the luxury of playing political games. And if they see a bill, admittedly not perfect in anybody's eyes, that will do a heck of a lot of good to make them safer and make our streets safer and make our citizens safer, then they cannot afford to play the political games, and they step up to the plate and they say, "I am voting for this bill."

I would say that their cue is the one we should take in this body. They say it is not perfect. But the perfect is not going to be the enemy of the good, not when bullets are flying, not when people are being mugged, not when we are not doing enough against crime.

So I urge my colleagues, listen to the wisdom of that average cop on the beat, and vote for this rule and this bill.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, here we go again denying the American people laws they want to protect public safety and prevent more victims of crime.

The Democrat-run Congress plays this game year after year. We send a crime bill to conference and the Senate sends a crime bill to conference that at least reflects the will of the bodies. What comes back from conference does not reflect the will of the bodies or of the American people.

The conference is not a negotiation between the House and the Senate. It is a negotiation between the ACLU Democrats in the House and the ACLU Democrats in the Senate to get the most pro-criminal bill possible.

Doesn't someone, someone care about public safety or the victims of crime?

It is not a question of providing a death penalty which will never be enforced for a smorgasbord of crimes. It is a question of providing a death penalty which will be enforced for a few crimes.

It is not a question of putting in prison minor first time offenders. It is a question of putting in prison serious and repeat offenders and keeping them there.

It is not a question of handcuffing our police and freeing our criminals. It is a question of freeing our police and handcuffing our criminals.

It is not a question of providing expensive new courts. It is a question of unclogging our existing courts.

Victims of crime are crying out, "Help us." Frightened Americans are crying out, "Help us." Let's send this bill back to conference and respond to those cries.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, one of our colleagues whom I like very much made a statement a moment ago that there is $3 billion in this bill for police organizations—that is for law enforcement, actually—and, naturally, the police would be for it because of the $3 billion.

Well, it happens that I am a former police officer also, and I think that what the gentleman is saying in essence is ill-considered. I do not think that it honors our police to suggest that they have sold out.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Chairman, a moment ago, I asked you a question over here in the aisle whether or not this bill had been changed at all since it left the conference. You told me no. I certainly believed you at that point, but we have had a number of rumors around the floor that this has been changed. Particularly, we heard it may have been changed with respect to the firearms provision.

The concern we have is this: Out of the conference came a bill that set up a national registration, not of handguns, but of all firearms. That is a major concern, I think, for all of us who have listened to the rhetoric over the last several weeks and several months that we are only touching assault weapons or only touch handguns, that there was certainly not any intention on behalf of anyone to make this a massive sweep to all firearms.

Yet when we read this bill, when you move from the Brady provisions of the 5-day registration period to the instantaneous check provisions, all of a sudden the language changed. It is no longer handgun language. In the instantaneous check provisions in the bill it goes to all firearms, and throughout that provision it says all firearms.

So the fact is that we moved to a national registration system, a computerized registration system, not of handguns, but of all firearms.

If that is the same provision that left conference, it is at this point then a major change in everything that we had heard was the intent here in the Congress, and I think something which is a serious flaw in the bill.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I just want to say, in reply to my distinguished friend on that, that the gun provisions have not changed since it came out of the Committee on Rules. Obviously I like guns, too. Absolutely no change on ban on assault weapons is in this bill. That part of it is just like it came out of the House, out. That is where I wanted it. That is where this House wanted it. That is how you all voted for it.

The NRA and Senator BOB DOLE, a very distinguished friend of mine and yours in this other body, wrote the language on the Brady language that we did retain, that you are familiar with. I do not know whether you like it or not. I did not vote for it in the House, but the House did pass it.

We adopted the Senate language. They insisted on their language. They were cleared with the NRA. They looked at the McCollum amendment that had been put in the 1988 drug bill.

So you do not have to worry about that. That language is going to suit them all and suit me.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I have great respect for the gentleman. You say no changes were made. We really are concerned about this. We are just trying to get it cleared up. There were no changes made after it left the Committee on Rules. Were there any changes, not only on the guns, but anywhere in the bill after it left the conference on its way to the Committee on Rules and on its way to the floor here?

Mr. BROOKS. Mr. SOLOMON, that is a little bit insulting. I did not change a damn thing, and nobody else did.

Mr. SOLOMON. Well, I just wanted to make sure your staff did not, my friend. We just tried to clear it up.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, with all due respect to both sides of the aisle, both my colleagues in the Democrat Party and the Republican Party, let me just say two things.

First, I do not think it serves our purpose today to try to accuse either side of being weak or strong on crime. I have never met a colleague on the floor of the House, Republican or Democrat, who does not want to provide for the best protection of every citizen in this country. Though we may disagree on how that is accomplished, all of us believe that one of our major responsibilities is to provide safe streets. Second, I do not think it furthers the debate arguing who is for or against this bill. No one outside this Chamber has really read this bill.

That said, let me direct my attention to what you will have an opportunity to support compared to what the President offered in his own crime bill.

If you vote for this crime bill in the next hour, you will have an opportunity to apply the death penalty to 56 crimes, versus only 46 in the President's bill.

If you vote for this bill, in the violent drug area you will establish 10 regional prisons for Federal and State drug criminals. There were no similar provisions in the President's bill.

If you are from a rural area with rural crime and drugs, you will have an opportunity to add rural law enforcement and drug treatment prevention. There were no similar provisions in the President's bill.

With respect to drug emergency areas, you will have opportunity to authorize aid to cities in the hardest hit drug areas. There were no similar provisions in the President's bill.

With respect to drunk driving, you will have an opportunity to boost penalties for drunk driving when a child is in the vehicle, including common carrier vehicles. There were no provisions in the President's bill to do that.

With respect to child abuse, this bill will establish a system for background checks to prevent child abusers from working with children. Again, the President had no provisions to deal with this.

We will create programs and grants to aid in the fight, including safe schools and anticrime, certain punishments for young offenders, community substance abuse, trauma centers, cops on the beat, midnight basketball, the police corps, law enforcement scholarships, and a variety of other things. Not one of those provisions were available in the President's bill.

□ 0630

If you vote for this bill in the next hour, you will have an opportunity to authorize $1.2 billion to aid State and local law enforcement, where 95 percent of the battle is being fought. There were no moneys in the President's bill. And for those who are very concerned about victims, this bill will boost aid to victims of crime and require victim impact statements. None of these provisions were available in the President's bill.

My colleagues, if you truly are committed to providing for safer streets and giving local law enforcement the tools by which to fight this battle, you will have only one opportunity and that is to support this conference report.

It is not only a good deal, it is a better deal than the one offered by the President of the United States. I urge my colleagues to support this conference report.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. The gentleman who just spoke said there are 56 instances in which the death penalty is imposed by this legislation. The President says, in his letter, and I will repeat it again: "Although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed."

I believe the President.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I wish we all had been present at the conference that took place between the Senate members and the House members of the Committee on the Judiciary. It was illuminating. I had my mouth drop open when I saw the fiercest opponents of the death penalty that this Chamber has ever seen sitting with me on the House side, on the Democratic side, and lifelong opponents of the death penalty on the Senate side almost enthusiastically support this death penalty bill, without a murmur, without a contest. They very suspiciously voted for this death penalty bill.

They did so because they knew that it was a meaningless piece of legislation. They were committing legicide. They were killing the bill by voting for a death penalty. And that is an important feature of what this argument is about.

Does this death penalty bill do what the American public really wants to happen to convict someone of murder who has viciously gunned down somebody in the street and then allow this man or woman to file appeal after appeal to avoid the final justice? If we want that kind of scenario, vote for this bill. If we want to try again for a crime bill that works, vote against the rule and the bill.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Speaker, I rise in support of this compromise piece of legislation. In this bill is an increase of $345 million for Federal law enforcement, an increase in authorization of $1 billion for the Safe Streets Act. There is more moneys authorized for the Cop on the Beat Program. We are going to put police officers back in hometown America. There is certainty of punishment for youthful offenders with alternative kinds of sentencing from boot camp to electronic monitoring to vocational and educational programs.

There is more dollars to train better police officers. There is 21st century tools to fight crime or to establish standards for the use of DNA identification.

There is substance abuse rehabilitation programs for people in prison so that when they get out they will not be robbing and burglarizing to support their drug habits.

Yes, there is reform to the habeas corpus laws of the United States, a compromise that was developed by the American Bar Association, developed and debated in the committee of the House and the Senate.

Essentially what it does, it is very simple. It says, if one is a criminal and has been convicted of a crime, they get one good fair shot under their Federal rights as a citizen in this country, you get one appeal and you only get 1 year.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. KOPETSKI. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, the gentleman from Oregon is a valued, able member of the subcommittee, and the gentleman in the well heard the previous speaker talking about multiple petitions. As a matter of fact, the opponents of the bill seem hipped on that idea that there are multiple applications for habeas corpus in this bill.

Let me ask the gentleman this: In the subcommittee we were careful to allow how many petitions?

Mr. KOPETSKI. Mr. Speaker, one.

Mr. EDWARDS of California. One, and the petition has a statute of limitations; is that correct?

Mr. KOPETSKI. Mr. Speaker, that is correct.

Mr. EDWARDS of California. One year?

Mr. KOPETSKI. Mr. Speaker, it is 1 year.

Mr. EDWARDS of California. So no petitions after 1 year?

Mr. KOPETSKI. Mr. Speaker, that is absolutely correct.

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will continue to yield, how many again?

Mr. KOPETSKI. One appeal. There is 1 year to bring this petition. This is a compromise. If we vote against this bill, what we are saying is, "I am willing to continue the rights of unlimited appeals to criminals in this country."

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. ALLEN], a new Member of the House.

Mr. ALLEN. Mr. Speaker, I have just become a Member in a few weeks and we have been going all night long into the morning. Here we are at 6:30 in the morning, and I know we are tired. And we have had some tempers flaring and people all across America, or at least in the eastern standard time, are waking up. And I know we are tired, but we need to be awakened to this bill.

This is not a crime bill. This is a criminal bill.

In fact, what this bill ought to be called is the Criminal Relief Act of 1991.

We have heard the evidence. The evidence is that the prosecutors are opposed to it but the defense attorneys are in favor of it. I am not going to repeat all the allegations and so forth about habeas corpus, but there may be a few more cases in this which capital punishment may be imposed. But this conference committee report protects too many criminals and generally works against the law enforcement officials and law-abiding citizens.

I will not repeat all the various cumulative arguments we have heard on habeas corpus, the good faith exclusions, exceptions to the exclusionary rule, and other matters. But the bill does contain the continued gimmickry that would unnecessarily infringe upon the rights of law-abiding citizens to purchase a firearm, to protect themselves or for sport.

Finally, this bill also struck enhanced penalties for repeat rapists and child molesters. If we look at the recidivist rate, the repeat offenders rates are the highest among rapists. And to me that should not have been removed from the bill as it passed the House.

So this bill, Mr. Speaker, does more harm in this Criminal Relief Act of 1991, and certainly the harm outweighs whatever crumbs of good may come from it.

I respectfully request that we reject this rule and reject this bill.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I rise today to speak in opposition to the conference report. I urge colleagues to vote against the rule.

This bill, as reported by the House and Senate conferees, is no longer deserving of the title that contains the words "crime control" or "crime prevention." In fact, to at least two segments of our society this bill is criminal. The two groups in our society who have no say in this conference on this crime bill: women and children.

Why am I not surprised by this, Mr. Speaker? Why am I not surprised that this came back from a conference essentially driven by the Committee on the Judiciary of the other Chamber? They will just do not get it.

The conferees have stripped key provisions which would have increased the penalties that could be applied to recidivist sex offenders. The House bill contains provisions which would have doubled the maximum penalty that Federal courts can impose for repeat sex offenders.

The conference report also deletes provisions for HIV testing of sex offenders. The conference report deletes provisions that authorized an increase in the compensation paid to victims of crime. These provisions would have expanded eligibility for compensation to different types of victims and would have covered additional types of expenses that were accrued during the criminal proceeding.

□ 0640

Again, the conference report sides with the accused. Also deleted in conference was an amendment I introduced to the Public Safety Officers Benefit Act that would have extended an entitlement to death and disability benefits to retired public safety officers who died or who were permanently and totally disabled while attempting to rescue or responding to a fire or other police emergency. This is a simple extension of an entitlement designed to provide relief for the families of those brave retirees who did not abandon their instincts or their training when a life-threatening situation presented itself and who unselfishly responded to that situation in the interest of public safety.

Mr. Speaker, I cannot go home and look into the eyes of a widow and tell her that her husband's courageous act will not be recognized by the U.S. Congress. I am not prepared to stand face to face with a victim of a sexual attack and tell her that I would not vote to keep her attacker in jail longer, and that I had a civil obligation not to test the attacker for AIDS.

I will not acknowledge the pain of a survivor of violent crime and say that America will not compensate you for your struggle, for your anguish.

Mr. Speaker, if this bill were to pass I do not believe our streets would be any safer or our children any more secure or our women any more liberated from the fear of sexual assault. I urge my colleagues to defeat this rule and defeat this conference report.

Mr. SOLOMON. Mr. Speaker, that is the best argument I have heard all night, the best reason to defeat this rule.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I think we ought to analyze just exactly what happened in the conference. In the death penalty the Senate passed the weaker provision and the conference adopted it. In the exclusionary rule the Senate passed the weaker provision and the conference adopted it. In habeas corpus the House passed the weaker provision and the conference adopted it.

Many key provisions that were accepted either in committee or on the floor without objection were stricken in the conference, such as enhanced penalties for recidivist sex offenders stricken by the conference, provisions strengthening the law on public corruption, which the Senate introduced into the bill were stricken in conference, a package of victims' rights provisions which the House put in the bill without debate in the Committee on the Judiciary were stricken in conference, and in each and every instance the conference went to the weaker provision relating to law enforcement and the stronger provision relating to criminals' rights.

It is no surprise that the gentleman from California [Mr. EDWARDS], said, "Talk to your bar associations, your State bars and your county bars and your local bars. They support this bill," and they do. But who comprises the bar association? It is the defense lawyers, whose job it is to keep people out of jail. The prosecutors, the district attorneys, and the attorneys general whose job it is to put the guilty in jail are all against this bill.

The Members should decide who to vote for, Mr. Speaker, the people who want to throw those who have violated the laws, who have mugged our constituents, in jail, or those whose job it is to keep people out of jail. I will cast my vote for the prosecutors, for the attorneys general, for the district attorneys by voting against this rule and by voting against this flawed, fatally flawed conference report.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think perhaps we need a crime bill, if for no other reason than to address the crime that is being committed on this floor today, and that is the gross misrepresentation of this bill by the other side, for obvious political purposes.

Let me just read a quick list. I want to be quick about this because I would like us to proceed to a vote. You have misrepresented to this House, many of you, what this bill does with regard to the death penalty. I cannot imagine how you can sleep at night, or in the middle of the morning, after having done that. Let me read to you what some of the death penalty offenses that have been added to this bill are, and there are 56 of them: Killings by drug kingpins, that is not now in the law

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

but it would be if this bill passed; killing law enforcement officials in connection with drug offenses, and that is not in the law now but it would be if this bill passed; murder in Federal jurisdiction, that is not in the law now but it will be if this bill passes; aircraft destruction where a death results; mailing dangerous articles where a death results; bank robbery where a death results. That is not now in the law but it would be if this bill passes.

I can go on and on and on. Murder for hire, murder in aid or racketeering, murder of an American national abroad, genocide, killing a juror or a court officer to obstruct justice, on and on and on, and even some nonhomicide offenses which have never been the subject of the death penalty: Espionage, treason, attempts to kill a President, attempts to kidnap a President, drug kingpins, based on the amount of drugs or money involved.

I submit that those kinds of people ought to face the death penalty. If the Members agree, vote for this bill and stop this demagoguery.

I urge the Members to vote for this rule and vote for this bill, and let us get on with it.

Mr. SOLOMON. Mr. Speaker, I am surprised at the gentleman from Texas [Mr. BRYANT] using the words "political" and "demagoguery." Let me show you a good Democrat from the State of Texas. His name is Dan Morales, attorney general of the State of Texas, and he is opposed to this bill. Here is his signature. Here is your so-called demagoguery.

Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, as we try to debate this at 6:45 in the morning, I think the most striking thing that hits me, and it has been just driven deeper and deeper every time I watch the evening news, is that this is an incredibly tragic time for America and for Americans. In virtually every major city the evening news increasingly could be called "Death Watch." We tune in, and all of us have done it, and we watch a 16-year-old killed in a drug gunfight; we watch a 3-year-old who dies in a drive-by killing; we see tragedy after tragedy after tragedy. We see violent criminal after violent criminal, people whose brutality and willingness to prey on other human beings is extraordinary.

Then we come with this bill, which I have to confess, until it came out of conference, I would not have thought possible. This bill manages to, if I may quote from the Department of Justice's analysis of it: "With remarkable consistency the conference committee has rejected the better option and has opted instead for provisions that harm law enforcement and reduce the public security against crime."

Now, what are people talking about? Why do district attorneys who prosecute criminals and the State attorney generals who try the cases and who make sure that the death penalty is applied, why do they matter? Why does the average citizen out here care what a prosecuting attorney says?

Let me give an example, a case that is going to become very famous in 1992. In 1987, a parole board prematurely released Arthur Shaw Cross, who was in prison for sexually molesting and killing two children, ages 8 and 10. This release occurred in spite of his parole officer's warnings against premature release. The parole officer wrote that Shaw Cross is a psychosexual maniac for whom prison walls could not be erected thick enough. Previous reports said he was a homicidal schizoid personality of abnormal character with psychosexual difficulties, including pedophilic fetishes.

The State first moved Shaw Cross secretly to Binghamton, where he was run out of town by outraged citizens. Then they deposited him secretly in Rochester, never alerting the local police. Then during 1988 and 1989, Shaw Cross murdered 11 women in Rochester in a killing spree that terrorized the community.

Now, why are citizens upset? They are upset because in this bill the liberals in this Congress on the House and Senate side gathered together to perpetrate a hoax, the death penalty, written deliberately so it will never be used, written in such a way that every opponent of the death penalty can gleefully vote yes, because they have managed to perpetrate upon the citizenry an absolute hoax.

☐ 0650

Who says it is a hoax? Well, let me give you a couple examples. The National District Attorneys Association—by the way, one of our earlier speakers said appointed by the President. Nonsense. I do not know what that person knows about how district attorneys are created, but in most places they are elected, elected by the people, Democrat or Republican.

What do they say? Let me read the text:

> DEAR GENTLEMEN: The American people have been mugged again—this time by the leadership of the United States Congress. The nation's prosecutors strongly oppose the so-called "crime control" bill approved in Sunday's conference and urge both House and Senate to reject it. This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens.

Let me repeat that sentence so that no one who votes today has any doubt about what the district attorney says:

> This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens. In fact, passage of this bill is tantamount to handing the jail house keys to thousands of convicted state and federal prisoners.
>
> The bill advances the rights of convicted criminals by providing golden opportunities for them to use new case law to overturn old convictions. This is accomplished through the repeal of several Supreme Court precedents in the habeas corpus provision approved by the conference. It also provides unworkable counsel standards in death penalty cases that violate the most basic tenets of federalism.
>
> The conference committee in nearly every instance chose the wealthiest provisions with respect to law enforcement. It rejected the House limitations on application of the exclusionary rule. It overturns the Supreme Court decision in *Arizona v. Fulminante* through a provision that may have far reaching effects and which was not even the subject of hearings. Finally, the conference chose the weaker provisions on death penalty offenses and procedure.
>
> It is a sad day when the will of American people to enact tougher criminal laws is so completely thwarted. We urge you to reject this poor excuse for a crime control bill.
>
> Signed: Thomas J. Charron, District Attorney, President, National District Attorneys Association.

So if you want to vote as seen by the elected district attorneys whose job it is to prosecute the Arthur Shawcrosses of the world, if you want to vote in favor of helping the criminals, of releasing convicted State and Federal prisoners, putting back on the street the kind of people who kill, who rape, who maim, then vote yes; but understand clearly that in the judgment of the district attorneys, Democrat and Republican, you are voting on behalf of the criminals if you vote yes.

Mr. Speaker, I urge you to vote no.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I rise today in strong support of the conference report on H.R. 3371, the Omnibus Crime Control Act of 1991. As a Representative from New York, I can attest that the growing scourge of crime in our Nation's cities cannot be tolerated any longer. Too many innocent people have lost their lives in random acts of violence, too many guns are in the hands of dangerous people, and too many criminals, guilty of repeated offenses, walk the streets freely.

According to the U.S. Bureau of Justice, last year 5 percent of the Nation's households, or about 4.5 million households, had at least one family member who was the victim of a violent crime. Almost 6.9 million households, or about 1 in 14, were affected by a rape, robbery, or an assault by a stranger or burglar during 1990.

We have a responsibility to the American people to pass the conference report on the omnibus crime control bill. This conference report will provide over $3 billion for much needed crime control programs. One of the most important parts of this conference report is the additional funding it provides for hiring more law enforcement officers on the Federal, State, and local levels.

The conference report on H.R. 3371 also takes a step in the right direction by including a 5 day waiting period for the purchase of handguns. This provision will give law enforcement officials the necessary time to run a background check to determine whether or not the prospective buyer holds a criminal record. This provision alone, will go a long way in helping to prevent the senseless murders that occur everyday.

I want to say to my colleagues, that we would be making a terrible mistake if we fail to pass this bill. Admittedly, this bill is not perfect. Many of us feel that there are provisions in the bill with which we are not happy, and others wish the bill contained some provisions which have been excluded in the final version. However, this is a good compromise bill. It moves in the right direction in terms of trying to combat crime, and sends a clear message to our constituents that we are aware of their concerns and are as troubled as they are by the rising crime rate in our country.

Mr. Speaker, in the past 2 years I have personally heard gunshots outside both my residence in my home district and my apartment here in Washington. Both gunshots resulted in murders, one drug-related and the other a street robbery. There's hardly an American who hasn't been affected one way or the other by violent crime. This bill strengthens the statutes in dealing with crime. Let's look at some of the other provisions that this bill offers:

It will provide 10 regional prisons for Federal and State drug criminals.

H.R. 3371 authorizes aid for cities hardest hit by the drug crisis.

It establishes new programs including grants for safe schools and antigang programs, and appropriates funding for prevention programs like additional cops on the beat, trauma centers, and law enforcement scholarships.

The legislation authorizes $1.2 billion in aid to State and local law enforcement agencies.

It boosts aid to victims of crime; requiring victim impact statements.

And finally, H.R. 3371 toughens penalties for gun use during violent crimes.

I urge my colleagues to vote in favor of the conference report on the omnibus crime control bill. The future safety of millions of Americans is riding on its passage.

Mr. DERRICK. Mr. Speaker, let me say before I move the previous question that it was not necessary for me to get a report from the DA's and so forth and so on. I have tried a number of cases in my career as an attorney. I prosecuted and I also defended many cases, capital cases and all other cases.

I have followed this bill very closely. We all know the matter of the death penalty does not really amount to a great deal, because we are talking about a very small part of the criminal case jurisdiction in this country; although it is important, it is not as major as many of our speakers would make it out.

Mr. Speaker, this is a strong crime bill, and if for no other reason, I recommend as a trial attorney this legislation, based on the habeas corpus provisions alone. This is the strongest reform that we have had of habeas corpus in modern times.

What it is going to mean to the American people is these people who run us all up a wall and we wonder why, what is going on in the legal system, when we see people 10 years after a conviction has been rendered in a lower court before the final execution of that conviction is brought about 10 years later.

This is going to be put to an end. There is going to be 1 petition and 1 year.

Mr. Speaker, if for no other reason, this is the reason to vote for this bill.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HOYER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 160, answered "present" 1, not voting 41, as follows:

[Roll No. 441]

YEAS—232

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boxer
Brewster
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Clement
Coleman (TX)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ray
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Waters
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yatron

NAYS—160

Allard
Allen
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CO)
Chandler
Clay
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goss
Grandy
Gunderson
Hammerschmidt
Hancock
Harris
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
King
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Parker
Paxon
Petri
Porter
Pursell
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sanders
Santorum
Savage
Saxton

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Schaefer
Schiff
Schulze
Sensenbrenner
Shays
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—41

Applegate
Aspin
Baker
Boucher
Broomfield
Brown
Campbell (CA)
Chapman
Collins (IL)
de la Garza
Dickinson
Dixon
Dymally
Fish
Frank (MA)
Gaydos
Gradison
Hansen
Hertel
Jones (GA)
Kleczka
Lehman (CA)
Marlenee
Matsui
Nagle
Ortiz
Owens (NY)
Peterson (MN)
Pickett
Quillen
Roe
Shaw
Shuster
Stark
Thomas (CA)
Towns
Traxler
Washington
Waxman
Williams
Yates

□ 0718

Mr. VALENTINE and Mr. SIKORSKI change their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, on rollcall 427, the rule for the supplemental; rollcall 428, the conference report on dire emergency supplemental; and 429, tax extensions, I was unavoidably absent and missed those votes. If I had been present, I would have voted in the affirmative on all three.

CONFERENCE REPORT ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 3371) to control and prevent crime:

CONFERENCE REPORT (H. REPT. 102-405)

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371), to control and prevent crime, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Houses recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1991".

SEC. 2. TABLE OF TITLES.

The following is the table of titles for this Act:

TITLE I—DEATH PENALTY
TITLE II—HABEAS CORPUS REFORM
TITLE III—EXCLUSIONARY RULE
TITLE IV—COERCED CONFESSIONS
TITLE V—FIREARMS
TITLE VI—OBSTRUCTION OF JUSTICE
TITLE VII—YOUTH VIOLENCE
TITLE VIII—TERRORISM
TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE
TITLE X—CRIME VICTIMS
TITLE XI—STATE AND LOCAL LAW ENFORCEMENT
TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS
TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES
TITLE XIV—PRISONS
TITLE XV—RURAL CRIME
TITLE XVI—DRUG CONTROL
TITLE XVII—DRUNK DRIVING PROVISIONS
TITLE XVIII—COMMISSIONS
TITLE XIX—BAIL POSTING REPORTING
TITLE XX—MOTOR VEHICLE THEFT PREVENTION
TITLE XXI—PROTECTIONS FOR THE ELDERLY
TITLE XXII—CONSUMER PROTECTION
TITLE XXIII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS
TITLE XXIV—SAVINGS AND LOAN PROSECUTION TASK FORCE
TITLE XXV—SENTENCING PROVISIONS
TITLE XXVI—SENTENCING AND MAGISTRATES AMENDMENT
TITLE XXVII—COMPUTER CRIME
TITLE XXVIII—PARENTAL KIDNAPPING
TITLE XXIX—SAFE SCHOOLS
TITLE XXX—MISCELLANEOUS
TITLE XXXI—TECHNICALS

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORSEEABILITY.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c) of this title, as amended by this Act, the defendant—

(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant. For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section

3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§3598. Special provisions for Indian country.

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence................3591".

SEC. 103. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(6) MURDER.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(7) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this

section, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) by death or imprisonment for any term of years or for life.".

(10) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) RACKETEERING.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 104. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 105. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The table of sections at the beginnng of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

SEC. 106. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 107. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

SEC. 108. DEATH PENALTY FOR DRUG KINGPINS.

(a) SHORT TITLE. This section may be cited as the "Death Penalty for Drug Kingpins Act of 1991".

(b) IN GENERAL.—Title 18, chapter 228, section 3591 of the United States Code (as created by this Act), is further amended by—

(1) striking the "(3)" before the words "any other offense for which" and inserting a "(6)";

(2) inserting after the words "death of the President; or", the following:

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section, which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B).

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (6), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or"; and

(3) at the end of section 3592, title 18, United States Code, add the following:

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591(3)–(6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.".

SEC. 109. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) SHORT TITLE.—This section may be cited as the "Drive-By Shooting Prevention Act of 1991".

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Drive-by shooting

"(a) OFFENSE AND PENALTIES.—

"(1) Whoever, in furtherance or to escape detection of a major drug offense listed in sub-

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

section (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, or by fine as provided under this title, or both.

"(2) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both: or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.

"(b) MAJOR DRUG OFFENSE DEFINED.—A major drug offense within the meaning of subsection (a) is one of the following:

"(1) a continuing criminal enterprise, punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or punishable under section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).".

(c) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Drive-by shooting.".

SEC. 110. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Foreign murder of United States nationals

"(a) Whoever, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amender' by striking "or 1116" and inserting "1116, or 1118".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 111. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by adding the following new section:

"§2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and adding the following:

"2245. Sexual abuse resulting in death
"2246. Definitions for chapter.".

SEC. 112. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 113. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1120. Murder by escaped prisoners

"(a) IN GENERAL.—Whoever, having escaped from a Federal prison where such person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112 of this title.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings given those terms in section 1118 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1120. Murder by escaped prisoners.".

SEC. 114. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding after the subsections added by subtitle B of title V of this Act the following:

"(o) Whoever, in the course of a violation of subsection (c) of this section, causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder as defined in section 1111 of this title, be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter as defined in section 1112 of this title, be punished as provided in that section.".

SEC. 115. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), striking "(c)" and inserting "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

TITLE II—HABEAS CORPUS REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 202. STATUTE OF LIMITATIONS.

Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court not later than one year after—

"(A) the date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review of the conviction and sentence is filed, within the time limits established by law, in the Supreme Court;

"(B) the date of issuance of the mandate of the highest court of the State on direct appeal or unitary review of the conviction and sentence, if a petition for a writ of certiorari is not filed, within the time limits established by law, in the Supreme Court; or

"(C) the date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court grants the writ, and disposes of the case in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 2257 of this chapter;

"(B) during the period from the date the applicant files an application for State postconviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met; and

"(C) during an additional period not to exceed 90 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 203. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire if—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this chapter;

"(2) upon completion of district court and court of appeals review under section 2254 of this chapter, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari is filed and the Supreme Court denies the petition; or

"(C) a timely petition for certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this chapter and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 204. LAW APPLICABLE.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2256. Law applicable

"In an action filed under this chapter, the court shall not apply a new rule. For purposes of this section, the term 'new rule' means a clear break from precedent, announced by the Supreme Court of the United States, that could not reasonably have been anticipated at the time the claimant's sentence became final in State court.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable.".

SEC. 205. COUNSEL IN CAPITAL CASES; STATE COURT.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2257. Counsel in capital cases; State court

"(a) A State in which capital punishment may be imposed shall provide legal services to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate, collateral, or unitary review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court.

"(b) The State shall establish an appointing authority, which shall be—

"(1) a statewide defender organization;

"(2) a resource center; or

"(3) a committee appointed by the highest State court, comprised of members of the bar with substantial experience in, or commitment to, criminal justice.

"(c) The appointing authority shall—

"(1) publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing qualifications and performance of counsel, which shall include—

"(A) knowledge and understanding of pertinent legal authorities regarding issues in capital cases;

"(B) skills in the conduct of negotiations and litigation in capital cases, the investigation of capital cases and the psychiatric history and current condition of capital clients, and the preparation and writing of legal papers in capital cases;

"(C) in the case of counsel appointed for the trial or sentencing stages, 5 years of experience as a prosecutor or defense counsel in criminal felony cases; and

"(D) in the case of counsel appointed for the appellate, postconviction, or unitary review stages, 3 years of experience as a prosecutor or defense counsel in criminal felony cases;

"(2) monitor the performance of attorneys appointed and delete from the roster any attorney who fails to meet qualification and performance standards; and

"(3) appoint a defense team, which shall include at least 2 attorneys, to represent a client at the relevant stage of proceedings, promptly upon receiving notice of the need for the appointment from the relevant State court.

"(d) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with quality legal representation.

"(e) No counsel appointed pursuant to this section to represent a prisoner in State postconviction proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made, unless the prisoner and counsel expressly request continued representation.

"(f) The ineffectiveness or incompetence of counsel appointed pursuant to this section during State or Federal postconviction proceedings shall not be a ground for relief in a proceeding arising under section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal postconviction proceedings.

"(g) Upon receipt of notice from the appointing authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

"(h) Attorneys appointed from the private bar shall be compensated on an hourly basis and at a reasonable rate in light of the attorney's qualifications and experience and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases and shall be reimbursed for expenses reasonably incurred in representing the client, including the costs of law clerks, paralegals, investigators, experts, or other support services.

"(i) Support services for staff attorneys of a defender organization or resource center shall be equal to the services listed in subsection (h).

"(j) If a State fails to provide counsel in a proceeding specified in subsection (a), or counsel appointed for such a proceeding fails substantially to meet the qualification standards specified in subsections (c)(1) or (d), or the performance standards established by the appointing authority, the court, in an action under this chapter, shall neither presume findings of fact made in such proceeding to be correct nor decline to consider a claim on the ground that it was not raised in such proceeding at the time or in the manner prescribed by State law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2257. Counsel in capital cases; State court.".

SEC 206. SUCCESSIVE FEDERAL PETITIONS.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application; or

"(ii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.".

SEC. 207. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right of appeal without a certification of probable cause, except after denial of a second or successive application.".

SEC. 208. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The table of chapters at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant."

TITLE IV—COERCED CONFESSIONS

SEC. 401. COERCED CONFESSIONS.

The admission into evidence of a coerced confession shall not be considered harmless error.

For the purposes of this section, a confession is coerced if it is elicited in violation of the fifth or fourteenth articles of amendment to the Constitution of the United States.

TITLE V—FIREARMS

Subtitle A—Brady Handgun Violence Prevention Act

SEC. 501. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) Interim Provision.—

(1) In general.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that the Attorney General certifies under section 512(d)(1) of the Violent Crime Control and Law Enforcement Act of 1991 that the national instant criminal background check system is established (except as provided in paragraphs (2) and (3) of such section), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identity of the transferee by examining the identification document presented;

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 502(d) of the Violent Crime Control and Law Enforcement Act of 1991, is not in compliance with the timetable established pursuant to section 502(c) of such Act;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

"(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement and any record containing information derived from the statement;

"(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

"(8) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.".

(2) Handgun defined.—Section 921(a) of such title is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) Permanent Provision.—Section 922 of title 18, United States Code, as amended by subsection (a)(1) of this section, is amended by adding at the end the following:

"(t)(1) Beginning on the date that the Attorney General certifies under section 502(d)(1) of the Violent Crime Control and Law Enforcement Act of 1991 that the national instant criminal background check system is established (except as provided in paragraphs (2) and (3) of such section), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 503 of such Act;

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section or any State or local law; and

"(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1)

of this title) of the transferee containing a photograph of the transferee.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A)(i) such other person has presented to the licensee a permit that—

"(I) allows such other person to possess a firearm; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (u)(8)); and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) In addition to the authority provided under section 923(e), if the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

"(5) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.".

(c) Penalty.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 502. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) Establishment of System.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law.

(b) Expedited Action by the Attorney General.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) Provision of State Criminal Records to the National Instant Criminal Background Check System.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years and continue to maintain such a system.

(d) National System Certification.—(1) On the date that is 30 months after the date of enactment of this Act, and at any time thereafter, the Attorney General shall determine whether—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (c),

and, if so, shall certify that the national system is established.

(2) If, on the date of certification in paragraph (1) of this subsection, a State is not in compliance with the timetable established pursuant to subsection (c) of this section, section 922(s) of title 18, United States Code, shall remain in effect in such State and section 922(t) of such title shall not apply to the State. The Attorney General shall certify if a State subject to the provisions of section 922(s) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) of this subsection, and section 922(s) of title 18, United States Code, shall not apply to such State and section 922(t) of such title shall apply to the State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) of this section and if the State is not in compliance, section 922(s) of title 18, United States Code, shall apply to the State and section 922(t) of such title shall not apply to the State. The Attorney General shall certify if a State subject to the provisions of section 922(s) under the preceding sentence achieves compliance with the standards in subsection (c)(2) of this section, and section 922(s) of title 18, United States Code, shall not apply to the State and section 922(t) of such title shall apply to the State.

(e) Notification of Licensees.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(f) Administrative Provisions.—

(1) Authority to obtain official information.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) Other authority.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) Correction of Erroneous System Information.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) Regulations.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) Prohibitions Relating to Establishment of Registration Systems with Respect to Firearms.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) Definitions.—As used in this section:

(1) Licensee.—The term "licensee" means a licensed importer, licensed manufacturer, or li-

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censed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 503. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records required by the Attorney General under section 502 of the Violent Crime Control and Law Enforcement Act of 1991, for the purpose of implementing such Act.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 502(c) of this Act.

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 502(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 30 months after the date of enactment of this Act falls shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 42 months after the date of enactment of this Act falls shall be reduced by 10 percent on a monthly basis.

Subtitle B—Gun Crime Penalties

SEC. 511. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by striking "and if the firearm is a short-barreled rifle, short-barreled shotgun" and inserting "if the firearm is a semiautomatic firearm, a short-barreled rifle, or a short-barreled shotgun,".

(b) SEMIAUTOMATIC FIREARM.—Section 921(a) of such title is amended by adding after the paragraph added by section 501(a)(2) of this Act the following:

"(30) The term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 512. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "twenty".

SEC. 513. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 514. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsection added by section 513 of this Act the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 nor more than 10 years, and may be fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, or fined under this title, or both.".

SEC. 515. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end the following:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 516. REVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 517. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 518. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 519. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 520. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 521. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 522. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25 (relating to counterfeiting and forgery) of this title" after "for which he may be prosecuted in a court of the United States,".

SEC. 523. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) 1 PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years" before the period.

(b) 2 PRIOR CONVICTIONS.—Section 924 of such title is amended by adding after the subsections added by sections 513 and 514(a) of this Act the following:

"(k)(1) Notwithstanding subsection (a)(2) of this section, any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).".

SEC. 524. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 525. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), and 523(b) of this Act the following:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding after the subsection added by section 514(b) of this Act the following:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 526. STUDY OF INCENDIARY AMMUNITION; REPORT TO CONGRESS.

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the incendiary ammunition offered for sale under the brand name "Dragon's Breath" and also known as the "Three Second Flame Thrower", and all incendiary ammunition of similar function or effect, for the purpose of determining whether there is a reasonable sporting use for such ammunition and whether there is a reasonable use for such ammunition in law enforcement.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on the Judiciary of the House of Representatives a report containing the results of the study required by subsection (a) and recommendations for such legislative or administrative action, with respect to the ammunition referred to in subsection (a), as the Secretary deems appropriate.

SEC. 527. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), 523(b), and 525(a) of this Act the following:

"(m) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer or licensed collector shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding after the subsections added by sections 514(b) and 525(b) of this Act the following:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer or licensed dealer, or from any permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 528. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 529. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking "and " at the end;

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 530. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), 523(b), 525(a), and 527(a) of this Act the following:

"(n) Whoever, with the intent to engage in conduct which constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

TITLE VI—OBSTRUCTION OF JUSTICE

SEC. 601. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b).";

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as so designated by this section, by striking "commissioner" each place it appears and inserting "magistrate judge".

SEC. 602. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

SEC. 603. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 205 of this Act, is amended by adding at the end the following:

"§ 1119. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111 of title 18, United States Code, including by sentence of death or by imprisonment for life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1119. Killing persons aiding Federal investigations.".

SEC. 604. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder as defined in section 1111 of this title, the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112 of this title;".

TITLE VII—YOUTH VIOLENCE

SEC. 701. STRENGTHENING FEDERAL PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.";

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

SEC. 702. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both" and inserting "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than 5 years, or both or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 703. COMMENCEMENT OF JUVENILE PROCEEDING.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

SEC. 704. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.
"521. Criminal street gangs.

"§521. Criminal street gangs

"(a) Whoever, under the circumstances described in subsection (c) of this section, commits an offense described in subsection (b) of this section, shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. Such sentence of imprisonment shall run consecutively to any other sentence imposed.

"(b) The offenses referred to in subsection (a) of this section are—

"(1) any Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act) for which the maximum penalty is not less than five years;

"(2) any Federal felony crime of violence;

"(3) a conspiracy to commit any of the offenses described in paragraphs (1) through (3) of this subsection.

"(c) The circumstances referred to in subsection (a) of this section are that the offense described in subsection (b) was committed as a member of, or on behalf of, a criminal street gang and that person has been convicted, within the past 5 years for—

"(1) any offense listed in subsection (b) of this section;

"(2) any State offense—

"(A) involving a controlled substance (as defined in section 102 of the Controlled Substances Act) for which the maximum penalty is not less than one year after imprisonment; or

"(B) that is a crime of violence; for which the maximum penalty is more than 1 year's imprisonment; or

"(3) any Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(4) a conspiracy to commit any of the offenses described in paragraphs (1) through (3) of this subsection.

"(d) For purposes of this section—

"(1) the term 'criminal street gang' means any group, club, organization, or association of 5 or more persons—

"(A) whose members engage or have engaged within the past 5 years, in a continuing series of violations of any offense treated in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following:

"26. Criminal street gangs .... 521".

TITLE VIII—TERRORISM

Subtitle A—Terrorism: Civil Remedy

SEC. 801. SHORT TITLE.

This subtitle may be cited as the "Antiterrorism Act of 1991".

SEC. 802. TERRORISM.

(a) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (d) of this section, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332, and striking the heading for section 2332 as so redesignated and inserting the following:

"§2332. Criminal penalties";

(3) by inserting before section 2332 as so redesignated the following:

"§2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.";

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of international terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this

title may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§2337. Suits against Government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections at the beginning of the chapter to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(b) TABLE OF CONTENTS.—The table of chapters at the beginning of part I, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals .... 2331"

and inserting in lieu thereof:

"113A. Terrorism .... 2331".

(c) EFFECTIVE DATE.—This subtitle and the amendments made by this subtitle shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

Subtitle B—Maritime Navigation and Fixed Platforms

SEC. 803. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (6); or

"(8) attempts to do any act prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results, from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) by a person engaged in terrorism or who acts on behalf of a terrorist group;

"(ii) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(iii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iv) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) As used in this section, the term—

"(1) the term 'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft; but such term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) the term 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (4); or

"(6) attempts to do anything prohibited under paragraphs (1) through (5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States, if—

"(i) by a person engaged in terrorism or who acts on behalf of a terrorist group; or

"(ii) if the activity is not prohibited as a crime by the State in which the activity takes place;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend be-

yond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 804. CLERICAL AMENDMENTS.

The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 805. EFFECTIVE DATES.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

Subtitle C—General Provisions

SEC. 819. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as added by the preceding section, is amended by inserting after section 2332 the following new section:

"§2332a. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;
shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following:

"2332a. Use of weapons of mass destruction.".

SEC. 820. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) SECTION 1705(b).—Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1705(a).—Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(c) SECTION 1541.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "five years".

(d) CHAPTER 75.—Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "ten years".

(e) SECTION 1545.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "ten years".

SEC. 821. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 822. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by—

(1) inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) inserting at the end thereof the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 823. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 824. TORTURE.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

"§2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture** .... **2340.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this section; or

(2) the date the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 825. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following:

"§3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 is amended by inserting below the item for:

"3285. Criminal contempt."
the following:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 826. F.B.I. ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director, may—

"(1) request the name, address, length of service, and toll billing records of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

SEC. 827. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"§36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious bodily injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;
if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States and—

"(A) the perpetrator of the prohibited activity engages in terrorism or acts on behalf of a terrorist group;

"(B) the activity violates subsection (a)(1) and the person against whom the violence is directed is engaged in international air travel;

"(C) the activity violates subsection (a)(2) and the facility or aircraft destroyed or damaged is owned by or leased by a foreign flag carrier or the services disrupted are primarily for the benefit of such a carrier; or

"(D) the activity is not prohibited as a crime by the law of the State in which the airport is located; or

"(2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.

"(c) For the purposes of this section, the terms 'terrorism' and 'terrorist group' have, respectively, the meanings given those terms in section 140 of Public Law 100–204 (22 U.S.C. 2656f).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 828. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 37. Violations of Federal aviation security regulations

"Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) issued pursuant to section 1356 and 1357 of title 49, United States Code, shall be fined under this title or imprisoned for not more than one year, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"37. Violation of Federal aviation security regulations.

SEC. 829. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"Whoever, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,
if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

"471. Counterfeit acts committed outside the United States.".

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part 1 of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

"25. Counterfeiting and forgery** .... **470".

SEC. 830. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act

shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

SEC. 831. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 832. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than three levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 833. ALIEN WITNESS COOPERATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(S) subject to section 214(j), an alien—

"(i) who the Attorney General determines (I) is in possession of critical reliable information concerning a criminal organization or enterprise, and (II) is willing to supply such information to Federal or State law enforcement authorities or a Federal or State court of law, and

"(ii) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise,

and the spouse and minor children of the alien if accompanying, or following to join, the alien.".

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of such Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General may, in his discretion, waive the application of subsection (a) (other than paragraph (3)(E) thereof) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General deems it in the national interest. Any such waiver shall be deemed a waiver of any comparable ground for deportation under section 241(a)(1)(A).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC..—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 100.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant (A) shall report not less often than quarterly to the Commissioner such information concerning the alien's whereabouts and activities as the Attorney General may require, (B) may not be convicted of any criminal offense in the United States after the date of such admission, and (C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status.

"(5) The Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning (A) the number of such nonimmigrants admitted, (B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens, (C) the number of such nonimmigrants whose admission has not resulted in successful criminal prosecution or investigation, and (D) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of such Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of such Act (8 U.S.C. 1255), as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended by adding at the end the following new subsection:

"(h)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S) has supplied information described in clauses (i) and (ii) of such section, and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the successful prosecution of an individual described in clause (ii) of such section,

the Attorney General may adjust the status of the alien (and the spouse and child of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under section 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENDING PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of such Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))" after "five years".

SEC. 834. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by adding the following:

"2339A. Providing material support to terrorists.".

TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE

Subtitle A—Sexual Abuse

SEC. 901. SEXUAL ABUSE AMENDMENTS.

(a) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT FOR VICTIMS UNDER THE AGE OF 16.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting in lieu thereof "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

Subtitle B—CHILD PROTECTION

SEC. 911 SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1991".

SEC. 912. PURPOSES.

The purposes of this subtitle are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 913. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this subtitle;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, a brief description of the child abuse crime or offenses for which the person has been arrested or is under indictment or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 914. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized criminal justice agency of a State shall report child abuse crime information to, or index child abuse crime information in, the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS THROUGH THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis through the national criminal background check system;

(B) establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of final case dispositions in computerized criminal history files for all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain at least 80 percent currency of final case dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve full disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) LIAISON.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 3, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 915. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), which guidelines shall include the requirements and protections this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

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(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime; and

(ii) may not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a) be limited to the conviction or pending indictment information reasonably required to accomplish the purposes of this Act;

(F) that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge; and

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the provider who is the subject of a background check;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check;

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(K) that a State or Federal provider of criminal history records, and any employee thereof, shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a criminal background check, or due to a criminal history record's being incomplete.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this Act, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this Act and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) REGULATIONS.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 916. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 914 of the National Child Protection Act of 1991 with the Attorney General for the purpose of implementing the National Child Protection Act of 1991.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 914 of this Act.

Subtitle C—Crimes Against Children

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 922. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law

enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 923. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement the provisions of this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

TITLE X—CRIME VICTIMS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 1002. AVAILABILITY OF FUNDS.

Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respectively; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(B) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(C) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603(a) of this title.

"(E) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (D) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.".

SEC. 1003. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay, then—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 1004. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before "or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE XI—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—Safer Streets and Neighborhoods

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1991".

SEC. 1102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 1103. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101–162) and section 601 of the Crime Control Act of 1990 (Public Law 101–647), is amended by striking "1991" and inserting "1992".

SEC. 1104. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)), is amended to delete the first word and insert the following: "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

SEC. 1105. FEDERAL SHARE.

Section 504(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended by striking "not—" and all that follows through "per centum;" the last place it appears, and inserting the following: "not for any fiscal year be expended for more than 75 percent".

SEC. 1106. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (7) as redesignated by section 1153 of this Act and inserting the following:

"(7) There are authorized to be appropriated such sums as may be necessary for fiscal year 1991 and $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 1107. LIMITATION ON GRANT DISTRIBUTION.

(a) AMENDMENT.—Section 510(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(b)) is amended by inserting "non-Federal" after "with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

Subtitle B—DNA Identification

SEC. 1121. SHORT TITLE.

This subtitle may be cited as the "DNA Identification Act of 1991".

SEC. 1122. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1123 of the DNA Identification Act of 1991;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iii) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123 of the DNA Identification Act of 1991.".

(c) AUTHORIZATION OF APPROPRIATION.—For each of the fiscal years 1992 through 1996, there are authorized to be appropriated $10 million for grants to the states for DNA analysis.

SEC. 1123. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from state and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5. U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

SEC. 1124. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION

(a) The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) Such index may include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1123 of the DNA Identification Act of 1991;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123 of the DNA Identification Act of 1991; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(C) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) of this section are not met.

SEC. 1125. FEDERAL BUREAU OF INVESTIGATION

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123(b). Within one year of the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this paragraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For five years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests referred to in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes; or

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) Whoever—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) willfully discloses such information in any manner to any person or agency not entitled to receive it;

shall be fined not more than $100,000.

(2) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 1126. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992 through 1996 to carry out sections 1123, 1124, and 1125 of this Act.

Subtitle C—Department of Justice Community Substance Abuse Prevention

SEC. 1131. SHORT TITLE.

This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

SEC. 1132. COMMUNITY PARTNERSHIPS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

Subtitle D—Bindover System for Certain Violent Juveniles

SEC. 1141. BINDOVER SYSTEM.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 1002, is amended—

(1) in paragraph (21) by striking "and" at the end;

(2) in paragraph (22) by striking the period at the end and inserting "; and"; and

(3) inserting after paragraph (22) the following:

"(23) programs which address the need for effective bindover systems for the prosecution of violent 16- and 17-year olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code." effective April 10, 1991.

Subtitle E—Community Policing; Cop on the Beat

SEC. 1151. SHORT TITLE.

This title may be cited as "The Community Policing; Cop on the Beat Act of 1991".

SEC. 1152. COMMUNITY POLICING; COP ON THE BEAT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities which have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in such community.

"SEC. 1602. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In such application, one office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1601;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan which contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1603. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1602(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75

VOL 137
PT 24
NO 26
1991
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JA 3
1992
UMI

percent of the total costs of the projects described in the application submitted under section 1602 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1604. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1602(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1605. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1602(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year that shall contain a detailed statement regarding grant awards, activities of grant recipients, and an evaluation of projects established under this part.

"SEC. 1606. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"Sec. 1601. Grant authorization.
"Sec. 1602. Application.
"Sec. 1603. Allocation of funds; limitation on grants.
"Sec. 1604. Award of grants.
"Sec. 1605. Reports.
"Sec. 1606. Definitions.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

SEC. 1153. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) by redesignating the last 3 paragraphs as paragraphs (7), (8), and (9); and

(2) by adding after paragraph (9) the following:

"(10) There are authorized to be appropriated $150,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part P.".

Subtitle F—Drug Testing of Arrested Individuals

SEC. 1161. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1151 of this Act, is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—GRANTS FOR DRUG TESTING UPON ARREST

"SEC. 1701. GRANT AUTHORIZATION.

The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

"SEC. 1702. STATE APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1703. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1702(c).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1704. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in such State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified in such State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1705. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year that funds are received under this part regarding the effectiveness of the drug testing project.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1152 of this Act, is amended by striking the matter relating to part Q and inserting the following:

"PART Q—DRUG TESTING FOR INDIVIDUALS ARRESTED

"Sec. 1701. Grant authorization.
"Sec. 1702. State applications.
"Sec. 1703. Local applications.
"Sec. 1704. Allocation and distribution of funds.
"Sec. 1705. Report.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

SEC. 1162. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1153 of this Act, is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out the projects under part Q.".

Subtitle G—Racial and Ethnic Bias Study Grants

SEC. 1171. STUDY GRANTS

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

Subtitle H—Midnight Basketball

SEC. 1181. GRANTS FOR MIDNIGHT BASKETBALL LEAGUE ANTICRIME PROGRAMS.

(a) AUTHORITY.—The Attorney General of the United States, in consultation with the Secretary of Housing and Urban Development, shall make grants, to the extent that amounts are approved in appropriations Acts under subsection (m) to—

(1) eligible entities to assist such entities in carrying out midnight basketball league programs meeting the requirements of subsection (d); and

(2) eligible advisory entities to provide technical assistance to eligible entities in establishing and operating such midnight basketball league programs.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (2), grants under subsection (a)(1) may be made only to the following eligible entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) for a grant under section 520(a) of such Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally-assisted low-income housing.

(2) PROHIBITION ON SECOND GRANTS.—A grant under subsection (a)(1) may not be made to an eligible entity if the entity has previously received a grant under such subsection, except that the Attorney General may exempt an eligible advisory entity from the prohibition under this paragraph in extraordinary circumstances.

(c) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under subsection (a)(1) may use such amounts only—

(1) to establish or carry out a midnight basketball league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant amount may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d)(9).

(d) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under subsection (a)(1) shall establish a midnight basketball league program as follows:

(1) The program shall establish a basketball league of not less than 8 teams having 10 players each.

(2) Not less than 50 percent of the players in the basketball league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

(A) A substantial problem regarding use or sale of illegal drugs.

(B) A high incidence of crimes committed by youths or young adults.

(C) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

(D) A high incidence of pregnancy or a high birth rate, among adolescents.

(E) A high unemployment rate for youths and young adults.

(F) A high rate of high school drop-outs.

(4) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held at or near the site of the games.

(5) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Attorney General in consultation with the Secretary of Housing and Urban Development and the Secretary of Labor, and with the Advisory Committee.

(6) Basketball games of the league shall be held between the hours of 10:00 p.m. and 2:00 a.m. at a location in the neighborhood or community served by the program.

(7) The program shall obtain sponsors for each team in the basketball league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

(8) The program shall comply with any criteria established by the Attorney General in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee established under subsection (i).

(9) Administrators or organizers of the program shall receive training and technical assistance provided by eligible advisory entities receiving grants under subsection (h).

(e) GRANT AMOUNT LIMITATIONS.—

(1) PRIVATE CONTRIBUTIONS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, may not make a grant under subsection (a)(1) to an eligible entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Attorney General and the Secretary that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

(A) In each of the first 2 years that amounts from the grant are disbursed (under paragraph (4)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight basketball league program.

(B) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight basketball league program.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under subsection (a)(1)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

(3) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grant amounts under subsection (a)(1) and amounts provided by States and units of general local government to supplement grant amounts may not be used to replace other public funds previously used, or designated for use, under this section.

(4) MAXIMUM AND MINIMUM GRANT AMOUNTS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, may not make a grant under subsection (a)(1) to any single eligible entity in an amount less than $50,000 or exceeding $125,000.

(5) DISBURSEMENT.—Amounts provided under a grant under subsection (a)(1) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

(A) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

(B) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

(f) APPLICATIONS.—To be eligible to receive a grant under subsection (a)(1), an eligible entity shall submit to the Attorney General an application in the form and manner required by the Attorney General (after consultation the Secretary of Housing and Urban Development and with the Advisory Committee), which shall include—

(1) a description of the midnight basketball league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

(2) letters of agreement from service providers to provide training and counseling services required under subsection (d) and a description of such service providers;

(3) letters of agreement providing for facilities for basketball games and counseling, training, and educational services required under subsection (d) and a description of the facilities;

(4) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight basketball league; and

(5) evidence that the neighborhood or community served by the program meets the requirements of subsection (d)(3).

(g) SELECTION.—The Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee, shall select eligible entities that have submitted applications under subsection (f) to receive grants under subsection (a)(1). The Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight basketball league programs in suburban and rural areas.

(h) TECHNICAL ASSISTANCE GRANTS.—Technical assistance grants under subsection (a)(2) shall be made as follows:

(1) ELIGIBLE ADVISORY ENTITIES.—Technical assistance grants may be made only to entities that—

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(A) are experienced and have expertise in establishing, operating, or administering successful and effective programs for midnight basketball and employment, job training, and educational services similar to the programs under subsection (d); and

(B) have provided technical assistance to other entities regarding establishment and operation of such programs.

(2) USE.—Amounts received under technical assistance grants shall be used to establish centers for providing technical assistance to entities receiving grants under subsection (a)(1) of this section and section 520(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(a)) regarding establishment, operation, and administration of effective and successful midnight basketball league programs under this subsection.

(3) NUMBER AND AMOUNT.—To the extent that amounts are provided in appropriations Acts under subsection (m)(2) in each fiscal year, the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make technical assistance grants under subsection (a)(2). In each fiscal year that such amounts are available the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make 2 such grants, as follows:

(A) One grant shall be made to an eligible advisory entity for development of midnight basketball league programs in public housing projects.

(B) One grant shall be made to an eligible advisory entity for development of midnight basketball league programs in suburban or rural areas.

Each grant shall be in an amount not exceeding $50,000.

(i) ADVISORY COMMITTEE.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall appoint an Advisory Committee to assist in providing grants under this subsection. The Advisory Committee shall be composed of not more than 7 members, as follows:

(1) Not fewer than 2 individuals who are involved in managing or administering midnight basketball programs that the Secretary determines have been successful and effective. Such individuals may not be involved in a program assisted under this subsection or a member or employee of an eligible advisory entity that receives a technical assistance grant under subsection (a)(2).

(2) A representative of the Office for Substance Abuse Prevention of the Public Health Service, Department of Health and Human Services, who is involved in administering the grant program for prevention, treatment, and rehabilitation model projects for high risk youth under section 509A of the Public Health Service Act (42 U.S.C. 290aa–8), who shall be selected by the Secretary of Health and Human Services.

(3) A representative of the Department of Education, who shall be selected by the Secretary of Education.

(4) A representative of the Department of Health and Human Services, who shall be selected by the Secretary of Health and Human Services from among officers and employees of the Department involved in issues relating to high-risk youth.

(5) A representative of the Department of Labor, who shall be selected by the Secretary of Labor.

(j) REPORTS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall require each eligible entity receiving a grant under subsection (a)(1) and each eligible advisory entity receiving a grant under subsection (a)(2) to submit for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

(k) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to subsection (m)(3), the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make a grant to one entity qualified to carry out a study under this subsection. The entity shall use such grant amounts to carry out a study of the effectiveness of midnight basketball league programs at reducing crime and increasing employability under subsection (d) of eligible entities receiving grants under subsection (a)(1). The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Attorney General and the Secretary not later than the expiration of the 2-year period beginning on the date that the grant under this subsection is made.

(l) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Committee" means the Advisory Committee established under subsection (i).

(2) The term "eligible advisory entity" means an entity meeting the requirements under subsection (h)(1).

(3) The term "eligible entity" means an entity described under subsection (b)(1).

(4) The term "federally assisted low-income housing" has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) for grants under subsection (a)(1), $2,500,000 in each of fiscal years 1992 and 1993;

(2) for technical assistance grants under subsection (a)(2), $100,000 in each of fiscal years 1992 and 1993; and

(3) for a study grant under subsection (k), $250,000 in fiscal year 1992.

SEC. 1191. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public or private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Port of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs.

"AUTHORIZATION

"SEC. 234. There is authorized to be appropriated $100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 235. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the participating States.

"APPLICATION

"SEC. 236. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

Subtitle I—Trauma Centers

SEC. 1195. TRAUMA CENTERS AND CRIME-RELATED VIOLENCE.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101–590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—REIMBURSEMENT FOR UNCOMPENSATED TRAUMA CARE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence due to crime. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating a population of patients that has been served by the center for the period specified in subparagraph (B) for trauma, including a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 5-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the two fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(3) the center will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include such information as the Secretary shall require.

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—The Secretary may not make a grant to any single trauma center in an amount that exceeds $2,000,000 in any fiscal year.

"(d) CONSULTATION.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the state official responsible for emergency medical services, or another appropriate state official, in the State of the prospective grantee.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 1196. CONFORMING AMENDMENTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101–590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

Subtitle J—Certainty of Punishment for Young Offenders

SEC. 1198. SHORT TITLE.

This subtitle may be cited as the "Certainty of Punishment for Young Offenders Act of 1991".

SEC. 1199. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1161 of this Act, is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following:

"PART R—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1802. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 1802; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1803. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1801(a) to carry out the projects described in the application submitted by such applicant under section 1802 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1802 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1801(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1804. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1802(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1801 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1805. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1801 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1801.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1801, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1806. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1162 of this Act, is amended by striking the matter relating to part R and inserting the following:

"PART R—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1801. Grant authorization.
"Sec. 1802. State applications.
"Sec. 1803. Review of State applications.
"Sec. 1804. Local applications.
"Sec. 1805. Allocation and distribution of funds.
"Sec. 1806. Evaluation.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 1421 of this Act, is amended by adding after paragraph (24) the following:

"(25) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (11) the following:

"(12) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part R.".

TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS

Subtitle A—Law Enforcement Family Support

SEC. 1201. LAW ENFORCEMENT FAMILY SUPPORT.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as 2001; and

(3) by inserting after part R the following:

"PART S—FAMILY SUPPORT

"SEC. 1901. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1902. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

"SEC. 1903. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this Act shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this Act shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this Act may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 1904. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this Act.

"SEC. 1905. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1907. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this Act shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) Such report shall contain—

"(A) a description of the types of projects developed or improved through funds received under this Act;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) the number of individuals served in each location and throughout the country.

"SEC. 1908. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act, is amended by striking the matter relating to part V and inserting the following:

"PART S—FAMILY SUPPORT

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2001. Continuation of rules, authorities, and privileges.".

SEC. 1202. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act, is amended by adding after paragraph (11) the following:

"(12) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996. Not more than 20 percent of such funds may be used to accomplish the duties of the Director under section 1901 in part S of this Act, including administrative costs, research, and training programs.".

Subtitle B—Police Pattern or Practice

SEC. 1211. PATTERN OR PRACTICE CASES; CAUSE OF ACTION.

Chapter 21 of title 42, United States Code, is amended by adding the following new section:

"SECTION 1998. PATTERN OR PRACTICE CASES.

"(a) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities, secured or protected by the Constitution or laws of the United States.

"(b) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.".

SEC. 1212. DATA ON USE OF EXCESSIVE FORCE.

(a) ATTORNEY GENERAL TO COLLECT.—The Attorney General shall, through the victimization surveys conducted by the Bureau of Justice Statistics, acquire data about the use of excessive force by law enforcement officers.

(b) LIMITATION ON USE OF DATA.—Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of the victim or any law enforcement officer.

(c) ANNUAL SUMMARY.—The Attorney general shall publish an annual summary of the data acquired under this section.

Subtitle C—Police Corps and Law Enforcement Officers Training and Education

SEC. 1221. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 1222. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 1223. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 1224. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 1236; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

CHAPTER 1—POLICE CORPS PROGRAM

SEC. 1231. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 1233;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 1236.

SEC. 1232. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 1234, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 1234; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(g) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 1233. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 1235(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 1235, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 1235, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 1234. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 1236 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 1235. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 1234 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1232, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1232(d)(1)(C) shall not apply.

(d) LAY-OFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1232, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1232(d)(1)(C) shall not apply.

SEC. 1236. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 1233;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 1237. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

CHAPTER 2—LAW ENFORCEMENT SCHOLARSHIP PROGRAM

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 1242. DEFINITIONS.

As used in this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 1243. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 1244. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 1245. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 1246. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 1247. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 1248. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 1249. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 1250. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 1244(a)(1)(B) and 1244(a)(2).

CHAPTER 3—REPORTS

SEC. 1261. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

Subtitle D—Study Rights of Police Officers

SEC. 1271. STUDY ON OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than one year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1301. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1991".

SEC. 1302. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include:

(A) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $20,000,000, to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, $10,000,000;

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

SEC. 1303. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the United States Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: *Provided*, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center: *Provided further*, That the site selected for the Philadelphia United States Attorneys Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

TITLE XIV—PRISONS

Subtitle A—Federal Prisons

SEC. 1401. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "However, the bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment.".

SEC. 1402. PRISON IMPACT ASSESSMENTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4047. Prison impact assessments

"(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated or in Federal penal institutions shall be accompanied by a prison impact statement, as defined in subsection (b) of this section.

"(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 7 days of any request. A prison impact assessment shall include—

"(1) projections of the impact on prison, probation, and post prison supervision populations;

"(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

"(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

"(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

"(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 is amended by adding at the end the following new item:

"4047. Prison impact assessments.".

SEC. 1403. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each judicial district the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(2) The table of sections at the beginning of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"3608. Drug testing of Federal offenders on post-conviction release.".

(c) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and";

(3) by adding at the end the following new paragraph:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant."; and

(4) by adding at the end the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A defendant who tests positive may be detained pending verification of a positive drug test result. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(d) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(e) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

SEC. 1404. DRUG TREATMENT IN FEDERAL PRISONS.

(a) SHORT TITLE.—This section may be cited as the "Drug Treatment in Federal Prisons Act of 1991".

(b) DEFINITIONS.—

As used in this section—

(1) the term "residential substance abuse treatment" means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

(A) directed at the substance abuse problems of the prisoner; and

(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems; and

(2) the term "eligible prisoner" means a prisoner who is—

(A) determined by the Bureau of Prisons to have a substance abuse problem; and

(B) willing to participate in a residential substance abuse treatment program.

(c) IMPLEMENTATION OF SUBSTANCE ABUSE TREATMENT REQUIREMENT.—

(1) In order to carry out the requirement of the last sentence of section 3621(b) of title 18, United States Code, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall provide residential substance abuse treatment—

(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1993;

(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1994; and

(C) for all eligible prisoners by the end of fiscal year 1995 and thereafter.

(2) Section 3621 of title 18, United States Code, is amended by adding at the end the following:

"(d) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(1) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under subsection (b) of this section, shall remain in the custody of the Bureau for such time (as limited by paragraph (2) of this subsection) and under such conditions, as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for drug abuse and discontinue such conditions on determining that drug abuse has recurred.

"(2) PERIOD OF CUSTODY.—The period the prisoner remains in custody after successfully completing a treatment program shall not exceed the prison term the law would otherwise require such prisoner to serve, but may not be less than such term minus one year.".

(d) REPORT.—The Bureau of Prisons shall transmit to the Congress on January 1, 1993, and on January 1 of each year thereafter, a report. Such report shall contain—

(1) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

(2) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

(3) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1991 and each fiscal year thereafter such sums as may be necessary to carry out this title.

SEC. 1405. PRISON FOR VIOLENT DRUG OFFENDERS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1992, the following amounts:

(1) $600,000,000 for the construction of 10 regional prisons; and

(2) $100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of the Bureau of Prisons, after consulting with the Director of National Drug Control Policy, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at any time. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

SEC. 1406. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this section as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of the Bureau of Prisons, after consultation with the Director of National Drug Control Policy, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 15 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) The head of a State corrections department or the head's designee may apply for boot camp placement for any person who has been convicted of a criminal offense in that State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by the head of the State corrections department or the head's designee that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 30 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant is eligible for assignment to a boot camp under State law.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return to the State 20 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

(e) POST-RELEASE SUPERVISION.—(1) Any State seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an aftercare plan setting forth the privisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1992, available until expended, of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

Subtitle B—State Prisons

SEC. 1421. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.

This section may be cited as the "Substance Abuse Treatment in State Prisons Act of 1991".

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1201 of this Act, is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following:

"PART U—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 2001. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

"SEC. 2002. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, halfway house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 1902; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1901 to carry out the projects described in the application submitted under section 1902 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1902 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1902 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2005. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1201 of this Act, is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended by adding after paragraph (25) the following:

"(26) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1202 of this Act, is amended by adding after paragraph (10) the following:

"(14) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

SEC. 1422. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration, or statewide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a systemwide mandatory functional literacy program, as required by subsection (b), and if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section, the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, and stress and anger management.

SEC. 1423. NATIONAL INSTITUTE OF JUSTICE STUDY.

(a) FEASIBILITY STUDY.—The National Institute of Justice shall study the feasibility of establishing a clearinghouse to provide information to interested persons to facilitate the transfer of prisoners in State correctional institutions to other such correctional institutions, pursuant to the Interstate Corrections Compact or other applicable interstate compact, for the purpose of allowing prisoners to serve their prison sentences at correctional institutions in close proximity to their families.

(b) REPORT TO CONGRESS.—The National Institute of Justice shall, not later than 1 year after the date of the enactment of this Act, submit to the Committees on the Judiciary of the House of Representatives and the Senate a report containing the results of the study conducted under subsection (a), together with any recommendations the Institute may have on establishing a clearinghouse described in such subsection.

(c) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia and any territory or possession of the United States.

SEC. 1424. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State.

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

SEC. 1425. NOTIFICATION OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1) of this subsection—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1) of this subsection, the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b)."; and

(5) by inserting after subsection (a), as designated by paragraph (1) of this subsection, the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime, as that term is defined in section 924(c)(2); or

"(B) a crime of violence, as that term is defined in section 924(c)(3).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

SEC. 1426. APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.

In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

TITLE XV—RURAL CRIME

Subtitle A—Fighting Drug Trafficking in Rural Areas

SEC. 1501. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—The second paragraph (7) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking "(7)" and inserting "(8)"; and

(2) by striking "and such" and all that follows through "part O" and inserting "$50,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 1502. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1503. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 1504. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a) of this section.

Subtitle B—Rural Drug Prevention and Treatment

SEC. 1511. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

VOL 137
PT 24
NO 26
1991
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JA 3
1992
UMI

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1512. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle C—Drug Free Truck Stops and Safety Rest Areas

SEC. 1521. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than 3 years and not more than life imprisonment or (B) 3 times the maximum punishment authorized by section 401(b); and

"(2) by at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

TITLE XVI—DRUG CONTROL

Subtitle A—Drug Emergency Areas

SEC. 1601. DRUG EMERGENCY AREAS.

Section 1005 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504) is amended by adding at the end the following:

"(e) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State or where the threat of a drug-related emergency exists to part of a State bordering part of a foreign country where a drug-related emergency is known to exist, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug smuggling, drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under subparagraph (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude, that Federal assistance is necessary to assure an effective response to save lives, and to protect property and public health and safety.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug smuggling, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining that government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—Assistance under this subsection shall be subject to annual audit by the Comptroller General.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992, 1993, and 1994, $300,000,000 to carry out this subsection.".

Subtitle B—Precursor Chemicals

SEC. 1611. SHORT TITLE.

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1991".

SEC. 1612. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and by inserting in lieu thereof "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and by inserting in lieu thereof "list I chemical" and by striking "critical to the creation" and by inserting in lieu thereof "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting in lieu thereof "list II chemical" and by striking "that is used as a solvent, reagent, or catalyst" and by inserting in lieu thereof ", which is not a list I chemical, that is used";

(4) in paragraph (40) by striking "listed precursor chemical or a listed essential chemical" and by inserting in lieu thereof "list I chemical or a list II chemical" in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)(A) by striking "precursor chemical" and inserting in lieu thereof "list I chemical";

(2) in subsection (a)(1)(B) by striking "an essential chemical" and inserting in lieu thereof "a list II chemical";

(3) in subsection (c)(2)(D) by striking "precursor chemical" and inserting in lieu thereof "chemical control".

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.";

(3) in paragraph (39)(A) by striking "or exportation" and inserting in lieu thereof ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may be regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding a new paragraph as follows:

"(42) the terms 'broker' or 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.".

SEC. 1613. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof "and to the registration and control of regulated persons and of regulated transactions.".

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" in each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance with applicable Federal, State and local law;

"(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) by redesignating subsection (c) as subsection (c)(1);

(2) by adding at the end the following:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 303(h) shall be considered.";

(3) in subsection (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in subsection (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and 307" and inserting "307, and 310"; and

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 1614. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by striking "(b) Each" and inserting "(b)(1) Each";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" each place it appears and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" each place it appears and inserting "subparagraph (C)"; and

(6) by adding at the end the following:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 1615. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the follow new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) Any person who knowingly or intentionally—

"(1) imports or exports listed chemical with intent to manufacture a controlled substance in violation of this chapter;

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter;

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

shall be fined in accordance wth title 18, United States Code, or imprisoned not more than 10 years, or both.".

SEC. 1616. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(f)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers" if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reports of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) (as amended by section 1615(b)) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1018(d)(1) or (2) of this title by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported;".

SEC. 1617. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by inserting after subparagraph (U), as so redesignated by paragraph (2), the following:

"(V) benzaldehyde.

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 1618. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 1619. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 303 of this title (or exempt from such registration under section 302(d) of this title or by regulation of the Attorney General), or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 1620. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended by inserting "a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

SEC. 1621. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 310 the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921–6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

Subtitle C—General Provisions

SEC. 1631. CRIMINAL PENALTY FOR FAILURE TO OBEY ORDER TO LAND.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§2237. Order to land

"(a)(1) A pilot or operator of an aircraft that has crossed the border of the United States, or

an aircraft subject to the jurisdiction of the United States operating outside the United States, who intentionally fails to obey an order to land issued by an authorized Federal law enforcement officer who has observed conduct or is otherwise in possession of information establishing reasonable suspicion that the aircraft is being used unlawfully in violation of the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act, or section 1956 or 1957 of this title (relating to money laundering), shall be fined under this title, or imprisoned not more than two years, or both.

"(2) The Secretary of the Treasury and the Secretary of Transportation, in consultation with the Attorney General, shall make rules governing the means by which a Federal law enforcement officer may communicate an order to land to a pilot or operator of an aircraft.

"(3) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 or another law the Customs Service enforces or administers, or the authority of a Federal law enforcement officer under a law of the United States to order an aircraft to land.

"(b) A foreign nation may consent or waive objection to the United States enforcing the laws of the United States by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(c) For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, when that nation consents to United States enforcement of United States law; and

"(C) over the high seas, an aircraft without nationality, an aircraft of the United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the United States enforcement of United States law; and

"(2) the term 'Federal law enforcement officer' has the same meaning that term has in section 115 of this title.

"(d) An aircraft that is used in violation of this section is liable in rem for a fine imposed under this section.

"(e) An aircraft that is used in violation of this section may be seized and forfeited. The laws relating to seizure and forfeiture for violation of the customs laws, including available defenses such as innocent owner provisions, apply to aircraft seized or forfeited under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land.".

SEC. 1632. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 481(c)(4) of Public Law 87-195 (22 U.S.C. 2291)(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

SEC. 1633. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 1634. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 1635. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act".

SEC. 1636. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(1) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 1637. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 1638. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following:

"(b)(1) Whoever, being a physical trainer or adviser to an individual, endeavors to persuade or induce that individual to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both. If such individual has not attained the age of 18 years, the maximum imprisonment shall be 5 years.

"(2) As used in this subsection, the term 'physical trainer or adviser' means any professional or amateur coach, manager, trainer, instructor, or other such person, who provides any athletic or physical instruction, training, advice, assistance, or other such service to any person.".

SEC. 1639. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISION OF PUBLIC LAW 101–516 WHICH CONDITIONS PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THAT STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of Public Law 101–516, section 333. This program shall notify the Governors and State Representatives of the requirements of Public Law 101–516, section 333.

SEC. 1640. ADVERTISING.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting after subsection (b) the following:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term 'advertisement' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance."; and

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively.

SEC. 1641. INCREASED PENALTIES FOR DRUG-DEALING IN "DRUG-FREE" ZONES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking "one year" and inserting "3 years"; and

(2) in subsection (b), by striking "three years" each place it appears and inserting "5 years".

SEC. 1642. NATIONAL DRUG CONTROL STRATEGY.

(a) IN GENERAL.—Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended by adding at the end the following:

"(5) Beginning with the first submission of a National Drug Control Strategy to Congress after the date of the enactment of the Violent Crime Control and Law Enforcement Act of

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1991, the goals, objectives, and priorities of such Strategy shall include a goal for expanding the availability of treatment for drug addiction.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that among the long-term goals of the National Drug Control Strategy should be the availability of drug treatment to all who are in need of such treatment.

SEC. 1643. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE SUMS OF CASH IN EXCESS OF $10,000 IN WEAPON SCREENING.

Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of the enactment of this section, the Administrator shall issue regulations requiring employees and agents referred to in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers a controlled substance the possession of which may be a violation of Federal or State law, or any sizable sums of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.

SEC. 1644. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

TITLE XVII—DRUNK DRIVING PROVISIONS

SEC. 1701. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1702. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1703. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE XVIII—COMMISSIONS

Subtitle A—Commission on Crime and Violence

SEC. 1801. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the majority leader of the Senate and two of whom shall be appointed on the recommendation of the minority leader of the Senate.

SEC. 1802. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990's. The report shall include an estimated cost for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(5) To make a comprehensive study of the economic and social factors lending to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it.

(6) To recommend means of targeting finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective possible crime control and protection of the community and public safety, with particular emphasis on examining the issue of possible disproportionate incarceration rates among black males and any other minority group disproportionately represented in State and Federal correctional populations, and to consider increased use of alternatives to incarceration which offer a reasonable prospect of equal or better crime control at equal or less cost.

SEC. 1802. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.

(4) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(7) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

Subtitle B—National Commission to Study the Causes of the Demand for Drugs in the United States

SEC. 1821. SHORT TITLE.

This subtitle may be cited as the "National Commission to Study the Causes of the Demand for Drugs in the United States".

SEC. 1822. ESTABLISHMENT.

There is established a National Commission to Study the Causes of the Demand for Drugs in the United States (hereinafter in this Act referred to as the "Commission").

SEC. 1823. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) examine the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes;

(2) evaluate the efforts being made to prevent drug abuse;

(3) identify the existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse;

(4) assess the needs of Government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs; and

(5) make recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(b) EXAMINATION.—Matters examined by the Commission under this section shall include the following:

(1) CHARACTERISTICS.—The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(2) ENVIRONMENT.—Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness on drug experimentation and abuse.

(3) ASSOCIATIONS AND SOCIAL RELATIONSHIPS.—The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(4) CULTURE.—Aspects of, and changes in, philosophical or religious beliefs, cultural values, attitudes toward authority, status of basic social units (such as families), and traditions that contribute to illicit drug use and abuse.

(5) PHYSIOLOGICAL AND PSYCHOLOGICAL FACTORS.—The physiological and psychological factors that contribute to the desire for illicit drugs.

(6) EFFORTS OF GOVERNMENTS.—The current status of Federal, State, and local efforts regarding the causes of illicit drug use and abuse, including a review of drug strategies being promoted by Federal, State, and local authorities to address the causes of illicit drug use and abuse.

SEC. 1824. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall consist of 13 members, as follows:

(A) PRESIDENT.—Three individuals appointed by the President.

(B) SENATE.—Five individuals appointed jointly by the majority and minority leaders of the Senate. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug user.

(C) HOUSE OF REPRESENTATIVES.—Five individuals appointed jointly by the Speaker, majority leader, and minority leader of the House of Representatives. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug abuser.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing individuals as members of the Commission, the President and the majority and minority leaders of the House of Representatives and the Senate shall seek to ensure that—

(A) the membership of the Commission reflects the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology,
(ii) psychology,
(iii) law,
(iv) bio-medicine,
(v) addiction, and
(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(b) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—Each individual appointed under subsection (a) shall not be an officer or employee of any government and shall be qualified to serve the Commission by virtue of education, training, or experience.

(c) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(d) MEETINGS.—The Commission shall have its headquarters in the District of Columbia, and shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(e) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—No later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson of the Commission.

(g) CONTINUATION OF MEMBERSHIP.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(h) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(i) COMPENSATION.—

(1) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1825. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—The Chairperson shall appoint a director after consultation with the members of the Commission, who shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this Act.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) PHYSICAL FACILITIES.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 1826. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1827. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) REPORTS.—

(1) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress not later than 1 year before the termination of the Commission. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action based on the Commission's activities to date. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation of the report to the President and the Congress.

(2) FINAL REPORT.—Not later than the date of the termination of the Commission, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, and recommendations, including an assessment of the extent to which recommendations of the Commission included in the interim report under paragraph (1) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 1828. TERMINATION.

The Commission shall terminate on the date which is 2 years after the Members of the Commission have met and designated a Chairperson and Vice Chairperson.

Subtitle C—National Commission to Support Law Enforcement

SECTION 1831. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 1832. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 1833. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

SEC. 1834. DUTIES.

(a) IN GENERAL. —The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 1835. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the majority leader of the Senate;

(C) One shall be appointed by the minority leader of the House of Representatives;

(D) One shall be appointed by the minority leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the majority leader of the Senate;

(C) One shall be appointed by the minority leader of the House of Representatives;

(D) One shall be appointed by the minority leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate.

(B) One shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) One individual representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed by the Majority Leader of the Senate.

(9) One individual representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed by the Speaker of the House of Representatives.

(10) One individual representing a State or local governmental entity, such as a governor, mayor, or State attorney general, to be appointed by the President.

(b) COMPTROLLER GENERAL.—The Comptroller General shall serve in an advisory capacity and shall oversee the methodology and approach of the Commission's study.

(c) CHAIRPERSON.—Upon their appointment the members of the Commission shall select one of their number to act as chairperson.

(d) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 1836. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 1837. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1838. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 1839. TERMINATION.

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 1838.

SEC. 1840. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101–647; 104 Stat. 4918) and title II, section 211 B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2122) are repealed.

TITLE XIX—BAIL POSTING REPORTING

SEC. 1901. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 1902. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

TITLE XX—MOTOR VEHICLE THEFT PREVENTION

SEC. 2001. SHORT TITLE.

This title may be cited as the "Motor Vehicle Theft Prevention Act".

SEC. 2002. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the "program") under which—

(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

(A) states that the vehicle is not normally operated under certain specified conditions; and

(B) agrees to—

(i) display program decals or devices on the owner's vehicle; and

(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(b) UNIFORM DECAL OR DEVICE DESIGNS.—

(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

(2) TYPE OF DESIGN.—The uniform design shall—

(A) be highly visible; and

(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

(1) clearly state that participation in the program is voluntary;

(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

(4) include any additional information that the Attorney General may reasonably require.

(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, gender, or age. These conditions may include—

(A) the operation of the vehicle during certain hours of the day; or

(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

(e) MOTOR VEHICLES FOR HIRE.—

(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

(2) TYPE OF NOTICE.—The notice required by this subsection shall—

(A) be in writing;

(B) be in a prominent format to be determined by the Attorney General; and

(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

(f) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

(g) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 2002. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever, with intent to further the theft of a vehicle, knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined under this title or imprisoned not more than five years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended by—

(1) striking "and" after the semicolon in subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

TITLE XXI—PROTECTIONS FOR THE ELDERLY

SEC. 2101. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1992, 1993, and 1994.

SEC. 2102. CRIMES AGAINST THE ELDERLY.

(a) IN GENERAL.—Pursuant to its authority under the Sentencing Reform Act of 1984 and section 21 of the Sentencing Act of 1987 (including its authority to amend the sentencing guidelines and policy statements) and its authority to make such amendments on an emergency basis, the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense.

((b) CRITERIA.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that—

(1) the guidelines provide for increasingly severe punishment for a defendant commensurate with the degree of physical harm caused to the elderly victim;

(2) the guidelines take appropriate account of the vulnerability of the victim; and

(3) the guidelines provide enhanced punishment for a defendant convicted of a crime of violence against an elderly victim who has previously been convicted of a crime of violence against an elderly victim, regardless of whether the conviction occurred in Federal or State court.

(c) DEFINITIONS.—As used in this section—

(1) the term "crime of violence" means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2241, 2242, or 2244 of title 18, United States Code; and

(2) the term "elderly victim" means a victim who is 65 years of age or older at the time of an offense.

TITLE XXII—CONSUMER PROTECTION

SEC. 2201. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate com-

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merce and, with the intent to deceive, knowingly makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business, or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person about the financial condition or solvency of such business,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks or any receiver or similar official or any liquidating agent for such an entity, in his or her capacity as such, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of such title is amended by adding at the end the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

SEC. 2202. CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1991".

(b) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with one or more access devices issued to another person or persons, to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(c) TECHNICAL AMENDMENTS.—Section 1029 of title 18, United States Code, as amended by subsection (b), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether it is affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 2203. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

TITLE XXIII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 2301. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 2302. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 2303. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 2304. CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101–647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

TITLE XXIV—SAVINGS AND LOAN PROSECUTION TASK FORCE

SEC. 2401. SAVINGS AND LOAN PROSECUTION TASK FORCE.

The Attorney General shall establish within the Justice Department a savings and loan criminal fraud task force to prosecute in an aggressive manner those criminal cases involving savings and loan institutions.

TITLE XXV—SENTENCING PROVISIONS

SEC. 2501. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2502. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 2503. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 2504. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

TITLE XXVI—SENTENCING AND MAGISTRATES AMENDMENTS

SEC. 2601. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 2602. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.".

SEC. 2603. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

TITLE XXVII—COMPUTER CRIME

SEC. 2701. COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under section 1030(a)(5) of title 18, United States Code.".

(f) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

TITLE XXVIII—PARENTAL KIDNAPPING

SEC. 2801. SHORT TITLE.

This subtitle may be cited as the "International Parental Kidnapping Crime Act of 1991".

SEC. 2802. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

"§1204. International parental kidnapping

"(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. International parental kidnapping.".

SEC. 2803. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701–10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

TITLE XXIX—SAFE SCHOOLS

Subtitle A—Safe Schools

SEC. 2901. SHORT TITLE.

This title may be cited as the "Safe Schools Act of 1991".

SEC. 2902. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1421 of this Act, is amended—

(1) by redesignating part U as part Y;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following:

"PART U—SAFE SCHOOLS ASSISTANCE

"SEC. 2101. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in English and in Spanish in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 2102. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 2103. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—Each application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2002;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filed with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps;

"(5) a description of the system the applicant will establish to prevent and reduce crime problems; and

"(6) a description of educational materials to be developed in Spanish.

"SEC. 2104. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2003(c).

"SEC. 2105. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2003(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 2003(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 2106. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2003(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Committee on Education and Labor and the Committee on the Judiciary a report by October 1 of each year in which grants are made available under this part which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under 2003(b)(4), and an evaluation of programs established under this part.

"SEC. 2107. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1421 of this Act, is amended by striking the matter relating to part U and inserting the following:

"PART U—SAFE SCHOOLS ASSISTANCE

"Sec. 2101. Grant authorization.
"Sec. 2102. Use of funds.
"Sec. 2103. Applications.
"Sec. 2104. Allocation of funds; limitations on grants.
"Sec. 2105. Award of grants.
"Sec. 2106. Reports.
"Sec. 2107. Definitions.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

SEC. 2903. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1421 of this Act, is amended by adding after paragraph (14) the following:

"(15) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part U.".

Subtitle B—Miscellaneous Provisions

SEC. 2912. RECORDS.

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

SEC. 2913. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Subsection (c) of section 5122 of the Drug-Free Schools and Communities Act of 1986, as amended by section 1504(3) of Public Law 101–647, is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

TITLE XXX—MISCELLANEOUS

Subtitle A—Increases in Penalties

SEC. 3001. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall";

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "ten"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 3002. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 3003. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "more more than $1,000" an inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results";

(4) by striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) by inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) by inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

Subtitle B—Extension of Protection of Civil Rights Statutes

SEC. 3011. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended—

(1) by striking "inhabitant of" and inserting "person in"; and

(2) by striking "such inhabitant" and inserting "such person".

Subtitle C—Audit and Report

SEC. 3021. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) STATE REQUIREMENT.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) INCLUSION IN ATTORNEY GENERAL'S REPORT.—Section 524(c)(6)(C) of title 28, United States Code, is amended by adding at the end the following flush sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

SEC. 3022. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

Subtitle D—Counterfeit Goods Traffic

SEC. 3031. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by striking "imprisoned not more than five years" and inserting "imprisoned not more than 10 years"; and

(2) in the second sentence by striking "imprisoned not more than fifteen years" and inserting "imprisoned not more than 20 years".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

Subtitle E—Gambling

SEC. 3041. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization (including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5))) that has governmental authority within the territorial boundaries of the United States (including on lands described in section 4(4) of such Act (25 U.S.C. 2703(4))),

"(3) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more professional athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(4) the term 'person' has the meaning given such term in section 1 of title 1, and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§3702. Unlawful sports gambling

"It shall be unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographic references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

"§3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States, or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of such violation.

"§3704. Applicability

"(a) Section 3702 shall not apply to—

"(1) a lottery in operation in a State or subdivision of a State, to the extent that such a lottery actually was conducted by that State or subdivision at any time during the period beginning January 1, 1976 and ending August 31, 1990;

"(2) a betting, gambling, or wagering scheme in operation in a State or subdivision of a State, other than a lottery described in paragraph (1), where both—

"(A) such scheme was authorized by a statute as in effect on August 31, 1990; and

"(B) any scheme described in section 3702 (other than one based on parimutuel animal racing or jai-alai games) actually was conducted in that State or subdivision at any time during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of that State or subdivision;

"(3) a betting, gambling, or wagering scheme, other than a lottery described in paragraph (1), conducted exclusively in casinos located in a municipality, but only to the extent that—

"(A) such scheme or a similar scheme was in operation in that municipality not later than one year after the effective date of this chapter; and

"(B) any commercial casino gaming scheme was in operation in such municipality throughout the 10-year period ending on such effective date pursuant to a comprehensive system of State regulation authorized by that State's constitution and applicable solely to such municipality; or

"(4) parimutuel animal racing or jai-alai games.

"(b) Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) CLERICAL AMENDMENTS.—The table of chapters for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure .... 3001";

and

(2) by adding at the end the following:

"178. Professional and Amateur Sports Protection .... 3701".

SEC. 3042. CRIMINAL HISTORY RECORD INFORMATION FOR THE ENFORCEMENT OF LAWS RELATING TO GAMING.

A State gaming enforcement office located within a State Attorney General's office may obtain from the Interstate Identification Index of the FBI criminal history record information for licensing purposes through an authorized criminal justice agency.

SEC. 3043. CLARIFYING AMENDMENTS REGARDING SCOPE OF PROHIBITION AGAINST GAMBLING ON SHIPS IN INTERNATIONAL WATERS.

(a) DEFINITION OF GAMBLING SHIP IN TITLE 18.—The first paragraph of section 1081 of title 18, United States Code, is amended by adding at the end the following: "Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986).".

(b) CLARIFICATIONS OF, AND LIMITATIONS ON, GAMBLING DEVICES PROHIBITIONS.—

(1) TRANSPORT TO A PLACE IN A STATE, ETC.—Section 2 of the Act of January 2, 1951 (15 U.S.C. 1172; commonly referred to as the "Johnson Act"), is amended—

(A) by inserting before the first paragraph the following: "(a) GENERAL RULE.—";

(B) in subsection (a) (as so designated) by striking ", District of Columbia,";

(C) by inserting before the second paragraph the following: "(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—"; and

(D) by adding at the end the following:

"(c) EXCEPTION.—This section does not prohibit the transport of a gambling device to a place in a State or a possession of the United States on a vessel on a voyage, if—

"(1) use of the gambling device on a portion of that voyage is, by reason of subsection (b) of section 5, not a violation of that section; and

"(2) the gambling device remains on board that vessel while in that State.".

(2) REPAIR, OTHER TRANSPORT, ETC.—Section 5 of that Act (15 U.S.C. 1175) is amended—

(A) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—";

(B) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"; and

(C) by adding at the end the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

"(A) the repair, transport, possession, or use of a gambling device on a vessel that is on waters that are not within the boundaries of any State or possession of the United States; or

"(B) the transport or possession, on a voyage, of a gambling device on a vessel in waters that are within the boundaries of any State or possession of the United States, if—

"(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

"(ii) the gambling device remains on board that vessel while within the boundaries of that State or possession.

"(2) APPLICATION TO CERTAIN VOYAGES.—

"(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair or use on that voyage or segment.

"(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country.".

(3) BOUNDARIES DEFINED.—The first section of that Act (15 U.S.C. 1171) is amended by adding at the end the following:

"(f) The term 'boundaries' has the same meaning given that term in section 2 of the Submerged Lands Act (43 U.S.C. 1301).".

Subtitle F—White Collar Crime Amendments

SEC. 3051. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) PROCEEDS OF EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end the following new item:

"880. Receiving the proceeds of extortion.".

(b) RANSOM MONEY.—Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 3052. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 3053. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "the Antitrust Civil Process Act".

SEC. 3054. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 3055. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 3056. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666 of this title.".

Subtitle G—Other Provisions

SEC. 3061. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 3062. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or (4)(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3239 in the table of sections of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offense.".

SEC. 3063. UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§21. Stolen or counterfeit nature of property for certain crimes defined

"(a) Wherever in this title it is an element of an offense that—

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 3064. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended to read as follows:

"(3) EFFECTIVE DATE—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 3065. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 3066. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" at the end of paragraph (d); and

(3) by adding after paragraph (d) the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 3067. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"§668. Theft of a major art work

"(a) Whoever steals or obtains by fraud any object of cultural heritage held in a museum, or knowing the same to have been stolen, converted, or taken by fraud receives, conceals, stores, sells, exhibits, or disposes of such goods, shall be fined under this title, imprisoned for not more than the maximum term of imprisonment for a class C felony, or both.

"(b) Notwithstanding section 3282 of this title, the statute of limitations for an offense under this section shall be 20 years.

"(c) The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982 of this title.

"(d) For purposes of this section—

"(1) The term 'museum' means an organized and permanent institution, situated in the United States, essentially educational or aesthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regularly scheduled period.

"(2) The term 'stolen object of cultural heritage' means an object stolen from a museum after the effective date of this title reported to law enforcement authorities as stolen and registered with the International Foundation for Art Research, or any equivalent registry.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"668. Theft of a major art work.".

SEC. 3068. BALANCE IN THE CRIMINAL JUSTICE SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) an adequately supported Federal judiciary is essential to the enforcement of law and order in the United States, and

(2) section 331 of title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation, and

(3) in 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990, and

(4) only one of these vacancies has been filled, and

(5) during the current administration, it has taken an average of 502 days from the time a judgeship becomes vacant until such vacancy is filled, and

(6) the enactment of legislation providing additional funding for the invesigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases, and

(7) recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone, and

(8) the General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary, and

(9) the General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships, and

(10) the allocation of resources to portions of the Federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

(11) the use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the Federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

SEC. 3069. AWARD OF ATTORNEY'S FEES.

Section 519 of title 28, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Except"; and

(2) by adding at the end the following new subsection:

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice or of any Federal public defender's office who was the subject of a criminal or disciplinary investigation instituted on or after the

date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice or of any Federal public defender's office who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

SEC. 3070. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 3071. MISUSE OF INITIALS "DEA".

(a) AMENDMENT.—Section 709 of title 18, United States Code, is amended—

(1) in the thirteenth unnumbered paragraph by striking "words—" and inserting "words; or"; and

(2) by inserting after the thirteenth unnumbered paragraph the following new paragraph:

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 90 days after the date of enactment of this Act.

SEC. 3072. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 3073. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

TITLE XXXI—TECHNICAL CORRECTIONS

SEC. 3101. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) CROSS REFERENCE CORRECTIONS.—(1) Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of".

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)".

(3) in subsection (e) by striking "or (e)" and inserting "or (f)".

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but", and

(ii) by striking "this subsection," and inserting "this subsection", and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "paragraphs (1) and (2) of subsection (a)", and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section", and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "paragraph (1) or (3) of section 515(a)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended in paragraph (3) by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in section 1201—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),", and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)",

(ii) by striking "personal", and

(iii) in the first proviso by striking "section" and inserting "subsection", and

(2) in section 1204(3) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant",

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications", and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) by striking "crime,," and inserting "crime,",

(2) in section 302(c)(19) by striking a period at the end and inserting a semicolon,

(3) in section 602(a)(1) by striking "chapter 315" and inserting "chapter 319",

(4) in section 603(a)(6) by striking "605" and inserting "606",

(5) in section 605 by striking "this section" and inserting "this part",

(6) in section 606(b) by striking "and Statistics" and inserting "Statistics",

(7) in section 801(b)—

(A) by striking "parts D," and inserting "parts",

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E",

(C) by striking "403(a)" and inserting "501", and

(D) by striking "403" and inserting "503",

(8) in the first sentence of section 802(b) by striking "part D," and inserting "subpart 1 of part E or under part",

(9) in the second sentence of section 804(b) by striking "Prevention or" and inserting "Prevention, or",

(10) in section 808 by striking "408, 1308," and inserting "507",

(11) in section 809(c)(2)(H) by striking "805" and inserting "804".

(12) in section 811(e) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance",

(13) in section 901(a)(3) by striking "and," and inserting ", and",

(14) in section 1001(c) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 3102. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031(g)(2) of title 18, United States Code, is amended by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions" in lieu thereof.

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma which follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293 of title 18, United States Code, is amended by striking "1008,".

(f) ELIMINATION OF DUPLICATE SUBSECTION DESIGNATION.—Section 1031 of title 18, United States Code, is amended by redesignating the second subsection (g) as subsection (h).

(g) CLERICAL AMENDMENT TO PART I TABLE OF CHAPTERS.—The item relating to chapter 33 in the table of chapters for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

(h) AMENDMENT TO SECTION 924(a)(1)(b).—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "(q)" and inserting "(r)".

(i) AMENDMENT TO SECTION 3143.—The last sentence of section 3143(b) of title 18, United States Code, is amended by striking "(b)(2)(D)" and inserting "(1)(B)(iv)".

(j) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to the chapter 113A added by section 132 of Public Law 102-27, but subsequently repealed.

(k) PUNCTUATION CORRECTION.—Section 207(c)(2)(A)(ii) of title 18, United States Code, is amended by striking the semicolon at the end and inserting a comma.

(l) TABLE OF CONTENTS CORRECTION.—The table of contents for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Child Victims' and child witnesses' rights.".

(m) ELIMINATION OF SUPERFLUOUS COMMA.—Section 3742(b) of title 18, United States Code, is amended by striking "Government," and inserting "Government".

SEC. 3103. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) SECTION 1791 OF TITLE 18.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) SECTION 1956 OF TITLE 18.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) SECTION 2703 OF TITLE 18.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) SECTION 666 OF TITLE 18.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) SECTION 4247 OF TITLE 18.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

(f) SECTION 408 OF THE CONTROLLED SUBSTANCE.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) MARITIME DRUG LAW ENFORCEMENT ACT.—(1) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(2) Section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) SECTION 2596 OF THE CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting "951(c)(2)".

(i) SECTION 3143 OF TITLE 18.—The last sentence of section 3143(b)(1) of title 18, United States Code, is amended by striking "(b)(2)(D)" and inserting "(1)(B)(iv)".

SEC. 3104. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by striking the seventh and thirteenth paragraphs;

(4) in section 711, by striking the second paragraph;

(5) by striking section 754, and amending the table of sections for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160, by striking "white person" and inserting "non-Indian";

(10) in section 1698, by striking the second paragraph;

(11) by striking sections 1904 and 1908, and amending the table of sections for chapter 93 by striking the items relating to such sections;

(12) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391, and amending the table of sections for chapters 105 and 115, respectively, by striking the items relating to such sections;

(14) in section 2257 by striking the subsections (f) and (g) that were enacted by Public Law 100-690;

(15) in section 3113, by striking the third paragraph;

(16) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939";

(17) in section 443, by striking "or (3) five years after 12 o'clock noon of December 31, 1946,"; and

(18) in sections 542, 544, and 545, by striking "the Philippine Islands,".

SEC. 3105. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended, in subsection (a)(3), by striking "issuer" and inserting in lieu thereof "domestic concern".

SEC. 3106. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 3107. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 3108. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(2) in section 1956(e), by striking "Evironmental" and inserting in lieu thereof "Environmental";

(3) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d);

(4) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph; and

(5) in section 151, by striking "mean" and inserting "means".

(6) in section 208(b), by inserting "if" after "(4)";

(7) in section 209(d), by striking "under the terms of the chapter 41" and inserting "under the terms of chapter 41";

(8) in section 1014, by inserting a comma after "National Credit Union Administration Board"; and

(9) in section 3291, by striking "the afore-mentioned" and inserting "such".

SEC. 3109. OTHER TECHNICAL AMENDMENTS.

(a) SECTION 419 OF CONTROLLED SUBSTANCES ACT.—Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by striking "years Penalties" and inserting "years. Penalties".

(b) SECTION 667.—Section 667 of title 18, United States Code, is amended by adding at the end the following: "The term 'livestock' has the meaning set forth in section 2311 of this title.".

(c) SECTION 1114.—Section 1114 of title 18, United States Code, is amended by striking "or any other officer, agency, or employee of the United States" and inserting "or any other officer or employee of the United States or any agency thereof".

(d) SECTION 408 OF CONTROLLED SUBSTANCES ACT.—Section 408(q)(8) of the Controlled Substances Act (21 U.S.C. 848(q)(8)) is amended by striking "applications, for writ" and inserting "applications for writ".

SEC. 3110. CORRECTIONS OF ERRORS FOUND DURING CODIFICATION

Title 18, United States Code, is amended—

(1) in section 212, by striking "218" and inserting "213";

(2) in section 1917—

(A) by striking "Civil Service Commission" and inserting "Office of Personnel Management"; and

(B) by striking "the Commission" in paragraph (1) and inserting "such Office";

(3) by transferring the table of sections for each subchapter of each of chapters 227 and 229 to follow the heading of that subchapter;

(4) so that the heading of section 1170 reads as follows:

"§ 1170. Illegal trafficking in Native American human remains and cultural items";

(5) so that the item relating to section 1170 in the table of sections at the beginning of chapter 53 reads as follows:

"1170. Illegal trafficking in Native American human remains and cultural items.";

(6) in section 3509(a), by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively;

(7) in section 3509—

(A) by striking out "subdivision" each place it appears and inserting "subsection"; and

(B) by striking out "government" each place it appears and inserting "Government";

(8) in section 2252(a)(3)(B), by striking "materails" and inserting " materials";

(9) in section 14, by striking "45," and "608, 611, 612,";

(10) in section 3059A—

(A) in subsection (b), by striking "this subsection" and inserting "subsection"; and

(B) in subsection (c), by striking "this subsection" and inserting "subsection";

(11) in section 1761(c)—

(A) by striking "and" at the end of paragraph (1);

(B) by inserting "and" at the end of paragraph (3); and

(C) by striking the period at the end of paragraph (2)(B) and inserting a semicolon;

(12) in the table of sections at the beginning of chapter 11—

(A) in the item relating to section 203, by inserting a comma after "officers" and by striking the comma after "others"; and

(B) in the item relating to section 204, by inserting "the" before "United States Court of Appeals for the Federal Circuit";

(13) in the table of sections at the beginning of chapter 23, in the item relating to section 437, by striking the period immediately following "Indians";

(14) in the table of sections at the beginning of chapter 25, in the item relating to section 491, by striking the period immediately following "paper used as money";

(15) in section 207(a)(3), by striking "Clarification of Restrictions" and inserting "Clarification of restrictions";

(16) in section 176, by striking "the government" and inserting "the Government";

(17) in section 3059A(e)(2)(iii), by striking "backpay" and inserting "back pay"; and

(18) by adding a period at the end of the item relating to section 3059A in the table of sections at the beginning of chapter 203.

SEC. 3111. PROBLEMS RELATED TO EXECUTION OF PRIOR AMENDMENTS.

(a) INCORRECT REFERENCE AND PUNCTUATION CORRECTION.—(1) Section 2587(b) of the Crime Control Act of 1990 is repealed, effective on the date such section took effect.

(2) Section 2587(b) of Public Law 101-647 is amended, effective the date such section took effect, by striking "The chapter heading for" and inserting "The table of sections at the beginning of".

(3) The item relating to section 3059A in the table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by adding a period at the end.

(b) LACK OF PUNCTUATION IN STRICKEN LANGUAGE.—Section 46(b) of Public Law 99-646 is amended, effective on the date such section took effect, so that—

(A) in paragraph (1), the matter proposed to be stricken from the beginning of section 201(b) of title 18, United States Code, reads "(b) Whoever, directly"; and

(B) in paragraph (2), a comma, rather than a semicolon, appears after "his lawful duty" in the matter to be stricken from paragraph (3) of section 201(b) of such title.

(c) BIOLOGICAL WEAPONS.—(1) Section 3 of the Biological Weapons Anti-Terrorism Act of 1989 is amended, effective on the date such section took effect in subsection (b), by striking "2516(c)" and inserting "2516(1)(c)".

(2) The item in the table of chapters for part I of title 18, United States Code, that relates to chapter 10 is amended by striking "Weapons" and inserting "weapons".

(d) PLACEMENT OF NEW SECTION.—Section 404(a) of Public Law 101-630 is amended, effective on the date such section took effect, by striking "adding at the end thereof" each place it appears and inserting "inserting after section 1169".

(e) ELIMINATION OF ERRONEOUS CHARACTERIZATION OF MATTER INSERTED.—Section 225(a) of Public Law 101-674 is amended, effective on the date such section took effect, by striking "new rule".

(f) CLARIFICATION OF PLACEMENT OF AMENDMENT.—Section 1205(c) of Public Law 101-647 is amended, effective the date such section took effect, by inserting "at the end" after "adding".

(g) ELIMINATION OF DUPLICATE AMENDMENT.—Section 1606 of Public Law 101-647 (amending section 1114 of title 18, United States Code) is repealed effective the date of the enactment of such section.

(h) ERROR IN AMENDMENT PHRASING.—Section 3502 of Public Law 101-647 is amended, effective the date such section took effect, by striking "10" and inserting "ten".

(i) CLARIFICATION THAT AMENDMENTS WERE TO TITLE 18.—Sections 3524, 3525, and 3528 of Public Law 101-647 are each amended, effective the date such sections took effect, by inserting "of title 18, United States Code" before "is amended".

(j) CORRECTION OF PARAGRAPH REFERENCE.—Section 3527 of Public Law 101-647 is amended, effective the date such section took effect, by striking "4th" and inserting "5th".

(k) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1345.—Section 3542 of Public Law 101-647 is repealed, effective the date of enactment of such Public Law.

(l) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1956.—Section 3557(2)(E) of Public Law 101-647 is repealed, effective the date of enactment of such Public Law.

(m) CLARIFICATION OF PLACEMENT OF AMENDMENTS.—Public Law 101-647 is amended, effective the date of the enactment of such Public Law—

(1) in section 3564(1), by inserting "each place it appears" after the quotation mark following "2251" the first place it appears; and

(2) in section 3565(3)(A), by inserting "each place it appears" after the quotation mark following "subchapter".

(n) CORRECTION OF WORD QUOTED IN AMENDMENT.—Section 3586(1) of Public Law 101-647 is amended, effective the date such section took effect, by striking "fines" and inserting "fine".

(o) ELIMINATION OF OBSOLETE TECHNICAL AMENDMENT TO SECTION 4013.—Section 3599 of Public Law 101-647 is repealed, effective the date of the enactment of such Public Law.

(p) CORRECTION OF DIRECTORY LANGUAGE.—Section 3550 of Public Law 101-647 is amended, effective the date such section took effect, by striking "not more than".

(q) REPEAL OF DUPLICATE PROVISIONS.—(1) Section 3568 of Public Law 101-647 is repealed, effective the date such section took effect.

(2) Section 1213 of Public Law 101-647 is repealed, effective the date such section took effect.

(r) CORRECTION OF WORDS QUOTED IN AMENDMENT.—Section 2531(3) of Public Law 101-647 is amended, effective the date such section took effect, by striking "1679(c)(2)" and inserting "1679a(c)(2)".

(s) FORFEITURE.—(1) Section 1401 of Public Law 101-647 is amended, effective the date such section took effect—

(A) by inserting a comma after ", 5316"; and

(B) by inserting "the first place it appears" after the quotation mark following "5313(a)".

(2) Section 2525(a)(2) of Public Law 101-647 is amended, effective the date such section took effect, by striking "108(3)" and inserting "2508(3)".

SEC. 3115. AMENDMENTS TO SECTION 1956 OF TITLE 18 TO ELIMINATE DUPLICATE PREDICATE CRIMES.

Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(D), by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),";

(2) in subsection (a)(2) and in subsection (b), by striking "transportation" each place it appears and inserting "transportation, transmission, or transfer";

(3) in subsection (a)(3), by striking "represented by a law enforcement officer" and inserting "represented"; and

(4) in subsection (c)(7)(E), by striking the period that follows a period.

SEC. 3116. AMENDMENTS TO PART V OF TITLE 18.

Part V of title 18, United States Code, is amended—

(1) by inserting after the heading for such part the following:

"CHAPTER 601—IMMUNITY OF WITNESSES";

(2) in section 6001(1)—

(A) by striking "Atomic Energy Commission" and inserting "Nuclear Regulatory Commission"; and

(B) by striking "the Subversive Activities Control Board,"

(3) by striking "part" the first place it appears and inserting "chapter"; and

(4) by striking "part" each other place it appears and inserting "title"..

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except secs. 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
JOHN CONYERS,
CHARLES SCHUMER,
WILLIAM J. HUGHES,
HARLEY O. STAGGERS, Jr.,

Provided that Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of secs. 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House Bill:

MIKE KOPETSKI,
EDWARD F. FEIGHAN,

From the Committee on Ways and Means, for consideration of sec. 1719 of the House bill, and secs. 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
CHARLES B. RANGEL,

Mr. Rostenkowski and Mr. Archer are appointed as additional conferees for consideration of sec. 702 of the Senate amendment:

DAN ROSTENKOWSKI,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1502 and 1831 of the House bill, and secs. 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEVE NEAL,

As additional conferees from the Committee on Education and Labor, for consideration of secs. 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except sec. 812(f)) and secs. 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
DALE E. KILDEE,
MATTHEW G. MARTINEZ,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and secs. 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,

As additional conferees from the Committee on Government Operations, for consideration of secs. 801, 802, 1509, and 1751 through 1758 of the House bill, and secs. 1701 and 1702 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,
EDOLPHUS TOWNS,
FRANK HORTON,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of secs. 1716, 1719, and 1722(b) of the House bill, and secs. 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
BILLY TAUZIN,

As additional conferees from the Committee on Public Works and Transportation for consideration of secs. 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and secs. 502, 2901, and 4401–4403 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
JAMES L. OBERSTAR,
Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD M. METZENBAUM,
PATRICK LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371), to control and prevent crime, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—DEATH PENALTY

Procedures: The House recedes to Title II of the Senate amendment with the following modifications: (1) minimum age (18) adopted from the House bill; (2) victim impact statement language adopted from the House bill; and (3) technical language on catch-all mitigation factor adopted from the House bill.

Offenses: The Senate recedes to the House on including the following death-eligible offenses: (1) murder by an escaped prisoner (House only); (2) rape and child molestation murders (House only); (3) death resulting from the sexual exploitation of children (House only); (4) death penalty for gun murders during federal crimes of violence and drug trafficking crimes based on the amount of drugs or gross receipts (similar provisions in House bill and Senate amendment although House bill requires twice the amount of drugs or twice the gross receipts); and (5) murder of U.S. nationals abroad (similar provisions in House bill and Senate amendment).

TITLE II—HABEAS CORPUS

The Senate recedes to Title XI of the House bill, which, with one minor modification, is identical to the provision reported by the House Judiciary Committee.

TITLE III—EXCLUSIONARY RULE

The House recedes to section 2301 of the Senate amendment, which codifies the United States Supreme Court's decision in United States v. Leon.

TITLE IV—COERCED CONFESSIONS

The Senate recedes to section 901 of the House bill, which reverses the United States Supreme Court's decision in Arizona v. Fulminante, by declaring that the admission of a coerced confession into evidence in a criminal trial shall never be considered harmless error.

TITLE V—FIREARMS

SUBTITLE A—THE BRADY HANDGUN VIOLENCE PREVENTION ACT

The House recedes to sections 2701–2703 of the Senate amendment, with modifications. In section 2701(a) of the Senate amendment, the provision relating to the triggering of the waiting period is modified to provide that the period will begin when the 'transferor' furnishes notice of the contents of the statement to the chief law enforcement officer, rather than when the 'transferee' furnishes such notice. The provision in section 2701(a) that would have created a new section 922(a)(1)(B) of Title 18, United States Code, is replaced by the House version of its comparable section. The provision allowing an exemption based upon remote location and absence of telecommunications facilities is modified to also require a ratio of less than 2.5 law enforcement officers to 1,000 square miles of land area. The Senate provision requiring law enforcement to issue an exemption from the waiting period to a prospective handgun purchaser demonstrating a threat to his or her life is replaced by the comparable House provision. The Section authorizing grants for the improvement of criminal records is modified to be administered through the Bureau of Justice statistics. Several other technical and conforming modifications were adopted.

SUBTITLE B—GUN CRIME PENALTIES

The Conference substitute includes the following provisions:

Section 511—Enhanced Penalty for Use of a Semiautomatic Firearm During a Crime of Violence or a Drug Trafficking Crime: The Senate recedes to section 2001 of the House bill.

Section 512—Increased Penalty for second Offense of Using an Explosive to Commit a Felony: The Senate recedes to section 2002 of the House bill.

Section 513—Smuggling Firearms in Aid of Drug Trafficking: The House recedes to section 1223 of the Senate amendment.

Section 514—Theft of Firearms and Explosives: The House recedes to section 1224 of the Senate amendment.

Section 513—Possession of Explosives by Felons and Others: The House recedes to section 1228 of the Senate amendment.

Section 521—Prohibition Against transactions Involving Stolen Firearms Which Have Moved in Interstate Commerce: The Senate recedes to section 2015 of the House bill.

Section 522—Using a Firearm in the Commission of Counterfeiting or Forgery: The House recedes to section 1234 of the Senate amendment.

Section 523—Mandatory Penalties for Firearms Possession by Violent Felons and Serious Drug Offenders: the Senate recedes to section 2009 of the House bill.

Section 525—Firearms and Explosives conspiracy: The House recedes to section 1238 of the Senate amendment.

Section 526—Study of Incendiary Ammunition; Report to Congress: The Senate recedes to section 2016 of the House amendment.

Section 527—Theft of Firearms or Explosives from Licensee: The House recedes to section 1239 of the Senate amendment.

In addition, the Conference substitute includes the following provisions, which are identical in the House bill and the Senate amendment:

Section 515—Conforming Amendment Providing Mandatory Revocation of Supervised Release for Possession of a Firearm.

Section 516—Revocation of Probation.

Section 517—Increased Penalty for Knowingly Making False, Material Statement in Connection with the Acquisition of a Firearm from a Licensed Dealer.

Section 519—Summary Destruction of Explosives Subject to Forfeiture.

Section 520—Elimination of Outmoded Language Relating to Parole.

Section 524—Receipt of Firearm by Nonresident.

Section 528—Disposing of Explosives to Prohibited Persons.

Section 529—Clarification of 'Burglary' Under the Armed Career Criminal Statute.

Section 530—Increased Penalty for Interstate Gun Trafficking.

TITLE VI—OBSTRUCTION OF JUSTICE

The House recedes to sections 302, 2601, and 2602 of the Senate amendment, and the Senate recedes to section 2334 of the House bill.

TITLE VII—YOUTH VIOLENCE

Section 701—Strengthening Federal Penalties for Employing Children to Distribute

Drugs: The House recedes to section 1501 of the Senate amendment.

Section 702—Increased Penalty for Travel Act Violations: The Conference substitute includes this provision, which is identical in the House bill and the Senate amendment.

Section 703—Commencement of Juvenile Proceeding: The Conference substitute includes this provision, which is identical in the House bill and the Senate amendment.

Section 704—Criminal Street Gangs: The Senate recedes to section 1703 of the House bill with an amendment.

TITLE VIII—TERRORISM

SUBTITLE A—TERRORISM

Civil Remedy: The Senate recedes to sections 1734 and 1735 of the House bill, which create a civil cause of action for terrorism-related injuries.

SUBTITLE B—MARITIME NAVIGATION AND FIXED PLATFORMS

The Senate recedes to section 2329 of the House bill, as modified.

SUBTITLE C—GENERAL PROVISIONS

Section 819—Weapons of Mass Destruction: The Senate recedes to section 2331 of the House bill.

Section 820—Enhanced Penalties for Certain Offenses: The Senate recedes to section 1951 of the House bill.

Section 821—Territorial Sea Extending to Twelve Miles Included in Special Maritime and Territorial Jurisdiction: This provision is identical in the House bill and the Senate amendment.

Section 822—Assimilated Crimes in Extended Territorial Sea: This provision is identical in the House bill and the Senate amendment.

Section 823—Jurisdiction over Crimes Against United States Nationals on Certain Foreign Ships: The Senate recedes to section 1718 of the House bill.

Section 824—Torture: The Senate recedes to section 2333 of the House bill.

Section 825—Extension of the Statute of Limitations for Certain Terrorism Offenses: This provision is identical in the House bill and the Senate amendment.

Section 826—F.B.I. Access to Telephone Subscriber Information: The Senate recedes to section 1706 of the House bill.

Section 827—Violence at Airports Serving International Civil Aviation: The Senate recedes to section 2341 of the House bill, as modified to clarify that it is inapplicable to lawful picketing or demonstrations.

Section 828—Preventing Acts of Terrorism Against Civilian Aviation: This provision is identical in the House bill and the Senate amendment.

Section 829—Counterfeiting United States Currency Abroad: The House recedes to section 551 of the Senate amendment.

Section 830—Economic Terrorism Task Force: The House recedes to section 552 of the Senate amendment.

Section 831—Terrorist Death Penalty Act: This provision is identical in the House bill and the Senate amendment.

Section 832—Sentencing Guidelines Increase for Terrorist Crimes: This provision is identical in the House bill and the Senate amendment.

Section 833—Alien Witness Cooperation: The House recedes to sectione 541–543 of the Senate amendment with a modification which provides that alien visas will be issued within the structure of the Immigration and Nationality Act.

Section 834—Providing Material Support to Terrorists: The Senate recedes to section 531 of the House bill.

TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE

SUBTITLE A—SEXUAL ABUSE

The Senate recedes to Section 1431 of the House bill.

SUBTITLE B—CHILD PROTECTION

The House bill and the Senate amendment include provisions relating to the reporting of crimes against children. The Conference substitute includes features of both provisions.

SUBTITLE C—CRIMES AGAINST CHILDREN

The Senate recedes to sections 1401–03 of the House bill.

TITLE X—CRIME VICTIMS

The House recedes to Title XX of the Senate amendment, with the exception of section 2003 of the Senate amendment and as modified by the addition of section 504 of the House bill.

The Senate recedes to section 1954 of the House bill, relating to victims' rights of allocution at sentencing.

TITLE XI—STATE AND LOCAL LAW ENFORCEMENT GRANTS

SUBTITLE A—SAFER STREETS AND NEIGHBORHOODS

The House recedes to sections 101–104 of the Senate amendment, relating to unallocated grants to state and local agencies, the continuation of the Federal-State funding formula, and grants for multi-jurisdictional drug task forces. The Senate recedes to sections 1802, 1804, and 1806 of the House bill, relating to authorization of appropriations, limitation on grant distribution, and the federal share of programs funded by federal grants.

SUBTITLE B—DNA IDENTIFICATION

The Senate recedes to sections 1001–1006 of the House bill.

SUBTITLE C—DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION

The House recedes to section 4921 of the Senate amendment.

SUBTITLE D—BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES

The Senate recedes to section 1723 of the House bill.

SUBTITLE E—COMMUNITY POLICING; COP ON THE BEAT

The Senate recedes to sections 101–103 of the House bill.

SUBTITLE F—DRUG TESTING OF ARRESTED INDIVIDUALS

The Senate recedes to sections 1701 and 1702 of the House bill.

SUBTITLE G—RACIAL AND ETHNIC BIAS STUDY GRANTS

The House recedes to section 4916 of the Senate amendment.

SUBTITLE H—MIDNIGHT BASKETBALL

The Senate recedes to section 1831 of the House bill, with minor modifications. This Subtitle also includes section 1511 of the Senate amendment relating to antigang grants, to which the House recedes as modified to allocate funds among participating States.

SUBTITLE I—TRAUMA CENTERS

The Senate recedes to the House provision with a modification.

SUBTITLE J—CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS

The Senate recedes to sections 601–604 of the House bill.

TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS

SUBTITLE A—LAW ENFORCEMENT FAMILY SUPPORT

The Senate recedes to sections 1241–1242 of the House bill.

SUBTITLE B—POLICE PATTERN OR PRACTICE

The Senate recedes to section 1202 and 1203 of the House bill with a modification deleting the provision on private cause of action.

SUBTITLE C—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

The House recedes to Title VIII of the Senate amendment, as modified.

SUBTITLE D—STUDY ON POLICE OFFICER'S BILL OF RIGHTS

The Senate recedes to section 1221 of the House bill.

TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES

The House recedes to section 1002 of the Senate amendment, relating to additional funding for the Drug Enforcement Administration, the Immigration and Naturalization Service, the Federal Bureau of Investigation, the United States Attorneys, the Bureau of Alcohol, Tobacco, and Firearms, the United States Marshalls Service, the United States Courts, and the Federal Public Defenders.

TITLE XIV—PRISONS

SUBTITLE A—FEDERAL PRISONS

Section 1401—Prisoner's Place of Imprisonment: The House recedes to section 4920 of the Senate amendment.

Section 1402—Prison Impact Statements: The Senate recedes to section 1956 of the House bill.

Section 1403—Federal Prisoner Drug Testing: The House recedes to section 2401 of the Senate amendment, as modified to provide that drug testing requirements may be ameliorated or suspended by courts or parole commissions.

Section 1404—Drug Treatment in Federal Prisons: The Senate recedes to sections 201–205 of the House bill.

Section 1405—Prison for Violent Drug Offenders: The House recedes to section 1301 of the Senate amendment.

Section 1406—Boot Camps: The House recedes to section 1401 of the Senate amendment.

SUBTITLE B—STATE PRISONS

Section 1421—Residential Substance Abuse Treatment for Prisoners: The Senate recedes to sections 301–304 of the House bill.

Section 1422—Mandatory Literacy Program: The House recedes to Title XLIII of the Senate amendment.

Section 1423—National Institute of Justice Study: The Senate recedes to section 1958 of the House bill.

Section 1424—Study and Assessment of Alcohol Use and Treatment: This provision is identical in the House bill and the Senate amendment.

Section 1425—Notification of Release of Prisoners: This section is identical in the House bill and the Senate amendment.

Section 1426—Application to Prisoners to Which Prior Law Applies: This provision is identical in the House bill and the Senate amendment.

TITLE XV—RURAL CRIME

SUBTITLES A AND B—FIGHTING DRUG TRAFFICKING IN RURAL AREAS; RURAL DRUG PREVENTION AND TREATMENT

The House recedes to Title XVI of the Senate amendment, as modified to make cross-designation of federal agents permissive and to eliminate rural land recovery provisions.

SUBTITLE C—DRUG FREE TRUCK STOPS AND SAFETY REST AREAS

The House recedes to section 1641 of the Senate amendment.

Title XVI—Drug Control

SUBTITLE A—DRUG EMERGENCY AREAS

The Senate recedes to sections 1801–1802 of the House bill.

SUBTITLE B—PRECURSOR CHEMICALS

The House recedes to sections 3101–3112 of the Senate amendment, as modified.

SUBTITLE C—GENERAL PROVISIONS

Section 1631—Criminal Penalty for Failure to Obey Order to Land: The Senate recedes to section 1719 of the House bill, as modified to provide that the penalty applies only to orders to land based on a reasonable suspicion of illegal activity.

Section 1632—Amendment to the Mansfield Amendment to Permit Maritime Law Enforcement Operations in Archipelagic Waters: This provision is identical in the House bill and Senate amendment.

Section 1633—Enhancement of Penalties for Drug Trafficking in Prisons: The House recedes to section 4652 of the Senate amendment.

Section 1634—Close Loophole for Illegal Importation of Small Drug Quantities: This provision is identical in the House bill and the Senate amendment.

Section 1635—Clarification of Narcotic or Other Dangerous Drugs Under the RICO Statute: This provision is identical in the House bill and the Senate amendment.

Section 1636—Conforming Amendments to Recidivist Penalty Provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act: This provision is identical in the House bill and the Senate amendment.

Section 1637—Penalties for Drug Dealing in Public Housing Authority Facilities: The House recedes to section 4902 of the Senate amendment.

Section 1638—Anabolic Steroids Penalties: This section is identical in the House bill and the Senate amendment.

Section 1639—Program to Provide Public Awareness of the Provision of Public Law 101–516 Which Conditions Portions of a State's Federal Highway Funding on That State's Enactment of Legislation Requiring the Revocation of the Driver's Licenses of Convicted Drug Abusers: This Provision is identical in the House bill and the Senate amendment.

Section 1640—Advertising: The Senate recedes to section 1512 of the House bill.

Section 1641—Increased Penalties for Drug-Dealing in 'Drug-Free Zones: The Senate recedes to section 1705 of the House bill.

Section 1642—National Drug Control Strategy: The Senate recedes to section 1509 of the House bill.

Section 1644—Mandatory Penalties for Illegal Drug Use in Federal Prisons: The House recedes to section 2402 of the Senate amendment.

Title XVII—Drunk Driving Provisions

The House recedes to sections 1801–04 of the Senate amendment.

Title XVIII—Commissions

SUBTITLE A—COMMISSION ON CRIME AND VIOLENCE

The Senate recedes to sections 1741 and 1742 of the House bill, as modified to adopt the Senate provisions relating to the responsibilities of the Commission.

SUBTITLE B—NATIONAL COMMISSION TO STUDY THE CAUSES OF THE DEMAND FOR DRUGS IN THE UNITED STATES

The Senate recedes to sections 1751–1758 of the House bill.

SUBTITLE C—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

The House recedes to Title XXII of the Senate amendment, as modified to allow the Commission members to select a chairperson.

Title XIX—Bail Posting Reporting

The House recedes to sections 2801–2802 of the Senate amendment.

Title XX—Motor Vehicle Theft Prevention

The House recedes to Title XXIX of the Senate amendment, as modified to provide that race, creed, color, and national origin may not be used in developing stop procedures and to provide that the punishment for altering decals is applicable only when theft is intended.

Title XXI—Protections for the Elderly

Section 2101—Missing Alzheimer's Disease Patient Alert Program: The House recedes to Title XXX of the Senate amendment.

Section 2102—Violent Crimes Against the Elderly: The House recedes to Title XL of the Senate amendment, as modified to provide for enhanced guideline penalties.

Title XXII—Consumer Protection

Section 2201—Crimes By or Affecting Persons Engaged in the Business of Insurance Whose Activities Affect Interstate Commerce: The Senate recedes to section 1303 of the House bill, as modified.

Section 2202—Consumer Protection Against Credit Card Fraud Act of 1991: The House recedes to section 4912 of the Senate amendment.

Section 2203—Mail Fraud: The Senate recedes to section 1301 of the House bill.

Title XXIII—Financial Institutions Fraud

The House recedes to Title XXXVII of the Senate amendment.

Title XXIV—Savings and Loan Prosecution Task Force

The Senate recedes to section 1728 of the House bill.

Title XXV—Sentencing Provisions

The Senate recedes to sections 1901–04 of the House bill.

Title XXVI—Sentencing and Magistrates Amendments

The House recedes to sections 4612–14 of the Senate amendment.

Title XXVII—Computer Crime

The House recedes to section 4909 of the Senate amendment with modifications.

Title XXVIII—Parental Kidnapping

The Senate recedes to sections 1421–1423 of the House bill with modifications that adopted the affirmative defense and the Sense of the Congress resolution from the Senate amendment.

Title XXIX—Safe Schools

SUBTITLE A—SAFE SCHOOLS

The Senate recedes to sections 401–03 of the House bill regarding grants for reducing crime, drugs, and violence in schools.

SUBTITLE B—MISCELLANEOUS PROVISIONS

Section 2912—Records: the Senate recedes to section 1727 of the House bill.

Section 2913—Drug Abuse Resistance Education Programs: The Senate recedes to section 1807 of the House bill.

Title XXX—Miscellaneous

SUBTITLE A—INCREASES IN PENALTIES

The House recedes to sections 2501–03 of the Senate amendment.

SUBTITLE B—EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES

The House recedes to section 4646 of the Senate amendment.

SUBTITLE C—AUDIT AND RECORDS

Section 3021—Audit Requirement for State and Local Law Enforcement Agencies Receiving Federal Asset Forfeiture Funds:

The House recedes to section 4924 of the Senate amendment.

Section 3022—Report to Congress on Administrative and Contracting Expenses: The Senate recedes to section 1808 of the House bill.

SUBTITLE D—COUNTERFEIT GOODS TRAFFIC

The House recedes to section 2507 of the Senate amendment, modified to delete all references to criminal fines.

SUBTITLE E—GAMBLING

Section 3041 of the Conference Substitute adds a new chapter 178 to title 28, United States Code, which makes unlawful and subjects to suits for injunctive relief any wagering or gambling scheme based on an amateur or professional sporting event. Exceptions are provided for parimutuel animal racing and jai-alai, as well as for sports wagering activities in the State of Nevada and the sports lotteries which have been conducted in recent years in the States of Oregon and Delaware; the State of New Jersey is given one year, if it so chooses, to have in operation sports wagering in its Atlantic City casinos.

Section 3043 of the Conference Substitute clarifies the prohibitions in existing law regarding gambling activities on foreign-flag vessels in international waters, and conforms the prohibitions regarding such activities on United States-flag ships. The term "segment of a voyage" is used in the new subsection (b)(2) of 15 U.S.C. 1175, as amended, to refer to an interval between two stops which is part of a longer overall voyage. Subsection (b)(2) works in conjunction with the other provisions of section 1175 to prohibit use or repair of a gambling device on voyages or segments of a voyage that begin and end in the same State (for example, between two islands of the State of Hawaii) if the State enacts a statute prohibiting such use or repair. A detailed explanation of the bill on which section 3043(b) is based appears in the report of the House of Representatives to accompany H.R. 3282 (H. Rept. 102–357).

SUBTITLE F—WHITE COLLAR CRIME AMENDMENTS

The House recedes to sections 4621–26 of the Senate amendment.

SUBTITLE G—OTHER PROVISIONS

Section 3061—Increased Penalty for Conspiracy to Commit Murder for Hire: The House recedes to section 2505 of the Senate amendment.

Section 3062—Optional Venue for Espionage and Related Offenses: The House recedes to section 4631 of the Senate amendment.

Section 3063—Undercover Operations: The Senate recedes to section 1704 of the House bill.

Section 3064—Undercover Operations—Churning: The House recedes to section 4655 of the Senate amendment.

Section 3065—Report on Battered Women's Syndrome: The House recedes to section 4903 of the Senate amendment.

Section 3066—Wiretaps: The House recedes to section 4913(a) of the Senate amendment, and the Senate recedes by dropping section 4913(b) of the Senate amendment.

Section 3067—Thefts of Major Art Works: The House recedes to section 4914 of the Senate amendment, with modifications that strengthen the knowledge requirement.

Section 3068—Balance in the Criminal Justice System: The House recedes to section 4915 of the Senate amendment.

Section 3069—Award of Attorney's Fees: The House recedes to section 4918 of the Senate amendment, with a modification that employees of a Federal public defender office are eligible.

Section 3070—Protection of Jurors and Witnesses in Capital Cases: The Senate recedes to section 2338 of the House bill.

Section 3071—Misuse of Initials 'DEA': The Senate recedes to section 1709 of the House bill, with a 90-day delay in the effective date.

Section 3072—Addition of Attempted Robbery, Kidnapping, Smuggling, and Property Damage Offenses to Eliminate Inconsistencies and Gaps in Coverage: The Senate recedes to section 1721 of the House bill.

Section 3073—Definition of Livestock: The House recedes to section 4632 of the Senate amendment.

Title XXXI—Technical Corrections

The Conference substitute includes minor technical amendments from the House bill and the Senate amendment.

The House conferees recognize the importance of funding drug treatment programs, and the Ways and Means Conferees pledge to move in a prompt and expeditious manner to hold hearings on the substance of section 4917 of the Senate amendment and to explore the merits of funding such programs out of the Customs Forfeiture Fund.

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except secs. 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
JOHN CONYERS,
CHARLES SCHUMER,
WILLIAM J. HUGHES,
HARLEY O. STAGGERS, Jr.,

Provided that Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of secs. 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House bill:

MIKE KOPETSKI,
EDWARD F. FEIGHAN,

From the Committee on Ways and Means, for consideration of sec. 1719 of the House bill, and secs. 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
CHARLES B. RANGEL,

Mr. Rostenkowski and Mr. Archer are appointed as additional conferees for consideration of sec. 702 of the Senate amendment:

DAN ROSTENKOWSKI,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1502 and 1831 of the House bill, and secs. 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEVE NEAL,

As additional conferees from the Committee on Education and Labor, for consideration of secs. 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except sec. 812(f)) and secs. 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD
DALE E. KILDEE,
MATTHEW G. MARTINEZ,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and secs. 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,

As additional conferees from the Committee on Energy and Commerce for consideration of secs. 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,

As additional conferees from the Committee on Government Operations, for consideration of secs. 801, 802, 1509, and 1751 through 1758 of the House bill, and secs. 1701 and 1702 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,
EDOLPHUS TOWNS,
FRANK HORTON,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of secs. 1716, 1719, and 1722(b) of the House bill, and secs. 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
BILLY TAUZIN,

As additional conferees from the Committee on Public Works and Transportation for consideration of secs. 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and secs. 502, 2901, and 4401-4403 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
JAMES L. OBERSTAR,
Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD M. METZENBAUM,
PATRICK LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

Mr. BROOKS. Mr. Speaker, pursuant to House Resolution 301, I call up the conference report on the bill (H.R. 3371) to control and prevent crime.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 301, the conference report is considered as having been read.

The gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

☐ 0720

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the time has finally come for each of us to take responsibility as citizen-legislators and fight crime with actions, not slogans. It may be hard—very hard—for some to finally let go of what they perceive to be an election year issue, but our streets are flowing with blood and our constituents don't want any more words that fly ever so lightly into the atmosphere, signifying nothing. They are tired of promises; they are tired of politicians vying with each other to prove just who is tougher on crime; they are especially tired of purists who want 100 percent of one thing or nothing at all. Yes, crime is a wonderful issue for politicians. But crime is perhaps the most compelling social reality that threatens our daily lives. It is time to shed the issue and take on the problem.

Sunday, after 3 weeks of unconscionable political delay in the other body, the House and Senate conferees on the crime bill reached a final agreement that is historic in scope and approach. Without question, it is the toughest, most stringent crime control bill since the Federal Government was forced to take drastic steps to fight social anarchy in the 1920's and 1930's.

The bill creates 56 Federal capital punishment offenses, including the killing of law enforcement officials, death resulting from hijacking, terrorists, and drug kingpin activity, drive-by shootings, hostage taking resulting in death, child and sexual abuse resulting in death, and attempts to assassinate the President of the United States, to name just a few. These are heinous crimes, and must be dealt with appropriately. But, I ask my colleagues: Does it not serve our constituents to focus as well on preventing crime, rather than just ratcheting up the punishment after it occurs?

If we are going to take concrete steps to prevent crime, to cut down on recidivism, to support putting our police back on the streets where they belong and safeguarding our schools as learning environments, then we need programs to address these problems. And, we have them in H.R. 3371.

We have a program that puts the cop back on the beat, because there is no substitute for a direct enforcement presence. In another area, we require mandatory drug testing for all prisoners with a drug abuse history, in order to reduce repeat offender behavior.

Finally, we create a host of programs to further the use of DNA analysis and crime solving, to provide law enforcement scholarships to better train our police, to create antigang programs to combat this developing trend, and to set up boot camps for youthful offenders to learn the value of the straight and narrow before they become hardened career criminals.

Yet, in setting out harsh new penalties, and creating needed new prevention programs, we have been mindful that the very same constitution that guaranteed domestic tranquility for its citizens, also created a bill of rights for every American. This House has twice

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upheld this balance between individual rights and efficient law enforcement in its effort to restructure and streamline the doctrine of habeas corpus without gutting it completely. A strict statutory time period is set within which death row petitioners must file petitions, and there is a virtual prohibition of all successive habeas corpus applications aimed at delay, delay, delay. In addition, while we want all properly obtained evidence admitted into any criminal trial, that does not include the rack and the thumbscrew; and coerced confessions have no place in our system of justice. That is made clear in H.R. 3371. This is not a dictatorship.

In the howl of the crime bill debate, a few facts tend to become lost. Let us remember as we proceed that 95 percent of all serious crime cases in this country are the province of State and local officials. In other words, this bill, which deals with Federal offenses, involves not more than one-twentieth of the criminal activity out there in America. Let us be very precise in our statements before proclaiming any crime initiative—as meritorious as this one surely is—as a panacea for the end of crime.

Let us remember one last thing. Less than 6 weeks ago, on October 16, the House of Representatives voted 305 to 118 to adopt a crime bill; the Senate also passed a crime bill; and the two have now been reconciled. Compromise is an essential element of that process, and that means not everybody will be perfectly pleased with the product. But does that mean we keep to the status quo? The substantial majority of this body, as well as the other body, wants a crime bill now. We are not willing to continue quibbling for months and months more. We want to discharge our duties to the American public and we will do so today.

I ask you to support H.R. 3371.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a disastrous time to discuss a very complicated but nonetheless critical piece of legislation, and so I beg of you to try and stay awake, as I am, because what we do here is significant, not only to our own legislative records but to our communities back home.

Back about 380 B.C. a man named Hippocrates gave some advice to physicians. He said, "First, do no harm." That is good advice for Congressmen, too: Do no harm.

I suggest to you that this bill, which is the product of an absurdity called a conference committee—and you should have been there, because they could do a miniseries about the way that railroad ran—and that conference committee report is not an anticrime bill but rather it is a step back from present law.

I will try to demonstrate that to you, and I stipulate that nobody is pro-crime, nobody is pro-criminal, nobody, but out of ignorance, which we could call euphemistically a failure to understand, out of ideology, which is certainly present in this Chamber on both sides of the aisle, some people instinctively want to protect the accused rather than the victim or, simply out of being misled by people in whom you misplace your trust, but I know well meaning people are going to support this bill.

I suggest to you it is a terrible mistake. Crime is nonpartisan. It is not Democrat. It is not Republican.

One of the letters that we rely on is from the attorneys general of the States, 31 of them, 15 of them are Democrats, and 16 of them are Republicans, so we are talking about a professional view about crime.

Our cities are turning into Beiruts. Walking through a city used to be an exercise in life and liberty and the pursuit of happiness. Now it is an exercise in fear and in terror, and the pursuit of survival.

So we come here today in a spasm of spurious macho to prove to our constituents, as we beat our chests, that we are tough on crime.

If you want to be tougher on crime than this conference report, go back to your office and do not vote, because when you vote for this, you are retrenching. You are stepping back. You are retreating.

Because of its critical importance, let us examine the pretense this bill puts forward. Now, this is complicated. It is complicated for me, and I have been a lawyer since 1950.

But just to show you how misled you are, those who are within hearing of my voice, you have heard two things. You have heard there is no retroactivity, do not even use the word, said my friend from California. He said you are going to hear it. It is demagoguery. Then you heard from the member of the Committee on Rules, authority that only one petition for appeal is permissible under this conference report.

☐ 0730

I submit to you both of these comments are way off the wall, much off the mark.

Let us talk about retroactivity, because that is one of the major flaws with the habeas corpus that emerges from this conference. Now, section 2256 discusses the retroactivity aspect. There is a case, Teague versus Lane, that holds that the law that was in effect at the time of the crime is the law that will control in all of these appeals, whether a direct appeal in the State courts, or a collateral appeal in the State courts, and then to the Federal court where you make another collateral appeal pursuant to habeas corpus laws.

The current law is that in all of these proceedings there shall be no retroactivity. The law that was in effect at the time is the law that controls.

Well, here is what they say, artfully, cleverly, to nullify that. Section 2256: "In an action filed under this chapter, the Court shall not apply a new rule."

Gee, that sounds great. Then they define "new rule" to make it almost impossible of attainment. What they give with one hand they take away with the other.

The description of a "new rule" now says, "For the purposes of this section, the term 'new rule' means a clear break from precedent announced by the Supreme Court of the United States that could not reasonably have been anticipated at the time the claimant's sentence became final in State court."

So under this definition, they issue a new rule, because most new rules are simply adjustments to the law and not a clear break from precedent announced by the Supreme Court of the United States that could not have been reasonably anticipated.

There is all kinds of retroactivity. Do not believe me, believe all the prosecutors in the country. Believe the 31 attorneys general, half of them Democrat, half of them Republican, the professionals. Yes, its true, they are not policemen, they are lawyers. They are prosecutors.

Now, as to successive Federal petitions, look at section 206.

If you get section 206 and you read it, you will find that you can have repeated petitions. Repeated petitions.

It says that a second or successive application that was not presented in a prior application shall be dismissed unless—unless, and that is the big word—unless the applicant shows the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application or the failure to raise the claim in the prior application was due to action by the State officials, violation of the Constitution, and, get this, the facts underlying the claim would be sufficient if proven to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law. Again and again and again, reasons for additional petitions.

The attorney general of New Jersey, Robert J. Del Tufo, in a letter signed also by the attorney general of Pennsylvania, says, "This conference report is not a strong anti-crime bill. The proposals favor the convicted murderer, revictimizes the survivors of a murder victim, and penalizes the States. We urge you to reject it."

On and on and on. The prosecutors say that this conference report mugs the American people. It is a sad day when the will of the American people

to enact tougher criminal laws is so completely thwarted.

That, my friends, is something you ought to consider.

The habeas procedures adopted by this conference are worse than current law. They overturn at least 14 U.S. Supreme Court decisions that are favorable to law enforcement. They create major new obstacles to the use of the State death penalty laws.

You see, that is the unfunny joke. They add to a list of death penalty circumstances, but then they adjust their procedures so you cannot really use them. They simply enlarge the opportunities for prolonging litigation and for overturning criminal judgments.

Now, I have told you that they overruled the Supreme Court decision in *Teague* v. *Lane*. The report limits the definition of new rule to those that are announced by the Supreme Court and involve a clear break from precedent.

This is a novel standard. Almost all later decisions would be retroactively applicable to overturn earlier convictions and sentences that were imposed in conformity with existing law.

There is a famous case out in California, Robert Alton Harris, who brutally murdered two teenage boys in 1978. He has filed eight State habeas petitions and three Federal habeas petitions to get additional rounds of Federal litigation based on rules that would not be applied under current law and were not even in existence at the time he originally litigated his case.

Fourteen years that man has been appealing and appealing and appealing. What we want, My colleagues, is finality. Finality. That is what the victims of crime want, the victims of crime and the families. They are torn and torn reliving those tragic events until they see justice done.

Now, in addition, the habeas provisions before us allow delays of up to a full year to file a Federal habeas petition, rather than 6 months, which is the recommendation of the Powell committee. It rejects the Powell committee recommendations, which limited second and successive petitions to claims addressing guilt or innocence. Instead, it allows successeive petitions to attack the validity of the sentence.

In addition, and here is something you have not heard, standards for the appointed counsel, you have to have competent counsel appointed to defend an indigent criminal defendant. But they are unworkably high in this bill.

Mandatory Federal standards for State capital trial appeals and collateral review are established that are very difficult to attain. Each defendant has to have two—two—attorneys, with years of criminal felony experience, to represent him at every stage of the process.

Now, incredibly, these attorneys are not appointed by the court, by a judge. Who appoints them? The defense bar. And if there are not enough lawyers to go around, the statute is tolled and you wait and you wait and you wait.

So if you have been sentenced to death and you cannot get two competent attorneys who have had over 5 years of criminal felony experience, and the defense bar does not want to appoint them, nothing happens. Nothing happens. A committee of criminal lawyers appoints the defense counsel, not the court.

Now, there are 50 additional offenses for the imposition of the death penalty, but the procedures are constitutionally questionable.

Let me tell you one thing: We could go on and on and take time, but you are exhausted and so am I at this hour.

There is a case, Arizona versus Fulminante. What it holds is very simple. In that case if a law enforcement official coerces a confession out of the defendant, an involuntary confession, that confession, of course, cannot be admitted at the trial.

This case holds, and it is a Supreme Court case, that if there is other evidence sufficient to convict, you may proceed with the other evidence to convict.

Not this bill. Not this tough-on-crime bill. This reverses the Supreme Court Arizona versus Fulminante case and says if there is a coerced confession, the whole case goes out. It is not harmless error.

So that is this tough-on-crime bill. You have got a murderer and you have got plenty of evidence to convict a murderer, but because some stupid or overzealous law enforcement official coerced a confession out of him, he walks. That is the tough bill that they are asking you to support.

The exclusionary rule. The courts have finally come around to understanding that a motion to suppress the evidence because the search and seizure may have been illegal should not result in the criminal walking free, the accused walking free.

That does not accomplish anything. The policeman who made the illegal search is not punished. The only people punished are society by having the evidence of guilt suppressed.

So we have developed a good faith exception. The courts are finally coming around to recognizing a good faith exception to the exclusionary rule.

☐ 0740

What we wanted to do was to extend that to warrantless searches and seizures, if they were made in good faith. Not only has the conference report reversed that or taken that out, but now one must prove that the magistrate who issued the warrant was neutral and detached. The focus in this tough anticrime bill is on the mental attitude and status of the magistrate, not the conduct of the policeman. Is that crazy? Of course it is.

That is what they have given us. They have rolled back the exclusionary rule.

Look, explain this, my friends. When we go home and we mention tough issues, we talk about health care. We talk about education. We talk about the economy. We are going to talk about crime. I would love to hear the explanation, especially from my friend back there who is paying such rapt attention and nodding his head. I want to hear him explain why the conference stripped out provisions in the House bill providing enhanced penalties for drug distribution to pregnant women. Why did they strip out increased penalties for recidivist sex offenders? Why, explain why you stripped out HIV testing for sex offenders? You took out government payment for HIV testing for rape victims. You removed the retired public safety officer death benefit program. Explain how we are so tough on crime that we took out all of those provisions.

If you can explain that, I think that is great.

This is a victory for the ACLU, not law enforcement. I suggest we would do well to listen to the professionals, the prosecutors in a bipartisan, nonpartisan way if we pretend to care and want to do something effective about crime.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, the only thing I wanted to point out is, the gentleman is talking about this bill versus where he would like to be. I think we also have to look at this bill versus where we are. I think there is absolutely no question this bill tightens up habeas versus where it is today.

Mr. HYDE. Mr. Speaker, recapturing my time, I radically disagree with the gentlewoman.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from New Jersey [Mr. HUGHES], a distinguished chairman of one of our subcommittees.

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding time to me.

One of the most disappointing aspects of this session of Congress is that politics began about 2 months ago. Usually we have a few months, and already we are in an acrimonious debate. You would not recognize the legislation that we are debating because of the extreme rhetoric on both sides.

I was a member of the National District Attorneys Association for about 10 years. I loved it; good organization. I do not know what has happened to it. They seem to have left the reservation. They have left the reservation. I cannot imagine, with the attitude that is prevalent today, this association ever passing a bill of rights. I cannot imagine, with some of their views.

It is an old adage that a right without a remedy is nothing. And that is what habeas corpus provides.

Look, it is not about the capital offenses in here, and it is not about the provisions dealing with sex offenders, and it really is not about the exclusionary rule, as much as it is about habeas corpus. That is what we are debating. That is what it is all about.

The gentleman from Illinois [Mr. HYDE] indicated that the conference left a lot to be desired. I must say, I agree with that. But why? Why?

First of all, two Republican Senators had the crime legislation held up for 3 weeks. One of them had it held up because of the ratio, going to conference, Democrats and Republicans. And the other had it hung up over the gun legislation that was in there.

And the President had to bring them into the White House to unglue it so that we could begin to debate it. It was released on Friday, and we stayed here the weekend to try to resolve the differences.

There were a number of provisions that were dropped that I would have preferred to have held onto, which I felt would have strengthened the bill more. But unfortunately we had to drop a lot of provisions because we could not reach accommodation.

During that conference, as my colleagues on this side of the aisle know, there was a filibuster in process. And it was very difficult for us to resolve this conference. It is no way to legislate.

So I agree with my colleague from Illinois that it was not the best process, but it is the one that we were left with because on the one hand the President is demanding a crime bill and on the other hand the Republicans in the Senate are stonewalling.

Let us get right to the heart of habeas corpus. There are so many misstatements about what habeas corpus does.

First of all, the suggestion that the 1 year is unreasonable. That came from the National District Attorneys Association. That was their submission. I have their letter, their resolution. The 1 year came from them.

Second, insofar as successive petitions that my colleague from Illinois got into, read the legislation. In the first place, successive petitions, the difference between the Republicans and the President's plan and the Democratic plan is that in the Republican plan, a judge in a habeas corpus process could not reach an illegal sentence. If an individual had perjured himself in a bifurcated trial during the sentencing process and the 1 year had run, that prisoner would be executed because under habeas corpus the process had run. And they would not be able to reach him.

Insofar as retroactivity, the gentleman does a dance around that. There is no question but we redefine new rules, and I grant the gentleman that, but it is a reasonable manner in which to modify that retroactivity provision because it deals with a clear break from precedent announced by the Supreme Court.

Finally, the President's plan would have us have two systems for defendants in this country, the opt-in provision. If in fact a person was to take advantage of habeas reforms, we provide competent counsel. If a person did not want to provide competent counsel, they do not opt in. So we have a system for the rich and a system for the poor.

It is a good bill. It is a strong bill, and I urge my colleagues to support it.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, we've done it once again. Once again we have turned a crime bill into a criminals' bill. The bill is supposed to impose new Federal death penalties for heinous crimes—but with the habeas corpus provisions in this bill, these hardened criminals can't be executed—at least not without multiple appeals in both State and Federal courts. If we are going to have a death penalty for heinous crimes—and the will of the American people is demanding a death penalty—then let's have a death penalty and not a "we'll-execute-you-if-you-don't-die-of-old-age-first" penalty. Too many innocent people like Patricia Lexie are dying from senseless violence and the Congress is making it easier for criminals to get off the hook. This isn't the modestly reasonable bill on which the House worked its will. This is a compromise bill by liberals with liberals in conference. This certainly is not a bill manifesting concern for victims of crime.

We're making it easier for criminals to exclude evidence of their crimes from their trials, too. No matter if a police officer acting in good faith catches a criminal red-handed with kilos of cocaine; if the officer didn't have a warrant, those kilos of cocaine can't be used as evidence in a trial.

This bill also contains the "Brady Bill"—it requires an onerous process and waiting period for the purchase of a gun, and it requires local law enforcement to do a background check on every purchaser. Not only are we making life easier for criminals, we're making life more difficult for law-abiding citizens, who bear the real burden of these gun control provisions.

And if that's not enough, we're mandating official bilingualism in a crime bill. This bill requires the Bureau of Justice Assistance to develop models for the Safe School Antidrug Program in Spanish as well as in English. Moreover, each and every school that applies for an antidrug grant under this program must describe the Spanish-language materials it will use before it may even be considered for a grant. This applies to every school, whether or not the school even has any Spanish-speaking students.

The gentleman who authored this Spanish-language amendment will tell you that it only applies "where appropriate." That may well have been the gentleman's intent, but quite frankly, that is not what the bill itself does. Read it yourself. This legislation itself says that each school shall include these materials in its application—it makes no mention of "when appropriate" or "when a significant number of students speak Spanish."

I strongly support doing everything we can to reach all students with our antidrug message. But this language does absolutely nothing to reach Chinese-speaking students, Vietnamese-speaking students, German-speaking students, or anyone else who speaks any other of the 150 languages spoken in this country. This language only mandates that the Federal Government operate in two languages—Spanish and English. Let's not make the same mistake. I urge you to vote against this procrime bill.

Mr. HYDE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from New Jersey [Mr. HUGHES] has a very short attention span on who has been stalling the crime package. We may recall that on March 6th the President of the United States stood in this Chamber and challenged the Congress to pass a crime package within 100 days. The Committee on the Judiciary did not even hold a legislative hearing on any of the crime package during that 100 days. It took until September for the committee to mark up a bill and send it to the floor.

When it came to the floor, the rule that was requested by the gentleman from Texas [Mr. BROOKS] did not set up a conference immediately, which is the case usually when the other body passes a bill, so that we can get on with it. And the delay in setting up the conference was caused only in part by two Senators over on the other side. But in a far greater part by not asking to set up that conference at the time the House passed the bill in October.

On the merits of this proposal, this bill contains $3.1 billion of authorizations for various kinds of law enforcement assistant programs, including safe schools and cop-on-the-beat, but not one penny of appropriations. We all know here that under the budget agreement that any increase to fund new programs in domestic discretionary spending has got to be matched with either a tax increase or a dollar-for-dollar reduction in other domestic discretionary spending programs.

Quite frankly, that is not going to happen. This year the Congress reduced the President's request for law enforcement by $470 million. If we add $3.1 billion on top of that, we are simply not going to find the money. It is putting an illusion in front of the local officials and the sheriffs and the local police departments all around the country that there is going to be Federal money available when every one of us here knows that that is not going to be the case.

☐ 0750

That is a fraud, Mr. Speaker. It is a fraud on a lot of people who think the Congress is acting in good faith when we know that very little of that $3.1 billion will be appropriated come appropriations bill time next year.

The second issue which I would like to bring to the attention of the Members, Mr. Speaker, is the firearms provision that is contained at the end of the Brady bill. As the Members may recall, when the House passed the Brady bill we rejected the Staggers instant check system by a rather substantial margin. A revised instant check system appeared in the conference committee version of the bill which emanated from the other body, and it says that once the instant check system in on line, the Brady bill, which applies to handgun sunsets, but the instant check system applies to all firearms purchases, not just handguns.

I have attempted to maintain an objective viewpoint on gun legislation, with my strong support of the Brady bill, but also my opposition to the semi-automatic weapons bill, which I did not think did the trick. The House agreed with my position on both of them. What I am here to tell the House this morning is that the permanent provisions relating to handguns are much broader than the Staggers provisions. It makes a provision that the gentleman from Florida, Mr. MCCOLLUM, put in, the drug bill of 1988, permanent and it triggers it as of the sunset of the Brady bill.

This is back door gun registration, there is no way of getting around it, and it expands the instant check provision to all firearms, not just the handguns and perhaps the semiautomatic weapons that are causing the problem, but the hunting rifles, the hunting shotguns, and every other firearm that is transferred through a licensed gun dealer.

This is a blank check, and when someone asks, come campaign time about this, do not say "I did not know about it when it passed," because I am telling the Members about it now.

Mr. BROOKS. Mr. Speaker, would the gentleman from Wisconsin [Mr. SENSENBRENNER] give me his attention just a moment? I want to commend the gentleman, because he has studied this bill very carefully and I am delighted that he came back from Bermuda, though he missed the conference. He has shown great intelligence in reading the bill and in paying attention to it this day or two that we have had to evaluate it. I am very grateful for his attention.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], who is familiar with the gun allocations.

Mr. DINGELL. Mr. Speaker, as my colleagues know I have long been diligent in protecting the rights of firearms owners' enforcement from wrongful pieces of legislation. While I will observe that this legislation in that particular is not all that I would have liked it to have been, I will observe that it has been significantly improved by the distinguished gentleman from Texas in conference. I commend him for it.

I recognize that the other portions of the bill are good. I intend to vote for this legislation. I urge my colleagues to do likewise. The firearms provisions, which on many occasions were oppressive at different times during the career of this legislation as it went through the process, has been much improved and much cleaned up, and I believe it is a piece of legislation this body can support and I should support.

I commend the conferees and I commend my dear friend, the gentleman from Texas, for having presented this legislation to us today.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from California [Mr. EDWARDS], the distinguished chairman of the subcommittee.

Mr. EDWARDS of California. Mr. Speaker, this is an interesting debate and I will not take a long time. I think it is curious that the Members who are opposed to the bill have neglected completely the hard-hitting provisions in the bill to fight crime, one after another. I have not heard from this side of the aisle those mentioned once, and yet our chairman, the distinguished gentleman from Texas [Mr. BROOKS] has itemized them in his opening statement. Was no one listening?

This is a crime fighting bill, and people who vote against this vote against it at their peril. The Members will not get those provisions again easily.

Now, the ranking Republican on the subcommittee that I am honored to chair of course is the distinguished gentleman from Illinois [Mr. HYDE] and I was very interested in what he said about the exclusionary rule. He made a strong pitch for it.

Let us be very clear about what we mean by the exclusionary rule. It is to allow the police to use illegal evidence in criminal trials, illegal evidence, evidence illegally, against the law, gathered.

Now, in the House we approve it, I regret to say, but why was it excluded in the bill? Why was not the present law codified in the bill? Because Senator RUDMAN, the distinguished Senator from New Hampshire, a former prosecutor and a hard-line prosecutor, as he is always proud to say, said "Under no circumstance will the Senate of the United States legalize illegal evidence." That is why that provision is in the bill, illegal evidence, licensing the police of this country to use evidence in criminal trials illegally gathered. Does it not shock the Members even to think of it?

Now, last, habeas corpus. Let us just for a moment look at history. William French Smith was the Attorney General under Ronald Reagan. He made the statement in one of his opening speeches that they were determined to get rid of habeas corpus, they really wanted 50 different criminal laws throughout the country, because if we get rid of habeas corpus that is what we are going to have. We are going to have 50 different codes of criminal law, because there will be no appeals, no appeals, and some of the laws will never be able to be brought in line with the Bill of Rights to the Constitution.

I need to say once more I really do understand why the prosecutors are against the bill, not that any of them have read it, it is obvious. And as I say over and over again about all we have heard in the last couple of hours is our friends who are against the bill who just get up and read something from some prosecutor.

Of course, some prosecutor. Why would they not be against the habeas provisions? Because 40 percent of their convictions are overturned. They do not like to be reviewed and then have to remand back to the trial court or new hearings. Forty percent of them, those are the statistics. We had that evidence in the hearings.

Lastly, there is an emergency committee out there to save habeas corpus. Let me remind Members that four distinguished former Attorneys General of the United States are the chairmen, the co-chairmen, two Republicans and two Democrats; the two Democrats, Ben Civiletti, and Nick Katzenbach, and of course the Republicans, Ed Levy, and Elliot Richardson, all very distinguished, all good prosecutors.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank my chairman for yielding. I want to build on this a bit, and that is, first of all, we have eight different groups of police officers pushing for this bill. Those are the people I feel sorry for. They are the ones on the frontlines. I do not know, there may be more than eight groups in America, but here are eight of them that back it.

Second, I want everybody to deal with the facts and not fiction. We have heard a lot of fiction here. Please get this fact sheet where it shows what is in the Bush proposal and what is in the proposal we are talking about. If the Members want to prevent crime, this is the bill to vote for. None of these preventive measures is in the Bush proposal.

No. 1, all these different ideas that have come in, starting with $1.2 billion to go to State and local agencies to fight crime, that is where 95 percent of the crime is.

☐ 0800

Every State and locality is under tremendous crunches. I think that is why the police really appreciate this bill because they see some help finally coming, rather than more and more lectures about this; plus we have put in some very creative programs.

I also want to point out there are some other things in here that if we do not pass, we will not have them. That is like the registry for people who have been guilty of child abuse and many other such things; very positive things. Deal with the facts. Do not deal with fiction and vote for this crime bill.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in strong opposition to this legislation.

I believe that we here in this Congress, many of us feel we must represent our sportsmen and hunters.

This legislation is bad for our sportsmen and hunters.

The Brady bill as contained in this legislation is worse than the Brady bill that was passed by this House. I cannot understand why anybody who is concerned about their sportsmen and their hunters would like to have that man who walks in and buys a shotgun, as the gentleman from Wisconsin has said, goes in and buys a shotgun and has to have a background check, nor do I think a person who goes in and buys just a hunting rifle, a 22, single shot 22 has to have a background check.

Those of you who are serious about protecting the rights of hunters and sportsmen, I say to you, vote against this legislation.

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I am glad to yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, if it is as the gentleman says, I say to the gentleman from Missouri [Mr. VOLKMER], why has the NRA not come out against this conference report?

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I rise in support of the conference committee report on the Omnibus Crime Control Act of 1991, H.R. 3371. Although the conference committee report includes several diluted provisions, it represents a compromise and a truly comprehensive anticrime package.

It is time for Congress to put public safety ahead of politics. As the president of the National Fraternal Order of Police said yesterday, "I don't think we can sit back and let partisan politics tear away at a piece of legislation we in law enforcement need right now."

In these final hours of this session of Congress, the choice is this anticrime package or no anticrime package. With violent crimes in America up 10 percent from last year, and new record numbers of murders and rapes, I believe Congress must address the rising and very serious crime problem now.

This conference committee report does contain significantly tougher penalties for criminals. It imposes the death penalty for some 50 Federal crimes, including drug kingpins. It triples the penalty for drug dealers who use minors and significantly increases sentences for violent crimes involving firearms. Further, the conference committee report provides tougher penalties for selling drugs in public housing and in other drug-free zones.

This conference committee report also includes a provision that is important to all Minnesotans, the Jacob Wetterling Crimes Against Children Registration Act. This legislation will require convicted child molesters to register with local law enforcement for 10 years after their release from prison. Given the extremely high recidivism rate for sex offenders against children, law enforcement needs this national registration law for child abduction cases.

Mr. Speaker, there are other positive provisions in this package, including $3 billion in fiscal year 1992 for hiring more law enforcement at the Federal, State, and local levels, and for local law enforcement to put more police on street patrols. As the president of the International Association of Chiefs of Police said, "We need that type of help because we're in such straits right now."

There is substantial aid for residential drug treatment and drug testing for prisoners. The bill also provides more resources for prosecutors and creates a police corps which would offer scholarships to college students who agree to serve as police officers after graduation.

Furthermore, the conference committee report restricts the appeals which State prisoners can file in Federal court. This habeas corpus reform sets a 1-year deadline on filing petitions and bars successive petitions unless new evidence emerges or a prisoner could not have reasonably included a claim in the first petition. While I share the President's concern about this diluted habeas corpus reform, I also know this provision has very little to do with removing violent criminals from our streets. Habeas corpus affects those criminals already convicted and behind bars.

In addition, the bill allows introduction of improperly seized evidence in Federal court cases if police acted in good faith while executing a search warrant. The conference committee rejected a broader House passed version, supported by the President, that would have allowed improperly seized evidence even if police had no warrant, as long as they acted in good faith.

Mr. Speaker, this conference committee report is far from perfect, and as a member of the Judiciary Subcommittee on crime, my support comes with several reservations. But given the tragic national crime and drug epidemic that is sweeping our Nation and tearing away at our social fabric, we must choose between an imperfect crime bill or no crime bill at all. In making that choice, I conclude that this compromise conference committee report deserves enactment.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on International Law, Immigration and Refugees of the Committee on the Judiciary.

Mr. MAZZOLI. Mr. Speaker, I appreciate my friend yielding this time to me.

Mr. Speaker, I think what we are looking for at this late hour or really this early hour, is balance. I think on balance this is a good bill, not a great bill, but a good bill. It has some very important anticrime measures in it, preventive measures, which are not on the books today which I think are very worth supporting.

But most importantly, Mr. Speaker, the two elements I would like to speak about briefly, one is that we do finally have Brady type waiting language in this bill that has taken us years and years to achieve. I would think it would be terrible if we left this moment without adopting this legislation.

Lastly, there is made permanent in here a 75 percent Federal, 25 percent local share of anticrime money, and in a time when local law enforcement efforts have got to be ratcheted up to prevent crime and at a time when the revenues locally are ratcheting lower because of problems they have in revenues, this is a very valid concern. We are now responding to local concerns.

Mr. Speaker, on the whole this is a good bill. Please support this bill.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Speaker, sadly the bill before us is worse than present law in two out of the three major provisions that the President asked for in his initial crime package.

We do see enhanced death penalty provisions. There is no doubt about that, but in the area of habeas corpus, we beat a retreat because we do not provide the kind of relief that it is supposed to do. That was supposed to end the endless appeals from death row and others.

Instead, what we have done in this bill that came out of conference is to complicate matters so that the appeals time will be lengthened, and that is why this Member objects so strenuously in part to this bill.

The other thing that we do, or we were supposed to do in this bill and we do not do and we retreat from present law about it, we were supposed to allow more evidence in with respect to those cases like drug cases. We were supposed to make it easier by adopting the good faith exception to the exclusionary rule of evidence by expanding the Supreme Court decision and in principle and exception to this rule in those cases where a police officer reasonably and objectively believes that his search is legal in cases with search warrants to those cases where there are no search warrants, but he also reasonably believes that it is legal, as two circuit courts of appeal have done in this country; but instead of adopting that in the conference, which by the way we adopted on the floor of the House, this expanded exception, by a vote of 247 to 165 on the 17th of October, instead of doing that, not only do we not do that, we adopted a provision that narrows the existing Supreme Court exception and will make it more difficult to get evidence in cases where there are search warrants. That is what we have done with this situation.

We have reduced the scope of what you can get into evidence. We will have fewer convictions if you pass this bill as a result of this.

Is it any wonder prosecutors oppose this and any thinking American should oppose it, because we have beaten a retreat by lengthening the appeals time that you have from death row cases and by instead of allowing more evidence in, we have changed the rules of the Supreme Court so in search warrant cases you will have less evidence allowed.

Mr. Speaker, let us vote no on this bill. It is not a criminal justice bill.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. CHAPMAN], a member of the Committee on Appropriations.

Mr. CHAPMAN. Mr. Speaker, I could not disagree more with what the previous speaker said.

I say that from 8 years experience as a district attorney with hundreds of felony trials and experience as a capital murder case prosecutor.

I do not know how any Member of this body can in good faith say the habeas corpus provisions in this bill lengthen appeals in criminal cases. That is not true and every Member of this body knows it.

As a prosecutor, when you restrict the number of petitions of habeas corpus to one and impose a time limit of one year, when today there are no restrictions and no time limits, how you can say that is not a restriction of the right to habeas corpus is beyond me.

And as to successive petitions, to my friend, the gentleman from Illinois, yes, there are exceptions. There can be successive petitions, but instead of talking legal mumbo jumbo, let us talk about the real world of criminal prosecutions.

What are the exceptions? The exceptions apply when someone else confesses. Would you deny a man on death row his freedom when after his 1-year statute of limitations for habeas petition has expired, someone else confesses?

☐ 0810

You would. If the State hides exculpatory evidence and does not reveal it at the trial, the defendant has no way of knowing it or getting it and you would deny him his freedom. Your position would.

When chemical or ballistic analysis years later, not available to the defendant at the trial, shows he was not guilty, would you deny him his freedom? You would. That is not reasonable.

As to the mandatory experience—and this is a prosecutor with hundreds of experiences—I cannot believe my friend from Illinois would find unreasonable that if the Government wants to take a life, that 5 years' experience by the defense attorney is unreasonable to represent him in that case. And to represent him on appeal, that 3 years of experience is unreasonable.

I have prosecuted a capital murder case. I know the onus when you as a Government lawyer want to take the life of someone. And it blows my mind that you should suggest that that should be done by defense counsel with no experience.

I think that is wrong.

Yes, there are parts of this bill that I would change, there are things that we could do better. But this is a crime bill. It limits habeas; it will prevent crime. It ought to be passed by this body.

I urge my colleagues to support it.

The SPEAKER pro tempore. (Mr. PANETTA). The gentleman from Texas [Mr. BROOKS] has 7 minutes remaining, and the gentleman from Illinois [Mr. HYDE] has 7½ minutes remaining.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, here we go again.

We need an effective crime bill, and I'm ready to vote for a real crime bill. But we can't seem to shake the notion that, by controlling the access of law-abiding citizens to gun purchases, somehow we'll reduce crime.

The Brady bill language in this crime bill isn't going to keep people from selling guns out of the trunks of cars; it isn't going to stop thefts of guns from law-abiding gunowners; and it sure isn't going to stop people from using guns for illegal acts, no matter where they got them!

If the Congress was really serious about fighting crime, the conferees would have chosen the tougher provisions from each bill and brought them to us. Instead, they adopted the weaker option in several instances, and kept the antigun language that punishes law-abiding citizens—not criminals.

Mr. Speaker, we need crime control, not gun control. This conference report just doesn't cut it on either.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I rise in opposition to the conference committee report. This is not an anticrime bill. This is not a law enforcement bill. This is not a victims' rights bill, it is the opposite of all those things.

If this is an anticrime bill, then why does the Department of Justice oppose it? If this is a law enforcement bill, then why does the National Association of District Attorneys oppose it? If this is an anticrime or law enforcement bill, then why have more than 30 State attorneys general signed a letter urging the President to veto this bill? If this is a victims' rights bill, then why are victims' groups unalterably opposed to it?

We hear much talk today about finality of judgment and about ending the intolerable delay in carrying out sentences, including capital sentences. This bill will not make things better. Instead, it will destroy what little finality of judgment we have, and it will multiply delay many fold. The most important action the Supreme Court has taken to ensure finality of judgment is its 1989 decision in Teague versus Lane, which limits the retroactive effect of new decisions on old cases. The Teague decision helps ensure that when State courts comply with existing constitutional law their judgments will not be upset years later because of changes in the law that could not be anticipated. This bill repeals the Teague decision with a vengence. In fact, this bill is written in such a way that the law on retroactivity will be even worse for law enforcement than it was before the Teague decision. If you want endless delay and never-ending relitigation of every criminal conviction, then you want this bill. However, if you believe, as I do, that we do not need more delay and more relitigation in our legal system, then you should join me in voting against this bill.

It is no answer to say that this bill contains a one-year statute of limitations for filing habeas corpus petitions. That requirement is so riddled with exceptions that it is worthless.

We also hear much talk today about the need for better counsel in the trial of capital cases, and I am all for ensuring competent counsel. However, the draconian counsel provisions of this bill are designed to obstruct, delay, and prevent the imposition of capital punishment. I cannot support that. This bill would also turn over to private groups, such as capital resource centers, the authority for appointing counsel and evaluating their performance. I cannot support that.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is aware that the attorney general of Texas disagrees with the gentleman from Texas [Mr. CHAPMAN] and the gentleman from Texas [Mr. BROOKS], the gentleman is aware of that?

Mr. HARRIS. I am.

Mr. Speaker, this bill seeks to effectively overrule the Supreme Court's Strickland versus Washington decision in capital cases. I cannot support that.

We also hear much talk today about women's rights and interests, and I am certainly for that. In fact, I welcome this vote, because it is an important test vote for our commitment in the area of women's rights. We sent the conference committee a bill requiring HIV testing of rapists, and a bill that would fund HIV testing for rape victims. The conference committee deleted those provisions. We sent the conference committee a bill that mandated enhanced punishment for repeat sexual offenders. The conference committee deleted that provision. How can anyone who believes in women's rights and in protecting women victims of violent sexual attack justify what the conference committee has done to our bill? How can anyone vote to approve such utter contempt for the rights and interests of women and of the victims of violent sexual attack?

The Association of National District Attorneys is right. The attorneys general of more than 30 States are right. The victims groups are right. This bill is not an anticrime bill. It will hurt, not help law enforcement. It will hurt, not help victims and survivors of crime. I urge a no bill.

Mr. BROOKS. Mr. Speaker, I yield 15 seconds to the gentleman from Texas, [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think one of the many things that Mr. HYDE, failed to investigate before coming to the floor today and speaking about is the nature of the Texas attorney general's office.

I say the gentleman from Illinois, Mr. HYDE, he would be interested to learn that the Texas attorney general is a civil official who has no power to prosecute criminal cases whatsoever.

Mr. HYDE. Mr. Speaker, I knew Mr. Maddox real well, his predecessor.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Ohio, [Mr. FEIGHAN].

Mr. FEIGHAN. I thank the gentleman for yielding.

Mr. Speaker, I want to start by expressing my gratitude to you, to Mr. SCHUMER, and to each of your hard-working staffs. This crime bill would not have been possible without your leadership, dedication, and endurance.

Although I fear that we are laboring in the shadow of a senseless veto, the bill before us is a good crime bill. It is a bill that members can be proud to vote for.

We can be proud because action on crime is something our constituents have demanded for two decades, ever since a wave of violent crime began to seriously erode the American way of life.

As a result, our children are growing up in a more frightening world, not just in our cities but in our suburbs, our small towns, and now in rural America where the largest increases in crimes of violence are taking place.

The time for a crime bill is long past overdue and now we have one. Let's pass it and get it to George Bush's desk.

Mr. Chairman, I don't claim that this is a perfect crime bill. The fact is that we don't pass much legislation that is perfect.

We can try for several more months to achieve a bill that would come closer to perfection but that would be pitting the ideal against the good. That would accomplish nothing but delay. Delay while the senseless slaughter on our streets continues.

The President has threatened to veto this bill. This would be a serious mistake. Quite literally a deadly mistake.

Because the Brady bill provisions of this legislation alone would save thousands of lives. We know that because handgun waiting periods in the various States that have already enacted them have stopped tens of thousands of illegal handgun purchases.

Criminals, the mentally incompetent, and drug addicts have not been able to complete their gun purchases because a waiting period, and the background check allowed by that waiting period, showed that they just shouldn't be armed with a handgun.

And they have been denied a handgun. And because of those denials, there are people walking the streets today who are alive and well because some criminal or addict just wasn't able to buy a handgun the way he could buy a tube of toothpaste.

But there is another side to that coin. It is the thought of all the men, women, and children who will not be with us this Thanksgiving because there was no law in place to stop some felon from buying a gun and ending their lives. Men, women, children. All races, all colors, all creeds.

People who should be with their families but are, instead, wept over as victims. Victims of handgun violence and victims of a system that refuses to do anything about it. At long last, let's do something. Let's pass this bill.

There are other good reasons to support this legislation. It includes the Anti-Terrorism Act of 1991, which will finally provide the families of victims of terrorism with a civil cause of action to seize the assets of terrorist organizations.

It also includes the Law Enforcement Scholarship Act which, by providing scholarships for career police officers, will help improve police effectiveness and reduce the number of citizen complaints against officers.

In conclusion, there are numerous reasons to support this crime bill and there is not one good reason to oppose it. House passage of this rule and this bill will represent a rare victory in the war against crime. A defeat here today or a veto by the President will represent nothing less than a surrender to forces that threaten to destroy us.

Mr. HYDE. Mr. Speaker, I yield 1½ minutes to the learned gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, Members of the House, the reason that we oppose this bill, we who are proponents of the death penalty, of the exclusionary rule, of reform in habeas corpus, the basic reason we oppose this bill is the careless provisions and the flawed provisions contained therein.

For instance, how many will remember the drive-by shooting debate we had in the House for the last two sessions? This bill maintains that a drive-by killer can only be convicted and be subjected to the possibility of the death penalty if there would be an intentional killing.

All the drive-by shooter has to do, under the version presently before us, the drive-by shooter simply has to show that he did not intend to kill, because the verbiage talks about an intentional killing.

That is not what the House proposed before, that is not what the House agreed upon.

We know and the general society knows that a drive-by killer, which is a scourge on our streets, who has to be driven from our streets when he acts with reckless disregard for the lives of people who are in the streets, that individual should face the possibility of the death penalty, a big flaw in this bill.

Mr. BROOKS. Mr. Speaker, what is the time remaining?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] has 5¾ minutes remaining, and the gentleman from Illinois [Mr. HYDE] has 3 minutes remaining.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished former member of the Committee on the Judiciary, now with the Committee on Appropriations, the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding, and I commend the Committee on the Judiciary.

Mr. Speaker, this is a test of will. This is not just an anticrime bill, of epic proportions for us, this is a test of will. Is the will of the collective American people in this country going to win or are the Republicans going to win? Are they going to say that this is a procrime bill and get away with it? Or are we going to deny them the chance to deny the American people the relief they have been asking us for for years?

This is a test of will. Will we pass this, send it to the Republican President and have him veto it, so that the American people will know once and for all who stands with them and who wants to play only a game, in name only, because they just want to win for show so that they can be perceived as being against crime? They have handled white-collar crime the most miserably of any administration in the history of this country.

We are not anticrime, according to them.

□ 0820

According to them we are pro-crime, but according to their record they are pro-crime. I say, You vote for this bill, you're going to tell the American people exactly where the Democrats stand, with them in the fight against crime.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished former sheriff the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I supported the bill in its original form. I oppose the bill now.

I say this to the Members of Congress as a former sheriff: We should attach a tax credit provision to this bill so every American citizen could go out and buy a flak jacket because this bill declares open season.

Mr. Speaker, I cannot believe that conference threw out the assault weapons, the ban on assault weapons. My colleagues, with all the death sentences we are talking about, we will be sentencing more Americans to the death penalty on the streets of America than we will criminals in court.

Now I am not going to take a lot of time, and I am not here to impress everybody or to maybe make a lot of friends. Congress is not going to deal with crime on the streets until they take a look at guns, and, if the NRA is going to write the gun laws of America and Congress is going to wimp out, we will never deal with the issue.

Now the NRA and the police should not be apart. They are both honorable groups. We have got to bring it together. We had an instrument. The President wants a death penalty. We backed off in Congress, and we declared open season on the American people.

How can I justify, as a former sheriff, having policemen on the streets when these bums have more firepower than they do?

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, as the gentleman from Ohio [Mr. TRAFICANT] knows, the President opposed the assault weapon bill.

Mr. TRAFICANT. I am not dealing with the President opposing it, and, if the gentleman from Texas [Mr. BROOKS] would yield me some time, I would explain my position.

Democrats and Republicans should be sitting down with the NRA. The NRA and policemen should be friends. We all stand for the same things, but, my God, you cannot have drive-by, drive-through, drive-in, drive-by murders.

Mr. Speaker, I would wish that we would consider that issue if this bill gets vetoed and we do not have the votes to override it.

I thank the gentleman from Illinois [Mr. HYDE] for yielding this time to me.

Mr. BROOKS. Mr. Speaker, I yield 2½ minutes to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the Subcommittee on Crime and Criminal Justice.

Mr. SCHUMER. Mr. Speaker, we have before us the toughest crime bill that has been before this body in 20 years, and we have a choice. Our choice is a simple one. Are we going to say, because the bill does not have this, or this, or this, I am going to oppose? Or are we going to vote for a bill that contains tough provision after tough provision?

I ask my colleagues, Do you want to go home and explain your vote against a bill that calls for the death penalty for drug kingpins? For child sex abuse? For terrorism? For killing cops? You going to explain that to your constituents? Do you want to go home and explain to your constituents and explain to yourself that you voted against increased penalties for using a gun on the street? Five years mandatory for the first penalty, 10 years mandatory for the second, 15 for the third? A provision written by the gentleman from New Mexico [Mr. SCHIFF] on that side of the aisle? Do you want to go home and explain to your constituents why you voted to allow those on death row to have 8, or 9 or 10 appeals rather than the one in this bill? Do you want to go home and explain to your constituents why you voted against more prisons so that the prisoners, the criminals, wouldn't be out on the streets? Do you want to go home and explain to your constituents why you voted against money for cops on the beat when in so many areas of this country we do not see a police man anymore? Do you want to go home and explain to your constituents why you voted against mandatory minimums for terrorists? Who frightened so many and killed some of us?

Mr. Speaker, I say to my colleagues, If you want to do all that, my colleagues, pick a little reason that you're opposed to this bill and vote no. But I would argue to you that you're doing the wrong thing substantively because you're preventing the American people from getting good anti-crime protection, and you're also doing the wrong thing politically because I can make a much better 15-second spot pinning on you why you voted against all these tough provisions than you can explaining the Teague decision to me.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF], the former state's attorney and a member of the ill-starred conference committee.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE] for yielding this time to me.

Mr. Speaker, I was a prosecutor for 14 years, and, as a member of the Subcommittee on Crime and Criminal Justice, I want to say there are some provisions, including provisions written by the gentleman from New York [Mr. SCHUMER] with which I approve. But this bill went wrong. This bill went wrong in conference when there was a Hail Mary pass from House Committee on the Judiciary Democrats to Senate Judiciary Democrats which selected the weakest possible position right down the line on priority issues, and my colleagues know that to be the case because that is why the National District Attorneys and the National Attorneys General opposed this bill.

In addition to that situation, there are provisions in this bill that Members of the House have never voted to approve. For example, this bill says that anyone who wants to buy a hunting rifle will have to go through a police background check, and the House, for all of its accepting the Brady bill, never accepted that. The point is that we do not have to choose between this bill and no bill.

Mr. Speaker, we will offer a motion to recommit to conference to cure the evils that we have described so that we can pass a crime control bill, not a crime encouragement bill.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, 1 month ago, I voted for H.R. 3371, not because I supported every provision of the bill, but because I felt that several important amendments added backbone to a bill introduced with weaknesses in major areas. It took 3 days, but this body was able to put teeth in this bill, extending the good faith exemption and turning back a crimi-

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nal protection measure mistakenly described as a fairness in Death Sentencing Act. The Brady bill was included as well, demonstrating to me that the legislation, although still lacking strength in such important areas as habeas corpus reform, nonetheless was headed in the right direction.

I was optimistic that the conferees would continue in this vein, bringing us a truly tough on crime bill. It was not to be. These chosen few conferees set about dismantling much of the progress we had made, disarming some of the most significant portions of the bill. When faced with a choice, they repeatedly and deliberately chose the weaker provisions. The legislation we are left with today is nothing but a shadow. It's a big step backward and I cannot support it.

Mr. Speaker, this country is crying out for help. Our streets are unsafe, and an increasing number of juveniles have found that crime pays. Obviously we're failing in our efforts to deter violent crime. What astounds me is that the House and the other body did adopt strong stances on provisions to empower our police forces, streamline our judicial process, and protect victims with the same vigor that we use to protect criminals. So why then, with the tools available to them, and good legislation on the table, did the conferees gloss over other major provisions that would have made a difference to the American people? I am willing to compromise, but this is more like full surrender—I urge my colleagues, don't settle for next to nothing—vote "no" on the conference report.

Mr. BROOKS. Mr. Speaker, I yield myself 2¼ minutes.

Mr. Speaker, I would like to close with a few words of friendly advice for my fellow Texan down on Pennsylvania Avenue. My advice is simple: Mr. President, you don't need another civil rights bill fiasco right now. You don't need to be proclaiming your belief in a principle at one moment and then to be shown trying to undermine that principle that next moment. That only produces embarrassment—not just for the President but for our system of Government.

This President has expended tremendous energy over the past 3 years proclaiming how tough he want to be on crime. He has a chance to put those words into action by working with us here in the Congress to enact this bill. If the President really wants a crime bill, instead of just talking about crime, he can pick up the phone and ask his troops here and in the other body to get with the program. And then, he can pick up his pen and sign this tough and comprehensive anticrime measure.

If the President fails to do this, the burden is on him to tell the American people why he is against putting cops back on the beat, why he's against steering youthful offenders away from a life of crime, why he is against the death penalty for drug kingpins who kill, for torturers, rapists, and terrorists who kill. The President has quite enough to explain these days. He may not wish to explain why voting against a crime-fighting bill will somehow be in the best interest of the American people. I urge the Members to support this conference report.

☐ 0830

Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I rise in opposition to this bill.

Mr. MCMILLEN of Maryland. Mr. Sepaker, no question exists that the rampage of crime continues in this country and that we must seek ways in which to stem this violence. The House Judiciary Committee has spoken wisely on a number of improvements to the U.S. Criminal Code, and I support the legislation we consider today. However, in our zeal to fight crime in the streets of America we must not lose sight of the fact that any changes made to the United States Code must be done with full respect for the U.S. Constitution.

My votes on H.R. 3371, the Omnibus Crime Control Act of 1991, have reflected my belief in the essential integrity of the Constitution. I believe that its directives are unassailable and that this body should not radically alter its direction.

I opposed the McCollum amendment which would expand the exclusionary rule to allow the admissibility of evidence into a criminal proceeding which is obtained illegally. The committee legislation allows certain "good faith" exceptions when evidence is obtained by a law enforcement officer with a warrant. The McCollum amendment extends the admissibility of such evidence to instances where no warrant is involved. I find this an abridgement of the rights of unfair search and seizure, as guaranteed under the fourth amendment of the U.S. Bill of Rights.

My votes on habeas corpus reform further demonstrated my belief in fundamental consitutional rights. A strong case is made that the extreme workload which inundates our Federal court system demands action. We need to take steps to curb excessive and unnecessary petitions and appeals; however, that does not mean we need to sacrifice the writ of habeas corpus for reasons of expediency. The committee legislation included significant reforms without destroying the fundamental right for a Federal review of a State court decision. For these reasons, I opposed the Hyde amendments on habeas corpus.

A particularly difficult vote for me was to support the Volkmer amendment on semiautomatic firearms. While I strongly agree with the need to address the issue of urban crime and spreading violence, I felt that in our efforts to break this downward cycle of violence, we must be careful to not inadvertently ignore the rights of law abiding citizens who seek to own guns for legitimate reasons.

All of my gun control votes have been consistent in one regard; they are based on the premise that we must make it as difficult as possible for criminals and the deranged to obtain illegal and dangerous firearms, while at the same time being respectful of the right of the responsible citizen to have unfettered access to a firearm. Unfortunately, the ban proposed in the original legislation was imprecise in its construction; it denied legitimate uses of certain guns, and it would unfairly and negatively impact domestic manufacturers.

If we really want to address the issue of criminal use of semiautomatic weapons and to limit violence, we should not try to simply ban certain categories of rifles, but, rather, look into other alternatives as cooling-off or waiting periods between the sale of a firearm and its transfer. This is a way in which we need not infringe upon legitimate gun owners' rights, while achieving the aim of controlling crime. Previously, I have supported a waiting period for handguns, and see potential in extending this to other areas. The effectiveness of this approach has been demonstrated by various States, including my home State of Maryland.

The Congress cannot ignore the plague of violence rippling through our society. Men, women, and children of all ages and of all races face the streets in fear of their own lives and property. This legislation we consider today is a positive step to addressing the problem of crime in America. By giving law enforcement officers and prosecuting attorneys more tools to catch and convict criminals, we are taking steps toward ridding our society of crime and returning the streets to the people.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of the conference report on H.R. 3371, the crime bill. I want to commend Chairman BROOKS for his leadership in bringing back to the House floor a conference report which fundamentally addresses the many complex and controversial issues which divided the two Houses.

I am particularly pleased that all of the revenue measures in the Senate amendment have been deleted from the conference report. It has been our consistent position that, in order to preserve the constitutional prerogatives of the House of Representatives, that revenue measures added by the Senate to a nonrevenue bill are not acceptable.

There is one such Senate provision, however, that I believe deserves further study. Section 4917 of the Senate amendment would authorize up to $30 million of unobligated funds to be transferred out of the Customs forfeiture fund to the Department of Health and Human Services to be expended for drug treatment for individuals under criminal justice supervision. I strongly believe that there is a great need to increase funding for drug treatment programs, and I have committed to holding a public hearing on this matter in the Committee on Ways and Means early next year to explore the merits of funding such programs out of the Customs forfeiture fund.

Mr. Speaker, this is an important matter and I want to assure my colleagues that it will receive the serious attention of the Committee on Ways and Means.

Mr. KOPETSKI. Mr. Speaker, I rise today in support of the conference report. Before I continue, I want to commend Chairman BROOKS for his diligent efforts and those of the Judiciary Committee staff in putting this conference report together in such a short period of time. I also want to recognize the efforts of Congressman CHUCK SCHUMER and Congressman DON EDWARDS for their efforts in this process.

This is my first crime bill as a Member of this body. I've heard a great deal of talk from

Members on both sides of the aisle that we need to be tough on crime. Well, I contend that this bill is tough on crime. This is a comprehensive crime prevention package—31 titles and over 900 pages. This is a package that Members can take home and of which to be proud.

Much attention has been given to the "big ticket" items such as the exclusionary rule, habeas corpus reform, a ban on assault weapons, and coerced confessions.

These are important but are only parts of the whole. Important parts of this bill are not being discussed. I meet on a regular basis with the law enforcement community in my district. Their primary concern is Federal assistance to the communities and strong prevention programs. Mr. Speaker, the bottom line is that this legislation goes a long way toward this end.

In this context, H.R. 3371 demonstrates clearly that this Congress is serious about waging the war on crime by engaging in a partnership with our States and local governments. Mr. Speaker, we need to dedicate ourselves to the war on crime in the same manner in which we mobilized for Operation Desert Storm. H.R. 3371 does this.

Mr. Speaker, the fact remains fighting crime costs money. Enhanced penalties, minimum sentencing, and the addition of new crimes to Federal jurisdictions requires additional judges, court personnel, court rooms, and personnel costs including an increase in the monies for indigent defense costs. If we increase the burden on the criminal justice system, let's make sure at the same time we increase the resources for the system to handle that burden. This bill does this by increasing the authorization for the Federal law enforcement agencies to $345.5 million and providing a $1 billion authorization for the Safer Streets and Neighborhoods Act.

Beyond this authorization, H.R. 3371 establishes a series of new grant programs that will promote the prevention of crime and will help end recidivism in the criminal justice system. I want to take this opportunity to highlight a few of these programs.

On the prevention end, H.R. 3371 establishes the Community Policing: Cop on the Beat Program; title XI, subtitle E. This program will put police officers back into the community through Federal-State-local cooperative grants. These grants will help State and local police departments and local community groups develop innovative, neighborhood-oriented policing programs.

H.R. 3371 also establishes an authorization to expand the successful Midnight Basketball Program, title XI, subtitle H, on a nationwide basis. This program keeps young people off the streets and away from drugs, alcohol, and crime during the hours of 10 p.m. and 2 a.m. It provides 80 young people in a given community with safe haven from the streets. The Midnight Basketball Program also requires that players attend employment counseling, job training, and education classes. This is a crime prevention measure that will have immediate impact on our communities.

Mr. Speaker, this bill also provides $200 million for grants to States and local governments to ensure certainty of punishment and promote reduced recidivism among young offenders. The Certainty of Punishment of Young Offenders title, title XI, subtitle J, encourages States and local governments to develop alternative methods of correctional and rehabilitation options including boot-camp prisons, community-based incarceration, weekend incarceration, intensive probation, electronic monitoring, home confinement, vocational and educational options, and restitution programs. I offered an amendment to this title on the floor that made sure that treatment and counseling of substance abuse include alcohol abuse, a serious problem to law enforcement officers in my district and I understand, across the country. This program will be an effective tool in turning young people away from a life of crime.

To facilitate the apprehension of criminals, H.R. 3371 works on two levels. First, H.R. 3371 provides $30 million for law enforcement scholarships to send rank and file members of our law enforcement agencies back to school for further professional development. This will help police officers better use the developing technologies of the 21st century in fighting crime.

Second, H.R. 3371 sets up a uniform program to deal with the latest technological breakthrough in fighting crime, DNA identification [title XI, subtitle B.] This program seeks to improve the quality and availability of DNA analyses for law enforcement identification purposes by setting uniform standards and establish a national index of DNA profiles of convicted offenders. H.R. 3371 will help State and local law enforcement agencies to use effectively this valuable technology.

To end recidivism, H.R. 3371 attacks the problem of drug abuse among individuals in the criminal justice system. I was appalled to learn that there are waiting lines in the Federal penal system for inmates attempting to obtain substance abuse treatment and counseling. Recent statistics show that 60 percent of all prisoners suffer from drug or alcohol abuse. Section 1404 of H.R. 3371 requires that Federal prisons provide residential substance abuse programs for all prisoners who seek such treatment by fiscal year 1995. Studies show that prisoners who undergo such treatment are much less likely to reenter the criminal justice system after release. H.R. 3371 also provides technical and financial assistance to States to establish a similar program for State corrections facilities.

These are but a few of the programs that will make a real difference in the war on crime. H.R. 3371 also offers tough sentences. For those who believe that death penalty is a deterrent, H.R. 3371 has 50 new death penalty offenses. This bill also strengthens sentences for crimes involving firearms, child abuse, sexual violence, and terrorism. These are tough provisions.

Lastly, Mr. Speaker, I want my colleagues to know that while being tough on crime, we must be responsible. Responsible to our Federal Constitution. H.R. 3371 provides a "good faith" exception to the exclusionary rule for seizures conducted under invalid warrants.

H.R. 3371 also streamlines the Federal habeas corpus process by establishing a 1-year statute of limitations for death penalty habeas corpus cases. Mr. Speaker, this habeas corpus reform is supported by Federal and State judges, attorneys general, the American Bar Association and over 370 law school professors.

Why is habeas corpus so important? The American Bar Association has found that in 40 percent of death penalty cases reviewed by the Federal courts, the State court conviction or sentence was based on serious violations of constitutional rights. This is not to say that 40 percent of these convictions were thrown out; it simply meant that the defendant was entitled to a new trial or new sentencing. After retrial or resentencing, some of these people were fairly retried, others were resentenced to life terms, others were acquitted of all charges, and yes, still others faced their original sentence.

Mr. Speaker, our founding fathers fought for the right of habeas corpus to ensure that the State will not wrongfully punish citizens. In this year of the bicentennial of the Bill of Rights, we are affirming the importance of habeas corpus.

Mr. Speaker, this bill represents a compromise. There are parts of this bill that I do not support including the waiting period on the purchase of handguns and the drastic increase in the number of death penalty offenses. I am supporting this legislation because the people of this country want this Congress to enact a comprehensive crime fighting package now. There is much good in it. Mr. Speaker, this is such a package. I urge my colleagues to support this conference report.

Mr. MORAN. Mr. Speaker, it is with great regret that I rise today in opposition to the conference report on H.R. 3371, the Violent Crime Prevention Act of 1991.

Our constituents are afraid. They are seeing their cities and their children being destroyed by senseless gun violence. They are seeing their schools and their communities pervaded by crack and other highly addictive drugs. They feel that their local police and courts have become powerless as more drug dealers and criminals are set free because our prison systems is too overcrowded. They are enraged that justice is not swift and that the same appeals system established by this Nation's Founding Fathers to protect individual liberties is now being used to tie up our courts and to escape punishment.

Our constituents, our police officers, our judges, and public attorneys turned to Congress asking for the tools to fight the war on crime. We have let them down.

Our constituents asked us to bring an end to the proliferation of high-powered assault weapons, fueling the ever rising homicide count. We let our constituents down. The conference committee failed to enact a ban on the domestic manufacture and sale of assault weapons.

Our court officials asked us to limit the numbers of habeas appeals choking our judicial system and preventing victimized families from resolving their pain. We let our constituents down. The conference committee failed to substantially reform the system of habeas corpus appeals.

Our constituents in the South and in urban enclaves across this country asked us to ensure that the death penalty was being administered fairly. We let them down. The conference committee struck the Fairness in

Death Sentencing Act which passed the House of Representatives.

In point after point as we go through this legislation, we see that this bill does little to protect our constituents. In page after page, as we go through this bill, we see that this legislation does not fight crime and will not make our streets any safer, our courts any more efficient, or our families and children any more secure.

It is thus, with regret that I am voting against this version of the Violent Crime Prevention Act of 1991. I hope that the Congress can readdress this issue next year and ensure that we develop a package that does protect our constituents and regains the offensive in our war on crime.

Mr. BLACKWELL. Mr. Speaker, we can't give life and we certainly don't have the God given right to take a life. This bill establishes 50 different reasons to take a life. But it does not and can not legislate a way to correct a mistake. No appeals can bring anyone back from the dead. Death makes all mistakes final.

I will never forget the case, many many years ago, of Corine Sykes, a black woman who was convicted and executed before her innocence was discovered. She died after being judged by a justice system that is not completely color blind, a justice system that is too often blinded by skin color and economic status. Repeated evidence continues to prove that the death penalty is applied in a racially biased manner. I point to the last year's General Accounting office study. It found that 82 percent of those convicted of murdering nonminority victims were more likely to be sentenced to death than those convicted of murdering minority victims.

For the life of me, I simply can not understand how we can consider, on one hand, the death penalty, and reject, on the other hand, legislation that will regulate the sale of assault type weapons. Are we saying that it is all right to sell a weapon that can only be used to kill people. But now, in fine print, we are saying if you kill, we will kill you? Today, we are debating a bill that calls for death sentencing for 50 crimes; 50 crimes. What's next, 100 crimes or 200 crimes?

I firmly believe that those convicted of committing the most heinous crimes should be incarcerated for as long as our penal system permits. But does this Congress or anyone have the right to decide when someone should live and when someone should die? No.

Does our justice system have the ability to fairly decide who should die? No.

Mr. Speaker, until we can answer yes to both of these questions with a clear conscience, I will continue to vote "no," on this and any future bills which call for the use of the death penalty.

Mr. VENTO. Mr. Speaker, I rise in opposition to the conference report to H.R. 3371.

I want to acknowledge the conferees for their work in attempting to develop an acceptable conference report. While I applaud the conferees action in including a compromise 5-day waiting period for handgun purchases and an associated background check by local law enforcement officials, nevertheless, I oppose the adoption of the conference report.

I remain concerned by the so-called habeas corpus reform provisions previously adopted in the House which purport to streamline the implementation of the death penalty on State prisoners. Of all the circumstances where the Government should be concerned with guaranteeing the highest standards of due process of law, certainly a prisoner facing the ultimate penalty in our society, the loss of their life, deserves the most thorough and searching scrutiny of the facts in his or her case. But the conference report before us today does not meet that strict standard. Instead, it unmistakably compromises the constitutional right of habeas corpus by adopting a totally arbitrary timetable which insists that in most instances the only legally or factually relevant issues in a capital case must be asserted by a defendant within 1 year after direct appeals have been exhausted. For the unfortunate defendant who discovers exculpatory facts after this 1-year period has run, it may simply be too late to correct an injustice if a judge makes a subjective finding that the facts could have been discovered through "due diligence" by the defendant earlier.

In summary, the provision on habeas corpus reform, despite the best intentions of its proponents, tampers with the Constitution. The writ of habeas corpus was considered so important to the founders of our country that it predated the Bill of Rights and was included in article 1, section 9 of the Constitution itself.

In the Civil War, when a civilian was sentenced to death by a court martial, even though the local grand jury had refused to indict him, his life was spared when the Supreme Court granted a writ of habeas corpus in the case of Ex Parte Milligan. When Americans of Japanese descent were confined against their will in internment camps during World War II, again it was the writ of habeas corpus that finally won their release in the case of Ex Parte Endo.

Today, some of the proponents of habeas corpus reform insist that too many habeas corpus petitions are frivolous and bog down the courts in seemingly endless paperwork. However, according to the American Bar Association, petitions for habeas corpus are granted in 40 percent of all capital cases. Surely, the constitutional right of habeas corpus is important enough to avoid shortcuts in the name of some vague notion claiming judicial efficiency or because it may be politically popular today.

Mr. Speaker, I also oppose the significant expansion of the list of Federal offenses where the death penalty may be imposed to some 50 crimes. No one would suggest that these offenses are not heinous crimes. In most instances of sentencing for serious crimes, judges and juries have considerable latitude in determining a proper sentence, many of which may be severe, such as life imprisonment without possibility of parole. However, there are still wide variations among different jurisdictions about those circumstances where a judge or jury may elect to impose the death penalty. I am concerned that the conference report will increase rather than minimize such arbitrary disparities based on race, socio-economic status, and the proficiency of a defendant's legal counsel. Indeed, when the House considered the Judiciary Committee's bill, H.R. 3371, a provision designed to protect against racial discrimination in capital sentencing was dropped from the bill altogether. There may be many aggravating factors which a judge or jury should weigh in assessing a criminal sentence, but the defendant's race should never be one of those factors. Regrettably, this conference report does not make that unequivocal statement.

Finally, I am concerned that the conference agreement codifies into law a judicially crafted good-faith exception to the exclusionary rule relating to illegally seized evidence or illegal police conduct. Under this 1984 Supreme Court ruling, evidence will not be excluded if it was obtained in good faith reliance on a warrant, even if the warrant is ultimately determined to be invalid. The reality of most criminal cases in Federal and State courts today is that convictions are won or lost on the weight of numerous exhibits of evidence rather than only one smoking gun.

A good faith exception to the warrant requirements of the fourth amendment invites police, prosecutors, judges, and juries to engage in a game of subjective speculation about what was in the minds of police when they occasionally may not act in accord with the full rights of the defendant being observed. At the same time, the so-called good faith exception will erode the prevailing standards for the overwhelming majority of police officials who have learned over the past quarter century since Mapp versus Ohio to comply with constitutional requirements. The most certain route to obtaining criminal convictions against guilty defendants is still good solid police work combined with strict adherence to the guarantees of the Bill of Rights.

For these reasons, Mr. Speaker, I oppose the adoption of this conference report.

The SPEAKER pro tempore (Mr. PANETTA). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT

Mr. HYDE. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. HYDE. Most definitely, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HYDE moves to recommit the Conference Report on H.R. 3371 to the Committee of Conference on the disagreeing votes between two Houses with the following instructions to the Managers on the part of the House to insist on the following provisions in the House bill:

Title V, Subtitle B, Restitution of Crime Victims;

Title V, Subtitle C, HIV Testing of Sex Offenders;

Title XII, Subtitle B, Retired Public Safety Officer Death Benefit;

Title XV, Section 1505, Drug Distribution to Pregnant Women;

Title XVI, Equal Justice Act;

Title XVII, Section 1714, National Baseline Study on Campus Sexual Assault;

Title XVII, Section 1720, Exclusionary Rule;

Title XVII, Section 1724, Increased Penalties for Recidivist Sex Offenders;

Title XXIII, Death Penalty Procedures;

Title XXIV, Death Penalty;

And to insist on the following provisions in the Senate bill:

Title V, Subtitle A, Aviation Terrorism;

Title V, Section 514, Offenses of violence against maritime navigation or fixed platform;

Title XLVIII, Public Corruption;

Title XI, Subtitle B, Death Penalty Litigation Procedures for Habeas Corpus proceedings, except for 2259(b);

And to disagree to the following House provision:

Title IX, Coerced Confessions.

And to insist that the text of H.R. 7, the "Brady Bill", as it passed the House, be included in H.R. 3371.

The SPEAKER pro tempore. The Chair would advise the Members that this motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HYDE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeas 174, nays 237, answered "present," 1, not voting 22, as follows:

[Roll No. 442]

YEAS—174

Allard
Allen
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Browder
Bunning
Burton
Byron
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Harris
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shays
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—237

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (UT)
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—22

Aspin
Barton
Bevill
Broomfield
Brown
Campbell (CA)
Collins (IL)
de la Garza
Dickinson
Fish
Hansen
Marlenee
Montgomery
Ortiz
Owens (NY)
Peterson (MN)
Pickett
Roe
Shaw
Shuster
Traxler
Waxman

□ 0856

Messrs. DREIER of California, ALLARD, LEACH, GINGRICH, CRAMER, PALLONE, and EDWARDS of Oklahoma changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEHMAN of Florida. Mr. Speaker, I rushed in at the last minute. I thought I was voting on final passage. Instead I voted "yes" on the motion to recommit, and I should have changed the vote to "nay."

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. MICHEL was allowed to proceed out of order.)

Mr. MICHEL. Mr. Speaker, I yield to the distinguished majority leader for the purpose of determining how much more we have to do and how soon we get out of here and so forth.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding and I wish him good morning. I never said where the sun was going to come up.

We are moving now to the vote on the crime conference. We will then move to the banking bill. There will be a rule and then that matter under conference.

We will then move to a rule on RTC, and that bill, and we have one other matter that is a must to try to get done and has to do with the Medicaid legislation that affects many of the States.

That matter is now in conference and should be ready shortly.

□ 0900

It is impossible for me to give Members a definite, absolute firm time. Each of these matters could be done in 2 hours, could be done in less than that, and obviously we are going to press to move these matters as quickly as we possibly can so that Members can make their planes.

Mr. MICHEL. Might I inquire of the majority leader then, if everything falls into place as he has outlined, would it then be in order for us to pass an adjournment resolution that takes us to January 3, with the usual caveat that the leaders, in agreement, could

VOL 137
PT 24
NO 26
1991
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JA 3
1992
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within a 2-day notice call reconvene the Congress?

Mr. GEPHARDT. I believe the undertaking is to try to pass a resolution that calls for an adjournment to a date certain of January 3, with the ability of the leadership to call Members back if that needs to be done for any reason, and from the 3d then to the 23d of January, with the same caveat, and the ability of the leadership to call Members back.

Mr. MICHEL. The gentleman anticipated my next question, because I wondered whether or not we would do that adjournment resolution now? That is perfectly all right, and I guess there has to be a kind of a recess to the 3d to get the other leg of that accomplished.

Mr. GEPHARDT. If the gentleman will yield back to me, it would be a concurrent resolution, and we can go right to the banking bill and we will do that, and take up the adjournment resolution a little bit later in the schedule.

Mr. MICHEL. I thank the gentleman.

The SPEAKER pro tempore (Mr. HOYER). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 203, answered “present’ 1, not voting 26, as follows:

[Roll No. 443]

AYES—205

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
DeFazio
DeLauro
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Obey
Olin
Olver
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Poshard
Price
Rahall
Ramstad
Ray
Reed
Richardson
Rose
Rostenkowski
Rowland
Russo
Sangmeister
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Stark
Stenholm
Studds
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Traxler
Unsoeld
Valentine
Visclosky
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Walsh
Waters
Weber
Weiss
Weldon
Williams
Wolf
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—203

Allard
Allen
Andrews (ME)
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CO)
Chandler
Clay
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dellums
Dixon
Doolittle
Dornan (CA)
Dreier
Duncan
Dymally
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Flake
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gilchrest
Gillmor
Gingrich
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Harris
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Kildee
King
Kolbe
Kolter
Kyl
Lagomarsino
LaRocco
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Moran
Morrison
Myers
Nagle
Nichols
Nussle
Oberstar
Orton
Owens (NY)
Oxley
Packard
Parker
Paxon
Payne (NJ)
Pease
Perkins
Petri
Porter
Pursell
Rangel
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sanders
Santorum
Sarpalius
Savage
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Serrano
Shays
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stokes
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Towns
Traficant
Upton
Vander Jagt
Vento
Volkmer
Vucanovich
Walker

ANSWERED “PRESENT”—1

Goodling

NOT VOTING—26

Aspin
Barton
Bevill
Broomfield
Brown
Campbell (CA)
Collins (IL)
de la Garza
Dickinson
Dwyer
Fish
Hansen
Marlenee
Montgomery
Ortiz
Peterson (MN)
Pickett
Quillen
Roe
Roybal
Sabo
Shaw
Shuster
Staggers
Washington
Waxman

□ 0919

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mrs. Collins of Illinois against.

Mr. Waxman for, with Mr. Marlenee against.

Mr. Brown of California for, with Mr. Shaw against.

Mr. JAMES changed his vote from “aye” to “no.”

Mr. FORD of Michigan changed his vote from “no” to “aye.”

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). All time has expired.

On this vote, the yeas are 205, the nays are 202.

The Chair will announce there was a change. There was an additional “no” vote by card that was not indicated on the slip that was handed to the Chair. The Chair's announcement made a mistake.

The Clerk. Mr. MORAN. Mr. MORAN votes no.

The SPEAKER pro tempore. When the slip was handed to the Chair, the tally clerk had not registered the vote, so that when the Chair took the slip, the Chair read a slip that did not register a vote that was on the front desk here.

Mr. GINGRICH. From our side, Mr. Speaker, let us calm that down. It has been a long, long night. A few minor errors can occur.

We thank the Chair for trying to make sure that every Member is protected in a difficult time when we are all a little tired.

The SPEAKER pro tempore. There were 205 votes in the affirmative, 203 in the negative.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, unfortunately, I missed three rollcall votes. Had I

been present, I would have voted “nay” on rollcall 437, House Resolution 309, passage of the rule on the fiscal 1992 supplemental appropriation conference report; “yea” on rollcall 438, passage of House Joint Resolution 157, the fiscal 1992 supplemental appropriation conference report; and “nay” on rollcall 444, on passage of House Resolution 320, the rule providing for consideration of H.R. 3435, a bill to provide funding for the Resolution Trust Corporation.

PERSONAL EXPLANATION

Mr. PICKETT. Mr. Speaker, I was unavoidably absent from the House of Representatives due to official business. I wish to have the RECORD indicate that had I been present and voting, I would have voted in the following manner:

On rollcall vote No. 437, “yes”; on rollcall No. 438, “yes”; on rollcall No. 439, “yes”; on rollcall vote No, 440, “yes”; on rollcall vote No. 441, “yes”; on rollcall vote No. 442, “no”; on rollcall vote No. 443, “yes”; and on rollcall vote No. 444, “yes.”

PERSONAL EXPLANATION

Mr. ROE. Mr. Speaker, due to a meeting away from the Capitol, I was unable to be present during rollcall vote 442, motion to commit with instructions H.R. 3371 and No. 443, final passage of H.R. 3371, Omnibus Crime Control Act. Had I been present I would have recorded my strong support of this legislation by voting “nay” on rollcall No. 442, the motion to recommit and by voting “yea” on rollcall No. 443 final passage.

□ 0920

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have the rest of this session in order to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Texas?

There was no objection.

DEFENSE PRODUCTION ACT OF 1950 EXTENSION

Mr. CARPER. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 3919) to temporarily extend the Defense Production Act of 1950, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to my friend and colleague from Delaware [Mr. CARPER] for purposes of an explanation.

Mr. CARPER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Delaware.

Mr. CARPER. I thank the gentleman for yielding.

Mr. Speaker, the Defense Production Act has expired as of September 30 of this year. The purpose of this extension—and I will be asking for an amendment to this unanimous consent request in just a moment—what we really want to do is extend the Defense Production Act during our recess to March 1, 1992. During the next 2 months we will work out a conference report and bring it to the full House.

Mr. RIDGE. Is it my understanding that the gentleman has been in consultation with our colleagues in the other body and they have agreed to the extension of this period of time and they have also agreed and believe that we can finally come to a conclusion by March 1 of next year on the Defense Production Act, which we have been working on for well over a year now?

Mr. CARPER. If the gentleman will continue to yield, I think we have reached a meeting of the minds. One element that sort of kept us apart, fair trade and financial services, I think we are fairly close to an agreement on and we hope to reach that by March 1 and put this one to bed.

Mr. RIDGE. Mr. Speaker, I appreciate the gentleman's explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking “September 30, 1991” and inserting “March 1, 1992”.

SEC. 2. EFFECTIVE DATE.

This Act shall take effect on September 30, 1991.

AMENDMENT OFFERED BY MR. CARPER

Mr. CARPER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARPER: Page 1, line 7, strike out “March 30” and insert “March 1”.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Delaware [Mr. CARPER].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will be pleased to recognize those Members who may want to address the House for 1 minute pending the arrival of additional business.

THE PRESIDENT WAFFLES ON HIS ECONOMIC PACKAGE

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, as we enter these final hours of this session, I think that we can be proud of this Congress in achieving significant goals, significant goals on crime that just passed, on banking reform, a number of areas.

But one of the things that troubles us is a President who cannot seem to get it straight. First, he wants an economic package brought to the Congress, then he does not; then he does, again, then he does not.

It seems to me if we are serious about resolving this economy, we need more than presidential press conferences or presidential photo ops, Mr. Speaker.

We need a President who comes up here and engages the real issues of the economy. From Connecticut to California, we have an economy where workers are losing their jobs, they are losing their homes, and they can no longer afford to send their children to school.

Mr. President, stop taking photo ops; Mr. Speaker, bring the President here to work with us to try to heal this economy.

FUTURE HEARINGS SET FOR ECONOMIC GROWTH DEBATE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the Congress is going to embark on some hearings in the month of December on the subject of economic growth. We will have had by then a sufficient dose of partisanship and bickering back and forth across the political aisles, and I think the important thing for all of us to understand is that this country's economy is in serious trouble, probably more serious trouble than most of us understand.

I think what the American people who watch this process want most from us is to try to get from each side of the political aisle the best of whatever one has to offer, not the least of each of us. We need some mechanism whereby the President and the Congress, conservatives and liberals, Republicans and Democrats, will try to join together to try to put this country back on track.

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Mr. Speaker, we face tough international competition. This country is losing its edge. I know there are some who say the problem is in the engine room of the ship of state. I do not believe that. I think the engine is fine. I think the problem is we have loaded this ship down with too much cargo and too much debt. I do not think the answer is sexy or fancy or anything like that. I think we need to get back to the basic virtues, the old ideas, paying your bills, putting America back on track.

I hope we see that kind of bipartisan spirit between the White House and the Congress because this country desperately needs it.

☐ 0930

NO ONE REALLY LIKES A COMPROMISE

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, just a few minutes ago the people of the country saw a historic vote on a crime bill that was worked on very hard by Members of this Congress to bring forth a new crime bill that will help curtail the crime problems of this country.

Mr. Speaker, my colleagues heard a lot of arguments. They heard people on the far right who were against the bill because it did not go far enough, and, if my colleagues look at the Democrats who voted against it, they will find many Democrats from the far left who went against it because it went too far.

Mr. Speaker, it was a difficult bill. It was one that was crafted with compromise in mind, trying to find a bill that could pass this House. It was very difficult, and I commend the leadership of the Democrat Party, the majority party, for crafting that particular bill and working with the other body to get it done.

The people have to understand that many of us that supported the bill had other things that we would have liked in the bill, but, having practiced law for many years and having dealt with people on both sides of an issue, sometimes we had a compromise worked out that no one really liked, but it was a compromise that had to be done.

Mr. Speaker, we have to move forward to try to help the people of this country.

COUNTERANALYSIS OF THE VOTE ON THE CRIME BILL

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, having grabbed about 3 hours of sleep last night sitting up while the six couches were grabbed out of 166 Republicans, let me say that I appreciate the analysis of the crime bill we just voted on by the gentleman from Nevada [Mr. BILBRAY], my friend. Let me give a little counteranalysis.

Here is the readout: 205 to 203, 26 Members not here, some of them I saw a few hours ago, they must be asleep in their offices. Sorry they did not get over here for this vote. However our distinguished Speaker voted about 4 minutes before the end of the vote. I can appreciate that he did not want to have to come right up and break a tie, but, if we take his vote out, it is 204 to 203. That means every single vote was the margin of victory, and in our Republican Party the DMV, the Democratic margin of victory, was given to them by six Republicans. Each one of them was singularly the margin of victory.

Mr. Speaker, this is an easy veto for the President. He is obviously veto-proof. It will be sustained when he has got 203 people to draw from and there is only 145 needed.

Let me say that the most compelling thing was the letter the gentleman from Illinois [Mr. HYDE] read from the National Association of District Attorneys. They said this was a vote for criminals.

Did I hear cheering on death rows all across America? I am afraid so.

Mr. Speaker, I hope the President will veto this bill. It is an easy slam-dunk sustaining of the President's veto.

WHERE IS THE BILL TO ELEVATE THE EPA TO CABINET-LEVEL STATUS?

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, we have been in session for almost 24 hours, but that is what we are paid for, to do the people's business. Right now we are in a dead period, dead time between conference reports coming to this House so we can exercise the people's will, and during this time people like me can get up and say whatever we want for 60 seconds, speak to anybody about any subject.

Mr. Speaker, I want to speak to my colleagues on the Democrat side of the aisle. I want to ask them where the bill is to elevate the Environmental Protection Agency to cabinet-level status. I want to remind them that it was a Democrat in the Senate in cooperation with a Republican, Senator JOHN GLENN and Senator BILL ROTH, who passed that bill that now lays on the Speaker's desk ready to come up here by unanimous consent.

Mr. Speaker, the majority of Members in this House want it. Every single environmental group in America wants it. The President has said he will sign it. He has encouraged us to act on it, and yet it lays on the Speaker's desk.

Why? Because one person, the chairman of the Committee on Government Operations, refuses to act.

Mr. Speaker, the American people deserve better. They deserve someone who will act and not turn his back on a piece of legislation that the American people demand.

THINGS LIBERALS VOTE FOR BESIDES A WEAK CRIME BILL

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, as a freshman on this body, first time I was upset on this House is the same week that we came aboard, and that is when the Desert Storm vote came out, and many Members of this House turned their backs on the men and women, and I think that today, next to the civil rights bill, was the hardest for me to stomach.

Mr. Speaker, in every case the conferees took the weakest position of either the Senate or the House and put it into the crime bill. I ask, "Why can't we put the strongest position in and fight crime?"

Mr. Speaker, I would like to tie in the votes of the liberals with some of the other things, the same people that voted against Desert Storm, the same people that supported the Sandinistas, that voted to burn the flag, that voted for Mapplethorpe and obscene art, to destroy the family unit, to not take drug tests, not to be tough on crime. I think, if we compile these votes, we would find the same liberal votes.

PROUD TO SAY, I VOTED FOR THE CRIME BILL

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I could not help hearing the last speaker attack people who voted for a crime bill.

Mr. Speaker, I am proud to say that I voted for the crime bill, and I say to the gentleman, "Of course in any bill you don't feel strongly about every provision, but the fact is overall it's a very fine bill."

One of the things that I think is an important aspect of that bill is that it finally gives assistance to the cities of this country by giving funds to the police department. We are seeing cities having less resources because we do not have an urban policy in this country, and one of the things that is on the minds and hearts of the American people is crime in the streets.

So, Mr. Speaker, I am delighted to see that there is a safe street program in this crime bill and that we funded

the police departments across the country to give them the tools to work with to assist in their combating and arresting crime, which I think is among the top issues that affect the American people.

Mr. Speaker, people do not like to see their cars stolen. They do not like to see drug peddling. They do not like to see alcoholic drivers on the roads, and so on, and the police department cannot do it alone, and the cities and rural areas cannot do it alone.

So, I am proud of this bill, and I congratulate those who worked so hard on it.

CALLING ON OUR HEMISPHERE

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, as the House moves to complete its legislative business, I hope that we do not forget that there are thousands of people cast asea from Haiti without homes, without hope, and the President of the United States is only being restrained from sending these people back to Haiti by a Federal court judge in Miami. Some people may ask, "Well, what do we do with all these people? We can't absorb them in Miami; we can't absorb them in New York."

Well, God forbid that a country of our great wealth should even anticipate absorbing 5,000 Haitians, but it seems to me that we can use our Presidential and national influence to pick up the phone, as the President did so well in the Persian Gulf, and convince the neighboring countries that we would give them assistance, to call upon some of the industrial countries to pitch in.

Mr. Speaker, this is not just a question of poor black folks in Haiti. This is a question as to whether democracy can survive in the world, and specifically in our hemisphere.

So, while one may believe that we have asked certain portions of our country to assume too much of this moral responsibility which has a heavy fiscal burden with it, it seems to me that we have not done all that we can in reaching out to the United Nations, the Organization of American States, the Caribbean countries and say, "For God's sake, that can be your country. Pitch in and do something."

RECESS

The SPEAKER pro tempore. (Mr. HOYER). The Chair declares a recess for approximately one-half hour.

Accordingly (at 9 o'clock and 40 minutes a.m.), the House stood in recess for a period in excess of 30 minutes.

☐ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore at 10 o'clock and 31 minutes a.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution and concurrent resolution of the House of the following titles:

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia.

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, Maryland;

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Aransas National Wildlife Refuge";

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri and for other purposes;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week"; and

H. Con. Res. 249. Concurrent resolution correcting a technical error in the enrollment of the bill H.R. 1724.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3595) "An Act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source" disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. PACKWOOD, and Mr. DURENBERGER, to be the conferees on the part of the Senate.

The message also announced that the Senate recedes from its amendment to the bill (H.R. 690) "An Act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 3029) "An Act to make technical corrections to agriculture laws."

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privilege report (Rept. No. 102–406) on the resolution (H. Res. 318) waiving all points of order against the conference report on the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulations of insured depository institutions, and against consideration of such conference report which was referred to the House calendar and ordered to be printed.

WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991.

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 318 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. REPT. 318

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Mr. Speaker, all time yielded during debate on this House resolution is yielded for the purpose of debate only.

Mr. FROST. Mr. Speaker, House Resolution 318 is the rule providing for the consideration of the conference report on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as having been read.

Mr. Speaker, this legislation will provide important borrowing authority for the FDIC. It includes a variety of provisions which would revise the Federal Deposit Insurance Program and strengthen the supervisory and regulatory processes to ensure against future crises.

The House has fully debated banking reform issues over the past few weeks. It is time to move forward and pass this legislation so that we can restore public confidence in banking system. I urge adoption of the rule and the conference report.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant support of this rule. My reluctance is not the result of what is in the rule but rather what is not in the conference report itself.

Mr. Speaker, I originally voted for H.R. 3768 in an effort to keep the process moving forward. I am concerned that while the process did move forward, the significance of this legislation headed in the opposite direction. I am referring to the fact that this banking bill does not include any of the President's structural reform proposals. Those proposals would help to restore the banking industry to profitability, and this would help to strengthen the bank insurance fund.

However, the fact remains, Mr. Speaker, that as many as 239 banks may fail next year, and the insurance fund needs billions of dollars in borrowing authority to guarantee the funds of nearly 110 million bank depositors. Once again I want to emphasize that this is not a taxpayer bill, and I underscore not a taxpayer bailout.

Mr. Speaker, in the Rules Committee, on Saturday, the chairman and ranking member of the Banking Committee provided assurances that in the next session of Congress, the Banking Committee will begin looking anew at the comprehensive legislation which we considered several weeks ago in the House. It is necessary that we overhaul the Nation's banking system.

Mr. Speaker, I want to commend the gentleman from Texas, the chairman of the committee [Mr. GONZALEZ], and the gentleman from Ohio [Mr. WYLIE], the ranking member, for their diligence in working on this bill. I hope very much that their committee will move forward so as to make sure that this will not become a taxpayer bailout.

I urge my colleagues to support the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. I thank the gentleman from California, a former important member of the Banking Committee. I certainly will not use the 5 minutes. I just want to rise in the strongest possible way to support the rule and the conference report which it makes in order.

As will be mentioned a little later on, we worked until 5 this morning on a banking bill. It is absolutely essential that we recapitalize the bank insurance fund, and that was the crux and the basis for our bill.

We do provide for $30 billion in new lending authority, which allows us to refund the recapitalization of the bank insurance fund to the tune of $25 billion. We do have a provision in here for early intervention, too-big-to-fail ends on January 1, 1995, a limit on broker deposits, and so forth. Essentially, the conference report we have before us includes the parameters of the House bill. I think our House conferees did an excellent job. I want to commend the gentleman from Texas, Mr. GONZALEZ, chairman of the House Committee on Banking, Finance and Urban Affairs, for the hard work and diligence he put into this. I will do that in his presence later on.

Mr. Speaker, I urge adoption of the rule.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I urge support of the rule.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question, on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. NEAL of North Carolina submitted the following conference report and statement on the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-407)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 543), to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) In General.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) Maximum Amount Limitation on Outstanding Obligations.—Notwithstanding any other provisions of this Act, the Corporation may not issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding would exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) Obligation Defined.—

"(A) In General.—For purposes of paragraph (5), the term 'obligation' includes—

"(i) any guarantee issued by the Corporation, other than deposit guarantees;

"(ii) any amount borrowed pursuant to section 14; and

"(iii) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

"(B) Valuation of Contingent Liabilities.—The Corporation shall value any contingent liability at its expected cost to the Corporation.".

(b) GAO Reports.—

(1) Quarterly Reporting.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) Analyses to be Included.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) Technical and Conforming Amendment.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) In General.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) Repayment Schedules Required for Any Borrowing.—

"(1) In General.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) Consultation with and Report to Congress.—The Secretary of the Treasury and the Corporation shall—

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) Emergency Special Assessments.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) Emergency Special Assessments.—In addition to the other assessments imposed on insured depository institutions under this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. RECAPITALIZING THE BANK INSURANCE FUND.

(a) In General.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended to read as follows:

"(C) Assessment Rates for Bank Insurance Fund Members.—

"(i) In General.—If the reserve ratio of the Bank Insurance Fund equals or exceeds the fund's designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund as appropriate to maintain the reserve ratio at the designated reserve ratio.

"(ii) Special Rules for Recapitalizing Undercapitalized Fund.—If the reserve ratio of the Bank Insurancc Fund is less than the designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(I) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(II) in accordance with a schedule promulgated by the Corporation under clause (iii).

"(iii) Recapitalization Schedules.—For purposes of clause (ii)(II), the Corporation shall, by regulation, promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for the Bank Insurance Fund, culminating in a reserve ratio that is equal to the designated reserve ratio no later than 15 years after the date on which the schedule becomes effective.

"(iv) Amending Schedule.—The Corporation may, by regulation, amend a schedule promulgated under clause (iii), but such an amendment may not extend the date for achieving the designated reserve ratio.".

(b) Assessment Rate Changes.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) Rate Changes.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment. The Corporation may establish and, from time to time, adjust the assessment rates for such institutions.".

SEC. 105. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) Borrowing for BIF From BIF Members.—

"(1) Borrowing Authority.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) Limitations on Borrowing.—

"(A) Applicability of Public Debt Limit.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) Applicability of FDIC Borrowing Limit.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) Interest Rate Limit.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) Obligations to be Held Only by BIF Members.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) Liability of BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) Terms and Conditions.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(5) Investment by BIF Members.—

"(A) Authority to Invest.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) Investment Only From Capital and Retained Earnings.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(6) Accounting Treatment.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) In General.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) Annual On-Site Examinations of All Insured Depository Institutions Required.—

"(1) In General.—The appropriate Federal banking agency shall, not less than once during

each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

"(2) EXAMINATIONS BY CORPORATION.—Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted a full-scope, on-site examination of the insured depository institution.

"(3) STATE EXAMINATIONS ACCEPTABLE.—The examinations required by paragraph (1) may be conducted in alternate 12-month periods, as appropriate, if the appropriate Federal banking agency determines that an examination of the insured depository institution conducted by the State during the intervening 12-month period carries out the purpose of this subsection.

"(4) 18-MONTH RULE FOR CERTAIN SMALL INSTITUTIONS.—Paragraphs (1), (2), and (3) shall apply with '18-month' substituted for '12-month' if—

"(A) the insured depository institution has total assets of less than $100,000,000;

"(B) the institution is well capitalized, as defined in section 38;

"(C) when the institution was most recently examined, it was found to be well managed, and its composite condition was found to be outstanding; and

"(D) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

"(5) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Paragraph (1) does not apply to—

"(A) any institution for which the Corporation is conservator; or

"(B) any bridge bank none of the voting securities of which are owned by a person or agency other than the Corporation.

"(6) CONSUMER COMPLIANCE EXAMINATIONS EXCLUDED.—For purposes of this subsection, the term 'full-scope, on-site examination' does not include a consumer compliance examination, as defined in section 41(b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 1 year after the date of enactment of this Act.

(c) TRANSITION RULE.—Notwithstanding section 10(d) of the Federal Deposit Insurance Act (as added by subsection (a)), during the period beginning on the date of enactment of this Act and ending on December 31, 1993, a full-scope, on-site examination of an insured depository institution is not required more often than once during every 18-month period, unless—

(1) the institution, when most recently examined, was found to be in a less than satisfactory condition; or

(2) 1 or more persons acquired control of the institution.

(d) EXAMINATION IMPROVEMENT PROGRAM.—

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program that meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under this subsection may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution

which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor that received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.—Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under subparagraph (A), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution to meet the Corporation's expenses in carrying out such examinations.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined to meet the Corporation's expenses in carrying out such examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. EXAMINATION AND SUPERVISION FEES FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the 4th undesignated paragraph and inserting the following:

"The Comptroller of the Currency may impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the duties of the Comptroller. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.";

(2) by striking "In addition to the expense of examination" and all that follows through "to cover the expense thereof.".

(b) TECHNICAL AMENDMENT.—Section 5240 of the Revised Statutes is amended in the 2d undesignated paragraph (12 U.S.C. 481)—

(1) by striking the 2d sentence;

(2) by striking the 3d sentence and inserting "If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this section or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.";

(3) in the 4th sentence, by inserting "or from other fees or charges imposed pursuant to this section" after "assessments on banks or affiliates thereof"; and

(4) in the 5th sentence—

(A) by inserting ", fees, or charges" before "may be deposited"; and

(B) by inserting "or of other fees or charges imposed pursuant to this section" before the period.

(c) ASSESSMENT AUTHORITY OF THE OFFICE OF THRIFT SUPERVISION.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.";

(2) by amending subsection (k) to read as follows:

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.".

SEC. 115. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt corrective action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING MEASURES.—Modify or eliminate any accounting principle or reporting requirement of such Federal agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.".

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS AND SMALL FARM LOAN INFORMATION

(a) IN GENERAL.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the appropriate Federal banking agency shall prescribe regulations requiring insured depository institutions to annually submit information on small businesses and small farm lending in their reports of condition.

(b) CREDIT AVAILABILITY.—The regulations prescribed under subsection (a) shall require insured depository institutions to submit such information as the agency may need to assess the availability of credit to small businesses and small farms.

(d) CONTENTS.—The information required under subsection (a) may include information regarding the following:

(1) The total number and aggregate dollar amount of commercial loans and commercial mortgage loans to small businesses.

(2) Charge-offs, interest, and interest fee income on commercial loans and commercial mortgage loans to small businesses.

(3) Agricultural loans to small farms.

SEC. 123. FDIC PROPERTY DISPOSITION STANDARDS.

(a) IN GENERAL.—Section 11(d)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)) is amended by adding at the end the following new subparagraph:

"(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of any insured depository institution for which the Corporation has been appointed conservator or receiver, including any sale or disposition of assets acquired by the Corporation under section 13(d)(1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

(b) CORPORATE CAPACITY.—Section 13(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)) is amended by adding at the end the following new subparagraph:

"(D) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority described in subparagraph (A) regarding the sale or disposition of assets sold to the Corporation pursuant to paragraph (1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) ESTABLISHING SYSTEM OF PROMPT CORRECTIVE ACTION.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 37 (as added by section 121 of this Act) the following new section:

"SEC. 38. PROMPT CORRECTIVE ACTION.

"(a) RESOLVING PROBLEMS TO PROTECT DEPOSIT INSURANCE FUNDS.—

"(1) PURPOSE.—The purpose of this section is to resolve the problems of insured depository institutions at the least possible long-term loss to the deposit insurance fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

"(b) DEFINITIONS.—For purposes of this section:

"(1) CAPITAL CATEGORIES.—

"(A) WELL CAPITALIZED.—An insured depository institution is 'well capitalized' if it significantly exceeds the required minimum level for each relevant capital measure.

"(B) ADEQUATELY CAPITALIZED.—An insured depository institution is 'adequately capitalized' if it meets the required minimum level for each relevant capital measure.

"(C) UNDERCAPITALIZED.—An insured depository institution is 'undercapitalized' if it fails to meet the required minimum level for any relevant capital measure.

"(D) SIGNIFICANTLY UNDERCAPITALIZED.—An insured depository institution is 'significantly undercapitalized' if it is significantly below the required minimum level for any relevant capital measure.

"(E) CRITICALLY UNDERCAPITALIZED.—An insured depository institution is 'critically undercapitalized' if it fails to meet any level specified under subsection (c)(3)(A).

"(2) OTHER DEFINITIONS.—

"(A) AVERAGE.—

"(i) IN GENERAL.—The 'average' of an accounting item (such as total assets or tangible equity) during a given period means the sum of that item at the close of business on each business day during that period divided by the total number of business days in that period.

"(ii) AGENCY MAY PERMIT WEEKLY AVERAGING FOR CERTAIN INSTITUTIONS.—In the case of insured depository institutions that have total assets of less than $300,000,000 and normally file reports of condition reflecting weekly (rather than daily) averages of accounting items, the appropriate Federal banking agency may provide that the 'average' of an accounting item during a given period means the sum of that item at the close of business on the relevant business day each week during that period divided by the total number of weeks in that period.

"(B) CAPITAL DISTRIBUTION.—The term 'capital distribution' means—

"(i) a distribution of cash or other property by any insured depository institution or company to its owners made on account of that ownership, but not including—

"(I) any dividend consisting only of shares of the institution or company or rights to purchase such shares; or

"(II) any amount paid on the deposits of a mutual or cooperative institution that the appropriate Federal banking agency determines is not a distribution for purposes of this section;

"(ii) a payment by an insured depository institution or company to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests, including any extension of credit to finance an affiliated company's acquisition of those shares or interests; or

"(iii) a transaction that the appropriate Federal banking agency or the Corporation determines, by order or regulation, to be in substance a distribution of capital to the owners of the insured depository institution or company.

"(C) CAPITAL RESTORATION PLAN.—The term 'capital restoration plan' means a plan submitted under subsection (e)(2).

"(D) COMPANY.—The term 'company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(E) COMPENSATION.—The term 'compensation' includes any payment of money or provision of any other thing of value in consideration of employment.

"(F) RELEVANT CAPITAL MEASURE.—The term 'relevant capital measure' means the measures described in subsection (c).

"(G) REQUIRED MINIMUM LEVEL.—The term 'required minimum level' means, with respect to each relevant capital measure, the minimum acceptable capital level specified by the appropriate Federal banking agency by regulation.

"(H) SENIOR EXECUTIVE OFFICER.—The term 'senior executive officer' has the same meaning as the term 'executive officer' in section 22(h) of the Federal Reserve Act.

"(I) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of general creditors.

"(c) CAPITAL STANDARDS.—

"(1) RELEVANT CAPITAL MEASURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)(ii), the capital standards prescribed by each appropriate Federal banking agency shall include—

"(i) a leverage limit; and

"(ii) a risk-based capital requirement.

"(B) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation—

"(i) establish any additional relevant capital measures to carry out the purpose of this section; or

"(ii) rescind any relevant capital measure required under subparagraph (A) upon determining (with the concurrence of the other Federal banking agencies) that the measure is no longer an appropriate means for carrying out the purpose of this section.

"(2) CAPITAL CATEGORIES GENERALLY.—Each appropriate Federal banking agency shall, by regulation, specify for each relevant capital measure the levels at which an insured depository institution is well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized.

"(3) CRITICAL CAPITAL.—

"(A) AGENCY TO SPECIFY LEVEL.—

"(i) LEVERAGE LIMIT.—Each appropriate Federal banking agency shall, by regulation, in consultation with the Corporation, specify the ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized.

"(ii) OTHER RELEVANT CAPITAL MEASURES.—The agency may, by regulation, specify for 1 or more other relevant capital measures, the level at which an insured depository institution is critically undercapitalized.

"(B) LEVERAGE LIMIT RANGE.—The level specified under subparagraph (A)(i) shall require tangible equity in an amount—

"(i) not less than 2 percent of total assets; and

"(ii) except as provided in clause (i), not more than 65 percent of the required minimum level of capital under the leverage limit.

"(C) FDIC'S CONCURRENCE REQUIRED.—The appropriate Federal banking agency shall not, without the concurrence of the Corporation, specify a level under subparagraph (A)(i) lower than that specified by the Corporation for State nonmember insured banks.

"(d) PROVISIONS APPLICABLE TO ALL INSTITUTIONS.—

"(1) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(A) IN GENERAL.—An insured depository institution shall make no capital distribution if, after making the distribution, the institution would be undercapitalized.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the appropriate Federal banking agency may permit, after consultation with the Corporation, an insured depository institution to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

"(i) is made in connection with the issuance of additional shares or obligations of the institution in at least an equivalent amount; and

"(ii) will reduce the institution's financial obligations or otherwise improve the institution's financial condition.

"(2) MANAGEMENT FEES RESTRICTED.—An insured depository institution shall pay no management fee to any person having control of that institution if, after making the payment, the institution would be undercapitalized.

"(e) PROVISIONS APPLICABLE TO UNDERCAPITALIZED INSTITUTIONS.—

"(1) MONITORING REQUIRED.—Each appropriate Federal banking agency shall—

"(A) closely monitor the condition of any undercapitalized insured depository institution;

"(B) closely monitor compliance with capital restoration plans, restrictions, and requirements imposed under this section; and

"(C) periodically review the plan, restrictions, and requirements applicable to any undercapitalized insured depository institution to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.

"(2) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized insured depository institution shall submit an acceptable capital restoration plan to the appropriate Federal banking agency within the time allowed by the agency under subparagraph (D).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify—

"(I) the steps the insured depository institution will take to become adequately capitalized;

"(II) the levels of capital to be attained during each year in which the plan will be in effect;

"(III) how the institution will comply with the restrictions or requirements then in effect under this section; and

"(IV) the types and levels of activities in which the institution will engage; and

"(ii) contain such other information as the appropriate Federal banking agency may require.

"(C) CRITERIA FOR ACCEPTING PLAN.—The appropriate Federal banking agency shall not accept a capital restoration plan unless the agency determines that—

"(i) the plan—

"(I) complies with subparagraph (B);

"(II) is based on realistic assumptions, and is likely to succeed in restoring the institution's capital; and

"(III) would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed; and

"(ii) if the insured depository institution is undercapitalized, each company having control of the institution has—

"(I) guaranteed that the institution will comply with the plan until the institution has been adequately capitalized on average during each of 4 consecutive calendar quarters; and

"(II) provided appropriate assurances of performance.

"(D) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution becomes undercapitalized; and

"(ii) require the agency to act on capital restoration plans expeditiously, and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(E) GUARANTEE LIABILITY LIMITED.—

"(i) IN GENERAL.—The aggregate liability under subparagraph (C)(ii) of all companies having control of an insured depository institution shall be the lesser of—

"(I) an amount equal to 5 percent of the institution's total assets at the time the institution became undercapitalized; or

"(II) the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(ii) CERTAIN AFFILIATES NOT AFFECTED.—This paragraph may not be construed as—

"(I) requiring any company not having control of an undercapitalized insured depository institution to guarantee, or otherwise be liable on, a capital restoration plan;

"(II) requiring any person other than an insured depository institution to submit a capital restoration plan; or

"(III) affecting compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and regulations and orders thereunder.

"(3) ASSET GROWTH RESTRICTED.—An undercapitalized insured depository institution shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

"(A) the appropriate Federal banking agency has accepted the institution's capital restoration plan;

"(B) any increase in total assets is consistent with the plan; and

"(C) the institution's ratio of tangible equity to assets increases during the calendar quarter at a rate sufficient to enable the institution to become adequately capitalized within a reasonable time.

"(4) PRIOR APPROVAL REQUIRED FOR ACQUISITIONS, BRANCHING, AND NEW LINES OF BUSINESS.—An undercapitalized insured depository institution shall not, directly or indirectly, acquire any interest in any company or insured depository institution, establish or acquire any additional branch office, or engage in any new line of business unless—

"(A) the appropriate Federal banking agency has accepted the insured depository institution's capital restoration plan, the institution is implementing the plan, and the agency determines that the proposed action is consistent with and will further the achievement of the plan; or

"(B) the Board of Directors determines that the proposed action will further the purpose of this section.

"(5) DISCRETIONARY SAFEGUARDS.—The appropriate Federal banking agency may, with respect to any undercapitalized insured depository institution, take actions described in any subparagraph of subsection (f)(2) if the agency determines that those actions are necessary to carry out the purpose of this section.

"(f) PROVISIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED INSTITUTIONS AND UNDERCAPITALIZED INSTITUTIONS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) IN GENERAL.—This subsection shall apply with respect to any insured depository institution that—

"(A) is significantly undercapitalized; or

"(B) is undercapitalized and—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (e)(2)(D); or

"(ii) fails in any material respect to implement a plan accepted by the agency.

"(2) SPECIFIC ACTIONS AUTHORIZED.—The appropriate Federal banking agency shall carry out this section by taking 1 or more of the following actions:

"(A) REQUIRING RECAPITALIZATION.—Doing 1 or more of the following:

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will be adequately capitalized after the sale.

"(ii) Further requiring that instruments sold under clause (i) be voting shares.

"(iii) Requiring the institution to be acquired by a depository institution holding company, or to combine with another insured depository institution, if 1 or more grounds exist for appointing a conservator or receiver for the institution.

"(B) RESTRICTING TRANSACTIONS WITH AFFILIATES.—

"(i) Requiring the institution to comply with section 23A of the Federal Reserve Act as if subsection (d)(1) of that section (exempting transactions with certain affiliated institutions) did not apply.

"(ii) Further restricting the institution's transactions with affiliates.

"(C) RESTRICTING INTEREST RATES PAID.—

"(i) IN GENERAL.—Restricting the interest rates that the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located, as determined by the agency.

"(ii) RETROACTIVE RESTRICTIONS PROHIBITED.—This subparagraph does not authorize the agency to restrict interest rates paid on time deposits made before (and not renewed or renegotiated after) the agency acted under this subparagraph.

"(D) RESTRICTING ASSET GROWTH.—Restricting the institution's asset growth more stringently than subsection (e)(3), or requiring the institution to reduce its total assets.

"(E) RESTRICTING ACTIVITIES.—Requiring the institution or any of its subsidiaries to alter, reduce, or terminate any activity that the agency determines poses excessive risk to the institution.

"(F) IMPROVING MANAGEMENT.—Doing 1 or more of the following:

"(i) NEW ELECTION OF DIRECTORS.—Ordering a new election for the institution's board of directors.

"(ii) DISMISSING DIRECTORS OR SENIOR EXECUTIVE OFFICERS.—Requiring the institution to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the institution became undercapitalized. Dismissal under this clause shall not be construed to be a removal under section 8.

"(iii) EMPLOYING QUALIFIED SENIOR EXECUTIVE OFFICERS.—Requiring the institution to employ qualified senior executive officers (who, if the agency so specifies, shall be subject to approval by the agency).

"(G) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(H) REQUIRING PRIOR APPROVAL FOR CAPITAL DISTRIBUTIONS BY BANK HOLDING COMPANY.—Prohibiting any bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Board of Governors of the Federal Reserve System.

"(I) REQUIRING DIVESTITURE.—Doing one or more of the following:

"(i) DIVESTITURE BY THE INSTITUTION.—Requiring the institution to divest itself of or liquidate any subsidiary if the agency determines that the subsidiary is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(ii) DIVESTITURE BY PARENT COMPANY OF NONDEPOSITORY AFFILIATE.—Requiring any company having control of the institution to divest itself of or liquidate any affiliate other than an insured depository institution if the appropriate Federal banking agency for that company determines that the affiliate is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(iii) DIVESTITURE OF INSTITUTION.—Requiring any company having control of the institution to divest itself of the institution if the appropriate Federal banking agency for that company determines that divestiture would improve the institution's financial condition and future prospects.

"(J) REQUIRING OTHER ACTION.—Requiring the institution to take any other action that the agency determines will better carry out the purpose of this section than any of the actions described in this paragraph.

"(3) PRESUMPTION IN FAVOR OF CERTAIN ACTIONS.—In complying with paragraph (2), the agency shall take the following actions, unless the agency determines that the actions would not further the purpose of this section:

"(A) The action described in clause (i) or (iii) of paragraph (2)(A) (relating to requiring the sale of shares or obligations, or requiring the institution to be acquired by or combine with another institution).

"(B) The action described in paragraph (2)(B)(i) (relating to restricting transactions with affiliates).

"(C) The action described in paragraph (2)(C) (relating to restricting interest rates).

"(4) SENIOR EXECUTIVE OFFICERS' COMPENSATION RESTRICTED.—

"(A) IN GENERAL.—The insured depository institution shall not do any of the following without the prior written approval of the appropriate Federal banking agency:

"(i) Pay any bonus to any senior executive officer.

"(ii) Provide compensation to any senior executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the 12 calendar months preceding the calendar month in which the institution became undercapitalized.

"(B) FAILING TO SUBMIT PLAN.—The appropriate Federal banking agency shall not grant any approval under subparagraph (A) with respect to an institution that has failed to submit an acceptable capital restoration plan.

"(5) DISCRETION TO IMPOSE CERTAIN ADDITIONAL RESTRICTIONS.—The agency may impose 1 or more of the restrictions prescribed by regulation under subsection (i) if the agency determines that those restrictions are necessary to carry out the purpose of this section.

"(6) CONSULTATION WITH FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (2)(I) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commisssion and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(g) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA.—

"(1) IN GENERAL.—If the appropriate Federal banking agency determines (after notice and an opportunity for hearing) that an insured depository institution is in an unsafe or unsound condition or, pursuant to section 8(b)(8), deems the institution to be engaging in an unsafe or unsound practice, the agency may—

"(A) if the institution is well capitalized, reclassify the institution as adequately capitalized;

"(B) if the institution is adequately capitalized, require the institution to comply with 1 or more provisions of subsections (d) and (e), as if the institution were undercapitalized; or

"(C) if the institution is undercapitalized, take any 1 or more actions authorized under subsection (f)(2) as if the institution were significantly undercapitalized.

"(2) CONTENTS OF PLAN.—Any plan required under paragraph (1) shall specify the steps that the insured depository institution will take to correct the unsafe or unsound condition or practice. Capital restoration plans shall not be required under paragraph (1)(B).

"(h) PROVISIONS APPLICABLE TO CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—

"(1) ACTIVITIES RESTRICTED.—Any critically undercapitalized insured depository institution shall comply with restrictions prescribed by the Corporation under subsection (i).

"(2) PAYMENTS ON SUBORDINATED DEBT PROHIBITED.—

"(A) IN GENERAL.—A critically undercapitalized insured depository institution shall not, beginning 60 days after becoming critically undercapitalized, make any payment of principal or interest on the institution's subordinated debt.

"(B) EXCEPTIONS.—The Corporation may make exceptions to subparagraph (A) if—

"(i) the appropriate Federal banking agency has taken action with respect to the insured depository institution under paragraph (3)(A)(ii); and

"(ii) the Corporation determines that the exception would further the purpose of this section.

"(C) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until July 15, 1996, subparagraph (A) shall not apply with respect to any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after July 15, 1991.

"(D) ACCRUAL OF INTEREST.—Subparagraph (A) does not prevent unpaid interest from accruing on subordinated debt under the terms of that debt, to the extent otherwise permitted by law.

"(3) CONSERVATORSHIP, RECEIVERSHIP, OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall, not later than 90 days after an insured depository institution becomes critically undercapitalized—

"(i) appoint a receiver (or, with the concurrence of the Corporation, a conservator) for the institution; or

"(ii) take such other action as the agency determines, with the concurrence of the Corporation, would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

"(B) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by an appropriate Federal banking agency under subparagraph (A)(ii) to take any action with respect to an insured depository institution in lieu of appointing a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date that the determination is made and a conservator or receiver shall be appointed for that institution under subparagraph (A)(i) unless the agency makes a new determination under subparagraph (A)(ii) at the end of the effective period of the prior determination.

"(C) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the appropriate Federal banking agency shall appoint a receiver for the insured depository institution if the institution is critically undercapitalized on average during the calendar quarter beginning 270 days after the date on which the institution became critically undercapitalized.

"(ii) EXCEPTION.—Notwithstanding clause (i), the appropriate Federal banking agency may continue to take such other action as the agency determines to be appropriate in lieu of such appointment if—

"(I) the agency determines, with the concurrence of the Corporation, that (aa) the insured depository institution has positive net worth, (bb) the insured depository institution has been in substantial compliance with an approved capital restoration plan which requires consistent improvement in the institution's capital since the date of the approval of the plan, (cc) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable, and (dd) the insured depository institution is reducing the ratio of nonperforming loans to total loans; and

"(II) the head of the appropriate Federal banking agency and the Chairperson of the Board of Directors both certify that the institution is viable and not expected to fail.

"(i) RESTRICTING ACTIVITIES OF CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—To carry out the purpose of this section, the Corporation shall, by regulation or order—

"(1) restrict the activities of any critically undercapitalized insured depository institution; and

"(2) at a minimum, prohibit any such institution from doing any of the following without the Corporation's prior written approval:

"(A) Entering into any material transaction other than in the usual course of business, including any investment, expansion, acquisition, sale of assets, or other similar action with respect to which the depository institution is required to provide notice to the appropriate Federal banking agency.

"(B) Extending credit for any highly leveraged transaction.

"(C) Amending the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Making any material change in accounting methods.

"(E) Engaging in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Paying excessive compensation or bonuses.

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

"(G) Paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas.

"(j) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Subsections (e) through (i) (other than paragraph (3) of subsection (e)) shall not apply—

"(1) to an insured depository institution for which the Corporation or the Resolution Trust Corporation is conservator; or

"(2) to a bridge bank, none of the voting securities of which are owned by a person or agency other than the Corporation or the Resolution Trust Corporation.

"(k) REVIEW REQUIRED WHEN DEPOSIT INSURANCE FUND INCURS MATERIAL LOSS.—

"(1) IN GENERAL.—If a deposit insurance fund incurs a material loss with respect to an insured depository institution on or after July 1, 1993, the inspector general of the appropriate Federal banking agency shall—

"(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall—

"(i) ascertain why the institution's problems resulted in a material loss to the deposit insurance fund; and

"(ii) make recommendations for preventing any such loss in the future; and

"(B) provide a copy of the report to—

"(i) the Comptroller General of the United States;

"(ii) the Corporation (if the agency is not the Corporation);

"(iii) in the case of a State depository institution, the appropriate State banking supervisor; and

"(iv) upon request by any Member of Congress, to that Member.

"(2) MATERIAL LOSS INCURRED.—For purposes of this subsection:

"(A) LOSS INCURRED.—A deposit insurance fund incurs a loss with respect to an insured depository institution—

"(i) if the Corporation provides any assistance under section 13(c) with respect to that institution; and—

"(I) it is not substantially certain that the assistance will be fully repaid not later than 24 months after the date on which the Corporation initiated the assistance; or

"(II) the institution ceases to repay the assistance in accordance with its terms; or

"(ii) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(B) MATERIAL LOSS.—A loss is material if it exceeds the greater of—

"(i) $25,000,000; or

"(ii) 2 percent of the institution's total assets at the time the Corporation initiated assistance under section 13(c) or was appointed receiver.

"(3) DEADLINE FOR REPORT.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event (except with respect to paragraph (1)(B)(iv)) as follows:

"(A) If the institution is described in paragraph (2)(A)(i), during the 6-month period beginning on the earlier of—

"(i) the date on which the institution ceases to repay assistance under section 13(c) in accordance with its terms, or

"(ii) the date on which it becomes apparent that the assistance will not be fully repaid during the 24-month period described in paragraph (2)(A)(i).

"(B) If the institution is described in paragraph (2)(A)(ii), during the 6-month period beginning on the date on which it becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(4) PUBLIC DISCLOSURE REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall disclose the report upon request under section 552 of title 5, United States Code, without excising—

"(i) any portion under section 552(b)(5) of that title; or

"(ii) any information about the insured depository institution under paragraph (4) (other than trade secrets) or paragraph (8) of section 552(b) of that title.

"(B) EXCEPTION.—Subparagraph (A) does not require the agency to disclose the name of any customer of the insured depository institution (other than an institution-affiliated party), or information from which such a person's identity could reasonably be ascertained.

"(5) GAO REVIEW.—The General Accounting Office shall annually—

"(A) review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) verify the accuracy of 1 or more of those reports.

"(6) TRANSITION RULE.—During the period beginning on July 1, 1993, and ending on June 30, 1997, a loss incurred by the Corporation with respect to an insured depository institution—

"(A) with respect to which the Corporation initiates assistance under section 13(c) during the period in question, or

"(B) for which the Corporation was appointed receiver during the period in question,

is material for purposes of this subsection only if that loss exceeds the greater of $25,000,000 or the applicable percentage of the institution's total assets at that time, set forth in the following table:

"For the following period:	The applicable percentage is:
July 1, 1993–June 30, 1994	7 percent
July 1, 1994–June 30, 1995	5 percent
July 1, 1995–June 30, 1996	4 percent
July 1, 1996–June 30, 1997	3 percent.

"(l) IMPLEMENTATION.—

"(1) REGULATIONS AND OTHER ACTIONS.—Each appropriate Federal banking agency shall prescribe such regulations (in consultation with the other Federal banking agencies), issue such orders, and take such other actions as are necessary to carry out this section.

"(2) WRITTEN DETERMINATION AND CONCURRENCE REQUIRED.—Any determination or concurrence by an appropriate Federal banking agency or the Corporation required under this section shall be written.

"(m) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of an appropriate Federal banking agency, the Corporation, or a State to take action in addition to (but not in derogation of) that required under this section.

"(n) ADMINISTRATIVE REVIEW OF DISMISSAL ORDERS.—

"(1) TIMELY PETITION REQUIRED.—A director or senior executive officer dismissed pursuant to an order under subsection (f)(2)(F)(ii) may obtain review of that order by filing a written petition for reinstatement with the appropriate Federal banking agency not later than 10 days after receiving notice of the dismissal.

"(2) PROCEDURE.—

"(A) HEARING REQUIRED.—The agency shall give the petitioner an opportunity to—

"(i) submit written materials in support of the petition; and

"(ii) appear, personally or through counsel, before 1 or more members of the agency or designated employees of the agency.

"(B) DEADLINE FOR HEARING.—The agency shall—

"(i) schedule the hearing referred to in subparagraph (A)(ii) promptly after the petition is filed; and

"(ii) hold the hearing not later than 30 days after the petition is filed, unless the petitioner requests that the hearing be held at a later time.

"(C) DEADLINE FOR DECISION.—Not later than 60 days after the date of the hearing, the agency shall—

"(i) by order, grant or deny the petition;

"(ii) if the order is adverse to the petitioner, set forth the basis for the order; and

"(iii) notify the petitioner of the order.

"(3) STANDARD FOR REVIEW OF DISMISSAL ORDERS.—The petitioner shall bear the burden of proving that the petitioner's continued employment would materially strengthen the insured depository institution's ability—

"(A) to become adequately capitalized, to the extent that the order is based on the institution's capital level or failure to submit or implement a capital restoration plan; and

"(B) to correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the order is based on subsection (g)(1).

"(o) TRANSITION RULES FOR SAVINGS ASSOCIATIONS.—

"(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

"(A) IN GENERAL.—In implementing this section, the appropriate Federal banking agency (and, to the extent applicable, the Corporation) shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

"(B) REPORTS.—Subparagraph (A) does not require reports under subsection (k).

"(2) ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2), (f), and (h) shall not apply before July 1, 1994, to any insured savings association if—

"(A) before the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

"(i) the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

"(ii) the Director of the Office of Thrift Supervision had accepted the plan;

"(B) the plan remains in effect; and

"(C) the savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.".

(b) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) (and the Corporation, acting in the Corporation's capacity as insurer of depository institutions under that Act) shall, after notice and opportunity for comment, promulgate final regulations under section 38 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than 9 months after the date of enactment of this Act, and those regulations shall become effective not later than 1 year after that date of enactment.

(c) OTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) ENFORCEMENT ACTION BASED ON UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following:

"(8) UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY AS UNSAFE OR UNSOUND PRACTICE.—If an insured depository institution receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the appropriate Federal banking agency may (if the deficiency is not corrected) deem the institution to be engaging in an unsafe or unsound practice for purposes of this subsection.".

(2) CONFORMING AMENDMENTS RELATING TO FEDERAL BANKING AGENCIES' ENFORCEMENT AUTHORITY.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended—

(A) in the first sentence of paragraph (1), by inserting "or under section 38" after "section"; and

(B) in paragraph (2)(A)(ii), by inserting ", or final order under section 38" after "section".

(3) DEFINITION.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(y) The term 'deposit insurance fund' means the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate.".

(d) CONFORMING AMENDMENT TO SECTION 5(t)(7) OF THE HOME OWNERS' LOAN ACT.—Section 5(t)(7) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(7)) is amended—

(1) in subsection (A), by inserting "under this Act" before the period; and

(2) in subsection (B), by inserting "under this Act" after "imposed by the Director".

(e) TRANSITION RULE REGARDING CURRENT DIRECTORS AND SENIOR EXECUTIVE OFFICERS.—

(1) DISMISSAL FROM OFFICE.—Section 38(f)(2)(F)(ii) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to—

(A) any director whose current term as a director commenced on or before the date of enactment of this Act and has not been extended—

(i) after that date of enactment, or

(ii) to evade section 38(f)(2)(F)(ii); or

(B) any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(i) after that date of enactment, or

(ii) to evade section 38(f)(2)(F)(ii).

(2) RESTRICTING COMPENSATION.—Section 38(f)(4) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(A) after that date of enactment, or

(B) to evade section 38(f)(4).

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 132. STANDARDS FOR SAFETY AND SOUNDNESS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. STANDARDS FOR SAFETY AND SOUNDNESS.

"(a) OPERATIONAL AND MANAGERIAL STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards relating to—

"(A) internal controls, information systems, and internal audit systems, in accordance with section 36;

"(B) loan documentation;

"(C) credit underwriting;

"(D) interest rate exposure;

"(E) asset growth; and

"(F) compensation, fees, and benefits, in accordance with subsection (c); and

"(2) such other operational and managerial standards as the agency determines to be appropriate.

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards specifying—

"(A) a maximum ratio of classified assets to capital;

"(B) minimum earnings sufficient to absorb losses without impairing capital; and

"(C) to the extent feasible, a minimum ratio of market value to book value for publicly traded shares of the institution or company; and

"(2) such other standards relating to asset quality, earnings, and valuation as the agency determines to be appropriate.

"(c) COMPENSATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

"(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

"(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees or benefits; or

"(B) could lead to material financial loss to the institution;

"(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

"(A) the combined value of all cash and noncash benefits provided to the individual;

"(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

"(C) the financial condition of the institution;

"(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

"(E) for postemployment benefits, the projected total cost and benefit to the institution;

"(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

"(G) other factors that the agency determines to be relevant; and

"(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation.

"(e) FAILURE TO MEET STANDARDS.—

"(1) PLAN REQUIRED.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that an insured depository institution or depository institution holding company fails to meet any standard prescribed under subsection (a), (b), or (c) the agency shall require the institution or company to submit an acceptable plan to the agency within the time allowed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—Any plan required under subparagraph (A) shall specify the steps that the institution or company will take to correct the deficiency. If the institution is undercapitalized, the plan may be part of a capital restoration plan.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide institutions and companies with reasonable time to submit plans required under subparagraph (A), and generally require the institution or company to submit a plan not later than 30 days after the agency determines that the institution or company fails to meet any standard prescribed under subsection (a), (b), or (c); and

"(ii) require the agency to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

"(2) ORDER REQUIRED IF INSTITUTION OR COMPANY FAILS TO SUBMIT OR IMPLEMENT PLAN.—If an insured depository institution or depository institution holding company fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the appropriate Federal banking agency, the agency, by order—

"(A) shall require the institution or company to correct the deficiency; and

"(B) may do 1 or more of the following until the deficiency has been corrected:

"(i) Prohibit the institution or company from permitting its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the institution or company may increase from one calendar quarter to another.

"(ii) Require the institution or company to increase its ratio of tangible equity to assets.

"(iii) Take the action described in section 38(f)(2)(C).

"(iv) Require the institution or company to take any other action that the agency determines will better carry out the purpose of section 38 than any of the actions described in this subparagraph.

"(3) RESTRICTIONS MANDATORY FOR CERTAIN INSTITUTIONS.—In complying with paragraph (2), the appropriate Federal banking agency shall take 1 or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

"(A) the agency determines that the insured depository institution fails to meet any standard prescribed under subsection (a)(1) or (b)(1);

"(B) the institution has not corrected the deficiency; and

"(C) either—

"(i) during the 24-month period before the date on which the institution first failed to meet the standard—

"(I) the institution commenced operations; or

"(II) 1 or more persons acquired control of the institution; or

"(ii) during the 18-month period before the date on which the institution first failed to meet the standard, the institution underwent extraordinary growth, as defined by the agency.

"(f) DEFINITIONS.—For purposes of this section, the terms 'average' and 'capital restoration plan' have the same meanings as in section 38.

"(g) OTHER AUTHORITY NOT AFFECTED.—The authority granted by this section is in addition to any other authority of the Federal banking agencies.".

(b) REGULATIONS REQUIRED.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate final regulations under section 39 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than August 1, 1993.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of—

(1) the date on which final regulations promulgated in accordance with subsection (b) become effective; or

(2) December 1, 1993.

SEC. 133. CONSERVATORSHIP AND RECEIVERSHIP AMENDMENTS TO FACILITATE PROMPT REGULATORY ACTION.

(a) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER; CONSISTENT STANDARDS FOR NATIONAL, STATE MEMBER, AND STATE NONMEMBER BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended to read as follows:

"(5) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER.—The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

"(A) ASSETS INSUFFICIENT FOR OBLIGATIONS.—The institution's assets are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) SUBSTANTIAL DISSIPATION.—Substantial dissipation of assets or earnings due to—

"(i) any violation of any statute or regulation; or

"(ii) any unsafe or unsound practice.

"(C) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

"(D) CEASE AND DESIST ORDERS.—Any willful violation of a cease-and-desist order which has become final.

"(E) CONCEALMENT.—Any concealment of the institution's books, papers, records, or assets, or any refusal to submit the institution's books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) INABILITY TO MEET OBLIGATIONS.—The institution is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business.

"(G) LOSSES.—The institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the institution to become adequately capitalized (as defined in section 38(b)) without Federal assistance.

"(H) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings;

"(ii) weaken the institution's condition; or

"(iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

"(I) CONSENT.—The institution, by resolution of its board of directors or its shareholders or members, consents to the appointment.

"(J) CESSATION OF INSURED STATUS.—The institution ceases to be an insured institution.

"(K) UNDERCAPITALIZATION.—The institution is undercapitalized (as defined in section 38(b)), and—

"(i) has no reasonable prospect of becoming adequately capitalized (as defined in that section);

"(ii) fails to become adequately capitalized when required to do so under section 38(f)(2)(A);

"(iii) fails to submit a capital restoration plan acceptable to that agency within the time prescribed under section 38(e)(2)(D); or

"(iv) materially fails to implement a capital restoration plan submitted and accepted under section 38(e)(2).

"(L) The institution—

"(i) is critically undercapitalized, as defined in section 38(b); or

"(ii) otherwise has substantially insufficient capital.".

(b) CONFORMING AMENDMENT TO AUTHORITY TO APPOINT RECEIVER FOR NATIONAL BANK.—Section 1 of the Act of June 30, 1876 (12 U.S.C. 191) is amended to read as follows:

"SECTION 1. The Comptroller of the Currency may, without prior notice or hearings, appoint the Federal Deposit Insurance Corporation as receiver for any national banking association if the Comptroller determines, in the Comptroller's discretion, that—

"(1) 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist; or

"(2) the association's board of directors consists of fewer than 5 members.".

(c) CONFORMING AMENDMENT TO THE BANK CONSERVATION ACT.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended to read as follows:

"(a) APPOINTMENT.—The Comptroller of the Currency may, without prior notice or hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller of the Currency determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.".

(d) CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 5(d)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)) is amended—

(1) by striking subparagraphs (A) through (D) and inserting the following:

"(A) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR INSURED SAVINGS ASSOCIATION.—The Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exists"; and

(2) by redesignating subparagraphs (E) through (I) as subparagraphs (B) through (F), respectively.

(e) ADDITIONAL PROVISIONS RELATING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 11(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(9)) is amended to read as follows:

"(9) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTION TO CARRY OUT SECTION 38.—

"(A) IN GENERAL.—The appropriate Federal banking agency may appoint the Corporation as sole receiver (or, subject to paragraph (11), sole conservator) of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that—

"(i) 1 or more of the grounds specified in subparagraphs (K) and (L) of paragraph (5) exist with respect to that institution; and

"(ii) the appointment is necessary to carry out the purpose of section 38.

"(B) NONDELEGATION.—The appropriate Federal banking agency shall not delegate any action under subparagraph (A).

"(10) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO DEPOSIT INSURANCE FUND.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that—

"(A) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(B) the appointment is necessary to reduce—

"(i) the risk that the deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(ii) any loss that the deposit insurance fund is expected to incur with respect to that institution.

"(11) APPROPRIATE FEDERAL BANKING AGENCY SHALL NOT APPOINT CONSERVATOR UNDER CERTAIN PROVISIONS WITHOUT GIVING CORPORATION OPPORTUNITY TO APPOINT RECEIVER.—The appropriate Federal banking agency shall not appoint a conservator for an insured depository institution under subparagraph (K) or (L) of paragraph (5) without the Corporation's consent unless the agency has given the Corporation 48 hours notice of the agency's intention to appoint the conservator and the grounds for the appointment.

"(12) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

"(A) the appointment of the Corporation or the Resolution Trust Corporation as conservator or receiver for that institution; or

"(B) an acquisition or combination under section 38(f)(2)(A)(iii).

"(13) ADDITIONAL POWERS.—In any case in which the Corporation is appointed conservator or receiver under paragraph (4), (6), (9), or (10) for any insured State depository institution—

"(A) subject to subparagraph (B), this section shall apply to the Corporation as conservator or receiver in the same manner and to the same extent as if that institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver;

"(B) the Corporation shall apply the law of the State in which the institution is chartered insofar as that law gives the claims of depositors priority over those of other creditors or claimants; and

"(C) the Corporation as receiver of the institution may—

"(i) liquidate the institution in an orderly manner; and

"(ii) make any other disposition of any matter concerning the institution, as the Corporation determines is in the best interests of the institution, the depositors of the institution, and the Corporation.".

(f) CONFORMING AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(9) of the Federal Deposit Insurance Act.".

(g) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act.

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), (9) and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.

"(G) SYSTEMIC RISK.—

"(i) EMERGENCY DETERMINATION BY SECRETARY OF THE TREASURY.—Notwithstanding subparagraphs (A) and (E), if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that—

"(I) the Corporation's compliance with subparagraphs (A) and (E) with respect to an insured depository institution would have serious adverse effects on economic conditions or financial stability; and

"(II) any action or assistance under this subparagraph would avoid or mitigate such adverse effects,

the Corporation may take other action or provide assistance under this section as necessary to avoid or mitigate such effects.

"(ii) REPAYMENT OF LOSS.—The Corporation shall recover the loss to the appropriate insurance fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) expeditiously from 1 or more emergency special assessments on the members of the insurance fund (of which such institution is a member) equal to the product of—

"(I) an assessment rate established by the Corporation; and

"(II) the amount of each member's average total assets during the semiannual period, minus the sum of the amount of the member's average total tangible equity and the amount of the member's average total subordinated debt.

"(iii) DOCUMENTATION REQUIRED.—The Secretary of the Treasury shall—

"(I) document any determination under clause (i); and

"(II) retain the documentation for review under clause (iv).

"(iv) GAO REVIEW.—The Comptroller General of the United States shall review and report to the Congress on any determination under clause (i), including—

"(I) the basis for the determination;

"(II) the purpose for which any action was taken pursuant to such clause; and

"(III) the likely effect of the determination and such action on the incentives and conduct of insured depository institutions and uninsured depositors.

"(v) NOTICE.—

"(I) IN GENERAL.—The Secretary of the Treasury shall provide written notice of any determination under clause (i) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(II) DESCRIPTION OF BASIS OF DETERMINATION.—The notice under subclause (I) shall include a description of the basis for any determination under clause (i).

"(H) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to take any action prohibited by paragraph (4) unless such provision expressly provides, by direct reference to this paragraph, that this paragraph shall not apply with respect to such action.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

(B) by adding at the end the following new subparagraph:

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is

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amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. FEDERAL RESERVE DISCOUNT WINDOW ADVANCES.

(a) REDESIGNATING SECTIONS 10(a) AND 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 10(a) (12 U.S.C. 347a) as section 10A; and

(2) by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATIONS ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as redesignated by subsection (a)) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as critically undercapitalized under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any critically undercapitalized depository institution—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercapitalized depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of that 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS LOSS.—The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

"(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

"(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

"(C) FEDERAL RESERVE TO PAY OBLIGATION.—The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

"(D) REPORT.—The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(B) CRITICALLY UNDERCAPITALIZED.—The term 'critically undercapitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is undercapitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE.—A depository institution is 'viable' if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

"(i) is not critically undercapitalized;

"(ii) is not expected to become critically undercapitalized; and

"(iii) is not expected to be placed in conservatorship or receivership.".

(c) BOARD'S AUTHORITY TO EXAMINE DEPOSITORY INSTITUTIONS AND AFFILIATES.—Section 11 of the Federal Reserve Act is amended by adding at the end the following:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of enactment of this Act.

(e) CONFORMING AMENDMENTS REDESIGNATING SECTIONS 13a, 25(a), AND 25(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 13a as section 13A;

(2) by redesignating section 25(a) as section 25A; and

(3) by redesignating section 25(b) as section 25B.

SEC. 143. EARLY RESOLUTION.

(a) IN GENERAL.—It is the sense of the Congress that the Federal banking agencies should

facilitate early resolution of troubled insured depository institutions whenever feasible if early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with the least-cost and prompt corrective action provisions of the Federal Deposit Insurance Act.

(b) GENERAL PRINCIPLES.—In encouraging the Federal banking agencies to pursue early resolution strategies, the Congress contemplates that any resolution transaction under section 13(c) of that Act would observe the following general principles:

(1) COMPETITIVE NEGOTIATION.—The transaction should be negotiated competitively, taking into account the value of expediting the process.

(2) RESULTING INSTITUTION ADEQUATELY CAPITALIZED.—Any insured depository institution created or assisted in the transaction (hereafter the "resulting institution") and any institution acquiring the troubled institution should meet all applicable minimum capital standards.

(3) SUBSTANTIAL PRIVATE INVESTMENT.—The transaction should involve substantial private investment.

(4) CONCESSIONS.—Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

(5) QUALIFIED MANAGEMENT.—Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems.

(6) FDIC'S PARTICIPATION.—The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

(7) STRUCTURE OF TRANSACTION.—The transaction should, insofar as practical, be structured so that—

(A) the Federal Deposit Insurance Corporation—

(i) does not acquire a significant proportion of the troubled institution's problem assets;

(ii) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

(iii) limits the Corporation's assistance in term and amount; and

(B) new investors share risk with the Corporation.

(c) REPORT.—Two years after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to Congress analyzing the effect of early resolution on the deposit insurance funds.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURER; DISCLOSURE BY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"SEC. 40. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURERS.—

"(1) AUDIT REQUIRED.—Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

"(2) PROVIDING COPIES OF AUDIT REPORT.—

"(A) PRIVATE DEPOSIT INSURER.—The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) DEPOSITORY INSTITUTION.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) DISCLOSURE REQUIRED.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) PERIODIC STATEMENTS; ACCOUNT RECORDS.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) ADVERTISING; PREMISES.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) ACKNOWLEDGMENT OF RISK.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) EXCEPTIONS FOR INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) ELIGIBILITY FOR FEDERAL DEPOSIT INSURANCE.—

"(1) IN GENERAL.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank, including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) AUTHORITY OF FDIC AND NCUA NOT AFFECTED.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) DEFINITIONS.—For purposes of this section:

"(1) APPROPRIATE SUPERVISOR.—The 'appropriate supervisor' of a depository institution means the agency primarily responsible for supervising the institution.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) LACKING FEDERAL DEPOSIT INSURANCE.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) PRIVATE DEPOSIT INSURER.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) ENFORCEMENT.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.".

(2) EFFECTIVE DATES.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ", and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

(C) subsection (e) shall become effective 2 years after that date of enactment; and

(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

(3) CONFORMING AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) VIABILITY OF PRIVATE DEPOSIT INSURERS.—

(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 40 (a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

(A) describe the insurer's—

(i) underwriting standards;

(ii) resources, including trends in and forecasts of assets, income, and expenses;

(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

(3) Definitions.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

Subtitle G—Technical Corrections

SEC. 161. TECHNICAL CORRECTIONS AND CLARIFICATIONS.

(a) Section 11 of the Federal Deposit Insurance Act.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(3)(A), by striking "(4)(A)" and inserting "(4)";

(2) in subsection (d)(11)(B), by striking "(14)(C)" and inserting "(15)(B)";

(3) in subsection (e)(3)(C)(ii), by striking "subsection (k)" and inserting "subsection (i)";

(4) in subsection (e)(4)(B)(iii), by striking "subsection (k)" and inserting "subsection (i)";

(5) in subparagraphs (A) and (E) of subsection (e)(8), by striking "subsections (d)(9) and (i)(4)(1)" and inserting "subsection (d)(9)";

(6) in subsection (n)(9), by striking "(13)" and inserting "(12)"; and

(7) in subsection (n)(11)(D), by striking "(8)" and inserting "(9)".

(b) Clarification of FDIC Powers in FSLIC Resolution Fund Conservatorships and Receiverships.—Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)) is amended by adding at the end the following new paragraphs:

"(4) Rights, powers, and duties.—Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation's duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this Act.

"(5) Corporation as conservator or receiver.—

"(A) In general.—Effective August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any depository institution—

"(i) the accounts of which were insured before August 10, 1989 by the Federal Savings and Loan Insurance Corporation; and

"(ii) for which a conservator or receiver was appointed before January 1, 1989.

"(B) Rights, powers, and duties.—When acting as conservator or receiver with respect to any depository institution described in subparagraph (A), the Corporation shall have all rights, powers, and duties that the Corporation otherwise has as conservator or receiver under this Act.".

(c) Clerical Amendment to Subsection Heading.—The heading for section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by striking "Holding Companies" and inserting "Affiliates of Depository Institutions".

(d) FDIC Removal Period Made Consistent With RTC Period.—Section 9(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(2)(B)) is amended by inserting "before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party" before the period.

(e) Clarification of FDIC Authority to Pay De Minimus Claims.—The 2d sentence of section 11(i)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)(A)) is amended by striking "The" and inserting "Notwithstanding any other provision of Federal or State law, or the constitution of any State, the".

(f) Clerical Amendment to Section Heading.—

(1) The heading for section 219 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "**FROM TAXATION**".

(2) The table of contents for the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation" in the item relating to section 219.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) Establishment and Termination of Foreign Bank Offices in the United States.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) Establishment of Foreign Bank Offices in the United States.—

"(1) Prior approval required.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) Required standards for approval.—The Board may not approve an application under paragraph (1) unless it determines that—

"(A) the foreign bank engages directly in the business of banking outside of the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; and

"(B) the foreign bank has furnished to the Board the information it needs to adequately assess the application.

"(3) Standards for approval.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(B) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(C) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(D) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(4) Factor.—In acting on an application under paragraph (1), the Board shall not make the size of the foreign bank the sole determinant factor, and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country. Nothing in this paragraph shall affect the ability of the Board to order a State branch, agency, or commercial lending company subsidiary to terminate its activities in the United States pursuant to any standard set forth in this Act.

"(5) Establishment of conditions.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) Termination of Foreign Bank Offices in the United States.—

"(1) Standards for termination.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; or

"(B)(i) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(ii) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

However, in making findings under this paragraph, the Board shall not make size the sole determinant factor, and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country. Nothing in this paragraph shall affect the ability of the Board to order a State branch, agency, or commercial lending company subsidiary to terminate its activities in the United States pursuant to any standard set forth in this Act.

"(2) Discretion to deny hearing.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) Effective date of termination order.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) Compliance with State and Federal law.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) Recommendation to agency for termination of a Federal branch or agency.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) Enforcement of orders.—

"(A) In general.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) Court order.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(7) Criteria relating to foreign supervision.—Not later than 1 year after the date of enactment of this subsection, the Board, in consultation with the Secretary of the Treasury, shall develop and publish criteria to be used in

evaluating the operation of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis. In developing such criteria, the Board shall allow reasonable opportunity for public review and comment.

"(f) Judicial Review.—

"(1) Jurisdiction of United States courts of appeals.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) Scope of judicial review.—Section 706 of title 5, United States Code, (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) Consultation With State Bank Supervisor.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).

(h) Limitations on Powers of State Branches and Agencies.—

"(1) In general.—After the end of the 1-year period beginning on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, a State branch or State agency may not engage in any type of activity that is not permissible for a Federal branch unless—

"(A) the Board has determined that such activity is consistent with sound banking practice; and

"(B) in the case of an insured branch, the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the deposit insurance fund.

"(2) Single borrower lending limit.—A State branch or State agency shall be subject to the same limitations with respect to loans made to a single borrower as are applicable to a Federal branch or Federal agency under section 4(b).

"(3) Other authority not affected.—This section does not limit the authority of the Board or any State supervisory authority to impose more stringent restrictions.".

(b) Standards for Approval of Federal Branches and Agencies.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) Establishment and Operation of Federal Branches and Agencies.—

"(1) Initial federal branch or agency.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) Board conditions required to be included.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(5) as a condition for the approval of such application by the agency.".

(c) Standards for Approval of Additional Federal Branches and Agencies.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) Additional Branches or Agencies.—

"(1) Approval of agency required.—A foreign bank"; and

(3) by adding at the end the following new paragraph:

"(2) Notice to and comment by board.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) Disapproval for Failure To Agree To Provide Necessary Information.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) Factors for Consideration by Board.—

"(1) Competitive factors.—The Board shall";

(3) by striking "In every case" and inserting "(2) Banking and community factors.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) Treatment of certain bank stock loans.— Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) Supervisory factors.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) Conforming Amendments.—

(1) Affiliate defined.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting " 'affiliate,' " after "the terms" the 1st place such term appears.

(2) Definitions.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) Authority of Board To Conduct and Coordinate Examinations.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) Examination of branches, agencies, and affiliates.—

"(A) In general.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) Coordination of examinations.—

"(i) In general.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) Simultaneous examinations.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) Annual on-site examination.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination.

"(D) Cost of examinations.—The cost of any examination under subparagraph (A) shall be assessed against and collected from the foreign bank or the foreign company that controls the foreign bank, as the case may be."; and

(2) in paragraph (2), by inserting "Reporting requirements.—" before "Each branch".

(b) Coordination of Examinations.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) Participation in Coordinated Examinations.—

(1) In general.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Examination of insured State branches.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) Technical and conforming amendment.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) Prior Approval To Establish Representative Offices.—

"(1) In general.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) Standards for approval.—In acting on any application under this paragraph to estab-

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lish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

(2) by adding at the end the following new paragraphs:

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

SEC. 211. STANDARDS AND FACTORS IN THE HOME OWNERS' LOAN ACT.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (1), by inserting after subparagraph (B) the following:

"Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(2) in paragraph (2)—

(A) by inserting after the second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(B) by striking "or" at the end of subparagraph (A);

(C) by striking the period at the end of subparagraph (B) and inserting a comma; and

(D) by inserting after subparagraph (B) the following new subparagraphs:

"(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this Act, or

"(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

SEC. 212. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES.

(a) AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.—

(1) MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE.—Section 304(h) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) the Office of the Comptroller of the Currency for national banks and Federal branches and Federal agencies of foreign banks;"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;".

(2) ENFORCEMENT.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured State branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(B) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(b) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(c) AMENDMENT TO THE FAIR CREDIT REPORTING ACT.—Section 621(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(d) AMENDMENT TO THE EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(e) AMENDMENT TO THE FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(f) AMENDMENT TO THE ELECTRONIC FUND TRANSFER ACT.—Section 917(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(g) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—

(1) DEFINITIONS.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following new paragraph:

"'Banks' means the types of banks and other financial institutions referred to in section 18(f)(2)."

(2) ENFORCEMENT.—Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT.—Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, banks operating under the code of law for the District of Columbia, and Federal branches and Federal agencies of foreign banks, by the divisions of consumer affairs established by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks and banks operating under the code of law for the District of Columbia), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the division of consumer affairs established by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other banks referred to in subparagraph (A) or (B)) and insured State branches of foreign banks, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(B) by adding at the end the following:

"The terms used in this paragraph that are not defined in the Federal Trade Commission Act or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(h) AMENDMENT TO THE EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

SEC. 213. CRIMINAL PENALTY FOR VIOLATING THE INTERNATIONAL BANKING ACT OF 1978.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 16 (as added by section 208 of this subtitle) the following new section:

"SEC. 17. CRIMINAL PENALTY.

"Whoever, with the intent to deceive, to gain financially, or to cause financial gain or loss to any person, knowingly violates any provision of this Act or any regulation or order issued by the appropriate Federal banking agency under this Act shall be imprisoned not more than 5 years or fined not more than $1,000,000 for each day during which a violation continues, or both.".

SEC. 214. MISCELLANEOUS AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) SECTION 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsection (b) as subsection (b)(1);

(2) by designating the last undesignated paragraph as paragraph (2); and

(3) by adding at the end the following new subsection:

"(c) RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.—

"(1) IN GENERAL.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to accept or maintain deposit accounts having balances of less than $100,000, a foreign bank shall—

"(A) establish 1 or more banking subsidies in the United States for that purpose; and

"(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

"(2) EXCEPTION.—Deposit accounts with balances of less than $100,000 may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.".

(b) SECTION 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(j) STUDY ON EQUIVALENCE OF FOREIGN BANK CAPITAL.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Supervisory committee of the Bank for International Settlements, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under section 7 of the International Banking Act of 1978 and sections 3 and 4 of the Bank Holding Company Act of 1956.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).

SEC. 215. STUDY AND REPORT ON SUBSIDIARY REQUIREMENTS FOR FOREIGN BANKS.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary"), jointly with the Board of Governors of the Federal Reserve System and in consultation with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General, shall conduct a study of whether foreign banks should be required to conduct banking operations in the United States through subsidiaries rather than branches. In conducting the study, the Secretary shall take into account—

(1) differences in accounting and regulatory practices abroad and the difficulty of assuring that the foreign bank meets United States capital and management standards and is adequately supervised;

(2) implications for the deposit insurance system;

(3) competitive equity considerations;

(4) national treatment of foreign financial institutions;

(5) the need to prohibit money laundering and illegal payments;

(6) safety and soundness considerations;

(7) implications for international negotiations for liberalized trade in financial services;

(8) the tax liability of foreign banks;

(9) whether the establishment of subsidiaries by foreign banks to operate in the United States should be required only if United States Banks are authorized to engage in securities activities and interstate banking and branching; and

(10) differences in treatment of United States creditors under the bankruptcy and receivership laws.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the results of the study under subsection (a). Any additional or dissenting views of participating agencies shall be included in the report.

Subtitle B—Customer and Consumer Provisions

SEC. 221. STUDY ON REGULATORY BURDEN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Financial Institutions Examination Council, in consultation with individuals representing insured depository institutions, consumers, community groups, and other interested parties, shall—

(1) review the policies and procedures, and recordkeeping and documentation requirements used to monitor and enforce compliance with—

(A) all laws under the jurisdiction of the Federal banking agencies; and

(B) all laws affecting insured depository institutions under the jurisdiction of the Secretary of the Treasury;

(2) determine whether such policies, procedures, and requirements impose unnecessary burdens on insured depository institutions; and

(3) identify any revisions of such policies, procedures, and requirements that could reduce unnecessary burdens on insured depository institutions without in any respect—

(A) diminishing either compliance with or enforcement of consumer laws in any respect; or

(B) endangering the safety and soundness of insured depository institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Financial Institutions Examination Council shall submit to the Congress a report describing the revisions identified under subsection (a)(3).

(c) DEFINITIONS.—For purposes of this section, the terms "insured depository institution" and "Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 222. DISCUSSION OF LENDING DATA.

(a) PUBLIC SECTIONS OF COMMUNITY REINVESTMENT ACT REPORTS.—Section 807(b)(1)(B) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)(B)) is amended by inserting "and data" after "facts".

(b) OTHER COMMUNITY REINVESTMENT ACT AMENDMENTS.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended—

(1) in subsection (a)(1), by striking "depository institutions regulatory agency" and inserting "financial supervisory agency";

(2) in subsection (b)(1)(A)—

(A) by striking "depository institutions regulatory agency's" and inserting "financial supervisory agency's"; and

(B) by striking "depository institutions regulatory agencies" and inserting "financial supervisory agencies"; and

(3) in subsection (c), by striking "depository institutions regulatory agency" each place such term appears and inserting "financial supervisory agency".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

(d) APPRAISALS.—Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 224. HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1, 1992.

SEC. 225. NOTICE OF SAFEGUARD EXCEPTION.

Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

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(1) in subsection (b), by inserting "(a)(2)," after "subsection";

(2) in subsection (c)(1), by striking "(F)" after "subsections (a)(2)";

(3) in subsection (d), by inserting "(a)(2)," after "subsections";

(4) in subsection (f)(1)(A)(i), by striking "day" and inserting "time period within which"; and

(5) in subsection (f), by adding at the end of paragraph (2) the following:

"(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

"(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.".

SEC. 226. DELEGATED PROCESSING.

18(f Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1713 note) is amended in the first sentence by inserting before the period "or other individuals and entities expressly approved by the Department of Housing and Urban Development".

SEC. 227. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 228. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—Each insured depository institution shall adopt policies for closings of branches of the institution.".

Subtitle C—Bank Enterprise Act

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122, 123, and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), (9), and (10) as paragraphs (7), (8), (9), (10), and (11), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of ½ the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(C) by adding at the end the following new clause:

"(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

"(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

"(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).".

(c) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under subsection (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution, or a qualified portion thereof, for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements, (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "qualified distressed community" means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assessment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under paragraph section 7(d)(1)(B).

(f) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(g) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. COMMUNITY DEVELOPMENT ORGANIZATIONS.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution, or a qualified portion thereof, shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in accounts in any community development credit union designated as a low-income credit union, subject to restrictions established for such credit unions by the National Credit Union Administration Board; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

Subtitle D—FDIC Property Disposition

SEC. 241. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 39 (as added by section 228 of this title) the following new section:

"SEC. 40. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) FUNDING AND LIMITATIONS OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A).

"(2) ANNUAL FISCAL LIMITATIONS.—

"(A) IN GENERAL.—In each fiscal year during the 3-year period referred to in paragraph (1), the provisions of this section shall apply only—

"(i) to such extent or in such amounts as are provided in appropriations Acts for any losses resulting during the fiscal year from the sale of properties under this section, except that such amounts for losses may not exceed $30,000,000 in any fiscal year; and

"(ii) to the extent that amounts are provided in appropriations Acts pursuant to subparagraph (C) for any other costs relating to the program under this section.

"(B) DEFINITION OF LOSSES.—For purposes of this paragraph, the amount of losses resulting from the sale of properties under this section during any fiscal year shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the fiscal year.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year during the 3-year period referred to in paragraph (1), such sums as may be necessary for any costs of the program under this section other than losses resulting from the sale of properties under this section.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph:

"(i) AFFORDABLE HOUSING DISCOUNT.—The term 'affordable housing discount' means, with respect to any eligible residential or eligible condominium property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section.

"(ii) REALIZABLE DISPOSITION VALUE.—The term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws. Not later than the expiration of the 120-day period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A), the Corporation shall establish, and publish in the Federal Register, procedures for determining the realizable disposition value of a property transferred under this section, which shall take into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the prices of other properties sold under similar programs, and the appraised value of the property transferred under this section. Until such procedures are established, the Corporation may consider the realizable disposition value of any eligible residential or condominium property to be equal to the appraised value of the property.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property or any eligible condominium property that is subject to an agreement entered into by the Corporation before the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A) that provides for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households (including qualifying households with members who are veterans); or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families (including low-income families with members who are veterans) for the remaining useful life of such property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (4), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families and to low-income families with members who are veterans.

"(3) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (4), if any eligible single family property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (2)(B)(ii), subsection (j)(3)(A), or subsection (k)(2), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or low-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

"(4) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(A) RELOCATION.—The Corporation may in its discretion waive the applicability (i) to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (p)(12)(B) and (C), and (ii) to any low-income family of the requirement under paragraph (3) and the residency requirements under paragraph (2)(B)(ii). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

"(B) OTHER RECAPTURE PROVISIONS.—The requirement under paragraph (3) shall not apply to any eligible single family property for which, upon resale by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.

"(5) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (C) the resident household intends to occupy the property as a principal residence for at least 12 months, and (D) the resident household certifies in writing that the household intends to occupy the property for at least 12 months.

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1). The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon the expiration of the period referred to in paragraph (2) for a property, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation. If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under paragraph (4) or (5)—

"(i) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the property in which the units are located; provided that

"(ii) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under paragraph (4) or (5) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation, with respect to which the purchaser intends to aggregate the low-income occupancy required under this paragraph over the total number of units so purchased—

"(i) not less than 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(ii) not less than 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and further provided that

"(iii) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the property in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of the meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements under paragraph (7) applicable to the property, if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTIPROPERTY PURCHASES.—The Corporation shall give preference, among substantially similar offers made under paragraph (4) or (5) of subsection (d) to purchase more than one eligible multifamily housing property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of such properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder. In providing financing for combinations of eligible multifamily housing properties under this section, the Corporation may hold a participating share, including a subordinate participation.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act, to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c) and (f) and of paragraph (1) of this subsection shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—

"(A) IN GENERAL.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(B) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in subparagraph (A).

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(i) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The

provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(j) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.—Notwithstanding subsections (c), (d), (f), and (g), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this subsection may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(1) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(2) ACQUISITION PRICE.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this subsection shall be an amount agreed to by the Corporation and the transferee agency.

"(3) LOW-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this subsection shall offer to sell or transfer the properties only as follows:

"(A) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(i) to purchasers described under subparagraphs (A) and (B) of subsection (c)(2);

"(ii) if the purchaser is a purchaser described under subsection (c)(2)(B)(i), subject to the rent limitations under subsection (e)(1);

"(iii) subject to the requirement in the second sentence of subsection (c)(2); and

"(iv) subject to recapture by the Corporation of excess proceeds from resale of the properties under paragraphs (3) and (4) of subsection (c).

"(B) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(i) to qualifying multifamily purchasers;

"(ii) subject to the low-income occupancy requirements under subsection (d)(7);

"(iii) subject to the provisions of subsection (d)(8);

"(iv) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low- and low-income families and would retain such affordability for the longest term; and

"(v) subject to the rent limitations under subsection (e)(1).

"(4) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this subsection more affordable to low-income families based upon the extent to which the acquisition price of a property under paragraph (2) is less than the market value of the property.

"(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsections shall toll for the duration of any suspension under this paragraph.

"(2) USE RESTRICTIONS.—

"(A) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this subsection shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families, (ii) subject to the rent limitations under subsection (e)(1), (iii) subject to the requirements relating to residency of a qualifying household under subsection (p)(12) and to residency of a low-income family under subsection (c)(2)(B), and (iv) subject to recapture by the Corporation of excess proceeds from resale of the property under paragraphs (3) and (4) of subsection (c).

"(B) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7) and shall be subject to the rent limitations under subsection (e)(1).

"(l) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(4) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (5), if any eligible condominium property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (3)(A)(ii) or (3)(B)(ii), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

"(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or low-income family of the requirement under paragraph (4) and the requirements relating to residency of a qualifying household or low-income family (under subsection (p)(12) and paragraph (3) of this subsection, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

"(6) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(7) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(m) LIABILITY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c), (d), (j)(3), (k)(2), and (l)(3) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(n) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office.

"(o) REPORT.—To the extent applicable, in the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(p) DEFINITIONS.—For purposes of this section:

"(1) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.

"(2) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property or eligible condominium property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(3) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(4) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(5) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(6) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(7) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for at least 12 months;

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months; and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

Subtitle E—Whistleblower Protections

SEC. 251. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution or any director, officer, or employee of the institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency which employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsections (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.".

(4) EFFECTIVE DATE.—Paragraph (2) of section 33(a) of the Federal Deposit Insurance Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 33(b) of such Act shall be deemed to begin on such date of enactment.

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union the Administration;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(3) EFFECTIVE DATE.—Paragraph (2) of section 213(a) of the Federal Credit Union Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.

(c) COVERAGE FOR EMPLOYEES OF RTC, OVERSIGHT BOARD, AND RTC CONTRACTORS.—

(1) COVERAGE ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC, OVERSIGHT BOARD, AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation, the Oversight Board, and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation or the Oversight Board may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation on assignment to the Corporation under this section or any personnel referred to in subparagraphs (C) and (F) of subsection (a)(5)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Oversight Board, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation, the Oversight Board, or such person or any director, officer, or employee of the Corporation, the Oversight Board, or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

(2) EFFECTIVE DATE.—Subsection (q) of section 21A of the Federal Home Loan Bank Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.

Subtitle F—Truth in Savings

SEC. 261. SHORT TITLE.

This Act may be cited as the "Truth in Savings Act".

SEC. 262. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that economic stability would be enhanced, competition between depository institutions would be improved, and the ability of the consumer to make informed decisions regarding deposit accounts, and to verify accounts, would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest is paid and fees are assessed in connection with such accounts.

(b) PURPOSE.—It is the purpose of this Act to require the clear and uniform disclosure of—

(1) the rates of interest which are payable on deposit accounts by depository institutions; and

(2) the fees that are assessable against deposit accounts,

so that consumers can make a meaningful comparison between the competing claims of depository institutions with regard to deposit accounts.

SEC. 263. DISCLOSURE OF INTEREST RATES AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution or deposit broker relating to any demand or interest-bearing account offered by an insured depository institution which includes any reference to a specific rate of interest payable on amounts deposited in such account, or to a specific yield or rate of earnings on amounts so deposited, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield.

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement that an interest penalty is required for early withdrawal.

(b) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution or deposit broker may refer to or describe an account as a free or no-cost account (or words of similar meaning) if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions during such period may not exceed a maximum number; or

(2) any regular service or transaction fee is imposed.

(d) MISLEADING OR INACCURATE ADVERTISEMENTS, ETC., PROHIBITED.—No depository institution or deposit broker shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 264. ACCOUNT SCHEDULE.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, interest rates, and terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charge, or penalty (or the method by which such amount will be calculated), and the conditions under which any such amount will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each such minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON INTEREST RATES.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any such annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1) through (4) with respect to any period after the end of the period referred to in paragraph (2) (or the method for computing any information described in any such paragraph), if applicable.

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how any such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to allow consumers to readily understand the terms of the accounts offered.

SEC. 265. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall require, in regulations which the Board shall prescribe, such modification in the disclosure requirements under this Act relating to annual percentage yield as may be necessary to carry out the purposes of this Act in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate;

(4) multiple rate accounts; and

(5) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a stated term.

SEC. 266. DISTRIBUTION OF SCHEDULES.

(a) IN GENERAL.—A schedule required under section 264 for an appropriate account shall be—

(1) made available to any person upon request;

(2) provided to any potential customer before an account is opened or a service is rendered; and

(3) provided to the depositor, in the case of any time deposit which is renewable at maturity without notice from the depositor, at least 30 days before the date of maturity.

(b) DISTRIBUTION IN CASE OF CERTAIN INITIAL DEPOSITS.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 264(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account no later than 10 days after the date of the initial deposit.

(c) DISTRIBUTION OF NOTICE OF CERTAIN CHANGES.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 264(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(d) DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

(e) NOTICE TO ACCOUNT HOLDERS AS OF THE EFFECTIVE DATE OF REGULATIONS.—For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within 180 days after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

SEC. 267. PAYMENT OF INTEREST.

(a) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this Act.

(b) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (a) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting of interest.

(c) DATE BY WHICH INTEREST MUST ACCRUE.—Interest on accounts that are subject to this Act shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

SEC. 268. PERIODIC STATEMENTS.

Each depository institution shall include on or with each periodic statement provided to each account holder at such institution a clear and conspicuous disclosure of the following information with respect to such account:

(1) The annual percentage yield earned.

(2) The amount of interest earned.

(3) The amount of any fees or charges imposed.

(4) The number of days in the reporting period.

SEC. 269. REGULATIONS.

(a) IN GENERAL.—

(1) REGULATIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board, after consultation with each agency referred to in section 270(a) and public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this Act.

(2) EFFECTIVE DATE OF REGULATIONS.—The regulations prescribed under paragraph (1) shall take effect not later than 6 months after publication in final form.

(3) CONTENTS OF REGULATIONS.—The regulations prescribed under paragraph (1) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of accounts as, in the judgment of the Board, are necessary or proper to carry out the purposes of this Act, to prevent circumvention or evasion of the requirements of this Act, or to facilitate compliance with the requirements of this Act.

(4) DATE OF APPLICABILITY.—The provisions of this Act shall not apply with respect to any depository institution before the effective date of regulations prescribed by the Board under this subsection (or by the National Credit Union Administration Board under section 12(b), in the case of any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act).

(b) MODEL FORMS AND CLAUSES.—

(1) IN GENERAL.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this Act. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.—Nothing in this Act may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this Act if the depository institution—

(A) uses any appropriate model form or clause as published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this Act; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.—Model disclosure forms and clauses shall be adopted by the Board after duly given notice in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 270. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to issue regulations under this Act does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this Act.

SEC. 271. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation prescribed under this Act with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this Act if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this Act is not a bona fide error.

(d) NO LIABILITY FOR OVERPAYMENT.—A depository institution may not be held liable in any action under this section for a violation of this Act if the violation has resulted in—

(1) an interest payment to the account holder in an amount greater than the amount determined under any disclosed rate of interest applicable with respect to such payment; or

(2) a charge to the consumer in an amount less than the amount determined under the disclosed charge or fee schedule applicable with respect to such charge.

(e) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within 1 year after the date of the occurrence of the violation involved.

(f) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or order, or any interpretation of any regulation or order, of the Board, or in conformity with any interpretation or approval by an official or employee of the Board duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such regulation, order, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 270 for any failure to comply with any requirement imposed under this Act with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(h) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this Act shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(i) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 270.—This subsection shall not limit or otherwise affect the enforcement power under section 270 of any agency referred to in subsection (a) of such section.

SEC. 272. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this Act shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this Act, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 273. EFFECT ON STATE LAW.

The provisions of this Act do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency. The Board may determine whether such inconsistencies exist.

SEC. 274. DEFINITIONS.

For the purposes of this Act—

(1) ACCOUNT.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(2) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) ANNUAL RATE OF SIMPLE INTEREST.—The term "annual rate of simple interest"—

(A) means the annualized rate of interest paid with respect to each compounding period, expressed as a percentage; and

(B) may be referred to as the "annual percentage rate".

(4) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(5) DEPOSIT BROKER.—The term "deposit broker"—

(A) has the meaning given to such term in section 29(f)(1) of the Federal Deposit Insurance Act; and

(B) includes any person who solicits any amount from any other person for deposit in an insured depository institution.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(7) INTEREST.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(8) MULTIPLE RATE ACCOUNT.—The term "multiple rate account" means any account that has 2 or more annual rates of simple interest which take effect at the same time or in succeeding periods and which are known at the time of disclosure.

TITLE III—REGULATORY IMPROVEMENT

Subtitle A—Activities

SEC. 301. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (a), by striking "troubled institution" and inserting "insured depository institution that is not well capitalized";

(2) in subsection (c), by inserting "which is adequately capitalized" after "insured depository institution";

(3) in subsection (d), by striking all after "unsound practice;" and inserting the following:

"(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

"(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.";

(4) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively, and inserting after subsection (d) the following:

"(e) RESTRICTION ON INTEREST RATE PAID.—Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

"(1) the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or

"(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution's normal market area.";

(5) in subsection (f), as redesignated, by striking "troubled"; and

(6) by striking subsection (h), as redesignated.

(b) NOTIFICATION AND RECORDKEEPING.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 the following:

"SEC. 29A. DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING.

"(a) NOTIFICATION.—

"(1) IN GENERAL.—A deposit broker, as defined in section 29(g), shall not solicit or place any deposit with an insured depository institution, unless such deposit broker has provided the Corporation with written notice that it is a deposit broker.

"(2) TERMINATION OF DEPOSIT BROKER STATUS.—When a deposit broker referred to in paragraph (1) ceases to act as a deposit broker it shall provide the Corporation with a written notice that it is no longer acting as a deposit broker.

"(3) FORM AND CONTENT.—The notices required by paragraphs (1) and (2) shall be in such form and contain such information concerning the deposit solicitation and placement activities of a deposit broker as the Corporation may prescribe as necessary or appropriate to carry out the purposes of this subsection.

"(b) RECORDS.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to maintain separate records relating to the total amounts and maturities of the deposits placed by such broker for each insured depository institution during specified time periods. Such regulations shall specify the format in which and the period for which such records shall be preserved, as well as the time period within which the deposit broker shall furnish to the Corporation copies of such records (or designated portions thereof) as the Corporation may request.

"(c) PERIODIC REPORTS.—

"(1) IN GENERAL.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to file with the Corporation separate quarterly reports relating to the total amounts and maturities of the deposits placed by such broker for each depository institution during the applicable quarter. Such regulations shall specify the form and content of such reports, as well as the applicable reporting period.

"(2) DESIGNATED AGENT.—The Corporation may designate another entity as its agent for the purpose of receiving and maintaining reports under this subsection. If the Corporation designates such an agent the Corporation may, through its agent, prescribe and collect an appropriate quarterly fee from each deposit broker that filed reports with the agent during the applicable quarter, in an amount sufficient to defray the Corporation's cost of retaining the agent and to reflect the proportionate amount of the deposits placed with insured depository institutions by each broker during the applicable quarter.".

(c) DEPOSIT SOLICITATION RESTRICTED.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

"(h) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution that is undercapitalized, as defined in section 38, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

"(1) in such institution's normal market areas; or

"(2) in the market area in which such deposits would otherwise be accepted.".

(d) DEADLINE FOR REGULATIONS.—The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) not later than 150 days after the date of enactment of this Act, and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit.

SEC. 302. RISK-BASED ASSESSMENTS.

(a) RISK-BASED ASSESSMENT SYSTEM.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(b) ASSESSMENTS.—

"(1) RISK-BASED ASSESSMENT SYSTEM.—

"(A) RISK-BASED ASSESSMENT SYSTEM REQUIRED.—The Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) PRIVATE REINSURANCE AUTHORIZED.—In carrying out this paragraph, the Corporation may—

"(i) obtain private reinsurance covering not more than 10 percent of any loss the Corporation incurs with respect to an insured depository institution; and

"(ii) base that institution's semiannual assessment (in whole or in part) on the cost of the reinsurance.

"(C) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system for calculating a depository institution's semiannual assessment based on—

"(i) the probability that the deposit insurance fund will incur a loss with respect to the institution, taking into consideration the risks attributable to—

"(I) different categories and concentrations of assets;

"(II) different categories and concentrations of liabilities, both insured and uninsured, contingent and noncontingent; and

"(III) any other factors the Corporation determines are relevant to assessing such probability;

"(ii) the likely amount of any such loss; and

"(iii) the revenue needs of the deposit insurance fund.

"(D) SEPARATE ASSESSMENT SYSTEMS.—The Board of Directors may establish separate risk-based assessment systems for large and small members of each deposit insurance fund.

"(2) SETTING ASSESSMENTS.—

"(A) ACHIEVING AND MAINTAINING DESIGNATED RESERVE RATIO.—

"(i) IN GENERAL.—The Board of Directors shall set semiannual assessments for insured depository institutions—

"(I) to maintain the reserve ratio of each deposit insurance fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio as provided in paragraph (3).

"(ii) FACTORS TO BE CONSIDERED.—In carrying out clause (i), the Board of Directors shall consider the deposit insurance fund's—

"(I) expected operating expenses,

"(II) case resolution expenditures and income,

"(III) the effect of assessments on members' earnings and capital, and

"(IV) any other factors that the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—The semiannual assessment for each member of a deposit insurance fund shall be not less than $1,000.

"(iv) DESIGNATED RESERVE RATIO DEFINED.—The designated reserve ratio of each deposit insurance fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

"(B) INDEPENDENT TREATMENT OF FUNDS.—The Board of Directors shall—

"(i) set semiannual assessments for members of each deposit insurance fund independently from semiannual assessments for members of any other deposit insurance fund; and

"(ii) set the designated reserve ratio of each deposit insurance fund independently from the designated reserve ratio of any other deposit insurance fund.

"(C) NOTICE OF ASSESSMENTS.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment.

"(D) PRIORITY OF FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation under section 21 of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(E) MINIMUM ASSESSMENTS.—The Corporation shall design the risk-based assessment system for any deposit insurance fund so that, if the Corporation has borrowings outstanding under section 14 on behalf of that fund or the reserve ratio of that fund remains below the designated reserve ratio, the total amount raised by semiannual assessments on members of that fund shall be not less than the total amount that would have been raised if—

"(i) section 7(b) as in effect on July 15, 1991 remained in effect; and

"(ii) the assessment rate in effect on July 15, 1991 remained in effect.

"(F) TRANSITION RULE FOR SAVINGS ASSOCIATION INSURANCE FUND.—With respect to the Savings Association Insurance Fund, during the period beginning on the effective date of the amendments made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and ending on December 31, 1997—

"(i) subparagraph (A)(i)(II) shall apply as if such subparagraph did not include 'as provided in paragraph (3)'; and

"(ii) subparagraph (E) shall be applied by substituting 'if section 7(b) as in effect on July 15, 1991 remained in effect.' for 'if—' and all that follows through clause (ii).

"(G) SPECIAL RULE UNTIL THE INSURANCE FUNDS ACHIEVE THE DESIGNATED RESERVE RATIO.—Until a deposit insurance fund achieves the designated reserve ratio, the Corporation may limit the maximum assessment on insured depository institutions under the risk-based assessment system authorized under paragraph (1) to not less than 10 basis points above the average assessment on insured depository institutions under that system.

"(3) SPECIAL RULE FOR RECAPITALIZING UNDERCAPITALIZED FUNDS.—

"(A) IN GENERAL.—Except as provided in paragraph (2)(F), if the reserve ratio of any deposit insurance fund is less than the designated reserve ratio under paragraph (2)(A)(iv), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(i) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(ii) in accordance with a schedule promulgated by the Corporation under subparagraph (B).

"(B) RECAPITALIZATION SCHEDULES.—For purposes of subparagraph (A)(ii), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for that fund, culminating in a reserve ratio that is equal to the designated reserve ratio not later than 15 years after the date on which the schedule is implemented.

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B), but such amendments may not extend the date specified in subparagraph (B).

"(D) APPLICATION TO SAIF MEMBERS.—This paragraph shall become applicable to Savings Association Insurance Fund members on January 1, 1998.

"(4) SEMIANNUAL PERIOD DEFINED.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

"(5) RECORDS TO BE MAINTAINED.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's semiannual assessments. No insured depository institution shall be required to retain those records for that purpose for a period of more than 5 years from the date of the filing of any certified statement, except that when there is a dispute between the insured depository institution and the Corporation over the amount of any assessment, the depository institution shall retain the records until final determination of the issue.".

(b) CERTIFIED STATEMENTS AND PAYMENT PROCEDURES.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended to read as follows:

"(c) CERTIFIED STATEMENTS; PAYMENTS.—

"(1) CERTIFIED STATEMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall file with the Corporation a certified statement containing such information as the Corporation may require for determining the institution's semiannual assessment.

"(B) FORM OF CERTIFICATION.—The certified statement required under subparagraph (A) shall—

"(i) be in such form and set forth such supporting information as the Board of Directors shall prescribe; and

"(ii) be certified by the president of the depository institution or any other officer designated by its board of directors or trustees that to the best of his or her knowledge and belief, the statement is true, correct and complete, and in accordance with this Act and regulations issued hereunder.

"(2) PAYMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall pay to the Corporation the semiannual assessment imposed under subsection (b).

"(B) FORM OF PAYMENT.—The payments required under subparagraph (A) shall be made in such manner and at such time or times as the Board of Directors shall prescribe by regulation.

"(3) NEWLY INSURED INSTITUTIONS.—To facilitate the administration of this section, the Board of Directors may waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes insured.".

(c) REGULATIONS.—To implement the risk-based assessment system required under section 7(b) of the Federal Deposit Insurance Act (as amended by subsection (a)), the Federal Deposit Insurance Corporation shall—

(1) provide notice of proposed regulations in the Federal Register, not later than December 31, 1992, with an opportunity for comment on the proposal of not less than 120 days; and

(2) promulgate final regulations not later than July 1, 1993.

(d) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(f) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Except to the extent that authority under this Act is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may—

"(1) prescribe regulations to carry out this Act; and

"(2) by regulation define terms as necessary to carry out this Act.".

(e) CONFORMING AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 5(d)(3)(B)—

(A) by striking "average assessment base" and inserting "deposits"; and

(B) by striking "shall—" and all that follows through "(iii) shall be treated" and inserting "shall be treated";

(2) in section 7(a)(5) by striking "and for the computation of assessments provided in subsection (b) of this section";

(3) in section 7 by amending subsection (d) to read as follows:

"(d) CORPORATION EXEMPT FROM APPORTIONMENT.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority."; and

(4) in the last sentence of section 8(q) by striking "upon" and inserting "with respect to".

(f) TRANSITION TO NEW ASSESSMENT SYSTEM.—To carry out the amendments made by this section, the Corporation may promulgate regulations governing the transition from the assessment system in effect on the date of enactment of this Act to the assessment system required under the amendments made by this section.

(g) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this section shall become effective on the earlier of—

(1) 180 days after the date on which final regulations promulgated in accordance with subsection (c) become effective; or

(2) January 1, 1994.

SEC. 303. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—

"(1) IN GENERAL.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting except to the extent that activity is permissible for national banks.

"(2) EXCEPTION FOR CERTAIN FEDERALLY REINSURED CROP INSURANCE.—Notwithstanding any other provision of law, an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, which was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

"(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

"(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

"(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

"(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

"(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

"(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

"(i) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

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"(ii) LOWER INCOME.—The term 'lower income' means income that less than or equal to the median income based on statistics from State or Federal sources.

"(4) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(d) SUBSIDIARIES OF INSURED STATE BANKS.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) INSURANCE UNDERWRITING PROHIBITED.—

"(A) PROHIBITION.—Notwithstanding paragraph (1), no subsidiary of an insured State bank may engage in insurance underwriting except to the extent such activities are permissible for national banks.

"(B) CONTINUATION OF EXISTING ACTIVITIES.—Notwithstanding subparagraph (A), a well-capitalized insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on November 21, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(C) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

"(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

"(ii) control of the insured State bank has not changed since that date.

"(e) SAVINGS BANK LIFE INSURANCE.—

"(1) IN GENERAL.—No provision of this Act shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

"(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

"(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

"(2) FDIC FINDING AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

"(f) COMMON AND PREFERRED STOCK INVESTMENT.—

"(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank or is not otherwise permitted under this section.

"(2) EXCEPTION FOR BANKS IN CERTAIN STATES.—Notwithstanding paragraph (1), an insured State bank may, to the extent permitted by the Corporation, acquire and retain ownership of securities described in paragraph (1) to the extent the aggregate amount of such investment does not exceed an amount equal to 100 percent of the bank's capital if such bank—

"(A) is located in a State that permitted, as of September 30, 1991, investment in common or preferred stock listed on a national securities exchange or shares of an investment company registered under the Investment Company Act of 1940; and

"(B) made or maintained an investment in such securities during the period beginning on September 30, 1990, and ending on November 26, 1991.

"(3) EXCEPTION FOR CERTAIN TYPES OF INSTITUTIONS.—Notwithstanding paragraph (1), an insured State bank may—

"(A) acquire not more than 10 percent of a corporation that only—

"(i) provides directors', trustees', and officers' liability insurance coverage or bankers' blanket bond group insurance coverage for insured depository institutions; or

"(ii) reinsures such policies; and

"(B) acquire or retain shares of a depository institution if—

"(i) the institution engages only in activities permissible for national banks;

"(ii) the institution is subject to examination and regulation by a State bank supervisor;

"(iii) 20 or more depository institutions own shares of the institution and none of those institutions owns more than 15 percent of the institution's shares; and

"(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the institution's officers and employees) are owned only by the institution.

"(4) TRANSITION PERIOD FOR COMMON AND PREFERRED STOCK INVESTMENTS.—

"(A) IN GENERAL.—During each year in the 3-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each insured State bank shall reduce by not less than ⅓ of its shares (as of such date of enactment) the bank's ownership of securities in excess of the amount equal to 100 percent of the capital of such bank.

"(B) COMPLIANCE AT END OF PERIOD.—By the end of the 3-year period referred to in subparagraph (A), each insured State bank and each subsidiary of a State bank shall be in compliance with the maximum amount limitations on investments referred to in paragraph (1).

"(5) LOSS OF EXCEPTION UPON ACQUISITION.—Any exception applicable under paragraph (2) with respect to any insured State bank shall cease to apply with respect to such bank upon any change in control of such bank or any conversion of the charter of such bank.

"(6) NOTICE AND APPROVAL.—An insured State bank may only engage in any investment pursuant to paragraph (2) if—

"(A) the bank has filed a 1-time notice of the bank's intention to acquire and retain investments described in paragraph (1); and

"(B) the Corporation has determined, within 60 days of receiving such notice, that acquiring or retaining such investments does not pose a significant risk to the insurance fund of which such bank is a member.

"(7) DIVESTITURE.—

"(A) IN GENERAL.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of the bank.

"(B) REASONABLE STANDARD.—The Corporation shall not require divestiture by any bank pursuant to subparagraph (A) without reason to believe that such investment will have an adverse effect on the safety and soundness of the bank.

"(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(h) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking ": Provided, however, That no Federal reserve bank" and inserting ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank".

SEC. 304. RESTRICTIONS ON REAL ESTATE LENDING.

(a) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) REAL ESTATE LENDING.—

"(1) UNIFORM REGULATIONS.—Not more than 9 months after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall adopt uniform regulations prescribing standards for extensions of credit that are—

"(A) secured by liens on interests in real estate; or

"(B) made for the purpose of financing the construction of a building or other improvements to real estate.

"(2) STANDARDS.—

"(A) CRITERIA.—In prescribing standards under paragraph (1), the agencies shall consider—

"(i) the risk posed to the deposit insurance funds by such extensions of credit;

"(ii) the need for safe and sound operation of insured depository institutions; and

"(iii) the availability of credit.

"(B) VARIATIONS PERMITTED.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies may differentiate among types of loans—

"(i) as may be required by Federal statute;

"(ii) as may be warranted, based on the risk to the deposit insurance fund; or

"(iii) as may be warranted, based on the safety and soundness of the institutions.

"(3) LOAN EVALUATION STANDARD.—No appropriate Federal banking agency shall adversely evaluate an investment or a loan made by an insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property, unless such investment or loan may affect the institution's safety and soundness.

"(4) EFFECTIVE DATE.—The regulations adopted under paragraph (1) shall become effective not later than 15 months after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991. Such regulations shall continue in effect except as uniformly amended by the appropriate Federal banking agencies, acting in concert.".

(b) CONFORMING AMENDMENT.—Section 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by striking "such terms," and all that follows through the period and inserting "section 18(o) of the Federal Deposit Insurance Act and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.".

SEC. 305. IMPROVING CAPITAL STANDARDS.

(a) PERIODIC REVIEW OF CAPITAL STANDARDS GENERALLY.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) PERIODIC REVIEW OF CAPITAL STANDARDS.—Each appropriate Federal banking agency shall, in consultation with the other Federal banking agencies, biennially review its capital standards for insured depository institutions to determine whether those standards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the deposit insurance funds, consistent with section 38.".

(b) REVIEW OF RISK-BASED CAPITAL STANDARDS.—

(1) IN GENERAL.—Each appropriate Federal banking agency shall revise its risk-based capital standards for insured depository institutions to ensure that those standards—

(A) take adequate account of—

(i) interest-rate risk;

(ii) concentration of credit risk; and

(iii) the risks of nontraditional activities; and

(B) reflect the actual performance and expected risk of loss of multifamily mortgages.

(2) INTERNATIONAL DISCUSSIONS.—The Federal banking agencies shall discuss the development of comparable standards with members of the supervisory committee of the Bank for International Settlements.

(3) DEADLINE FOR PRESCRIBING REVISED STANDARDS.—Each appropriate Federal banking agency shall—

(A) publish final regulations in the Federal Register to implement paragraph (1) not later than 18 months after the date of enactment of this Act; and

(B) establish reasonable transition rules to facilitate compliance with those regulations.

(4) DEFINITIONS.—For purposes of this subsection, the terms "appropriate Federal banking agency", "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) CONFORMING AMENDMENT DEFINING FEDERAL BANKING AGENCIES.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(z) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

SEC. 306. SAFEGUARDS AGAINST INSIDER ABUSE.

(a) RECODIFICATION OF CURRENT LAW RESTRICTING EXTENSIONS OF CREDIT TO INSIDERS.—Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) is amended to read as follows:

"(h) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—

"(1) IN GENERAL.—No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), and (6).

"(2) PREFERENTIAL TERMS PROHIBITED.—A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

"(A) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank; and

"(B) does not involve more than the normal risk of repayment or present other unfavorable features.

"(3) PRIOR APPROVAL REQUIRED.—A member bank may extend credit to a person described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) only if—

"(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

"(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

"(4) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER OR PRINCIPAL SHAREHOLDER.—A member bank may extend credit to any executive officer or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes. For purposes of this paragraph, section 5200 of the Revised Statutes shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

"(5) [Reserved.]

"(6) OVERDRAFTS BY EXECUTIVE OFFICERS AND DIRECTORS PROHIBITED.—

"(A) IN GENERAL.—If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

"(B) EXCEPTIONS.—Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

"(i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; and

"(ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

"(7) [Reserved.]

"(8) EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF CERTAIN AFFILIATES TREATED AS EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF MEMBER BANK.—For purposes of this subsection, any executive officer, director, or principal shareholder (as the case may be) of any bank holding company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

"(9) DEFINITIONS.—For purposes of this subsection:

"(A) COMPANY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'company' means any corporation, partnership, business or other trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

"(ii) EXCEPTIONS.—The term 'company' does not include—

"(I) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act); or

"(II) a corporation the majority of the shares of which are owned by the United States or by any State.

"(B) CONTROL.—A person controls a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

"(i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;

"(ii) controls in any manner the election of a majority of the company's directors; or

"(iii) has the power to exercise a controlling influence over the company's management or policies.

"(C) EXECUTIVE OFFICER.—A person is an 'executive officer' of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

"(D) EXTENSION OF CREDIT.—A member bank extends credit by making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which a person becomes obligated (directly or indirectly, or by any means whatsoever) to pay money or its equivalent to the bank.

"(E) [Reserved.]

"(F) PRINCIPAL SHAREHOLDER.—The term 'principal shareholder' means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. For purposes of paragraph (4), if a member bank has its main banking office in a city, town, or village with a population of less than 30,000, the preceding sentence shall apply with '18 percent' substituted for '10 percent'.

"(G) RELATED INTEREST.—A 'related interest' of a person is—

"(i) any company controlled by that person; and

"(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

"(H) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(10) BOARD'S RULEMAKING AUTHORITY.—The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this subsection.".

(b) REQUIRING DEPOSITORY INSTITUTIONS TO FOLLOW NORMAL CREDIT UNDERWRITING PROCE-

DURES WHEN EXTENDING CREDIT TO INSIDERS.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)), as amended by subsection (a), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.".

(c) APPLYING TO DIRECTORS THE LIMIT ON LOANS TO ONE BORROWER.—Section 22(h)(4) of the Federal Reserve Act (12 U.S.C. 375b(4)), as amended by subsection (a), is amended—

(1) by inserting ", DIRECTOR," after "AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER"; and

(2) by inserting ", director," after "A member bank may extend credit to any executive officer".

(d) LIMITING DEPOSITORY INSTITUTION'S AGGREGATE EXTENSIONS OF CREDIT TO INSIDERS.—

(1) IN GENERAL.—Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)), as amended by subsection (a), is amended to read as follows:

"(5) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ALL EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—

"(A) IN GENERAL.—A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

"(B) MORE STRINGENT LIMIT AUTHORIZED.—The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

"(C) BOARD MAY MAKE EXCEPTIONS FOR CERTAIN BANKS.—The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.".

(2) CONFORMING AMENDMENT.—Section 22(h)(1) of the Federal Reserve Act (12 U.S.C. 375b(1)), as amended by subsection (a), is amended by inserting "(5)," after "(4),".

(e) PROHIBITING INSIDERS FROM ACCEPTING UNAUTHORIZED EXTENSIONS OF CREDIT.—Section 22(h)(7) of the Federal Reserve Act (12 U.S.C. 375b(7)), as amended by subsection (a), is amended to read as follows:

"(7) PROHIBITION ON KNOWINGLY RECEIVING UNAUTHORIZED EXTENSION OF CREDIT.—No executive officer, director, or principal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this subsection.".

(f) APPLYING UNIFORM RULES TO ALL COMPANIES CONTROLLING DEPOSITORY INSTITUTIONS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)), as amended by subsection (a), is amended by striking "bank holding".

(g) APPLYING SAFEGUARDS TO INSIDER TRANSACTIONS WITH DEPOSITORY INSTITUTION'S SUBSIDIARIES.—Section 22(h)(9)(E) of the Federal Reserve Act (12 U.S.C. 375b(9)(E)), as amended by subsection (a), is amended to read as follows:

"(E) MEMBER BANK.—The term 'member bank' includes any subsidiary of a member bank.".

(h) APPLYING UNIFORM RULES TO ALL PRINCIPAL SHAREHOLDERS.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(9)(F)), as amended by subsection (a), is amended by striking the last sentence.

(i) LIMITING SAVINGS ASSOCIATIONS' EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—Section 11(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1468(b)(1)) is amended by striking "Section 22(h)" and inserting "Subsections (g) and (h) of section 22".

(j) PREVENTING SAVINGS ASSOCIATIONS FROM MAKING PREFERENTIAL EXTENSIONS OF CREDIT THROUGH CORRESPONDENT INSTITUTIONS.—Section 106(b)(2)(H)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(H)(i)) is amended by inserting ", a savings bank, and a savings association (as those terms are defined in section 3 of the Federal Deposit Insurance Act)" after "mutual savings bank".

(k) LIMITING STATE NONMEMBER BANK'S EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS; CLARIFYING THE PROHIBITION ON PREFERENTIAL EXTENSIONS OF CREDIT TO INSIDERS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended to read as follows:

"(j) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES AND INSIDERS.—

"(1) TRANSACTIONS WITH AFFILIATES.—

"(A) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(B) AFFILIATE DEFINED.—For the purpose of subparagraph (A), any company that would be an affiliate (as defined in sections 23A and 23B) of a nonmember insured bank if the nonmember insured bank were a member bank shall be deemed to be an affiliate of that nonmember insured bank.

"(2) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Subsections (g) and (h) of section 22 of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(3) AVOIDING EXTRATERRITORIAL APPLICATION TO FOREIGN BANKS.—

"(A) TRANSACTIONS WITH AFFILIATES.—Paragraph (1) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch.

"(B) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Paragraph (2) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch, but shall apply with respect to the insured branch.

"(C) FOREIGN BANK DEFINED.—For purposes of this paragraph, the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978.".

(l) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the earlier of—

(1) the date on which final regulations under subsection (m)(1) become effective; or

(2) 150 days after the date of enactment of this Act.

(m) REGULATIONS.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System shall, not later than 120 days after the date of enactment of this Act, promulgate final regulations to implement the amendments made by this section, other than the amendments made by subsections (i) and (k).

(2) LIMITING EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—The Federal Deposit Insurance Corporation and Director of the Office of Thrift Supervision shall each, not later than 120 days after the date of enactment of this Act, promulgate final regulations prescribing the maximum amount that a nonmember insured bank or insured savings association (as the case may be) may lend under section 22(g)(4) of the Federal Reserve Act, as made applicable to those institutions by subsections (k) and (i), respectively.

(n) EXISTING TRANSACTIONS NOT AFFECTED.—The amendments made by this section do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of those amendments.

(o) REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.

SEC. 307. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF FDIC TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) RECOMMENDING ACTION BY APPROPRIATE FEDERAL BANKING AGENCY.—The Corporation, based on an examination of an insured depository institution by the Corporation or by the appropriate Federal banking agency or on other information, may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any insured depository institution or any institution-affiliated party. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

"(2) FDIC'S AUTHORITY TO ACT IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—If the appropriate Federal banking agency does not, before the end of the 60-day period beginning on the date on which the agency receives the recommendation under paragraph (1), take the enforcement action recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the Corporation's concerns, the Corporation may take the recommended enforcement action if the Board of Directors determines, upon a vote of its members, that—

"(A) the insured depository institution is in an unsafe or unsound condition;

"(B) the institution is engaging in unsafe or unsound practices, and the recommended enforcement action will prevent the institution from continuing such practices; or

"(C) the institution's conduct or threatened conduct (including any acts or omissions) poses a risk to the deposit insurance fund, or may prejudice the interests of the institution's depositors.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—The Corporation may, upon a vote of the Board of Directors, and after notice to the appropriate Federal banking agency, exercise its authority under paragraph (2) in exigent circumstances without regard to the time period set forth in paragraph (2).

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the appropriate Federal banking

agency, set forth those exigent circumstances in which the Corporation may act under subparagraph (A).

"(4) CORPORATION'S POWERS; INSTITUTION'S DUTIES.—For purposes of this subsection—

"(A) the Corporation shall have the same powers with respect to any insured depository institution and its affiliates as the appropriate Federal banking agency has with respect to the institution and its affiliates; and

"(B) the institution and its affiliates shall have the same duties and obligations with respect to the Corporation as the institution and its affiliates have with respect to the appropriate Federal banking agency.

"(5) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—A regional office of an appropriate Federal banking agency (including a Federal Reserve bank) that requests a formal investigation of or civil enforcement action against an insured depository institution shall submit the request concurrently to the chief officer of the appropriate Federal banking agency and to the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation on the status or disposition of all requests under subparagraph (A), including the reasons for any decision by the agency to approve or deny such requests.".

SEC. 308. INTERBANK LIABILITIES.

(a) REDUCING SYSTEMIC RISKS POSED BY LARGE BANK FAILURES.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 22 the following new section:

"INTERBANK LIABILITIES

"SEC. 23. (a) PURPOSE.—The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

"(b) AGGREGATE LIMITS ON INSURED DEPOSITORY INSTITUTIONS' EXPOSURE TO OTHER DEPOSITORY INSTITUTIONS.—The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

"(c) EXPOSURE DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b), an insured depository institution's 'exposure' to another depository institution means—

"(A) all extensions of credit to the other depository institution, regardless of name or description, including—

"(i) all deposits at the other depository institution;

"(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

"(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

"(B) all purchases of or investments in securities issued by the other depository institution;

"(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

"(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

"(2) EXEMPTIONS.—The Board may, at its discretion, by regulation or order, exempt transactions from the definition of 'exposure' if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

"(3) ATTRIBUTION RULE.—For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

"(d) INSURED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(e) RULEMAKING AUTHORITY; ENFORCEMENT.—The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 8 of the Federal Deposit Insurance Act.".

(b) TRANSITION RULES.—The Board shall prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act (as added by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by this section shall become effective 1 year after the date of enactment of this Act.

Subtitle B—Coverage

SEC. 311. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested *and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".*

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.—

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.— After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 312. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by preceding provisions of this Act) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

"(b) EXCEPTION.—Subsection (a) shall not apply to any payment, assistance, guarantee, or transfer made or provided by the Corporation if the Board of Directors determines in writing that such action is not inconsistent with any requirement of section 13(c).

"(c) DISCOUNT WINDOW LENDING.—No provision of this section shall be construed as prohibiting any Federal Reserve bank from making advances or otherwise extending credit pursuant to the Federal Reserve Act to any insured depository institution to the extent that such advance or extension of credit is consistent with the conditions and limitations imposed under section 10B of such Act.".

SEC. 313. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or

"(ii) submits the statement at a time which is minimally after the time required in such paragraph,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,

shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

SEC. 321. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

SEC. 322. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 401. FINDINGS AND PURPOSE.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 402. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term "broker or dealer" means—

(A) any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States; and

(B) to the extent consistent with this title, as determined by the Board of Governors of the Federal Reserve System, any company that is an affiliate of a company described in subparagraph (A) and that is engaged in the business of entering into netting contracts.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term "futures commission merchant" means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceed the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceed the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

SEC. 403. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 404. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 405. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 403 and 404.

SEC. 406. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

SEC. 407. NATIONAL EMERGENCIES.

The provisions of this subtitle may not be construed to limit the authority of the President under the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.) or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 411. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 416. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 421. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such banks by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 422. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsections:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

(b) CHAIRPERSON.—Section 1205(b)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended to read as follows:

"(3) CHAIRPERSON.—The Chairperson of the Committee shall be designated by the President from among the members appointed under paragraph (1)(F).".

Subtitle E—Utilization of Private Sector

SEC. 426. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable, efficient, and cost effective.".

SEC. 427. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) IN GENERAL.—In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) A statement of the total amount expended on private contractors for the management of such assets.

"(E) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

Subtitle F—Emergency Assistance for Rhode Island

SEC. 431. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the terms and conditions established by or under this subsection, the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and to facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount of any loan for which the guarantee is sought is fully secured as follows:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the lien and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and interest on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the State of Rhode Island or the Depositors Economic Protection Corporation unless each such proposed loan has received a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of—

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

(A) the highest investment grade from a nationally recognized statistical rating organization;

(B) not less than 1 less than the investment grade rating from 2 nationally recognized statistical rating organizations; or

(C) not less than 2 less than the highest investment grade from 2 nationally recognized statistical rating organizations to the extent that—

(i) a rating of not less than 1 less than the highest investment grade rating from 2 nationally recognized statistical rating organization has not been achieved through the use of all of the collateral listed in subsection (a)(2)(A) and the available collateral under subparagraph (B) or (C) of subsection (a)(2) at the time of the State of Rhode Island's request for the loan guarantee; and

(ii) representatives of the State of Rhode Island and the Secretary are able to agree upon the lesser grade rating based on changes negotiated to other terms of this subtitle, including the purchase of bond insurance.

(6) Terms.—

(A) In general.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 8 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 4 years of the repayment term of such loan.

(B) Authority to vary time periods.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) Additional terms and conditions.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) Appropriation of amounts.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

Subtitle G—Qualified Thrift Lender Test Improvements

SEC. 436. SHORT TITLE.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 437. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 65 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 438. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 439. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 440. PRUDENT DIVERSIFICATION OF ASSETS.

(a) In General.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) Technical and Conforming Amendment.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 441. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

(a) Percentage Adjustment.—Section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended in the second sentence by striking "30 percent" and inserting "35 percent".

(b) Loans to Original Obligor.—Section 5(c)(2)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) is amended by inserting before the period at the end the following: ", provided however, that no amount in excess of 30 percent of the assets may be invested in loans made directly by the association to the original obligor, and the association does not pay finder, referral, or other fees, directly or indirectly, to a third party.".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 446. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) Prohibition on Entering Secrecy Agreements and Protective Orders.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Bank and Thrift Employee Provisions

SEC. 451. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

(a) Continuation Coverage.—The Federal Deposit Insurance Corporation—

(1) shall, in its capacity as a successor of a failed depository institution (whether acting directly or through any bridge bank), have the same obligation to provide a group health plan meeting the requirements of section 602 of the Employee Retirement Income Security Act of 1974 (relating to continuation coverage requirements of group health plans) with respect to former employees of such institution as such institution would have had but for its failure, and

(2) shall require that any successor described in subsection (b)(1)(B)(iii) provide a group health plan with respect to former employees of such institution in the same manner as the failed depository institution would have been required to provide but for its failure.

(b) Definitions.—For purposes of this section—

(1) Successor.—An entity is a successor of a failed depository institution during any period if—

(A) such entity holds substantially all of the assets or liabilities of such institution, and

(B) such entity is—

(i) the Federal Deposit Insurance Corporation,

(ii) any bridge bank, or

(iii) an entity that acquires such assets or liabilities from the Federal Deposit Insurance Corporation or a bridge bank.

(2) Failed depository institution.—The term "failed depository institution" means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver has been appointed.

(3) Bridge bank.—The term "bridge bank" has the meaning given such term by section 11(i) of the Federal Deposit Insurance Act.

(c) No premium costs imposed on FDIC.—Subsection (a) shall not be construed as requiring the Federal Deposit Insurance Corporation to incur, by reason of this section, any obligation for any premium under any group health plan referred to in such subsection.

(d) Effective Date.—This section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event under section 603 of the Employee Retirement Income Security Act of 1974 occurred before, on, or after such date.

Subtitle J—Sense of the Congress Regarding the Credit Crisis

SEC. 456. CREDIT CRUNCH.

(a) Findings.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade first from tax rules that in 1981 stimulated excessive investment in real estate, and then in 1986 when rules were adopted that discourage capital investment in real estate, artificially eroding real estate values.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) immediate and carefully-coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors; and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) restore balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily and single-family real estate; ending mark-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) rationalize the tax system for real estate owners and operators by modifying the passive loss rules and encouraging loan restructures.

Subtitle K—Aquisition of Insolvent Savings Associations

SEC. 461. AQUISITION OF INSOLVENT SAVINGS ASSOCIATIONS.

Section 4(i) of the Bank Holding Company Act (12 U.S.C. 1843(i)) is amended by adding at the end the following new paragraph:

"(3) Acquisition of insolvent savings associations.—

"(A) In general.—Notwithstanding any other provision of this Act, any qualified savings association which became a federally chartered stock company in December of 1986 and which is acquired by any bank holding company without Federal financial assistance after June 1, 1991, and before March 1, 1992, and any subsidiary of any such association, may after such acquisition continue to engage within the home State of the qualified savings association in insurance agency activities in which any Federal savings association (or any subsidiary thereof) may engage in accordance with the Home Owners' Loan Act and regulations pursuant to such Act if the qualified savings association or subsidiary thereof was continuously engaged in such activity from June 1, 1991, to the date of the acquisition.

"(B) Definition of qualified savings association.—For purposes of this paragraph, the term 'qualified savings association' means any savings association that—

"(i) was chartered or organized as a savings association before June 1, 1991;

"(ii) had, immediately before the acquisition of such association by the bank holding company referred to in subparagraph (A), negative tangible capital and total insured deposits in excess of $3,000,000,000; and

"(iii) will meet all applicable regulatory capital requirements as a result of such acquisition.".

Subtitle L—Creditability of Service

SEC. 466. CREDITABILITY OF SERVICE.

(a) Chapter 83.—Section 8332 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(b) Chapter 84.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(c) Applicability.—The amendment made by this section shall apply with respect to any individual who transfers to a position in which he or she is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, on or after October 1, 1991.

Subtitle M—Other Miscellaneous Provisions

SEC. 471. PROVIDING SERVICES TO INSURED DEPOSITORY INSTITUTIONS.

Section 21A of the Home Owners' Loan Act (12 U.S.C. 1441a) is amended by adding at the end the following:

"(q) Continuation of Obligation To Provide Services.—No person obligated to provide services to an insured depository institution at the time the Resolution Trust Corporation is appointed conservator or receiver for the institution shall fail to provide those services to any person to whom the right to receive those services was transferred by the Resolution Trust Corporation after August 9, 1989, unless the refusal is based on the transferee's failure to comply with any material term or condition of the original obligation. This subsection does not limit any authority of the Resolution Trust Corporation as conservator or receiver under section 11(e) of the Federal Deposit Insurance Act.".

SEC. 472. REAL ESTATE APPRAISALS.

(a) Certification and Licensing Requirements.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) Authority of the Appraisal Subcommittee.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a de minimus standard. Recommendations of the Subcommittee shall be nonbinding on the States.".

(b) Use of State Certified and State Licensed Appraisers.—

(1) Effective date for use.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) Extension of effective date.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the first sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the second sentence, by striking "inordinate" and inserting "significant".

(c) OMB Study of De Minimus Standards.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Director of the Office of Management and Budget shall conduct a study of whether there is a need to establish de minimus levels for commercial real estate.

SEC. 473. EMERGENCY LIQUIDITY.

Section 13 of the Federal Reserve Act (12 U.S.C. 343) is amended in the third paragraph by striking "of the kinds and maturities made eligible for discount for member banks under other provisions of this Act".

SEC. 474. DISCRIMINATION AGAINST REORGANIZED DEBTORS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, United States Code, if, after confirmation of a plan of reorganization, such corporation would not otherwise be highly leveraged.".

SEC. 475. PURCHASED MORTGAGE SERVICING RIGHTS.

(a) In General.—Notwithstanding section 5(t)(4) of the Home Owners' Loan Act, each appropriate Federal banking agency shall determine, with respect to insured depository institutions for which it is the appropriate Federal regulator, the amount of readily marketable purchased mortgage servicing rights that may be included in calculating such institution's tangible capital, risk-based capital, or leverage limit, if—

(1) such servicing rights are valued at not more than 90 percent of their fair market value; and

(2) the fair market value of such servicing rights is determined not less often than quarterly.

(b) Definition.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(c) Effective Date.—The amendments made by this Act shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 476. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 is amended by inserting after section 27 (15 U.S.C. 78aa) the following new section:

"SPECIAL PROVISION RELATING TO STATUTE OF LIMITATIONS ON PRIVATE CAUSES OF ACTION

"Sec. 27A. (a) Effect on Pending Causes of Action.—The limitation period for any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991, shall be the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

"(b) Effect on Dismissed Causes of Action.—Any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991—

"(1) which was dismissed as time barred subsequent to June 19, 1991, and

"(2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991,

shall be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.".

SEC. 477. MODIFIED SMALL BUSINESS LENDING DISCLOSURE.

The Federal Reserve Board shall collect and publish, on an annual basis, information on the availability of credit to small businesses. The information shall, to the extent practicable—

(1) include information on commercial loans to small businesses, agricultural loans to small farms, and loans to minority-owned small businesses;

(2) be given for categories of small businesses determined by annual sales and for small businesses in existence for less than 1 year; and

(3) be given for each geographic region of the United States.

In collecting the information, the Federal Reserve board shall take into consideration the need to minimize reporting costs, if any, on financial institutions.

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Subtitle N—Severability

SEC. 481. SEVERABILITY.

If any provision of this Act, or any application of any provision of this Act to any person or circumstance, is held invalid, the remainder of the Act, and the application of any remaining provision of the Act to any other person or circumstance, shall not be affected by such holding.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 501. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to in clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.,

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction was a State bank that the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution that is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act.

(c) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—If, under section 5(d)(3) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this Act.".

SEC. 502. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(t) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.

"(5) LIMITATION..—No provision of this section shall be construed to authorize a national bank or any subsidiary thereof to engage in any activity not otherwise authorized under the National Bank Act or any other law governing the powers of a national bank.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing a national bank or a subsidiary of a national bank to engage in any activity not otherwise authorized under this Act or any other law governing the powers of national banks.

"(d) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD,
JOHN J. LAFALCE,
M.R. OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, Jr.,
CHARLES SCHUMER,
BARNEY FRANK,
BEN ERDREICH,
TOM CARPER,
GERALD D. KLECZKA,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
RICHARD H. BAKER,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER DODD,
JAKE GARN,
ALFONSE D'AMATO,
Solely for the purpose of consideration of title X of the Senate Bill:
QUENTIN BURDICK,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

JOINT STATEMENT OF CONFERENCE COMMITTEE

House and Senate conferees met for two days under a stringent deadline to consider H.R. 3768 and S. 543, bills to recapitalize the Bank Insurance Fund and to improve the Federal Deposit Insurance Corporation. On November 25, 1991, the House overwhelmingly passed a motion by a vote of 398 ayes to 3 nays to instruct its conferees to consider only issues addressed within the scope of H.R. 3768, rather than the more voluminous bill, S. 543.

The conferees exchanged several offers, and worked from these to combine parts of each bill to form this conference agreement. While the conferees certainly hold differing views about the long-term changes needed in the banking system, all agreed that in the short time available for forging this compromise, recapitalizating the BIF took top priority. The FDIC have the resources to honor its guarantee of insured deposits, so that Americans will know their funds are safe.

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD,
JOHN J. LAFALCE,
M.R. OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, Jr.,
CHARLES SCHUMER,
BARNEY FRANK,
BEN ERDREICH,
TOM CARPER,
GERALD D. KLECZKA,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
RICHARD H. BAKER,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER DODD,
JAKE GARN,
ALFONSE D'AMATO,
Solely for the purpose of consideration of title X of the Senate Bill:
QUENTIN BURDICK,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Mr. NEAL of North Carolina. Mr. Speaker, pursuant to House Resolution 318, I call up the conference report on the Senate bill (S. 543 to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. STUDDS). Pursuant to House Resolution 318, the conference report is considered as having been read.

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The gentleman from North Carolina [Mr. NEAL] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is essentially very similar to the bill that has passed the House. My colleagues may be interested to know that the Committee on Banking, Finance and Urban Affairs conferees were in conference with the Senate conferees essentially from yesterday morning at 9:30, on and on all day, into the evening, until this morning at something like 5 o'clock, and we finally came to this agreement which, as I say, is in most major respects very much like the bill that passed the House recently by an overwhelming margin.

Mr. Speaker, I think the significant thing to say about this legislation is that it is essential. There is a problem.

The bill represents a new day for regulation

the tremendous advances represented by this

Mr. SOLOMON. Mr. Speaker, I will

VOL
137
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24
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26
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The bank insurance fund needs money, and, if it were not for that problem, we would not be here.

Now this bill provides some money to fix that problem for the short term, but I will have to report to our colleagues that, as far as fixing the problem for the long term, we do not do it.

We do provide some very significant regulatory reform, a couple of hundred pages of it. That is all to the good. But we knew how to do much more, and we should have done much more.

Mr. Speaker, our Subcommittee on Financial Institutions Supervision, Regulation and Insurance, after many days of hearings and study over a long period of time, reported out legislation that would have in a major way reformed the banking system of this country. It would have made the system safer, and sounder and more competitive, would have provided for economic diversity in terms of services, products and services, would have provided geographic diversity for safety and soundness. That bill passed our subcommittee with no votes against it. I think the vote was 35 to zero, something like that.

Well, Mr. Speaker, we took it to the full committee. The full committee worked its will on it, found a few more little problems, and the bill, very much the same bill, passed the full committee by about a 60-40 margin. But because of a lot of little manipulations that I will not go into now, we never really got a chance to vote on that major reform package.

Now I mention it at this time because one of these days, I would say to my colleagues, we must return to that. We must modernize this system. If we do not modernize the system, we will be back here again sometime in the future looking for more money to bail out banks. I do not want to vote one penny to bail out banks.

Mr. Speaker, there is a way to fix this system. We should provide geographic diversity, we should provide product diversity for safety and soundness, we should modernize the system so that it serves our savers, and our consumers and the businesses of this country so that we can be competitive in world trade. Now that is the challenge.

Mr. Speaker, we are engaged now in a stopgap measure. It is necessary. We have no choice. But very soon we must return to this subject and engage in a major reform.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I rise in strong support of the conference report on H.R. 3768, the banking reform bill. As I do that, I want to compliment the distinguished chairman of the Committee on Banking, Finance and Urban Affairs who has worked so diligently, and so hard and so long. Without his persistent efforts we would not be here today. He encouraged us to work on this bill through the day yesterday, for almost 24 straight hours, until 5 o'clock this morning; and we came up with a very good bill in my judgment. Although the path has been arduous, the compromise before us encompasses pretty much the parameters of the House passed bill.

No one was completely satisfied with the product that we came out with, but clearly this is the most important issue that we have before the First Session of the 102nd Congress. Other important issues are not included: interstate banking, banking and commerce, modification of Glass-Steagall are still unanswered and will have to be revisited early next year. However the bill before us is a good compromise given where we started from when we went into our conference yesterday with Members of the other body.

First and foremost the bill provides the funding to recapitalize the bank insurance fund, and again I repeat again and again that this is not a taxpayer bailout. There is no taxpayer money authorized in this bill. This is a loan which will be repaid by the banking industry through an increase in premiums. This money will be used solely to protect depositors. Not one cent will be used to pay off any shareholders or any directors.

Mr. Speaker, we must recapitalize the bank insurance fund to show depositors that the government stands behind the promise to protect their deposits. We must show the American people that their money is protected by the full faith and credit of the United States Government. It would be irresponsible not to provide the FDIC with this crucial funding, as I have stated, before we adjourn.

Besides funding, Mr. Speaker, the bill does incorporate a number of very important reforms. It calls for annual examinations and independent audits. It implements a tripwire system of prompt early intervention to handle troubled institutions before they fail, and to minimize taxpayer losses. To further minimize the taxpayer liability, the bill limits brokered deposits to only those banks with the highest capital levels.

Furthermore, it establishes risk-based premiums. Risk-based premiums will reward well-capitalized and prudently managed institutions. Such a system will restore equity to the system and encourage high capital levels.

Although this legislation is not as comprehensive as some would like, it does make a number of important reforms. It is essentially the House bill which we passed by an overwhelming margin here last week. The capitalization, again I repeat, is must legislation, and I, therefore, urge my colleagues to approve the conference report on this crucial bill.

I would just add one other caveat, and that is that we did add to the bill a provision which was not before the Committee on Banking, Finance and Urban Affairs legislation, and that has to do with the so-called Lamp F decision. What it does is it extends the statute of limitations for securities and fraud cases. It is regarded as very important, and the distinguished chairman of the Committee on Energy and Commerce has signed off on that, according to the distinguished chairman of the House Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ]. We have a good package and I urge an aye vote.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that I may be permitted to assign the balance of the time to the various Members seeking recognition.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, essentially what we have, as the gentleman from Ohio [Mr. WYLIE] stated, is what we were under the mandate, because the bill overwhelmingly passed the House, to stick to the House version that passed with a vote of 344 to 64, and we did that. Essentially what we have here is more than just what has been referred to as a narrow bill. This is an achievement, and I just merely want to thank my colleagues on the Committee on Banking, Finance, and Urban Affairs.

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We have walked the plank three times and, with this, four times.

Also, I wanted to compliment and thank, express my profound gratitude to the gentleman from Ohio [Mr. WYLIE] and people like the gentlewoman from New Jersey [Mrs. ROUKEMA] and the members of the minority as well as to our conferees from the State side who I think performed wonderfully.

We settled down 24 hours ago at 9:30 and kept going until 5:00 this morning when the conference rose. So I just merely wanted to express my profound gratitude. I am very proud of the Committee on Banking, Finance and Urban Affairs and of our colleague and of the House Members as a whole.

Mr. Speaker, I am pleased to report to the House that we have completed a successful House-Senate conference on the banking legislation. We have produced an excellent bill that will move us a giant step forward in restoring confidence in our Nation's financial system.

S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991, meets the priority of refinancing the bank insurance fund by providing an immediate line of credit of $30 billion at the Treasury Department. This ensures that depositors at the Nation's 12,300 banks will have protection for their funds.

The bill represents a new day for regulation of the Nation's banks. Key to this new approach will be a requirement for prompt intervention by regulators when the vital signs of a bank reach a critical point. This means that banks will no longer be allowed to slip away while the regulators wring their hands and hope for a better day—all at the expense of the taxpayer. S. 543 requires action to protect the bank and the insurance fund.

S. 543 also requires that the Federal Deposit Insurance Corporation resolve failed banks by the method least costly to the taxpayers. The discount window at the Federal Reserve, which dispenses below market interest rate loans to banks, will now operate under specific criteria that will prevent backdoor bailouts. Pouring money into sick financial institutions does more harm than good, as evidenced by a House Banking Committee study which showed that 90 percent of the banks that received loans from the discount window failed in the end anyway.

This conference report requires annual audits and annual examinations—both essential to a healthy banking system.

Not only our domestic banks, but foreign banking entities in the United States must now operate under a new set of regulatory requirements. The rogue banks like Banca Nazionale del Lavoro [BNL] and the Bank of Credit and Commerce International [BCCI] will no longer escape scrutiny in this Nation.

Mr. Speaker, I am also proud of the people issues we were able to deal with to make certain that consumers got a better break at insured institutions.

The conference report contains the House version of the Truth in Savings legislation that has languished through four Congresses without reaching final passage. This legislation, pushed through by our colleague, ESTEBAN TORRES, chairman of our Consumer Affairs and Coinage Subcommittee, puts an end to deceptive advertising and confusing information about savings rates. People who put their hard-earned dollars in financial institutions will know the terms precisely and will be in a position to shop for the best rates.

The conference report also contains important new steps forward in fair lending enforcement, including better requirements for more complete disclosure of banks' performance under the Community Reinvestment Act [CRA]. We've also closed a loophole that has let many mortgage banks escape reporting under the Home Mortgage Disclosure Act [HMDA]. The bill also provides protections against the willy-nilly closing of branches, particularly in innercity neighborhoods. Banks must now provide customers and the communities 90-day advance notice before closing branches and leaving neighborhoods without service.

Mr. Speaker, there are many who would have preferred that we had produced a bill with broader powers for banks—the right to expand into new activities and new markets. These provisions were brought to the House floor twice this month and they failed. This legislation would have failed again had the conferees been foolish enough to ignore the House's wishes.

But, I hope that the long fight over expanded powers for banks does not obscure the tremendous advances represented by this bill. It is a landmark piece of legislation that will serve the Nation and its financial system well.

Many will continue to mislabel the refinancing of the bank insurance fund as a bailout. This charge ignores the fact that the money provided from Treasury is a loan and the conference report requires that the funds be repaid by the banks on a specific schedule extending over 15 years. The prompt refinancing of BIF through this credit arrangement and the accompanying regulatory safeguards are the very best insurance against a taxpayer's bailout.

Mr. Speaker, S. 543 is extremely important legislation. The conference report should be adopted.

Mr. Speaker, I yield 5 minutes to our ranking majority member of the committee and the chairman of the Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, 8 months ago, the Subcommittee on Financial Institutions, which I chair, began hearings on a major banking bill. It was the beginning of a long legislative journey. This morning we are seeing the end of that journey and hopefully a new beginning in the commercial banking industry.

I strongly support the conference report before the House today. I want to commend the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] and the banking Republican, CHALMERS WYLIE for the leadership they have shown throughout the entire legislative process on this bill.

Mr. Speaker, I doubt if any bill in recent memory has been the subject of so much attention and scrutiny as this bill has been. But I think the turmoil that has surrounded this bill has actually made for a better bill. No section of this bill was won without hours of discussion and hundreds of votes. Too many cooks spoil the broth may be an old wives' tale, but the cooks of this legislative broth did a great job.

I am particularly proud of several provisions in this bill that I authored, including the requirement that every federally insured financial institution be examined at least once a year. The early intervention procedures will make certain that brain dead banks are not kept open on the misguided belief that they can grow into recovery.

The whistleblower section will make certain that those dedicated public servants who expose corruption and wrong-doing will not be punished for making that information pubic.

And most importantly, when the banks borrow $30 billion to replenish the bank insurance fund, my amendment will make certain that the banks, not the taxpayers will have to repay those loans.

Mr. Speaker, I urge adoption of the conference report.

Mr. WYLIE. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I will certainly try not to use all of the 5 minutes in rising to, regrettably, oppose this legislation, since it seems that everybody seems to be for it.

I do want to, first of all, commend the chairman of the committee and my friend, the gentleman from Ohio [Mr. WYLIE], and the subcommittee chairman and ranking members and everybody who has labored so diligently on this effort.

I know that this is probably the only bill that could come before the House. But I just want to state my concerns once again as I do when the House passed this measure, that I am afraid that we are simply not solving the problem. When this bill passed the House it was a non-reform bill. I said that then, and also predicted that the Senate would not improve on it. Sadly, I believe the bill before us now shows that I was correct.

This legislation, which does recapitalize the FDIC's bank insurance fund with a $70 billion loan from the taxpayers does nothing in the way of meaningful, significant reforms. I know that despite the considerable funds in this bill, we are going to be back here next year, and I think all of you know that too. Then we will really have to revisit the issue and approve some major reforms. We will be doing that in an election year, and that is going to be very, very difficult.

My first regret about this bill today is that it does nothing to maintain firewalls that keep bankers and the banking business out of everybody else's business, such as real estate, and insurance, and securities and everything else. Instead, it leaves those walls open so that they can continue to do what they have been doing in the past: losing money and being bailed out by the taxpayers of this Nation.

The second and more important problem that we have not dealt with at all in the bill is the issue of multiple deposit insurance guarantees available to investors. Despite today's $100,000 limit on deposit insurance, a family can effectively insure up to $1,400,000 of its savings in not just one bank but as may banks as they want. As long as that kind of system is in place, we will never solve this problem.

As I mentioned in our earlier debate on the bill, when I came to this Congress 13-14 years ago, I sold all of my stock and all of my businesses, as I had to. I took that money and put it into certificates of deposit. Since coming to Washington I have not only found that I am 100-percent Scotsman, tight with a dollar, but I also found myself instructing my wife by phone in upstate New York on how to go out and find whatever insured bank she could get with the highest possible return on our investment from dollars and certificates of deposit. Forgetting to look for a long-established conservative bank,

VOL 137
PT 24
NO 26
1991
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even in our hometown, she did that and I did it. If we did that, ladies and gentlemen, everybody in this country did that, and that is how we got ourselves in the mess today. Unfortunately, in this bill we have totally ignored doing anything about it.

An amendment to this bill, which would have required only one insured deposit of up to $100,000 per individual, would have gone a long way toward solving this problem. Although we have not done that, we are going to have to do it, and you had better think about it too because in March or April we will be back here again doing the same thing.

I hesitantly oppose the legislation, but I do commend the gentlemen for the hard work that went into it.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. ANNUNZIO], for the purposes of a colloquy.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to take a minute to ask the distinguished chairman of the Banking Committee, Mr. Gonzalez to join me in a colloquy. I would like to ask the chairman if it is not true that under the new qualified thrift lender test in the conference report if it is the intent of the conferees that the increase from 30 to 35 percent of the consumer lending basket prohibits a savings and loan from placing loan application in an automobile or appliance showroom et cetera, and then have the sales people give their customers the loan applications. Is it not true that the intent of this provision is that consumers wishing to borrow money from the S&L for consumer loans under the increased loan authority are expected to deal directly with the S&L and not with a third party or middleman in any way whatsoever.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, on both counts, absolutely, the gentleman is correct. That is right.

Mr. ANNUNZIO. I want to once again extend my thanks and appreciation to the chairman.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the chairman for yielding me this time.

I want to commend the committee. I think that we did a good job in terms of the conference. Certainly we had give and take with the Senate, but, frankly, we came in, we used the House bill, and while we made modfications with our Senate colleagues, I think that it is a good product, and it deserves the support of the House.

Candidly, it does not have the powers in the branch banking and the security power issues that were so contentious in this House.

We came up to the floor twice, and we sunk twice, and everyone can get involved in their own revisionist history as to why that happened.

Today I think the task is before us to improve the deposit system, to reform it, and I think we have done the best we can as a Congress of 535 Members with this problem.

We have written new prescriptive language in this law to guide the administration and the regulators. There is less flexibility, for the banking regulators, but I think our experience has indicated that such limits are necessary.

We have obviously capitalized the BIF fund which is a principal responsibility based on the statements of Mr. Taylor, the new Director of the FDIC, that is essential before the House adjourns to back the deposits of hundreds of millions of people across this country that have savings in our financial institutions.

□ 1100

This is a comprehensive bill. It is a solid foundation that we can build on next year. We can deal with the powers issues. We have a sound foundation of deposit insurance now, and limiting the powers and addressing the issues of too big to fail of banks. We cannot deal with the symbolic issue of $100,000 accounts, but I think, candidly, that is more symbolic than substantive. The central issue of cost is to get the banks off the track of too big to fail. There are problems remaining with systematic risk that is in this measure but hopefully that should be limited in terms of the safeguards and tripwires we put in this measure, including early intervention and other necessary approvals.

Mr. Speaker, I think this is a good bill and I hope Members will support it.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think I would be remiss if I did not publicly thank the minority members who participated in this conference last night and yesterday. I would like to say that the gentleman from Iowa [Mr. LEACH], the gentleman from Florida [Mr. MCCOLLUM], the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Pennsylvania [Mr. RIDGE], the gentleman from Wisconsin [Mr. ROTH], the gentleman from California [Mr. MCCANDLESS], and the gentleman from Louisiana [Mr. BAKER] were in attendance throughout and gave of their best to this fine product we have before us.

I would also like to thank the minority staff and majority staff for all of the fine work they did do this legislation. It was a very difficult and trying experience.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would ask the gentleman from Ohio [Mr. WYLIE], what about the gentleman from Louisiana [Mr. BAKER]?

Mr. WYLIE. Mr. Speaker, reclaiming my time, yes, I have Mr. BAKER's name on here. I add him to my list, also, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, first I would like to commend the gentleman from Texas [Mr. GONZALES] and the ranking minority member, the gentleman from Ohio [Mr. WYLIE], and all those that have worked tirelessly to bring this legislation to the floor today.

I think there are five basic reasons why we should be pleased with this legislation and support it. First of all, this legislation does provide for the recapitalization of the Bank Insurance Fund.

We are not bailing out the banks. We are merely honoring a promise and a commitment that was made to depositors in this country 50 years ago. We have no choice. We have to recapitalize the bank insurance fund.

The "too big to fail" doctrine that many of our small community banks across this country have been very, very concerned about has also been changed. I happen to believe the provisions in this legislation requiring the President, the Treasury Department, the Federal Reserve and FDIC to certify in writing that a bank would cause systemic risk if it was allowed to fail is going to have the effect of putting the brakes on the use of the too big to fail doctrine. I think that is a very important reform.

In addition to that, there are other regulatory reforms empowering the regulators to intervene at an early stage, to use least cost resolution and also have annual audits of banks across the country. As far as I am concerned, all of this is good.

Another important reform is the change in the area of brokered deposits. Under this legislation we would prohibit undercapilatized institutions from accepting brokered deposits, this is another very important reform.

Many people who have observed the banking crisis in this country believe very strongly that brokered deposits have played a big role in creating the mess we are in. That is being corrected.

In addition to that, we are empowering the Federal Reserve System to regulate much more carefully foreign banks operating in this country, to deal with future BCCI type problems. This is also good.

Mr. Speaker, I know some of my colleagues wish we would have repealed Glass-Steagall and empowered the banks to get involved in the securities industry. We did not do that. This is one Member who is glad that we did not do that.

I believe one of the big achievements of this session is the defeat of efforts to repeal Glass-Steagall. Over the long term this will serve the taxpayers and consumers of this country well.

Mr. Speaker, I strongly urge Members to support this reform package. I know that next year we will have the opportunity to come back and revisit the question of interstate branch banking and revisit the question of Glass-Steagall. But today this is as good as we can do.

Mr. Speaker, this is a significant step forward. It is good legislation. It is deserving of strong bipartisan support. So I strongly urge my colleagues to join me in supporting this legislation.

Mr. WYLIE. Mr. Speaker, I respectfully yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA], who was a very good member of our conference.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman my ranking member, the gentleman from Ohio [Mr. WYLIE] for yielding. I do want to concur with some of the comments that have been made by the gentleman from Kansas [Mr. SLATTERY]. The gentleman alluded to the fact there are some very good parts to this bill. The tenor of his remarks were positive, and I want to underscore, that really we should not be ashamed of this product.

Mr. Speaker, we went through a procedure that resulted in the defeat of 2 bills that embodied more comprehensive reforms. Rightly or wrongly, the judgment was made by this body that we were not going to enter into new powers such as security and insurance powers with the attendant problems of how to define firewalls. Rightly or wrongly, that decision was made.

But I would suggest that when we are dealing with those kinds of complex issues that could have profound consequences that if we are going to err at all, we should err on the side of caution.

In this bill we have some excellent reforms with respect to capital requirements; with respect to early intervention and with respect to stronger, regulatory, requirements. There are reforms to be proud of. We must also say that with respect to new powers, firewalls, and interstate banking, we have some work to be done.

Mr. Speaker, because we could not come to those conclusions at this particular time, it does not mean that the product that we come out with in the new year will not be better for the time and effort that has already been expended on this matter.

Mr. Speaker, I do want to say, for those who are concerned, because I think there is a general tenor of regret that we have not reformed the deposit insurance fund, by limiting deposit insurance to $100,000 per customer.

Mr. Speaker, in my opinion, that was the correct decision to make. I understand that this decision is open to debate; but it is not open to debate to question the really fundamental reforms that we did put in this legislation.

It has already been mentioned that we have addressed in a very meaningful was "the too big to fail doctrine." I think that is quite a substantial accomplishment.

In addition, we have put limitations on brokered deposits. This particular issue of the brokered deposits and the level of capitalization that is needed in institutions that are permitted to use brokered deposits occupied a great deal of our time and effort. There was extended debate.

But the provision of brokered deposits is a meaningful one. It is restrictive, and it is a major reform in this bill.

Mr. Speaker, we have restrictions on pass-through insurance, the foreign deposits, and the risk-based premiums, in which I take some pride of authorship. I had a lot of help from others, but the fact is we are now basing the premium payments from the banks into the fund on the basis of the risks and the type of investments that they make.

Mr. Speaker, I think all in all there is nothing to be hesitant about here. We have meaningful reform, We are leaving to another day some of those questions that were more divisive, and merely more problematic in many ways, and for good reason. So we will have a number of engines that can lead us to the second level of reform next year.

In the meantime, we are protecting the depositors, we are restoring faith in the system, and, I think, Mr. Speaker, that the fact that we passed this bill 344 to 84 when it left the House the first time, and in this measure we have 95 percent of the House bill, that it is deserving of our support. Maybe we can get unanimous support.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just add that the gentlewoman from New Jersey [Mrs. ROUKEMA] deserves a high compliment for leading the charge on the risk-based premium issue. She has been very diligent on this. The amendment that was adopted is pretty much her handiwork and, in that regard, made a real contribution to our deliberations.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. BAKER], who certainly made a very tremendous contribution to the conference deliberations.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding. I certainly appreciate his kind comments and extend to him and to the chairman of the Committee on Banking, Finance and Urban Affairs my appreciation for their hard work and diligence in bringing this measure to the House floor.

As we are all painfully aware, taxpayers of this country are indeed frustrated with the current condition of the financial marketplace. Everyone back home expects us to resolve the current problems without additional taxpayer dollars, to make sure our banks are operated in a safe and sound manner and that their deposits remain free from threat of loss.

□ 1110

The bill we have before us this morning goes a long way toward making important reforms. Certainly there is much yet to be done. The question of additional bank powers and commercial ownership of institutions were provisions contained in the bank bill as reported by the Committee on Banking, Finance and Urban Affairs earlier this session. And unfortunately they are not addressed in the measure before us now.

But equally important are those important regulatory tools necessary to intervene at an early time in a bank's business activities so that franchise value is preserved, so that taxpayer funds are protected and so that ultimately we are not called upon as a Federal deposit insuror to pay off losses of troubled institutions.

This legislation takes many progressive steps to allow regulators to do their jobs much more efficiently than they have been able to do in the past. It also makes some significant changes with regard to the operation of the thrifts. Provisions relating to the qualified thrift lender test which are included in this legislation will ensure that some 180, perhaps 200 thrifts in this country who were well-run, well-capitalized institutions will not arbitrarily be closed for their failure to meet a government standard relating to the construction of their lending portfolio, a technical change, for sure, but one very important in minimizing cost to the taxpayer.

I commend the bill and I hope the House will adopt it.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in strong support of the conference report, the FDIC Recapitalization and Improvement Act of 1991.

Mr. Speaker, this bill before us today is critical to protecting the millions of depositors throughout our banking system and it is needed to protect our economy. The only protection between depositors and the potential loss of their hard-earned money when a bank closes its doors is the FDIC's bank insurance fund, which is currently on the verge of insolvency. Make no mistake about it; a delay in recapitalizing the bank insurance fund will imperil the funds of depositors and our entire economy. It would not be responsible to vote against this bill and permit a return to the desperate economic times of our parents and grandparents.

This provides additional enforcement powers to bring foreign banks to comply with our regulations.

First, a provision I offered which I believe will limit the loss of the taxpayers which occurs when banks and savings and loans fail. In summary, this provision will permit any depository institution to combine with any savings association insurance fund member, and vice versa. This provision will encourage the use of private capital to acquire and merge financial institutions which may otherwise fail and end up costing the taxpayers a great deal of money.

The second provision which I strongly support will protect the retirement pensions of millions of Americans. The provision will continue the 25-year-old FDIC practice of providing pass through deposit insurance on a pro rata basis for pension plans. Again, this is good legislation since it will protect the pensions of millions of Americans at a time many of them are concerned about the safety of their deposits and investments in financial institutions. Stability of the banking system is also enhanced since, if deposit insurance for pension plans is discontinued, pension fund managers will probably move their pension fund deposits to financial institutions which they perceive as "too-big-to-fail". This movement of funds will undermine the stability of small banks. The amendment also provides fairness since so-called 401(k) plans—which are offered to management—will continue to receive pass through deposit insurance. It is only fair to also protect the retirement pensions of hard working Americans of all incomes.

Again, I want to commend Chairman GONZALEZ for his leadership regarding this legislation. I urge all Members to support the conference report.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

I would just say that I think the chairman and I have reason to be very proud of the product which came out of the conference last night, and I urge adoption of the conference report.

Mr. GONZALEZ. Mr. Speaker, I yield 2 mintues to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, first let me compliment the gentleman from Texas, Chairman GONZALEZ, and the gentleman from Ohio, [Mr. WYLIE], for their persistence in getting to this point. Obviously this is not a day for great celebration. We all tried to pass bills or we all believed there was a need for real reform, dramatic and sweeping reform. We could not agree on what that reform was.

I say to the reform-minded Members, our day will come. There will be real reform. The banking system is sick and demands it. But this bill, given the fact that we could not have reform, is the best that could have been done. Anyone who feels it does not have much reform is sadly mistaken. The higher capital standards, the early intervention, the too-big-to-fail, those are three significant changes in the way the banking system will work.

In my judgment, the system will still stay sick. These are measures that deal with the sickness after the disease. But they do not cure it. They do not remove it. They do not remove it. We have to deal with the inextricable relationship between insured deposits and what banks can do with them to cure the disease.

But if one is sick, and this system is, and we could not come up with a cure, then having this kind of medicine is the best and right way to go. And this demands, I think, that we pass it.

It is a comprehensive bill within those confines. As I said, the three reforms, major reforms in there, are very important. We should pass them.

Once again, I want to say, it took a lot of persistence and hard work on the part of the chairman and on the part of the ranking minority member and the members of the committee to come up with this package. It is a package no one has to hang their head low about. We will come back next year and we will try again to cure the patient, the banking system, of the awful disease that it has.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FLAKE], a member of the committee.

Mr. FLAKE. Mr. Speaker, certainly it is a good day for those of us who have shared, as a part of the Committee on Banking, Finance and Urban Affairs, as we are able to commend both our chairman, the gentleman from Texas [Mr. GONZALEZ] and the ranking minority member, the gentleman from Ohio [Mr. WYLIE]. They have been very fair in allowing us to put up our amendments before them and allowing the committee to make its decision.

Two particular areas that I am very pleased with are still in the bill; one of them—the gentleman from Pennsylvania [Mr. RIDGE] and I sponsored an amendment for green-lighting, which is our tempt to try to deal with the problem of "red-lighting" by many of our banks, which allows us to be able to create community development banks so that those communities where there is a need to create housing, it might be able to be done.

I think that this is worthwhile. I think it is a fair and just means of trying to solve that problem.

Second, the Freedom National Bank issue. We have been fighting ever since the closing of Freedom, asking for fairness and justice as it relates to the Freedom Bank issue.

It is now in the bill. We are thankful to the chairman for fighting to keep it there, and we are grateful for the opportunity to be able to stand today to commend them and to say that this is a bill that everybody in the House ought to support.

The Committee on Banking, Finance and Urban Affairs has worked hard on it, and it needs to pass this House.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I rise in opposition to the legislation.

Mr. Speaker, I regret that I cannot support the measure before us. While we all recognize the urgent need to recapitalize the FDIC, the problem with this legislation is that it treats the symptoms of a weakened banking system rather than treating the root causes.

As Secretary Brady has indicated, simply putting funds into the FDIC without also strengthening the competitive position of the banking industry only invites the need for future appropriations. The record will show that I supported many of the reforms which insured better capitalization by the banks. It will also show, however, that I have been consistent in my belief that the administration was correct in insisting that broadened banking powers are essential to addressing the root problems of the banking industry.

Regrettably, the achievements taken by the Senate in this direction were undone by the House in its consideration of the banking legislation. And it is unfortunate that during the conference process, the Senate repudiated its former position. Hence, we are left with a bailout for the FDIC—but without meaningful reform which will allow banks to become profitable. Given that fact, I cannot support the current legislation.

Mr. GONZALEZ. Mr. Speaker, for the purpose of a colloquy, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, in section 451 of H.R. 3768, the Federal Deposit Insurance Corporation Improvements Act, referring to Rhode Island, references are made to investment grade ratings.

I understand that the highest grade rating means AAA; one less than the highest grade rating means AA; and two less than the highest grade rating means A.

Is my understanding correct?

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield; yes, it is.

Mr. REED. Mr. Speaker, I would also at this time like personally to commend the gentleman from Texas [Mr. GONZALEZ] for his extraordinary help to my home State of Rhode Island, and the gentleman from Ohio [Mr. WYLIE], the ranking minority leader, for his help, particularly the gentleman from Kentucky [Mr. HUBBARD] and the gentleman from Massachusetts [Mr. FRANKS] and the gentleman from Wisconsin [Mr. KLECZKA], who also helped us immensely.

With this help, with this loan guarantee, I hope we can help the people of Rhode Island. With this bill I hope we can help the people throughout the United States to avoid the crisis that we have faced in Rhode Island.

I close again by commending the gentleman from Texas, Chairman GONZALEZ, for his extraordinary help.

Mr. DINGELL. Mr. Speaker, I commend the gentleman from Texas [Mr. GONZALEZ] the chairman of the Committee on Banking, Finance and Urban Affairs for the conference report on the banking bill (S. 543). That conference report includes a compromise worked out between the chairman and ranking member of the Senate Banking Committee and the House Energy and Commerce Committee to reverse the retroactive application of the Supreme Court's decision in Lampf versus Gilbertson. This provision is urgently needed to avoid dismissal of securities fraud cases that were timely filed prior to the Court's decision. It is our intent that "any private civil action implied under section 10(b) of the Act that was commenced on or before June 19, 1991 (1) which was dismissed as time barred subsequent to June 19, 1991, and (2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991" shall have their clear meaning and shall not be interpreted to exclude any private civil action falling squarely within the plain meaning of the words of this statute.

This provision is critically important because Lampf has resulted in the dismissal of many private rule 10b–5 actions against figures in major financial scandals, including Charles Keating, Michael Milken, and others. Those cases can now be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.

I would also note that the conference report includes in title IV amendments reported by the Committee on Energy and Commerce with respect to payment system risk reduction and nettling contracts (see H. Rept. 102–157, part 4). The definition of the term "broker or dealer" in section 402 in the conference report includes language worked out between the Senate Banking Committee and the Committee on Energy and Commerce to include "to the extent consistent with this title, as determined by the Board of Governors of the Federal Reserve System, any company that is an affiliate of a company described in subparagraph (A) that is engaged in the business of entering into netting contracts." It is our intent that the term "affiliate" shall have the meaning as determined by section 3(a)(19) of the Securities Exchange Act of 1934 and sections 2(a)(2) and 2(a)(3) of the Investment Company Act of 1940, and that the Federal Reserve Board shall exercise this authority to include these entities in order to reduce the credit exposure of these entities and thus to reduce systemic risk. It is our belief that this is consistent with this title. I commend the conferees for including this important provision.

I urge my colleagues to vote "aye" on the conference report.

SEC. 476. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 is amended by inserting after section 27 (15 U.S.C. 78aa) the following new section:

"SPECIAL PROVISION RELATING TO STATUTE OF LIMITATIONS ON PRIVATE CAUSES OF ACTION

"SEC. 27A. (a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation period for any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991, shall be the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

"(b) EFFECT ON DISMISSED CAUSES OF ACTION—Any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991—

"(1) which was dismissed as time barred subsequent to June 19, 1991, and

"(2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

shall be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.".

CONGRESS OF THE UNITED STATES,
Washington, DC, November 25, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As you know, the House-Senate conference on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act, is under way to discuss the issues primarily within the jurisdiction of the respective Banking Committees. As was discussed on Friday, November 22, Members and staff of the Senate Committee on Banking, Housing, and Urban Affairs have been meeting with Members and staffs of other House Committees to resolve issues contained in the Senate bill that are outside the jurisdiction of the House Committee on Banking, Finance and Urban Affairs. We are pleased to report that agreement has been reached between the Chairman and Ranking Member of the Senate Banking Committee and the House Energy and Commerce Committee[1] on a provision to return the law regarding the statute of limitations for securities fraud cases that were pending on June 19, 1991 to that which applied in the jurisdiction on that date. This has the effect of reversing the retroactive application of the Supreme Court's decision in Lampf versus Gilbertson. This provision is urgently needed to avoid dismissal of securities fraud cases that were timely filed prior to the Court's decision.

In light of the agreement between the bipartisan leadership of the two committees of jurisdiction, we respectfully request that you appoint Members of the House Committee on Energy and Commerce (Messrs. Dingell, Markey, and Lent) as conferees to the banking conference for the purpose of including this provision in the Conference Report.

Sincerely,

Donald W. Riegle, Jr., Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate.

John D. Dingell, Chairman, Committee on Energy and Commerce, U.S. House of Representatives.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, November 26, 1991.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs Washington, DC.

DEAR HENRY: I am writing to you in your capacity as Chairman of the House conferees on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act, to advise you that this Committee has resolved its differences with the Senate Banking Committee on Section 1126 (Limitation on Securities Private Rights of Action). Consistent with the procedures outlined by the Speaker, we are writing to the Speaker to request appointment of Energy and Commerce conferees solely for the purpose of including this provision in the Conference Report.

On June 21, 1991, in a landmark 5–4 decision that alters the settled law of nine Circuits, the Supreme Court selected Section 9(e) of the 1934 Act (15 U.S.C. sec. 78i(e)) as the statute of limitations for private actions under Rule 10b–5 of the 1934 Act: one year from discovery, but in no event more than three years from the underlying violation. Lampf, Pleva, Lipkind, Prupis & Petigrow v. Gilbertson, No. 90–333 (U.S. June 20, 1991). Although the decision altered the law of the Circuit from which the case originated, the Court applied the new limitations period and dismissed respondents' claims as time-barred.

Moreover, in James B. Beam Distilling Co. versus Georgia, No. 89–689 (U.S. June 21, 1991), the Supreme Court changed the rules on retroactive application of civil decisions. This ruling portends full retroactive application of the new, shortened limitations period for private Rule 10b–5 actions established in Lampf, Pleva. In Beam, the Court ruled that where—as in Lampf, Pleva—the case announcing a new rule of federal law has applied that new rule to the litigants in the case, it is error for other courts to refuse to apply the rule retroactively. Thus, the Beam decision has resulted in dismissal of many currently pending private Rule 10b–5 actions against Charles Keating, Michael Milken and other figures in major financial scandals. According to a survey by our Telecommunications and Finance Subcommittee, suits totaling $652 million have been thrown out as a result of the Court's ruling. Motions to dismiss an additional $4.55 billion of suits are pending, and motions to dismiss a further $1.21 billion of suits are expected. As Arthur R. Miller, Bruce Bromley Professor of Law, Harvard University Law School, testified before the Subcommittee:

> As a result, a number of lower courts have dismissed as untimely many important securities cases that victims originally filed in a timely fashion and thereafter prosecuted for long periods of time and at great expense. In some instances, the Lampf decision threatens verdicts already rendered. This completely unfair result undermines the reliance of parties on precedent and significantly undermines the principle of stare decisis.

The compromise to be included in the Conference Report is urgently needed to allow timely filed cases to be reinstated and to avoid dismissal of further securities fraud cases that were timely filed prior to the Court's decision. In light of your Committee's extensive hearings on Charles Keating and the circumstances surrounding the failure of Lincoln Savings and Loan, we hope that you will support this result.

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[1] Messrs. Markey, Dingell, Wyden and Harris, the sponsors of companion House legislation (H.R. 3185) have approved the compromise language, as have Messrs. Lent and Rinaldo.

Sincerely,

JOHN D. DINGELL,
Chairman.

PUBLIC CITIZEN,
November 22, 1991.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We would like to commend you for co-sponsoring H.R. 3185, the Securities Investors Legal Rights Act of 1991, which would restore vital protections to consumers and investors that were taken away by the recent Supreme Court decision of Lampf v. Gilbertson. This proposal is critically important because it would establish a reasonable statute of limitations for securities fraud cases, while restoring lawsuits that were brought in reliance on the law as it stood prior to Lampf.

As you may know, the Senate Banking Committee added a similar proposal to banking legislation earlier this year. In a compromise made during floor consideration of the measure this week, the Lampf proposal was modified so that, while it continues to protect lawsuits pending when Lampf was decided, it does not change the statute of limitations for future cases. While we are disappointed that the proposal was weakened in this way, we strongly support the compromise to protect fraud victims who relied on pre-Lampf rules in bringing their lawsuits.

We are writing to urge you to accept the Senate compromise when the House and Senate banking bills are reconciled. We believe that it is critical to pass the retroactive piece of the Lampf legislation before it is too late to protect pending or recently dismissed lawsuits. We would like to work with you next year to enact the rest of the proposal, so that the securities laws can once again afford fraud victims a meaningful remedy against those who conceal their fraudulent activities.

Thank you again for your leadership in the fight against (in Al Capone's phrase) the legitimate rackets.

Sincerely,

MICHAEL WALDMAN,
Director, Congress Watch.
PAMELA GILBERT,
Legislative Director, Congress Watch.

LEGISLATIVE ALERT,
November 25, 1991.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Telecommunications and Finance, House Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the millions of workers and retirees whose retirement savings are invested by pension plans, the AFL–CIO supports H.R. 3185, the Securities Investors Legal Rights Act of 1991.

H.R. 3185 is needed to reverse Lampf v. Gilbertson, a recent Supreme Court ruling which could destroy claims by thousands of defrauded investors who had been pursuing their rights in court in a timely manner. The Court's 5–4 decision held that private actions pursuant to Section 10(b) and Rule 10b–5 of the Securities Exchange Act of 1934 must be brought within one year after the injured party discovers the fraud and no later than three years after the fraud has occurred. The majority disregarded years of lower court precedent and applied its new rule retroactively to all cases currently pending in federal courts nationwide.

The Lampf decision ignores the reality of financial fraud which is by its very nature complex, difficult to detect, and often perpetrated against the most vulnerable in society. Because of Lampf, victims of some of the worst financial scandals in recent history will be unable to recover their losses, a result particularly harmful for senior citizens dependent on pension and other retirement investment income. A shortened limitations period protects the most stealthy and sophisticated criminals, while punishing pension funds and other innocent investors. As Justice Kennedy wrote in his dissent to Lampf, the majority simply tips the scale too far in favor of wrongdoers.

Here is a sampling of just a few of the financial manipulators who will not need to compensate their victims because of the legal loophole created by Lampf:

Executive Life Insurance CEO Fred Carr and assorted securities firms that are the subject of eight consolidated fraud cases filed between April and December 1990 have already sought to have their cases dismissed under the new, shorter limitations period. Meanwhile, thousands of workers and retirees lost significant portions of their meager monthly pension checks because of that long concealed scandal.

In Anixter v. Home-Stake Production Co. the Tenth Circuit Court of Appeals recently dismissed a $310 million jury verdict against the perpetrators of one of the most widely publicized financial scandals of the 1970s. In that case thousands of investors were swindled by a Ponzi scheme, a sophisticated fraud that can maintain the illusion of a profit-making enterprise for many years. The Court cited Lampf and noted the draconian nature of the result in its opinion.

The Kansas Professional Employees Retirement System recently dscovered that it was the victim of a complex fraud that occurred over 3 years ago. That pension fund's beneficiaries will suffer a multi-million-dollar loss if the Lampf decision stands.

We agree with S.E.C. Chairman Richard Breeden that private fraud suits are an essential element in enforcing federal securities laws since the S.E.C does not have adequate resources to detect and prosecute all violations of the federal securities laws. Because Rule 10b–5 violations inherently involve fraud and concealment, the removal of a meaningful opportunity for private action by security holders is an invitation to abuse.

The purposes of the securities laws—to deter fraud and to preserve investor confidence in the market—are well served by this remedial legislation. We therefore support and urge swift Congressional approval of H.R. 3185.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

Mr. BACCHUS. Mr. Speaker, I voted against S. 543 today because I am very concerned that this legislation opens the back door of the Treasury wide open to a taxpayer bailout of commercial banks that could rival the scandalous bailout of the savings and loans.

S. 543 recapitalizes the Ban Insurance Fund through a loan from the taxpayers that is supposed to be repaid from across-the-board increases in bank premiums. FDIC Chairman William Seidman recently stated that the banking industry could not sustain the increase in premiums needed to repay the loan. Significantly higher premiums would undoubtedly cause more bank failures, with the taxpayers footing the bill. And under the financing scheme included in S. 543, the only alternative to higher premiums would also be to have the taxpayers foot the bill. I would have preferred to have the most profitable banks, with the most capital, loan the needed money to the BIF, as they offered to do. We should go to the taxpayers as a last resort, not a first resort.

Mr. MACHTLEY. Mr. Speaker, it has now been almost a year since the closure of Rhode Island's credit unions. Thirteen institutions remain closed, over $1 billion remains frozen, nearly 20 percent of Rhode Island's citizens remain without their money.

Since that day in Rhode Island's history, times have gotten worse. Rhode Island's unemployment has skyrocketed to 9.8 percent. Our State deficit is among the highest in the Nation. To put it simply, We are in a depressed recession.

Travelling through my district, I have personally heard and received thousands of letters and calls since the crisis occurred from helpless citizens who have their life's savings frozen in the closed credit unions.

I constantly hear about the deep economic difficulties this crisis is causing in my State. My constituents want to know how do they pay for the basic necessities? Their rent? Their mortgages? Their children's education? Their medical bills? Their groceries? How can they go on if all of their money is tied up in institutions whose doors have not opened for a year?

Over the past 11 months, members of Rhode Island's congressional delegation have been working hard to create a Federal response which will not cost the American taxpayer one penny. With the strong support of Chairman Gonzalez, the conference report to H.R. 3768 includes a $180 million Federal loan guarantee for Rhode Island.

This provision, which has passed in the House in every prior banking reform bill, has been scored as budget neutral by the Congressional Budget Office. This provision to the conference report allows Rhode Island to borrow money for the sole purpose of repaying depositors whose accounts were frozen as a result of the insolvency of their private insurer.

I strongly support adoption of the conference report and urge other members to support it as well.

Mr. MARKEY. Mr. Speaker, I rise in support of S. 543, and seek to focus my remarks in particular upon Section 476, which is a compromise version of H.R. 3185, the Securities Investors Legal Rights Act of 1991, which I introduced earlier this year with Chairman DINGELL, and Messrs. WYDEN and HARRIS. The adopted compromise rights at least the most egregious wrong of last summer's Supreme Court decisions, Lampf versus Gilbertson. This section would reverse the Court's retroactive application of that decision to dozens of cases across the country brought in the Federal courts by defrauded investors.

For the last 4 years, I have worked with my colleagues at the Telecommunications and Finance Subcommittee to expand the rights of small investors and the sanction authority of the Securities and Exchange Commission in confronting securities fraud, through legislation on insider trading, stock market reform, enforcement remedies and penny stock reform among others. Yet with one stroke of the pen last spring, the Supreme Court of the United States plunged a sword directly at the heart of victims of securities fraud. In that one action, the case of Lampf versus Gilbertson, the Supreme Court signed over a multibillion dollar check to Michael Milken, Charles Keating, and a coalition of special interests which produced the financial wreckage of the 1980's. And threatened as well the recovery of billions of taxpayer dollars in S&L and bank failures attributable to securities fraud.

On November 21, 1991, I released a compilation of the effects to date of the Supreme Court's ill-considered decision to impose a severely restricted statute of limitations on securities fraud actions. As of today, over $650 million of securities fraud claims have been dismissed in suits brought all over the country long before the Supreme Court's decision. More shockingly, over $4 billion of fraud claims, including those against Milken, Keating, and Fred Carr, are threatened with pending dismissal motions solely as a result of Lampf, and that decision's retroactive application to every securities fraud case pending as of last summer.

For over 50 years, victims of securities fraud could file civil law suits pursuant to Section 10 of the Securities Exchange Act of 1934 under time limitations generally determined by appropriate State statutes, many with generous statutes of limitation. The Lampf decision reversed this long-standing practice. The Court ruled that any litigation instituted pursuant to section 10(b) of the Securities Exchange Act of 1934 and rule 10b-5 must be initiated within 3 years after the violation has occurred and within 1 year after discovery of the facts constituting that violation. Even more importantly, the Court applied its decision retroactively, denying thousands of victims whose cases are currently pending their rightful day in court.

In handing down its decision, the Court rejected the argument made by the Securities and Exchange Commission, among others, that it should have applied the explicit 5-year statute of limitations contained in the Insider Trader and Securities Fraud Enforcement Act, a piece of legislation I coauthored with Energy and Commerce Committee Chairman DINGELL and subcommittee ranking Republican member RINALDO In 1988. This 5-year limitation established an appropriate time frame for investors to uncover any wrongdoing while at the same time not punishing investors who may not discover the crime until a few years later.

The language of Section 476 unambiguously reverses the Lampf ruling's application of the 1-year and 3-year statute of limitations period to thousands of cases which were filed prior to June 19, 1991, and which were pending as of that data. Furthermore, it permits the reinstatement of any suit which may have been dismissed post-Lampf as a result of the Lampf decision.

As the statute specifically states, its application is to "any private civil action implied under section 10(b)" of the Securities and Exchange Act of 1934 "that was commenced on or before June 19, 1991." For all of those cases, without exception, the applicable limitation period is that "provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991." Thus, this language would apply directly to the case and parties of Lampf versus Gilbertson itself, insofar as that case was a "private civil action implied under section 10(b)" and was "commenced on or before June 19, 1991."

The 1980's left us a legacy of financial fraud unparalleled in its size and scope. From the crime factories run out of savings and loans to the chicanery in the junk bond market to consumer rip-offs in limited partnership rollups, we are only now beginning to sort through the financial damage done in that decade. The language contained in this bill will directly reverse an egregious Supreme Court decision and will prevent the stripping away of legal rights of thousands of Americans. While I hope and fully expect to address the broader concerns of H.R. 3185 early next year, at this time I urge the adoption of this compromise language to alleviate the immediate injustice posed by Lampf.

Mr. LEHMAN of California. Mr. Speaker, perhaps the most visible change to average bank customers in this comprehensive banking bill will result from provisions requiring banks and savings institutions to clearly and uniformly disclose the interest rate, fees, and terms of savings and checking accounts. In all of the protracted debate over interstate banking, deposit insurance reform, and insurance sales, it should not be overlooked that true bank reform is that which provides the consumer with the ability to make banks more competitive.

As the primary sponsor of truth-in-savings legislation through five Congresses, I have considerable interest in seeing this measure enacted. As you may be aware, truth-in-savings has been approved unanimously by the House since the 99th Congress. Final passage of the bill has been delayed over the years after being caught up in the ongoing struggle to enact broader banking reform. It seems appropriate that enactment of truth-in-savings legislation coincides with the culmination of this effort.

The truth-in-savings provision which I have shepherded through Congress will give consumers the necessary tools to comparison shop in what has become an increasingly confusing and complex financial services marketplace. The delay in enacting this legislation has only heightened the need for it. As the banking markets become more sophisticated and as new and innovative products and services are offered, the consumer's confusion continues to grow over where to invest, how yields are calculated, what fees will be incurred, and how minimum balances affect their interest. Simple and understandable disclosure of terms, fees, conditions, and yields will go far to improving customer awareness.

Passage of truth-in-savings reform is long overdue and I applaud its inclusion in this measure. Bank reform which serves the customer's interest is the most important bank reform of all.

☐ 1120

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. HOYER]. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

☐ 1130

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore [Mr. HOYER]. The Chair would simply advise the Members that the leadership is trying to work out some procedures with respect to legislation to be considered. That is the reason for the discussions that are ongoing. As soon as agreement is reached, the House will move forward.

ELEVATING EPA TO CABINET LEVEL

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute.)

Mr. BOEHLERT. Mr. Speaker, while we are waiting, I wonder if I might ask a question of the Chair.

The SPEAKER pro tempore. The Chair has not seen the bill on the calendar yet, just anticipating the gentleman's question.

Mr. BOEHLERT. Mr. Speaker, would the Chair like to borrow my glasses, because all of us would like to see on the calendar that bill which would elevate the Environmental Protection Agency to Cabinet level status, and we are quite concerned, Mr. Speaker, that it is unnecessarily being delayed.

The American people are being denied something that is very important that they want. Our colleagues in the House on a bipartisan basis are being denied something we very much want. Every single environmental group in the country is being denied something that they very much want. The Administration is being denied something that it has worked assiduously on for the past year with Democrats and Republicans.

Can we not, Mr. Speaker, have some hope that this will be on the agenda sometime before we take leave of this fine institution?

The SPEAKER pro tempore. Frankly, the Chair would advise the gentleman from New York that the only information the Chair can pass along to the gentleman is that it is not currently on the agenda that the Chair has before it.

Mr. BOEHLERT. I wonder, Mr. Speaker, if we might have a personal colloquy to discuss how we might get it on the agenda?

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The SPEAKER pro tempore. The Chair has answered to the extent of the Chair's knowledge.

The Chair thanks the gentleman for his inquiry.

Mr. BOEHLERT. I am in good humor, Mr. Speaker, despite the fact that we first appeared here about 24 hours ago to call attention to this shortcoming of this session.

I am ever hopeful, ever optimistic, and I thank the Chair.

The SPEAKER pro tempore. It is a good attitude to have.

APPOINTMENT OF MEMBER TO BRITISH-AMERICAN INTERPARLIAMENTARY GROUP

The SPEAKER pursuant to the provisions of section 168(b) of Public Law 102–138, the Chair appoints the following Member to the British-American Interparliamentary Group on the part of the House: Mr. HAMILTON, Indiana, chairman.

□ 1140

The SPEAKER pro tempore (Mr. HOYER). Again the Chair would call to the attention of the Members and others who may be interested that the House is waiting for an agreement. In these last hours of the session, the leadership is trying to move a few bills. There are some agreements that have to be reached before they get to the floor.

TAXPAYER BILL OF RIGHTS ACT OF 1991

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, last week, I was joined by a number of my colleagues in introducing H.R. 3838, the Taxpayer Bill of Rights Act of 1991. This important legislation is a well-balanced and responsible package of reform measures that will provide taxpayers with long-needed and significant protections in their dealings with the IRS.

H.R. 3838 is a bipartisan effort and was introduced with the unanimous support of the Ways and Means Subcommittee on Oversight. The bill contains 33 provisions, and almost 80 recommendations, addressing inequities or problems that taxpayers experience in dealing with the IRS.

H.R. 3838 was developed after the Subcommittee on Oversight conducted an extensive investigation into the problems that taxpayers frequently encounter with the IRS. Many of these problems were brought to the subcommittee's attention by Members of this body who had heard of the difficulties from their constituents. Further, to develop this bill, the subcommittee held a series of hearings and visited IRS processing and taxpayer service offices around the country to review their operations, practices, and procedures. We considered numerous recommendations for improving the tax system which were made by individual taxpayers, tax professionals, and IRS employees.

H.R. 3838 is a good, pro-taxpayer reform package. With regard to certain issues, I recognize that this is an ongoing process, and therefore, intend to continue working with the IRS, Treasury, and others to fine-tune and improve the legislation. I urge you to join with me and my colleagues on the Committee in supporting the Taxpayer Bill of Rights Act of 1991.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding.

Mr. Speaker, H.R. 3838, the Taxpayer Bill of Rights Act of 1991, I have had the opportunity to see the Dear Colleague letter of the gentleman from Texas, and I think it is a very fine piece of legislation and will be glad to support it.

Mr. Speaker, I wonder if the gentleman from Texas might join in supporting legislation that I am planning to introduce later today. It is called the Environmentalists Bill of Rights. It will give to the environmentalists and all those people across America, and our Republican and Democratic colleagues in this House, what they want and very much deserve, and that is cabinet-level status for the Environmental Protection Agency.

I think, as my colleague from Texas knows, the United States is the only developed Nation in the industrialized world that does not have cabinet or ministerial level for its top environmentalists in the Government. That is something I would like to correct.

I am sure my colleague would like to help in that.

Mr. PICKLE. I would be delighted to have a copy of the gentleman's bill and to join his name to the measure that we have introduced.

Mr. BOEHLERT. I thank the gentleman.

THE ADMINISTRATION, NOT CONGRESS, IS TO BLAME FOR THE DELAY IN FUNDING RTC

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, last week I received a letter from Peter H. Monroe, President of the Oversight Board of the Resolution Trust Corporation. In part, Mr. Monroe says that congressional delay in providing funds costs taxpayers $4 million for every day that funding is delayed.

I suggest that Mr. Monroe does not have his facts straight. It is the administration, not Congress, that has delayed RTC funding.

On May 28, I wrote to Secretary of the Treasury Brady asking him to send an RTC bill to the Congress immediately to avoid any last minute delays.

The administration did not send a bill to Congress for 129 days, and in fact, it was only after the gentlewoman from New Jersey [Mrs. ROUKEMA] introduced her own bill, that the administration finally sent up its bill. Using the administration's own figures, the 129-day delay means that the administration's unwillingness to forward a request to Congress amounts to a $516 million cost to the American people.

The RTC may not be good at placing blame, but it does know how to spend money. Only Imelda Marcos in a shoe store can spend money faster than the RTC.

□ 1150

THE RIGHT OF EVERY AMERICAN: COMPREHENSIVE HEALTH CARE

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I hope when we return that we will address what I consider to be a crisis in our country, and that is that we have 37 million Americans who have no access to health care, and we have another 40 million who are underinsured, and 8 million who are in need of long-term care; that is, home care and nursing home care. In our country one must be dirt poor to be able to get quality nursing home care, and it demeans families who have children with chronic diseases, and it demeans elderly who have saved all their lives for their golden years and all of a sudden find themselves in a predicament to get the kind of care they need.

Mr. Speaker, I think we can do it cheaper and with higher quality than the average American has today, even if one has insurance. We spend $750 billion in this country on health care. We spend 12.5 percent of our GNP. Canada spends about 8.5 percent; France, and England, and Italy, and Australia, about 8 percent of their GNP, and yet we have all of these American people, most of whom are from working families, who have no access to health care.

Mr. Speaker, I have a bill that will do just that, H.R. 8. I think we can have a high standard of coverage with acute care, with preventative care, wellness programs for children, immunization, mammography, prostate screening for men, and all the other important early detection and preventative health care needs, and more dollars for research so that we find cures to diseases. We include long-term care with homemaker

services and home services, and it costs about five-sevenths of what the American people pay today, so we can do it better in this country.

We should have, as every American's right, access to comprehensive, high-level health care. We are the only industrialized country, besides South Africa, that does not guarantee that right.

So, my colleagues, let us commit ourselves to listening to the American people. I do not think we are listening the way we should, and I certainly do not think the President has health care on his agenda. So, let us commit ourselves to what I think is a right of every American, comprehensive health care.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3435, RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102–408) on the resolution (H. Res. 320) providing for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 320 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 320

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes. All points of order against consideration of the bill are hereby waived. Immediately after dispensing with the first reading, the bill shall be considered for amendment. No amendment to the bill shall be in order except: (1) the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill; and (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution. Each amendment shall be considered as having been read and each shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Neither amendment shall be subject to amendment, and all points of order against the amendments are hereby waived. If both amendments are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit, which may contain instructions if offered by Representative Michel of Illinois or his designee, or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 320 is the rule providing for the consideration of H.R. 3435, the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. The rule provides no separate time for general debate. The rule makes in order only two amendments: First, the Banking Committee amendment in the nature of a substitute now printed in the bill, and second, the Barnard substitute now printed in the report to accompany the rule. Each substitute is debatable for 30 minutes.

The substitute amendments are considered under the king-of-the hill procedure. Under this procedure, only the last amendment adopted is finally adopted and reported back to the House. The substitutes are not subject to amendment, and all points of order are waived against the amendments.

Finally, the rule provides one motion to recommit without instructions, or one motion to recommit with instructions if offered by Representative MICHEL.

Mr. Speaker, this is a vitally important bill. It provides the funding needed to continue the work of the Resolution Trust Corporation and to make some needed improvements in the structure and operations of the Corporation.

Mr. Speaker, this rule permits the House to complete its business quickly, and fairly. I urge adoption of the resolution.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. speaker, given the controversial nature of the RTC funding bill and the time constraints we face, I believe this is an appropriate rule, and I will support it. The RTC has run out of funds to continue closing down as many as 400 insolvent institutions that remain open. Delaying this legislation will only add to the costs to the U.S. taxpayer, as much as $400 million by February.

In addition, the bill does not contain many of the objectionable provisions that worked to undermine the legislation reported out by the Committee on Banking, Finance and Urban Affairs on November 20. However it does include reforms to expedite the sale of assets of failed thrifts, which is very important. It also streamlines what many people have found is inefficient management at the Resolution Trust Corporation.

□ 1200

Mr. Speaker, I am deeply disappointed, however, that the rule does not make in order an important Republican amendment containing a package of economic growth incentives. That package would effectively reduce the cost of the savings-and-loan cleanup by addressing the economic problems that have contributed to thrift failures.

At the same time, it would help struggling families by lowering taxes, creating jobs, and expanding the economy. It acknowledges that the economic downturn is led by the real estate industry, and we are willing to provide the incentives to improve real estate values and lower the cost of the RTC's funding needs.

I am very heartened to know that the President will be working with us to submit a comprehensive economic growth package following his State of the Union Address. I believe, in light of the fact we have offered several Republican amendments in the Committee on Rules and failed in our effort to get those in, that we should proceed.

We have a number of requests for time. I will end up supporting this rule, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, during the debate on the RTC funding legislation, it will be alleged that congressional delay in passing the funding costs the taxpayers $4 million for every day that the legislation is not passed. There are figures that are put forth by the Resolution Trust Corporation itself.

While I do not want to dispute what delay costs the American taxpayers, I strongly challenge the assertion that the delay in getting funding for the RTC is the fault of the Congress.

The delay in gaining RTC funding is squarely on the back of the administration. It was the administration that delayed RTC funding, not Congress, and once Congress started an RTC bill moving through the Banking Committee, it was the RTC that lobbied against most of the reform provisions that were attempted to be placed in the RTC funding bill. In short, the RTC wants to money, but it does not want to do anything to make sure that the taxpayers are protected.

On May 28, I wrote to the Secretary of the Treasury in my capacity as chairman of the Financial Institutions Subcommittee, asking him not to delay in sending an RTC funding bill to the Congress. I pointed out that we could not wait until the last minute to deal with RTC because of the many needed reforms that had to be placed in the bill.

I promised the Secretary an immediate hearing on the legislation, but I had to wait 129 days before the administration sent up its funding request. In fact, the administration only sent up its funding request after the gentlelady from New Jersey submitted her own bill on RTC funding.

Apparently embarrassed that it had dropped the ball, the administration, shortly thereafter, sent up its own bill, but once again, 129 days after I had asked the Secretary of the Treasury to send a bill up immediately.

Mr. Speaker, if there was such urgency in the RTC funding, why did the administration wait nearly a quarter of a year before sending Congress a bill? Based on the RTC's own figures, the delay costs $4 million a day. The administration's delay in sending a bill to Congress has cost the taxpayer $516 million.

So if anybody wants to talk about delay during the debate let them talk about the administration's delay. Congress moved swiftly on an RTC bill after the administration delayed 129 days in sending it to the Congress. The administration must accept the blame for the delay, and it should not try to use Members of this House to shift the blame to the Congress where it does not belong.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. McCOLLUM], a hard-working member of the Committee on Banking, Finance and Urban Affairs, and the vice-chairman of the Republican conference.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today to urge my colleagues to defeat this rule, to vote down the previous question, so an appropriate rule can be made in order, because what happened in the Committee on Rules, and I think in the committee as a whole as well, is a real travesty for the American taxpayer.

We were not allowed to make in order amendments that would save, in my judgment and the judgment of many others, anywhere from $25 to $35 billion from the cost in the loss of the RTC in resolving thrifts in this country, and in addition to that, I believe, and in connection with that, we could have saved and may still be able to save as many as 70 or 80 institutions or more that may otherwise be closed unnecessarily simply because they are not able to meet capital standards and simply because of supervisory goodwill.

Two amendments were offered before the Committee on Rules by the Republican leadership task force. One of them was a comprehensive substitute.

I want to say up front that this has nothing to do with the growth plan that you are going to hear discussed here in a minute that the Republicans authored. This is a comprehensive substitute that in and of itself, freestanding, could have saved these billions of dollars if we had had a chance to vote on it out here today, but we have not.

This particular comprehensive substitute would have brought back a substantial portion of supervisory goodwill that is on the books at many of these institutions today, and I want to explain that more in a minute. It would have given the Office of Thrift Supervision the discretion to save many more, because it would have allowed him some time to make up for capital that they do not have right now in their standards and delinked what is going to be an increase in the capital standards very shortly to much higher standards connected with banks here next year. It would have given the Office of Thrift Supervision the discretion to halt a lot of real estate sales that otherwise would have occurred.

It would have also provided three economic growth incentives in itself, a capital gains tax reduction, partial reinstatement of passive-loss rules for real estate, and penalty for use of IRA's for the purchase of primary residences.

The thing I want to focus on most of all was an independent freestanding amendment that I offered before the Committee on Rules that was held nongermane by the Democratic leadership both in the full committee and the Democratic leadership of the Committee on Rules that would, in my judgment, in one fell swoop have saved $25 to $35 billion. That concerns what is known as supervisory goodwill. That is what a lot of savings and loans took on the books in an agreement with the Home Loan Bank Board back in the decade of the 1980's, in return to take on some failing savings and loans.

These were healthy savings and loans we are talking about who took this on with the promise that they would have 40 years to pay it off. In 1989 we decided that that was not such a good idea. It probably was not. But instead of giving them a reasonable time to pay back that goodwill and pay it off and raise capital in other ways, we said you have got to get rid of that, or it cannot count towards capital over the next 5 years. We now have gotten rid of or closed through the RTC and the Thrift Supervision Office most of the really bad savings and loans. We now have quite a number of institutions out there with about $4 billion of this supervisory goodwill that are perfectly healthy, whose core earnings are good, who are in the black, under regular management, but we are about to close them.

We have no need to do that. We have no business to do that. For about $2 billion we can buy back supervisory goodwill from about 70 of these institutions.

The studies of the folks that are doing this closing can tell us, and have told us, that these institutions have about $180 billion in total assets. We also know that the closing costs to the RTC of closing these institutions is running now about 15 to 20 percent of total assets.

So it is very easy to see if we do not have to close those institutions you can save $25 to $35 billion, and the only cost is about $2 billion.

It does not make sense. There is one savings and loan in my area of Florida recently that was closed at a cost that was estimated by the Office of Thrift Supervision to be $170 million.

The cost of buying back supervisory goodwill from the otherwise healthy institution was running in the black on its core earnings would have been only $50 million, a savings to the taxpayers.

We could have saved the taxpayers at least $120 million in that one institution alone. That is an example of the folly of not buying back some supervisory goodwill when those are healthy institutions out there was only failing is the fact that they ar not going to be able to meet the capital standards we enacted in 1989, simply because of thise so-called supervisory goodwill that we contracted with them on that they took on at the request of the Goverment in the first place, a very egregious mistake.

I submit to my colleagues that it is a travesty for the Democratic leadership in the Committee on Rules not to allow us the opportunity today to save this kind of money.

We are being asked to vote for $80 billion in recapitalization of the RTC in order to take care of it over the next few years, in order to close down all of this.

We may get some other substitutes for short-term funding. We are talking about billions and billions of dollars. We do not need to be speding that. We could be saving a good hunk of that. We do not need to be closing all of those institutions.

We are making a horrible mistake here today by not having that kind of opportunity to have those savings.

I encourage my colleagues to vote against the rule; vote down the previous question. Let use have another opportunity at that, and if none of that succeeds, for gosh sakes, vote against the folly of what is out here today, and vote against the final passage of these bills.

□ 1210

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise merely to ask the nature of the rule. I have not had the chance to see the rule. My basic question is, what is the basic intent of the rule?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, the basic text is the Banking Committee text.

Mr. GONZALEZ. As it was approved by the Committee on Banking and Urban Affairs?

Mr. DERRICK. That is right. Then Barnard is a substitute, and it is a king of the hill rule. In other words, you will vote on the original text, then vote on the Barnard substitute, and then there is a motion to recommit with or without instructions by the gentleman from Illinois [Mr. MICHEL].

Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in support of the rule. I want to thank the Committee on Rules for folding in an amendment that I offered which built upon an amendment that was offered in committee by the gentleman from Texas [Mr. GONAZALEZ] and the gentleman from Ohio [Mr. WYLIE]. One of the reasons why I am convinced at times the American people do not support this agency and Congress as well is because of the lack of accountability. We hear of huge legal fees, the 7,000 people employed, the lack of computerized database, et cetera, and we wonder what are they really doing.

On the other hand, they have an awesome job to do. It is not easy to provide for this cleanup of the S&L crisis.

It seems very clear to me that the operations of the RTC have not been fully supported by the Congress or the American people. I believe this is because the Congress has not had sufficient information which allows us to carefully monitor and understand the many complex activities of the RTC. Specifically, we have not had the benefit of receiving regular quarterly and semiannual reports from the RTC regarding the progress of the sales of RTC assets, the progress made in auction sales of assets, the funding activities of the RTC, the use of seller financing to encourage sales of RTC assets, or the many other activities of this corporation. These are critical elements of the RTC's operations which need to be more closely monitored.

My amendment today expands upon the good work done by Chairman GONZALEZ. In addition, as an indication of its bipartisan support, language very similar to my amendment was offered by Mr. WYLIE as part of a substitute amendment he offered during full committee consideration of the RTC bill.

The language of the amendment includes quarterly reports from the RTC to the Banking Committees of the House and Senate which describe the following:

First, the total value of sales of RTC assets during the quarter;

Second, the total book value of asset sales;

Third, estimated fair market value of assets;

Fourth, net RTC recovery on the assets sold;

Fifth, subtotals by category of assets (i.e., commercial real estate, residential real estate, performing loans, nonperforming loans, etc.);

Sixth, the progress made on auction sales of assets;

Seventh, the amount and effectiveness of RTC's seller financing program;

Eighth, Federal financing bank loans status and activities;

Ninth, activities of the RTC Board; and

Tenth, activities and plans of the RTC to eventually phase out its operations.

I firmly believe we need to receive more information which gives the Congress and the public a better understanding of the complex operations of the RTC. This is the only way we can monitor the activities and the progress of the RTC in its mission to dispose of hundreds of billions of dollars of assets or the implications of the many other activities of the RTC. This is commonsense legislation which will result in a better run RTC.

So I was very, very pleased that the Committee on Rules allowed an amendment that would allow for RTC to regularly report quarterly and semi-annually to the progress of the sales of RTC assets to Congress, the progress made in auction sales of their assets, the funding activities of RTC, the use of seller financing to encourage the sales of RTC assets by a Federal agency.

Although some will point out by delay it is a $4 million a day additional cost to the taxpayers, perhaps that is not as great a concern as the fact that at this moment there are some 88 institutions which are now under RTC control representing 4½ million depositors around this Nation who are waiting on funding of the RTC to get their money back as a result of our inability to fund RTC activities.

The average size of those deposits is about $9,700. They are not large depositors, but there are 4.5 million of them around the country.

Much will be said about the failure of the RTC to act responsibly. Of 670 seized institutions, 582 have been sold or closed. Of $358 billion worth of assets under their control, over 60 percent, $210 billion, have now been disposed of.

But the more important issue as to how we got into this mess in the first place, of 871 criminals charged, 661 convictions have been rendered.

During the first 6 months of 1991, for the first time since 1986, the thrift industry has shown a profit. Now is not the time to turn our back on the industry.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Speaker, this amendment is an attempt by myself, Mr. WYLIE, Mr. VENTO, Mr. McCANDLESS, Mr. KLECZKA, and Mr. BAKER to provide an alternative for Members to consider on the floor. Given the very short time available to us to get a bill through the House and Senate, we have tried to develop an alternative whose major provisions are as close to the Senate language as possible with the exception of the RTC funding. The Senate bill provides $80 billion while our alternative provides such sums as are necessary until April 15, with a cap of $25 billion.

The RTC is a difficult vote for Members and this is our best judgment as to what Members of both parties can support on the floor. As you know, it is vital that we provide some funding for continued RTC operations, as costs rapidly escalate when insufficient funds are available to resolve institutions in receivership.

The amendment that we have crafted is designed to provide enough loss funding and working capital to carry the RTC through until at least the end of March. Hopefully we can reach a consensus on a longer term bill that will pass the floor by that time. As I just mentioned, we did not provide an absolute funding figure in the amendment, but instead provided a cutoff date of April 1 with a cap of $25 billion.

There are 88 thrifts in the resolution process and the RTC should resolve as many of these as possible to staunch the hemorrhaging and lower the cost to the taxpayer. Rather than try and guess precisely how much funding the RTC would need April 1, we decided to provide "such sums as necessary." This is not a blank check for the RTC by any means since the language we chose does not permit the RTC to obligate itself past April 1, effectively making it a drop dead date. Additionally, there are substantial operational constraints that prevent the RTC from excessive spending. They can handle only a certain number of institutions at any given time. A rough estimate of how much they would spend would be in the area of $20 billion.

In addition to the funding provisions, the amendment adopts the RTC restructuring provisions agreed to in the Senate which provide for a single board and which are a substantial improvement.

It retains the housing provisions of H.R. 3435 as adopted in the full committee. It retains the minority provisions adopted in the subcommittee print of H.R. 3435.

An alternative in this form would represent a good faith effort to acknowledge Congress's concern for the taxpayer and minorities as well as the need for affordable housing while getting on with the task at hand.

Thank you for considering my views and I hope that you will make this alternative in order.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], our chief deputy whip.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as we approach this rule, this will be our last chance to try to get an economic growth package in this particular session of Congress.

Let me talk about the parliamentary situation. By defeating the previous question to this rule, it would permit an amendment to be offered. That amendment would say within the rule that we would bring an economic growth package to the floor. That would give us a chance to debate that economic growth package.

Should we defeat the previous question, we would be recognized to offer such an amendment. We would be prepared to do that, and then we are also prepared to offer an economic growth package.

There has been some talk that no such package really exists. Here it is. It is 67 pages. It does in fact represent a significant attempt to get economic growth going in the country.

This is a bill where it makes sense to do it. The RTC would not need additional taxpayer funding in a growing economy. If you had a growing economy, the likelihood is that the recapitalization of real estate alone would ensure the solvency of RTC and we would not have to be here for large amounts of money.

This 67-page package that I talk about would save the taxpayers further bailout money and would put them back to work in those situations where they are unemployed. It would keep their jobs intact where they are working, but fearful of the future.

☐ 1220

After all, that is what America really wants. It wants jobs and it wants confidence in our economic future.

We can start down the road toward that kind of situation today and we can do so by passing this package.

We are likely to hear in the course of the debate about this package that somehow it does not represent a middle-class package. I know that there is a table being circulated that was brought up on the floor yesterday indicating that a substantial portion of this does not go to the middle-class. The fact is that they are only telling us part of the story.

First of all, only 2 of the 12 provisions in this package were analyzed in that study. Meaning that five-sixths of the package was not analyzed, much of which goes to the middle-class.

Let me give one example, eliminating the earnings test on social security was not analyzed. Yet that helps middle-income senior citizens to a great extent. It brings them down from a 70-percent tax bracket that many of them are in. And yet that is not analyzed as part of the Democrats' package.

It is also interesting to note that even the analysis that they had done indicates that people making between $20,000 and $30,000 a year, almost 55 percent of them are going to get capital gains tax breaks in this particular package; people making between $30,000 and $40,000 a year, 72 percent of them. That is middle-class America. And what it means is that we are not getting a real story about the nature of this package as it affects middle-income America.

I would ask that we defeat the previous question. Help us bring about an economic growth package by bringing it to the floor today, and I hope that we can effect passage of that package and get the economy growing again.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield two minutes and 30 seconds to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, we have just heard another description of an economic growth package. It is the 11th hour, the 12th hour now of the legislative session. We see the construction of it in the 12th hour, of a 27- or 47-page bill that has been written in recent evenings and without hearings.

We are told that we ought to pass this bill in order to jump-start the American economy. Some of the bill has been analyzed. We understand that the engine of this bill is a classic approach to provide capital gains tax reductions.

The question is, who will receive those tax reductions? The answer is very simple. The folks that have capital gains. Who has capital gains? A lot of people have some. So a lot of people get a very small benefit. But a few people have a lot, and those few will get an enormous benefit. The fact is, no matter how you describe it, this is not new. This is not improved. This is classic tax policy proposed by our friends on the other side.

About 70 percent of the benefit will go to those folks whose incomes are above $100,000 a year.

The fact is, anyone who seriously looks at this as a package is going to score it to say that this loses revenue. I know the Treasury Department has conveniently told them it does not, but the CBO and joint tax and others say this is a loser. So the proposition we have before us is to say, let us increase the federal deficit in the 12th hour of the legislative session so they can offer the wealthiest of the country a tax break.

Is that the way to jump-start the American economy? It is not the way to put this American economy back on track to solve the real problems, and are not the real problems that we have too much debt? It is not a case that the rich are not rich enough. We do not have to offer them more largesse with deep tax cuts.

What we have to do, it seems to me, is propose an economic package that does the basics, restores the old virtues. Pay your bills. The best thing we could do for the American economy is decide as Democrats and Republicans that we are going to start paying our bills and reduce the deficit.

When we reduce the deficit, this ship of state will be back sailing on the seas to the road to economic health again. That is the way to improve the economy of this country.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. speaker, for those of us who have looked at the package, is it not a fact that 57 percent of the tax breaks go to people over $200,000?

Mr. DORGAN of North Dakota. Mr. Speaker, yes. And 70 percent goes to those over $100,000.

Mr. RUSSO. Mr. Speaker, if the gentleman will continue to yield, and for those people over $200,000, they will get $11,000 tax cut, and people under $50,000 will get a whopping $85.

Mr. DORGAN of North Dakota. Mr. Speaker, that is correct.

Yesterday, when I learned of this package, I called it the dollar and a quarter tax cut. A dollar and a quarter a week to the middle-income families so they save up for 5 or 6 weeks, maybe they chip together and send one person to a movie with this tax cut to middle-income families. Of course, they do not have enough left over for popcorn, just one movie ticket, 5 weeks of middle-class tax relief. The folks on the other end, $11,000 a year tax cut to those whose incomes are over $200,000 a year.

Listen, that is tired economic policy that has failed. That is not going to jump-start this economy. Let us come up with some new ideas that help middle-income families, give them something to work with.

They will be the engine for this American economy, to get this country moving again.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. WEBER], the distinguished secretary of the Republican conference and a member of the Committee on Appropriations.

Mr. WEBER. Mr. Speaker, I rise in opposition to the rule. As has been stated quite well by the preceding speakers, the issue hanging over this Congress is indeed the economy. And this is the best of a bunch of poor vehicles available to us, admittedly at the 11th hour, to do something about it.

I oppose the rule because it does not afford us the opportunity to do something about the economy. Mr. Speaker, the economy needs help now. I am not going to talk about the details of the proposal. Other speakers are going to talk about that.

I would like to focus for a minute on something that I think Members on both sides of the aisle could agree on if we could get out of this supercharged last minute environment. Our economy is hurting a great deal. Yesterday we found that consumer confidence had dropped below the levels of the 1982 recession. I talk to people and they say they are puzzled by this. How can it be? After all, unemployment is not at levels that it was at at that time. We actually saw some small upturn in the economy in the last quarter.

Why is it that consumer confidence is going through the floor? There are a number of other indicators we have to look at to understand the depth of the economic problem we face right now.

The value of residential fixed assets has fallen 10 percent in this country in the last 18 months, Mr. Speaker. Why is that important? For the average middle-class American, the kind of people that my friend from North Dakota was just talking about, that is their only asset. Their only asset is their home and the possessions that are inside that home.

When they see the value of that asset falling, that sets off all sorts of red lights and warning signals in their minds about their own financial security.

I believe that that contributes materially to the drop in consumer confidence, even among people who are not unemployed and who do not have any great fear of being unemployed.

Housing starts are at the level of the 1920's. New business formation has fallen 5 years in a row, and that is where the engine of growth normally comes from in this economy.

We found out yesterday that the auto industry for all practical purposes has entered the double dip of this recession that many of us have been concerned would happen.

Mr. Speaker, all I am suggesting is, despite the fact that it is the 11th hour, we should act now. We should try to do something about the economy now.

The fact that it is the 11th hour, by the way, sort of does not state the fact that we have been here all 11 hours. It is not as if this issue crept up on us in the Congress.

We could go back over all the speeches in this well, and 1-minute speeches and special orders for the last year about the lack of action on a domestic agenda, lack of action on the economy. We knew there was a problem. We have been talking about a problem.

If we are now here incapable of acting at the 11th hour, we have no one to blame but ourselves.

Mr. Speaker, I further oppose this rule because of the issue itself, the narrow issue of the RTC. Look at the numbers. Eighty billion dollars so far has been spent on the RTC.

☐ 1230

Eight hundred thirty billion dollars so far, $830 billion more officially projected, of which we are going to authorize up to $25 billion, but the unofficial estimates range from $200 to $500 billion. What is that $300 billion swing all about? It is our inability to accurately predict the value of the properties held by the RTC. We are potentially playing with up to $300 billion more of our taxpayers' money.

We have to spend some of that. I understand that. I voted for the S&L bill. I feel it is a responsible thing to do. But today the responsible thing to do is to take those minimal steps necessary to assure that at least through tax policy we have enhanced the value of those properties to the maximum degree possible to minimize the cost to the taxpayers.

Mr. Speaker, I do not know if I am going to vote against this bill in the event that we fail to amend it. I do not want to vote for it, but I want to do the responsible thing. But I will tell the Members, beyond today I can guarantee them if we do not do some things like capital gains tax reduction and restoration of passive loss deductibility, which will enhance the value of those and all the other real estate properties in the country, this is one Member that feels that he has lived up to his obligation to help the savings and loan problem. I for one will not be voting for one more nickel down the RTC rathole as long as this Congress refuses to take those steps necessary to minimize the cost of that bailout.

Vote against the previous question. Vote against the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of this rule but will vote against the final bill, whether it has an open-ended appropriation in it or whether or not it specifies such sums as are necessary, or whether it says $80 billion or $60 billion more. I want to explain the reasons for that.

First of all, I think it is absolutely wrong that, as last year, we bring up such an important measure in the closing minutes of this session. I think it is absolutely wrong, and I do not thank the leadership on either side of the aisle for doing that to us and to the American people.

All of us here understand our responsibility to protect the depositors of this country. We understand that and we do not like being told that we do not understand that as part of this measure. But what is wrong about this bill is that it again asks the average taxpayers of our country to bear the costs of the S&L bailout. They have already paid up to $110 billion and the GAO estimates that overall they will end up paying over $371 billion. We have to ask the important question: If the taxpayers are going to be asked to pay the costs, what are the benefits that can go to the average taxpayer.

I have four proposals. All we are being asked to vote on here is the Bush bond bailout scheme. Basically the committees here gave to us the Bush proposal to vote on, which I do not support at all.

Alternative financing proposals have been offered. One involves the measure by the gentleman from Louisiana, BILLY TAUZIN, that would give tax exemptions to average depositors who put money into federally insured institutions, and it says to them if they put in up to $500 they do not have to pay Federal taxes on that. Revenue costs of that are about $1.2 billion, but it would help to promote savings inflows in institutions.

Mr. Speaker, I will give the other three proposals during a succeeding time.

All of those who serve here understand our obligation to protect the deposits of the American consumer in our Nation's saving and loans and banking institutions, but the question of a Member like myself is: At whose expense? Who should be paying to protect those deposits?

Mr. Speaker, essentially what has been happening is the administration's bill asks the taxpayers, the people listening, again to shoulder a S&L bailout. The U.S. taxpayer has already buoyed up failing S&L's to the tune of $110 billion. Our tax dollars are going to pay for the damage just in that industry, and economists estimate that taxpayers will be asked to add as much as $115 billion, not million, billion dollars more to that total, and then the General Accounting Office tells us that the overall cost of the bailout may rise just for the savings and loans as high as $371 billion before it is all over.

The pit truly seems bottomless. The focus should be on how to pay for the damage in this S&L debacle and do so on behalf of the American taxpayer.

The Bush bill is appallingly deficient on balancing taxpayer costs, the taxes the taxpayer is being asked to pay, with the benefits that go directly to the taxpayer. In essence what has been happening here in Washington is that the Bush administration and the banking industry, in alliance with powerful States that have the most to gain from this administration's proposal, have succeeded, succeeded in diverting public attention away from the cost of the taxpayer bailout and who is paying for it.

Meanwhile, the hidden interest payments on the Bush bond scheme to pay for the S&L mess and flow out of the Treasury to the tune of billions each year, and the American taxpayer has nearly forgotten that this in fact is going on.

Alternative financing proposals have been quashed in various congressional committees. The tax committees in both Chambers, the Committee on Ways and Means in this Chamber, essential to finding a fair solution to paying for this, have remained resoundingly silent.

Members of Congress like myself want a Democratic alternative bill that is fair to the average American taxpayer. They must benefit directly from the costs they are being asked to bear. There are plenty of ideas that hold promise. It is amazing to me that the financial press, the committees of jurisdiction, and brilliant economists have chosen to be so vastly uncreative in fashioning a fair answer for the American public who are paying the bill.

I want to just discuss four approaches that can be taken to resolve this serious financial crisis in the S&L industry. One part of the answer involves focusing on restoring healthy banks by encouraging more deposit inflows into those institutions. In this way, Federal policy could change from what it is today, merely propping up sick institutions and going bankrupt while you are doing it, to, rather, building healthy institutions.

For example, a proposal has been introduced in this House by my colleague, Congressman BILLY TAUZIN, called the Save America Act of 1989. This legislation exempts from taxable income interest up to a certain level earned in passbook savings accounts in federally insured institutions, so if you are a depositor out there and you put your money in a bank or a savings and loan or a credit union, up to a certain level the interest you earn would be tax free.

That tax incentive would create huge increased deposit flows to banks as well as savings and loans and other financial institutions like credit unions, and those very institutions would be able to improve their capitalization, they would be able to pay their assessments in taxes, they would be able to make safer investments, and most of all they would be able to cut their umbilical cord to the U.S. Treasury. Taxpayers would directly benefit from such an approach, and the costs that the taxpayers are currently paying would actually accrue back to them in the form of reduced tax payments to the Government of the United States.

Now, the institutions that would be benefiting from the deposit inflows would be asked to pay more in taxes, but that is only fair. And in this case the permission to remain in business and to receive increased deposit flows would be taxed by the Government and those taxes would go to pay for the bailout that is needed in the industry.

You do not hear much talk around here about how to make institutions more healthy. The talk always here is about how to prop up sick institutions.

A second set of choices involves how to democratize, and I like to use that word, the bond offerings that are currently in place to try to pay the cost of the bailout. Now, most of the American public does not realize that the way that this is being paid for currently is that every month the U.S. Treasury markets securities, and that the bailout bonds that are being used to pay for the insured accounts, depositors' accounts in institutions, are actually being floated by our Treasury Department.

In fact, these bonds are really not being sold to the average American taxpayers. What happens is that the majority of them are sold through 20 Wall Street bond houses which get really nice fees from the taxpayers for acting as intermediaries, and then those bond houses offer them to those who are in the buying public of bond buyers. Only about 10 percent of the people in our country currently purchase bonds. This certainly is not a very democratic system.

My idea would be to ask the Treasury Department to change the way that it markets and sells bonds, to make them broadly available to the American public. But I will tell you this, the Treasury Department will hate this idea. So will the Federal Reserve, because they have gotten real comfortable in dealing with those 20 bond houses, and you have seen recently how some of them have gotten in real trouble as a result of their finagling up on Wall Street and taking advantage of their special relationship.

But in view of the hemorrhage we are dealing with in this industry, U.S. taxpayers must be convinced that their sacrifices have a return, and if they are going to be asked to pay any of the bill on these banking messes, then by golly, the Treasury Department of this country which is asking them to pay for it should give them a benefit in the form of a bond that they can buy and earn the interest on. Business as usual at Treasury securities offerings can no longer prevail.

The average citizen of our country does not even know where to go to buy a Treasury security. In fact, only 25 percent, just one quarter of U.S. households, even own savings bonds, and the U.S. Treasury continues to sell bonds through its cozy relationship with about a dozen and a half bond houses up in New York. It is really time to democratize the sale of U.S. Treasury securities through banks, through savings and loan, through credit unions. My gosh, we could even do it through post offices.

Let average Jane and Joe Citizen earn the 8 to 9 percent interest the big bond buyers enjoy. You know, America used to do that, until our financial industry became so concentrated. We have all seen what happened with Salomon Bros. recently when they took advantage of their special relationship with Treasury and all their big CEO's and presidents had to resign up there in New York.

Would it not be wonderful if bonds in denominations of as low as $25 could be made available to the ordinary consumer? You would think that is what the U.S. Treasury Department, which collects taxes from every one of those consumers, you would think that would be the business they were in.

Not so. The U.S. Treasury, which loves to collect taxes from U.S. citizens, should be directed in a bill that comes out of this House, a Democratic bill, to design a bond offering to benefit the taxpayers footing this bill.

A third set of choices in how to dig ourselves out from under the S&L mess involves targeted taxes and plugging tax loopholes to raise the needed revenue. Over a 5-year period it would be reasonable to impose temporary surtaxes across the financial service industry which benefited from the S&L scam and bank transactions.

It is really amazing that no such idea has been offered yet. But if you watch the corridors of power in Washington, you can understand why. Instead, hard-working taxpayers struggling to get by in this recession. American people who are unemployed in my district and cannot even get the benefits of more than 6 weeks of unemployment compensation, are being asked to shoulder the load of this banking mess.

Two Members of the House Committee on Ways and Means, the gentleman from North Dakota [Mr. DORGAN], and the gentleman from New Jersey [Mr. GUARINI], have introduced a bill to plug tax loopholes for savings and loan owners that would recoup up to $5 billion by avoiding something called double-dipping in tax submissions by those institutions.

These funds could also then be applied to the amounts needed to salvage current problems within the banking industry. The gentleman from Massachusetts [Mr. DONNELLY], has introduced legislation to recapture overgenerous tax breaks which the S&L's received in 1988. I have been pushing legislation with the gentleman from Michigan [Mr. WOLPE], that passed in the Committee on Banking, Finance and Urban Affairs, but somehow never made it onto this floor, what would make States pay for the proportion of the cleanup which their own failed thrifts caused by requiring those States that incurred excessive costs to pay an extra Federal deposit insurance premium if the thrifts want to remain federally insured.

The gentleman from Pennsylvania [Mr. KANJORSKI] has introduced legislation to permit private civil suits to be filed to recover funds from those who have plundered our Nation's savings and loans. The gentleman from Massachusetts [Mr. KENNEDY] proposes to levy a tax on those who enjoyed the benefits of our financial system through the Fedwire and Clearing House Interbanks Payments system to raise billions annually.

Mr. Speaker, I bring up these examples in the tax system merely to point out that money could be raised in alternative ways to pay for the savings and loan and banking crisis. Those bills have not been permitted here on the floor.

A fourth set of solutions involves getting rid of weaknesses in the current financial system that caused the problems in the first place, most especially overly generous deposit insurance in multiple accounts. Let us put together a bill that helps our real constituents—average Americans, sick of paying for the high times and the cunning of the few during the 1980's.

Mr. DREIER of California. Mr. Speaker, I would like to respond to the statement made by my good friend, the gentlewoman from Ohio [Ms. KAPTUR], and state that the figures we have been hearing of $60, $70, and $80 billion are not in fact, on track. We got an amendment from the Committee on Rules which has this structured as "such sums as may be necessary, not to exceed $25 billion."

Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, 26 hours ago I came here at the beginning of the mother of all sessions, and before I get into my remarks I want to commend the chairman and the ranking members and all of those who worked very hard and diligently through the night on all of these conference reports to get them to the floor and to have them voted on, and I want to offer my congratulations on doing so. It was very important work.

I also want to comment on the civility of the debate throughout the evening. I am on a half hour's sleep tonight and a lot of Members likewise, and I think we have all handled ourselves very responsibly and respectably. As a freshman Member I want to comment on that, and encourage the action to continue. I will try to depart from that decorum.

But 26 hours ago I came here and asked in a 1-minute speech that we consider an economic growth package. This is our opportunity. This is the vote on the rule to allow us to have an opportunity to offer our economic growth package today here on the floor before we leave.

Many speakers have already gotten up on our side and talked about what is in the package, and those on the other side have responded. If I can make a couple of comments, the gentleman from North Dakota [Mr. DORGAN], just made the statement that we got the Treasury Department to score this and they will do whatever we want them to do. I would remind the gentleman from North Dakota that in the budget agreement of last year the Treasury Department is responsible for scoring. We accepted that. They scored at $400 million plus. We accept that.

The gentleman from North Dakota [Mr. DORGAN], also said that the real need is for budget reduction. In the next couple of months the Republicans are going to be, or at least some members of the Republican Party, are going to be offering an alternative package that makes a budget reduction, and I extend my hand to the gentleman from North Dakota and Members on the other side of the aisle to come back here next year and to try to do spending cuts and deficit reductions, because I agree with the gentleman that we do need to do something.

I want to compliment the chairman of the Committee on the Budget for the work he has been doing on trying to find areas where we can cut spending to reduce the deficit.

The other thing I would like to comment on is the chart that the gentleman from Illinois brought to the floor, and has been referred to about the redistribution effects of this proposal. This chart is irrelevant. I would say to the gentleman from Illinois that we are proposing an economic growth package to create jobs, not an economic redistribution to create votes. This is not a relevant chart. What is relevant is to show how many jobs are created.

I would agree with the gentleman from $100 to someone making $200,000 a year may not be a substantial amount of money, but a $25,000 job to someone who is unemployed is a very substantial amount of money, is important to those people, and that is what this package is about. He is arguing apples and oranges.

What we are talking about is jobs. What we are talking about is growth. We are not talking about the Government redistributing the income of this country. That is the relevant issue, not this.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding time to me. I rise to support the rule and the previous question. I would say that someone commented that the reason the S&L's are problems is because of our tax policy. Indeed that is the case. In 1981 we passed a tax policy that did not make business sense; it made tax sense one could receive a tax break, a big tax benefit by investing in buildings and overbuilding and doing a variety of things, and clearly the S&L's financed that, the banks financed that. Now we are sitting with 25 percent excess commercial property in most parts of the nation and such property is not occupied.

In 1986 we passed the tax bill to correct the 1981 tax law. We corrected it, all right, and the fact of the matter is overnight some of those investments that made tax sense and did not make business sense and went immediately into the red, and some of those S&L's lost money, and many investors across this country lost money.

Today we are being asked in the last minute here, without even the type of analysis that went into those other tax bills, which I think I have indicated that serious problems developed with such policy and some expect us to act on a package that was introduced just last night. Ideas, some of these have been around for a long time, that people are receptive to, many are new and unknown, I would just point out the folly of pursuing this type of policy. These issues, even when we think we know what we are doing, do not always come out with the right consequences. The examples of 1981 and 1986 stand as a caution. Hopefully we will heed it. Vote yes on the previous question and the rule before the house today.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, let me apologize to everyone who wants to catch a plane and get out of here. But do not blame those of us concerned about RTC. We are not the ones who scheduled it at 12:40 on Wednesday afternoon.

Let us understand why we are asking Members to vote no on a previous question in simple economics. We just by voice vote authorized the borrowing of $70 billion for FDIC. We now are going to commit $25 billion of taxpayer money to the RTC. That is $100 billion that this Congress is going to commit in less that 1 hour.

The reason we are concerned about what is happening is it is like providing blood transfusions to a bleeding patient without ever sewing up the wound. You cannot do enough if you do not solve the problem and only treat the symptoms.

□ 1240

The fact is the RTC and the FDIC have been told, liquidate your acquired properties as fast as possible. The net effect of that in a recession is to destroy literally the value of all other real estate around it.

What we are trying to do is get the opportunity to bring forth the economic growth package to restore some value in real estate so we do not have to come back next spring and add even more taxpayer dollars to the RTC.

First it was $50 billion, then it was $30 billion, up to $80 billion. Now we are going to provide $25 billion more to the RTC. That is $105 billion of taxpayers money to treat the symptom, not once trying to get at the disease.

Mr. Speaker, we have a chance to solve the problem if we vote no on the previous question. We beg you to do that, not in the interest of getting out of here, but in the interest of the taxpayers of this country and the economy that we are here to serve.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, as we approach the Thanksgiving season, I am sure that President Bush has visions of Camp David in his head. Instead, the President was badgered to think of Camp Gingrich, and to try to embrace this last-minute scheme by our Republican colleges to try to jump-start the economy.

The centerpiece of the Republican's so-called growth plan is a reduction of the capital gains tax rate, in effect a tax cut for the wealthy.

Let us be honest. Is this the right medicine at this time for our economy?

Take a look at the holiday season we now face, a season critical for our Nation's economy, particularly for our retailers. At this moment American consumers, American families are deep in personal debt. They fear layoffs and dismissals. There is real uncertainty about our Nation's economy and its future.

Can we overcome this recession mentality, this consumer reluctance, by giving an $11,000 tax break to people who make over $200,000 a year?

The Republicans would calm the fears of working families by giving massive tax breaks to millionaires.

In my mind, this is not the way to come out of this recession. A real growth plan does not put Donald Trump on Santa's knee with a longer wish list. A real growth plan goes back to the traditional Democratic approach which we favor and support in several pieces of legislation.

Give the tax break to working families. Have the wealthier Americans pay more. Give the spending power back to the working families who had to sacrifice through 10 years of Reagan-Bush supply side economics. That in my mind is more sensible. It is fair and it will work.

The so-called Republican growth plan is still unfair. It gives the tax breaks to the people who do not need them and sacrifices the kind of economic growth we need for America's working families.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the Republicans have a tax package and they think it is good. A first look says to us that it is a giveaway to those over $200,000 a year. Now, maybe it is better than that. Maybe it is only a giveaway to those with $175,000 a year and above.

The point is let us not rush. Let the Ways and Means Committee look at it, the Republicans and the Democrats.

I want to remind this body that the last time a Republican Member of the Senate had a good idea, which he got from the President, dealing with credit card caps, and maybe it is a great idea, it was acted on rashly. The market dropped 125 points. I used to be a stockbroker. I know how volatile that can be.

Let us not make political points here. Let the Ways and Means Committee do its job. Let us look at a true economic growth and investment and incentive package in a bipartisan way and get this country moving again.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. EDWARDS], the chairman of the Republican Policy Committee.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I oppose the ordering of the previous question because we have here a rule that excludes not only the economic growth package that some of us feel very strongly this Congress ought to deal with quickly, but because it excludes consideration of the McCollum amendment, an amendment that in my opinion is necessary to send a message that is the responsibility of the regulators not to rush into situations that close down thrifts, but to find ways to keep them open.

I have a situation in my part of the country where we are not only having property dumped on the market and destroying real estate values, but that we are finding thrift institutions could be forced out of business.

It seems to me that the people who are running the RTC need to get a clear signal from the Congress that that is not the way we want business done and we cannot do it with this kind of a rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of the rule and obviously in support of ordering the previous question.

I think all of us share a common concern and a deep concern about the state of the economy. We are, as has been pointed out by both sides, looking at the weakest economy in the postwar era, whether you are looking at growth, productivity, unemployment growth and the deficit.

The most important thing is that we are dealing with a very fragile and sensitive economy and something that we ought not to just take for granted.

It is a sensitive and fragile economy and not one that we ought to simply take for granted or try to play political games with at this point in time.

The worst thing we can do right now, the very worst thing we can do in the Congress, is to raise expectations of the public that somehow there is a quick fix or a magic solution to the problems that confront the economy. It is going to take a lot of hard work on both sides to develop the kind of comprehensive program that does not just try to provide some tax incentives, but also looks at meaningful investments within our economy that will provide the kind of long-term growth that all of us are interested in.

The worst thing we can do right now is to take up a tax proposal that has had absolutely no hearings in the Ways and Means Committee, that has had no one focusing on the consequences of this proposal. It is a 60-page proposal that was developed, obviously, within the last 24 hours in terms of legislative language. That is not a way to do business when you are facing a fragile economy.

Last, the worst thing we can do is repeat the mistakes of the past. I get very suspicious when the promise is made that somehow we can cut taxes for everyone, particularly the wealthy, and that it will not involve any increase in the deficit.

I heard that same promise in 1981 and we have reaped the whirlwind.

This is not the way to do business. We can do better. The American people expect us to do better. The President of the United States can do better.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from San Diego, California [Mr. HUNTER], the chairman of the Republican Research Committee.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is not a last minute Johnny-come-lately proposal.

I looked over the statistics the other night. President Bush in the last 24 months has brought up his economic growth plan in 95 speeches. He has given 27 press conferences in which he brought up his economic growth plan. We have worked long and hard to put this together.

Now, 8.6 million Americans are unemployed as we leave for the holiday. I

think we have to conclude that an economic growth and jobs plan is the unfinished business of 1991 for this Congress.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

First, Mr. Speaker, let us be clear what we are doing. The RTC which was created in 1989 after the problems that the savings and loan industry had during the 1980's, what the committee and the Congress did was to give President Bush and his Treasury Department exactly the structure it wanted to have. That was the way that you wanted it structured and that is the way we have it.

Since then, there has been a drain on the Treasury that has come from having to pay off depositors; so the question is whether or not you want to pay off the depositors or not.

□ 1250

Now, one argument we had today was we should not vote for this now because it does not include supervisory goodwill.

Members should understand what supervisory goodwill is. It is from the "proof, you are a malted" school of creating capital. The man goes into the candy store and says, "Make me a malted." The man says, "Poof, you are a malted."

Supervisory goodwill is when somebody says, "I need some capital for my S&L," and you say in Congress, "Poof, you have some capital." There is no money there. Supervisory goodwill is not good currency; the ruble has a higher understanding. It is simply an artificial construct.

To defeat this bill as we have been asked to do because it does not restore supervisory goodwill is to express a very strong nostalgia for never-never land.

Then we have the tax package. And I agree with my friend who says, well, from the standpoint of the tax package, this is not the 11th hour; it is the 27th hour. We have passed the international dateline already.

This is a tax package which as far as distribution is skewed to the rich and the gentleman from Pennsylvania quite honestly said the chart was irrelevant. Irrelevant is something you say in a political debate, something which is embarrassing and true. You cannot refute it, you say it is irrelevant. So they have now stipulated to the truth of the distributional facts that Members on our side have talked about.

Then what they do, they brought the tax package up without any real support in their own administration, too late to do any good. I think the most carefully planned thing about this tax package is if we have been in such a terrible economic situation, where was it in May, June, July, when people say we needed unemployment compensation?

It is a tax package carefully crafted to be brought out too late to possibly be voted on.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the chairman of the Republican Study Committee, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me, and I support defeat of the previous question.

Mr. DERRICK. Mr. Speaker, I reserve the right to close.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, let me yield myself such time as I may consume in order to make a brief remark before we move to close.

You know, in 1980 we were the largest creditor nation in the world; today we are the largest debtor nation in the world.

In 1980 we had an annual deficit around $60 billion. Now it is up between $300 and $400 billion.

In 1980 we had a debt, a total indebtedness of this Government of about $1 trillion; today it is about $3 to $4 trillion.

We did all of that in 10 years. We did that under two Republican administrations. And I do not give them all the blame for it. The Congress had to vote on it as well.

But I think we need to look at why that happened.

I think one of the reasons that that happened and one of the primary reasons is that someone always had a quick fix, starting out with Gramm/Latta in 1981, and moving on down through the 1980's.

The position that this country finds itself in today, and our country is hurting economically speaking, is that we are having to pay for the mistakes that we made during the 1980's.

I think it is really precipitous, and I cannot believe that anyone on the other side of the aisle is serious about taking up a growth package here at this late date when you have part of the economists who say it will cost the taxpayer $23 to $28 billion; you have other economists say that it is not going to cost anything.

You have some economists that say 70 percent of it will go to the very wealthy; others who disagree.

Mr. Speaker, these are things we need to have some reasonable certainty about before we move ahead with a package this far-reaching and this important. I do not say the package is all bad. Some of the parts of the package I have supported myself. But I think it would be very precipitous, very ill-advised and I think the people would look unkindly if we were to do that.

Mr. Speaker, having said that, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Vote was taken by electronic device, and there were—yeas 248, nays 144, not voting 42, as follows:

[Roll No. 444]

YEAS—248

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Beilenson
Bennett
Berman
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Bruce
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson

VOL 137
PT 24
NO 26
1991
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JA 3
1992
UMI

Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—144

Allard
Allen
Archer
Armey
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Camp
Chandler
Clinger
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Hunter
Hyde
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shays
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—42

AuCoin
Baker
Ballenger
Bevill
Brown
Bryant
Callahan
Campbell (CA)
Coble
Collins (IL)
Collins (MI)
Condit
Davis
de la Garza
Dickinson
Dingell
Donnelly
Dwyer
Dymally
Fish
Hansen
Hefley
Inhofe
Lancaster
Lent
Marlenee
Matsui
Mazzoli
Montgomery
Ortiz
Pelosi
Peterson (MN)
Pickett
Quillen
Rhodes
Ritter
Schulze
Shaw
Shuster
Smith (IA)
Waxman
Weiss

□ 1313

Ms. MOLINARI and Mr. RAVENEL, changed their vote from "yea" to "nay."

Mr. CARDIN, Mrs. KENNELLY, and Mr. SANDERS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The resolution was agreed to. A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 320 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3435.

□ 1314

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time and shall be considered as read for amendment. No amendment to the bill is in order except the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill and the amendment in the nature of a substitute printed in the House Report 102–48.

Each amendment is considered as read, and will be debated for 30 minutes equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Neither amendment is subject to amendment. If both amendments are adopted, only the latter amendment adopted will be considered as finally adopted and reported back to the House.

The Clerk will designate the committee amendment in the nature of a substitute.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

Sec. 101. Thrift resolution funding provisions.
Sec. 102. RTC working capital borrowing limit.
Sec. 103. Appointment by Director of the Office of Thrift Supervision.
Sec. 104. Extension of Resolution Trust Corporation duty.
Sec. 105. Suspension of RTC funding upon the failure to provide an audited financial statement.

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

Subtitle A—RTC and Oversight Board Restructuring

Sec. 201. Accountability of Oversight Board.
Sec. 202. Restructuring of Oversight Board.
Sec. 203. Oversight Board duties and authorities.
Sec. 204. Limitation of Oversight Board authority.
Sec. 205. Duties of the Resolution Trust Corporation.
Sec. 206. Management of the Resolution Trust Corporation.
Sec. 207. Restructuring of the Resolution Trust Corporation Board of Directors.
Sec. 208. Staff of the Resolution Trust Corporation; chief executive officer.
Sec. 209. Rights of employees upon sunset of RTC.
Sec. 210. Additional whistleblower protections.

Subtitle B—RTC Improvements

Sec. 211. Annual independent audit.
Sec. 212. Uninsured depositors not covered.
Sec. 213. Minimization of costs for services; distribution of contracts.
Sec. 214. Management and disposition of property by local office which is closest to the property.
Sec. 215. Restrictions on nonsalary compensation and benefits for employees.
Sec. 216. GAO study of privatization of RTC functions.
Sec. 217. Prohibition on use of brokered deposits by conservators of insured depository institutions.
Sec. 218. Pay comparability.
Sec. 219. Disclosure of certain RTC and Oversight Board salaries.
Sec. 220. Report required with respect to 1988 deals.
Sec. 221. Misuse of RTC name and logo.
Sec. 222. Procedural provisions.
Sec. 223. Cross-guarantee provisions.
Sec. 224. Qualified financial contracts.
Sec. 225. Attorney-client privilege.
Sec. 226. Statute of limitations for receivership claims.
Sec. 227. Prohibition on RTC contracts with debarred or suspended contractors.
Sec. 228. Utilization of HUD multifamily insurance.
Sec. 229. Expansion of securitization program.
Sec. 230. Examination of asset management contracting process.
Sec. 231. Preservation of the value of partially completed real estate projects.
Sec. 232. Study methods to resolve disputes with borrowers.
Sec. 233. Study of liquidating trusts to sell real property assets.
Sec. 234. Restrictions on removal of employees performing liquidation functions.
Sec. 235. Asset management contracts.
Sec. 236. Criminal history records maintained by the Federal Bureau of Investigation.
Sec. 237. Substitution of RTC obligations for collateral on Federal home loan bank advances.
Sec. 238. Seller financing.
Sec. 239. Standard sales procedures.
Sec. 240. Regulatory requirements regarding
Sec. 241. Improvements to the list of legal counsel whose services are authorized to be retained.

Sec. 242. Technical and conforming amendments.

TITLE III—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

Sec. 301. Increased participation of minorities and women in contracting process.
Sec. 302. Operation of branch facilities by minorities and women.
Sec. 303. Acquisition of failing majority associations by minority institutions.
Sec. 304. Statutory establishment of program.
Sec. 305. Goal for participation of small business concerns.

TITLE IV—REAL ESTATE PROVISIONS

Sec. 401. Real estate auction policy.
Sec. 402. Outreach program for State and local governments.
Sec. 403. Separate inventory of property with special significance.
Sec. 404. Disposition of property of special significance.
Sec. 405. Delegations of authority for the disposition of assets.
Sec. 406. Seller financing.
Sec. 407. FDIC property disposition standards.
Sec. 408. Risk-weighting for single family housing loans.
Sec. 409. Risk-weighting for multifamily housing loans.
Sec. 410. Real estate appraisals.
Sec. 411. Foreclosure powers.
Sec. 412. Utilization of brokers.
Sec. 413. Expedited title clearance procedures.
Sec. 414. Corporate powers relating to financing.
Sec. 415. Maintenance of properties in inventory.
Sec. 416. Reduction of multiple entities representing the RTC in cases of single assets.

TITLE V—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

Sec. 501. Inclusion of eligible residential property under conservatorship.
Sec. 502. Time limitations on sale of eligible single family property.
Sec. 503. Active marketing of eligible single family property to lower-income veterans.
Sec. 504. Prevention of speculation on eligible single family property.
Sec. 505. Avoidance of displacement under single family property disposition program.
Sec. 506. Periods for expression of serious interest and restricted bids for eligible multifamily housing property.
Sec. 507. Lower-income occupancy requirements for eligible multifamily housing property.
Sec. 508. Extension of restricted offer period for eligible multifamily housing property.
Sec. 509. Sale price.
Sec. 510. Authority for RTC to participate in multifamily financing pools.
Sec. 511. Credit enhancement for certain tax-exempt bonds.
Sec. 512. Permanent effectiveness of exemption for transactions with insured depository institutions.
Sec. 513. Transfer of certain eligible residential properties to State housing agencies for disposition.
Sec. 514. Suspension of offer periods for sales of eligible residential property to nonprofit organizations and public agencies.
Sec. 515. Sale of eligible condominium property.
Sec. 516. Reports to Congress regarding affordable housing program.
Sec. 517. Definitions.
Sec. 518. Applicability.

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended by adding at the end the following new paragraphs:

"(3) ADDITIONAL INTERIM FUNDING.—In addition to amounts appropriated under paragraph (2), there is authorized to be appropriated to the Corporation for fiscal years beginning after fiscal year 1991 not more than $20,000,000,000 to carry out the purposes of this section.

"(4) CONDITIONAL AUTHORITY.—No amount is authorized to be appropriated to the Corporation under any provision of law other than paragraph (3) unless—

"(A) the President submits to the Congress a plan which has the agreement of the Speaker of the House of Representatives, the majority leader and the minority leader of the House, the President pro tempore of the Senate, and the majority leader and the minority leader of the Senate to finance the losses incurred by the Corporation after the date of the enactment of this paragraph;

"(B) the plan submitted—

"(i) provides for the payment of such losses over a period of not more than 5 years beginning on the date the plan is implemented;

"(ii) allows no increase in the public indebtedness of the United States after the end of such period with respect to such payments;

"(iii) ensures that the financing of the payment of those losses is carried out in a manner such that any liability of persons to make any payment, the proceeds of which will be used to finance the payment of those losses, is distributed among the persons in accordance with the ability of each person to pay;

"(iv) provides that no amount authorized to be appropriated shall be funded by increased tax revenues or revenue enhancements in any manner; and

"(C) the plan is submitted to the Congress not less than 30 days after the date on which the Comptroller General of the United States reports to the Congress that the Corporation is, or within 60 days will be, unable to meet losses.".

SEC. 102. RTC WORKING CAPITAL BORROWING LIMIT.

Section 21A(j)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(j)(1)) is amended to read as follows:

"(1) IN GENERAL.—The total amount of outstanding obligations of the Corporation may not exceed the lesser of—

"(A) $160,000,000,000; or

"(B) the amount that is equal to the sum of—

"(i) the amount of cash held by the Corporation; and

"(ii) 85 percent of the Corporation's estimate of the fair market value of other assets held by the Corporation.".

SEC. 103. APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended to read as follows:

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owners' Loan Act for the purpose of liquidation or winding up any State savings association's affairs—

"(i) before October 1, 1993, the Resolution Trust Corporation shall be appointed;

"(ii) after September 30, 1993, the Resolution Trust Corporation shall be appointed if the Resolution Trust Corporation had been placed in control of such savings association at any time on or before such date; and

"(iii) after September 30, 1993, the Corporation shall be appointed unless the Resolution Trust Corporation is required to be appointed under clause (ii).".

SEC. 104. EXTENSION OF RESOLUTION TRUST CORPORATION DUTY.

(a) IN GENERAL.—Section 21A(b)(3)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(A)) is amended to read as follows:

"(A) To manage and resolve all cases involving depository institutions—

"(i) the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or which are Savings Association Insurance Fund members (as defined in section 7(l)(5) of the Federal Deposit Insurance Act); and

"(ii) for which a conservator or receiver is appointed after December 31, 1988, and before October 1, 1993 (including any institution described in paragraph (6) or section 11(c)(6)(B)(ii) of the Federal Deposit Insurance Act).".

(b) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—Section 21A(b)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(6)) is amended to read as follows:

"(6) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—If the Corporation is appointed as conservator or receiver for any insured depository institution described in paragraph (3)(A) before October 1, 1993, and a conservator or receiver is appointed for such institution on or after such date for purposes of a resolution, the Corporation shall be appointed as conservator or receiver for such institution on or after October 1, 1993.".

SEC. 105. SUSPENSION OF RTC FUNDING UPON THE FAILURE TO PROVIDE AN AUDITED FINANCIAL STATEMENT.

(a) FINANCIAL STATEMENT FOR FY 91.—If no financial statement of the Resolution Trust Corporation for fiscal year 1991 which has been independently audited by a certified public accountant has been submitted to the Congress by the end of fiscal year 1992, no amount provided to the Resolution Trust Corporation under section 21A(i) of the Federal Home Loan Bank Act (as amended by section 101 of this title) shall be available for obligation until such audited financial statement has been submitted to the Congress.

(b) INDEPENDENT AUDIT PROVISION.—An audit of a financial statement of the Resolution Trust Corporation which has been conducted by the Comptroller General of the United States, using the services of certified public accountants, shall be treated as an independent audit for purposes of subsection (a).

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

Subtitle A—RTC and Oversight Board Restructuring

SEC. 201. ACCOUNTABILITY OF OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended—

(1) by striking "and be accountable for"; and

(2) by inserting "and shall be accountable for the duties assigned to the Oversight Board by this Act" after "(hereinafter referred to in this section as the 'Corporation')".

SEC. 202. RESTRUCTURING OF OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking "5 members" and inserting "7 members";

(B) by striking "and" at the end of clause (iii);

(C) by redesignating clause (iv) as clause (vi); and

(D) by inserting after clause (iii) the following new clauses:

"(iv) the chief executive officer of the Corporation;

"(v) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) in subparagraph (E) by striking "3 members" and inserting "4 members".

SEC. 203. OVERSIGHT BOARD DUTIES AND AUTHORITIES.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) To review overall strategies, policies, and goals established by the Corporation for the Corporation's activities to determine the impact on the overall financial goals, plans, and budgets of the Corporation, including such overall strategies, policies, and goals as—

"(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees or other obligations by the Corporation;

"(ii) overall financial goals, plans, and budgets; and

"(iii) restructuring agreements described in subsection (b)(11)(B).";

(2) in subparagraph (B), by inserting "financial plans, budgets, and" after "implementation";

(3) by striking subparagraphs (C), (D), and (I); and

(4) by redesignating subparagraphs (E), (F), (G), (H), and (J) as subparagraphs (C), (D), (E), (F), and (G), respectively.

SEC. 204. LIMITATION OF OVERSIGHT BOARD AUTHORITY.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended—

(1) by striking "(i) involving" and inserting instead "involving (i)"; and

(2) by striking "provide general policies and procedures" and inserting instead "review overall strategies, policies, and goals established by the Corporation".

SEC. 205. DUTIES OF THE RESOLUTION TRUST CORPORATION.

(a) DEVELOPMENT OF OVERALL STRATEGIES AND GOALS.—Section 21A(b)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Oversight Board pursuant to subsection (a)(6)(A) of this section.".

(b) PROFIT PARTICIPATION PLAN.—Section 21A(b) of the Federal Home Loan Bank Act is amended by adding at the end the following new paragraph:

"(15) PROFIT PARTICIPATION PLAN.—

"(A) DEVELOPMENT OF PLAN REQUIRED.—Before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall—

"(i) develop a profit participation plan under which the Corporation, subject to review by the Oversight Board, shall propose a method for increasing Federal profit participation in the subsequent resale, refinancing, or other disposition of commercial real estate sold by the Corporation; and

"(ii) submit a report on such plan to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) FEDERAL PROFIT PARTICIPATION REQUIREMENTS.—The plan required under subparagraph (A)(i) shall propose methods to include Federal profit participation requirements upon—

"(i) the subsequent resale, refinancing or other disposition of not less than 25 percent of the dollar volume of commercial real estate initially sold by the Corporation after the end of the 1-year period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991; and

"(ii) the subsequent resale, refinancing or other disposition of not less than 50 percent of the dollar volume of the commercial real estate initially sold by the Corporation after the end of the 18-month period beginning on such date of enactment.

"(C) FACTORS TO BE CONSIDERED.—In developing the profit participation plan required to be submitted under subparagraph (A), the Corporation shall take into consideration the following factors:

"(i) Profit participation models and formulas used by other Federal agencies.

"(ii) Profit participation models and formulas used in the private sector.

"(iii) Whether profit participation should be required in all commercial real estate sales or only in sales over a de minimis value.

"(iv) The length of time and number of subsequent sales that profit participation requirements should apply to, and whether or not the proportion of profit participation should decline over time.

"(v) Whether profit participation should vary depending on the amount of capital invested by the purchaser and the amount of financing, if any, provided by the Corporation.

"(vi) What a reasonable rate of return is for a purchaser.

"(vii) What a reasonable profit participation rate is for the Corporation.

"(viii) Whether purchasers should be offered one or several profit participation proposals which vary depending on purchase price, capital investment, length of time held, and level of government financing.

"(ix) Such other factors as the Corporation, subject to review by the Oversight Board, determines to be appropriate.".

(c) CREDIT ENHANCEMENT TO PROVIDE HOUSING OPPORTUNITIES FOR LOW-INCOME PERSONS.—Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K)) is amended to read as follows:

"(K) To make loans and, with respect to eligible residential properties, develop risk sharing structures and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.".

SEC. 206. MANAGEMENT OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(C)) is amended to read as follows:

"(C) MANAGEMENT BY BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors.".

SEC. 207. RESTRUCTURING OF THE RESOLUTION TRUST CORPORATION BOARD OF DIRECTORS.

(a) IN GENERAL.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) is amended to read as follows:

"(A) IN GENERAL.—Except as provided in subsection (m), the Board of Directors of the Corporation shall consist of—

"(i) the members of the Board of Directors of the Federal Deposit Insurance Corporation; and

"(ii) the chief executive officer of the Corporation.".

(b) CHAIRPERSON.—Section 21A(b)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)) is amended to read as follows:

"(B) CHAIRPERSON.—The chief executive officer of the Corporation shall serve as the Chairperson of the Board of Directors of the Corporation.".

SEC. 208. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) is amended—

(1) in subparagraph (A), by striking "Unless the Oversight Board exercises its authority under subsection (m), the" and inserting "The";

(2) by striking clause (i) of subparagraph (B) and inserting the following new clause:

"(i) FDIC.—Subject to subparagraph (D), the Corporation shall use employees of the Federal Deposit Insurance Corporation and shall select such employees in accordance with the personnel policies and procedures of the Federal Deposit Insurance Corporation."; and

(3) by adding at the end the following new subparagraphs:

"(C) CHIEF EXECUTIVE OFFICER.—

"(i) APPOINTMENT.—The Corporation shall have a chief executive officer appointed by the President, by and with the advice and consent of the Senate.

"(ii) COMPENSATION.—The chief executive officer of the Corporation and members of the staff of the chief executive officer shall receive such compensation and benefits as the Corporation's Board of Directors may determine.

"(iii) POWERS AND DUTIES DEFINED BY BOARD OF DIRECTORS.—The Board of Directors shall provide the chief executive officer with such duties and powers as shall be adequate for the chief executive officer's efficient management and administration of the Corporation's day-to-day affairs.

"(iv) SPECIFIC DUTIES AND POWERS.—In addition to the duties and powers provided by the Board of Directors under clause (iii), the chief executive officer shall have the following duties and powers, subject to the direction of the Board of Directors and the exercise by the Oversight Board of any duty or power under subsection (a) with respect to the Corporation:

"(I) To specify the duties and powers of other officers of the Corporation and the duties and powers of other persons, including employees of the Federal Deposit Insurance Corporation, acting on behalf of the Corporation.

"(II) To make and modify staffing plans and organizational and management structures of the Corporation to satisfy the goals of this Act and other applicable laws.

"(III) To direct all aspects of the Corporation's operations in a manner consistent with general practices of the private sector, this section, and other applicable law.

"(IV) To modify and implement existing standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including the Corporation's performance in the disposition of assets.

"(V) To develop, adopt, and implement new standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including the Corporation's performance in the disposition of assets.

"(VI) Subject to subparagraph (B)(iii), section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, section 218 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, and the pay practices of the Federal Deposit Insurance Corporation, to set and adjust the compensation and benefits of persons (other than the chief executive officer or the staff of such officer) acting on behalf of the Corporation in accordance with laws and regulations applicable to the personnel practices of the Federal Deposit Insurance Corporation.

"(VII) To select employees of the Federal Deposit Insurance Corporation who are to be assigned by such corporation to the Corporation, to request the Federal Deposit Insurance Corporation to employ any such person and assign such employee to the Corporation, and, upon the employee's completion of the work assignment for which the assignment to the Corporation was made (and in the absence of any comparable work assignment in the Corporation) or upon mutual agreement of the chief executive officer of the Corporation and the Chairperson of the Federal Deposit Insurance Corporation, to reassign such employee to the Federal Deposit Insurance Corporation.

"(VIII) To appoint persons to staff positions within the office of the chief executive officer.

"(D) DUTIES AND POWERS OF THE FDIC.—

"(i) LIMITATION RELATING TO DUTY TO ASSIGN EMPLOYEES.—Subparagraph (B)(i) shall not be construed as requiring the Federal Deposit Insurance Corporation to assign to the Corporation any employee of the Federal Deposit Insurance Corporation who—

"(I) was employed by the Federal Deposit Insurance Corporation on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991; and

"(II) had not, before such date of enactment, been assigned to the Corporation by the Federal Deposit Insurance Corporation.

"(ii) DUTY TO HIRE AND ASSIGN NEW EMPLOYEES.—

"(I) IN GENERAL.—In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall assign to the Corporation, such individuals as the Corporation may determine to be necessary in order for the Corporation to carry out this section.

"(II) TEMPORARY AND CONTRACT WORKERS.—To the maximum extent possible, the Federal Deposit Insurance Corporation shall employ individuals on a temporary basis or for an agreed upon period of time for purposes of assigning employees to the Corporation.

"(iii) DIRECTION OF ASSIGNED EMPLOYEES.—Any employee of the Federal Deposit Insurance Corporation who is on assignment to the Corporation shall be subject to the direction of the Corporation and may be reassigned to the Federal Deposit Insurance Corporation in accordance with subparagraph (C)(iv)(VII) or section 208(b)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, as appropriate.

"(iv) REIMBURSEMENT FOR ASSIGNED EMPLOYEES.—The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred by the Federal Deposit Insurance Corporation in connection with employees assigned to the Corporation.

"(v) REDUCTIONS IN FORCE.—In any reduction-in-force or reorganization within the Federal Deposit Insurance Corporation after the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, any permanent employee who is or had been on assignment to the Corporation shall compete with the same rights as any other permanent employee of the Federal Deposit Insurance Corporation.

"(vi) ADMINISTRATIVE SERVICES.—The Corporation—

"(I) may use any administrative service of the Federal Deposit Insurance Corporation; and

"(II) shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing any such service.

"(vii) MINIMUM EMPLOYMENT STANDARDS.—The Federal Deposit Insurance Corporation shall prescribe regulations establishing procedures for ensuring that employees of the Federal Deposit Insurance Corporation who are on assignment to the Corporation meet minimum standards of competence, experience, integrity, and fitness.

"(viii) INFORMATION REQUIRED TO BE SUBMITTED.—Any employment application submitted by an individual to the Federal Deposit Insurance Corporation with respect to employment on behalf of the Corporation shall include a list and description of any instance during the 5 years preceding the submission of the application in which the individual or company under such individual's control defaulted on a material obligation to an insured depository institution.

"(ix) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under clause (vii) shall require the Federal Deposit Insurance Corporation to prohibit any person who has—

"(I) been convicted of a felony,

"(II) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency,

"(III) demonstrated a pattern or practice of defalcation regarding obligations to insure depository institutions, or

"(IV) caused a substantial loss to Federal deposit insurance funds,

from employment on behalf of the Corporation.".

(b) TRANSITION PROVISIONS.—

(1) CONTINUATION OF FDIC BOARD OF DIRECTORS AS RTC BOARD OF DIRECTORS.—Notwithstanding the amendments made by subsection (a) and section 207, the Board of Directors of the Federal Deposit Insurance Corporation shall continue to serve as the Board of Directors of the Corporation, and the Federal Deposit Insurance Corporation shall continue to manage the Corporation, in accordance with paragraphs (1)(C) and (8) of section 21A(b) of the Federal Home Loan Bank Act (as in effect on the day before the date of the enactment of this Act) until the Board of Directors of the Corporation established pursuant to such Act (as amended by this title) first meets with a quorum present.

(2) EMPLOYEES ON ASSIGNMENT TO THE RTC.—

(A) CONTINUATION OF EMPLOYMENT.—Any permanent employee of the Federal Deposit Insurance Corporation who was on assignment to the Corporation immediately before the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall continue to be assigned to the Corporation after such date of enactment until such time as the employee's assignment to the Corporation terminates.

(B) RETURN TO FDIC.—Upon the termination of the assignment, to the Resolution Trust Corporation, of any employee referred to in subparagraph (A), the employee shall be reassigned to a position with the Federal Deposit Insurance Corporation with the same status, tenure, pay, and grade as that held by such employee immediately before the reassignment.

SEC. 209. RIGHTS OF EMPLOYEES UPON SUNSET OF RTC.

(a) IN GENERAL.—Section 404(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) by striking "section 21A(m)" and inserting instead "section 21A(o)";

(2) by striking "of such Corporation shall be transferred to" and inserting instead "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within";

(3) by striking "of this subsection" and inserting instead "of this section"; and

(4) by striking "paragraphs (2) and (4) through (7)" and inserting "paragraphs (2) through (4)".

(b) GRADE RETENTION.—Section 404(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) by inserting "grade" after "status, tenure,"; and

(2) by inserting "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment" after "cause".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not be construed as providing any advantage to employees of the Federal Deposit Insurance Corporation who are on assignment to the Resolution Trust Corporation at the time of the termination of the Resolution Trust Corporation over other employees of the Federal Deposit Insurance Corporation in any subsequent reorganization or reduction in force.

(d) TREATMENT OF REORGANIZATIONS PURSUANT TO TERMINATION OF RTC.—Section 404(4) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended to read as follows:

"(4) If the Federal Deposit Insurance Corporation determines that a reorganization of the work force of such corporation is required upon the reassignment of employees of the Corporation pursuant to section 21A(o) of the Federal Home Loan Bank Act, the reorganization shall be deemed to be a 'major reorganization' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.".

SEC. 210. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution or any director, officer, or employee of the institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency which employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsections (a) and (c), the term

'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.".

(4) EFFECTIVE DATE.—Paragraph (2) of section 33(a) of the Federal Deposit Insurance Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 33(b) of such Act shall be deemed to begin on such date of enactment.

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union the Administration;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(3) EFFECTIVE DATE.—Paragraph (2) of section 213(a) of the Federal Credit Union Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.

(c) COVERAGE FOR EMPLOYEES OF RTC, OVERSIGHT BOARD, AND RTC CONTRACTORS.—

(1) COVERAGE ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC, OVERSIGHT BOARD, AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation, the Oversight Board, and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation or the Oversight Board may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation on assignment to the Corporation under this section or any personnel referred to in subparagraphs (C) and (F) of subsection (a)(5)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Oversight Board, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation, the Oversight Board, or such person or any director, officer, or employee of the Corporation, the Oversight Board, or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

(2) EFFECTIVE DATE.—Subsection (q) of section 21A of the Federal Home Loan Bank Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.

Subtitle B—RTC Improvements

SEC. 211. ANNUAL INDEPENDENT AUDIT.

(a) IN GENERAL.—Section 21A(k)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) ANNUAL INDEPENDENT AUDIT.—The Oversight Board shall contract with an independent certified public accountant to perform an annual audit of the Corporation's financial statement in accordance with generally accepted government auditing standards.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Subparagraph (C) of section 21A(k)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)) (as so redesignated by subsection (a) of this section) is amended by inserting "and the independent certified public accountant for purposes of the audits pursuant to subparagraphs (A) and (B)" before the period.

(c) CLERICAL AMENDMENT.—The heading for section 21A(k)(1)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)(A)) is amended by inserting "GAO" after "ANNUAL".

SEC. 212. UNINSURED DEPOSITORS NOT COVERED.

Section 21A(b) of the Federal Home Loan Bank Act is amended by inserting after paragraph (15) (as added by section 205 of this title) the following new paragraph:

"(16) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(A) IN GENERAL.—The Corporation may not take any action, directly or indirectly, with respect to any institution described in paragraph (3)(A) that would have the effect of increasing losses to the Corporation by protecting—

"(i) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(ii) creditors other than depositors.

"(B) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this paragraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any institution described in paragraph (3)(A) for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the Corporation does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.".

SEC. 213. MINIMIZATION OF COSTS FOR SERVICES; DISTRIBUTION OF CONTRACTS.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end the following new subparagraph:

"(H) MINIMIZATION OF COSTS FOR SERVICES; DISTRIBUTION OF CONTRACTS.—The Corporation shall adopt and follow procedures governing the procurement of legal, accounting, and investment banking services to assure that, to the extent reasonably practicable—

"(i) the costs of procuring those services are minimized, and

"(ii) there is a sufficiently representative geographic and size distribution of—

"(I) firms providing those services, and

"(II) contracts awarded for those services.".

SEC. 214. MANAGEMENT AND DISPOSITION OF PROPERTY BY LOCAL OFFICE WHICH IS CLOSEST TO THE PROPERTY.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by inserting after subparagraph (H) (as added by section 213 of this title) the following new subparagraph:

"(I) REAL ESTATE MANAGEMENT AND DISPOSITION.—The Corporation shall establish a procedure under which—

"(i) real estate assets of any institution described in paragraph (3)(A) shall be managed and disposed of by the Corporation through the office of the Corporation which is closest to the location of any such real estate asset; and

"(ii) the management and disposition of assets pursuant to clause (i) shall be properly accounted for to the office of the Corporation which is responsible for administering the receivership of the institution referred to in such clause, consistent with the fiduciary responsibility of the Corporation to the creditors of the institution.".

SEC. 215. RESTRICTIONS ON NONSALARY COMPENSATION AND BENEFITS FOR EMPLOYEES.

(a) RTC EMPLOYEES.—Section 21A(b)(9)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)) is amended by adding at the end the following new clause:

"(iii) COMPLIANCE WITH CERTAIN GSA RULES.—The Corporation shall issue directives with respect to the use of, and reimbursement for, alcoholic beverages, and furniture, fixtures, and equipment, and with respect to expenses for entertainment, which shall conform to the rules, regulations, and opinions issued by the General Services Administration and shall apply to all employees assigned to the Corporation.".

(b) OVERSIGHT BOARD EMPLOYEES.—Section 21A(a)(5)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)(E)) is amended by adding at the end the following: "and the Oversight Board shall issue regulations or directives with respect to the use of, and reimbursement for, alcoholic beverages, and furniture, fixtures, and equipment, and with respect to expenses for entertainment, which shall conform to the rules, regulations, and opinions issued by the General Services Administration and shall apply to the employees of the Oversight Board;".

SEC. 216. GAO STUDY OF PRIVATIZATION OF RTC FUNCTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of transferring all or a substantial portion of the functions being performed by the Resolution Trust Corporation as of the date of the enactment of this Act to the private sector, the most efficient methods for accomplishing such transfer, and the potential benefits of the transfer to the Corporation and the United States Government.

(b) REPORT.—The Comptroller General shall submit a report to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act containing—

(1) the findings and conclusions of the Comptroller General in connection with the study conducted under subsection (a); and

(2) such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

SEC. 217. PROHIBITION ON USE OF BROKERED DEPOSITS BY CONSERVATORS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 29(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(d)) is amended to read as follows:

"(d) BROKERED DEPOSITS PROHIBITED FOR CONSERVATORSHIPS.—Notwithstanding subsection (c), an insured depository institution for which a conservator has been appointed may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 29(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(b)) is amended by striking "subsection (a)" and inserting "subsections (a) and (d)".

SEC. 218. PAY COMPARABILITY.

(a) INFORMATION SHARING REQUIRED.—The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration Board, the Federal Housing Finance Board, the Oversight Board, the chief executive officer of the Resolution Trust Corporation, the Farm Credit Administration, and the Office of Thrift Supervision, in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of the other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

(b) PAY COMPARABILITY REQUIRED.—

(1) IN GENERAL.—In setting and adjusting compensation and benefits, each agency referred to in subsection (a) shall consult with and shall maintain reasonable comparability with the compensation and benefits programs of the other agencies.

(2) DOCUMENTED COMPARISONS REQUIRED.—The consultation required under paragraph (1) shall include documented comparisons of representative job series and representative positions within each series.

(c) LIMITATION ON EXCESSIVE COMPENSATION.—No employee of any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, the Oversight Board, or the chief executive officer of the Resolution Trust Corporation may receive a total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, in excess of the amount which is equal to 115 percent of the total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, which—

"(1) in the case of any such employee other than an employee described in paragraph (2), may be provided to any officer holding a position at level III of the Executive Schedule; and

"(2) in the case of any employee of the Board of Governors of the Federal Reserve System, may be provided to any officer holding a position at level II of the Executive Schedule.

(d) SAVINGS PROVISIONS.—

(1) COLLECTIVE BARGAINING.—No provision of this section (other than subsection (c)) shall be construed as extinguishing or otherwise affecting any right or remedy under chapter 71 of title 5, United States Code, including the right, where applicable, to set employee pay through collective bargaining.

(2) NO REDUCTION IN RATE OF PAY.—No provision of this section (other than subsection (c)) shall be construed as allowing the reduction of base pay of any employee below those in effect on the effective date of this Act.

(3) CURRENT EMPLOYEES.—Notwithstanding any other provision of subsection (c), no officer or employee of an agency referred to in such subsection, shall, as a result of subsection (c), have their total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, reduced below the amount in effect for that officer or employee on October 8, 1991.

(e) COMPENSATION OF CHAIRMAN OF THE FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—Section 5312 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairman, Board of Governors of the Federal Reserve System."

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 5313 of title 5, United States Code, is amended by striking the following item:

"Chairman, Board of Governors of the Federal Reserve System."

SEC. 219. DISCLOSURE OF CERTAIN RTC AND OVERSIGHT BOARD SALARIES.

Section 21A(k)(5)(B)(iii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)(B)(iii)) is amended by inserting before the period the following: "the name of each employee of the Oversight Board, and each employee of the Federal Deposit Insurance Corporation assigned to the Corporation, whose rate of pay during the period on an annual basis exceeds the annual rate of basic pay payable for positions at level V of the Executive Schedule, the position and duty station of each such employee, and the amount of compensation paid to each such employee during the reporting period".

SEC. 220. REPORT REQUIRED WITH RESPECT TO 1988 DEALS.

The Corporation shall submit a report to the Congress before January 31, 1992, on the progress made in renegotiating the cases required to be reviewed under section 21A(b)(11)(B) as of December 31, 1991, and shall include—

(1) a detailed explanation of the reasons, if any, for not completing the renegotiation of all such cases by such date; and

(2) an assessment of the amount of money saved, if any, by resolving such cases in 1988.

SEC. 221. MISUSE OF RTC NAME AND LOGO.

Section 709 of title 18, United States Code, is amended by inserting after the 4th undesignated paragraph the following new paragraph:

"Whoever uses as a firm or business name the words 'Resolution Trust Corporation' or the letters 'RTC' alone or with other words or letters reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from the Resolution Trust Corporation, the Government of the United States, or any agency of the United States, which does not in fact exist; or".

SEC. 222. PROCEDURAL PROVISIONS.

(a) REMOVAL OF CASES.—Section 21A(l)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)) is amended to read as follows:

"(3) REMOVAL AND REMAND.—

"(A) IN GENERAL.—

"(i) REMOVAL IN ANY CAPACITY.—The Corporation, in any capacity, may without bond or security, in addition to any other provision pursuant to which it would be otherwise eligible to remove, remove any action, suit, or proceeding from a State court to—

"(I) the United States district court embracing the place where the action, suit, or proceeding is pending;

"(II) to the United States District Court for the District of Columbia; or

"(III) to the United States district court embracing the principal place of business of an institution for which the Corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution.

"(ii) PERIOD FOR REMOVAL.—The removal of any such action suit or proceeding shall be instituted—

"(I) not later than 90 days after the date the Corporation is substituted as a party;

"(II) not later than 30 days after proper service of a summons and complaint on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989; or

"(III) not later than 30 days after the Corporation becomes a party in any other manner.

"(B) SUBSTITUTION.—The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party or the filing of such other pleading informing the court that the Corporation has been appointed conservator or receiver for such party.

"(C) APPEAL.—The Corporation may appeal any order of remand entered by a United States district court.".

(b) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by inserting after paragraph (15) (as added by section 205(b) of this title) the following new paragraph:

"(16) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or consent to or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in the Corporation's capacity as conservator or receiver for an insured depository institution.".

SEC. 223. CROSS-GUARANTEE PROVISIONS.

(a) IN GENERAL.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(1) by striking "sections 11," and inserting "sections 5(e), 11,"; and

(2) by inserting before the period the following: "; and, for purposes of exercising authority under such section 5(e), the Corporation shall have such authority with respect to all insured depository institutions as specified in such section".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended by adding at the end the following new paragraphs:

"(10) CORPORATION DEFINED.—For purposes of this subsection, the term 'Corporation' includes, with respect to any loss incurred by the Resolution Trust Corporation or any loss which the

Resolution Trust Corporation reasonably anticipates incurring, the Resolution Trust Corporation.

"(II) CONCURRENCE REQUIRED.—

"(A) IN GENERAL.—Whenever the exercise of any right or power pursuant to this subsection by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation has the potential for causing a loss to the other corporation, the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be, shall obtain the concurrence of the other corporation before exercising any such right or power.

"(B) JOINT DETERMINATION.—In any such case, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall jointly determine a course of action which minimizes losses to the Bank Insurance Fund, the Savings Association Insurance Fund, and the Resolution Trust Corporation.".

SEC. 224. QUALIFIED FINANCIAL CONTRACTS.

Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EFFECT OF NOTICE.—

"(i) IN GENERAL.—Paragraph (8)(A) shall not apply to any person who is a party to a qualified financial contract with respect to such contract if such person is notified by the Corporation, as receiver for an insured depository institution, by the close of business on the business day following the day on which the Corporation is first appointed as receiver of such institution that the Corporation has transferred to a single financial institution (other than an insured depository institution in default)—

"(I) all qualified financial contracts of the person, and all affiliates of the person, with the depository institution for which the Corporation has been appointed as receiver;

"(II) all claims of the person and the affiliates of the person under any such qualified financial contract against such depository institution (other than claims subordinated by any such qualified financial contracts to the claims of general unsecured creditors of such institution);

"(III) all claims of the depository institution against the person and affiliates of the person under all such qualified financial contracts; and

"(IV) all property securing such claims under all such qualified financial contracts.

"(ii) ADEQUACY OF NOTICE.—For purposes of this paragraph, the Corporation as receiver shall be deemed to have notified any person if the Corporation has taken steps reasonably calculated to provide notice to such person.".

SEC. 225. ATTORNEY-CLIENT PRIVILEGE.

(a) NONWAIVER OF PRIVILEGE.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following subsection:

"(s) PRIVILEGES.—The transfer by any appropriate Federal banking agency or the Resolution Trust Corporation (acting in any capacity) to any such agency, the Resolution Trust Corporation, or any other agency of the United States of any oral or written information which, but for the transfer, would be subject to a privilege of the transferring agency or corporation, shall not constitute a waiver of such privilege.".

(b) PRIVILEGE DEFINED.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following new subsection:

"(y) PRIVILEGE.—The term 'privilege' includes any governmental agency, work product, attorney-client, or other privilege recognized by Federal or State law.".

SEC. 226. STATUTE OF LIMITATIONS FOR RECEIVERSHIP CLAIMS.

(a) ESTABLISHMENT OF FILING PERIOD FOR CLAIMANTS NOTIFIED BY MAIL.—Section 11(d)(3)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(3)(C)) is amended to read as follows:

"(C) MAILING REQUIRED.—

"(i) IN GENERAL.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the institution's books—

"(I) at the creditor's last address appearing in such books; or

"(II) upon discovery of the name and address of a claimant not appearing on the institution's books within 30 days after the discovery of such name and address.

"(ii) FILING PERIOD LIMITED TO 30 DAYS.—The filing period for claimants notified under clause (i)(II) shall be the later of—

"(I) 30 days after the date established by subparagraph (B)(i); or

"(II) 30 days after the date of the notice mailed to the claimant under clause (i)(II).

"(iii) NOTICE OF FILING PERIOD.—Any notice provided pursuant to clause (i)(II) shall include a notice of the filing period established under clause (ii).".

(b) TIMELY FILING REQUIRED AS CONDITION FOR PAYING CLAIMS.—Section 11(d)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(B)) is amended to read as follows:

"(B) ALLOWANCE OF PROVEN CLAIMS.—

"(i) IN GENERAL.—The receiver shall allow any claim by a claimant which is—

"(I) received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver or is timely filed pursuant to paragraph (3)(C)(ii), as the case may be; and

"(II) proved to the satisfaction of the receiver.

"(ii) EXCEPTION.—Notwithstanding clause (i), any claim filed under paragraph (3)(C)(ii) shall be allowed only to the extent that such claim is filed in time to permit payment.".

(c) DISALLOWANCE OF CLAIMS FILED AFTER FILING PERIOD.—Section 11(d)(5)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(C)) is amended to read as follows:

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Any claim filed after the date specified in the notice published under paragraph (3)(B)(i) with respect to such claim or after the end of the filing period established under paragraph (3)(C)(ii), as the case may be, shall be disallowed.

"(ii) FINALITY OF DISALLOWANCE.—The disallowance of any claim pursuant to clause (i) shall be final and the claimant shall have no further rights or remedies with respect to such claim.".

SEC. 227. PROHIBITION ON RTC CONTRACTS WITH DEBARRED OR SUSPENDED CONTRACTORS.

Section 21A(p)(6)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(p)(6)(E)) is amended—

(1) by striking "or" at the end of clause (iii);

(2) by striking the comma at the end of clause (iv) and inserting "; or"; and

(3) by inserting after clause (iv) the following new clause:

"(v) been, and continues to be, debarred or suspended from doing business with any Federal agency, government corporation, or other instrumentality of the United States (unless the chief executive officer of the Corporation, or such officer's designee, determines in writing that a compelling reason exists for this clause not to apply to such person),".

SEC. 228. UTILIZATION OF HUD MULTIFAMILY INSURANCE.

The Resolution Trust Corporation shall examine the policies and procedures of the Corporation with respect to reliance on the multifamily insurance program established pursuant to section 223(f) of the National Housing Act and take such action as it deems reasonable and appropriate, consistent with the Corporation's duties under section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to promote the use of such insurance.

(b) REPORT.—The Resolution Trust Corporation shall report to the Congress, on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).".

SEC. 229. EXPANSION OF SECURITIZATION PROGRAM.

The Resolution Trust Corporation shall conduct a review of the Corporation's securitization policies and procedures and make such reasonable modifications of such policies and procedures, to the extent necessary, to enhance the securitization of commercial mortgages.

SEC. 230. EXAMINATION OF ASSET MANAGEMENT CONTRACTING PROCESS.

(a) IN GENERAL.—The Corporation shall—

(1) examine the policies and procedures of the Corporation which govern its asset management contracting process; and

(2) take such steps as the Corporation determines to be reasonable and appropriate to make such process more expeditious, efficient, and effective.

(b) FACTORS TO BE EXAMINED.—The examination under subsection (a) shall include an exploration of ways to reduce paperwork, increase delegation of authority, improve targeting of bid solicitations, and preserve competition.

(c) REPORT.—The Corporation shall submit a report to the Congress before April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 231. PRESERVATION OF THE VALUE OF PARTIALLY COMPLETED REAL ESTATE PROJECTS.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the policies and procedures of the Corporation concerning partially completed real estate projects under the Corporation's jurisdiction and take such steps as it deems reasonable and appropriate, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to preserve the economic value of such projects.

(b) REPORT.—The Corporation shall report to the Congress on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).".

SEC. 232. STUDY METHODS TO RESOLVE DISPUTES WITH BORROWERS.

(a) IN GENERAL.—The Resolution Trust Resolution Trust Corporation shall—

(1) examine the policies and procedures of the Corporation governing the resolution of disputes with borrowers under loans acquired by the Corporation as a result of its appointment as conservator or receiver of an insured depository institution; and

(2) take such action, consistent with its duties under section 21A(b)(3)(C) of the Federal Home Loan Bank Act, as it deems reasonable and appropriate to accelerate the resolution process.

(b) REPORT.—The Resolution Trust Corporation shall report to the Congress, on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).

SEC. 233. STUDY OF LIQUIDATING TRUSTS TO SELL REAL PROPERTY ASSETS.

Before the end of the 180-day period beginning on the date of the enactment of this Act, the Resolution Trust Corporation shall conduct a study of the feasibility of using liquidating trusts to dispose of real property assets under the jurisdiction of the Corporation.

SEC. 234. RESTRICTIONS ON REMOVAL OF EMPLOYEES PERFORMING LIQUIDATION FUNCTIONS.

(a) TEMPORARY AND CONTRACT WORKERS EMPLOYED FOR ASSIGNMENT TO THE RTC.—Section

21A(b)(9)(D)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(D)(ii)), as added by section 208(a)(3) of this Act, is amended by adding at the end the following new subclause:

"(III) Section 9(c) of the Federal Deposit Insurance Act shall apply to individuals employed under this subparagraph on a temporary or contract basis.".

(b) OTHER EMPLOYEES OF THE FDIC.—Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended by adding at the end the following:

"(c) RESTRICTIONS ON REMOVAL OF EMPLOYEES PERFORMING LIQUIDATION FUNCTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Corporation shall not, except as provided in paragraph (2), remove any temporary or permanent employee who has been employed for at least 2 years in a position involving the performance of functions relating to—

"(A) liquidating the assets of any insured depository institution in conservatorship or receivership; or

"(B) paying the insured deposits at any such institution.

"(2) EXCEPTIONS.—The Corporation may remove an employee described in paragraph (1) if—

"(A) the employee's performance has been unacceptable within the meaning of chapter 43 of title 5, United States Code, or the employee has engaged in misconduct within the meaning of chapter 75 of such title, and the Corporation provides the employee with a detailed statement specifying the unacceptable performance or the misconduct that constitutes the grounds for the removal; or

"(B) the removal is necessitated by a reduction in the number of persons employed by the Corporation doing the same or similar work at the office or workplace where the employee is employed.

"(3) GRIEVANCE AND APPEAL RIGHTS.—Notwithstanding any other provision of law, an employee described in paragraph (1) with respect to whom action is taken in violation of this subsection shall be entitled to the same procedures and remedies to which excepted service employees are entitled under chapters 43 and 75 of title 5, United States Code.".

SEC. 235. ASSET MANAGEMENT CONTRACTS.

Any contract entered into between the Resolution Trust Corporation and any person on or after the date of the enactment of this Act, including any renewal of any contract (pursuant to the terms of the contract) which was first entered into before such date, shall contain all terms and conditions which—

(1) establish procedures and standards relating to performance which encourage the prompt disposition of any asset by such person on behalf of the Corporation; and

(2) were being included by such Corporation as of such date of enactment in initial contracts between the Corporation and any person providing for the disposition of assets.

SEC. 236. CRIMINAL HISTORY RECORDS MAINTAINED BY THE FEDERAL BUREAU OF INVESTIGATION.

Section 21A(p) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(p)) is amended by—

(1) redesignating paragraph (9) as paragraph (10); and

(2) by inserting the following new paragraph before paragraph (10), as redesignated:

"(9) FBI TO PROVIDE CRIMINAL HISTORY RECORDS.—

"(A) FITNESS AND INTEGRITY INVESTIGATIONS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, upon the request of the Corporation, the Federal Bureau of Investigation shall provide to the Corporation criminal history record information about any person or entity under investigation by the Corporation for the purpose of determining the fitness and integrity of such person or entity to be a purchaser of assets from the Corporation, contractor of the Corporation, or employee assigned to the Corporation.

"(ii) INFORMATION TO BE INCLUDED IN REQUEST.—Any request for information from the Corporation shall include the name and other descriptive information of the person or entity under investigation.

"(B) CONTENT OF RESPONSE.—In response to any such request of the Corporation, the Federal Bureau of Investigation shall provide to the Corporation, with respect to the person or entity under investigation, criminal history record information available to the Federal Bureau of Investigation, including all information contained in the Interstate Identification Index.

"(C) FEES FOR INFORMATION.—

"(i) REIMBURSEMENT OF BUREAU.—The Corporation shall reimburse the Federal Bureau of Investigation for providing such criminal history record information.

"(ii) LIMITATION ON EXCESSIVE FEES.—Fees paid by the Corporation to the Federal Bureau of Investigation under this paragraph shall not exceed—

"(I) the reasonable cost to the Federal Bureau of Investigation of providing such information; or

"(II) the fees charged by the Bureau to State or local agencies, other than criminal justice agencies, for such information.".

SEC. 237. SUBSTITUTION OF RTC OBLIGATIONS FOR COLLATERAL ON FEDERAL HOME LOAN BANK ADVANCES.

(a) IN GENERAL.—Section 10(d) of the Federal Home Loan Bank Act (12 U.S.C. 1430(d)) is amended by inserting after the 2d sentence the following: "Notwithstanding the preceding sentence, during the 2-year period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, in the case of any member of a Federal home loan bank for which the Resolution Trust Corporation has been appointed conservator or receiver, the bank shall release any security interest held by the bank in, and surrender possession of, any assets of such member which are securing the bank's advances to the member immediately upon the receipt by the bank from the Corporation of, at the bank's option (1) a replacement promissory note of the Corporation in its corporate capacity, in the same amount and with the same terms, conditions and interest rate as the member's outstanding note or obligation for which the Corporation's note is being substituted, or (2) a guarantee by the Resolution Trust Corporation in its corporate capacity, guaranteeing payment as provided in the member's outstanding note or obligation. Notwithstanding section 21A(j)(3), any such note or guarantee of the Resolution Trust Corporation shall not be an obligation which has the full faith and credit of the United States. The Resolution Trust Corporation shall establish a reserve out of the funds available under section 21A in an amount equal to the amount of any such note or guarantee. Such reserve shall be dedicated to repayment of notes and guarantees issued pursuant to this subsection. The Bank may demand payment on any such guarantee only in the event of a material default on the terms of the member's outstanding note or obligation. A Federal home loan bank is authorized to have advances that in lieu of being secured by eligible collateral referred to in subsection (a) are secured pursuant to this subsection. The Bank stock of a member in conservatorship or receivership with outstanding advances shall remain outstanding at the same level that would be required under subsection 6(b) as if the advance were still outstanding to the member.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(13)) is amended by striking "No provision of this subsection" and inserting "Except as provided in section 10(d) of the Federal Home Loan Bank Act, no provision of this subsection".

SEC. 238. SELLER FINANCING.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended in subsection (b), in paragraph (11), by adding the following new subparagraph:

"(C) SELLER FINANCING.—In marketing receivership assets, the Corporation is encouraged to use seller financing in cases where seller financing will maximize the return on such assets and where traditional financing arrangements or offers from buyers have not been forthcoming or acceptable to the Corporation prior to receivership.".

SEC. 239. STANDARD SALES PROCEDURES.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end the following new subparagraph:

"(G) STANDARD SALES PROCEDURES.—

"(i) IN GENERAL.—The Corporation shall, before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, establish standard contracting procedures for all conservatorship and receivership sales of real estate.

"(ii) OFFERS TO PURCHASE REAL ESTATE.—The Corporation shall include within such procedures a specific policy to facilitate the receipt and processing of offers to purchase real estate marketed by the Corporation.".

SEC. 240. REGULATORY REQUIREMENTS REGARDING CAPITAL AVAILABILITY.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. REGULATORY REQUIREMENTS REGARDING CAPITAL AVAILABILITY.

"(a) IN GENERAL.—The Director of the Office of Thrift Supervision may grant limited and temporary exceptions to the separate capitalization required for certain subsidiaries pursuant to subparagraphs (A) and (D) of section 5(t)(5) of the Home Owners' Loan Act as the Director deems necessary and appropriate, if—

"(1) the Director determines, in writing, that extraordinary circumstances exist or that economic conditions at the national, regional, or local level are such that an insufficient opportunity exists for the association to divest a subsidiary engaged in activities not permissible for a national bank or any investment in or extension of credit to such subsidiary; and

"(2) the Director determines, in writing, that the standards set forth in paragraph (7)(C)(i) are satisfied (and for purposes of such determination, such paragraph shall be applied by substituting 'exception' for 'exemption');

"(b) SCOPE OF EXCEPTION.—Any exception granted under subsection (a) may only apply to the amount of the savings association's investments in or extensions of credit to a subsidiary as of April 12, 1989, and the amounts that have been or will be expended to complete projects or investments that were initiated by such subsidiary before the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.

"(c) DEDUCTIONS FROM CAPITAL.—In granting any exception pursuant to this paragraph, the Director shall require the same percentage deduction from capital for amounts invested and credit extended as of April 12, 1989, and for amounts invested and credit extended after such date.

"(d) LIMITATIONS.—

"(1) MAXIMUM EFFECTIVE PERIOD OF EXCEPTION.—No exception under this subsection shall be effective after July 1, 1995.

"(2) LIMIT ON DEDUCTION OF CAPITAL.—No exception under this subsection may reduce the percentage deduction from capital to a percentage less than that required as of the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 for investments and extensions of credit made prior to April 12, 1989.".

SEC. 241. IMPROVEMENTS TO THE LIST OF LEGAL COUNSEL WHOSE SERVICES ARE AUTHORIZED TO BE RETAINED.

(a) IN GENERAL.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall each establish and maintain procedures governing the use of the list maintained by the respective corporation of legal counsel whose services are authorized to be retained by such corporation.

(b) SPECIFIC PROCEDURES REQUIRED.—The procedures established under subsection (a) shall include the following requirements:

(1) The list of legal counsel referred to in subsection (a) shall be updated on a monthly basis to remove legal counsel whose services are no longer authorized to be retained by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be—

(A) because the counsel represents clients who are suing the corporation;

(B) because of other conflicts of interest involving such counsel;

(C) due to the failure of such counsel to meet reasonable performance standards established by the appropriate corporation for legal counsel retained by the corporation; or

(D) for any other reason as the corporation may determine to be appropriate.

(2) The list shall include information on any area of expertise of any counsel on the list and the billing rates of such counsel.

(3) Any minority- or woman-owned law firm on the list shall be identified as such.

(4) Any error or omission with respect to the list shall be corrected within 2 weeks of the date on which the appropriate corporation first learns of the error or omission, or as promptly as practicable, and reported to the regional offices.

(c) DEFINITIONS.—

(1) LAW FIRM.—For the purposes of this section, the term "law firm"—

(A) means any person who provides legal services for hire; and

(B) includes all partners, associates, employees, branch offices, and affiliates of such a person.

(2) MINORITY-OWNED LAW FIRM.—The term 'minority-owned law firm' means a law firm—

(A) more than 50 percent of the principals or members of, or partners in, are minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(3) WOMEN-OWNED LAW FIRM.—The term 'women-owned law firm' means a law firm—

(A) more than 50 percent of the principals or members of, or partners in, are women; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.

(4) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

SEC. 242. TECHNICAL AND CONFORMING AMENDMENTS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)(10)—

(A) by striking "establish and review the general policy of" and inserting "review overall strategies, policies, and goals established by"; and

"(B) by striking "standards, policies, and procedures necessary to carry out" and inserting "matters as pertain to";

(2) in subsection (b)—

(A) in paragraph (3), by striking "and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m))"; and

(B) in paragraph (12)—

(i) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, policies, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties."; and

(ii) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) REVIEW AND PROMULGATION.—Such overall strategies, policies, and goals, and such rules, regulations, standards, policies, principles, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Oversight Board; and

"(ii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.";

(3) in subsection (a)(11), by striking "United States District Court" the 1st place such term appears and inserting "United States district court";

(4) in subsection (b)(12)(E)(iv)(II), by striking "knowledgable" and inserting "knowledgeable";

(5) in subsection (c)(9)(B)(iii), by striking "organizations" and inserting "organization";

(6) in subsection (c)(9)(K), by striking "principle" and inserting "principal";

(7) in subsection (c)(9)(N), by striking "Secretary of the Housing" and inserting "Secretary of Housing";

(8) in subsection (e)(2)(B), by striking "shall"; and

(9) in subsection (p)(5), by striking "Government Corporation" and inserting "Government corporation".

TITLE III—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

SEC. 301. INCREASED PARTICIPATION OF MINORITIES AND WOMEN IN CONTRACTING PROCESS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (s) (as added by section 225 of this Act) the following new subsection:

"(t) REVIEW AND EVALUATION PROCEDURE FOR CONTRACTS.—

"(1) IN GENERAL.—In the review and evaluation of proposals in accordance with this section and section 1216(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall provide additional incentives to minority- or women-owned businesses by awarding any such business an additional 10 percent of the total technical points and an additional 5 percent of the total cost preference points achievable in the technical and cost rating process applicable with respect to such proposals.

"(2) CERTAIN JOINT VENTURES INCLUDED.—Paragraph (1) shall apply with respect to any proposal submitted by a joint venture in which—

"(A) a minority- or woman-owned business performs at least 25 percent of the duties;

"(B) the minority- or woman-owned business is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture: and

"(C) the minority- or woman-owned business is contractually entitled to compensation that is reasonably proportional to the duties performed by the business.

"(3) AUTHORITY TO ADJUST TECHNICAL AND COST PREFERENCE POINTS.—The Corporation may adjust the technical and cost preference points applicable in evaluating proposals to the extent necessary to ensure the maximum participation level possible for minority- or women-owned businesses.

"(4) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY-OWNED BUSINESS.—The term 'minority-owned business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN-OWNED BUSINESS.—The term 'women's business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.".

SEC. 302. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

(a) ACQUISITION OF BRANCH FACILITIES FROM THE RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (t) (as added by section 301 of this title) the following new subsection:

"(u) ACQUISITION OF BRANCH FACILITIES IN MINORITY NEIGHBORHOODS.—

"(1) IN GENERAL.—In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation may make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

"(A) The branch may be made available on a rent-free or reduced-rent lease basis for not less than 5 years.

"(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, capital improvements, and utilities.

"(C) The lease may provide an option to purchase the branch during the term of the lease.

"(2) AVAILABILITY TO MINORITY-OWNED ASSOCIATION HAVING THE SAME ETHNIC IDENTIFICATION.—In the case of any savings association which is not a minority-owned institution and for which the Corporation has been appointed conservator or receiver, the Corporation shall, to the maximum extent practicable, make available any branch of such association which is located in any predominantly minority neighborhood to a minority-owned depository institution or minority investors having the same ethnic identification of the community or neighborhood being served by the branch.

"(3) CONSIDERATION OF FINANCIAL CONDITION OF MINORITY OR WOMEN'S DEPOSITORY INSTITUTION.—In determining whether to make available on a rent-free or reduced-rent basis a branch of a savings association to a minority depository institution or to a women's depository institution under this subsection, the Corporation shall consider the financial condition of the minority or women's depository institution.

"(4) ANNUAL REVIEW.—In the event the Corporation makes available to a minority depository institution or to a women's depository institution a branch of a savings association under this subsection, the Corporation shall—

"(A) conduct annual reviews of the condition of the minority or women's depository institution to assess the financial health of the institution; and

"(B) adjust the amount of rent, if any, charged to such institution under this subsection to reflect changes, if any, in the financial condition of the minority or women's depository institution that are determined, as a result of such a review, to have occurred.".

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.

"(C) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

(b) COMMUNITY REINVESTMENT CREDIT FOR DEPOSITORY INSTITUTIONS PROVIDING ASSISTANCE.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

"(a) IN GENERAL.—In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free or reduced-rent basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity shall be treated as meeting the credit needs of the institution's community for purposes of this title.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(2) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(C) a significant percentage of senior management positions of which are held by women.

"(3) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

SEC. 303. ACQUISITION OF FAILING MAJORITY ASSOCIATIONS BY MINORITY INSTITUTIONS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (u) (as added by section 302 of this title) the following new subsection:

"(v) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—

"(1) IN GENERAL.—In addition to the assistance provided pursuant to the minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a), the Corporation may provide assistance for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(2) ADDITIONAL ASSETS.—In connection with the acquisition of any savings association for which the Corporation provides assistance under paragraph (1), the Corporation may transfer assets of other savings associations for which the Corporation has been appointed conservator or receiver.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act).".

SEC. 304. STATUTORY ESTABLISHMENT OF PROGRAM.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (v) (as added by section 303 of this title) the following new subsection:

"(w) MINORITY INTERIM CAPITAL ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) is hereby established by law.

"(2) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—In addition to the assistance provided pursuant to the program established under paragraph (1), the Corporation shall provide assistance under such program for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(3) EXTENSION OF INTERIM FINANCING PERIOD.—The period for repayment of capital assistance provided under the minority interim capital assistance program shall be not less than 2 years.

"(4) INTEREST RATE.—The rate of interest imposed by the Corporation in connection with any interim financing provided under the minority interim capital assistance program may not exceed the average cost of funds to the Corporation as of the time such rate is established.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act).".

SEC. 305. GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.

Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended to read as follows:

"(14) GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.—The Corporation shall have an annual goal that presents the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts awarded by the Corporation.".

TITLE IV—REAL ESTATE PROVISIONS

SEC. 401. REAL ESTATE AUCTION POLICY.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the Corporation's policies and procedures with respect to conducting auctions for the disposition of real estate assets and shall to the extent it deems appropriate, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, adjust the Corporation's threshold limitations with respect to dollar amounts of assets which may be disposed of through auction on an absolute basis.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 402. OUTREACH PROGRAM FOR STATE AND LOCAL GOVERNMENTS.

(a) OUTREACH PROGRAM ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (w) (as added by section 304 of this title) the following new subsection:

"(x) OUTREACH PROGRAM FOR STATE AND LOCAL GOVERNMENTS.—

"(1) ESTABLISHMENT REQUIRED.—The Corporation shall establish and maintain an intergovernmental affairs branch within the office of governmental affairs or any successor to such office.

"(2) DUTIES.—The responsibilities of such branch shall include aggressive outreach to, and liaison with, State and local governments and any associations of State and local governments, as a means of enabling the Corporation to better take into account the concern of such governments and associations about the Corporation's policies and operations.

"(3) PRIMARY GOAL.—The primary goal of the outreach program shall be to inform State and local governments of the availability of real property assets within the jurisdiction of such governments and facilitating efforts by those governments to purchase real estate assets of institutions subject to the Corporation's jurisdiction.

"(4) REGIONAL OFFICE REPRESENTATIVES.—At least 1 representative of the intergovernmental affairs branch shall be employed in each regional office of the Corporation.".

(b) SELLER FINANCING FOR SALES TO STATE AND LOCAL GOVERNMENTS.—Section 21A(b)(12) of the Federal Home Loan Bank Act is amended by redesignating subparagraph (G) as subparagraph (H) and by inserting after subparagraph (F) the following new subparagraph:

"(G) SELLER FINANCING FOR SALES TO STATE AND LOCAL GOVERNMENTS.—

"(i) REVIEW OF SELLER FINANCING PROCEDURES.—Before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall—

"(I) conduct a review of the Corporation's seller financing procedures; and

"(II) modify such seller financing procedures to ensure that the procedures consider the special needs of States, municipalities, and other political subdivisions in acquiring real property assets of the institutions described in paragraph (3)(A).

"(ii) MINIMUM REQUIREMENTS.—The seller financing procedures referred to in clause (i) shall provide that, to the extent consistent with the Corporation's mandate to maximize the return on the sale of assets, the Corporation will endeavor to arrange appropriate financing to States, municipalities, and other political subdivisions seeking to acquire real property assets of institutions described in paragraph (3)(A).".

SEC. 403. SEPARATE INVENTORY OF PROPERTY WITH SPECIAL SIGNIFICANCE.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended—

(1) in subparagraph (F), by striking the last sentence;

(2) by redesignating subparagraph (H) (as so redesignated by section 402 of this title) as subparagraph (K); and

(3) by inserting after subparagraph (G) (as added by section 402 of this title) the following new subparagraphs:

"(H) REAL PROPERTY INVENTORY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the inventory of real property assets required to be published under subparagraph (F) shall be updated and republished semiannually.

"(ii) INVENTORY OF PROPERTY OF SPECIAL SIGNIFICANCE.—In the case of real property assets of institutions subject to the jurisdiction of the Corporation which is property of special significance, the Corporation shall develop and maintain, in accordance with clause (iii), an inventory of such property separately from the inventory required under subparagraph (F) and shall update and republish such inventory at least once during each calendar quarter.

"(iii) CONSULTATION WITH AGENCIES WITH EXPERTISE.—In developing, maintaining, and updating the inventory of property of special significance, the Corporation shall consult with the United States Fish and Wildlife Service, the National Park Service, the Advisory Council on Historic Preservation, and other appropriate agencies or instrumentalities of the United States.

"(iv) PROPERTY OF SPECIAL SIGNIFICANCE DEFINED.—For purposes of this subparagraph, the term 'property of special significance' means real property with natural, cultural, or scientific values of special significance, including real property which is protected or eligible for protection or special status under any Federal law or Executive order, such as wetlands, floodplains, endangered species habitats, historic sites, archaeological sites, natural landmarks, wilderness areas, wild and scenic rivers, and coastal barriers.

"(I) PROPERTY MAINTENANCE AND MANAGEMENT.—

"(i) IN GENERAL.—The Corporation shall maintain any property identified in the real property inventory maintained by the Corporation under subparagraph (H) as property of special significance in a manner consistent with the preservation of the property's value of special significance.

"(ii) EMPLOYMENT OF QUALIFIED PERSONS.—The Corporation may employ, on a reimbursable basis, the services of any qualified person to provide technical assistance and to maintain and manage property referred to in clause (i) during such period as the property is subject to the jurisdiction or control of the Corporation.

"(iii) NO DUTY TO REHABILITATE PROPERTY.—Clause (i) shall not be construed as requiring the Corporation to rehabilitate, restore, or reclaim any property referred to in such clause with respect to any condition of the property which existed at the time the Corporation acquired jurisdiction of the property.".

SEC. 404. DISPOSITION OF PROPERTY OF SPECIAL SIGNIFICANCE.

(a) IN GENERAL.—Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by inserting after subparagraph (I) (as added by section 403 of this Act) the following new subparagraph:

"(J) LIMITATION ON TRANSFER.—

"(i) NOTICE OF AVAILABILITY.—The Corporation may not sell or otherwise transfer any covered property unless the Corporation causes to be published in the Federal Register a notice of availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

"(ii) EXPRESSION OF SERIOUS INTEREST.—During the 90-day period beginning on the date that notice under clause (i) concerning a covered property is first published, any Federal land management agency, governmental agency, or qualified organization may submit to the Corporation a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(iii) PROHIBITION ON TRANSFER DURING SERIOUS INTEREST NOTIFICATION PERIOD.—During the period under clause (ii), the Corporation may not sell or otherwise transfer any covered property with respect to which a notice of availability has been published under clause (i). After the expiration of such period, the Corporation may sell or otherwise transfer any covered property for which notice under clause (i) has been published if no notice of serious interest under clause (ii) concerning the property has been timely submitted.

"(iv) PROHIBITION ON TRANSFER AFTER NOTIFICATION PERIOD.—Except as provided in clause (v), if a notice of serious interest in a covered property is timely submitted pursuant to clause (ii), the Corporation may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under clause (ii), unless all notices of serious interest submitted pursuant to clause (ii) have been withdrawn.

"(v) REQUIRED TRANSFERS.—During the 90-day period referred to in clause (iv), the Corporation may sell or otherwise transfer a covered property for which any notice of serious interest has been timely submitted pursuant to clause (ii) only—

"(I) pursuant to notice of serious interest submitted by a Federal land management agency, government agency, or qualified organization for use of the covered property primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resource conservation purposes; or

"(II) to any other such agency or qualified organization for any such purpose, except that the agency or organization which first submitted such notice of serious interest shall have a right of first refusal with respect to such property if such agency or organization matches any offer received under this subclause by the Corporation.

"(vi) REVERSIONARY INTEREST.—If any covered property sold or otherwise transferred under clause (v) ceases to be used for the purposes described in such clause, all rights, title, and interest in and to the covered property shall revert to the United States.

"(vii) DEFINITIONS.—For purposes of this subparagraph:

"(I) COVERED PROPERTY.—The term 'covered property' means any property to which the Corporation has acquired title in any capacity and that is identified in the inventory of property of special significance published under subparagraph (H)(ii).

"(II) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means any Federal agency that manages land or structures for use primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resources conservation purposes.

"(III) GOVERNMENTAL AGENCY.—The term 'governmental agency' means any agency or entity of a State or local government that manages land or structures for use primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resources conservation purposes.

"(IV) QUALIFIED ORGANIZATION.—The term 'qualified organization' has the meaning given the term in section 170(h)(3) of the Internal Revenue Code of 1986.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to any covered property held by the Resolution Trust Corporation at any time on or after the date of the enactment of this Act without regard to the date on which the Corporation acquired the property or was appointed as conservator or receiver. This subsection shall not apply to covered property that is subject to a contract to sell or otherwise transfer as of the date of the enactment of this Act.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—This section shall not take effect until sufficient funds are determined to be available to compensate the RTC for any losses resulting from its implementation.

(2) PUBLIC INDEBTEDNESS.—No funding described in paragraph (1) shall increase the public indebtedness of the United States.

(3) TAXES.—No funding described in paragraph (1) may be provided from increased tax revenues or revenue enhancements in any manner.

SEC. 405. DELEGATIONS OF AUTHORITY FOR THE DISPOSITION OF ASSETS.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine any delegation of authority which the Corporation has made with respect to the disposition of assets and shall further delegate such authority as the Corporation determines to be appropriate and to be consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act and prudent business judgment.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 406. SELLER FINANCING.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the policies and procedures of the Corporation with respect to seller financing and shall use its best efforts, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to lower the Corporation's threshold limitations with respect to the size of transactions for seller financing.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 407. FDIC PROPERTY DISPOSITION STANDARDS.

(a) IN GENERAL.—Section 11(d)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)) is amended by adding at the end the following new subparagraph:

"(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of any insured depository institution for which the Corporation has been appointed conservator or receiver, including any sale or disposition of assets acquired by the Corporation under section 13(d)(1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

(b) CORPORATE CAPACITY.—Section 13(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)) is amended by adding at the end the following new subparagraph:

"(D) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority described in subparagraph (A) regarding the sale or disposition of assets sold to the Corporation pursuant to paragraph (1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

SEC. 408. RISK-WEIGHTING FOR SINGLE FAMILY HOUSING LOANS.

(a) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(1) IN GENERAL.—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under paragraph (2) shall be considered as a loan within the 50 percent risk-weighted category.

(2) REQUIREMENTS.—Paragraph (1) shall apply to any construction loan—

(A) made for the construction of a residence consisting of 1 to 4 dwelling units;

(B) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

(i) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

(ii) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurances of the buyer's intent to purchase the property (including written commitments and letters of intent);

(C) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan obtained by the borrower for purchase of the residence, for use in defraying any costs relating to any cancellation of the purchase contract of the buyer; and

(D) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(b) 100 PERCENT RISK-WEIGHTED CLASSIFICATION.—Not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

(1) any single family residence construction loan for a residence for which the purchase contract is canceled shall be considered as a loan within the 100 percent risk-weighted category; and

(2) the lender of any single family residence construction loan shall promptly notify the appropriate Federal banking agency of any such cancellation.

(c) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 409. RISK-WEIGHTING FOR MULTIFAMILY HOUSING LOANS.

(a) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(1) IN GENERAL.—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under paragraph (2) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

(2) REQUIREMENTS.—Paragraph (1) shall apply to any loan—

(A) secured by a first lien on a residence consisting of more than 4 dwelling units;

(B) under which—

(i)(I) the rate of interest does not change over the term of the loan, (II) the principal obligation does not exceed 80 percent of the appraised value of the property, and (III) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

(ii)(I) the rate of interest changes over the term of the loan, (II) the principal obligation does not exceed 75 percent of the appraised value of the property, and (III) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

(C) under which—

(i) amortization of principal and interest occurs over a period of not more than 30 years;

(ii) the minimum maturity for repayment of principal is not less than 7 years; and

(iii) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and

(D) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(b) SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.—Not later than the expiration of the 120-day period beginning on the date of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this subsection, the term "pro rata loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

(c) SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this subsection, the term "other loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

(d) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 410. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers. Recommendations of the Subcommittee shall be nonbinding on the States.".

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the 1st sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the 2d sentence, by striking "inordinate" and inserting "significant".

SEC. 411. FORECLOSURE POWERS.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(1) in subparagraph (A), by inserting "and subparagraph (C)" after "or subparagraph (B)";

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) FORECLOSURE POWERS.—

"(i) IN GENERAL.—In addition to the powers provided to the Corporation as receiver or conservator under this paragraph, the Corporation, acting as receiver or conservator, shall—

"(I) have the same rights, powers, and obligations as those given to the Department of Housing and Urban Development under the Multifamily Mortgage Foreclosure Act; and

"(II) may utilize the procedures provided for in such Act, with respect to the foreclosure of mortgages on residential properties, other than 1- to 4-family residential property, and nonresidential properties held by the Corporation as receiver or conservator.

"(ii) AUTHORITY OF THE CEO.—For purposes of exercising the powers of the Corporation under clause (i), the chief executive officer of the Corporation shall be vested with all the rights, powers, and obligations given to the Secretary of Housing and Urban Development.

"(iii) RULE OF CONSTRUCTION.—This subparagraph shall not be construed as granting the Secretary of Housing and Urban Development any rights, powers, or obligations with respect to the disposition of real estate by the Corporation.

"(iv) REGULATIONS.—Before the end of the 180-day period beginning on date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall prescribe regulations providing for the implementation of the powers granted the Corporation under this subparagraph.".

SEC. 412. UTILIZATION OF BROKERS.

Section 21A(b)(11)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(A)) is amended—

(1) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(2) by inserting after clause (ii), the following new clause:

"(iii) UTILIZATION OF BROKERS AND AGENTS.—

"(I) IN GENERAL.—Before the end of the 180-day period beginning on date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall establish policies and procedures for the utilization of real estate brokers and agents.

"(II) PRIVATE BROKERS AND AGENTS.—The policies and procedures established under subclause (I) shall be designed to include, to the greatest extent practicable, private brokers and agents in the asset disposition activity of the Corporation.".

SEC. 413. EXPEDITED TITLE CLEARANCE PROCEDURES.

Section 21A(b) of the Federal Home Loan Bank Act as amended (12 U.S.C. 1441a(b)) is amended by adding at the end the following new paragraph:

"(15) CONVEYANCE OF TITLE AND RELATED CLAIMS.—

"(A) TITLE PRESUMPTION.—Any purchaser for value of real property from the Corporation acting as receiver for a depository institution shall be conclusively presumed to have acquired free and clear title to the real property described in the document of conveyance, subject only to covenants, conditions, restrictions, encumbrances, easements, rights-of-way and other matters specifically described in the document of conveyance.

"(B) CLAIMS.—Any person having an interest in real property conveyed by the Corporation as receiver in accordance with paragraph (i) shall have a claim against the proceeds derived by the Corporation as receiver from such conveyance for the proportionate value of such interest.

"(C) DETERMINATION OF CLAIMS.—Any claim under subparagraph (B) shall be filed and determined in accordance with section 11(d) of the Federal Deposit Insurance Act and regulations prescribed by the Corporation.

"(D) FILING PERIOD.—Any claim under subparagraph (B) shall be considered timely if filed within 90 days after the date of any conveyance giving rise to the claim.

"(E) NO CLAIM OR REMEDY AGAINST THE CORPORATION.—No provision of this subsection shall be construed as creating any claim or afford any remedy against the Corporation in its corporate capacity.

"(F) REGULATIONS.—Before the end of the 90-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall prescribe regulations regarding conveyancing procedures and forms to be utilized under subparagraph (A), the procedure for giving public notice of the conveyance, and procedures related to claims under subparagraph (B), including procedures for identifying and setting aside proceeds of sale subject to such claims and establishing priorities of such claims.

"(G) NO AFFECT ON PRIOR CLAIMS.—No provision of this subsection shall affect, reduce, or impair any claim which could have been asserted (if timely filed) before any conveyance, or the priority of any such claim as against other claims.".

SEC. 414. CORPORATE POWERS RELATING TO FINANCING.

Section 21A(b)(10)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(E)) is amended by inserting "using any legally available methods, including seller financing, securitizations of assets, negotiated sales, structured financings, partnerships, mortgage investment conduits, and real estate investment trusts," after "real and personal property,".

SEC. 415. MAINTENANCE OF PROPERTIES IN INVENTORY.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding after paragraph (17) (as added by section 401 of this Act) the following new paragraph:

"(18) MAINTENANCE OF PROPERTIES IN INVENTORY.—Any occupied residential real property assets of institutions for which the Corporation has been appointed as conservator or receiver shall be subject to any standards for housing quality or maintenance relating to safety, sanitation, or habitability, that are established under State or local law, regulation, or ordinance by the State or unit of general local government in which the property is located.".

SEC. 416. REDUCTION OF MULTIPLE ENTITIES REPRESENTING THE RTC IN CASES OF SINGLE ASSETS.

(a) IN GENERAL.—The Resolution Trust Corporation shall establish and maintain policies and procedures to consolidate representation on behalf of the Corporation in connection with any qualified single-asset transaction in as few entities as is consistent with minimizing operating costs of the Corporation (including administrative expenses of conservatorships and receiverships) and expediting the resolution of disputes regarding the sale of the Corporation's assets.

(b) QUALIFIED SINGLE-ASSET TRANSACTION DEFINED.—For purposes of subsection (a), the term "qualified single-asset transaction" means any litigation, negotiation, sale, or other transaction involving a single asset in which the Resolution Trust Corporation has acquired interests through more than 1 depository institution for which the Corporation has been appointed conservator or receiver.

TITLE V—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

SEC. 501. INCLUSION OF ELIGIBLE RESIDENTIAL PROPERTY UNDER CONSERVATORSHIP.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) is amended—

(1) by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—

"(i) BASIC DEFINITION.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as conservator; and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(ii) EXPANDED DEFINITION.—Notwithstanding clause (i), effective upon a determination by the Oversight Board that sufficient amounts are available (subject to clause (iii)) to compensate the Corporation for any losses resulting from this clause taking effect, the term 'eligible multifamily housing property' shall mean a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(iii) LIMITATIONS.—No amount shall be considered as available for purposes of clause (ii) if such availability would result in an increase in the public indebtedness of the United States. No amount shall be considered as available for purposes of clause (ii) if the amount is provided from increased tax revenues or revenue enhancements in any manner."; and

(2) by striking subparagraph (F) and inserting the following new subparagraph:

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).".

SEC. 502. TIME LIMITATIONS ON SALE OF ELIGIBLE SINGLE FAMILY PROPERTY.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)), as amended by Public Law 102-139, is amended by striking "3-month and one week period" each place it occurs and inserting "180-day period".

SEC. 503. ACTIVE MARKETING OF ELIGIBLE SINGLE FAMILY PROPERTY TO LOWER-INCOME VETERANS.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended—

(1) in clause (i) of the first sentence, by inserting "(including qualifying households with members who are veterans)" after "households";

(2) in subclause (I) of clause (ii) of the first sentence, by inserting "(including lower-income

families with members who are veterans)" after "lower-income families"; and

(3) in the fourth sentence, by inserting "and to lower-income families with members who are veterans" before the period.

SEC. 504. PREVENTION OF SPECULATION ON ELIGIBLE SINGLE FAMILY PROPERTY.

(a) RESIDENCY REQUIREMENTS.—

(1) QUALIFYING HOUSEHOLDS.—Section 21A(c)(9)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(K)) is amended by striking "and (ii) whose adjusted income" and inserting the following: "(ii) who agrees to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); (iii) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); and (iv) whose income".

(2) LOWER-INCOME FAMILIES.—The first sentence of section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by striking "by such families." and inserting the following: "by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months.".

(b) RECAPTURE OF PROFITS FROM RESALE.—Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding at the end the following new subparagraphs:

"(C) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (D), if any eligible single family property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (B)(ii)(II), paragraph (12)(C)(i), or paragraph (13)(B), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or lower-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(D) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(i) RELOCATION.—The Corporation (or its successor) may in its discretion waive the applicability (I) to any qualifying household of the requirement under subparagraph (C) and the requirements relating to residency of a qualifying household under paragraphs (9)(L) (ii) and (iii), and (II) to any lower-income family of the requirement under subparagraph (C) and the residency requirements under subparagraph (B)(ii)(II). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(ii) OTHER RECAPTURE PROVISIONS.—The requirement under subparagraph (C) shall not apply to any eligible single family property for which, upon resale by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.".

SEC. 505. AVOIDANCE OF DISPLACEMENT UNDER SINGLE FAMILY PROPERTY DISPOSITION PROGRAM.

Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding after subparagraph (D) (as added by section 504(b) of this Act) the following new subparagraph:

"(E) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of subparagraph (B), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (i) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under subparagraph (A), (ii) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (iii) the resident household intends to occupy the property as a principal residence for at least 12 months, and (iv) and the resident household certifies in writing that the household intends to occupy the property for at least 12 months.".

SEC. 506. PERIODS FOR EXPRESSION OF SERIOUS INTEREST AND RESTRICTED BIDS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) in the first sentence of subparagraph (B), by striking the first comma and all that follows through "first";

(2) in subparagraph (C), by striking "determining that a property is ready for sale" and inserting the following: "the expiration of the period referred to in subparagraph (B) for a property,"; and

(3) in subparagraph (D), by inserting after the period at the end the following new sentence: "If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.".

SEC. 507. LOWER-INCOME OCCUPANCY REQUIREMENTS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) is amended to read as follows:

"(E) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under subparagraph (D)—

"(I) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(II) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

"(ii) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under subparagraph (D) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation, with respect to which the purchaser intends to aggregate the lower-income occupancy required under this subparagraph over the total number of units so purchased—

"(I) not less than 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(II) not less than 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and further provided that

"(III) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located.

The requirements of this subparagraph shall be contained in the deed or other recorded instrument.".

SEC. 508. EXTENSION OF RESTRICTED OFFER PERIOD FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) EXTENSION OF RESTRICTED OFFER PERIODS.—Notwithstanding subparagraph (F), the Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of subparagraphs (A) through (D), any eligible multifamily housing property—

"(i) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in subparagraph (B), or

"(ii) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in subparagraph (D),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in subparagraphs (B) and (D) in offering any property for sale under this subparagraph.".

SEC. 509. SALE PRICE.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value. The Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraph (3). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.".

SEC. 510. AUTHORITY FOR RTC TO PARTICIPATE IN MULTIFAMILY FINANCING POOLS.

Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentence: "In providing financing for combinations of eligible multifamily housing properties under this subsection, the Corporation may hold a participating share, including a subordinate participation.".

SEC. 511. CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.

Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(1) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

(2) by adding at the end the following new clause:

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

SEC. 512. PERMANENT EFFECTIVENESS OF EXEMPTION FOR TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.

Notwithstanding section 203 of the Resolution Trust Corporation Funding Act of 1991, the amendment made by section 201(b) of such Act shall apply on and after the date of the enactment of this Act.

SEC. 513. TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(12) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.—Notwithstanding paragraphs (2), (3), (5), and (6), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this paragraph may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(A) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(B) ACQUISITION PRICE AND DISCOUNT.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this paragraph shall be an amount agreed to by the Corporation and the transferee agency.

"(C) LOWER-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this paragraph shall offer to sell or transfer the properties only as follows:

"(i) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(I) to purchasers described under clauses (i) and (ii) of paragraph (2)(B);

"(II) if the purchaser is a purchaser described under paragraph (2)(B)(ii)(I), subject to the rent limitations under paragraph (4)(A);

"(III) subject to the requirement in the second sentence of paragraph (2)(B); and

"(IV) subject to recapture by the Corporation of excess proceeds from resale of the properties under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(I) to qualifying multifamily purchasers;

"(II) subject to the lower-income occupancy requirements under paragraph (3)(E);

"(III) subject to the provisions of paragraph (3)(H);

"(IV) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term; and

"(V) subject to the rent limitations under paragraph (4)(A).

"(D) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this paragraph more affordable to lower-income families based upon the extent to which the acquisition price of a property under subparagraph (B) is less than the market value of the property.".

SEC. 514. SUSPENSION OF OFFER PERIODS FOR SALES OF ELIGIBLE RESIDENTIAL PROPERTY TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (12) (as added by section 513 of this Act) the following new paragraph:

"(13) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(A) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of subparagraphs (A) and (B) of paragraph (2) and subparagraphs (A) through (D) of paragraph (3), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such paragraphs shall toll for the duration of any suspension under this subparagraph.

"(B) USE RESTRICTIONS.—

"(i) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this paragraph shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or made available for purchase by such families, (II) subject to the rent limitations under paragraph (4)(A), (III) subject to the requirements relating to residency of a qualifying household under paragraph (9)(L) and to residency of a lower-income family under paragraph (2)(B)(ii), and (IV) subject to recapture by the Corporation of excess proceeds from resale of the property under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this paragraph shall comply with the lower-income occupancy requirements under paragraph (3)(E) and shall be subject to the rent limitations under paragraph (4)(A).".

SEC. 515. SALE OF ELIGIBLE CONDOMINIUM PROPERTY.

(a) IN GENERAL.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (13) (as added by section 514 of this Act) the following new paragraph:

"(14) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in clauses (i) through (iv) of subparagraph (B). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(B) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(i) Qualifying households.

"(ii) Nonprofit organizations.

"(iii) Public agencies.

"(iv) For-profit entities.

"(C) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of the property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(ii) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under clause (i) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or (II) made available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(iii) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in subparagraph (B), no purchaser described in clauses (i) through (iv) of subparagraph (B) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(D) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (E), if any eligible condominium property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (C)(i)(II) or (C)(ii)(II), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(E) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any

qualifying household or lower-income family of the requirement under subparagraph (D) and the requirements relating to residency of a qualifying household or lower-income family (under paragraph (9)(L) and subparagraph (C) of this paragraph, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(F) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(G) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.".

(b) CONFORMING AMENDMENT.—Section 21A(c)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(11)(B)) is amended by striking "specified under paragraphs (2) and (3)" and inserting "applicable under paragraphs (2), (3), (12)(C), (13)(B), and (14)(C)".

SEC. 516. REPORTS TO CONGRESS REGARDING AFFORDABLE HOUSING PROGRAM.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (14) (as added by section 515 of this Act) the following new paragraph:

"(15) REPORTS TO CONGRESS.—

"(A) IN GENERAL.—The Corporation shall submit to the Congress semiannual reports under this paragraph regarding the disposition of eligible residential properties under this subsection during the most recently concluded reporting period. The first report under this paragraph shall be submitted not later than the expiration of the 4-month period beginning upon the conclusion of the first reporting period under subparagraph (B). Subsequent reports shall be submitted not less than every 6 months after such expiration.

"(B) REPORTING PERIODS.—For purposes of this paragraph, the term 'reporting period' means the 6-month period for which a report under this paragraph is made, except that the first reporting period shall be the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

"(C) INFORMATION REGARDING PROPERTIES SOLD.—Each report under this paragraph shall contain information regarding each eligible residential property sold by the Corporation during the applicable reporting period, as follows:

"(i) A description of the property, the location of the property, and the number of dwelling units in the property.

"(ii) The appraised value of the property.

"(iii) The sale price of the property.

"(iv) For eligible single family properties—

"(I) the income and race of the purchaser of the property, if the property is sold to an occupying household or is sold for resale to an occupying household; and

"(II) whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property.

"(v) For eligible multifamily housing properties, the number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families.

"(vi) The number of eligible single family properties sold after the expiration of the offer period for such properties referred to in paragraph (2)(B).

"(vii) The number of eligible multifamily housing properties sold after the expiration of the periods for such properties referred to in subparagraphs (B) and (D) of paragraph (3).

"(D) NUMBER OF PROPERTIES WITHIN WINDOWS.—Each report under this paragraph shall contain the following information:

"(i) The number of eligible single family properties for which the offer period referred to in paragraph (2)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

"(ii) The number of eligible multifamily housing properties for which the 90-day period referred to in paragraph (3)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).".

SEC. 517. DEFINITIONS.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)), as amended by sections 501 and 504(a)(1) of this Act, is further amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.";

(2) by redesignating subparagraphs (D) through (P) as subparagraphs (E) through (Q), respectively; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).".

SEC. 518. APPLICABILITY.

The amendments made by this title shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale entered into by the Corporation before the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. GONZALEZ], will be recognized for 15 minutes, and the gentleman from Ohio [Mr. WYLIE], the Member opposed, will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

It is absolutely essential that the Congress provide further funding to the Resolution Trust Corporation. Unpleasant, distasteful as this may be, it is an inescapable responsibility.

Congress has insured deposits in the Nation's banks and savings and loan associations—we stand behind those deposits. Since our laws have made the commitment, we must honor it.

The Resolution Trust Corporation is necessary because the savings and loan insurance fund went broke. So what I bring to you is a report on the RTC bill reported by the Banking Committee and an urgent plea that you join in providing adequate financing not only for the bank insurance fund when it is considered later today, but that you join in providing the money needed to close out the business of the Resolution Trust Corporation.

The RTC has only one job—to pay off the insured deposits in failed savings and loan associations. In the process of doing that, it must incur losses because the assets of those institutions are not worth enough to cover the cost of the insured liabilities—the deposits. The cost of this operation has been greater than anyone expected, in large part because the economy has performed worse than expected. The poor economy has caused more institutions to fail, and it has also caused the value of the assets held by RTC to be lower than expected—meaning that there are more cases to handle, and that each one costs more than expected.

RTC has accomplished a great deal—it has resolved 587 dead thrifts and paid off almost 19 million accounts in 45 States.

What is left to be done? There are about 85 institutions in conservatorship now, and there are about 220 more that are likely to fail. These institutions have about $200 billion worth of assets. If losses in those institutions run to 40 percent of assets, we can expect RTC to spend about $80 billion to wind up its affairs. If losses are at a lower rate or there are fewer failures the need would be less. But one thing is certain: the job has to be done, and if we delay it will cost more. The final cost may be $65 billion, it may be $80 billion—but whatever the loss is, it must be covered, if we are going to keep faith with the insured depositors. The RTC is unpopular, its job is unpleasant, but it fulfills the Federal commitment to protect depositors. In short, like the mortician, it performs a necessary and unavoidable service. Once this job is done, the savings and loan insurance fund should again become self-sustaining, as it was for decades before the disaster of the eighties.

I would like now to report to you the action of the Banking Committee on

H.R. 3535, the RTC funding and reform bill.

Your committee reported this bill on a vote of 27 ayes and 25 nays. During the markup we considered 70 amendments, many of them difficult, and some of them very controversial.

The greatest controversy is of course about funding.

We considered one suggestion, a permanent, indefinite appropriation—a blank check to get the job done. This was rejected with only 7 votes in favor.

We considered another proposal, $80 billion—the sum estimated as necessary to finish the job outright, and that got only 17 aye votes.

As reported, the bill authorizes $20 billion. After that amount is consumed, any additional authorization would require that the President and the joint congressional leadership submit a pay as you go plan. However, as amended by Mr. WYLIE, that pay as you go plan could not include any taxes or revenue enhancements of any kind—it would all have to come from a spending reduction plan. This plan in turn would be predicated on an ability to pay basis.

In short, no funding option is easy. But the responsibility of adopting a bill that provides all that is required, is inescapable. We cannot leave without acting favorably.

In addition to funding, this bill contains provisions to make the operations of RTC more efficient, more accountable and more flexible. It greatly improves the operation of the RTC's affordable housing program. It improves other property disposition programs by encouraging greater flexibility in financing, for example. But the issue at hand is this: Do we want to finish the job? Will we provide the money to protect the depositors in those 300 or so institutions that have failed or soon will fail? That is the heart of the issue.

Let me reiterate this one thing: The money expended in this program is for the protection of innocent depositors. It does not help anyone else. If we fail to provide this funding, we will put in question the integrity of deposit insurance guarantees—and those guarantees are vital in today's very shaky economy. The truth is, if we don't protect those deposits, we will worsen the credit crunch, we will make things worse, and we will have reneged on the Federal guarantee.

It is not easy to honor this commitment—the vote in your committee demonstrates that. But honor it we must.

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Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. KENNEDY], a very active and very perminent member of the committee.

Mr. KENNEDY. Mr. Chairman, I rise in support of the committee bill, and in opposition to the Barnard substitute. The Barnard substitute fails to offer any real reform of the way in which this bailout is currently paid. And real reform is what the American people are screaming for.

As everyone knows, the bailout is currently funded entirely by deficit financing. This borrow and spend scheme roughly triples the cost of the bailout in interest. It adds hundreds of billions of dollars to the national debt. Worst of all, it sends the bill for this debacle to working families, their children, and even their grandchildren. They'll be paying for this mess for the next 30 years. That's why they're so upset: they are getting stuck with a tab for a party to which they were never even invited.

The Barnard substitute just continues this unfair, costly, borrow and spend policy. By contrast, the committee bill contains real reform. It would cut funding for the bailout from $80 billion to $20 billion, and require the President to fund all remaining losses on a pay-as-you-go basis. Right now there is an outrageous double standard at work in the way we pay for Government programs. We can't come up with even a few million dollars around here for food aid or housing or school loans without having to find offsetting revenues. Yet, the President and others have no trouble adding hundreds of billions of dollars to the country's debt to bail out failed thrifts. If pay-as-you-go is good enough for housing, for health care, for food stamps, and for education, then it should be good enough for the S&L bailout.

Now, I am well aware that the committee bill contains a Republican-sponsored measure that would prohibit any tax increases to fund thrift losses. Many of my Democratic colleagues say that this amendment confirms their worst fears about a pay-as-you-go bailout: that it will take funds from vital social programs. Let me just make a couple of points in response. First, I share their concerns. I don't think I take a back seat to anyone in this body when it comes to supporting social programs. That's why I suggested that the Rules Committee allow an amendment to permit us to tax the wealthiest 5 percent of the population to help pay for this problem. After all, the wealthy are the ones who most benefited from the thrift crisis, and they are best able to pay for it now. Beyond that, though, the money does not have to come out of social programs. It can come out of defense. And it can come out of the sale of the RTC's sale of its assets. Right now, the RTC is sitting on over $150 billion in assets. A lot of these assets could pay for losses.

The bottom line is that we who support social programs have got to realize that, by heaping this problem into the deficit, we are just hurting the programs we are trying to protect. Interest on our national debt will top $230 billion next year—more than all discretionary social spending combined. If we want to have money in the future to pay for social programs, we have go to stop this mindless deficit spending for unpopular programs.

In sum, the committee bill will end the morally indefensible and economically senseless way in which we currently pay for this bailout. It will require some tough choices, that's for sure. But we were not elected to make easy ones. I urge its adoption, and the defeat of the Barnard substitute.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the substitute that is before us now because of the Kennedy proposal that is contained in it. It was referred to as pay-go. What it does is simply require that the President would have to submit a plan to Congress to pay for these funds over the next 5 years without increasing the deficit.

During the course of the consideration of this bill in the committee, I offered an amendment that said that the President could not offer in his proposal to pay for it with a tax increase. That amendment was adopted.

Now we are looking at what has commonly been referred to as cut-go. In other words, in order to pay for the $60 billion, other programs would have to be cut, but the President would have to come up with a recommendation as to how those other programs could be cut.

Now, this is in violation of the budget summit agreement which was entered into last year, which said that these funds would not go to reduce other programs.

Mr. Chairman, the words "bailout" were used several times by the gentleman from Massachusetts [Mr. KENNEDY]. I submit that that is a misnomer. Nobody is being bailed out. The people who are being paid or are receiving these moneys are the depositors in these failed institutions.

The U.S. Government has a clear obligation. We have said that we stand behind those deposits with the full faith and credit of the U.S. Government. What this money goes for then is to pay them off. But in order to pay them off, we have to have the money in the Resolution Trust Corporation fund. Right now that fund is broke. The Resolution Trust Corporation estimates that there is something like $4 million a day being lost to the taxpayer because they do not have the funds to close these institutions timely.

Mr. Chairman, the Kennedy amendment, as I suggest, would give the Resolution Trust Corporation $20 billion. Then before they could get any more money, this so-called pay-go provision would have to be eliminated.

Mr. Chairman, the committee bill is pretty good otherwise. I prefer the Barnard-Wylie substitute because it deletes the pay-go provision and deletes

the provision which I had offered as an amendment which would say that none of these could be used from taxpayer money.

Mr. Chairman, I support that concept, that no new taxes should go to pay for these programs. On the other hand, we do need to get the money before us now, and we are not going to do it if this provision, the Kennedy pay-go provision, is in it.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, the bill reported from the House Banking Committee, which is now being offered as an amendment to the bill before us, itself includes an amendment offered in committee by the gentleman from Florida, Mr. MCCOLLUM, that is designed to enhance the viability and lending capacity of certain thrift institutions. The McCollum amendment permits the Office of Thrift Supervision to grant exceptions from currently applicable capital requirements to institutions that own subsidiaries engaged in activities that are not permissible for national banks. Specifically, the provision authorizes exceptions from a schedule provided in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] phasing out the degree to which a thrift institution's interest in any such subsidiary may count toward the computation of the thrift's capital. These subsidiaries often hold investments defined by the Office of Thrift Supervision as equity investments, which include a wide variety of investments in real estate. Under the McCollum provision, thrifts with subsidiaries that hold such investments can receive exceptions if the strict criteria specified in the provision are met.

The case for the McCollum provision is a strong one. When Congress enacted the phaseout schedule of FIRREA, it assumed that thrifts with subsidiaries covered by the schedule would divest themselves of the subsidiaries or their nonconforming investments as the schedule increasingly reduced the regulatory capital position of the institution. It did not assume, however, that the weakness of the market for those subsidiaries and investments would make divestiture a practical impossibility for most thrifts. In light of the current market conditions, the House Banking Committee agreed with Congressman MCCOLLUM that some relief from the FIRREA schedule should be authorized on a case-by-case basis. The Office of Thrift Supervision, which would administer the exceptions provided by the amendment, also supported the provision and is a strong proponent of its enactment.

It is important to note, however, that the rationale for the amendment applies equally to a situation that differs marginally from the specific fact situation covered by the amendment. Some thrift institutions now own equity investments not indirectly through a subsidiary but rather directly through the parent itself. The Office of Thrift Supervision's regulations provide for capital treatment for such investments that closely parallels the treatment provided to thrifts with subsidiaries engaged in such investments. A thrift with equity investments must phase out the degree to which such investments may count toward meeting the institution's risk based capital requirement. The phaseout schedule is exactly the same as that provided by FIRREA for thrifts with subsidiaries that hold such investments. As with the subsidiaries, the schedule was constructed based on the assumption that the investments would be divested. As with the subsidiaries, it has now become apparent that the market for the investments is so weak as to preclude divestiture in most cases.

It follows that while the language of the McCollum provision does not specifically cover thrift institutions holding equity investments other than through a subsidiary, the policy of the provision is directly applicable to such institutions. If the provision is enacted, therefore, the Office of Thrift Supervision should revise its regulations as they relate not only to the subsidiaries specifically referred to in the provision but also to institutions that own equity investments directly. Any other course would create an imbalance in the capital regulatory system that cannot be supported by any legitimate public policy consideration.

□ 1330

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS], distinguished chairman of the Committee on the Judiciary and my distinguished fellow Texan and dean of the Texas delegation.

Mr BROOKS. Mr. Chairman, I have a question really.

Section 1133 of S. 543 which was accepted by the conferees on the banking bill is a pending antitrust issue that should rightfully be determined in the courts. Since the matter involves ligitation between Sears and VISA, Congress should let the matter be determined by the tenth circuit. I would like to clarify for the record that nothing in the language of section 1133 is intended to interfere with the pending Sears-VISA litigation.

Mr. GONZALEZ. Mr. Chairman, I questioned that last night. Unfortunately, I wish I had had the aid of my chairmen, but I did not. To be specific, the date they have in that amendment, August 9, 1989, is the date of the enactment of FIRREA. FIRREA, which we are enacting now, it certainly was never the intention to retroactively abridge or restrict the legal rights of anybody.

Mr. WYLIE. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise opposed to the substitute. The theme that the Democratic Party has, that the economic growth package is only for the rich, is not true. They have marketed that very well. I will give that to them. But I would ask that we combine both the Democratic and Republican goods and bads and do something. In the desert bill, all the amendments except the Vento-Blaz amendment were bad on the Republican side. In the crime bill, all of the issues were wrong.

In the RTC, we are not allowed to offer any amendments. I just had a call from a boat builder in San Diego about 45 minutes ago. He said he called the gentleman from Illinois [Mr. ROSTENKOWSKI]. He called the gentleman from Missouri [Mr. GEPHARDT], and he has called on every Member he can because he employs 150 blue-collar workers that are going to lose their jobs.

So is it a luxury tax for the rich, or do we cut the tens of thousands of jobs and hurt the blue-collar workers? People change their buying habits. The luxury tax in the package, it takes the luxury tax out of the general fund. It costs more, and it was a mistake.

The Senate just did a straw man and would repeal the luxury tax.

What about the earnings test for the senior citizens? We do not call them senior citizens. They are chronologically gifted.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman, I represent Texas' Third District, Dallas, one of the areas hardest hit by the S&L failures and the RTC. Fifty-five percent of the RTC-controlled property is in Texas, which just happens to be $10.4 billion of real estate. As far as the Texas real estate market is concerned, the RTC is the only show in town. And it's a horror show.

I have, here, a few of the over 3,000 responses to my RTC newsletter poll. It was no surprise that 99 percent of the Dallas-area residents who responded, said they don't want to give the RTC another red cent. Texans are tired of being held hostage by the RTC.

Mr. Speaker, I don't believe Congress realizes just where the taxpayer's money is going. The RTC says it spent the previous $80 billion only to bail out depositors, but that isn't true. Those dollars also go toward operating costs and other expenditures by the RTC.

Right now, the RTC's southwest region alone, is spending $50 million a year in salaries and $1.6 million a year in rent for office space in one of the plushest buildings in Dallas. You'd be hard pressed to find a more blatant abuse of tax dollars.

As a matter of fact, at the rate the RTC is going right now, we really don't know if the additional $80 billion will be enough to clean up the failed S&L's and guarantee the end of the RTC.

The RTC was created to accomplish two things—to salvage failing thrifts and, as quickly as possible, liquidate their assets. We've given the RTC plenty of money to do the first half of its job. But on the asset disposal side, cash offers sit for months at a time while tax dollars go down the drain. As America falters on economic recovery—the RTC is stockpiling its assets and inadvertently controlling entire real estate markets.

With this $80 billion, the RTC is going to shut down S&L's with a vengeance. I just wish they would use the same vengeance to sell off the assets they already control. The assets they stockpile are costing the taxpayers millions in maintenance fees and carrying costs. Mr. Chairman, we're pouring American tax dollars down a black hole. We're never going to get this S&L mess cleaned up, until the RTC understands that it is hamstringing any economic recovery for this Nation.

I can't say this any plainer—Congress must refuse to pay another penny to the RTC until we're given a specific agenda on how they plan to effectively dispose of real estate assets.

As if the incompetency and mismanagement isn't enough, last year, the RTC spent an estimated $300 million—some reports even say $500 million on private lawyers' fees and legal expenses.

Mr. Chairman, the taxpayers are being rolled. Americans don't want, don't need, and certainly don't deserve to have to pony-up another $80 billion for the RTC. I urge my colleagues to reject this bill and send a message to the RTC—This is not a permanent deal. The American taxpayers have had enough.

Mr. ORTON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. I yield to the gentleman from Utah.

Mr. ORTON. Mr. Chairman, could the gentleman describe for this group what percentage of the RTC assets were within his district and what percentage of the $160 billion of losses attributable to the RTC are found in Dallas? I am astounded that the people of Dallas say no more funding to bail out their real estate market.

Mr. JOHNSON of Texas. Mr. Chairman, they are fed up with it. That is what.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of a critical, anticredit crunch provision of H.R. 3435.

For many months, I have been deeply concerned about the credit crunch paralyzing our economy. Many economists and analysts agree that mortgage and construction financing has been largely cut off even for feasible, viable rental property and commercial projects. As one local developer recently told me, "Builders are finding it difficult to finance the construction of new homes, even when they have signed contracts from purchasers."

Mr. Chairman, an economy in trouble cannot recover if the building industry, which employs millions of people and spends billions of dollars on goods and services annually, cannot obtain financing for the construction of even presold homes—the safest investments in the building industry. For this reason, I asked my friend and colleague, Congressman WYLIE, the ranking member of the Banking Committee, to incorporate into H.R. 3435 language which would rationalize the regulatory process as it applies to construction loans on presold homes. As a result, H.R. 3435 stipulates that new construction loans for presold single and multifamily homes will carry a 50 percent, rather than a 100 percent, risk weighting. The banking committee unanimously adopted this proposal, which was already under serious consideration by the Office of Thrift Supervision.

I wish to thank Congressman WYLIE for his generous help in achieving this critical anticredit crunch measure. In addition, I would like to thank Mr. Bill Warfield, formerly of the professional minority staff of the Banking Committee, now with the Appropriations Committee, who provided invaluable assistance in this effort. My appreciation also to Joe Ventrone and Kyle Lundstedt of Congressman WYLIE'S staff for their thorough research and diligent follow-through on this important provision. To Mario Correa and Helen McDonald of my staff, thank you.

I urge my colleagues to take action against this debilitating credit crunch by supporting H.R. 3435.

☐ 1340

The CHAIRMAN. The Chair advises at this point in the debate that the gentleman from Ohio [Mr. WYLIE] has 5½ minutes remaining, and the gentleman from Texas [Mr. GONZALEZ] has 3 minutes remaining. The gentleman from Texas [Mr. GONZALEZ] has the right to close.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute to comment on the statement by the gentlewoman from Maryland [Mrs. MORELLA]. She honed in on a very important provision in this bill, which is in there as a result of an amendment which I offered and it has to do with risk weighting on housing loans for purposes of capital requirements.

This issue came up in the Committee on Rules this morning, and what it does is direct the financial institution regulators to place single-family presold home construction loans in the 50 percent risk-weighted category of minimum capital standards, so they get a double advantage there. They are not rated 100 percent on risk weighting. This is the minimum standard as permitted by the BASL agreement, and for that reason would make the money go further.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding. We have been here for 27 hours. We are tired, and I fear that the significance and impact of what we are doing now is not fully appreciated.

Mr. Chairman, the taxpayers of this country have already been hit up for $80 billion and today we are talking about another $80 billion, and there may be more to come.

Very simply, Mr. Chairman, one, I cannot support legislation which simply dumps this $80 billion payback into the deficit. That is absolutely irresponsible. We must have the courage to go forward on a pay-as-you-go basis.

Secondly, Mr. Chairman, in the last dozen years the wealthiest people in this country have become much wealthier, are paying less in taxes, and the working people have become poorer and are paying more in taxes. The payback must be based on a progressive basis. We cannot ask the middle class and the working class to bail out the S&Ls.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just observe that I was a little bit taken aback by the statements from the gentleman from Texas [Mr. GONZALEZ], who is a very good member of the House Committee on Banking, Finance and Urban Affairs. As was pointed out by the gentleman from Utah [Mr. ORTON], most of the money going to failed thrifts have gone to the State of Texas. I think 80 percent of all the failed S&Ls are in that particular area of the country. I know that he would not want us to leave here today without voting more money to close down some more of those failed thrifts.

My position is a no vote on the substitute, an aye vote on the substitute offered by Mr. BARNARD that has been worked out with Members on the other side of the House here, and the amendment which is before us now is flawed because of the pay-go provision. The Members in the other body would not take this bill if that is contained in it. I urge a no vote now.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I just want to enlighten the Members about Texas. We heard about Dallas from the gentleman from Texas [Mr. JOHNSON].

I want to tell every one of my colleagues and fellow Americans that in San Antonio, my district, the only thing RTC has not gotten yet is the Alamo, and we have drawn the line and we are going to fight to the death.

Mr. WYLIE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. SLATTERY] to close the debate.

Mr. SLATTERY. Mr. Chairman, I rise today in support of the committee bill. I rise in support of the concept of pay as you go. I do so for one simple reason. That is that if we would agree next year to pay for this $60 billion over a 5-year period we would save the taxpayers of this country $100 billion in interest costs over the 30-year payment plan that the administration and probably the majority here today favor.

As far as I am concerned it is a simple concept. We have a moral obligation to pay our bills. This is not a pleasant thing to pay for. It will not be easy to pay for it next year, but it is right that we figure out how to pay for it next year even in an election year.

I know the hour is late and I am going to be very brief and just ask the Members to vote for the concept of pay as you go. We can find $60 billion in cuts in a $1.4 trillion budget over a 5-year period. That is $12 billion a year. That is not unreasonable. With all due respect to the gentleman from Ohio, Mr. WYLIE, it does not violate the budget agreement.

Any suggestion that by reducing the deficit further than the agreement called for last November, somehow we have breached the budget agreement I think is standing logic on its head. I think all of us understand that that agreement certainly was not an end-all in dealing with the deficit problem. This will help us solve that problem by requiring us to come together next year and develop a plan to pay for at least $60 billion of this terrible problem.

I believe so strongly that we have the moral obligation to do this for our kids and grandkids, and to stop handing them all these unpaid bills.

Mr. WYLIE. Mr. Chairman, if the gentleman will yield, I might join the gentleman. He says "we." I think he means we in Congress.

Mr. SLATTERY. Mr. Chairman, reclaiming my time, I would just observe that the President of the United States has told the people of this country that he can solve all these problems without any additional revenue. If he can do that I would like to see his plan. That is what this whole concept envisions. After he would lay his plan on the table the heat would be on us to produce. I think that given his leadership, this body could produce. I urge my colleagues to vote for the committee bill, vote for the concept of pay as you go, and to stop handling all these unpaid bills to our kids and grandkids.

The CHAIRMAN. Under the rule, all time has expired.

The question is on the committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. It is now in order to consider the amendment in the nature of a substitute printed in House Report 102-408.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BARNARD

Mr. BARNARD. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BARNARD: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991".

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended by adding at the end the following new paragraph:

"(3) ADDITIONAL INTERIM FUNDING.—In addition to amounts provided under paragraph (2), the Secretary of the Treasury shall provide to the Corporation such sums as may be necessary not to exceed $25 billion to carry out the purposes of this section until April 1, 1992.".

SEC. 102. APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended to read as follows:

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owners' Loan Act for the purpose of liquidation or winding up any savings association's affairs—

"(i) before October 1, 1993, the Resolution Trust Corporation shall be appointed;

"(ii) after September 30, 1993, the Resolution Trust Corporation shall be appointed if the Resolution Trust Corporation had been placed in control of the depository institution at any time on or before such date; and

"(iii) after September 30, 1993, the Corporation shall be appointed unless the Resolution Trust Corporation is required to be appointed under clause (ii).".

SEC. 103. EXTENSION OF RESOLUTION TRUST CORPORATION DUTY.

(a) IN GENERAL.—Section 21A(b)(3)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(A)(ii)(II) is amended to read as follows:

"(ii) for which a conservator or receiver is appointed after December 31, 1988, and before October 1, 1993 (including any institution described in paragraph (6).".

(b) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—Section 21A(b)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(6)) is amended to read as follows:

"(6) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—If the Corporation is appointed as conservator or receiver for any insured depository institution described in paragraph (3)(A) before October 1, 1993, and a conservator or receiver is appointed for such institution on or after such date, the Corporation may be appointed as conservator or receiver for such institution on or after October 1, 1993.".

SEC. 104. TERMINATION OF FICO BORROWING AUTHORITY.

Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) is amended to read as follows:

"(2) TERMINATION OF BORROWING AUTHORITY.—No obligation of the Financing Corporation shall be issued after the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991.".

SEC. 105 REQUIREMENT TO PAY RTC WORKING CAPITAL DEBT BEFORE TRANSFERRING FUNDS TO REFCORP.

Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) is amended by inserting after "Thereafter" the following ", if there are no liabilities of the Corporation outstanding,".

SEC. 106. RTC REPORTS ON ASSET SALES, LOANS SECURED BY ASSETS, BUDGETS, AND OTHER MATTERS.

(A) QUARTERLY REPORTS.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) QUARTERLY REPORTS.—Not later than May 31, August 31, November 30, and the last day of February of each year, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the following information for the quarter ending on the last day of the month ending before the month in which such report is required to be submitted:

"(A) ASSET SALES.—The report shall contain the following information with respect to assets of institutions described in subsection (b)(3)(A) which were disposed of by the Corporation during the quarter covered by the report:

"(i) The total amount of the actual sales of assets during the quarter.

"(ii) The value of the assets as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

"(iii) The fair market value of the assets as estimated by the Corporation for purposes of securing amounts borrowed from the Federal Financing Bank by the Corporation.

"(iv) The net recovery on asset sales during the quarter.

"(v) A subtotal of the value of the assets disposed of during the quarter in each of the following categories:

"(I) Cash and securities.

"(II) Mortgage loans for 1- to 4-family dwellings.

"(III) Construction and land loans.

"(IV) Other mortgage loans.

"(V) Consumer loans.

"(VI) Commercial loans.

"(VII) Real estate owned assets.

"(VIII) Other assets.

"(B) AUCTION SALES.—The report shall contain information regarding auction sales of RTC assets, including the following information:

"(i) The date and location of each auction sale during the quarter.

"(ii) The total value of the sales of assets sold during an auction during the quarter.

"(iii) The total value of assets sold at each auction, as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

"(iv) The total fair market value of assets sold at each auction, as estimated by the Corporation.

"(v) The total actual selling price of assets sold during each auction held during the quarter.

"(vi) The net recovery or loss on assets sold during an auction during the quarter, by category listed in subclauses (I) through (VII) of clause (vii).

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"(vii) A subtotal of the value of the assets sold during an auction during the quarter in each of the following categories:

"(I) Cash and securities.

"(II) Mortgage loans for 1- to 4- family dwellings.

"(III) Construction and land loans.

"(IV) Other mortgage loans.

"(V) Consumer loans.

"(VI) Commercial loans.

"(VII) Real estate owned assets.

"(VIII) Other assets.

"(C) FEDERAL FINANCING BANK LOAN STATUS.—The report shall contain the following information with respect to loans from the Federal Financing Bank to the Corporation:

"(i) The total amount of loans outstanding at the beginning of the quarter.

"(ii) The total amount of loans originated during the quarter.

"(iii) The total amount of loans repaid during the quarter.

"(iv) The total amount of loans outstanding at the end of the quarter.

"(D) SELLER FINANCING.—The report shall contain information regarding the Corporation's use of seller financing to encourage the sales of assets during the quarter, including the following:

"(i) A total of the amount of funds used for seller financing purposes during the quarter.

"(ii) The number of applications received by the Corporation which requested seller financing.

"(iii) A breakdown of the type of assets sold, according to the categories listed in subclauses (I) through (VIII) of subparagraph (B)(vii).

"(iv) Projections of the total amount of seller financing which will be needed during the succeeding 2 quarters.".

(b) SEMIANNUAL REPORT ON NATIONAL AND REGIONAL ADVISORY BOARDS.—Section 21A)(k)(4)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a)(k)(4)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by inserting after clause (iv) the following new clause:

"(v) descriptions of the operations and activities of the national and regional advisory boards established under subsection (d) and financial statements detailing the expenses of such boards.".

(c) RTC AND OVERSIGHT BOARD BUDGET REPORTS.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended by adding at the end the following new paragraph:

"(10) BUDGET REPORTS.—

"(A) IN GENERAL.—Before the end of each calendar quarter, the Oversight Board and the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the complete annual budget, as approved by the Oversight Board.

"(B) ACTIVITIES RELATING TO PHASING OUT RTC OPERATIONS.—Beginning with the report due in the 1st quarter of 1994, the report shall include information on the Corporation's activities to phase down its operations and reduce the number of employees and the amount of office space and other overhead as the Corporation completes its duties under this section and approaches termination.".

"(d) EMPLOYEE REPORTS.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended by inserting after paragraph (10) (as added by subsection (c) of this section) the following new paragraph:

"(11) EMPLOYEE REPORTS.—The Corporation shall submit semiannual reports to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the following information:

"(A) The total number of employees of the Oversight Board and the total number of individuals performing services directly on behalf of the Corporation.

"(B) The total number of individuals performing services for the Corporation as an employee of the Federal Deposit Insurance Corporation or any other agency, including the Government Accounting Office and the number from each such agency.

"(C) The total number of individuals employed in each job classification and employment status, including employment on a temporary basis or for an agreed upon period of time.".

"(e) SUPPLEMENTAL UNAUDITED FINANCIAL STATEMENTS.—

"(1) INTERIM FINANCIAL STATEMENTS.—Section 21A(k)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)) is amended by inserting at the end the following new subparagraph:

"(C) SUPPLEMENTAL UNAUDITED FINANCIAL STATEMENTS.—In addition to the annual report required under paragraph (4), the Oversight Board and the Corporation shall submit to the Congress, not later than September 30 of each calendar year, an unaudited financial statement for the 6-month period ending on June 30 of such year.".

"(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to annual reports required to be submitted after the end of the 90-day period beginning of the date of the enactment of this Act.

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

SEC. 201. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF EXECUTIVE OFFICER.

Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) is amended—

(1) in subparagraph (B), by amending clause (i) to read as follows:

"(i) FDIC.—The Corporation shall use employees (selected by the Corporation) of the Federal Deposit Insurance Corporation and the Federal Deposit Insurance Corporation shall provide such personnel to the Corporation for its use. Notwithstanding the foregoing, the Federal Deposit Insurance Corporation need not provide to the Corporation any employee of the Federal Deposit Insurance Corporation who was employed by the Federal Deposit Insurance Corporation on the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 and who had not theretofore been provided to the Corporation by the Federal Deposit Insurance Corporation. In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall provide to the Corporation, such persons as the Corporation may request from time to time. Federal Deposit Insurance Corporation employees provided to the Corporation shall be subject to the direction and control of the Corporation and any of them may be returned to the Federal Deposit Insurance Corporation at any time by the Corporation in the discretion of the Corporation. The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred in providing such employees. Any permanent employee of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation immediately prior to the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 shall continue to be provided to the Corporation after that date unless the Corporation determines the services of any such employee to be unnecessary, in which case such employee shall be returned to a similar position performing services on behalf of the Federal Deposit Insurance Corporation. In any ensuing reduction-in-force or reorganization within the Federal Deposit Insurance Corporation, any such employee shall compete with the same rights as any other Federal Deposit Insurance Corporation employee. The Corporation may use administrative services of the Federal Deposit Insurance Corporation and, if it does so, shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing such services. Any employee or officer in the executive service of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation at level E-4 or above immediately prior to the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 shall continue to be assigned to perform substantially similar services on behalf of the Corporation after such date unless the Corporation—

"(I) determines that the services of any such employees are unnecessary, or

"(II) reassigns or substantially alters the responsibilities or duties of any such employees.

If an action described in subclause (I) or (II) occurs, any such employee with at least 20 years of service, as defined by chapter 83 or chapter 84 of title 5, United States Code, shall be entitled to an annuity under section 8336(d) or section 8414(b)(1) of title 5, United States Code, notwithstanding the fact that such employee has not attained the age of 50 years or has declined another position with the Federal Deposit Insurance Corporation, and the annuity of such employee shall not be reduced because of the age of such employee. The Federal Deposit Insurance Corporation shall reimburse the appropriate retirement insurance fund for any increased costs it incurs as a result of the annuities authorized pursuant to this clause."; and

(2) by adding at the end thereof the following new subparagraph:

"(C) CHIEF EXECUTIVE OFFICER.—There is established the office of chief executive officer of the Corporation. The chief executive officer of the Corporation shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.".

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TREASURY PAYMENTS TO FUND.—Section 11(a)(6)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(E)) is amended—

(1) by striking "1992" and inserting "1993"; and

(2) by striking "1999" and inserting "2000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 11(a)(6)(J) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(J)) is amended—

(1) by striking "1991" each place it appears and inserting "1992";

(2) by striking "1992" and inserting "1993"; and

(3) by striking "1999" and inserting "2000".

(c) FSLIC RESOLUTION FUND.—Section 11A(a)(2)(B) of the Federal Deposit Insurance

Act (12 U.S.C. 1821a(a)(2)(B)) is amended by striking "1991" and inserting "1992".

(d) SOURCE OF FUNDS.—Section 11A(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(b)(4)) is amended by striking "1991" and inserting "1992".

TITLE III—REFORM OF THE RTC

SEC. 301. SHORT TITLE.

This title may be cited as the "Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991".

SEC. 302. THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; AMENDMENTS TO REFERENCES IN THE FEDERAL HOME LOAN BANK ACT.

(a) REDESIGNATION.—The Oversight Board, as established by section 21A(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(1)), is redesignated the Thrift Depositor Protection Oversight Board.

(b) IN GENERAL.—Except as provided in subsection (c), the Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking "Oversight Board" each place it appears and inserting "Thrift Depositor Protection Oversight Board".

(c) EXCEPTION.—Subsection (b) does not apply to section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)).

SEC. 303. ACCOUNTABILITY OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended—

(1) by striking "be accountable for" and inserting "monitor the operations of"; and

(2) after "(hereinafter referred to in this section as the 'Corporation')," by inserting "and shall be accountable for the duties assigned to the Thrift Depositor Protection Oversight Board by this Act.".

SEC. 304. MEMBERSHIP OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking "5 members" and inserting "7 members";

(B) by striking clause (iii);

(C) redesignating clause (iv) as clause (vi); and

(D) by inserting after clause (ii) the following:

"(iii) the Director of the Office of Thrift Supervision;

"(iv) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

"(v) the chief executive officer of the Corporation; and"; and

(2) in subparagraph (E) by striking "3 members" and inserting "4 members".

SEC. 305. DUTIES AND AUTHORITIES OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) To review overall strategies, policies, and goals established by the Corporation for its activities, which shall include such items as the Thrift Depositor Protection Oversight Board deems likely to have a material effect upon the financial condition of the Corporation, the results of its operations, or its cash flows, and such items as the Thrift Depositor Protection Oversight Board deems to involve substantial issues of public policy. After consultation with the Corporation, the Thrift Depositor Protection Oversight Board may require the modification of any such overall strategies, policies, and goals and their implementation. Overall strategies, policies, and goals shall include such items as—

"(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors;

"(ii) the use of notes, guarantees, or other obligations by the Corporation;

"(iii) financial goals, plans, and budgets; and

"(iv) restructuring agreements described in subsection (b)(10)(B).";

(2) in subparagraph (B), by inserting "financial plans, budgets, and" after "implementation"; and

(3) by amending subparagraph (C) to read as follows:

"(C) To review all rules, regulations, standards, principles, procedures, guidelines, and statements that may be adopted or announced by the Corporation. The provisions of this subparagraph shall not apply to internal administrative policies and procedures (including such matters as personnel practices, divisions and organization of staffing, delegations of authority, and practices respecting day-to-day administration of the Corporation's affairs) and determinations or actions described in paragraph (8) of this subsection.".

Section 305 is amended to add the following at the end of subsection (1) [amending subpart (A)]

". . . provided that if the Thrift Depositor Protection Oversight Board requires the modification of any overall strategies, policies and goals, it shall, within 30 days of the date at which it directs the RTC make such modification, provide the House and Senate Banking Committees with an explanation that identifies which ground justifies the review and giving reasons why the modification is necessary to satisfy these grounds."

SEC. 306. LIMITATION OF AUTHORITY OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended—

(1) by striking "(i) involving" and inserting "involving (i)"; and

(2) by striking "provide general policies and procedures" and inserting "review overall strategies, policies, and goals established by the Corporation".

SEC. 307. OPEN MEETINGS.

Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended—

(1) by striking "4" and inserting "6"; and

(2) by adding a sentence at the end, to read as follows: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of its open meetings.".

SEC. 308. STRATEGIC PLAN.

Section 21A(a)(14)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(14)(A)) is amended to read as follows:

"(A) IN GENERAL.—The chief executive officer of the Corporation is authorized to implement the strategic plan for conducting the Corporation's functions and activities submitted by the former Oversight Board to the Congress, dated December 31, 1989.".

SEC. 309. MANAGEMENT AND DUTIES OF THE RESOLUTION TRUST CORPORATION.

(a) MANAGEMENT.—Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(C)) is amended to read as follows:

"(C) MANAGEMENT BY CHIEF EXECUTIVE OFFICER.—The Corporation shall be managed by or under the direction of its chief executive officer.".

(b) DUTIES.—Section 21A(b)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(B)) is amended to read as follows:

"(B) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Thrift Depositor Protection Oversight Board pursuant to subsection (a)(6)(A) of this section.".

(c) REAL AND PERSONAL PROPERTY.—Section 21A(b)(10(E) is amended by adding after "real and personal property," the following: "using any legally available private sector methods including without limitation, securitization of debt or equity, limited partnerships, mortgage investment conduits, and real estate investment trusts,".

SEC. 310. ABOLITION OF BOARD OF DIRECTORS OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by striking paragraph (8) and redesignating paragraphs (9), (10), (11), (12), (13), and (14) as paragraphs (8), (9), (10), (11), (12), and (13), respectively.

SEC. 311. POWERS OF CHIEF EXECUTIVE OFFICER OF THE RESOLUTION TRUST CORPORATION; CONSULTATION.

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)), as redesignated, is amended—

(1) in subparagraph (A), by striking "Unless the Oversight Board exercises its authority under subsection (m) of this section" and inserting "Except for its chief executive officer"; and

(2) by adding, after subparagraph (C), the following new subparagraphs

"(D) POWERS OF THE CHIEF EXECUTIVE OFFICER.—The chief executive officer may exercise all of the powers of the Corporation and act for and on behalf of the Corporation, and may delegate such authority, as deemed appropriate by the chief executive officer, including the power to subdelegate authority, to persons designated by the chief executive officer who are employees of the Federal Deposit Insurance Corporation utilized by the Corporation or who provide services for the Corporation.

SEC. 312. NATIONAL HOUSING ADVISORY BOARD.

Section 21A(d) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) NATIONAL HOUSING ADVISORY BOARD.—

"(A) ESTABLISHMENT.—The Thrift Depositor Protection Oversight Board shall establish a National Housing Advisory Board to advise the Thrift Depositor Protection Oversight Board on policies and programs related to the provision of affordable housing.

"(B) MEMBERSHIP.—The National Housing Advisory Board shall consist of—

"(i) the Secretary of Housing and Urban Development; and

"(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (3).

"(C) MEETINGS.—The National Housing Advisory Board shall meet 4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board.".

SEC. 313. RIGHTS OF EMPLOYEES UPON SUNSET.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) in section 404(9)—

(A) by striking "of such Corporation shall be transferred to" and inserting "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within"; and

(B) by striking "of this subsection" and inserting "of this section"; and (2) in section 404(2)—

(A) by inserting "grade," after "status, tenure,"; and

(B) by inserting "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment" after "cause".

SEC. 314. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking "(b)(12)" and inserting "(b)(11)";

(B) in paragraph (8)—

(i) by striking "(A)"; and

(ii) by striking subparagraph (B); and (C) in paragraph (10)—

(i) by striking "establish and review the general policy of" and inserting "review overall strategies, policies, and goals established by"; and

(ii) by striking "standards, policies, and procedures necessary to carry out" and inserting "matters as pertain to";

(2) in subsection (b)—

(A) in paragraph (3), by striking "and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m)";

(B) in paragraph (9) as redesignated—

(i) by striking subparagraph (B) and redesignating subparagraphs (C) through (N) as subparagraphs (B) through (M), respectively;

(ii) in subparagraph (M), as redesignated, by striking "on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager"; and

(C) in paragraph (11), as redesignated—

(i) by amending subparagraph (A) to read as follows:

"(A) STRATEGIES, POLICIES, AND GOALS.—The Corporation shall adopt the rules, regulations, standards, procedures, guidelines, and statements necessary to implement the strategic plan submitted by the former Oversight Board to Congress dated December 31, 1989. The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties.";

(ii) by amending subparagraph (B) to read as follows:

"(B) REVIEW, ETC.—Such overall strategies, policies, and goals, and such rules, regulations, standards, principles, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Thrift Depositor Protection Oversight Board promptly or prior to publication or announcement to the extent practicable;

"(ii) shall be subject to the review of the Thrift Depositor Protection Oversight Board as provided in subsection (a)(6)(A) (with respect to overall strategies, policies, and goals); and

"(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code."; and

(iii) in subparagraphs (D) and (E), by striking "Board of Directors" each place it appears and inserting "chief executive officer";

(3) by striking subsections (m) and (n) and redesignating subsections (o), (p), (q), and (r) as subsections (m), (n), (o), and (p) respectively;

(4) in subsection (n), as redesignated, in paragraph (5), by striking "Directors, officers," and inserting "Officers"; and

(5) in subsection (o), as redesignated—

(A) in paragraph (1) by striking "director," and

(B) in paragraph (2)—

(i) by striking "—";

(ii) by striking subparagraph (A);

(iii) by striking the designation "(B)"; and

(iv) by striking "on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager".

SEC. 315. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) INSPECTOR GENERAL ACT.—Section 11(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "Oversight Board and the Board of Directors of the Resolution Trust Corporation" and inserting "; the Chairperson of the Thrift Depositor Protection with jurisdiction over the place where the action, suit, or proceeding is pending, to the United States district court for the District of Columbia, or to the United States district court with jurisdiction over the principal place of business of any institution for which the corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution. The removal of any such suit or proceeding shall be instituted—

"(i) not later than 90 days after the date the Corporation is substituted as a party, or

"(ii) not later than 30 days after service on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989.

"(B) SUBSTITUTION.—The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party of the filing of such other pleading informing the court Oversight Board and the chief executive officer of the Resolution Trust Corporation."

(b) THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.—Section 5313 of title 5, United States Code, is amended by striking "Oversight Board, Resolution Trust Corporation" and inserting "Thrift Depositor Protection Oversight Board".

(c) CHIEF EXECUTIVE OFFICER.—Section 5314 of title 5, United States Code, is amended by adding at the end the following: "chief executive officer, Resolution Trust Corporation.".

(d) RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991.—Section 102(c)(1) of the Resolution Trust Corporation Funding Act of 1991 (12 U.S.C. 1441a note) is amended by striking "Chairman of the Resolution Trust Corporation" and inserting "chief executive officer of the Resolution Trust Corporation".

SEC. 316. REMOVAL AND REMAND.

Section 21A(l)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)) is amended to read as follows:

"(3) REMOVAL AND REMAND.—

"(A) IN GENERAL.—The corporation, in any capacity and without bond or security, may remove any action, suit, or proceeding from a State court to the United States district court that the Corporation has been appointed conservator or receiver for such party.

"(C) APPEAL.—The corporation may appeal any order of remand entered by a United States district court."

SEC. 317. SAVINGS PROVISIONS.

(a) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—This title shall not affect the validity of any right, duty, or obligation of the United States, the Corporation, the Oversight Board, or any other person, that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board, with respect to any function of the Oversight Board, shall abate by reason of the enactment of this Act, except that the Thrift Depositor Protection Oversight Board shall continue as party to any such action or proceeding, notwithstanding the change of name of the Oversight Board.

(b) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, and regulations that—

(1) have been issued, made, prescribed, or allowed to become effective by the Oversight Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions under the Federal Home Loan Bank Act; and

(2) are in effect on the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991,

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations, and shall be enforceable by or against the Thrift Depositor Protection Oversight Board, or the Resolution Trust Corporation, by any court of competent jurisdiction, or by operation of law, notwithstanding the change of name of the Oversight Board.

SEC. 318. EFFECTIVE DATE OF THIS TITLE.

The effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991 shall be February 1, 1992.

TITLE IV—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

SEC. 401. INCREASED PARTICIPATION OF MINORITIES AND WOMEN IN CONTRACTING PROCESS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection(s) (as added by section 227 of this Act) the following new subsection:

"(t) REVIEW AND EVALUATION PROCEDURE FOR CONTRACTS.—

"(1) IN GENERAL.—In the review and evaluation of proposals, the Corporation shall provide additional incentives to minority- or women-owned businesses by awarding any such business an additional 10 percent of the total technical points and an additional 5 percent of the total cost preference points achievable in the technical and cost rating process applicable with respect to such proposals.

"(2) CERTAIN JOINT VENTURES INCLUDED.—Paragraph (1) shall apply to any proposal submitted by a joint venture in which a minority- or woman-owned business has participation of not less than 25 percent.

"(3) AUTHORITY TO ADJUST TECHNICAL AND COST PREFERENCE POINTS.—The Corporation may adjust the technical and cost preference points applicable in evaluating proposals to the extent necessary to ensure the maximum participation level possible for minority- or woman-owned businesses.

"(4) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY-OWNED BUSINESS.—The term 'minority-owned business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN-OWNED BUSINESS.—The term 'women's business' means a business—

"(i) more that 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.".

SEC. 402. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

(a) ACQUISITION OF BRANCH FACILITIES FROM THE RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (t) (as added by section 301 of this title) the following new subsection:

"(u) ACQUISITION OF BRANCH FACILITIES IN MINORITY NEIGHBORHOODS.—

"(1) IN GENERAL.—In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation may make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

"(A) The branch may be made available on a rent-free lease basis for not less than 5 years.

"(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, and utilities.

"(C) The lease may provide an option to purchase the branch during the term of the lease.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY DEPOSITORY INSTITUTIONS.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.

"(C) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

(b) COMMUNITY REINVESTMENT CREDIT FOR DEPOSITORY INSTITUTIONS PROVIDING ASSISTANCE.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

"(a) IN GENERAL.—In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity shall be treated as meeting the credit needs of the institution's community for purposes of this title.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(2) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(C) a significant percentage of senior management positions of which are held by women.

"(3) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

SEC. 403. ACQUISITION OF FAILING MAJORITY ASSOCIATIONS BY MINORITY INSTITUTIONS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (u) (as added by section 302 of this title) the following new subsection:

"(v) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—

"(1) IN GENERAL.—In addition to the assistance provided pursuant to the minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a), the Corporation may provide assistance for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(2) ADDITIONAL ASSETS.—In connection with the acquisition of any savings association for which the Corporation provides assistance under paragraph (1), the Corporation may transfer assets of other savings associations for which the Corporation has been appointed conservator or receiver.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(c)(8) of the Federal Deposit Insurance Act).".

SEC. 404. STATUTORY ESTABLISHMENT OF PROGRAM.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (v) (as added by section 303 of this title) the following new subsection:

"(w) MINORITY INTERIM CAPITAL ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) is hereby established by law.

"(2) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—In addition to the assistance provided pursuant to the program established under paragraph (1), the Corporation shall provide assistance under such program for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(3) EXTENSION OF INTERIM FINANCINO PERIOD.—The period for repayment of capital assistance provided under the minority interim capital assistance program shall be not less than 2 years.

"(4) INTEREST RATE.—The rate of interest imposed by the Corporation in connection with any interim financing provided under the minority interim capital assistance program may not exceed the average cost of funds to the Corporation as of the time such rate is established.

"(5) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY.—The term 'minority ' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(c)(8) of the Federal Deposit Insurance Act).".

SEC. 405. GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.

Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended to read as follows:

"(14) GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.—The Corporation shall have an annual goal that presents the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts awarded by the Corporation.".

TITLE V—MISCELLANEOUS HOUSING PROVISIONS

SECTION 501.

(a) CREDIT ENHANCEMENT TO PROVIDE HOUSING OPPORTUNITIES FOR LOW-INCOME PERSONS.—

(1) IN GENERAL.—Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K)) is amended to read as follows:

"(K) To make loans and, with respect to eligible residential properties, develop risk sharing structures and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.".

(2) CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.—Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(A) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

(B) by adding at the end the following new clause:

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organization pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

TITLE VI—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

SEC. 601. INCLUSION OF ELIGIBLE RESIDENTIAL PROPERTY UNDER CONSERVATORSHIP.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) is amended—

(1) by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—

"(i) BASIC DEFINITION.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as an operating conservator; and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(ii) EXPANDED DEFINITION.—Notwithstanding clause (i), to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this clause taking effect, the term 'eligible multifamily housing property' shall mean a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas)."; and

(2) by striking subparagraph (F) and inserting the following subparagraph:

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).".

SEC 602. TIME LIMITATIONS ON SALE OF ELIGIBLE SINGLE FAMILY PROPERTY.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)), as amended by Public Law 102–139, is amended—

(1) in the first sentence, by striking "For" and inserting "Except as provided in the last sentence of this subparagraph, for"; and

(2) by adding at the end the following new sentence: "To the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this sentence taking effect, for purposes of this subsection the period referred to in the first and third sentences shall be considered to be the 180-day period following the date on which the Corporation first makes an eligible single family property available for sale.".

SEC. 603. ACTIVE MARKETING OF ELIGIBLE SINGLE FAMILY PROPERTY TO LOWER-INCOME VETERANS.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended—

(1) in clause (i) of the first sentence, by inserting "(including qualifying households with members who are veterans)" after "households";

(2) in subclause (I) of clause (ii) of the first sentence, by inserting "(including lower-income families with members who are veterans)" after "lower-income families"; and

(3) in the fourth sentence, by inserting "and to lower-income families with members who are veterans" before the period.

SEC 604. PREVENTION OF SPECULATION ON ELIGIBLE SINGLE FAMILY PROPERTY.

(a) RESIDENCY REQUIREMENTS.—

(1) QUALIFYING HOUSEHOLDS.—Section 21A(c)(9)(K) of the federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(K)) is amended by striking "and (ii) whose adjusted income" and inserting the following: "(ii) who agrees to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); (iii) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); and (iv) whose income".

(2) LOWER-INCOME FAMILIES.—The first sentence of section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by striking "by such families." and inserting the following: "by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months.".

(b) RECAPTURE OF PROFITS FROM RESALE.—Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding at the end the following new subparagraphs:

"(C) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (D), if any eligible single family property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (B)(ii)(II), paragraph (12)(C)(i), or paragraph (13)(B), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or lower-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(D) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(i) RELOCATION.—The Corporation (or its successor) may in its discretion waive the applicability (I) to any qualifying household of the requirement under subparagraph (C) and the requirements relating to residency of a qualifying household under paragraphs (9)(L)(ii) and (iii), and (II) to any lower-income family of the requirement under subparagraph (C) and the residency requirements under subparagraph (B)(ii)(II). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(ii) OTHER RECAPTURE PROVISIONS.—The requirement under subparagraph (C) shall not apply to any eligible single family property for which, upon resale by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to by recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.".

SEC. 605. AVOIDANCE OF DISPLACEMENT UNDER SINGLE FAMILY PROPERTY DISPOSITION PROGRAM.

Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding after subparagraph (D) (as added by section 504(b) of this Act) the following new subparagraph:

"(E) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of subparagraph (B), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (i) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under subparagraph (A), (ii) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (iii) the resident household intends to occupy the property as a principal residence for at least 12 months, and (iv) and the resident household certifies in writing that the household intends to occupy the property for at least 12 months.".

SEC. 606. PERIODS FOR EXPRESSION OF SERIOUS INTEREST AND RESTRICTED BIDS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) in the first sentence of subparagraph (B), by striking the first comma and all that follows through "first";

(2) in subparagraph (C), by striking "determining that a property is ready for sale" and inserting the following: "the expiration of the period referred to in subparagraph (B) for a property,"; and

(3) in subparagraph (D), by inserting after the period at the end the following new sentence: "If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.".

SEC 607. LOWER-INCOME OCCUPANCY REQUIREMENTS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) is amended to read as follows:

"(E) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under subparagraph (D)—

"(I) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the property in which the units are located; provided that

"(II) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located.

"(ii) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under subparagraph (D) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation—

"(I) the provisions of clause (i) shall apply in the aggregate to the properties so purchased; except that

"(II) to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, not less than (a) 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the property in which the units are located, (b) 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located, and (c) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located

The requirements of this subparagraph shall be contained in the deed or other recorded instrument.".

SEC 608. EXTENSION OF RESTRICTED OFFER PERIOD FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) EXTENSION OF RESTRICTED OFFER PERIODS.—Notwithstanding subparagraph (F), the Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of subparagraphs (A) and through (D), any eligible multifamily housing property—

"(i) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in subparagraph (B), or

"(ii) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in subparagraph (D).

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in subparagraphs (B) and (D) in offering any property for sale under this subparagraph.".

SEC. 609. SALE PRICE.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value. The Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraph (3). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.".

SEC. 610. AUTHORITY FOR RTC TO PARTICIPATE IN MULTIFAMILY FINANCING POOLS.

Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentence: "In providing financing for combinations of eligible multifamily housing properties under this subsection, the Corporation may hold a participating share, including a subordinate participation.".

SEC. 611. CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.

Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(1) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

(2) by adding at the end the following new clause:

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

SEC. 612. PERMANENT EFFECTIVENESS OF EXEMPTION FOR TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.

Notwithstanding section 203 of the Resolution Trust Corporation Funding Act of 1991, the amendment made by section 201(b) of such Act shall apply on and after the date of the enactment of this Act.

SEC. 613. TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(12) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENTS FOR DISPOSITION.—Notwithstanding paragraphs (2), (3), (5), and (6), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this paragraph may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(A) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(B) ACQUISITION PRICE AND DISCOUNT.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this paragraph shall be an amount agreed to by the Corporation and the transferee agency.

"(C) LOWER-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this paragraph shall offer to sell or transfer the properties only as follows:

"(i) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(I) to purchasers described under clauses (i) and (ii) of paragraph (2)(B);

"(II) if the purchaser is a purchaser described under paragraph (2)(B)(ii)(I), subject to the rent limitations under paragraph (4)(A);

"(III) subject to the requirement in the second sentence of paragraph (2)(B); and

"(IV) subject to recapture by the Corporation of excess proceeds from resale of the properties under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(I) to qualifying multifamily purchasers;

"(II) subject to the lower-income occupancy requirements under paragraph (3)(E);

"(III) subject to the provisions of paragraph (3)(H);

"(IV) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term; and

"(V) subject to the rent limitations under paragraph (4)(A).

"(D) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this paragraph more affordable to lower-income families based upon the extent to which the acquisition price of a property under subparagraph (B) is less than the market value of the property.".

SEC. 614. SUSPENSION OF OFFER PERIODS FOR SALES OF ELIGIBLE RESIDENTIAL PROPERTY TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (12) (as added by section 513 of this Act) the following new paragraph:

"(13) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(A) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of subparagraphs (A) and (B) of paragraph (2) and subparagraphs (A) through (D) of paragraph (3), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such paragraphs shall toll for the duration of any suspension under this subparagraph.

"(B) USE RESTRICTIONS.—

"(i) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this paragraph shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or made available for purchase by such families, (II) subject to the rent limitations under paragraph (4)(A), (III) subject to the requirements relating to residency of a qualifying household under paragraph (9)(L) and to residency of a lower-income family under paragraph (2)(B)(ii), and (IV) subject to recapture by the Corporation of excess proceeds from resale of the property under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this paragraph shall comply with the lower-income occupancy requirements under paragraph (3)(E) and shall be subject to the rent limitations under paragraph (4)(A).".

SEC. 615. SALE OF ELIGIBLE CONDOMINIUM PROPERTY.

(a) IN GENERAL.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (13) (as added by section 514 of this Act) the following new paragraph:

"(14) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in clauses (i) through (iv) of subparagraph (B). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(B) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(i) Qualifying households.

"(ii) Nonprofit organizations.

"(iii) Public agencies.

"(iv) For-profit entities.

"(C) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of the property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(ii) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under clause (i) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property or (II) made available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(iii) SALE TO OTHER PURCHASERS.—If upon the expiration of the 180-day period referred to in subparagraph (B), no purchaser described in clauses (i) through (iv) of subparagraph (B) has made a bona fide offer to purchase the property the Corporation may offer to sell the property to any other purchaser.

"(D) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (E), if any eligible condominium property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (C)(i)(II) or (C)(ii)(II), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(E) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or lower-income family of the requirement under subparagraph (D) and the requirements relating to residency of a qualifying household or lower-income family (under paragraph (9)(L) and subparagraph (C) of this paragraph respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(F) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(G) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.".

"(b) CONFORMING AMENDMENT.—Section 21A(c)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(11)(B)) is amended by striking "specified under paragraphs (2) and (3)" and inserting "applicable under paragraphs (2), (3), (12)(C), (13)(B), and (14)(C)".

SEC. 616. REPORTS TO CONGRESS REGARDING AFFORDABLE HOUSING PROGRAM.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (14) (as added by section 515 of this Act) the following new paragraph:

"(15) REPORTS TO CONGRESS.—

"(A) IN GENERAL.—The Corporation shall submit to the Congress semiannual reports under this paragraph regarding the disposition of eligible residential properties under this subsection during the most recently concluded reporting period. The first report under this paragraph shall be submitted not later than the expiration of the 4-month period beginning upon the conclusion of the first reporting period under subparagraph (B). Subsequent reports shall be submitted not less than every 6 months after such expiration.

"(B) REPORTING PERIODS.—For purposes of this paragraph, the term 'reporting period' means the 6-month period for which a report under this paragraph is made, except that the first reporting period shall be the period begining on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

"(C) INFORMATION REGARDING PROPERTIES SOLD.—Each report under this paragraph shall contain information regarding each eligible residential property sold by the Corporation during the applicable reporting period, as follows:

"(i) A description of the property, the location of the property, and the number of dwelling units in the property.

"(ii) The appraised value of the property.

"(iii) The sale price of the property.

"(iv) For eligible single family properties—

"(I) the income and race of the purchaser of the property, if the property is sold to an occupying household or is sold for resale to an occupying household; and

"(II) whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property.

"(v) For eligible multifamily housing properties. The number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families.

"(vi) The number of eligible single family properties sold after the expiration of the offer period for such properties referred to in paragraph (2)(B).

"(vii) The number of eligible multifamily housing properties sold after the expiration of the periods for such properties referred to in subparagraphs (B) and (D) of paragraph (3).

"(D) NUMBER OF PROPERTIES WITHIN WINDOWS.—Each report under this paragraph shall contain the following information:

"(i) The number of eligible single family properties for which the offer period referred to in paragraph (2)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

"(ii) The number of eligible multifamily housing properties for which the 90-day period referred to in paragraph (3)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced)."

SEC. 617. DEFINITIONS.

Section 21A(c)(9) for the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)), as amended by sections 501 and 504(a)(1) of this Act, is further amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.";

(2) by redesignating subparagraphs (D) through (P) as subparagraphs (E) through (Q), respectively; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).".

SEC. 618. RISK-WEIGHTING OF HOUSING LOANS FOR PURPOSES OF CAPITAL REQUIREMENTS.

(a) SINGLE FAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(A) IN GENERAL.—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under subparagraph (B) shall be considered as a loan within the 50 percent risk-weighted category.

(B) REQUIREMENTS.—Subparagraph (A) shall apply to any construction loan—

(i) made for the construction of a residence consisting of 1 to 4 dwelling units:

(ii) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

(I) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

(II) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurances of the buyer's intent to purchase the property (including written commitments and letters of intent);

(iii) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan obtained by the borrower for purchase of the residence, for use in defraying any costs relating to any cancellation of the purchase contract of the buyer; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) 100 PERCENT RISK-WEIGHTED CLASSIFICATION.—Not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

(A) any single family residence construction loan for a residence for which the purchase contract is cancelled shall be considered as a loan within the 100 percent risk-weighted category; and

(B) the lender of any single family residence construction loan shall promptly notify the appropriate Federal banking agency of any such cancellation.

(b) MULTIFAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(A) IN GENERAL.—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under subparagraph (B) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

(B) REQUIREMENTS.—Subparagraph (A) shall apply to any loan—

(i) secured by a first lien on a residence consisting of more than 4 dwelling units;

(ii) under which—

(I)(a) the rate of interest does not change over the term of the loan, (b) the principal obligation does not exceed 80 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

(II)(a) the rate of interest changes over the term of the loan, (b) the principal obligation does not exceed 75 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

(iii) under which—

(I) amortization of principal and interest occurs over a period of not more than 30 years;

(II) the minimum maturity for repayment of principal is not less than 7 years; and

(III) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.—Not later than the expiration of the 120-day period beginning on the date of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this paragraph, the term "pro rata loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

(3) SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this paragraph, the term "other loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

(c) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 619. APPLICABILITY.

The amendments made by this title shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale entered into by the Corporation before the date of the enactment of this Act.

TITLE VII APPRAISAL AMENDMENTS

SEC. 705. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement

VOL 137
PT 24
NO 26
1991
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JA 3
1992
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Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers. Recommendations of the Subcommittee shall be nonbinding on the States.

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the first sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the second sentence, by striking "inordinate" and inserting "significant".

The CHAIRMAN. Under the rule, the gentleman from Georgia [Mr. BARNARD] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. WYLIE. Mr. Chairman, I am not opposed to the amendment, but I would like to claim the 15 minutes in opposition.

The CHAIRMAN. If there is no objection, and no Member rises in opposition, the 15 minutes which have been allotted to the opposition to the amendment can be allotted by unanimous consent to the gentleman from Ohio [Mr. WYLIE].

Without objection, the gentleman from Ohio [Mr. WYLIE] will be recognized for 15 minutes.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are about to make a very, very serious vote. I do not think anybody questions the fact that we have got to fund the Resolution Trust Corporation. It is very important. It is very vital that we do that.

The reason that our substitute is being offered this afternoon is not at all because of the fact that the committee did not do hard work. I want to congratulate the distinguished chairman of the House Committee on Banking, Finance and Urban Affairs for the very arduous task he went about in trying to structure this RTC bill.

Mr. Chairman, the reason we are here today is because the original bill contained 80-some-odd amendments. It was a very voluminous document. Unfortunately, the Senate bill is nowhere like the bill that we have just voted down. The bill that we are offering today has many similar features. No. 1, it does not have an $80 billion price tag.

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We only put in this bill as much money as the RTC needs up until April 1, 1992, with a $25 billion cap.

We also have in here a restructuring of the RTC which is identical to the language in the Senate bill.

Believing that there are some very good features in the House bill, we have incorporated in our bill minority provisions as well as low-cost housing.

So I would say, please support this substitute. It will enable us to get a bill to the Senate and have early passage and that will also facilitate us going home.

Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VENTO], a cosponsor of our amendment.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the bill.

I think it is disappointing, obviously, to see the total work product of the Banking Committee not receive an affirmative vote here, but I think the reality is that the Senate did not consider a comprehensive bill. They are unwilling to accept various substantial amendments that were in the House measure, and therefore were left with a narrower bill, a narrow bill that is 80 pages long.

I am very pleased with the restructuring that has been accepted by the Senate, been accepted by the Treasury, and the other provisions of this bill. I think we have forged some important provisions dealing with housing and some of the other products of the committee, such as the treatment of minorities and women.

I am especially pleased that we do meet our obligations. It does mean we will have to come back next April, but I think we can leave passing this assured that the savings and loan deposits and the savings of individuals in them will be safeguarded.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, I do not think this is a pleasant task today. This is not a pleasant task for us to do at all. None of us want to do it, but we have two choices. We either do not pass anything, go home, leave the RTC without money, and it will not be able to close down bankrupt savings and loans, will not be able to pay off depositors, and there will be a run on banks. There will be absolute chaos. We cannot let it happen. It is unfortunate, but we cannot let it happen.

Now, we have rejected a big bill, $80 billion, a so-called cut-as-you-go-provision. This bill cuts the money way back, gives them temporary funding. It means we will be back in here next April trying to do the job better.

Anyone who does not like this bill will have that opportunity in April to help improve on procedure.

The gentleman from Texas who spoke earlier frankly amazed me, a Republican Member. If he does not like the administration, talk to the administration, his own administration. They are the ones running this thing. If it is not being run right, talk to them, get them to run it better.

We ought to try to build some of that in our law.

Mr. Speaker, I do not believe we have a choice. We have to give this organization some short-term funding now or there will be runs on banks. That is our choice. It is an unpleasant one. This is a minimum amount of money. We must unfortunately pass it.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. NEAL of North Carolina. I am happy to yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I want to associate myself with the gentleman's remarks.

Also, I hope that we have noted the loss to the Treasury or the RTC over this time of $4 million a day with further delays.

Mr. NEAL of North Carolina. Mr. Chairman, the gentlewoman is correct.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Barnard-Wylie substitute which is before us now, a bill to provide such funds as may be necessary, but not to exceed $25 billion and it runs out on April 1; so, unfortunately, they have to come back to us on April 1, probably.

I would have preferred just having such funds as may be necessary with certain auditing restrictions, auditing requirements, et cetera, but that did not prevail.

This substitute also provides for a number of restructuring provisions. In particular, I would call attention of the Members to a provision which I was able to get in having to do with risk-weighting of housing loans for purposes of capital requirements.

This amendment directs the financial institution regulators to place seasoned low-risk family loans into the 50-percent risk-weighted category as permitted by the Basle Agreement.

I have here in my hand a letter from the National Association of Homebuilders, which says:

> In view of both the historic role that housing production has played in leading the nation out of past recessions and the credit crisis we continue to experience, it is critical that the true level of risk associated with the types of housing loans addressed by the Wylie amendments be reflected in the risk weighting of such loans.

That is a strong endorsement of my amendment.

The Barnard-Wylie substitute also contains a number of other reforms with reference to affordable housing. The program is opened up to eligible properties held in conservatorship.

Finally, the Barnard-Wylie substitute contains two provisions which I mentioned, one is the risk-weighting to combat the credit crunch, and the other is a presold single family and seasoned multifamily loans arrangement in the bill.

As I indicated a little earlier, this provision has been worked out with Members of the other body, so if we are able to send it to them they will receive it with no objection.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I will try to use less than the 2 minutes.

Let me just say this is perhaps the most anguishing vote any of us will make this year or any year in the Congress.

The background is very simple. The greatest public policy mistake of the century was made and this Congress was part of it, not exclusively; State legislatures, the executive branch also contributed.

But the issue today is not whether there are losses. They are there, they are real, they are inescapable, but whether we will have a recession turn into a depression. At risk with a vote of this nature is the understanding that taxpayers are going to take a hit. A far more onerous circumstance is that the country will take a wallop if we say no.

So Mr. Chairman, I would just simply urge my colleagues to vote yes on both the substitute amendment and final passage, with the understanding that you will not be voting with pride, but out of necessity.

Mr. WYLIE. Mr. Chairman, I yield 2½ minutes to the gentleman from Utah [Mr. ORTON].

Mr. BARNARD. Mr. Chairman, I also yield 2½ minutes to the gentleman from Utah.

The CHAIRMAN. The gentleman from Utah [Mr. ORTON] is recognized for a total of 5 minutes.

Mr. ORTON. Mr. Chairman, I do not think I will take the entire 5 minutes.

Mr. Chairman, I reluctantly must rise in opposition to this amendment.

I must say, the gentleman from Dallas, TX, has virtually convinced me that if the people of Texas, of all places, are in opposition to funding the RTC, then I find it very, very difficult to ask the people of my district to help put up hundreds of billions of dollars which have gone down the rat hole in Texas, and I am quite offended by that; but the reason I am standing in opposition today is not because of the impassioned pleas of the people in Dallas, but it is because of the last 10 months of my life that I have spent virtually sequestered in the Banking Committee working on these issues.

Now, we in the Banking Committee have worked very hard for months. We have had hearings. We have had committee markups. We have had subcommittee markups, and we labored mightily and came forth with a bill.

□ 1400

That bill was not perfect, but that bill contained a number of fairly noncontroversial structural amendments which passed by a majority of the vote of the subcommittee and the full committee; structural amendments which are aimed and directed specifically at improving the operation of the RTC, aimed at reducing the hundreds of billions of dollars of losses and reducing delays that the RTC has in operating and functioning and carrying out its mandate.

Now, I, like everyone here, realize that the RTC must be funded. I do not like doing it. The problem was created long before I got here. I was in Washington speaking out publicly about the failed policies that brought us to this point.

And in fact I would favor waiving some jurisdictional bounds and making some tax changes that are directly involved with regard to the RTC, the reduced value of real estate assets directly attributable to passive loss rules and the capital gains rules.

By doing a couple of kinds of those directed things, indeed we could show the people of America that we not only understand the problem but that we are willing to stand up and do something about it.

But what I am frustrated about here today is not that we cannot cross jurisdictional lines but that when a committee with jurisdiction comes forward with a bill that then we have as the substitute a bill which has not been marked up in our committee, which has not been debated in our committee, which includes the provisions which one gentleman on the committee and the Committee on Rules believe ought to be included in the final bill.

Now, if we are going to act in that fashion, I submit to you that we may as well abolish the Committee on Banking, Finance and Urban Affairs and turn it over to the Committee on Rules.

For this purpose, I must reluctantly rise in opposition to this amendment because I simply think it is the wrong way to go. Rushing in here at 2 in the afternoon on Wednesday, when everyone is trying to catch an airplane home, to go home to Thanksgiving, and bring this kind of substitute and push it through on a voice vote on the floor is the wrong way to go. And if I am the only person in this House who stands up in opposition to it, then I believe I will be vindicated in the future. It is the wrong amendment.

Mr. Chairman, early this morning the House and Senate conferees completed their efforts on the FDIC Recapitalization and Improvement Act, S. 543/H.R. 3768. I applaud the efforts of the Banking conferees to resolve the differences between the House and Senate versions of this critically important legislation. The resulting legislation is a very workable banking bill worthy of the support of Members of the House of Representatives. The bill recapitalizes the FDIC's bank insurance fund—making good on the Government's commitment to stand behind depositors in federally insured institutions. The bill also makes a number of other important changes to the regulation of the banking industry including ending the FDIC's current "too big to fail" doctrine, strengthening Federal supervision of banks, and requiring prompt intervention by Federal regulators for banks in financial difficulties.

In the course of the conference committee's deliberations, it adopted section 1133 of the Senate bill dealing with the transfer of assets by the RTC. While I agree with the thrust of the section, that the RTC should not be unduly impeded in its attempts to dispose or otherwise transfer the assets of failed depository institutions, this provision threatens to interfere with a current legal dispute. Specifically, it threatens an ongoing litigation between Sears and VISA in the U.S. District Court in Utah posing significant issues in antitrust and commercial law. Mr. Chairman, I do not believe this provision should be construed to interfere with that dispute. In particular, I think that adoption of this provision should not impede the court in dealing with the complex antitrust issues presented by the case. Further, it is clear that while section 1133 does require a person to continue to provide services to a transferee of the RTC, nothing in this section should be interpreted to require that person to increase or expand those services or otherwise modify those services in any way.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield respectfully to the gentleman from Georgia [Mr. BARNARD]. Mr. Chairman, I have worked with the gentleman from Georgia for days and weeks in the committee, and I appreciate the work that he has done. But this amendment is the wrong way to go.

Mr. BARNARD. I thank the gentleman for yielding.

Mr. Chairman, I would just like to assure the gentleman that this Member did everything possible to include every amendment, but we hit a roadblock. The roadblock roughly was from our colleagues from the North. We communicated with them. Their bill had no semblance at all to the bill that the committee passed out. We would have gotten nothing.

I do think it is dutiful——

Mr. ORTON. Mr. Chairman, reclaiming my time, I would submit then the proper way to act, this bill came out of subcommittee over a month ago and it came out of committee over a week ago and we have been sitting around waiting for a rule for a week. We have had time to get this to the floor to vote on it, to send it to them to have a conference committee and deal with it in a proper manner.

Mr. Chairman, I urge my colleagues to vote "no."

Mr. WYLIE. I yield myself such time as I may consume just to reply to the gentleman who was just in the well that every single provision in the Barnard-Wylie substitute was considered by the House Committee on Banking, Finance and Urban Affairs and approved. We took out some amendments which were approved by the House Banking Committee because they were controversial, and we tried to get an agreement with the Members on the other side of the Capitol as to what they would take. We think we have worked that out.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I reluctantly rise in opposition to this amendment and to this bill, and I associate myself with the remarks of the gentleman from Utah [Mr. ORTON].

I think passing something in the name of funding the RTC at this hour when we are talking about billions of dollars we do not have to be spending if we just have reforms in this whole process.

An amendment this gentleman wanted to offer, I discussed with the Committee on Rules. It was not allowed, either not allowed in the committee by the chairman or by the Rules Committee, that would literally save $25 to $30 billion, in my judgment, and that of quite a number of other people, simply by not having us close down all the institutions that are now on the list to be closed. They have already closed the bad ones that are out there. The ones that are in the black and are earning, fine, who do not meet certain capital standards we set up in 1979 because we were in a recession, and they cannot meet them now, simply should not be closed. We should not be dumping real estate on the market like we are.

We need fundamental reforms out here before this Member can come out and vote for the billions of dollars in this bill, and we are not having that chance.

Mr. Chairman, despite my strong reservation regarding the rule, I wish to highlight a particular provision in the amendment offered by the Banking Committee. That provision would assist certain thrift institutions in remaining healthy and viable institutions and will prevent a senseless dumping of real estate investments into already weakened markets. The Financial Institutions Reform, Recovery and Enforcement Act, which we passed 2 years ago, requires that the value of subsidiaries engaged in activities not permissible for national banks, such as owning real estate, be phased out of calculations of a thrift institution's capital. When we enacted this phaseout, we expected that institutions could simply divest the real estate owned by the subsidiary or divest the subsidiary itself. The Congress did not foresee the precipitous drop in real estate markets that has occurred in many areas. These depressed markets make divestiture of real estate a virtual impossibility for most thrifts. Divestiture in these circumstances would serve only to further depress current markets.

For these reasons, the House Banking Committee adopted the provision I am supporting when I offered it in committee as an amendment to the RTC legislation now before us. The provision would give the Office of Thrift Supervision authority to provide relief from the FIRREA phase-out on a case-by-case basis if certain narrowly defined criteria were met. The OTS strongly supports this authority.

It should also be noted that exactly the same practical and policy concerns apply to real estate owned directly by thrift institutions. The OTS now applies the FIRREA phaseout schedule to such directly owned real estate under its risk-based capital regulations. Inflexible administration of that schedule, as with the FIRREA schedule itself, will lead to divestitures that will severely damage institutions and unnecessarily aggravate the weakness of current markets. Therefore, it is my hope that the agency will revise its rules to allow case-by-case relief from its regulatory schedules for thrifts that own real estate directly. It is important to the health of the thrift industry that relief be granted thrifts in both categories, subsidiary investors and direct investors.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has 8½ minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman's amendment would use goodwill as capital. We crossed that bridge a long time ago. That is why some of us had to oppose it.

Mr. Chairman, I would yield 2 minutes to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I will be very brief, make a comment or two, and then would like to propound a question to the distinguished majority leader.

Let me say, echo the remarks made by so many here today, that this is not a pleasant task to address ourselves to the subject matter at hand. But, as we have no alternative, then when one charges that we are out there with a bailout here and a bailout there, and, yes, we have salted away some, some private entrepreneurs out there who betrayed their public trust.

It is not always those in public life who are guilty of that. In the private sector it happens every once in a while, and it sure did in spades in the savings-and-loan and bank institution failures. But most of the money is not going to take care of the families of those who salted away. If I remember the figures correctly, 19 million depositors have their deposits guaranteed, an average of $9,700. Now, that is where the big buck and the big money goes, to reimburse those depositors whose deposits are guaranteed by law. And we have got to make them whole. We cannot default on that role and responsibility.

That is why I am supporting the Barnard/Wylie substitute and will vote for the bill.

I would like to conclude by simply propounding a rather critical question to the distinguished majority leader.

If the amendment of Representative BARNARD passes, which will set a date certain for the consideration of a second RTC recapitalization bill, is it the intention of the majority to schedule around the middle of March consideration of the economic growth packages, including one to be offered by, certainly, our side under fair procedures? That is the question I would like to propound.

Mr. GEPHARDT. Mr. Chairman, if the gentleman would yield, and I would ask the gentleman from Georgia [Mr. BARNARD] to yield 3 additional minutes to me.

Mr. BARNARD. I yield 3 minutes to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, it would be our intention to address the growth packages in this manner. I would say to the gentleman that we have had quite a debate over the last week about economic growth. It is obvious that on both sides of the aisle we have great concerns about the economy, great concerns about the loss of these savings-and-loan institutions and a desire on both sides to develop a growth package for our country.

The chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], in fact intends to have hearings in December and in January to hear testimony.

Mr. Chairman, it would be irresponsible, I think, on anyone's part to try to enter into, today or tomorrow, trying to develop on the floor a growth package. But obviously, with proper investigation and proper work, we ought to be able to do that.

Now, we have different ideas, fundamental differences sometimes on how this should be done. The tax measures that we favor are ones that are targeted at people in the middle. Sometimes we believe that yours are targeted in the wrong area. You have your own views. We have our views.

I would say to the gentleman: I would hope that in that this is very important to our country, and to issues like this one, that even though we will differ, we can find ways to resolve those differences even if it is by debate and vote. And where we can agree, I would hope we would agree and bring forth economic growth packages that have similarities—that have differences—bring them to this floor, decide them, and get them in a position

where they can be put on the President's desk at an early date so that we can change the laws of our country to move this economy in a positive direction.

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Mr. Chairman, I would finally say that I think this is a very important vote for all of us. It is a vote that, as I said on the banking bill a couple of weeks ago, nobody wants to make. This is an unpleasant task, but I hope we will all remember that we are not bailing out anyone other than our constituents who have their deposits in these institutions.

Mr. Chairman, it is my understanding that the average deposit in these institutions is around $9,000. We are not talking about millionaires in most cases. We are talking about average, middle-income Americans. If we vote for this, their deposits will be secure. If irresponsibly we vote against it, then they will not be secure.

I urge Members on both sides of the aisle to back this measure today with a large positive vote.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge an aye vote on the Barnard-Wylie substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. BARNARD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Georgia [Mr. BARNARD].

The amendment in the nature of a substitute was agreed to.

Mr. ANNUNZIO. Mr. Chairman, I rise in the strongest possible opposition to this and to any RTC funding bill without adequate safeguards and reforms. None of the bills that are before the House at the present moment contain those safeguards.

During our discussions of RTC, you will be told that the administration warns that any delay in immediately refunding the RTC will cause a $300 to $500 million additional cost to the taxpayers. Let me suggest that the administration has already cost the taxpayers $516 million in delays in seeking RTC funding. It is the administration, not Congress that has brought about this delay.

Let me explain. On May 28, I wrote to the Secretary of the Treasury pointing out that the administration would be asking for additional funding for the RTC during this session of Congress. I said that last year the administration waited until the final days of the Congress to ask for the funding and then blamed Congress for the delay. I asked the Secretary of the Treasury to forward the legislation seeking the additional funding immediately so that Congress could begin working on the problem and not have to wait until the final days, if not the final hours, of the current session.

Now remember, that letter was sent on the 28th of May. I still have not received a response to that letter, and I announced that unless there was a bill before the House, I would not hold a markup on the RTC funding bill. Finally, the gentlewoman from New Jersey, Mrs. ROUKEMA, introduced an RTC funding bill. Only after she had introduced her bill, did the administration send up an identical bill. And 3 days later, I scheduled markups on the legislation and promptly reported the administration's request from the Financial Institutions Subcommittee, which I chair.

The administration had delayed sending its request to Congress for 129 days. And using the administration's own figures that a delay costs $4 million for each day the funding is not passed, that means that the administration's unwillingness to forward a request to Congress amounts to $516 million. If the administration wants to talk about delays, let it first explain its own delays.

Mr. Chairman, I have never been a great fan of the RTC, and I have been opposed to additional funding for RTC, particularly because the Secretary of Treasury, when he first testified on the savings and loan crisis, indicated that it would only cost $50 million to solve the problem. We have already appropriated $80 million, and today we will be asked to appropriate anywhere from $20 to $80 billion more, and there is no end in sight.

I cannot support the funding request today because most of the reforms and safeguards that were put into the funding bill during the subcommittee markup were subsequently taken out of the bill when the full committee marked it up a few days ago. In short, we are being asked today to hand over billions and billions of dollars, with no changes from existing RTC operations, and with no guarantee that the money will be spent to pay off depositors at failed thrifts.

We will be told during these debates that the RTC needs the money to pay off depositors. And without additional funding, depositors might not receive their money back when an institution goes under. That statement is simply not true. I can assure Members of this body that no one knows how much of the funds will be used to pay off depositors, and I can also assure Members of this body that a portion of the money, perhaps a large portion, will be used to continue the empire building of the RTC.

Mr. Chairman, only Imelda Marcos, in a shoe store, spends money faster than the RTC. The money we are being asked to approve today is not necessarily to pay off depositors. It is for many other things. Although the legislative history of the RTC suggests that the agency will not have any employees, but rather will use employees borrowed from other agencies, the RTC already has some 7,500 employees, and its ranks are growing daily.

The RTC's monthly payroll is $37.3 million. The agency is topheavy with high-paying jobs. Twenty-eight employees of the RTC are paid in excess of $103,100 a year, and that is just their pay, without any bonuses. This agency has the highest per capita payroll of any agency in the U.S. Government. The average salary of the RTC is $76,000 a year.

At a time when your constituents and mine are losing their jobs, the RTC is making sure that its employees are treated to the best.

During subcommittee markup, I successfully authored an amendment to cap the number of RTC employees as of October 1 of this year. I wanted to make certain that any money that went to the agency would be used primarily to pay off depositors and not to pad payrolls. My amendment was adopted easily. To my astonishment, however, when the bill reached the full committee, the payroll cap was removed, primarily because the RTC said it had to have more employees.

In the subcommittee I was also successful in getting a cap on RTC salaries to prevent the obscene growth of this bloated bureaucracy. But in full committee, that cap was replaced by what literally can be considered a pay increase for RTC top employees, since it raised the pay ceiling to well above the current level for most RTC employees. The new pay level actually encourages RTC to give pay increases to its top level employees.

Now it would be bad enough if the RTC was doing an outstanding job and providing service to the American people, but I don't know of a single Member of this House who has not received numerous complaints from constituents about RTC. I am willing to bet there is not a single Member of the House who will come to this floor and say that they are completely happy with the operations of the RTC. I have received complaints from Members who said their constituents cannot get phone calls returned, they cannot get on the bidding list, and that when contracts are let out, they don't have a chance to be considered for any of the RTC work.

I have tried for the past 2½ years to get RTC to sell more of its assets. But the Agency is moving forward with very little speed in this area. I have repeatedly urged the agency to use the auction method to dispose of property. And the agency has consistently refused to go that route contending that it won't work, and would actually result in lower prices for RTC property.

Yesterday the RTC finally gave in to my demands and held a large-scale auction. And did the agency lose money—did the properties go for fire sale prices? Hardly. In fact, the agency got 28.6 percent more than current market value for the properties, and much more than it was asking for the properties on negotiated sale prices. It was cheaper and quicker to conduct the auction, yet RTC has fought me on auctions for 2½ years.

Despite the success of yesterday's auction, the agency continues to resist auctions. In the subcommittee I was successful in pushing for an amendment that would have required the agency to auction off any property that it held on its books for more than 6 months. In addition, any property that was currently in negotiations when the 6-month period expired, would receive an extra period of time that would have given the agency up to 11 months before it would have had to auction the property. And to prevent fire sale prices, I gave the RTC the right to set the minimum terms and conditions for the auction sale prices. When my amendment reached the full committee, it was voted out of the bill because the RTC did not want to use auctions.

I am convinced, Mr. Chairman, that the RTC does not want to sell properties, and some Members of this body support the RTC in its unwillingness to sell properties even at above-market prices. It is too simple to go to the taxpayers and say, "You pay." And when the

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payers and say, "You pay." And when the RTC runs out of money, the agency simply says to the taxpayers, "You pay again, and again, and again."

I would have voted for this bill had the safeguards I authored in subcommittee and other safeguards authored by other Members been contained in this legislation. But because they were stripped out of the bill, I cannot support this legislation.

We cannot ask the American taxpayer to continually pick up the bill for the RTC when much of the money that it spends is in a highly questionable, if not illegal, manner. We even had to adopt an amendment that prohibits the RTC from reimbursing its members for liquor purchases. Does that sound like an agency that is operating in the public interest?

The spending of the RTC and its sister agency, the Federal Deposit Insurance Corporation, has been so scandalous that I recently published a staff study outlining some of the questionable expenditures of the agency.

Here are some of the highlights of that study. I encourage Members to get a copy of that study before they vote on this bill.

FDIC purchased 3,000 copies of Asian cookbooks at a cost of $7,364.

Artwork in the individual hotel suites at the Seidman Center cost $84,353, while the remainder of the building houses at least $93,149 worth of art.

FDIC headquarters in Washington spent $6,330 over a 5-month period to purchase plants in addition to paying $1,303 per month to maintain them.

The RTC ordered 36 RTC coffee mugs and 12 RTC golf shirts for a total cost of $3,098.33. Earlier, the FDIC purchased 2,400 FDIC coffee mugs at a cost of $6,210.

Leather daily planners and refills were purchased for Washington FDIC and RTC executives for more than $6,000

FDIC paid a Washington company $31,274 to have various brass statues and certain brass leasehold improvements rubbed down with oil on four occasions.

Approximately 115 participants at a 4-day conference cost $65,724, including more than $2,000 in liquor charges.

In conclusion, let me point out that we are not voting to pay off depositors today, we are voting money to feed the lavish lifestyle of an agency that should be shut down and have its function turned over to the private sector.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. Hoyer) having assumed the chair, Mr. Durbin, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, pursuant to House Resolution 320, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SOLOMON. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Solomon of New York moves to recommit the bill H.R. 3435 to the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count. Two hundred twenty-one Members are present, a quorum.

Mr. DANNEMEYER. Mr. Speaker, on that, I demand a division.

On a division (demanded by Mr. Dannemeyer) there were ayes—112; noes—63.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Is 175 a quorum?

The SPEAKER pro tempore. Clearly the Chair cannot force everybody to stand every time the Chair asks the person to stand. That is not within the power of the Chair.

Mr. DANNEMEYER. Does there seem to be some glue around?

May I ask for a recorded vote?

PARLIAMENTARY INQUIRY

Mr. THOMAS of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. THOMAS of California. Mr. Speaker, do Members have the right to vote or not vote?

The SPEAKER pro tempore. Yes.

Mr. THOMAS of California. And they could choose not to vote?

The SPEAKER pro tempore. Yes.

Mr. THOMAS of California. And that would be the discrepancy between the Chair's count on the quorum and the Chair's count for a division?

The SPEAKER pro tempore. The gentleman from California [Mr. Thomas] is correct.

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

The bill was passed, and a motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent for rollcall vote No. 444, concerning passage of House Resolution 320, the rule for H.R. 3435, the Resolution Trust Corporation Restructuring Act. Had I been present, I would have voted "yea."

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 3435, RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that the Clerk may be allowed to make technical and conforming changes in H.R. 3435, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

☐ 1420

PROVIDING FOR ADJOURNMENT OF THE HOUSE AND THE SENATE FROM WEDNESDAY, NOVEMBER 27, 1991, TO FRIDAY, JANUARY 3, 1992, AND ADJOURNMENT OF THE HOUSE FROM FRIDAY, JANUARY 3, 1992, TO WEDNESDAY, JANUARY 22, 1992

Mr. GEPHARDT. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 260) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 260

Resolved by the House of Representatives (the Senate concurring), That when the House and Senate adjourn on the calendar day of Wednesday, November 27, 1991, in accordance with this resolution, they stand adjourned until 11:55 a.m. on Friday, January 3, 1992, or until noon on the second day after Members are notified to reassemble, whichever occurs first.

Sec. 2. That when the Congress convenes on January 3, 1992, for the second session of the 102d Congress, the House shall not conduct organizational or legislative business

and when it adjourns on that day, it stand adjourned until noon on Wednesday, January 22, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

Sec. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Speaker, I ask for this time to explain the resolution and give the Members a sense of the schedule.

Let me first say on the schedule that there obviously could be a vote on this adjournment resolution in the next few moments. It is not debatable, and we will move to vote very rapidly if there is a vote.

After that, there is one additional matter that I am aware of that may require a vote, and that has to do with the Medicaid legislation which is here, and we will be coming forward with a rule, and there could be a vote on it at the end of its consideration.

Other than that, there should not be further votes, assuming the adjournment resolution passes.

Let me say this: This concurrent resolution provides that the House will, when we finish business today, recess until 11:55 a.m., January 3, 1992, at which time we will conclude the first session of this, the 102d Congress. At 12 noon that day, January 3, 1992, we will convene the second session of the 102d Congress and will then immediately proceed to recess until January 22, 1992.

During these recess periods, the House will be subject to the call of the Chair. If it becomes necessary or desirable to reconvene the two Houses to act on the President's returned veto of legislation we are sending to him for his consideration or because the scheduled work of the committees which has been described produces economic legislation which is ready for floor action or for other reasons, we will be able to reconvene in a timely manner.

Any such reconvening of the House will be done in the consultation with the leadership on both sides of the aisle.

That concludes my explanation of the concurrent resolution.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I have been asked how long a timeframe would we expect for that Medicaid proposition, or if it appeared to be interminable, then would we just give up, or is there a point there of no return?

Mr. GEPHARDT. I would say that we do have to pass a rule. It is my understanding that it will be very rapid. The consideration of the bill should not take more than 15 or 20 minutes, after which there could be a vote. I am not saying that there definitely will be, but I think there could be a vote. We do not expect other votes, however.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, I just wanted to point out that we have concluded the conference on the Medicaid moratorium legislation, and the chairman of the Subcommittee on Health, the gentleman from California [Mr. Waxman], has indicated to me that he would be willing to bring this final piece of legislation up under a unanimous-consent request without the necessity of going through the rule process.

I would ask the gentleman from California if that is a correct statement.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. WAXMAN. I would like at the appropriate time to ask for unanimous consent so we could take this bill up without requiring the Committee on Rules to meet and report out a rule. It would not be my intention to ask for a rollcall vote on a rule or on final passage, but this is not only within my discretion. Other Members may want to have a vote. But I think that this is an issue we could dispose of with relatively little debate, and if my choice were to prevail, without a vote that would require all the Members to stay here.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I was not a member of the conference committee, but I am on the committee that had jurisdiction over this, the subcommittee, and I have no objection to having the matter come up on the floor by unanimous consent at this time without the necessity of going to the Committee on Rules.

Mr. GEPHARDT. May I state also to the Members one additional concern that they should be aware of. The other body is still in session, and there may be the need for votes. I do not know that there will be votes, I do not anticipate votes, but as long as they are in session, completing business that we have already completed, we never can be absolutely certain that they will not send something back here that will require some kind of a vote.

So if Members are very concerned about being absolutely guaranteed that they will not miss a vote, I cannot stand here at this moment and tell you that I can guarantee you that there will not be some further votes required this afternoon.

Mr. PACKARD. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. PACKARD. Mr. Speaker, I simply want to remind the Members that we are now down to about the last flights of the day, and some of us may not get home if we do not catch that last flight. I hope that we are not playing games.

Mr. GEPHARDT. I share the gentleman's view, and I know that all Members will try to respect the needs of our Members.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, before the House concludes its business, I might just note that the House has been in continuous session now for about 26½ hours, and during that time we have had the very steady assistance of all of the staff of the Members of the Congress, of the committees, of the legislative counsel, of our pages, of all who serve the House and serve it so well, and I think we should express our appreciation to those who have worked consistently to bring this session to a completion.

The SPEAKER pro tempore. Without objection, the concurrent resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the first session of the 102d Congress until January 3, 1992, the speaker and the minority leader be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore (Mr. Hoyer). Is there objection to the request of the gentleman from Missouri?

There was no objection.

☐ 1430

AUTHORIZING MEMBERS TO REVISE AND EXTEND THEIR REMARKS IN THE CONGRESSIONAL RECORD

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the Congressional Record on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks. But this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT AS DIRECTOR OF CONGRESSIONAL BUDGET OFFICE

The SPEAKER laid before the House the following appointment as Director of the Congressional Budget Office:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 27, 1991.

Pursuant to section 201(a)(2) of the Congressional Budget Act of 1974, the Speaker of the House of Representatives and the President pro tempore of the Senate hereby appoint Dr. Robert D. Reischauer to serve as Director of the Congressional Budget Office for the term beginning on January 3, 1991, and expiring on January 3, 1995.

THOMAS S. FOLEY,
Speaker of the House of Representatives,
ROBERT C. BYRD,
President Pro Tempore of the Senate.

DESIGNATION OF HON. STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JANUARY 3, 1992

The SPEAKER laid before the House the following communication:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 27, 1991.

I hereby designate the Honorable Steny H. Hoyer to act as Speaker pro tempore to sign enrolled bills and joint resolutions through January 3, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

DO WE WANT ECONOMIC GROWTH? ENACTING NATIONAL ENERGY POLICY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. ALEXANDER. Mr. Speaker, the economy continues to sag under the heavy burden of an unguided economic policy and a $4 trillion national debt, $3 trillion of which was incurred during the past decade.

During the same 10 years, 1980 to 1990, the Department of Commerce reported that the United States paid about $1.2 trillion to import foreign energy.

Mr. Speaker, it is no wonder that the economy is sick and needs a transfusion. A majority of understandably alarmed Republicans have written the President to warn that the Nation is enduring "a stagnant economy and an uncertain future."

Do we want economic growth?

Early next year, we have the opportunity to pump new life into the economy by passing a national energy policy.

It should be a policy aimed at significantly reducing this Nation's dependence on foreign oil and stopping the flow of billions-upon-billions of our dollars into the coffers of foreign oil producers. In other words, we should adopt a policy which keeps this money at home.

I can think of no greater single economic stimulus than paying ourselves for our fuel.

In Sunday's Washington Post, Edwin Rothschild spelled out the benefits of a $5-per-barrell reduction in oil prices. The benefits were great.

The reduction would:

Have the effect of an immediate $300 billion tax cut.

It would increase the GNP by 1.4 percent.

It would reduce inflation.

It would increase disposable income.

It would reduce both the trade deficit and the budget deficit by stimulating economy activity.

Not bad for five bucks a barrel.

But, what oil producers give, they can take away.

The benefits to our Nation of the oil price reduction, in other words, will last only as long as certain foreign oil producers decide they will last.

It doesn't have to be this way.

We have the means to make these benefits permanent by changing directions in energy, by moving to depend more on our own natural resources and less on imported oil.

Yes, we have the means. But, we lack the will.

Admittedly, it is easier to continue to depend on foreign oil, at least until it runs out.

It is less work, less trouble, less mentally taxing to continue business as usual. It is also less patriotic.

We cannot afford business as usual.

I believe that the figures in Mr. Rothschild's article show clearly the folly of sticking our heads in the sand.

Those figures also show the benefits of rolling up our sleeves and going to work on this problem.

By increasing the use of farm-grown ethanol, for example, we can greatly improve the agricultural economy.

And, that will improve the economies of our Nation's rural areas which will, in turn, have a ripple effect in the cities.

It is also important to remember that American farmers will be more reliable fuel suppliers than foreign oil producers.

One of the problems in crafting a new agenda in energy, Mr. Speaker, is that we are a Nation of forgetters—at least when the gas tank is full.

We forget the oil embargoes.

We forget the huge price hikes.

We forget the tanker reflagging.

We forget going to war to protect our oil supplies.

We forget that our Nation, that America is being held hostage—to foreign oil.

But, our faulty memory is costing us—and costing us dearly in both lives and treasure.

It is cowardly to continue on this path because that will leave the solution of this problem to our children.

I believe it is up to us.

Mr. Speaker, a new national energy policy must have as its goal the breaking of our addiction to foreign crude.

And, the economic benefits from our efforts will be permanent, not a temporary gift bestowed by oil barons.

Yes, our economy needs help. And, we can give it a big shot in the arm by formulating a new energy policy which will make us more self-reliant.

I can think of no more lasting legacy this Congress could leave than an innovative energy policy which will make America and her people more free and more independent than they are today.

Again, it is important to remember that the economic benefits of a $5-a-barrel drop in oil prices will not be realized unless leaders in Saudi Arabia and Kuwait decree it.

Our Revolution was fought because we were being dictated to by a foreign power. The situation in energy today is no different.

America is being dictated to by those who supply her oil. Much of our economic, military, and foreign policy is established with oil in mind.

I do not want my country to be dependent on the decisions of foreign leaders.

We should be more independent.

We can be more independent.

Unless we resist the future and forget the past.

[From the Washington Post, Nov. 24, 1991]

AN OIL CARD UP HIS SLEEVE

(By Edwin S. Rothschild)

As President Bush watches the economy falter and public support for his domestic leadership erode, he may be considering the one option that can stimulate the economy and deliver his margin of victory next November: getting oil prices down. A reduction in world oil prices of $5 per barrel in 1992 would have the lubricating effect of an immediate $300-billion tax cut. This option would, of course, require the assistance of Saudi Arabia's King Fahd, the emir of Kuwait and other Persian Gulf producers, but all of these have been obliging in the past to White House entreaties and are in a good position to oblige Bush now.

It is well known that lower oil prices have an immediate, stimulative economic impact. On an annual basis, a $5 per barrel drop in oil prices would increase U.S. GNP by about 1.4 percent, reduce inflation and increase disposable income. Lower oil prices would directly reduce the huge U.S. trade deficit and the economic activity stimulated would also reduce the budget deficit because of higher tax revenues and reduced demand for public benefits.

In addition to lowering the price of gasoline to consumers, a $5 price cut would reduce operating costs for the airline, trucking and chemical industries. Even though an oil price decline would hurt domestic oil producers, Bush might well conclude that jump-starting the economy—and thus helping to reassure his reelection—is far more important than the complaints of a few noisy Texans.

In any event, other than hoping that consumers increase their spending—and so reduce their savings—to bring the country out of recession, the Bush administration does not have any domestic economy policy levers it can pull. Most economic analyst agree that the President's alternative policy options are blocked by either political or economic considerations.

Short-term interest rates are at their lowest level in 18 years. Lowering short-term interest rates much more would hamper the Treasury's ability to borrow. A tax cut for the middle class, while politically appealing, could not take effect soon enough and would increase the size of the already huge deficit.

By the same token, increasing government spending to stimulate the economy would increase the deficit as well as violate the budget agreement and Republican doctrine, so most observers rule out this option. Finally, stimulating U.S. exports by devaluing the dollar is not likely because the Japanese and Europeans, upon whom we are dependent to finance our trade and budget deficits, would resist such a move.

But domestic levers are not the only weapons in the president's arsenal. There are also his close friends in the Middle East, the most important of whom is King Fahd of Saudi Arabia.

There are several recent precedents for cooperation between the Saudi monarch and American presidents. For example, in 1986, the Reagan-Bush administration persuaded Fahd to open Saudi oil spigots to reduce world oil prices from $29 to $18 a barrel. Together with the devaluation of the U.S. dollar engineered by then-secretary of the treasury James Baker, the oil price crash boosted U.S. economic growth. (It also triggered an economic collapse in Texas, Louisiana and other oil-producing states and hastened the S&L crisis.)

King Fahd's commitment to U.S. oil and foreign policy was also shown during the Reagan administration's secret war against the Sandinistas. In February 1985, when he visited Reagan, the king agreed to contribute at least $24 million to the cause at the request of then-national security adviser Robert McFarlane.

In 1988, during the Iran-Iraq War, the administration sent the Navy to protect Saudi and Kuwaiti oil tankers. As a Washington Post editorial in May 1988 observed, "Because of the number of Navy ships now in the gulf, and their demonstrated readiness to hit back at Iranian provocation, America's standing among the gulf Arabs is currently high. One result is that the price of oil will for the present stay low." William Randol, a highly regarded Wall Street analyst, was even more direct, stating in a June 1988 analysis, "Some have maintained that there is a secret pact between the United States and Saudi Arabia that provides for the continued presence of the U.S. Navy in the Persian Gulf in exchange for Saudi Arabia's agreement to keep oil price down between now and the November presidential election."

For its part, the Bush administration has been highly supportive of the Saudi monarchy. The most salient example of that support was, of course, the Persian Gulf War, which was premised on protecting the Persian Gulf monarchies and U.S. access to the world's most abundant and cheapest source of crude oil. Recently the king, delighted with the war's outcome, was effusive in his praise of Bush saying, "A man of this caliber deserves to head the United States another time."

In the earlier election years 1986, 1988 and 1990, crude oil prices fell considerably. Market conditions during 1992 will be different from conditions in those years. (Between January and June of this year crude prices fell $5 a barrel). But Bush has reason to expect that he can rely on his Persian Gulf oil-producing friends to keep their oil output high enough to depress prices.

First of all, the International Energy Agency expects little near-term growth in world oil demand. Secondly, even though Soviet production and exports are expected to decline, the Kuwaiti oil industry is roaring back and should be producing about 500,000 barrels per day by early next year. The Saudis, for their part, are at work increasing production capacity and could probably produce 9 to 10 million barrels a day, if necessary.

In addition, it is likely that Iraq will be able to export about 500,000 barrels a day, an increasing likelihood as the Bush administration tones down its criticism of Iraqi noncompliance with U.N. resolutions. Analysts also expect increased production from North Sea producers. Finally, stocks of oil are quite high. All of these factors indicate that if Saudi Arabia, Kuwait and the United Arab Emirates decide to maximize their production, they could easily propel a $5 drop in world oil prices.

Fahd's willingness to pump extra oil to reduce oil prices in 1992 would be only a continuation of a close mutually supporting economic, political and military relationship that will ensure continued U.S. arm sales and military protection in the volatile Persian Gulf, and coincidentally help his friend George Bush. The only downside is that while an oil price drop would improve the president's—and the U.S. economy's—short-term prospects, it would not necessarily have a positive long-term effect on the economy. Once the election is safely over, the Saudis would, in all likelihood, reinstate their production policy to maintain world prices at or nearly $20 a barrel. Thus, unless the economy recovered for other reasons, higher oil prices in 1993 could simply resurrect the recession.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I just want to say that the gentleman from Arkansas [Mr. ALEXANDER] has been a leader on these energy issues, especially ethanol and other national energy policy issues, for a long, long time.

The point the gentleman makes is an important point to understand, that putting our country on the right track on an energy policy is an economic growth stimulus plan. It will strengthen this country from within if we begin to do the things we should do in energy policy to make this country move toward greater energy independence.

Mr. Speaker, I commend the gentleman from Arkansas [Mr. ALEXANDER]. He has a voice that has continued to be raised year after year after year.

Mr. Speaker, I hope all of us next year can work on an energy policy that strengthens this country.

Mr. ALEXANDER. Mr. Speaker, reclaiming my time, the gentleman from North Dakota [Mr. DORGAN] has likewise joined in as an early advocate of a national energy policy and in the development and use of alternative fuels, those that we can produce here in our own Nation.

Mr. Speaker, the benefits to our economy can be far beyond our imagination. Just imagine if we had, back in the early 1980's, developed a national energy policy and reduced our dependence on foreign oil by as much as 50 percent. We could have saved $500 billion.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

TRIBUTE TO BOB JOHNSON

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, this is the first opportunity I have had to come to the well since I found out some very tragic news in Pittsburgh yesterday afternoon. I come here with profound grief personally and for the city of Pittsburgh over the loss of the hockey coach for the Pittsburgh Penguins, a great hero, a sports hero, "Badger" Bob Johnson.

Mr. Speaker, Bob Johnson took a team of very gifted athletes in Pittsburgh that had never won anything and had high expectations every year, and, through his positive attitude, through his tirelessness and conviction that these people could achieve, molded this team and made it a winner.

Mr. Speaker, Bob Johnson impressed upon this team and impressed upon a community a can-do positive attitude. He was always upbeat. It was always a great day for Bob Johnson.

Mr. Speaker, even after he discovered after the season that he had inoperable brain cancer, Bob Johnson was upbeat. Bob Johnson was positive, and Bob Johnson was a winner. Pittsburgh will dearly miss that positive influence in their community. The kids in Pittsburgh who looked up to him and admired him will miss him.

Mr. Speaker, if I could take just a second to share my own personal experience with Bob Johnson. When the Penguins came here to Capitol Hill and to the White House to meet with the President, Bob and his tremendous wife Martha, who was with him, were there with the Penguins. But you would have thought Bob was the trainer or the water boy.

☐ 1440

He stood in the background and allowed his team, his athletes to revel in the day and just for him to soak in their joy. And to marvel, to marvel in their success and not seek any attention for himself.

He was a great man. Pittsburgh will miss him. I will miss him, and this country will miss men like Bob Johnson.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Pennsylvania. It is my understanding that Bob Johnson is a native of Minnesota and that he has many friends back there. I appreciate the very moving remarks the gentleman has made and I would like to associate myself with those remarks.

Mr. SANTORUM. Mr. Speaker, I will be placing even further remarks in the RECORD at a later date.

FUNDING FOR HEAD START

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I must say I am very, very disappointed as we leave here that one more time I do not think we have treated America's children fairly. I am going to ask unanimous consent to put in the RECORD a Wall Street Journal article written this Tuesday by Herbert Stein, who is the former chairman of President Nixon's Council of Economic Advisers. I think it is very important what he said in this column.

What he said in there is that the proper way to have a growth package is to do things like fully fund Head Start, to fully fund things that are investments in human beings, because human beings are the ones that are going to be out and be competing in the future.

If we look at our history and the past growth charts of this budget in the 1980's, we have done exactly the wrong thing. We are investing in the wrong thing because it shows that the investment in children has only been one-tenth of any other investment anywhere else in the Federal Government.

I hope when we come back we can finally begin to remedy this oversight. I have been so hopeful that when both the House and the Senate had passed their commitment that at least that would stay in. It makes me very sad that we are leaving here and that was taken out. But let us hope that over the holiday we will have time to reflect upon this and get these priorities back into the budget.

I think Nixon's economic adviser is right. Head Start and programs like that are the way to get this country moving again, and it is very essential that we get refocused on it.

I include for the RECORD a copy of the article to which I referred.

[From the Wall Street Journal, Nov. 26, 1991]

WRONG REASONS TO OPPOSE A TAX CUT

(By Herbert Stein)

I am not in favor of a tax cut. I would like to write that on the blackboard 100 times, because what I say here will almost certainly be misinterpreted. But I am uncomfortable with bad reasoning, even when it sometimes leads to the right conclusion. I think that the common reasons about a tax cut today is bad.

No wisdom is more conventional these days than the proposition that the large budget deficit renders ineffective the traditional instruments of anti-recession fiscal policy—cutting taxes and increasing expenditures. The argument is that increasing deficits would undermine confidence, raise interest rates, depress investment and prolong the recession.

AS LOGICAL AS HOOVER

This argument may be correct. Sixty years ago, during the Depression, Herbert Hoover believed it. In fact, he followed the argument to its logical conclusion. If a tax cut would weaken confidence and worsen the Depression, a tax increase would inspire confidence and promote recovery. So, he raised taxes. President Hoover was not a dishonorable man or a foolish one. He was worse; he was unlucky. No one today is willing to be as logical as President Hoover, but many would go halfway. They would say that today's taxes are like Baby Bear's bed—"just right." To raise them or to lower them would be dangerous.

The confidence argument is very tricky. No one really knows what affects the confidence of investors, or by how much. The "how much" part is important. If, for example, taxes are cut, there will be a number of consequences other than the effect on confidence. The result will depend on the net of these consequences.

Suppose that income tax rates are cut by some large amount across the board, reducing federal revenue by, say, $50 billion a year. Shoppers return to the malls, cash registers are ringing, inventories are being worked down, profits are rising. Are investors going to bang their foreheads and say: "Egad, the deficit is rising. We better hunker down, sell bonds, and stop investing"? And if they do, will the negative effect be so great as to offset the positive effects of higher consumer spending? All one can honestly say is that one doesn't know.

When talk about a tax cut blossomed recently, long-term interest rates rose. This rise was commonly interpreted as due to the tax-cut talk, and as a sign that cutting taxes would have a negative effect on the economy. Aside from the fact that journalistic explanations of daily interest-rate moves are a weak reed for policy, this reasoning is seriously incomplete. The standard "textbook" description of the way in which a tax cut would stimulate the economy includes a rise of interest rates.

The increase in the budget deficit tends to raise interest rates, and that tends to restrain investment. At the same time, the cut in taxes raises consumers' spending, which tends to raise investment to meet the enlarged market for consumers' goods. Whether the net of these two tendencies is an increase or decrease of investment is unclear, but total spending—investment plus consumption—rises. The rise of interest rates contributes to the expansion of the total economy by reducing the demand for money. Possibly this textbook model does not work. But to jump from the fact or prospect of an increase of interest rates to the conclusion that stimulative fiscal policy is ineffective would require evidence and analysis that is surely absent in the present discussion.

Today's paralysis about the deficit is puzzling after the experience of the strong recovery from the deep Reagan recession in the face of, or perhaps led by, the soaring Reagan budget deficits. Perhaps the feeling is that although, as Adam Smith said, there is a great deal of ruin in a nation, the Reagan administration used it all up. Certainly many people are being misled by a simple-minded picture of the history and prospects of the deficit. They see an enormous increase in the deficit for the current fiscal year, to about $350 billion, and extrapolate that into an explosion.

The fact is that this year's deficit is heavily influenced by two extraordinary and temporary factors—the savings and loan bailout and the recession. Realistically, our long-run prospect, and it is the long-run that mainly counts, is for the deficit to level out around $180 billion and for both the deficit and the debt to be on a declining path relative to gross national product.

Nervousness today about the use of anti-recession fiscal policy is aggravated by an unrealistic view of the 1990 budget agreement. Although hardly anyone likes the 1990 agreement very much, there is a common feeling that it is the last barrier that keeps us from sliding down the easy descent to Avernus. (Ah, fourth-year Latin!) Any departure from the agreement, however small, is regarded as opening the door to uncontrollable, unlimited, expenditures and deficits. President Bush encourages this attitude by describing any budget proposal he dislikes as a "budget-buster." But that is not the way the world works.

Budgets may be bent, modified, or enlarged, but they are not busted. There remains a budget, and many more decisions to be made and lots of opportunities to undo what may be done today if it turns out to be the wrong thing to do. The president has a veto power, and none of his vetoes has been overridden. He does not have to worry that he cannot prevent a little pussycat of a tax cut from turning into a raging lion.

The 1990 budget agreement was a particular expression for a particular point in time of a few more durable principles. They were:

(a) That gradual reduction of the deficit was important.

(b) That limiting expenditures and increasing revenue were both eligible means for achieving that end.

(c) That because of certain unpredictable conditions, including the costs of the savings and loan bailout, the costs of various entitlements, and the state of the economy, a precise path for the total deficit could not be prescribed.

(d) That for some categories of expenditures, ceilings enduring for several years could be established.

(e) That the world is uncertain, and room has to be left for departure from some of the terms of the agreement when the president and Congress concur without the other terms being invalidated.

If our leaders would describe our policy in this way, they would be able to think of

what needs to be done now without necessarily implying that any step they take is over the edge of a cliff.

Since I have gone this far, you may wonder why I am not in favor of a tax cut now. I have two reasons:

First, the recession so far has been moderate—milder than the average post-war recession—and I see no persuasive evidence that we will not have, with the assistance of active monetary policy, an ordinary recovery. In that case, extraordinary fiscal stimulus is unnecessary and a potential source of future inflation.

SEVERE AND PROTRACTED

Second, even if I thought the recession would be more severe and protracted, and monetary policy less potent, than I do, and fiscal stimulus therefore more indicated, I would not start by cutting taxes. I would ask what is the most important use of the tens of billions of dollars of potential output that is not being used and should be used if the economy is to recover.

My answer would not be to increase the consumption of Middle America, which would be the main consequence of cutting taxes. I would rather fund Head Start fully, make sure that states have the money to provide the training, social services and jobs called for by the new welfare program, beef up the struggle against crime, and keep the libraries and schools open. (A county neighboring Washington is planning to cut the school year because it is running out of money!) I would also accelerate public construction and military procurement, with the intent of bringing into 1992 some of the work that would otherwise be done in 1994 and 1995.

Of course, in saying this I am only saying what everyone else says. That is, everyone wants to do for the recession what he always wanted to do, recession or not. The people who want to cut particular taxes—such as the capital gains tax—always want to cut those taxes, in good times or bad. There is nothing wrong with that. But we should be candid and recognize that we are talking about competing priorities and values, and not about "neutral" means for curing a recession.

DEATH IN THE FOREST

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, several weeks ago, the National Geographic Society's "Explorer" program devoted important segments to the illegal poaching of black bears. Sickening indeed were the scenes of black bear corpses lying on the forest floor, with their gallbladders removed and paws chopped off.

Most people are unaware of the fact that our forests are silently being emptied in order to satisfy the heavy demand for bear body parts from customers in Korea, Japan, and Taiwan. In this gruesome business, Asian herbal dealers purchase bear gallbladders from poachers, and then ship them overseas where they are prized for various curative properties. The gallbladder is dried, pulverized, and sold in capsule form to those who believe that it will cure blood disorders, cancer, and even hemorrhoids.

According to law enforcement officials, the trade in bear gallbladders has become so frenzied that counterfeiters will often substitute pig and cow gallbladders for the real article. Some dealers now ask poachers to provide a videotape documenting the removal of the gallbladder—a bizarre "certificate of authenticity" if there ever was one. Mr. Speaker, this is an outrage and one that I plan to address in the form of legislation when the Congress reconvenes in 1992.

OCTOBER SURPRISE

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LIVINGSTON. I will be brief, but for the last 6 or 8 weeks I have been coming to the well of the House to chastise the Democratic leadership for its intent to proceed with an investigation known as the October surprise. That is the investigation of the alleged activities of the Reagan administration before they came to office to deal with the Ayatollah in order to keep our hostages—our American hostages—held hostage in Iran in order to gain political advantage.

That was an investigation based on myth and was totally debunked by the authors of the articles appearing in the New Republic and in Newsweek. It was thrown out by Members of the Senate. They chose not to investigate it.

The GAO said there was nothing to it, and yet Members of this House insisted that there was something there and they should go forward with the investigation.

I came day after day saying that there was nothing to it, and I just want to applaud the Democratic leadership for realizing there was nothing to it. There was no political advantage to go forward with that investigation, and we did not bring it to the floor of the House.

I think it is good for the country that we start thinking about the problems that face this country today and not mythical aberrations that might have transpired according to liars and con men some 12 years ago.

HAITIAN REFUGEES

(Mr. RANGEL asked and was given permission to address the House for 1 minute.)

Mr. RANGEL. Mr. Speaker, it is getting close to the end of this session and I do hope at the appropriate time that I will be able to make a unanimous-consent request hoping that we can agree that the President has done a remarkable job in striking out against the oppression that exists in Haiti and encouraging the Organization of American States to intervene to bring peace and to restore or reinstitute a legitimate government in Haiti and that we hope that he will continue to reach out to other countries to provide such type of safe haven for the poor wretched souls that are fleeing for their lives from an out-of-control bandit, vicious terrorist army that overthrew the legitimate government.

I want to thank the Republican side for cooperating. The effort still continues, and I hope that before we finally adjourn some agreement can be made with the White House, working with the legislative body, to say that with all of our efforts we would not have to return these people to Haiti.

THE ECONOMIC GROWTH PACKAGE

(Mr. SCHEUER asked and was given permission to address the House for 1 minute.)

Mr. SCHEUER. Mr. Speaker, we have heard a lot about an economic growth package these past couple of days. I think we have to ask ourselves, what constitutes an effective economic growth package. For the Republicans, we know it means a capital gains tax cut for the rich.

A capital gains tax is not the cure to all that ails us. Yes, we should index capital gains, and maybe make the holding period longer, but if we think that pushing through a capital gains tax cut at this late hour will solve our economic woes, we are only kidding ourselves.

Making our economy more conducive to economic growth is a long-term problem, and passing short-term solutions to long-term problems, as we all know, is not a good idea.

If we want to spur long-term growth we need to increase savings, investment, and productivity, and a capital gains tax cut is not a very effective way to do this.

The best way to spur savings is to reduce our national deficit. Soaring Federal spending continues to place an incredible drain on our economy. If you want to consider tax policy, then a targeted investment tax credit is a much more effective growth tool than a capital gains tax cut.

The other thing we must do is improve our productivity. To do this we must make our work force better prepared and better educated, and we must improve the efficiency of the equipment we use. A better educated, more skilled work force will make our industries more competitive and spur growth.

Before I close, I would like to read a couple of sentences from an Op Ed piece that appeared yesterday.

> I am not in favor of a tax cut * * * I would ask what is the most important use of the tens of billions of dollars of potential output that is not being used and should be used if the economy is to recover.

> My answer would not be to increase the consumption of Middle America, which would be the main consequence of cutting taxes. I would rather fund Head Start fully, make sure that States have the money to provide the training, social services and jobs, * * * beef up the struggle against crime, and keep the libraries and schools open.

This letter was not written by some left wing, Democratic yahoo. It was written by Herbert Stein, the conservative Chairman of President Nixon's Council of Economic Advisors, and currently a fellow at the American Enterprise Institute, and it was published in yesterday's Wall Street Journal on the Op Ed page.

□ 1450

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). The Chair will announce that the Chair reserves the right and specifically puts on notice all Members that the House may, at any time, at the designation of the Chair, return to the regular order of legislative business.

BANKING LEGISLATION

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, we passed two important bills earlier this afternoon, a banking bill and the RTC refunding bill. I would like to talk a little bit about the relationship between those two bills at this time. I think this is an appropriate time to make the remarks that I would like to make, and I think are an important part of filling in the picture on those two bills.

The RTC bill that we just passed that authorizes borrowing up to an additional $25 billion underscores the reservations many Members have about the banking bill.

As we well know, because of failures in the late 1970's and early 1980's to deal properly and effectively with the problems of the thrift industry, failures here in Congress, failures at the State level, failures in the administration, we have already incurred since 1989, $80 billion in losses in institutions that we have taken over through the Office of Thrift Supervision and the Resolution Trust Corporation. That is in addition to the billions of dollars that we incurred before 1989 when we refunded the bank insurance fund to the tune of $15 billion in about 1987 and 1988, and also we had a series of year-end tax breaks for institutions that were being taken over in late 1988.

This experience with the savings and loan crisis once again today makes clear to us how tremendously expensive our failure to deal adequately with problems in the financial services institutions industry can be, how terribly costly they can be.

The banking bill we passed earlier today was the subject of some celebration by those who spoke before passage, and in fact it is a good bill as far as it goes. It is a good bill in that it enhances the regulatory structure of those organizations that oversee banks, the FDIC and the Office of Comptroller of the Currency, and the Associated Regulators, and it makes a lot of very positive changes in the regulatory structure. We have heard talk about early intervention, annual onsite examinations, and on and on, significant reforms. But we must point out also that that is not without considerable additional cost to the industry, because all of those additional regulatory features do cost the industry additional funds, some of which are passed on to the depositors and to the citizens of our country.

The point I would like to make is that, as has been stated so often before, the banking industry is in decline. It is losing market share. In the last 20 years it has made a series of investments in real estate or foreign countries that have turned out to be poor investments, and is suffering a number of structural problems. Many of those structural problems relate back to depression era statutes that are currently on the books that simply need to be revised, and we are not going to stem the decline in the banking industry if all we do is enhance the regulatory part of the equation.

We also have to take important steps to make the industry more competitive, to make the industry more profitable, and to make banking failures less likely. We need to do things like interstate branching which will provide millions of dollars of savings in the administration of banks around the country. We need to seriously consider giving the banks the ability to sell and make money off of additional products, products that their competitors currently use, large financial industry rates that banks cannot offer, a whole range of financial services that banks under the provisions of the Bank Holding Company Act and other Federal statutes are prohibited from offering. Until we make these fundamental structural changes, the industry is going to continue to decline.

In other words, regulatory enhancements alone like those we enacted today, are not going to be enough. I think it is very, very important for us to recognize that we do not want to be in a position 10 years from now to look back to this year, this August, September, October when the Banking Committee reported out a good bill, H.R. 6 that my colleague from New York [Mr. FLAKE], actively participated in, and that bill was emasculated on the floor, and a whole range of things were taken out of that bill that were intended to make banks more profitable and more competitive, because that ultimately is the thing that is going to stave off a sort of kind of recovery in the banking industry, taxpayer financed, that we have to implement in the savings and loan industry.

□ 1500

So let me just say in conclusion, Mr. Speaker, that yes, it was a good bill we passed today, but only as far as it goes. We have much, much more work to do and we simply have got to put back on the plate, back before this body, these very significant structural reforms.

Let me make one final point in closing. We have accomplished a great deal this year. The Banking Committee reported out a bill the likes of which the committee has never reported before, and that bill was debated on the floor of this House. These issues have not been debated out here before that in a long, long time.

So the silver lining is that they were debated.

Also, it is very important to get through any legislative body reforms in 1 year from the time we try it the first time.

We have to remember that we have got to come back time and time again until we get these changes made.

A TRIBUTE TO TWO GREAT TEACHERS

(Mr. FLAKE asked and was given permission to address the house for 1 minute.)

Mr. FLAKE. Mr. Speaker, I rise today to take advantage of this opportunity to pay tribute to two very special persons in my life. Both of them were teachers during my youth. I would suggest that without their involvement in my life and in my development, I would not be standing as a Member of the House of Representatives today.

The first person is Mrs. Gladys Grice, to whom I pay tribute posthumously today. She is a teacher I met in my third grade year. She was also my fourth grade teacher, because my early years of education started in a four-room classroom in which there were eight grades.

I entered into the third grade with Mrs. Grice, and the next year I moved across the room to the fourth grade.

In order to get to the Korhville Elementary School where Mrs. Grice taught, we had to pass three white schools so that we could go to the only black school in the district; but Mrs. Grice never allowed us to make excuses and alibis for the fact that we had to find our way to this little school in the country in order to be educated. Rather, she demanded of us a degree of excellence that made all her students realize that it was not about color, but it

was really about whether one had a will to excel. She was a very creative woman who in 1 year of my life, my fourth grade year when I had to stay out of school for a whole semester, came each Friday to my house and brought me my homework, picked up homework from the previous week and she would mark it and then bring back another batch of homework.

It was a very good thing Mrs. Grice did, because she lived almost a hundred miles away from where the school was. She went 16 miles out of her way to extend herself to me as a student.

Today, I would like to pay tribute to her because I believe that she represents the epitome of what teachers can do and ought to do if they are seriously concerned about educating our students. It would be marvelous if our educational system had in it more persons like Gladys Grice who took the time to make the sacrifice to assure that students excelled to the degree of their potential.

The second person whom I would like to pay tribute is Mrs. Jewel Simpson Houston. I also met Mrs. Houston as a very young man. She was my history teacher in high school, and during my high school years I worked in the bookstore at school which turned out to be moments that she monitored and managed me as I did my homework. Without her guiding and directing my life, I suspect that I could not be standing here this day.

I saw her about a month ago. She said she never could have imagined that in her teaching of civics and history that she would have a student who would be a Representative in this body.

Mr. Speaker, I am very pleased to pay this tribute, because she took extra time with me. After school she took me to various places, taught me public speaking, and in due time I became the president of a number of church organizations throughout the State of Texas.

One of the things that I attribute to my success even as a pastor is the simple fact that she took time to teach me public speaking. She took time to take me to places where I aspired to and was accepted in positions of leadership, and it is out of those positions of leadership that I was blessed to be able to come forth as a pastor and as a Member of this House of Representatives.

Mrs. Jewel Houston went to a small college in Texas called Quinn. She went on to Texas Southern and received her master's degree. She still lives, though she has retired after 34 years of service both as a teacher and as a counselor in education in the Aldine-Carver School District in Houston, TX.

Mr. Speaker, I pay tribute to both these women because both of them have made sacrifices to improve the lives of so many hundreds of young people, and I stand as an example of what can be done when teachers are committed, dedicated, concerned, and willing to make the sacrifice, demanding of their students a degree of excellence which those students by nature would not believe they had.

Again, she would not allow us to make excuses about being black, but she told us that we could be the best that we could possibly be if we were taught enough for it.

Mrs. Grice, Mrs. Houston, thank you.

REPORT ON FISCAL YEAR 1992 REDUCTION IN TRAVEL AND TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. RANGEL) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, November 27, 1991.)

A MOST SIGNIFICANT HIGHWAY BILL

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, as the session winds down, I think there has been a lot that is significant that has been accomplished in terms of economic recovery. The most significant bill that I have heard Members on both sides of the aisle address themselves to is the highway bill. I hope that is a harbinger of things to come, because what the highway bill does is to mark the first significant public investment that has occurred in probably a decade in this country. The 1986 highway bill was significant. This one takes that one even further. What this bill does is to put $151 billion over a 6-year period into a highway program; not enough, Mr. Speaker, it is not enough, but it is a healthy start.

So its most immediate result will be to create up to 2 million new jobs in construction in the industries that will benefit from this and flow from this.

But I hope just as the Congress has put itself into public investment, it will also look at other kinds in the months to come; aviation, for instance, water and sewer, construction grants programs, schools and other facilities, and I think very significantly telecommunications, because there is an infrastructure that needs to be developed.

Some quick statistics, Mr. Speaker. One is that Japan with half our population and half our gross national product is spending more today in real dollars in infrastructure development, in public infrastructure investment, than does the United States; quite a telling statistic.

Another interesting statistic I think, Mr. Speaker, is that studies are beginning to show that for the first time investments in infrastructure directly correlate with increases in productivity.

You may wonder why we have been running a flat line in this country for a number of years.

□ 1510

Because perhaps it is our infrastructure today, in terms of our gross national product, is exactly one-half of what it was 20 years ago.

So this highway bill today I hope and believe can mark a significant change from that.

I hope that we understand that a $1 investment in infrastructure is not like $1 spent in a transfer payment or buying something. That dollar comes back time after time after time. Indeed, it generates new tax revenues.

Whole portions of my State I can see an economic birth and sometimes a rebirth because of massive investments in infrastructure which permit the private sector to make the investments they need to make.

I am very encouraged and hope that this investment that we see today is a sign of things to come because our country is saying we want to be building again.

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT 1991

Mr. RANGEL. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 261) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER (Mr. FLAKE). Is there objection to the request of the gentleman from New York?

Mr. HUNTER. Mr. Speaker, reserving the right to object, I would ask my friend, the gentleman from New York, has this been cleared with the Republican leadership?

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Speaker, yes, it has been; not only with the leadership but with the minority, the Banking Committee on the Senate side as on the House side.

Mr. HUNTER. Mr. Speaker, I thank my friend, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The clerk read the concurrent resolution as follows:

H. CON. RES 261

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (S. 543) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) Strike section 1 and insert the following new section:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

(B) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

Sec. 101. Funding for the Federal deposit insurance funds.
Sec. 102. limitation on outstanding borrowing.
Sec. 103. Repayment schedule.
Sec. 104. Recapitalizing the Bank insurance Fund.
Sec. 105. Borrowing for BIF from BIF members.

Subtitle B—Supervisory Reforms

Sec. 111. Improved examinations.
Sec. 112. Independent annual audits of insured depository institutions.
Sec. 113. Assessments required to cover costs of examinations.
Sec. 114. Examination and supervision fees for national banks and savings associations.
Sec. 115. Application to FDIC required for insurance.

Subtitle C—Accounting Reforms

Sec. 121. Accounting objectives, standards, and requirements.
Sec. 122. Small business and small farm loan information.
Sec. 123. FDIC property disposition standards.

Subtitle D—Prompt Regulatory Action

Sec. 131. Prompt regulatory action.
Sec. 132. Standards for safety and soundness.
Sec. 133. Conservatorship and receivership amendments to facilite prompt regulatory action.

Subtitle E—Least-Cost Resolution

Sec. 141. Least-cost resolution.
Sec. 142. Federal Reserve discount window advances.
Sec. 143. Early resolution.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

Sec. 151. Depository institutions lacking Federal deposit insurance.

Subtitle G—Technical Corrections

Sec. 161. Technical corrections and clarifications.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

Sec. 201. Short title.
Sec. 202. Regulation of foreign bank operations.
Sec. 203. Conduct and coordination of examinations.
Sec. 204. Supervision of the representative offices of foreign banks.
Sec. 205. Reporting of stock loans.
Sec. 206. Cooperation with foreign supervisors.
Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
Sec. 208. Penalties.
Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 210. Clarification of managerial standards in Bank Holding Company Act of 1956.
Sec. 211. Standards and factors in the Home Owners' Loan Act.
Sec. 212. Authority of Federal banking agencies to enforce consumer statutes.
Sec. 213. Criminal penalty for violating the International Banking Act of 1978.
Sec. 214. Miscellaneous amendments to the International Banking Act of 1978.
Sec. 215. Study and report on subsidiary requirements for foreign banks.

Subtitle B—Customer and Consumer Provisions

Sec. 221. Study on regulatory burden.
Sec. 222. Discussion of lending data.
Sec. 223. Enforcement of Equal Credit Opportunity Act.
Sec. 224. Home Mortgage Disclosure Act.
Sec. 225. Notice of safeguard exception.
Sec. 226. Delegated processing.
Sec. 227. Deposits at nonproprietary automated teller machines.
Sec. 228. Notice of branch closure.

Subtitle C—Bank Enterprise Act

Sec. 231. Short title.
Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
Sec. 234. Community development organizations.

Subtitle D—FDIC Property Disposition

Sec. 241. FDIC affordable housing program.

Subtitle E—Whistleblower Protections.

Sec. 251. Additional whistleblower protections.

Subtitle F—Truth in Savings

Sec. 261. Short title.
Sec. 262. Findings and purpose.
Sec. 263. Disclosure of interest rates and terms of accounts.
Sec. 264. Account schedule.
Sec. 265. Disclosure requirements for certain accounts.
Sec. 266. Distribution of schedules.
Sec. 267. Payment of interest.
Sec. 268. Periodic statements.
Sec. 269. Regulations.
Sec. 270. Administrative enforcement.
Sec. 271. Civil liability.
Sec. 272. Credit unions.
Sec. 273. Effect on State law.
Sec. 274. Definitions.

TITLE III—REGULATORY IMPROVEMENT

Subtitle A—Activities

Sec. 301. Limitations on brokered deposits and deposit solicitations.
Sec. 302. Risk-based assessments.
Sec. 303. Restrictions on insured State bank activities.
Sec. 304. Restrictions on real estate lending.
Sec. 305. Improving capital standards
Sec. 306. Safeguards against insider abuse.
Sec. 307. FDIC back-up enforcement authority
Sec. 308. Interbank liabilities.

Subtitle B—Coverage

Sec. 311. Deposit and pass-through insurance.
Sec. 312. Foreign deposits.
Sec. 313. Penalty for false assessment reports.

Subtitle C—Demonstration Project and Studies

Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.
Sec. 322. Private reinsurance study.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

Sec. 401. Findings and purpose.
Sec. 402. Definitions.
Sec. 403. Bilateral netting.
Sec. 404. Clearing organization netting.
Sec. 405. Preemption.
Sec. 406. Relationship to other payments systems.
Sec. 407. National emergencies.

Subtitle B—Right to Financial Privacy Act of 1978

Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.

Subtitle C—Final Settlement Payment Procedure

Sec. 416. Final settlement payment procedure.

Subtitle D—Miscellaneous Committees, Studies, and Reports

Sec. 421. Amendments relating to Federal Reserve Board reserve requirements.
Sec. 422. Permanent authorization of Credit Standards Board.

Subtitle E—Utilization of Private Sector

Sec. 426. Utilization of private sector.
Sec. 427. Reporting.

Subtitle F—Emergency Assistance for Rhode Island

Sec. 431. Emergency loan guarantee.

Subtitle G—Qualified Thrift Lender Test Improvements

Sec. 436. Short title.
Sec. 437. Adjustment of compliance periods for purposes of qualified thrift lender test.
Sec. 438. Increase in amount of liquid assets excludable from portfolio assets.
Sec. 439. Additional investments included in definition of qualified thrift assets.
Sec. 440. Prudent diversification of assets.
Sec. 441. Consumer lending by Federal savings associations.

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

Sec. 446. Prohibition on entering into secrecy agreements and protective orders.

Subtitle I—Bank and Thrift Employee Provisions

Sec. 451. Continuation of health plan coverage in cases of failed financial institutions.

Subtitle J—Sense of the Congress Regarding the Credit Crisis

Sec. 456. Credit crunch.

Subtitle K—Acquisition of Insolvent Savings Associations

Sec. 461. Acquisition of insolvent savings associations.

Subtitle L—Creditability of Service

Sec. 466. Creditability of service.

Subtitle M—Other Miscellaneous Provisions

Sec. 471. Providing services to insured depository institutions.
Sec. 472. Real estate appraisals.
Sec. 473. Emergency liquidity.
Sec. 474. Discrimination against reorganized debtors.
Sec. 475. Purchased mortgage servicing rights.
Sec. 476. Limitation on securities private rights of action.
Sec. 477. Modified small business lending disclosure.
Sec. 478. Special insured deposits.

Subtitle N—Severability

Sec. 481. Severability.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.
Sec. 502. Mergers, consolidations, and other acquisitions authorized.

(2) After section 477, insert the following new section:

SEC. 478. SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*) the deposits of the Freedom National Bank of New York and the deposits of the Community Bank and Trust Company of New York that—

(1) were deposited in the bank involved by a charitable organization, as such term is defined by New York State law; and

(2) were deposits in such bank on the date of the bank's closure by the Comptroller of the Currency,

shall be considered to have been insured deposits (as defined in section 3 of the Federal Deposit Insurance Act).

(3) In the heading to section 461, strike "AQUISITION" and insert "ACQUISITION".

(4) In section 441(b), strike "(c)(2)(B)" each place such term appears and insert "(c)(2)(D)".

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, during the conference, inadvertently certain technical corrections were omitted from the final package as well as certain financial institutions' coverage for the depositors. The gentleman from Texas [Mr. GONZALEZ], and the ranking members were in the process of preparing the papers, and they have asked me, since one of the banks is located in my district, whether or not I would present this concurrent resolution to the body.

Mr. Speaker, I immediately conferred with the minority, and there being no objection, I present this to the House for consideration and passage.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1530

RECESS

The SPEAKER pro tempore (Mr. RANGEL). The Chair declares a recess until approximately 4 p.m.

Accordingly (at 3 o'clock and 31 minutes p.m.), the House stood in recess until a time in excess of 4 p.m.

□ 1634

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HOYER) at 4 o'clock and 34 minutes p.m.

CONFERENCE REPORT ON H.R. 3595, MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991

Mr. WAXMAN submitted the following conference report and statement on the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

CONFERENCE REPORT (H. REPT. 102–409)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3595), to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end of the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii) subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

VOL 137
PT 24
NO 26
1991
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JA 3
1992
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"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection (except as provided in paragraph (6)), the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (included costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection (except as provided in paragraph (6)), the term 'health care related tax' means a tax (as defined in paragraph (7)(F) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed or each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class or items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that is inconsistent with subclauses (I) and (II) of subparagraph (E)(ii) or providers for a hold-harmless provision described in paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment is made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title or title XVIII.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers or such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) and (C). Permissible waivers many include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of this subparagraph.

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold-harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6)(A) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State university teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health

care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

"(B) For purposes of this subsection, funds the use of which the Secretary may not restrict under subparagraph (A) shall not be considered to be a provider-related donation or a health care related tax.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992, without regard to whether or not regulations have been promulgated to carry out such amendments by such date.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

(3) The interim final rules promulgated by the Secretary of Health and Human Services on October 31, 1991 (56 Federal Register 56132), relating to the State share of financial participation under the Medicaid program, is hereby nullified and is no effect. No part of such rule shall be effective except pursuant to a rule promulgated after the date of the enactment of this Act and consistent with this section (and the amendments made by this section).

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(A) REPEAL OF PROHIBITION OF UPPER PAYMENT LIMIT FOR DISPROPORTIONATE SHARE HOSPITALS.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

"(b) LIMITATION ON AGGREGATE PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—Section 1923 of such Act (42 U.S.C. 1396r–4) is amended by adding at the end the following new subsection:

"(f) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR PAYMENTS IN EXCESS OF CERTAIN LIMITS.—

"(1) IN GENERAL.—

"(A) APPLICATION OF STATE-SPECIFIC LIMITS.—Except as provided in subparagraph (D), payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made—

"(a) in accordance with the State plan in effect or amendments submitted to the Secretary by September 30, 1991,

"(b) in accordance with the State plan in effect or amendments submitted to the Secretary by November 26, 1991, or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or

"(c) in accordance with a payment methodology which was established and in effect as of September 30, 1991, or in accordance with legislation or regulations enacted or adopted as of such date; or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (in this subsection referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(D) CONDITIONAL EXCEPTION FOR CERTAIN STATES.—Subject to subparagraph (E), beginning with payments for quarters beginning on or after January 1, 1996, and at the option of a State, subparagraph (A) shall not apply in the case of a State which defines a hospital as a disproportionate share hospital under subsection (a)(1) only if the hospital meets any of the following requirements:

"(i) The hospital's medicaid inpatient utilization rate (as defined in subsection (b)(2)) is at or above the mean medicaid inpatient utilization rate for all hospitals in the State.

"(ii) the hospital's low-income utilization rate (as defined in subsection (b)(3)) is at or above the mean low-income utilization rate for all hospitals in the State.

"(iii) The number of inpatient days of the hospital attributable to patients who (for such days) were eligible for medical assistance under the State plan is equal to at least 1 percent of the total number of such days for all hospitals in the State.

"(iv) The hospital meets such alternative requirement as the Secretary may establish by regulation, taking into account the special circumstances of children's hospitals, hospitals located in rural areas, and sole community hospitals.

"(E) CONDITION FOR OPTION.—The option specified in subparagraph (D) shall not apply for payments for a quarter beginning before the date of enactment of legislation establishing a limit on payment adjustments under this section which would apply in the case of a State exercising such option.

"(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) EXCEPTIONS.—

"(i) LIMIT TO 12 PERCENT OR BASE ALLOTMENT.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) EXCEPTION FOR MINIMUM REQUIRED ADJUSTMENT.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) STATE SUPPLEMENTAL AMOUNTS.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) DETERMINATION OF REDISTRIBUTION POOL.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) DISTRIBUTION OF POOL BASED ON TOTAL MEDICAID EXPENDITURES FOR MEDICAL ASSISTANCE.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ration of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) DEFINITIONS.—In this subsection:

"(A) HIGH DSH STATE.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) STATE.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) STATE BASE ALLOTMENT.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

"(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments described in paragraph (1)(A)(i)(I).

"(D) STATE GROWTH AMOUNT.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) STATE GROWTH FACTOR.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) CONFORMING AMENDMENTS.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) LIMITS ON AUTHORITY TO RESTRICT DSH DESIGNATIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section. The previous sentence shall not be construed to affect the authority of the Secretary to reduce payments pursuant to section 1903(w)(1)(A)(iii) if the Secretary determines that, as a result of such designations, there is in effect a hold harmless provision described in section 1903(w)(4).".

(d) STUDY OF DSH PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—The Prospective Payment Assessment Commission shall conduct a study concerning—

(A) the feasibility and desirability of establishing maximum and minimum payment adjustments under section 1923(c) of the Social Security Act for hospitals deemed disproportionate share hospitals under State medicaid plans, and

(B) criteria (other than criteria described in clause (i) or (ii) of section 1923(f)(1)(D) of such Act) that are appropriate for the designation of disproportionate share hospitals under section 1923 of such Act.

(2) ITEMS INCLUDED IN STUDY.—The Commission shall include in the study—

(A) a comparison of the payment adjustments for hospitals made under such section and the additional payments made under title XVIII of such Act for hospitals serving a significantly disproportionate number of low-income patients under the medicare program; and

(B) an analysis of the effect the establishment of limits on such payment adjustments will have on the ability of the hospitals to be reimbursed for the resource costs incurred by the hospitals in treating individuals entitled to medical assistance under State medicaid plans and other low-income patients.

(3) REPORT.—Not later than January 1, 1994, the Commission shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such report shall include such recommendations respecting the designation of disproportionate share hospitals and the establishment of maximum and minimum payment adjustments for such hospitals under section 1923 of the Social Security Act as may be appropriate.

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) The proposed rule promulgated by the Secretary of Health and Human Services on October 31, 1991 (56 Federal Register 56141), relating to the standards for defining disproportionate share hospitals under the medicaid program, shall be withdrawn and canceled. No part of such proposed rule shall be effective except pursuant to a rule promulgated after the date of the enactment of this Act and consistent with this section (and the amendments made by this section).

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5 INTERIM FINAL REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act.

(b) REGULATIONS CHANGING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—The Secretary may not issue an interim final regulation that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public funds as a source of State share of financial participation under title XIX of the Social Security Act, except as may be necessary to permit the Secretary to deny Federal financial participation for public funds described in section 1903(w)(6)(A) of such Act (as added by section 2(a) of this Act) that are derived from donations or taxes that would not otherwise be recognized as the non-Federal share under section 1903(w) of such Act.

(c) CONSULTATION WITH STATES.—The Secretary shall consult with the States before issuing any regulations under this Act.

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
NORMAN F. LENT,
Managers on the Part of the House.

LLOYD BENTSEN,
JAY ROCKEFELLER,
DONALD W. RIEGLE,
BOB PACKWOOD,
DAVE DURENBERGER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3595), to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. USE OF VOLUNTARY CONTRIBUTIONS, PROVIDER-SPECIFIC TAXES, AND INTERGOVERNMENTAL TRANSFERS BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID

Current Law

The Technical and Miscellaneous Revenue Act of 1988, as amended by the Omnibus Budget Reconciliation Act of 1990, prohibits the Secretary from issuing any final regulation prior to December 31, 1991, changing the treatment of voluntary contributions or provider-paid taxes used by States to receive Federal matching funds. The Omnibus Budget Reconciliation Act of 1990 prohibits the Secretary from denying or limiting payments to a State from expenditures attributable to taxes, whether or not of general applicability, imposed with respect to the provision of medical services. The Secretary is permitted to deny matching funds for Medicaid payments made to reimburse a hospital, nursing facility (NF), or intermediate care facility for the mentally retarded (ICF-MR) for taxes imposed by a State solely with respect to such facilities.

House Bill

Extends the moratorium on issuance of new regulations through September 30, 1992. Permanently prohibits the issuance of regulations that change the treatment of public funds used as the State share of Medicaid, including funds contributed by an agency that provides Medicaid services. Provides that any regulation changing the treatment of voluntary contributions may not apply to contributions made before January 1, 1993, except that FY 1993 Federal financial participation (FFP) related to a State's use of contributions must not exceed the amount of FFP related to such contributions in FY 1991. Prohibits the Secretary from reducing payments to States based on quarterly State expenditure estimates because such estimates include amounts attributable to contributions, intergovernmental transfers, or provider-paid taxes, or from assessing any penalty or taking other regulatory action against a State related to its use of such contributions, transfers, or taxes. The prohibitions apply to payments for quarters beginning on or after January 1, 1992, and ending on or before September 30, 1992 (for intergovernmental transfers and provider-paid taxes) or December 31, 1992 (for voluntary contributions), and to actions taken by the Secretary during the same periods.

Senate Amendment

Provides that, for the purpose of computing Federal matching funds, State Medicaid spending for a quarter (other than in Arizona) is to be reduced by the amount of any revenues received by the State or a local government on or after January 1, 1992, from:

Provider-related donations (donations from a medical provider, related entity, or administrative contractor), except "bona-fide" donations, and donations in the form of payment for outstanding Medicaid eligibility workers. Beginning in Federal FY 1993, donations related to outstationing are limited to 10 percent of State administrative costs.

Health care related taxes (those related to provision of health services and 85% paid by providers or those not equally imposed on non-health items) that are not broad-based. Broad-based taxes are defined as those uniformly imposed on all non-Federal nonpublic providers in the same class in the State or locality or all items or services in the class furnished by such providers. A tax is imposed uniformly if the amount, rate, and or base for the tax is the same for all subject providers, and the tax does not provide for credits, deductions or exclusions that have the effect of refunding all or a portion of the tax. A tax may be uniform even if it applies only to services not covered under Medicaid or Medicare non-Medicare revenues. The Secretary may treat a tax as broad-based on application by the State if the tax and related spending are generally redistributive and the tax and Medicaid payments are not directly correlated. Waivers may include exemptions for rural or sole community providers.

Health care related taxes that are broad-based but to which a hold harmless provision applies. A hold harmless provision is one that provides for: a non-Medicaid payment to the provider that is correlated to the tax or to differences between the tax and Medicaid payments; Medicaid payment varying on the basis of taxes paid; or the State or locality guarantees that some or all of the tax will be offset in some way.

Broad-based taxes in amounts that exceed 25 percent of the State share of Medicaid or (if greater) the State's "base percentage" in all or part of State fiscal years beginning on or after January 1, 1992, and before October 1, 1995. The base percentage is equal to the total of provider donations and/or health care related taxes (whether or not permissible) projected to be collected during the State 1992 fiscal year, divided by the estimated State share of Medicaid spending for the year. In the case of a tax not in effect (or increased) during the full base year, the Secretary is to compute the base percentage as if it were in effect for the full year. Donations are to be counted only under a program in effect or reported to the Secretary by September 30, 1991; taxes are to be counted if they were in effect or legislation or regulations had been adopted, as of November 22, 1991.

Permits matching for certain otherwise prohibited revenues received before October 1, 1992 (for States with fiscal years beginning on or before July 1), January 1, 1993 (for States with fiscal years beginning after July 1), or July 1, 1993 (for a State that has an enacted provider tax on November 4, 1992, or whose legislature is not scheduled to meet in 1992 or 1993); prohibits a disallowance or withholding of FFP related to donations or taxes before the applicable date. Matching is permitted for donations only under a program in effect or reported to the Secretary by September 30, 1992. Countable donations for a State's 1993 fiscal year may not exceed those for the State's 1992 fiscal year. Matching is permitted for non-broad-based taxes, or broad-based taxes with a hold harmless provision, only if the taxes were in effect or legislation or regulations had been adopted, as of November 22, 1991. Increases after that dare are not permitted. The sum of allowed donations and taxes (including broad-based taxes) for the part of a State's fiscal year occurring in calendar year 1992, or for all of State fiscal year 1993 may not exceed 25 percent (or the base percentage) of the State share of Medicaid.

Prohibits the Secretary from restricting States' use of funds derived from State or local taxes (including funds appropriated to State-owned teaching hospitals) transferred from or certified by local government units (including units that are providers) unless the transfers exceed the 40 percent limit on local government sharing in Medicaid or stem from otherwise prohibited donations or taxes.

Conference Agreement

The agreement includes the Senate amendment with modifications. The Secretary is required to withdraw the October 31, 1991, interim final rule with respect to donations and taxes. The Secretary may not change current treatment of intergovernmental transfers except through the formal APA regulatory process (except as needed to deny matching for public funds described in section 1903(w)(6)(A) that are derived from donations or taxes that would not otherwise be recognized). Use appropriations made to State university teaching hospitals is to be treated as a permissible transfer. The conferees note that current transfers from a country or other local teaching hospitals continue to be permissible if not derived from sources of revenue prohibited under this act. The conferees intend the provision of section 1903(w)(6)(A) to prohibit the Secretary from denying Federal financial participation for expenditures resulting from State use of finds referenced in that provision.

2. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS

Current Law

Prohibits the Secretary from limiting payment adjustments made by States to hospitals serving a disproportionate number of low-income patients with special needs.

House Bill

No provision.

Senate Amendment

Effective January 1, 1992, establishes a national limit on disproportionate share hospital payment adjustments during each fiscal year equal to 12 percent to total Medicaid spending for that year. Limits a State's disproportionate share adjustment:

In the part of FY 1992 beginning on or after January 1, 1992, to those made under the State plan in effect or as submitted by September 30, 1991, or under a methodology established an in effect by that date, or legislation or regulation adopted by that date. A State plan amendment in effect or submitted by November 26, 1991, may be used if it designates only disproportionate share hospitals with a Medicaid or low-income percentage at or above the Statewide arithmetic mean. Higher payment adjustments are permitted if necessary to meet the minimum prescribed by Medicaid law.

For FY 1993 and subsequent fiscal years, to the amount of the State's disproportionate share hospital (DSH) allotment. The DSH allotment for a State is equal to the previous year's allotment (or, for FY 1993, its "base allotment"), increased by the State growth factor and the State supplemental amount for the fiscal year. The base allotment is equal to the greater of the State's payment adjustment during FY 1992 (subject to the limits for that year) or $1 million. The growth factor is the annual percentage increase in the State's Medicaid spending. The supplemental amount is an amount payable to States that are not high DSH States. (A State is a high DSH State for a fiscal year if its base allotment exceeds 12 percent of its total Medicaid spending for that fiscal year.)

The supplemental amounts are established from a pool whose size is determined by subtracting from the amount of the national DSH limit the amounts of: (a) the base allotment for high DSH States, (b) total allotment to non-high DSH States for the previous year, (c) total "growth amounts" for non-high DSH States for the current year, and (d) any additional amounts needed to bring State's payment adjustments up to statutory minimums. A State's growth amount is the greater of: the State's allotment for the previous year times the growth factor; or the difference between the allotment for the previous year and 12 percent of total current year Medicaid spending. The supplemental amount for each non-high DSH State is the lesser of (a) a share of the pool proportionate to the State's share of all Medicaid spending by non-high DSH States or (b) the amount that would raise the State's allowable payment adjustments to 12 percent of its Medicaid spending.

Requires the Secretary to publish State allotments and national limits for each fiscal year before the beginning of the year. Limits on payment adjustments do not apply in Arizona.

Prohibits a State from using DSH payment adjustments to hold providers harmless for

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health care related taxes after the effective date of limits on the use of such taxes. With this exception, prohibits the Secretary from restricting a State's authority to designate disproportionate share hospitals.

Conference Agreement

The agreement includes the Senate amendment, with modifications.

After January 1, 1996, a state will not be subject to the aggregate limit on payment adjustments if it designates as DSH's only facilities whose low-income or Medicaid utilization rate exceeds the state mean, that account for at least 1 percent of all Medicaid days in the state, or that meet other criteria established by the Secretary, taking into account the special circumstances of rural, sole community, and childrens hospitals.

This option will be available only after Congress has established limits in law on payment adjustments to DSH hospitals for states electing the option. The Prospective Payment Assessment Commission is required to submit a report to Congress by January 1, 1994, on appropriate methods for establishing appropriate minimum and maximum adjustment amounts and criteria for DSH designation.

3. REPORT

Current Law

No provision.

House Bill

Requires the Secretary to report to the House Energy and Commerce and Senate Finance Committees by February 3, 1992, on any regulations the Secretary intends to issue to limit the use of contributions and provider-specific taxes, the specific types of contributions and taxes that would remain permissible, and any legislation the Secretary thinks appropriate.

Senate Amendment

No provision.

Conference Agreement

The agreement does not include the House provision.

4. BUDGET COMPLIANCE PROVISIONS

Current Law

No provision.

House Bill

Provides that the applicable cost estimates for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 shall 0 in increased outlays and receipts for FY 1991 through FY 1995.

Senate Amendment

No provision.

Conference Agreement

The agreement does not include the House provision.

5. STATE REPORTS

Current Law

No provision.

House Bill

No provision.

Senate Amendment

Requires States to report annually on donations received and taxes collected by the State or local governments during each fiscal year and the amount of payment adjustments made to disproportionate share providers during the year, beginning with fiscal years ending after the date of enactment.

Conference Agreement

The agreement includes the Senate amendment.

6. INTERIM FINAL REGULATIONS

Current Law

No provision.

House Bill

No provision.

Amendment

Requires the Secretary, after consultation with States, to issue implementing regulations.

JOHN D. DINGELL,
HENRY A. WAXMAN,
NORMAN F. LENT,
Managers on the Part of the House.

LLOYD BENTSEN,
JAY ROCKEFELLER,
DONALD W. RIEGLE,
BOB PACKWOOD,
DAVE DURENBERGER,
Managers on the Part of the Senate.

Mr. WAXMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source, and ask unanimous consent for its immediate consideration in the House and ask that it be considered as read.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LENT. Mr. Speaker, reserving the right to object, I do not intend to object.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield so I can say a few words about this conference report?

Mr. LENT. Mr. Speaker, I yield to the gentleman from California [Mr. WAXMAN], the distinguished chairman of the Subcommittee on Health and the Environment.

Mr. WAXMAN, Mr. Speaker, this conference report represents the agreement between the House and Senate conferees on what passed this House, a moratorium on regulations being proposed by the Department of Health Care Financing Administration in the Department of Health and Human Services. This whole issue began when the White House proposed new limits on Medicaid. This is the program that provides the only health insurance for 28 million poor Americans. Most of them are under 18, over 65, or totally disabled. In response to those proposals the House voted overwhelmingly to place a moratorium on any regulatory changes. With a threatened Presidential veto of the House passed moratorium over their heads, the Governors were told to negotiate a new package or face the original OMB regulation. They reached an agreement.

I want to put this in context. The administration put the Governors in an untenable position. They acted understandably to avoid the uncertainty of these court fights to declare invalid these proposed regulations and the uncertainty for their budgets.

But I want to tell my colleagues that the agreement that the administration forced upon the Governors is not a good agreement. I think it is going to do them well in a very short run, but it is going to do a great deal of disservice to the millions of Americans who are poor, elderly, disabled, women, and children who rely on the disproportionate share in institutions, the public hospitals, the children's hospitals, to give them care because in that agreement the Governors and the administration put limits on the reimbursement for those institutions.

Mr. Speaker, we worked on the framework of that agreement, and I regretted the fact that the Governors accepted this agreement rather than to call for moratoriums so the whole matter could be discussed and thought through rather than make an important and really quite fundamental change in the Medicaid Program without a lot of scrutiny and evaluation of the consensus.

But we are here today to enact legislation that I think we are going to all regret in a very short period of time, but we have very little choice before us.

So, I will present this conference report. I myself will vote against it because I do not want to be associated with it, but I know that this agreement will pass and will become law, and we will have to revisit these issues on another occasion.

Mr. LENT. Mr. Speaker, further reserving the right to object, I rise to strongly support the conference report on H.R. 3595, the Medicaid Moratorium Amendments of 1991. It reflects the agreement that we have just reached with the Senate conferees.

It is consistent with H.R. 3900, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, introduced by Mr. MICHEL and myself on Saturday. That bill represented the agreement between the National Governors' Association and the administration as of that date.

Since then, further discussions have taken place among the administration, the NGA, and the Senate. I am very pleased that a final agreement was reached.

In terms of provider taxes, the legislation replaces the OBRA '90 provider-specific tax provisions with language stipulating that Federal money will be available only if the tax uniformly applies to all providers in a class, and to all the health-related business of the providers. A class of providers would be, for example, all hospitals, all physicians, or all nursing homes in the State. A tax on "all business of providers" would include taxes such as a gross revenues tax, a tax based on inpatient days, or a head tax on all patients.

And unlike the current financing scams, these taxes would in fact be

bona fide taxes on all providers. These taxes would be truly redistributive. Tax revenues would flow from rich hospitals to public hospitals that serve the poor. And this legislation would forbid hold-harmless arrangements in which States rebate the tax revenue directly back to the providers, after the State has received the Federal matching payments.

In addition to the requirement that these taxes be bona fide taxes, the legislation also provides a percentage limit on their use. For purposes of calculating Federal matching, total revenues from these broad-based provider taxes may not exceed 25 percent. This provision ensures the integrity of the Medicaid Program by guaranteeing financial participation of both the States and the Federal Government.

The legislation prohibits the States from receiving Federal payments for revenues obtained from donations by or on behalf of providers. An exception to this rule is created for donations for moneys related to personnel costs for workers in hospitals and clinics who determine Medicaid eligibility of beneficiaries. The total amount of donations permitted under this exception may not exceed 10 percent of the State's total Medicaid administrative expenses.

Several States have raised concerns about the impact of the Health Care Financing Administration [HCFA] regulation on intergovernmental transfers. This bill provides that States may continue to use funds transferred to the State from counties, cities, or other governmental entities as the State share of Medicaid expenditures. The use of such transfers would, however, be disallowed if the source of the funds was donations or taxes that would not otherwise be recognized as the non-Federal share under this legislation.

Mr. Speaker, this is a reasonable compromise which has been agreed to by the conferees. It restores the basic tenet of the Medicaid Program—which is shared financial responsibility between the Federal Government and the States.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. LENT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois, the distinguished chairman of the Committee on Ways and Means, for the purpose of a clarification.

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Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to support the conference report on H.R. 3595, the Medicaid Moratorium Amendments of 1991.

The conference agreement would allow States to continue to receive essential matching payments for Medicaid costs funded with revenues from provider-specific taxes. It would also protect the current policy regarding intergovernmental transfers.

On September 12, 1991, the Health Care Financing Administration published interim final regulations that would have severely restricted Federal matching payments to States.

This regulation would have created financial chaos for many State Medicaid Programs. It is clearly contrary to the letter and spirit of the Medicaid provisions of the 1990 Budget Reconciliation Act.

If implemented, the regulation would have been devastating for the Medicaid beneficiaries and health care providers in many States. In my own State of Illinois, many hospitals would not have been able to survive.

Because the regulation would have taken effect in the middle of the 1992 fiscal year for most States, State governments would have had no choice but to cut payments for disproportionate share providers, eliminate important benefits, or restrict eligibility.

The State of Illinois acted responsibly in relying on Federal law when it enacted the provider assessment program, and the State, its hospitals, and its economy should not be thrown into disarray because of unwarranted and arbitrary Federal agency decisions.

Under this conference agreement, the current level of provider-specific taxes in Illinois would be allowed through 1995. Intergovernmental transfers may not be affected.

In addition, under the compromise payments to disproportionate share hospitals would be permanently limited to 12 percent. These hospitals provide health care services to our most vulnerable fellow citizens. While I understand that this cap is not a problem for hospitals in Illinois, I have serious reservations about any limit on payments for disproportionate share hospitals.

Until every American has health insurance, I would be concerned about a policy that may reduce payments to hospitals that provide critical health care services in Chicago and in other American cities.

This conference agreement represents a good compromise. Although I would have liked the Secretary to withdraw the regulations altogether, I support the provisions of the conference agreement.

I urge my colleagues to support this important conference report.

Mr. Speaker, I would ask if the gentleman from New York would yield further in order that I may engage in a colloquy with the gentleman from California [Mr. WAXMAN].

Mr. LENT. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to request a clarification regarding the disproportionate share hospital provisions of current law and this bill.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. Further reserving the right to object, I yield to the gentleman from California.

Mr. WAXMAN. I would be pleased to respond to a question from the gentleman from Illinois.

Mr. ROSTENKOWSKI. I want to be sure that this agreement does not infringe on State flexibility with respect to determining the level of disproportionate share payments for a given hospital.

I would like to reaffirm that it was the intent of OBRA '90 to give States the option of taking other factors into consideration when determining payment adjustments for disproportionate share hospitals.

Is it your understanding that some of the other factors a State may take into consideration may include but are not limited to:

Intensity of care;

The provision of services essential to the Medicaid and low-income patients of a State;

The efficiency of hospitals as measured through occupancy rates or other factors reasonably related to efficiency;

Medicare, Medicaid, and/or low-income utilization levels;

The types of services that are predominantly furnished by a hospital;

Geographic location; or

Any combination of these and other factors?

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield further, the answer is yes.

It was the intent of the Congress that the third payment option of section 1923(c) included in OBRA '90 would allow States to take into consideration these, and other factors when calculating disproportionate share hospital payment adjustments.

This would be true as long as the factors apply equally to all hospitals of each type and result in an adjustment that is reasonably related to the costs, volume, or proportion of services provided to low-income patients.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, I would like to thank the gentleman for his clarification. I know the gentleman from California is very learned in this area, and I particularly want him to realize the importance of these provisions to the State of Illinois.

Mr. LENT. Mr. Speaker, further reserving the right to object, in conclusion, I would like to address my gratitude to the two gentlemen from California, Mr. WAXMAN and Mr. DANNEMEYER, for their efforts, and also acknowledge the very fine contributions of some of the people on my staff: Howard Cohen, Mary McGrane, and Melody Houghton, and also Ed Grossman and Noah Woofsy, two attorneys in the Office of Legislative Counsel, for the excellent work that they have done in drafting this very complex agreement.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. Further reserving the right to object, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I want to join with the gentleman in saluting our staff, and I want to single out Andy Schneider of our subcommittee staff who put in an enormous amount of effort in this legislation.

Mr. LENT. Further reserving the right to object, I thank the gentleman for his contribution and I extend thanks to those members of his staff.

Mr. RITTER. Mr. Speaker, we are faced with the difficult task of reconciling a ballooning Medicaid Program—one that has increased more than 2,000 percent since its inception in 1965, with States that are struggling just to maintain basic health care coverage for their poorest citizens.

All this at a time of economic stagnation.

How have we gotten into this horrendous situation? Because many in Congress have seen fit to push one Medicaid mandate after another to the point of diminishing whatever flexibility the States had for dealing with this situation on their own.

Now the States have come up with very creative financing schemes. Indeed, I do not condone the manner in which my own State, Pennsylvania, has dealt with its Medicaid funding problems. And it's obvious that such a system must change. But, I cannot in good conscience watch my State be immediately cut off from funds for certain prenatal care programs, drug and alcohol treatment, or catastrophic illness, for example. The States need a reasonable transition period to find other funding options. Pennsylvania is a prime example where administrative deficiencies cannot be allowed to harm large numbers of people.

So, as a Pennsylvanian concerned about fellow Pennsylvanians, I will support this legislation.

I commend the administration and the National Governors' Association for the rational agreement that they have reached. This agreement will give States enough time and flexibility to meet their Medicaid obligations in the coming years.

The bottom line is that we in Congress must reduce the pressure—the mandate madness that forces States to go around the spirit of the law.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950), "An act to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the resolution (H.J. Res. 157), "Joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 83. Concurrent resolution to authorize a correction in the enrollment to S. 543.

RECESS

The SPEAKER pro tempore. The House will stand in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 47 minutes p.m.) the House stood in recess subject to the call of the Chair.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker (Mr. GEPHARDT) at 6 o'clock and 55 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a concurrent resolution of the House of the following titles:

H.R. 355. An act to provide emergency drought relief to the Reclamation States, and for other purposes;

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes; and

H. Con. Res. 260. Concurrent resolution providing for an adjournment of the Congress to a date certain.

The message also announced that the Senate recedes from its amendment to the bill from the House (H.R. 355), "An act to provide emergency drought relief to the Reclamation States, and for other purposes" with an amendment.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 543), "An act to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2015. An act to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright;

S. 2034. An act to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; and

S. Con. Res. 84. Concurrent resolution to correct the enrollment of H.R. 3435 the RTC funding bill.

PROVIDING FOR THE ADJOURNMENT OF THE CONGRESS ON NOVEMBER 26, 1991, TO A DAY CERTAIN

The SPEAKER pro tempore, by unanimous consent, laid before the House the Senate amendment to the concurrent resolution (H. Con. Res. 260) providing for an adjournment of the Congress to a day certain.

The Clerk read the Senate amendment as follows:

On page 1, line 14, after "first" insert: "; and that when the Congress convenes on January 3, 1992, for the second session of the 102nd Congress, the Senate shall not conduct any organizational or legislative business and when it recesses or adjourns on that day, it stand in recess or adjournment until 11:30 a.m. on Tuesday, January 21, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first".

The Senate amendment was agreed to.

A motion to reconsider was laid on the table.

CORRECTING ENROLLMENT OF S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 83) to correct the enrollment of the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WELDON. Mr. Speaker, reserving the right to object, and I will not object, but I understand that our leadership is in support of the initiative as proposed by my colleague and friend, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. WELDON. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, the gentleman from Pennsylvania [Mr. WELDON] is correct.

Mr. WELDON. Mr. Speaker, will the gentleman from New York explain the initiative, please?

Mr. RANGEL. Yes, Mr. Speaker.

When the conference was held this morning, inadvertently the language that is in this concurrent resolution specifically leaves out a banking institution. There was an attempt to restore it, and I then went through the leadership on both sides of the Committee on Banking, Finance and Urban Affairs, the counsel and the Speaker, and by unanimous consent I was able to pass the concurrent resolution that was supposed to remedy the defect that all of the conferees intended that would be included in the conference report. After that passed, that was sent over to the Senate. The Senate passed this concurrent resolution, which was resting at the House, and it was this resolution that I have just had taken from the Speaker's desk that was the intent of both the House and the Senate conferees.

As a result of the difficulty here, Mr. Speaker, the gentleman from Ohio [Mr. WYLIE] immediately went to the majority leader, the gentleman from Missouri [Mr. GEPHARDT], and counsel of both sides shared the information with the leadership on both sides, and they concurred that this was an inequity that could be corrected in this manner.

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Mr. WELDON. Mr. Speaker, I thank the gentleman for his explanation, and I am happy that we were able to work with our distinguished colleague, the gentleman from New York, Mr. RANGEL, and the distinguished Senator from New York, Mr. D'AMATO, in this important initiative.

Mr. RANGEL. Mr. Speaker, I thank the minority for its consideration of this matter. It is very important. I thank the gentleman, and I thank the Chair.

Mr. WELDON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543, the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency, shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ENGLISH: LET'S MAKE IT OFFICIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, I recently had the good fortune to meet with Dr. Robert M. Spiro, a member of the board of the American Security Council. In the course of our visit, Dr. Spiro expressed his grave concern about the increasing division of our society among racial and ethnic lines. He and I share the view that America's strength lies in our unity, and that the English language is the common thread that ties our many races, religions, and cultures together.

Dr. Spiro has written an excellent article outlining a few of the reasons why we need a common language. I respectfully request that the article be reprinted in the RECORD, and I commend the article to each of my colleagues. Please take a few minutes to read why America needs official English.

ENGLISH: LET'S MAKE IT OFFICIAL

(By Robert H. Spiro, Jr.)

It is a truism, accepted at home and abroad, that the United States of America is a diverse nation, pulsating with the heartbeats of a hundred ethnic groups, harking back to every other nation on the entire globe.

All continents, races, ethnic groups, languages, tribes, and families have contributed to the making of America.

America is a vast "melting pot" with ties to all humanity, and it is remarkable that despite 200 years of constant stirring and adding new ingredients to the brew, the pot does not boil over. The search for unity, harmony, order and tranquility was expressed eloquently in the Preamble to the Constitution, and has been a constant theme in American history.

Throughout two centuries of national history, this exciting Nation has searched for a central concept, unity. Midway in its history, a terrible Civil War, by far the bloodiest in the New World, tore the Nation apart. Twenty-two northern states, inspired by Lincoln, faced eleven seceding states. Four million men were mobilized and 600,000 died in fierce fighting. There were many "causes" for this conflagration, but the basic issue was the right to secede, to separate, to disrupt the unity of the Nation.

Diverse ethnic ties are constantly dividing the Nation, and cultural tensions frequently pull it apart. Its many religions are increasingly varied, while many citizens decry all religions. Nothing is more important than a single common language, spoken by all citizens.

A COMMON LANGUAGE IS THE CEMENT THAT BINDS THE NATION

A nation speaking one language is stronger, more firmly united, and more secure than a nation divided by language barriers and the consequences of those barriers—acrimony and ethnic conflict. It is apparent that the strongest of the many new immigrant nations of the modern world are those with a common language.

Canada, self governing since 1867, is officially bilingual, a fact which engenders bitter conflict. Martin G. W. King, a Canadian who edits an insurance industry magazine in Washington, D.C., has written eloquently about "O Canada! Coming Apart at the Seams?" Washington Post, May 27, 1990).

He laments, "And yet my country is falling apart . . . Throughout the 1960s and 1970s, Canadian governments tried to mend the country's increasingly tattered social fabric by promoting 'unity and diversity.' The country became officially bilingual, and new laws required that even cereal boxes be printed in both official languages. Civil servants were provided with crash courses in each other's language."

Yet the demands of separatists in Quebec have become increasingly strident, and there have been kidnapping and murders. And now, after the failure of the Meech Lake Accords of 1987, Canada is facing even greater discord and the possible secession of its second largest province, which also in 1987 adopted "laws that made Quebec a unilingual French province, with draconian provisions forbidding even public restaurant signs in anything but French." Canada has become unglued.

Belgium, another advanced western nation, features a French-speaking majority together with Flemish and German minorities. It is a nation bitterly divided and at war with itself.

Sri Lanka, formerly Ceylon, has seen sharp rivalry and civil war between its two language groups, the Sinhali and the Tamils.

India, with 123 languages and over 600 dialects, has severe conflicts among its ethnic components, greatly exacerbated by language differences.

But many say of the United States: "What's the problem? English has been our common language for more than 200 years. We have no problem." But we do have a problem. Puerto Rico, which has been officially bi-lingual for 89 years (since 1902), when the Official Language Act was passed by its legislature, has just voted (March 1991) to make Spanish the sole official language of the Commonwealth.

Yes, it is true that English has been our common language for more than 200 years. America has welcomed millions of immigrants from every nation under the sun. In the first decade of this century, more than one million a year came to these shores. Almost without exception, those immigrants eagerly, almost fiercely, embraced the English language, certain their future was dependent upon their learning English and adopting the "American Way of Life" in the exciting New World, to which they had voluntarily come.

Today, new waves are bringing immigrants from Central and South America, Mexico, the Caribbean, Cambodia, Vietnam, Japan, China and Korea, and many other places. Some—by no means a majority—resist Americanization, and which to create old-country enclaves in the United States. This is understandable, and is by no means a new phenomenon.

America must resist Balkanization, with its attendant hostilities and rivalries. It is wonderful to remember one's roots, to cherish one's native language and culture; but a permanent move to a new country symbolizes a fresh start, a new commitment—a new birth in a new world!

Surely the problem is a complex one. If America is to have a second language, which one shall it be? Waves of immigration throughout history occasioned by wars, persecutions, droughts and famines, earthquakes and floods, social and volcanic upheavals, have sent successive floods of immigrants to this land from four continents and the islands of the sea. If there is a second language, then there must be a third, fourth, and a fifth, ad infinitum.

Perhaps an excellent example of the complexity of the issue is to be found in a local high school in northern Virginia where there are thousands of new immigrants. In the JEB Stuart High School in Fairfax County, VA. are 1600 students. They represent 60 nations speaking 35 different languages. In fact, there are so many different ethnic contingents that JEB Stuart High offers four 4 levels of English as a second language.

How can the language problem affect you as an English-speaking U.S. citizen? Picture yourself applying for a business permit in a foreign language; or attending a city council meeting in which the council member speaks in another language; or dealing with a police officer who doesn't speak English; or fretting with an I.R.S. agent whose language is not English. This is not as far-fetched as one may imagine. It is said that the City Council of Sweetwater, Florida, does not conduct its meetings in English.

I know of no one supporting English as the official language who asserts the superiority of English. English is not necessarily "superior" to any other language. But it is the historic and common language of the United States, and a common national language is essential to national harmony and unity.

There are a few apparent exceptions, like Switzerland, but they are indeed few, and are in very special circumstances with a long evolutionary history. The strongest of the many new immigrant nations in the modern world are those with a common language, such as the United States, Australia, and New Zealand.

The point is obvious. The U.S. is derived from diverse ethnic, national, and religious groups, held together by the glue of a common language. The English language is for the United States the cement that bonds the Nation, unifies the people.

There is also an important security factor. As a reserve military officer, I am concerned about the effect of multiple language usages of military strength. Defeat in battle will surely result from the inability of men and women in the military forces to communicate in one common language. Only thus can clear, understandable, and unmistakable military orders be issued, understood, and carried out.

Here, then is a rational language policy, good for individuals and good for the nation:

1. The U.S. must remain united by one language, not divided by two.

2. Non-English speaking newcomers must be encouraged to learn English quickly, to develop fluency in English as soon as possible as the crucial first step in their integration into American life. This is in their best interest, and the nation's.

3. Bilingual education courses must aim toward moving students rapidly into standard, English-speaking classrooms as soon as possible, within one or two years, three at the most.

4. To be consistent with the English language requirement for U.S. citizenship, ballots for U.S. elections should be in English.

5. New Americans should be encouraged, in all constructive ways, to remember and honor their roots, which is a time-honored tradition deep in American history.

6. All U.S. citizens should be encouraged to study and use foreign languages both to enhance their personal growth and cultural understanding, and to promote better communication with all mankind.

The effort to make English official is a very positive program. It denigrates no ethnic group nor demeans any language. It is imperative that this great democratic and immigrant republic, devoted to human rights and dedicated to liberty, protect its unity by legally declaring the common language, English, to be the official language of the Republic.

The Congress has run hot and cold on the issue. But eighteen (18) states so far have amended their constitutions to make English official. This year, on January 3, 1991, Representative Bill Emerson of Missouri, with 38 co-sponsors, introduced House Resolution 123 declaring English the official language of the Government of the United States. At a September 1991 Capitol kickoff of the national campaign to make English official, members of Congress lauded English as the common bond among Americans and called for the passage of H.R. 123.

California, the largest state, with a very large percentage of new Americans, in 1986 passed Proposition 63. Exactly 73.2 percent of all voters approved the amendment to make English the official language of the state.

Florida, the fourth largest of the states, made English official in 1988 by a resounding affirmative vote of 83 percent. Other states with approved amendments are Arkansas, Arizona, Colorado, Georgia, Illinois, Indiana, Kentucky, Mississippi, Nebraska, North Carolina, North Dakota, South Carolina, Tennessee, Virginia, Alaska, and Hawaii.

Thus almost half of the requisite 38 states to amend the Federal Constitution have already approved the English Language Amendment. Let us hope that by the year 2000 we shall attain the approval of both 38 states and the Congress. With an approved English Language Amendment we shall assure the continuing unity and strength of the Nation in the 21st century.

THE ROUGE RIVER DEMONSTRATION PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, following the adjournment of the 1st session of the 102d Congress, numerous elected officials, community leaders, and dedicated volunteers will converge on the historic Henry Ford estate to celebrate a major funding victory for a critically important environmental project in southeastern Michigan: the cleanup of the Rouge River. The upcoming event will provide an opportunity to explain the expenditure of funding provided for the Rouge River national wet weather demonstration project in the fiscal year 1992 VA, HUD, and independent agencies appropriations legislation, Public Law 102–139. In advance of this event, it is my privilege today to formally outline the purpose of this project.

The $46 million appropriation, offered as a grant to the Wayne County Division of Public Works [DPW], represents what I hope will be the cornerstone of the Rouge River demonstration project outlined in the attached "Rouge River Basin Wide Water Quality Management Program: A National Demonstration Project." This outline is based on the Southeastern Michigan Council of Government's Remedial Action plan which enjoys the support of the Environmental Protection Agency, the Michigan Department of Natural Resources, and 48 communities representing 1.5 million people residing in the Rouge River Basin.

This project is a major step in an ongoing effort to make the Rouge River cleaner and safer for our communities. Over the past 4 years, the U.S. Environmental Protection Agency has worked with the State of Michigan, Wayne County, the Southeast Michigan Council of Governments [SEMCOG], local governments, and the Friends of the Rouge, a citizens group, to help perfect a design and engineering plan to accomplish the objectives of this innovative demonstration project..

Throughout the continuous and lengthy process to obtain funding, my colleagues, Representatives WILLIAM D. FORD and BOB TRAXLER, and I, have worked closely with Mr. James E. Murray, director of the Wayne County DPW to develop this project. We believe that the resulting Rouge River demonstration project will assist communities throughout the Rouge River Basin in reducing point source discharges, combined sewer overflows, and stormwater runoffs. It will also serve as national model for wet weather discharge for urban communities throughout the country in meeting nationally imposed standards.

The comprehensive Rouge River demonstration project will directly and indirectly assist established and independent efforts which serve the goal of improving the environmental quality of the Rouge River. These funds are intended to be used expressly for the purpose outlined in the statutory language of the legislation, committee report 102–94, conference report 102–226, and amplified by the attached "Rouge River Basin Wide Water Quality Man-

agement Program: A National Demonstration Project" outline prepared by the Wayne County DPW.

By cleaning up one of the greatest single sources of pollution to the Great Lakes, this important demonstration project will restore the Rouge River as a cleaner and more valuable resource, protect the health of millions of residents living in its proximity, and improve the environmental quality of the Great Lakes.

As this critically important project gets underway, I want to salute all of the elected officials and dedicated community leaders and volunteers who have assisted in Rouge River cleanup efforts. I thank them for their past contributions, and look forward to working with them as we proceed to strengthen and preserve the environmental quality of the Rouge River.

I insert into the RECORD, for the edification of my colleagues, the excellent "Rouge River Basin Wide Water Quality Management Program: A National Demonstration Project" outline. the plan follows:

ROUGE RIVER BASIN WIDE WATER QUALITY MANAGEMENT PROGRAM: A NATIONAL DEMONSTRATION PROJECT

The Rouge River Basin contains a wide range of urban, suburban and rural areas. The river has become increasingly stressed by the pollutants introduced by the urbanization process. Discharges from industry, waste treatment facilities, combined sewer wet weather overflows, and urban stormwater runoff combine to produce river reaches that continually fail to meet minimum water quality standards.

Past and current efforts have focused on the control or elimination of continual discharges to the river by industry and government. Yet, water quality within the basin has not shown significant noticeable improvement. Water quality within the Rouge River and similar urban watersheds is adversely affected by intermittent discharges of pollutants during wet weather events.

Current federal and state regulatory programs have begun to address the wet weather pollution problem on two separate fronts.

The first is the required elimination or reduction of overflows from combined sewer systems. These sewage collection systems carry both sanitary sewage and stormwater runoff within the same network of pipes. During dry weather, all flows are transported to the wastewater treatment plant for treatment and discharge. In periods of rainfall, storm runoff is transported within portions of the same pipe network. Since wastewater conveyance and treatment facilities cannot be economically sized to transport or treat all storm flows, significant amounts of the combined flows overflow to the receiving waters. These flows contain pollutants associated with both domestic and industrial wastes as well as those from surface runoff.

The second program recently initiated by the US EPA deals with the reduction of pollutant loads from separate storm water collection systems within larger urban communities. It has been documented that significant quantities of pollutants are carried to rivers and streams by rainwater as it washes roadways, rooftops, parking lots, construction sites, and industrial facilities. Even after reduction of pollutant loads from point sources and CSOs large portions of the urban watershed will fail to meet water quality standards due to pollutant loads contained in stormwater runoff.

Within the Rouge River basin regulatory efforts are currently concentrating on the numerous CSO discharges which have been identified. Strict criteria for storage and treatment of all flows from these combined sewer overflows are being developed by the regulatory agencies. These standards are being incorporated into wastewater municipal permits issued by the Michigan Department of Natural Resources under delegation from the US EPA. These requirements have been developed apart from determination of cost effectiveness and without consideration of stormwater impacts on the receiving waters.

Reduction of pollutant loading to urban river systems which are of a scale large enough to impact water quality will be an exceptionally costly undertaking. Yet, thus far, no attempt has been made to assess the relative costs and benefits associated with various levels of CSO and Urban Non-Point control when they are applied to a common watershed. Current policies and regulations consider each of these components independently and do not recognize their common effects on urban water quality.

The Wayne County Department of Public Works has prepared a outline for a demonstration program which will use the Rouge River Basin to demonstrate the impacts of both CSO reduction technologies and urban non-point control strategies on receiving water quality. The program is intended to determine a method of selecting the most cost effective mix of controls while assuring maximum use of the resource.

The program is designed to provide the basis for final planning and implementation of remedial measures within the Rouge River Basin. Full scale construction of selected CSO retention basins as well as full implementation non-point strategies will take place as part of the program. Analysis and modeling of results obtained from these pilot studies will form the basis for development of a decision support system capable of assisting future planning efforts. Care will be taken in structuring the demonstration program and in developing the decision support system to assure transferability to other similar urban watersheds throughout the Great Lakes Region.

The Rouge River Basin Wide Water Quality Management Program will be composed of a number of closely interrelated components. These are outlined below.

1. Development of a basin wide Geographical Information System (GIS) which will become the basis for collecting, organizing, and analyzing data on Rouge River basin characteristics. The GIS will provide a link between historical watershed data, measured quality improvements at demonstration locations, and predictive modeling tools which can extend local resultant improvements to estimates of basin wide impact. Coupled with the data base will be a interactive decision support system designed to allow policy planners to readily ascertain the impacts of modifications to the overall basin management strategy.

2. Collection and verification of physical data on the drainage networks within the Rouge Basin. This information will be compiled for both the natural drainage courses making up tributary streams to the Rouge and the man-made modifications to the drainage network be they open drains or enclosed conduits.

3. Design and implementation of a comprehensive program of water quality sampling and analysis. This program will supplement previous efforts to quantify water quality problems within the Rouge. Permanent sampling stations will be located at key locations within the watershed where base line dry and wet weather samples can be taken. These stations will be located within the receiving waters both upstream and downstream of proposed improvement sites. This will allow site specific assessment of impacts achieved by the implementation of the control measures.

4. Development and implementation of predictive models of the watershed. Mathematical models of the watershed hydrology, the stream and drain network hydraulics, and the water quality impacts of planned improvements will be developed. Similar models dealing with the transport through the river network of polluted sediments will be developed. Finally, based on these modeling efforts, a risk assessment tool will be formulated which will be able to link these models of the physical system to the decision support tool provided above.

5. Establishment and Implementation of a series of Best Management Practices (BMPs) to reduce the effects of urban non-point pollution to the Rouge. These BMPs will be tested on three to six sub-watersheds within the Rouge Basin. They will consist of a mix of structural improvements such as end-of-pipe detention basins and nonstructural approaches such as street sweeping, catch basin cleaning, and land planning requirements. Water quality within receiving waters prior to and after implementation of the measures will be analyzed in order to quantify effects of the procedures.

6. Design and construction of CSO detention and treatment facilities. A major portion of the effort associated with this demonstration will be focused on the location, design and construction of CSO abatement facilities within the Rouge River Basin. A coordinated effort will be provided to assure that facilities which planned, designed and built by various operating agencies throughout the basin will cover a range of CSO remediation approaches. Designs will be varied between control structures to allow testing of different approaches. Standards will be put forth to provide for sufficient sampling and analysis of both influent and effluent water quality throughout the entire range of rainfall and runoff events.

7. Public information and Reporting. The program is intended to provide a sound basis for further remedial planning and implementation within the Rouge Basin. For this reason an intensive public information effort will be undertaken. Key findings and general information will be distributed to the local technical community for use in future planning and design. And the general public will be kept informed as to the progress being made toward improving the water quality within the Rouge River. Appropriate findings will be published for use by others dealing with similar urban wet weather pollution problems within the Great Lakes Area.

It is currently envisioned that the program will be funded by the US EPA with certain administrative oversite provided by the MDNR. Overall program execution proceed under the direction of the Wayne County Department of Public Works who will act as the Lead Agency in charge of all program activities.

Management support to the Lead Agency will be provided by a Program Management Team comprised of staff from the county and consultants. The US EPA Large Lakes Laboratory will provide leadership and direction in the development of the GIS and the decision support system. They will also play a significant role in the selection and implementation of the mathematical models used for prediction of future conditions. SEMCOG will coordinate the activities of a group of technical advisory groups assembled to oversee the activities of key program teams.

The responsibility for the majority of data collection, facility design, construction and operation will remain with the local Operating Agencies which currently have responsibility for sanitary sewers, storm drainage facilities and combined sewers. The Program Management Team will provide standards to be incorporated within local facility design, but final design, construction and operation will remain with the local units of government.

RAIDS ON CALIFORNIA PUBLIC RETIREMENT PLANS MUST BE BLOCKED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, last week, my distinguished colleague, Mr. ROYBAL of California, chairman of the Select Committee on Aging, and I as chairman of the Joint Economic Subcommittee on Investment, Jobs and Prices, chaired a hearing into the use of public employee pensions to balance State and local budgets and its impact on public employees, retirees, and taxpayers.

In the hearing, we heard testimony from elected public officials from Illinois and Rhode Island; from executives of labor organizations; from a labor economist, and from a noted trust lawyer.

What we learned from this hearing was that raids on public pension plans are becoming commonplace. State and local politicians are diverting funds obligated to be deposited into these retirement savings trusts to offset the financial requirements of current government operations. By these actions, these State and local officials are guaranteeing massive new public debt in the future. One of the witnesses, Arnold M. Schneider, executive director of the American Association of Classified School Employees, told us that "we are witnessing the disintegration of retirement savings trust funds through diversion and expropriation. It is not the same as the savings and loan crisis—it is worse."

He explained that there is no Federal program to guarantee losses—no Pension Benefit Guaranty Corporation coverage for State and local public worker pension plans. There are not even any Federal laws protecting these trust funds, such as the Employee Retirement Income Security Act [ERISA], which applies only to the private sector workers.

While witnesses brought up raids in Illinois, Rhode Island, and Texas and raised concern with regard to underfunding and diversions of assets in West Virginia and Oklahoma, grave concern was expressed about actions in my State of California.

The California Public Employees' Retirement System [CalPERS], serves 700,000 active employees of the State, the State universities, and 2,300 local government entities such as school districts, as well as 250,000 retirees and survivors who receive an average pension benefit payment of less than $700 a month.

Notwithstanding the fact that the funds to administer CalPERS comes from its earnings and not from the taxpayers or the State general fund, the legislature and the Governor control its budget.

Through most of the 1980's, the workload of CalPERS increased, but the size of the staff has not expanded at a rate to meet the challenge. For example, in the 1986–87 fiscal year, 765 CalPERS employees provided services to less than 800,000 persons in the plan. By the last fiscal year, only 44 more employees had been added to provide services to 150,000 more persons.

As a result, people—particularly the disabled and senior citizens—pay the price in the form of cruel delays. Elderly and disabled persons, for example, sometimes are off the payroll for at least 6 months before they receive their first retirement checks.

The short staffing of CalPERS is also resulting in the plan being defrauded. Actual retirement benefits—the pensions—that retirees receive are based upon a formula that involves their pay and length of service.

It is rare, but from time to time, some public employers, particularly small ones, such as fire districts, will inflate their payroll records so that a favored retiring fire chief, for example, can get a bigger pension.

CalPERS tries to prevent this kind of abuse, but there are today only 8 payroll auditors charged with reviewing the payrolls of 2,300 employers of 750,000 persons. Although additional auditors had been requested there has been a 1½-year delay in filling these positions.

This severe control by the State is impairing the exercise by the board and its staff of their fiduciary duties to administer the plan for the exclusive benefit of active workers and retirees. CalPERS is doing the best it can, but it needs help.

Last summer, the Governor took steps to assert even greater control over CalPERS.

He sought without success to sack the current board of trustees and stack it with his own puppets. Currently, a 13-member board oversees the operations and investments of CalPERS. This board consists of six members elected by active and retired employee groups, four members appointed by the Governor, one chosen by the State legislature and, finally, the elected State treasurer and controller.

The Governor said that the board was not accountable to the taxpayers. Mr. Schneider said that the record provides evidence of a different story. In 1966, for each dollar of revenue paid into CalPERS: 34 cents came from employees; 39 cents from employers; and 27 cents from investment income. Today, for each dollar of revenue paid into the plan: 11 cents comes from employees; 18 cents comes from employers; and 71 cents comes from investment income.

Indeed, in the past 5 years, employer contributions have been reduced by $2.1 billion because of CalPERS investment performance. In the past 10 years, the State employer's rate has decreased 38.5 percent.

With the help of the legislature, the Governor last summer eliminated two supplemental accounts containing $1.9 billion. The earnings in these accounts had been used to restore the purchasing power of pensions paid to the oldest and poorest retirees. Wilson did not actually remove the money from the trust fund. As the State employer, he claimed these funds as credits against future employer payments into the plan.

In addition to several other complex changes made in benefit structure formulas, the Governor was also successful in stripping from the CalPERS board the authority to choose its own actuary, and set assumptions which insure plan stability. Instead, this responsibility has been placed in the office of the Governor.

A public plan's actuary makes the critically important assumptions regarding investment income and benefit costs to the trust fund. The annual contributions to the fund by State and other public employers are calculated on the basis of these assumptions. With the actuary under the control of the employer, there is accountability to the plan, board, or the beneficiaries.

Thus, the actuary is free to make politically motivated assumptions regarding plan earnings, and thereby, give credence to reduced contributions into the fund by the State and local public employers.

In summary, witnesses before the hearing told us:

First, the government of the State of California controls the CalPERS budget and this is indirectly causing cruel delays in elderly and disabled people obtaining payments to which they are entitled and even fraud against the plan.

Second, the Governor also took control of CalPERS' actuarial functions.

Third, finally, he has diverted 41.9 billion in funds.

For all practical purposes, the Governor of California will dominate CalPERS if he can take control of the investment decisions, which is a power currently vested in the board of administration.

During the course of our research that led up to the November 20, 1991 hearing, we obtained information that a sponsor is being sought for legislation to be introduced in the California Legislature next month that would remove control of investment decisions from the CalPERS board.

I am troubled by this possibility and I am very concerned that it could lead to an absence of effective checks and balances within the governing structure of the trust fund. In the past, in California and other States, this absence has led to behavior that ultimately was harmful to the plan beneficiaries.

Several years ago, the Federal Bureau of Investigation conducted an investigation of an

investment decision made by the California State Teachers' Retirement System. This California statewide retirement plan for teachers has a board that is essentially controlled by the Governor, in contrast to CalPERS which has 13 board members, only 4 of whom are appointed by the Governor and the majority of whom are either elected by beneficiary and employee groups or the public at large.

After evading investigators for 4 years, the former chairman of the State Teachers' Retirement System surrendered himself to Federal authorities and in September 1987 pled guilty to extortion, conspiracy, misuse of funds, and tax evasion in connection with a scheme involving the channeling of a loan of $50 million in teacher pension funds to a wildcat oil company owned by an ex-convict. A Federal grand jury had accused the former pension plan official of accepting a $1.5 million bribe in connection with the loan from which the ex-convict got $1.5 million of the retirement trust funds.

Elsewhere, Governors' appointees to public employee pension plans are running afoul of the law. On the day of our November 20, 1991, hearing, the press reported that former board members of the Kansas Public Employees Retirement System are the subject of an investigation by a special prosecutor appointed to handle potential criminal cases resulting from questionable investment decisions. The State securities commissioner filed felony fraud charges on November 18, 1991, against a former chairman on the board. All trustees of the Kansas plan are appointees of the Governor.

In another November 20, 1991, report, the Philadelphia Inquirer said that an internal investigation commissioned by the Pennsylvania Public School Employees Retirement System has developed allegations of kickbacks and other payments to a board member from investments consultants to the plan. Information, including reports of "the mailing of envelopes stuffed with cash," have been forwarded to law enforcement authorities.

In each of these instances of questionable conduct, the trust funds suffered losses of the workers' retirement savings.

CalPERS has never been the subject of even alleged improprieties in its 60-year history. It is the Nation's largest public employee trust fund containing $66 billion in retirement savings of almost 1 million working and retired public employees. Therefore, I hope that the Governor and legislature will not alter the effective, efficient, and accountable manner in which CalPERS is administered.

The witnesses before our November 20, 1991, hearing were nearly unanimous in their call for legislation. A few even called for new Federal criminal sanctions for trust fund tampering by elected officials.

The Select Committee on Aging and the Joint Economic Subcommittee Investment, Prices, and Jobs are going to continue congressional oversight of public employer conduct with regard to active and retired workers' retirement savings trust funds. Congressional staff will be continuing their inquiry through the upcoming recess and we will examine their findings early next year.

Mr. Speaker, to help further explain the importance of this issue and the abuses which are occurring in California, I would like to include in the RECORD at this point my opening statement at an August 19, 1991, hearing in California:

OPENING STATEMENT OF CONGRESSMAN PETE STARK

Last month, California's Governor took $1.6 billion from 900,000 active and retired members of the California Public Employees' Retirement System (CalPERS).

He took $1,800 from each police officer, fire fighter, school cafeteria worker and other public employees—and a quarter of million others who are retired.

But the Governor was unsuccessful in his effort to sack the CalPERS Board. He said the Board had to go because it was too responsive to employees, and not responsive enough to employers.

The State's Constitution and laws say that pension funds must be used solely for the benefit of active participants and retirees. This is known as the "exclusive benefit rule."

There's an exclusive benefit rule in the Federal Internal Revenue Code, too. The tax code says that pension plans administered for the exclusive benefit of workers and retirees may, as a result, enjoy exemption from Federal tax. That means employee contributions to such plans may be made with before-tax dollars.

The only Federal law protecting public employee pensions from being stolen by employers is in the Internal Revenue Code. The remedy for violation of this rule is loss of the tax exempt status of the plan.

Let's be clear. A public employer can steal money from a trust fund and the only Federal remedy would be take away the tax exempt status of the pension plan. Who pays? Not the thief. The workers would pay.

Contributions to their own retirement would then be made with after-tax dollars.

That is neither acceptable to me nor would it be acceptable to the members of the House of Representatives Ways and Means Committee or the majority of the House and Senate, for that matter.

The question is: Do public employees need Federal protection from expropriation and diversions of retirement savings by their employers?

The Chief Executive Officer of a corporation cannot rip off an employee pension fund. The CEO could go to jail. In the private sector, pensions are protected from employer thefts by the Employee Retirement Income Security Act (ERISA).

But no Federal crime was committed by the Chief Executive Officer of California when he expropriated the retirement savings of public employees.

Public employee pension funds are not covered by ERISA because the Congress was convinced that public officials—public employers—meet a higher standard of conduct than their private sector counterparts.

Not only are public employers accountable to taxpayers and the subject of press scrutiny, but also, it was argued, State laws would prohibit elected officials from engaging in the kind of conduct ERISA banned in the private sector.

I am not extolling the virtues of ERISA—especially its administrator. ERISA is administered by the Department of Labor. The Labor Department stood by and watched corporate crooks replace federally protected worker pensions with cheap annuities purchased from insurance companies that had to be taken over by regulators.

Beware of any proposal that would suggest that the Department of Labor will help working and retired people.

However, there is much in ERISA that is good:

ERISA contains a standard of conduct for fiduciaries. So does State law. But the Governor, who swore to uphold that law and others, broke it.

ERISA contains an exclusive benefit rule. The State law—even the constitution—does too. The Governor took an oath to uphold the law and constitution, but he has violated that oath.

The State courts will decide these issues.

Notwithstanding that decision, the Congress has an obligation to ask some questions:

Should public employees and their unions and associations have the right to go to Federal Court to protect their retirement savings?

Should government executives—from Governors to Mayors—be subject to ERISA-like civil and criminal penalties for stealing their employees' retirement money from trust funds?

Theft of trust funds—retirement savings—is a crime against senior citizens—a cruel and unusual one.

The purpose of this hearing today is to learn about the impact of Assembly Bill 702 on the retirement trust fund; the views of the people with regard to whether there should be a Federal role to protect those funds; and, if so, what that role should be.

SOCIAL SECURITY AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, as the 102d Congress completes its business for 1991, I am deeply disappointed that it did not approve the package of Social Security amendments that the Committee on Ways and Means proposed adding to H.R. 2967, the Older Americans Act Amendments of 1991. These amendments would have made life a bit more comfortable for thousands of senior citizens who need our help. They would have improved Social Security benefits for elderly widows—those widows who are the poorest of the elderly; and they would have liberalized the Social Security retirement earnings test in a way that provides maximum assistance to middle-income working seniors.

I am particularly disappointed that the amendments were not approved because they enjoyed such strong support. Clearances were received from members of the Senate Finance Committee who said they would accept our package if the House sent it to them. Moreover, several key House Republicans indicated that they found the package acceptable. In short, we came very close to enacting needed Social Security improvements with broad appeal and broad support. It is unfortunate for Social Security beneficiaries across the country that the Congress could not reach consensus on going the last mile and enacting this important legislation.

LEGISLATION TO AUTHORIZE THE STATE OF NEW YORK TO IMPOSE PILOTAGE REQUIREMENTS FOR THE HUDSON RIVER MORE STRINGENT THAN FEDERAL LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, today I rise to introduce legislation to empower the State of New York to enact pilotage requirements for the Hudson River that are more stringent than Federal law.

In March 1989, the most devastating oilspill in U.S. history taught Americans a cruel lesson: Pilotage is an issue of grave environmental significance. The captain of the *Exxon Valdez* left the bridge in the hands of an inexperienced mate, and a few mistakes later, millions of gallons of oil were gushing into Prince William Sound. In response, the Congress approved the historic Oil Pollution Act of 1990, a dramatic step forward in oilspill prevention and response.

Despite its broad scope, the OPA postponed needed action on one of the most important elements in accident prevention: Pilotage. The law calls for an examination of Federal pilotage standards as part of a comprehensive study of the causes of oilspills. But the Coast Guard says that up to 80 percent of all oilspills result from some kind of human error. The *Exxon Valdez* spill showed that having the wrong person at the wheel, even temporarily, can result in unprecedented environmental devastation.

Mr. Speaker, the Hudson River cannot afford to wait for another study.

In October of last year, the wrong person was at the helm of a tanker carrying 204,000 gallons of kerosene up the Hudson River. With virtually no experience on the river, the pilot grounded the vessel on Diamond Reef, one of the Hudson's most notorious hazards. Only luck prevented this spill, and over 60 like it on the Hudson since 1981, from being catastrophic.

The Hudson River is one of North America's most remarkable natural resources because of the breathtaking variety of activities it supports. It is home to perhaps our most important striped bass spawning area, contains thousands of acres of tidal wetlands, and provides drinking water to numerous communities including New York City. On top of all of that, it continues to support heavy commercial and recreational vessel traffic.

Yet, under current Federal law, a massive tank barge carrying thousands of gallons of oil on the Hudson River is not required to have a licensed pilot on board. In fact, in most cases, it is not subject to Federal pilotage requirements at all. The State of New York understands the value of this precious resource but is barred by Federal law from enacting more stringent pilotage requirements that would provide the Hudson with desperately needed protection.

It is time for the Congress to recognize that pilotage standards—first and foremost—are an environmental issue. While the need to preserve the ability of oil transport companies to operate profitably deserves careful consideration, the current system, locked in place by outdated Federal laws, virtually assures that mariners lacking adequate local knowledge will be at the helm of tank vessels brimming with oil. Resources like the Hudson River are too important to sacrifice to minimal Federal pilotage standards that often require no pilot at all.

Mr. Speaker, the existing pilotage statute turns environmental law on its head. The vast majority of environmental laws are drafted with the expectation that States will enact tougher standards to respond to local circumstances. The pilotage law makes that impossible. If the Clean Water Act were written like the pilotage statute, States would be barred from imposing water quality standards more stringent than Federal law in order to save endangered waterways and protect human health. That's absurd.

Federal pilotage laws are the product of a different era, before the American people fully realized that having the wrong person at the helm of a tank vessel can result in an environmental disaster. *Exxon Valdez* changed that forever. We should not wait for a *Valdez* on the Hudson to fix the pilotage statute.

The legislation I am introducing is a modest attempt to empower the State of New York, through which virtually all the Hudson River passes, to enact more stringent pilotage requirements within its borders. The State has the experience, the resources, and the commitment to work with the interests involved to craft additional pilotage requirements that will protect the river without impeding commerce.

New York, for example, is in the process of convening the first of a series of meetings with industry and environmentalists to examine pilotage in the New York area and to work on methods of raising the standard of practice on New York waterways. In addition, the Governor's Task Force on New York's coastal resources, on which I sit, today released its final report. It includes a recommendation that the State pursue efforts to strengthen pilotage requirements. Under existing Federal law, however, the State is hamstrung in attempting to implement this recommendation.

Mr. Speaker, a clear and present danger exists on the Hudson River and Federal law expressly prohibits the State of New York from responding. We must not wait for another disaster before we remove that barrier.

Mr. Speaker, I am including in the RECORD at this point the text of the bill I am introducing.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8501 of title 46, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) Notwithstanding any other provision of law, the State of New York may establish any requirement applicable to the pilotage of vessels on the Hudson River upstream of 41©00'00" north latitude, that is more stringent than any requirements that apply to that pilotage under this title.".

CLOSE THE REVOLVING DOOR TO TOP TRADE OFFICIALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, McDonnell Douglas, one of the great pioneers of commercial aviation, last week announced it was selling a 40-percent stake in its commercial airliner business to Taiwan Aerospace Corp. This move should sound alarm bells in the White House and Capitol. What is wrong in this country when an industry giant like McDonnell Douglas is forced to go begging to the Far East for capital to stay in business?

It is no secret the Reagan and Bush administrations have failed to push for fair trade practices by our economic competitors. Diplomatic and strategic concerns related to the cold war always put the interests of American corporations on the back burner. Economic concerns have been considered by Presidents Reagan and Bush to be less important than maintaining friendly relations with a pro-western ally. Now, United States dependence on foreign capital to finance the deficit has withered any muscle we might use in trade negotiations with the Japanese. We need to change our approach to trade policy before we lose any more of our jobs and vital industries.

One symptom of our ailing trade policy is the revolving door which allows U.S. Government trade negotiators to represent the interest of U.S. corporations and industries, and then take the experience, knowledge and contracts they have developed and sell them to the highest bidder. All too often, U.S. corporate heads find the Commerce or USTR official, in whom they confided and trusted, sitting opposite them at the negotiating table or representing their opponents in an antidumping proceeding. This is wrong and should not be encouraged by U.S. policy.

The revolving door hurts our trade position in myriad ways. It results in constant turnover in personnel and loss of seasoned negotiators. it casts doubts on the notion that our Government zealously represents American interests in trade negotiations. It may also damage or inhibit the performance of a U.S. negotiator if he or she has in mind a job working for one of the foreign corporations or governments involved in the negotiations. Finally, the personal relationships between current U.S. Government employees and former employees working for foreign interests may taint the conduct of proceedings seeking an objective evaluation of a trade compliant.

The PBS show "Frontline" recently reported on an antidumping proceeding brought against Japanese producers of flat computer screens before the International Trade Commission. Representing a Japanese company accused of dumping was a former Chairman of the ITC. The economic analysis bolstering the defense of the dumping claim was prepared by another former Chair of the ITC. As much as I would like to believe their participation would have no influence on the proceeding, some people, including the former Chairmen, believe their services are more valuable than some other expert in trade law. There is a quality beyond expertise that makes a former Chairman of the ITC a very valuable advocate.

The same can be said of other former top U.S. officials, like agency heads and undersecretaries, who go to work for foreign interests after leaving Government service. One of the top executives of Airbus Industries, a French Government-subsidized airplane manufacturer that pushed McDonnell Douglas from the No. 2 position in the industry, is a

former Secretary of Transportation. I cannot prove a link between the former Secretary's position and the U.S. Government's failure to attack the subsidies to Airbus which gave it an unfair advantage in the global aircraft market, but there could be one. Why did the administration allow unfair competition to so weaken McDonnell Douglas that it had to look for new capital from Taiwan?

The cold war is behind us, and we must use this opportunity to begin to exercise some economic nationalism on the trade front. My colleague, Representative ROD CHANDLER of Washington, and I are introducing legislation that would create a lifetime ban on working for a foreign government or foreign controlled corporation for level 1 and 2 appointees of the executive branch and officials involved in trade negotiations, which would involve people at USTR, ITC, Commerce Department, and Defense Department.

The purpose is manifold: To stop opportunists who use political influence to get trade jobs in the Government, blocking out people who would choose public service as a career rather than a pitstop; to remove the financial incentives for experienced trade negotiators to leave public service; to stop the flow of insider information about trade negotiations and individual corporations to foreign interests; and to remove the unfair advantage foreign competitors gain by having a former high-level U.S. official represent them before a Federal agency, tribunal, Congress, or the White house.

The message of this bill is clear; government service is public service, not a training program for financial self-enrichment. If that is not your interest, do not seek an appointment in the next administration or a job negotiating the most sensitive issues of U.S. economic survival. Someone must begin to realize the United States is being taken to the cleaners by the Japanese and other trading partners. We need to begin to fight for our own, to keep U.S. corporations strong, and to preserve American jobs.

RESOLUTION FOR ACTION ON YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing legislation to urge the President to bring to bear the full force of the United States immediately to work toward a permanent peace in Yugoslavia and a negotiated settlement of the interethnic conflict in that fractured collection of republics. The resolution calls on the President to press the U.N. Security Council urgently to impose worldwide economic sanctions, including a halt in the shipment of oil, against Serbia and to work closely with the former Soviet Union to encourage that nation's critical participation in the effort to force the Yugoslav Federal Army to abandon its violent war on Croatia and to allow peaceful negotiations to resolve the conflict.

Additionally, the resolution implores the President to support the stationing of U.N. peacekeeping troops between Serbian and Croatian personnel, to withhold recognition of border changes achieved through violence, to extend humanitarian aid immediately to besieged civilians in Croatia and to refugees of the war, and to call for protection for minority enclaves within Croatia and Serbia.

Mr. Speaker, I have submitted statements on this crisis to the House of Representatives twice in the last month. Each time I have voiced my strongest concern that the President and the administration are simply not doing enough to resolve the Serbo-Croatian war. In fact, they have done very little. The President has not responded to the plethora of calls from the Congress and from around the Nation for his leadership and the resources and expertise of the State Department.

Over 7,000 people have died since the start of the war last spring. Serbia now occupies 40 percent of Croatia, and the Yugoslav Federal Army continues to attack other border cities, holding entire populations hostage in brutal sieges and fanning the flames of historic interethnic hatred and violence. The people of Yugoslavia are engulfed in the competing drives for power by Serbia's nationalist autocratic leadership and the Yugoslav Federal Army, beholden to no one and bound to retain if not expand its power.

How much more suffering and how many deaths must Yugoslavia endure before the United States Government becomes seriously involved in the effort to resolve the crisis? This war is the bellwether of future potential interethnic conflicts in Eastern Europe and the former Soviet Union. As Yugoslavia goes, so will go Nagorno-Karabakh. If the President truly intended to contribute to a new world order, he would seize this opportunity to prevent Yugoslavia's descent into disorder.

The United Nations and the U.N. Security Council have demonstrated their enormous new prestige and sway in international conflicts in the past several years, from El Salvador to the Middle East to Cambodia to Namibia. I know that many of my colleagues share my view that the President and Secretary of State ought to work closely with the U.N. Security Council, the European Community, and newly reappointed Soviet Foreign Minister Shevardnadze to arrange a comprehensive package of worldwide economic sanctions against Serbia and a framework for negotiations leading to a permanent cease-fire and a national settlement.

This resolution expresses the sense of Congress that the President should take these critical steps now. I would hope that the introduction of the resolution would spark the administration to action, and I invite my colleagues to join me in entreating the President to act now.

H. CON. RES.—

Whereas the American people share a strong desire for a permanent peace in Yugoslavia;

Whereas an expeditious resolution of the Serbo-Croatian conflict is in the national interest of the United States;

Whereas Serbo-Croatian violence has claimed the lives of over 7,000 people, most of whom were innocent civilians;

Whereas both Serbian and Croatian forces have broken 13 cease-fires arranged by the European Community within hours of their implementation;

Whereas the Yugoslav Federal Army has clearly joined forces with Serbian forces, violating its constitutional mandate to remain nonpartisan and to guarantee the peace;

Whereas nationalist leaders in Serbia and Croatia have greatly exacerbated the conflict through ad hominem appeals to historic ethnic tensions and incited the escalation of the conflict toward civil war;

Whereas Serbian forces have devastated and occupied the Croatian city of Vukovar, taken control of 40 percent of Croatia, and laid siege to the city of Dubrovnik;

Whereas the Helsinki Final Act, the Paris Charter, and other Conference on Security and Cooperation in Europe documents by which Yugoslavia is bound contain principles on human rights and fundamental freedoms, the equal rights and self-determination of peoples, and guidelines concerning the peaceful resolution of disputes;

Whereas the European Community has been unable to resolve the conflict;

Whereas the European Community and the United States have imposed economic sanctions on Yugoslavia;

Whereas the world community's response to the Serbo-Croatian conflict will be a bellwether of the outcomes of other potential inter-ethnic conflicts in Eastern Europe and Central Asia; and

Whereas the Yugoslav Federal Army continues to threaten to expand and escalate the conflict and a fresh approach to the conflict is required: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should—

(1) condemn the ongoing violence, the cycle of atrocities and retributions in Yugoslavia, in lieu of political negotiations;

(2) immediately bring to bear the full diplomatic force of the United States to work toward a permanent cessation of hostilities leading to a negotiated settlement and peace in Yugoslavia;

(3) urge the United Nations Security Council to impose worldwide economic sanctions (including petroleum shipments) against Serbia pending a permanent resolution of the conflict;

(4) work closely with the former Soviet Union to encourage its critical participation in efforts to impose sanctions against Serbia and to resolve the conflict;

(5) support the stationing of a United Nations peacekeeping force between Serbian and Croatian forces once a permanent cease-fire takes effect;

(6) withhold recognition of border changes in the region brought about by force;

(7) immediately extend humanitarian assistance to besieged civilians in Croatia and to refugees of the conflict; and

(8) call for protection for minority enclaves within Croatia and Serbia.

HONORING THE PRINCE GEORGES COUNTY PARKS AND RECREATION FOUNDATION, INC.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to the community service of Lucille C. Brogden, president of the Prince Georges County Parks and Recreation Foundation. This year represents the last year in her role as president of the foundation where she has been volunteering her invaluable services since 1987. In her role as president, Lucille Brogden has worked hard to raise funds to support parks and recreation, conservation, education and cultural activities within Prince

Georges County in an effort to enhance the quality of life for all citizens of the county.

Whether by telephone or in person, every day Lucille worked to improve the operation of the foundation. In her role with the board of the foundation, she was instrumental in raising the funds necessary to restore the historic Riverdale Mansion. Lucille Brogden has also taken the two annual fundraising activities and make them the most successful ever, allowing the foundation to issue more grants to help meet the crucial needs of the different communities within the county.

Additionally, Ms. Brogden has played an instrumental role in the creation of the National Fund for the Patuxent Wildlife Research Center, which is a special foundation created to assist in the funding of the operation of a national visitors center that will be build at the Patuxent Wildlife Research Center. As my colleagues know, this Congress has provided $15 million for the construction of this visitors center which will be a premier educational wildlife center for visitors to our Nation's capital. Ms. Brogden was instrumental in helping build the community consensus that led to the creation of this visitors center and which will be critical in sustaining the center.

Mr. Speaker, leadership is about stepping up to bat when you see a need. Lucille Brogden is a leader—and she has stepped up to bat time and time again and has hit more than a few home-runs. I congratulate her upon her service as president and commend her impressive record of community service and wish her every success in the future.

HOPES FOR PEACE IN YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, over last weekend, Cyrus Vance and Lord Carrington called Franjo Tudjman and Slobodan Milosevic to peace talks in Geneva which resulted in the 14th cease-fire in the current crisis.

The efforts of these two mediators have been herculean, and I believe that there is finally a light at the end of the tunnel, and none too soon.

All inhabitants of Yugoslavia long have tired of this senseless civil war that is tearing their country apart. The chance for a peaceful settlement is now, as a number of situations currently are looming that threaten even this chance for peace.

According to an article entitled "Yugoslav Army, Hailing Vukovar, Calls Its Own Tune", by correspondent Blaine Harden in Saturday's Washington Post, the Yugoslav National Army is out of control and fighting for its own gains, instead of acting in its capacity as a guarantor of the human rights of the Serbian minority in Croatia.

In addition, Franjo Tudjman, President of Croatia, has arrested Dobroslav Paraga, leader of the Croatian Party of the Pure Right, an opposition group in Croatia that is very vocal in its criticism of the Tudjman's regime, and advocates a greater Croatia encompassing parts of Serbia and Bosnia-Herzegovina, for planning an armed coup against his Government. Paraga slights Tudjman for even considering a settlement in the current crisis, believing instead that the war should be expanded.

On October 16, I spoke on the floor about Mr. Paraga, whose party appears to be thriving in Croatia, and who represents a very real threat to President Tudjman. While it is acknowledged that Tudjman is an unabashed nationalist, whose policies have aggravated the current crisis in Yugoslavia, these policies pale in comparison to those of the Croatian Party of the Pure Right, who openly base themselves on the Second World War Ustashe movement. If Mr. Paraga were to gain power, I shudder to think of the carnage that might take place at his hands.

These additions to the already complex situation in Yugoslavia could spell the end to any hope for an early peace.

A number of very good media analyses regarding the various players in Yugoslavia have come out over the last week in addition to Mr. Harden's article on the military. I would like to list some of these articles at the onset, and recommend them to anyone wishing to expand their understanding of the Yugoslav conflict. I will be quoting from them extensively. I also ask that they be included in the RECORD at the end of my text.

These articles are: "Why the 'Abominable Serbs' Do Have a Case," Nora Beloff, the European, November 21–28, 1991; "Croatia's Borders: Over the Edge," David Martin, the New York Times, November 22, 1991; "The Last Best Hope For Yugoslavia," Stephen S. Rosenfeld, the Washington Post, November 22, 1991; "Hope and History in Yugoslavia," Nora Beloff, the Washington Post, November 19, 1991; and "Yugoslavia Teeters on Brink of Cataclysm," Alan Ferguson, the Toronto Star, November 17, 1991.

The carnage in Yugoslavia must stop, Mr. Speaker. Unofficial estimates of the amount of casualties that I have received in my office are more than 20,000 since the outbreak of hostilities. The damage to the infrastructure of the disputed areas in Croatia, and cultural monuments, both Serbian and Croatian, is phenomenal. The economic damage to both the Republics is just as great, and long difficult winter lies ahead.

It is important to understand the concerns of the various players involved in the current conflict to understand how to resolve it. I would like to start with the Federal Army.

I quote from Mr. Harden's article:

> The federal army, with at least 100,000 men in arms and a well paid officers' corps, consumes more that half the federal budget. This year's disintegration of Yugoslavia, particularly the secession last summer of the republics of Croatia and Slovenia, is having a devastating economic effect on the military.
>
> Taxes from the two breakaway republics, by far the richest in the Yugoslav federation, were instrumental in allowing the army to provide its primarily Serbian officers with a privileged life of free housing, vacation villas and big pensions.
>
> As the army gears up for more territorial conquest in Croatia, questions are being raised, even among nationalist Serbian politicians, about what the generals are fighting for and who controls them. Is the army protecting the ethnic Serb minority in Croatia or its own privileges?
>
> What is not in question is that the army, in the name of saving Serbs from Croatian "genocide," is beginning to move against Croatian cities where there are very few ethnic Serbs to save.

Mr. Harden continues later in the article:

> While the army steps up its offensive, there are signs that Serbia's leadership may want to wind down a civil conflict that is ruining the republic's economy and turning Serbia into an international pariah.
>
> Serbia and the army have been criticized by the EC and the U.S. government as aggressors in the war. The EC singled out Serbia when it imposed economic sanctions on Yugoslavia this month, and it has called for the United Nations to impose an oil embargo that would cripple the federal army.
>
> Serbian President Slobodan Milosevic, a hard-line nationalist who is widely blamed in the west as the principal provocateur behind the Yugoslav civil war, now appears to be seeking a way to consolidate Serbian gains in Croatia and, at the same time, stop the fighting.
>
> This week he has showered support on a plan to bring U.N. peace-keeping forces into the Croatian war zone. Milosevic is scheduled to meet here on Saturday with U.N. envoy Cyrus Vance and EC peace mediator Lord Carrington for further discussions on how the peace-keepers would be deployed. It will be Milosevic's third meeting this week on the plan.
>
> Local Serb politicians inside Croatia have also met with Vance this week and reportedly have welcomed the U.N. plan as a way to stop the fighting. The plan would put the United Nations in charge of security inside a Croatian zone where neither Croatian nor Serbian armed units could operate.
>
> The army has been less than enthusiastic about the plan. General Marko Negovanovic, a deputy defense minister, has said the army would not pull out of Croatia to leave the protection of Serbs to foreigners.
>
> The war began here in June after Croatia declared its independence. The declaration frightened the 600,000 ethnic Serbs who live in that republic, and many of them participated in an insurrection backed by Serbia and the army. Serbian forces have since managed to seize control of one-third of Croatia's territory.
>
> As the war has continued, however, some Serbian politicians in Croatia have complained that the conflict is being directed by the army without regard to what local Serbs want.
>
> "At this moment, we do not want Osijek because ethnically it is a Croatian town," said Caslaz Ocic, who is the foreign minister of what is being called a Serbian autonomous zone that has been carved by fighting out of eastern Croatia. Ocic said there is little communication between politicians and the army, and that the military is trying to impose a simple armed solution on a complex political problem.
>
> Military analyst Milos Vasic, who writes for the liberal Belgrade magazine Vreme, said this week that the army is fighting a war for its own survival. "The army doesn't want to be commanded by anyone," Vasic said.
>
> He argued that an end to the civil war would force the army to withdraw into Serbia, whose collapsed economy cannot afford to pay the generals' bills."

Alan Ferguson also comments on the role of the Federal military in the current crisis. I quote from his article:

> But the assault on the ancient coastal city of Dubrovnik stripped away what little credibility the army retained. Even Serb journalists laughed out loud over an army communique which said it had entered a village near the city, "at the urging of citizens" who "came out into the streets and welcomed our soldiers heartily" and had "wondered why the army had not arrived even earlier to liberate them."
>
> Milosevic, whose interests have mostly coincided with those of the army, is now believed to be trying to distance himself from the Dubrovnik debacle. The battered port city does not figure in his plans to win autonomy for the swathes of Croatian territory already under Serbian control.
>
> The crafty ex-banker, who once said that foreign troops would never be welcome on Yugoslav soil, is now putting his money on a United Nations peacekeeping force to seal the gains in the Krajina. For the first time since the conflict began, Milosevic, Tudjman, and the army are all agreed: a peacekeeping force is necessary, though all have their different reasons.
>
> The negotiations led by Britain's Lord Carrington, chairman of the European community's Yugoslav peace conference, are taking place amid a number of significant developments.
>
> Support for the war in Belgrade, never strong, is fast ebbing away. Thousands of young Serbs have fled to avoid the draft and peace groups, muzzled by the official media, are at last making their voice heard.
>
> Economic activity has ground almost to a halt, particularly in Croatia where up to one-third of the republics's industrial infrastructure has been destroyed.
>
> Federal institutions are in limbo—the federal presidency, supposedly the commander-in-chief of the army, has virtually ceased to exist, leaving the army to operate outside of any political control.
>
> Cries for even more blood can still be heard from extremist groups in both Croatia and Serbia. But the brutalizing effect of the war has already exacted a heavy price—child psychologists find students writing essays beginning: "The war will only end when we kill all the Croats or they kill all of us."
>
> And most ordinary people, by far the majority, want peace.
>
> The most likely solution, the one now being worked on, would allow Croatia to secede, but with its Serb-dominated territories given autonomy under the protection of a U.N. peace-keeping force and allowed eventually to vote on their future allegiance.
>
> The alternative, if this peace effort fails, is a likely extension of the war into Yugoslavia's other republics with the potential of setting the whole Balkan peninsula alight. One senior Yugoslav diplomat in Belgrade said that if peace is achieved, "everything will change—Milosevic and Trudjman will be swept aside and the army in its present form will disappear."
>
> Others are less sure that the army, still a powerful political force, will surrender its authority so easily. Some predict a post-war struggle for power in Serbia in which the army launches a last-ditch bid for survival by crushing the emerging democracy in the republic.
>
> "I predict they'll be bombing Belgrade by January," said a prominent peace activist this week. She wasn't joking.

As you can see, Mr. Speaker, the Federal army's agenda is much different than that of Mr. Milosevic's wish to guarantee the human rights of the Serbian minority in Croatia. The lumping of the two together as seen in much of the press has done much to discredit the concerns of the Serbian minority in Croatia to live without being persecuted.

And Croatian President Franjo Tudjman did not do much to allay the feats of a repeated genocide against this much maligned minority. Tudjman is both openly anti-Semitic and a holocaust revisionist. In fact, a November 25 New Republic article by Robert D. Kaplan reviews one of his recent publications, "Wastelands—Historical Truth."

I quote from this article.

> Tudjman's primary concern is not the fate of the Jews, but the role of the Croats in the mass murder of Serbs. Yet the route his mind travels on the way to his destination is telling: "The estimated loss of up to 6 million dead is founded too much on both emotional, biased testimonies and on exaggerated data in the postwar reckoning of war crimes and squaring of accounts with the defeated . . . in the mid-'80s, world Jewry still has the need to recall its "holocaust" by trying to prevent the election of the former U.N. Secretary General Kurt Waldheim as President of Austria!"

Mr. Kaplan continues later in the article regarding the Jasenovac concentration camp:

> Jasenovac was a World War II concentration camp manned by the Croatian Ustashe in which Jews, Gypsies, and, more significantly, Serbs were murdered. For decades Serbs have maintained that "at least 700,000" people were killed at Jasenovac. Croats have long said that the number was more like 60,000. The discrepancy between these two sums is as good litmus test as any for the vastness of the psychological gulf separating Serbs from Croats * * *
>
> But for Tudjman, the figure of 60,000 given by Croat nationalists is still too high: he reckons no more than 40,000 inmates perished * * *
>
> As he explains it, even the figure of 40,000 overstates Ustashe crimes, since the liquidation apparatus was largely controlled by Jews * * *
>
> Therefore, according to Tudjman, the mass murder of Serbs by Croats during World War II is not an issue, since not all that many Serbs were killed in the first place, and those who were slaughtered were mainly done in by the Jews. Case closed.

Mr. Speaker, shades of David Duke.

President Tudjman also invited the return to Croatia of the Croatian Party of the Pure Right, by which he currently is being threatened, previously banned from Yugoslavia under communism.

Many of the Ustashe movement's principals escaped Europe and Nuremberg war crime trials after the war, and some members of the Croatian emigree community have openly sympathized with the movement, returning to join Dobroslav Paraga's reincarnated Party of the Pure Right, of which I spoke on October 16 of this year.

Tudjman, upon election, enacted a series of laws redesignating the Serbian minority in Croatia, which it previously had considered an equal, as a national minority. He denied their rights to the use of the Cyrillic alphabet, and while officially denied as Government policy, also forced ethnic Serbs living in Croatia to sign loyalty oaths to the Republic of Croatia under threat of termination of employment.

Serbs in Croatia were fired en masse from Government controlled jobs, and local political officials went to pains to mark Serbian homes with crosses, reminiscent of similar actions during the Second World War.

Even today, Serbs living in the metropolitan centers in Croatia still are forced to sign loyalty oaths, and frequently are harassed and discriminated against, their houses and churches subject to vandalism, themselves subject to threats of bodily harm and death. This has resulted in thousands of Serbs leaving Zagreb, which had a population of around 100,000 before the outbreak of hostilities.

Compare this to the approximately 100,000 Croats currently residing in Belgrade, who report very few, if any instances of this type focused toward them as Croats living in Serbia.

I quote Dr. John Lampe, specialist on Balkan affairs at the Woodrow Wilson Center, who was also a witness for a Helsinki Commission hearing on human rights here in Washington a few weeks ago, from his November 1991, report, "Yugoslavia from Crisis to Tragedy":

> [Western Journalists] have generally proved less sensitive to the failure of Croatia's democratically elected government to live up to the promises of free press, free markets, and the protection of minority rights that would have reassured its 600,000 Serbs and challenged the Serbian public to demand that their government follow the Croatian model. Instead we have seen less privatization in Zagreb than in Belgrade and the trumpeting of constitutional provisions and national symbols that make the Croats the only "nationality" (others are "pucanstva," or populations without recognized ethnic identity, or at best, "minority groups"). While the new government did not order the loyalty oaths to Croatia and the firing of Serbs at enterprise that has widely occurred, neither has it intervened to prevent such abuses.

I also quote David Martin, who I might add is an authority on Yugoslavia, having served there with the British Secret Service in the Second World War, and since having written many books on that area of the world, including "Web of Disinformation: Churchill's Yugoslav Blunder," a critical expose on the complicity of Kim Philby and his circle of Communists in allowing Tito to assume control of Yugoslavia.

> Franjo Tudjman, Croatia's President and former Tito general, has done little to alleviate Serbian's fear of an independent Croatia. He said last year that the Ustashe regime, which ruled occupied Croatia from 1941 to 1945, "reflected the centuries old aspirations of the Croat people." A recent article in The Guardian of London quoted Mr. Tudjman as saying he was thankful that his own wife did not have any Jewish or Serbian blood, and that for the Jews, "genocidal violence is a natural phenomenon, in keeping with the human-social and mythological-divine nature. It is not only allowed, but even recommended."
>
> Mr. Tudjman's treatment of the Serbs has gone beyond this unfortunate rhetoric. Since Croatia declared independence in June, the Serbs in Croatia have been the victims of a campaign of harassment. Serbs working for the Croatian government were dismissed. Serbian schools were banned. The Victims of Fascism Square in Zagreb was renamed the Square of the Sovereigns of Croatia. Mr. Tudjman's decision to adopt a flag modeled on the Ustashe flag has only made matters worse.

I also quote Mr. Ferguson again:

> Tudjman, a stiff and autocratic leader not prone to advice, gave Milosevic the ammuni-

> tion he needed. His "mupes"—interior ministry police—went barging into communities dominated by ethnic Serbs to raise the Croatian flag—an emblem closely identified by the Serbs with the hated insignia of the wartime Ustashe fascists.

Ms. Beloff says in the Washington Post:

> In Croatia and Slovenia, as in Serbia, the post-communist movements have been national rather than liberal, even though all three now brandish democratic and free enterprise slogans. In Croatia the ex-Partisan general Franjo Tudjman was elected president. He had fallen out with Tito and served two prison sentences on charges of nationalism. By the time I first met him in 1980, he was already pathologically anti-Serb. He has allowed himself to be surrounded by Ustasha sympathizers, many of them returning from Canada and Australia.
>
> Tudjman armed his followers, and though they were unable to break into the all-Serb regions, which were ferociously defended, in areas of Croat majority they made life for the Serbs impossible. With jobs denied and homes burnt down, tens of thousands fled long before the federal army and the international community intervened. On a smaller scale, the Serbs retaliated.
>
> In Dubrovnik, one year ago, a young Croat girl running her own travel agency described the ravages of the Tudjman regime. To her horror, this little Venice was being transformed into a nationalist stronghold, and she found herself ostracized by her fellow-citizens for rejecting ethnic hatreds which she felt were running the country

And in the European:

> When Tudjman came to power he misguidedly dispatched his armed followers to try to take over official buildings and police stations from Serb areas, where the right to autonomy had existed since the 17th century. The Hapsburgs had given land and home rule to Serb refugees from the Ottoman empire, in return for helping in defending them against the Turks.
>
> Armed Serb groups fighting in Croatia are motivated by memories of the wartime genocide and are as fanatically self-righteous as the Croats, now fighting to the death in Vukovar. These refuse to admit—and in the case of the younger generation, probably do not even know—the Ustashi holocaust * * *
>
> The monstrous behavior of the federal army of the Milosevic government and some Serb irregulars does not justify attributing all the violence to the 'abominable Serbs'. Since Tudjman became president, Serbs in mixed regions have been harassed, deprived of jobs, had their homes burnt down and more than 100,000 have been forced to flee.

In addition, Mr. Speaker, Mr. Tudjman has maintained a hard line stance on the Croatian border question that has been based on borders drawn under Tito's Communist regime. I regard these as illegal, as all actions under a totalitarian regime should be considered. If the border question must be addressed, let it be based on a Yugoslavia that was not gerrymandered under Nazi and Communist rule, using, as I have advocated, the borders that existed previous to 1941, or even 1936.

Ms. Beloff comments on the border question:

> The internal borders, which we treat as permanent features of Yugoslavia, were in reality drawn up secretly by Tito's men in 1943 and were designed as administrative boundaries, within a centrally planned Stalinist state. Tito himself was, of course, aware of the vitality of ethnic feeling, and after physically liquidating his enemies and potential enemies, he suspended terror and ruled primarily by playing off the communities against each other.

Mr. Martin does also:

> However well intentioned, the community and the U.S. are misguided in their approach. Yugoslavia's internal borders are recent inventions of a communist dictator and have no historical validity * * *
>
> The Serbs cannot be blamed for fearing the rebirth of an extremist Croatia. But one must ask the community and the U.S. why frontiers established by a communist dictator, no matter how much they may violate the more compelling concept of ethnic frontiers, must be considered legally valid for all time.
>
> Politically stability cannot be achieved by giving Mr. Milosevic ultimatums. Surely there is a more moral, humane and politically acceptable way of delineating frontiers. For example, shouldn't some provision be made for the use of a plebiscite or for arbitration procedures? Even now, it may not be too late for the community to shift its position in a manner that allows for frontier changes in both directions.
>
> There is much evidence that the Serbian public would favor a compromise settlement. Among other things, there has been little persecution of Croats in Serbia.

Mr. Speaker, I have said before, and I will say again, that Serbians—myself included—do not stand in the way for independence for Croatia. However, many questions must be addressed before recognition is taken. At the top of my list is the fact that Tudjman's government is considered "democratic." "Democratic" is a very unfortunate misnomer when applied to the current regime in Croatia.

Franjo Tudjman, President of Croatia, like Milosevic, was elected on a nationalist platform, which I may add, was virulently anti-Serb. Upon gaining power, he placed former Communists in the majority of his administration posts, and in fact, has replicated the institutional structure of the former Communist government down to the township level. Croatia is a one-party state, with any opposition openly suppressed by the current regime.

Despite having been elected in April 1990, he has enacted very little, if any democratic reform in the Republic of Croatia; no privatization of business, no viable opposition parties, no independent press.

And now we read in the news, of the arrest of Paraga and other officials within his party for "planning an armed rebellion." This has led to demonstrations for his release in Zagreb. According to AP wire reporter Richard Meares:

> The HSP has been winning support among despairing Croats, largely through the reputation for bravery and toughness which its paramilitary wing HOS has gained in war zones of the breakaway Yugoslav republic.
>
> Dressed in black and clutching machine guns, HOS fighters—who act as an army within the Croatian national guard—led small demonstrations in the rain on Zagreb's main square demanding Paraga's release.
>
> "If he is not freed, then Tudjman and the others have signed their own death certificates," one speaker told the 200-strong crowd on Sunday.
>
> Paraja says the HOS has 10,000 men who volunteered because they felt Tudjman was incapable of protecting Croatia, which has lost a third of its land to the Serb-led army in fighting which erupted after Croatia declared independence from Yugoslavia in June.
>
> The fall of Vukovar at the end of a three-month siege by Yugoslav forces last week has intensified public disillusionment with Tudjman * * *.

Mr. Speaker, questions must be asked such as, on one hand, the assassination of Ante Paradzik, second in command of the Croatian Party of Rights, said to have been shot to death by Croatian soldiers at a road block earlier this fall, or the arrest of Paraga, as is happening now.

On the other hand questions about such a ultra-nationalist leader, Paraga, who advocates all-out war against Serbia, and bases his movement on the World War II Ustashe, responsible for the murder of more than a half a million Serbs, Jews, and Gypsies.

But Tudjman's actions extend beyond these immediate instances. According to a November 15 UPI report by correspondent Nesho Djuric:

> The Croatian government arrested the party's chief of security two weeks ago after a gun battle in downtown Zagreb which left one Croatian national guardsman dead and one seriously wounded. The Croatian Party of Rights rejected government claims that its forces initiated the attack.

And, according to a Washington Post article Tuesday by correspondent Blaine Harden.

> In another development, a reliable source reported that six people were killed in three gunfights between police and other uniformed men in Zagreb.
>
> There was no official confirmation but police were presumably hunting members of the nationalist Party of Rights, whose leader, Dobrostav Paraga was arrested Friday on allegations of planning an armed rebellion. The party opposes any truce while the army occupies any of Croatia.

Not that a similar situation does not exist in Serbia as well, Mr. Speaker, I quote Blaine Harden in today's Washington Post.

> The nationalist bullies of Serbia are young, clean shaven and neatly dressed. They carry clubs and smash typewriters.
>
> Their targets are fellow Serbs who doubt the wisdom of an ethnic war.
>
> As Serbia's conflict with the breakaway republic of Croatia intensified this month, the kids with clubs have been busy harassing Serbian antiwar activists and busting up their office furniture.
>
> Since Serbia is an authoritarian state, anti-war activists say the bullies could not freely operate without the tacit approval of the government and the Serb-dominated federal army. These institutions, as the war has intensified, have manifested a ruling style that marries old-fashioned communist thuggery with latter day nationalist zeal.

Groups like these are responsible for the ransacking of the Yutel offices in Belgrade, which they considered too liberal, and for an active campaign of harassment against any-

body who is not a fervent nationalist. Yutel is an independent television network.

The complicity of the Belgrade government in such actions ranks on that of Tudjman's involvement with Paraga's party. Neither is commendable, and both indicate the need for true democracy throughout Yugoslavia.

Mr. Speaker, as the war progresses, the actions of the main players are getting more and more outrageous. With a lack of total press freedom in both republics, the true voice of the people is not being heard. Instead the populus is being blasted with propaganda from their respective governments, widening the schism between two groups which lived in harmony for many years.

Atrocity reports abound on both sides of this unfortunate situation, and I do not doubt that they exist, fueled by the martial attitudes touted by their respective leaders.

In fact, Amnesty International has just published a report on these claims, and I would like to quote from a press statement on the report:

> AMNESTY ACCUSES YUGOSLAVIA COMBATANTS OF TORTURE, MURDER
>
> LONDON, Nov. 25—Amnesty International said on Monday that all sides in the fighting in Yugoslavia had tortured prisoners and deliberately killed non-combatants.
>
> The London-based human rights group said: "Reports from the war zones of Yugoslavia over the past four months show that all sides in the conflict have blatantly flouted international human rights and humanitarian standards that explicitly forbid the murder and torture of captured combatants and civilians not actively involved in the fighting."
>
> Amnesty called on all parties to stop deliberate attacks on unarmed civilians taking no part in the fighting and to spare the lives of combatants who surrendered.
>
> Its statement said the many thousands killed in the fighting included unarmed civilians who were victims of summary executions and other deliberate and arbitrary killings and combatants captured by police, military and paramilitary forces.
>
> "Information about such gross human rights abuses has often been contradictory and allegations frequently difficult to verify," Amnesty said.
>
> But there have been a series of incidents well-documented in the media and by official sources showing clearly the deliberate killing of civilians and wounded or surrendered soldiers and the torture of prisoners.
>
> Amnesty said it was impossible to judge the scale of human rights violations in Yugoslavia.
>
> I added: "What is clear is that people not involved in the fighting are being arbitrarily and deliberately killed or tortured, and these outrages must stop."

Mr. Speaker, the basis of the current conflict is the human rights of the Serbian minority in Croatia. The Serbian minority's rights suffered previous to, and continue to suffer after, the outbreak of hostilities.

There are a host of questions to be addressed if there is to be a solution to the crisis. Blame can, and should, be addressed to both sides of the current conflict. Both Tudjman's and Milosevic's maintenance of hard-line stances regarding the recognized problems of minority rights and border resolution are doing nothing to lead to a peaceful end of the Yugoslav crisis.

The current overtures for peace by both parties, and willingness to allow peace-keeping forces into the disputed areas, are a step in the right direction to ending this senseless conflict.

Mr. Speaker, let us hope that with the latest attempts by Cyrus Vance and Lord Carrington to come to a resolution of, or at least halt the bloodshed, that the attitude of irrationality and unwillingness to compromise that defines the current conflict can be overcome, and a lasting peace taking into account the concerns of all parties can be forged. If it is not, we will be facing a situation that makes the current situation look tame in comparison.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER ADJOURNMENT

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

On December 3, 1991:

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the eastern and western districts of Virginia;

H.R. 948. An act to designate the U.S. courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1009. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, MO, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue Between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, TN, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, and for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day"; and

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month".

On December 9, 1991:

H.R. 2950. An act to develop a national intermodal service transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit program, and for other purposes.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[The following reports were filed November 27 (legislative day of November 26), 1991]

Mr. DE LA GARZA: Committee on Agriculture, H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with an amendment (Rept. 102–89, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102–241, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 157 (Rept. 102–394). Ordered to be printed.

Mr. SLAUGHTER of New York: Committee on Rules. House Resolution 309. Resolution waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report (Rept. 102–395). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1202. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes; with an amendment (Rept. 102–396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1058. A bill to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes; with an amendment (Rept. 102–397, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1182. A bill to authorize and direct the exchange of lands in Colorado; with an amendment (Rept. 102–398, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2624. A bill to amend section 721 of the Defense Production Act of 1950 to clarify and strengthen its provisions pertaining to national security takeovers; with an amendment (Rept. 102–399, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 787. A bill to amend the Trade Act of 1974 to strengthen and expand the authority of the U.S. Trade Representative to identify trade liberalization priorities, and for other purposes; with an amendment (Rept. 102–400, Pt. 1). Ordered to be printed.

Mr. WHEAT: Committee on Rules. House Resolution 316. Resolution providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe (Rept. 102–401). Referred to the House Calendar.

Mr. MOAKLEY: House Resolution 317. Resolution waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report (Rept. 102–402). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3556. A bill to authorize the Food for Emerging Democracies Act of 1991; with amendments (Rept. 102–403, Pt. 1). Ordered to be printed.

Mr. ROE: Committee on conference. Conference report on H.R. 2950 (Rept. 102–404). Ordered to be printed.

Mr. BROOKS: Committee on conference. Conference report on H.R. 3371 (Rept. 102–405). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 318. Resolution waiving all points of order against the conference report on (S. 543) a bill to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and against consideration of such conference report (Rept. 102–406).

Mr. GONZALEZ: Committee of conference. Conference report on S. 543 (Rept. 102–407).

Mr. DERRICK: Committee on Rules. House Resolution 320. Resolution to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes (Rept. 102–408). Referred to the House Calendar.

Mr. DINGELL: Committee of conference. Conference report on H.R. 3595 (Rept. 102–409).

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 2, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Obstacles to Drug Development for HIV-Related Opportunistic Infections (Rept. 102–410). Ordered to be printed.

[Pursuant to the order of the House on November 26, 1991, the following reports were filed on December 4, 1991]

Mr. CONYERS: Committee on Government Operations. Report on The Fiesta Bowl Fiasco: Department of Education's Attempt to Ban Minority Scholarships (Rept. 102–411). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on Narcotics Control Recommendations for the Andean Region, 1987–1991: More Aggressive Congressional Followup is Necessary (Rept. 102–412). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 5, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Department of Justice Computer Security: Neglect Leads to High Risk (Rept. 102–413). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following reports were filed on December 6, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Short-Selling Activity in the Stock Market: Market Effects and the Need for Regulation (Part 1) (Rept. 102–414). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 191. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development agreements; with— amendment (Rept. 102–415, Pt. 1). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on Interim Report on the Advisability of Imposing Flexible Interest Rate Ceilings on Insured Deposits in Combination with Core Banking (Rept. 102–416). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 3507. A bill to establish programs under the Technology Administration of the Department of Commerce, and elsewhere, to promote a skilled work force and U.S. industrial competitiveness; with— amendment (Rept. 102–418, Pt. 1). Ordered to be printed.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 10, 1991]

Mr. CONYERS: Committee on Government Operations. Report on the Feasibility of Initiating a System for the Verification of Corporate Tax Returns Through an Information and Document Matching Program at IRS (Rept. 102–419). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 11, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Asleep at the Switch? Federal Communications Commission Efforts to Assure Reliability of the Public Telephone Network (Rept. 102–420). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 18, 1991]

Mr. CONYERS: Committee on Government Operations. Report on the Scourge of

Telemarketing Fraud: What Can Be Done Against It? (Rept. 102–421). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 6, 1991]

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 2941. A bill to authorize appropriations to the Department of Transportation for surface transportation research and development, and for other purposes; with an amendment; referred to the Committees on Energy and Commerce and Public Works and Transportation for a period ending not later than March 6, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1 (h) and (p), rule X, respectively (Rept. 102–417, Pt. 1). Ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. SANTORUM, for 60 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. DREIER of California, for 60 minutes, on December 10, 11, 12, and 23.

Mr. RIGGS, for 60 minutes, on December 10, 11, and 12.

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. FLAKE) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. STAGGERS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. OBEY, for 60 minutes each day, on December 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27, 30, and 31.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a Joint Resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 447. An act to recognize the organization known as The Retired Enlisted Association, Incorporated; to the Committee on the Judiciary.

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 455. An act to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; to the Committees on Energy and Commerce, Education and Labor, and Science, Space, and Technology.

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 754. An act to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; to the Committees on Interior and Insular Affairs and Ways and Means.

S. 1187. An act to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1528. An act to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1577. An act to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes; to the Committee on Energy and Commerce.

S. 1595. An act to preserve and enhance the ability of Alaska Natives to speak and understand their native languages; to the Committee on Education and Labor.

S. 1707. An act to authorize the establishment of the Fort Totten National Historic Site; to the Committee on Interior and Insular Affairs.

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes; to the Committee on Government Operations.

S.J. Res. 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 794. An act to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River and for other purposes;

H.R. 848. An act to establish the Little Bighorn Battlefield National Monument;

H.R. 1988. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications construction of facilities, research and program management, and Inspector General, and for other purposes;

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, Oklahoma;

H.J. Res. 201. Joint resolution designating the week beginning December 1, 1991 and the week beginning November 15, 1992, each as "Geography Awareness Week";

H.J. Res. 300. Joint resolution designating the month of May 1992 as "National Trauma Awareness Month"; and

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 272. An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing;

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts; and

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101–549.

ADJOURNMENT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 260 of the 102d Congress, the House stands adjourned until 11:55 a.m., Friday, January 3, 1992.

Thereupon (at 7 o'clock and 3 minutes p.m.), calendar day, Wednesday, November 27, 1991 (legislative day, Tuesday, November 26, 1991), at 7:03 p.m., pursuant to House Concurrent Resolution 260, the House adjourned until Friday, January 3, 1992, at 11:55 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. H.R 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102–241, pt. 2). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on tax systems modernization: Some early observations on its progress (Rept. 102–388). Referred to the Committee of the Whole House on the States of the Union.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution. 306. Resolution waiving all points of the order against the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and against consideration of such conference report (Rept. 102–389). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 307. Resolution waiving all points of order against the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, for other purposes, and against consideration of such conference report. (Rept. 102–390). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee of Conference. Conference Report on H.R. 1724 (Rept. 102–391). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of Conference. Conference Report on H.R. 2212 (Rept. 102–392). Ordered to be printed.

Mr. BROOKS: Committee on The Judiciary. Report on deficiencies in the Department of Justice award and management of its Project Eagle ADP procurement (Rept. 102–393). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN. Committee of Conference. Conference report on House Judiciary Resolution 157 (Rept. 102–394). Ordered to be printed.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 309. Resolution waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report. (Rept. 102–395). Referred to the House Calendar.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2411. A letter from the Architect of the Capitol, transmitting the report of expenditures of appropriations during the period April 1, 1991 through September 30, 1991, pursuant to section 105(b) of Public Law 88–454; to the Committee on Appropriations.

2412. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–99, "Revocable Trust Tax Exemption Amendment Act of 1991", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2413. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–98, "Comprehensive Anti-Drunk Driving Amendment Act of 1991", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

2414. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–107, "Uniform Disposition of Unclaimed Property Act of 1980 Clarifying Temporary Amendment Act of 1991", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2415. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–106, "Redistricting Procedure Amendment Act of 1991 Clarification Temporary Amendment Act of 1991", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2416. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–101, "Way of the Cross Church of Christ, Inc., Equitable Real Property Tax Relief Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2417. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–102, "Spring of Freedom Street Designation Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2418. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–103, "Sursum Corda Cooperative Association, Inc., Clarification Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2419. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–100, "Child Restraint Act of 1982 Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2420. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–104, "Queen's Stroll Place Designation Act of 1991", and report, pursuant to D.C. Code Sec. 1–233(c)(1); to the Committee on the District of Columbia.

2421. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–105, "District of Columbia Real Property Tax Rates for Tax Year 1992 and Real Property Tax Reclassification Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2422. A letter from the Inspector General, Department of the Interior, transmitting the Department's semiannual report on the activities of the Office of Inspector General for the period April 1, 1991, through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2423. A letter from the Chairman, U.S. Merit System Protection Board, transmitting the Board's fiscal year 1991 annual report as required by the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with an amendment (Rept. 102–89, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102–241, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1202. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes; with an amendment (Rept. 102–396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1058. A bill to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes; with an amendment (Rept. 102–397, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1182. A bill to authorize and direct the exchange of lands in Colorado; with an amendment (Rept. 102–398, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2624. A bill to amend section 721 of the Defense Production Act of 1950 to clarify and strengthen its provisions pertaining to national security takeovers; with an amendment (Rept. 102–399, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 787. A bill to amend the Trade Act of 1974 to strengthen and expand the authority of the U.S. Trade Representative to identify trade liberalization priorities, and for other purposes; with an amendment (Rept. 102–400, Pt. 1). Ordered to be printed.

Mr. WHEAT: Committee on Rules. House Resolution 316. Resolution providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe. (Rept. 102–401). Referred to the House Calendar.

Mr. MOAKLEY: House Resolution 317. Resolution waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report (Rept. 102–402). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3556. A bill to authorize the Food for Emerging Democracies Act of 1991; with amendments (Rept. 102–403, Pt. 1). Ordered to be printed.

Mr. ROE: Committee of conference. Conference report on H.R. 2950 (Rept. 102–404). Ordered to be printed.

Mr. BROOKS: Committee of conference. Conference report on H.R. 3371 (Rept. 102–405). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 318. Resolution waiving all points

of order against the conference report on (S. 543) a bill to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and against consideration of such conference report (Rept. 102–406).

Mr. GONZALEZ: Committee of conference. Conference report on S. 543 (Rept. 102–407).

Mr. DERRICK: Committee on Rules. House Resolution 320. Resolution to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes (Rept. 102–408). Referred to the House Calendar.

Mr. DINGELL: Committee of conference. Conference report on H.R. 3595 (Rept. 102–409).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SISISKY:

H.R. 3932 A bill to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes; to the Committee on Education and Labor.

By Mr. GONZALEZ (for himself and Mr. WYLIE);

H.R. 3933. A bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WYDEN:

H.R. 3934. A bill to amend the Solid Waste Disposal Act to provide for greater use of recycled materials in packaging; to the Committee on Energy and Commerce.

By Mr. GIBBONS (for himself, Mr. CRANE, and Mr. PEASE);

H.R. 3935. A bill to modernize and simplify the administration of the customs laws; to the Committee on Ways and Means.

By Mr. DREIER of California:

H.R. 3936. A bill to amend and establish certain laws relating to housing, community and neighborhood development and preservation, and housing assistance and self sufficiency programs, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. SWETT:

H.R. 3937. A bill to enhance the process for Federal agencies to enter into shared energy savings contracts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. OWENS of Utah:

H.R. 3938. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on group health plans that fail to provide for preexisting conditions, and for other purposes; to the Committee on Ways and Means.

By Mr. SIKORSKI (for himself, Mrs. COLLINS of Illinois, Mr. WYDEN, Mr. BOEHLERT, and Mr. MARKEY);

H.R. 3939. A bill to amend the Solid Waste Disposal Act to promote materials use reduction, reuse, and recycling; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself and Mr. LENT):

H.R. 3940. A bill to provide for the certification of embryo laboratories; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself and Mr. SYNAR):

H.R. 3941. A bill to protect employees who report violations at Department of Energy facilities; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. ABERCROMBIE:

H.R. 3942. A bill to amend title 46, United States Code, to establish requirements for manning and watches on towing vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. ANTHONY:

H.R. 3943. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Ways and Means.

By Mr. ANTHONY (for himself, Mr. RAHALL, Mr. ALEXANDER, Mr. NAGLE, Mr. ENGLISH, Mr. SARPALIUS, Mr. JOHNSON of South Dakota, Mr. CHAPMAN, Mr. WILLIAMS, Mr. BREWSTER, Mr. EVANS, Mr. ESPY, Mr. GLICKMAN, and Mr. GRANDY):

H.R. 3944. A bill to amend the Internal Revenue Code of 1986 to encourage parity giving in order to increase prices to farmers while assisting in feeding the starving of the world; to the Committee on Ways and Means.

By Mr. ARCHER:

H.R. 3945. A bill to amend the Internal Revenue Code of 1986 to allow gain recognized on the sale of a principal residence to be reduced by the aggregate losses which were not allowed on prior sales of principal residences; to the Committee on Ways and Means.

By Mr. AUCOIN:

H.R. 3946. A bill to amend the Hazardous Materials Transportation Act to ensure that designations of hazardous materials made under that act are uniformly applicable to all modes of transportation, and for other purposes; jointly, to the Committee on Public Works and Transportation and Energy and Commerce.

By Mr. BACCHUS:

H.R. 3947. A bill to establish the High Speed Surface Transportation Development Corporation; to provide for high speed surface transportation infrastructure development, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. BEREUTER:

H.R. 3948. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 with respect to the farmer to farmer program; jointly, to the Committees on Foreign Affairs and Agriculture.

By Mr. BERMAN:

H.R. 3949. A bill to amend title 11 of the United States Code with respect to the rights of municipal employees; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.R. 3950. A bill to amend title 38, United States Code, to provide reclassification of members of the Board of Veterans Appeals and to ensure pay equity between those members and administrative law judges; jointly, to the Committees on Veterans' Affairs and Post Office and Civil Service.

H.R. 3951. A bill to amend the Internal Revenue Code of 1986, titles XVIII and XIX of the Social Security Act, and the Public Health Service Act to provide a credit for health insurance expenses and to increase deductible health insurance cost for self-employed individuals, to make grants to States to establish risk pools to provide insurance to medically uninsurable individuals, to reduce excessive paperwork in the processing of claims for health insurance benefits, to reduce the costs associated with medical malpractice litigation, to promote preventive health care services, to improve access to long-term care services, and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and the Judiciary.

By Mr. BOUCHER (for himself, Mr. TAUZIN, and Mr. OLIN):

H.R. 3952. A bill to amend the Solid Waste Disposal Act to require the owner or operator of a landfill, incinerator, or other solid waste disposal facility to obtain authorization from the affected local government before accepting waste generated outside the State; to the Committee on Energy and Commerce.

By Mr. BROWN (for himself and Mr. SCHEUER):

H.R. 3953. A bill to establish national electromagnetic fields research and public information dissemination programs, and for other purposes; jointly, to the Committees on Science, Space, and Technology, and Energy and Commerce.

By Mr. CAMP:

H.R. 3954. A bill to amend the Social Security Act to clarify the Medicare geographic classification adjacency requirements; to the Committee on Ways and Means.

By Mr. CHANDLER (for himself and Mr. MCDERMOTT):

H.R. 3955. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductible for the year in which paid or incurred; to the Committee on Ways and Means.

By Mrs. COLLINS of Illinois (for herself and Mr. HASTERT):

H.R. 3956. A bill to amend the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide for the recycling and management of used oil, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CUNNINGHAM (for himself, Mr. BALLENGER, Mr. BOEHNER, Mr. DE LUGO, Mr. HAYES of Illinois, Mr. JEFFERSON, Mr. KLUG, Mr. MARTINEZ, Ms. MOLINARI, and Mr. PAYNE of New Jersey):

H.R. 3957. A bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to require the Secretary of Education to carry out an advanced placement test fee payment program, and for other purposes; to the Committee on Education and Labor.

By Mr. DAVIS (for himself and Mr. VANDER JAGT):

H.R. 3958. A bill to grant Federal recognition to the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians, to clarify the status of members of the bands, and for other purpose; to the Committee on Interior and Insular Affairs.

By Mr. DORGAN of North Dakota:

H.R. 3959. A bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States; to the Committee on Veterans' Affairs.

By Mr. ENGEL (for himself and Mr. MANTON):

H.R. 3960. A bill to require the Federal Communications Commission to initiate rulemaking proceedings to improve multilingual radio broadcasting, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EVANS (for himself and Mr. Conyers):

H.R. 3961. A bill to amend title 31, United States Code, to require an unclassified report concerning the Nation's stockpile of nuclear weapons and fissile materials to be included by the President in the budget submitted to Congress; jointly, to the Committees on Government Operations, Armed Services, and Foreign Affairs.

By Mr. FASCELL (by request):

H.R. 3962. A bill to transfer the au pair program from the U.S. Information Agency to the Department of Justice; to the Committee on the Judiciary.

By Mr. FRANKS of Connecticut:

H.R. 3963. A bill to allow individuals to participate in voluntary prayer or a moment of silence in any public building supported in whole or in part through the expenditure of Federal funds; to the Committee on the Judiciary.

By Mr. GEJDENSON:

H.R. 3964. A bill to amend chapters 85 and 87 of title 28, United States Code, to provide that the U.S. District Court for the District of Columbia shall have original and exclusive jurisdiction over any civil action challenging an award of a defense procurement contract in an amount in excess of $25 million, and for other purposes; to the Committee on the Judiciary.

By Mr. GINGRICH (for himself and Mr. Kasich):

H.R. 3965. A bill to ensure that any peace dividend is invested in America's families and in deficit reduction; jointly, to the Committees on Government Operations, Ways and Means, and Rules.

By Mr. GLICKMAN (for himself, Mr. Chandler, Mr. Clement, and Mr. McCloskey):

H.R. 3966. A bill to amend title 18, United States Code, to prohibit certain officers and employees of the Government from representing foreign entities after their Government service terminates; to the Committee on the Judiciary.

By Mr. GORDON:

H.R. 3967. A bill to amend the Higher Education Act of 1965 to prohibit prison inmates from receiving Pell grants; to the Committee on Education and Labor.

By Mr. GUARINI (for himself, Mr. Torricelli, Mr. Rangel, and Mr. McGrath):

H.R. 3968. A bill to extend scholarship assistance to students from the Andean region; to the Committee on Foreign Affairs.

By Mr. HOCHBRUECKNER:

H.R. 3969. A bill to improve vessel navigational accuracy and enhance ship safety in order to protect the marine environment; to the Committee on the Merchant Marine and Fisheries.

By Mr. HUNTER:

H.R. 3970. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on capital gains and to allow a deduction for the use of American-manufactured highway vehicles and to amend the Social Security Act to repeal the limitation on outside earnings; to the Committee on Ways and Means.

By Mr. JONES of North Carolina:

H.R. 3971. A bill to establish a national research program to improve the production and marketing of sweetpotatoes and increase the consumption and use of sweetpotatoes by domestic and foreign consumers; to the Committee on Agriculture.

By Mr. JONES of North Carolina (for himself and Mr. Studds):

H.R. 3972. A bill to direct the Secretary of the Interior to make minor and technical corrections to maps depicting the Coastal Barrier Resources System; to the Committee on Merchant Marine and Fisheries.

By Mr. JONTZ (for himself, Mr. Miller of California, and Mr. Sharp):

H.R. 3973. A bill to amend the Atomic Energy Act of 1954 to provide for the payment of the cost of decontamination and decommissioning of Department of Energy uranium enrichment facilities, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. KENNEDY:

H.R. 3974. A bill to amend title XIX of the Social Security Act to convert the Medicaid Program to a federally administered program of medical assistance, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. KENNELLY (for herself, Mr. Lewis of Georgia, Mr. Ford of Michigan, Mr. Edwards of California, Mrs. Schroeder, Mrs. Mink, Ms. Oakar, Ms. Norton, Mrs. Morella, Mr. Roybal, Mr. Atkins, Mr. AuCoin, Mr. Campbell of Colorado, Mr. Moody, Mr. Ackerman, Mr. Panetta, Mr. Evans, Mr. Studds, Mr. Espy, Mr. Hayes of Illinois, Mr. Serrano, Mr. Lehman of Florida, Mr. Towns, Mr. Hochbrueckner, Mr. Matsui, Mr. Martinez, Mr. Coleman of Texas, Mr. Wheat, Mr. McDermott, Mr. DeFazio, Mr. Nowak, Mr. Stark, Mrs. Unsoeld, Mr. Jontz, Mr. Dixon, Mr. Frank of Massachusetts, Ms. Pelosi, Mr. Green of New York, Mr. Berman, Mr. Richardson, Mr. Miller of California, Mr. Sanders, Mr. Neal of Massachusetts, Mr. Mfume, Mrs. Boxer, and Mr. Mineta):

H.R. 3975. A bill to amend section 1977A of the revised statutes to equalize the remedies available to all victims of international employment discrimination, and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. KOSTMAYER:

H.R. 3976. A bill to amend the Federal Power Act; to the Committee on Energy and Commerce.

H.R. 3977. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. LaFALCE:

H.R. 3978. A bill to temporarily limit the number of motor vehicles that are products of Japan that may be imported into the United States; to the Committee on Ways and Means.

By Mr. LEVIN of Michigan:

H.R. 3979. A bill to amend the Internal Revenue Code of 1986 to allow a credit for payments or contributions to certain cooperative research organizations; to the Committee on Ways and Means.

H.R. 3980. A bill to amend title XVIII of the Social Security Act to require health maintenance organizations under the Medicare Program to determine whether individuals enrolled with the organization are entitled to medical assistance for Medicare cost-sharing under a State Medicaid plan; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEVIN of Michigan (for himself, Mr. McGrath, Mr. Gephardt, Mr. Durbin, Mr. Houghton, Mrs. Collins of Illinois, Mr. Wolpe, Mr. Ackerman, Mr. Anthony, Mr. Boehlert, Mr. Bryant, Mr. Cardin, Mr. Carper, Mr. Dorgan of North Dakota, Mr. Duncan, Mr. Flake, Mr. Gilman, Mr. Grandy, Mr. Green of New York, Mr. Guarini, Mr. Hochbrueckner, Ms. Horn, Mr. Jontz, Ms. Kaptur, Mrs. Kennelly, Mr. Matsui, Mr. McMillan of North Carolina, Mr. Mineta, Mr. Moody, Mr. Owens of Utah, Mr. Pease, Mr. Regula, Mr. Russo, Mr. Sarpalius, Mr. Spratt, Mr. Stark, Mr. Traxler, Mr. Visclosky, Mr. Wise, Mr. Wolf, Mr. Wyden, and Mr. Zeliff):

H.R. 3981. A bill to authorize the Secretary of Commerce to establish a pilot program to promote United States goods and services through United States Commercial Centers; to the Committee on Foreign Affairs.

By Mr. LEVIN of Michigan (for himself and Mr. Stark):

H.R. 3982. A bill to amend title XVIII of the Social Security Act to expand the Secretary of Health and Human Services' authority to impose intermediate sanctions on health maintenance organizations participating in the Medicare Program for violation of any requirement of the program and to amend title XI of the Social Security Act to prohibit providers of services under the Medicare Program from offering certain inducements to beneficiaries or employees; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEVINE of California:

H.R. 3983. A bill to expand eligibility for Pell grants and to increase the maximum amount of a Pell grant award; to the Committee on Education and Labor.

H.R. 3984. A bill to establish a program of Federal grants to assist local educational agencies to establish and provide for a school year of not less than 240 days; to the Committee on Education and Labor.

By Mr. LEVINE of California (for himself, Mr. Feighan, and Mr. Schiff):

H.R. 3985. A bill to amend title 18, United States Code, to provide for longer prison sentences for convicts who commit a violent felony while under a criminal justice sentence, such as parole, furlough, or probation; to the Committee on the Judiciary.

By Mr. LEVINE of California (for himself and Mr. Hyde):

H.R. 3986. A bill to ensure that consumer credit reports include information on any overdue child support obligations of the consumer; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. LIPINSKI:

H.R. 3987. A bill to establish a National Industrial Revitalization Board to provide loans and loan guarantees to industries that are unable to obtain the financing needed to modernize, expand, or improve such industries; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3988. A bill to amend the Water Resources Development Act of 1990 to require full Federal funding of the project to construct a lock at Sault Saint Marie, MI; to the Committee on Public Works and Transportation.

By Mrs. LLOYD (for herself, Mr. Markey, and Mr. Richardson):

H.R. 3989. A bill to amend title XIX of the Social Security Act to provide for coverage of prostate cancer screening tests under the Medicaid Program; to the Committee on Energy and Commerce.

By Mrs. LLOYD (for herself and Mr. Wyden):

H.R. 3990. A bill to amend the Public Health Service Act to establish a program for postreproductive health care; to the Committee on Energy and Commerce.

By Mrs. LLOYD (for herself and Mr. Schiff):

H.R. 3991. A bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. LLOYD (for herself, Mr. Markey, and Mr. Richardson):

H.R. 3992. A bill to amend title XVIII of the Social Security Act to provide for coverage of prostrate cancer screening tests under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. LOWEY of New York:

H.R. 3993. A bill to amend title 46, United States Code, to clarify the authority of the State of New York to regulate pilotage of vessels on the Hudson River upstream of Yonkers, NY; to the Committee on Merchant Marine and Fisheries.

By Mr. LUKEN:

H.R. 3994. A bill to direct the Secretary of Transportation to conduct a rulemaking proceeding to review and modify regulations issued pursuant to the Aviation Safety and Noise Abatement Act of 1979 on measuring noise in areas surrounding airports, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. McCANDLESS:

H.R. 3995. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 3996. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such act; to the Committee on Ways and Means.

By Mr. McCURDY:

H.R. 3997. A bill to amend the Higher Education Act of 1965 to require applicants for Federal student financial assistance to prove a minimum level of academic achievement before receiving such assistance; to the Committee on Education and Labor.

H.R. 3998. A bill to establish a youth apprenticeship demonstration program, and for other purposes; to the Committee on Education and Labor.

By Mr. McGRATH:

H.R. 3999. A bill to amend the Internal Revenue Code to provide that a foster care provider and a qualified foster individual may share the same home; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 4000. A bill to establish a scholarship program to encourage minority students to pursue doctoral degrees in mathematics, science, and engineering, and for other purposes; to the Committee on Education and Labor.

By Mr. McGRATH (for himself and Mr. Jenkins):

H.R. 4001. A bill to amend the Internal Revenue Code of 1986 to modify the individual alternative minimum tax to allow for the deduction of certain investment expenses and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. Gibbons, Mr. Crane, Mr. Downey, and Mr. McGrath):

H.R. 4002. A bill to amend the Trade Act of 1974 to require the national trade estimate to include information regarding the impact of Arab boycotts on certain U.S. businesses; to the Committee on Ways and Means.

By Mr. MAVROULES and Mr. DINGELL:

H.R. 4003. A bill to repeal and amend certain postemployment rules relating to procurement and contract administration.

By Mr. MILLER of California:

H.R. 4004. A bill to assist in the development of tribal judicial systems, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of Ohio:

H.R. 4005. A bill to amend the Internal Revenue Code of 1986 to allow individuals credits for the acquisition of new passenger vehicles and first homes; to the Committee on Ways and Means.

By Mr. MILLER of Washington:

H.R. 4006. A bill to encourage the establishment of new domestic passenger cruise ship service between the Pacific Northwest United States and Alaska; to the Committee on Merchant Marine and Fisheries.

By Mr. MINETA (for himself, Mr. Berman, Mr. Edwards of California, Mr. Chandler, Mrs. Mink, and Mrs. Schroeder):

H.R. 4007. A bill to provide the children of female U.S. citizens born abroad before May 24, 1934, and their descendants, with the same rights to citizenship at birth as children born of male citizens abroad; to the Committee on the Judiciary.

By Mr. MOODY:

H.R. 4008. A bill to provide for temporary protected status for nationals of Yugoslavia; to the Committee on the Judiciary.

By Mr. MRAZEK:

H.R. 4009. A bill to establish a higher education loan program open to students of all income levels, and for other purposes; to the Committee on Education and Labor.

H.R. 4010. A bill to amend the Internal Revenue Code of 1986 to reinstate the 10-percent investment tax credit; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 4011. A bill to amend the Fair Labor Standards Act of 1938 to bring the minimum wage in American Samoa up to the wage in effect in the United States; to the Committee on Education and Labor.

By Mr. MURTHA:

H.R. 4012. A bill to extend eligibility for the homeowners assistance program established in section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 to members of the Armed Forces involuntarily separated as a result of reductions in the size of the Armed Forces and to provide additional mortgage loan flexibility to veterans, and for other purposes; jointly to the Committees on Armed Services, Veterans' Affairs, and Banking, Finance and Urban Affairs.

By Mr. MURTHA (for himself, Mr. Mollohan, Mr. Rahall, Mr. Staggers, Mr. Wise, and Mr. McCloskey):

A bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provisions of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes; jointly to the Committees on Ways and Means and Education and Labor.

By Mr. OWENS of New York (for himself, Mr. Ford of Michigan, and Mr. Goodling):

H.R. 4014. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information; to the Committees on Education and Labor.

By Mr. OWENS of Utah:

H.R. 4015. A bill to direct the Secretary of the Interior to conduct a study of the Escalante Canyon region of Utah for potential inclusion in the National Park System; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 4016. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself, Mr. Espy, and Mr. Dellums, Mr. Jefferson, Mr. Peterson of Minnesota, Mr. Evans, Mr. Downey, Ms. Norton, and Mr. Foglietta):

H.R. 4017. A bill to authorize the Administration of the Small Business Administration to make loans and grants to community-based organizations for the purpose of assisting in the startup and expansion of microenterprises; to the Committee on Small Business.

By Mr. PENNY:

H.R. 4018. A bill to amend title 38, United States Code, to revise the rules relating to crediting of third-party reimbursements received by the United States for the costs of medical services and hospital care furnished by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. PENNY (for himself, Mr. Johnson of South Dakota, and Mr. Zeliff):

H.R. 4019. A bill to amend the Food Security Act of 1985 to eliminate abuses of the farm program payment limitations rule, and for other purposes; to the Committee on Agriculture.

By Mr. PETERSON of Minnesota:

H.R. 4020. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on passive activity losses and credits and to provide an accelerated depreciation schedule for real estate; to the Committee on Ways and Means.

By Mr. PETRI (for himself, Mr. Murphy, Mr. Goodlino, Mr. Penny, Mr. Gunderson, Mr. Ireland, and Mr. Armey):

H.R. 4021. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit for taxpayers with school age or preschool age children; to repeal the health insurance credit thereunder, and for other purposes; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 4022. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; jointly, to the Committee on Ways and Means, the Judiciary, Education and Labor, Energy and Commerce, and Banking, Finance and Urban Affairs.

H.R. 4023. A bill to reform the system under which compensation for overtime Customs inspectional services is determined; to amend chapters 83 and 84 of title 5, United States Code, to provide that Customs employees be treated as law enforcement officers for purposes of those chapters; and for other purposes; jointly, to the Committees on Ways and Means and Post Office and Civil Service.

By Mr. RAY:

H.R. 4024. A bill to amend provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 relating to Federal property transferred by Federal agencies, and for other purposes; jointly, to the Committees on Energy and Commerce and Armed Services.

H.R. 4025. A bill to indemnify States, political subdivisions of States, and certain other entities from liability relating to the release of hazardous substances at military installations that are closed pursuant to a base closure law; jointly, to the Committees on Energy and Commerce and Armed Services.

By Mr. RICHARDSON:

H.R. 4026. A bill to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4027. A bill to provide for the Secretary of the Interior and the Secretary of Housing and Urban Development to carry out a demonstration program to transfer control of federally assisted Indian housing to selected Indian tribes and to permit the tribes to use assistance received under the housing improvement program of the Bureau of Indian Affairs and Indian housing programs under the U.S. Housing Act of 1937 as the tribes determine appropriate; jointly, to the Committee on Banking, Finance and Urban Affairs and Interior and Insular Affairs.

By Mr. ROGERS:

H.R. 4028. A bill to amend title 38, United States Code, to repeal the $2 charge for outpatient prescription drugs required to be charged by the Department of Veterans Affairs in certain cases; to the Committee on Veterans' Affairs.

H.R. 4029. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for interest on education loans; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 4030. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SANTORUM (for himself and Mr. Goss):

H.R. 4031. A bill to impose certain restrictions on franked mass mailings by any Member of the House of Representatives who is a candidate for such office.

By Mr. SAXTON (for himself, Mr. Davis, Mr. Hubbard, Mr. Young of Alaska, Mr. Hughes, Mr. Lent, Mr. Tauzin, Mr. Fields, Mr. Lipinski, Mr. Bateman, Mr. Bennett, Mr. Weldon, Mr. Pallone, Mr. Herger, Mr. Laughlin, Mr. Ravenel, Mr. Taylor of Mississippi, Mr. Gilchrest, Mr. Anderson, Mr. Doolittle, Mr. Lancaster, Mr. Cunningham, Mr. Gallo, Mr. Baker, Mr. Miller of Washington, Mr. Dicks, Mr. Jacobs, and Ms. Kaptur):

H.R. 4032. A bill to amend title 46, United States Code, to require that any regulation establishing or increasing a fee or change for a person engaged in the carriage of goods or passengers by vessel for hire be issued after notice, hearing, and comment and on the record, and for other purposes; to the Committee on Merchant Marine and Fisheries,

By Mr. SCHIFF:

H.R. 4033. A bill to amend the Internal Revenue Code of 1986 to permit amounts in individual retirement plans to be used for certain housing purposes; to the Committee on Ways and Means.

By Mr. SCHUMER:

H.R. 4034. A bill to deny nondiscriminatory most-favored-nation [MFN] treatment to countries that participate in, or cooperate with, the economic boycott of Israel; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 4035. A bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun; to the Committee on the Judiciary.

By Mr. SKAGGS:

H.R. 4036. A bill to provide for the transfer of certain public lands located in Clear Creek County, CO, to the U.S. Forest Service, the State of Colorado, and certain local governments in the State of Colorado, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of New Jersey:

H.R. 4037. A bill to require the redetermination of the boundaries of the metropolitan statistical areas, primary metropolitan statistical areas, and consolidated metropolitan statistical areas of the United States, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 4038. A bill to provide that any interim pay adjustment under the Federal Employees Comparability Act of 1990 which becomes payable to a Federal employee as a result of a revision in the boundaries of a metropolitan or other statistical area in calendar year 1992 shall be payable as if the revision had been effective as of the beginning of such year; to the Committee on Post Office and Civil Service.

H.R. 4039. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. Hyde, Mr. Mollohan, Mr. Volkmer, Mrs. Vucanovich, Mr. Dornan of California, Mr. Hunter, Mr. Holloway, Mr. Boehner, Mr. Emerson, Mr. DeLay, Mr. Inhofe, Mr. Dannemeyer, Mr. Bunning, Mr. Hancock, and Mr. Walker):

H.R. 4040. A bill to protect religious freedom; to the Committee on the Judiciary.

By Ms. SNOWE:

H.R. 4041. A bill to establish a program to stimulate the U.S. economy; jointly, to the Committees on Public Works and Transportation, Small Business, Ways and Means, Armed Services, Science, Space, and Technology, and Foreign Affairs.

By Mr. STARK:

H.R. 4042. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain sales of assets of medical service organizations to managers, et cetera, of such organization; to the Committee on Ways and Means.

H.R. 4043. A bill to amend the Emergency Unemployment Compensations Act of 1991 to increase the number of weeks of eligibility for emergency unemployment compensation; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mrs. Boxer, Ms. Pelosi, Mr. Miller of California, Mr. Dellums, Mr. de Lugo and Mr. Matsui):

H.R. 4044. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for certain disaster losses, and for other purposes; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. Dingell, Mr. Hughes, Mr. Hertel, Mr. Bennett, Mr. Solarz, Mr. Brown, Mr. Beilenson, Mr. Saxton, Mr. Ravenel, Mr. Gilchrest, Mr. Dellums, Mr. Roybal, Mrs. Schroeder, Mr. Kostmayer, Mr. Vento, Mr. Markey, Mr. Stark, Mr. Berman, Mr. Weiss, Mr. Edwards of California, Mr. Ackerman, Mr. Dwyer of New Jersey, Mr. Atkins, Mr. Jontz, Mr. Mrazek, Mr. Mfume, Mrs. Mink, Mr. Smith of Florida, and Mr. Sikorski):

H.R. 4045. A bill to reauthorize and amend the Endangered Species Act in order to strengthen programs for the conservation of threatened and endangered species, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. TALLON (for himself, Mr. Downey, Mr. Emerson, Mr. de la Garza, Mr. Jenkins, Mr. Lewis of Florida, Mrs. Johnson of Connecticut, Mr. Hatcher, Mr. Espy, Mr. Durbin, Mr. Thomas of Georgia, Mr. Derrick, Mr. Spratt, Mr. Ravenel, Mr. Rose, Mrs. Patterson, Mr. Spence, Mrs. Schroeder, Mr. Panetta, Mr. McCloskey, Mr. Clement, Mr. Hoyer, Mr. Armey, Mr. Wheat, Mr. Rahall, Mr. McCurdy, Mr. Ballenger, Mr. McMillan of North Carolina, Mr. Glickman, Mr. DeLay, Mr. Gingrich, Mr. Wise, Mr. Waxman, Mr. Andrews of Texas, Mr. Combest, Mr. Harris, Mr. Bunning, Mr. Wolf, Mr. Stenholm, Mr. Huckaby, Mr. Anthony, Mr. Slattery, Mr. Coble, Mr. Sarpalius, Ms. Long, Mr. Dellums, Mr. Kennedy and Mr. Hall of Ohio):

H.R. 4046. A bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services, and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act; jointly, to the Committees on Agriculture, Ways and Means, and Energy and Commerce.

By Mr. TAUZIN:

H.R. 4047. A bill to extend the jurisdiction of the Mississippi River Commission to include an additional geographic area; to the Committee on Public Works and Transportation.

By Mr. TOWNS:

H.R. 4048. A bill to establish a program to assist fiscally distressed local governments in the provision of essential services, and for other purposes; to the Committee on Government Operations.

By Mr. UPTON:

H.R. 4049. A bill to deauthorize the turning basin portion of the navigation project of South Haven Harbor, MI; to the Committee on Public Works and Transportation.

By Mr. VANDER JAGT:

H.R. 4050. A bill to amend title VII of the Tariff Act of 1930 to include interim processors within industries producing processed agricultural products, and for other purposes; to the Committee on Ways and Means.

By Mr. VISCLOSKY (for himself, Mr. Murtha, Mr. Applegate, Mrs. Bentley, Mr. Bevill, Mr. Brown, Mr. Gaydos, Mr. Mollohan, Mr. Nowak, Mr. Oberstar, Mr. Ritter, Mr. Russo, Mr. Campbell of Colorado, Mr. Conyers, Mr. Coyne, Mr. Davis, Mr. Dingell, Mr. Eckart, Mr. Evans, Mr. Feighan, Mr. Guarini, Mr. Jontz, Mr. Kanjorski, Ms. Kaptur, Mr. Kostmayer, Mr. McCloskey, Mr.

McMillen of Maryland, Mr. Manton, Mr. Murphy, Mr. Owens of Utah, Mr. Payne of Virginia, Mr. Perkins, Mr. Rahall, Mr. Ridge, Mr. Santorum, Mr. Staggers, Mr. Stokes, Mr. Towns, and Mr. Traficant):

A bill to extend the application of the steel trade liberalization program; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 4052. A bill to prohibit export to, and imports from, Yugoslavia until the President certifies to the Congress that the Government of Yugoslavia has recognized the right of each of the Republics of Croatia, Slovenia, Macedonia, Bosnia, and Herzegonia to be an independent state; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Ms. WATERS:

H.R. 4053. A bill to provide for the minting of $1 silver coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veteran Memorial; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WEBER (for himself, Mr. Camp, Mr. Barrett, Mr. Machtley, Mr. Hancock, Mr. Ramstad, Mr. Boehner, Mr. Taylor of North Carolina, Mr. Solomon, Mr. Riggs, Mr. Nussle, and Mr. Doolittle):

H.R. 4054. A bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, and the Judiciary.

By Mr. WOLF:

H.R. 4055. A bill to provide for approval of a license for telephone communications between the United States and Vietnam; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:

H.R. 4056. A bill to amend the National Fish and Wildlife Foundation Establishment Act; to the Committee on Merchant Marine and Fisheries.

By Mr. BILIRAKIS:

H.R. 4057. A bill to require Members of Congress to pay for medical services and products from the Office of the Attending Physician; to the Committee on House Administration.

By Mr. DANNEMEYER:

H.R. 4058. A bill to amend the Endangered Species Act of 1973 to require the preparation of economic impact analysis with respect to certain actions to protect endangered species and threatened species, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DE LA GARZA:

H.R. 4059. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. HOAGLAND:

H.R. 4060. A bill to require that the President transmit to Congress, that the congressional budget committees report, and that the Congress consider a balanced budget for each fiscal year; jointly, to the Committees on Government Operations and Rules.

By Mr. KOSTMAYER:

H.R. 4061. A bill to amend the Internal Revenue Code of 1986 to create and preserve American jobs; to the Committee on Ways and Means.

By Mr. MINETA (for himself and Mr. Gephardt):

H.R. 4062. A bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. OWENS of Utah (for himself, Mr. Orton, and Mr. Hansen):

H.R. 4063. A bill to amend the National Park Service Concessions Policy Act to clarify management of concessioners who solely operate outfitter services for backcountry recreation in the National Park System; to the Committee on Interior and Insular Affairs.

By Mr. SCHULZE:

H.R. 4064. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. STALLINGS (for himself and Mr. LaRocco):

H.R. 4065. A bill to amend the Federal Property and Administrative Services Act of 1949 and title 10, United States Code, to require as a term in each contract for property or services made by an executive agency that the contractor, and any subcontractors under that contract, shall comply with the workmen's compensation laws of each State in which the contract is performed; jointly, to the Committees on Government Operations and Armed Services.

By Mr. TAUZIN:

H.R. 4066. A bill to request from certain countries information concerning American servicemen and civilians missing in Southeast Asia during the Vietnam conflict and to require the heads of Federal departments and agencies to disclose to Congress information concerning such servicemen and civilians; jointly, to the Committees on Foreign Affairs, Ways and Means, and Intelligence (Permanent Select).

By Mr. TAUZIN (for himself, Mr. Slattery, Mr. Hayes of Louisiana, Mr. Ackerman, Mr. Tallon, Mr. Campbell of Colorado, Mr. Richardson, Mr. Wyden, Mr. Hutto, Mr. Hall of Texas, Mrs. Byron, Mrs. Lloyd, Ms. Oakar, Mr. AuCoin, Mr. Montgomery, Mr. Jones of North Carolina, Mr. Huckaby, Mr. McCurdy, Mr. Condit, Mr. Erdreich, Mr. Parker, Mrs. Patterson, Mr. Ireland, Mr. Hyde, Mr. Livingston, Mr. Lowery of California, Mr. Young of Alaska, Mr. Thomas of Georgia, Mr. Weber, Mr. Shaw, Mr. Glickman, Mr. Harris, Mr. Browder, Mr. Kostmayer, Mr. Jefferson, Ms. Kaptur, Mr. Cramer, Mr. Goss, Mr. Kasich, Mr. Nowak, Mr. Lent, and Mr. Laughlin):

H.R. 4067. A bill to provide that interest earned on certain passbook savings accounts shall be excluded from gross income of the taxpayer as an incentive to taxpayers to increase savings in local banks and savings institutions; to the Committee on Ways and Means.

By Mr. TAUZIN (for himself, Mr. Fields, Mr. Livingston, Mr. Holloway, and Mr. Laughlin):

H.R. 4068. A bill entitled: Coastal Communities Impact Assistance Act of 1992; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. FASCELL:

H.R. 4070. A bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HAYES of Louisiana:

H.R. 4071. A bill to amend the Consolidated Farm and Rural Development Act to prohibit the Secretary of Agriculture from making or enforcing any rule requiring all borrowers under such act to demonstrate a positive cash flow, without taking into account the individual characteristics of borrowers; to the Committee on Agriculture.

By Mr. PAXON (for himself, Mr. Martin, and Mr. Walsh):

H.R. 4072. A bill to amend the Solid Waste Disposal Act to prohibit the import into the United States of all solid waste except solid waste imported for the purpose of recycling; to the Committee on Energy and Commerce.

By Mr. ABERCROMBIE:

H.J. Res. 383. Joint resolution to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Interior and Insular Affairs.

By Mr. EWING:

H.J. Res. 384. Joint resolution proposing an amendment to the Constitution allowing an item veto in appropriations; to the Committee on the Judiciary.

By Mr. GREEN of New York:

H.J. Res. 385. Joint resolution designating the week beginning September 13, 1992, as "National Fragrance Week"; to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself, Mr. Richardson, Mr. Poshard, Mr. Murphy, Mr. Stenholm, Mr. Wilson, Mr. DeFazio, Mr. Bustamante, Mr. Campbell of California, Mr. Sarpalius, Mr. Owens of Utah, Mr. Neal of Massachusetts, and Mr. McMillen of Maryland):

H.J. Res. 386. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax and spending legislation; to the Committee on the Judiciary.

By Mr. KILDEE (for himself, Mr. Ford of Michigan, and Mr. Goodling):

H.J. Res. 387. Joint resolution designating February 9 through February 15, 1992, as "Vocational-Technical Education Week"; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Con. Res. 249. Concurrent resolution correcting a technical error in the enrollment of the bill, H.R. 1724; considered and agreed to.

By Mr. COSTELLO:

H. Con. Res. 250. Concurrent resolution to express the sense of the Congress that the U.S. Trade Representative must negotiate a tough but fair multilateral trade agreement regarding steel products before the expiration of the enforcement authority for existing bilateral arrangements governing steel product imports; to the Committee on Ways and Means.

By Mr. FAZIO (for himself, Mr. Atkins, Mr. Berman, Mr. Clay, Mr. Green of New York, Mr. Levin of Michigan, Mr. McDermott, Mr. Martinez, Mr. Matsui, Mr. Mfume, Mr. Torres, Mr. Waxman, and Mr. Weiss):

H. Con. Res. 251. Concurrent resolution expressing the sense of the Congress that the Fox Broadcasting Co. be commended for accepting paid advertising promoting the use of condoms as a method for preventing the

VOL
137
PT
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spread of Acquired Immune Deficiency Syndrome [AIDS], that all other commercial broadcast networks should follow the example of the Fox Broadcasting Co., and that the Secretary of Health and Human Services should prepare, and encourage the preparation of, public service announcements, promoting the use of condoms as a method for preventing the spread of AIDS; to the Committee on Energy and Commerce.

By Mr. MRAZEK (for himself, Mr. Bereuter, Mr. Downey, Mr. Frost, Mr. McNulty, Mr. Scheuer, Mr. Smith of Florida, and Mr. Towns):

H. Con. Res. 252. Concurrent resolution in support of unity of the common state in the Czech and Slovak Federal Republic; to the Committee on Foreign Affairs.

By Mr. PANETTA:

H. Con. Res. 253. Concurrent resolution to express the sense of the Congress that the President should urge the United Nations Security Council to impose sanctions against Serbia and that the President should take a more active role in resolving the Serbo-Croatian conflict; to the Committee on Foreign Affairs.

By Mr. RIDGE (for himself, Mr. Murtha, Mr. Jenkins, Mr. Clinger, Mr. Ritter, Mr. Visclosky, Mr. Ravenel, Mr. Murphy, Mr. Applegate, Mr. Santorum, Mr. Gaydos, Mr. Jontz, Mr. Kolter, Mr. Perkins, Mrs. Patterson, Mr. Pease, Mr. Spratt, Mr. Rahall, Mrs. Lloyd, Mr. Traficant, Mr. Wise, Ms. Kaptur, Mrs. Bentley, and Mr. Evans):

H. Con. Res. 254. Concurrent resolution to request the U.S. Trade Representative to refuse to agree to certain provisions proposed to be included in the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

By Mr. SANTORUM (for himself, Mr. Downey, Ms. Kaptur, Mr. Allard, Mr. Bilirakis, Mr. Levine of California, Ms. Norton, Mr. Schiff, and Mr. Jefferson):

H. Con. Res. 255. Concurrent resolution expressing the sense of the Congress that the States, in order to expedite the dispute settlement process for grandparent visitation privileges, are encouraged to adopt uniform visitation rights laws, modeled after a federally commissioned American Bar Association report; to the Committee on the Judiciary.

By Mr. SCHEUER (for himself, Mr. Ackerman, Mr. Oberstar, Mr. AuCoin, Mr. Flake, Mr. Brown, Mr. Fawell, Mr. Andrews of Maine, Mr. Guarini, Mr. Johnson of South Dakota, Mr. Horton, and Mr. Kennedy):

H. Con. Res. 256. Concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant; to the Committee on Merchant Marine and Fisheries.

By Mr. VENTO (for himself and Mr. Ridge):

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress that the substantial changes implemented during 1991 by the Secretary of Housing and Urban Development to the single family housing mortgage insurance program of the Federal Housing Administration, pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1991, including the changes made to the pricing and structure of mortgage insurance premiums, should be reexamined to determine the effects of the changes on the affordability of home ownership, the long-term financial viability of the Mutual Mortgage Insurance Fund, and the composition of the FHA loan portfolio; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BENTLEY:

H. Con. Res. 258. Concurrent resolution expressing the sense of the Congress that the President should convene a White House conference on revitalizing American industry; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BENTLEY (for herself and Mr. Lightfoot).

H. Con. Res. 259. Concurrent resolution expressing the sense of the Congress that the Secretary of Labor, in cooperation with the ACTION Agency, should publicize and promote projects under the Retired Senior Volunteer Program and the Older American Community Service Employment Program that encourage and recruit older individuals to provide child care services in community-based child care centers; to the Committee on Education and Labor.

By Mr. GEPHARDT:

H. Con. Res. 260. Concurrent resolution providing for an adjournment of the Congress to a date certain; considered and agreed to.

By Mr. RANGEL:

H. Con. Res. 261. Concurrent resolution correcting technical errors in the enrollment of the bill (S. 543); considered and agreed to.

By Mr. de la GARZA:

H. Res. 305. Resolution concurring in the Senate amendment to H.R. 3029 with an amendment; considered under the suspension of rules and agreed to.

By Mr. HOYER:

H. Res. 308. Resolution electing Representative Blackwell of Pennsylvania to the Committee on Public Works and Transportation; considered and agreed to.

By Mr. BACCHUS (for himself and Mr. Zimmer):

H. Res. 310. Resolution to amend the Rules of the House of Representatives to allow open meetings and hearings to be closed only for reasons of national security; to the Committee on Rules.

By Mr. McCURDY (for himself, Mr. Stenholm, Mr. Sabo, Mr. Andrews of Texas, and Mr. Glickman):

H. Res. 311. Resolution to amend the Rules of the House of Representatives to provide for the election of the chairmen and ranking minority members of the standing committees and for other purposes; to the Committee on Rules.

By Mr. OWENS of Utah:

H. Res. 312. Resolution amending the Rules of the House of Representatives to limit the number of years a Member may serve as chairperson of a particular standing committee or subcommittee; to the Committee on Rules.

By Mr. PENNY:

H. Res. 313. Resolution expressing the sense of the House of Representatives that the President should initiate an appraisal of, and consider alternatives to, the current structure and membership of the U.N. Security Council in the context of recent changes in the world's economic and political realities; to the Committee on Foreign Affairs.

By Mr. SANTORUM (for himself, Mr. Pursell, Mr. Goss, Mr. Gallegly, Mr. Zeliff, Mr. McCandless, and Mr. Ballenger):

H. Res. 314. Resolution providing for motor vehicle leasing for the House of Representatives to be conducted through the General Services Administration; to the Committee on House Administration.

By Mr. SAXTON (for himself, Mr. Davis, Mr. Hubbard, Mr. Young of Alaska, Mr. Hughes, Mr. Lent, Mr. Tauzin, Mr. Fields, Mr. Lipinski, Mr. Bateman, Mr. Bennett, Mr. Weldon, Mr. Pallone, Mr. Herger, Mr. Laughlin, Mr. Ravenel, Mr. Taylor of Mississippi, Mr. Gilchrest, Mr. Anderson, Mr. Doolittle, Mr. Lancaster, Mr. Cunningham, Mr. Gallo, Mr. Baker, Mr. Miller of Washington, Mr. Dicks, Mr. Jacobs, and Ms. Kaptur):

H. Res. 315. Resolution to amend the Rules of the House of Representatives to require economic impact statements for reported bills and amendments that create or increase any taxes, duties, or other fees on the maritime industry, and for other purposes; to the Committee on Rules.

By Mrs. Kennelly:

H. Res. 319. Resolution supporting the activities of the Peace Corps in the republics of Armenia and Ukraine; to the Committee on Foreign Affairs.

By Mr. HOYER (for himself, Mrs. Boxer, Mrs. Morella, Mr. Ritter, Mr. Lehman of California, and Mr. Levine of California):

H. Res. 321. Resolution concerning the conflict between the Armenian and Azerbaijani populations of the Nagorno-Karabakh Autonomous Oblast in the Territory of Azerbaijan: to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. STALLINGS introduced a bill (H.R. 4069) for the relief of Rolline H. Mayer; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. Morrison.

H.R. 44: Mr. Shuster, Mr. Dicks, Mr. Perkins, Mr. Goss, Mr. Borski, Mr. Fawell, Mr. Payne of New Jersey, Mr. Kolter, Mr. Livingston, Mr. Barnard, Mr. Wise, Mr. Owens of Utah, Mr. Horton, Mr. Hyde, Mrs. Unsoeld, Mr. Dixon, Mr. de Lugo, Mr. Gallegly, Mr. Spence, Mr. Young of Alaska, Mr. Zeliff, and Mr. Young of Florida.

H.R. 53: Mr. Manton.

H.R. 66: Mr. Beilenson, Mr. Cox of Illinois, Mr. Fawell, and Mr. Pursell.

H.R. 81: Mr. Ackerman, Mr. Espy, Mr. Downey, Mr. Hastert, and Mr. Horton.

H.R. 83: Mr. Livingston.

H.R. 118: Mr. Gallo, Mr. Rohrabacher, and Mr. Mineta.

H.R. 123: Mrs. Meyers of Kansas.

H.R. 127: Mr. Wylie.

H.R. 246: Mr. Dornan of California, Mr. Doolittle, Mr. Martin, Mr. Zeliff, Mr. Boehner, Mr. Horton, and Mr. Klug.

H.R. 318: Mr. Swett.

H.R. 341: Mr. McNulty.

H.R. 381: Mr. Torricelli.

H.R. 415: Mr. Baker.

H.R. 430: Mr. Wheat, Mr. Alexander, and Mr. Oxley.

H.R. 467: Mr. Gallegly.

H.R. 501: Mr. Richardson, Mr. Erdreich, Mr. McNulty, Mr. Olver, and Mr. Eckart.

H.R. 544: Mr. Atkins.

H.R. 565: Mr. Nussle, Mr. Young of Florida, and Mr. Morrison.

H.R. 602: Mr. Gingrich.

H.R. 608: Mr. Bacchus and Mr. Gallegly.

H.R. 639: Mr. Young of Florida.

H.R. 640: Mr. Rhodes.

H.R. 643: Mr. Bustamante, Mr. Nussle, and Mr. Ballenger.

H.R. 709: Mr. Gilman.

H.R. 710: Mr. Wolpe, Mr. Espy, Mr. Richardson, and Mr. Quillen.

H.R. 784: Mr. Thomas of Wyoming and Mr. Olver.

H.R. 793: Mr. Huckaby, Mr. Klecka, and Mr. Gallegly.

H.R. 842: Mr. Aspin, Mr. McMillen of Maryland, Mrs. Mink, Mr. Blackwell, and Mr. Swett.

H.R. 858: Mr. Rhodes.

H.R. 863: Mr. Johnson of South Dakota.

H.R. 917: Mr. Sharp, Mr. Young of Florida, and Mr. Studds.

H.R. 951: Mr. Morrison.

H.R. 976: Mrs. Roukema.

H.R. 1048: Mr. Espy.

H.R. 1063: Mrs. Lowey of New York.

H.R. 1115: Mr. Richardson.

H.R. 1120: Mr. Spence.

H.R. 1126: Mr. Roemer.

H.R. 1145: Mr. Gallegly, Mr. Russo, Mr. Walker, Mr. Carper, Mr. Skaggs, Mr. Oberstar, and Mr. Dymally.

H.R. 1154: Mr. Klug, Mr. Moody, Mr. Luken, and Mr. AuCoin.

H.R. 1186: Mr. Luken, Mr. Roybal, Mrs. Patterson, and Mr. Spence.

H.R. 1200: Mr. Martin and Mr. Young of Florida.

H.R. 1202: Mr. Berman.

H.R. 1218: Mr. Yates.

H.R. 1239: Mr. Hayes of Louisiana.

H.R. 1244: Ms. Norton, Mr. Jontz, Mr. LaFalce, Mr. Roybal, and Mr. Espy.

H.R. 1345: Mr. Ritter.

H.R. 1354: Mr. Andrews of Maine.

H.R. 1385: Mr. Smith of Florida.

H.R. 1408: Mr. Andrews of Maine and Mrs. Boxer.

H.R. 1411: Mr. Jones of North Carolina, Mr. Edwards of Oklahoma, Mr. Goodling, Mr. Wilson, Mr. Ray, Mrs. Byron, Mr. Montgomery, Mr. Ford of Tennessee, Mr. Hyde, Mr. Herger, Mr. Barrett, Mr. Shuster, Mr. Kasich, Mr. Brewster, Mr. Sabo, Mr. Espy, Mr. Hefley, Mr. Roth, Mr. Martinez, Mr. Hutto, and Mr. Cunningham.

H.R. 1458: Mr. Livingston.

H.R. 1472: Mr. Bilirakis, Mr. McMillan of North Carolina, and Mr. Sisisky.

H.R. 1473: Mr. Mavroules, Mr. Riggs, and Mr. Traxler.

H.R. 1481: Mr. Holloway.

H.R. 1500: Mr. Bonior, Mr. Ford of Tennessee, Mr. Hoagland, Mr. Payne of Virginia, Mr. Conyers, Mr. de Lugo, Mr. Costello, Mr. Dwyer of New Jersey, Mr. Clay, Mr. Lehman of California, Mr. Johnston of Florida, Mr. Feighan, Mr. Green of New York, Mr. Lipinski, and Mr. Richardson.

H.R. 1506: Mr. Hochbrueckner.

H.R. 1527: Mr. Allen.

H.R. 1531: Mr. Bruce.

H.R. 1536: Mr. Morrison.

H.R. 1547: Mr. Hutto.

H.R. 1557: Mr. Solarz, Mr. Combest, Mr. Owens of Utah, Mr. Gallo, Mr. Dymally, Mr. Gilman, and Mr. Young of Florida.

H.R. 1565: Mr. Machtley.

H.R. 1566: Mr. Alexander.

H.R. 1570: Mr. Leach, Mr. Camp, Mr. Young of Florida, and Mr. Lantos.

H.R. 1602: Mr. Towns, Mr. Eckart, and Mr. Dixon.

H.R. 1628: Mr. Markey, Mr. Torres, Mr. Wilson, Mr. Coble, Mr. Bustamante, Mr. Swift, Mr. Andrews of Texas, Mr. Russo, Mr. Levin of Michigan, Mr. Shays, Mr. Hyde, Mrs. Meyers of Kansas, Mr. Walker, Mr. Pastor, Mr. Espy, Mr. Hoyer, Mr. Neal of Massachusetts, Mr. Chandler, Mr. Skaggs, Mr. Annunzio, Mr. Glickman, Mr. Kildee, Mr. Waxman, Mr. Yates, Mr. Durbin, Mr. Kleczka, Mr. Berman, Ms. Horn, Mr. Rostenkowski, and Mr. Mfume.

H.R. 1637: Mr. Traficant and Mr. Evans.

H.R. 1663: Mr. Swett.

H.R. 1664: Mr. Miller of California.

H.R. 1730: Mr. Allen, Mr. de Lugo, Mr. Bustamante, Mr. Emerson, and Mr. Sikorski.

H.R. 1755: Mr. Young of Florida.

H.R. 1856: Mr. Edwards of California, Mr. Franks of Connecticut, and Mr. Markey.

H.R. 1882: Mr. Stenholm.

H.R. 1898: Mr. Zeliff.

H.R. 1960: Mr. Conyers, Mr. Parker, Mr. Downey, Mr. Regula, Mr. Bustamante, and Mr. Evans.

H.R. 1987: Mr. AuCoin and Mr. Visclosky.

H.R. 1992: Mr. Henry and Mr. Camp.

H.R. 2027: Mr. Atkins.

H.R. 2037: Mr. Rhodes.

H.R. 2071: Mr. Martinez, and Mr. Lancaster, Mr. Dreier of California, and Mr. Fields.

H.R. 2083: Mr. Swett and Mr. Ford of Michigan.

H.R. 2086: Mr. Young of Florida.

H.R. 2101: Mr. Espy and Mr. Fazio.

H.R. 2106: Mr. Neal of North Carolina.

H.R. 2186: Mr. Herger.

H.R. 2199: Mr. Young of Florida.

H.R. 2223: Mr. de Lugo, Mr. Geren of Texas, Mr. Durbin, Mr. Sikorski, Mr. Sabo, Mr. Kanjorski, and Mr. Smith of New Jersey.

H.R. 2232: Mr. Hayes of Louisiana.

H.R. 2242: Mr. Weiss, Mr. Coyne, Mr. Dicks, Mr. Andrews of Maine, and Mr. Johnson of South Dakota.

H.R. 2244: Mr. Flake.

H.R. 2248: Mr. Frost, Mr. Peterson of Florida, Mr. Young of Florida and Mr. Hatcher.

H.R. 2336: Mr. Stearns, Mr. Miller of Washington, and Mr. Davis.

H.R. 2359: Ms. Molinari, Mr. Mavroules, Mr. Stump, Mr. Young of Alaska, Mr. Rhodes, Mr. Horton, Mr. Kolbe, Mr. Marlenee, Mr. Tauzin, and Mr. Coble.

H.R. 2401: Mr. Roemer, Mr. Marlenee, and Mr. Jones of North Carolina.

H.R. 2410: Mr. Hobson and Mr. Yatron.

H.R. 2419: Ms. Norton and Mr. Swett.

H.R. 2437: Mr. Young of Florida.

H.R. 2453: Mr. Machtley.

H.R. 2485: Mr. LaFalce and Mr. Evans.

H.R. 2489: Mr. Fish.

H.R. 2493: Mr. Hughes.

H.R. 2534: Mr. Pickett, Mr. Lehman of Florida, Mr. Kopetski, Mr. Hobson, and Ms. Ros-Lehtinen.

H.R. 2540: Ms. DeLauro, Mr. Lancaster, and Mr. Ramstad.

H.R. 2546: Mr. Boehlert.

H.R. 2571: Mr. Sarpalius, Mr. Markey, Mr. Owens of Utah, Mr. Feighan, Mrs. Boxer, Mr. Sabo, Mr. Coyne, Mr. Boucher, and Mr. Walsh.

H.R. 2598: Mr. Barton of Texas, Mr. Bustamante, Mr. Borski, Mr. Lantos, Mr. McNulty, and Mr. Towns.

H.R. 2625: Mr. Pursell, Mr. Montgomery, Mr. McGrath, Mr. Gilchrest, Mr. Kyl, Mr. Chandler, Mr. Ewing, Mr. Upton, Mr. Paxon, Mr. Sarpalius, Mr. Zeliff, and Mr. Hayes of Louisiana.

H.R. 2643: Mr. Hobson, Mr. Gunderson, and Mr. Klug.

H.R. 2672: Mr. Lent.

H.R. 2797: Mr. Atkins, Mr. Blackwell, Mr. Bustamante, Mr. Gilman, Mr. Harris, and Mr. Tallon.

H.R. 2806: Mr. Skelton, Mr. Smith of Iowa, Mr. Volkmer, Mr. Panetta, Mr. Crane, Mr. Owens of Utah, Mr. Miller of Washington, and Mr. Alexander.

H.R. 2871: Mr. Miller of Ohio.

H.R. 2880: Mr. Durbin, Mr. Donnelly, Mr. McMillen of Maryland, Mr. Andrews of New Jersey, and Mr. Mineta.

H.R. 2912: Mrs. Meyers of Kansas.

H.R. 2915: Mr. Young of Florida and Mr. Camp.

H.R. 2922: Mr. Olin, Mr. Ford of Tennessee, and Mr. McNulty.

H.R. 2943: Mr. Solomon.

H.R. 2945: Mr. Coleman of Texas.

H.R. 2951: Mr. Gordon, Mr. Jefferson, Mr. Rangel, Ms. Pelosi, Mr. LaFalce, and Mr. Evans.

H.R. 2966: Mr. Jontz and Mr. Owens of Utah.

H.R. 3006: Mr. Zimmer and Mr. Fish.

H.R. 3026: Mr. Berman, Mrs. Schroeder, Mr. Dellums, and Mr. Campbell of Colorado.

H.R. 3027: Mr. Abercrombie.

H.R. 3042: Mr. Dickinson, Mr. Harris, and Mr. Erdreich.

H.R. 3051: Mr. Frank of Massachusetts.

H.R. 3063: Mr. Peterson of Florida, Mr. Frost, and Mr. Martinez.

H.R. 3070: Mr. Annunzio, Mr. Lagomarsino, Mr. Markey, Mr. Young of Florida, and Mr. Stearns.

H.R. 3071: Mr. Young of Florida.

H.R. 3902: Mr. Emerson.

H.R. 3112: Mr. Frost and Mr. Dymally.

H.R. 3140: Mr. Abercrombie.

H.R. 3160: Mr. Conyers, Mr. Dixon, Mr. Lipinski, Mr. Markey, Mr. Mrazek, Mr. Russo, and Mr. Studds.

H.R. 3164: Mr. Alexander.

H.R. 3189: Mrs. Lowey of New York.

H.R. 3204: Mr. Berman, Mr. Boucher, Mr. Bryant, Mr. Chapman, Mr. Coble, Mr. Conyers, Mr. Edwards of California, Mr. Engel, Mr. Feighan, Mr. Fish, Mr. Glickman, Mr. James, Mr. Kopetski, Mr. Levine of California, Mr. McCollum, Mr. Moorhead, Mr. Reed, Mr. Sangmeister, Mr. Staggers, Mr. Synar, Mr. Abercrombie, Mr. Ackerman, Mr. Alexander, Mr. Anthony, Mr. Barton of Texas, Mr. Bonior, Mrs. Boxer, Mr. Bruce, Mr. Carr, Mr. Clement, Mr. Cooper, Mr. Downey, Mr. Geren of Texas, Mr. Gordon, Mr. Guarini, Mr. Horton, Mr. Lehman of California, Mr. Lent, Mr. Lewis of California, Mrs. Lowey of New York, Mr. Manton, Mr. Matsui, Mr. McMillen of Maryland, Mr. Michel, Mr. Oxley, Mr. Richardson, Mr. Rinaldo, Mr. Scheuer, Mr. Sikorski, Mr. Smith of Texas, Mr. Stark, Mr. Sundquist, Mr. Tanner, Mr. Vander Jagt, Mr. Waxman, and Mr. Weiss.

H.R. 3216: Mr. Roth and Mr. Wise.

H.R. 3219: Mr. Stokes, Mr. Dellums, Mr. Dixon, Mr. Dymally, Mr. Owens of New York, Mr. Wheat, Mr. Hayes of Illinois, Mr. Flake, Mr. Payne of New Jersey, Mr. Washington, Mrs. Collins of Michigan, Ms. Norton, and Mr. Jefferson.

H.R. 3221: Mr. Michel, Mr. Laughlin, Mr. Harris, Mr. Ray, and Mr. McMillen of Maryland.

H.R. 3236: Mr. Neal of Massachusetts and Mr. Bustamante.

H.R. 3250: Mr. Wolpe.

H.R. 3253: Mr. Brown and Mr. Owens of Utah.

H.R. 3256: Mr. Eckart, Mr. Berman, Ms. Kaptur, and Mr. Rangel.

H.R. 3273: Mr. Martinez, Mr. Lancaster, Mr. Ballenger, Mr. Hansen, Mr. Cox of California, Mr. Kostmayer, Mr. Kolbe, Mr. Kopetski, Mr. Horton, Mr. Brown, Mr. Ireland, Mr. Taylor of North Carolina, Mr. Combest, Mr. Zeliff, Mr. Ackerman, and Mrs. Boxer.

H.R. 3283: Mr. Campbell of California, Mr. Engel, Mr. Dickinson, Mr. Saxton, Mr. Ballenger, Mr. Coble, Mr. Taylor of North Carolina, Mr. Bevill, Mr. Herger, Mr. Callahan, Mr. Rohrabacher, Mr. Burton of Indiana, Mr. Broomfield, Mr. Wolf, Mr. Smith of New Jersey, Mr. Doolittle, Mr. Edwards of Oklahoma, Mr. Barton of Texas, Mr. Solomon, Mr. Goss, Mr. Lightfoot, Mr. Walker, Mr. Quillen, Mr. Rogers, Mr. Petri, Mr. Gekas, Mr. Cunningham, Mr. Crane, Mr. Gingrich, Mr. Boehner, Mr. Hancock, Mr. Miller of Ohio, Mr. Schaefer, Mr. Hastert, Mr. Montgomery, Mr. Weldon, Mr. Hutto, Mr. Hammerschmidt, Mr. Gilchrest, Mr. Gallegly, Mr. Lagomarsino, Mr. Camp, Mr. Hall of Texas, Mr. Hunter, Mr. Johnson of Texas, Mr. Skeen, Mr. Gillmor, Mr. Nichols, Mr. Santorum, Mr. Combest, Mr. Baker, Mr. Ramstad, Mr. Franks of Connecticut, Mr. Kyl, Mr. Lowery of California, Mr. Allen, Mr. Riggs, Mr. Chandler, Mr. Wylie, Mr. Thomas of Wyoming, Mr. Young of Florida, Mr. Sawyer, Mr. Armey, Mr. de Lugo, Mr. Gunderson, and Mr. Weber.

H.R. 3285: Mr. Jontz and Ms. Norton.

H.R. 3286: Mr. Conyers and Mr. Olver.

H.R. 3326: Mr. Fields and Mr. Gilman.

H.R. 3334: Mr. Rangel.

H.R. 3337: Mr. Orton, Mr. Stenholm, Mrs. Schroeder, Mr. Sisisky, Mr. Stump, Mrs. Byron, Mr. Condit, Mr. Skelton, Mr. Volkmer, Mr. Applegate, Mr. Hammerschmidt, Mr. Saxton, Mr. Gilman, Mr. Hubbard, Mr. Bennett, Mr. Natcher, Ms. Slaughter of New York, Ms. Horn, Mr. Parker, Mr. Tanner, Mrs. Lloyd, Mr. Cramer, Mr. Jenkins, Mr. Hefner, Mr. Rowland, Mr. Geren of Texas, Mr. Sawyer, Mr. Ortiz, Mr. Pastor, Ms. Long, Mr. Glickman, Mr. Wyden, Mr. Browder, Mrs. Patterson, Ms. Kaptur, Mr. Valentine, Mr. Carper, Mr. Payne of Virginia, Mr. Chapman, Mr. Studds, Mr. Jontz, Mr. Thornton, Mr. McDade, Mr. Murtha, Mr. Huckaby, Mr. Regula, Mr. Boehlert, Mr. Boehner, Mr. Rinaldo, Mrs. Bentley, Mr. Bateman, Mr. Moorhead, Mr. Goss, Mr. Myers of Indiana, Mr. Ireland, Mrs. Meyers of Kansas, and Mr. Hobson.

H.R. 3342: Mr. Riggs.

H.R. 3344: Mr. Carper.

H.R. 3345: Ms. Norton and Mr. Frost.

H.R. 3348: Mr. Archer, Mr. Kolter, Mr. Rohrabacher, Mr. Kanjorski, Mr. Neal of Massachusetts, Mr. LaRocco, Mr. Frank of Massachusetts, Mr. Martinez, Mrs. Johnson of Connecticut, Mr. Miller of Washington, Mr. Gaydos, Mr. Wilson, Mr. Cox of Illinois, Mr. Hochbrueckner, Mr. Mrazek, Mr. Cox of California, Mrs. Vucanovich, Mr. Eckart, Mr. Olver and Mr. Stallings.

H.R. 3349: Mr. Zeliff.

H.R. 3360: Mr. Mazzoli, Mr. Payne of Virginia, and Mr. Nowak.

H.R. 3373: Mr. Abercrombie and Mr. Young of Florida.

H.R. 3376: Mr. Allen and Mr. Camp.

H.R. 3412: Mr. Weldon.

H.R. 3420: Mr. Spence, Mr. Oberstar, Mr. Bryant, and Mr. Gunderson.

H.R. 3422: Mr. Smith of Florida.

H.R. 3423: Mr. Levine of California, Mr. Stokes, and Mr. Poshard.

H.R. 3424: Mr. Levine of California, Mr. Stokes, Mr. Poshard, and Mr. Dixon.

H.R. 3437: Mr. Goodling.

H.R. 3438: Mr. McCandless.

H.R. 3439: Mr. McCandless.

H.R. 3440: Mr. McCandless.

H.R. 3441: Mr. McCandless.

H.R. 3442: Mr. McCandless.

H.R. 3451: Mr. Zeliff.

H.R. 3452: Mr. Applegate.

H.R. 3454: Mr. Williams, Mr. Chapman, and Mr. Gordon.

H.R. 3484: Mrs. Boxer.

H.R. 3487: Mr. Hobson and Mr. Morrison.

H.R. 3501: Mr. Jacobs.

H.R. 3506: Mr. Zeliff and Mrs. Meyers of Kansas.

H.R. 3509: Mr. McCloskey, Mr. Conyers, Mr. Poshard, Mr. Rangel, Mr. Lipinski, Mr. LaFalce, Mr. Gejdenson, Ms. Norton, Mrs. Boxer, Mr. Klug, Mrs. Schroeder, Mr. Ford of Michigan, and Mr. Yates.

H.R. 3515: Mr. Volkmer and Mr. Bustamante.

H.R. 3528: Ms. Snowe.

H.R. 3552: Mr. Foglietta and Mr. Dooley.

H.R. 3553: Mr. Stokes, Mr. de la Garza, Mr. Richardson, Mr. Roybal, Mr. Bustamante, Mr. Morrison, and Mrs. Boxer.

H.R. 3554: Mr. Hughes.

H.R. 3560: Mr. Weiss.

H.R. 3561: Mr. Schiff and Mrs. Meyers of Kansas.

H.R. 3568: Mr. Evans and Mr. Bustamante.

H.R. 3571: Mr. Bustamante, Mr. Ray, and Mr. Zeliff.

H.R. 3583: Mr. Foglietta.

H.R. 3591: Mr. McDermott, Mr. Visclosky, Mr. Shays, Mr. Hyde, Mr. Goss, Mr. Payne of Virginia, Mr. English, Mr. McGrath, Mr. Johnson of South Dakota, Mr. Lewis of Florida, Mr. Dellums, Mr. Towns, Mr. Lancaster, Mr. Horton, Mr. Staggers, Mr. Kolter, Mr. Dwyer of New Jersey, Mr. Sarpalius, Mr. Stenholm, Mrs. Kennelly, Ms. Pelosi, Mr. Upton, Mr. Rose, Mr. AuCoin, Mr. Cardin, and Mr. Foglietta.

H.R. 3592: Mr. Walsh, Mr. Herger, and Mrs. Meyers of Kansas.

H.R. 3599: Mr. Geren of Texas.

H.R. 3601: Mr. Scheuer, Mr. Mazzoli, Mr. Dymally, Mr. Engel, and Mr. Johnson of South Dakota.

H.R. 3605: Mr. McCandless.

H.R. 3619: Mr. Stearns, Mr. Darden, Mr. Conyers, Mr. Derrick, Mr. Jenkins, Mr. Berman, Mr. Feighan, and Mr. Glickman.

H.R. 3620: Ms. Collins of Michigan and Mr. Davis.

H.R. 3627: Mr. de la Garza, Mr. Spratt, Mr. Goss, Mr. Spence, Mr. Boehner, Mr. Luken, Mr. Parker, Mr. Martin, Mr. Hatcher, Mrs. Morella, Mr. Wolf, Mr. Neal of Massachusetts, Mr. Moody, Mr. Skelton, Mrs. Bentley, Mr. Solarz, Mr. Hughes, Mr. Schaefer, Mr. Rose, Mr. Hubbard, . Mr. Payne of Virginia, Mr. Hall of Texas, Mr. Murphy, Mr. Emerson, Mr. Cox of California, Mr. Packard, Mr. McCrery, Mr. DeLay, Mr. Atkins, Mr. Miller of Ohio, Mr. Lewis of California, Mr. Young of Florida, Mr. Yatron, Mr. Guarini, Mr. Lent, and Mr. Santorum.

H.R. 3630: Mr. Herger, Mr. Santorum, Mr. Ballenger, Mr. Gillmor, Mr. Fawell, and Mr. Hyde.

H.R. 3634: Mr. Frost, Mr. Owens of Utah, Mr. Lancaster, Mr. Swett, and Mr. Gilman.

H.R. 3636: Mr. Price, Mr. Boehlert, Mr. Sharp, Mr. McNulty, Mr. Savage, Mr. Blackwell, Mr. Shays, Mr. Gibbons, Mr. Manton, Mr. Coyne, Mr. Sangmeister, Mr. Gordon, Mr. Jacobs, Mr. Green of New York, Mr. Jefferson, and Mr. Kleczka.

H.R. 3639: Mr. Gilman.

H.R. 3661: Ms. Norton, Mr. Kostmayer, Mr. Rogers, and Mr. Flake.

H.R. 3669: Mr. Abercrombie, Mr. Dixon, and Mr. Panetta.

H.R. 3672: Mr. Abercrombie.

H.R. 3677: Mr. de Lugo and Mr. Geren of Texas.

H.R. 3681: Mr. Coyne.

H.R. 3688: Mr. Dicks, Mr. Fascell, and Mr. Markey.

H.R. 3695: Mr. Kostmayer.

H.R. 3699: Mr. LaRocco.

H.R. 3705: Mr. Hastert.

H.R. 3706: Mr. Lancaster and Mr. Bustamante.

H.R. 3718: Mr. Fazio.

H.R. 3726: Mr. Kolter, Mr. Guarini, Mrs. Lloyd, Mr. Jontz, Mr. Lancaster, Mr. Lewis of Florida, and Ms. Kaptur.

H.R. 3732: Mr. Wheat, Mrs. Schroeder, Mr. Wolpe, Mr. Dymally, Mr. Matsui, Mr. Foglietta, Mr. Fuster, Mr. Jontz, Mr. Cox of Illinois, Mr. Price, Mr. DeFazio, Mr. Ford of Tennessee, Mr. Rangel, Ms. Pelosi, Mr. Stark, and Mr. Bacchus.

H.R. 3734: Mr. Goss, Mr. Gallegly, Mr. Armey, Mr. Boehlert, Mr. Zeliff, Mr. Weldon, Mr. McCandless, Mr. Solomon, Mr. Bunning, and Mr. McCrery.

H.R. 3736: Mr. Olin, Mr. Kolter, Mr. Coleman of Texas, Mr. Johnson of South Dakota, Mr. Wilson, Mr. Ramstad, Mr. Poshard, Mr. Camp, Mr. Peterson of Florida, Mr. Young of Florida, and Mr. Evans.

H.R. 3740: Mr. McCandless.

H.R. 3741: Mr. Sisisky, Mr. Shays, Mr. Price, Mrs. Boxer, Mr. Fazio, Mr. Richardson, Mr. Espy, and Mr. Swett.

H.R. 3744: Mr. Ritter, Mr. Dreier of California, Mr. Barton of Texas, Mr. Hutto, Mr. Hancock, Mr. Holloway, Mr. Dornan of California, Mr. Johnson of Texas, Mr. Rhodes, and Mr. Ewing.

H.R. 3752: Mr. Clement, Mr. McHugh, Mr. Fawell, Mr. Lagomarsino, Mr. Owens of Utah, and Mr. Lowery of California.

H.R. 3753: Mr. Frost and Mr. Young of Florida.

H.R. 3756: Mr. Kolter, Mr. Rangel, and Mrs. Meyers of Kansas.

H.R. 3758: Mr. Poshard and Ms. Norton.

H.R. 3774: Mr. Dwyer of New Jersey, Mr. Rogers, Mr. Kolter, Mr. Towns, Mr. Rangel, Mrs. Lloyd, Mr. Jontz, Mr. Huckaby, Mr. Zeliff, Mr. Davis, and Mr. Rahall.

H.R. 3776: Mr. Ackerman, Mr. Annunzio, Mr. Shays, Mr. McGrath, Mr. Manton, and Mr. Hochbrueckner.

H.R. 3777: Mr. Hayes of Louisiana, Mr. Callahan, and Mr. Anthony.

H.R. 3779: Mr. DeFazio and Mr. Sarpalius.

H.R. 3781: Mr. Bunning and Mr. Applegate.

H.R. 3782: Mr. Ackerman, Mr. Horton, Mr. Boucher, Mr. Gordon, Mr. Dellums, Mr. Manton, Mr. Matsui, Mr. Richardson, Mr. Dicks, Mr. Applegate, Mr. Sangmeister, Mr. Olin, Mr. Nowak, Mr. Penny, Mr. Neal of Massachusetts, Ms. Collins of Michigan, Mr. Panetta, Mrs. Kennelly, Mr. Durbin, Mr. Yates, Mr. Cox of Illinois, Mr. Hall of Ohio, Mr. Andrews of Maine, Mr. Atkins, Mr. Skaggs, Mr. Mazzoli, Mr. Dixon, Mr. Lehman of Florida, Mr. DeFazio, Mr. Dorgan of North Dakota, Mr. Jefferson, Mr. Kennedy, Mr. Early, Mr. Sanders, Mr. Hochbrueckner, Ms. Norton, Mr. Kostmayer, Mr. Pallone, Mr. Wolpe, Mr. Sikorski, Mr. Beilenson, Mr. Kopetski, Mr. Borski, Mr. Gejdenson, Mr. Towns, Mr. Bryant, Mr. Abercrombie, Mr. Sabo, Mr. Evans, Mr. AuCoin, and Mr. Johnson of South Dakota.

H.R. 3808: Mr. Dwyer of New Jersey, Mr. Klug, Mr. Guarini, Mr. Mazzoli, Mr. Lipinski, Mr. Dellums, Mr. Camp, Mr. Gallegly, Mr. Valentine, and Mr. Wolf.

H.R. 3809: Mr. Eckart and Mr. Guarini.

H.R. 3836: Mr. Yates.

H.R. 3838: Mr. Clement, Mr. Owens of Utah, Mr. Gradison, Mr. Stark, Mr. AuCoin, Mr. Regula, and Mr. McCandless.

H.R. 3843: Mr. Johnson of South Dakota, Mr. Gunderson, and Mr. Henry.

H.R. 3844: Mr. Oberstar.

H.R. 3845: Mr. Williams, Mr. Panetta, Mr. Traficant, Mrs. Schroeder, Mr. Dellums, Ms. Norton, Mr. Annunzio, and Mr. Owens of New York.

H.R. 3864: Mr. Harris, Mr. Laughlin, and Mr. Boehlert.

H.R. 3869: Mr. Emerson, Mr. Zeliff, Mr. Ballenger, and Mr. Johnson of South Dakota.

H.R. 3876: Mr. Matsui.

H.R. 3886: Ms. Norton and Mr. Horton.

H.R. 3891: Mr. Hyde and Mr. Klug.

H.R. 3904: Mr. Sanders, Mr. Blackwell, Mr. Flake, and Mr. Oberstar.

H.R. 3906: Mr. Johnson of South Dakota.

H.R. 3908: Mr. Evans.

H.R. 3923: Mr. Tauzin and Mr. Ballenger.

H.J. Res. 22: Mr. Smith of Oregon.

H.J. Res. 106: Mr. Livingston.

H.J. Res. 107: Mr. Markey.

H.J. Res. 159: Mr. Roybal, Mr. Kolter, Mr. Studds, Mr. Sisisky, Mr. Wheat, Mr. Poshard, and Mr. Blackwell.

H.J. Res. 271: Mr. Miller of Washington.

H.J. Res. 272: Mr. Camp.

H.J. Res. 318: Mr. Ballenger, Mr. McDermott, Mr. Savage, Mr. Goodling, Mr. Foglietta, Mr. Thomas of Wyoming, and Mr. Neal of Massachusetts.

H.J. Res. 343: Mr. Abercrombie, Mrs. Collins of Michigan, Ms. DeLauro, Mr. Downey, Mr. Edwards of California, Mr. Hyde, Mr. Jacobs, Mr. Jenkins, Ms. Long, Mr. Miller of Washington, Mr. Mineta, Mr. Neal of North Carolina, Ms. Oakar, Mr. Pickett, Mr. Roe, Mr. Rose, Mr. Shays, Mr. Stallings, and Ms. Waters.

H.J. Res. 353: Mr. Atkins, Mr. Bacchus, Mr. Cooper, Mr. Doolittle, Mr. Engel, and Mr. Visclosky.

H.J. Res. 356: Mr. Gekas, Mr. Gunderson, Mr. Spence, Mr. Skeen, Mr. Young of Alaska, Mr. Rogers, Mrs. Bentley, Mr. Carr, Mr. Rohrabacher, Mr. Callahan, Mr. Dornan of California, Mr. Riggs, Mr. Burton of Indiana, Mr. Smith of New Jersey, Mr. Bilirakis, Mr. Crane, Mr. Johnson of South Dakota, Mr. McDade, Mr. Valentine, Mr. Campbell of Colorado, Mr. Cardin, Ms. Molinari, Mr. Gejdenson, Mr. McCloskey, Mr. Solarz, Mr. Levine of California, Ms. Pelosi, Mr. Wyden, Ms. Oakar, Mr. Harris, Mr. Savage, Mr. Geren of Texas, Mr. Flake, Mr. Downey, Mr. Thornton, Mr. Tallon, Mr. Olin, Mr. Moody, Mr. Jones of North Carolina, Mr. Traficant, Mr. Murtha, Mr. Yatron, Mr. Barnard, Mr. Frank of Massachusetts, Mr. Atkins, Mr. Brewster, Ms. Long, Mr. Engel, Mr. Ravenel, Mr. Payne of New Jersey, Mr. Kennedy, Mr. Slattery, Mr. Feighan, Mr. Gibbons, Mr. Green of New York, Mr. Carper, Mr. Rowland, Mr. Luken, Mr. Aspin, Mr. Berman, Mr. Serrano, Mr. Shays, Mr. Owens of Utah, Mrs. Patterson, Mr. Parker, Mr. Oxley, Mr. Neal of Massachusetts, Mr. Smith of Florida, Mr. Bacchus, Mr. McHugh, Mr. Stokes, Mr. Richardson, Mr. Donnelly, Mr. Lantos, Mr. Synar, Mr. Eckart, Mr. Cox of Illinois, Ms. Snowe, Mrs. Lowey of New York, Ms. Slaughter of New York, Mr. Derrick, Mr. Schumer, Mr. Allen, Mr. Fish, Mr. Hammerschmidt, Mr. Hastert, Mr. Lent, Mr. Roberts, Mr. Roth, Mr. Weber, Mr. Weldon, Mr. Ritter, Mr. DeLay, Mr. Ramstad, Mr. Weiss, Mr. Kopetski, Mr. Rose, Ms. Horn, Mr. Blackwell, Mrs. Johnson of Connecticut, Mr. Fuster, Mr. Cramer, Mr. Edwards of California, Mr. Peterson of Florida, Mr. Bustamante, Mr. Skaggs, Mr. Ewing, Mr. Ridge, Mr. Hall of Ohio, Mr. Studds, Mr. Swift, Mr. Volkmer, Mr. Hatcher, Mr. Wise, Mrs. Boxer, Mr. Oberstar, Mr. Hutto, Mr. Perkins, Mr. Anderson, Mr. Barrett, Mr. McCollum, Mr. Packard, Mr. Schaefer, Mr. Shuster, Mr. Solomon, Mr. Gillmor, Mr. Moakley, Mr. Swett, Mr. Leach, Mr. Clinger, Mr. Mineta, Mr. Kasich, Ms. DeLauro, and Mrs. Lloyd.

H.J. Res. 357: Mr. McCandless.

H.J. Res. 363: Mr. Kolter and Mr. Wilson.

H.J. Res. 366: Mr. DeFazio, Mr. Markey, Mr. Kolter, Ms. Norton, and Mr. Traxler.

H.J. Res. 368: Mr. Atkins, Mr. Mineta, Mr. Stark, Mr. Peterson of Florida, Mr. Alexander, Mr. Murtha, Mr. Russo, Mr. Nowak, Mr. Kleczka, Mr. Coleman of Texas, Mr. Dorgan of North Dakota, Mr. Bruce, Mr. Orton, Mr. Brooks, Mr. Kopetski, Mr. Hertel, Mr. Tanner, Mr. Williams, Mr. Geren of Texas, Ms. Horn, Mr. Anthony, Mr. Jefferson, Mr. Hubbard, Mr. Panetta, Mr. Pickle, Mr. Sarpalius, Mr. Bevill, Mr. Lewis of Georgia, Mr. Perkins, Ms. DeLauro, Mr. Gibbons, Mr. Flake, Mr. Durbin, Mr. Gejdenson, Mr. Gephardt, Mr. Dingell, Mr. Rostenkowski, Mr. Matsui, Mr. Cramer, Mr. Price, Mr. Jones of Georgia, Mr. Faleomavaega, Mr. LaRocco, Mr. Manton, Mr. Neal of North Carolina, Mr. Hansen, Mr. Johnson of South Dakota, Ms. Norton, Mr. AuCoin, Mr. Walsh, Mr. Roth, Mr. Owens of New York, Mr. Roe, Mr. Pallone, Mr. Sanders, Mr. Roybal, Mr. Savage, Mr. Saxton, Mr. Scheuer, Mr. Campbell of Colorado, Mr. Fazio, Mr. Slattery, Mr. Leach, Mr. Jontz, Mr. Natcher, Mr. Ortiz, Mr. Sabo, Mr. Wheat, Mr. Bonior, Mr. Mazzoli, Mr. Rose, Mr. Wise, Mr. Brewster, Mr. Staggers, Mr. Kanjorski, Mr. McCloskey, Mr. Hefner, Mr. Ford of Michigan, Mr. Pease, Mr. Dicks, Mr. Clement, Mr. Andrews of Maine, Mr. Evans, Mr. Moody, Mr. Oberstar, Mr. Neal of Massachusetts, Mr. Hutto, Mr. McMillen of Maryland, Mr. Markey, Mr. Moakley, Mr. Guarini, Mr. Darden, Mr. Downey, Mr. Olver, Mr. Skelton, Mr. Moran, Mr. Bacchus, Mr. Edwards of Texas, Mr. Blaz, Mr. Bennett, Mr. DeFazio, Ms. Pelosi, Mr. Sawyer, Mr. McDermott, Mr. Tallon, Mr. Dellums, Mr. de Lugo, Mr. Montgomery, Mr. Dixon, Mr. Pastor, Mr. Blackwell, Mrs. Lloyd, Mr. Ackerman, Mr. Serrano, Mr. Richardson, Mr. Dornan of California, Mr. Kennedy, Mr. Reed, Mr. Cox of Illinois, Mr. Swift, Mr. Glickman, Mr. Green of New York, Mr. Bustamante, Mr. Lehman of Florida, Mr. de la Garza, Mr. Stallings, Mr. Ravenel, Mr. Studds, Mr. Roberts, Mr. McNulty, Mrs. Schroeder, Mr. Roemer, Mr. Anderson, Mr. Browder, Mr. Eckart, Mr. Taylor of Mississippi, Mr. Poshard, Mr. Skeen, Mr. Taylor of North Carolina, Mr. Traficant, Mr. Thomas of Georgia, Mr. Volkmer, Mr. Synar, Mr. Edwards of California, Mr. Hoyer, Mr. Bilirakis, Mr. Engel, Mr. Mfume, Mr. Bryant, Mr. Miller of California, Mr. Swett, Mr. Aspin, Mr. Sisisky, Mr. Costello, Mr. Stenholm, Mr. Whitten, Mr. Condit, Mr. Martin, Mr. Beilenson, Mr. Hochbrueckner, Mr. Rogers, Mr. McHugh, Mr. Inhofe, Mr. Solarz, Mrs. Vucanovich, Mr. Smith of New Jersey, Mrs. Bentley, Mr. LaFalce, Mr. Morrison, Mr. Thornton, Mr. Hyde, Mr. Foglietta, Mr. Carper, Ms. Molinari, Mr. Nagle, Mr. Young of Florida, Mr. Mavroules, Mr. Rahall, Mr. Bliley, Mr. Vento, Mr. Washington, Mr. Frank of Massachusetts, Mr. Lancaster, Mr. Rowland, Mr. Gordon, Mrs. Collins of Illinois, Mrs. Lowey of New York, Mr. Berman, Mr. Spratt, Mrs. Boxer, Mr. Lehman of California, Mr. Dooley, Mr. Visclosky, Mr. Horton, Mr. Kolbe, Mr. Carr, Mr. Owens of Utah, Mr. Waxman, Ms. Slaughter of New York, Mr. Wilson, Mr. Smith of Florida, Mr. Laughlin, Mr. Andrews of New Jersey, Mr. Murphy, Mr. Dymally, Mr. Jones of North Carolina, Mr. Hayes of Illinois, Mr. Lipinski, Ms. Collins of Michigan, Mr. Torricelli, Mr. Conyers, Mr. Dwyer of New Jersey, Mrs. Byron, Mr. Gilman, Mr. Hamilton, Mr. Crane, Mr. Kildee, Mr. Wolpe, Ms. Kaptur, Ms. Waters, Mr. Ramstad, Mr. Weber, Mr. Hall of Ohio, Mr. Gilchrest, Mr. Hall of Texas, Mr. Rhodes, Ms. Oakar, Mr. Obey, Mr. Boucher, Mr. Camp, and Mr. Paxon.

H.J. Res. 375: Mr. Bereuter and Mr. Blaz.

H. Con. Res. 11: Mr. Swett.

H. Con. Res. 104: Mr. Hall of Ohio, Mr. Emerson, Mr. Ravenel, Mr. Horton, Mr. Vander Jagt, Mr. Martinez, and Mr. Edwards of Oklahoma.

H. Con. Res. 145: Mr. Yates.

H. Con. Res. 156: Mr. Burton of Indiana, Mr. Dymally, Mrs. Meyers of Kansas, and Mr. Jones of Georgia.

H. Con. Res. 180: Mr. Levine of California.

H. Con. Res. 182: Mr. Lent.

H. Con. Res. 192: Mr. Vander Jagt, Mr. Shaw, Mr. Russo, Mr. Goss, Mr. Owens of Utah, Mr. Rhodes, Mr. Boehlert, Mr. Martinez, Mrs. Vucanovich, Mr. Hammerschmidt, Mr. Paxon, Mr. Geren of Texas, and Mr. Dorgan of North Dakota.

H. Con. Res. 210: Mr. Crane.

H. Con. Res. 211: Mr. Taylor of Mississippi, Mr. McDade, Mr. Schumer, and Mr. Downey.

H. Con. Res. 212: Mr. Paxon, Mr. Murphy, Mr. Wolf, Mr. Shays, Mr. Kyl, Mr. Levin of Michigan, Mr. Young of Florida, Mr. Smith of New Jersey, Mr. Schaefer, Mr. Solomon, Mr. Kostmayer, Mr. Levine of California, Mr. Pursell, and Mr. Zeliff.

H. Con. Res. 215: Mr. Kopetski.

H. Con. Res. 220: Mr. Scheuer, Mr. Dellums, Mr. Smith of Florida, Mr. Owens of New York, Mr. Flake, Mr. Towns, Mr. Dymally, Mr. Payne of New Jersey, Mr. Lehman of Florida, Mr. de Lugo, Mr. Mfume, Mr. Fuster, Ms. Norton, Mr. Kostmayer, Mr. Ackerman, Mr. Foglietta, Mr. Serrano, Mr. Kennedy, Mrs. Lowey of New York, Mrs. Collins of Michigan, Mr. Weiss, Mr. Dixon, Mr. Jones of Georgia, Mrs. Kennelly, and Mr. Levine of California.

H. Con. Res. 222: Mr. Solomon.

H. Con. Res. 223: Mr. Bateman, Mr. Bruce, Mr. Burton of Indiana, Mr. DeFazio, Mr. Emerson, Mr. Feighan, Mr. Fuster, Mr. Gallegly, Mr. Gejdenson, Mr. Green of New York, Mr. Horton, Mr. Jones of Georgia, Mrs. Lowey of New York, Mr. Paxon, Mr. Serrano, Mr. Waxman, and Mr. Weiss.

H. Con. Res. 224: Mr. Ramstad, Mr. Zeliff, Mr. Paxon, Mr. Shays, Mr. Hutto, Mr. Nussle, Mr. Young of Florida, and Mrs. Meyers of Kansas.

H. Con. Res. 229: Mr. Lagomarsino, Mrs. Vucanovich, Mr. Hefley, Mr. Doolittle, and Mr. Smith of Oregon.

H. Con. Res. 232: Mr. Engel, Mr. Bustamante, Mr. Weiss, Mr. Lent, and Mr. Jontz.

H. Con. Res. 233: Mr. Regula, Mr. Applegate, Mr. Kyl, Mr. Davis, Mr. Zeliff, Mr. Ramstad, and Mr. Bilirakis.

H. Con. Res. 235: Mr. Dixon and Mr. Zeliff.

H. Con. Res. 236: Mr. Engel, Mr. Guarini, Mr. Packard, Mr. Walsh, Mr. Camp, Mr. Zeliff, Mr. Bustamante, Mr. Lancaster, Mrs. Morella, Mr. Gallegly, Mr. Fawell, Mr. Abercrombie, Mr. Mavroules, and Mr. Livingston.

H. Con. Res. 244: Mr. Ackerman, Mr. Blaz, Mr. Gonzalez, Mr. Engel, Ms. Norton, Mr. Hochbrueckner, Mr. Towns, and Mr. Stark.

H. Res. 107: Mr. Klug.

H. Res. 130: Mr. WOLPE, Mr. EVANS, and Mr. DWYER of New Jersey.

H. Res. 161: Mr. UPTON.

H. Res. 194: Mr. ANNUNZIO, Mr. MOLLOHAN, Mr. DE LUGO, and Mr. BUSTAMANTE.

H. Res. 205: Mr. REED.

H. Res. 215: Mr. GALLEGLY and Mr. MILLER of Washington.

H. Res. 222: Mr. SLATTERY.

H. Res. 233: Mr. KLUG, Mr. ZELIFF, and Mr. PALLONE.

H. Res. 234: Mr. TRAFICANT, Mrs. KENNELLY, Mr. SMITH of Florida, Mr. ANDREWS of Maine, Mr. LENT, Mr. LANCASTER, Mr. BUSTAMANTE, and Ms. SNOWE.

H. Res. 237: Mr. MILLER of California, Mr. HUBBARD, and Mr. WEISS.

H. Res. 263: Mr. LEWIS of Florida, Ms. NORTON, Mrs. BOXER, Mr. PAXON, and Mrs. MEYERS of Kansas.

H. Res. 272: Mr. JONTZ, Mr. DE LUGO, Ms. NORTON, Mr. POSHARD, Mr. GUARINI, and Mr. EVANS.

H. Res. 276: Mr. BALLENGER, Mr. LEWIS of Florida, Mr. PORTER, Mr. HEFLEY, Mr. SOLOMON, Mr. MOORHEAD, Mr. ZELIFF, Mr. LENT, Mr. POSHARD, Mr. SHAYS, Mr. FAWELL, and Mr. KLUG.

H. Res. 293: Mr. ATKINS, Mr. DOOLEY, Mr. SOLOMON, Mr. ROEMER, Mr. GOODLING, Mr. STUMP, Mrs. BENTLEY, Mr. YOUNG of Florida, Mr. QUILLEN, Mr. WHITTEN, Mr. VALENTINE, Mr. SKELTON, Mr. SISISKY, Mr. SHAW, Ms. NORTON, Mr. ROHRABACHER, Mr. CLEMENT, Mr. MOODY, Mr. ORTIZ, Mr. OBERSTAR, Mr. HUTTO, Mr. OLVER, Mr. BACCHUS, Mr. TALLON, Mr. PASTOR, Mr. CAMPBELL of California, Mr. CRANE, Mr. RIDGE, Mr. LIVINGSTON, Mr. SKEEN, Mr. KYL, Mr. MACHTLEY, Mr. KILDEE, Mr. TAYLOR of Mississippi, Mr. DELLUMS, Mr. KENNEDY, Mr. NEAL of North Carolina, Mr. JOHNSON of South Dakota, Mr. PACKARD, Mr. SAVAGE, Mr. FOGLIETTA, Mr. HYDE, Mr. DARDEN, Mr. BUSTAMANTE, Mr. RIGGS, Mr. WOLPE, Mr. TRAFICANT, Mr. YATES, Mr. MILLER of Washington, Mr. DE LUGO, Mr. SMITH of Oregon, Mr. DORNAN of California, Mr. SLATTERY, Mr. MCCLOSKEY, Mr. YOUNG of Alaska, Mr. HANSEN, Mr. RAVENEL, Mrs. MINK, Mr. LANCASTER, Mr. WEISS, Mr. VANDER JAOT, Mr. MYERS of Indiana, Mr. MILLER of California, Mr. MARTIN, Mr. MANTON, Mr. MCNULTY, Mrs. LLOYD, Mr. LEWIS of California, Mr. KASICH, Mr. JONES of Georgia, Mr. IRELAND, Mr. HOUGHTON, Mr. HARRIS, Mr. HAMMERSCHMIDT, Mr. GONZALEZ, Mr. GIBBONS, Mr. GALLEGLY, Mr. FRANK of Massachusetts, Mr. ESPY, Mr. DICKINSON, Mr. PURSELL, Mr. GRADISON, Mr. LEWIS of Florida, Mr. ROTH, Mr. WILSON, Mr. TORRES, Mr. VOLKMER, Mr. GUARINI, Mr. HUGHES, Mr. CONYERS, Mr. ROSE, Mrs. COLLINS of Illinois, Mr. OWENS of New York, Mr. SANDERS, Mr. MATSUI, Mr. STARK, Mr. CLINGER, Mr. NICHOLS, Mr. LIGHTFOOT, Mr. RICHARDSON, Mr. CLAY, Mrs. LOWEY of New York, Mr. MAVROULES, Mr. STOKES, Mr. YATRON, Mr. MURPHY, Mr. ANDERSON, Mr. EMERSON, Mr. THORNTON, Mr. RHODES, Mr. GEKAS, Mr. COX of California, Mr. SABO, Mr. MOORHEAD, Mr. BREWSTER, Mr. PORTER, Mr. ECKART, Mr. SPRATT, Mr. OWENS of Utah, Mr. NOWAK, Mr. ANDREWS of New Jersey, Mr. DYMALLY, Mr. SARPALIUS, Mr. PANETTA, Mr. BROWDER, Mr. FEIGHAN, Mr. SCHUMER, Mr. HOYER, Mr. ACKERMAN, Mr. CAMPBELL of Colorado, Mr. ZELIFF, Mr. GOSS, Mr. APPLEGATE, Ms. LONG, Mr. COX of Illinois, and Mr. DIXON.

H. Res. 296: Mr. RAMSTAD, Mr. SHAYS, and Mr. SANTORUM.

H. Res. 297: Mr. GUARINI, Mrs. COLLINS of Michigan, Ms. KAPTUR, Mr. FEIGHAN, Mr. ROTH, Mr. OXLEY, Mr. KLECZKA, Mr. KOSTMAYER, Mr. MARKEY, Mr. LEVIN of Michigan, Mr. MOLLOHAN, Mr. KASICH, Ms. OAKAR, Mr. MAVROULES, Mr. ZELIFF, Mr. COSTELLO, Mr. EVANS, Mr. KANJORSKI, Mr. MCMILLAN of North Carolina, and Mr. HOYER.

H. Res. 302: Mr. JONTZ and Mr. MCCLOSKEY.

[Submitted November 27, 1991]

H.R. 12: Mr. MINETA.

H.R. 25: Mr. OLVER and Mr. PICKLE.

H.R. 81: Mr. MARTINEZ.

H.R. 123: Mr. WHITTEN.

H.R. 246: Mr. LENT.

H.R. 353: Mr. ALLEN.

H.R. 840: Mr. DARDEN and Mr. MINETA.

H.R. 1277: Mr. MCNULTY, Mr. OLVER, and Mr. COLEMAN of Texas.

H.R. 1473: Mr. DIXON, Mr. MORRISON, and Mr. ESPY.

H.R. 1485: Mr. SUNDQUIST, Mr. PICKETT, Mr. GILCHREST, Mr. DELLUMS, Mr. PETERSON of Minnesota, and Mr. ZELIFF.

H.R. 1490: Mr. LIVINGSTON.

H.R. 1692: Mr. SAVAGE.

H.R. 1745: Mr. RIGGS.

H.R. 1930: Mr. SCHIFF.

H.R. 2002: Mr. HAYES of Louisiana.

H.R. 2075: Mr. FISH.

H.R. 2164: Mr. MCMILLAN of North Carolina.

H.R. 2223: Mr. PETERSON of Minnesota.

H.R. 2363: Mr. MAZZOLI and Mr. MCMILLAN of North Carolina.

H.R. 2448: Mr. TRAXLER.

H.R. 2561: Mr. YATES, Mr. ANNUNZIO, Ms. KAPTUR, Mr. KLECZKA, Mr. RICHARDSON, and Mr. LIPINSKI.

H.R. 2598: Mr. MORRISON, Mr. SERRANO, and Mr. MANTON.

H.R. 2695: Mr. YOUNG of Florida.

H.R. 2721: Mr. COLEMAN of Texas.

H.R. 2776: Mr. MARTINEZ, Mr. SKEEN, Mr. GOODLING, and Mr. GONZALEZ.

H.R. 2880: Mr. FEIGHAN.

H.R. 2895: Mr. HAYES of Louisiana.

H.R. 2923: Mr. FEIGHAN.

H.R. 3030: Mr. GILMAN.

H.R. 3056: Mr. WEISS, Mr. JOHNSON of South Dakota, Ms. NORTON, and Mr. TOWNS.

H.R. 3058: Mrs. PATTERSON.

H.R. 3059: Mrs. PATTERSON.

H.R. 3128: Mr. BARTON of Texas and Mr. MOORHEAD.

H.R. 3130: Mr. RINALDO.

H.R. 3132: Mr. WELDON.

H.R. 3198: Mr. BOEHLERT, Mr. MCEWEN, Mr. COMBEST, Mr. HORTON, and Mr. FRANKS of Connecticut.

H.R. 3202: Mr. CAMPBELL of Colorado.

H.R. 3221: Mr. COLEMAN of Missouri.

H.R. 3429: Ms. PELOSI and Mr. YATES.

H.R. 3454: Mr. BURTON of Indiana.

H.R. 3471: Mr. ZELIFF, Mr. HOBSON, and Mr. BOEHNER.

H.R. 3486: Mr. PANETTA, Mr. FALEOMAVAEGA, Mr. MARTINEZ, and Ms. NORTON.

H.R. 3511: Mr. WEISS.

H.R. 3515: Mr. HATCHER and Mr. VANDER JAGT.

H.R. 3553: Mr. MCDERMOTT, Mr. RANGEL, and Ms. KAPTUR.

H.R. 3627: Mr. BUSTAMANTE, Mr. LEHMAN of Florida, Ms. ROS-LEHTINEN, Mr. CHAPMAN, Ms. OAKAR, Mr. ANDERSON, Mr. DWYER of New Jersey, Mr. PANETTA, Mr. COYNE, Ms. HORN, Mr. MANTON, Mr. TOWNS, Mr. FOGLIETTA, Mr. ANDREWS of New Jersey, Mr. ROEMER, Mr. DYMALLY, Mr. BRUCE, Mr. HOBSON, Mr. MCCANDLESS, Mr. ALLARD, Mr. MILLER of Washington, Mr. BATEMAN, Mr. ZELIFF, Mr. KLUG, Mr. CARR, Mr. MYERS of Indiana, Mr. MURTHA, Mr. MCDADE, Mr. WHITTEN, Mr. MFUME, Mr. PURSELL, Mr. HENRY, Mr. DOOLITTLE, Mr. CAMP, Mr. SHUSTER, Mr. GALLEGLY, Mr. SHAW, Mr. BLILEY, Mrs. ROUKEMA, Mr. MCEWEN, Mr. MCCOLLUM, Mr. BARTON of Texas, Mr. RAVENEL, Mr. HEFNER, Mr. ROWLAND, Mr. EDWARDS of California, Mr. DICKS, Mr. SAXTON, Mr. CUNNINGHAM, Mr. HALL of Ohio, Mr. MORRISON, Mr. HAYES of Louisiana, Mr. ROBERTS, Mr. ROHRABACHER, Mr. MCGRATH, Mr. MICHEL, Mr. ERDREICH, Mr. HARRIS, Mr. MINETA, Mr. BRYANT, Mr. FEIGHAN, Mr. MCCURDY, Mr. OLIN, Mr. PENNY, Mr. PRICE, Mr. FISH, and Mr. BEVILL.

H.R. 3636: Mr. JONES of North Carolina.

H.R. 3639: Mr. SMITH of New Jersey.

H.R. 3702: Mr. WISE, Mr. HUGHES, Mr. LANCASTER, Mrs. PATTERSON, and Mr. FORD of Michigan.

H.R. 3724: Mr. CAMPBELL of Colorado.

H.R. 3725: Mr. KLUG.

H.R. 3763: Mr. BERMAN.

H.R. 3825: Mr. ROGERS, Mr. ZELIFF, Mr. GUARINI, Mr. HORTON, Mr. ESPY, Mr. VALENTINE, Mr. ROWLAND, Mr. WELDON, Mr. GUNDERSON, Mr. JONES of North Carolina, Mr. LIPINSKI, and Mr. MORRISON.

H.R. 3838: Mr. BOEHLERT, Mr. THOMAS of California, Mr. JONTZ, Mr. LEHMAN of Florida, Mr. CRAMER, Mr. MAVROULES, Mr. CAMPBELL of Colorado, and Mr. ANDREWS of Texas.

H.R. 3844: Ms. PELOSI.

H.R. 3848: Mr. ENGEL, Mr. GEREN of Texas, and Mr. NAGLE.

H.R. 3875: Mr. ACKERMAN.

H.R. 3886: Mr. RANGEL.

H.R. 3904: Mr. KENNEDY, Mr. ROWLAND, Mr. LIPINSKI, and Ms. KAPTUR.

H.R. 3975: Mr. LEVINE of California, and Mr. FAZIO.

H.R. 3981: Mr. PANETTA, Mr. LIPINSKI, Mr. FISH, Mr. PAYNE of Virginia, Mr. RITTER, and Mr. JENKINS.

H.R. 4040: Mr. TAUZIN, Mr. LAGOMARSINO, and Mr. RINALDO.

H.J. Res. 293: Mr. ENGEL, Mr. DICKINSON, Mr. BARRETT, Mr. TRAFICANT, Mr. ABERCROMBIE, and Mr. BLAZ.

H.J. Res. 318: Mr. CONYERS.

H.J. Res. 343: Mr. KOPETSKI, Mr. LENT, Mr. LOWERY of California, Mr. MOORHEAD, Mr. PANETTA, and Mr. WISE.

H.J. Res. 369: Mr. OWENS of Utah, Mr. COLEMAN of Texas, Mr. MCMILLEN of Maryland, Mr. EDWARDS of Texas, Mr. YOUNG of Alaska, Mr. HANCOCK, Mr. CHAPMAN, Mr. ZELIFF, Mr. CAMP, Mr. GEREN of Texas, Mr. THOMAS of Georgia, Mr. BUNNING, Mr. SARPALIUS, Mr. LUKEN, Mr. LANCASTER, and Mr. MACHTLEY.

H.J. Res. 372: Mr. DEFAZIO and Mr. HANSEN.

H. Con. Res. 180: Mr. WOLPE, Mr. MFUME, and Mrs. MEYERS of Kansas.

H. Con. Res. 192: Mr. MCMILLAN of North Carolina.

H. Con. Res. 212: Mr. MOORHEAD, Mr. QUILLEN, Mr. JACOBS, Mr. PETERSON of Minnesota, Mr. MARTINEZ, and Mr. HUGHES.

H. Con. Res. 224: Mr. OBERSTAR, Mrs. JOHNSON of Connecticut, and Mr. SANGMEISTER.

H. Con. Res. 233: Mr. FAWELL and Mr. LIPINSKI.

H. Res. 17: Mr. SHAYS and Mr. GOSS.

H. Res. 26: Mr. ROGERS, Mr. GILCHREST, Mr. KOLTER, and Mr. SCHAEFER.

H. Res. 296: Mr. OBERSTAR, Mr. FROST, and Ms. PELOSI.

H. Res. 302: Mr. JACOBS, Mr. LIPINSKI, Ms. KAPTUR, and Mr. HAMILTON.

H. Res. 311: Mr. PENNY and Mr. SWETT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of November 25, 1991]

H.R. 2824: Mr. HARRIS.

[Submitted November 26, 1991]

H.R. 585: Mr. OLIN.

H.R. 1572: Mr. MACHTLEY.

H.R. 2540: Mr. DEFAZIO.

H.R. 2797: Mr. HANCOCK, Mr. VOLKMER, and Mr. EMERSON.

H.R. 2824: Mr. LANCASTER.

H.R. 3816: Mr. DICKS.

H. Con. Res. 210: Mr. SMITH of Florida.

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EXTENSIONS OF REMARKS

CRIME FORUM DEMONSTRATES CONCERN OF THE COMMUNITY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, recently, the number of homicides in my home county of Prince Georges surpassed the previous record. The number of murders and other serious crimes in Prince Georges County and the rest of the area is rapidly increasing.

This state of affairs is intolerable. Innocent citizens are afraid to walk the streets in many neighborhoods in Prince Georges County, in Washington, DC, and elsewhere. We must work hard to fight crime, and each community must work together to demonstrate that crime will not be tolerated. Mr. Speaker, we must all get up together and, as news anchorman Howard Beale said in the academy-award-winning film "Network", "I'm mad as hell and I'm not gonna take it anymore."

On Monday, my home county newspaper, the Prince Georges Journal, ran a full page of editorial comment on the crime wave. Besides a thoughtful editorial, the newspaper ran four articles under the headline, "What Can Be Done To Stop the Killing?"

At this point, Mr. Speaker, I would like to place in the RECORD the newspaper's editorial and two of the four articles, by the county's police chief, David Mitchell, and Dennis Sullivan, a criminologist at Prince Georges Community College.

I would like to place these articles in the RECORD. I hope my colleagues will read them thoughtfully, and we can continue to work together to fight the crime wave in this area and in our country.

The articles follow:

NOTHING BUT SHAME FOLLOWS THIS RECORD

The record nobody wanted broken has been broken. The morbid death watch is over.

With several weeks still to go, 1991 is officially the most murderous year in county history. More people have been murdered in the county this year than in any previous year.

This frightful development raises all sorts of questions. Why all the murders? When will they end? What can we do to stop them?

We don't have the answers to these questions. Maybe nobody does. But to get some insight into what is going on, we asked four people to comment on the current wave of violence.

The four people include the county's chief of police, a local sociologist and criminologist, a mother of three young children who operates a nursery school and after-school care program in Suitland, and a lifelong county resident who recently moved to the West Coast in order to escape the violence.

There comments, printed below, are instructive. While a diverse lot, their themes were remarkably similar.

When they wrote about the causes of violence, they wrote about the numbing, desensitizing effect of violent television programs and movies, especially on young people. When writing about the solutions, they wrote about boosting self-esteem. And most remarkably, all cited a crumbling family structure as a reason behind the violent trend—and, conversely, they pointed to stronger family ties as a key to turning the trend around.

Read their remarks. Consider what they have to say. Perhaps, together, all of us can make sure we never again must endure such a murderous year.

BANDING TOGETHER TO HALT VIOLENCE

(By David Mitchell)

Those of us who chose law enforcement as a career feel very strongly about protecting people's lives. Indeed, we think of ourselves as the public's protectors. To us, police work is not just a job. It is an opportunity to make a very important, meaningful contribution to society, and to be there for terrified victims in their hour of greatest need.

Although, as chief of police, I no longer routinely respond to calls, I still feel the same personal responsibility that most of our street officers feel. In some ways, I probably feel it even more. That is why the rising tide of violence in our county, indeed our entire nation, troubles me deeply.

The trend toward greater violence has been going on for several years, and during that time there was convincing evidence that it resulted from the drug trade. However, we are now seeing results from our efforts to deter drug abuse and its related crime. Fewer new inmates are testing positive for drug use, fewer overdoses are being reported at hospital emergency rooms, and homicide detectives are finding fewer murders motivated by drugs. Yet surprisingly, the violence continues to escalate.

The continuing violence results from a combination of factors: a general weakening of family and social values; an increasing acceptance of violence as a viable means of resolving conflict; and a desensitizing familiarity with violence resulting from violence-filled movies and television, graphic media reports of true crime, and our own personal experiences.

When coupled with a perceived inability of the criminal justice system to enforce society's rules and a frightening proliferation of handguns and assault weapons, the result is a national violence epidemic.

I believe the epidemic can be cured. But the police cannot do it alone.

Our overflowing court dockets, crowded prisons, and unmanageably high number of parole and probation cases result primarily from the arrests generated by the police. Simply increasing traditional police enforcement, therefore, will have no benefit.

That's why alternative police strategies are essential. In Prince George's County, we have adopted one such alternative, community-oriented policing, as the cornerstone of our future delivery of police service. Under this approach, our department will take an active role in motivating and assisting the community to apply problem-oriented solutions to crime's causes.

Other strategies must also be applied, including many that do not directly involve the police.

Our state and national governments must find a way to prevent dangerous weaponry from falling into the hands of teen-agers, known criminals, and emotionally unstable individuals.

Our entertainment industry must stop glorifying violence as a solution to problems, even in situations where violence might technically be justified.

And all of us must teach our young people—and remind ourselves—that the consequences of violence are real, that the victims portrayed on the evening news are real people with real families, and that they are truly suffering.

Sit down with your children tonight and discuss the seriousness of the problem. Consider joining your local Neighborhood Watch group, and if you witness a crime or have valuable information, please come forward. At the very least, report what you know to our anonymous Crime Solvers phone number: 735-1111.

There is hope. Together we can do something. We must do something.

(David Mitchell is the Prince George's County Police Chief.)

SOCIAL FACTORS BEHIND CRIME

(By Dennis Sullivan)

What makes some people become criminals and some engineers?

An environment marked by poverty and pervasive and chronic unemployment will produce extreme resentment, frustration and hostility. On top of this, the lack of security and stability that comes with the absence of a cohesive family structure makes it difficult to develop strong self-esteem and a sense of worthiness.

Still, considering that most of the disenfranchised do not become criminals, it would be reasonable to examine the factors that explain why some do.

Chief among these variables is instantaneous communication. A typical youngster today sees 20,000 fake murders and assaults, assorted other violence and, in general, decadence and degradation—all in the guise of "art."

If the decline of reading scores the last 25 years is any indication, television certainly is a factor in suffocating imagination and creativity. The ability to think clearly and logically is developed through hard work and determination. Children are conditionable. We are manufacturing criminals through a system that postures as "free," and the results are laid bare in your daily newspaper.

Then there is the problem of high expectations, a concept that has reached its apotheosis in America. Our society presents goals such as wealth and suggests that everyone could and should attain them. Yet society does not make these goals equally available, so those unable to attain them by legitimate means may be driven to use illegitimate means.

The desire to reach these goals through any means available helps explain vicious and brutal behavior, especially on the part of young people.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The number and quality of jobs available in lower and working class communities is a consistent influence on the crime rate.

To be without work, to be unable to take advantage of an opportunity when it comes along, to not possess the skill necessary to handle the job is a humiliation that is conveyed to the children of the individual—and often the children of the next generation. We need to make a commitment toward permanent employment that has the intensity and dedication used to win World War II.

Throughout history, the fundamental changes in societies have come not from the dictates of governments and the results of battles but through vast numbers of people changing their minds—sometimes only a little bit.

(Dennis Sullivan is a sociologist and criminologist who teaches at Prince Georges Community College.)

RALPH VINCENT WHITE NOTED ARCHIVIST OF BLACK HISTORY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. Ralph Vincent White is not just an archivist of black history, he has helped to shape it. In September 4, 1944, Mr. White and four others were sworn in as Miami's first black policemen. The Miami Herald recently featured a story about Mr. White's rich experiences by staff writer Quentin L. Howard. That article follows:

Black archivist Ralph Vincent White has done more than chronicle black history in Dade County, he has made it.

"I get a kick out of telling the young and old our county's history because the stories are sentimental and motivating," said White, 75.

A Dade resident since 1935, White was one of the city of Miami's first five black police officers and one of its first black detectives.

"Our appointment as policemen made a major breakthrough for blacks around the county. Finally, we got our chance to prove that blacks could do practically anything if given the opportunity," he said.

White, a resident of Coral Gables by the Sea, retired from Miami's police force in 1976. Today, he spends much of his spare time counseling youths on law enforcement at Westview Elementary School.

White, also is a trustee for the Black Archives History and Research Foundation of South Florida, which will honor him at a luncheon at 11 a.m. Saturday at Joseph Caleb Center.

Dorothy Jenkins Fields, founder and chief archivist of the Black Archives, said White will receive the organization's Founders award, its most prestigious honor.

"He is one of our most faithful members, who leads the list of names that cares for our community," Fields said "He is a legend in his own time for his achievement and efforts."

White, a Jacksonville native, moved to Dade County in 1935.

In 1944, black activist Bishop John Culmer, for whom Miami's Culmer section is named, and dentist Ira Davis convinced Miami's City Commission to give blacks the opportunity to become police officers.

The commission asked World War I hero Capt. James E. Scott to recruit blacks to train secretly for the police jobs.

"Back then we had to train in secret in fear that whites would try to stop us from becoming policemen. We even had to keep our whereabouts secret from our wives," White said.

The five men trained at a Liberty City housing project, now the James E. Scott projects.

The other four black trainees were John Milledge, the first black police officer killed in the line of duty, the late Moody Hall, the late Clyde Lee and Edward Kimball.

On Sept. 4, 1944, the five were sworn in as Miami patrolmen.

"Thousands came out to see us sworn in, I was deeply touched," White said.

But their duties were limited.

"We were called patrolmen and we didn't have the authority white officers had. We couldn't even book white offenders. We could only detain them until white officers came to put them under arrest," White recalled.

As years passed, more blacks became police officers. In 1950, White and Ernest Hayes became Miami's first black detectives.

In the early 1960s, White and fellow black police officers fought for the right to become members of the Police Benevolent association, and asked the City Commission to let blacks train in the then all-white police academy.

In 1964, former Miami Police Chief Clarence Dixon was the first black graduate of the academy.

"Clarence's accomplishment let us know that our protesting wasn't in vain," White said.

In addition to his police work, White was manager and treasurer of St. James A.M.E. Church Savings and Loan from 1957 to 1989.

White, a member of St. James since the 1940s, was the savings and loan company's first manager and treasurer.

White credits much of his success to his family. His wife, Josephine Hamar White, recently retired from Perrine Elementary School after teaching 35 years in Dade Public Schools. The couple have three grown children; Shannon, 40, a social worker; Ralph Jr., 38, an insurance executive; and Avis, 36, a professor at the University of Florida.

"I don't know if I would have made it without my family's support," White said.

Mr. Speaker, I would like to commend Mr. White's leadership. His courage to become a police officer back in 1944, when many obstacles stood in his way, paved the path for many others. I wish him much success as he continues to tell the story of this important part of American history.

BROOKLAWN TEAM WINS AMERICAN LEGION BASEBALL WORLD SERIES

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to recognize the team from Brooklawn, NJ for winning the American Legion Baseball World Series. The 19 members of the team are a source of great pride to my district. I would like to include in the RECORD the names of the players and coaches of the team, as well as the text of an article from the South Jersey Courier Post.

1991 BROOKLAWN AMERICAN LEGION BASEBALL TEAM

Samuel Joseph Blocklinger.
Kevin Lee Cunane.
Kevin Fahy.
Eric Michael Filipek.
Derek Steven Forchic.
Michael Carl Harris.
Scott Michael Lavender.
Brett William Laxton.
John David Mader.
Jeffrey Manuola.
Ray Miller.
Michael Thomas Moriarty.
Brian McGettigan.
Brian Michael Obermeier.
Mario Olsen.
Thomas Edward Porch.
Nicholas Michael Rizzo.
Ronald William Trabosh.
Bryan Scott Wilson.

COACHES

Joe Barth, Sr.—Manager.
Joe Barth, Jr.
Dennis Barth.
Robert Barth.
Michael Mevoli—Mayor.

BROOKLAWN IS NATIONAL CHAMPION

(By Christopher Jones)

BOYERTOWN, PA.—It took 40 years but Joe Barth, Sr., and his Brooklawn baseball team finally won its first American Legion baseball national championship.

Brooklawn scored four runs in the sixth inning to ease a 3-0 deficit, and Scott Lavender hurled 6⅔ innings of two-hit relief en route to a 5-3 win over Newark, Ohio in the American Legion World Series final Sunday night at Bear Stadium.

"This is the greatest feeling in the world," said coach Joe Barth, Jr. "I'm just so happy for my dad. I didn't think this would ever happen. My dad has put so much time and so much money into this team, but it has been worth it."

"This makes up for 40 years of hardship," said Barth, Sr.

Brooklawn, 54-10-2 and the New Jersey Champion, started the game-winning rally when Mike Harris reached base to lead off the sixth after getting hit by a pitch. After Mike Morarity flew out, Kevin Cunane (2-for-3) walked and Lavender was hit by a pitch to load the bases. John Mader followed with a bloop single to score Harris, cutting the deficit to 3-1.

When Brett Laxton walked to force in a run, Newark Pitcher Troy Hupp was lifted by Manager Dave Froelich, who opted to bring in reliever Brad Hostetter.

Hostetter walked Jeff Manuolato to score Lavender, the winning pitcher, with the tying run before Derek Forchie walked to force the winning run.

Brooklawn added an insurance run in the seventh when Moriarity, who led off the inning with a single, scored on an error.

"These kids are a tough group of kids," said Barth, whose team defeated Newark 3-1 in it first game of the World Series behind the complete-game pitching of Lavender.

"It took a while for me to get in a groove this time," said Lavender, who went 20 with a 0.40 ERA in the regional and national competition. "But I knew we were going to come back. We were too hungry and wanted it too badly."

Brooklawn, whose previous best finish was national runner-up in 1984, got the most of its six hits and a combined five-hit performance by Laxton and Lavender.

"I was shook when we got down, 3-0, but I thought we would come back," said Barth Jr. "Our defense kept bailing out Laxton or it would have been worse. He was struggling so I had to make a move."

"I probably should have started Lavender, but we were worried that they would catch up to him after seeing him before. When I brought him in, all I expected was for him to keep us in the game. But he's a tough kid, and he did a lot more than that. He did a great job."

Newark, which finished 64-15 after its first trip to the Legion World Series, scored two runs off Laxton, due to three Brooklawn errors, to take a 2-0 lead before Laxton was replaced by Lavender.

Newark, a 10-7 winner over Gonzalez, La, in the afternoon semifinal game, got another run in the fifth on a lead-off home run by Ryan Beeney, the American Legion Player of the Year, before Brooklawn made its game-winning comeback.

Barth Sr. and coaches Barth Jr., Dennis Barth and Mike Mevoli received the tournament's Jack Williams Leadership Award while Lavender, Harris and Mader were named to the all-tournament team.

TRIBUTE TO GIRARD HIGH SCHOOL FOOTBALL INDIANS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to a determined and hard working football team in my 17th District in Ohio, the Girard High School football Indians.

This year the Indians worked tirelessly on the field. Under the direction of coach Joe Jeswald, the team achieved an outstanding record of 8–2 and made the school's first appearance in the playoffs. Finally, in their region 9, this group earned regional runners-up.

I congratulate this team of 37 members, 18 of which are letterman and 17 are seniors. I also extend my gratitude to the assistants whose contribution to the team is immeasurable as well as the athletic director, Ed Matkovich, and the assistant athletic director, Joe Cappuzello.

Mr. Speaker, it is my distinct pleasure to pay tribute to this outstanding group of young men, the Girard High School Indians.

THE CHEW LUN ASSOCIATION CELEBRATES 50 YEARS OF SERVICE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GREEN of New York. Mr. Speaker, I should like to bring to the attention of my colleagues an event in New York City worth special mention. On Sunday, December 8, 1991, the Chew Lun Association will celebrate its 50th anniversary.

With over 1,000 members, this large family association has been helping new Asian immigrants adjust to life in this country for the last 50 years. The Chew Lun Association provides various programs including daily meals for members who are not financially able, and a community area for gatherings and recreational functions. It also provides assistance to its members, a majority of whom are senior citizens, with daily problems they may face in the community. The primary function of the Chew Lun Association, however, is to assist all its members to become good American citizens.

As the Chew Lun Association has been instrumental in the assistance of immigrants and others in New York, I should urge all my colleagues to join me in extending the organization best wishes in its celebration of 50 years of service.

HONORING ARTHUR B. CLEMENS, FOR HIS DEDICATION AND SERVICE TO THE SUBURBAN KIWANIS CLUB OF SANTA BARBARA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Arthur B. Clemens, whose spirit of loyal community service to the citizens of Santa Barbara, CA, has been an inspiration and gift to a great many people for the past 40 years.

As a charter member of the Suburban Kiwanis Club of Santa Barbara since 1951, including a term as its president in 1959, Arthur B. Clemens has distinguished himself as a leader in numerous civic and charitable organizations. He has donated his time and effort over the past 40 years to such projects as Meals on Wheels, the Council of Christmas Cheer, Campus Crusades, the Santa Barbara Scholarship Foundation, the Rehabilitation Institute of Santa Barbara, and other endeavors too numerous to mention. He has also served with distinction as a Santa Barbara city councilman from 1957 to 1959.

By virtue of his work with the Suburban Kiwanis Club of Santa Barbara, Arthur B. Clemens has been chosen as their organization's Man of the Year an unprecedented three times.

It is my privilege and distinct pleasure to join with the members of the Suburban Kiwanis Club of Santa Barbara and the thousands of city residents who have been touched by his generosity and caring, to recognize and honor a great American, and a good friend of mine, Arthur B. Clemens, for a lifetime of commitment to the community of Santa Barbara.

DOMESTIC VIOLENCE MONTH

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CAMP. Mr. Speaker, it is tragic that over 4 million women in the United States report that they are abused, or have been abused. Unfortunately, there are many more who do not report these crimes and continue to be abused by their husbands and boyfriends. Congress, however, has passed legislation to designate October as Domestic Violence Awareness month. October has passed us by, but these battered women continue to live in fear. We need to join together to show our support not just in October, but all year long.

We need to recognize not only the victims of abuse, but also the dedication of those who work and volunteer their time with domestic violence victims. We can applaud those who work in the field and support further efforts to help victims of battery. Too many women throughout the country face violence every day and need to have access to shelter and services desperately needed during a domestic violence crisis.

Mr. Speaker, please join me in recognizing and supporting the many women who face daily violence as well as the kind people who dedicate their time to helping those in need. It is time that we, as Members of Congress, show our compassion and our understanding for these individuals.

CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WOLF. Mr. Speaker, the winds of change have blown through the Soviet Union, leaving behind only a semblance of what we had grown familiar with after years of heavy-handed, authoritarian rule. The changes even since the August coup attempt have been dramatic.

The prospects for a stable and secure Soviet Union, however, still hangs in the balance. As the old system gives way to the new, vestiges of the old system are crippling the efforts of many to propel the Soviet Union forward. Chauvinistic nationalism is taking hold in many areas of the former empire and with this development, the prospects for the recognition of human rights dwindle.

While reports regarding emigration status of Soviet Jews has been generally encouraging. I am concerned about the remaining long-term refusniks and the disturbing surge of anti-Semitic activities and publications.

In response to these reports and as part of the call-to-conscience vigil for Soviet Jews, I urge President Gorbachev and the leaders of the Soviet Republics to guarantee the respect for internationally recognized human rights and to promote fundamental freedoms, including the freedom of thought, conscience, religion, or belief.

SEIDMAN, STAY HOME

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of New York. Mr. Speaker, William Seidman, former Chairman of the Federal Deposit Insurance Corporation and other vital financial and protective national entities has finally retired. But the legacy of bold lying left by Mr. Seidman will live forever. He is the man who always had the right assurances to

protect the White House before elections. Even when he finally released the honest bad news, he had a talent for arrogant obfuscation. Seidman, the butcher of Harlem's Freedom National Bank and numerous other small banks throughout the Nation, played Santa Claus to all of the banks that were classified by him as too big to fail. Seidman passed out FDIC dollars to Arab sheiks, speculators, Japanese billionaires, and any other proper people who kept their money in too big to fail banks. Seidman robbed charitable organizations in Brooklyn, NY, in order to guarantee that there would be enough money available to cover the deposits of foreigners who had accounts above the $100,000 limit. The law only allows for coverage of $100,000 per account. But Santa Claus Seidman gave away billions to depositors who were not covered by the law. Generous Godfather Seidman has retired but now he regularly appears as a public commentator. The guy who pandered to the billionaires while he raped the little banks is still being treated with respect in our confused society. Seidman has done enough damage to the economy of America. He should be graceful enough to stay home away from the op-ed pages and the television screens. Good advice is provided for Seidman in the following rap poem:

SEIDMAN STAY HOME

Seidman
Take a walk
No more poison
Official double talk
Pontificator of any
Absurd statistical thing
Among great liars
You are the King
Procurer
For the upper ranks
Godfather bagman
For too-big-to-fail banks
Power thirsty pirate
Passing for a kind
And gentle elf
Seems typical American
Despite your lying
Manipulative self
Seidman
Take a walk
No need for a
Long John Silver
With both his legs
Loitering around
To pick up the dregs
Procurer
For the upper ranks
Shorteyes who enjoyed
Molesting all the
Naked infant banks.

FARM PROGRAM PAYMENT LIMITATIONS REFORM ACT OF 1991

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PENNY. Mr. Speaker, I am today introducing legislation, along with Representatives JOHNSON and ZELIFF, the Farm Program Payment Limitations Reform Act of 1991, to plug the loopholes that have allowed wealthy farmers to circumvent farm program payment limitations.

Scandals have surrounded farm reorganization schemes to evade farm commodity program payment limitations since the first payment limitations legislation was enacted in 1970. Since then, agriculture policymakers have attempted to limit the amount of direct payments to farmers to stop subsidizing farm consolidation and to ensure that family farmers instead of nonfamily corporations or foreign and absentee landowners are the real beneficiaries of Federal farm programs. The general payment limit is $50,000 per person.

Perhaps the most famous case, and most egregious example of circumventing the payment limitations law, is the so-called "Mississippi Christmas Tree." This case involved six individuals who, through the formation of corporations, reorganized their farm to operate as a joint venture. The six persons involved then qualified as 21 persons for farm program purposes and received $1,050,000 in commodity subsidies. This scheme, amazingly, was within the letter of the 1970 law, but certainly was a blatant violation of the spirit of the law and the intent of the Congress.

The USDA and the Congress have made great progress toward closing these wasteful, unfair, and scandalous loopholes, but more needs to be done. During debate on the 1990 farm bill, I worked closely with the late Representative Silvio Conte on compromise payment limits language that would have addressed some of the outstanding shortfalls of current law. Unfortunately, our efforts were not entirely successful.

The legislation I am introducing today will finally, and once and for all, close these loopholes. For example, the USDA does not currently distinguish between artificial and real persons, and thus cannot identify all people who actually receive farm program payments. My legislation will require the attribution of payments to natural persons by social security number.

In July of 1990, OMB Director Richard Darman gave the administration's support for the attribution of farm program payments, and indicated that this action alone could save $1 billion over 5 years.

In addition, although there is much talk about the $50,000 limitation for commodity deficiency payments, what is not generally know is that large producers can still actually double this limit by participating in multiple farming operations. They can be considered as up to three entities by the USDA, and therefore increase their direct government payments to $100,000. My legislation will eliminate the three-entity rule and put the payment limitation where Congress intended it to be, $50,000 per real person. My legislation would also require payment beneficiaries to materially participate in the farming operation on a regular, continual, and substantial basis.

The savings from these truth in legislating amendments could be applied in various combinations to deficit reduction, improving farm conservation and environmental protection programs, and reducing previously authorized cuts in farm program payments to ensure the survival of family farms. Let's close these wasteful farm program loopholes, support family farmers, and save money at the same time by passing the Farm Program Payment Limitations Reform Act of 1991.

The text of the legislation follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Program Payment Limitations Reform Act of 1991".

SEC. 2. ATTRIBUTION OF PAYMENTS.

(A) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (5)(C) and inserting the following:

"(C) In the case of corporations, partnerships, and other entities included by subparagraph (B), the Secretary shall attribute payments to natural persons in proportion to their ownership interests in the entity and any other entity which owns or controls the entity receiving such payment.".

(b) Section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) is amended by striking subsections (c) and (d) and inserting the following:

"(c) In the case of corporations, partnerships, and other entities included in section 1001(5)(C) of the Food Security Act of 1985, the Secretary shall attribute payments to natural persons in proportion to their ownership interests in the entity.".

SEC 3. REPEAL OF 3-ENTITY RULE.

Section 1001A(a)(1) of the Food Security Act of 1985 is amended—

(1) in the first sentence by striking "substantial beneficial interests in more than two entities" and inserting "a substantial beneficial interest in any other entity" and by striking "receive such payments as separate persons" and inserting "receives such payments as a separate person"; and

(2) by striking the second sentence.

SEC 4. IMPOSITION OF MATERIAL PARTICIPATION REQUIREMENT.

Paragraph (5) of the section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended to read as follows:

"(5)(A) The Secretary shall issue regulations defining the term 'person', and prescribing such rules as necessary to assure a fair and reasonable application of the limitations established under this section, except that as the term applies to section 1001 (1) and (2) of this Act—

"(i) each person must meet the requirements of material participation within the meaning of section 469(h) of the Internal Revenue Code of 1986, and

"(ii) each person and any related terms, such as individual, joint operation, and entity shall be defined in such manner that no combination of farming or business organization shall result in any one natural person qualifying as more than one person.".

SEC. 5. REPORTING REQUIREMENT.

The Food Security Act of 1985 is amended by inserting after section 1001E the following new section:

"SEC. 1001F. REPORT.

"Not later than 180 days after the date of enactment of this section and annually thereafter, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes—

"(1) the number and size of payments described in section 1001(1) made to natural persons, entities, and farming operations (as defined by the Secretary on the date of enactment of this section) and by State and commodity that exceed $50,000 and an explanation of why the $50,000 payment limitation was exceeded;

"(2) the number and size of payments described in section 1001(2) made to natural persons, entities, and farming operations (as defined by the Secretary on the date of enactment of this section) that exceed $250,000 or would exceed $250,000 if all such payments were attributed to natural persons in proportion to their ownership interest in all such entities or operations and an explanation of why the $250,000 payment limitation was exceeded;

"(3) the number and size of payments made under the National Wool Act of 1954 (7 U.S.C. 1781 et seq.) for wool or mohair to natural persons, entities, and farming operations and by State and commodity that exceed the payment limitation prescribed in section 703(f) of such Act or would exceed the payment limitation if such payments were attributed to natural persons in proportion to their ownership interest in all such entities or operations and an explanation of why the payment limitation was exceeded;

"(4) for any commodity for which a marketing loan is in effect, the number and dollar amount of any gain realized, plus forfeitures, which exceed $250,000 if all such payments were attributed to natural persons in proportion to their ownership interest in all such entities or operations analyzed by the number of natural persons, entities, and farming operations, and by State and commodity;

"(5) the number of producers who cash rent their land from landowners and receive crop program payments and the number of acres involved, analyzed by the number of natural persons, entities, and farming operations, and by State and commodity; and

"(6) the number of landowners who can rent their land and receive crop program payments and the number of acres involved, analyzed by the number of natural persons, entities, and farming operations, and by State and commodity.".

SEC. 6. SENSE OF THE CONGRESS.

It is the sense of the Congress that, if provisions for the enforcement of deficit reduction contained in the Budget Enforcement Act of 1990 are modified or superseded, then—

(1) budget savings from implementation of the amendments made by this Act should be fairly and evenly applied to restore program payment cuts in fiscal years 1994 and 1995 to producers of wheat and feed grains as a result of change sin deficiency payment rate calculations under amendments made by subsections (a) and (b) of section 1102 of the Omnibus Budget Reconciliation Act of 1990; and

(2) any remaining savings should be applied to deficit reduction or for improving farm conservation and environmental protection programs, or both.

THE COAL INDUSTRY RETIREE HEALTH BENEFIT ACT

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MURTHA. Mr. Speaker, with the introduction of the Coal Industry Retiree Health Benefit Act of 1991, today, we continue the effort to provide a solution to the issue of retiree health care obligations for mineworkers.

I am pleased to introduce this legislation with my House colleagues Messrs. MOLLOHAN, RAHALL, STAGGERS, WISE, and MCCLOSKEY. This bill is identical with S. 1989 which Senator ROCKFELLER introduced in the Senate last week. I know that health care for all Americans weighs heavily on the minds of all of us and will surely be the major issue of the 1990's and one of the greatest challenges for Congress to confront.

Our concern today involves the principles of commitment and consistency which are the basis of agreements made some time ago to provide health care benefits for thousands of elderly people. The challenge we face is to insure that the previously established commitment to preserve health benefits for mineworkers is maintained while recognizing the need for financial stability of the trust funds that provide such benefits.

Make no mistake, these matters are complex and the decisions may be difficult. That is certainly the challenge we face as we begin this debate. I agree with Senator ROCKEFELLER in that we simply must see those commitments honored; to do otherwise is an abrogation of our responsibilities as elected officials.

In all of this, we must keep in mind that we are talking about people; people who took the physical risk to work in the mines of America; people who made a major contribution to our energy growth and the prosperity of this great Nation; people who exposed themselves to conditions that in some cases created health problems directly related to their professions; people who lived, worked, and retired with the expectation that they and their families would have health benefits—health benefits backed by a financially stable trust fund.

The legislation we are introducing recognizes the economic conditions where declining production by trust fund contributing coal companies—some 130 million tons since 1970—has dropped from 80 percent of national production to 30 percent today. The dropping of benefits by certain coal companies has resulted in shifting the health care obligations to the remaining contributing companies and thereby, placing an unfair burden on them at a time of economic adjustment.

Currently, about one-quarter of the retirees receive benefits from contributing companies while 75 percent are from companies no longer solvent or party to the current labor agreement. The combined operating deficit is currently $100 million and may reach $200 million by the end of next year. When the current contract expires, there is a potential of 120,000 people being left without health care benefits unless a government solution is offered.

In reviewing the history, there is a substantial case for Federal Government involvement beginning with the 1946 agreement and the Truman administration's role in the negotiations to the recent recommendations of the Dole Commission which examined health care in the coal industry. Since it is apparent that collective bargaining and additional layers of litigation will not resolve the issues in sufficient time, the way is open for the Congress to assist.

In proposing this legislation, allow me to commend the United Mine Workers of America and the Bituminous Coal Operators Association for reaching a historic and positive consensus of this initiative. We also would like to commend the Dole Commission and its important contributions to this debate.

The Coal Industry Retiree Health Benefit Act of 1991 would replace the current benefit funds with two new funds. One fund will cover beneficiaries affiliated with mining companies that still contribute to their retirees' benefits. The other fund would cover 72,000 orphan beneficiaries who worked for companies that no longer are in business and 18,000 people whose companies are still in business but don't contribute.

This second fund would be financed by hourly premiums on all production hours worked at U.S. coal mines and would be administered by the Federal Government. In addition, the excess assets from the UMWA 1950 pension fund would be used to help retire the current deficits of the health funds and to provide initial funding for the two new entities. Finally, the bill provides for state-of-the-art managed care techniques to improve quality of care and reduce costs.

To underscore what I mentioned earlier, the provisions of this legislation are aimed at saving health care benefits for people—retired coal miners and their widows who believe that one day soon the hospitals and doctors will no longer treat them for illnesses. One hundred twenty thousand decent and honest people who live in towns like Patton and Rockwood and Nanty Glo—people who worked hard all their lives and should not live in fear for their health care at this time in their lives. The promise and the commitment shall be kept. It is our duty in Congress to ensure that our actions fulfill both.

TRIBUTE TO WVSJ NEWS TALK RADIO

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to commend a radio station in my district for providing a weekly forum for the disabled. WVSJ News Talk Radio, which is fast becoming the voice of Southern New Jersey, is producing what is believed to be the only radio show in the country that is run by the disabled and focuses on issues of importance to the disabled.

The 40-minute show, cosponsored by the Center For Independent Living of South Jersey, airs every Saturday. Host Mike Kennedy, a quadriplegic who is head of the Gloucester County Disabled Center, and disabled guests discuss the needs of the disabled, legislative initiatives to improve the quality of their lives, discrimination against the disabled, recreation and sports for the disabled, and a number of other topics.

Gus Cawley, owner of WVSJ, says the show gives the disabled a rare opportunity to talk, laugh, and cry together. I wish Mr. Cawley and his pioneering show the best of luck. I am sure it will contribute to a greater understanding of the disabled.

TRIBUTE TO THE UNITED COMMUNITY FOOD BASKET

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TRAFICANT. Mr. Speaker, it is my great pleasure to rise on this day and pay tribute to the United Community Food Basket of my 17th District in Ohio.

This organization has demonstrated the utmost valiance in their endeavors to feed the needy. In 1978, this group embarked on a mission of kindness to distribute Christmas food baskets to those in need. Fifty baskets filled with turkey, bread, apples, and canned goods were distributed that year.

With increased donations from various individuals, churches, businesses, and the United Community Food Basket Committee, the annual distribution increased in 1990 to over one hundred and fifty food baskets including toys and mittens for four hundred children.

I congratulate this organization in their efforts to increase their output and I am proud to have been a part of their recent fundraiser at the Spread Eagle Tavern.

Mr. Speaker, it is my distinct pleasure on this day to pay tribute to the United Community Food Basket.

TRIBUTE TO THE ARNOLD CENTER

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly special center in Midland, MI.

The Arnold Center is a private nonprofit organization dedicated to offering vocational services designed for habilitation and rehabilitation of the disabled and disadvantaged persons in mid-Michigan.

Initially incorporated in 1967 as the Midland County Rehabilitation Center the center offered day care activities to a small group of adults with developmental disabilities.

After 25 years of service there have been numerous changes. The name has changed to the Arnold Center in honor of charter board member, James B. Arnold. Along with the name change has come a growth of services and operating space. The Arnold Center currently has facilities in Midland and Gladwin Counties occuping 45,000 square feet of specifically designed and constructed rehabilitation and manufacturing areas.

The programs that take up this space are seven accredited programs designed to meet the daily needs of the people the center serves. Through the center's services, hundreds of people have been able to utilize the programs and become productive individuals.

Mr. Speaker, on January 22, 1992, the Arnold Center will be celebrating its 25th anniversary. I know you will join with me in commanding and thanking all the individuals involved in the Arnold Center for their commitment and service to the people of mid-Michigan. They are truly outstanding people.

RESOLUTION ON THE STRUCTURE AND MEMBERSHIP OF THE U.N. SECURITY COUNCIL

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PENNY. Mr. Speaker, I am today introducing a resolution expressing the sense of the House of Representatives that the President should initiate an appraisal of, and consider alternatives to the current structure and membership of the U.N. Security Council.

In light of the changes in the world's economic and political structures that have occurred since World War II, it seems appropriate that the United States initiate a review of the functioning of the U.N. Security Council and also consider changes to the structure of the Council.

The permanent membership of the U.N. Security Council was established in 1945 and has remained unchanged, whereas the membership of the United Nations has more than tripled since then, and has increased by 50 percent since 1963, the last time the nonpermanent membership of the Security Council was expanded.

We face a world of nearly unbelievable political changes and exploding humanitarian challenges. At the same time that the cold war is ending and the Soviet-Eastern European block is crumbling, we face the stark reality that nuclear weapons are in the hands of more nations, and perhaps even terrorists, than ever before. While more people face hunger and malnutrition every day, sales of conventional arms to developing countries continue at an alarming pace, robbing the poor of needed investment in human capital. At the same time that Germany struggles to reunite and the European nations move toward economic unity, Yugoslavia faces disintegration and hundreds of ethnic and religious feuds flare up across the globe.

We saw during the conflict in the Persian Gulf that the actions of an aggressor can be thwarted by a unified and coordinated effort on the part of the U.N member nations and the United States. As we move toward the 21st century and unknown challenges to democracy and the peaceful rule of law, we need to face the realities of the new world.

I urge the President to work with the U.N. Security Council members to assess the current structure of the Council and develop options for improving the functioning of the United Nations. This is not a new idea. For example, the Italian Foreign Minister has proposed increasing the number of permanent and nonpermanent members according to a general formula that would include nations' population and wealth. Under such a plan, new permanent Council members might include Japan, Germany, India, Egypt, Nigeria, and Brazil.

Such and assessment and restructuring of the United Nations must proceed slowly and deliberately with the participation of all member nations. It does not seem, however, that a goal of reviewing and proposing such changes by the turn of the century is too ambitious. It is not too early to begin such an assessment—the future world order may depend on it.

Mr. Speaker, the text of my resolution follows:

H. RES. —

Whereas the permanent membership of the United Nations Security Council was established by the United Nations charter in 1945 at the end of the Second World War, and has since remained unchanged;

Whereas the nonpermanent membership of the Security Council was last expanded in 1963;

Whereas the membership of the United Nations has more than tripled since 1945 and has increased by 50 percent since 1963;

Whereas since the signing of the United Nations charter, the distribution of economic and political power has shifted significantly toward countries that do not presently have permanent seats on the Security Council;

Whereas to address the global problems of regional conflict, nuclear weapons proliferation, conventional arms buildup, poverty, hunger and malnutrition, and lack of medical treatment and potable water to millions of people and increasing numbers of refugees requires improved cooperation among United Nations members and increased financial commitment from member countries, particularly members of the United Nations Security Council;

Whereas the dissolution of the Soviet Union and the Eastern European alliance has completely altered the global political realities upon which the United States must act; and

Whereas global actions by the United Nations increasingly require the cooperation and support of countries which are not permanent members of the Security Council: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should—

(1) initiate an appraisal of, and consider alternatives to, the current structure and membership of the United Nations Security Council; and

(2) consult with the other pemanent members of the United Nations Security Council and the allies of the United States on the possibilities for restructuring the United Nations Security Council to reflect the new global order and to increase its effectiveness in dealing with global peace and security issues.

INTRODUCTION OF THE HOMEOWNERS ASSISTANCE PROGRAM IMPROVEMENT ACT OF 1991

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MURTHA. Mr. Speaker, with recent developments in United States-Soviet relations and the shift in Eastern Europe toward democratic based governments, the restructuring of our defense posture is moving forward as we deal with this different environment. Part of the current restructuring involves the substantial drawdown of military personnel over the next 3 to 5 years.

There are many facets of this issue which our subcommittee will be addressing in the coming weeks. My concern today is how we deal with the impact of military personnel reductions on individuals who are involuntarily separated and are forced to sell their homes and seek employment elsewhere.

To date, we have taken action in the subcommittee by including conference report language in the recent DOD appropriations bill that request the Department of Defense to study the option of expanding the Homeowners Assistance Program (42 U.S.C. 3374 and 10 U.S.C. 2832) to include those homeowners who have been involuntarily separated due to the drawdown. We expect to receive this report no later than May 15, 1992, and that it will be useful to our deliberations on this issue.

In expectation of this report, I am today introducing legislation which would directly address this issue and put us ahead of the curve. In my judgment, we need to be proactive in these matters if we expect to made this transition effective and with the least amount of stress to our dedicated military personnel.

To this end, the Homeowners Assistance Program Improvement Act of 1991 extends eligibility to members of the Armed Forces involuntarily separated as a result of reductions in size of our military and provides additional mortgage loan flexibility to veterans involved in the transition to civilian life.

As a voluntary program, military service personnel in this new category will have the ability to exercise this option only after having their home on the open market for a minimum of 6 months without sale at fair market value as determined by the Department of Veterans Affairs.

Two new features are proposed which we believe will assist veterans involved in the sale of their homes during the defense drawdown. First, the bill would expand the VA loan guarantee program to bridge loans when the veteran is close to sale of the existing home and the purchase of a new home. The bridge loan would be restricted to one point above the average market rate available for first mortgages.

In addition, it would establish flexibility with regard to accelerating the reinstatement of the VA loan entitlement when the veteran is close to settlement on the sale of the existing home and the subsequent purchase of a new home.

I believe this legislation is an important statement to our military personnel. A statement which simply indicates that we recognize the hardship they are preparing to undergo, that we must honor the mutual commitment of those who serve the Government both as civilians and in the military and finally, that in their time of need we will not abandon those who have served.

I urge my colleagues to join me in cosponsoring this important legislation and look forward to working with my colleagues to pass this measure into law.

THE 1992 ELECTION YEAR MAILING RESTRICTIONS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CLAY. Mr. Speaker, with the 1992 election year rapidly approaching, the House Commission on Congressional Mailing Standards wishes to remind Members of the House about the franking statutes, rules, and regulations governing mass mailings by candidates prior to elections.

Generally, Members of the House seeking reelection are prohibited from sending franked mass mailings during the 60-day period immediately before the date of any public election—whether primary, general, special, or runoff—in which the Member's name appears on the ballot.

Further, any Member who is a candidate for other public office may not frank any mailings outside of the congressional district from which the Member was elected, beginning at the time the Member is certified for candidacy.

Members should ensure that staff persons responsible for mass mailings are knowledgeable concerning State election laws as they affect mailing privileges during the period prior to primary and general election periods. Members' staff seeking advisory opinions from the Commission must certify that, to the best of their knowledge, the frankability of the proposed mailing is not adversely affected by applicable State election laws.

Mr. Speaker, I cannot emphasize strongly enough the importance of compliance with these regulations. I urge my colleagues to ensure that their staffs are familiar with the statutes, rules of the House, and pertinent regulations and guidelines governing the proper use of the franking privilege.

The Commission staff is ready to assist in every possible way.

A detailed explanation of the mass mailing provisions, along with a listing of cutoff dates for the congressional primaries in the various States, follows:

LIMITATIONS ON THE USE OF THE FRANK BY CANDIDATES FOR PUBLIC OFFICE

Pursuant to Public Law 101–163, the Legislative Branch Appropriations Act for Fiscal Year 1990,

39 U.S.C. 3210(a)(6)(A) provides that, "It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—

(i) if the mass mailing is postmarked fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member is a candidate for reelection; or

(ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—

(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected; or

(II) is postmarked fewer than 60 days immediately before the date of any primary election or general election (whether regular, special or runoff) in which the Member or Member-elect is a candidate for any other public office.

39 U.S.C. 3210(a)(6)(F) states that for purposes of subparagraphs (A) . . . if mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

DEFINITIONS

Mass mailings

Mass mailings are defined by law (39 U.S.C. 3210(a)(6)(E)) as, with respect to a session of Congress, newsletters and other similar mailings (including town meeting notices) of more than 500 pieces in which the content of the matter mailed is substantially identical. Mail matter is deemed to be a mass mailing when the total number of pieces exceeds 500, whether in a single mailing or in cumulative mailings during the 60-day period.

Candidate for election or reelection to the House of Representatives

For purposes of the subject statutes and regulations, a Member of or a Member-elect to the House of Representatives is deemed to be a candidate for public office at any election if his or her name appears anywhere on any official ballot to be used in a public election.

Candidate for any other public office

For the purpose of 39 U.S.C. 320(a)(6)(A)(ii), "any other public office" means any local, State, or Federal office. (Examples: President, Governor, U.S. Senator, State Supreme Court Justice, State Senator, Assemblyman, etc.) "Candidate" means a Member who has qualified under State or local law for the official ballot in a primary, runoff, special, or general election, or who has been certified for candidacy by an appropriate State or local election official.

EXCEPTIONS

The subject statutes, rules, and regulations provide three exceptions to the mass mail prohibition prior to elections, as follows:

(i) mailings which are in direct response to inquiries or requests from the persons to whom the matter is mailed;

(ii) mailings to colleagues in Congress or to government officials (whether Federal, State, or local); and

(iii) mailings of news releases to the communications media.

The Commission believes the latter two exceptions are self-explanatory.

In application of the first exception, the Commission stresses the phrase "direct response to inquiries or requests". Therefore, response to a signed petition with a form or identical letter individually addressed to each of the signers of the petition is frankable. However, a follow-up letter to the same list of petitioners is not frankable under this section in that it would not be in direct response to an inquiry.

Similarly, follow-up letters to persons who had previously written and had been answered on a particular subject, if such letters by their form and volume constitute a mass mailing, are not frankable during the 60-day period prior to elections. Also, requests for questionnaire results or other material, when solicited by Members on questionnaire forms or newsletters, are not deemed to be in direct response to any inquiry or request.

The above restrictions on mass mailings by candidates do not apply to mass mailings by the chairman of any standing, select, joint or other official committee of the Congress, or subcommittee thereof, and which relate to the normal business of the committee [39 U.S.C. 3210 (a)(6)(B)]. The Commission emphasizes "normal and regular" committee

business, i.e., press releases, hearing schedules, or committee documents.

TIME OF MAILING

Processing by a postal facility

Mass mailings as defined under 39 U.S.C. 3210 (a)(6)(E) may not be mailed as franked mail by a Member of or a Member-elect to the House of Representatives when the same is mailed at or delivered to any postal facility less than 60 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member or Member-elect is a candidate for any public office.

Processing by the House Publications Distribution Service

Such mass mailings, if processed through the House Publications Distribution Service, hereinafter referred to as the House folding room, must be delivered to and received by the House folding room, in enough time to ensure their mailing by the 60-day cutoff date. The Commission urges Members to contact the House folding room with further questions regarding delivery of mass mailings to them for processing.

The House folding room will issue a receipt, which shall specify the date and time of mailing and a brief description of the matter to be processed.

1992 CONGRESSIONAL PRIMARY DATES—ALPHABETICAL LIST BY STATE

State	Primary date	60-day cutoff
Alabama	June 2	Apr. 3.
Run-off	June 30	May 1.
Alaska	Aug. 25	June 26.
Arizona	Sept. 8	July 10.
Arkansas	May 26	Mar. 27.
Run-off	June 9	Apr. 10.
California	June 2	Apr. 3.
Colorado	Aug. 11	June 12.
Connecticut	Sept. 15	July 17.
Delaware	Sept. 12	July 14.
Florida	Sept. 1	July 3.
Run-off	Sept. 29	July 31.
Georgia	July 21	May 22.
Run-off	Aug. 11	June 12.
Hawaii	Sept. 19	July 21.
Idaho	May 26	Mar. 27.
Illinois	Mar. 17	Jan. 17.
Indiana	May 5	Mar. 6.
Iowa	June 2	Apr. 3.
Kansas	Aug. 4	June 5.
Kentucky	May 26	Mar. 27.
Louisiana	Oct. 3	Aug. 4.
Maine	June 9	Apr. 10.
Maryland	Mar. 3	Jan. 3.
Massachusetts	Sept. 15	July 17.
Michigan	Aug. 4	June 5.
Minnesota	Sept. 15	July 17.
Mississippi	Mar. 10	Jan. 10.
Run-off	Mar. 31	Jan. 31.
Missouri	Aug. 4	June 5.
Montana	June 2	Apr. 3.
Nebraska	May 12	Mar. 13.
Nevada	Sept. 1	July 3.
New Hampshire	Sept. 8	July 10.
New Jersey	June 2	Apr. 3.
New Mexico	June 2	Apr. 3.
New York	Sept. 15	July 17.
North Carolina	May 5	Mar. 6.
Run-off	June 2	Apr. 3.
North Dakota	June 9	Apr. 10.
Ohio	May 5	Mar. 6.
Oklahoma	Aug. 25	June 26.
Run-off	Sept. 15	July 17.
Oregon	May 19	Mar. 20.
Pennsylvania	Apr. 28	Feb. 28.
Rhode Island	Sept. 15	July 17.
South Carolina	June 9	Apr. 10.
Run-off	June 23	Apr. 24.
South Dakota	June 2	Apr. 3.
Run-off	June 16	Apr. 17.
Tennessee	Aug. 6	June 7.
Texas	Mar. 10	Jan. 10.
Run-off	Apr. 14	Mar. 10.
Utah	Sept. 8	July 10.
Vermont	Sept. 8	July 10.
Virginia	June 9	Apr. 10.
Washington	Sept. 15	July 17.
West Virginia	May 12	Mar. 13.
Wisconsin	Sept. 8	July 10.
Wyoming	Aug. 18	June 19.
American Samoa	Nov. 3	Sept. 4.
Run-off	Nov. 17	Sept. 18.
District of Columbia	May 5	Mar. 6.
Guam	Sept. 5	July 7.
Puerto Rico[1]		
Virgin Islands	Sept. 8	July 10.
1992 General election	November. 3	September. 4.

[1] Not available as of Nov. 25, 1991.

1991 CONGRESSIONAL PRIMARY DATES—Chronological List by Dates

State	Primary date	60-day cutoff
Maryland	Mar. 3	Jan. 3.
Mississippi	Mar. 10	Jan. 10
Texas	Mar. 10	Jan. 10.
Illinois	Mar. 17	Jan. 17.
Mississippi (run-off)	Mar. 31	Jan. 31.
Texas (run-off)	Apr. 14	Mar. 10
Pennsylvania	Apr. 28	Feb. 28.
Indiana	May 5	Mar. 6
North Carolina	May 5	Mar. 6.
Ohio	May 5	Mar. 6.
District of Columbia	May 5	Mar. 6.
Nebraska	May 12	Mar. 13.
West Virginia	May 12	Mar. 13.
Oregon	May 19	Mar. 20.
Arkansas	May 26	Mar. 27.
Idaho	May 26	Mar. 27.
Kentucky	May 26	Mar. 27.
Alabama	June 2	Apr. 3
California	June 2	Apr. 3.
Iowa	June 2	Apr. 3.
Montana	June 2	Apr. 3.
New Jersey	June 2	Apr. 3.
New Mexico	June 2	Apr. 3.
North Carolina (run-off)	June 2	Apr. 3.
South Dakota	June 2	Apr. 3.
Arkansas (run-off)	June 9	Apr. 10.
Maine	June 9	Apr. 10.
North Dakota	June 9	Apr. 10.
South Carolina (run-off)	June 23	Apr. 24.
Alabama (run-off)	June 30	May 1.
Georgia	July 21	May 22.
Kansas	Aug. 4	June 5.
Michigan	Aug. 4	June 5.
Missouri	Aug. 4	June 5.
Tennessee	Aug. 6	June 7.
Colorado	Aug. 11	June 12.
Georgia (run-off)	Aug. 11	June 12.
Wyoming	Aug. 18	June 19.
Alaska	Aug. 25	June 26.
Oklahoma	Aug. 25	June 26.
Florida	Sept. 1	July 3.
Nevada	Sept. 1	July 3.
Guam	Sept. 5	July 7.
Arizona	Sept. 8	July 10.
New Hampshire	Sept. 8	July 10.
Utah	Sept. 8	July 10.
Vermont	Sept. 8	July 10.
Wisconsin	Sept. 8	July 10.
Virgin Islands	Sept. 8	July 10.
Delaware	Sept. 12	July 14.
Connecticut	Sept. 15	July 17.
Massachusetts	Sept. 15	July 17.
Minnesota	Sept. 15	July 17.
New York	Sept. 15	July 17.
Oklahoma (run-off)	Sept. 15	July 17.
Rhode Island	Sept. 15	July 17.
Washington	Sept. 15	July 17.
Hawaii	Sept. 19	July 21.
Florida (run-off)	Sept. 29	July 31
Louisiana	Oct. 3	Aug. 4.
American Samoa	Nov. 3	Sept. 4.
American Samoa (run-off)	Nov. 17	Sept. 1.
1992 general election	Nov. 3	Sept. 4.

SALUTE TO SAL AND ANGIE CARO

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GALLEGLY. Mr. Speaker, I am pleased to rise today to honor two of my best friends, Sal and Angie Caro, as they celebrate their 50th anniversary.

In an era when far too many couples decide that divorce is better than working out the inevitable problems that every marriage faces, Sal and Angie are an inspiration.

Sal Caro, who worked for many years as an electrical foreman prouldly served his country in World War II, although he still hasn't gotten over the fact that his unit was forced to serve under command of British Field Marshal Montgomery instead of our own Gen. George Patton.

Angie Caro raised three sons, and during the 1960's became more and more active in politics. Like Sal, a lifelong Democrat to that point, she became interested in the 1964 Presidential campaign of Barry Goldwater at the urging of her son, Denis. Then a few years later, at the urging of her son Rodney Wayne she began working for then-Governor Ronald Reagan's campaigns.

Eventually—like more and more Americans, Mr. Speaker, she and Sal both became Republicans. Angie, in fact, is a rock of the California Republican Party, having served as an officer with the Republican Women's Club, Federated, and having been a founder of the Conejo Republican Action Committee among her many party activities.

Mr. Speaker, although Angie and Sal don't want any fuss made over them, I believe a golden wedding anniversary is deserving of attention, and I ask my colleagues to join me in saluting them and wishing them a very happy anniversary.

AMERICAN INDUSTRY REVITALIZATION ACT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LIPINSKI. Mr. Speaker, today I submit legislation designed to curb the decline of American industry. Outside of armed conflict, I believe this decline is the most serious threat to the economic well-being of the United States. We have won the cold war with the Soviet Union, but are losing the economic war with Japan, Germany, China, Taiwan, and Korea. The Government's duty is to protect the security of this Nation, and so the Government must act now to protect America's economic security.

The current recession is aggravating the problems of our industries, but the problems are not new. America's position in the international market has been slipping for decades. It now stands at an all-time low. The auto industry finds foreign producers accounting for 26 percent of the U.S. market, compared to 6 percent three decades ago. In our troubled steel industry, imports account for 20 percent of the market, compared to 3 percent three decades ago. In one other depressed industry, machine tools, the U.S. world market share has diminished from about 35 percent three decades ago to less than 20 percent today.

This decline is the concern of every American. Millions of jobs are tied to America's manufacturing industries, which represent 20 percent of our gross national product. When these industries suffer, American workers suffer with them. They have lost an average of $1,000 of yearly income in the last decade and have seen 300,000 jobs disappear in the last 3 years. The United States is the only major industrial nation to bear such dramatic losses.

America still has the most productive manufacturing workers in the world, but our lead has almost disappeared in the last 20 years. It is only a matter of time before American productivity lags behind its competitors.

I recognize that the Government cannot by itself reverse the industrial decline facing America, but I believe it must play a more active role in protecting the welfare of American industry. The hands off policy of the Bush administration is not working and it is time to consider alternatives.

The legislation I propose centers around the concept of cooperative effort among Government, business, and labor. However, let me say at the outset that I do not envision a Japanese-style policy. American culture and American industrial practices are vastly different than Japan's. We can learn from their example, but American policy must be unique to America.

My bill addresses the deteriorating condition of the plants and equipment of our industries. American Industries are using fifties technology to compete in the nineties marketplace. This is a recipe for disaster. The world market is increasingly dominated by competitors who are using the most modern, state-of-the-art equipment for the production of their goods. Our markets are bombarded by these competitors who offer materials and goods below prices we can match.

It is time to regroup, to bring our factories into the nineties. It is no coincidence that the decline of American industry has been accompanied by shrinking investment in our plants and factories. For the first time since World War II, in 1989 the United States did not lead the world in investment in plants and equipment. The distinction went to Japan, a nation with only two-thirds our GNP. Adjusted for the size of our economies, Japan spent more than double what we spent on plant modernization. It is no small wonder that our productivity is lagging.

To reverse the trend, my bill, the "American Industry Revitalization Act," will give the Government a direct role in making our industries competitive. It will establish a National Industrial Revitalization Board to provide loans and loan guarantees for companies to modernize, expand, and improve existing facilities. The board will have $5 billion to make these loans and will have the ability—with the agreement of the Secretary of the Treasury—to issue bonds to raise more.

The work of the board will be governed by three principles: to maximize potential for modernization of qualifying firms, to minimize interest group interference in determining where and how much assistance is granted, and to minimize Government interference in the marketplace, outside of preserving a viable industrial base. The board's eight members will be appointed by the President, upon recommendation from congressional leaders, and will be composed of a representative of labor, business, and academia.

While this bill represents a significant commitment of taxpayer funds, I believe this use of tax dollars is wise. At a time when we are sending billions of dollars annually to assist and stabilize our allies, we can find $5 billion to assist and stabilize American industries. Such assistance is absolutely essential if our industries are to continue competing effectively with their foreign counterparts.

The hard-working people of our Nation will not step aside and watch foreign firms continue to take over our markets and endanger our workforce, industrial base, and national security. A viable, sustaining industrial base is required for our future economic growth and the future health of this great democracy.

Mr. Speaker, I urge careful consideration of my legislation and seek a prompt review of all pending legislation concerning industrial policy. For our Nation, a prudent industrial policy is needed today.

TRIBUTE TO ROY C. BRIDGES

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Roy C. Bridges, of Hummelstown, PA, upon his retirement as chief of police of the Hummelstown Police Department after 20 years on the job.

Chief Bridges has served the people of Hummelstown with honor and distinction during his long tenure as chief of police. He has worked long and hard to make Hummelstown a safer community for its residents, and has participated in numerous training seminars at schools and colleges to improve his ability to protect and serve the residents of the borough of Hummelstown.

Roy, an Army veteran who also served as a police officer in the Hampden Township [PA] Police Department, has received numerous awards and honors for his professional and civic conduct. He was honored as Hummelstown Lions Club Honor Citizen in 1980; American Society for Industrial Security Law Enforcement Officer of the Year in 1987; Respect for Law Award, Hummelstown Optimist Club in 1991; Hummelstown Lions Club Lion of the Year in 1990; and Dauphin County Chiefs of Police, President's Award in 1990. Chief Bridges has also served in a variety of local and professional organizations, including the Dauphin County Chiefs of Police Association, where he is currently president; the Hummelstown Lions Club; and the Crime Clinic of Harrisburg.

Mr. Speaker, I know that the people of Hummelstown will miss having Chief Roy Bridges at the helm of the police department. He has the respect and admiration of his family, friends, colleagues, local officials and residents for his many years of hard work and sacrifice to the local community. I ask all of my colleagues to join me in wishing Chief Bridges well in his future and to congratulate him on his many fine years of work in service to the borough of Hummelstown.

A TRIBUTE TO ANGELO K. TSAKOPOULOS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PORTER. Mr. Speaker, I rise today to commend and honor Mr. Angelo K. Tsakopoulos, who has made lasting contributions toward the development of culture and education in northern California and the United States.

Mr. Tsakopoulos has utilized his position as a founder, owner, and president of AKT Development Corp. to donate land for schools, art galleries, museums, hospitals, and senior citizens' facilities. Moreover, his resourceful planning has protected the environment while serving the needs of the growing Sacramento area. Furthermore, he has funded a new wing of the Crocker Art Museum in Sacramento and sponsored performances of the symphony, ballet, and theater groups at the Sacramento Community Center.

His leadership and continuous support of the American Lung Association, the United Way, Jesuit High School, the Golden Empire Council, Boy Scouts of America, the Roseville Art Center, the Folsom Historical Museum, and the Harry Truman Club has been outstanding.

Mr. Tsakopoulos has been recognized by the McGeorge School of Law with an honorary degree for his exceptional work as an entrepreneur, philanthropist, and community leader. He is also a founding member of the Sacramento Tree Foundation and is the primary sponsor of SUCCEED—Catholic Inner City Educational Program.

I recently had the pleasure of attending a banquet in honor of Angelo K. Tsakopoulos sponsored by the United Hellenic American Congress. Also in attendance were Andrew Athens, national chairman of the United Hellenic American Congress, Thomas Athens and Frank Kamberos, banquet chairmen, and Jack Mitsakopoulos, benefactor chairman. In addition to his philanthropic work, he is one of the most respected leaders in the Greek-American community and he has promoted Greek cause in Cyprus, the Aegean, and at the patriarchate.

He has been instrumental in the establishment of the S.B. Vryonis Center for the Study of Hellenism. Mr. Tsakopoulos was the honorary chairman of AHEPA's celebration on Ellis Island to honor the Greek immigrant in April 1991. He has inspired the establishment of the Kazantzakis chair for modern Greek studies at San Francisco State University. Furthermore, he has funded chairs at the University of California, Berkeley, the University of California, Davis, and Dartmouth College.

His achievements have not been solely recognized by the Greek community but also by the Anti-Defamation League which honored him with the Distinguished Community Service Award in 1990. Also, in 1990, he was the recipient of the Sacramento Regional Excellence Award. The previous year the AXIOS Foundation for Worthiness named him Man of the Year. Furthermore, in 1988, he was Man of the Year of the National AHEPA.

Mr. Speaker, I ask that you join me and our colleagues in paying tribute to the exemplary work that Mr. Tsakopoulos has accomplished. He has been dedicated and selfless in his work for the Greek-American community and the communities of northern California.

THE REALITY OF AIDS FUNDING

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BEREUTER. Mr. Speaker, I commend to my colleagues the following editorial from the November 26, 1991 edition of the Omaha World-Herald:

THE REALITY OF AIDS FUNDING

Bravo to the doctors and researchers who have taken on the AIDS lobby by questioning whether AIDS research is overfunded in relation to research into diseases that kill more people and cause more suffering.

It might not be considered politically correct to raise questions about the amount that is allocated to fight AIDS. Earlier this year, AIDS activists traveled to Kennebunkport, Maine, to demonstrate at President Bush's vacation home. They accused the government of not doing enough to fight the disease.

Activists made a similar accusation during the Sixth International Conference on AIDS, held in San Francisco in 1990. They rioted and disrupted meetings at the conference to protest alleged indifference to AIDS by government and the research community.

Such theater-of-the-streets behavior, supported by sympathetic commentators and public officials, has helped the activists create the impression that the government is doing little to combat AIDS because of bias against homosexuals and drug abusers. Most AIDS victims in this country come from those groups.

The fact is that the government and the scientific community are making a considerable effort to find a cure for the disease and to treat the victims. The government set aside $2 billion this year for AIDS research, testing and treatment, a sum, according to Dr. Louis Sullivan, secretary of health and human services, equaling the amount reserved for cancer research, testing and treatment.

The research portion of the AIDS budget consists of $850 million, which is more than the government allocates for any other disease except cancer.

Cancer research gets $1.8 billion. But cancer kills 500,000 people annually. Fewer than 27,000 died from AIDS in 1990. Heart disease, which receives less research money than either AIDS or cancer, kills about 1 million people annually.

A spokesman for the National Cancer Institute, said, "Diabetes and heart disease have taken a back seat to AIDS research."

* * * * *

Of course the search for a cure for AIDS should be carried on as aggressively as the government's priorities and funds permit. AIDS rightly deserves to be regarded as one of the more serious health threats of the 1990s. But it isn't THE most serious health threat. Not while other diseases are killing many more people and causing many more times the suffering, expenses and loss.

JOE BURNS, DADE SUPER TEACHER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, every school district has those teachers who stand out. Mr. Joe Burns is a teacher whose devotion to his students speaks for itself. He presently devotes himself to teaching calculus and computer science at Coral Park High School. The Miami Herald recently recognized him as one of Dade County's super teachers in a recent article by staff writer, Jon O'Neill. That article follows:

TO MANY KIDS, MATH TEACHER ALSO FRIEND

Joe Burns is a modern day Peter Pan: He may be growing older, but he is not really growing up.

That's one of the ways Burns, 40, reaches math students he teaches at Coral Park High School. To many students, Burns is like a friend who happens to know a lot about math and computers.

"He's one of us," said Gus Iglesias, 17, who takes two computer classes with Burns. "You can talk to him. I just met him last year, but I feel like I've known him for a long time."

That's fine with Burns. His relationship with the kids allows him to present subjects like calculus and computer science in an atmosphere that's fun and free of pressure. He tells his students that mistakes are OK and encourages them to build on their errors.

"If you teach in a way that's nonthreatening, the kids don't know it's a hard subject," Burns said. "When they're relaxed and not afraid to make a mistake, they can learn anything."

HIS STUDENTS TEACH

Burns will often let students become teachers, bringing them up to the chalkboard to work a problem and explain it to their peers. When he sees kids dissecting a problem, he knows they understand it.

He has other methods, too. Sometimes, when a tough lesson bogs down and the kids become frustrated, he drops it for a while. He also reviews previous lessons continually so students don't forget them.

"I try not to do anything difficult for a long period of time," he said. "We take little steps when we have to. You're dealing with confidence levels here. When they get down, it's sometimes hard to bring them back up."

Burns also lets students know he cares about them as people. He pushes them to apply for college and shares his own experiences as a student "who wasn't very well-rounded." The message gets through.

"You know he's interested in how you do and that he cares about you," said Esperanza Rodriguez, 18. "He's different than most teachers. You can also tell his class is fun, because it goes by so fast."

A ROLE MODEL

Burns fell in love with teaching shortly after he got out of college. Born in New York, he moved to Miami in 1968 and graduated from Coral Park. Although he once viewed teachers as the enemy, he credits an English teacher, Alan Bloom, with turning that perception around.

"I was always bad in English," said Burns. "But he taught me things, and I didn't even know I was learning. I sort of modeled my teaching style after his because he got through to me."

Burns has bachelor degrees from Florida International University in political science and computer science. He has a master's degree in math from Nova University. He spent nearly 10 years teaching in private schools before coming to Coral Park in 1983.

His wife, Gail, is also a math teacher in Coral Park, 8865 SW 16th St.

"YOU WANT TO WORK HARDER"

For Burns, the thrill of teaching hasn't faded. It comes when he sees kids grasping difficult concepts or as he helps them prepare for college. He is still having a blast in class, and his students know it.

"He takes hard subjects and makes them easier," said Esperanza. "With him, you want to work harder. If you fail a test, you feel really bad. Not just for yourself, but because you don't want to let him down either."

Mr. Speaker, I commend Joe Burns for his contribution to teaching in South Florida. He is a model educator. I have confidence that many teachers like Joe continue to believe that children are our future and that they are worth devoting our best to. I commend the leadership of Principal Carrell White for making Coral Park High School a place where teachers like Joe Burns and their students can thrive.

AMERICAN WORKERS DESERVE BETTER

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CLAY. Mr. Speaker, I wish to call to the attention of my colleagues the plight of 136 workers, the vast majority of whom are women, in Racine, WI. These workers are in the process of receiving a lesson in what passes for labor relations and the rights of American workers in the era of George Bush. They will not benefit from what they learn.

Until recently, these workers, employees of Rainfair, Inc. and members of Local 187 of the International Ladies' Garment Workers' Union, earned wages ranging from $4.25 to $12.50 an hour and averaging $6.60 per hour. Over the last 12 years, their wages have increased by only 25 cents an hour. This summer, these workers unsuccessfully sought to negotiate a new agreement with their employer. According to the union, the company's final offer would have provided for a 15 cents an hour increase on piecework and a 10 cents an hour increase for other workers over a 3 year period. The company offer also provided for an increase in the employees' contributions for health benefits from an existing level of $42 per month for family premiums to $100 a month in the first year of the contract with additional increases in the second and third year. In addition, the company insisted on the elimination of two paid holidays and the ability to schedule employees on weekends at regular pay. Finally, the company insisted on contract language that would permit the transfer of work to other facilities outside of Racine.

Not surprisingly given the employer's final offer, the employees were of the opinion that the company dismissed, if it ever considered, their aspirations and hopes to the jeopardy of their ability to support themselves and their families. In such circumstances, workers have but two options. They can continue to work, in which case an employer may unilaterally implement new terms and conditions of employment and has no incentive to seek any further accommodation at the bargaining table, or they can strike. As events have since shown, this amounts to no choice. On June 20, 1991, the employees struck their employer and their lesson in Bush era labor law began. Almost immediately, the employer sent notices to striking workers reminding them that they were subject to permanent replacement. Since then Rainfair has made good on the warning. Assuming the employer has not broken the letter of the law, these workers, who sought no more than to protect their standard of living by the only legal means available to them, have effectively been fired.

Our labor law fails to protect the right of Americans to exercise a voice in the determination of their working conditions. These workers have not been treated fairly, nor has the economic well-being of the Nation been served. Whether it is done quickly through the use of permanent replacements or more slowly through the implementation of wage and benefit reductions, destroying the ability of these workers to earn a living, to produce and in turn to purchase the products of others, does not serve the public interest.

ANCIENT FORESTS NEED PERMANENT PROTECTION

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ATKINS. Mr. Speaker, less than 15 percent of what once stood as ancient forests remains standing today. I consider that an alarming statistic. The issue of how to resolve the ancient forest issue, has for too long been framed as a stark either-or choice: The spotted owl or the logger. But that is incorrect.

The population decline of the northern spotted owl is just one indication of many losses. The wildlife, fish, birds, watersheds that are inextricably tied to the forests are destroyed when those old growth trees fall to a logger's chainsaw. In fact, we don't entirely know the consequences of what we have lost.

Scientists are only now beginning to understand the role that old growth forests play in stabilizing the topsoil, filtering the water, and moderating the climate. Who knows what other scientific breakthroughs might be found within the forest? No one. We do know, however, that if we keep on cutting, there will be no old growth forest left 10 to 15 years down the road.

Mr. Speaker, the debate over ancient forests should really be focused on how we got into this situation and what we can do to solve it. This debate can't be reduced to a simpler either-or choice, but if we just address the paradox of the owl versus the logger, we fail to look at what I see as the underlying problems: The enormous Federal subsidies offered to the timber industry and the budgetary incentives that encourage cutting public forests at any cost. And we would fail to prevent another crisis like this from happening.

Let me address these issues. First, across the country, the Forest Service gives away public timber at enormous cost to the taxpayer. The Forest Service itself admits that of the 122 national forests across the country, only 57 made money last year. Others estimate that number is really closer to just 20 money-making forests nationwide. It is hard to tell how much money is involved here, largely because of how the Forest Service accounts for these sales.

For example, in reports to the Appropriations Committee, the Forest Service estimates it earned about $650 million on timber sales in 1990. Yet when the costs for roads, reforestation, and administration are counted, The Treasury actually paid out closer to $100 million to give away that timber.

Add it up: In a report prepared for the Government Operations Subcommittee on the environment, Bob Wolf, a retired forester, calculated that the Forest Service may have lost over $6.3 billion of taxpayer's money since 1979 selling timber below cost. I'd say that is a huge taxpayer-supported subsidy to the timber industry.

The way the Forest Service gets its funds gives land managers clear economic incentives to support timber sales over all else. Instead of coming to the Congress for all of its budget requests, the Forest Service can sell timber to pay for just about anything it wants: Roads, reforestation, wildlife habitat, recreation projects, or add to your overhead budget. Under the current budget structure, Forest Service supervisors are required to return to the Treasury only 50 cents for every 1,000 board feet of timber sold.

So if you want to do a wildlife habitat restoration project, you offer timber for sale. Recreation, wildlife, watershed projects? Offer timber for sale. The problem is that in order to do these good things, you've got to destroy the forest. When funds are tight for such programs, that a huge incentive to continue advocating timber sales and ignore the evidence of environmental damage.

Mr. Speaker, Let's be clear about who benefits from these subsidies and perverse economic incentives: The timber industry. Together with the administration, the timber industry has been deceiving the communities that depend on these forests that the cutting can go on forever without damaging the environment. What the industry wants us to forget is that the logging and mill jobs were already on the decline before we noticed the population decline of the spotted owl. They want us to ignore that there are alternatives to cutting all the remaining old growth.

Mr. Speaker, the scientific evidence now shows that the artificially high timber harvests that were promoted through such subsidies and deceptions pushed the situation in the Pacific Northwest to the breaking point we see today. If Congress had acted earlier, there might have been a chance to protect the old growth forests without pushing a species to the brink of extinction. There might also have been time to start timber-dependent communities down the road of economic diversification and revitalization. But we did not. It is now time to offer these communities the economic assistance they need.

Mr. Speaker, I believe it is also time to say no to timber industry. Above all, we need to provide permanent protection to the ancient forests of the Pacific Northwest. But we also need to address the underlying problems of the Federal subsidies and economic incentives. We can begin by requiring the Forest Service to recover their costs or refrain from providing the timber for sale at a loss to the public.

We can also clean up the outdated budget structure which provides land managers with incentives that promote overcutting of the forests. The timber industry continues to press for a favorable solution to what they call the timber supply problem. Not even 2 months ago, the House and Senate Interior Appropriations Conference Committee considered adopting amendments supported by the timber industry.

These amendments would have released tracts of old growth forests for logging and mandated higher than normal harvest levels. A whole host of environmental laws would have been wiped out for the year with one small amendment. Fortunately, the conference committee resisted this temptation and instead we threw the problem back to the authorizing committees.

Mr. Speaker, there are several good bills introduced which go to the heart of all of these issues, including two bills introduced by my good friend from Indiana, Mr. JONTZ.

If the Congress is going to act, now is the time to do it.

SALUTE TO BERT BOECKMANN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor one of our country's most outstanding businessmen as he is presented with a prestigious award by Pepperdine University.

Herbert F. "Bert" Boeckmann is truly an American success story, and is proof that hard work and talent does pay off.

Today, Bert Boeckmann is one of America's most respected and successful automobile dealers. In fact, for 21 of the past 25 years, his Galpin Ford dealership in Sepulveda, CA has been the most profitable nationwide. He also owns three auto dealerships in the San Fernando Valley, and is involved in interests as varied as diamond mining in West Africa to buffalo ranching.

Bert made his money the old-fashioned way, Mr. Speaker—he earned it. After attending the University of Southern California, he began selling cars in 1953. Four years later, he was Galpin Ford's general manager, and 3 years after that he began a buyout of the corporation, using his own earnings. By 1968, the buyout was complete.

Today, Bert Boeckmann is widely recognized as the most honored and successful automobile dealer in the Nation. He was elected by his fellow Ford dealers to serve as chairman of their National Dealer Council, is a

member of the Automotive Hall of Fame, and was recognized by Time Magazine as its National Quality Dealer of the Year in 1985, an award given to the best of the country's 25,000 car dealers.

Bert and his wife, Jane, also give freely of their time and resources to the community, and Bert is the proud recipient of more than 1,000 awards and commendations for participating in national, civic, and community affairs.

Mr. Speaker, on December 5, Bert will earn one more honor when he is presented with the 1991 Pepperdine University Private Enterprise Award. I ask my colleagues to join me in saluting him for his accomplishments to his community, and to our free enterprise system.

SOO LOCK SYSTEM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LIPINSKI. Mr. Speaker, I rise today to introduce a bill to establish full Federal funding for the construction of a new shipping lock at Saulte Saint Marie, MI.

The Soo Lock system is a vital part of the infrastructure of the Great Lakes. At present two of the locks in the system are closed due to old age and a third is too small for most commercial vessels. This leaves only one lock with full operational capabilities. Should anything occur to shut down this lock, it would be a great blow to lake commerce and the security of the Nation.

The Army put the lock system on alert during the gulf war, and for good reason. The interstate and international shipments that go through the Soo locks effect tens of thousands of jobs. Any disruption of service could be dangerous. Construction of a new lock in place of the two older locks must begin as soon as possible.

I urge my colleagues to join me in this important effort.

GOLDEN GIRLS DRILL TEAM PRIDE OF MIAMI SUNSET SENIOR HIGH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Golden Girls Drill team of Miami Sunset Senior High School has received invitations to perform at the grand opening of Disney World in Paris, France, and at the opening ceremonies of the 1992 Summer Olympics in Barcelona, Spain. The drill team was one of only eight squads nationwide to be offered this wonderful opportunity to perform in these major events. The Golden Girls deserve applause for so distinguishing themselves among performance groups across our Nation.

The Miami Sunset Golden Girls is a select group of high school young women, 15 to 17 years old, who perform dance and drill-team programs for shows, parades, sporting events, and competitions. In 1978, the Golden Girls was formed as a complement to Miami Sunset marching band. Over the years it has become a highly skilled and rigorously trained group of dancers, whose list of accomplishments is extensive.

The Golden Girls schedule for this academic year is indicative of their first rate talent. Among the events at which the group will be performing are: the Super Star Drill Team Competition, the Super Bowl half-time show, and the Orange Bowl Parade.

It is a great honor for the Golden Girls to be invited to the 1992 Olympics in Barcelona and the grand opening of Disney World in Paris. the cost of bringing this south Florida talent to the world's stage is high, however. The Golden Girls of Miami Sunset have the talent and the discipline to make us proud in both Barcelona and Paris, but without adequate financial resources the trip will not be possible. I encourage the group in its effort to fundraise in the south Florida community. I am sure that with the generous support of the people of Dade County the trip will be a wonderful success.

Mr. Speaker, I commend the Golden Girls and its leader Carolyn Ellis for their impressive achievements. I would like to congratulate each of the Golden girls. They are: Maxine Williams, Martica Aguirregaviria, Elizabeth Baum, Brenda Quinones, Amber Askins, Tracy Leon, Lauren Dalrymple, Adriana Baldoquin, Wesley Boas, Anamaria Reyna, Leslie Williams, Vanessa Suarez, Heather Levine, Christina Hernandez, Denise Dominguez, Maggie Antich, Jessica Stubbs, Maida Perrin, Leah Stefan, Maureen Eichinger, Nicole Edwards, Adriana Cuervo, Jennifer Emmett, Lori Jackson, Danielle Perez, and Megan Russell. I wish them much success with their exciting performance schedule, and with their efforts to make us proud in Paris, France, and Barcelona, Spain.

HONORING PEARL HARBOR SERVICEMEN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to the brave servicemen who were stationed at Pearl Harbor, HI, on the fateful day of December 7, 1941, when the Japanese attacked our forces there and catapulted our Nation into the Second World War. We all certainly honor the memory of those who lost their lives during that attack and send out our thoughts and prayers to their families.

Mr. Speaker, the Pearl Harbor Commemorative Medal has been awarded to all service personnel who were on the Island of Oahu on December 7, 1941. I want to pay special tribute to those servicemen who reside or whose survivors reside in the 17th Congressional District of Pennsylvania, which I am proud to represent. Among these honorees are the following: Girton H. Henry, of Harrisburg, who served the United States Army; Morris V. Hoffman, of Williamsport, United States Navy; Robert W. Leidhecker, of Montoursville, United States Army; Joseph E. Poplaski, whose brother Daniel resides in Harrisburg, United States Army; Paul E. Shiley, whose brother Clyde resides in Lykens, United States Navy; and Frank J. Valania, whose widow Olga resides in Shamokin, United States Navy.

I know that families and friends of these servicemen are proud of their loved ones' actions in defense of our country. I ask all of my colleagues to join me in honoring the memory of those no longer with us and in wishing the best to those who are still with us. We will never forget where they were on that "day of infamy."

PROGRESS IN SOUTH AFRICA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PORTER. Mr. Speaker, this week representatives of the ruling National Party and the two largest black political organizations in South Africa—the African National Congress and Inkatha—agreed to meet on November 29 to begin making arrangements for a formal multiparty conference envisioned to be held on December 20 and 21. This conference would begin the process of negotiating a constitution that would dismantle the present political system there and extend full political rights to South Africa's black majority. This is a vital and fundamental step toward freedom and equality for all of South Africa's 35 million people and I commend all parties for their commitment to working together to reach a common goal.

To facilitate the adoption of a new constitution by national referendum, the South African Parliament will consider as early as February a bill that will extend universal voting rights in referenda to all South African citizens over the age of 18 regardless of race. This will be the first time that the principle of one man, one vote will be given formal recognition in South African law and will allow any agreements that arise out of the multiparty constitutional meetings to be put before the general electorate for approval.

In addition, the South African Law Commission, on November 3, released a draft bill of rights which included guarantees for freedom of speech and association, the right to dignity and equality, freedom of worship, freedom of movement, and which carefully detailed the rights of South Africans upon arrest. The ANC constitutional committee has produced its own draft bill of rights highlighting its priorities, including personal and political rights, worker's rights, gender rights, and economic rights. While the details of a final version of the bill of rights are important and must be carefully worked out between the representatives of all the people in South Africa, it is as important not to lose the broader message of recent actions. While details of the two drafts differ, they represent a beginning, a point where the sides can come together and begin to negotiate as equals partners seeking to make their country a better place to live.

This is the beginnings of democracy and freedom and it appears to be taking hold in South Africa.

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NICARAGUA'S SECOND PINATA

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BEREUTER. Mr. Speaker, when the forces of democracy in Nicaragua won their resounding electoral victory in February of 1990, it seemed that that war-torn nation was moving away from civil strife and conflict. There was hope that the vicious cycle of war and killing had finally come to an end. As a member of the Carter Center election observer team for the Nicaraguan election, this Member can testify to the widespread hope for a peaceful future that was evident at the time.

It is becoming clear that their hope has not yet been achieved. The Sandinistas, who were repudiated at the polls, are seeking to thwart the will of the people through force of arms. Egged on by Daniel Ortega, gun-toting Sandinista thugs have brazenly assassinated legitimate labor leaders, and continue to threaten any who oppose them. Intimidation and violence have once again become the norm in Nicaragua.

Mr. Speaker, this body cannot continue to turn a blind eye to the completely intolerable behavior of Daniel Ortega and his Sandinista goon squads. The Sandinista behavior must be condemned loudly, for it poses a fundamental threat to the domestic tranquility of Nicaragua.

Mr. Speaker, this Member would point to an insightful article by William C. Doherty in the November 22, 1991 edition of the Wall Street Journal. Mr. Doherty, the Executive Director of the AFL–CIO's American Institute for Free Labor Development and an experienced and astute observer of the Latin American scene, correctly demands that the Nicaraguan government must take a firm stand against this lawless behavior. According to Mr. Doherty, "If the Nicaraguan Government refuses to take a stand, and fails to mobilize against the new pinata, how much longer can its friends abroad continue to give it support and sympathy?"

This Member commends this insightful but troubling article to his colleagues.

[From the Wall Street Journal, Nov. 22, 1991]

NICARAGUA'S SECOND PINATA

(By William C. Doherty)

In the early-morning darkness on Friday, Nov. 1, 240 sugar workers advanced on the barricaded gates of the German Pomares Sugar Mill near Chinandega, Nicaragua. Armed only with megaphones, their purpose was simple: They wanted to go to work.

Blocking their way was a small group of heavily armed Sandinista "trade unionists." The Sandinistas are demanding 100% ownership of the mill. They had forcibly taken over the government-owned enterprise in October and sacked the modest office of the independent Confederation of Trade Union Unity, or CUS. Along with another independent union, CUS represents the vast majority of the 2,300 factory workers at the mill and the cane cutters.

A number of CUS workers made it over the fence. One who did was Obdullo Herrera, who CUS members allege was immediately shot by Francisco Somoza, the general secretary of the Sandinista "trade union." As Mr. Herrera lay bleeding on the ground, CUS members say that another Sandinista leader, David Echeverri, stabbed him four times with a bayonet, nearly severing his head. In a kind of posthumous "necklacing," Mr. Herrera's body was placed on a burning tire and left on display for five hours.

Other CUS members were beaten and wounded in the bloody fracas. But when the police finally arrived at 9 a.m. they did not arrest the murderers. Instead, they arrested the organizers of the peaceful demonstration. The police, like the military, are still controlled by the Sandinistas nearly two years after the Nicaraguan people voted them out of office. The regional military commander, called a meeting at 2 p.m. to denounce the independent workers for causing the confrontation.

Subsequently, on orders from Carlos Hurtado, the minister of government, two Sandinistas were temporarily detained, but not the one who CUS members claim wielded the bayonet. CUS will seek prosecution of the killers, but the judicial system is also largely controlled by the Sandinistas.

The incident at German Pomares is one of many such Sandinista assaults on the integrity of Nicaragua. Following their defeat in the February 1990 election, the Sandinista commanders carried out the biggest, most rapid "privatization" in Nicaragua's history. State-owned enterprises, government vehicles, equipment, buildings and homes were grabbed by Sandinista leaders for their own use. Former President Daniel Ortega "purchased" a mansion owned by a Mexican woman for a tiny fraction of its market value. This wholesale looting came to be known as the *pinata*, named after the Mexican papiermache figures stuffed with candy and hung up at Christmastime as targets for blindfolded children wielding sticks. In this case, the Sandinistas were not blindfolded, and they wielded guns.

Officials of Sandinista-controlled trade unions supported this plunder in the name of "defending the gains of the revolution." Yet many lower-ranking Sandinistas were appalled at the unfairness of this. Now they have embarked on a second pinata of their own. Squads of Sandinista militants are forcibly acquiring the country's remaining assets. The large Igosa meatpacking plant in Rivas was taken over in September, along with the Amerrisque slaughterhouse in Juigalpa. Workers have been locked out of several sugar mills, and holdover Sandinista managers repress independent union organizations in the time-honored tradition of former dictator Anastasio Somoza.

Looming over this growing chaos are the two faces of Daniel Ortega. Three weeks ago he toured the country as *agent provocateur*, trying to unify Sandinista ranks by egging on the thugs in their armed pinata. This week he called for a "peaceful solution" to his own provocation, and, putting on his statesman's hat, negotiated yet another settlement with the government that rewards the Sandinista unions for their murderous rampage by giving them ownership of more of Nicaragua's dwindling assets. Meanwhile, the independent unions, which have called for genuine worker participation in ownership, are cut out of the process altogether.

Nicaraguan workers are fed up. Sometimes described incorrectly as "pro-government," CUS and other independent unions in an umbrella group called the Permanent Congress of Workers (CPT) are outraged by government inaction. On Nov. 13 the CPT stated, "We deplore and condemn the passivity of the highest authorities, civilian and military, who have shown tolerance and complicity with the crimes and terror of the Sandinistas." CUS leader Jose Espinoza, attending the AFL–CIO convention in Detroit, warned that if the authorities fail to respect the Nicaraguan Constitution and evict the Sandinista goon squads, "Nicaragua runs the risk of becoming another Lebanon."

Those of us who have admired and helped these courageous workers throughout their years of struggle against Anastasio Somoza and the Sandinistas are beginning to wonder: Where is the moral courage and strength of their government leaders, elected with so much hope by these same workers nearly two years ago? If the Nicaraguan government refuses to take a stand, and fails to mobilize against the new pinata, how much longer can its friends abroad continue to give it support and sympathy?

LINCOLN INTERFAITH COUNCIL OBSERVES 40TH ANNIVERSARY IN 1992

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BEREUTER. Mr. Speaker, the Lincoln Interfaith Council will observe its 40th anniversary in 1992. It is my pleasure to recognize the anniversary of organized ecumenical and interfaith work in Lincoln, NE, during the Lincoln Interfaith Council's 40th anniversary year. I commend to my colleagues the following commendation on this worthy organization:

COMMENDING THE LINCOLN INTERFAITH COUNCIL UPON THE OCCASION OF ITS 40TH ANNIVERSARY

1992 is a year of anniversaries and observances. Both the City of Lincoln and the State of Nebraska celebrate their 125th Anniversary. It is also the 40th Anniversary of organized ecumenical and interfaith cooperation and service in Lincoln, Nebraska—a year that will feature a Festival of Faith on September 19, 1992 at the Devaney Center where congregations and religious organizations will portray the richness of their unity midst their diversity as members of the Lincoln Interfaith Council.

62 Baha'i, Buddhist, Christian (16 denominations of Catholic, Protestant and Orthodox), Jewish, Unitarian-Universalist, and Unity congregations plus the Lincoln Church Women United and Helping Hands religious organizations comprised the membership of the Lincoln Interfaith Council at its November 1991 Annual Meeting. Founded in March 1989 as an interfaith organization, the Council traces its roots to the February 18, 1952 founding of the Lincoln Council of Churches.

The Lincoln Council of Churches was the successor of the Lincoln Ministerial Association and the Lincoln Council of Church Women. The purpose of the newly—organized Lincoln Council of Churches was "to promote the welfare, fellowship and cooperation of churches and to foster religious movements and community betterment."

The Lincoln Interfaith Council was established as "an organization of religious communities, each preserving its integrity and respecting the integrity of others, which pledge themselves to cooperation and to the continuation of activities and services which foster faith, justice, reconciliation and understanding among the people of Lincoln, Nebraska area." It carries out ministries and services in practical ways where cooperative

work can be more effective than work done by individual congregations, and oftentimes more effectively than similar work done by public or private groups.

Through service in administering, coordinating and sponsoring programs for feeding the hungry, working with prisoners, sheltering the homeless and creating affordable housing, empowering families, preventing child abuse and alcohol/drug abuse, welcoming and empowering refugees and immigrants toward self-sufficiency, and helping the elderly and persons with disabilities, the Lincoln Interfaith Council and its predecessors help participating congregations to serve in effective and creative ways.

Over the years, the Council's Boards of Directors, delegates from member congregations and organizations, staff, and volunteers have responded to needs of the community by venturing into program service areas and advocacy concerns that others were either unwilling or unable to address.

In the 1960s, the Council initiated its first Festival of Faith observances; promoted the creation of a separate Juvenile Court within Lancaster County; conducted a Reformation Festival at Municipal Auditorium; established Lincoln's observance of the Week of Prayer for Christian Unity; started a Lay School of Theology; and shared in the establishment of an Interfaith Job Corps Lounge.

During the 1970s and 1980s, the Council worked with the Lincoln Indian Center in programming, technical advice, legal aid, and community relations as a result of a program begun as a follow-up of special services offered during the Wounded Knee Trials of 1975, when the Lincoln Committee of Concerned People was created by the Lincoln Fellowship of Churches. This Committee offered food, clothing, shelter and transportation to Native Americans in Lincoln for the Wounded Knee Trials.

Police and Fire Chaplaincy Corps were instituted during the period with the help of the Council, and a "Campus/Community Dialogue" was held in response to concerns over the apparent polarization of attitudes between students and the general community. A Coffee House Ministry was also initiated for senior high school students.

In 1973, the Emergency Food Pantry System was established city-wide by the Council. In the period 1987 thru 1990, there was an 85.6% increase in the number of persons seeking emergency food—and that figure continues to increase into 1991. Eleven congregationally based Pantries, operated by volunteers, prepare seven-day emergency food boxes for persons in crisis, who receive this food via 14 human service agencies throughout the County. The human service agencies assure case management services to families in crisis. Through the October 16, 1991 World Food Day Observance, 892,416 emergency meals have been served since the beginning of this ministry!

Emergency services not provided by public or private human service organizations and agencies oftentimes fall to the Council and its constituent congregations. Because Lincoln does not have a Traveller's Aide Society, in 1991 the Council established a Families-in-Crisis Emergency Fund to be jointly administered by the Council's Lincoln Urban Ministries and The Salvation Army. Founded in May 1983 as a separate organization, Lincoln Urban Ministries merged November 1990 with the Lincoln Interfaith Council.

Over the years, the Council has continued to nurture many worthwhile programs to become independent, self-sustaining agencies with nonprofit status, or otherwise "spun-off" from its creating source at the Council. The Council was the catalyst for the creation of an independent Lincoln Interfaith Housing Coalition in 1991 because of the work of its urban Ministries. This nonprofit housing group used federal funds to purchase and renovate two downtown hotels to be used for low-income people; the hotels had been scheduled for demolition.

Education has always been a major focus of the Council, from its Lay School of Theology in 1967 to the present Center for Spiritual Growth. Many forums, dialogues, conferences and workshops have been offered over the years.

In 1965, the Council was recognized by the National Association for the Advancement of Colored People "for all of the work, prayers and sacrifices made in helping them advance this far." Civil Rights has always been an item high on the Council's agenda of concerns.

In January 1990, the Ku KLux Klan made itself visible once again in Lincoln, with a recruiting campaign—and the Lincoln Interfaith Council was a prime mover in creating the Coalition Against Racism & Prejudice. The Council and C.A.A.P. sponsored the city's first Rev. Dr. Martin Luther King, Jr. Interfaith Worship Service in January 1991. In 1968, the Council had "joined Catholic and Jewish congregations in Memorial Services for Dr. King."

Lincoln is fast becoming a global village with the recent influx of refugees and immigrants, particularly the large numbers of Southeast Asians, Amerasians, and Russians. In 1991, the Council helped organize the Lincoln/Lancaster County Refugee Resettlement Task Force and initiated steps to establish Community Gardens to be planted and operated by refugees themselves as a step towards self-sufficiency.

Recognition that the global village and all of its inhabitants were created by God, the Council sponsors such events as the annual Mayor's Interfaith Prayer Breakfast, the Interfaith Passover Seder, a Holocaust Memorial Observance, World Food Day events and activities, and Delegate Assemblies at which special programs are offered to help us understand better our differences so that we might learn how we can work more effectively together for the common good of our community, nation and world.

As a poineering agency, the Council also creates models of ministry and service. Two such programs are joint ventures with other agencies: Partnership Empowerment Program originating in 1990 is a family-empowerment model co-sponsored with the Community Child Abuse Prevention Council; Communities of Hope focuses upon issues of alcohol and other drug abuse in conjuction with the Lincoln Council on Alcoholism & Drugs, Inc. Both are congregationally-based programs which empower clergy and laity in their work with these important community problems facing our families.

To assure the continuity of ecumenical and interfaith service to our community, the Lincoln Foundation has established the Lincoln Interfaith Council Endowment Fund. Funding for the Council's activities and services comes from the generous support of its member congregations and religious organizations, as well as individuals, businesses, corporations, civic groups, and foundations.

The congregations and religious organizations of our community represent an awesome potential for creative change, for harmonious cooperation, and for meeting human needs. A tragedy of our American religious life is that our congregational and interfaith separatedness and diversity sometime prevents much of that potential for good from being realized. Through the Lincoln Interfaith Council, the congregations and religious organizations which comprise its membership seek to realize that potential more fully. We aim to do together that which we could not do well separately. It is proper stewardship—and it makes common sense!

SOME OVERLOOKED YUGOSLAV TRAGEDIES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, surrounding the crisis and conflict which we see today in Yugoslavia are important, controversial, and interrelated issues such as the self-determination of peoples, the changing of borders, civilian control of the military and the actions a State may take to prevent its own breakup. As chairman of the Commission on Security and Cooperation in Europe—the Helsinki Commission—I have already addressed these issues extensively, including here on the floor of the House of Representatives.

Today, however, I do not want to address these issues, or to prescribe any particular scheme which I feel could provide a just and lasting solution to the crisis in Yugoslavia. Instead, I want to raise one aspect of the many personal tragedies being experienced by those individuals caught up in the crisis, if not the conflict itself.

Consider what is confronting the many young people in Yugoslavia—with their hopes and dreams for a bright future in what is supposed to be the most united, prosperous, democratic, and peaceful Europe ever—who are now suddenly being mobilized to fight in a conflict they do not want. Many of them have fled rather than be drafted into the Yugoslav military and taken to the battlefield. Ethnic Hungarians from Vojvodina and ethnic Albanians from Kosovo in particular want to avoid being sent to fight in Croatia; they do not view this as a conflict of their making or as serving their interests. Indeed, many young Serbs feel the same way. They know that the use of force is not the way to resolve differences, even in regard to what may be very legitimate concerns regarding the situation of Serbs in Croatia, just as they know wide-scale repression is not the way to address what may have been legitimate concerns regarding Kosovo.

Unfortunately, the authorities have attempted to silence through intimidation those who seek to act upon their rights to free expression and assembly to protest the Yugoslav Army's waging of war in Croatia. Recently, organizers of and participants in peaceful gatherings in Vojvodina and Kosovo faced official intimidation, harassment, and detention. Independent voices in Belgrade have also been harassed, and their officers vandalized. As one Belgrade-based opponent of the war recently said in a Financial Times article "We Are Threatened; Any Opposition to the War Is Tantamount to Treachery."

More specifically, the events in Vojvodina are a telling example of this problem. In early

November, Nenad Canak of Novi Sad and Janos Szabo of Ada, who have been publicly critical of the fighting in Croatia and the calling up of reservists, were both arrested, possibly because of the antiwar protests. Five others also face charges for being involved in a meeting protesting the conflict. Canak allegedly was informed that he was going to be called up for military service, and Szabo was reported to be undergoing medical treatment for a heart condition. I am extremely concerned about these individuals, whose only crime appears to have been their protest of the war in Croatia. In Kosovo, Albanians are reportedly taken right off the streets and put into service. Meanwhile, more and more young people regardless of their ethnic background are going to the front and being killed.

This, Mr. Speaker, is not to say that fault for the current crisis can only be found on one side. Croatia's record in regard to press freedoms and respect for other basic human rights has had its share of shortcomings as well. But today I wanted to focus on this one issue: the young people who are being sent to the front against their will to fight in this senseless, evil war. Their particular plight, often overlooked, can be added to the tragedy of the thousands who have died in the battle and the hundreds of thousands who have lost their homes and possessions. Their loss on the battlefield is the loss of youthful and eager talents that could have been put to much better use in the creation of a new era of democracy and prosperity in the Yugoslav republics and provinces.

For their sake, and for the sake of future generations, I therefore strongly urge that those officials in Yugoslavia who are responsible for the continuation of the conflict to bring the fighting to a complete halt now. Recourse to force as a means to achieve political ends has been condemned by the international community, including the participating states of the CSCE process, and its continued use can only bring greater diplomatic isolation and economic decline. I cannot see how this is in the interest of anyone involved.

CORRECTIONS TO COASTAL BARRIER RESOURCES SYSTEM

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. JONES of North Carolina. Mr. Speaker, today, I introduced a bill which directs the Secretary of the Interior to make minor and technical corrections to maps depicting the Coastal Barrier Resources System. Last year, the Coastal Barrier Improvement Act of 1990 was passed into law (Public Law 101–591). This act made several changes to the Coastal Barrier Resources Act to make it a more effective statute. Among these amendments was a provision to prohibit flood insurance coverage for otherwise protected areas. An otherwise protected area is an undeveloped coastal barrier within the boundaries of an area established under Federal, State, or local law, or held by a qualified conservation organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. These areas have subsequently been depicted in official maps, therefore prohibiting Federal flood insurance coverage.

We now find, however, that in establishing these otherwise protected areas, some privately owned lands have been included. This would not be a problem, except for the fact that when we passed the Coastal Barrier Improvement Act last year we failed to give the Secretary of the Interior the authority to make revisions to the otherwise protected areas. This essentially prohibits owners of lands that were inadvertently incorporated into this system from construction of improvements on otherwise buildable areas.

This is exactly what has happened in the town of Pine Knoll Shores in my district. In this town, privately owned lands were included in an otherwise protected area. A letter I received from the Hon. Kenneth A. Hanan, mayor of Pine Knoll Shores, reviews his futile attempts to have these private lands removed from the maps by the Department of the Interior. Although the Department of the Interior recognizes that these are private lands and are included in the system maps by error, it is powerless to correct this mistake. This was explained by an opinion issued by the Solicitor's Office of the Department of the Interior.

It is for dilemmas such as this one that I introduce this legislation today. The bill provides the Secretary of the Interior with the authority to make such minor and technical corrections in the maps of otherwise protected areas which are necessary to ensure their accurate depiction. This authority is extended for 1 year only, and is meant to provide for changes to reflect only errors which existed at the time of the enactment of the Coastal Barrier Improvement Act of 1990. This legislation will not allow for modifications to be made to reflect changes in the status of lands since the enactment of that act. This bill calls for the Secretary of the Interior to request recommendations for corrections from State and local governments and to respond to each recommendation as to whether or not it will be implemented. Finally, the bill requires the Secretary to submit a report and copies of the revised maps to the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

Mr. Speaker, this legislation is needed to correct an oversight in existing law.

TRIBUTE TO ROBERT B. CHATTERTON

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly fine individual from Midland Township in Michigan, Mr. Robert B. Chatterton.

Mr. Robert B. Chatterton, married to Charlotte Chatterton, has been the Midland township supervisor for the past 25 years. In that quarter century he has led the township through numerous changes, including incorporation. He helped the rural township grow into an economically viable community.

He was a driving force in the formation of Midland County's economic development plan and a leader in a community wastewater treatment project. Even today he is active in negotiations to contract with Midland City for water and sewer services.

For his swift and sure response in the flood of 1986 that hit Midland Township, including an excellent flood control project, Mr. Chatterton received one of four awards from the National Association of Towns and Townships. He is also a lifelong member of the Michigan Township Association.

Mr. Chatterton is retiring from his post on December 5, exactly 25 years after he accepted the position. He once said that he never thought about how long he would do this job but that he was "just a young guy who wanted to find out what was going on, but I've enjoyed every minute of it."

Robert Chatterton is truly an outstanding citizen. Mr. Speaker, I know that you will join with me in recognizing the efforts of this fine man on behalf of Midland Township. His presence will be missed.

HONORING THE CHANNEL CITY CLUB OF SANTA BARBARA, CA ON THE OCCASSION OF ITS 45TH ANNIVERSARY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to the tradition and membership of of the Channel City Club of Santa Barbara, CA. The club, established by the late Mr. Louis Lancaster in 1946, was founded in order to provide a nonpartisan community venue for distinguished speakers to engage in the free expression of ideas for which our country is admired and respected around the world.

In the course of its distinguished 45-year history, the Channel City Club has worked diligently to present over 1,000 speakers of national and international prominence. Presentations have been given under the auspices of the club from future and past Presidents of the United States, Senators, Governors, Ambassadors, and corporate leaders. At one point or another in their careers such public leaders as Hubert Humphrey, Richard Nixon, Jimmy Carter, and Ronald Reagan among others too numerous to mention have addressed the Channel City Club. As these speeches are very often covered by the local media, the activity of the Channel City Club has served to enlighten not only their membership but the local community as well.

It is my privilege and distinct pleasure to congratulate the Channel City Club for 45 years of outstanding public service in promoting the competition of ideas.

FLORIDA INTERNATIONAL UNIVERSITY ENCOURAGES YOUNG ENTREPRENEURS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ROS-LEHTINEN. Mr. Speaker, Florida International University [FIU] of south Florida recently held an Entrepreneurship Day event to encourage future innovators in business. The university has sought to incorporate the entrepreneurial spirit into studies and student life. Three months ago, Bradley Scheel and Michelle Toledano founded the Association of Collegiate Entrepreneurs at FIU. The Miami Herald published an article by staff writer, Bea Moss, drawing attention to the Entrepreneurship Day event and a spark of creativity on the FIU campus.

That article follows:

Two good friends went separate ways after graduation from Sunset High School, but their similar business philosophies brought them together again.

Now closer than ever, Bradley Scheel and Michelle Toledano, both of Kendall, have their sights set on being entrepreneurs.

"You have to think in terms of 'what if I had to run a corporation.' It's more of an independent factor, not just geared to getting a job when you get out of college," said Scheel, a junior business student at Florida International University.

To be an entrepreneur you take an idea or a concept and use it to support yourself, Toledano said. "It teaches you to be self sufficient," said the senior business student.

Scheel is president and Toledano, vice president of the Association of Collegiate Entrepreneurs, which was founded three months ago at FIU.

During Entrepreneurship Day today at FIU, Schell and Toledano will be hosts and ushers along with other members of the association.

They will interact with some of Florida's most successful entrepreneurs, including H. Wayne Huizenga, Blockbuster Entertainment chairman; Richard Tobin, president of Strategy Research Corp., and Bill McFarland, chairman of McFarland and Driet Inc.

These students have the right idea, said FIU professor Jan Luytjes.

"Like many students who are strongly entrepreneur oriented, the kind of traditional approach to education is somehow not very challenging," said Luytjes, a 20-year management professor who teaches a course on entrepreneurship. "They look for opportunities outside of the regular curriculum."

Scheel, who said he became bored with the lack of entrepreneurial action as a beginning university student, took time out at one point to earn a real estate license and buy and sell foreclosed real estate.

He also went to California, hooked up with a friend's professional development seminars and started training corporate sales teams.

Meanwhile, Toledano signed up for the entrepreneurship course at FIU's College of Business Administration and told Scheel about it.

Finally, Scheel thought, a reason to return to Miami.

And with Luytjes' guidance, the pair established the Association of Collegiate Entrepreneurs. More than 35 members have joined the three-month-old club.

"This program is geared to do everything a young entrepreneur needs. It has networking, education on how to operate a business, inspiration and ideas," Scheel said.

Toledano already has a working knowledge of what it takes to run a business. She began helping run her family's clothing manufacturing business after her parents were injured in a car accident.

Scheel hopes that by the time he's out of school he'll have his own company. In 10 years he wants to own a company doing at least $100 million in sales.

"We make a good team," Scheel said of his close friendship with Toledano. "We have the same goals in life."

Mr. Speaker, entrepreneurship is in some ways the new frontier in America. Through hard work and innovation, these men and women help bring resources and know-how together to create wealth and jobs. I commend the self-motivation of Bradley Schell and Michelle Toledano in forming the Association of Collegiate Entrepreneurs and wish them much success. I would also like to recognize FIU Professor Jan Luytjes. It is teachers like her who help students reach for the stars. Dr. Modesto Madique, FIU's president, should be noted for making that school a place where learning can happen and dreams can become a reality.

TRIBUTE TO PSI BEARINGS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor PSI Bearings located in Simi Valley, CA.

PSI was among seven companies selected from more than 3,800 suppliers in 31 nations to receive Boeing Commercial Airplane Group's highest honor, the President's Award for Excellence for "exemplifying the continuing quest for quality improvement and finding ways to build a better airplane."

PSI Bearings, an operation of Rexnord Corp., based in Simi Valley, is a supplier of slotted entry bearings. The firm was chosen because it demonstrated superior performance in on-schedule deliveries, cost and price control, customer service, and continuous quality improvement.

Mr. Speaker, PSI Bearings and its fine employees demonstrate the caliber of dedication and care that is essential in the workplace if America is to remain competitive in the world community. I ask my colleagues to join with me in congratulating PSI Bearings for this fine achievement.

PHILLIP LATINSKI HONORED AS "PRINCIPAL OF THE YEAR"

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KANJORSKI. Mr. Speaker, I rise today to honor Phillip Latinski for his being named "Principal of the Year" by the Council of Chief State School Officers and the National Association of Secondary School Principals.

As principal of Wilkes-Barre's G.A.R. Memorial High School, Mr. Latinski has guided and advised many young people as they continue their journey, through education, on their way to becoming young adults.

Being an educator is a challenging job and particularly so today. As budgets and programs get cut due to financial restraints, our principals and teachers have had to become more creative to accomplish their mission—and remarkably, they are doing a tremendous job with what little they do have.

For Mr. Latinski, his students always come first. He would do almost anything to help his students and often does. His friends and colleagues all agree that Phil deserves this award. They describe him as "one terrific guy" and see him as both a good friend and mentor.

Phillip Latinski has been an administrator at G.A.R. Memorial for more than 15 years and has been dedicated to excellence in education for many more years. His commitment to his students is obvious in his involvement in the school and his initiating programs to help his students socially, mentally, and physically such as SADD, the Science Olympiad, and the award-winning school band.

Phil has served as the past president of the Pennsylvania Secondary School Administrators and is a newly elected Wilkes-Barre city councilman.

I am pleased to honor Phillip Latinski today as "Principal of the Year." Our educators are outstanding individuals and they deserve this recongition of excellence and Philip Latinski is one of education's shining stars.

HOUSE CONCURRENT RESOLUTION 188

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SMITH of Florida. Mr. Speaker, I rise in support of House Concurrent Resolution 188, concerning freedom of emigration and travel for Syrian Jews.

The facts about Syrian Jewry are all too well known. Today, more than 4,000 Jews live in terror. They are prevented from emigrating and can leave Syria only at great risk to themselves and their families. The few Jews who are permitted to travel abroad are required to put up huge fees as guarantees for their return, and their families are held as de facto hostages.

Pity those who try to cross the borders without permission. Those who are caught are usually tortured, imprisoned, and killed. And the few who succeed live with the knowledge that their families will be arrested and tortured if their escape becomes known.

Syria is a police state, and the attentions of the secret police, the Mukhabarat, are especially focused on this small and harmless minority. Syrian Jews are subject to round-the-clock surveillance. Their telephone conversations are monitored. Their mail is opened and read. Their conversations with foreigners are routinely monitored. For more than 20 years, the world has made entreaties to the Syrian Government to let this people go. Yet all we have received is a stony silence.

Mr. Speaker, how is it that in this day and age, we are still talking about the detention of an entire community? This is state hostage taking. It is medieval and barbaric.

The democratic revolutions that have been bearing fruit throughout the world began with an increased awareness of human rights. When that consciousness-raising process began in the 1970's, Syrian Jews were oppressed. Now that the revolutions have run their course in every region, except the Arab world, Syrian Jews are still oppressed.

Syria's mistreatment of its Jewish community is an indictment of the Syrian regime, of its legitimacy, of its professions of moderation, of its pretensions to leadership and respectability. Syria's willingness to victimize Syrian Jews demonstrates the degree to which its president, Hafez al-Assad, is out of touch with the international trend toward democratization and human rights.

Mr. Speaker Syria cannot be considered a member of the civilized world so long as it oppresses Syrian Jews. Certainly, it cannot be a serious participant in the peace process until it permits the Jews to emigrate. Moreover, freedom for Syrian Jews must not be contingent upon the peace process. On the contrary, freedom for Syrian Jews is a prerequisite for a successful peace process. It will test and demonstrate Syria's intentions.

I am pleased to cosponsor House Concurrent Resolution 188 and I urge its unanimous adoption. We must send an unambiguous message to Damascus: the Congress of the United States will not forget the Jews of Syria. We will not permit the remnants of this great and ancient community to be prisoners, or ghettodwellers, or diplomatic pawns.

OVERTOWN ADVISORY BOARD SEEKS TO REVITALIZE INNER CITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, a community revitalization effort is being launched by the Overtown Advisory Board [OAB] and the city of Miami. The OAB provides general leadership and planning expertise to community renewal and economic development in the Overtown district of Miami. The specific revitalization plan being launched is called the Overtown Action Program and will be led by a steering committee of business and civic leaders, as well as elected officials.

The Overtown Action Program will seek to encourage economic growth in three Overtown employment and service centers including: The Civic Center/Jackson Memorial Medical Center, and the Omni Mid-Town, and downtown Miami central business districts. The program works to address the problems of poverty, unemployment, substandard housing, drug abuse, and crime. Utilizing the strength of Overtown residents in a grassroots campaign, the OAB hopes to tackle these problems and revitalize the area.

The steering committee for the Overtown Action Program is a model of diversity. The private sector will be represented by the media, charitable organizations, financial institutions, construction businesses, and the Miami Chamber of Commerce. From local and State government, both elected and unelected officials will be represented to address housing, education, health care, transportation issues. The Overtown community itself will be represented by the neighborhood and tenant associations, property owners, and community-based development organizations.

Mr. Speaker, I commend the initiative taken by the Overtown Advisory Board and its newly formed steering committee for aggressively seeking urban renewal in Miami. The officers of the Overtown Advisory Board should be noted for their leadership. These include: president, Rev. John F. White; vice president, Donald F. Benjamin; secretary, Jacqui Colyer; treasurer, Cleomie Bloomfield, and financial secretary, Wihelmenia Jennings. I also want to recognize the willingness of Ira Clark, Mary Doyle, and Jay W. Weiss to serve as cochairs for the steering committee. I wish them much success.

INTRODUCING A NATIONAL SWEET POTATO RESEARCH PROGRAM

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. JONES of North Carolina. Mr. Speaker, I rise today to introduce legislation which will have an important and far-reaching effect upon the sweet potato industry in this country and will also prove beneficial to the American public who, as a result of this legislation, will in the future consume more nutritious and better grown sweet potatoes. The legislation I am introducing today would establish a national research program aimed at improving the production and marketing of sweet potatoes throughout this country. Also, the initiative would mandate that research be conducted to find ways in which sweet potato consumption and use by both domestic and foreign consumers can be increased. I think it is only proper to introduce this legislation today, just 2 days before Thanksgiving. For many Americans, sweet potatoes constitute an important part of the traditional Thanksgiving meal.

I realize that many of my colleagues wonder why I am introducing this legislation. My home State of North Carolina is widely known as a large producer of tobacco, peanuts, and poultry products. However, many of my friends on both sides of the aisle do not realize that North Carolina is the largest sweet potato producing state in this country. While my State is deeply involved in the sweet potato industry, I introduce this legislation to promote the consumption and improve the production of this nutritious and tasty commodity.

Mr. Speaker, the bill provides the authorization for research in six major areas. These include research to develop widely adaptable cultivars with improved disease and pest resistance; better environmentally compatible management technologies to control and combat diseases, nematodes, insects, and problem weeds; integrated crop management practices that successfully combine cultural and biological controls, environmentally rational chemical usage, and host resistance; improved technologies for more efficient harvesting, grading, and storage of sweet potatoes; better technology for the processing of sweet potatoes for traditional and nontraditional food products; and the identification of ways to increase sweet potato consumption and uses here in the United States and abroad.

The research mandated by this legislation will be implemented by the Agricultural Research Service through land-grant colleges and institutions all across the country. As you know, the Agricultural Research Service already has the expertise and personnel to implement such a research program. I am sure that with the help of our nation's land-grant colleges and universities, this program will prove successful and will improve the quality, marketing, and promotion of an already extraordinary agricultural product. While there are some costs associated with this legislation, they are minimal and justified when one considers the vast benefits that will be derived from this research program by the general public, the agricultural community both here in this country and abroad, and the sweet potato industry. I wholeheartedly urge my colleagues to support this legislative initiative which I feel will prove vital to promoting the domestic and foreign use of a nutritious and tasteful American agricultural product. Thank you, Mr. Speaker, for allowing me to introduce this legislation and I would urge all of my colleagues to review it closely and support it in the future.

BOARD OF REALTORS OF CAMDEN COUNTY CELEBRATE 75TH ANNIVERSARY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to congratulate the Board of Realtors of Camden County, NJ, on its 75th anniversary.

Founded in 1916 by a group of 14 farsighted men, the board now represents some 1,500 commercial, industrial, investment, and residential real estate professionals countywide, an is a member of the National Association of Realtors, the Nation's largest trade association.

Members of the Camden County Board of Realtors subscribe to a strict code of ethics. The board serves its members with educational programming, legislative and industry support, networking opportunities, and a public relations program. Annually, the board and its members provide service to the community through special projects and fund raising efforts, as well as the ongoing development and support of Challenge Grove, a special county park facility designed for the physically challenged.

BEWARE OF THE WELFARE KINGS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of New York. Mr. Speaker, welfare is always a hot political issue in America. Often it is a cover for racist demagoguery. Most Americans don't realize that the overwhelming majority of the people on welfare are white. More than two-thirds of the persons on welfare are also children. Mention welfare, however, and the most primitive prejudices rise to the surface. Part of the reason for this misdirected anger by the taxpayers is that political leaders have failed to explain Federal subsidy distributions to all segments of the society. Through defense contracts the rich have always gotten the lion's share of the Federal dollar. As the cold war ends the rich have ripped off the second largest Federal expenditure, the banking bailouts to cover money that has been stolen and mismanaged. Before it all ends, the savings and loan association doles will cost more than $500 billion. Recently the House voted to place the commercial banks on the public dole starting with $70 billion. I voted against this welfare for the banks. Welfare queens are a favorite target for exaggeration and ridicule; however, I only hear kind and gentle talk about these banking welfare kings. The pennies some welfare queens might have stolen were a nuisance and they deserved punishment for sabotaging the integrity of a system designed to help those in greatest need. The billions of dollars that the banking welfare kings have stolen have set off a chain reaction that may destroy the economy of the country. These scoundrels deserve exposure and comparable punishment. David Duke and the other demagogues who crusade against welfare should focus their sights correctly and go after the banking welfare kings. An alert for America is provided in the following rap poem:

BEWARE OF THE WELFARE KINGS

Bankers on the dole
David Duke
Come play your role
Welfare for the rich
Is a public policy bitch.
70 billion
Down the drain
Leaves the homeless
In the rain.
Not the Queens but Welfare Kings
Had extravagant gourmet flings
70 billion
For the banks
Not a word
Of humble thanks
Crooked swindlers
Bear no pain
All the White House
Is insane.
Let the private sector strut
March us deeper
Down the rut
Not the Queens but Welfare Kings
Reign arrogantly supreme
Protected by hi-tech tanks
In their plush too-big-to-fail banks.
David Duke
Your aim is wrong
Time to sing
A smarter song
Welfare for the rich
Is the public policy bitch.

VOICES OF THE COMMUNITY TALK ABOUT CRIME

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, as I have mentioned in the past, a number of thoughtful articles recently appeared in the Prince George's Journal concerning the increasing murder and crime rate in our community. I would like at this point to include the text of two articles written for this series by local residents, Lisa Weathers of Fort Washington and Joanne Sales, formerly of Hyattsville.

RELIGHT "FLAME OF HOPE" FOR CHILDREN

(By Lisa Weathers)

The numbers seem to change as quickly as those on my car's odometer. And along the way, television news provides the visual images: the grief-stricken children and siblings of victims; sobbing mothers; pall bearers barely old or strong enough to lift a casket; baffled politicians and clergy at a loss to explain the demise of a generation that should have been our bridge to the future.

As frightening as they are, the numbers of murders in Prince George's County do not begin to hint at the loss they represent.

There is the loss of human potential, of talent and giftedness, of contributions to society these individuals might have made, had they taken a different road. There is the loss of relationships between the victim and his family. And what about the loss of innocence among children who live daily with the sounds of gunfire and ambulance sirens?

The carnage doesn't end there. What happens to the murderers? If caught, they further strain the seams of our judicial and penal systems. If not, they go on to wreak more havoc.

But more horrifying than all of this is the fact that as a society, we are unwilling to invest our resources in efforts to prevent 1992—and 1993 and 1994—from becoming even bigger record setters. We would rather build more prisons than invest in programs that prevent juvenile delinquency.

A murder seldom just happens. It is the explosive culmination of a series of life events that pose the most intense of emotions to be dealt with: powerlessness, frustration, anger, low self-esteem.

A murderer turned playwright once described on network television how it had taken a full seven years for him to realize the magnitude of his crime. He was unable, he said, to see value in another human life because he had seen no value in his own. And so he was, it seems, a ticking time bomb, just waiting for the right opportunity to explode.

Our record number of murders is proof of what is happening in the lives of our young people.

What is happening? Children are getting their values from television, videos, movies and the street corner rather than their parents and community leaders. Too often, television and idle mischief fill the hours when children should be listened to, challenged intellectually, read to and talked to. As parents we are often too preoccupied with the rat race to hear the ticking in our children.

Then there are the schools, where often the main priority is just keeping order. A parent told me recently how she told the principal of her child's high school how concerned she was about the child's failing grades. The principal brushed her off by telling her she had nothing to be concerned about because her child was not on his "list" of kids who had behavior problems. Apparently, he could hear the ticking in those on his list, but failed to recognize the importance of preventing academic failure.

If there is anything positive to be gained from reading the gruesome statistics of the day, it is the knowledge that we are not powerless.

When and where do we start? Right now, right there and right here.

At home, with the kid next door or down the street. We begin by caring, and listening and talking about ways to deal with those emotional rivers we must all somehow cross. We begin by providing positive outlets, and by providing opportunities for children to discover early that they are too talented and special to be wasted on a sidewalk.

It is never too early to start, but, all too often, it can be too late.

FINDING RELIEF FROM VIOLENCE

(By JoAnne Sales)

I grew up on Ager Road in Hyattsville when it was a narrow, country road, and when my husband and children and I moved back to Ager Road in 1981, the neighborhood had already seen many changes.

I wasn't afraid of change. But I became afraid.

When a body was found face down in the creek where my sons played, I was afraid. When a neighbor boy buying bubblegum got caught in the middle of gunfire, I was afraid. When we heard machinegun fire and screams just over the creek, and three people died, I was afraid.

What was it like to live there, settled in an old farmhouse between three large apartment complexes where drugs and violence had become a greater plague than roaches?

Well, my family unintentionally fell into a pattern in which we practically took shifts staying awake during the night. We never left the house unattended. Even with young children, I never went to the park without the safety of numbers. "Don't walk in the woods," a 7-year-old girl told me. "Too many people get raped in the woods." And, I was angry all the time.

We loved our old house, but by 1987 we knew we would rather live in a teepee than live in fear and anger any longer. In 1989 we sold the house and moved out.

After six months of searching for a home, we woke up one morning in a house in the rain. When I went out to the store I experienced culture shock. Strangers smiled and talked to each other. Drivers waved and took turns at stop signs, people were respectful and helpful on the phone.

Where am I? I wondered. It was Portland, Ore. At night, I had nightmares that I would have to "go back." But in the daytime, I smiled so much in the grocery stores that people kept offering me jobs. It was such a relief to look at a stranger and realize, "That person does not want to kill me. That person has no desire to knock my head in with a brick." After a few months of decompression, I even came to believe that these people wished me well.

Until you have lived in violence, you don't know how the violence clings to your skin like dark mist; you breathe it into your heart like poison gas. The violence becomes a part of your self-image and it shadows your best intentions.

For years, I had been part of the group that hung on in the old neighborhood and said, "Don't leave. Don't chicken out." Finally, I realized it was too big for me. I'd rather stop fighting and start raising chickens.

So now we raise chickens and never lock our doors. I don't even carry a door key on my key ring. My kids roam free and I know they are safe. The most annoying crimes are illegal dumping and mailbox bashing. For the moment, we feel safe.

Still, I wake in the night in fear of that shadow of crime. Life is being devalued. The sickening murder rate is only the ugly face of a huge network of violence and indifference.

Changes have to come from the top. Money has to come out of the defense budget and back into education and rebuilding spaces where life can flourish. We need to stop protecting the rich and the ethic of greed, and realize that democracy can only exist where the vast majority of the population is educated, economically self-sufficient, and appreciated.

But changes also have to come from the bottom. One day, on Ager Road, a 9-year-old girl carried her limp little sister Niki to me. "Her eyes keep rolling up in her head," she said. Niki was almost dead from pneumonia. Her mother was never home.

The children who wandered over to our old house on Ager Road were starving: emotionally, intellectually, and even nutritionally. They were trying to find their way virtually alone. I watched too many of these children go the way of poor role models, on television and on the street. Into violence.

Almost always, when I meet children in Oregon, I know somebody stands behind them. These children may be no more valuable, but they are more valued—as all children should be.

The whole society is involved in this. We need to rewrite our reasons for living.

CASTRO'S MOB VIOLENCE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, once again, Castro's tyrannical regime has demonstrated its total lack of respect and complete disavowal of human rights for the Cuban people.

Days ago, a gang of 200 people attacked a Cuban woman whose only crime has been to express a position contrary to those espoused officially by the regime.

Elena Cruz Vareda and six other persons were taken to a police station after being brutally attacked by these mobile gangs guided by Castro's regime.

We denounce this new aggression as a barbaric manifestation of official violence that the Cuban people are subjected to.

A TRIBUTE TO MAJ. EDMUND B. ANDERSON

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VANDER JAGT. Mr. Speaker, I rise today to pay tribute to a man who embodied the American spirit, lived the American dream, and taught the American ideal.

Maj. Edmund B. Anderson, of Savannah, GA, was not familiar in the halls of our Nation's Capitol, but his spirit, his life, and his teachings have done more to build upon the foundation of America's greatness than many of the laws and resolutions which this body has enacted over the years.

President Bush said in his recent State of the Union Address, "The State of the government may be determined by those of us here in this chamber, but the State of America will be determined by all Americans, everywhere." Ted Anderson is one of those Americans who dedicated his entire life to making sure that the State of America was, and will forever, remain as strong as the mighty oak.

As a young man, Ted Anderson asked of a country in trouble, "What can I do to help?", and answered the call of his Nation by enlisting in the Army Air Corp. He was a common man of uncommon courage in the North African and European campaigns of World War II. He was a man who saw first hand the horror of war, the iron fist of tyranny, and the dark days of despair that gripped an uncertain world.

Throughout the battles of that war, Ted Anderson was one of the courageous American aviators who kept the flickering flame of freedom alive for us here at home, and for the occupied nations of Europe abroad. He risked his life countless times, not for his own glory, but so that his fellow man and generations yet unborn could continue to enjoy the fruits of liberty. Thanks to brave men like Ted Anderson, the American spirit never wavered and America remained the land of the free.

When he came home from that war, Ted Anderson never bragged about his achievements, and was soon again defending freedom over the choppy waters of the Pacific and in the jungles of Asia in the Korean war. In the decades that have since passed, few knew that in his 22 years of military service Major Anderson had received many of the Nation's top military honors. Among his many decorations, he was awarded the Distingushed Flying Cross, the Bronze Star, the Air Force Commendation Medal, and the Air Medal with 13 oak clusters, each one signifying additional heroic acts in defense of freedom.

After his service in two wars, Ted knew that this defense of freedom was not over. The post-war era brought a new threat to peace as an iron curtain descended across Europe, and communism threatened all that we Americans hold dear.

So Ted continued to serve his country in the Air Force and became one of the pioneers of the Strategic Air Command, established to guard America's freedom in those volatile postwar years.

But throughout his life, Ted Anderson's contribution to the greatness of America was not limited to the cockpit of a fighter jet or the flight deck of a B–52.

Throughout his entire adult life, Ted Anderson not only dedicated himself to serve his country, but also to serve his God and his fellow man.

And throughout those years the core from which his good works radiated was his special family, anchored by his bride of 46 years, Nadine. Together they raised six wonderful children: Maris, Nadine, Laurie, Paula, Ted, and Maggie. And today each one of those grown children is a tribute to the love, the values, and the ideals that were instilled into each of them by two wonderful parents.

But the Anderson example was not limited to the circle of the immediate family. Theirs was a house that was always open to strangers in need, a home filled with enough love to always take in one more. For years Dan Ailes has been a part of the extended Anderson family, and now today he carries on the examples taught by Ted and Nadine as he teaches young children.

Teaching was always important part of Ted Anderson's life, and his dedicated service to the Boy Scouts taught countless young men how to do their duty to their God and their Country, to help other people at all times. As a scoutmaster and a friend, his guiding hand helped steer many a young man down the path of adolescence and onto the road of an adult life filled with service to God, to country, and to fellow man.

Ted's influence was not just limited to Troop 16 and the boys he counseled. As a dedicated servant of St. James Catholic Church and the Benedictine Military School he had the opportunity to impact upon lifes thousands of young men and women.

What a fitting tribute it was to the example of Ted's life that upon his death this week Benedictine Military School dismissed classes and the Senior Corp of Cadets lined the aisle of St. James Church in a final tribute to a man who always was willing to give so much to others. Indeed, he may be gone from us, but the thousands of young men and women he influenced over the years ensures that his spirit will remain with us, and his values and ideals will continue to make America strong for many years to come.

Ted Anderson was a man who was fiercely proud of his nation and of his Scotish heritage. As the president of the Clan Anderson Society he was the embodiment of the international symbol of the Clan, the Mighty Oak surrounded by the words, "Stand Sure". Throughout his life, the faith of Ted Anderson in his country, his God and in his fellow man never wavered. whatever the crisis, Ted Anderson would remain as solid as the Mighty Oak, he would always "Stand Sure."

His death last week reminds me of an inscription to the Scotish Highlanders who were killed in the Battle of Magersfontein in South Africa, in 1899. That inscription reads: "Scotland is poorer in men, but richer in heros." Today, America is poorer in men but richer in heros for the quiet, yet heroic way in which Ted Anderson lived his life.

Ted was a man for whom the words freedom and democracy were not cliches, they were living truths. To him, the American flag was much more than a piece of cloth that flut-

tered atop our buildings. To Ted Anderson, the American flag was a reminder of the struggles endured by our Nation so that future generations could continue to enjoy the blessings of liberty. To Ted Anderson, that flag was the symbol of the freedom and democracy he had dedicated his life to preserving.

And I think that it was very fitting that upon his death a flag from this very building was lowered in his honor and sent to his family as a small remembrance for a man who never forgot what it means to be an American.

And for Ted Anderson, his association with this Capitol building goes back a long time. In 1866 the 39th Congress paid tribute to his ancestor, Charles F. Anderson, for preparing the plans and drawings for the extensions of the Capitol that resulted in the construction of our current House and Senate Chambers. How fitting it was that a flag which flew over the Chambers designed by his ancestor would accompany Ted to his final resting place.

Today we mourn Ted Anderson's death, but we are grateful for his life. At the end of his funeral mass the family shared a poem that was written by a 19-year-old pilot in World War II and served as a creed for American pilots all over the world. The poem "High Flight" describes the life of a pilot.

Oh, I've slipped the surly bonds of earth,
And danced the skies on laughter-silvered wings;
Sunward I've climbed and joined the tumbling mirth
Of sun-split clouds—and done a hundred things
You have not dreamed of—wheeled and soared and swung
High in the sunlit silence. Hov'ring there
I've chased the shouting wind along and flung
My eager craft through footless halls of air.
Up, up the long delirious burning blue
I've topped the wind-swept heights with easy grace,
Where never lark, or even eagle, flew;
And, while with silent, lifting mind I've trod
The high untrespassed sanctity of space,
But out my hand, and touched the face of God.

Major Ted Anderson has now slipped the surly bonds of earth to touch the face of God, but his time and service here will long be remembered.

Perhaps the Air Force Honor Guard summed it up best when they presented Nadine with the folded American flag at the end of his funeral service: "On behalf of the President of the United States and a grateful nation, we offer our humble thanks and deep sympathy on your loss." The honor guard then rendered this special man one long, final salute.

PROVIDING TELEPHONE COMMUNICATIONS BETWEEN UNITED STATES AND VIETNAM

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WOLF. Mr. Speaker, reaching out and touching someone in Vietnam has become a black-market commodity, illegally putting $1 million into the Vietnamese Government's coffers.

I have learned recently that dozens of small, black-market phone companies with names like FarEast Express Co., Viba Telecom Network Inc., and Dynasty Co. are charging ripoff rates for Americans to speak to their loved ones in Vietnam. The money lines the pockets of these black-market operators and the Vietnamese Government, which receives tribute from the black marketeers for allowing their monopoly.

Imagine for a moment that you wanted to make an overseas call to your family. But in order to do so, you had to first send your family mail telling them to be at a particular telephone at a particular time.

Then you had to send a large money order to a post office box in a third country. A black-market operator would then call you and patch your call through to your relative—if you were lucky enough to avoid dealing with a fly-by-night operator, who just cashed your check and disappeared.

That is what many in my district and across America are currently forced to do in order to speak to their loved ones in Vietnam.

I rise to redress this injustice, and to introduce a companion measure to legislation introduced by Virginia Senator CHARLES ROBB in the other body which would permit direct telephone service between the United States and Vietnam. This legislation serves the humanitarian purpose of allowing these people to legally and directly telephone their relatives using any U.S. long-distance carrier and be charged a reasonable and fair amount in the process.

This legislation would simply legalize direct phone service to Vietnam; revenues generated from the resulting phone service must be deposited in a United States-controlled escrow account, preventing Vietnam from collecting any of the funds subject to the discretion of the administration.

The legislation would prohibit the Vietnamese Government from receiving any of that money, and thus effectively tightens the economic embargo on the current government of Vietnam. At the same time, by allowing phone service to exist on a legal basis, the cost to the caller is dramatically reduced.

This bill would be of great humanitarian service to the Vietnamese-American population in this country and not effectively change the conditions set by the administration for lifting the embargo and normalizing relations with Vietnam. I welcome the support of my colleagues as cosponsors of this legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LICENSING TELEPHONE COMMUNICATIONS BETWEEN THE UNITED STATES AND VIETNAM.

(a) Approval of License.—Notwithstanding any other provision of law or regulation, pursuant to the Trading With the Enemy Act (50 App. U.S.C. 1 et seq.), the President shall approve application for a license to authorize the receipt and transmission of direct telephonic communications between the United States and Vietnam.

(b) AUTHORIZATION FOR TRANSFERS TO BLOCKED ACCOUNTS.—(1) Any payment or transfer of credit arising out of communications licensed under subsection (a) is authorized to be made to a newly created blocked account held by Vietnam or a national thereof in a banking institution in the United States.

(2) This subsection does not authorize any withdrawal or transfer of any funds or credit out of that blocked account.

(c) DEFINITION.—For purposes of this Act, the term "blocked account" means an account containing funds with respect to which transactions are prohibited pursuant to section 500.201 of title 31, Code of Federal Regulations.

PROJECT REACH OUT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, it is with great pride that I bring to your attention the results of an ambitious effort by the public television network in the great State of Maryland.

On Thursday evening, September 5, citizens of Maryland responded overwhelmingly to the call from Maryland Public Television [MPT] for volunteers for public service. During a live 3-hour event broadcast on the statewide network, callers pledged 896,843 hours of voluntarism to regional schools, libraries, and educational programs during the 1991–92 school year.

Project Reach Out, now in its fourth year, asks viewers of MPT to donate their time—not their money—for educational programs throughout the region. The project's goal is to bolster the number of volunteers and volunteer hours to respond to community needs in schools and libraries for educational tutoring, job-skill mentoring and literacy programs, as well as a myraid of other assistance opportunities.

Now, more than ever, as schools and municipalities struggle with limited resources, the need for volunteers takes on even greater significance.

This year's Project Reach Out total hours pledged increased more than 300 percent over last year's results, which then exceeded 295,000 hours. The live event was broadcast from MPT studios in Owings Mills from 8 to 11 p.m. and simulcast by commercial partners WJZ–TV/13 [Baltimore] from 8 to 9 p.m. and WJLA–TV/7 [Washington] from 9 to 10 p.m.

This year's special guest, Emmy Award-winning performer Ben Vereen joined Gov. William Donald Schaefer, Senator BARBARA MIKULSKI and others to encourage viewers to call the studio phone bank and pledge volunteer time to schools, libraries, and United Way-sponsored education programs throughout the region.

MPT first launched Project Reach Out in 1988 in an effort to use television to its fullest potential by reporting a need to thousands of viewers and offering to them the challenge to meet that need. And the people of Maryland responded terrifically.

The response was so positive that MPT has repeated Project Reach Out each year since with results that continue to double and triple.

Project Reach Out highlights Maryland Public Television's strong commitment to commu-

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nity service and educational excellence throughout the region and encourages new and continued volunteer participation in the many educational programs around the State that probably could not exist without volunteer support.

This year, for the first time, the public library systems of Maryland, Washington, DC, and northern Virginia joined with MPT for Project Reach Out. Approximately 260 libraries throughout the region were represented in this effort.

This example by MPT demonstrates how public television stations, working within their local communities, can help citizens find solutions to problems and become catalysts for positive change.

I applaud Maryland Public Television for this most worthwhile initiative, and urge my colleagues to consider recommending this kind of campaign in their own States.

DEDICATION OF SCHOOL PLAYGROUND AT COLLINGSWOOD'S TATEM ELEMENTARY SCHOOL

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to bring my colleagues' attention to a milestone event which took place Friday, November 22, in the borough of Collingswood, NJ.

In one sense, what took place at Collingswood's Tatem Elementary School was a purely local celebration like hundreds of others which occur around this country everyday: the dedication of a new school playground.

But what made this event nationally significant was that the people of Collingswood now have the country's first playground constructed primarily from recycled plastic. How this came to pass is a story as interesting as the playground itself.

As this Congress continues to grapple with our country's solid waste crisis, we recognize that, as a matter of Federal policy, we must do whatever we can to encourage the creation of economically viable, self-sustaining end-markets for recycled plastic and other commodities. Collingswood and its corporate supporter, Lever Brothers Co., together have shown that these markets can be developed, and that what we need are creative and dedicated individuals to help realize their potential.

I would also like to add to the record an article from the Philadelphia Inquirer.

[From the Philadelphia Inquirer]

PLASTIC PLAYGROUND: COLLINGSWOOD SCHOOL'S USE OF RECYCLABLES REALLY SWINGS

(By Alison F. Orenstein)

When most people look at empty plastic bottles, they think, "Trash." When students at Tatem Elementary School in Collingswood see empty plastic containers, they think, "Playground."

And rightfully so, because starting very soon they will be able to climb on and slide down what used to be, among other things, milk jugs and laundry detergent containers.

Tomorrow, officials from the Collingswood School District will unveil the first playground in the region, and possibly the first in the country, constructed primarily from recycled materials, according to school officials.

"I'm looking forward to it," said Tatem principal Joseph Sambuco last week while the project was still under construction.

The playground, in a roundabout way, is the result of a sixth-grade project from the spring of 1990.

The students had proposed a plastics recycling program to commemorate the 20th anniversary of Earth Day. With cooperation from other schools in the district and help from the district administration, they quickly raised enough money from their recycling efforts to purchase trees and plant them around all of Collingswood's public schools.

They also unwittingly planted the seed of an idea in the mind of Karen Jones, a member of the school's Parent-Teacher Association.

School officials and the PTA had been looking for a new playground to replace the outdated and rusty play set in back of the Tatem school.

With recycled plastic fresh on her mind, Jones began writing letters to companies involved in plastics recycling. She wanted to know if the Tatem school could get a playground made of recycled plastic.

In May 1991, Lever Bros. Ltd., based in New York City, makers of such products as Wisk detergent and Snuggle fabric softener, replied that they were not only interested but would supervise and help fund the project.

Lever Bros. gave the school $10,000, and the PTA was able to raise $14,000 more, enough to cover the cost of the proposed playground.

Help also came from other sources. Area companies, responding to Jones' letters, donated items such as park benches and a swing set, as well as the foundation materials. The Borough of Collingswood installed signs for the playground.

Lever Bros. brought in Playworld, a playground manufacturer in New Berlin, PA. ARW Polywood of Lima, Ohio, was chosen to supply the building materials—including an artificial lumber, made of recycled plastic.

Together the companies created a playground in which the foundation and structure are made primarily of recycled products.

The finished product includes a spiral slide and a straight slide, a horizontal ladder, bubbles to look through, tick-tack-toe walls, and several decks for students to climb on, according to site manager John Miller.

The foundation is made of a fabric called Fibar—which will hold the playground materials in place while allowing water to pass through—as well as stones that were taken from a demolition site and wood chips, which Miller says is for cushioning falls.

The plastic lumber is reinforced with a metal core. Other parts of the playground, such as slides, are made of new plastic that Miller says is easier to mold and holds its shape longer.

In all, Miller estimates that 95 percent of the playground is made of recycled materials.

Project manager Ted Grove, an engineer with Playworld, estimates that the playground can last as long as 25 years, versus 15 years for a wood playground.

"It's really been a combined effort, everybody's really doing their part to get things done," said Maria Langan, a spokeswoman for Lever Bros.

"What Lever Bros. is hoping," said Sambuco, "is to make it a model playground, and Collingswood a model community to show industry, government and schools working together to make a positive change for the environment."

COMMEMORATING THE ANNIVERSARY OF THE 26TH AMENDMENT TO THE CONSTITUTION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to include in the RECORD a statement by Mr. Edmond Bonnette, commemorating the anniversary of the 26th amendment to the Constitution:

18 YEAR OLD SUFFRAGE LONG A COMING

(By Edmund J. Bonnette, former chairman, L.U.V.-18 Committee, New Jersey)

The 26th Amendment to the U.S. Constitution lowering the voting age from 21 years to 18 years, holds the record for the speediest ratification of an amendment to the U.S. Constitution.

The whole process took just 3 months and 7 days. It was virtually a new speed record of wheels of bureaucracy. The nearest approach to that was achieved in 1804 when the 12th Amendment, requiring separate electoral college ballots for President and Vice-President, was ratified in 6 months and 6 days.

The ratification process for most amendments last a year or more. It took three and a half years to get the Federal Income Tax Amendment ratified.

The amendment most closely resembling the voting age issue was the 19th, extending the franchise to women. It took 1 year and 2 months to be ratified.

With the speed by which the 18 Year Old Amendment was passed, one might conclude that the 26th Amendment had great popular support and that it happened overnight. It didn't and was long a coming.

When the George H. Gallup public opinion poll first surveyed on this subject in 1939, only 17% voted in favor. By 1942 when Senator Jennings Randolph (D–W.V.), then a Representative, introduced the first resolution for 18 Year Old Suffrage, support for it only increased minimally. Georgia in 1943 and Kentucky in 1955, agreed to make citizens eligible to vote at the age of 18. When Gallup polled in July, 1953, 63% of persons 21 and older expressed support.

However, when the issue was placed before the voters, 12 states voted on and rejected proposals since 1952 to lower their voting ages.

When Alaska and Hawaii were granted Statehood in 1959 the minimum age for voting was set at 19 in the Constitution for Alaska and 20 for Hawaii.

Fully two thirds or 8 of those defeated referendums came in 1968 or later. The results were close in some states and overwhelming in others. South Dakota was 2 to 1 against the vote for 18 year olds in 1958. Its neighboring states of Nebraska and North Dakota opposed the vote for 19 year olds by margins of only 51% to 49%, 10 years later. Our effort in New Jersey tallied 60-40 against an 18 year old voting in 1969. Ohio that same year voted 50.5% to 49.5% against the vote for 19 year olds. In May 1970, during the campus unrest over the bombing of Cambodia, 62% of the Oregon voters opposed granting the vote to 19 years olds. Voter annoyance with student demonstrations was regarded as an important factor in the rejections.

After our 18 year old vote referendum was soundly defeated in New Jersey our "L.U.V.-18 Committee" (Let us Vote 18) and another student group called the "Voting Age Coalitation" determined to keep the issue alive, began lobbying the State Legislature for a new referendum seeking the enfranchisement of 19 and 20 year olds. (In New Jersey, direct petition referendums is not permitted and once the 18 year old issue was defeated we would have to wait 3 years to put it on the ballot again.)

While we in New Jersey were redirecting our campain effort to the 19 year old vote, thousands of youthful activists around the country were brandishing petitions, ringing doorbells and buttonholing Legislators in a crusade to enfranchise approximately 12 million 18 to 20 year olds. In Florida a Tallahassee student organization formed calling itself "V.O.T.E." (Voter Opportunities to Eighteen year olds). In Michigan "Committee of Total Citizenship." A Massachusetts committee labeled itself "18 x 72" (lower the voting age to 18 by 1972.) In California "I.N.V.O.L.V.E." (Independent Volunteer for Vote Extension) sought half a million signatures to put the question on the ballot there.

In May, while Oregon voters were defeating their 19 year old question, the New Jersey State Senate passed a reolution 33–0, to put the 19 year old question on the ballot. Just 2 days later on May 14, 1970, despite the reluctance and open opposition of the powerful House Speaker William K. Dickey (R-Camden), the Assembly, at the 11th hour approved the ballot question 54–6. A day later and the question would have had to wait until the following year as a public question must clear the Legislature at least 90 days before an election.

Both major parties in the State lined up behind the question as did the AFL–CIO, NAACP and other influential groups. Gallup's poll once again showed 58% of voting adults favored the lower voting age. However, the most important poll of all, that at the ballot box, proved the pollsters wrong again. "Kidlash" (the word for reaction against student demonstrators and young activists in political campaigns) won out again.

In the meantime, the 1965 Voting Rights Act, which enfranchised over 800,000 southern blacks that had been denied the vote by poll taxes, English literacy and property ownership, was being voted on for a 5 year extension. Undaunted over defeat of the 1969 and 1970 referendums in New Jersey, our focus turned to Washington, D.C. and the new 1970 Voting Rights Act.

Our contention was that if 18 year olds were permitted to vote in Federal elections in Georgia and Kentucky, and Alaska and Hawaii had voters under age 21 then we in New Jersey and other states not afforded that same privilege were not receiving the same equal protection of the U.S. Constitution. We were being taxed by the Federal Government, sent off to fight in foreign lands, yet denied the right to participate in the selection of that Government.

With much lobbying in Washington and despite staunch opposition from 81 year old Emanuel Cellar (D-N.Y.), the powerful Senator James O. Eastland (D.-Miss.), we found champions for our cause in Senators Edward M. (Ted) Kennedy (D-Mass) and Birch Bayh (D-Ind). They, finding real merit in our argument, sponsored an Amendment to the 1970 Voting Rights Bill making 18 year old eligibility a part of that bill. After years of defeat and stonewalls, it finally appeared that our dream was becoming reality.

The Amendment passed and went on to be signed into law by President Richard M. Nixon. While Nixon signed the law, he preferred the lowering of the voting age to be done by Constitutional Amendment and asked the Supreme Court to rule on the legislation.

Since the Supreme Court had ruled in 1959 in the so-called "Lassiter" case on the basic power of the States to set qualifications for their voters and the High Court had upheld States' authority to establish such voters qualifications, we felt we were once again facing the prospects of having our hopes dashed.

A Constitutional Amendment requiring approval of two-thirds of the Senate and House, and three-quarters of the States, looked like an impossible task in light of the many defeats we suffered attempting to amend State Constitutions. It didn't look good. However, The Supreme Court surprised us all.

In reconsidering their 1959 ruling, the high court ruled that Congress had the power to set the voting age for Presidential and Congressional elections, but could not do so for State, County and Local elections without changing the Constitution.

In August of 1970, New Jersey's Governor William Cahill instructed county election officials throughout the state to preregister all youths who turn 18 before January 1971, so New Jersey would be in compliance with the new Federal Voting Rights Act. The unofficial feeling among county election officials was that they would register the new voters then hold the records until the constitutionality of the 18 year old vote law was tested. The High Court ruling still left them unsure as to how to proceed.

Confusion created by the Supreme Court's decisions actually spurred the movement to giving 18 year olds the right to vote across the ballot. The prospect of having to establish two sets of voting records, printing two kinds of ballots and the tremendous task and expense of providing separate voting machines for Federal and State Elections created a virtual stampede to ratify the 26th Amendment to the U.S. Constitution.

New Jersey after twice defeating 18 and 19 year old referendums in 1969 and 1970, became the 23rd State to ratify the Amendment.

Three months and 7 days after Congress proposed the Amendment, on March 23, 1971, Ohio's Senate rushed to beat Oklahoma for the honor of being the 38th State to put it over the top, though just 2 short years before they defeated an amendment to their State Constitution to lower the age for voters to 19. (Five other states approved it that same day.)

On this 20th Anniversary of the implementation of the 26th Amendment. I look on with pride as my daughters Melanie (18) and Desiree (19) cast their votes this November 5th. I realize that not all young people are participating, however, those that are genuinely interested in the well being of this great country of ours as well as their own futures and the security of their families, now have a right and a responsibility to participate in this great representative democracy.

INFORMATION SERVICES DEBATE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OXLEY. Mr. Speaker, there has been much debate already on the issue of Bell Co. entry into the information services business. Undoubtedly, this debate will continue during 1992. This new line of business for the Bell companies will provide the American consumer with more telecommunications choices and opportunities in the future.

At this point, I would like to insert in the CONGRESSIONAL RECORD a letter from Secretary of Commerce Mosbacher to Telecommunications and Finance Subcommittee Chairman ED MARKEY recommending a veto of H.R. 3515 if it is sent to the President in its current form.

THE SECRETARY OF COMMERCE,
Washington, DC, November 18, 1991.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the views of the Department of Commerce on the "Telecommunications Act of 1991" (H.R. 3515). This legislation establishes a series of detailed restrictive rules governing Bell Company entry into information services. Accordingly, if the bill as currently drafted were presented to the President, I would recommend that he veto it.

As you know, the information services restriction of the AT&T Consent Decree was recently terminated in court proceedings, freeing the Bell Companies to enter the information services market. H.R. 3515 would, in effect, reverse substantial parts of the court's decision by establishing a number of preconditions on a Bell Company's provision of information services in its service area. Included among the preconditions is the presence of local exchange competition in the service area, based upon numerical formulae contained in the legislation. The immediate and, in our view, unwarranted effect of these threshold conditions would be to prohibit Bell Company entry into the information services market for the foreseeable future.

The Department of Justice has argued, and the courts have now ruled, that preconditions and restrictions of the type proposed by H.R. 3515 are not necessary as a matter of antitrust policy to allow the Bell Companies to offer information services. The Department of Commerce has reached similar conclusions on communications policy grounds in its recent Infrastructure Report: "Telecommunications in the Age of Information." While promotion of local exchange competition has merit, the overall approach of the bill is unduly restrictive with respect to Bell Company participation in information services.

Moreover, regulatory safeguards on Bell Company provision of information services are already in place. Regulatory safeguards aimed at preserving competition and preventing unlawful cross-subsidies are in place at the Federal Communications Commission, designed to ensure that the Bell Companies' unregulated businesses are appropriately separated from their regulated services. State regulatory agencies also maintain substantial oversight over the local exchange operations of the Bell companies. About three-fourths of the Bell Companies' telephone exchange services are regulated by the states. Thus, state regulation further reduces the need for extensive, restrictive measures such as those proposed in H.R. 3515. Legislatively mandating detailed safeguards can prove inflexible over time as conditions change. Therefore, the Department opposes these provisions of the bill as well.

> The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of these views.
>
> Sincerely,
>
> ROBERT A. MOSBACHER.

LATIN BUSINESS AND PROFESSIONAL WOMEN CHOOSE WOMAN OF THE YEAR

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Latin Business and Professional Women held its 18th annual banquet on Tuesday, November 19. At the event, the women's group announced its choice for Woman of the Year from among six nominated. All six Hispanic women nominated for the award has shown leadership and service to the community. Also recognized was Lourdes Aguila, who received the Lifetime Achievement award for her work with the La Liga Contra el Cancer. The Miami Herald brought attention to this event in an article which follows:

> Six women have been nominated for this year's Woman of the Year Award from the Latin Business and Professional Women.
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> The award, given by the organization in recognition of merit and achievement of a Hispanic woman in the community, will be presented to the winner at the group's 18th annual banquet at 6:30 p.m. Tuesday at the Rusty Pelican Restaurant.
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> The 1991 nominees are: Alicia Baro, West Miami, executive vice president of the Kendar Companies; Olga Connor, Southwest Dade, executive assistant for Health and Rehabilitative Services; Barbara A. Ibarra, Coral Gables, vice president and director of the Human Resources department of Citibank; Elba Pisano, Fontainebleau, executive director of the National Hispanic Commission for Bone Marrow Transplant; Carmen Portela, South Miami, president of Hands in Action/*Manos en Accion* and Bettina Rodriguez-Aguilera, Kensington Park area, administrative assistant for the Consumer Services Department of Dade County.
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> During the banquet, AT&T, sponsor of the event, will present the second annual Lifetime Achievement Award to Lourdes Aguila of Coral Gables, general coordinator of *La Liga Contra el Cancer*. She was selected for her volunteer service during the past 13 years.
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> The women's group also will present the 1991 Employer of the Year Award and a special award will be given to Herb Levin, vice president of WQBA Radio for his support of women in broadcasting.
>
> Tickets are $45 for members, $50 for nonmembers. Proceeds will benefit a scholarship fund and *La Liga Contra el Cancer*. For tickets or more information, call Noemi Ricalo or Beatriz Junco at 856-7474 between 9 a.m. and 6 p.m.

Mr. Speaker, this article preceded the event and I have since been informed of the outcome of the annual banquet, which was a wonderful success. I wish to congratulate Carmen Portela who was chosen as Woman of the Year. I also want to recognize the other nominees, Alicia Baro, Olga Connor, Barbara A. Ibarra, Elba Pisano. Lourdes Aguila also deserves recognition for her lifetime commitment to service. The collective contribution of these women to the south Florida community has been significant. I encourage these women and the members of the Latin Business and Professional Women to continue their good work.

OBSERVING THE 10TH ANNIVERSARY OF THE GAY MEN'S HEALTH CRISIS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GREEN of New York. Mr. Speaker, January 4, 1992, will mark the 10th anniversary of the founding in New York City of the Gay Men's Health Crisis [GMHC], the first organization founded to help people with AIDS. During the 10 years of its existence, I have worked with GMHC and have much admiration for the excellent work it does. Because Gay Men's Health Crisis has set the standard for other AIDS organizations that provide services to people with AIDS, I should like to bring to the attention of my colleagues GMHC's valiant work of the past decade.

On that day in 1982, six gay men—Larry Kramer, Nathan Fain, Larry Mass, Paul Popham, Paul Rapoport, and Edmund White—gathered together and took upon themselves the task of helping other gay men who were dying from a disease that had no name. Although there were 400 cases in 1981 of what we now know as AIDS, it had not sparked a public outcry and hardly any information was available.

In a true grassroots tradition those men used the resources at hand to help their friends: Their address books and those of their friends, card tables outside gay discos to raise money, a volunteer's personal answering service to serve as a hot line. During the first night of operation the hot line received 100 calls. The calls ran the gamut from requests for information about AIDS and how to prevent it, to frightened calls from people with the disease who were languishing in hospitals because hospital personnel were too afraid to enter the rooms of AIDS patients. Volunteers manned the hotlines and did whatever they could to provide information, assistance and comfort to those who needed it.

We are now 10 years down the road and have seen he number of people with AIDS go from 400 in 1981 to 171,000 in 1991. Great strides have been made over those 10 years: we know the disease is caused by the human immunodeficiency virus, which respects no boundaries of sexual preference, race, class, gender, age or ethnicity; we now have treatments for people who are HIV-positive that will delay their developing full-blown AIDS; and we know how HIV is and is not transmitted.

Despite these advances a cure has not yet been found, discrimination against people with AIDS still exists, education efforts have been hamstrung by congressional language barring funding of educational materials that "encourage or promote" homosexual activity, and many people lose their jobs and/or their health coverage when they reveal their HIV-positive status.

So much more needs to be done in the struggle against AIDS and GMHC is still at the forefront of that struggle. GMHC provides to people with AIDS a wide range of needed services: emotional and practical support, representation in court, assistance in resolving problems with health care delivery, financial assistance, nutrition and recreation programs. While the name Gay Men's Health Crisis harkens back to its origins as an organization created to address a disease that was then affecting almost exclusively gay men, as the disease has progressed to all groups of people GMHC has opened its doors to all people with AIDS be they gay or straight, African-American, Hispanic, Asian or white, women, men and children.

I commend Gay Men's Health Crisis and its executive director Timothy Sweeney for their leadership and tireless commitment to the fight against AIDS. I should especially like to thank the many GMHC volunteers who help carry the burden of so many people who suffer from AIDS. There is much that we can learn from GMHC about addressing the AIDS crisis in a rational and compassionate manner. I should ask that we in Congress follow their example and dedicate as many resources as possible to bring about an end to the AIDS epidemic.

AN EFFECTIVE AUTOMOTIVE TRADE POLICY TOWARD JAPAN

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAFALCE. Mr. Speaker, on November 14, I chaired a hearing of the Small Business Committee which confirmed my worst fears about United States automotive trade with Japan. Last year, the United States automotive trade deficit with Japan was an enormous $31 billion, which comprised 28 percent of the total United States trade deficit. And current projections indicate that the automotive trade deficit with Japan is not expected to improve any time soon.

I have been involved in the issue of United States automotive trade with Japan for the past decade. In 1983, I chaired hearings of the Economic Stabilization Subcommittee concerning voluntary restraint agreements on the import of Japanese cars. In 1987 and again 2 weeks ago I chaired hearings of the Small Business Committee on the U.S. auto parts industry. Each time I visit the issue I find that problem continues unabated despite U.S. trade policies designed to address the issue and despite other changes in the international economic landscape. The automotive trade deficit has persisted despite a 50 percent drop in the value of the dollar against the yen since 1985, despite voluntary restraint agreements on Japanese imports during the past decade, and despite the transplant to the United States of the production of millions of cars in recent years.

Last year Japanese auto imports accounted for 18.5 percent of the United States auto market, and the so-called "transplant" vehicles—cars produced in the United States by Japanese-affiliated automakers—accounted for another 11.6 percent of the United States market. In total, then, 30.1 percent of the cars sold in the United States last year were built by Japanese automakers, and if we eliminate fleet sales, the Japanese share rises to an incredible 48 percent.

It is no mystery why this problem exists. The United States has given Japanese automakers access to the enormous United States auto market, and Japan has not reciprocated. We can no longer stand idly by and watch high-paying U.S. jobs go overseas.

In contrast to the ineffective United States automotive trade policy, the European Community has dealt with the problem of Japanese auto imports in a relatively straightforward and effective way. Recently, they negotiated an agreement with Japan limiting Japanese car imports to 10.1 percent of the European market. Given that, I am today introducing a bill which will limit Japanese automobile imports to no more than 10.1 percent of the United States car market. This is a bill designed to ensure that we are treated equally with regard to international automotive trade. If 10.1 percent is satisfactory in the European market, it should be satisfactory here as well. And if the administration won't demand equal treatment, Congress should.

I am not a protectionist when it comes to international trade. I think that such an approach is ultimately self-defeating. But neither do I think that we can ignore reality and sacrifice tens of thousands of good American jobs on the altar of "free trade." That fact is that if the United States fails to respond, then the recent agreement to limit Japanese car exports to Europe will inevitably push the problem across the Atlantic. The Japanese auto industry has essentially two targeted auto markets. The largest is Europe, with over 300 million consumers and an expanding economy. The second is the United States, with 250 million people. If the Japanese cannot sell their cars in the bigger market, they will be forced instead to ship to North America, further hurting our already depressed domestic auto industry.

My bill is very simple, Mr. Speaker. It limits Japanese automobile imports to no more than 10.1 percent of total United States automobile sales. If it had been in effect last year, it would have reduced the number of Japanese auto imports by nearly 50 percent, from 1.7 million to 0.9 million. The bill also includes a sunset provision under which the U.S. quotas would cease after 3 years, absent further legislation. This will give us an opportunity to reassess our policy in light of any changes in Japanese and European policy over the interim period.

This legislation directly addresses the problem of automobiles manufactured in Japan and imported into the United States. But there is a related issue that we will have to come to grips with in the future—the problem of United States trade in auto parts with Japan. The United States auto parts trade balance with Japan is dismal. Last year, our deficit was $10 billions, and a recent University of Michigan study projected that our deficit could more than double by 1994 to $22 billion—if nothing is done. The source of this trade imbalance, as indicated in the recent Small Business Committee hearing on the issue, is a systematic tendency by Japanese automakers, including the transplants, to buy from Japanese auto parts suppliers rather than United States suppliers. For the U.S. suppliers, over 80 percent of which are small businesses, the result has been devastating.

When Michael Farren, Under Secretary for International Trade at the Commerce Department, testified before the Small Business Committee earlier this month, he reflected on past United States discussions with the Japanese regarding auto parts trade. He said that

> "* * * in 1986, we were told by the Government of Japan that we needed to be patient and to wait for United States auto parts to be designed into Japanese vehicles, a process which can take several years. Well, its now 1991 and we have been patient. Not enough United States auto parts are being utilized in Japanes vehicles, despite significant efforts by the the United States auto parts industry and the administration."

Mr. Speaker, my patience has been worn out on the whole issue of United States automotive trade with Japan. Continued negotiations are not enough. The United States helped to rebuild Japan and Western Europe after World War II. It is unfortunate that now they take actions which will benefit their own economies at the expense of U.S. workers. I would urge you and all of our colleagues to join me in support of legislation to end this discrimination against our Nation and one of our most important industries. The text of my bill follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
>
> **SECTION 1. LIMITATION ON IMPORTATION OF MOTOR VEHICLES THAT ARE PRODUCTS OF JAPAN**
>
> (a) IN GENERAL.—In each of the fiscal years 1993, 1994, and 1995, the total number of motor vehicles that are products of Japan that may be entered into the United States may not exceed the number that is determined by the Secretary to represent 10.1 percent of the total number of new motor vehicles sold in the United States during the preceding fiscal year.
>
> (b) DEFINITIONS.—For purposes of this Act—
>
> (1) The term "motor vehicle" means any article of a type described in heading 8703 of the Harmonized Tariff Schedule of the United States.
>
> (2) The term "Secretary" means the Secretary of Commerce.

OPERATION FOOD SHARE SAVES LEFTOVER FOOD FOR THE HUNGRY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HALL of Ohio. Mr. Speaker, I would like to call to the attention of my colleagues the outstanding efforts of Bruce and DeNeal Feldman, owners of Economy Linen and Towel Service of Dayton, OH. The Feldmans are founders of Operation Food Share, an innovative program to salvage unused, leftover food from restaurants and food service providers for donation to the hungry.

My involvement with Economy Linen began as a result of my role as chairman of the Select Committee on Hunger. For many years, I was aware that tremendous amounts of food were being thrown away by restaurants and other food providers—food that is prepared, yet not served—in the course of a normal business day.

In August 1988, in cooperation with the Emergency Food Bank of the Dayton Chapter of the American Red Cross, I arranged for a refrigerated truck to pick up surplus food from several area restaurants for distribution to local low-income feeding programs and soup kitchens. While the project was saving nutritious food from being thrown in the trash can, I soon realized that the cost of paying a driver and renting a truck was almost as much as the value of the food being salvaged. We needed a new approach to solve this problem.

While I was discussing the problem on a program on Dayton's WHIO radio, Bruce Feldman, president of Economy Linen and Towel Service, heard me and got in touch with me to explain his idea.

Economy Linen leases linens and other textiles to restaurants, hotels, hospitals, and other establishments which prepare food, so the company regularly makes pick-ups and deliveries. Since the company's trucks were going to the restaurants anyway, Mr. Feldman proposed that he pick up the extra food and deliver it to our local food bank, where it could be distributed to food pantries and emergency shelters.

In May 1990, Economy Linen, the Emergency Food Bank, and I kicked off "Operation Food Share," the first organized effort in the country to utilize private industry to save perishable food for distribution to the hungry.

Under Operation Food Share, the Emergency Food Bank provides sanitized, insulated containers to donors who fill them with unused food. Economy Linen personnel, when making their regular clean linen deliveries, accept the food and replace the containers with new ones. All food is placed in large coolers located inside the Economy Linen trucks.

At the end of each day, the Economy Linen trucks deliver the food to the Emergency Food Bank, which distributes it to soup kitchens and feeding programs.

Operation Food Share solves the problem of transportation. It is the missing link between the restaurant donor who does not want to throw away this perfectly good food, and the many hungry people in this country who need to eat. It is also an economical and large-scale approach to the problem. Many food banks accept donations of prepared food from restaurants. However, most of these programs have high administrative costs due to paying for a refrigerated truck, insurance, and hiring staff. The Operation Food Share concept is distinctive because of its low cost and use of existing transportation networks.

To date, more than 40,000 pounds of food has been saved and distributed to Dayton-area low-income feeding programs through the successful implementation of Operation Food Share. This is food that would have ended up in the trash can. Moreover, Economy Linen's employees feel like they are making a difference by performing this service during their working day.

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

All across the United States today, food is being thrown away, food that should be going to our hungry people. An estimated 137 million tons worth $31 billion is wasted each year. Hunger relief workers from around the country are applauding Economy Linen's initiative.

The Feldman family is actively promoting Operation Food Share to other members of the Textile Rental Services Association [TRSA], the trade association for the textile rental industry. Members of TRSA have more than 30,000 trucks on the road nationwide every day. The line supply industry could save millions of pounds of food that normally would go to waste and could feed our Nation's hungry in the process.

Soon, Operation Food Share will kick off a program in our Nation's Capital. I plan to be there along with the cosponsors, Linens of the Week, a D.C.-based linen supplier, and the D.C. Central Kitchen. I look forward to the success of this program and I hope that it will pave the way to expand the concept in other cities.

Hunger is one of our most solvable problems. We have the means to feed our country's poor. Hunger will ultimately be solved through the efforts of individuals doing their part to reduce hunger. The Feldmans and Economy Linen and Towel Service are doing their part through the Operation Food Share and are the inspiration for what may be a new, nationwide approach to reducing hunger.

SUPPORT FOR THE UNIVERSAL HEALTH COVERAGE ACT OF 1991

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, today our colleague from Wisconsin, DAVID OBEY, has introduced legislation which offers another approach to the continuing debate on health care reform. I am pleased to be an original cosponsor of the Universal Health Coverage Act of 1991. Simply put, the legislation seeks to move health care reform along by setting deadlines—that is, by January 1, 1994 every State in our Nation must have in place a health care system which will provide basic coverage for every person in that State.

Each State would have considerable flexibility in coming up with their own health plan as long as it provides basic health care services and meets minimum Federal standards. As such, those States that wish to pursue a single-payor plan can do so. Other States may wish to tackle the health care problem by implementing a "pay or play" plan for employers—States are free to choose that option as well.

The Department of Health and Human Services [HHS] would then take the next 3 years to evaluate the different State plans. Then in 1997, the Secretary of HHS would identify the foremost State models and make a recommendation as to whether universal health care coverage would be best administered at the State or Federal level.

I applaud DAVE OBEY's efforts to move this very important issue along. In my own State of Washington, State Representative Dennis Braddock was able to pass legislation which would provide universal acute and long-term care for Washington State citizens only to have it die in the State Senate. The Universal Health Coverage Act of 1991 would encourage State legislatures—not just in Washington State but all over the country—to actively participate in addressing this problem.

The fact that there are over 74 million Americans who are either underinsured or completely uninsured is a national disgrace and a downright crime. We can no longer sit around while millions of children go without proper immunization and preventive health care. Our senior citizens who have worked so hard for so many years deserve to have long-term care. And as young families are forced to put off care—minor illnesses become major—and the costs for care dramatically increase.

The Universal Health Coverage Act of 1991 is one of the health care reform proposals that I have cosponsored. I have also cosponsored H.R. 1300 which was introduced by Representative MARTY RUSSO and would provide universal health care coverage through a single-payor plan. I am supporting a number of proposals that will contribute to the debate and help establish a sound program. I firmly believe that we need a comprehensive approach to health care reform. And while the President has acknowledged that health care is on the minds of the American people, he has yet to put forward a legislative proposal which will address this critical situation. President Bush is apparently unwilling to provide any leadership on health care whatsoever. It is clear the American people need something other than a "take better care of yourself" attitude out of the administration.

We need to give serious thought to how much health care we want, can afford, and how this should be delivered. The present system of rationing health care—basically by how much can be afforded by those without health insurance—needs to be acknowledged and changed. I believe that all people deserve basic health care at a price they can afford. It may be that the final package will include bits and pieces of a number of different approaches. I sincerely hope that we can make meaningful progress on this most imminent and challenging problem.

H.R. 3341

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STOKES. Mr. Speaker, I rise in support of H.R. 3341 and strongly endorse its objective of easing the honoraria ban for lower paid employees throughout the Federal Government. I commend the gentleman from Texas [Mr. BROOKS] and the gentleman from Massachusetts [Mr. FRANK] for their hard work and sound judgment in crafting this useful legislation.

Mr. Speaker, I had the privilege of serving on the House Bipartisan Task Force on Ethics in the 101st Congress. The task force recommended that honoraria be banned. At the time, we were concerned with efforts by special interests to influence Members of Congress and other senior officials. The task force was not presented with any evidence suggesting abuses by lower level employees who wrote or spoke on matters unrelated to their official duties.

The bill being considered today would not ease restrictions on Members of Congress or other very senior noncareer officials. Instead, it would allow only lower paid staff—the making less than the executive level 5 rate of pay—to get paid for speaking or writing. Even then, safeguards and additional disclosure requirements have been included in the bill to avoid conflicts with official responsibilities.

Mr. Speaker, the Committee on Standards of Official Conduct, which I chair, is given responsibility under H.R. 3341 to interpret and apply its provisions in the House. The legislation amends the honoraria restrictions included in title 5 of the Ethics in Government Act, but does not make similar changes to provisions of House Rules—notably rule 43, clause 5, and rule 47, clauses 1 and 3—that also ban receipt of honoraria.

While the House clearly has the authority to establish rules with restrictions that go beyond the law, I do not understand that to be the intent in this instance. I understand that the intent of this legislation is to ease the ban on speaking, writing, and appearing by lower level employees of all branches when there is no conflict of interest. I expect that the Rules of the House will be modified accordingly at an appropriate time after enactment of H.R. 3341. Until that occurs, in view of the expressed intent of this bill, the Committee on Standards of Official Conduct would treat the most recently enacted legislation as controlling.

DADE'S COMMUNITY NEWSPAPERS SERVES AREA'S NEIGHBORHOODS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize Miami's Community Newspapers which has been serving the Miami area since 1958 as an independent voice for metropolitan Dade County's communities.

The Community Newspapers was founded by Ron Miller in 1963, based on an earlier paper started in 1958 by James Martin of South Miami and Homestead. After a personal loss, in 1982, Ron Miller leased the Community Newspapers, the newspaper's names, the building, the newspapers presses, and furnishings to his two sons, Michael and Grant Miller. Since that time, Michael Miller has served as the editor, and Grant Miller has served as the publisher.

Originally, the Community Newspapers was published nine times a year. It has gradually increased over the years to become 14 different newspapers. Each one has a complete staff of reporters and photographers, and a professional editor. Altogether the Community Newspapers publishes three times a week, 34

editions a week, with a staff of close to 50 people.

The Community Newspapers' many different editions covers metropolitan Miami's neighborhoods. They include the South Dade News, the South Miami News, the Coral Gables News, the South West News, the Homestead-Florida City News, the Kendall News, the North Miami Beach News, the Miami Shores News, the North Miami News, the Hialeah-Miami Springs News, the Carol City-Opa Locka News, the Miami Beach News, the North Bay Village News, and the Aventura News.

Ron Miller said recently that his newspaper's employees had made an enormous investment in time, effort, and skills to provide a free and independent newspaper voice which would help express the voices of the people of the Miami area. The Community Newspapers is widely distributed at newspaper racks throughout the Miami area. It will publish press releases from many community groups who find it difficult to get publicity from large media.

I would like to take this opportunity to thank Ron Miller, his two sons, Michael and Grant, and the staff of the Community Newspapers for providing this much needed service to the people of the Dade County area.

PROGRESS AND PROBLEMS FOR THE TURKISH MINORITY IN GREECE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, while much attention is presently focused on ethnic upheavals in the Balkans, age-old friction between Greek and Turkish inhabitants of western Thrace persists largely unnoticed. And while tensions between these 2 communities infrequently erupt in violence and into the headlines, the problems confronting the approximately 100,000 ethnic Turks in Greece, and the Greek Government's response, strike at the heart of minority rights issues and should be addressed.

Mr. Speaker, difficulties in resolving problems confronting the Turkish minority are compounded by the rocky historical relationship between Greece and Turkey. The rights of both Turks in Greece and Greeks in Turkey are protected by terms of the 1923 Treaty of Lausanne; however, both communities often claim these rights are violated. Other contentious issues, such as Cyprus and Aegean mineral rights, sustain high levels of tension between the two nations and ethnic groups, making it more difficult to constructively address minority rights issues.

Human rights organizations and the staff of the Commission on Security and Cooperation in Europe, of which I am chairman, have identified a number of problem areas confronting the Turkish minority in western Thrace. Until recently, the Greek Government refused to even recognize the distinct Turkish minority, referring to them instead as Greek Muslims. This practice is reminiscent of another country, Bulgaria, which until the last days of Communist rule, refused to recognize its own Turkish minority, referring to them as Slavs forcibly converted to Islam.

A major source of discord concerns the appointment of Turkish religious leaders by Greek officials. When Turks attempted to elect and install their own Mufti, the Greek Government refused to recognize his authority and appointed a replacement over objections of the Turkish community. Other problems involve a shortage of adequate educational facilities for Turkish students and difficulties in obtaining Turkish language textbooks. Greek language requirements for minority students have also led to sharp declines in secondary school enrollment of Turkish children. Certain administrative regulations have made it difficult, if not impossible, for Turks to buy land and property, obtain commercial licenses and loans, repair or build mosques and schools, and obtain employment in state sectors. Members of the Turkish minority also complain that television signals from Turkey are jammed and that newspapers and literature from Turkey are often seized. On several occasions, editors of Turkish papers in Greece have been taken to court for printing articles critical of the Greek Government or its policies toward the Turkish minority. Numerous reports of police harassment and mistreatment have also been voiced by members of the Turkish community.

Two Turkish members of the Greek Parliament and leading advocates of Turkish minority rights, including Dr. Sadik Ahmet who met with the Commission last June, have also faced harassment, detention, and have had their Parliamentary immunity challenged in court. In 1990, while seeking election to Parliament, they were arrested, charged, and later convicted for openly or indirectly inciting citizens to violence or creating rifts among the population at the expense of social peace. They spent 64 days in jail for making reference to Turkish minority rights in campaign literature. While Dr. Ahmet and another Turkish minority member still remain in Parliament, the latest Greek electoral law mandates that independent candidates receive 3 percent of the nationwide vote. Turkish candidates running independently of major Greek political parties will almost certainly fail to be elected in the future as the population of Muslim voters is well below the 3-percent threshold.

Mr. Speaker, while serious problems facing the Turkish minority in Greece remain, the Commission is encouraged by significant improvements in the situation. Last May, while on a tour of western Thrace, Greek Prime Minister Mitsotakis made a number of promising remarks which seem to have heralded a new attitude on the part of the Government towards Turks in Greece. Since then, a number of positive developments have occurred. Turks in western Thrace are now able to purchase land and property and can more easily obtain commercial and driving licenses. Police harassment has reportedly diminished and new Turkish textbooks, teachers, and education facilities are expected to be in place shortly. In addition, reports indicate that no Turks have been deprived of their Greek citizenship for months.

Mr. Speaker, ethnic relations throughout the Balkans have for centuries been far from smooth. I believe it is vitally important that the Congress do all that is possible during this pivotal period in history to promote minority rights throughout the Balkans, and indeed the world. Greece and Turkey, two close and respected allies of the United States, warrant the attention of Congress and the American people and our good offices should be offered to help address the myriad of problems which strain relations between the nations. Preservation of ethnic heritage, respect for human rights and fundamental freedoms, and elimination of discrimination are universal goals which cannot be achived separately. And, while historical and cultural distinctions often make these goals elusive, it is the duty and obligation of nations to strive to achieve these ideals.

DEEP CUTS IN NUCLEAR WEAPONS

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MCDERMOTT. Mr. Speaker, even as Congress concludes its legislative business for 1991, attention is turning toward the larger budget decisions that will confront Members when we return in the new year. One crucial question is how much we can and should spend for defense in a post-cold war era, especially when we have so many unmet needs here at home.

Representative CONNIE MORELLA, chair of the Arms Control and Foreign Policy Caucus, has written a timely op-ed that goes to the heart of this issue, pointing out that deep cuts in our nuclear arsenals could produce major savings and enhance our security in the process. As secretary-treasurer of the caucus, I commend Congresswoman MORELLA for this article, which draws on studies by the National Academy of Sciences and the Congressional Budget Office to make the case for major nuclear weapon reductions.

I look forward to working toward legislation to make these deep cuts a reality, beginning in the next session, and thank Representative MORELLA for her article, which I would like to enter into the RECORD at this point.

WHY DEEP CUTS IN NUCLEAR WEAPONS MAKE SENSE

(By Constance A. Morella)

President Bush's recent decision to store or destroy nearly 20 percent of the United States' 20,000 nuclear warheads, including most of our tactical nuclear weapons deployed worldwide, signaled a welcome shift in U.S. arms-control policy that should spur further debate and reevaluation of U.S. nuclear-deterrence strategy. Now, two institutions acclaimed for their objectivity have issued reports arguing that much deeper cuts would actually enhance our security further, as well as producing major savings.

One of these reports was issued by the National Academy of Sciences, which advises the government on scientific and technical issues. Starting from a baseline of 8,000 to 10,000 strategic warheads held by each superpower under the START treaty signed in July, the academy recommends that the superpowers reduce their arsenals to 3,000 to 4,000 warheads each in post-START negotiations, and ultimately to 1,000 to 2,000 apiece. The report holds that deep cuts would en-

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

hance security by reducing the risk of nuclear war and downplaying our reliance on nuclear weapons.

The nonpartisan Congressional Budget Office (CBO) notes that deep cuts also would allow for significant reductions in the defense budget. CBO's 170-page study calculates that reducing U.S. strategic warheads to 1,000 would save $17.4 billion a year over the next 15 years. Cutting warheads to 3,000 would save $15.5 billion a year, and cutting to 6,000 warheads would save $9.3 billion annually.

The U.S. now spends about $50 billion every year on nuclear weapons, nearly one-sixth of our military budget and more than the entire defense budget of any other country in the world aside from the Soviet Union. CBO notes that even if we reduced our nuclear arsenal to 1,000 warheads, we would still spend nearly as much on nuclear weapons as Germany, France, or Britain spend on their entire armed forces.

The end of the cold war and the collapse of communism in the Soviet Union and Eastern Europe give us an unprecedented opportunity to revise our nuclear policies. For decades, US warfighting plans have emphasized attacking a wide range of Soviet targets, including strategic forces, conventional military facilities, command and control systems, and the Soviet industrial base. These plans have required us to maintain a large and diverse nuclear arsenal.

CBO studied what smaller forces could accomplish, and its striking conclusion was that less is more. Deep cuts, to levels as low as 3,000 or 1,000 warheads, would produce Soviet and American nuclear forces more defensively configured, and better able to survive a first strike, than our current nuclear forces. This would reduce pressure on national leaders to launch weapons at the perceived warning of a nuclear attack.

Of course, smaller forces must still deter nuclear attack. CBO found that with an arsenal of either 3,000 or 1,000 warheads, military planners could still target enough key military and industrial facilities in the Soviet Union to launch an effective counterattack against a first strike.

Former Secretary of Defense Robert McNamara and other national security experts have advocated reducing to 1,000 or fewer warheads for years. In the post-cold-war era, their case is even more compelling. Besides reducing the budget deficit and funding other urgent priorities, deep cuts would help pay for cleaning up the nuclear-weapons production complex, a job that the Energy Department expects to cost $38 billion during the next four years.

Major superpower reductions would pave the way for stronger multilateral measures to control nuclear proliferation, which many experts see as a greater threat to US interests today than a superpower conflict.

Mr. Bush has spoken of building a new world order in which would defend their interests through cooperation and respect for international law, rather than through unilateral projections of power. Deep nuclear cuts would stabilize that order and free up funds for more constructive projects at home and abroad. One good cut deserves another. We can have our savings and security too.

CARL SANDBERG REFLECTS UPON LIFE OF LINCOLN

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DURBIN. Mr. Speaker, as Members of Congress adjourn from this first session of the 102d Congress, we will join our constituents reflect on our work product and consider the awesome challenges which lie ahead.

In only a few weeks we will return to this historic Chamber to try to find solutions to the problems which face our great Nation. It will not be an easy task. Legislative craftsmanship is complicated by elections and in 1992 our Nation will face the quadrennial contest for President.

Yet, the responsibility of Congress goes far beyond laying the political groundwork for the next campaign or election. More than anything, we are charged with the responsibility to solve the problems of our Nation.

I hope that my colleagues will take a moment to reflect on the words of Carl Sandberg who stood in this same hall on February 12, 1959, and addressed the character and life of one of our greatest Americans, Abraham Lincoln.

I want to thank my colleague, Mr. JACOBS of Indiana, for bringing this statement to my attention. It was truly one of the great moments in the history of the House of Representatives when Carl Sandberg was introduced by the Speaker of the House, SAM RAYBURN, who praised him highly. It is reported that Mr. Sandberg cleared his throat and said:

Before beginning this prepared address, I must make the remark that this introduction, this reception here, calls for humility rather than pride. I am well aware of that.

Then he began his quote on Abraham Lincoln.

Not often in the story of mankind does a man arrive on earth who is both steel and velvet, who is as hard as rock and soft as drifting fog, who holds in his heart and mind the paradox of terrible storm and peace unspeakable and perfect. Here and there across centures come reports of men alleged to have these contrasts. And the incomparable Abraham Lincoln, born 1809, is an approach if not a perfect realization of this character. In the time of the April lilacs in the year 1865, on his death, the casket with his body was carried north and west a thousand miles; and the American people wept as never before; bells sobbed, cities wore crepe; people stood in tears and with hats off as the railroad burial car paused in the leading cities of seven States ending its journey at Springfield, Illinois, the hometown. During 4 years he was President he at times, especially in the first 3 months, took to himself the powers of a dictator; he commanded the most powerful armies till then assembled in modern warfare; he enforced conscription of soldiers for the first time in American history; under imperative necessity he abolished the right of habeas corpus; he directed politically and spiritually the wild, massive turbulent forces let loose in civil war; he argued and pleaded for compensated emancipation of the slaves. Failing to get action on compensated emancipation, as a Chief Executive having war powers he issued the paper by which he declared the slaves to be free under military necessity.

In the month the war began he told his secretary, John Hay:

"My policy is to have no policy."

Three years later in a letter to a Kentucky friend made public, he confessed plainly:

"I have been controlled by events."

His words at Gettysburg were sacred, yet strange with a color of the familiar:

"We cannot consecrate—we cannot hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far beyond our poor power to add or detract."

He could have said "The brave Union men." Did he have a purpose in omitting the word "Union?" Was he keeping himself and his utterance clear of the passion that would not be good to look back on when the time came for peace and reconciliation? Did he mean to leave an implication that there were brave Union men and brave Confederate men, living and dead, who had struggled there? We do not know, of a certainty. Was he thinking of the Kentucky father whose two sons died in battle, one in Union blue, the other in Confederate gray, the father inscribing on the stone over their double grave, "God knows which was right"? We do not know. His changing policies from time to time aimed at saving the Union. In the end his armies won and his Nation became a world power. In August of 1864 he wrote a memorandum that he expected in view of the national situation, he expected to lose the next November election. That month of August was so dark. Sudden military victory brought the tide his way; the vote was 2,200,000 for him and 1,800,000 against him. Among his bitter opponents were such figures as Samuel F.B. Morse, inventor of the telegraph, and Cyrus H. McCormick, inventory of the farm reaper. In all its essential propositions the southern Confederacy had the moral support of powerful, respectable elements throughout the North, probably more than a million voters believing in the justice of the southern cause. While the war winds howled he insisted that the Mississippi was one river meant to belong to one country, that railroad connection from coast to coast must be pushed through and the Union Pacific railroad made a reality. While the luck of war wavered and broke and came again, as generals failed and campaigns were lost, he held enough forces of the North together to raise new armies and supply them, until generals were found who made war a victorious war has always been made, with terror, frightfulness, destruction, and on both sides, North and South, valor and sacrifice past words of man to tell. In the mixed shame and blame of the immense wrongs of two crashing civilizations, often with nothing to say, he said nothing, slept not at all, and on occasions he was seen to weep in a way that made weeping appropriate, decent, even you might say, majestic. As he rode alone on horseback near Soldiers Home on the edge of Washington one night his hat was shot off; a son he loved died as he watched at the bed; his wife was accused of betraying information to the enemy, until denials from him were necessary. An Indiana man at the White House heard him say, "Voorhees, don't it seem strange to you that I, who could never so much as cut off the head of a chicken, should be elected, or selected, into the midst of all this blood?" He tried to guide General Nathaniel Prentiss Banks, a Democrat, three times Governor of Massachusetts, in the governing of some 17 of the 48 parishes of Louisiana controlled by the Union armies, an area holding a fourth of the slaves of Louisiana. He would like to see the State recognize the emancipation proclamation:

"And while she is at it, I think it would not be objectionable for her to adopt some practical system by which the two races could gradually live themselves out of their old relation to each other, and both come out better prepared for the new. Education for the young blacks should be included in the plan."

To Gov. Michel Hahn, elected in 1864 by a majority of the 11,000 white male voters who had taken the oath of allegiance to the Union, Lincoln wrote:

"Now you are about to have a convention which, among other things, will probably define the elective franchise, I barely suggest for your private consideration, whether some of the colored people may not be let in—as for instance the very intelligent gallantly in our ranks."

Among the million words in the Lincoln utterance record, he interprets himself with a more keen precision than someone else offering to explain him. His simple opening of the "house divided" speech in 1858 serves for today:

"If we could first know where we are, and whither we are tending we could better judge what to do, and how to do it."

To his Kentucky friend, Joshua F. Speed, he wrote in 1855:

"Our progress in degeneracy appears to me to be pretty rapid. As a Nation we began by declaring that "all men are created equal, except Negroes." When the know-nothings get control, it will read "all men are created equal except Negroes and foreigners and Catholics." When it comes to this, I shall prefer emigrating to some country where they make no pretense of loving liberty."

Infinitely tender was his word from a White House balcony to a crowd on the White House lawn:

"I have not willingly planted a thorn in any man's bosom."

Or to a military Governor:

"I shall do nothing through malice; what I deal with is too vast for malice."

He wrote for Congress to read on December 1, 1862:

"In times like the present men should utter nothing for which they would not willingly be responsible through time and eternity."

Like an ancient psalmist he warned Congress:

Fellow citizens, we cannot escape history. We will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. the fiery trial through which we pass will light us down in honor or dishonor to the latest generation.

Wanting Congress to break and forget past traditions his words came keen and flashing:

"The dogmas of the quiet past are inadequate for the stormy present. We must think anew, we must act anew, we must disenthrall ourselves."

They are the sort of works that actuated the mind and will of the men who created and navigated the marvel of the sea, *the Nautilus*, and her voyage from Pearl Harbor and under the North Pole icecap.

The people of many other countries take Lincoln now for their own. He belongs to them. He stands for decency, honest dealing, plain talk, and funny stories. "Look where he came from—don't he know all us strugglers and wasn't he a kind of tough struggler all his life right up to the finish?" Something like that you can hear in any nearby neighborhood and across the seas. Millions there are who take him as a personal treasure. He had something they would like to see spread everywhere over the world.

Democracy? We cannot say exactly what it is, but he had it. In his blood and bones he carried it. In the breath of his speeches and writings it is there. Popular government? Republican institutions? Government where the people have the say-so, one way or another telling their elected leaders what they want? He had the idea. It is there in the lights and shadows of his personality, a mystery that can be lived but never fully spoken in words.

Our good friend, the poet and playwright Mark Van Doren, tells us:

"To me, Lincoln seems, in some ways, the most interesting man who ever lived.

He was gentle but this gentleness was combined with a terrific toughness, an iron strength."

And how did Lincoln say he would like to be remember? Something of it is in this present occasion, the atmosphere of this room. His beloved friend, Representative Owen Lovejoy, of Illinois, had died in may of 1864, and friends wrote to Lincoln and he replied that the pressure of duties kept him from joining them in efforts for a marble monument to Lovejoy, the last sentence of Lincoln's letter, saying:

"Let him have the marble monument along with the well-assured and more enduring one in the hearts of those who love liberty, unselfishly, for all men."

Today we may say, perhaps, that the well-assured and most enduring memorial to Lincoln is invisibly there, today, tomorrow, and for a long time yet to come. It is there in the hearts of lovers of liberty, men and women—this country as always had them in crisis—men and women who understand that wherever these is freedom there have been those who fought, toiled, and sacrificed for it.

I thank you. (Applause, the Members rising.)

WELFARE SIMPLIFICATION LEGISLATION

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TALLON. Mr. Speaker, as the chairman of the subcommittee which has jurisdiction over the Food Stamp Program, I am concerned that this Nation's welfare system is drowning in a morass of bureacracy.

The welfare system is a vital safety net which, ideally, enables our citizens and their families to get through periods of hardship. It is truly an investment in people, so that in time the recipient can regain his or her footing, and become productive again.

However, our current welfare system which requires evermore dollars from the taxpayer to cover the cost of red tape, not services. Simply put, bureaucracy is getting in the way of providing services. Wasted resources which do not get to those most in need is a real tragedy.

Today, I am introducing a bill that is the first step in streamlining our welfare system. My bill simply requires that the Secretaries of Agriculture and Health and Human Services provide Congress with a report to delineate both the regulatory and statutory differences in program rules across the Food Stamp, AFDC, and Medicaid programs which could be changed in order to ease the complexity of the application process for both applicants and welfare agencies.

It is time that Congress and the administration push partisan and jurisdictional barriers aside to take a good, hard look at the Food Stamp, Aid to Families with Dependent Children [AFDC], and the Medicaid Program, and to come up with a comprehensive approach in streamlining program rules for the benefit of the recipients and taxpayers.

The fragmentation across Food Stamps, AFDC, and Medicaid begins at the Federal level and extends throughout State and local eligibility systems. Oversight is handled by three different committees in the House of Representatives and two committees in the Senate. There are three different Federal agencies in two different Federal departments which run Food Stamps, AFDC, and Medicaid.

While these programs are most often administered by the same agency at the State level, they generally operate very separately. Local level eligibility agencies generally find the complexity across the three programs to be too much for one case-worker so they continue the fragmentation of the process.

At every level of service, in Congress, in the administrative agencies, and at the State and local level, there have been noteworthy, but piecemeal, attempts at harmonization. Just last year, the 1990 farm bill commanded the U.S. Department of Agriculture to look at ways better coordinating the Food Stamp and AFDC programs. Moreover, USDA has taken considerable initiative on its own in exploring productive avenues of program uniformity. In addition, the Department of Health and Human Services just this year created the Administration for Children and Families.

However, what is still needed is an overarching effort that can combine the efforts of all key players in looking at a long-term comprehensive improvement of coordination between the programs. My simplification bill will provide for the first time a document from which both Congress and the administration can work to create meaningful and lasting changes to the programs for the benefit of recipients.

Program rules governing application policies and administrative procedures vary considerably among the programs. Therefore, the application process is swamped in complexity. This greatly increases the likelihood that individuals and families to be denied benefits on the basis of procedure rather than for actual income or resource reasons.

From the State agency perspective, the lack of uniform program rules across AFDC, Medicaid and food stamps is incredibly inefficient in terms of managing the programs. The complexity adds more paperwork, requires more resources and increases the likelihood of errors. It hinders efficiency of staff and places obstacles in the way of comprehensive service delivery.

The administrative burden is a nightmare for overworked caseworkers who want to serve. Increased errors and a stressful work environment are the results of too many administrative mandates and not enough time with clients. Since the caseworker often holds the life line for so many families, redtape must not impede a caseworker's ability to serve.

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The benefits to the taxpayer are very clear. Better coordination means significant savings in future administrative costs. At a total Federal cost of about $120 billion, even the smallest simplification between these programs would result in a significant long-term savings. A significant reduction in the existing administrative duplication and an increase in program computerization will result in saved tax dollars.

Greater conformity is possible because food stamps, AFDC, and Medicaid serve many of the same persons, especially pregnant women, infants, and children. Why can't the same definition be applied across all programs? Why can't the same verification requirements apply across all programs? And, why can't resource limits on items like automobiles be the same value for all three programs?

To be denied assistance simply because Government bureaucracy cannot keep up with itself is a sin that we cannot tolerate in this country. Policymakers have a long way to go before we correct this wrong. I urge my colleagues to take the first step by signing on as a cosponsor of the Tallon Welfare Simplification Bill.

WELFARE SIMPLIFICATION REPORT BILL

The bill simply requires that the Secretary of Agriculture and Health and Human Services provide Congress with a report to delineate both the regulatory and statutory differences in program rules across Food Stamps, AFDC, and Medicaid which could be changed in order to ease the complexity of the application process for both applicants and welfare agencies.

The report will cover 1.) definitions of income and 2.) the many administrative rules which vary from program to program.

HOUSE COSPONSORS

Robin Tallon, Tom Downey, Nancy Johnson, Charlie Hatcher, Mike Espy, Richard Durbin, Lindsay Thomas, Butler Derrick, John Spratt, Arthur Ravenel, Tom Lewis, and Charlie Rose.

SENATE COSPONSORS

Senators Hollings, Thurmond, Fowler, Nunn, and Rockefeller.

ENDORSEMENTS

American Academy of Pediatrics.
National Association of Counties.
National Association of Eligibility Workers.
American Healthcare Systems Institute.
American Speech-Language-Hearing Association.
National Association of Public Hospitals.

THE INFILTRATION OF THE ZEBRA MUSSEL INTO THE INLAND WATERWAYS OF THE UNITED STATES

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DURBIN. Mr. Speaker, I rise today to call attention to a growing problem threatening my constituents in west-central Illinois and others throughout the Midwest. I am not referring to unemployment or the sluggish economy, both of which affect the day-to-day lives of almost every American citizen. Instead, I wish to alert my colleagues to a problem that threatens municipalities, industry, and recreational users of our country's inland lakes and rivers—the infiltration of the zebra mussel into the inland waterways of the United States.

Two weeks ago I held a public hearing in Quincy, IL, to address this serious problem. I invited witnesses from Government agencies, academic institutions, and private industry to share with me their insights on this potentially economic and ecologically threatening infiltration. Thirteen different zebra mussel experts answered that call, Mr. Speaker. Together, we formed three panels and discussed topics ranging from current inland distribution of the zebra mussel to biological, ecological, and economic impact to monitoring and control techniques. For over 3 hours we shared our opinions on this nonindigenous aquatic nuisance.

I began the November 11 hearing with three main goals in mind; to establish a means to share data, to highlight methods of improving the existing monitoring and control techniques, and to assist in alerting water users along the inland waterways of the serious threat posed by the zebra mussel. Since the conclusion of the public hearing, I believe we are well on our way to accomplishing all these goals.

As most of my colleagues know, zebra mussels (Dreissena Polymorpha) were first introduced to the Great Lakes from Europe, probably in ship ballast water in 1986. Since that time, these aquatic nuisances have reproduced prolifically and spread at a rapid pace. Zebra mussels attach themselves to solid surfaces, for example water intake pipes, which they consequently clog, thus creating havoc for water distribution systems used by water utilities, power plants, and municipalities. In addition to the physical blockage of pipes, zebra mussels can cause numerous other problems like accumulating on other stable surfaces exposed to freshwater environments and fouling our beaches and water supplies.

In the Great Lakes region of our country alone, zebra mussels have made themselves at home with over 10,000 miles of coast between Buffalo and Detroit. They combined with ice and other particles to totally shut down the city water system in Monroe, MI. The city of Monroe watched water rates increase 18 percent in order to pay for the removal of the mussels. In addition to the rate hikes, the city was forced to spend over a quarter of-a million dollars just to purchase equipment to protect their water pipes. And the stories go on. An Ontario, Canada, electric company recently spend $10 million on chlorine to keep zebra mussels out of power plant water intake pipes. Commonwealth Edison in Chicago estimates that they will spend between $17 and $20 million over the next 10 years to control the mussels in their Lake Michigan and area river facilities. The U.S. Fish and Wildlife Service estimates that controling the zebra mussel, if that is possible, in the Great Lakes alone will cost as much as $5 billion over the next decade. And a recent zebra mussel conference in Rochester, NY, revealed that these aquatic nuisances will have invaded nearly every waterway in North America within 20 years.

Zebra mussels were recently found in the Illinois, Mississippi, and Ohio Rivers, as well as in Kentucky Lake. All this is evidence that the inland distribution of zebra mussels is at least 1 or 2 years ahead of the previous best estimates.

A great deal of information came out of the recent public hearing. However, the single most important point that I would like to make today is the need for coordination of efforts to monitor and eventually control the zebra mussel. At this time I would like to share with my colleagues a letter that I recently wrote to the Honorable Manuel Lujan, Jr., the Secretary of the Interior and include it in the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 21, 1991.

Hon. MANUEL LUJAN, JR.,
Secretary of the Interior, Department of the Interior, Washington, DC.

DEAR MANUEL LUJAN: On November 11th I held a public hearing in my district on the infiltration of the zebra mussel into the inland waterways of the United States. I write to you today to share my findings with you and to encourage the Department of the Interior to assume a leadership role in dealing with this ecologically and economically damaging aquatic nuisance.

At the public hearing, I heard testimony from 13 different witnesses on three separate panels. Their testimony addressed vitally important aspects of the zebra mussel infiltration, specifically current inland distribution, impact, and monitoring and control initiatives. The witnesses represented academic institutions, private industry, municipalities, and government agencies. I was pleased to be joined by three distinguished members of the U.S. Fish and Wildlife Service, Dr. Don Schloesser of the National Fisheries Research Center in Ann Arbor, Michigan, Mr. Charles Suprenant from Carterville, Illinois' Fisheries Assistance Office, and Dr. Greg Cope of the National Fisheries Research Center in La Crosse, Wisconsin.

An area of emphasis that surfaced during the hearing was the need for a federal agency to take a lead role in coordinating research, monitoring, and control efforts. Currently, such systematic coordination does not exist. Instead, efforts focused on addressing the zebra mussel infiltration problem are divided between several government agencies like the U.S. Army Corps of Engineers, Environmental Protection Agency, and the Coast Guard. Couple the aforementioned government agencies with private industry, municipal and state groups, and academic institutions and the probability of miscommunication and duplication of efforts is greatly increased.

It is my understanding that the U.S. Fish and Wildlife Service has been making steady progress in the areas of monitoring and control of the zebra mussel. However, these efforts have been focused mainly on the Great Lakes region of our country. The threat posed by the current distribution of the zebra mussel has become a reality for several communities along the inland waterways of the U.S., namely the Illinois and Mississippi Rivers. As a push is made to monitor and eventually control these mussels along inland waterways, many different agencies and groups will likely join the battle. That is why it is important to establish a lead agency now to coordinate the efforts and work, in a cooperative fashion, toward the control of the zebra mussel.

At the November 11th hearing, I hoped to attain three specific goals; establishing a means to share data, highlighting ways of improving the existing monitoring and control methods, and alerting water users along

the inland waterways to the serious threat posed by the zebra mussel. I firmly believe that these goals can be accomplished by establishing a lead agency to coordinate efforts concerned with the zebra mussel. I further believe that the Department of the Interior, through its Fish and Wildlife Service, can be an effective catalyst for shared efforts and coordination of future projects which deal with the zebra mussel infiltration quandary.

Thank you for considering my proposal that the Department of the Interior assume an increased role, that of lead agency, in efforts to curb the infiltration of the zebra mussel. I look forward to hearing your views on this important issue.

With best wishes,
Sincerely,
RICHARD J. DURBIN,
Member of Congress.

Mr. Speaker, the infiltration of the zebra mussel is a problem that will not simply go away. Instead, most experts believe that these mussels will become a permanent part of North American lakes and rivers. Thus, we must learn to live with the zebra mussel. However, it does not have to be a peaceful coexistence. By pooling our efforts, our resources, and our knowledge, we can discover effective ways to combat this aquatic nuisance and avoid duplication of efforts.

For assisting me in raising public awareness to a potentially devastating problem, I would like to take this time to thank those thirteen expert witnesses who participated in the public hearing. They are Dr. Donald A. Schloesser, Mr. K. Douglas Blodgett, Mr. William J. Elzinga, Mr. James S. Allen, Mr. Carl R. Schumacher, Colonel John R. Brown, Mr. Harry F. Bernhard, Nr. Charles Suprenant, Dr. J. Ellen Marsden, Dr. Robert J. Sheehan, Dr. Edwin Theriot, Mr. James W. Flannery, and Dr. W. Gregory Cope.

The problem of the infiltration of the zebra mussel is one that we will be debating for a long time in this country and probably in this House. I can only urge my colleagues and Americans living and working along our lakes and rivers not to take this problem for granted. The zebra mussel, Mr. Speaker, has invaded our country's waterways, they have prospered, and now they are here to stay.

RELIGIOUS LEADERS SUPPORT HAITIAN REFUGEES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RANGEL. Mr. Speaker, I rise to call to the attention of my colleagues the commendable action of many religious organizations during this time of crisis in Haiti.

These religious leaders are showing the kind of moral leadership that has been sadly lacking in our Government. Among the religious organizations that have come forward to express their support for the Haitian refugees are the Union of American Hebrew Congregations, the National Council of Churches of Christ in the U.S.A., the Evangelical Lutheran Church in America, the American Jewish Committee, the National Conference of Catholic Bishops, the Council of Jewish Federations, and the United States Catholic Conference.

I believe we should follow the example set by these religious leaders to open our hearts and extend a hand of assistance to the Haitian boat people. Letters expressing support from various religious organizations follow.

NOVEMBER 21, 1991.

Mr. GEORGE BUSH,
President, The White House
Washington, DC.

DEAR MR. PRESIDENT: We are writing as religious leaders to request a meeting with your office concerning the emergency situation of Haitian refugees now on the verge of being forcibly returned to their home country by the U.S. Coast Guard.

Over 1,800 Haitian asylum seekers aboard U.S. Coast Guard cutters and a Navy ship are now on the verge of being returned to Haiti, pending a temporary restraining order. This is despite the clear record of abuses and persecution inflicted upon the Haitian people by the armed forces since the military coup September 30, 1991. It has been widely reported that more than 300 innocent civilians have been killed in the violence since September 30. Hundreds more have been injured in these repressive acts.

The United States has rightfully opposed forced repatriation of Vietnamese refugees in Southeast Asia. Our government has no ground to stand upon in the international community if we now engage in this forced return of Haitians. It is furthermore disingenuous to claim, as officials of the State Department have done recently, that because Caribbean nations are not willing to provide a regional safe haven in sufficient numbers, these refugees now need to be forced back.

Mr. President, the contradictions in the treatment of Haitian refugees by the U.S. government during this present crisis are apparent. Has the United States returned any of the over 2,000 Cuban refugees who have fled in rafts and small boats? The answer is no; in fact, they have all been brought to the U.S. by the U.S. Coast Guard, allowed to remain and given at least a temporary safe haven while their claims before the Immigration and Naturalization Service are considered.

Haitian asylum seekers deserve no less. The United States government must end this forced repatriation now. We must lead by example, and provide safe haven to people who flee the illegitimate government that has usurped power in Haiti.

We hope to hear from your office soon to arrange a convenient time for this urgent meeting.

Sincerely,
RABBI DAVID SAPERSTEIN,
Director and Counsel, Religious Action Center of Reformed Judaism, Union of American Hebrew Congregations.
THE REV. JOAN B. CAMPBELL,
General Secretary, National Council of Churches of Christ in the USA.
BISHOP HERBERT W. CHILSTROM,
Evangelical Lutheran Church in America.
ALFRED H. MOSES,
President, American Jewish Committee.

WORLD RELIEF,
November 19, 1991.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing in conjuction with other religious leaders to request a meeting with your office concerning the emergency situation facing Haitian refugees now being forcibly returned to their home country by the US Coast Guard.

Over 1200 Haitian asylum seekers aboard seven US Coast Guard cutters are now being returned to Haiti, despite the clear record of abuses and persecution inflicted upon the Haitian people by the armed forces since the military coup September 30, 1991.

The United States has rightfully opposed forced return of Vietnamese refugees in Southeast Asia. To apparently return to a policy of forced return for Haitians before the restoration of an elected government in Haiti seriously brings into question the credibility of the current policy of the US towards forced return in other areas of the world.

Mr. President, the treatment of Haitian refugees by the US government during this current crisis seems to be less than compassionate. Furthermore, the treatment of Haitian refugees is in stark contrast to our recent reception of 2,000 Cubans who fled in rafts and small boats and have been given at least temporary safe haven while their claims for asylum are being considered.

We respectfully request an immediate suspension of forced return and a complete review of US policy toward Haitian asylum seekers. It is our hope that possible solutions will minimize the potential of high risk boat departures.

The US has a long and distinguished history of protection for those fleeing political persecution. Does not our leadership in the international community call on us to provide at least temporary safe haven?

OFFICE OF THE PRESIDENT,
Washington, DC, November 20, 1991.

Hon. GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I write, as President of the United States Catholic Conference, to express our opposition to the forcible repatriation of the Haitians currently seeking to come to the United States.

Persons willing to risk their lives in the dangerous passage from Haiti to this country are not coming for frivolous reasons. They are coming to escape violence and oppression that has, once again, become intolerable. Even if the majority of these desperate people can not demonstrate that they qualify for political asylum, there are other legal remedies available to them, such as Temporary Protected Status (TPS), which they clearly merit.

The Haitian people have been beset by many tragedies, compounded most recently by the violent overthrow of the first democractically elected government in their history. Returning interdicted Haitians to Haiti at this particular time will only aggravate this already turbulent situation. Since the United States does not recognize the new military government of Haiti, I urge you to suspend the interdiction agreement.

I urge you to express the compassion and welcome to the stranger in need that is so deeply a part of our national tradition. I ask you to authorize more humane and flexible application of our immigration laws, to continue pressing other regional governments to provide safe haven for more of these refugees, and to halt the repatriation of interdicted Haitian refugees.

With my gratitude for your attention to this and assuring you of my prayers, I remain,

Yours sincerely,
Most Rev. DANIEL E. PILARCZYK,
Archbishop of Cincinnati,
President, NCCB/USSC.

MRS/USCC CALLS FOR END TO HAITIAN DEPORTATION; ENCOURAGES ADMINISTRATION TO RETHINK "UNJUST" POLICY

WASHINGTON.—Rev. Richard Ryscavage, S.J., Executive Director of the Office of Migration and Refugee Services of the United States Catholic Conference (MRS/USCC) announced today the USCC's support for the 11th Circuit Court of Appeals in Florida ruling upholding the temporary restraining order ending the forced repatriation of Haitians. "The Administration now has time to reexamine current U.S. policy toward Haitians. The present policy must be reversed to provide relief for Haitian boat people who take the extraordinary risks to escape violent and dangerous conditions in this country," said Rev. Ryscavage.

The order, halting the Administration from continuing to repatriate Haitians despite the increasingly deteriorating conditions there, provides the Administration with an opportunity to reconsider its interdiction policy. MRS/USCC has opposed the interdiction policy since its inception in 1981. MRS/USCC supports the efforts of Honduras and Venezuela, which have taken a total of 350 Haitians into their countries, and the efforts of Belize and Trinidad which have offered to take 100 Haitians each.

MRS/USCC strongly believes that the U.S. must do everything within the law to ensure that the lives of the Haitian people are not further endangered on the sea. Already, approximately 120 Haitian lives have been lost in their search for refuge. The U.S. should remain consistent with its policy in helping Vietnamese boat refugees by offering the same consideration for the Haitians. Possible steps include granting the Haitians Temporary Protected Status (TPS), as well as fairly considering their claims for political asylum and humanitarian parole.

Since the coup, 4,530 Haitians have been interdicted, 538 people have been repatriated, and 122 Haitians have been brought to Miami for asylum processing. The Catholic Legal Immigration Network, Inc. (CLINIC), is processing 61 of these 122 people. CLINIC is providing free legal and resettlement services, including employment and language assistance. For those without family members in the United States, CLINIC is working with the Haitian community in Miami to help find housing for those asylum-seekers now being housed in hotels.

MRS/USCC will continue to support legislation introduced by Senator Connie Mack and Representatives Charles Rangel and Romano Mazzoli, which call for granting TPS to Haitians and ending the U.S. interdiction policy.

However, the Catholic Church's effort alone are not enough. Rev. Ryscavage stated that "we must all, both nationally and internationally, act in the most just and humane ways possible to ensure the safety and well-being of all Haitian people. We must speak out against injustices which cause people to flee their countries. The U.S. government must work toward implementing policy which addresses and accommodates the needs of all people, regardless of where they originate. The lives of 4,000 Haitians at sea, and others whose numbers we do not yet know, depend on it."

Participants in today's press conference included: Rev. Charles S. Miller, Executive Director, Division for Church in Society of the Evangelical Lutheran Church in America; Rabbi David Sapperstein, Director of the Religious Action Center, Union of American Hebrew Congregations; Judy Golub, Legislative Director, American Jewish Committee; and Kay Bellor, Washington representative for the Church World Service.

The United States Catholic Conference is the public policy and social action agency of the Catholic Bishops of the United States. Within USCC, Migration and Refugee Services (MRS) is the lead office responsible for developing and implementing Conference policy on migration, immigration, and refugee issues. The Catholic Legal Immigration Network, Inc. (CLINIC) was established by the Bishops in 1988 to ensure that all newcomers have access to affordable immigration-related services.

HAITIAN REFUGEES NEED PROTECTION: RESCUE THE BOAT PEOPLE AND GRANT THEM SAFE HAVEN IN THE UNITED STATES

(Statement by the Rev. Charles S. Miller)

The United States government is currently holding about 3,000 Haitian refugees aboard Coast Guard cutters, a Navy ship and in beaches in Guantanamo Bay, Cuba. Until the federal courts stopped a wrongful policy of forced repatriation last Tuesday, the U.S. government forcibly sent over 500 Haitian refugees back to the anarchy and violence of Haiti.

The United States, under the guise of discouraging further boat departures from Haiti, has chosen to send refugees back to the persecution and violence we otherwise have condemned. This policy is wrong and must be changed.

The Evangelical Lutheran Church in America is deeply disturbed about this lack of compassion towards refugees from Haiti. Our country has welcomed many other persecuted peoples to our shores, why should we turn our backs on these refugees? During 1991 alone, the U.S. Coast Guard has rescued over 2,000 Cubans who have fled in small boats and rafts. All of these have been taken to the U.S. for processing of their asylum and immigration claims.

Why is it that we cannot offer the same protection to Haitian refugees? The current policy of the U.S. government is not only unfair but also contradictory. We want countries in the Caribbean region to accept Haitian refugees temporarily; in fact, there have been intense diplomatic initiatives through the United Nations and the Organization of American States to pressure countries to accept Haitians, while the United States is basically turning its back on these refugees.

This "not-in-my-back-yard" policy of neglect and rejection must end. We must subscribe to international law that says that when you rescue a refugee at sea you bring him or her to the nearest port of call. Otherwise our refugee policy is selective, and apparently discriminatory.

The Evangelical Lutheran Church in America and Lutheran Immigration and Refugee Service call upon the President to exercise humanitarian solutions to this refugee crisis. We cannot turn our back on these Haitian refugees, while we decry how refugees from Vietnam are treated by Hong Kong and Malaysia. The refugees aboard U.S. vessels, as well as those beached at Guantanamo Bay should be brought to the United States for temporary protection.

The U.S. government should also grant "Temporary Protected Status" to Haitians already in the United States. The law permits the Attorney General to grant this temporary safe haven to persons in the United States whose lands are in turmoil, and where it is not safe for nationals to return. Haiti now fits that legal "litmus test." Temporary Protected Status for Haitians will provide a temporary relief and send a strong signal to the international community that the United States is willing to do its part.

In the context of a "temporary regional solution," the United States should provide leadership and work with the United Nations High Commissoner for Regusees so that camps already set up in other countries are safe non-detention facilities. Refugees eligible for resettlement should be moved rapidly to a third country, such as the United States, Canada and France. Families must not be separated, and unaccompanied children should not be left unprotected.

We can ill afford a re-creation of the detention centers of Hong Kong, where families and children languish behind barbed wire and armed guards. The U.S. government must work with the United Nations and other agencies to assure this refugee crisis does not turn into another indefinite detention for Haitian refugees.

The Evangelical Lutheran Church in America and Lutheran Immigration and Refugee Service support congressional initiatives introduced by Senators Connie Mack (R-FL), Dennis DeConcini (D-AZ), and Representatives Charles Rangel (D-NY) and Romano Mazzoli (D-KY), that seek to assist Haitian refugees during this present crisis. The Administration could, if it chose, resolve this crisis without this legislation or other changes in the law.

It is our fervent hope that the President will chose to do the right thing: Help Haitian refugees by rescuing them and bringing them to safety in the United States. Grant Temporary Protected Status and provide a safe haven until the violence subsides, Haiti's constitutional government is restored, and conditions in Haiti are safe once more.

STATEMENT OF KENNETH BIALKIN, PRESIDENT, AND MICHAEL S. MILLER, EXECUTIVE DIRECTOR, ON THE HAITIAN REFUGEE PROBLEM

Political upheaval and tragic violence in Haiti has created a refugee crisis which speaks to our minds and our hearts. America was founded as a haven for the persecuted and on humanitarian principles which extend freedom and liberty to those in need.

Last week, a storm at sea claimed the lives of hundreds of Haitian "boat people" whose craft capsized. Their fate was reminiscent of German Jews who perished in the Holocaust after their ship was turned away from American shores. The misery of history must not be repeated.

As the Jewish community worldwide approaches the celebration of Hunakkah, the festival of freedom, we, as Jews and as Americans, identify with all peoples who strive to achieve that basic human right. It is morally imperative that our country provide a safe haven for those unfortunate individuals who have arrived here from Haiti and prohibit their deportation or repatriation from the United States or at sea. These refugees should be granted temporary protected status, at least until the political crisis in Haiti is resolved.

The Jewish Community Relations Council of New York, representing 63 major Jewish organizations in the New York area, supports H.R. 3844, known as the "Haitian Refu-

gee Protection Act", introduced by Congressman Charles Rangel (D-NY), which seeks to "assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti."

We urge immediate support for this important measure.

Resolution adopted by the General Assembly of the Council of Jewish Federations, Baltimore, MD, Friday, November 22, 1991.

HAITIAN BOAT PEOPLE

The situation with the Haitian boat people reminds us of the *S.S. St. Louis*, carrying 936 German Jewish refugees, which left Hamburg in May 1939 for Havana. Turned away by Cuba, the passengers of the *S.S. St. Louis* were turned back to Europe after the U.S. Government denied their admission. Many subsequently perished in the Holocaust. There is a parallel here that speaks to Jews loud and clear.

Resolved: We congratulate Congressman Rangel and Senator Mack for their leadership on this issue. We urge a halt to the forced repatriation of the Haitian boat people, a halt to interdiction, and support for the granting of Temporary Protected Status to Haitians until the situation in Haiti is stable and there is assurance that they will not be threatened by persecution.

AMERICAN JEWISH COMMITTEE DEPLORES HAITIAN DEPORTATIONS

NEW YORK.—The following statement was issued today by E. Robert Goodkind, Chairman of the American Jewish Committee's National Affairs Commission and Gray Rubin, AJC's Director of National Affairs:

"The American Jewish Committee deplores the decision by the United States government to repatriate forcibly Haitians who have fled violent conditions in their country. Over 1200 Haitians aboard U.S. Coast Guard vessels now face involuntary return despite highly credible reports of widespread abuses in their homeland. Our country has proudly granted asylum to Cubans, and safe haven to Salvadorans, Lebanese, Liberians and others; we can, in view of both our traditions of welcome and international law, do no less for Haitians. We call on the Administration to cease immediately its repatriation policy, end the practice of interdiction of Haitians on the high seas, grant temporary protected status for Haitians during the time of the emergency in that country and join with Congress in supporting resolutions offered by Rep. Charles Rangel (D NY) and Sen. Connie Mack (R FL) that would further many of these objectives. We need to adopt a humanitarian policy to protect Haitian asylum seekers even as we continue to press for the restoration of Haiti's legitimately elected government."

The American Jewish Committee protects the right and freedoms of Jews the world over; combats bigotry and anti-Semitism and promotes human rights for all; works for the security of Israel and deepened understanding between Americans and Israelis; defends democratic values and seeks their realization in American public policy; and enhances the creative vitality of the Jewish people. Founded in 1906, it is the pioneer human-relations agency in the United States.

STATEMENT OF RABBI DAVID SAPERSTEIN, UNION OF AMERICAN HEBREW CONGREGATIONS, NOVEMBER 25, 1991

THE CRISIS IN HAITI

The Union of American Hebrew Congregations, representing 1.5 million Reform Jews in 850 synagogues nationwide, is gravely concerned about the situation in Haiti. We urge the United States government to respond to recent and ongoing events there without delay. The restoration of Haiti's democracy and, until such time as the military regime in Haiti is replaced by a democratic government, a sympathetic response to the Haitian citizens who are fleeing the current oppression, should be America's principal priorities.

As Jews and Americans, we understand the importance of democracy in ensuring the fundamental rights and freedoms to which all human beings are entitled. We do not regard democracy as a luxury to which only the world's advantaged people are entitled. We ourselves have too often been victimized by capricious regimes that do not know the rule of law and do not respect basic human rights. This nation has celebrated the emergence of democratic regimes in Europe; in our own hemisphere, we cannot calmly accept the restoration of government by junta.

In the meantime, we must confront the problem posed by the Haitian refugees. It is alleged that many of those who have chosen to flee Haiti, at great personal risk, have done so in order to improve their economic circumstances rather than because of "a well-founded fear" of political persecution. But in a nation whose government does not accept the rule of law, every citizen is a potential victim of political persecution. It is precisely the capriciousness of such a regime that threatens the individual. It asks too much of the citizens of Haiti that they wait until the regime has identified them by name as targets before they flee; in Haiti's present circumstances, today's obscure citizen may be arbitrarily classified as an enemy of the state tomorrow. Anyone who flees such circumstances is entitled to compassionate treatment and to the presumption that his/her flight is, indeed, based on well founded fears of persecution.

Here, too, we cannot forget our own experience. Time and again through history Jews sought to escape persecution only to find the gates of freedom closed to them. In 1939, the SS St. Louis, crowded with more than a thousand Jewish refugees, was ultimately forced to return to Germany, where they became part of the 6,000,000 Jews who were slaughtered in those dark days.

We recognize that the development of a coherent refugee policy is immensely complex. Ideally, the emergence of a new world order will render the problem of refugees obsolete. Ideally, even before that longed-for day, many nations would share in responding to the problem. But today's refugees cannot in conscience be held hostage to tomorrow's ideal solutions. Their lives are at risk now, and our response to them cannot be postponed. A cold and cruel response not only imperils them; it diminishes us, it dims the Statue's torch.

CROATIA AND YUGOSLAVIA DEMOCRACY AND SELF-DETERMINATION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VANDER JAGT. Mr. Speaker, in 1776, the people of a faraway city-state that is today the proud old city of Dubrovnik were among the first of the community of independent states to recognize the independence of the 13 colonies which declared their union as the United States of America. As we continue the work of freedom in the capital of that nation, some 215 years later, that seat of a proud city-state is under seige as it seeks to renew its independence following years of enforced federation under a totalitarian regime.

Dubronvnik serves as the focal point and touchstone of a proud and freedom-loving Croation population. That population, particularly, seeks to establish its independence, and is joined in its efforts by the Slovenes and others whose presence in the Yugoslavian federation is an accident of history. The conflict, tragically, has resulted in thousands of Croatians and other ethnic populations killed and the destruction of the cultural heritage of a region which will rival the tragedies of World War II in Europe and Russia. The beauties of these old cities, and the way of life of these proud but simple peoples must not be lost to the senseless violence of Serbian dominated Yugoslavian army seeking to impose an unwanted confederation. If the Soviet Union can undergo a peaceful, if traumatic, devolution of its, central government hegemony, then so can—so must—the peoples of the Balkans, and the leadership of the Yugoslavian state.

Just as we in our cold war vision saw the Soviet Union not as a union but as Russia, and were surprised by the rush to independence of the Soviet states, we are unfamiliar with the history of the Yugoslav region and its federated status. The binding of Croatia, Serbia, and the other cultural and geographic components of Yugoslavia attempted to link historically different and often fiercely nationalistic rivals. Those rivalries were made more bitter by the events of the Second World War. Nearly 2 million Yugoslavs died then, many at the hands of their own countrymen, as in other nations of the region.

With the collapse of communism in Eastern Europe the fragile glue that held Yugoslavia together weakened significantly. Internal rivalries, repressed or controlled all those long years, have resurfaced in bitter fighting. As the United States prepares for the second round of the Mid-East Peace Conference, events in the Balkans reminds us of the potential for action on the part of world powers and international institutions to bring a halt to the bloodshed between the Croats and Serbs, which also threatens Albanians, Slovenes, Hungarians and other ethnic peoples who form the Yugoslavian federation.

Conflict over the retention of the Yugoslavian federation has resulted in unfortunate military action in the provinces of Kosovo and Vojvodina, and the suppression of ethnic populations. The orderly processes of governing have broken down and left the federation without a President or functioning government, and, at one point, caused the Republics of Slovenia and Croatia to declare the federation at an end. Federal army efforts, dominated by the Serbian majority, and mixed political alliances, have led to an appalling loss of life and property as towns such as the beautiful old city of Dubrovnik. Other historically and culturally vital centers such as Vukovar and Osijek are subjected to shelling and destruction in an effort to enforce the unity of an unwanted federation.

Because I believe in the right of all peoples to self-determination, and because, at the least, the United States has an obligation to lend its support to the struggle for freedom, I have joined our colleague, Congressman ELTON GALLEGLY, in cosponsoring H. Con. Res. 224, urging the President to recognize the independence of Croatia and Slovenia. This action would, of course, force a level playing field negotiation to seek a settlement of a dispute now characterized largely by nationalistic bitterness. Because of its majority domination of the Yugoslavian Government, the Serbian population bears the brunt of the burden for the conflict and violence which exists in that troubled nation.

To emphasize our commitment to forcing a cease-fire and negotiated resolution to the problems of not only the Croats, Slovenes, and Serbs, but all of the other, minority, ethnic and cultural groups, I also recently lent my cosponsorship to the efforts of our colleague, Congressman TOM LANTOS, in H.R. 3518, which would restrict United States assistance for any Serbian dominated function or area of Yugoslavia. While neither of these measures has moved in this Congress, I believe that lending our names to these efforts is a clear indication to the Serbian majority that the repression, destruction, and killing must stop. Let us hope so, and that the instability which is rapidly overtaking the region does not demand, at some point, stronger intervention.

This is the great tragedy of a federation whose constitution is modeled on our own and which would guarantee minorities equal rights, which rejects communism and embraces a free-market economy, and which protects personal and political freedoms. They say that those who refuse to learn from history are doomed to repeat it. Let us hope that the events of last year in Eastern Europe, the events earlier this year in the Soviet Union, and the history of the Balkan region provide a basis for seeking a settlement of the Yugoslavian conflict without the forced subjugation of cultures and peoples. We must have as much vision ourselves as the citizens of Dubrovnik had some 215 years ago. We must not abandon the search for a just solution for Croatia, for Serbia, for Slovenia, for each and all of the ethnic populations which seek to establish their right to freedom and independence. Recent events clearly indicate the potential for violence, a potential that certainly parallels the experiences which we have witnessed in the Middle East and Lebanon in the recent past.

Whatever the specifics of the past grievances of the parties, whatever the historical animosities and jealousies, whatever the political and cultural rivalries, the internatioanl community must make clear to the parties that they must abide by the cease-fires which are so painstakingly developed—and have, for more than a dozen times, been so readily violated. It may be that the international community will be called upon to play an active role in sorting out the solution for the Balkan region—let us hope with more sensitivity and foresight than demonstrated following past conflicts—but the first step must be taken by the parties. The United Nations, a new and weak institution following the earlier wars, has recently demonstrated a vitality and vision which may well contribute significantly to an equitable resolution for the Yugoslavian federation.

We are all devastated by the violence, the destruction, the loss of life which we read about each day as the Balkan conflict continues. I hope that the leaders of nations around the world will focus their attention on the terrible ordeal of the Croats and other ethnic populations and will aggressively act to encourage and support an effective solution. Let us all encourage that course, let us support the principle of freedom and self-determination. We pray for the inspired vision of Balkan leaders and the leaders of free nations and institutions around the world to see the path to a just and lasting peace for the region.

TRIBUTE TO JACK YOHE MANAGER, ALLENTOWN-BETHLEHEM-EASTON AIRPORT ON HIS RETIREMENT

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to my good friend Jack Yohe, as he prepares to retire as manager of the Allentown-Bethelehm-Easton International Airport at the end of 1991, ending a public service career spanning more than three decades and marked by accomplishments and awards testifying to the exceptional talents and spirit of this remarkable man.

I have had the distinct pleasure of working closely with Jack Yohe during my 13-year tenure in Congress. I have found him to be most able to handle complex issues; to deal with people with respect and leadership; to enjoy the idea of friendship and to always be the soft-spoken gentleman.

I'm proud to call Jack Yohe a good friend.

Jack Yohe began his professional career as a newspaperman with the Call-Chronicle newspapers in his home town of Allentown, PA, leaving in 1957 to become a copy editor with the Evening Star here in Washington, DC. In late 1960, he joined the staff of Congressman Francis E. Walter of Easton, PA, and held that position until Representative Walter's death.

In August 1963, Jack was named director of information for the Civil Aeronautics Board, the first of a number of positions he held during 17 years with that agency. Among those positions was consumer affairs director of the CAB, making Jack the first such official at a Federal regulatory agency. In 1973, he became the first consumer advocate at a Federal regulatory agency, and under his leadership that office was recognized in independent evaluations during the administrations of both President Ford and President Carter as the outstanding Federal consumer affairs office for management and responsiveness to the public.

In 1979, the CAB moved to combine its consumer interests with its enforcement authority, and Jack became project development director of the newly formed Bureau of Consumer Protection. He acted as the CAB liaison with the White House, Congress, Federal agencies, State and municipal officials, and the various segments of the transportation industry until his retirement from Federal service in January 1981.

Jack was named manager of the Allentown-Bethlehem-Easton Airport in January 1984 by the Lehigh-Northampton Airport Authority. He succeeded Wilfred M. (Wiley) Post, who over his 47 years of active service had been the driving force in the development and growth of the facility from a small airfield into a multimillion-dollar installation. At that time, Authority Chairman Sanford Wartell called Jack "uniquely qualified for the position he. . . has been for many years intimately involved with every segment of the air transport industry * * * and with the entire Lehigh Valley area."

The past 7 years have confirmed Chairman Wartell's high opinion of Jack's abilities and leadership. In that time, A–B–E earned the status of an International airport; it saw a 105 percent increase in passenger use; it more than doubled the number of airlines providing daily passenger service; and it became the east coast maintenance base for Continental Express as well as the home of the aviation divisions of Union Pacific Corp. and ITT Corp. and the U.S. Customs Service's first reimbursable fee port-of-entry.

This growth has been nurtured by an aggressive but responsible strategy of improvements, putting to best use the scarce resources of Federal and local government. The airport has secured more than $25 million in grants from the Federal Aviation Administration for various Improvements and development activities—not including the $6.7 million from the Aviation Trust Fund for a new freestanding air traffic control tower—and thus A–B–E International has been able to forego asking county taxpayers to fund these essential projects. In place as Jack ends his tenure at A–B–E are plans for nearly $100 million more in capital improvements, in accordance with the master plan study and noise compatibility study now nearly completed. These steps are meant to encourage further growth at the airport, while making sure that residents in neighboring communities are not inconvenienced by that growth.

Throughout his career, Jack has accumulated a great deal of recognition and numerous awards. He received the Aviation/Space Writers Association award for outstanding service in public communications in 1968, and the Washington Aero Club Distinguished Service Award in 1972. As an official of the Civil Aeronautics Board, he won its Silver Medal for "meritorious service" in our Nation's Bicentennial year of 1976, and was the agency's nominee for the U.S. Civil Service Commission's "Most Distinguished Employee" award that year as well. More recently, Jack was named to the board of directors of the Airport Operators Council International in 1989, and elected to a 3-year term on the Council's board a year ago. And he was honored with a "Laurels of 1989" citation by Aviation Week and Space Technology magazine in January 1990—the only airport official to win recognition from a worldwide selection of editors.

I believe that Jack's lasting legacy may not be the awards and honors, nor the improvements and growth at A–B–E International, nor

even the hundreds of his friends and admirers in our community. Instead, his legacy will be the economic strength of our area, which has been advanced immeasurably by his efforts to improve air service to and from the Lehigh Valley.

Jack Yohe is an example of the kind of visionary and leader that our cities, our regions, our States and our Nation must have in order to ensure prosperity and comfort for future generations. Mr. Speaker, as Jack and his lovely wife Ann prepare to move on to face new challenges—and to spend more time with their children and grandchildren—please join me in thanking this dedicated public servant for his many good ideas and good works, and in wishing him and his family all the best in the years ahead.

LUIS BOTIFOLL OF MIAMI'S REPUBLIC NATIONAL BANK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Luis Botifoll, chairman of the board of the Republic National Bank of Miami, who was recently featured in the American Banker. The article "Republic of Miami's Botifoll Foresees In-Market Growth," tells how his bank became the largest locally-owned bank in the Miami area:

Luis Botifoll, chairman of Republic National Bank of Miami, may be Florida's grand old man of banking at age 83, but he is not about to slow down.

"We're the biggest local bank in Dade County and the biggest Hispanic bank in the United States," he boasts. "And we've still got a market to expand in."

With First Union Corp.'s acquisition of Southeast Bank of Miami in September, the $1.3 billion-asset Republic became the biggest locally-owned bank in Dade Country, which includes Miami. (The company is unrelated to the much larger Republic National Bank of New York.)

PROFIT SURGE 74 PERCENT

And in a vibrant local economy, business is booming at Republic. Third-quarter profits were up 74% from a year ago, to $3 million. For the nine months, profits rose 21% to $7.2 million.

In the next three to four years, Mr. Botifoll predicted, Republic will probably double in assets and add at least five branches to its current 20.

Republic's strong performance comes amid an explosion in the number of Hispanic banks in Miami, broadly defined as those owned by Hispanic investors, run by Hispanic management, and catering primarily to the Latino community.

Since 1965, when Republic was founded, the number of Hispanic banks has risen to 23, or 39 percent of the 59 locally licensed banks in Miami.

At June 30, Hispanic banks held nearly 20 percent of some $26.9 billion in deposits in Dade County, which has a large population of Cuban emigres.

And while deposits at non-Hispanic banks in the county fell 2.9 percent, to $21.6 billion, in the six months through June 30, deposits at Hispanic banks climbed by $203 million, or 4 percent, to $5.27 billion.

Dade County's large Hispanic population, the bank's bilingual staff, and close relations with the local community all operate in Republic's favor, said Mr. Botifoll.

"We know who's who," he said. "We speak Spanish as well as English, we make decisions quickly, and you can walk in and see the president anytime you want.

"At other banks, you're just a number. People resent that."

Republic's success stands in sharp contrast to the recent collapses of Southeast Bank and Cen Trust Bank, a big Miami thrift.

It also underscores the remarkable economic rise of immigrants like Mr. Botifoll, who arrived in Miami in August 1960—shortly after Fidel Castro's revolution—with his wife, three children, and little more than the clothes on his back.

A FOE OF CASTRO'S

A former editor at El Mundo, a large daily newspaper in Havana, Mr. Botifoll spent his first three years in the United States campaigning to overthrow Castro. When funding for that movement ran out, Mr. Botifoll began working as a consultant on Latin America.

In 1970, three years after Republic had been acquired by Ecuadoran investors, Mr. Botifoll was asked to join its board and was subsequently to take over as chairman.

The first years in the United States were the toughest, he recalled. "It was difficult enough coming to a country without a cent in your pocket," he said.

You also have to remember that Miami was also a lot smaller, it was mainly a tourist town, and you didn't have a large community that spoke your language."

I am happy to pay tribute to Luis Botifoll and the Republic National Bank of Miami by reprinting this article from the American Banker. Mr. Botifoll's story is typical of the many successful immigrants who have helped make America what it is today.

FIFTIETH ANNIVERSARY OF THE ATTACK ON PEARL HARBOR

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DINGELL. Mr. Speaker, I rise today in recognition of the 50th anniversary of one of the most monumental events in our Nation's history: the surprise attack on Pearl Harbor.

This Veterans' Day, I had the privilege of meeting with a very special group of veterans and their families who are survivors of that infamous December 7 attack. To date, 21 16th Congressional District residents and survivors have been identified. They include: Michigan Pearl Harbor Survivors Association President, Mr. Gerald L. Lipscomb; Mr. Joseph Arnold; Mr. Leonard Anthony Balutis, Jr.; Mr. Milton J. Beaudry; Mr. Esrom Breeding; Mr. Andrew Carol; Mr. Charles G. Clark, Jr.; Mr. William K. Coffman; Mr. Stanley Czopek; Mr. Roman Grabowski; Mr. James P. Lambe; Mr. Joseph Machczynski; Mr. Emmett J. Pyles; Mr. Glenn M. Sharp; Mr. Frank G. Smalley; Mr. Ernest E. Smith; Mr. Marvin L. Strouss; Mr. Howard Thoma; Mr. William Thomas; Mr. Clair J. Thompson; and Mr. Alex F. Zawila.

These dedicated men served their country in its time of greatest need and survived as living testaments to the strengths and courage of the American spirit. They survived to witness the triumph of both America's military forces and its ideals.

In recognition of this historic anniversary, I am attaching President Franklin Delano Roosevelt's remarks to the U.S. Congress following the attack on Pearl Harbor.

ADDRESS BY THE PRESIDENT

To the Congress of the United States:

Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan.

The United States was at peace with that nation and, at the solicitation of Japan, was still in conversation with its Government and its Emperor looking toward the maintenance of peace in the Pacific. Indeed, 1 hour after Japanese air squadrons had commenced bombing in Oahu, the Japanese Ambassador to the United States and his colleague delivered to the Secretary of State a formal reply to a recent American message. While this reply states that it seemed useless to continue the existing diplomatic negotiations, it contained no threat or hint of war or armed attack.

It will be recorded that the distance of Hawaii from Japan makes it obvious that the attack was deliberately planned many days or even weeks ago. During the intervening time the Japanese Government has deliberately sought to deceive the United States by false statements and expressions of hope for continued peace.

The attack yesterday on the Hawaiian Islands has caused severe damage to American naval and military forces. Very many American lives have been lost. In addition American ships have been reported torpedoed on the high seas between San Francisco and Honolulu.

Yesterday the Japanese Government also launched an attack against Malaya.

Last night Japanese forces attacked Hong Kong.

Last night Japanese forces attacked Guam.

Last night Japanese forces attacked the Philippine Islands.

Last night Japanese forces attacked Wake Island.

This morning the Japanese attacked Midway Island.

Japan has, therefore, undertaken a surprise offensive extending throughout the Pacific area. The facts of yesterday speak for themselves. The people of the United States have already formed their opinions and well understand the implications to the very life and safety of our Nation.

As Commander in Chief of the Army and Navy I have directed that all measures be taken for our defense.

Always will we remember the character of the onslaught against us.

No matter how long it may take us to overcome this premeditated invasion, the American people, in their righteous might, will win through to absolute victory.

I believe I interpret the will of the Congress and of the people when I assert that we will not only defend ourselves to the uttermost but will make very certain that this form of treachery shall never endanger us again.

Hostilities exist. There is no blinking at the fact that our people, our territory, and our interests are in grave danger.

With confidence in our armed forces—with the unbounded determination of our people—we will gain the inevitable triumph—so help us God.

I ask that the Congress declare that since the unprovoked and dastardly attack by Japan on Sunday, December 7, a state of war has existed between the United States and the Japanese Empire.

FRANKLIN D. ROOSEVELT.

The WHITE HOUSE, *December 8, 1941.*

HONORING PASTOR CURT HESS FOR 47 YEARS OF SERVICE TO GOD AND FAMILY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. YOUNG of Florida. Mr. Speaker, participating in retirement programs is a mixed blessing for me because while there is celebration of an individual's lifetime of work, there is always a bit of sadness that they will no longer serve in the position for which so many have become accustomed.

Friday evening I had the honor to participate in one of these bittersweet celebrations when we paid tribute to Pastor Curt Hess on his retirement after devoting 47 years of his life to being a pastor-minister of churches—the last 36 years at the Central Christian Church in St. Petersburg, Florida.

At a time when some are questioning the moral fabric of our society, one need only look at the thousands of people Curt and his wife Jo have touched in their almost half a century of ministry at churches large and small to be reassured that there are still spiritual role models for our children and our families. The more than 500 people who turned out Friday night attest to the love and respect the community I represent has for the Hesses.

Mr. Speaker, following my remarks I will include for my colleagues a short reflection by Curt Hess entitled "I Am Thankful." From his words, you quickly gather the strength of his beliefs and his devotion to God and the people of the churches he has served. It also is a reassuring piece for me because he reaffirms that even though he is retiring as pastor of the Central Christian Church that he will continue his ministry to people and churches in need. As he says:

> Our plan is to be used by the Lord to encourage, inspire, and to aid in any way any younger minister or any small church that will allow us to help them. Fifty years ago I gave my life to Him for full-time Christian service so I will continue to serve him until I meet him in Heaven. Jesus instructed us, "Be then faithful unto death, and I will give thee a crown of life" (Revelation 2:10).

Mr. Speaker, God has given Curt Hess a crown of life and with that life he has touched more lives, including this member of Congress, than he will ever know. Curt and Jo Hess are God's gift to us and for that we will always be thankful.

[From the Christian Standard, Nov. 24, 1991]

I AM THANKFUL

(By Curt Hess)

May 3, 1926, was a special day for me. On that day I was born into the home of Bob and Tiny Hess, in Indianapolis, Indiana. My sister, Mary Frances (now Mrs. Paul Neal) had arrived two and one-half years earlier. Knowing the importance of bringing their children up in the nurture and the admonition of the Lord, Mother and Daddy soon placed their membership at the Englewood Christian Church and enrolled the family in Englewood's great Sunday school. What an impact their decision made on all of our lives!

Our minister, O. A. "Pappy" Trinkle, was in his late thirties, having begun his ministry at Englewood in July, 1923. What a dynamic man he was!

MENTOR

From those early days, Pappy Trinkle was my mentor, although I did not yet know that word. I stopped, looked, and listened to all he did and said and was. He was one of the pioneers of the North American Christian Convention which first convened in Indianapolis, October 12–16, 1927. Five of the first nine NACCs were held at Cable Tabernacle in Indianapolis and Pappy made certain that his young people were present at many of the sessions.

In those days there were no children's or youth sessions. So as a youth, I had the great experience of hearing the preaching of such spiritual giants and outstanding leaders as P. H. Welshimer, W. R. Walker, T. K. Smith, O. E. Whitehouse, B. W. Carrier, W. H. Book, P. H. Canary, P. C. and R. C. McCord, F. W. Messinger, W. N. Briney, J. D. Murch, W. E. Sweeney, R. C. Foster, R. E. Elmore, R. M. Bell, A. P. Benjamin, A. B. McReynolds, O. T. Sparrow, and the Payne Sisters. As a teenager I often wondered if all those giants of the faith had only initials rather than given names.

During Pappy's ministry, Englewood church always had a two-week revival meeting every spring and fall. Either the guest song leader or the evangelist almost always stayed in our home. What an experience for a kid who was pretty certain the Lord was calling him into the ministry!

For twenty-five years, O. A. Trinkle served as manager of the Rock Lake Christian Assembly, Vestaburg, Michigan. My Rock Lake experience began when I was eleven years old, and there I was mentored by a host of Christian church preachers including: Ray Harris, Hervey Sewell, Estal Taylor, Jack Anderson, Al Watterworth, R. C. Foster, Harry Poll, Floyd Pence, LaVern Taylor, and Ralph Woodard.

Pappy had baptized me into Christ as a lad at Englewood, and at a Galilean service on the shores of Rock Lake, at age 15, he received me as I dedicated my life to full-time Christian service.

Since its establishment, Pappy had been a trustee of The Cincinnati Bible Seminary so, in the fall of 1943 I enrolled as a student. There my life was shaped, molded, and mentored by Ralph Records, Ira M. Boswell, George Mark Elliott, Edsil Dale, Robert Drake, Albert Carver, Don Whitman, Frank Buck, and Louis Wetzel, among others.

What a wonderful heritage is mine!

MARRIAGE

In January, 1944, I met Joan West from Portsmouth, Ohio, who had just enrolled at CBS. When I first saw her, I told my roommate, Kenny Washburn, "I hope to marry that girl someday." That day finally came on September 1, 1946, and it was Pappy Trinkle and Donovan S. Hinkle who joined us together, as husband and wife.

Next to receiving Jesus Christ as my personal Savior and being baptized into Him, that marriage was the very best thing that ever happened to me. No minister has ever had a more beautiful, more talented, or finer "preacher's wife."

MINISTRY

On May 7, 1944, Pappy Trinkle and the elders of the Englewood Christian Church ordained me to the ministry. In November of that same year my pastoral ministry began.

Jo and I have served four churches: two student ministries (Cadiz, Indiana, and Xenia, Ohio) followed by a seven-year ministry with the Sciotoville church, Portsmouth, Ohio (1948–1955). On November 24, 1991, we will close more than thirty-six years of ministry with Central Christian Church, St. Petersburg, Florida.

In these 47 years of being a pastor-minister of a local church, there has never been a bad experience. Each one of our four congregations was the best yet.

On May 3, 1991, I celebrated my sixty-fifth birthday. Jo and I have decided it is time to pass the torch to Eddie and Billye Joyce Fine, who have been a part of our staff and faithful friends for twenty-three years.

MAINTENANCE

In April of this year I shared with our elders and congregation our plans to retire from Central, on December 31, 1991. Upon hearing of this decision one of our older members telephoned her daughter and asked, "Did you know that Curt and Jo have quit?"

It is true we are headed down the homestretch, but we haven't quit! Our plan is to be used of the Lord to encourage, inspire, and to aid in any way any younger minister or any small church that will allow us to help them. Fifty years ago I gave my life to Him for full-time Christian service, so I will continue to serve Him until I meet Him in Heaven.

Jesus instructed us, "Be then faithful unto death, and I will give thee a crown of life" (Revelation 2:10). Some time ago, longtime friends, Jim and Meg Pennington, gave me a coffee mug that carried this inscription: "Old ministers never die, they just go out to pastor."

For all of these opportunities and blessings, I am thankful!

TRIBUTE TO PEARL HARBOR VETERANS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a courageous group of Americans who on December 7, 1941, personally experienced "the day that will live in infamy." I am, of course, referring to those stationed at Pearl Harbor—our first veterans of World War II.

I would like to officially recognize 16 of these veterans who reside in Michigan's 12th Congressional District. These men will be receiving the Pearl Harbor Commemorative Medal this year:

Thomas Allen, Jr., Robert Boyd, John Brammell, John Fink, Homer Good, Harold Herpel, Lloyd Jaco, Anthony Karl, John Klucker, Arthur Noellert, Robert Paul, Gardner Pickering, Charles Sharrow, William Stroud, Jr., Marvin Villaire, and Preston Wolfe.

My deepest gratitude goes out to these proud veterans of Pearl Harbor.

It is appropriate this December 7 that we remember those who served at Pearl Harbor. Their battle was the first salvo in the long fight to bring an end to imperialism, fascism, and communism. Pearl Harbor has become a symbol of America's commitment to defend our values and interests. All our veterans deserve tremendous honor and respect for their efforts in maintaining this commitment. We owe them an enormous debt of gratitude for their valiant service which has made the world a better place to live for everyone.

Today, the veterans of Pearl Harbor can see that war they fought in, and so bravely won, helped, in time, bring freedom to the rest of the world. The sweeping changes in Eastern Europe and the former Soviet Union are a testament to our veterans' resolve to fight for freedom. With each new headline we see that our World War II victory was a victory for all of humanity.

The surprise attack Pearl Harbor veterans endured paved the way for our entry into World War II. In the 50 years since, the world has become a more secure place for freedom and democracy. This is the ultimate tribute to the brave men and women who fought that morning, and each morning thereafter, to keep our great sovereign Nation free.

INTRODUCTION OF THE TIMBER RESOURCE EMPLOYMENT ENHANCEMENT [TREE] ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, I would like to share with my colleagues a recent article from the Seattle Post Intelligencer by Paul Shukovsky who writes of the "New Appalachia" in the Pacific Northwest. Mr. Shukovsky's piece accurately portrays the plight of many families dependent on the forest products industry for their livelihood, who now find themselves facing uncertainty and unemployment because of the declining timber industry.

Today I am joining with my colleague from the State of Washington, Mrs. UNSOELD, in introducing legislation, the Timber Resource Employment Enhancement [TREE] Act, that would provide jobs in severely depressed timber towns in the Northwest. Although it will not solve all of the problems facing timber workers, it is an attempt to provide opportunities for these hard-working men and women as the harvest levels on Federal timberlands come down. Now is not the time for the Federal Government—and that includes the President—to turn its back on these families.

I urge my colleagues to read Mr. Shukovsky's article and join Mrs. UNSOELD and me in supporting this legislation.

ONCE-PROUD LOGGERS NOW GRUB FOR MUSHROOMS TO STAY ALIVE

(By Paul Shukovsky)

AMANDA PARK—The decline of the timber industry is giving birth to a new underclass on the Olympic Peninsula, a western version of Appalachia where desperate people scratch a living from the forest by scavenging gourmet mushrooms, ornamental plants and cedar stumps.

As short on hope as they are on cash, former loggers, mill workers and their families are living in poverty in old cars and ramshackle trailers, some without electricity or running water.

Their unemployment insurance long since expired, these invisible people are not counted as part of the official jobless rate.

Men like Bob Foote, a proud "high climber" in his logging days, have been reduced to rooting around trees in search of mushrooms coveted by Japanese and European connoisseurs. Foote and eight other people live a stark existence amid the junk vehicles and debris strewn around an abandoned log-sorting yard a few miles north of this dying timber town in northern Grays Harbor County.

"We are developing a culture of people who are not resilient because they are falling into poverty and hopelessness," said Robert Lee, a University of Washington professor and an expert on timber-dependent communities.

"This is exactly what happened during the Depression" of the 1930s, Lee said.

The remote peninsula has long supported small numbers of people who glean subsistence livings from what they can gather in the woods. Their numbers now appear to be increasing rapidly, say social service workers, ministers and residents in the area.

Because this economy is underground, its meager profits often are not reported to the Internal Revenue Service. Government statistics documenting the trend do not exist.

But to those who live in timber country, the problem is all too obvious.

"There are tent cities all over Grays Harbor County," said Kay Bernethy, director of the Humptulips Food Bank. "People are living all along our Humptulips River. Right now the river is full of fish and people are getting what they can. People park their cars, throw a tarp up and live there. Or they have old trailers. It is very prevalent around here out in the woods. And it is getting more and more common. It is real depressing and getting worse."

The few statistics available paint a bleak picture of Grays Harbor County's economy:

The number of people receiving public assistance in the county's timber-dependent western portion rose to 5,932 in July, up 15 percent over a year earlier.

Food stamp recipients have risen 35 percent in the four years from April 1987 to April 1991.

The unemployment rate for September was 9.1 percent, up from 7.2 percent in September 1990.

The office serving displaced timber workers showed a 200 percent increase in service in September when compared to a year earlier.

Last month, the Humptulips Food Bank served 406 people—more than half the population of the town and the immediate vicinity, director Bernethy said.

The true picture is probably even worse. Proud timber workers, who place a premium on self-reliance, often refuse public assistance. And an unknown number of workers whose benefits have expired are no longer counted as part of the unemployment rate.

Jim Coates, an outreach worker for the International Woodworkers of America, has seen 37 mills close in Grays Harbor County since March 1990. That does not include logging and trucking outfits that have gone down, Coates says. Like everyone else, he looks to the approaching winter with a sense of dread.

"This will be the worst winter this county will ever see," he said. "Last year was bad, but there are so many more people on the street now."

Timber's decline in Grays Harbor has been long and painful. People have been losing jobs here throughout the 1980s as a result of the export of raw logs overseas and the automation of the mills. But the problem has exploded in recent years as recession takes its toll and vast tracts are set aside to protect the threatened northern spotted owl.

Lee predicted the massive social dislocation now occurring in timber country. Among the predictions in his June 1990 research paper was an increase in people living off the land.

"A permanent rural underclass will be created, with all the social, economic, and resource conservation problems found in other economically depressed rural regions: persistent poverty, substandard education and medical care, lawlessness, hostility toward outsiders, and unstable family structures," Lee's paper said.

"We are setting up a legacy of living off the land," Lee said this week. "It is the welfare function of the forest. The mobile homeless will move from campground to campground, live off the forest, take casual labor, take welfare."

There are no statistics to quantify the depth of the problem, Lee said. But he says it is clear that the social safety net is totally inadequate. "The money doesn't begin to compare with the need."

Rich Nafziger, head of Gov. Booth Gardner's timber-crisis team, agrees. Asked how much federal aid has gone to timber country, he said: "Almost none. There is little federal money."

Last year, the federal government gave Washington a $4 million discretionary grant to retrain displaced timber workers. But Nafziger complained that no provision was made to support the workers and their families while going to school.

State programs provide a few million dollars for mortgage payments and job retraining. Another program provides $20 million to extend unemployment benefits for timber workers in retraining.

"It's a drop in the bucket compared to the need," Nafziger said.

Washington legislators have introduced federal bills for more aid, but President Bush has opposed them, Nafziger said. He estimated the total need at roughly $100 million.

"We hope the Bush Administration will change its opposition," he said.

Nowhere is the need for assistance more evident than in the old log-sorting yard hidden off Highway 101 north of Amanda Park where Foote makes his home.

Foote has been living in his car amid several acres of junk vehicles, dilapidated trailers and garbage. But soon he will be moving into an abandoned trailer there through the generosity of Suzy Morganroth. Morganroth, 55, owns the yard and lives there with Merle King, her partner of 11 years and an unemployed timber worker.

Like Foote, the 52-year-old King manages to make a few bucks "cutting block"—salvaging cedar stumps and cutting them into 24-inch lengths to be processed at one of the few local shake mills still operating.

King works with Chuck Meers, another unemployed logger who is living in a trailer at the yard. In a very good week, they might make $200. But such weeks are rare.

"Cutting block only happens when you can find the wood to cut" King said.

That's why Meers supplements his income picking gourmet mushrooms. And that's why Morganroth is starting a mushroom-buying business. She plans to buy mushrooms from pickers and resell them to one of the export companies that serve the Japanese and European markets.

One damp, chilly morning last week, the 49-year-old Foote climbed out of his car and walked over to Suzy and Merle's trailer for a cup of coffee. As usual, it was a long wait. Without electricity, Merle had to stoke the wood stove to heat the water he had hauled in by hand.

Bobbi Jo Stevens, the mushroom queen, walked over from the bus where she and fiance Archie Emery spent the night. Stevens, 41, has lived in the woods her whole life and knows which mushrooms to pick. She also knows where to find the ornamental vegetation prized by East Coast and European florists—salal, bear grass, sword fern, huckleberry.

Stevens is helping Morganroth start her business. And she plans to start classes soon in how to collect mushrooms and ornamental brush.

The dispossessed timber workers sat in a semicircle in front of the stove. Foote clutched his cup with two hands and sipped.

"I never figured it would come to this," Foote said. "I started working in the woods in '58, I set chokers (log-hauling hooks) for Weyerhaeuser. It looked to me like it was going to be a good career. And I learned everything I could about the woods. It was just wasted. It was a waste of education."

"Now, if it wasn't for the food bank and food stamps I'd starve to death."

Last year, Foote left the peninsula to find work as a logger in Oregon. But the job got snowed out early and he came back home. His unemployment benefits have long since run out.

"In the last four years, it has gone down hill so fast that now I'm picking mushrooms, cones and just whatever I can do to get by. I tried the different programs that they've got. I went to the employment office but I don't qualify.

"Since then, I've just been living off the land. Doing whatever I can to get by. Lately I've been making $18, $20 a day. Just enough to keep eating."

Timber country is full of anger toward environmentalists and their campaign to save old-growth forests. But Foote sounds a populist theme that is becoming more common.

"I'm disappointed. All the big companies got rich and just packed up and moved on and left the rest of us sitting here starving. Somebody has got a lot of money in their pocket over this situation. But we sure haven't got it.

"I don't blame the environmentalists. I just want to know where were they 25, 30 years ago. Why wasn't they raising hell 30 years ago? I agree with saving the forest. You know we can log that forest out there without raping it.

"There is no excuse to just go in there raping the crop and moving on. They always wait until the damage is done and it's too late to fix it.

"Bobbi showed me spots out here were you used to go in and get a hundred pounds of mushrooms in three or four hours. They went in and logged it off and now the mushrooms don't grow there.

"I don't want to live in the city. I lived in Seattle before. Too many people."

MEDICARE HMO SANCTION REFORM AND ANTI—FRAUD AND ABUSE ACT OF 1991

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEVIN of Michigan. Mr. Speaker, it is my pleasure to introduce a significant piece of legislation today with Mr. STARK, chairman of the Ways and Means Health Subcommittee. The "Medicare HMO Sanction Reform and Anti-Fraud and Abuse Act of 1991" will help ensure the integrity of the health services received by Medicare beneficiaries. This bill will provide the Secretary of the Department of Health and Human Services with adequate authority to oversee the practices of health maintenance organizations [HMOs] and other Medicare providers.

The two components of this legislation have a significant history. The first component of this bill provides the Secretary authority to impose additional intermediate sanctions upon health maintenance organizations with Medicare contracts. The need for this authority has been well established. The Government Accounting Office [GAO] has identified problems with the Health Care Financing Administration's ability to adequately oversee health maintenance organizations for at least 5 years. In 1988, the GAO identified problems with the existing sanction authority concerning problems such as marketing practices or history of compliance problems. In 1991, GAO again issued two reports that addressed problems of quality and HCFA's sanction authority regarding Medicare HMOs. Specifically, a GAO report examining the peer review organizations [PROs] interaction with Medicare HMOs, recommended improvements in the PROs review of ambulatory care provided by Medicare HMOs, improvements in data collection by PROs, requiring PROs to report their quality reviews of HMOs, and for Congress to provide HCFA with the authority to impose civil monetary penalties for HMOs that fail to cooperate with the PROs.

In another report in 1991, the GAO re-issued these recommendations and further summarized the situation by stating: "As we reported in 1988, HCFA has limited authority to suspend an HMO's enrollment of Medicare beneficiaries. Under several circumstances specified in the enabling legislation, HCFA can suspend an HMO's enrollment or impose civil monetary penalties. We suggested that the Congress broadened HCFA's authority to deal with HMOs out of compliance with requirements. With broadened authority HCFA could more easily apply sanctions."

The need for expanded intermediate sanctions was again recommended in a GAO report requested by Mr. STARK, Mr. SMITH of Florida, and Mr. SHAW. This report, released earlier this month, outlined additional study the GAO has conducted of an HMO in Florida. In that report they stated, "we believe broadening HCFA's sanction authority along the lines that we recommended our 1988 report could help avert future problems by making any violations by an HMO subject to intermediate sanctions."

This report was the centerpiece of a hearing conducted by the House Energy and Commerce Subcommittee on the Health and the Environment on November 15, 1991. At that hearing the Administrator, and in the inspector general's comments about the GAO report, it was noted that HCFA's delay in developing regulations to implement their existing authorities for intermediate sanctions was caused by subsequent legislation that modified this authority. In addition, the IG's commmented that: "HCFA is very interested in the availability of sanctions, other than contract termination, for ensuring HMO compliance with Medicare contracts requirements. . ."

We have been investigating this issue for many months. I was fortunate enough to have the excellent assistance of Carolyn Cocotas, who worked in my office last spring and summer as a Legis fellow. She brought with her extensive knowledge of these issues from her tenure in HCFA's Office of Prepaid Health Care. Through her diligent work, we have identified several areas where existing authority would not adequately enable HCFA to sanction an HMO that was operating in a manner inconsistent with the best interests of Medicare beneficiaries. Specifically, these include the failure of HMOs to adequately address enrollee appeals, marketing abuses, and failure to provide required information about their operations to the Secretary. These are of course, in addition to the problems of quality of care and the HMOs' interaction with the PRO's that the GAO had repeatedly identified.

The "Medicare HMO Sanction Reform and Anti-Fraud and Abuse Act of 1991" will address these problems by increasing the Secretary's current authority to impose intermediate sanctions. His current authority allows for suspension of enrollments, suspension of payments, termination of the contract, and civil penalties for specific violations. This legislation would retain those authorities, and would add additional authority for civil penalties that are not already specified in statute. Existing authority is retained with this bill so as not to interfere with HCFA's implementation of its authority. As noted earlier, HCFA claims that continued changes in the law have delayed this process. Therefore, I would like to make it very clear that this bill would not modify the existing authority. Rather, it would create encompassing authority to impose intermediate sanctions where the violation is not already covered by existing intermediate sanction authority.

Further, this legislation would clarify several points regarding the interaction between HMO's and PRO's. Specifically, the legislation requires written agreements between HMO's and PRO's concerning quality reviews, and the development, by the Secretary, of a model agreement. The GAO is also required to conduct a study of the costs of the HMO's for fulfilling these agreements with the PRO's, and an analysis of how this information is used by the Department of Health and Human Services to assess the quality of care received by the Medicare beneficiaries.

My continued interest in these issues stems from my intense interest in increasing access to quality managed care for Medicare beneficiaries, eliminating fraud and abuse in the health care sector of the economy, and ensur-

ing that Medicare beneficiaries receive the best quality care in the most appropriate setting possible. These combined objectives will help serve to further our progress towards insuring access to efficient coordinated systems of health care at the local, regional and national levels. As we can all agree, improving our Nation's health care and health insurance system is a national priority.

It is for this reason that included in this bill are two other provisions to help combat fraud and abuse in marketing practices of the health care industry. These provisions were included in OBRA–90 as it was reported out of the House of Representatives. These provisions are important. They clarify what is not allowed under the antikickback provisions previously enacted into law, and that the Medicare providers who link employee incomes to patient volume through "bounty payments" are subject to civil monetary penalties as provided for under existing Medicare statutes.

At this time I would also like to alert my colleagues to another bill I am introducing, the "Medicare Qualified Medicare Beneficiary Notification Act of 1991." This legislation relates to the previous bill in that it requires HMO's currently operating under contract with Medicare to determine whether their Medicare enrollees are eligible for the Medicare Qualified Medicare Beneficiary [QMB] Program. A recent Families USA study indicated that more than 50 percent of all eligible Medicare beneficiaries were not receiving the benefits entitled to them under the QMB program. In Michigan, this figure was approximately 75 percent. With over 1.3 million Medicare beneficiaries enrolled in HMO's, this is clearly a logical organizational entity for the dissemination of information about this program. Other distinguished Members have introduced legislation to have the Secretary or the States increase their outreach efforts to Medicare beneficiaries about the QMB program. Those efforts are good and appropriate, and should be enacted. But with the Medicare HMO's contractors there is already an organizational entity with which beneficiaries are intimately connected. This requirement of the HMO's would help strengthen the coordination of care, benefit the HMOs, and benefit the beneficiaries.

I look forward to working with my colleagues to see that we move forward with these pieces of legislation as we continue to improve the health care received by Medicare beneficiaries.

Mr. Speaker, I request that the text of these bills be included in the RECORD following my remarks.

A BILL To amend title XVIII of the Social Security Act to expand the Secretary of Health and Human Services' authority to impose intermediate sanctions on health maintenance organizations participating in the medicare program for violation of any requirement of the program and to amend title XI for the Social Security Act to prohibit providers of services under the medicare program from offering certain inducements to beneficiaries or employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare HMO Sanction Reform and Anti-Fraud and Abuse Act of 1991".

SEC. 2. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph.

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(ii) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists; and

"(iii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to occur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end of the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—(A) Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(B) Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1993, the Secretary of Health and Human Services shall develop a model of the agreement that an eligible organization with a risk-sharing contact under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A).

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary of Health and Human Services to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1994, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance in the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1993.

SEC. 3. PROHIBITION AGAINST OFFERING INDUCEMENTS TO BENEFICIARIES OR EMPLOYERS.

(a) INDUCEMENTS TO BENEFICIARIES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) transfers anything for less than fair market value to (or for the benefit of) a beneficiary in order to influence the individual to receive from a particular provider, practitioner, or supplier a covered item or service for which payment may be made under title XVIII or XIX;".

(b) INDUCEMENTS TO EMPLOYEES.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a–7a(a)(1)), as amended by subsection (a), is further amended—

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(1) by striking "or" at the end of paragraph (3);

(2) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) pays a bonus, reward, or other incentive to an employee to induce the employee to encourage individuals to seek or obtain covered items or services for which payment may be made under title XVIII or XIX where the amount of the incentive is in proportion to the activities of the employee in encouraging individuals to seek or obtain covered items or services;".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to transfers or payments made on or after the date of the enactment of this Act.

A BILL To amend title XVIII of the Social Security Act to require health maintenance organizations under the medicare program to determine whether individuals enrolled with the organization are entitled to medical assistance for medicare cost-sharing under a State medicaid plan

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare HMO Qualified Medicare Beneficiary Notification Act of 1991".

SEC. 2. REQUIRING MEDICARE HMOs TO DETERMINE WHETHER ENROLLED INDIVIDUALS ARE ENTITLED TO MEDICARE COST-SHARING UNDER MEDICAID.

(a) IN GENERAL.—Section 1876(c) of the Social Security Act (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(9) A risk-sharing contract under this section shall provide that the eligible organization shall determine whether individuals enrolled with the organization are entitled to medical assistance for medicare cost-sharing under section 1902(a)(10)(E) under a State plan under title XIX, and shall assist individuals entitled to such assistance in obtaining such assistance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts under section 1876 of the Social Security Act for contract years beginning on or after January 1, 1992.

HONORING DR. JOHN HANSEN FOR HIS HEROIC WORK TO SAVE LIVES THROUGH MARROW TRANSPLANTATION

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. YOUNG of Florida. Mr. Speaker, many people from all walks of life have been brought together in a mission to establish the National Marrow Donor Program to give the living gift of life and hope to hundreds of families throughout our Nation and the world. They are all heroes in their own special way and from time to time I have shared with my colleagues their story.

Today I want to introduce you to Dr. John Hansen, of the Fred Hutchinson Cancer Center in Seattle, who has distinguished himself as being one of the world's foremost marrow transplanters. He was a major driving force behind the establishment of the National Marrow Donor Registry and through his work on its board of directors, continues to play a leading role in its dramatic growth.

Next Friday, December 6, he will be awarded the program's highest honor when the board presents him with the Laura Graves Award for distinguished service to the national registry and to advancing the field of unrelated marrow transplantation. As the recipient of the first Laura Graves Award earlier this year, I know what a special honor it is to be recognized by the friends and colleagues who are the heroes who dedicated themselves to the establishment of the national registry.

Dr. Hansen has touched so many lives and brought hope to so many families, but the Laura Graves Award will have a very deep and special meaning for him. Laura Graves was a patient of Dr. Hansen in 1979 when she became the first leukemic to receive an unrelated marrow transplant. Although Laura died of leukemic relapse, she was one of the primary moving forces that began the drive for the establishment of the national registry.

It has been a special honor for me to have the opportunity to work with Dr. Hansen and to have benefited from his special expertise and prominence in the field of marrow transplantation. He has been an invaluable teacher to me as I have acquired a deeper understanding of the intricacies of this procedure which is a modern medical miracle.

The presentation of the Laura Graves Award will take place in Denver at the annual meeting of the American Society of Hematology. It is a most appropriate forum because it will allow Dr. Hansen to be recognized and honored before his peers, who hold him in the highest regard. Dr. Robert Graves, the former chairman and now vice chairman of the National Marrow Donor Program and one of the greatest heroes of the program, will present the award which is named in memory of his daughter. Doctors Graves and Hansen have a very special and warm relationship that has bonded them together in their work to save lives.

Mr. Speaker, it is my hope that in receiving the Laura Graves Award, Dr. Hansen and his wife Mary Ann will take great strength in remembering the courage of Laura Graves who was the first in what has become a long line of heroes who have brought hope to families throughout the world. May her memory serve them well both now and in their future long life together. For Dr. Hansen, it is a life devoted to giving life to others.

A SPECIAL TRIBUTE TO ROBERT E. HUGHES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STOKES. Mr. Speaker, I am saddened to rise today to announce the recent death of Mr. Robert E. Hughes, who passed away on November 20, 1991, at the age of 63.

For 33 years, Bob Hughes served as Chairman of the Cuyahoga County Republican Party in Cleveland, Ohio. He was a talented politician who provided leadership and direction to his party. He was also a committed and caring individual whom we admired and respected. Even though he and I were on different sides of the political fence, we were friends.

Mr. Speaker, during his lifetime Bob Hughes made great contributions to his party, our community and the nation. I extend my deepest sympathy to his wife, Marguerite, his family and many friends. He was an extraordinary individual who will never be forgotten.

REPUBLICAN KINGPIN HUGHES FOUND DEAD

(By Steve Lutiner)

Political legend Robert E. Hughes died yesterday after he was found unconscious on the garage floor at his Lyndhurst home.

Hughes, chairman of the Cuyahoga County Republican Party for a record 23 years, was taken by ambulance to Meridia Hillcrest Hospital, where he was pronounced dead at 1:20 p.m. He was 63.

Cuyahoga County Coroner Elizabeth K. Balraj said a cause of death had not yet been determined. Balraj said the coroner's office investigates all unexpected deaths.

Hughes' body was found by his son, David, who stopped by his father's house about 12:30 p.m. yesterday. Lyndhurst Police Chief Sherwood Eldredge said police were investigating Hughes' death, but "it doesn't appear there was any foul play or anything strange."

"There was nothing to indicate anything out of the ordinary, to indicate suicide or foul play," Eldredge said.

Eldredge said Hughes' car was running when his son found the body. The police chief didn't know if the garage door was open or closed, but David Hughes said in a brief interview yesterday that the garage door was closed and his father was on the floor.

David Hughes also said the car's hood was up. Eldredge said Hughes may have been working on his car.

"I really don't know," David Hughes said when asked what his father was doing in the garage. Hughes' wife, Marguerite, was not at home when her son arrived.

The quick-witted, outspoken Hughes served as chairman of the Cuyahoga County GOP from 1968 until early this year, when he quit to form a consulting firm, Robert E. Hughes & Associates Inc.

Joseph Rice, executive vice president of the new firm, said Hughes was in good spirits when the two talked Tuesday and that Hughes had been in good health.

"The firm was doing very well," Rice said.

Hughes was a registered lobbyist in Columbus, where records show his clients included Bear Stearns Cos., Carat Co., the Cleveland law firm of Armstrong Gordon Mitchell & Damiani, Excel Management Systems, and Beachwood Dr. David Grischkan.

Rice said he expected the firm, which employed five people including Hughes, to stay in business.

Tributes were quick to arrive yesterday from a broad spectrum of political leaders who were influenced by Hughes during his three decades in politics.

A White House spokesman said yesterday: "We deeply regret that Bob Hughes passed away. He was a pivotal leader in Ohio Republican politics. We will miss his guidance."

Gov. George V. Voinovich said: "Bob Hughes truly became a legendary political leader in his own time. He was highly responsible for getting me involved in politics and government. Bob will be remembered for his wit, personal charm, media savvy, street smarts and uncanny sense of political timing."

Ohio House Speaker Vernal G. Riffe, a Democrat who enjoyed a long relationship with Hughes, said: "In partisan politics, Bob was a worthy adversary. However, most of all, Bob was a friend. He was a man who truly enjoyed life, and he will be missed."

Mayor Michael R. White, also a Democrat, said he had often sought Hughes' advice since he was elected mayor in 1989.

"He never failed to assist or advise me on a number of issues," White said.

Ohio Senate President Stanley J. Aronoff, R-8, of Cincinnati, said Hughes' "political instincts ran ahead of the public mood and were almost always on target."

Former Gov. Richard F. Celeste, a Democrat, said, Hughes "played the game of politics the best way—hard and clean."

Former Cleveland Mayor Dennis Kucinich said: "He understood politics better than most people I know who are party leaders. Many Democrats were quite envious of the leadership he provided for the Republicans."

But while Hughes affected a lot of politicians over the years, no political relationship was closer than the one he had with former Gov. James A. Rhodes. Hughes was at the top of his career in politics while Rhodes was governor, when the two talked almost daily by telephone.

"I was saddened to hear of the passing of one of my dearest friends, Bob Hughes," Rhodes said in a statement yesterday. "Bob was devoted and dedicated to Cleveland and Cuyahoga county and was without a doubt the greatest county political leader in the nation."

Born in Massillon, Hughes moved to Warren and graduated from Harding High School in 1946. He worked as a reporter at the Tribune Chronicle in Warren while he attended high school and college.

He graduated in 1950 from Ohio State University with a degree in journalism, then joined the Marines. A voracious reader, Hughes was a military history buff who had visited almost every major Civil War battlefield.

After his discharge from the Marines, where he rose to the rank of captain after seeing combat in Korea, Hughes worked for the Associated Press and Columbus. His exposure to the news business helped prepare him for his career in politics, when he often delighted reporters with glib quotes and concise political analysis.

After working for General Electric, Hughes in 1961 became vice chairman of the Cuyahoga County GOP. He became chairman in 1968. He also served on the Cuyahoga County Board of Elections until his death. The Cuyahoga County Republican Party will name Hughes' replacement on the elections board.

Although registered Democrats vastly outnumber Republicans in Cuyahoga County, Hughes played the minority role well when it came to generating headlines. But he was criticized by other county Republicans during the final years of his GOP chairmanship for failing to cultivate Republican candidates.

In the final year or so before he left the county GOP post, it was evident that Hughes yearned for the days when political parties had more impact than they do today. He detested the emphasis on television.

"When I came in 1961, you still had big meetings," Hughes said in an interview a month before he quit the GOP chairmanship. "Candidates came to meetings. Now, candidates running statewide don't want to go to meetings. they want to go to a cocktail party where they can raise money for TV. TV, TV, TV. That's all they talk about."

Hughes is survived by his wife; sons, David, Tim and Jonathan; a daughter Robin; and eight grandchildren.

Services will be at 11 a.m. Saturday in the United Methodist Church, 1534 S. Green Rd., South Euclid.

INTRODUCTION OF THE AMERICAN JOBS PROTECTION ACT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FORD of Michigan. Mr. Speaker, last Friday, with 25 cosponsors I introduced H.R. 3878, the American Jobs Protection Act. H.R. 3878 will provide assistance to thousands of hard-working Americans who will lose their jobs when the attraction of cheap labor and the unregulated workplaces of Mexico and other developing countries becomes too great for their employers to resist.

Last Spring, I joined with many of my colleagues in voting against granting the President fast-track trade authority. We feared that, without the Congress' specific right to guarantee health, safety, environmental, and labor standards in any trade agreement, those standards would either be compromised to the point of impotence or be ignored altogether.

Sadly, our fears are being realized every day. There is no evidence that we can trust this administration's negotiators to do what is necessary to mandate reasonable and enforceable labor, health, and environmental standards in the North American Free Trade Agreement or the GATT.

The President's promises to preserve the environment and to not weaken U.S. environmental and health laws are beginning to have the same hollow ring to them that so many other empty White House promises have had.

Mr. Speaker, the average working people of America are caught in the quagmire of this administration's inaction. Meanwhile, the President's determination not to fight for high standards and strong enforcement provisions is greasing the skids for more plant closings and mass-layoffs.

Hundreds of thousands of Americans have already lost their jobs because the attraction of unregulated workplaces and cheap labor has been too great to resist. The unemployment line is getting longer every day, and American jobs are on a fast-track south of the border.

The administration tells us that it is unwilling to press for those decent standards and effective enforcement provisions because they would interfere with Mexican Sovereignty.

I suggest that the time has come to stop worrying about Mexican Sovereignty. Let's leave that to the Mexicans.

The time has come to start worrying about the solvency of the American workforce.

We in the Congress cannot legislate away greed, but we can provide some protection and assistance to working people and their families who are victimized by it. H.R. 3878 accomplishes this goal.

The American Jobs Protection Act provides that when work is transferred to another country where the average wage is less than 50 percent of the average U.S. wage, or when work is transferred to another country where employment standards relating to issues like child labor, or workplace and employee safety, are substantially less effective than our own standards, the employer is required to provide protection to the people left behind.

H.R. 3878 mandates:

6 months prior notice to employees of a pending plant closing or mass layoff;

severance pay;

health care benefits;

reimbursement for retraining and relocation expenses; and

accelerated early retirement eligibility.

Mr. Speaker, I'll close by saying that this issue is not about trade. It's about fairness in investment and disinvestment policy and about protecting our already struggling workforce.

This Congress can make a statement by passing this legislation that says that we are unwilling to allow American workers to be victimized by grossly inadequate foreign labor, health, and environmental standards that we have fought for decades to prohibit here at home.

Finally, Mr. Speaker, there is much more that must be done before Congress agrees to any new trade agreement with Mexico.

The very least we can do is provide these protections for people who, through no fault of their own, get left behind when their employers abandon our communities and head South for cheap wages and lax regulation.

McDONNELL DOUGLAS/TAIWAN MD-12 VENTURE

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. INHOFE. Mr. Speaker, McDonnell Douglas announced on November 19 that they have signed a memorandum of understanding [MOU] with the Taiwan Aerospace Corp. [TAC] which outlines an equity partnership involving McDonnell Douglas' commercial aircraft business. The military segment of McDonnell Douglas—principally the C-17 program—will remain 100 percent wholly owned and operated by McDonnell Douglas.

This transaction accomplishes two goals for McDonnell Douglas: First, it provides a foothold in the Pacific Rim market and second, it provides McDonnell Douglas with $2 billion in cash up front for development of the aircraft. The combination of resources located in the United States and Taiwan will give the partnership a competitive edge in the Asian market. It is estimated that over the next 15-20 years there will be approximately 4,000 planes sold in that market and if McDonnell Douglas is to be a serious competitor they need to have an Asian partner.

There should be no concern with the loss of American technology as a result of this deal because commercial aircraft technology is not unique to the United States. Furthermore, the work done by the Taiwanese is not new technology. It will basically be metal bending. Also, this should not be characterized as giving American jobs away because without the fi-

VOL
137
PT
24
NO
26
1991
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JA
3
1992
UMI

nancial backing, McDonnell Douglas will not be a real competitor in commercial aviation. Without a viable commercial side there will be a steady erosion of jobs at McDonnell Douglas. The MD–12 is McDonnell Douglas' chance to once again be a factor in the commercial aviation industry.

Finally, all three of the world's major aircraft manufacturers utilize some form of strategic alliance with foreign manufacturers. Boeing is working with the Japanese on commercial airliners. General Dynamics is working with Japan and Korea. Also, the auto manufacturing industry makes use of foreign investors and partners. Similar agreements within the auto industry include:

CHRYSLER

Chrysler holds a 31.4 percent interest in a joint venture with Beijing Automobile Works on a jeep. Beijing manufactures 4-wheel-drive vehicles in China, Chrysler Corp. supplies axles.

In buying out Renault's interest in American Motors Corp. in 1987, Chrysler entered into several agreements with Renault. Chrysler assembles the Renault-designed Premier cars, which use some Renault components.

FORD

Ford owns 25 percent of Mazda, relying on it for engineering assistance, components, and knock-down kits for assembly in overseas markets under Ford badges. Also, Ford—34 percent—and Mazda—39 percent—each hold equity in Autorama, Inc., the exclusive marketer of Ford products in Japan.

Ford owns 30 percent of Malaysia Associated Motor Industries Sdn. Bhd., which assembles Ford, BMW, Rover, Suzuki, and Mercedes-Benz vehicles.

Through a joint venture called Autolatina, Ford and VW have merged their auto operations in Brazil and Argentina. Ford owns 49 percent and VW owns 51 percent.

GENERAL MOTORS

GM owns 50 percent of Daewoo Motor, the other 50 percent held by a South Korean conglomerate, Daewoo Group. GM supplies designs, engineering, and components to Daewoo Motor. The main product is an Opel-derived subcompact exported to GM for sale as Pontiac LeMans in the United States and Optima in Canada.

GM owns 38.2 percent of Isuzu. Each provides vehicles for the other to distribute and use each other's components.

In late 1989, GM paid Saab-Scania $600 million for a joint venture which will develop new cars for Saab and GM. Saab dealers are expected to market the cars. Componentry likely will be shared between Saab and GM.

GM and Toyota have two 50–50 joint ventures: New United Motor Mfg., Inc., and each owns a stake in Budget-Rent-A-Car in Australia.

GM—24 percent—and Volvo—76 percent—have a joint venture which combines Volvo's North America class 8 truck business.

As these examples demonstrate, this arrangement is not unique and is in fact increasingly becoming the way business is done within a global economy. If the McDonnell Douglas/Taiwan deal is not made final, we should anticipate some type of Asian consortium, much like the European Airbus which is highly subsidized by European Governments. The facts are that the Taiwanese have the capital to develop an aircraft.

Naturally, I am prejudiced. Of all the United States operations of McDonnell Douglas, the plant in my district of Tulsa is the most underutilized and has the greatest potential. Their decision will keep them competitive in the global market and produce jobs here at home.

MRS. LOUISE W. PINKELTON NAMED 1991 NATIONAL TEXTILE CITIZEN OF THE YEAR

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. COBLE. Mr. Speaker, those of us who live in the Sixth District of North Carolina are very proud because the 1991 National Textile Citizen of the Year is a resident of our district. Mrs. Louise W. Pinkelton of Greensboro, NC, was afforded this high honor recently by the American Textile Manufacturers Institute.

Mrs. Pinkelton is an excellent example of how one person can make a difference, an example of people who care about others, one who goes out of her way to help those in need. She devotes her time to strengthening others and enriches the way of life in her community in the process. She illustrates what President Bush refers to as America's "thousand points of light."

Mrs. Pinkelton, a product development detail coordinator for Cone Mills Corp., was chosen to represent the more than 700,000 people who work in the U.S. textile industry. The annual Textile Citizen of the Year program was established to identify a textile worker each year whose outstanding work and civic and charitable contributions, best represent the spirit of the U.S. textile industry.

Mrs. Pinkelton devotes much of her time away from work in helping mentally and physically handicapped people in our community. A Cone Mills employee for 41 years, she works in local hospices and hospitals. She donates her time for bloodmobile, muscular dystrophy, Special Olympics, senior citizens and cerebral palsy programs. She also provides transportation for many of these groups. Mrs. Pinkelton serves on the credential committee for Civitan International, a community service organization which promotes good citizenship, leadership and service to others.

It was my pleasure to be with Louise Pinkelton and her husband Norman when Louise received the National Textile Citizen of the Year award here in Washington. It is a fitting honor for an employee of Cone Mills, which is a proud company celebrating its 100th anniversary this year. On behalf of the people of the Sixth District of North Carolina, I am proud to recognize Louise Pinkelton for her unselfish efforts, and for inspiring others to give back to their communities.

HEALTH CARE PROTECTION ACT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of Utah. Mr. Speaker, today I am introducing H.R. 3938, the Health Care Protection Act, which will combat the problem of "job lock," by guaranteeing individuals retention of health care benefits when they move from one job to another, even if they have preexisting conditions. This idea was first formed by Senator BENTSEN in his better access to affordable health care legislation.

Due to skyrocketing health care costs, many Americans today are faced with tough decisions regarding health care: Small business owners must weigh the option of continuing employee health care coverage as premiums rise, physicians are turning away Medicaid patients, disgruntled by the low fees they are receiving, families are forced too often to choose between education for children or long-term care for their parents, and the elderly are compelled to choose between filling a prescription or paying their rent! There is something very sick about a system that places such weighty decisions on the shoulders of so many Americans throughout our country. It is no surprise that 90 percent of Americans would like to see our health care system revised or completely revamped.

The Health Care Protection Act which I am introducing will address another serious situation that many Americans must confront—the problem of "job lock." A recent New York Times/CBS poll stated that 30 percent of individuals say they or someone in their household had remained in a job they wanted to leave only to retain their health care benefits. Many Americans with preexisting conditions fear, and rightly so, they will be denied coverage in a new job if they or someone in their family has a chronic health problem.

Our current economic state is a major contributing factor to the increase of the uninsured in our country. Due to the recession many Americans are having difficulty finding jobs; not ony is job searching a tremendous burden, but it is even more difficult to find a job with adequate health care coverage, especially for those with preexisting conditions. It is no coincidence that the number of uninsured rose by 1.3 million from 1989 to 1990!

My legislation will allow individuals with a preexisting condition to switch jobs without losing health care coverage. If individuals were not previously covered, they could not be denied coverage for more than 6 months. A penalty would be imposed on anyone who does not comply.

Numerous proposals have been set forth for comprehensive reform of our health care system and I am hopeful that a major overhaul will soon be achieved. However, until we do reach a solution we must work toward decreasing the number of uninsured and underinsured and reducing our soaring health care costs. The Health Care Protection Act is obviously not a panacea to our health care woes, however it is clearly a step in the right direction.

TRIBUTE TO WEST VIRGINIA VETERANS OF PEARL HARBOR

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RAHALL. Mr. Speaker, I would like to take this chance to commemorate those West Virginians present at Pearl Harbor on December 7th, 1941. We are all aware that this is one of the most important days in the history of the United States. Correctly characterized by President Franklin D. Roosevelt as "a date which will live in infamy", the Japanese attack on Pearl Harbor marks the emergence of the United States as the leader of the free world.

On that day 50 years ago, World War II came to American's doorstep, and millions of our citizens mobilized to join in one of the most important periods in history. In the following years the entire Nation came together to face the adversity of war and was made stronger by the effort. The bravery demonstrated by those individuals at Pearl Harbor would be repeated a thousand times over by the end of the war. It was those Americans who set the standard of bravery and honor throughout the rest of the war.

The human tragedy of the Japanese attack on Pearl Harbor is one that will never be forgotten, and it should not be. In this one treacherous episode, 2,433 Americans were killed, many of them without ever knowing what had occurred. With the 50th anniversary of this day approaching, all Americans must remember the service and sacrifice of all who have served their country. These individuals understood that peace comes with a price, the taking of lives dear to us all. Those who survived, but with mental and physical scars too deep for us to understand their pain are also remembered here. Our Nation can be proud of their contributions to worldwide democracy and justice.

I have been notified that 106 native West Virginians or their survivors have been identified as eligible for the Pearl Harbor Commemorative Medal authorized by Public Law 101–501; 17 are from my Congressional District. I wish to commend all West Virginians who made a contribution of courage and selflessness on December 7th, 1941. You are not forgotten by this country or its citizens.

Mr. Speaker, following are the names of those servicemen or their survivors from my Congressional District: Mr. Kelly Elkins of Peach Creek; Mr. Ralph W. Evans of Princeton; Mr. Vernon V. Johnson of Huntington; Mr. George W. Kelly of Huntington; Mr. Jack H. Kinser of Huntington; Mr. Ted Kirk of Barboursville; Mr. John Landers of Huntington; Mr. Ajax Lilly of Princeton; Mr. Frank Nemeth of Whitman; Mr. Benjamin Harris Nicholson of Gauley Bridge, who was submitted by his son Bennie; Mr. John W. Price of Huntington; Mr. Dice M. Rimel of Buckeye, who was submitted by his widow Catherine; Mr. Wetzel R. Sanders; Mr. Ira W. Southern of Princeton; Mr. William H. Wall of Logan; Mr. William C. Washington of Huntington; and Mr. Tommy R. Wickline of Huntington.

IT WORKS IN ILLINOIS AND IT CAN WORK IN THE REST OF THE COUNTRY

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. EWING. Mr. Speaker, today I am introducing legislation which would give the President the same power which nearly every State Governor has, including the Illinois Governor—the line item veto power. In addition, my legislation would allow the President to reduce the amount of specific spending items, just as the Governor of Illinois may under our Constitution. Most of the constitutional proposals for the line item veto which have been introduced in the House do not include this important spending reduction provision. I say if it's good enough for Illinois, it's good enough for the rest of the country.

Mr. Speaker, the time has come to bring some responsibility to our budgeting process. I am painfully aware of the deep problems in the way we conduct our budget business. The President is forced to sign or veto multibillion dollar spending bills and has no control over the amount of special interest spending programs contained in these appropriation bills. Because he must either sign these bills or allow important programs to go unfunded, members of Congress know his hands are tied and therefore load excessive amounts of unnecessary and extravagant spending onto appropriations bills. My legislation would allow the President to veto or reduce these unnecessary programs.

Under my legislation, items vetoed or amounts reduced by the President could be reinstated by a three-fifths vote of both the House of Representatives and the Senate. This would ensure that truly important programs would be protected. Most importantly, it would force individual spending programs to stand on their own merits. I am convinced that if members of Congress were to vote specifically on certain programs, rather than allowing them to be buried in massive spending bills, many of them would never be funded. This would bring common sense and fiscal sanity to the budget of our Federal Government.

Despite endless rhetoric about balancing the budget, the Federal deficit is currently approaching $400 billion. In the last 10 years the Federal debt has increased from about $1 trillion to nearly $4 trillion. That is an increase of 400 percent. We are clearly moving toward fiscal collapse, and it is increasingly clear that we must take steps to cut unnecessary spending. The line item veto and spending reduction power contained in my legislation would help achieve this goal. I do not say that the line item veto and spending reduction will balance the budget on its own, but it will certainly set us on the path toward fiscal responsibility.

The line item veto and spending reduction powers of the Illinois Governor have been extremely important in cutting unnecessary and wasteful spending from our State budget. During the 14-year span of Governor Thompson's administration, some $1.6 billion of unnecessary spending was eliminated from the budget. In crafting the budget for fiscal year 1992, the Governor was able to trim some $17 million in needless spending. This power played an important role in balancing the Illinois budget this year. I am convinced that if the President had similar abilities, billions of dollars could be cut out of the Federal budget.

Mr. Speaker, let's begin to cut our deficit. Let's begin to eliminate wasteful and unnecessary spending. Let's give the President the tool he desperately needs, the line item veto and spending reduction authorities.

IN MEMORY OF MARTIAL-RIO WEINBERGER

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. WATERS. Mr. Speaker, Martial-Rio, one of Los Angeles' most outspoken, creative, dedicated and tenacious individuals, an AIDS activist, and beloved family member and friend, succumbed to complications due to AIDS on November 15, 1991.

As many of his friends and family noted at a memorial service held at Temple Beth Chayim Chadashim, Martial-Rio did not go gently into the night. His final thoughts and energies were dedicated to keeping alive the battle against AIDS, and its devastating impact upon our society. For the past several years, Martial-Rio provided leadership and activism on AIDS-related causes. He was a member of the group that fought for the establishment of an AIDS hospice in Los Angeles County, which lead to the opening of the Chris Brownlie Hospice. Martial-Rio was a member of the board of directors of the AIDS Healthcare Foundation, which supervises the hospice's operation. He also served as Person with AIDS [PWA] coordinator for two annual conferences of the Black Gay and Lesbian Leadership Forum.

Martial-Rio actively campaigned against California proposition 64, which sought to impose draconian mandatory reporting measures against persons infected with the HIV-virus, and he was an early volunteer for the Minority AIDS Project [MAP]. He used his talents as an accomplished hairstylist to raise funds for MAP projects.

The Los Angeles community is deeply appreciative of the many efforts Martial-Rio has made on behalf of the AIDS health crisis and the gay and lesbian community. His indomitable spirit and sharp-tongued wit will be sorely missed and fondly remembered. Martial-Rio's dedication to his community of friends and associates will be highlighted at the 1992 Black Gay and Lesbian Leadership Forum Conference to be held at Oakland in February. The conference is to be dedicated to his memory.

A recovering alcoholic, Martial-Rio was in his ninth year of sobriety. He lived in Los Angeles for over 20 years, where he worked as a hairstylist for Natalie Cole, Diahann Carroll, and the Pointer Sisters. He also had a public relations firm which represented small businesses and entrepreneurs that included Ms. Cole, Aid for AIDS and the Alliance of Gay and Lesbian Artists awards program.

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

Martial-Rio will always be an important part of the lives of his spouse, William Weinberger; his sister and brother-in-law, Phyllis and E.J. Lockett; sisters Mario and Sonya Larry; brothers Warren and Morris Givens; nieces and nephews Tanika, Cief, Kareem, Quantel, Princess, and Damien; and uncles Leonard Simon and Gerald Ackerman. His life has also significantly influenced and enriched his friends, neighbors, and community.

Mr. Speaker, Martial-Rio was 41 years old when he died. His final wish is that the message of AIDS, and the need for increased AIDS services and education, as well as aggressive action on the part of our Government and all of society's institutions, until this devastating disease has been eradicated in his memory.

I stongly urge my colleagues and others to dedicate their activism and their leadership in the fight against AIDS in his memory.

HONORING PATRICIA CUZA, OUTSTANDING WOMAN IN PUBLIC SERVICE TO THE STATE OF MICHIGAN

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CARR. Mr. Speaker, there is no higher calling than those which serve others—whether it be your family, your community, your State, and your Nation. And those who do so unselfishly as a profession deserve our highest commendation.

One such person is Patricia Cuza. I met Pat in 1968 when I first went to work as a Ford Foundation Fellow in the office of my colleague from Michigan, then State Senator SANDER LEVIN. Pat was his administrative assistant and I was the "new kid on the block," having freshly arrived from law school at the University of Wisconsin.

I remember those days well and I remember Pat, always a teacher whether you were 8 to 80, keeping everyone around her on the straight and narrow. And always with a twinkle in her eye and a knowing smile.

Personally, I was grateful for all Pat taught me—and I want to thank her. But Pat was more than a teacher to two soon-to-be Members of this body. Her distinguished career has followed a remarkably varied and diverse course, beginning as a University instructor, through her service as founding executive director of the Michigan Women's Commission, to her role as director of the Office of Criminal Justice for the State of Michigan from 1983 to 1991.

During Pat's 5 years as the founding director of the Michigan Women's Commission, the State's first advocacy agency for women, she worked to ensure that the State's laws and policies promoted the status of women, both in the workplace and in society in general.

Through her efforts the Michigan Women's Commission became a national model of this type of program, and the State's primary resource on issues affecting women. Under her leadership, the Commission held the first statewide women's conference, developed the first coordinated network of State women's organizations, and the Nation's first series of statewide public hearings on domestic assault.

Her efforts on that last count led to extensive changes in Michigan's laws on domestic assault, and the establishment and funding of numerous local shelters offering protection to victims of domestic assault.

If this were her only public accomplishment, she would deserve the recognition of our entire Michigan delegation, all the Congress, and the American people. But she has served in other roles.

As director of the Office of Criminal Justice for the State of Michigan from 1983 to 1991 she oversaw numerous administrative functions in the State's criminal justice system, including the State Police, Department of Corrections, and the Military Affairs office. In addition, she was responsible for seven grant programs for the State's criminal justice agencies, including three Federal grant programs—Juvenile Justice and Delinquency Prevention Act, the Victims of Crime Act, and the Anti-Drug Abuse Act.

Not a law enforcement officer or attorney by training, Pat has during her long tenure won the respect of everyone in Michigan's Criminal Justice System during her directorship of the Office of Criminal Justice, and as administrator of the Crime Victims Compensation Board. As director of the Office of Criminal Justice, she continued to champion the role of women, urging their advancement in the criminal justice system.

In a recent magazine article, Pat exhorted women to not give up in their struggle to win higher positions in the criminal justice system. Saying that there were few women police chiefs and no women sheriffs in the State, she pointed to the advances women had made as wardens of major prisons, an advance only made in the last decade.

"There is no reason a woman cannot do that job," she said.

Moreover, during her directorship she oversaw the passage of a bipartisan victim's rights bill, extending legal safeguards and rights for victims of crime. And she worked to reverse 20 years of practices in the Juvenile Justice System that resulted in the inappropriate detention and placement of delinquent youth.

As director of the Crime Victims Compensation Board, Pat took the enabling legislation and from it built from scratch a statewide program for the filing, adjudication and appeal of claims, together with a program of public education about the availability of the Compensation Board. And she accomplished all this with the lowest administrative cost of any of the 40 programs existing nationwide.

As a friend, it was my great personal pleasure to have our paths cross again, when in 1983 I became a member of the House Appropriations Subcommittee on Commerce, Justice, State, and Judiciary. In that role, it has been my profound pleasure to work closely with Pat on many criminal justice issues, particularly increased funding for juvenile justice programs. I can personally attest to the commitment and talent she brought to her work.

As a personal friend, I am proud to have had the opportunity both to know her and to work closely with her, and it is as a friend that I wish her all the best in retirement.

THE EQUAL REMEDIES ACT OF 1991

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. KENNELLY. Mr. Speaker, the enactment of the Civil Rights Act of 1991 is an important achievement but, Mr. Speaker, we have left the job of ensuring equal justice unfinished.

In our effort to abolish discrimination in the workplace, we have codified discrimination in the law. With this act, we have placed caps on damages that can be received by victims of intentional discrimination based on disability, sex, and certain religious beliefs. This new two tiered system of justice is not just at all; it is unfair; it is unjust; it is just plain wrong.

It is time to treat all victims of discrimination equally before the law: If it is wrong to discriminate on the basis of race, it is just as wrong to discriminate on the basis of religion, disability, or sex.

To be fair to victims and employers, we must not make discrimination a predictable cost of doing business. We are doing the business community a grave injustice by putting them in the position of budgeting for discrimination.

That is why today we are introducing the Equal Remedies Act of 1991: to eliminate the unfair damages limit. We believe that victims of any form of discrimination deserve equality before the law.

I urge my colleagues to join us in this important legislative correction and cosponsor the Equal Remedies Act of 1991.

PROTECT STATE PARKS FROM DEVELOPMENT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KOSTMAYER. Mr. Speaker, today I am introducing two bills amending the Federal Power Act and the Federal Water Pollution Control Act. Each gives States more say in protecting water quality, State recreation areas, and outstanding free-flowing rivers from ill-advised decisions of the Federal Energy Regulatory Commission [FERC].

In 1987, FERC issued a license to develop a small hydropower project at a recreational dam site at the Nockamixon State Park in my district in Bucks County, PA. The license granted control over the project to FERC and the private licensee and even allowed condemnation of the State-owned dam, park land, and waters and conveyance of interests in these properties to third parties for the construction of industrial facilities.

FERC flatly asserted that the Federal Power Act preempts all State authority, even over a State park. Only through strenuous refusal to grant easements was Pennsylvania able to

protect its State park from this unwarranted usurpation of State prerogatives. My bill would prevent FERC or its licensees from condemning State-owned lands or improvements in the future.

FERC also ignores State determinations that a river should remain free-flowing. For example, even though the State of Oregon chose to designate the Klamath River as part of that State's wild and scenic river system, FERC went ahead and processed an application up to issuance of a final EIS for a proposal to construct a dam on this river.

FERC has recently adopted a general policy stating, "We believe that, in all instances where economic, financial, and environmental considerations permit, it is in the best interest of the public to develop hydroelectric capacity whenever the capacity arises." As a matter of course, FERC considers applications for 30- to 50-year hydropower licenses even if the proposed projects are located in a State wild and scenic river corridor.

To rein in FERC's abuse of its power, a second section in my bill would prohibit this agency from issuing a permit, license, or exemption for the construction of any project located on any waterway on which hydroelectric development is prohibited under State law.

Although FERC has maintained all along that it does not grant approval for hydropower projects that would damage State-protected rivers, FERC continues to receive and process applications on such rivers. Thus, a change in Federal law is desperately needed.

Mr. Speaker, my second bill amends section 401(a) of the Federal Water Pollution Control Act to ensure States have adequate authority to deny or condition certifications for hydropower projects that may adversely affect water quality within their borders. The existing language of section 401 provides States with broad authority to protect water quality.

Unfortunately, some State courts, including the court of my home State of Pennsylvania in the Dock Street Dam case, have construed section 401 narrowly and ruled that States can only use this authority to enforce numerical water quality criteria. Other courts have construed section 401 correctly, I believe, and ruled that this section gives States the power not only to enforce numerical criteria, but also to protect and restore designated uses involved in such water quality standards. One example of this broad view of section 401 is the recent decision of the Maine Supreme Court in the Millford Dam case.

My bill will resolve these conflicting interpretations of section 401 and affirm the broader—and I believe better—understanding of section 401.

TRIBUTE TO JERRY "B" DORSEY AND MALACHI KNOWLES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to Messrs. Jerry "B" Dorsey and Malachi Knowles on behalf of their efforts to feed several hundred of the District of Columbia's neediest families on Thanksgiving Day.

Thanksgiving Day is thought by many to represent our Nation's most important observance. It is a time when Americans settle down to enjoy bountiful and nourishing meals, putting aside the stress and troubles of the day. For many of our citizens, however, there are no celebrations, and Thanksgiving is just one more day of trying to survive. For this segment of our society, gentleman like Messrs. Dorsey and Knowles provide a temporary reprieve from the pain of hunger.

Now in their fifth year of operation, Messrs. Dorsey and Knowles, joined by Ms. Theresa Watson and several others in the Washington, DC community, have made it possible for hundreds of the less fortunate in our Nation's Capital to not only observe but celebrate Thanksgiving Day.

I applaud them and hope you will join with me in commending them for their kindness, their commitment, and for their caring.

IN HONOR OF MORRIS "MO" BERNSTEIN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. PELOSI. Mr. Speaker, I rise today to honor the memory, life and times of Morris "Mo" Bernstein, a civic and political leader of uncommon heart and compassion.

"Mo," as he was known by all, was born in New York City but came to California as a young man out of law school. After settling in San Francisco, he turned his energy and imagination to the retail market, starting as a "hotshot" salesman and eventually building upon that experience to pioneer the idea of discount merchandising with his GET [Government Employees Together] shopping complex.

Mo was not satisfied with building a retail empire; he began to devote his considerable skills to politics and civic and charitable good works. As one friend, Rabbi Martin Weiner, said of Mo: "He was an entrepreneurial genius—whose heart and soul seemed to understand everyone."

Mo was appointed to the board of fire commissioners by former Mayor Jack Shelley in 1965, and during his tenure, which included being named president of the board, he led the crusade to successfully integrate the then all-white fire department. He was named in 1976 to the Airports Commission, which he also served as president, and brought his talents as a businessman and entrepreneur to make San Francisco International Airport a model of profitability in the country. He also established an internationally renowned permanent arts program at the airport.

One of Mo's last, enduring memorials is being celebrated on December 5, 1991, when Glide Memorial Methodist Church is to honor Mo for his contributions and good works on behalf of the homeless and of Glide Church. Indeed, this benefit for Glide Church's Daily Free Meal Program is being held using the facilities of "Mo's Kitchen," named in honor of Mo Bernstein. Annually, over a million meals are prepared and served in "Mo's Kitchen" to the poor, the lonely, the outcast and the homeless of San Francisco.

Mr. Speaker, it is an honor and a privilege to recognize the achievements of Morris "Mo" Bernstein before the Congress. While I have touched upon his civic and charitable contributions, many who are here in this Chamber and who here before us knew Mo well. He was a Democratic Party activist and fundraiser of uncommon modesty and virtue. He was a friend, confidante, and advisor of five mayors of San Francisco. I will miss Mo's friendship, his warmth, and his compassion. San Francisco, and this Nation, have lost a great human being.

YOUTHS OF LINDA VISTA, CA, WRITE ABOUT THEIR CULTURAL CONNECTION

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CUNNINGHAM. Mr. Speaker, the residents of Linda Vista, CA held their seventh annual Multi-Cultural Fair and Parade on September 28, 1991.

Linda Vista is a unique community within the city of San Diego. African, Arab, Cambodian, Chinese, European, Laotian, Latino, Filipino, and Vietnamese are just some of the many diverse cultural heritages represented in this community and all shared their native customs, foods, history, and religions during the Fair.

As part of the opening ceremony, three young scholars were recognized for their essays on the cultural connection of this distinctive neighborhood. Alejandra Rojas, Rashanda Dinkins, and Shereen Bastani won first, second, and third places respectively, out of 200 essays entered from four local schools.

These charming observations, which only a child can describe, are reminders of what we can all learn if we only view the world through a child's more innocent perspective.

FIRST PLACE—THE CULTURAL CONNECTION IN LINDA VISTA

(By Alejandra Rojas, Grade 5, room 26, Linda Vista Elementary School)

To get along better, people from different cultures could share food and share toys and games from each other's culture. Get to know their family. You could talk about your feelings. If you speak another language you could teach them your language. Like if you speak American and they Chinese, they will teach you and you teach them American. You could work together with others. If you came out of the class early you could wait for them after school. Some of us are from different countries.

SECOND PLACE—IMPROVING THE CULTURAL CONNECTION IN LINDA VISTA

(By Rashanda Dinkins, grade 5, room 25, Linda Vista Elementary School)

I think that we should transfer different cultures of kids to different schools in Linda Vista. Like Russians, Jamaicans, Australians, and other people from different parts of the world. I also think that we should have some of the kids in our schools

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

visit other schools that have different cultures, to see what they are like.

Also, if kids from a different school came to ours I hope that they would share what they do at their school. I also hope that they would share different things like the arts, music, foods, and clothes. I think that we should have a place where we would learn to play many games that they play and enjoy. If we could, I think that we should have a video pen-pal, and send letters to many different parts of the world.

I think that we should have more different cultures represented than in our school now, and the cultures that have a lot of, I think we should transfer them to a school that has not very many of them. I think we should celebrate the different holidays that different cultures celebrate to learn what they are like.

Third Place—How People Would Feel if Everyone Spoke a Different Language

(By Shereen Bastani, grade 5, Holy Family Catholic School)

How would you feel if everyone around you spoke a different language? You would probably feel weird and confused.

Well, my dad is from around the world, from a place called Iran and when he came here in 1974 with his friends, he didn't know that much English. He felt a little embarrassed and a little hungry too. After a while they went to a McDonald's and had some food but they were confused because they gave them wet wipes (that smell like lemon) and they thought it was dessert. So they ate them, but of course they spit it out and said, "Americans have bad taste." He might have felt embarrassed then but now he laughs about it.

That was one of his bad experiences in a new country when he only knew a little English. Just think if you were in his place how would you feel? Well, I would probably do something wrong too! So if you see someone from a different country, don't laugh; try to help them out.

TRIBUTE TO GEORGE G. TROUTMAN

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEREN of Texas. Mr. Speaker, I rise today to honor George G. Troutman for 48 years of devoted service to our Armed Services and to the aviation industry. With the help of his hard work the United States has remained a leader in the field of military and civil aviation.

After 22 years of service as an Air Force pilot and research and development officer for missiles and space, he joined General Dynamics as a congressional liaison official. He later became director of operations overseeing the company's marketing offices nationwide. His hard work helped General Dynamics maintain an active F–111 production line and later in winning the F–16 program. These aircraft have remained a vital aspect of the U.S. air defenses.

In 1975, Mr. Troutman moved to General Electric to direct congressional relations for the aircraft engine group. He subsequently assumed the position of general manager of the Washington, DC, operations of the engine group. He played a major role in the continuation of the F–18 engine program and with the F–14 engine program. Again, with the help of Mr. Troutman's dedicated work the U.S. Air Force and Navy have remained leaders in the field of fighter aviation.

In 1980, Mr. Troutman joined Bell Helicopter Textron as vice-president of the Washington, DC, operations. This position presented him with his greatest challenge, the V–22 tiltrotor. He was the architect of and principal force behind the V–22 tiltrotor as a national asset strategy. He was instrumental in scheduling congressional hearings on civil tiltrotor applications, and working with Congress to produce legislation directing a joint study looking civil applications of tiltrotor technology.

Mr. Troutman tireless work has been recognized by his peers by electing him former president of the Washington Chapter of the Air Force Association and as a member of the National Security Industrial Association.

I ask my colleagues to join me in honoring George G. Troutman upon his retirement for his many years of outstanding service and dedication to maintaining the U.S. leadership in military aviation.

THE SPIES IN SPACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BROWN. Mr. Speaker, Air and Space magazine, published by an agency of the U.S. Government, the Smithsonian Museum, has published an article in its latest issue which contains information which Members of Congress, and particularly those Members who are also members of the Intelligence Committees of the two Houses, are told they cannot discuss. The article is titled "The Spies in Space," and is about our satellite reconnaissance program. The material is classified Secret—some of it is even more highly classified—and the article itself has the stamp SECRET on each page just to make the point.

This magazine has published such material before and, in fact, the Smithsonian annually publishes a map of the sky showing each spy satellite which the United States has in orbit, its name, and when it was launched. The map also shows the Soviet spy satellites and the same information about them.

This is no big deal. All of the information in this article, written by a highly respected author and intelligence analyst, Jeffrey T. Richelson, has been published before in technical journals and books, in Federal court documents, and even in congressional proceedings.

What is totally stupid is that we have a classification system which persists in perpetuating the fiction that this material is secret and that such a fiction contributes to our national security.

I have made efforts in the past, both as an informed Member of Congress and as a member of the Intelligence Committee, to call attention to this matter and to bring about some rational changes through normal institutional processes. Neither the executive branch nor the leadership of the House has been willing to confront the issue, even though they recognize the irrationality of the system.

I am not bringing it up now to rehash old battles. The excessive and unnecessary system of secrecy which surrounds this program will fall of its own weight in the near future; and when it does, I will be accused of the crime of being prematurely right, a very serious crime indeed for a Member of Congress. It has ended many political career.

Instead, I bring it up to point out that the U.S. Civilian Space Program, as a whole, may be in very serious trouble. And the civilian Earth observing system, Landsat, may be in even more trouble. So much that the Committee on Science, Space, and Technology, which I have the honor to chair, held a hearing on its future yesterday, Tuesday, November 26, to determine if there is a way out of the problems we face.

At that hearing, we heard testimony from representatives of both the Department of Defense and NASA. None of the testimony, included any reference to the military space program, which is larger than the NASA Space Program, or to the classified Earth observing system, which is many times larger than the civilian system. Nor was there any reference to the question of how we could achieve a world-class U.S. Earth observing system if we were to relinquish the fiction that we don't have a military system, or that its existence must be kept so secret that we are precluded from discussing it in the context of one national world-class system.

No other country is so stupid. We can, and are, buying the product of other national systems, including the French and the Soviet systems, because of our shortsighted policies. Within 10 years, we will have ceded a multibillion dollar market to our competitors for the product of technology that we invented.

Where have we heard this story before?

Mr. Speaker, I suggest that if we are serious about maintaining a competitive position in emerging technological markets, then we must stop throwing away the fruits of our own inventions. A good place to start would be with the Landsat system. The United States needs a world-class Earth observation system that serves both military and civilian missions. We can no longer afford an exquisite yet classified system for the military and an antique and ailing system for the civilian users.

The Air and Space magazine article follows:

The Spies in Space

(By Jeffrey T. Richelson)

In the middle of July 1990, American KH–11 satellites passing over the Middle East began transmitting disturbing imagery of the border between Iraq and Kuwait. The satellites' optical systems previously had seen only empty desert there, but now they showed an Iraqi division equipped with the modern T–72 tank. The next day the satellites' transmissions showed evidence of a formidable Iraqi force of 300 tanks and 10,000 men, plus a division of the Republican Guard. By the third day, the satellites' photo interpreters estimated that 35,000 Iraqi troops were poised on Kuwait's northern border.

Among those examining the imagery was Walter P. "Pat" Lang. A retired Army colonel, Lang was the Defense Intelligence Agency's officer for the Middle East and South

Asia. Fluent in Arabic, he had traveled to Iraq half a dozen times and served as military attaché in Saudi Arabia in the early 1980s. Lang was worried by what he was seeing, and he wasn't alone. Charles Eugene Allen, the national intelligence officer for warning, became convinced that Iraq's Saddam Hussein was preparing to attack Kuwait. On August 1 he warned the National Security Council's Middle East staff that Iraq would invade Kuwait by the end of the day.

But despite the satellite images and the warnings from Lang and Allen, the top intelligence and national security officials, including President Bush, felt that Hussein was bluffing. The satellites had made their contributions, but their human masters chose to interpret their images optimistically.

The intelligence failure before the Gulf war underscores one simple fact: spy satellites are only as effective as the people who use them, in part because they do not provide *information*, they provide data. It takes a human partner to glean information from that data and to act upon it, and it's the human side of the partnership that determines if the satellite is a success or a failure.

That satellites are valuable tools for intelligence gathering was demonstrated early in the Space Age. Satellite images of the Soviet Union taken in the early 1960s backed up evidence from U–2 flights that the feared missile gap was a myth that rather than having hundreds of intercontinental ballistic missiles aimed at the American heartland, the Soviets had, at most, ten.

Several years later President Lyndon Johnson told a group of educators, "I wouldn't want to be quoted on this, but we've spent 35 or 40 billion dollars on the space program. And if nothing else had come out of it except the knowledge that we've gained from space photography, it would be worth 10 times what the whole program has cost. Because tonight we know how many missiles the enemy has, and, it turned out, our guesses were way off. We were doing things we didn't need to do. We were building things we didn't need to build. We were harboring fears we didn't need to harbor."

Despite their great value, the early reconnaissance satellites were far from perfect. They returned their images by parachuting the film back to Earth in a capsule, sometimes days or even weeks after they were taken. That delay could be crippling. Both the 1967 Six-Day War in Israel and the Soviet invasion of Czechoslovakia in 1968 ended before the United States could obtain satellite imagery of the trouble spots.

After the 1973 Yom Kippur War, one analyst with the Central Intelligence Agency recalls, "we had wonderful coverage but we didn't get the pictures until the war was over." The lack of timely intelligence was judged by the Pike Committee (established in 1975 to investigate U.S. intelligence activities) a serious threat to the United States. The United States had been forced to rely on overly optimistic Israeli battle reports. As a result, reported the committee, "[t]he U.S. clashed with the better-informed Soviets on the latter's strong reaction to Israeli cease-fire violations. Soviet threats to intervene militarily were met with a worldwide U.S. troop alert. Poor intelligence had brought America to the brink of war."

The quantum leap needed to overcome such intelligence gaps was made in December 1976 with the launch of a satellite known by the top-secret program name Kennan and more widely as the KH–11 ("KH" being shorthand for KEYHOLE, the designation of an imaging satellite, and "11" indicating the 11th optical system used by the KH satellite series). Unlike earlier KH satellites, KH–11s can return imagery almost instantly. They also have relatively long lives, sometimes remaining active for several years. During daylight passes in good atmospheric conditions, the satellites can obtain clear pictures in which objects only six inches apart can be distinguished (see "The Vision Thing," page 78).

The KH–11s transmit their data to ground stations, where it is recorded on tape and shipped to imagery interpreters. Because the satellites can send back a picture about even five seconds, many of the images are simply stored. They can be scrutinized later if events require it. Others are viewed immediately and become one more piece of the larger intelligence picture. And still others become the catalyst for further collection efforts and eventually for action: political, diplomatic, or military.

Even in the post-Cold War era there is no shortage of reconnaissance targets. Satellite imagery of the Soviet Union is vital for arms control verification and for monitoring the volatile situation there. Satellites search for signs of new nuclear reactors or missile deployments in countries that buy arms and nuclear technology from China, including Algeria, Iran, Iraq, Pakistan, Saudi Arabia, and Syria. The United States' eyes in space even keep watch over sites in the Western Hemisphere, from drug production facilities in Bolivia and Columbia to possible advanced weapons in Argentina and Brazil.

Eventually all of this imagery will end up in a windowless building in the Navy Yard in Washington, D.C. The National Photographic Interpretation Center is run by the CIA and staffed by interpreters from the CIA, the Defense Intelligence Agency, and various Army, Navy, and Air Force intelligence organizations. The CIA, DIA, and military intelligence organizations also maintain their own interpretation divisions. Riding herd on the "exploitation" process, as it is called, is the director of the CIA's Committee on Imagery Requirements and Exploitation, which divides the imagery interpretation task among the different agencies.

Even if presented with the best overhead imagery, a layman would glean only a fraction of the intelligence extracted by skilled interpreters. In his book "Thirteen Days," Robert Kennedy recalled the photographs a high-flying U–2 spyplane took in 1962 of Soviet missile sites being set up in Cuba, images that sparked the Cuban Missile Crisis. "I examined the pictures carefully," Kennedy wrote, "and what I saw appeared to be no more than the clearing of a field for a farm or the basement of a house. I was relieved to hear later that this was the same reaction of virtually everyone at the meeting, including President Kennedy."

The people who analyze satellite pictures are trained to extract the maximum amount of information. They use interpretation keys—volumes that contain satellite-eye views of everything from submarines to aircraft. "Each weapons system has a signature," says retired CIA photo-interpreter Dino Brugioni. "An ICBM site, for example: the signature for an ICBM site is modern roads with wide-radius turns that end up at a secured area. The reason you have to have wide-radius turns is you're dealing with a missile that's about 100 feet long and you can't come up to a crossroad and turn the thing. The other thing is that you have a multimillion-dollar missile and you're not going to trundle it over bad roads."

Interpreters also examine the image in context, relating an object to its surroundings. Says Brugioni, "I always advocated that you take out picture books of the country that you're dealing with. A domed building in the United States is, in most probable cases, a radar dome. You can't apply that to the Middle East. In each case you work with a pattern and you begin to learn how people live and you take that and you develop a series of signatures about the particular country you're working with."

Even the most skilled interpreters can make mistakes. Shortly after the Six-Day-War, CIA photo interpreters were alarmed by a satellite photo of Israeli territory that clearly showed a circular excavation—the kind of digging associated with installation of a missile silo—near the Gaza strip. Closer study revealed that the excavation was, in fact, a watering trough.

When satellites used film to photograph their targets, the ability to manipulate and enhance the imagery was limited. The film could be scanned with a laser, converted into digital form, and then manipulated, but many times the very act of developing the film destroyed valuable information. When an image was cloaked in shadows, often all that was left after the film was developed was the shadow. With the arrival of the KH-11 and its digital imagery, image enhancement with computers became an enormously valuable tool in the interpreter's arsenal.

Though the details of intelligence image enhancement are secret, similar work is done at the Jet Propulsion Laboratory in Pasadena, California, JPL's image enhancement software includes nearly a thousand programs for enhancement work, according to Kevin Hussey of the image processing lab. For instance, when a target is partially obscured by cloud cover or haze, the computer can compensate by eliminating the clouds. Another technique allows computers to compare images of the same target taken at different times and immediately detect any changes, such as new construction, movements of motor vehicles, or excavation. It is also possible to improve resolution by using a computer to combine multiple images of a single scene. And a "de-spiking" program will automatically flag any pixels with values so bright or dark that they stand out from their neighbors, either replacing them with more average values, or alerting analysts of the discrepancy. Averaging two or more images of the same area also allows the computer to filter out any aberrant pixels and get a more realistic view of the target.

But even with computers, satellites alone cannot provide a full picture of what's going on below them. The KH–11 images from Iraq that had concerned Pat Lang and Charles Allen might have been more persuasive to others if they had been supplemented by two other forms of intelligence—human intelligence from old-fashioned spies and intercepted signal communications. But as former CIA director William Webster noted in late 1990, human intelligence concerning the intentions of world leaders "is often difficult to acquire and, frankly, very difficult to acquire in an autocratic environment." And Saddam Hussein's Iraq was more autocratic than most countries, with a fearsome secret police. Further, Hussein and his subordinates were well aware that the U.S. global eavesdropping network can snatch almost any communication out of the air. To avoid being overheard, the Iraqis transmitted much of their important information via fiber optic cables and other land lines, rather than transmitting through the air.

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

Nations may also attempt to foil a satellite with denial and deception operations. Denial methods may be as simple as stopping an activity or placing equipment under a cover or inside a building before a satellite passes overhead. Deception operations seek to mislead the imagery interpreters. The receivers may deploy dummy aircraft and tanks, paint patterns on buildings that suggest bomb or fire damage, or camouflage military hardware. But interpreters have ways to unmask the deception. According to Dino Brugioni, "If the Soviets put up dummy aircraft, you never see them being serviced. If they put up rubber dummies and decoys you see them smashed as the weather and seasons change."

Sometime around December 1987, a KH-11 detected a construction site 40 miles south of Tripoli, the capital of Libya. By July 1988 enough intelligence had been acquired from KH-11 and SR-71 photography, communications interceptions, and human sources (including Arab and Western workers at the site) to convince CIA analysts that Muammar Qaddafi was definitely building a chemical warfare facility.

Having been caught red-handed by the satellites, Qaddafi tried to use them to undo the damage. The buildings at the complex were painted with "burns" to support a report by the Libyan news agency that a fire had erupted at the complex, but U.S. intelligence analysts who examined the imagery were not fooled. "It clearly was an attempt at deception," one senior intelligence official told the *Washington Post*, and the attempt was "not particularly well done."

During the war with Iraq, the United States operated an unprecedented number of imaging satellites simultaneously—three KH-11s (launched in 1984, 1987, and 1988), three advanced KH-11s (launched in 1989 and 1990), and one LACROSSE (launched in 1988). In the five and a half months between the invasion of Kuwait in August 1990 and the beginning of the air war, U.S. satellites closely scrutinized Iraq for sites to target for attack.

The imagery arrived in the field either from Washington (after processing) via communications satellites or, according to Aviation Week and Space Technology, directly from reconnaissance satellites transmitting to small mobile terminals in the theater of operations. In a speech in August 1990, Air Force Brigadier General Donald Hard announced that imagery "is provided directly to the field, to allow informed and accurate decisions for mission planning and battle management."

But the war also demonstrated the limits of satellite imagery. One difficulty was effective damage assessment. Sometimes the results of a bombing raid were clear, but at other times the damage was out of the satellites' view: munitions, particularly "smart" bombs, could simply have punched a small hole in a roof or entered via a duct and done their damage inside. In such cases intelligence analysts would not consider the target destroyed.

The limitations of imagery and the utility of other forms of intelligence were tragically illustrated on February 12, when allied aircraft bombed a reinforced-concrete building in Baghdad. Intelligence had pinpointed the structure as a command and control facility and, according to some reports, a leadership shelter. But the facility also served as a civilian shelter, possibly for relatives of the Iraqi leadership. As many as several hundred civilians were killed in the attack.

Military briefers in Washington and Riyadh confirmed that satellite imagery played a key role, though not the sole one, in identifying the facility as a command and control center. Captain David Herrington, deputy director of intelligence for the Joint Chiefs of Staff, noted that the U.S. had observed that the building had "a camouflage roof [and] a security fence around it with barbed wire." Joint Chiefs of Staff director of operations Thomas Kelly recalled: "We saw military vehicles parked outside it, we saw military people going in and out of it.* * *" U.S. satellites also spotted communications equipment that had been hardened to survive a nuclear blast.

Other forms of intelligence supported the satellites' observations. Intercepted communications had indicated that the facility was being used for command and control purposes, and as Riyadh briefer Brigadier General Richard Neal noted, "We talked to folks that worked in the construction area" who described the installation of sophisticated equipment that was hardened against military attack. Unfortunately, there were no human sources to provide information on exactly how the facility was being used. If the civilians had entered the shelter in the middle of the night, it would have been difficult for satellites to detect them. The deaths of those civilians illustrated that, as Colonel Andrew Duncan of the International Institute of Strategic Studies observed, "No matter how many satellites you have overhead * * * nobody can see through a roof."

That is unlikely to change. Instead, the challenge is to be found back on Earth: in combining different types of imagery (visible light, infrared, and radar) and in developing better methods to ensure that the flood of imagery is processed, analyzed, and distributed efficiently, particularly in critical combat situations.

It is clear from their comments that U.S. military commanders in the Persian Gulf, including General Norman Schwarzkopf, found the system for producing and distributing overhead photography to be deficient. Among Schwarzkopf's complaints was that field commanders and pilots could not get reconnaissance photographs of potential Iraqi military targets that were less than a day old. "It was a void that all of us felt," the general said.

The delay was caused by two problems. Even with the large number of satellites in orbit, the United States was not able to image every target on a daily basis, particularly when cloud cover was present. In addition, interpreters were swamped by the volume of incoming imagery, resulting in 18-hour workdays at NPIC. But it is unlikely that this country will ever have the financial and human resources to ensure that all targets are monitored and the imagery analyzed every day.

William E. Burrows, the author of "Deep Black: Space Espionage and National Security," observes. "It's a paradox. Real-time imaging from several spacecraft, particularly in a crisis, can return an avalanche of information. That's the good news. But the more data you collect, the more you struggle to process, interpret, and move it. The bad news is that an avalanche can bury you alive."

STAFFING REQUIREMENTS OF TOWING VESSELS

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ABERCROMBIE. Mr. Speaker, today I am introducing legislation to dress the serious abuse of marine safety.

As is the case in many areas, the towboats in the Hawaiian Islands are currently running with only one staffer on the bridge and at times no one in the engine rooms. As you can imagine, this can create some hazardous situations. Although the majority of boats are equipped with an automatic pilot, these pilots can and often do malfunction. In addition, the person on watch in the wheel house has the responsibility to navigate the ship and transmit radio messages. On some of these vessels the chart room and radio room are away from the bridge. Consequently, there are times that the person on watch has to leave his position.

Additionally, we have been forced into a position where our crews are reacting to emergencies rather than taking action to prevent them. For instances, some enginerooms have had alarm systems installed and have been automated, but as we all know, machinery has been known to malfunction or break down. In any event, these alarms are not activated until after the emergency, but, if the engine room were staffed properly, someone would be able to see, hear or smell a problem and correct it before the situation grew out of control.

Mr. Speaker, I am concerned that a one-person watch may not be sufficient to comply with the lookout requirement under the navigation rules. For the last several years, staffing of towboats has been systematically reduced to the point of jeopardizing our crew and our environment. The way things stand now, staff are not only in jeopardy of unsafe practices which may cost them their licenses, but also their lives.

This legislation will put the priority where it belongs: on the safety and well being of towboat employees and the public. I would like to see the staff levels put back to a safe working level. Not only would these efforts eliminate some of the stress and fatigue of the crewmembers, but the lives and property of the general public would be further safeguarded. Many of the spills which have occurred off the coasts of our great States might have been prevented had adequate staff been aboard. I can assure you a large spill in Hawaii would have a devasting effect on our economy not to mention the fish, crabs, sea urchins, and seaweed which are the staple foods of the Hawaiian Islands.

I ask my distinguished colleague to give this legislation their full consideration and support. Mahalo.

THE HUMAN RIGHTS SITUATION IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HAMILTON. Mr. Speaker, I wish to draw to the attention of my colleagues the latest in a series of letters exchanged with the Department of State regarding the human rights situation in Turkey. The last exchange appeared in the CONGRESSIONAL RECORD on Monday, October 7, 1991. In their current response, the State Department addresses a number of individual concerns raised by human rights groups regarding the earlier State Department letter on this issue.

Once again, I wish to reiterate that Turkey is an important friend and NATO ally of the United States. It is in our interest and in the interest of the future of the United States–Turkish relationship to ensure that serious human rights violations cease to occur in Turkey.

The correspondence follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 1991.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington DC.

DEAR MR. SECRETARY: I write to follow-up on our exchange of letters this summer on the human rights situation in Turkey. I recently received correspondence from the human rights organization Helsinki Watch regarding continued serious violations of human rights in Turkey. The Helsinki Watch letter paints a very different picture of this problem from that portrayed in the Department's August 5, 1991 response to me.

Helsinki Watch asserts that:

Premeditated torture of political detainees is a routine practice in Turkey today;

Twelve political prisoners have died in detention under suspicious circumstances since January 1—twice the number of deaths in detention in 1990;

In recent months 19 people have died in house-to-house police raids and 10 demonstrators have died as a result of indiscriminate use of live ammunition by Turkish security forces;

Restrictions on freedom of expression persist and the recent enactment of a broad Antiterror law represents a step backward in this area; and,

Human rights violations against the Kurdish minority continue. Despite the publicized repeal of the ban on Kurdish, it continues to be a crime to use the Kurdish language in official settings, including family visits to prison detainees.

I have enclosed a copy of the Helsinki Watch letter for your information. I would appreciate it if you would have your staff review the points made in this letter and get back to me.

I appreciate your prompt consideration of this matter and I look forward to hearing from you.

With best regards,
Sincerely yours,
LEE H. HAMILTON,
Subcommittee on Europe and the Middle East.

UNITED STATES DEPARTMENT OF STATE,
Washington, DC, November 22, 1991.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your letter of October 24 to Secretary Baker concerning allegations of human rights abuses in Turkey as reported to you by Helsinki Watch.

Torture of detainees in Turkey does occur—most typically during periods of incommunicado detention before a suspect is brought before a court. The government recognizes that torture occurs but asserts it is neither widespread nor systematic. The Justice Ministry maintains that the Turkish government is pursuing an all-out fight against torture and does not tolerate anyone who mistreats suspects and inmates. While the government has introduced some reforms that could contribute to a reduction of abuse, these reforms have not been effectively implemented. There were no known political killings attributable to the government or opposition political parties in 1991. However, figures compiled by the Human Rights Foundation show that as of October 31, eighteen persons have died while in police custody. At least some of these deaths may have been due to police torture.

Turkey has taken important steps recently to combat human rights abuses. Turkey has signed several international conventions against torture and the Turkish Constitution outlaws torture. In December 1990 the Turkish Grand National Assembly established a multi-party "Human Rights Commission," empowered to investigate any allegations of human rights abuses that are submitted to it. The Commission began operating early in 1991. In September 1991 the Justice and Interior Ministries announced that each would establish a Human Rights section within their respective ministries. The Parliament sponsored an October 4–5 symposium on "International Protection of Human Rights and the Turkish Grand National Assembly." The Police Academy announced in October that human rights is being taught as the first course in its fall semester.

The assertion by Helsinki Watch that 19 people have died in house-to-house police raids, and that 10 demonstrators have died as a result of indiscriminate use of live ammunition by Turkish security forces must be considered in the light of the dismaying frequency of political murders perpetrated by terrorists in Turkey. These have included in this past year, five retired generals, an Ankara physician, an archaeology professor, a British businessman, two American civilian contract employees, an American Air Force staff sergeant, and 20 Istanbul policemen. The radical left terrorist group Dev-Sol claimed to have committed many of the killings. The Kurdish Workers' Party (PKK) a Marxist terrorist separatist organization active in Turkey's southeast claimed to have murdered the archaeologist and also killed dozens of policemen, soldiers, teachers, and villagers in 1991. The PKK has fired rockets at night into the centers of Turkish towns, ostensibly aiming at security establishments or the homes of Turkish officials; in fact, the rockets frequently miss and cause death, injury or damage in surrounding neighborhoods. The PKK has also continued its attacks against the Turkish education system, killing or threatening to kill ethnic Turkish teachers in many districts. As a result, schools did not reopen in most rural areas of southeast Turkey at the beginning of the 1991–92 school year. The tense political situation leads to accusations of overreaction by security forces in crowd situations. The facts in such cases are disputed by different sources and are almost impossible to establish.

With some significant exceptions, the freedoms of speech and press are widely and vigorously practiced in Turkey. The privately owned press does not hesitate to criticize the government and reflects a broad range of opinion. Parliament passed a new "anti-terror" law in April 1991. While this law quashed previously-stipulated capital sentepces, amnestied thousands of prisoners, commuted sentences, decriminalized the use of the Kurdish language and nullified articles 141, 142, and 163 of the Penal Code; it also introduced a broad and ambiguous definition of "terrorist" activities that could invite abuses of power by security authorities. The opposition Social Democratic Populist Party [SHP] submitted portions of the new law to the Constitutional Courts, asking that they be struck down as unconstitutional. As yet, the Court has rendered no opinion, but a decision is expected before the end of the year.

Concerning alleged human rights violations against the Kurdish minority, our embassy reports that it has never heard allegations that families are being denied the right to use Kurdish in conversations during visits to detainees. Millions of Turkish Kurds who have moved to industrialized cities in the western part of the country are by and large fully integrated into the political, economic, and social life of the nation. Most Parliamentary representatives from southeastern Turkey are ethnic Kurds, but representatives of Kurdish ethnic origin have been elected from districts far removed from the southeast. A number of cabinet ministers, as well as other government officials, claim an ethnic Kurdish background.

The Turkish Constitution proclaims Turkey to be a secular state, regards all Turkish citizens as equal, and prohibits discrimination on ethnic, religious, or racial grounds. It is legal to speak Kurdish, sing or record Kurdish songs and publish books, newspapers or other material in the Kurdish language. Materials dealing with Kurdish history, culture, and ethnic identity, however, continue to be subject to confiscation and prosecution under the "indivisibility of the State" provisions of the anti-terror law. The question of Kurdish cultural identity within Turkey is more and more openly debated, however, both in government and among the general public.

In summary, it is fair to say that much progress has been made with respect to human rights in Turkey. However, much remains to be done. The activities of terrorist groups and the Kurdish separatist movement in southeastern Turkey certainly complicate efforts at reform. The United States government continues to press the Turkish government to improve its human rights record, and the situation is closely monitored by Ambassador Barkley and his staff in Turkey.

Sincerely,
JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

THE ENTERPRISE COMMUNITIES ACT OF 1991

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RANGEL. Mr. Speaker, while the President and his economists debate whether the

Nation is technically in a recession, there are poor communities in this country already deeply ensnared in the vicious spiral of depression, decay and desperation. In these communities, crime is rampant; jobs have evaporated; clean, affordable housing has all but vanished; and the sale and acquisition of illegal substances are the only signs of a local economy. These are the communities on the very bottom rung of the domestic ladder.

I am talking about communities as diverse as parts of rural south Florida and the Mississippi delta, to east Los Angeles and sections of the Bronx and my own Harlem. Since 1980 these communities—which even then were marginal—have undergone a dramatic and astounding transformation—backward. These communities have seen the wholesale unraveling of their most basic social and economic fabric. Such underpinnings, taken for granted in most American neighborhoods, simply do not exist any longer in these.

Today we in Congress feel powerless to act. The deficit, coupled with the President's lack of a domestic policy, virtually precludes an aggressive, creative, classically American strategy to turn back this tide of domestic disintegration. The financial community, facing staggering losses itself, is hardly in a position to underwrite the kind of growth necessary to jump start revitalization efforts in poor neighborhoods. Corporations to which our system looks to carry forward economic change are overwhelmed with excessive debt and declining demand. Even foundations and other pillars of private wealth are groaning under enormous demands for their resources.

Mr. Speaker, today I am introducing "The Enterprise Communities Act of 1991" which contains the seeds of recovery for these destitute communities. It is necessarily limited in scope, but bold in vision. It extends hope, where there is now but a tenuous glimmer. It offers a hand up where there is now not even a hand out. It attempts to collect those things in our domestic economy which we know are working, and target them in ways that will bring back these destitute areas—neighborhood by neighborhood, block by block, family by family.

This bill combines the popular and, as yet, unfulfilled promise of enterprise zones with ideas of local initiative, social investment, and neighborhood leadership. It provides 50 communities in this country an opportunity to break free from the cycle of ubiquitous poverty, unemployment, violence, and drug abuse, and start back on the long, long road to self-sufficiency and prosperity. It does not rely on the direction of bureaucrats in Washington or even the state houses or city halls, but on the energies and wisdom of local leaders, their neighbors, and their institutions. The bill provides these communities with the tools and commitments necessary to rebuild and renew.

Mr. Speaker, the idea of enterprise zones is not new. It is a concept which has been championed by leaders as diverse as the Chairman of our Ways and Means Committee and the President's Secretary of Housing and Urban Development. It is my intention through this bill to provide for 50 enterprise zones—in both rural and urban areas—where special tax breaks and other fiscal incentives will be invested by Federal, State, and local governments in concert with leaders in the neighborhoods to create a framework for recovery.

A second key component of this measure is an investment of $300 million over 3 years in the efforts of local police, combined with anti-crime and anti-drug initiatives undertaken by local community organizations to provide alternative activities for high-risk young people. It is an idea being proven successful by the Justice Department even now in its efforts to "weed" criminals from the streets of designated high-crime neighborhoods and "seed" those neighborhoods with funds for successful alternative community-based programs.

A third component provides $150 million over 3 years for the creation of affordable housing through an expansion of the current programs of the Neighborhood Reinvestment Corporation. In 1990, Mr. Speaker, non-profit organizations emerged as the single largest provider of new affordable housing in the country. This section seeks to build on that record of success and enhance those efforts within enterprise zones.

Also, through the NRC, the bill would over 3 years infuse $300 million in important operating and programming capital into non-profit community development corporations, including community development loan funds, which operate in enterprise zones. This critical funding would fuel the growth of local enterprises and non-profit ventures in enterprise zones by increasing the supply of stable capital available for investment and reinvestment. During lean years of the 1980's, these groups demonstrated remarkable growth, imaginative leadership, and technical expertise to step in where the Federal government was stepping out.

The bill also makes available direct grants from the Federal government to community groups to provide such essential services as health care clinics, emergency medical services, afterschool activities, literacy programs, daycare, transportation, and other programs as are necessary for a fully functional community.

The bill includes a multi-faceted effort to target drug addicts and others whose use of illegal substances is at the core of the disintegration in these neighborhoods. It includes legislation I have cosponsored with my friend, Mr. TOWNS of New York, to provide Medicaid coverage for pregnant addicts; and that by my friend, Mr. OWENS of New York, to provide special educational initiatives for children whose neurological systems were damaged by exposure to drugs before birth; and that of Mr. STARK of California and Mr. GREEN of New York, to provide for the creation of a Substance Abuse Treatment Corporation to train professionals in the field of drug treatment and deploy them in key battlefront neighborhoods in the War on Drugs.

The bill also includes President Bush's request for $99 million for expanded drug treatment, which I have cosponsored with Mr. MICHEL of Illinois, and Mr. COUGHLIN of Pennsylvania; and increases in the Drug Free Schools and Communities act targeted at those communities designated as part of an enterprise zone.

IN RECOGNITION OF TWO OUTSTANDING FIRST-TERM DEMOCRATIC MEMBERS OF THE 102D CONGRESS

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of Maine. Mr. Speaker, at a time when it is easy to read criticism of the U.S. Congress, it is refreshing when the good work of Members of this institution is publicly recognized. I would like to draw attention to the following positive public recognition of two outstanding first-term Democratic Members. I heartily applaud their hard work in this challenging first year congressional careers and wish them continued success.

[From The Idaho Statesman, November 25, 1991]

NEW NORTHWEST MEMBERS STAND UP FOR CONGRESS

(By Larry Swisher)

Reps. Mike Kopetski, D-Ore., and Larry LaRocco, D-Idaho, who were elected for the first time in 1990, picked a terrible time to join Congress.

Public esteem for the institution—never very high—has hit bottom thanks to a series of disgraces and spectacles like the Clarence Thomas-Anita Hill daytime soap opera.

While being dismayed by some of the bad habits and bad apples, Kopetski and LaRocco have little truck with the Congressbashers.

At the same time, if the Northwest's newest members of Congress get their way, it will be harder for them to keep their own jobs and easier for challengers to take them on. That's because they advocate changes in the electoral system rather than term limits as the best way to clean house.

Both have long involvement in politics. LaRocco was an aide to the late Sen. Frank Church, D-Idaho, and Kopetski served in the Oregon Legislature. Still, their defense of Congress is noteworthy coming from candidates who, in Kopetski's case, unseated a Republican incumbent, and in LaRocco's case wrested his district away from 24 years of Republican control.

Probably the most sensitive members of the delegation to the public's angry mood, because of their recent elections, they nevertheless assert that politician is not a dirty word.

I understand the people of America are questioning out ability to govern," LaRocco said. "I am in touch with that. It makes me a better congressman.

But he took issue with those who are going so far as to seek random drug testing of members of Congress. "Some of the new members who are tearing down this institution I think are wrong. I really decry what some of them are doing."

Kopetski has introduced his own campaign finance reform bill, which would give challengers some of the same free mailing privileges as incumbents, even if that means giving a helping hand to his own opponent next year.

LaRocco recently praised the thrust of the House Democrats' reform bill, which limits campaign spending and PAC contributions and also includes free mailings for challengers.

Both men disagree with the notion of direct public financing.

Instead, Kopetski's bill would grant a federal tax credit of up to $50 per person for individual campaign contributions—but only those made to challengers. Donations to incumbents would continue to be non-deductible. That would benefit challengers but still force them to ask people to take part in democracy with their pocketbooks as well as their votes. "I think that's healthy," he said.

LaRocco is reserving final judgment on the reform bill, which may be voted on this coming week, depending on its final form. Rep. Richard Stallings, D-Idaho, and other members of the Conservative Democratic Forum have also come out against public financing, which would be funded by a voluntary income tax checkoff, like presidential campaigns.

With time running out on this session, it's doubtful Congress will enact a law this year because of fundamental differences between Democrats and Republicans, led by President George Bush.

Kopetski and LaRocco acknowledge the public has good reason to be disillusioned with politics and Congress.

But these two entrenched freshmen said voters should make their own judgments based on the individual candidates and the issues, and shouldn't let critics get away with only making sweeping generalizations.

"The end result of this institution-bashing could be David Dukes throughout the country," LaRocco said, referring to the former Ku Klux Klan leader who ran for Senate in Louisiana. Domination by extremists from the left or the right would only make voters even more apathetic and unwilling to participate, he argued.

"This is the people's House," Kopetski declared. "You can only get here by election. So you should be proud of it and make it the best institution on earth."

Larry Swicher, a former Statesman reporter, writes on Northwest issue from Washington, D.C.

INTRODUCTION OF REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STUDDS. Mr. Speaker, today I am introducing legislation to amend and reauthorize the Endangered Species Act for an additional five years. The ESA is one of our Nation's most important environmental laws, and I urge Members to support it.

It is now nearly 20 years since Congress first enacted this landmark piece of legislation that has served as a model for other nations endeavoring to prevent extinction of species within their borders. At that time, Congress recognized that "various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation."

The Endangered Species Act has brought us a long way toward solving that problem by focusing our attention on the spiraling rate of extinction and enabling us to make real progress in conserving vanishing species in the United States and abroad. The Endangered Species Act has been the basis for several impressive success stories—the condor, the whooping crane, and the black footed ferret would more than likely be extinct if not for the act. The bald eagle, peregrine falcon, and the brown pelican have made encouraging comebacks during the past two decades. The red wolf, which all but disappeared from the wild, has been reintroduced in North Carolina, with the support of neighboring farmers.

I am convinced that we can do even a better job of preserving species that are on the brink of extinction, and my bill includes several amendments to the act to achieve that end.

First, it would encourage states and localities to prepare to protect species identified as candidates for listing under the act, to avoid further declines and subsequent listings.

Second, it would rectify an anomaly under the act in which citizens can bring suit immediately seeking protection for unlisted species, but must wait 60 days, even in emergencies, to bring suit to protect listed species.

Third, it would authorize Federal agencies to promulgate regulations to implement resolutions adopted by the Convention on the International Trade in Endangered Species.

Fourth, it would ensure that recovery plans are prepared for all species listed as threatened or endangered. Currently only 40 percent of all species listed under the act have had recovery plans prepared.

Finally, it would substantially increase the funds for implementing the act.

The Endangered Species Act has been entwined in one of the more difficult natural resource issues in recent years—the protection of old growth forests in the Pacific Northwest. Some will cite the continuing controversy as evidence that the ESA is a bad law that needs changing. Nothing could be further from the truth.

The controversy over the timber program for the national forests of the Northwest continues because of the gross mismanagement of the national forests by the Forest Service and the Bureau of Land Management and because of the conscious and unconscionable decision by the Bush administration to disregard the requirements of Federal law. The White House has been playing politics with the well-being of the spotted owl and the timber dependent communities for 2 years, with the result that we continue to lose both habitat for the owl and a stable timber program for the communities. It is a shame, and it need not be so.

I am convinced that the vast majority of Americans support the continued protections for endangered species which are embodied in this bill. A recent poll, for example, found that three-quarters of the people in this country believe that the Government should keep environmental protection a priority. This bill offers a unique opportunity to demonstrate that environmental protection continues to be a high priority of the Congress, and both it and the act deserve broad support.

In closing, I am reminded of something the American naturalist, Charles William Beebe, once wrote: "When the last of a species breathes no more, another heaven and another Earth must pass before such a one can be again." The Endangered Species Act is our recognition that we do not have the luxury of waiting for another heaven and another Earth to pass. We must strive to conserve the diversity of life on this planet now, for our sake and that of those who will come after us. Toward that end, I look forward to working toward a strong Endangered Species Act reauthorization, and I urge Members to support this effort.

LOCAL GOVERNMENT INTERSTATE WASTE CONTROL ACT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BOUCHER. Mr. Speaker, the Local Government Interstate Waste Control Act, which I am introducing today, offers a solution to the contentious issue of the interstate transportation and disposal of municipal solid waste. Last year, approximately 10.8 million tons of garbage was shipped out-of-state for disposal. All too often, this garbage has been dumped in unwanted private landfills in rural communities.

In recent years, private landfills in rural localities lacking comprehensive zoning have become depositories for urban America's garbage. Most of rural America lacks comprehensive zoning designating specified land uses which prohibit the operation of private landfills, a situation which invites private landfill operators to purchase farms and make substantial profits by importing garbage from urban centers.

In these circumstances, local governments have found themselves powerless to halt garbage importation. State law prohibits retroactive zoning, and Federal law prohibits the discrimination by any State against the commerce, including garbage, of another State. Accordingly, as long as the landfill operator complies with basic environmental requirements, neither the locality nor the State can prevent garbage importation from out of State.

This inability of localities to control their own destiny has given rise to a powerful national effort to give localities some say in the initial decision to create private landfills for out-of-State garbage importation. The Local Government Interstate Waste Control Act is a response to this clear need.

The bill grants the unit of local government having land use authority the power to approve or disapprove the siting of private landfills which would import out-of-State garbage. It would ensure that in the future no facilities are sited over local opposition. Marginal landfill operators would clearly get a red light under this provision.

However, the passage of this legislation would not put an end to interstate garbage movements. A large number of private landfills receiving out-of-State garbage are operated today with the blessing of local governments. Companies such as Waste Management, Inc., Browning-Ferris Industries, Chambers Development Corp. and Laidlaw, Inc. operate under the principle that no new landfill will be sited without local government approval. Under these practices, the terms and conditions of locating and operating the landfill are negotiated with the proper local government authorities. In the typical case, localities view these operations as another business invest-

VOL 137
PT 24
NO 26
1991
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JA 3
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ment providing economic opportunities. In sum, there will be private landfill space available for municipal garbage exports. This legislation would simply ensure that the landfills are not operated over the opposition of the citizens of the affected locality.

The legislation also provides that 42 months following enactment, waste may not be exported from a State which has not received EPA approval of its comprehensive solid waste disposal plan. Correspondingly, the disapproval power of importing localities would also terminate unless the States in which they are located have received EPA approval of that State's comprehensive plan within the same timeframe.

The legislation has been constructed in consultation with the major companies involved in the interstate solid waste transport business. They have endorsed its terms. In addition, the legislation is supported by the Environmental Transportation Association and many of the railroads which haul interstate waste. I look forward to working closely with the gentleman from Washington, Mr. Swift, and the other members of the Subcommittee on Transportation and Hazardous Materials of the Energy and Commerce Committee to enact legislation which resolves this difficult issue.

SUE ELLEN CAIN NAMED GEORGIA'S 1992 TEACHER OF THE YEAR

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DARDEN. Mr. Speaker, today I rise to recognize Sue Ellen Cain of Carrollton, GA, a talented educator who recently was chosen Georgia's 1992 Teacher of the Year.

A math instructor at Carrollton Junior High School, Mrs. Cain possesses a rare gift for making learning practical and interesting by incorporating schoolwork into the course of everyday life, such as studying percentages on a trip to the grocery store.

Mrs. Cain also is the author of several special programs for students who otherwise might fail or drop out. For example, her Mentor Reading Program requires eighth-graders who have failed a grade to tutor nine-year-olds. According to Mrs. Cain, both groups of students gain tremendous educational benefits from this program.

Mrs. Cain is respected and admired by students and teachers, and serves as a role model to both as well. I would like to congratulate Mrs. Cain on this exceptional honor, and commend her on her unselfish dedication to the betterment of the teaching profession.

Mr. Speaker, enclosed is an article which appeared November 15 in The Atlanta-Journal Constitution about Mrs. Cain which I believe my colleagues would find interesting. I would like to share the story with them at this time:

MAKING MATH CLASS FUN

(By Betsy White)

One of the best ways to teach hard-to-reach youngsters is to let them teach others.

That conviction, born of experience, is part of the award-winning educational philosophy that distinguishes Carrollton math teacher Sue Ellen Cain, 42, ushered in Wednesday as Georgia's 1992 Teacher of the Year.

"We all knew she would win," said eighth-grader Marcus Logan, who credits Mrs. Cain with a rare feat: making math class fun.

A faculty member at Carrollton Junior High, the eight-year classroom veteran is known not only for her cutting-edge approach to math instruction; she's also launched a host of special programs for students who otherwise might fail or drop out.

The mentor reading program she started, in which eighth-graders who had failed a grade were chosen to tutor 9-year-olds in need of help, proved a boon to both groups—particularly the eighth-graders, she said.

"It gives them the experience of being a teacher, and they immediately understood what it takes," she said. "It makes them more aware of what they do not know—and more aware of how much they do know."

"She asks us to be a role model, to be a leader," said eighth-grader Cedric Ridley, who tutors elementary pupils as part of Teens at Work, another volunteer program Mrs. Cain founded. "How do I know how to teach? I guess I got that from her."

Although Cedric says he wants to be a professional basketball player, "Watching her, you feel like, 'Yeah, I want to be just like her. I want to do just what she's doing.'"

Teaching math, Mrs. Cain stresses an interdisciplinary approach and lets students attack practical problems, instead of memorizing dry theories.

Last year, her pupils planned for and built a mile-long nature trail at the school as part of their math work. They also have gone to the bank to "apply" for loans and gone grocery shopping as part of a lesson on percentages.

"She has the students actively involved in their learning, and that's the key to good teaching," said Carrollton Superintendent Tom Upchurch.

A mother of two, Mrs. Cain credits her own parents and the many outstanding teachers she had in elementary school, high school and college for showing her how to be a master teacher. And she said the fact that she's never been a quitter is crucial to her success as well.

"I am a good teacher because I've had good teachers, both at school and at home," she told the state Board of Education in her acceptance speech Thursday. "I don't give up trying to remediate, motivate or create better students."

Selected by four Georgia principals who observed the finalists on the job and then interviewed them, Mrs. Cain won $2,000, a computer and printer, and a $5,200 grant to pay for her travel as Teacher of the Year. She will compete for the national title, to be announced in April.

The runner-up in the state contest was Margaret L. Schneider, a biology teacher at Clarke County's Cedar Shoals High School. Colleagues say Ms. Schneider works hard to make her classes compelling—even to students who say they don't like science.

[From the Rome News Tribune, Nov. 14, 1991]

TEACHER OF YEAR NAMED BY STATE

ATLANTA—Carrollton math instructor Sue Ellen Cain was named Georgia's 1992 Teacher of the Year today.

Mrs. Cain, who teaches at Carrollton Junior High, has launched several special programs for students who otherwise might fail school or drop out.

The "Mentor Reading Program" she started, in which eighth-graders who had failed a grade where selected to tutor 9-year-olds, proved a plus to both groups, especially the eighth-graders, she said.

In teaching math, she allows students to attack practical problems instead of making them memorize dry theories.

Mrs. Cain was selected by four Georgia principals who observed the finalists on the job and then interviewed them. She won $2,000 and was honored today by the State Board of Education.

Mrs. Cain will now compete for the national title.

Runner-up in the state contest was Margaret L. Schneider, a biology teacher at Clarke County's Cedar Shoals High School.

OCTOBER SURPRISE: A DEMOCRAT PARTY WITCH HUNT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CUNNINGHAM. Mr. Speaker, as the Democrat leadership of this House considers whether to order an investigation of the so-called "October Surprise," they would do well to read a letter printed in today's Washington Times.

Rear Adm. Frank C. Collins, Jr, USN, Retired, was the chief U.S. Navy adviser to the Shah of Iran during the turbulent period from April 1978 to February 1979. When he was in Tehran, the Shah himself was overthrown, and the Ayatollah Khomeini returned from his exile in France to take power and lay the groundwork for 52 Americans to be taken hostage in November 1979.

Rear Admiral Collins brings certain expertise to the situation—expertise which is clearly lacking in the partisan bickering which motivates this proposed "October Surprise" investigation

I would like his letter, printed in the November 26, 1991, issue of the Washington Times, to be entered into the permanent RECORD of this House.

LETTERS: WE DON'T NEED ANOTHER USELESS INVESTIGATION

It was indeed interesting to read your Nov. 18 piece "October hoax or cover-up?" on Gary Sick. The Democratic Congress is now considering spending more of the taxpayer's money on investigating his so-called "October Surprise" hoping to embarrass President Bush and former President Reagan, whom Mr. Sick claims negotiated the delay of return of the hostages until after the November 1980 elections. The timing of the article was ironic in view of the news last night that Terry Waite and Tom Sutherland had been released and their captors announced that the remainder of the hostages would be released by the end of the month. It appears that Mr. Sick's "October Surprise" is another desperate attempt by former members of President Carter's staff to atone for the poor job they did in preventing the fall of the Shah and loss of Iran as a friend and ally in that very critical part of the world. There is little question that had the Shah been supported by the Carter administration, neither the initial 1979 hostages nor the current ones would have been taken. Further, Saddam Hussein would have been less inclined toward his adventure in Kuwait, and there is even a possibility that Mr. Carter might have been re-elected.

As one who was in Iran during the critical period 1978–79, I still find it difficult to understand the proliferation of books on that period by people who were not in that theater.

The Democratic leadership would be well advised to consider the mood of the U.S. taxpayer regarding the $28 million-plus spent by special prosecutor Lawrence Walsh without result before they begin another witch hunt, which I can guarantee will backfire.—Rear Adm. F.C. Collins, Jr., U.S. Navy, retired, Alexandria.

DOMENS-TECHNIKUM BREWERIES

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, Nove 26, 1991

Mr. TRAXLER. Mr. Speaker, I rise to pay tribute to the Domens-Technikum Brewery, located in Munich, Germany, which has just opened a North American section in Frankenmuth, MI, which is located in my district. A constituent, Fred Scheer, who is a brewmeister at Frankenmuth Brewery, has been named president of the North American section of Domens-Technikum. I am very pleased that a corner of the global marketplace for brewing technique is now in Michigan. American brewery companies will receive the advice and benefit of Fred Scheer's expertise as they tap Domens-Technikum.

The Domens-Technikum is the largest university in the world that trains people in the art of brewing. The university also teaches the art of making soft drinks and providing food services. It teaches all phases of the beverage industry, including quality control, marketing, personnel management, and public relations.

The Michigan corner of the competitive beverage marketplace resides in Frankenmuth. I am proud to say this because American beverage companies will now send their staff under the tutelage of Fred Scheer. He will then recommend their continuing on to Munich to the Domens-Technikum campus for a full brewmeister education.

Please join me in saluting the expertise and good will of Fred Scheer as he adds another hat as head of the new North American division of Domens-Technikum.

THE POSTREPRODUCTIVE HEALTH CARE ACT OF 1991

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LLOYD. Mr. Speaker, I am pleased today to introduce the Postreproductive Health Care Act of 1991. My legislation will direct the Secretary of Health and Human Services [HHS] to provide grants to health clinics serving women to develop programs to better serve midlife and older women. Currently, health care provided at these clinics is mainly directed to younger women during their reproductive years, offering important services such as family planning and prenatal health care. These clinics often serve as some women's only contact with the health care system and can act as important referral sources for treatment for other conditions.

Unfortunately, as women approach menopause and their need for reproductive-related services ends, it is often the case that their contact with the health care system also ceases. Yet women's health needs do not end at menopause; they can actually increase. My legislation would enable clinics to offer services and train health professionals on midlife health issues such as menopause, hormone replacement therapy, second opinion on hysterectomy, cancer screening and preventive health strategies applicable to midlife and older women. These issues are also critical to younger women who experience premature menopause due to surgery.

One unique and valuable aspect of these clinics is that health counseling plays a fundamental role in their health care delivery model. This is especially worthwhile to the woman at menopause. Information and education are urgently needed because women over age 50 are at increased risk of heart disease, breast cancer, and osteoporosis. This makes regular cancer screening and improving poor health habits essential, especially for women living in poverty. While breast cancer risk increases with age, in 1987, only 22 percent of low-income women over age 40 had ever had a clinical breast exam and mammogram. Older, low-income women are also more likely to be diagnosed with late stage cervical cancer, but have the poorest record for receiving pap smears. Education and outreach are needed to reach these women.

Information on the menopause experience itself is vital for women. Although every woman, if she lives long enough, will experience menopause, it continues to remain a taboo subject of conversation. Unfortunately, jokes and colorful lore about women at menopause have managed to make their way into mainstream America, fueling not only harmful stereotypes and prejudice about middle-aged women, but also a great deal of misinformation. My legislation would offer women access to accurate information and health services specifically related to menopause.

Additionally, education and training of health professionals on midlife health issues would be provided. Outreach measures to this currently underserved population of women would also be a priority.

The Postreproductive Health Care Act is not intended to be a panacea for women's health care. Rather, it will enable clinics currently serving low-income women the ability to provide continuity of services through menopause. I urge my colleagues to lend their support and cosponsor this urgently needed, common sense approach to preventive health care for women.

HORROR IN EAST TIMOR

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, on Tuesday, November 12, Indonesian security forces rained death upon unarmed mourners during a memorial service and funeral procession in East Timor—a small territory that has been occupied by Indonesia since 1975. As many as 100 mourners, including children and the elderly, were massacred as they filed into a graveyard to lay flowers on the tomb of a 28-year-old man killed by Indonesian soldiers.

As the innocent mourners were being mowed down, Indonesian soldiers also severely beat several journalist, resulting in serious injuries to two American journalists and the death of a New Zealand national. Following the murderous incident, Indonesian officials are reported to have arrested up to 300 witnesses; dozens are believed to remain under detention.

Western observers report that the violence was entirely unprovoked. By chance, the events of November 12 were captured on video by a CBS news team. The images are shocking. The shooting continued for almost 10 minutes as the mourners rushed into the walled graveyard seeking refuge from the fire. Many were shot point-blank as they cowered behind tombstones.

Today Congressman JOHN PROTER and I cochaired a meeting of the congressional human rights caucus to investigate that ruthless display of force by the Indonesian military. The facts show that incident was not anomalous. Indonesia has consistently and systematically violated the human rights of the East Timorese. The filmed massacre was merely concrete evidence of the prolonged and institutionalized aggression against the people of East Timor.

For some time, human rights organizations around the world have reported on the pattern of abuse in East Timor. Arbitrary arrests, torture and mistreatment under detention, extrajudicial killings, and denial of the fundamental right of expression are extremely widespread. Since occupation, tens of thousands of East Timorese have perished as a direct result of extrajudicial killings, famine and disease.

Mr. Speaker, I would like to thank the Right Reverend Paul Moore, Jr., for his excellent statement before the congressional human rights caucus regarding the tragedy in East Timor. I would also like to thank Amy Goodman of Pacifica Radio News and Allan Nairn of the New Yorker magazine. As eyewitnesses to the massacre who were themselves beaten by those responsible for the slaughter, they provided the caucus with extremely moving and lucid testimony.

In the footage shot by the CBS news team, an East Timorese man, shot in the stomach, covered in his own blood, says to the camera, "Show this to the world." Minutes later he was dead.

Mr. Speaker, the world saw. Now let us act. Unfortunately, the administration's response to this outrageous example of human rights abuse has been appalling and I cannot express strongly enough my profound dismay with the State Department's decision not to send a representative to today's congressional human rights meeting.

While I am extremely disappointed with the administration's response, I cannot say that I am surprised. It reflects, I think, the administration's sad record of failing to respond forcefully to human rights abuses around the world.

Mr. Speaker, if this body does nothing else, let it send a strong and unequivocal message to the perpetrators of this unconscionable act that American people deplore the violence carried out against the people of East Timor. Let those who perpetrate such acts know that the civilized world will be watching, and that we will react vigorously and with dispatch to protect the rights of the people of East Timor.

SUPPORT COVERAGE FOR PROSTRATE SCREENING

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LLOYD. Mr. Speaker, this year, 122,000 men will be diagnosed with prostate cancer, and 32,000 men will lose their lives to this disease. Tragically, one of these men was our good friend and colleague, Representative Silvio Conte. Last year, Senator Spark Matsunaga died battling this cancer. While little is known about the causes of prostate cancer, we do know that early diagnosis is fundamental to successfully treating the disease.

While there is agreement on the value of regular cancer screening for individuals at increased risk, our current reimbursement policy under both Medicare and Medicaid remains something of a paradox in that they pay for the treatment of this disease, yet fail to reimburse for screening to detect the cancer at its earliest, and most easily treatable stage.

For this reason, today Congressman MARKEY and I are introducing legislation to allow reimbursement for digital rectal examinations and the prostate specific antigen (PSA) test under both the Medicare and Medicaid programs for the screening of prostate cancer for eligible men over age 40. The PSA test measures the level of blood protein called prostate-associated antigen found to be elevated in men with prostate cancer. Many experts feel that a digital rectal exam, and the PSA test, used in combination, is currently the most effective screening measure to detect early prostate cancer. This option for screening is also recommended by the American College of Radiology. Survival rates for prostate cancer have improved through the diagnosis of cancer at earlier stages of the disease, demonstrating the value of early detection.

Mr. Speaker, for the past few years, I have been active in pushing for increased research in women's health in order to develop a knowledge base to identify appropriate diagnostic, prevention and treatment methods in diseases prevalent in women. While much of our current research focuses on refining treatment strategies, there is also a pressing need for more basic research into understanding the causes of diseases. The same principles apply here. Prostate cancer rates have risen steadily since the 1970's, affecting 1 in 11 men, yet we still do not understand its causes. According to the American Cancer Society, cancer of the prostate is the second most common cancer in men, after skin cancer. This disease is also more prevalent in black American men, although again, the reasons for this remain unknown. Developing a research priority in this area will alleviate needless human suffering and the anguish of losing individuals unnecessarily to this disease. We must be diligent in our efforts to find the cause and cure for prostate cancer.

While we also work to increase awareness of the need for regular screening for prostate cancer, we must eliminate financial barriers which prevent individuals from seeking such tests. Not only will lives be saved, but unnecessary suffering and medical dollars will be spared by avoiding treatment of advanced stages of cancer. It is indeed a tragedy that our colleagues may still have been with us today had their cancers been diagnosed early.

Mr. Speaker, I urge my colleagues to join us in supporting both bills to allow for Medicare and Medicaid reimbursement of the best method for screening for early prostate cancer. The following abstract of a study published in the April 25, 1991, New England Journal of Medicine points to the value of the PSA test, used in combination with the digital rectal exam, as the best means for detecting early prostate cancer.

MEASUREMENT OF PROSTATE-SPECIFIC ANTIGEN IN SERUM AS A SCREENING TEST FOR PROSTATE CANCER

Background. Prostate-specific antigen (PSA) is secreted exclusively by prostatic epithelial cells, and its serum concentration is increased in men with prostatic disease, including cancer. We evaluated its usefulness in the detection and staging of prostate cancer.

Methods. We measured serum PSA concentration in 1653 healthy men 50 or more years old. Those with PSA values ≥4.0 µg per liter then underwent rectal examination and prostatic ultrasonography. Ultrasound-directed prostatic needle biopsies were performed in the men with abnormal findings on rectal examination, ultrasonography, or both. The results were compared with those in 300 consecutively studied men 50 or more years old who underwent ultrasound-directed biopsy because of symptoms or abnormal findings on rectal examination.

Results. Serum PSA levels ranged from 4.0 to 9.9 µg per liter in 6.5 percent of the 1653 men (107). Nineteen of the 85 men in this group (22 percent) who had prostatic biopsies had prostate cancer. Serum PSA levels were 10.0 µg per liter or higher in 1.8 percent of the 1653 men (30). Eighteen of the 27 men in this group (67 percent) who had prostatic biopsies had cancer. If rectal examination alone had been used to screen the men who had biopsies, 12 of the 37 cancers (32 percent) would have been missed. If ultrasonography alone had been used to screen these men, 16 of the 37 cancers (43 percent) would have been missed. Serum PSA measurement had the lowest error rate of the tests, and PSA measurement plus rectal examination had the lowest error rate of the two-test combinations.

Conclusions. The combination of measurement of the serum PSA concentration and rectal examination with ultrasonography performed in patients with abnormal findings, provides a better method of detecting prostate cancer than rectal examination alone.

VERY MILD ALZHEIMER'S DISEASE: INFORMANT-BASED CLINICAL, PSYCHOMETRIC, AND PATHOLOGIC DISTINCTION FROM NORMAL AGING

We compare clinicopathologic data from 10 subjects identified in the very mild stage of senile dementia of the Alzheimer type with findings from similar studies in four cognitively normal subjects. We based the diagnosis of very mild dementia in the 10 subjects on informant reports and the judgment of experienced clinicians. Deficits of some psychometric measures of memory, language, and speeded psychomotor performance were observed for these subjects. The histologic markers of Alzheimer's disease, including neurofibrillary tangles and both the "diffuse" and classic subtypes of senile plaques, were present in the neocortex in all 10 subjects but essentially were absent in the four controls. These findings indicate that even "questionable" dementia can be diagnostic for Alzheimer's disease. Furthermore, because truly normal aging may be unaccompanied by neocortical senile plaques and neurofibrillary tangles, the presence of these lesions should suggest the possibility of clinically undetected Alzheimer's disease.

ROLE OF M PROTEIN IN ADHERENCE OF GROUP A STREPTOCOCCI

The role of the M protein in adherence of group A streptococci to human epithelial cells was directly tested by using an isogenic pair of M· and M· strains. There was no difference between these strains in the number of streptococcal units that adhered to buccal or tonsillar epithelial cells, indicating the following: (i) that adhesins that are not dependent upon M protein expression are present on the surface of group A streptococci and (ii) that the M protein is not the primary streptococcal adherence ligand. However, the M· strain adhered to tonsillar epithelial cells as aggregrates. This aggregation was dependent on the presence of the M protein, since the isogenic M· strain did not clump. The coaggregation of streptococci suggests that the M protein plays an important role in promoting the formation of microcolonies after initial attachment. Binding to fibronectin, a potential epithelial cell receptor for group A streptococci, was also the same for the isogenic M· and M· strains as well as for an isogenic strain with a regulatory mutation that decreases the expression of M protein. In summary, the M protein is not the primary streptococcal adhesin, nor is it required to orient the streptococcal adhesin and/or fibronectin receptor.

NONINVASIVE DETECTION OF THE MORPHOLOGIC AND HEMODYNAMIC CHANGES DURING NORMAL PREGNANCY

To characterize the morphologic and hemodynamic changes during normal pregnancy, serial echocardiographic measurements (n = 210) of left ventricular (LV) dimensions and mass (M-mode), volumes and ejection fraction (two-dimensional), stroke volume, and cardiac output (Doppler: aortic, apical, and suprasternal) were performed in 15 patients (mean age 30 years) beginning as early as 12 weeks of gestation, at 2-week intervals through delivery, and up to 12 weeks postpartum. Left atrial size increased from 3.4 ± 0.4 (SD) to 3.8±0.4 cm near term, decreasing to 3.4 ± 0.5 cm postpartum (p = 0.006 overall). LV mass changes correlated with increases in body weight. No consistent significant changes in LV volumes and ejection fraction were observed. LV outflow tract cross-sectional area increased significantly from 3.0±0.2 cm^2 at baseline to 3.5±0.3 cm^2 near term, decreasing to 3.2±0.3 cm^2 postpartum (p<0.002 for both). Heart rate increased from 70±7 to 77±10 beats/min near term decreasing to baseline postpartum (p<0.02 for both). Accordingly, cardiac output increased significantly, as detected from

both the apical and suprasternal positions averaging from 4.7±0.6 to 6.5±1.5 l/min near term, returning to 4.3±0.6 l/min postpartum (p<0.0005 for both). Thus, in normal pregnancy, left artrial size increases significantly without significant changes in LV dimensions, volumes, and ejection fraction. Increased LV mass is related to increased body weight. Cardiac output changes result from increased heart rate and an increase in LV outflow area, which contributes to increased stroke volume. Doppler echocardiography permits accurate detection and timing of the morphologic and hemodynamic changes during normal pregnancy.

PONTIFICAL CONFERENCE ON DRUGS AND ALCOHOL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RANGEL. Mr. Speaker, I would like to recognize the tremendous effort made by some of our spiritual leaders in the war on drugs. A major international conference on drug abuse and alcoholism is being hosted by the Vatican in Rome.

A Select Committee on Narcotics Abuse and Control delegation had an audience with His Holiness John Paul II this August. He shared with us the plans for this conference, which includes participation of religious leaders as well as addiction and health care experts from around the world.

I would like to commend His Holiness for using his role as a spiritual leader to galvanize support for ending the human suffering caused by the abuse of illegal drugs and alcohol.

The committee has always encouraged religious leaders to become more active in the prevention of drug use as well as in the rehabilitative process. Indeed, many drug rehabilitation programs report that a spiritual element is often a critical part of the rehabilitative process.

It is so important for every facet of our communities, from religious leaders to school officials to community activists, to actively participate in this effort. I would like to encourage other religious leaders to also make fighting drug abuse an active part of their ministry.

I wish the conferees every success in their important goals of preventing the treating drug abuse.

RECESSION IN NEW ENGLAND

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. REED. Mr. Speaker, I recently hosted an economic development roundtable of city and town officials along with representatives of Rhode Island's State government and Federal agencies.

Sixteen of the 21 cities and towns in my district were represented, along with the Department of Commerce, Department of Transportation, Small Business Administration, Department of Labor and the Federal Reserve Bank of Boston.

The spokesperson for the Federal Reserve confirmed what we all know to be true. This country is in a recession. A recession that began in the summer of 1990, and which has not ended.

And the recession is worse in New England, including my home State of Rhode Island.

According to the Federal Reserve, New England has seen job loss of 8 percent during this recession—the worst job loss in any post-World War II recession.

The people around that table Saturday confirmed this with their experiences as city planners and administrators trying to meet the needs of their residents with declining Federal and State support.

I brought these officials together to talk about what Federal programs are available to help an economy rebound from recession and I hope that these city and town officials will be able to use what they heard on Saturday.

They asked for continuing support from programs like mortgage revenue bonds and low-income housing tax credits, an increase in community development block grant funds, and more flexibility in allocating funds for infrastructure development.

I hope and expect that in our final day of this session, we will be able to extend the Mortgage Revenue Bond Program, the low-income housing tax credit, the targeted jobs tax credit and other critical programs that give these local officials some support in their efforts to provide affordable housing and jobs within their communities.

But that won't be enough. We need support from the top, we need leadership from the White House.

A President whose veto has always been sustained has a lot of power. Today, I am calling on him to throw his support behind our efforts to help these communities and all our constituents recover from this recession.

TRIBUTE TO THE 100TH ANNIVERSARY OF THE YWCA OF BAY COUNTY

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TRAXLER. Mr. Speaker, I rise today to honor the Young Women's Christian Association of Bay County, MI as they celebrate their 100th anniversary on December 8, 1991. Bay County, located in my congressional district, has benefited from the fine programs of the YWCA. Just as Bay County has grown during the past one hundred years, so has the mission of the YWCA. Today it touches women's lives by many different programs such as family enrichment, parenting skills, day care, child abuse and neglect counseling, cancer recovery support, and other education services.

I am very proud of the YWCA, and its efforts to meet the changing needs of women in today's society. The home for the YWCA moved several times from its auspicious start in rented rooms at Sixth and Adams in 1891 where girls were taught classes on physical fitness. These sites provided housing for young women and served meals. A typical Saturday night menu for $0.10 included baked beans, brown and white bread, cake, and coffee.

In 1906, the association became a charter member of the YWCA of the United States of America. Five years later, the first Campfire Girls unit in Bay County conducted its organizational meeting at the YWCA and began its first summer camp. When 65 girls made their request for a camp, the board of directors rented a cottage near the Saginaw Bay shore on Killarney Beach. This venture was so successful that a campsite was purchased at Loon Lake, in Hale, MI. Camp Maqua opened on July 5, 1924 and operated until 1980. Today, the YWCA conducts Camp Meadows, a summer day camp program for children with special needs. The program affords youngsters the opportunity to participate in specially designed social, recreational, and educational activities.

After World War I, the YWCA board organized a committee to canvass house to house securing jobs for girls. Young men and women used the building as a rest hall result of the war. Time passed quickly to find that, in 1966, the name was changed to Young Women's Christian Association of Bay County, MI and its purpose was modified to more totally involve volunteers in its leadership and to include persons of all faiths and backgrounds.

To recognize the achievements made by women in career fields and community activities, a women's recognition dinner was established in 1982 and has been held every 2 years. A bronze bust of Princess Wenonah is a significant honor and one more example along with the enrichment programs and shape-up shop to help women successfully manage their lives.

The YWCA of Bay County offered something for everyone of all ages from day care center for young children to adults who are at risk for heart disease. In cooperation with Bay Medical Center Phase III, cardiac rehabilitation programs began; additionally, corporate memberships were offered to businesses to provide for employee wellness; Prevention of Abuse to Children was initiated by the YWCA to reduce the vulnerability of children to sexual abuse; the Mom and Me Program was developed to give pregnant and parenting teens educational opportunities in the areas of parenting and life management goals; the summer Family Enrichment Program provided parenting skills; the "Just Between Us," a monthly support group for women who have breast surgery was coordinated.

This is the YWCA of Bay County, today, responsive, visionary, and creative. Begun by pioneering women, it continues to function under the stewardship of insightful, talented people. To continue this progress, a capital campaign for $800,000 has begun with the theme "Celebrating Today * * * Shaping Tomorrow * * * The YWCA Second Century Initiative."

Please join me in wishing the YWCA of Bay County a very happy centennial celebration and best wishes for a prosperous future.

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THE REFORM OF CUSTOMS INSPECTOR COMPENSATION, RETIREMENT, AND OVERTIME

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RANGEL. Mr. Speaker, I rise in support of a bill I have introduced to reform the compensation, retirement, and overtime provisions for customs inspectors.

These hard-working men and women stand as the front line in the war against the illegal importation of narcotics and dangerous weapons. We generally see them only when we reenter the country from an overseas trip, but what we probably do not appreciate when they are inspecting our luggage is that they make approximately 70 percent of the narcotics arrests of the Customs Service. This can be very dangerous work, but these men and women have proven to be up to the task.

They also work long and hard hours dealing with the ever growing international trade and travel. Shipping by air and sea increases every year and the complexity of the modes of transport have grown with this explosion. There are more and more international travelers on both coasts and on both borders. The job of a customs inspector has become harder and harder.

Nevertheless, we have failed to recognize the appropriate needs of these loyal government servants. Instead of providing a respectable compensation and retirement package as we try to do for all Federal employees, we have kept their base pay relatively low and found ourselves using an 80-year-old outdated statute to govern the overtime pay of the customs inspectors.

The 1911 Act governing overtime pay for customs inspectors was enacted when most of the customs inspections were made on incoming ships. More often than not these ships came in at irregular schedules and frequently with perishable items. There was a constant need to keep inspectors on duty at all times and to call back inspectors for special duty. As the shipping and air transport business developed, the provisions of the 1911 Act resulted in unfortunately inefficient anomalies. Customs inspectors were sometimes being paid for overtime well in excess of the work done. More often, the management of the Customs Service used the provisions of the 1911 Act to assure a competitive compensation for its inspectors.

The result has been that inspectors have only been able to achieve competitive pay by working overtime. Through this back door scheme they have been unable to earn decent retirement pay. Their retirement pay, unlike others who face the criminal element, is not based on the plan for law enforcement officers, but on the regular Federal employee plan. This means they receive no credit for their overtime even though it is clear that they consider overtime as an essential part of their compensation package. Without counting overtime the retirement benefits for customs inspectors is entirely inadequate. As a result customs inspectors stay on the job longer than any other comparable law enforcement position. The fact that customs inspectors have the shortest life span in retirement of any Federal employee proves the point.

The time has come to treat those in the war against narcotics with the dignity they deserve. That is why I am introducing this bill. It would: Consider customs inspectors as law enforcement officers; provide that compensation serving as the base for their retirement benefit as law enforcement officers would include their regular overtime, but not to exceed $12,500 of overtime; Require any customs inspector opting to retire under the 20-year plan—the inspector being at least 50 years of age—would have to contribute the difference between the 7 percent the 7.5 percent contributions made by law enforcement officers in anticipation of a 20-year retirement option; and have the increased cost of the retirement benefits paid out of the Customs User Fee Fund, i.e., COBRA.

It would also amend the 1911 act to have: All overtime paid at the double time rate; the calculation of the hours to be considered overtime governed by established rules in the Federal Employee Pay Act [FEPA] used to calculate overtime hours; for Sunday and holiday work inspectors paid for a minimum of 4 hours at double time. (Under the 1911 Act there is a minimum of 8 hours at double time); for all call-back work inspectors paid a minimum of 2 hours—under the 1911 Act the minimum is 4 hours—with commuting time of 2 hours at time and one-half to be added to each call back; and all work that is an extension of a regular shift and in excess of the Sunday, holiday, and call back minimums to be paid as per FEPA in quarter hour increments regardless of whatever day the extension is undertaken. Under the 1911 Act most of this overtime had a 2 hour minimum.

The savings from the changes in the 1911 Act would be used to pay for the changes in the retirement program.

I think that it is high time that we treated customs inspectors as we treat other Federal employees who are in the front line against criminal elements with dignity.

A TRIBUTE TO STELIOS A. HAGIPEROS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, today I rise and ask my colleagues to join me in paying tribute to Comdr. Stelios A. Hagiperos, a valued and respected leader of Foster City, CA, who will be retiring from that city's police department this year.

Commander Hagiperos joined the Foster City Police Department as a police officer on May 1, 1972, after a career spanning 20 years with the U.S. Marine Corps. For almost 20 years, he served the department with honor and distinction.

Commander Hagiperos served in both the Vietnam and Korean wars with the Marine Corps. He was awarded two Bronze Stars with Combat "V," the Purple Heart, the Navy United Commendation with Star, and the Navy Achievement with Combat "V."

After serving his country with valor, Commander Hagiperos joined the Foster City Police Department. His career has been exemplary. As he rose in rank from officer to commander, he was cited for his bravery and skill on many occasions.

In 1974, the commander received a commendation for evacuating a family from a home next to a burning house. He then attempted to enter the burning structure but was driven back by the flames.

He was again commended by the department in 1978 for saving the life of a teenage girl who had attempted to commit suicide by hanging. Upon discovering the girl, he cut her down and employed CPR and mouth-to-mouth resuscitation, thus saving the girl's life.

In 1980, Commander Hagiperos was again commended for professionalism in directing a double homicide investigation which resulted in the arrest and subsequent conviction of two suspects.

Mr. Speaker, Commander Hagiperos is a man who has made a difference. His commitment to his country and to his community is nothing short of praiseworthy. When Commander Hagiperos was needed, he was there. On the occasion of his retirement, I ask my colleagues to join me in paying tribute to this fine American and in wishing him all the best in the future.

TRIBUTE TO JUDGE ROBERT S. GILBERT

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TRAXLER. Mr. Speaker, I stand to honor Chief Circuit Judge Robert S. Gilbert, who is retiring on December 31. He is a friend of mine who has served Michigan superbly as a State legislator, as a juvenile judge, and as a circuit judge. Bob has dedicated his life as a public servant to improving the Saginaw community. Today, there are many grateful parents and children who are forever thankful for the wise decisions that came from the court of Judge Gilbert.

Bob's presence has been felt in Saginaw ever since he graduated from the University of Michigan Law School, starting as assistant prosecuting attorney, and then practicing law as a private attorney in his father's firm of Gilbert & Gilbert. He followed proudly in his father's footsteps as an elected State representative for Saginaw in the Michigan State Legislature, where he served for 3 years. He is a member of the Saginaw County Bar Association, Michigan State Bar Association, Michigan Probate and Juvenile Court Judges Association.

Many good words about Judge Bob Gilbert can be heard in the courtrooms of Saginaw. After making laws and practicing law, Bob directed his efforts to serve Saginaw County from the bench. He was first elected to the probate court in 1966 and served on the juvenile court continually until 1980. In 1981, he was overwhelmingly elected to the circuit court, where he became chief justice in 1989. He was dedicated to due process of law within

the judicial system. Bob's even-handedness in rendering court decisions have been received by many families and individuals throughout the community.

Judge Gilbert is the son of Ellen Bernice Gilbert and the late Donald W. Gilbert. Bob made his home here after graduating from Arthur Hill High School in 1945 and matriculating from the University of Michigan in 1950. He received his LL.B degree from University of Michigan Law School in 1953. Bob served in the Army Air Force from 1946 to 1948. Bob and his lovely wife, Mary Lu, have raised a sterling family, Thomas, Nancy, and Patricia G. Weintraub. His strong ties to his Saginaw community are also rooted in his memberships with the First Congregational Church, Pioneer Club, Fordney Club, American Legion Post 439, and the Tawas Bay Yacht Club.

Please join me in saluting Bob Gilbert, a very fine public servant, and wishing him a prosperous future. I know the Saginaw legal community will miss you. I wish you and Mary Lu the best. May your future be filled with the health and happiness you so richly deserve.

PRIMARY HEALTH CARE INVESTMENT ACT OF 1991

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LLOYD. Mr. Speaker, today I am introducing legislation along with my colleague, Representative STEVEN SCHIFF, that will increase funding for community health centers over 5 years, and pay for the measure with a 0.2-percent cut in the Labor–HHS appropriation. The cost of the plan will total about $100 million a year. The legislation would extend primary coverage to an additional 8 million low-income Americans through community centers.

The legislation would also increase over 5 years the funding for the National Health Service Corps, which provides scholarships and loan programs to students entering medical school. Those students would agree to serve in areas experiencing shortages of doctors. It also would charge the incentives to teaching hospitals to encourage the hospitals to train more primary care physicians, as opposed to specialists.

Primary and preventative care services are those services normally seen to in a doctor's office and do not require hospitalization. They are the treatment of common illnesses before they become more serious.

Our health care system underinvests in these basic services. We need to reprioritize and invest more funding in primary and preventive care and build a better health care network. My bill will expand our primary care infrastructure to provide access to basic health care to over 8 million more Americans by 1996. Cost-effective primary and preventive services will no doubt help to reduce health care costs in the long run.

This Nation spends more on health care than any other industrialized country. Despite the alarming statistics, it has been documented that between 32 and 37 million Americans do not have access to health care because they do not have health insurance. In my own State of Tennessee, 644,000 fit this category. The uninsured are vulnerable to illnesses because they forego routine, but important, health care. Studies show that the uninsured are 50 percent less likely than the insured to seek certain primary and preventive services. Fortunately, in my congressional district, we have an effective program already in place. But the programs need additional resources if they are going to take up more of the huge unmet needs that exist. These centers are simply the most efficient primary care delivery systems available.

Finally, the bill would reorient certain payments to hospitals by Medicare for the costs of training medical residents. Payments would be based on a national average per resident amount, and hospitals would get 20 percent more for primary care residents than nonprimary care residents. This provision is budget neutral and would encourage hospitals to train more primary care physicians.

There is simply no other program that can reach so many people for so few dollars. This bill is only a small part of the health care package, but it is workable. Attached is a brief summary of the legislation.

PRIMARY HEALTH CARE INVESTMENT ACT OF 1991, SENATOR PETE V. DOMENICI—BRIEF SUMMARY

1. COMMUNITY HEALTH CENTERS

The proposal would increase authorized funding levels for Community Health Centers by about 20 percent each year over a five year period, effectively doubling the size of the program by 1996. The additional funding would allow health centers to serve over 8 million more patients by 1996.

COMMUNITY HEALTH CENTERS

[Dollar amounts in millions]

	1992	1993	1994	1995	1996
Funding	$580	$680	$830	$990	$1,200
Additional patients served (millions) [1]	.7	2.7	3.5	5.7	8.4

[1] Above 1991 levels.

2. NATIONAL HEALTH SERVICE CORPS

The proposal would also increase authorized funding levels for the National Health Service Corps by approximately 20 percent each year over a five year period, providing scholarships and loans to recruit an additional 620 physicians into the program in 1996.

NATIONAL HEALTH SERVICE CORPS RECRUITMENT

[Dollar amounts in millions]

	1992	1993	1994	1995	1996
Funding	$63.6	$76.3	$91.6	$109.9	$131.9
Additional scholarships[1]	50	110	180	260	350
Additional loans[1]	40	80	140	200	270

[1] Above 1991 levels.

3. REORIENT MEDICARE GRADUATE MEDICAL EDUCATION PAYMENTS

Medicare payments to hospitals for the costs of graduate medical education programs would be altered in a budget neutral manner. Payments would be based on a national average per resident amount, and payments for primary care residents would be 20 percent higher than payments for non-primary care residents.

THE MOSCOW SYNAGOGUE CHOIR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILMAN. Mr. Speaker, yesterday, Congressman LARRY SMITH and I were pleased to host a performance of the Moscow Synagogue Choir in the Rayburn foyer. They came to the Capitol as an expression of gratitude to the Congress for the congressional support of Soviet Jewry. This marvelous choir was organized by the American Jewish Joint Distribution Committee in 1989, in conjunction with the creation of a cantorial academy in Moscow. Yesterday's performance was also sponsored by the National Conference on Soviet Jewry, while our Senate sponsors for this performance were Senators LAUTENBERG and SPECTER.

The Moscow Synagogue Choir is in the midst of its American debut, having performed in Israel, France, England, and Canada. In Moscow, the choir sang "Hatikva", Israel's national anthem, at the opening ceremonies of the Israeli Consulate in Moscow. Its members also performed before President Mikhail Gorbachev at the nationally televised memorial concert for the three Soviet citizens killed during the failed coup attempt this past August.

Composed of talented musicians and singers from across the Soviet Union, the choir has revived the rich tradition of Russian-Jewish liturgical music suppressed for over 70 years. The choir and cantorial academy have given the Soviet Jewish community the first opportunity to publicly rediscover its Jewish heritage and express a religious identity. The choir's existence is a very real symbol of the renewal of Jewish religious practices in the Soviet Union, and serves as an inspiration for Jews throughout the Soviet Union.

Mr. Speaker, I had the pleasure of first hearing the choir perform at the Moscow Chorale Synagogue this past Rosh Hashanah. With yesterday's performance I can assure my colleagues that the choir's voice was heard throughout the halls of the Rayburn Building, and that everyone in attendance found it a most enjoyable interlude.

A CONGRESSIONAL SALUTE TO MR. GARY BINGAMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to an exceptional member of the California real estate industry, Mr. Gary Bingaman. On Wednesday, December 11, 1991, the Rancho Los Cerritos Board of Realtors will honor their outgoing president, Mr. Bingaman, for his many years of outstanding and dedicated service.

Mr. Bingaman became a member of the Rancho Los Cerritos Board of Realtors in 1977, serving as president-elect in 1990, and as a director since 1987. During this time, he

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

was also active in committee work, as a member of the BORPAC trustees and as chairman of the Budget and Finance, Education, Equal Opportunity, and Local Governmental Relations Committees. In addition, Gary has been a State director of the California Association of Realtors since 1988. As a State director, Gary has traveled extensively in California and the Nation attending all State and national conventions and quarterly meetings.

On November 30, 1990, Gary Bingaman was installed as president of the Rancho Los Cerritos Board of Realtors. Under his direction, the board has continued and expanded their community service programs. Gary was instrumental in establishing a project of which he is especially proud, the Canned Food Christmas Tree. President Bingaman encouraged each office within the board to construct a Christmas tree using canned goods, then the board donates these trees to the Salvation Army for distribution to needy families during the holidays. Another project undertaken by the board was the safety through songs program. This unique audiovisual program uses coloring books and cassette tapes to warn children of dangerous situations. This invaluable teaching aid has been endorsed by the Los Angeles County Sheriff's Department, as well as Mr. Bill Honig, the State Superintendent of Public Instruction.

The Rancho Los Cerritos Board of Realtors has grown and flourished under Gary Bingaman's tenure. He has increased their participation in community service programs and has maintained its high professional and ethical standards. On this very important occasion, my wife, Lee joins me in saluting Mr. Gary Bingaman, and offering our sincere thanks for his many contributions to the community. We wish him all the best in the years to come.

PROTECT AFRICAN ELEPHANTS—MAINTAIN THE IVORY AND ELEPHANT PARTS BAN

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SCHEUER. Mr. Speaker, today I am introducing a resolution to express the sense of Congress that we support the continued protection of the African elephant. The resolution calls on the United States to maintain its support for the international ban on all elephant parts and products.

The African elephant was near extinction because of killing by poachers and smugglers until 1989, when parties to the Convention on International Trade on Endangered Species (CITES) agreed to list the African elephant in its Appendix I, banning all international commercial trade in ivory and other elephant parts and products. Since the start of the ban, the ivory market has dropped significantly and the poaching of African elephants has declined. There is hope that the elephant population can recover, but only if the ban remains in place.

The fight to protect the African elephant is not over. At the next CITES meeting in March 1992, several countries may petition participating nations to allow a return of ivory trading in their countries. As a result, ivory prices have already increased and poaching is on the rise. Any legalized trade in ivory is an invitation to international dealers to revive the market for elephants which nearly drove them to extinction.

The resolution I am introducing today calls on the United States to continue its support for the unqualified listing of the African elephant in Appendix I of CITES. United States leadership in elephant protection was crucial to achieving the current ban on international trade in hides and other parts and products, and we must not let our support wane.

I urge all my colleagues to support and cosponsor this resolution.

A TRIBUTE TO YOUTH VOLUNTEERISM IN ORANGE COUNTY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILMAN. Mr. Speaker, last week I rose in the well of the House in order to bring to the attention of my colleagues the work being accomplished by numerous youth volunteers in my congressional district in Orange County, NY. As I pointed out last week, it is indeed an honor during this holiday season to inform my colleagues that service to others and to the community is alive and well, and is in fact flourishing in the mid-Hudson Valley in the great State of New York.

The services provided by these young people have included peer counseling, fire and substance abuse prevention, church, sports, and other community activity services, as well as numerous youth-in-government programs. There are more than 100 Orange County volunteer youth participants, including: Jennifer Frey, Darin Rojas, Jackie Kornisch, Tom Crumenaver, Bill Kunkel, and Joe Monahan.

Mr. Speaker, it is indeed an honor to recognize these caring, outstanding young people from our Orange County communities. These dedicated young people are an inspiration and are an example of what lies ahead for the future of our Nation.

Mr. Speaker, I invite my colleagues to join with me in offering our congratulations to all those who have volunteered their time in Orange County and let us challenge them to keep up their good work.

TAX REFORM ACT OF 1986

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MRAZEK. Mr. Speaker, I rise today to discuss two measures I have introduced in the last week that will go a long way to spark long-term investment in our beleaguered economy. One is a cut in the capital gains tax rate and the other is a reinstitution of the investment tax credit.

As you are aware, the Tax Reform Act of 1986 revised the treatment of capital gains by taxing capital gains at ordinary income tax rates. My proposal—H.R. 3859—would provide a sliding scale for exclusion of long-term capital gains. The longer the asset is held, the lower the tax rate. The exclusion for investments held longer than 6 years would be 33 percent. For assets held between 2 and 4 years, the exclusion would be 26 percent and for assets held less than 2 years, the exclusion would be 19 percent. It also includes a provision for indexing of capital gains for inflation.

By reducing the multiple taxation of savings in the Federal income tax system, lower capital gains taxes will help raise our abysmally low national savings rate and encourage investment in new and innovative ventures. Most industrial nations tax capital gains lightly, or not at all. A reduced tax burden on business investments implicit in a capital gains tax cut will help reduce capital costs for American businesses. This tax rate will encourage long-term commitments of capital to stimulate entrepreneurial venture and innovation and the creation of new employment.

In addition, I have introduced a bill to reinstitute the investment tax credit that was repealed in the Tax Reform Act of 1986. I am proposing a credit of 10 percent. I believe this change will stimulate the kind of business investment and innovation this country needs to maintain an international competitive edge as well as to increase productivity. It is my hope that this incentive will encourage businesses to reinvest in new technology and equipment that will produce quality products and keep America competitive in world markets.

THE ONGOING CONFLICT IN CROATIA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. REED. Mr. Speaker, I rise today on an issue of great importance to many of my constituents—the wanton violence and destruction occurring in Croatia.

By now we are all aware of the fate of Dubrovnik and other ancient cities such as Vukovar. Once beautiful cities, villages, and towns now lie in ruin. Buildings that have stood since the days of the Roman Empire are among the latest casualties of the nationalist fervor sweeping Eastern Europe, serving to demonstrate the intransigence of the Serbian government and the Yugoslav Federal Army.

But the tragedy in Croatia involves much more than the desecration of historic and religious architecture, it involves the death of thousands, the creation of tens of thousands of refugees, and the wrenching apart of families. Each day brings more photos of elderly women struggling along rubble strewn streets; families fleeing their basement shelters which can no longer withstand the barrages of artillery shells; and the bodies of young and old who are the bloody results of this hatred and violence. This war is an altogether unfortunate reminder of the carnage of World War II and an affront to the principles democracy and freedom.

To this point, European Community mediators have been unsuccessful in their attempts to broker a cease fire, although they have brokered and announced a number of such agreements. It remains to be seen whether the United Nations' efforts to end the fighting will succeed. I pray that they are successful. I also hope that we here in the United States strongly and actively support efforts to resolve this conflict in a peaceful and equitable manner. Thank you, Mr. Speaker.

MARTIN LUTHER KING DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILMAN. Mr. Speaker, next year on January 20, 1992, our Nation will once again take time to commemorate the birthday of one of our Nation's great leaders, Dr. Martin Luther King, Jr. Martin Luther King Day is a time for us to reflect and to appreciate the tremendous impact which Dr. King's leadership has had upon our Nation. It is a time to reflect that we must continually strive to protect and improve upon our nation's civil rights.

To list all of Dr. King's accomplishments would indeed be an extensive task; however, we have only to look at the situation in New York City, where there has been hostility and violence among the races, to know that Dr. King's work is far from over.

Martin Luther King Day is a time for rededication to carry on the mission essentially begun during the beginning of the civil rights movement with Dr. King's desire to achieve justice and equality through peaceful and nonviolent means. Martin Luther King Day, therefore, should not be only a time to reflect upon our past, but also a time to look to the future and to the changes that must be implemented to further the lofty ideals upon which our great Nation was founded—justice and liberty for all.

I would not presume to pretend that our Nation is a utopia of freedom and equality. The recent tragedy that took place in Jackson Heights, New York serves to remind us that the work of Dr. King is far from finished. Although we are deeply saddened that that situation could arise in our great Nation, it is hoped that we can learn from those tragic occurrences and continue to progress through education and the examples set for us by Dr. King.

In the words of Dr. Martin Luther King, Jr., "If you can't fly, run, if you can't walk, crawl. But by all means, keep on moving." Let us continue the great tradition of Dr. King's ideals both through appropriate commemoration of this national holiday and through legislation which reflects the ideals Dr. Martin Luther King, Jr., strove so valiantly and so diligently to achieve.

Accordingly, I urge my colleagues to encourage our constituents to join in participating in the many community activities in commemoration of the birthday of this notable leader, Martin Luther King, Jr., and to take the time to reflect on the many significant achievements of this inspirational civil rights leader, dedicating ourselves to more extensive civil rights progress in the days ahead.

A TRIBUTE TO BOBBY L. HILL

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BONIOR. Mr. Speaker, today I am privileged to congratulate an outstanding community leader and remarkable individual. On the evening of December 8th, Bobby Hill will be retiring from 20 years of service to the Mount Clemens Public Schools. I am proud to salute his fine accomplishments and even more proud to call Bobby Hill my friend.

As director of vocational and adult education for Mount Clemens Public Schools, Bobby Hill's dedication has proven to be a wellspring of hope and opportunity for people of all ages in our community.

For two decades, he has worked patiently and professionally to connect the classroom with the workplace. His strong faith in employment through education and training is underscored by his involvement with organizations such as the Macomb Area Work Education Council, Macomb County Community Housing Resource Board, the NAACP, and the Macomb County Employment and Training Advisory Council.

While a dedicated and thorough professional, Bobby Hill has been equally committed to the life of his community. He has served as a Mount Clemens city commissioner, Mayor Pro Tempore, and, among other responsibilities, remained active in the King School Parent Teacher Association and Kiwanis of Mount Clemens.

And, most recently, he became the first African-American to win a seat on Macomb County's Board of Commissioners. On all accounts, he has served our community with distinction, vision, and honor.

Mr. Speaker, through his dedication and commitment, Bobby Hill has touched countless lives as a teacher and an active, responsible citizen. On this special occasion, I ask that my colleagues join me in saluting the outstanding accomplishments of Bobby Hill and extend to him our best wishes for all his future endeavors.

HONORING STANLEY BLACK

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEVINE. Mr. Speaker, I rise today to congratulate my good friend Stanley Black on being selected to receive the Rabbi Edgar F. Magnin God and Country Exemplar Award from the Los Angeles Area Council of the Boy Scouts of America.

This prestigious award was established in 1981 to recognize Rabbi Magnin's life long dedication to America's youth. The award is presented by the Los Angeles Area Council to a citizen who best represents those qualities exemplar in the life and works of Rabbi Magnin, a man who imparted guidance to those he served and loved, and was noted for his continuous work for the good of all mankind. As a former Cub Scout and Boy Scout himself, Stanley knows firsthand the value of the Scouting experience. In recognition of the impact that Scouting can have on inner city youths, Stanley has given tremendous amounts of his time to chair and organize numerous events for the Los Angeles Area Council. He has helped to raise sufficient funds to enable the Boy Scouts to operate in neighborhoods where they are most needed, but which are least able to financially support an active Scout program.

Today, the Boy Scouts serve over 80,000 youngsters. Of these young people, 72 percent are minorities, 60 percent come from families at the poverty level, and 49 percent come from single parent households. Stanley has been extraordinarily supportive of the Boy Scouts in Los Angeles, and has been especially active in efforts to make scouting more accessible to youngsters in the inner city and from high-risk neighborhoods. The Boy Scouts offer these kids solid role models, and positive growth experiences.

In addition to his work with the Boy Scouts, Stanley is noted for his participation of numerous programs for the benefit of the Los Angeles community, and is well known for his time and support for organizations to help make the city a better place to live. He has been active in supporting many charitable organizations, including Vista del Mar, ORT, Cedars, Sinai, City of Hope, and Marymount.

Stanley is a lifelong resident of the Beverly Hills area, where he currently lives with his wife Joyce. They have three married children: Jack—also a former Boy Scout, Jill, and Janis.

Mr. Speaker, Stanley Black has made an exceptional commitment to the youth of Los Angeles. His tireless efforts to make the positive Scouting experience as accessible to as many boys as possible have had a tremendous impact on literally hundreds of young men. I urge my colleagues to join me in congratulating him receiving this great honor.

EXTENDING THE STEEL VOLUNTARY RESTRAINT AGREEMENT PROGRAM

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VISCLOSKY. Mr. Speaker, today, I am introducing legislation to help save the jobs of American steelworkers and protect the U.S. steel industry against unfair foreign trade practices. My bill, the Steel Trade Liberalization Program Extension Act, calls for an extension of the steel voluntary restraint agreement [VRA] program for 2.5 years after March 31, 1992, or until such time as a Multilateral Steel Accord [MSA] is ratified and implemented.

In the fall of 1989, when the VRA program was extended for only 2½ years as part of the President's Steel Trade Liberalization Program, the Bush Administration claimed the VRA's would no longer be necessary after March 1992 because there would be in place a so-called "international consensus" to prevent dumping, subsidies, and other unfair trade practices in global steel trade. Obtaining

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

an international consensus has since evolved into the MSA negotiations. However, these negotiations are currently stalled while primary attention is being focused on concluding a broader agreement in the Uruguay round of the General Agreement on Tariffs and Trade.

I am not convinced there will be a MSA agreement in place by the time the VRA program expires on March 31, 1992. Further, I believe it is essential to send a clear message to the President and our steel trading partners that we will not jeopardize American jobs or the health of our domestic steel industry by ending the VRA program until there is an acceptable MSA in place.

Specifically, my legislation calls for a maximum target import market share of 22.7 percent. Of this, 19.1 percent would be allocated to existing VRA countries and 3.6 percent to non-VRA countries; 22.7 percent represents the sum of the 20.2 percent market share in the original VRA program—which was also the congressional target share limit from 1984—plus 2.5 percent authorized in the extended VRA program for bilateral consensus agreement signers.

By setting a limit higher than the 20.2 percent, my bill enables Congress and the administration to maintain that an extension of the VRA program after March 31, 1992, represents a continued liberalization of steel trade. Fundamentally, this limit would put immense pressure on the non-VRA countries to come into the VRA program and/or to gain their support for a MSA that would eventually replace the VRA program. Setting such a target could also give leverage to the U.S. Trade Representatives in the ongoing MSA negotiations.

The 19.1 percent share for VRA countries represents a small decline in their allowable market share. Currently, they are permitted a 20.1 percent share of the U.S. market; however, 19.1 percent is the share the VRA countries had in 1989 when the VRA program was extended. While 19.1 percent represents a decreased market share for VRA countries, it should be noted that they have never reached their maximum under the extended VRA program. At present, their import penetration rate is about 15 percent of the U.S. market. Effectively, 19.1 percent would provide considerable leeway for VRA countries to expand exports to the U.S. without letting total U.S. imports increase dramatically in a stagnant and/or declining world market for steel. At the same time, the VRA countries could not become too comfortable with their shares, thus making them less supportive of achieving a MSA.

THE 25TH ANNIVERSARY OF THE NATIONAL HISTORIC PRESERVATION ACT

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEWIS. Mr. Speaker, Speaker, I rise today to recognize the 25th anniversary of the National Historic Preservation Act. Thanks to this act, many of this Nation's treasures have been preserved and made available to the public. Without it, many of these treasures would be lost.

During the 1996 summer Olympics, the eyes of the world will be on our city and State, Atlanta, GA. Because of this act, visitors will experience Georgia's important history.

Close to my heart is the Martin Luther King, Jr. historic district in Atlanta. What better place is there to learn about Dr. King's work than where he was born, where he worked and where he is buried.

It is the only historic district of its kind—dedicated to the history of the civil rights movement. It serves residents, business owners, and tourists. Last year, it was the tenth most frequently visited park service site in the country. Already this year, more than 2.6 million people have visited the King historic district. Within this historic district, important work in civil rights continues and is inspired by the legacy of Martin Luther King, Jr.

The National Historic Preservation Act will also be used to preserve 11 significant buildings on historically black colleges around the country—3 in Atlanta at Spelman, Morris Brown, and Morehouse Colleges.

In a rural area of our State the former Rosenwald School, which was built in the 1920's for the education and African Americans, will be restored as a community center and African-American history museum. This restoration preserves both a unique school building and the history of African Americans in the rural south. This restoration is made possible by the National Historic Preservation Act.

This act has made possible the preservation of stately homes, older urban residential districts, Indian ruins, and one-room school houses. It has made it possible that we all know more about country's history.

I am delighted to celebrate 25 years of work under the National Historic Preservation Act.

THE HOME SALE TAX FAIRNESS ACT OF 1991

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ARCHER. Mr. Speaker, today I am introducing legislation to correct a longstanding inequity in the tax treatment of home sales.

Under current law, if a taxpayer sells his or her principal residence at a loss, that loss may not ever be used to offset the taxpayer's income. On the other hand, if the taxpayer sells the same residence at a gain, that gain may be subject to tax. This is just another example of the "heads the government wins, tails the taxpayer loses" system of tax legislation

My bill, the Home Sale Tax Fairness Act of 1991, will rectify current law by permitting losses on the sale of a principal residence to be used to offset future gains on the sale of another principal residence.

THE FUTURE OF THE U.S. DEFENSE INDUSTRIAL BASE

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McCURDY. Mr. Speaker, on November 19, 1991, the Johns Hopkins Foreign Policy Institute sponsored a panel discussion on the future of the U.S. defense industrial base. As chairman of the Committee on Armed Services' special panel on the defense industrial base, I had the opportunity to participate in this discussion with Bernard L. Schwartz, chairman and chief executive officer of the Loral Corporation. Mr. Schwartz delivered an excellent speech on this important issue, and I think that my colleagues would be interested in his comments.

THE FUTURE OF THE U.S. DEFENSE INDUSTRIAL BASE

Thank you, Ambassador Nitze, and thank you, Congressman McCurdy, and ladies and gentlemen for joining us this evening for what I hope will be a provocative and constructive discussion about the U.S. defense industrial base.

As we look forward to Thanksgiving next week, we Americans have much to be thankful for. Above all, we are at peace, a blessed state not enjoyed by many of our fellow citizens around the world who are losing family and friends, home and homelands, in what seems like never ending regional strife.

Last Thanksgiving, this country was preparing for war. We feared biological and chemical weapons and the onslaught of a massive army inflamed by religious and ethnic fervor. Mercifully, Desert Storm was short lived and a resounding military and diplomatic success for the United States.

Many things contributed to our victory in the Gulf—public support, effective coalition building, superbly trained troops, and excellent win strategy, and finally, high tech weaponry that fit the mission and, critically important, worked. It all looked so easy that some might conclude that we do not need to insist on that much technology and that much readiness. Alas, the event proved the opposite.

Preparedness saved lives—and vigilance *is* the price of victory. The next regional conflict may not be so easy—we may not have six months to move our army or to train our troops. The next despot on the loose may *use* his Air Force, or *have* a Navy—or not mass his troops behind a fixed "Maginot" Line. It is ironic, therefore, that at the same time that our high tech weapons are the envy of the world, we are haphazardly dismantling the industrial base that created and produced them.

We have spent the last two years producing a hefty stack of studies documenting what many already knew viscerally—the defense industrial base is in trouble—the industry is financially ailing, investments in capital and research and development have been drastically reduced, talented people and capable subcontractors have quit doing business with the Pentagon, and many, including Secretary Dick Cheney and National Security Advisor Brent Scowcroft, are skeptical about our ability to maintain the high tech winning edge we displayed in Desert Storm.

To manage the industry right this time, we need a new partnership among the DOD, the Congress and the defense industry. This

would create a new compact that would lead to a more effective deterrent force at lower levels of defense spending.

The problem is not a smaller defense budget per se, though less overall spending will be achievable. But the requirement should drive the budget, not the other way around. This country can afford a proper defense and reap a peace dividend too, but this requires each partner's active cooperation. Otherwise, business as usual in the defense arena will cause a meltdown of this country's industrial base and therefore our ability to defend our nation.

Meanwhile, the massive restructuring of the defense industrial base is already well underway.

According to Secretary Cheney, during his tenure he has cancelled outright or terminated production lines on over 100 programs, eliminated 85,000 civilian jobs from the DOD and is in the midst of closing 300 bases and cutting active military personnel by over 500,000.

If all goes according to the current plan, by 1995, defense spending as a percent of the federal budget will have fallen from 27 to 18 percent, and defense spending as a percent of GNP will have fallen from 6 to 3½ percent. The defense expenditure bite out of our economy, and the level of active duty military personnel, is the lowest it has been since Pearl Harbor. This is not a *bad* thing. The Soviet super-power threat has diminished, and this country rightly deserves a peace dividend.

This country overarmed in the 1980s. The industry now has excess personnel and excess capacity to meet the new threat, so downsizing is the right thing to do. But we are going about it all wrong.

To quote Secretary Cheney again, "The good news is * * * we can safely restructure our armed forces. The bad news is that we have never, ever before * * * gotten it right. We've always blown it. Every time * * * when we've significantly downsized the force, we've ended up in such a hurry to demobilize that we've forgotten the fact that nearly always, sooner or later, we once again find ourselves in the position where we once again have to go to war."

In fact, with the crumbling of the Eastern Bloc, the world is less dangerous, but nevertheless less stable. Eastern Europe and the Soviet Union are hotbeds of regional conflict and the Middle East continues to be unpredictable. Some 20 nations will have ballistic missile capability—some with range ability to reach the continental territory of the U.S.—by the end of the decade.

Conclusion: Our nation's military requirements have not all dissolved along with the disintegration of the Soviet Empire.

Before I get into some concrete suggestions about what each of the three partners can do to bring some rationality to the industry downsizing, let me first try to dispel four popular myths that are being bandied about as cure-alls for what ails the defense industrial base.

Myth number one: We can maintain a viable defense industrial base by funding R&D but not production. This works nicely in theory but falls apart in practice because it underestimates the interdependence between production and engineering. R&D not translated into production is pure science, lacking the vitality of application. Defense capability requires production technology and experienced technicians. Engineering creativity does not end with the beginning of production; emphasis on value engineering—to make the product smaller, with more power, less costly—continues throughout its manufacture. The positive impact that manufacturing has on engineering cannot be underestimated.

Myth number two: Foreign dependency is not a problem—that our allies will always put the U.S.'s national security interests before their own and sell us all the advanced technology that we need when we need it. If you believe that, I have several magnificent bridges in my hometown of New York that I'd like to talk to you about. But, in all seriousness, the problem extends far beyond components and subsystems. For example, by 1994, Turkey will be the largest producer and exporter of F–16 aircraft in the world. Four countries—Korea, Turkey, Belgium and the Netherlands—will be producing F–16s. The F–16 line in Ft. Worth will be stone cold if we follow current plans.

I find it curious that at a time when aerospace is one of our largest exports and an area where the U.S. remains supreme, we are curtailing our labs and factories and then teaching the Japanese, Koreans, Taiwanese and others how to develop an indigenous aerospace industry to compete with us. This will be particularly onerous if our foreign policy interests no longer coincide with that of our F–16 producing allies. This same concern applies to A/C engines, components and other major systems.

This *is* a superb example of the free market forces at work, serving neither our national security nor our economic best interests.

Myth number three: Diversification into commercial businesses will be successful for defense companies and allow them to quickly convert back to military production when need be. This is the DOD's position as stated in its *Report on the Defense Industrial Base* to Congress release last week. To quote, "The ability of the base to meet future DOD needs will depend in large measure on the ability of individual companies to shift from defense to commercial production—and then back again, when required."

My experience does *not* support his thesis, nor does the general experience of the industry.

Loral, for one, will not diversify into the commercial market except where our unique technology provides a proprietary, unique advantage. Such opportunities for defense companies will be rare and will not sustain a broad policy. Defense electronics is what we know well and do best. Defense companies generally do not have the marketplace experience to move successfully into the commercial market.

The past record is not reassuring. Defense companies who have ventured into the commercial market have met with dismal and costly failure across the board. The U.S. is not like the Soviet Union, where excess defense capacity may fill a consumer or industrial need which is otherwise not being addressed by that backward economy.

Myth number four: That industrial Darwinism, or letting the free market forces prevail, will lead to a downsized defense industry that will meet future DOD requirements.

Quite to the contrary, free-market restructuring is often motivated by profit and return on capital considerations with little regard for long-term investment, or performance, or serving the country's national security needs.

WHAT THE DOD CAN DO

The DOD must take the lead in turning its adversarial relationships with industry and Congress into a partnership. The DOD must take the lead in determining future defense needs and what we need to fulfill those needs. It must plan more and better and share that information with Congress and the industry.

To this end, DOD should make itself into a world class customer. That means the DOD should:

(1) Change atmosphere from adversarial and predatory to cooperative. Much progress has been achieved—we must continue to work this problem of mutual partnership—particularly at the working levels.

(2) Provide more information about future DOD requirements so that contractors can invest their limited resources in DOD priorities. Even more important, plan and implement more consistently, on a multi-year basis, eliminating start and stops, and on and off again program behavior which destroys industry planning and intelligent investment.

(3) Reward good program performance with incentives; penalize poor performance with cancellations. Abandon price only competitions. Take past performance into account. This best-value concept is beginning to work in the Air Force—it needs more support across all the services.

(4) Eliminate uneconomic second sourcing particularly as resources shrink and we can barely afford one source because quantity buys are being sharply reduced. Common sense procurement policies must supplant legislated competition when it is applied as a knee-jerk reaction.

(5) Help U.S. defense companies market overseas. Expanded markets for U.S. defense systems strengthen our relationships overseas; lower the per unit costs for the DOD and contribute to a healthier industrial base at home. Exports of military hardware, within the framework of international arms limitation agreements, strengthen our national security by providing our government with an influence in foreign affairs. They also promote allied hardware standardization and interoperability and help our country's balance of trade. But, our industry faces international competition reinforced by a wide array of foreign government support, including direct marketing, low interest loans and guarantees, exclusionary contract provisions, demands for offset and work share. I understand the State Department has proposed loan guarantees of defense exports—a most laudable initiative.

(6) Reform the U.S.'s foreign military sales (FMS) program process. When selling to a foreign government, we are at the mercy of a selection process that is unclear and largely uncontrolled, and the role of the DOD as intermediary is undefined and lacks regulation. There are no rules that clearly address the fairness or adequacy of the process. Proposals flow through the intermediary to the customer, creating ample opportunity to manipulate and misinterpret contractor information without the knowledge or permission of the contractor. The resulting confusion is not only inefficient and costly, it is often counterproductive to the interests of U.S. companies who should be supported in their efforts to sell equipment internationally on a commercial basis.

I recommend that DOD immediately establish a joint DOD/industry team to address this issue, and in the meantime, establish interim ground rules. I can envision two possible solutions: the first would permit contractors to bid directly to the foreign government on a commercial basis with no "help" from the DOD. If this is not possible for national security reasons, we should establish a firm set of rules on the roles and actions of the relevant DOD agencies so as to secure an equitable and fair competition among all U.S. companies.

(7) Build provisions for an export version of new weapons system produced in the U.S. into the original contract. DOD's cooperation in working with contractors to determine what is releasable for export, particularly in the area of software and source code, will speed these systems to market.

(8) And, finally, resist attempts to reduce progress payments to match the limited benefits of lower interest rates, at least until the defense industry is restored to a fair return on investment.

All of these actions, taken together, will result in a healthier defense industrial base which supports DOD priorities, even as we downsize our national capacity.

WHAT CONGRESS CAN DO

(1) Cut back on excessive oversight and micromanagement. There were many questions about whether this country was getting its money's worth from its investment in high tech weapons. Desert Storm proved irrefutably that our investment paid off in spades. We might similarly ask if this country is getting its money's worth from the excessive hearings, voluminous requests for information and committees and subcommittees who all have their fingers in the defense pie. These oversight excesses are very costly.

(2) Encourage DOD to cancel programs that are no longer needed because the threat has changed or programs are not performing. Real, lasting cost cutting requires program cancellation and base closings. I admire Secretary Cheney's courageous efforts in this area, and I recommend that Congress support him.

(3) Institute multi-year funding to eliminate the costly chaos now prevalent in any industry planning.

(4) Support DOD and industry efforts to promote the export of U.S. weapons systems while focussing arms control on weapons of mass destruction. Such support should include formulating rules for source selection in the FMS process and providing low interest rate loans for export sales.

(5) Support an acceleration of the new IR&D ceilings, presently proposed to kick in over 3 years.

(6) Propose a more constructive tax policy, particularly as the code applies to delaying liability on profit from long-term defense contracts.

WHAT INDUSTRY CAN DO

Industry must shape up—improve productivity, improve quality, and make sure our conduct is exemplary.

We must put our financial house in order. Contrary to popular belief, defense is not a not-for-profit industry. We must only bid on programs where we can make money and perform on those programs so that we do make money. We must understand that performance is the key to success. Sloppy program management, cost overruns and schedule slips will lead to program cancellations, not to bailouts.

New programs are so large, complex and costly that we must look to more teaming and shared research and development, not only here in the U.S. but with overseas partners as well. We must only invest in those programs and technologies for which there is a real, and preferably funded, requirement. We must vigorously resist procurement practices that prey on our industry. And, finally, we must work in good faith with the DOD to bring about the truly revolutionary transformation of our defense industrial base.

I am absolutely certain this partnership can work—we certainly saw it during Desert Storm as military and contractor personnel worked side by side around the clock—animosities, paperwork, rules and regulations temporarily thrown aside in the face of a common enemy, and a common cause.

Today the DOD and industry, as well as every American who cherishes our freedom, share a common goal—to transform our defense industrial base into a smaller, but healthier producer of the world's finest weaponry for the world's finest peacekeeping force.

Now is the time for a new compact among DOD, Congress and the industry. Now is the time to end adversarial relations.

Finally, there are two issues that must be addressed as we restructure our industry. One is our nation's obligation to soften the cost of conversion.

Millions of Americans invested their careers, their talents, their lives in the defense industry. As we realize our national victory, let us soften the cost of family dislocation, ended careers and dismal reemployment prospects, worsened by a low growth economy. Part of our peace dividend should be applied to retraining programs, to extended unemployment insurance payments and to family health and insurance benefits in order to ease the extra burden caused by the shift from defense activities.

Secondly, it is not in our best national security interest to allow a free fall in the downsizing of our industry. A free fall may result in the best companies departing because the investment return is not favorable or the risks too high. We cannot leave to free market forces how the industry will be restructured. We will want, at the end, a viable industry consisting of good performers, creative management and innovative technology. I do not advocate the DOD choose winners and losers. What I am advocating is an industry environment that allows for fair treatment that will in turn allow a fair return on investment thereby encouraging a well balanced industrial base. And I am calling for a DOD initiative to work with industry to examine industrial base issues as we proceed to a smaller defense capability.

A CONGRESSIONAL SALUTE TO COUNCILMAN AND MRS. JOHN ANSDELL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDERSON. Mr. Speaker, on November 4, 1991, city councilman and Mrs. John Ansdell celebrated their 50th wedding anniversary. It is with great pleasure that I rise today to pay tribute to such an extraordinary couple.

City councilman John Ansdell was born in Vancouver, British Columbia, CAN, and met his wife-to-be, Irene, a native of Alberta, CAN, while serving in the Canadian Navy. They were wed on November 4, 1941.

In 1952, while traveling on vacation through the state of California the Ansdell's car broke down in the friendly city of Bellflower. Few people can turn one of life's little misfortunes into such a positive event, both for the Ansdells and the city of Bellflower. This is typical of their theory on life. So impressed by the people and area, the Ansdells returned to Canada and packed their belongings and relocated to this pleasant California city where they established A&D Upholstery. It was here in Bellflower that they wanted to raise their two sons, Allan and Garry.

John and Irene retired from the upholstery business several years ago. Although officially retired, John's work has not stopped. He has obtained a real estate license and is currently selling residential and commercial properties for Realty World Western Properties.

In April of 1982, John expanded his service to the Bellflower community to include serving as an elected member of the city council of the city of Bellflower. He is now in his third term as council member. He and Irene have officially represented Bellflower at numerous functions in Sacramento and elsewhere with the League of California Cities, the California Contract Cities Association, and the National League of Cities. John and Irene are also involved with many community clubs and organizations.

Mr. Speaker, my wife, Lee joins me in congratulating John and Irene Ansdell on their 50th wedding anniversary. We wish them, their children, grandchildren, and great-grandchildren all the best in the years to come.

CONGRATULATIONS TO THE AMERICAN HORSE SHOW ASSOCIATION ON THEIR 75TH ANNIVERSARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FISH. Mr. Speaker, seventy-five years ago, representatives of 50 horse shows under the leadership of Reginald C. Vanderbilt met in New York City to draw together the horsemen and horsewomen of the North, South, East, and West in a unity of intention to maintain clean competition and fair play in the show ring. Thus the AHSA was created, and in its fledgling years sported seven recognized divisions and such shows as the American Royal, Devon, and the National Horse Show as member competitions.

Today, the AHSA has 23 breeds and disciplines, 55,000 individual members and 2,500 member competitions. In the 75 years of its existence, the AHSA Rule Book has become the definitive guide to equestrian competition, and is so universal its specs are enforced even at unrecognized competitions. The Drugs and Medications office is a cornerstone to the AHSA's regulatory process, its program the model worldwide.

The awards program is one of the most extensive in the sports world, and includes a trophy collection that is unusually beautiful. An AHSA Horse of the Year Award or Zone award for many represents the pinnacle of excellence. AHSA-licensed judges, stewards, and technical delegates are the industry standard and are in demand for all types of equestrian competition.

As the Association approaches its 75th Anniversary on January 20, 1992, these accomplishments are an excellent reason for a celebration. I wish to commend the AHSA for its 75 years of commitment to upholding the welfare of horses, regardless of value, as a primary consideration in all activities; requiring that horses be treated with the kindness, respect, and compassion they deserve and never be subjected to mistreatment; ensuring that owners, trainers, and exhibitors or their agents use responsible care in the handling, treatment and transportation of their horses as well as horses owned and placed in their care for any purpose; providing for the continuous well-being of horses by encouraging routine inspection and consultation with health care professionals and competition officials to achieve the highest possible standards of nutrition, health, comfort, sanitation and safety as a matter of standard operating procedure; continuing to support scientific studies on equine health and stress-related issues; increasing education in training and horsemanship practices; requiring owners, trainers and exhibitors to know and follow their sanctioning organization's rules, and to work within industry regulations in all equestrian competitions; and reviewing and developing competition rules and regulations that protect the welfare of horses.

PITTSBURGH DESERVES ITS RECOGNITION AS AN EXAMPLE OF INTERNATIONAL EDUCATIONAL EXCELLENCE

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. COYNE. Mr. Speaker, I am pleased to inform the House that the Pittsburgh city school system has been singled out by Newsweek magazine as an example of international educational excellence for its innovative arts program.

In the December 2, 1991 issue of Newsweek, a very informative article reports on a survey of educational systems around the world which have been identified as pockets of excellence. While I regret that the schools of the United States only ranked in 2 of the top 10 rankings of the best educational programs, I am very proud that the city of Pittsburgh is ranked as one of the world's best school systems because of its efforts to make the arts an integral part of the academic program for all the city's middle and secondary schools.

Pittsburgh deserves its recognition as an example of international educational excellence because our city's schools have been willing to take up the challenge of making the arts an effective learning tool for American children. In 1983, Harvard University psychologist Howard Gardner, in his book "Frames of Mind," argued that artistic skills or talents are unique forms of intelligence which should be encouraged and developed along with other more traditional skills.

Leaders of the Pittsburgh school system recognized the potential this approach would have for unleashing the creative skills of the city's children. At a time when budgetary resources must be carefully targeted, the Pittsburgh school system has committed itself to making the arts a priority for the city's children. This effort has broken new ground in making the arts a part of every student's learning experience. The city of Pittsburgh has seized an opportunity to develop an innovative arts program that today provides the children of Pittsburgh with an improved ability to develop the cognitive skills needed in the modern world.

Mr. Speaker, I want to commend the efforts of Pittsburgh educators, parents and students for their dedicated efforts in support of the city's arts program. I hope that the Members of the House will take this opportunity to examine the Newsweek article on Pittsburgh's innovative educational artistic program. I request unanimous consent that this article be printed in the RECORD along with my statement.

[From Newsweek, Dec. 2, 1991]

SURELY FOR THE SPIRIT, BUT ALSO FOR THE MIND

In a section of Pittsburgh it would be ambitious to call lower-middle class, Westinghouse High School's concert choir gears up to rip apart a tape of its own work. "What did you hear?" asks teacher Linda Ross-Broadus. "We took breaths where we weren't supposed to," says one student. "And the correction?" "We should stagger our breathing." After a couple of minutes of critique, they try again. The differences are audible: clearer tone, better rhythm and pronunciation.

Helping students teach themselves is a major goal of Pittsburgh's innovative Arts PROPEL program. The name PROPEL is a loose acronym for production, perception and reflection—the three stages of learning in the PROPEL process. The program grew out of the work of Harvard University psychologist Howard Gardner, who argued in his 1983 book "Frames of Mind" that artistic "skills" or "talents" are actually separate forms of intelligence that should be nurtured in school along with more traditional subjects. Gardner was looking for a place to test his theories when Richard Wallace, Pittsburgh's superintendent of schools, offered his city as laboratory. PROPEL, Gardner says, is "art for art's sake and art for mind's sake."

In the five years since its inception, Arts PROPEL has turned the arts—often considered luxury subjects—into an essential ingredient of education. Pittsburgh is far from a rich district, but the city has nonetheless made a commitment to teaching three areas of the arts—music, visual art and creative writing—through PROPEL. The program is in place in all the city's middle and secondary schools. Students learn how to express themselves artistically and also how to solve problems and develop their work—what educators like to call "critical thinking." Teachers say they've learned as much as their students. "PROPEL has changed my teaching tremendously," says Ross-Broadus. "Before, I told them the problem and I corrected it—I did most of the talking. Now the students are taking charge of their work."

Training teachers in the PROPEL system is a major undertaking that won't be finished until the end of this school year, says program director Mary Anne Mackey. Teachers are no longer the sole judges of a student's progress. Key to the program is a portfolio that follows projects from first drafts to finished products. That's a much better indicator of progress, say PROPEL's boosters, than pop quizzes or projects alone. Karen Price, who teaches visual arts, has her students bring a "significant other"—be it boyfriend or girlfriend or parent—into class to help judge their progress. "I've had parents draw me a sketch of their child's work," she says. "They know and care what their kids are doing here."

No matter how it's measured, the work is impressive. One eighth grader, Hajara Bey, titled her portrait project "Puzzled." Half of the pencil drawing is a sober but realistic self-portrait. The other half of her face is composed of a drawing of jigsaw-puzzle parts with a few stray pieces headed toward the corners of the page. Her explanation: "I was very confused and heartbroken." She used pencil because "I trust it, and it makes me feel I have control over what I'm doing."

PROPEL has also injected new life into writing classes—a neglected part of the arts in many schools. Instead of routine assignments emphasizing grammar, students are asked to look to their experiences and imaginations. In a recent seventh-grade writing class at Greenway Middle School, the assignment was family stories. "There isn't anything we taught through drills, like grammar, that we can't teach through their own writing," says teacher Dan Macel. It was only the first week of the project and the students were still in the process of developing topics to write about. "We're painting pictures through words," Macel told his students. He asked if they had any interesting relatives. One girl mentioned her great-grandfather, an Indian. A boy talked about his great-grandfather, who came from England in 1889. A girl recalled her grandfather, who fought in World War II. Four boys with relatives in the military pulled their chairs together to brainstorm. At the end of the class, students eagerly shared ideas. It was a healthy workout for the mind—and the spirit.

LETTER OF AUNG SAN SUU KYI REGARDING HUMAN RIGHTS VIOLATIONS IN BURMA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, the United Nations' General Assembly is considering a resolution criticizing current human rights conditions in Burma, and the U.N. Commission on Human Rights is expected to adopt the resolution within a few days. The award of the 1991 Nobel Peace Prize to Aung San Suu Kyi, the leading Burmese dissident, has helped call attention to the lack of democracy in Burma and the tragic human rights abuses of the military regime.

In 1989 Aung San Suu Kyi wrote a letter to the United Nations Commission on Human Rights. That letter was written before she was placed under house arrest. Mr. Speaker, Aung San Suu Kyi remains under house arrest; she has not been permitted to communicate with the outside world.

Her letter has been published in today's issue of the New York Times. I ask that it be placed in the RECORD, and I urge all Members to read and give careful consideration to her courageous views. I also ask my colleagues in the Congress to join me in urging the U.N. Human Rights Commission to condemn the inhuman treatment of Aung San Suu Kyi and adopt a strong resolution condemning the violation of human rights by the Burmese regime.

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PEACE-PRIZE WINNER: FREE MY COUNTRY

(By Aung San Suu Kyi)

I. The chief aim of the National League for Democracy (N.L.D.) and other organizations working for the establishment of a democratic government in Burma is to bring about social and political changes which will guarantee a peaceful, stable and progressive society where human rights, as outlined in the Universal Declaration of Human Rights, are protected by the rule of law.

II. Those working for democracy in Burma would wish to differentiate between the "rule of law," which would mean the fair and impartial administration of legal rules—i.e., measures passed by a legally elected assembly after free and open discussions and debate—and the process of law and order, which merely involves the enforcement of arbitrary edicts decreed by a regime which does not enjoy the mandate of the people.

III. Those who believe in the sanctity of human rights do not reject the concept of law and order as such but they would wish to ensure that the law is not just "the will of the dominant faction" and that order is not simply "the reflex of an all-pervading fear." The majority of the people in Burma desire a state which preserves dhamma and abhaya—righteousness and absence of fear.

IV. The claim that human rights considerations have to be balanced against respect for the law would be valid only if the law ensures that justice is done and seen to be done. Decrees designed to expedite repressive measures against those who resist the erosion of rights recognized by the United Nations as essential for the foundation of freedom, justice and peace cannot be said to have either the moral force or the legal sanction necessary to elevate mere edicts to the status of just laws.

V. It has been the consistent policy of the N.L.D. to respect and uphold all just laws. At the same time the N.L.D. in common with the majority of the people of Burma recognize that those who wish to build a strong and peaceful nation have a duty to resist measure which attack the very foundations of human dignity and truth.

VI. The large numbers of political prisoners held in Burma today have been charged with so-called criminal offenses because of their efforts to uphold Articles 19, 20 and 21 of the Universal Declaration of Human Rights. Further they have been subjected to the kind of treatment which runs contrary to Articles 5, 6, 7, 8, 9, 10, 11 and 12.

VII. Neither the N.L.D. nor the people who demonstrate their support for the N.L.D. desire the kind of conflict and confrontation which can only bring more suffering on a populace already troubled by much political and economic hardship. Seeking understanding through dialogue and negotiations is an accepted principle of the democratic tradition to which the N.L.D. has been unswervingly committed since its inception in 1988.

VIII. Those who wish for an early and peaceful transition to democratic government acknowledge the validity of the statement that "to deny human beings their rights is to set the stage for political and social unrest." Their efforts are thus directed towards bringing about conditions which will avoid social and political unrest. However, their efforts have been hampered by the refusal of the authorities to respect the will of the majority.

IX. It is hoped that it will be possible for the U.N. Commission on Human Rights to obtain such conditions as would enable those with an interest in promotion human rights in Burma (in particular political prisoners) to express their views frankly without fear of reprisals on themselves, their families or their associates.

X. While realizing that they must depend on their own powers of courage, perseverance and fortitude to bring their struggle for a political system which will guarantee their human rights to a successful conclusion, the people of Burma look to the U.N. Commission to support the justice of their cause.

HIS LEGACY LIVES ON

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MICHEL. Mr. Speaker, I want to bring to the attention of my colleagues, the recent passing away of a truly great man, Mr. Burrus Dickinson.

Burrus Dickinson served as President of Eureka College from 1939 to 1954. At the time Burrus joined Eureka College, it had barely begun its recovery from the Depression and was $50,000 in debt. Fifteen years later, as the result of Burrus Dickinson's foresight and leadership, Eureka College had achieved financial stability. Today it is an institution of academic excellence.

Mr. Dickinson continued his participation in the Eureka College larger community by purchasing two local newspapers in the mid-1950's. He followed the philosophy of a country newspaper "* * * eschewing investigative reporting for positive news." As he himself once remarked, "If I see a problem, I'll get it corrected. Since I know the people, I can take care of it without having to put it in the paper."

Mr. Speaker, on behalf of the many students of Eureka College who through his efforts found knowledge through education, and the many citizens of Eureka whose lives he touched with his journalistic flair, I say thank you.

Mr. Speaker, at this point in the RECORD, I wish to insert an article which appeared in the Peoria Journal Star on November 20, 1991, "Eureka College Legend Burrus Dickinson Dies".

EUREKA COLLEGE LEGEND BURRUS DICKINSON DIES—FORMER PRESIDENT OF COLLEGE ALSO WAS A MAJOR BENEFACTOR

Burrus Dickinson, a man who embodied Eureka College to many, will be remembered as a great supporter of the college he led for 15 years and as a true gentleman. He died Monday at age 86.

Dickinson, Eureka College president from 1939 to 1954, was the great-grandson of the college's first president and was himself a graduate.

"He was almost Eureka College," said G. Raymond Becker, chairman of the board of trustees. "He was very dedicated to Eureka College and a good friend of the college."

Eureka residents said Dickinson lived a simple life in the house he grew up in at 113 Major. All the better, Dickinson explained once, to donate to the college.

His contributions were generous and he achieved a great deal of recognition in 1979 when he gave a $100,000 challenge gift to the school.

"He more than anyone has supported the college. He will be deeply missed as a trustee and as a friend," a college spokeswoman said.

"He was a great gentleman," said Becker, who will be a pallbearer at Dickinson's funeral Thursday. "We will miss him."

College President George A. Hearne, who also will be a pallbearer, was out of town and unavailable for comment Wednesday.

Dickinson, whose family was among the founders of both the town and the college, graduated from Eureka College in 1926 and subsequently received his master's degree in English literature and a doctorate in economics from the University of Illinois.

The college was $50,000 in debt and not yet recovered from the Depression when Dickinson took over in 1939.

It achieved financial stability, along with $250,000 to the endowment and $40,000 to the student loan fund, by the time he left in 1954.

Dickinson purchased the Woodford County Journal in 1937 and the Roanoke Review in 1955. He was a bachelor, and his newspapers and the college were his family.

He employed what he called a "country newspaper" philosophy in his editing and publishing duties, eschewing investigative reporting for positive news.

"If I see a problem, I'll get it corrected. Since I know the people, I can take care of it without having to put it in the paper," he once said.

He wasn't in it for the money either, charging up 5 cents a word for classifieds and $6 for annual subecriptions.

TO CALL ATTENTION TO A SPEECH BY CHARLES C. COLSON

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MCEWEN. Mr. Speaker, I rise today to call attention to a speech which addresses the problem of ethics in today's society. Charles W. Colson, chairman of Prison Fellowship, delivered these remarks to the Harvard Business School on April 4, 1991. His comments on the crisis of character in America call attention to the loss of what Edmund Burke called the traditional values of republican citizenship.

At a time when violent crime is at an all-time high, when the American family is being divided by drugs and divorce, when the Nation is focusing on the scandalous and scurrilous in Washington, Mr. Colson's words ring with truth and resonance.

I believe it would be worthwhile for every Member of Congress to examine this speech, and I, therefore, submit these words into the RECORD.

THE PROBLEM OF ETHICS

(By Charles W. Colson)

I think Harvard well deserves the reputation it enjoys of being a very liberal university—liberal in the best sense of the word, because you would have as a lecturer in the university, today, someone who is an ex-convict. Maybe that is not so inappropriate after all, as you look at what is happening on Wall Street and in the business community.

Perhaps, in the courses here at the business school, they should devote a little attention to what is happening in prisons. I spent three hours last week with one of your distinguished alumni who is headed off for four years of free room and board, courtesy of the United States Government, as I did.

Harvard also deserves the reputation for being a liberal university, in the best sense of the word, for inviting me to speak. For, over the last three years, I have written articles—that here at Harvard could be considered quite impertinent—in which I have described my views on why it is impossible to teach ethics at Harvard. I may touch on that briefly today, and I hope you will all accept it in good spirit. I will be prepared for your questions.

I'm no longer in politics. I've done my time, literally and figuratively. But, it's awfully hard not to watch what is happening in the political scene without a certain sense of dismay when we see the Keating Five—five United States Senators—tried, in effect, by their own tribunal. Just before that, another Senator, who happens to be a good friend of mine, Dave Durenberger, was censured by the Senate. I spent some time recently with Marion Barry, the former mayor of the District of Columbia, who was arrested for drug use. You look at South Carolina and Arizona and see scams going on in the legislatures that have been exposed by federal prosecutors.

I saw a press release in which the Department of Justice boasted, last year, that they had prosecuted and convicted 1150 public officials, the highest number in the history of the republic. They were boasting about it, yet I read it with a certain sadness because it seems that kind of corruption has become epidemic in American politics.

We see Congressmen, one after another: Coehlo, Wright, Frank, Lukens—both sides of the aisle—either being censured or forced out of office. We see probably the most cynical scandal of all—the HUD scandal—where people were ripping off money from the public treasury that was designed to help the poor. Then, we've seen more spy scandals during the past 5 years than in all previous 195 years of American history combined—people selling their national honor for sexual favors or for money.

Business is not immune. The savings and loan scandals are bad enough on the face of them, but the fact that they're so widespread has fostered almost a looter's mentality. Mr. Boesky, speaking at UCLA Business School five years ago, said "greed is a good thing," and ended up spending 3 years in a federal prison. Just last week, one of the major pharmaceutical firms was fined $10 million for covering up violations of criminal statutes.

It affects athletics. If you picked up a newspaper this week, you saw that Sugar Ray Leonard was just admitted for drug use. He's been a role model for lots of kids on the street. Pete Rose spent time in prison for gambling.

Academia has been affected. You probably noted that Stanford University President Kennedy was charged with spending $7,000 to buy a pair of sheets—they must be awfully nice bed linens—and charging them improperly to a government contract. On one day, a Nobel Prize winner was exposed for presenting a fraudulent paper, and the very next day a professor at Georgetown University was charged with filing a fraudulent application for a grant from the National Institutes of Health—this all during the past two weeks. Probably saddest of all, at least from my perspective, are the cases of certain religious leaders like Jimmy Swaggart and Jim Bakker, Bakker—whom I've also visited in prison—was prosecuted for violating what should be the most sacred trust of all; to speak for God and to minister to people in their spiritual needs.

The first question that comes to mind is whether these are simply examples of rotten apples, or of better prosecutors. Maybe you can dismiss these by saying, "this is simply the nature of humanity." I think it was Bishop Fulton Sheen, in paraphrasing G.K. Chesterton, who once said that the doctrine of original sin is the only philosophy empirically validated by 3500 years of human history. Maybe you dismiss this, too, and say, "this is just the way people are."

"Is there something of a pattern here?" is the question I pose to you today.

Time magazine, in its recent cover story on ethics, said what's wrong: "Hypocrisy, betrayal and greed unsettle a nation's soul." The Washington Post said that the problem has reached the point where "common decency can no longer be described as common." The New Republic magazine said, "There is a destructive sense that nothing is true and everything is permitted."

I submit to you that when The Washington Post, The New Republic magazine and Time magazine—which have never been known as bastions of conservative, biblical morality—begin to talk about some sort of ethical malaise, a line has been crossed and that these aren't simply isolated instances, but, rather, a pattern emerging in American life.

No institution has been more sensitive to this than Harvard. Former President Bok has given some extraordinary speeches decrying the loss of ethics in the American business community. I think some of you have seen the recent polls finding that business school students across America, by a 2 to 1 margin, believe that businesses are generally unethical. It's a very fragile consensus that holds together trust in our institutions. When most business school students believe there aren't any ethical operations, you begin to wonder if something isn't affecting us a lot more broadly than isolated instances of misbehavior that have been exposed.

I believe we are experiencing today in our country what I choose to call a crisis of character; a loss of what traditionally, through Western civilization, has been considered those inner restraints and virtues that prevent us from pandering to our own darker instincts.

If you look back through the history of Harvard, you'll see that President Elliott was as concerned about the development of character as he was about education. Plato once said, if you asked why we should educate someone, "we educate them so that they become a good person, because good persons behave nobly." I believe we should be deeply concerned about the loss of what Edmund Burke might have called the traditional values of republican citizenship—words that will almost sound quaint when uttered in these surroundings; words like valor, honor, duty, responsibility, compassion, civility—words which have almost fallen into disuse.

Why has this happened? I'm sure many of you studied philosophy in your undergraduate courses and, if so, you are well aware that, through 23 centuries of Western civilization, we were guided by a shared set of assumptions that there was a transcendent value system. This was not always the Judeo-Christian value system, though I think the Judeo-Christian values were, as Christopher Dawson the eminent historian wrote, "sort of the heart and soul of Western civilization."

It goes back to the Greeks and Plato saying that if there were no transcendent ideals, there could be no concord, justice and harmony in a society. There is through the 23 centuries of civilization—the history of the West—a strain of belief in a transcendent value system. Whether it was the unknown god of the Greeks, the Christ of the Scriptures revealed to the Christian, Yahweh of the Old Testament revealed to the Jew, or, as Enlightenment thinkers chose to call it, natural law—which I believe to be not inconsistent with Judeo-Christian revelation, this belief guided our conduct for 23 centuries until a great cultural revolution began in America.

This revolution took place in our country in the 1960s. Some think it goes back further. Paul Johnson—who happens to be one of my favorite historians—wrote the history of Christianity, the history of the Jews, and a classic book called "Modern Times". If you're not too busy with your business school studies, it's a wonderful history of the 20th century. Johnson said all of this began in 1919 when Einstein's discovery of relativity, in the field of physical sciences, was confused with the notion of relativism in the field of ideas. Johnson says that gradually, through the 1920s and 1930s, people began to challenge what had been fixed assumptions by which people lived—the set of fixed and shared common values.

In the 1960s it exploded. Those of you who were on college campuses in the '60s will well remember that the writings of Camus and Sartre invaded American campuses. Basically, they were what Camus said when he came to America and spoke at Columbia University in 1947. To the student body assembled, he said, "There is nothing." The idea was introduced that there is no God and God is dead. In this view, there is no transcendent value; life is utterly meaningless and the only way that we can derive meaning out of life is if we overcome the nothingness of life with heroic individualism. The goal of life is to overcome that nothingness and to find personal peace and meaning through your own autonomous efforts.

Most of the people of my generation dismissed what was happening on the campuses as a passing fad—a protest, it was not. The only people who behaved logically in the '60s were the flower children. They did exactly what they were taught; if there was no other object in life than to overcome the nothingness, then go out and sniff coke, or smoke pot, make love and enjoy personal peace.

Then, America came through the great convulsion of Watergate and Vietnam—a dark era—and into the '70s. We thought we shook off those protest movements of the '60s. We did not—we simply embraced them into the mainstream of American culture. That's what gave rise to the "me" decade.

If you look at the bestsellers of the 1970s, it's very revealing. The bestselling books were "Winning Through Intimidation," "Look Out For Number One," and "I'm Okay, You're Okay." Each of these were saying, "don't worry about us." We emerged into a decade that Tom Wolfe, the social critic, called "the decade of Me." Very logically, that graduated into the 1980s and what some have cynically called "the golden age of greed."

Robert Bellah, a professor at the University of California, wrote a book—a take-off on the title from Tocqueville's classic work on American life—entitled "Habits of the Heart." Bellah tried to examine the values of a couple of hundred average middle-class Americans. He came to the conclusion that the reigning ethos in American life, in the '80s, was what he called "ontological individ-

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ualism," a radical individualism where the individual is supreme and autonomous, and lives for himself or herself. He found that Americans had two overriding goals: vivid personal feelings and personal success.

Bellah tried to find out what people expected from the institutions of society. From business, they expected personal advancement. Okay, that's fair enough. From marriage, personal development. No wonder marriages are in trouble. And from church, personal fulfillment! But the personal became the dominant consideration.

Now, I would simply say—and I'll try to be as brief with this as I possibly can—that this self-obsession destroys character—it has to! All of those quaint-sounding virtues I talked about, that historically have been considered the elements of character, are no match for a society in which the exaltation and gratification of self becomes the overriding goal of life.

Rolling Stone magazine surveyed members of the baby boom generation, to which many of you emerging leaders in this room belong. 40% said there was no cause for which they would fight for their country. If there's nothing worth dying for, there's nothing worth living for. Literally, the social contract unravels when that happens, and there can be no ethics.

How can you have ethical behavior? The crisis of character is totally understandable when there are no absolute values. The word "ethics" derives from the Greek word ethos, which literally meant "stall"—a hiding place. It was the one place you could go and find security. There could be rest and something that you could depend upon; it was immovable.

"Morals" derives from the word "mores," which means "always changing." "Ethics" or "ethos" is the normative; what ought to be. "Morals" is what is. Unfortunately, in American life today, we are totally guided by moral determinations.

So, we're not even looking at ethical standards. Ethical standards don't change. It's the stall, it's the ethos, it's the environment in which we live. Morals change all the time. So, with shifting morals, if 90% of the people say that it's perfectly all right to do this, then that must be perfectly all right to do because 90% of the people say it is. It's a very democratic notion.

Ethics is not—cannot be—democratic. Ethics by its very definition is authoritarian. That's a very nasty word to utter on any campus in America, and particularly at Harvard, where Arthur Schlesinger has written a magnificently argued assault on the perils of absolutism.

In a relativistic environment, ethics deteriorates to nothing more than utilitarian or pragmatic considerations. If you're really honest with yourselves and look at the ethical questions you're asked to wrestle with in your courses here at Harvard, you will see that you are being taught how to arrive at certain conclusions yourself, and to make certain judgments yourself, that ultimately are going to be good for business. That's fine, and you should do that. That's a prudential decision that has to be made and that's being a responsible business leader. It isn't just ethics and shouldn't be confused with ethics.

I studied Locke, the Enlightenment, and social contract theories as an undergraduate at Brown, and had a great respect for the political process. I also had a well-above-average I.Q. and some academic honors. I became very self-righteous.

When I went to the White House, I gave up a law practice that was making almost $200,000 a year (and that was back in 1969, which wasn't bad in those days). It's kind of ordinary now for graduates of Harvard Business School, but then it was a lot of money.

I had accumulated a little bit of money and took a job in the White House at $40,000 a year. So I took everything I had and I stuck it in a blind trust at the Bank of Boston. Now let me tell you, if you want to lose money, that's the surest way to do it! After 3½ years, when I saw what the Bank of Boston had done to my blind trust, I realized I was a lot poorer when I came out of the government than I was when I went in to the government.

But there was one thing about which I was absolutely certain—that no one could corrupt me. Positive! And if anybody ever gave me a present at Christmas time, it went right to the driver of my limousine. They used to send in bottles of whiskey, boxes of candy and all sorts of things. Right to the driver of my automobile. I wouldn't accept a thing.

Patty and I were taken out on someone's boat one day. I discovered it was a chartered boat, and ended up paying for half of it because I didn't want to give the appearance of impropriety. Imagine me worried about things like that!

I ended up going to prison. So much for the categorical imperative. The categorical imperative says that with our own rational process we will arrive at that judgment, which, if everyone did it, would be prudential and the best decision for everyone. In other words, that which we would do, we would do only if we could will it to be a universal choice for everybody.

I really thought that way and I never once in my life thought I was breaking the law. I would have been terrified to do it because I would jeopardize the law degree I had worked four years at night to earn. I had worked my way onto the Law Review, Order of Coif and Moot Court—all the things that lawyers do—and I graduated in the top of my class, I wouldn't put that in jeopardy for anything in the world!

Yet I was so sure. But, you see, there are two problems. Every human being has an infinite capacity for self-rationalization and self-delusion. You get caught up in a situation where you are absolutely convinced that the fate of the republic rests on the reelection of, in my case, Richard Nixon. I'm sure that next year people will think the same thing about George Bush. There's an enormous amount of peer pressure, and you don't take time to stop and think, "Wait a minute. Is this right by some absolute standard or does this seem right in the circumstances? Is it okay?"

I had a great respect for the law. When I went through law school, I had a love for the law. I learned the history of jurisprudence and the philosophy underlying it.

I was taught to think clearly and carefully. As a lawyer that's what you do—you briefcase it, you spend four years in law school and you go like a monkey. You're briefing cases, briefing cases. We used the case method, as you use the case method here in business. The case method in law school, however, is a little bit different because you always have a fixed conclusion, so at least I knew there was a fixed law that you would arrive at. I had all the mental capacity to do that. I was capable of infinite self-delusion.

Secondly, and even more importantly—and this goes to the heart of the ethical dilemma in America today—even if I had known I was doing wrong, would I have the will to do what is right? It isn't hindsight. I have to tell you the answer to that is no.

The greatest myth of the 20th century is that people are good. We aren't. We're not morally neutral. My great friend, Professor Samenow, happens to be an orthodox Jew. I asked him one day, "Stan, if people were put in a room and no one could see what they were doing or no one knew what they were doing, would they do the right thing half the time and the wrong thing half the time? Would they do the wrong thing all the time, or would they do the right thing all the time?" He said they would always do the wrong thing.

We aren't morally neutral. I know that's a terribly unpopular thing to say in America today, but it happens to be true. The fundamental problem with learning how to reason through ethical solutions is that it doesn't give you a mechanism to override your natural tendency to do what is wrong. There's nothing that makes your will. This is what C.S. Lewis says—whose writings have had such a profound influence on my life.

Tom Phillips, my blessed friend who is with us today, gave me the book, "Mere Christianity," when I came to him in the summer of 1973 at a moment of great anguish in my life. I wasn't so worried about what was going on in Watergate, but I knew I didn't like what was going on in my heart. So, I went to see him and visited him one evening. Something was different about him.

I went, and that was the evening that this ex-Marine captain, White House tough guy, Nixon hatchet man (and all kinds of things you can't write about in print or wouldn't say in polite company that I was called in those days—much of it justifiably) found myself unable to drive the automobile out of the driveway when I left his home that night, after he had told me of his experience with Jesus Christ. I was crying too hard.

I took that little book he had given me, "Mere Christianity," and began to read that and study it as I studied for a case. I'd take my yellow sheets. I still use them. Yellow legal pad. Get down all the arguments—both sides. I was confronted with the most powerful mind that I had been exposed to, I saw the arguments for the truth of Jesus Christ and I surrendered my life 18 years ago. My life has not been the same since, and can never be the same again.

I discovered that Christ coming into your life changes that will. It gives you that will to do what you know is right, where even if you know what is right—and most of the time you won't—you don't have the will to do it. It's what C.S. Lewis wrote in that tremendous little book, "Abolition of Man." I'd love you to read "Mere Christianity," but if you had to read just "Mere Christianity" or "Abolition of Man" for today's cultural environment, read "Abolition of Man." Wonderful book.

I don't know how to say this in language that is inclusive, but he wrote a marvelous essay called "Men Without Chests." I can't say "men and women without chests." I can say "persons without chests," I guess. It's a wonderful article about the will. He said the intellect can't control the passions of the stomach except by means of the will—which is the chest—and that we make geldings and then bid them to multiply. We mock honor and then we are alarmed when there are traitors in our midst. He was talking about the loss of character, in 1947 and 1948, long before the results we are witnessing today of the loss of character in American life.

So much for the individual. What about society as a whole? Margaret Thatcher delivered what I consider to be one of the most remarkable speeches in modern times 2½ years ago before the Church of Scotland. You'll only find it reprinted in the Wall Street Journal. Margaret Thatcher said basically—and I'll paraphrase what was marvelous, eloquent speech—that the truth of the Judeo-Christian tradition is infinitely precious, not only because, she said, I believe it to be true—and she professed her own faith—but, she said, it provides the moral impulse that causes people to rise above themselves and do something greater than themselves, without which a democracy cannot survive. She went on to make the case—I think quite convincingly—that without Judeo-Christian values at the root of society, society simply can't exist.

Our founders believed this. We were not formed as a totally tolerant, neutral, egalitarian democracy. We were formed as a republic with a certain sense of republican virtue built into the citizenry, without which limited government simply couldn't survive. No one said it better than John Adams.

There are four ways in which that moral impulse works. Someone sent me a letter suggesting the topic for this speech, "Why Good People Do Bad Things." I didn't have time to write back and say I really think that it would be more appropriate to address "Why Bad People Do Good Things" because that's a more difficult question.

Why do we do good things? If we live in an age of ontological individualism, if radical individualism is the pervasive ethos of the day, if we simply live for the gratification of our senses, of our personal success and vivid personal feelings, why do anything good? Who cares? It won't make a particle of difference unless its important to your balance sheet. But that's pragmatism, that isn't doing good things. That's pure utilitarianism.

First, we do good things because there is something in us that calls us to something greater than ourselves.

I work in a ministry in prisons—not a very glamorous place to be. I visited three prisons this weekend. I was so moved in one prison because there were 600 inmates that came out and saw their lives change. Now those were people who were lost and forgotten. I also saw the 50 volunteers who go in there regularly. One man stood up and said, "Ten years ago I was in this prison and two of your volunteers came in, Mr. Colson, and they befriended me, this couple from Akron, Ohio." He said, "You know, they've been visiting me every month and writing to me ever since, for 10 years." He continued, "I get out of prison in September and they've invited me to live in their home." He said, "I'm going to make it."

Why do people do that? Why do they go to the AIDS wards? One of my friends goes into the AIDS wards of a prison all of the time, and people die in his arms. Do we do it because we have some good instinct? No! It's a moral impulse.

Why did William Wilberforce stand up on the floor of the Parliament in the House of Commons and denounce the slave trade? He said it was barbaric, and cost himself the prime ministership of England when he did it! But, he said, "my conscience is held captive to the revelation of God. I have no choice as a Christian!" He spent the next 20 years battling the slave trade and brought it to an end in England because of his Christian conscience. What informs our conscience?

What is it that makes us, as otherwise self-centered people disposed to evil—if my friend Stan Samenow and the history of the 20th century and civilization is correct—what is it that makes us do good?

Secondly, I think Margaret Thatcher's absolutely right. I believe that a society can not survive without moral consensus.

I tell you this as one who sat next to the President of the United States and observed our nation's fragile moral consensus during the Vietnam era. We did some excessive things, and we were wrong. But we did it feeling that if we didn't, the whole country was going to fall apart. It was like a banana republic having the 82nd Airborne down in the basement of the White House. One night my car was firebombed on the way home. They had 250,000 protesters in the streets and, with the smell of tear gas and busses, you almost wondered if the White House was going to be overrun.

The moral consensus which holds the country together was in great peril during that era, and during the entire Watergate aftermath of Vietnam. A free society can't exist without it.

Now, what gives it to us? Aquinas wrote that, without moral consensus, there can be no law. Chairman Mao gave the other side of that in saying that mortality begins at the muzzle of a gun. Every society has two choices; whether it wants to be ruled by an authorization ruler, or whether there can be a set of shared values and certain things we hold in common which give us the philosophical underpinnings of our value system in our life.

I submit to you that without that—call it natural law if you wish, call it Judeo-Christian revelation, call it the accumulated wisdom of 23 centuries of Western civilization—I don't believe a society can exist.

The reason we have the most terrible crime problem in the world in America, today, is a simple reason: we've lost our moral consensus. We're people living for ourselves.

We have doubled the prison population in America during the 1980s. We are today number 1 in the rate of incarceration per capita in the world. When I started in Prison Fellowship 15 years ago, we were number 3. We trailed the Soviet Union and South Africa. Today we're number 1! While we build more prisons and put more people in, the recidivism rate remains constant at 74%. Those people come right back out.

The answer to it is very simple. There are kids being raised today from broken families who are not being given values. Remember that Stanley Hauerhouse said the way you foster ethics is in tradition-formed communities. They're not being given values in the home, they're not being given values in the school, they're watching the television set for 7 hours and 36 minutes a day, and what they're seeing is "you only go around once, so grab for all the gusto you can." Now if that's the creed by which you live, then at 12 years old you're out on the streets sniffing coke. We arrest them and put them in jail. They think we're crazy. So do I.

Until you have some desire in society to live by a different set of values, we'll be building prisons in America until, as is the case today, 25% of the black inner-city population in America is either in prison or on probation or parole. Can't make it without that moral consensus. It will cost us dearly if we can't find a way to restore it.

Professor James Wilson, formerly at Harvard Law School, wrote one of the most telling pieces I've ever read, and I refer to it in one of my books, "Kingdoms in Conflict." He wrote a primer, while he was here at Harvard, about the relationship between spiritual values and crime. It is really interesting.

The prevailing myth is that crime goes up during periods of poverty. Actually, it went down during the 1930s. He found that, during periods of industrialization, it went up as what he called Victorian values began to fade. When there was a resurgence of spiritual values, crime went down. He saw a direct correlation. Crime was going up whenever spiritual values were declining; whenever spiritual values were going up, crime was going down. it's a lack of a moral consensus.

Third, I think we often miss the basis of sound policy because we have become secularized in our views in America, and afraid to look at biblical revelation. We're terrified of it.

When Ted Koppel gave the commencement speech at Duke University a few years ago, in which he said the Ten Commandments weren't the Ten Suggestions, and that God handed the Commandments to Moses at Mt. Sinai, you know what the press did to him. It was horrible. A fellow like Ted Koppel couldn't possibly say something like this! So we blind ourselves to what can often be truth.

I have spoken to over half of the state legislators in America. I just met with the Lieutenant Governor of Ohio last Friday, and have spoken with many of the political leaders around this country. I always make the same argument to them about our prisons. We have way too many people in prison. Half of the prison population is in for non-violent offenses, which to me is ludicrous. They should be put to work. People should not be sitting in a cell at a cost of $20,000 a year to taxpayers while doing absolutely nothing, and while their victims get no recompense. Offenders ought to be put in a work program paying back their victims. Whenever I speak about that, the response I get from political officials is amazing. It really is.

In the Texas legislature, I gave that talk and they all applauded. Afterwards the Speaker of the House said, "Mr. Colson, wait here. I'm sure some of the members would like to talk to you." They came flooding in afterwards. They all said that restitution is a wonderful idea—where did that come from? I asked, "You got a Bible at home?" They said, "Have I got a Bible at home?" "Well," I responded, "you go home and dust it off and you'll see that's exactly what God told Moses on Mt. Sinai."

That's biblical truth. That's the lesson of Jesus and Zacchaeus. We blind ourselves to it because we think there's something wrong with that in today's tolerant society, a pluralistic society that ought not to be wrong. We ought to be seeking that out. If we can find wisdom, find it. So often we find wisdom in the teachings of the Holy Scripture.

Fourth, no society exists in a vacuum. Vacuums don't remain vacuums—they get filled. In a vacuum, a tyrant will often emerge. You've just seen 70 years of that crumbling in the USSR. Isn't it interesting that when it crumbles, it so often crumbles because people have an allegiance to a power above the power of that earthly potentate?

I remember when Pope John Paul II said that he would return to Poland if the Soviets invaded. Years earlier, Stalin had said, "Hah! The Pope! How many divisions does he have?" Well, as a result of the Solidarity movement we saw how many divisions he had—a whole lot more than the Soviets.

I remember getting on a plane and coming up to Boston to see our first grandson when he was born, back in 1961. A man got up in the aisle of the plane and was all excited to see me. He said, "Chuck Colson!" He was blocking the people coming behind me, so I finally got him into his seat. He looked oriental and I didn't know his background. He was talking so fast that I couldn't understand him. To make a long story short, he introduced himself as Begnino Aquino.

Aquino told me that when he was in jail for 7 years and 7 months, as a political prisoner of Marcos, he had read my book "Born Again." He was in a prison cell and had gotten down on his knees and surrendered his life to Jesus Christ. He said after that his entire experience in prison changed. Well, Nino and I became pretty good friends. We did some television programs together and we visited frequently.

He called me up one day and said "I'm going back to the Philippines." I said, "Nino, do you think that's wise?" He said, "I have to. I'm going back because my conscience will not let me do otherwise." He was safe here in America, he had a fellowship here at Harvard, he could lecture anywhere he wanted, and he lived here with his wife in Newton. They had everything they could possibly want.

But, he knew he had to go back to the Philippines. "My conscience will not let me do otherwise." He said, "If I go to jail, it'll be okay, I'll be president of Prison Fellowship in the Philippines." He said, "If there are free elections, I'll be elected president. I know I can beat Marcos. And if I'm killed, I know where I'll be with Jesus Christ." He went back in total freedom. He never got off the plane, as you know. He was shot and killed.

But, an extraordinary thing happened—what's known as people power. People went out into the streets. The tanks stopped. People went up and put flowers down the muzzles of guns and a tyrant was overthrown. A free government was reasserted because people believed in a power above themselves.

I was in the Soviet Union last year and visited five prisons, four of which had never been visited by anyone from the West. I met with Soviet officials. It was really interesting. I met with Vadim Bakatin, minister of interior affairs—who has since been sacked because he was too liberal. When talking about the enormous crime problem in the Soviet Union, he said to me, "What are we going to do about it? I said, "Mr. Bakatin, your problem is exactly the one that Fyodor Dostoyevsky, your great novelist, diagnosed. In "Brothers Karamozov," he had that wonderful debate between the older brother, who is unregenerate, and the younger brother, Alexis, who is the priest, over the soul of the middle brother, Ivan. At one point, Ivan yells out and says, "Ah, if there is no God, everything is permissible. Crime becomes inevitable." I said, "Your problem in the Soviet Union is 70 years of atheism." He said, "You're right. We need what you've got. How do we get it back in the Soviet Union?"

All I could think was how foolish we are in America to be squandering our heritage. In a country where they've ignored the king of greater power for seventy years, they're losing it all.

I can only leave you with a very simple message, as someone who had thought he had it all together and attained a position of great power. I never thought I'd be one of the half dozen men sitting around the desk of the President of the United States, with all of that power and influence. I discovered that there was no restraint on the evil in me. In my self-righteousnese, I was never more dangerous.

I discovered what Solzhenitsyn wrote so brilliantly from a prison, that the line between good and evil passes not between principalities and powers, but it oscillates within the human heart. Even the most rational approach to ethics is defenseless if there isn't the will to do what is right. On my own—and I can only speak for myself—I do not have that will. That which I want to do, I do not do; that which I did, I do not want to do.

It's only when I can turn to the One who this past weekend we celebrated—who was raised from the dead—that I can find the will to do what is right as best that I'm able to discern it. It's only when that value and that sense or righteousness pervade a society that there can be a moral consensus. I would hope I might leave with you, as future business leaders, the thought that a society of which we are a part—and for which you should have a great sense of responsibility and stewardship—desperately needs those kind of values. And, if I might say so, each one of us do as well.

Thank you.

TRIBUTE TO MS. ARLINE M. NEAL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. NORTON. Mr. Speaker, today I rise to acknowledge the achievements of a remarkable person, Ms. Arline M. Neal, immediate past president of the Service Employees International Union's Local 82. Local 82 is a 4,000 member SEIU affiliate that represents a cross-section of the District of Columbia's service industry.

Ms. Neal joined Local 82 in 1946 and six months later became its secretary/treasurer, a post she held until the late 1960's. Because of her skillful and untiring organizing efforts, Ms. Neal is in large part responsible for the expansion of Local 82's membership from a few hundred in 1946 to its current membership.

In 1949 Ms. Neal eagerly participated in the campaign to desegregate the District's downtown restaurants. Her efforts were rewarded when in 1953 the Supreme Court affirmed the validity of the city's Equal Services Act. Ms. Neal's effort in this fight is particularly significant because her family lived in fear of direct reprisal.

Ms. Neal has experienced much that would defeat a person of less dedication and courage. In the late 40's, she participated in a strike that saw the police raid a house where strikers ate their meals, claiming it unlawful to serve blacks and whites together.

Ms. Neal also has given generously of her time and energy to support over 30 organizations providing valuable social services to the Washington community. She is the founder of the District of Columbia Foster Grandparents program; she has represented the District on the Mayor's Correctional Advisory Committee for DC Penal Institutions; the Model Cities Commission; the Washington Urban Coalition; Family and Child Services of Washington; DC Commission on the Status of Women; the Mayor's Task Force on Construction Problems; and the Minimum Wage Board.

Under Ms. Neal's leadership, Local 82 has worked on numerous civic and political projects, including a program to train and hire unemployed youth to provide services for the elderly. She helped open the building trades to minorities and women by establishing the pre-apprenticeship program, Project Build and served on the DC Central Labor Council and Human Resources Development Institute at the AFL–CIO.

Mr. Speaker, because of the many tangible improvements and great benefits Ms. Neal has unselfishly made to our society, I ask my colleagues to join me in recognizing a truly remarkable woman whose tireless efforts have improved the lives of many.

SUPPORT FOR THE VETERANS TRANSITION FRANCHISE INITIATIVE (VETFRAN)

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. EDWARDS of Texas. Mr. Speaker, as a Member of the House Veterans Affairs Committee, I rise in support of a new and unique initiative designed to assist America's veterans, who have sacrificed so much for our Nation, find opportunities in small business franchise ownership. The program is called the veterans transition franchise initiative [VETFRAN] and was created by one of my constituents, a Waco, Texas entrepreneur and Korean War veteran Don Dwyer.

VETFRAN is sponsored and supported by the International Franchise Association (IFA) and the Small Business Administration (SBA) and is designed to help the veteran make an easier transition from the military to the civilian sector.

On November 7, 1991, just prior to the first veterans day following the Persian Gulf War, this program, which can help millions of veterans, was announced at the National Press Club in Washington, D.C., to make each and every veteran in America aware of the opportunities presented by VETFRAN.

Under the program, more than 100 member companies of the International Franchise Association are offering veterans either a reduced franchise fee or market-rate financing for up to half the fee. The Small Business Administration will provide management and financial counseling and offer loans to eligible Vietnam and disabled veterans.

All veterans have until August 15, 1993, to apply to the program. Armed Forces members returning to civilian life between now and that date will have two years from the date of discharge to apply.

The Nation's franchise companies and more than 500,000 franchised businesses account for more than one-third of all retail sales in the U.S., and they should be commended for rising to the challenge of creating business opportunities, self employment and employment opportunities for the hundreds of thousands of armed services members who will be returning to private life in the near future.

I want to commend Don Dwyer for his vision and tenacity in bringing this far-sighted program into reality. He is an example of the kind of patriotic, can-do entrepreneur that has

made our country the greatest land of opportunity in the world.

I urge my colleagues to join me in strongly supporting this small business initiative, and to encourage our veterans to consider participating in this business opportunity.

NATIONAL ADOPTION WEEK 1991

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEHMAN. Mr. Speaker, Congress has once again passed legislation designating the week of Thanksgiving as "National Adoption Week." I strongly support this effort again this year to heighten awareness of the positive benefits of adoption.

All children deserve to grow up in loving families. Unfortunately, too many children in the U.S. continue to grow out of childhood without permanent, nurturing families. In this country, there are over 350,000 adoptable children, and an estimated 2 million individuals and couples hoping to adopt a child. Our inability to ensure the adoption of all legally available children with families is a national disgrace. We have failed to make placement of these children in adoptive homes a child welfare priority. Education is still needed to inform the public and those who work in the child welfare sector of the value of adoption for the well-being of children first, and second, to meet the desire of adoptive families to build a family through adoption or to enhance a "home-grown" family through adoption.

Since the mid-1980s, homelessness, AIDS, teen pregnancy, alcohol abuse, and the widespread crack cocaine epidemic have combined to overwhelm the child welfare system. Reports of child abuse and neglect have more than doubled over the past decade. Simultaneously, foster-care case loads have been rising while the number of available foster families has declined. "Boarder babies," the offspring of drug-addicted or AIDS-infected mothers are being abandoned in hospitals in horrifying numbers. Preventive and support services have grown by only 54 percent between fiscal years 1981 and 1990, while costs for the Federal Foster Care Program rose by 122 percent. In addition, the maze of adoption laws—in no two States are the laws exactly the same—inhibit prospective parents from adopting children supported by public agencies, provide disincentives to the State agencies for releasing children for adoption, and thereby increase the human and financial costs of adoption.

Yet even in the honest attempt to help these children there are further pitfalls. For instance, there is the so-called distinction between special needs and other adoptable children. I believe that all children without a home are special needs children. Physically healthy children at substantial child abuse and mental health risk have been relegated to second-class status by such false distinctions within an already overburdened child welfare system, where statistics on even the number of children in foster care are sketchy at best. As a result of a penny wise, pound foolish fiscal and social attitude, we are condemning thousands of children to hopeless childhoods in often serial temporary foster care homes, creating long-term emotional and psychological dysfunctions.

While the idea of helping these children and would-be parents has broad bipartisan appeal, meaningful Federal assistance has not yet been forthcoming. President Bush noted the urgency of the problem and promised, in his 1991 State of the Union address, to help create a tax deduction for special needs adoption expenses only; no action has been taken. Ten years ago I first introduced legislation addressing the costs of adoption. This legislation, "The Fairness for Adopting Families Act," H.R. 1515, which would allow a modest tax deduction for some adoption expenses, has been placed in limbo year after year. It is time for a major commitment on the part of the Federal Government, especially the legislative branch, to move in support of avenues which provide children with permanence and a sense of stability in their lives, enabling them—and our society—to thrive.

I believe that we should refocus our national priorities and take special interest in representing our children, with emphasis on their needs and rights. Child advocacy means that children, especially those without adults to advocate for them, have rights of their own.

We have not done very much to encourage the development of healthy families, despite a lot of lip service to this ideal. We forget that there are many children who do not live in permanent homes with loving, nurturing parents. Each child—whatever their needs—has a right to a home. And Thanksgiving, that traditional time of coming home to celebrate the joys of being a family, is the most appropriate time possible to commemorate the great successes which have evolved from that simple act of adopting a homeless child.

Mr. Speaker, as the President signs this legislation into law this week, let us urge him to support substantive legislation to really make a difference in the lives of our children and to save them from a life of despair that has already befallen too many.

FUND CAREER GUIDANCE AND COUNSELING

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DORGAN. Mr. Speaker, we have finally passed the Labor, Health and Human Services, and Education appropriations bill. While most of the vocal controversy surrounded Title X appropriations, I would like to address another issue—funding for career guidance and counseling.

No funding was provided for comprehensive career guidance and counseling programs. Although the National-State Occupational Information Coordinating Committees received $5 million, an increase of just over $100,000 from last year, we are still not providing the financial support to individuals who need help in making career decisions.

We know that such help is invaluable. The national survey of working America, a Gallup poll, noted that 65 percent of adults would get more information about job choices if they could go back and begin their work lives again. In particular, they would request help in identifying jobs in their communities, gaining job skills, and receiving job placement assistance.

As we face a poor economy and as jobs in this country continually become more complex, it is especially important that we provide job counseling to both young people and adults who are changing their career direction. If we do not provide career guidance and counseling programs, we are hurting both job seekers and the job market which demands highly skilled and trained workers.

I hope to see adequate funding for career guidance and counseling programs as we consider future appropriations.

THE PROCUREMENT AND CONTRACT ADMINISTRATION INTEGRITY ACT OF 1991

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MAVROULES. We all are aware that even the slightest perception of government employee abuse can affect public confidence in the Government and undermine support for Government programs. This real concern has led to the adoption of a complex maze of post-employment and procurement integrity statutes which are intended to ensure the integrity of the Government's decision-making processes by restricting former government employees' ability to influence their former associates, cash in on previous associations to get favorable treatment, or take advantage of information they gained while in Government to now aid the other side in negotiations or a proceeding against the Government. While well meaning, the various legislative enactments have not resulted in clear guidelines of ethical conduct in public service.

For this reason, we decided to attack this maze head-on, by attempting this year to reform and refine the statutes dealing with procurement integrity and post-employment restrictions. The committee spent over 6 months this year negotiating first with the House Committees on Government Operations, Judiciary and Energy and Commerce, to come up with a compromise we could put in the Fiscal Year 1992 DOD Authorization bill. Although they were reluctant to deal with this on the DOD Authorization bill, as opposed to separate legislation, they agreed, in the interest of trying to fix this maze once and for all, to negotiate a comprehensive package of amendments to the post-employment and procurement integrity provisions. The staff of the four committees spent endless hours drafting a comprehensive package that would stream-line and clarify the existing statutes, and make them Government-wide in application so that employees of one agency were not treated differently than those of another agency. The fruits of this initial drafting process were introduced by me earlier this year in the form of a bill, H.R. 3467, so that people could see where we were headed and provide comments to us on this approach.

Then we tackled trying to negotiate something with the Senate, and the silent third party to those negotiations—the executive branch. After 2 months of negotiating, providing the Department of Defense and other Government organizations copies of the drafts as they were developed, on the very eve of the close of conference on the DOD Authorization Act, DOD came back to us and said it preferred current law—the maze, to either the House or Senate proposal. At that point we were left with little time and DOD officials gave us no hope that we could negotiate something that DOD would find acceptable. Because of the Department's view that they preferred current law to the House or Senate proposals, we believed we had no choice but to drop all of the language that we had been negotiating.

I believe the Department made the wrong decision. It's true, there was some expansion in the scope of contract administration people covered by the provision—but there was a shrinkage as well. Yes, some of the provisions now currently applicable to the Department of Defense were made Government-wide—but we proposed repealing so that officials working in Defense and Energy would be treated the same as those in other agencies. Furthermore, both the DOD and Government-wide provisions were modified to make them less onerous than current law.

And, we made a number of very minor but significant changes to the procurement integrity statutes that clarified the application of the law—so everyone would have a clearer understanding of exactly what the rules were and how these rules would apply to them.

Was the House proposal perfect—no, of course not. But was it an improvement over current law? While not going as far as some would have hoped in balancing the interests of individual employees and their employment rights after leaving government service, others of my colleagues believed that the House proposal went too far—that it does not sufficiently protect the integrity of the procurement process. Yet, although it was not something they as individuals would have supported, in the interest of improving existing law and reaching a compromise of, in many cases, the very different views of how stringent the restrictions ought to be, my colleagues and I agreed to offer this compromise proposal.

For their efforts and cooperation I want to extend my deepest appreciation to the Chairmen of the Committees on the Judiciary, Government Operations, and Energy and Commerce, and to their staffs, who despite representing often conflicting member interest, met for hours on end to develop this proposal. All of these individuals met in good faith to do what they could to address the problems people had raised with existing law, and to make one last effort to offer a new statutory construct that protects the integrity of the procurement process in a way that was less burdensome on the individual government employee.

On balance, I believe this proposal to be a quantum improvement over existing law. But, as I have said, DOD believed otherwise. Maybe I am too close to this language to make an honest assessment. For that reason, I have today, along with Congressman JOHN KYL, who was also deeply involved in the resolution of this issue, introduced a bill that reflects the product of our work—the last House proposal aimed at resolving this issue.

I encourage everyone to review this language and determine for themselves whether this proposal was better than the current maze of laws and regulations. This year my colleagues and I made a special effort to reach a consensus on a proposal to resolve this issue. I'm not sure whether we'll be able to reach an agreement next year, or whether it will bear any resemblance to the proposal the House offered this year—that is the chance that people took in rejecting the offer proposed this year. But in the event Congress were to pursue reform again next year, I believe it is important to continue to seek comments from anyone who may have an interest in this complex issue and may have specific suggestions on how to further refine this proposal.

STATE MEDICAID FINANCING; PRESERVING A NECESSARY EVIL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDERSON. Mr. Speaker: The Medicaid system is facing a deep and systemic crisis. The escalating cost of health care, increasing Federal mandates on State Medicaid programs, and the rising number of poor receiving Medicaid have threatened to bankrupt States and push the Federal Government deeper into deficit spending. States, in an effort to meet the fiscal requirements of rising Medicaid costs, have turned to raising funds for Medicaid by collecting voluntary contributions and provide specific taxes from health care providers, such as hospitals. These funds are above and beyond regular Medicaid taxes. States then return this "tax" or "contribution" to the health care provider in the form of a Medicaid payment, which must be matched by the Federal Government. These contributions and taxes do not raise new revenues for Medicaid from providers, but merely re-classify existing resources to increase Federal matching funds.

The Health Care Financing Administration [HCFA] views these State financing schemes as means to defraud the Federal Government. Their proposed regulations would eliminate Federal matching payments for State funds raised through voluntary contributions and provider specific taxes. While I support restructuring the Medicaid system, HCFA's proposal would restrict Federal funds without reducing the costs associated with Medicaid. This proposal would put States between a rock and a hard place. The Federal Government would force States to comply with mandates on their Medicaid programs in order to receive Federal funds, while simultaneously restricting the States' ability to raise the money necessary to cover these expenses. HCFA thus attacks State financing schemes, but ignores the fundamental reason why Medicaid expenditures have risen; mandates on State health care coverage imposed by the Federal Government. I urge my colleagues to reject HCFA's one-dimensional reform by supporting H.R. 3595. This will give States and the Federal Government the time to work for true Medicaid reform.

HCFA's proposal would reduce Federal Medicaid funds from between $1 to $1.5 billion in 1991. My own State of California would be devastated by these regulations. Over the last two years, the number of eligible Medi-Cal beneficiaries has grown by 800,000, causing the cost of uncompensated care to rise to $4 billion in 1991. HCFA's regulations would reduce L.A County's Federal Medicaid funds by $300 million alone. California will have no choice but to reduce reimbursement rates for health care providers. As a result, hospitals that treat a disproportionate share of Medicaid patients will be forced to close. This will drastically restrict health care access for thousands of poor Californians.

The Federal Government should work with the States by encouraging them to develop innovative strategies that will reduce Medicaid spending. But effective reform must be comprehensive. The administration's proposal ignores this fact by attacking State financing schemes without considering ways to reduce Medicaid costs. Blaming the States for escalating Medicaid costs is not the answer to reducing Federal expenditures. This ill-conceived approach merely reflects the administration's failure to take responsibility for reforming our health care system. We must work with the States, not against them, to enact meaningful Medicaid reform.

THE FERTILITY CLINIC SUCCESS RATE AND CERTIFICATION ACT OF 1991

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WYDEN. Mr. Speaker, today, along with our colleague NORM LENT of New York, I am introducing legislation to correct problems Congress has been investigating for over 4 years—but which remain as fresh as this morning's newspaper. I am speaking of the need for accountability and regulation in the multi-million dollar testtube baby industry.

There can be no doubt that infertility has become a significant social problem. Each year, almost 5 million American families must cope with infertility, only half of whom will eventually succeed in bearing children. And if Nature's demands were not enough, today's Washington Post carries a four-page special article describing a daunting array of obstacles facing any couple who seeks medical assistance to have children.

While many fertility clinics are honorable and caring, too many have misrepresented professional credentials, engage in questionable advertising, and misused reproductive technology.

Mr. Speaker, based on the public record and sworn congressional testimony, I believe the public expects Congress to act to bring accountability to this burgeoning sector of the health care industry. Listen to the way this week's Time magazine closes its own article on abuses by a Virginia fertility doctor:

"The disturbing case of Dr. Jacobson underscores a problem that has plagued the booming field of infertility medicine. Doctors can claim to be experts on the basis of scant experience or training. There is no board certification and little regulation. Now [Dr.] Jacobson has single-handedly made it time for the Federal Government and organized medicine to crack down on those who prey on the infertile."

The infertility industry, particularly the practice of in vitro fertilization, has been booming, as Time put it, ever since the birth in 1978 of Louise Brown, the first test tube baby.

Today, as many as 1 in 6 American couples are infertile, and they spent an estimated $1 billion last year on infertility treatments.

Despite the incredible growth rate and pace of technical innovation, for many American couples this miracle of modern medicine deteriorates into a gambler's nightmare of financial losses and emotional anguish. Charges as high as $10,000 a month will buy only about a 1 in 10 chance of having a baby with in vitro fertilization. Congress has been told that some of the approximately 175 or so known IVF clinics have never produced a baby.

Many couples who are desperately seeking to conceive never hear these sobering statistics. Instead, they are bombarded with advertising claims which tout success rates of 30, 40, 50 percent or more. They don't know that only a handful of clinics are responsible for the vast majority of successful IVF births. They don't know that there's no one watching to make sure that these facilities meet even minimal quality controls.

As Chairman of the House Small Business Subcommittee on Regulation, I've held several hearings since 1988 that uncovered many disturbing examples of exploitation of couples made vulnerable by a lack of objective information. Testimony from these hearings has convinced me that even under the best of circumstances, infertile couples already face invasive medical procedures, the risk of dangerous complications, and low success rates. Frustrated couples, many at an emotional breaking point, should not also be forced to confront those who would exploit their faith in modern medicine.

In March 1989, the subcommittee published the first-ever list of success rates of fertility clinics across the country. The demand for this publication has exceeded anything this Member has witnessed in his years in Congress, attesting to the enormous public interest in this issue.

Shortly after the subcommittee's initial hearings, the Federal Trade Commission announced that it was opening an inquiry into the fertility business. The Federal Trade Commission moved quickly to charge two infertility clinics with misrepresenting their success rates in advertisements. Both of the companies, one of which was among the largest infertility programs in the United States, touted success rates of over 30 percent. The two companies signed consent agreements under which they agreed to stop using misleading success rates in their advertisements.

Clearly, since the congressional hearings, both the FTC and the American Fertility Society have taken steps in the right direction. But both AFS and the FTC have limited resources and little real authority to protect consumers from infertility fraud. The bottom line is that there's still little accountability at the fertility clinics, and many infertile couples still do not get clear, understandable, and unbiased information about the track record of the clinics they have put in charge of their hopes and dreams.

Today, I am pleased to be joined by the distinguished ranking member of the Energy and Commerce Committee, Mr. LENT, in introducing legislation that will directly address these problems. This legislation has gone through a great deal of analysis and revision over the last four years. I would like to offer my sincere thanks for the support of the American Fertility Society, the encouragement of Dr. Louis Sullivan, Secretary of Health and Human Services, and the very capable technical assistance of Centers for Disease Control Director, Dr. William Roper.

Our legislation, the Fertility Clinic Success Rate and Certification Act of 1991, would instruct the Secretary of HHS to establish model Federal standards for personnel, equipment, record maintenance, and quality control. The HHS Secretary would encourage all States to adopt these standards and either inspect these clinics, or contract with professional accreditation organizations to perform these duties. In addition, the bill would ask all embryo labs to report their success rates to the Secretary of Health and Human Services for publication in an annual report.

The legislation involves no unfunded Federal or State costs. States and the Secretary would be authorized to assess fees so the clinics would pay the cost of the quality assurance program.

Mr. Speaker, the need for action will only grow more acute each year. The use of fertility services will expand greatly in the years ahead, as couples put off having children until later in life, and as the incidence of sexually transmitted diseases grows. More and more couples will be looking to fertility clinics to help them obtain what they want most—a child. At the same time, as more and more insurance companies begin to cover infertility services, the lure of deep pockets will entice many entrepreneurs more interested in dollars than science.

In addition to urging my colleagues to support the legislation introduced by Congressman LENT and I, I would like to alert my colleagues to another area deserving of vigorous Congressional oversight—the $170 million artificial insemination industry.

A study by the Office of Technology Assessment has revealed a startling lack of oversight, particularly in doctor's offices, which could have significant adverse public health effects. More than half of the physicians who provide artificial insemination don't screen the donors for AIDS, and almost three-quarters don't screen for sexually transmitted diseases such as gonorrhea, and syphillis; half don't screen for genetic defects.

Failing to perform basic screens places the 80,000 women who undergo the procedure each year at needless risk of contracting serious, perhaps, fatal, diseases.

So far, only one case of possible AIDS infection through artifical insemination has been identified by the New York City Department of Health. But given the increasing incidence and long latency period of AIDS, it seems likely that more and more of these sorts of incidences will occur in the future. So the question becomes: What can government do to prevent this public health hazard from escalating?

Currently, AFS has guidelines for artificial insemination, but they're purely voluntary. While most large sperm banks now offer some screening protection, most physicians operating outside of sperm banks do not.

As far as government regulation is concerned, there is none. The Food and Drug Administration has expressed a willingness to develop regulations for artificial insemination, but so far none have been developed, and it's unclear if they have authority to do so without explicit instructions from Congress.

I intend to examine this issue as well in the days ahead.

The sponsors of this legislation look forward to continuing the excellent working relationship we've developed with the American Fertility Society, Dr. Sullivan, and Dr. Roper, and we will seek their counsel on the wide range of issues the ever-changing fertility field presents.

LEGISLATION TO PARTITION OFF CLEAN SITES OF CLOSING FEDERAL FACILITIES

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PANETTA. Mr. Speaker, today I am introducing legislation to require the Federal Government to identify Federal property free of hazardous waste for sale to the non-Federal interests at closing Federal facilities at the earliest opportunity.

The Comprehensive Environmental Response and Liability Act (CERCLA) mandates the environmental restoration of Federal facilities before they may be declared excess and sold to local governments or private entities. As many of my colleagues are painfully aware, however, current law does not compel the government expeditiously to identify portions of Federal facilities not in need of pollution cleanup. As a result, such properties may lie fallow, off limits to non-Federal interests until the last waste site has been restored.

Our communities' losses are doubled in this process. They are unable to reap the potential of closed Federal facilities even as they continue to suffer losses from the original closure. The legislation would amend CERCLA to require that the Federal Government identify land and properties on which no hazardous substances were stored, released or disposed of. To advance the process, such identifications would be made at least 6 months before the termination of operations at the facility. Once such an identification had been made, the Federal Government would be empowered to declare the property excess and arrange for its reuse. Local communities would be notified of property available for transfer to other interests.

The Federal Government's liability for hazardous substances remaining in lands formerly

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owned by the Federal Government is another community concern. Accordingly, the legislation mandates that the deed entered into for the sale or transfer of Federal property to a non-Federal interest must contain a covenant warranting that the Federal Government must conduct any remediation found to be necessary after the transfer of the property.

Finally, the legislation clarifies the Congress' intent with respect to environmental restoration efforts at closing Federal facilities. The bill sets forth the criterion that environmental cleanup at Federal facilities must be undertaken with a view to facilitating and advancing both environmental protection and the prompt transfer of excess property to mitigate the ill economic effects of the facility's closure to the greatest degree possible.

This legislation represents a response to an urgent problem. We are entering a period of more and more Federal property sales and installation closures. As we investigate the need for environmental protection at each such site, let us not forget the economic needs of the communities. This legislation allows us to address those concerns without sacrificing the quality of our environmental restoration effort one iota. It is an important change, yet it is easily made. I expect to receive strong support from my colleagues in both chambers early next year, and I anticipate the legislation's swift and easy passage in 1992. Mr. Speaker, I invite my colleagues to review the legislation and to cosponsor it at their earliest opportunity.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The closure of certain Federal facilities is having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities is preventing transfer and private development of such property.

(2) Each department, agency, or instrumentality of the United States, in cooperation with local communities, should expeditiously identify real property that offers the greatest opportunity for reuse and redevelopment on each facility under the jurisdiction of the department, agency, or instrumentality where operations are terminating.

(3) Remedial actions, including remedial investigations and feasibility studies, at such Federal facilities should be expedited in a manner to facilitate environmental protection and the sale or transfer of such excess real property for the purpose of mitigating adverse economic effects on the surrounding community.

(4) Each department, agency, or instrumentality of the United States, in accordance with applicable law, should make available without delay such excess real property.

(5) In the case of any real property owned by the United States and transferred to another person, the United States Government should remain responsible for conducting any remedial action or corrective action necessary to protect human health and the environment with respect to any hazardous substance or hazardous waste that was present on such real property at the time of transfer.

SEC. 2. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCE WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States and on which the United States plans to terminate Federal government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which no hazardous substance was stored for one year or more, known to have been released, or disposed of. Such identification shall be based on an investigation of the real property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of hazardous substances on the real property. The identification shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property:

"(i) A detailed search of Federal Government records pertaining to the property.

"(ii) Recorded chain of title documents regarding the real property.

"(iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(v) An inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(vi) Reasonably obtainable State and local government records of each facility where there has been a release of hazardous substances and which is likely to cause or contribute to a release or threatened release of a hazardous substance on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to local government officials and made available to the public.

"(B) The identification required under subparagraph (A) shall be made—

"(i) at least 6 months before the termination of operations on the property; and

"(ii) with the concurrence of the Administrator or, in the case of real property that is not part of a facility on the National Priorities List, with the concurrence of the appropriate State official.

"(C) In the case of the sale or other transfer of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action found to be necessary after the date of such sale or transfer shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action is found to be necessary after such date at such property, or such access is necessary to carry out a response action on adjoining property.".

SEC. 3. CLARIFICATION OF CONVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence of such paragraph the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to be operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the remedy has been demonstrated to be operating properly and successfully does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and "; and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which remedial action is found to be necessary after the date of such transfer,".

FEDERAL DISASTER LOSS LEGISLATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, disaster once again has wreaked havoc on my home State. Just 2 years after the Loma Prieta earthquake devastated California, a catastrophic fire swept through the hills of Oakland and Berkley destroying more than 3,500 homes and killing 25 people. The East Bay blaze was the most destructive urban wildfire in U.S. history.

The loss to California is particularly difficult because it comes before many businesses have received their disaster assistance from the earthquake damage. Yet natural disasters are not unique to California. South Carolina, the Virgin Islands, and Puerto Rico are still rebuilding from the damage caused by Hurricane Hugo in 1989. What with hurricanes, earthquakes, tornadoes, and floods, no State is immune from natural disasters. When a disaster occurs, we need to have mechanisms in place to provide assistance, both direct Federal aid and tax benefits, so communities can rebuild.

The assistance we have in place today is simply not adequate. For individuals, FEMA gives grant money of up to $10,400 per family for losses of clothing, cars, appliances, and general household goods, but this direct aid is available only to those with little or no income. SBA gives low interest loans of up to $100,000 for the repair or replacement of homes and loans of up to $20,000 for personal property losses. However, many who qualified for Federal assistance in 1989 have yet to receive their checks.

Current law gives taxpayers a casualty loss deduction for any unreimbursed losses which exceed 10 percent of the taxpayers adjusted gross income. I would like to expand upon this

disaster loss assistance through the tax code because those burdened with losses should not have to wait for 2 years to get relief from FEMA and the SBA. The bill which I introduced today provides more generous relief through the tax code. For individuals, the disaster loss bill expands the casualty loss deduction by eliminating the 10 percent floor and creating a new refundable tax credit at the 28 percent rate for uncompensated losses resulting from a Federal disaster. The credit allows a taxpayer to get a credit of up to $50,000 for losses in excess of their tax liability.

As an example, an individual with an unreimbursed loss of $300,000 and a taxable income of $75,000 would get a casualty loss deduction of $75,000 by deducting the loss amount up to his or her taxable income. For losses in excess of taxable income, this taxpayer could claim a refundable tax credit of up to $50,000. The normal loss carryforward rules would apply in cases such as this where the loss exceeds taxable income plus the maximum credit.

This disaster loss bill provides relief for businesses as well because communities will not be able to help themselves until their economic foundations are restored.

Current benefits for businesses include low interest loans of up to $500,000 for economic injury and $500,000 for physical disaster but actual losses of a business in the path of a natural disaster can far exceed this amount.

This bill creates a new category of private purpose bonds to provide disaster loans to small- and moderate-size businesses so they can quickly repair or replace property damaged by a Federal disaster. Bonds could be issued up to the amount of actual damage minus other Federal relief. There would also be a maximum amount of loan per company similar to the per business limit for small issue IDB's. The bonds would be targeted at small- and mid-sized companies with a maximum average annual sales of $10 million. This new category of bonds will be outside the State volume cap as a way to making sure that the Federal tax subsidy is adequate relative to the amount of otherwise uncompensated damage.

My bill is as follows:

H.R.—

SECTION 1. REFUNDABLE TAX CREDIT FOR UNUSED PORTION OF CERTAIN DISASTER LOSSES.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

'SEC. 35. CREDIT FOR CERTAIN DISASTER LOSSES.

'(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 28 percent of the taxpayer's unused disaster loss for the taxable year.

'(b) LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall not exceed $50,000 ($25,000 in the case of a married individual (as defined in section 7703) filing a separate return).

'(c) UNUSED DISASTER LOSS.—For purposes of this section—

'(1) IN GENERAL.—The term 'unused disaster loss' means the excess (if any) of—

'(A) the amount allowable as a deduction under section 165 for the taxable year (determined without regard to subsection (d)(1)) with respect to any loss which is described in section 165(c)(3) and is attributable to a federally declared disaster, over

'(B) the taxable income of the taxpayer for such taxable year determined without regard to the amount so allowable.

'(2) FEDERAL DECLARED DISASTER.—The term 'federally declared disaster' means any disaster referred to in secton 165(i)(1).

'(d) SPECIAL RULES.—

'(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 165 for any disaster loss to the extent such loss is taken into account under subsection (a).

'(2) SECTION NOT TO APPLY TO TRUSTS OR ESTATES.—This section shall not apply to any trust or estate.

'(3) ELECTION TO HAVE SECTION NOT APPLY.—A taxpayer may elect for any taxable year to have this section not apply to such taxable year.

'(e) TERMINATION.—This section shall not apply to any loss attributable to a disaster occurring after December 31, 1992.

'(f) CROSS REFERENCE.—

For provision permitting disaster losses to be taken in account for the preceding year see section 165(i).'

(b) DISASTER LOSSES NOT SUBJECT TO 10-PERCENT FLOOR.—Paragraph (3) of section 165(h) of such Code is amended by adding at the end thereof the following new subparagraph:

'(C) EXCEPTION FOR CERTAIN DISASTER LOSSES.—The term 'personal casualty loss' shall not include any loss attributable to a disaster referred to in subsection (i) which occurs defore January 1, 1992.'

(C) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

'Sec. 35. Credit for certain disaster losses.

'Sec. 36. Overpayments of tax.'

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after July 31, 1989.

SEC. 2. SPECIAL RULES FOR DISASTER LOSSES INVOLVING RESIDENCES.

(a) CASUALTY LOSS DEDUCTION NOT LIMITED TO BASIS.—Subsection (i) of section 165 of the Internal Revenue Code of 1986 (relating to disaster losses) is amended by adding at the end thereof the following new paragraph.

'(4) DEDUCTION FOR CERTAIN CASUALTY LOSSES NOT LIMITED TO ADJUSTED BASIS.—

'(A) IN GENERAL.—In the case of any loss to which this paragrapoh applies—

'(i) subsection (b) shall not apply, and

'(ii) the amount of the loss shall be determined on the basis of the reduction in the value of the property resulting from the disaster.

'(B) LOSSES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any loss described in subsection (c)(3) of an individual if—

'(i) such loss is with respect to any dwelling unit of the individual, and

'(ii) such loss is attributable to a disaster referred to in paragraph (1) which occurs before January 1, 1993.'

(b) PENALTY-FREE WITHDRAWAL FROM RETIREMENT PLANS.—Paragraph (2) of section 72(t) of such Code (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

'(E) DISTRIBUTIONS WITH RESPECT TO CERTAIN DISASTER LOSSES.—

'(i) IN GENERAL.—Any payment or distribution under an individual retirement plan to any individual to the extent used by such individual before the close of the 60th day after the day on which such payment or distribution is received to repair, rehabilitate, or replace any property which is described in clause (ii) and which was damaged or destroyed by reason of any disaster referred to in section 165(i) which occurs after July 31, 1989, and before January 1, 1993.

'(ii) DESCRIPTION OF PROPERTY.—The property described in this clause is—

'(I) the principal residence of the individual, and

'(II) any personal effects of the individual located at the principal residence of the individual.

For purposes of the preceding sentence, the term 'principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed.'

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to losses attributable to disasters occurring after July 31, 1989.

(2) The amendment made by subsection (b) shall apply to amounts paid or distributed after the date of the enactment of this Act.

SEC. 3. TAX EXEMPTION FOR STATE AND LOCAL BONDS USED TO PROVIDE DISASTER LOANS TO SMALL AND MODERATE BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 141(e) of the Internal Revenue Code of 1986 (defining qualified bond) is amended by striking 'or' at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (H), and by inserting after subparagraph (F) the following new subparagraph:

'(G) a qualified disaster relief bond, or'

(b) EXEMPTION FROM VOLUME CAP.—Subsection (g) of section 146 of such Code is amended by inserting after paragraph (2) the following new paragraph (and redesignating the following paragraphs accordingly):

'(3) any qualified disaster relief bond,'

(c) DEFINITION OF A QUALIFIED DISASTER RELIEF BOND.—Section 144 of such Code is amended by adding at the end thereof the following new subsection:

'(d) QUALIFIED DISASTER RELIEF BOND.—

'(1) IN GENERAL.—For purposes of this part, the term 'qualified disaster relief bond' means any bond issued as part of an issue 95 percent or more of the net proceeds of which is to be used to make qualified disaster relief loans. Such term shall not include any bond issued after December 31, 1992.

'(2) QUALIFIED DISASTER RELIEF LOANS.—

'(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified disaster relief loan' means any loan to a qualified business for use by such business in repairing, rehabilitating, or replacing property destroyed or damaged by reason of a federally declared disaster occurring after July 31, 1989.

'(B) REQUIREMENT THAT FUNDS NOT BE AVAILABLE FROM OTHER SOURCES.—A loan to any qualified business for use in repairing, rehabilitating, or replacing any destroyed or damaged property shall not be treated as a qualified disaster relief loan to the extent that the amount of such loan exceeds—

'(i) the reasonably expected cost of such repair, rehabilitation, or replacement, reduced by

'(ii) the sum of—

'(I) any reduction in tax imposed by this subtitle which has (or may be) realized by reason of any loss resulting from such destruction or damage,

VOL 137
PT 24
NO 26
1991 — JA 3 1992
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'(II) any loan made or guaranteed by any agency or instrumentality of the United States with respect to such destruction or damage (or which would have been so made or guaranteed if the business had applied therefor), and

'(III) any financing with respect to such destruction or damage provided from the proceeds of a qualified small issue bond (or which would have been so provided if the business had applied therefor).

'(C) LIMIT ON AMOUNT OF LOAN.—Any loan which (but for this subparagraph) would be treated as a qualified disaster relief loan shall not be treated as a qualified disaster relief loan to the extent that such loan (when increased by the amount of any outstanding prior qualified disaster loans to such business) exceeds $10,000,000.

'(3) QUALIFIED BUSINESS.—For purposes of this subsection the term 'qualified business' means any trade or business if the average annual gross receipts of such trade or business if the average annual gross receipts of such trade or business for the 3-taxable-year period ending with the taxable year precedent the taxable year in which the federally declared disaster occurs does not exceed $10,000,000.

'(4) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

'(5) FEDERALLY DECLARED DISASTER.—For purposes of this subsection, the term 'federally declared disaster' means any disaster referred to in section 165(1).

'(6) SPECIAL RULE FOR APPLYINO SECTION 147(b).—If any property repaired, rehabilitated, or replaced with the proceeds of any disaster relief loan is property described in section 1221(1), such property shall be disregarded in determining the average reasonably expected economic life of the facilities being financed with the net proceeds of the issue.'

(d) CLERICAL AMENDMENTS.—

(1) The section heading for section 144 of such Code is amended by inserting before the period at the end thereof the following:'; QUALIFIED DISASTER RELIEF BOND'.

(2) The table of sections for subpart A of part IV of subchapter B of chapter 1 is amended by inserting before the period at the end of the item relating to section 144 the following:'; qualified disaster relief bond'.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

INTRODUCTION OF THE FEDERAL ENERGY MANAGEMENT REFORM ACT OF 1991

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWETT. Mr. Speaker, today I am introducing H.R. 3937, the "Federal Energy Management Reform Act of 1991." This legislation is designed to encourage the implementation of energy conservation programs at Federal facilities. Although Congress and the executive branch agree that energy conservation is important, the lack of a standardized procedure for assessing the energy efficiency of Federal facilities has stalled the introduction of energy conservation measures.

H.R. 3937 standardizes the process of assessing the energy efficiency of Federal facilities, provides incentives for Federal managers to implement shared energy savings programs, and encourages private industry to enter into shared energy savings agreements with the Federal Government.

The beauty of this bill is that it doesn't cost the taxpayer money—it saves money. Energy efficiency improvements to Federal facilities are paid for by private investors, who receive repayment out of the savings that result from the installation of energy efficiency measures.

Conserving energy through increased energy efficiency will help reduce our dependence on imported fuels and will diminish the adverse environmental impact caused by fossil fuel consumption. The Federal Government is a major energy consumer. It should set an example for the rest of the country in energy conservation.

Mr. Speaker, I urge my colleagues to join me in cosponsoring this important and necessary legislation.

TRIBUTE TO DR. JAMES W. ROBINSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TOWNS. Mr. Speaker, once in a great while the world is gifted with an individual who personifies the time honored qualities of humanitarian service and community dedication. Dr. James W. Robinson is exactly that type of person. As he embarks upon his retirement from 26 years of service to the medical community in New York City, I proclaim November 22, 1991 as Dr. James W. Robinson Day.

Dr. Robinson's experiences epitomize the African American experience. Born in Wilmington, NC, he served in the military and was honorably discharged. He attended a Historically Black University and College where he received a B.S. from North Carolina College, and his medical degree from Meharry Medical School in Tennessee.

Committed to service, he worked in the Harlem community for 26 years. He has worked at Harlem, Joint Disease, Kinckerbocker, and Sydenham Hospitals. Additionally, he pioneered Beth Israel's Medical Center Methadone Maintenance Treatment Program, and advocated the opening of Harlem Hospital's Pregnant Mother's Detoxification Program. Dr. Robinson also advocated Methadone Maintenance Treatment in the course of attending to addicted patients to achieve detoxification.

After a long and illustrious career of selfless service, Dr. Robinson is retiring to Myrtle Beach, SC with his wife Carol. I and the citizens of New York, and particularly Harlem, express our heartfelt thanks to Dr. James W. Robinson for his labors, and wish him well in his retirement.

COMMUNITY SERVICE AWARD TO DR. BESSIE E. SWANN

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, I am pleased to rise to pay tribute to an outstanding constituent of mine, Dr. Bessie E. Swann of Southold Township, NY. Dr. Swann is the recipient of the Housing Assistance Council's [HAC] Skip Jason Community Service Award.

Dr. Swann is a humanitarian who founded the North Fork Housing Alliance on eastern Long Island in 1980. She worked for 3 years without pay to establish this comprehensive housing assistance agency in my district, which has generated over $10 million to assist low-income people. Dr. Swann is also director of Community Action of Southold Town, a local organization providing social services to low-income residents.

Through her efforts in her community, Dr. Swann has directly improved the lives of many people. She has secured assistance for needy local residents under HUD's Community Development Block Grant Program and section 8, as well as under FmHA section 515. For her efforts, the people of Southold Town owe a tremendous debt of gratitude.

The Skip Jason Community Service Award is given by the HAC to individuals whose efforts have improved the housing conditions of the rural poor. While most people do not think of Long Island as a rural area, in fact the north fork of eastern Long Island is still a largely rural area, where the farming and fishing industries are prevalent. Dr. Swann has appropriately been recognized with the Skip Jason Award for her significant efforts to improve the lives of low-income residents of the north fork area.

Mr. Speaker, I ask Members of the House to join with me in expressing the support of the Congress for the work of Dr. Bessie E. Swann.

ENVIRONMENTAL POLLUTION AND THE EARS, NOSE, THROAT, AND SINUSES

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DURBIN. Mr. Speaker, I rise today to call to the attention of my colleagues an important conference that will be held at the National Institute of Health on December, 6, 1991, which will be concerned with the impact of environmental pollutants on the ears, nose, throat, and sinuses. This conference, under the leadership of the National Institute on Deafness and Other Communication Disorders, and co-sponsored by the American Academy of Otolaryngology-Head and Neck Surgery, is entitled "The Impact of Pollution on the Upper Alimentary and Respiratory Tracts."

This national conference will discuss the effects that environmental pollutants have on individuals at different ages. It will bring together scientific experts from across the country in fields ranging from atmospheric pollution and environmental sciences to hearing sciences and otorhinolaryngology, and will discuss the nature of pollutants and how they affect the ears, nose, throats, and sinuses. This will be the first time such a wide range of experts will come together to discuss these aspects of pollution. I would also like to mention that the United States Surgeon General, Antonia C. Novello, M.D., will be the featured speaker.

I am pleased to say that the House Appropriations Committee report on the bill providing funds for the Departments of Labor, Health and Human Services, and Education, for fiscal year 1992, contained language supporting such a conference. That language states, "Studies of the effects of all types of pollution on the ear and upper alimentary and respiratory systems, including occupational and recreational factors, will continue to be supported by the NIDCD. A conference on this subject, sponsored by the Institute, will generate a monograph which will form the foundation for a live interactive satellite teleconference to sites around the country with scientist group leaders. The videotape of this teleconference and a leader workbook will be available to health science professionals, teachers and the public through the NIDCD Clearinghouse, as will a public information videotape on the effects of all types of pollution."

I believe that this is an excellent idea. The National Institutes of Health has a superb science base which may well be put to use to determine the impact of environmental pollutants upon various organ systems of the human body.

I commend the National Institute on Deafness and Other Communication Disorders for developing this program.

In addition, I comment the American Academy of Otolaryngology-Head and Neck Surgery for their cosponsorship for the conference. I also commend them for their program on environmental health which will educate their 9,200 physicians about pollution problems in workplaces and communities, help patients understand and identify medical problems in the head and neck region which are caused or aggravated by environmental pollutants, use their medical and scientific expertise to take a leadership role in environmental protection and pollution prevention, and create environmental education programs for physicians and the public.

The conference is open to the public at no charge.The program will begin at 8:30 a.m. in the Masur Auditorium, Warren Grant Magnuson Clinical Center, Building 10, National Institutes of Health, Bethesda, Maryland. For additional information, contact the National Institute on Deafness and Other Communication Disorders at (301) 496–7243.

VOCATIONAL-TECHNICAL EDUCATION WEEK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KILDEE. Mr. Speaker, today I am introducing, along with Mr. Ford and Mr. Goodling, a resolution designating the week of February 9 through February 15, 1992, as "Vocational-Technical Education Week."

This resolution recognizes the important role vocational-technical education plays in creating a competent and productive workforce. As we are all aware, America is now part of a global economy. Changing consumer demands dictate that businesses and industries be able to produce high quality goods quickly and efficiently. Vocational-technical education offers students the opportunity to attain the skills needed for today's workforce while emphasizing the importance of positive work attitudes and leadership abilities.

Mr. Speaker, this resolution recognizes that a strong vocational-technical education program carried out by trained vocational-educational educators and career guidance and counseling professionals is vital to the future of our Nation and to the well-being of its citizens.

THE INDIAN TRIBAL JUSTICE ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MILLER. Mr. Speaker, today I am introducing the Indian Tribal Justice Act. This legislation provides for the amelioration of tribal justice systems and the improvement of tribal courts. One of the fundamental maxims of Indian law is that Indian tribes retain any and all sovereignty that is not specifically divested by the Congress. One fundamental exercise of sovereignty is the ability of tribes to administer justice on tribal lands. In 1968, the Congress ensured that tribal justice systems would operate into perpetuity by passing the Indian Civil Rights Act. In this Congress, we affirmed the right of tribes to exercise jurisdiction over all Indians by enacting Public Law 102–137 which the President signed on October 28, 1991.

The funding requested by the Bureau of Indian Affairs for tribal courts is perennially inadequate. For example the fiscal year 1992 budget, proposed a reduction of $954,000 in funding for tribal courts under the tribe agency line item. The proposed funding level for fiscal year is $10,961,000. This funding is designed to support the personnel and administrative costs for the operation of 133 tribal courts and 22 courts of Indian offenses. The operation of a tribal judicial system includes the need for probation services, child counselors, and the development of legal research capacities. In addition, the Office of Judicial Services in the Bureau of Indian Affairs provides support, training and technical assistance to tribal courts. The fiscal year 1992 budget proposes a reduction of $216,000 for the Office of Judicial Support. These reductions are made in the face of increasing numbers of tribal court cases as well as the increasing numbers of tribal courts nationally. Finally, the funding made available to Indian tribes for their judicial systems is not based on need but rather the funds are based on historic funding levels.

On March 14 Senator McCAIN introduced S. 667, the Tribal Judicial Enhancement Act. On June 5, 1991, the Senate Select Committee on Indian Affairs held a hearing on S. 667 and issues related to the legislation. On September 25, 1991, Senators INOUYE and McCAIN introduced S. 1752, the Indian Tribal Courts Act. This legislation reflected many of the views expressed by tribal judges and tribal leaders in the Senate hearings. The Senate will hold additional hearings through the second session to focus on issues affecting tribal courts.

I have drafted the Indian Tribal Justice Act to build upon the previous drafts of legislation and to reflect the concerns and views of tribal court judges and tribal leaders. This legislation will statutorily create a tribal judicial conference which will be composed of representatives from each of the 12 area offices of the BIA. Members of the conference would be selected by tribal judges and serve for a term of 3 years. The conference shall advise the director of the office of tribal court administration on the development of the survey on tribal judicial systems. In addition, the conference would develop recommended standards for judicial administration and judicial performance. The conference would promote increased communication and cooperation among Indian, State and Federal judicial systems. The conference is authorized to carry on a continuous study and review of the operation of tribal judicial systems and report its findings to the Congress. The conference is authorized to organize regional judicial councils for each of the BIA areas and to organize committees made up of tribal court judges to study and address specific issues related to administration of justice on Indian reservations.

This legislation establishes an executive council of the tribal judicial conference. The executive council shall be composed of three members appointed by the President from the membership of the conference. The executive council shall supervise the director of the office of tribal court administration in the performance of his duties. The bill establishes an office of tribal court administration as an independent agency to further the development and enhancement of tribal judicial systems. The director of the office shall be appointed by the executive council from nominations made by the conference.

The office of tribal court administration shall be responsible for providing funds for the development, enhancement, and continuing operation of tribal judicial systems, for providing training and technical assistance to tribal judicial systems and to conduct research and study the operation of tribal judicial systems. In addition, the bill would require the office to provide staff, research, and planning assistance to the conference. It would further require the office to provide training and technical assistance to any Indian tribe upon request. It requires the director to establish an information clearinghouse on tribal judicial systems which shall include information on tribal court personnel funding, tribal codes, and court decisions.

The director is authorized to make a survey of the conditions of tribal judicial systems to determine resources needed to provide for expeditious and effective administration of justice. The director shall consult with the conference in the development of the survey and the conference shall review and make recommendations regarding the findings of the survey prior to final publication of the survey. The director shall report its findings to the Secretary and the Congress.

The Indian Tribal Justice Act provides for base support funding to tribal judicial systems which would be independent of the Indian priority system and based on objective criteria. It would require the executive council to develop in cooperation with the conference appropriate caseload standards and staffing requirements. It would also require the director with the participation of Indian tribes to develop a funding formula which considers funding needs based on objective criteria.

The Indian Tribal Justice Act authorizes $2,000,000 to be appropriated for fiscal years 1993 through 1997 for the tribal judicial conference and the executive council. It authorizes $5,000,000 for fiscal years 1993 through 1997 for the operations of the office of tribal court administration. Finally, the bill authorizes $30,000,000 to provide base support funding to tribal judicial systems for fiscal years 1993 through 1997.

Mr. Speaker, tribes clearly have the right and authority to operate justice systems. The United States clearly has the trust responsibility to ensure that these tribal courts are properly funded and provided with the proper technical assistance. The tribes have shown for years that they are capable of operating successful court systems on shoestring budgets. Now, it is of paramount importance that these courts receive the funding levels equal to the great task with which they are charged—the dispensation of fair and equal justice for Indian country.

The Interior Committee will be holding hearings on this important measure in the next session. I urge my colleagues to support this bill.

TRIBUTE TO PENNY DORSEY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TOWNS. Mr. Speaker, I want to acknowledge the efforts of Ms. Penny Dorsey. Ms. Dorsey has served as the assistant director for the Stuyvesant Heights Landmark Senior Citizen Center in Brooklyn for the past 4 years. She has been instrumental in designing, implementing, and supervising social service programs for elderly persons, in addition to providing valuable support services for their families.

Ms. Dorsey also serves as the vice chairperson for the Brooklyn Retired Senior Volunteer Program, in addition to functioning as a liaison between the seniors and the Community Police Officer Program of the 81st Police Precinct in Brooklyn. Her efforts to assist citizens experiencing the golden years of their lives should be duly noted. I am pleased to introduce Ms. Penny Dorsey to my House colleagues.

INMATES FILL FRONT LINES FOR TOURISM

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. IRELAND. Mr. Speaker, I rise to call my colleagues' attention to an article in the New York Times for Sunday, November 24, 1991, entitled "Inmates Fill the Front Lines for Tourism." The article tells of a program in the North Carolina State corrections system that uses inmates to help the State's Department of Tourism answer inquiries and send out information packets to would-be visitors to North Carolina. I have attached a copy of the article for insertion in the RECORD with this statement. This program and programs like it are an excellent example of how many States are dealing creatively with both their fiscal problems and their inmate rehabilitation problems. This program helps the State of North Carolina save over $150,000 a year and keeps the inmates working and productive.

There is, however, a reason—beyond praising the North Carolina corrections system—why I wish to bring this to the attention of my colleagues. I believe we should give serious thought to initiating such programs at the Federal level. Federal prison Industries has stated a need to increase its work force to match an expanding prison population. Fine, but not at the expense of small business and its employees. Let's institute a similar program in the Federal prisons and get Federal prison industries out of the business of selling to the Federal Government and into the business of helping the Federal Government.

Surely there are phones that could be answered and information packets that could be sent out from the vast Federal bureaucracy through the Federal prison industries. Why couldn't inmates at Federal facilities send out the myriad of information the bureaucracy now sends out and at the same time reduce the size of the Federal work force and produce a real savings in the Federal budget?

Mr. Speaker, small business faces the challenge of the marketplace, incredible Federal regulatory and tax burdens, and competition from the Federal Government in the form of Federal prison industries. It's time we thought about what we are doing to the most vital sector of our economy and try to find ways to reduce the burden on small business. Why can't Federal prison industries try to help reduce the Federal bureaucracy instead of annihilating small business?

INMATES FILL THE FRONT LINES FOR TOURISM—IN PRISONS, STATES FIND WAY TO KEEP UP WITH REQUESTS BY PUBLIC

(By Edwin McDowell)

RALEIGH, NC.—If North Carolina had a booster club, Cornelia Margaret Gonzalez would be well qualified to be its president. Instead, she channels her enthusiasm into answering inquiries from people who telephone North Carolina's toll-free number for tourist information.

Yet the 53-year-old Ms. Gonzalez had never set foot in this state until about four years ago, when she was brought here from Florida in handcuffs.

She still has not seen any of the state, except through bars or a barbed wire fence. But while serving a 22-year sentence for drug trafficking, the voluble Ms. Gonzalez is one of 10 inmates here at the Correctional Institution for Women who handle the almost 23,000 calls a month to the toll-free number, (800) VISIT NC.

Just down the hall from the telephone room, in the shadow of the death row building that currently houses six convicts, five other female inmates in this maximum-security prison are busy stuffing and labeling some of the 250,000 packets of tourist information that will go out his year. All the participants in the 4-year-old program are volunteers, as well as "long termers," felons sentenced to 15 years or more.

PLANS FOR TOURISM JOB

"I love this job, and I think I do it well because of my gift of gab," Ms. Gonzalez told a visitor recently. "When I get out of here the first thing I'm going to do is travel around the state; then I'm going to settle here and get a job in tourism."

While the prospect of rehabilitating prisoners helped inspire the program, budgetary considerations also played a part both in North Carolina and in about a dozen other states from Maryland to Oregon that have also turned to inmates to help with their travel and tourism inquiries or are considering doing so.

"We estimate we save about $150,000 a year in salaries and benefits," said Thomas Harper, supervisor of the inquiry section of North Carolina's Travel and Tourism Division, which has a 1991–1992 budget of $5.2 million.

There were other considerations as well. "Before this program, we just could never keep up with the inquiries," said Lynne Sizemore, the director of the division's visitor services. "Many phone calls went unanswered and we were days behind in mailing our travel packages."

NO MORE DELAYS OF PACKETS

Such delays were not only inconvenient for potential tourists but costly for North Carolina, which earned an estimated $7 billion from visitors in 1990, 70 percent of that from out-of-state visitors. Now most travel packets—as many as 2,000 a day from January through April—are shipped within two days.

Similarly, Oregon's Division of Tourism once used staff members to field telephone calls and mail promotional packets. "But we began getting so many requests that we started subcontracting parts of the program," said Julie Curtis, the assistant director. "Then we heard about programs in other states that used inmates, so in February 1990 we moved our fulfillment operation and our toll-free number to the Women's Correctional Center" in Salem.

Betty Allred, the assistant education director at the 650-inmate prison in this North Carolina city, said that while inmates volunteer for the program, telephone operators must have a friendly speaking voice and some knowledge of the state's geography. Hotel and airline reservation agents have come to the prison to help train the inmates.

Everyone connected with the program says problems with inmates have been minimal; two were dropped when their family members phoned them on the toll-free number. In a related program in California, an inmate received an additional two-year prison term for running up thousands of dollars worth of bills for jewelry and other purchases with stolen credit card numbers.

SOME PAY FOR INMATES

Turnover is low for most such programs, for obvious reasons, but some participants have been paroled, others have dropped out and still others could not keep pace.

Participants are paid from $1 a day in North Carolina to 45 cents an hour or less in Montana, and state officials said they had never received complaints from public employee unions. James Andrews, the secretary treasurer of the AFL–CIO in Raleigh, said his organization "might have taken action if it had been a bigger program or if they displaced employees who were part of our union."

Two states have even forged travel-related partnerships between prisoners and private enterprise: About 30 inmates in Phoenix are paid the minimum wage for helping to take hotel reservations in peak holiday periods on the toll-free line that Best Western set up in the Arizona Center for Women. And 70 inmates of the Ventura School in Oxnard, Calif., a correctional institution for youthful offenders of both sexes, earn a minimum of $5.67 an hour helping to book reservations by telephone for Trans World Airlines. About 20 of them have gone to work for the airline after leaving the institution.

At the mention of her $1 a day wage, a sum required by North Carolina law, Patricia Childress smiles at her work cubicle here in the prison, flanked by a state map and a hand-lettered reminder: "Be polite. Be patient. Have a smile in your voice."

"Everybody's wanting somebody to work without paying them," the 43-year-old former truck driver said with a laugh. But Ms. Childress, who is serving a life sentence for first-degree murder, said she was proud to answer calls from tourists.

"It brings me back into contact with the public, and that's important because I'd never been in prison before four years ago," said Ms. Childress, who earned a high school diploma here. "It was real shocking to me."

She and her four co-workers, dressed in the blue shirts of medium-security prisoners, usually greet each caller: "Thank you for calling North Carolina. How may I help you?" They enter callers' names and addresses in a computer, and they answer a range of questions.

As representatives of a state agency, inmates may not recommend one destination over another, but they can respond to inquiries. And since most questions are about temperature, distances or destinations, the answers are usually within easy reach in the listings of toll-free numbers for North Carolina cities, in weather and highway mileage charts, or in The North Carolina Gazetteer or a dictionary of geographical names and places.

Several cubicles are decorated with postcards from grateful users of the toll-free line, and Teresa Teasley's cubicle also displays a photograph of her 7-month-old son, who was born in prison. "That's the hardest part about being here, not being able to be with him," said the soft-spoken Ms. Teasley, 25, who is serving a minimum 15 years sentence on drug-related charges.

After answering a Florida caller's questions about the weather in Asheville, Ms. Teasley added: "But I enjoy this job. I'm always learning something new. A lot of girls in the dorm are asking, 'Do you have openings?' and I tell them no."

Because the inmates are prohibited from leaving the prison, tourism officials come here from around the state to familiarize the inmates with what they have to offer. On this day, 10 telephone operators and packers gather in a classroom to hear presentations by Jane Peterson, the president of the Cape Fear Coast Convention and Visitors Bureau in Wilmington, and Mary Webber Baggett, general manager of the Blockade Runner hotel in Wrightsville Beach Island, 10 miles from Wilmington.

Ms. Peterson showed a 12-minute tape of Wilmington's tourist attractions. And Ms. Baggett, who gave each inmate a colorful beach towel bearing the name of her family-owned resort, spoke of the island's 30 restaurants, its proximity to several of North Carolina's 400 golf courses, and told her audience that the Blockade Runner was on a north-south beach, "so that you can see both sunrise and sunset over the water."

Later the enthusiastic Ms. Baggett remarked, with no apparent irony, "It's so nice to go to a place where they want to hear you."

The inmates also look forward to such visits. "We're here, yes, but we're still people," Ms. Gonzalez said, "and we're trying to learn all we can so we never have to tell a caller we don't know something."

There was also an unexpected benefit to this visit. "When I was brought to North Carolina from Florida," Ms. Gonzalez said, "I was in jail near Wilmington. So I knew something about the city, at least what was in the papers, but I never really saw it. What I saw of it today is a pretty good substitute, at least until I get out and see it with my own eyes."

A BILL TO EXTEND THE JURISDICTION OF THE MISSISSIPPI RIVER COMMISSION

HON. W. J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TAUZIN. Mr. Speaker, I am today introducing legislation which will extend the jurisdiction of the Mississippi River Commission to include a part of Louisiana which is greatly affected by the waters of the Mississippi River, This area is situated between two formidable and at times life-threatening waterways, the Mississippi and Atchafalaya Rivers

A look at the map outlining the geographic jurisdiction of the Commission shows an awkward triangle carved out of the lower Louisiana area. Citizens of this geographic area wonder why neighbors on either side are included in the Mississippi River Commission's jurisdiction, while they, in fact, have been overlooked. These citizens deserve to have a voice in the planning of civil works and flood control projects which impact their lives and well-being.

The Commission's geographic area encompasses part of the Arkansas River Basin and Yazoo River Basin in Mississippi, and other areas. It is only fair that areas between the mouths of the two great rivers, the Atchafalaya and the Mississippi, are also included.

FACTS ABOUT IRAs FROM MERRILL LYNCH—ANYTHING BUT STRAIGHT

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PEASE. Caveat emptor—let the buyer beware.

This sage advice has long cautioned customers to consider a merchant and his wares carefully before making any purchase.

In the marketplace of ideas, those words of warning acquire a new importance. In more modern parlance, the proper caution might be: Don't believe everything you read, especially if you're reading a high-cost, full-page newspaper ad.

Last week I spoke on the floor of the House about misleading advertisements being run by Merrill Lynch on the merits of Senator BENTSEN'S Super IRA proposal. Since these original ads were run, Merrill Lynch has introduced a new ad that purports to provide some straight facts about IRAs. However, these straight facts are far from straight—in fact, they smack more of propaganda put out by Merrill Lynch to mislead the American public into believing that IRAs are the best thing to come along since sliced bread.

The first straight fact asserted by Merrill Lynch is that IRAs really did work. The claim is that if we expand the use of IRAs now, we will increase our national savings rate because that is what happened after 1981 when restrictions on their use were lifted. They cite the increase in IRA contributions between 1982 and 1986 to support this assertion. But the fact that IRA investments increased does not mean that total personal savings increased, as Merrill Lynch would have you believe. The truth is that during this time personal savings decreased by $34.5 billion when you compare personal savings in 1986 with personal savings in 1981.

What Merrill Lynch should be telling the American public is that Merrill Lynch benefitted from the tax subsidy provided to IRAs. More people invested in accounts which Merrill Lynch marketed—purely to take advantage of tax savings—so the firm's profits increased. But statistics reveal that, for the most part, these people didn't increase savings, they merely shifted existing savings into IRAs. Once the tax subsidy was curtailed, so did investment in IRAs. Merrill Lynch wants the tax subsidy to be expanded so that people will once again shift assets to the accounts that Merrill Lynch markets.

Another straight fact asserted by Merrill Lynch is that IRAs are for the middle class. While it is true that IRAs are available to low- and middle-income families, this availability is of limited value to them because they often don't possess the resources to take advantage of IRAs. On the other hand, wealthy families do have the resources to contribute to IRAs, so they are well positioned to take advantage of the tax subsidy as soon as it becomes available to them.

The facts seem to bear this out. The Joint Committee on Taxation found that taxpayers with income over $50,000 were more than twice as likely to contribute to an IRA than were taxpayers with income below $50,000. And if you review IRS return data you will see that in 1985 the average IRA deduction for taxpayers with more than $75,000 of income was almost $1,000 more than taxpayers with income of less than $50,000.

The Super IRA proposal is a lot like offering free gasoline to any family driving a Rolls Royce. Low- and middle-income families can take advantage of it. All they have to do is buy a Rolls Royce.

49-059 O—96 Vol. 137 (Pt. 24) 36

The Merrill Lynch advertisement is also misleading in that it implies that middle-income families cannot currently take advantage of IRAs. The fact is that only 13 percent of all taxpayers with earned income are excluded from making deductible contributions to IRAs. That means that the remaining 87 percent—roughly 94 million tax filers—can take advantage of IRAs.

Merrill Lynch must also be forgetting that IRA deductions are much more valuable to upper-income families than they are to low- and middle-income families. That is because the deduction provides far more tax savings to taxpayers in higher tax brackets than those in lower tax brackets. A $2,000 IRA deduction is worth $620 to a taxpayer in the 31 percent tax bracket, but only $300 to a taxpayer in the 15 percent tax bracket. So for the same $2,000 IRA contribution, the upper-income taxpayer gets more than twice the tax savings. Merrill Lynch is wrong when it states that Super IRAs should be viewed as middle-income benefits. Clearly the benefits flow far more heavily to the wealthy.

The slogan at the bottom of Merrill Lynch's advertisements is "A tradition of trust." Yet the firm's advertisements are filled with misrepresentations and unsubstantiated claims. Frankly, I don't trust their ads, and neither should the American people.

C.W. BILL YOUNG MARROW DONOR CENTER SAVES LIVES, GIVES HOPE

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEWIS of Florida. Mr. Speaker, this Thanksgiving, hundreds of families throughout our Nation and the world will give thanks that a loved one is alive and cured of leukemia as the result of a bone marrow transplant.

They may not know, however, what everyone of our colleagues in the House knows that it was the tireless work of my colleague from Florida, BILL YOUNG, who led the crusade to give those patients a second chance at life.

For more than 6 years, BILL YOUNG has devoted his time and energy to establish a national registry of volunteers willing to donate their bone marrow to a patient suffering from leukemia or one of more than 60 otherwise fatal blood disorders or cancers. Their only hope of survival is a bone marrow transplant, but the odds are that only one of four patients will find a genetically matched donor from their family. Before BILL YOUNG got involved, the other 75 percent would have died because there was no marrow donor for them.

He learned this lesson the hard way at the bedside of a 10-year-old little girl who died in St. Petersburg, FL because she had no marrow donor. BILL'S wife Beverly challenged him to do something so that other families would not have to stand helplessly by watching a loved one die.

He took on the cause and determined that our Nation needed a national registry of volunteers willing to donate their marrow to an unrelated patient. After searching a number of Federal agencies for a home, he found the U.S. Navy to be an interested and willing partner.

Through his work on the Appropriations Subcommittee on National Defense, he included the first $1 million in a 1986 Defense appropriations bill for the Navy to establish the registry. Relative to many other programs we fund, it was a small amount of money, but for the national registry it was a godsend with which the program was able to get its start and become operational.

Ironically, its first milestone occurred on December 16, 1987, BILL YOUNG'S birthday, when the first transplant took place with a donor found through the registry. In the almost 4 years since then, 1,000 patients have found their miracle match through the national registry, which has grown to 500,000 volunteers on the way to its goal of at least 1 million.

The dramatic growth and success of the program continues to be due in large part to BILL YOUNG'S work on the Appropriations Committee through which he has had appropriated more than $85 million for the program's operations, donor recruitment and testing, and research programs. The size of the registry doubled in the past year, spurred on by a national donor recruitment effort launched by BILL, who has traveled the country to increase public awareness about the need for marrow donors. He even has sponsored several donor recruitment drives here in the Capitol for Members and staff. He has encouraged businesses and corporations large and small to take part in the program and he has undertaken a yearlong effort aimed at increasing minority representation in the national registry. Over the past 12 months, that effort has resulted in a threefold increase in minority volunteers who have been greatly underrepresented in the donor rolls.

Although the National Institutes of Health now oversee the operations of the program, the majority of funding still is appropriated to the program through the Navy. In response to a request by BILL to President Bush last February, the Navy also has instituted a Department of Defense wide marrow donor recruitment campaign. In just the first few months of the program, more than 5,000 service members have volunteered and it is expected that an average of 20,000 will become a part of the program annually.

House and Senate conferees meeting last year on the 1991 Defense appropriations bill were so touched and impressed by the lifesaving work of the program that they directed in the legislation that the Navy rename its donor recruitment and research program the "C. W. Bill Young Marrow Donor Center" in honor of its champion's tireless efforts.

Following my remarks, Mr. Speaker, I will include for my colleagues a comprehensive feature article from the November 25, 1991 issue of the Navy Times which chronicles the growth of the program under the leadership of BILL YOUNG. It is a program that every Member of this body can take great pride in and it is an example of how one Member, through hard work and determination, did and continues to make a difference.

In this case, the success of BILL YOUNG'S work is measured in saved lives and it is that gift of life that hundreds of families throughout our Nation will be giving thanks for this Thanksgiving Day.

[From the NAVY TIMES, Nov. 25, 1991.]

NAVY KNOW-HOW NURTURES MARROW REGISTRY

(By Marc Zolton)

WASHINGTON.—Washington attorney Bart Fisher learned in 1963 that his 8-year-old son, Ivan, suffered from a deadly blood disorder, aplastic anemia. After doctors determined Ivan's brother was not a match to provide a life-saving bone marrow transplant, Bart Fisher got another tragic jolt.

Doctors told him there was no where else to turn.

No national bone marrow registry of potential donors existed for victims of aplastic anemia, leukemia, Hodgkin's disease or other fatal blood diseases. So time ran out on Ivan Fisher. Doctors were unable to find a non-relative donor, and the boy died within two months.

Fisher, a professional lobbyist, vowed to do something to help other families avoid the same tragedy for lack of a national registry.

In 1984, Fisher and Colorado rancher Bob Graves, whose daughter died three years after receiving the first bone marrow transplant from a non-relative in 1973, successfully pushed Congress to pass legislation calling for the establishment of a national registry of potential bone marrow donors.

But funding and a federal agency to run the effort remained undetermined, Fisher said.

At a May 1985 conference of scientists, Fisher urged the National Institutes of Health to take on the responsibility but he was turned down. Fisher and his congressional supporters, including Rep. C.W. "Bill" Young of Florida, got the necessary funding in a 1986 defense appropriation bill and channeled it to the lone willing sponsor—the Navy.

Today, the 4-year-old National Marrow Donor program has registered more than 420,000 potential donors, and provides an average of 40 bone marrow transplants a month.

Fisher now is a member of the NMDP's board of directors and the president of the Aplastic Anemia Association of America.

"I live with the realization that there could have been a different outcome [for my son] if there was a registry," Fisher said. "As a parent, it is very important to offer hope, even for people who don't ever find matches. The registry offers that hope. That is a big deal."

The Navy's willingness to start the national marrow donor program proved "critical . . . when NIH wouldn't touch it," said former Chief of Naval Operations and retired Adm. Elmo Zumwalt, who heads the board of directors of the national donor program.

With an appropriation of a little more than $1 million, Navy officials developed plans for the registry. In mid-1986, the Office of Naval Research awarded the first contract to the St. Paul, Minn., chapter of the Red Cross. And the National Marrow Donor Program and the registry were born. The first bone marrow transplant from a registered donor occurred in late 1987. After the Navy got the donor program running, NIH had a change of heart. The agency took it over from the Navy in 1989. NMDP is now run as a non-profit organization funded through a contract with NIH's Heart, Lung and Blood Institute.

Still, Navy's involvement in the program remains vital, officials said.

Navy scientists have helped develop a more efficient and less costly method of identifying the blood components that determine whether a match is possible. Navy research scientists are testing technology for more complete typing of all blood samples shortly after they are donated thus allowing for quicker, less costly bone marrow matches.

In 1990, the Department of Defense adopted a policy of encouraging members of the armed forces, their families and civilian DoD employees to join the growing national registry of potential donors. At the same time, it established the C.W. Bill Young Marrow Donor Center in Bethesda, Md. The center, run by the Navy under contract from DoD, tests all blood samples donated by military members and their families for inclusion in the national registry.

Participants who have had their blood tested, or typed, are listed in the computerized registry, awaiting a possible match between themselves and a patient.

"After a slow start, today it is going better than we could have ever hoped for," said Young.

Even with the meteoric growth of the registry, officials say they must push the numbers higher to increase the survival chances of the estimated 10,000 patients needing transplants each year.

"It is very exciting because we are saving lives," said Zumwalt. "But unfortunately, there will always be some for whom there isn't a match."

Scientists put the odds of finding a match from among non-relatives at 20,000 to 1, versus 4 to 1 among family members. Program officials, Zumwalt said, hope to see the registry grow to 1 million. This could increase the likelihood of finding a match to a 60-to-80-percent range.

Bone marrow transplants offer the best chance of recovery for thousands afflicted with such fatal blood diseases as aplastic anemia, several types of leukemia and immunological disorders. Marrow is the tissue inside certain bones that produces essential elements of blood—red blood cells, white blood cells and platelets.

Once a match is found, doctors kill a patient's bone marrow with radiation and chemotherapy and inject the healthy marrow from the donor. The transplants have produced long-term remissions.

The registry is now large enough to result in about 40 unrelated bone marrow transplants being performed each month across the country, officials said. Given its spiraling growth, officials hope the 40 per month will turn to 40 per week.

This year the Navy received $6 million to recruit and test military members and for the research into the new genetic testing of blood samples. NIH received $16 million in funding to run the NMDP. For 1992, NIH funding will stay about the same, but the Navy expects to receive $20 million. The $14 million increase will fund the Navy's role in helping the NMDP increase the recruitment of minorities into the registry and extend the new testing technology to civilian donor centers and labs nationwide.

The Defense Department's expanded involvement is expected to increase the size and ethnic diversity of the nationwide registry. The chance of matching donor and patient is higher between persons of the same race. A white donor might provide an exact match for a black patient, but that's more likely to occur among persons of the same race and ancestry, said Navy Capt. Robert Hartzman, a doctor of internal medicine and transplant expert who now heads an effort to recruit potential donors from the armed forces.

Since service members, dependents and DoD civilian workers were encouraged to participate, an estimated 5,000 have come forward to have their blood tested. The effort is now on a pace to register about 20,000 DoD-related potential donors a year, Hartzman said.

"The U.S. military is full of young, healthy men and women who would be ideal donors," Young said.

"The Navy's Medical Research Command in Bethesda oversees DoD's donor recruiting effort and the testing of all blood samples from the armed forces. The Navy tests all DoD-donated blood free of charge, (civilian labs usually charge the organizers of civilian blood drives about $75.00 for the initial testing of each sample). Navy scientists have developed a genetic testing method using DNA from the blood samples, which allows swifter, more accurate matches.

To search for a bone marrow match, scientists test, or type, for 14 antigens in the donated blood samples. Once a donor's antigens are known, doctors try to match as many of these genetic components as possible, usually at least 12, to increase the chances of transplant success.

A potential donor's blood samples are typed for one group of the 14 antigens and that information is placed in the registry. When doctors identify a potential match between a registry member and a sick patient, a second round of tests is conducted on the potential donor's blood to determine the identity of the remaining antigens. It can take up to six months to complete the entire process, and the second round of tests can cost the patient $200 to $250.

The technology being developed by Navy and other scientists will allow the labs to initially identify all 14 antigens, eliminating the second round of tests.

Once the technology is available to all testing centers, which should be in about three years, doctors should be able to call up the computerized registry and immediately receive all the match information they need on the screen.

Registering thousands of military members and their families has helped widen the ethnic composition of the donor pool, officials said. The ethnically diverse makeup of the armed forces makes them fertile ground to recruit more minority donors.

As of last year, less than 6 percent of volunteers were from minority groups. That percentage has risen to 16 percent. Still, given the current ethnic makeup of the registry, the chances of a match "are quite a bit smaller" for minorities, Hartzman said.

Of the 421,000 people registered, only 3.5 percent are black Americans, 5.4 percent are Asian, 3.1 percent Hispanic and 0.7 percent American Indians.

Donors are usually sought among healthy individuals between the ages of 18 and 55. Registering at an early age can mean remaining available as a potential donor for decades.

The initial effort is easy. Potential donors give about 40 milliliters, or four tablespoons, of blood at the donation drive. For military members, the blood samples are sent to the Navy's Medical Research Command where the tissue typing is done by lab technicians.

Should a potential donor be identified as a possible match for a dying patient, the donor then gives a second blood sample to determine how precise a match would be. Once the decision is made to proceed with the transplant, the potential donor undergoes both physical and psychological examinations.

To donate the bone marrow, the donor must be placed under general anesthesia while marrow is extracted from the pelvic bones. Such a procedure usually requires an overnight hospital stay and brings about 10 days of nagging pain. The small risk for donors primarily involves the possibility of an adverse reaction to the anesthesia, Hartzman said.

"I place it on the same level as jumping into a pond to save a drowning kid," Hartzman said.

Hartzman has found that most people who agree to be tested initially are willing to donate. But before the final decision, officials always call prospective donors confidentially.

Like Fisher, Young and Zumwalt know the pain of having a child fatally ill and in need of a potentially lifesaving transplant.

Zumwalt's son received a bone marrow transplant from a relative, which helped extend his life for several years after he was diagnosed with Hodgkin's disease.

"When my wife and I decided how to best honor his life, we decided [working with the National Marrow Donor Program] would make a good living memorial," Zumwalt said.

Young's daughter was diagnosed with terminal leukemia in 1990, years after Young's efforts to help start the national program. A bone marrow transplant from one of her relatives leaves her free of the fatal cancer.

"I know how other families feel when a child comes down with one of these diseases," Young said.

Young and Zumwalt both stressed that participation by service members and their families can save more and more lives every year.

HOW TO GET TESTED FOR THE NATIONAL REGISTRY

Military members, their families and DoD civilian personnel interested in volunteering to be potential bone marrow donors or more information on how to organize a drive at their military installations are asked to contact the C.W. Bill Young Marrow Donor Center at 1-800-MARROW-3. The center is located at 4720 Montgomery Lane, Suite 903, Bethesda, Md. 20814.

Navy officials said Gulf war veterans should continue to participate in the military drive despite the recent announcement by the Department of Defense that about 500,000 Gulf war veterans would be restricted from donating blood for the next two years because a handful had their blood infected by a parasite.

Navy officials said all blood samples donated when a military member joins the national bone marrow registry would undergo tests that could discover whether the parasitic infection is present.

In addition, at least a year usually passes from when a member is tested to when he or she might be called upon to donate bone marrow, said Navy Capt. Robert Hartzman, who directs the Navy's testing of all DoD blood samples for the bone marrow effort. In the unlikely event a donor had been infected, the condition probably would have disappeared well before a possible bone marrow donation might occur.

NAVY DRIVE AIMS AT MATCH

WASHINGTON.—Julie Beaupre has given a lot of herself to her home town of Brunswick, Maine, and to the military community at the naval air station there.

Last month, the residents of both communities gave something back to Beaupre. Almost 2,000 of them agreed to have their blood tested so that Beaupre might see many more years of life.

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Beaupre, 46, is fighting acute myelocytic leukemia. It is a battle many lose. It is a battle she too will lose if she doesn't find a match for a lifesaving bone marrow transplant.

When Navy officials, including her neighbor, Cmdr. John Farnham, the officer in charge of the medical clinic at Brunswick, learned of Beaupre's plight late last summer, they decided to see if they could enlist the Navy community to help. Indeed, the military had recently signed on as an active participant in a nationwide effort to test as many potential bone marrow donors as possible.

With the Department of Defense strongly endorsing such military and DoD civilian involvement, Navy officials in Brunswick took the idea from the drawing board to the laboratory in less than a month. In late September, leaders of the various commands at the air station met and were educated about the donor match process by a representative of the C.W. Bill Young Marrow Donor Center, run by the Navy in Bethesda, Md., where all testing of DoD blood samples takes place.

Flyers were printed and circulated around the facility. Stories were published in both the base and Brunswick newspapers. The fact that Beaupre was well known for her work with the Military Community Council also helped energize the military community. Beaupre and her husband, Dick, own and operate an auto supply shop in town. They have two college-age children.

Beaupre was working on organizing her second military community-civilian ball when the illness hit her. Through that work and her involvement with the Chamber of Commerce, Beaupre had made many friends in the small community.

"Julie is a known commodity," Farnham said. "She is a shaker and a mover in this community."

Three weeks later, the planning paid off as 792 military members, their dependents and DoD civilians, the most ever to participate in such a project at a single military installation, came forward to have their blood tested. Not to be outdone, on Oct. 10, about 1,200 Brunswick residents volunteered for testing.

"I wanted to help somebody out," said Navy Petty Officer Rose Thatcher, one of those who had their blood tested. "The least you could do is just get tested."

The high-profile publicity campaign at the naval air station caught fire, and personnel were eager to participate.

"This is something we did willingly," said DoD civilian employee Tammy Lane. "We didn't have to be reminded."

The response left Beaupre thankful and stunned.

"I just never dreamed people would come out like they did," Beaupre said. "It just sort of caught on like a forest fire and the enthusiasm swept through the community. It is incredibly heartwarming."

It is not yet known whether any of the donations will provide a match for Beaupre. With odds of 1 in 20,000 for an unrelated donor match, they probably will not. But each person tested is a potential future match for someone suffering from a similar terminal illness and Beaupre is glad for that also.

"Yes, they were doing it for me, but it isn't just for me," Beaupre said.

Beaupre, who underwent a painful five weeks of chemotherapy in a Boston hospital, was too weak to attend the testing drive. A nagging infection has weakened her physically, but drive organizers kept her updated over the phone. While the chemotherapy has put her leukemia in temporary remission, Beaupre will likely undergo some type of bone marrow transplant before the end of the year, she said.

Despite being physically weak from the persistent infection, Beaupre maintains an indomitable spirit, her friends say.

"The support here [in Brunswick] has been incredible," Beaupre said as she prepared for another round of chemotherapy treatments this month. "That is what keeps me going. I have to do it for myself, but I am also doing it for them because they are all rooting for me. I know I will get better, but first I am going to be very sick."

THE END OF AN ERA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TORRES. Mr. Speaker, I rise today to recognize the end of an era, the Country Squire Restaurant, a historic inn nestled in the woods of northern Virginia, is closing its doors after 35 years of serving the people, and some of the best cuisine, in Virginia.

Leonard and Doris Johnson first opened the Country Squire to the public in 1957. Whether you wanted the serenity of a romantic candlelight dinner or a homey, relaxed family setting, you could find it at the Country Squire. With its "Old World" rustic flair, this charming establishment has served such customers as President and Mrs. Ford, Senators CHUCK ROBB and JOHN WARNER, Air Force General Daniel James, and Mrs. Torres and myself.

The Country Squire Restaurant sits on historic Perkins Hill, site of the Munson/Perkins' Hill Civil War battlegrounds.

Many a couple (over two thousand) have celebrated their wedding in the restaurant's garden, and even more couples have treasured memories of hosting their receptions in one of the seven banquet rooms there.

Regular customers are greeted as treasured friends, and the service is unmatched in friendliness and care. The food is delicious and the prices are reasonable. Many diners have fond memories of escaping the hustle and bustle of everyday life once they have stepped through Country Squire's doors. Other visitors reminisce about Mr. Johnson building a cheery fire in the dining room's fireplace on cold winter days.

Since the passing of Mr. Johnson this last May, Mrs. Johnson, her daughter Roxane, family friend Carolyn Koombs, and the staff have been carrying on the family tradition of outstanding service and cuisine. But due to circumstances beyond their control, the Country Squire will have to close its doors on December 31, 1991. The Country Squire will be sorely missed by all of its loyal customers, including many Members of the Congress.

THE INTRODUCTION OF THE REDUCE, REUSE AND RECYLE FOR AMERICA ACT, H.R. 3939

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 26, 1991

Mr. SIKORSKI. Mr. Speaker, today I am introducing the Reduce, Reuse and Recycle for America Act.

Reduce. Reuse. Recyice. These are the new, fundamental three "R's" kids learn in school today.

And with this legislation, I am making a fundamental appeal to Congress, to the administration, and to corporate America—an appeal that I constantly hear from taxpayers. We need to change the way we think about waste in America. And save American taxpayers real money.

The 3 R's for America Act will reverse the skyrocketing amounts of trash Americans produce—using free market incentives to encourage reduction, reuse, and recycling.

Over the past 40 years, trash has exploded in America. We now generate 180 million tons per year—that's more than one ton of garbage per person—three times what's thrown away in West Germany, twice what's thrown away in Canada. In fact, 87 percent of our goods become garbage after a single use. Much of it is packaging that's discarded before we ever use the product.

Meanwhile, our traditional burn or bury methods of trash disposal—incinerators or landfills—are increasingly less viable—both environmentally and economically.

Our landfills are filling up fast. The number of usable landfills has plummeted from 20,000 to 6,000 in the last 12 years. Many become festering, toxic hazards that account for 21 percent of our Superfund sites and huge cleanup costs to taxpayers in those cities and States.

Municipal incinerators create additional problems—producing dangerous air pollutants and toxic ash. Incinerators waste energy by burning precious resources. And they compete with more environmentally sound and energywise waste management methods such as recycling and composting.

The rapidly increasing costs of both traditional options have resulted in tax and fiscal nightmares for already overburned local governments. New municipal incinerators cost up to $600 million each. The cost of disposing of a ton of garbage in Minneapolis has risen from $10 in 1980 to as much as $100 today—costs paid by my taxpayers.

Again, the solution is fundamental: Reduce. Reuse. Recycle.

Kids intuitively understand these simple principles. Use less, save more. Find ways to reuse. Sort out the rubbish so useful things can be recycled.

According to an Associated Press poll, more than 80 percent of the American people get it. Millions of Americans have taken to the business of bundling and recycling like ducks take to water.

Cities and States get it too. Neighborhoods, schools, and service clubs all over America have pitched in money, ingenuity, and hard work to make recycling a reality.

Recycling is all the rage—but it's nowhere as successful as it can be, needs to be, and is elsewhere in the world.

Second, it provides no incentive for industry and consumers to save resources and reduce waste. As long as American taxpayers continue to pick up the entire tab for managing garbage in America and give a free ride to polluters, as long as industry has no responsibility for the ultimate disposal of their products and packaging—companies will not produce goods from recycled materials or design recyclable goods. Even though we waste 400 million barrels of oil every year on useless packaging—more than the amount we import from Iraq and Kuwait combined—businesses will continue to overpackage products—like the ridiculous long box used to sell compact discs. Vendors will not collect products that can be used again or recycled. And investors—as Morgan Stanley and Sherson Lehman recently acknowledged in reports on recycling—will not invest money in recycling equipment in a totally unpredictable market. Eight States already know this and have enacted laws requiring those who make the bucks from the sale of the product to use recycled content in their products—to reduce disposal costs to American taxpayers.

We need a balanced approach to waste management that includes both sides of the recycling equation—supply and demand. Today, concerned Americans in their communities are spending money and working hard to supply. Those who make the cash that produces the trash should show a little demand. The Reduce, Reuse and Recycle for America Act builds on the enormous public support and leadership demonstrated by cities and States. It ensures a steady supply of recyclable material, but gives local governments the flexibility to choose the waste management systems that best fit their communities. It also provides broad incentives to corporate America to ensure that the markets for recyclable material will be strong and the Wall Street will want to invest in recycling. Finally, this legislation will create more jobs, reduce energy demand, conserve natural resources, and improve manufacturing efficienty—all by wasting less.

The Reduce, Reuse and Recycle for America Act includes provisions that would meet these objectives. It provides for:

Stripped-down packaging. The bill establishes an efficiency requirement for all consumer goods to reduce the use of nonessential packaging.

Re-use of vital materials. The bill requires a take-it-back program for all vendors of large appliances and motor vehicles. It provides incentives for packaging to be designed for reuse and set forth a deposit program for house batteries.

A jump start for recycled materials. The bill promotes markets for recycled products by establishing materials content standards for paper, plastics, glass, steel, and aluminum.

Procurement. The bill encourages Federal, State, and local government agencies to buy recycled and recyclable materials.

Cost-benefit waste management. The bill ensures the most environmentally benign and most cost-effective technologies for managing wastes.

Community recycling. The bill provides incentives to stimulate development of municipal and State recycling programs.

States and cities are to be commended for the job they've done. The American people are to be commended for the job they've done. It's now time for Corporate America to close the loop. Congress can build on America's progress by making the three R's—Reduce, Reuse, Recycle—a matter of national waste management policy.

Because corporate America doesn't get it.

As more and more communities recycle, prices for these collected scrap materials have crashed through the floor—leaving city and State waste officials and their taxpayers overwhelmed and in the hole.

In short, recyclable material is piling up from coast to coast. All separated. All sorted. All dressed but with no place to go.

We have 50,000 tons of surplus green glass. All separated. All sorted. But no place to go—because prices for glass fell by one-third last year.

We have warehouses and open pits of old newsprint—separated, sorted, but with no place to go—because prices fell from $10 in the late eighties to minus $10 or $20 last spring. That's right—taxpayers had to pay to have it collected and then pay again to have it carted away.

We even have aluminum beverage containers—again, separated, sorted but with no place to go—because by late 1989, prices had fallen 29 percent from a year earlier. By December 1990, they had fallen another 14 percent. By August 1991, they were down another 17 percent.

Wake up America. American taxpayers are spending over $20 billion a year to handle and dispose of trash. But we are completing only half of the cycle. The cycle in recycling is broken.

The problem with "sort and separate" is that it puts the cart before the horse. Somebody—usually States and cities and then taxpayers—always gets stuck with a lot of material nobody wants to buy. So taxpayers, thinking they are striking a blow for a cleaner environment, are really just spending money to collect recyclables, store them, and then to find someone to take them off their hands.

"Sort and separate" threatens to unravel the entire recycling effort. Already we are hearing people say, 'I don't know why we should recycle newspaper since it's just going to wind up in a landfill or incinerator anyway."

Recycling in America will never work without a change in our national policy—one that embraces the principles of free market and polluter pays.

I support a free-market approach. The costs of pollution, and pollution clean-up , should be reflected in the costs of goods and services that cause the mess in the first place. And for the first time, corporate America, as well as American communities, must be in the equation.

Until now, American taxpayers have paid all costs for managing garbage. They have paid for collection, transportation, disposal or incineration. They pay in lost energy and lost materials as valuable resources are buried or burned. And they pay for garbage mismanagement—in the form of Superfund sites, in the form of toxic ash and toxic air pollution.

The taxpayer-pay-all plan is wrong for two reasons. First, it's not fair. It conflicts with fundamental American principle for allocating the costs of pollution and encouraging the rational use of resources—"Polluter Pays."

FLASH: PRESIDENT EXPLAINS TO BLUE-COLLAR WORKER WHY THERE'S NOTHING TO FEAR IN A UNITED STATES-MEXICO FTA

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PEASE. Mr. Speaker, as the United States-Mexico Free Trade Agreement [FTA] negotiations proceed, concern and fear grow among our blue-collar manufacturing workers. Members of Congress may ask, how valid is this concern? Also, why pay attention to one interest group among many who will be affected by this agreement?

Perhaps the dialog below—developed through extrapolation of actual policy statements made by labor and the administration—will shed some light on the reasons for the American factory worker's aversion to this agreement. When dissected, these reasons prove well founded especially as they relate to the President's commitment to an adjustment assistance program for workers dislocated as a result of the United States-Mexico FTA.

President BUSH. The United States-Mexico FTA will be good for both countries, for consumers, for workers, for everyone.

WORKER. Pardon me, sir, but how about me? Even without an FTA, I lost my job when my company moved factory production and 500 jobs to Mexico.

President BUSH. Well, of course, there will be a few dislocations, but the loss of low-skill factory jobs will be made up by well-paid, high-skill jobs. That's a great trade-off.

WORKER. What kind of jobs are we talking about?

President BUSH. Good jobs all—in product design, engineering, accounting, computer science and marketing to name a few.

WORKER. The way I figure it, sir, those new well-paid, high-skill jobs will total only 10 or 20 percent of the number of low-skill, well-paid factory jobs we're losing. Other new jobs will be of the minimum wage variety, not good enough to raise a family.

President BUSH. Well, then, you'll just have to qualify yourself for one of the high-pay, high-tech jobs.

WORKER. Can I get training for that kind of job?

President BUSH. Of course, I pledged on May 1 that I will work cooperatively with Congress for an adequately funded adjustment program for workers who lose their jobs because of the FTA.

WORKER. What do you have in mind?

President BUSH. I strongly favor EDWAA [Economic Dislocation and Worker Adjustment Act], our existing adjustment program.

WORKER. How much training can I get?

President BUSH. Well, the average training period under EDWAA is 19 weeks.

WORKER. That's not long enough for me to train as a computer scientist, engineer, designer or accountant. Can't I go to college for two or four years.?

President BUSH. No, that wouldn't be cost effective. But EDWAA does offer some nice eight-week welding courses.

WORKER. Welding is another disappearing blue-collar job. I want training for a good job with a future. What about a program called Trade Adjustment Assistance (TAA)?

President BUSH. I'm sorry—TAA is not cost-effective.

WORKER. Why not?

President BUSH. Because it allows a laid-off worker to tailor his or her own individual training for up to two years.

WORKER. Sounds good to me. Is that what makes it less than cost-effective?

President BUSH. That's only the half of it. TAA also provides weekly checks for up to 78 weeks so workers can support their families while in training.

WORKER. Then you're opposed to TAA?

President BUSH. Absolutely, it's simply not cost-effective. With the same money, EDWAA can train many more people for 19 weeks at a time.

WORKER. I still want a college degree or at least an associate degree. If I scrape up the tuition money, can I use unemployment benefits to feed, house and clothe my family?

President BUSH. Only for 26 weeks plus additional allotments provided under the Emergency Unemployment Compensation Act of 1991.

WORKER. Not longer?

President BUSH. Probably not. I'm skeptical of including extended unemployment benefits in worker adjustment assistance programs.

WORKER. Why?

President BUSH. Because Dick Darman assures me that unemployment benefits only encourage laid-off workers to remain unemployed.

WORKER. You promised to work with Congress for adequately funded adjustment assistance for workers who lose jobs when American factories move to Mexico. What if Congress wants to be more generous than you do?

President BUSH. Well, under last year's budget summit agreement regarding domestic discretionary spending, Congress would have to pay for the new program by cutting some other domestic program.

WORKER. What if Congress made the adjustment program an entitlement and raised taxes to pay for it?

President BUSH. I'd have to veto that as a violation of my "no new taxes" pledge.

WORKER. It looks to me like a no-win situation. American blue-collar workers will lose their jobs as factories close and move to Mexico, but they won't qualify for what few well-paid, high-skill jobs may be created because expanded adjustment assistance would not be cost-effective.

President BUSH. Well, nothing's perfect.

INTRODUCTION OF RESOLUTION TO LIMIT CHAIRPERSON OF A PARTICULAR COMMITTEE OR SUBCOMMITTEE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of Utah. Mr. Chairman, today I introduced a resolution which would, if implemented, limit the number of years a Member may serve as chairperson of a particular committee or subcommittee.

It would amend the rules of the House such that a Member of the House could not serve as chair of a particular committee or subcommittee for longer than 8 years, notwithstanding service performed as chair of the committee for less than a full session. Also, service as chair before the beginning of the 103d Congress shall be disregarded.

Mr. Speaker, many argue that term limits are needed to bring "fresh" ideas to the Congress. The truth is, the House is already full of innovation and diversity—and I say that in the spirit of bipartisanship. I suspect that the members of the House who argue on behalf of term limits would also argue that they themselves could turn things around if they had the chance. The problem, then, is not members themselves. The problem is the guidelines which govern the actions and incentives of Members. The problem lies in the means by which a bearer of those ideas can ascend to the position of authority necessary to enact them into law.

We are a body of 435 individuals as diverse as the nation we have been elected to help govern, and an effective committee system is vital in bringing these conflicting interests together. The system must strike a difficult balance. On one hand, we must structure the committee leadership in a manner that maintains discipline and institutional memory. On the other, the Congress must remain accountable to changes in the economic and political climate. The rules governing the structure and activities of committees are an important part of that balance.

By limiting a Member's service as committee or subcommittee chair to eight years, I feel that this balance is achieved. The average tenure of current committee chairman is 5.5 years. Thus, relatively few tenureships would be cut short. A member impacted by the limit could seek a position as chair of another committee or subcommittee. The incoming chair will also have had considerable committee experience. Thus, institutional memory is not lost while turnover of leadership is ensured.

For the most part, the committee chairs do a commendable job of moving important legislation through the House. Nevertheless, the calls for reform of the Congress cannot and should not be ignored. The gentleman from Indiana [Mr. HAMILTON] and some of our colleagues in the Senate are leading the effort for congressional reform. It is with this that I leap into this important debate, and I encourage my colleagues to join me in supporting this resolution.

It is not a cure-all, and does not have the emotional appeal of term limits. But a stringent review of the current committee system should be undertaken, and I feel this resolution should be a part of a broader, more comprehensive solution. Thank you, Mr. Speaker.

HELP AMERICANS SAVE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LIPINSKI. Mr. Speaker, not a day goes by that we don't hear about the worsening U.S. economy. "Economy Rattles Investors." "Coping With Recession." "Economic Worries." These headlines are all too common. We read about it in our newspapers and watch it on the evening news. The lack of savings in our country is one major, long-term economic problem that contributes to our troubled economy. For the last few years, the American public has hit a record low in savings. During the last few years, personal savings as a percent of disposable income only averaged 4.5 percent—the worst since World War II. Today, I am introducing legislation designed to help combat this problem and stimulate savings.

According to a recent Associated Press poll, two out of three Americans say the economy is getting worse, but they think the Government can help. This is a clear message to us that we must do something to assist the American public, and we cannot let them down.

My legislation would make it easier and more rewarding for people to save. Specifically, my bill would allow an individual to earn tax-free interest on his or her first $50,000 that is placed in any savings institution or earned on bonds. This would encourage people to start or increase their own personal savings.

We must keep in mind that there is no quick-fix solution for our economic difficulties; but instead we must think of long-term remedies. Increased savings would be a step in the right direction. I want to help Americans save for themselves and for the sake of the economy.

I urge my colleagues to join me in cosponsoring this important legislation by rewarding Americans who help boost the national savings rate.

BOUTROS BOUTROS GHALI: A "BORN" SECRETARY GENERAL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. MORELLA. Mr. Speaker, on January 1 the world will welcome Boutros Boutros Ghali as the new Secretary General of the United Nations. As the United Nations increases its role in international conflict resolution, Boutros Ghali is extremely qualified to meet the challenges of the changing world environment. As chair of the Arms Control and Foreign Policy Caucus, I would like to share with my colleagues an excellent profile by Judith Miller from the New York Times that provides an insightful look into Boutros Ghali's achievements and his vision for tomorrow's United Nations.

Mr. Ghali, an Egyptian, is known as a savvy and judicious diplomat with a history of bold support for peace initiatives, human rights, and environmental concerns. Not only was Mr. Ghali deeply involved in the Camp David peace accords, but he has been a strong advocate for institutions to develop Arab democracy and distribute wealth throughout the region. As an example of his forward thinking, Mr. Ghali warned of water and resource shortages in the region long before concern about ecology became fashionable.

The United Nations is at the most critical juncture since its inception—with integral roles in El Salvador, Cambodia, Iraq, and Angola, to

name a few. Boutros Ghali, an admitted steadfast believer in strong United Nations participation in the new world order, is distinctly suited to the job as Secretary General of the United Nations.

[From the New York Times, Nov. 22, 1991]

A "BORN" SECRETARY GENERAL—BOUTROS BOUTROS GHALI

(By Judith Miller)

Of all the candidates for the post of Secretary General of the United Nations, none wanted the job as much, or campaigned for it as openly and as ardently, as the veteran diplomat who was chosen yesterday, Boutros Ghali, Deputy Prime Minister of Egypt for Foreign Affairs.

Mr. Ghali, the first from the Arab world or from Africa to head the organization, traveled throughout Africa and to China, Britain and the United States, calling in long-standing chips and upon old friends to win support for his bid. Unabashedly, he says he was "born" for this post. The United Nations, he says, can be critical in the "new world order," a concept in which Mr. Ghali steadfastly believes.

In his victory, Mr. Ghali, whose full name is Boutros Boutros Ghali, overcame complaints that he was too old and frail to serve the expected two five-year terms. Many diplomats argued that at age 69, and after suffering an abscess on the liver that incapacitated him for several months two years ago, Mr. Ghali lacked the stamina to reshape the United Nations' bloated, weary bureaucracy. But his indefagitable campaign, coupled with his ability to sketch an inspiring vision of a reorganized, reinvigorated peacekeeper able to meet the challenges of the 21st century, won over doubters, among them President Bush, whose last-minute support guaranteed his election.

Mr. Ghali was twice rejected for major United Nations posts. In the mid-1980's, he failed in his bid to head the United Nations Educational, Scientific and Cultural Organization and, partly because of strong Israeli opposition the United Nations refugee agency.

NO OPPOSITION FROM ISRAEL

Despite unease with the prospect of an Arab head of the United Nations during thorny peace negotiations with Arab countries. Israel did not oppose Mr. Ghali's election this time. Israeli officials, speaking on condition that they not be identified, said Mr. Ghali's support for the Camp David peace process led Israel to conclude that he could be "fair-minded" and "smart enough" not to intervene in the current peace talks in an adversarial way.

Though President Anwar el-Sadat of Egypt was the prime mover of the Camp David peace process, which culminated in 1979 in a peace treaty between Israel and Egypt, Mr. Ghali played an important role in negotiating the accords. After Egypt's Foreign Minister resigned rather than accompany President Sadat on his historic trip to Jerusalem in 1977, Mr. Ghali, then Deputy Foreign Minister, went along instead. And he was one of the few senior Egyptian officials at Mr. Sadat's side when the peace treaty was signed at the White House in 1979.

"He was always a strong supporter of the peace process," said William B. Quandt, a senior official in the Carter White House who helped broker the accords. "He is as international-minded as they come, a walking U.N. in his own personal experience, and very fair-minded."

Diplomats also recall that Mr. Ghali warned Israel early on that failure to address the Palestinians' grievances would damage the quality of the peace with Egypt. After Israel's invasion of Lebanon in 1982 and the breakdown of negotiations aimed at providing autonomy for Palestinians in the Israeli-occupied West Bank and Gaza, it was Mr. Ghali who coined the phrase "cold peace" to characterize the deteriorating relations between Jerusalem and Cairo.

While Mr. Ghali is associated primarily with the Camp David peace, he has helped mediate many a quarrel among African nations. In 1990, he was influential in helping win the release of Nelson Mandela, leader of the African National Congress, from a South African jail. While many African countries would have preferred a black African to head the United Nations, Mr. Ghali, representing Egypt, a member of the Organization of African Unity, was on that group's list of candidates for the post.

WARNING ON ENVIRONMENT

It was Mr. Ghali's strong African ties that helped bring Egypt back into the Arab fold after it was ostracized for having made peace with Israel. Mr. Ghali, a Coptic Christian who is married to a Jew from Alexandria, persistently lobbied for Egypt's readmittance to the Islamic Conference Organization, the 45-member Islamic group that had suspended Egypt. In 1984, it became the first international organization that included virtually all of the Arab countries to reinstate Egypt's membership.

Long before concern about ecology became fashionable, Mr. Ghali warned that the water shortages facing Africa and the Middle East would pose as great a threat to the region's stability as any political dispute. For more than a decade he has been responsible for negotiations among the nine countries that share the precious waters of the Nile.

Nor is he a stranger to bloated, inefficient bureaucracies. In Cairo, he was legendary for cutting through, ignoring, and evading red tape accumulated from Egypt's centuries-old tradition of very strong, very central government.

A tenured professor of international law, Fulbright scholar at Columbia University, and author of more than a hundred publications, Mr. Ghali, who was born on Nov. 14, 1922, never seems to rest. A committed diarist, he often rises at dawn to work on articles or another chapter of yet another book.

SUPPORT FOR THE U.S.

Exquisitely tailored, he seems equally comfortable in the tent of an African tribal chieftain as in Elysée Palace. An unabashed Francophone, who still speaks English with a distinctly French accent. He is known for his wit in three languages. Best of all, say friends, he does not take himself too seriously.

Boutros Boutros Ghali, or Peter Peter, as Israeli negotiators used to call him based on the English translation of his name, has patiently tutored generations of visitors to Cairo about the intricacies of Middle Eastern politics. A descendant of one of Egypt's most distinguished Coptic families, he believes passionately in the centrality of Egypt in the Middle East.

After Iraq invaded Kuwait, he worked assiduously to build support for the American-led coalition that ousted Iraqi forces. But soon after the allied victory, he urged the formation of an all-Arab parliament, something of an anachronism in a region with virtually no democracies, and of an Arab petrobank to transfer wealth from the Arab nations rich in oil to the poor ones like his own.

Asked whether he was frustrated by his neighbors' seeming disdain for both proposals, Mr. Ghali just smiled and counseled patience. "If I lost hope each time I proposed something offbeat," he said, "I would never have accomplished anything."

PUERTO RICO'S DEMOCRATIC REFERENDUM

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FUSTER. Mr. Speaker, I rise today to explain fully to my colleagues the referendum that will take place in Puerto Rico on December 8. A shameful campaign of distortions and falsehoods has recently been unleashed by antidemocracy forces in Puerto Rico and Washington, DC—with the gentleman from California, Mr. LAGOMARSINO, its congressional spokesperson—and a clarification is in order.

In January 1989, the Governor of Puerto Rico, Rafael Hernández Colón, formally requested Congress and the President of the United States to address the future of the relationship between the Commonwealth of Puerto Rico and the United States. During the following 26 months the people of Puerto Rico patiently but eagerly waited for Congress to enact legislation that would result in an eventual plebiscite in Puerto Rico by the end of 1991.

After thousands of hours of negotiations and meetings, including hearings in Washington, DC, New York and Puerto Rico, the Senate committee of jurisdiction was unable to mark up its bill authorizing the Puerto Rican plebiscite. The stalemate in the other body reflected Republican disarray over what to do with Puerto Rico. Many Republican Senators believed that President Bush made a big mistake in favoring statehood for Puerto Rico. The House of Representatives, following the leadership of Speaker TOM FOLEY, and Chairman MORRIS UDALL, of the Interior and Insular Affairs Committee, and RON DE LUGO, of the Subcommittee on Insular and International Affairs, however, approved legislation in late 1990. The process having stalled in the Senate, it is now well accepted that no negotiations on the future of the political relationship of Puerto Rico and the United States will take place, at the earliest, until the 103d. Congress convenes in 1993.

In light of this painful experience, Governor Hernández Colón and the legislature of the Commonwealth of Puerto Rico recently approved a referendum for December 8, 1991, that calls for the people of Puerto Rico to make an official statement on the most basic principles that should guide future congressional action on this matter, to simplify and expedite proceedings and to petition Congress on our self-determination expectations. We believe that there are some fundamental principles that all Puerto Ricans share regarding the future relations between Puerto Rico and the United States, and the December 8, 1991 referendum in the island clearly calls for Puerto Ricans to affirm those basic principles, as a statement of the will and aspirations of the people. The principles are: First, that any change in the relations between Puerto Rico and the United States must be ultimately approved by the people themselves; second, that any such change must be approved by a majority of voters; third, that in any congressional process to consult the people of Puerto Rico as to changes in the relationship all alternatives—commonwealth, statehood, and independence—should be included, and none can be colonial in nature; and finally, fourth, that the people of Puerto Rico should not be asked to give up either their Hispanic heritage or their United States citizenship as part of any change in the relationship. The referendum's enabling law clearly states that a yes or no vote on December 8 is not a vote in favor of one political status option over another, but only an opportunity to express, as a people, what they wish to have as a framework for any future congressional action on their political destiny.

The basic principles that the people of Puerto Rico are being asked to ratify in the December 8, 1991 referendum are eminently fair and democratic. An affirmative vote does not imply any disassociation with the United States as Mr. LAGOMARSINO so incredibly claims in his statement yesterday. It is hard to understand how any person of good will committed to democratic principles can find any fault in this process. That the Government of Puerto Rico is convoking the people to affirm and ratify these principles through a referendum is in and of itself an example of democracy.

Moreover, the self-governing Commonwealth of Puerto Rico is fully empowered to conduct such a referendum. The inalienable right of the people of Puerto Rico to self-determination has been endorsed by every President since Dwight Eisenhower, by the U.S. Congress, by the U.S. Supreme Court, by the United Nations, and is supported by international law. In addition, the United States has taken the position before the international community that the ultimate decision on the political status of Puerto Rico belongs to the people of Puerto Rico. The December 8 referendum is nothing but an attempt to articulate a legitimate expression of a people, democratically declaring the acceptable boundaries to be observed during any political status consultation. This referendum, moreover, is an exercise of the right of the people to petition Congress, as guaranteed by the U.S. Constitution.

In light of this background, Mr. Speaker, I find totally inappropriate Mr. LAGOMARSINO's statement yesterday in the CONGRESSIONAL RECORD. His grossly distorted and often erroneous description of the process that is about to take place in Puerto Rico can only be characterized as shameful. Mr. LAGOMARSINO's meddling in this process—an internal matter for the people of Puerto Rico—responds to his strong ties with the pro-statehood New Progressive Party in Puerto Rico, and to his never ending patronizing desire to tell the people of Puerto Rico what is best for them.

Moreover, Mr. Speaker, my colleagues in the Congress are owed a better explanation of Puerto Rico's referendum situation than the glib, facile, distorted and often erroneous description that Mr. LAGOMARSINO offered yesterday. The irony is that Mr. LAGOMARSINO knows better—or should know better. He, or the politically partisan staffer who normally writes his statements on this issue, knows for example that the Language Law enacted this year by the Government of Puerto Rico had nothing to do, as Mr. LAGOMARSINO said in the RECORD yesterday, with "stopping enactment of a plebiscite which would have offered statehood as an option to the people of Puerto Rico." That is a demonstrably untrue statement.

The Language Law was enacted months after the plebiscite process in the Congress had unfortunately ended in the Senate without a resolution of the issue. And Mr. LAGOMARSINO knows that the Puerto Rico Language Law did not outlaw English in the community nor did it create a Spanish-only environment, as he claims in his statement. It merely ratified what were existing realities in Puerto Rico, and I personally have gone to great lengths to explain this to my colleagues in several statements in the RECORD.

Another example of the false statements made by Mr. LAGOMARSINO is that some 70 percent of the Puerto Rican people object to Spanish as the language of the Government. There is no evidence to support this. In fact, some polls show just the opposite.

A third misleading statement is Mr. LAGOMARSINO's suggestion that a Federal judge in Puerto Rico last week somehow ruled against the December 8 referendum. In fact, the judge in question, who is a Republican pro-statehooder, as is Mr. LAGOMARSINO, did just the opposite: he ruled that the referendum could go on as scheduled December 8.

Also grossly misleading is Mr. LAGOMARSINO's attempt to show that the U.S. Justice Department, in a November 13 letter to Mr. LAGOMARSINO, has somehow come down against the referendum law enacted by Puerto Rico's Legislature. In fact, the letter noted how the Justice Department has a time-honored position not to provide opinions at the request of persons outside the executive branch. The letter, however, did indeed express highly controversial opinions about whether Puerto Rico falls under the plenary powers of the Territorial Clause of the Constitution, but in any case it is a mere opinion, and one totally contrary to the consistent rulings of Federal courts on this matter.

Mr. Speaker, it pains me to speak so bluntly about this issue and about a fellow Member of this body, but it would be grossly unfair to Puerto Rico and a blatant disregard for the truth to allow Mr. LAGOMARSINO's distortions to go unchallenged. I am confident that in the end it will be the people of Puerto Rico, and their political parties, who will decide their future, not a pro-statehood Member of Congress who is perennially disappointed that the people of Puerto Rico somehow do not follow his advice. I wonder how Mr. LAGOMARSINO would have reacted to a blatant attempt to deny the people of his State of California the right to participate in their many referenda.

And it will be the people themselves, mature and politically sophisticated as they are, who will democratically decide whether to vote in the December 8 referendum in favor of the principles discussed before. Mr. LAGOMARSINO's fantasy that he can affect the outcome is itself an arrogant disregard of the people's democratic capacity. But he might have misled some of his colleagues as to the true nature of Puerto Rico's referendum and that alone justified this reply.

GOVERNMENT SECURITIES REFORM OF 1991

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RINALDO. Mr. Speaker, Yesterday, Congressman MARKEY and I introduced major legislation, the Government Securities Reform of 1991, which would reauthorize the Government Securities Act and strengthen the law to prevent the kind of abuse that was uncovered earlier this year when the Salomon Brothers scandal came to light.

Our legislation, which is a bipartisan effort, contains several important provisions that will help to restore confidence in this critical market. Our bill would empower the Security and Exchange Commission to impose additional record-keeping requirements from government securities dealers or brokers; would grant the SEC enhanced authority to require reports from large trading customers; would require increased internal controls to prevent violations of securities laws, and it would also grant the SEC authority to oversee the dissemination of market price and trading information to the public.

The Telecommunications and Finance Subcommittee has been deeply involved in government securities issues since the Salomon Brothers incident this past summer, and Chairman MARKEY deserves tremendous credit for the leadership and initiative he has brought to this subject. I look forward to working with him over the next few weeks and months as we build a consensus behind our legislation.

That effort should, and I hope it will, include representatives from the government securities industry. We have already received input from a number of organizations, through hearings, testimony, informal meetings, and we are well aware that some of the provisions in the Markey-Rinaldo bill have raised concerns. I am sensitive to those objections, as I know Representative MARKEY is, and we both look forward to working with the affected parties in an expeditious fashion to iron out any particularly onerous or unnecessary provisions. I must say, however, to those who object to provisions of our bill, that I personally will be looking for constructive, helpful remarks that will improve the legislation, not scuttle it. With the reports of the pertinent Federal agencies due in only a few weeks, I hope we can set this legislation at the top of our calendar of business next year.

GWEN TILLEMANS

HON. ROBERT J. LAGOMARSINO
HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAGOMARSINO and Mr. GALLEGLY. Mr. Speaker, we rise today to jointly pay trib-

ute to a woman who has worked tirelessly in the vineyard of Republican politics in Ventura County for more than two decades.

Gwen Tillemans, who stepped down this year from the chair of the Ventura County Central Committee, could well be called Mrs. Republican of Ventura County. Since she moved here 20-some years ago, she has served on virtually every executive board of the Federation of Republican Women at the local, county, southern division and State levels. She served 4 years as chair of the Ventura County Republican Women's Federation, and is currently serving the first year of a 2-year term as county president.

In addition, she served during that time as county chair of the Reagan campaign, county cochair of the Bush-Quayle campaign, and for 4 years as county chair of the Bob Lagomarsino campaign.

Politics has always been Gwen's first love, after her family, of course but she also loves sports, including swimming, bridge, and cheering for the Dodgers and the Lakers.

Gwen is a wonderful woman, always ready to take on a new task cheerfully and skillfully, and neither of us would be here, Mr. Speaker, without her support. So it is with gratitude and great affection that we publicly pay tribute to her for all that she has done for the party and for the county, State and Nation. Gwen, we salute you, and know that as long as you're around, we'll be in good hands!

ARMS CONTROL: A YEAR OF PROGRESS AND OPPORTUNITIES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FASCELL. Mr. Speaker, in my capacity as chairman of the Foreign Affairs Committee and the Subcommittee on Arms Control, International Security, and Science, I and many Members have had a very active and interesting year focusing on a wide range of topical and pressing arms control and national security developments. Examples of such activities that both the committee and subcommittee have undertaken during 1991 include: New arms control agreements with the Soviet Union (START, CFE, and CW destruction); multilateral arms control developments—the Australia Group on CW, the Geneva CW negotiations, IAEA improvements, and conventional arms sales restraint talks by the Permanent Five Members of the U.N. Security Council; concerns over the proliferation of nuclear, chemical and biological weapons, and their associated delivery systems—ballistic missiles; reform and adaptation of United States security assistance programs and arms export control authorities to post-cold war realities; and congressional policy initiatives to promote stability and democracy within a changing Soviet Union.

Progress in arms control has been rapid, meaningful, and unprecedented. And yet, there are even greater opportunities if political leadership can be responsive and creative enough. New opportunities in arms control remain abundant in the post-gulf war, post-cold war, and post-failed Soviet coup environment.

The main arms control and national security actions taken on by the Committee on Foreign Affairs include: Reaffirming the proper and adequate role for Congress in war powers decisionmaking, proven again by responsible congressional action authorizing the activities of U.S. forces in the gulf war; rewriting foreign military and security assistance programs to produce a leaner program, authorizing $2 billion less than the peak year of 1985; maintaining and improving congressional oversight of U.S. arms transfer policy and proposed arms sales worldwide; initiating a new arms control policy of multilateral restraint versus a business as usual approach on conventional arms sales to the Middle East and throughout the world; continuing review and support for key arms control agencies such as the Arms Control and Disarmament Agency [ACDA] and the On-Site Inspection Agency [OSIA]; and focusing congressional oversight on proliferation issues through legislative initiatives imposing sanctions against users of chemical weapons and proliferators of nuclear, chemical, and ballistic missile capabilities.

These arms control and national security themes and issues will remain on the committee and subcommittee work agenda for 1992. For example, the longstanding U.S. arms control policy, as reflected in the ARM Treaty, to control and reduce offensive strategic nuclear weapons while not exacerbating or extending the arms race into defensive systems was a contentious issue in this year's defense authorization bill. Fortunately, the final compromise did not mandate any changes in this longstanding policy initiated by the Nixon administration. It is clear that the issue of strategic and theatre defense systems and its impact on the direction of an arms control policy raised during consideration of the defense bill this year will become a central element of the arms control debates during 1992.

The following is a brief legislative history of committee and subcommittee activities on these arms control and national security issues.

PERSIAN GULF WAR AND WAR POWERS

On January 12, 1991, Congress passed House Joint Resolution 77 authorizing the President to use force against Iraq upon determination by the President that all diplomatic and peaceful means to obtain Iraqi compliance with the 12 U.N. Security Council Resolutions had filed. House Joint Resolution 77—Public law 102–1—reaffirmed the responsibility, authority, and constitutional obligation of Congress to declare war, demonstrating the continued vitality and legality of the war powers resolution.

In addition, the committee was directly involved in legislation relevant to U.S. efforts associated with Operation Desert Storm. These included various resolutions related to the gulf war and other legislation that became law, specifically the state supplemental authorization (H.R. 1176, Public Law 102–20) and Israel emergency assistance (H.R. 1284, Public Law 102–21).

Recognizing that the end of the war in Iraq could not signal a return to arms business as usual, on January 31, the Subcommittee on Arms Control, International Security and Science held a joint open hearing with the Subcommittee on Europe and the Middle East to initiate an extensive examination of postwar United States policy in the Persian Gulf. On April 11, the subcommittees held another hearing on postwar issues in the gulf which focused on Soviet policy in the Middle East.

On June 4, the subcommittees heard testimony from four experts on United States-Soviet relations and the future of arms control to discuss United States arms control policy during a time of crucial domestic change inside the Soviet Union.

On June 20, the committee released a print entitled "The Persian Gulf Crisis" containing documents, executive correspondence, and reports relevant to committee and congressional legislative action during the Persian Gulf war.

FOREIGN ASSISTANCE AUTHORIZATION

The Subcommittee on Arms Control, International Security and Science is responsible for all foreign security and military assistance programs. On March 14, the subcommittee held a hearing during which administration witnesses provided an overview of security assistance programs and presented policy initiatives for foreign assistance legislation for fiscal years 1992 and 1993.

This hearing represented a continuation of committee and subcommittee efforts initiated over 2 years ago to achieve long overdue and necessary reforms of the laws governing our foreign security assistance and military sales programs. Legislation containing many of the recommendations of the Hamilton-Gilman Task Force (H.R. 2655) first passed the House on June 29, 1989 by a solid bipartisan vote of 314 to 101.

On April 25, the subcommittee made its recommendations on military assistance and arms sales legislation for fiscal years 1992–93 to meet four major objectives: to enhance the effectiveness of security assistance; to improve fiscal responsibility; to improve committee oversight; and to enhance major arms control and international security objectives.

The International Cooperation Act of 1991, H.R. 2508, embraced these objectives and included a rewrite of the basic authorities and policy guidelines of both the Foreign Assistance Act of 1961 and the Arms Export Control Act of 1968. This effort represents a legislative overhaul emphasizing economic over military assistance, multilateral over bilateral solutions, and United States-Soviet cooperation over confrontation, thereby making our security assistance programs more appropriate to the post-gulf war and post-cold war environment of the 1990's.

ARMS TRANSFER RESTRAINT POLICY

One of the most important priorities for the subcommittee in 1991 was to develop a plausible and effective arms transfer restraint policy for the Middle East and Persian Gulf. These efforts culminated in full committee support for an amendment calling for an indefinite moratorium on the sale of major military equipment of U.S. origin to the Middle East and Persian Gulf regions. The moratorium was to remain in effect until another arms supplier nation broke the moratorium by making a major sale to the region or until it was replaced with a multilateral arms restraint regime. This conventional arms control initiative represented a major part of the subcommittee's efforts to prevent a return to "business as usual" arms sales practices in the Middle East and Persian Gulf in the wake of Operations Desert Shield and Desert Storm.

This subcommittee initiative, geared toward stimulating the developing of a multilateral arms restraint policy and regime, was adopted on May 23 as section 242 title II in the foreign assistance authorization legislation fiscal year 1992—H.R. 2508. Six days later, President Bush called for restraint in conventional arms sales by the five major suppliers, as well as global elimination of all weapons of mass destruction—nuclear, chemical, and biological and their associated delivery systems, specifically ballistic missiles. The President's announcement opened the door to increased cooperation between the legislative and executive branches to develop an effective multilateral arms restraint regime. This announcement resulted in negotiations among the permanent five members of the United Nations Security Council in Paris and London on arms transfers to the Middle East. These negotiations will continue in Washington next year and will remain a primary focus of both the subcommittee and committee during the second session of the 102d Congress.

On June 27, the subcommittee held a joint hearing with the Subcommittee on Europe and the Middle East on U.S. conventional arms sales policy in the Middle East. Administration witnesses were asked to explain the apparent discrepancy between policy rhetoric on arms sales and the actual decisionmaking with regard to continued conventional arms sales to the Middle East.

The conventional arms restraint legislation, section 242 of H.R. 2508, also contained language committing the United States to multilateral negotiations among the five permanent members of the United States Security Council—the United States, U.S.S.R., France, Britain, and China—and other principle suppliers in an effort to establish a multilateral arms transfer restraint regime. The moratorium was a way for the United States to exercise world leadership and to jump-start the process toward such a multilateral commitment. As stated, the administration did engage in multilateral negotiations at the Paris Conference held on July 8 and again in London on October 17–18. These negotiations represented executive branch implementation of a congressionally sponsored and endorsed arms control policy objective.

The subcommittee held a closed briefing on July 24 with representatives of the Central Intelligence Agency to discuss the military balance in the Middle East and trends in arms sales to the region for the 1990s. On July 25 the subcommittee heard testimony from the administration on its arms transfer policy.

The committee's arms transfer restraint policy language can be found in the committee of conference report—102–225—which accompanied the bill—H.R. 2508. The conference report language paralleled that of the original committee bill and retained the definition of major military equipment with one modification.

The State Department authorization conference report contained an identical arms restraint policy provision in H.R. 1415 which was enacted on October 28—Public Law 102–138.

U.S. ARMS TRANSFERS

The committee, in conjunction with the relevant regional subcommittees, reviewed all arms sales worldwide giving special attention to the sale of Apache attack helicopters to the United Arab Emirates, the Korean fighter program, the transfer of F–15's to Israel, and the sale of Patriot air defense systems to Saudi Arabi.

On August 1 the Arms Control Subcommittee held a joint open hearing with the Asian and Pacific Affairs Subcommittee to discuss technology transfer issues and the effects of licensing and coproduction aerospace agreements to the U.S. economy and national security.

The subcommittee released a new study by the Office of Technology Assessment [OTA] on May 10 entitled "Global Arms Trade."The OTA report examines technologies and techniques for monitoring compliance with arms control agreements, and outlines options for improving the management and coordination of our verification efforts.

ARMS CONTROL AGENCIES: ACDA AND OSIA

The subcommittee met on March 13 with Director Ronald Lehman of ACDA to review ACDA's budget, personnel and management and the agency's contribution to U.S. arms policy efforts. On March 21, the subcommittee met with Maj. Gen. Robert W. Parker, Director of OSIA, and reviewed the Agency's arms control implementation activities.

House resolution 229 commemorating ACDA on its 30th anniversary was approved by the committee and passed the full House on September 26, the Agency's 30th anniversity.

NUCLEAR ARMS CONTROL AND DISARMAMENT

The subcommittee has jurisdiction over all aspects of arms control and disarmament with a particular emphasis on the evaluation of arms control and disarmament proposals and on the review of arms control negotiations and agreements. The subcommittee organized several briefings for members of the Foreign Affairs Committee and members of the House Observers Group on the status and progress of all the arms control negotiations and agreements. The subcommittee conducted a hearing on November 5 on President Bush's September 27 nuclear arms control initiative, President Gorbachev's October 5 response, and the implications of these announcements for the future of arms control.

NUCLEAR AND BALLISTIC MISSILE PROLIFERATION

The subcommittee continued to exercise its special interest and oversight activities relevant to the missile technology control regime [MTCR]. The subcommittee reviewed nuclear nonproliferation goals and examined recommendations to improve the effectiveness and consistency of nuclear export controls, to provide a more effective IAEA safeguards system, and to institute tough sanctions against companies or countries that assist would-be proliferators.

In this regard, the committee adopted an amendment that extends the scope of IAEA safeguards to include exports of dual-use items and nuclear-related components and technology that could foster nuclear material production abroad. The bill authorizes the United States to impose sanctions on countries exporting nuclear material and/or technology. The measure was adopted into title III of the Export Administration Act by the committee on October 17 and passed by the full House on October 10.

CHEMICAL AND BIOLOGICAL WEAPONS

Consideration and action on chemical and biological weapons sanctions legislation by the committee and the subcommittee over the past few years has been driven by three primary policy objectives: First, to stop the proliferation of chemical and biological weapons; second, to penalize the countries and companies using or transferring chemical and biological weapons; and third, to establish a meaningful, mandatory sanctions regime against country and company violators.

The subcommittee continued to take a comprehensive arms control approach to prevent chemical and biological weapons development and production. The major legislative activity by the subcommittee and the committee included two, almost identical, pieces of legislation on chemical and biological weapons sanctions. Chemical weapons sanctions legislation became part of the Foreign Relations Authorization Act for Fiscal Years 1992 and 1993 adopted by the House on October 8, 1991, and signed into law (Public Law 102–138) by the President on October 28, 1991. Chemical weapons sanctions legislation also became part of House Resolution 287 passed by the House on November 20, 1991. The difference between the two pieces of legislation is that House Resolution 287 includes import sanctions as an additional sanction that can be imposed on foreign countries and on foreign companies and individual violators.

The subcommittee has provided staff support to Members who were appointed by the Speaker of the House to be House Observers to the Chemical Weapons Talks in Geneva. Developments in the bilateral United States-Soviet Chemical Weapons Destruction Agreement and progress in the multilateral talks in Geneva for a worldwide ban on the production, use, and proliferation of chemical weapons have been followed by the subcommittee in briefings to Members and staff by ACDA Director Ron Lehman and other Government officials.

ARMS CONTROL IMPACT STATEMENTS FISCAL YEAR 1992

The fiscal year 1992 arms control impact statements on nuclear weapons and other arms programs were submitted for the 16th consecutive year to Congress by the President pursuant to section 36 of the Arms Control and Disarmament Act.

Annual impact statements are requested by Congress for the purpose of enhancing public awareness of U.S. weapons programs and arms control policies and negotiations. They are prepared by the executive branch in conjunction with its finding requests for defense, nuclear weapons and related programs, and are intended to assist the Congress in assuring that arms control considerations are reflected in our defense programs.

CONVENTIONAL FORCES IN EUROPE

Legislation to amend the Arms Export Control Act to authorize the transfer of CFE Treaty-controlled U.S. defense equipment to NATO allies—H.R. 3807—was approved by the full committee and passed the House on November 19. The transfer program authorized by

this legislation enables the United States, Germany, and other allies to adjust their reduction liabilities under CFE as ratified by the Senate on November 25 and allows the alliance to achieve effective overall defense capability at lower levels. The transfers are consistent with the obligations incurred by the United States and other allies in connection with the CFE Treaty.

SUPPORT SCHOLARSHIPS FOR UNDERPRIVILEGED STUDENTS IN THE ANDEAN COUNTRIES

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GUARINI. Mr. Speaker, today I am introducing legislation to authorize scholarships for economically disadvantaged students in the Andean countries. This bill would allow students from Colombia, Bolivia, Peru, and Ecuador to compete for scholarships available under a program administered by the United States Agency for International Development.

These four Andean countries have been waging a life and death struggle against illegal drugs. They are also emerging democracies. Providing a sound education to the region's underprivileged citizens will foster goodwill, promote productive relationships between the United States and the Andean countries, and encourage close economic ties with the United States. It will also promote economic and social development throughout the Andean region, which will enable these countries to combat the narcotics problem more effectively and provide a standard of living for their people conducive to democratic development.

Mr. Speaker, in 1989 I offered an amendment authorizing scholarships for students from the Caribbean region as part of the Caribbean Basin Economic Recovery Act. Since 1985, 2,366 students from Central America and the Caribbean have received scholarships under this program. Since 1990, 810 scholarships have been awarded, 316 of which were for students in the Caribbean. Overall, over $34 million has been appropriated to fund these scholarships in fiscal years 1990 and 1991.

The funding for this program comes from a public-private partnership. The Federal Government pays at least 50 percent of the cost and the remainder comes from private educational institutions. This cost-sharing arrangement has leveraged another $6 million in scholarship funds for Central American and Caribbean students.

The scholarships provide $1,605 per student per month for 24 months, or $38,500 per student. The recipients are economically and socially disadvantaged. Many of the students come from families with annual incomes of less than $2,000 per year and would never be able to pursue their education without these scholarships. Students eligible for the program must have graduated from high school and demonstrated strong leadership potential.

Mr. Speaker, the scholarship program for the Caribbean countries has been a huge success. It should be extended to the Andean region. The scholarships will help implant strong democratic values in the minds of the Andean region's brightest and most promising young people. This type of assistance will be an investment not only in the future of the Andean countries, but in the future political and economic security of the United States.

I urge my colleagues to support this important legislation.

ARAB LEAGUE BOYCOTT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MATSUI. Mr. Speaker, I rise today to introduce legislation to require the United States Trade Representative to report on the trade impact of the Arab League boycott of American companies that do business with or invest in Israel. I am pleased that the distinguished chairman of the Ways and Means Subcommittee on Trade, Congressman SAM GIBBONS, is introducing this legislation with me.

The U.S. Trade Representative is required by law to outline significant foreign barriers to, and distortions of, trade in a report called the National Trade Estimate Report on Foreign Trade Barriers. This report is presented to the Congress and the President annually. It describes the practices of foreign countries that keep American products out of their market and thus put U.S. products and businesses at a competitive disadvantage.

In addition, the report, where possible, includes estimates of the impact that these trade barriers have on the volume of U.S. exports. The report also details the efforts our Government is making to eliminate these trade barriers.

Mr. Speaker, the Arab boycott is economic warfare against not only the state of Israel, but against all nations, companies, organizations, and individuals who maintain ties to Israel. It clearly impedes the exports of United States products and puts our businesses at a competitive disadvantage. Yet, the National Trade Estimate Report on Foreign Trade Barriers remains silent on the boycott. Nowhere does the report discuss the Arab boycott and its negative impact on U.S. exports.

The Arab boycott was initiated in 1946 and, since Israel's establishment in 1948, has been geared toward undermining Israel's economic viability. The boycott prohibits Arab peoples, states, and companies from buying from or selling to Israel or Israelis and prohibits Arabs from entering into any form of commercial transaction or trade with Israelis.

A secondary boycott attempts to prevent businesspersons and companies anywhere in the world from trading with Israel by threatening them with Arab economic retaliation. United States companies trading with Israel or investing with Israel are put on a blacklist, and consequently find themselves boycotted by American companies and governments. It is absolutely unacceptable for Arab League countries to boycott our products, especially after the United States defended so many of these nations in the Gulf War.

Currently, the United States is the only country in the world that has adopted effective and comprehensive antiboycott legislation. Section 8 of the Export Administration Act of 1977, prohibits any U.S. person from complying with a boycott against a country friendly with the United States. The Office of AntiBoycott Compliance [OAC] at the Department of Commerce keeps track of boycott requests and is charged with the mission of ensuring that American companies do not comply. As our chief negotiator, the U.S. Trade Representative should seek an end to these unfair trading practices, so that our businesses will be able to export their quality products to the countries of the Middle East.

It will be extremely difficult for the U.S. Trade Representative to effectively negotiate an end to the boycott however, if it does not have all the facts with which to make its case. The U.S. Trade Representative cannot effectively deal with this issue if its major report on barriers to trade does not recognize the Arab Boycott as significant barriers.

My legislation would correct this problem by requiring the U.S. Trade Representative to include the impact of the Arab boycott on American business in its National trade estimate. This legislation will make it clear to the Arab League countries that our government will not tolerate this destructive policy. It also will give the U.S. Trade Representative the information it needs to aggressively pursue the elimination of the Arab boycott which unjustly discriminates against American companies and their products.

Mr. Speaker, understanding the scope of the Arab boycott will be an important step toward bringing it to an end. I ask my colleagues to support this important legislation.

TRIBUTE TO DR. MARTIN LUTHER KING, JR.

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McDERMOTT. Mr. Speaker, on November 16 of this year my district of Seattle, WA, dedicated an important addition to our city—the Martin Luther King, Jr. Memorial Park.

The Martin Luther King, Jr. Memorial is the second largest such memorial to Dr. King in the United States. It was created to commemorate the remarkable life and work of Dr. King and to serve as a living testimonial to Dr. King's life and philosophy. The park offers an opportunity for each of us to remember Dr. King's eloquent message and to renew the dream for which he lived and died.

The 4-acre park has as its centerpiece a 30-foot-high sculpture, a mountain of black granite, mounted in a reflecting pool. The three parts of the work represent an African sculptural form, symbolizing the family unit and the Trinity, inextricably joined. Falling water symbolizes renewal and the return of Dr. King's teachings to all of us. The walkway surrounding the reflecting pool is embedded with 12 plaques identifying events from Dr. King's life.

Inspired by the mountain top speech Dr. King made in Memphis in 1968, the sculptor, the late nationally known artist Robert W. Kelly, conceived the idea of a symbolic mountain—difficult to climb, yet interspersed with plateaus of rest and reflection. Mr. Kelly attended Howard University in Washington, DC, and received his bachelor's and master's degrees in art education from New York University. He taught and lectured in New York and in Washington State at Shoreline, Bellevue, and South Seattle Community Colleges and at the University of Washington.

The memorial is endorsed by the King family, and will be the only one of its kind in the country. I am proud that my district has chosen to recognize Dr. King's great legacy to our country with such a moving and lasting tribute. I commend the efforts of those who worked so hard to complete this memorial. I know it will serve as a poignant reminder to us all of Dr. King's enduring vision of peace and justice in America.

I would like to acknowledge the hard work of the following individuals on this project:

Morrie Alhadeff, honorary chair, Herman L. McKinney, chairman, Freddie Mae Gautier, cochair, Bill McIntosh, cochair, Bill McIntosh, cochair, Rev. Dr. Samuel B. McKinney, cochair, John A. Gilmore, fundraising chairman, Leroy Arnold, Roy Avent, Lola Barkley, Buddy Brown, Darlene Downing, Malcolm Edwards, September George, Dr. Samuel E. Kelly, Brenda Miller, Julie Ross, Susannah Ross, Vivian Phillips-Scott, E. Diane Thompson, Steve Worthy, Fitzgerald Beaver, Chris Bennett, Herb Bridge, Kay Bullitt, Lee Carter, and Steven Dever.

Also George Fleming, Horace Francis, Dr. Robert Gray, Dr. Carver Gayton, Larry Gossett, Walt Hundley, Randy Johnstad, Donna Kelly, Rep. Mike Lowry, Gwen Knight Lawrence, Jacob Lawrence, Roberto Maestas, Jim Nicholson, Dr. Constance Rice, Dr. Millie Russell, K. Sugi Riley, Eddie Rye, Jr., Councilman Ron Sims, Bob Santos, Councilman Sam Smith, Rabbi Earl Starr, Lacy Steele, George Tsutakawa, Jeri Ware, James W. Washington, Jr., Dr. Rosalind Woodhouse, Rep. Jesse Wineberry, and Charlie James.

WASHINGTON PEACE TALKS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SCHEUER. Mr. Speaker, President Bush's decision to invite Israelis and Arabs to come to Washington for the second stage of the Middle East peace talks next week was ill-timed and unwise.

It was ill-timed because, by sending the invitations the night before he was to sit down for a meeting with Yitzhak Shamir, the President once again undercut the Israeli leader's credibility.

It was unwise, Mr. Speaker, because such a move implies direct U.S. involvement in the talks, which could very easily stymie the peace process. Such direct American involvement will encourage intransigence on the part of the Arab parties, who are relying on the United States to do their negotiating for them, and shove an unfavorable agreement down Israel's throat.

Mr. Speaker, I urge the administration to rededicate itself to the success of the process by staying out of the second stage of discussions between Israel and each of the Arab parties. Any move by the administration to play a dominant role in these talks will only serve to encourage Arab recalcitrance.

We should let the parties negotiate among themselves. That is what direct talks is supposed to mean.

It was unwise, Mr. Speaker, also because holding the talks in Washington will once again involve the President in a difficult international negotiation when domestic problems deserve his attention. With unemployment rising, the stock market tumbling, and the American people wondering where this Government's top priorities are, the President was ill-advised to commit himself to the formidable role of host. Indeed, the very fact that the talks will be in Washington promises to involve the President in all the attendant duties of hosting such a meeting.

If the meetings do take place in Washington, as it now appears they will, it is incumbent upon the President to ensure our Government plays the role of host only—providing the physical setting for the talks but leaving the negotiating up to the participants.

The President showed admirable determination and success in getting the peace conference process going to the stage of direct talks between the parties. Now it is time in this second stage for the American presence to recede to let the parties work out their problems directly and on their own. The Arab countries must not be encouraged to rely upon the American administration to do their negotiating for them.

PROTECTION FOR WHISTLEBLOWERS AT DEPARTMENT OF ENERGY FACILITIES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WYDEN. Mr. Speaker, last September, a Federal court in eastern Washington ruled that whistleblowers at Department of Energy facilities working for private contractors have no protection from employer retaliation under Federal law.

If this decision stands, it will create a major role in whistleblower protections at DOE sites. At a typical site, Government employees are a tiny minority, dwarfed by a huge private contractor work force. Literally thousands of employees at a site like Hanford in the Pacific Northwest or Savannah River in South Carolina are in danger of being stripped of basic job protections.

Whistleblowing employees at these sites perform a true public service. Whistleblowers can claim credit for many of the landmark safety actions at DOE facilities over the last 6 years, from the closure of outmoded and unsafe facilities to the implementation of new safety training and procedures.

Often their service comes at a high personal cost. The Energy and Commerce Oversight Subcommittee has heard DOE whistleblowers testify that they have been harassed, criticized, reassigned, and denied advancement by their private employers.

Today I am introducing a bill with the gentleman from Oklahoma [Mr. SYNAR] to ensure those dedicated employees who work at DOE sites have full protection and feel no hesitation in coming forward to correct problems.

The bill covers DOE contractor employees who blow the whistle on waste, abuse, mismanagement, and health and safety threats. It grants them the right to the same kind of grievance procedures and remedies that we promise most public employees. That includes the right to complain of harassment, to have an impartial investigator look into the complaint, to have an administrative hearing, to have access to the courts if necessary, and to get meaningful relief.

We owe it to the whistleblowers and to ourselves to enact sure and certain workplace protections. I encourage my colleagues to support this bill.

TRIBUTE TO STANLEY BALZEKAS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to pay tribute to an outstanding individual and dear friend, Mr. Stanley Balzekas of Chicago, IL. On December 8, 1991, Mr. Balzekas will be honored for his 25-year commitment with the Balzekas Museum of Lithuanian Culture, which he founded.

Mr. Balzekas' community involvement is admirable. He has served as president for the Ethnic Cultural Preservation Council, Archer International Advertising and Public Relations Agency, Ltd., and Balzekas Motor Sales. In addition, Mr. Balzekas directed the Ukrainian Institute of Modern Art and the American-Lithuanian Council. Moreover, he has served for 12 years with the Chicago Public Library as a board member.

His dedication to the Ukrainian culture is outstanding. He acts as a board member for the Illinois Consultation on Ethnicity in Education and the Chicago Consortium for Slavic and Eastern European Studies. He is also active in the city of Chicago's Department of Cultural Affairs and the Illinois Humanities Council.

Mr. Balzekas has been honored many times for his achievements. He is a holder of the Captive Nations Eisenhower Proclamation Medal and the Daughters of the American Revolution Medal. He has received awards from the American Jewish Committee, Illinois Department of Human Rights, the Illinois Bicentennial Commission, and was proclaimed 1991 University Alumni of the Year.

Stanley Balzekas' commitment to his community and culture is impressive and deserving of special recognition and honor. I am sure that my colleagues will join me in expressing congratulations to Stanley Balzekas for his many years of selfless dedication, loyalty, and priceless contributions to his community. I wish him well and hope his life continues to be an adventure.

REMEMBER PEARL HARBOR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SKELTON. Mr. Speaker, in a few days we will commemorate the 50th anniversary of the Japanese attack on Pearl Harbor. It will be a time of painful recollection for a few and thoughtful reflection for many others. As a boy of 9, I was riding in my father's Chevrolet between him and a close family friend when the news about Pearl Harbor came over the car radio that December 7.

There are some in Japan today who would like to forget, to overlook, to dilute the unpleasant facts about Japanese aggression in Asia from 1931 to 1945. They have even succeeded in revising Japanese high school history textbooks to reflect their viewpoint.

Others in Japan know that until they confront an unpleasant past in a direct and honest fashion, Japan will be unable to assume a greater role in world affairs. Such an exercise will be a very painful one. This was true for West Germany when it confronted the Nazi legacy.

Let us remember Pearl Harbor neither as an American military disaster, which it was, nor as a Japanese tactical victory, which it also was. Let us remember Pearl Harbor as a warning. It is a warning to those unwilling to acknowledge or confront the harsh, unpleasant facts of recent history.

ECONOMIC BRINKMANSHIP

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PACKARD. Mr. Speaker, we continue to play economic brinkmanship. Brinkmanship, in the days of John F. Kennedy and John Foster Dulles, was the tactic of bringing this country to verge of nuclear war in order to expedite our foreign interests. In this day and age, when communism has been dismantled, and the threat of nuclear war is diminished, we are still using brinkmanship, only in a different way.

Economic brinkmanship now pervades our domestic agenda, and has been elevated during this Congress to state-of-the-art politics. Instead of passing legislation to jumpstart the economy, we teeter on the brink of a dire situation. Each side watches as the country slides closer and closer to the abyss. Each side wonders who will blink first. My feeling is that the American people are taking a good look and are disgusted by what they see. Among the options that we face as legislators, inaction is our most damaging course.

The Republican leadership has proposed that we pass an economic growth package to help relieve the economic pressure Americans are facing today. This proposal was introduced in July. And yet, the Democratic leadership of this House has effectively blocked our attempts to pass this vital legislation. Last week, I joined with my Republican colleagues in a letter calling on Speaker FOLEY to keep Congress in session until we have enacted a progrowth bill. Mr. Speaker, this afternoon the President expressed his "enthusiastic support" of passing an economic growth package today.

Here on the brink, economic relief is held hostage to political advantage. If the Democrat-controlled leadership of the House will allow us to, it is in this Congress' power to reverse the dangerous slide of American productivity and prosperity. And yet, as we speak, this proposal has little hope of being considered in the full House before we adjourn. Instead of providing economic relief, bitter rhetoric and partisanship are firmly entrenched in this Congress. Only by taking decisive action can we pull back from these lines in the sand that we have drawn for ourselves in Washington.

FAMILY PLANNING GAG RULE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise this evening to ask my colleagues if they have contemplated what will happen to many American women under the administration's family planning gag rule. The sad fact is that the gag rule will mean that more and more women will not be given sound health care guidance and referrals to physicians or clinics where they can find safe abortions.

Instead, I fear that many find themselves victimized as was Doris Olivo. Her story was published this past Sunday on the front page of the New York Times. At first reading, you would have thought that the report was written before the Roe v. Wade decision ensured the legality of abortion services in the United States. But, no, the report was about Ms. Olivo's botched abortion this year at the hands of an incompetent physician. The procedure was performed without counseling, without a preliminary examination, and without adequate anesthesia. Ms. Olivo's life was jeopardized and surgery was required to save her.

Last week's House vote very narrowly failed to override the President's veto of the labor-health and human services-education appropriations bill which would have blocked implementation of the gag rule. Many of those who voted to sustain the veto did so in the name of what they claim to be a pro-life position. I call on them to think seriously about the tragedy of Doris Olivo. And I tell them today, in all sincerity, that the failure of the House last week to remove the gag rule creates the very real likelihood that tragedies like Ms. Olivo's and worse will be more and more common.

If low-income women are already seeking illegal abortion services, what will they do when their doctors are gagged and cannot even direct them to a safe, legal abortion clinic? What will they do when, out of principle, title X clinics shut down rather than commit Government-mandated malpractice?

The answer is tragic. It will mean senseless physical and emotional harm to American women. It will mean death to some. It will create immense hardships on the families of those women.

Mr. Speaker, I ask unanimous consent that the New York Times article about Ms. Olivo's tragedy be included in the RECORD at the end of this statement. I do so with the hope that every one of my colleagues will read it carefully and that those who supported the gag rule will reconsider their position in light of the tragic implications of this policy.

Every day we wait to reverse the gag rule, the lives of more and more women are at risk. I call on my colleagues to join us in moving soon to end this policy so that women's lives will not be jeopardized and so that confidentiality of doctor-patient relationships in title X clinics will be restored.

ABORTION MILLS THRIVE PLAYING ON FEAR AND SECRECY—ONE WOMAN PAYS CASH IN ADVANCE, BUT SHE RECEIVES NO AID

(By Robert D. McFadden)

It is a shadowy business, the unregulated world of abortion mills, shabby clinics operating behind the facades of doctors' offices, often in poor neighborhoods. Its victims are women who know little about legal rights or medical options, who have seen an ad or heard a tip and come to this—driven by fear and loneliness or fates beyond invention—to risk butchery on a table.

No one knows how many such fly-by-night surgeries there are in New York City or how many abortions they produce. But law-enforcement officials and medical experts say dozens of these clinics are believed to be tucked away behind storefronts and in more ordinary-looking doctors' offices and they are believed responsible for scores or even hundreds of illegal or incompetent abortions annually.

And beyond the numbers, experts say, lies the suffering of women who seek illegal abortions—those in the last trimester of pregnancy with the mother's life not in danger—or who are victimized by incompetent abortionists because they are poor and uneducated, do not speak English or do not know how to find a good clinic, evaluate medical treatment or file a complaint if things go wrong.

NO QUESTIONS, NO ADVICE

"I would tell Hispanic women that when you have this procedure done, to check the place, check the circumstances," said Doris Olivo, a 29-year-old Dominican woman who says she was a victim of a botched abortion. She told of an ordeal in a filthy office with a doctor who asked no questions, administered no tests, demanded $150 in cash and was not available later when complications developed.

In recent days, after a Lower East Side doctor, Abu Hayat, was accused of severing the arm of a fetus in a botched, and illegal, abortion, a score of women like Ms. Olivo have filed criminal complaints and lawsuits and told of uterine and cervical cuts, hemorrhages, infections and other nightmares under the knife.

They have also turned a spotlight on the chilling secrets of sleazy abortion mills—most of them run by licensed doctors who use their offices as abortion "clinics," but are not licensed as full-fledged abortion clinics and are thus not subject to rigorous state standards and periodic inspections.

While the Manhattan District Attorney's office is investigating Dr. Hayat for another botched abortion that led to a young woman's death last year, and the State Health Department is considering a revocation of his medical license, the case has raised far deeper questions about the small but vampirish world of medicine that operates on the fringes of legality and the Hippocratic Oath.

And the experiences of women who have entered that world illustrate its perils and some weaknesses of the agencies responsible for policing the medical profession.

CHOOSING A DOCTOR FROM AN AD

Ms. Olivo, who is the mother of two children, became involved in 1989, when she decided to have an abortion because one of her sons had been born handicapped and because she was jobless and could not support a third child. Like many women, she learned of Dr. Hayat in an advertisement in El Diario.

Taking a doctor's name from an ad is hardly sufficient to find a good doctor or clinic. Peter Slocum, a spokesman for the State Health Department, said that in the absence of a family physician to make a recommendation, one can contact county medical societies, any hospital or the larger, better known clinics like Planned Parenthood for advice.

There are three legal options for a woman seeking an abortion, Mr. Slocum noted. In New York City, they may be performed only in hospitals or their outpatient clinics, in the offices of licensed physicians and in dozens of abortion clinics that are owned by 12 licensed corporations, like Planned Parenthood.

As defined by the state, licensed abortion clinics are not just places where several doctors join their practices. Rather, they are corporations that hire doctors; meet rigorous state standards for equipment, procedures, cleanliness and staff training, and must be inspected for licensing and have periodic inspections thereafter.

All licensed abortion clinics are required to have emergency backup plans to take a patient in distress to a local hospital. State officials stress that these legitimate abortion clinics should not be confused with abortion mills, where nearly all of the illegal or incompetent abortions occur.

These are usually private doctors' offices masquerading as clinics—that is, the doctors are licensed, but the clinics are not. Many of the mills, though not all, are situated in poorer neighborhoods, where immigrants, the uneducated and non-English-speaking residents form a core of clients.

Cost was a major factor for Ms. Olivo, who was attracted by Dr. Hayat's $150 price. Some abortion mills now charge $1,500 or more, patients say, while legitimate clinics charge $300 to $500. Many poor women are unaware that New York is one of the few states that covers abortions under Medicaid.

After reading the advertisement, Ms. Olivo telephoned Dr. Hayat's clinic, than located at 820 Broadway in the Williamsburg section of Brooklyn. "They said I didn't need an appointment," she recalled. The clinic, in a second-floor office, had little equipment.

LITTLE EQUIPMENT AND NO TESTS

The lack of equipment was a signal that something was wrong. Most mills, officials said, lack proper equipment, including sonogram or ultrasound machines that help determine the age, size, position and other vital data on a fetus. Sonograms are normally required after the 12th week of pregnancy.

No questions were asked, Ms. Olivo said, and no tests were administered—not even one to confirm she was pregnant, let alone one to learn the age of the fetus—and these were further signs that the clinic was not a good one, officials said.

Ms. Olivo said she believed she was in the first trimester of pregnancy. Abortions in New York are legal only in the first two trimesters, or 24 weeks of pregnancy. But officials say some abortion mills make no effort to determine the age of the fetus and illegally abort pregnancies in the third trimester. After the 24th week, a pregnancy may be ended only in a hospital and only if the mother's life is in danger.

Ms. Olivo paid cash in advance. After a 30-minute wait, she said, the nurse took her into a room, put her on an examining table and injected her with what proved to be an ineffective anesthetic. Then, she said, Dr. Hayat appeared and, without a word, began the abortion.

"It lasted two minutes," she said. "While he was doing it, I could feel everything." After a few minutes in a small recovery room, she said, she was sent home and told to call if she felt ill. There was pain in her abdomen, and later it became worse.

Four days later, the pain and cramps were still growing worse. She went to a hospital and was admitted with a 103 degree fever. A doctor examined her, found that she had endured an incomplete abortion and removed parts of the fetus that were still in her uterus. After five days, she went home.

Later, Ms. Olivo returned several times to Dr. Hayat's office "to tell him how I felt," but was told each time that he was not there.

Now, two years later, Ms. Olivo is still weak from the experience and dismayed by it. She said she was stunned by reports last week that the doctor had botched other abortions. She said she wanted to sue him, but knew now that she could never collect damages.

"I would never have imagined that a clinic wouldn't have insurance," she said. "I thought it was required by law that you have insurance." But Mr. Slocum said doctors are not required to have medical malpractice insurance, and other officials said it was unlikely that abortion mills had such insurance.

The realm in which Dr. Hayat operated is a largely hidden one. The State Health Department, which licenses doctors and dozens of legitimate abortion clinics in the city and investigates complaints of malpractice and negligence against physicians, acknowledges that it does not know enough about illegal incompetent abortion mills and says it needs more authority to regulate them.

"We don't know as much as we'd like to," Mr. Slocum said. "They're underground, unfortunately, and we learn about them only when someone files a complaint or ends up in an emergency room. All we can see is the surface, but that is troubling to us. We suspect there is a lot more we don't see."

More women who have abortions in New York encounter no problems. Of 150,000 abortions reported in New York State (95,000 of them in New York City) in 1989, the latest year for which figures were available, fewer than 2,800 or less than 2 percent involved any medical complications and only a handful of those may have involved actual negligence or incompetence.

But policing the incompetence is difficult. Only one doctor in 1989 had a license summarily suspended for gross misconduct in an abortion, Mr. Slocum said. Indeed, he said, there have been only four other summary suspensions—emergency actions invoked before hearings on charges—related to abortions in the last six years—one in 1985, one in 1990 and two earlier this year.

While the state regulates and inspects the legitimate clinics, it lacks the authority and staff to regulate and inspect doctors' offices, and can only challenge a doctor's license after a complaint and an investigation. And many clients, even if dissatisfied, are reluctant to file a complaint.

Some are illegal immigrants who want to minimize contacts with authorities. Others are minors reluctant to tell parents of their abortions. Others believe, erroneously, that they have done something illegal if they have an abortion late in pregnancy. In fact, it is illegal in New York to perform such late abortions, but not to obtain them.

And many victims do not know how to file a complaint. Criminal complaints should be made to the District Attorneys in each county. Complaints of medical malpractice should be sent to the Office of Professional Medical Conduct of the State Health Department in Albany. Under legislation this year, the department is setting up a way to inform the public about pending actions against doctors.

UNION ROTARY CLUB CELEBRATES 50TH ANNIVERSARY

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RINALDO. Mr. Speaker, I would like to take this opportunity to offer a special tribute and my personal congratulations to the Union (N.J.) Rotary Club which is celebrating its 50th anniversary. It continues to play a vital role in the community in supporting business, civic causes, education, fellowship, family and youth recreation, scholarships, and many charitable enterprises.

The club was formed in 1941 and was sponsored by the Rotary Club of Roselle-Roselle Park. The first president was Franklin Hardcastle. With America's entry into World War II following the attack on Pearl Harbor, its initial membership of 35 was soon reduced by military enlistments and the draft. By the fifth year of its operation, the war was over and membership increased sharply. Its program and record were so outstanding that the Union Rotary Club received the President's Award for the best district club.

During the 1950s, as the club's influence grew, it became a focal point for young men who aspired to community service and successful careers in business and the professions. By 1954, it had expanded to 60 members and became active in bringing a hospital to Union, now called Union Hospital. The club increased its scholarship program, and many of its scholarship winners went on to excel in their careers. The club also participated in organizing the Boy's Club of Union, which is now the Boy's and Girl's Club.

In 1962, the club sponsored the introduction of the YMCA into Union. It also was instrumental in sponsoring a Sea Scout Explorer Ship, and established the Rotary Park at Union Center. By 1971, the club expanded to 97 members under the leadership of Warren Hehl, whose son, Stephen, now fills the same office as Rotary Club president.

The range of activities that the club has been engaged in during the last half century is impressive. For example, working with other community organizations, the Union Rotary

Club contributed to Union's designation as an All-American City.

The original founders of the Union Rotary Club would be amazed by the impact the club has had on the community. It has been a source of ideas, cooperation between business and government, and community progress. To wear the badge of a Union Rotarian is a mark of pride and respect.

Mr. Speaker, I wish to offer my congratulations to its members, past and present, and to its officers, Stephen Hehl, president, and Gary Weiner, vice president; Raymond Worrall, treasurer; and Isabel Pizzolato, secretary. The Union Rotary Club is an outstanding example of community service and fellowship.

HAITIAN REPARATIONS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SERRANO. Mr. Speaker, I find it outrageous that this administration practices such inconsistent policies on issues concerning foreign affairs and human rights. For years, Haiti has been recognized as one of the poorest countries in the world. I find it absurd that the administration distinguishes these refugees as economic refugees and thus selectively denies them humanitarian relief.

The repatriation of our Haitian neighbors is without compassion, and contrary to our past policy which has allowed refugees from Cuba, Hungary, Salvador, Iraq, Vietnam, Liberia, Ireland, and most recently, the Soviet Union to seek refuge in this country. I am appalled that this administration continues to abide by an 11-year-old agreement negotiated with the deposed dictator "Baby Doc" Jean-Claude Duvalier.

Only last week this same administration condemned the British and Hong Kong authorities for their decision to forcibly repatriate Vietnamese refugees from Hong Kong.

Last year this Congress enacted legislation which gives the Attorney General the authority to grant temporary protected status to individuals fleeing emergency situations. Mr. Speaker, it is clear that the Haitian refugees are fleeing due to political persecution, why are they being denied temporary protected status?

During the Persian Gulf war, the President urged adoption of new world order that included international cooperation to support the fundamental rights of all citizens worldwide. I believe that he could best demonstrate his commitment to a new world order by granting our Haitian neighbors temporary protected status until we can be assured that they will not be forced into a life of hopelessness and despair.

Mr. Speaker, until a stable, legitimate government is restored in Haiti and the economic boycott is removed, it is imperative that our government extend humanitarian relief to the Haitian refugees.

THE BALANCED ECONOMIC AND ENVIRONMENTAL PRIORITIES ACT OF 1991 [BEEP]

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DANNEMEYER. Mr. Speaker, today I have introduced the Balanced Economic and Environmental Priorities Act of 1991 [BEEP], which amends the Endangered Species Act. This legislation, in short, would require the Federal Government to treat humans at least as well as it treats critters.

A rash of governmental intrusions into the California economy is threatening to destroy the State's economic base and has put tens of thousands of Californians out of work. Actual and proposed listings of critters and plants as endangered or threatened species have endangered the economy. The Endangered Species Act [ESA] was intrinsically flawed at its conception because it precludes the consideration of cost.

While the ESA adversely affects our entire nation, California is especially endangered. The Stephen's kangaroo rat, the gnatcatcher, the northern spotted owl, the least Bell's vireo, and the delta smelt are examples of endangered or threatened species in California, the preservation of which will destroy tens of thousands of jobs, consume entire business enterprises, and prevent many economically crucial development projects from going forward.

The listing are as follows: Critter, listing date, and counties affected—Stephen's kangaroo rat, September 1988, San Bernardino, Riverside; California gnatcatcher, proposed, Orange, San Diego; Northern spotted owl, June 1990, Del Norte, Humboldt, Trinity, Shasta, Siskiyou; least Bell's vireo, May 1986, Orange; and delta smelt, proposed, Contra Costa, Sacramento, San Joaquin, Solano.

I am certain that every Member of this body can tell similar stories of how the politics of listing endangered species has harmed the economies of their States.

Mr. Speaker, my act will amend the Endangered Species Act to require the Secretary to consider both the economic costs and the ecological benefits associated with designating a species as endangered or threatened. While some may oppose the injection of cost considerations into this process, I believe that we should subject all of our environmental laws to this sort of scrutiny and, ultimately, to the accountability that comes with cost-benefit analyses. Opponents of this approach, ironically, acknowledge that the current ESA would fail the test set forth in my bill.

The following is an outline of the provisions in my bill:

OUTLINE

ECONOMIC IMPACT ANALYSIS

The Secretary of the Interior must prepare and publish an Economic Impact Analysis (EIA) with respect to the costs and benefits associated with listing a species as endangered or threatened.

The EIA must include an assessment of the costs associated with: (1) the designation of a critical habitat, (2) the issuance of protective regulations, and (3) the implementation of a recovery plan.

The Secretary must review the EIA and determine whether the benefits of a designation outweigh the costs. A listing, and all the consequences of a listing, may proceed only where the Secretary determines that benefits outweigh costs.

ELEMENTS OF AN ECONOMIC IMPACT ANALYSIS

An EIA shall assess the economic and ecological consequences of implementing and enforcing the designation, regulation or recovery plan relating to a species. The EIA shall include aggregate statistical data describing:

1. Losses or diminishments of (1) jobs, (2) the value of real property, and (3) the value of business enterprises.

2. The effect that such actions would have on tax revenues received by Federal, State, or local governments.

3. The effect that such actions would have on outlays by Federal, State, or local governments, including the amounts of compensation required to comply with this Act and outlays required for unemployment compensation, Aid to Families with Dependent Children, Medicaid, and other Federal, State, or local programs.

4. The effect that such actions would have on the competitive position of any business enterprise or aggregate industry.

5. The ecological and economic consequence of the extinction of a species that such action is intended to prevent.

6. Any other potential economic, budgetary, or ecological effects that the Secretary considers appropriate.

COMPENSATION FOR ECONOMIC LOSSES CAUSED BY LISTING A SPECIES AS ENDANGERED OR THREATENED

The Secretary shall implement the Endangered Species Act in a manner that limits the economic losses incurred by persons from actions associated with listing a species as endangered or threatened.

The Secretary shall compensate any person who incurs an economic loss as a result of a species being included on a list of endangered or threatened species. Such compensation shall be in the full amount of (1) the diminishment in value of tangible or intangible property or (2) the loss resulting from the elimination or diminishment of a job.

The Secretary may not compensate any individual for de minimis or wholly speculative loss.

Persons denied payment may appeal adverse decisions in the appropriate federal district court.

Any person, or any State or local governmental entity, may intervene in a proceeding under this Act for the purpose of assisting the Secretary in issuing compensation to adversely affected parties.

REVIEW OF PRIOR LISTINGS

With respect to all species listed as endangered or threatened since January 1, 1986, the Secretary shall suspend the listing and complete an EIA pursuant to the provisions of this Act.

The Secretary shall maintain a species on the list when the EIA indicates that the benefit of doing so exceeds the cost. Where the EIA indicates that he cost outweighs the benefit, the species shall be removed from the list.

Mr. Speaker, we have reached a point in our society where we worship creation rather than the Creator. Passage of the Balanced Economic and Environmental Priorities Act will correct a fundamental flaw in the Endangered Species Act.

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1991
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JA 3
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PUERTO RICO REFERENDUM BALLOT UNFAIR

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SCHULZE. Mr. Speaker, I am appalled to learn that the people of Puerto Rico will go to the polls on December 8 and be forced to cast a vote affecting the United States-Puerto Rico relationship with a ballot which a Federal district court judge has determined to be "unfair." The entire referendum measure is so convoluted and misleading—which apparently was the intent of those who crafted the measure—that, according to a recent poll, over 70 percent of the people do not understand what it means. The Federal judge called the referendum provisions "confusing, vague, contradictory, and deceptive."

This referendum has been promulgated by the same partisan groups who earlier this year repealed English as an official language of Puerto Rico and instituted a Spanish-only law. Their action has signaled a movement of Puerto Rico away from the United States.

Similarly, the pending referendum would ask the people of Puerto Rico if they want to be outside of the territorial clause under three options while retaining independence-like characteristics and U.S. citizenship. Only one of the three options, statehood, can actually guarantee U.S. citizenship while the other two options can only guarantee unique characteristics as an independent or quasi-independent country.

To force people who have been loyal U.S. citizens since as long as 1917 choose love of their Puerto Rico home and the guarantee of U.S. citizenship under independence-statuses, with the implication that these can legally and politically coexist, truly gives credence to the judge's opinion, "the ballot is unfair."

The people of Puerto Rico should reject such an unfair ballot if they do not want to further distance themselves from the United States.

The article from the San Juan Star, November 16, 1991, entitled "Lafitte's Ruling" follows:

LAFFITTE'S RULING

U.S. District Judge Héctor Laffitte's decision not to interfere with the Dec. 8 referendum on "democratic rights" was practical and correct.

He agreed with the group of pro-statehood groups and individuals who asked him for an injunction against the referendum that "some of the propositions" on the ballot are "confusing, vague, contradictory and deceptive."

But he concluded that "the sound constitutional course to follow is to defer to the voters and to the free competition of ideas. At this stage, it is for the voters, not this court, to decide whether 'yes' or 'no' on the ballot will prevail."

In essence, he found none of the objections raised by the plaintiffs presently merited the injunction relief they sought.

"Pre-election lawsuits challenging referendums inevitably draw the courts into the arena of highly charged political partisanship," he said. "Absent egregious circumstances, intrusion by federal courts into a local electoral matter is not warranted. The ballot is unfair. However, this unfairness does not rise to the level of a federal constitutional deprivation."

Laffitte made two noteworthy comments about the future.

He described the six propositions that the referendum lumps under one "yes" or "no" vote, as "log rolling" and said the Commonwealth Constitution "explicitly" rejects it, stating that no more than three proposed amendments may be submitted at the same referendum.

This might have been an oblique invitation for somebody to challenge the referendum as a violation of the Commonwealth Constitution.

He also cautioned those seeking an injunction that they were premature in claiming that the Dec. 8 referendum was a violation of the federal laws of the Commonwealth of Puerto Rico."

"If plaintiffs are saying that the approval in the referendum of the Declaration of Democratic Rights will alter the relationship created by Laws 600 and 447, their claim is not ripe for decision . . ."

He noted that a "yes" win in December would lead to a second referendum to amend the Commonwealth Constitution, and if that Constitution were ultimately amended "then the Court may address whether such amendments would contravene Laws 600 and 447."

The referendum is not a federal matter at this stage, he said. Plaintiffs must move in the Commonwealth arena with complaints. However, the day could come when the affair could fall under federal jurisdiction.

It was a sensible and practical decision.

THE SMALL BUSINESS STOCK EXCHANGE OF AMERICA

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BATEMAN. Mr. Speaker, in these times of uncertainty over the state of the economy, many small businesses are having difficulties finding and obtaining new investment capital for their business needs. For this reason, I rise today to call attention to efforts to assist the long-term growth and development prospects of small businesses nationwide through the creation of the Small Business Stock Exchange of America (SBEX). Also, I am pleased to note that after a year of searching and evaluating cities throughout the country to find one with the right entrepreneurial outlook, SBEX officials on November 7, 1991, proposed to locate this new exchange in the city of Hampton, VA, which I have the privilege to represent.

According to Ralph L. McNeal, founder and chairman of SBEX, the exchange will be the exclusive, specialized and dedicated marketplace for small businesses who are seeking capital, but are past the initial start-up phase, and not yet readily recognized, established corporations. In this intermediary stage where small businesses are beginning to go public, the SBEX could play a pivotal role in facilitating small business' efforts to raise the funds needed for future growth and expansion.

The new exchange is expected to provide financing opportunities for companies unable or unlikely to be listed on existing stock exchanges. Modeled on other small-stock exchanges in 12 industrially advanced countries—mostly in Western Europe—SBEX expects to list small businesses with annual sales from $1 million to $30 million that are seeking capital between $2 and $20 million. Such companies usually fail to meet the minimum capital standards of the large New York Stock Exchange [NYSE], the American Stock Exchange [AMEX] and the National Association of Securities Dealers [NASDAQ] system. As a result, these smaller companies and their stock offerings are quoted only in so-called "pink sheets." The stocks covered by the "pink sheets" are traded infrequently.

It is important to note that fewer than 3,000 companies are listed on the NYSE and AMEX exchanges and fewer than 5,000 companies on the NASDAQ system. Also, the "pink sheets" only quote prices for less than a third of the 40,000 "pink sheet" companies that issue and trade stock. This leaves thousands of companies out in the cold when it comes to finding money to continue their efforts to expand. Mr. McNeal believes that the establishment of a new small business exchange will increase the public visibility of thousands of small businesses making it easier for them to find investors and raise needed capital. I believe that this new exchange proposal certainly merits close consideration by all who are interested in helping small business continue to play their vital role in ensuring our Nation's future growth and prosperity.

It is no small undertaking to create a new stock exchange—none has been established in the United States within the last seven decades. Nevertheless, Mr. McNeal and a group of like-minded entrepreneurs have remained committed to the idea of creating a small business stock exchange. They have formed the Small Business Stock Exchange of America Development Corporation, a 501(c)3 not-for-profit organization, which has provided over 200 hours of educational instruction to the public and prospective SBEX seat applicants on how an exchange operates. They also have formed an association for broker-dealers called the American Association of Securities Dealers [AASD]. Under the SBEX business plan, brokers would have to pass the association's testing requirements, which will focus exclusively on how to analyze and market stocks of small businesses, in order to participate in the new exchange. A broker-dealer would not be able to trade on the new small business stock exchange unless he is licensed by the AASD.

The new SBEX will be structured as a 501(c)6 non-profit organization like all other stock exchanges. The SBEX also would be a self-regulating body with its rules and operations receiving approval and oversight from the U.S. Securities and Exchange Commission [SEC]. Funding of the new exchange would come from fees and charges from listed companies and permanent seat memberships. Mr. McNeal expects to sell 100 permanent seats on the new exchange and I am advised that 59 investors and small businessmen are interested in purchasing such seats.

A company that wants to have its securities listed for trading on the SBEX would have to have been in operation for 3 years, have adequate capital and be in sound financial condition according to SBEX organizers. Moreover, SBEX members would trade their security stocks daily and electronically, but also would meet quarterly for a week of floor activity. In creating the new small business stock exchange, its organizers are seeking to establish a "hybrid" exchange which would include the best elements of the broker-dealer system, combined with the best elements of the automated quotation system in order to provide products and services small businesses need in a cost-effective manner.

Any new stock exchange must be approved by the Securities and Exchange Commission and Mr. McNeal has stated that SBEX will file its proposal with the Securities and Exchange Commission by the end of the year. Pending approval by the Securities and Exchange Commission, SBEX hopes to begin operations in September 1992 in its new headquarters overlooking the Chesapeake Bay in Hampton, VA.

In addition to helping to bring investors and small businesses together from around the country, I am pleased to note that Mr. McNeal projects that the new exchange would employ more than 350 people within the first 5 years, with approximately 75 percent of these new jobs to be filled by local people in Tidewater Virginia. Those jobs would include a wide range of personnel including accountants, printers, researchers, lawyers, maintenance, security, and administrative staff personnel.

Mr. Speaker, once again, I want to commend the efforts of Ralph McNeal and his colleagues for working so hard to create the new Small Business Stock Exchange of America. I hope their plan to bring its new headquarters to Hampton, VA, will prove to be realistic and feasible. I believe that this proposed small business stock exchange may be a catalyst for economic growth and development in Tidewater Virginia as well as a major force in ensuring that our Nation's small businesses are able to meet the competitive challenges of the 1990's and beyond.

TRIBUTE TO MR. EDWARD M. SCHROEDER

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. COSTELLO. Mr. Speaker, I rise tonight in honor of a teacher in my district, Edward M. Schroeder. Mr. Schroeder, an English teacher at Coolidge Junior High in Granite City, is the recipient of the Outstanding English Teacher Award of 1991, one of 12 American Teacher Awards.

An eighth-grade teacher, Mr. Schroeder relishes the challenge of teaching this wild and crazy age because, as he has told many newspapers in my district, he views himself as a 51-year-old with the mental age of 16. He is a highly respected teacher with the imagination necessary to educate young Americans. For example, he dresses in costume to surprise his students and encourages them to be creative, individual thinkers. Mr. Schroeder has also arranged award programs for his students and then taken them there by limousine.

As they chart the future of our country's educational system, teachers all over America can learn from Mr. Schroeder's exemplary teaching efforts. I ask my colleagues to join me in commending Mr. Schroeder and all teachers who educate our youth.

COMMENDING THE VOLUNTEERS OF THE TAHOE RIM TRAIL ORGANIZATION

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor the dedicated volunteers of the Tahoe Rim Trail. Since 1981, these generous individuals have worked side by side, without material compensation, to create a 150-mile trail encircling North America's largest and highest Alpine lake. Today, the trail is nearly complete and these individuals deserve our thanks and appreciation.

I was first introduced to these dedicated volunteers this past summer, while I was vacationing in the Lake Tahoe region of California. While hiking up one of Tahoe's scenic footpaths, I came across a group of young men and women literally blazing a trail across the alpine peaks. They were volunteers of the Tahoe Rim Trail organization. They explained that their mission was to see the beautiful land overlooking Lake Tahoe made more accessible to hikers, backpackers, horseback riders, and cross country skiers. From my personal experience, I can say that they have succeeded, so far, in giving the region's visitors a unique chance to view the lake in all of its natural splendor.

To date, over 1,500 volunteers have dedicated their time and their funds to ensure the timely completion and maintenance of the Tahoe Rim Trail. These volunteers serve on trail scouting, trail staking, and trail construction crews. They are also responsible for promoting events, raising funds, and finding new volunteers for the trail.

While all of these great people deserve our commendation, I must single out Glenn Hampton, the original president and founder of the project. As the former Recreation Officer for the Lake Tahoe Basin Management Unit of the Forest Service, Glenn saw the opportunity to share one of our country's greatest natural treasures with the adventurers of the world. For this, I, for one, am truly thankful.

Mr. Speaker, I am proud to highlight the accomplishments of these fine Americans. We must all strive to show such ingenuity in approach and dedication to vision, as exhibited by the Lake Tahoe Rim Trail volunteers over the last decade. I ask that all of the members of this body thank these brave volunteers, not only for what they have done for us, but for what they have done for future generations of visitors to Lake Tahoe.

SENIOR CITIZENS CAN BE USEFUL IN CHILD-CARE PROGRAMS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, throughout the United States, many child care centers continue to experience difficulty locating the experienced, trustworthy personnel necessary to keep their programs operational. Fortunately, the essential framework for redressing this shortage already exists, and, with a little imagination, a rich vein of experience can be tapped to suit this very purpose. I am referring, of course, to our retired senior citizen population.

I think it appropriate to equate precious metals with our senior citizens because they, too, are a valuable commodity whose breadth of knowledge and experience should be both treasured and fully utilized. Ours is a nation endowed with a large group of competent, retired senior citizens who are eager to put their collective talents to work. I think it is incumbent upon us to explore all available avenues for bringing the young and the aged together in a child care setting.

In Baltimore County there are approximately 200 licensed day-care centers. On the issue of staffing, the frequent refrain coming from many day care facility operators is that "they could always use some extra help." Well, Mr. Speaker, that extra help does exist, through a series of well-established Federal programs. The question is: How do people find out about them?

It is in response to this question that I am today introducing, with my colleague Mr. LIGHTFOOT from Iowa, a resolution that would have the positive effect of bringing older Americans and children together in child-care centers.

This sense of Congress resolution urges the Secretary of Labor and the director of the ACTION agency to promote two senior citizen programs as a source of employees for community-based child-care centers. Specifically, this resolution targets the Retired Senior Volunteer Program—currently administered by ACTION—and also the Senior Community Service Employment Program, under title V of the Older Americans Act.

More often than not, members of the older generation symbolize stability and continuity to our children. In return, the caregiver is rewarded by the love of a child and the support network of the child-care center.

The Senior Community Service Employment Program and the Retired Senior Volunteer Program, draw on a combined pool of approximately 500,000 retired senior citizen volunteers. With increased publicity at the community level I am convinced that these two programs can stiffen the backbone of an intergenerational working arrangement that benefits everyone involved: children, parents and grandparents. I hope that my colleagues will join us in supporting this initiative.

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ENTRANCE FEE AT U.S. BORDERS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, in 1992 the border barriers between twelve European nations will come down, and largely unrestricted flow of goods and people will commence throughout the European Community. It is a matter of goodwill, but also a matter of economic necessity. The Europeans know that without this unfettered union, a union they have worked very hard to create, they will be left in an economic backwater, increasingly stagnant as compared to the world's more efficient trading blocs. Now the rest of the world will be hard pressed to keep pace with them.

Yet, here in the United States, we have a Government agency that thinks differently and is working at cross-purposes to a policy of open and active borders. The Immigration and Naturalization Service is vigorously pursuing a proposal that is so counterproductive as to be indefensible except in terms of fattening its own operating budget.

I am, of course, speaking of the Service's plans to make Americans who return, and our visitors who came here by land, pay to enter our country. The INS continues to promote plans for levying an involuntary fee on all automobiles entering the United States along its Canadian and Mexican borders.

Of course, it already has the authority to charge entrance fees to people coming into the country by air or sea. I oppose that as well. To charge an American citizen for simply coming home is a disgrace. But at least the mechanism for obtaining the payment is simple: INS has the carrier charge it and pass it on.

Applying a similar charge to land-based entry—just as obnoxious in principle—is inefficient, inconvenient and will interfere dramatically the ability to move traffic through the border in a timely fashion.

There are a host of practical problems. For example, U.S. agencies may only accept payment in American currency. What about foreign tourists who show up with only foreign money? On the Canadian border, citizens of both countries freely spend their own country's currency in the other country. All local businesses accept foreign currency. There is no reason for a Canadian, for example, to obtain United States money before heading to the border. Worse yet, what about an American citizen who may have no funds, or only Canadian money he's received in change? Same problem.

Another point. A border official pointed out to me that, You don't have employees handling cash without having someone watching them. And then, who watches the watcher? It will add a new layer of bureaucracy and will convert our officers into toll takers. He did not like the idea at all.

The problems go on. Suppose $200 million could be collected annually through such a user fee. What systems will be needed to ensure that this money is properly accounted for? How many additional office people will be needed to count, and account for, these fees? Even with such a system the potential for abuse is vast. In January of this year the General Accounting Office released a report of practices in the Service, one chapter of which is bluntly titled, "INS' Budget Process and Controls Over Revenue and Expenditures Are Deplorable." This analysis amounts to a giant red flag for anyone contemplating giving the Service this kind of money to play with.

The biggest single problem we currently face at our major land borders is the backup. For example, at Blaine, WA, cars are backed up in lines that take as much as 2 hours to get through the border. I have myself spent 45 minutes on a weekday at midday. The volume is growing at a rate of 10 percent per year. INS and Customs cannot keep up as it is.

All of this will be hugely exacerbated by a general border fee. At the Canadian border, the time a car spends with a border official now often averages mere seconds. Still the backups are huge. And the complications of money exchange and this INS plan will take a burgeoning problem and transform it into a massive crisis.

Furthermore, the argument that revenues generated by a general fee would eventually alleviate these additional delays is ridiculous. As this proposal could double the average time it takes for a car to pass inspection, we would need to double both the numbers of staff and the existing facilities just to maintain the previous processing rate.

I have no doubt our agencies can give 1,001 reasons for tackling all these difficulties in pursuit of more operating funds. I don't disagree that they are working with a sheet that is too short for the bed and that they need better budgets to do their jobs. But entry fees at our land ports are inefficient, more costly and simply a bad idea.

It is clear that a border fee will not help our traveling citizens. Our commerce will suffer as well. In one country in my district, it's estimated that foreign visitors—most of whom travel regularly across the United States-Canadian border—spend $600 million at local businesses. This is one example of the growing importance of cross-border commerce. In just gas taxes alone, Canadian motorists contributed $10 million to the Federal Treasury. There is no doubt that a general user fee at the borders will diminish all these benefits.

Our land-border staff needs help; there is no question about that. But there are ways to deal with border traffic without such an onerous fee. For starters, we can increase funds available for actual border inspection costs. We can also expand innovative projects like the Peace Arch Crossing Entry [PACE] program, in which frequent border crossers may voluntarily pay an annual fee to have access to a special express lane. Developed in cooperation with Canadian officials, the United States PACE lane opened in June of this year at the Blaine, WA Peace Arch crossing. Already thousands of American and Canadian travelers have joined the program, and the numbers continue to grow. This constructive effort is already paying dividends; the voluntary fee concept has great potential, and we should continue to promote it.

I also stand ready to work with colleagues, executive agencies, and bordering nations to develop other creative methods for easing border crossing delays. But we must all realize that an involuntary user fee will hurt our border staff. It will hurt the traveling public. It will hurt commerce. It will hurt our economy, and it will hurt our relationships with our international neighbors. What a high price to pay just so INS can increase its budget.

THE INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE EFFICIENCY ACT OF 1991

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PACKARD. Mr. Speaker, I rise to offer my support to the mother of all surface transportation reauthorization. As a conferee on this bill let me just express my appreciation for the professionalism and cooperative spirit exhibited by the conferees. I would also like to commend conference committee Chairman ROE, as well as the leadership of the committee: Congressmen MINETA, HAMMERSCHMIDT, and SHUSTER. And finally thank you to all of the staff who worked so diligently.

To say that this has been a painstaking process is an understatement. The sheer hours and manpower which went into crafting this bill is matched only by the committee and conferees' determination and commitment to producing a bill to keep America great.

As America struggles through these difficult economic times, I believe that this legislation will send a positive signal to the American people. It signals our willingness to pass legislation which will create jobs, rebuild our crumbling infrastructure and create a more efficient transportation system.

Faced with strict budget constraints, I cannot emphasize enough the importance of the $151 billion authorized by this legislation. This action by Congress sends a clear signal that we are ready to begin making a capital investment in this country. Rebuilding our highways, roads and bridges represents a sound commitment to efficient infrastructure. It also represents a change in the way in which these funds are allocated, and who these allocations are made to.

Reliable infrastructure is the key to this country's economic competitiveness in the last decade of the 20th century, and beyond. I believe that this bill will enable us to satisfy the future transportation needs of our Nation.

This legislation will jump start economic recovery. Our struggling State and local economies can expect to receive a big infusion of transportation dollars within the next few months.

Furthermore, Congress for the first time has demonstrated its willingness to spend down the highway trust fund. In the past, the appropriations and budget committees have used the trust fund monies to mask the size of the Federal deficit. This represents a return to more honest accounting.

We reorient the direction of this country's transportation policy. We designate a large share of Federal dollars to cleaner, more efficient modes of transportation such as mass transit. In fact, the amount of money being

spent on transit is doubled under this new bill. In effect, this legislation emphasizes our commitment to comply with air quality standards mandated by the Clean Air Act.

This bill designates that a portion of the dollars are allocated directly to state and local officials. They in turn decide how these allocations are spent. This is effectively placing monies which a state has paid into the highway trust fund, directly back into the pocket of the communities.

From the inception of this legislation, my goal was to transform some of the formulas which have guided the interstate highway system since 1956. Specifically, I believe that states, such as California, which contribute more funds to the trust funds than they get back, should now be able to collect a greater share of these funds.

The old formulas made sense when we were still building the interstate system. However, now that the interstate system is complete, these donor states should be able to recoup more of the trust fund dollars which they put in.

My goals were partially realized. The conference report offers a significant improvement from the current law, but it does not fully resolve the fairness issue—I want to give fair warning to my colleagues that I fully intend to continue the fight for equity.

Finally, I ask my colleagues to support this legislation. We have enumerated the facts. The sum of this bill is as good as its components. The 50 States, or components of this bill, receive funding to rebuild our infrastructure, create jobs, and allow State and local governments to share in the decisionmaking. The country as a whole is the beneficiary.

HONORING JIM VAGIM

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DOOLEY. Mr. Speaker, on December 5, 1991, the Porterville Area Business Association, in Porterville, CA, will be honoring Jim Vagim in appreciation of his charitable contributions to the citizens of Tulare County.

Jim Vagim is responsible for establishing and organizing a countywide effort to provide assistance to families who fell victim to the December 1990 freeze. He encouraged all of the local businesses to participate, and collectively, they put together over 100 meal boxes of donated food and supplies. These boxes were then distributed throughout the county to families in need.

His commitment to helping people emerges not only in time of disaster, but year-round. Last year Jim was instrumental in helping feed over 700 people on Thanksgiving and Christmas, also by coordinating the efforts of local businessmen.

Jim Vagim has a lifelong commitment to helping people in his community. It is obvious why his efforts are deserving of recognition. Jim Vagim represents the best of Tulare County. He has given to his community and guided others to do the same.

Jim is not only a community activist, but he is my good friend. I am proud to help honor him and I ask my colleagues to join me, along with family, friends, and associates of Jim Vagim, in congratulating him for receiving this well-deserved honor.

THE SPIRIT OF GIVING IS ALIVE AND WELL IN NEW JERSEY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, the holiday season is rapidly approaching. It is a season of love and giving. It is a time when many will stop and assess their lives and those of others—family, friends and strangers. It is a time when many will put their fellow human being ahead of themselves. Mr. Speaker, in New Jersey there are many kind-spirited individuals who don't wait for the holiday season to express their kindness or love.

I had a young cousin, Duayne Clark, who recently expired, at the age of 30, after a long illness. Duayne was a remarkable young man. He was a student activist, a young man who truly loved his community and its residents. Just as Duayne loved those around him, he was loved. This expression of love has been displayed in many ways—Duayne's smile of encouragement, his ability to make those around him comfortable, his uplifting courage.

His debilitating disease required dialysis. Duayne was a candidate for a kidney transplant. Although he waited faithfully, a kidney never became available. He never complained about his fate in life. He was a joy to his family. He never let them down. His mother, Anita, and sister, Renee, greatly counted on him as the "man of the house." His father, Rufus, died of the same ailment more than 10 years ago. Duayne's faith—faith in God and faith in man—allowed him to take on his responsibilities seriously, affectionately and courageously. He was baptized, as a child, in Union Baptist Church of Montclair, NJ, by Rev. William H. Gray, III, our former colleague and majority whip.

Some of those who were responsible for making Duayne's last days comfortable are members of our law enforcement brigade. These individuals were towers of strength for Duayne and his family. They were take-charge friends, when take-charge friends were needed. These individuals—Det. Alex Schemetow, Sgt. Gary J. Dillon, Det. Charles Lagaltuta, and Det. Guy Trogani who are members of the Cedar Grove, NJ Police Department—are special people. Also Glen Ridge, NJ, Police Department's Det. Sheila Byron is to be commended.

Duayne's illness had worsened and there became a time when the use of a ramp at home was necessary to more easily transport him to and from his appointments. Duayne's mother, a member of the Juvenile Officers Association, mentioned to her fellow association member, Det. Alex Schemetow, that she needed a contractor to build a ramp and deck onto her home to help with Duayne and asked if he could recommend someone. That very day, he was back to her after speaking with fellow officer, Sergeant Dillon, who had built a deck for his parents. It turned out that Sergeant Dillon had shared a hospital room with Duayne and wanted to help. These gentlemen recruited the assistance of Detective Lagaltuta and Detective Trogani. They took care of everything from the drawing of the plans to the completion of the construction of the ramp and deck. They worked on this project on their regular days off, on their vacation days, during time that they usually spent with their children. They each refused to accept any kind of payment for their long hard work. Det. Sheila Byron had a real concern for Duayne. She would periodically stop by to visit with Duayne and to assist wherever needed. She was a true moral support.

Mr. Speaker, we are all fortunate to have friends and family near in time of need. As the season of love, faith and hope approaches, I am sure my colleagues will join me as I thank Sgt. Gary J. Dillon, and Dets. Alex Schemetow, Charles Lagaltuta, Guy Trogani, and Sheila Byron for being such good friends to Duayne and his family and just great members of our society.

AMERICAN JOBS PROMOTION ACT OF 1991

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KOSTMAYER. Mr. Speaker, today I am introducing legislation to create and preserve American jobs. My bill, the American Jobs Promotion Act of 1991, rewrites three key provisions in our tax code which have had the unintended effect of putting countless Americans out of work—at a cost of billions of dollars a year to the U.S. Treasury.

Over the past decade, thousands of United States workers have lost jobs with companies that have relocated their plants abroad to manufacture products to sell in the United States. Sadly and outrageously, this practice is subsidized by the U.S. Government, at a cost of hundreds of millions of dollars a year. Under current law, American companies are taxed less if they move their manufacturing operations to overseas tax havens such as Singapore, Ireland or Taiwan, and then import their products back into the United States for sale.

Why should the United States Tax Code give companies a tax incentive to set up runaway plants in tax-haven countries, rather than keeping their plants and jobs in the United States?

The tax break for runaway plants should be eliminated. Profits earned by American-owned companies from sales in the United States should be taxed—whether the products are made in the U.S.A. or abroad. My bill would end this wrong-headed subsidy by taxing profits on goods that are manufactured by American companies in foreign tax havens and imported back into the United States.

American companies may move plants that make goods for the U.S. market to foreign locations for many reasons—such as low wages or a lack of regulation—that the tax code can do little about. But we should not provide an additional inducement for such American-job-losing moves through our income tax policy.

In a related area, U.S. workers are also paying for billions of dollars in tax breaks that are costing them their jobs and closing down their factories. Under current law, U.S. companies are encouraged, through tax credits, to move U.S. plants and jobs to the possessions at the expense of established industrial communities on the mainland. Section 936 of the Tax Code allows U.S. companies to set up a 936 company to operate in the possessions. The section 936 tax credits essentially make the income earned by the 936 company free from U.S. tax.

This substantial tax break is working too well. Besides costing U.S. taxpayers $2.6 billion annually, it has drawn thousands of mainland jobs to the possessions. This includes the loss of 25 plants in 12 states. While I do not doubt that some depressed economies in the U.S. possessions could use a boost, I object to assistance given at the expense of established mainland jobs. My bill would repeal this costly subsidy, saving $13 billion over 5 years.

Finally, throughout the past decade, America was swept by a wave of hostile takeovers, leveraged buyouts and corporate mergers—fueled by junk bonds. Countless workers, shareholders, companies, and entire communities have been harmed in these battles for corporate control. Scores of jobs and businesses have been swallowed up, and corporate bankruptcies are skyrocketing as many companies simply cannot afford to make their interest payments on junk bonds. The toll on American workers and on the economy has been devastating.

Unbelievably, the United States Tax Code encourages and subsidizes such behavior. By making all those billions borrowed for corporate takeovers and leveraged buyouts tax-deductible, the U.S. Government provides a powerful incentive for risky junk bond financing—at a substantial cost to the U.S. Treasury. The leveraged buyout craze is now costing the Federal Government $20 billion a year—and it threatens to get worse. Some tough lessons were learned from the hostile takeover boom of the 1980s. While the deals that were struck in recent years cannot be undone, it is time for the U.S. Government to say that we will never again provide tax subsidies for such misguided purposes.

My bill would discourage hostile takeovers by restricting the junk bond financing that drives most of these deals. Specifically, it would deny the tax benefits for interest on the junk bond indebtness that fuels hostile takeovers. By denying the tax incentives that support these speculative transactions, this legislation aims to arrest the damage done to productivity and long-term economic growth over the past decade.

Mr. Speaker, the American Jobs Promotion Act of 1991 is the type of legislation required to get the U.S. economy back on track. The three tax provisions targeted in this bill have done serious harm to the American worker and the American economy. It is truly outrageous that countless U.S. jobs have been lost because of misguided tax policy—at a cost of billions of dollars a year to the U.S. Treasury. This is simply unacceptable.

We must rid our Tax Code of those provisions that reward American companies for setting up plants and factories overseas, and that encourage short-term speculation instead of productive, long-term investment. We must stop squandering scarce Government revenues. We must create and preserve American jobs. This is what my bill would do.

While even under the best government rule book, America will be engaged in an unprecedented economic battle in the 1990's and beyond, this legislation is an important step on the road to economic vitality and rising living standards.

THE OUTBREAK OF FREEDOM ACROSS EASTERN EUROPE

HON. JIM McCRERY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McCRERY. Mr. Speaker, 2 years ago, we watched the genesis of what would become the outbreak of freedom across Eastern Europe, as the Berlin Wall and the East German Communist government fell to the Earth and a democracy began to emerge.

Events that followed those first frenzied weeks, when the Iron Curtain began to unravel, continue to amaze us. Whole societies, whose young adults only knew the rule of communism, were finally tasting freedom. Those from other Communist countries, such as Romania, learned from these patriots and led revolutions which in the end ousted dictators and germinated fledgling democratic societies.

I had the distinct privilege of meeting one courageous young man who helped oust Ceausescu and lead Romania to democratic freedom. The Fulbright scholarship allowed for this noble revolutionary to study our democracy and the laws that govern our beloved Nation.

I was honored to have Lucian Mihai work in my office for a week to take a closeup look at the legislative branch. Lucian, who was the vice president of the Romanian 21st of December Association, the revolutionary group, details in a letter to Congress his American experience and offers his thanks for his Fulbright scholarship.

I proudly submit for the RECORD the entire text of Mr. Mihai's inspirational letter:

DEAR MR. SPEAKER, DEAR MR. PRESIDENT, DEAR MEMBERS OF THE HOUSE AND SENATE:

As one of the few Romanians having the opportunity to address you, distinguished representatives of this great Nation, I do not want to use this honor offered to me to speak about myself.

Yet, please allow me to start by saying that, perhaps, I belong to a lost generation. I will try to explain myself in a few words. I was born in Romania in 1953 (about one month before Stalin died). I grew up living in a totalitarian regime until my mid-thirties and I am now wondering if people like me have enough time left in our lifetime to live a normal life, like those of my generation living in some other countries. Unfortunately, more and more I do not think that is possible, because my doubts are reinforced by the kind and polite advice I have received in recent months: "You, the people of Eastern Europe, need to have patience. The road you have chosen is a long one, maybe taking several decades." But for my generation several decades is more time than we have.

Although I still do not want to speak about myself, please allow me to say to you that the happiest afternoon of all my lifetime was on December 21, 1989; the most horrible night of all my lifetime began at the end of that afternoon. As you know, on December 17, 1989, the heroic men and women of Timisoara had started their Revolt against the criminal dictatorship which was ruling my country at that time. In response, troops of the secret police, army and regular police were used for a bloody repression and Timisoara (a city of more than 200,000 inhabitants) was surrounded and isolated, in order to be destroyed as soon as possible. One city, however, could not win against such a terrible enemy, and the brave people of Timisoara desperately waited for the rest of the country to react.

On December 21, other cities rose. Among them was Bucharest—the capital of Romania, and my hometown. In the beginning, there were only several hundred courageous people in the streets. But in a couple of hours, several thousand (few, still) joined, protesting without violence. Instead they gave flowers and bread to armed troops, asking for the resignation and punishment of the dictator and his close accomplices. Most of the protesters were young people, including teenagers. The afternoon of December 21, 1989—a miraculously sunny day, unusual for that month of deep winter, with blue sky and no clouds—was the happiest of all my lifetime. I stood among those wonderful young people, singing our old (then, still forbidden) national songs in the main streets and squares of Bucharest. But in the evening, young Romanians dressed in military uniforms were ordered to fire at other young Romanians dressed in civilian clothes. Our barricade, quickly built in the University Square, could not defend us against tanks, and all night the troops hunted the demonstrators and killed many heroes. (Who knows how many? . . .). I will never forget that my life was saved by an unknown teenager who died in my arms in front of the troops while I was carrying his wounded body to a hospital.

The next morning, hundreds of thousands of people of Bucharest went in the streets, and so did people of many other cities and towns of Romania. Thus, the dictatorship was overturned, even though the fights continued for several more days.

After a couple of happy days, we realized that it was not enough to overturn the dictatorship in order for Romania to become a democratic country and to have an economic framework able to provide a decent life for Romanians. It is still unbelievable to us how much more needs to be done to this end, and unbelievable how much pain accompanies this process.

Of course, we, the Romanians, are liable for tolerating more than four decades of totalitarian rule and a state run economy in our own country, and, consequently, we must suffer this painful process of change. But, at the same time, history is a witness that at Yalta Conference, after World War II Romania and the other Eastern European countries were only pawns in a deal which sacrificed them to the communist bloc.

Therefore, it is understandable that the efforts of Romanians must constitute the most important factor in promoting democratization and economic development of Romania, and more and more Romanians are conscious of this duty. At the same time, more and

more western countries are beginning to understand the importance of promoting in the efforts of the Eastern European countries (even if, sometimes, one can see an attempt to make an artificial distinction between the so-called "Central European" countries and the other countries of the former communist bloc). Helping is not only in the best interest of the Eastern European countries, but will serve the international community as well.

Obviously, the United States of America is counted among the nations which recognize their role in this process. I would say, however, that this is simply the natural confirmation of a decade's old certitude which has been expressed in Romania since the end of World War II: "The Americans will come!" This phrase has been repeated so many times, that it has become very much like a proverb.

Western countries can support changes in Romania in several ways, and America's leaders know best how America can do it.

I myself benefit from the support of the United States Congress, and I have always realized that, actually, this is not a help for me as an individual, but for my country, as a community of more than 23 million individuals who are proud of their origins, history and culture.

Maybe because some people have said that I have achieved good, and sometimes very good, professional results (in chronological order, as a law student, as a young judge, as a faculty member at the University of Bucharest Faculty of Law—teaching Civil Law and Intellectual Property Law, and publishing law books, articles and studies—and as an attorney-at-law), as well as because some English speakers can speak English so well that they are able to understand me when I try to speak their language, maybe for these reasons I have been fortunate enough to become the first Romanian lawyer awarded a Fulbright fellow (John Marshall grant) in this country.

"To increase mutual understanding between the people of the United States and the people of other countries"—this is the description which the Congress of this country worded for the basic purpose of the Fulbright Program. Based on my own experience and observations after almost one year in this country, I believe that this aim is realized in a wonderful manner by all those involved in the Fulbright Program to the extent that they are connected.

In addition to recognizing the fundamental role of the Congress in originating the Fulbright Program several decades ago, I would like to take this opportunity, distinguished members of the United States Congress, to enumerate (in chronological order and without any concrete references to individuals but only to official titles or names of bodies, institutions, structures, etc. to which individuals belong) those to which I am deeply grateful for their help in accomplishing the purpose of my Fulbright fellowship which I began in October 1990: Embassy of United States in Romania; United Stated Information Agency; Council for International Exchange of Scholars; Center for International Programs and Studies, and Law School of University of Missouri, Columbia (where I did research for nine months concerning the American judicial system); Supreme Court of Missouri; several American publishing houses (offering complimentary copies of valuable law books); Saint Louis Council for International Understanding; Virginia Commission on the Bicentennial of the United States Constitution; United States Institute of Peace; The American Friends of Romania, Inc.; Freedom's Light Foundation; Irvin, Ellis & Diedring, P.C. law firm; Office of the Republican Congressman for the 4th District, Louisiana; Central and East European Law Initiative, of the American Bar Association; Library of Congress. As one can see, the list is not at all short. Each of them have helped my work in their own way during this very busy year of my life.

As I emphasized, I do not intend to refer to specific names of individuals. Nevertheless, please allow me to not forget them, mentioning only that, during my stay in this country, many people have asked me "What have you enjoyed the most in the U.S.?"—which is, one must recognize, a very difficult question to answer, because America is such a large and beautiful country. Throughout my stay I have really enjoyed the friendly nature of Americans. Of course, before I came to the United States of America, I had read and I had been told that Americans are friendly, but now I myself am a witness, because I have a lot of friends in America, from Virginia or Maryland through Missouri to California, and from New York State through Arkansas to Louisiana.

Soon, I will be returning to my country to resume my work. Of course, I will do all that I can to ensure that the knowledge I have acquired as a Fulbright fellow in this land of Democracy will be used for a new democracy in Romania. This is not only my wish; I know very well that it is also the wish of my new friends. As some of my close American friends have told me, now Romania is no longer merely a spot on a world map to them, but a place where they know that they have a friend.

Because I am a member of my generation, I am not alone. And, of course, my generation itself is not alone among other generations of Romanians. My Romanian friends are working hard for a new future for our country.

But as I do, they have also the same reasons to wonder: "Perhaps, I belong to a new lost generation."

With deep appreciation,

LUCIAN MIHAI

H.R. 3341, ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1991

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FAZIO. Mr. Speaker, I rise in strong support of H.R. 3341, which modifies the Government-wide honoraria ban that was enacted as part of the Ethics Reform Act of 1989. I commend the gentleman from Massachusetts [Mr. FRANK], and the ranking Republican on his Judiciary Subcommittee, the gentleman from Pennsylvania [Mr. GEKAS], for their hard work and perseverance on this issue over the past year. They have crafted a bipartisan compromise that effectively balances the Government's interest in promoting the integrity of its work force, and the need to preserve the fundamental rights of Government employees.

It should be emphasized, first of all, that the bill makes no change in the honoraria ban for Members, judges, and the highest-ranking officials in all three branches of Government. They will continue to be subject to an absolute ban on honoraria for any speech, appearance, or article. And that is as it should be.

But in the case of career employees and all others paid less than about $100,000, the amendment provides an exception for their outside activities that do not interfere with their official duties or involve any potential conflicts of interest.

In short, the bill would restore for these Federal employees the same rules governing acceptance of honoraria that had applied to most executive branch employees before the ban took effect.

As the former chairman of the Bipartisan Task Force on Ethics in the 101st Congress, I can say unequivocally that this amendment to the honoraria ban achieves what was intended by the task force. We certainly did not expect the ethics offices to apply the ban, in the case of rank-and-file workers, to any speech or article even when there is no connection to the individual's Government employment.

Obviously, the task force did not intend to prohibit rank-and-file Government employees from writing book reviews or poetry, for example, or lecturing on their hobbies, or playing a musical instrument—and to receive the usual fee for those activities.

That is why the Ethics Reform Act specifically authorized the supervising ethics offices in each branch to implement the honoraria ban through regulations. It was expected that they would do so in a manner consistent with the commonly understood meaning of that term—namely, honorary payments made by virtue of the employee's Government position and office. Unfortunately, because of the act's broad definition of honorarium, the ethics offices believe they have no discretion to do so.

H.R. 3341 will do it for them. The bill makes it absolutely clear that payments for an employee's private activities, if unrelated to the individual's official duties or status, and if there is no conflict of interest with the source of the payment, are not prohibited by the honoraria ban.

Mr. Speaker, once again, I commend the gentleman from Massachusetts and the gentleman from Pennsylvania for their efforts in bringing this bill to the floor. The amendment to the honoraria ban will ensure that most Government employees may continue to pursue their private interests and avocations that do not interfere with their official duties, and will help restore public trust in Government by continuing an absolute ban on Members and the highest-ranking officials.

I urge support of the bill.

THE JAPANESE-AMERICAN RELATIONSHIP

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SCHEUER. Mr. Speaker, as the 50th anniversary of Pearl Harbor approaches, I would like to comment on how far the United States and Japan have come since that fateful day half-a-century ago that brought us into the Second World War.

The terrible tragedy of the attack on Pearl Harbor cost our Nation many lives and

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

plunged us into the most costly war in human and material terms—of all time. We must remember, however, that the same war that began with the sudden, tragic loss of these American lives at Pearl Harbor ended with the detonation of atomic weapons over Japanese cities.

From these mutually inflicted wounds, our two great nations have made great strides toward fruitful cooperation and genuine friendship. I cite as evidence the remarks of Ms. Wakako Hironaka, a member of the House of Councillors of the Japanese Diet, which she recently made in Washington. Councillor Wakako Hironaka is a leading member of the Komeito Party, the Japanese good government party, and is a distinguished leader and spokesperson for GLOBE—Global Legislators Organized for a Balanced Environment—of which I served as the first chairman.

Her truthful, compassionate comments express truly admirable sentiments about the origins of World War II and the feelings of the Japanese people in its aftermath. She spoke from the wellsprings of her heart and soul in a most conciliatory and evocative language. We should all hope that the views she has expressed represent the tone and quality of the future United States-Japanese relationship.

I commend her remarks to my colleagues:

APPROACHING THE 50TH ANNIVERSARY OF THE OUTBREAK OF THE PACIFIC WAR

(By Ms. Wakako Horonaka)

Honored guests, ladies and gentleman, it is a pleasure and a great honor to have the opportunity to address such a distinguished audience this evening. I regret that many members of the Liberal Democratic Party could not be here to join us as the result of the upcoming election for Prime Minister.

As many of you may know, I am a relative newcomer to Japanese politics; in fact, this year will mark my sixth year in office. Before that, I had spent over 20 years in the U.S., first as a student, and later as a mother of two who, together with my family, led an ordinary middle-class American life. During this period, I was what you would call a participant observer of American society, witnessing first-hand the tremendous series of events, from the Vietnam War to the civil rights and women's liberation movements, which transformed the nation's political and moral agenda.

Because of this experience and the profound and lasting impressions it left on me, I entered Japanese politics with a background and perspective very different from those of most of my peers. It is with this privileged perspective that I hoped to contribute to the national debate and policy-making process as a member of the Japanese Diet.

Of course, I had no idea how much the world would change in these five years that I have been in the Diet. As our distinguished keynote speaker, Senator JAY ROCKEFELLER, pointed out, the decline of the East-West conflict and changes in the distribution of political and economic power have rendered much of our conception of the world up until recently obsolete. And, as the recent events in the Persian Gulf have illustrated so graphically, the new world that we enter is not necessarily any safer or more secure than the Cold War era from which we have just emerged. As we grope towards the so-called new World Order, each of us will have to agree upon what exactly that is, and what each of our individual roles in it will be.

Japan is no exception. Clearly, the role that Japan has been content to play—that is, the passive observer of world events, comfortably perched in the U.S. nuclear nest—is no longer suitable to the new political climate and to Japan's rising stature as a consequence of its economic strength.

In my opinion, developing coherent, principled policies in the context of a new and radically changed world order is the biggest, and truly the most important, challenge facing Japanese citizenry and government.

I would like to offer my own personal proposal for an appropriate program of contribution by Japan. My proposal stems from the assumption that Japan must play an active leadership role in realizing our common dreams of world peace, elimination of poverty, and the preservation of our environment.

I propose that Japan's actions in the global arena be guided by three basic and universally accepted principles. They are decency, fairness, and reciprocity. Decency requires that we respect the intrinsic values and aspirations of all peoples and cultures, regardless of color, ethnic origin, religion or socio-economic status. Fairness means that we treat others as we would like them to treat us. Reciprocity involves repaying favors we have received.

Using these principles as the cornerstone for Japanese policies, I propose four specific way in which Japan can contribute to the betterment of this planet, given our economic and political resources and constraints.

First, I propose that Japan's development assistance be expanded and redirected. Specifically, I would like to see Japan commit one percent of its GNP towards development assistance, three times what we commit at present. I would also like to see more of this aid being channeled through international organizations like UNESCO and through non-governmental organizations, and more of this aid being distributed on the strict condition that it be used to satisfy basic human needs, such as eliminating poverty, conflict, illiteracy and environmental degradation.

Second, I propose that Japan supplement its development assistance with an active policy of promoting technology transfers to developing countries. We should do this with a determined commitment to help build the industrial bases of developing countries while maintaining the integrity of the surrounding environment and natural resources. And we should do this without fear of the boomerang effect.

Third, I propose that Japan take active measures to promote private investment in and greater trading ties with developing nations. Specifically, I would like to see Japan take concrete steps to increase imports of goods manufactured in foreign countries. In this way, we can ensure that we are unleashing private sector as well as public sector initiative in our efforts to close the gap between the have and have-not nations.

Finally, Japan should take a more active role in international peace-keeping organizations, not only contributing with money but also with personnel and other resources. Specifically, I am advocating the contribution of Japanese personnel to the UN Peace Keeping Operations force. I want to stress that this is an extremely controversial issue within Japan, since this would represent the first time Japan would engage military personnel in outside areas. I believe, however, that participation in the PKO would be a suitable means for Japan to contribute to world safety in a manner consistent with our Peace Constitution and our long-standing renunciation of military force. I say this with the full knowledge that my party, the Komeito party, may hold the deciding vote in the Upper House of the Japanese Diet on the proposed legislation to authorize participation in the PKO.

If all of these measures were adopted, I believe Japan will finally be assuming an active and positive leadership role, implementing policies consistent with the principles of decency, fairness, and reciprocity that I mentioned before. Criticism of Japan's current policies would be silenced by the overwhelming approval of united voices around the globe.

I do not know to what extent my proposals are immediately practical from a political standpoint, but I can state with confidence that policies like those I mentioned are all firmly rooted in principles that resonate with the long-standing traditions and beliefs of the Japanese people.

I would like to add one further word about the nature of the third principle I mentioned, reciprocity. Throughout the postwar period, Japan has owed much of its success in rebuilding the economy and country to the generosity and benevolence of the American people. Now that Japan has become strong economic power, we should reciprocate this kindness, showing the same generosity towards countries struggling to develop today as America had done to us.

On the occasion that marks a half-century after Japan embarked on a full-scale Pacific War on December 7, 1941, we hereby express our unequivocal apologies to the people of many nations for the great pain and suffering which Japan caused them during this war.

While deeply regretting the war, we would like to reiterate our heart-felt appreciation to the people of the World for their generous and humanitarian treatment of us Japanese during the post war era in our struggle toward rebuilding our nation from ashes.

Words cannot adequately convey our gratitude especially to those countries for the magnaminity with which they helped us lay the foundation for a democratic and prosperous Japan.

We pledge to make every effort for Japan to contribute to everlasting peace and prosperity for all humankind in close cooperation and contact with other nations of the world.

THIRD-PARTY PAYMENT TO VETERANS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PENNY. Mr. Speaker, several years ago, Congress passed legislation that allowed the Department of Veterans Affairs to collect third-party payments for non-service connected veterans covered by private insurance. Since enactment of that legislation (Public Law 99–272), third-party collections have accrued to the treasury. Today I am introducing legislation that would redistribute those collections directly to veterans programs. Since these are funds paid on behalf of insured veterans, they should be used to the benefit of veterans.

My legislation provides that third-party payments be disbursed by the Secretary of Veter-

ans Affairs, with one-third of the collections deposited in the nursing home revolving fund, and the other two-thirds deposited to the credit of the VA medical center which rendered the treatment and collected the reimbursement. This will provide an added incentive to local medical centers to collect funds owed them. The contribution to the nursing home revolving fund recognizes the need and increasing demand within the VA as a whole for long-term care services and is a way that third-party collections can benefit veterans throughout the Nation.

This legislation is intended to give veterans' medical care a needed boost. It is meant to provide supplemental funding to VA programs and should not be looked at as a replacement for the increased appropriations necessary to keep the VA system delivering high quality medical care.

H.R. —

To amend title 38, United States Code, to revise the rules relating to crediting of third-party reimbursements received by the United States for the costs of medical services and hospital care furnished by the Department of Veterans Affairs.

Mr. PENNY introduced the following bill; which was referred to the Committee on——

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDITING OF THIRD-PARTY PAYMENTS RECEIVED BY DEPARTMENT OF VETERANS AFFAIRS.

Paragraph (4) of section 1729(g) of title 38, United States Code, is amended to read as follows:

"(4) The unobligated balance remaining in the Fund at the close of business on September 30 of any fiscal year which is in excess of any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the next fiscal year, the expenses, payments, and costs described in paragraph (3) shall, not later than January 1 of the next fiscal year, be allocated as follows:

"(A) One-third shall be deposited in the Nursing Home Revolving Fund.

"(B) Two-thirds shall be deposited to the credit of appropriations available for the operation of Department medical centers, to be allocated to each medical center in proportion to the amounts credited to the Fund during the previous fiscal year that were attributable to care and services furnished through each such medical center.".

DETAILED OUTLINE OF PROPOSED PRESCRIPTION ACCOUNTABILITY AND PATIENT CARE IMPROVEMENT ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, at the beginning of the second session, I intend to introduce legislation known as the Prescription Accountability and Patient Care Improvement Act. To enable interested groups to comment and propose improvements during the recess period, I would like to enter the following detailed summary of the bill in the RECORD. Those interested in the actual draft language can obtain copies from my office, 239 Cannon HOB, Washington, DC 20515.

TITLE I—ASSISTING IN IMPLEMENTATION OF CONTROLLED SUBSTANCE ACCOUNTABILITY PRESCRIPTION SYSTEMS.

SECTION 101. FUNDING.

Secretary of HHS shall make $20 million available to at least 10 States, based on evidence of illegal diversion, indications of inappropriate prescribing, numbers of addicted patients, and undertreatment of needs like cancer pain, AIDS-related pain, and other medical needs. The 10 States with multiple-copy prescription programs can receive funds to transition to electronic data transfer systems. The $20 million is raised by reasonable fees imposed on pharmaceutical drug manufacturers.

SECTION 102. REQUIREMENTS FOR CONTROLLED SUBSTANCES ELECTRONIC ACCOUNTABLE PRESCRIPTION SYSTEM; CENTRAL REPOSITORY, DESIGNATION OF STATE AGENCY.

After funds are provided to the State, one year is provided to establish State's computer software and hardware, modifications of pharmacists computer hardware and software. Information, to include physician's DEA number, pharmacists DEA number, a unique identifier number determined by the State, the drug's NDC number, date of dispensation, quantity of substance dispensed, and prescriber's practice specialty, shall be provided to the designated State health agency on all Schedule II, III, IV and V prescriptions. Pharmacists must provide the data in computerized format, to include one-line, real-time, diskettes, tape, or batch processing format once every 14 days. Pharmacists must keep records for 2 years, in accordance with Controlled Substances Act. State must seek counsel of medical boards and societies, pharmacy boards and societies, law enforcement agencies, and privacy protection experts. Confidentiality is strict and enforced. Pharmacists must comply. A temporary exemption for pharmacists without electronic capabilities is allowed for one year, to be replaced by paper submission. Data errors are presumed to be accidental in nature, unless a pattern of errors occurs. State must designate a health agency to run the central repository, or data processing system, to provide on-line access. System must be secure against access by unauthorized persons. Director must choose the most overall cost effective and efficient computerization system, which can include State's Medicaid Management Information System or other computer facilities within health agency. State may contract out through a competitive bidding process or amendment to a pre-existing competitively bid contract. In the case that a system is run by an outside vendor, and the contract is terminated, vendor must provide all data to designated state health agency. Designated state health agency must oversee and administer the system, control access to the system, and produce exception reports. Exception reports are a report indicating that a schedule II–V controlled substance has been dispensed outside the expected norms for a prescriber, dispenser, or a recipient. Identification card is defined: a valid driver's license, valid military identification card, or other valid, state-issued identification card. Identification number is defined: Social Security number or a unique number contained on the individual's identification card. In the case of a minor, the parent's information is used. In the case of prescribing a controlled substance for an animal, the animal's owner information is used. Registration number for dispenser and pharmacist is defined.

SECTION 103. CONFIDENTIALITY OF INFORMATION; DISCLOSURE OF INFORMATION.

Information collected shall not be available to the public. Information can only be used for the purposes relating to illegal diversion or prescribing, relating to improving physician prescribing practices, or relating to working with physicians whose patients are addicted and in need of substance abuse treatment. Information will be managed and administered by a Board composed of 5 health agency officials, the director of the designated state health agency, and four appointees. The four appointees consist of two with health care and prescribing backgrounds, and two with investigative backgrounds. Cryptanalysis, or electronic scrambling techniques, guaranteeing individual privacy protections of patients, pharmacists, and licensed physicians and veterinarians is required. Only the director of the State designated health agency, or his designee, will know the full cryptanalysis code. The two "prescriber" appointees will know half the cryptanalysis code; the two "investigative" appointees will know the other half of the cryptanalysis code. The director is required to consult regularly with patient membership organizations and civil liberties organizations. Violations of confidentiality in this section are strictly enforceable, and anyone who knowingly discloses, attempts to disclose, or attempts to access or use, information illegally from this system shall be imprisoned for not more than 20 years, with automatic fines of $250,000 for individuals and $500,000 for corporations. State is required to purge patient data from the central repository no later than 2 years after the data is made available to the board, unless the information is part of an active investigation or effort to facilitate substance abuse counseling. In cases where the board determines the information in the system warrants reason for further inquiry into a possible violation of the Controlled Substances Act or State controlled substances act, the Board shall direct the director to seek the advice and counsel of the director of the Practice Parameter Advisory Panel in cases involving physicians or pharmacists, and seek the advice and counsel of the director of the Patient Care Advisory Panel in cases involving individual patients. Access to the system may be provided to members of the board, other than the director or designee, only when at least 3 of the board members are present. The Board shall meet regularly at the call of the director. Vacancies on the board must be filled within 30 days. State narcotics or law enforcement agencies may only have information provided to them by the board in cases, based on the practice parameters established by the State's Drug Utilization Review Board, there is reasonable cause for further inquiry into the illegal diversion of, or the illegal prescribing of, controlled substances. State medical boards and licensing boards may have information provided to them by the board, based on the practice parameters established by the State's Drug Utilization Review Board, when there is reasonable cause for further inquiry of a medically inappropriate prescribing of controlled substances, or for the purposes of developing rules and procedures to improve physician prescribing practices and patient care. Drug Utilization Review Practice Parameter Advisory Panel is established, consisting of the DUR Board and representatives of State boards of oncology, podiatry, psychiatry, dentistry, pharmacy, medical license and supervision, osteopathic examiners, and veterinary medical

VOL 137
PT 24
NO 26
1991
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JA 3
1992
UMI

examiners, and any other representative physician group designated by the director as serving the interests of physicians who treat patients requiring the prescribing of controlled substances. DUR Practice Parameter Advisory Panel is given 1 year to develop and implement practice parameter advisory guidelines, notify and share relevant information with respective state medical societies for the purposes of improving physician prescribing practices and other medical needs, and working with state narcotics agencies for identifying and addressing illegal activity. After consultation with the members of the board, the State medical and licensure boards, and the State Medical Society, the Director shall develop procedures, based on the practice parameters, to address the needs of individuals in need of addiction or substance abuse treatment counseling for controlled substances. The procedures may include physician notification by the designated state health agency of cases of individual patients who, based on established practice parameters, may be addicted and at the discretion of the physician, may involve notification of the individual patient by the physician for the purposes of facilitating substance abuse counseling or other means of improving patient care. Patient Care Advisory Panel is established. Each Director shall seek the advice and counsel of representatives of patient membership organizations, so as to take into account cancer pain, AIDS-related pain, narcolepsy, epilepsy, attention deficit disorder, sickle cell anemia, mental health, or any other medical need deemed necessary. Patient Panel is given 1 year to develop advisory guidelines for the board, and work with narcotics agency to protect the needs of patients.

SECTION 104. COOPERATION AND TECHNICAL ASSISTANCE.

The Secretary of Health and Human Services, through the Inspector General and in cooperation with the Attorney General, shall maintain an active program to assist and cooperate with designated state agencies in carrying out this title. The Secretary, along with the Attorney General, shall assist those states with multiple-copy prescription programs which seek to implement electronic data transfer reporting systems.

SECTION 105. GENERAL DEFINITIONS.

The following terms are defined: board, central repository, controlled substance, designated state agency, director, dispenser, patient panel, schedule II–V controlled substance, Secretary, State, and system.

Dispenser is defined to not include inpatient hospitals, inpatient nursing homes, licensed nurse or medication aide who administers such a substance at the direction of a licensed physician, or wholesale distributor.

SECTION 106. EFFECTIVE DATE.

This title shall take effect 1 year after the date of the enactment of this Act.

TITLE II—REPORTS AND STUDIES

SECTION 201. NATIONAL PATIENT CARE IMPROVEMENT TELEPHONE HOTLINE.

Secretary shall establish through a competitively bidding process, a nationwide patient care improvement telephone hotline staffed by qualified physicians and other certified medical professionals. The hotline shall be available on a continuing basis for the purpose of responding to questions from patients, physicians, pharmacists, state health agency officials, and other medical health care practitioners. All calls must be confidential and the Secretary shall take all steps necessary to ensure the confidentiality of such calls. The Secretary shall take all means necessary to encourage publicity of the hotline, including working with pharmaceutical drug companies and importers, physicians, pharmacists, and available print, television, or radio media entity to publicize and educate the public on the availability of the hotline. The hotline shall be designed to be pay-as-you-go, using available '1–900' technologies to cover all costs associated with the hotline. The Secretary must ensure the costs to callers are affordable and reasonable and the system is available to patients at all times necessary.

SECTION 202. NATIONAL COMMISSION ON SPECIAL MEDICAL NEEDS.

Commission's objective is to develop new initiatives to address issues involving the appropriate prescribing of medically necessary prescription drugs for the treatment of cancer pain, AIDS-related pain, narcolespy, epilepsy, sickle cell anemia, mental-health-related care, and any other medical specialty need as determined by the Secretary. The Commission shall develop new initiatives to address the problem of both underprescribing and overprescibing of medically necessary controlled substances. The Commission shall advise Congress and State and Federal health agency officials on the needs of these patients. The Commission shall work with nationally recognized medical membership organizations to establish a system for identifying physicians who need further education on the needs of severely ill patients.

SECTION 203. REGULAR CONSULTATION BETWEEN HHS AND DEA.

The Secretary, along with the directors of the National Cancer Institutes and National Institutes of Health and with the Administrator of the FDA, shall consult with the Administrator of the Drug Enforcement Administration of the issue of the annual quota for legal manufacture of schedule II controlled substances. The Secretary shall advise the DEA Administrator on continuing medical developments in the therapeutically-effective prescribing of schedule II controlled substances. The Secretary shall advise immediately the Administrator of any developing shortages of schedule II controlled substances for the medically necessary treatment of pain patients or narcolepsy patients.

SECTION 204. MODEL INITIATIVES WITH RESPECT TO FORGERIES OF PRESCRIPTIONS FOR CONTROLLED SUBSTANCES.

The Secretary, in cooperation with the Attorney General and the HHS Inspector General, shall study and develop model initiatives for States to address the problem of forgeries of prescriptions for controlled substances. At least 1 model initiative must be made available to States for consideration within 1 year after the date of enactment of this Act. The model initiative may include the use of single, serialized prescription pads which are printed, maintained and distributed to State licensed physicians, are printed using acceptable anticounterfeit printing techniques, and will be available to physicians who voluntarily choose to receive them. The Secretary shall make available sufficient resources to the State's director of the designated state health agency to administer the anticounterfeit initiative. States are encouraged to consult with medical societies and licensure boards, and all appropriate patient membership organizations, in implementing model initiatives.

SECTION 205. STUDIES OF ELECTRONIC DATA TRANSFER.

The Secretary, in cooperation with the Attorney General, shall undertake ongoing studies of the cost and benefits of existing electronic data transfer and multiple-copy prescription programs. The Secretary shall share necessary information with State health and law enforcement officials on the effect of the program under Title I (and similar programs) on the illegal diversion of controlled substances, arrests and convictions, asset forfeitures and seizures, improvements in the State's ability to direct patients in need of drug treatment, and cost savings or enhancements in law enforcement or health care delivery. The Secretary shall submit to Congress periodic reports on studies conducted under this section.

SECTION 206. IDENTIFICATION OF ILLEGAL DIVERSION SUBSTANCES.

The Secretary, in cooperation with the Attorney General, shall undertake ongoing efforts to identify those prescription drugs which are not Schedule II–V controlled substances but which are subject to illegal diversion or needless addiction. The Secretary shall make the identity of those drugs available to all State health agencies and provide a formal, written explanation on the merits of, and costs associated with, including these additional prescription drugs under the States' prescription accountability and patient care improvement programs.

SECTION 207. INFORMATION ON USE OF CONTROLLED SUBSTANCES.

The Secretary shall develop a brief information brochure which describes proper prescribing of controlled substances for the treatment of cancer pain, AIDS-related pain, narcolepsy, epilepsy, sickle cell anemia, mental-health-related care, and any other medical specialty need as determined by the Secretary. The Secretary shall provide for the distribution of such brochure with other appropriate mailings by Federal health agencies.

SECTION 208. DEVELOPMENT OF PRINTED PATIENT INSERTS.

The Secretary shall develop printed patient inserts which describe the proper use of controlled substances for the treatment of cancer pain, AIDS-related pain, narcolepsy, epilepsy, sickle cell anemia, mental-health-related care, and any other medical specialty need as determined by the Secretary. The brochure must also include the telephone number of the Patient Care Improvement Hotline, and advice on proper steps to take in case of improper use of controlled substances. The Secretary shall provide for the distribution of such printed patient inserts by Federal health agencies to prescribing physicians for the purposes of distribution to patients.

SECTION 209. DEVELOPMENT OF COMPUTER SOFTWARE.

The HHS Inspector General shall develop computer software for the purposes of administering this Act. The software shall be compatible with the MADAS programs currently made available to the States, and must be available for free within 180 days after date of enactment.

IN TRIBUTE TO SAMUEL RODNEY BROWNE: PIONEER JAZZ EDUCATOR

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DIXON. Mr. Speaker, I rise today to pay tribute to a true pioneer in jazz education.

Samuel R. Browne, who passed away November 15th at the age of 83, introduced jazz music to the Los Angeles public high school curriculum when the board of education approved jazz band as a legitimate course offering during the early 1940's.

But Browne was already a pioneer. In 1936, he became one of the first three African American secondary school teachers in Los Angeles when he integrated the all-white faculty at his alma mater, Jefferson High School—despite overt resistance from many of his new colleagues. As a student at McKinley Junior High and at Jefferson, Browne heard members of the all-white faculty use racial slurs to refer to him and other black students. "I never forgot," he said in a 1979 interview with the Los Angeles Times. "You carry that kind of scar with you for life."

Such painful incidents did not dampen Browne's desire to pursue his interests in music and teaching. Browne earned his bachelor of arts and master's degrees in music and education from the University of Southern California during the early 1930's—playing the organ at church and shining shoes to pay his way through. Upon graduation, Browne was unable to obtain a teaching job in Los Angeles. An accomplished musician and director, he opted to travel with the Cotton Blossom Singers as the quartet's pianist and arranger. No long afterward, he joined the faculty at Jefferson, where he was immediately popular.

Students from all parts of Los Angeles enrolled at Jefferson High School specifically to study with Browne, and the jazz band performed all over the city. Moreover, Browne introduced his students to legendary musicians such as Duke Ellington, Ethel Waters, Billie Holiday, and Nat King Cole who visited his classes at Jefferson at Browne's invitation.

Browne was more than a mere music teacher to his students, taking a sincere and uncommon interest in their lives and development. Over the years, Browne served as a teacher and mentor to numerous prominent Los Angeles jazz artists and innovators in the distinctive "cool" school of jazz which originated in Los Angeles. Dexter Gordon, Roy Ayres, Frank Morgan, Chico Hamilton, Buddy Collette, Jackie Kelso, Ernie Royal, Horace Tapscott, O.C. Smith, Joseph Gold, and Art Farmer are among the musicians who apprenticed in Browne's jazz band at Jefferson High.

In 1961, Browne transferred to Palisades High School, in part to avoid the brewing hostility in south central Los Angeles which erupted during the Watts riots a few years later. Browne retired from teaching in 1973, recalling for his last groups of students who were mostly both affluent and white the wonderful days when Ellington, Holiday and others colored the vital jazz nightlife which flourished along Central Avenue for years, beginning in the late 1930's.

Browne will be remembered as a quiet unassuming gentleman who never realized the full significance of his contribution to the music and the city he loved so dearly. Browne's teaching career at Jefferson High School and Palisades High School demonstrated his ability to transcend the barriers of race and class with his love of music and education. Browne received numerous awards for his accomplishments. In September 1985, he received the Educator's Award from the Los Angeles Jazz Society; in 1990 he was inducted into the Jefferson High School Hall of Fame; and in October 1991, the Samuel R. Browne Scholarship was established by the BEEM Foundation.

Mr. Speaker, Samuel Rodney Browne, who is survived by his daughter, Lisa, touched thousands of lives with his music and teaching. Please join with me in paying tribute to this pioneering jazz educator whose warm legacy continues to enrich the music, culture and education of Los Angeles.

CONCURRENT RESOLUTION ON THE GATT NEGOTIATIONS

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RIDGE. Mr. Speaker, today my distinguished Pennsylvania colleague [Mr. MURTHA] and I, along with a number of our colleagues in the House, will be introducing a concurrent resolution regarding the Uruguay round talks for the negotiation of a new GATT trade agreement. I take this opportunity to speak about the resolution and to also offer some remarks as to this Member's outlook on the GATT negotiations.

Let me first state that I am hopeful that the Uruguay round can be brought to a successful conclusion. I have been strongly supportive of President Bush's and our negotiators' objectives in the round, both as a member of the Republican Leadership Task Force on GATT and as a member of the President's Export Council.

I understand the benefits that flow from free trade. I firmly believe that the United States stands to gain a great deal if a comprehensive agreement can be achieved and if that agreement is a fair and balanced one.

A note of caution, however. Because as hopeful as I am for success, I would be unable and unwilling to support any new GATT agreement that seriously undermines and weakens the effectiveness of U.S. antidumping and countervailing duty trade laws. There would, in my mind, be neither fairness or balance in taking such a step.

These laws have been vital in helping American businesses to compete against subsidized, unfair foreign competition. It would, in my judgment, simply be unacceptable for Congress to permit their emasculation for the sake of achieving a consensus among our negotiating partners for a broader agreement. Speaking for this Member, a new GATT accord is not worth the price of sacrificing our Nation's industrial base.

So it is on this note of concern that I have put forward this resolution. The resolution outlines several very specific points currently on the table in the antidumping and countervailing duty negotiations, points that, were they to be adopted, would signal a retreat by the United States on maintaining the strength of our trade laws. The resolution urges our U.S. Trade Representative to refuse to agree to any provision that incorporates these points.

On this matter there must be no doubt, no question, no sign of wavering as to where the Congress of the United States stands. We must be unmistakably clear that maintaining effective U.S. trade laws against market-distorting dumping and subsidy practices is not an issue open to compromise. We must make clear to our negotiating partners that we would just as soon see no agreement at all than one that would pose serious harm to U.S. manufacturing interests. As I said before, a new GATT agreement is simply not worth the price.

ALTERNATIVE MINIMUM TAX AMENDMENT

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MCGRATH. Mr. Speaker, today I am introducing legislation to address a major shortcoming in the Internal Revenue Code. My bill would allow taxpayers to deduct so-called section 212 expenses for purposes of the individual alternative minimum tax. Those expenses are primarily investment advisory and management fees. The deduction cannot exceed an individuals net investment income and it is subject to the 2-percent floor on miscellaneous deductions.

I think that current law is unfair and inconsistent in this instance as tax policy generally provides an offset for expenses incurred in making money.

We have gone to great lengths to encourage investment activity and capital formation. This provision of the alternative minimum tax discourages more meaningful types of investment, which require greater management and advisory expenses. An anomaly that results from this situation is that the exact same expenses would be deductible if an activity was organized as a trade or business. If taxpayers used this technique to avoid the inequity in current law, I think that deductible expenses would be much higher, and the Treasury would lose money in the long run. This amendment takes on greater significance if we raise the AMT tax rate at some future date.

Testimony on this proposal was received last year by the Ways and Means Select Revenue Subcommittee, and the Treasury Department did not oppose it.

I plan to finance this change in the Internal Revenue Code by eliminating what is known among tax practitioners as the "debt-equity whipsaw." Corporations which sell ownership interests to investors prefer to classify those interests as indebtedness while purchasers would rather classifiy their interests as equity. Each party in the transaction is seeking to maximize advantages conferred by the Tax Code.

Internal Revenue Service officials attempting to enforce our tax laws are caught in the middle of this situation. Time consuming audits and enforcement activities are required, and the Treasury loses significant revenue. My legislation would require that a debt or equity designation made by an issuer would be binding on the purchaser of the shares of stock or bonds. This would bolster enforcement and reduce cheating. It would also increase Federal revenues in excess of the cost of the amendments this bill makes to the alternative minimum tax rules.

REDUCING THE TAX BURDEN ON AMERICA'S FARMERS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McEWEN. Mr. Speaker, on November 22, 1991, I introduced H.R. 3877, legislation to eliminate an onerous provision included in last year's Omnibus Budget Reconciliation Act that requires the Secretary of Agriculture to charge a loan origination fee to all producers of oilseed crops.

For several reasons, the loan origination fee is bad policy. The U.S. Department of Agriculture has indicated that the farmer will pay the origination fee upfront by taking a 10-cent effective cut in the loan rate, which is set by the 1990 farm bill at a minimum $5.20. This makes the effective minimum soybean loan rate $4.92. Moreover, the fee effectively increases the cost of interest on the loan; it reduces farmer income protection when prices are low; it will not generate expected Federal revenues if producers leave the program; and it sets a precedent for future revenue options on other commodities.

In my view, this fee will discourage, perhaps even reduce significantly, farmer participation in the loan program. The American Soybean Association, which has expressed its full support for H.R. 3877, estimates that over 400,000 soybean producers across the country are being required to pay the loan origination fee.

Farmers today are already faced with numerous challenges, financial and otherwise. During my frequent visits with farmers across Ohio, farmers have voiced their concerns over many issues—the high cost of health insurance for the self-employed, high taxes on capital formation, and the challenge of complying with environmental regulations, to name just a few. With this in mind, I see no need for Congress to add yet another tax burden on America's agricultural sector.

Mr. Speaker, I urge all my colleagues to support this legislation, and thereby send a signal to the Nation's farmers that we are here to help them, not hinder them.

Thank you, Mr. Speaker.

HIGH-TECH CLEANUP

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RITTER. Mr. Speaker, my submission of this article for the RECORD is part of an overall effort to put technical hazards in national perspective prior to legislative and regulatory action

Our recent history is replete with failures on that account. The body blows to America's economy, our jobs and our manufacturing industries have been numerous. Our competitors look at us and shudder. They use us as the example of how not to regulate.

From Alar to Asbestos, to PCB's, to the way we do—or don't do—Superfund site cleanup, to the suppression of a critical $600 million, 10-year study on acid rain, to the politicization of the global warming debate, we have lost valuable jobs, economic growth opportunity, and crucial manufacturing industry.

This trend must stop or else we will impoverish ourselves. Chemicals are a natural part of bodies; Our modern society depends on them for health and for well being. To treat chemicals as Salem witches to be exorcised down to the last molecule is a prescription for closing factories, emptying shelves and impoverishing our country. That is the unhealthy reality of current trends.

I commend to the attention of my colleagues this article published in the Allentown Morning Call on November 1, 1991.

FIVE WAYS TO DETERMINE VALIDITY OF FORECASTS OF HIGH-TECH DOOM

BROOKLYN.—Alar, DDT, the ozone layer, nuclear power, asbestos, PCBs; all have had their Day of Terror in the media. We are constantly bombarded with such predictions of high-tech doom. It's time we learned to analyze them or we'll frighten ourselves right out of the high-tech society that gives us one of the highest living standards in the world. A few points of to consider, next time the doomsayers speak:

1. What are the facts? Get specific dates, places, amounts, and sources; don't accept emotional tirades or vague generalities. IF, for example, a movie star says Alar causes cancer, ask when and where and on what the study was done that reached that conclusion. In the case of Alar, the study was done on mice; a human would have to eat 28,000 pounds of apples daily for 70 years to get the same dose. A mere 14,000 pounds of apples a day wouldn't do; mice eating the equivalent of that amount didn't develop tumors.

2. Check your sources. If a source isn't given by the media, you have every right to ignore the allegation, as if someone had told you Pluto is made of rum-raisin ice cream. If a source is cited, do his credentials apply to the field he's discussing? A biologist, although he's a scientist, may know no more about PCBs than a piano teacher, and a pediatrician doesn't necessary know more about nuclear power than your plumber does.

3. Put potential risks into perspective. Few things are risk-free: drinking a quart of water may save your life, putting your head in it may kill you, If there is solid evidence of harmful effect, how does the possible risk compare with the possible gain? For example, the Three Mile Island accident, usually described as the worst in the history of U.S. nuclear power, resulted in no deaths and no measurable increases in the cancer level of the surrounding population. What a pity that the coal-mine collapses and gas explosions that have killed thousands in the past few decades haven't been so "disastrous"!

4. Play devil's advocate with the facts, once you have them: it's useful to see how facts can be distorted. It is common, for example, to confuse correlation with cause and effect. "Many people die while they're sleeping, so sleeping must be a leading cause of death." "Some people became ill after ingesting PCBs, so PCBs must be dangerous chemicals." (In fact, in the case usually cited to prove the danger of PCBs, they were mixed with chemicals from air-conditioning equipment that are known to be highly toxic.)

5. If a threat to human health does exist, what's the proper response: government intervention or private initiative? Given the abysmal record of government planning, one would think this question need not be asked. Individuals working and cooperating within the free market are the ones best equipped to deal with environmental problems; the individual is the only one who can consider all the relevant factors in his case and make the best decision. At present, for instance, the government has banned the use of DDT in all but a handful of cases. But DDT, according to the National Cancer Institute, is not a cause of cancer, and it is the most effective way to fight the mosquitos that cause disease and death from malaria. Why not let farmers in tropical climates decide for themselves whether to use DDT or risk malaria?

We pity someone who's "afraid of his own shadow." How much worse to be afraid of one's own mind, which is what the fear of technology amounts to! To reject the products of the mind on the grounds that they are not immediately perfect or 100 percent risk-free is to condemn man to perpetual fear, back-breaking labor, and premature death. To remain healthy, we must learn to view predictions of environmental doom critically, not accepting them until or unless they meet basic standards of proof. Then we must deal with them by the informed decisions of individuals in a free market, not by government intervention.

HIGH PERFORMANCE COMPUTING INITIATIVE

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEPHARDT. Mr. Speaker, I would like to express my support for the concepts included in the High Performance Computing Initiative. However, at a time when we should be proud of such an accomplishment, I have deep concerns about the omission of important provisions from the Senate version of the bill which we are considering here today.

If we look back at the legislative history of this cornerstone technology initiative, we should be reminded that the House did its part to ensure that U.S. competitiveness in high performance computing and related technologies would be achieved. This summer, we passed H.R. 656, with a responsible provision that addresses important trade-related issues and the issue of who will be eligible to apply for and receive the Federal tax dollars that are authorized in this legislation.

These issues have grave economic implications for U.S. industries, which continue to be subject to unfair practices, including predatory pricing and lack of reciprocity, of our trading partners. Today, out of all of the links in the U.S. electronics food chain, we maintain superiority in only two areas—software and supercomputers—the focus of the legislation we are considering today. As such, it is vital that we not ignore the issues that have an adverse effect on other electronics sectors like semiconductors, and could undermine domestic programs, including the High Performance Computing Initiative.

Critics of the House version of this legislation, including the Bush administration, have

forced the removal of the Brown amendment which deals with vital trade and economic issues. They have whittled down a responsible proposal to a mere reporting requirement, and in turn, have fostered less, not more, accountability for the administration in spending U.S. tax dollars.

Opponents of the Brown amendment have sold our Nation short. As a result, we are left with no legislative assurances that the funds in this bill will in fact reach those who have earned the opportunities which this bill will afford—American workers and industries. Quite simply and unfortunately, I believe that those who have encouraged the watering down of this important provision have failed our advanced technology industries, especially supercomputers and software, and our country.

At this time, I would like to clarify for the record that the Brown amendment would have allowed the administration to make any financial awards or buy what ever it desired with funds provided under the bill. If recipients of grant moneys were not located within our borders or procurements not American-made, the administration would have been required to tell Congress why such a decision was being made. In turn, Congress would have been entitled to review the decision, as it currently does with arms sales.

The Brown amendment would have enabled better oversight by Congress as to the use of government funds under the High Performance Initiative, which like other U.S. programs, will become the target of our trading partners, who do not offer U.S. entities or individuals fair treatment in their markets or reciprocal access to their government research, development and procurement programs. This reality has been observed in connection with Japanese computer makers, who continue to unfairly price their products abroad, and in the U.S. market as well, despite the existence of the 1990 United States-Japan Supercomputer Agreement which was designed to eliminate unfair trade practices.

In closing, I would like to commend Chairman Brown on his efforts to resolve the tough issues associated with the High Performance Computing Initiative. I regret that we were not able to come up with a more constructive approach to the problems that have been identified by myself, Mr. SABO and others regarding research, development and procurement programs funded by the U.S. Government.

It is my hope, and I have received assurances in writing from Chairman BROWN and Senator GORE that they will begin work early in the next session to more adequately address the concerns that I and others have raised. I believe that we must address gaps in the implementation of U.S. laws regarding procurement of advanced technology products by the Federal Government, generically and where national security concerns are involved.

In addition, Chairman BROWN and Senator GORE have committed to, and I strongly encourage, active oversight as the High Performance Computing Initiative advances. The actions of the administration in implementing this important initiative and ensuring that U.S. workers and industries are the true beneficiaries of the government funds must not go unchecked. It is only right that we make decisions involving U.S. tax dollars and advanced technology programs in America's interest first, not the interest of our trading partners.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, November 18, 1991.

Hon. RICHARD A. GEPHARDT,
Majority Leader, U.S. House of Representatives, Washington, DC.

DEAR DICK: I was glad you, Congressman Sabo, and I were able to meet earlier this month to discuss the High-Performance Computing Act (S. 272, H.R. 656) and technology policy in general. As you know, that bill is designed to help ensure that the United States maintains its lead in high-performance computing, a critical technology finding application throughout the U.S. economy.

As a follow-up to that meeting, I wanted to reiterate that I share many of your concerns about the Federal government's procurement procedures regarding high-technology items like supercomputers. It is clear to me that regulations that make sense when an agency is buying pencils and paper may not make sense when it is buying a state-of-the-art computer system. In such cases, we need to consider more than just the cost and performance of the system. When the system is being used to develop advanced software in fields like aerospace, there are clearly national security and economic security issues involved as well. And, of course, we are all familiar with the story of how Cray delivered its first supercomputer to Los Alamos where researchers worked with Cray to debug and improve the system so they could use it to solve their computing problems. We need to encourage that kind of symbiotic relationship.

I believe strongly that the government can do a better job of using its massive purchasing power to advance American technology. Today, too often federal procurement regulations delay or discourage innovation, while the practices of other countries often help their companies in competition against ours. As chairman of the Science, Technology, and Space Subcommittee of the Senate Commerce Committee, I intend to hold hearings on this issue next year. In addition, the Subcommittee will oversee carefully the implementation of the High-Performance Computing Program created by S. 272.

I look forward to working with you in the future on these and other technology policy issues.

Sincerely,

ALBERT GORE, JR.,
Chairman, Subcommittee on Science, Technology, and Space.

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, RAYBURN HOUSE OFFICE BUILDING,
Washington, DC, November 20, 1991.

Hon. RICHARD A. GEPHARDT,
Majority Leader, U.S. House of Representatives, Washington, DC.

DEAR DICK: As you know, we have been working with the Senate and the Administration to reach agreement on H.R. 656 and S. 272, the High-Performance Computing Act of 1991. This is an important piece of legislation which not only helps ensure the continued leadership and competitiveness of the U.S. high-performance computing industry, but also marks the beginning of a major new investment in this nation's information infrastructure.

As passed by the House, H.R. 656 contained provisions intended to ensure that this investment would be expended for the benefit of U.S. industry and researchers. While those provisions would have permitted procurements from foreign companies and were therefore not intended to violate U.S. international obligations under the General Agreement on Tariffs and Trade, the Administration threatened to veto the bill. The Senate refused to include similar provisions. After long negotiations with the Administration and the Senate, I have reluctantly concluded that these provisions must be substantially changed in the remainder of the bill is to pass and be signed by the President.

I know that you have taken a leadership role in bringing disturbing aspects of the current trade relationship with Japan and other countries to the attention of Congress, particularly in the areas of high technology. While I share your concerns about unfair trade practices, the negotiations with the Administration have led me to believe that what is needed is not necessarily new laws or authority to deal with unfair competition, but a willingness to enforce the laws that are already on the books. Congress needs to do a better job of overseeing the Administration's lax enforcement of our present trade laws.

The substitute section which we plan to bring to the House floor in the near future is intended to help in this oversight process by providing a foundation for future review by this and other committees on the implementation of the High-Performance Computing Program, as well as trade issues relating to high technology in general. The annual reporting requirements on contracts and procurements made with foreign-owned companies and foreign educational institutions will assist Congress in its oversight of the High-Performance Computing Program. The review by the Technology Administration in the Department of Commerce of the U.S.-Japan Supercomputer Agreement will provide an opportunity for a different perspective—albeit from the Administration—on the effects of such an agreement on Japanese and U.S. supercomputer manufacturers. Finally, the substitute reasserts that procurements under the program would be governed according to the terms of existing law, which directs a preference for domestic manufacturers in many situations, and which forbids procurements from nations found by the President to maintain a persistent practice of discrimination against U.S. goods or suppliers.

With these tools, I can assure you that this Committee will maintain close oversight over the implementation of the high Performance Computing Program to ensure that the program is carried out for the benefit of U.S. industry and researchers, as the Administration has indicated it would be. Further, I intend to hold hearings in the next session of Congress on trade issues relating to high technology, and to review the report on the U.S.-Japan Supercomputer Agreement submitted by the Department of Commerce under this legislation. To further assist us in the review of the Supercomputer Agreement, I also intend to request a study by the General Accounting Office to review bidding procedures at federally funded entities procuring supercomputers. This study would cover both generic and national security/defense-related procurements; interagency processes and internal government mechanisms for presenting and reviewing intended procurements of supercomputers, generically and those with national security implications; and the application of existing U.S. laws governing such procurements. Since jurisdiction over Federal procurement laws in general

VOL
137
PT
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1991
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1992
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rests in the Government Operations Committee, I will work with the Chairman of that Committee, Mr. Conyers, in framing the GAO study request, as well as with you and other Members who have been leaders on this issue. In addition, a similar study by the International Trade Commission could provide further valuable perspectives on these issues.

The concerns that you have raised in the course of the consideration of this legislation are significant, and while we were precluded by the Administration's opposition from addressing these issues in this bill as directly as we would have desired, I am confident that we can achieve many of the same goals through vigorous and aggressive oversight. I look forward to working with you on addressing these issues and others that have such importance for the future competitiveness of the U.S. high-technology industries, and I appreciate your support and efforts on this legislation.

Sincerely,

George E. Brown, Jr.,
Chairman.

LEGISLATION TO IMPROVE THE RECENT UNEMPLOYMENT COMPENSATION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, the news across our country continues to show that the recession is not abating. More people are joining the ranks of the unemployed and long-term unemployed workers are discouraged as they continue search for work. We cannot wish and make this problem go away.

A little over a week ago, the Congress passed—and the President finally signed—an unemployment compensation bill. It is a help to those hurt by this long recession. But, Mr. Speaker, it is pretty small potatoes. In the original version, Californians would have qualified for 20 weeks of extra unemployment insurance. In the enacted version, it is nearly 2 months less—only 13 weeks. In my State, the bill that passed will once again drop tens of thousands of unemployed at the beginning of March, before the winter is over.

The winter won't be over, and I doubt the recession will be over before this bill effectively expires for the long-term unemployed. People who have exhausted their unemployment benefits and have been unable to find any kind of work are desperate. The heart-rendering stories of most of the people who successfully were processed on November 18—the first working day after the law became effective—speak of the great need for his financial relief.

In the Hayward, CA, Unemployment Office, which serves the southern part of my district, 225 applications were processed on November 18 and over 700 claims were handled the first week.

Every congressional office, I am sure, received dozens of calls asking how the new law would work, why it didn't cover people who lost their unemployment insurance a year ago and still were looking for work, where we thought they could find a job within 13 weeks before the new law stopped helping. These were tough calls to handle, Mr. Speaker. These were clearly people looking for work, people selling off assets, people seeing lifetime college savings for their kids being wiped out.

Unemployment insurance is no easy street. In my high-cost State, the average weekly payment is $131, about $46 per week below the poverty level for family of two.

The President has trouble admitting we're in a recession. For the people in it, it feels like a depression—and is terribly depressing. We should plan now to improve on the recent law and offer additional weeks of hope and help during this crisis.

Therefore, I am proposing today legislation that I hope can be considered at the very beginning of the second session. It is a very simple bill. It amends the three tiers of additional weeks of benefits recently passed in Public Law 102–164 from 6,13, or 20 weeks to 13, 20, or 24 weeks, respectfully.

The real challenge before this Nation is the creation of jobs. But until there are enough jobs out there for all the people who want them, we need to provide a safety net so the unemployed and their families don't become homeless.

As we enter this holiday season, I hope that all of us with comfortable jobs in Government—from the President, Darman, Sununu, and the Congress on down—will realize that the recent bill is woefully inadequate. I hope that we can all make as our New Year's resolution the passage of a more compassionate, adequate, and timely extension bill early in 1992.

FOSTER CARE LIVING ARRANGEMENTS

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McGrath. Mr. Speaker, today I am introducing the Foster Care Living Arrangements Act of 1991. This legislation is intended to enhance the options available to provide daily support services for elderly or handicapped adults in their homes. My proposal would amend section 131 of the Internal Revenue Code, which excludes certain foster care payments from a taxpayer's gross income. The bill would extend the benefits of that provision to shared living arrangements.

In essence, a shared living arrangement is an adult in need of foster care who has a roommate. Typically, roommates in these situations are independent contractors, who work under the auspices of nonprofit community service organizations. Roommates agree to provide certain services to the foster care adult, such as being available over night in the event the adult needs personal assistance. They provide companionship and guidance within and outside the home for cooking, cleaning, shopping, and recreation. These individuals also assist with personal hygiene and medical needs. They work cooperatively with family, friends, and neighbors and allow the foster care adult to live in dignity in his or her home and community.

This legislation is necessary to provide needed support services, and to encourage more citizens to participate in efforts to undertake foster care responsibilities in their communities. This is exactly the type of incremental approach that Members from both sides have advocated in the debate over long-term health care. Elderly and handicapped members of our society have diverse needs and abilities. By expanding the range of choices to meet their needs, we can enhance their abilities. At the same time, we can enable them to remain safely and comfortably in their homes and communities.

I urge my colleagues to join me in this proposal, and to support it in the second session of this Congress.

TRIBUTE TO CHAIRMAN MO UDALL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DIXON. Mr. Speaker, I rise to pay tribute to our esteemed former colleague, Mo Udall. The 30 years Mo Udall spent in Congress has left a significant mark on the House of Representatives, the Nation, and the State of Arizona. Without his sincere dedication, ability to encourage people to work together and humor, many of the gains made in protecting the environment for future generations may not have materialized.

Throughout his life he took advantage of opportunities to make positive change. As a high school student, Mo Udall participated and excelled in everything from editor of the high school paper and first string on the basketball team to serving as the student body president. Even after graduating from the University of Arizona in 1949 with a becheiors of law degree, he excelled by receiving the highest score on the State bar exam. I understand that his years of practicing law in Arizona left and unmatched legacy for future trial lawyers.

But it is the years Mo Udall spent in the House of Representatives striving for protection of the environment that has inspired my colleagues and I to continue our work toward this goal. Mo Udall's chairmanship of the Interior Committee and his membership on the Post Office and Civil Service Committee will long be remembered.

Mo's appreciation of the land and his attitude toward responsible management of our natural resources was reflected in several major bills that passed during his chairmanship, including legislation on strip mining in 1977, which marked the first time that the mining industry was given guidelines for restoring mined land. Another measure is the Alaska lands bill, which added large tracts of land to the national refuge system and the national wilderness system.

Mo Udall has a unique and special concern for Arizona and its vast wilderness, which was demonstrated by efforts to pass both the Arizona Wilderness Act of 1984, which protected more than 1 million acres of State land, and the Arizona Public Land Wilderness Act, which set aside 2 million acres of Arizona wilderness. This work on the Arizona Public Land

Wilderness Act reflected his keen ability to get people with different goals to work together. Without this patience and leadership, the Arizona Public Land Wilderness Act could not have been passed.

Mo's outstanding contribution on environmental protection has set a standard for cooperation and reflects a special insight into our national land conservation needs. This unending determination, and organizational skills helped pass effective legislation to protect our scarce resources. I have for years admired these accomplishments and appreciated his helpfulness.

Mr. Speaker, his presence in the House of Representatives and dedication to this institution is sorely missed. All of us that had the privilege of serving with Chairman Mo Udall, however are far richer for that experience.

GOOD LUCK, EARL WILLIAMS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, after more than 27 years in public service, Earl Williams, the East Orange, NJ, city clerk is retiring. Earl, like many of us, has had the opportunity to do what he enjoys most, serving the residents of our communities.

Earl Williams is a native of East Orange. He is a veteran of the U.S Navy, serving in World War II. He played semi-pro football with the Jersey Bears. Earl worked for the Nopco Chemical Co., for more than 25 years and was an active member of the AFL–CIO.

Earl Williams has held both elected and appointed positions. He was first elected to the East Orange county committee more than 27 years ago. He was elected to the East Orange city council, representing the city's fourth ward, and served in that position for 13 years. His council colleagues selected him council chairman for three consecutive years.

In 1984, Earl Williams was appointed to the position of Municipal Clerk for the city of East Orange. He became the first black city clerk in the history of East Orange.

Mr. Speaker, I am sure my colleagues will join me in extending our best wishes to Earl Williams on his retirement.

TRIBUTE TO CADET JAMES SPENZER FORBES, AWARDED ARMY COMMENDATION MEDAL FOR COURAGEOUS ACTIONS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McEWEN. Mr. Speaker, I rise today to pay tribute to cadet James Spenzer Forbes, whose bold and decisive action in saving the lives of two children recently earned him the Army Commendation Medal.

A senior at the U.S. Military Academy at West Point, Cadet Forbes and a friend were at Hampton Beach, NH, when they spotted two children drowning. Without regard for their own safety, the cadets rushed into the water, swam to the children, and pulled them to shore.

The men were awarded the Army Commendation Medal for their selfless, courageous act. Cadet Forbes' citation declares that his quick thinking, courage, and devotion to the preservation of life averted a possible tragedy and reflects the utmost distinction upon him, the U.S. Military Academy, and the U.S. Army.

After nominating Spenzer to West Point 4 years ago, I wrote to him: "I feel confident that you will conduct yourself in a manner that will reflect credit upon you and the United States of America should you ultimately be selected by the Academy for admission." He was selected for admission and he has reflected credit upon himself, his family, and his country. I congratulate him.

Spenzer is the son of Bill and Charlie Forbes of Miamisburg, OH. I am sure they are proud of their son for his actions, and I am sure they are looking forward to a future that will be filled with equally noble accomplishments in service of our Nation.

I ask my colleagues to join me in acknowledging this fine young man.

STARK SEEKS ADVICE ON DRAFT PRESCRIPTION DRUG ACCOUNTABILITY BILL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, after months of consultation with various health care groups—patient organizations, doctors, psychiatrists, pharmacists, State health agencies, law enforcement agencies, and pharmaceutical drug manufacturers, I have drafted legislation to address needs for improving the prescribing of controlled substances.

The measure allows State health agencies to access information on prescriptions of drugs that are controlled substances in schedules II, III, IV, or V through electronic data transfer and existing computer technology. The information, administered by a State's designated health agency, could only be used for addressing illegal activity, better educating physicians, or facilitating treatment for addicted patients. Comprehensive practice parameters are established for the purposes of protecting appropriate physician prescribing and patients' needs. Furthermore, the measure has strict confidentiality requirements and safeguards, is administered by health care agencies to protect the legitimate needs of patients, and provides for a new patient telephone hotline, printed patient inserts, educational brochures for physicians, and other means to improve patient care.

I am today requesting the advice and counsel of interested organizations in commenting on this draft legislation, and I expect to formally introduce the measure, with appropriate amendments, in late January, 1992 for its consideration during next year's legislative session. The following is a description of the legislation, and I also invite anyone who is interested in receiving a copy to contact my office at 202/225-5065, or to write me at 239 Cannon House Office Building, Washington, DC 20515.

Millions of Americans benefit from proper prescribing and administration of controlled substances for the treatment of problems such as cancer pain, AIDS-related pain, narcolepsy, epilepsy, sickle cell anemia, attention deficit disorder, mental health needs, and several other needs. These prescription drugs can be found in millions of medicine cabinets and do help improve, balance and save the lives of millions of our citizens every day. That's a given.

But, unfortunately, these drugs are also potentially dangerous if not taken as prescribed and intended. They are a measurable part of the illegal drug trafficking trade, and can be addictive. For example:

First, According to a Bush administration HHS Inspector General report, more than 2 million senior citizens are either addicted to or at risk to addiction to tranquilizers;

Second, According to another HHS report, Medicare had to pay for 250,000 rehospitalizations of senior citizens caused by needless adverse drug reactions;

Third, According to the National Institute of Drug Abuse [NIDA], controlled substances accounted for 88,000 hospital emergency room visits, right behind alcohol and cocaine, and more than heroin, LSD, and other illegal drugs;

Fourth, According to NIDA's most recent National Survey of High School Students, more than 50 percent of all high school seniors reported illegally using tranquilizers during the past year, more than crack and cocaine combined; and

Fifth, According to DEA, the street value of illegal controlled substances—the drugs intentionally diverted for resale to facilitate illegal drug activity—is $25 billion per year.

Obviously, these needs must be addressed. I believe this legislation can provide immediate benefits to society:

First, save millions in existing waste, fraud, and abuse in the Medicaid and Medicare Programs;

Second, help improve the prescribing practices of practicing physicians;

Third, address either the underprescribing or overprescribing of controlled substances;

(4) help those patients who are addicted to controlled substances by helping them get needed drug or substance abuse treatment and counselling, and

(5) help State health and law enforcement agencies better target the "scam artists" (Medicaid Mill doctors, "script" doctors, backdoor pharmacists, and "professional doctor shoppers") who illegally divert and resell controlled substances for significant profit (the "Valium for crack" market), thus enhancing our national "war on drugs".

Given the status of the Federal and 50 States' budgets, lawmakers, familiar with the TV show "Let's Make a Deal", are faced with a "Monty Hall's" choice: We can choose door No. 1, door No. 2, or door No. 3.

Behind No. 1 is "cut existing benefits for patients—seniors, the poor, and the handicapped." Of course, no one wants to choose this door.

VOL 137
PT 24
NO 26
1991
JA 3
1992
UMI

Behind No. 2 is "cut reimbursement rates for health care providers—doctors, pharmacists, and hospitals." Again, no one wants to choose this door.

And behind No. 3 is "waste, fraud, and abuse." This is the door everybody wants.

I believe millions in existing waste, fraud, and abuse in illegal or inappropriate activity involving controlled substances are currently subsidized by taxpayers, insurance policyholders, and health care consumers in general. This measure addresses that problem.

I also believe patient care can be improved by better physician prescribing practices, better awareness of the proper taking of controlled substances through educational efforts, and establishing some means for State health care agencies to work with physicians whose patients may become addicted to these potentially dangerous drugs.

Controlled substances are one of the least understood, and most emotional, health-related subjects today. These are drugs which require a prescription from a physician, and are covered by the Controlled Substances Act, which places these drugs under various schedules, based on the addictive tendencies, potential danger to society, or probability of abuse or misuse. The Drug Enforcement Administration [DEA] classifies controlled substances as either schedule II, schedule III, schedule IV, or schedule V drugs. Schedule II includes the narcotics class, barbiturates, methamphetamines, codeine and other strong pain-killers; schedule III includes primarily Tylenol with codeine; schedule IV includes the benzodiazepine class (tranquilizers) along with meprobamate and chloral hydrate; and schedule V includes cough syrups with codeine.

It's worth referencing several anti-fraud initiatives currently in place at the Federal and State levels: ARCOS, MADAS, multiple-copy prescription programs, and electronic data transfer. The Federal Government, through the DEA and HHS Inspector General's office, have attempted to use existing computer and data systems to better address fraud and illegal diversion through the ARCOS and MADAS programs respectively. Ten States have multiple-copy prescription programs; one State, Oklahoma, has a model electronic data transfer system, with others planning to follow its lead.

The DEA's ARCOS system tracks manufacture and distribution of schedule II drugs, from point of manufacture to the wholesaler to the retailer. Manufacturers of schedule II narcotics are required to provide the DEA with report data on manufacture and sale, as are drug wholesalers on sales to retailers; DEA then enters the data in their computer system. So, the ARCOS system is paper-based, and serves best as an accounting system. The DEA is able to analyze distribution data to see if questionable activity or trends are occurring. The ARCOS system is but one piece of the puzzle, and given its paper-based nature, an antiquated one at that.

The HHS Inspector General's MADAS program, provided for free to States Medicaid programs, allows States to better address Medicaid fraud involving prescriptions for controlled substances. The MADAS program is limited to Medicaid claims only, and cannot address fraud schemes involving cash transactions or insurance claims.

These two programs are effective in addressing fraud and illegal diversion in their own way, but are not substitutes for a comprehensive program. I must say I support the idea of electronic ARCOS—allowing drug manufacturers to report electronically by computer, instead of by paper—expanding ARCOS to all schedules and providing MADAS to all 50 States.

Ten States, covering 44 percent of the Nation's population, physicians, and pharmacists, have some version of a multiple-copy prescription program, mostly for schedule II drugs. The 10 States are: California, New York, Texas, Illinois, Michigan, Indiana, Rhode Island, Idaho, Hawaii, and Washington. Only New York (benzodiazapenes, or tranquilizers) and Illinois (glutethemide, a schedule III) cover drugs other than schedule II drugs. Washington State requires only those physicians sanctioned by the State's medical licensing board to be covered. In 9 of the 10 States, physicians cannot write a schedule II prescription unless it is on a state-issued prescription pad, designed to address counterfeit prescriptions.

For those not familiar with multiple-copy prescription programs, imagine using a credit card receipt, where carbon-based forms allow one copy of the prescription to be kept by the physician, one by the pharmacist, and one sent to the designated State agency. In seven of the States, the designated State agency is the health agency; in three States, it's the law enforcement agency. These programs are not new; in California's case the program started in 1940.

As a followup to questions surrounding the efficacy of State's multiple-copy prescription programs, earlier this year I formally asked the General Accounting Office [GAO] to evaluate the programs to see if States can save Medicaid or Medicare funds, and what the impact on prescribing practices and patient care are. I expect the GAO, after careful, detailed review, will provide Members with a thorough evaluation and provide us with some proper perspective.

I believe multiple-copy prescription programs have merit, do not negatively impact on patient care—other than a small percentage of physicians who unfortunately change their prescribing practices to drugs other than those covered—and can save taxpayer funds. These programs, all State-based, were designed with the best of intentions, and for the most part are "good mousetraps." Nevertheless, multiple-copy prescription programs are historically opposed by a large majority of physicians' groups, pharmacists groups, and some patient membership groups.

Although they appear to allow States to save significant Medicaid funds and have no adverse, direct effect on patient care, multiple-copy prescription programs, if introduced this session as formal legislation, would face significant institutional obstacles, and would probably result in more heat than light being spread on the subject.

Thus, I am not planning on introducing multiple-copy prescription legislation. Period.

I am, however, intrigued and encouraged by the model program implemented this year in the State of Oklahoma, the OSTAR Program. The program, in simple terms, requires pharmacists to provide information on Schedule II prescriptions to the State narcotics agency. Patient confidentiality and informational security safeguards, of course, are ensured. The program enjoys the strong support of the Oklahoma Medical Society, the Oklahoma pharmacists, various patient organizations, and several large pharmaceutical manufacturers.

I believe the Oklahoma OSTAR Program is the prototype for a national effort to address illegal diversion, while also working to improve physician prescribing practices, and facilitating drug treatment for needy patients. Already, dozens of other States, squeezed by the need to find budgetary savings or improvements in "war on drug" efforts, have turned to Oklahoma for guidance in implementing similar systems. The eyes of the Nation are on Oklahoma, the "laboratory" in this area.

Prescription accountability and patient care improvement legislation will not affect the proper, legal and necessary prescribing of controlled substances for the treatment of these legitimate needs. The measure will not change medical practice or prescribing in any way, shape, or form. Nor would the legislation effect, nor change, the practice of pharmacy dispensing.

The privacy and confidentiality of patients, physicians, and pharmacists are secured. The State health agency administers the program, designed to address illegal diversion or illegal prescribing, improving physician prescribing practices, and helping addicted patients in need of drug treatment. The program only involves outpatient prescribing, and does not affect inpatient hospital or inpatient nursing home prescribing.

I welcome the involvement of interested parties who share a common interest in addressing the needs of patients and developing constructive programs to improve our health care delivery system. Again, I invite anyone who is interested in receiving a copy and who wants to make suggestions on how best to draft this legislation to contact my office at 202–225–5065, or to write me at 239 Cannon House Office Building, Washington, DC 20515.

CONGRESSMAN ZIMMER SALUTES ISABEL BENJAMIN

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ZIMMER. Mr. Speaker, last Tuesday Isabel Benjamin of Flemington, NJ was honored by the Thomas A. Edison Council of the Boy Scouts of America as its 1991 Distinguished Citizen Award honoree.

Mrs. Benjamin founded Camp Isabel, a tuition-free summer camp for physically and emotionally challenged children. After 28 years of service, Camp Isabel closed this summer.

Mrs. Benjamin and the Camp Isabel organization are moving into a new phase, providing for indigent and special needs children year-round. The organization plans to identify the children and assist them individually. Mrs. Benjamin's organization will sponsor programs ranging from placing special education teachers in schools to buying winter coats for children that need them.

Mrs. Benjamin's hard work and dedication to providing these children with a safe and nurturing environment has made the Camp Isabel organization a tremendous success. Staffed entirely by volunteers, the organization relies on private donations to meet its costs. Last weekend marked the highlight of its fund-raising campaign, its annual food festival.

In 1987, Mrs. Benjamin was presented with the Outstanding Woman Honorary Award by Woman's Day magazine. Ellen Lavine, editor-in-chief of the magazine, wrote "[Isabel Benjamin is] responding selflessly to the needs of children requiring special education with caring and dedication, and in the process, helping to make our world more decent and humane."

Mr. Speaker, I ask my colleagues to join me and her friends in saluting Isabel Benjamin for her invaluable contribution to her community.

ELECTROMAGNETIC FIELDS RESEARCH PROGRAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BROWN. Mr. Speaker, today I am introducing the National Electromagnetic Fields Research and Public Information Dissemination Act. This legislation is designed to authorize a program of research and public information on the human health effects of electromagnetic fields [EMF]. It is my hope that the research program being proposed in this bill will help us to identify the human health effects, if any, of EMF.

Public concern over EMF is growing. People living under electric power lines, people working in close proximity to equipment generating EMF radiation, and people using electric equipment and appliances are concerned about the potential health effects of these EMF exposures. Because of the heightened public concern, because of the considerable ambiguity in the available medical literature, because a number of Federal and State government agencies are involved, and because this issue cuts across several scientific and engineering disciplines, getting a handle on this area has been difficult. This legislation is designed to take a significant step forward toward answering the unresolved questions on EMF by establishing a comprehensive research program involving a partnership between the Federal Government, State governments, and the private sector.

This last point is critical and this legislation seeks to establish a partnership with non-Federal entities who are concerned about EMF radiation. The private sector, particularly the electric utility industry has for many years made a considerable investment in EMF research—on the order of $6 million per year. In addition, there is considerable interest and potential research funding in the electric equipment manufacturing sectors. These research efforts do not enjoy complete public confidence, because the affected industry is funding the research.

Several Federal agencies, including DOE, the Department of Defense [DOD], the Environmental Protection Agency [EPA], and the Department of Health and Human Services [DHHS], have had research programs to address specific aspects of the EMF puzzle. The States, notably California and New York, have funded several significant research studies. All of these efforts have been deficient to the extent that they have not been part of a comprehensive agenda.

This bill would seek to join public and private funds and Federal and non-Federal funds into a common pool to be used to fund the research. Under this approach, the taxpayer gains the additional resources of the private sector in a credible, arms-length arrangement. The private sector also benefits, through a peer reviewed, comprehensive research program. And the public will get a comprehensive research and information program which addresses their concerns.

I am aware that the Department of Energy [DOE] held a research planning workshop last week to help the Department define its role as the lead Federal agency on EMF research. This bill is not meant to stop that process, but will help refine it and improve it. This bill would establish DOE as the primary Federal department with responsibility for EMF research. The bill also recognizes the particular expertise found within the Department of Energy's Office of Health with regard to issues related to epidemiology and human health.

This bill adds credibility and definition to the ongoing DOE process. I must point out to my colleagues that DOE is currently proceeding as the lead Federal agency on the EMF question under a mandate contained in the conference report language accompanying H.R. 2427, the Energy and Water Development appropriations bill for fiscal year 1992. This provision was inserted without benefit of debate and without the involvement of the authorizing committees. If we are to establish a credible program of research in this controversial area, we must conduct our legislative business in the open and with public involvement.

This bill seeks to make maximum use of expertise spread throughout the Federal Government by establishing an Interagency Committee which involves DOE, the EPA, DHHS, DOD, the Occupational Safety and Health Administration, and the National Institute of Standards and Technology. This committee will develop a comprehensive research agenda for EMF. In performing this task, the Interagency Committee will undoubtedly wish to take advantage of the analytic work of EPA, the National Academy of Sciences, and the White House Committee on Interagency Radiation Research and Policy Coordination. This research agenda will become the basis for the National EMF Research Program.

The bill establishes an Advisory Committee of experts on EMF. The Advisory Committee would consist of 12 individuals who by reason of their training or experience have expertise in EMF. It would include State officials, representatives of industry, unions, and public interest groups. This committee plays a central part in advising the Secretary of Energy on the conduct of the research program being established. It is my intent, that by establishing this committee and requiring it to determine both long- and short-term priorities in the research agenda developed by the Interagency Committee, public trust will be built in the research program. Lacking the critical elements of public trust and confidence, our efforts will be useless.

The Advisory Committee is also designed to bring a number of different points of view to bear on the problem. Since the issue involves a number of scientific and engineering disciplines, no single perspective will provide the answer to the question of how EMF radiation affects human health and how to mitigate and prevent any possible health effects. Cell biologists, epidemiologists, electrical engineers, and medical researchers all have a different perspective on the problem. A comprehensive national research program will serve to focus a variety of scientific disciplines on the same problem in a coordinated fashion and will provide us with the answers we need.

The proposed legislation seeks to leverage non-Federal funds by generally requiring a dollar-to-dollar match of Federal funds by non-Federal funds. The creation of a common pool of offsetting receipts from non-Federal partners will enhance the financial resources available to the project and will enable the private sector and State agencies to join the Federal Government in a partnership on EMF research without the appearance of controlling the research results. The funds available to the National EMF Research Program will be directed according to the priorities established by the Advisory Committee. Since all research will be rigorously peer reviewed and competitively awarded, the program is further removed from any potential manipulation or perception of bias.

This legislation is not perfect and does not represent the final answer. It is a starting place for what I hope will be a broad debate next year on how this important research should be conducted. I urge my colleagues and the affected and interested public to read this legislation and give me the benefit of your thinking. It is my expectation that the Science, Space, and Technology Committee will begin hearings on this program early in the next session of Congress and we will be seeking the broadest involvement in those hearings.

Finally, I must state that this area of research is far too critical to be left merely to administrative deliberations. EMF research is vital to both the public health and the health of large sectors of our economy. An enterprise of such importance demands to be more thoughtfully constructed than one line in a legislative report. In the spirit of open Government processes, I am introducing this legislation and urge my colleagues attention and support.

GRADE A EDUCATION ON A SHOESTRING

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HAMMERSCHMIDT. Mr. Speaker, there are those who insist the goal of a better education for elementary and high school students requires spending more Federal dollars.

To them and to all my colleagues I recommend as food for thought the following article from USA Today, November 18, 1991.

A personal note—the Harrison, AR, school system is my alma mater.

[From USA Today, Nov. 18, 1991]

GRADE A EDUCATION ON A SHOESTRING

(By Pat Ordovensky)

HARRISON, ARK.—The 9,567 folks in this north Arkansas mountain town like to call themselves frugal, especially about their schools.

Donna Braymer, mother of three, tells how teachers require students to write on both sides of a paper to save money. She says it as a complement to the teacher, not a complaint.

Superintendent Charles Adair reports the 1915 boiler system still works in the old school he uses for an office. "We have gas now," he says with a laugh. "We don't use coal any more."

Folks here are proud that they rank 272nd among Arkansas' 327 school districts in education taxes—one of the lowest-spending school districts in one of the lowest-spending states. And they're proud of what their frugality buys: test scores in the top 10% nationally; high school graduates off to places like Harvard, Princeton, Georgetown, MIT; a band that gets invited to Washington for presidential inaugurals.

"We have high expectations," says Adair. "You get better results if you expect better results—in science or math or reading or football or band."

Harrison is one of three school districts where test scores are in the nation's top 10%, per-pupil spending in the bottom 10%. The other two—which make heavy use of computers as teaching tools—are Decatur, Ala. (near Huntsville), and West, Texas (outside Waco).

They were identified for USA TODAY by School Match, a computer data base firm in Columbus, Ohio, that provides advice on schools to families who are relocating.

In Harrison, where they bought six used school buses a few years ago to save money, "expectations" are more than words:

Parents volunteer in their kids' classrooms. Almost 100 sign up for an hour a week at each of the town's five elementary schools. "I have three (kids) so I do three hours a week," says Braymer, a school board member. "I make copies, grade papers, work with students, listen to them read. Anything a parent can do to help the teacher save time."

Parents and teachers meet each year as school councils, to determine goals for the next year. Each school reports its goals with an ad in the *Harrison Times.*

Honor Cards, good for discounts or free services at 52 local businesses, are awarded for good grades. A student from seventh grade up wins a card by earning all A's and B's.

Teachers, administrators and parents encourage kids to start taking college admission exams—the American College Test and Scholastic Aptitude Test—in junior high. By the time they're seniors, the SAT and ACT are old friends.

"We start at the elementary level to teach test-taking skills," says Pam Jones, district counselor coordinator. "We let children practice filling in those little bubbles, so they're not frightened" when they face standardized tests. "We talk about breathing deeply, about watching the clock. We tell them when they should try to answer every item and when, if they don't know, they should leave the item blank. The little things. We try to give our students an edge."

Robyn Phelan and Michael Bishop, Harrison High seniors with all A's, have been taking the ACT since seventh grade. Each plans to take it at least three more times this year.

"I have a 28 (out of 36)," says Phelan. "I want to break 30."

Bishop marched with the high school band at an out-of-town football game a recent Friday night, and drove three hours to another town to take the SAT again Saturday morning.

"I take them whenever I can," he says.

Signs at the edge of Harrison, the seat of Boone County, call it the Crossroads of the Ozarks. What the signs don't say is that people who enter the crossroads rarely leave.

Superintendent Adair's ancestors homesteaded Harrison in 1830. Pam Jones' grandfather worked on the railroad here. Teachers are teaching second and third generations.

"People who come here want to . . . stay." says Jones.

In September, 172 of last year's 173 teachers returned. The one who didn't "was 65 and she didn't have a choice," says Adair. To fill that vacancy, in the third grade at Skyline Heights Elementary, principal Faye Tilley invited the two remaining third grade teachers to join her interviewing candidates. The one recommended by the teachers was hired.

Teacher salaries in Harrison average $23,461 (Arkansas average: $23,040). Adair and all seven principals make it clear teachers have a big say in how things are done. And teachers say they often can get things done without scarce tax dollars:

The high school football team, ranked No. 4 in the state, gets no school funds except coaches' salaries. New uniforms and new equipment are financed by gate receipts or booster club donations.

When high school teacher Tom Street decided the school should have 10 computers available for any student or faculty use, principal Terry Oswalt tells what happened:

"We put out the word. He spoke at a few civic clubs. It didn't take but a little while until we had $10,000."

When Skyline Heights librarian Kathy Dodson needed $1,200 for new books, she went to the PTA. Two book fairs quickly raised it.

"It's amazing what this town will do for a cause," says Robert Phelan, high school band director.

National school reform experts are amazed at what Harrison has been doing in obscurity. School reform buzzwords—parent involvement, teacher empowerment, site-based management—have been traditions here for years.

"You see a philosophy (in Harrison) that keeps coming through," says Frank Newman, president of the Education Commission of the States. "They're saying parents are important and teachers are important and they should be part of running the schools. Everybody knows this but nobody does it."

Gordon Ambach, executive director of the Council of Chief State School Officers, says, "You're obviously looking at a school district where parents have a strong ethic that education is valuable. You wouldn't have all these things going on if parents didn't have that ethic.

"I wish," says Ambach, "that we could have that in every school district in the country."

KURT WEISHAUPT, 1991 MAN OF THE YEAR

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ACKERMAN. Mr. Speaker, I wish to call the attention of my colleagues to the remarkable achievements of Kurt Weishaupt, a Queens County, NY, businessman and philanthropist. Kurt will be honored on Wednesday, December 4, by the Flushing Rotary Club as its 1991 Man of the Year.

The invitation to this gala event notes that Kurt is being feted "in recognition of his leadership, vision, and commitment to the needy children in Queens and around the world." Mr. Speaker, no description of Kurt Weishaupt could be truer, yet those words only begin to tell the tale of this decent, compassionate humanitarian.

I first met Kurt Weishaupt some 20 years ago when I was publishing a small community newspaper in Queens, and served on the board of the Flushing Boys' Club. Kurt's dedication to the youth of our community—and his generosity—were well known.

But there's more to Kurt than mere charity. Kurt starts where others stop. He'll write a check, but he'll also pick up the phone to realize the dreams of the children of our community, and, indeed the children of the world.

Kurt is a driving force behind the Flushing Rotary Club's famous Gift of Life Program, which provides vital medical care to children from around the world. Gift of Life flies these desperate youngsters and their parents to New York for life-saving surgery in the world's finest medical facilities. I can categorically state that there are many children, in countries near and far, who certainly would not be alive today without the heroic efforts of Kurt Weishaupt. I'm sure each of those children say a little prayer of thanks that Kurt was there for them.

Kurt Weishaupt's heroism is not a luxury that came by him at maturity; his personal courage and fortitude has been with him all his life.

Nearly six decades ago, Kurt fled the impending Holocaust of Nazi Germany. For 6 years, Kurt scrambled from country to country, often barely eluding his fascist oppressors. His luck seemed to run out when invading German troops captured him in France, and Kurt was sent to a concentration camp. But 11 months later, Kurt made a daring escape, after which he briefly settled in France before embarking for America.

Kurt and his first wife, Trude, put down roots in flushing, where they raised their three children, Carol, Hazel, and Robert. They founded Kurt Weishaupt & Co., a very successful family-run stamp wholesaler. Yet Kurt never forgot his own close calls and good fortune. Over the years, he has been a gift of life himself to the Rotary Club, Boys' Club, YMCA, March of Dimes, United Jewish Appeal, and Booth Memorial Medical Center, Queens' outstanding Salvation Army-run facility where just last year the Trude Weishaupt Memorial Dialysis Center was dedicated.

Kurt is now married to Ethel, who has taken Queens County by storm. Together they continue to do the good deeds, philanthropic works, and minor miracles for which the Weishaupt family is known.

The Flushing Rotary, one of the paramount organizations in New York State, is to be congratulated once again on its selection of Kurt Weishaupt as its Man of the Year.

Mr. Speaker, my words cannot begin to describe the goodness that is Kurt Weishaupt. I ask all my colleagues in the House of Representatives to join me now in paying tribute to this outstanding humanitarian.

EXEMPT ORGANIZATION TAX REFORM ACT OF 1991

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, today I rise to introduce a bill to impose a tax on self-dealing transactions involving medical service organizations. A recent transaction proposed in California demonstrates the need for this legislation.

Health Net, a not-for-profit health plan with 844,000 members, proposed a conversion to for-profit status. Conversion to for-profit status is not uncommon but, in this situation, the members of Health Net's board of directors approved an offer by many of the board members and key management personnel for significantly less than all other bidders. This self-dealing by the organization's insiders could reap a benefit of hundreds of millions of dollars and a significant loss in Federal revenues.

Health Net insiders, led by Health Net Chairman Roger Greaves, initially bid $108 million for Health Net. The bid was later increased to $127 million. The Health Net insiders deal called for $1.5 million in cash and a note for the balance owed to be paid out of the profits of the new entity. Tax law requires that the value of the assets at the time of conversion must go to a charitable organization. The insiders bid provided that $30 million in Health Net's reserves and the promissory note would go to the Wellness Foundation, also to be chaired by Roger Greaves.

When outsiders bid on Health Net, offers ranged from $130 to $300 million. Salomon Brothers appraised Health Net for one of the bidders and came up with an estimated value of between $252 and $302 million—more than twice the amount that the board agreed to accept from the Greaves group of insiders.

Health Net's stated reason for the conversion was to get access to capital and yet they summarily rejected a merger offer by Blue Cross of California which would have provided a substantial source of debt-free capital, significantly reduced administrative costs, and maintained the not-for-profit status as well.

What is troubling about this transaction is that while Health Net has enjoyed the benefits of tax exempt status for years, its board and management have created a situation whereby they can personally benefit from the conversion of this exempt organization.

At the time of conversion, the value of Health Net's assets or sales price must go to a charitable organization. By underestimating the value of these assets, Health Net's insiders will receive stock in the second largest HMO in California for $1.5 million and a promise of future profits. Should the new entity be sold within the next couple of years, analysts estimate that the stock would sell in the range of $450 million.

Section 501(c)(3) of the Internal Revenue Code provides that exempt organizations must operate exclusively for charitable purposes with no financial benefit to any private shareholder or individual. Financial benefit to individuals is called private inurement and is cause for the loss of tax exempt status under current law.

Under current law, the only sanction available to the IRS to combat private inurement is revocation of the organization's exempt status. Unfortunately, the IRS rarely imposes this sanction. In addition, even where it is imposed, it may not be effective because there are no penalties imposed directly on the persons responsible for the organization's loss of exemption. In the Health Net transaction, the purchasers have apparently provided that any taxes imposed on the organization by virtue of loss of exemption will simply reduce the amount they will be required to pay into the Wellness Foundation.

At a July 10, 1991, hearing before the Ways and Means Committee, the IRS testified that although its agents do find questionable transactions involving private benefit and private inurement, they revoke a hospital tax exemption infrequently. According to John Burke, Assistant Commissioner of the IRS Exempt Organizations Division:

> Agents are reluctant to propose revocation of exemption because the sanction of revocation of a hospital's exempt status greatly outweighs the private gain of a few individuals.

At the July 10 hearing the Treasury Department also testified that the sole sanction for noncompliance under current law—loss of tax exempt status—may merit reexamination. Treasury suggested that intermediate sanctions for tax exempt organizations may be needed. In the Treasury's view, such sanctions should be modeled on the private foundation excise tax provisions that impose monetary penalties on responsible persons. My legislation takes this approach. It is based on the private foundation rules applicable to self-dealing transactions.

EXPLANATION OF BILL

Under the Internal Revenue Code (the "Code"), a tax-exempt charitable organization described in section 501(c)(3) must be organized and operated exclusively for a charitable, religious, educational, scientific, or other exempt purpose specified in that section, and no part of the organization's net earnings may inure to the benefit of any private shareholder or individual. Organizations described in section 501(c)(3) generally are classified as either private foundations or public charities.

The Code provides for penalty excise taxes which may be imposed on managers of private foundations and certain disqualified persons for engaging in certain prohibited transactions (such as so-called "self-dealing" transactions in which foundations sell assets to disqualified persons at less than fair market value, see section 4941). However, in cases involving transactions engaged in by public charities (such as non-profit hospitals), even if the transaction results in prohibited private inurement, penalty excise taxes do not apply and the only sanction that may be imposed under the Code is revocation of the organization's tax-exempt status.

The bill would amend the Code to provide for an intermediate sanction of penalty excise taxes to be imposed in cases where a medical service organization sells, exchanges, or leases a medical asset to certain disqualified persons, unless the transaction: (1) is at arm's length and for fair market value, and (2) does not involve (and is not part of a series of transactions involving) the disposition of any medical activity (or a substantial portion of any medical activity). The bill would define a "medical service organization" as any tax-exempt organization described in section 501(c)(3) if the organization (either directly or through certain controlled subsidiaries) engages in any activity of providing medical or hospital care or medical education or medical research. The term "medical asset" would mean any tangible or intangible asset used in any activity of providing medical or hospital case or medical education or research.

Disqualified persons subject to the bill's provisions would include: (1) organization managers, (2) persons performing substantial professional medical services for the organization pursuant to an employment or other contractual relationship, and (3) certain relatives and controlled entities.

The bill would provide for a two-tiered penalty excise tax structure, similar to the excise tax penalty provisions applicable under current law to self-dealing transactions engaged in by private foundations. Under the bill, an initial tax would be imposed on disqualified persons equal to 5 percent of the amount involved in the improper self-dealing asset transaction. Organization managers participating in such a transaction, knowing that the transaction is governed by the bill's provisions, would be subject to a tax equal to 2.5 percent of the amount involved. Additional excise tax penalties would apply if the improper transaction is not "corrected," meaning the undoing of the transaction to the extent possible (but in any case the medical organization could not be placed in a financial position worse than it would be if the disqualified person were dealing with the highest fiduciary standards). If an improper transaction is not corrected within a specified time period, then the disqualified person would be subject to a tax equal to 200 percent of the amount involved, and any organization manager refusing to agree to correction would be subject to a tax equal to 50 percent of the amount involved.

The bill would be effective for transactions occurring after the date of introduction.

NATIONAL ADOPTION WEEK

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SMITH of New Jersey. Mr. Speaker, as the sponsor of this resolution in the House, I am pleased that Thanksgiving week will once again be designated as National Adoption Week. I have been proud to sponsor the House legislation since 1985.

By celebrating National Adoption Week we can focus public attention on the positive benefits of adoption for both children and families. At any given time, there are an estimated 30,000 children in the foster care system who are legally free to be adopted. At the same time, there are over 2 million people who are interested in adopting a child. The Federal Government must commit itself to helping these children find families.

Mr. Speaker, adoptions, especially unrelated domestic adoptions, have declined dramatically in the United States during the past two decades, a fact that is both tragic and unnecessary.

In 1970 for example, there were almost 90,000 unrelated domestic adoptions, but today it is estimated that there are only about 50,000 annually. A number of factors can be cited for this decline: persistent misinformation and negative opinions concerning adoption; the dramatic increase in abortion on demand—there is now only 1 adoption for every 30 abortions in the United States—as well as an increased social acceptance of single parenthood; and marked increases in welfare assistance to single female parents.

While we must all recognize that even in the most advantageous of circumstances, adoption can be a trying proposition for the birth mother, evidence suggests that the benefits to all concerned, including the birth mother, are overwhelmingly positive. In fact, some research indicates that those women who do choose to make an adoption plan for their children will be less likely to live in poverty, more likely to complete high school, and less likely to have additional unplanned pregnancies.

Adoption also provides a child who might otherwise face a bleak or less than positive childhood the prospect of having loving parents, a stable home, a higher standard of living, and enhanced career opportunities as the child matures into adulthood. In fact, according to the 1982 National Survey of Family Growth, only 2 percent of adopted children lived in poverty, compared to almost 62 percent of children living with mothers who have never been married.

Adoption also provides adoptive parents who earnestly desire to form a family the opportunity to fulfill that dream. Today there are approximately 2 million couples and individuals waiting to adopt a child, including children with special needs. In addition, the long waiting periods experienced by prospective parents have forced untold thousands to give up hope of ever adopting a child.

Mr. Speaker, it requires a tremendous amount of courage, selflessness, and a special love of children for a birth mother to make an adoption plan for her child. The heroism required of the birth mother in taking such a step should not be overlooked, trivialized, or minimized. Above all, these mothers deserve our deepest respect, our support, and all the tangible assistance a compassionate society can possibly provide.

For years the Congress, the administration, and State governments have talked about the positive benefits of adoption; however, little action has been taken. We must provide full Federal support for each of the parties involved in adoption—the adopted child, the adoptive family, and the birth mother.

Mr. Speaker, for over 2 years I have worked with other Members of Congress, public and private adoption organizations, and countless individuals connected with adoption in order to craft comprehensive adoption legislation. The result of these extensive consultations is H.R. 1753, the Omnibus Adoption Act of 1991. This bipartisan legislation—cosponsored by over 100 Members of Congress—would provide tangible Federal support for children waiting to be adopted, people interested in adopting children, and pregnant women considering the adoption option.

The Omnibus Adoption Act of 1991 would revise Federal employee and military personnel health insurance so that adopted children would receive coverage equal to that given biological children. In addition, it would expand their insurance coverage to include all prenatal and maternal health costs of children adopted by Federal employees and military personnel. The bill would also create new Federal programs to provide comprehensive maternal services to pregnant women lacking the means to pay for prenatal and maternity care.

New educational programs would be authorized to develop and disseminate information about the positive benefits of adoption. A Federal adoption tax credit would assist families in meeting the prohibitive costs that have prevented many families from adopting. In addition, the bill would establish a National Advisory Council on Adoption to assist in the implementation of the bill and to make additional recommendations to strengthen adoption.

Mr. Speaker, it's time for a major commitment on the part of the Federal Government in support of adoption. I urge my colleagues to support women, children, and families involved in adoption by cosponsoring H.R. 1753, the Omnibus Adoption Act.

TRIBUTE TO SECOND NEW ST. PAUL BAPTIST CHURCH

HON. ELEANOR HOLMES NORTON

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. NORTON. Mr. Speaker, I rise today to pay tribute to the Reverend D. Edgar L. Williams, pastor of the Second New St. Paul Baptist Church of Washington, DC, as both the church and its pastor celebrate milestones. This month marks Dr. Williams' 33d year as pastor and the 68th anniversary of the founding of Second New St. Paul Baptist Church.

Pastor Williams is an active member of the National Baptist Convention, USA, Inc., The National Capital Baptist Convention, the Baptist Minister's Conference on Washington, DC, and the Mount Bethel Association. He has served as president of the National Capital Baptist Convention and State vice president of the National Baptist Convention, USA, Inc. Pastor Williams has also chaired the Annual Musical of the National Capitol Baptist Convention.

Dr. Williams and Second New Saint Paul Baptist Church have been spiritual and civic guideposts in this city.

I ask that my colleagues join me in recognizing the enormous contributions Rev. D. Edgar Williams has made to the citizens of Washington, DC.

TEMPORARY PROTECTED STATUS FOR YUGOSLAVIA

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MOODY. Mr. Speaker, today I am introducing legislation that would extend temporary protected status [TPS] to nationals of Yugoslavia who are in this country at the time the legislation is enacted. Congress established the TPS Program under the Immigration Act of 1990. This program permits foreign nationals of designated countries to remain in the United States temporarily if conditions in their country are such that they cannot safely return.

Yugoslavia clearly meets the requirements for designation under TPS. Under section 244A(b)(1)(A) of the Immigration Act of 1990, countries may be designated if "there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state—or any part of such foreign state—would pose a serious threat to their personal safety."

My office is currently trying to assist nationals of Yugoslavia for whom return to Yugoslavia would pose a serious threat to their personal safety. One family's house has been bombed since they left Yugoslavia. They literally have no home to which they can return. Their case is, sadly, all too typical.

A tragic, brutal civil war has broken out in Yugoslavia. Already over 3,000 have died. The pain and suffering of those who survive them will be immeasurable. The European Community has played an important role in seeking a cease-fire and, most recently, the United Nations has begun to play a larger role. But these efforts have not been successful. More than 14 cease-fires have failed to hold in Yugoslavia.

I believe that the United States must take a strong and visible leadership role in pursuing a cease-fire and helping all parties to seek a peaceful resolution of their differences. Our country has not done enough.

By approving the legislation I am introducing today, we can take one small step to acknowledge the devastation that has come to Yugoslavia and can help those nationals currently in our country.

Under the Immigration Act of 1990, the Attorney General has the authority to designate countries for TPS without new legislation. The United States has already designated Somalia, Liberia, Lebanon, and other countries. Clearly and tragically, Yugoslavia should join that group of nations. A designation by the Attorney General would eliminate the need for congressional action and would expeditiously achieve the result we seek. I will be urging the Attorney General to take this step, and I believe that many of my colleagues will join me in that effort.

NEED TO RECONSIDER CHANGES MADE TO THE FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAM

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VENTO. Mr. Speaker, I rise tonight to urge my colleagues to cosponsor a resolution introduced by myself and Mr. RIDGE regarding the need to reconsider the changes made in the National Affordable Housing Act of 1990 and the regulations written for the Federal Housing Administration's Mutual Mortgage Insurance Fund.

This key housing program has had a difficult year. Applications to the FHA have dropped 35 percent. Insurance issued is down 25 percent for 30-year fixed rate mortgages. Consumers seeking to refinance their mortgages are leaving the program in droves. Unfortunately, these facts are not surprising. What is surprising is that the role of FHA mortgage insurance as a countercyclical tool is being overlooked by the administration, as the housing industry and the economy continue to slide.

Mr. Speaker, I, along with Mr. Ridge have introduced a resolution expressing the sense of Congress that the law and the even more restricting regulations be reconsidered in light of their impact on the program, and more importantly, on their impact on the ability of thousands of Americans to purchase affordable homes, now and in the future. The resolution calls for a reexamination of the 1990 and 1991 changes to determine the effect of the changes on the affordability of homeownership, the long-term effect on the solvency of the MMI fund, and any adverse effect of the changes on the composition of the FHA loan portfolio.

I urge our colleagues to join us in cosponsoring this resolution that recognizes the importance of FHA to homeownership across the country. We must reconsider both the FHA compromise from last year's housing law and the regulations on closing costs that followed have prevented tens of thousands of first-time and low- to moderate-income homebuyers from achieving their dreams.

DON'T IGNORE THE PLIGHT OF ALBANIA

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ATKINS. Mr. Speaker, I rise today to voice my concerns and sympathy with the Albanian people, both within their homeland and throughout Europe. Clearly, with a civil war gripping Yugoslavia and the breakup of the Soviet Union, Albanians do not have the visibility of other nationalities in Europe. However, I have heard from hundreds of Albanian-Americans and their friends from Massachusetts who are greatly concerned about the situation in Albania and Albania's neighbors.

Mr. Speaker, for years Albanians suffered under a Communist regime which had the dubious reputation of being more Stalinist than Stalin himself. Then a popular uprising in March toppled the government of Enver Hoxha. But that unprecedented event brought about even more chaos in Albania.

More than any other European people, the Albanians have always been divided. About 3.5 million live in Albania; but they also live in Greece, Turkey, and in subdivided, war-torn Yugoslavia. Now, tens of thousands of Albanians have poured into Italy, reminding us once again of how unsettling the post-Communist era really is.

Mr. Speaker, in August the New York Times ran a news story which portrayed the mood in Albania succinctly and accurately. "For Many Albanians," the headline said, "Freedom Means a Shot at Leaving Forever." Clearly, the economic situation in Albania is so unbearable that people who have wanted to flee that poor nation for years are finally doing so. And it is causing chaos among those refugees, within the Government of Italy, and in Albania itself.

Mr. Speaker, the United States has an important role to play. Earlier this month, the United States sent Albania humanitarian assistance, including desperately needed food aid and technical assistance for economic reform. Furthermore, I am encouraged by the fact that the Prime Minister of Albania's interim government, Ylli Bufi, recently signed an agreement with the United States' Overseas Private Investment Corporation and has expressed a commitment to free-market reforms.

Mr. Speaker, the American people rightfully want the Government to pay attention to the massive problems here at home. Our economy and our health care system is in shambles, and must be addressed. However, in our zealousness to achieve these various and important reforms at home, we must not forget our historic and moral commitment to help those trying to achieve democratic free-market reforms abroad. And we particularly must not ignore the smallest of these nations, Albania.

INTRODUCTION OF THE OIL RECYCLING AND SAFE HANDLING ACT OF 1991

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. COLLINS of Illinois. Mr. Speaker, today, I am introducing the Oil Recycling And Safe Handling Act of 1991. I am doing so for three reasons: To increase the amount of used oil that is recycled, to raise the safety standards for handling used oil, and to ensure that used oil cannot be burned until the lead and other harmful pollutants are removed from it.

Used oil has the potential to be valuable resource and commodity. But so far, the infrastructure for the recycling of used oil remains in its infancy. Of roughly 1.4 billion gallons of used oil generated each year in the United States, almost 500 million gallons, or 36 percent of the total amount, is dumped in landfills or sewers. This pollution of our land, waters, and aquifers has harsh environmental consequences and is both difficult and costly to clean up. If we don't change our national behavior, this practice will eventually catch up with us, creating a nightmare of damage.

Consequently, to encourage the recycling of used oil, I believe it necessary to stimulate the market for used oil. The Oil Recycling and Safe Handling Act, or ORSHA, includes provisions to establish a mandatory recycling program. It will feature a system of economic credits in which producers and importers of lubricating oil will participate. The result will be that used oil will become a valuable commodity and the demand for it will propel and increase collection efforts.

To further promote the collection of used oil, the bill directs the States to provide monetary aid to retailers, nonprofit organizations and others who voluntarily collect used oil. This is designed to offset some of the costs of collection which they incur and ensure that collection will be economically viable. The funds for this program will be raised through the collection of a fee of 5 cents per quart of oil purchased. Considering that autos typically receive only a few oil changes per year and only occasionally require additional quarts, most car owners will spend only about $1 more per year, per car under this program. The more cars one owns, the more dollars one pays; therefore, this fee is not only inexpensive but also progressive, rather than regressive.

The third way that the bill will increase the recycling of used oil is that, by helping car owners realize that used oil is a hazardous substance, it will awaken them to the need to bring it to a collection site. Presently, many do-it-yourselfers [DIY'ers] dump their oil because they are not aware of the hazards of doing so. This bill will heighten public awareness, yet exempt DIY'ers from the regulations usually associated with generating hazardous wastes. To encourage the establishment of new collection programs, the bill will also exempt curbside and retailer collection systems from the usual hazardous waste regulations.

However, there is great concern over the safety standards for the handling, storage, treatment, and processing of used oil once it leaves the collection sites. To date, contamination from improper management of used oil has led to the creation of 63 Superfund sites throughout the country, including 4 in my home State of Illinois. I see no reason to continue with the status quo of management standards until that number doubles. I have seen enough. I believe the time has come to attach to used oil the management standards that are environmentally appropriate, not those which are politically expedient.

Consequently, the ORSHA provides that, once used oil is picked up by a transporter, it is to be regarded as a hazardous waste. As of that point, it would receive the high standards of care that hazardous wastes regularly receive, with a few appropriate exceptions. Generally, once it leaves the collectors or generators, the transporters who haul it to recycling facilities would be under the hazardous waste regulations, although standards such as those regarding insurance and manifesting may be modified. The facilities to which the used oil is taken would be under full hazardous waste regulations. However, used oil which meets

VOL 137
PT 24
NO 26
1991
—
JA 3
1992
UMI

certain health and safety criteria, both when arriving at and departing from a facility, would be deemed to have never been hazardous. This will protect Americans against future contamination and Superfund sites stemming from used oil.

The third objective of the bill is to remove the lead and other metals from used oil before it can be burned, so as to prevent contamination of our air. Lead has been shown over the years to cause serious physical and mental impairments, mainly in our youth, especially in urban areas. We must no longer allow the learning and development of our children to be limited due to environmental recklessness. I fully agree with the recent declaration by Health and Human Services Secretary Dr. Louis Sullivan that lead is the No. 1 environmental threat to children.

The report titled "The Costs Of Used Oil Management," released on November 13, 1991, by the Natural Resources Defense Council, Sierra Club, Izaak Walton League of America, and Hazardous Waste Treatment Council solidly documents the presence of lead in our air and the primary sources of this lead. The No. 1 source of airborne lead emissions in the United States is the burning of used oil with high lead levels. Annually, about 588,000 pounds of lead are pumped into our air from the unregulated burning of used oil, and amount greater than any other source.

All across the country, Americans must be able to heat homes, schools, and hospitals without compromising our children's ability to learn, grow, and live healthy, prosperous lives. In Chicago, used oil with high lead levels is still used in certain large industrial boilers and processes. Although industry may not rely heavily on used oil as their fuel source, the amount they use propels enough lead into our air to cause our concern and call out for correction. We have a right to demand that our health not be sacrificed by industrial profit margins.

Thus, the bill also calls for the metals and other chemicals found in used oil to be reduced to negligible levels before the oil can be burned. In the case of lead, the current national standard is that there can be no more than 100 parts per million of lead, even though much smaller amounts are still considered dangerous. Even with this loose guideline, enforcement is very spotty, with oil burning often being entirely unregulated. The ORSHA would require that the lead content be decreased to no more than 2 parts per million before used oil could be burned.

Mr. Speaker, the link between the environment and public health cannot be taken lightly. The days are gone when corporate practices could slowly kill us with unseen poisons packing our air, land, and water. In Chicago, like everywhere, residents cannot choose which air to breathe and they don't know the chemical composition of their soil and water. As a matter of public health, we need the reforms of the Oil Recycling and Safe Handling Act of 1991, and I strongly urge my colleagues to join me in supporting this bill.

INTRODUCTION OF MICROLEND FOR THE FUTURE ACT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. PELOSI. Mr. Speaker, today, I am introducing the Microlend for the Future Act. As we talk about how to get our country's economy back on the upswing, I believe that we must discuss steps to foster economic independence and self-sufficiency in our citizens. These steps are a vital part of increasing our international competitiveness and overall economic well-being. To do this, we must concentrate our energies at home and rebuild our own neighborhoods and communities. A very practical and cost effective means to achieving this is investing in microenterprises or small business concerns being started or expanded by low-income individuals. Microlending is an idea whose time has come.

The Microlend for the Future Act would establish a 5-year demonstration program to provide loan and grant funds to community-based organizations and financial intermediaries, which in turn would provide loans to low-income individuals starting or expanding a microenterprise. The vital element in this process is that eligible groups would also provide business training and technical assistance throughout the entire loan venture. It is the business training and assistance that will help low-income individuals gain the skills necessary to become and remain self-sufficient.

Mr. Speaker, I urge my colleagues to join me as a cosponsor of this important bill. Microlending is an investment in our communities and in the economic future of our Nation. Our action now will help low-income individuals help themselves and move from economic dependency to self-sufficiency.

ESCALANTE CANYONS STUDY ACT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of Utah. Mr. Speaker, over 50 years ago, a proposal was made by Harold Ickes, Secretary of the Interior to President Franklin Roosevelt, to establish a national park that would have encompassed much of southern Utah. The centerpiece of this park was to be the Escalante River and its canyons. Since then, parts of this region have been protected in national parks and monuments. But the Escalante River and its tributary canyons, the focus of the original effort, have not been protected by national park status.

Today, I introduce a bill to direct the Secretary of the Interior to conduct a study of the Escalante Canyon region to be used to consider the establishment of a national park in the area. A national park in the Escalante Canyon region would protect unique natural, cultural, and historic resources that are an integral part of Utah's heritage.

I grew up in the shadow of the canyons and cliffs of the Escalante region. As a teenager herding cattle and sheep, I marveled at the canyon's spectacular beauty. It seemed peculiar to me then—and it still does now—that an area of such enormous beauty had not been designated as one of our national parks.

The establishment of a national park in the Escalante Canyon area is a good idea whose time has finally come. With good baseline information and planning, a strategy for tourism, and protected land that serves as a principal upon which we gain interest, we can enhance the State and local economies and protect our unique lands. As more and more land is developed in other parts of this Nation, future generations will look toward Utah and areas like Escalante to find vestiges of natural lands and their associated values. There is no boom and bust cycle associated with the public's appreciation of their natural and cultural heritage—the lure and the beauty of Utah country will remain, and continue to increase in importance with the passage of time. In this year of the 75th anniversary of our National Park Service, I believe it is time to consider a national park in the Escalante Canyon country of Utah.

DEATH IN THE FOREST

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, several weeks ago, the National Geographic Society's Explorer program devoted important segments to the illegal poaching of black bears. Sickening indeed were the scenes of black bear corpses lying on the forest floor, with their gall bladders removed and paws chopped off.

Most people are unaware of the fact that our forests are silently being emptied in order to satisfy the heavy demand for bear body parts from customers in Korea, Japan, and Taiwan. In this business, Asian herbal dealers in these United States purchase bear gall bladders from poachers, after which they are shipped overseas where they are prized for ancient curative properties. Often, the gall bladder is dried, pulverized, and sold in capsule form to those who believe that it will cure blood disorders, cancer, and even hemorrhoids.

According to law enforcement officials, the trade in bear gall bladders has become so frenzied, that counterfeiters will often substitute pig and cow gall bladders for the real article. This, in turn, has led some dealers to request a videotape of the removal of the gall bladder as a macabre "certificate of authenticity." Mr. Speaker, this is an outrage and one that I plan to address in the form of legislation when the Congress reconvenes in 1992.

SUPPORT RELIGIOUS FREEDOM WITHOUT JEOPARDIZING THE UNBORN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing the Religious Freedom Act of 1991. It is intended to overcome the adverse impact on religious freedom in this country caused by the U.S. Supreme Court's decision last year in Employment Division versus Smith.

The practical result of the Smith case is that individuals or organizations whose religious practices are burdened by a particular law, regulation, or administrative action are placed at a great procedural disadvantage when pursuing relief from these sometimes capricious governmental intrusions. Under the Smith approach, almost any reason advanced by Government will justify restraining religious practices so long as the particular governmental action does not single out religion for adverse treatment.

From the founding of our Nation, religion has enjoyed a special position. The Smith decision places that special status in jeopardy. The ability of individuals and organizations to practice their religion without unnecessary governmental interference is guaranteed by the first amendment. Governments should be held to strict standards before they are allowed to interfere with or burden the practice of religion. That is what the Religious Freedom Act of 1991 would do. Where applicable, it would require governments to demonstrate that a policy or practice that burdens religious practice is essential to further a compelling governmental interest of the highest order and is the least restrictive means of furthering that compelling interest.

Earlier this year, my good friend STEVE SOLARZ introduced H.R. 2797, the Religious Freedom Restoration Act. While I believe this legislation was introduced with the best of intentions, some very notable legal scholars, religious organizations, and prolife groups have expressed serious reservations about its potential impact in the area of abortion policy. Some have also voiced concerns about H.R. 2797's possible effect on the tax-exempt status of religious organizations and their capacity to participate in Government-sponsored social service programs.

The bill I am introducing has a specific provision that makes it clear that the legislation cannot be used to secure a right to abortion or abortion funding. It also explicitly protects the tax status of religious organizations.

The Nation's preeminent free exercise litigator, William Bentley Ball, who litigated the famous Yoder free exercise case, has stated that, "We need legislation for the overriding" of the Supreme Court's Smith decision. However, he has told Congressman HENRY HYDE that he is totally opposed to a Religious Freedom Restoration Act [RFRA] that does not contain an exclusion for religiously based challenges to abortion-restrictive statutes.

The National Right to Life Committee, U.S. Catholic Conference, Americans United for Life, and Lutheran Church—Missouri Synod have all made it clear that a legislative remedy to Smith must include an abortion neutral amendment.

Free exercise of religion claims are currently being used by groups such as the ACLU and the Religious Coalition for Abortion Rights [RCAR] to attack pro-life laws in Utah, Guam, Louisiana, Michigan, and New York. Under current law and Supreme Court precedent, those attacks will undoubtedly fail. If H.R. 2797 is enacted, such attacks would be based on the new statute, and they would very likely succeed.

Marc Stern of the American Jewish Congress is a member of the drafting committee that developed H.R. 2797. In a May 9, 1991, memo which he transmitted on behalf of the committee, Mr. Stern proposed that the following language be inserted in the congressional committee report on the Solarz bill:

> RFRA could not be invoked to challenge the bare existence of restrictive or permissive abortion laws, but it could be invoked by persons who for religious reasons wish to obtain, or not participate in, abortion where a law imposed contrary restrictions or obligations.

The pro-life movement has labored long and hard to overturn the infamous Roe versus Wade and Doe versus Bolton Supreme Court decisions. The Court's 1989 Webster decision signaled that such a reversal might be imminent. It would be tragic if a new foundation for permissive abortion policies was created just as we were on the verge of a great victory for the unborn.

During my 11 years in Congress, I have spent a great deal of time fighting for religious freedom. I believe that this cause and the protection of innocent human life are entirely compatible. Therefore, I am proud to introduce the Religious Freedom Act today along with my colleagues HENRY HYDE, ALAN MOLLOHAN, HAROLD VOLKMER, BARABARA VUCANOVICH, BOB DORNAN, DUNCAN HUNTER, CLYDE HOLLOWAY, JOHN BOEHNER, BILL EMERSON, TOM DELAY, BILL DANNEMEYER, JIM BUNNING.

RELATIONS WITH THE COMMUNIST GOVERNMENT OF VIETNAM

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CAMPBELL of California. Mr. Speaker, I rise today to discuss United States relations with the Communist government of Vietnam. Now that the Cambodian peace plan has been signed, it appears that the United States is moving toward normalizing relations with Vietnam. While I welcome the Vietnamese decision to support the U.N. Comprehensive Settlement for Cambodia, they must continue to implement this agreement.

We should proceed with caution as we work toward a full normalization of relations with Vietnam. There are many issues that remain unresolved—humanitarian issues in particular—that should not go unnoticed, or unchanged. Most importantly, we must still receive a comprehensive, final accounting of the Americans missing in action.

Currently, 2,273 of our heroes are reported as missing. If we offer diplomatic recognition before resolving these cases, there will be little incentive for Hanoi to resolve them. No public official in this country should tell 2,300 American families that we intend to extend our friendship to a government that has failed to completely cooperate with our efforts to determine the fates of their loved ones. And I would fear for the safety of any of these MIA's if we recognize Vietnam prematurely; God forbid that we give any incentive to the Vietnamese Government to destroy evidence of MIA's by eliminating whomever might remain. Certainly their recent actions to prevent our chief of the POW/MIA Investigative Office in Hanoi from resuming his duties underscores this fear.

Vietnam's great need for Western assistance will never exceed America's need to resolve these human tragedies. The United States should take every opportunity to make clear to Hanoi that the resolution of these cases is, and will remain, a paramount concern of the United States.

LONG-TERM CARE INSURANCE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. COLLINS. Mr. Speaker, long-term care insurance is a very tricky, relatively new product that has come under scrutiny for certain practices which appear to be characteristic of the industry.

The policies and benefits which are being offered are still evolving and are experiencing growing pains. This explains some of the shortcomings of this market, and I anticipate that these kinks will be worked out over time.

But additionally, there are other problems which stem from insurers and regulators not taking steps which they already recognize would satisfy important needs of consumers. Still other problems stem from deliberate disregard for consumer interests and needs.

The subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, held a hearing on Thursday, October 24, 1991, on long-term care insurance standards. The hearing focused on industry and agent practices and the current paltry efforts to regulate them. The subcommittee also had the advantage of comparing the status quo of regulation to the proposals embodied in three bills: H.R. 2378, introduced by Congressman BRUCE: H.R. 1916, introduced by Congressman WYDEN; and H.R. 1205, introduced by Congressman ROWLAND.

The hearing illustrated numerous problem areas, some of which occur with alarming frequency. While at this time, it is difficult to precisely identify all of the reforms which must be established in the immediate future, it is clear that action cannot be delayed. Every day that long-term care insurance is sold in absence of necessary reforms, more groundwork is laid

VOL
137
PT
24
NO
26
1991
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1992
UMI

which is likely to fester into full blown problems in the years to come. Many insurers and agents are entirely scrupulous, but there also are ones who are not. Unless we can put an end to abuses, the whole long-term care insurance field will suffer.

At the October 24 hearing, Ms. Betty Tyler testified that her father bought a long-term care insurance policy at age 82 and fully disclosed at the time that he was already suffering from high blood pressure, diabetes, and Parkinson's disease. The policy's premiums were $702 per year, which, considering his age and physical condition, were abnormally low. In fact, it was so low that it prompted a colleague on the subcommittee to observe that, "It would sound to me like they didn't expect to pay any claims."

Unfortunately, that appears to be the case. The claims which were first filed by Ms. Tyler on her father's behalf 3½ years ago still have never been paid.

I fear that Ms. Tyler's father is not alone in his continued quest to receive benefits under these policies. He is in a coma now. If not for Ms. Tyler or someone else to tenaciously pursue the claim, the insurer would be able to silently and completely disregard its obligations under this policy. Most people who need long-term care are no longer physically, medically, or emotionally able to chase after an unscrupulous insurer with all the letters, calls, and filing of complaints that it sometimes takes to get satisfaction.

This, of course, is only one case. Testimony at the hearing focused on many problems, such as those which relate to policy provisions and benefits. These include the absence of nonforfeiture benefits and inflation protection; the presence of complex eligibility requirements, or "gatekeepers," that craftily limit coverage; and the vagueness of terms which means that insurers are free to interpret them as they wish. Problems also surround the climate in which consumers make purchases. These include confusion as to what the product is, what it covers, and whether it is needed; the difficulty in comparative shopping and understanding highly technical, but important, language; and abusive sales techniques, fueled by outrageously high agent commissions.

As Ms. Janet Shikles, testifying on behalf of the GAO, noted on October 24, "I think the potential for abuse here is much, much greater than in the Medigap area." Congress acted responsibly by establishing concrete reforms for the Medigap market last year. With long-term care insurance the stakes are even greater. Let's embrace our duty to serve and protect America's older and elderly people. I encourage my colleagues to join me in moving forward on this just and necessary effort.

HEED MATILDA CUOMO'S ADVICE ON U.N. CONVENTION ON THE CHILD

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, it is with pleasure that I enter into the RECORD today an article by Matilda Cuomo, who is a tireless advocate for the children of this Nation and the world. Matilda Cuomo has spoken out time after time on behalf of children's basic needs and rights, and she has been active in implementing New York State's Decade of the Child by bringing attention to the lack of health care, food, and shelter faced by many of New York's children.

While we are privileged to benefit from her work in New York State, Matilda's efforts cross State lines and international borders. She delivered the keynote address at the second U.N. Special Session on the Rights of the Child, where over 200 educators from across New York State joined with students and others to develop strategies for integrating the ideals of the U.N. Convention on the Child into school curricula. She has made a personal commitment to programs that provide family nutrition, parental workplace support, school-based mentoring, and the prevention of child abuse and neglect. She has combined leadership and action to advance children's issues in an unprecedented manner. Now, in her article, Matilda Cuomo calls on the United States to ratify the U.N. Convention on the Child. We should heed her words.

I agree that United States participation in that convention, which has been ratified by over 90 U.N. member nations, is long overdue. There is not a treaty in existence with more worthy goals. It guarantees children rights which they should already have and calls on the nations of the word to solve problems which should no longer exist. The Convention guarantees children the right to survival, the right to protect from abuse, and the right to develop in a safe environment through the provision of education, health care, and religious and political freedom. Certainly, as the world's leading democracy, we should have no trouble in making these basic promises to our own children.

Last year, both the House and Senate passed a resolution calling on the President to send the Convention to the Senate for ratification. Still, the President has not acted. White House officials are still reviewing the treaty. While they waste time with their reviews, children are going to sleep without food and going to school without warm clothes. The review has gone on long enough. It is time for the United States to take its rightful place as a leader on children's policy, not a follower.

Matilda Cuomo's words say it best: "If the United States ratified now it would be more than a symbolic gesture. It would be a recognition of the vulnerability and poor status of children in our own country and a firm commitment to improve their quality of life." Let us follow the lead of a woman who is a staunch supporter and a champion for children around the globe. Her words ring loud and true.

Mr. Speaker, the article by Matilda Cuomo follows. I commend it to all of my colleagues.

MAKING A COMMITMENT TO OUR CHILDREN

(By Matilda R. Cuomo)

Surely the world has come to treasure its children.

In 1988, Governor Cuomo declared the Decade of the Child, launching a comprehensive ten-year agenda for helping to develop the future of our state's children. The programs and initiatives which have grown from that agenda are touching the lives of hundreds of thousands of New York's children.

And in 1990, millions of children, everywhere, were offered the promise of protection, of fundamental rights, of survival. In September 1990, the United Nations mounted a World Summit for Children. Led by 71 heads of State, it was the largest gathering of world leaders in history. During the same month, the UN General Assembly ratified the 1989 Convention On the Rights of the Child.

The Convention was drafted in response to crisis conditions that affect children throughout the world. By adopting this treaty, societies representing all ethnic groups and political systems agreed that children deserve empowerment and the cooperation of adults on their behalf. Here was historic international legislation, a legal codification of society's responsibilities to children, guaranteeing:

The right to survival through the provision of adequate food, shelter, clean water, and primary health care.

The right to protection from abuse, neglect and exploitation, including the right to special protection in times of war.

The right to develop in a safe environment, through the provision of formal education, constructive play, advanced health care and the opportunity to participate in social, religious, and political life, free from discrimination.

The Convention has been ratified by more than 90 member nations. Regrettably, the United States of America is not among them.

Implementing a worldwide commitment to child survival depends upon the active involvement of all nations, particularly our own. Shortly before the world Summit, Governor Cuomo sent President Bush a letter urging him to complete the Administration's review of the Convention and forward it to the Senate for ratification.

The Governor has continued to enlist support for ratification with personal letters to religious leaders and school administrators and to Governors of every state in the country. And he urged the National Governors' Association to approve a resolution voicing collective support for the Convention at the 1991 session.

Most importantly, New York State has led by example. Within its first four years, wide ranging Decade of the Child programs have affected the health and development, the very survival, of our State's most vulnerable children.

In 1988, an expanded Medicaid Program raised the level of basic health care. Since then, programs have been initiated that increase the availability of child health insurance (NYCHILD,) provide better quality doctors (Preferred Physicians and Children Program,) supply basic nutritional needs and education for women, infants, and children (Supplemental Nutrition Assistance Program,) and most recently, extend Medicaid eligibility to children in impoverished families.

Decade of the Child initiatives have addressed critical social and educational needs, as well as health needs, of our state's growing children. The Neighborhood Based Initiative Program and The Community Schools Program are two of these, providing vital services such as foster care prevention, extended school funding, and 24 hour crisis centers. And a recently increased welfare grant adds further support to these programs.

In addition to these far reaching initiatives, I have made a personal commitment to

a series of ongoing programs on behalf of children. Programs in family nutrition and parental workplace support; programs in pre- and post-natal parent education; programs in adoption, school-based mentoring, and the prevention of child abuse and neglect.

Beyond the long term benefits these programs offer, short term gains are already apparent. In 1990, over 2,000 children were placed in adoptive homes. Currently, 1,000 mentor-mentee pairs are in place throughout the state. Nutrition education is available free to every public and private school in every school district. Parenting literature is provided to new mothers in every hospital with maternity units in New York State.

We believe that the basic needs of children must receive a high priority world-wide, and so we took an active role in convening two consecutive Special UN Sessions on the Rights of the Child. The first was convened in May of 1990. Over 200 educators from across New York State joined with students and representatives of non-governmental organizations. The goal of the Session was to emerge with strategies for incorporating the ideals of the Convention into a school's curriculum.

The second Special Session was convened in June of 1991. The timing was ideal, coinciding with a series of UN based events commemorating the memory of the uprising and massacre of children of Soweto on June 16, 1976. The commemoration is known as the "Day of the African Child" and there is no focus more fitting than Africa when seeking to improve the lives of children. Sixty percent of all Africans are children. That continent suffers the highest under-five mortality rate in the world and is the only continent where child deaths are projected to increase during the 1990s. African children are more likely to suffer from malnutrition, lack of safe drinking water, illiteracy, and exposure to armed conflict than children anywhere else in the world.

The day began with over 500 children gathering together at the United Nations. Children from Africa and children of African heritage shared their music, dance, and poetry. The UN formally celebrated the occasion with the special issue of a set of six Child Rights stamps by the United Nations Postal Administration. For the first time in UNPA history, the stamps were designed solely by children.

I was privileged to deliver the keynote address at the second special session, and was joined by Djubril Diallo, special assistant to the Executive Director of UNICEF, Carol Beck, principal of New York City's Thomas Jefferson High School and Adelaide L. Sanford, member of the NYS Board of Regents.

Ms. Sanford said: "We came here today to memoralize African children. To strategize and envision and construct places where the laughter of children can be heard again." Toward that end, teachers and students from across New York State once again gathered to address the issues of the Convention. Working in small groups, they re-examined the knowledge and skills required to improve efforts for child survival on a local as well as international level.

A day devoted to recognizing the needs of children in Africa, to reinforcing and reexamining the rights of children everywhere, ended with New York State students and classroom teachers developing strategies to assist the children of their own state. Efforts such as these recognize the critical need to create such strategies for improving the lives of children. But only when the international treaty on the Rights of the Child is universally ratified will society's responsibility to children be fulfilled as well as recognized.

If the U.S. ratified now, it would be more than a symbolic gesture. It would be a recognition of the vulnerability and the poor status of children in our own country and a firm commitment to improve their quality of life. The work of those in our own country who treasure children must progress with commitment, cooperation and courage.

A TRIBUTE TO HARRY GREENBERG

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS–LEHTINEN. I am proud to pay tribute to a wonderful citizen in my congressional district, Mr. Harry Greenberg. In an article in the Harbour House newsletter entitled, "Spotlight Is on * * *." Harry's accomplishments include everything from Man of the Year awarded by the Harbour House to a founder of the Harbour House Arts Club. I am pleased to commend this article to my colleagues which focuses on the splendid achievements of Harry Greenberg:

Harry Greenberg, a most sincere and compassionate person, was presented with "Man of the Year" award by Karen Roberts, Executive Director of Harbour House, at last month's Men's Club Dinner Dance.

Harry is truly "a man for all seasons," Life could never be monotonous for someone like him with his lust for living, his enthusiasm for art and for all of his fine deeds to help his follow man.

A native of Newark, New Jersey, and later a resident of Orange, Greenberg worked for the Universal Match Company for 43 years in New York City. His artistic talents led him to design matchbook covers used by the company's main institutional clients—large hotels and chain stores.

Harry was painting more than match book covers. He participated in numerous shows and initiated art festivals in the Oranges and Maplewood. He started the annual art festival for the Daughters of Israel, which is a fund raiser. When Harry isn't running around helping others, he can be found upstairs in the Art Studio painting.

Some of the beneficiaries of his art, and recipients of proceeds from his sales, include the Daughters of Israel, Bayley Seton League of Seton Hall University, the Rutgers Hillel Campus, Veteran's Hospital and Miami Jewish Home and Hospital for the Aged at Douglas Gardens.

His non-artistic accomplishments includes 42 years on the New Jersey State Athletic Commission and 45 years with the State Boxing Commission. He also was chairman of the Milk Fund Boxing and Wrestling Shows during the depression as well as organizer for various fund raisers for the poor. He has been commended by New Jersey's Governor Brendan Byrne (then State Senator), for his humanitarian efforts and his devotion to his fellow men and women.

Harry was one of the founders of Harbour House Arts Club, which now has become a very popular group, visiting different museums each month and enjoys lunch at top restaurants. Besides his painting, Harry enjoys dancing (and he's a good one). Come down to our Thursday evening dance class and see for yourself.

Harry is truly a man of love and devotion, and we are proud to have him with us at Harbour House.

I am pleased to recognize Harry Greenberg, thank him for his tremendous work that he has done for the community, and wish him much success always.

THE HEALTH CARE ACCESS AND SECURITY ACT

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WEBER. Mr. Speaker, a rising tide of concern over health care is sweeping across my State of Minnesota and the rest of the Nation. Health care concerns dominate the mail I am receiving from constituents and the comments and questions at my town meetings.

The American people—even those who are well-insured by their employer—are concerned about the rising cost of health care. Increases in insurance premiums are pricing many self-employed individuals and small business employers and their employees out of health insurance. The costs to employers of providing health benefit plans increased 87 percent between 1985 and 1990, forcing employers to reduce benefits or raise employee contributions to the cost of care. In a recent survey of public attitudes toward the health care system, 52 percent of working households reported that their employers had either cut benefits or required them to pay more for their benefits.

Those with coverage are also very insecure about whether their insurance will be there when they really need it. Individuals with health problems or with spouses or children with health problems feel locked into jobs, aware that if they change jobs, they may face preexisting condition exclusions or be entirely ineligible for coverage through their new employer. They have heard firsthand from family and friends and have seen many stories in the media about individuals and families whose insurance failed to cover a catastrophic illness, about those who have been written out of their employer's policies, and about those who have been unable because of a bout with cancer or a disability to find coverage at any cost.

Most Americans believe that health care is a basic human right—that access to basic, high-quality care should not depend on one's income. They are concerned about a health care system that is the most costly in the world yet fails to cover 35 million Americans.

Reflecting this rising tide of concern in the Nation over our health care system, Congress is engaged in a debate over health care reform. Over 30 proposals for comprehensive reforms have been introduced, ranging from transplanting the Canadian system of Federal and State control over and administration of the health care system, to requiring employers to provide and pay for a substantial part of the cost of health care coverage for their employees or pay a tax to support a public plan, to severing the link between employment and health care and providing individuals and families with tax credits or vouchers to purchase their own coverage.

At the same time that we realize the weaknesses of our system we are concerned about how various proposals for reform would affect its strengths. Most Americans have timely access to the most sophisticated care in the world and enjoy the freedom to choose their doctors and hospitals. Our Nation leads the world in biomedical research and in innovations in treatment and technology.

We are far from achieving consensus, either in Congress or in the Nation, on comprehensive reforms or how to pay for them. But I have found consensus building around some major changes we could make today that would go a long way toward extending insurance to the uninsured, providing security for those who are insured, and restraining costs.

TAX FAIRNESS FOR THE SELF-EMPLOYED

I am today introducing a legislative package that will make these changes. First, my measure provides a 100-percent tax deduction to the self-employed for health insurance costs. This is a particularly important step for rural Americans and the rural health care delivery system. Rural Americans are more likely to be self-employed than urban Americans and less likely to be insured, increasing the uncompensated care burden on rural hospitals, physicians, and other health care providers already struggling under inadequate Medicare payments.

Extending a 100-percent tax deduction to the self-employed is also a matter of simple fairness. Those whose employers provide and pay for all or part of the cost of their health care coverage receive an unlimited indirect subsidy in the exclusion of that coverage from income taxes. The self-employed currently pay for their care in after-tax dollars and receive only a 25-percent deduction.

AFFORDABLE, BASIC HEALTH CARE COVERAGE FOR SMALL BUSINESSES

Second, my measure will extend coverage to many of the uninsured by making it affordable for small businesses to provide insurance for their employees and employees' dependents. We know that two-thirds of the uninsured are workers or the dependents of workers and that the smaller the business, the less likely its employees are to have job-based health insurance.

One of the major factors pricing insurance out of the reach of small businesses is the expansion of State mandates with regard to what the plans of insurers doing business in a State must cover. In 1970, there were about 50 State mandates. Today, there are over 800. Larger employers can self-insure and avoid these mandates, but small businesses cannot. My proposal preempts State mandates to allow insurers in the small employer market to offer basic benefit plans.

These plans and the insurers offering them must meet strict standards, including guaranteed renewability, guaranteed availability to all small employers in a State, nondiscrimination on the basis of the health status of any individuals within the small employer group, limitations on preexisting condition exclusions, limitations on premium variations among blocks of small employer business, and full disclosure of rating practices.

The plans must also cover such services as inpatient and outpatient hospital care; physician care; and preventive services, such a prenatal and well-baby care. They must have affordable premiums and deductibles relative to employee wages, and they must have out-of-pocket limits to provide protection against catastrophic costs.

PORTABLE EMPLOYER-PROVIDED GROUP COVERAGE

Third, provisions of the health care reform package that I am introducing will make employer-provided health insurance portable for all group plans, not just for small business plans. This provision limits preexisting exclusions to 6 months and reduces that exclusion of 1 month for every month that an employee was covered under a health care plan. A second provision requires that insurers in the group market write the entire group. They will be prohibited from excluding individuals from a group because they may pose a higher health risk.

Taken together, these provisions will protect employees when their current employer changes plans or when the employee changes jobs. Most Americans will no longer be locked into their jobs because they or their spouses or dependents have health problems.

REDUCING THE COST OF HEALTH CARE

These provisions will act to restrain health care costs by limiting insurers' ability to selectively cover individuals and groups which pose the lowest risk and exclude higher risk individuals. To compete and profit, insurers will have to focus on managing and restraining health care costs.

A second way in which my proposal attacks spiraling health care costs is through malpractice reforms. Most health policy experts and physicians agree that fear of malpractice suits leads to the provision of unnecessary services. The Pepper Commission estimated that defensive medicine constitutes about $11.7 out of the $82.8 billion paid to physicians. Other studies suggest that the total cost of defensive medicine to the system may be $30 to $40 billion.

My proposal provides grants to the States to establish alternative dispute resolution systems and establishes uniform Federal standards for malpractice claims. These standards include periodic payments for large damage awards; a cap of $250,000 on noneconomic damages; mandatory offsets for damages paid by collateral sources; a limit on attorneys' fees; a limit on punitive damages; a uniform statute of limitations; and other reforms. In addition, my proposal restricts punitive damages relating to medical product liability when the FDA has recognized the product as safe.

The proposal also provides an incentive for the establishment of a nationwide risk retention group for community and migrant health centers to reduce their liability insurance costs and free up more money for the care of the poor and uninsured.

My measure establishes a Health Care Cost Containment Commission charged with reporting annually on health care costs, the factors driving cost increases, and strategies for containing costs.

AFFORDABLE, ACCESSIBLE LONG-TERM CARE COVERAGE

One of the largest gaps in our Nation's health care system is lack of coverage for long-term home and nursing home care. While the elderly are most at risk of financial devastation by the cost of a disabling illness, working families are also at risk.

My proposal provides incentives for the expansion of affordable long-term care insurance plans for all Americans. First, the proposal clarifies that long-term care insurance should be treated as health insurance is now treated under the Tax Code—that is, excludable from employee income and deductible to employers. Second, the proposal allows long-term care insurance to be offered as an option in employer cafeteria plans. Third, it provides for the nontaxable exchange of life insurance contracts for long-term care insurance. Fourth, it treats life insurance death benefits paid to the terminally ill as death benefits for tax purposes.

In summary, the Health Care Access and Security Act will give the American people the kind of health care system they want: One which preserves their freedom of choice and access to state-of-the-art treatment and technology, makes health care insurance more affordable and accessible for working families, makes our tax treatment of insurance equitable for the self-employed, and expands coverage for long-term care.

INTRODUCTION OF LEGISLATION TO ASSIST FEDERAL EMPLOYEES

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing two bills which would address the needs of Federal employees working in regions adjacent to those three selected areas which are currently receiving the 8-percent interim geographic raises.

The first bill would mandate the retroactive payment of interim geographic raises to any Federal employee working in an area which, as a result of new census data, is included by the Office of Management and Budget [OMB] in one of the consolidated Metropolitan Areas [CMSA] currently receiving such locality pay adjustments.

Under this bill, if the 1990 census data does lead OMB to expand the current borders of the New York, Los Angeles, or San Francisco CMSA's, then those Federal workers employed in the newly included areas should receive the 8 percent interim geographic pay raises retroactive to January 1, 1992. the payments would be available to continually employed general schedule personnel or Federal law enforcement officers in the form of a lump sum. The funds would come from the salaries and expenses of the employing agency.

Mr. Speaker, I have sponsored this retroactive pay legislation in an effort to remedy an inequitable situation. If 1990 census data shows that a community should have been included in one of the CMSA's receiving the 8 percent, then it is clearly unfair that the Federal employees in these areas should not be paid 8 percent. Therefore, I have introduced this bill to provide at least a partial payment of the lost locality pay.

The second bill, Mr. Speaker, will establish a statutory deadline for the redefinition of CMSA's by OMB. Pursuant to standards published in the Federal Register, the Office of

Management and Budget determines Metropolitan statistical Areas [MSA's] and the borders of CMSA's based upon census data. The standards state that OMB will announce the new borders of the nation's CMSA's in June 1992.

My bill would codify the announcement date which appears in the regulations and would require the announcement prior to June 30, 1992.

Initially I had understood that the Census Bureau would have certain critical raw data available by the middle of this past October, with final delivery of the completed census products to OMB by January 1, 1992. Yet, I have recently learned that there have been significant delays which could jeopardize the timely delivery of this vital information to OMB

Mr. Speaker, Federal employees who qualify for the 8-percent pay raises should not have to wait any longer than absolutely necessary. In light of the unfortunate delays in the preparation of the needed census materials, I have introduced this legislation to simply require census and OMB to meet the timetable which they have already set for themselves in the regulations.

BOOST FOR ECONOMY

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MILLER of Ohio. Mr. Speaker, a few weeks back, I received a suggestion from a banker friend of mine, Frank Dillard of Lancaster, OH, discussing the need for immediate and unconventional action to get our economy into high gear. Frank shared a proposal with me that I felt had considerable merit. After discussing his proposal with the legislative counsel's office I decided to put it into legislative form and consolidate it with a few proposals of my own. The legislation I'm going to introduce today is aimed at jump starting the two sectors of our economy that I feel are in the most immediate need of attention, the automobile and housing industries.

Specifically, the measure calls for a 30-percent tax credit to be spread over 3 years to be granted for the purchase of a new American-made and energy-efficient vehicle, and a 20-percent credit, to be spread over 5 years, to be granted for the purchase of a new home. A one-time eligibility for such credits, would be open to all families with adjusted gross income [AGI] of no more than $60,000 and to a single wage earner whose AGI does not exceed $40,000. An eligible purchaser would have to make such purchases within 2 years of the bill's enactment. The credits, in the case of a vehicle purchase, could be applied against a purchase of up to $15,000 and would be spread over 3 years, with one-third total credit of the 10 percent being the maximum credit allowed in any 1 year. For a home, the 20-percent credit could be applied against $100,000 of the purchase price, and would be spread over 5 years, with a maximum credit of 4 percent being allowed in any 1 year.

I call on my colleagues to close political ranks and team with me in sponsoring this much-needed legislation. I have titled my bill the tax equity for America's middle class, team for short. We've got to get our economy back in full running order, and the quickest and most effective way to do that is to give it a strong push. Granting middle-income Americans a sizable on-time incentive to purchase a new car or home will not only provide the buyer with attractive purchase terms, but in so doing, it will put countless tradesmen back to work in the depressed automobile and home construction industries. The increased sales for new cars and homes that this bill will create will, in turn, generate new jobs and new tax revenues for the Federal Treasury while at the same time easing the social service caseload that has resulted from the large layoffs in these sectors.

HEROIC MEN AND WOMEN

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DEFAZIO. Mr. Speaker, 50 years ago, Japanese planes attacked Pearl Harbor and the next day President Franklin Roosevelt stood before this body and asked for a declaration of war. Today, I stand before the same body to thank and honor the heroic men and women who fought and died to keep the torch of democracy burning through the darkest days of this century.

The attack on Pearl Harbor left 2,403 Americans dead and 1,178 wounded. The attack on Pearl Harbor left behind a scene of devastation exceeding anything in American history. The attack on Pearl Harbor sunk the battleships *Arizona*, *West Virginia*, and *California*. But the attack on Pearl Harbor did not daunt the spirit of those who faithfully served in the Armed Forces of the United States.

The courage and sacrifice of our World War II veterans preserved freedom and democracy as a fundamental right of billions worldwide. Those Americans have earned a place of honor in history that time will never diminish.

THE NUCLEAR WEAPONS STOCKPILES INFORMATION ACT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. EVANS. Mr. Speaker, today I am introducing the Nuclear Weapons Stockpiles Information Act.

As we approach the end of the 1st session of the 102d Congress, we should reflect on the changes that have taken place this year. This was the year communism disintegrated and that the forces of democracy overcame reactionaries within the Soviet Union. The Soviet threat has changed forever. So have the requirements for many of the forces and policies we maintained during the cold war.

Our armed services are undergoing one of the most dramatic downsizings in our country's history. Yet, these changes should not be limited to hardware. Many of our policies have also started to change. No longer do B–52's sit on alert status at strategic air command bases across the country. No longer do looking glass aircraft fly continuously to ensure a command post in the event of thermonuclear war. The threat that created them is long gone.

However, the more things change the more things stay the same. There are still aspects of our defense policy that remain untouched by the death of the cold war. One of these is the veil of secrecy we keep around the data on our nuclear weapons stockpile and materials production. During the nuclear arms race, the United States maintained a policy of keeping most of the information on its nuclear weapons stockpile classified.

Yet, today we face different realities. Congress will be making crucial decisions on the size of the nuclear arsenal and the modernization of the nuclear weapons production complex. Unlike the past, the American public will have to have a significant role in this debate. The mistakes made in the past at the complex—the environmental contamination at the facilities, the numerous health and safety incidents, and the secrecy surrounding these problems—have undermined the public's confidence in the DOE. As DOE strives to modernize the weapons complex, public support will be essential. If DOE is to garner this support, it will have to have a more open debate on the size of our arsenal and its requirements for nuclear materials. Without this, there is no chance for enlightened public debate on these issues or public understanding as to why we are modernizing in the first place.

The public's need to know is not the only reason we must have a new openness at DOE. We also face a possibility of a world filled with countries either entering the nuclear club or trying to attain nuclear weapons capabilities. Nuclear proliferation is perhaps the most important issue we will face in trying to maintain stability and peace in the world. Yet, while we implore countries to abandon their nuclear aspirations and reveal the extent of their nuclear capabilities, we still keep much of the data on our own nuclear stockpiles shrouded in secrecy. We cannot become a leader of the free world in making this call if we cannot disclose the same information about our own arsenal.

The current situation in the Soviet Union is perhaps the most glaring example of why we must do this. As the U.S.S.R. disintegrates, we face a number of risks: The risk of nuclear material leaving the sovereign control of the Soviet Union, the risk of nuclear warheads falling into hostile hands, and the risk of Soviet nuclear experts selling their expertise to the highest Third World bidder. We could be facing nuclear anarchy in the Soviet Union. We must call upon the Soviet Union to declassify their nuclear weapons stockpile so that the world can have a better idea of what they have and so we can make sure that it doesn't fall into the wrong hands. My legislation would do just this and also cut off any DOE or DOD assistance in helping the Soviets cope with their own troubled nuclear weapons production facilities if they fail to comply.

The bill I have introduced today would require an unclassified report from the President

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on our Nation's nuclear weapons stockpile. It would declassify the number of nuclear weapons in our arsenal and the amount of nuclear weapons materials currently in stock and planned for the future. The bill would not deal with sensitive information that could jeopardize our security or lead other nations to acquire nuclear weapons.

The Nuclear Weapons Stockpiles Information Act would be a good first step to eliminate the unnecessary secrecy that has surrounded our Nation's nuclear weapons stockpile. The public's legitimate need to know and the urgency of the nuclear proliferation crisis demand it. I urge my colleagues to sponsor this legislation.

PROSTATE SCREENING ACT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MARKEY. Mr. Speaker, today I join my colleagues, Representatives MARILYN LLOYD and BILL RICHARDSON in introducing the Prostate Screening Act, legislation which would allow for Medicare and Medicaid reimbursement for the prostate screening test. This test, known in the medical field as the digital rectal examination and the prostate specific antigen [PSA] test, is the most effective test doctors have to detect prostate cancer.

Prostate cancer, the second leading cause of cancer deaths in men, has claimed the lives of two of our colleagues—Senator Sparky Matsunaga and Representative Silvio Conte. We will see an estimated 122,000 new cases of prostate cancer in the United States in 1991 and approximately 32,000 men will die this year from prostate cancer.

Because the causes of prostate cancer are unknown, prevention of the disease is not yet possible. However, early detection greatly increases the chances of surviving prostate cancer. The cure rate for those who are diagnosed in the early stages of the cancer is 85 percent. The digital rectal exam and the PSA test are the two tests that doctors, the American College of Radiology, and the National Cancer Institute, recommend yearly for men over the age of 40. These tests, analogous to the mammography test in detecting breast cancer in women, can greatly increase the chances of surviving prostate cancer.

The problem that remains is that, while many private insurers cover the prostate cancer screening test, two Federal health programs—the Medicare and Medicaid Programs, which provide health coverage for millions of Americans, do not provide reimbursement for the prostate screening test. Ironically, Medicare and Medicaid do provide for treating prostate cancer, but fail to reimburse for the screening tests used to detect the cancer at the earliest stage.

I am pleased to join my colleagues today in introducing this important legislation and will work for its passage. Until we enact comprehensive health care reform emphasizing the need for preventive care, we must ensure that current Federal health care programs include screening measures that focus on preventive care and early diagnosis, which saves in lives and health care costs.

COOPERATIVE RESEARCH AND DEVELOPMENT CREDIT ACT OF 1991

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to introduce legislation, the Cooperative Research and Development Credit Act, that I believe takes an important step in restoring U.S. competitiveness.

If the United States is going to remain a leading industrial country, we must provide a supportive economic environment for continuous innovation and technological advance. We must nurture our research and development activities because they are the best path to a prosperous future.

Mr. Speaker, this bill provides for our economic future.

Tax relief for middle-income Americans is needed, and I will work with the congressional leadership toward this end. But we also need to develop a long-term economic strategy that stresses economic growth as well and provides incentives to assure a better economic future for the next generation. We must have economic growth and tax fairness, not one or the other.

The United States wisely relies on competition in the marketplace to determine what innovative technologies reach commercial production. Other countries actively support and directly finance R&D in the precompetitive stage. We can do better in the United States and accomplish our goals without that direct Government intervention.

How? We can do better by emphasizing private sector collaboration and encouraging companies to share their R&D costs. Under cooperative research, our companies can share their R&D costs, and then make their own product development decisions based on the cooperative research findings. In this way, through cooperative research, several companies can push the resulting new ideas into the product development stage.

Mr. Speaker, nurturing cooperation will provide leverage for our private R&D dollars. Through collaboration, we will enhance our competitive position.

The Cooperative Research and Development Credit Act will promote cooperation in all phases of R&D, reduce duplicative efforts, and let the several participants decide which findings can be commercialized.

This bill provides that qualifying payments and contributions to cooperative research organization will be eligible for a tax credit of up to 50 percent. The bill includes stringent qualifying definitions and restrictions on the R&D expenditures to avoid multiple credit and to clarify interaction with other credit provisions of the Tax Code. For example, a qualifying cooperative research organization must: (a) be registered under the National Cooperative Research Act of 1984; and (b) must have at least five members, four of whom make significant financial contributions in support of the research effort.

Mr. Speaker, the United States still leads the world in basic research and science, but we lag behind other countries in technological development and application, particularly in manufacturing industries. Our companies seem hampered by an inability, unwillingness, and just plain slowness to commercialize innovative ideas. Basic research requires long and costly effort to be transformed into products and processes, which in turn are eventually commercialized.

Why help? The consensus view is that private firms, working individually, and the private market overall, are funding less R&D than is in the long-term national interest because short-term profit needs are too often paramount. U.S. companies are not doing enough R&D, nor are they moving what they do onto the market fast enough.

For U.S. companies, the R&D dollar is a long-term, risk-laden, disadvantaged investment dollar. To help them cope with the high cost of capital, shorted product development cycles, rapid diffusion of technological information, and the pressure to show profits, it is crucial to help these companies get more bang for their R&D buck.

Consequently, an incentive for cooperative R&D spending is warranted. I want to make clear that I support permanent extension of the existing credit for increasing research activities under section 41 of the Internal Revenue Code. But program reviews such as the 1989 GAO report raise questions about the adequacy of the existing credit to stimulate research.

Mr. Speaker, collaboration by private companies on R&D works. Over 200 collaborative research groups have registered under the provisions of the National Cooperative Research Act of 1984. The National Center for Manufacturing Sciences, one of the largest research consortia, reports that it leverages membership R&D dollars by as much as 10-to-1 and shortens the development cycle by 2 to 5 years. Others, such as the Microelectronics and Computer Technology Corp., report leverage factors of as high as 17-to-1.

While I do not have a revenue estimate for this legislation, the evidence suggests that efficiency savings through pooling of R&D efforts should minimize costs, and the credit itself should be more effective in generating technological improvements.

Mr. Speaker, I insert a preliminary section-by-section analysis in the RECORD following my remarks, and I would further ask that all interested parties review the legislation and give me any thoughts or suggestions they might have.

COOPERATIVE R & D CREDIT

SECTION-BY-SECTION ANALYSIS

Section A. Addition of Credit for Payments or contributions to certain cooperative research organizations.

Present law

Current tax law provides a credit for research and development expenses. Under current law, such expenses may, in fact, be expensed. Previous to December 31, 1991, Federal tax law permitted, on an interim basis, an incremental tax credit for research and development expenses aggregating above a three-year rolling basis. This credit is due to expire.

Explanation of Provision

Subsection (a) outlines the provision establishing that a credit be available for qualified cooperative research expenditures made by a taxpayer to a qualified cooperative research organization. Subsection (b)(1)(A) sets the general rule and related requirements defining the extent of the qualified expenditures. Subsection (B) defines the nature of the qualified amounts of expenditures, including cash, in-kind and expenditures of a property nature. Subsection (C) provides a clear exclusion from qualified expenditures of any amounts funded by grants or underwritten by Government entity. Subsection (D) establishes a separate rule for qualified expenditures for project specific contributions to qualified cooperative research organizations.

Section (b)(2) Qualified Cooperative Research Organization.

Explanation of Provision

Subsection (A) establishes a general rule defining a "qualified cooperative research organization" for purposes of the Act's tax credit. Subsection (B) requires registration by cooperative research organizations under the notice terms of the National Cooperative Research Act of 1984, filing registrations with the Attorney General of the United States as well as with the Federal Trade Commission. Additionally, such notice of registration must be published in the Federal Register on or prior to the last day of the organization's taxable year. Subsection (C) makes available the cooperative research tax credit only to qualified organizations having at least 5 or more members, and further requires that members share in the payments or contributions to the research organization, for organizations as small as those having five members, on an equal (20 percent) basis.

Subsection (1) requires each qualified cooperative research organization to file a report with the Secretary containing verification of the consortia's filing under the Cooperative Research Act of 1984, as well as a determination of the organization's applicable credit for the year, and other information which may be required by subsequent rulemaking. Subsection (2) requires that a copy of the report of the qualified organization to the Secretary be provided to each person who contributed to the organization during the year. Subsection (3) provides a rulemaking grant to the Secretary to promulgate timing and dissemination requirements for the reports.

Section B. Coordination of Credit with Deductions.

Current Law

Section 280C of the Code provides for the coordination of credits with deductions. No such subsection exists for the coordination of the proposed cooperative research credit with the current regulations and code requirements applicable to deductions.

Explanation of Section

Section B of the bills adds new subsection (c) to provide that any deduction allowable for a qualified cooperative research expenditure is to be reduced by the amount of the cooperative research credit allowable under the new cooperative research credit. A similar rule is provided for capitalization of such expenses, and special rules apply to groups of corporations under common control.

Section C. Conforming Amendments.

Explanation of Section

Existing Code requirements are amended where applicable to coordinate expansion of the Code to include the new cooperative research credit.

Section D. Effective Date.

Explanation of Section

The changes proposed in this bill will take effect and be made applicable to taxable years beginning after the date of enactment of this Act.

Section (b)(3) Determinations.

Explanation of Provision

Subsection (A) establishes the baselines for determining the availability of the consortia research credit. The general baseline sets the credit at the lesser of the taxpayer's qualified cooperative research expenditures for the current taxable year, or (1) the qualified expenditures for the current year multiplied by .5, or for the first preceding year multiplied by .3, or for the second preceding taxable year multiplied by .2. The provisions establish a policy of encouraging continuing, steady or increasing research expenditures, and the provision makes express that the provision expenditure limit is applicable to expenditures made prior to enactment in the immediately preceding years. Subsection (B) establishes an analysis to distinguish between Government and private secured research expenditures. As a general matter, the subsection provides that the credit will be applicable to privately funded research on a weighted average of such organization's non-Governmental support, and the rate for the credit is set at .5.

Section (c) Election and Coordination.

Explanation of Provision

Subsection (1) requires an affirmative election by taxpayer to treat research expenditures as subject to this credit section. Subsection (2) coordinates this election section with other credits claimed and elected by taxpayer in connection with the orphan drug credit applicable to clinical testing expenses for certain drugs for rare diseases or conditions. Subsection (3) specifically coordinates the election of the credit for consortia research with other research credit provisions. Election of the research credit may only be taken either under the original individual research and development credit of section 41 of the Code, or under this new cooperative consortia research credit. Further, this subsection and its subparts offers distinct methods for treating research expenses formerly claimed under other sections of the Code, as well as the treatment of income such as funds provided by grant, contract or otherwise previously claimed under section 41 of the Code. Subsections (4) and (5) indicate that the alternative minimum tax shall continue in force and effect.

Section (d) Reporting Requirements.

THE 75TH ANNIVERSARY OF THE RED CROSS IN FLORIDA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SHAW. Mr. Speaker, I rise today to offer my congratulations to the American Red Cross on the 75th anniversary of their service to the people of my home State, Florida. I especially want to commend the efforts of the Broward County Chapter of the Red Cross, which on November 22 celebrated their recent move into a new location in downtown Fort Lauderdale.

Their new name, the Caring Connection, indicates exactly what the Broward Red Cross' mission is—caring. That means aid for families in crisis and disaster relief, to be sure. Just as important, though, are the thousands of examples of personal caring shown by Red Cross volunteers through the years.

While we can't mention every name or list every good work, we certainly can and should say thanks. That is what happened Friday in Fort Lauderdale. Red Cross volunteers, workers and supporters, joined by Mrs. Norman Schwarzkopf, kicked off the Red Cross' next 75 years in Florida and a new era in Broward County.

On behalf of the people of Broward County, those who have been touched by the Red Cross in the past and those who will be in need in the future, I offer our sincere thanks on a job well done.

THE CELEBRATION OF HIS 90TH BIRTHDAY BY AL C. ROBBINS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. THOMAS of California. Mr. Speaker, it is with great pleasure that I rise today to recognize my constituent Mr. Al Robbins upon the celebration of his 90th birthday.

Born on Christmas Day, 1901, Mr. Robbins has devoted almost his entire life to the study and preservation of reptiles and over the past 42 years has given lectures on reptiles to schools, service organizations, church groups, and many others. Using a mix of magic and vaudevillian showmanship, Mr. Robbins has presented his extensive collection of reptiles to eager audiences of all ages who leave with a greater understanding and appreciation of our cold-blooded friends. Even after 42 years, Mr. Robbins is scheduled almost a year ahead.

In addition to introducing hundreds of thousands of school children to the world of the reptile, Mr. Robbins has also made tremendous contributions to the scientific community in the area of Herpetology. Mr. Robbins was the first person to accurately draw to scale the anatomy of a Colubrid (Gopher) Snake, copies of which have been sold throughout the world; was one of the founding fathers of the "Central California Reptile and Amphibian Society", which has since been renamed the "Al Robbins Herpetological Society"; and was the cooriginator of a medical procedure known as Venomductecomy, which is used throughout the world to render poisonous reptiles safe to handle and display.

Mr. Speaker, Al Robbins has made a lasting impact on those who have had the pleasure of seeing one of his programs, as well as on the science of Herpetology. He has become a true legend and it is my honor to congratulate him on the celebration of his 90th birthday.

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SALUTE TO NATION'S TOP FOUR "FAMILY-FRIENDLY" COMPANIES: AETNA, CORNING, JOHNSON & JOHNSON, IBM

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. JOHNSON of Connecticut. Mr. Speaker, I want to call to the attention of lawmakers, corporate executives, and working families everywhere in America the achievements of four major U.S. employers who have demonstrated uncommon corporate leadership and sensitivity on behalf of their employees.

They are: Aetna Life & Casualty of Hartford; Corning of Corning, NY; Johnson & Johnson of New Brunswick, NJ; and IBM of Rochester, NY. Each of these companies has demonstrated innovative strategies to respond to employee needs in the areas of child care, eldercare, health and wellness, and time off for family responsibilities.

In a groundbreaking study released by the Families and Work Institute, corporations were on a scorecard—the Family Friendly Index—against industry norms in seven categories, including flexible work schedules, family and medical leaves, financial assistance, corporate giving and community service, dependent-care services, management change, and stress management.

Aetna, Corning, Johnson & Johnson, and IBM all scored well among the Fortune 1000 as the four large corporations with the most enlightened policies. I was particularly pleased to note that 70 percent of Aetna's 43,000 employees, many of whom live in the congressional district I represent, are women.

In addition, there are other fine examples of corporate leadership—like Stride-Rite which converted part of its headquarters in Cambridge, MA, into an intergenerational daycare/activities center where employees can bring their young children or their elderly parents.

All of us who know the struggle of balancing work and family responsibilities understand the significance of this achievement and its recognition. While most businesses still have a long way to go, as does the Congress in prodding them, the institute's report provides a valuable service to working families everywhere and deserves its own praise and recognition.

A TRIBUTE TO YOLANDA E. RAMIREZ, OUTSTANDING HIGH SCHOOL TEACHER

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ORTIZ. Mr. Speaker, I rise today to commend and recognize Ms. Yolanda E. Ramirez of Robstown, TX.

Three years ago, she was asked to teach the first class of pregnant students in Robstown. Because these young women did not wish to be seen by their classmates at the regular school, Robstown High School, the class was held at another site.

Despite the extra responsibilities, the students worked hard to excel in their academics. Most of them made the A or A and B honor roll. As the school year came to a close, they did not feel as if they should march with the other students from Robstown High School to accept their diplomas. They believed they did not deserve such recognition because they had disappointed their parents; despite the fact they were all married.

To show them her pride in each of them, and to encourage them to continue their education, Yolanda composed and dedicated a song to them. After listening to her sing "Mañanitas a los Graduados" with the accompaniment of a guitar, the young women were filled with a sense of self-respect and dignity for their achievements. Over 80 percent of the women are now in college.

Yolanda's success and song spread quickly. Mariachi groups called her to play her song at graduation festivities. As the word spread, more people began to request copies. Since her message has had such immense impact, her family encouraged her to record this song and another song she composed for all the madrecitas—young mothers—that she had known while growing up.

I ask my colleagues to join me in extending congratulations to Yolanda E. Ramirez for her contribution to women in her community.

THE CLEAR CREEK COUNTY, CO PUBLIC LANDS TRANSFER ACT OF 1991

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SKAGGS. Mr. Speaker, I am pleased to introduce today the Clear Creek County, CO, Public Lands Transfer Act of 1991. This legislation will clarify land ownership questions in one of the Colorado counties I represent, will assist with open space and historic site protection, will help complete consolidation of Bureau of Land Management administration in eastern Colorado, and will save the Federal Government money.

As part of its plan to merge its eastern Colorado operations into one administrative office, the Bureau of Land Management intends to dispose of most of its surface lands in northeastern Colorado. This bill will help achieve that goal by transfering without further delay some 14,000 acres of land from the Bureau of Land Management to the U.S. Forest Service, to the State of Colorado, to Clear Creek County, and to the towns of Georgetown and Silver Plume, CO.

A cooperative working group of Federal, State, and local officials has studied the various parcels involved, and has suggested a distribution plan that works best for each of the agencies involved. The bill reflects their distribution agreement.

First, it transfers 3,500 acres of BLM land to the Arapaho National Forest, with the Forest Service responsible for its administration. This transfer clears up some clumsy boundary lines on the forest and relieves BLM of responsibility for small parcels that would be more appropriately managed as forest land.

Second, it transfers approximately 3,200 acres of land to the State of Colorado, the county, and the towns I've mentioned. Again, this is intended to clear up confusing boundaries, and will facilitate management of those lands for wildlife, recreation, and other public purposes.

A third category of lands, totalling some 7,300 acres, will be transferred to Clear Creek County. After it prepares a comprehensive land use plan for these lands, the county may resell some of the land—as BLM eventually could do itself if the lands stayed in Federal ownership. By having the county rather than BLM sell these lands, they will be made available for private use far quicker and without the Federal Government incurring major expense in surveying them. All net proceeds to the county from those land sales will be used for parks, open space, historical preservation and interpretation, and environmental education.

BLM has long intended to transfer these lands; however, under current law, the BLM must first complete detailed boundary surveys. Since the lands in question include many small, odd-shaped parcels, the BLM estimates that boundary surveys would take at least another 15 years to complete, and could cost as much as $3 million.

My bill would simplify this transfer and avoid that expense. Under this legislation, which is based on a draft proposed by local BLM officials and supported by local governments, the BLM could transfer the lands in question without final detailed surveys. Instead, the parcels would be defined only by range and township location and by existing maps. Any final surveys would become the responsibility of the agencies receiving the lands, and would be conducted only as needed after those transfers.

This bill will save the Federal Government money in at least three ways. First, it will greatly improve the efficiency of Federal land management in Clear Creek County, primarily by consolidating Federal management of intermingled Forest Service and BLM lands. Second, the BLM will avoid, as I've explained, at least $3 million in surveying expense. Third, transfer of lands to local governments will reduce the Federal payments in lieu of taxes [PILT] funding being paid to the counties in compensation for local services provided for these tax-exempt lands.

The new, practical process authorized in this bill may serve as a model for transfers in other areas. If this approach is ultimately used in two other counties where BLM is considering similar land disposal as part of its consolidation, the Federal cost savings in northeast Colorado will total nearly $19 million. That's compelling in and of itself.

Mr. Speaker, this bill is the culmination of over 5 years of work by the BLM, the Forest Service, Clear Creek County officials, the State of Colorado, and their citizen advisors. It is a well-reasoned, efficient approach that is supported by all of the parties involved. I urge prompt action by the House on this bill.

THE EAST BATON ROUGE RECREATION AND PARK COMMISSION RECEIVES THE NATIONAL SPORTING GOODS ASSOCIATION GOLD MEDAL AWARD

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, this year in Baltimore, MD, the National Sporting Goods Association awarded the prestigious Gold Medal Award in the Class I—cities of 250,000 or more—category to the East Baton Rouge Recreation and Park Commission.

This award is the Nation's highest honor for municipal park systems and is awarded on the basis of service, improvement, continuing development, extent of future planning and degree of citizens involvement in the park programs. The East Baton Rouge Recreation and Park Commission was cited for the excellence of its programs for all age groups, particularly for the excellence of its programs for the mentally and physically handicapped.

The Gold Medal Award was accepted by Mr. Eugene Young, superintendent. In his acceptance speech, Mr. Young praised the citizens of East Baton Rouge Parish for their support of the park system, both financially and by volunteer work. Mr. Bill Cocreham, chairman of the East Baton Rouge Recreation and Park Commission, thanked for their support the mayor of East Baton Rouge Parish, Mr. Tom Ed McHugh, the members of the metro-council and the hundreds of residents who have assisted the commission by serving on committees, as docents, and as volunteers in the many programs.

I commend the East Baton Rouge Recreational and Park Commission for a job well done.

FAMILY LIVING WAGE ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PETRI. Mr. Speaker, today I introduced a new version of the Family Living Wage Act.

This bill would increase the current earned income tax credit [EITC] and vary it more by family size. Its objectives are to provide tax relief for middle-income families with children; to supplement wages according to need, as determined by family size; to help people support families by working rather than on welfare; and to help with the costs of child care, which are heaviest for preschool children.

The most recent reform of the EITC, contained in the Omnibus Budget Reconciliation Act of 1990 [OBRA], did increase the basic credit and adjust it slightly for families with a second child. In 1993, the EITC allows a maximum credit of $1,450 for a one child family and $1,529 for a family with two children. For 1994, the maximums are $1868 and $2,030, respectively. In addition, OBRA added a separate credit for children under the age of one and another credit for health insurance expenses.

Starting in 1993, the Family Living Wage Act would provide workers at, or near, the minimum wage a base credit of $1,600 and add an additional $800 for each preschool child and $400 for each school-age child, for up to four children. The maximum credit for a family with four preschool children would be $4,800 per year which is equivalent to an extra hourly wage, before any deductions, of $2.60. A low-wage worker with two preschoolers would receive $3,200, equivalent to an extra wage of $1.73. Moreover, these supplements are indexed to inflation and workers can receive them in their paychecks.

As family income rises above $10,000 per year, the credit phases down gradually until a minimum credit of $400 per preschooler and $200 per school-age child is reached at incomes in the mid-twenties, depending on family configuration. This minimum benefit applies to all middle-class families with incomes up to $50,000, after which it phases out by $61,000.

The Family Living Wage Act repeals the separate credit for children under one, the health insurance credit, and the dependent care credit [DCC]—collapsing four credits into one and radically simplifying credits for low-income people.

Although the bill repeals the current dependent care credit, its minimum EITC benefits provide more total help than the DCC does for middle-class families in the relevant income range. Moreover, the EITC spreads the money fairly across all these families, rather than giving all of it to the minority of families that pay others for child care. Since the dependent care credit unfairly discriminates against people who forgo work to take care of their children and is highly regressive—most of its benefits go to the highest income families—it is far better policy to eliminate it and fold its cost into the EITC as is done by the Family Living Wage Act.

This legislation is designed both to provide tax relief for middle-class families with children, and to help low-skilled people support families by working rather than through welfare. Although most people want to work, many find their skills do not enable them to earn as much as they could receive on welfare. Many of these people work anyway, hoping to improve their earnings over time, but they face great hardship in the meantime. Others remain caught in a welfare trap, facing financial penalties for trying to escape. Still others can earn slightly more than welfare would give them but not enough to pull them close to the poverty line. The basic problem is that economic need and, consequently, welfare payments vary by family size, but wages do not.

By directly supplementing the wages of low-income workers with children, the Family Living Wage Act achieves the broader objective of providing general help to these families based on economic need as determined by family size. It thereby achieves the same objective as an increase in the minimum wage but does it in a far better and more targeted way, while avoiding the job losses and inflation associated with minimum wage increases.

Mr. Speaker, I urge my colleagues to join me in extending greater, more permanent benefits to family heads through the Family Living Wage Act and ask that a copy of the bill and a summary be inserted into the RECORD.

FAMILY LIVING WAGE ACT [FLWA]—REPRESENTATIVE THOMAS E. PETRI

SUMMARY

Restructure existing earned income tax credit [EITC] as follows:

In 1993, for families with children, provide refundable credit against up to $8000 of annual earned income at percentage rates differentiated by family size as follows:

base credit—20% ($1600 max. base)

each pre-school child (age 0–5)—extra 10% (extra $800 max.)

each school-age child (6–15)—extra 5% (extra $400 max.)

Four child limit; maximum benefit for family with 4 preschool children is $4800 ($1600 base plus $800 for each child).

Reduce credit of 12% (for lowest credit level) to 20% (for highest credit level) of the amount of total income that exceeds $10,000.

Minimum credit of $400 per pre-school child and $200 per school-age child extends from mid-twenties up to $50,000 income, then phases out at 15%, ending (in highest case) at $60,667 income.

Repeal current dependent care credit (which is highly regressive and unfair to people who forgo outside income in order to work in the home), wee tot credit and health insurance credit—collapsing four credits into one and radically simplifying credits for low income people.

Index phase-in percentages and phase-out starting point for inflation.

People whose only children are over 15 receive only base credit.

COST

$2.7 billion, starting in FY '93

The minimum benefit provision costs $3.5 billion, slightly more than the cost of the dependent care credit (DCC) for people in the same income range. Under the current DCC, the maximum benefit for middle income families is $480 per child for 2 children if the parents spend $2400 per child on child care. The FLWA provides $400 per preschool child and $200 per school age child, for up to four children, to all middle income families, with no requirement for paid child care.

PURPOSES

Provide tax relief for middle income families with children.

Increase work incentives for welfare families according to the need for incentives, as determined by family size and welfare payment size.

Achieve the same objective as minimum wage increases (to help low skilled workers support families) directly and efficiently, targeting help to those who need it in proportion to their need, including millions already earning more than the $4.25 minimum wage, without the inflation and job losses associated with minimum wage hikes.

In particular, help families with the costs of child care (heaviest for preschool children), independently of whether others are paid to provide care or one family member forgoes income in order to provide care, and concentrating that help at the lowest income levels.

H.R. 4021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Living Wage Act".

SEC. 2. INCREASE IN EARNED INCOME TAX CREDIT

(a) GENERAL RULE.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of

1986 (relating to earned income tax credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the earned income for the taxable year as does not exceed $8,000.

"(2) LIMITATIONS.—The amount of the credit allowable to a taxpayer under this subsection for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $8,000, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $10,000.

"(b) PERCENTAGES.—For purposes of subsection (a)—

"(1) CREDIT PERCENTAGE.—

"(A) IN GENERAL.—The credit percentage is the percentage equal to the sum of—

"(i) 20 percent,

"(ii) 5 percent for each school age qualifying child, plus

"(iii) 10 percent for each preschool age qualifying child.

"(B) NOT MORE THAN 4 CHILDREN TAKEN INTO ACCOUNT.—Not more than 4 children shall be taken into account under subparagraph (A), and preschool age qualifying children shall be taken into account before any other children are taken into account.

"(2) PHASEOUT PERCENTAGE.—

"(A) PHASEDOWN TO MINIMUM BENEFIT.—

"(i) IN GENERAL.—The phaseout percentage is the percentage determined in accordance with the following table:

If the combination of qualifying children taken into account under paragraph (1) is—	The phaseout percentage is—
1 S	13
2 S, or 1 P	14
3 S, or 1 S and 1 P	15
4 S, or 2 S and 1 P, or 2 P	16
3 S and 1 P, or 1 S and 2 P	17
2 S and 2 P, or 3 P	18
1 S and 3 P	19
4 P	20

"(ii) SYMBOLS USED IN TABLE.—For purposes of clause (i)—

"(I) S means school age qualifying child, and

"(II) P means preschool age qualifying child.

"(B) MINIMUM BENEFIT FOR TAXPAYERS WITH INCOMES BELOW $50,000.—Except as provided in subparagraph (C), subparagraph (A) shall not apply so as to reduce the credit allowed by this section to a taxpayer to less than the minimum benefit determined in accordance with the following table:

If the phaseout percentage applicable to the taxpayer is—	The minimum benefit is—
13	$200
14	400
15	600
16	800
17	1,000
18	1,200
19	1,400
20	1,600

"(C) PHASEOUT OF MINIMUM BENEFIT.—If the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year exceeds $50,000, the minimum benefit determined under subparagraph (B) shall be reduced by 15 percent of such excess.

"(3) SPECIAL RULES FOR INDIVIDUAL WHOSE ONLY CHILDREN HAVE ATTAINED AGE 16.—For purposes of this section, in the case of an individual who is an eligible individual solely by reason of children each of whom has attained age 16 as of the close of the taxable year—

"(A) the credit percentage shall be 20 percent,

"(B) the phaseout percentage shall be 12 percent, and

"(C) subparagraphs (B) and (C) of paragraph (2) shall not apply."

(b) PRESCHOOL AGE AND SCHOOL AGE QUALIFYING CHILDREN DEFINED.—Subsection (c) of section 32 of such Code is amended by adding at the end the following new paragraph:

"(4) PRESCHOOL AGE AND SCHOOL AGE QUALIFYING CHILDREN.—

"(A) PRESCHOOL AGE QUALIFYING CHILD.—The term 'preschool age qualifying child' means any qualifying child who has not attained age 6 as of the close of the taxable year.

"(B) SCHOOL AGE QUALIFYING CHILD.—The term 'school age qualifying child' means any qualifying child who has attained age 6 but not age 16 as of the close of the taxable year."

(c) ADVANCE PAYMENT PROVISIONS.—

(1) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number and ages of qualifying children (as defined in section 32(c)) of the employee for the taxable year."

(2) Paragraph (2) of section 3507(c) of such Code is amended—

(A) in subparagraph (B)(i), by striking "(without regard to subparagraph (D)" and by striking "section 32(a)(1)" and inserting "section 32(a)",

(B) in subparagraph (B)(ii), by striking "section 32(b)(1)(B)(ii)" and inserting "section 32(a)(2)" and by striking "section 32(a)(1)" and inserting "section 32(a)", and

(C) by adding at the end the following new sentence:

"For purposes of this paragraph, the credit percentage shall be determined under section 32(b) on the basis of the number and ages of qualifying children specified in the earned income eligibility certificate and the determination of the amounts referred to in subparagraph (B)(ii) shall be made on the basis of the number and ages of qualifying children so specified."

(3) Clause (i) of section 3507(e)(3)(A) of such Code is amended by inserting before ", or" the following: "(or changing the percentages applicable to the employee under section 32(b) for the taxable year)".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) of such Code is amended—

(A) by striking "subsection (b)" each place it appears in subparagraphs (A) and (B) and inserting "subsection (a)(2)", and

(B) by adding at the end the following new sentence:

"Separate tables shall be prescribed for each of the phaseout percentages specified in the table contained in subsection (b)(2)(A)(i)."

(2) Paragraphs (1) and (2) of section 32(i) of such Code are amended to read as follows:

"(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each amount referred to in paragraph (2) shall be increased by an amount equal to—

"(A) such amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting '1993' for '1989' in subparagraph (B) thereof.

"(2) AMOUNTS.—The amounts referred to in this paragraph are—

"(A) the credit percentages used for purposes of subsection (a),

"(B) the $10,000 amount contained in subsection (a)(2)(B), and

"(C) the $50,000 amount contained in subsection (b)(2)(C)."

(3) Section 213 of such Code (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(4) Paragraph (3) of section 162(l) of such Code is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992; except that the amendments made by subsection (c) shall take effect on January 1, 1993.

SEC. 3. DEPENDENT CARE CREDIT LIMITED TO HANDICAPPED DEPENDENTS AND SPOUSES.

(a) IN GENERAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 (defining qualifying individual and employment-related expenses) is amended by striking subparagraph (A), by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and by adding at the end of the following new sentence:

"In the case of an individual described in subparagraph (A) who has not attained age 16 as of the close of the taxable year, such individual may be treated as a qualifying individual for purposes of this section only if the taxpayer elects not to treat such individual as a qualifying child under section 32 for such year."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 21(b)(2) of such Code is amended by striking "care of—" and all that follows and inserting "care of a qualifying individual who regularly spends at least 8 hours each day in the taxpayer's household."

(2) Paragraph (2) of section 21(d) of such Code is amended by striking "subsection (b)(1)(C)" and inserting "subsection (b)(1)(B)".

(3) Paragraph (5) of section 21(e) of such Code is amended—

(A) by striking "is under the age of 13 or" in subparagraph (B), and

(B) by striking "subparagraph (A) or (B) of subsection (b)(1) (whichever is appropriate)" and inserting "subsection (b)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4. ELIMINATION OF PROPOSED CHANGES IN TREATMENT OF EARNED INCOME CREDIT IN DETERMINING CERTAIN WELFARE BENEFITS.

Paragraphs (1) and (2)(A) of section 402(c) of the Family Support Act of 1988 are repealed.

THE SAM GOLD AMPHITHEATER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BERMAN. Mr. Speaker, on Sunday, November 24, I had the pleasure and honor of

dedicating the Sam Goldman Amphitheater at the William O. Douglas Outdoor Center in the Santa Monica Mountains of Los Angeles.

I'd like to share with my colleagues the remarks I made at this occasion so that they can know of my pride in this facility and in Sam and Sooky Goldman, whose hard work and tireless dedication made it possible.

Sam and Sooky Goldman—what a team!

They are an endless source of inspiration. Their lives, their dedication, their generosity and their commitment to the service of their friends and their community have been a magnificent example to me and to countless others.

We thank you, we salute you, and we are enormously proud to be a part of this ceremony to dedicate the Sam Goldman Amphitheater.

This amphitheater will add in countless ways to the many excellent environmental education programs and cultural activities that the William O. Douglas Outdoor Center has provided for over 10 years.

It will be—literally—another stage for creative WODOC programs to teach kids about the environment.

It will help inner-city children reach a stage where they can appreciate and protect nature, and enjoy the Santa Monica Mountains that lie just beyond the concrete and steel of their everyday lives.

Later this afternoon we will see firsthand the type of Workshops and events for which this amphitheater was designed.

It is so fitting that this wonderful stage—this wonderful theater—is to be known as the Sam Goldman Amphitheater.

What could be more appropriate than a theater named for a man who was once the star salesman for the legendary "Mad Man Muntz?"

Sam's humor and flair for living have delighted me for over 25 years. I still smile every time I call the Goldman home and hear Sam's voice on the answering machine saying, "This is Sooky's Secretary * * *"

Sam was only 18 years old when he came to California in search of the golden dream. He sold bread out of a Helms Bakery truck in those days.

After service in World War II, Sam returned to Philadelphia where he met and married his delightful wife, Sooky. If this had been his only accomplishment, it would have been enough to mark him as an extraordinary man.

But there was more: With amazing foresight, Sam started the first car leasing agency in Los Angeles: Executive Car Leasing. Clear back in 1965, he saw that the auto was going to be the driving force in California's future.

He's still there, running the place—and, I might add, supplying cars, vans and shuttles for all of WODOC's events.

Sam has been a loving parent to WODOC since the moment when this center was just an idea. He and Sooky hosted a long parade of breakfast meetings to plan the creation of a nature center where city kids could learn to love the earth, the trees, and the wildlife they knew only from pictures.

Sam Goldman is the best proof I know that a successful, well respected businessman can also be an ardent environmentalist.

We are here to dedicate this Amphitheater to the generations of children and citizens who will use it to learn to love and care for the environment. They will provide an extremely fitting and proper legacy for Sam Goldman, who endowed this wonderful facility and in whose honor was made the contributions for its construction. It is here because of the esteem in which this community holds Sam Goldman.

We are all grateful to him and to Sooky for their generosity, vision and tireless work in creating and nurturing this very special place. Thank you for the very great love that lives in your hearts.

INTRODUCTION OF THE FISCAL RESPONSIBILITY AND BUDGET FAIRNESS ACT OF 1991

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KENNEDY. Mr. Speaker, today I am introducing the Fiscal Responsibility and Budget Fairness Act of 1991. It is an effort to halt the growing crisis of debt which threatens our prosperity and our future as a nation.

The idea that we should balance our budget is not new. Forty-eight States already mandate a balanced budget. On the Federal level, people like Congressman Charles Stenholm have been warning us for years about the dangers of large yearly deficits, the inadequacy of statutory remedies, and the need for a constitutional mandate to prevent fiscal self-destruction.

However, though the idea is not new, it has taken on new advocates and a new urgency. Many of us, particularly liberals like myself, have an abiding faith in the ability of government to protect the weak and promote the common good. We believe in an activist government. But today we say that Government's ability to act is becoming paralyzed by debt. It is because of, not despite, our party's tradition of caring for poor and working families that we believe that a balanced budget is necessary.

Next year, net interest on the country's $3½ trillion debt will hit $230 billion. That amount will exceed, for the first time, all funds spent on domestic discretionary programs—programs like housing and education, cancer research and transportation, law enforcement and space exploration.

The truth of the matter is that we have a budget crisis of unprecedented proportions in this country. It is crippling our ability to meet the challenges of tomorrow. And it is literally robbing our children of the means to sustain a decent and affluent society. Many Democrats have tolerated massive deficits as the price of holding onto programs for poor and working families. However, it is time for us to recognize that, while we hoard the crumbs, the whole loaf is being taken right from under our eyes.

Democrats have long supported honest, pay-as-you-go budgeting. Taking our cue from Keynesian economics, we have historically endorsed deficits only when necessary to spur economic activity during a recession.

But in the last decade, the Republican party has ushered in a dangerous new era of large, fixed deficits. Long skeptical of deficits as the trademark of oversized government, the new Republican orthodoxy embraces deficits as the agent of lower taxes and reduced spending. The result of this rigid ideology has been disastrous: A national debt that has tripled in 10 years; a debt that has helped plunge our economy into a recession, and a debt that is stifling our children's ability to build a better future.

We as a party have been too passive in the face of Republican fiscal irresponsibility. Faced with tremendously popular Republican presidents, and rightly unwilling to abandon our poor and working class constituents, we have quietly accepted deficits as the cost of preserving the programs we care about most.

But now we are on the verge of seeing those programs strangled by a national debt that is devouring scarce funds. Furthermore, working class tax dollars are going into the pockets of the wealthy investors who buy the Government's debt. In the United States, that's the richest 10 percent. Increasingly, those investors are from Germany and Japan. To the extent that we depend on them to extend us credit, we compromise our own economic and geopolitical independence. The day is not far off when, if Japan or Germany sneezes, it will be the American worker who catches a cold.

And let us not overlook that these huge deficits drain identically huge sums from private capital markets. The result is more scarce, and more expensive, funds for our small businesses and entrepreneurs. That means fewer jobs and lower living standards for American workers.

The time has come for Democrats to rediscover their progressive fiscal discipline. If we want our children to build new businesses and better schools, to fight poverty and crime, to receive decent health care, then we must stop the mindless flow of tax dollars to pay off old debts.

None of us has any illusions about this legislation or similar proposals. It is not a panacea. But the immutable command of a constitutional amendment will force upon us the discipline which a series of well-intentioned laws have been unable to impose. It will help put an end to budget gimmicks that hide the true size of deficits. And it will require us to confront more honestly than ever before the tough choices we need to make.

This legislation differs from other balanced budget proposals in two significant respects. First, it would require that any amount by which outlays exceeds receipts be eliminated by equal amounts of spending cuts and revenue increases, unless three-fifths of each House decides otherwise because of a recession or other circumstances. This provision will ensure that the burden of deficit reduction is shared by all. That includes the wealthiest citizens, who have received deep tax cuts over the last decade, tax cuts that have contributed mightily to the Nation's current indebtedness. Requiring deficits to be made up in part by revenue increases also ensures that deficits will be as unattractive to conservatives as to liberals.

Second, this bill would permanently limit the size of Government. Federal receipts could increase by no more than the percentage increase in GNP, unless three-fifths of each House decides otherwise. Such a measure is needed to ensure that Federal receipts, which have risen from 2.9 percent of GNP to over 20 percent today, do not drain unhealthy sums from the private economy. There is no optimal level of Government spending. However, most Americans agree that it should not grow faster than our ability to pay for it.

Mr. Speaker, the time has come for us to stop sending our children the bills for a decade of waste, greed, and excess. We are at a crossroads. Either we change our ways now. Or we will surely stand shamed before history, remembered only as the first generation of Americans that left this country a poorer place than the last.

THE RECYCLED MATERIALS IN PACKAGING ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WYDEN. Mr. Speaker, today I am introducing a bill setting across-the-board minimum recycled content standards for a broad variety of packaging materials.

Next year, the Congress will be wrestling with revision of the Resource Conservation and Recovery Act, the Nation's central solid waste law. To promote safe, affordable handling of America's solid waste, both halves of the recycling issue must be addressed: There must be strong incentives to recycle and strong incentives for manufacturers to put that recovered material to productive use.

Each half of the effort—separating recyclables and reusing the material—supports and promotes the other. One creates a supply of material, the other creates a demand for it.

The bill I introduce today focuses on the second half of the problem by building markets for the recovered material. Though many solid waste issues have to be seen from the local level, promoting markets is a uniquely national and international concern. It is one area that must be addressed in any Federal solid waste bill.

When Congress reauthorized RCRA in 1984, I authored an amendment mandating increased Government purchase of recycled materials. This amendment directed EPA to establish new requirements for Federal agencies to buy recycled products. Though it required an Environmental Defense Fund lawsuit to enforce this provision, the law has significantly increased the use of recycled materials by Federal agencies. It has become a major influence in building markets for recycled products, and has also helped set standards for manufacturers' claims that products have recycled content.

In 1989, I proposed legislation to build on my 1984 law. The 1989 proposal encouraged new markets by proposing the Federal Government purchase additional types of recycled materials and required an interagency task force to promote innovative uses of recycled materials.

The bill I introduce today uses yet another approach to build markets: It requires packaging to be made with recycled materials.

The Recycled Materials in Packaging Act was inspired by legislation enacted this year by the Oregon Legislature. The Oregon bill sets standards for recycled content for various commodities and packaging in my home State.

But a State-by-State approach to this process has obvious limitations. One State has only limited influence in the national market. It's difficult for a State to enforce content standards on products manufactured or distributed out of State. The most effective program is obviously a national program, using the power of the national market.

Over the past several months, I have met repeatedly with representatives of the environmental community and various industries trying to reach consensus on an approach to minimum content standards for packaging. All parties offered constructive suggestions, but complete consensus was never reached. The bill I introduce today is not the last word on the issue, but a working document, which I hope we can continue to perfect.

I note too that several of my colleagues have introduced, or will soon introduce, bills with minimum content provisions. I hope to continue to work with them, and with the affected parties, to produce a provision we can generally agree to include in the coming Resource Conservation and Recovery Act reauthorization.

REFORM OF FISCAL YEAR RETENTION RULES

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANTHONY. Mr. Speaker, the Tax Reform Act of 1986 (TRA 1986) imposed a requirement that partnerships, S corporations, and personal service corporations adopt, in general, a calendar year for tax purposes. As a result of public outcry concerning the difficulties created by this requirement, the Revenue Act of 1987 modified TRA 1986 with the creation of section 444 which allowed retention or adoption of a fiscal year by partnerships, S corporations and personal service corporations if certain annual requirements were met. Section 444 provided a mechanism for relief. However, time has demonstrated that the original rules are overly restrictive and need modification.

The increased complexity of TRA 1986 has resulted in more time being devoted by taxpayers and their advisers to both planning and preparation of individual and small business tax returns. This increased workload has been further compounded by many taxpayers having switched from fiscal years to calendar years. More tax planning and preparation must now be done in a shorter period of time.

A nationwide survey conducted by a national organization of certified public accountants indicates that approximately 60 percent of the annual workload occurs during the first 3 to 4 months of the year. This has historically been a heavy workload period, but it has now become unacceptably heavy for taxpayers and their advisers.

Automatic extensions are available for many tax returns, but this provides only minimal relief to small business taxpayers and advisors. Extensions are costly and inconvenient. The tax liability must still be computed with great accuracy by the original due date. Further, it makes it difficult to obtain the information necessary to estimate the tax liability of owners in order for them to apply for an extension.

This workload compression problem is not limited to tax work. It has become an even greater problem with accounting and auditing work. Owners and creditors typically demand financial statements and audit reports within 90 days after year end. Now this work must also be done between January 1 and April 15.

On average, only about 20 percent of small businesses which were on a fiscal year prior to TRA 1986 remain on a section 444 fiscal year.

The administration of the tax system is also damaged by the resulting uneven workload experienced by the Internal Revenue Service. The IRS, taxpayers, and tax practitioners can better meet tax filing requirements if the demands are spread throughout the year.

With the enactment of the section 444 fiscal year retention rules, Congress acknowledged that there are legitimate business reasons for allowing fiscal years. Fiscal years are ordinarily chosen to coincide with the "natural business year" of the taxpayer. The year end conformity requirement of TRA 1986 unduly interfered with business operations, and the fiscal year retention rules of RA 1987 did not go far enough in remedying the problem.

The legislation I am introducing today modifies a portion of the rules for fiscal year retention in a way which addresses the continuing problems in this area without sacrificing revenue. The general rules of sections 444, 7519, and 280H would remain relatively unchanged. The proposed legislation would reopen the election process to allow existing entities to either elect, reelect, or modify an existing election for a fiscal year. An additional required payment to the Government during the transition period to a different fiscal year would be imposed. It is anticipated that the proposed changes to the law will sustain revenue levels. A revenue estimate on the proposal to confirm this neutrality has been requested. In the event that the revenue estimate is negative, certain technical modifications to this bill are available to retain neutrality. The Secretary of the Treasury would prescribe rules consistent with current IRS practices for the frequency of changes.

In addition, no restriction would be imposed on the length of the deferral period. Entities would be allowed to elect a fiscal year which ends in any month. The proposed legislation would also make minor technical corrections and administrative changes which will make the provision fairer and more administrable.

The proposed legislation addresses serious problems being encountered by small businesses and their tax advisers; it offers taxpayers greater flexibility and fairness; it adds to the administrability of the tax system; and, it sustains revenues in this difficult time of budget constraints.

INTRODUCTION OF THE ENERGY EFFICIENCY AND CONSERVATION ACT OF 1991

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CHANDLER. Mr. Speaker, I rise today to ask for my colleagues' support of an important piece of legislation to promote energy efficiency and conservation measures by our Nation's electric companies.

The legislation I am introducing today, the Energy Efficiency and Conservation Act of 1991 is backed by electric utility companies and local environmental groups.

It has such broad support because it would reasonably clarify provisions in the Tax Code to allow electric utilities to deduct the costs of their pro-conservation initiatives. As you might expect, the Internal Revenue Service is the primary obstacle in our effort.

Mr. Speaker, let me take a few moments to explain why this legislation is so important.

Around the country, electric companies are actively promoting measures to conserve energy. Typically, electric companies analyze the electricity their customers use on a monthly basis, and, if cost-effective, the company will pay to improve energy-efficiency by that customer.

At Puget Power, which serves thousands of consumers in my congressional district, such pro-conservation initiatives may be in the form of installing weatherization measures, lighting changes, altering industrial processes and many other programs.

For income tax purposes, Puget Power deducts its conservation costs in the year incurred. Such costs consist primarily of wages and salaries of employees who conduct and administer these programs plus other administration costs, as well as grants given to contractors or customers for energy-efficient measures.

The pro-conservation efforts at Puget Power have conserved countless amounts of energy, fostered a cleaner environment, and saved thousands of dollars for consumers because of lower electricity bills.

For those efforts, Puget Power is being attacked by the Internal Revenue Service.

Several years ago, in the course of a routine audit of Puget Power's 1979–80 Federal corporate income tax returns, the Seattle IRS office concluded that Puget's conservation expenditures should be capitalized for tax purposes rather than expensed.

The Seattle IRS office said that conservation expenditures should be treated the same for tax purposes as they are treated by the Washington Utilities and Transportation Commission [WUTC] for electric ratemaking purposes. For ratemaking purposes, the WUTC does amortize Puget's conservation expenditures over a number of years.

The effect of capitalizing the expenditures for tax purposes would be to spread the deductions now taken in a single year over 10 years, thus making it more expensive for electric companies to help consumers conserve energy.

Mr. Speaker, in light of these findings by the Seattle IRS office, I believe there are two good reasons we should clarify the Tax Code to allow yearly conservation expensing by utilities.

First, such a policy would encourage electric companies to continue their efforts to help consumers conserve energy. And, second, the conservation deduction actually results in a savings for American consumers because companies like Puget Power pass on the value of the deduction to their customers in the form of lower monthly bills.

Before coming to Congress for assistance, Puget Power contested the novel theory espoused by the Seattle IRS office.

This past spring, consumers and power-providers received a partial victory when the national office of the IRS issued a technical advice memorandum confirming that Puget Power had been correct in expensing its conservation expenditures for tax years 1979–80.

The memorandum rejected the Seattle IRS's position with respect to 1979–80 and made clear that Federal tax treatment is not determined by how the 50 different State public utility commissions establish electric rates.

But as I said earlier, the IRS memorandum was just a partial victory because the memorandum went on to say that the IRS was looking at ways to assert that Puget Power's conservation expenditures should be capitalized for tax purposes.

The memorandum suggested the IRS may adopt the "capitalization" theory for other tax years, 1981 and beyond, if it finds a casual link between the conservation expenditures and the utility's increased profitability.

In other words, if State utility commissions want to encourage electric utilities to maximize conservation by rewarding them with higher earnings for such achievements, the IRS will tax away the earnings and the incentives.

Such policy, in my opinion, penalizes consumers and electric companies for doing the right thing.

The threat contained in the IRS technical advice memorandum is particularly troubling for the electric consumers in my district because of ratemaking considerations being made right now by the Washington Utilities and Transportation Commission.

Under the WUTC proposal, Puget Power would be encouraged to continue its aggressive conservation initiatives through incentives that could result in higher profits for the company.

In my opinion, Mr. Speaker, such forward-thinking ratemaking policy is a winner for consumers, utility investors, and the environment.

We should not let the IRS ruin this innovative approach to electric ratemaking. State government officials, the utilities and environmental groups are solidly in favor of this proposal.

Mr. Speaker, there can be no doubt that our Nation needs a national energy policy that is both efficient and environmentally sound. I believe that the legislation I am introducing today, while only affecting electric companies and their consumers, is a good step in that direction. I urge its adoption.

VETERANS MOBILE HEALTH CARE CLINIC ACT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today, I rise to introduce legislation that would establish a permanent mobile health care clinic program to provide health care assistance to veterans living in rural areas. Earlier this year Senator CONRAD introduced this initiative in the other body and the bill I am introducing today is the House companion to that legislation.

It is my understanding that the Department of Veterans Affairs plans to operate mobile health care clinics in a few States. However, this program is very limited and legislation is necessary to expand this pilot program so that many more States will be eligible to provide health care services to veterans living in rural areas.

The Department of Veterans Affairs has already identified more than 131,000 veterans living in counties that are at least 2 hours from the nearest VA health care facility. In North Dakota for example, over 34,000 veterans live in counties 100 or more miles from the State's only VA medical center in Fargo, ND. This figure amounts to more than 50 percent of all the veterans in North Dakota.

Establishing rural mobile health care clinics in the veterans health care system would allow many veterans to receive health care who usually forego medical attention because they live too far from a VA medical center. This legislation is very important to improving access to health care for veterans and I urge my colleagues to support this bill.

CONGRATULATING REPRESENTATIVE DEAN GALLO ON HIS NEW POSITION AS COCHAIRMAN OF THE NORTHEAST-MIDWEST COALITION

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HORTON. Mr. Speaker, I rise today to congratulate my colleague from New Jersey, Representative DEAN GALLO, on his new position as cochairman of the Northeast-Midwest Congressional Coalition.

I nominated DEAN for this position, which I have held since 1983, because I think he will provide a fresh and innovative component to the leadership of the coalition. DEAN is more than familiar with the problems faced by Northeastern and Midwestern States—such as our vulnerability to high energy costs and infrastructure problems. I believe he has the wisdom needed to find solutions to these problems and the enthusiasm to confront the many challenges that lie ahead.

As Congress debates issues critical to our region in the coming months, I believe DEAN GALLO will be a strong voice for the Northeast-Midwest region. His role will become even more important in the next years because of the region's loss of 14 congressional seats. This loss will increase the need for cooperation among Members from the region.

Over the years, I have enjoyed my work with the coalition and its many dedicated Members. In particular, I have enjoyed working with my colleague and friend, HOWARD WOLPE of Michigan. HOWARD has been my able and enthusiastic cochairman since 1985.

As one of the original founders of the coalition, I have seen it develop into an effective proponent of regional equity. I have no doubt that under the able leadership of DEAN GALLO and HOWARD WOLPE, the coalition will continue to grow in both size and effectiveness.

"NEW CREATION": BEEN NAMED THE 1991 McDONALD CORPORATION GOSPELFEST WINNERS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, today, I pay tribute to the members of the gospel group "New Creation," who along with the Third Baptist Choir represented Springfield, MA, in the regional finals of the New England Gospelfest held in Hartford, CT. Gospelfest is a national event sponsored by McDonald Corp. to benefit the United Negro College Fund.

As a result of winning the New England regional competition New Creation will be appearing on a nationwide gospel program. The individuals in the group, who are not only gospel singers but also role models and leaders to the young people of my district. The members of the group are Gary Bass, David Bass, Jesse Daniels, James Milner, Corey Milner, Tim Henderson, Benny White, and Denise Gore.

Mr. Speaker, as a former teacher and educator I know the importance of quality role models. These individuals are true assets to the City of Springfield. Once again I would like to extend my congratulations to the young people of New Creation for their well deserved award.

NATIONAL AMBUCS MONTH

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to the Reading, PA, Chapter of the National American Business Clubs, also known as AMBUCS. On January 27, 1992, the Reading Chapter of AMBUCS will hold its dinner to commemorate February 1992 as National AMBUCS Month.

National AMBUCS month will give us all a chance to recognize the fine contributions which AMBUCS makes to the Reading area and the entire United States. AMBUCS was founded in Birmingham, AL, in 1922, as a community and national service organization. The Reading Chapter was chartered in August 1925 to enhance the quality of life in the Reading area. AMBUCS was founded on the principles of Americanism, brotherhood and character. This organization represents the highest standards of excellence and is dedicated to the promotion of civil improvement and goodwill.

The Reading AMBUCS has made countless significant contributions to Berks County. The Reading Chapter's accomplishments include the founding of the Easter Seals Society of Berks County in 1949 for charitable fundraising and helping disabled persons, the initiation of the Easter Seals Golf Tournament, and the original sponsor of the Big Brother/Big Sister Program in Berks County. The Reading Chapter annually organizes the "Eyeglass Benefit Basketball Game" at Reading High School to help provide eyecare and glasses for needy children in the Reading area. Every summer, the Reading Chapter of AMBUCS also sponsors "Baseball Night with the Reading Phillies" and operates a food stand at the Reading Fair, and donates the proceeds to the Easter Seals Society and other charitable organizations. The Reading AMBUCS Chapter is an active participant in the national "Scholarships for Therapists" project. This program provides assistance to worthy therapy students in the fields of physical, occupational, speech and hearing audiology therapy. This program has assisted many students in helping to improve the lives of the less fortunate.

It is with great pleasure that I recognize the fine contributions of the Reading Chapter of AMBUCS and its members. These individuals represent the finest qualities of our great Nation. Their care and devotion to helping others has benefited many residents of Berks County. I hope that all Americans will follow the fine example for community service and involvement which is exemplified by AMBUCS. Their commitment to Americanism, brotherhood and character has helped to improve the Reading community. I ask all of my colleagues to join me in honoring the Reading AMBUCS Chapter and in wishing them the greatest success and good fortune in continuing their fine work in the future.

RESTORATION OF THE MEMBERS OF THE BOARD OF VETERANS APPEALS TO A STATUS COMPARABLE TO ADMINISTRATIVE LAW JUDGES

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BILIRAKIS. Mr. Speaker, today I introduced a bill to restore to members of the Board of Veterans Appeals, who decide veterans benefit cases, the status comparable to administrative law judges in other Federal agencies. The enactment of the bill will help retain a qualified and experienced Board of Administrative judges, who decide cases of vital importance to our Nation's veterans. The retention of experienced Board members is threatened by two recent changes in the law made by the Congress, whose impact on the Board was never considered when they were enacted.

Prior to the enactment of the Veterans Judicial Review Act of 1988 [VJRA], members of the Board of Veterans Appeals were the final decisionmakers in veterans benefit cases. Board members enjoyed the status as the final court for veterans appeals, but now their decisions may be appealed to the new Court of Veterans Appeals. When the VJRA was enacted, the status of Board members in the new statutory scheme was not reviewed by the Congress. This bill will provide the opportunity for such review.

As a consequence, from the period of 1988 to 1990, members of the Board of Veterans Appeals assumed a status comparable to administrative law judges in other Federal agencies. This comparability was ended by the enactment of the Federal Pay Act of 1990. The new act made all ALJ's in Federal service the same grade, as part of the Senior Executive Service, with a salary increase and schedule above that of BVA Board members. This was the first time that BVA members' salaries were not comparable to ALJ's deciding benefit claims for other agencies.

The veterans community deserves a forum where their appeals may be heard by a professional and experienced group of administrative judges. Just as ALJ's may only be removed for good cause, members of the Board were provided the same protections. The work performed by the Board is as complex as that done by ALJ's; both conduct hearings where they evaluate the testimony of lay and expert witnesses and rule on the admission of relevant evidence. They both consider oral argument and briefs. Findings of fact and conclusions of law are included in the decisions rendered by both judges. Of 44 current Board members, 38 have indicated they would take an ALJ position when the roster is open. Over the last few years, eight Board members have joined the ranks of ALJ's.

The legislation I introduced will serve as a vehicle for reviewing the current status of Board members in the statutory scheme. In fact, the BVA members have been placed at a disadvantage due to the enactment of laws that did not consider their impact on the future of the Board.

If my approach to solving the crisis presently faced by the Board is adopted, the costs would be modest to rectify the current disparity between Board members and ALJ's. It is estimated that the costs in the first year would be less than $400,000 and the total costs over 5 years are less than $5 million for salaries and benefits. This is a small investment to make in order to bring some stability to the adjudications of veterans claims. I urge my colleagues to consider the worthy goals achieved by the bill and join me in adopting this much-needed legislation.

SALVADORAN CRIME

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. DELAURO. Mr. Speaker, November 16 marked the second anniversary of one of the

most brutal crimes in living memory. On that day 2 years ago, in the early morning hours, a detachment of Salvadoran soldiers belonging to the U.S.-trained elite Atlacatl batallion entered the campus of the University of Central America. The soldiers drove up a hill to the top of the UCA campus and blasted their way into the living quarters of six Jesuit priests. The priests were pulled out of bed and taken to a small garden behind their dormatory. There, the soldiers forced them to lay face down on the grass, then shot each one, point blank, in the head.

Next, the soldiers discovered the Jesuits' housekeeper and her daughter, huddled together in a small room. The two women were staying with the Jesuits for safety, and had left their own home because it was too near fighting that was taking place between Salvadoran troops and FMLN guerrillas. Seeing the two women, and under instruction to leave no witnesses, the soldiers raked the pair with automatic weapons fire, tearing them apart and killing them instantly.

Finally, the soldiers left crude signs in the garden where the bodies of the priests lay in an attempt to point the finger for the massacre at the FMLN guerrillas.

Mr. Speaker, these were not just more tragic deaths in a civil war that has claimed some 70,000 lives. This was as calculated and cold-blooded an act as any humans have ever conceived and carried out against their fellow man.

But here we stand, 2 years after that bloody morning, and many, many questions remain unanswered. The most disturbing of these is: Who ordered the murders of the Jesuits and at what level of the Salvadoran military?

The trial that ended in September concluded with the conviction of two Salvadoran officers, including a colonel. But it also acquitted seven subordinate members of the Army, including all those who confessed to the murders of the priests and the two women.

The trial itself did little to uncover many of the essential facts of the case. Judge Zamora labored under enormous constraints to make the recalcitrant Salvadoran justice system work, but he had little cooperation from his own government. In the end, the trial failed to solve many of the mysteries that still surround the murders.

This week, Chairman MOAKLEY, head of the Speaker's Task Force on El Salvador, issued a statement that provided new information supporting widespread assertions that high-ranking Salvadoran military officers, including Defense Minister Gen. Rene Emilio Ponce, were involved in the murders. His statement shows how little progress has really been made on the case, and how far we still have to go before we know the whole truth.

Mr. Speaker, we must continue to demand that the essential facts of this case be uncovered, and that those responsible be held accountable. We must do this not just to serve the ends of justice. But because, unless we do, neither the United States Government, nor the Salvadoran people, will be able to put their trust in the Salvadoran judicial system or the Salvadoran Government.

This country supported the Salvadoran Government at the time the Jesuits were murdered. It still does. And the United States trained the Atlacatl batallion that carried out these crimes. If anyone we supported was involved in these murders we must know. Our Government's credibility is undermined if we appear complicit in this kind of unbounded brutality.

If El Salvador is to end its civil war, and transform itself into a government that represents all its people democratically, it must purge itself of both the officials and the attitudes that allowed this crime to occur. No people can have faith in their government unless they see fairness prevail, nor can they trust a government that would cover up any crime as hideous as the murder of the Jesuits and the women.

I sincerely hope that we can stand here one day in the near future and congratulate the Salvadoran Government, the United Nations, and the United States for uncovering the truth behind the indescribably brutal events that took place 2 years ago in San Salvador. But until then, we must use all the influence we can to solve this case.

The United States should demand the full truth; it should support any and all U.N. efforts to broker peace in El Salvador; it should cut off all military aid to the Government of El Salvador; and it should ensure that any nonmilitary aid the United States does give serves the purpose of helping all Salvadorans live united in dignity.

Mr. Speaker, not far from the garden in which the Jesuits were murdered stands the small hut in which their housekeeper and her daughter once lived. In it lives the man who has, for many years, tended that garden. Now he cultivates a rosebush for each of the murdered priests, and one as well for his slain wife and daughter.

This man represents the dignity of which mankind is capable. It is in this spirit that we should determine to reach the truth in this case. The fallen Jesuits deserve this, and so, too, do the people of El Salvador and the United States.

JOE LIMARDI—AND A CITY'S GENEROSITY

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STUDDS. Mr. Speaker, I would like to call the attention of the House of Representatives to the work of one man, who by his tireless actions, is helping thousands of southeastern Massachusetts residents.

Joe Limardi, a radio personality with New Bedford, MA radio station WFHN–FM, decided to do something to fight hunger. Mr. Limardi's plan was to stay awake for 107 hours—representing the radio station's FM frequency—while asking his listeners to donate cans of food. Mr. Limardi anticipated that 5,000 cans would be turned over to the Hunger Commission of Greater New Bedford, which serves all of Bristol County.

Mr. Speaker, Joe Limardi met one and exceeded another of his goals. This past Friday at 5 p.m., he celebrated the completion of his 107th consecutive hour on the air. Much to his astonishment, the people of Greater New Bedford responded to his request and donated in excess of 35,000 cans of food.

The New Bedford, MA area has been hit hard by the recession. Unemployment has been mired in double figures. Providers of basic human services have been inundated with requests. Hard times have indeed hit home. Yet the people of this community responded to the plea of a remarkable young man to help those who are less fortunate. Many who opened their kitchen cabinets have little left in their own wallets.

Mr. Speaker, I commend the people of Greater New Bedford for their compassion and decency and I especially congratulate Mr. Joe Limardi for carrying on in the tradition of Harry Chapin and Bob Geldof, who used the gift of music to help fill empty cupboards.

TRIBUTE TO GENERAL ELECTRIC MEDICAL SYSTEMS

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TALLON. Mr. Speaker, I am very proud today to rise to commend General Electric Medical Systems in Florence, SC that has been awarded the Positive Employee Practices Institute 1991 Showcase Award.

This GE facility located in my district produces superconducting magnets that are used in medical imaging equipment. In 1988, they implemented a unique and far-sighted management practice that encourages employees to become intimately involved in setting their own goals and priorities. Dramatic increases in employee productivity and marked reductions in the cost of labor and material have brought forth the idea that self-management is the way of the future for American business.

Each year, the Positive Employee Practices Institute [PEPI] presents its showcase awards in three categories—a moderate sized majority U.S. owned business, a plant or division of a Fortune 500 type company and a division of a local, State, or Federal Government organization. The PEPI looks for organizations that exhibit forward thinking initiative that allows its employees to actively participate in the management and decisionmaking process within the organization.

The General Electric Medical Systems facility in Florence has met the challenge to make its employees its best resource. So often in business today, we forget to factor in that intangible resource that will make or break a company—employee morale and involvement. We all know that anyone will work harder toward a goal when given a say in setting that goal. The employees at General Electric Medical Systems, coupled with management willing to take a chance, made this experiment in self management work.

Not only has this innovative idea worked, but it has been wildly successful. Productivity has increased for 3 years straight without hiring additional workers. Per unit overhead costs have decreased 70 percent. Several new products have been rapidly developed and introduced. At the plant, production shuts down for 1 hour each week to allow employees at every level to meet and discuss goals and suggestions.

I am very pleased and proud to stand before you today to congratulate every employee at General Electric Medical Systems. I hope that other organizations will take a cue from GEMS to see that self management will be an important factor in the future of American business.

INTRODUCTION OF RUSSO EDUCATION TAX CREDIT

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RUSSO. Mr. Speaker, today I intend to introduce legislation which will help American families who have been shut out of Federal student aid programs. The bill would give middle-income families a $300 to $500 tax credit for interest paid on student loans.

Federal student financial aid policies have squeezed middle-class students who are ineligible for low-income grants and not wealthy enough to finance their education with cash. Former students who were forced to borrow thousands of dollars to pay for college would receive badly needed relief under this bill.

This legislation provides substantial, targeted tax relief to middle-income taxpayers. Former students, and parents paying for their children's loans, are eligible for a credit equal to 15 percent of their student loan interest paid each year, up to a maximum of $300. Students who borrowed a lot and are now working in low-paying government or community service jobs would get an additional $200 in tax savings. The credit is phased out between $50,000 and $75,000 for former students and $75,000 and $100,000 for parents.

Because a credit is much fairer than a deduction, the bill provides equal tax relief to taxpayers in all tax brackets. And taxpayers who itemize their deductions and those who do not both benefit from this bill.

This legislation will not only help former students and their parents, but will also be a step forward in tax fairness. I urge my colleagues to support the Russo education tax credit.

INTRODUCTION OF THE RONALD REAGAN PEACE DIVIDEND ACT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GINGRICH. Mr. Speaker, today, Rep. JOHN KASICH and I are introducing the Ronald Reagan Peace Dividend Act. This legislation, which is also being introduced in the Senate by PHIL GRAMM of Texas, will ensure that if and when America can further reduce defense spending, those savings will be fully and automatically invested in America's families through tax relief and deficit reduction.

Ronald Reagan's peacetime expansion of our military was a significant factor in bringing about the collapse of the Soviet Empire. In its futile race to match President Reagan's commitment and resolve to military preparedness, the economic resources of the Soviet Union were stretched beyond their limits. More than any other person, President Ronald Reagan created the potential peace dividend our citizens may now reap.

The Ronald Reagan Peace Dividend Act will:

Provide that any savings resulting from reducing defense spending below the defense spending caps specified in the budget summit agreement will be divided equally between tax relief and deficit reduction;

Provide tax relief through an increase in the personal exemption; in fact, one-half of any defense spending savings will be used for tax relief; and

Guarantee deficit reduction by lowering the maximum deficit amount specified under the Gramm-Rudman-Hollings law by half of the peace dividend, while keeping in place all nondefense spending caps specified in the Budget accord.

Real Americans, not government bureaucracy, should benefit from President Reagan's commitment to world stability and the demise of communism.

Mr. Speaker, I commend the Ronald Reagan Peace Dividend Act to your attention.

TRIBUTE TO MR. RALPH EMERY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CLEMENT. Mr. Speaker, I rise today to recognize Mr. Ralph Emery, an individual who has made an invaluable contribution to country music, not as a songwriter, performer, or producer, but as a broadcaster and the universally recognized "Voice of Country Music."

As an interviewer and DJ, Ralph Emery has set a standard of professionalism that today's radio personalities still strive to equal. Among his many achievements in broadcasting, possibly the most renowned was his live late night show carried on AM 650 WSM, a clear channel station broadcasting out of Nashville, TN and the radio home of the Grand Ole Opry. His shows were always filled with spontaneous humor, surprise guests from among the greats of country music, and a warmth and gentleness that made his listeners feel they had a soothing friend who would stay with them, no matter what, through the wee hours of the morning.

Today, as his hectic schedule slows toward retirement, he remains host of a syndicated radio show, WSMV-TV's "Waking Crew," and the Nashville Network's "Nashville Now" among other commitments. More significantly, he retains the loyalty and regard of country music fans everywhere because of his many years of support and dedication to the music they both love so well.

Mr. Speaker, I urge you and the rest of our colleagues to join me in honoring Ralph Emery, an outstanding personality, pioneer broadcaster, and unerring friend of country music.

TRIBUTE TO JAMES R. MOFFETT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, I rise today to pay tribute to James R. Moffett, Chairman of the Board and CEO of Freeport McMoRan. Mr. Moffett will be honored by the Anti-Defamation League at its 78th Anniversary Dinner in New Orleans, Louisiana.

The invitation to this event explains the full extent of Mr. Moffett's contribution to Louisiana; it reads:

"James R. Moffett, known to one and all as Jim Bob, has emerged as New Orleans' top civic leader since his arrival here in 1983. His ascension to the top of the civic ladder is a tribute to his energy, enthusiasm, concern, generosity, intensity and the respect that others have for his views. Seen with perfect hindsight, it was a historic moment for New Orleans in the early 1980's when Mr. Moffett decided to move the headquarters of Freeport-McMoRan from Wall Street to this city. What was clear then was that New Orleans was getting the corporate headquarters of one of America's Fortune 500 companies that was on the leading edge of natural resources development.

What has become clear since then is that under Mr. Moffett's direction, Freeport-McMoRan is the ideal corporate citizen. Freeport-McMoRan is devoted to equal opportunity and education, aggressively seeking the best employees regardless of race, gender or religious beliefs while supporting dozens of educational programs from kindergartens to universities. At every level of the company, Freeport-McMoRan employees are encouraged to participate in the communities where they live. The company annually gives upwards of $7 million to worthy philanthropic endeavors throughout the Metro New Orleans area and Mr. Moffett personally donates $1 million or more each year to his favorite causes. But Mr. Moffett's most important contributions have been in the field of leadership. A founder of the New Orleans Business Council, he helped bring together the area's top corporate leaders to work for the public good. A former chairman of the Chamber of Commerce, Mr. Moffett played a critical role in opening up participation in this group to everyone in the Metro area. Recently, when New Orleans faced bankruptcy, Mr. Moffett's leadership was a critical factor in the passage of a refinancing plan that had previously seemed doomed to defeat.

As ADL Board Chairman, Robert Kutcher says, the force of Jim Bob's personality, his dedication to the community, to human rights and equal opportunity, and to education have enabled him to make contributions to New Orleans that will pay dividends for the next 50 years. We all owe him a debt of thanks.

Jim Bob, and his wife, Louise, are the parents of Crystal, 22, and James Jr., 19.

Mr. Moffett's leadership of Freeport-McMoRan and his work in the New Orleans civic community are true examples of dedication and determination that serve to inspire the many people who witness them.

TRIBUTE TO BERNICE K. ROSE UPON HER RETIREMENT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MOODY. Mr. Speaker, I am privileged to honor Supervisor Bernice K. Rose on the occasion of her retirement from the Milwaukee County Board of Supervisors. Supervisor Rose was first elected to represent the first supervisory district in 1977, succeeding her late husband, Clinton E. Rose, and becoming the first black woman elected to the county board of supervisors. She has been reelected to serve the people of her district four times.

I am pleased that the Lincoln Park Community Center and its executive director, Ruth Varnado, have provided an opportunity for the citizens of the first supervisory district and from the Milwaukee community at large to express their appreciation for Supervisor Rose's many years of dedicated public service and community involvement. The tribute at the Lincoln Park Community Center on December 18, 1991, in which representatives from all segments of the Milwaukee community will join, has been earned through constant and devoted attention to the needs of all of the people of Milwaukee County.

As the chairperson of the county board's housing and community development committee, vice chairperson of the social services committee, and a member of the energy environment and extension education committees, Supervisor Rose's values, ideals and legislative skills have enlivened public debate and shaped public policy. Her intelligence and integrity have set high standards for her successors.

Mr. Speaker, I am pleased to offer my congratulations and best wishes to Supervisor Bernice K. Rose and to wish her good health and good fortune in her retirement.

EFFECT OF CARBON DIOXIDE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CRANE. Mr. Speaker, in a recent broadcast Paul Harvey provided some interesting information on a topic of concern to many of us—the effect of carbon dioxide on the population of this planet. I would like to place Mr. Harvey's broadcast in the RECORD.

TRANSCRIPT OF PAUL HARVEY-ABC NETWORK BROADCAST

The world is overheating. "Depleted ozone will cook us alive." Carbon dioxide will suffocate all of us. Now, such headlines sell a lot of books and magazines. Worse, they are likely to incite anxiety and invite unwise legislation.

Dr. Sherwood Idso is a research physicist for the United States Department of Agriculture. He's one of the world's leading experts on carbon dioxide and plant life, and at the water conservation laboratory of our agriculture research service in Phoenix, AZ, he has been nurturing two separate crops of our orange trees—sour orange trees. One batch has received a double dose of carbon dioxide and those grow three times faster than the others. Dr. Idso expanded his experiments to include an assortment of food crops; rice and wheat and soy beans. Sure enough, double levels of carbon dioxide increase yields an average 40 percent.

Our American farmers have been crediting increased yields per acre to improved fertilizers and pesticides. Perhaps they should also credit increased carbon dioxide in our atmosphere. Human life demands oxygen and food and produces carbon dioxide. Plant life however, demands carbon dioxide in order to produce oxygen and food. Much of the world's plant life, arid areas and the backward nations, have been starved for carbon dioxide. Advanced industrial nations, their industry producing carbon dioxide have enjoyed thriving agriculture. Fossil fuels reinforcing a natural cycle, have been revitalizing our agriculture.

Dr. Idso and his associates, in many fields related to climate change, are now increasingly convinced that any forced reduction in carbon dioxide would be in the worst interest of our planet Earth. Now the human race is soon to add about 3 billion people, and this is the pollution which threatens our planet. Both the United Nations and the Sierra Club agree that over-population is heading us toward mass starvation. Now, if Dr. Idso and his associates are correct, by throttling our use of fossil fuels we may accelerate global suicide. A headline, "The Sky is not Falling" will not sell nearly so many books, newspapers, or magazines. So, the Merchants of Fear will persist, and they will protest that this audit is lop-sided, that it does not include potential unknown negative affects, but all it says is that the scare-mongers have not been acknowledging the known benefits.

WASHINGTON REPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, November 27, 1991, into the CONGRESSIONAL RECORD:

EDUCATION REFORM

In recent meetings with top economists, I have been impressed by how often the topic of education comes up. A major challenge facing the United States today is improving productivity—output per hour worked—because that is the key to maintaining workers' standards of living. Economists increasingly believe that one of the most important ways to boost sluggish U.S. productivity is to improve the schools. And the concern goes beyond economics. Stronger schools mean Americans better able to participate in the workings of democracy, and, most importantly, an improvement in the quality of individual lives.

How Are The Schools Doing? The data on U.S. elementary and secondary education is incomplete and frequently poor. But the overall picture that seems to emerge is that American education declined in the 1970s and improved in the 1980s. Student performance is roughly back to the level of 1970, although SAT math and verbal scores are still lower than they were twenty years ago. High school completion is at an all-time high, and most young adults have mastered basic literacy skills. Indiana ranks 22nd in high school graduation rate; yet it ranks 19th of the 23 states using SAT tests to measure student achievement.

But merely getting back to past levels is no longer good enough. American students still do poorly in international comparisons, especially in higher-order thinking skills. Even our top students do not measure up. In today's increasingly competitive world, the wealth of nations is based more and more on information and knowledge than natural resources. Other countries are making major improvements in their educational systems. The United States needs to do more just to keep pace.

Is More Money The Answer? Some people say that the answer is more money, while others argue that the schools need structural change or just greater emphasis on values and discipline. My view is that the United States need to provide more money for education, but that must be done within an improved system of education—schools that utilize the best methods, are more effectively organized, and reward innovation.

yet significant increases in funding for elementary and secondary education are unlikely in the near future. Some 92 percent of education funding comes from the states and localities, and they have been hard hit by the recession. Many are cutting school funds. In this climate, efforts should at least go ahead with systemic reforms, to get schools organized so that future funding increases can be used efficiently

What Can The Federal Government Do? Improving schools remains primarily a state and local matter. The federal government can also play a role, in a variety of ways.

First, changes in school structure and teaching methods are needed. Many states are experimenting with longer school hours, stronger basic curriculum, cooperative learning, interactive video, magnet schools, more school choice for families, and clearer achievement standards and better assessment. Indiana's Discovery Schools program exempts K–12 schools from state school regulations, allowing them greater creativity and innovation, provided the changes are approved by a majority of parents and teachers, and the schools show positive results. The federal government can assist by publicizing what works, providing grants to states for system reform, looking into ways to narrow disparities in school financing, helping to forge a national consensus on what students should know, and helping to develop better methods for assessing student performance.

Second, top-notch teachers are crucial to improving the performance of schools. Indiana has boosted teacher salaries during the 1980s, and the average teacher salary is now $31,000, which ranks 17th nationally. The federal government can help to draw good students into teaching by helping to cover some of their higher education costs, and could expand its teacher training programs, particularly in math and science.

Third, student motivation is an important factor. Indiana has set up a program to motivate disadvantaged students by guaranteeing that if they stay in school, stay drug free, get good grades and apply for college financial aid, they will receive funding for four years at a state college. On the federal level, one proposal is to link student aid for higher education to assessment of high school performance.

Fourth, greater parental involvement and stronger home environments are needed. By

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one estimate as many as 40 percent of American youngsters begin school at risk of academic failure because of societal problems such as poverty, family instability, and substance abuse. Indiana has put a major emphasis on the very young—through a community-based program of maternal nutrition, child care, and health and family services—to help ensure students enter school ready to learn. The federal government can play a significant role by expanding its Head Start and other pre-school learning programs. In addition, various non-education federal programs—such as anti-drug efforts, teen pregnancy programs, and health an nutrition programs—have a major impact on the ability of students to succeed in school.

Fifth, more involvement by local business and community leaders will help. They can broaden support for school reform and help ensure that students are being taught the kinds of skills needed in the workplace. Indiana will be considering workforce preparation legislation this year. The federal government is helping to develop a list of skills employers think high school graduates should have.

Sixth, public attitudes toward education must be changed. Americans need to become more aware of how critical good schools are to the future of the country, and that investments in the young should not be the first place to make budget cuts. Federal policymakers should continue to focus attention on education policy, and demonstrate that commitment by providing adequate resources.

Finally, perhaps the most important thing the federal government can do is to help provide a strong and healthy economy. The current recession harms education efforts in several ways. It hurts the ability of states and localities to find education programs, weakens the ability of business to provide jobs for graduates, and causes stresses in families ranging from unmet health and nutrition needs to child abuse. The federal government should not just react to these symptoms but help provide an economic environment in which many of these problems do not develop.

BOB JOHNSON

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SANTORUM. Mr. Speaker, I would like to revise and extend my remarks by entering the following article from today's Pittsburgh Press as a further tribute to the late Bob Johnson.

HOCKEY MOURNS THE LOSS OF MAN WHO LOVED GAME

(By Dave Molinari)

Cliff Fletcher never will forget Jan. 7, 1986, no matter how hard he tries.

Fletcher, then general manager of the Calgary Flames, watched his team lose, 9–1, to the Hartford Whalers that night. The defeat stretched the Flames' franchise-record losing streak to 11 games. A season that began with much promise was going sour. Fast.

After the game, Fletcher walked into the visiting coach's office at the Hartford Civic Center. And immediately wondered if he had made a wrong turn.

"If someone had parachuted me into the coach's office and I didn't know the score, I'd never have known we lost that game," he said.

Of course not. The Flames' coach was Bob Johnson, who could find the bright side in the darkest of situations. Blindfolded. A man who considered an 11-game losing streak nothing more than a minor bump on the way to "the top of the mountain," his perpetual destination.

That is why Johnson scoffed at the Calgary media that night for dwelling on "our so-called slump." And maybe, just maybe, why he was able to do the unthinkable last season: transform the Penguins into Stanley Cup champions.

Johnson, 60, died yesterday of brain cancer at his home in Colorado Springs, Colo. He coached the Penguins for only one season but left an indelible imprint on the franchise.

"What he's done for this city and this hockey club in one year is pretty incredible," center Mario Lemieux said. "Nobody would have thought we'd win the cup last year, but with Bob Johnson, everything was possible."

Everything except beating the disease that claimed his life. Even so, those who know Johnson say he fought relentlessly against the cancer from the moment his brain tumors were discovered Aug. 29.

"The last couple weeks were real difficult but he just wouldn't give in until this morning," Penguins Coach Scott Boeman said yesterday.

Johnson died six months and one day after leading the Penguins to their first Stanley Cup, and less than three months after guiding Team USA through its pre-Canada Cup tournament schedule.

"It's hard to believe that three months ago he was behind the bench, coaching," said Fletcher, now general manager of the Toronto Maple Leafs.

True, but it's equally hard to imagine Johnson anywhere else. He was a self-proclaimed "career coach" who was happiest when teaching the game.

"Nothing gave him greater pleasure than being behind the bench and seeing us play well under his leadership," Penguins goalie Tom Barrasso said.

Johnson's coaching career began at Warroad (Minn.) High School in 1956 and stretched through this summer, with a three-year break that began in 1987 when he took over as executive director of USA Hockey, the game's governing body in this country.

Fletcher said he had dinner with Johnson in Bern, Switzerland, during the 1990 world championships and spent two hours trying to convince him to remain with USA Hockey. But the lure of coaching was too strong and on June 12, 1990, Johnson accepted General Manager Craig Patrick's offer to coach the Penguins. Less than 12 months later, there was a Stanley Cup rally at Point State Park.

"I'm sure glad he didn't listen to me." Fletcher said.

Johnson ignored Fletcher's advice because he had decided joining the Penguins would be a good move. Of course, his attitude was that everything falls into one of three categories: good, better and best. There was not a cynical or pessimistic cell in his body.

"I remember when he first came here, the first little while, saying to myself, 'Nobody can be like this. Nobody can be this positive. Up every day," Penguins Defenseman Paul Coffey said. "But he was like that for eight months."

Johnson's enthusiasm infected his players. Left winger Phil Bourque smiled as he recounted this exchange with Johnson at a Manhattan hotel Dec. 3, 1990, hours before a critical game against the New York Rangers at Madison Square Garden. The conversation centered on two of Johnson's passions: good nutrition and good hockey.

"Bourque, are you having your oatmeal?"

"Yeah, I got my oatmeal, coach."

"Good, I want you to be ready."

"Yeah, I'm ready, coach."

"No, I've got a challenge for you."

"A challenge?"

"I'm putting you with the big line tonight."

That meant an assignment alongside John Cullen and Mark Recchi for Bourque, whose confidence and production had been sagging. Bourque responded with three goals in a 9-4 victory.

"For him to put that kind of confidence in me really turned me around," Bourque said.

The Penguins had known for weeks Johnson's condition was terminal, but still were stunned when Patrick told them of his death after practice yesterday.

"There wasn't a word said for the longest time," center Ron Francis said. "The guys just sat there."

"There was just silence for 10 or 15 minutes," Coffey said. "Everybody was out in space, remembering their own Bob Johnson thing."

They were reflecting on the coach who not only taught them how to win, but how to improve the lives of those around them. He showed them the value of sacrificing for the sake of others, be they teammates or family.

"Bob pushed all of us to be the best people we could be, as well as the best players," Barrasso said.

"The bottom line is, Badger was a terrific person," Fletcher said.

"From my standpoint, it's like a relative passing away," said Wisconsin Coach Jeff Sauer, who played for Johnson when he coached the Badgers. "It's certainly a loss for hockey, but it's also a loss for a lot of people who knew him and respected him. He did so much for so many."

Johnson coached high schools in Warroad and Minneapolis and at Colorado College and Wisconsin before moving to the National Hockey League. He devoted his off-seasons to clinics and seminars that developed future generations of players and coaches.

"I owe a great deal of my career to him," Flames defenseman Gary Suter, a native of Madison, Wis., told the Calgary Herald. "As a kid going to his hockey schools, he was like a god to me."

Johnson's genuine love of the game made him one of hockey's most revered figures. Affection for "Badger Bob" transcended team loyalties and division rivalries.

A contingent of New York Rangers, led by General Manager Neil Smith and Coach Roger Neilson, visited Johnson in Colorado Springs the day before he died. The group included goalies Mike Richter and John Vanbiesbrouck, defenseman Brian Leetch and center Corey Millen, all products of the U.S. amateur hockey program.

"Bob was one of the most influential figures in the history of American hockey," said Baaron Pittenger, who succeeded Johnson as executive director of USA Hockey. "His efforts touched almost everyone associated with the game."

"Bob has been such a great influence on a lot of people," Patrick said.

That was particularly true of the Penguins, whom Johnson changed from chronic underachievers to champions.

"He created an atmosphere around our organization that was very family-like," Patrick said. "He was really like the father to our organization."

"A big part of us is gone now," said Bowman, hired as the Penguins' director of player development the same day Johnson joined the team. "What a wonderful relationship. It wasn't long enough."

But one year was enough time for Johnson to make a lasting impression on his players. His life ended yesterday, but his influence will endure.

"I don't think Bob's impact on any player he ever coached is going to be over," Coffey said. "I just feel lucky I had a chance to play for him."

"I don't think it's ever going to be over," left winger Kevin Stevens said. "As long as these guys who were here last year are on this team . . . maybe we should dedicate this season to him. We know he's watching.

"We know there's a place where he can see us . . . you can see him standing on that bench looking down on us, instructing us. That's a good feeling. We should maybe pull together and do it for Bob, because we know he's watching out for us. Hopefully, we can do the same for him."

But for now, hockey mourns the loss of one of its leading proponents, a man who embraced the game as a child and never let go. A man whose love of the sport will be his legacy.

"He always used to say, 'It's a great day for hockey,' " Calgary defenseman Neil Sheehy said, "And the guys would often look at each other and say, 'Well, when isn't it a great day for hockey?' "

The answer, Sheehy said, arrived with word of Johnson's death.

"Today, Today isn't a great day for hockey."

DAVID MARTIN ON YUGOSLAVIA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, I would like to insert the following, written by David Martin, and published in the November 22, 1991, edition of the New York Times.

Mr. Martin is an authority on Yugoslavia, having served there with the OSS in the Second World War, and since has written many books on that area of the world, including "Web of Disinformation: Churchill's Yugoslav Blunder," a critical expose on the complicity of Kim Philby and his circle of Communists in allowing Tito to assume control of Yugoslavia.

[From the New York Times, Nov. 22, 1991]

CROATIA'S BORDERS: OVER THE EDGE—MEDIATORS IGNORE THAT TITO CHEATED SERBIA

(By David Martin)

The European Community, with the support of the U.S., has recommended to the U.N. that sanctions be imposed on Yugoslavia in order to stop the civil war between Serbia and Croatia. The sanctions will go into effect unless both sides agree to a cease-fire and accept the internal borders that existed with the crisis began this summer.

However well-intentioned, the community and the U.S. are misguided in their approach. Yugoslavia's internal borders are the recent inventions of a Communist dictator and have no historical validity.

After the German conquest of Yugoslavia in April 1941, a quisling regime was set up in Croatia under Ante Pavelic and his fascist Ustashe movement. the Ustashe declared an Independent State of Croatia, whose greatly enlarged frontiers extended into territory that had belonged to Serbia, and gave Mr. Pavelic power over a third of Yugoslavia's Serbian population. The Ustashe, not the Croatian people, then embarked on a campaign of terror that took the lives of more than 500,000 Serbs. In addition, many thousands of Jews and gypsies were massacred.

Franjo Tudjman, Croatia's president and a former Tito general, has done little to alleviate Serbians' fear of an independent Croatia. He said last year that the Ustashe regime, which ruled occupied Croatia from 1941 to 1945, "reflected the centuries-old aspirations of the Croat people." A recent article in The Guardian of London quoted Mr. Tudjman as saying he was thankful that his own wife did not have any Jewish or Serbian blood, and that for the Jews "genocidal violence is a natural phenomenon, in keeping with the human-social and mythological-divine nature. It is not only allowed, but even recommended.

Mr. Tudjman's treatment of the Serbs has gone beyond his unfortunate rhetoric. Since Croatia declared independence in June, the Serbs in Croatia have been the victims of a campaign of harassment. Serbs working for the Croatian government were dismissed. Serbian schools were banned. The Victims of Fascism Square in Zagreb was renamed the Square of the Sovereigns of Croatia. Mr. Tudjman's decision to adopt a flag modeled on the Ustashe flag has only made matters worse.

Both sides complain that the war has created large numbers of refugees. But it has been forgotten that the existing frontiers between Croatia and Serbia were arbitrarily drawn by Marshal Tito, a Croat, after he came to power in 1944. Though Tito's borders favored Croatia, they were substantially less expansionist that the Ustashe borders they replaced.

I hold no brief for President Slobovan Milosevic of Serbia—a Communist apparatchik who now calls himself a "socialist"—or for his decision to embark on military action. Mr. Milosevic would be in a much more defensible position today if he had, instead, embarked on a propaganda campaign focusing on the issue of human rights.

The Serbs cannot be blamed for fearing the rebirth of an extremist Croatia. But one must ask the community and the U.S. why frontiers established by a Communist dictator, no matter how much they may violate the more compelling concept of ethnic frontiers, must be considered legally valid for all time.

Political stability cannot be achieved by giving Mr. Milosevic ultimatums. Surely there is a more moral, humane and politically acceptable way of delineating frontiers. For example, shouldn't some provision be made for the use of a plebiscite or for arbitration procedures? Even now, it may not be too late for the community to shift its position in a manner that allows for frontier changes in both directions.

There is much evidence that the Serbian public could favor a compromise settlement. Among other things, there has been little persecution of Croats in Serbia.

It would also be proper for the community, the U.N. and the U.S. to address the question of human rights in both Serbia and Croatia instead of ignoring this question while protesting that they are interested only in greater regional stability.

NEED FOR BONE MARROW DONORS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILMAN. Mr. Speaker, I am pleased to rise today to express my deepest admiration, for a constituent of mine, Jay Feinberg, who is desperately searching for a compatible bone marrow donor.

Jay Feinberg is 23 years old and in June 1991, he was diagnosed with chronic myelogenous leukemia. The only potential cure for this dreadful disease is a bone marrow transplant. Without one, Jay will die because chemotherapy does not alter the natural cause of this disease.

Mr. Speaker, an estimated 82,600 American children and adults are stricken each year with leukemia, aplastic anemia or other fatal blood diseases. For many, the only hope for survival is a marrow transplant. Nearly 70 percent of those afflicted cannot find a suitable match within their own families. These patients need to find unrelated donors—people who have offered to give the living gift of life to a specific patient in need. As the pool of potential marrow donors increases, so do the odds of a match for the thousands of patients in need. The chance that a patient will find a matching, unrelated donor in the general population is between one in a hundred and one in a million.

Currently, there are only 89,000 donors registered throughout our Nation. We need more than 100,000 donors to improve the odds of finding donors for the current list of potential beneficiaries.

It is crucial that the public be made aware that they have it within themselves to save lives. To be typed as a potential bone marrow donor only requires a small and simple blood test. If a volunteer is identified as a match, the donation itself requires only 2 to 5 percent of the body's marrow, which regenerates in full within 3 weeks.

The requirements to be a marrow donor are few. To be a marrow donor, you must be between 18 and 55 years old and be in good health. All it takes is 10 minutes and two tablespoons of blood to join the National Marrow Donor Program Registry. Those interested in becoming donors should contact the National Marrow Donor Program at 1–800–654–1247.

Mr. Speaker, I urge all of my colleagues to give this kind of a "living gift of life."

A TRIBUTE TO MRS. JEWEL SIMPSON HOUSTON

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FLAKE. Mr. Speaker, I rise to pay tribute to a woman who has spent the greater part of her life working to mold the lives of young people through her unselfish and tireless work as a teacher, counselor, missionary, mother, and friend.

I have known Mrs. Houston all of my life and would probably not be a Member of Congress had she not been such a positive influence in my development. As the supervisor of the Young People Department of the African Methodist Episcopal Church, during my youth in Houston, TX, she taught me public speaking so that I could participate in debates and other church-related activities throughout the State. She guided me into roles as conference branch president of the Young People Department, the Richard Allen Youth Council and the conference Sunday School.

When I entered high school at Aldine-Carver High School, Mrs. Houston was my history teacher and demanded excellence. She also required that I work for her in the school bookstore for 1 hour each day, where I learned both work skills and study habits. Most of this time was spent doing my homework under her watchful eyes. Many afternoons and Saturdays were spent traveling with Mrs. Houston throughout the State of Texas to participate in youth conferences, workshops, and other church-related activities. She represents the epitome of teaching excellence and Christian living and is a tremendous role model for many youth.

Mrs. Houston's commitment to youth is best expressed in this statement which she made on March 12, 1973:

> "The thirty-four years of working with young people have not blurred my vision of seeing the gleam of hope in the eyes of every person who seeks and obtains knowledge. It is my strong belief that each individual has a need to be aware of his/her self worth and the contribution he/she can make to a wholesome society. To this end, I worked hard to have an understanding of human behavior and the motivations and emotional patterns underlying this behavior.
>
> This philosophy helped to make my stay in the educational field pleasant and I am still excited about the growth and development of people.

Mrs. Houston, the wife of Melvon Lee Houston, Sr., is the mother of three children: Barbara Stewart and Avanell Demart, both public school instructors, and Melvon Lee Houston, Jr., a graduate of the University of Colorado. In her daily work as a high school counselor, Mrs. Houston served her students with love, justice, and compassion. She gives much credit to her late mother, Mrs. Pearl Simpson-Boyd for instilling in her the spirit of gratitude to the Supreme Father.

Mrs. Houston received her Bachelor of Science degree from Houston College for Negroes, Houston, TX. Her graduate education was completed at Texas Southern University where she received her masters of science degree. She furthered her studies at the University of Southern California in economics; San Francisco State and Prairie View A&M University, emphasis in guidance and counseling. She is certified and licensed by the Texas State Board of Examiners of Professional Counselors, Austin, TX.

Mrs. Houston's work experience includes the following jobs:

1951–1965—Elementary and secondary classroom teacher in the areas of English, math and social studies, Aldine School District;

1965–1975—Academic and vocational counselor, G.W. Carver High School, Aldine District;

1975–1985—Academic counselor, Eisenhower High School, Aldine District;

1985—Retired with 34-years of educational services;

I am pleased for this opportunity to pay tribute to a wonderful human being who has made many significant contributions to society by helping young people realize their full potential. Furthermore, I am proud to be one who has benefited by her guidance, love, and support in my personal pursuits.

BELL CO. RESTRICTIONS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, last week the Secretary of Commerce wrote to the chairman and several members of the Energy and Commerce Committee in opposition to the bill H.R. 3515, declaring that if the bill as currently drafted were presented to the President, a veto would be recommended.

Efforts will continue to be made during the next several weeks to obtain cosponsors on this bill and on its Senate companion measure (S. 2112), and I wanted to call to the attention of my colleagues the details of the Mosbacher letter before they make a decision on whether or not to sign on to these bills.

As can be seen, the Secretary of Commerce agrees that promotion of local exchange competition has merit, but there should not be undue restrictions placed upon Bell Co. participation in information services. I continue to believe that safeguards are important and I would recommend going farther than Secretary Mosbacher recommends. But those in H.R. 3515 constitute a mutual ban on telcos participating fully in the vital, new technology.

I commend the text of the letter to my colleagues:

THE SECRETARY OF COMMERCE,
Washington, DC, November 18, 1991.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the views of the Department of Commerce on the "Telecommunications Act of 1991" (H.R. 3515). This legislation establishes a series of detailed restrictive rules governing Bell Company entry into information services. Accordingly, if the bill as currently drafted were presented to the President, I would recommend that he veto it.

As you know, the information services restriction of the AT&T Consent Decree was recently terminated in court proceedings, freeing the Bell Companies to enter the information services market. H.R. 3515 would, in effect, reverse substantial parts of the court's decision by establishing a number of preconditions on a Bell Company's provision of information services in its service area. Included among the preconditions is the presence of local exchange competition in the service area, based upon numerical formulae contained in the legislation. The immediate and, in our view, unwarranted effect of these threshold conditions would be to prohibit Bell Company entry into the information services market for the foreseeable future.

The Department of Justice has argued, and the courts have now ruled, that preconditions and restrictions of the type proposed by H.R. 3515 are not necessary as a matter of antitrust policy to allow the Bell Companies to offer information services. The Department of Commerce has reached similar conclusions on communications policy grounds in its recent Infrastructure Report: "Telecommunications in the Age of Information." While promotion of local exchange competition has merit, the overall approach of the bill is unduly restrictive with respect to Bell Company participation in information services.

Moreover, regulatory safeguards on Bell Company provision of information services are already in place. Regulatory safeguards aimed at preserving competition and preventing unlawful cross-subsidies are in place at the Federal Communications Commission, designed to ensure that the Bell Companies' unregulated businesses are appropriately separated from their regulated services. State regulatory agencies also maintain substantial oversight over the local exchange operations of the Bell Companies. About three-fourths of the Bell Companies' telephone exchange services are regulated by the states. Thus, state regulation further reduces the need for extensive, restrictive measures such as those proposed in H.R. 3515. Legislatively mandating detailed safeguards can prove inflexible over time as conditions change. Therefore, the Department opposes these provisions of the bill as well.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of these views.

Sincerely,

ROBERT A. MOSBACHER.

A TRIBUTE TO "EL REY," TITO PUENTE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a man who is the undisputed king of the Latin beat—Tito Anthony Puente. This exceptional musician, popularly known as "El Rey," which means "the King" in Spanish, has produced more than 100 albums over a period of four decades. Throughout this time, Tito Puente has made singular musical and cultural contributions not only to our nation but to the world.

Tito Puente is a highly talented man: He plays the piano, saxophone, vibraphone, marimba and the timbal. He first undertook the study of an instrument at the age of 7 when he began taking piano lessons. At 13, Tito Puente started working as a drummer and by the time he was 16 he played in a band full-time. Following his service in World War II, Tito Puente attended the Juilliard Conservatory of Music. Shortly thereafter, in 1948, he formed his first band, the Picadilly Boys. From this point on, Tito Puente's reputation as a master bandleader, composer and percussionist skyrocketed.

By combining jazz and Afro-Cuban music, Tito Puente created a unique sound that has attracted a large worldwide following over the past 40 years. Today, mambo and salsa are

listened to and danced to everywhere and there is no question in anyone's mind that Tito Puente is the absolute king of this music. After all, very few musicians can claim more than 100 albums to their name within such a short period, if at all. Thus far, Tito Puente has received four Grammy awards, a New York City Music Award as well as a star on the Hollywood Walk of Fame for his outstanding musical achievements.

But through his music, Tito Puente has also made extraordinary cultural contributions. By fusing rhythms derived from different cultures, Tito Puente has helped weaken cultural barriers and thus encouraged intercultural relations. His music has always attracted a variety of people from differing cultural backgrounds who have come together to share their enjoyment of mambo or salsa; thereby providing a common ground upon which a mutual understanding among different cultural groups can develop. In addition, over the past 10 years, Tito Puente has sponsored a scholarship program that enables musically talented young people to attend Juilliard and other music schools.

Tito Puente has dedicated his life to music and in so doing he has brought a lot of joy to the lives of many people. He has not only made significant contributions to the evolution of music but he has also promoted an increased cultural awareness and understanding. Mr. Speaker, please join me in paying tribute to Tito Anthony Puente, the one and only "King of the Latin Beat."

A SALUTE TO THE RECYCLING PROGRAM AT MOUNT RAINIER NATIONAL PARK

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CHANDLER. Mr. Speaker, I would like to take a few moments to publicly congratulate the National Park Service for implementing an innovative recycling program at five of its national parks, including Mount Rainier National Park in my home State of Washington.

Each year, thousands of Americans visit Mount Rainier National Park. Some climb the mountain and hike its trails, while others enjoy the mountain's magnificent beauty over a picnic lunch.

No matter the reason for visiting the park, one thing most visitors leave is trash. To better serve the park's visitors, and promote recycling throughout our Nation, Mount Rainier National Park began its recycling program of plastics, glass and aluminum in late August—a step that has led to the recovery of more than 11,380 pounds of recyclable material.

In addition to being the impetus for other recycling projects in the Pacific Northwest, the recycling program is an example of how public-private partnerships can produce positive results for local communities.

The Dow Chemical Co. is fully funding and implementing the recycling programs at Mount Rainier National Park and four others around the Nation. Dow is committed to plastics recycling growth and to helping more Americans become involved in recycling efforts.

Mr. Speaker, I want to personally commend the National Park Service and the Dow Chemical Co. for its innovative recycling program at Mount Rainier National Park. It is my sincere hope that their leadership promotes other recycling programs around the Nation.

IN HONOR OF THE CHAMPION QUAKER VALLEY SOCCER TEAMS

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SANTORUM. Mr. Speaker, resting in the Ohio River Valley about 12 miles northwest of Pittsburgh, on the north shore of the river, are the communities of Osborne, Sewickley, Edgeworth, and Leetsdale. These communities, along with Sewickley Heights, Sewickley Hills, and Fair Oaks, make up the Quaker Valley School District. The enrollment at Quaker Valley High School this year was 375 students. As a comparison, many of the other high schools in the Pittsburgh area have enrollment numbers like 800, 1,500, even 3,000. How could this school hope to be competitive on the sports field with schools outnumbering them 2, 3, or even 5 to 1?

Well, there's one sport where Quaker Valley, or "QV" as they are locally known, packs a punch far outweighing their size. That sport is soccer. On any given late afternoon in September or October, if you were to drive down Route 65 south toward Ambridge, you might see a group of 30 or so young men darting around the grassy expanse behind Quaker Valley High School. There are no fancy stadiums for the Q.V. boy's soccer team, though they often visit them to play their opponents. The "home field advantage" at Quaker Valley is two splintered bleachers full of students and parents, plus whoever can line up around the sidelines.

This humble setting, however, has once again become the home of champions. A beat up, yellow kickboard in the corner of the Q.V. field reads, "Quaker Valley Soccer—1985 AA State Champions". Well, it is now time to add to that proud sign, "1991 AA State Champions". After losing their first game in early September, the Q.V. boy's soccer team posted 26 straight wins to capture the Class AA Section 9, WPIAL, and PIAA titles. But that's not all.

There's another soccer power in the valley this year, and they come from the same school. The 1991 Quaker Valley girl's soccer team has ended their season with a perfect 23–0 record, the WPIAL championship, and a final ranking by National Soccer Coaches Association of America as the No. 1 high school girl's soccer team in the Nation. The final victory for the year, the WPIAL title match, came against perennial girl's soccer power Mt. Lebanon. The winning goal was scored on a direct kick by Liz Gaadt with 13:07 remaining in the game. Head coach Dom Vezza said after the game, "It was a classic ending to the season."

The 1991 Q.V. girl's soccer team was captained by four-year letter winners Emily Bikowski, Julie Poister, and Bridget Sullivan. Goalkeeper Liz Neidlinger recorded 18 shutouts for the year, and Julie McDaniel came in as the leading scorer with 31 goals and 8 assists. Other members of the champion Quaker Valley girl's soccer team include fullbacks Tina Jordan, Kari Wheeler, Jill Moody, and Kathy Seymour. At halfbacks for the year were Ann Tirimacco, Angel Vezza, Christie LaForte, Jen Tedesko, Carrie Bikowski, and Christin Norris. The rest of the varsity roster includes Kara Gensich, Rachel Stroup, Katie Hayes, Ashley Hoehl, and Lisa Tirimacco. Head coach Dom Vezza was assisted throughout the season by Mr. Richard Clark.

For the Q.V. boy's soccer team, the road to the state title began behind the high school in the sweltering heat of August. Head Coach Gene Klein, who has now mentored and trained eleven Q.V. teams, knows that the road to excellence is not an easy one. From the first day of practice, Coach Klein keeps his players on a steady diet of timed runs, figure 8 drills, suicide sprints, and hill climbs. The fundamentals are emphasized again and again, and each activity is closely tied to an essential skill needed for the big game.

And this year the big games did come, and Q.V. was ready. After winning the WPIAL AA title with a decisive 4-0 victory over South Park, the Quakers set their sites on Shippensburg. After three preliminary state playoff victories, the pinnacle moment came against Holy Ghost Prep, a private school which draws talented athletes from all over Philadelphia. Holy Ghost showed impressive speed and determination, but the Q.V. defense held fast while the forwards kept the pressure going up front. The decisive action came after a Holy Ghost handball violation early in the second half. Q.V.'s Ben McKnight was called upon to step into the penalty box and rise to the occasion. His instep shot to the lower left corner notched the goal, the game, and the championship season for the Quakers.

The captain of the 1991 Quaker Valley boy's soccer team was defender Jeff Vorberger. McKnight was co-captain and leading scorer with 40 goals and 11 assists. Forward Phil Oxendine placed second in scoring with 31 goals and 10 assists. Goalkeeper Mike Birely allowed only one goal throughout the state playoffs, and was assisted by defenders Kevin Kress, Keith Kelly, and Peter Knoll. Starting midfielders included Seth Perkovich, Colin McLaughlin, and Dan Gebhardt, with Noah Rahm joining Oxendine at forward. Other varsity players included Justin Glessner, Arman Fenger, Chris Lockerman, Sean Galagher, Zander Shaw, Clint McFarland, Stevan Popovich, Pete Peduzzi, John Rickert, Jason Novak, and Frank Dickson. Assisting Coach Klein for the year was his brother, Mr. Steve Klein, as well as Mr. Scott Riemer, and Mr. Ron Hitchens. Kathy Finneran provided service as team trainer throughout the year.

To all the players, coaches, parents, and supporters of the 1991 Quaker Valley boy's soccer team and girl's soccer team, I again extend my warmest congratulations!

BLACKSTONE-MILLVILLE JUNIOR-SENIOR HIGH

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. EARLY. Mr. Speaker, I am pleased to bring to the attention of my colleagues in the House an outstanding achievement by the Blackstone-Millville Junior-Senior High School in Blackstone, MA. From September 14, 1974 through this date the school's cross country team has won 251 consecutive dual meets. This streak has been confirmed by the National Federation of High Schools of Kansas City, MO as the longest high school winning streak in history in this sport.

The accomplishments of almost two decades of students at this school are unique. Blackstone and Millville are small towns. They have established and nurtured a tradition of excellence which is best demonstrated by the achievements, over a 17-year period, of the school's cross country teams. During the lengthy streak there have been only two coaches: Michael Cronan and Kevin Maloney. It is hardly surprising that this team, unlike so many professional sports teams, has had little turnover in its coaching staff. The longevity of the coaching tradition is proof of the value of the axiom: "If it isn't broke, don't fix it."

I know that the residents of these two small towns are rightfully proud of what has been achieved. It is now a tradition of such longevity as to span generations and be a part of the social fabric which holds these communities together. Watching this team compete has been and remains a happy occasion for residents of both towns. It's always fun to watch the home team win.

In conclusion, I add my personal best wishes and congratulations to all the students, faculty, parents and friends, within these two small towns, who have contributed to this landmark achievement. Indeed, if this team is fortunate enough to extend this streak another 47 wins, the streak will become the longest win streak in history in any sport, by any high school team.

KODIAK NATIONAL WILDLIFE REFUGE

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SARPALIUS. Mr. Speaker, in Alaska, the Kodiak National Wildlife Refuge is the world's premier wildlife preserve for nearly 3,000 giant brown bears. Commonly known as Kodiak bears, these dark coated grizzlies have peacefully fed off the island's plentiful salmon for over 50 years. But, as he did 50 years ago, man is once again coming into conflict with the great Kodiak bear.

The continued poverty of the native peoples on Kodiak Island has caused them to begin to commercially develop their extensive land holdings within the refuge. Tragically, the commercial development of Kodiak Island threatens to destroy the habitat of Kodiak's famous bears. But, Congress can save the Kodiak bear without spending a lot of money. The option exists to swap native land on Kodiak Island for U.S. Government land holdings. This solution meets the demands of native land claims, but saves some of our vanishing wilderness for the Kodiak bear.

Too often, we wish we had acted to save our wilderness before it was too late. On Kodiak Island we have a chance—a chance to save the habitat of the Kodiak bear and a part of Alaska's untamed wild.

REFORM THE SUPERFUND PROGRAM

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ZIMMER. Mr. Speaker, nine years ago this month, the Environmental Protection Agency designated a farm owned by Neil Myers in Franklin Township, NJ, as a Federal Superfund site. Today, Mr. Myers is still waiting for the site to be cleaned up. And, based on current reports, it will be years before the cleanup is fully completed. As Mr. Myers says, "I was 40 when I bought the farm and I'll be 60 on my next birthday. I just hope they get it cleaned up in my lifetime."

The story is similar at the DeRewal Chemical Co. site and the Fried Industries site, and the JIS Landfill. In fact, there are 12 Superfund sites in my district, most of which have been on the National Priorities List for nearly 10 years. Yet, cleanup is completed at just one of them.

It is becoming clear that Superfund, however appealing in theory, is not working. Rather than cleaning up sites quickly and effectively, this hazardous waste cleanup law is leaving a bitter legacy of suspicion, cynicism, and anger among all who have been exposed to it.

The biggest losers are those who live near these sites. But there are other losers as well. Government loses as people become even more skeptical about its ability to tackle the great problems facing our Nation. Business loses as it spends limited resources in unproductive battles over who should pay how much to clean up these sites. The biggest loser is the environment as needed soil and groundwater cleanup actions are unconscionably delayed.

When Congress enacted Superfund, it thought it was passing a law to clean up hazardous waste sites. But instead of cleanup, a substantial portion of Superfund resources are spent trying to raise money from the private sector, municipalities, nonprofits, and others. Vast sums are frittered away in bureaucratic battles and lawsuits, all relating to what should be done, who should pay for it, and how much each party should contribute.

There is a lot of activity, lots of studying, lots of testing, lots of lawsuits, but precious little actual cleanup.

Mr. Speaker, it is time to fix Superfund. It is time to give the American people a program that works, rather than clinging to a failed theory.

In a recent opinion piece in the Washington Post, noted environmentalist Jessica Mathews, vice president of the World Resources Institute, said "too much of the money—in Superfund—is being wasted. To date, more has been spent on legal briefs than bulldozers. . ."

IN MEMORY OF FRED BEAR

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BOEHNER. Mr. Speaker, memorialized as the father of modern bowhunting, Fred Bear was a legend in his own time. Indeed, bowhunting's present day popularity is a measurement of Mr. Bear's long-term involvement in the sport. He was one of bowhunting's most eminent innovators, advancing the sport to unprecedented levels. Veritably, having been regarded as bowhunting's premier ambassador, Fred Bear is deeply missed by sportsmen the world over. Therefore let us commemorate the sport which so inspired Mr. Bear's complete commitment.

THE SPORT OF BOWHUNTING

Long ago, man's survival was contingent upon his hunting ingenuity. Consequently, the bow-and-arrow were first fashioned in ancient times, and bowhunting proved to be an effective means of obtaining food.

Today, the sport of bowhunting serves additional purposes. In its relationship to wildlife conservation, bowhunting is an indispensable to wildlife conservation, bowhunting is an indispensable tool. Game management is essential to the continuation of numerous wildlife species, and hunting is a time-tested method of controlling game. Without bowhunting, wildlife conservation would surely suffer.

The bowhunter's contribution to wildlife conservation, however, does not begin or end in the field. By purchasing hunting licenses, paying taxes on sporting equipment, and donating funds to the cause, the hunter further assists the effort to preserve wildlife. Annually, the hunting sports generate millions of dollars for wildlife conservation.

Throughout the year, bowhunters reap great rewards from their sport. Afield, the bowhunter enjoys a special proximity to nature. The sport of bowhunting enhances one's connection to the great outdoors, providing the participant with an opportunity to better understand his or her environment. At other times, the bowhunter may partake in the many varied activities associated with archery.

Around the world, bowhunting is an ever-increasingly popular sport. In the United States, there are more than two million bowhunters, and our nation's bowhunting community is expanding each year. Across the country, there are a monumental number of bowhunting clubs, affiliated organizations, and related wildlife conservation groups. Bowhunting events, held in most States on a regular basis, continue to attract people of all ages. Bowhunting target-shoot-tournaments are a favored form of family recreation.

Admirably, bowhunter education programs are available to the public in a widespread

manner. Countless volunteer instructors, who are certified to teach hunter safety, give much of their time to this concern, exemplifying the bowhunter's dedication to our outdoor traditions.

Ultimately, having endured throughout the ages, bowhunting's future health and growth will be determined by man's own sense of his surroundings. In light of that fact, bowhunters persist in their endeavors to extend man's awareness of bowhunting's merits. Their goal is supported by wildlife conservationists everywhere, who know that bowhunting is a gratifying sport—a truth, with which the estimable Fred Bear was so well acquainted. The sport of bowhunting will forever be deserving of acclaim.

EUNICE LIBERTY: A LEGEND IN EDUCATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEHMAN of Florida. Mr. Speaker, today I rise to honor a woman who has dedicated 40 years of her life to the most important task in our society—educating our children here in Dade County. Eunice Liberty has not only committed herself to teaching students the traditional subjects, but she has instilled a sense of history, culture, and character in those she has taught.

Eunice Liberty shines as an example of the ideal educator. She is one of the finest examples of a profession which by its very nature attracts caring and dedicated individuals. From my experience as a former high school teacher and as a member and chairman of the Dade County School Board, I can truly appreciate the magnitude of her achievements.

I would like to share with my colleagues an article detailing the distinguished accomplishments of my long-time special friend, Eunice Liberty, as an educator and as an active member of our community. She has had a positive influence on thousands of young people through her endeavors and is truly deserving of the title—Teacher.

FOR CHILDREN'S SAKE

(By Lydia Martin)

Eunice Liberty was barely 7 when she rolled up her sleeves to help her mother with the stack of laundry she took in daily.

She was 12 when she boarded a train in Plant City, waved goodbye to her family and left for Daytona Beach in search of an education.

She found a lot more than that at the Mary McLeod Bethune Normal Industrial Institute for Negro Girls. Liberty spent only seven months in Bethune's classroom, but she has dedicated a lifetime to carrying on the educator's legacy.

It is what keeps Liberty going—even now at 87, when she depends on a walker to get around.

For the 22nd year, Liberty is helping to coordinate a county-wide writing, speech and art contest that honors Bethune.

It used to be a project of the Miami chapter of the National Council of Negro Women, of which Liberty is president emeritus, but the chapter has been dormant for more than a year, said Georgia Jones Ayers, the last president to be elected by the group.

Liberty helps coordinate the contest with Dade County Public Schools. She does most of the work from her home.

For Liberty's contest, students base their entries on the words of Bethune's will, of which Liberty keeps a tape recording:

"I leave you love," Bethune said. "I leave you hope. I leave you the challenge of developing confidence in one another. I leave you a thirst for education. I leave you a respect for the use of power. I leave you faith. I leave you racial dignity. I leave you a desire to live harmoniously with your fellow man. I leave you, finally, a responsibility to our young people."

Though Liberty is a widow with no children of her own, the retired schoolteacher has never lost her sense of responsibility toward young people.

"What I do, I do for the children. I am trying to make sure they get the message, that they understand how important it is for them to become educated," Liberty said.

Ayers said of Liberty: "She loves the legacy of Mrs. Bethune. And she deserves accolades for what she has done over the years."

On Thursday, Liberty opened her Liberty City home to a group from Olinda Elementary School.

She talked to them about local black history and about Bethune, whose school for girls later became Bethune-Cookman College.

Liberty knows how hard it can be to secure a good education.

Liberty's mother took in load after load of laundry to make enough money to send Liberty to school. There were no schools for black girls in Plant City, near Tampa.

Seven months after arriving in Dayton Beach, Liberty became ill and the money her mother managed to scrape together started running out, so she went back home.

"My mother was the first of 16 children. She and my father separated when I was 5 years old. My sister was two years younger. We were poor, but my mother worked hard to make sure I got an education. You could say I came up the hard way."

But Liberty never gave up her dream of getting a good education. She eventually went to Florida A&M University in Tallahassee, became a teacher in 1927 and—in mid-career—earned a master's degree from New York City's Columbia University in 1950.

Liberty arrived in Miami in the early 1930s to take a teaching job. She retired after nearly 40 years in Dade schools, 23 at Douglas Elementary at Overtown.

Even now, she is concerned about the future of Miami's children and is looking for a way to pass on her work and Bethune's legacy. Liberty has spoken with her lawyer about finding a way to donate her house to charity, but no other plans have been made to turn the house into a historical site.

"I want to leave my house to the community," she said. "I want there to be a center here where the children can come to learn about their history and learn that no matter where we are from, we can learn to get along."

A POSTHUMOUS TRIBUTE TO MRS. GLADYS L. GRICE

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FLAKE. Mr. Speaker, I rise to pay tribute to a woman who was my elementary school teacher in the third and the fourth grades. Mrs. Grice was an extraordinary human being by virtue of her ability to love each of her students as if they were her own.

Because of her fulfilling the function of an in loco Parentis, Mrs. Grice demanded discipline and excellence from each child. She did not accept excuses for lack of performance. Instead, she set high goals and standards which her students were required to reach. Her creativity was limitless as she taught her students to be more creative as they explored various educational pursuits. No student was allowed to work below their potential.

I met Mrs. Grice when I was 8 years old when my parents enrolled me in the third grade at the Korhville Elementary School. Korhville was a four-room school consisting of eight grades. Therefore, when I finished the third grade, I merely moved to the other side of the room to fourth grade. The school was the only one for Blacks in the Klein School District and therefore we rode a bus 16 miles, past three white schools, in order to get to Korhville. Thank God for Mrs. Grice who drove about 100 miles from Grapeland, TX to greet her students.

Although the books and materials at Korhville were second-hand (they had been previously used in the white schools first), the quality of education from the teachers, Mrs. Grice, Mrs. Dawson, Mrs. Valentine and Mrs. Livingston, who was the teaching principal, was first class.

In the second semester of my fourth grade year I was stricken by a severe rash which made it impossible to attend school. Mrs. Grice would make the sacrifice of driving 16 miles out of her way each Friday to deliver and pick up my homework and assignments, and then drive back through Korhville to Grapeland accompanied by her daughter, Edwina. She and my mother developed a very good relationship during this period and when my mother died, she came to support my family by driving our relatives to the wake and subsequent funeral. She was a very special person in my family's life.

Mrs. Grice was educated at Houston-Tillison College receiving a degree in home economics. She subsequently received her masters in special education from Prairie View A & M College. In addition, teaching at Kohrville, she taught at Aldine-Carver High School and as home demonstration agent in homes in the Shepherd, TX area during her 30-year career. She was skilled in homemaking, arts and crafts, upholstery and used these gifts to teach her students skills which would help them get jobs after school.

Most of all, Mrs. Gladys Grice was a good wife to her husband Edward, a loving mother to Edwina, Linda and Edward Jr., and a caring, compassionate, dedicated educator to me and the hundreds of other students who were privileged to know her.

TRIBUTE TO MRS. VALERIE NICHOLS-DABBS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TOWNS. Mr. Speaker, I am pleased to commend Mr. Valerie Nichols-Dabbs for her tireless efforts on behalf of senior citizens of Brooklyn. A native of Queens, NY, she graduated from Flusing High School and Brooklyn College, and began working for the New York Department of Welfare as a caseworker in 1965. In 1973 she went to work for the Diana H. Jones Senior Citizen Center as its assistant director, and became its director in 1983.

Mrs. Dabbs realized her goal of retirement in September 1991. She has remained active by serving as the program officer for the New York Department of Aging. She resides in Queens and is enjoying life with her husband and son. I am immensely proud to highlight the achievements of this truly outstanding human being. The lives of the senior citizens at the Diana H. Jones Senior citizen Center have truly been enriched as a result of her efforts.

NAGORNO-KARABAKH AUTONOMOUS OBLAST

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, as we are all aware, the collapsing central authority of the former Soviet Union has brought about a demand by peoples throughout the country for observance of human rights and self-determination. Unfortunately, this collapse has also led to strife and armed conflict between various peoples of the former Soviet Union.

One of the most serious outbreaks of armed conflict has taken place in the Nagorno-Karabakh Autonomous Oblast, an enclave in the Republic of Azerbaijan with a majority Armenian population. Both Armenia and Azerbaijan claim historical rights to the region and, according to official statistics, over 450 civilians and 86 military personnel have died in the fighting over the past 4 years. Beginning in April 1990, the Armenian population of Nagorono-Karabakh has in particular suffered from attacks and deportations by the Soviet Army and para-military forces of Azerbaijan. Moreover, Armenian villagers living in Azerbaijani territory outside Nagorno-Karabakh have been forcibly deported to Armenia by Soviet Army transports.

Recently, the Governments of Azerbaijan and Armenia have stated a desire to resolve the Nagorno-Karabakh crisis, and, through the arbitration efforts of President Yeltsin of Russia and President Nazarbayev of Kazakhstan, signed the Zheleznovodsk Communique of September 23, 1991, the provisions of which are designed to lead to a favorable resolution of the conflict.

Though the recent peace initiative brokered by Presidents Yeltsin and Nazarbayev offered some hope of a settlement, fighting has been renewed on both sides. Moreover, recent moves by the Azerbaijani Government have not been encouraging. On November 4, 1991, the gas pipeline through Azerbaijan to Armenia was cut off, causing major energy shortages in Armenia. A representative of the Azerbaijani mission in Moscow stated openly that the move was done to force Armenia to recognize Azerbaijan's claim to Nagorno-Karabakh. And the possibility of even more serious conflict has been heightened by an unexplained helicopter crash over Nargorno-Karabakh that took the lives of at least 21 persons, including 2 high-ranking Azerbaijani officials. Already, there have been demonstrations in Azerbaijan calling for retaliation against Armenia, together with threatening statements by the President of Azerbaijan.

On October 23 of this year, the Helsinki Commission, of which I am pleased to serve as Chairman, held hearings on the Nagorno-Karabakh crisis. The hearing addressed the causes of the conflict and the further possibilities for a peaceful resolution of the dispute. Representatives of both the Armenian and Azerbaijani Governments testified, along with the prominent human rights activist, Baroness Caroline Cox, a deputy speaker of the British House of Lords, who has led three delegations of international observers to Armenia, Azerbaijan, and the Nargorno-Karabakh region.

In her testimony, Baroness Cox outlined a series of humanitarian proposals on Nagorno-Karabakh that should complement the Zheleznovodsk Agreement. Dr. Elena Bonner, another witness at our October 23 hearings, also provided her valuable suggestions. These proposals, if implemented, would go a long way toward alleviating the human suffering that has taken place in Nagorno-Karabakh. I would add also that these measures were endorsed by Mr. Mekhtiyev, a deputy of the Azerbaijani Supreme Soviet, who testified at the Helsinki Commission hearings.

I, along with my colleagues, Congresswoman BOXER, Congresswoman MORELLA, and Congressman RITTER, have introduced a resolution that calls upon the Government of the United States to support and encourage several steps based upon Baroness Cox' recommendations. As I noted above, we believe that this plan of action, if conscientiously followed, could do a great deal to help resolve the Nagorno-Karabakh situation, and we hope the Administration will lend its active support to these proposals.

I urge our colleagues to support this resolution.

IN SUPPORT OF H.R. 3909, EXTENDING CERTAIN EXPIRING TAX PROVISIONS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GUARINI. Mr. Speaker, I rise today in support of H.R. 3909, which extends for 6 months a group of 12 tax provisions scheduled to expire by or before the end of 1991. This legislation is similar to H.R. 3752, which I introduced on November 12, 1991, along with 12 of my colleagues on the Ways and Means Committee, except that my legislation would have extended these provisions for 1 year.

Given the current state of the economy, this legislation is crucial. Although legislation designed to stimulate economic activity has been introduced by the administration and by various Members of Congress, there is as yet no consensus—beyond agreement on a much needed extension of unemployment benefits—on how to bring the country out of this lingering recession. As a result, none of the bills that might be of benefit to the economy in creating new jobs and growth are likely to be acted on this year.

At the same time, the tax provisions that are the subject of this legislation are currently adding economic benefit by, among other things, encouraging research and development activities, stimulating the construction of low-income housing, assisting first-time homebuyers, educating our work force, and promoting the employment of the structurally unemployed. These significant economic benefits will be lost if we allow the tax incentives to expire.

One provision that is particularly dear to me is employee educational assistance. Right now, literally thousands of American workers are waiting to learn whether or not they can take classes that will enable them to improve their ability to support themselves and their families. These are not high rollers, but are hard-working, average Americans, most of whom earn less than $30,000 per year; over one-third earn less than $20,000.

One such worker that the Ways and Means Committee heard testimony from this year was Debbie Ireland of Hewlett-Packard. Ms. Ireland was a single mother earning about $15,000 a year as an assembly-line worker. With no training and no job skills, she couldn't find a higher paying job. Luckily, she worked for an employer who provided educational assistance under section 127. She will graduate from college next May and now makes about $20,000. This is what educational assistance can mean to average Americans.

Although I am pleased that we finally acted on these provisions, it was very unfortunate that we only extended these provisions for 6 months. Corporations will find it difficult to budget R&D expenses for just 6 months. Individuals going to school do not go for just 6 months. It makes no sense whatsoever to extend these programs for such a short period. It creates uncertainty and prevents rational planning.

We had sources of revenue available to pay for a longer extension, sources which enjoyed wide bipartisan support, both on the committee and by the administration. For example, my legislation, H.R. 1135, which ends double dipping by savings and loans, raises $1 billion, and has been cosponsored by 15 members of Ways and Means and endorsed by the administration. This legislation also ends an egregious tax abuse. Yet, the committee chose to bypass these revenues and allow the abuse to continue rather than opt for more than a 6-month extension.

I am also concerned that a 6-month extension requires us to deal with these provisions again next year. With a Presidential election

looming, with all the partisanship that this entails, there is no guarantee that these tax incentives will not become a casualty of election-year politics. These circumstances are bound to have an adverse impact on technological innovation, employment, and construction. Once business opportunities are lost, they are often never fully recaptured.

Nonetheless, I am pleased that we have extended these important programs for at least 6 months. Six months is not ideal, but it is more than we might have expected when it appeared that the expiring provisions would be allowed to die. However, the significant support that my legislation, H.R. 3752, received, made it clear that we could not allow this to happen.

Let's not go through such a situation again. We should hold hearings and make those programs permanent that deserve it and let the ones that don't expire.

TRIBUTE TO ROGER ALLAN HERNDON

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Roger Allan Herndon, age 21, who lost his life in a tragic airplane crash near New Paltz, NY, on August 2, 1991.

Roger Herndon was a cadet in his senior year at the U.S. Military Academy at West Point, NY. He was working toward a degree in aerospace engineering and was enrolled in a summer flight training program at the time of the accident. His flight instructor also perished in the crash.

I had the distinct honor of nominating Roger to the Academy. He was a bright and intelligent young man. He was the valedictorian of the 1988 graduating class of Calloway County High School, where he had been active in the school's ROTC program.

He is survived by his parents, Mr. and Mrs. Woody Herndon, Jr., his sister, Melissa Graves, and his grandparents, Mr. and Mrs. Clarence Woodrow Herndon, Sr. and Mrs. Virgil Grogan, all of Murray.

My wife Carol joins me in extending our sympathy to the family of this exceptional young man, Roger Allan Herndon.

SMALL BUSINESS LOAN DISCLOSURE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to outline my support of the House Conference Report 102–407. At this point, it is necessary to recapitalize the bank insurance fund. We need to restore consumer confidence in the banking industry and the first step is to recapitalize the bank insurance fund. The responsible action is to support this conference report. The American people need to know their deposits are guaranteed by the U.S. Government.

The House Banking Committee has worked diligently to reach the best possible solution. Not all issues were addressed in their entirety. Several issues will have to be readdressed in the months to come. There is one issue that I would like to specifically address. This is section 122. Small Business Loan Data.

The language addressing small business loans takes a step in the right direction, but more needs to be done to help our small businesses. The appropriate Federal banking regulatory agencies will be required to promulgate regulations that are available to the public and provide information on loans made to small businesses and small farms.

Information on small businesses is invaluable. This information serves two primary purposes. First, it is essential for regulators to know what type of commercial loans are being made. Currently, real estate loans are broken down into several categories. Second, information on small businesses can help determine credit access and assist with the early detection of a credit crunch.

Many of us repeatedly have heard from our local businessmen that they are not able to obtain credit. We need to support our small businesses. The growth of small businesses is vital to our economic recovery. We must do all we can to end this credit crunch and this includes supporting the conference report.

NATIONAL GEOGRAPHY AWARENESS WEEK

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. MINK. Mr. Speaker, Geography Awareness Week is being celebrated December 1 to 6, 1991, throughout this Nation. By setting aside this week for this special recognition, we hope that our parents, students, and teachers will realize that it is an extremely important facet of our educational curriculum.

Now more than ever, it is critical that our students learn about the world and our relationship to it. It is no longer enough to study about ourselves, our city, our town, or our State. And it is not enough to study only our own country. We have to learn more about our neighbors, about people across the oceans, about those who have become our major trading partners, and about those who challenge our technological prowess and compete with us in the marketplace.

We also need to understand the situations that other people and nations find themselves in. We cannot appreciate the danger inherent in crises emerging in other parts of the world without being cognizant of their geographical dynamics. In this, it is terribly important to remember that many people in the world do not have friendly neighbors, like we do here in the United States, and they are not bordered by hundreds of miles of ocean like my constituents in Hawaii.

In fact, people in many parts of the world are threatened by nations that are very close by. This changes the nature of their politics, and their foreign policy. For instance, it is impossible to understand the Middle East without knowing how the nations there are situated with respect to each other. If Washington, DC, were Jerusalem, then Baltimore would be in Jordan and Beirut would be only as far away as Philadelphia. In my own district this is the same as the distance across Oahu, or between Oahu and the Island of Hawaii. Is it any wonder that the region is so volatile?

In a similar fashion, it is terribly significant that what was once the Soviet Union is now twelve republics that perceive of themselves as being independent; or that what was once two Germany's is now one.

At the same time, there are other international issues about which distance matters not at all. The greenhouse effect knows no boundaries and affects us all. So does the decline in the rainforest, the pollution of our oceans, and the escalating problem of overpopulation. In this time of increasing environmental problems, a perspective of the world grounded firmly in an awareness of the importance of geography provides a foundation for recognizing the critical relationship between human activity and the health of our planet.

We need to be sure that the American people understand these issues, and the people and regions of the world that contribute to them. Only then can we be sure that we make the correct response. In this, the credibility of our Nation's foreign policy largely depends on the support of a geographically informed public. But we fall dangerously short of this goal. In a 1988 Gallup poll, 75 percent of those surveyed could not locate the Persian Gulf on a map, and fewer than half could name Asia as the place that Christopher Columbus was hoping to reach when he discovered the New World. That Gallup poll also projected that 24 million Americans could not identify the United States on a map of the world, 58 million could not tell direction on a map, and 105 million did not know our Nation's population. This is a crisis of profound proportions, and we need to respond.

We need to be more aware of the importance of teaching and learning geography, and of developing teaching skills which cut across disciplines. Why not teach geography in a literature class? Or in a language class. Or in a science class? And of course, geography is history—and geography is government.

The more that we can accept the universal nature of place, and place name, in the context of the world, the better we will be able to realize how a geography lesson can be so easily incorporated in nearly everything we teach, and in nearly everything we learn and read about.

To hear the news on TV, to see the weather chart, to read the newspaper, and to read a book or magazine; all of these require that we have an understanding of the people we are hearing about, where they live, what their climate is like, what kinds of foods they eat, and how they survive. This is the living geography which we must make a complete part of our learning.

I urge all of my colleagues to take the time to make your community aware of geography, and of how deeply relevant its study and comprehension is in our educational pursuits. The

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President listed competence in geography as one of our Nation's education goals for the year 2000. We need to begin now to bring this to the forefront. Begin December 1 and join the Nation in celebration of Geography Awareness Week.

IN RECOGNITION OF DONALD F. GODWIN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. OAKAR. Mr. Speaker, this month marks the 6 months of operation for the House of Representatives Office of Employee Assistance. We are all very pleased with the office and the support it is providing to the House of Representatives.

On this occasion, those of us who have been involved in the establishment of the House Office of Employee assistance would like to recognize an individual whose hard work and dedication to providing assistance to those in the workplace was instrumental in the formation of our program.

Donald F. Godwin came to us at a critical time in our program's development. The countless hours he spent in the selection process for our director, as well as the assistance he provided with other aspects of the program, have been rewarded with an operation we may all view with pride.

Mr. Godwin's work in the field of employee assistance spans a period of nearly 30 years. He began his work in West Virginia where he developed the first rural community mental health center in the United States. From there he moved to Baltimore where he served as the executive director of the Baltimore Area Council on Alcoholism. It was at this time that his leadership in developing worksite alcoholism programs contributed to the concept of employee assistance programs.

For the last 20 years Mr. Godwin has been employed with the National Institute on Alcohol Abuse and Alcoholism here in the Washington, DC area. His most recent position is that of Director of Occupational Programs in the Division of Clinical and Prevention Research. Currently, he is on assignment to the Department of Labor assisting the Department with grants designing employee assistance programs to reach employees working in small businesses. In addition, Mr. Godwin continues to support his colleagues in the EAP field, serving on the Certification Committee for the Employee Assistance Professional Association.

We in the House wish to extend our thanks to Don for his work on behalf of our Employee Assistance Program. His efforts will extend to countless members, employees and their families the support to address their problems and the hope for an even brighter future.

SENATE AMENDMENT TO H.R. 3670

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CONYERS. Mr. Speaker, I rise in support of the Senate amendments to H.R. 3670. I am particularly pleased, Mr. Speaker, that this legislation includes a provision that clarifies that aliens who have no nationality are eligible for Temporary Protected Status if they have habitually resided in a country that the Attorney General has designated for TPS.

This provision is necessary to protect, for example, stateless Palestinians who have habitually resided in Kuwait or Lebanon. The Attorney General has recently designated these countries for TPS, but until now TPS protections have been denied to Palestinians who have lived much of their lives in those countries. Under H.R. 3670, these persons would be eligible for TPS, even if they hold a travel document—such as a laissez passer or a Jordanian passport from another country.

TRIBUTE TO JOHN W. McHORSE

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PICKLE. Mr. Speaker, on this Veteran's day I was privileged to participate in the dedication of a grave marker for a great Texan, John W. McHorse, who served in the Texas army of the revolution. John W. McHorse lived a long life and contributed greatly to Texas as it grew in the 19th century.

At the grave marker service in Austin, Mr. Kennett L. Simmons made an excellent presentation about the life and times of John W. McHorse. I would like to submit his remarks for the RECORD, and I commend it to my colleagues. John McHorse was a great Texan and a great American, and I believe he deserves recognition and remembrance.

State representative Parker McCollough delivered an historic and meaningful history of Mr. McHorse. The ceremony was held in the picturesque State Cemetery.

JOHN W. MCHORSE BIOGRAPHY

What we know today of John W. McHorse comes to us through family stories, legends, and the dry history of official records.

Our sense of him therefore is, of necessity, in the poet's words "partly truth and partly fiction" . . . but through that he becomes real to us.

He was most likely born in Tennessee in 1819 . . . and I say that standing near the firmness of his gravestone that says he was born in Alabama and with other sources saying South Carolina . . . others Scotland . . . and some the date as 1812.

But John W. told the census takers "Tennessee in 1819" . . . so that is probably the truth of it. He also reported in the census that his father was born in Scotland and his mother in Tennessee.

Of them we know nothing more yet . . . although family legend says the father's name was McHouse and that he came to America from the border regions of Scotland with a brother who later returned home.

John W. came to Texas . . . probably from Alabama . . . early in 1836 . . . at 17 years of age . . . we think alone.

In Nacogdoches on March 1 of the fateful year in Texas history he enlisted for 90 days service in Captain Hayden Arnold's Company of Col. Sherman's Regiment of Sam Houston's revolutionary army.

On April 21 on the field of San Jacinto he helped win the new Republic's independence. In doing so he suffered a gunshot wound to his left hand.

After the battle he completed his enlistment and was discharged at Victoria, Texas on June 1, 1836.

Those are the "facts" of his service of the Texas Army of the Revolution . . . but according to family legend we're told another thing occurred that left its imprint on our family. We're told that on a chance meeting in Bastrop, Sam Houston told young John McHouse that McHorse was a better name for a Texan . . . and so doing gave a new land's name to a new family.

After he left the army, we know he lived for two months in the home of Jesse Walling in Rusk County . . . who later was elected to the Texas legislature . . . and who also provided confirmation in 1870 of John's service to prove his eligibility for a pension. Jesse Walling's descendant, Dr. Albert Walling, founder of the San Jacinto Descendants, is here with us today.

John returned to Alabama and on October 26, 1837, this young warrior enlisted as a corporal in Captain Bryson's Company of the North Alabama Mounted Volunteers in the war with the Seminole Indians of Florida.

After a six month enlistment he was discharged on April 13, 1838, at Fort Mitchell, Alabama . . . ending his active military service.

In 1842, he actively entered the war between the sexes . . . marrying Elizabeth Wilson, daughter of James W. Wilson of Kentucky, in Jackson County, Alabama.

In 1844, their first child, Rebecca, was born in Mississippi.

In 1846, their second daughter, Delitha, was born back in Alabama. We know Delitha was named for Elizabeth's mother . . . and by Scottish naming patterns Rebecca would have been named for John's mother, but we don't know that for certain.

In 1849, a child named James (after Elizabeth's father) was born in Alabama . . . but we think he died in early childhood because he doesn't appear after the 1850 census of Fayette County, Alabama.

In 1851, Roda was born in Alabama . . . and shortly thereafter the family moved to Arkansas where in 1852, William Martin was born.

On July 8, 1853, John enlisted in another service . . . being ordained as a Baptist minister at the New Home Baptist Church in Clark County, Arkansas.

In 1854, Isaac was born . . . and in 1855 my ancestor John Calvin . . . two strong Christian tradition names . . . reflecting John W.'s new ministry.

John W. bought and sold several tracts of land while in Arkansas . . . including transactions with his wife's family, the Wilsons, and land he obtained from warrants received for service in the Indian War.

On October 25, 1858, he organized the Pleasant Hill Missionary Baptist Church in Sevier County, Arkansas . . . the church and adjoining McHorse Cemetery exist today.

December 16, 1860, his son Thomas Mason was born.

Also at an uncertain date and place, but we think in late 1860 or early 1861 in Sevier

County, Arkansas, Elizabeth Wilson McHorse died.

Later in 1861, John married Rutha Jane . . . who was born in Mississippi, but whose maiden name we don't know.

During the War Between the States, John W. did not bear arms nor to the best of our knowledge did any of his sons. John did serve as Commissioner of Relief for the families of Confederate soldiers during 1863.

In 1864, Mary Ellen was born to John and Rutha Jane . . .

In 1866, Elonzo David was born . . . still in Sevier County, Arkansas.

Between 1866 and 1870 the family moved to Texas where the 1870 census places them in Milam County.

In 1871, they were in Falls County, Texas where John joined the Masonic Lodge . . . and organization he remained active in until his death.

In 1874, he helped establish Macedonia . . . a farming village in Williamson County . . . and established the Masonic Lodge there.

Today all that remains of Macedonia is a pretty country cemetery where Rutha Jane, Mary Ellen and Elonzo rest . . . but in the 1870's, it was a thriving village centered around a cotton gin.

During the next decade, John prospered as a land trader, farmer and cattle trader.

In 1883, he was a founder of Circleville . . . north of Taylor . . . and again, the Masonic Lodge there.

Also in 1883, his service at San Jacinto was commemorated in a painting by Henry McArdle entitled "The Battle of San Jacinto" which hangs today in the Texas Senate Chambers.

In 1889, he divorced Rutha Jane.

And in 1890, he married Denisa Ann Harrison . . . granddaughter of President William Henry Harrison . . . and a woman prominent in Austin society.

In 1892 John and Denisa joined the New Hope Baptist Church in Cedar Park, Texas.

In 1896, however, one of the difficult days of his life occurred when he was dismissed from the church for "unchristian conduct".

We don't really know what occurred to cause the dismissal . . . although one family descendant has a story involving counterfeit money and some unsavory Yankees from New York. Perhaps even a hundred years ago Texans were having problems with real estate and banks!

In 1896, Denise divorced John W. . . . probably involving problems from the same source.

But 1896 wasn't all sadness, for in that year John travelled on April 20 to Galveston to attend his last reunion of the Texas Veterans Association . . .

On January 19, 1897, John W. McHorse died in his home in Leander, Texas.

On January 20, this warrior, minister, businessman, Mason and father was buried in Texas' most hallowed cemetery.

Today John W. McHorse belongs to the ages.

And we . . . his descendants . . . belong to him.

Thank you.

H.R. 3750, CAMPAIGN FINANCE REFORM

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, it has long been evident that we need to reduce the soaring costs of elections, and yesterday this body did. Our constituents believe that we spend entirely too much time chasing dollars instead of finding solutions to our Nation's problems. As the costs of campaigns soar, the public is becoming more and more disillusioned with the whole process. Perhaps if we can rein in ballooning campaign costs, the ordinary citizen will once again feel that his or her voice can be heard, and that each individual's vote counts. Perhaps then many voters will take an interest in elections and return to the voting booths.

In addition to helping to erase the perception that Congress is too concerned with fund raising, another positive outcome that may occur as a result of these reforms is the dismissal of the perception that Congress is for the wealthy. Hopefully, by bringing costs under control, more ordinary citizens may be encouraged to run. We would do well to relieve ourselves of the perception that only wealthy, well-connected individuals can seek to serve in the governing of our country and win. This body would do well to make the opportunity to become members of the House and Senate more possible for candidates who possess a genuine concern for, an interest in, developing policy and leading this Nation.

While I did not support every provision of this package, I agreed that the process was in need of reform. However, I am pleased to see that PAC contributions were not limited to the point of muffling the collective voices of individuals who make contributions to candidates of their choice.

It is my hope that these measures, if signed into law by the President, will allow us to put the subject of campaign financing behind us.

NORA BELOFF ON YUGOSLAVIA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, I would like to insert the following pieces, written by Nora Beloff, and published in the November 19, 1991 edition of the Washington Post, and the November 22–28, 1991 edition of the European.

Ms. Beloff has written extensively on the Soviet Bloc and Yugoslavia.

[From the European, Nov. 22, 1991

WHY THE ABOMINABLE SERBS DO HAVE A CASE

Television brings home to all of us the horrors of civil war and there is a passionate and growing feeling here that harsh measures are needed to punish the Serbs for what looks to the outside world like a brutal war of communist aggression.

In considering appropriate measures, however, we need to distinguish three separate disturbers of the peace the federal army, the Serb Government, and the leaders of the Serb-inhabited regions of Croatia. The over-mechanised, miserably-led federal army is guilty of shelling Dubrovnik and of demolishing several Croat towns and villages. Its founder Tito was half-Croat, half-Slovene and the majority of senior officers—though by no means all—are from Serbia-proper or from Serb-inhabited regions of Croatia.

During the last war, hundreds of thousands of the people from these regions of Croatia were massacred by the Nazi-style Ustashi installed by the German occupiers. The Serb survivors fled to Tito's communist-led guerrillas, the only resistance force operating in that region. It is often assumed that all fights in Yugoslavia are ethnically based. In fact, these peasants formed the backbone of the Partisan army and found themselves forced to fight a long and bloody war against the Serb resisters from Serbia itself, who mainly backed Drazha Milhasilovic, loyal to the exiled king.

After the Russians freed Belgrade and the Allies gave unconditional support to Tito, he was well placed to seize power and kill off his enemies and potential enemies. Turning a blind eye to the slaughter, the West constantly supported Tito and his successors, lavishly supplying the federal army whose officers lived well and had enormous self-interest in preserving the system.

Last year a leading communist officer, Admiral Mamula, was given a hero's welcome when he addressed the Royal United Services Institute in London. He returned, no doubt believing that if the army intervened to preserve the Tito legacy, they could count on Western support.

A solid cause for intervention was supplied when the Slovenes provocatively hauled down the flag on Yugoslavia's internationally-recognized frontier with Austria. The officers, selected for politically rather than military qualities, were anxious, not to lose soldiers and sent heavy armour and aircraft with only a handful of troops. These were easily outnumbered by the Slovene local militia and the world was treated to a televised spectacle of David beating Goliath.

The Croat nationalist leader Franjo Tudjman, not to be outdone, implemented his own UDI by blockading all of the federal units on Croatian soil. These consisted mainly of conscripts stationed in strategic areas. Deprived of food, light and heating, local commanders appealed to Belgrade, giving the army a legal excuse for invading Croatia. In fact, as we know, from leaks in the amazingly free Belgrade Press, they were taking the occasion to reconquer as much of Tito's Yugoslavia as possible. They were also frequently colluding with Serb President Slobodan Milosevic, though his agenda was different—a greater Serbia under his own control.

Milosevic, like many communists in post-communist eastern Europe, had draped himself in national colors. Tito had always acted on the assumption a strong Serbia means a weak Yugoslavia and his successor Milosevic had plenty of accumulated Serb resentments to play on.

As Tito rigidly censored the media few know that in 1968 after riots, and disturbances, he had transferred power, patronage and most important of all, total police control, from the Serbs to a corrupt gang of Albanians loyal to himself. These enriched themselves from the then lavish development funds and won support by encouraging their compatriots to take revenge on the Serb minority which, in many villages, were put in fear of their lives.

Last year Milosevic whipped up the Serbs in Croatia, who pressed for inclusion in his Greater Serbia. The local military and irregulars from these regions constitute the third Serb participant in the present disorders. When Tudjman came to power he misguidedly dispatched his armed followers to try to take over official buildings and police stations from Serb areas, where the right to autonomy had existed since the 17th century. The Hapsburgs had given land and home rule to Serb refugees from the Ottoman empire, in return for helping in defending them against the Turks.

Armed Serb groups fighting in Croatia are motivated by memories of the wartime genocide and are as fanatically self-righteous as the Croats, now fighting to the death in Vukovar. These refuse to admit—and, in the case of the younger generation, probably do not even know—the Ustashi holocaust.

It would take a colossal international police force to stop the fighting in a country where there are so many weapons so widely and uncontrollably spread among soldiers, looters and mercenaries, some of them evidently enjoying the fray.

But though the extremists speak the loudest and their views dominate Western newspapers, there is no serious reason to doubt that the vast majority of Yugoslavs are appalled by the violence and eager for peace.

There is perhaps a flicker of hope in a deal currently being pressed by the European peacemaker Lord Carrington and apparently agreed, at least in principle, by Tudjman and Milosevic. The federal army would peacefully withdraw from Croatia while the Serb enclaves would be placed under international authority until calmer times when a plebiscite would then decide their future.

The monstrous behaviour of the federal army of the Milosevic government and of some Serb irregulars does not justify attributing all the violence to the abominable Serbs. Since Tudjman became president, Serbs in mixed regions have been harrased, deprived of jobs, had their homes burnt down and more than 100,000 have been forced to flee.

For this reason, Lord Carrington is right to insist that the Serbs within Croatia have a right to international protection, and however indignant we may feel about the behaviour of some of their compatriots, we should support him.

[From The Washington Post, Nov. 19, 1991]

Hope and History in Yugoslavia

(By Nora Beloff)

There is a strong and growing feeling, on both sides of the Atlantic, that the civilized world cannot stand idly by while a trigger-happy minority of Yugoslavs, some of whom evidently enjoy fighting, are allowed by Serb and Croat leaders to kill civilians and imperil some of Europe's most precious monuments.

Sanctions have been imposed, the United Nations has been asked to organize an oil embargo, and yesterday the West Europeans agreed to commit naval forces to protect Red Cross missions rescuing refugees from Dubrovnik and other Adriatic ports.

On the diplomatic side Lord Carrington, the European peacemaker, has outlined a possible deal. Croatia would be recognized, but its territory would exclude enclaves where the Serbs are a majority. These would be placed under international governance for 10 years or more with a view to a plebiscite in which the people themselves would decide their future.

All this could easily collapse, plunging the country into even greater violence, either because extremists sabotaged the deal or because the array of private militias, looters and mercenaries took it on themselves to shatter the peace. So far no country is willing to take on the human and material costs of a force sufficient to impose peace. But while there is talk there is hope, and we in the West could also help to dampen fanaticism by holding and conveying a balanced and sympathetic view to peoples in distress.

First, we must rid ourselves of the absurd and unhistorical proposition that Serbs and Croats cannot peacefully coexist. Under the Austro-Hungarian empire, the Orthodox Serbs were invited to settle in the imperial province of Croatia, to defend the territory against the Turks. After the creation of Yugoslavia, the Serb minority had amicable relations with the popular Croat Peasant Party and, under its leader Macek, ran joint electoral campaigns. In 1941 the Germans occupied Zagreb and installed the Ustashas, a Croat equivalent of the Nazis, previously an outlawed terrorist group. These were committed to a genocidal policy and proceeded to murder hundreds of thousands of Serbs.

All the Serbs were pro-allied, but whereas in Serbia proper the activists mostly joined Mihailovic's home army, loyal to the king, in Croatia, those who escaped the Ustashas joined Tito's guerrillas, the only locally accessible resistance force. They thus became the backbone of the Communist-led Partisans.

Mendacity has always been indispensable to Communist systems, and Tito's biggest lie, coercively imposed, held that virtually everyone had been Partisan and that any form of nationalism, however moderate, was treachery. As a consequence, whereas in Germany, the war was followed by systematic de-Nazification, Zagreb simply turned its back on the past. Today, again, the Ustasha flag has been raised, and whereas in Zagreb untaught youths deny the holocaust, in Belgrade figures are wildly exaggerated.

The internal borders, which we treat as permanent features of Yugoslavia, were in reality drawn up secretly by Tito's men in 1943 and were designed as administrative boundaries, within a centrally planned Stalinist state. Tito himself was, of course, aware of the vitality of ethnic feeling, and after physically liquidating his enemies and potential enemies, he suspended terror and ruled primarily by playing off the communities against each other. The Albanians in Kosovo, who in 1945–46 lost thousands of lives resisting forcible reincorporation into Yugoslavia, were at first subject to Stalinist repression by the federal police, locally enforced by Serbs. Then, after 1968 disturbances in Pristina (capital of Kosovo), Tito switched sides. He transferred power, which in a collectivized society also means effective ownership, to a corrupt group of Albanians. These used development funds to enrich themselves and gained popularity by allowing their compatriots to take revenge on the Serbs. As Tito banned news reporting, this phase of Kosovo's history was unknown to the outside world.

It was by draping himself in nationalist colors and leading a reconquest of Kosovo that in the late 1980s, Slobodan Milosevic, though a Communist leader, survived the East European revulsion against Communist rule. But we were by then in the glasnost era, everything was open, and international groups, including Amnesty, Helsinki Watch, groups of parliamentarians and congressmen, came in and reported that Albanians were being repressed. No one told them that previously it was the Serbs who had been at the receiving end.

In Croatia and Slovenia, as in Serbia, the post-Communist movements have been national rather than liberal, even though all three now brandish democratic and free enterprise slogans. In Croatia the ex-Partisan general Franjo Tudjman was elected president. He had fallen out with Tito and served two prison sentences on charges of nationalism. By the time I first met him in 1980, he was already pathologically anti-Serb. He has allowed himself to be surrounded by Ustasha sympathizers, many of them returning from Canada and Australia.

Tudjman armed his followers, and though they were unable to break into the all-Serb regions, which were ferociously defended, in areas of Croat majority they made life for the Serbs impossible. With jobs denied and homes burnt down, tens of thousands fled long before the federal army and the international community intervened. On a smaller scale, the Serbs retaliated.

In Dubrovnik, 1 year ago, a young Croat girl running her own travel agency described the ravages of the Tudjman regime. To her horror, this little Venice was being transformed into a nationalist stronghold, and she found herself ostracized by her fellow-citizens for rejecting ethnic hatreds which she felt were ruining the country.

The Slovenes also elected a nationalist government, and the new ministers deliberately provoked federal intervention by defiantly hauling down the Yugoslav flag on the Austrian frontier. Tudjman got in first with his independence declaration, and the federal army, heavily outmanned, left Slovenia to concentrate on their more formidable foe.

The misnamed People's Army is the one institution that has outlasted Tito. He had divided his armed forces into territorial units, many of which have now fallen under secessionist control, and a federal army, manned by professional officers, politically selected and committed to preserving Tito's federation. Confronted with massive desertions, they have relied on heavy guns, missiles and aircraft, madly inappropriate for local fighting but—thanks to their founder—lavishly available.

Carrington has grasped the complexities of the struggle. Although, like President Bush, he is under pressure to recognize Croatia and Slovenia in their present boundaries, he is holding back until there are adequate guarantees of safety for all the minorities in Yugoslavia, particularly for the Serbs in Croatia. After their recent experiences, these could not be expected to settle for Croat promises of good behavior.

Nora Beloff has written extensively on the Soviet bloc and Yugoslavia.

TRIBUTE TO CHARLES B. SICELOFF, JR.

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BORSKI. Mr. Speaker, I rise today to honor Charles B. Siceloff, Jr., for his commitment to his country and his invaluable contribution to aviation safety. Mr. Siceloff is heading for a well-deserved retirement this week from his position as Manager of the Federal Aviation Administration's Miami Flight Standards District Office, after faithfully serving the Federal Government for over 28 years.

Earlier this year, the Subcommittee on Investigations and Oversight, which I chair, began working closely with Mr. Siceloff during an investigation into loophole airlines. These airlines are controlled and operated by American citizens, but are flown under foreign flags to avoid the expense of adhering to safety regulations imposed on certified American carriers by the FAA. They need only to comply with the foreign country's regulatory authority, which is often far less rigid than that of the U.S. In many cases, the subcommittee found that loophole carriers essentially operate unregulated.

Fearing that one of these unsurveilled carriers would crash in downtown Miami, Mr. Siceloff stressed for years the need for a change in FAA regulations. He has devoted much time and energy to this issue, motivated only by his desire to guarantee the safety of U.S. airspace and his fellow Miami residents.

The Federal Aviation Administration has begun taking steps to assess the capabilities of foreign governments to oversee airlines flying under their countries' flag. However, much more still needs to be done. Without the unwavering cooperation of Mr. Siceloff, though, even this first measure may not have been possible.

Mr. Siceloff's dedication to his country extends beyond his service at the FAA. In 1950, he interrupted his college education to enlist in the U.S. Air Force, and in 1952, was sent to fight in the Korean war. He flew as a combat-fighter pilot and received two air Medals and a Distinguished Flying Cross.

Mr. Siceloff is highly respected and admired by those who have worked for him, and it will be a formidable task to find a suitable replacement. However, they are happy that he will be able to spend time with his family, including his wife Maggie, who he has been married to since 1954, his four children and two grandchildren. He will also have more time to pursue his favorite pastime—golf. May Mr. Siceloff be as successful in his golf game as he has been throughout his career!

I join the residents of Miami in wishing all the best to Mr. Siceloff as he retires, and ask my colleagues to accompany me in paying tribute for his outstanding dedication to aviation safety.

MISSOURI RESPONDS QUICKLY TO EMERGENCY UNEMPLOYMENT BENEFITS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEPHARDT. Mr. Speaker, I rise to commend the State of Missouri's Director of Unemployment Insurance, Clarence Veit, its chief of benefits, Jim Walker, and all of the employees of the Missouri Division of Employment Security for their vigilance and readiness to inform unemployed workers that they could apply for emergency unemployment benefits immediately after the President finally signed the Emergency Unemployment Compensation Act of 1991.

Mr. Speaker, the unemployed workers of Missouri were forced to wait many long weeks for these benefits when the President vetoed earlier versions of the bill. Because of this delay, we were pleased to see that these officials of the State of Missouri were able to act so quickly to help alleviate the pain of joblessness in these difficult economic times.

When Mr. Veit and Mr. Walker learned on Friday, November 15 that the President had finally agreed to sign this bill, they had worker notifications printed, addressed, and loaded onto trucks ready to drive to the Post Office. Moreover, they made special arrangements for the Post Office to receive the trucks immediately, and to expedite the processing of this vital mail. When they received word late Friday that the President had signed the bill, they ordered the trucks to move out and the Postal Service did the rest. Many of the 44,700 letters began arriving on Monday, November 18, and the unemployment insurance service took 8,400 claims by telephone on the same day.

Mr. Speaker, in this era of government bashing and blame shifting, we can be proud of the work done by these individuals, their colleagues, and the U.S. Postal Service. I might add, Mr. Veit is retiring next May after serving the State of Missouri since June 1947. I am certain the people of the State of Missouri are proud of his service. He and his colleagues have set an example all of us can follow.

I also want to bring to my colleagues' attention the following article from the St. Louis Post Dispatch which illustrates the positive benefits of this legislation on the lives of working families.

New Benefits Extend Hope for Jobless

(By Linda Eardley)

Clinton Rush and Leanora Moore—jobless and out of unemployment checks—had something to smile about Monday. They were among hundreds who rushed to apply for extended unemployment benefits.

Monday was the first day to apply for the benefits, signed into federal law late Friday. Nearly 22,000 unemployed workers may be eligible in the St. Louis area, covering the city and nine counties in Missouri and Illinois.

Letters have gone out to 44,700 unemployed workers in Missouri and about 65,000 in Illinois notifying them to file a claim. Employment security offices were busy Monday taking applications by phone and in person.

"It hasn't stopped," said Jeanette Stein, who was greeting applicants as they walked into the St. Ann office.

Offices will continue to be busy through the week, but officials stress that most applicants needn't leave home. In Missouri, most can apply by phone. In Illinois, most can file by mail.

Telephone hours have been extended to 7 a.m. through 6 p.m., Monday through Friday.

"At 7 a.m., all 21 lines were lit up," said John Pendleton, manager of the St. Ann office, the busiest in the state. The telephones stayed busy through the day, and some applicants going to the office had to wait several hours to file their claim.

Officials in Missouri and Illinois say they will try to get the checks in the mail by Thanksgiving.

Under the law, those eligible will get 13 weeks of extra benefits if their standard benefits of 26 weeks expired after Feb. 28.

Less than a third of the area's unemployed get unemployment benefits, said Russ Sitgnorino, research analyst for the Missouri Division of Employment Security.

In September, about 82,900 people were unemployed in the St. Louis and nine-county area. Of those, only 23,400—about 28 percent—were collecting unemployment benefits, Signorino said. The remainder had exhausted benefits, had not filed or didn't qualify, he said.

Many of the unemployed are laid-off workers. The area lost 15,400 jobs in the last year. Signorino said.

Leanora Moore has been unable to find work since being laid off from McDonnell Douglas Corp. 14 months ago as a computer operator. Her unemployment benefits ran out in April. Since then, her family has been struggling to make ends meet on her husband's salary.

"It will help a lot," said Moore, of Breckenridge Hills. "I have a son in college. I have my mother with me. It'll help take some of the strain off us."

Several applicants at the St. Ann and downtown St. Louis offices said the new benefits would make Christmas brighter for their families.

The benefits will save the house of one St. Louis man from foreclosure. The man, who asked not to be identified, is a roofer who has not worked since April. He said he owed $450 on a house he was buying to rehab. He fell behind on payments, the loan company was threatening to foreclose.

"This will pay for my house and get me back on my feet," he said.

Clinton Rush, 51, of East St. Louis, said the benefits would help him "get through the winter." He has been jobless since March but expects to be back at work as a bus driver in January.

The unemployed need more than a few more weeks of benefits, he said.

"The federal government's got to provide more jobs, training and educational benefits," Rush said.

James Henderson, 56 of East St. Louis, said the news meant "I can get off of general assistance and make a go for myself."

Henderson lost his job as a machine operator in February. He said his unemployment insurance had run out three months ago. Since then, he has been on welfare.

Robert Leigh, an unemployed executive, has been living on his savings and part-time consulting work since he lost his job 13 months ago. His company, which made corrugated boxes, went out of business.

"I was general manager. I made 80-plus thousand plus a car and expenses," he said.

Leigh, 48 of Ladue, has a master's degree in business administration and is looking for an executive-level job in management. He waited most of the day to file his claim for the extended benefits.

"This gives me a little more time to land that job I'm looking for," he said.

Emery Cannon, a machinist from Jennings, has run out of savings and optimism. The new benefits will not cure what ails him, he said.

"Basically all this money is gone before you even touch it." he said. "It's something to help you keep your head above water. It's not going to give you dignity."

INDIAN ARMY IN PUNJAB

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BURTON. Mr. Speaker, I rise today to protest the India's deployment of the army in the Sikh homeland, Punjab. Nine divisions—over 180,000 soldiers—have been sent ostensibly to assure free and fair elections in the beleaguered state according to India Abroad. But the actions taken by the Indian Army display more a desire to quell any and all voices brave enough to speak out for freedom.

Extrajudicial killings are on the increase, and the army is conducting door-to-door

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searches of Sikh households. The Indian Government has empowered its soldiers with shoot-to-kill authority with full immunity from the law. Already progovernment forces, who obtained their weapons from the Indian Government this month massacred 18 Sikhs at a wedding ceremony—8 of the victims were women or children, according to the New York Times.

The Indian Government's declaration of the Punjab as a disturbed area is simply a pretext for army action and state sponsored terrorism. India has pulled this sort of stunt before. The Punjab has been placed under what they call "Presidential Rule" 10 times since 1947. But Presidential rule is nothing short of martial law where all democratic rights are suspended and violent oppression is the rule of law.

The Indian Government's commitment to free and fair elections should be met with skepticism. No poll date has been set, and the Indian Parliament is considering barring objectionable or unserious candidates from participating. In the past, when the Indian Government considered Punjab elections as undesirable, it has simply dissolved the Government and declared Presidential rule. Can we honestly call this a democracy?

Mr. Speaker, Sikhs are justified in their profound distrust of the Indian Government. Extrajudicial executions, torture, and disappearances are on the rise. These human rights violations must stop. I adamantly oppose the Indian Government's deployment of hundreds of thousands of troops to the Sikh homeland and strongly recommend that they be removed in the name of fairness, justice, and democracy. For those Members of Congress who would like more information which details India's treatment of the Sikhs, I commmand the following three articles.

[From the New York Times, Nov. 27, 1991]

INDIAN ARMY DEPLOYED IN PUNJAB

(By Sanjoy Hazarika)

Special to The New York Times

NEW DELHI, Nov. 26.—The Indian Army has been called out in Punjab State to assist security operations against Sikhs fighting for an independent state in a new Government campaign to help prepare the way for state elections, officials here say.

Yet the killings have persisted and in one incident a pro-Government Sikh and two others shot and killed 18 people near the city of Amritsar, news reports said. The attackers were arrested by the police, who said those killed included eight women and children.

Officials described the shootings as revenge killings by Piara Singh, a member of the fundamentalist Nihang sect, who was angered by militant attacks on his home.

SPECIAL MILITARY POWERS

Officials at Amritsar said Mr. Singh, his son and another relative were provided rifles for their security by the Government after militants began attacking his home. The state administration has armed villagers to resist terrorist assaults with mixed results. In several cases, the arms have been surrendered to militants.

The army is to take part in coming weeks in door-to-door searches of hundreds of villages along the India-Pakistan border where many militant groups have networks, and help free paramilitary troops from such operations so that they can concentrate on arrangements for the elections, which could be held before February.

The Punjab Government has decided to include three more districts under a special law that empowers security forces to arrest, interrogate and even shoot suspected terrorists without warrants or fear of legal retaliation. The latest move puts all 12 districts of the state under the disturbed Areas Act.

Thousands of heavily-armed troops are being transported across the prosperous but embattled state, in which more than 5,200 people have died this year.

"The army has been spread across the state so it is available to local authorities to use at short notice in the run-up to the elections," said I. Ramamohan Rao, a Government spokesman here. "The Government has to create conditions conducive for elections."

A date has not been set for a new round of voting. But Prime Minister P.V. Narasimha Rao's Government has pledged to hold the elections by February.

[From the Appeal Democrat, Nov. 5, 1991]

PUNJAB WILL WIN FREEDOM: SIKH LEADER SAYS DURING Y-S VISIT

(By Preston Gobel)

Bouyed by the radical changes sweeping across eastern Europe, Gurmit Singh Aulakh pledges a free and independent Sikh state of Khalistan by the year 1999.

Aulakh said the growing separatist movement in the Indian state of Punjab, in the northwestern part of the country bordering Pakistan, is the result of "tyranny and oppression" on the part of the Indian government.

"Three months ago we never imagined the Soviet Union would disintegrate," the president of the Council of Khalistan said yesterday. "Punjab is going to be free. There is no power on this earth that is going to keep us down."

Aulakh, who put aside his work as a Harvard research scientist in 1986 to fight for the independence movement, was in the Yuba-Sutter area in celebration of the 12th annual Sikh festival in Yuba City.

Intolerance of Sikhs by India's ruling majority, followers of the Hindu religion, fires the often brutal treatment Sikhs have been subjected to, Aulakh said.

"History is there. The Hindus do not tolerate any other religion," he said.

Sikhs are a majority of the Punjabi state, a rich agricultural area that supplies nearly half of the country's rice and 70 percent of its wheat, Aulakh said.

Since 1984 more than 100,000 Sikhs have been killed and 15,000 imprisoned by Indian police, Aulakh said.

A report by Asia Watch, a human rights group, entered into the U.S. Congressional Record states: "Throughout Punjab, torture is practiced systematically in police stations."

He said India's failure to allow another human rights watchdog organization, Amnesty International, into the country is further proof the government is trying to cover up its abuse of Sikhs.

"India is not the world's largest democracy," he said. "They haven't allowed Amnesty (International) to visit in 30 years. What do they have to hide? We know what they have to hide."

He said the "criminality" of the Indian government has been institutionalized in the 1985 Terrorist and Disruptive Activities (Prevention) Act which allows the government to detain anyone for up to two years without charging them with a crime.

The United Nations Human Rights Commission has called the act unacceptable, Aulakh said.

Further, India has refused to join the more than 80 nations that have signed the U.N.'s Convent Against Torture and other Cruel, Inhuman or Degrading Treatment, he said.

A free and independent state of Khalistan is "the only solution," Aulakh said.

No Sikh has ever signed India's constitution, which was adopted in 1950 following the end of British colonial rule, he said, adding that promises that the interests of Sikhs would be included in the document were broken.

Since 1987, when the Sikh nation formally proclaimed its independence, India has been an "occupying force in a foreign land," Aulakh said.

"Whenever we are oppressed, it is our responsibility to fight back," he said. "Our cause is right. When you don't fight back, you are slaves."

While the tenets of Sikhism are pacifist in nature, Aulakh said separatists are pledged to do whatever is necessary to free their state.

"The time has come to do everything possible," he said. "If there is a war, there are guns. But, the guns come with international support."

Aulakh said if war were to break out between Pakistan and India, Sikhs would fight on the side of Pakistan, adding they are seeking "freedom" not "suppression."

What is needed to make the Sikh dream of Khalistan a reality, Aulakh said, is for the United States to support the cause.

"One statement by President Bush that India should stop the oppression and tyranny would make them have to do something," he said.

Aulakh said there is growing support in this country to the economic aid to India with its record on human rights.

A letter signed by 20 members of Congress, including Rep. Wally Herger, R-Rio Oso, admonishes the Indian government for its violation of human rights.

Dated Oct. 1, the letter states: "We request that the Indian government cease its blatant discrimination against Sikhs."

While the movement to form an independent Khalistan has been an uphill struggle, Aulakh said Sikhs will find freedom because the "power of the masses is great."

"You are talking to the head of a state, but the state is occupied," Aulakh said. "It is my responsibility to see the creation of an independent state and hoist the Sikh flag. I hope this will be very soon."

[From India Abroad, Nov. 22, 1991]

ARMY MOVED TO PUNJAB TO AID POLL

(By Akhil Cautam)

CHANDIGARH.—In one of the biggest ever deployments of the Indian army, the central government has started moving nine divisions along the international border of Punjab and within the state to ensure a trouble free legislature election tentatively scheduled for the second week of February.

Hectic activities started after the announcement by Prime Minister P.V. Narasimha Rao that there would be no further postponement of elections in Punjab. Elections in the state were originally scheduled for May and then put off to the third week of June only to be called off hours before the polling was to take place. A series of meetings were held here, which were attended by senior civil officials led by Punjab Governor Surrender Nath. Officials of the western command of the Indian army also

attended. Similar meetings were held in New Delhi to organize logistical support for the army which would begin taking positions from next week onwards. The entire process was expected to be completed by the first week of December.

An army official, talking on condition of anonymity, told *India Abroad* that the entire deployment within the state would be under the overall coordination of the Punjab police headed by its new chief Kanwar Pal Singh Gio. The army units would be available for civilian duty.

On the eve of deployment of security forces in large numbers, the militants stepped up their activities expecting heavy pressure on them in the days to come. On Oct. 15 the militants tried to kill Dr. Baldey Parkash, Vice President of the Bharatiya Janata Party (BJP) and one of the most respected leaders of the state. Parkash was seriously injured in a bomb attack on his car triggered by a remote controlled device. His body guards were among the six people killed in the attack.

Parkash's health had been a cause of concern to his family because he is a heart patient and had been refused bypass surgery by doctors in Madras on grounds that the problem was in "advanced" stage.

While the government was taking all steps to ensure a trouble free polling, it was apprehended that those militants who were opposed to participation in the election process would unleash violence against soft targets.

However, a section of the militants led by Bhindranwale Tiger Force chief Gurbachan Singh Manochail has condemned the killing of innocent Hindus and attacks on candidates contesting the polls. Significantly, Manochail also condemned the kidnapping of Romanian diplomat Liviu Radu from New Delhi a few weeks back. Manchaial's was one of those militant groups which favored participation in elections with the purpose of achieving a separate Sikh state through a resolution in the new state legislative Assembly.

Meanwhile Gurcharan Singh Tohra, the 69-year-old top ranking Akali leader has been elected president of the Shiromani Gurdwara Prabandhak Committee (SCPC), the Sikh shrines management body, for a record 18th time in the annual elections held in the Golden Temple complex in Amritsar on Nov. 13.

He defeated Harcharan Singh Dilli, a nominee put up by the Akali faction led by Simranjit Singh Mann by 91 votes to six votes. The defeat clearly indicates the declining fortunes of the Mann group, according to observers.

Tohra enjoyed the support of Akali groups led by former Punjab Chief Ministers Parkash Singh Badal and Surjit Singh Barnala. Two years back when Tohra had given up the top position in the Sikh papal hierarchy, he had declared that he would never occupy any public office again. However, as he said, the pressure put on him by various factions for service of the "panth" was too difficult to resist.

SCUTTLES A MOVE

Tohra succeeded Baldev Singh Sibia, considered by many as his protégé, whom he had proposed for the presidentship last year. But Sibia is said to have been supporting a section of the militants owing allegiance to Damdami Taksal, the Sikh seminary once headed by late militant leader Jamail Singh Bhindranwale. The Taksal and Sikh Students Federation led by Manjit Singh wanted Sibia to be given another one year term, but the move was scuttled by supporters of Tohra by preempting his removal through a resolution which was adopted a week before Sibia's term was to come to an end.

According to usually reliable observers, the differences between various militant factions had helped Tohra in his easy victory. It was a known fact that Babbars, one of the leading militant groups, were opposed to the growing influence of the Damdami Taksal and several militant outfits owing allegiance to it in the affairs of the Sikh shrines. A fortnight back, Sibia had allowed the Taksal to take over the work of karsevs (voluntary reconstruction) of the alal takht the highest temporal seat, which had been damaged during the army action of 1984. The Taksal wanted Sibia to be allowed to continue to head the SGPC. The Babbars were reported to have preferred Tohra hoping that he would check the rise of Taksal's influence.

However, the general view was that Tohra had again fully exploited the situation through his constant maneuvers for which he had earned notoriety in the Sikh politics. Tohra had surrendered to the security forces during 1984 army operation along with the assassinated moderate leader Sant Harchand Singh Longowal for which militants never pardoned him. Tohra escaped a bid on his life two years back in which his close supporters and body guards were killed.

EXPEDITIONARY FORCES AND POWER PROJECTION: A CONGRESSIONAL PERSPECTIVE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SKELTON. Mr. Speaker, on November 21, I had the opportunity to speak at a seminar at the Fletcher School of Law and Diplomacy at Cambridge, MA, which was cosponsored by the U.S. Marine Corps University. My remarks dealt with our strategic past and future. We have crucial decisions to make in the days ahead concerning national security and I set forth my thoughts and concerns in my address, which is placed in the RECORD at this point:

EXPEDITIONARY FORCES AND POWER PROJECTION: A CONGRESSIONAL PERSPECTIVE CONGRESSMAN IKE SKELTON, CAMBRIDGE, MASSACHUSETTS NOVEMBER 21, 1991

INTRODUCTION

Let me thank Professor Pfaltzgraff and the Institute for Foreign Policy Analysis for inviting me to address you this afternoon. I feel honored to have been invited, and I look forward to seeing the book that is published on these proceedings. It was Henry Ford who observed that "thinking is the hardest work there is, which is the probable reason why so few engage in it." Those who have presented papers over these past two days well understand the hard work involved with the process of thinking, especially at this time of great change in the world.

I begin this talk by offering some praise of the Marine Corps. I then follow up by discussing the topic assigned to me, the Congressional view of expeditionary forces and power projection. And I conclude with some of my concerns about the support for defense in the Congress in the coming years.

TWO VICTORIES

Congratulations are in order for two recent victories in which the Marine Corps played an important role—victory in the Cold War and victory in the recent Persian Gulf War. Over a period lasting more than 40 years you and your comrades in the Army, Navy, and Air Force were there—in Korea, Lebanon (1958), The Dominican Republic, Vietnam, Lebanon again, Grenada, and a host of other crises. The ideals of freedom, democracy, and human rights have been affirmed throughout the world—in Eastern Europe, Central America, South Africa, and most dramatically, the Soviet Union. The "Long Twilight Struggle"—The words President Kennedy used to describe the bitter contest against Communist expansion—has come to an end. It is still hard to believe that this great contest has ended in the unexpected fashion that it did. Congratulations on a job well done.

We should also thank the American people for their steadfastness over the span of two generations. Their willingness to stay the course, to provide their sons and daughters to the struggle, and to pay the bills cannot be overstated.

Let me also express my pride and admiration for the victory won by America's armed services in the recent Persian Gulf War. Many of you here have helped to write another magnificent chapter in American military history.

Among other matters, the Persian Gulf war finally validated the Marine Corps concept of maritime pre-positioning. Marines also proved their flexibility and fighting value when the theatre commander-in-chief, General Schwarzkopf, kept in place the Marine expeditionary force deployed along the Eastern border between Iraqi-occupied Kuwait and Saudi Arabia even after the arrival of sufficient Army forces. While some purists would have withdrawn Marine Forces from their positions once sufficient Army Forces had arrived, General Schwarzkopf realized the turmoil that such a withdrawal would have caused. The Marines, on the other hand, showed their flexibility and fighting prowess by fighting the kind of land campaign that one normally associates with the Army.

The campaign also showed the value of jointness—the integrated operation of air, land, and naval forces. Maybe the greatest display of jointness shown by the Marine Corps was the amphibious deception it displayed with units aboard amphibious ships in the Persian Gulf. It fooled the enemy and saved lives. I complement those who resisted the temptation to stage an amphibious landing in Kuwait.

At the same time, Persian Gulf war showed areas where improvements can be made. The Marine Corps needs to improve its ability to fight at night. The value of "owning the night", being able to fight at night with the assistance of night vision devices, was well demonstrated by the Army. Improvements are also needed in the area of "IFF", identification of friend of foe, when ground forces are involved, both in air-to-ground and ground-to-ground situations. This is something to which all the services need to devote more thinking.

And finally, I would ask those assembled here to think harder on how we can do a better job in the termination phase of a conflict. The allied coalition did a superb job in the preparation phase of Desert Shield, and the subsequent execution phase of Desert Storm. Yet, to this day, Saddam Hussein remains in power. Don't misunderstand me, I supported the decision to end the fighting on February 27. And yet if we had it to do over how could we have done it better?

My impression is that political-military authorities paid a great deal of attention to:

(1) organizing an international coalition (2) deploying a credible military force to Southwest Asia, and (3) prosecuting a military campaign to secure the goals of the coalition. We paid less attention to how precisely to terminate the conflict.

The President announced that combat operations would stop 100 hours after the beginning of the ground war. The 100-hour figure might well have been more of a public relations decision than a military decision to terminate hostilities. For example, could American forces have headed to Baghdad, surrounded the city, offered the population food, water, and medical care, and posted a $2 million dollar reward for Saddam Hussein for whoever turned him in? Maybe, maybe not. But I am sure that there are other more workable options that some in this audience could offer. My point is to challenge you to devote equal attention to the problems of the endgame in such conflicts.

PME AND THE COMMANDANT'S PROFESSIONAL READING LIST

On a completely different subject, the matter of professional military education, I also want to complement the Marine Corps for taking to heart the recommendations made in 1989 by my panel on professional military education. We were pretty tough in our description of the failings of the Quantico Command and Staff College. We actually described the school as less an educational than a training institution.

My good friend, Al Gray, realized that our criticisms were right on the mark, and he resolved to change the situation. I am pleased to say that the changes that I have seen over the past two and a half years have been all to the good. It speaks well of the Marine Corps that it responded to the criticisms not in a defensive manner but in a positive an open fashion.

I am confident that the present Commandant, General Mundy, will keep up the good work. Let me also provide positive reinforcement for continuing the Commandant's professional reading list. This is a program that the other services would do well to adopt. The profession of arms has an ever expanding body of literature and both officer and enlisted members of the Marine Corps benefit by keeping up with new books coming out about warfare. I applaud the effort to also include books dealing with political, economic, and technological developments, since such matters also influence the military profession.

EXPEDITIONARY FORCES AND POWER PROJECTION

Let me now touch upon the topic you have assigned me—the congressional perspective on expeditionary forces and power projection. I will do so as part of a broader topic, the congressional perspective on defense in general. As you may know we have finished work on the fiscal years 1992 and 1993 Department of Defense authorization bill. One way to address the issue of the congressional perspective on defense is by touching on the work that took place on the 1992 defense budget.

The Congress has ratified the thrust of the Defense Department's effort to reduce the size of the Armed Forces by reducing those forces that had the NATO commitment during the cold war. In plain words, the Army and the Air Force will be cut to a greater extent than the Navy and the Marine Corps. The simple reason for this is the knowledge that expeditionary/mobility forces count for more in the post-cold war world.

The active duty personnel reductions for 1992 and 1993 proposed in the President's budget request went through without any change. If one looks at the proposed personnel end strength reductions for the period 1987–1995 the Army will experience a 32 percent reduction, the Air Force a 29 percent reduction, the Navy a 14 percent reduction and the Marine Corps a 15 percent reduction.

Another example of congressional support for expeditionary/mobility forces was the transfer of management responsibility for the maritime prepositioning program from the Navy to the Marine Corps. While the Secretary of Defense can transfer such authority back to the Navy, he has to certify that the Navy management of the program satisfies certain requirements.

The FY1992 Defense authorization bill also included a specific initiative to enhance modernization of the Marine Corps in which it had not kept pace with the other Services. This was the result of lessons learned from Desert Storm and extra help was provided in both R&D and procurement. The Marine Corps benefited in the following areas: Infantry, armor, night fighting capabilities, mine detection and clearance, and tactical intelligence.

Possibly the greatest example of congressional support for expeditionary forces, especially Marine expeditionary forces, was the continued support for the V–22. Support was maintained despite the opposition of the Secretary of Defense. We in the House kept the program alive earlier this year because the Senate took the administration position on the matter. Ultimately we prevailed in conference by deferring a decision on procurement but providing enough funds for development, manufacture, and operational testing of three production representative aircraft. Support for the program is strong in the Congress because of the need to replace the CH-46 and because of the promise tilt-rotor technology offers not just the Marine Corps but also the U.S. civilian aircraft industry.

OTHER EXPEDITIONARY AND POWER PROJECTION FORCES

Traditionally the Navy and the Marine Corps have been the Services called upon to perform the power projection mission. The Marine Corps is expeditionary by definition and tradition. You know far better than I the strengths and advantages the Navy/Marine Corps team contributes to this mission.

Let me see if I can make the case that other forces exist that can complement the Naval expeditionary forces in the power projection role.

The Air Force for example is undergoing substantial reorganization to meet the challenges posed by the post-cold war security environment. Its leadership has sent a series of memos to Members of Congress describing its efforts to reshape its overhead and support and its operational commands. Its strategic planning document—Global Reach-Global Power—describes the effort "to exploit airpower's inherent strengths of speed, range, flexibility, precision, and lethality." It makes the point that conventional airpower can contribute to the power projection mission. I agree.

As some of you may know, I am a strong supporter of the B–2. Yes, it will be based in my district at Whiteman Air Force Base. Let me say, even if it were to be based in some God-forsaken place, such as Kansas, I would still be a supporter of the program.

While it can help sustain nuclear deterrence, I really believe the utility of the B–2 lies in the conventional role. It combines the survivability of the F–117 with the payload and range of the B–52. One mission over Iraq required more than 65 aircraft to hit one target. More than half the airplanes involved in that mission were support aircraft-tankers, electronic aircraft, and fighter escorts. Two B–2's could have undertaken that operation. It can provide the kind of quick reaction that may be needed in the next military engagement into which we may find ourselves drawn. I commend the Air Force for establishing composite wings that will be able to intervene quickly anywhere in the world with bombers, F–15S, tankers, and AWACS aircraft.

Other forces that can complement the Navy/Marine Corps role in the power projection effort are found in the U.S. Army—light infantry and special operations forces. A few years ago the President sent the 7th Infantry Division from Fort Ord to Honduras. This was done to bolster the Government of Honduras against the previous Communist Government of Nicaragua.

CONGRESS AND DEFENSE IN THE COMING YEARS

The effort to strengthen the military in the 1980's was accomplished at great expense and sacrifice. New weapons, tough training, and, most important of all, excellent people were the ingredients that transformed the "Hollow Military" of the late 1970's into the victorious military of 1991. The American Armed Forces-enlisted and officer alike; active duty, National Guard and reservist—exhibited great skill, determination, and professionalism during the recent war to liberate Kuwait. The results of a decade's effort were made evident for all the world to see.

Maj. George C. Marshall.—The Future World War II Army Chief of Staff—noted in 1923 "The Regular Cycle in the doing and undoing of measures for the national defense." He observed that, "we start in the making of adequate provisions and then turn abruptly in the opposite direction and abolish what has just been done." Today, we are in the midst of making one of those changes in direction. This is now the seventh year of real defense budget cuts, and future years promise even more dramatic reduction in the defense budget.

Last year, I was troubled by the course set for Defense in the budget agreement. I am less troubled as a result of the favorable outcome of the coup in Moscow earlier this year. The present Department of Defense plan to reduce the size of the armed forces by 25 percent over the next five years is a reasonable plan. But I am troubled by the DOD conference bill which transfers $250 million from the readiness accounts to the personnel accounts. If we follow up on cuts in force structure with further cuts in readiness, then we will end up in the same situation of the late 1970's with a hollow military.

One of the keys to victory earlier this year in the deserts of Iraq and Kuwait was readiness. Over the past decade we have provided service men and women with sufficient funds so that adequate training could be accomplished. As one combat veteran once told me "The more you sweat in peacetime, the less blood you'll spill in war." The Army has the finest training facility in the world at Fort Irwin, California. At that 640,000 acre facility in the California desert I had the good fortune three years ago to witness battalion size units stage mock battles against 'red' forces trained in Soviet tactics. Hard training such as this, performed by each of the services, prepared our forces for the combat that took place earlier this winter in the Iraqi and Kuwaiti deserts.

If we continue with the precedent set in the action taken by the House-Senate conference this year we will do the services, our

Nation, and the cause of peace a great disservice. Our long range effort should be to save the one institution in America that works well—the United States military. While we have problems all across our country—health care, education, crime, environment—we really need to remember that the world is still a dangerous place. Predicting the future is like predicting the next pattern in a kaleidoscope. Iraq is a case in point. After the fall of the Berlin Wall, who would have thought that the United States would fight a major war in the Middle East a little more than a year later?

Secretary Cheney and General Powell have crafted a five-year plan that will result in a 25 percent reduction in the size of our forces and the size of the defense budget. They have put together a pretty good plan, not perfect but pretty good. But to readjust the plan every year as some would have them do, is simply more than the system can accommodate.

To look at this process in nautical terms might be helpful. The Defense Department is similar to a huge supertanker. It is big, massive, unwieldy, and slow to respond. It is not like a motorboat that can change course almost instantaneously. Those who would call for even greater budget cuts in a shorter period of time don't understand. They think that such an institution can respond like a motorboat. It can't.

If we try to get those massive cuts in a short period of time we will have set in motion a change in course that will be hard to reverse. We will end up in the same situation we have found ourselves after almost every other war we have fought in our history—with military force ill-prepared to fight. The reason that they will be in bad shape is that we will have made cuts in personnel, training, and maintenance. These are the only areas of the budget that allow for quick savings, quick cuts. We saw this after Vietnam.

I believe that the American public want a reduction in the size of our military and the size of spending devoted to defense. I don't believe that they want to put at risk the work of ten years that went into restoring the military after the tragedy of Desert One, the failed Iranian rescue mission of April 1980. The route travelled from Desert One to Desert Storm was a long, costly, and arduous one. We can save the one institution that works well in America if we are patient and wise in the decisions we make this year and the years to come.

A CONCLUDING THOUGHT

Almost two years ago I gave a speech calling for a new National Security Strategy. At that time, just after the fall of the Berlin Wall, I thought we had 12 to 24 months to craft a new strategy. I think that the President, the Secretary of Defense and the National Security Advisor have done a pretty good job in accomplishing that task.

In that speech I also called for developing the military component of the National Security Strategy. In fact in the FY 91 DOD bill we had a provision calling on the Secretary of Defense to submit to Congress a national military strategy report for fiscal years 1992, 1993, and 1994 covering a period of 10 years.

A crucial part of that report concerns the effects of alternate budget levels. In addition to that year's budget level the report is also to address the effect of an addition of $50 billion and a reduction of $50 billion. The difficult job concerns the reduction of $50 billion. I know that the joint staff is having a difficult time addressing the $50 billion cut.

Many of my colleagues in the Congress are sitting on the fence when we talk about defense cuts. Unless those of us who understand the issue can talk about the specific risks that we run by having such a cut, by citing the loss of capabilities that will take place, we will have a difficult time making our case not to cut the defense budget further than the 25% cut already agreed to.

The end of the cold war presents us with many tough decisions. The challenges are enormous. But at the same time so are the opportunities. We can fashion forces that will serve us well for the rest of the 20th century—and beyond. If we can make our case to the American people, I believe that they will support measures needed to maintain a strong military.

RESOLUTION OF RESPECT FOR THE LATE ARTHUR (PIPE) MONTGOMERY

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ESPY. Mr. Speaker, Arthur Montgomery, a highly respected and wonderful citizen of Holmes County, MS, in my district, and a resident of the Bowling Green community, died recently at the age of 97½ years. Mr. Montgomery was active in the affairs of the county until just a few months ago, when he became ill.

Because of his many contributions to our community, I submit the following resolution for insertion into the CONGRESSIONAL RECORD. The resolution, passed by the Holmes County Board of Supervisors, expresses the board's respect for the life of Mr. Montgomery:

RESOLUTION OF RESPECT FOR THE LATE ARTHUR (PIPE) MONTGOMERY

Whereas, Arthur Montgomery, affectionately known to his family and friends as "Pipe", departed this life on October 13, 1991, having been born in the Bowling Green Community on April 14, 1894, and having been a resident of said Community during his entire lifetime of 97 years, and

Whereas, throughout his adult life, he served the people of Holmes County by his devotion to his Church, his concern for the well being of all people, his inspiration and guidance to young people, his generousness to all persons in need of help, and his advice and judgment, which was often sought by his fellow men and given credence whenever received, and

Whereas, in particular, he served many Holmes Countians as a shipper of, and a consultant regarding, the products of the forest in the County by providing advice and even providing financial assistance to persons, which enabled such persons, who did not have any source of livelihood, to own and operate equipment for harvesting forest products, and in so doing, Arthur Montgomery, individually, elevated the economy of Holmes County, Mississippi; therefore be it

Resolved by this Board of Supervisors of Holmes County, Mississippi, That it express, and it does hereby express, its respect for the Late Arthur Montgomery, and be it further

Resolved, that this Resolution be published in a forthcoming edition of The Holmes County Herald; that a copy of this resolution, as spread on these minutes, be sent to the family of Arthur Montgomery, Deceased, as an expression of the sympathy of the members of this Board; and that Honorable Mike Espy, U.S. Congressman for the Second Congressional District of Mississippi, be requested to insert this Resolution into the Congressional Record of the United States of America.

CAMPAIGN FINANCE REFORM

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MFUME. Mr. Speaker, the financing of congressional campaigns cries out for overhaul. As so, I rise today in support of H.R. 3750, House Campaign Spending Limit and Election Reform Act.

H.R. 3750 includes spending limits in congressional races; limits on Political Action Committee [PAC] contributions; the means to combat escalating so-called independent expenditures; and spending limits on soft money. The legislation also contains the requirement that no taxpayer dollars may be used to finance congressional campaigns.

This legislation creates balance in the contribution pool which will allow for democracy in election participation in our country. Also limiting PAC contributions reduces the perception that special interests exert inordinate influence on the political process. Further, establishing spending limits on soft money is the best way to avoid any abuses of the current loopholes created by the use of soft money in elections as it would be impossible to completely curtail the use of soft money because funds for Federal and State elections cannot be completely segregated.

Mr. Chairman, I believe that spending limits are the key to actual campaign finance reform. H.R. 3750 addresses spending limits. Also, the voluntary matching funds would not come from tax revenues, but only from voluntary contributions from individuals and organizations. No matching funds would involve existing Federal programs or tax revenue and none of the funds would increase the Federal deficit.

Mr. Chairman, I believe that this legislation is a responsible, comprehensive, balanced and reasoned approach to provide more choice and better representation for our country. I encourage support for H.R. 3750.

GREGORY WATSON'S CAMPAIGN TO RATIFY THE ORIGINAL PROPOSED SECOND AMENDMENT TO THE U.S. CONSTITUTION

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PICKLE. Mr. Speaker, as I did on March 24, 1987, and again on September 25, 1989, I would like to update my colleagues in Congress and the Nation on the status of the ratification of the Congressional Compensation Amendment in 1789, one of the 12 proposed amendments to the U.S. Constitution, 10 of which became our Bill of Rights two centuries ago on December 15, 1791.

VOL 137
PT 24
NO 26
1991
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JA 3
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Mr. Speaker, the Congressional Compensation Amendment reads: "Article the Second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened" and has now been approved by the legislatures of 35 States, leaving only three yet to go for the required 38. Texas was the 32d State to pass a resolution of ratification on May 25, 1989. The recent progress of the ratification is the result of the efforts of my constituent, Gregory D. Watson of Austin, TX, who discovered this proposal in 1982 while conducting research at the University of Texas at Austin.

With the recent enactment of Public Law 102–90, despite the restrictions contained within Public Law 101–194, we have seen that the statutory approach simply does not work. Only via an amendment to the U.S. Constitution can it be assured that any change in the compensation of Members of either of the two Houses of the Congress will be delayed from taking effect until after the next ensuing biennial election.

Mr. Speaker, I would like to include in the RECORD an article from the March 26, 1991, issue of the Minot Daily News, a newspaper in Minot, ND, as well as a list compiled by Gregory Watson of the 15 States that have not yet ratified the 202-year-old Congressional Compensation Amendment of which only three more are needed. I ask that these materials be printed following my remarks.

[From the Minot Daily News, Mar. 26, 1991]

NORTH DAKOTA RATIFIES PAY AMENDMENT

(By Jill Schramm)

BISMARCK.—North Dakota became the 35th state to ratify a constitutional amendment delaying congressional pay raises Monday.

The House voted 84–18 in support of a constitutional amendment resolution. It earlier passed the Senate 49–4. The Senate narrowly defeated the resolution in the last two sessions.

"I am just delighted to hear that North Dakota has become the 35th state," said Gregory Watson, nationwide coordinator for ratification, Austin, Texas.

An amendment to the Constitution requires 38 states for ratification.

The resolution adopted by North Dakota and 34 other states provides that a proposed pay raise for senators and representatives in Congress should not take effect until an election of representatives first occurs.

The amendment was suggested by James Madison in 1789 but was never ratified.

"It is kind of fun to join hands with James Madison of 200 years ago," said resolution sponsor Sen. Ray David, R-Dickinson.

David credited the handy passage of the resolution to the healthy pay raise taken by Congress in January. "Even we free-spending legislators got the message," he said.

David also received a letter from U.S. Sen. Quentin Burdick, D-N.D., in support of the resolution.

Watson said he has hopes for Alabama, Rhode Island and Missouri to pass a resolution yet. A resolution was introduced in Nebraska too late for consideration this year.

It may take until 1992 to get the necessary states, but Watson believes once it is done, Congress will pass a resolution of acceptance.

"I believe this issue is so politically sensitive to Congress that they will not sweep it under the rug and ignore it," he said.

The only opposition on the House floor came from Rep. Bruce Anderson, D-Glenburn.

"I don't see the sense of having an amendment that delays the pay of a member of Congress when right now the election rate is 98 percent and they have been giving themselves pay raises. People aren't voting them out after that happens anyway," Anderson said. "I don't think this accomplishes anything. It just adds something to the Constitution to make us feel good."

Congress has the power to set its own salaries. Congress received a pay raise in January 1990 that was approved in November 1989, without an intervening election, Watson said.

LIST OF STATES THAT HAVE NOT YET RATIFIED THE CONGRESSIONAL COMPENSATION AMENDMENT OF 1789

(Compiled by Gregory D. Watson, National Coordinator)

Of these 15 states that have not yet ratified the Congressional Compensation Amendment of 1789, only 3 of them are needed to achieve full ratification:

1. Alabama;
2. California (passed Senate on June 30, 1989 and again on June 13, 1991):
3. Hawaii;
4. Illinois (passed House of Representatives on June 22, 1988 and again on May 24, 1989);
5. Kentucky;
6. Massachusetts;
7. Michigan (passed Senate on March 15, 1989);
8. Mississippi;
9. Missouri (passed House of Representatives on March 20, 1990 and again on March 13, 1991);
10. Nebraska;
11. New Jersey;
12. New York;
13. Pennsylvania;
14. Rhode Island; and
15. Washington.

NORTHEAST-MIDWEST CONGRESSIONAL COALITION

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GALLO. Mr. Speaker, I am very pleased to accept this important assignment as coalition co-chairman.

The Northeast-Midwest Congressional Coalition makes a vital contribution to congressional understanding of issues that effect our region.

I am particularly pleased to be assuming this leadership role at such an important time for our part of the country.

In the coming year, Congress will be considering many matters of particular concern to those of us in the Northeast and the Midwest.

Funding formulas, environmental issues, trade matters and population shifts are among the challenges that we will be confronting as a region.

We have the talent within the organization to creatively respond to the challenges we face.

I am looking forward to working closely with Cochair Howard Wolpe and the rest of the members of the coalition to have a positive impact on Federal policies as they relate to our region.

A CONGRESSIONAL SALUTE TO MR. DALE VAN NATTA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding man and a remarkable achiever whom I greatly admire, Mr. Dale Van Natta. After 24 years with TRW's Civic and Community Relations Department, Mr. Van Natta is leaving the Los Angeles area to join TRW Environmental Safety Systems in Las Vegas. He will be sorely missed by his colleagues and friends and will be honored for his years of service to our community on December 6, 1991.

Dale has four great loves in his life, his family, music, young people—(for they are our future)—and fishing. Before Mr. Van Natta began working for TRW, he was the director of music and Christian education at Calvary Presbyterian Church in Long Beach. He managed the Roger Wagner Chorale, accompanying them on a world tour that included the Soviet Union. Together with Mr. Roger Wagner, Mr. Van Natta cofounded the Los Angeles Master Chorale at the Music Center and served as the first general manager.

In 1958, Dale was the youngest foreman at Northrop Aircraft and from that moment his career skyrocketed. In 1959, he joined Ramo Wooldridge as a lab supervisor working on a highly sensitive and classified satellite program. Later at TRW, he began a long and distinguished career in marketing communications. His drive and determination were made apparent by his organization of a highly successful fund-raising campaign in Manhattan Beach to purchase the portable stage for the concerts in Polliwog Park. Mr. Van Natta was responsible for obtaining the 90th anniversary painting that now hangs in Redondo Beach City Hall. He started the Teen Involvement Program that provides summer jobs in nonprofit organizations through the South Bay San Pedro Volunteer Center.

Later in his tenure with TRW, Dale became intensely interested in holographic imagery and, working with Ralph Wuerker and Cameron Knox, arranged to have a hologram made of President Nixon. The President was so impressed that Mr. Van Natta was invited to the White House. Dale began holding hologram demonstrations in local schools, where he developed contacts with educators that would later become the foundation of the TRW Community Relations Education Program. His interest in the education of our Nation's youth continued with his initiation of a partnership called Project SEED, a collaboration between universities, schools, and industry in hands-on science experiments with computer simulations. He has written numerous articles, appeared on network television, and given presentations concerning business's involvement with education. Mr. Van Natta has been honored by the Native American Indian Science and Engineering Society for producing a video to motivate young native Americans to pursue higher education. In addition, he has labored tirelessly investigating the use of a systems engineering approach to solving school problems.

Mr. Dale Van Natta has received a multitude of awards for his outstanding citizenship, community service, and his support of higher education from the California State University Foundation, Cal State Dominguez, El Camino College Foundation, the Cities of Carson and Redondo Beach, the Centinela Valley School District, Partnerships in Education Journal, and the Community Report.

It is difficult to believe that these activities allow Dale any free time for fishing, directing the El Segundo Methodist Church Choir, or assisting his wife as co-director of music at the Westchester United Methodist Church, but somehow he finds the time and energy. What is surely TRW's loss in Los Angeles will be TRW's gain in Las Vegas.

Mr. Speaker, my wife, Lee, joins me in bidding farewell to an outstanding citizen and in extending this much deserved congressional salute. We wish Dale Van Natta and his family all the best in the years to come.

A TRIBUTE TO JOSEPH L. POSCH, M.D.

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to Joseph L. Posch, M.D. Dr. Posch is being honored for his 30 years of service to Bon Secours Hospital, Grosse Pointe City, MI.

Dr. Posch's higher education began in 1938 at St. Thomas College in St. Paul, MN. After his undergraduate education, Dr. Posch attended medical school at the University of Minnesota and did his internship and general surgery residency at Receiving Hospital in Detroit, Michigan.

His residency was interrupted by World War II, when Dr. Posch served as a U.S. Army captain. Dr. Posch served throughout Europe and was the first doctor allowed into the Dachau Concentration Camp after it was liberated. In Dachau, he attended to the needs of the people there under extraordinary conditions. After World War II, he returned to Detroit, finished his residency, and then opened his own practice.

As a Detroit-area physician, Dr. Posch joined the Wayne State University Medical School where he started a fellowship for advanced training in surgery of the hand. This fellowship was, and still is, for doctors who complete residency in general surgery, plastic surgery, or orthopedic surgery. Dr. Posch has personally trained over 400 surgeons on surgery of the hand through this fellowship. In the 1960's, a group of hand surgeons from his training fellowship program formed the Joseph L. Posch, M.D., Alumni Association, and in the 1970's, this group became an international professional association known as the American Association for Surgery of the Hand.

As an educator, Dr. Posch has taught all over the world, including Germany, Japan, the Philippines, Indochina, France, and the United Kingdom. He is recognized as a world renowned hand surgeon and has been at the forefront in diagnostic and surgical innovations. He is published in national and international journals and has spoken at many conferences. He remains today on the teaching staff at Wayne State University Medical School and is on staff at the Detroit Medical Center, St. John's Hospital, and Bon Secours Hospital.

A devoted family man, Dr. Posch continually nurtured and appreciated the love and support of his family. He has two children, Mary Katherine Gebeck, and Joseph Louis Posch, Jr., and nine grandchildren. He lives in Grosse Pointe Shores with his wife, Geraldine E. Jackson. Spending time with his family in Michigan and his extended family in Minnesota is his favorite pastime and, along with his faith, play the most important role in his life.

Mr. Speaker, I join with Dr. Posch's family and friends on the occasion of his 30th anniversary with Bon Secours Hospital, and I extend my most sincere best wishes for many more years of success and friendship.

THE BEST FIGHTER UNIT IN THE WORLD

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BYRON. Mr. Speaker, I would like to pay tribute to a group of individuals who have won the honor to be called the best fighter unit in the world. These individuals are part of the Maryland Air National Guard's 175th Tactical Fighter Group. Flying the A–10, a plane built in Hagerstown, MD, the 175th captured the top team award in the 1991 Gunsmoke Competition. Gunsmoke In a biennial air-to-ground gunnery competition featuring the top 14 active-duty, Reserve, and Air National Guard teams.

The 175th's team was composed of 45 support personnel and 5 pilots, some full-time air technicians and some part-time guardsmen. The 175th not only defeated teams flying F–15E's, F–16's, F–111's, A–7's, and A–10's, it shattered the existing Gunsmoke record by over 200 points. This is a remarkable achievement for Col. Bruce Tuxill's mixture of full-time and part-time personnel. The citizens of Maryland should be proud of their Air National Guard—it is best fighter unit in the world.

HONORING WOLF COMPUTER OF LOS GATOS, CA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MINETA. Mr. Speaker, in Los Gatos, CA, the chamber of commerce has an excellent tradition of honoring those who have contributed selflessly to our community. The chamber of commerce calls their honor the "Top Cat Award," and the recipients are indeed the tops among their friends and neighbors.

One October 19, 1991, Don Wolf of Wolf Computer received one of this year's awards for its outstanding service which has enhanced the image and prestige of the Los Gatos community. The chamber said of Wolf Computer:

> Today, Wolf Computer is the largest independent retailer in the Silicon Valley. Wolf Computer has truly been an asset to the Los Gatos business community with their success, growth and generosity with support and contributions to many charitable organizations.
>
> Don Wolf, president of Wolf Computer, attributes the success to knowledgeable sales, training, and service staff. The success is also due to Don Wolf for his leadership, foresight, and involvement in the community.

Mr. Speaker, committed companies like Wolf Computer are invaluable to any community, for they do indeed enhance the image of the people who live and work there.

Mr. Speaker, at a time when some cynics say that America is starved for such community-minded companies, we know that there are Wolf Computer's in every community from coast to coast. I know I speak for my colleagues here in the House as I, too, congratulate Wolf Computer for their commitment to the people of Los Gatos.

H.R. 3909, TO EXTEND EXPIRING TAX PROVISIONS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SERRANO. Mr. Speaker, I rise in strong support of H.R. 3909, a bill to extend several tax provisions that mean a great deal to my community. I would like to thank the distinguished chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, for bringing this legislation to the House floor before the end of the session.

The low income housing tax credit [LIHTC] and the Mortgage Revenue Bond tax exemption are major spurs to the development of affordable housing and homeownership, which we desperately need in New York City and all our Nation's large cities. As a member of the Congressional Urban Caucus, I would like to thank the co-chairmen, Mr. FOGLIETTA, Mr. SHAYS and Mr. MCDERMOTT, for their leadership in uniting the caucus behind the effort to gather support for these measures.

The targeted jobs tax credit [TJTC] is also a very important instrument for employment training in my district. I have received countless letters from employers describing the importance of this incentive in their hiring and training of young, disadvantaged employees.

The exclusion of employer-provided education assistance will help workers to advance their careers and gain further employment qualifications by continuing their education after entering the workforce. This is important for those who must work to put themselves through school and cannot afford to attend full time. The exclusion of employer-provided group legal services is also a very important tool for employees with limited resources.

Also of great importance to many of my constituents is the tax deduction for health insurance costs of the self-employed. I recently surveyed the small business owners in my district and found that they are having great difficulty providing insurance for themselves, their families, and their employees. This Congress must deal with the larger issues of health care in America, but while we examine the larger problems and proposed solutions, we must do all we can to ease the burden of health care costs wherever we can. Small business is the backbone of economic development in my district, and I will be pleased to see this provision renewed.

This bill, H.R. 3909, effectively addresses some of the most urgent needs in my district: affordable housing, job training, higher education, small business development and health care. I hope that all these needs will be addressed comprehensively in the next session of Congress. Right now, we must ensure that activities which are driven by these tax incentives, such as construction of affordable housing and the hiring and training of the disadvantaged, are not allowed to come to a halt. We must immediately pass this legislation to renew the tax provisions before they expire.

I urge my colleagues to support this legislation.

PEACE CORPS PROGRAMS IN ARMENIA AND UKRAINE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. KENNELLY. Mr. Speaker, today, I submit a resolution supporting United States Peace Corps activities in the Soviet Republics of Armenia and Ukraine. These Republics have struggled through years of Communist oppression, years of disasters both natural and manmade, and years of isolation from the community of nations.

It is time to extend the gifts of democracy to these Republics. It is time to offer practical help. The Peace Corps can offer the technical and educational assistance that will help Armenia and Ukraine.

In 1989, I introduced legislation to help set up Peace Corps programs in Poland and Hungary. Over the past few years, the Peace Corps has established successful programs not only in Poland and Hungary, but in the Czech and Slovak Federal Republic, Bulgaria, Romania, and Albania. I know that the activities of the Peace Corps have made a difference in transforming these economies and improving the quality of life for their citizens.

The U.S. Peace Corps has made significant contributions throughout the world for 30 years. As the citizens of Armenia and Ukraine struggle to rebuild their nations, we can offer practical, meaningful help by establishing Peace Corps programs in those countries.

SAVE THE CITSNOQ!—PEOPLE MUST BE PART OF THE ENVIRONMENTAL EQUATION

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CHANDLER. Mr. Speaker, I welcome the opportunity today to share with my colleagues a report from the people of Snoqualmie, WA about a new species that could qualify for Federal protection under the Endangered Species Act.

Our concern today is for the citsnoq.

As described in the habitat preservation plan prepared by the city of Snoqualmie's Flood Task Force, the citsnoq is a "relatively large, partially furred mammalian creature." It is native to the Snoqualmie Valley in my home State of Washington.

Mr. Speaker, flooding threatens the citsnoq's habitat. In fact, this report concludes that the citsnoq's "houses are frequently destroyed, but the tenacious citsnoq continually repair their dwellings and communal structures, often returning to start this seemingly pointless task immediately after floodwaters recede."

By now, it should be clear to my colleagues that the species is not a new animal needing scientific study—we are talking about people.

I am talking about a community of people who live and work in my congressional district—a group of families who are waterlogged and frustrated with constant flooding in the Snoqualmie Valley.

Mr. Speaker, while the report I am submitting today is a humorous, tongue-in-cheek way of attracting attention, the people who prepared it are genuinely concerned about the fate of their community.

As State and local officials work to minimize flooding along the Snoqualmie River, families who live and work in the Snoqualmie Valley are concerned that their elected leaders are not paying close enough attention to their livelihoods, to the future of their community.

I share their concerns and believe that in this debate, as well as others that affect our natural resource base, our goal should be to seek a balance that takes into account the concern for the environment and our commitment for people and their families.

Mr. Speaker, thank you for giving me this opportunity to share this report with my colleagues. It is my hope that each and everyone of us will have a better understanding of how adversely American families can be affected by poor management of our natural resources:

HABITAT PRESERVATION PLAN—ENDANGERED CITSNOQ

SPECIES DESCRIPTION

The citsnoq is a relatively large mammalian creature, partially furred. Its habits are generally diurnal, although occasionally some nocturnal wildlife can be observed. The female bears live young, generally one to a litter, gestation approximately seven to nine months. Their family structure is intricate and of primary significance. A communal creature, the citsnoq are quite protective of one another, especially members of the family unit. Citsnoq generally mate for life, constructing small houses made of sticks in which to raise their young. Due to the severe annual flooding of their habitat, these houses are frequently destroyed, but the tenacious citsnoq continually repair their dwellings and communal structures, often returning to start this seemingly pointless task immediately after flood waters recede, wallowing in mud much like the hippopotamus, without complaint.

Like their distant relative, the beaver, the industrious citsnoq attempt to control their habitat, records of efforts to build dams and dikes, although unsuccessful, show the continued commitment of the species to its own survival.

HABITAT DESCRIPTION

The citsnoq is one of many species inhabiting the lowland maple-alder forests and riparian habitat of the upper Snoqualmie basin in Washington State. The species exists exclusively in this habitat, which is subject to severe annual flooding due to the combined effects of watershed logging and development as well as riverine development such as dams and fill which have reduced holding capacities in the basin. The habitat includes numerous wetlands and sloughs, the non-navigable Kimball Creek, as well as the main stem of the Snoqualmie River. Such direct connection with water in its various forms, coupled with annual rainfalls up to twice those generally experienced in the Puget Sound Area, create an ideal condition for floods.

Many other species are affected by this annual flooding. Deer and other smaller mammals have been seen washing over Snoqualmie Falls during periods of high water; after floods many such creatures are found drowned throughout the basin. Protection of the citsnoq habitat from flooding will also have a beneficial effect on these species, which live in harmony with the gentle citsnoq.

CONCLUSION

Since habitat preservation is of primary importance in survival of the citsnoq, a reprioritization of environmental policy is necessary within the habitat and adjacent areas. Suggested new priorities in policy include the following:

1. Non-native endangered species, notably the Sockeye Salmon, and non-native threatened species, notably the King, Coho, and Chum Salmon, must not be introduced into the riparian habitat of the citsnoq. Preservation efforts for these species will be in direct competition with the preservation of the endangered citsnoq.

2. Coordination of preservation efforts at the local, state, and federal levels is necessary for the development of effective habitat restoration for the citsnoq.

3. All private and public developments, notably the dam at Snoqualmie Falls, the SR 202 bridge, riverbank fill from the Falls upstream to cross-section U-12 (ref. Puget Power FERC Relicensing proposal 1991), and others which have contributed to the flooding of the citsnoq habitat must be restored to the natural pre-development condition or mitigated to approximate that condition.

4. Any future developments which may affect flooding in the upper Snoqualmie basin, restrict outfall of waters over the Falls, or cause filling in of the habitat itself should be subject to environmental review by a joint task force including all agencies involved in species protection efforts.

5. Protection of non-endangered native species (for example, beaver, otter, raccoon, blue heron, red-headed merganser, and wood duck), should be considered secondary to the

preservation of the citsnoq. Relocation efforts by county, state, and federal agencies should focus on these species rather than the citsnoq, since these species are represented in numerous other locales, whereas the citsnoq exists solely in the upper Snoqualmie basin and has been shown not to successfully survive relocation efforts.

6. The overbank excavation and channel widening proposal for the Snoqualmie area by the U.S. Army Corps of Engineers in 1986 should immediately be undertaken as a high-priority project for citsnoq preservation. Other projects which offer additional levels of flood reduction, such as lowering the level of the Weyerhauser Mill Pond, removal of the old sunken SR202 bridge from the river channel, removal of the PSRHA bridge, and relocation of the Kimball Creek outfall to a location downstream of the 202 bridge are also recommended by the Environmental Task Force for immediate implementation.

7. All current and future proposals for flood hazard reduction in the basin should be subject to the following criteria:

a. citsnoq habitat preservation should be the primary consideration.

b. other species, including expanded human habitat, or preservation of other threatened or endangered species, should be secondary to citsnoq preservation.

c. economic development should be permitted only if citsnoq habitat is preserved or enhanced by the proposal.

d. county, state, and federal agencies should adopt the above guidelines as part of their comprehensive planning process.

8. Declaration of the citsnoq as recognized endangered species should be immediately pursued by city, county, state and federal Environmental Protection Agencies. Standard and accepted means of preservation should be adopted subsequent to such declaration. The citsnoq should be considered a permanently endangered species, and, as such, deserving of permanent protected status.

TRAGEDY IN CROATIA

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUGHES. Mr. Speaker, I rise to call my colleagues attention to continuing tragedy in Croatia. Despite the best efforts of the United Nations and the European Community, the 14th cease-fire agreement to date has failed to stop all of the shelling and the killing.

So much of this violence has been senseless. The town of Vukovar has been entirely demolished, and the medieval city of Dubrovnik has seen many invaluable treasures destroyed. The death toll for this conflict is approaching if not surpassing the 10,000 mark, and over 500,000 people have become homeless or otherwise displaced by the war.

The time has come for the killing to stop. The international community must also realize that there are similar ethnic tensions and territorial disputes brewing in other areas of the former Soviet block, such as the border between Armenia and Azerbaijan.

During the Persian Gulf war, many people questioned whether concern for democracy and human rights or a concern for cheap oil brought the International coalition together. Today the Croatian people, especially those innocent bystanders who have lost homes, and loved ones, are asking that same question.

INTRODUCTION OF THE COASTAL COMMUNITIES IMPACT ASSISTANCE ACT OF 1992

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TAUZIN. Mr. Speaker, today I introduce the "Coastal Communities Impact Assistance Act of 1992." This bill will allow coastal States and communities impacted by off-shore oil and gas production to enjoy their fair share of revenues generated by off-shore development. Supporting off-shore oil production can burden a community's infrastructure and severely strain its ability to provide basic public services. This bill will help to remedy the present inequities in this Nation's Outer Continental Shelf [OCS] development policies.

This bill establishes an assistance fund from 37.5 percent of revenues generated by OCS rents, royalties, bonuses and other payments on both existing and future OCS leases. The fund will be divided evenly between State and local governments. Local governments will have the freedom to use the impact assistance in any way they deem appropriate. Coastal parishes and counties as well as communities within 60 miles of the coast and have significant OCS related impacts may benefit from the impact assistance.

This bill will help the coastal communities currently sacrificing their quality of life subsidizing domestic production of oil and gas. It is only fair that gulf coast communities be reimbursed for the expenses they incur supporting OCS development. The war against Saddam Hussein made it painfully obvious that we must increase domestic oil production. As we expand domestic production, we must ensure coastal communities are fairly compensated for the human and environmental costs they will have to absorb. I ask you to support the "Coastal Communities Impact Assistance Act of 1992".

NATIONAL PARK OUTFITTERS CONCESSIONS ACT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of Utah. Mr. Speaker, for years, visitors to our national parks have been safely guided through the back country and down wild rivers by a unique group of people. Many of these people are second and third generation families who, through their years of exploring and adventuring in the region, know the rivers and back country better than anyone else.

These outfitters are an essential part of the national park experience, providing visitors safe guidance into the heart of our national parks, where they may not otherwise venture. Although these outfitters guide in the parks, most of them have no possessory interests in the park. Their businesses are generally small, family-run, and operated solely to provide back-country guiding. These outfitters are not large profit-making corporations.

Today, I am introducing a bill to amend the National Park Concessions Policy Act of 1965 to clarify management of outfitter concessioners who solely operate services for back-country recreation in the National Park System.

This bill, known as the "National Park Outfitters Concession Act," calls for the establishment of a standard concession fee for outfitters with no possessory interests. In addition, the bill would give a preference of renewal to concessioners who have a demonstrated record of safety and performance in the back country. The bill also clarifies that outfitter concessioners may transfer to a qualified person their contracts along with their business interests located outside of the parks.

America Outdoors, Outward Bound of Colorado, and many river guide concessioners strongly support this bill. I urge you to join me in supporting this bill that is important to many small businesses across the country that provide the public the opportunity to experience the essence of our national parks.

WIRE WAR

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, I would like to call my colleagues' attention to Michael Kinsley's column, "Wire War," which appeared in last Friday's Washington Post.

Given the pending battle between the newspaper publishers and the telephone companies over the delivery of information services, I think Mr. Kinsley's cogent comments are very timely and clearly outline the issues involved in this debate.

[From the Washington Post, Nov. 15, 1991]

WIRE WAR

(By Michael Kinsley)

Every now and then Washington newspaper readers are treated to a befuddling war of advertisements over some obscure piece of legislation. "Without H.R. 278," one might say, "America's rivers will run dry by 1997." *Au contraire*, rejoins another, Passage of H.R. 278 will mean certain death by cancer for every child under 12."

The first rule in understanding these battles is that there is usually less at stake than meets the eye. The lobbyists, ad agencies and trade association executives on both sides of the dispute share an interest in exaggerating its importance—not just to the citizenry but to the companies paying their fees. The second rule, though is that somebody is usually trying to get away with something.

One such dispute is going on now between the newspaper industry and the regional Bell phone companies. According to the Bells, the newspapers want to "prohibit the American public from receiving . . . valuable information services." According to the newspaper publishers, the phone companies want to invade your privacy. "Call a marriage counselor, and the next thing you know a divorce lawyer may contact you."

This is one of those endless regulatory controversies that fester quietly for year then erupt periodically, like herpes. The issue is whether the phone companies should be allowed to sell electronic "information services"—stock quotes, news headlines, computerized yellow pages etc.—over their own phone lines. The answer has always been "no," but in October an appeals court said "yes." According to the New York Times; "Unless Congress intervenes, this decision will allow the Baby Bells to exploit their monopolistic stranglehold over residential phone lines and dictate what information reaches nearly every home."

A third useful rule is that when an interest group asks for special legislation in the name of "competition," competition is usually what it is trying to prevent. In this case, the newspaper want to keep potentially powerful rivals out of the information business. Their case is twofold. First, they say, the Baby Bells will squeeze monopoly profits out of their phone customers and use the money to subsidize their entry into the information business. And second, the Bells will use their monopoly control over the phone lines to discriminate against competitors. Both arguments are 99 percent nonsense.

As monopolies, the phone companies will certainly charge customers as much as they can get away with. That is why their rates must be regulated. But whether they are allowed into the information business has nothing to do with how much they charge their phone customers. They will charge as much as they can in either event. And whether they put whatever monopoly profits they can extract into information services depends entirely on whether they can make money at it. They have no reason to run this side business at a loss just to keep rivals out.

Anyway, most newspapers are monopolies as well—unregulated at that—with rates of return on capital comparable to the Baby Bells. There are stringent rules to prevent the phone companies from discriminating against rivals in granting access to their lines. But they may not be so eager to discriminate. There is almost surely more money to be made in collecting access fees from all comers than in squelching a customer who may also be a potential rival.

In the decade since this controversy started, phone companies have been banned from the electronic information services business. And yet during that whole time the newspapers have done practically nothing to enter the business themselves, apart from a few primitive 900 numbers.

The newspapers are less interested in protecting the electronic revolution than they are in protecting themselves from the electronic revolution. In particular, they are protecting their classified advertising. Classified ads are a natural to go electronic. The fact that this hasn't happened in good evidence that bearing potential rivals has slowed progress, rather than speeding it.

Cathleen Black, head of the American Newspaper Publishers Association, says that allowing the phone companies to compete in information services "would be like saying The Washington Post could only be delivered by the Wall Street Journal." Pursuing the analogy, what the publishers want is for the government to tell the Wall Street Journal that it can't publish a newspaper.

Ah, but what about those cold calls from divorce lawyers? The argument is that the phone company knows who you call and could sell those records to businesses that might find them useful. That might be a danger. But logically, it has nothing to do with the question whether the phone companies should be allowed to sell electronic information on their phone lines. If the data are valuable to somebody, there are plenty of other ways to supply it. If its sale is to be banned, that can be done without banning the Bells from selling other information over their lines.

After a decade, I am a connoisseur of the arguments in this endless dispute, and I can't help feeling this latest one reeks of desperation. The end may be in sight.

HONORING RICK MILLER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MINETA. Mr. Speaker, in Los Gatos, CA, the chamber of commerce has an excellent tradition of honoring those who have contributed selflessly to our community. The chamber of commerce calls their honor the "Top Cat Award," and the recipients are, indeed, the tops among their friends and neighbors.

On October 19, 1991, Rick Miller received one of this year's awards for his volunteer efforts. The chamber issued him this citation:

> By definition a volunteer is one who enters into any service by choice. The volunteer also gives, bestows, and offers without being asked. With these thoughts in mind, the one person that immediately comes to the forefront is Rick Miller.
>
> A friend of the community he certainly is. Rick's leadership is only excelled by his giving and maybe his antics. Since the late 1970's when he stepped into the community through his involvement with the Los Gatos Chamber of Commerce and the Los Gatos Lion's Club he has not stopped contributing.
>
> One cannot measure or put a value on what Rick has given, the time committed, and his accomplishments * * *."

Mr. Speaker, selfless individuals like Rick Miller are invaluable to any community. They will help a family move, raise money for a worthy cause, or stop to help a stranger change a flat tire.

Mr. Speaker, at a time when some cynics say that America is starved for such individuals, we know that there are the Rick Miller's in every community from coast to coast. I know I speak for my colleagues here in the House as I, too, congratulate Rick for his volunteerism.

LUXURY TAX ON BOATS

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUGHES. Mr. Speaker, we have spent a great deal of time in this body trying to draft a workable unemployment benefits bill. We have also heard a number of speeches extolling this tax break or that tax break as the key to spurring a recovery and increasing employment.

While there is a great deal of debate about which plan will work best, if any of them will work at all, there is one thing this Congress can do to create jobs before it adjourns. The step is to repeal the luxury tax on boats—a terrible mistake that grew out of last year's budget summit plan.

My district and the adjacent areas of southern New Jersey is, perhaps now I should say was, a center of custom boatbuilding and boat sales. These small entrepreneurs build quality boats, many to order. They employ welders, electricians, carpenters, and fiberglass workers. They build the best recreational boats in the world, they supply over 90 percent of the American market, and they often have a trade surplus in their industry.

I am watching a tragedy take place in my district. Egg Harbor Yachts, Jersey Yachts, and Topaz are in the throes of bankruptcy. I got a call today from a boat dealer and outfitter who sold over $10 million in new boats in 1990 and who has barely broken $200,000 this year. These companies survived the 1982 recession. Many of them have a very long history of quality work, but this luxury tax is killing them.

Certainly, the recession is contributing to our problems, but the tax, all of which must be paid up front, is turning the recession into a depression for this industry.

Mr. Speaker, in America, if you work hard, produce a good product, and contribute to the economy, you're supposed to be rewarded—not punished. In my district alone, thousands of people who kept their jobs through at least one previous recession have lost them due to a poorly conceived, arbitrary tax. The time has come to repeal this tax, and I urge my colleagues to join me and over 160 other Members in cosponsoring and supporting H.R. 951, the Boating Industry Jobs Preservation Act.

THE EMERGING ENVIRONMENTAL CONSENSUS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WOLPE. Mr. Speaker, I am pleased to join my colleagues Mr. BOEHLERT and Mr. SHARP to announce the release of Renew America's newest publication, the Emerging Environmental Consensus. This is the official report of the 1991 Environmental Leadership Conference held June 3–5 in Washington, DC. The conference assembled a diverse group of environmentalists, business leaders, and government officials to brainstorm on the secrets for the development of successful environmental programs. Renew America cosponsored the 3-day event along with the Smithsonian Institution, the U.S. Environmental Protection Agency, and the Council on Environmental Quality.

The 64-page report conveys the progress made and ideas formulated during this dynamic meeting. The challenge facing participants was twofold: first, to identify the basic elements of their successful projects and second, to outline priorities to be initiated within the next 12 months. The Emerging Environmental Consensus summarizes the results of both tasks and thus provides a formula for success while setting goals for an environmental agenda. The report serves as a roadmap to identify where we now stand and to determine where we want to go in our search for environmental solutions.

Mr. Speaker, we commend the report to our colleagues and would encourage them to contact Renew America for a copy by calling 202–232–2252 or writing to Renew America, 1400 16th St. NW., Suite 710, Washington, DC 20036.

CONFERENCE REPORT ON MOST-FAVORED-STATUS TO CHINA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WEISS. Mr. Speaker, I rise in strong support of the conference report to H.R. 2212, a bill that would condition most-favored-nation [MFN] trade status to the Government of China.

I would like to begin by commending the conferees for their hard and tireless work on this bill. But in particular, I would like to recognize the gentlewoman from California, Mrs. PELOSI, for her commitment and leadership on United States policy toward China.

As many of my colleagues know, Congress has been at the forefront of formulating an active and engaged United States policy toward China. Since the Tiananmen Square massacre in particular, Congress has passed a succession of bills that would have added teeth to U.S. policy. But in every instance each bill was met with a Presidential veto when it was sent to the White House.

Today Congress has an opportunity to once again vote on a MFN bill for China. It is a bill that I believe is a fair and reasonable statement of U.S. policy. It is based on three fundamental aspects of United States relations with China: that of human rights, trade and weapons proliferation. It is a narrow approach that has broad ramifications for future U.S. policy.

First, the bill requires that China release all pro-democracy prisoners in China and Tibet. Second, while it requires that China suspend the sales of missile technology to Syria and Iran, it also requires that China provide assurances that it will not sell nuclear technology to non-nuclear states and that it will abide by guidelines of the Missile Technology Control Regime [MTCR]. Finally, the bill would require that China eliminate certain trade practices. Specifically, the bill requires that China remove barriers to United States exports, end its export of prison-made goods, halt violations of international intellectual property law and eliminate the use of transshipments to evade U.S. import quotas.

Mr. Speaker, Secretary Baker's recent visit to Beijing was a failure in terms of soliciting concessions. Beijing's refusal to give on issues of wide International concern was a clear signal that the Chinese Government has no remorse for its human rights policies and no respect for the tenets of international law. But most relevant to this discussion, his visit proved that the President's policy has not worked, and clearly, a new aggressive policy is desperately needed.

H.R. 2212 is the right solution at the right time. It is a bill that can provide a united front between the White House and the Congress on United States policy toward China, and it is an opportunity that should not be wasted. I hope that my colleagues will, therefore, join me in supporting this bill, and sending a message to Beijing that the American people are now united behind one policy toward China.

HONORING TED SIMONSON

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MINETA. Mr. Speaker, In Los Gatos, CA, the chamber of commerce has an excellent tradition of honoring those who have contributed selflessly to our community. The chamber of commerce calls their honor the "Top Cat Award," and the recipients are, indeed, the tops among their friends and neighbors.

On October 19, 1991, Ted Simonson, principal of Los Gatos High School, received one of this year's awards for his professional excellence. The chamber said of him:

> During the years that Ted Simonson has served as principal there have been significant changes and outstanding accomplishments and new directions in local education. These things have happened because of Ted's dedicated and committed involvement. An estimated 50,000 students have received the influence, guidance, and leadership of Ted Simonson through the years of his involvement in education. Many of these students have remained in our community to further and apply that impact.
>
> Through Ted's guidance the school is currently involved in an intensive five-year plan to meet the challenges and set goals for a continued sound education program. Through Ted's administration the staff is allowed to develop and control their own programs. All these factors add up to the excellence in education in Los Gatos."

Mr. Speaker, committed professionals like Ted Simonson are invaluable to any community, for the investment they make is an investment in our future, in our children.

Mr. Speaker, at a time when some cynics say that America is starved for such individuals, we know that there are the Ted Simonson's in every community from coast to coast. I know I speak for my colleagues here in the House as I, too, congratulate Ted for his commitment to quality education in Los Gatos.

DR. FRANK MADISON REID III

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MFUME. Mr. Speaker, I rise today to pay tribute to Dr. Frank Madison Reid III for his 20 years of service in the ministry of the African Methodist Episcopal Church. Dr. Reid is the son of the late Bishop Frank Madison Reid, Jr., who served for many years as pastor of Bethel A.M.E. Church in Baltimore, MD. Currently Dr. Reid is pastoring that same congregation and has been an inspirational leader to his congregation.

Dr. Reid has worked diligently over the past 20 years, excelling in both academia, and community service. Over that time he has also developed a preaching style of his own. His unique eloquence and disposition have become known all over the world. It was not long ago that Dr. Reid became a resident of Maryland. In 1988, he accepted a reassignment that meant having to leave his flourishing congregation in Los Angeles, CA, to become the pastor of Baltimore's Bethel A.M.E. Church.

Since coming to Baltimore, Dr. Reid's 7,000-member congregation has been growing by leaps and bounds. Reverend Reid has expanded Bethel's Outreach Center, which offers jobs, clothing, and assistance to its community on a daily basis. He has also been widely commended for the Bethel Christian School, which educates grades K–5. In addition to having an elementary school Dr. Reid also has the Bethel Tee-Pep Center for unwed mothers. This center gives counseling to young mothers as well as providing a child day care facility.

Dr. Reid has long felt a special need to assist and direct black males. He has struggled with trying to find a remedy for the downward plight of black men. Dr. Reid has made several leaps in this battle. He instituted a bible study class for black men in which 500 men attend each week. He has also organized many marches within Baltimore in which over 1,000 men of African ancestry have stood together in solidarity and a shared hope for equality.

Dr. Reid has not only shared himself with Bethel Church, he has given countless hours to the community of Baltimore. He is not only a preacher and leader he is a family man as well. Dr. Reid speaks of having two families, his own nuclear family and a church family. Reverend Reid believes that every member of his congregation is as important as a member of his family. This type of belief is what clearly sets him aside from others and makes him even more special to the community he serves.

Mr. Speaker, once again I salute Dr. Frank Madison Reid III for his many achievements and for his commendable years of service within the ministry. I am glad to have him as an integral part of the Greater Baltimore area. I wish him continued success and many more years spreading the good news.

DEAN GALLO TO COCHAIR NORTHEAST MIDWEST CONGRESSIONAL COALITION

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WOLPE. Mr. Speaker, on December 1, my distinguished colleague from New York, FRANK HORTON will step down as cochairman of the Northeast-Midwest congressional coalition and representative DEAN GALLO of NJ will replace him.

Together, the gentleman from New York and I have lead the coalition through some tough times. Since 1985, when I joined FRANK HORTON as cochair, we have worked to assure that Federal policies were equitable in their treatment of different areas of the country. We've tried to look past partisan differences in an effort to solve the problems common to many older industrial States.

FRANK HORTON is one of the original founders of the Northeast-Midwest congressional coalition and has provided absolutely critical leadership over the years. I am confident that this strong leadership will continue with DEAN GALLO.

Mr. GALLO and I have had the pleasure of working together in the past and I have enormous respect for his sensitivity and for his effectiveness as a legislator and problem solver.

As a native of New Jersey, Mr. GALLO is very familiar with the problems facing our part of the country—problems such as a sagging infrastructure, a vulnerability to high energy costs, and a dwindling share of Federal funds. Few States have been hit as hard by recession as those in the Northeast and Mr. GALLO understands well the need for creative initiatives in the months ahead.

For this reason, I commend my colleagues from the Midwestern and Northeastern States for electing DEAN GALLO as the new cochairman of the Northeast-Midwest coalition.

END OF COLD WAR CALLS FOR REORIENTATION OF U.S. DEFENSE, TECHNOLOGY, RESEARCH, TRAINING, BUSINESS AND COMMUNITY EFFORTS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. OAKAR. Mr. Speaker, I want to commend the Armed Services Committee and its chairman, the gentleman from Wisconsin [Mr. ASPIN] upon the passing of the conference report on the Defense Department Authorization Act for fiscal year 1992 (H.R. 2100).

As a conferee from the Banking Committee on certain sections of that legislation, I wish to congratulate the committee for its cooperation to improve support for the technology infrastructure in this country. The Banking and Armed Services Committees worked with the Science and Commerce Committees to gain enactment of my amendment to section 824 of the bill. My provision would recognize the five existing regional manufacturing technology under section 278(k) of title 15 U.S. Code as potential participants in the Defense Department's new $50 million initiative to improve the Nation's industrial base.

As a result of my 4 years of service as chair of the Economic Stabilization Subcommittee, 1986–90, I have a continuing interest in maintaining a strong defense and a strong defense industrial base. Section 824 can make a contribution to both.

VALUE OF MANUFACTURING TECHNOLOGY CENTERS

The regional manufacturing centers help to upgrade U.S. industrial capabilities for both military and civilian purposes, and their capabilities ought to be recognized more widely. I have personal knowledge of this process from my exposure to the Great Lakes manufacturing center in Cleveland. The center was originally founded in 1985 by the State of Ohio as part of the Thomas Edison Partnership Program, and proved to be such a good idea that the city joined in sponsoring its programs through Cleveland Advanced Manufacturing Program [CAMP]. When the Federal Advanced Manufacturing Center Program was enacted in 1988, under the National Institute of Science and Technology of the Commerce Department, the Great Lakes center qualified as the first Federal center, while maintaining its ties with State and city governments and the private sector.

The Cleveland center has also been successful in attracting donations of advanced equipment for teaching purposes, and has extended its operations to western Pennsylvania, Indiana, and Illinois. In its 3-year evaluation, the Great Lakes center was rated as outstanding in all categories.

REACHING OUT TO THE INDUSTRIAL BASE

This kind of outreach is extremely important to the U.S. industrial base, because of the 350,000 manufacturing firms in the country, only 14,000 have more than 100 employees. In the nature of things, only the bigger firms can support sustained research and engineering programs. Thus, manufacturing technology centers serve a vital purpose in disseminating the latest state-of-the-art developments to a broad range of large and especially medium-sized and smaller firms that would not otherwise have access to them.

The other four existing regional advanced manufacturing technology centers are located in Troy, NY, South Carolina, Ann Arbor, MI, and Kansas City. In my opinion, the expertise and experience accumulated within these facilities are a material factor in U.S. industrial competitiveness.

Japan has gotten that message loud and clear. The Japanese central government provides half the funding for a national system of 185 technology extension centers, with the other half provided by prefectural and city governments. Funding in 1989 totaled almost $½ billion—$470 million—according to the Congressional Office of Technology Assessment "Making Things Better: Competing in Manufacturing," OTA, March 1990, page 18.

The Defense Department authorization bill moves in the right direction by supporting regional, State and local governmental and private sector technology extension programs.

In my opinion, a significant increase in these programs is vitally needed in this country, and I would like to cooperate with other interested members and committees in the House, to pursue this objective.

Such an initiative, in the area of technology, is the kind of shift in emphasis and resources that the Federal Government ought to be making on a major scale, now that the cold war has been successfully concluded and the former Warsaw Pact dissolved.

REORIENTING PRIORITIES FOR RESEARCH AND DEVELOPMENT

Another change of course should occur in the research area. According to the National Science Foundation, during a recent 15-year period—fiscal years 1966–80—the military and civilian proportions of the Federal research budget were just about 50–50.

Over the past decade, however, there was a sharp increase in the military share, which peaked at 69.3 percent of the Federal research budget in 1986. For the past 10 years—fiscal years 1982—the average division was almost two-thirds—65.4 percent—of the Federal R&D budget devoted to military purposes and about one-third for civilian purposes, "Federal R&D Funding by Budget Function," NSF 90–311, National Science Foundation, April, 1990, page 118.

As a result, many extremely promising civilian R&D projects have been starved for funds for the past 10 years. For example, funding for civilian energy research fell almost one third in absolute terms from $343.7 million in fiscal year 1980 to $221.6 million in fiscal year 1991. As a share of Federal R&D, civilian energy dropped from 8.3 percent in fiscal year 1982 to 4.0 percent in fiscal year 1991.

Similarly, funding for resource and environmental matters fell from 2.7 percent to 2.1 percent of Federal R&D over the same period. I ask unanimous consent that the relevant statistics, as assembled by the National Science Foundation, be inserted in the RECORD following my remarks.

These trends are summarized in the following table, based on pages 122 and 123 of the National Science Foundation Report:

SHARES OF NATIONAL RESEARCH BUDGET BY FUNCTION

[In percent]

	Fiscal year—	
	1982	1991
Defense research	61.1	60.7
Civilian research	38.9	39.3
Health	10.7	12.9
Energy	8.3	4.0
General science	3.8	11.1
Natural resources and environment	2.7	2.1
Transportation	2.2	2.0

It is incredible that, with the national security and economic problems we have with energy, the share of the Federal R&D budget for energy matters was reduced by more than half.

It is sad that, with so many promising opportunities in the health and medical field, financing constraints have limited us in many fields, such as womens' diseases, and many others.

It is ominous that, with all of the pressures of urban congestion and air, water, and soil pollution, transportation and environmental research declined as a proportion of the Federal R&D budget over the past decade.

In this age of dazzling progress of technology in solving human problems and serving human needs in nearly every field, we need to reassess the research priorities of the past decade and reorient these numbers to capture the golden opportunities of the future for our economy, our businesses and our citizens.

STATE OF THE ECONOMY

The depressing state of the economy make these changes of policy even more necessary and desirable than in normal times. For more than a year now, the U.S. economy has been in a recession. Unemployment now—8.4 million in September 1991—is almost 2 million higher than it was in 1989, 6.5 million in 1989. Those unemployed for more than 15 weeks rose from 1.4 million to 2.4 million during that period.

The official poverty rate rose from 12.8 percent in 1989 to 13.5 percent in 1990 and household income fell for the first time since 1982, "U.S. Poverty Rate Up; Median Income Falls, Census Finds First Increase in Poor Since 1983," Washington Post, September 27, 1991, page A1.

There is finally a debate on whether measures should be taken to stimulate the economy. The President's position is that nothing should be done until next year, and he will make his position known in the State of the Union Message in mid-January.

I believe we already know what the State of the Union is, and that we should be openly discussing alternatives to strengthen the economy, investment, and saving, expand jobs and exports, put people back to work and upgrade our physical and human infrastructure to make this country more competitive over the long term.

OPPORTUNITY FOR REORIENTING THE ECONOMY

Fortunately, this country has the opportunity of a century to reorient its economy. After 74 years of centralized, authoritarian and imperial government, the Soviet Union is embarked on a course toward a more decentralized and more open political and economic system. The Soviet empire has dissolved. The Baltic States have regained their independence. Eastern European nations have regained their sovereignty. The Warsaw Pact has disappeared as a military threat. These are historic develöpments.

As a result, both the executive branch and the Congress have been talking about a 25-percent cut in defense expenditures over the next 5 years. Defense expenditures have been running about $300 billion a year. If we phase the defense part of the budget down to $225 billion, and are able to do this, over some period of time, in increments of $15 billion per year, the total reductions over 5 years would amount to approximately $225 billion, $15 billion plus $30 billion plus $45 billion plus $60 billion plus $75 billion equals $225 billion. A reduction of anything like this magnitude would provide ample latitude to reduce the Federal deficit—and this takes pressure off of interest rates, credit, and financial institutions—and to redirect a modest amount of the savings to the most cost-efficient wealth-producing civilian activities.

EFFECT OF THE BUDGET SUMMIT AGREEMENT

Under the budget summit agreement of September 30, 1990, and the implementing statutes, the Omnibus Reconciliation Act of 1990 [OBRA] and the Budget Enforcement Act of 1990, included as title XIII of OBRA, there are three discrete budget categories of discretionary spending—defense, domestic, and international—and funds are not to be transferred between these categories.

In order to fully respect these provisions during the 3-year period when they apply—fiscal years 1991–93—and to operate in a climate of flexibility, new arrangements would begin to operate after those limitations expire, on October 1, 1993.

However, it is not too early to begin planning for the post-budget agreement era now. The Federal budget for the post-agreement period will be under consideration by Congress in February 1993—15 months from now—and by the executive branch, next spring, less than 6 months from now.

It is thus timely as well as healthy to take this long-term perspective because our planning for competitiveness should be on a long-term basis to be effective. The President and Congress should be starting right now to consider such new arrangements.

AGENDA FOR ECONOMIC GROWTH

I have five specific suggestions that will encourage both short-term and long-term economic growth and competitiveness.

Research: When we talk about agendas for the economy, and what can be done to make our Nation more competitive and make life better for the average citizen, research is where it all begins. In my opinion, we should phase our military research and civilian research back to a 50-50 division within a 5-year period, and then reappraise as to the next steps. This would involve redirecting about $8 billion of research funds from military to civilian research at current levels.

Technology: The technology extension centers have proved their worth. I believe we should follow the example of Japan and expand our system of supporting manufacturing technology to 50 centers within 5 years, and then evaluate the results.

Training: I feel that we should heed the dismal assessments of job training by the Massachusetts Institute of Technology study, and adopt a nationwide program of reforming our system of training and retraining along the lines of the "Made in America" recommendations by MIT, the 1990 report of the commission on the skills of the American work force, and the successful skills conversions projects of the 1970's.

Economic conversion adjustment: We should expand the program of assisting communities, businesses, and workers to adjust to reductions in the defense budget that was enacted in 1990 to a multiyear program to match the 5-year build-down in the defense establishment. My bill, H.R. 2366 proposes this. The Department of Labor, in implementing this program in August 1990, estimated that it would assist 80,000 to 90,000 unemployed workers to make the transition to civilian-oriented employment.

The total cost of this program was $200 million for 1 year. Funding this program on a multiyear basis on a cost-effective basis would take a miniscule fraction of the reduction in the defense budget. It would result in the soundest kind of investment in the optimum use of the excellent physical and human assets in the defense establishment and the defense industrial base.

Energy policy: This country should publicly adopt a set of rational energy goals for increasing national security, assuring ample energy supplies for economic growth, and accomplishing a 25-percent increase in end-use energy efficiency in the next 9 years, so that industry, businesses, and homeowners will have lower utility bills. I have introduced legislation—House Concurrent Resolution 53—that proposes a series of 10 such goals against which progress can be measured year by year.

This program is certainly not complete or perfect. Any economic policy for the long-term future should include consideration of such critical areas as health care, education, physical and human infrastructure, budget, tax, trade and financial policies. The point should be made that it is the President, who directs the efforts of 2 million employees in the executive branch of our Government and who is in the sole position of being able to formulate and present a set of policies that covers all of the relevant areas in this complex world.

But these suggestions, from my experience in the House, would constitute an extremely important new departure in Federal policy.

With the end of the cold war, our generation has a rare opportunity to shift the U.S. economy to a more civilian orientation. Our country can gain many benefits from such a change in course. Best of all, we can accomplish such a change in emphasis at no net cost increases. All we need to do is have the wisdom and the will to shift a small fraction of the amounts envisioned to be cut from the defense budget to deficit reduction and more productive civilian uses.

Let us think anew and act anew. Let us seize the moment and produce such an agenda. Let us reorient our research, training, technology, energy policy and enterprise toward the real peacetime concerns of our American industries, businesses and citizens.

THE RED PLANET

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MINETA. Mr. Speaker, Mars is an intriguing planet. Mars is more like Earth than any of the planets in our solar system. As a result, Mars has captured the imagination of generations of scientists, astronomers, and space enthusiasts.

A valuable speech about the red planet was given this summer by Arnold Aldrich, associate administrator of the Office of Aeronautics, Exploration and Technology for NASA during a conference in Williamsburg, VA. The speech examines the reasons why Mars intrigues us to such an extent and focuses on current and future exploration initiatives of the planet Mars.

I would also like to point out to my colleagues that Arnie Aldrich recently left the Office of Aerospace, Exploration and Technology to become associate administrator for the Office of Space Systems Development at NASA, where he will continue to provide expertise and direction to our Nation's space program.

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Mars: Destination and Challenge

(By Arnold D. Aldrich)

The topic of discussion here in Williamsburg for the next three days will be the planet Mars. That seems most appropriate, for the Red Planet—in addition to being intrinsically interesting—enables us to coalesce past, present, and future exploration activities.

By focusing on Mars, we can recall with pride the Mariner and Viking missions; expeditions that reflect the technical ingenuity and intellectual vitality of our space program of earlier years. Decades from now, these six missions will continue to be looked back upon with respect and admiration by scientists and historians.

By focusing on Mars we can examine current exploration activities, most notably the Mars Observer Project. Now in development and the subject of Session 5 this afternoon, this spacecraft is keyed to providing a global data base of the planet. The Mars Observer represents the continuing commitment we have to planetary exploration. This commitment has had its ups and downs over the years, but no one should doubt that there is very strong support for exploring our solar system both in NASA and in our nation.

By spending 3 days discussing Mars, we should be able to characterize our strategy for future exploration. Mars is a key objective of the Space Exploration Initiative. This ambitious endeavor, set forth by President Bush in his speech commemorating the twentieth anniversary of the first Apollo lunar landing, envisions completion of Space Station Freedom in this decade, followed by a return to the Moon, this time to stay, and then—a journey on to Mars. The Initiative provides an over-arching goal for our space program, a goal that is specific, yet long term, in character. Thus SEI, which we'll hear about in detail on Thursday, is a strategic horizon that enables NASA to rationalize its investments and to focus current and emerging activities.

What is it about Mars that people find so compelling? Why does this particular planet have such a hold upon us? After all, Venus is brighter. The Moon is closer. Jupiter is larger, and Saturn has those marvelous rings.

Given that space is our chosen profession, the interest we have in the planet can be easily understood. Yet Mars captures the interest of many people outside our space community. And this interest apparently is timeless, as people have been fascinated by Mars since the beginning of astronomy.

I believe there are four reasons why Mars intrigues us to such an extent.

The first reason is, that of the eight other planets circling the sun, Mars is the most like our Earth. Though smaller than our own planet, Mars, is in many ways, similar to this planet we inhabit. Mars has an atmosphere. It has a 24 hour rotation period. Because the planet is tilted along its polar axis, Mars has four seasons, just as we do. The Earth has mountains, canyons, plateaus and volcanoes. So does Mars. Mars has winds, dust storms, and frost. So does Earth. Both planets have ice at the polar caps, both have climate cycles, and both have moons. In the case of Mars, there are two moons: Phobos and Deimos. In the case of Earth, there is but one and, interestingly enough, it has no given name. It is simply "the Moon."

By comparison, the other planets seem rather inhospitable. Mercury has practically no atmosphere. Venus has a surface temperature of 730° Kelvin, while Jupiter and Saturn have no solid surface. Uranus and Neptune are extremely cold and far away.

Thus, Mars seems rather inviting although there are, of course, key differences between Mars and the Earth. The principal components of the atmospheres are different as are the atmospheric trace elements. Barometric pressures are different. Surface temperatures are different, and so on. But despite these differences, and they are of course significant, the planets are similar. And that, I think, accounts for part of the interest we have in Mars. It is the planet most like our own, and that compels us to want to know it better.

A second reason for the hold that Mars has upon us is its location. As I have already pointed out, Mars is part of that special place which we call the solar system, with its planets, asteroids and single star. Mars is relatively close by, only 55 million kilometers away when the Earth and Mars are closest together. We can see the planet, and as John Noble Wilford has written, Mars beckons. With its unique reddish color Mars is a nearby, familiar object in the night sky. Cosmically speaking, Mars is part of the neighborhood.

The third reason has to do with exploration. Our fascination with Mars stems, in part, from the compulsion we have as human beings to explore. There is something inside us, something special, that drives us to find out about other places. At times, different motives come into play. These motives may be national pride, commercial advantage, or intellectual curiosity. But they are all wrapped up into an adventure we call exploration where the goal is to experience something that is distant and relatively unknown to us. We do not truly understand a place until we have been there. That is true of mountains, continents, oceans, and now, of planets. In effect, Mars has become a chapter in the story of exploration. The planet is intrinsically interesting, and we shall employ both robotic spacecraft and human beings to increase our knowledge of it. But Mars is also part of something that is larger and more fundamental. And that is the imperative to seek out whatever lies beyond our immediate horizon. Our fascination with Mars reflects this compulsion to explore.

So far, many of you may be in agreement with what I've said, as I've tried to explain, to myself as much as to you, why Mars is so compelling. Some of you, however, may be thinking that while the reasons I've advanced appear to be sensible, they could as well apply to the planet Venus.

After all, Venus, as the Magellan spacecraft illustrates, is also a chapter in the continuing story of exploration. Like Mars, it is part of the neighborhood, being one of the Inner Planets of the solar system. It too is relatively close by. Moreover, in some regards, Venus is also much like the Earth. Venus has an atmosphere. It has mountains and volcanoes. And it is about the same size as the Earth, with a diameter of 12,102 kilometers compared with 12,756 kilometers for the Earth.

Yet Venus does not hold our fascination the way Mars does.

What is it about Mars that we find so compelling? I believe the three reasons given so far are valid, and I will stick by them. But there is more to it than that. There is an additional aspect that is unique and special about Mars, something that draws us to it. Let me suggest that it is the following.

From our studies of Mars there are many indications that water in liquid form once existed on the surface of the Red Planet. Such water is absent today, a result of the low pressure of the atmosphere. But the atmosphere does contain water vapor, and while the quantity is not great, the Martian atmosphere normally holds nearly the maximum amount of water possible for its pressure and temperature. Thus, the relative humidity is high and, as a result, it is common for water clouds and fog to form at low elevation during the cold Martian night. At the north pole this atmospheric water vapor rises sharply above the cap. Scientists have concluded that the northern residual cap contains ordinary water ice as well as CO_2, unlike its counterpart to the south which is composed exclusively of frozen carbon dioxide.

Equally striking evidence of water comes from one of the more exciting geological discoveries on Mars. That is the widespread existence in the southern hemisphere of runoff and outflow channels. These are suggestive of rivers and floods that once contained great quantities of water.

We know too that the atmosphere of Mars was once considerably more dense than it is at present. With the warmer surface temperatures that we believe once existed, Mars would have had an environment in which liquid water could have flowed freely over the surface.

Thus we are reasonably certain that water once existed on Mars, probably in large quantity.

And, where there was water there could have been life. I think it is this that accounts for the continuing fascination people have with Mars. Of all the planets in the solar system other than Earth, only Mars admits to the possibility of life.

I do not know if life once existed on Mars. But I believe that it is plausible to conclude from the evidence that conditions suitable for the formation of life once existed on Mars some 3.6 billion years ago at a time when similar conditions existed here on Earth. We can hypothesize that for a period of several hundred million years in its approximately 4.5 billion year history, Mars had an environment conducive to life. This was before the atmosphere and climate began to shift to their present inhospitable states. On Mars, billions of years ago, there was carbon and there was water and these are, after all, the building blocks of life.

It is this possibility of life that so intrigues us. We are fascinated with Mars because something extraordinary may once have occurred there, something that would force a kinship between us and this distant place.

Quite possibly, there lies on Mars evidence to indicate that the mysterious biochemical reaction that creates what we call life is not limited to planet Earth. If, on the other hand, as we continue the exploration of Mars we find no such evidence, that too would sharpen our understanding of living things. Moreover, it would increase our respect for life itself, and for the one planet in whose set journey around the Sun, life is able to flourish.

The possibility of "life on Mars" permeates the history of planetary observation as it relates to the fourth planet from the Sun. This history itself is a fascinating story, one replete with both the intellectual creativity and the fanciful dreams that so often characterize human adventures.

The intellectual creativity is represented by Johannes Kepler, the 16th Century astronomer who determined that the orbit of Mars around the Sun is not a circle, but an ellipse, an elongated circle along which the planet moves with nonuniform but predictable motion. The creativity is represented also by Giovanni Cassini who in the 17th Century was the first person to report sighting the white polar caps of Mars. And it is represented by William Herschel who, in the 18th Century, observed that Mars is tilted at an angle of 23.98 degrees to its axis of rotation, thus accounting for the planet's four seasons.

These three astronomers reflect a notable characteristic of past Mars exploration and, no doubt, a future dimension as well. And that is its international flavor. Kepler was a German who began his career in Denmark. Cassini was an Italian who became a citizen of France. And Herschel was a German emigrant who worked in England.

But if the study of Mars displayed great intellectual force, it also presented a fair amount of nonsense.

Unfortunately, it was an American who contributed the most to the scientific fiction that characterized much of the study of Mars at the turn of the last century. The American was Percival Lowell. A graduate of Harvard and a wealthy patrician with ample amounts of energy and enthusiasm. For awhile these were directed at the study of Japan, with very credible results. Then Lowell turned his attention to Mars, building a first-class observatory in the hills outside of Flagstaff, Arizona. There, his imagination got the best of him. Observing the "canals" first noted by Schiaparalli, Percival Lowell visualized a Martian world of cities and people. Expounding the view that Mars supported intelligent life, Lowell popularized the notion of life beyond Earth and created great interest in Mars among the general populace. Serious astronomers quietly disputed his findings, and gradually, their work dispelled his fantasies.

But Lowell's legacy was powerful and included two positive items: a heightened general interest in Mars, and the reenforcement of the special relationship that exists between that planet and Earth.

That relationship gained new meaning with the advent of the Mariner spacecraft. With a proximity that astronomers of old would have found astrounding, these spacecraft observed Mars closeup in the 1960's as the United States began a series of unprecedented missions from planet Earth.

Mariner spacecraft also visited Mercury and Venus, but it is their missions to Mars that is of interest to us here today. Mariner 4 was the first spacecraft to reach Mars. It flew by the planet on July 14, 1965, with a closest approach of about 9,844 kilometers. Twenty-two pictures were transmitted back to Earth. They showed lunar-like impact craters on the surface. On-board instruments registered an atmosphere less dense than had been expected.

Four years later, two more Mariners flew by the planet. Mariners 6 and 7 were more advanced spacecraft than Mariner 4, and they acquired considerable data from Mars with a visual imager, spectrometers, and temperature sensors. But like Mariner 4, they missed imaging some of the more interesting features of the Martian terrain: the volcanoes, canyons, and channels which we now take for granted.

It wasn't until Mariner 9, the first spacecraft to go into orbit about another planet, that we were able to see, for the first time, the full remarkable surface of Mars. In orbit for 349 days, Mariner 9 transmitted 7329 pictures of the Red Planet, mapping one hundred percent of the surface during its spectacular odyssey. Among the features identified was Olympus Mons, the largest volcano in the Solar System.

Following Mariner came Viking, whose fifteenth anniversary we celebrate this month. The exploration strategy was simple. First fly by the planet, then conduct an orbital survey and, finally, land on the planetary surface itself. Mariner had previously accomplished a flyby and a survey. But it was Viking, in a mission comparable to the great voyages of discovery of the 15th and 16th centuries, that placed two landers on the surface of Mars in July 1976.

In this conference we will recall much of the Mariner and Viking missions. Speakers will remind us of the technical challenges overcome in designing and building the spacecraft. They will remind us of the difficulties faced by program managers as they laid out integrated plans beset by political uncertainties over which they had no control. The demanding, unforgiving realities of mission operations will be recalled, as will be the excitement of discovery. These were missions of extraordinary achievement. They added to our storehouse of knowledge. They expanded human understanding and, as good science always does, they created a new set of scientific questions to challenge our intellect and test our ingenuity.

I will leave it to others at the conference to explore in detail the Mariner and Viking missions. What I would like to do is derive some exploration lessons for the present from these successes of the past.

There are several simple lessons upon which I would like to briefly expound:

The first is that setbacks inevitably accompany exploration. Exploring the planets is technically difficult, far harder than most people realize, and we will not always be able to conduct picture-perfect missions. So it will come as no surprise to recall that Mariner 3, the first U.S. spacecraft destined for Mars, did not reach its target. Nor that Mariner 8 failed as well, ending up in the Atlantic Ocean, 560 kilometers north of Puerto Rico. Of course, the lesson here is not that spaceflight is not always successful. We all well appreciate that, although I'm not sure the general public does. The real lesson is the exploration can succeed despite setbacks. And setbacks in space must not stop us from expanding our knowledge and experience.

The second lesson of exploration from Mariner and Viking concerns the unexpected. The very nature of exploration presumes a lack of knowledge about one's destination. When we start out, we don't know what we're going to find. But with our technical sophistication and our analytical skills, we've become pretty good at projecting what it is we're likely to discover. Mariner reminds us not to get too confident.

After Mariner 6 and 7, we had what we thought was a pretty good idea of what the surface of Mars was like. We believed it to be largely cratered terrain, apparently inactive geologically, and not too dissimilar from our Moon. How wrong we were. Mariner 9 revealed the unexpected, a world of remarkable and diverse features, a world of canyons, volcanoes, channels, and fault lines. Mariner 9 revealed a world we had not seen. It brought us the unexpected, as exploration always does.

Human presence is fundamental to space exploration, and that is the third lesson of Mariner and Viking. These were robotic spacecraft, representative of a mode of spaceflight that has provided our nation with tremendous scientific results. Robotic spacecraft will continue to perform yeoman service in the years ahead, even as we move forward to the human exploration of Mars. Robotic spacecraft are marvelous machines, and they can do things that humans cannot. But they have to be programmed. They lack the judgment and the ability to respond to the unexpected that humans can add to the experience.

A good example of that is found in the selection of the Viking landing sites. The critical criterion of course, was safety. Sites were selected that appeared to be flat. In addition, it was necessary to find locations at low elevation to ensure an atmospheric density high enough to support the descent parachutes. Upon examination by the Viking orbiters, the two sites initially chosen based upon Mariner 9 data were found to be too rugged. Smoother areas were needed, and these were ultimately identified and utilized. Both the decision to reject the initial sites and the decision to proceed with the locations where the landings eventually took place were human decisions; judgment calls, for which there was no mechanical substitution.

Another significant lesson of Mariner and Viking relates to the Soviet Union. That country has long had an interest in the exploration of Mars, an interest that continues today. Its Mars 1 spacecraft was launched in 1962, nearly thirty years ago, and the most recent flights to the Red Planet, Phobos 1 and 2, were Soviet missions. However, reflecting the misfortune that has accompanied Soviet encounters with Mars, these missions were not successful, although Phobos 2 did return data before it failed.

Better luck was achieved with the Mars 2 and 3 spacecraft which, in 1971, were placed in orbit around the planet where they performed close to expectation, providing data on the temperature and composition of the atmosphere. The two missions were similar to Viking in that they combined orbiters and landers. However, here again misfortune plagued the Soviets. While the two landers are believed to have touched down successfully, contact with the Mars 2 lander was lost shortly before landing, while the Mars 3 lander transmitted data for only 20 seconds upon conclusion of its descent. Nonetheless, these landers became the first manmade objects on the surface of Mars, an achievement that forever belongs to the Soviet Union.

I mention this to underscore the fact that the exploration of Mars is international in character. Mariner and Viking were triumphs of American technology, and it seems clear that the United States has been the leader in exploring the Red Planet. But Mars does not belong to us. Exploration is something that many nations do, and I suspect, that while the United States will continue to lead the way to Mars, our country will explore the planet in concert with other nations.

Let me now turn from the lessons of Mariner and Viking to the future exploration of Mars. Specifically, I'm referring to the Space

Exploration Initiative, aspects of which will be discussed here on Thursday and Friday.

I want to highlight but a few of the challenges we face in expanding human presence beyond low Earth orbit. I hope that in the discussions about SEI, you will address these challenges and confront the very real difficulties we must deal with in planning and carrying out a return to the Moon and the subsequent exploration of Mars.

But first let me say something more generic about the Space Exploration Initiative. SEI is absolutely critical to the future of NASA and to the future of the space program of the United States. This initiative provides us with a long sought vision, a vision of exploration that employs both robotic spacecraft and human beings. It provides a series of future goals; of completing Space Station Freedom, of returning to the Moon and then of proceeding on to Mars. And, perhaps, even more importantly, the Space Exploration Initiative provides a context for what we are doing in the space program today. By knowing where we are going, by defining our strategic horizon, we can effectively shape our near term plans, programs, and aspirations.

There are many challenges associated with the future exploration of Mars, but today I am only going to comment upon several of them. And I promise you that I will be brief, for we need to get on with today's sessions.

The first challenge is a technical one. It stems from the unyielding physics of interplanetary travel, and from a number of specific considerations. For example, the orbit of Mars exhibits significant eccentricity; the planet's distance from the Sun varies by 43 million kilometers as it travels along its orbit. Even at closest approach, Mars is 55 million kilometers from the Earth. The orbits of the two planets are not coplanar, which further complicates the transfer geometry. Finally, the transfer energy required exhibits a significant 15-year cyclic variation. The result is that a round-trip mission with a stop at Mars requires exceedingly complex and precise mission design work and long range planning. The challenge becomes one to fully define and understand the range of transfer strategies.

Of course, we have traveled to Mars several times, but the task becomes more complex when a return trip is involved and when humans are on board. What we must do, and what we will do, is to continue the work of the late Ed Lineberry of NASA, who, with great expertise and imagination, expanded our understanding of the myriad of complexities involved.

The second challenge concerns architecture. Until recently, I had always thought architecture was the art and practice of building structures. But in Washington words don't always mean what you think they mean and I've come to understand that the word architecture means the purpose, scope, and schedule for returning to the Moon and exploring Mars. Architecture tells us how and for what purpose the Exploration Initiative will be carried out. Session 6 on Thursday morning will discuss architecture; a discussion that can be more focused now that General Stafford's Synthesis Group has completed its work.

NASA's plan is to take the four Synthesis Group architectures, understand them fully, and build upon them. The challenge will be to conduct our analyses in such a way that we identify commonalties as we narrow the options. We hope to structure a step-by-step approach for SEI, in which each step represents a significant achievement and which lays the foundation for the decision to commit to the next. This will be done in the context of a strategy that envisions development of well-conceived ongoing program options. These options will enable decisions by present and future generations of our nation's political leadership as to how the United States will return to the Moon and continue on with the exploration of Mars.

The third challenge I wish to mention is also the subject of a session at this conference. The subject is science and the session is number eight, schedule for Friday morning. First rate science resulted form Mariner and Viking and, surely, similar results will take place as we once again focus upon the planet Mars. The challenge I see is not in defining a science plan for Mars. That is something we know how to do and I am certain we will excel in. The challenge is to capture the excitement of scientific discovery that is awaiting us on Mars in such a way that a majority of our citizens can fully understand and appreciate it. For NASA and the science community at large, that is a real and important challenge.

The final challenge that I wish to mention is the most important, and the most difficult of the four. It is the political challenge and one that we must overcome if we are to fully realize the potential for future discoveries of Mars. The challenge is to create and sustain a political base for exploration, to translate the excitement and commitment we here in this room have for exploring the planet Mars into a basis for action by those who make public policy in the United States. Enthusiasm alone will not do the job. Success will require political skill and a great deal of old-fashioned hard work.

It is a challenge we all must recognize and work to overcome.

And, if we succeed, then at a time not too far distant, Mars once again will play host to those who explore. Robotic spacecraft will return to the surface of Mars, to be followed this time by men and women. And one night, when the sky is clear and the stars are shining, we and our children will look up at the Red Planet and know that the story of exploration has continued.

DEBBIE BILL, DADE SUPERTEACHER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Gilbert Porter Elementary benefits each day from the efforts of superteacher Ms. Debbie Bill. She stands out because her special devotion to students speaks for itself. The Miami Herald recently recognized her as one of Dade County's superteachers in a December 5 article by staff writer, Jon O'Neill. That article follows:

Gilbert Porter Elementary teacher Debbie Bill spends as much time asking questions as she does answering them. Since Bill deals every day with a room full of inquisitive kindergarten kids, that's saying something.

Bill has a special knack for communicating with her young charges and she tries to find out what they know, then capitalize on their natural curiosity.

"She asks us a lot of questions, but she's very nice," said Michelle Diamond, 6.

"I love working with them, because they respond so enthusiastically to everything," said Bill, 43. "It keeps me going."

Bill started teaching in 1969 and has always taught either kindergarten or first grade. Her ability to relate to little ones has impressed her boss, principal Frederic Zerlin.

"If I had children, they would be in her class," he said. "She's very caring, very open with the children and their parents. They know she cares about them."

Bill's work habits are also the stuff of legend. She's frequently at work an hour before school starts and in no hurry to leave, either.

"She's every educator's dream," Zerlin said. "You have to literally chase her out of the school every day."

Bill takes the praise in stride.

"I really enjoy myself with them," she said. "Sometimes we just sit and talk about things. I love watching them progress and seeing their self-esteem and confidence grow. These kids are ready to learn. No one has ever told them they couldn't learn."

This year, Bill is getting the kids ready to read. They do a lot of writing, using "invented spelling," where the students sound out words they can't spell.

"It keeps them focused on getting their ideas on paper," she said. "They start to understand if they can say the words, they can read them or spell them. We don't want to scare them because reading and writing are not mountains they have to climb. After a while, they start bringing in their own books to read."

Teaching is something Bill has wanted to do all her life. As a kid growing up in Connecticut, she used to line up her dolls and teach them. After graduating from St. Joseph's College with a psychology degree, she started teaching in Boston.

Bill came to visit some friends in Florida a few years later, fell in love with the weather and decided to move. She worked in private schools until 1981, when she went to work at Little River Elementary.

She moved to Gilbert Porter last year. Bill says she feels lucky to work at the school, 15851 SW 112th St., because it's brand new.

"The kids here have everything they could ever want," she said.

Bill believes she does, too.

"This is fun for me," she said. "Each class is different, with all sorts of possibilities and challenges."

Mr. Speaker, Ms. Bill is a tribute to all those teachers who have given so much to their students. I wish Ms. Bill continued success. I also commend the leadership of Principal Frederick Cerlin for making Gilbert Porter Elementary a place where teachers like Debbie Bill and their students can thrive.

POLICE CHIEF HOWARD McCOY: A LIFETIME OF SERVICE TO MT. VERNON

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, there are many people who make Mt. Vernon, NY, a special place—religious leaders, elected officials, teachers, businesspeople, and ordinary citizens who work every day to make their community a better place. But there is one man without whom all of these efforts would go for naught. He is Police Chief Howard McCoy, whose department works to see that Mt. Vernon's people will not be victimized by the brutality of criminal predators. He is stepping down shortly, after 43 years of service, and he will be sorely missed.

Howard McCoy is a career law enforcement officer who knows every corner of Mt. Vernon as only a lifelong resident of that city can. He was born in New Rochelle, but his family moved to Mt. Vernon when Howard was only 4. He received his education at the William Penn and Nathan Hale Elementary Schools, Washington Junior High School, and Edison Vocational & Technical High School in the Mt. Vernon public school system. Later, while serving as a police officer, he attended Westchester Community College.

At the height of World War II, he became the first African-American from Mt. Vernon to join the U.S. Marine Corps. He served honorably in the Pacific, and was discharged following the Japanese surrender. To this day, he retains the toughness, the dedication, and the patriotism that are the Marines' hallmark. This, coupled with a remarkable compassion and love for the people of his city, has made him an exceptional leader.

Three years after his military service, he became only the second African-American officer to serve in the Mt. Vernon Police Department. He established himself early as a first-rate professional crime fighter, and in rapid succession became the first African-American to serve as a detective, sergeant, lieutenant, and captain in the Mt. Vernon force. At the beginning of 1977, he ascended to the pinnacle of his profession, attaining the office that he is now leaving.

Chief McCoy's tenure at the head of the Department has been marked by increased efforts to stem the tide of violence that has plagued urban America. As the crime epidemic mushroomed in the 1980's, the valiant police of Mt. Vernon, led by their devoted and able chief, have worked hard to keep pace and to protect their citizens.

Now, as he approaches the 15th anniversary of his appointment as chief, Howard McCoy is stepping down to enjoy private life. He can stand proud of all that he has accomplished for the people of his city. They, in turn, can be proud of their friend and neighbor, who has made their safety and well-being his life's work.

Saturday evening, Mayor Ronald Blackwood, the Mt. Vernon Police Association, and the whole city of Mount Vernon will be paying tribute to Chief McCoy. I join them in honoring this outstanding public servant, and I am sure that all of my colleagues join me in wishing him well on this noteworthy occasion.

THE QTL AND SAVINGS ASSOCIATIONS' ACQUISITION OF BANKS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, the House and Senate on November 27, 1991, passed S. 543, Federal Deposit Insurance Corporation Improvement Act of 1991 [FDICIA]. An important amendment to the qualified thrift lender test [QTL], which I offered and was overwhelmingly adopted by the House Banking Committee, was made part of that legislation. I strongly support the new QTL test.

The newly adopted QTL requirements should not act as an impediment to otherwise permissible acquisitions of banks by savings associations that are now facilitated by the FDICIA. Section 501—entitled "Mergers and Acquisitions of Insured Depository Institutions During Conversion Moratorium"—authorizes the Director of the Office of Thrift Supervision to permit an acquiring savings association to retain the nonconforming assets of an acquired bank for a limited period of time for purposes of the investment limits of the Home Owner's Loan Act. The Director should also afford the acquiring savings associations a similar, limited time within which to phase in recognition of these assets for purposes of the QTL test.

The recent improvements in the QTL test provide the needed flexibility in the test, consistent with the housing finance purpose of the test. It would undermine these results if savings associations were subject to rigid requirements to make rapid sales of assets, acquired in combination with banks, simply to meet the QTL test requirements.

JOSE CANCELA IS NAMED CHAIRMAN PUBLIC HEALTH TRUST OF DADE COUNTY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. Joe Cancela has been named the new chairman of the Public Health Trust of Dade County, which oversees Jackson Memorial Hospital, one of the largest hospitals in the Nation. Mr. Cancela's meteoric rise to success is an inspiration. The Miami Herald ran a story on December 1, by staff writer Karen Branch, which tells the path taken by Mr. Cancela from paperboy to chairman. The article follows:

At 16-year-old Rosy Gonazalez's high school football game one night, there was one especially rowdy fan in the crowd. She took notice when she realized the screaming teen-age boy was new in town and didn't attend either school.

"He was so wild," she says. "It wasn't even his team, but there he was, controlling everything around him."

Jose Cancela has always plowed into unknown territory—noisily and successfully. The trait carried him from that football game to a meteoric career in Spanish-language television.

And it got him Rosy, his wife of eight years.

It also got him to where he is today: an executive vice president of the Univision network and the newly elected chairman of the trust overseeing Jackson Memorial Hospital's $615 million budget.

At 34, the community college dropout is short on experience and education. But he has compensated with extreme ambition, ego and an aggressiveness that borders on terrorism. He is a salesman.

As an 8-year-old delivering The Miami News each afternoon, he was always the last of the four Cancela kids to make it home to Little Havana. "It wasn't just showing up and tossing the newspaper," says his mother, Beatriz. "It was stopping to talk to every family."

It made for good business. He won a subscription sales contest at 11.

"I never looked at it as selling." Cancela says. "It was fun. It was a way to get out of homework."

And a way to turn on the charm. Like the day in 1978 when Cancela flashed the smile that got him into the home of WLTV-Channel 23 account executive Osvaldo Moran.

Cancela was peddling fire alarms. The Morans already had one. It was two days before Christmas. Mrs. Moran was conservative with money.

Lotsa luck kid, thought Mr. Moran, sitting back to watch the show.

"My wife bought the system. It was $900," remembers Moran. He took Cancela to see his boss.

Presto. From fire alarms to television commercials. A sales career took off.

Other moves followed. In 1984, he bounded from ad sales in Miami to general manager of Univision's Phoenix affiliate.

This month, just two years after he was named to the Public Health Trust, he became its chairman.

When Cancela made the jump to channel 23, he was never the average account executive. He showed up in the newsroom, volunteered for special events in the public affairs department, pitched in with programming. If his customers couldn't afford a spokesman for a commercial, he stepped in front of the camera. He knew the names of all the soap opera stars.

His whirlwind style blew open more doors—leading to the top spots at other Univision stations.

"He would be there at 11, 12 at night," said Joaquin Blaya, now Univision's president and the man behind Cancela's fast-track promotions. "So when the opening came in Phoenix, I figured that for all his restlessness, he could do it."

As general manager—first in Phoenix, then San Antonio, then Miami—Cancela controlled every department. He stepped out into community activism, especially when he came back home to Miami in 1988. Cancela and his wide grin appeared everywhere.

It paid off when people handed out appointments. Cancela got a lion's share: the Greater Miami Convention and Visitors Bureau, the Greater Miami Chamber of Commerce, the Orange Bowl Committee, the Public Health Trust.

Cancela says he accepted the trust position, the most high-profile, "for ego."

"But then I came to realize Jackson's importance," he says. He resigned positions with the Miami Sports and Exhibition Authority, the chamber of commerce and the convention bureau after the trust unanimously elected him chairman Nov. 14.

Cancela's rise at Jackson followed some major changes in the membership of the trust. His selection had its critics.

"He would not have been my choice," said ousted trust member Stanley Tate. "He's too young, too inexperienced."

Cancela's predecessor as chairman and his strong supporter, Jay Weiss, insists youth is a plus.

"He's indefatigable, unbelievably energetic," Weiss says. "He is not ashamed or reticent to ask advice from anybody. He isn't stiff-necked enough that he won't seek help."

> Cancela has thrived on seeking advice—and always from the people on top.
>
> During a shaky start in Phoenix, he phoned Blaya constantly.
>
> "He not only called me every day, he called me crying sometimes," Blaya says. "After the first two or three months, the calls were few, and he took control."
>
> Sales, as always, were his forte. During 3½ years in Phoenix, local billings increased from $825,000 a year to $2 million.
>
> To boost advertising by reluctant companies, Cancela advocated what he then called "terrorist tactics" going over media buyer's heads, writing angry letters to company CEOs and canceling schedules for customers who he said tried to appease the Hispanic community with "token budgets."
>
> "He does turn the screws," says Gustavo Godoy, Cancela's successor in Arizona and now the telemundo network's vice president for news. "And when he turns them, people feel them."
>
> Cancela spreads his aggressive sales message wherever he goes. At his prodding, the Channel 23 sales staff doesn't spend much time with media buyers. His credo: Take your pitch to the top.
>
> "We visit CEOs every day," says general sales manager Marisa Chaves. "Most salespeople don't deal on that level. That has been Jose, he has no limits."
>
> Cancela pulls no punches when he wants to make a point. In January 1990, his station was competing in the Florida Emmys, given out each fall to English and Spanish stations statewide.
>
> For years, a separate judging panel had considered Spanish-language entries. This time, the National Academy of Television Arts and Sciences decided the Spanish entries had to be translated to be considered.
>
> Cancela, then a member of the Miami chapter's board of governors, threatened to resign and pull all of Channel 23's entries in protest.
>
> The academy backed off.
>
> Cancela's brashness has made him a hero of sorts.
>
> "He has become a celebrity in Miami," says Alfredo Duran Jr., a former Spanish-language television executive and publisher of the weekly tabloid Exito. "He's fought for what he has and that's why he's not going to take baloney from people. There's a lot of people that resent that and envy his success."
>
> He has taken the role farther as a crusader for the Cuban exile cause.
>
> In March, he was one of 12 Cuban Americans who formed a commission to develop a list of principles that could unite Cuban American exiles. They excluded groups that propose negotiating with the Castro regime.
>
> Cancela and other commission founders who work in the media—Miami Herald Publishing Co. President Roberto Suarez, radio personalities Armando Perez-Roura and Tomas Garcia-Fuste, Diario Las Americas reporter Ariel Remos—were criticized for joining a commission with a political agenda.
>
> Jackson is Cancela's latest cause.
>
> He chaired the political action committee that advocated a half-cent tax on the Sept. 3 ballot to help Jackson treat the county's poor. Cancela appeared on Spanish-language radio stations, promoting the tax as a trust member.
>
> He used his editorial spots on Channel 23 to support the tax, appearing as the station's general manager but not mentioning his relationship to Jackson.
>
> "I don't see any conflict of interest," Cancela says. "There are very few people who have the ability and the will to make changes. I have the opportunity to speak to viewers about an institution that plays a very important role in the community. My conscience is clear."
>
> Weiss, the trust's former chairman, credits Cancela with helping dislodge Hispanics from their traditional anti-tax position.
>
> "Certainly it is a plus, because you have virtually 50 percent of the population that are of the Latin extraction here," Weiss says. "And I'm sure they're pleased to see a Latin as chairman."
>
> Cancela's own success story is the kind he loves to promote.
>
> One of his early contributions as general manager at Channel 23 was the creation of a news segment, Cuando Yo Llegue (When I Arrived), featuring immigrants' rags-to-riches stories.
>
> They are reflections of triunfadores—winners—who, like Cancela, fought hard for financial success. He, his mother and siblings left Cuba when he was 4 and waited a decade to see his father, a political prisoner. In 1971, Andres Cancela was released and left for Miami. Like his workaholic son, he took a newspaper route.
>
> "When you want something, you have to put your shoulder to it," Andres Cancela often told his son, "and lift hard."
>
> Jose Cancela won't say how much he earns today. It's enough to put his wife and two children in a half-million-dollar home in Coconut Grove.
>
> His wife says money isn't what has him waking the family up with his singing at 6 o'clock every morning—and getting back home barely in time to kiss the kids good night.
>
> "More than anything, more than money, more than position, he wants to leave his mark," she says. "He doesn't want to go through this life unnoticed."

Mr. Speaker, I wish to Cancela much success in his new and challenging post as chairman of the Public Health Trust. We all hope that under his leadership, south Florida will benefit from greater access and accountability in health care.

LEGISLATION TO ABOLISH THE SELECTIVE SERVICE SYSTEM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, when the Congress returns in January, I will formerly introduce legislation to abolish the Selective Service System.

Enactment of this legislation will save the taxpayers $28,316,000 in fiscal year 1993 and an estimated $146 million over the next 5 years.

At a time when Federal debt is increasing at the rate of $1 billion per day—about $11,000 a second—we need to reexamine the need for every single Federal agency and every dollar of expenditure. The Selective Service System is an example of an agency that can be terminated in a time of budget crisis and greatly reduced world tensions.

The Selective Service System currently has 277 full-time employees who are trained to maintain a nationwide data processing system to store registration records, and to issue them should the President and Congress reinstate the draft. It is headed by an Executive Level IV who is paid $108,300 a year. It allocates $6,598,000 for the maintenance of mobilization readiness, the agency's chief peacetime mission. $15,026,000 is spent on administrative expenses, including all personnel salaries, $2,486,000 on registration, $450,000 on registration improvement, $507,000 on compliance to registration, and $1,568,000 on automated data processing.

Why is this money being spent on an agency that serves as a stand-by organization?

The purpose of the Selective Service System is to be ready to supply the Armed Services with eligible personnel should the draft be reinstated. The Selective Service System has outlived its purpose. It has done a good job for the Nation over the years. But World War II is over, the Korean and Vietnam conflicts are over, the cold war is over. It has been almost 20 years and we have not seen the need to reinstate the draft. During the gulf war, the draft was not needed against Saddam Hussein. Indeed, if the Nation faces a serious threat, I am sure Americans will respond as they did on December 7, 1941 and on other occasions of national peril.

In the 20 years since the draft expired, we have seen no evidence that it will be reinstated. The Department of Defense is an all volunteer force. Indeed in recent years the Services have been turning men and women away. Of the 1 million people who came to recruiting offices with interest in joining the military, 490,000 made formal application. Only 1 out of 2 of these individuals were enlisted. If needed in a national crisis, I am confident that individuals will be there to volunteer for service.

The Selective Service System was established for good reason in 1940. The power to enforce registration was revoked in 1975 and reestablished in 1980. If we encounter serious problems in the future, it can be reestablished, or reinstituted once more. The times have again changed and it is time to retire the Selective Service System again—hopefully for a long, long time.

My legislation includes language to ensure the placement of Selective Service System employees in other Federal agencies which should not be difficult since on any 1 day the Federal Government has approximately 1,580 openings to fill Government-wide.

Congratulations on a job faithfully done—but it is time to move on.

RAY AND SALLY GUTIERREZ—50TH WEDDING ANNIVERSARY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to Ray and Sally Gutierrez on their 50th wedding anniversary, which they will celebrate on December 20, 1991. Ray and Sally have been involved in the community of the 16th Congressional District of California for many years, and I have come to know and appreciate their selflessness towards each other and those around them.

Ray and Sally were married in Salinas on December 20, 1941. Ray Gutierrez grew up in Salinas where he attended school and graduated from Salinas High School. In 1942, he was drafted by the U.S. Army to serve in Europe during World War II. At the invasion of Normandy, he was captured by the Germans and remained a prisoner until the end of World War II. Ray is a member of the Veterans of Foreign Wars and the American Disabled Veterans. He is retired from Spreckels Sugar Co. where he worked diligently for 40 years.

Sally Gutierrez grew up in Gilroy and then attended Hartnell College. Throughout the years, Sally has been commendably active with the Democratic party, receiving numerous awards for her contributions, including a certificate of recognition of "Who's Who Among Hispanic Americans." She has worked many years as a court interpreter, and presently works part-time in the Superior Court of Monterey County.

In the 50 years they have been married, Ray and Sally have proven to be honorable and dedicated citizens towards their family, friends, and neighbors. They have three loving children, Raymond, Jr., Anthony, and Monica, and six beautiful grandchildren. There are very few people that are able to experience the kind of love that Ray and Sally have shared for half of a century. This strength comes only from years of understanding and commitment. Their dedication to uphold the sacred marriage vows they pledged 50 years ago is truly an inspiration to those who know them. Mr. Speaker, I ask my colleagues to join me now in congratulating Ray and Sally on their 50th wedding anniversary. It is my hope that Ray and Sally will continue to share a lifetime of happiness in the 16th Congressional District of California for many years to come.

IN MEMORY OF HERBERT AMMONS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Herbert Ammons, a civic activist who dedicated more than 30 years of his life to improving his South Dade community passed away on November 24, 1991. A good friend of mine and my husband, Dexter Lehtinen, Herb was a wonderful individual who gave unselfishly of his time. In a Miami Herald article entitled, "Herbert Ammons, Richmond Heights Activist," Lydia Martin reports on Herb. I commend the following article to my colleagues:

> Herbert Ammons, a tireless civic activist who dedicated more than 30 years to improving his South Dade community, died Sunday at Cedars Medical Center after undergoing bypass surgery. He was 76.
>
> As a child, Mr. Ammons toiled with his family in Mississippi cotton fields. He promised himself early on to get an education so that he could give up the grueling work.
>
> And he managed it, serving three years in the Army during World War II as a member of one of three black tank battalions in Europe and then working his way through college.
>
> In 1952 he graduated from the University of Illinois with a master's degree in school administration.
>
> To make sure he never forgot where he came from, Mr. Ammons kept a patch of cotton plants growing in his front lawn in Richmond Heights—and the plow he used as a boy in Mississippi.
>
> After finishing college, Mr. Ammons worked as a principal of two high schools in Mississippi.
>
> He moved to Miami in 1958 to teach math and science for Dade public schools, retiring in 1980 after working at Mays Junior High, Mays Senior High, West Homestead Junior High and Homestead Junior High.
>
> Mr. Ammons started working for his Richmond Heights neighborhood from the time he moved in in the late 1950s.
>
> He founded the Richmond-Perrine Optimist Club, helped organize the South Dade Gray Panthers, was founding president of the South Dade branch of the National Association for the Advancement of Colored People, organized the Richmond Heights Crime Watch and served as chairman of the Metro-Dade Southwest Police station's citizen's advisory council.
>
> He also organized the first Boy Scout troops in Richmond Heights more than 20 years ago.
>
> He was influential in South Dade's black community and his support was sought by politicians, said state Sen. Larry Plummer, D-South Dade.
>
> "When he put your sign in his yard, you got every vote in his neighborhood," Plummer said. "Everybody loved him and highly respected his judgment."
>
> In 1976, Mr. Ammons founded the Richmond Heights Citizens Group, which met at his house weekly to figure out solutions for the neighborhood's problems.
>
> Every year before elections, members register voters.
>
> The group also persuaded Metro-Dade commissioners to resurface streets throughout much of the community and put a picnic shelter in Richmond Heights Park.
>
> "He was a legend in our community," said Larcenia Bullard, a South Dade activist who ran unsuccessfully for a state House seat in 1990. "When I wanted to get involved in South Dade, I asked people who to talk to and they said to contact Herbert Ammons."
>
> Mr. Ammons, who was former post commander for the South Dade-Monroe Chapter of the Veterans of Foreign Wars and president and post commander of the American Legion Henry Bethel Post 281, is survived by his wife of 42 years, Edna; sons Herbert Jr. and Collyer; and grandsons Brandon and Elliott.

On November 30, many devoted friends and neighbors attended Herb's memorial service at the St. Luke Missionary Baptist Church in Miami, FL. Rev. David Robinson led the service, and Pastor Michael Mitchell gave the invocation. Reflections were given by Representative DANTE FASCELL and Mr. Charles Blakely, and the eulogy was given by evangelist Jackie McCoy and Pastor J. Henley. Mrs. Ethel Bayley sang "If I Can Help Somebody."

I am saddened by the death of Mr. Herbert Ammons, and I would like to express to his family my deepest sympathy on their loss.

IN COMMEMORATION OF MAYOR GOODE'S ANNUAL CHRISTMAS PARTY FOR DISADVANTAGED YOUTHS

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BLACKWELL. Mr. Speaker, I rise today to commemorate a most special occasion in the city of Philadelphia. Tomorrow evening in the Philadelphia Civic Center, Mayor W. Wilson Goode will host his annual Christmas party for disadvantaged youths. This event will be attended by more than 3,400 children and their parents in the Philadelphia area.

In his tenure as mayor of Philadelphia, Mayor Goode has consistently strived to improve the quality of life for Philadelphians of all economic levels. During the past 8 years, the Mayor's Office of Community Services has expanded its programs to serve the disenfranchised citizens of Philadelphia in ways previously thought impossible. In particular, the homeless, single parents, and senior citizens have experienced new and enhanced levels of city services to assist them, and improve their overall quality of life.

Tomorrow evening's event at the civic center is a clear example of the mayor's continuing efforts to provide new opportunities for the citizens of Philadelphia. Children who would not ordinarily have the opportunity to celebrate Christmas will receive toys, books and lots of holiday food to mark this joyous season. In addition, the parents of these children will have the opportunity to meet with community service workers, and will receive a "stocking" filled with useful information on a wide variety of subjects for low-income families.

I ask my colleagues to join me during this season of giving, to commemorate this most special event, and pay tribute to Mayor Goode, a man who has given so much to the city of Philadelphia.

QUALIFIED THRIFT LENDER TEST IMPROVEMENTS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, the House and Senate on November 27, 1991, passed S. 543, Federal Deposit Insurance Corporation Improvement Act of 1991. During the summer, I offered a bill, H.R. 1718, the Qualified Thrift Lender Reform Act of 1991, as an amendment in the House Banking, Finance and Urban Affairs Committee markup of the House version of S. 543. The House Banking Committee overwhelmingly adopted this amendment, and the text of that amendment is the underlying text of subtitle G of title IV in the final version of S. 543 adopted by the House and Senate on November 27. The only difference between the final product and the bill I introduced is the percentage rate determination for qualified thrift investments. I strongly support this additional change from 70 percent to 65 percent.

The final banking bill, expected to be signed by President Bush in the days ahead, contains the following QTL test improvements in subtitle G of title IV: First, reduces from 70 percent to 65 percent the percentage of an association's portfolio assets that must qualify as qualified thrift investments; second, increases from 10 percent to 20 percent the amount of liquidity an institution may exclude from portfolio assets; third, allows an institution to include as a qualified thrift investment, without limitation, stock purchased in a FHLB; fourth, allows an institution to include as a qualified thrift investment, with limitation, stock in Fannie Mae and Freddie Mac; fifth, increases from 5 percent to 10 percent the amount of consumer loans an institution may include as qualified thrift investments; sixth, increases the entire consumer basket from 15 percent to 20 percent; and finally, seventh, changes the QTL reporting requirement from daily/weekly to a monthly average basis in 9 out of every 12 months.

In revising the QTL requirement from 70 percent down to 65 percent, it is the intent of Congress that thrifts initially, and on a continuing basis, be required to meet the 65 percent standard under the applicable 9 out of 12 month measuring period. Similarly, in requalifying as a qualified thrift lender, a thrift would no longer be required to meet the 70 percent test for the preceding 2-year period, but only the 65 percent test for the preceding 9 out of 12 months.

Another one of the more important additions is the inclusion of stock in the Federal home loan bank system as a qualifying thrift investment. FHLB stock qualified under the QTL in the Competitive Equality Banking Act [CEBA] but was disqualified under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [FIRREA]. The new provision restores a valuable investment to the QTL test. The activity of the Federal home loan bank system is closely and uniquely related to the availability of credit for housing finance. Similarly, for the purposes of the QTL test, the Director of the Office of Thrift Supervision is encouraged to treat obligations of the Resolution Funding Corporation, whose obligations are indirectly supported by the Federal home loan banks, as qualified thrift investments for the same reasons.

These improvements will go a long way to keep healthy savings associations out of the RTC. The Office of Thrift Supervision and the thrift industry have indicated that these changes will prevent 100 to 200 thrift institutions from unnecessary Government control.

More importantly, I am hopeful the changes I sponsored will also afford savings institutions some flexibility in meeting the needs of all consumers in the ever changing financial marketplace. I truly believe these QTL improvements are a good beginning to restoring industry profitability and consumer confidence in the savings and loan industry.

A TRIBUTE TO MYRON "MIKE" BRODIE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the achievements of Mr. Myron "Mike" Brodie, an individual who has been inspiring the Jewish community since World War II. Mr. Brodie spent 24 years as the executive vice president of the Greater Miami Jewish Federation. In a Miami Herald article entitled, "Jewish Leader Leaving 'Adventure Unparalleled, '" Marilyn Garateix reports on the wonderful accomplishments of Mr. Brodie. I am pleased to commend the following article to my colleagues:

Myron "Mike" Brodie remembers when he decided to devote his life to preserving Jewish traditions. It was the summer of '45, and he was celebrating his bar mitzvah.

World War II was ending, and the world was just beginning to learn of the horrors of the Holocaust.

"It made a true impression on me," said Brodie. "That people were put through this horrible act simply because they were Jews. It could have happened to me."

Brodie spent 24 years promoting Jewish causes for the Greater Miami Jewish Federation, 20 of them as executive vice president. His journey ends when he retires this summer at the age of 60.

"It has been an adventure unparalleled," said Brodie, who wants to teach and spend time with his family. He will remain a federation consultant for five years.

"Sometime you get a feeling it's time to go. I think it's time to go."

Federation President Howard Scharlin said Brodie has often done what others couldn't: pull together segments of the Jewish community. "His presence casts a spell that makes things happen. He has a wonderful pool of patience and a wonderful ability to listen to your problems and help you solve them."

Brodie joined the federation in 1968, lured away from what is now called the South Broward Jewish Federation.

"I have a love affair with this community. I think it's one of God's great places," he said. "Our roots got planted here and our family has thrived."

Brodie and his wife of 39 years, Charlotte, have raised three children, all active in the Dade and Broward Jewish communities. He has four grandchildren.

At federation headquarters, 4200 Biscayne Blvd., Brodie's office wall is crammed with photos of himself with local and national leaders; the late Israeli Prime Minister Golda Meir, former Secretary of State George Schultz, Israeli President Chaim Herzog.

Among the milestones during Brodie's federation career:

A fund-raising campaign raised $36 million this year.

Two group trips to Israel drew 1,700 travelers from South Florida. The federation sponsored Mission 1000 and, in October, Miami Mega Mission II. Brodie himself has visited Israel at least 70 times.

The exodus of Soviet Jews to Israel and the United States accelerated. The federation has helped resettle many of them.

The federation helped build and still supports the Alexander Muss High School in Israel.

Brodie's desk is cluttered with papers on pending projects. He'll get through as many as possible before his summer retirement.

"It has been a totally absorbing position," he said. "It has consumed me. I'll feel sad to give all this up."

Mr. Brodie's contributions to society will be appreciated by many in the Jewish community. I am pleased to recognize Mr. Brodie and wish him much success with this future endeavors.

ORIAL REDD: A LIFETIME RECORD OF SERVICE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, Westchester County is losing one of its finest public servants with the retirement of deputy county clerk for records and archives, Orial Redd. Her presence in the county clerk's office will be missed, but I am sure that her long record of caring and making a difference in our community will continue for many years.

A graduate of Rye High School in Westchester and Bennett College in North Carolina, Orial Redd has always been tireless in her pursuit of a better life for all people. She has worked hard to achieve her goals and has made many of them into realities. Along with her husband, Paul, a prominent local publisher who is also noted for his service to the community, she raised two successful children before moving into the professional world. In the nearly 20 years since, she has accumulated a remarkable record of important achievements. As a housing specialist for the Urban League of Westchester, she helped the city of Yonkers and the State of New York to work together with private developers to create needed new moderate- and low-income housing units. Then, as the Urban League's programming director, she successfully managed a variety of important programs throughout Westchester County.

In 1974, Ms. Redd moved into government service. For nearly a decade, she made her mark as then-county executive, Al DelBello's assistant for human services. As the chief liaison between the county executive and all of the public and private human service agencies across Westchester, she played a vital role in helping thousands of families in need. She also took the lead in getting the first countywide office for the disabled and office for women in the New York State off the ground. Since 1983, she has served in her current capacity as deputy to our county clerk, Andy Spano. She oversees the invaluable county records center and archives, and, during her tenure, supervised construction of a significant addition to that facility. All of us who serve Westchester have come to know Orial as a dedicated and spirited public servant, as an effective community leader, and as a good friend.

In addition to her official responsibilities, Orial has made a significant difference through her work with groups such as the Westchester Black Women's Political Caucus, the Westchester County Association, the N.A.A.C.P., Zeta Phi Beta Sorority, Mount Zion Baptist Church, and the Urban League. She serves on the boards of Abbott House, the Northern Westchester Shelter, and the Manhattanville College Women's Leadership Council. Her efforts have been honored with an honorary doctorate in humane letters from Mercy College, the Zeta Phi Beta Finer Womanhood Award, the National Daughters of ISIS Woman of the Year Award, the New York State Black and Puerto Rican Caucus Community Service Award, the National Association of Minority Bankers Government Achievement Award, the United Hospital Medical Center Community Service Award, the Westchester County Board of Legislators Government Achievement Award, and the Operation PUSH Community Merit Award.

Mr. Speaker, I am proud to join the many whom I know are honoring Orial Redd. She is a remarkable woman with a record of commitment and achievement that all would do well to emulate. I am sure that my colleagues join me in wishing this remarkable woman all of the best as she leaves government service and continues to reach out to serve those around her.

AFFORDABLE HOUSING

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, I want to give an example of how the legislative process works at its best, and at the same time give credit where a good deal of credit is due.

This summer, while the House still had under consideration the bill to replenish the bank insurance fund, I was approached by a coalition of organizations interested in affordable housing in Massachusetts. They wrote me a letter asking why we had not included in the bill, when it passed out of the Banking Committee, a provision to provide for an affordable component as we had done in 1989 when we passed the bill dealing with the savings and loan crisis.

Such a program provides a first crack at the less expensive housing in our Federal inventory to people who are prepared to use it for low- and moderate-income housing—either for low-income home ownership in the case of individual units, or for occupancy by low and moderate individuals in the case of multifamily housing.

My answer to this very distinguished and committed group of people was that no one had brought it up. But it did not take me long after receiving their letter to realize that they were right, and that we should have included such a provision.

Fortunately, these people had gotten to us in time. I then began to work with them and with other housing advocates here in Washington to draft a proposal to create an affordable housing program within the FDIC. I am pleased to say that, with the cooperation of the ranking minority member of the Banking Committee [Mr. WYLIE], the ranking minority member of the Housing Subcommittee [Mrs. ROUKEMA], and the indefatigable and principled leadership of our chairman, the gentleman from Texas [Mr. GONZALEZ], such a provision was part of the bill that went to the President's desk last month.

The affordable housing program does not work miracles. What it does do is to maximize our ability to put existing Federal resources at the surface of people who badly need housing in a manner which will benefit the Federal Government, those in need of housing, and the private real estate industry.

Mr. Speaker, I am very grateful to the individuals and organizations who came together to suggest this to me, and to work closely together in a cooperative and creative fashion to see that the provision became law.

These people came together under the auspices of the Citizen's Housing and Planning Association, Inc. [CHAPA], they worked as a subcommittee of CHAPA, and their leadership is an example to people of how informed citizen advocates can have a major impact on the legislative process.

CHRISTOPHER DUNWORTH CHOSEN AS NEW MANAGER OF MIAMI'S NEW WORLD SYMPHONY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Christopher Dunworth has been chosen as the new chief executive of Miami's exciting New World Symphony. Mr. Dunworth brings to the symphony vast development experience as the former vice president in charge of fundraising for the Chicago Symphony. The Miami Herald recently reported on the appointment of Mr. Dunworth and the promising future of the New World Symphony in an article by staff writer James Roos. That article follows:

Symphony managers usually come equipped with strong musical backgrounds. They may be former orchestra players or musical educators, sometimes they're ex-concert agents who have specialized in classical music, sometimes former opera managers.

But Christopher Dunworth, the new chief executive of the New World Symphony, is the product of virtually an entire family of professional fund-raisers.

The 44-year-old administrator, who for the past three years has been vice president of development for Sir Georg Solti's lustrous Chicago Symphony Orchestra, says, "I grew up with an understanding of the philanthropic world by discussing it around the dinner table. My father was a fund-raiser, so are three of my four brothers—even my wife."

Dunworth was chosen to head the New World Symphony after a six-month search that finally narrowed down to eight candidates for the job. He succeeds Jeffrey Babcock, the New World Symphony's founding manager, who brainstormed its spectacular rise but who left last September to become cultural director of the 1996 Summer Olympic Games in Atlanta.

Babcock was not only an administrator, he was a composer and an educator with a Ph.D. in music; he combined artistic and administrative skills. But since the New World's first season four years ago, its budget has grown from $1 million to more than $7 million. The orchestra's supporters decided that now they needed someone to solidify its position.

Dunworth's orchestra development background seemed ideal. As a youngster growing up in New Jersey, he recalled during a brief visit to the New World's headquarters last week, "Whenever we had to fill out school forms, in the blank where they asked about your father's profession, most of my friends would write 'engineer, doctor or lawyer.' I always wrote 'director of development' and hardly anybody knew what that meant."

WHAT IT MEANS

Essentially, a development director raises money and oversees marketing to develop an institution, whatever its purpose. In Chicago, Dunworth directed a staff of 18 people and coaxed about $13 million annually from donors for the Chicago Symphony, which ranks with the Berlin Philharmonic and the Philadelphia Orchestra among the world's greatest orchestras.

Yet, surprisingly, "There just hasn't been much room for innovative fund raising" in tradition-bound Chicago, Dunworth says. Despite the CSO's worldwide reputation, "They don't seem to care much about going out of their own area to raise funds." Recently, he succeeded in getting a Salzburg bank to underwrite coming CSO appearances in Austria. it was something of a coup.

Dunworth believes lack of innovative cultural marketing is a serious problem for arts groups in America. "Symphony orchestras especially are a generation behind health care, sports organizations and universities in the way they go about getting donations," he observes. He intends to involve corporations in new ways of supporting the New World Sympony.

For instance, "Corporate partnerships with arts organizations haven't been fully explored," he notes. If you look at the sports leagues, you see major corporate sponsorships like the Virginia Slims Tennis Tournament or, say, the Kemper Financial Services Golf Tournament"—sponsorships that associate a product very directly with an event or institution.

The New World Symphony's chief mission is to bridge entrance into the professional music world for graduates of top American conservatories who are between the ages of 21 and 30. They receive fellowships while training in Miami. Dunworth plans to seek out corporate sponsors that are interested in being associated with it as an educational institution.

And not only corporations need be involved, he says.

SEEKING THE CONCERNED

"There are many well-to-do individuals who come to symphony concerts yet don't care about contributing to the orchestra's annual fund drive. What really excites them is when they can give money to help buy a violin for a deserving young violinist or helping someone to pursue their musical education. Those are the people we need to tap, internationally," he says.

For all his concentration on money, Dunworth is quick to add that he is fully aware of the New World Symphony's need to continue evolving creatively as an artistic group. He graduated from San Francisco State University with a degree in communications, film and the creative arts—though he began his career raising money for various hospitals and medical centers.

It was a decade ago, in fact, after working for a Cincinnati hospital, that Dunworth switched into the arts as development director for the Cincinnati Symphony. He subsequently spent six years as executive director of the Denver Symphony before moving to Chicago. He has always loved music, he says. 'My mother studied piano at Hunter College in New York and at Julliard; we always had music at home."

Still, Dunworth admits that he will likely need musical assistance. Though artistic director Michael Tilson Thomas and resident conductor Lief Bjaland plan most New World programs, Babcock's creative musicality also helped spur the symphony's development. Thus, after officially taking charge on Jan. 1, Dunworth may appoint an additional musical administrator to aid him.

Meanwhile, he is wasting no time getting to know the orchestra. Recently, he heard it play three successive concerts, and though he is occupied winding up Chicago Symphony business, he will inaugurate his new job a bit ahead of schedule this week by accompany the New World Symphony on its 10-day tour of Japan, which begins Monday in Osaka.

I am proud to pay tribute to Mr. Dunworth in his new position as head of the New World Symphony. I wish Mr. Dunworth; the artistic director, Michael Tilson Thomas; resident conductor, Lief Bjaland and the New World Symphony much success.

IN HONOR OF 50 YEARS—MONTEREY COUNTY HOUSING AUTHORITY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PANETTA. Mr. Speaker, I rise today in honor of the Monterey County Housing Authority's celebration of 50 years of service in the 16th Congressional District of California.

The housing authority of Monterey County was created on March 21, 1941. Its original purpose was to provide low-income rentals in the county of Monterey as an independent public agency. However, in the last 50 years, the housing authority has gone well and beyond its original design.

The housing authority of the county of Monterey has proven to be an invaluable asset in times of both war and peace. At the close of World War II, the housing authority's performance was exemplary in locating emergency housing for returning veterans and their families, and they have continued to show this support for Monterey County for over five decades. The county has grown to a population of over 360,000, and the housing authority has worked diligently to increase their services to adequately meet the needs of the growing community. Throughout the years, the housing authority has expanded its program to include low-income rental apartments, low-income section 8 rental subsidy assistance to the private market, assistance with power, gas, and electric bills, weatherization for energy conservation, low-interest rehabilitation assistance, including earthquake recovery, repairs, and construction, tax credit certification for first-time home buyers, tax-exempt bond financing for housing construction, and eligibility certification for the Security Deposit Guarantee Program, County Inclusionary Housing Program, and the Farmers House Administration Program.

Reports indicate that the numbers of homeless people in our country are increasing at an accelerated rate. The factors for the increase in this development are many. However, it is important that actions are taken to provide adequate shelter for the homeless and assure that public areas can be used safely by all citizens. The housing authority has been active in responding to this increasing dilemma, including two transitional housing complexes, a migrant farm labor housing center and homeless shelter, and office space for those agencies servicing the homeless.

Homelessness in America is a national disgrace. We must treat it as such and provide the support these people so desperately need. It is our responsibility to ensure that housing remains affordable and that adequate assistance is available to those who need it. The housing authority of the county of Monterey has done just that. They have addressed the needs of the people for the last 50 years and it is my hope that they will continue for many more years to come.

Mr. Speaker, I now ask my colleagues to rise in recognition of the achievements of the housing authority of the county of Monterey. The housing authority has made endless contributions to Monterey County for the services it has provided for the residents of the 16th Congressional District of California.

BABI YAR REVISITED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, on September 30, 1991, my good friend and fellow Holocaust survivor, Benjamin Meed, received a call from the White House. He was told that President Bush requested that he join a Presidential delegation that would attend the memorial ceremonies at Babi Yar, the site where Nazis brutally massacred over 100,000 men, women, and children 50 years ago. The first, and most numerous, of those victims were Jewish.

Babi Yar, a ravine on the outskirts of Kiev, is a solemn and sacred place. To know the events of 50 years ago is to comprehend the true and vicious nature of the Nazi regime.

On September 19, 1941, the advancing German army captured Kiev, the capital of the Ukraine. Within a matter of days, the occupying Germans posted an order that commanded all the Jews of Kiev to gather their possessions and to assemble at the Jewish cemetery for deportation. When the Jews gathered, they were marched 2 miles to Babi Yar. There, they were stripped of their possessions and clothes. In groups of 10, they were marched to the precipice of the ravine and shot. Dance music was played to drown out their screams.

In just 2 days, over 33,000 Jewish men, women, and children were executed.

Mr. Speaker, Ben Meed has written a inspiring piece that recounts the ceremonies at the ravine in Babi Yar. The act of remembrance was difficult for him, and for all of those in attendance, but the events at Babi Yar demand to be remembered. I ask that Ben Meed's article be placed on today's RECORD and urge my colleagues to give it thoughtful attention.

[From the Forward, Oct. 25, 1991]

BABI YAR REVISITED

(By Benjamin Meed)

For many weeks I agonized over whether I really wanted to go to Babi Yar to participate in the ceremonies marking the 50th anniversary of those infamous days when our fellow Jews—men, women and children—were so brutally murdered. I could not forget what I saw there in 1979, when I was a member of a presidential commission on a fact-finding mission led by Elie Wiesel. I could not forget that when we were taken to the Babi Yar monument. I found that the site—the revine—was a place known to most Kievites even though it was then located on what were the outskirts of the city of Kiev.

Two questions burdened me: Where were the neighbors who could have spoken up? Where were the voices of the world that had allowed such a thing to happen? Although the eternal guilt for what happened in Babi Yar must remain with the German Nazi murderers, those who collaborated, as well as those who were silent bystanders, are also guilty.

For these reasons I hesitated to return there.

On Sept. 30, however, I received a call from the White House. President Bush requested that I join a presential delegation that would attend the memorial ceremonies in Babi Yar. One does not take such an invitation lightly, and I accepted.

The presidential delegation consisted of Miles Lerman, Abraham Foxman. John Pawlikowski and myself—all members of the United States Holocaust Memorial Council—and Taras Azmagala, who represented Ukrainian Americans. We left for Kiev on Oct. 3, along with the chairman of the delegation, Jonathan Bush, the president's brother, and his wife, Jody.

We spent Oct. 4 in cordial meetings with Sergei Komissarenko, the deputy prime minister of the Ukrainian Supreme Soviet, and Leonid Kravchuk, chairman of the Ukrainian Supreme Soviet. Mr. and Mrs. Bush sought to create an aura of togetherness and friendship, which succeeded in making us feel like a family, but we never forgot that we were representing the president of the United States. We understood the purpose of our mission and we anticipated, from our discussions with Ukrainian officials, that this time it would be different. The Ukrainians and Russians were now ready to admit their wrongdoings committed against the Jewish people.

In his words of greeting to the high-level officials, Jonathan Bush said: "I would like you to know what an important role our Jewish citizens play in the United States. They number only around 2% of our population, yet they represent 12% of those who contribute to Jewish and non-Jewish charities." He also spoke of the high regard in which he holds the Jewish people.

The four days of commemorative events included the inauguration of a Jewish School in Kiev—the first to open in more than half a century—and a series of roundtable discussions including Ukrainian, American and Israeli leaders. Yad Vashem, the official Israeli remembrance authority, held a ceremony honoring the Ukrainian righteous who helped save Jewish lives during the Holocaust.

As we traveled from one meeting to another, we could not help but notice the many banners in Ukrainian, English, Hebrew and Yiddish hanging above the streets and avenues stating that this was the week of events in Kiev remembering "The Tragedy of Babi Yar." Along the main avenue of Kiev were many well-organized exhibits of pictures depicting the tragedy of Babi Yar.

Yes, we were aware that those posters and banners could not revive those who perished in Babi Yar, but at least they put an end to the decades-old process of obliterating their memory and distorting the truth of the tragedy. Perhaps now the last screaming message of those who were being murdered—"You shall not forget what happened to us!"—will not have been in vain.

In deference to our Jewish religion, no official meetings were slated for the American delegates late Friday afternoon or Saturday. The Jewish delegates were invited to Sabbath services in the Danube hotel and afterwards, to a dinner arranged by Ronald Lauder, who was there with his wife, Jo-Carole. At the event were more than 200 young Russian Jews, most of them members of "Maccabi," the culture and sports club. In that hall young people sat together like brothers and sisters, enjoying the Sabbath and listening to the remarks of their American friends. One could sense the atmosphere of "Am Israel Chai"—The People of Israel Live. My emotions overwhelmed me that evening.

The following morning, the Jewish delegates attended Sabbath services in a synagogue, where Jonathan Bush joined us. Rabbi Arthur Schneier introduced Mr. Bush, who addressed the Jewish congregants on our behalf, conveying greetings from President Bush and our nation. Our Russian counterparts were greatly impressed.

The ceremonies at the ravine in Babi Yar were scheduled for after sundown that evening. Ambassador Robert Strauss and Mrs. Strauss arrived from Moscow to join the presidential delegation.

It was already night when we arrived at the site, and we lined up, preparing to lay wreaths on behalf of President Bush, the Holocaust Memorial Council and the American Gathering of Jewish Holocaust Survivors. The entire presidential delegation walked solemnly in Single file. We did not speak; we held each other's hands. I was tormented by the thought that this was the road where more than 100,000 people had walked to their deaths—never to return.

After laying the wreaths, we moved to the assembly area, where a huge stage was set up for speakers, singers and musicians. Our delegation sat in the front. I rose to observe what was going on. There were people of all ages with banners recalling the names of ghettos—dominating the banners were blue and white Israeli flags.

The program was convened by Sergei Komissarenko, chairman of the Babi Yar Commemoration Ceremony Organization. Messrs. Bush and Lerman delivered two very emotional speeches that were translated simultaneously into Ukrainian.

"Babi Yar demonstrates vividly where anti-Semitism, bigotry and hatred can lead," Mr. Lerman said in a speech frequently interrupted by applause. "It shows what can happen when hate-mongers get the upper hand, when peoples become divided, when they turn one against the other."

During his speech, President Kravchuk asked for forgiveness from the Jewish people for the appalling participation of some of his Ukrainian compatriots who had collaborated with the murdering German Nazi machine. The message from President Gorbachev, openly condemning anti-Semitism, was probably one of the most historic declarations ever made in the Soviet Union. Yevgeny Yevtushenko recited his poem, "Babi Yar," which was translated simultaneously into Hebrew and English.

Grigory Polyanker, a well-known Russian-Jewish author, delivered his speech in Yiddish. He spoke with great pain and emotion of the days when the Jews of Kiev were completely betrayed and abandoned.

To conclude the program Mr. Komissarenko announced that "This is the week of reading the Torah chapter of Genesis, so let it be a new beginning of a new cycle." He invited the young chief rabbi of Kiev, Yankel Bleich, to join him on stage and presented him with a new Sefer Torah for the congregation of Kiev. The rabbi took the Torah, and the Jewish speakers on the stage kissed it as the rabbi walked past.

A musical concert closed the evening, and we left, chilled by the cold night air, but nonetheless grateful to have participated in such a milestone. We had completed a mission and were witnesses to a historic promise.

THE WESTCHESTER CHILDREN'S ASSOCIATION: SPEAKING FOR OUR CHILDREN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, there is no responsibility that should be taken more seriously by those of us in public life than the care of our Nation's children. They are our future. Nothing is more important than ensuring that they have the nurturing that they need to thrive and to grow into healthy, productive members of our society. Unfortunately, there are too many times when this simply isn't the case. All too often this is allowed to happen because there is no one to stand up for the children, no one to speak for those too young to be heard themselves.

For those of us who live in Westchester County, NY, since 1914, we have had the Westchester Children's Association [WCA], an independent nonprofit group which works to be the voice for all of our area's children, and who seek to ensure that innovative and effective programs are in place to serve their needs. WCA has indeed made a difference in helping to address this problem.

The exemplary fashion in which WCA has served our youth is exemplified by the work of the individuals who they have chosen to recognize with their annual humanitarian awards:

Carol Lipsky, the regional director of Effective Parenting Information for Children, works closely with WCA to provide support to the parents of young children in our area. She has provided vital assistance to tens of thousands of Westchester families.

Deborah Shields, General Foods USA's Manager of Community Affairs, is a tremendous example of the good that American businesses can do for the communities in which they operate. By working together with a wide range of local organizations, Deborah is able to make a real difference for children throughout the region.

Mary Rainey has dedicated her life to caring for young people. She has four children and five grandchildren of her own, but she has found the time to make a real difference in the lives of countless troubled youth as the resident manager of WCA's runaway and homeless youth shelter.

Sioux Taylor has been the executive director of the Mount Vernon Youth Bureau since 1977. In that capacity she has been a singularly successful advocate for the children of her city, and has brought together citizens and institutions of all types, including WCA, to make Mount Vernon a better place in which to grow up.

Jim Carnavale, as director of the Daily Bread Program at White Plains' Grace Church Community Center, has helped to keep thousands of Westchester children from going hungry. That so many young people in our area are homeless and hungry is a tragedy ignored by many. But Jim's work helps to alleviate that tragedy, and to give children in desperate need hope for the future.

The work that these individuals do is a testament to the spirit of concern and the deep commitment of WCA. By paying tribute to these five individuals, the Westchester Children's Association brings honor to itself as well. I join them in honoring Carol, Deborah, Mary, Sioux, and Jim, and I wish WCA and all of its supporters many more years of progress and success.

COMMUNITY SERVICE AWARD GIVEN TO H. WAYNE HILL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Miami businessman H. Wayne Hill, who received the Alonzo G. Decker Community Service Award from his company, Black & Decker.

Mr. Hill was one of 12 winners of the award given by Black & Decker at its corporate headquarters in Towson, MD. The Alonzo G. Decker, Jr., annual community service award gives recognition to Black & Decker employees who are improving the quality of life in their communities. The glass plaque award was presented by Alonzo G. Decker, Jr., the surviving founder of Black & Decker. Each award winner also selects a qualifying charitable organization to receive a $500 grant which Mr. Hill gave to the Miami Granada Rotary Club.

Black & Decker regional district center manager Ignacio Boladeres nominated Mr. Hill for his work as president of the Miami Granada Rotary Club. Black & Decker, in giving him the award, said that his tremendous involvement with the club exemplified exceptional levels of commitment, creativity, and achievement to worthy causes.

Among the projects Mr. Hill initiated and carried out was raising $10,000 to rebuild the San Juan Mission in Miami's Wynwood neighborhood. Mr. Hill also provided the Alberque San Vicente de Paul in Meridan, Mexico, with medical equipment and a cash donation of $3,000. During the holiday season, he distributed Christmas gifts to poor children at Miami Children's Hospital. Mr. Hill also distributed gifts on Three Kings Day—January 6, Epiphany, when children of Spanish descent receive their gifts—at Wynwood, the McClemore Center for Abused Children at Jackson Memorial Hospital, and to poor migrant workers in Homestead.

I also wish to commend Black & Decker for its community spirit in giving recognition to those employees who have performed community service. Especially at this time of year, it is good to see such excellent citizens as H. Wayne Hill given recognition for their service to our community and Nation.

NEED FOR AN EXTENDED UNEMPLOYMENT COMPENSATION BILL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, one of the things that I had hoped to do during the closing days of the session but was unable to because of the press of legislative business is to enter into the RECORD a petition which I received from a very large number of people in Fall River. This petition was drawn up by city councilor John Alberto of the city of Fall River, who is a leader in that community and who was one of the first to stress the need for an extended unemployment compensation bill.

While the bill has since become law, I think it is important to note that the delay which occurred before President Bush finally agreed to sign such a bill caused a great deal of distress. In my experience, few issues have drawn the kind of ardent support from citizens that the need for an extended unemployment bill drew in the late summer and early fall months this year.

I am particularly grateful to John Alberto for taking the initiative in organizing this effort. It is important that we have a record of public concern on issues of this sort and John Alberto's willingness to draft and circulate this petition is one of the reasons why I can point with absolute certainty to the very broad degree of support which this issue received in Massachusetts.

Here is the petition signed by over 1,000 people.

COUNCILOR JOHN ALBERTO PETITIONS TO EXTEND U.I. BENEFITS

PRESIDENT GEORGE BUSH: We respectfully ask you not to veto, but approve, the twenty (20) week extension of our Unemployment Insurance Benefits. The United States Senate and House of Representatives overwhelmingly voted to extend these benefits because they know what it means to the people of their districts. Empty stomachs, shut-off utilities, evictions and foreclosures will not contribute to the economic recovery of our country. For the unemployed, these are today's realities.

In the event that President Bush should veto this bill, we respectfully ask that you, our Senators and Congressmen, override his veto.

We, the undersigned, workers and families of workers, need leaders with a heart. Please say yes to our extended benefits.

WOMEN AND HUMAN RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, on November 18, the Congressional Human Rights Caucus held a luncheon to address the issue of women and human rights. It was the third such event in a series organized by the Human Rights Caucus and the Stanley Foundation in an effort to bring together congressional staff and staff of the United Nations.

Gender-specific torture and violence are often ignored in the struggle to end human rights abuses. Moreover, women frequently face economic discrimination, whether in development—where they are often overlooked by agricultural advisers and project developers—or in finance—where they find it difficult to secure loans. It is important that these issues take their rightful place on the international agenda.

Mr. Speaker, our colleague, Congresswoman JAN MEYERS of Kansas, issued a most eloquent statement on the occasion of that caucus luncheon. Her comments throw considerable light on the under-emphasized issue of human rights abuse against women. I include her remarks in today's RECORD.

STATEMENT OF REPRESENTATIVE JAN MEYERS

Human rights abuses against women is an issue that has long been ignored. The plight of an ethnic or religious minority that is subject to discrimination often generates considerable attention from Congress and the human rights community. Unfortunately, less attention is paid to abuses that are directed against women.

Too many people are willing to turn their heads away from the mistreatment inflicted upon women because they are justified in the name of religion or cultural practices. Women in the Middle East and Africa are subjected to female circumcision. In India, young women are burned to death because their dowries—which are supposedly illegal—are not large enough to satisfy their in-laws. In Pakistan, women who are raped then can be prosecuted for adultery and sentenced to up to 100 lashes. Female infanticide is common in much of the Third World. We, in the West, are often afraid to criticize the cultures that allow such vile customs, because that would be "ethnocentric." But the entire concept of human rights—the idea that people have worth as individuals rather than just as members of some political, social, or ethnic group—demands that we denounce these practices regardless of their foundation. Furthermore, this concept of human rights is one that the nations of the world voluntarily accepted when each agreed to the United Nations Charter and Universal Declaration of Human Rights.

Government's responsibilities for the protection of human rights go beyond forbidding state-sponsored terror. The primary duty of a government is to protect all of its citizens from aggression. After all, when human beings started organizing in tribes and other primitive governments, one of the primary reasons was for mutual protection. A state that tolerates the murder or mutilation of women for "cultural" reasons is just as much a violator of human rights as one that jails and tortures political opponents.

We must continually express our opposition and revulsion to these practices and attitudes.

A TRIBUTE TO THE ASSOCIATION OF CRITICS AND COMMENTATORS OF THE ARTS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to recognize the achievements of one of our community's most reputable and respected cultural institutions, the Association of Critics and Commentators of the Arts.

Since its founding in 1975 by a group of distinguished journalists and writers dedicated to the nurturing and development of all art forms within our growing Hispanic community, the association has become a haven for artists everywhere who yearn for an opportunity to further and enrich their individual talents.

Our State of Florida, situated at the gateway to the Americas, has always welcomed the proud heritage and cherished traditions of numerous cultures from all over Latin America, giving many renowned and aspiring artists from these areas of the world the opportunity to cultivate their respective abilities.

To promote artistic growth and recognize outstanding individual achievement, the association sponsors many events and programs throughout the year designed to introduce these aspiring artists to the general public.

In their efforts to help cultivate the arts in our ever-growing society, the association is currently embarking on their most ambitious project yet, the establishment of an international cultural center, where permanent exhibitions, cultural and musical pageants can take place, doubling as a recreation center for artists visiting or residing in our community.

Mr. Speaker, throughout its 16-year history, under the careful direction of president Dra. Josefina Rubio, vice president Mannix De Leon, as well as the rest of the dedicated members of the Association of Critics and Commentators of the Arts including: general director Ivan Guitierrez; public relations directors Maria Antonia Bode and Fabiola Naya; secretary general Dr. Nelson Hernandez; vice secretary general Laura Curbelo, secretary of organization Ubaldo Henriquez; and vice secretary of the Association Hall Estrada; treasurer Elvira Paches; vice treasurer Alsela Torres; and, executive assistants Hilda Alvarez and Maria Ofelia Garcia. Among the permanent members of the Association are past members and former executives, Jose Camacho Lagos, Pedro R. Herrera, Roberto Minagorri, and Adelfa Cantell.

Benefactor members are: Manny Herrera of Manny's Buffet, Humberto Rodriguez of Humberto Florist, and Carolina Weiss of Royal Tower. Honorary members are: Director of cultural relations Manny Soto; director of special events, Mirta Lopez Polacek; Celia Touzet of

the commission on special events; and director of the commission on historical research, Dr. Armando Cobelo. Music department members are Solange Lasarte and Yolanda del Castillo Cobelo. Visual arts department members are Berta Randin, Orlando Acosta, Delio Liebrez, and Carlos Rafael Gonzalez. Literature department members are Dr. Jose E. Puente and Olga Gonzalez del Pico. Technical assistance members are musical director Professor Olga Martinez; theater director, Sergio Ponte; director of literature and director of photography, Asela Torres. Our community has gained a new and much needed appreciation toward the arts and I would like to extend to all members my very best and warmest wishes for continued success in all future endeavors.

IN MEMORY OF SHEILA BREMEN O'DONNELL

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BLACKWELL. Mr. Speaker, it is with great sadness that I rise to announce the passing away of Sheila Bremen O'Donnell, earlier this month. I would like to take this opportunity to pay tribute to this great woman whose contributions to the people of the city of Philadelphia are invaluable.

As the director of children's programming at Philadelphia's world renowned Annenberg Center, Mrs. O'Donnell was responsible for all activities involving young people. Among her multitude of duties, Sheila organized the annual Philadelphia International Theater Festival for Children, an event which attracts young theater groups from across the globe, and audiences numbering in the tens of thousands each year. Mrs. O'Donnell became codirector of the Philadelphia Theater Caravan in 1985, and joined the Annenberg Center in 1987 as an assistant of development and public relations. She had been the director of children's programming since 1988. Sheila O'Donnell had a profound love for children's theater and her dedicated efforts at the Annenbergy Center clearly reflected this. One need look no further than the fact that one of Mrs. O'Donnell's wishes, was that a fund be established in her memory to provide ongoing support for the International Theater Festival for Children.

In addition to her work at the Annenberg Center, Shella O'Donnell was an active volunteer at the Germantown Friends School where her children attend. As a well respected parent leader at the Quaker institution, Mrs. O'Donnell could always be counted on, whether it was the publication of a cook book, or the production of a craft show program. Mrs. O'Donnell was also an accomplished flutist.

The passing of Sheila Bremen O'Donnell is a great loss for Philadelphia, and the world's youth theater community. I ask my colleagues to join me in extending our most sincere condolences to Sheila's husband John, her two sons, Ian and Peter, her mother Ruth, her sister Faith, and her brother Brian. We are lucky to have had such a strong presence in our community, and we will miss Shella Bremen O'Donnell.

REV. J.O. FOWLER: A PASTOR YOU CAN COUNT ON

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, for the last 35 years, there has been at least one thing that everyone in Mount Vernon, NY, could count on: when Sunday morning rolled around, the Reverend J.O. Fowler would be in the pulpit of the White Rock Baptist Church. You could find him at the church most of the rest of the week, too—tending to his flock is a job to which this dedicated and inspiring pastor gives the full attention which it deserves.

White Rock has been a lower Westchester institution since the 1950's, and is a strong and vibrant part of the Mount Vernon community in which it now makes its home. By affiliating with the New York State, New England, and National Baptist Conventions, it has become part of one of the strongest nationwide churches in the country. The people of White Rock Baptist are proud of their church, and I am proud to be their Representative.

We are all proud as well of Reverend Fowler, whose service has been so exemplary. On the occasion of the 35th anniversary of his ministry, I join them in saluting him. That length of service is an accomplishment in itself. The quality of his service makes it even more impressive. I am sure, Mr. Speaker, that all of my colleagues join me in paying tribute to the Reverend J.O. Fowler, and in wishing him, his family, and everyone associated with the White Rock Baptist Church many more years of inspiration and dedication.

SOUTH FLORIDA COUNCIL OF BOY SCOUTS HONORS ED WILLIAMSON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today, George "Ed" Williamson II, who was honored by the South Florida Council of the Boy Scouts of America with the Good Scout Award. The award was presented on December 5 at a special lunch held in his honor at the Miami Marriott Dadeland.

Ed Williamson, who is well known in South Florida as the president of Williamson Cadillac, had his first experience as a boy Scout in Lake Wales, FL, where he was a Life Scout in Troop 135. When his son Trae became a Scout in 1978, Ed Williamson also became involved in Scouting. For over 6 years he served on the committee of Troop 457 in Coral Gables. Trae attained the rank of Eagle Scout in 1988, with the support and guidance of his father and mother. Ed Williamson continues to serve Scouting as a member of the executive board of the South Florida Council.

Ed Williamson has also demonstrated his service to the South Florida area in many other ways. He has provided leadership to many organizations including the Greater Miami Chamber of Commerce, the Beacon Council, the Rotary Club of South Miami, the Dade Foundation, United Way of Dade County, and the Orange Bowl Committee. Although a graduate of Auburn University, Ed serves as a trustee of and a member of the executive committee for his "adopted school"—the University of Miami [UM]. His commitment to the UM was recognized earlier this year when he received the Iron Arrow Award.

Ed Williamson began his career in the automobile business at the age of 12 working at a family-owned dealership in Lake Wales, FL. His is active with the South Florida Auto-Truck Dealers association, having served as president in 1986. He also is a member of the Florida Auto Dealers Association and the Cadillac National Dealer Council. In 1987, Time Magazine recognized his commitment to excellence by awarding him the Quality Dealer Award.

I wish to also commend those who have served with Ed Williamson in the important work that the Boy Scouts of America performs in molding the character of our youth. Among them are the co-chairman of the event honoring Ed Williamson:

Merrill W. Crews of Management Consultant; Robert E. Hoffman of Rolladen; Robert O'Malley of Kelley, Drye and Warren; L.W. Mandelbaum of First National Bank of South Miami; Mel Mendelsohn of Dadeland Mall; and Tom Williamson of Williamson Cadillac. I would also like to recognize Charles Babcock of King Charter, Scout Andy Simril and Scouts of Troop 457, Richard Green of Council President, and Ross McGill of Boy Scouts of America for their participation in the program.

THE COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, early, this morning, the Conference Committee on the banking legislation, H.R. 3768, and S. 543 adopted a provision of the Senate banking bill, section 1133, that deals with the transfer of RTC property. I would like to make clear that the purpose of this provision is simply to facilitate the disposition of RTC property and not to interfere with any ongoing litigation.

Section 1133 of S. 543, states that no person obligated to provide services to an institution sold by the RTC "shall fail to provide those services unless the refusal to provide those services is based on the transferee's failure to comply with any material term or condition of the original obligation." The Senate Banking Committee report gave "membership rights in associations" as an example of an obligation which must be honored after a sale by the RTC.

It is my understanding that where applicable, this section requires a person to continue to provide services to a transferee of the RTC,

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however, it does not require that person to increase or expand those services or otherwise modify those services in any way.

There is now pending a very important lawsuit before the U.S. District Court in Utah, SCFC ILC, Inc. versus VISA, USA, Inc., Case No. 91–C–0047–S, regarding the antitrust issues of the right to membership in the Visa program and the issuance of Visa cards by an institution transferred by the RTC, and the impact of a Visa bylaw that prohibits competitors from participating in the Visa program. It is my view, and I believe that other members of the Committee also hold this view, that these issues should appropriately be decided by the courts, and that the litigation will go forward and will not be impeded by section 1133 of the banking bill.

HUMANITARIAN AID TO SOVIETS IS IN OUR NATIONAL INTEREST

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ASPIN. Mr. Speaker, articles continue to appear in the media depicting the deteriorating situation in the former Soviet Union.

A December 6 article in the Washington Times describes severe shortages of meat, butter, and milk in Moscow, where food riots have already taken place. "Moscow is in a hard, critical situation regarding food," Soviet President Mikhail Gorbachev said in the article. In addition, a December 6 article in the Washington Post subtitled, "Shortages abound in just about everything—especially food," goes into great detail about the lack of food, fuel, and medicine in the former Soviet Union.

A December 7 article in the Washington Times notes that individual republics "are refusing to ship food beyond their borders." In response, "hungry residents of Naryn, a city in Kazakhstan, were rustling livestock from nearby collective farms, stealing about 160,000 sheep."

A December 6 article in the Wall Street Journal forewarns that "with hyperinflation, rising unemployment and continued shortages, food riots could turn into havoc." Another December 6 article in the Washington Post reports rumors of a possible winter coup, and describes a plausible scenario envisioning "a steadily deteriorating economic situation leading to widespread popular disorders, which could in turn create a pretext for a group of politicians to attempt to use the military to impose order." A December 11 article in the Washington Post describes the additional instability due to the "appalling" living conditions currently forced on the members of the Soviet military.

Mr. Speaker, such impending social chaos could weaken command and control of the 30,000 nuclear weapons in the former Soviet Union, and in turn threaten our national security. I am pleased to see Secretary of State James Baker's announcement yesterday that the Bush administration will draw on the $500 million Congress recently approved to begin reducing nuclear danger in the former Soviet Union and to transport humanitarian aid. It is in our national interest to act now. This sentiment was echoed in a December 11 op-ed by Robert J. Samuelson in the Washington Post. "Our interest lies in checking the chaos that could loosen control over nuclear weapons, threaten the stability of Western Europe or lead to new right-wing governments," Samuelson said.

I insert these articles in the RECORD to remind my colleagues that the situation in the former Soviet Union continues to worsen;

[From the Wall Street Journal]

COUP TALK INTENSIFIES IN MOSCOW

(By Elisabeth Rubinfien)

MOSCOW.—As winter sets in and food lines grow longer, talk of another coup is rampant.

Foreign Minister Eduard Shevardnadze warns of another hardline Putsch, Leningrad Mayor Anatoli Sobchak worries about a fascist takeover, and respected analysts say disgruntled soldiers may take to the streets.

To some extent, the warnings are a display of a national flair for the dramatic, a penchant for the cataclysmic. And from some sources, the warnings are politically motivated: Supporters of a central government and a strong union hope to thwart independence drives in the remaining Soviet republics and discredit Russia's radical economic reform policy.

But other warnings reflect the concern that the current economic mess may provoke mass uprisings, leaving only the military able to take control.

"It would be a mass movement by layers of society—the *lumpen* masses—and groups like the old party members or conservative parts of the army could play a role," Moscow Mayor Gavriil Popov said in sketching one such scenario at a news conference yesterday.

Before the three-day coup attempt by hardline officials in August, liberals repeatedly warned of the possibility of such action to try to unify democratic opposition to it. Now, most predictions of an anti-government uprising say it will start from below, rather than among those near the top. While hyperinflation, rising unemployment and continued shortages, food riots could turn into havoc. Military officers furious over spending cuts and soldiers who returned from Eastern Europe to find no work and no apartments then could join in.

"When the people reach the limit of despair, the army—if it is not destroyed by that time—will have its say," said sociologist Tatyana Koryagina in an interview in Wednesday's issue of the official military daily, Red Star.

Defense Ministry spokesman Ivan Skrilnik said that Ms. Koryagina was expressing a personal opinion and that the ministry "doesn't think it necessary to comment." Some experts say the Soviet military is in such disarray that it couldn't lead a coup if it wanted to.

"It would be rather easy to use the armed forces now because a lot of people in them are not satisfied," says Vladimir Kumachov, a military analyst specializing in the Pacific region. "But someone else must push them to it; they won't start it themselves."

Soviet President Mikhail Gorbachev this week used the threat of another coup to bolster his pleas to republics to stick with the union. Mr. Shevardnadze, who also has a stake in a strong central government, warned that only a strong hand will satisfy the people if chaos ensues.

"The 'strong hand' can be opposed only by a strong, organized executive power," he told the weekly Megapolis-Express this week. "But that is precisely what we don't have."

Others worry that if the situation is chaotic enough, neo-fascists would step in to assert control. Mr. Sobchak, who has just published "For a New Russia," the story of his own role in building democracy, said that minimum living standards must be maintained to keep people off the streets. Otherwise, he said, "Communists are completely discredited, democrats are also fairly discredited, so the road will be open for national fascists and national socialists."

MOSCOW FOOD SHORTAGE IS 'CRITICAL'

MOSCOW.—President Mikhail Gorbachev said yesterday that the food situation in Moscow is "critical" and the capital needs urgent help.

In an interview broadcast on national television last night, Mr. Gorbachev said food deliveries from other republics to Moscow had been disrupted, creating severe shortages of meat, butter and milk.

"Moscow is in a hard, critical situation regarding food," the Soviet president said. "I think Muscovites and the Moscow leadership need help and support from the central government and the Russian republic."

"The capital needs urgent help," a tired-looking Mr. Gorbachev said after meeting privately with Russian President Boris Yeltsin to discuss the union treaty aimed at linking the splintering republics' economies.

"Muscovites need to be helped," Mr. Gorbachev said. "There are problems connected with the disruption of deliveries from other republics."

Moscow and St. Petersburg have been hard hit by the growing political and economic collapse of the country in the wake of the failed hard-line coup that failed to topple Mr. Gorbachev.

Other republics are keeping food within their borders for their citizens, and fuel shortages are delaying food deliveries.

STARVING SOVIETS RUSTLE LIVESTOCK

(By Wendy Sloane)

MOSCOW.—Mikhail Gorbachev appealed yesterday to leaders of four republics to send food to Moscow, while Soviet media reported hungry people in some areas raided farms to steal sheep and cattle.

Mr. Gorbachev's appeal and the alarming reports of popular desperation came a day after the Soviet president warned on national television that Moscow needed help to ease acute food shortages and urged other republics and cities to help.

The republics increasingly are refusing to ship food beyond their borders to prevent shortages among their own people. The breakdown of the country's transportation system also caused serious delays in food deliveries.

In a telegram sent yesterday to leaders of the republics of Ukraine, Kazakhstan, Byelorussia and Moldavia, Mr. Gorbachev warned that the worsening situation could trigger mass protests against economic reforms, Tass reported.

Meat, butter and sugar supplies here are sufficient for only a few days, and Muscovites are buying up all the city's bread supplies, Mr. Gorbachev said, according to Tass.

Russians got more bad news yesterday when the republic's parliament approved a 28-percent value-added tax (VAT) to help supplement the budget and finance social programs, Tass said. VAT is a form of indirect sales tax.

But the leaders of republics that intend to adhere to a new union treaty discussed setting maximum retail prices for necessities such as bread, milk, baby food, sugar and salt, a move that would go against Russia's intention to free most prices this month.

Meanwhile, hungry residents of Naryn, a city in Kazakhstan, were rustling livestock from nearby collective farms, stealing about 160,000 sheep, Tass said.

Near the Russian city of Krasnodar, farmers reported the theft of 25 cows, 44 horses and 15 calves, the report said.

In the Ural Mountains city of Ufa, bread is the only food not rationed, Komsomolskaya Pravda newspaper reported. In the Georgian capital of Tbilisi, the only items readily and cheaply available are cheese and beans, it said.

Meat has become so difficult to find in state-run stores and so expensive at the cooperative farmers' markets that seaweed has started to replace it in some Soviet Far East cities, the newspaper reported.

In his television interview Thursday, Mr. Gorbachev said food deliveries to Moscow from other republics were disrupted, creating severe shortages of meat, butter and milk. Muscovites suffered days of bread shortages last month.

"Moscow is in a hard, critical situation regarding food," he said. "I think Muscovites and the Moscow leadership need help and support from the central government and the Russian republic."

As the harsh winter sets in, many Muscovites are getting tired of waiting endless hours in line to buy basic food items. Starch has become a primary staple in lieu of meat and vegetables.

As part of Russian President Boris Yeltsin's radical reforms, his government plans to free prices from state control throughout the republic. By bringing prices in line with demand and production costs. Mr. Yeltsin hopes to increase supplies.

In the meantime, farmers are withholding food from the market, waiting for higher prices. The price increases are expected within a few weeks.

Food products that would retain their fixed prices include bread, milk, buttermilk, non-fat cottage cheese, vegetable oil, sugar, salt, vodka and baby food, the Moskovsksaya Pravda daily said yesterday.

In response to the food crisis, Moscow's Federation of Trade Unions and the Moscow Entrepreneurial Group sent an appeal to the Russian government yesterday for social programs to help the needy, Tass reported.

"If the mayor's office, the Moscow government and the City Council are unable to ensure stability in the city and create normal working conditions for Muscovites, we will demand their resignations," the appeal said.

[From the Washington Post, Dec. 6, 1991]

DESPERATE DAYS IN THE SOVIET UNION—SHORTAGES ABOUND IN JUST ABOUT EVERYTHING—ESPECIALLY FOOD

(By Margaret Shapiro)

MOSCOW, DEC. 5.—An oral surgeon in the city of Chelyabinsk was forced recently to extract a patient's tooth by the light of matches held by his nurse. His hospital had run out of light bulbs.

In Asbest, a severe shortage of soap and detergents is preventing treatment of an outbreak of lice in local schools. A newspaper reminded people that they could resort to an older method for getting rid of the pests—kerosene—but that also is in short supply.

And in the far eastern city of Khabarovsk, frantic passengers, stranded at the airport because of lack of fuel for airplanes, blocked runways in angry protest, with many getting out only days later on special air force transports.

These are desperate days in the Soviet Union, or what remains of it. Every day, the newspapers are filled with reports of new shortages, worsening shortages or predicted shortages in everything from matches and weddings rings to hot water, newsprint and, most threatening of all, food.

Just today, St. Petersburg officials announced that only a one-day supply of meat is left in the city, while Moscow leaders warned of a "real catastrophe" in food supplies in the next 10 to 15 days. Soviet President Mikhail Gorbachev called the food situation in Moscow "critical."

People in the Soviet Union have always had to contend with some shortages, but nothing as widespread as what they face today. In some ways, the country seems to be hurtling back toward the Middle Ages, when people lit their houses with candles—as they must now do in many rural areas of Uzbekistan—and bartered for necessities, as they now do virtually throughout the land.

In the Siberian city of Yakutsk, for instance, a hospital desperate to fill its blood bank did so only after offering donors clothes for blood: a man's shirt and aftershave for 7 ounces of blood, a pair of women's winter boots for 14 ounces. And when the Dnepropetrovsk authorities recently began to run out of rubles, they got more by trading 5 tons of sugar and 1.5 tons of vegetable oil to the regional mint.

Perhaps surprisingly, the country has not collapsed of mass exhaustion, as it seems it should in these circumstances. People still go to work, though they spend a lot time scavenging for necessities. Children go to school and dream of upcoming winter holidays. Subways and buses in most cities work normally. And examples of capitalist initiative are emerging from the debris of the discarded old communist system.

But frayed trade networks among republics and cities have broken down amid the general political chaos. Aged equipment in factories across the country has fallen apart. The low harvest has led to shortages in everything from flour and animal grain to vegetables and bread. And across the country, corruption and a flourishing black market are siphoning off what is available and raising prices on what is left.

"It seems we are running out of everything. I'm not sure how much more people can cope with, but the situation gets worse every day," said Raisa Grisiena, an employee of an asphalt factory that this month has run out of sand to make cement.

Some of the worst shortages are in areas where ethnic or religious rivalries have disrupted the normal flow of goods.

In the capital of the disputed Nagorno-Karabakh region, where fighting between Christian Armenians and Muslim Azerbaijanis has recently intensified, there is no bread, water or fuel, according to news accounts from the area. Armenia itself has been virtually without fuel and with little food for weeks because of blockades by Azerbaijanis. A Moscow newspaper a few days ago reported that Yerevan, the capital of Armenia, now "is very quiet. There is no gas, hot water or electricity in the houses. Most of the factories are not working."

But it is not just war-torn areas that are suffering. In Moscow, St. Petersburg and Kaliningrad, for example, it has become an ordeal to find gasoline for cars, with even 10-hour waits sometimes proving fruitless. In Kiev, matches are hard to find. In a city near Lake Baikal in southern Siberia, television stations have closed for want of electricity, and newspapers are not being printed because there is no fuel to deliver newsprint. Everywhere, buildings are dim because of a shortage of light bulbs, and hospitals must survive without medicines or syringes.

Electricity and hot water, which have been cut off at times in the past, are now failing much more often. Moldavia will soon ration electricity. Georgia has just declared a five-hour workday to conserve dwindling oil and gas supplies.

In Volgograd, the newspaper Komsomolskaya Pravda reported many unheated schools and apartments, where children must "go to bed in their clothes." Seven time zones to the east, residents of Khabarovsk have been without heat and fresh water so long that they are now fleeing in droves, according to news reports. And in Petropavlovsk, public transport recently ground to a halt for lack of fuel.

The shortages have even hit the much-maligned Soviet currency, the ruble. Dollars have been in short supply for weeks now, but rubles until recently were plentiful. Now, with inflation galloping faster than government printing presses can keep up, banks are running short of rubles.

Moscow banks today even turned away customers who wanted to exchange highly prized foreign currency, saying they had run out of rubles. In the Altai area of southern Siberia, the government recently resorted to paying people in chits. All of the Ukraine will soon begin using coupons as an alternative currency, because it cannot get enough paper rubles from Moscow. But as Komsomolskaya Pravda reported, the shortage of rubles soon may not matter. Most people have already turned to barter to get what they need, with "a pail of potatoes [equaling] a kilo of meat or two chickens."

The shortages have produced a surplus of worries about social turmoil and rumors of new authoritarian coups or ultranationalist movements to store order to this society.

"I worry a lot," said Sergei Shakrai, an adviser to Russian President Boris Yeltsin. "It looks here like the situation in Germany after the war." But, he said, "If we can keep the situation under control for six to seven months, then I think there will be signs of relief."

Rutskoi criticized Yeltsin's plan to free prices, suggesting that it would lead to unnecessary hardship among workers. He depicted himself as a champion of the military-industrial complex, traditionally the most efficient sector of the economy, which faces particularly hard times if the Russian government pushes ahead with its plans to dismantle the system of centralized allocation of resources.

Rutskoi described the band of young economic reformers around Yeltsin as bumbling amateurs—"kids in pink trousers"—incapable of leading Russia out of its economic crisis. The head of the economic reform team, Russian Vice Premier Yegor Gaidar, called today for Rutskoi's resignation, saying his statements contradicted government policy.

[From the Washington Post, Dec. 11, 1991]

COUP TALK ABOUNDS IN SOVIET ARMY

(By Fred Hiatt)

MOSCOW, December 10—A divided and demoralized Soviet military is facing the dangerous prospect of having to choose between commanders in chief as this onetime superpower reeels toward an uncertain future without clear leadership.

Russian President Boris Yeltsin, who will hold a key meeting with top armed forces

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commanders Wednesday, has received general support from Soviet Defense Minister Yevgeny Shaposhnikov, Yeltsin sides said today. But at the same time, spokesmen for Soviet President Mikhail Gorbachev, who addressed senior officers at the defense ministry this morning, insisted that Gorbachev still controls the military and its nuclear arsenal.

Following the failed Kremlin coup in August, the Soviet military leadership vowed never to involve itself in civilian politics. But now—with army troops facing attacks by armed nationalist groups around the former Soviet Union, with living conditions for servicemen and their families deteriorating day by day, with rival political leaders competing for preeminence—talk of a military coup has become prevalent, not least among military officers themselves. A continuing shakeup in top echelons of the Soviet Defense Ministry has only added to the rumors.

Most officers still discount the likelihood of such a coup, in part because pervasive pessimism within the officer corps militates against any bold action, and in part because Russian military tradition holds little precedent for such action. But few are willing to predict the consequences for the military of the present anarchy in Moscow and the continuing fragmentation of the Soviet Union and of the army itself.

The official military newspaper Krasnaya Zvezda, while supporting democracy these days, also reflects a volatile mood among many officers of self-pity, nostalgia, humiliation at the shrunken status of Soviet might and anger at the ineptness of current political leaders.

"I think you can say that no one today is in charge of the armed forces," said Navy Capt. Vyacheslav Lukashevich, a Krasnaya Zvezda editor. "The army was faced with a choice during the August coup; we cannot rule out that it will face this choice again in the near future." Most army units did not support the reactionary Communist coup, even though the defense minister at the time, Gen. Dmitri Yazov, was among its leaders. After the putsch, Gorbachev replaced Yazov and other top generals with a reformist leadership, which pledged that the Soviet military would never set itself against the democratic aspirations of the citizenry.

One of those new leaders, Maj. Gen. Nikolai Stolyarov—who heads what until recently was the political section of the general staff—acknowledged in a newspaper interview today that "the situation in the country and in the armed forces is very tense," but he repeated that the military would remain a "stronghold of democracy." "I do not share the idea of a military coup," Stolyarov said. "The army will never turn its bayonets against its own people."

But other officers warned that military involvement in the continuing political struggle cannot be discounted, especially if Gorbachev and Yeltsin do not soon come to some understanding. "I think it's a real possibility, when we are on the threshold of a real civil war, and one that possibly could be fought with nuclear arms," said Capt. Lukashevich.

"The army is tired of suffering humiliation, tired of going half-hungry, tired of living in sublet apartments. It is tired of serving a country that is no more," said Maj. Leonid Kozhendayev, an armed forces' general staff officer, in a recent newspaper interview. "It is time to take measures—tough ones."

Some analysts say that wholesale dismemberment of the military is one issue that could bring the generals into the political arena. William C. Green, an authority on Soviet military matters at Boston University who spent the past two weeks interviewing officers here, said he found unanimity that "they do not want the central core of the military broken up among the republics."

But Green said he does not believe the military actually would try to seize power. "Not one of them wants the military actually to run the country, because they don't think the country can be run," he said. But he said he believes the military might intervene at Gorbachev's behest—"not on his behalf," but to save some unified component of the armed forces.

Green said he believes that Gen. Vladimir Lobov was cashiered as general staff chief on Saturday at Russia's insistence because, while he had agreed to dividing up ground and air-defense forces among the newly independent Soviet republics, he was "digging in his heels" to maintain unified navy, air force, nuclear, logistics and doctrinal units. Lobov was replaced by Gen. Viktor Samsonov, who refused to send troops into Lennigrad during the August coup. And in an apparent continuation of the power struggle within the Defense Ministry, a spokesman said today that two deputy ministers also have been replaced.

Other analysts here said they believe the army will support Yeltsin, if only because his Russian government now controls the central budget. "He who pays the piper calls the tune," Lukashevich said today, noting that Yeltsin promised recently to nearly double officers' salaries. Still others said they believe the military will simply hang back and hope the crisis is resolved without them. "The armed forces can make a political choice, or they can wait for the whole country to make its political decision," said Navy Capt. Vladimir Maryukha. "The military is trying not to lead, but to lag behind."

About 4 million men and women serve in the Soviet armed forces, which also controls about 27,000 nuclear warheads, many of them on intercontinental missiles still pointed at the United States. As the Soviet economy has deteriorated and its troops have been forced home from Eastern Europe, living conditions for many have become apalling, with some officers and families stuffed into squalid dormitories and others spending the frigid winter in tents.

In addition, central control over the military has gradually eroded as most of the Soviet Union's 15 republics declared independence. At first, the republics refused to send local conscripts on to the army; more recently, they have been claiming control over all military units stationed on their soil. In some outlying republics, army units have come under attack by nationalist militia groups as well as by ordinary criminals seeking weaponry. Incidents in which a major in Georgia was killed in front of his wife and child and an Interior Ministry officer was arrested in Russia and taken to newly independent Latvia on criminal charges have stirred outrage throughout the military.

Today's issue of Krasnaya Zvezda contains news of an appeal signed by 3,000 students and officers at the Frunze Military Academy in Moscow demanding that servicemen be given the right to defend themselves "against nationalist and other kinds of banditry." Another article describes the difficult life of a Soviet officer still serving in Latvia, where his 16-year-old-son has been denied a passport and must take his school exams in Latvian. And the lead editorial warns soldiers that "the one who is raising his weapon against you today will tomorrow be hailed as a hero of the people, while you will be a murderer and a criminal."

For many officers, the prospect of a dissolution of the Soviet armed forces into armies serving the various republics is extremely painful, quite apart from the prospect of immediate personal danger likely in areas of political tension or social turmoil. Maryukha, a Ukrainian serving in the Soviet navy, said he and his colleagues are "united by the sense that we are all Soviet officers."

"It will be very hard for people who were brought up on united ideals and values and loyalty," Maryukha said. "It will be akin to finding yourself without a motherland."

But Maryukha said that despite strong feelings throughout the armed forces on the need for a unified military, the officer corps remains set against involvement in any coup. "I think that every army officer has already made his own individual political choice—he's not going to take up arms and fight against his own people," he said. "This understanding is very strong in the army right now."

[From the Washington Post, Dec. 11, 1991]

THEIR CHAOS—AND OURS

(By Robert J. Samuelson)

Stanley Johnson, as well-known farm economist, is pessimistic. He thinks that parts of the former Soviet Union—including Moscow and St. Petersburg—could soon suffer crippling food shortages: the type of hunger that might trigger more political upheaval. His outlook differs sharply from the official U.S. view, which foresees scattered scarcities and endless lines. Johnson urges that we begin shipping extra food now to prepare for the worst. It's a sensible precaution considering the three to six weeks normally required to move grain to Soviet ports.

We aren't taking it.

Soviet society is now disintegrating at an alarming rate. The declared end of the "union"—and creation of a "commonwealth"—reflects the deep chaos. But the Bush administration's Soviet policy mirrors the chaos of Soviet society. We are reacting to events. Decisions are fragmented. The Agriculture Department deals with food. The Treasury deals with Soviet debt. The State Department deals with nuclear weapons. The result is that we are squandering our modest changes to check the growing anarchy.

Ideally, the president should appoint someone—a Soviet policy "czar"—to force decisions on critical issues. Time is of the essence, and everything is connected to everything else. The Soviet economy is collapsing; production is down 15 to 20 percent, and inflation exceeds 200 percent. The worse the economy gets, the harder it will be to negotiate control of nuclear weapons. New governments will be too preoccupied with their own survival. Severe food shortages could shatter relations among republics, because they would blame each other.

Our policy should make these connections. Russian President Boris Yeltsin is about to embark on a sweeping economic reform. He pledges to free prices, curb huge budget deficits and liberalize foreign trade. How should we help? (Writing in the New York Times, Swedish economist Anders Aslund, an adviser to Yeltsin, argues that Russia needs a $5 billion "stabilization fund.") Should economic aid be tied to specific steps to destroy nuclear weapons? Should food aid be tied to farm reforms or commitments among republics to maintain their trade?

These and other practical questions loom. We don't have the time to wait for events to clarify themselves. By then, it may be too late to help. Consider the food situation as a case in point.

The 1991 harvest was down. The reasons most often cited are poor weather and less use of fertilizer and pesticides. Writing in Choices, a farm magazine, economist Johnson of Iowa State University and Alexander Nikonov, president of the Soviet Academy of Agricultural Sciences, report that the grain crop was down 13.5 percent from average production between 1986 and 1990. The potato crop dropped 10.1 percent, meat production 4.1 percent and milk output 5.6 percent.

By themselves, these declines wouldn't trigger a crisis. Although food consumption would slip slightly, the Soviet diet is hardly a subsistence one. In calories, it roughly equals ours. The main difference is that it includes more potatoes and bread and only about half as much meat. The widely reported "shortages" of the late 1980s didn't reflect lower food consumption. Rather, shortages emerged because food prices were held down while wages soared. The result was that any food in state stores was bought almost instantly.

The danger now is that the food distribution system may break down. In 1991, farms have sold only about 60 percent as much grain to the state distribution network as last year. Some grain is going to private markets, some is being bartered for consumer and industrial goods, and some is being hoarded on farms. Presumably, some of the hoarded supplies might be sold after prices are freed. But no one really knows the amounts involved.

Cities like Moscow and St. Petersburg are vulnerable, because they're at the end of the supply chain. Only about 60 percent of their grain comes from nearby areas. People on fixed incomes (the old and students) are vulnerable, because they may not be able to afford free-market prices. Bureaucrats are vulnerable, because they have little to barter or wages aren't keeping up.

We are already sending a lot of food. Nearly $4 billion has been authorized under U.S. government-guaranteed loans in the past year. Is that enough? Someone has to decide—soon. In effect, the official U.S. view is that enough hoarded grain will get to market to prevent starvation or food riots; Johnson is skeptical. He would ship more now and store it in Soviet warehouses as insurance against hoarding. If not needed, the food would offset shipments that would normally occur later in 1992.

Everything we might now do (or not do) is a gamble. Under the best of circumstances, the Soviet economy will get worse before it gets better. Price liberalization will lead to a big burst of inflation. Cutting budget deficits will require slashing subsidies for state enterprises and firing many bureaucrats. The problems of privatizing industry are huge. The capitalist tradition is weak, as is the work ethic. A suspicion of profit runs deep. All we can offer is aid to cushion the suffering and technical advice to give reforms a chance of success.

More than humanitarian concerns are at stake. Mikhail Gorbachev warns that the Soviet Union's collapse could lead to conflicts that make Yugoslavia's civil war look like a "joke." This is not simply bombast. Our interest lies in checking the chaos that could loosen control over nuclear weapons, threaten the stability of Western Europe or lead to new right-wing governments. We can—along with Europe and Japan—afford aid: The amounts are small compared with past defense spending. The possibility of failure is not an excuse for not trying.

But the White House seems increasingly paralyzed. The president fears paying too much attention to foreign affairs. Policy is spliced together by bureaucrats. Meanwhile, the new Russian revolution races forward at breakneck speed. We ought to help keep it on the road; we aren't. We have won the Cold War, but victory will be hollow if it means an explosive peace.

[From the Washington Post, Dec. 6, 1991]

MOSCOW'S NEW WORRY: A "DECEMBER PUTSCH"—RUMORS OF POSSIBLE COUP SWEEP CITY AMID WINTER'S GLOOM AND MOUNTING SHORTAGES

(By Michael Dobbs)

MOSCOW, Dec. 5.—It may be the time of year—the short, gloomy days when the sky seems perpetually overcast, snow turns immediately to mush and the list of shortages grows longer and longer—but Moscow is again rife with talk of a possible military coup.

So far, nobody has produced any concrete evidence that a coup is in the works. But that has not prevented the rumor mills from working overtime, sending shudders through the world's currency markets and providing grist for a flurry of diplomatic cables. After a brief spurt of optimism in the wake of August's unsuccessful coup by Communist hard-liners, pessimism has again become the order of the day here.

Over the past few weeks, the Soviet press has been full of scenarios for a future coup. Politicians, commentators and astrologers have come up with various dates for a "December putsch," some of which have already passed without incident. Possible coup leaders have been named, most notably Russian Vice President Alexander Rutskoi, a former Afghan war hero and leader of a group of reform Communists.

Soviet President Mikhail Gorbachev, who refused to believe repeated warnings last summer that his close aides were plotting to remove him, has joined in the latest round of speculation. In an interview this week with the newspaper Literaturnaya Gazeta, he said there were people "who are waiting for another putsch, possibly even organizing it."

Pressed to elaborate, he mentioned "someone from the military-industrial complex" or a member of the now disbanded Communist "party structures."

Similar warnings, all equally vague, have come from many other leading politicians, including Foreign Minister Eduard Shevardnadze and the mayor of Leningrad, Anatoly Sobchak. The French newspaper Le Figaro quoted Sobchak as saying that a military coup carried out in the name of rescuing the country from chaos would have a "chance of success," since it would now be supported by ordinary people disillusioned by growing economic hardship.

The coup rumors reflect an increasingly jittery political mood as the economic crisis deepens and the once monolithic Communist superpower splits up. There have been ominous rumblings from the military over atrocious housing conditions and drastic defense cutbacks. Officers stationed in the now independent Baltic states have threatened to defy orders to return to Russia on the grounds that there is no place for them to go there.

Despite the anger and frustration of many mid-level officers, a straightforward military coup strikes many observers here as improbable. Such overt political intervention is not in the tradition of the Russian or the Soviet military.

A more plausible scenario envisages a steadily deteriorating economic situation leading to widespread popular disorders, which could in turn create a pretext for a group of politicians to attempt to use the military to impose order.

"The biggest danger that awaits us is not so much a putsch, but an uprising of the destitute, the *lumpen* sections of the population, which will then be used by other forces," Moscow Mayor Gavril Popov predicted at a press conference today.

Shevardnadze, who electrified the Soviet parliament a year ago with warnings of approaching dictatorship, also appears to take the view that a coup could grow out of mass public disorders. He told the weekly Megapolis-Express that a sharp drop in industrial output, deteriorating living conditions and rapidly rising prices are feeding "nostalgia for a strong hand."

Many democratic politicians, including Shevardnadze and Popov, have used the coup rumors to argue the case for a stronger executive authority, particularly at a time when the Russian government is attempting to push through painful economic reforms. This has led some commentators to conclude that the democrats could be planning a state of emergency of their own on the pretext of forestalling a more draconian crackdown by the military or hardline Communists.

"The slow pace of economic reform is a recipe for uprisings and mutinies," said Popov, who has been accused of favoring authoritarian methods in his dealings with the popularly elected Moscow city council.

"I prefer to use necessary force earlier rather than later. It is better to use unarmed policemen than armed policemen. It is better to use the police than the army."

The political outlook has been further clouded by sharp divisions in the victorious democratic camp since the failure of the August coup. An open split has developed at the top of the Russian leadership, with Rutskoi clearly distancing himself from President Boris Yeltsin over the pace and scope of economic reform as well as policy toward non-Russian ethnic minorities.

A former army colonel, Rutskoi was chosen as Yeltsin's vice presidential running mate last spring to balance the ticket and reassure the military as well as appeal to progressive-minded Communists. But many now view him as a possible rival to Yeltsin—and a rallying point for former Communists, frustrated military men and disgruntled democrats.

The suspicions about Rutskoi surfaced today in an extraordinary front-page article in the independent newspaper Izvestia suggesting that he is well-positioned to lead any future putsch against Yeltsin. Rutskoi has dismissed the putsch rumors but suggested darkly that "you cannot endlessly play with people who bear arms" because it "may end in disaster."

In a speech in Siberia last week, Rutskoi criticized Yeltsin's plan to lift controls on prices, suggesting that it would lead to unnecessary hardship among workers. He depicted himself as a champion of the military-industrial complex, traditionally the most efficient sector of the economy, which faces particularly hard times if the Russian government pushes ahead with its plans to dismantle the system of centralized allocation of resources.

Rutskoi described the band of young economic reformers around Yeltsin as bumbling amateurs—"kids in pink trousers"—incapable of leading Russia out of its economic crisis. The head of the economic reform team, Russian Vice Premier Yegor Gaidar, called today for Rutskoi's resignation, saying his statements contradicted government policy.

A FUNNY WAY TO PICK A HOSPITAL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, yesterday, a fellow American, Clyde Mitty, bled to death in a most unusual way. It is a sad case, and I reprint the news report from the St. Petersburg, FL, Times Mirror as a warning to others:

ST. PETERSBURG, FL.—In what the County Coronor's office described as a bizarre case, Mr. Clyde Mitty of Treasure Island bled to death from a minor wound while trying to decide which hospital most lived up to its advertisements.

"Basically," said County Deputy Sheriff Perry Plumart, "he was touring around, checking out various hospitals for the quality of their food, how big the rooms were, what kind of color tvs they had. By the time his wife drove him to the fourth hospital, he had bled to death."

"Strangest case of consumerism I ever saw," said Dr. Mary Popit, who performed the autopsy. "I don't know why the wife didn't put a stop to it. The front seat of the car was just aslosh with blood."

Mrs. Anne Raffaelli Mitty was described as distraught and unavailable for comment. Her son-in-law, Tom Goldstein of Tampa, said that his father-in-law had always been fascinated with hospital advertisements.

"He had told me many a time after reading one of the local papers that he liked this or that hospital's ads and if he ever had to go to a hospital, that was where he was going to go," said Goldstein, "Trouble was, whatever ad he saw last, that was where he wanted to go. The ads were so confusing that he just couldn't decide which hospital really was best."

According to a statement Goldstein filed with the police, Mrs. Anne R. Mitty said that on Sunday afternoon, Mr. Mitty was peeling an orange with a common kitchen knife and slightly slit part of his wrist. Realizing that some stitches would be required and that there might be some nerve damage, they left their Treasure Island home about 2 PM and drove first to St. Benedict's Hospital in Tampa, some twenty miles distant and past three closer hospitals. St. Benedict's has recently run a series of full-page ads touting the quality of their meals and the artistic presentation of their dinner platters.

Mrs. Ella Mumphard, a cashier at the St. Benedict's Hospital cafeteria remembers seeing Mr. Mitty (identified through photos) around 3 PM.

"He looked a little pale, but was asking a lot of questions about the pastry desserts," said Mrs. Mumphard. "You know, how often they were baked, whether they used fresh fruit like the ads claimed, you know, real picky. Looked like a troublemaker to me."

Mrs. Mumphard said it was easy to recall Mr. Mitty because the maintenance staff started complaining about blood on the floor right after he left. "They had to get out a whole new bucket to swab it up," Mumphard said.

The police report indicated that the Mitty's recrossed the Bay and arrived at Pleasant View Hospital in St. Petersburg around 4:15.

Mr. Gerry Elliott of the hospital's social activities center remembered Mr. Mitty well.

"He was asking about our recent ads on tv where we talk about our wide range of video and audio entertainment in each private room. You know, the VCRs, the tapes, the stereo, not to mention the traveling book and magazine collections. It was good to see our ads having such an impact. He was clearly an informed consumer," said Mr. Elliott.

Mr. Elliott did recall asking Mrs. Mitty if everything was alright. "It looked like he needed a new towel around his arm. The one he had was all red. Looked like blood to me."

Mr. Mitty's trail then led to Jefferson Hospital, the area teaching hospital, which has been conducting an extensive radio advertisement campaign stressing the quality of its staff.

Ms. Tracy Spencer, assistant personnel director of Jefferson Hospital, vividly remembered seeing Mr. Mitty around 4:50.

"He sort of staggered into my office and flopped down in that stained chair over there. He was very pale, and was in some respiratory distress. I told him I'd call for a wheelchair to get him to emergency but he said no. Started asking me all kinds of questions about the degrees and the experience of the hospital staff, the floor nurses, how many RNs, all the kind of stuff we'd talked about in the ads but perhaps were not very specific about."

Ms. Spencer gave Mr. Mitty one of the hospital's promotional pamphlets that listed the staff's credentials, and he said he would read it over.

"I really did try to get him to stay and get treatment for the awful bloody arm he had," said Spencer, "but he said he had more shopping around to do."

The police report indicated that Mr. Mitty insisted on going to Coolidge Hospital back in Tampa, because of that day's full-page Sunday supplement ad insert in local papers which had stressed the quality of its emergency rooms.

"Unfortunately," said Pinellas County police officer Joe Henderson, "he didn't have enough blood left in him to check out the final hospital. So in a sense, it was his final choice."

Local health authorities could not remember a similar case in the Tampa Bay area. Dean Phil Graeter of the University of Florida Medical School said that hospital ads have become a major business:

"I don't know why. Picking a hospital in an emergency on the basis of ads is—and I don't want to speak ill of the deceased—pretty nutty." Dean Graeter said. "You could even call it stupid."

Communications expert Roxanne Verduzco, a professor of sociology at Tampa Community College said that "Each year, America's hospitals spend about $1 to $1.6 billion on advertising, with the average hospital spending about $150,000 a year on ads. They say it is to gain market share, but I really wonder if people shop for hospitals the way they shop for cars. If it's not an emergency, you usually go where your doctor suggests. Shopping for a hospital by reading ads is odd. I guess poor Mr. Mitty did—and look what happened to him."

Another son-in-law, John Edgell of Tarpon Springs, speculated on the sad end of his father-in-law. "He was always so worried about health care costs that he paid a lot of attention to things that talked about health Personally, I always sort of wondered, 'if they didn't advertise so much, maybe their costs wouldn't be so high.' Guess that thought never crossed old Clyde's mind. He sure loved those dumb ads."

EUGENE CONESE'S GREENWICH AIR SERVICES IS NATIONAL LEADER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Eugene Conese, Sr., who recently was featured in the Miami Herald, after his firm was given approval by the Metro-Dade County Commission to operate the huge jet engine service center at Miami International Airport recently vacated by Eastern Airlines. The article "Firm Hope To Grow Into Eastern Base" by Larry Birger tells how Mr. Conese has built the second largest independent engine overhauling company in the country.

As an accounting major in college, Eugene Conese Sr.'s goal was to become chief financial officer of a Fortune 500 company.

But his horizons widened considerably in graduate school when he fell under the influence of famed author and management consultant Peter Drucker. Drucker convinced Conese that he had the ability and vision to be a chief executive.

Conese met this goal and more.

Now, at the age of 62, when most people start thinking about slowing down, Conese is aiming for loftier heights. His goal is to build the "best" American company in the aviation-services field.

"That doesn't necessarily mean the largest, but certainly the best in terms of treating employees right, being fair with suppliers and, above all, servicing the customer better than anyone else," Conese says.

The opportunity to make it happen came recently when Conese's company—Greenwich Air Services—was given approval by the Metro-Dade Commission to lease and operate the huge jet engine service center at Miami International Airport vacated by the defunct Eastern Airlines.

It fell to Greenwich by default when its only competition—a consortium that included Federal Express and former Eastern President Phil Bakes—broke up at the 11th hour.

PURCHASED BATCH AIR

Not that Greenwich is that small.

When Conese purchased Miami-based Batch Air from George Batchelor in 1987, it was a $45 million-a-year business with 450 workers. Revenues are now $75 million annually with 750 workers. And estimates for 1992 range to $87 million, despite the soggy economy.

That ranks Greenwich second to Dallas-based Aviall Inc., a subsidiary of Ryder System, as the largest independent engine overhauling company in the country.

Greenwich revenues come from overhauling engines and air frames of planes owned by military, commercial and industrial companies and second-tier airlines. The major airlines mostly do their own maintenance.

A Who's Who of Greenwich's customers includes Airborne Express, Arrow Air, Avianca, The Boeing Co., DHL Airways, General Electric, MGM, Grand Air, the Air Force, U.S. Navy, Grumman Corp., Columbia Gulf Transmissions and Procter & Gamble Manufacturing Co. Industrial pump repair accounts for about 20 percent of total volume.

But industry sources generally agree that it's going to take a lot more than that to support a successful operation in the Eastern facility. The reasons:

At 400,000 square feet and with three buildings where engines are tested, it is far larger than Greenwich's present 180,000-square-foot plant on the southwest side of the airport. Greenwich also has an option to lease an additional 80,000 square feet.

Its costs will rise considerably. Rent alone will be $2.4 million annually, plus another $1 million for air-conditioning and other electric power needs. That compares to $1.3 million at the present facility, which isn't air-conditioned.

POISED FOR GROWTH

"The company is poised for real growth and it needs Eastern's facility to attain its objectives," says Charles Simons, Eastern's former vice chairman and chief financial officer who has known Conese a long time. "But it will certainly need additonal customers."

Former Eastern president Samuel Higginbottom was responsible in part for major expansions of the Engine Service Center during the 1960s when he persuaded the airline to do maintenance on jet engines for customers other than Eastern.

"When he moves into the Eastern facility, he'll be taking a big step upward in quality and productivity." Higginbottom says. "If he expects to become a first-class operator, he'll have to go after substantially more volume, and that includes airline business."

Conese is aware of the challenge, realizing he'll be stepping up not only in class but also in cost. It will be an operation where rent and power alone will rise from about 1.5 percent of total revenues to 3.4 percent, based on doing about $100 million annually. (Other major costs are payroll, taxes, water, etc.)

"We've already contacted some of the major airlines about doing their engine maintenance," Conese says. He declined to disclose any by name.

Big in stature—at 6 feet, 2 inches and more than 225 pounds—Conese has been entrepreneurial all his life.

A lifelong New Yorker, he was managing the largest restaurant in the Bronx Zoo at the age of 16 while attending high school. He helped pay his way through Iona College in New Rochelle, N.Y., by working in a bakery.

Conese received his MBA from New York University, where he met Drucker. "He was unbelievable, he influenced my life," Conese says.

PULP MILL COMPANY

After graduation and a stint in the military, Conese worked at a Big Six accounting firm for five years, then joined Parson & Whitmore, a company that built pulp mills. There he achieved his first objective, becoming chief financial officer. He also traveled extensively in Europe and Brazil, picking up valuable business skills.

His second goal was attained in 1970, when Conese joined Irvin Industries as president and chief operating officer and was promoted to chief executive. Irvin Industries, now out of business, was known for manufacturing aerospace, automotive and industrial products.

But with Irvin, Conese didn't have ownership, and he yearned for that. The opportunity came in 1980 when he was able to acquire Haskon Corp. from Hercules Powder Corp. in a leveraged buyout.

Haskon is a manufacturer of inflatable fire wall and entry seals for commercial and military aircraft, including the Space Shuttle. Conese came aboard as president and principal stockholder.

"I wanted to do something different before I reached the age of 50, and this was my opportunity," Conese says.

The price for Haskon was $10 million, but he only needed to put up $400,000 in cash.

GREENWICH IS BORN

Conese established a holding company—Greenwich Company Ltd.—to acquire Haskon. In 1982, it started Epco Technologies Inc. from scratch. Currently, it makes more than 500 million plastic rings a year that are inserted into toothpaste tubes to help them retain the flavor.

Last year, Haskon and Epco were sold by the Conese family to BTR, a British firm, for $22 million so that Greenwich could concentrate on the air-services business. It had paid more than $20 million to Batchelor's employees to buy Batch Air.

Family-held real estate is also in the holding company, which is being moved to Coral Gables. Conese's son, Eugene Jr., 34, handles most of Greenwich's day-to-day operations.

"All my life, I've been dealing with original equipment manufacturers such as McDonnell Douglas and Boeing and the engine makers, General Electric and Pratt & Whitney, so it's a business I think I understand," Conese says. "Besides, you get to smell the oil, and I like to do that."

While Greenwich won't move into Eastern's facility before 1992, executives are studying ways to expand sales and still do quality work.

Currently, Greenwich repairs Pratt & Whitney JD–3 and JD–8 engines that power narrow-bodied jets such as the 707, 727, DC–8 and DC–9. But the plan is to also repair engines used to power wide-bodied aircraft: P&W's JT9 engine, for Boeing 747s; General Electric's CF6–50s, for the DC–10 and Airbus jets; and Rolls-Royce's RB–211 engine, for the L–1011.

"We'll start with our existing customer base, people who know us and like our work," Conese says. "Then we'll go out after new companies and airlines that fly the wide-bodied equipment."

How sure is Conese of success?

"It won't be easy because this is a very competitive business. But we're planning for a 1,200 work force and $175 million in revenues by 1995," he says.

"While I'm generally conservative, I may be understating all this because there will be tremendous demand for what we have to offer and maybe not enough capacity."

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VENTO. Mr. Speaker, the passage of the Federal Deposit Insurance Corporation Improvement Act of 1991 was difficult; requiring around-the-clock meetings by House and Senate conferees as the first session of the 102d Congress came to a close. During the conference, agreement was reached to include a provision to allay fears that the systemic risk exception contained in section 141—requiring the FDIC to utilize the least-cost method in resolving failed financial institutions—would allow continuation of the too-big-to-fail policy. However, there was no time to prepare a conference report with more than the text of the bill. Therefore, I have worked closely with Chairman GONZALEZ and Chairman RIEGLE to prepare a joint statement for the RECORD. The joint statement will assure that the regulators do not have the opportunity to apply this exception more broadly than intended by the conferees. This statement has been prepared in consultation with Chairman GONZALEZ and Chairman RIEGLE.

The systemic risk exception was not included in the original House bill covering the use of the least-cost method of resolution. In the minds of some, that exception seemed to preserve the too-big-to-fail policies of the FDIC. The joint statement clarifies the exception and reiterates the Congress' determination that too-big-to-fail come to an end.

The doctrine of too-big-to-fail had several forms. The most explicit was that portion of the FDIC's statutory authority allowing them to declare a bank essential. As an essential institution, the FDIC could keep the bank open, merge it with another institution, and pay off all depositors, no matter how much of their deposits exceeded $100,000. Another method was the FDIC's use of a flexible-cost test that relied upon subjective estimates of asset values and didn't specify when in the process the valuation was to be made for purposes of comparing the alternative methods of resolution. A third method was the lavish use of lending from the discount window to cover not just temporary liquidity needs, but funding needs beyond this legitimate purpose. These and other methods were often used in combination.

Members of both banking committees have been concerned with these practices. Most economists oppose too-big-to-fail because they regard it as inimical to a free market, free enterprise system. The practice was the subject of national debate following the rescue of Continental Illinois. Regulators testified in the aftermath of that bailout that there were probably 11 banks in the country that were too big to fail. However, by the time we gathered to debate this year's banking bill, too-big-to-fail had been used to bail out banks with a quantity of assets small enough to make many more banks potentially eligible for too-big-to-fail status than merely the largest 11 envisioned earlier.

Open bank assistance was yet another form of forbearance used too often by the FSLIC to keep insolvent S&L's open during the 1980's and as such it has a dismal track record. Of course, we can all agree that if the closing of a bank actually leads to risk for the entire financial system, some method should be available to protect the public. But no agreement has been forthcoming on what standards should be used to decide when a bank failure is really a systemic risk. Without such standards, the determination becomes purely subjective.

Some members of the conference argued that systemic risk would not become open

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

bank assistance. Yet, Treasury Department representatives said they would oppose any language to prohibit open bank assistance, so it was clear that the two forms of relief may well be linked in the view of the Treasury.

The systemic risk exception, as indicated in the joint statement should be viewed as a narrow exception for use in those rare instances in which failure could threaten the entire financial system.

Joint Statement on Systemic Risk Exception to Least-Cost Resolution—Section 141 of S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991

On November 27, 1991, the House and Senate adopted the conference report on S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991. Time did not permit filing a detailed explanation of the bill with the conference report. Accordingly, we wish to clarify the systemic risk exception in section 141.

Section 141 requires the FDIC to resolve depository institutions at the least possible long-term cost to the deposit insurance fund. Section 141 also prohibits the FDIC, after December 31, 1994, from protecting uninsured depositors or nondepositor creditors at the expense of any deposit insurance fund.

Section 141 gives the Secretary of the Treasury limited authority to make exceptions to those rules if compliance "would have serious adverse effects on economic conditions or financial stability" and assistance or other action by the FDIC would avoid or mitigate those effects. The Secretary can make exceptions only in consultation with the President, on the written recommendation of at least two-thirds of the members of the FDIC Board and two-thirds of the members of the Federal Reserve Board.

The systemic risk exception now in section 141 originated in section 220 of the Senate bill. The Senate Banking Committee's report on S. 543 described the predecessor provision as "a narrow systemic risk exception for those rare instances in which the failure of an institution could threaten the entire financial system." S. Rep. No. 167, 102d Cong., 1st Sess. 45 (1991). In the House Banking Committee's bill, section 141, relating to least-cost resolution, did not contain a systemic risk exception, but section 142, restricting a advances by the Federal Reserve banks, did contain such an exemption. H. Rep. No. 157, pt. 1, 102d Cong., 1st Sess. 22–27 (1991). The conferees included the systemic risk exception in section 141, but tightened it by making a written recommendation by the FDIC Board a precondition for any systemic risk exception. The exception in section 142 of the House bill was dropped.

The systemic risk exception is not intended to perpetuate the practices commonly known as "too big to fail"; the legislation responds to and largely ends those practices. Section 141 adopts a stringent least-cost test, requiring the FDIC to evaluate alternative resolution approaches rigorously and pursue the approach with the least possible long-term cost. The FDIC is no longer free to pursue a more costly approach simply because it is less costly than liquidation, nor can the FDIC use hazy, informal cost comparisons. Section 141 also repeals the "essentiality" exception, which made even the less-than liquidation test inapplicable to an institution that the FDIC determined to be essential to its community. Section 143 contains safeguards designed to keep discount-window lending by the Federal Reserve banks from being used not simply to cover temporary liquidity needs but as a substitute for FDIC action. Other provisions of the legislation reinforce these reforms. Section 308 and subtitle IV–A are intended to reduce systemic risk. Prompt regulatory action under section 131 applies to large and small institutions alike.

The systemic risk exception itself is narrowly drawn, with several layers of safeguards against misuse. It is intended only for those rare instances in which the failure of an institution could threaten the entire national financial system. The two Banking Committees must be notified promptly of any systemic risk determination.

Section 141—including the least-cost resolution requirement and the post-1994 prohibition against protecting uninsured depositors or nondepositor creditors—fully applies to open-bank assistance. Moreover, such assistance is permissible under the systemic risk exception only if it meets the stringent standards for that exception.

ALPHA PHI ALPHA FRATERNITY: MAKING A DIFFERENCE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, the Alpha Phi Alpha Fraternity has a long, distinguished record. It was the first fraternity of African-American men, founded at Cornell University in 1906. Through the years, this organization has offered encouragement and support to thousands of African-American men, and in the process they have played a formative role in the shaping of this Nation. Without a doubt, the men who have affiliated with Alpha Phi Alpha over the last 85 years have been leaders in much of the social change that has been important to the United States.

Indeed, the values and goals of Alpha Phi Alpha have been at the forefront of movements for social justice time and time again. Even today, as we continue to work for full civil rights in this Nation, Alpha Phi Alpha is working for the same goal. Likewise, as we work to address the problem of homelessness which has victimized millions of Americans, Alpha Phi Alpha is working tirelessly to expand affordable housing opportunities.

Alpha Phi Alpha embodies what is best about fraternal organizations. Its members enjoy the advantages and the benefits of long lasting friendships forged through their involvement with this celebrated organization. More importantly, the membership of this fine organization has given of itself for others. It has been courageous in taking the lead in working for a better nation for all of us.

It has been my privilege over the years to work closely with a number of Alpha Phi Alpha men. I have seen what a difference they can make through dedication, perseverance, and commitment. It is indeed a pleasure to stand here today to share with my colleagues my own high regard for this special organization. I know that many other Members of this House have known and worked with Alpha Phi Alphas as well, and I am certain that the entire House joins in extending best wishes on the occasion of the 85th anniversary of the founding of Alpha Phi Alpha.

THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

HON. JIM BACCHUS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BACCHUS. Mr. Speaker, I am extremely pleased that the H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991, recognizes the role of high-speed and magnetic levitation rail systems in our transportation future.

As America's airports and urban highways become ever more congested, we must embrace high-speed rail transportation. High-speed rail is safe, efficient, and proven. Plus, high-speed rail is better for the environment, taking less land compared to highway travel and emitting less pollution.

H.R. 2950 establishes several national high-speed ground transportation programs. One program, the National Magnetic Levitation Prototype Development Program, will spur the development of new magnetic levitation technology. A second program, the Technology Demonstration Program, recognizes efforts that are already underway and will allow us to quickly establish a working high-speed rail system to provide data about safety, environmental impact, commercial viability, and integration with other transportation systems.

I am especially pleased that H.R. 2950 includes $97.5 million for land and right-of-way acquisition and guideway construction for the magnetic levitation project in Orlando, FL, which is in my district.

America once was the world's leader in high-speed rail research and development. But we put that effort on the shelves and let the Europeans and the Japanese put the trains on the track. Now is the time for America to regain its lead in transportation technology. The high-speed rail programs in H.R. 2950 are a tremendous step in that direction.

MIAMI-BASED DRYCLEAN U.S.A. GETTING EVEN BETTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Dryclean U.S.A. which was featured in the Miami Herald. The article "Dryclean U.S.A. Thinks Small To Grow Big," by Charles Rabin, tells how this Miami-based firm has become the Nation's fastest-growing operator and franchiser of retail dry-cleaning stores:

In trying to become the McDonald's of the dry-clean industry, Dryclean U.S.A. faces the challenge of competing with traditional mom-and-pop cleaners whose customers can be fiercely loyal.

The Miami-based chain of 200 franchises and 80 company-owned stores was a public company until 1988, when it was purchased by British conglomerate Johnson Group Cleaners Plc.

Through an intense, year-old customer-service campaign, the company is trying to maintain that family feeling, even as it opens dozens of stores each year.

"We'd like to be the Bloomingdale's in quality and the McDonald's in expansion," said Eric Schwartz, Dryclean's president.

Competition, literally, is on every corner.

Companies that don't do nearly the volume of Dryclean say they're comfortable with their niches.

"We feel our quality is superior," said store manager Tyrone Galdo, of Tysunn Enterprises in South Miami. "Basically, our operation is close-knit to the customers. We try to stay small. We all know our customers by name, and they know us."

CUSTOMER-SERVICE PROGRAM

To try to earn some customer loyalty, Schwartz is implementing a customer-service program that affects all 600 Dryclean corporate employees.

"We're going the extra mile to convince customers they're important to us," Schwartz said. "We're carrying their cleaning out to their cars, and with an umbrella when it rains. We're replacing buttons free of charge, providing discounts on future orders, and some of our stores are open Sundays."

The company also requires its employees to memorize a 49-word credo with lots of words like prompt, enthusiasm, professionalism and respect in it.

Schwartz founded the company in 1976 with one store on Bird Road in Coral Gables. By the end of 1987, it had grown to 174 stores—126 franchises and 48 company-owned stores—and $14.8 million in sales.

In February 1987, Dryclean linked up with an affiliate of Farm Stores, one of Florida's largest convenience food chains. At the time, Farm Stores agreed to open 248 dry-cleaning stores, each attached to a Farm Store, in Florida, Georgia, Tennessee and Alabama.

But no outlets were ever opened. Farm Stores has since filed for Chapter 11 bankruptcy protection, and Schwartz said Dryclean is no longer associated with the convenience store chain. He wouldn't say why the deal with Farm Stores fell through.

The following year, the company was purchased by the Johnson Group and taken private. It has since grown to 280 stores.

Schwartz would not disclose recent sales or profit figures, but said the company saw a 9 percent increase in sales over the previous year. He attributes the rise to the company's beefed-up marketing efforts and service program.

"Our internal response from the customer service program has been excellent," said Tom May, director of human resources. It's improved morale and created a mind-set. Now, we have a uniform way of looking at things."

The company has an unusual philosophy for hiring employees.

"We seldom hire people form within the industry. They generally have bad habits," Schwartz said. "It's easier to teach a new dog new tricks than an old dog new tricks."

May is quick to point out, however, that the company has a good track record of promoting from within.

For example, he said, Robert Denberg, vice president of operations in Broward and Palm Beach, was once an assistant manager in the Kendall Lakes store. He also noted that many store managers have been promoted from working the counter and that a number of district managers were once store managers.

Richard Lilly, an analyst with JW Charles in Boca Raton, said Dryclean was the nation's fastest-growing operator and franchiser of retail dry-cleaning stores when the Johnson Group purchased it.

45 FLORIDA OUTLETS

Dryclean has 45 Florida outlets, from Dade to Orlando, and stores in 12 other states. California, Virginia, Texas and Maryland are the most prominent. Despite the recession, Schwartz plans to open 50 to 60 stores through 1992.

The company recently opened an outlet in Santiago, Chile. Twenty-five more stores are planned for Santiago over the next five years. In addition, the company is nearing an agreement to open 60 stores in Mexico City over the next 10 years, Schwartz said.

Earl Fisher, editor of Chicago-based American Drycleaner magazine, said Dryclean sets a standard for dry-cleaning franchisers.

"It's fairly common to find a chain [of drycleaners] in any metropolitan area, and Dryclean U.S.A. is one of the leading and most-respected chains," he said.

Lilly said a typical Dryclean store purchased for about $200,000 with good management can expect a pretax annual profit of $60,000 to $80,000.

Dryclean franchises can be purchased for between $99,500 and $250,000, depending on location and store size, Schwartz said. Each franchise is required to pay royalties of 3 percent on gross sales the first year, 4 percent the second year and 5 percent each year thereafter.

STORES SET EXAMPLE

Dryclean Vice President Eddie Rodriguez said the company retains some stores to set an example for the franchises.

"The company base is used to develop and grow for success," he said. "If you can't do it right yourself, how are you going to teach it?"

Dryclean also sells master franchises that give a purchaser the right to set up franchises throughout a state. Schwartz said the concept has proved successful in Arizona and Virginia.

"That's what is going to give us quantity in stores in the next few years," he said.

It's the franchises as well as competitive pricing that make Dryclean a force in the marketplace, Rodriguez said.

Still, said Schwartz, the success of the business is predicated on keeping the client content.

"Customer service is where the war will be won in retail during the '90s," he said.

I am happy to pay tribute to Dryclean U.S.A. President Eric Schwartz, Vice President Eddie Rodriguez and the other employees of Dryclean U.S.A. by reprinting this article.

THE 50TH ANNIVERSARY OF THE BOMBING OF PEARL HARBOR

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUGHES. Mr. Speaker, on December 7 we will stop to reflect on that terrible fateful day, when the Japanese bombed Pearl Harbor. We recall the shock and horror which gripped our Nation, and the fear and uncertainty which cloaked the world as we knew it. We recall too, how our reluctance to enter the war was forever transformed by Pearl Harbor's devastation. President Roosevelt's immortal words echo back to us, in which he called December 7, 1941 "a date which will live in infamy".

We remember the shock, and the headlines, and the speeches; we give thanks for our ultimate triumph, and rejoice in those who returned home safely. We pray that the horror of war will never again visit our Nation. Above all, we remember those who lost their lives.

The attack on Pearl Harbor claimed the lives of 2,433 brave American sailors and soldiers. It is these Americans to whom we pay tribute today. Never will we forget that historic tragedy, or their sacrifice in freedom's defense; 1,104 of those who lost their lives that fateful day were the sailors of the U.S.S. *Arizona.* To this very day those faithful sailors lie aboard their ship, beneath a now tranquil sea.

Mr. Speaker, I believe that Mr. Andrea Lippi of Cape May, NJ, said it well in his poem "U.S.S. 'Arizona' Memorial." I would like to share this poem with you, for it is a fitting tribute to those sailors who perished aboard the *Arizona,* as well as all those who have given their lives for their country.

U.S.S. "Arizona" Memorial

Arizona. Be it ever remembered.
Let men just speak her name.
She has joined the fleets immortal
On the seas of undying fame.
Her memory survives (as always):
A part of our nation's pride;
Men will live to praise the sailors
Who struggled there and died.
There are no troubled waters,
For these men now lie in state.
God chose them to be his crewmen,
And sent them to heaven to wait.
Gabriel knows their number
And he calls them all by name,
When Crewmen up in heaven
Share Arizona's fame.

Mr. Speaker, the 50th anniversary of Pearl Harbor is indeed a time to remember those courageous Americans who made the supreme sacrifice in the defense of their country. It is also a time to remember those who, all through the ages, have left their homes and loved ones to defend America.

JACKSONVILLE'S 14TH KING'S DAY REGATTA

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BENNETT. Mr. Speaker, on November 17, in the broad and beautiful St. Johns River in Jacksonville, FL, there was held the 14th annual King's Day Regatta, and John Fewell of that city won top honors with the first boat to finish. His feat was to cover a 12.97-nautical-mile course with the time of 2 hours, 20 minutes, and 7 seconds.

This regatta constitutes a revival of a British regatta last performed at the same location in 1775 during British Florida colonial years. Boats from distant home ports as well as from nearby Jacksonville compete in this event annually. The event also features a banquet in which contestants and others renew American and British ties and heritages. The event is further discussed in the following article from the Florida Times-Union of November 18.

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

[From the Florida Times-Union, Nov. 18, 1991]

FEWELL FINALLY GETS TROPHY IN KING'S DAY REGATTA

(By Lawrence Dennis)

John Fewell finally grabbed the brass ring yesterday.

More accurately, the crystal decanter that went to the winner of the Carl Z. Suddath Trophy for first boat to finish on corrected time in the 14th annual King's Day Regatta at the Florida Yacht Club.

"I've finally won this thing," an exultant Fewell said after his Morgan 27, Wendy, topped a 52-boat cruiser fleet by covering a 12.97-nautical mile St. Johns River course with a corrected time of 2 hours, 20 minutes, 7 seconds.

"In four years, I've always finished in the money but I never won it," Fewell said.

In finishing first in fleet on corrected, Fewell also kept another of the area's top captains from making King's Day history.

Rick Peper, on J-29 Easy, could have become the first racer to win the honor twice on the same boat and the first to take it on consecutive years. But Peper came in in 2:23:05, third behind Jay Cummings, who finished in 2:22:19 on J-27 Molly Brown. He won the trophy on J-24 Dixie in 1987.

Steve Suddath, whose Hobie 33, Duct Tape, was the first boat to cross the finish line last year, was also kept from repeating that feat. Suddath covered the course in 2:27:33, less than two minutes behind Dick Bastien on Farr 40 Vamp II, who came in in 2:25:37.

Ironically, Fewell got a little bit of help from a competitor at the start of the race—Bubba Ball on Lindenberg 28 Pere de Mer, who was first on corrected time in 1988 and was racing in St. Johns River races for one of the few times this year.

Ball, who was jockeying with Fewell for position at the start, was over early and was recalled.

"Bubba, like the good sportsman he is, went around and went back," Wendy crewman Tanner Schultz said. "That left us clean air, and we were able to sail against the boats we were with and concentrate on sailing the boat instead of worrying about who was where on the course."

Ball, who was expected to be a strong contender for the fleet honor, eventually made up lost ground and finished fourth with a time of 2:23:14.

A TRIBUTE TO DOMINGO LINALE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to pay tribute to Mr. Domingo Linale and his company, Dictiomatic, which makes portable translators for the English, Spanish, French, German, Italian, and Japanese languages. In a Miami Herald article entitled "Language Translator Can Speak for Itself," Jim McNair reports on Mr. Linale and the portable translator called the T1500. I commend the following article to my colleagues:

You've just finished a strenuous mountain climb in Guadeloupe, you're quite famished and you can't wait for dinner at your hotel. So you pull out your handy language guidebook, hail a passing goat farmer and try to say, "Où puis-je manger?"

An expression of extreme puzzlement comes over the goat farmer's face as he tries to make out your mangled pronunciation of the question. Only after you vacate your pride and imitate feeding motions does he finally offer to sell you one of his goats.

If only you had been carrying the new T1500 talking translator from Dictiomatic Inc. of Coral Gables. If you had, you would have known how to say "Where can I get something to eat?" in French. And if your tongue still didn't permit, you could have let the device say it for you.

The T1500 isn't the first pocket translator that actually says the word or phrase you're looking for, but it might be one of the best ones on the market. Packaged in a 3-by-5½-inch plastic case with a flip-down keyboard, the T1500 was introduced in October for people who want more than a dictionary or phrase book.

"There is nothing more frustrating than getting to a place where you can't communicate," said Dictiomatic owner Domingo Linale. "Most people want to mingle with the local people. With this unit, you will be able to express what you feel and whatever you like."

The T1500 contains 2,700 words, low for an electronic translator, but is accompanied by 170 common phrases. It comes in combinations of three languages, such as English, Spanish and French. Italian and German are also available. Units that contain Japanese offer only one other language.

The strengths of the unit are its voice synthesizer, which does a fair job of enunciating in spite of the distortion-prone speaker, and its ability to add specific words to any of 40 incomplete sentences. Thus, "I would like . . ." becomes "I would like to buy, (or try or to see) a souvenir (or room or a dress)."

Words can be called up by typing them in. Phrases reside in keys for circumstances such as dining, social or travel.

From there, the word or phrase appears on a liquid crystal display before it is read aloud. An earphone allows you to keep your ignorance to yourself. If ignorance brings no shame, you can simply aim the T1500 at a store clerk or ticket salesman, turn up the volume and let it do the talking for you. Not the greatest way to make a conversation, but conversation nonetheless.

The T1500 has its drawbacks. Longer phrases require more room than the LCD readout allows, so unless you have a good memory, you're almost certainly going to have to run it through again. The voice translation is also disturbingly fast, especially in French.

It also can't handle idiomatic phrases. Trying to tell a panhandler in Venezuela to "get lost" would come out as "obtener perder," which has no meaning.

"Remember that you're creating idiomatic phrases that get lost in translation," Linale said. "It's like saying it's raining cats and dogs. If you translated that in Spanish, it would come out as raining cats and dogs. People wouldn't understand you."

Linale, a 48-year-old former Ford dealer in La Paz, Bolivia, has been introducing language products ever since moving to Miami in 1982. His language game Polyglot sold in toy stores before it was pulled in 1988 for lack of interest. His multilingual dictionary Hexaglot generated $15 million in sales, he said, before competition compelled him to withdraw that, too.

Made in Singapore, the T1500 is available from Burdines department stores and downtown Miami electronics stores for a suggested $249. Linale said he expects further interest at the annual Consumer Electronics Show in Las Vegas Jan. 9–12.

Other talking translators are already on the market. A British company, Talking Products Ltd., sells its three-language Interpreter for $199. The leading maker of hand-held electronic linguistic products, Franklin Electronic Publishing Corp. of Mount Holly, NJ., also has a $199 talking translator, which only speaks when it goes from Spanish or French into English.

Peter Yianilos, a consultant who developed the technology behind Franklin's line of hand-held dictionaries, thesauri and translators, said voice translators are becoming more common.

"Their quality runs pretty much the full range from gimmick to pretty good," he said. "I think the world can expect more as microchips and memories continue their progress."

I am pleased to recognize Domingo Linale and his company, Dictiomatic, and wish him much success with his innovative product, the T1500.

IN RECOGNITION OF DR. WILLIAM DUNCAN ALLEN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. PELOSI. Mr. Speaker, I rise today to recognize and honor Dr. William Duncan Allen, musician and author, on the occasion of the celebration of his 85th year.

Born in Portland, OR, in 1906, Dr. Allen is not only lauded as a pianist par excellence, but stands as a dedicated champion of the causes of black music and black musicians. Dr. Allen has been an inspirational teacher and role model for students such as the distinguished Metropolitan coach and pianist, Sylvia Olden Lee. He has taught music at such institutions as Harvard, Fisk, and Tallageda, and served many other civic, social, and academic institutions, including as minister of music and organist at South Berkeley Community Church.

In the course of his rich career, Dr. Allen has served as accompanist for such renowned artists as Leontyne Price, Todd Duncan, Adele Addison, William Warfield, Betty Allen, William Parker, Paul Robeson, and numerous others in locations such as Lincoln Center and the White House.

Dr. Allen will be honored by the National Association of Negro Musicians at a gala celebration on Saturday, December 7, in Oakland, CA. Mr. Speaker, I join with the National Association of Negro Musicians and Dr. Allen's many friends and colleagues in the bay area in saluting his contributions to both the musical and black communities.

CONGRATULATIONS TO THE OREGON CITY, OR, SCHOOL DISTRICT

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KOPETSKI. Mr. Speaker, I rise today to commend the Oregon City School District for their adoption of an educational program that is both creative and ambitious. Oregon City High School gives each student who graduates a warranty on their education. In this era of lost faith in our Nation's public school system, Oregon City has created this innovative program to ensure that each young person is provided a good education.

The warranty allows graduates of Oregon City High to go back to the school for educational assistance if the student did not receive the education needed to enter the work force or to go on to college. To use the warranty, a student must have a basic academic deficiency. Students agree to improve basic skills through tutoring at home, maintain good attendance in classes, and show progress toward established goals. Students that wish to take advantage of the warranty are assigned to a special committee of teachers and counselors that tailors a plan for each individual. The school district has tried to make it as easy as possible for students to take advantage of the warranty.

Mr. Gordon Boorse, the chairman of the Oregon City School Board and founder of the program, said that the school board is offering a warranty as a way to be accountable to district taxpayers. Mr. Boorse and the Oregon City School District have stopped waiting for education reform to come from the Federal or State Governments. They have taken action at the local level, and have improved their school district in a creative and effective manner through the means at their disposal. Oregon City has taken it upon themselves to ensure that its students have the opportunity to become participants in the community and work force. This initiative should be a model for school districts across the country. I applaud Mr. Boorse and the Oregon City School District for their efforts, and encourage others to follow their example of innovation and commitment to excellence in education.

DADE COUNTY'S SPECIALIZED DEVELOPMENT CENTER TURNS A GARDEN INTO A CLASSROOM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, in a cooperative effort between the Metro-Dade government and the Dade County Public Schools, the Specialized Development Center was formed to improve learning skills for mentally disabled students. The students are challenged by classes in math, social studies, science, language skills, art and music. The Miami Herald recently drew attention to the horticulture therapy portion of the program. That article by Ms. Laura M. Sanchez-Ramirez follows:

In the simple but well-organized organic garden at the Specialized Development Center, a student can plant a seed and nurture it.

As the 50 emotionally disturbed students watch their plants develop, the teachers help them develop as well.

This is a special place where things and people grow.

The center, at 11025 SW 84th St., is a joint project of the Metro-Dade government and the Dade County Public Schools to improve learning skills for emotionally disturbed and intellectually limited students.

The free program, which began in 1983 serves students ages 5 to 21.

Students learn math, social studies, science and language skills. They also participate in art and music classes.

Linda Felton, who supervises the horticultural therapy program for students ages 15 to 21, said gardening is both science and art: "Not only do they learn academic and practical skills, but they also learn how to work cooperatively."

SENSE OF ACCOMPLISHMENT

Because gardening is concrete, said Felton, students know they are capable of accomplishing something creative.

"They have respect of nature, of themselves," Felton said. "I have some students who have no reading and writing skills, but once they are out in the garden, they become very knowledgeable."

Gardening is a relaxing job, said Pedro La Torre, 21, a student. "I'm going to find a job after I graduate."

One goal of the program is to give students skills that will enable them to be employed as adults.

Other vocational classes teach students to stuff envelopes, post labels and cook. In the kitchen, students use what they grow in the garden—bananas, papayas, strawberries, pineapples, spinach, carrots, celery and herbs—to make their favorite dishes.

"Children get really excited about eating what they grow," Felton said.

Dade County allocates $267,000 for the program, and the school system contributes about $400,000, said Mitchell R. Gordon, center director.

The money enables the center to provide family therapy.

PARENT PLEASED WITH RESULTS

"Most of our families are of lower socioeconomic and various ethnic backgrounds," Gordon said. "Many of them are not familiar with the various opportunities offered by the county."

Ana Rus enrolled her daughter Ana in the center in June 1990. She said she is pleased with the program and the attention her daughter gets.

"This is the best program there is because of the small atmosphere they provide," Rus said.

Mr. Speaker, it is exciting to see how innovation can radically improve the educational experience for many students. I commend the leadership of center director, Mr. Mitchell R. Gordon and the supervisor of the horticulture program, Ms. Linda Felton for their contributions to the program. I am sure many teachers, students and parents feel great pride in a classroom that promotes both serious learning and tasty produce.

PUERTO RICAN VOTERS REJECT SEPARATION FROM THE UNITED STATES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAGOMARSINO. Mr. Speaker, the voters of Puerto Rico have in impressive numbers rejected the referendum of disassociation which was held yesterday, under the guise of a claim for democratic rights.

A hearty congratulations to the U.S. citizens of Puerto Rico who have by a vote of 53 to 44 percent reinforced their commitment for a full measure of citizenship and political rights as part of this great Nation.

In spite of a ballot that was deemed by one Federal district judge as patently unfair, an incumbent administration that used all of the power and resources at their disposal, and a massive campaign of disinformation, the people of Puerto Rico voted to defend their U.S. citizenship.

The Puerto Rican vote has sent a clear message to Congress. First, they have rejected the false notions that citizenship, culture, language, and international sports participation can be dealt with in the Puerto Rico Constitution. Second, they have ratified that they understand fully that Puerto Rico is an unincorporated territory of the United States subject to the plenary powers of the Congress, and third and most important, is that the people of Puerto Rico want to further their ties within these United States.

This is the first time that a proposal backed by those favoring closer ties with the United States has defeated a coalition of the pro-autonomist parties. This implied mandate of the people must be considered by the Congress in all matters affecting Puerto Rico.

I want to share with my colleagues the joy of receiving the news that the Puerto Rican electorate voted in such impressive numbers to reaffirm their commitment as citizens, albeit ones not yet under the full protection of the Constitution, of these United States.

Should the people express an explicit desire to have the U.S. Constitution fully extended, thus actually guaranteeing U.S. citizenship, steps must be taken to grant a full measure of political and citizenship rights.

TRIBUTE TO CHARLES E. RAY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SPENCE. Mr. Speaker, in a few days I will stand on the U.S.S. *Arizona* memorial with my colleagues to commemorate the 50th anniversary of the crippling attack on Pearl Harbor. That day of surprise burned itself into America's soul. There is no way we can forget it.

When taps sounds, I will struggle with my emotions remembering the 2,400 sailors, soldiers, Marines, airmen, and civilians killed that day. I will pray for them and thank them for the freedoms we enjoy today. My thoughts

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also will be with my Navy buddy, Chief Charles E. Ray, who died recently.

Chief Ray was not at Pearl Harbor. His brush with history would come 6 months later during the Battle of Midway aboard the aircraft carrier *Yorktown.*

Those were bleak days following the humiliation at Pearl Harbor. Only three aircraft carriers stood between us and disaster. And it was not until Jimmy Doolittle's morale-building raid on Tokyo and the pasting the Imperial Fleet took at the Coral Sea, that we began breaking Japan's grip in the Southwest Pacific.

The *Yorktown* fought well in the Coral Sea, but at a price. Dodging eight torpedos, the carrier evaded all but one bomb that pierced her flight deck, killing and injuring 66 men.

Limping back to Pearl Harbor for repairs, *Yorktown* had little time to lick her wounds. She put back to sea after 3 days, headed for a coral atoll called Midway. American intelligence broke the Japanese code and pieced together their plan to seize Midway and lure our forces into a devastating naval battle. This time, we would spring our own surprise.

God knows what seaman Ray was thinking the morning of June 4, 1942. Maybe he figured things couldn't get much worse after the Battle of the Coral Sea. He had no inkling he and his shipmates were poised to fight in the pivotal battle that would erase the stain of Pearl Harbor.

Around 8:30 a.m., he began to find out. Torpedo planes from the *Yorktown, Enterprise,* and the *Hornet* found and attacked the Japanese carrier task force. The results were disastrous: of the 40 planes in the strike force, only 4 returned. Luckily, our second wave of dive bombers caught the Japanese carriers in the midst of refueling and rearming their fighters. When the smoke cleared, the Japanese had lost three carriers. A fourth carrier, however, still roamed free, and sent its planes out to look for the American task force.

At about 1:30 p.m., *Yorktown's* radar picked up 40 Japanese planes 50 miles out. By that time, Charles Ray and the rest of his battery had manned their 50-caliber machine guns. He watched as *Yorktown's* fighters flew out to meet the attack, knowing that some Japanese planes would get through.

He was right. Despite the barrage of antiaircraft fire that was turning many Japanese aircraft into fireballs, the *Yorktown* took three direct hits. The first hit came after a flaming dive bomber cart-wheeled into the carrier, exploding as it hit the flight deck.

The next hit is the one Charles Ray never forgot. A bomb tore through the flight deck, rupturing *Yorktown's* boilers. The concussion slammed him against the bulkhead. When he regained consciousness, he saw his legs were twisted like pretzels, and felt stabbing pain where shrapnel had gouged his groin. Later, a corpsman came along, patched his wound and cleared him for duty. Before long, he was back at his machine gun spraying bullets into the sky at Zeros and dive bombers swarming over the *Yorktown.*

It's likely Charles Ray was unconscious when *Yorktown* was hit the third time. But he didn't miss the fireworks late that afternoon when two torpedoes slammed into the *Yorktown,* mortally wounding her. The abandon ship order came shortly after. *Yorktown* struggled to survive, but on the morning of June 7, after taking two more torpedoes from a Japanese submarine, she turned over and slipped into 3,000 fathoms, her battle flags still flying.

Charles Ray distinguished himself that day, as well as any 16-year-old could. He was like so many peach-fuzzed-faced youngsters back then who managed to slip past the recruiters eye. He fought as if tomorrow were not promised to him, and his heroism went unnoticed.

It is said we measure our Nation by its heroes. Then certainly, Charles E. Ray is that and much more.

As we remember this turning point in our history, I ask my colleagues to join me in paying tribute to an American who helped shape a legacy of freedom for his grandchildren and this Nation.

GEORGE OLIVER LITTLEFIELD WINS FOURTH TEACHER OF THE YEAR AWARD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. George Oliver Littlefield is to receive his fourth teacher of the year award. Just a handful of teachers are recognized in their lifetime as "teacher of the year" yet amazingly, Mr. Littlefield is being heralded for a fourth time. The Miami Herald recently ran an article by staff writer, Quentin L. Howard telling the history behind Mr. Littlefield's achievements. That article follows:

> George Oliver Littlefield, who is about to win his fourth teacher of the year award, has a simple explanation for why he has been recognized so many times.
>
> "Although it's a cliche, being firm and fair is the key to gaining respect and success from students as well as peers," said Littlefield, who has been teaching for nearly 30 years.
>
> Littlefield, 58, has been vice principal for 14 years at Douglas MacArthur Senior High, a school for troubled youths. He's also an adjunct professor at Florida Memorial College's outreach program in Richmond Heights.
>
> He will be honored again at the college's annual Christmas awards banquet in the school cafeteria at 7:30 p.m. Friday.
>
> Littlefield began his teaching career in 1962 at Orchard Villa Elementary School in Liberty City. Then he moved to Booker T. Washington Junior and Senior High, 1200 NW Sixth Ave., where he was twice named teacher of the year. At his next school—Ada Merrick Junior High in Coral Gables—he picked up another teacher of the year award.
>
> Littlefield said one of the reasons he was sent to MacArthur was to improve discipline.
>
> "When he was working with me at Booker T. Washington Junior High, he was a father figure and carried those traits to MacArthur," said Stacey Jones, principal at Booker T. Washington at the time.
>
> Before coming to MacArthur, Littlefield earned a nickname for his disciplinary methods.
>
> "In the days of paddling, they used to call me the rain maker because I used to bring a tear to a brother's eyes," he said.
>
> Littlefield received his bachelor's degree from Alabama A&M University and holds master's degrees in supervision and social studies. At Florida Memorial College, he teaches humanities and social studies.
>
> At Alabama A&M, Littlefield was captain of the basketball team in 1952. He said he didn't pursue a career in pro basketball because the NBA was just becoming integrated and opportunities were limited.

Mr. Speaker, Mr. Littlefield's 30-year commitment to teaching the children of south Florida is a gift that will not soon be forgotten. Mr. Littlefield is indeed a model for educators everywhere.

THE BANK ENTERPRISE ACT OF 1991

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RIDGE. Mr. Speaker, the Bank Enterprise Act that was first adopted by the House Banking Committee, and has now been agreed to by the Senate, will do for the first time what no Federal law has done: It will put community groups and banks on the same footing, with the same goal in mind. The goal is more banking activity and more lending in underserved neighborhoods. The problem is that existing law pits these two groups against each other in a sea of bitterness and venom, producing more discord and mistrust than sound, long-term investment strategies.

This new legislation provides incentives for banks and thrifts to increase their deposit-taking, lending, and CDC activity in neighborhoods where a clear need exists. We have all seen the recent Federal Reserve report on mortgage lending. It confirms what many of us have felt in our gut: Some neighborhoods simply have no access to credit, and without it, they decline and the fortunes of the families within them decline. It is no secret that where commercial activity declines, there we will see complex social problems requiring expensive government intervention with no certain outcome. Far better it is to have investment activity and commerce to help these people lead productive lives. Many such residents are creditworthy; a bank or thrift or CDC studying the area and getting to know its inhabitants will make a profit. That is clear.

Let me provide some detail about the law. We provide incentives for banks to offer lifeline accounts to low-income residents. It's an important activity, but an unprofitable one for banks, so government should subsidize it. Even South Shore Community Development Corp., a model for national economic revitalization, said that lifeline-type accounts were too costly to maintain. This will be true no matter where the institution is located.

For banks located outside of distressed neighborhoods, we provide a 5-percent insurance premium credit for increased CRA-type lending to those distressed neighborhoods. The regulators will determine a base, and will have to do weighted averaging, but the bottom line is that we will directly encourage banks and thrifts to market themselves and seek qualified loan applicants.

For institutions and their branches within distressed communities, the incentives are more generous: We will provide the 5-percent credit for increased deposits taken from residents of the distressed neighborhood, and we will provide the 5-percent credit for increased loans of all types to the neighborhood. This means that while a bank outside a distressed neighborhood only receives the credit for CRA-type lending, a bank operating from within the distressed neighborhood receives credit for increased lending of all types to the neighborhood. Between this feature and the credit for increased deposits, we are providing an incentive for institutions to stay in or locate in underserved areas. I don't believe there is any similar policy in law today.

Finally, our goal is to nurture the community development corporation industry. These organizations have a community service orientation, a longer run outlook, and special expertise for the particular needs of neighborhoods seeking to turn themselves around. Therefore, community development banks—independently operated or controlled by a parent—and community development corporations controlled by one or more banks are eligible for a 15-percent premium rebate for increased deposits and increased lending. We also provide a 15-percent rebate to increased injections of funds from banks to CDC's. We also provide the 15-percent credit to increased injections of funds to community development credit unions in distressed communities.

Even with the Bank Enterprise Act written into law, we have some work to do next year. We need to secure sufficient appropriations to begin the program. We also must continue examining the incentive approach, identifying other incentives, including those not related to the Budget Act, that will spur more reinvestment activity. This is just the beginning of a long-term project.

In summary, the goals of the Community Reinvestment Act have always been laudable. We need more banking activity in our underserved neighborhoods. But the CRA is so inherently contentious that we are seeing almost constant warfare between the parties. When we're not seeing warfare, we're seeing banks pledge money to low-income lending primarily to get community groups to withdraw protests of banks' basic market decisions. In essence, the banks invest in low-income areas to get community groups off their backs—a short-term decision to avoid a negative when community reinvestment should be a long-term strategy to achieve a positive. I don't think we'll be able to reform the CRA due to the climate we're in, but the Bank Enterprise Act says let's provide those long-run incentives. This country has always worked best when differing groups cooperated rather than antagonized each other. As Federal legislators, we must lead and provide the framework for cooperation between the banks and the community groups.

I am happy to say Congress has agreed to provide the opportunity for cooperation; with more work from all parties, we will see this new opportunity build neighborhoods and bind those possessing the tools of success in a pleasing, productive marriage.

THE NATIONAL FILM PRESERVATION ACT OF 1991

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CLAY. Mr. Speaker, I rise in support of H.R. 2372. H.R. 2372 was jointly referred to the Committee on House Administration and the Committee on the Judiciary. We share jurisdiction for title II of H.R. 2372 as that bill has been reported by the Judiciary Committee, establishing the National Film Preservation Board within the Library of Congress.

The National Film Preservation Act of 1991 accomplishes a number of significant reforms. It removes the Librarian of Congress from the controversy surrounding the issue of moral rights in the film industry and the conflicting views of film copyright owners and the creative artists who make the film concerning subsequent alterations to the film. While the Congress may well have a role in the resolution of this controversy, I agree with the Librarian of Congress and the author of H.R. 2372 that the efforts of the Library of Congress should focus on film preservation rather than moral rights and labeling.

H.R. 2372 directs the Librarian of Congress to develop a study of the status of film preservation and to develop a plan for the preservation of films. H.R. 2372 requires that the Librarian submit a report to the Congress regarding film preservation efforts not later than 1 year after the date of enactment. In my view, this is among the most important provisions of legislation. Over half of the feature films made in the United States since 1951 no longer exist. The Library of Congress is already well recognized for its film preservation efforts and is well positioned to undertake these responsibilities. The efforts of the Library of Congress to assess, coordinate, and enhance film preservation efforts should be of significant benefit and I look forward to reviewing the report of the Librarian.

H.R. 2372 retains and enlarges the National Film Preservation Board. This Board, initially authorized by the National Film Preservation Act of 1988—Public Law 100–446—is made up of representatives from organizations with special interests and expertise in film making and film preservation. H.R. 2372 expands the number of Board members from 13 to 18. Among the organizations that will now be represented on the Board are the National Association of Theater Owners, the American Society of Cinematographers and the International Photographers Guild, who will jointly submit one list of candidates to the Librarian, and the International Federation of Film Archives. In addition, the Librarian is authorized to appoint up to two at-large members and, in selecting one of the at-large members, shall give preference to individuals who are commercial film archivists. The National Film Preservation Board is authorized for 3 years in order that there may be timely congressional review of the implementation of this legislation.

Members of the National Film Preservation Board make recommendations to the Librarian regarding films to be included in the National Film Registry. The Librarian may select up to 25 films a year for inclusion in the Registry. H.R. 2372 retains the requirement that a film be at least 10 years old before being eligible for inclusion in the Registry. It also retains the requirements of the National Film Preservation Act of 1988 that films be selected on the basis of their historical, cultural, or aesthetic importance. H.R. 2372 corrects a significant omission providing for the inclusion of films other than features, such as shorts, documentaries, and cartoons, in the National Registry.

As chairman of the Subcommittee on Libraries and Memorials of the Committee on House Administration, I wish to commend the members of the Judiciary Committee and especially the chairman of the committee, Mr. BROOKS, and the chairman of the Subcommittee on Intellectual Property and Judicial Administration and author of H.R. 2372, Mr. HUGHES, for the work they have done to improve both film preservation activities and the National Film Preservation Board. The Library of Congress has played a significant role in preserving American cinematography. More needs to be done to preserve American films, however, and the Library of Congress can play an even larger role in that effort. In my view, H.R. 2372 enhances the film preservation efforts of the Library of Congress and the Nation. I commend H.R. 2372 inclusion to my colleagues and urge its adoption.

MUSEUM DIRECTOR RAUL OYUELA PROMOTES HISPANIC ART TALENT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Raul Oyuela, the Florida Museum of Contemporary Hispanic and Latin American Art director, actively seeks out undiscovered artistic talent in the Hispanic community. The newly formed museum features the work of little known artists. The Miami Herald recently featured Mr. Oyuela and the museum in article by staff writer, Cindy Ycaza. That article follows:

> There are two kinds of international artists, said Raul Oyuela.
>
> There are artists who are known in their countries and across the globe.
>
> And then there are those sought by the Florida Museum of Contemporary Hispanic and Latin American Art. They must be natives of a Latin or Hispanic country or have parents who were born there. They must be young, poor and unknown.
>
> Operating out of a Miami Beach office, the 2-month-old, nonprofit museum exhibits contemporary works in the gallery of Sterling Auctioneers, 2869 SW 27th Ave. Its first exhibit—monoprints by Cuban artist Victor Gomez—ended Nov. 25.
>
> The next exhibit, featuring 50 Spanish artists, will be Jan. 10 to Feb. 5. Plans for 1992 include lectures, slide presentations and concerts. Admission to all events will be free.
>
> It's all in the name of preserving artists' pride in their roots and teaching people about Hispanic art and culture, said Oyuela, director of the museum.
>
> Oyuela moved to Miami recently from San Francisco, where he and partner Manuel Rufi-Gilbert founded and directed the San Francisco Museum of Contemporary Hispanic Art, now 3 years old.

> He and Rufl-Gilbert established the Florida Museum of Contemporary Hispanic and Latin American Art to support a growing interest in Latin and Hispanic art in the Miami area, where a mixture of Caribbean, Spanish and South and Central American cultures meet.
>
> "Miami is becoming the capital city of the Americas," Oyuela said. "People are coming over from Europe. We are seeing more Hispanic art here. We want to show people more of what they are missing."
>
> The new museum has no permanent collection. Its mission is to seek out and promote works by Latin and Hispanic artists for special exhibits, to help them find gallery space and to maintain worldwide archives of the artists and their works.
>
> "The most famous artists don't need us," Oyuela said. "People already know them. But there are no institutions for the young, poor and unknown artists. They are for-gotten in the marketing."
>
> Besides helping promote the artists and their works, museum volunteers will research and catalog Latin and Hispanic culture.
>
> "We can teach the difference between Latin American cultures and the 17 different states of Spain," he said. "The idea for the museum is to preserve these original cultures."
>
> The Florida Museum of Hispanic and Latin American Art's board of directors includes 30 people from nine countries. They are artists, gallery owners, art collectors, business people and writers. Its curator is Carlos Gonzalez-Lopez, an art scholar from Madrid.
>
> Most of them donate time, gallery space and experience to the museum.
>
> David Diaz, vice president of the board and owner of Sterling Auctioneers, donated his gallery as a temporary home for the museum until it has a permanent location.
>
> "These people are doing something to help people learn about other cultures," said Diaz, a Cuba native who specializes in auctioning corporate art. "That's good. We're proud to be part of it."

Mr. Speaker, Mr. Oyuela's work is exciting. In seeking to bring attention to and encourage the artistic talent of unknown Hispanic artists, he is adding the cultural richness of south Florida. I wish Mr. Oyuela and the Florida Museum of Contemporary Hispanic and Latin American Art much success.

OPPOSITION TO THE CONFERENCE REPORT ON THE CRIME BILL

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WALSH. Mr. Speaker, I rise today to express my opposition to the conference report on the crime bill. I am deeply disappointed with this institution's lack of resolve in tackling the crime problem in our society. Just last month I voted for a tough anticrime bill with the hopes that House and Senate conferees would reconcile the major differences in the bill. Unfortunately, the House-Senate conferees in reconciling the differences in the bills consistently supported the language that was weaker on crime. Yet they have the nerve to try to tell the American public that they supported a tough anticrime bill.

While the bill would extend the death penalty to cover over 50 Federal crimes, the Congressional conferees dropped Republican proposals that would have limited death row appeals. These death row appeals are costly and can go on indefinitely. The administration's proposal, which was accepted by the Senate, was designed to limit inmates to one appeal in Federal court unless they raised an issue central to their guilt or innocence. While the protection of Federal rights through habeus corpus review must be preserved, abuses of habeas corpus undermines the criminal justice process and allows convicted capital murderers whose guilt is not in doubt to obstruct the execution of their sentences by endlessly raising alleged technical defects in their sentencing. This was not what our Forefathers had in mind when they formulated our Constitution.

Another problem I have with this conference report is the dropping of language that would logically extend the "good faith" exception to the exclusionary rule to unintentional mistakes by police officers, during searches without warrants, under circumstances justifying an objectively reasonable belief that the search conformed with the Constitution. Over and over again we hear stories of defendants convicted of heinous crimes who later have their convictions overturned because of some technicality even though the evidence against them was overwhelming. If a police officer finds drugs on a suspect after searching the suspect with reasonable cause, then those drugs should be considered as admissible evidence even if the police's warrant was invalid.

Last minute changes by the conferees on gun control language is also troubling. The conferees adopted the Senate Brady bill language with modifications. This language would require an instant background check on all firearms purchases, unlike the House language that would have limited the check to handgun purchases. This would have a significant and intrusive impact on sportsmen and their hunting privileges.

No one wants a tough anticrime bill more than I do. However, this bill would actually weaken current law by making it easier for criminals to frustrate the system by indefinitely appealing their sentences. The National District Attorneys Association strongly opposed this bill because of the inclusion of new safeguards for defendants' rights. Under this bill a death sentence would virtually never be imposed. If the people are not allowed more latitude in their "good faith" gathering of evidence, how is our country realistically expected to win the war on crime? We must get serious in our efforts to confront our Nation's crime problems. Unfortunately, this conference report is not tough enough on crime and therefore I felt obliged to oppose it.

CONGRESSIONAL TRIBUTE FOR LEON BARNIER

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OBERSTAR. Mr. Speaker, it is with great pride that I rise today to pay tribute to Leon Barnier for his many years of dedicated service to the rural communities of Minnesota and to the rural electric cooperatives. Mr. Barnier has been very active in the rural electric program since 1947 when he began his career as a right-of-way engineer with the Anoka Electric Cooperative. Among his many responsibilities during his 32 years at Anoka, Leon served as the member services director, and the acting general manager. During this time, he was involved with the advisory groups of vocational, public, and private educational institutions. He served on the Industrial Development Committee for Coon Rapids and also served as president of the Anoka and Blaine Chambers of Commerce. Leon also was active in various industry groups, including chairman of the National Rural Electric Cooperative Member Relations and Load Management Committee, as well as the organizer and first president of the Minnesota Power Use Association.

Leon Barnier was appointed in 1979 as the general manager and chief executive officer of the Minnesota Rural Electric Association [MREA]. The Minnesota Rural Electric Association represents 47 rural electric cooperatives serving consumers in Minnesota plus 5 power generating cooperatives located in North Dakota, South Dakota, Iowa, and Wisconsin. MREA is responsible for educational programs for cooperative directors and employees, job training and safety instruction for cooperative employees, and legislative affairs on a State and National level.

Over the past 12 years at MREA, Leon has accumulated a lengthy list of achievements. These accomplishments include building a new office headquarters, establishing a prepaid education program, enhancing the legislative and government affairs program, bringing the loss control program into MREA when the State phased it out, writing a monthly column for the Rural Minnesota News, establishing the Women's Activities Committee, establishing a statewide rural electric political action committee, increasing participation in the national rural electric political action committee, and many others, which have made the lights in rural America burn a bit brighter.

While managing MREA, Leon served as a member of the State Board of Electricity, director of the North Central Electrical League, member of the SBA Regional Advisory Board, and executive secretary of the Minnesota Rural Electric Political Action Committee.

Leon has been familiar with the needs and problems of consumers throughout the 44 years of service to the rural electric cooperatives. His experience and capability went hand-in-hand with his outstanding commitment to the public. His work on behalf of the rural electric program has ensured rural Minnesota a share in the good life of the entire State.

For me, Leon has been more than a hard-working, dedicated and selfless worker in the service of rural Minnesota and rural America—he has been a treasured and very special friend. He and his wife Saira have been an exemplary couple, sharing a mutual love, as well as their extraordinary devotion to their children. I wish Leon and Saira many well deserved years of enjoyment, good health, and as they remember the accomplishments in his long career, they can look back at a job

extremely well done. It is a personal pleasure and a great honor for me to commend and thank Leon Barnier for his fidelity to the cooperative program and principle. I wish Leon Barnier many enjoyable and fulfilling experiences in the years ahead upon his retirement on January 3, 1992.

HONORING GENE McBRAYER'S CAREER

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ARCHER. Mr. Speaker, the Seventh District of Texas had a pleasant surprise last year when Exxon Chemical Co. announced it would move its headquarters from Connecticut to Houston. Heading up the move as president of Exxon Chemical Co. was an individual many of us got to know in 1990 and 1991 when he served as chairman of the board of directors of the Chemical Manufacturers Association, H.E. "Gene" McBrayer.

Gene has headed Exxon's worldwide chemical company since 1986, and his leadership of the chemical industry was, indeed, a fitting tribute to his illustrious career. However, Gene's year at the helm of CMA wasn't simply a well-deserved honor. He had a great deal of work to do, much of it on Capitol Hill. As the chemical industry's spokesman, he testified several times during the Clean Air Act reauthorization and worked with Congress on behalf of the industry in a constructive and responsible way. His approach was to be willing to consider requirements that yielded real results while at the same time not being bashful about telling us when proposals made no sense.

Gene also presided over "Responsible Care," the chemical industry's initiative to improve its health, safety, and environmental performance, from its infancy to a viable program now recognized on Capitol Hill as a serious effort to respond to the public's concerns and improve the industry's performance.

Thus, it was with great regret that I learned of Exxon Corp.'s October 14, 1991, announcement that Gene will be retiring on January 1, 1992, after 37 years of service. He and Fay, his lovely wife of 38 years, will be leaving Houston for a home in the Pacific Northwest, where they first lived in 1977 when Gene assumed the post of chief executive of Exxon Nuclear Co.

A native of Birmingham, AL, Gene is a chemical engineering graduate of Vanderbilt University. He began his Exxon career in 1953 as a student employee at the company's Baton Rouge, LA refinery. He returned to Baton Rouge after graduation in 1954 and advanced there through a series of increasingly responsible technical, supervisory, and administrative positions. Gene transferred to Exxon Corp.'s New York headquarters in 1964 as assistant manager of the New Investments Department. The next year, he was named president of the newly established Exxon Enterprises, and later served for 7 years as executive vice president of Exxon Chemical Co. before assuming his present post.

He is also active in a number of professional and industry organizations. Gene is a director of Clean Sites, Inc. and a trustee of the Malcolm Baldrige National Quality Award. He is also a member of the World Wildlife Fund and the Conservation Foundation National Council, the American Institute of Chemical Engineers, the American Chemical Society, and the Society of Chemical Industry—American Section.

Gene McBrayer is truly one of the finest business leaders I've ever had the privilege to know. He'll be greatly missed by the 18,000 worldwide employees at Exxon Chemical Co., a division of Exxon Corp. that would rank 42d on the Fortune 500 list if rated as a separate corporation. He is one of corporate America's good guys, and I would like to salute his wonderful career and wish Gene and Fay all the best in the years to come.

A TRIBUTE TO GEORGE FELDENKREIS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, on December 8, 1991, Dr. George Feldenkreis was honored by the American Society for Technion [ATS] Southern Region for his leadership in the Jewish community. I am pleased to recognize Dr. Feldenkreis for receiving ATS's highest honor, the Albert Einstein Award. An article entitled, "American Technion Society Salutes George Feldenkreis," ATS accounts Dr. Feldenkreis' extraordinary achievements in the Cuban and Jewish community. I commend the following to my colleagues:

> Business and civic leader Dr. George Feldenkreis, president of Carfel, Inc., will be honored by the American Society for Technion (ATS) Southern Region at its annual meeting on Sunday, December 8, 1991.
>
> "The American Technion Society is proud to recognize George Feldenkreis for his extraordinary leadership, dedicated efforts and creative vision on behalf of the Jewish people and the State of Israel," says Sam B. Topf, chairman of the ATS Southern Region.
>
> The American Society for Technion will honor Dr. Feldenkreis with its highest honor—the Albert Einstein Award. He will receive this award for his community leadership and for his commitment to Israel's scientific and technological progress, security and economic advancement through his support of Technion-Israel Institute of Technology.
>
> George Feldenkreis' commitment to the Jewish community began in his native city of Havana, Cuba, where he served as President of the First Federation of all Havana Jewish youth organizations and president of Betar.
>
> Dr. Feldenkreis graduated from Havana University with a doctorate in law. He moved to Miami in 1961 and organized Carfel, Inc., an importer of automobile parts for foreign and domestic cars, as well as hardware, electronic goods and parts for Japanese and European motorcycles.
>
> In the late 1960's Dr. Feldenkreis extended his business activities to the garment industry and founded Supreme International Corp., presently the largest importer of "guayabera" shirts in the world and the largest independent wearing apparel import operation in the Southeastern United States.
>
> Dr. Feldenkreis earned the Lincoln-Marti Award from the U.S. Department of Health, Education and Welfare for valuable cooperation in connection with the Cuban Refugee Program and for extraordinary and meritorious performance of civic duty. He has organized fund raising activities for the Combined Jewish Appeal (CJA) among the Cuban Jewish community and served as president of the CJA Cuban Hebrew Division for seven years.
>
> He was the first native Cuban to serve on the Greater Miami Jewish Federation board of directors. Dr. Feldenkreis was the first of his generation to receive the "David Ben Gurion" Award from the Cuban/Hebrew Bond Committee, and he earned Brandeis University's Distinguished Community Service Award. His other involvements include membership on the boards of directors of the Hispanic Heritage Committee, Hebrew Academy and Temple Menorah.

I am pleased to acknowledge Dr. George Feldenkreis for his contributions to the Cuban and Jewish communities and I wish him much success with all his endeavors.

PUERTO RICO REFERENDUM'S FALSE GUARANTEES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. YOUNG of Alaska. Mr. Speaker, in a few days, Puerto Rico will conduct a referendum which claims to guarantee democratic rights, including many tangible and intangible United States Federal rights and benefits, by ultimately amending unilaterally the Puerto Rico Constitution. The outcome of an affirmative vote may produce the opposite effect. unfortunately, according to polls in Puerto Rico, over 70 percent of the people do not understand what the referendum really means and what the long-term impact may be to them, their children, and their grandchildren. Never in the history of referenda in Puerto Rico have the people faced a vote with such an abbreviated time for education.

A San Juan Star editorial of November 15, 1991, entitled "RHC's 'guarantees,'" provides insight into the reckless use of power by a politician to use a referendum to serve narrow self interests. Taxpayers may be incensed, and rightly so, once they discover Puerto Rico Governor Harnandez Colon has launched what amounts to a personal campaign, demagogic, and deceptive, that will damage what should be a precious document held above the partisan battle, and which will cost taxpayers more than $10 million.

Sadly, the guarantees which the referendum promises to secure, may become at risk if the referendum succeeds. Full page advertisements in the papers link a "yes" vote to the continuance of Social Security, Medicare, and other assistance benefits. In reality, only one of the status options covered by the referendum can guarantee those benefits: statehood. The other two options would place Puerto Rico outside of the plenary powers of the Congress, in some form of independence.

The people of Puerto Rico should understand how the United States provides funding to those areas outside of the plenary powers of the Congress, as that is part of the referendum guarantees. U.S. benefits to residents of foreign countries are typically provided through foreign aid. Therefore, any continued assistance benefits to the people of Puerto Rico under one of the two independence statuses to replace Medicare, food stamps, unemployment, and Social Security, would most likely flow through the Department of State appropriations, as it does for the Dominican Republic, Jamaica, Nicaragua, and others: and, as it once did for Cuba and Haiti.

In the case of the free associated states in Micronesia, who chose a distinct sovereignty with a resulting separate citizenship rather than closer relationship with the United States, funding for Federal benefits and programs is through the Department of the Interior appropriations. However, although the Federal program assistance began at full funding levels upon the establishment of the Compacts of Free Association, the levels of assistance dropped significantly after 5 years. Compact funding will be further decreased in another 5 years and terminated in less than 10 years.

Those areas of the United States which are incorporated or are States of the Union receive funding through the many Federal department appropriations, such as the Department of Health and Human Services, Department of Commerce, et cetera. These areas are guaranteed equal treatment by the U.S. Constitution with funding levels generally proportionate to the population size. The full extension and application of the U.S. Constitution to an area the key to guaranteed benefits and payments to U.S. citizens.

However, if the people of Puerto Rico are willing to accept Federal assistance, program and benefit levels supplemented or replaced by local ones, then there is a reasonable basis to accept the assertions of guarantees from the "yes" advocates. Federal assistance may be provided in block grants which have been requested by autonomist advocates.

It is clear that the referendum cannot guarantee identity or culture. Nor can it guarantee U.S. citizenship which only the U.S. Constitution provides to areas integrated into the Union. Except under the statehood status option incongruously linked with autonomist options in the referendum, Puerto Rico could not enjoy the guarantees of the U.S. Constitution and U.S. citizenship outside of the plenary powers of the Congress. The referendum misleads the people by impossible combination of attributes of permanent union with the United States and those of a separate and distinct republic or nation.

If the people do not want to risk current Federal benefits and U.S. citizenship, they should reject the false guarantees of the December 8 referendum.

The article from the San Juan Star, November 15, 1991, entitled "RHC's 'Guarantees,'" follows:

[From the San Juan Star, Nov. 15, 1991]

RHC's "GUARANTEES"

The people that Gov. Hernández Colón attempted to mislead Thursday, members of the Association of Financial Analysts, should know that he is using the Constitution of Puerto Rico to further his partisan political ends.

And that the referendum he has instigated for Dec. 8 is not in the least necessary for either procuring another plebiscite or for "guaranteeing" that Puerto Rico's culture, language and three status options would be taken into account if and when a plebiscite is held.

There is no possible way of not taking language and culture into account in a political status referendum. Furthermore, New Progressive Party candidate for governor Pedro Rosselló offered to negotiate that independence, commonwealth and statehood would appear on any plebiscite ballot, but was turned down.

In any event, public opinion would require a three-status choice.

Hernández Colón, nevertheless, is insisting on spending upwards of $5 million on this referendum, and, if his "yes" option wins, upwards of $5 million more on a second election to put his so-called guarantees into the Constitution's Bill of Rights—solely to raise obstacles to statehood, and to intimidate Congress with Puerto Rico's "distinctiveness" from the United States.

His amendments cannot guarantee identity or culture; no kind of legislation can.

His amendments cannot guarantee U.S. citizenship; only Washington and possibly the U.S. Constitution can.

What they can do, and are doing, is confusing and arousing and dividing people with a slick appeal to nationalism.

One example, the inclusion of a guarantee of Olympic sports representation in the Commonwealth Constitution, is the worst kind of nurturing of a bread-and-circus mentality.

Hernández Colón has launched what amounts to a personal campaign, demagogic and deceptive, that will damage what should be a precious document held above the partisan battle, and which will cost taxpayers more than $10 million.

Everything he wants to do in this affair, he has a perfect right to do as the leader of the Popular Democratic Party, but not as a supposed governor of all Puerto Ricans aiming to amend their Constitution for their common good.

His is a reckless use of power by a politician, not the endeavor of a statesman such as he pretends it to be.

LOST AMENDMENT MAY KEEP CONGRESS FROM RAISES

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STENHOLM. Mr. Speaker, December 15, 1991, marked the ratification of the Bill of Rights, our Constitution's first 10 amendments. These amendments form the foundation of our democratic system based upon individual rights and limited and restricted government. Another amendment offered by, our future President and Drafter of the Constitution, James Madison provided that; "no law, varying the compensation for the services of the Senators and Representatives, shall take effect until an election of representatives shall have intervened." Although this amendment has yet to be ratified I have long felt that it has considerable merit.

In the 100th Congress I cosponsored, H.R. 759, legislation which deferred congressional pay increases until the following Congress. I also supported H.R. 3660, the Government Ethics Reform Act. This legislation which was passed and became law provided that no pay increase above and beyond a COLA could occur until after an election.

I am pleased to report that the principle of delaying congressional pay increases until after elections continues to enjoy widespread support. At the present time 35 State legislatures have ratified James Madison's constitutional amendment. Continued consideration of the amendment is consistent with the Supreme Court's ruling in Coleman vs. Miller that proposed constitutional amendments submitted by Congress to the States without a deadline remain pending business before the States. I am proud that my home, the great State of Texas ratified the amendment on May 25, 1989.

Mr. Speaker, on this bicentennial of the Bill of Rights, I would like to insert into the RECORD an article from the September 16, 1991, issue of one of the 17th District of Texas' newspapers, the Gainesville Daily Register. I will also include two commemorative resolutions adopted by the 72d Texas Legislature acknowledging the bicentennial of the Bill of Right ratification. I request that these materials are printed following my remarks.

[From the Gainesville (TX) Daily Register, Sept. 16, 1991]

LOST AMENDMENT MAY KEEP CONGRESS FROM RAISES

(By Tom Tiede)

WASHINGTON (NEA).—When Gregory Watson was a student at the university of Texas, in the early 1980s, he was asked to write a paper on government affairs for one of his classes. He says the Equal Rights Amendment to the Constitution was hot at the time, and he decided to report on whether it was correct for Congress to extend the deadline for ratifying the controversial measure.

The research soon led him to another topic, however. He says he learned that the nation's first Congress had proposed a constitutional amendment restricting the right of the body to raise member salaries, and no deadline was attached for ratification by the states. He thus dumped Equal Rights and wrote about the pay hike proposition.

As it happened, he got only a C for the effort. But never mind. Watson has received better marks on the work since then. He was so fascinated with the long forgotten congressional compensation amendment that he stated a one-man campaign to make it the law of the land, and, very remarkably, he's almost succeeded.

Watson began the campaign in 1982. To date, he has helped persuade 27 states to ratify what is sometimes called the "Lost Amendment." He says eight other states has ratified the language prior to his personal crusade. This means there are 35 states on record, at present, and only three more are needed for enactment.

Watson says it's therefore just a matter of time: "The American people are fed up with the sneaky, tricky and deceptive ways that Congress increases salaries. That's why my campaign has gone as well as it has. No one trusts the members to make their own pay raise reforms, so this old amendment is going to it for them."

Old indeed. The congressional compensation amendment has been collecting dust in the country for more than 200 years. It was in fact one of the original amendments in

the Bill of Rights sent to the new states in 1789. Congress wanted to send 17 amendments to the states, but it settled on 12, of which 10 were ratified.

The first of the two amendments rejected by the states had to do with election apportionment and it is no longer viable. The Lost Amendment, however, seems as modern as today's news. It states: "No law varying the congressional compensation . . . shall take effect until an election of Representatives shall have intervened."

In other words, the amendment would prohibit members from taking immediate increases. They would only be allowed to boost the take of succeeding legislatures. Six states ratified the proposal between 1789 and 1791; the rest rejected it because it was not in keeping with the civil liberties temper of the Bill of Rights.

The amendment was more or less buried after that. But Watson points out that it did not actually die. He says the first Congress did not put a time limit on its early amendments, and he adds that the U.S. Supreme Court, sitting in 1939, decided that amendments do not have deadlines can be ratified at any time.

Watson is now a legislative aide in the Texas statehouse. He runs the Lost Amendment campaign on a postage stamp budget. He says he has written to most of the nation's state legislators over the past nine years, again and again in many cases; he says many lawmakers are skeptical at first, but come around in the end.

The lawmakers in North Dakota are an illustration. They approved the Lost Amendment last March after several years of debate. State Sen. Ray David says most of his colleagues had never heard of the amendment before, but, "one they did, once they thought about it, they voted overwhelmingly, 133 to 22, for ratification.

Sen. David says he gives much credit to campaigner Watson. The latter, for his part, says the Lost Amendment sells itself: "I have resisted turning the drive into a big time armtwisting lobby. I've done it quietly, by myself. Nobody knows who I am, nobody cares, and the amendment is considered on its own merits."

There is some criticism, however. Some members of Congress privately think Watson is meddling with a gimmick. They argue that the pay raise plan was rejected by the states during its initial consideration, and that should be that. They say it's risky to try to alter the Constitution with an obscure fragment of history.

The critics say they do not necessarily oppose a constitutional amendment regarding congressional compensation. Yet it should logically be freshly minted. They say if Watson fully succeeds, if he gets three-quarters of the states to ratify, the whole thing will probably land in bewildering confusion in the courts.

If so, Gregory Watson believes he will triumph anyway. He says he's got the law on his side. He says some congressfolk might stage a symbolic legal protest, but then the public relations would take over. "They are not going to fight the votes of 38 states. This amendment is going to be enacted.

And when? Watson says the date may be advanced every time Congress calls for more pay. And they've called for a total of $50,000 more in recent sessions alone. "I feel confident that Missouri, Nebraska and Rhode Island are getting ready to ratify," he goes on, "and I honestly believe that we can attach the 27th amendment to the Constitution in the next couple of years."

HOUSE CONCURRENT RESOLUTION 219

Whereas, The Bill of Rights of the Constitution of the United States protects and guarantees basic freedoms of all Americans; and

Whereas, These rights, which are the essential legacy of this nation's founders, are honored, cherished, and respected by the people of the State of Texas; and

Whereas, This year marks the 200th anniversary of the ratification of these first 10 amendments to the United States Constitution, and it is indeed an appropriate occasion for Texans to acknowledge, reaffirm, and celebrate their rights as citizens; now, therefore, be it

Resolved, That the 72nd Legislature of the State of Texas hereby designate December 15, 1991, as Bill of Rights Day and urge all Texans to commemorate the event.

HOUSE CONCURRENT RESOLUTION 228

Whereas, 1991 marks the bicentennial of the ratification of the Bill of Rights, and it is fitting that we should take time during this year to consider the privileges guaranteed by these 10 amendments and the duties that accompany such liberties; and

Whereas, When deliberating the Constitution, the founders of this great nation eloquently spoke of the need for a clearly delineated bill of rights; indeed, their concern for personal liberty was so great that the Constitution was ratified with the assurance that the new Congress would consider the protection of these rights a first order of business; and

Whereas, In the spirit of the Declaration of Independence, which recognizes that "all men are created equal, and endowed by their creator with certain inalienable rights," the Supreme Court has extended the scope of the Bill of Rights and assured that certain privileges of United States citizenship may not be violated by any local or state government; and

Whereas, Recent years have seen the people of many countries throw off the yoke of tyranny and dictatorship and begin their quest to understand how government of, by, and for the people can truly ensure the inalienable rights of life, liberty, and the pursuit of happiness; and

Whereas, These tremendous democratic uprisings have stirred the souls of all those who yearn for freedom, and the world now looks to the United States to hold high the light of liberty and to lead the way on the path of true representative democracy; and

Whereas, We stand eternally grateful to our forebears who have given so much so that we may have these precious liberties; and likewise, we accept the responsibility of preserving this magnificent legacy and striving to ensure that all humankind may enjoy such freedom; now, therefore, be it

Resolved, That the 72nd Legislature of the State of Texas hereby recognize 1991 as the Bill of Rights Bicentennial and urge all Texans to participate in the commemoration of this historic event; and, be it further

Resolved, That the state commissioner of education be encouraged to direct all school principals to devote at least one hour during the month of November 1991 to intensive study of the principles embodied in the Bill of Rights; and, be it further

Resolved, That an official copy of this resolution be prepared for the state commissioner of education as an expression of the sentiment of the Legislature of the State of Texas.

SPEECH BY CONGRESSWOMAN HELEN DELICH BENTLEY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUNTER. Mr. Speaker, I urge all my colleagues to read the following speech delivered by Representative Helen Bentley to commemorate the 50th anniversary of the attack on Pearl Harbor. As usual, she eloquently raises important issues regarding United States-Japan relations, as outlined in the following article from the New York Times by Kazuo Ogura of the Japanese Foreign Ministry.

SPEECH BY CONGRESSWOMAN HELEN DELICH BENTLEY ON PEARL HARBOR COMMEMORATION ABOARD U.S.S. "TANEY" DECEMBER 7, 1991

Good afternoon, Pearl Harbor Survivors and Americans all.

Today we meet aboard the last vessel still afloat that was at Pearl Harbor during the Japanese sneak attack of Dec. 7, 1941—the U.S. Coast Guard Cutter Taney.

It is truly wonderful to be here today—free Americans in a free country—indebted to the thousands who fought and died in WWII—to the men who served on this very ship on that December day 50 years ago—and, to the generations of brave men and women who served before them and who continue to serve.

Their sacrifices make me proud to say I am an American. I hope it will be said of me that I am a patriot—that I love my country, that I, too, serve my country. Outside of the church, there can be no higher or more honorable calling for a citizen of any nation.

To protect your nation and its people, in America, is to protect the wellspring of the ideals of self-government, the ownership of private property and, most importantly, the dignity and the sanctity of the individual.

These are ideals so identified with America that when the Iron Curtain finally broke apart we heard familiar names on the lips of the first generation of free men in Eastern Europe—Jefferson and Madison, Washington and Lincoln.

We discovered that no totalitarian night could put out the candles shining from the "Cradle of Democracy." Those candles, ignited over 200 years ago on this raw continent, are the light that still guides those who seek freedom and a better way of life. . .

If we ever lose this great country—the loss will not be ours alone.

That is what our great wars—ultimately—have been about: the preservation not only of our own freedom, but the preservation of the dream of freedom for every man and woman in the world: the hand extended, the hope held high.

Today, of all days in the year, of all days in the last 50 years—we must consider long and hard what America is, what it promises * * * and the responsibilities we have as Americans to guarantee that those promises are kept to our children and to future generations of children all over the world.

Fifty years after Pearl Harbor, in what condition do we find ourselves?

"* * * the economic strength and relative global position of the U.S. are not what they used to be." That is not my statement, it is the statement of Kazuo Ogura, director general of cultural affairs at the Japanese Foreign Ministry writing in the New York Times, Nov. 24th.

I doubt there is one of you in the audience who will not agree with Mr. Ogura's statement, and he moves from that premise to explaining the "cultural" differences between Japan and America by explaining that "Unlike Americans, for whom being American is a matter of faith or convictions, Japanese do not associate their identity with any faith or convictions."

At another place, Mr. Ogura states, "With regard to religious creeds and political principles, the Japanese do not claim to have any universal principles that they wish to spread around the world."

Now, if we are "not what we used to be" and Japan is assuming a position as a leading power surpassing us in economic strength, according to their own spokesperson they do it without any faith or convictions, without any guidance of religious creeds or political principles.

Think about what the world would have been like had they won the Pacific war! Think about what the world will be like over the next 50 years if they continue to eclipse the United States in the current economic war. Think about what will happen to the world under the Pax Japonica—or Japanese peace—when we are forced to give up our position as the leading peacekeeper in the world because the Japanese have won the trade wars and all of the wealth-making industries lost to that victory!

Not only will America be changed forever, but the standards of world order will be changed forever. There will be no universal values being espoused by the most powerful nation in the world * * * there will be no standard of enlightened behavior set * * * according to Mr. Ogura, the Japanese recognize none and cannot identify with the needs of other countries.

As shocking as it was to me to read a nation's declaration that it is a nation without faith and convictions, without religious creeds or universal values—knowing how Japan has attacked our markets, has broken law after law in pursuit of U.S. technologies—I am not surprised that they are guided only by national self-interest, that the ideals of Jefferson and Madison, Washington and Lincoln are alien to their culture.

If this indeed is the case, made by the cultural ministers of Japan, it is no wonder that there have been major difficulties in dealing with them under American law since our law is based on acceptance of a common values system.

To be successful in future negotiations with the Japanese, something more than a good translator is needed.

And now for the rest of the story.

There is criticism today over the atomic bombs dropped on Hiroshima and Nagasaki. We need to remember that we were not at war when the Japanese bombers attacked Pearl Harbor, but we were one day later, and on through the ensuing 44 months.

Despite a spate of current revisionist histories, many of them sponsored by Japan and Japanese interests, that try to cast Japan as a victim of international policies in the 1930s and as the innocent victims of Hiroshima and Nagasaki in 1945, in that same year, a German submarine was captured off the coast of Newfoundland headed for Japan with 1,200 pounds of deadly uranium oxide. This was enough uranium to build two atomic bombs!

Aboard the submarine, along with its German crew, were three Luftwaffe (Air Force) generals, and two Japanese who had committed suicide by hari kari rather than be captured alive.

The investigators at the time concluded that the Japanese were trying to build an atom bomb—just as we were. That they, like us, were fighting a war using whatever state-of-the-art weaponry they could procure.

After the war, evidence was discovered in Japan that there was an active nuclear weapons development program that in its progress was running only a year behind our own Manhattan Project.

Unfortunately, the story of the capture of the submarine was referred to only once in a report by the United Press on May 16, 1945, and seemingly—like most facts on their A-bomb project and other Japanese behavior in World War II—has been forgotten.

I am indebted to Pat Young for the UP report on the capture of the submarine. Mr. Young is including the incident in his new book, "Behind the Rising Sun . . . 50 Years Later," a sequel to a book published in 1941, and written by his father, who was a foreign correspondent in Tokyo.

I am told that the Navy officer to whom the Germans surrendered the sub was T. Kincaid Kimmel, son of Admiral Husband E. Kimmel, the Navy's commanding officer in 1941 at Pearl Harbor.

Today, Capt. Kimmel lives in Annapolis.

We still have rich resources on this critical time in history, many of them unexplored and unrecognized. It behooves us to seek them out, to learn everything we can about our relations with Japan over the last 50 years—to learn from this history lest, as Santayana warned—we will be condemned to repeat it!

To that end, be warned, the Japanese even now are a great nuclear nation. Much of their power is nuclear and, very recently, they purchased 40 tons of plutonium which will be shipped from Europe to Japan—a 17,000-mile journey—with only a Coast Guard cutter for escort.

Retired Admirals Stansfield Turner and Thomas Davis pointed out the danger in this proposal of the shipment possibly being hijacked by terrorists. There are grave responsibilities which go along with possessing nuclear materials—not only for your own nation, but for the rest of the world.

From one ton of plutonium there can be produced 150 nuclear bombs, and one has to wonder what Japan wants with 40 tons of plutonium. It is a valid question.

A nation, ultimately, must have a conscience about its behavior on the world scene. Japan had no conscience at Pearl Harbor. Japan had no conscience at Bataan and Corregidor. Remember our own valiant General James Devereux's suffering in captivity after, the Battle of Wake Island.

Today, Japan appears to have no respect for American law, as has been proven in case after case moving through our courts, from the deliberate destruction of our television manufacturing to the attempted theft of software from IBM.

I have great hope that we can deal successfully with the Japanese—but, only if we recognize their differences and deal with them.

Our unique government, with its guarantees of freedom to all, demands eternal vigilance. To be alert, to be concerned, to study our competition, to cry foul when the "competition" cheats on the rules is not bashing—it is being vigilant. It is guarding the flame. It is being an American exercising free speech.

It is what these brave men and women fought and died for 50 years ago today! God bless their memories, their families and every American today enjoying the freedom they bequeathed to us!!!

God bless America! Lest we forget!

[From the New York Times, Nov. 24, 1991]

JAPAN AND AMERICA: PRIDE AND PREJUDICE

(By Kazuo Ogura)

TOKYO.—America has various ideals and plans for a new world order. Yet the economic strength and relative global position of the U.S. are not what they used to be. The day is gone when America alone could shoulder most of the human and financial burden of achieving its ideals.

The Americans, however, have not adjusted to this situation. Far from becoming accustomed to dependence on other countries, many Americans want nothing to do with it, particularly if Japan is involved.

Ironically, an interdependent world is the natural outcome of the ideals of free enterprise, democracy and collective security that the U.S. has espoused since World War II.

This being the case, [one] approach would be to try to overcome American resistance to mutual dependence—especially with Japan—while still enabling Americans to feel independent and proud. From the U.S. standpoint, this would mean that Americans should not have to humble themselves as supplicants to Japan.

It is painful to have money bestowed on you by people whose ideals and ways of thinking differ from your own. In the anguish of the American people, who must ask that the gap between the strength of their ideals and their ability to realize them be filled in by Japan, a country that they are not particularly fond of, lies an enormous communications gap across the Pacific.

Whether one considers democracy, freedom or the market mechanisms, there are few countries anywhere in the world more committed to the values upheld in the United States than Japan. [But] the Japanese and Americans do not see eye to eye on where their shared values should take the Japan-U.S. relationship in the international scene.

Given the fact that the U.S. is a racial and cultural melting pot, Americans resist the notion that someone should be exempt from some joint activity just because that person happens to have different historical, ethnic or cultural roots.

Unlike Americans, for whom being American is a matter of faith or convictions, Japanese do not associate their identity with any faith or convictions. This difference is one fundamental cause of misunderstandings and disputes between Japan and the U.S.

For many Japanese, moreover, the concepts of freedom, democracy and the market economy do not have a home-grown feeling. Although they have taken deep root in Japan, they give us a vaguely unsettling sensation, as if we were wearing a new suit of Western clothes. The consequence is that it is very difficult for the Japanese to believe that fighting to the death for these concepts is their natural duty as Japanese.

The resulting feelings of discomfort and anguish are hard for the Americans to comprehend and even harder for them to condone. To many Japanese, meanwhile, the American approach to Japan comes across as an attempt to create a spiritual colony of the United States on Japanese soil. The American approach seems somehow to refute the Japanese way of life and to violate the fundamentals of friendly relations between countries.

We have set our sights on moving our country closer to the national norms in institutional, economic and social terms. On the security and diplomatic fronts as well, we have built up self-defense capabilities,

shouldered much of the expenses of the U.S. troops stationed in Japan, cooperated in U.N. peace-keeping operations, and provided foreign aid guided by strategic considerations.

Of course, these efforts need to be extended further. From the viewpoint of many Japanese, though, the situation of their country now seems to have greatly changed. In some sectors, they feel, the structural problems lie not in Japan but on the American side. Henceforth, many Japanese agree, efforts to structurally improve U.S. industry and truly internationalize the U.S. economic system may be even more necessary than the efforts Japan must make.

As part of this view, people are saying that Japan is approaching the limits of what it should be doing in the world in the political and security fields. From now, it may have to part ways with the American course (though not with American ideals), charting its own course through unfamiliar seas. Japanese are also complaining that no matter how hard they work to please the U.S.-led community of the West, they are not given much credit for their efforts. This being the case, it hardly seems likely that Japan's reputation will suddenly rise higher even if the country pushes further along the road of Westernization. In fact, it is said, renewed efforts to satisfy the West might incur the antagonism of the Arab world and invite suspicion in other Asian nations, thereby harming Japan's interests.

The postwar Japanese way of life seems to have reached a dead end. We are plunging into an era in which the esteem of the international community cannot be won by holding aloft our war-renouncing Constitution, accommodating international demands and internationalizing the economy. Efforts in such areas served to give us our present peace and prosperity, but now they are inadequate.

In the give and take between Tokyo and Washington, though, people sense that the old pattern has yet to change. Those on the U.S. side are still leaning heavily on Japan, never reflecting on their own country's shortcomings, and those on the Japanese side are still bowing before the American demands, as if doing so was Japan's fate.

With regard to religious creeds and political principles, the Japanese do not claim to have any universal principles that they wish to spread around the world. No longer is there any patriotism so intense that people would gladly give their lives for the sake of their country's pride; all that remains is a slender sense of pride in the aesthetic sensibilities and artistic spirit of the Japanese.

We cannot expect a people with this background to start brandishing a set of principles simply to gain international respect, nor will they be making grand gestures at the cost of their lives.

Nonetheless, in the depths of the Japanese psyche resides a national aspiration, vague though it is, to gain an honorable status in the international community for Japan and its people. The question is how a nation can achieve such a status when its people lack an intense dedication to ideals, and when their patriotism does not inspire self-sacrificing ardor. Unable to answer this question, the Japanese have begun to despair. This is the cause of their anguish at the postwar Japanese way of life.

There is only one way for the Japanese to resolve the differences that separate them. Both peoples must take a harder, more serious second look at their own ways of life.

[The Americans] are apt to feel frustrated by their inability to realize all their ideals, but they must refrain from taking out their frustration on Japan, using it as a scapegoat for domestic problems.

America's way of life is not the world's. There would no problem, of course, if the entire world were Americanized, but if that is what Americans really want, it is nothing more or less than imperialism.

The communication gap between Japan and the U.S. is inextricably linked to the ways of life in the two countries. It is, we might say, a gap between a disoriented people and an idealistic empire.

What prevents Japan from developing a stronger political voice [is] the absence of a clear vision of what ideals the Japanese as a people want to uphold.

Due to its defeat in World War II, and the collapse of a code of previously held ethics, the Japanese have shied away from projecting their beliefs and ideals internationally. Indeed, even now, almost 50 years after defeat, they still appear to be apprehensive of even expressing one.

A TRIBUTE TO LYDIA DIAZ CRUZ DE LEÓN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is a distinct privilege for me to recognize the lifetime achievements of one of my homeland's most renowned and gifted of artists, Ms. Lydia Diaz Cruz de León.

Throughout her illustrious career as one of Cuba's most celebrated ballerinas, Ms. Cruz' devotion to this most precious of artforms, has become an inspiration not only to the countless of people who enjoy and appreciate the arts, but to the future generations of artists who seek to further and nurture this beautiful form of artistic expression.

All through her life, Ms. Cruz has delighted worldwide audiences by bringing only the finest performances of classical and contemporary ballets to the stages of the world, alongside internationally acclaimed dancers such as: Fernando Bujones, Royes Fernandez, Peter Martins, Jacques d'Amboise, Edward Villella, Ivan Nagy, Patrick Bissell and the great Dame Margot Fonteyn. Invited to dance with renowned international ballet companies, Ms. Cruz has had the privilege of performing in numerous principal roles including, Apollo, Patrushka, "The Nutcracker" Grand Pas de Quatre, Swan Lake, Cinderella, Paquita and the role that she is most identified with, The Dying Swan.

Ms. Cruz' invaluable artistic contributions to our society has earned her a very special place in our community. She is the founder and president of the Organization Pro-Performing Arts, as well as a founding member of the board of directors of the renowned Miami City Ballet. Ms. Cruz is also a distinguished member of the American Guild of Musical Artists and the Cuban Museum of Art and Culture.

In recognition of her numerous endeavors toward the cultural enrichment of our society, Ms. Cruz has had the distinction of being recognized by many distinguished members of our community's most reputable public and private institutions. On December 20, 1991, Ms. Cruz will have the privilege of being honored once again by our community's finest, when the Miami City Ballet, on the occasion of their annual production of George Balanchine's "The Nutcracker", the company will render a tribute to her lifelong accomplishments.

Mr. Speaker, I am privileged to have the opportunity of bringing to the attention of my fellow colleagues in the House of Representatives the work of this most outstanding member of our community, and I am delighted to be able to extend to her my very best and warmest wishes for many years of continued greatness.

FINANCIAL DISCLOSURE FOR 1990

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year in which I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial disclosure statements in May of each year, I also continue to file this more detailed family financial report as I have since 1971. In this way, my constituents are kept fully and completely informed concerning my financial status and that of my family.

Romano L. and Helen D. Mazzoli

INCOME, CALENDAR YEAR 1990

Interest, dividends, rents and distributions:	
Congressional Federal Credit Union No. 62976	$210.70
Congressional Federal Credit Union No. 84720 and on five certificates of deposit held in the account (Nos. 12831; 15913; 16541; 20744, and 21128)	829.84
Republic Bank & Trust Co., No. 20-556-7	30.77
The Cumberland No. 01-000-001-00610155499	12.67
Liberty National Bank & Trust No. 01-527329 (IRA)	1,692.28
Liberty National Bank & Trust No. 29-508132 (IRA)	1,174.83
Liberty National Bank & Trust CD No. 010090063046	356.47
First National Bank and Trust Co. No. 427-5518-4	85.37
Federal employee thrift savings plan (401K)	1,526.50
U.S. Treasury bills (No. 912794TP9; No. 912794UB8; No. 912794UD4; No. 912794UN2; No. 912794UR3; No. 912794UH4;)	2,316.60
939 Parkway Drive, Louisville, KY (rental property)	−425.00
Total: Interest, dividends, rents and distributions	7,811.03
Salaries:	
U.S. House of Representatives (R.L. Mazzoli)	90,645.82
Alexandria Drafting Co. (Helen Mazzoli)	27,321.20
Total salaries and fees	117,967.02
Gross Income	125,778.05

STATEMENT OF FINANCIAL WORTH DEC. 31, 1990

Cash and certificates of deposit:	
Congressional Federal Credit Union, CD's (No. 16541, No. 20744, No 21128)	6,038.94

VOL 137
PT 24
NO 26
1991
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Congressional Federal Credit Union No. 62976	5,997.29
Congressional Federal Credit Union No. 84720	10,227.46
The Cumberland No. 01-000-001-00610155499	254.25
Liberty National Bank & Trust CD No. 010090063046	4,873.95
First National Bank & Trust Co. No. 427-5518-4	1,894.47
House of Representatives Sergeant at Arms No. 5348	2,717.23
Total cash and certificates of deposit	32,003.59
Individual retirement accounts	
Liberty National Bank & Trust No. 01-527329	19,588.22
Liberty National Bank & Trust No. 29-508132	17,420.20
Total individual retirements accounts	37,008.42
Bonds and Treasury bills:	
U.S. Governemnt bonds, series E	2,583.92
U.S. Treasury bill No. 912794WF7	10,000.00
U.S. Treasury bill No. 912794WH3	10,000.00
U.S. Treasury bill No. 912794VT8	10,000.00
Total bonds and Treasury bills	32,583.92
Real property:	
939 Ardmore Drive, Louisville, KY (assessed value)	58,700.00
Less mortgage, the Cumberland S&L No. 15970	3,230.83
Subtotal	55,469.17
1030 Anderson St., Alexandria, VA (assessed value)	187,400.00
Less Mortgage, Cowger & Miller Co., No. 15184	35,991.35
Subtotal	151,408.65
929 Parkway Drive, Louisville, KY (assessed value)	44,660.00
Less Mortgage, Ms. Brad Valla	34,646.00
Subtotal	10,014.00
Total real property	216,891.82
Federal employees retirement system total contributions since 1971	91,814.74
Federal employee thrift savings plan (401K)	21,059.68
Automobiles:	
1965 Rambler (assessed value)	220.00
1973 Chevrolet (assessed value)	1,192.00
1965 Chevrolet (assessed value)	3,767.00
Total automobiles	5,179.00
Household goods and miscellaneous personal property	6,500.00
Total assets	443,041.17
Liabilities: Dec. 7, 1990 loan of $1,900 to R.L. Mazzoli campaign fund	1,900.00
Net assets	441,141.17

1990 INCOME TAX RECAPITULATION

Federal:	
Total income	122,591.00
Deductions and exemptions	34,026.00
Taxable income	88,565.00
Taxes due	21,088.00
Taxes withheld	25,436.00
Refund	4,348.00
Kentucky:	
Tax withheld	3,869.00
Tax due	4,564.00
Tax paid	695.00
Virginia:	
Tax withheld	1,166.00
Tax due	707.00
Refund	459.00
Occupational tax, Louisville and Jefferson County, Kentucky:	
Tax paid	548.00

COMPREHENSIVE CRIME LEGISLATION

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILCHREST. Mr. Speaker, I rise in opposition to the conference agreement on H.R. 3371, the Omnibus Crime Control Act. I do so reluctantly because the legislation does provide some innovations and $3 billion to fight crime at all levels, especially at the local level. But I cannot accept the logic that I should vote for the agreement because it is better than nothing. We can do better and next year we must enact a tough, effective crime control bill.

The conference report on H.R. 3371 would have applied the Federal death penalty to about 50 crimes, required prisoners under death sentences to file Federal habeas corpus petitions within 1 year of their direct appeals, narrowed the circumstances under which a prisoner may file a second or successive habeas petition and permitted the use of illegally obtained evidence if the police acted in good faith reliance on a search warrant.

I was concerned that provisions adopted by the conference overrule numerous U.S. Supreme Court decisions such as Arizona versus Fulminante. Some of these provisions would have prolonged litigation and overturned criminal convictions. Other provisions would have established unrealistic Federal standards for appointed counsel in capital trial appeals and collateral reviews. For instance, each defendant gets two attorneys to represent him and they are appointed by the defense bar, not the court.

I further object to certain provisions that were removed from the bill. Why did the conference strip out provisions to enhance penalties for drug distribution to pregnant women. Why did they strip out increased penalties for recidivist sex offenders. Why were HIV testing for sex offenders and Government payment for HIV testing for rape victims stripped out of the conference agreement? I object to the removal of the retired public safety officer death benefit program.

I particularly oppose the failure to include H.R. 2553, the National Child Abuser Registration Act of 1991, in the conference report. The bill sought to establish a nationwide system of registering convicted child abusers in order to reduce the number of repeat offenders.

I encourage my colleagues to return to the negotiating table and agree on a strong comprehensive crime bill.

NEWSPAPER ARTICLES CONCERNING PEARL HARBOR

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, during the recent 50th anniversary commemorations of the Japanese sneak attack at Pearl Harbor of December 7, 1941, a number of significant articles appeared in the Nation's newspapers and magazines. I here present a sampling of some of them for inclusion.

[From the Washington Post, Dec. 1, 1991]

MEMORY AND INFAMY: WHY JAPAN WON'T REMEMBER

(By Ivan P. Hall)

TOKYO.—On Dec. 7, when Americans will pause briefly to honor and remember those who died at Pearl Harbor 50 years ago, I will be the sole American on a panel at Japan's oldest private university, Keio, where I recently taught. I am bracing myself for all the old self-exculpating bromides from former students, colleagues and friends of two decades' standing, knowing that they will be seeking an emotional ratification I won't be able to give.

For months, Japan's media have been seizing on isolated instances of anti-Japanese sentiment or behavior in the United States to create a broad public anxiety here that the commemoration may become the occasion for unprecedented "Japan bashing."

For weeks this summer Tokyo's media fretted over whether President Bush would attend the event ceremony in Honolulu, thereby giving it an official nationwide tone. They grasped hopefully at reports that some White House advisers were indeed counseling the president against participation, lest it fuel anti-Japanese sentiment. As the executive officer of one of the leading private American societies for U.S.-Japan friendship put it to me about a year ago, the greatest task over the months ahead would be to "contain" the Pearl Harbor anniversary.

Yet every year on Aug. 15, the day marking the end of the Pacific war, the Japanese undertake a national outpouring of self-consolation in ceremonies led by the emperor and prime minister. So it does seem a bit grudging of them to be hoping so hard for a non-event in Hawaii. Even more extraordinary have been the efforts of some Americans to minimize their countrymen's attention to this once-only historical remembrance—be it out of misplaced idealism or in the belief that healthy Japan-U.S. relations can brook no counterbrushing of Japanese sensitivities.

Sensibly, Bush decided to go. Sensibly, too, he reportedly plans to deliver an upbeat speech on Japan-U.S. ties. But if Americans are to manage those ties intelligently in a rapidly changing world, they should understand some of the emotional, conceptual and political reasons for Japan's intense allergy to the anniversary.

For ordinary citizens, it's mainly an emotional matter. Personal relations tend to be on an all-or-nothing basis here; when Japanese make up after a fight, the most important thing is to reestablish emotional rapport. Children after a spat will put an arm over a friend's shoulder, imploring, "Hey, it's really okay, isn't it? Tell me it's okay!"

The Japanese feel that they have long since made up with Americans. Many see

Pearl Harbor and Hiroshima-Nagasaki (where Japan suffered many times more damage) as canceling each other out as causes for recrimination. Indeed, Japan's annual atomic bomb remembrances have been conspicuously devoid of personal anti-Americanism—largely because most Japanese, despite the louder right-wing voices, can still make the cause-and-effect connection between their own aggression and disastrous defeat.

It may also reflect a certain Buddhist-derived sense of transience and letting-go, a deep-seated preference to forget unpleasant experiences quickly wherever the fault may lie—an attitude leading, respectively, to irresponsibility or tolerance.

"Once past the throat, you stop feeling the heat," as a Japanese proverb has it. A perfect illustration was the family-oriented monthly bulletin from my local ward office, which recently featured an anti-war issue for primary school children. Several pages went on about the horrors of the Tokyo air raids in 1945, but there was only one sentence suggesting some suffering by others: "Japan also burnt down Chinese homes and killed adults with guns." Odder still, there was not a word about where the bombers over Tokyo came from, not a single reference to America—just a generalized dread of "war."

As the Cold War ends, Americans should realize that there is no Japan-U.S. consensus on the nature of World War II—nothing resembling the one supporting U.S.-German and intra-NATO relations. Japan's education ministry has long since watered down school textbook references to Japan's aggression in Asia.

Meanwhile, ideologues like writer-politician Shintaro Ishihara have been reviving interpretations that were standard before and during the war—Japan as encircled by the Western powers, fighting to rid Asia of white colonialism, forced into a first strike by American intransigence. Such views are no longer beyond the pale. Rather, they are merely extreme versions of what increasingly passes for common sense among Japan's business and political center.

The Japanese government's current position on the Pearl Harbor attack was summed up by Chief Cabinet Secretary Misoji Sakamoto at a Diet session in June 1990: "The attack cannot be praised, because it wasn't a plus in terms of strategy and perspective . . . . The Japan-U.S. war belongs to a different dimension from Japan's invasion of Asian countries." Or, in the words of Deputy Cabinet Secretary Nobuo Ishihara last August, "Because the war could not be avoided, all those involved should reflect. It will take tens or hundreds of years before the correct judgment is delivered on who is responsible for the war."

Nationalists prefer to keep the public's mind focused exclusively on the war with America—specifically the losing war after Midway. This places their country in the defensive, underdog role, and helps to obscure Japan's earlier aggressions and atrocities against Asia, to say nothing of the domestic militarism, ultranationalism and cultural hubris that lay behind it tall.

Pearl Harbor is awkward for the nationalists not only because it recalls some injury to America (Americans never get any sympathy in war films or TV documentaries) but also because it stemmed directly from Japan's well-developed plans in 1941 to strike either north against the U.S.S.R. or south for Indonesian oil. By autumn the only question was which way to move, and how to knock Uncle Sam off of the sidelines as they did it.

Politically, many Japanese worry that Pearl Harbor may be used demagogically by the U.S. Congress to promote tougher trade legislation, or by Democratic presidential hopefuls in need of a foreign target. By accepting that argument, however, Americans simply fall for the latest version of Japan's most powerful ploy in its psychological tug-of-war with the United States—the allegation, or prediction, of "Japan bashing." This puts Americans (who love to be loved) on a guilt trip, stays our hand in negotiations, increases the Japanese public's sense of being "forced" to open markets under "unreasonable" U.S. pressures and lends credence to the companion ploy, which is to warn grimly of growing anti-Americanism in Japan.

In the 1960s, the effective bogey was the left wing; today, it is the reported growth of a "gut dislike of America" *(kenbei)* among youths as a result of our Gulf War criticisms. The trend is not without foundation, but this is just one of many intellectual eddies the establishment can chose to rev up or not—much as the Trade Ministry (MITI) earmarks certain industries for development. It is the cultivators of *kenbei*, rather, who should beware lest they lose control of their own Frankenstein monster.

The linkage of Pearl Harbor with "Japan-bashing" is just the latest twist in a 100-year process of cultivating a sense of victimization by the West, especially America. Where we disdain such postures as self-pitying, this mentality gets moral support from Japan's ethnic of sacrifice and self-abnegation.

And there may be a more subtle reason for collecting evidence of American hostility: if Japanese leaders are making contingency plans for a gradual shift away from America towards a new Greater East Asian regional bloc, and need to carry public opinion along. The end of the Soviet threat, the growth of economic regionalism and negative prognoses for the future of the U.S. economy and society could all help move Japan in that direction.

Finally, there is Japan's peculiar postwar time warp. Pearl Harbor is almost as far back for my Japanese undergraduate students as the Spanish-American War would have been for me as a collegian in the early 1950s. Occurring before even my parents were born, the U.S. frenzy to "Remember the Maine" was for Americans my age a mere historical footnote buried under the emotional and conceptual avalanches of two subsequent world wars.

Psychologically, however, the Japanese by virtue of their half-century insulation from military conflicts have been placed in an uninterrupted continuum of peace that perversely sustains the immediacy of the last great conflict. Selective recourse to the frozen images of World War II by jingoistic politicians and intellectuals can have a far greater impact on the public mind in Japan than in America, where the 50 years are crammed with competing memories of Korea, Vietnam, the Gulf, and the emotionally draining Cold War.

On Dec. 7, let us stand prayerfully above the sunken decks of the Arizona, without personal rancor or vindictive rhetoric towards a people most of who have been born and brought up under an American-sponsored democracy and alliance. But allow us to do so without meddling from the overly anxious spin doctors of Japan-U.S. harmony.

As warmly as possible, I shall tell my Japanese hosts that no country can come to terms with itself, much less others, or aspire to international leadership, without facing up to its own darker past—as the Germans have both personally and officially tried to do with respect to the Nazis, the Russians with Stalinism, the Americans with racial discrimination and the wartime Japanese-American internment camps.

That said, we shall all go out drinking together.

(Ivan Hall has spent 20 years in Japan. He teaches western and Japanese intellectual history at Gakushuin University in Tokyo and was associate executive director of the Japan-U.S. Friendship Commission from 1977 to 1984. He is the author of "Mori Arinori," a biography of Japan's first ambassador to the United States.)

[From the Baltimore Afro-American, Dec. 7, 1991]

PEARL HARBOR'S FORGOTTEN BLACK HERO

(By Douglas J. Neilson)

As America pauses to reflect on the 50th anniversary of the Japanese attack on Pearl Harbor, the actions of one African American that fateful day in 1941 should not be forgotten.

Twenty-two-year-old Doris "Dorie" Miller, a mess attendant 2nd Class in the U.S. Navy, was going about his daily routine on the morning of Dec. 7. In 1941, Blacks serving in the Navy were limited in the duties they could perform. Miller's job was to serve the White officers.

"The only time I saw an Afro-American, the only place they had them, was down in 'Officers Country,'" recalls Anthony DiLorenzo, chairman of Maryland's Pearl Harbor Survivors Association. "They cooked for the officers and did whatever they had to do, cleaned-up or whatever." Miller also shined shoes, collected laundry, and made beds.

The Japanese attack 50 years ago began just before 8 a.m. Miller's battle station on the USS *West Virginia* was at the antiaircraft battery magazine amid ship as an ammunition handler. As Miller made his way to his post, the battleship was hit by several Japanese torpedoes. Finding the magazine too damaged to use, he went topside.

On deck, the captain had been mortally wounded, but Miller, unaware of this, helped carry him to a safer location. He then manned a .50-caliber machine gun, firing at the attacking Japanese airplanes. Reports vary as to how many planes Miller shot down. Some accounts indicate that he shot down as many as four enemy planes.

What was so unusual about Miller's action back then was that the Navy strictly prohibited Blacks from practicing with and/or firing weapons in 1941. Fifteen minutes after manning the gun, Miller ran out of ammunition and had to be ordered to abandon the burning, sinking ship.

Six days later, Miller was assigned to the USS *Indianapolis* which led the search for the Japanese carriers that had launched the war planes for the earlier attack on Pearl Harbor.

On May 11, 1942, Doris Miller became the first African American to receive the Navy's highest honor, the Navy Cross, ordered by President Franklin D. Roosevelt. While pinning the medal on Miller, Admiral Chester W. Nimitz, commander of the Pacific Fleet, said, "This marks the first time in the history of the present conflict that such a high tribute has been paid in the Pacific fleet to a member of his race, and I am sure that the future will see others similarly honored for brave acts."

Over the following months, Miller traveled the country promoting war bonds, appeared on a Navy recruiting poster, and was asked to address the graduating class of noncommissioned officers at the Navy's Great Lakes Training School.

In Texas, Miller was honored with a hero's celebration in Dallas and in his hometown of Waco.

By November 1943, Miller had qualified to become a cook. He was assigned to the Liscome Bay, a small escort carrier. His ship sailed from Astoria, Oregon to Makin Island in the central Pacific by way of Pearl Harbor. On Nov. 24, at 5:10 a.m., Japanese submarine I-175 torpedoed the Liscome Bay. Ship's Cook 3rd Class Doris "Dorie" Miller, along with 645 others on board, died.

Miller's heroic actions at Pearl Harbor have been honored over the years since his death. The Navy commissioned the USS Doris Miller in 1973. A building at the Great Lakes Naval Station is named in his honor, as are a school in San Diego, Calif., an auditorium in Austin, Texas, a recreation center in Norfolk, Va., a New York City housing development, and a cemetery in Waco, Texas.

The USS Doris Miller was decommissioned on Oct. 15, 1991.

But one honor has escaped Miller, the Congressional Medal of Honor.

"That effort is still very much alive," according to Leroy Ramsey, a Pentagon historian, author, and publisher of [Black American Veteran] magazine. While doing research for a book in progress entitled "How The Black American Had To Fight Like Hell In Order To Die For His Country," Ramsey came across Miller's accomplishments.

"It was bugging me that no Blacks have received the Medal of Honor for World War I and World War II." He wrote to then President Reagan about his concern. "I mentioned the fact that 17 Blacks received the Medal of Honor during the Civil War, they were killing White Americans."

Ramsey has worked for nearly a decade in support of getting Miller his medal. An effort in Congress to get the statute of limitation lifted in Miller's case, with 133 cosponsors, including Maryland Representative Kweisi Mfume (D-7th) stalled in committee in 1988.

The Department of Defense authorized a study of African Americans in the military during both World Wars to determine the extent of racial discrimination. Ramsey says the study is continuing, but that it took a back burner during the recent Desert Storm conflict.

But Ramsey hasn't given up his quest.

"I'm still as vigilant now as before because I was determined that 1.) it would not be a political issue, 2.) it would not be an issue that was brought about and put forward by the (Congressional) Black Caucus, and 3.) I did not want an affirmative action Medal of Honor," say Ramsey.

Doris Miller was given his unusual name before he was born. His parents had two sons and were sure their third child was going to be a girl. When he was born, his mother refused to change his name.

Miller's friends in high school and in the service called him "Dorie." Ramsey says, "The Navy wanted to change his name after he became a Pearl Harbor hero, they wanted something more manly."

According to Ramsey, Miller's family never believed he was killed during the sinking of the Liscome Bay. Miller had told his family, while home on leave, that if the Japanese didn't kill him, a shipmate jealous of his heroics or an angry boxing opponent would.

Miller, at 6 feet 3 inches and 225 pounds, was the heavy-weight boxing champion on the USS West Virginia. His matches were often short and punishing to his opponents.

"As a biographer, I had to listen to the family," Ramsey explains from his office in Albany, NY during a recent exclusive AFRO interview. He has not been able to find any records that place Miller on the Liscome Bay in November of 1943. He plans to write the biography once he has completed his investigation.

Miller's last living relative, a younger brother who worked closely with Ramsey in his search, died in April 1990.

On Dec. 7, 1991, 50 years after Miller's heroism aboard the USS West Virginia, a celebration in his honor will be held in Waco, Texas. On Dec. 15, an exhibition assembled by Ramsey will open at Waco's Helen Taylor Museum. Plans for a television movie are reportedly under way, though the project has not begun filming.

Maryland has 250 living survivors of the attack on Pearl Harbor. "I know all our members and unfortunately we don't have an Afro-American in our group," says DiLorenzo. Although few African Americans were present at Pearl Harbor 50 years ago, Dorie Miller was.

MEDAL FOR WAR HERO

WASHINGTON.—The Navy Department announced Monday that President Roosevelt has awarded the Navy Cross to Dorie Miller, mess attendant, "for his distinguished devotion to duty, extraordinary courage and disregard for his own personal safety" during the Japanese attack on Pearl Harbor.

Miller, a native Texan, with no opportunity for technical training in the navy, nevertheless manned a machine gun during the attack on December 7 until his wounded commander ordered him to abandon the bridge of their stricken ship.

EYEWITNESS TO HISTORY

The flag-raising ceremony was underway aboard the battleship Nevada on the morning of December 7, 1941 when the band's rendition of the National Anthem was drowned out by the sound of approaching Japanese planes. As the planes attacked, Ensign Joseph K. Taussig, Jr., officer of the deck, watched incredulously as his color guard and band were strafed.

Recalling the event years later, Taussig maintains that the element of surprise was not the reason the U.S. Pacific Fleet was defeated that day. According to Taussig, "In 45 seconds I was up the six ladders of the mast to my battle station. Even before I reached it, our anti-aircraft batteries were already firing! Our men were both well-trained and ready!"

Why did the U.S. Navy take such a dreadful licking? According to Taussig, our battleships were not outfitted with their full complement of anti-aircraft guns.

"It's remarkable that our batteries shot down any planes that day," says Taussig. Many of the ship's gun tubs were empty, those weapons still Stateside, bathed in protective grease and packed in crates, awaiting shipment to the Pacific.

"Once properly armed, American battleships were invulnerable to air attack," says Taussig. "For the remainder of the war, none were sunk by enemy aircraft." The real damage at Pearl Harbor, Taussig points out, was not caused by Japanese bombers, but by torpedo planes.

What would have happened if the Fleet had been warned and had time to sortie out to sea?

"All of the ships would have been sunk," says Taussig. "Those not killed in the attack would have drowned. Pearl was only 40 feet deep and the ships drew 35 feet, so when they sank they just settled on the bottom."

While at this battle station, Taussig was hit by a Japanese missile, which passed through is left thigh. "My left foot was grotesquely under my left armpit," Taussig remembers.

Taussig lost the leg but survived the war. He married, obtained a law degree, ran for Congress, taught military law at Annapolis (his alma mater) and became secretary-treasurer of the U.S. Naval Institute at Annapolis. After a career in industry, he was appointed Deputy Assistant Secretary of the Navy for Civilian Personnel Policy/Equal employment Opportunity.

Despite the loss of his leg and the subsequent four years he spent in military hospitals, Taussig holds no bitterness toward the Japanese. While teaching at Annapolis, Taussig was able to meet Captain Mitsuo Fuchida, the pilot who led the Japanese attack on Pearl Harbor. The occasion was a visit paid by Fuchida several years ago to address the midshipmen.

"He was apprehensive that I wouldn't want to talk with him," Taussig recalls, "because of the severity of my wound. I told him we were both professional naval officers, doing our jobs at the time."

[From the Japan Digest, Dec. 10, 1991]

SALOMON AND NOMURA: SCANDALS OF A DIFFERENT COLOR

(By Chalmers Johnson)

The greatest mistake Americans could make in looking at the recent Salomon Brothers and Nomura financial scandals is to conclude that Japan and the U.S. have similar financial systems and similar problems of regulation. The Salomon affair was an episode of genuine corruption; the Nomura case was more one of a loyal samurai falling on his sword to protect his lord.

In the Salomon case, the U.S. government was suckered by private bond dealers who used inside knowledge and financial clout to manipulate U.S. Treasury auctions. In so doing, they threatened the integrity of the global financial system and the U.S. government, both of which depend on trust that the huge deficits run up by the U.S. government will be honestly financed.

Essence of Corruption: The cynicism and arrogance of the Salomon officials constituted the very essence of corruption, particularly when they were revealed to be smarter than the Treasury officials with whom they dealt. The beauty of their scheme was that while they enriched themselves they actually saved the Treasury money.

By contrast what happened in Japan was at most a course correction by the Ministry of Finance (MoF). Nomura, the world's largest securities house, is the protected agent of the Japanese government for international financial and investment policy. Nomura did nothing the government had not known about for years.

Policy Purposes: The scandal did reveal that MoF could not simultaneously be an official development agency and a good regulator. And it showed that Japan's markets are unregulated except to ensure the success of official policy. During the boom years of the late 1980s Nomura did some things—lent money to and rigged a market for an influential gangster, reimbursed the market losses of some big exporters and other investors—that MoF knew about but didn't stop until it served MoF's policy to do so.

Nomura's trouble had its roots in the Plaza Accord of 1985, when Americans pressured Japan to raise the value of the yen by more than 60%. The Americans believed that would solve their trade deficits with Japan by giving American products a price advantage. But price was never the main problem in penetrating Japan's closed markets.

Market Forces: Pursuing a misguided policy, the U.S. government did nothing to promote exports, leaving the revaluation to make itself felt through "market forces" alone. The Japanese by contrast, alarmed by their loss of price competitiveness, undertook a massive campaign of investment in new factories and technologies domestically and abroad that made Japan hyper-competitive.

MoF encouraged Japan's securities companies to finance that with trillions of yen raised at virtually no cost by inflating stock market and real estate values. But by 1989 the huge infusion of funds threatened a general inflation, and the government began to shut down the money machine.

One consequence of this was to leave Nomura and many lesser securities firms badly exposed: they had privately guaranteed that their big investors would suffer no losses in the stock markets. By exposing this so-called 'corruption,' MoF actually saved the company, by freeing it from its obligations to pay out huge rebates.

Bow of Contrition: In the process MoF had to shut up Nomura president Yoshihisa Tabuchi, who blurted that the rebates "took place with the approval of the Ministry of Finance." Tabuchi expressed contrition by bowing deeply, and some Nomura offices were closed for several weeks.

But no criminal charges were ever filed. This was not a corruption scandal but a virtuoso display of the Japanese developmental state in operation. Nomura remains Japan's champion in the international securities markets, and MoF has enlarged its jurisdiction by staffing a new and largely toothless agency to supervise the securities business. The lesson for Americans, as Japanese financial firms expand their activities in the United States, is that they will have to create an American government that can compete with the Japanese government in managing national economic strategies.

Chalmers Johnson teaches Japanese political economy in the Graduate School of International Relations at the University of California, San Diego.

THREE MYTHS ABOUT PEARL HARBOR

(Stanley Weintraub)

UNIVERSITY PARK, PA.—What didn't happen at Pearl Harbor?

What did not happen was a military catastrophe. Eighteen ships were indeed sunk, including eight battleships. At least 347 aircraft were destroyed or badly damaged. Nearly 4,000 men were killed or wounded. It looked very bad. Results even exceeded Japanese expectations.

Yet more than half the U.S. planes destroyed were obsolete, and battleships, the Navy's proud dinosaurs, played a minor role in the war. No aircraft carriers were lost at Pearl Harbor—none were there at the time of the attack. This was crucial.

Addicted to card-playing as well as verse-making, Adm. Isoroku Yamamoto, the planner of Pearl Harbor, wrote ruefully in a verse from his flagship in Hiroshima Bay.

What I have achieved
Is less than a grand slam. . . .

The U.S. and Britain possessed no secret foreknowledge of the attack. Allegations have long rested on the "Winds" message decoded in Washington on Nov. 28, in which Tokyo had warned its officials abroad that an alert would be concealed in a radioed weather forecast. "East wind rain" would mean an imminent "crisis" with the U.S. and "the cutting off of our diplomatic relations."

Such a message may never have been sent before the shooting started. No "East wind rain" message survives anywhere. Revisionists and conspiracy die-hards have labeled the ghostly message a "Winds execute," claiming it warned of war, and even identified Pearl Harbor as a target, but there is no hard documentary evidence to support these charges.

An American general who asserted that he had seen a "Winds" warning of Pearl Harbor also described an event that never happened there. In a memoir, Brig. Gen. Elliot Thorpe, the Lend-Lease representative in Java, recalled that the "next morning" after the Japanese had struck, a Maj. Gen. Van Oyen of the Dutch Air Force "came to my office and told me the first-hand story of the disaster in Hawaii."

"Van Oyen," Thorpe wrote, "and a group of Dutch pilots were flying a dozen PBY flying boats from the U.S. to the Indies and had arrived at Ford Island in Pearl Harbor early in the evening of Dec. 6. The attack the next morning destroyed about half of the Dutch planes ... Van Oyen took off with what was left ... and made [the rest of] the trip without meeting any hostile aircraft."

In an oral history taken from General Thorpe on his retirement, the number of imaginary planes rose to 50 and the casualties to 35. But no Dutch PBYs were there and none destroyed. And no plane at that time could have overflown enemy territory across the Pacific at a height and speed to get to Java at all. Distortions like this have long dogged the "Winds" story, which warned neither of war nor of Pearl Harbor.

Although President Franklin D. Roosevelt and his staff did not need to conceal Japanese movements to draw the U.S. into war, other accounts charge that the Pearl Harbor strike force was traced but the information suppressed. Yet messages to the Japanese fleet from Tokyo were deciphered only after the attack, and the enemy fleet maintained absolute radio silence as it sailed. Meanwhile, radio signal noise from home ports deliberately confused American intelligence gathering.

All conspiracy theories related to Pearl Harbor lack credibility. As Edward R. Murrow said later, having been backstairs at a chaotic White House on the evening of Dec. 7, the leadership from the top down was shocked. Consummate actors, Murrow thought, could not have shammed surprise on that scale.

Besides, even the most Machiavellian conspiracy scenario would not have required a calamity. A raid repelled at great loss to the other side would have done just as much to push a reluctant U.S. into war.

Machiavellian designs have also been attributed to Winston Churchill, who was accused of learning of an impending attack from JN-25, the Japanese naval code the British had cracked, and then withholding the data from the U.S. The Murrow rule applies here as well. The evidence is persuasive that Churchill and his top planners were genuinely surprised, some of them had no idea where Pearl Harbor was.

Pearl Harbor did not push Germany into war with the U.S. Having resisted F.D.R's provocations in the Atlantic for months, Hitler greeted Pearl Harbor with glee. Yet the attack was only the final precipitant—Hitler had already concluded that a war with the U.S. was necessary sooner rather than later.

Paradoxically, Hitler's decision to declare war on the U.S. grew out of a secret Army study of American military unreadiness that isolationists had leaked to The Chicago Tribune. On Dec. 4, the Anglophobic paper featured the story on its front page. It reported that the U.S. was preparing contingency plans to counter Hitler before Japan. The report conceded that the U.S. would likely have to reclaim Europe alone and that it would need a 10 million-man Army to begin the job by July 1943. (The projection's pessimism turned out to be over-optimistic by a year.) While the article hardly mentioned Japan, it convinced Hitler to declare war while America was confessedly weak.

Ironically, then, the isolationists, whose case had been wrecked by the Japanese attack, impelled Hitler into doing what Congress might have otherwise done. Shocked by what Hitler had wrought, his planning chief Gen. Walker Warlimont, confided to Gen. Alfred Jodl, "So far we have never considered a war against the United States and have no data on which to base [it]."

Back in Oahu, what finally didn't happen was the golf game that Adm. Husband E. Kimmel and Gen. Walter C. Short, both of whom had received war warnings from Washington on Nov. 27, had scheduled for Sunday morning at 8. Unexpected visitors from out of town had dropped in at 7:53.

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SENATE—*Wednesday, November 27, 1991*

(Legislative day of Saturday, November 23, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *for there is no power but of God: the powers that be are ordained of God* * * * *For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same: For he is the minister of God to thee for good* * * *—(Romans 13:1,3,4).

Almighty God, Lord of history, Ruler of the nations, as the Senators return to their home States, may they be reminded of their divine appointment, their accountability to God and their responsibility to lead the people as well as represent them. Give the Senators the wisdom and courage to tell the people what they need to hear, not simply what they want to hear. Give them the ability to communicate to their constituents their responsibility as a sovereign people to be involved in our political system, not just critics of it. To the extent that cynicism and criticism are based upon the Senators' failures, help them say that which will restore the confidence of the people. When the cynicism and criticism are based upon misinformation, help the Senators set matters straight.

Guide us in Your wisdom, O Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 27, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, the House this morning completed action on the supplemental appropriations conference report. It is my intention that the Senate will take that up shortly and I hope enact it shortly.

The House also during the night completed action on the surface transportation bill, and it is my hope and intention that the Senate proceed to that bill this morning.

The House is now acting or has just acted on the crime bill. It will also be taking up RTC legislation, banking legislation, and we hope the Medicaid moratorium legislation. It is my hope that, as the House acts on these measures, they will be coming before the Senate for consideration and action during the day.

HONORING AMBASSADOR JOSEPH REED

Mr. WARNER. Mr. President, I rise today to add my commendation to the many being expressed on behalf of Ambassador Joseph Reed. A most distinguished public servant and diplomat, the Ambassador performed many critical assignments for our Nation. Ambassador Reed recently completed his tour as the Chief of Protocol of the White House.

On the 15th of October 1991, his Excellency Jacques Andreani, the French Ambassador to the United States, presented Ambassador Reed with the Legion D'Honneur in the Rank of Officer from the French Republic.

NOTICE

An interim December issue of the Congressional Record for the 102d Congress, first session, will be printed after the November 27, 1991, adjournment. Members may submit manuscript for printing to the Official Reporters of Debates not later than December 18, 1991. The interim issue will be dated December 18, 1991, and delivered on December 19.

None of the material printed in the Congressional Record during the recess may contain subject matter, or relate to any event, which occurred after the date the Congress officially adjourned.

No provision herein shall be construed to supersede the two-page rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday between the hours of 10 a.m. and 3 p.m.

Members of Congress desiring to purchase reprints of materials printed in the Congressional Record during the adjournment may do so through the Congressional Printing Management Division, located at the Government Printing Office. This office may be reached by telephoning 512-0224 between the hours of 8 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

CHARLIE ROSE, *Chairman.*

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I would like to take this opportunity to honor Ambassador Reed by inserting into the CONGRESSIONAL RECORD the remarks given by His Excellency Jacques Andreani and Ambassador Reed at the ceremony.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY JACQUES ANDREANI, FRENCH AMBASSADOR TO THE UNITED STATES

It has always been a wonderful pleasure to be invited by Joseph Reed, but it is a real thrill to play host to him in these circumstances.

I am also deeply honored by the exceptional quality of the distinguished persons who came here tonight, because of Joseph, because he felt it would be good to have them with him today, and they came because they were his friends. It is as simple as that.

I hasten to add that I did not ask Joseph to invite all his friends to our party. This Embassy would have not been large enough. What we have here today is what Joseph likes to call "his very special friends". And it is indeed quite something to be among Ambassador Reed's very special friends.

These special friends, whom we are so glad to welcome here this evening, come from all walks of life: diplomacy, of course, business, law, the Congress, the press, the administration. This variety recalls to the mind the multiform professional and human experience of Ambassador Reed. He was assistant to the Chairman of the International Bank for Reconstruction and Development. Then he went over from the international financial institutions to the world of Finance proper, becoming Vice-President and assistant to the Chairman of the Chase-Manhattan Bank, David Rockefeller.

At this point it happened, the last event which was no doubt written in the great Book of Destiny: the encounter of Joseph Reed with Diplomacy, for who would not say that this very talented man, who was no doubt gifted for many various activities, was particularly gifted for the profession of Diplomat, which is not so much a Profession, as an Art? And who can say how much Diplomacy, and I am thinking of course not only of United States Diplomacy, but of Diplomacy at large, would have lost, if Joseph had not entered its ranks?

It is as Ambassador to Morocco that Mr. Reed became a diplomat, and he has retained from that assignment a love for this country which is still vivid today and which was very apparent when quite recently he organized the official visit of His Majesty King Hassan II in the United States. After his Moroccan years, Joseph Reed was selected to be permanent representative of the United States to the Economic and Social Council of the United Nations, a return to the sphere of the International Organizations which was going to be confirmed with his appointment as Under Secretary General of the U.N. for Political and General Assembly Affairs.

Finally, at the beginning of 1989, President George Bush appointed Ambassador Reed as Chief of Protocol, a high and difficult responsibility which he has exerted both efficiently and brilliantly.

In expressing my admiration and my gratitude for the performance of Joseph Reed as Head of Protocol, I speak for myself, most sincerely, but I speak also in the name of the numerous diplomats residing in the United States, and who have so widely benefited from his intelligent attention and his careful help.

I have just said that Diplomacy was an Art. It is true for all the specialized branches of our varied and exciting trade, but it is certainly particularly true concerning the Protocol.

The good Chief of Protocol must have very special gifts among which a perfect education and an exquisite politeness, but also a strong sense of organization, a firmness of steel, and a great reserve of cold blood, in case something threatens to go wrong, as it may always happen. But the truly trained Diplomats are aware of the fact that the Head of Protocol, who is, as the Captain of the ship, completely alone at the hour of the greatest peril, that is when the official visit, or the ceremony, has started, has no chance to come out with honor in the presence of his eternal enemy, that is the unexpected, if he is not endowed, not only with education, and politeness, and organization, and firmness and cold blood, but also with those qualities that the colleagues who do the political work boast for themselves, but would not always recognize in a Chief of Protocol, that is a complete understanding of political situations. Because finally, if you try to go just a little bit beneath the surface, what lies under such apparently futile things as the list of guests, and the sitting arrangements, and the gifts and the rest, is the political interests and the political disagreements.

But with Joseph things never go wrong. And the great Artist passed all the most difficult tests of diplomatic skills with flying colors. He also took the time and the trouble to give his attention, not only to the High and Mighty, our masters, but also to the most humble of their servants, that is to the most modest of diplomats—if ever these two words can go together. He had a way of catering to the needs of the diplomatic Corps which was quite exceptional. He really gave a collective life to the Diplomatic Community in a country in which the tendency had been traditionally that every one was a little bit for himself. What the Chief of Protocol achieved in this field was of great benefit, in particular, for the smaller Embassies, which had suffered most from the lack of general encounters. I understand that Ambassador Reed, noting that there were 220,000 foreign diplomats on the soil of the United States, compared his responsibilities to those of the Mayor of a fairly sized town. Would it be an exageration to suggest that he was in some way a father to these 220,000 children?

I seem to have been always receiving one thing or other from Joseph. One day, a nice invitation to Blair House or to a special preview of an exhibition or a show. The next day, a very nice letter, drafted in such a way that, while it seemed pretty obvious that the same letter exactly has been sent to 148 other Heads of Mission, there was still something there that made you believe that the author of the letter has been thinking particularly about you, and, mind you, after all, it was probably true. Another time, a photograph taken at the White House or elsewhere, and, there again although it could be fairly routine, you had always a sense that it was a friend caring about you in a particular way. Then, when it was neither invitation, nor friendly note, nor photo, it was a wonderful small jar of delicious Joseph's jelly.

Finally, all that being said, you reach the conclusion that Ambassador Reed must have a secret. What is Ambassador Reed's secret? It has something to do with class, but it is more than class. I believe it has something to do with the warmth of a personality: you feel well in life, and there is an excess of this joy, of this warmth, that overflow and that you want to share with your fellow human beings.

The Legion of Honor, which I shall bestow in a minute upon Ambassador Reed, was created by Napoleon Bonaparte to signal the merits of the warriors on the battlefield, but more generally high merit in all spheres. I am then tempted to list for you all the glorious places in which he illustrated himself. Fortunately, these are not battlefields, but quite in contrast, places of peaceful encounters: Kennebunkport, Paris, Saint Martin, Key Largo, Houston, la Guadeloupe, London, and I am certainly omitting one or two. It is the list of the meetings between our two Presidents, and, in all these places, Joseph Reed was the discreet and efficient stage-manager. A stage-manager who obtained the unequivocal admiration of the leading actors, and in particular of President Mitterrand. Because of this, and in recognition of his great qualities and outstanding accomplishments, President François Mitterrand decided to make him an Officier de la Légion d'Honneur.

SPEECH BY AMBASSADOR JOSEPH VERNER REED

Ambassador Andreani, Dean of the Diplomatic Corps, Excellencies, Colleagues, family and friends, this is a great honor!

To have the curtain come down on my tour as the Chief of Protocol of the White House with this bestowal by the French Republic of the Legion D'Honneur is thrilling and at the same time humbling.

I thank you Ambassador Andreani and I extend special thanks to President François Mitterrand for this extraordinary gesture—an elegant gesture which has touched my heart and soul.

Friends and colleagues,

For me, this evening, with its raison D'Etre being the awarding to me of the French Republic's Decoration, is in a real sense "a Bientot" but, friends, I hope it will not be "Au Revoir". I treasure you who have come from near and far. Thank you for your support and thank you for your encouragement. Thank you for your friendship. You will get the "big hello" in the Big Apple, the city of my birth, where, thanks to my friend President Bush I will be returning to the Parliament of man. I trust our paths will continue to cross . . . I hope so and I count on it.

My relationship to France, La Belle France, is lifelong—J'Adore La France! Yes! I am a Francophile. My father was born in Nice on the Riveria at the turn of the century, my grandfather had a chateau on the River Cher in the "Garden of France"—"The Valley of Kings". My wife Mimi's mother hailed from the Ile-De-France and my parents maintained a residence on a little square by the Bois De Boulogne. Paris—the city of light . . . A city that was and is a feast—culture, cuisine, sights and sounds; all the immortal attractions, Paris, like all of France epitomizes elegance, modernity, freedom, sophistication and humor.

During President Bush's Presidency a special relationship with President Mitterrand developed . . . A welcome turn in that France has a truly global presence. The tricolor flies from the Atlantic to the Pacific and the Indian Oceans; her presence is very real throughout Africa and in our hemisphere, France is in the Caribbean and the French language is in the air in our neighbor to the North. La Gloire De La France . . . I respect this concept as a marvel. It's not a boast, it's a statement of fact.

President Bush and President Mitterrand have met 9 times for official exchanges. I have been privileged with my colleague and friend Ambassador Andre Gadaud, Chief of Protocol of France, to help work on the logistics and the "setting of the acene" for these meetings of diplomacy. There have been more bilaterals between President Bush and President Mitterrand than President Bush has had with any other Chief of State. From the first trip overseas of President Bush to Tokyo for the funeral of the late Emperor Hirohito—to meetings in Kennebunkport, Saint Martin, Paris, Key Largo, London, Rambouillet, Houston . . . A patchwork of places.

With these meetings, the special relationship developed not only between the Presidents but extended as well to the official delegations and accompanying parties . . . a working atmosphere of "extended family" collegiality!

Our delegations have met bilaterally and in the multilateral forum during three economic summits. There was the celebration of the bicentennial of the French Revolution in 1989 with America's own Jessie Norman blazing forth the "La Marseillaise" on the Place De La Concorde. Then there was President Mitterrand's banquet at Versailles in the Hall of Mirrors, when 578 mirrors appeared to catch fire in the candlelight that celebrated the signing of the Treaty of Paris—all were highlights! They were orchestrated and executed with precision and panache by President Mitterrand, my counterpart Ambassador Andre Gadaud, and the dedicated teams of the Elysee Palace and the Quai D'Orsay.

The United States of America owes its independence to France. General Lafayette and his compatriots contributed enormously, indeed essentially, towards our Nation's struggle for freedom. America and France are allies and close friends; blood is comingled to seal our relations . . . in this century there was Verdun during the Great War to "D-Day" on the beaches at Normandy in World War II to our co-operation in the gulf with Desert Storm. On occasion, we may, like brothers quarrel, but every time there is a matter of value France and the United States of America are on the same side of the barricades.

As a Francophile, may I transport you on a flight to pleasure and treasure . . . to France . . . a country of visual riches of two millenia of art and architecture, the acent of the world's great perfumes, the majestic music of grand opera: four seacoasts, the alps; a land and a people of endless variety. France is a land of abundance in every sense: a feast for the senses.

My love and respect for La Belle France knows no bounds—not only do I treasure my destinations in the fabled land, but I love the Joie De Vivre of Les Francais as a way of life.

So . . . my friends, as you can tell from this ode of admiration to La Belle France, I am doubly moved to receive this noble order of the Legion D'Honneur created by the Emperor of France Napoleon I in 1802.

Again, my special thanks to you, Ambassador Andreani, for acting on behalf of President François Mitterrand. This reception in this dignified Ambassade De France in Kalorama created by you and Madame Andreani is splendid and once again a demonstration of the symbol of France's sense of elegance.

It is an honor, yes a privilege, to rally the call for the spirit of friendship and the ongoing fruitful relationship between the French Republic and the United States of America.

Vive L'Amitie entre La France et les Etats Unis! Vive L'Amerique! Vive La France!

AMERICA'S WELFARE QUEEN FLEET

Mr. GRASSLEY. Mr. President, I would like to share with my colleagues an article entitled, "America's Welfare Queen Fleet, the Need for Maritime Policy Reform." This article was written by Rob Quartel, a Commissioner at the Federal Maritime Commission and was included in the recent publication of Regulation, "The CATO Review of Business and Government."

The title speaks volumes. Our Nation's maritime policies and programs, notwithstanding their good intentions, have transformed our once mighty, proud U.S.-flag commerical merchant marine into a pitiful, helpless ward of the State * * * not just dependent upon welfare from American taxpayers and consumers * * * but actually addicted to its drugs—the next taxpayer fix, or protectionist shipment of goods.

Our U.S.-flag merchant marine can no longer fend for itself in the real world. It cannot compete. Even if all the unfair foreign subsidies and policies were eliminated, the U.S.-flag merchant marine could not compete. This is why America's maritime unions and shipowners, and their allies in Congress, worked so hard to lobby the Bush administration to keep any discussion of maritime policies off the GATT table.

Unfortunately, our administration agreed to this nonsense. And now that the Nordic countries want to put shipping restrictions on the GATT table, an administration which advocates free trade embarrasses itself by leading the opposition to the Nordic proposal.

Why can't the U.S.-flag fleet compete? There are many reasons, which Commissioner Quartel points out. But a very large part of the reason is that U.S. union crews cost way too much.

The former commander of the Military Sealift Command, Vice Admiral Corroll, hit the nail on the head nearly 10 years ago when he testified, and I quote, "Why are we in such a mess? *** One of the reasons is that U.S. crew costs continue to be the highest in the world. Monthly crew costs of U.S.-flag ships are as much as three times higher than those of countries with comparable standards of living, such as Norway:"

Commissioner Quartel delineates other programs and policies which have contributed to the decline of America's merchant marine. This includes policies such as the Jones Act and cargo preference which in essence serve as entitlement programs allowing U.S.-flags to charge Uncle Sam and American business and consumers basically what they wish. Shipyard policies, antitrust exemptions, direct subsidies, manpower requirements, and conflicting national defense requirements all contribute to the demise of our merchant marine. Commissioner Quartel also outlines reforms that must be implemented if we hope to revive the U.S.-flag fleet.

Mr. President, I hope my colleagues will take a moment to read Commissioner Quartel's article in its entirety which I am asking unanimous consent to be included in the RECORD.

But I would like also share a few quotes from the Commissioner as follows:

> Only the S&L debacle respresents a bigger government—industry—special interest scam than that which today passes for a national merchant marine policy.
>
> By the end of the Gulf War, America's subsidized merchant fleet had directly contributed only six aging ships to the armadao of more than 460 that transported military materials into Saudi ports. Some eight U.S. merchant marine ships carried hundreds of thousands of tons of military goods to the vicinity of the war zone—Singapore, the United Arab Emirates, and Haifa. But many relied on foreign-flag feeders with their foreign crews to complete the runs to Saudi Arabia and thus exposed the bankruptcy of the man-American argument that underpins much of U.S. maritime policy.
>
> In short, the success of the military sealift—a brilliant feat of logistics—occurred DESPITE (rather than because of) 75 years of government subsidies, protectionism, regulation, and entry and management controls promoted as necessary for maintaining this so-called fourth arm of the nation's defense.

Commissioner Quartel continues by stating that—

> U.S. maritime policies should be based on more than emotion and the narrow parochial interest of drying labor unions, debilitated companies, and congressional PAC contributions. The needs of ocean transportation users (not just the needs of the carriers), real national security requirements (not empty rhetoric), and a realistic appraisal of the tough federal budget limits that will exist into the foreseeable future should drive decisionmaking.

Mr. President, those are tough words, but we have a tough problem. Sticking our head in the sand, allowing business as usual, seeking more drugs for the addiction, such as the recent efforts to siphon off the lifeblood of other programs such as food assistance to the Soviet Union or expanding cargo preference into the commercial trade arena through the foreign aid authorization bill, will do nothing to save our merchant marine.

I would also like to share with my colleagues an article printed in today's Wall Street Journal written by James Bovard. He, too, pulls no punches, and I would like to read some of his quotes as well.

Mr. Bovard states that:

> Since Congress has given U.S.-flag ships a captive market, congressmen feel entitled to force American shippers to hire American workers, and strong unions guarantee exorbitant salaries. U.S. ship crews cost six times more than Third World crews; American shipmasters routinely cost shipping companies $300,000 a year. The high pay breeds corruption: An FBI sting operation recently discovered that shipping jobs are illegally being sold by one maritime union.

Mr. Bovard continues:

> The Jones Act engenders a chain reaction of extortion—allowing American shipyards to charge stratospheric prices to American shipbuyers, allowing American-flag ships to charge shakedown shipping rates to American businesses, and allowing American congressmen to demand lavish campaign contributions from the American maritime industry (more than $1 million a year).

Mr. President, our Nation's maritime policies and programs have been justified on the basis of two objectives—to enhance America's foreign commerce and to maintain fleets of vessels and crews necessary for military sealift needs.

These policies and programs have failed miserably in meeting either of these objectives and therefore should be abolished and replaced. Everyone knows this is true. The facts don't lie. Simply look at the fruits of our maritime policies during the last 40 years.

At the end of World War II, America had the largest fleet—over 2,000 vessels. By 1950, our U.S.-flag fleet consisted of 1,050 vessels. Today, there are only about 360 vessels, and fewer than 100 remain in the oceangoing fleet.

In 1950, we had 56,629 seafaring jobs sailing under U.S.-flags. Today, we have fewer than 10,000.

In 1950, U.S.-flag vessels carried 43 percent of America's foreign trade. Today, U.S.-flags carry less than 4 percent of our foreign commerce.

Has America's foreign commerce depended upon the policies and programs supporting our U.S.-flag merchant marine? Obviously not. And in fact, our foreign commerce has thrived in spite of our wasteful merchant marine policies. From 1950 to 1985, our foreign trade skyrocketed from 117 million metric tons to 641 million metric tons.

So it is clear our merchant marine policies can no longer be defended and justified based upon our foreign trade interests. And, in fact, maritime policies such as the Jones Act which artificially increases the cost of waterborne transportation, actually makes our foreign trade less competitive.

So this leaves our U.S.-flag merchant marine programs and policies dangling precariously on the national defense justification * * * a justification which was exposed as a complete failure * * * a complete myth * * * by our recent Persian Gulf war.

That is one reason I think we now see 2 weeks ago, Warren Leback, the U.S. Maritime Administrator arguing that we must now shift back to the economic argument. It was reported in the Journal of Commerce on November 14, 1991, that Mr. Leback said that "Maritime support advocates must take their military argument and 'turn it toward the economic defense of our country.'" Mr. Leback goes on to complain about free traders who would repeal the Jones act and other maritime subsidies pointing out that there is no level playing field when it comes to global shipping because other nations support their maritime industries.

But what Mr. Leback did not mention, is the fact that it is the United States, at the strong, vocal insistence of U.S. maritime unions and companies, refuses to attack these so-called unfair foreign subsidies and policies at the GATT table.

You cannot have it both ways, although granted, the U.S. Maritime industry has enjoyed having it both ways in the past. I think the party is about over, however.

Mr. President, what are we getting for our money? One of the most overused defense arguments is that we must maintain a commercial seafaring force able to man our vessels during time of war. I say that's nonsense. I say we either devote a certain number of Navy personnel, or create a reserve, to handle cargo sealift needs. It could be done at a fraction of the cost.

What does it cost us to maintain those 10,000 seafaring jobs now working under the U.S.-flag?

Last year, I shared with my colleagues data from the Maritime Administration which breaks down these jobs into three categories based upon the maritime program which supports them. MARAD officials said that 2,024 seafaring jobs were supported by cargo preference; 2,333 seafaring jobs were supported by operating differential subsidies, and the remaining 5,000 seafaring jobs were supported by the Jones Act.

The Congressional Budget Office had also determined for Senator DOMENICI and I that cargo preference cost American taxpayers $825 million in fiscal year 1991, and operating differential subsidies cost $225 million.

Cargo preference, therefore, forces American taxpayers to spend over $400,000 per job for our high-priced commercial seafarers.

Operating differential subsidies force American taxpayers to spend about $120,000 per job, according to Commissioner Quartel.

So what do those 5,000 jobs supported by the Jones Act cost Americans. I did not know last year, but recently the U.S. International Trade Commission released a study which showed that the Jones Act is costing American consumers and businesses over $10 billion per year. Commissioner Quartel estimates that this figure could be as high as $20 billion.

Using the ITC's figures, that translates into $2 million per year. Using Commissioner Quartel's estimates, it costs $4 million per job.

But for U.S.-flag maritime supporters, price is no object. Americans, however, concerned about deficit spending are concerned.

And Americans concerned about revitalizing the economy certainly care about a $10 billion drag on the economy that destroys 2,000 jobs in agriculture, forestry, mining, and other industries.

It is something to think about during the recess. It will be something to act upon when we return for the second session of the 102d Congress.

Mr. President, one last note about the military need to spend up to $4 million per year to maintain one seafaring job for that day in the future when we need to man cargo vessels for a military sealift operation.

Here is some food for thought. Military Sealift Command officials told my office that at the outbreak of the Persian Gulf war effort, the union contracts for our seafarers contained no provision for war zone bonuses. So these high-priced union seafarers which have been living high off the hog thanks to Uncle Sam all these years, rushed to add war zone bonuses requiring that they get double pay while in the war zone.

Therefore, as an example, if captain of a commercial U.S.-flag vessel makes $14,000 per month, and served a month in the war zone, he would have received a war zone bonus of $14,000.

If a U.S.-flag commercial captain got $14,000 in a war bonus, what did a Navy captain get? $150.

I have said it earlier this year, I don't question the patriotism of our U.S.-flag merchant marine.

I just don't know, however, if we can afford this kind of patriotism.

GATT AGREEMENT

Mr. GRASSLEY. Mr. President, over the last couple of weeks, the press has begun to report significant movement toward a GATT agreement in all areas after President Bush's personal intervention. No one can doubt the stimulating effect a fair agreement will have on the world economy and I hope our dreams will not be dashed again by intransigence on behalf of the European Community. Word coming out of Geneva to me as early as this past Monday, from a person whose judgment I value, indicates that there is still considerable turmoil and uncertainty to the outcome and ultimate success of these discussions.

At the beginning of last week, most participants were feeling optimistic that a breakthrough in agriculture had been achieved, but by Wednesday pessimism was creeping back in. I also noted with interest a statement made by the French Agriculture Minister, Louis Mermaz in the November 19 edition of the French paper, Tribune De L'Expansion:

Referring to his recent talks with his American counterpart, Ed Madigan, the French Minister said, "While our paths are open, I don't see any agreement on anything."

Referring to a continuing disagreement with Washington on rebalancing, which the French want in the cereals sector. The French Minister stated, "Everything remains to be negotiated" and "no agreement is better than capitulation."

Mr. President, I can tell you that the statements made by the French Agriculture Minister concern me greatly. I can also tell you that commodity and agribusiness groups are concerned that the administration will become so enamored with an agreement in services and intellectual properties that it may be inclined to forsake agriculture. And based on what I have seen and heard discussed in our media, I remain skeptical of how far the EC has moved in relation to the U.S. position. To a degree, my discomfort revolves around the emphasis of the stories in the Popular Press; "Breakthrough in AG tied to movement in services and intellectual property." That is agriculture, rather than being the linchpin to a successful round, is becoming a secondary factor, a throwaway concession to enable larger agreement to be reached.

I have been telling farmers that it is difficult to conceive of an agreement being reached in other areas that would be so beneficial to this country's other sectors that it would outweigh a bad agreement in agriculture. I still stand by that assessment, although it may become necessary to remind the administration of our commitment to success in the AG sector and our willingness to vote against any agreement which does not allow for U.S. farmers to exploit their international competitive advantage.

It is my understanding that Director General Dunkel has asked for a revised draft of all sectors by December 20. One can only conclude that the pace of negotiations has slowed for all sectors. That being the case, will the negotiations spill over into next year or die a natural death next month? Whatever the outcome Mr. President, let me state that I concur with the French Agriculture Minister's statement of the 19th in which he says "No agreement is better than capitulation." I would also note with approval, and hope that the French Agricultural Minister Mermaz is aware of a letter sent to President Bush by Senators BENTSEN and PACKWOOD in which they have clearly articulated the position of many of us in this body, that, "No agreement is better than a bad agreement" for the United States of America.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today is the 2,447th day that Terry Anderson has been held captive in Lebanon.

TECHNICAL CORRECTIONS TO THE 1990 FARM BILL

Mr. DURENBERGER. Mr. President, for over 85 years, the Federal Meat Inspection Act [FMIA] has stood as a shield to protect the public health. The U.S. Department of Agriculture [USDA] requires that an inspector go into every plant processing meat products, such as pizza, everyday to guarantee only the highest standards of safety and sanitation are met.

In the technical corrections bill there is an amendment to the FMIA, which would mandate the Secretary of Agriculture to exempt certain pizzas from the public health inspections performed by the U.S. Department of Agriculture, if certain terms and conditions are met. There was a similar provision in the legislation which was earlier approved by both the House and the Senate. That legislation would have granted the Secretary the authority to exempt products, such as pizza, but only if the Secretary, following rulemaking, found such an exemption would be consistent with public health.

No rulemaking or hearing has been held since the earlier legislation was approved by the House and Senate. Nor has a scientific panel reviewed the public health implications of granting an exemption to pizza. Nevertheless, a decision has been handed down. The current provision now grants an exemption from inspection for pizza as a matter of law. To put this exemption into effect, the Secretary is required to establish terms and conditions as may be necessary to be certain of food safety. I am concerned about this provision.

However, because the exemption of pizza only takes effect upon the issuance of regulations that take into account public health safety, including the sanitary requirements imposed on custom operations, the public health may be protected. It is clear that if regulations specifying terms and conditions that guarantee protection of public health cannot be promulgated, the exemption will not go into effect.

I support final approval of the technical corrections bill. However, I will closely monitor the Departmental rulemaking on this important issue to public health.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. LEAHY. Mr. President, late last night, the Senate approved the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, H.R. 3029. As there was no report to accompany the legislation, I would like to set forth the intent underlying one section of the bill to you at this time.

Section 118(d) of the legislation amends section 326 of the Food and Agriculture Act of 1962. The provisions of this section are intended to cover circumstances where producers have relied in good faith on incorrect determinations rendered by local government officials. It is limited in scope. This section is not intended to allow the Secretary to hold harmless producers or local government officials in instances where determinations were made and relied upon although those determinations were obviously inconsistent with existing rules and regulations. Otherwise, the Secretary could exempt an entire pattern of illegal conduct carried out at the local level on the basis that the individual farmer relied on the bad advice of a local government official, which advice was obviously incorrect to both the official and the farmer.

VETERANS' COMMITTEE ACCOMPLISHMENTS

Mr. SPECTER. Mr. President, as a member of the Veterans Affairs Committee since I began serving in this body, and as a veteran myself, I understand the need for our Nation never to forget the debt it owes those who have worn the uniform.

I want to address for a few moments the activities of our committee during my first year as ranking Republican member.

As I prepared these remarks, I took the time to analyze veterans' legislation in terms of measures which actually became law—not simply introduced or reported out of the committee—since I began my service both in the Senate and on the committee in 1981 in the 97th Congress. I discovered, Mr. President, a rather startling fact: In this single session, we have had more veterans' bills signed into law than in any 2-year Congress since I have had the privilege to serve as a Senator. Indeed, in this first session of the 102d Congress, we have had nearly as many substantive bills become law as in the 100th and 101st Congresses combined. I have prepared a chart demonstrating this fact, and ask unanimous consent that it be inserted in the RECORD at this point in my remarks:

Congress	(I) Bills in committee jurisdiction signed into law	(II) Resolutions and bills limited to naming VA medical facilities	(I less II) Substantive bills signed into law
102d[1]	13	1	12
101st	7	3	4
100th	9	0	9
99th	6	0	6
98th	8	2	6
97th	7	0	

[1] First session only, through November 24, 1991.

That is a record in which we can take considerable pride. And I believe the proudest must be those of us fortunate enough to serve on the Committee on Veterans' Affairs.

I would like to spend some time discussing these new laws with my colleagues.

1991 COLA

Mr. President, my first priority this year as ranking Republican member was to ensure passage of the cost-of-

living allowance for service-connected disability compensation and for dependency and indemnity compensation. There can be no more important class of citizens than those who have suffered disabilities or lost a spouse due to service. I felt a real sense of satisfaction when the Senate passed, and the President signed Public Law 102–3, the Veterans' Compensation Amendments of 1991, the bill which gave these most deserving beneficiaries a 5.4-percent increase.

AGENT ORANGE

Another priority for me was attempting to settle the questions surrounding the exposure of American troops in Vietnam to the herbicide known as agent orange. We worked long and hard to fashion a compromise which would take into account the widely varying views on this sometimes divisive issue. We did in fact pass that compromise, and I was pleased to represent my colleagues and my constituents at the White House on February 6 as President Bush signed Public Law 102–4, the Agent Orange Act of 1991.

TWO SPECIAL READJUSTMENT LAWS FOR PERSIAN GULF WAR VETERANS

As my colleagues know, I voted in January to support the President in his approach to the crisis in the Persian Gulf. On January 17, as the first air strikes began in Iraq, we knew that special legislation would be required to ensure that the veterans of Operation Desert Storm would receive all the benefits owed them by a grateful nation. We worked very hard on the Veterans' Committee to do just that, resulting in two important laws. On March 18, 1991, the President signed Public Law 102–12, the Soldiers' and Sailors' Civil Relief Act Amendments of 1991, which clarified reemployment rights for veterans and improved their rights in reinstatement of health insurance. On March 22, 1991, he signed Public Law 102–16, which will provide gulf war veterans with important education, employment and training benefits to ease their return to civilian life.

VA PHYSICIAN AND DENTIST PAY

No veterans' issue has higher priority with me than that of health care. It is critical that VA provide the best possible care, particularly to those who have been disabled in service. That was the key reason I fully supported the Public Law 102–40, the Department of Veterans Affairs Physicians' and Dentists' Compensation and Labor Relations Act of 1991, which the President signed on May 7, 1991. This bill, by increasing pay for physicians and dentists in the VA health-care system, will help attract and retain the kind of quality professionals our veterans deserve.

VETERANS' HOUSING

On June 13, the President signed what became Public Law 102–54, a measure which improves VA's housing programs, both for those who can afford it and those who cannot. In addition to making several worthwhile changes in VA's Loan Guaranty Program, the law also provides three important benefits for veterans struggling to regain their status as fully functioning members of society. First, in one of its most important provisions, the bill authorizes the Secretary to carry out a 3-year demonstration project of therapeutic transitional housing for veterans working under VA's compensated work therapy [CWT] and/or incentive work programs, involving up to 50 residences. Second, the Public Law 102–54 authorizes loans of up to $4,500 to nonprofit organizations to establish transitional therapeutic housing for veterans recovering from substance abuse disabilities. Finally, this new law extends, for 3 years, VA's authority to sell acquired properties for use as shelters primarily for homeless veterans and their families. These are all important provisions, Mr. President, which will help some of our neediest veterans to reenter the mainstream of society.

COURT OF VETERANS APPEALS

On August 6, the President signed H.R. 153—now Public Law 102–82—the Veterans' Judicial Review Amendments of 1991, which makes several important administrative and technical improvements in the operation of the U.S. Court of Veterans Appeals. As you know, Mr. President, the Court of Veterans Appeals is a Federal court created by Congress in 1988 with exclusive jurisdiction to review appeals of claims for veterans' benefits which have been denied by the Board of Veterans Appeals, an administrative tribunal within the Department of Veterans Affairs. As one who consistently championed external review of VA's benefits decisions, I think it is vitally important that we on the Veterans' Committee pay close attention to this important court. I was pleased we were able to act so quickly this Congress.

TECHNICAL REORGANIZATION OF VETERANS' LAWS

On August 6, the President also signed into law H.R. 2525—now Public Law 102–83—the Department of Veterans Affairs Codification Act, which provides technical changes in a variety of statutes, primarily title 38 of the United States Code, required by VA's elevation to Cabinet status. This technical effort was a major undertaking by the committee, Mr. President, in progress for more than a year. Its effect, I believe, will be to ease the interpretation of veterans' laws, and permit both the Congress and VA to serve veterans better.

COMPENSATION PROGRAMS IMPROVEMENT

President Bush signed Public Law 102–86, the "Veterans' Compensation Programs Improvement Act of 1991," on August 14. This important bill contains 21 provisions affecting the compensation and pension programs; life insurance programs; VA health care; and real property and facilities. These are provisions which will increase both fairness to individual veterans and the ability of VA to do its job. For example, the law prohibits VA from changing a veterans' disability rating based on an administrative change in its rating schedule unless an improvement in the veteran's disability is shown to have occurred. The new law also extends VA's contract authority for alcohol or drug-abuse treatment at community-based treatment facilities, and authorizes the Secretary to carry out a demonstration program of compensated work therapy and therapeutic transitional housing. The committee was able, in this bill, to ease somewhat the burden on surviving spouses otherwise entitled to DIC whose remarriages had ended, and to provide insurance coverage to the National Academy of Sciences to ensure that the agent orange review called for in Public Law 102–4 would in fact be performed.

EDUCATIONAL ASSISTANCE AMENDMENTS

On October 10, the President signed S. 868, the "Veterans' Educational Assistance Amendments of 1991." This measure, now Public Law 102–127, improves educational assistance and employment benefits for servicemembers and reservists who served us all so well in the Persian Gulf war. It ensures that their absence in defense of our country will in no way prejudice full use of their veterans' educational benefits. We owe these brave men and women nothing less.

NATIONAL CEMETERY OF ARIZONA

On November 5, the President signed S. 1823—now Public Law 102–151—which was a critically needed measure to ensure that the National Cemetery of Arizona could remain operational. This bill, while limited, demonstrates the remarkable bipartisan nature of our committee and its ability to get things done quickly.

1992 COLA

Finally, on November 12, the President signed Public Law 102–152, the "Veterans Compensation Rate Amendments of 1991." This measure—again representing swift and decisive action by the committee—authorized a 3.7-percent cost-of-living allowance in the rates of disability compensation paid to service-disabled veterans and of dependency and indemnity compensation [DIC] paid to the survivors of veterans who die as a result of service. The increase will be effective December 1, 1991. I am pleased to note that our ability to pass this unencumbered measure so quickly ensures that disabled veterans and their survivors will receive their increases in their January 1992 checks.

CONCLUSIONS: A RECORD OF LEADERSHIP AND DEVOTION TO VETERANS

Mr. President, the record of our committee this session in providing en-

VOL 137
PT 24
NO 26
1991
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JA 3
1992
UMI

acted laws for our Nation's veterans is unmatched by any full Congress convened in the decade I have had the honor to serve in this body. It speaks well of the devotion and respect we in the Congress—and particularly those of us fortunate enough to serve on the Veterans' Committees—hold for those who defend our Nation.

I am proud to have had the opportunity to be in a leadership position on the Senate Committee on Veterans' Affairs during this remarkable session. But I am most proud of what we have been able to accomplish in such a short period of time for such a deserving and special group of our fellow citizens.

I look forward to a second session of hard work and more results for veterans.

MEDICAID CONFERENCE REPORT

Mr. RIEGLE. Mr. President, the Conference Report on H.R. 3595 must be approved by the Senate today, otherwise regulations proposed by the Health Care Financing Administration [HCFA] on September 12 would be in effect in January 1992. These regulations would have a devastating impact on a State's ability to finance its portion of the Medicaid Program. Millions of vulnerable low-income families and children who need health care services in Michigan and other States could be affected.

As chairman of the Finance Subcommittee on Health for Families and the Uninsured which has jurisdiction over the Medicaid Program and a Member of the House-Senate Conference on this issue, I urge Members to support this conference report which embodies the proposal put forth by the National Governor's Association and the administration with some modifications that I consider improvements to the plan.

Mr. President, we are presented with this problem today because the administration refused to withdraw the HCFA regulation relating to the use of provider donations and taxes by State Medicaid programs. I would have liked to have more time to consider the options and their implications, as the Finance Committee recommended last Friday, but that proposal was unacceptable to the administration.

I am pleased that in the conference we were able to make some improvements for hospitals that serve a disproportionate share of low-income of Medicaid patients. Conferees agreed to a proposal to give States, in 4 years, the option of continuing under the 12-percent national expenditure cap in the NGA-administration proposal or following specific criteria relating to how a State designates its disproportionate share hospitals and not being subjected to the 12-percent cap. The agreement specifically ensures that Michigan can continue to designate disproportionate share hospitals in the manner they do today, if they choose to, and spend beyond the 12-percent expenditure cap.

We desperately need this type of flexibility in Michigan because many hospitals continue to serve low-income or uninsured people and many of these hospitals face additional burdens due to recent cuts in financing health care services made by Governor Engler. In Michigan, over one-third of our hospitals are disproportionate share hospitals and receive special payments under Medicaid because they serve many low-income, Medicaid or uninsured patients. It's also important to note that Michigan's program clearly meets Congress' intent of providing enhanced payments only to hospitals that serve a disproportionate number of Medicaid and other low-income patients.

Mr. President, I still have reservations about why we must address the issue of Medicaid's disproportionate share hospitals in the NGA-administration plan when the real problem of taxes and donations have been addressed by requiring taxes to be broad-based and capping their level of use at 25 percent of a State's Medicaid expenditures. The conference report, however, is the best we can do under the current circumstances and I urge my colleagues to support the conference report.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. There has been no order.

Mr. REID. I ask unanimous consent that I be allowed to proceed as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. REID. Mr. President, we spent considerable time on this floor last night talking——

Mr. SYMMS. If my colleague will yield, I have a parliamentary inquiry. Last night, and now this morning, the Senator from Nevada and others are going to be talking about the Surface Transportation Efficiency Act. Will those comments all be shown in the permanent RECORD as part of the debate on this conference report?

The ACTING PRESIDENT pro tempore. It would take unanimous consent.

Mr. SYMMS. I ask unanimous consent that when the permanent RECORD is done, that all of the remarks that were made yesterday and those today that were not actually on the debate on the conference report, because it was not present, be part of the debate on the conference report, because it would be easier for people doing research to look up that situation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I join with the Senator in that request.

We talked a lot last night, and we heard Senator MOYNIHAN give a historical narrative as to how this bill developed and how it has culminated in this piece of legislation, which will probably be the most important piece of legislation to come out of this Congress. It will provide jobs for millions of people and also do things that have needed to be done for years. That is, put emphasis on maintenance, not building new roads. This legislation puts a significant emphasis on repairing the deteriorating infrastructure that we have, rather than building new roads. As a result of the formula which is built into this legislation, that States will be able to repair roads cheaper than they can build new roads. The allocation will be 90–10 for reconstructing, repairing roads, compared to 80–20 on new roads.

There are all kind of things built into this legislation that were spoken about in detail yesterday. There was also significant talk on the Senate floor last night about how difficult it was to arrive at this place where we are now today. Since last night, the House has passed this overwhelmingly. The vote was 340 to 75, or something like that. It was passed overwhelmingly. That is as a result, I think, of a unanimous agreement among conferees. When I say unanimous agreement among conferees, I did not mean to say that the Democratically controlled Senate agreed and the Democratically controlled House agreed, but I am saying this was a bipartisan agreement. The Republicans in the Senate agreed with the Democrats in the Senate. The Republicans in the House agreed with the Democrats in the House, and the conference was unanimous, not a perfect piece of legislation, as we have talked about, but a fine piece of legislation.

Mr. President, the reason I take the floor today is I want to make sure the record is spread with a person who was instrumental in arriving at this piece of legislation. We see, and the American public sees, on almost a daily basis, the majority leader of the Senate, the senior Senator from Maine, Mr. MITCHELL. Senator MITCHELL is here every day trying to work out procedures in the Senate, trying to get things done, trying to move legislation, and trying to take care of problems that he has with his own Democrats, trying to placate the Republicans, and trying to get legislation moving. So we in the Senate and the American public have seen Senator GEORGE MITCHELL many, many times.

But something that people do not realize enough is that he is still a Senator from the State of Maine. There was never a better illustration of this than during the conference on the surface transportation bill. He was a conferee. He is one of the ranking members of the Environment and Public Works Committee in the Senate. He worked along with us to arrive at what I feel is national legislation of significance.

He was there to tell us that this Congress is not going to adjourn unless you conferees, of which he was a member, worked out an agreement. We could talk, we could talk, we could talk, but there came a time when it was necessary, according to the majority leader of the Senate, as one of the conferees, that we come up with legislation. It was as a result of his patience, leadership, and his deliberation and his wisdom that we were able to arrive at this conference, which I again say was approved unanimously by the conference. Easterners were on this conference, people who represented the Northeastern part of the United States, and people from the far West. No one group was more outnumbered than Western Senators. But we have a bill that we are not overjoyed with, but it is a bill we are happy with. It is good for the Western part of the United States and for the country. This would not have come about but for the leadership of one of the conferees—the senior Senator from the State of Maine, GEORGE MITCHELL.

So even though we are not going to talk a long time today, there are a lot of things that need to be done. I and the rest of the conferees, I am sure, recognize the importance of the majority leader as a conferee. He sat at the table with us and was one of the conferees and had but one vote. But the information he imparted really showed, and his ability really showed, during the 2 weeks of deliberations on this bill.

Mr. SYMMS. Mr. President, I would like to join my good friend from Nevada to also express my thanks to the majority leader for the role he played in this. I have said many times that I think being majority leader of the U.S. Senate, if it is not the second hardest job in the United States, it is certainly in the top four or five difficult jobs in the United States. The majority leader gets very, very little time away from work, because every day someone is calling him asking him to keep an area open for 2 hours here or 2 there. And there are 99 other Senators he has to deal with. It is difficult, and he has been very accommodating and has tried hard to help us get around difficulties that each one might have with respect to scheduling and other things. I thought it was notable that on Sunday, when many people think that the majority leader is probably one of the important people in the country and is having time to himself, he had been asked to be a guest at the Washington Redskins-Dallas Cowboys game.

While we were in conference he was unable to go because he was at a conference with the rest of us, and as the score trickled in I leaned over to him, because I was seated next to him. I said, "Well, GEORGE, maybe this might have been a good day that you were here instead of over there as a guest of the owner of the Redskins that day to see the game."

But I have to say that his dedication and his efforts have been very helpful to get this conference to come to an agreement and keep it moving. I share in the comments of my colleague from Nevada that we appreciate the efforts on behalf of the bill and I think Westerners appreciate the fact that he has helped us push this bill along.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. SYMMS. Certainly, I am happy to yield.

Mr. REID. As was mentioned last night, there is a lot being said about Congress, a lot of problems in the country and the world and we are getting blamed for a lot of them, some of them rightfully so.

But with the Senator's experience as a Member of the other body, and a Member of this body, does the Senator not think, based on his experience, that this highway bill, this surface transportation bill, is one of the finer moments of Congress? We were able to be bipartisan, set partisanship aside, set regionalism aside, and come up with a peace of legislation which I think is good for the country. Would the Senator's experience indicate the same?

Mr. SYMMS. I totally agree with that. I think the good Senator from Nevada knows it is a good piece of legislation. We have tried very hard to help those States that do not feel like they are getting quite as good a deal as they would like to get.

I point out to my colleagues that because of this conference, and all the Senators on the Environment Committee, primarily, we worked very hard to see that those States are doing better than they were before.

I invite Senators to look at some of the charts and look at how much money was spent on highways for the last 5 years, how much their State got, and then look at how much will be spent for the next couple of years and how much their State got and compare those percentages of the program. I think they will see that all of those donor States have come up and are doing better. There are a couple of instances where States may not look like they are doing as well because they had a big project that they now do not have, but in the overall program we have tried very hard to see that every State is doing better than they were, and there were a few States that are donee States that are not doing quite so well. That is where the conference comes. I agree with my colleague.

I see the majority leader is on the floor, and I think we both have expressed our appreciation for his efforts to make it possible we could get this conference report here.

I yield the floor.

INTERNAL REVENUE CODE OF 1986 AMENDMENTS

The PRESIDING OFFICER (Mr. WELLSTONE). Under the previous order, the Senate having received H.R. 3909, which is identical to the text of S. 2042 as reported by the Senate Finance Committee, the House bill is deemed read three times and passed, and the motion to reconsider is laid on the table.

So, the bill (H.R. 3909), was deemed read a third time and passed.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. DURENBERGER. Mr. President, I rise to compliment my colleagues on the Environment and Public Works Committee and the Public Works Committee of the House on the splendid work that has been done over the last year and a half, particularly the last few 17 and 18 days, on the Intermodal Surface Transportation Efficiency Act of 1991, and to urge all of my colleagues in this body to support the unanimous recommendations of the conference committee on the adoption of what used to be called the highway bill.

I have served on the committee since the early eighties. This is my second experience with a transportation reauthorization bill. Coming from the State of Minnesota, this bill is the one that comes closest to, I might say, meeting my own personal expectations, for what a national transportation bill ought to be.

I must say, not just because he is on the floor, it would not have been what it is nor would it be able to achieve what it promises by way of potential had it not been for our colleague from New York, Senator MOYNIHAN. The vi-

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sion that he has for transportation in this country and the vision that he has for the role that transportation plays in commerce and in transporting people is without parallel in this body. It has been a pleasure to work with him.

I must also say that working, for the last time, apparently, with my colleague, STEVE SYMMS from Idaho, has been just another delight. It was in 1986, as I recall, that we last did a surface transportation bill. The Senator from Idaho, who at that time chaired the conference committee, had to go eyeball to eyeball with his very close friend and our President, Ronald Reagan, and say no to the President when he wanted to veto the bill. That was just one example of STEVE's courage, and we saw it again this year in a variety of ways. He has that rare ability to combine courage with a great sense of humor and the ability to laugh at himself and, on occasion, laugh at us in a way that is not offensive.

JOHN CHAFEE did a great job in chairing our Republican side as well, and the other conferees on both sides. Our majority leader, GEORGE MITCHELL kept this bill on track and pushed the conferees to act on the many tough decisions that were made. HARRY REID from Nevada was nice enough to compliment my work on the committee last night, and I must say that on both the Environment and the Public Works side of our committee, it has been a real pleasure to get to know him through his work as well.

It was a pleasure to again participate in a conference with my colleague from New Jersey, FRANK LAUTENBERG, with whom I try to carry on the work of the Subcommittee on Superfund and allied poisonous disposals across America.

The conference was not quite as difficult for him as it was for the rest of us because of the stellar role played by the chairman of the conference and the chair of the House Public Works Committee, the Congressman from New York, BOB ROE, who I would certainly single out in complimenting people, as well. I got to know Bob Roe in the National Water Alliance when we cochaired that particular effort with DENNIS DECONCINI. At that point, I began to appreciate his commitment to infrastructure in this country. I think all of us who spent time on this conference learned to appreciate his abilities and his skills and they all came out in his very first conference as chairman of that committee with a very, very difficult, almost impossible, task that I thought he handled very well.

The entire House leadership, JOHN PAUL HAMMERSCHMIDT, BUD SHUSTER, and NORM MINETA, worked diligently to produce a final product that moved us out of the interstate era. Each of them is an expert in the field.

I also thank our distinguished committee chairman, QUENTIN BURDICK, and Congressman TOM PETRI for their work in protecting the Midwestern States. Their input has ensured that Minnesota and its neighboring States benefit from the many jobs created by this bill and its tremendous boost to rural economic development.

Mr. OBERSTAR, the senior Congressman from Minnesota, is to be commended for his work on behalf of northern Minnesota, as well as his attention to matters that relate to the State as a whole. His work on the scenic byways, as well as his provisions benefiting bicyclists and pedestrians, will be appreciated as both a recreational and truly intermodal expansion from current transportation policy.

Our colleague, JOHN WARNER, handled his dual or triple role defending the Bentsen provisions or the FAST provisions for the so-called donor States, plus the interests of Virginia and the highways on which we ride all the time to and from work, in an incredible fashion.

Mr. MOYNIHAN. And the airports.

Mr. DURENBERGER. And National and Dulles Airports, as well. At this time, I also want to take the opportunity to thank the staff members who worked very hard and very long hours to complete this conference. I'd like to especially recognize the efforts and leadership of the committee staff Roy Kienitz, Mike Wiess, Jean Lauver, and Taylor Bowlden.

Mr. President, does my colleague with to speak?

Mr. MOYNIHAN. Yes.

Mr. President, I simply want to say it would be characteristic of the Senator from Minnesota that he would speak of what others have done in this legislation, which is epic legislation. Of the two or three transportation bills that passed this Senate in two centuries, this is surely one of the most important. And in it, we establish a national highway system, something we have not ever done, the logic of having creating the Interstate and Defense Highway System we would not take from our major roads the then primary arterial roads.

This was offered by the Senator from Minnesota here on the floor as an amendment, adopted, I think, unanimously by the Senate, and now part of this legislation. It is not going to be an easy thing to do. We are going to have to pick from among about 150,000 miles some 110,000 miles, perhaps a little more; there is a little leeway. Then we are going to have to define what we mean by this, what we want by it, what timeframe, what amounts of resources—lots of defining.

It took 40 years to build the interstate and longer than that to get it from the time it got started. It will not take 40 years to put the National Highway System together. Its roads exist now. But to put them in the shape we want them and in the design that we desire is a 20-year project. If you do not have 20 years to spare, do not get into transportation.

But it is for that reason I am particularly pleased that the Senator from Minnesota has made this his project, and I think it should be on notice that we expect him to stay here for 20 years in the U.S. Senate, to see to it being done, and when that time comes, I hope that he, as a very senior Senator, will speak to someone as I am now speaking to him, saying "Now, your job for the next 20 years is as follows."

But, Senator DURENBERGER, you are hereby assigned 20 years labor on the National Highway System, and in the end, they will—who knows—they will name a bypass for you. You have the great gratitude of your conferees, as you know, and the respect of this body.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Minnesota is recognized.

Mr. DURENBERGER. I appreciate the compliment. It seems to me somewhere within the last 20 to 24 hours I listened to somebody suggest that we name Superfund sites for Senators and now I have heard the possibility we will have bypasses named for Senators. I hope I am just fortunate enough to be here as long as PAT MOYNIHAN is here and to have the opportunity to continue working with him.

Yesterday, in the middle of all of this, I understand I thought I was too busy to go to the Finance Committee meeting on taxes, since they seemed to be irrelevant at this particular point in time. I did not know what was going on at the White House and with NEWT GINGRICH, but I understand the senior Senator from New York took about an hour to engage in a discourse with the Director of the Congressional Budget Office, Bob Reischauer, on the impact of the tax system on the economy and on the people of this country and to go into his usual concern about the families of America and the people of America, their earning capacity, the way in which the tax system relates to that capacity to their value systems to their ability to be families, the kinds of things that I have always enjoyed sitting and listening to him discourse with others as it relates to social policy, behavioral science, that apparently have not arrived here yet, other than in our own personal manifestations. I just think it is incredible in the middle of everything that he was doing and I thought we were doing yesterday, that he took that time to push our understanding a bit farther about the significance of tax and economic policy and fiscal policy and budget policy in this country as well. So I appreciate that.

Mr. President, it seems to me there are three ways for this Senator, at least, to look at a transportation bill.

One of them is personally, the way we have just done. The second way is as it relates to our constituencies. And a favorite way around here, Mr. President, as you are coming to know, is to wait for the sheet to come out. The sheet that has the names of our 50 States that we represent on the far left-hand side and then across a series of dollars and allocations.

There is probably not an elected Representative born or elected in this body or in the other body who, when handed one of these policy sheets, does not immediately find his State and run across the columns to find out how we relate, dollarwise, one to the other.

Unfortunately when we talk about highways and transportation and spending $119 billion of our gas taxes over 6 years on highways, too many people spend their time looking to see how they relate to somebody else rather than looking at the larger policy issues that are involved.

This is important, and I have done it for Minnesota. I am proud to say that Minnesota, from being a donor State last year—meaning we got back less than we put into the pot—will in the next 6 years be a donee State. We are going to get back more than we put into the pot.

But I would daresay that besides the efforts of JIM OBERSTAR and this Senator, who are both members of this conference committee, the more important issue is that Minnesota believes in a national policy and Minnesota believes it will benefit from a national policy.

Minnesota transportation planners push in the direction of intermodal transportation. It is because we are a State that thinks and plans ahead and has some vision and employs the kind of public servants in the State to do it, that we are moving in that direction. As the Nation moves in the direction of an intermodal surface transportation policy, we benefit from that as well.

That is the third way to look at these issues, as policy issues. I think, in effect, that is really what we were elected to do here. When you look at a surface transportation bill like this, there are three ways to look at it. Energy, environment, and infrastructure are the three principal policies here. We have had an energy bill floating around this place ever since I have been here, and we had no energy policy. We still have no energy policy. The so-called energy policy presented this year was not an energy policy bill and, appropriately, it was prevented from being acted on here on the floor.

So, as we come to a transportation bill, of course we are talking energy, and we ought to be talking about an energy policy in this country. The key to an effective energy policy is the way in which the efficient use of fuel-consuming transportation systems are developed and used in this country.

The second thing I mentioned was the environment. I think last year we did both energy policy and transportation policy in the Clean Air Act. There was a lot of environmental policy, and a certain amount of infrastructure work.

In this year's Intermodal Surface Transportation Efficiency Act we are going to find a whole new section entitled "Congestion and Air Quality," with a total expenditure of $6 billion nationwide. And then you are going to see the same kind of approach to the relationship between the Nation's environmental policy, its energy policy, and its transportation policy built into a variety of these other expenditures.

I am pleased to see that. It is one of those areas in which it gives me a great deal of pleasure to work in a nonpartisan or bipartisan way to develop national policy and use the expenditures that come from a gas tax fund to do it.

The third, of course, is infrastructure, and all of this is infrastructure maintenance, building, and rebuilding. Again, as we know from our colleague from New York, this Nation does not have a specific infrastructure policy. We go at it in sort of fits and spurts. And this is the fund that builds concrete and asphalt. We use the trust fund for that purpose, and we keep trying to expand its purpose for rail and other forms of transportation. But I think this year we have begun to make a breakthrough. The work in here on high speed rail, on magnetic levitation, on transit alternatives, all of that is an important expansion of the Nation's infrastructure policy.

A little known fact that I sometimes forget, I think I am still the chairman of the Japan-United States rail conference, and the chair of the France-United States rail conference, which comes from efforts in the early 1980's to bring Japan, France, and the United States closer together on high speed rail and then magnetic levitation.

This bill is going to do about three-quarters of a billion dollars of work in that regard.

Mr. President, I am pleased that the Senate will soon have the opportunity to vote on the Intermodal Surface Transportation Efficiency Act of 1991.

I want to commend the outstanding leadership of my conference chairman and friend, PAT MOYNIHAN, for his efforts to bring this measure through the process prior to adjournment.

Mr. President, as a member of the conference committee, I approached this legislation by asking the question: What should be the Federal Government's role in the postinterstate era? The construction and maintenance of our Nation's transportation infrastructure depend on the close cooperation and coordination of the Federal, State and local governments. Government intervention is vital in designing feasible routes, covering the cost of constructing public highways, and developing harbors and waterways. A safe and efficient transportation network is a necessary component of a competitive economy and a unified country.

The highway program as we know it, expired 2 months ago. It looked for a long time like this bill would not be finished before the end of the year. Passage of the bill before us has garnered national attention because State Departments of Transportation have been left with no Federal assurance of a continuing program. If this bill is not passed before Thanksgiving, more and more States will not be able to let contracts that will ensure construction schedules are met. This is especially critical in the State of Minnesota because of the short construction season. The bill before us means 81,700 Minnesota jobs over the next 6 years and with passage of this bill, Minnesota will be able to receive funds in a timely manner.

I believe we are taking the correct approach in providing States with greater flexibility to apply highway trust funds for multimodal uses. The purposes of a 6-year highway bill is more than just cutting up the pie, so to speak. This bill should define the role of the National Government in surface transportation. It should give direction. It should set priorities. And as only a national government can do, it sets out a standard of what our transportation system should look like into the next century.

There are four aspects of the national policy we are defining that I want to mention here at the outset.

The first is a National Highway System. This is one of the most significant changes in highway policy since the beginning of the Interstate System 35 years ago. I support the concept that we need a defined National Highway System as a focal point of our transportation planning. It ensures the taxpayer that a substantial portion of the highway trust fund will be spent on the rehabilitation of those highways which are most critical to interstate travel and commerce.

The second is safety. There can be no more basic Federal role than protecting public safety. This bill puts the Federal Government back into a leadership position on highway safety. I am pleased that the conference agreed to maintain a separate safety category for hazard elimination and rail-highway grade crossing projects.

The third is technology and innovation. The conference adopted the Lautenberg-Durenberger national intelligent vehicle highway system bill. Minnesota is a recognized leader in developing and implementing advanced technology to make highway travel faster, safer, and cleaner. We will benefit from the additional Federal investment in this field.

The final national objective in a highway bill should be flexibility. I frankly think the Congress wastes a lot of time and money micromanaging decisions within States that have nothing to do with national purposes. Before we start favoring urban over rural, maintenance over construction, or lower cost bridges over discretionary funds, we should remind ourselves that the best solutions come from those closest to the problem.

Mr. President, I think this is a good bill for America, but I also want to say a few words about what this bill means to Minnesota. In this respect, I commend my colleagues and fellow conferee, JIM OBERSTAR, for his hard work in protecting Minnesota's interests. I think Minnesota greatly benefited by having representation on both sides of the negotiating table.

The biggest battle for all involved has been in the determination of a new funding formula. The new funding formula will mean that Minnesota will now receive more highway funding than it puts into the trust fund through gas taxes. Last year, we only got back 94 cents on our tax dollar. Under this bill, we will receive $1.02 for every $1 put in by Minnesotans.

In this bill I established a Minnesota Safety Initiative Program which provides funds to the State Department of Transportation to carry out projects concerning cold weather pavements and retroreflective pavement markings and signs to demonstrate the safety benefits for nighttime driving. This bill also provides $6 million to the University of Minnesota, Center for Transportation Studies to establish and operate a national institute for intelligent vehicle-highway concepts.

As a member of the conference committee, I was able to convince my colleagues of the merits of six essential Minnesota projects: $40 million for the Bloomington Ferry Bridge; $36 million for Highway 610 in Brooklyn Park; $10 million for the south Mankato bypass; $3 million for a Highway 41 project in north Mankato; and $3.24 million for trunk Highway 15 in St. Cloud. I also commend my colleagues in the House, especially JIM OBERSTAR for several projects they were able to obtain funding for. These are priority projects that Minnesotans need to get to work and move their goods to market, and will make us stronger economically. This is a good bill for Minnesota, and is the product of many hands. It results from Governor Carlson and his Department of Transportation making their needs clearly known, a receptivity by the Secretary of Transportation to our requests, and the congressional delegation working together to get the job done.

Mr. President, the package before us exemplifies the customary leadership of the Senator from New York. I commend my colleagues and their staffs for their willingness to work through the problems to the satisfaction of everyone involved. A wide range of States were represented on this conference. Not only did the conferees bring an array of ideas and beliefs, but the individuals worked well together to produce the final product before us in such a short time.

Mr. President, the Intermodal Surface Transportation Efficiency Act of 1991 provides a strong commitment to transportation needs and a source of both productivity and jobs. I am proud to have been a part of a product that sets the transportation policy that will move this country forward.

The PRESIDING OFFICER. The majority leader is recognized.

MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3595.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives;

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 3595) entitled "An Act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, that Mr. DINGELL, Mr. WAXMAN, and Mr. LENT be the managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I move that the Senate insist on its amendments, agree to the request of the House for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. BENTSEN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. PACKWOOD, and Mr. DURENBERGER, conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, this will enable the conferees to proceed promptly with respect to the Medicaid moratorium bill. The Senator from Minnesota is one of the conferees and one of those principally involved in the writing of this legislation. I hope very much we are going to be able to get a conference report before the Senate today so that this important matter can be disposed of in a way that I think will be satisfactory to most concerned.

I thank my colleagues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I ask to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HIGHWAY BILL

Mr. LIEBERMAN. Mr. President, as we come, soon, to vote on a conference report on H.R. 2950, the Surface Transportation Efficiency Act of 1991, I rise to extend my congratulations, my gratitude, my admiration, in some senses my awe, to our truly visionary leaders for their monumental effort in putting together this outstanding piece of legislation.

Above all, I congratulate my friend and esteemed colleague from New York, Senator MOYNIHAN, who has wisely referred to this legislation as an once-in-a-half-century opportunity.

When I was elected to the Senate, because of my interest in environmental protection, and my previous post of attorney general of Connecticut, I sought membership of the Environmental Committee. I was grateful to have an opportunity to become a member.

With that membership came a bonus, and that was the public works part of the committee and the opportunity to work under the leadership of the Senator from New York. Each of us, as we know, from our birth is special. But I would have to say the Senator from New York is particularly special, and in his service elevates this institution and every individual who serves in it. I think we saw the full range of his skills in his handling of this particular piece of legislation.

I remember once reading an article about the Senator from New York. Somebody had said he had gone from Hell's Kitchen to Harvard. I would say he took with him the best of both experiences and put both of those experiences to work in his remarkable handling of this bill.

The Senator from New York is at once an actor and a analyst. He, more than anyone I have met in my political life, both lives in the present and influences the present, but does so with a profound and extraordinary sense of the past, our history. Also, I think, with a prophetic reach for our future. All of that is seen in this bill.

When our committee began its consideration of this bill, though the last couple of weeks in which the Senate and House have focused on this surface transportation bill have focused very often on numbers and formulas, we did not begin with the numbers and formulas. He took us back a few steps to a vision, to examine what influence transportation policy, particularly over the last 40 years, has had on the development of America, and what effect what we were doing might have on the future of America. I think we all came to understand how intimately related transportation policy is to so many other parts of what we worry about in America: Our energy policy, our environmental policy, the quality of our lives.

One of the witnesses that the Senator from New York brought before our committee said, paraphrasing that wonderful movie, Field of Dreams, in which the voice says to the Kevin Costner character: If you build it, he will come. What we have found over the last 40 years of the great Interstate Highway System was if we built it, they would come.

It would affect the ways in which people would move around this country; it would affect the cities in which they live; it would affect the quality of our air; it would affect ultimately the quality of our lives.

I think the Senator from New York took us from that vision and that understanding of the impact of our work to the details of the proposal. That is truly extraordinary. I congratulate him on his leadership, and also add to that my thanks to Senators BURDICK, SYMMS, and CHAFEE. Because of their leadership, this Congress has seized this opportunity and truly has produced a bill that will take America into the 21st century and will have a lot to do with how America will look and how Americans will live for generations to come.

Mr. President, as time allows, before we proceed directly to the surface transportation bill, I would like to say a few words of explanation about why I think it is such a significant bill. Perhaps most importantly in the near term, this bill really will put people to work building and maintaining the bridges and roads in constructing mass transit systems and equipment.

In the short run, I think it is the strongest step that we can take to deal with the recession we are in now. Once those roads and bridges and systems are built or improved, this bill will put more people to work in the businesses that always grow when infrastructure is improved. That is one of the facts that we learned in the course that the Senator from New York led us through in our subcommittee.

This bill is one of the most effective actions Congress can take to help America not only out of the recession, but on to the higher road of long-term economic growth. Simply put, the bill will mean millions of jobs for American workers.

I would like to mention just a few elements of the legislation that I think are most important. First, the bill places a strong emphasis on maintaining the highway system that we have already built.

Today, we face a crisis in maintenance. The fact is that if our highways were a heart, we would be in intensive care today. Almost one-half of our bridges are structurally deficient or functionally obsolete. Disasters are quite literally waiting to happen. So the funding in this bill, which will be available for maintenance of our roads and bridge repair, will really help us to reverse that trend and avoid those disasters.

Second, recognizing that transportation is closely linked to the quality of life for the American people, this bill gives the States greater flexibility in using highway funds to solve their particular transportation needs. That is a dramatic shift from the past.

We do not seek to favor one form of transportation over another. Rather, we accept that different parts of our country have different priorities. For some, roads are necessary, new roads; for others, repair of existing roads is the No. 1 priority. And still others may wish to emphasize mass transportation.

This bill will let every State make the most of the transportation money this bill provides them.

Let me be more specific. My own State of Connecticut is faced with a serious air pollution problem that is directly linked to vehicular emissions, auto emissions. Under the Clean Air Act we passed last session, Connecticut and many other States risk the loss of all highway funds if we do not reduce smog. By providing that both funds from the surface transportation program and the national highway system are fully flexible for nonattainment areas, this bill will give my State of Connecticut and States with similar problems the ability and the discretion to better manage transportation demand and achieve our clean air goals.

Third, the bill provides for a much closer coordination between our efforts to tackle clean air and our efforts to move our people. Unfortunately, in the past these programs have often worked at cross purposes. For the first time this bill will result in transportation and clean air planning coming together.

Fourth, the bill ensures that the primary burden of highway spending will not be shifted to our already financially burdened States. The administration's proposal submitted at the beginning of this session would have required a dramatic increase in the State contribution for each Federal highway dollar—a proposal, I must say, which would have hit Connecticut's taxpayers particularly hard given the effects that the recession has already had on us. Congress, by enacting this bill, wisely rejected the original administration proposal.

And fifth, the bill will ensure—and this is a local and personal concern—that larger, twin-tandem trucks and triple tandems will not be allowed in States such as Connecticut that simply do not want them and do not allow them.

Mr. President, in my previous capacity as attorney general of Connecticut, I attempted to stop the entry of these first generation tandem trucks—smaller than the ones that now exist in many states. Unfortunately, that effort of ours was thwarted because of the existence of the Federal law that essentially preempted our ability to control the safety of our citizens on our highways.

It is a problem that has troubled me for a long time. I am particularly happy to be in the Senate at this moment as we ensure that people in States like Connecticut, that do not want larger tandem trucks on our highways because they represent a threat to public safety, will not have to accept them.

Mr. President, overall, this is a remarkable bill. It supplies the vision that has been too often lacking in the construction of America's transportation systems, the kind of vision that Senator MOYNIHAN has possessed and expressed for decades.

If I may be allowed this comment, I believe that had Senator MOYNIHAN been vested with the power to decide how transportation funds were spent for the last 40 years, America would be a vastly different place today. Our air would be cleaner, our cities would be more vibrant, certainly more integrated, and our highways would be less crowded.

We in Congress are often criticized for overstating the significance of our actions and very often that criticism is well taken, but when it comes to this bill I do not think it is possible to exaggerate its importance to this Nation.

Finally, Mr. President, I commend the outstanding work of the staff of the Environment and Public Works Committee and of Senator MOYNIHAN himself for their remarkably phenomenal efforts on this bill. In particular, I would like to thank: Roy Kienitz, Andrew Samet, Rob Connor, Richard Eaton, Tim Bernstein, David Strauss, Mike Weiss, Jean Lauver, George Schaener, Steve Shimberg, and Taylor Bowlden. Their efforts represent truly the best in public service.

I appreciate the unfailing courtesy and graciousness that they and their employers have extended to me and my staff in consideration of this bill.

Mr. President, I thank the Chair. I yield the floor.

Mr. MOYNIHAN. Mr. President, might I thank the Senator from Connecticut for his extraordinary generosity?

Characteristically, he omitted to mention the extraordinary contributions he has made to this legislation. He knows how grateful we are, and how even more grateful we will be when the leaders pass it by voice vote.

Mr. MITCHELL. Mr. President, I do want to associate myself with the remarks of the Senator from Connecticut about the Senator from New York. As one who has struggled with him through three highway bills over 12 years, including a very long weekend this past weekend, indeed, as we sat in a conference meeting just a few feet from here at midnight Saturday, I was sitting between the Senator from New York and the Senator from Idaho, and I wondered to myself about what we were doing here at midnight on a Saturday night.

Of course, it was under the leadership of the Senator from New York and the Senator from Idaho, acting on what I believe to be as significant a piece of legislation as we will act upon in this Congress, and by some measures, in many Congresses. It was due to the tremendous leadership and, I might say, persistence, perseverance, and patience of the Senator from New York and the Senator from Idaho that we were able to get to this point.

I join in a tribute to them and thank them for their tremendous leadership and generosity of spirit that has enabled us to reach this point. And we hope we are going to be able to agree to the conference report soon.

TECHNICAL CORRECTIONS TO CERTAIN APPROPRIATIONS ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on House Joint Resolution 157 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

Mr. BYRD. Mr. President, the conference agreement on House Joint Resolution 157, the dire emergency supplemental appropriation bill, contains appropriations totaling $6,889,600,000. Of this amount, $4,083,500,000 is provided for additional costs of Desert Shield/Desert Storm and will be derived by transfer from the defense cooperation account. In addition, language restricting arms sales to Saudi Arabia and Kuwait until these countries fulfill their commitments to the support of Operation Desert Shield is included in the bill. This prohibition would not go into effect until 120 days after enactment.

As a result of amendments attached to the Conventional Armed Forces in Europe Treaty, $400 million is available from defense funds for the destruction of nuclear weapons in the Soviet Union. An additional $100 million is available from defense funds for the transportation of humanitarian aid to the Soviet Union.

For the disaster assistance program of the Federal Emergency Management Agency [FEMA], total appropriation of $943 million is provided, of which $800 million will be designated as "emergency spending" by the President and an additional $143 million will become available upon receipt of an emergency budget request from the President. This amount will be sufficient to meet FEMA's costs for all outstanding prior year disasters and a normal level of disasters for the remainder of the fiscal year.

For the disaster payments to farmers and ranchers required to compensate them for losses suffered from natural disasters during 1990, 1991, and 1992, a total appropriation of $1.75 billion is provided. Of this amount, $995 million will be designated as "emergency spending" by the President for disaster payments authorized for crop year 1990 and crop year 1991. Payments are available for losses which occurred in either 1990 or 1991, at the producer's option. The remaining $755 million is for crop years 1990, 1991 and 1992, and shall be available only upon receipt of an official budget request. Of this $755 million, an amount of $100 million has been set aside to finance losses of crops planted in 1991 for harvest in 1992.

It was necessary for the conference to delete the $100 million for the Special Supplemental Food Program for Women, Infants and Children [WIC], the $1.2 billion for the Head Start Program, and the $90 million for the childhood immunization program because the administration refused to designate these funds as "emergency requirements" under the provisions of the Budget Enforcement Act. The administration indicated that its rationale was not that these programs lacked merit, but rather that there is no sudden or unanticipated requirement for the very large increases proposed which would constitute an emergency requirement under the Budget Act.

More specifically, the regular fiscal year 1992 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriation Act provided $2.6 billion for the WIC Program, an increase of $250 million or 10.6 percent over the fiscal year 1991 level. Moreover, I wish to point out that since 1980, Congress has increased WIC funding by 253 percent, resulting in average monthly participation increasing from 1.9 million persons in 1980 to 4.9 million persons in 1991.

With regard to the Childhood Immunization Program, the fiscal year 1992 Labor, Health and Human Services, Education Appropriation bill already includes $297.8 million for this purpose, an increase of $80.3 million over the fiscal year 1991 level.

The same bill includes $2.2 billion for Head Start, which was an increase of $250 million over fiscal year 1991. The administration indicated that an additional amount of $1.2 billion for the Head Start Program would constitute a 54-percent increase over the recently enacted fiscal year 1992 level of $2.2 billion. If the increases in the fiscal year 1992 appropriation and supplemental bills were combined, the administration argued that the increase from fiscal year 1991 to fiscal year 1992 would be 74 percent, at a time when appropriations for the Head Start Program had already increased by 78 percent from fiscal year 1989 to fiscal year 1992.

Consequently, in view of the tight budgetary constraints the administration refused to designate these additional funds as "emergency requirement."

In summary, I believe the Dire Emergency Supplemental Appropriation bill for fiscal year 1992 is a good bill. It does not provide everything each Member may have wanted. However, it was necessary in conference to compromise with the House and take into account the views of the administration. Nevertheless, I believe the supplemental provides the necessary dire emergency supplemental funds for Desert Shield/Desert Storm, including the assistance needed to dismantle Soviet nuclear weapons, and for emergency disaster relief for our citizens who have been hit hard by natural disaster.

Mr. HATFIELD. Mr. President, I would like to take this opportunity to raise an important matter with the distinguished Senator from West Virginia, who is the chairman of both the full Appropriations Committee and the Interior and Related Agencies Appropriations Subcommittee. As the chairman knows, my colleagues from the Pacific Northwest and I are in the midst of dealing with the application of the Endangered Species Act in the cases of the northern spotted owl and Columbia River Basin salmon. These listings are the cause of tremendous concern to the political leadership and residents of the Pacific Northwest, and we are struggling to resolve equitably many contentious issues associated with these listing decisions.

The implementation of the Endangered Species Act in the cases of the spotted owl and the Columbia Basin salmon has raised several legitimate questions which need to be pursued. Speaker FOLEY and I believe that an objective scientific study of various aspects of the Endangered Species Act, including the definition of species, conflicts between species, the role of habitat conservation, recovery planning, risk, and issues of timing, should be

undertaken as a way to begin resolving these difficult issues. Accordingly, the Speaker and I, together with Congressman GERRY STUDDS, chairman of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment, have requested that the National Research Council initiate a review of the Act.

Because the U.S. Fish and Wildlife Service is the lead agency in implementing the Endangered Species Act, I feel that it is most appropriate for this review to be funded from the Fish and Wildlife Service budget. Would the distinguished chairman agree that funding for the review come from the Fish and Wildlife Service's fiscal year 1992 appropriation, and that we should pursue this course of action?

Mr. BYRD. I would say to the Senator from Oregon that I understand many of the problems that he and his colleagues from the Pacific Northwest face with regard to the implementation of the Endangered Species Act, and believe that the Fish and Wildlife Service should cooperate to the greatest extent possible to fund this valuable review of the act.

Mr. HATFIELD. I thank the distinguished chairman.

Mr. President, the conference agreement on House Joint Resolution 157 that we bring to the Senate today is a great improvement over the measure we took to conference. It has been trimmed substantially, relieved of the burden of numerous provisions that would have prompted a veto from the President.

The resolution provides funding for additional costs of Operation Desert Shield/Desert Storm, agriculture disaster relief, and the disaster relief programs of the Federal Emergency Management Agency. The budget summit agreement exempts the Desert Shield/Desert Storm funding is exempted from the discretionary spending caps of that agreement. Funds for agriculture disaster and FEMA programs are will also be exempted as they are declared emergencies by Congress and the President. A portion of the funds provided for those programs will be available now and the remainder upon a subsequent determination by the President and the Congress that an emergency requirement exists.

I should emphasize, Mr. President, that section 202 of the Senate-passed resolution, pertaining to selective Presidential approval of the amounts provided, has been dropped.

The bill also contains a variety of legislative provisions adopted by the Senate in its consideration of the measure or brought to the conference for its consideration. Notable among these is the provision allowing up to $500 million in aid to the Soviet Union, pursuant to the Nunn-Lugar and Boren amendments to the CFE treaty implementing legislation.

Mr. President, I believe this conference agreement represents a satisfactory conclusion to a long process, and I urge its passage.

EXTENSION OF CERTAIN FERC LICENSING DEADLINES

Mr. BUMPERS. Mr. President, I would like to enter into a colloquy with the chairman of the Appropriations Subcommittee on Energy and Water Development.

When the Senate passed the fiscal year 1992 dire emergency supplemental bill, an amendment was adopted regarding an extension of certain FERC license deadlines for hydro power projects which have or are soon to expire. That amendment, which was identical to S. 1283 as passed by the Senate, was dropped during conference consideration of the bill.

I am aware that the appropriate House committee plans to take action on these proposed extensions en bloc in the near future. I seek clarification from the chairman that the conferees action to delete the amendment was in deference to the House authorization committee and in no way reflects on the merits of the proposed extensions.

Mr. JOHNSTON. That is correct.

Mr. BUMPERS. I thank the Chairman.

Mr. COCHRAN. Mr. President, we have before us the conference report on House Joint Resolution 157, a joint resolution making dire emergency supplemental appropriations for fiscal year 1992. This agreement was reached earlier today.

This conference agreement includes $1,750,000,000 for disaster payments to farmers to compensate them for losses suffered from natural disasters during crop years 1990, 1991, and 1992. More specifically, this agreement provides $955 million for disaster payments authorized by the 1990 farm bill for crop year 1990 and provides funding for crop year 1991 under the same terms and conditions. Payments are made available for losses which occurred in either 1990 or 1991, at the producer's option. Also, the conference agreement provides an additional $755 million for crop years 1990, 1991, and 1992 under the same terms and conditions, and these funds will become available when the Congress receives an official budget request.

Mr. President, there have been very serious weather problems throughout the country during the past 2 years. In Mississippi alone, it is estimated that in 1990 farmers lost $100 million. While some areas of my State escaped the effects of the terrible floods last spring and were able to achieve normal to above-normal crop yields, other have experienced significant losses in 1991.

As you know, Mr. President, I have been working on this critical issue for over a year. In fact, on July 10, 1991, I introduced a bill to provide assistance to those farmers hard hit by natural disasters in 1990 and 1991. This legislation was cosponsored by over 30 Senators. Also, we worked with the Secretary of Agriculture and other administration officials to try to identify things that could be done to address and respond to these problems. And, I must say they worked very hard to help us meet these needs.

Mr. President, I am pleased that the conference agreement before the Senate today provides the assistance that is long overdue and so desperately needed by our farmers. I urge my colleagues to support this supplemental appropriations conference report.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. DOLE. If the majority leader will yield, I am wondering about the scheduling for the balance of the day. It is my understanding the next item of business would be the surface transportation conference report followed by, I guess, banking, RTC, Medicaid, and the crime bill.

Mr. MITCHELL. The Senator is correct. I have discussed with him previously this morning briefly by telephone our schedule for the remainder of the day. It is my hope to personally discuss all of these matters in some further detail.

I want to thank the Senator from Oregon for his cooperation in permitting us to proceed on this important legislation.

Mr. President, I thank all of my colleagues for their cooperation. I look forward to a productive day today on the various matters we have. The surface transportation bill will be the next order of business, as soon as we can proceed to it, which I expect to be shortly.

Mr. President, I yield the floor.

Mr. BRYAN. Mr. President, during the course of the debate on the conference report as well as the earlier processing of this legislation as it emerged from this body in the first instance, the distinguished and able senior Senator from New York has characterized this legislation as a historical watershed in terms of the changes which we made in the Highway Program in this country. I think that characterization is apt. He has placed, in my view, in proper perspective where we have been with this program and where we intend to go in the future. I commend him and others for the leadership which they have shown in making this legislation possible for us to act upon today.

Let me suggest, also, Mr. President, that this is a historical occasion in another sense. The title II provisions, of which little has been said, deal with highway safety. The conference report that is before this body represents the most significant improvements in highway safety in easily more than a decade. I would like to cite just two examples, if I may.

This legislation will require, by September 1996, mandatory installation of airbags on 95 percent of all the new cars sold in America, not only on the driver's side but on the front seat passenger side, and by the following year, September of 1997, 100 percent of all vehicles, automobiles sold in America will have airbags on the driver's side and on the passenger side on the right in the front.

We all know that America's changing driving patterns indicate today that more people choose minivans and light trucks as a principal means of transportation, supplanting to some extent their heretofore expressed preference for automobiles, so for millions of Americans light trucks and minivans are family vehicles.

This legislation also requests that by September 1997, 80 percent of such vehicles—light trucks and minivans—will have airbags on the driver's side and on the passenger side on the right, and by the following year, September 1988, 100 percent of all such new vehicles sold in this country will have airbags on both the driver's side and the passenger side on the right in the front.

That has not been an easy achievement. The technology for airbags was first patented back in the 1950's, perfected for introduction in the 1960's, and, indeed, in the 1970's limited introduction had begun. There was strong industry opposition. Earlier Departments of Transportation had promulgated rules to require the installation of such airbags. That did not come about for a number of reasons. But today that will become a reality if this conference report is adopted.

I might say that what it means for motorists who travel along the highways in this country is each year we will save 9,000 lives, and 155,000 injuries can be avoided as a result of the mandatory installation of such airbags.

As is true with every significant undertaking, these things do not come about without the support of a number of people. I would like to mention some of them. First, I would like to express my appreciation to the chairman of the Senate Commerce Committee, the distinguished Senator from South Carolina [Mr. Hollings] whose unswerving support both during the committee development of this piece of legislation and as it moved on the floor and as it emerged from conference has made this possible.

I would also like to acknowledge the support of the ranking member of the subcommittee, the distinguished junior Senator from the State of Washington, Slade Gorton, a long-time personal friend of mine, whose skillful work at all stages of the proceeding and particularly his efforts at the conference level also have been invaluable. Without them, we would not have been able to achieve the incorporation of this provision in the conference report.

I would note, also, the efforts of Senator Danforth, who for many years has been a great crusader and advocate for highway safety and whose support of airbag legislation over the years paved the way for the legislation we are about to enact.

Senator Exon served as an important member of the conference committee as well, and I note his efforts and his support, and note that of several of my colleagues who served with me on the Senate Commerce Committee, who are also cosponsors, Senator Kerry, of Massachusetts; Senator McCain, of Arizona, as well.

In addition, Mr. President, this legislation provides for the reauthorization of the National Highway Traffic Safety Administration. Not since 1982 has the reauthorization been approved by the Congress, notwithstanding the fact that on three prior occasions the Senate has approved such reauthorization.

This legislation includes such a reauthorization. And in so doing I note that it provides for a number of safety rules, rulemaking procedures, which will also enhance the safety of Americans traveling on our highway system.

This legislation mandates the final rule improving protection against head injury, and it provides that a series of rulemakings on other safety issues must commence. Included among those are improved rollover protection for cars, minivans, light trucks and jeeps; improved side protection for minivans, light trucks, and jeeps; antilock brakes; improved seat-belt design, particularly as it relates to children; and safety of child booster seats.

The responsibility of the National Highway Traffic Safety Administration can be simply stated. Its purpose is to save lives.

I believe that the title II provisions contained in this legislation and in this conference report that I hope the Senate will adopt today moves us a long way down the road in achieving that ultimate stated goal of improving highway safety in America and to protect those who drive along our highways from serious injury or death by improved design and by improved safety standards.

I thank the Chair. I yield the floor.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESPECT AND THANKS TO THE STAFF

Mr. SYMMS. Mr. President, we have heard many praises from many of our colleagues in the Senate for the work on this bill. But I personally, Mr. President, would like to pay my respect and thanks to the staff of the House and Senate, Republicans and Democrats, on this bill. These young people have worked long and hard and many, many hours.

I personally for my own staff am indebted to Taylor Bowlden, my legislative director, who also has specialized in transportation matters as a member of my staff in these past years; Angela Plott, his able assistant for this work on the highway side of this.

I also would like to pay thanks to the now State Director of the ASCS, Trent Clark, who worked with me in the formation of the National Trails Act which is a part of this conference report. I particularly appreciate him, and then his replacement, Tom LeClaire, Sue Fagan, and Mike Stinson, who worked on the National Trails Act.

Mr. President, we have a list of many very fine staffers in our committee, and I know at some point we want to list all of their names but Steve Shimberg heads up the Republican side, and David Strauss the Democrat side.

I ask unanimous consent that—if it does not get mentioned here as the day goes—those names be listed, all the people on our committee staff and personal staff that made it possible. We all owe them a debt of gratitude.

We on the conference think we work hard. But they have worked endlessly, nights with 1 or 2 hours sleep, for the last 2 weekends the conference met. Everytime, when the conference would finally break up at midnight, we would direct the staff to have more numbers prepared for us the next morning. This has gone on and on. These people have done a terrific job. I personally appreciate it.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, in the generous and altogether appropriate manner of my colleague, Senator Symms, cochairman of this legislation, I would like to acknowledge the

exceptional work that the staff of the Committee on Environment and Public Works and the individual Senate, conferees, have done on this legislation. We hear oftentimes about the staff and how many there are. And yet, perhaps we do not fully appreciate, or the public does not fully appreciate, what extraordinary jobs they do. And how few there are of them, in fact, when you see them up against a Federal Government staff. These few hundred men and women have as much to do with actually writing our laws as any of us here who vote on them.

Let me, Mr. President, go back to my desk for 1 minute and get you a copy of this bill.

(Mr. SHELBY assumed the chair.)

Mr. MOYNIHAN. Mr. President, here is the bill. It is a feat of draftmanship, as well as legislative creativity. It will be one of the great statutes in the two-century history of Congress and transportation.

The bill would not be here this hour without the extraordinary efforts of Roy Kienitz, who is the lead staff member for the Committee on Environment and Public Works; Rob Connor, of whom it can be said this bill would not be here without him because of the critical moment this morning when the House of Representatives was about to act on the bill; the House discovered it did not have a copy. In the fastest 500 yard dash on record, Rob Connor made his way to the Dirksen Building and got it back to the well of the House of Representatives. Tim Bernstein, Mark Kadesh, Andrew Samet, and Dr. Jay Messer of my office have done wonders. David Strauss, the director of the staff of the committee, has been an unfailing asset, as has Mike Weiss, who worked himself to the point of exhaustion, something no one would ever dream possible in a man of his energies. Jean Lauver, Steve Shimberg, of Senator Chafee's staff were invaluable resources in environmental matter. So too were Kathy Ruffalo, George Schoenes, and John Grzebien of the committee staff, Taylor Bowlden and Angela Plott of my cochairman, Senator Symms' staff and were outstanding. Grace Reef of Senator Mitchell's office was everything one can hope for in an ideal staff member. Grace interrupted the most personal possible plans of her own life to be available to this Senate for these purposes. Jeff Morales, John Ferry, George Cartagena, Ann Loomis, Sue Pihlstrom, they were incomparable. If the Nation is to be grateful for this legislation, it should be grateful to these men and women. Thank you.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

SURFACE TRANSPORTATION ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 2950 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transportation programs, and for other purposes, having met, after full and free conference, have agreed to recommend and to recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of November 26, 1991.)

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. COATS. Mr. President, as we are winding down here, perhaps one of the most far reaching and comprehensive highway bills that has ever been presented to the Congress is before us. There are many good things in this legislation. I commend those who have worked long and hard in crafting changes in the highway bill that are important to this Nation as we move into a new phase of highway construction and highway administration.

The battles have been long and hard. There have been victories and losses. There have been gains and pluses and minuses and, for the most part, some substantial improvements.

It is interesting to me, however, though, that in the end there still are inequities that exist and, for this Senator representing the State of Indiana, I find that those inequities in terms of how the State of Indiana is treated under this bill outweigh the good that will flow to our State as a result of this bill.

On May 29, 1956, the Senate debate over creating a national highway system was nearing an end. A large map was at the back of this Chamber marked with red lines representing over 40,000 miles of proposed new concrete and pavement in this country.

It was some of the largest spending programs in the history of the United States. I might add it has been one of the most successful infrastructure programs in the history of the United States. It was a creation of legacy to our former President Dwight Eisenhower.

Many in this Congress who preceded me fought very hard and had the foresight to go forward with then what was considered an extraordinarily ambitious plan. It has united our Nation. It has provided the means for commerce to flow between our States. It has been enormously successful.

During that debate, however, on May 29, 1956, debate, as often happens in this Chamber, turned heated, partly due to the persistent comments and questions and remarks of Senator Homer Capehart, then the senior Senator from Indiana. Over a 2-day period of time, again and again he raised his impressive girth to object, cajole, argue, and badger his colleagues.

As the vote neared, tempers began to fray and Senator Kerr of Oklahoma asked Senator Capehart what his real opinion of the bill was. "I will tell the Senator from Oklahoma what I think about the bill," Capehart replied. "I think it is an awful lot of pork barrel. I believe that the real purpose behind the formula in the bill is to provide certain States with some pork barrel money. That is what I have to say, if anybody wants my opinion of it."

Well, Hoosiers have, over the years since 1956, contributed significantly to Federal transportation bills. Invariably we have sent more money out of the State than we have received back. We have been known as what has come to be known here as a donor State, a polite way of saying that we have contributed more than our equitable share of money into the trust fund to build other people's roads.

Some of this made a great deal of sense. States like Montana, small in population, vast in area, could in no way afford to build their own roads. There is just too much ground to cover and too few citizens to tax. If we wanted a national highway system, these States would require help in the form of subsidies from other higher populated States. And America did want a national highway system, both for economic growth and to move supplies and troops for national defense. The road system approved by Congress in 1956 was actually called the National System of Interstate and Defense Highways.

But that was then. Today is today. Today we have completed 98.9 percent of the interstate highway systems, 42,795 miles, and that is a lot of miles open to traffic. The need to subsidize construction in the empty West has virtually ended. Yet we still find within this bill a new 6-year bill facing us, the use of Indiana highways and Indiana funds to continue to subsidize whose need for the most part has passed.

The use of Indiana highways is expected to increase 50 percent by the year 2000 and on June 19 of this year the Senate signaled that a new era of transportation policy may be beginning.

Today's most pressing problems are not really constructing new highways, but making the old ones fit for use. The Department of Transportation estimates that 40 percent of the pavement on Federal highways is in fair or poor condition. In Indiana we have our share of roads that need repair, but less than our share of resources to do that. The use of our highways has increased by 38 percent just since 1980.

Last year Indiana still received just 79 cents for every highway dollar we sent to Washington.

Between 1986 and 1990 alone over $389 million in Federal highway user fees collected in Indiana were sent to other States.

A transportation bill is very important to the economy, particularly at this time. But in our rush to reauthorize a program, it is important that we do not overlook a basic question of fairness.

This bill is about how Federal moneys are allocated to the States. As a representative of a State that has donated money to finance highway construction in other States for 40 years, I have to ask the question that Hoosiers are asking: Is this fair for Indiana?

The Nation's highway system, as I said, is virtually complete and yet the State of Indiana is asked to continue to bear the burden to finance road projects in other States. Under this bill Hoosiers will be 44th in the Nation in return of Federal dollars. That simply is not good enough, not for a State which for decades has contributed more than its share, without much complaint, to build a national system.

We have roads of our own which we want to build and repair. We want to build the Evansville, IN, highway which may cost up to $1 billion, the last link of our State between major metropolitan areas—Evansville being one of our largest cities—and lies incomplete because the decision was made to terminate or to scale back the amount of originally planned interstate. Evansville was to become the link to Indianapolis, Indianapolis north to Detroit and Canada, south to Memphis, completing a very important segment of the interstate highway system.

For some reason, the reasons that I do not fully understand, the decisions that were made before I became a part of this body, that decision to complete that link down from Indianapolis from Evansville and on to Memphis was canceled.

So now we find residents throughout southwest Indiana following a tortuous route to connect with the center hub of our transportation system and economic system in the State of Indiana.

One-quarter segment of the southwest corner of our State cannot develop fully economically without sound transportation access, and yet this has been denied to people of Evansville.

This bill contains some funding, roughly $30 some million, as Federal contribution over the next 6 years, and we are grateful for that. But this cannot begin to pay the cost and, in fact, will represent just a little over 3 percent of the total cost of completing that highway. Our State cannot afford to come up with the additional 97 percent.

We have other projects in the State, and I am grateful that funding for those projects is included in this bill. Lafayette railroad relocation, widening of Highway 67 to Muncie, the Hoosier heartland highway, Columbus interchange, are all important projects, and we are grateful that funds for those projects have been included here. We worked long and hard, and I thank my colleagues for being responsive to my efforts to include them.

Yet, we find that Indiana, which has a very small share of the demonstration project money, pales in comparison to a number of States, a handful, which receive an exorbitant, almost unbelievable share of demonstration projects, many of those States having long ago completed their interstate system.

Mr. President, it is difficult to support a bill which institutionalizes our State's second-class status in terms of receiving money back from what we pay into the highway trust fund. While this bill does show improvement, we will be well into the next century before Hoosiers start to receive an amount equal to what they are putting into the total fund.

I supported the Senate bill when it came through because of amendments added by Senator BYRD and Senator BENTSEN which brought some form of equity, particularly in terms of future dollars to our State. We operated on the principle not that we should receive more than our fair share, but that we should receive exactly what our fair share is. Hoosiers who had paid for decades into a fund which had not returned money equal to what we paid in felt like they had every right to ask that we at least get a dollar back for a dollar in. The Senate bill moved us substantially toward that goal. I was disappointed, therefore, when this conference report came back which now moves us back away from that goal. And, in fact, both the Senate bill and the House bill provided Indiana great equity than the conference report provides.

Indiana will be 44th in the rate of return of the dollar out of 50 States. We pay 2.5 percent of the Nation's highway bills; we receive back only 2.18 percent of its money. When you add mass transit, which Indiana receives only 35 cents on the dollar, Indiana receives only 1.9 percent of the highway pot, or 73 cents on the dollar.

At the current rate of growth for Indiana's rate of return, we will be a donor State until the year 2015, and that is just not fair. For 58 years we have been paying for highways in other States; $389 million just in the period 1986 to 1990; $389 million in Federal highway user fees collected in Indiana were spent in other States.

Ten States came out worse in the conference report in either the House or Senate bill. Indiana is one of them. Six States alone account for 50 percent of the $6.4 billion in demonstration or special projects funding.

President Reagan vetoed the last highway bill because of $1 billion in pork. This bill contains $6.4 billion. The bill also contains an extension of the 2.5 cent gas tax increase enacted in last year's budget compromise, despite the fact that the Senate overwhelmingly rejected the notion of a tax increase and supported a resolution which I offered putting the Senate clearly on record as opposing a gas tax increase for the purpose of funding this bill.

We all know the trust fund contains dollars that have not been spent in past years, dollars that were collected for the sole purpose of building highways and bridges and providing transportation means for Americans who willingly went to the pump, filled their cars with gas, and sent money to the highway trust fund under the belief that the money would just simply go and be returned back to the States for the building of highways and bridges and roads and transportation projects.

Yet, that money has not been fully returned to the citizens to pay for that specific purpose. And now we find that in order to fund this bill, we have to extend a gas tax increase in the amount of 2½ cents per gallon in future years. So in addition to not providing equity for citizens of Indiana, it requires that they continue to fund other States by increasing a tax that they pay at the pump. That simply is not acceptable to me, nor is it acceptable to the people that I represent.

The rate of return is being billed as better than it actually is. The conferees are saying that Indiana is receiving 94 cents on the dollar. But this is only applied to future contributions. With the spend-down from the trust fund, which includes significant contributions from Indiana calculated in the mix, we end up with a rate of return of roughly 84 cents on the dollar.

The bill is also $2.5 billion over budget. And I have not been able to secure an adequate answer from anyone as to where these funds will come from. What I am concerned about is that the numbers presented on the charts that have been given to us will not be translated into statutory language, and as a consequence of that, those categories which were used to help bring more equity to the donor States will be those categories which will be assessed to meet the budget goals.

And if we have to take $2.5 billion out of those categories, then we will lose even further.

Mr. President, I received a letter from the Governor of the State of Indiana.

Mr. SYMMS. Will my colleague yield?

Mr. COATS. I am happy to yield.

Mr. SYMMS. Mr. President, the junior Senator from Indiana has certainly been involved in this whole process in letting us on the committee and in conference know that he wanted a better share for Indiana. I believe we have done better for Indiana than any highway bill in the past that has gone through here. So I think the Senator has certainly represented his State very ably, and I compliment him for that.

He did make a comment, and I think we should answer that question, because it is a good question and it is a fair question. And that is, if the $114 billion in total in the bill is over what may come in in the trust fund on the calculations, the Byrd amendment that is part of the highway legislation—that is, the Byrd of Virginia, not West Virginia, amendment—states that we cannot overstate the trust fund.

This bill is trying to spend the trust fund down at the end of 6 years. The best we can estimate, it will spend it down. If you come to a point where it runs at cross-purposes with the Byrd amendment, automatically there will be a reduction across the board.

But Indiana or Washington State or Arizona, Missouri, or Idaho, no State will lose their share disproportionately. Everyone will get a reduction to see that we stay in balance. Now, what has happened in the past is that, as the country grows, if the economy is good and people are driving a lot, that will not happen at the 6th year, and there will be adequate revenues to fund it fully at this level.

But if it does not work out that way, for the State of Indiana, the answer is that it will be an across-the-board reduction, treating all people evenly. That is the answer.

That is a good question. The Senator asked me that yesterday. I have been checking to get the answer.

I thank the Senator for his interest and efforts.

Mr. McCAIN. Will the Senator yield?

Mr. COATS. I will be happy to yield to my colleague from Arizona, but let me first respond to the Senator from Idaho.

The Senator from Idaho and I discussed late into the night this question, and I very much appreciate the Senator getting that information and responding back to me.

It is sort of like good news and bad news. The good news is that we hope to be able to have enough money in the trust fund so that we do not have to make this reduction. But the bad news is that it is based on an assumption, an economic assumption, that may or may not come true.

I think those that are basing support for this bill, or making decisions about how much their States are going to get, need to understand that is not necessarily guaranteed in that full amount listed on the bill, because it is based on an economic assumption. Under the law, we are required to reduce that back under the Byrd amendment, reduce that back to a lower level, roughly $3 billion lower.

I am pleased to hear that if that happens, it comes out on an across-the-board basis. Obviously, I am distressed to hear that it might have to happen, because that then would further jeopardize the amount of funds coming to us. I was concerned that it might come out of specific categories, or that the language might specifically designate or target particular categories, and that those categories would have been the ones used to compensate donor States for the inequity.

I also want to again thank the Senator from Idaho for his willingness to work with me. He has been very patient, sometimes when I have been very impatient, to try to understand my concerns and to work with those.

And I am grateful and Hoosiers are grateful for the increases that do exist within this legislation. Indiana does do better, and we are appreciative of that. We will, over the next 6 years, receive about $2.5 billion. That is substantially higher than the $1.4 billion that we received over the last 5 years. But in proportion to what we pay in, and in relation to other States, we still find ourselves in the donor category and pretty far down the list, and that, we feel, is inequitable, given the fact that the national Interstate Highway System has been virtually completed.

Mr. SYMMS. I want to say again that, because of the efforts of my colleague from Indiana and the Senator from Missouri and both Senators from Florida, there has been a rising awareness of the donor-donee problem in this Congress. Not that it was not here. It started with the Bentsen amendment to move it to 85 percent. We have diligently worked in conference, both House and Senate Members, to make it very clear that all States will get a fairer return than they were getting before in those donor States. I believe in almost every instance the record will show and it will work out that those States like Indiana, like Missouri, like Florida, are going to do substantially better in this bill than they have in previous bills.

Mr. COATS. That is a true statement. We will do better. And I suppose beggers cannot be choosers, particularly when you do not have enough votes to change the formula. We are grateful for what we did get. But we still feel we need to make the point that the equity is not there and we are still struggling to bring ourselves to parity.

If Indiana or Florida or Missouri were asking to be put into a category of getting back more than they put in, then I think a valid argument might lie in terms of what are you guys trying to do? But that is not the case.

All we are asking for is parity. All we are asking for is equity. And having contributed, for decades, hundreds of millions if not billions of dollars more than we received back, understanding that the Interstate Highway System needed to be completed in the West and that those States could not generate enough funds to complete it and they needed support from other States, now that it is completed, all we are asking for is a dollar for a dollar. Having done more than our fair share in the past, we are asking for our fair share for the future.

We have taken steps forward in terms of addressing that problem. We have not, in this Senator's opinion, adequately addressed that problem to bring us to a position of equity.

I was going to yield to my colleague from Arizona who stepped off the floor for a moment. I will be happy to do that. I am winding up my remarks here. I know others are interested in speaking.

Let me just finish by saying that, one, we are pleased that, through a lot of hard work and negotiations and a lot of support from my colleagues, we were able to improve on the original versions which came from the conference committee. We have taken a step forward. We will receive an increase in highway funds over the next 6 years. Our rate of return does increase, and it is moving toward a historic high. It is higher than it was in the sixties and the seventies, substantially higher. But it also is not totally equitable.

We do have funds, albeit some of them limited, for a handful of projects, specific projects, those that I have been working on and others have been working on diligently. And we are pleased that that project funding is part of this bill. This will provide jobs for Hoosiers. This will improve the infrastructure in our State and help stimulate our State's economy. And it is important for all of that.

But there are some basic principles which have not been met, principles of equity, principles of whether we are going to add additional taxes to Hoosiers and Americans as they pull up to the pump, principles of providing equity throughout the bill, regardless of how funds are distributed, whether they are through demonstration projects or formula funding or whatever.

Mr. President, I received a letter late last night from our Governor, who has indicated that, while he is grateful for the work that has been accomplished here, Indiana still does not receive its fair share of funds under the compromise proposal, that this principle of equity is very, very important to Hoosiers, and for that reason he urges us not to support the bill. He comes to the same conclusions that I do.

Mr. President, I again thank my colleagues for their support, for listening to my arguments often late at night, who have been responsive in some measure to address some of those concerns. I appreciate the obstacles they were up against and the difficulties of addressing what I felt were serious inequities in the bill. They did take steps forward. They were responsive. I appreciate that. But I, in good conscience, cannot support a bill which does not provide a better sense of equity to the people that I represent.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I listened very intently to the interesting remarks of my friend and colleague from the State of Indiana. I sought recognition about the same time as the Senator from Indiana. I think he beat me, and the Chair properly recognized him first. I thank the Chair for the recognition I have just been given.

I believe the Senator from Indiana brought forth, for the first time in these lengthy discussions, a matter that I wish to address and will be addressing in my remarks, and that is the tax increase that are embodied in this bill that have been overlooked, basically, in the discussion up until this point. They have been totally ignored in the press, when the opposite is usually true when we talk about tax increases.

I realize that the steamroller is coming down the hill and will not be stopped by the conference committee proposal and, therefore, the agreement to H.R. 2950, the surface transportation reauthorization bill. But before it rolls over us, unless the President has the courage to veto—and I hope he will for lots of good reasons, and I do not know why he has not been saying more about the possibility of vetoing this bill which is veto bait if there ever was—I want to register my opposition to the measure. We were told that the funding formulas involved herein treated all States fairly as compared with the Senate-passed numbers in the Senate bill that was passed way last spring. That turned out to be not the case, at least with regard to my State of Nebraska.

We were told, also, Mr. President, that we had to accept this agreement coming out of the conference because this was the final offer from the House of Representatives. If we did not accept this, they would go on home and we would not have a bill of this nature that, obviously, is very, very necessary.

I am, frankly, a little weary of final offers that are basically caved into by the Senate from the House of Representatives. I still maintain we are supposed to be coequal branches and we have a right to stand up in conference for positions as previously passed in the Senate when we go into conference with the House.

I do not like to rain on the picnic parade of self-indulgence and the mutual admiration society that has been going on here, but I must. I just want to say that mutual admiration society is not universal. Yes, a lot of hard work has been done, and I know it has not been easy. So the fact that people worked hard on Saturdays and Sundays and sometimes almost all night has to be recognized. And we thank those who took part in those deliberations. At least we now have a bill, regardless of its fairness.

Yet the best-kept secret is that "T" word that is in this bill. It has always been an action word before whenever we raised taxes. But I must say that the fact that this measure increases taxes is something that has been basically overlooked. And, if for no other reason, that is why, in my view, the President of the United States should veto the measure.

The original Senate bill last June was a good bill. But something happened on the way to and from the conference. It passed the Senate with no tax increase and no earmarked, porkbarrel projects. It returned after the conference loaded with billions of porkbarrel specials in the form of House pet projects, according to the figures that we received late yesterday.

In that regard I might say that those of us who were to find out what was going on inside that room for the most part were not told what was going on in that room.

The State of Pennsylvania, for example, alone has $935 million in pork, more than the total allocation to Nebraska. That is just one example. The basis for my opposition is the part of the bill which allocates transportation funds to the States. The funding distribution in the conference agreement is fatally flawed. The funding formulas have been bent to fund pet projects rather than a State's transportation needs and financial ability to pay for those needs.

I should first note, Mr. President, that there are some good items in the other parts of this bill, including some provisions that I sponsored. I served as a Senate conferee for the Senate Commerce Committee on completely unrelated portions of the bill dealing with interstate matters and safety. Interstate transportation regulatory matters in the bill are good. That part of the bill has a number of desirable items, such as strength in Federal truck safety efforts; a new Federal truck limit to keep trucks from getting longer and heavier, those that travel on our interstate highways at least; major improvements in cutting paperwork burdens for the truckers who do interstate business and the exclusion for custom harvesters from the commercial driver's license requirement.

For our Nation's transport future, the bill includes the Hollings-Exon maglev and high-speed rail provisions, along with Senator MOYNIHAN'S maglev provisions in a future-looking package to jump-start our Nation's efforts in this very important technology that for too long have been ignored.

All of those items I just mentioned on which I worked as a part of the conference separate and apart from the highway formula funding, but the funding distribution is the central core of the overall bill.

Mr. President, to say I am disappointed in the outcome of the House-Senate conference is an understatement. Under the original Senate-passed bill, Nebraska received 30 percent more than in the House bill, or an average of $200 million per year for 5 years, compared to the House passed average of $153 million per year for 6 years.

While I prefer the Senate numbers, I know that the conference committees must reach compromise solutions. I had hoped for at least some middle ground for my State. Unfortunately, the conference agreement allocates to Nebraska less—less, Mr. President—than under either the House or Senate authorization bill or $912.5 million over 6 years, according to figures that have been provided us at a very late date, yesterday afternoon.

In my view, getting less funds for Nebraska in either the Senate or the House version is no compromise. The arbitrary funding distribution formula to the States is long; it is the guts of the bill.

The funding distribution is a sufficient reason alone and by itself for Presidential veto. But in addition, this bill also raises the gas tax. Yes, it provides for a gas tax increase.

I realize that proponents say that this is simply an extension of the 1990 gas tax increase. However, as one who has voted against the 1990 nickel gas tax hike, I know that if this conference report becomes law, which it will, unless the President vetoes it, it amounts to an additional $100 million in higher taxes for Nebraskans. To me, that sure sounds like a tax increase.

Read my lips, the President should veto this bill if for no other reason that it again violates his famous "no tax increase" pledge. It should be vetoed and the Congress be recalled immediately to do it right by eliminating all of the House pork which clearly necessitated the tax increase that nobody wants to talk about.

Again, the original Senate bill correctly took the approach of leaving decisions on individual projects to State officials and highway planners. Unfortunately, the conference agreement follows the House-passed bill approach of Congress knows best.

According to figures of late yesterday made available to me, the conference agreement includes a record number of special porkbarrel earmark projects. I suspect it is no coincidence—I emphasize, Mr. President, I suspect it is no coincidence—that highly placed House conferees from Pennsylvania and Arkansas and New Jersey and California led in accumulating the largest percentage of such special projects.

Mr. President, unfortunately, my early fears about the direction of announced tax increase demands and pork projects in the House bill would lead to an unfortunate conference agreement, and here it is right now on the floor of the Senate.

I suggest, Mr. President, that this bill will, without question, provide disproportionate amounts of funds in the bill being diverted to porkbarrel projects in certain States of House Public Works Committee conferees, and Nebraska would be the loser in that process. Unfortunately, that is exactly what happened.

Nebraska already has one of the highest gas tax rates in the Nation and is clearly up against the wall in using its own fiscal resources along the lines, I might say, as outlined by the Senator from Indiana in his remarks preceding mine.

Mr. President, I wish to be recorded as no, a very definite no, on the highway funding conference agreement that is before the Senate.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I suppose it comes as no surprise to my colleagues when I say that highways are vitally important to my State of Missouri. They are really the life's blood to our State. They are extremely important for our people, for their jobs and for our economy. It is for that reason that I, along with my colleagues from Florida and Indiana and Texas and Michigan have been so adamant about trying to get a fair share and a fair shake for our State.

I should begin by offering my apologies to colleagues whom I may have offended, whom I have imposed upon, but I did so because this is a critical economic program for our State. Without good highways, we cannot develop jobs, we will not see our State grow. In addition, we risk the lives of our citizens each day of the year that they travel on overcrowded highways, inadequate roads and unsafe bridges.

But under this bill, though clearly it is not what I would have drafted or I would have preferred, we have taken a major step forward, and for that I thank my distinguished colleague from Idaho, Senator SYMMS, my colleague from Rhode Island, Senator CHAFEE, our brother in the donor State category, Senator WARNER from Virginia and, most of all, the distinguished chairman of the committee, Senator MOYNIHAN. They have listened to us, they have been gracious in putting up with our continued demands and requests, and I want to express now my sincere appreciation to them.

When we began this exercise, there were a number of things we thought critical to be included in a new highway bill.

First of all, many of the donor States said it is time for a fair shake; we want a fair funding formula; we want a basis for allocating highway funds on a factual, responsible basis.

Second, we wanted to continue the National Highway System.

Third, we thought it was time we began to spend down the highway trust fund which has been used for too many years to mask the growing Federal budget deficit.

And, fourth, we wanted flexibility for States that have different needs.

I initially criticized, in this Chamber, some of the provisions in the bill which were designed to favor alternatives or nonhighway solutions to transportation problems. In some of the States, those are very important. In our State, the need for highways and roads and bridges is so great we cannot afford to do those extra things, to add those frills that would be nice.

To say that there are some things in this vital bill that are deeply disturbing, I guess, would be an understatement. I do believe we have made some strides forward, however. We have kept the National Highway System. We have agreed to spend down the highway trust fund. We did achieve some flexibility for the States so they can put the dollars where they are needed to meet the highway, road and bridge requirements in each State, and each State is different.

But there is no new formula. A formula was adopted in the House, but unfortunately the conferees gave up on that far too soon. I would hope that over the next few years, before we debate a highway bill again, we can come to some agreement that there is a better way than making a grab bag out of highway funds; that we can allocate those dollars so they will go where they are needed.

Mr. President, in my view, the need now is based on usage. For the donor States, I could say we gave at the office. We gave significantly so we could complete a National Interstate Highway System, the highways of defense. We understand that States with lower populations needed those extra dollars so they could be hooked up to a national system, but now that system is complete. I frankly think it should be declared complete and we ought to go about taking care of the needs of those States where the interstates are so crowded people cannot travel at a reasonable speed in a reasonable time, those States where bridges on four-lane highways have to be narrowed down to one lane each way because they are so inadequate. That formula did not survive.

I hope, as we discuss highway bills in the future, we will have some leadership from the Department of Transportation, we will have some leadership in Congress to show that there is a better way. Highways should not be just a political grab bag. We need to begin to allocate those dollars where they are needed. The bad news is that there is really no formula coming out of this bill. There have had to be ad hoc adjustments and the entire funding process seems to be a series of ad hoc adjustments.

The charts are truly interesting. Some anthropologist 1,000 years from now will look at those charts and say, is this the way the greatest country in the world allocated its transportation funds—according to 8, 10 columns? Certainly, there is nothing to look back on the next time we do a highway bill and say we had a great formula back in 1991; we managed to piece and patch and put it together.

I am no fan of demonstration projects, as my colleague just noted. There are some real questions about them. Demonstration projects make good reading back home. They do allocate some dollars and they do say what the Members of the legislative body think is important, but they are no substitute for good roads, good highways. Those come about by reason of the State departments of highway transportation determining where the needs are.

Prior demonstration projects in my State caused funds that have been designated for a project, but held up by environmental requirements or other legal technicalities, not to be spent. Clearly, that is not a good way to build highways.

But because the leaders in the Senate, on both the majority and minority side, did listen to the needs that we made known day and night over the weekend and all hours of the night in all manner of fora, the donor States were allocated more funds. In our State, we managed to increase the funding and therefore the spending on highways. We will be able to put people to work. Some 22,000 jobs will be created in the next year from the Federal share alone and over 6 years, 135,000 jobs will be generated.

This is not a jobs bill, Mr. President. But the failure to act on this bill was a negative jobs bill. It was a job-destroying inaction.

Again, I commend the leaders on the Senate side for having moved forward in June to get a highway bill through, and I am disappointed that our colleagues on the other side waited until October so that we are acting in the middle of the night making decisions and voting on the final terms that we have never seen and will not see for weeks now. Unfortunately, that is the only way we can get it done.

Mr. President, I again express my thanks to the leaders of the committee on both sides, to Senator SYMMS, to Senator CHAFEE, to Senator WARNER, in particular on our side, to Senator MOYNIHAN, about whom much has been spoken already, saying that he had a vision for a new kind of surface transportation program. We commend him for his farsightedness. I disagree with him on the application of certain principles, and he understood that. The louder I talked, the more patient he was. We did make changes in the bill. We did achieve significant adjustments so that the most serious inequities were addressed.

Missouri can probably never hope to get out of the donor State category. We do not expect that. But we do appreciate the fact that we will not be drained dry; that we will get a significantly increased share of our dollars back, and for that I express my sincere thanks to the leaders of the committee on both sides. I assure them that we look forward to working with them in the future. I hope that we will be able to come to an agreement in future years on how to allocate funds that will not depend upon a funding grab bag for projects or require last minute adjustments to work out the inequities.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. BOND. I will be happy to yield to my colleague from Idaho.

Mr. SYMMS. Mr. President, I want to say Senator BOND from Missouri and Senator GRAHAM of Florida and others working through "Pothole" JOHN WARNER made a tremendous contribution toward making this bill more equitable. I think that it was a bipartisan group. They were at odds with what some of us in the big Western States had in mind. We all took somewhat of a hit, more than we have in past highway bills, and they made a gain. I think they should be commended by their constituents for the efforts they have made and the persistence with which they have fought. They had their able friend, as we referred to him in the conference in the middle of the night. We started referring to Senator JOHN WARNER as "Pothole" John because he was so persistent about those States and equity in this program, and we do appreciate it.

I thank the Chair.

Mr. BOND. Mr. President, I conclude by again expressing my thanks to the Senator from Idaho. It was a bipartisan effort. We were offensive on a bipartisan basis and only the good humor and the patience of our colleagues permitted us to achieve this. I do not know what kind of sobriquets will be applied to my distinguished colleague from Virginia for the fights that he fought, but he ought to wear them with pride because he was a very strong voice for Virginia and for equity through this bill. I express my deep appreciation to him as well.

I yield the floor.

Mr. WARNER. Mr. President, will the Senator just yield for a comment?

I thank, Mr. President, all of those for my nickname after 10 years in this body. But had it not been for the steadfast leadership of the Senator from Missouri and the Senator from Indiana and others who were part of the sort of famous "FAST army" that was in the Senate at the time of the original Senate bill, we would not have been able to make the gains during the course of the conference that we did.

It was a bipartisan coalition. I happened to be, I believe, the only donor State conferee on the Senate side, but there were a number on the House side. I want to say it was leadership of the Senator from New York, Mr. MOYNIHAN, the Senator from Rhode Island, Mr. CHAFEE, the Senator from Idaho, who enabled us to make these gains and to finally recognize in the name of equity, not politics, that we had to go with the 90-percent guarantee which the distinguished Senator from Missouri referred to today.

I thank him for his kind remarks. But, again, it was his contribution, together with others, throughout this process, not just in the closing days but throughout the process. I thank the Senator.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, it is curious but gratifying that there are times—this is such a time—in which the clash of parochial systems can result in the national interest.

Individual Members of this body and the other body are, of course, primarily concerned with a bill like this with what it does for their own States or for their own congressional districts. But simply because there are so many voices, so many concerns, those who were primarily responsible for this transportation bill were required to consider with a degree of reason the needs and the demands of Members from each State in the United States.

So I want to join with the majority on this floor speaking in favor of the passage of this bill in expressing my thanks and admiration to the Senator from Idaho, to the Senator from New York, to the Senator from Rhode Island, to the Senator from Nevada, to all of those who worked countless hours to cause this bill to get before us, tardy as it may be, on what we all trust will be the last day of this session.

They have done a good job for the United States of America. They have done a good job for almost all of the 50 States. They have created a greater degree of fairness and balance than has been in existence in a number of previous bills. And they have offered to each State a greater opportunity to set its own priorities and to make its own choices within the highways and mass transit lanes in each of those States.

They have, for that matter, authorized much more for mass transportation than has been the case in the past.

Mr. President, I suppose it is somewhat easier for me to make these comments, as my State remains what is known as a donee State; that is to say, for every dollar in taxes which go into these programs out of the pockets of the citizens of my State, and their Federal gas taxes, that the State of Washington gets some $1.18 in return because it is in many portions of the State a thinly populated rural State, but in its urban areas it has particularly expensive highways and transportation systems because of various bodies of water and the constrictions and narrowness of the city of Seattle.

This bill takes some significant steps forward with respect to one form of transportation which is not quite unique to our State but on which it depends. It depends to a very significant degree on ferry projects, and that is to say there is a new program for $100 million that will be distributed among States with ferry projects on a competitive basis which is exactly the right way in which such money should be directed.

The primary beneficiaries are likely to be the States of Washington, Alaska, and New York, representing those States with the most significant amount of ferry traffic, but it is available to ferries in any State.

In any event, we find this to be a major plus in this legislation.

There are also various highway projects. There are demonstration projects in this bill for the State of Washington.

Personally, I believe I would have preferred all of the money to be distributed according to the formula more or less in the fashion of the original Senate bill. But at least the distribution of these demonstration projects has been smoothed out and made somewhat more fair by the efforts of the conferees from the South.

Most particularly this morning, however, Mr. President, I wish to speak to one portion of this bill which has been the subject of remarks so far today only by my close friend, the distinguished colleague, the junior Senator from Nevada, Mr. BRYAN.

This bill also includes the first reauthorization of the National Highway Transportation Administration since 1982. This body unanimously passed

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such reauthorization much earlier this year. Later when this bill was being debated here on the floor, the Senator from Nevada and I prevailed upon the body to attach it as an amendment to this surface transportation bill. That turned out to be a most fortunate circumstance, as it seemed highly unlikely that the House Committee on Energy and Commerce would every deal with the independent National Highway Transportation Administration reauthorization bill.

Even so, we felt that it was a long shot to get this conference to accept that bill or any portion of it as a part of this transportation legislation. Nevertheless, it did so due to the efforts of five members of the Commerce Committee of this body, who were conferees for that purpose. The junior Senator from Nevada, whom I have already spoken to, who led the effort to pass the original bill through the Senate and who wrote many of its provisions; the chairman of the Commerce Committee, the Senator from South Carolina; my good friend from Missouri, Senator DANFORTH, all put in yeomen effort in coming up with a set of safety proposals which will be of great importance and great benefit to the people of the United States.

However, I believe that I may say that much of the reason that we have these safety provisions on this bill came as a result of the fortuitous circumstance that the chairman of the House Subcommittee, which deals with this legislation, is a close friend of mine and a colleague from the State of Washington, Congressman AL SWIFT.

Congressman SWIFT worked long and hard and diligently on his own behalf and with the chairman of the Energy and Commerce Committee, Congressman DINGELL, to persuade that it was time to work for automobile and other passenger vehicle safety. As a consequence, we have a bill that is at least 90 percent of the proposal which was passed by this Senate so many months ago.

One of the leading traffic safety private organizations in the United States states that this bill may save as many as 12,000 lives a year when it is fully implemented—12,000 lives a year, Mr. President.

I simply want to say that is a striking, magnificent, and a gratifuly statistic, that we could take steps here in the Congress of the United States that would result in lowering so sharply the number of traffic deaths, and by thousands more the number of serious injuries in automobile and small truck accidents.

The bill does so by making certain requirements, the most important of which is mandating air bags on both the driver and passenger side of both passenger automobiles and light trucks well before the end of this century; then by mandating rulemakings which will almost certainly result in new requirements on passenger cars side impact, with respect to head injuries, with respect to child-restraining seats, and a number of other areas, all of which are important to the safety of the people in the United States as they travel in their automobiles; and, almost all, or all of which are really beyond their own control because they are matters which are built into the very designs of these automobiles themselves.

So this bill is worthy of support not only because of the great work of the members of the Committee on Environment and Public Works, but because it is also in addition to the transportation bill a transportation safety bill.

Finally, I should like to say, Mr. President, that it is the case in almost all bills of this sort that the great bulk of the work in the conference committee is done not so much by individual Members of this body or of the other body, but by their staffs.

In that connection, I particularly want to commend Scott Cooper and the staff of Congressman SWIFT, with whom we worked from the beginning of this process, both the majority and minority staffers from the Senate conference committee, and most of all, my own staffer, Terri Claffey, who continues her streak in my office of seeing to it that when we take a great deal of interest in something, it almost invariably finds its way into the Statutory Code of the United States of America.

Mr. President, this is a good bill, and it should be adopted with enthusiasm by the Members of this body.

Mr. WARNER. Mr. President, I rise today to support the conference report on the Intermodal Surface Transportation Efficiency Act of 1991.

It is critical that this conference report be adopted because many States, including Virginia, have frozen further contract work on many important projects including the high occupancy vehicle [HOV] lane extension on Interstate 95.

Mr. President, foremost today I want to commend my conference colleagues majority leader MITCHELL, Chairman MOYNIHAN, the Environment Committee Chairman BURDICK, Senators CHAFEE, SYMMS, LAUTENBERG, REID, and DURENBERGER, and the majority leader. Their determination and commitment to an innovative transportation policy have brought together a conference report which addresses our urgent transportation needs.

As one of the leaders of a bipartisan group of Senators in the fight to amend the Senate bill last June in accordance with the FAST formulas, I renewed that fight in the conference and together with other FAST supporters we improved the formula during the long negotiations of the conference.

Although many are not fully satisfied with the results, I can assure my colleagues that genuine attempts were made to provide relief to highly populated States.

Progress was made to give the so-called donor States—those States receiving far less dollars in return than their highway users contribute to the trust fund—a greater return on their contributions.

During the consideration of the Senate bill, objections were expressed by many who believed the formulas used to allocate Federal highway trust funds were outdated and unevenly distributed among the States. Virginia, like other States, simply was not getting a fair return for the dollars paid into the trust fund.

For Virginia this conference report provides over $2.6 billion to meet transportation demands in the next 6 years. This amount far exceeds the $1.5 billion Virginia received from the trust fund under the current bill.

It is my hope that this increase in funds will begin to meet the many highway demands across the Commonwealth.

A cornerstone of the Federal and Surface Transportation Act or FAST bill which I originally sponsored was a 90-percent minimum allocation of the dollars each State contributed to the trust fund.

The conference report represents a significant achievement for donor States by increasing the minimum allocation program from the current level of 85 percent to the 90-percent goal.

This program is important because it is the safety net for donor States. It guarantees that whatever the annual allocation, no State will receive less than 90 percent of what their highway users pay into the trust fund.

While so much of our debate has focused on the dollar return for each State, I believe the conference report represents a new and users era in transportation policy. This is innovative legislation which will carry our transportation infrastructure into the 21st century.

For the first time, States will be given maximum flexibility to use their funds to meet their own pressing needs—whether these needs are for the Interstate System, bridge repairs, or primary routes.

Flexibility will allow Virginia and particularly the metropolitan regions of northern Virginia, Tidewater and Richmond to transfer highway funds to transit activities if it is determined that rail or bus service will more effectively serve the needs of the traveling public.

A result of this flexibility will be increased efficiencies in the use of these funds and increased performance of the transportation system.

A second important policy issue in this bill is the commitment to a strong National Highway System. This pro-

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gram ensures the continuation of a national transportation policy by maintaining a system which links States with quality corridors.

With the completion of the Interstate System in the next 4 years, there is a continuing need to provide for uniformity and connectivity to all parts of the Nation for interstate commerce and national defense. A National Highway System fulfills this need.

Third, urban regions, like northern Virginia, Tidewater, and Richmond, will be given greater authority in the decision making and project selection process to address their critical congestion problems. Localities will now have the discretion to participate in directing highway dollars to specific highway needs or mass transit projects such as commuter rail or expanded bus service.

Fourth, the National Recreational Trails Trust Fund Act will provide funds to improve existing trails and build new trails for increased recreational opportunities. The structure of this program, which sends the funds directly to the States without Federal intervention, ensures the maximum use of these funds.

Mr. President, as a member of the conference committee, I wish to extend my appreciation to Chairman MOYNIHAN for his leadership and fairness in recognizing the concerns of the donor States. The conference report is a product of his vision to bring greater efficiencies to the existing transportation system, and to forge a new era in transportation policy.

I want also to recognize my Republican leaders on the committee, Senators CHAFEE and SYMMS, without whose fine work this conference report would not be completed tonight.

Mr. President, I would be remiss not to commend the Virginia Secretary of Transportation, John Milliken, and the many dedicated professionals at the Virginia Department of Transportation for their valuable assistance throughout this process.

Another critical project to Virginia and the Metropolitan Washington Area is the continuation of the Metropolitan Washington Airports Authority which operates Washington National and Dulles Airports.

The amendment which I offered is necessary because of the Supreme Court's decision holding unconstitutional the provisions of the MWA Act of 1986 which established a board of review with veto power over the decision making authority of the board of directors.

It is my full expectation that this amendment resolves these constitutional problems and allows the critical modernization projects currently under construction to continue at both Dulles and National.

For the safety and convenience of the traveling public, work that is approximately one-third complete must be allowed to move into the next phase of construction.

Mr. President, I believe the conference report on the Intermodal Surface Transportation Efficiency Act is a fair proposal. On the whole, it is good national policy—one that recognizes the legitimate interests of all regions of the country.

Mr. President, I urge the adoption of the conference report.

Mr. President, if there is any particular order, official or unofficial, I am glad to acquiesce. I intend to be here for a while to speak on the highway bill and participate in this colloquy. If any of my colleagues need to be recognized prior to the Senator from Virginia, I will so yield.

Not seeing anyone desiring that, I want to say that I was privileged to be a conferee on this bill. It was a very unusual and rewarding experience. I would like to recount some of the events that transpired in 14 days and 14 nights, 2 weekends, and perhaps the most painful for me, as others, a lot of forgoing of family time.

Anyway, it was worth it in the end. I would like to—before I refer specifically to the commendations of the conferees—I would like to refer to the staff. I have been here a number of years, but I have never seen a more consistent, hardworking staff of individuals than on this particular piece of legislation. It was complicated by the need continually to have access to computer runouts, and we were dependent in large measure on the infrastructure of various Federal departments and agencies to provide information, causing delays from time to time, but our staff was always there.

Turning, to my staff, Ann Loomis and George Cartagena, I thank them for their work for me and for my State, and for their work with the other staff members. Well done to all.

Turning to the conferees, and the most unusual leadership of the Senator from New York, Mr. MOYNIHAN, who has always taken what I call the 12 to 4 watch. He was there constantly on the bridge, and by his side, my lifetime friend, the Senator from Rhode Island, Senator CHAFEE. So it was a Navy and Marine Corps team. To strengthen the Marine Corps, we had the Senator from Idaho, Senator SYMMS.

We conducted this, in some ways, like a military operation, because Senator MOYNIHAN continuously announced there would be "attention on deck" as we started every one of our conferee sessions. In those private meetings in the majority leader's office, Senator MITCHELL was by our side throughout this conference, and his steady hand and his determination to see that this piece of legislation passed was unique.

This was a very rewarding experience for this Senator, and a very pleasing one. I got to know much better some of my colleagues as a result of this period, and I hope that the Senate recognizes that there was leadership at all times in this conference, leadership that not only was achieving a bill, but was trying to achieve equity among the several States.

I had been associated with those for some months in the Senate developing the consensus of what we call the FAST proposals. That was an effort to bring up to date the formula, to reflect a more current census, to try and allow the donor States to have a greater percentage of the funds that they contribute to the tax base.

And in the end, while we may not have achieved all that the donor States desired, it was through the leadership of this conference, House and Senate, which enabled us to achieve gains that I think, frankly, as the sole donor State on the Senate side, I had not anticipated we would achieve. But we did it, and I thank all.

Of the conferees, I have mentioned the three leaders, but I also thank our chairman, Senator BURDICK. He also was there on the 12 to 4 watch continuously. And while others may have taken the role of talking a little more, from time to time his incisive judgment and background were interjected at critical points.

Throughout the conference Senators LAUTENBERG and REID were in attendance exercising, at appropriate times, a turning of hand to keep the conference moving forward. Like all intensive meetings, often humor can be an effective tool—they were masters.

Senator LAUTENBERG, Senator REID, and Senator DURENBERGER, all gave of themselves and of their wisdom, and indeed, while they had in mind their own States, we were a team seeking equity, and equity we did achieve.

In particular, I want to thank Congressman PAYNE of the Virginia delegation. He is on the House committee, Chairman ROE's committee, maintaining constant contact with Chairman ROE, myself, and others. And together with our Highway Secretary, Secretary Milliken of Virginia, I think the three of us provided a voice for Virginia which enabled our State, I believe, to fare very well under this piece of legislation.

Mr. President, indeed, many are still somewhat unsatisfied. But I believe there were genuine attempts to try and close these gaps. Progress was made to give the so-called donor States, those States receiving less dollars in return than their highway users contribute to the trust fund, a greater return of their contributions.

During the consideration of the Senate bill, objections were expressed by many who believed that formulas used to allocate highway trust funds were unevenly allocated, and they simply were not getting that fair share in return for the dollar paid into the trust fund.

For Virginia, this conference report provides over $2.6 billion—far greater than the previous conference report—to meet transportation demands in the next 6 years. This amendment far exceeds the $1½ billion Virginia received from the trust fund under the current bill, which is now expired. It is my hope that this increase in funds will begin to meet the many highway demands across the Commonwealth of Virginia.

A cornerstone to the Federal Aid Surface Transportation Act, the FAST bill, which I originally sponsored with many others in this body, was a 90-percent minimum allocation for each State that contributed to the trust fund. The conference report represents a significant achievement for donor States by increasing the minimum allocation program from the current level of 85-percent to the 90-percent goal.

The program is important because it is the safety net for donor States. It guarantees that whatever the annual allocation, no State will receive less than 90 percent of what their highway users pay into the trust fund.

Mr. CHAFEE. Mr. President, I wish to take this opportunity to thank the distinguished senior Senator from Virginia for his substantial contributions to the conference which we held. First, I thank him for his kind comments about the role that I had and the part that all of us had who were involved with the conference, including, of course, the Senator from Virginia.

I do want to make a particular comment about his role. The Senator from Virginia, as he pointed out, was the only Senate conferee who came from a donor State, and thus he had a particular interest. And, as he pointed out, he was from one of the States that would have done better under the so-called FAST approach. But the Senator from Virginia understood the total problems that we are trying to resolve in there, and he certainly was a voice for equity. As a result of the efforts of the Senator from Virginia, we were able to make greater funding for those donor States than perhaps originally we could have contemplated achieving.

So I thank my good friend and longtime friend and very able colleague for his contributions, which were outstanding throughout the conference. In addition, it was always a pleasure to work with him.

Mr. WARNER. Mr. President, I thank my friend from Rhode Island.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, before the Senator from Virginia leaves the floor, let me first thank him for his generosity to us. It was the longest midwatch I have ever stood, but it is coming to an end. There is a light on the horizon.

But the Senator from Virginia typically left out one aspect of this legislation which is his and his alone, without which we would, all of us, be the lesser in the days ahead. That is that, thanks to him, part of this legislation enables the redevelopment of the National Airport, built in the 1930's, and Dulles Airport, that great sign of achievement of the 1950's, to go forward uninterrupted. A Federal court held that the authority building the project was unconstitutional. For some reason that escapes me, but it was clear to the court, and it was going to close down, not just putting the project and the efficiencies and the expenses at jeopardy, but putting the public at jeopardy. The safety issues were very real.

He did that. He persuaded a room full of House conferees that wanted to know what on Earth is this, that it was something that ought to be done. It was masterful. It was appreciated.

Mr. WARNER. Mr. President, I thank the distinguished Senator from New York. Again, it was his leadership that enabled us to get this bill. But I think Senator CHAFEE and I might well recommend to the Department of Navy that, for his contribution to the U.S. Navy through the years and now this particular bill, we should elevate him, I say to former Secretary CHAFEE, to the rank of commodore, Commodore MOYNIHAN, henceforth no longer lieutenant junior grade, Commodore MOYNIHAN.

And to my friend, Senator SYMMS, because Senator SYMMS will be departing the Senate after a distinguished career at the end of this term, and in recognition, all conferees—and I remember the moment during the course of the conference when it occurred—determined that we would name the trails program, which was a dream of this Senator for some 3 years, name it the Symms Trails Program.

STEVEN SYMMS is an outdoorsman. He comes from a State of outdoors persons. And he himself has enjoyed the use of his trails in his State and elsewhere in America for these many years, but he wanted to forge ahead, independently of what is in place today to work on trails, with a program which he fought tenaciously in this conference to keep isolated to itself so it can get done and the money would not be filtered through a large infrastructure of bureaucracy and thereby dwindled by the time dollars finally got down to the recipient. He kept it intact, the dollars intact, to flow to the States, and he also solved a rather delicate political balance, not Democrat and Republican, not Senate and House, but the politics of the trail, the politics of the users of the trail, be they walkers, horseback riders, motorized of several types. He was able to strike that balance, and, in recognition, the U.S. Senate, and, when this is signed into law, the President will name this program for our distinguished friend and colleague from Idaho. It was well done.

Mr. President, during the conference Senator SYMMS called me "Pothole Johnny" because of my determination to repair and maintain the roads in my State.

Senator SYMMS called me Pothole Johnny in this conference, but I know that his name will last forever once this program is named after my distinguished friend.

Mr. SYMMS. Mr. President, I thank my colleague for his kind words and I will just say that with WARNER, SYMMS, and CHAFEE, three marines, and our gunnery officer MOYNIHAN, there was no way we could lose this. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Florida, Mr. GRAHAM, is recognized.

Mr. MITCHELL. Mr. President, I inquire if the Senator will yield to permit me to make a unanimous-consent request.

Mr. GRAHAM. I yield.

Mr. MITCHELL. Mr. President, I thank my colleague.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, the unanimous-consent request I am about to make has been cleared by the Republican leader and by all Democratic Senators.

I ask unanimous consent that upon the disposition of the conference report on H.R. 2950, the surface transportation bill, the Senate proceed to the conference report on the crime bill, H.R. 3371, and that without any intervening action or debate, a vote occur on the motion to invoke cloture on the conference report at that time and that it be in order to file that cloture motion at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and I ask that it be read.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the conference report to accompany H.R. 3371, the Omnibus Crime Control Act.

George J. Mitchell, Lloyd Bentsen, Wyche Fowler, Richard Shelby, Charles S. Robb, Wendell Ford, Alan Cranston, Tom Daschle, Al Gore, Jeff Bingaman, J.J. Exon, John Glenn, J.R. Biden, Jr., Harry Reid, Sam Nunn, and Frank R. Lautenberg.

Mr. MITCHELL. Mr. President, Senators should, therefore, be aware that there will be two votes, one on the conference report on the surface transportation bill, immediately followed by a vote on the cloture motion on the conference report on the crime bill.

There is no time limit on debate on the surface transportation bill, but I hope that this debate can be concluded as soon as possible, giving every Senator ample opportunity to express his or her views. Those Senators who feel they can do so, I urge them to either put their statements in the RECORD or to make them following the votes so that we can proceed as promptly as possible and in a manner consistent with the schedules and demands upon as many of our colleagues as possible.

Mr. President, I thank the Chair.

Mr. LEVIN. Mr. President, will the majority leader yield on that point?

Mr. MITCHELL. I yield.

Mr. LEVIN. The majority leader asked me how much time I would be needing. I think I indicated to the majority leader that I would need about 20 minutes probably and I have some materials that I would like to put in the RECORD, and I would need the managers on the floor at that point to help me get certain information in the RECORD.

Mr. MITCHELL. I am going to yield the floor, and I thank the Senator from Florida. Is it possible at this time to consider a time limitation that would accommodate those Senators who wish to speak?

Mr. GRAHAM. Mr. President, I do not think so at this point.

Mr. MITCHELL. Mr. President, I thank my colleague, and I yield the floor.

Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Florida is recognized.

SURFACE TRANSPORTATION ACT—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. GRAHAM. Mr. President, this is much to commend in this legislation. It has been described as visionary. That is an appropriate description. The emphasis which this bill places on greater flexibility in terms of the use of funds blurring many of the former airtight compartments around modes of transportation to allow the process and the performance of transportation to be the guide, and to allow those decisions to be made more at the State and local level rather than in Washington are very positive.

Also positive is the interest in the question of where should our transportation system be not in the next 5 years but in the next 25 years. Clearly, the United States has completed one major epoch in the transportation history with the completion of the interstate system. We are now about to move on to some new period. What will it be? This bill suggests that that future should have as a major component the adaptation to America of the current and soon-to-be-developed state-of-high-speed surface rail transportation. I strongly support that movement. It is a movement which many of the States have been providing leadership in. The State of the Presiding Officer today has provided exemplary leadership in its interest with its neighboring State of California in developing such a system. The same has been true of States in the East, the wide West, and in my own State of Florida.

I strongly commend those positive provisions of this legislation.

However, I regret to say, Mr. President, that I would have to describe this bill as being a bill of missed opportunities, opportunities that were available and which were ignored. Of most significance in those missed opportunities were the opportunities to see this bill as a significant part of our Nation's immediate and longer term economic growth strategy.

We are now speaking a great deal about strategy. The President over the past several days has had different positions, but as of yesterday at least he said he enthusiastically supported the Congress adopting a growth program. I am personally very pleased the President has now taken that position, that we are not going to be asked to wait until January or February to consider the plight of millions of American families who are in deep pain as we stand on the eve of our national day of Thanksgiving, whose pain unfortunately is likely to be even more intense as we approach the great holiday seasons of the end of December.

Mr. President, this bill has the potential of being a significant part of our Nation's immediate and long-term economic growth program.

Let me suggest what I think have been the missed opportunities.

First, in terms of the short range, which I would define as the next 6 to 18 months. While it has been said—and I fear that it will be represented maybe on both ends of Pennsylvania Avenue—that we have contributed to a substantial expansion of job creation as a result of this bill, the facts do not support that assertion.

The facts are essentially these, Mr. President. We spent this year on highway funds approximately $16.5 billion; Federal highway funds, $16.5. This bill will propose to spend slightly less than $17 billion in 1992, virtually no increase in Federal funds, the increase being hardly what would be required in order to maintain equivalent purchasing power.

At the same time, Mr. President, the States, wracked with their own financial problems, are beginning to reduce their expenditures on transportation. It is unfortunate that the statistics are so inadequate and out of date, but what is available indicates that between 1989 and 1990, in terms of real dollars, the States actually reduced the amount of funds that they spend on the maintenance and expansion of their transportation system.

So here is an opportunity to create real jobs. We know from the Department of Labor's analysis that for every billion dollars spent on highway maintenance, some 40,000 jobs are created both directly in the project itself and those that are influenced at a secondary and tertiary level. We are not going to have any of that as a result of this bill. We essentially are going to continue to employ the number of people who have been employed, but the opportunity to use this bill as an engine for immediate stimulation for the American economy has been foregone. I am very distressed with that.

I am further distressed that so much of this money is being spent on projects that are likely to not have a contribution to the American job creation during this period when it is most needed. If you look at the list, Mr. President, of demonstration projects—a subject that I will return to at greater length later—those are not projects that are going to be started in the next 6, 12, 24 months. In fact, I understand that a substantial portion of the demonstration projects that were authorized 5 years ago have yet to commence. So, Mr. President, we are diverting funds into areas that are of suspect value and of almost no consequence in terms of stimulating our economy at this time of serious recession.

Then it might be said, well, although we missed the opportunity for an immediate contribution to restarting the economy, at least we are making an investment in our future. We are contributing to a better infrastructure, highway, mass transit system for the future.

That argument assumes what I think is clearly correct; and that is, if you were to ask the question, what could the Federal Government do over the next 25 years that would help to create the foundation for a competitive American economy, clearly one of the highest blocks on that foundation would be a major national commitment toward a strong transportation system. The studies are legion, linked the relationship between adequate expenditures on transportation and economic growth.

Are we, with this legislation, making that kind of contribution toward a stronger America? The answer, unfortunately, Mr. President, is no.

According to the U.S. Highway Administration, the current backlog of

needs in our Federal-aid highway system is $491 billion. That is if we were to say, "Let's stop. Time out. As of today, let's concentrate on what is required to bring up the maintenance level of our existing highway system and to add the capacity necessary for the increased volume of use." How much would it cost to do that, Mr. President? Well, the best experts estimate $491 billion.

Well, those effects on our highway system, of course, are not going to stop. Every day there is a further gradual deterioration of the system. And anyone who rides on the Federal-aid system, from the best interstate to the most remote and distressed rural road, can give you plenty of examples of what is happening in our highway system. It is estimated that over the period of this bill from 1992 to 1997, we will add to that inventory of unmet needs, $223 billion. So that by the end of the period funded by this bill, our total unmet needs will be $714 billion, if we did nothing.

Well, we are not going to do nothing. In fact, according to this bill, we are going to spend $114.8 billion toward meeting that need.

Mr. President, when I subtract $114.8 billion from $223 billion, my conclusion is that the highway systems will be over $100 billion worse off, worse off, at the end of this bill than they are today. So we are—unless someone wishes to challenge these statistics, and I have stated them on this floor several times and no one has sought to do so—guaranteeing to America, a poorer, less adequate, less well-maintained highway system. We are guaranteeing to American drivers longer delays, less safe highways than we have today.

Unfortunately, Mr. President, it is not just in the highways that we are making such a guarantee. The American Public Transit Administration estimates today that the current backlog in public transit is $25 billion. That is, the amount required to maintain and bring up to a standard of adequacy of service in our public transit systems today is $25 billion; that over the next 5 years—I think this is an alarming figure because it indicates the rate which our public transit system is disintegrating—we are going to add $31.2 billion of additional needs for maintenance, modernization, and the replacement of the existing system, and $28.8 billion of need for capacity expansion, or a total of $60 billion of additional public transit needs over the period of this legislation.

What are we proposing to spend of Federal funds over this period? Thirty-two billion dollars.

So, again, the consequence of passing this legislation is going to be to add approximately another $50 billion in our Nation's unmet needs in terms of public transportation.

How can we purport that this bill is a contribution to America's economic strength when today it will create virtually no new jobs, when this type of program is one of the most potentially significant for stimulation of the economy, and where it guarantees that 6 years from now we will have worse highways and worse public transit systems?

I ask if anyone—and I see we have Senators who were on the conference committees, both on mass transit and highways, on the floor—if someone would like to challenge those statistics and make the case that we are, in fact, going to have an economic stimulation from this bill and that we are going to make better provisions for America's highways and public transportation systems over the next 6 years, I invite them at this point to interrupt and offer that contrary evidence.

Mr. President, as has happened repeatedly in the past, no one wishes to come forward and challenge that statement.

This is a missed opportunity because we could have done better. We could have, for instance, targeted these funds today to the area of highway activity that would have had the greatest contribution toward job creation, in which there are enormous needs in every State of America, and that is the rebuilding and maintenance of our Interstate System. That one program has one of the highest ratios of public funds expended to jobs created, doing things that will contribute demonstrably to a stronger, long-term economy for America. We eschewed that opportunity so we could pour more money into these suspect demonstration projects.

Mr. President, in summary, on point one, this is a bill of missed opportunities, a bill that, while it had great vision for the 21st century, has been blind to the opportunities immediately before us.

Second, I am deeply concerned about the process by which this bill comes before us. Three hours ago we met with staff to talk about the public transit provision in this bill. We asked could we see the language? Could we see the distribution of how these funds, $32 billion, will be spent? We are public stewards. Our constituents expect us to know what it is we are voting for.

What was the answer to our request for information within the shadow of the time we are going to be asked to vote on this bill? It will be available next Tuesday—available next Tuesday.

How are we supposed to adequately represent the interests of our citizens if we do not have the information until almost a week after we voted for the bill?

Last night, the House voted on a bill which it did not even have before it until the last second and could not possibly have read nor understood. We heard, earlier today, the Senator from New York applauding one of the staff members for his alacrity in being able to find the copy of the bill—that was residing on top of the filing case in the Dirksen Building—and rushing over at flank speed, so that it could be physically in the House, so that they could vote on the bill.

Is that not a travesty of how the legislative process is supposed to work?

Mr. President, there are parties who have deep interest in this who are not within a 100-yard radius of the U.S. Capitol. There are serious people back in the Tallahassees, the Carson Cities, the Santa Fes, the Albanys, the other State capitals who we are going to be looking to, to implement this bill, whose advice and counsel would be helpful to us in understanding whether this bill meets appropriate standards of public policy. They are completely shut out of this process, to say nothing of interested citizens, of which there are millions, who are concerned about how their tax dollars are being spent and what kind of effect that expenditure will have on the quality of their lives and their own economic futures. All those people have been effectively denied an opportunity to participate, to understand, to be a significant—not significant—to be even a trivial part. They were not even allowed to come into the stadium to sit at the farthest reach of the stands, much less be close to the field.

What does this say about America's confidence in our democratic process? If you want to know why some proposals, such as term limitation, are gaining so much public support, it is when they see responsible public bodies—this one, which has been known as the world's greatest deliberative body—function in the manner that we are today on this important legislation.

The third point is there are a series of serious, egregious problems with this legislation. Let me just mention a few.

A, the formula. It is hard to believe. I think there was a line in the movie "Casablanca" in which one of the characters in jest said that he was "shocked, shocked, shocked" to find out that some illegal activity was taking place in Humphrey Bogart's bar.

We should be shocked, shocked, shocked, to find out that we are about to vote on a transportation bill that will spend almost $150 billion of taxpayers' money from now through the year 1997 and we are going to do this using the 1980 census as the basis of distribution—shocked, shocked, shocked that we would do such a thing.

Mr. President, we should also be shocked, shocked, shocked because we were not required to do this. It has been stated that we just were without options, that we had to do this, that if we did not adopt this 1980 census we would not have any way in which to go about distributing these funds.

Quite to the contrary. In fact, 4 years ago the Department of Transportation for the States of America, recognizing that the formula that had been adopted in 1987 was neither equitable nor efficient in terms of meeting our future transportation needs, and anticipating the end of the interstate era—in fact, the senior Senator from New York has restated a speech that many of us heard him give in 1987 in which he said this bill, the 1987 bill, "will be the end of the interstate era. When we next return to this subject, we will be dealing with the postinterstate period of American transportation."

It is a rather sad commentary that we begin the postinterstate era by dragging in the last remnants of the old interstate era, all the way back to the 1980 census, and we did not have to do so.

Recognizing that these opportunities would be available, State departments of transportation began to develop ideas for future surface transportation programs. A year-long information gathering phase, which included public hearings in every State in the Union, was held. Numerous meetings occurred during which ideas were developed to set a new course for American surface transportation. The organization which initiated this activity was the American Association of State Highway and Transportation Officials, an organization whose members consist of the 50 State secretarys of department of transportation. Extensive supporting documentation was developed, including a set of recommendations, including a report entitled "New Transportation Concepts for a New Century"—a bold title for a bold report.

These recommendations were approved by 48 of the 50 States at a meeting held in late 1989. Mr. President, 48 of 50 States approved that document as recently as 1989. It represented the best ideas of the transportation professionals in this country.

Two new principles were recommended, a categorical program supporting a national highway system and a flexible system to address increasingly diverse and intermodal needs.

Several States took these recommendations further and developed a more specific funding formula for the categorical programs.

Mr. President, we had the option to adopt that program which was the result of extensive professional and public development. We rejected that option, and we now have the formula that is before us.

In addition to a formula which uses the 1980 census and, in fact—that fact being the cause and the effect of that being a formula, the formula that we are going to be adopting today, Mr. President, when it is reduced to computer columns has a total of 17 vertical numerical columns. Of those 17 columns, column No. 6 is labeled 90-percent minimum allocation. That is the column that is supposed to bring all of the States up to a minimum of 90 percent, a subject that I will discuss at more length later.

There are 20 out of the 50 States that have to be given a minimum allocation under this formula. If the Presiding Officer had been Governor of Nevada and an education finance formula had been presented from the legislature which causes 40 percent of the school districts in the State to have to get a minimum allocation because the basic formula was not sufficiently equitable to treat all of the school districts with some elemental fairness, that bill would have been vetoed and sent back to the legislature almost instantly.

The whole purpose of a formula is to be able to treat disparate entities with some level of policy equity. When you have a formula that ends up that 40 percent of the participants do not even meet what you had determined previously to be the minimum standards, you have a warped formula that requires not further massaging of minimum allocations but surgery on the formula itself.

But it does not stop there. That is column No. 6 out of 17, which is the so-called 90-percent minimum allocation. Move over to column No. 8. We have the Bentsen minimum allocation, another effort to bring equity to a formula which has failed to do so. We move over to column No. 11 and we have hold harmless, a third attempt to reconfigure an essentially distorted formula to meet some standard of equity.

That is not all, Mr. President, because then we move over to line No. 14 and we have a 90-percent of payments column.

So of the 17 columns, 4 are efforts to provide some degree of equity which the fundamental formula fails to do.

Those inequities are perverse.

In a conversation earlier today with the Senator from Michigan and the staff of the committee, we were told that one of the reasons why States that are supposed to get 90 percent in fact end up with 83, as is the case with the State of Florida, is because in order to fund all of those 4 columns that are supposed to be the rectifiers of the unfairness, you have to take money away from the very States who are supposed to be rectified. And so they end up losing a second time.

Mr. President, we have an odd thing that has happened in these formulas. We had a Civil War in this country from 1861 to 1865 and brought a number of States to the conclusion that they had to secede from the Union. I am not suggesting that we ought to return to those days, but I am saying that it is ironic that we have been able to come up with a formula in which every State, save one—and I might collaterally say that State happens to have the ranking member of the House Public Works Committee as a member of its congressional delegation—every member of the Confederacy, plus all of the border States—Missouri, Kentucky, Oklahoma—are losers, are donors under this formula.

The region of the country which has traditionally been thought of as the area that needed the greatest assistance in order to strengthen its economy, to become a full participant, the area of the country which Franklin Roosevelt identified as one requiring special attention, that is exactly the region of the country which, under past and current distribution of highway funds, has been for some perverse reson singled out for malicious mistreatment. The gentle statement becomes even more acute when you put it into a specific category.

Let me just use the example of a couple of States which I have used in previous debates. So the Senators from those States can be ready if they would like to respond if I misstate some fact. But the State of Connecticut is one of the wealthiest States in the country. The State of Alabama, unfortunately, has one of the lower per capita incomes in the country. The State of Alabama has 4,062,000 people, according to the 1990 census. Connecticut has 3,295,000 people. Alabama has a land area of 51,000 square miles; Connecticut has 5,000 square miles. Alabamians and their visitors consumed 2.102 billion gallons of gasoline in 1989; Connecticut, 1.493 billion. Highway taxes. Alabamians paid $260 million into the fund in 1990; Connecticut paid $142 million into the fund.

Those are just some general descriptions of those two States. With those kinds of numbers before you, how would you assume a highway bill would treat those two States? How do you think that Alabama and Connecticut ought to be treated?

I mentioned that Alabama contributed 2.09 percent of the total Highway Trust Fund last year. What is it proposing to get back under this bill? Alabama will receive 1.80 percent return. Connecticut, which contributed 1.14 to the highway fund, will receive 1.74 percent return.

Mr. President, I know there are some peculiarities. I know that Connecticut is getting some reimbursement for some interstate projects that have been authorized and not billed. There are some other refinements.

Mr. President, there is no logical justification for a formula that has that result in two States that are so disparate and where the result is so counterintuitive to exactly what you would think it would be based on size, population, contributions to the highway fund, economic status or other relevant considerations.

We are being told that this egregious formula, which has all of these perverse implications, is going to be papered over because we are going to get

90 percent of what we contributed to the fund. I have a sheet, Mr. President, which purports to say that the State of Florida, as an example, will, in fact, get back 92 cents on every dollar that we send to the fund.

That, Mr. President, I assert is a phony figure and it is phony for several reasons: First, because it almost treats us as being fools. That formula is based on taking the amount of money which your State will contribute to the Highway Trust Fund over the life of this bill which, in the case of Florida, is $5.045 billion and determining what percentage that is of the total that will be contributed by all 50 States, which is $102.852 billion.

In the case of Florida, it works out to be 4.9 percent. I am saying that if you get 90 percent of that amount that you contributed, you should be happy; that is your minimum allocation. Why not?

The reason why not, Mr. President, is because we are not spending $102 billion over the life of this bill. We are spending $114,784,000,000 out of the highway trust fund.

How can you spend more than you are taking in? The answer is, as has been stated earlier, because we have made the decision to begin to spend down the highway trust fund, a trust fund which has been growing over the last decade.

And with whose money has it been growing? It has not been growing with the money from the States that are getting back more than a dollar for a dollar. The trust fund has been built up because of States like Florida, which, according to this chart, using their same method of calculation, has been getting back 77 cents over the last 5 years of that 23 cents we did not get back, some of it was redistributed to other States. Some of it stayed in the highway trust fund and contributed to the fact that that trust fund now has almost $20 billion of accumulated surplus, and that $20 billion is now being spent down.

Mr. President, if we were to get the same proportion, 4.9 percent, of the dollars which are coming out of the trust fund, as we are supposed to get of the dollars that we are now going to be putting into the trust fund, the actual proportion of our return would not be the 92 cents as stated on this chart but would be 83 percent. We are being asked, Mr. President, for another 6 years to raise the taxes of our people in order to continue a tax which would otherwise lapse and then get back 83 cents on the dollar for the balance of a period of funding of this proposal.

Mr. President, I am, as the man in Casablanca, shocked, shocked, shocked that we would even consider such a proposal.

That is one egregious detail of this formula. Let us turn to another one, the demonstration projects. These foreseen inducements to passage have started as a small piglet and have now become a very large hog.

In fact, they grew substantially——

Mr. McCAIN. Will the Senator yield for a question?

Mr. GRAHAM. Yes, I will yield.

Mr. McCAIN. Mr. President, is the Senator aware that some of us who live in the West made plans to be with our family for Thanksgiving, and it takes a long time to get out there? We had planned on leaving yesterday, according to the direction that we were given. We have massaged this issue enormously, for tens and tens of hours before this body, and some of us would like to be with our families for Thanksgiving.

Now, if the Senator from Florida would like for us to come back on the day after Thanksgiving, or the following week, that is fine. But I would hope that Senators in this body who live in the East would show consideration for those of us who live in the West, who would like to get home with our families to celebrate this very important holiday.

I would appreciate the Senator from Florida answering my question.

Mr. GRAHAM. Mr. President, we would like to be home celebrating with our families at this very hour, but we have public work to do. After we complete this very important issue, we will be dealing with other questions important to the economy and the quality of life for the citizens of our State.

I deeply regret, as does the Senator, that we are now at the last hours before Thanksgiving considering this legislation. I would be perfectly happy to have this legislation deferred until a later date where we could give it the kind of close scrutiny which I think it deserves. That apparently is not an option that we have. And so whatever efforts we want to give to analysis, to let the people of America, who have been completely shut out of this process, have some idea of what it is we are about to do, seems to be only available to us now.

If the Senator has another suggestion of how we could proceed in order to inform the people before—not after—we have committed ourselves to this egregious proposal, I would be receptive to it.

In the absence of that, I would like to continue with what I consider to be the second major defect of this proposal, and that is the demonstration projects, these little piglets that have now become giant hogs.

When the House reported its bill, Mr. President, it had approximately $5 billion of specific demonstration projects. These are the sheets of those projects. The House also had $900 million that was in a fund they called minimum allocation. Theoretically, those States that did not get an equitable amount under some concept of equity of projects got some of that $900 million.

When the bill comes back from the conference committee, we do not have $5 billion of demonstration projects; we have $6.484 billion of demonstration projects and no minimum allocation. That is, we have added approximately $1.5 billion of specifically delineated demonstration projects over the course of this conference committee through a process that was largely behind a veil, a wall, a door of secrecy.

I would like to know—and maybe as we get further into the debate, somebody will answer the question—where is the beef? Where is that $1.5 billion that has apparently gone from somewhere into these additional demonstration projects?

There are some egregious things in these demonstration projects. I am not going to mention him by name, but there is a Congressman from a State not far north of here who has an important position in the House Public Works Committee. Let me just go down the list of projects that were in the original House bill. We cannot get the list of projects that came out of conference committee, so I cannot tell you whether there have been any additions since that.

But just to show you how well the House took care of its Congressman, he got $9.2 million for upgrading a highway, $103.6 million for improving another highway; he got $20 million to construct an access road off another highway—this is one Congressman. This is not a whole State, Mr. President. This is one congressional district—he got $4 million for highway improvements; $1.84 million for what appears to be a local road improvement; $8 million for another local road; $52 million to relocate a Federal highway around a particular community in his district; $1.6 million for safety improvements; $40.8 million to relocate another highway around another city; $35.1 million to construct a four-lane highway between two cities; $8.8 million to add a center turning lane on a particular road; $7.12 million to widen and extend Chestnut Avenue; $33.6 million to widen Route 30—that is not it, Mr. President—$.35 million for a timber bridge; $14.4 million to relocate a railroad; and that seems to be all.

Mr. President, I have not run the calculation, but I would suggest that that one congressional district probably got more demonstration projects than half the States in America. We are going to vote for a bill that says that is our priority of the appropriate expenditure of public funds?

Mr. President, we come to the third egregious aspect of this bill, and that is the item called "reimbursement." I mentioned earlier that we have a 17-column computer sheet. Number 10 is "reimbursement," and that distributes an even $4 billion.

The theory here, Mr. President, is that there were States that had made a

VOL 137
PT 24
NO 26
1991 — JA 3 1992
UMI

contribution to the Interstate System before there was an Interstate System, States that had built stretches of highway that were later incorporated into the Interstate System, and therefore deserve to be reimbursed for that.

This is not a new issue. In fact, Mr. President, the original interstate bill, the 1956 Federal Aid Highway Act, section 115, instructed Congress to determine whether or not the Federal Government should equitably reimburse any State for a portion of a highway, toll or free, which completed construction or had contracted its construction between August 2, 1947, and June 30, 1956. The date of August 2, 1947 was specified in the act because it was the date of original designation of the Interstate System pursuant to section 7 of the Federal Aid Highway Act of 1944.

So in 1956, when the issue was fresh before the Congress, Congress was just about to launch this major national effort that had been first authorized during the last years of World War II—we are now about to start it. They said, let us look at this question of equitable treatment of States which have made such contributions.

The 1956 act study determined which highways were to be eligible for consideration for such reimbursement of their cost and their depreciation. The study found that of the 38,548 miles within the approved Interstate System, the miles which met the criteria for consideration for reimbursement totaled 10,859 miles, or 28 percent of the original toll. The cost of the eligible highways totaled $6.9 billion and depreciation totaled $174 million. Thus the total cost, less depreciation, for the highways eligible for consideration for reimbursement amounted to $5.92 billion, of which $2.5 billion was accounted for in toll roads, $3.4 billion in free roads.

After the completion of this study, which was in 1958, it was submitted to the Congress. Congress did not determine that the results mandated reimbursement to the States. So the Congress, which was most actively involved in the initiation of the Interstate System, made a decision in 1958 that reimbursement was not appropriate.

This issue was reopened in the Senate Surface Transportation Act by a provision which called for an update of this 1956 study to be conducted and transmitted to the Senate Environment and Public Works and the House Public Works and Transportation Committees by October 1, 1993. That is where the issue was as the bill left the Senate.

My understanding is there was no provision relative to this reimbursement issue in the House bill. So in that state what happens in the conference? What happens if the conference is, all of a sudden, a full-blown $4 billion reimbursement program emerges. And is it a program that, as the 1956 study had called for, closely analyzes cost and depreciation eligibility. Was the road built to the construction standards that were required for the interstate? Was it that?

Well, if it was such a study, it is rather curious. Just by sheer accident, the States of Alabama, Alaska, Arizona, and Arkansas each had exactly $20 million of those roads. Is not that a coincidence? I could go down the list.

There were lots of others that happened to have exactly $20 million, like Colorado for instance, like Wyoming, Wisconsin, and West Virginia, which all had just exactly $20 million of eligible roads with appropriate calculation for depreciation that could be included.

Mr. President, what word can one use to describe a process and a result as egregious as this? We bring appropriate public disrepute upon us when we act in this manner.

Mr. President, it has already been mentioned as one of the other aspects of the bill, that the bill is overfunded. We do not know whether it is overfunded by $1 billion or $2.5 billion. Both numbers have been suggested.

I understand that we may be getting a letter from the chairman of the Budget Committee later today suggesting a waiver of the Budget Act in order to be able to accommodate this bill. At a time when we are trying to operate with some sense of fiscal prudence, is it appropriate at the last hour before we recess to be passing a bill that is significantly over what we have agreed to be our budget limitation?

Let me suggest as a fifth egregious error that I believe that we really are undercutting the willingness of the American people to continue to support a national transportation system acting the way we are.

I happen to believe that there is an appropriate Federal role in transportation that has played an important part in building the strength of this Nation. That is not an opinion which has always been held. The man who at one time was the third President of the United States from the State of our Presiding Officer felt that it was inappropriate for the Federal Government to be involved in these types of public works. It was one of his major clashes with his political adversary, Alexander Hamilton.

As recently as the mid-1950's, the Interstate Program was defeated in Congress before it was finally adopted, defeated based on the proposition that the Federal Government should not be as engaged in highway finance as the Interstate Program contemplated.

I think that those who voted in 1944 to establish and in 1956 to fund the Interstate System deserve our applause and appreciation for what they did. I hope that we will be able to act as Federal legislators in ways that will justify the applause and respect of the American people. But this type legislation undercuts that essential quality.

Mr. President, as just a final point. Some of the very things that are pointed to as being the greatest strengths of this bill are undercut by the specifics of the bill. It is said that we are going to have a more flexible, more productive highway system, that we are going to be encouraging people to compete on performance, not on process, that we will be challenging—the State of Virginia will stand proud and show what it can do with greater productivity with its highways vis-a-vis Pennsylvania because it has greater smarts, greater commitment, greater ingenuity.

That is wonderful if both teams line up with 11 players on the field, and the same number on the bench. But, Mr. President, just to pick two examples, it happens one of those is my own State. Recently my State of Florida passed the State of Pennsylvania in population to become the fourth largest State in the Nation. Pennsylvania is still the State which is closest to Florida in population.

Florida, of course, is a very rapidly growing State. Pennsylvania is a State with a long industrial-agricultural tradition. We want to be able to compete with Pennsylvania and show that we can use public funds as effectively as Pennsylvania, and be able to do some of the things that this flexibility will allow us to do, to make our highways more effective, to enhance our public transit system.

Mr. President, under this bill, Pennsylvania will receive $5.663 billion. Florida, with the larger population, will get $4.637 billion. So we are going to be out competing with Pennsylvania with approximately $1 billion less money to be able to use to do all those good things that the flexibility is going to allow us to do.

So when we line up here 6 years from now and say who was the smartest, who was the most ingenious, who made the greatest contribution to innovation, I think I already pointed out that some of us are playing with only nine players on our team, and others were playing with a full 11.

Mr. President, for the Senator from Arizona and elsewhere, I am about to conclude my remarks. I wish I had not had to speak at such length. And, frankly, if there had been earlier opportunities for more serious discussions of what is in this conference report, it would not, hopefully, have been necessary.

But let us look to the future. Where do we go from here? The next step is going to be, assuming that the Congress passes this bill, that the President will have to make a decision. One of my colleagues has already suggested that the President ought to look negatively on this bill. That is going to be his decision. But I think there are

some things that he ought to have in mind as he examines this bill.

Is this bill consistent with the pledge that he made to the American people in the summer of 1988 of "read my lips, no new taxes"? This bill contains a significant tax increase by extending for additional years a tax which is now scheduled to lapse and which, when it was adopted, was adopted on the premise that it was going to lapse.

Those are funds that many of us felt would have been picked up by the States when the Federal Government terminated its imposition of those taxes. We are now making the decision that we are going to levy that tax, we are going to demand of the American people that additional 2½ cents a gallon. We are not going to give an option for that to be used by officials at the State or local level.

The President ought to be concerned about fiscal prudence. Is this the way he thinks $150 billion of Federal funds ought to be spent? Is this the standard of the way in which the taxpayers' dollars should be used that he is willing to adopt as his own?

Finally, at the time when the President is apparently now concerned about economic stimulation, is this the bill that is going to do that? Or is it a bill that is going to divert money that could be used to put people to work immediately, into projects that are going to be building, projects of suspect worth over years into the future? Those are some questions I think the President ought to have in mind.

Second, I think there are some things we ought to have in mind. I hope we will come back here in December, because I cannot conceive of Congress going home for what will be perceived as a 2-month vacation, although I strongly dissent from that characterization. I do not see how we can, in a time of so much turmoil and distress, at a time when the American people are looking for leadership somewhere, absent ourselves from that stage.

I hope that when we do come back next month, we will relook at the issue of how transportation can play a key role as a stimulus. If we were to divert some of these funds that we currently have targeted for suspect project into an accelerated interstate program, we could put 250,000 people to work in the next 6 months. Would that not be a contribution we can make? That is the kind of opportunity we have, which we are about, at least for today, to decide to forgo.

Mr. President, there is some good, some suspect, much missed opportunity, and contribution to further erosion of public confidence in our ability to do our work. I am sad that we have reached this point, and I will have to vote against this bill.

I do so in the hopes that this experience will have some redemption in terms of the lessons that it will teach us, and that we will not be back here 6 years from now, maybe again dragging the 1980 census into the 21st century, that we will in the interim be involving, as they are asking to be involved, the public of America and the professionals of America, to help us in constructing a transportation system that will be worthy of this body, worthy of this Nation, and worthy of our contribution to the 21st century. Thank you.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, my intent here is to make a few brief comments and get some material in the RECORD, get some additional information, if I can, from the managers of the bill. I believe Senator MOYNIHAN is within earshot, and Senator SYMMS is on the floor. Perhaps between the two, they can given me the information that I will need.

Mr. President, the bill has a number of improvements, creative items. There is greater flexibility, less red tape. I congratulate the committee on really a vast number of improvements in the process which they have been able to accomplish.

The committee has worked hard. They have worked long, and even though there is a real problem left for many donor States, including my own, nonetheless, they have made some improvements from the perspective of many donor States, and we are grateful for those improvements.

The questions that I have I have tried to discuss with the staff of Senator MOYNIHAN. I think we can go through them very briefly to try to save some time. I have three charts, and I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL ASSISTANCE FOR CONFERENCE COMMITTEE—SUMMARY OF ESTIMATED APPORTIONMENTS OF FISCAL YEAR 1992–97 WITH NHS AND SURFACE TRANSPORTATION PROGRAM DISTRIBUTED USING FISCAL YEAR 1987–91 HISTORIC SHARE ADJUSTED TO 90 PERCENT MINIMUM ALLOCATION; ½ PERCENT MINIMUM INCLUDED IN CONGESTION/AIR QUALITY; HOLD HARMLESS PROVIDES EACH STATE AT LEAST ITS LOWER SHARE OF EITHER THE HOUSE OR SENATE BILLS

States	Interstate construction and substitution	Interstate maintenance	Bridge	NHS	Surface transportation program	90 percent minimum allocation	Federal lands	Bentsen minimum allocation	Congestion and air quality	Reimbursement	Hold harmless	Program total	Percent	90 percent of payments	Projects	Total	Percent
Alabama	51,408,000	324,228,599	342,046,110	387,140,265	440,602,492	95,733,200	5,882,652	103,195,392	35,400,000	20,000,000	68,014,448	1,873,651,158	1.74	59,766,096	133,329,627	2,066,746,881	1.80
Alaska	0	135,840,958	40,250,000	494,273,864	562,530,731	0	92,645,340	0	30,000,000	20,000,000	0	1,375,540,893	1.28	0	0	1,375,540,893	1.20
Arizona	0	372,465,724	40,250,000	296,604,212	337,563,842	192,849,368	320,279,352	0	66,000,000	20,000,000	(34,188,005)	1,611,824,493	1.49	0	31,919,587	1,643,744,079	1.43
Arkansas	0	181,534,238	211,119,300	233,905,327	266,206,539	216,254,652	10,158,260	63,550,701	30,000,000	20,000,000	60,635,864	1,293,365,881	1.20	13,149,179	328,784,682	1,635,299,742	1.42
California	751,138,988	1,673,746,044	524,149,990	2,154,081,426	2,451,549,813	1,015,420,192	120,773,076	448,829,544	835,800,000	216,800,000	0	10,192,289,073	9.45	0	334,703,047	10,526,992,120	9.17
Colorado	52,848,000	318,430,857	150,523,730	354,917,628	403,930,063	0	69,859,548	0	84,600,000	20,000,000	0	1,455,109,826	1.35	0	2,876,401	1,457,986,227	1.27
Connecticut	315,843,592	216,121,248	813,376,830	138,561,472	157,696,151	0	0	0	92,400,000	228,400,000	(40,759,422)	1,921,639,871	1.78	0	79,089,203	2,000,729,075	1.74
Delaware	0	85,000,000	45,973,550	125,407,303	142,725,454	0	0	0	30,000,000	28,000,000	(9,494,180)	447,612,119	0.41	0	0	447,612,119	0.39
District of Columbia	115,211,946	85,000,000	112,236,320	101,799,205	115,857,191	0	0	0	53,000,000	20,000,000	(12,111,199)	570,993,463	0.53	0	21,742,204	592,735,667	0.52
Florida	73,080,000	629,406,347	283,735,130	1,008,475,954	1,147,741,680	712,085,042	8,813,142	247,374,128	173,400,000	22,400,000	164,142,439	4,470,653,862	4.14	70,286,426	96,528,176	4,637,468,464	4.04
Georgia	158,544,054	602,184,213	317,009,000	625,061,677	711,379,718	367,695,527	3,166,674	181,727,941	88,200,000	53,600,000	120,819,491	3,209,388,295	2.97	67,883,836	77,547,815	3,354,819,946	2.92
Hawaii	159,192,000	85,000,000	43,518,300	130,959,582	149,044,476	0	0	0	30,000,000	20,000,000	0	617,714,358	0.57	0	0	617,714,358	0.54
Idaho	0	152,353,123	40,250,000	194,306,406	221,139,195	0	83,395,032	0	30,000,000	20,000,000	0	741,443,756	0.69	0	67,397,203	808,840,959	0.70
Illinois	0	592,955,564	465,576,580	921,398,422	1,048,639,156	208,633,072	1,482,996	213,674,597	300,000,000	344,800,000	(85,090,832)	4,012,061,555	3.72	0	437,771,509	4,449,833,064	3.88
Indiana	8,449,595	374,884,606	269,615,430	492,126,938	560,087,324	327,472,540	1,027,878	134,069,363	80,400,000	121,200,000	0	2,369,333,674	2.20	25,275,959	105,164,979	2,499,774,612	2.18
Iowa	0	245,489,565	295,837,500	318,083,069	362,008,827	0	676,134	0	30,000,000	20,000,000	73,607,550	1,345,702,645	1.25	0	110,660,236	1,456,362,881	1.27
Kansas	0	247,558,614	292,799,430	269,405,268	306,608,853	0	8,662,974	0	30,000,000	73,600,000	0	1,228,635,139	1.14	0	73,501,607	1,302,136,746	1.13
Kentucky	49,536,000	296,596,630	320,966,380	314,030,749	357,396,899	88,380,477	2,821,544	92,216,477	68,600,000	22,800,000	29,612,959	1,634,758,115	1.52	46,253,558	79,443,968	1,760,455,641	1.53
Louisiana	39,240,000	289,257,057	330,239,980	315,712,764	359,311,194	56,530,346	4,457,280	87,947,107	30,000,000	20,000,000	140,187,752	1,672,883,480	1.55	0	70,099,574	1,742,983,055	1.52
Maine	0	85,000,000	98,781,550	145,454,184	165,540,715	0	1,377,732	0	30,000,000	27,600,000	(11,501,584)	542,252,597	0.50	0	201,501,607	743,754,204	0.65
Maryland	325,983,962	283,007,196	198,656,290	347,122,672	395,058,660	0	0	0	160,800,000	111,600,000	0	1,822,228,780	1.69	0	104,267,219	1,926,495,999	1.68
Massachusetts	2,466,544,718	230,392,524	911,189,168	159,447,654	181,466,616	0	0	0	243,600,000	205,600,000	310,339,410	4,708,580,890	4.36	0	5,922,801	4,714,502,091	4.11
Michigan	74,160,000	562,406,581	354,750,620	594,137,305	676,184,837	282,062,089	13,243,002	155,821,688	156,000,000	165,600,000	0	3,034,366,122	2.81	0	122,213,185	3,156,579,307	2.75
Minnesota	67,680,000	328,861,207	202,256,250	388,175,982	441,701,236	0	32,027,670	0	89,480,000	20,000,000	131,898,353	1,700,080,698	1.58	0	244,896,838	1,944,977,536	1.69
Mississippi	0	206,401,926	227,637,900	252,125,081	286,942,355	29,341,431	9,449,892	57,176,904	30,000,000	20,000,000	122,838,054	1,241,913,543	1.15	0	33,966,907	1,275,880,458	1.11
Missouri	0	476,229,577	634,571,840	372,086,371	423,469,726	184,125,024	4,595,274	134,346,707	95,400,000	54,000,000	22,985,205	2,401,810,524	2.23	60,947,429	152,753,790	2,615,511,743	2.28
Montana	0	272,905,291	83,409,270	236,005,284	268,596,490	0	136,726,296	0	30,000,000	20,000,000	0	1,047,642,631	0.97	0	21,000,000	1,068,642,631	0.93
Nebraska	0	141,936,322	200,266,290	230,539,449	262,398,610	0	1,559,328	0	30,000,000	20,000,000	5,512,713	892,232,712	0.83	0	20,236,324	912,469,036	0.79
Nevada	0	151,924,732	40,250,000	189,152,346	215,273,384	0	48,427,758	0	30,000,000	20,000,000	0	695,028,220	0.64	0	93,273,048	788,301,268	0.69
New Hampshire	0	85,000,000	89,667,340	142,450,740	162,122,508	0	3,902,232	0	30,000,000	20,000,000	(11,073,482)	522,069,338	0.48	0	31,844,003	553,913,341	0.48
New Jersey	473,425,029	214,285,320	722,122,030	513,444,377	584,348,601	0	0	0	327,000,000	256,400,000	0	3,091,025,357	2.87	0	188,754,676	3,279,780,033	2.86
New Mexico	0	279,080,538	52,115,700	234,622,590	267,022,852	0	279,281,190	0	30,000,000	20,000,000	0	1,162,042,870	1.08	0	10,828,803	1,172,871,673	1.02
New York	379,906,509	589,995,743	1,610,000,000	964,579,444	1,097,783,272	0	690,222	0	593,400,000	675,200,000	(122,784,171)	5,788,771,019	5.37	0	356,505,532	6,145,276,550	5.35
North Carolina	106,416,000	320,178,219	324,735,390	622,865,938	708,880,759	270,849,224	15,689,016	140,762,399	103,200,000	26,000,000	217,664,325	2,857,241,270	2.65	0	147,086,424	3,004,327,694	2.62
North Dakota	0	133,864,051	58,172,520	181,838,354	206,940,259	0	33,674,874	0	30,000,000	20,000,000	0	664,482,058	0.62	0	73,943,803	738,425,861	0.64
Ohio	70,920,000	675,410,439	492,719,570	773,885,939	880,755,903	466,575,792	1,078,050	222,258,934	252,000,000	187,200,000	0	4,022,884,627	3.73	0	151,379,223	4,174,183,850	3.64
Oklahoma	0	235,970,258	344,071,490	285,830,574	325,302,415	94,939,254	82,398,636	3,081,704	30,000,000	66,400,000	58,992,931	1,526,987,262	1.42	0	29,474,646	1,556,461,988	1.36
Oregon	93,979,884	256,952,578	93,322,040	285,887,271	325,366,941	0	139,732,062	0	51,600,000	56,800,000	56,728,545	1,360,368,322	1.26	0	46,022,409	1,406,390,731	1.23
Pennsylvania	858,960,000	426,099,381	1,451,294,250	620,621,316	706,326,165	0	2,839,200	0	405,000,000	257,200,000	0	4,728,340,312	4.38	0	934,783,793	5,663,124,105	4.93
Rhode Island	127,764,740	85,000,000	40,250,000	129,053,961	147,786,174	0	0	0	34,800,000	20,000,000	2,341,143	587,796,018	0.54	0	57,384,001	645,180,019	0.56
South Carolina	46,152,000	287,576,230	125,082,510	345,195,426	392,865,270	142,905,738	3,066,570	85,980,474	30,000,000	20,000,000	37,954,318	1,516,779,836	1.41	61,587,105	54,688,005	1,633,054,146	1.42
South Dakota	0	164,552,678	76,842,000	188,420,907	214,440,930	0	75,821,316	0	30,000,000	20,000,000	0	770,077,919	0.71	0	23,451,125	793,529,044	0.69
Tennessee	59,823,983	434,785,661	410,442,130	408,040,141	464,388,541	85,685,092	3,990,672	119,842,847	97,200,000	20,000,000	136,975,717	2,241,174,774	2.08	0	60,209,832	2,301,384,606	2.00
Texas	153,216,000	1,276,268,575	609,869,610	1,606,376,578	1,828,209,535	296,102,670	4,039,458	379,460,942	561,000,000	145,800,000	0	6,860,143,368	6.36	0	269,958,654	7,130,102,022	6.21
Utah	0	273,314,555	40,250,000	198,755,656	226,202,867	0	26,619,702	0	42,000,000	20,000,000	0	827,142,782	0.77	0	10,828,803	837,971,585	0.73
Vermont	0	85,819,630	90,063,400	119,231,367	135,696,651	0	1,400,118	0	30,000,000	20,000,000	(10,011,467)	471,999,699	0.44	0	20,000,000	491,999,699	0.43
Virginia	340,848,000	485,943,212	361,747,680	401,953,020	457,460,817	40,854,801	9,545,880	129,284,719	108,000,000	80,400,000	34,892,287	2,450,930,416	2.27	9,853,299	155,350,239	2,616,133,954	2.28
Washington	395,136,000	372,926,658	399,705,040	281,191,007	320,022,146	0	112,655,804	0	99,600,000	52,000,000	108,226,012	2,222,262,467	2.06	0	129,337,618	2,351,600,084	2.05
West Virginia	0	139,564,104	447,047,090	173,179,170	197,094,389	0	4,486,170	0	30,000,000	20,000,000	0	1,011,370,923	0.94	0	311,803,230	1,322,974,153	1.15
Wisconsin	344,592,000	231,970,072	275,281,020	375,967,738	427,887,093	0	22,392,600	0	70,200,000	20,000,000	64,577,397	1,832,867,920	1.70	0	350,522,800	2,183,390,720	1.90
Wyoming	0	215,602,864	40,250,000	183,588,852	208,941,599	0	45,072,768	0	30,000,000	20,000,000	(15,441,730)	728,014,353	0.67	0	20,000,000	748,014,353	0.65
Total	8,160,000,000	17,000,000,000	16,100,000,000	21,000,000,000	23,900,000,000	5,174,496,331	1,850,100,000	3,000,602,568	6,000,000,000	4,000,000,000	1,700,000,000	107,885,198,899	100.00	415,082,885	6,484,548,353	114,784,750,139	100.00

RATIO—PERCENT OF APPORTIONMENTS TO PERCENT OF PAYMENTS

State	Fiscal year 1987–91 apportionments/allocations	Senate bill	House bill	Conference report
Alabama	106.28	83.23	89.19	86.21
Alaska	530.58	613.27	338.75	535.74
Arizona	82.28	95.40	87.18	90.76
Arkansas	75.54	85.02	101.28	100.94
California	77.97	84.11	86.63	84.08
Colorado	138.53	130.51	93.97	108.58
Connecticut	238.32	158.65	134.81	152.43
Delaware	121.61	140.85	130.76	133.47
District of Columbia	478.98	375.63	337.61	360.04
Florida	74.27	84.56	87.48	82.36
Georgia	75.95	84.11	87.06	82.55
Hawaii	523.38	208.47	222.10	210.96
Idaho	177.99	181.20	111.41	160.98
Illinois	90.50	83.70	88.52	94.10
Indiana	78.60	84.26	87.26	84.19
Iowa	114.75	107.92	100.75	101.53
Kansas	85.80	89.49	102.63	92.02
Kentucky	76.21	83.53	86.02	84.46
Louisiana	102.47	90.02	86.74	85.82
Maine	83.44	89.56	90.96	115.81
Maryland	139.05	91.99	92.66	92.02
Massachusetts	241.00	226.38	226.45	212.83
Michigan	80.21	83.81	87.71	84.95
Minnesota	112.91	94.19	96.45	101.18
Mississippi	77.14	92.48	88.81	87.13
Missouri	77.23	83.76	89.18	85.65
Montana	170.94	243.09	118.87	203.74
Nebraska	108.08	148.79	115.16	113.65
Nevada	105.97	114.30	88.49	119.40
New Hampshire	109.06	118.06	107.35	118.42
New Jersey	103.53	94.94	105.91	102.29
New Mexico	101.11	151.16	86.92	133.47
New York	113.74	110.93	114.75	118.77
North Carolina	78.86	88.82	87.40	87.37
North Dakota	161.98	188.54	153.18	189.21
Ohio	79.05	84.08	87.28	85.03
Oklahoma	82.89	86.56	89.72	82.84
Oregon	81.37	97.15	92.55	91.53
Pennsylvania	104.37	98.88	124.43	114.03
Rhode Island	251.12	211.86	169.63	181.68
South Carolina	83.66	82.54	84.71	83.44
South Dakota	166.21	212.17	145.45	194.04
Tennessee	79.14	87.70	87.27	84.55
Texas	82.83	84.46	87.44	84.59
Utah	129.34	126.84	87.01	102.26
Vermont	186.87	173.08	171.17	177.27
Virginia	79.22	85.55	88.23	85.74
Washington	135.94	108.18	105.16	105.89
West Virginia	120.02	149.45	126.31	144.94
Wisconsin	77.89	87.81	110.97	98.22
Wyoming	124.56	138.59	89.38	135.28

RETURN ON DOLLARS PAID INTO THE HIGHWAY ACCOUNT

State	Fiscal year 1987–91 apportionments/allocations	Conference report
Alabama	1.10	0.96
Alaska	5.49	5.98
Arizona	.85	1.01
Arkansas	.78	1.13
California	.81	.94
Colorado	1.43	1.21
Connecticut	2.47	1.70
Delaware	1.26	1.49
District of Columbia	4.96	4.02
Florida	.77	.92
Georgia	.79	.92
Hawaii	5.42	2.35
Idaho	1.84	1.80
Illinois	.94	1.05
Indiana	.81	.94
Iowa	1.19	1.13
Kansas	.89	1.03
Kentucky	.79	.94
Louisiana	1.06	.96
Maine	.86	1.29
Maryland	1.44	1.03
Massachusetts	2.50	2.38
Michigan	.83	.95
Minnesota	1.17	1.13
Mississippi	.80	.97
Missouri	.80	.96
Montana	1.77	2.27
Nebraska	1.12	1.27
Nevada	1.10	1.33
New Hampshire	1.13	1.32
New Jersey	1.07	1.14
New Mexico	1.05	1.49
New York	1.18	1.33
North Carolina	.82	.98
North Dakota	1.68	2.11
Ohio	.82	.95
Oklahoma	.86	.92
Oregon	.84	1.02
Pennsylvania	1.08	1.27
Rhode Island	2.60	2.03
South Carolina	.87	.93
South Dakota	1.72	2.17

RETURN ON DOLLARS PAID INTO THE HIGHWAY ACCOUNT—Continued

State	Fiscal year 1987–91 apportionments/allocations	Conference report
Tennessee	.82	.94
Texas	.86	.94
Utah	1.34	1.14
Vermont	1.93	1.98
Virginia	.82	.96
Washington	1.41	1.18
West Virginia	1.24	1.62
Wisconsin	.81	1.10
Wyoming	1.29	

Note.—Both columns include interstate construction and substitution, which vary greatly from State to State.

Reductions:	
Illinois	$50.0
Pennsylvania	50.0
Arkansas	12.0
Maine	15.0
New York	50.0
Total	177.0
Increases:	
Georgia	35.5
Oklahoma	58.8
Florida	82.7
Total	177.0

Mr. LEVIN. The first chart is entitled "Technical Assistance for Conference Committee," dated November 26, 1991, 3:16 a.m., which shows how hard the committee and staff have been working. That, as I understand it, is the best information available, except for——

Mr. MOYNIHAN. Mr. President, may I respectfully request that the Senate be in order? The Senator from Michigan has waited with great patience for this colloquy, and it needs to be carefully heard and clearly reported.

The PRESIDING OFFICER. The Senator retains the floor.

Mr. LEVIN. Mr. President, except for some modifications which were made last night, and I will make reference to them, entitled "Demonstration Projects Changes," this chart that I have just identified represents the best of our knowledge as to what is in the report State-by-State; is that correct?

Mr. MOYNIHAN. The Senator from Michigan is correct.

Mr. LEVIN. The fourth chart, Mr. President, entitled "Demonstration Projects Changes," is a modification to the chart entitled "November 26, 1991, 3:16 a.m.," as well as to the other two charts, entitled "Ratio—Percent of Apportionments to Percent of Payments;" and "Return on Dollars Paid Into the Highway Account."

I would like to inquire of the manager, our good friend from New York; I understand that the transit funding distribution by State is not available at this time?

Mr. MOYNIHAN. The answer is that it is implicit, of course, in the statute, but the charts are not available. The Senator is correct.

Mr. LEVIN. So that we are not able to determine how much each State gets at this point, right at this time; the Senator could not tell us how much each State will be getting in mass transit money?

Mr. MOYNIHAN. From the chart, no, sir. The formulas are there, and the result is implicit in the formula.

Mr. LEVIN. But the Senator is not able to tell us what that works out to.

Mr. MOYNIHAN. No.

Mr. LEVIN. I understand there is a total amount of mass transit money of $31 billion, and 58 percent of that is trust fund money.

Mr. MOYNIHAN. Yes, that is the case.

Mr. LEVIN. The next question is that the so-called Bentsen funding, I understand, is not contingent on full funding of other portions of the bill?

Mr. MOYNIHAN. The Senator is correct.

Mr. LEVIN. I also understand that the 90 percent minimum allocation is not reduced by demonstration project funding.

Mr. MOYNIHAN. That is correct.

Mr. LEVIN. On the first chart, the November 26, 1991 chart, time 3:16 a.m., which shows a reimbursement column, I understand that the principle behind that column is that a number of States had spent some money on interstate prior to the funding being available, and this is intended to be reimbursement principally for those States?

Mr. MOYNIHAN. The Senator is correct. We are following precisely a table prepared by the then Bureau of Public Roads in 1958, pursuant to instructions, to a provision of the 1956 statute. All States are entitled to some reimbursement, the Northeastern States more than others.

Mr. LEVIN. Is that true, though, even though those States did not expend money in some cases?

Mr. MOYNIHAN. It is simply the historical fact that States did contribute something, sometimes merely right of way, but the 1958 report so indicates, and we have provided a minimum for those States that provided very little.

Mr. LEVIN. Is it not true that every State is guaranteed $20 million, even though there may not have been an expenditure of $20 million?

Mr. MOYNIHAN. The Senator is exactly correct.

Mr. President, I ask unanimous consent to print the original table in the RECORD at this point so that will be clear as well.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	$9	0.50	$147
Alaska		.50	147
Arizona	20	.50	147
Arkansas	6	.50	147
California	298	5.42	1,591
Colorado	23	.50	147
Connecticut	314	5.71	1,676
Delaware	39	.71	209
Florida	31	.56	164
Georgia	46	.84	246
Hawaii		.50	147

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Idaho	5	.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	.50	147
Kansas	101	1.84	540
Kentucky	32	.57	169
Louisiana	22	.50	147
Maine	38	.69	204
Maryland	154	2.79	820
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	.50	147
Mississippi	6	.50	147
Missouri	74	1.35	396
Montana	5	.50	147
Nebraska	1	.50	147
Nevada	2	.50	147
New Hampshire	8	.50	147
New Jersey	353	6.41	1,882
New Mexico	8	.50	147
New York	929	16.88	4,960
North Carolina	36	.65	191
North Dakota	3	.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	.50	147
South Carolina	4	.50	147
South Dakota	5	.50	147
Tennessee	7	.50	147
Texas	200	3.64	1,069
Utah	6	.50	147
Vermont	1	.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	.50	147
Wisconsin	8	.50	147
Wyoming	9	.50	147
D.C	9	.50	147
Total	4,967	100.00	29,384

Mr. MOYNIHAN. The State of Michigan is entitled, under this, to $1.2 billion. The Senator's State is owed $1.2 billion and it is under the clear understanding that President Eisenhower had, Congress had, General Clay, specifically provided this in his report.

Mr. LEVIN. Was there a guarantee of one-half of 1 percent in that original commitment?

Mr. MOYNIHAN. No. That was the judgment of the conferees that——

Mr. LEVIN. That States would get a minimum of $20 million, whether or not they had expended $20 million?

Mr. MOYNIHAN. That is correct.

Mr. LEVIN. Just two other quick questions. As I understand it, on the column entitled "Projects," there is more money per projects by about $200 million in the conference report than existed in the House bill.

Mr. MOYNIHAN. The Senator is correct, approximately $200 million.

Mr. LEVIN. It is my understanding, also, that is above the amount which was allocated for Wisconsin because of a computer error?

Mr. MOYNIHAN. That is correct.

Mr. LEVIN. My last question is that some of the money in the "Projects" column, as far as we know, is not earmarked for specific projects but is simply cash which is put into that column later to be earmarked. I am wondering if the Senator could tell me approximately how much of that total represents unearmarked money.

Mr. MOYNIHAN. That is again the principle that there is a minimum for everyone. Some States, for example, the State of Wisconsin, in the House bill, had no project, it being the principle of their State government, they did not want any; they, nonetheless, got their minimum, not much, and, of course, all projects have to be matched by State funds.

Mr. LEVIN. Can the Senator from New York tell us how much money in the "Projects" column is not earmarked for a specific project?

Mr. MOYNIHAN. We have not done those out.

Mr. LEVIN. But there is some money.

Mr. MOYNIHAN. Yes, there is, and there is an obligation after 35 years the U.S. Congress records the fact that the State of Michigan is entitled to $1.2 billion. Let us not be vague—$1.218 billion.

Mr. LEVIN. I thank the Chair.

I again thank my friends from New York and Idaho and the other members of the committee for their courtesies. They have been consistently courteous to those of us particularly from donor States, and I must say this in conclusion: a number of us have improved our position. There is still a basic inequity, but a number of us, including Michigan, have improved our position. We appreciate that. We appreciate the response to our efforts of the 23 donor States that are shown as donor States by percentage basis on the chart entitled "Ratio-Percent of Apportionments to Percent of Payments." Of the 23 donor States, 20 have historically been donor States.

So there has not been a major change in the historic patterns as to which States are donors and which States are donees. The change that I do appreciate is that we, at least in my State of Michigan, have improved somewhat our negative position, and again we thank the Senator and our good friend from Idaho, and may I say he will not be with us next year and——

Mr. MOYNIHAN. He will be with us next year.

Mr. LEVIN. Next year he will, but next Congress he will not be with us. We worked together well. I not only appreciate my friend from New York, but my friend from Idaho more for the courtesies.

Mr. SYMMS. I thank my colleague.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. I now propound a unanimous-consent request which I am advised has been cleared by the Republican leader.

I ask unanimous consent that if the Senate fails to invoke cloture on the crime conference report, that the conference report be displaced, and there then be 30 minutes of debate on the subject of the crime conference report, equally divided between Senators BIDEN and THURMOND, and that upon the conclusion or yielding back of that time, the Senate proceed to the conference report on S. 543, the banking bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, there has been a lot of debate about this bill. I simply commend the managers of the bill. This is a tough bill. It is not easy. It took about $151 billion. You are talking about diverse needs. You are talking about mass transit needs. You do not need mass transit in certain areas of the country. But in other areas if you have to build a road or bridge, the cost is incredible, the cost of building and maintaining, whether in Alaska or the long stretches out in the West.

Let us understand that. Let us not practice the kind of fraticide that is going to bring great problems, I think, to this institution and to what our form of government is about. I have to tell you, I want to compliment Senator MOYNIHAN and the managers of this bill for attempting to balance the needs and recognize the political reality. All of sudden some people say "Oh, it is pork. It starts out as a piglet. The piglet becomes the pork." Let me tell you something. Let us understand what the body is about. There are people who say you want to be our Congressmen and Senators. What do you do to meet the special needs?

I think this has been an attempt to balance it. Perfect? Of course not. It is difficult. It is tough. There are always needs that are unfulfilled.

Again, we begin to talk about what committee does what and where and how, you know, better take a look and see. This operates that way in other committees as well—Defense and others.

So I am not going to continue on. I am going to say that this was an attempt to meet the diverse needs of this Nation, and let me tell you this: What we should have done is passed this bill 6 months ago—5 months ago. I understand there is about 17 billion dollars' worth of highway and bridge construction infrastructure that is desperately needed and is going to put Americans to work at the same time. That is the kind of things we need. So you can pick a $151 billion project; my gosh, of course there is room to say how come here and there and how come not someplace else. Do Senators want to do that to a defense bill?

I challenge Senators to stand up and talk about it. I will tell Senators, tell them about how programs and projects are knocked out that should be kept on merit and others we continue to build things that the military says we do not need, we do not want, do not do it, but

it comes from somebody's own State and that is why. Let us not kid ourselves here.

I commend the managers of this bill and I say we would have had it out of here a long time ago if this Senate had its way. We would have passed this bill in June if it were not for the fact our colleagues on the other side kept us down to the last minute. We would have had numbers for Senators to run out and each could have done adjustments a lot earlier that can and should be done.

I commend my senior Senator for having done a heck of job in attempting to balance the realities of real life.

Mr. President, I rise today to congratulate my colleagues for the diligent and bipartisan efforts that have led to the completion of the historic Intermodal Surface Transportation Efficiency Act and as part of this legislation the Federal Transit Act Amendments of 1991.

I particularly commend my colleague from New York, Senator MOYNIHAN for his staunch commitment in creating a bold and innovative new direction in reauthorizing our surface transportation programs for the next 6 years.

I also want to thank my colleague Senator CRANSTON for his commitment to maintaining and strengthening Federal transit programs. The excellent Banking Committee staff deserves all our thanks. They include: Don Campbell, Eileen Gallagher, Kris Warren, and Jeanine Jacokes as well as my own staff of Anne Miano and Pam Ray Strunk.

Mr. President, this legislation provides $119 billion for highway and $32 billion in transit funding. Federal spending on highways and transit is a critical investment for our Nation. It maintains and strengthens our infrastructure, creates hundreds of thousands of jobs, and is essential to America's competitive position in the world.

This bill will prove to be a key component in jump starting the frozen economy of the Northeast, particularly New York State. It will literally get us moving again while helping to rebuild crumbling infrastructure. It will support 52,800 construction related jobs in New York and create nearly 320,000 new jobs in New York over the next 6 years—4 million jobs nationwide.

New York's highways and transit infrastructure are in dire needs of the shot in the arm that the billions of new dollars in this bill will provide. Our crumbling highways and bridges and aging mass transit systems need these dollars now. This bill brings home the bacon, not the bologna, for New York as well as other States with great infrastructure needs.

We have renewed America's commitment to safe and efficient mass transit systems by doubling transit funding from $16 billion over the last 5 years to $32 billion over the 6-year life of this bill. New York will get nearly a 100-percent increase in transit funding.

This bill preserves operating aid for large and small transit grantees and even permits inflationary adjustments. This means a continued $120 million a year to New York State and $720 million over the 6-year bill—MTA = $95 million a year; Buffalo = $6 million a year; other NY systems = $19 million a year.

The bill before us today places a greater emphasis on formula funding rather than previous years' discretionary funding in a broad attempt to stabilize Federal contributions to local transit agencies. This means a steady 35-percent share of the new rail modernization formula for New York City MTA providing $210 million in fiscal year 1992 increasing to $410 million in fiscal year 1997—$1.7 billion over 6 years. This is an increase of $1 billion over the last 5-year authorization. For the first time, the Buffalo transit system will share in this program. They will receive rail mod funds starting at $475,000 this fiscal year and rising to $1.1 million in fiscal year 1997—$4.4 million over 6 years.

This legislation includes $327 million in new starts project funds for New York State. It will provide $306 million to build the Queens connection to the 63d Street tunnel—probably the Nation's most cost effective new start transit project. It will increase ridership twelvefold.

Also, provided is: $12 million for two new Staten Island ferries providing new service to midtown Manhattan; $2 million for a metro bus center in Buffalo; $2.7 million for Staten Island ferry operating aid; and $4 million for operating aid to provide transportation services during the Buffalo World University transportation services.

Formula funds for New York for routine capital needs total $2.5 billion over 6 years. This is an increase of $1.4 billion in new formula funds over the life of the bill.

Funding for rural transit systems and elderly and handicapped programs would nearly double under this legislation.

We have also placed our transit systems on a level playing field with other forms of transportation. The creation of one 80/20 Federal/State match for both highway and transit projects will mean future transit projects will not be at a disadvantage when competing with highway projects.

Mr. President, again, I want to thank my colleagues who have worked so hard to bring us to this point. This is good for New York State and good for America.

Mr. MOYNIHAN. Mr. President, I thank my colleague my friend, and a friend of anybody who rides the subways in New York City or anywhere else in the country.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska, Mr. MURKOWSKI.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

Mr. President, I would like to thank my colleague from New York and my colleague from Idaho for the leadership and patience they displayed in crafting the highway bill that Congress is on the verge of passing. Enactment of his conference report is truly a must pass piece of legislation.

FUNDING FOR ALASKA

From the standpoint of my State, Mr. President, Alaska fared very well. As you know, transportation infrastructure is the cornerstone of a healthy economy, and this legislation will do much to promote the economic health of the Nation and of my State as well.

I am pleased to report that Alaska will be receiving $1.375 billion over the next 6 years, an average of $229 million per year, from the $151 billion total contained in this bill. This represents an increase over previous funding much needed in our State.

Mr. President, I think it is important that my colleagues understand why this funding level is warranted in Alaska and other Western States.

Unlike many of my colleagues from developed States, Alaska is a young State and a relative newcomer to the Union, 37 years. We do not have a sophisticated Federal Interstate Highway System—in fact, we have no true interstate system at all because Alaska is a noncontiguous State. On top of that, Alaska has a land mass that is fully one-fifth the size of the lower 48. Our transportation needs are great and our costs are even greater.

Mr. President, Western States are not attempting to get an advantage on other States. We simply want to have the same opportunities to develop the infrastructure and economic potential of our States that other States have already enjoyed for an extended period of time. This legislation will help us catch up.

Mr. President, this conference report contains several other provisions that are important for Alaska. The final report includes two amendments which this Senator offered when the Senate first considered this legislation.

ALASKA MARINE HIGHWAY

The first proviso permits the State to use Federal funds for the Alaska Marine Highway System in the same manner as it uses funds for other highways. Much of Alaska is made up of islands—the Alexander Archipelago in southeast Alaska and the Aleutian Island Peninsula in the southwest. All told, Alaska has more than 47,000 miles of coastline. The Alaska Marine Highway connects most of the small towns and villages along this coast line to the rest of Alaska. For many in Alaska, the Alaska Marine Highway is the only highway for many of the small villages and towns in coastal Alaska.

ALCAN HIGHWAY

The second amendment contained in this conference report restores authorization for the construction and maintenance of the Alaska Highway in Canada. Up north we refer to this highway as the Alcan, and this year represents the 50th anniversary of this highway's establishment. The Alaska Highway serves as a strategic transportation corridor between the lower 48 and defense installations in Alaska. The Alcan is the only land route available for transferring military goods and equipment to bases in Alaska.

Mr. President, I am pleased to report that this legislation also contains an important provision sponsored by the senior Senator from Alaska with regard to the Alcan. Under this provision, funds can be provided from the Defense Highway System for reconstruction and maintenance of the Alcan. The legislation authorizes funding for this purpose of up to $20 million per year.

CONCLUSION

Mr. President, there are many other provisions in this legislation that are important to the Nation and my State. Ferry maintenance funding and mass transportation programs are but two examples. All told, passage of this legislation is a great success and I encourage its adoption by my colleagues.

Mr. SYMMS addressed the chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my colleagues from Alaska for his statement.

THE AVENUE OF THE SAINTS

Mr. GRASSLEY. Mr. President, I would appreciate the opportunity to join in a colloquy with my esteemed colleague from the State of Idaho, Senator SYMMS, regarding a transportation corridor of great importance to the Midwest, the Avenue of the Saints. The Avenue of the Saints is a four-lane highway corridor that will connect St. Louis, MO, and St. Paul, MN.

Mr. SYMMS. Mr. President, I would be pleased to accommodate the Senator from Iowa.

Mr. GRASSLEY. Let me begin by complimenting my friend from Idaho for his bold leadership as the ranking member of the Water Resource, Transportation and Infrastructure Subcommittee of the Senate Committee on Environment and Public Works. I commend him for his efforts.

Contained in this legislation are numerous items which are especially important to the Avenue of the Saints. First is the National Highway System of which the Avenue of the Saints is part. Also, there is a demonstration project of approximately $120 million for the Avenue of the Saints. And finally, there is considerable flexibility built into this bill which will allow the Iowa Department of Transportation to commit the dollars necessary to make the Avenue of the Saints a reality by the end of this decade.

I would inquire of my colleague, as the ranking member of the committee which produced this bill, whether he agrees with my assessment of the bill and its impact, the Avenue of the Saints.

Mr. SYMMS. I would like to say to the Senator from Iowa that I agree with his assessment. This legislation is a good bill that will directly impact the Avenue of the Saints. It will make it easier to complete this important corridor project.

I would also like to take this opportunity to commend the Senator from Iowa, Mr. GRASSLEY, for his tenacity in fighting for the Avenue of the Saints. Senator GRASSLEY and I have had many conversations about the importance of this project to the State of Iowa. No one has been more determined to make sure that this legislation was good for his State. When the Avenue of the Saints is completed at the end of this decade, the Senator from Iowa will get considerable credit for this accomplishment.

Mr. GRASSLEY. I thank my friend for his kind words and cooperation.

Mr. SYMMS. First and foremost, I am proud that the conference report before us is, in every important respect, virtually the same bill the Senate passed on a 91-to-7 vote last June.

The program structure—which places top priority on the preservation of our Interstate and Defense Highway System, establishes a new Surface Transportation Program, sufficiently flexible to meet the varying regional and demographic needs of our States, and establishes a new Congestion Mitigation/Air Quality Program to help solve the most pressing transportation problems of our large urban areas. That program structure of the Senate bill remains intact and virtually unchanged here.

In addition, the distribution of program funds in this conference report, although not as favorable for most Western States as that of the Senate-passed bill, remains much closer to the State-by-State program shares of the Senate bill, than to the disastrous urban orientated formulas adopted by the House. I went into this conference knowing I could protect Idaho's share of the total program through one means or another, but I felt a real obligation to try my best to protect the Western State formulas of the Senate bill, and while we've given ground to the donor States, I believe we've left our Western States in a defensible position to begin neogitations on the next bill.

Apart from program structure and formulas, I am very pleased to report that this bill to be the largest surface transportation bill in history. If the Appropriations Committee provides obligation authority sufficient to fund fully the authorized amounts over 6 years, this bill will draw the cash balance in the highway trust fund down to about $2.5 billion, which is the cushion required to meet cash flow demands in the highway program.

In addition, I am pleased and proud that my colleagues in the Senate and among the conferees, both House and Senate, have given such strong, bipartisan support to my efforts to establish a National Recreational Trails Program. This program, funded from fuel taxes already being paid by offhighway vehicle users, will provide a steady, reliable funding source to help States build and maintain a trails system for both motorized and nonmotorized trail users.

Also, I am pleased to report that this bill contains the largest Federal Lands Highway Program ever. This program provides funds to support transportation infrastructure improvements on Indian reservations, national parks, and federally owned lands across the country. We have made what I consider to be an important change by combining the existing forest highways and public lands highways into one account that will bring the State transportation departments, the Forest Service, and the Federal Highway Administration to the table with their competing interests to establish transportation priorities on our public lands.

Also, I want to mention the program efficiencies section of Senate bill which we have modified but preserved intact in this conference report. The program efficiencies section was drafted in large part by our transportation department in Idaho, based on consultations with their counterparts in States across the country, to allow the States greater authority to administer the highway program without burdensome and costly Federal oversight. The conference agreement on program efficiencies provides that States may design and construct projects off the National Highway System according to their own State standards, and provides that States may approve those projects without Federal approval if they so choose.

Projects on the National Highway System must be designed and constructed in accordance with standards that meet or exceed standards set by AASHTO, but States may, on a project-by-project basis, approve the design of pavement rehabilitation projects on the NHS without Federal approval.

This streamlined approval process is of vital importance to my State and I believe it will lead to a more cost-effective and much more productive highway program.

Finally, I want to say how disappointed I am that the Private Property Rights Act, which the Senate passed by a 55-to-44 vote, is not included in the final conference report. I wish we could have held that important measure in conference. But I want to say now, don't count us out. We'll be back.

Mr. CHAFEE. Mr. President, I want to congratulate the distinguished chairman of the Environment and Public Works Committee, Senator BURDICK, our distinguished subcommittee chairman on Water Resources, Transportation and Infrastructure, Senator MOYNIHAN and my distinguished colleague Senator SYMMS who is the ranking member of the subcommittee for the outstanding work they have done on the surface transportation bill.

The Intermodal Surface Transportation Efficiency Act of 1991 will bring major changes to the transportation program in this country. These are long overdue and very welcome. This bill contains enough money to complete the Interstate Highway System. But, the era of massive road building projects is over. This legislation signals a new era. The purpose of the transportation program is now the maintenance and more efficient use of the large capital investment this country has made in its transportation infrastrucure.

This bill has a number of provisions which will promote a better transportation system. First, it gives State and local officials flexibility to choose how to spend their transportation dollars. There are a variety of ways available to States in this bill to address their transportation problems. Approximately half the money this bill authorizes for the Federal aid highway program is available for transit projects. State and local officials will be able to choose between subway and light rail options, buses, HOV lanes, operational improvements to existing highways or additional lanes, for example. This legislation places all these choices on a level playing field which will encourage State and local officials to choose the best solution for their particular transportation problem.

Second, this bill recognizes the connection between transportation and the quality of our air. Transportation sources are a major contributor to this country's air quality problem, particularly in our major cities. This bill makes funds available to nonattainment areas specifically to address air quality problems. The Congestion Mitigation and Air Quality Program makes funds available to be used only on projects that will improve air quality. There are also major new planning provisions which require State and local officials to consider the effects of all transportation projects on air quality. The State's transportation improvement plan [TIP] must conform with its State implementation plan [SIP] under the Clean Air Act. Other innovative programs including a congestion pricing pilot program will provide us with more information and will move us towards meeting our air quality goals.

Third, this bill provides significant funds for research. Major new programs in the areas of magnetic levitation and intelligent vehicle highway systems are included. The potential for new technology advances are exciting both for transportation and other areas where this technology will provide benefits.

I am particularly pleased that this legislation includes safety belt and motorcycle helmet legislation which I introduced. This provision will encourage States to pass safety belt and motorcycle helmet laws. If they choose not to do so, States must spend additional money on safety activities. This will save lives and prevent serious injuries, and provide another benefit of saving this country money in medical costs.

This bill also contains a freeze on longer trucks. It is clear that the public's concern is growing over the bigger, heavier trucks using the highways. I was pleased to cosponsor with Senator LAUTENBERG the provision that put this freeze in place. Drivers of cars and trucks must share the highway but the equation is increasingly stacked against cars. It is time to stop increasing the size and weight of trucks and I am pleased that the conference bill adopts this freeze.

Mr. President, the surface transportation conference report that is being considered today contains provisions that require the use of rubberized asphalt in portions of the roadways that would be built with this legislation. Asphalt rubber pavement is our best bet to solve a significant environmental problem caused by the highway user. That problem is the accumulation of scrap tires in dumps all across the country.

SCRAP TIRE PROBLEM

Americans generate approximately 250 million scrap tires each year. That's about one scrap tire per year for each American.

Until the advent of the radial tire, most used tires were retreated or ground up and used to make new tires. Old tires were recycled into new tires. The radial design and the advent of inexpensive radial tire imports have limited the market for retreads and eliminated the possibility of reusing ground rubber to make new tires.

Retreading still consumes about 37 million tires, per year, mostly medium and heavy duty truck tires. Another 8 percent of the scrap tires are burned, 4 percent are exported, and 3 percent are recycled into various rubber products. But the other 180 million scrap tires generated each year are simply discarded. They are difficult to throw away. Landfills have become reluctant to take scrap tires because they "float" to the surface and create spaces for water infiltration and rodent habitat. Many States have passed laws prohibiting the disposal of scrap tires in municipal landfills.

Waste tires are now accumulating in large stockpiles and tire dumps. It is estimated that 2½ to 3 billion tires have accumulated in above ground stockpiles across the United States. Some of these stockpiles contain millions of tires. They present a serious threat of fire and disease.

Tire fires produce a toxic smoke and oily liquid residue. EPA received reports of 46 fires in 1987, 65 fires in 1988 and 87 fires in 1989 at tire stockpiles. Approximately 10 tire fires per year are considered major fires. A 1984 fire in Virginia burned for several months, was visible in seven States and cost $5.4 million to extinguish. Recently, the Northeast States watched with concern a similar fire just across the Canadian border.

Tire piles are also breeding grounds for encephalitis-carrying mosquitoes and rodents. Tires imported from the Far East brought the Asian tiger mosquito to the United States in the mid-1980's. It is now considered a serious health threat at tire storage sites. Eighty percent of the cases of Lacrose encephalitis reported in the United States are experienced by people living within 500 yards of a tire disposal site.

Several States have developed legislation directed at the waste tire problem. Approximately 31 States have tire disposal laws. A few States have begun efforts to burn, recycle, or dispose of existing tire stockpiles. The first and toughest law was enacted by Minnesota in 1984. So far, that State has disposed or recycled more than 5 million tires at a cost of slightly less than a dollar per tire. I am pleased to say that recently the State of Rhode Island adopted new regulations designed to reduce the fire and disease threat posed by these abandoned tire piles.

Scrap tires have a value. They contain more Btu's of energy per pound than most grades of coal and can be burned to produce electricity or as an industrial energy source. Many folks operating tire dumps are hoping higher energy prices in the future will give them a windfall for the scrap tires they have been storing. However, significant opposition to new waste combustion facilities has been evident in many communities across the country. Combustion now seems a less promising option to solve the scrap tire problem.

Tires may also be ground to a fine powder called crumb rubber and used in the manufacture of new rubber products. As I said, years ago this crumb rubber was used to manufacture new tires. But, tire manufacturers are concerned about the safety of radial tires made from recycled rubber. Congressional testimony from tire manufacturers indicates that only 1 percent of the rubber in new radial tires can be derived from recycled tires. Crumb rubber from tires can be used to make other rubber products, but 70 percent of all rubber produced in the United

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States is used in tires. So, there is no current market for rubber products big enough to recycle this material, if it cannot be used in new tires.

One promising use for crumb rubber from scrap tires is asphalt pavement. Large quantities of asphalt are used in the United States each year. The United States uses 490 million tons of asphalt pavement to build highways, local roads, parking lots, airports, and other projects each year. About 40 percent of all asphalt produced is used in federally assisted highway projects. So, the highway program buys about 200 million tons of asphalt annually. If just a small portion of this pavement contained rubber from scrap tires, we could create a huge new market for the crumb rubber from recycled tires.

Tire rubber is being used in highway projects all across the Nation already. There are various processes for incorporating scrap tire material into asphalt. Generally, the tire is ground to a very fine powder and is heated and used to enhance the binder that holds the pavement together. A very small amount of rubber, 20 to 60 pounds per ton of finished pavement, is used to improve the performance of the asphalt. By improved performance, I mean that the roadway lasts longer, it does not crack and crumble as quickly when rubber is added to the binder.

Even considering the small amount of rubber included in a ton of pavement, a large number of scrap tires would be needed if asphalt rubber pavement was used to any significant extent. For instance, one process that uses 60 pounds of rubber per ton would consume 100 million scrap tires per year if it were used to build just 10 percent of our federally assisted roads.

California, Arizona, and other States have been experimenting with rubber additives to asphalt pavement for several years. California provided the following statement in written testimony to the Environment and Public Works Committee on the use of asphalt rubber pavement earlier this year:

> Since 1978, California has been testing the use of rubber modified, dense-graded asphalt concrete which makes use of recycled tires—tires that have in the past caused difficult disposal problems and have threatened the environment.
>
> Based on laboratory and field testing we have determined that rubberized asphalt concrete provides: better fatigue resistance than conventional asphalt concrete; better resistance to moisture which suggests that it will "weather" better than conventional asphalt concrete; better resistance to tire chain wear on the surface and better resistance to cracking from below than conventional asphalt concrete; and an alternative to land fill disposal of tires.
>
> California has been so pleased with the use of rubberized asphalt concrete that we no longer consider its use experimental when used in thicknesses equal to conventional asphalt concrete and have asked FHWA to remove both dense-graded and open-graded asphalt from its experimental classification. We believe that broader use of the material will help reduce the country's "tire disposal problem" in a sound and environmentally sensitive manner. We would urge legislation that will increase the use of rubberized asphalt concrete."

Mr. President, the one significant issue that is still raised with respect to asphalt rubber pavement is the cost. It is somewhat more expensive than conventional asphalt. California indicates that in their experience rubberized asphalt costs about 45 percent more than conventional asphalt. They are quick to point out, however, that those costs are based on experimental projects. And that the gap is likely to be much smaller when asphalt rubber pavement begins to be used on a broader scale.

TIRE RECYCLING, ABATEMENT AND DISPOSAL ACT

Mr. President, the tire recycling provisions in this bill are taken in part from legislation which I introduced earlier this year. I introduced two bills on tire recycling. One bill, S. 1038, created a waste tire management program and included a provision to encourage the use of rubber from scrap tires in highway construction. The other bill, S. 1039, imposed a Federal tax on passenger car and truck tires and created a trust fund to receive revenue from the tax.

The waste tire management program that is contained in my legislation has three purposes. First, is to assure that scrap tires are managed in a way that reduces the risk of fire and the spread of disease. Second, the bill would require the elimination of waste tire dumps by the year 2000. It requires that the 3 billion tires in stockpiles across the country be recycled or burned or shredded and buried by the end of the decade. Third, the management program is intended to encourage markets for recycled material from tires.

This management program is written as an amendment to the Resource Conservation and Recovery Act * * * or RCRA as it is called. It is a traditional partnership program between EPA and the States with the expectation that the States will take the lead in implementation. It is my hope that the Environment and Public Works Committee will consider this waste tire management program as we reauthorize the RCRA. That legislation is pending before the committee and I know that the distinguished Senator from Montana, Senator BAUCUS, has every hope of bringing a RCRA reauthorization bill to the floor of the Senate next this year.

EXPLANATION OF THE CONFERENCE REPORT

Mr. President, I would now like to describe the provisions of the conference report entitled "Use of Recycled Paving Material." As I have said, this section of the conference report combines provisions from both the Senate and the House bills.

Subsection (a) is called a demonstration program and is taken principally from the House bill. It removes an impediment to the use of recycled rubber in asphalt pavement that is found in current regulations. Highway construction regulations prohibit the use of patented processes. Many of the existing processes for recycling rubber into asphalt and obtaining an improved pavement material are based on patented processes and thus they have not been eligible for approval for some highway projects. The conference report lifts this prohibition with respect to patented processes that produce asphalt pavement containing recycled rubber and provides that projects using these processes would be eligible for funding in the same manner as a project using unpatented processes. People in the highway pavement business tell us that this provision alone will create new recycled rubber demand that will consume up to 8 million tires per year.

Subsection (b) of this legislation requires the Environmental Protection Agency and the Department of Transportation to conduct several studies. The studies are intended to answer some questions about asphalt pavement containing recycled rubber that continue to be raised. The first concern is air pollution from the asphalt manufacturing process using rubber may present greater risks to the health of highway construction workers than emissions from conventional pavement processes. Tire rubber contains compounds like styrene and butadiene that are not present or not present to the same degree in petroleum based asphalt. These compounds may be emitted into the air when tire rubber is cooked to make asphalt. I would note that the Canadian Government has recently completed a study on air emissions from rubberized asphalt manufacture that indicates no additional risk.

The second concern is that asphalt pavement containing recycled rubber may not be recyclable. Much of the pavement removed from highways today is recycled. It is remixed and put back into roads. The question is whether asphalt made with some recycled rubber can itself be recycled to substantially the same degree as conventional pavement? We certainly wouldn't want to create an asphalt disposal problem by trying to solve our tire disposal problem. A recent test in France seems to indicate that recycling the asphalt is no bar to using this material.

The third concern is one for the performance of asphalt pavement containing rubber as a safe road surface. Do all processes from incorporating rubber in asphalt work equally well? Are there climate or weather conditions that interfere with the performance of rubberized asphalt?

I am convinced that none of these concerns is well founded. In fact, many studies and demonstration projects

using rubberized asphalt pavement addressing each of these questions have already been completed by private contractors, by State agencies, and by foreign nations. They show no additional environmental problems, full recycling potential and performance that is better than conventional asphalt pavements. But we included a study requirement in this bill to put these doubts to rest once and for all. This section will assure that the results of all of the studies that have already been done are pulled together and marshalled to firmly establish the benefits for the highway program that can be gained by using new construction materials like rubberized asphalt.

The Senate should know that appropriations for such as this study were included in the transportation appropriations bill that was enacted for fiscal year 1992. We would not expect that research be repeated where questions can be addressed adequately by existing studies. Further, we would expect that the Environmental Protection Agency would conduct the studies with respect to the environmental effects of asphalt pavement containing recycled rubber and would be a full partner with DOT on the study to determine whether asphalt pavement can be recycled.

With respect to the performance of asphalt pavement containing recycled rubber, I want to say that we are not looking for a cost-based evaluation here. Knowing something of the economics of asphalt pavement containing recycled rubber will be helpful, but it is a well-established fact that this special pavement will be somewhat more expensive than conventional pavements. The additional cost is attributable to the cost of grinding tires to crumb rubber consistency. Some portion of the cost differential may be bridged by the enhanced performance of asphalt that contains rubber. And some of the remaining differential may be closed, if the RCRA legislation that is enacted next year requires tipping fees to offset the costs of processing tires.

There are some working in the highway program who apparently believe that the only measure of success is the number of lane mile that get paved every year. Some have argued that fewer lane miles will get paved as the result of the tire recycling provisions in this bill. But all that highway out there is causing a substantial environmental problem. Three billion tires have piled up across the country and are now presenting fire and public health hazards. The highway program has a responsibility to contribute to the solution of that problem. I believe that we can build better highways that will last longer using recycled rubber as a binder in asphalt. If this paving material performs better than conventional pavement, we may actually save money and be able to pave even more miles of road.

However, that question turns out, asphalt pavement containing recycled rubber shall be deemed by the Secretary to meet the performance test, if processes can be identified that produce a pavement meeting highway specifications that would apply to conventional asphalt. It does not have to be better than conventional pavement. It does not have to be more cost-effective than conventional pavement. It may even be more expensive than conventional pavement on a life-cycle basis. All that is required to pass the test is that asphalt pavement containing recycled rubber meet the same minimum performance specifications that apply to conventional paving material.

It may be that only some of the processes tested can produce a rubberized asphalt meeting these specifications. Only those processes that can satisfy highway construction specs can be used by a State to meet the utilization requirements under subsection (d) which I will discuss in a moment.

A second part of these studies is to look into the use of other recycled materials in highway construction. This provision was taken principally from the House bill and was of special interest to Congressman MINETA. These other materials would include glass, plastic, and recycled asphalt.

Results of the studies required by this section are to be transmitted to the Congress within 18 months of the enactment of this legislation.

Subsection (c) is also taken principally from the House bill. It requires the Department of Transportation to issue guidance on the use of recycled materials in highway construction projects. With respect to asphalt pavement containing recycled rubber such guidance would be useful to the states prior to the time the utilization requirement is fully implemented.

Subsection (d) is taken from the Senate bill. It requires that each State use asphalt pavement containing recycled rubber in a portion of the highway projects completed in that State. It is a mandate. There is a sanction for States that fail to satisfy the requirements. But there is also considerable flexibility built into the provision, both for the States and for the Department of Transportation. Let me describe that flexibility.

First, the utilization requirement is phased in. It does not begin until 1994. It is not fully implemented until 1997. At that time and in each year thereafter, 20 percent of the pavement used in federally assisted highway projects should contain recycled rubber.

There are many different ways to state the minimum utilization requirement. We are fundamentally interested in how many pounds of recycled rubber are used in each State, not in the number of roads that have some rubber content. The utilization requirement is partly a function of how many pounds of rubber are added to each ton of pavement and partly a function of the portion of the pavement laid which must contain recycled rubber.

When I originally introduced my bill in the Senate, I proposed that 10 percent of the highway projects use pavement containing 60 pounds of rubber per ton. That is the largest amount of rubber per ton of hot mix pavement that is used in any process today. There is one specific process that reaches the 60 pound per ton ratio.

Unfortunately, folks got the impression we were mandating the use of that particular process. That is not true. The original bill contained a provision allowing States to modify the rubber content and pavement utilization requirements to any ratio they wished, just so long as highway projects in the State used as much rubber as they would if 10 percent of the pavement contained 60 pounds of rubber per ton of finished product. A State could use 6 pounds in 100 percent of the pavement, 30 pounds in 20 percent of the pavement, or 12 pounds in 50 percent of the pavement. All of those combinations would meet the minimum utilization requirement.

To stay away from the implication that we were endorsing a particular product, the Senate-passed bill contained an amendment of mine that stated the utilization requirement as 6 pounds of rubber per ton of pavement in 100 percent of the federally assisted projects. I don't know of any current process that uses 6 pounds per ton. Again, the States were authorized to change the components of that formula just so long as the same amount of recycled rubber was used in each year for highway projects.

I would point out that this level of utilization would consume about 100 million tires per year. That would be about 40 percent of the automobile tires that Americans discard annually. That we make a substantial dent in our growing tire problem.

A further consideration led us to make a further change and produced the formula that is in the conference report. The House conferees expressed concern with respect to the sanction that applies to States that do not meet the minimum utilization requirement. The sanction in the Senate-passed bill is loss of all Federal highway funds. That was too severe a sanction for the House. Loss of all funds for failure to use rubberized asphalt in only a percentage of the roads seemed draconian to our colleagues on the House side.

So, the Senate proposed that the sanction be tied to the utilization requirement and that the utilization requirement be restated as larger quantity of rubber in each ton of asphalt with a smaller portion of the highway projects covered. We settled on the formula which requires that 20 pounds of rubber per ton of asphalt pavement be used in 20 percent of the highway projects. Failure to meet this requirement would lead to a loss of 20 percent of the funds that would otherwise be apportioned to the State under section 104 of the act.

Mr. President, there is a great deal of sense in the compromise that we have reached. As it happens, 20 pounds is approximately the amount of rubber that is used in the most cost-effective formulations of hot mix asphalt pavement. States that fail to meet the requirement will lose Federal funds only for that portion of their roads that might appropriately and most cost-effectively have used this material. And the utilization requirement is small enough that it can be met with a reasonable expansion of the tire processing industry over the timeframe we have laid out in the bill. The combinations of 20 pounds per ton in 20 percent of the pavement used in federally assisted projects will consume about 70 million tires per year.

Finally, the flexibility for the States to modify the formula has been retained provided that the combination of pounds per ton and tons of utilization consumes as much recycled rubber as would be used, if 20 percent of the pavement contained 20 pounds of recycled rubber per ton.

There is a phase in period—5 percent in 1994, 10 percent in 1995, and 15 percent in 1996. The sanction for a State failing to meet the requirement is lesser during the phase in years, as well.

Another aspect of the flexibility that we have provided is authorization for the States to substitute other recycled materials for recycled rubber to meet the utilization requirement, if the DOT and EPA studies indicate that the alternative material is equally suitable for highway construction. Up to 5 percent of the total tons of pavement laid in the State which contain other suitable recycled material may be counted against the minimum utilization requirement for rubberized asphalt. There is no specification of the pounds of recycled material that must be contained in each ton of asphalt to qualify for the substitution. The Secretary should specify such a standard based on the study conducted under subsection (b) in a manner that is consistent with the overall objective of this section.

I have already mentioned the provisions in this legislation that would allow the Secretary to set aside the utilization requirement, if the studies indicate that asphalt pavement containing recycled rubber is not appropriate for use in highways. There are three factors the Secretary may consider in setting aside the requirement—the environmental risks associated with this material, the recyclability of rubberized asphalt and the performance of the material. On the first two items, DOT must have concurrence from EPA before the requirement can be set aside.

Performance is to be determined on an objective basis. Are there asphalt pavements containing recycled rubber that can meet highway construction specifications? If the answer to that question is yes, and I believe that we already know the answer is yes, then the Secretary has no basis to set aside the utilization requirement using the third prong of this test.

If the Secretary should make a determination to set aside the requirement, that determination has a 3-year life. The utilization requirement comes into force again at the end of the 3-year period. During that time, the asphalt pavement industry may find ways to modify processes and products to meet the concerns which prompted the Secretary's determination, should there be such a determination. If the utilization requirement is set aside and then subsequently comes into force because problems have been solved, the phase-in period for the bill would be applicable. The schedule of 5 percent in the first year, 10 percent in the second year, 15 percent in the third year, and 20 percent in the fourth year would begin in 1997 or 2000 or whenever the set aside established by the Secretary expires and problems have been solved.

Adding to the flexibility provided in the bill, the Secretary may set aside the utilization requirements for only some States or regions of the country. It has been suggested by some that rubberized asphalt does not perform well in cold climates. I doubt that is true. In fact, it has been thoroughly tested in cold climates and performs quite well. But suppose it were true. In that circumstance, the Secretary might set aside the utilization requirement for cold climate areas until such time as processes and products were developed that could meet specifications that would apply to conventional asphalt.

Mr. President, we have provided one additional measure of flexibility in this legislation that was included to answer concerns from the very few States that have developed alternative means to solve their tire problems. Take Connecticut for example. That State has allowed a tire incineration facility to be built and to go into operation. It is expected that the Oxford Energy plant in Sterling, CT will burn all of the tires that are discarded in that State.

If that is the case, Connecticut believes that they should not have to recycle tire rubber into their highways. And there is a provision in the legislation that allows DOT to set aside the requirement for any State that can demonstrate that all of the tires in the State have been processed and that future discards are committed to some other recycling or processing use.

We don't mean disposal here. A State cannot meet this alternative utilization standard by landfilling their tires. And so-called embankment stabilization is just another word for landfilling, in my view. To the extent that a State proposes to substitute a use that is not materially different from disposal, the Secretary cannot approve the alternative as processing or recycling. I must also emphasize that the State must show that there are no tires available for utilization in asphalt pavement containing recycled rubber. We are not talking here about a credit system where a State can avoid the requirement by burning an equivalent amount of tires. The recycling and processing uses must consume nearly all of the tires in the State to have an impact on the pavement requirement.

Using the national figures, if this bill would consume about 70 million tires per year that would be about 30 percent of the tires discarded. Assuming that same percentage would apply in a State and that the State has no tire stockpile remaining from previous years, then a State would have to show that more than 70 percent of its tires would be consumed in other recycling and processing uses, not including uses that are equivalent to disposal, before its utilization requirement would be modified under this provision.

Mr. President, this bill does not require that the rubber used in a State's roads actually come from tires discarded in that State. The crumb rubber may be purchased from processing facilities in another State. It also does not prohibit a State from shipping its tires to another State for processing and recycling. If all the tires are shipped out of the State for processing, not disposal but processing which may include energy recovery, then the State would not be subject to this utilization requirement just as it would enjoy an exemption if all of the tires were processed within the State.

Mr. President, I would make one final point with respect to the definition of asphalt pavement containing recycled rubber. Most of the crumb rubber currently used in rubberized asphalt comes from tire retreading facilities. At these plants old tires are ground down to a bald casing and then new tread is applied to recondition the tire. The rubber produced in the grinding process is then sold for other uses including road construction.

That's one way to make crumb rubber. But as demand for crumb rubber expands beyond the amount that retreading operations can supply, it would not be the preferable way. Grinding the tread off a tire leaves a round casing that must be disposed. It is the round casing that is the environmental problem. It creates the breeding ground for mosquitoes, the gaps in landfills for rodents, and the fire fighting problems that occur at tire piles. This legislation will not solve any environmental problem if it merely produces a pile of bald tire casings as large as the existing pile of scrap tires.

The crumb rubber consumed in response to the utilization requirements in this bill is to come from whole scrap tires. We mean by that phrase that casings and other round tire material cannot be left behind as a waste from the tire processing that produces crumb rubber for this bill. If there is a solid waste produced, it must be shredded material that will not hold water when stored above ground. We do not mean to say that shredded tire material cannot be used to produce the crumb rubber. That is not the meaning of the phrase whole scrap tires. Rather, the bill disallows credit toward the utilization requirement for any crumb rubber production process that leaves round tire material as a waste. Retreading operations that do not produce a waste would, of course, also qualify as sources of crumb rubber.

Mr. President, there were other definitions in the original Senate amendment for the terms processing and recycling. These items are not included in the conference report. We did not exclude these definitions from the conference report because of any disagreement about their substance. They were excluded because the House Energy and Commerce Committee felt they would be more appropriately established in solid waste than in highway legislation.

Scrap tires are a serious environmental problem—a rapidly growing problem now measured at 3 billion tires—that needs a creative solution. Highway construction with asphalt rubber pavement is a proven technology. Although somewhat more expensive, asphalt rubber pavement produces a better quality road that last for a long period of time. I am confident that this legislation can benefit both the environment and our highway users, if it is carried out in good faith by the Department of Transportation and the Nation's State highway agencies.

This bill reflects, in many respects, a revolution in our thinking about highways. The recycled rubber utilization requirement is just one of many fundamental changes in approach that we are asking to be made. I look forward to working with U.S. DOT and the States as this provision is implemented. They will be doing the country a great service if they take full advantage of the potential for good works that is incorporated in this bill. And that includes the tire recycling provision. Thank you, Mr. President.

I am disappointed that another provision I sponsored was not included in this bill. While the needed reforms to the Highway Beautification Act were not included in this bill, there are several positive steps that have been taken. States and localities are allowed to use their highway money to remove nonconforming billboards. In addition, the bill provides that no new billboards can be put up on interstate and primary scenic byways.

Mr. President, I would like to take this opportunity to discuss the provisions in the conference report that deal with the control of outdoor advertising. As the term control implies, the goal of these provisions is to remove illegal and nonconforming outdoor advertising on Federal highways, and on some scenic byways. While the provision contained in the bill reported earlier this year by the Committee on Environment and Public Works would have accomplished this goal—and more—in a manner more satisfactory to this Senator, the conference agreement does contain some positive points that I would now like to highlight for my colleagues.

First of all, Mr. President, I am extremely pleased that the conferees agreed to a provision that clearly prohibits the erection of any new billboards on scenic byways on interstate and primary roads. This is an important change in existing law.

Second, to further improve the view on scenic byways, the conference agreement provides that 10 percent of scenic byway funds can be used for billboard removal. This provision is an improvement over the House bill, which had prohibited the use of any scenic byway funds for this purpose. By making Federal money available, this provision will give States and localities much-needed assistance in removing billboards. And perhaps more importantly, it will move us closer to achieving the goal of making our scenic byways truly scenic, by allowing individuals to enjoy the beauty of nature without the clutter of billboards and other obstructions. In agreeing to both of these scenic byway provisions, the conferees intend to send a strong signal that billboards have no place on scenic byways.

Third, Mr. President, the conference report would require that either billboard owners or States remove billboards not lawfully erected. This requirement should bring about the removal of larger numbers of illegal billboards—a welcome result. This provision also correctly imposes the cost of billboard removal on owners, no matter who actually performs the work.

Finally, Mr. President, the conference report appropriately declines to interfere with the existing rights of States and localities to implement more stringent controls on billboards on all secondary and other roads not covered by the Federal highway program. States and localities also maintain complete authority to remove billboards according to their own laws on approximately 40 percent of the scenic highways in this country. In other words, States maintain their power, as repeatedly affirmed by a large number of State and Federal courts, to remove billboards by use of amortization if desired.

So in conclusion, Mr. President, while I would have favored a more aggressive billboard removal program, I am pleased that the conferees have chosen not to interfere with the important rights of State and local governments in this area. And, I am grateful for the commitment of scenic byway money to the task of billboard removal.

Mr. President, there are provisions in the Surface Transportation conference report that extend certain deadlines that were established for stormwater permit applications under the 1987 Water Quality Act.

Stormwater is one of our most serious water pollution problems. Up to 20 percent of the U.S. waters failing to meet water quality standards are impacted by polluted stormwater. The Environmental Protection Agency has been very slow to implement the requirements of the Clean Water Act as they apply to stormwater discharges. As long ago as 1974, the Federal courts ordered EPA to institute a permit program for stormwater under section 402 of the Clean Water Act. Despite the passage of 17 years there is still no permit program in place.

Responding to that discouraging record, in 1987 the Congress set deadlines for two classes of stormwater discharges, first, stormwater associated with industrial activities, and second, stormwater from municipally-owned storm sewer systems. The municipal requirements only applied to city and county storm sewer systems serving more than 100,000 people. The Congress put a so-called moratorium in place for the smaller cities—those under 100,000—setting aside the permit requirement until October 1, 1992, the expected date of the next Clean Water Act authorization.

EPA has developed a very complicated program to implement the 1987 stormwater amendments. It is very difficult for a busy city official or the owner of an industrial facility to figure out precisely what is required. One of the complexities is that EPA defined industrial activity in such a way as to require many cities with a population under 100,000 to make application for stormwater permits, notwithstanding the moratorium on permit requirements that the Congress thought it was putting in place.

EPA said that to the extent that a city of whatever size operates a facility of an industrial character like an auto maintenance yard or a powerplant or wastewater treatment facility, it is subject to the permitting requirements for industrial facilities. This requirement caught many city and county officials off guard and has generated considerable complaint.

When the highway bill was pending here in the Senate, I offered an amendment that would modify the permit application deadlines for small cities. I am pleased to say that this amendment has survived in the bill that has been returned from the conference. This legislation will clarify that small cities need not apply for permits associated with some of the industrial facilities they own or operate until October 1, 1992, date for the general moratorium on their permit requirement.

Small cities will be subject to industrial application deadlines for powerplants, airports, and some landfills. Cities with populations above 100,000 will continue to be subject to the full industrial permit application requirements. But the deadline for filing applications is extended beyond the dates that would otherwise have applied.

If a city is denied participation in a group or if the application of the entire group is rejected, these cities will be given 6 months from the date of denial to submit individual permit applications. I hope that these extensions will give cities an adequate opportunity to fulfill these requirements.

Mr. President, this bill extends deadlines that were established by statute. Congress puts these types of deadlines in the law to assure that a particular step, especially one that is overdue, is carried out by an executive branch agency. If the agency fails, the deadlines give citizen groups an opportunity to go to court to force action by a recalcitrant agency through court orders.

Just such a development has occurred in this case. EPA has failed to carry out mandated activities for stormwater permitting by the deadlines established in the 1987 Water Quality Act. A citizens group, the Natural Resources Defense Council, Inc., has sued EPA in Federal court to enforce the deadlines. When this bill becomes law, some part of the NRDC case will be set aside. We do not ordinarily change deadlines under these circumstances. It would be a foolhardy practice. We have included deadlines in statutes so that citizens can force implementation of the law. If we simply extended the deadlines whenever they sued, they would soon abandon their efforts to assure the diligent application of the law.

So, this limited extension is an extraordinary event and is taken only because the EPA definition of industrial activity to include facilities owned by small cities was a surprise, an outcome not intended by the Congress. The amendment only affects a limited portion of the overall stormwater program and it certainly would not be our intent to affect litigation with respect to any other deadlines for any other facilities. That litigation should be decided based on the language of the statute and the record which the Congress established at the time that it was enacted. I believe that full application of the Clean Water Act to stormwater discharges is long overdue and would encourage the most expeditious action to address this serious water quality problem.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Declaration of Policy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF POLICY: INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.

It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient, environmentally sound, provides the foundation for the Nation to compete in the global economy and will move people and goods in an energy efficient manner.

The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the Nations' preeminent position in international commerce.

The National Intermodal Transportation System shall include a National Highway System which consists of the National System of Interstate of Defense Highways and those principal arterial roads which are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.

The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to world commerce.

The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion and other aspects of the quality of life in the United States.

The National Intermodal Transportation Systems must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity growth and accountability. Practices that resulted in the lengthy and overly costly construction of the Interstate and Defense Highway System must be confronted and ceased.

The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems" and other new technologies wherever feasible and economical, with benefit cost estimates given special emphasis concerning safety considerations and techniques for cost allocation.

The National Intermodal Transportation System, where appropriate, will be financed, as regards Federal apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities and economically disadvantaged persons.

The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the Nation for the 21st century.

The Secretary shall distribute copies of this Declaration of Policy to each employee of the Department of Transportation and shall ensure that such Declaration of Policy is posted in all offices of the Department of Transportation.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California, Senator CRANSTON.

Mr. CRANSTON. Mr. President, my remarks, too, will be brief because I know we are trying to expedite this bill. I do want to say I am delighted the Senate is finally able to act on the Federal Transit Act Amendments, which make up a key title of the landmark transportation bill now before us.

Reaching this moment is an enormous achievement. And I want to thank the Members of this body who have brought about this achievement. Most of all, Senator PAT MOYNIHAN, whose leadership has been marvelous on the measure; Senator QUENTIN BURDICK, who likewise has been very strong and effective in regard to this measure; along with JOHN CHAFEE, DON RIEGLE, PAUL SARBANES, ALAN DIXON, AL D'AMATO, KIT BOND, and STEVE SYMMS.

The Federal Transit Act is the product of many transit leaders, here in Congress, nearby and across the country. Several months ago, the Senate Subcommittee on Housing and Urban Affairs, which I chair, invited policy recommendations from transportation leaders across the country. We convened a national symposium on public transportation. We have held hearings here in Washington and in other parts of the country. And we have turned those recommendations into landmark legislation. I am delighted to have played a part in all this.

With this bill, Congress recognizes that the country simply cannot achieve nationwide mobility solely by building bigger and better roads to accommodate more and faster motor vehicles. This bill shows that we are finally learning the costly lesson that more highways do not always bring mobility—particularly in our major population centers, new highways tend to generate new congestion.

The costs of highway construction have been far greater than the $129 billion in direct spending on the interstate system.

We have paid that cost through intolerable traffic congestion. Some 6,000

miles of California's main roads are choked to capacity in peak hours, and California's work force spends 300,000 hours each day in traffic gridlock. The same congestion is an unpleasant fact of life in many, many States.

We pay that cost through air pollution. Eight of every 10 Californians now live in areas with polluted air, much of it transportation related. The same pollution is an unpleasant and unhealthy fact of life in many, many States.

We pay that cost through overreliance on foreign oil. And each additional car we attract onto the road requires an extra 200 gallons of gasoline per year.

These problems can only worsen if we continue current transportation policies. California's freeway congestion is expected to rise by more than 400 percent during the next 20 years. Some States may not yet have the highway-related crisis that has already hit California, but the trends are ominous throughout the country.

For decades our narrow-viewed highway policy has been leading us up a blind alley. The conference agreement finds a better path.

This legislation launches an historic reform of American transportation—in both the highway and transit titles.

I believe this bill will enable the Nation to gain the efficient, integrated transportation system we will need for the future.

On the highway side, the landmark $24 billion Surface Transportation Program gives State and local officials more authority to decide how to use their transportation dollars to buy the most mobility for their people.

An increase in the minimum allocation from 85 to 90 percent ensures that donor States like my own State of California receive a more equitable return on the contributions they make into the highway trust fund.

The bill provides $16 billion to replace and rebuild the Nation's long neglected bridges. It provides major new assistance for a magnetic levitation trains, a new technology that holds enormous promise for the future.

I am particularly pleased with the transit title of this bill. Transit is ever more important to every part of the country. It serves millions of Americans—from the heavy rail transit that is expanding in our largest cities, to bus service in our medium-sized cities, to van-based paratransit services that meet special needs in smaller communities.

The conference report provides program funding levels that will reverse a decade of neglect and disinvestment in public transit systems.

It makes a commitment to better transportation. It sets a new, can do challenge for the administration. It will put an end to the no-can-do, antitransit attitude that has bottled up sound transit projects for the last decade.

The conference agreement makes a number of important changes in transportation policy.

First, the bill will provide a substantial increase in funding transit. Compared with last year, fiscal 1992 transit funding would increase by 12 percent and fiscal 1993 transit funding would increase by 60 percent. This increase is urgently needed after a decade in which transit was cut by 50 percent in real terms and transit needs have been ignored by the White House.

Second, the bill will fund both the discretionary grant program and the formula grant programs partly out of the transit account of the highway trust fund and partly out of general funds. That ensures a broader distribution of transit account funds.

Third, the bill opens up the highway trust fund so that highway and transit dollars can be used to improve mobility in the most efficient way—whether that is with roadways, or transit, or some multimodal solution. This is a vitally important aspect of the bill. The bill provides protections so that funds will not be drained from basic transit needs.

Fourth, the bill makes sure we get the most bang of transportation service for every transit buck that is made available. The bill improves full funding grant agreements to stretch available funding over more projects and enables transit operators to finance and manage long-term projects more efficiently. The bill also will permit operators to enter into long-term purchasing agreements for buses and rail cars to provide fleets of compatible vehicles that can be operated and maintained more efficiently. In addition, the bill will provide new authority that is need for turnkey procurement of high technology transit systems.

Fifth, the bill addresses differing needs of mass transit systems across the country—providing valuable reforms affecting new starts, system extensions, rail modernization, bus procurement, and paratransit services. The bill doubles transit assistance to rural areas—and significantly increases funding the transit services to persons with disabilities.

Sixth, the bill gives major metropolitan areas—those with populations over 200,000—substantially more power to develop comprehensive, long-range plans for meeting their long-term transportation needs. For the first time, we will closely link transportation planning with the actual budgeting of scarce resources.

Seventh, the bill removes the bias against the choice of transit when it is the most efficient use of Federal transportation funds. The bill provides a more level playing field between transit and highways. The Federal match will be a more uniform 80 percent, and some time consuming red-tape will be cleared away.

Eighth, the bill provides more timely review and more assured implementation of sound transit projects.

Ninth, the bill retains provisions in the existing law that require locally developed transportation plans and programs to encourage the participation of private enterprise to the maximum extent feasible. The conference agreement makes it clear that these provisions are not to be construed to impair local authority to determine the feasibility and benefits of private sector participation with respect to any program element or project.

The provisions unfortunately were abused to a completely unacceptable degree under the previous administration. For that reason the issue was the subject of explicit debate and decision by the conference committee. The current administration's recent action to jeopardize grants to St. Louis and Phoenix are specific and very alarming cases of attempted Federal intrusion in local affairs.

Senate conferees strongly opposed any hint that this new bill gives the Secretary a new weapon to extend Federal power in this regard. And the conference accepted that position. The conference agreement explicitly provides that the Secretary does not have authority to withhold certification of any metropolitan planning organization [MPO], which would cut off funding for transit grant recipients, based on any disagreement the Secretary may have with the policies and criteria that the local MPO or transit grant recipient establishes to determining the feasibility of private enterprise participation in accordance with section 8(e) of the Federal Transit Act.

And finally, the bill reinforces the country's ability to achieve the Clean Air Act, the Americans with Disabilities Act and other important national objectives.

The bill reflects the suggestions of many transit leaders across the country. The bill breaks some important new ground to provide for more effective mass transit. The bill offers the kind of advanced, integrated transportation system that the country desperately needs—a transportation system that cuts air pollution, conserves fuel, and clears roadway congestion.

The economy needs this bill. Construction workers need it. Commuters need it. Industry needs it. Families need it. The President should sign it promptly and ensure that it is implemented.

Mr. President, the hour is late. The bill is sound, and it is imaginative. I urge my colleagues to enact it promptly.

STAFF

Mr. President, I thank the following staffers, all of whom did great work on the transit section of this bill. Eileen

Gallagher of the Housing Committee staff who had key responsibility for the transit title. She performed her work with remarkable diligence, competence, and professionalism. Kris Warren of the Housing Committee staff, Jeannine Jackes with Senator RIEGLE, Fred Millhiser with Senator SARBANES, Pam Ray-Stronk with Senator D'AMATO, and Clarie Hefferman with Senator BOND.

Mr. President, the transit section of this bill is what I worked on in my capacity as subcommittee chairman. I just want to say that what we have accomplished for rapid transit as an alternative to more and more congestion, more and more pollution, more and more wasted hours in traffic jams all across the country—horrible in my State, horrible in other States, looming in virtually every State—is a tremendous accomplishment. We will be able to move our people much more rapidly on whatever missions they must undertake that involves travel.

We see a revolution in the way Americans move about our country in the course of time as a result of that part of the bill. I am proud to have worked on it and I am delighted that we have had such cooperation from Senator MOYNIHAN and Senator BURDICK and others who recognized the need for this change of direction in our transit policies.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina, Senator THURMOND.

Mr. THURMOND. Mr. President, I commend the chairman of the Transportation Subcommittee, the Senator from New York, and the ranking member, the Senator from Idaho for their hard work on this bill. But, as I look over the report I sense the only redeeming attribute of this legislation is that it will produce jobs and that South Carolina will receive more funding than when the last highway reauthorization bill was adopted, yet, there is still injustices in this legislation. The conference produced a bill that is very unfair.

I rise today in strong opposition to the conference report accompanying H.R. 2950, the surface transportation bill. This bill perpetuates—I repeat—perpetuates—and even exacerbates inequities in the distribution of highway funds over the past 35 years. I was a member of the committee in the Senate that wrote the interstate bill in 1956. The chairman of our subcommittee at that time was Senator Gore, father of Senator AL GORE, who is in the Senate today.

Under the conference report's formulation, South Carolina receives 1.4 percent of the total available funds. Yet in fiscal year 1990, the State contributed 1.7 percent into the trust fund. I ask you: Is that fair? I ask the chairmen and ranking member, is that fair.

Is it fair that South Carolinians should be asked to continue putting in so much more money than they get back? Of course, it is not fair. What justification can they offer my constituents in South Carolina for this kind of treatment?

This inequity is even more striking when you consider that South Carolina contributed more than it received from the trust fund from the time the interstate system was established in 1956 through 1991.

This bill also includes provisions which will reimburse States for four-lane highway system construction prior to 1956. States built these roads without any expectation at the time that they would be reimbursed. Why are we now, 35 years later, going back and reimbursing States for roads they built prior to 1956? We do well to pay for roads built today and in the future. Going back 35 years and reimbursing States; is that fair? Of course, it is not fair. And they know it is not fair.

I had one member of the Committee whose State was in the same position as South Carolina, and I asked him about this matter. I will not say whether he is a Senate or House Member. I asked him why he changed his position. He said, "Well, I was on the committee and the committee let me have more. Therefore, I changed my position." Is that a matter of principle?

Mr. President, everybody in the same position should be treated alike. That is not being done in this case.

This bill continues the inequities of the past by keeping the current donor-donee system in place. This unfairness should not continue. How much longer is it going to go on? How much longer is South Carolina going to contribute more than it receives? South Carolina is a small State.

This bill should not pass. It is going to pass because they worked it out to get enough support at the last minute and everybody is ready to go home.

This is an unfair bill. It is an unjust bill. I say to the chairman and the ranking member and every Member of this conference committee, this is not a fair bill. It is unjust.

Mr. President, I ask unanimous consent to have an article by Lee Bandy which appeared in the State newspaper printed in the RECORD.

There being no objection, the article was ordered to be printed in the as follows:

[From the State (SC), Nov. 27, 1991]

HIGHWAY BILL WOULD TAKE S.C. FOR A RIDE, OFFICIAL CHARGES

(By Lee Bandy)

WASHINGTON.—South Carolina officials say a $151 billion, six-year highway/mass transit bill shortchanges the state to help other regions.

"This bill continues more than 35 years of previous injustice," said Robert White, the state's chief highway engineer.

The bill was making its way through the House and Senate Tuesday night.

It authorizes $110.0 billion for highways and $91.0 billion for transit systems, a 40 percent increase in funding over previous years.

The state proposes to spend the bulk of its $1.6 billion to upgrade, widen and maintain its interstate highway system.

The measure authorizes three construction projects for the State; $25 million to replace the Cooper river Bridge, $6 million for the Southern Connecter in Greenville and $10 million for the Carolina Bays Parkway from Georgetown to North Myrtle Beach.

Another $500,000 is earmarked to study a proposed light-rail commuter line between Rock Hill and Charlotte. The bill also proposes a major highway from Charleston to Detroit.

South Carolina officials, however, are not satisfied with the funding formula. They said it denied the state a fair return on its investment.

South Caroline is one of 22 so-called "donor states" that traditionally have paid more into the Highway Trust Fund in taxes that they have received back for federal highway construction and maintenance.

To minimize the impact on donor states, negotiators accepted a provision guaranteeing that states would receive 90 percent of the funds they contribute to the trust fund in gasoline taxes.

Over the six-year period, South Carolina is scheduled to receive more than $1.5 billion for highways and transit programs.

"That's a lot of money," White said. "But over the same period of time, South Carolinians would put in a lot more than that."

Asked about the 90 percent guaranteed return for south Carolina, White said: "I'm skeptical. I just find that difficult to accept at this point."

Based on figures he had, White calculated that South Carolina would get only 0.3 percent return on its investment.

"That puts us 50th out of 50 states. We're dead damn last," White said.

White estimated South Carolina would be shortchanged about $327 million over six years.

The centerpiece of the new bill is a $38 million national highway system. It would consist of the current interstate high system and other major highways to be designated later.

Up to 50 percent of the funds for that project could be spent on other road programs or transit.

States would also have another $24 billion to spend on new surface transportation programs that could essentially go for anything from highways to transit. The bulk of it, however, would have to be spent in cities with more than 200,000 people.

The bill also authorizes funding for interstate maintenance ($17 billion), bridge repair ($16.1 billion) and congestion management and air quality ($6 billion).

The highway program will be financed by extending half of last year's 5-percent gasoline tax increase, which is scheduled to expire.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin [Mr. KASTEN].

Mr. KASTEN. Mr. President, I want to add my support to the conference report on the Intermodal Surface Transportation Efficiency Act of 1991. My primary purpose for doing so is that, on the bottom line, Wisconsin will see a historic increase in the return of Federal dollars to our State.

The $2.2 billion that will come to Wisconsin under this bill will more than double the $1.05 billion that we received under the last highway bill.

For the last 35 years, Wisconsin has suffered under the funding formulas that have seen our taxpayers paying $1.15 billion more into the Federal highway fund than we received in return. We had hoped that those underlying formulas could be changed as we entered a new post-interstate construction era. This has not happened, but for the next 6 years covered by this bill, Wisconsin will receive back $1.10 for each dollar we pay in gas taxes. We will be receiving $2.183 billion under the highway portion of this bill, and about $50 million under the transit provisions.

This higher dollar return is due to the fact that we are finally spending down the highway trust fund at a higher rate over the next 6 years. It is time that these accumulated balances are now being applied to our infrastructure needs.

Even when we look at the return to Wisconsin based upon the amount of the overall pot that we receive compared to the amount that we pay in, we have increased Wisconsin's return from a historic rate of 74 cents to a 98 cents return for each dollar paid in under this compromise legislation. That is a 32-percent increase which has been a long time coming.

I have fought hard to see that the overall rate of return to Wisconsin reflected the equity that Wisconsinites deserve. Under this highway bill Wisconsin will receive 1.9 percent of the total highway funds.

I am also pleased that we are not delaying any longer, this important legislation that authorizes the highway programs that have been in limbo since October 1. In Wisconsin, the Department of Transportation and the 120,000 persons whose jobs depend on this funding can now get to the business of improving our roads, bridges, and transit infrastructure, rather than worrying about the future.

In the transit portions of the bill, Wisconsin will benefit from the increased funding devoted to transit, as well as the increased flexibility in the legislation for the State to utilize highway funding for transit projects. Wisconsin's small and medium-sized transit programs will benefit from increased funding and the cap on Federal operating assistance for the Milwaukee and Madison systems has been lifted.

I am also pleased that the transit title includes a provision that will enable Milwaukee to obtain $200 million for the light rail project, assuming that it is approved by the alternatives analysis now underway. This is a tremendous win for southeastern Wisconsin and the State as a whole.

All in all, we have accomplished a lot for Wisconsin in this legislation. Most importantly we have obtained for our State the equity in the return of Federal dollars that has penalized us since the highway trust fund was established in 1956. We have won small increases along the way, but what we achieve in this legislation marks a historic improvement for Wisconsin that will serve our surface transportation needs for the next 6 years.

Mr. SYMMS. Mr. President, it has come to my attention that a technical change is needed to correct the route number designation of a particular project contained within the bill. At section 1014(c)(2), page 73 of the bill at lines 2 and 4, U.S. 81 has been mistakenly listed as U.S. 91. In order to properly designate this project, this change needs to be made.

Mr. MOYNIHAN. Mr. President, I agree, this change must be made. We urge the House under its authority to make technical and conforming corrections to address this error and make these corrections.

Mr. MOYNIHAN. Vote.

Mr. SYMMS. Vote.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, the Senator from Nebraska is from a Western State. The Senator from Nebraska would very much like to be home with my family for Thanksgiving. I simply want to echo the remarks of some of my colleagues who have spoken since I addressed this matter earlier in the day.

We set a terrible precedent each and every year when we come up against an adjournment timetable. I am not sure, but I have suspicions that these, like other controversial bills, are, by design, put off and put off and put off until people start wanting to catch airplanes to go home.

I have listened with great interest to several of my colleagues who have risen in support of this piece of legislation. For the most part, I suspect if I were similarly situated to them, I, too, would be up applauding the efforts.

I just heard a very excellent address by my great friend and colleague from South Carolina. There is no Member in the Senate that I have more respect for than the senior Senator from South Carolina because of his knowledge, and because we worked together for years on the Armed Services Committee. And I like it when he feels things from his heart.

I was interested in hearing the discussions between the Senator from Michigan and the distinguished chairman of the Subcommittee on Jurisdiction. I also listened with keen interest to the Senator from Alaska, who indicated he supported the bill because Alaska came out very well. In fact, I could not help but notice, indeed, Alaska, which is a sparsely settled State, needs some special consideration. They have been a good donee State for a long, long time, and justifiably so, as expressed by the junior Senator from Alaska.

I could not help but recognize, though, another point of the unfairness; that is, that Alaska gets more total dollars in this bill than does Nebraska. Nebraska is in the heart, the center of our country. It is a major transportation link across the United States. Yet, under this bill, we are spending more money in Alaska than we are in Nebraska.

I think that is rather interesting.

I would like to make inquiry of the managers of the bill as to these formulas that brought about this grand compromise that, as the Senator from South Carolina has clearly indicated, came up with some rather amazing figures, give and take.

I listened with interest to the comments by the Senator from Michigan about $20 million, minimun, somehow being put into the bill for each State. I suspect that that $20 million gift is in the Nebraska totals. But I could not imagine what our totals would be without it.

I would simply like to see if I could understand, whether or not there is somewhere printed, or if it could be explained in detail before we go ahead with a vote on this measure, as to exactly what formula was used? What is the formula that brought about the final listings, at a very late date, as to what State gets what?

Mr. MOYNIHAN. I am happy to respond.

Mr. EXON. I am happy to yield, without losing my right to the floor, to my friend from New York for the answer to the question.

Mr. MOYNIHAN. May I say, no one is trying to test the Senator's right to the floor, but by all means.

The Senator asked a good question to which there is a complicated answer. The net return per State begins with interstate construction and substitution.

It will take us 4 years to finish out the Interstate System finally and for good; to write the last check. The Senator from Massachusetts is here. The last major project of the Interstate System will be in Massachusetts, and in 4 years' time, that will be paid for and done. Whether the project is finished or not, the money will be paid.

In Nebraska, all of its projects were built years ago, and it is 1 of about 15 States that gets zero. Wyoming gets zero; Virginia gets zero; and Texas gets $153 million.

California, which gets three quarters of a billion, has one more project, the Anderson Freeway in Los Angeles. It is just about finished. That is three quarters of a billion. Massachusetts, the third tunnel and the central arterial, that comes to about $2.5 billion. That is just finishing the Interstate System.

Then we have interstate maintenance, which depends on the amount of miles you have. It is just a direct function of the miles of interstate, lane miles.

Then we have a bridge program which is allocated by the number of defective bridges.

Then we have the National Highway System, which is allocated by State, since we do not have an actual mileage in the NHS yet. We hope to have, in 2 years' time, when the Secretary of Transportation will recommend—out of the 150,000 miles, roughly, they will give us 121,000.

Then we have a surface transportation formula which is based on your historical receipts. Then we have a 90-percent minimum allocation. Then we have Federal lands.

On Federal lands, the State of Nebraska, which has a great deal of Federal lands, gets $136 million. The State of Maine gets zero dollars. The State of New York, for some strange reason, gets $690,000; we get $690,000. Nebraska gets $136 million. I think we probably get some credit for Bedloe's Island, or something like that.

Then we have the congestion and air quality, which is a formula directed to the number of nonattainment areas in your State.

Southern California and northern New Jersey are one vast nonattainment area. Then we have the reimbursement formula, which was provided for in the 1956 legislation.

Then we have a hold-harmless to help people see that nobody gets less than they used to get. Then we have a 90-percent attainment, and we have projects. In this bill, Mr. President, I say to my dear friend, for every dollar in gasoline tax paid by the State of Nebraska, the State of Nebraska will get back $1.27 cents. In the period, your total dollars will go up 70 percent more than the last program. You get $1.27 cents for every dollar, and in this program, being the largest program in history, in the next 6 years you will get 70 percent more than you got in the last 5. More I cannot say.

Mr. EXON. I thank my friend from New York for his explanation. At least we have it on the RECORD now as to what this formula is, and I suspect that there was more to some of the negotiations that went on than meets the eye. At least, though, we do have some written explanation at the present time as to what it is based on.

Mr. MOYNIHAN. Can I add one point?

Mr. EXON. Sure.

Mr. MOYNIHAN. We are very much aware that the formula that built the interstate highways will not take us easily into a postinterstate era. We have done the best we can because we are still partly in the interstate era. We have 4 years of payments, too. We have asked the General Accounting Office to give us its best estimate of how to go forward now. And in 6 years' time, you will not recognize this sheet. It will, I hope, in 6 year's time, if we are still here, or our successors—there will be somebody here—it will have three columns. One will be interstate maintenance; the other will be National Highway System; the third will be surface transportation.

Mr. EXON. I thank my good friend and colleague from New York. The figures he cited with regard to Nebraska and how much more we are getting is the typical pitch that has been made to the House Members and the Senate Members. The facts of the matter are all States are getting a whole lot more money than they had in the last 5 years; is that correct?

Mr. MOYNIHAN. Yes.

Mr. EXON. Since the Senator from New York brought up the matter of donor-donee States—and I certainly recognize and accept the fact that Nebraska has traditionally been a donee State, a la the reference made to this earlier in the day by the Senator from Indiana. Certainly, it was not said by the junior Senator from Alaska, but also, obviously, Alaska has, I suspect, always been donee State.

Since we are talking about that, that brings me to the question with regard to the fairness of the formula. There are several donee States that I am about to mention with some figures that, like Nebraska, are donee States and yet those donee States, other than Nebraska, while most of them are more donee than Nebraska, do much better than Nebraska in the funding formula.

Example. And I use these figures, which are honest figures, and since we had a 5-year authorization bill in the Senate and a 6-year authorization bill in the House—and I might stop for a minute and say, how did that happen? I think that all gets tied up in the increased tax measure that is in this bill. Originally, the House of Representatives had a 5-year authorization bill, also, with an immediate increase of 5 cents on the gasoline tax on top of the 5 cents that was embodied in the Andrews grand summit deal last year where the President's lips quivered. There was so much opposition to that, the 5-cent-gas-tax increase, that the House recognized that they could not have all of their pork barrel projects that have been alluded to by this Senator and others time and time again, and they backed off and said, what can we do? The first thing we do is stretch it out to 6 years. The second thing we do is not have a 5-cent gas tax to go into effect now. We will take half of that, or 2½ cents, and add it on to the end of the bill that was passed last year that otherwise would have allowed the full 5-cent gas tax to expire in 1996. With all that combination, the House was able to fool the Senate into thinking that they were basically adopting the Senate bill when, in fact, in my opinion, we have not.

But getting back to the matter of the figures that I am about to cite, since there are differences between the House bill and the Senate bill, obviously, the key difference between the two bills, as I addressed earlier was that we provided significant increases to all the States, including 70 percent or more as opposed to the last 5-year program in the bill that passed the Senate.

What we have now come back with, I suggest, is a different bill altogether. It is kind of the Dr. Jekyll and Mr. Hyde proposition. We had a Dr. Jekyll bill that went out of here. It comes back into this body as Mr. Hyde. And yet we are trying to hide some things in that bill that are not fully understood, which, if for no other reason, is why I think the President should veto the bill. Once again, as I did earlier, I call upon the President to veto the bill, call us back into session immediately and redo it.

The figures then that I cite—and the only way that we can look at this honestly and accurately is to talk about a 1-year average figure under the two bills passed, one in the House, one in the Senate, and now how that figure matches up in the conference report that is before us.

All of these States that I am about to cite have precious little to do with the donor-donee proposition. Again, Nebraska is and will continue to be, because of our sparse population and large land mass, a donee State.

New York is also a donee State and has been for some time. I simply point out that on a 1-year average basis, New York was allocated $960 million on the average of each year in the Senate bill. It was allocated less, $917 million, in the House-passed bill. The final conference report that we are being asked to support jumps it up to $1.24 billion. New York, a donee State, does very well, indeed. Maybe it is justified, but I am pointing out the differences.

Ms. MIKULSKI assumed the chair.

Mr. EXON. Madam President, Idaho got $105,451,000 under the Senate bill. It really got killed in the House bill. They dropped Idaho down to $97,182,000. The conference report comes back with $134,806,000 for Idaho. I have to say, Madam President, in all due respect and appreciation for the Senator from Idaho, who played a key role in putting this all together, I do not think he took advantage of the situation with regard to Idaho. It seems to me that the Idaho compromise that I have just outlined is a good one.

North Dakota, $123,000 in the Senate bill, down to $97,000 in the House bill. They come right back up to $123,000 in the compromise.

Montana, $213 million in the Senate bill, down to $102 million in the House bill. It comes back out at $178 million in the compromise, again a compromise on the upper side of the scale

favoring Montana, which I do not necessarily object to. New Mexico, $222 million in the Senate bill—wow, down to $130 million, Madam President, in the House bill, and back up to $195 million in the bill before us, the conference report. Nevada, $126 million in the Senate bill, $90 million in the House bill, $131 million in the conference report before us. Nevada did very well, indeed. South Dakota, $145 million in the Senate bill, down to $94 million in the House bill. They got $132 million in the bill before us, another compromise on the upper side of the scale. Iowa, $259 million in the Senate bill, $235 million in the House bill, $242 million in the final measure before us, again a compromise in that case slightly on the down side. Minnesota, $303 million in the Senate bill, down to $291 million in the House bill, jumped all the way up to $324 million in the version before us. And just to put everything in perspective, Nebraska, $199 million in the Senate-passed bill, down to $153 million in the House bill, and down even below both the Senate and House figures to $152 million in the measure before us.

I think that if anyone took a look at those donee States as separated from the donor States, which have a different and special problem that I recognize, I would think the formula just outlined to us can be proven as not only unfair but unworkably unfair from the standpoint of many of us.

Madam President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will speak just briefly on this matter that is of considerable importance to my State.

I commend the Chairman of the Transportation Subcommittee, Senator MOYNIHAN, and the ranking Republican member, Senator SYMMS, for their leadership and bipartisan cooperation in developing this far-reaching and far-sighted legislation. I also commend Senator CRANSTON and Senator D'AMATO for their leadership on the mass transit issues in this important measure.

I give my strong support to this farreaching transportation measure that will help to bring our economy back to health in the short run, and help in the longer run to move our country into the 21st century with a better, more efficient, safer, and cleaner transportation system.

This bill is one of the most significant public works and infrastructure measures ever enacted by any Congress. It will provide a major boost for the construction industry and for the national economy, at a time when the stimulus is most urgently needed.

In addition, it will provide an immediate and continuing economic stimulus for the Massachusetts economy, which has been suffering especially heavily from the current endless recession. It will help to get thousands of workers back on their feet and back on the job.

The major provisions for Massachusetts include $2.55 billion over the next 4 years for construction for the Central Artery-Third Harbor Tunnel, to improve and upgrade what is now the single most dangerous and congested stretch of the entire Interstate Highway System.

The bill also contains substantial funds for development of a new bus tunnel to link downtown Boston with the fast-growing South Boston Piers area and the new Federal courthouse now under construction there. This key transit project will be especially helpful easing the urban congestion in Boston and reducing pollution.

The bill also contains $911 million for much needed bridge repairs and maintenance throughout the Commonwealth. In addition, it includes major funding for research and development on high-speed rail technologies, and for other innovative programs such as smart roads that use sophisticated computer technology to anticipate traffic problems and prevent gridlock.

The legislation provides large amounts of new Federal dollars directly to States and local communities, and gives them greater flexibility to decide their own transportation priorities—whether for mass transit, construction of new roads, or maintenance of current roads and bridges.

Finally, on a related issue, I believe that Congress should stay in session next month in order to deal in a more comprehensive way with the recession and the festering and complex challenges facing our economy.

This transportation legislation is an important first step in fashioning the stimulus we need to end the recession as soon as possible. But it is far from the only step we must take.

It would be irresponsible for Congress to adjourn for 2 months, with the economy in trouble.

President Bush is being buffeted by his economic and political advisers. All he proved yesterday is that he has no policy of his own. He lunged too quickly for a right-wing House Republican proposal that would be unfair to the vast majority of middle-class and working American families.

It is Alice-in-Wonderland economics at its worst-vote first, think later.

In the coming month, it should be our goal to fashion the more comprehensive, fair, and fast-acting stimulus needed to pull the Nation out of this continuing recession. I believe we can meet that challenge, and do so in a bipartisan, constructive way that will be good for the economy, good for the country, and fair for all the American people.

Mr. GRASSLEY. Madam President, I will be voting for the conference report on the 1991 surface transportation reauthorization legislation. I do so with some enthusiasm and with some reservation.

Let me begin on a positive note. One of the reasons I am supporting this legislation is the fact that we have this legislation at all. There has been much discussion that we might not have a bill. And that would have been tragic.

According to the American Association of State Highway Transportation Officials, an estimated 409,000 jobs and $27.8 billion in output could be lost if this legislation does not pass. The impact of these jobs lost would be devastating just as we are trying to move out of the recession. My home State of Iowa would share in this loss, totaling over 4,000 lost jobs with over $70 million in reduced spending. So I am pleased to see that we are able to consider this legislation today.

Another reason I am supporting this bill is the question of fairness. It is my assessment, and the assessment of officials it is my assessment, and the assessment of officials with the Iowa Department of Transportation, that the State of Iowa is treated fairly under this bill. Would I like to have seen Iowa get more money than is provided in this legislation? The answer is yes. But, do I think Iowa is treated equitably under this bill? I do.

I am also pleased to see that certain demonstration projects are included in this bill * * * projects that are very important to my State. These include the Avenue of the Saints corridor, the Highway 63 corridor, the extension of Highway 2, the Mason City bypass, and the Valley View project in Council Bluffs.

I would like to take a moment to discuss the Avenue of the Saints project. To refresh my colleagues' memories, the Avenue of the Saints is a major north-south highway which would connect the cities of St. Paul, MN and St. Louis, MO.

The Avenue of the Saints study committee, which consisted of the departments of transportation from Iowa, Illinois, Wisconsin, Missouri, and Minnesota as well as the Federal Highway Administration, was commissioned to determine the best route for the Avenue of the Saints. Last year, after exhaustive study, this study committee released their findings. They determined that the best route for the Avenue of the Saints would start in St. Louis and pass through the following communities: Hannibal, Keokuk, Mt. Pleasant, Iowa city, Cedar Rapids, Waterloo/Cedar Falls, Mason City and up to Minneapolis/St. Paul.

In late July of last year, Secretary Sam Skinner sent me a letter stating that the Department of Transportation fully supports this route for the Avenue of the Saints.

The entire Iowa congressional delegation has worked diligently over many years in an effort to complete the Avenue of the Saints. This legislation will go a long ways toward making the Avenue of the Saints a reality. In addition to the inclusion of the demonstration project, this legislation gives unprecedented discretion to States and metropolitan planning organizations to make transportation decisions. The Iowa Department of Transportation and Gov. Terry Branstad have publicly stated that the Avenue of the Saints is the transportation project for the State of Iowa. They will have the discretion to allocate the needed moneys to make the Avenue of the Saints a reality in the very near future. With this discretion, the Iowa Department of Transportation estimates that the Avenue of the Saints will be completed as a four-lane expressway by the end of the decade.

Another element of this legislation that I support is the inclusion of the National Highway System. The National Highway System is a network of primarily existing major highways throughout the country. The National Highway System will include the Interstate System and would connect major population centers, rural areas, major ports, airports, and international border crossings.

The idea of a National Highway System is critical to maintain the integrity of an efficient transportation system throughout the United States. I believe it is essential to dedicate a substantial portion of Federal highway dollars into a system that will meet national needs. A National Highway System would connect those highways that serve national commerce, travel, and defense needs.

Mr. President, "flexibility" and "national purpose" are not diametrically opposed to one another. They can work hand-in-hand. The flexible nature of the Surface Transportation Program will only work to better enhance the National Highway System * * * The National Highway System will give a national focus to the flexible funding decisions on the part of the States and metropolitan planning organizations.

It is for these reasons that I will vote for this legislation. But I do so with one reservation and that is the gas tax extension of 2.5 cents for 4 additional years.

Nevertheless, I believe that we can claim a substantial victory in one sense. We were able to successfully fight the nickel gas tax that the House of Representatives supported earlier this year. For that I am grateful.

Though I will vote for this bill, I wanted to make note that the extension of the gas tax is one element that I do not support and have actively opposed. But because this bill is so important to the entire Nation's transportation system, and specifically to my home State of Iowa, I am willing to support its passage despite my reservations with this specific provision of the bill.

And finally, Madam President, let me congratulate Senator SYMMS and Senator MOYNIHAN for their valiant efforts. Without their thoughtful leadership, commitment, industry, and patience, we would not be here today. I would like to thank them and honor them for their work.

Mr. CRAIG. Madam President, I rise in support of the Conference Report on H.R. 2950, the Intermodal Surface Transportation Efficiency Act. It is a forward-looking and much needed piece of legislation which will go a long way toward building and maintaining the roads and bridges of America as we head into the 21st century. The legislation will provide $154 billion for our Nation's infrastructure over the next 6 years, more than $811 million of which will go to my State of Idaho.

Although Congress has failed to meet the President's 100-day deadline for the transportation bill by some six months, largely due to bickering in the other Chamber about increasing the gasoline tax another nickel, I know I speak for all in Idaho when I say this bill is badly needed.

The credit for this legislation and its being passed this year belongs to Senator MOYNIHAN and the senior Senator from Idaho, STEVE SYMMS. I would like to thank them for their hard work. As we have already acknowledged here on the Senate floor, the Senior Senator from Idaho will be sorely missed when the 103d Congress convenes in 1993. I especially praise him for his leadership.

This legislation has many positive features. I would like to mention and comment on a few.

Without a doubt, the most important aspect of the conference report, as with the Senate passed version, S. 1204, is its flexibility. As a member of the House Committee on Public Works and Transportation, I spent much of the last session of Congress listening to testimony from State transportation officials. What I heard them saying was that they need flexibility; they do not need Federal strings tied to the Highway Trust Fund moneys.

Nevertheless, House conferees insisted on the inclusion of so-called demonstration projects and a certain number of these have been included. To the extent that these projects have been reviewed and proposed by the various State departments of transportation around the Nation, I believe they are justifiable. However, for those projects that are not the product of some type of process at the State level, I cannot speak so favorably. Fortunately, the projects included for Idaho were included only through close consultation with the Idaho Department of Transportation. Most importantly, they were included without imposing the 5-cent gasoline tax increase advocated by some in this Congress.

In any event, it is time to turn more of the surface transportation program over to the States. By and large, this bill will effectively do that.

The State matching requirements of this legislation recognize the difficult financial position of many States by enacting an 80-20 match—80 percent to be provided by the Federal Government, largely through the Highway Trust Fund and 20 percent to be provided by the States. This is a step toward greater responsibility for the States—the 1986 bill provided a 90-10 match—without going to the 60-40 or even 75-25 extremes contained in other proposals, including the President's.

Across America, bridges are beginning to crumble. Along Idaho's principal north/south link, highway U.S. 95, a single bridge near Riggins, ID, connects much of the State's population. Its condition is in serious question, but because of the lack of funds provided for bridge replacement and rehabilitation, it is not slated for action until 1995.

Similar problems exist throughout the Nation and need to be addressed. The conference report provides a large part of the solution by allowing States the flexibility to spend more money on bridges, providing a $16 billion program to replace and rebuild our Nation's bridges, and expanding what has been a very efficient timber bridge program to $7.5 million.

Funding for highways running through national forests and other Federal lands is more than doubled in this bill. This will increase and improve access to our Nation's public lands for millions of Americans and help get timber and other valuable natural resources to the people and businesses that need them. Funding is also increased for Indian reservation roads.

I am most pleased about the inclusion in the conference report of Senator SYMMS' National Recreational Trails Trust Fund Act. I am a cosponsor of this measure and believe it is an important step in enhancing and maintaining the current recreational trails of America, as well as constructing new multiple-use trails through the user fee concept.

The bill has many other important provisions including State design and approval of pavement rehabilitation projects without Federal approval, a repeal of speed limit sanctions on the States and others too numerous to mention here. Suffice it to say that they are all part of what will prove to be a most efficient and effective surface transportation program for our Nation.

Even with my support of the conference report, I must mention a few concerns about the legislation. These include the helmet and seatbelt provisions and long-combination vehicle size freeze contained in the bill. These are significant infringements on the rights

of States to regulate safety within their own borders and I oppose their inclusion in this legislation, as I did when they were included in S. 1204.

In addition, I am disturbed about the conference committee's decision to strike the Private Property Rights Act from the bill. It was included in the Senate approved legislation and would have gone a long way toward assuring the private property owners of America that their livelihoods will not be threatened by the regulators in our bureaucracy. That battle, however, is far from over and will continue to be fought.

Finally, Mr. President, I would once again like to thank Senators MOYNIHAN and SYMMS for their fine leadership on this important legislation and express my strong support for the conference report.

Mr. SANFORD. Madam President, we are obliged by our duties as Senators to bring to the Nation a surface transportation reauthorization bill. The Nation needs this bill. The Nation needs its highways and interstates maintained, it needs to begin construction on its newly planned highways, and it needs its transit systems running.

The infrastructure system of the United States is the greatest in the world, and we should all be proud of that fact. And crafting legislation which authorizes funds to keep this system operating is one of the most important responsibilities of Congress. The surface transportation legislation authorizes the spending of vast sums of money—billions of dollars—which in turn creates jobs for countless individuals in industries ranging from engineering to construction to sales to manufacturing, and so many other fields. The highways, bridges, and transit systems authorized by this bill keep the Nation moving and working. None of us could survive in this modern world without the transportation systems which are the lifetimes to our jobs, to our homes, to the stores, restaurants, and businesses of America. Indeed, our Nation would go nowhere without this system.

The Nation is therefore at the mercy of Congress to bring forth legislation to provide funding for the transportation systems. The issue of equitable funding is critical to our debate on this legislation.

Going into this reauthorization cycle, North Carolina was receiving only 74 cents back for every dollar it put into the highway trust fund—an extreme iniquity. When we first began our debate of this transportation legislation, I was adamant about seeing a better return for North Carolina's dollars. While this bill is not revolutionary in that regard, I believe I have achieved some success. After the enactment of this legislation, North Carolina will be receiving 87.5 cents back for every dollar it sends to the Federal highway trust fund. This is clearly a step in the right direction.

During the debates in the Senate earlier this year, I was very outspoken about the need to change the funding formula for the Federal-aid highway programs. I pointed out the need to move away from the formula used during the interstate construction period, and toward a more equitable formula based on use and maintenance factors. I am disappointed that this legislation does not include such changes in the formula, but I am certain that we have been successful in heightening the donor State issue in both the House and the Senate.

There was a time when it was necessary for some States to receive a larger percent of the trust fund than others as all States were working together to fund the construction of the interstate system. However, the period of interstate construction is over and we are now moving into a new era, one that will focus on maintenance and use. We therefore should not maintain the old funding formula to carryout our new directives. To that end I was successful in adding a provision to the legislation which requires the General Accounting Office to study the surface transportation funding formulas and recommend to Congress a formula which would treat all States equitably. I believe that having an objective body, such as the GAO, study the issue and recommend the necessary changes is the best way to ensure fair formulas are adopted in the future.

I have found that those States which have historically received more per dollar under the interstate construction formula do not want to give up the large returns their States have been receiving. During this highway debate we have all done a very good job watching out for the interests of our States, but have not acted in a manner to benefit the entire United States. We all want a bigger slice of the pie for our State, but there just is not enough pie to go around. We need to base our Federal-aid highway allocations on need, not greed. Therefore, I am hopeful that the GAO study and recommendations will help to eliminate this difficult funding formula debate which tears apart regions, Senators, and the interests of the entire United States.

While I have concerns about this legislation's funding formula, it does contain great measures for the Nation and for North Carolina. The safety features of the bill are enhanced. There is an emphasis on transit systems, which will allow North Carolina to pursue transit planning in both urban and rural areas. And the bill includes an increase in the minimum allocation from 85 to 90 percent.

I will offer my support for this legislation. I believe it is a big step in the right direction for transportation in North Carolina.

Mr. RIEGLE. Madam President, this is a historic juncture in Federal transportation policy. Today, with construction of the Interstate Highway System largely complete and many of our Nation's oldest and largest transit systems upgraded, we are entering a new era. The Intermodal Surface Transportation Efficiency Act of 1991 charts a fresh and forward-looking approach to transportation policy. As a conferee on the bill, I would like to thank my colleagues who participated in the conference for all of their hard work. Furthermore, I would like to commend all of my colleagues for the high degree of cooperation demonstrated between Members on both sides of the aisle which made this major initiative happen. The bill goes a long way toward renewing our Federal commitment toward a strong national transportation infrastructure and improving the state of our economy. This $151 billion package will pump much needed Federal dollars into local economies across the Nation. The timing of this bill couldn't be better—at a time when millions of Americans are feeling the pinch of the recession.

Today we have the opportunity to commit our Nation to a coordinated Federal transportation policy. The transit title will ensure that our communities have the resources necessary to reduce congestion, enhance the mobility of transit-dependent populations, and reduce our dependence on foreign oil. I believe the highway title does a better job than the previous surface transportation program in making sure that all States receive a fair share of Federal dollars. Both the highway and transit dollars are urgently needed in communities across the Nation—such as my home State of Michigan.

Most importantly the bill creates—for the first time—a much needed mechanism to help the Federal Government, States, and localities to look at the big picture. The metropolitan planning provisions will provide a formal mechanism for cities and states to strike an appropriate balance between highways and transit needs. This bill puts decision making into the hands of the States and local communities who best understand their own needs.

The transportation policy we develop will have a direct impact on the quality of life of the American people for years to come. This bill will enhance our economic prosperity and competitiveness, ensure adequate investment in our existing highways, road and transit infrastructure, and decrease the congestion in our cities and on our roadways.

Madam President, I believe this bill will promote the continued development and proper maintenance of our national transportation network, which in turn will improve the quality of life for Americans today and into the next century.

Mr. BURNS. I made a statement yesterday expressing my support for this bill and my appreciation to the bill's managers for their assistance. I would now like to take a few minutes to talk about some of the provisions in this bill which I authored. During Senate consideration of S. 1204, the "Surface Transportation Efficiency Act of 1991," I offered five amendments that were passed unanimously by the Senate. Four of those five amendments are in this bill in one form or another. The fifth, the "Rural Tourism Development Foundation," was dropped from the bill at my request after Congressman SWIFT agreed to include it in a broader tourism bill that will move next year.

The primary thrust of my amendments goes to my goal of revitalizing the economy of rural America through the three T's—tourism, transportation, and telecommunications. Obviously, this bill is primarily a transportation bill. It is a bill that goes beyond the traditional definition of a highway bill and implements a comprehensive transportation infrastructure to support the changing economy in America and in Montana. Specifically, in the area of tourism, a growing segment of rural America's economy, this bill makes some important changes in our transportation policies to provide an infrastructure that will support that growth. The bill emphasizes the need for comprehensive planning that incorporates all modes of transportation and takes into account both the commercial and recreational needs of the traveling public. At my request, that planning effort must specifically include the consideration of recreational travel and tourism and other infrastructure investments that will improve State and local roads that support rural economic growth and tourism.

The important facts is that the planning requirements in this bill are backed with funding. In particular, my amendment to the Federal lands category will allow funds allocated through this category to be spent on roads that are on or provide access to Federal lands. It also makes amenity-related projects such as interpretative signage, parking facilities, and visitor centers eligible for Federal land category funds. These funds will play an important role in the West where large portions of our land and many of our recreational areas are on Federal land. The States be able to tap these funds in order to develop an infrastructure that supports tourism on the county and local level.

I am also pleased that the conference committee adopted my version of the Education and Training Program, a program that provides technical assistance to rural areas through the Rural Technical Assistance Program [RTAP]. Under my amendment, the RTAP Program will develop a tourism and recreational travel technical assistance program to help counties and localities take advantage of the programs in this bill. At least two of the RTAP centers will also provide this same assistance to American Indian Tribal governments thus giving them the opportunity to capitalize on the tourists' interest in the American Indian culture.

There are other important provisions in this bill relating to tourism and recreation, and I want to take a moment to mention Senator SYMMS' Recreational Trails Fund Act. I have been a longtime supporter of Senator SYMMS' efforts to redirect some Federal highway funds to the construction and rehabilitation of back country trails, with the intent of improving motorized access to nonwilderness areas. The recreational trails fund will give those people who buy gas for their snowmobiles, motorbikes, and ATV's a return for the money they are contributing to the highway trust fund. This is an important step forward in improving recreational opportunities to many Americans.

The transportation policy changes and funding increases for surface transportation provided in this program will also provide the economic underpinnings for the Nation to compete in the 21st century global economy. My amendment to require a border crossing study was combined with other provisions in the House and Senate bills into a comprehensive study identifying the infrastructure needed to facilitate trade between the United States, Canada, and Mexico. Since 1980, United States trade with Canada and Mexico has more than doubled and has grown 56 percent faster than our exports to the rest of the world. A cooperative North American economy will require major infrastructure improvements and efficient transfer between rail, highways, waterways, and air freight centers.

The border crossing and infrastructure assessment in this bill will identify projects and transportation policy barriers to North America trade. The Secretary is required within 18 months to investigate and develop priorities and recommendations for rail, highway, water, air freight centers, and border crossings improvements necessary to facilitate trade between the United States, Canada, and Mexico. The investigation would be based on existing and emerging trade corridors and transportation subsystems that are integral in moving goods across our common borders. Trade and transportation corridors are used as a study framework because interregional trade trends to concentrate along favorable routes or preferred modes of transportation that link resources with manufacturers, supply distribution centers, and large consumer markets.

Historically, trade has moved north-south but as national boundaries became fixed, transportation systems in Canada and the United States were developed to move goods along east-west lines. As a result, north-south intermodal connections are lacking, especially in the rural West. The West, according to the University of Montana's Bureau of Economic Reserach, is developing three general trade corridors to accommodate expanding north-south trade. One is the Pacific Coast corridor, stretching from British Columbia to southern California, but largely concentrated between the cities of Vancouver, Seattle, and Portland. Another is the Upper Great Plains, Great Lakes corridor, stretching from Saskatchewan to the upper Midwest region of the United States, but focused between Winnipeg and Minneapolis-St. Paul along the Red River Basin. And of particular interest to me is the third corridor which Larry Swanson of the University of Montana says will develop along the Rocky Mountains.

The State of Montana, and its neighboring States and the Province of Alberta will benefit from a regional assessment for the emerging northern Rocky Mountain trade corridor. This corridor forms a triangle between Edmonton, Alberta, Salt Lake City, and Denver and serves the smaller urban centers and outlying rural areas of Montana, Wyoming, southeastern Utah, and the western edge of the Dakotas. Plans are underway within this corridor to establish a regional public-private partnership to develop the trade corridor based on similar economics, mutual interests in lowering freight costs, and improving access to more global markets. A regional strategy makes sense because the north-south distances between the large urban centers within this corridor are about 1,000 miles apart. Like the 1944 interstate route selection, the decision to upgrade major highway routes requires a regional investment strategy because our states have a highway user fee revenue base about one-fourth the national average and some of the highest State gas taxes in the country.

I would like to insert into the RECORD at this point a letter from the chairman of the Salt Lake County Commission in support of the regional assessment. This letter illustrates how joint border cooperation between the province of Alberta and Montana on the new inland port facility at Shelby has impacted the trade corridor. Opposite of Salt Lake City, is Denver which anchors the east side of the corridor. The State of Colorado is a regional, national, and international transportation hub. The State of Colorado would like to see a transportation study examining the Rocky Mountain corridor and its role in north-south trade movement. Gov. Roy Roemer of Colorado has informed me that he will send a letter to the Secretary of Transportation in support of these studies.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SALT LAKE COUNTY, UT,
November 26, 1991.

Hon. CONRAD BURNS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BURNS: The House-Senate conference amendment that directs the Secretary of Transportation to identify infrastructure improvements along existing and emerging North America trade corridors is important not only for Salt Lake County but for state and regional growth in the changing global economy.

Salt Lake County and the Utah Department of Community and Economic Development undertook initial development of the Utah Intermountain Port Authority to serve as a supply and distribution center. Port authority status was sought as a valuable economic development tool because it provides a U.S. customs "port of entry" for goods to enter and exit the commerce of the region and the United States. The Salt Lake port would not provide direct transportation services, but instead work with the public and private sector to expand markets, improve transportation services, and industrial, warehousing and distribution facilities. As envisioned by the County, full development of the port's potential could generate thousands of jobs, enhance small business growth by identifying international marketing niches, and increase Salt Lake's prominence as an international trade center.

The port's feasibility study concluded that "cooperative intermountain regional efforts are essential to identifying and exploiting opportunities to optimize international trade efforts and overseas trade missions." Regional analysis of trade corridors and transportation services will enhance multistate public-private efforts to develop regional trading blocks for the global markets. Interest in developing a regional trade and investment strategy for the emerging Northern Rocky Mountain Trade Corridor is unfolding. This corridor would form a triangle between Edmonton, Alberta, Salt Lake City and Denver and serve the small urban centers and outlying rural areas of Montana, Wyoming, southeastern Utah and the western edge of the Dakotas.

Transportation services such as the recent unprecedented agreements between Alberta-Montana for joint customs inspection and authority for heavy trucks to travel on a 36-mile stretch of I-15 to Shelby, Montana's inland port are already producing local, state, regional and national benefits. The Shelby port provides the Canadian province with the only major rail-highway connection to U.S. domestic markets. The Shelby-Salt Lake connection could result in complimentary marketing strategies to encourage trade development. Those strategies may also include public-private cooperative efforts to assist rural areas along the corridor who now lack access to a broad range of export assistance, lower freight rates and quick and reliable transportation services necessary to compete in the global economy.

I encourage the Secretary of Transportation to include the Salt Lake region in the regional trade corridor studies. In addition, I appreciate your efforts and those of the House and Senate conferees in developing this amendment to the 1991 surface transportation program.

Sincerely,

E. JAMES BRADLEY,
Chairman,
Salt Lake County Commission.

Mr. BURNS. The Secretary of Transportation is also required to assess the adequacy of every border crossing to accommodate increased trade and tourism traffic. The Sweetgrass border crossing that serves the Shelby, MT, port is woefully inadequate on the U.S. side and long truck delays are encouraging trucks to take alternative routes. It is my hope that the Secretary of Transportation could complete the review of this situation within 60 days from enactment of this legislation.

Finally, I would like to mention one last provision that is unrelated to these other matters, but very important to the No. 1 contributor to Montana's economy, the agricultural community. The original Senate bill included my amendment to allow States to waive the commercial drivers license [CDL] requirements included in the Commercial Motor Vehicle Safety Act of 1986 for vehicles used to transport farm supplies from retail dealers to or from a farm, for vehicles used for custom harvesting and for vehicles used in feedlot operations. I am very pleased that the conferees agreed to include an exemption from the CDL requirements for the custom harvesters. These are hardworking people who travel the country harvesting crops for farmers who for one reason or another have not invested in combining equipment. Custom harvesters only operate on a seasonal basis and they primarily use part-time, student labor. This exemption will provide some much needed regulatory relief to the custom harvesters and will alleviate their fears with regard to their labor pool. I am naturally very disappointed that the conferees did not include the farm retailers and feed lot operators in this exemption. I get a real sense that many people up here do not understand the way rural America works. I intend to continue changing and making laws that accommodate rural America and the farming community in particular.

Madam President, overall this is a very good bill for Montana and for the Nation. I have already thanked my colleagues so I won't to go into that again. I will look forward to working with them in the years to come as this program is implemented.

Mr. DOLE. Madam President, when President Bush asked Congress to complete critical surface transportation legislation in 100 days, I do not believe he imagined it would take an additional 166 days to get the job done. However, we are finally here and on the verge of completing action on this historic 6-year bill.

It is equally important that as we close out the 20th century, we do so by completing the interstate and recognizing and honoring the driving force behind the world's largest public works project: President Dwight David Eisenhower. It it appropriate that this legislation include suitable provisions to study and develop a fitting emblem honoring the "Dwight David Eisenhower Interstate System and Defense Highways" to be affixed to all interstate highway signs so that generations of the Nation's travelers will recognize the contribution of the great President from Kansas.

I am also pleased that we were able to craft a bill that takes into account the needs of all States and provides adequate funding and flexibility so that State departments of transportation will be able to meet the unique needs of their own State surface transportation requirements.

This bill is good news for Kansas—for our States infrastructure, for motorists, and most importantly for Kansas jobs. Overall program funding for Kansas is $1.3 billion, up from the 1987–91 program where Kansas received approximately $735 million over the 5-year period. I am also happy that we find ourselves more balanced in the ratio of dollars paid out and dollars received for the highway program. Kansas will receive $1.03 for every dollar expended rather than the 89-cent return of the previous program.

DOLE AMENDMENTS

I am particularly pleased the conferees added three special projects at my direction: Completion of the $48.8 million Hutchinson Bypass project; completion of the $8.6 million west Leavenworth Trafficway; and up to $56.2 million to continue—and hopefully complete—the four-lane expansion effort to Nebraska along U.S. 81. All are important projects to Kansas and need to be completed. I would note for the record that in the bill as printed, U.S. 81 has been mistakenly designated as U.S. 91. I have addressed this in a concurrent resolution to correct this technical error.

Other amendments that I sponsored or supported include commercial drivers license regulatory relief for custom harvesters; relaxed and expanded homebound meal delivery provisions for DOT transportation providers; funding to improve rural intercity to improve rural intercity bus service; and funding to defray the costs of urban mass transit administration bus testing requirements affecting several Kansas small bus manufacturers.

I am also pleased that the conferees provided $33 million in startup funding for several projects that I supported including the Riverton to I–44 project in southeast Kansas; the Oakland Expressway in Topeka; the U.S. 54 interchange at Oliver and Kellogg in Wichita; the interchange along I–435 and Nall Avenue in Overland Park; and the Lawrence East-West Bypass.

Madam President, it is important to recognize that the National Highway System—as called for by the President—will be funded at an adequate level to provide this Nation with a

VOL 137
PT 24
NO 26
1991
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truly integrated transportation strategy. Secretary of Transportation Sam Skinner and Federal Highway Administrator Tom Larson have done a great job making sure the administrations program was well represented and explained to Senators every step of the way.

Madam President, as we move toward completion of the Eisenhower Interstate, I believe we as a nation have taken a very positive step toward achieving the policy goals this legislation seeks; namely, construction, maintenance, congestion relief, environmental protection, and job creation. I congratulate my colleagues on the conference committee for the good job they have done completing this legislation.

Mr. LAUTENBERG. Madam President, I am pleased to join my colleagues today in supporting the conference report on H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991.

At the outset, I again want to commend my good friend and colleague from across the Hudson, Senator MOYNIHAN. His vision and leadership moved this bill through the Senate, and then through conference.

The result is a piece of legislation that is truly responsive to the transportation needs of this country.

I again want to note the efforts of Senator SYMMS. He is leaving the Senate next year. But, he has put a tremendous amount of time and effort into this legislation.

His leadership on behalf of the Western States was crucial to our reaching this point with a bill that makes fundamental changes in the way that we will look at our transportation programs.

This is legislation that we can all be proud of. It is not an extension of the same old highway bills that this Nation has seen for the last 35 years. It is innovative. It is creative. And, it is responsive to the diverse needs of every region of this country.

The cornerstone of this bill is its flexibility. That flexibility is essential if we are going to give States the tools they need to address their transportation needs, and meet national goals.

I say that because, if there is one thing that has become more and more evident over the course of developing the concepts behind this legislation, it is that local actions and national goals are inextricably linked.

Providing better mass transit in New Jersey is not just for the benefit of Newark, Trenton, Camden, or the Hudson waterfront. It helps improve the productivity of a vast work force. It helps our State, and our region, work toward compliance with clean air goals.

Those are national goals and, the nation benefits when we achieve them. But we must achieve them on the local level.

Our bill recognizes that transportation needs around the country are different: Idaho is different from New York; North Dakota is different from New Jersey. Well, even northern New Jersey is different from southern New Jersey.

This legislation takes those differences into account. Through enhanced planning requirements, flexibility of funding, and significant increases in funding, this bill will help all of these areas.

Madam President, I am pleased to note that the conference report includes provisions that I sponsored, to create a comprehensive Intelligent Vehicles-Highways Systems Program, and to freeze the use of longer combination vehicles.

An emphasis on IVHS is absolutely consistent with the overall theme that we have stressed throughout the consideration of this legislation—greater productivity out of existing transportation infrastructure.

With IVHS, based on field tests, we can look to reduce fuel consumption, improve air quality, cut down on the billions of hours wasted each year by Americans stuck in traffic, and help improve productivity.

The conference bill also contains a provision that I sponsored allowing States like New Jersey to get credit for the tremendous amounts of money they invest into toll facilities. This provision is very important to New Jersey, and other States with toll facilities.

Madam President, there are many specific items in this legislation of importance to New Jersey. Funding for needed improvements such as widening of route 21 in Newark; authorization of and funding for the urban core transit project, which will open up mass transit for thousands of commuters.

In June, our Environment and Public Works Committee brought to the Senate a bill that stressed flexibility, mobility, and productivity.

I am proud to report to our colleagues that the bill we brought back from conference retains those fundamental principles.

In the package before us, we have a comprehensive surface transportation bill. It is a plan that can take this country through the 1990's and beyond, into the next century. I urge my colleagues to support it.

Mr. ROBB. Madam President, I rise in support of the Metropolitan Washington Airports Act Amendments of 1991 and in support of their inclusion in the Intermodal Surface Transportation Infrastructure Act.

Congress, in the Metropolitan Washington Airports Act of 1986, authorized the creation of the Airports Authority, and the operation of National and Dulles International Airports under a 50-year lease between the Authority and the Federal Government.

On June 17, 1991, the Supreme Court held unconstitutional the provision of the act that created a Board of Review composed of nine Members of Congress. As a result of this decision, the Authority has been unable to authorize the issuance of bonds needed to continue its Capital Development Program at National and Dulles Airports.

The Metropolitan Washington Airports Act Amendments of 1991 is an important piece of legislation designed to correct the constitutional flaws. The proposed amendments will reconstitute the Board of Review, establish new procedures for approving actions of the Airports Authority, and eliminate the delegation of congressional veto power to the Board. The legislation also includes several relatively minor, technical changes.

SELECTION OF BOARD OR REVIEW

The legislation retains a Board of Review; however, the Authority is directed to reconstitute the Board with nine Members to be selected from lists provided by the President pro tempore of the Senate and the Speaker of the House. Additionally, in response to the issues addressed by the Supreme Court, the legislation makes a number of changes in the requirements for selection to the Board. The bill gives the Airports Authority the right to reject a list and request additional recommendations. The individuals on the lists submitted by the President pro tempore and the Speaker do not have to be Senators or Representatives. They are required to have experience in aviation matters and be frequent users of the Metropolitan Washington Airport. The Airports Authority Board of Directors is given authority to remove members of the Board of Review for cause by a two-thirds vote.

ACTIONS SUBJECT TO REVIEW

The 1986 act requires the Airports Authority to submit to the Board of Review its annual budget, authorization for the issuance of bonds, adoption or revision of the airport master plan, actions on regulations, and appointment of a chief executive officer. The bill adds requirements to submit airport terminal designs, modifications of airport layout, and authorization for disposal of land or the grant of an easement to the Board.

PERIOD OF REVIEW

The amendments modify the 1986 act to end the Board of Review's authority to veto actions submitted by the Airports Authority. Instead, the Airports Authority's Board of Directors will be required to submit specific actions for consideration by the Board of Review which then will make recommendations to the Airports Authority's Board of Directors. If the Airports Authority does not agree with the Board of Review's recommendations, a written report to the Board of Review will be required.

In such cases of disagreement, the bill will require the action to be submitted to the Congress, under a process much like that used for matters relating to the District of Columbia. Congress will then have 60 days to decide whether to disapprove the action. Expedited procedures will be used, debate will be limited, and amendments will not be permitted.

BOARD VACANCIES

The bill includes a provision that until the Airports Authority establishes a new Board of Review, or if at any time the Authority allows more than four vacancies on the Board of Review, it will have no power to take the actions which must be submitted to the Board. This provision will provide a safeguard against the Authority failing to comply with the statutory requirement that it appoints a Board of Review.

CITIZENS ADVISORY COMMITTEE

During the debate on the Airports Authority, local community leaders expressed frustration with the current decisionmaking process that provides few opportunities for citizen participation. The communities directly impacted by National and Dulles operations are concerned with noise and other environmental issues, traffic congestion, and the preservation of the Abingdon Plantation ruins. In response to this request, the Airports Authority will recommend creation of a Citizens Advisory Committee to the Board of Directors during its December 4, 1991, meeting.

Several other airport related issues were brought to my attention during the lengthy debate on how to resolve the Board of Review dilemma, including issues important to workers at the airports. While it was possible to resolve many of the points of dispute raised during consideration of the bill, it was not possible to resolve the concerns articulated very compellingly by some airport employees. I plan to carefully review these employee concerns, along with several other unresolved issues, in the weeks and months ahead.

In closing, allow me to thank those individuals who contributed to the success of this legislation.

My colleague, Senator JOHN WARNER, carried the ball against a mighty defense, through the conference of the highway bill.

Representatives OBERSTAR, MINETA, and HAMMERSCHMIDT supported our objectives throughout the process.

Senator FORD recognized the emergency of the situation and was key to allowing inclusion of the amendments in the surface transportation bill.

Senator HOLLINGS demonstrated his strong leadership by focusing on the objective: Completing the airports' capital development program and restoring National to its once grand status.

Mr. SIMPSON. Madam President, I rise to heartily congratulate the Senate conferees on completing a highway bill before we adjourn for Thanksgiving. That was not a simple accomplishment by any means. The House and Senate bills were as different as one could imagine—different in terms of program length, different in the overall amount of funding and method of distribution of funds, and different in the vision of how this country should address our surface transportation needs for the next 6 years. But you did it. You produced a Senate bill in June, you waited—patiently—for the House to act after the August recess, and then you went to work. You have diligently defended many of the provisions included in the Senate bill and you have represented the needs and consensus of those of us in the Senate so very well. I applaud you.

I have a sense for what you must feel right now. You have been through the ringer for weeks, you have produced a good bill that includes sound, prudent surface transportation policy, and yet most folks just want to know how much money is in it for them. We are all like that. Each of our States have incredible needs—for our roads, as well as for employment. I do not underestimate these needs. Nor do I underestimate the very thoughtful policy direction that this final bill now establishes for this country as we face the coming decade.

The bill fairly reflects the immensity of this country, and the very diverse needs in each of our States. We are a country with urban areas which desperately need traffic congestion relief—HOV lanes, additional traffic lanes, mass transit rail lines, to name but a few. Our rural areas are in tremendous need of road reconstruction and maintenance moneys in order to keep commerce flowing and to keep the local economies vital and productive.

This bill fairly distributes the moneys from the Federal highway trust fund throughout the 50 States. Some States will feel shortchanged. But our Nation's highway program is not a clearinghouse for 50 separate highway departments. Our roads and interstates across this Nation are like the threads of a fabric that is spread across our country. Good interstates, highways, and bridges allow efficient transport and distribution of the industrial goods produced everywhere. Good roads permit the freeflow of goods and services from the producing sectors of the country to the consuming sectors. Efficient transportation systems are vital to a strong economy, and are essential in order to maintain this Nation's productivity.

There is such great concern these days about our domestic policy and agenda. Here is a bill that has been agreed to by the House and Senate, and is wholly endorsed by President Bush, and it speaks directly to the domestic agenda. This is in effect a $153 billion jobs bill. It creates jobs—and these jobs will go forward in turn to spur increased productivity for the taxpayers. What has been accomplished here today can not be underestimated.

There are so many provisions in this bill, I will not comment on my particular thoughts on each one. I do want to express my disappointment that a provision included in the Senate bill which would have protected private property rights was rejected by the House of Representatives. My able good friend and colleague, Senator SYMMS—a true warrior on this bill argued very effectively on the floor of the Senate to codify an executive order which requires Federal agencies to consider the implications of proposed rulemakings on the rights of private property owners. This is a basic and fundamental principle for our citizens. The provision was not covert or misleading—in fact, it was refreshing in its straightforwardness.

Avid environmentalists were concerned that this provision would have placed a higher priority on the protection of private property rights than on the protection of some environmental regulations as they apply to private property. But, if one believes that private property rights are protected by our Constitution, and vital to the strength and integrity of this Nation, then that priority system is surely not out of line. I do sincerely question the motives of those groups which opposed this particular amendment. As a member of the Environment and Public Works Committee, I support many of our Nation's environmental laws and regulations. But this country is gradually allowing a certain mentality to prevail which erodes private property rights—and I fear that along with that will go a glimmering number of other rights.

But, all in all, this is a good bill. I stand ready to cast my vote in support of it. I thank Don Diller, the capable director of the Wyoming Department of Transportation, for his good counsel and assistance during this process. I want to thank Senators BURDICK and MOYNIHAN, Senator CHAFEE, and Senator SYMMS once again for all their good efforts to ensure that the needs of the rural West were addressed. I particularly commend the interepid and persistant Senator PAT MOYNIHAN and the steady and thoughtful Senator JOHN CHAFEE for the tireless hours of negotiations that they put forth in recent weeks to protect the interests of a region of this country that they do not directly represent. Hundreds of staffers have dedicated hours to this bill, but I want to specifically thank Jean Lauver, Steve Shimberg, Taylor Bowlden, Angela Plott, Roy Kienitz, and Jeff Morales for their good efforts and assistance—with special and sincere thanks to Laurie Goodman of my staff. She has been superb and is very effective. A job well done. All around.

SUPPORT OF EMERGING TRADE CORRIDORS PROVISION

Mr. SIMPSON. Madam President, I rise in support of this most important provision authored by my fine colleague, Senator CONRAD BURNS. It requires the Secretary of Transportation to identify existing and emerging trade corridors and transportation subsystems that facilitate trade between the United States, Canada, and Mexico. I am most optimistic that this initiative will provide the necessary foundation for the future success of the North American Free Trade Agreement.

In the next 18 months, the Secretary of Transportation will develop recommendations for the improvement of rail, highway, water, air freight centers, and border crossing facilities to facilitate trade between the United States, Canada, and Mexico. Although this will be a large undertaking, it is a top priority in order to increase our trade between States and our closest foreign neighbors.

My fine State of Wyoming is served primarily by the North American Rocky Mountain corridor which runs through Edmonton, Alberta, Canada, Salt Lake City, and Denver, CO. Canada is the United States' largest export market. Transportation systems—across the board—must be improved to continue and strengthen this valuable relationship. Although most of the trade between the United States and Canada is concentrated in eastern trade corridors, the Rocky Mountain region has seen tremendous growth in the last few years. By concentrating our efforts on expediting trade through transportation alternatives and improvements, exporters will view Canada as a more user friendly market.

We must not neglect to mention the many opportunities that exist on our southern border. Wyoming recorded the greatest percentage increase in trade growth of any State with Mexico in 1990—up 210 percent from the previous year. Because of the increasing importance of Mexico as one of the United States most open markets, concentrating our energy on expanding north-south trade is in our best national interest.

I am optimistic that the findings of this investigation will shed valuable light on the importance of transportation in the expansion of trade between our Canadian and Mexican neighbors. I look forward to working with my friend, the Governor of Wyoming, Mike Sullivan, to help establish a State and Federal strategy to promote interstate and interregional trade, as well as foreign trade. I ask unanimous consent that a letter from Governor Sullivan in support of this issue be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Cheyenne, WY, November 26, 1991.

Hon. ALAN SIMPSON,
U.S. Senator, Dirksen Building, Washington, DC.

DEAR ALAN: I am writing to offer my support for the Canadian-Rocky Mountain States-Mexico transportation corridor study to be included in the current proposed federal highway legislation. I believe that this study will result in long term trade benefits. It also represents an excellent opportunity for our offices to work together toward increased trade in Wyoming.

The single largest trading partner for Wyoming manufacturers today is Canada. I know from discussions with your office that we both realize the tremendous growth that the markets in Mexico represent. Greater efficiency in transportation for our region can only mean increased trade with both countries.

We have jointly worked hard to increase trade with Canada in the past and we plan to expand our marketing efforts with your assistance in Mexico. In addition, I am convinced that our state efforts will be bolstered by your work and support of the North American Free Trade Agreement (NAFTA).

These factors, our combined commitment to trade in Canada and Mexico and your support of the NAFTA negotiations and its potential, give us strong reason to see that the transportation corridor study becomes a reality. I encourage the inclusion of the study in highway bill and look forward to working with your office to promote international trade in Wyoming.

With best regards, I am
Very truly yours,
MIKE SULLIVAN,
Governor.

Mr. KOHL. Madam President, I will support the conference report before us. But I do so reluctantly, because I am frankly concerned about voting on this measure based on the limited information we have regarding its content.

We are being asked this morning to consider legislation that represents a 6-year, $151 billion investment in our Nation's highways, transit systems, and infrastructure. It is one of the most important pieces of legislation that the Senate has considered this year. Yet, as of this morning, most of us have not received copies of the conference report, let alone had a chance to review its contents. And I find that very troubling.

We are being asked this morning to give our approval to a measure based only on an explanation of its contents by the managers of the bill and a table we received yesterday showing the expected allocations to each State from each funding category under the highway portion of the bill. While I have no doubts about the accuracy of the former, I am concerned about the accuracy of the latter.

The chart we are being asked to rely on—dated November 26, 1991, at 3:16 a.m.—shows that Wisconsin will receive a total level of funding under the highway portion of this bill of $2,183,390,720. This funding level is broken down as follows: For interstate construction and substitution—$344 million; For interstate maintenance—$231 million; $275 million under the bridge program; $375 million under the National Highway System; $427 million under the Surface Transportation Program; $22.3 million for Federal lands; $70.2 million for congestion and air quality; $20 million under the reimbursement program; $64.5 million under the hold-harmless provision; and $350.5 million for projects.

Now, Madam President, if these numbers in fact represent what Wisconsin will receive over the next 6 years, then the rate of return on Federal gas tax dollars to the State will be approximately 98 percent—and that is a vast improvement from the 81-percent return we have seen over the past 5 years.

However, Madam President, I am not entirely confident that these numbers in fact represents what Wisconsin will receive over the next 6 years. For one thing, this chart includes $2.5 billion in funding that we simply do not have. And it is less than clear that we have addressed this $2.5 billion shortfall and if so, how. I understand that the managers of the bill have said that it is their intent, if necessary, to take an across-the-board cut in highway program spending to correct the problem. I must say that I would have preferred to have had this issue definitively addressed and reflected in new charts before being asked to vote on this measure.

Second, Madam President, we are being asked to assume that the legislative language contained in the conference report codifies the intent of this chart. Now I know that this is not the first time that we have been asked to vote on a measure without the benefit of legislative language. But just because we have done so before does not make the practice any more acceptable. I would have preferred to see us delay this debate to allow time to review the language. But there was clearly not sufficient support within either party to withhold consideration of this measure until some time next week.

So, Madam President, we are being asked this afternoon to make a judgment call on this bill based on what we know today. And, in my mind, it is a close call.

If I thought that voting against this conference report here today would result in a better bill ultimately, I would be inclined to do so. Because there are significant flaws in this bill. I am very disturbed by the conference committee's decision to create a reimbursement program—not contained in either the House or Senate bill—that provides a windfall for donee States like New York. I am very disappointed that members of the conference committee chose to increase—not decrease—the level of funding for demonstration projects. On this point, I am extremely unhappy with the conference committee's decision to provide $350 million of Wisconsin's allocation under the project category because it suggests that the Wisconsin delegation requested this level of funding. Nothing could be further from the truth. With one $1.5 million exception, we had no demonstration projects in the House bill. We did not request demonstration projects. We asked only that Wisconsin be treated equitably under the bill. And unfortunately, the conference committee chose ultimately to provide this equity payment under the project category rather than the hold-harmless category where it had been included earlier.

But, Madam President, I am not at all sure that this measure would improve demonstrably should it be sent back to the conference committee. Sadly, there is widespread support for the two programs I find objectionable—the reimbursement program and demonstration projects. I suspect, therefore, that the defeat of this conference report here today would sadly not accomplish a great deal.

There is no doubt, Madam President, that this measure is a vast improvement over current law—not just for Wisconsin but for the country as a whole. It offers needed flexibility. It rewards planning. It encourages mass transit. It reduces the disparity between donee and donor States. And it reshapes the direction of Federal transportation policy to recognize the emerging needs and demands of America in the postinterstate era. For that reason, Madam President, despite my lingering concerns over the process by which we have been asked to consider this measure, I will support this conference report.

Mr. HATFIELD. Madam President, I rise today to support the surface transportation conference report that is now before the Senate. I first want to commend the conferees, especially Senators MOYNIHAN and SYMMS, who labored for so many weeks and months on this vital legislation. Speaking for my State of Oregon, I can say that we will see a significant improvement over prior law and I appreciate the efforts of the conferees in bringing this about.

This legislation puts a healthy emphasis on mass transit projects. By establishing more equitable balance between the match ratios offered for transit and those offered for highways, this new law will make mass transit a more appealing option for transportation planning groups. Removing this inequity eliminates a blinder on the ability of planners to take positive steps to eliminate transportation problems.

For most Americans, the emerging transportation crisis in this country is symbolized by the increasing number of traffic jams, potholes, and delays in both urban and suburban areas. Oregonians are no less afflicted by these growing problems as those in the rest of the Nation. As frustrating as they are, they represent only the tip of the iceberg.

Many do not realize the true importance of our tremendous network of roads and bridges to our economy, national security and way of life. The health of our citizens, the education of our children, the movement of our perishable food and access to employment depend upon a reliable and efficient transportation network.

By allowing our infrastructure to deteriorate, we are putting our Nation at risk. Yesterday, Oregonians were given a small but telling reminder of our potential problems when a section of the Santiam Bridge on Interstate 5 came loose and fell into the river below. I–5 is a major north-south corridor in the Western part of this country. Thankfully, no one was hurt. But now the southbound lanes of I–5 are cut down to one lane. Truck traffic will continue to be detoured through the small town of Jefferson. This will translate into a negative economic impact that, while small, will nonetheless echo through a number of Oregon communities.

I should point out that refurbishment of this bridge was prioritized for funding in the fiscal year 1991 transportation appropriations bill but was not chosen for funding by officials at the Federal Highway Administration, despite its structural rating of 2 on a scale of 100. This underscores the fact that resources are inadequate to meet the increasing need for infrastructure repairs.

At present funding levels, three-quarters of Oregon's roads will be in poor condition by the year 2005. I am pleased to say that Oregon will increase its funding levels significantly under the bill before the Senate today. Oregon's donor status is significantly minimized under this legislation. Oregon is on line to receive $1.406 billion over the life of this legislation, which translates into an increase of $110 million per year under this bill when compared to the prior highway law.

All of this does not include funds secured for the westside light rail project in Portland, OR. This is a project that is of supreme importance to the transportation needs of Oregon. It is appropriate to thank Senators CRANSTON and D'AMATO for their help in making this project a reality. I must also thank officials at the Tri-County Metropolitan Transportation District of Oregon for their continuing tireless efforts toward completion of this project.

I would also like to take this opportunity to recognize the good efforts of the Oregon Department of Transportation in this legislation. The Scenic Highways Program included in this legislation, and sheparded by the very able Senator from Rhode Island, Senator CHAFEE was initiated in great measure from the efforts of the Oregon transportation officials. Funds for innercity bus programs are also included in this bill thanks in large part to the good efforts of Oregon Department of Transportation.

Madam President, we all take tremendous pride in our Nation's wealth and freedom. But the status of a superpower cannot be claimed by a nation which consistently ignores the long-term needs of its population. We must begin to rebuild this country and if possible, learn a lesson from the problems we see now in the Soviet Union. Very real threats to our quality of life and national security are created by the deterioration of our infrastructure.

Again, I compliment the conferees for their efforts and look forward to following the beneficial effects of this important legislation as moneys are appropriated.

Mr. WIRTH. Madam President, I support the conference report we are considering today and would like to take this opportunity to thank Senator MOYNIHAN and his colleagues on the Environment and Public Works Committee for the leadership they displayed in producing this legislation.

With the completion of the Interstate Highway System, it is important that we reevaluate our transportation system. Now that the central goal of finishing our highway system is largely accomplished, we need a transportation bill that provides the flexibility for States to support building new roads, maintaining existing ones, or increase our mass transit efforts. We need to produce a package that provides for the roads and bridges that we need and also helps support other elements of the transportation infrastructure that is so important to our economy.

The bill before us today does provides greater flexibility. At a time when we need to reevaluate our transportation network and priorities, we have produced legislation that will help the States do so. I believe the legislation is forward looking at a time when we could easily have stuck to the type of programs that have been popular and, in many ways successful, in the past.

Passage of this legislation will also allow many important projects to go forward, avoiding the possibility of further unemployment during an economic slowdown. And in the long term, it will allow us to make important investments in our future economic growth by promoting more efficient transportation of people and goods. I am pleased to support the surface transportation legislation and look forward to its passage.

Mr. MACK. Madam President, I strongly oppose the final version of H.R. 2950, the Surface Transportation Act.

Dividing up gas tax dollars has become a political game. Politics has replaced funding formulas. The political game played in the transportation bill is appalling. This is unfair. This is wrong.

The Senators in control of the bill, mostly from low growth States, have taken the money—Florida's money—and run. Jesse James would have been proud.

I encourage my colleagues to closely study the final bill, if it ever arrives here in the Senate Chamber before the vote today, and look at the $6.48 billion being divided up by members of the Environment and Public Works Committees. In addition, I still fail to see the need for Federal reimbursement for States who built their roads prior to the creation of the interstate system. I find it incredible that Florida taxpayers are paying for roads which New Jersey and New York built, operate, and have collected tolls on for 30 years.

Congress' failure to enact new highway formulas leaves will result in further disparity among the States. The disparity is so great even the minimum allocation program will not be able to make up the difference.

We had an opportunity to create a new funding formula. An equitable formula. A fair formula for all 50 States. Yet we are taking the easy way out by not addressing the issue of a new formula. We are legislating the status quo, perpetuating our outdated allocation formulas for another 6 years. By doing this, we guarantee to be revisiting this issue once again in 1997.

The fight is over Florida's fair share. It is wrong to expect Florida taxpayers to foot the bill for highway needs of other States when we have our priorities. Thousands of people are moving to Florida every week to enjoy our sunshine and admire our State's natural beauty. Yet, Congress refuses to understand that we need to improve our highways to keep pace with our tremendous growth.

Madam President, Congress has failed here today. We could have corrected the inequities of the present system. Congress chose not to act.

Mr. HOLLINGS. Madam President, after careful deliberation, I want to express my opposition to the highway conference report today. The reasons are numerous. But before I get into the many reasons why the actual legislation is unacceptable, let be begin with the actual process by which this bill was conferenced and brought back to the Senate for consideration.

It is utterly ridiculous for the managers of this bill to insist that the Members of the Senate vote on major legislation impacting our States when we have had absolutely no time to digest the substance of the conference. Oh sure, we've all been handed charts that reflect as many different scenarios as there are charts floating around. Every third hour, there has been a new chart with new numbers magically spun from air.

Now, we are expected to take one of these charts at face value without seeing the bill language the numbers allegedly represent. This legislation is much too important to ramrod through without allowing sufficient time to ensure that the numbers are real. I for one do not believe they are realistic, which possibly explains why it is being pushed through in such a frantic manner.

Let me explain why I do not believe the charts to be accurate and why I oppose this bill. Of course, I welcome the managers of the bill to produce evidence which proves the contrary. But they cannot. They can only produce charts that say what they want them to say.

Let me begin with the fact that South Carolina is a donor State. Along with 15 other States, we have been paying into the highway trust fund for the last 30 years substantially more than we have been receiving for road projects. We were told we must accept this designation as donor State for the good of the country, that less populous States in the West would not generate enough revenue to pay for the elaborate Interstate System which connects this country from coast to coast and provides us with an efficient means of transporting goods. We accept that designation for the good of the country.

But, Madam President, the Interstate System is now all but completed, and it is high time and only fair that the formula be changed to reflect that fact. However, the managers of this bill have not seen fit to do so. They acknowledge the inequity of the current formula which has provided some donor States as little as 60 cents return on the dollar at times while providing other States $5 or more return on the dollar at times. Yet the committee has refused to do the right think, the fair thing, which would be to reform this erroneous formula.

The latest charts indicate that South Carolina will receive 93 cents on the dollar. I believe this amount to be grossly inflated. First, this amount is based on a drawdown of the current trust fund, which has over $16 billion. I do not believe this will happen, as I will explain later. Second, this same chart indicates that South Carolina received an average of 87 cents on the dollar over the past 5 years. That is definitely overestimated. South Carolina has received approximately 77 cents on the dollar during the past 5 years. It is logical to assume that if one column is inflated to present a rosy picture then the other column is inflated.

Third, there is a $2.5 billion shortfall. According to the last chart, the total is $114.7 billion although the bill is supposed to be approximately $112 billion. A reduction of $2.5 billion will have to be found somewhere, and most discussions indicate that it will come in the form of an across-the-board cut of approximately 2.3 percent.

Fourth, current law requires that funding for specific earmarks be offset by a reduction in that State's minimum allocation. However, the chart that has been circulated by the committee indicates that a State will receive its specific earmarked projects in addition to the minimum allocation funds. Although the charts imply that current law will be changed, I have seen no bill language tonight which supports this contention.

Fifth, the last chart indicates that South Carolina will receive $54 million in projects. However, we only received $32 million in projects in the House bill and according to charts on the House side, South Carolina was only receiving $24 million in projects after cuts during the conference. So the numbers just do not add up.

Madam President, I have been in contact with the highway department in the State. After trying to work with the numerous charts that are floating around and after many discussions with them, it is my belief that, at best, South Carolina will receive 82.5 percent of the money it pays into the trust fund—at best, 82.5 percent.

South Carolina is a growth State, a State dependent on highways to move goods to and from its ports and dependent on highways to facilitate its tourism industry. Yet, we cannot replace a $400 million bridge that links two sections of Charleston. Replacement of this bridge is on the national priority list but, to date, we have not received any funding.

We have a section of interstate in the northern part of the State that carries more trucks per mile than any other interstate in the United States. We do not have the funding to complete a bypass around Greenville to increase safety and reduce the gridlock in the city. Traffic to the beaches of the Grand Strand is backed up for hours during spring and summer. And the day before Hurricane Hugo ripped through South Carolina, the people of the Grand Strand area were told to stay home and bunker down because it would take them over 8 hours to leave the coastal area because the highways could not handle the traffic. It was safer for them to weather the worst storm in U.S. history than to be trapped in the gridlock of the several inadequate roads which head inland.

Yet, despite these crying needs, South Carolina will get, at best, only 82 cents return on the dollar.

I have named specific projects desperately needed in my State. Well Madam President, Let's look at how South Carolina faired in the projects section of the conference report. The House bill provided South Carolina only a $16.8 million earmark to fund our $400 million bridge in Charleston. And a meager $4.2 million was earmarked to assist in constructing the Greenville Connector. All totaled, South Carolina received only $32 million in specific earmarks on needed projects in the State. That amount was reduced to $24 million in conference.

The catch, however, Madam President, is that South Carolina will have to pay over $200 million into the trust fund as a result of the 2½ cents gas tax extension. The committee calls it an extension, I call it a tax increase because if we were honest with the American people we would remove this 2½ cents tax at the end of next year as we promised, and we would spend the billions that are already sitting in the trust fund being misspent for deficit reduction.

So the bottom line is that if I voted for this bill, I would basically be voting for the drivers of South Carolina to pay over $200 million into the trust fund in exchange for $24 million in projects. Let me put this in a sharper perspective. This same 2½ cents tax will provide over $900 million in highway projects for Pennsylvania for projects like the Ambridge Bridge, upgrading U.S. 220, constructing truck lanes on U.S. 219, various projects in Aliquippa, widening U.S. 15, Pennsylvania industrial park access in Washington County, U.S. Route 219 Meyersdale Bypass, U.S. Route 22 improvements in Monroeville, Route 33 extension, and the list goes on and on and on and on like a who's who list in highway construction. This same 2½ cents tax will provide Illinois with over 55 projects costing over $400 million. New York stands to gain over $500 million in mass transit and highway projects from specific earmarks which are to be paid for with the 2½ cents tax.

Madam President, President Bush originally indicated that he would veto this bill if it contained a tax increase and a significant number of demonstration projects. Like everything else dealing with the economy, he is flip-flopping on his position because this bill is now being sold as a jobs bill. Well, I am not flip-flopping. I agree that we need a highway bill, but I am not going to support a bill that places a fat additional tax on the people of South Carolina when over $16 billion is sitting in the highway and mass transit trust funds already, and it is not going to be spent.

When is the House proposing and the Senate conferees and administration accepting this 2½ cents tax increase if we already have over $16 billion in the trust fund? Well the junior Senator from Texas has expounded upon the fraudulent practices of the past two administrations and of Congress when he noted that trust fund surpluses are "already spent." Senator GRAMM made this argument with respect to the unemployment trust fund, and I quote his exact statement:

> Let me say that we are going to have Members here who will hold up a chart that shows all this money that we are supposed to have in this unemployment trust fund. But let me note that we have already spent that money on something else and now we want to spend it again.

The same argument is being made with regards to the highway trust fund. The Treasury has already borrowed and spent every dime of the $16 billion on the deficit. Once again, there is no trust and there is no fund. Now if the Government wants to spend more on highways, it has to raise the gasoline tax because the administration and a majority of the House and the Senate agreed last year that the trust fund would be used for deficit reduction.

Basically, we are taxing motorists twice while forcing them to drive on submarginal highways. I adamantly opposed the budget deal last year because of the shennanagins involved. And I oppose this bill because it carries on that ludicrous tradition of double taxation which has emerged from the budget deal—first unemployment benefits, now the highway bill—and it will continue. The managers of the bill know it will continue. That is why they used the trust fund to inflate the amount States will receive in funding, yet when it comes to specific projects, they insist on a gas tax. The shennanagins continue.

Worse, Madam President, this bill will tax the motorists of South Carolina twice with the new funds going to special projects in Pennsylvania, New York, New Jersey, and Illinois. The junior Senator from New Jersey stated earlier tonight that people are "begging for work" and this bill will bring jobs. Well, Mr. President, I am not going to vote for a bill that further taxes the drivers of South Carolina to build highways and create jobs in Pennsylvania, New York, New Jersey, and Illinois. I am not going to do it.

South Carolina has lost over $660 million to the trust fund since becoming a donor State. This bill will make us No. 48 in funding, and we will lose over an additional $321 million into the trust fund over the next 6 years. South Carolina would benefit far more by putting a 2½ cents tax on gasoline at the State level. At least then, the money would be spent on roads in Greenville, Charleston, and the Grand Strand and not in Long Island, NY, or Philadelphia, PA, or Chicago, IL. At least then, the jobs that would be created as a result of the tax would be in South Carolina and not in Beaver County, PA, or Utica, NY, or Williamson County, IL. Furthermore, the State would not have to levy an additional State tax to fulfill the match requirement necessary to receive the very money it will send to the Federal trust fund.

Let me mention quickly that I am listed as a conferee on the highway bill; however, I am a conferee only on those issues which are within the jurisdiction of the Commerce Committee, such as motor carrier issues, high speed ground transportation, and highway safety. I could not participate on those issues addressing demonstration projects and formula funding.

On that note, Madam President, I would like to comment on one final issue in the conference. At first it was very difficult to understand why the Senate, which had zero demonstration projects, would accept the 450-plus projects which were in the House bill plus the 2½ cents tax increase that came with the projects. It appears that a compromise was reached in which the demonstration projects were accepted in exchange for a $4 billion reimbursement proposal for those States which built highways prior to the Interstate Act of 1956. Interestingly, there are only six States that actually benefit from this $4 billion proposal: New York, Pennsylvania, New Jersey, Illinois, Massachusetts, and Connecticut. It is interesting that the very States that receive the vast majority of demonstration projects are the States that benefit most from the $4 billion reimbursement proposal. That is a deal they could not refuse in conference. However, Madam President, that is a deal I will not accept here on the Senate floor.

Mr. SPECTER. Madam President, I am pleased to support the conference report to the Surface Transportation Act. This legislation is a significant accomplishment that will greatly assist in providing our Nation with a strong infrastructure into the next century.

In the short term, this legislation will assist in the development of new jobs and retention of existing jobs through new construction and maintenance of our Nation's infrastructure. While highway, bridge, and transit construction is not a panacea for economic recovery of our Nation's economy, this legislation will ensure job growth in the construction trades. In the long term, it will guarantee that our county will continue to advance interstate commerce of goods, which has made this country strong.

The bill, while maintaining the needs for new construction of our highway networks, advances new technology and innovative approaches to resolving this Nation's transportation needs. In this regard, the bill greatly advances the use of our mass transit systems. The bill increases the amount of funds to our Nation's transit systems while providing added flexibility to State and local authorities in using these funds most effectively.

Madam President, during consideration by the Senate of its bill, I offered an amendment to remove the transportation trust funds from the unified budget. Having the trust funds off-budget would remove the opportunity to use these dedicated funds to mask the actual size of the Federal deficit and therefore allow for their expenditure. The conference report, while not removing the trust funds from the unified budget, does allow for a greater use of the funds contained in the trust fund. However, it remains the belief of this Senator, Madam President, that only through accurate accounting of the trust funds will the public be ensured of the proper use of these funds.

The conference report will greatly enhance Federal transportation programs in Pennsylvania. The Commonwealth, like other States in the East, suffer from a decaying infrastructure. Its highways, bridges, and transit facilities demand major repair or reconstruction to maintain acceptable service levels. This bill will allow the Pennsylvania Department of Transportation to implement its 12-year plan for construction projects and guarantee a sufficient level of maintenance of the existing system.

Madam President, this bill contains excellent results for Pennsylvania. Under the terms of the bill, Pennsylvania's annual share of Federal transportation funds will rise from approximately $634 million annually to $944 million. In turn, this translates to a return of $1.27 on every $1 contributed to the trust fund by Pennsylvanians.

Further, the bill contains a number of important highway and transit demonstration projects. The Pennsylvania House of Representatives' delegation did an excellent job in providing projects that represent the needs of Pennsylvanians across the Commonwealth. Each of these projects for Pennsylvania has merit and is worthy of this conference report. In fact, the majority of these projects are within the Pennsylvania Department of Transportation's 12-year plan for construction, as testament to the value and importance of these projects. In turn, I am pleased that the Senate conferees recognized the importance of these projects to Pennsylvania by accepting their inclusion in this report.

Madam President, I cannot discuss the value of this legislation without recognizing the efforts by Representative BUD SHUSTER of Pennsylvania and the other Pennsylvania House Members who served as conferees. Their efforts have produced a bill which is critical to economic future of Pennsylvania and the Nation.

Mr. WELLSTONE. Madam President, I rise to support the conference report on the Surface Transportation Efficiency Act.

To begin with, I wish to thank all of the conferees for completing action on this legislation. Like many of my colleagues, I was opposed to completing this legislative session without achieving final action on a surface transportation bill.

This is landmark legislation, which makes bold strides in positive new directions for transportation, environmental, economic development, and energy policy. This legislation provides important funds for addressing these vital national concerns.

When we talk about energy, we cannot ignore the impact of our dependency on the automobile. This is the root cause of our Nation's dependency on foreign sources of oil—but for many people there are no choices, no alternatives, to the automobile. This legislation will allow States and cities the flexibility to begin developing and investing in alternative transportation choices, and hopefully begin to provide the many people who are now dependent upon the automobile, as their only means of transportation, with some real alternatives.

As the Congress recognized in passing the Clean Air Act last year, if we seek to improve the quality of our environment—to ensure that the air we all breath does not jeopardize the health of the elderly, our children, and others vulnerable to air pollution—then, we must address the urban haze which engulfs America's cities. This haze is produced by the tailpipes of our trucks, buses, and automobiles. This legislation will complement and build upon the initiatives of the Clean Air Act to support new, less polluting vehicles and modes of urban transportation.

When we discuss economic development, there can be no question that one of the immediate problems undermining the Nation's economy is our deteriorating infrastructure, particularly our roads. We can no longer afford to ignore the fact that our roads and bridges are simply falling apart—this is an urgent problem for all Minnesotans, urban and rural, as well as the entire Nation. This legislation represents a major investment in rebuilding Minnesota's, and our Nation's, critical transportation infrastructure.

Our roads, bridges, and transit systems are critical to other factors, such as personal mobility and our sense of freedom, which are sometimes not adequately recognized. As I reviewed the final Surface Transportation Act, I felt there were several particular concerns which needed to be addressed:

First, the transit needs of our farms and rural communities: Keeping our agricultural products accessible to domestic and international markets through an efficient transportation system—including completing and maintaining the interstate highway system—and providing increased mobility for rural residents.

Second, the transportation needs of urban commuters and businesses: Reducing congestion and the growing length of urban commuting, and providing efficient and reliable transportation for our factories and businesses.

Third, the mobility problems of the poor, elderly, and disabled: More and more people today are finding themselves trapped in their homes unable to enjoy basic freedom of movement.

I supported the legislation passed by the Senate earlier this year because I believed it addressed each of these concerns. In reviewing the House-Senate conference agreement, I conclude that it also succeeds in meeting these critical needs.

This legislation also addresses some issues of particular concerns to Minnesotans. Minnesota will receive nearly $2 billion in transportation funds under this 6-year program. This level of funding means that Minnesota will receive $1.13 for every dollar it pays in Federal highway taxes. Minnesota will not be a donor State.

Many critical Minnesota transportation programs will be authorized by this legislation. It will ensure completion of several projects including the approaches to the Bloomington Ferry Bridge, construction of Hiawatha Avenue, Highway 212, Forest Highway 11, and others.

This legislation will also help address the critical employment needs of Minnesotans. According to estimates by the State's Department of Transportation, the transportation projects authorized by this bill will provide nearly 15,000 jobs for Minnesotans.

In conclusion, Madam President, I wish to commend the extraordinary work of my distinguished colleague from New York, Senator MOYNIHAN. It was his sense of vision which is reflected in the many progressive elements of this legislation. I also wish to recognize the work of the senior Senator from Minnesota, Senator DURENBERGER. His efforts were critical in formulating both the national policies of this legislation as well as ensuring that Minnesota's particular concerns were addressed. Finally, I wish to thank all of the House-Senate conferees, particularly Representative JIM OBERSTAR, for their long and hard work on this legislation.

Mr. LIEBERMAN. Madam President, I would like to take a few moments to respond to the complaint raised by Senator GRAHAM earlier today about the funds Connecticut will receive under this bill when compared to other States, particularly Alabama.

Madam President, there are two basic problems with looking at simply the percentage of money that a State gives through gas taxes to the highway fund and comparing it with the percentage a State gets back. First, that approach ignores the true needs of individual States and the Nation as a whole. Second, it stands in stark contrast to how we allocate Federal money more generally across the board.

At present, we allocate Federal spending for housing, social welfare, defense, agriculture, and every other purpose of Government on the basis of perceived needs and the appropriateness of governmental support on a national basis. That is a deliberative, and

in many ways, a painful process. But after all, it seems to have served this Nation pretty well for over 200 years now.

Madam President, if we applied the philosophy espoused by the Senator from Florida to money from the highway trust fund, let's apply it across the board. That would mean that between fiscal years 1981 and 1988, if each State's share of allocable Federal expenditures—not adjusting for inflation—were equal to its share of tax burden, Alabama would have received $23.019 billion less, Florida would have received $42.325 billion less, South Carolina would have received $14.159 billion less, and Virginia would have received $72.380 billion less.

What impact does such an enormous fiscal stimulus have on these States? For one, it allows them to cut State taxes. The nonpartisan Advisory Commission on Intergovernmental Relations [ACIR] measures relative tax capacity and tax effort. According to ACIR data for 1986, Florida has a tax capacity of 105—this means 5 percent greater than the national average—but a tax effort of just 77—23 percent below the national average. Florida has one of the lowest tax efforts in the country. Missouri has a tax capacity of 93, but a tax effort of 82. Virginia has a tax capacity of 101, but a tax effort of just 85.

I wonder if Senators from the highway trust fund donor States would support the principle of a dollar-back-for-ever-dollar-in when it comes to all Federal taxes? It's a logical extension of their argument.

One additional point, Madam President. Senators mistakenly argue that per capita income is the only measure of a State's fiscal capacity. That is plain wrong. The ACIR has studied this issue for 30 years. Per capita income is one measure of—but not a substitute for—fiscal capacity. Part of Texas' fiscal capacity, for instance, is the severance tax the State imposes on oil and gas. This is a wonderful tax because it is exported out of the State and borne by consumers elsewhere. Because the severance tax is such a revenue-raiser for Texas, its capacity is 104 and its effort just 79.

Per capita income is a relatively meaningless figure unless one also factors in cost of living. People in my State of Connecticut earn more because they have to pay more to live. If anything, States such as Connecticut that have higher per capita incomes are the ones treated unfairly. We have a national poverty threshold. People in my State above the threshold can be considerably worse off than people below the threshold in the rural South, because of the high cost of living in Connecticut.

I think, Madam President, my friends from so-called donor States ought to be apprised of these facts.

Mr. SEYMOUR. Madam President, today I rise to comment on and support the conference report to the Intermodal Surface Transportation Efficiency Act of 1991.

Simply put, this is a good bill for California. It addresses a broad range of issues vital to the health of our Nation's transportation and economic infrastructure, and integrates a much-needed flexibility to the process.

It is not all that we had hoped and worked for—namely, the funding formulas continue to be skewed to the detriment of the donor states—but it is a marked improvement over previous surface transportation bills.

I want to commend Senators SYMMS and MOYNIHAN for their tireless efforts to bring this $151 billion transportation legislation to the floor of the Senate. What began on March 6 of this year with the President's 100-day challenge is now about to be voted on and sent to the President for his signature.

Madam President, this is a jobs bill, and it will give our ailing economy a needed boost. Moreover, it will be instrumental as States move to address local and regional transportation needs. We are now moving beyond the superhighways phase in our Nation's transportation program. Anyone who has observed this debate has witnessed the emergence of a common theme: Our Nation's transportation policy stands at a crossroads. The Interstate System is largely complete. This bill allows us to turn our attention to the very serious problems of local gridlock, clean air, and the development of alternative modes of transportation.

With this task—this first phase—completed, we now undertake the next phase in the process: Making the current system work to its maximum potential. Let's start moving people, but not just across State lines or over vast distances. Rather, we must focus our attention and priorities to the growing needs of congested communities, and put the choice of how we are going to address these problems back into the hands of the local decisionmakers, the States and local governments.

In terms of funding, this bill represents an unprecedented step toward reducing my State's role as a donor State. Of the $151 billion in the overall bill for both highway and transit programs, California's share will be over $15 billion, more than 10 percent of the bill total. And in terms of jobs, when you consider that $1 billion in transportation funds will generate approximately 52,000 jobs, one cannot dispute that this is a needed stimulant for California's stagnant economy.

Madam President, all of the donor States worked very hard to reverse the inequities of previous transportation bills to ensure that our States receive a more equitable return on the funds we pay into the highway trust fund. As a rule of thumb, California contributes 11 percent of all funds in the highway trust fund. Previously, California received less than 9 percent of its contributions in the form of apportionments. This new law will begin to address this longstanding imbalance between funds received for transportation and our contributions. This is a good first step. More action will be required, and I can assure all Members of the body that the debate will be joined once again in the coming years.

One aspect of this bill that cannot be overlooked is the flexibility it affords States and local decisionmakers. Accordingly, States and local jurisdictions will now be empowered to make better and more cost-effective transportation decisions, more so than at any other time in the history of this Nation's transportation policy.

Another feature recognizes the critical need to begin addressing the serious congestion and air quality problems in our urban areas. I am pleased the bill before us provides $6 billion for congestion and air quality mitigation. California's share in this important fund is $835 million. My State's work force spends a growing portion of its day in traffic, hindering productivity and contributing to decreasing air quality. During peak hours, some 6,000 miles of California's main roads are at a virtual standstill. This situation is repeated in numerous States; no major urban center is immune from gridlock and its associated consequences.

The provisions in this conference report will help local decisionmakers mold a transportation program that is consistent with our overriding goals to improve air quality and to avoid the terrible losses in productivity in my State owing to the millions of hours lost in gridlock.

This bill will stimulate greater private investment in public transportation through provisions that encourage public-private partnerships. To my knowledge, no level of government has resources sufficient to meet all of its transportation and infrastructure needs. This new partnership will help bridge the gap between demand and our ability to pay.

Finally, this bill's $31.5 billion transit title is particularly strong, and I commend the conferees for responding to my concerns regarding California's transit needs. I want to point out that this bill's strong support for Los Angeles, Bay Area, Sacramento, and other new-start projects is especially important to their efforts to put into place cost-effective, environmentally sound modes of transportation.

On one final note, I want to comment on that aspect of the debate that has overshadowed virtually everything else. I am speaking of course of the donor state versus recipient state situation. Madam President, my friend from Virginia, Senator WARNER, indicated the other day that this entire debate had become a battle of the charts. In fact, it has been my experience that just when you thought you knew what was happening, a different chart would surface, and every Member would scramble to see who would be the winners or losers.

Clearly, the one determinant or bottom line driving every Member's decision on this bill will be dollars, pure and simple. To that, I hope all Members of this body will recall that lost behind these charts is the fact that this bill contains historic changes in public policy that will impact our Nation's transportation system long after this debate and the ever-present charts have been forgotten.

Mr. LEVIN. Mr. President, while this conference report represents a step forward for Michigan and some other donor States, it is still not equitable. It is an improvement over what we've gotten in the past, but Michigan is still shortchanged by about $200 million. Furthermore, we are prevented from improving our return with discretionary funding.

This bill ends some of the highway robbery, but too much unfairness remains for about 20 States, including Michigan. I cannot give my approval to a bill that will simply rob us less. Under this bill, Michigan will go from an 80 percent return to an 85 percent return while other States will have a 200 percent and higher return.

To Michigan's detriment, too much money will still be distributed based on the same antiquated formulas and gimmickery. On principle, I cannot support it.

Mr. BIDEN. I will vote for the highway bill conference report. As the comments of several of my colleagues made clear, there are improvements that some of us wish had been included in the conference report which were not. But on the whole, the bill that will be sent to the President reflects a good balance of the dozens of interests that had to be taken into account.

For each of our States, the highway bill allocates funds that are crucial for the economy. For Delaware, the conference agreement will result in nearly $450 million in highway and mass transit funding over the next 6 years. That expansion of support for Delaware's infrastructure is important up and down the State. From poultry farmers in Kent and Sussex Counties to auto workers in New Castle County, a solid road system is vital to keeping costs down and markets accessible.

But this bill is about more than roads. It is transportation legislation in a broader sense of the word. It includes important provisions to address the pollution problems from transportation that afflict many of our Nation's cities. The bill provides stronger support for alternatives to single occupancy cars, particularly mass transit. The bill allows for greater flexibility by States in determining how best to meet their transportation needs.

It must also be recognized that despite the tremendous sums in this bill, $115 billion in total, our Nation's transportation system will remain under tremendous pressures. Demands on our Nation's roadways will not abate. As welcome as this bill is, I have no doubt we will have to continue to look for ways to meet those rising demands in ways aside from adding new lanes.

This bill does much more than previous law to encourage and reward innovative approaches to transportation. Now it will be up to State and local governments to use that authority to the greatest extent possible.

I commend the Senator from New York [Mr. MOYNIHAN] for his leadership on this massive bill, and the other conferees for their efforts in resolving the differences in the House and Senate bills in time prevent disruption to State transportation programs across the Nation.

HIGHWAY BILL CONFERENCE REPORT

Mr. NUNN. Mr. President, I rise today to express reluctant support for the highway bill conference report. I had no such reluctance in voting for the Senate version of the highway bill. When this bill left the Senate floor, it was something of a landmark.

It represented a historic shift in national transportation policy away from new highway construction and toward maintenance and rehabilitation of often-crumbling existing roads and bridges. It acknowledged the increasing importance of urban mass transit in many States' overall transportation planning, a step of enormous importance in addressing not just our transportation problems, but our environmental and energy needs. It made great strides toward equity in transportation funding, reducing what had become truly outrageous disparities in rates of return many States were securing on their collections of dedicated highway taxes.

Most of all, it reversed a decades-old trend of Federal micromanagement of State and local transportation priorities. While the bill may not have gone quite far enough in that respect, it did re-establish the basic principle of federalism in transportation policy, against which both the executive and legislative branches in Washington have been habitual offenders.

In general, we had a highway bill that looked a lot more like a thoughtful effort to invest in our country's tattered infrastructure, and a lot less like a scramble for Federal cash, than any such bill in my memory.

We now have a conference report that is disappointing in some respects. It retreats from the Senate bill on funding equity. For every dollar taxpayers from my State of Georgia contribute to the highway trust fund they would receive about 80 cents, as compared to the minimum of 90 cents per dollar contributed contained in the Senate bill. Georgia currently receives about 74 cents on the dollar. It contains a new $4 billion program that was not in either the House or Senate bill, with half—that's right, half—of these funds going to just seven States. It uses 1980 census data, rather than 1990 figures, to distribute highway funds, for no apparent reason other than the advantage it gives certain States which have lost population during the last decade.

Still, Mr. President, the conference report does preserve the shift toward a more balanced allocation of funds among transportation functions—it does get Congress out of the business of deciding where each road or bridge will be built—and it does provide more funding equity than the current system. Though Georgia will still be a donor State, we will rank 9th in allocation of dollars while only ranking 11th in population and 24 in land mass.

Finally, Mr. President, I will vote for this conference report, with all its flaws, because of its importance to the economy, not just as a short-term infusion of cash, but as a long-range investment in the capital infrastructure we need to regain and sustain economic growth. The jobs created by this bill are enormously important, particularly as our Nation struggles to get out of our current recession.

I want to thank the Senate conferees, and especially Senators MOYNIHAN, CHAFEE, BURDICK, and SYMMS for all their hard work in committee, on the Senate floor, and in conference. It is due to their influence that this conference report ultimately represents a step forward the kind of transportation policy we truly need.

The PRESIDING OFFICER. Is there further debate?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Is there further debate?

The Senator from Arkansas.

Mr. BUMPERS. Madam President, I know everybody is in a great sweat to get going, and I am too. I will just take a moment.

I had a sense-of-the-Senate resolution, which I will not offer, which simply said what has been said by a lot of Senators this afternoon about the economic activity that can be stimulated under this bill. My resolution, might I say to my distinguished friend from New York, the manager of this bill, would have urged the Highway Administration to get all the States to advance their projects and start getting the $11.1 billion that is in the trust fund out across this Nation as quickly as possible.

In my opinion, that is one thing the Congress can do quickly that would have a dramatic effect.

I heard the Senator from Florida say earlier today that every billion dollars of that trust fund we put out creates 40,000 jobs. The information I have is that it creates 52,000 jobs. So if you

could quickly put out $7 or $8 billion within the next 3 or 4 months—and I do not think that is unattainable—think of the kind of impact that would have on reducing unemployment in this country and help to get our economy wired again.

So I am not offering the resolution today, but that is where my heart is. You make that investment in the economy, and maybe an investment tax credit, and I think you could really get something going in the country.

I also want to compliment the chairman on the bill. My State comes out extremely well. I could not be more pleased.

Mr. MOYNIHAN. Madam President, let that be considered part of the statement of the managers.

Madam President, I believe there is no more debate.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I strongly support the surface transportation bill before us. Many of my colleagues have taken to the floor to speak about making the infrastructure investments that are necessary to relieve congestion, improve our air quality, revitalize the economy, improve our commerce, and make structurally deficient bridges and roads safe.

This bill will be our blueprint for the next 6 years. It is a significant piece of legislation. With the virtual completion of the National Interstate System, Congress faced the challenge of writing a bill that not only provided highway and transit funding, but also solved some longstanding problems.

Our economic well-being demands that our traffic congestion problem be relieved so that people and goods may move freely. This is important not only on a State or regional level, but is also necessary if we are to compete internationally. Forty percent of our bridges and primary highways are classified as poor—a situation which cannot be tolerated if we are to have any chance for growth and increased productivity.

Our air quality is deteriorating, and this bill allows the States and local planning bodies the flexibility necessary to alleviate pollution for the health and comfort of our citizens. There is a commitment to highway safety. Unsafe roads and bridges must be fixed and funding provided to begin those very serious and vital improvements. These are basic tasks that must be undertaken before our infrastructure crumbles beyond all hope of repair.

I am pleased that there is a recognition of the need for a national highway system. This system, called by some the post-Interstate System, recognizes that there are many primary roads—both urban and rural—that have a critical role in moving people and goods.

This bill keeps the promise to the people that the taxes collected and dedicated for highway and transit purposes will be spent as intended. The balances in both the highway and transit funds will be drawn down and put to use, as they should be.

As chairman of the Appropriations Committee, I, along with Senator LAUTENBERG who is chairman of the Transportation Subcommittee, have worked hard the past several years on our infrastructure problems. I am proud that in 2 years we were able to raise the Federal-aid highway obligation ceiling from slightly over $12 billion in fiscal year 1990 to $16.8 billion for fiscal year 1992.

This bill and its strong statement in support of investing—investing to solve today's problems and investing to provide a better future—certainly aids our efforts in the appropriations process.

This is a large and diverse Nation. Yet, a great nation's transportation policy must address that diversity, facilitate that interdependency, and allow for future growth and changing technology.

I applaud the conferees. In their deliberations, the goal of equity was always a top priority. The problems faced by Appalachia are different from those of the New York City region or those of the Sun Belt cities—but I believe this bill strikes a balance that should make for a stronger economy nationwide.

It is important that we appreciate that this bill creates jobs. That should not be minimized. This legislation may be just the tonic needed to begin to pull our economy out of the nose dive it has taken. The unemployment situation demands that we enact this important job-creating legislation. We should applaud the many benefits of this bill and its welcome contributions to our economic well-being.

In closing, let me say that, though my level of effort program did not survive, I am satisfied with the effort and consideration given my concerns. The framework is there to move us forward, and I support the product of the conference.

The PRESIDING OFFICER. If there is no further debate, the question is on adoption of the conference report. The yeas and nays have been ordered. The clerk will now call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. BROWN], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Colorado [Mr. BROWN].

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Colorado would vote "yea."

The result was announced—yeas 79, nays 8, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—79

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gore
Gorton
Grassley
Harkin
Hatch
Hatfield
Heflin
Inouye
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Symms
Wallop
Warner
Wellstone
Wofford

NAYS—8

Coats
Exon
Graham
Hollings
Levin
Mack
Roth
Thurmond

NOT VOTING—13

Breaux
Brown
Danforth
Gramm
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Pryor
Simon
Stevens
Wirth

So the conference report was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT—CONFERENCE REPORT OF 1991

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of the conference report on H.R. 3371.

The report will be stated.

The assistant bill clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371) to control and prevent violent crime, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

CLOTURE VOTE

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the conference report to accompany H.R. 3371, the Omnibus Crime Control Act.

George J. Mitchell, Lloyd Bentsen, Wyche Fowler, Richard Shelby, Charles S. Robb, Wendell Ford, Alan Cranston, Tom Daschle, Al Gore, Jeff Bingaman, J.J. Exon, John Glenn, J.R. Biden, Jr., Harry Reid, Sam Nunn, Frank R. Lautenberg.

QUORUM CALL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, is it the sense of the Senate that the debate on the conference report accompanying H.R. 3371, the omnibus crime bill, shall be brought to a close.

The yeas and nays are required.

The clerk will call the roll.

The assistant bill clerk called the roll.

(Disturbance in the visitors' galleries.)

The PRESIDING OFFICER. The Senate will be in order. The Senate will suspend until the Sergeant at Arms has restored order in the galleries.

The clerk will now continue to call the roll.

The assistant bill clerk resumed the call of the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. BROWN], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mr. KASSEBAUM], and the Senator from Alaska [Mr. STEVENS], are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS], and the Senator from Colorado [Mr. BROWN] would each vote "nay".

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 38, as follows:

{Rollcall Vote No. 278 Leg.}

YEAS—49

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Wofford

NAYS—38

Bond
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Dole
Domenici
Durenberger
Garn
Gorton
Grassley
Hatch
Hatfield
Heflin
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Symms
Thurmond
Wallop
Warner
Wellstone

NOT VOTING—13

Breaux
Brown
Danforth
Gramm
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Pryor
Simon
Stevens
Wirth

The PRESIDING OFFICER. On this vote there are 49 yeas and 38 nays.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have consulted with the distinguished Republican leader. It is my determination that the best way to proceed now would be to take up the banking conference report and the RTC bill under a unanimous-consent agreement which would provide for 15 minutes of debate equally divided on each of the two. And then at the conclusion or yielding back of the 30 minutes, back-to-back votes on the two measures.

I will, therefore, now—

Mr. DOLE. That is 30 minutes for the two, or each of the two?

Mr. MITCHELL. Total. I will now read the unanimous-consent request.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 15 minutes equally divided on the banking conference report, S. 543; that at the conclusion or yielding back of time the conference report be laid aside and the Senate proceed to the consideration of H.R. 3435, the RTC bill; that there be 15 minutes for debate on that bill with no amendments or motions in order thereto, and that at the conclusion or yielding back of time on that bill, the Senate vote without any intervening action or debate on adoption of the conference report on S. 543, the banking bill, to be followed immediately without any intervening action by third reading and final passage of H.R. 3435.

Mr. DOMENICI. Reserving the right to object, might I ask the majority leader, I am not sure that I will but I have not had a chance to read one provision in the RTC bill. I certainly do not want to delay things. I am concerned that one provision may be too narrowly drafted with reference to the authority of the RTC. The provision deals with the closing down of institutions.

Do you have a suggestion on how I might be accommodating to you, and yet preserve some opportunity to review this provision?

Mr. MITCHELL. The only way I can think of, which takes more time and inconveniences more Senators, is do the first one and vote on that.

Mr. DOMENICI. It is a flexibility amendment.

Mr. MITCHELL. My response was the only way I could think of is to limit the agreement to first the conference report on the banking bill and vote that. I am trying to accommodate as many Senators as possible.

This agreement was proposed by the Republicans.

Mr. GARN. Would the leader yield?

I might say to my good friend from New Mexico we finished the Banking Committee conference report at 5 a.m., so I expect that to go quickly. The RTC is not to my liking, not for any one provision but because the House of Representatives only put $25 billion in it rather than $80 billion. So I would like to object to the whole thing.

The point of it is, if we took the time to amend it with more money, go back and do the responsible thing, the House is going to be gone. So from a practical standpoint even though I totally agree with what the Senator wants to accomplish, I do not know how we could possibly amend the House-passed RTC bill and get them to considering anything. I say that as a practical problem. I do not know how to get at your problem any more than my problem, so I suggest we go ahead.

Mr. DOMENICI. I have no objection, Mr. Leader.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. Leader, we have a technical corrections amendment that has been signed off on both sides. It does affect the banking bill.

I only ask it be considered first—I do not know of any objection—so it can be sent back for enrollment purposes to the House before it goes out of session.

Mr. SEYMOUR. Mr. President, reserving right to object.

Mr. GARN. Senator RIEGLE has cleared this amendment. This was an amendment that was approved in conference last night and not enrolled by the House. It was left out in error. It was approved by both conferees.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, reserving the right to object, could I ask the distinguished majority leader, if in fact this unanimous-consent agreement is approved, will there be any other unanimous-consent agreements that are necessary before we adjourn?

Mr. MITCHELL. Certainly. There will be a very large number of them.

Mr. SEYMOUR. Thank you.

The PRESIDING OFFICER. Is there objection? The Senator from Alaska.

Mr. MURKOWSKI. Reserving the right to object, if I could make an inquiry on behalf of the managers of the bill, the Senator from Alaska had a technical amendment relative to the ability to purchase RTC debt. I wonder if that is included in the House bill that came over, or if there is any consideration of the disposition of that? It cleared our side.

Mr. GARN. If the Senator would yield. I cannot answer his question until staff gets here with the materials. We were in session for over 15 hours. There were dozens and dozens of amendments dealt with, give and take on both sides. So I cannot answer my colleague's question, but if you let us go ahead we can answer.

Let us get on the bill and then we will be happy to deal with this.

Mr. MURKOWSKI. I withdraw my reservation.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Reserving the right to object, does the UC vote include a voice vote or rollcall?

Mr. MITCHELL. The unanimous-consent request by itself does not provide for the form of voting. But our intention is to have a recorded vote, as requested by the Senator from Minnesota.

Mr. WELLSTONE. Thank you.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991—CONFERENCE REPORT

Mr. GARN. Mr. President, I submit a report of the committee of conference on S. 543 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their receptive Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

SENATE CONCURRENT RESOLUTION 83 TO AUTHORIZE A CORRECTION IN THE ENROLLMENT TO S. 543

Mr. GARN. Mr. President, while we are waiting for the distinguished chairman of the Banking Committee, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543, the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

Mr. GARN. Mr. President, this is the one I just referred to. This was an amendment that was agreed to by both House and Senate conferees last evening unanimously. It was inadvertently left out in the printing.

Senator RIEGLE has agreed to this. I ask it be immediately agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 83) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I say to my colleagues who want to catch airplanes, including this Senator, that conversations on the floor impede that progress. So I hope we could have the consideration so we can finish this expeditiously.

There is no need for me to use 15 minutes on this side of the aisle. We discussed the banking bill last week and produced what I thought was a very good bill, and the Senator from Michigan is to be commended for his efforts, but it was not possible in the conference to prevail.

So we have what many on this floor wanted in the beginning, a narrow bill that does not deal with any powers, with interstate banking, all of those sections have been removed. We have the recapitalization of the BIF fund and the safety and soundness issues that go with that recapitalization.

The House passed this unanimously.

I hope my colleagues will overwhelmingly approve this bill. The BIF fund does need recapitalization. The protections that surround it, I think, are good. I reserve the remainder of my time.

Mr. GRAHAM addressed the Chair.

Mr. MITCHELL. I yield 5 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, we come another time today to one of those measures that will have a significant impact on both the immediate- and long-term economic well-being of this Nation. There is probably no factor that has had a more adverse effect and has deepened and extended the current recession more than the difficulty of American entrepreneurs and business people and individual consumers to have access to credit, not because they were not worthy of receiving credit, not because they do not meet standards that have traditionally been accepted as prudent, but because of restrictions within the system, some of which were restrictions that we have imposed.

Mr. President, I believe we have, again, missed the opportunity to use this legislation as a means of providing some economic relief and stimulation on to our Nation's economy.

So my reason for opposing this bill is, in large part, not what it is but what it could have been and if this were to be defeated what it might be when we return I hope in December for focused consideration.

Frankly, we have not been thinking about this bill from the perspective of what could it mean to energize America's economy. This bill has not been debated or shaped from the perspective of what does it mean to the users of the system—what does this mean to the small business person, to the person engaged in international export, to the farmer, to all those people who look to the financial system as a fundamental source of nourishment for their ability to accomplish their own commercial economic goal.

But more than a missed opportunity, Mr. President, I suggest, like we did 4 or 5 years ago when we started down the slippery slope of the savings and loan industry, if you remember, the first bills we had were not going to be a taxpayer bailout. This is going to be a program in which all of the costs will be borne by the industry—exactly the representation that is being made on this bill.

Two days ago, we had the head of the FDIC before the Banking Committee and gave a very dire assessment of the situation, the subject of a front page story in Monday's New York Times. I believe if we go down this path, we need to do so with a clear understanding that this is going to be another taxpayer bailout. I believe that in that context, the basic structure of financing this bill needs to be rethought. A proposal to finance this over a 20- to 30-year bonding basis may be appropriate if you think the commercial banks are going to be able to pay sufficient premiums to repay those loans. I do not think it is an appropriate means of financing when we recognize the likelihood that this is ultimately going to be paid by the American taxpayers.

Mr. President, there are other issues. I think we have not done an adequate job of protecting the deposit insurance fund which, frankly, was the reason that dove us to this bill in the first place; that we continue to be vulnerable to further charges against the fund and eventually against the American taxpayers.

So, Mr. President, I reluctantly suggest to my colleagues that the prudent vote today on this bill is no. I hope that within a month we will have an opportunity to look at this bill from a different perspective and incorporate a different, more economically enlightened bill as part of a program that we can submit to the American people as the Federal Government's program for economic stimulation.

Thank you, Mr. President.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Michigan has 3 minutes remaining.

Mr. RIEGLE. I have to say to my colleague I only have 3 minutes under the time agreement by which to comment on this bill. I can yield 20 seconds, and I will do so if that is helpful to the Senator.

Mr. CONRAD. Mr. President, in order to make my vote in opposition to this bill clear, let me for a moment recount some history. A little over 2 years ago, the Senate passed the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA] just before the Congress adjourned for the August recess. Despite the fact that that legislation was the biggest single taxpayer bailout in history, there was no recorded vote on the conference report. At the time, we were told that the bailout was only a temporary loan to the savings and loan industry. We were told that $50 billion would be sufficient to resolve the failures of thrifts and make good on the Government's commitment to insured depositors.

At the same time, Mr. President, I do not think there was a single Senator in this body who truly believed that the taxpayers would ever be repaid, who truly believed that $50 billion would be sufficient, or who truly believed we had found the most cost effective way of making whole the insured depositors of failed S&L's.

Mr. President, I was one of only eight Senators who voted against the Senate version of FIRREA, and I objected vigorously to the conference report. Since then, it has become clear that FIRREA did not solve the problems of the thrift industry, and that the taxpayers will have to pay closer to $500 than $50 billion for the S&L bailout. And in the next few hours, we will be asked to throw another $80 billion of the taxpayers' money down the same rathole.

Now, Mr. President, I am afraid that we are now making the same mistake with the bank insurance fund. We have been told that the $70 billion we are providing to the fund is only a loan, that it will be repaid entirely by the banking industry at no cost to the taxpayer. But, Mr. President, I do not believe that the banks will ever repay this loan. A recent Washington Post article began, "America's largest banks are in bigger trouble than Government officials and the banks themselves have publicly admitted * * *." The article goes on to say that the country's largest banks have gotten into such trouble through a series of bad decisions to lend money to the Third World, to corporate takeover artists, and to real estate developers that the industry may ultimately need an infusion of over $200 billion. The $70 billion in this legislation may not even be enough to last the bank insurance fund until the 1992 elections—especially if the economy fails to recover quickly and strongly, as now seems likely, and more banks fail than is currently projected.

In fact, Mr. President, 2 weeks ago when the Senate passed an amendment limiting credit card interest rates to a generous 7 percentage points above the prime rate—and nearly 10 percentage points above the discount rate—the banks howled that this action would destroy the banking industry. Mr. President, if the banks are so weak that they cannot survive without charging credit card rates nearly 15 percentage points above the rate at which they borrow funds, can we honestly believe that they are strong enough to repay a $70 billion loan?

Clearly, Mr. President, the answer must be no. Under these circumstances, I do not think that it is fair to the American taxpayer to pretend that we have solved the problem and that it will cost them nothing. That is why I am registering my opposition to this legislation.

Mr. RIEGLE. Mr. President, this is an urgent problem facing the country, namely, the insolvency, pending insolvency, of the bank insurance fund. If we are going to maintain Federal deposit insurance, the fund has to be recapitalized, and the legislation before us accomplishes that goal. It provides $25 billion in additional borrowing authority for the FDIC, as well as $45 billion in borrowing for working capital.

In addition to providing the funds necessary to keep the insurance fund solvent, we have in this legislation a number of essential reforms in the banking system that raise the standards with respect to how banks are supervised and how we monitor and build greater strength within the banking system.

Those improvements, such things as annual onsite inspections, eliminating brokered deposits by institutions that are in trouble, requiring that institutions that are failing be taken over before they finally exhaust their capital—a long series of very important reforms in that area.

We also move with respect to the problem of foreign banks so that situations like the BBCI case cannot arise again in the future.

We also include the Truth in Savings Act so that financial institutions will have to use uniform measures in indicating the rates of interest that they pay on accounts and that those be accurate.

We have overturned the Lampf decision with respect to pending securities fraud cases so that those cases that have now been filed are protected and can go forward. It is my understanding that this provision is not intended to apply to or in any way affect the parties or the claims in the Lampf decision itself. Nonetheless, all other cases that were pending on June 19, 1991 shall have the statute of limitations that existed in the applicable jurisdiction on that date.

The problems in our banking system cannot be solved by one single legislative package. This package is designed to restore on a loan basis the solvency of the deposit insurance fund and to put major, new banking reform into the regulatory system. The larger problem of the difficulties that have accumulated over several years in the banking system require a much bigger solution, a much stronger economic strategy, and I think other steps will be needed to try to allow us to handle large bank problems on an orderly basis, and we will have to take up that legislation, I think, before very much more time passes.

I will speak at greater length later in the afternoon when we are not under this time pressure at the moment. At that time, I will go on in much greater detail about the nature of this problem. There is no interstate branch, no repeal of Glass-Steagall, no merging of commerce in this bill.

Mr. President, I reserve the remainder of my time.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Utah has 6 minutes.

Mr. GARN. Mr. President, I yield 1 minute to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. D'AMATO. Mr. President, we did the best we could with this banking bill in the short period of time that we had, facing the constraints of time. We saw to it that the bank insurance fund was recapitalized, and that is important. We made some steps as it relates to soundness, safety of the institutions, gave the regulators some additional authority. And there are a lot of other areas that have to be and should be addressed in order to make this system one that is truly competitive.

This Senator introduced legislation dealing with that issue: The lack of competition in the area of interest rates charged on credit cards. I am not suggesting that that legislation was perfect, but I am suggesting that we have a lack of free competition in this area and that we would be remiss to simply go home and say that all is well and turn our head, in the other direction.

I hope that the regulatory agencies and the Justice Department, and the Federal Trade Commission will not allow this matter to continue unabated.

I thank the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Utah is recognized.

Mr. GARN. Mr. President, I yield the Senator from Michigan 2 minutes.

Mr. RIEGLE. Mr. President, I thank the Senator. We are under a very tight time agreement here under the need to finish our business today.

I want to say to my colleagues that this is truly an urgent measure that is before the Senate. Should we not enact this legislation, based on information that I have received from the regulators, we are going to find ourselves with a situation where we will have an insolvent deposit insurance fund and that bank failures, which are immediately in front of us, could not be handled, and we would find ourselves in a situation where we would not be able to honor the Federal deposit guarantee.

We just cannot allow that to happen. There is enough uncertainty in the economy now. There is enough weakness in the economy now. Confidence is way down. It dropped again in the last month. It is essential that this legislation be put in place. This is safety and soundness legislation that will allow us to maintain a major degree of stability in the system that is absolutely essential at this time.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Will the Senator yield for 30 seconds?

Mr. GARN. Mr. President, I would yield a minute to the Senator from Connecticut.

Mr. DODD. Mr. President, I rise in support of the banking bill, which was hammered out over the past 2 days and nights in a grueling conference.

I must say that I do so with some regret. I believe we need much broader reform of banking law than is included in this bill if we are to address the root causes of the problems now facing banks.

The truth is that the bank franchise has been eroded over the past 20 years as securities firms and commercial firms have gotten into banking—while banks have had no reciprocal opportunities. Deprived of profits from their traditional lines of business by increased competition, and deprived of other alternatives, banks have relied with greater frequency on riskier types of lending.

If banks are to be healthy in the long run, they need to have profitable alternatives to risky lending. At a minimum, they need to be able to branch interstate and to affiliate with securities firms. Without those powers, their franchise will continue to erode, their profitibility will continue to decline, and the danger that they will go the way of the thrifts increases.

Unfortunately, those essential reforms fell victim to intransigence on the part of the House of Representatives. Consistent with past history, the Senate rolled the rock up the hill in Sisiphean fashion, only to have to House push it back down again.

Notwithstanding that outcome, however, I look forward to revisiting the financial modernization issue when Congress reconvenes. Particularly after the Senate passed a broad bill here last week, and after narrow losses on the House side, I am convinced we can reach our goal if we make a serious effort. To this end, I plan to reintroduce interstate banking legislation as soon as we return.

I am also distressed that the bill closes neither the comptroller's town of 5,000 insurance agency loophole, nor the Delaware insurance agency loophole. It is bad public policy to permit such nationwide insurance sales from small launching pads. These provisions got caught up in the sweep of other events, and I plan to rectify the problem next year.

Despite these regrets, Mr. President, I do believe that the conference banking bill before us is a good second-best solution:

It arranges for the bank insurance fund to borrow $25 billion from the Treasury to cover the losses from protecting depositors at failed banks. This is critical, because failure to provide this funding would force the Federal Government to renege on its solemn pledge to protect insured depositors, and could cause financial panic. Equally important, this bill requires the banks themselves to repay every penny of this $25 billion.

It includes language I developed with others to encourage the regulators to use open bank assistance in carefully circumscribed cases. Open bank assistance is an important tool in addressing the credit crunch that is devastating Connecticut and New England because it enables troubled but viable banks to remain open and make loans to creditworthy borrowers. It also has a successful track record when used properly. Open bank assistance was used during the 1930's by the reconstruction Finance Corp., and the RFC made a profit. More recently, when used in the proper circumstances—as in the Continental Illinois case and elsewhere—it has met with similar success.

It includes the Truth-in-Savings Act I authored that has passed the Senate three times in the past 3 years. This measure will help consumers make sense of the wide variety of terms and conditions on accounts offered by depository institutions. In essence, it would require disclosure of that information in a standard format to enable consumers to comparison shop for the best deal.

It closes a loophole in the law that earlier this year permitted one State in the country to set itself up as a launching pad for banks that wanted to underwrite insurance nationwide. The provision I secured enactment of allows banks to continue their underwriting within the State that authorizes it, but nowhere else.

It also includes a provision I offered to give the Federal Reserve greater flexibility to respond in instances in which the overall financial system threatens to collapse. My provision allows the Fed more power to provide liquidity, by enabling it to make fully-secured loans to securities firms in instances similar to the 1987 stock market crash.

It also permits State chartered banks in Connecticut and other States to continue to invest small portions of their assets in corporate equity securities. The truth is that these banks have had this power for nearly a century, and no problems have resulted—and in fact, over the past several years, it has been a more profitable line of business than mortgage lending.

Finally, I would just like to say a few words about the provision of the conference agreement which will preserve the right of State-chartered savings banks to sell savings bank life insurance. This will enable thousands of consumers in Connecticut to continue to have this as a choice to meet their life insurance needs. The effect of this portion of section 303 is to permit a State savings bank that currently offers savings bank life insurance that is purchased by, or converts to, a federally chartered bank to continue to sell savings bank life insurance.

Mr. President, to summarize, I regret that we were not able to pass a broad financial modernization package this year. It was and is desperately needed. But the bill before us today is a good deal given the inflexibility on the part of the House. I urge my colleagues to support it.

Mr. President, I just want, very briefly, to express my deep appreciation as a member of the conference committee to Senator RIEGLE and Senator GARN, who did, I think, a fabulous job over 3 or 4 days, intensely last evening for some 16 straight hours, to produce not the best of all pieces of legislation. I would have much preferred interstate banking to be a part of that legislation. I would have much preferred that we had our commission on insurance and a number of other things. But obviously we do not all prevail in these debates.

The fact is that we have the reforms necessary to deal with the bank insurance fund. We have a variety of other provisions in there which we think strengthen the entire banking structure from a consumer standpoint, from a taxpayer's standpoint. And they are to be highly commended for their effort.

When I hear someone take the floor and suggest that they did not get some individual piece of this they would have liked to have had, they do themselves and this effort a great disservice. This is absolutely essential legislation. There has been a herculean job done to produce it.

I would just say to my colleagues here today who have not had the opportunity to read every detail in this legislation, this was a very fine piece of work. It is needed legislation. The other issues we will have to come back to.

I commend them for their efforts.

Mr. GARN. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, let me emphasize the seriousness of this problem. If either one of these bills fail, we will not only cause problems in the system but we will be back in a week or so to deal with it. We cannot leave session, because in 1986 I stood on this floor, passed $15 billion of FSLIC recapitalization, the House turned it down and that cost the taxpayers $70 billion to $80 billion.

Everybody who wants to play games with this issue and say they were against these loans better realize that if this goes down, they will be the ones who are responsible for a vast increase in the cost.

I yield back the remainder of my time.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. Time is yielded back.

Mr. KASTEN. Mr. President, I rise today to express my deep disappointment with the conference report on the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

I belive that this report not only fails to fulfill our mission to restore health to the banking industry, but will ultimately cause more banks to close. During debate on this bill, I reviewed and analyzed the committee's bill and the subsequent amendments to it. I sought to balance the interests of both the large and small banks in Wisconsin and to assess what can be done to protect the taxpayer from a potentially insolvent industry. With this in mind, I cannot vote for this report in good conscience.

After consulting with my banking constituents, industry leaders, and Wisconsin taxpayers—I found that the general consensus among all parties was that this bill did not make sense for Wisconsin.

Any real banking reform requires the elimination of the too-big-to-fail doctrine. I firmly believe that no bank should be too big to fail. Protecting hundreds of billions of uninsured deposits is a burden never intended to be borne by the FDIC. Not only does it strain the insurance fund's resources, it also burdens the regulatory agencies with the entire responsibility for detecting and controlling excessive risk taking. But most important, it cost taxpayers money for a problem they did not create.

In addition to failing to eliminate too big to fail, this bill favors foreign depositors over American taxpayers. We are elected to serve our American constituents—not some foreign interest. I am disappointed that this bill did not access premiums on foreign deposits. The exclusion of foreign deposits from premium assessments is a huge loophole that needs to be closed. This bill did not address this issue.

These specific issues that I raise in my remarks force me to cast a vote against this package. This bill does not address the current problems of the banking industry adequately. It creates more paperwork for the banks with very little positive return to the industry, and it makes the American taxpayer pay more for a system of inequality that they did not create.

Mr. BRADLEY. Mr. President, I rise to make two points in opposition to the conference report on the banking bill.

First, we have settled on the least common denominator. Instead of using this opportunity to modernize our financial industry and make it more competitive in the world, we are entering the 21st century with laws and regulations from the 1930's. A sound financial sector is one of the keys to growth in the American economy, and I believe the American people deserve legislation that presents a clear vision of the role that banks should play in our Nation's economy and lays out a strategy for achieving that vision.

Second, the $70 billion we are pouring into the bank insurance funds will not be enough. In an eerie replay of the S&L bailout, the administration and the Congress are portraying this as a self-financing loan that will solve the problem, but the economic reality is that this may be only the beginning of another taxpayer bailout.

Indeed, today, with no substantive debate, the Congress will approve another $80 billion for the botched S&L cleanup.

I opposed the bill when it passed by voice vote last week, I will oppose the RTC bailout and I will oppose this conference report.

The least common denominator is not enough.

Mr. WIRTH. Mr. President, although the bank reform package has a number of important elements, I opposed the legislation when it was reported by the committee and when it passed the Senate. I believe the conferees, given present circumstances, were right to narrow the package in order to increase the likelihood of enacting legislation. Nevertheless, many of the concerns I cited in opposing S. 543 still hold with respect to the conference report we are now considering.

While I support elements of the legislation, I believe there are other areas in which S. 543 needs significant improvement. BIF funding and recapitalization and deposit insurance reform should be our priorities in crafting this legislation. I'm not convinced the legislation as it now stands does enough in either area.

The legislation provides funds to allow BIF to address the current problems in the banking industry and includes provisions to promote rebuilding the fund. However, I am concerned that the plan does not rely enough on industry resources and raises the very real prospect of a taxpayer bailout of the industry if the economy doesn't recover and banks are unable to repay the Treasury. I am also concerned that the recapitalization approach could leave BIF in dangerously weak condition which in turn could enable weak and failing banks to remain open, ultimately increasing the costs to taxpayers.

The economy has remained weak since we began developing the bank reform package last winter. The longer the recession lasts, the deeper my concerns about the possibility of an eventual taxpayer bailout and the effectiveness of the recapitalization plan.

The deposit insurance reform title makes a number of important improvements to current law. However, I am concerned that it does not go far enough to bring more market discipline into the process. Risk-based deposit insurance reform premiums are a step in this direction as are the provisions designed to attack the too-big-to-fail problem. However, I think we can and should do more. For instance, I believe we should include a haircut that would supplement the too-big-to-fail provisions by ensuring that uninsured depositors and creditors are never fully protected in a bank or thrift failure.

S. 543 lacks substantial regulatory restructuring. In markup, the committee deleted my proposal to establish a new, independent regulator for both banks and thrifts. The legislation did include other provisions I had proposed to repeal the exemption bank and thrift securities have from Securities and Exchange Commission registration and reporting requirements.

At a time when the bank and thrift industries are in turmoil, I think regulatory authority over their securities should lie with the agency that has the most expertise in that area. Investors deserve that protection. And when billions of tax dollars are being spent to cover bank and thrift losses, with the ultimate scope of the problem still unclear, taxpayers deserve the protection of an improved regulatory structure. I'm not sure that a bank reform package that doesn't include the regulatory restructuring we need is worthy of the name.

In addition to these and other concerns that I have previously voiced, there are several new factors that contribute to my decision to oppose the conference report.

First, is the concern that Senator RIEGLE cited in a recent letter to President Bush about the increasing problems in the bank insurance fund and the inadequacy of the $70 billion loan to the fund. Senator RIEGLE indicated that is increasingly unlikely the banks will be able to repay this loan and that we may be on the road to a taxpayer bailout of the insurance fund. Senator RIEGLE'S reassessment of the troubles in the banking system and insurance fund reinforce the concerns I had earlier in the year. My doubts about the FDIC recapitalization provisions in the package have only increased as the legislation moves closer to enactment.

I am also troubled by the loss of several important provisions in conference. The Senate legislation included a provision I offered with Senator GARN to direct regulators to adopt uniform real estate lending standards. That provision included specific loan-to-value ratios that would take effect if the regulators do not act within 15 months. The conference report simply directs the regulators to adopt uniform real estate lending standards.

My problem with that is we have tried it before and the regulators ignored us. Given the importance of the problem, the history of regulatory inaction, and the links between bank and thrift failures and the condition of our real estate markets, I think we need to give them an incentive to act. Specifying standards that go into effect if regulators do not act will force them to examine the issue and determine what sort of standards are appropriate.

The legislation passed by the Senate also included provisions that I had sought to require the public disclosure of examination reports of failed financial institutions if taxpayer dollars are used to resolve the failure or assist the institution, as well as the disclosure of settlements of Government lawsuits related to such institutions. Senator GARN and I put a great deal of effort into this issue and were able to resolve our differences on the proposal and incorporate a number of safeguards to protect customer privacy.

Unfortunately, the conference report only includes the narrow disclosure provision that the House adopted. This provision would prohibit the FDIC from entering into confidential settlements of claims it brings as a conservator or receiver for a failed institution. However, the provision would not apply to the RTC and would not require the release of any settlements that have already been reached.

In addition, the conference report would not require that examination reports be made public in any form. It also would not require the FDIC and RTC to identify insider borrowers who default on a loan and cause a loss to an insured institution that has failed at taxpayer expense.

It is important that taxpayers have access to more information about bank and thrift failures if public funds are used to resolve the failure. The legislation we passed last week would have provided access to additional information about bank and thrift failures while protecting customer privacy. The conference report will not.

These developments reinforce my reluctance to support the conference report. The changes made to the legislation in conference do not give me reason to alter my position on the legislation and I will oppose it.

Mr. GRASSLEY. Mr. President, I am pleased to support the report on the banking bill from the conference committee. This conference strikes a good compromise on the issues of importance to our Nation.

I am particularly pleased that the interstate branching provisions were dropped from the bill. For our Nation to be economically strong, we must be strong from our rural communities to our metropolitan cities. This bill is sensitive to the need for rural economic development. It does not exalt large interstate banks at the expense of small community banks. I am pleased with the balance.

I remain concerned about the need for assessing foreign deposits for the purpose of the Bank Insurance Fund. However, this conference report begins to address that issue and takes a step in the right direction.

I support this compromise and thank my colleagues for the long hours they labored to work it out.

Mr. SANFORD. Mr. President, I am voting against this banking bill because it fails to do what is needed as a minimum. Many regard recapitalizing the Bank Insurance Fund [BIF] as the essential goal. I disagree. What is essential is recapitalizing the fund and providing the opportunities to banks to achieve long-term profitability, competitiveness, and self-sufficiency which will in turn enhance our economy—and assure the soundness of the fund.

This is now nothing more than a rescue bill, and this attempted rescue could actually deplete banking capital, which will increase the risk to the taxpayers. There is no excuse for the Treasury Department, out of timidity, to flake out on modernizing the banking industry. There is no excuse for the House of Representatives to permit a handful of Congressmen to thwart the sound legislation passed by the Senate. The measure to recap the BIF, under the auspices of a taxpayer guaranteed loan, will result in increased bank premiums. Without expanded powers to adequately compete in the current financial environment, many sound banks will be unable to meet the premium requirement and may face the distinct possibility of failure.

We will not have a strong economy without a strong banking system. At the very least, the banking system needs two things.

First, banks need the ability to diversify beyond State boundaries. Even the people who believe that we should not give banks greater diversity in terms of the products and services they could sell agree that allowing greater geographic diversification through

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interstate banking and branching would result in a safer, sounder banking system. Alan Greenspan, Chairman of the Federal Reserve, noted, for example, that:

> What interstate banking promises is wider consumer choices at better prices and, for our banking system, increased competition and efficiency, the elimination of unnecessary costs associated with the delivery of banking services, and risk reduction through diversification.

Second, we must have as a policy, a firm determination that we will not allow a bank to fail if there is sound reason to prevent it. This policy should go beyond the concept of either early intervention or forbearance. I view impending bank failures with far more apprehension than most people. I view bank failures with such a magnitude that I believe that they could turn a recession into a depression. Bank failures have more to do with damaging the economy than just costing the taxpayer additional money to pay off depositors. Allowing a marginally capitalized, but otherwise sound bank to fail is like scuttling a ship loaded with cargo. Pulling the plug on a bank swamps or sinks the community. It affects jobs, real estate, all businesses, and credit—essentially the fundamentals of the economy.

Earlier in the session, I suggested legislation that would essentially create a 1990's version of the Reconstruction Finance Corporation, one of the major tools used for reversing the depression of the 1930's. The RFC, in its Depression-era years, spent some $10 billion, a lot of money then, and returned all of it to the Treasury with about $500 million in profits. I think this kind of investment now could have the same result. Certainly, the need is there, and the danger of unnecessary bank failures is there.

This idea was modified and inserted in the banking bill as a sense-of-the-Congress provision. Current law, section 13(c) of the Federal Deposit Insurance Act gives the FDIC and the Office of Thrift Supervision [OTS], the authority to make direct equity investments in or take other steps necessary to address the problems of troubled but viable institutions. The intent of this sense-of-the-Congress measure is to encourage regulators to assist prudently troubled banks in order to stave off massive numbers of bank failures and to produce the least possible long-term cost to the Bank Insurance Fund and the Savings Association Insurance Fund—and the taxpayers ultimately. Although the FDIC and the OTS have had this authority for some time, they have been reluctant to use their open assistance programs for fear of disapproval from Congress in light of the negative repercussions from the days of forbearance during the mid- to late-1980's in the thrift system. I am talking about something different, and I hope the leaders of the FDIC and OTS will have the courage to step up to the job and save the banks, the communities, the economy, and the taxpayer's money.

This resolution contemplates the investment of equity capital—real money—both by the FDIC and private investors. It calls for a careful strategy of appropriate open bank assistance to be used to lower the expected cost to the insurance fund, not simply to prop up a bank for the sake of keeping it open. It not only allows the regulators to invest new capital in profit-oriented banks, it gives them the authority to change management or insist on a merger to facilitate a healthier industry.

Earlier this week, I was encouraged to hear Chairman Taylor's comments on his ideas for a banking hospital. I think the principle is the same; in certain cases it may be better and less costly not to liquidate and close a bank and destroy its good loans to the community, but give it assistance in such a way that it returns to being a healthy and viable institution. I encourage him to exercise independent judgment and use creative means when necessary to reverse present trends. It is through a combination of creative and prudent management that we will reduce the number of bank failures and relieve the pressures that currently plague the BIF. The Treasury Department and the Congress, however, have failed to provide the penicillin needed for Taylor's hospital.

We have an ailing industry, and as the banking industry goes, so goes the economy of the Nation. I am simply not willing to vote for bailout money without passing legislation to make a sounder banking industry. If banks keep failing, there will not be enough money in the entire country to pay off the losses. This stripped-down legislation will pass without my vote, but it will not strengthen the economy by strengthening the banking system. We are not doing our duty if we are not addressing the heart of the problem. We have an outdated banking regulatory system which is in need of reform. Crafting reform and passing it is essential, Mr. President, not just replenishing the insurance fund. Without this reform, the guaranteed taxpayer loan to the BIF will turn into nothing but a bailout.

I believe that the best tool in anybody's economic package is a strong banking system. I hope that the Congress will revisit the issues in the Senate banking bill first thing in the new year.

I am going to insist that the Senate Banking Committee meet the first week of our return in 1992 to turn again to the task of redeeming the banking industry's competitive position. Completing this work in a timely manner is imperative for the health of the banking industry as well as the entire economy.

Mr. SIMPSON. Mr. President, I rise in support of the conference report to S. 543, the banking reform legislation, and I urge my colleagues to vote for its passage.

In doing so, I would like to express a few words of commendation and a few words of caution as well.

The caution that I urge is against complacency—the legislation which we are about to pass will do some very important things. It will restore some incentives for proper investment behavior to our Federal deposit insurance regulations, incentives which are badly needed for the health of our financial system.

However, we must not delude ourselves about the very real problems in the banking system—those which led to the current necessity of borrowing $70 billion—those have not gone away.

I hope that there will not be any misunderstanding of that. We did not enact reform measures as comprehensive as those originally proposed by the administration, nor as those crafted so carefully by the distinguished chairman and ranking member of our Banking Committee.

We should not have any illusions about why that is so. The House of Representatives on two occasions this year killed any comprehensive banking reform legislation. I agreed with their decision to kill their first banking bill—it was not a good bill, and I would have voted against such a bill had it come before the Senate.

However, their consistent willingness to pour $70 billion into a system which suffers serious dangers of insolvency, without attempting to correct some of the problems that made that $70 billion loan necessary, strikes this Senator as the very height of irresponsibility.

Because that is what a "narrow" bill is—it is forking over $70 billion, and doing nothing to reduce the amount of similar expenses in the future.

This is why I believe that the managers of our bill—Senators RIEGLE and GARN—are so greatly deserving of commendation. The extent to which our banking system will be reformed by this legislation—however insufficient—is entirely due to their determination, and that of the administration, to produce meaningful reform.

Banking reform is not a "sound bite" issue—let's fact it. Few Senators are going to be able to go home and impress voters with these often arcane and esoteric policy decisions. There is every incentive to stay away—the $70 billion which will be loaned to the banking system by this bill has "political poison" stamped all over it.

But that issue has to be faced, because we're talking about potential losses to the taxpayers of billions of dollars. Senators RIEGLE and GARN have faced up to it, and I commend them for that.

It would have been very easy to duck this issue—the House was clearly not interested in passing comprehensive reform, and the Thanksgiving target date for recess was fast approaching.

Moreover, the banking bill didn't seem to be going anywhere. Getting this body to cooperate to act on this legislation was like pulling teeth. I distinctly recall a moment last week when Senator RIEGLE and Senator GARN seemed almost alone here on this floor in their willingness to "stick it out" and to get the job done.

Many will look at the fact that this bill has been considerably narrowed in conference and wonder whether the effort to enact comprehensive reform was worth it. I say that it was. Given the amount of money at stake in this area, it was absolutely our obligation to try—to get as much comprehensive reform as was possible. If in the end we did fail to get as much as we would have liked, it ought not to be because we failed to make the maximum effort.

My personal belief is that we will be standing here again on the floor at some time in the future, attempting to enact the financial system reform that this country desperately needs. I do not know whether we will be facing a crisis at that time. However, if we are facing new crises and new costs, they will be reduced in magnitude thanks to the tireless efforts of Chairman RIEGLE and Senator GARN, the ranking member, relative to what those costs would have been without this legislation.

At that time the House of Representatives will have to wake up and pass at long last some financial system reform. When they do, I hope they will remember the example of Senators RIEGLE and GARN, and will emulate their spirit of bipartisan cooperation, and determined sense of responsibility—in what will surely be a thankless task.

And let me say how much we will miss our dear friend from Utah, Senator GARN. He is a real force in this Senate—a man of fierce loyalty to his cause. A man with a total grasp of our financial institution laws.

Had we listened to this sincere and dedicated man—and passed the legislation he always pressed for—we could have avoided most of the debacles of the recent past as they relate to America's financial structures. God bless his efforts.

I thank my colleagues and I yield the floor.

Mr. HOLLINGS. Mr. President, today the Senate passed the conference report for the banking bill. I want to make it clear why I voted against the banking bill. I specifically oppose title I of the bill which authorizes a $70 billion loan for the FDIC to recapitalize the bank insurance fund. The banks have neither the capital nor the resources to pay back this loan and mark my words this is only the beginning of more requests for bailout funds for the banks. The administration assures us that this loan will be paid back by the banks, but this legislation includes no taxpayer protections to ensure that the taxpayers aren't left holding the bag. Mr. President, there is a district difference between the banks in South Carolina and the banks on a national level. Our banks in South Carolina have invested prudently, responsibly and remained financially stable, while at the same time making sure the needs of their surrounding communities are met. However, once again, the people of South Carolina are being asked to help cover the excesses of other parts of the country.

Mr. President, being a child of the Depression, I understand the necessity of insured deposits to maintain economic stability and consumer confidence in savings institutions.

However, it seems to me that it has become all too easy to look to the Government and to the taxpayers to pick up the tab for risky and unsound investment gone bad. First the S&L's, and now the banks have bankrupted their insurance funds. And where does that leave us, Mr. President? With a $160 billion taxpayer tab for the S&L mess; with a CBO estimate that another $30 billion will be needed on top of that—for a grand total of $190 billion. And this is only actual losses, if we include interest on the $190 billion, the total amount for S&L cleanup is well over $500 billion. I can only wonder what the final tab will be for the banks. We are giving them $70 billion to start with, and it's a sure bet that this is only the first installment with the full bill to come in 1993 after the elections.

Mr. President, what we need to do is pay the depositors of failed institutions their $100,000 that is insured and leave it at that. We should have learned that from the S&L's. No more keeping afloat these too-big-to-fail institutions only to allow them to make more bad loans. What we've got here, Mr. President, is a government bureaucracy sending good money after bad, with no end in sight. There is no reason to put the American taxpayer at risk to bear another financial burden of this magnitude. The banking community in this country could use the same type of leadership that our banks in South Carolina are blessed with. Until I see some indication, Mr. President, that responsibility will be the banks' watchword and not recklessness, I intend to vote no whenever this issue comes before the Senate.

Mr. RIEGLE. Mr. President, I want to make a few comments about certain provisions, of the banking bill, whose conference we concluded early this morning, which deal with the regulation and supervision of foreign banks. I am very pleased that the conference agreed to the legislation which the Federal Reserve Board sent to the Congress last May in response to my March 25, 1991 letter to Chairman Greenspan seeking the Fed's recommendations for improving supervision of foreign bank operations in this country in light of the BCCI revelations. This section of the bill will ensure that banks that are not subject to comprehensive supervision and regulation on a worldwide basis will be kept out of this country. It also permits the Fed to terminate the activities of foreign banks now operating in this country that lack such consolidated supervision.

Another section of the conference report foreign bank subtitle ensures that foreign banks, that wish to accept or maintain insured deposit accounts, do so only in subsidiary banks incorporated in the United States. Although the taking of retail deposits in insured branches is not presently a widespread practice by foreign banks, I pushed for enactment of this provision as a safeguard against any future expansion of this practice in order to better safeguard the bank insurance fund from losses by branches of banks whose full operations we do not oversee or control. In the past the FDIC has expressed concerns that in the event of insolvency of a foreign bank, assets could easily be shifted from the U.S. branch and out of U.S. jurisdiction while deposits could be shifted to the U.S. branch. Such practices, of course, would create new risks for the bank insurance fund and taxpayers who stand behind it. During his September 24, 1991 confirmation hearing William Taylor, Chairman of the FDIC, endorsed this provision.

Another provision in the conference bill which I authored requires the Treasury and Federal Reserve to do a joint study describing the methodology the Federal Reserve Board should use in making determinations that foreign banks have capital equivalent to that required of U.S. Banks that wish to engage in securities or other activities in this country. The Federal Reserve should ensure that in reviewing applications by foreign banks under the International Banking Act and the Bank Holding Company Act that it not approve them unless it can clearly judge that the foreign bank has capital equivalent so that it would require of a U.S. Bank to engage in a similar activity. The United States can not afford to give foreign banks competitive advantages in our own market and it is not fair to U.S. institutions if the Fed does so. Having the methodology used by the Fed in making such judgments will help our oversight of the Fed's actions in relation to foreign bank applications.

I also note that the subtitle contains a requirement that the Treasury Department and Federal Reserve Board jointly, in consultation with the Justice Department and OCC, examine various facets of foreign bank operations in the United States to determine whether they should as a general rule be required to operate through subsidiary banks incorporated in this country rather than direct branches of the foreign bank. I certainly expect this study will comprehensively review the assigned factors and will provide a basis for the Congress to fully consider what is the proper U.S. policy for regulating foreign banks within our borders. It will provide the Banking Committee with the basis for oversight and perhaps legislative hearings in this area.

I very much appreciate the assistance Chairman GONZALEZ and other House conferees gave us in getting these much needed foreign bank provisions enacted into law.

Finally I am pleased to note that although House Banking Committee conferees could not agree to put the fair trade in financial services provisions into the conference bill, because it would have required the agreement of committees not part of the conference, the House conferees did agree to help get those provisions conferenced early next year in the conference on the Defense Production Act. Members from all the relevant committees have already been named to that Conference. Senator GARN and I look forward to getting this much needed legislation enacted into law early next year.

Mr. BRYAN. Mr. President, I rise to express my strong support for an important provision included in the Comprehensive Deposit Insurance Protection Act of 1991 (S. 543) that dramatically affects the lives of tens of thousands of American who have been the victims of securities fraud cases. The provision I refer to overturns a recent Supreme Court decision, Lampf versus Gilbertson that retroactively and unfairly shortened the statute of limitations in securities fraud cases.

This bill before us today includes portions of bipartisan legislation I filed with 13 of my colleagues earlier this summer, S. 1533. While I would have preferred all of S. 1533 be included, I am pleased that Congress is overturning the most egregious part of the Court's decision.

Mr. President, as respected economist Felix Rohatyn recently noted, "We have just seen the end of the greatest decade of speculation and financial irresponsibility since the 1920's." Unfortunately, the Court's decision has the effect of rewarding financial wrongdoers.

The Court ruled in Lampf that anyone seeking to recover losses because of securities fraud must sue within 3 years of the time the fraud occurred and within 1 year of discovering the fraud. Previously, the time period for filing was based on the laws in the States and judicial jurisdictions which were generally more generous than the periods specified in Lampf.

This shortening of the current statute of limitations makes it nearly impossible to sue those guilty of fraud, since most fraud remains hidden for many years. As Securities and Exchange Commission Chairman, Richard Breeden testified at our hearing last month, "An unrealistically short limitations period would in many such cases effectively immunize the perpetrators of deliberately fraudulent schemes from liability to private investors."

The Supreme Court compounded its mistake by applying its decision retroactively. In effect, Lampf changed the rules in the middle of the game for thousands of fraud victims who already had suits pending—applying a shorter statute of limitations than when they brought their suits.

The Supreme Court's decision in Lampf, June 20, 1991, in effect frees Michael Milken and scores of other felons and defendants of responsibility to pay back the people they have swindled. It would be a monstrous injustice that the icons of creed in effect escape responsibility by reason of a Supreme Court decision that is given a retroactive application. All we seek is to give the victims a fair day in court.

The Court's decision could adversely impact the government's efforts to recover losses in court from S&L executives who have stolen from their institutions. The fewer cases the Federal Deposit Insurance Corporation and Resolution Trust Corporation can bring, the higher the S&L ballout costs will be on the taxpayers.

Opponents of my legislation tried to make this a referendum on frivolous lawsuits. This was a red-herring. Financial fraud cases are complex, protracted, aggressively defended and risky. It is almost invariably years before a trial is even scheduled. If the defendant wins, the plaintiff's attorney usually receives no compensation. Therefore, there are very substantial incentives already built in not to engage in frivolous or even marginal litigation.

With time running out for this session of Congress, we were forced to compromise with opponents of S. 1533 in order to take care of the most egregious part of the Lampf decision. We dropped portions of our legislation that would have extended the statute of limitations for cases filed after June 20, 1991. At this time, we are only addressing the most immediate problem—the unfair application of the Supreme Court's Lampf decision to cases that were pending at the time that the decision came down.

Many courts across the country are applying Lampf to cases that were timely when filed, but are now said to be untimely. With respect to those cases, it is our intent to go back to the state of law as it existed before Lampf. It is my understanding that most Federal courts "borrowed" statutes of limitations, including principles of equitable tolling, from State law. With respect to cases filed in courts that adopted this "borrowing" practice, the borrowing approach would continue to apply.

A few Federal courts had begun to adopt a federalized statute of limitations. The law in those circuits would be the law as it existed on June 19, 1991, including "principles of retroactivity." A number of courts had switched from a "borrowing" approach to a federalized and shortened statute of limitations, but had declined to apply the uniform federalized approach retroactively because of the obvious unfairness of doing so. In those circuits that had declined to apply the shortened statute retroactively, the courts would continue to be obliged to decline to apply the new rule. That is the meaning of the phrase "including principle of retroactivity."

In effect, this provision in S. 543 overrules the retroactive effect of Lampf and applies the law as it would have been applied in particular circuits the day before the Lampf decision was decided. That would of course include interpretative principles such as retroactivity and equitable tolling.

In a sense this is a moment both bitter and sweet. I am disappointed that we could not reach an agreement on the statute of limitations prospectively. I continue to believe that a longer statute of limitations is necessary and appropriate. On the other hand, I think we are correcting some of the most serious adverse affects the Lampf decision has wreaked upon pending cases.

I request that two recent articles about this issue be included in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 19, 1991]

STOP THE CLOCK ON SWINDLERS

(By Barbara Roper)

WASHINGTON.—The Supreme Court has come to the rescue of Michael Milken and others accused of stock fraud. Unless the Senate includes strong anti-fraud measures in its banking bill this week and they are ultimately approved, people like Mr. Milken will be free from responsibility for repaying the hundreds of thousands of people who lost billions of dollars in stock scams.

The Court's ruling on June 20 in the case of Lampf, Pleva v. Gilbertson was met with glee by financial swindlers and dismay by law enforcement officials. The Court ruled that anyone seeking to recover losses because of securities fraud must sue within three years of the time the fraud occurred and within one year of finding out about the offense.

The decision was made retroactive, telling victims who have suits pending that the statute of limitations is now shorter than when they brought their suits.

Some members of Congress are working to remedy the situation. Senator Richard

Bryan, Democrat of Nevada, has added a provision to the banking bill now being put together that would reverse the Lampf ruling. He has proposed limits of two years after the discovery of fraud and five years after fraud occurred in which to file suits. Although such legislation was not included in the House banking measure, and independent bill that would similarly aid fraud victims has been introduced by Edward Markey, Democrat of Massachusetts.

The Lampf decision will frequently make it impossible to sue people who are guilty of investment fraud, because fraud is usually not discovered until years after it takes place. In testifying against the Court's decision at a Senate hearing last month, the Securities and Exchange Commission chairman, Richard C. Breeden, said "An unrealistically short limitations period would in many cases effectively immunize the perpetrators of deliberately fraudulent schemes from liability to private investors."

The retroactive power of the Lampf ruling is a bonanza for corporate predators facing massive liability suits. Michael Milken and the Executive Life Insurance Company's chief executive, Fred Carr, and other defendants filed legal motions in Federal district court last month to have eight bondholder suits dismissed because of Lampf's new statute of limitations. Mr. Milken is serving a 10-year sentence for Federal securities violations, but his victims are pursuing civil lawsuits to gain reimbursement from his schemes.

The general counsel of the Federal Deposit Insurance Corporation, Alfred J.T. Byrne, said the Court's decision could undermine the F.D.I.C.'s cases aimed at recovering losses from savings and loan executives who bilked their institutions. The result: U.S. taxpayers will pay an even larger share of the S. & L. bailout costs, now estimated at about $250 billion.

This month, Charles Keating of Lincoln Savings and Loan and his accountants followed Mr. Milken's lead. They are trying to free themselves from legal responsibility to reimburse the thousands of people, many of them elderly, who bought worthless bonds at the California thrift.

The major securities houses and accounting firms have a team of high-priced Washington lobbyists (headed by Ivan Boesky's former defense lawyer, Harvey L. Pitt) to stop the legislation against Lampf. These lobbyists are solemnly telling lawmakers of their concern for the legal process and the need to stop frivolous lawsuits. But it takes little insight to figure that their intent is to avoid paying damages to people who have lost their life savings.

Congress can show some courage by ignoring the mouthpieces of wrongdoers and undoing the Lampf ruling as soon as possible.

[From the Wall Street Journal]

MANY SECURITIES-FRAUD SUITS ARE LIKELY TO GO UNHEARD AFTER HIGH COURT RULING

(By Kevin G. Salwen)

WASHINGTON.—Billions of dollars of lawsuits against Michael Milken, Charles Keating, Fred Carr and other figures in financial scandals of the 1980s have been or are likely to be dismissed as a result of a Supreme Court ruling handed down in June.

The 5-4 high court decision imposed federal time limits on securities-fraud suits filed by shareholders. Such suits previously were subject to state-law time constraints. The court decision also set the limits retroactively, giving lower courts a mandate to dismiss pending lawsuits.

In the past five months, according to a study by the House Telecommunications and Finance Subcommittee, suits totaling $652 million have been thrown out as a result of the court's ruling. Motions to dismiss an additional $4.55 billion of suits are pending, and motions to dismiss a further $1.21 billion of suits are expected, according to the survey. Subcommittee staffers said the survey is incomplete and could ultimately show higher numbers.

Legislators are fuming over the ruling's effect. "In its ill-considered decision, the Supreme Court signed over a multibillion check to Michael Milken, Charles Keating and a coalition of special interests which have produced the financial wreckage of the 1980s," said Rep. Edward Markey (D., Mass.), chairman of the subcommittee.

"I think it would be a monstrous injustice that the icons of greed in effect escape responsibility by reason of a Supreme Court decision that's given retroactive application," said Sen. Richard Bryan (D., Nev.), sponsor of a Senate bill that would reinstate the cases. "All that is sought is to give these people a fair day in court."

The June ruling said suits must be filed within one year of the time the fraud is discovered and three years of the actual fraud. Senate and House members are scrambling to push through bills that would lengthen the period to two or three years after discovery and five years from the actual fraud.

But the bills face significant opposition from large corporations, accounting firms and the securities industry. The opponents argue that the court's ruling provided needed relief from uncertainty over possible litigation.

The Bush administration, including Treasury Secretary Nicholas Brady, has agreed to support the pending legislation, but only if it includes provisions to block what the administration considers frivolous suits. That stipulation probably is a deal-breaker, as supporters of the legislation contend that the frivolous-suit language would prevent legitimate actions against some cases of fraud by companies and individuals.

The Securities and Exchange Commission and other regulators are backing the bills. They contend that the new time limits won't give investors enough time to bring fraud cases, as it often takes the SEC more than three years to uncover fraud. The legislation would restore properly filed suits that have been dismissed, sponsors and plaintiffs' lawyers say.

Among cases that have been dismissed or have dismissal motions pending, possibly the biggest is one originally filed against now-defunct Wall Street house Drexel Burnham Lambert Inc. and the firm's former junk-bond king Mr. Milken, as well as Mr. Carr and most major firms on Wall Street. The plaintiffs bought Executive Life Insurance bonds that lost value when the large California insurer, which was headed by Mr. Carr, failed. The plaintiffs say they were defrauded because they weren't told that their money was going into junk bonds.

In addition to Messrs. Milken and Carr, defendants filing dismissal motions are securities firms that sold the $1.85 billion of Executive Life securities. They include Merrill Lynch & Co., Salomon Inc.'s Salomon Brothers, First Boston Corp. and Mr. Brady's former firm, Dillon, Read & Co. Another of the defendants, Morgan Stanley Group Inc., is scheduled to testify before Mr. Markey's subcommittee this morning.

Lawyers also have filed for dismissals of suits against Mr. Milken and Thomas Spiegel, the former head of Columbia Savings & Loan Association, which has been taken over by the Resolution Trust Corp. Because the government is bailing out the thrift, it would stand to share in any compensation paid in the suits. "The court decision has threatened the recovery of millions of taxpayer dollars in S&L and bank failures that are attributable to securities fraud," Mr. Markey said.

Another motion is pending in a case involving Mr. Keating's American Continental Corp. Some 23,000 plaintiffs contend they were defrauded of $300 million to $400 million when they bought Lincoln Savings & Loan Association junk bonds in the thrift's branches, thinking they were federally guaranteed. Those securities collapsed when the thrift became insolvent.

Lawyers who back the Supreme Court action shrug off the criticism as sour grapes from plaintiffs' attorneys seeking big awards. "The court isn't deciding what the law shall be; that's the legislature's job," said Theodore Olson, who argued the high court case on behalf of the law firm that won it. "I certainly don't have any misgivings about this."

But that's not the view of Washington lawyer Stephen Silbiger. He represented some plaintiffs in a group that lost a $130 million judgment when an appeals court reversed the jury award in light of the Supreme Court ruling. The case, which had been tied up in the courts for 18 years, stemmed from what Mr. Silbiger calls a "Ponzi scheme" in which Home-Stake Oil & Gas Co. allegedly bilked investors from 1958 to 1973. The award now won't stand because it was filed more than one year after the discovery of the fraud.

"I think everybody agrees that this is outrageous—except for the people who would have to pay," he said.

Mr. ROTH. Mr. President, I rise to address certain provisions of S. 543, the bill to recapitalize the bank insurance fund, which are of particular interest to me. The dual banking system is of critical importance to the continued vitality of the banking industry. The term—the dual banking system—is nothing more than the banking industry's description of the doctrine of federalism in operation in the area of banking. The genius of federalism is that individual States can serve as the laboratory for innovation without the risk of a national experiment.

Delaware has taken the lead, in recent times, in authorizing its banks to sell and underwrite insurance products. Actually, Delaware's effort is not unprecedented. About a half dozen States allow their banks to underwrite insurance and nearly half of the States allow their banks in some way to sell insurance. And some of these authorizations go back beyond the memory of anyone here.

What is unusual about the Delaware initiative is its timing. The insurance industry is changing. Computers have given the industry control of large data bases critical both to underwriting and to selling. For the first time large banks will be able to compete and to make a difference.

The conference report before us is absolutely silent on the issue of the sale of insurance by banks. Therefore, there are no Federal restrictions being placed on State authorizations for the sale of any insurance products by banks or their subsidiaries. This stands in sharp contrast to the provisions reported by the Senate Banking Committee and, in some respect, to the compromise adopted on the Senate floor. This total silence is intended to leave the States totally free of Federal restrictions regarding insurance sales.

Regarding insurance underwriting, one must look to the conferees' revision of section 303 of the House amendment. Originally, section 303 included a general prohibition on insurance underwriting by State banks and their subsidiaries. Last night, the House accepted the Senate offer to grandfather the existing activities of State banks and their subsidiaries, thereby providing an important exception to the general prohibition.

The grandfather exception resembles the provision the Senate adopted on November 21, 1991. But there are two differences worth noting. First, the Senate grandfather clause was amended by Representative FRANK to require that the insured State bank, which may be underwriting insurance either in the bank or through a subsidiary, must be well capitalized to continue doing so. All the banks in Delaware currently underwriting insurance, as far as I know, meet this requirement.

The other difference is what is left out. The Senate language adopted on November 21, 1991, also contained a transition rule, giving banks underwriting insurance 1 year to terminate that activity if not protected by the grandfather clause. The transition rule was adopted in the Senate Banking Committee because the grandfather clause was written in a way specifically to exclude Delaware from its benefits. Thus, the transition rule basically meant that Delaware banks had 1 year to stop underwriting.

The action taken on the Senate floor had the effect of voiding the discrimination against Delaware and allowed Delaware banks the very same grandfather rights enjoyed by banks in other States which authorize their banks to underwrite insurance. Since all existing underwriting by banks was therefore grandfathered by the Senate action, the Senate offer to the House in conference did not include a transition rule.

The subsequent adoption of the Frank amendment, it might be thought, created a new reason for a transition rule; but it was not known at the time if the Frank amendment disqualified any institution, and still is not known. As a practical matter, the Frank amendment was offered and agreed to immediately before conference agreement on the issue with no discussion of its consequences.

So we go back to the point that the transition rule was omitted from the Senate offer because it was unnecessary. And it was unnecessary because current activities were grandfathered.

Had the grandfather clause protected only some current activities but not all, a transition rule would be necessary. But the grandfather clause does not appear to impose any limits on current activities. It does definitely limit future activities—but not current activities. The provision clearly protects current activities in any State. It is not confined to Delaware's boundaries or the boundaries of any other State.

Apparently, the grandfather clause, which was drafted originally to exclude Delaware, did not and does not limit its protection to the home State, so to speak, but rather covers any State in which the bank was providing insurance it underwrites. Thus, when Delaware was included within the grandfather clause, its banks obtained the same rights as others. Those rights are described as the "continuation of existing activities" in the head note preceding the text in the Senate bill.

That text states that underwriting activities that were ongoing as of November 21, 1991, may continue in the future in those States where the underwritten products are being provided. The limits are designed to insure that the grandfather clause does not provide a basis for expanded underwriting activity. Those limits are reasonable and fair.

Therefore, the conference agreement preserves the rights of State banks authorized to underwrite insurance to continue to underwrite the same type of insurance in any State in which they provided such insurance as of November 21, 1991.

Congress has acted wisely. By allowing Delaware to continue its effort to show how banks can become more competitive and more profitable, we will all be able to watch and learn from Delaware's leadership. There has never been a single bank failure in Delaware that has cost the FDIC a single penny. It is time that others learn to copy our example rather than seek to restrict our success.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator asks for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

RESOLUTION TRUST CORPORATION REFINANCING ACT OF 1991

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 3435, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, and so forth.

The PRESIDING OFFICER. Who yields time? There are 15 minutes equally divided. The Senator from Utah is recognized.

Mr. GARN. Mr. President, it was my understanding that we were—I thought we were proceeding to a vote, and then 15 minutes and a vote on the RTC.

The PRESIDING OFFICER. Under the previous order, we were to proceed to H.R. 3435.

Mr. GARN. Very well. I misunderstood the unanimous-consent agreement.

The PRESIDING OFFICER. Will the Senator be willing to yield back time?

Mr. GARN. Mr. President, not yet. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Utah.

SECTION 1133

Mr. METZENBAUM. Mr. President, with regard to the conference report on S. 543, the banking legislation that is before the Senate today, I want to ask a few questions to Senator GARN, the ranking minority member of the Senate Banking Committee. I understand that section 1133 of the Senate banking bill dealing with the transfer of certain obligations of the failed institutions sold by the RTC is included in the conference report on S. 543. Am I correct about this?

Mr. GARN. The distinguished Senator from Ohio is correct that section 1133 was adopted as part of the conference agreement on the banking bill. This provision is intended to help the RTC dispose of its assets in order to be able to sell such assets at the best possible price, the RTC must not only be able to transfer them without obtaining any third-party consents, as FIRREA already provides, but it must also be able to provide assurance to purchasers that the assets will have value in the purchasers' hands. It is this concern that section 1133 addresses.

Mr. METZENBAUM. It is also my understanding, based on my conversation with the distinguished Senator from Utah last week on the floor of the Senate, that this provision does not prejudice antitrust claims that are in dispute in any litigation currently pending in Federal court. Is my understanding with the Senator on this point correct?

Mr. GARN. Yes, Mr. President, the Senator is correct that I stated to him last week that this legislation addresses only the ability of a services provider to refuse to honor servicing rights purchased from the Resolution Trust Corporation. It would not affect any legal claims or any Federal antitrust litigation.

Mr. President, may I just continue to say that while I am not happy with the House-passed bill, because it only has $25 billion in it, may I remind my colleagues that this money has already been charged. It is very much as if we said you run up your credit card and now you are going to refuse to pay the bill. As regrettable as it is, we must provide this money to the RTC or we will simply dramatically run up the costs of the S&L bailout. So I hope no one would play games with this, run home and say "I voted against that." I would love to run against somebody who increased the costs by playing games with this. As difficult as it is, it must be done, and we cannot repeat the mistakes of 1986, and cause the dramatic increase in the cost of the RTC and the S&L bailout.

Mr. President, I reserve the remainder of my time.

Mr. DOMENICI. Will the Senator yield some time to the Senator from New Mexico?

Mr. GARN. I am happy to yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. Will the Senator yield 3 minutes?

Mr. GARN. I will be happy to yield 3 minutes.

Mr. DOMENICI. Let me first say, at the request of the leadership, I will not object. But, frankly, I have some serious reservations about the new structure of the RTC. I have some serious reservations about the affordable housing provisions unless it was made subject to appropriations. It may have been. I do not know. I still do not have the bill to look at. It would be a very serious departure from past practices if these affordable housing provisions were not subject to appropriations.

In addition, one of the most severe problems we are having in real estate market is that many of these federally chartered institutions are causing real estate to be dumped on the market where it could be held. If you can hold it for a reasonable period of time you have a chance of bringing the market back up instead of flooding it more.

I would have offered an amendment that I am sure the Senate would have adopted giving more flexibility to the OTS and RTC and others in regulatory positions so that S&L's would be allowed to restructure their real estate portfolios and would not have to sell real estate that they are holding. Thrifts are faced with a statutory deadline to divest of real estate subsidiaries by 1994. Under the amendment the regulators could allow thrifts to hold on to real estate development portfolios under regulation for a longer period of time without matching dollar for dollar capital against these investments. This would allow thrifts to continue their business and have more capital to lend. This would mean more credit for mortgage loans thereby easing the credit crunch, increasing the availability of credit for affordable housing, and a stimulating the economy.

We are not going to be able to do this. We do not have any other vehicle to amend the regulatory authority. But we will try as soon as possible.

With that in mind, I am going to send the amendment to the desk, showing what we would have offered had we had the time and had this amendment been in order. I am going to send it up for those purposes.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill insert the following:

SEC. . CREDIT AVAILABILITY.

Section 5(t)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)) is amended by adding at the end the following new subparagraph:

"(F) EXCEPTIONS GRANTED BY DIRECTOR.—

"(i) IN GENERAL.—The Director may grant such limited and temporary exceptions from subparagraphs (A) and (D) as the Director deems necessary and appropriate, if the Director determines that—

"(I) extraordinary circumstances exist or that economic conditions at the national, regional, or local level are such that an insufficient opportunity exists for the association to divest a subsidiary engaged in activities not permissible for a national bank or any investment in or extension of credit to such subsidiary; and

"(II) the conditions set forth in paragraph (7)(C)(i) of this subsection are satisfied.

"(ii) LIMITATION.—An exception under this subparagraph applies only to the amount of the savings association's investments in or extensions or credit to a subsidiary as of April 12, 1989, and the amounts that have been or will be expended to complete projects or investments that were initiated by such subsidiary prior to the date of enactment of this subparagraph. In granting an exception pursuant to this subparagraph, the Director shall require the same percentage deduction from capital for amounts invested and credit extended as of April 12, 1989, and for amounts invested and credit extended thereafter.

"(iii) DURATION.—No exception under this subparagraph shall be effective after July 1, 1999.

"(iv) AMOUNT.—No exception shall reduce the percentage deduction from capital to a percentage less than that required as of the date of enactment of this subsection for investments and extensions of credit made prior to April 12, 1989.".

Mr. GARN. Mr. President, I yield 1 minute to the Senator from New York and thank the Senator from New Mexico for his cooperation.

Mr. D'AMATO. Mr. President, let me suggest that the Senator from New Mexico has hit upon an area that we must act on to save taxpayers billions of dollars—billions. As a matter of fact, because of the inflexibility that exists presently, we are forcing institutions that otherwise could make it, that could be profitable, we are going to continue to force them needlessly to become children of the RTC and the taxpayers of America. It does not make sense.

For the first time we have a regulator who says, yes, I could use additional flexibility—Mr. Taylor at the FTC. My gosh, let us wake up.

I hope that we enact this legislation as a priority when we come back. We need it to save the taxpayers some money and also prop up the real estate market instead of forcing divestiture.

I commend the Senator from New Mexico.

The PRESIDING OFFICER. Who yields time? The Senator from Utah has 3 minutes and 12 seconds.

Mr. GARN. I reserve the remainder of my time.

Mr. RIEGLE. Mr. President, this again is a piece of legislation that has to be enacted. This is to provide funds to liquidate failed institutions, and to make good on the deposit insurance guarantees of individuals who put their savings in federally insured institutions.

The bill is a compromise bill in the sense that it provides only partial funding, carrying over into the early part of next year. It does importantly revise the managerial structure at the RTC. There have been a lot of problems there, as the repossessed assets from failed S&L's come into that organization.

They have been very slow and sluggish in many respects, in being able to turn those assets around and sell them off efficiently to get full value. They have made some progress, and things have improved to some degree. But part of the problem has been established in our committee record in hearings that a major failure of the engineering design of the managerial structure itself has been in part responsible.

We saw that coming in the beginning, and tried to change it at the outset. The administration resisted those ideas. So we now make those changes here in this legislation.

So I can say to my colleagues that we think this will provide a more efficient decisionmaking process with respect to the RTC.

It is still a difficult job. They still have a lot of work to do. But this is essential legislation. It must be passed today. I urge my colleagues to support it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, might I have 30 seconds?

Mr. RIEGLE. I yield 1 minute to the Senator.

Mr. CONRAD. Mr. President, I was one of only eight Senators to vote against final passage of the original Senate version of the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA] in 1989, and I spoke out against the passage of the conference report when it was rammed through this floor by voice vote in August 1989.

That original act provided long-term financing of $50 billion for the RTC. But that was not enough.

The Administration was back for more money at the beginning of this

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

year. The Resolution Trust Corporation Funding Act of 1991 provided another $30 billion of taxpayer assistance to the bailout effort.

And again, that wasn't enough. Now the Administration is back again, this time for another $80 billion.

For the reasons I will make clear in this statement, I will cast a "no" vote on this request for additional funding for the Resolution Trust Corporation.

COST OF CLEANING UP THE S&L MESS

This latest appropriation puts the cost to the taxpayer at $160 billion for the S&L's that have failed since August 1989. Keep in mind, as huge as this figure is, it does not include the funding for the behind-the-scenes bailout deals made in 1988—those cost over $65 billion. Nor does it include any of the funding for the banks that are going under—that funding is contained in the Banking bill that is being passed separately for another $70 billion. Nor does it include funding for any of the 100's of S&L's expected to go under after August 1992, when the RTC is supposed to be out of the takeover business.

From start to finish, this has been a debacle of the worst order.

There is no question that we have to make good on the insured deposits of depositors. I believe that, and so does every other member of this body.

However, it is only now becoming apparent how widespread the criminal activity was among the operators of the now defunct S&L's. The General Accounting Office recently reported that criminal activity played a role in the failure of 58 percent of the S&L's taken over as of June 30 of this year. Talk about being asleep at the switch. Had this Administration no idea what was going on in this Nation's financial institutions?

But I did not come here today to review the past.

Instead, I am here to warn that the free and loose attitude that led to the mess still exists and is making the mess worse.

Last week, I came to this floor to report on never-released-before audit reports of the FDIC's contracts with law firms. Those reports revealed a disturbing pattern of double charges, padded billings, and other rip-offs by attorneys hired by the Government to help clean up the S&L mess.

However, additional reports have surfaced in other areas that suggest an unending trail of mismanagement and abuse throughout the bailout system.

Not all employees of the RTC are bad—most are hardworking and honest. But there are some bad things going on. I will say, here, that I am grateful to Senator RIEGLE and his staff for working to include an extension of whistleblower protection to employees of the RTC and other banking agencies and to the employees of conservatorships, receiverships, and its contractors in the conference report on the banking bill. I was prepared today to offer an amendment to this bill to make the whistleblower protection retroactive, but in working with Sen. RIEGLE'S staff we were able to have that provision added last night in conference.

GAO AUDIT OF RTC'S FINANCIAL STATEMENTS REVEALS MISMANAGEMENT

From the very beginning, the General Accounting Office has been critical of the bailout effort and has called for tighter controls in RTC's operations.

Let me read a few statements from the General Accounting Office's most recent audit of the RTC's books. This review of RTC's 1990 financial statements was released just 4 weeks ago. I must say I have never read as harsh a financial statement audit as this. These are direct quotes from the audit report:

> Our work indicates that the Corporation's estimated recoveries from receivership assets could be overstated due to the lack of strong internal controls over receivership operations, flaws in the Corporation's methodology for determining the recovery value of receivership assets, and significant uncertainties related to the performance of the economy in general and real estate markets in particular.
>
> Based on our limited control testing performed in early 1991, we found that receiverships lacked strong controls during 1990 in many key areas related to cash receipts, disbursements, and beginning balances. As a result, we cannot be reasonably sure that the amounts the receivershisp reported are accurate or that receiverships have collected all that they should.
>
> The appropriateness of the Corporation's accounting for transactions related to the purchase of assets and assumption of liabilities at resolution is questionable * * *. We question the Corporation's current policy of offsetting the escrowed fund balances against a portion of the receivables due from receiverships for depositor liabilities paid. This treatment reduced the Corporation's assets and liabilities by $32 billion on its December 31, 1990, balance sheet.
>
> The Corporation could be overstating the amount it will recover from its receiverships because it did not have strong internal controls over receivership operations in 1990. Without internal controls over receivership systems, receiverships might not recover all that they should due to fraud, mismanagement, or theft of assets.
>
> * * * offices did not adequately separate key duties for handling receipts.
>
> * * * officers lacked adequate controls to ensure that duplicate payments were not made to vendors, servicers, or other recipients of funds from receiverships.
>
> * * * offices lacked documentation to support receiverships' beginning financial statement account balances. As a result, some receiverships' opening account balances for assets and/or liabilities could not be verified. For example, for 3 of the 17 account balances we tested for a receivership in one consolidated office, receivership personnel could not locate any information.
>
> The methodology used by the Corporation to determine the recovery value of individual receivership assets at December 31, 1990, was not statistically valid * * *. Our review of the 1990 methodology indicated weaknesses that could have resulted in material differences to expected recoveries from receivership asset sales.

This audit report really says it all. To me, it says that the agency that was created to clean up the mess is a part of the mess.

RTC EMPLOYEES REPRIMANDED FOR CRITICISM OF BULK SALE

During the past 2 months, disturbing news reports have surfaced which suggest irregularities in at least one of the RTC's so-called bulk sales, Significant questions have surfaced regarding the RTC's recent deal with Patriot American Investors—a partnership of 2 Canadian and 2 American investors.

News organizations have reported in recent weeks that at least 3 RTC employees have been reprimanded because the employees expressed concerns that the Government would lose taxpayer money on the deal with Patriot.

The controversies within RTC began late this summer when RTC officials in Washington approved 3 bulk sales deals: one with Patriot, one with General Electric Capital Corp., and one with Tishman Portfolio Partners. While concerns have been raised about all three deals, most of the complaints have been about the deal with Patriot.

And a sweet deal it is.

For starters, Patriot was allowed to go around the country and pick and choose the properties it wanted on a noncompetitive basis.

It did not matter if local officials already had contracted to sell the properties to other buyers, Washington is going to let Patriot have the buildings.

Patriot is going to get an office building in Houston for $5 million even though a cash contract had been signed with another buyer that was willing to pay $8.5 million.

Patriot is going to get the Bourbon Orleans hotel in New Orleans for $3 million less than the $11.1 million offered by another buyer.

And in San Antonio, Patriot is going to get the Bexar Savings building even though the city employee's pension fund had made a better offer of $9.85 million.

And in Dallas, Patriot is going to get an apartment complex that a local firm was working to buy for $10.5 million.

In total, Patriot is getting a package of projects worth nearly half-a-billion dollars at fire sale prices. They did not have to compete. They did not have to bid. All they had to do was go around the country and pick them out. It didn't matter that the properties were already under contract to other buyers.

But sadly, when RTC workers complained about the handling of these deals the employees got reprimands.

The New York Times reported on October 7 that two regional employees wrote a memo to Washington that said "The Government stood to lose tens of millions of dollars if it sold the properties under the Patriot agreement."

The article went on, "Senior agency officials in Washington have acknowledged that they purged the memo in which the complaint was made and punished the officials who wrote it." The Times said the RTC officials, "acknowledged in interviews that the Patriot deal had involved delays, mistatements and suppression of internal criticism. But they called these matters insignificant."

The RTC management really got this one backward.

The ones that should be reprimanded are the ones that let this deal go through. Not only was Patriot allowed to go around the country and pluck prime properties already under contract at higher prices to other buyers. Patriot also got risk free, interest free financing for its purchases. No interest for the first 7 years, and if the property loses money, Patriot can give it back to the government at no loss to themselves.

Who put this sweetheart deal together?

Patriot's Washington dealmaker is Richard Hohlt, a lobbyist and fundraiser that the President appointed to the board of the Student Loan Market Association last year. The New York Times reported in early October, "L. William Seidman, the chairman of the Resolution Trust Corporation, described Mr. Hohlt as a good friend who has been trying to hire him after he retires later this month."

Sales commissions ranging from $5 to $10 million on the package will go to the brokerage firm with ties to Frank Carlucci and Fred Malek. Both are close to the administration.

Against power like that, the concerns expressed by the employees about this deal are simply being snuffed out.

In fact, it was reported on November 13 that a third employee now faces disciplinary action or termination for his part in attempting to keep the Bourbon Orleans property out of the package going to Patriot.

Because of these reported reprisals, I have felt very strongly that whistleblower protections be applied retroactively.

NEW INVESTIGATIVE REPORTS REVEAL OTHER ABUSES

Let me turn to other recent reports that raise new concerns with RTC's operations.

The inspector general of the RTC has been given the responsibility by Congress to investigate specific contracts and expenditures for waste, fraud and abuse. The Office is completing its first investigations.

I have sought and received individual audit reports done by the inspector general and summaries of investigative activity. Generally, the cases that I have reviewed and am about to to discuss have not been released to the press.

Keep in mind that the cases I am about to discuss do not involve actions that led to the S&L failures. Instead, they involve the operations of the RTC itself or involves firms that the RTC has hired at taxpayer expense to help clean up the S&L mess.

The bailout effort has fostered get rich quick schemes at the taxpayer's expense.

A real estate firm that was hired by the RTC found a buyer willing to pay $800,000 for an RTC property. However, the firm figured it could make more money by selling the property for $560,000 to a third party investor. It worked this way: The investor turned around and sold the property to the original buyer at the original $800,000 price. Out of the difference, the investor paid a $50,000 "finders fee" to the real estate firm. The contractor came out fine, but the government lost $240,000.

A $12,000/month computer database contract for maintaining lists of RTC contractors was expanded to $450,000 per month without competitive bidding and without any documentation or justification as required by FIRREA and stated in RTC policies.

LACK OF OVERSIGHT RESULTS IN IRREGULARITIES IN CONSERVATORSHIP

In a major audit of the managing agent hired by the RTC to serve as the conservator of the failed TaylorBanc S&L in Texas, investigators found the following irregularities (Note—the quotations are taken directly from an inspector general's report dated August 19, 1991):

> High risk loan programs were aggressively expanded without proper controls over accounting lending practices, or documentation, "resulting in questionable loans and undetermined losses."
>
> A $30 million loan portfolio was split into 13 separate loan portfolios in order to fall within the $2.5 million reporting threshold. The bidding process also appeared to involve irregularities. The loans were sold to one purchaser, Bluebonnet Savings Bank.
>
> A property sale appeared to involve insider dealing and a special financing deal. "TaylorBanc foreclosed on and sold a commercial property based on inadequate appraisals and poorly documented case files." * * * "Also, the file documentation indicates that the purchaser may have had prior knowledge of RTC's acceptance price." "This sequence of events implies that the sale may not have been an arms-length transaction."

The inspector general found the RTC's oversight of the TaylorBanc agent to be at fault:

> RTC's oversight of TaylorBanc was not effective in assuring that the managing agent's actions were consistent with conservatorship objectives. As a result, RTC has incurred additional expenses, liabilities, and risk."
>
> We found no evidence that RTC oversight personnel questioned the management or expansion of the loan programs through the review of the operating plan or RTC's site visitation * * *
>
> Oversight was minimal * * * However, with the degree of autonomy that RTC management provides its managing agents, strong and effective oversight is RTC's only defense to prevent irregularities and poor management by its agents. * * * Overall, we found that RTC's oversight of the TaylorBanc conservatorship was cursory and insufficient to ensure that its fiduciary responsibilites were met and its employees were operating consistent with RTC's mission.

RTC OFFICE MANIPULATES BIDDING PROCESS

In an audit completed just last week, on November 18, significant irregularities were identified in the bidding process for asset management contracts operated by RTC's Northeast Consolidated Office [NECO] outside of Philadelphia. This is the first audit of any of RTC's asset management contracting operations. The details of this audit have not previously been released to the press.

This RTC office is 1 of 8 offices around the country that hands out the contracts for asset management. As of July 1, these offices had awarded 130 contracts for the management of $24 billion of assets.

In the audit of the Northeast office, the handling of six such contracts was reviewed by the Inspector General. The fees awarded range from $780,000 in the smallest contract to $12.2 million for the largest contract. In the audit, the Inspector General has found:

> "In brief, NECO did not follow or effectively apply RTC contracting policy in soliciting and evaluating firms for Standard Asset Management and Disposition Agreements [SAMDA's]. Specifically, we noted problems in the development of the Solicitation of Services [SOS], selection of firms for solicitation, overall assessment of firms' technical capabilities, actual scoring of technical proposals, and the internal controls over the solicitation and evaluation processes.
>
> "The most significant of these weaknesses related to (1) not allowing all eligible firms to submit bids, (2) not considering cost as a factor in awarding contracts, and (3) not awarding bonus points to a minority and women-owned business firm, thereby inappropriately excluding the firm from consideration * * * these weaknesses affected the actual selection and competitiveness of contract awards. Taken as a whole, they raise doubts as to the fairness of NECO's solicitation, evaluation, and award processes."
>
> The office reduced competition on two bids when the office simply photocopied a company list from a previous bid and used that list for the other two solicitations. Nine firms were excluded from consideration this way on the other two solicitations.
>
> Incoming bids were improperly documented thus making the settlement of any disputes difficult. For example, bid proposals did not get date stamped, or held and date stamped after the proposal deadline date.
>
> "The NECO contracts group significantly modified the standard solicitation of services. * * * These modifications ultimately affected the outcome of one contract award and created the appearance of favoritism in the selection of the contract awardee." The loser—the company that offered the lowest bid—was a minority-owned firm. The 3-year contract was awarded for $7.85 million.

ADMINISTRATION ENGAGED IN PUBLIC RELATIONS EFFORT TO IMPROVE IMAGE OF RTC

Recently, the administration has embarked on a public relations mission to

VOL 137
PT 24
NO 26
1991 — JA 3 1992
UMI

put a good face on the problems of the bailout effort.

The new CEO of the Resolution Trust Corporation, Albert Casey, had an op-ed in the New York Times on Friday. Casey said:

> We're performing our mission ahead of schedule, selling or closing thrifts efficiently, selling undesirable assets despite a sluggish economy, establishing sound recordkeeping and recovering taxpayers' dollars promptly * * *. In short, the Resolution Trust Corporation has an outstanding record and should be given the money it needs to complete its job.

And Monday, Peter Monroe, the president of the RTC Oversight Board, said in a column in the Washington Post:

> While no one wants the responsibility of cleaning up the S&L's, Congress must realize that if resolutions are put on hold, there will be no one to blame but Congress itself for increased taxpayer costs and the denial of protection for individual depositors.

I have news for Mr. Monroe. Congress isn't to blame. Congress doesn't like voting for this because it is a mess created by the free and loose attitude of this administration. The regulatory oversight of the institutions was free and loose—58 percent of the failures have involved criminal activity.

Now, the administration's handling of the bailout effort is free and loose.

As far as I know, I am the only Member of Congress to have reviewed the recent audit reports by the Inspector General. But I can tell Mr. Casey and Mr. Monroe, that a Member of Congress doesn't have to read those reports to come to the same conclusion. All they have to do is read their mail or read their newspapers.

NO RESPONSE ON VALLEY CITY BANK BUILDING

We have all heard countless stories about the mismanagement of the RTC—how someone makes an offer on an RTC property, the RTC turns it down, only to sell it a few days or weeks later for substantially less than that original offer.

I am from a State where people watch their money very carefully. We've had severe economic problems, especially in our agriculture and energy sectors. We've had just three institutions fail.

But even in North Dakota I have witnesses some classic mistakes in operation by the RTC. Let me read from a letter I received from the president of a small, local bank in Valley City, ND, on June 21 of this year:

> You will note by the copies of the enclosed letters that the Farmers and Merchants Bank of Valley City has attempted to express an interest in the former Midwest Federal Savings building here in Valley City, ND. The fact that we have received no responses from any of these communciations or telephone calls has been very frustrating to myself and the Board of Director's of the bank. We frankly have outgrown our present facilities and had hoped to negotiate with the RTC on the acquisition of the Midwest building.
>
> On June 1 we broke ground for an addition to our existing facility and the attached RTC sales proposal announcing the sales price of the building in question appeared in our local newspaper on June 6, 1991. The frustrations continue, we question whether the taxpayers are being well served by the procedures that RTC has elected to follow.

Talk about inefficiency. This firm had tried for 9 months to talk to the RTC about the purchase of the building without ever even getting a response to its inquiries. One of the inquiries was sent on their behalf by the State banking commissioner. Even he could not get a response out of the RTC.

This may seem like a small example to some, but to the local bank in Valley City that is doing its best to survive, and indeed, prosper in the face of untold challenges, it is a very real example of a system that simply does not work.

COUNTLESS NEWS STORIES RECITE EXAMPLES OF MISMANAGEMENT

We have all seen the endless headlines. There has been story after story telling of the mismanagement of the bailout by the administration.

The headlines have read:

"Thrift Agency Sends Co-Op Projects Into Default on Underlying Mortgages," Wall Street Journal, 11/15/91.

"RTC Office Art Stirs a Storm in Kansas: Regional Chief Adorns Headquarters With $26,000 in Paintings, Sculpture, Prints," Washington Post, 6/12/91.

"Thrift Cleanup Called Slipshod by GAO," Washington Post, 6/11/91.

"S&L Asset Fire Sale May Lose 40 Cents Per Dollar," Los Angeles Times, 7/14/91.

"Bad Bets: Many Big S&L Losses Turn Out to Be Due to a Financial Gamble," Wall Street Journal, 8/9/91.

"Thrift Rescue Plan In Southwest Creates New Group of Victims: Homeowners, Firms Contend Federal Aid Encourages S&L Neglect of Properties," Wall Street Journal, 7/10/91.

"Fight Brews Over RTC's Operations," Washington Post, 6/20/91.

"CBO: Failure to Close S&L's Added $60 Billion to Rescue," Washington Post, 6/20/91.

"Peat Marwick Is Subject of Probe Over Partner Loans," Wall Street Journal, 5/23/91.

"Government Checking S&L Audits: Peat Marwick Faces Probe for Favoritism," Washington Post, 5/23/91.

"Ernst & Young Faces Lawsuit From the SEC: Charges Center on Loans Received by Accountants During Audit of Bank," Wall Street Journal, 6/14/91.

"Control Faulted in New England Bank's Failure," Wall Street Journal, 6/14/91.

"Real Estate Industry Hisses at RTC Property Auction," Wall Street Journal, 9/12/90.

"RTC's Many Miscues In Selling Off Property Rattle Local Markets: Battered in S&L Mess, People in Phoenix Say Agency Is Too Slow and Bureaucratic," Wall Street Journal, 3/28/91.

"Sale of Failed Thrifts' Assets Sometimes Leaves Regulators Advised by Parties With Most to Gain," Wall Street Journal, 4/3/91.

"RTC Drops Contractor Over Lawsuit, Loan-Default Disclosure," Washington Post, 6/27/91.

"U.S. to Seek Damages From Jones Day, Alleging It Concealed Thrift's Problems," Wall Street Journal, 4/3/91.

"Regulators Review Salomon Contract: Brokerage Made $3 Million From RTC Work," Washington Post, 8/28/91.

"Minorities Shortchanged in S&L Bailout," Los Angeles Times, 7/25/91.

"Bank Bailouts Are Bonanza for Lawyers," Wall Street Journal, 11/21/91.

PROOF IS IN THE BOTTOM LINE: RTC'S POOR PERFORMANCE IS ADDING TO THE COST OF BAILOUT

There is absolutely no question that the RTC and its employees are under intense pressure.

Given the underlying responsibility of the RTC and the billions and billions of dollars involved, the risk and potential of waste, fraud and abuse is extreme. While the General Accounting Office has repeatedly warned of the need for tight controls, the free and loose attitude of the Administration has continued.

We are throwing bad money after bad money.

Mr. President, I ask unanimous consent that a table I am submitting be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type [1]	Assets at resolution	Liabilities at resolution	Resolution cost [2]
45	2/02/90	Peoples Sav. Assoc., F.A	St. Joseph	MI	P&A	73,636	83,633	5,579
46	2/02/90	Bright Banc Sav. Assoc.	Dallas	TX	P&A	2,683,036	3,685,369	1,383,879
47	2/06/90	Skokie Fed S&L Assn., FA	Skokie	IL	P&A	732,750	751,203	168,414
48	2/09/90	Community S&L Assoc.	Fond Du Lac	WI	P&A	130,456	150,837	36,744
49	2/09/90	Colorado S&L Assoc.	Englewood	CO	P&A	43,770	51,761	18,207
50	3/02/90	Centennial Fed S&L Assoc.	Greenville	TX	P&A	50,969	74,403	30,968
51	3/09/90	San Antonio Sav Assoc. FA	San Antonio	TX	P&A	2,221,110	2,647,205	891,600
52	3/16/90	Bankers S&L Assoc.	Galveston	TX	P&A	88,657	103,864	22,698
53	4/12/90	Columbia Fed. Savings Bank	Westport	CT	P&A	112,282	139,942	30,341
54	4/13/90	Meridian Savings Assoc.	Arlington	TX	IDT	114,231	498,456	417,833
55	4/20/90	First Fed. S&LA of Hutchinson	Hutchinson	KS	P&A	122,349	175,212	71,993
56	4/20/90	Baltimore Fed Financial FSA	Baltimore	MD	IDT	1,078,364	1,320,202	323,215
57	4/20/90	Bedford Savings Assoc.	Bedford	TX	P&A	88,702	119,508	59,842
58	4/27/90	First Fed. S&LA of the Florida	Key West	FL	P&A	162,097	203,076	65,662

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type [1]	Assets at resolution	Liabilities at resolution	Resolution cost [2]
59	4/27/90	Libertyville Fed S&L Assn.	Libertville	IL	P&A	64,652	79,923	9,395
60	4/27/90	Financial Fed. S&L Assoc.	Joplin	MO	P&A	138,990	174,887	57,937
61	4/27/90	Mid Missouri S&L Assn. FA	Boonville	MO	IDT	29,008	47,586	15,311
62	4/27/90	Heritagebanc Sav. Assoc.	Duncanville	TX	P&A	135,320	174,411	56,385
63	4/27/90	Westco Savings Bank, FSB	Wilmington	CA	IDT	107,143	134,425	26,055
64	4/27/90	The Guardian Fed S&L Assn.	Bakersfield	CA	IDT	16,031	27,548	18,726
65	4/27/90	New Guaranty Fed S&L Assn.	Taylor	MI	P&A	174,250	187,827	25,479
66	4/27/90	First Fed. S&L Assoc.	Bakkersfield	CA	P&A	98,535	112,466	15,817
67	5/04/90	Guaranty Fed. S&L Assoc.	Birmingham	AL	P&A	269,301	322,129	86,356
68	5/04/90	Arrowhead Pacific Fed Sav Bank	San Bernardino	CA	Payoff	54,213	88,782	35,916
69	5/04/90	Peoples S&L Assn.	Parsons	KS	IDT	50,242	59,539	14,727
70	5/04/90	Mid-America Fed S&L Assoc.	Parsons	KS	IDT	65,014	71,433	9,906
71	5/04/90	The Barber County S&L Assn.	Medicine Lodge	KS	IDT	40,241	44,371	15,262
72	5/04/90	Fidelity Fed. Sav. Bank	Corinth	MS	P&A	66,168	142,102	90,733
73	5/04/90	United Guaranty Fed Sav Bank	Tullahoma	TN	IDT	6,329	8,215	2,646
74	5/04/90	First State Fed Sav Assn	San Antonio	TX	P&A	214,674	382,528	271,276
75	5/04/90	Mission SA of Texas	San Antonio	TX	Payoff	44,276	96,861	64,755
76	5/04/90	La Hacienda Savings Assn	San Antonio	TX	IDT	53,744	133,191	94,743
77	5/04/90	First Fed. Savings Bank	East Alton	IL	IDT	35,517	40,359	8,286
78	5/04/90	American Interstate Sa. Fa	Los Angeles	CA	Payoff	19,872	20,528	2,061
79	5/04/90	Sierra S&L Assoc., FA	Beverly Hills	CA	P&A	16,170	30,484	7,718
80	5/04/90	Security Fed. Savings Associal	Garden Grove	CA	IDT	60,910	64,042	2,934
81	5/08/90	Home FS & LA of Centralia	Centralia	IL	IDT	34,394	37,872	6,733
82	5/08/90	Peoples S&L Assoc. FA	Streator	IL	IDT	31,224	35,483	17,600
83	5/11/90	Washington S&L Assoc.	Stockton	CA	IDT	67,224	71,430	4,653
84	5/11/90	Royal Oak S&L Assoc.	Manteca	CA	IDT	20,370	23,145	2,751
85	5/11/90	Sun Savings Assoc., F.A.	Kansas City	KS	IDT	137,583	174,691	65,500
86	5/11/90	Topeka Sav., A FS&LA	Topeka	KS	IDT	92,503	117,089	47,439
87	5/11/90	First Fed. S&L Assoc.	Eunice	LA	IDT	11,397	15,438	7,539
88	5/11/90	Peoples FS & LA of Thibodaux	Thibodaux	LA	IDT	17,355	20,039	9,964
89	5/11/90	State Mutual Fed S&L Assn	Jackson	MS	P&A	6,270	8,793	5,866
90	5/11/90	Platte Valley Sav., A FS&LA	Gering	NE	IDT	242,864	338,757	169,145
91	5/11/90	Ameriway Savings	Houston	TX	P&A	97,232	247,850	173,444
92	5/11/90	First Equity Savings Assoc., F	Tomball	TX	P&A	66,378	140,169	79,764
93	5/11/90	Cabrillo Fed Savings Bank	San Jose	CA	P&A	40,821	43,282	2,025
94	5/11/90	Cross Roads, FS&LA, FA	Checotah	OK	IDT	11,541	20,232	11,150
95	5/15/90	Amerimac Sav. Bank, FS	Hillsboro	IL	IDT	14,234	23,130	10,358
96	5/16/90	Hallmark S&L Assoc., FA	Plano	TX	Payoff	119,854	193,300	117,046
97	5/18/90	Phenix Fed S&L Assn, F.A	Phenix City	AL	P&A	125,659	162,281	74,364
98	5/18/90	City Federal S&L Assoc	Oakland	CA	IDT	16,311	27,584	11,897
99	5/18/90	Madison County Fed S&L Assn	Granite City	IL	IDT	95,215	109,475	27,292
100	5/18/90	Shawnee Fed. S&L Assoc	Topeka	KS	P&A	201,383	210,236	18,200
101	5/18/90	Horizon Fed. S&L Assoc	Metairie	LA	Payoff	361,581	499,122	442,180
102	5/18/90	First Fed. S&LA of Southeast M	Cape Girardeau	MO	P&A	253,642	310,033	68,321
103	5/18/90	Midwest Fed. S&L Assoc	Nebraska City	NE	IDT	100,092	127,888	37,143
104	5/18/90	Community Fed S&L Assn	Newport News	VA	P&A	8,694	10,042	1,606
105	5/18/90	American Sav. of Colo. A FS&LA	Colorado Springs	CO	P&A	791,128	876,877	338,847
106	5/18/90	Germantown Trust Sav Bank	Germantown	TN	IDT	101,754	117,071	34,570
107	5/18/90	Broadview Federal Sav Bank	Cleveland	OH	P&A	1,196,358	1,246,808	187,967
108	5/18/90	Pioneer Savings, F.A	Plymouth	IN	P&A	69,247	80,596	9,264
109	5/18/90	Peoples S&L Assoc., F.A	Hampton	VA	P&A	20,275	21,850	4,092
110	5/18/90	Cornerstone Fed Sav Assn	Houston	TX	P&A	74,949	88,747	24,270
111	5/22/90	North American FSA	San Antonio	TX	Payoff	51,518	86,454	43,121
112	5/25/90	Financial Security S&L Assn	Delray Beach	FL	P&A	76,343	107,847	46,519
113	5/25/90	First Fed. S&L Assoc	Atlanta	GA	IDT	158,946	185,508	35,302
114	5/25/90	Family Saving Bank, F.S.B	Sapulpa	OK	IDT	48,380	48,832	3,053
115	5/25/90	Deseret S&L Assoc., F.A	Salt Lake City	UT	P&A	128,417	220,690	99,204
116	5/25/90	Durand Fed. S&L Assoc	Durand	WI	IDT	75,910	106,705	49,448
117	5/25/90	Mountainwest S&L Assn, A FS&LA	Ogden	UT	P&A	156,864	204,510	67,159
118	5/25/90	Otero S&L Assoc	Colorado Springs	CO	IDT	389,953	516,540	256,880
119	5/25/90	Horizon Financial, FA	Southampton	PA	P&A	1,746,685	2,010,917	332,758
120	5/25/90	Hearne Building & Loan Assn., F	Hearne	TX	Payoff	23,345	24,938	5,263
121	5/25/90	First Fed. S&LA of Brenham	Brenham	TX	IDT	104,298	120,622	36,799
122	5/29/90	Concordia Fed Bank for Savings	Lansing	IL	P&A	348,770	398,276	89,817
123	5/31/90	Sun Country SB of New Mexico	Albuquerque	NM	Payoff	120,330	189,690	44,655
124	5/31/90	Western S&L Assoc, FA	Phoenix	AZ	P&A	4,083,411	4,525,423	1,728,119
125	6/01/90	First Venice S & LA	Venice	FL	P&A	49,220	55,705	5,339
126	6/01/90	First of KS Savings, a FS & LA	Hays	KS	IDT	30,836	35,819	6,493
127	6/01/90	Fontainebleau Fed Sav Bank	Slidell	LA	IDT	31,508	45,790	26,582
128	6/01/90	Spindletop Sav. Assn, F.A	Beaumont	TX	IDT	181,967	344,209	250,078
129	6/01/90	FSA of the Southwest	Kilgore	TX	IDT	32,114	39,949	14,960
130	6/01/90	Lafayette S&L Assn., FA	Gretna	LA	IDT	22,802	24,155	7,779
131	6/01/90	New Braunfels S&L Assn, FA	New Braunfels	TX	IDT	38,864	76,588	43,764
132	6/01/90	Saratoga FS&LA	San Jose	CA	IDT	82,793	76,175	11,133
133	6/01/90	Financial FS & LA	Fresno	CA	Payoff	28,539	29,237	4,690
134	6/08/90	Gateway Fed Savings Bank	San Francisco	CA	P&A	30,469	97,975	68,864
135	6/08/90	First Fed. S&L Assoc	Largo	FL	IDT	262,180	346,831	106,063
136	6/08/90	Brickellbanc Sav. Assoc.	Miami	FL	IDT	30,228	40,709	12,073
137	6/08/90	American S&L Assoc., FA	New Orleans	LA	IDT	54,450	63,859	33,537
138	6/08/90	Gibraltar S&L Assoc., FA	Annapolis	MO	P&A	27,786	31,179	9,644
139	6/08/90	American Fed. S&L Assoc.	Albuquerque	NM	P&A	134,506	165,836	50,969
140	6/08/90	Valley Savings Bank, FSB	Roswell	NM	Payoff	129,693	249,603	130,502
141	6/08/90	Murray Fed. S&L Assoc.	Dallas	TX	P&A	894,486	1,193,646	504,185
142	6/08/90	Southside Fed. S&L Assoc.	Austin	TX	Payoff	39,753	47,543	17,415
143	6/08/90	American Savings, A FS&LA	Salt Lake City	UT	P&A	1,600,630	1,788,431	284,421
144	6/08/90	Lincoln S&L Assoc., FA	Miami	FL	IDT	181,694	200,511	59,418
145	6/08/90	Royal Palm Fed S&L Assoc.	West Palm Beach	FL	IDT	492,136	520,367	153,679
146	6/08/90	East Texas S&L Assoc., FA	Tyler	TX	P&A	234,649	260,178	86,393
147	6/08/90	Guadalupe S&L Assoc., FA	Kerrville	TX	Payoff	23,900	25,256	5,402
148	6/08/90	Aspen Savings Bank F.S.B.	Aspen	CO	IDT	115,367	128,919	31,848
149	6/15/90	Blue Valley Fed S&L Assoc.	Kansas City	MO	IDT	610,705	724,713	223,614
150	6/15/90	Lincoln Fed. S&L Assoc.	Mt Carmel	TN	IDT	41,137	49,847	15,982
151	6/15/90	Gill Savings Assoc.	San Antonio	TX	P&A	954,639	1,921,311	1,238,087
152	6/15/90	First FS&LA of Estherville & E	Estherville	IA	P&A	43,003	44,722	9,797
153	6/15/90	Family Fed. S&L Assoc.	Shreveport	LA	IDT	23,689	28,674	15,122
154	6/15/90	Century Fed. Sav. Bank	Trenton	TN	P&A	47,616	64,773	20,750
155	6/15/90	Bexar Savings Assoc.	San Antonio	TX	P&A	783,013	987,644	482,614
156	6/15/90	New Mexico FSA	Albuquerque	NM	P&A	174,381	200,311	48,745
157	6/15/90	Home Fed. S&L Assoc.	Memphis	TN	P&A	151,022	176,086	34,555
158	6/15/90	Plano S&L Assoc., FA	Plano	TX	IDT	253,958	275,797	131,338
159	6/15/90	First S&L Assoc., FA	Waco	TX	P&A	318,224	405,190	137,564
160	6/15/90	Unifirst Bank for Sav., A FS&L	Jackson	MS	P&A	536,956	601,095	121,601
161	6/15/90	First Savings of Laredo, FA	Laredo	TX	Payoff	127,641	160,594	69,587
162	6/15/90	First Federal Savings Bank	Diamondville	WY	Payoff	20,892	20,538	11,326
163	6/15/90	Sentinel FS & LA	Phoenix	AZ	IDT	161,299	160,221	27,486

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type¹	Assets at resolution	Liabilities at resolution	Resolution cost²
164	6/19/90	American Security FS & LA	Chicago	IL	P&A	29,452	35,875	5,726
165	6/22/90	Landmark Sav. Bank, FSB	Hot Springs	AR	P&A	111,727	163,684	81,381
166	6/22/90	Unipoint Fed Savings Bank	Trumann	AR	P&A	12,324	29,250	17,637
167	6/22/90	Alpine Savings, A FS&LA	Steamboat Sprin	CO	Payoff	42,539	49,403	10,888
168	6/22/90	Rocky Mountain S&L Assoc.	Woodland Park	CO	P&A	10,075	16,818	6,634
169	6/22/90	First Fed. S&L Assoc.	Summerville	GA	P&A	24,680	30,549	7,180
170	6/22/90	Midwestern Sav. Assoc.	Macomb	IL	P&A	72,390	93,243	25,966
171	6/22/90	Anchor Federal S&L Assoc.	Kansas City	KS	P&A	503,749	564,592	64,519
172	6/22/90	Central S&L Assoc., FA	New Orleans	LA	IDT	45,534	65,813	34,893
173	6/22/90	Cass FS & LA of St. Louis	Florissant	MO	IDT	47,861	58,248	15,123
174	6/22/90	Occidental Nebraska SB, FSB	Omaha	NE	P&A	567,162	628,852	148,119
175	6/22/90	Universal Sav. Assoc.	Houston	TX	IDT	125,164	301,678	222,940
176	6/22/90	First Fed. S&L Assoc.	Americus	GA	P&A	49,038	50,579	10,665
177	6/22/90	Great Southern Fed. S&L Assn	Savannah	GA	P&A	534,217	638,743	183,030
178	6/22/90	Home S&L Assoc., F.A	New Orleans	LA	Payoff	28,645	33,540	18,711
179	6/22/90	Taylorbanc Fed. S&L Assn	Taylor	TX	P&A	91,356	116,849	36,499
180	6/22/90	Citizens S&LA of Springfield	Springfield	IL	P&A	64,613	70,212	4,966
181	6/22/90	Metropolitan Financial FS&LA	Dallas	TX	P&A	645,912	826,991	259,321
182	6/22/90	Denton Federal S&L Assoc	Denton	TX	P&A	153,732	150,051	28,487
183	6/22/90	First Garland Fed. S&L Assn	Garland	TX	P&A	107,884	121,824	22,969
184	6/22/90	Family Federal Savings Assoc	Dallas	OR	P&A	88,800	95,118	9,024
185	6/22/90	First Fed. Sav. Assoc. of York	York	NE	P&A	50,763	54,005	7,604
186	6/22/90	Wilshire FS&LA	Los Angeles	CA	Payoff	66,270	68,667	2,781
187	6/22/90	Equitable FS&LA	Columbus	NE	P&A	60,427	62,362	8,427
188	6/22/90	Peninsula S&LA	South Sao Franc	CA	IDT	31,816	35,113	772
189	6/22/90	Huntington FS&LA	Huntington Beach	CA	P&A	107,561	109,807	4,464
190	6/22/90	Frontier FSA	Walla Walla	WA	P&A	136,971	133,695	3,402
191	6/28/90	St. Louis County Savings Assoc	Ferguson	MO	P&A	75,033	79,964	3,833
192	6/28/90	Sun Federal Savings Association	Fort Dodge	IA	P&A	19,743	19,586	2,162
193	6/29/90	Centrust Federal Savings Bank	Miami	FL	P&A	6,626,291	6,931,075	1,704,818
194	6/29/90	Marshall FS&LA	Marshall	TX	P&A	52,270	56,443	21,837
195	6/29/90	Republic Bank for Sav., FA	Jackson	MS	IDT	27,802	89,569	65,685
196	6/29/90	Delta Fed. S&L Assoc	Drew	MS	IDT	7,326	11,735	7,497
197	6/29/90	Elysian Fed. Savings Bank	Hoboken	NJ	P&A	104,685	111,481	33,487
198	6/29/90	Rusk Fed. S&L Assoc	Rusk	TX	IDT	24,729	41,625	23,954
199	6/29/90	First Fed. S&LA of Colorado Sp	Colorado Spring	CO	P&A	256,075	338,886	138,049
200	6/29/90	General Savings Assoc	Henderson	TX	P&A	32,746	47,748	18,428
201	6/29/90	Gibraltar Savings, F.A	Simi Valley	CA	P&A	6,428,792	6,327,583	521,619
202	6/29/90	Gibraltar Savings Bank F.S.B	Seattle WA	WA	P&A	1,304,796	1,242,227	106,125
203	6/29/90	Colorado Savings Bank, F.S.B	Sterling	CO	IDT	8,553	10,305	1,775
204	6/29/90	Black Hawk S&L Assoc. F.A	Rock Island	IL	P&A	52,325	53,688	2,211
205	6/29/90	Capital Fed. S&L Assoc	Little Rock	AR	IDT	53,233	69,912	23,441
206	6/29/90	Valley Federal Sav. Assoc	McAllen	TX	P&A	475,707	546,123	209,297
207	6/29/90	Constitution Federal Savings A	Tustin	CA	Payoff	66,989	61,623	1,484
208	7/06/90	United Savings Bank, F.S.B	Windom	MN	IDT	128,015	140,329	31,400
209	7/06/90	First Federal Savings Bank and	Kansas City	MO	IDT	26,590	25,592	3,313
210	7/20/90	United FS&LA	Vidalia	LA	P&A	18,437	18,398	0
211	7/20/90	Sun S&L Assoc	Parker	CO	Payoff	226,583	292,861	156,760
212	8/10/90	Colonial Federal Savings Assoc	Prairie Village	KS	P&A	73,112	91,687	25,381
213	8/10/90	Baldwin County Fed. Sav. Bank	Robertsdale	AL	P&A	140,016	150,245	20,773
214	8/10/90	Citizens of Texas S&L Assoc	Baytown	TX	P&A	53,534	126,076	80,157
215	8/10/90	Permian S&L Assoc	Kermit	TX	Payoff	6,482	8,439	2,371
216	8/10/90	Banc Iowa Fed. Sav. Bank	Cedar Rapids	IA	P&A	115,877	129,019	27,969
217	8/10/90	The Garnett S&L Assoc	Garnett	KS	P&A	13,662	14,265	1,317
218	8/17/90	First Federal Savings Associate	Warner Robins	GA	P&A	141,692	138,602	25,896
219	8/17/90	Miami Savings Bank	Miami	FL	P&A	86,059	125,909	53,745
220	8/17/90	First Fed. S&L Assoc	Baton Rouge	LA	IDT	36,005	54,587	33,943
221	8/17/90	Illinois Savings Bank, FA	Peoria	IL	P&A	32,551	41,476	9,403
222	8/17/90	The Duncan S&L Assoc.	Duncan	OK	P&A	119,521	129,713	32,094
223	8/17/90	Great Plans Savings Assoc., F	Weatherford	OK	P&A	70,135	78,019	18,988
224	8/17/90	Security Fed. S&L Assoc.	Peoria	IL	P&A	142,825	171,619	46,046
225	8/17/90	Texas Western Fed. Savings Ass	Houston	TX	Payoff	50,558	66,317	16,477
226	8/17/90	Provident SA, FA	Casper	WY	P&A	160,462	177,090	21,729
227	8/17/90	Salamanca Federal Savings Assoc	Salamanca	NY	P&A	26,085	26,266	1,8873
228	8/17/90	Westport Federal Savings Bank	Hanford	CA	Payoff	139,509	141,216	19,609
229	8/22/90	Sweetwater FS & LA	Rock Springs	WY	P&A	11,684	11,177	761
230	8/22/90	Fidelity Savings Bank, F.S.B.	Danville	IL	P&A	10,249	11,350	1,672
231	8/24/90	Lakeland Savings Bank, F.S.B.	Detroit Lakes	MN	IDT	73,713	76,931	11,376
232	8/24/90	Westwood S&L Assoc.	Los Angeles	CA	P&A	272,619	444,052	259,467
233	8/24/90	Chillicothe Fed S&L Assn.	Chillicothe	IL	P&A	32,546	37,946	5,948
234	8/24/90	Jefferson S&L Assoc.	Beaumont	TX	IDT	67,605	138,484	76,965
235	8/24/90	Golden Circle SA, FSB	Corsicana	TX	Payoff	12,988	14,532	2,739
236	8/24/90	Heritage Savings Assn, FA	Jerseyville	IL	P&A	19,884	21,778	1,197
237	8/24/90	Investment FS & LA	Woodland Hills	CA	P&A	192,098	205,138	10,435
238	8/31/90	Spring Branch S&L Assoc	Houston	TX	P&A	85,592	168,831	100,402
239	8/31/90	City Savings Assoc.	League City	TX	IDT	12,266	31,175	20,252
240	8/31/90	Western Empire FS & LA	Yorba Linda	CA	IDT	116,851	134,723	24,049
241	8/31/90	Caguas-Central Fed Sav Bank of	Caguas	PR	P&A	1,372,188	1,365,611	119,625
242	9/07/90	The Benj. Franklin FS & LA	Portland	OR	P&A	3,147,575	3,256,389	104,939
243	9/07/90	Gem City FS & LA	Quincy	IL	P&A	193,904	208,700	19,918
244	9/07/90	Firstcentral Federal Savings B	Chariton	IA	P&A	80,435	82,526	7,518
245	9/07/90	Independence Fed S&L Assn.	Bateville	AR	IDT	170,945	376,920	291,369
246	9/07/90	Community Fed S&L Assoc	Tampa	FL	Payoff	6,725	16,703	11,622
247	9/07/90	First City Fed S&L Assoc.	Baton Rouge	LA	P&A	13,546	19,049	8,654
248	9/07/90	Missouri Sav. Assoc., FA	Clayton	MO	P&A	428,187	472,114	94,640
249	9/07/90	Midland-Buckeye Sav., A FS&LA	Alliance	OH	P&A	153,022	175,316	38,619
250	9/07/90	Fairmont Federal Savings Assoc	Fairmont	MN	P&A	32,109	34,236	3,681
251	9/07/90	Enterprise Federal, F.S.A.	Clearwater	FL	P&A	40,623	42,315	814
252	9/07/90	Home Owners Savings Bank F.S.B	Boston	MA	P&A	2,872,263	3,134,530	805,795
253	9/12/90	American Home S&L Assoc., F.A.	Edmond	OK	P&A	44,587	57,207	19,390
254	9/14/90	City Fed. S&L Assoc.	Birmingham	AL	P&A	427,732	470,689	86,408
255	9/14/90	Equity Fed. Savings Bank	Denver	CO	Payoff	697	2,311	1,584
256	9/14/90	French Market Homestead FSA	Metairie	LA	IDT	165,032	207,760	81,830
257	9/14/90	Meritbanc Savings Assoc.	Houston	TX	cO	181,996	354,133	210,665
258	9/14/90	Suburban Savings Assoc.	San Antonio	TX	P&A	31,870	48,361	71,688
259	9/14.90	Capitol City FSA	Austin	TX	P&A	284,460	379,750	151,206
260	9/14/90	Community Fed Sav. Assoc.	Bridgeport	CT	IDT	27,706	30,685	4,653
261	9/14/90	Sooner Federal Savings Assoc.	Tulsa	OK	P&A	1,076,360	1,101,571	148,698
262	9/14/90	Crest Fed. S&L Association	Kankakee	IL	IDT	112,532	110,633	12,975
263	9/14/90	Williamsburg FS & LA	Salt Lake City	UT	P&A	255,657	270,442	36,537
264	9/14/90	First Network Federal Savings	Los Angeles	CA	Payoff	384,285	383,431	138,702
265	9/21/90	Great American S&LA, FA	Oak Park	IL	P&A	580,046	598,019	71,845
266	9/21/90	First Savings Association, F.A	Bismarck	ND	IDT	79,804	87,762	10,919
267	9/21/90	Heritage Fed. S&L Assoc	Monroe	NC	P&A	170,157	219,926	59,255
268	9/21/90	First Fed. S&LA of Seminole	Seminole	OK	IDT	21,330	26,193	8,631

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type¹	Assets at resolution	Liabilities at resolution	Resolution cost²
269	9/21/90	Caprock Fed. S&L Assoc	Lubbock	TX	Payoff	341,497	551,878	298,994
270	9/21/90	Midwest Federal Savings Bank O	Minot	ND	P&A	471,471	571,877	156,586
271	9/21/90	Mercury FS & LA	Huntington Beach	CA	P&A	1,700,748	1,764,835	33,716
272	9/21/90	North Carolina S & LA, F.A	Charlotte	NC	P&A	458,274	468,166	48,275
273	9/28/90	Empire of America FSB	Buffalo	NY	P&A	5,899,018	6,733,888	1,717,897
274	9/28/90	Arlington Hghts Sav Assn, F.A	Arlington Height	IL	P&A	331,422	366,030	21,536
275	9/28/90	Security Federal Savings Assoc	Richmond	VA	P&A	221,882	252,251	41,124
276	9/28/90	Bannerbanc FS & LA	Garland	TX	IDT	33,338	53,549	19,718
277	9/28/90	Delta S&L Assoc., F.A	Kenner	LA	IDT	134,856	166,506	73,121
278	9/28/90	First Fed. S&L Assoc	New Iberia	LA	IDT	43,332	54,291	13,603
279	9/28/90	Central S&L Assoc	Jackson	MS	IDT	26,072	66,207	42,387
280	9/28/90	Metropolitan Fed S&L Assn	Denville	NJ	P&A	141,048	149,086	12,793
282	9/28/90	American S & LA of Brazoria	Lake Jackson	TX	Payoff	162,440	326,916	216,168
282	9/28/90	Savings of Texas Assoc	Jacksonville	TX	Payoff	51,163	93,705	56,568
283	9/28/90	Seasons Federal Savings Bank	Richmond	VA	P&A	143,622	173,409	47,915
284	9/28/90	Yorkridge-Calvert FSA	Pikesville	MD	IDT	467,469	483,698	43,946
285	9/28/90	Merabank Federal Savings Bank	Phoenix	AZ	P&A	3,951,164	4,288,023	1,023,425
286	9/28/90	United Federal Savings, F.A	New Orleans	LA	IDT	46,850	50,644	26,699
287	10/05/90	Midwest Sav. Assn., FA	Minneapolis	MN	IDT	1,966,791	2,450,425	826,253
288	10/05/90	First FS&LA of Central Indiana	Anderson	IN	P&A	143,689	157,473	16,766
289	10/12/90	Golden Triangle S & LA	Bridge City	TX	Payoff	16,341	66,241	50,465
290	10/19/90	Unvalde FS&LA	Uvalde	TX	Payoff	17,694	14,821	4,558
291	10/19/90	Fortune Financial Fed. S&L Ass	Copperas Cove	TX	Payoff	62,055	73,442	27,447
292	10/26/90	Summit First S & LA, FA	Summit	IL	P&A	51,555	49,222	638
293	10/26/90	First State Sav. Bank FSB	Mountain Home	AR	IDT	80,304	99,873	52,727
294	10/26/90	Southmost S&L Assoc	Brownsville	TX	Payoff	80,043	43,881	55,817
295	10/26/90	Southeastern Sav. Assoc	Dayton	TX	Payoff	63,136	116,932	61,978
296	11/02/90	First Standard Federal Savings	Fairmont	WV	P&A	59,266	61,075	8,319
297	11/02/90	Commonity Federal Savings Bank	East Moline	IL	P&A	67,750	0	8,861
298	11/02/90	First Fed. S&L Assoc	Fayetteville	AR	P&A	83,818	110,051	32,971
299	11/02/90	Central Texas S&L Assoc	Waco	TX	P&A	136,714	200,042	104,047
300	11/02/90	Deep East Texas Sav Assn	Jasper	TX	P&A	39,323	51,873	18,427
301	11/08/90	Western Gulf S&L Assoc	Bay City	TX	IDT	101,923	299,289	211,980
302	11/09/90	Colonial S & LA, F.A	Cape Girardeau	MO	P&A	97,134	112,054	21,497
303	11/09/90	Home Savings, A FS&LA	Joliet	IL	P&A	105,991	124,342	18,025
304	11/09/90	Valley Savings, A FS&LA	Hutchinson	KS	P&A	132,874	182,848	89,208
305	11/09/90	Home F.S.B. of Worcester	Worcester	MA	IDT	211,198	218,538	94,118
306	11/09/90	First Federal Sav. Assoc. of B	Bluefield	WV	P&A	77,716	27,368	5,177
307	11/09/90	Grand Prairie FS & LA	Stuttgart	AR	Payoff	19,794	25,157	5,763
308	11/09/90	Bank USA Savings Association	Silvis	IL	IDT	19,779	19,108	0
309	11/16/90	Pioneer FS & LA	Marietta	OH	Payoff	8,724	6,991	340
310	11/16/90	The Hiawatha Federal Sav. Assoc	Hiawatha	KS	P&A	46,107	55,479	26,093
311	11/16/90	Nassau S & LA	Brooklyn	NY	P&A	215,233	257,944	47,004
312	11/16/90	Whitestone FS & LA	Whitestone	NY	P&A	253,605	284,151	9,306
313	11/16/90	New Athens FS & LA	New Athens	IL	P&A	19,192	21,171	2,947
314	11/16/90	Equitable Fed. Sav. Bank	Fremont	NE	P&A	144,804	167,560	30,910
315	11/16/90	Resource Savings Assoc.	Denison	TX	Payoff	285,729	482,461	278,447
316	11/16/90	Southwest Fed. Savings Assoc	Los Angeles	CA	P&A	491,038	589,829	118,470
317	11/16/90	Fidelity Federal Sav. Assoc	Galesburg	IL	P&A	237,885	284,931	57,897
318	11/16/90	Brookside Federal S&L Assoc	Los Angeles	CA	Payoff	450,062	468,521	62,882
319	11/16/90	Security Federal Savings Bank	Carlsbad	NH	IDT	22,242	31,107	9,705
320	11/29/90	Frontier Federal Savings Bank	Belleville	IL	P&A	31,185	33,956	5,058
321	11/30/90	Heritage FSB of Omaha	Omaha	NE	P&A	138,201	146,862	24,468
322	11/30/90	Madison Guaranty S&L Assn	McCrory	AR	P&A	81,879	119,365	47,655
323	11/30/90	Midwest Home FSB	Belleville	IL	P&A	66,662	82,200	21,550
324	11/30/90	First Louisiana Fed. Sav. Bank	Lafayette	LA	IDT	57,550	86,052	48,622
325	11/30/90	First Sav Assn of Southeast TE	Silsbee	TX	P&A	33,350	44,709	17,816
326	11/30/90	Fidelity Fed. Sav. Assoc	Port Arthur	TX	P&A	170,658	256,539	110,031
327	11/30/90	Sun State S&L Assn., FSA	Phoenix	AZ	IDT	639,680	784,760	397,254
328	11/30/90	Parish Fed. S&L Assoc	Denham Springs	LA	Payoff	10,021	11,368	3,478
329	11/30/90	St. Charles FSA	St. Charles	IL	P&A	67,417	80,794	12,236
330	11/30/90	Hendereson Home S & LA, F.A.	Henderson	KY	P&A	8,997	37,226	3,149
331	11/30/90	First American FSB	Santa Fe	NM	Payoff	90,177	106,376	38,179
332	12/07/90	Commonwealth S&L Assoc	Osceola	AR	P&A	18,495	28,844	13,227
333	12/07/90	First Fed. S&L Assoc	Shreveport	LA	Payoff	141,431	209,388	135,436
334	12/07/90	Terrebonne S&L Assoc, FA	Houma	LA	IDT	14,786	18,926	5,794
335	12/07/90	Security Fed. Savings Assn	Texarkana	TX	Payoff	204,689	590,199	468,228
336	12/07/90	Vision Baoc Sav. Assoc	Kingsville	TX	Payoff	41,443	99,765	63,524
337	12/07/90	Karnes County FS & LA	Karnes City	TX	IDT	40,249	53,723	18,937
338	12/07/90	First America Savings Bank, F	Fort Smith	AR	P&A	372,006	366,492	53,370
339	12/07/90	Charter Savings Bank, FSB	Newport Beach	CA	IDT	212,994	229,511	34,433
340	12/07/90	Deposit Trust Federal Savings	Monroe	LA	IDT	52,534	62,539	21,446
341	12/07/90	Haven S & LA, F.A.	Winter Haven	FL	P&A	128,150	151,442	32,616
342	12/13/90	United Savings, FSB	Patterson	NJ	Payoff	188,292	190,798	74,523
343	12/14/90	Frontier SA	Las Vegas	NV	P&A—ARP	254,687	246,951	0
344	12/14/90	Community FS & LA	St. Louis	MO	P&A—ARP	1,999,918	2,294,481	372,071
345	12/14/90	Peoples FSA	Bartlesville	OK	IDT	71,502	74,588	8,341
346	12/14/90	First FSB of Kansas	Wellington	KS	IDT	104,688	158,248	74,859
347	12/14/90	Excel Banc Sav. Assoc	Laredo	TX	Payoff	93,468	125,686	63,788
348	12/14/90	Great American S & LA, F.A.	Corinth	MS	Payoff	78,175	88,897	16,205
349	12/14/90	Mississippi Savings Bank, F.S.	Batesville	MS	Payoff	147,488	147,984	38,893
350	12/14/90	Hometown Savings Bank, FSB	Delphi	IN	P&A	48,394	53,846	8,385
351	12/15/90	Mid-America FS & LA	Columbus	OH	P&A—ARP	960,195	1,010,749	39,148
352	12/27/90	Enterprise Savings Bank, FA	Chicago	IL	P&A—ARP	419,022	469,879	55,000
353	1/04/91	Royal Oak FS & LA	Randallstown	MD	P&A—ARP	27,539	29,266	2,158
354	1/04/91	First FS & LA of Pittsburgh	Pittsburgh	PA	P&A—ARP	2,771,833	2,816,486	191,808
355	1/04/91	Liberty Savings Bank, FSB	Randallstown	MD	IDT	20,173	26,193	14,218
356	1/04/91	Moultrie Savings Bank, FSB	Moultrie	GA	P&A	50,998	52,414	3,766
357	1/04/91	First FS & LA	San Antonio	TX	P&A—ARP	530,461	544,229	60,674
358	1/11/91	City Savings, F.S.B.	Bedminster	NJ	IDT	5,550,581	6,233,465	1,531,213
359	1/11/91	Padre Federal Sav. & Loan	Corpus Christi	TX	Payoff	21,314	35,717	18,839
360	1/11/91	General Federal Savings Bank	Miami	FL	IDT	298,738	307,510	77,785
361	1/18/91	Founders Federal S&L Assn.	Los Angeles	CA	IDT	94,858	144,115	64,313
362	1/18/91	Silver Savings Assoc., FA	Silver City	NM	IDT	27,347	28,690	4,931
363	2/08/91	American Fed. Sav. Assoc. of I	Des Moines	IA	P&A	454,885	491,180	56,695
364	2/15/91	Mid Kansas S&L Assoc. F.A.	Wichita	KS	P&A	369,184	407,569	142,745
365	2/15/91	Security Federal Savings, FSB	Columbia	SC	P&A	438,140	500,984	109,165
366	2/15/91	Pima FS&LA	Tucson	AZ	P&A	1,511,473	1,573,519	319,204
367	3/01/91	Statesman Federal Savings Bank	Waterloo	IA	P&A	410,428	394,762	31,001
368	3/01/91	ABQ Federal Savings Bank	Albuquerque	NM	P&A	846,300	1,161,590	476,429
369	3/01/91	Pioneer Federal Savings Bank	Clearwater	FL	P&A	1,321,823	1,432,458	322,285
370	3/01/91	Sandia Fed. Sav. Assoc.	Albuquerque	NM	P&A	743,562	1,295,701	909,969
371	3/08/91	Horizon Savings Bank, F.S.B.	Wilmette	IL	P&A	527,202	647,407	176,012
372	3/08/91	Lincoln S&L Assoc, FA	Irvine	CA	P&A	2,226,392	4,125,738	2,824,170
373	3/08/91	Commonwealth FS&LA	Fort Lauderdale	FL	P&A	735,040	875,753	324,922

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type [1]	Assets at resolution	Liabilities at resolution	Resolution cost [2]
374	3/15/91	Security S&L Assoc.	Scottsdale	AZ	IDT	553,677	1,100,756	844,128
375	4/19/91	Imperial Federal Savings Assoc.	San Diego	CA	P&A	5,873,730	5,871,984	1,647,062
376	5/03/91	First FSB of Annapolis	Annapolis	MD	IDT	559,930	649,300	291,907
377	5/03/91	Alamo FSA of Texas	San Antonio	TX	Payoff	415,481	787,940	564,298
378	5/10/91	Capitol Federal Bank for Savin	Chicago	IL	P&A—ARP	38,103	33,073	0
379	5/10/91	First Bankers & SA, F.A.	Midland	TX	Payoff	64,893	77,668	26,254
380	5/17/91	Palo Duro FS&LA	Amarillo	TX	P&A	41,211	49,836	14,079
381	5/17/91	Red River S&L Assoc.	Coushatta	LA	P&A	3,484	5,116	2,973
382	5/17/91	Time FS & LA	San Francisco	CA	P&A	36,455	38,993	6,246
383	5/22/91	Texas FSA	San Antonio	TX	Payoff	32,181	63,896	47,367
384	5/24/91	Boonslick S & LA	Boonville	MO	P&A	54,890	56,314	4,183
385	5/24/91	Security Homestead FSA	New Orleans	LA	IDT	315,988	397,407	102,559
386	5/30/91	Remington Federal Savings Asso	Elgin	TX	Payoff	67,491	89,214	62,867
387	5/31/91	Heritage FSA	Lancaster	PA	P&A	40,246	41,967	1,277
388	5/31/91	North Texas FSA	Wichita Falls	TX	IDT	65,592	74,879	18,567
389	5/31/91	First FSA of Nacogdoches	Nacogdoches	TX	P&A	51,251	52,581	20,387
390	5/31/91	Hometown FSA	Winfield	IL	P&A	40,685	43,823	10,576
391	5/31/91	Greenwood FS & LA	Greenwood	MS	IDT	11,545	15,719	4,900
392	5/31/91	Sabine Valley S&L Assoc.	Center	TX	Payoff	13,797	22,626	10,123
393	5/31/91	Commercial S&L Assn., FA	Hammond	LA	Payoff	50,141	61,641	36,684
394	5/31/91	Clyde Federal Savings Associat.	North Riverside	IL	P&A	312,526	370,614	71,758
395	5/31/91	Tennessee FSB	Cookeville	TN	P&A	27,719	30,535	9,224
396	5/31/91	Southeastern Federal Savings B	Laurel	MS	IDT	18,878	22,209	9,994
397	6/07/91	American Sa of Mt. Carmel, FA	Mt. Carmel	IL	P&A	6,216	6,935	*1,473
398	6/07/91	First Federal Savings, F.S.A.	New Braunfels	TX	IDT	220,862	205,116	56,607
399	6/07/91	First FS & LA of Wichita Falls	Wichita Falls	TX	Payoff	69,270	77,561	18,053
400	6/07/91	Broken Arrow Savings Assoc., FA	Broken Arrow	OK	P&A	20,682	22,535	5,795
401	6/07/91	North Jersey Federal Savings A	Passaic	NJ	P&A	189,432	297,861	157,248
402	6/07/91	Citizens Homestead FSA	New Orleans	LA	Payoff	73,133	95,432	42,343
403	6/07/91	Surety Federal Sav. Assoc.	El Paso	TX	Payoff	217,717	246,540	104,463
404	6/07/91	Liberty Federal Savings Bank	Huntington Park	CA	P&A	36,658	39,030	5,317
405	6/07/91	Investors Federal Savings Bank	Deerfield Beach	FL	P&A	192,607	225,851	80,893
406	6/07/91	Investor Savings Bank, FSB	Nashville	TN	P&A	40,834	46,280	14,580
407	6/07/91	First FSA of Tuscola	Tuscola	IL	P&A	17,019	17,967	2,613
408	6/07/91	Rancho Bernardo Fed. Savings B	San Diego	CA	P&A	67,945	70,169	14,896
409	6/14/91	Texas Commercial Sa	Sulphur Springs	TX	P&A	24,516	22,368	6,911
410	6/14/91	Atlanta FSA	Atlanta	TX	P&A	78,875	78,742	17,373
411	6/14/91	South S&L Assoc., F.A.	Slidell	LA	IDT	87,732	137,811	103,656
412	6/14/91	Jasper Fed. S&L Assoc.	Jasper	TX	Payoff	89,567	140,040	72,660
413	6/14/91	Southern Federal Savings A	El Paso	TX	Payoff	63,919	104,540	77,230
414	6/14/91	Guaranty Savings Bank, FSB	Fayetteville	NC	P&A	23,816	29,106	11,960
415	6/14/91	First Guaranty FS & LA	Hattiesburg	MS	P&A	123,147	165,147	98,207
416	6/19/91	Financial Savings of Hartford,	Hartford	CT	P&A	14,286	14,763	3,385
417	6/21/91	Ambassor FS & LA	Tamarac	FL	P&A	110,671	126,622	52,488
418	6/21/91	First Federal Savings Assoc.	Las Vegas	NM	P&A	45,231	45,453	13,612
419	6/21/91	Commonwealth Fed Sav Assn	Houston	TX	IDT	803,434	1,970,042	1,433,331
420	6/21/91	Travis FS & LA	San Antonio	TX	P&A	234,269	240,088	63,210
421	6/21/91	Capitol-Union FSA	Baton Rouge	LA	Payoff	181,778	270,270	133,314
422	6/21/91	First FSA of Breaux Bridge	Breaux Bridge	LA	P&A	16,145	17,864	2,334
423	6/21/91	Great Life F.S.A.	Sunrise	FL	P&A	24,019	27,611	7,926
424	6/21/91	Charter Fed. Sav. Assoc.	Stanford	CT	P&A	87,923	97,479	45,164
425	6/26/91	Austin FS&LA	Austin	TX	Payoff	41,263	55,085	28,281
426	6/28/91	Amigo FS&LA	Brownsville	TX	P&A	13,009	15,188	4,875
427	6/28/91	Vermont SA, FA	Timonium	MD	P&A	118,314	165,311	64,378
428	6/28/91	Southeast Texas FSA	Woodville	TX	Payoff	18,663	22,926	7,454
429	6/28/91	First FSA	Borger	TX	P&A	46,553	53,681	16,446
430	6/28/91	Coral S&LA, FA	Coral Springs	FL	P&A	25,127	25,300	5,005
431	6/05/91	Heritage FSB	Richamond	VA	P&A	574,399	586,663	196,041
432	6/05/91	International FS&LA	North Miami Bea	FL	Payoff	46,613	52,053	17,723
433	6/05/91	George Washington FSA	Jonesboro	TN	P&A	12,707	12,156	1,309
434	6/05/91	Vanguard SB, FSB	Vandergrift	PA	P&A	115,420	172,521	33,040
435	6/05/91	Colonial FSA	Roselle Park	NJ	IDT	189,768	245,577	118,949
436	6/12/91	Citizens & Builders FS, FSB	Penscola	FL	P&A	72,607	81,994	33,329
437	6/12/91	Capitol FS&LA	Aurora	CO	P&A	513,369	739,480	340,420
438	6/12/91	Mutal FS&LA	Weatherford	TX	Payoff	75,280	80,131	21,472
439	6/12/91	Commonwealth FSA	New Orleans	LA	IDT	21,238	34,976	18,259
440	6/12/91	Commerce FSA	San Antonio	TX	P&A	337,807	775,172	603,986
441	7/12/91	First South FSA	Port Neches	TX	Payoff	127,451	522,200	456,610
442	7/12/91	Atlantic Permanent FSB	Norfolk	VA	IDT	135,006	177,883	94,218
443	7/12/91	Brookhaven	FS&LA	MS	P&A	22,351	29,017	10,685
444	7/12/91	First Jackson FSB	Jackson	MS	P&A	30,736	47,212	22,439
445	7/12/91	Pacific Coast FSA of America	San Francisco	CA	P&A	659,072	635,256	59,418
446	7/12/91	Windsor FSA	Austin	TX	Payoff	78,959	95,795	45,547
447	7/19/91	Family S&LA, FA	Seattle	WA	P&A	43,160	46,211	5,564
448	7/19/91	First City FSB	Lucedale	MS	P&A	28,207	29,370	10,550
449	7/19/91	Malibu SB, FSB	Malibu	CA	P&A	121,610	125,152	24,895
450	7/19/91	Beach FSB	Huntington Beach	CT	P&A	62,827	62,517	5,229
451	7/19/91	First S&L Company, FA	Massillon	OH	P&A	115,138	121,329	23,294
452	7/19/91	First FSA of Conroe	Conroe	TX	P&A	120,563	141,822	34,669
453	7/19/91	Clinton S&LA	Clinton	OK	P&A—ARP	21,833	21,805	898
454	7/19/91	Superior SB, FSB	Nacogdoches	TX	IDT	48,239	56,349	12,571
455	7/19/91	Liberty County FS&LA	Liberty	TX	P&A	13,022	26,833	15,529
456	7/19/91	Southwest S&LA, FA	Phoenix	AZ	P&A	1,110,848	1,538,051	948,413
457	7/19/91	Certified FSA	Georgetown	TX	Payoff	58,393	103,253	58,015
458	7/19/91	Ensign FSB	New York	NY	P&A	1,081,334	1,318,446	567,502
459	7/26/91	Germaniabank, A FSB	Alton	IL	P&A	383,314	420,553	124,556
460	7/26/91	First SB of Hemphstead, FSB	Hempstead	TX	Payoff	25,848	25,896	2,590
461	7/26/91	Sentry SB, FSB	Hynnis	MA	P&A	555,349	559,554	166,973
462	7/26/91	Fulton FSA	Atlanta	GA	P&A	1,214,843	1,312,845	301,872
463	7/26/91	Westland FS&LA	Rawlins	WY	P&A—ARP	31,699	31,137	4,105
464	7/26/91	Southwest FSA	Dallas	TX	P&A	5,483,427	5,103,317	688,075
465	7/26/91	First SAV of Arkansas, FA	Little Rock	AR	P&A	709,102	1,181,386	863,372
466	7/26/91	First SB of New Orleans, FSB	Metairie	LA	Payoff	58,324	90,020	52,077
467	7/26/91	Charter SB, FSB	Hattiesburg	MS	P&A	25,792	40,764	24,205
468	8/02/91	Mercer FSB	Trenton	NJ	P&A	42,359	47,975	23,505
469	8/02/91	First FSA of Wewoka	Wewoka	OK	P&A	25,312	24,879	5,322
470	8/02/91	Atascosa SA	Jourdanton	TX	Payoff	24,801	28,430	6,867
471	8/02/91	Trident FS&LA, FA	Newark	NJ	P&A	38,224	38,392	8,500
472	8/02/91	Unity FS&LA	Beverly Hills	CA	P&A	356,319	338,739	57,328
473	8/02/91	First Northern Cooperative BAN	Keene	NH	P&A	73,543	84,901	19,592
474	8/02/91	Florida FSB, FSB	St Petersburg	FL	P&A	2,169,243	2,354,018	554,982
475	8/02/91	Jennings FSA	Jennings	LA	IDT	28,049	34,589	12,959
476	8/02/91	Timberland FSA	Nacogdoches	TX	IDT	11,318	22,993	13,881
477	8/02/91	Civic FSB	Portsmouth	OH	P&A	51,537	59,788	19,516
478	8/02/91	People's Homestead SB, FSB	Monroe	LA	IDT	118,130	174,378	98,407

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type [1]	Assets at resolution	Liabilities at resolution	Resolution cost [2]
479	8/02/91	Texasbanc FSB	Conroe	TX	IDT	100,543	374,170	308,131
480	8/09/91	First FSA of Waynesboro	Waynesboro	TN	P&A	15,847	16,172	2,075
481	8/09/91	Larchmont FS&LA	Larchmont	NY	P&A—ARP	122,697	122,119	0
482	8/09/91	Hidalgo S&LA	Edinburg	TX	P&A	141,751	143,088	52,369
483	8/09/91	Executive Banc SA, FA	New Braunfels	TX	IDT	9,628	9,778	4,190
484	8/09/91	Peoples FSA	Bay St. Louis	MS	P&A	39,655	39,289	2,358
485	8/09/91	Santa Barbara FS&LA	Santa Barbara	CA	P&A	1,728,348	1,742,696	270,486
486	8/09/91	First FS&LA of Thiel River Fal	Thief River Fal	MN	P&A—ARP	54,863	55,338	4,558
487	8/09/91	The Federal Savings Banc, FA	Arlington	TX	Payoff	52,930	82,422	38,684
488	8/09/91	Continental FS&LA, FA	Oklahoma City	OK	P&A	259,967	407,929	232,405
489	8/09/91	Freedom SA, FA	Columbus	OH	P&A	169,316	216,403	49,422
490	8/16/91	Citizens Security Bank, FA	Borger	TX	P&A	18,834	19,686	7,402
491	8/16/91	State FSA	Tulsa	OK	P&A	218,937	278,920	104,389
492	8/16/91	Continental Savings, A FS&LA	Bellaire	TX	P&A	768,733	714,976	677,726
493	8/16/91	Duval FSA	Jacksonville	FL	IDT	303,320	426,044	155,242
494	8/16/91	Nowlin FSA	North Richland	TX	P&A	106,803	147,622	65,850
495	8/16/91	Mutual Aide S&LA	Manasquan	NJ	P&A	56,644	62,646	25,539
496	8/16/91	Great West, A FSB	Craig	CO	P&A	23,595	25,888	6,784
497	8/16/91	Jonesboro FSA	Jonesboro	LA	Payoff	25,879	35,457	21,655
498	8/16/91	Southern FSB	Gulfport	MS	P&A	59,887	78,371	35,596
499	8/23/91	First FS&LA	Mt Vernon	OH	P&A—ARP	68,754	69,553	4,680
500	8/23/91	Gold Coast FSB	Plantation	FL	IDT	96,173	108,126	49,279
501	8/23/91	Progressive SB, FSB	Natchitoches	LA	Payoff	7,447	21,254	17,179
502	8/23/91	Old Borough FS&LA	Trenton	NJ	IDT	81,482	85,630	19,715
503	8/23/91	Nassau FS&LA	Princeton	NJ	P&A	142,516	159,713	68,046
504	8/23/91	First Southwest FS&LA	Tyler	TX	P&A	27,405	30,000	7,221
505	8/23/91	Merchants and Mechanics FS&LA	Springfiled	OH	P&A—ARP	202,595	213,894	28,518
506	8/23/91	Heritage FSA	Lamar	CO	P&A	31,476	34,150	12,642
507	8/26/91	Standard FSA	Houston	TX	Payoff	9,953	13,988	6,643
508	8/30/91	Future FSB	Louisville	KY	P&A—ARP	390,138	403,579	45,924
509	8/30/91	Edison FSA	New York	NY	P&A	119,293	119,427	11,110
510	8/30/91	Columbia Fed. Homestead Assoc.	Metairie	LA	IDT	53,343	67,948	30,924
511	8/30/91	Texarkana FS&LA, FA	Texarkana	AR	P&A	31,968	31,898	13,757
512	9/04/91	City S&LA	San Antonio	TX	Payoff	116,575	124,549	40,882
513	9/06/91	Desoto FS&LA	Mansfield	LA	Payoff	39,717	42,903	9,662
514	9/06/91	First FS&LA	Temple	TX	P&A	248,924	280,028	55,166
515	9/06/91	United Home Federal	Toledo	OH	P&A—ARP	427,339	438,962	24,754
516	9/06/91	Peoples FSB	New Kensington	PA	P&A	85,256	85,457	6,419
517	9/06/91	First FSA	Winnfield	LA	Payoff	31,341	33,360	8,265
518	9/06/91	Andrews S&LA, FA	Andrews	TX	IDT	59,009	60,139	10,489
519	9/06/91	Benjamin Franklin FSA	Houston	TX	P&A	693,198	1,440,982	975,652
520	9/06/91	Heartland S&LA	La Mesa	CA	P&A—ARP	121,400	120,356	14,974
521	9/06/91	Arkansas FSB, FA	Little Rock	AR	P&A	35,596	36,767	19,444
522	9/06/91	United S&L of Trenton, F.A.	Trenton	NJ	P&A	148,658	170,396	53,233
523	9/13/91	First Jersey Savings, FA	Wyckoff	NJ	P&A	226,563	232,325	45,626
524	9/13/91	Comfed SB, FA	Lowell	MA	P&A	839,589	930,751	386,061
525	9/13/91	Alexander Hamilton FS&LA	Paterson	NJ	P&A	182,632	181,174	20,187
526	9/13/91	First FSB	Huron	SD	P&A	41,643	39,734	6,158
527	9/13/91	Columbia S&LA, FA	Beverly Hills	CA	IDT	4,252,897	4,327,261	1,149,473
528	9/13/91	Sovereign SB, FSB	Palm Harbor	FL	P&A	22,572	23,571	4,063
529	9/13/91	First SA, FA	Paragould	AR	P&A	47,001	48,232	21,706
530	9/13/91	Home FSB, FA	Waukegan	IL	P&A	135,615	137,271	34,424
531	9/13/91	Columbia, FS&LA	Webster	TX	Payoff	36,047	58,658	32,296
532	9/13/91	American FSB	Sanford	ME	IDT	22,026	30,470	13,957
533	9/13/91	Louisiana SA	Lake Charles	LA	IDT	244,027	316,509	134,987
534	9/13/91	First Atlantic FSA	Plainfield	NJ	P&A	556,094	722,890	246,835
535	9/13/91	Louisiana SB, FSB	Kenner	LA	Payoff	26,628	32,608	9,315
536	9/13/91	First America FSB	Longmont	CO	IDT	34,234	65,023	65,470
537	9/20/91	Arcanum FSA	Arcanum	OH	P&A	36,696	38,471	3,727
538	9/20/91	Center S&LA, FA	Clifton	NJ	P&A	102,045	106,701	22,098
539	9/20/91	United FSB	Vienna	VA	P&A	283,482	339,942	111,621
540	9/20/91	Amerifederal SB, FSB	Lawrenceville	NJ	IDT	77,064	79,928	29,390
541	9/20/91	Southeastern FSB	Charlotte	NC	P&A	210,397	218,253	85,304
542	9/20/91	Yorkville FS&LA	Bronx	NY	P&A	283,345	285,325	79,893
543	9/20/91	Savers SA, A FS&LA	Little Rock	AR	P&A	373,977	852,754	638,515
544	9/20/91	Bancplus FSA	Pasadena	TX	P&A	325,577	896,918	702,239
545	9/20/91	Bayshore FSA	La Porte	TX	P&A	19,110	44,351	27,939
546	9/20/91	First Citizens SLA, FA	Fort Pierce	FL	P&A	149,157	167,778	45,855
547	9/20/91	American Pioneer FSB	Orlando	FL	P&A	880,889	1,189,838	538,034
548	9/20/91	El Paso FSA	El Paso	TX	Payoff	244,913	330,091	179,452
549	9/27/91	Santa Paula S&LA	Santa Paula	CA	P&A—ARP	258,465	257,390	35,589
550	9/27/91	Southern FS	New Orleans	LA	P&A	192,076	191,342	39,055
551	9/27/91	Superior FSA	Cleveland	OH	P&A	49,234	51,833	21,869
552	9/27/91	Home FS&LA of Harlan	Harlan	IA	P&A—ARP	88,815	87,288	12,479
553	9/27/91	Eastern FS&LA of Sayville	Sayville	NY	P&A—ARP	258,872	263,425	36,246
554	9/27/91	Mainstay FS, FSB	Red Bank	NJ	P&A	160,077	158,883	54,542
555	9/27/91	San Jacinto SA, FA	Bellaire	TX	P&A	2,228,358	2,873,029	1,423,801
556	9/27/91	First FS&LA	Dallas	GA	P&A	27,589	28,709	3,411
557	9/27/91	Preferred SB, FSB	High Point	NC	P&A	147,035	145,938	34,352
558	9/27/91	First FS&LA of Toledo	Toledo	OH	P&A	847,852	810,407	128,329
559	9/27/91	Gold River SB	Fair Oaks	CA	P&A—ARP	20,013	20,244	2,893
560	9/27/91	First FS&LA of Andalusia, FA	Andalusia	AL	P&A	27,893	30,927	6,698
561	9/27/91	United Savings of America	Chicago	IL	P&A—ARP	1,027,004	1,105,215	118,427
562	9/27/91	Nutley S&LA	Nutley	NJ	P&A—ARP	187,785	191,606	25,489
563	9/27/91	First FS&LA	Beaumont	TX	P&A—ARP	257,355	252,460	21,581
						176,404,651	208,533,649	
68,106,738								

[1] IDT=insured deposit transfer, P&A=purchase and assumption; Payoff=depositor payout, P&A—ARP=accelerated resolutions program.

[2] Estimated cost of resolution at time of resolution.

NOTES TO TABLE

The table provides for each of the 563 institutions resolved by RTC from its inception through September 30, 1991:

(1) the name of the institution resolved,

(2) the location of the institution,

(3) the type of resolution,

(4) total assets booked at resolution,

(5) total liabilities booked at resolution, and

(6) the total cost (loss) estimate booked at resolution.

RTC's year-end 1989 audited financial statements accounted for estimated losses of approximately $44 billion for institutions that were closed in 1989 and those that were to be closed in 1990. However, cost estimates booked for each institution at the time of each resolution during 1990 were lower than the aggregate estimates carried in the 1989 statements. The asset valuation process conducted early in 1991 in order to prepare year-end 1990 statements indicated that loss estimates should be increased from those booked at the time of resolution by approximately $6.4 billion—back up to about the same level originally included in the 1989 statements for the same set of institutions. The $6.4 billion adjustment accounts for the difference between the $68.11 billion total estimate of costs through September 1991 booked at the time of each resolution (shown in the attached table) and the current estimate of $74.55 billion in total costs incurred for cases resolved through September (shown in the September 1991 RTC Review).

About 75 percent of the $6.4 billion revision reflected a one-time adjustment to correct an underestimate of operating losses in failed thrifts through the time of resolution and to reserve adequately for all future expenses associated with liquidating thrifts asset portfolios. Procedures were then put in place to make sure that cost estimates made at the time of each subsequent new resolution accounted for these factors in order to lessen the possibility of future large increases in estimates.

The remaining 25 percent of the $6.4 billion adjustment was due to a revision of asset values stemming from a reassessment of economic and real estate market factors. Since these factors are uncontrollable and uncertain, it is always possible that RTC in the future might have to revise its loss estimates for institutions resolved (and for those yet to be resolved) as part of its recurring asset valuation process.

The asset valuation process conducted to prepare June 1991 RTC financial statements indicated no reason to raise loss estimates at mid-year. RTC is currently conducting its third quarter 1991 review of assets in resolved thrifts.

Also attached is a table included in former FDIC/RTC Chairman Seidman's testimony to the Financial Institutions Subcommittee of the House Banking Committee on September 12, 1991. It provides estimates of total losses that vary according to the size of the caseload ultimately transferred to the RTC. The estimate of $160 billion in total loss funds required ($80 billion currently authorized plus $80 billion in new funds) accounts for the possibility that a substantial number of troubled thrifts currently included in the office of Thrift Supervision's Group III categories will eventually be transferred to the RTC and require taxpayer funds to protect the depositors in those institutions.

Mr. CONRAD. Mr. President, the listing that I have acquired lists the loss that the Government will incur for each S&L that has been resolved since the passage of FIRREA. For the 563 S&L's that have been resolved through the end of September, the taxpayers will lose $74.5 billion. This does not include the expected loss for the roughly 100 institutions now in conservatorship or the losses on another 350 or more institutions now expected to be taken over by the Government. Inclusion of estimated losses on these additional institutions accounts for the additional taxpayer funds that we are being asked to approve in this bill.

The institution by institution listing I am submitting casts some daylight on what has to most people been a rather dark process. However, what is seen in this daylight is not a pretty picture.

What you see in case after case where the current bailout process has turned 10 or 15 percent on depositors' funds into a 35- or 40-percent loss to the taxpayer, or more. That additional loss is occurring because we are simply throwing more bad money after bad money. The RTC openly admits that it will lose 40 cents on the dollar for all of the remaining assets it must sell.

Let me give you a few examples from the list:

The first big institution taken over by the RTC, on October 13, 1989, was University Federal Savings in Houston. At the time of resolution, there were $4.4 billion of deposits and other liabilities versus over $3.7 billion assets, for a difference of nearly $700 million. The RTC says it will spend $2.5 billion of taxpayer funds to clean up University Federal.

Peoples Heritage Savings & Loan in Kansas, a $1.5 billion institution with a shortfall at resolution of $70 million, will take nearly $1 billion of tax funds to clean up.

Western S&L in Phoenix, a $4.5 billion institution at resolution with a shortfall of $440 million, will take $1.7 billion of tax funds to clean up.

In the biggest takeover to date, CenTrust in Miami was a $6.9 billion institution at resolution with a difference between assets and liabilities of $300 million, but now the RTC will spend at least $1.7 billion of tax money to clean it up.

Imperial Federal Savings Association of San Diego was resolved in April of this year. Its liabilities matched its assets of $5.8 billion, but the taxpayers will be asked by the RTC to dole out over $1.6 billion to clean it up.

These are the bottomline numbers. Add it all up and the RTC is planning to spend over $74 billion on the resolutions to date, with losses on hundreds more institutions to be added in the months ahead.

It is a sorry mess; 58 percent of these institutions went under at the hands of criminals while the administration slept.

Now we are throwing bad money after bad. If you look at the headlines and look at the audit reports, the handling of the cleanup has been a mess. Report after report of insider information, sweetheart deals, conflicts of interest, padded bills, this cleanup has been a mess.

I thank the Chair.

Mr. RIEGLE. Mr. President, let me ask unanimous consent that a colloquy be entered in the RECORD which I will have with Senator METZENBAUM at the appropriate point in the debate on the banking reform bill. After we have concluded the voting process, we will actually engage in that colloquy on the floor.

Mr. SEYMOUR. Mr. President, I object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. GARN. I yield 1 minute to the Senator from California.

Mr. SEYMOUR. Mr. President, I rose to object to the unanimous consent, and apparently the President did not hear me.

The PRESIDING OFFICER. The unanimous consent was to include material.

Mr. SEYMOUR. I am well aware of that, Mr. President.

The PRESIDING OFFICER. There was an objection, and I will rescind the unanimous-consent request.

Mr. SEYMOUR. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, if there are no further requests for time at this time, there is essential legislation that must be passed, and I am going to move in a moment to yield back our time so the vote can occur.

Mr. KASTEN. If the chairman will yield, I would like to speak very briefly in opposition to the legislation. I do not know; I assume both Senators are in favor of the legislation. Will either of them yield to me 1 minute?

The PRESIDING OFFICER. Who yields time?

Mr. GARN. I yield 1 minute to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, once again we are being asked to give the RTC an additional $25 billion in taxpayer money for the S&L cleanup. In March 1991, the Senate voted to give the RTC $30 billion to do the same, and during consideration of FIRREA the Senate appropriated $50 billion for the S&L cleanup.

After the last debate on this issue, the administration told Congress that the total cleanup cost will total $175 billion over 30 years. Well, in 3 short years we will have spent over $125 billion for the cleanup. We still have 27 years to go and no end in sight. Therefore I cannot support this latest cash infusion to this losing proposition.

This multibillion dollar S&L bailout bill represents a massive wealth transfer from States with well-managed S&L's like Wisconsin to States with high flying and often fraudulent S&L speculators like Texas and California.

This is patently unfair. Wisconsin should pay their fair share for the cost of the cleanup because we all benefit from the Federal deposit insurance. But this outrageous mess is not Wisconsin's fault because our S&L's are well managed and conservatively run.

I recognize the importance of funding the RTC, but I cannot in good conscience support this measure unless we do something to raise real estate values and strengthen our financial institutions. This appropriation of $25 billion is a waste of taxpayer dollars.

The value of an asset is determined by the income you can expect to earn from it when you sell it. The higher the capital gains tax, the lower the expected future income, and hence the lower the value of the asset.

Because of the high capital gains tax and the elimination of passive loss incentives for real estate, the Government—through the RTC—has inherited a portfolio of devalued property.

Declining real estate prices have pushed more S&L's—and community banks—into insolvency.

The capital gains tax cut and restoration of passive loss incentives for real estate investors in the Kasten-Weber growth package would allow the RTC to sell its portfolio of real estate assets at higher prices.

The less the Government has to pay to hold on to these assets, the more revenue we get from them, and the less taxpayers will have to pay.

Periodic cash infusions from Congress will add to the ultimate costs of resolving the S&L debacle. In 1989, we were assured during consideration of FIRREA that only $50 billion would be needed to cleanup this mess. Yet here we are, adding another $25 billion, and I can confidently predict that cost will grow.

Before we commit one more dime of taxpayer money to the S&L bailout, we ought to do something to raise real estate values.

According to former Treasury economist Gary Robbins, a 15 percent indexed capital gains tax would lower the cost of the S&L bailout by $23.2 billion.

Let me repeat: American taxpayers would save $23.2 billion.

We need to address the underlying disease of falling real estate values. Economist Paul Craig Roberts points out that "Bankers forced to write down their real estate loans and to establish reserves against them aren't anxious to lend anyone."

This is a major contributing factor to the current credit crunch, which is hurting small businesses. My proposal—the Kasten-Weber tax incentive plan—says that we ought to take direct action to stem further bailout losses, and to encourage lending.

Handing the RTC a check for $25 billion will not help solve the problem. Strengthening the U.S. Tax Code to enhance real estate values through a capital gains tax cut will. Therefore, I vote no for policy rooted in the past. Let us move forward and enact progrowth legislation so that we can get this debacle behind us.

SEVERAL SENATORS addressed the Chair.

Mr. RIEGLE. I yield 1 minute to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, given the fact there was objection to the colloquy by the Senator from California, I guess I will have to go through it orally and tie up the Senate a little bit, and I am sorry to do that.

Last weekend, I asked the Senator from Michigan—the Senate passed legislation authorizing the bank insurance fund to borrow up to $70 billion from the Federal Government, $45 billion of which would require the backing of assets required in the process of resulting failed banks.

I expressed my concern about where the money would come from to be made, that working capital debt, if the assets backing eventually sold are less than the amount borrowed.

I offered language which the managers of the bill were kind enough to include in an amendment to the bill that requires any such shortfall be covered by assessments on banks.

Is that language included in the conference report?

Mr. RIEGLE. Mr. President, let me say to the Senator from Ohio that precise language is not in the report because it was concluded by the conferees that the language in the bill already provided the same taxpayer protection and bank liability.

Mr. METZENBAUM. Does that mean taxpayers will be liable for proceeds from sales if assets by the bank insurance fund do not meet expectations?

Mr. RIEGLE. No, it does not. The bill reported by the conferees provides all possible protections, that the borrowing it authorizes is fully intended and required to be repaid by the industry and not the taxpayer. The bill requires that once the bank insurance fund starts borrowing from the Treasury to cover losses, the FDIC must set, and when necessary revise, a schedule of future assessment rates on banks sufficient to repay these borrowings and rebuild the net balance of the bank insurance fund to its target level of 1.25 percent of insured deposits within a 15-year period.

If assets are sold for less than their expected value, the bank insurance fund must recognize a loss. That loss would place the fund deeper in the hole and force assessment rates up in order to maintain the scheduled rebuilding of the fund within the 15-year deadline.

So indirectly, but inevitably, any loss on asset sales will be made up and must be made up by higher assessment rates on the banks themselves, and not upon taxpayers.

Mr. METZENBAUM. I thank the Senator from Michigan. I have been concerned, as he knows, about the taxpayers being forced to pay any of the $70 billion. With that assurance, I have no further questions.

Mr. RIEGLE. I thank the Senator.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. I wonder, what is the parliamentary situation on time?

The PRESIDING OFFICER. The Senator from Michigan has 2 minutes 20 seconds; the Senator from Utah has 1 minute 48 seconds.

Mr. BUMPERS. Mr. President, additional parliamentary inquiry. Is this bill susceptible to being divided through a division?

The PRESIDING OFFICER. There is no precedent for dividing the bill in the Senate.

Mr. BUMPERS. Will the Senator from Michigan yield 1 minute?

Mr. RIEGLE. Yes. I yield 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I fully intended to vote against the bill as it left the Senate. I am troubled by this: Even though it is obviously based on—what my staffer can glean from it—it seems to be infinitely preferable to what we passed out of here.

I am just looking here, title I of this bill has 142 pages; title XII has 1,567 pages; title III has 79 pages; and then the next title is about something like 60 pages, also.

Mr. SARBANES. Would the Senator yield?

Mr. BUMPERS. I would be happy to. I have 1 minute left.

Mr. SARBANES. It is a long bill.

Mr. BUMPERS. It is a long bill.

I invite everybody in the Senate who has looked through this very carefully and knows what is in it and is satisfied with it, to vote"aye.

If you do not, if you have not read it, then what I would really like to have done is—the reason I asked about the division, Mr. President, was I do not mind voting for the FDIC recapitalization, and most of the items I was most concerned about had been taken out.

Mr. RIEGLE. Mr. President, I say to the Senator, I do know what is in every page of that bill because we were working on it until 5 a.m. this morning, as was the Senator [Mr. SARBANES]. This bill has been constructed with great care.

The essence of the bill is to provide the loans to the deposit insurance fund, but there are a whole series of new bank regulatory standards and safeguards that are much stronger than what have been in place in the past, which we think are going to stop the pattern of abuses and allow us to go in and shut down failing banks before they finally exhaust their capital and become a charge against the fund. We move against abuse by foreign banks, as we saw in the BCCI case.

It is long, but the law in the area of banking regulation is very complex. In order to do it in sufficient detail, it requires a bill of this size. As the Senator knows, many of the bills we have here are lengthy because of the nature and complexity of the law in that area.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator for Utah has 1 minute, 40 seconds.

Mr. GARN. Mr. President, I simply say to my colleague, if he reads the bill, he would want to vote for it, because he would not want to vote for $70 billion unless we put the safety and soundness features in it. All of the extraneous provisions in the Senate bill on powers are all gone. I would not vote, as he said, for just title I, without giving the regulators some powers to make sure that that $70 billion is paid back by the banks and not by the taxpayers.

So I suggest that he do read it, and I tell my colleagues that if they read it, it would make them much more comfortable in voting for the bill.

Mr. BUMPERS. Have any changes been made in this bill on the rights of banks in the selling of insurance?

Mr. GARN. They were tightened—unfortunately, for this Senator's standpoint. They were tightened. I would have preferred that they not be. Any changes in insurance are tightened. The Senator from Connecticut can verify that.

I yield the remainder of my time.

RESOLUTION TRUST CORPORATION FUNDING

Mr. WIRTH. Mr. President, I cannot support the Resolution Trust Corporation [RTC] funding package that is now before the Senate. The RTC needs additional resources to do its job and close insolvent thrifts. Delay will only increase the eventual costs of resolving S&L failures.

But inefficiency increases those costs as well. The RTC has not won praise for its efficiency. I believe the structure of the RTC is too cumbersome and has contributed to the Corporation's problems thus far. I cannot support additional RTC funding unless the legislation includes meaningful reforms to ensure the new resources are efficiently spent.

I have been concerned with the structure and operations of the RTC since its inception and introduced legislation to revamp its structure during the last Congress and again earlier this year. This legislation, the Savings and Loan Simplification Act or SALSA, would consolidate the Oversight Board's policy guidance role and the RTC Board's responsibility for day-to-day operations. I believe this structural change would be more efficient and lead to swifter decisionmaking and implementation at the RTC.

Support for RTC restructuring has grown since I first put forward that proposal and the administration, after months of resistance, recently offered its own modest plan to reform the RTC. A consensus developed that some type of RTC restructuring is necessary and the question before us became not whether to restructure the Corporation but how to do it.

At a recent Banking Committee hearing, several experts supported an RTC restructuring proposal I developed with Senator KERREY of Nebraska to revamp the RTC's dual board structure. That proposal would abolish the Oversight Board and create one Board for the RTC. The President would appoint a Chief Executive Officer for the Corporation who would also chair the Board. The Secretary of the Treasury, Chair of the FDIC, and two independent members named by the President would also serve on the Board. The witnesses indicated that plan was the best of the various proposals outlined at the hearing and was a quantum improvement over the present RTC structure.

After that hearing, Senator RIEGLE introduced legislation (S. 1943) that included an RTC restructuring plan that largely tracks the Wirth-Kerrey proposal. I was an original cosponsor of that legislation which reflected the consensus that those of us pursuing the issue developed as we held hearings on the RTC and examined its structure and operations.

Unfortunately, the package before us today does not include this proposal. It includes some elements of S. 1943, such as prohibiting the RTC from paying off uninsured depositors or creditors, strengthening the affordable housing program, and disclosure of the highest salaries at the RTC. However, it does not include the restructuring reforms that are the heart of the consensus legislation developed in recent months.

I cannot support the RTC restructuring proposal that is included in the legislation before us today. I do not believe it represents meaningful and effective reform. While the proposal purports to eliminate the dual board structure, as a practical matter, I think it will do little to improve the RTC's operations.

The package eliminates the RTC Board while retaining a restructured Oversight Board. The new Board generally retains the present Oversight Board members while making some marginal improvements such as replacing the Secretary of Housing and Urban Development with the Director of the Office of Thrift Supervision.

The legislation does make some changes to the RTC's operating structure by getting rid of the RTC Board and establishing a CEO to run the RTC. However, under current law, the Oversight Board could appoint a CEO to run the day-to-day operations, and could remove the FDIC as exclusive manager of the RTC and the FDIC Board from its role as the RTC Board. New legislation is not needed to do this and Albert Casey is already on board directing the RTC's day-to-day activities.

In many ways, the reform included in this package is just a reshuffling of the deck chairs. The new structure would retain the split between the oversight functions and the day-to-day operations that we see in the dual board structure. We still would have a very muddled line of responsibility at the RTC where it is unclear just who is running the Corporation. Maybe that's what the administration wants. But I do not think that's the way it should be.

The new Board would still include the Secretary of the Treasury and the Chairman of the Federal Reserve Board. The Secretary would serve as Chairman of the new Board. Both these individuals have a wide range of responsibilities not related to the S&L industry and have little time to devote to the RTC. Nevertheless, they are on the Oversight Board and consequently their offices do monitor the RTC and form an additional layer of bureaucracy that the RTC must contend with.

I recognize the administration's desire to have input into the RTC's activities and a presence in the RTC leadership. But we can do that without having to put some of the busiest people in the Government on the Board. Four of the seven members of the new Board will have other full-time Government positions and are unlikely to spend a great deal of time overseeing the RTC.

If we are going to simply reshuffle the deck chairs without changing the basic RTC structure, why bother making a change at all? There have been fewer reports of disorder at the RTC recently and there is no question the Corporation has improved its operations. If the change is just cosmetic and unlikely to improve efficiency, why risk any disruption to the progress the RTC has made?

I believe the administration does not really want to change the RTC's structure but is supporting this plan in order to deter a more substantive restructuring. While, I do think we need RTC reform, I would perfer the status quo to a change that is only being for the sake of making a change.

The S&L debacle is arguably the largest financial crisis since the Great Depression. Losses are mounting at a rate of several million dollars a day and resolving the S&L crisis will be among the most expensive undertakings in U.S. history. We have to provide the resources needed to resolve thrift failures and clean up this problem. But we have a responsiility to clean it up at the lowest possible cost to the American taxpayer. The RTC will do much of the job. If it does not operate efficiently the costs of the S&L rescue could climb higher.

Unfortunately, I do not think the RTC is operating as efficiently as possible and I think its cumbersome structure contributes to its problems. That's why I have sought to reform the RTC. This legislation does not include the structural changes that I believe must be part of any meaningful reform package.

I also have serious reservations about the funding portion of the package. We should give the RTC a specific sum that is expected to fund their activities for a period of time. Instead, the package includes what can be described as an "interim blank check" approach. Rather than do what we should do, we have merged the two alternatives to the one year funding the administration requested.

The result is an approach that just might be worse than any of the three

other options. We only provide resources until April, requiring that further legislation be enacted. Given the difficulty and delays that have accompanied RTC funding in the past, there is a chance that the RTC could run out of funds for a while in April under this package. Beyond a doubt, RTC officials will have good reason to be uncertain about their funding.

Right now, similar uncertainty has forced the Corporation to adjust its plans. If we pass the current package that limits the duration of spending authority but not its level, we will give the RTC a perverse incentive to move as quickly as possible during this window to reduce the need for future funding requests and the uncertainty of our prompt response. The RTC will be inclined to expend resources up front while they have funding even if that is not the most efficient way to operate. That can only increase the ultimate cost of resolving the S&L crisis.

Another concern is that, if we enact this funding mechanism today, we probably will see it again. It is easy to imagine us not being prepared to approve funding when the authority expires and instead put the RTC on a diet of short term blank check funding measures while we debate the full package. Each fall, we pass continuing resolutions to keep the government operating while we complete work on appropriations legislation. We may wind up doing the same thing for the RTC in April, keeping the incentive in place for the RTC to accelerate spending regardless of the long-term costs.

Mr. ADAMS. Mr. President, today, Congress is once again authorizing the expenditure of billions of dollars for the Resolution Trust Corporation [RTC]; $25 billion to be exact.

Earlier this year, the Senate debated and passed legislation which provided $30 billion for the RTC. I opposed that bill because it failed to include any controls over the RTC to ensure that it wisely spent taxpayers dollars.

The savings and loan crisis occurred because of the failure to exercise sufficient oversight and control over the industry a decade ago. Throughout the early 1980's, reform and regulation were not practiced by the Reagan administration. Though I did not return to Congress until 1987, I saw from the sidelines how rampant and unchecked deregulation overran anything and everything in its path. It is tragically ironic that the same logic—deregulation and lax oversight—that brought us the savings and loan debacle is now being used by some to argue for more taxpayers' dollars for the RTC.

The best way to ensure that the RTC becomes part of the solution, instead of part of the problem, is to learn from the mistakes of the 1980's and start exercising even greater oversight and reform of the RTC.

In recent months, hearings have been held and suggestions made to correct these problems. But the bill before us does too little, too late to reform the RTC.

American taxpayers, who are footing the bill for the savings and loan cleanup, have so far failed to get a good return on the money invested in the RTC. They deserve better. They deserve strong oversight over how their money is spent.

We all have a responsibility to ensure that hard-earned taxpayer's dollars are not wasted by simply throwing good money after bad at the savings and loan crisis.

I will vote against this legislation and urge my colleagues to do the same.

Mr. LEVIN. Mr. President, I will vote for this legislation with reservations and distress. I am distressed by the amount of taxpayer money needed to shore up the bank insurance fund, and I am distressed by the fact that the Congress has no option but to recapitalize the insurance fund.

This is not a bailout for bankers. If it was, I would not support it. It is, rather, legislation necessary to guarantee that the promises that have been made to individual Americans by the U.S. Government will be kept. American workers and families have been promised that when they deposit their money in a Government insured bank, their deposits will be protected and guaranteed, even if that bank fails. If a bank fails—through no fault of the depositors or the customers—the Government promise is to make good on those funds.

This is a sound and appropriate guarantee, and it has served our Nation well for three generations. But now the insurance fund that backs this promise is out of money because of the distressingly large number of banks that have failed in recent years.

Further, this legislation will enable more oversight of banks by regulators, and new authority for them to seize ailing institutions before they become completely insolvent, costing the taxpayers even more. Ailing banks needs to be closed earlier, and more responsible oversight is needed. This bill does that.

In addition, title I retains an amendment I authored that requires regulators to eliminate excessive compensation by bank and S&L insiders. My amendment will give bank examiners clear direction to use the full range of enforcement tools to halt excessive compensation and set standards prohibiting this unsafe and unsound practice of federally insured banks and S&Ls.

For these reasons, I will vote for this legislation.

Mr. DODD. Mr. President, first of all, I want to commend the chairman of the Banking Committee, Mr. RIEGLE, and the ranking minority member, Mr. GARN, for their prodigious efforts on this legislation. It is worthy of note that this bill was produced at the same time as a 15-hour conference on the banking bill was under way, and I applaud them for their hard work.

In particular, I want to commend the chairman and the ranking minority member for the structural reforms contained in this bill. These important reforms should increase the efficiency of the RTC operations.

However, while I commend the authors of this legislation for their hard work, I will not be able to vote for this bill. Allow me to explain.

Unlike the banking bill we passed earlier today, this bill was never considered by the Senate Banking Committee. Nor did we have time to examine the details of the House bill before voting on it. I cannot in good conscience vote for a bill that provides $25 billion of taxpayer money without having had the opportunity to examine the bill closely.

Second, the bill contains some amendments that were laid aside during the conference on the banking bill only last night. These amendments were carefully considered and rejected, Mr. President, because they were not based on sound banking policy. The take it or leave it nature of the House-passed legislation did not leave the Senate adequate time to remove these amendments, much less debate them.

Finally, the bill does not contain any provisions to control the extraordinary overhead costs of the RTC, particularly with respect to attorneys fees. In my view, that is a glaring omission.

Mr. President, every place I have traveled in the State of Connecticut over the last year, I have heard numerous complaints about the inefficient operations of the RTC. While the legislation before us makes some improvements, the hasty nature of this process has denied the Senate the opportunity to assure the American taxpayers that these problems will be resolved.

Accordingly, Mr. President, I will vote against this bill.

Mr. GRAHAM. Mr. President, have the yeas and nays been ordered on the second bill, the RTC refinancing bill?

The PRESIDING OFFICER. They have not.

Mr. GRAHAM. I request the yeas and nays on the RTC refinancing bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report on S. 543, the banking bill.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr.

KERREY], the Senator from Wisconsin [Mr. KOHL], the Senator from Arizona [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] and necessarily absent.

Mr. SIMPSON: I announce that the Senator from Colorado [Mr. BROWN], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting the Senator from Colorado [Mr. BROWN], would vote "nay."

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 15, as follows:

The result was announced—yeas 68, nays 15, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—68

Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Cranston
D'Amato
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Grassley
Hatch
Hatfield
Heflin
Inouye
Kennedy
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Riegle
Robb
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Seymour
Simpson
Smith
Specter
Thurmond
Wallop
Warner
Wofford

NAYS—15

Adams
Bradley
Conrad
Daschle
DeConcini
Graham
Hollings
Kasten
Kerry
Metzenbaum
Murkowski
Reid
Sanford
Shelby
Wellstone

NOT VOTING—17

Breaux
Brown
Craig
Danforth
Gramm
Harkin
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Kohl
Pryor
Simon
Stevens
Symms
Wirth

So the conference report was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, on behalf of the majority leader, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DIXON. I have to object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. It is for a unanimous-consent request.

Mr. SEYMOUR. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed and put the vote aside for the moment.

The PRESIDING OFFICER. Is there objection?

Mr. SEYMOUR. I object.

The PRESIDING OFFICER. The Senator from Michigan is——

Mr. SEYMOUR. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. RIEGLE. Will the Senator withhold for a moment? I am trying to explain what we are going to do next, so we can resolve this issue and Senators who need to vote and leave can do so.

Mr. SEYMOUR. That is what I am afraid of, Mr. President; Senators are going to leave and leave California high and dry relative to the drought legislation. That is why I object, because they are going to leave.

Mr. RIEGLE. Mr. President, will the Senator withhold his objection? He has plenty of opportunities to prevent a vote. I just want to explain what the parliamentary situation is. Will the Senator object to my at least using this time for that purpose?

Mr. SEYMOUR. I object.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, we now are going to proceed in a manner that I hope will permit the Senators to leave shortly. I am going to ask unanimous consent that the pending matter be temporarily laid aside, and that four matters be taken up en bloc and approved; that upon the completion of those four matters Senator RIEGLE be recognized to make a statement with respect to the pending measure, the RTC funding resolution, following which the vote on that legislation will occur.

The only other major matter after that will be the Medicaid moratorium legislation. We have received no request for a rollcall vote on that measure, to my knowledge on either side. Therefore, unless someone asks for a rollcall vote now on that, we are going to assume that no rollcall vote will be necessary. I believe that matter has been resolved to the satisfaction of all concerned. If that is the case, then the vote on the RTC resolution which will follow the four matters en bloc should be the final rollcall vote.

Mr. President, I now ask unanimous consent that the pending measure be set aside to permit consideration of measures by Senators SEYMOUR, MCCAIN, and FOWLER; that those measures be considered en bloc—and—Mr. President, I amend my request to add Senator DOLE to that. So there would be five measures, Senators SEYMOUR, CRANSTON, MCCAIN, FOWLER, and DOLE.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECLAMATION STATES EMERGENCY DROUGHT RELIEF

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 355.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 355) entitled "An Act to provide emergency drought relief to the Reclamation States, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Interior and Insular Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. MILLER of California, Mr. MARKEY, Mr. RAHALL, Mr. VENTO, Mr. DE LUGO, Mr. GEJDENSON, Mr. KOSTMAYER, Mr. LEHMAN of California, Mr. YOUNG of Alaska, Mr. HANSEN, Mrs. VUCANOVICH, Mr. RHODES, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 102(d), 104(a), 203(a)(4), and 303(6) of the House bill, and sections 102(d), 203(a)(4), 203(c), and 302 of the Senate amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS and Mr. DAVIS.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate recede from its earlier amendment and that it be in order to further amend with a substitute amendment which I now send to the desk in behalf of Senator Johnston.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1451

Mr. MITCHELL. Mr. President, I send an amendment in behalf of Mr. JOHNSTON to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. JOHNSTON, proposes an amendment numbered 1451.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete all after the enacting clause and substitute the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation States Emergency Drought Relief Act of 1991".

SEC. 2. DEFINITIONS.

As used in this act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The Term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388) and Acts supplementary thereto and amendatory thereof.

(3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044).

TITLE I—DROUGHT PROGRAM

SEC. 101. ASSISTANCE DURING DROUGHT; WATER PURCHASES.

(a) CONSTRUCTION, MANAGEMENT, AND CONSERVATION.—Consistent with existing contractual arrangements and applicable State and applicable Federal law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will minimize, or can be expected to have an effect in minimizing, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to minimize losses and damages from drought conditions, except that wells drilled to minimize losses and damaged from drought conditions may be permanent facilities.

(b) ASSISTANCE TO WILLING BUYERS AND SELLERS.—In order to minimize losses and damages resulting from drought conditions, the Secretary may provide non-financial assistance to willing buyers in their purchase of available water supplies from willing sellers.

(c) WATER PURCHASES BY BUREAU.—In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including, but not limited to, water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water. Except with respect to water stored, conveyed or delivered to Federal and State wildlife habitat, the Secretary shall deliver such water pursuant to temporary contracts under section 102: *Provided*, That any such contract shall require recovery of any costs, including interest if applicable, incurred by the Secretary in acquiring such water.

(d) WATER BANKS.—In order to respond to a drought, the Secretary is authorized to participate in water banks established by a State.

SEC. 102. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and non-project water and may permit the use of facilities at Federal Reclamation projects for the storage or conveyance of project or non-project water, for use both within and outside an authorized project service area.

(b) SPECIAL PROVISIONS APPLICABLE TO TEMPORARY WATER SUPPLIES PROVIDED UNDER THIS SECTION.—

(1) TEMPORARY SUPPLIES.—Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than two years from the date of execution or upon a determination by the Secretary that water supply conditions no longer warrant that such contracts remain in effect, whichever occurs first. The costs associated with any such contract shall be repaid within the term of the contract.

(2) OWNERSHIP AND ACREAGE LIMITATIONS.—Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitation because of the delivery of such temporary water supplies.

(3) TREATMENT UNDER RECLAMATION REFORM ACT OF 1982.—No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97-293).

(4) AMENDMENTS OF EXISTING CONTRACTS.—Any amendment to an existing contract to allow a contractor to carry out the provisions of this title shall not be considered a new and supplemental benefits for purposes of the Reclamation Reform Act of 1982 (Public Law 97-293).

(c) CONTRACT PRICE.—The price for project water, other than water purchased pursuant to section 101(c), delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on such capital costs allocated to municipal and industrial water, except that, for project water delivered to non-project landholdings, the price shall include full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (Public Law 97-293; 96 Stat. 1263; 43 U.S.C. 390bb)). For all contracts entered into by the Secretary under the authority of this title,

(1) the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs expended pursuant to this Act shall be at a rate to be determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract or,

(2) in the case of existing facilities the rate as authorized for that Federal Reclamation project or,

(3) in the absence of such authorized rate, the interest rate as determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction was initiated on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which were neither due nor callable for redemption for fifteen years from date of issue: *Provided*, That for all deliveries of water for municipal and industrial purposes from existing facilities to non-project contractors, the rate shall be as set forth in paragraph (1) of this subsection.

(d) FISH AND WILDLIFE.—The Secretary may make water from Federal Reclamation projects and non-project water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions or the operation of a Federal Reclamation project during drought conditions. The Secretary may store and convey project and non-project water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife habitat and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis. Water made available by the Secretary in 1991 from the Central Valley Project, California, to the Grasslands Water District for the purpose of fish and wildlife shall be nonreimbursable.

(e) NON-PROJECT WATER.—The Secretary is authorized to store and convey non-project water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to section 102(c) of this Act.

(f) RECLAMATION FUND.—The payment of capital costs attributable to the sale of project or non-project water or the use of Federal Reclamation project facilities shall be covered into the Reclamation Fund and be placed to the credit of the project from which such water or use of such facilities is supplied.

SEC. 103. LOANS.

The Secretary of the Interior is authorized to make loans to water users for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages, including those suffered by fish and wildlife, resulting from drought conditions. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate: *Provided*, That the Secretary shall not approve any loan unless the applicant can demonstrate an ability to repay such loan within the term of the loan; *Provided further*, That for all loans approved by the Secretary under the authority of this section, the interest rate shall be the rate determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with periods to maturity comparable to the repayment period of the loan. The repayment period for loans issued under this section shall not exceed fifteen years. The repayment period for such loans shall begin when the loan is executed. Sections 203(a) and 220 of the Reclamation Reform Act of 1982 and sections 105 and 106 of Public Law 99-546 shall not apply to any contract to repay such loan. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives in writing of any loan which the Secretary intends to approve not less than 30 days prior to granting final approval.

SEC. 104. APPLICABLE PERIOD OF DROUGHT PROGRAM.

(a) IN GENERAL.—The programs and authorities established under this title shall become operative in any Reclamation State only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected Tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in title II of this Act.

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

(c) TERMINATION OF AUTHORITY.—The authorities established under this title shall terminate ten years after the date of enactment of this Act.

TITLE II—DROUGHT CONTINGENCY PLANNING

SEC. 201. IDENTIFICATION OF OPPORTUNITIES FOR WATER SUPPLY CONSERVATION, AUGMENTATION AND USE.

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions. The Secretary is authorized to provide technical assistance to States and to local and Tribal government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

SEC. 202. DROUGHT CONTINGENCY PLANS.

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare or participate in the preparation of cooperative drought contingency plans (hereinafter in this title referred to as "contingency plans") for the prevention or mitigation of adverse effects of drought conditions.

SEC. 203. PLAN ELEMENTS.

(a) PLAN PROVISIONS.—Elements of the contingency plans prepared pursuant to section 202 may include, but are not limited to, any or all of the following:

(1) Water banks.

(2) Appropriate water conservation actions.

(3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas in order to mitigate the effects of drought.

(4) Use of Federal Reclamation project facilities to store and convey non-project water for agricultural, municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.

(5) Use of water from dead or inactive reservoir storage or increased use of ground water resources for temporary water supplies.

(6) Water supplies for fish and wildlife resources.

(7) Minor structural actions.

(b) FEDERAL RECLAMATION PROJECTS.—Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects;

(1) those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project; and

(2) those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) DROUGHT LEVELS.—The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans.

(d) COMPLIANCE WITH LAW.—The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321), section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a), and the Fish and Wildlife Coordination Act, and shall be in accordance with applicable State law.

(e) REVIEW.—The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

SEC. 204. RECOMMENDATIONS.

(a) APPROVAL.—The Secretary shall submit each plan prepared pursuant to section 202 to the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation, if needed.

(b) PACIFIC NORTHWEST REGION.—A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States in the region and the Administrator of the Bonneville Power Administration.

SEC. 205. RECLAMATION DROUGHT RESPONSE FUND.

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 202 and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

SEC. 206. TECHNICAL ASSISTANCE AND TRANSFER OF PRECIPITATION MANAGEMENT TECHNOLOGY.

(a) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 1 of the Reclamation Act (Act of June 17, 1902, 32 Stat. 388), and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

(b) TECHNOLOGY TRANSFER PROGRAM.—The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State, Tribal, and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting field studies cost-shared on a 50-50 basis to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 303 of this Act (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than $90,000,000 in total for fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 302. AUTHORITY OF SECRETARY.

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this Act. In carrying out the authorities under this Act, the Secretary shall give specific consideration to the needs of fish and wildlife, together with other project purposes, and shall consider temporary operational changes which will mitigate, or can be expected to have an effect in mitigating, fish and wildlife losses and damages resulting from drought conditions, consistent with the Secretary's other obligations.

SEC. 303. TEMPERATURE CONTROL AT SHASTA DAM, CENTRAL VALLEY PROJECT.

The Secretary is authorized to complete the design and specifications for construction of a device to control the temperature of water releases from Shasta Dam, Central Valley Project, California, and to construct facilities needed to attach such device to the dam. There is authorized to be appropriated to carry out the authority of this section not more than $12,000,000.

SEC. 304. EFFECT OF ACT ON OTHER LAWS.

(a) CONFORMITY WITH STATE AND FEDERAL LAW.—All actions taken pursuant to this Act pertaining to the diversion, storage, use, or transfer of water shall be in conformity with applicable State and applicable Federal law.

(b) EFFECT ON JURISDICTION, AUTHORITY, AND WATER RIGHTS.—Nothing in this Act shall be construed as expanding or diminishing State, Federal, or Tribal jurisdiction or authority over water resources development, control, or water rights.

SEC. 305. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43

U.S.C. 523), for the impounding, storage, and carriage of non-project water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California, the Truckee Storage Project, and the Washoe Project, California and Nevada. The Secretary is further authorized to enter into contracts for the exchange of water for the aforementioned purposes using facilities associated with the Cachuma Project, California.

SEC. 306. REPORT.

There shall be included as part of the President's annual budget submittal to the Congress a detailed report on past and proposed expenditures and accomplishments under this Act.

SEC. 307. FEDERAL RECLAMATION LAWS.

This Act shall constitute a supplement to the Federal Reclamation laws.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SEYMOUR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. I rise to urge immediate passage of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991 as amended. Passage is long overdue. After all, there is a drought; and to people who are trying to live with less than enough water, it is an emergency. Precisely because this bill should have been passed easily this spring, so some drought relief could be made available this summer, certain Members seemed to think it could be used to accomplish other ends. In the Senate, drought relief was delayed to try to force action on the central valley project legislation and we have been treated in the last week to an effort by the chairman of the House Interior and Insular Affairs Committee to delay action unless the Senate took up reclamation reform and the other elements of the House's social agenda. Those actions, and the insensitivity they demonstrate, are simply unconscionable.

I want to commend Senator BURNS, the ranking member of the Subcommittee on Water and Power, for his efforts. When this legislation was being held hostage in the subcommittee, he forced in onto the committee's agenda and circulated amendments in July. The committee managed to delay consideration until the end of September, but Senator BURNS finally prevailed and deserves the credit for this measure escaping the committee.

Mr. President, I urge my colleagues to look at the calendar. It may come as a surprise to those whose concept of a food chain begins at the grocery store, that a whole growing season has passed. A whole growing season during one of the most severe droughts in memory. We have reached an agreement. It is not totally to anyone's satisfaction but at least it clears the way to provide some measure of drought relief to citizens in the reclamation States. Let me pass this bill and allow the Secretary of the Interior to begin to do what he should have been allowed to do last July or earlier.

There are some fundamental disagreements between the House and the Senate about what the nature and extent of the Federal role, particularly that of the Secretary of the Interior, should be in drought situations. The Senate has acquiesced to the House, not because we agree with their position, but because that was the only way to get this bill passed. In the West, there are certain immutable inevitabilities. One of those is that droughts will continue to occur. We have passed drought relief legislation twice before in the last 15 years, and we're doing it again. It would seem only sensible to make drought relief authority for the Secretary of the Interior a permanent one but the House insisted on a sunset provision. The only plausible explanation that I can imagine for wanting to limit the length of time that these authorities are available is to guarantee that there will be a future opportunity to pursue other agencies under the mantle of emergency drought relief. Either they believe there will never be another drought anywhere in the West or they simply enjoy using people's pain to extort their personal tribute.

The House insisted on a 10-year limitation on the Secretary's authority. It will be truly ironic if the next drought emergency is a 2-year occurrence beginning 10 years hence. In the 10th year, the Secretary can immediately take steps to deal with it but the following year we'll be right back here arguing to extend his authority. If present experience is any example, the rains will come before the bill is passed.

Similarly, there was a disagreement over whether or not farmers should be allowed to defer payments owed to the Secretary during drought years. It stands to reason that if you are a farmer; and your income is from the crops you grow; and there is not enough water to grow your crops; you might have severely reduced income. This was recognized and accepted over 4,000 years ago in the first agricultural civilization. In the Code of Hammurabi, it says:

> If a man is liable for interest, and the god Adad has flooded his field, or the harvest has been destroyed, or the corn has not grown through lack of water; then in that year he shall not pay corn to this creditor.

Even with this legal precedent, the House feels somehow that is ought not to apply in 20th century America. The Senate disagrees, but viewing the prospect of another drought year with no authority for the Secretary to assist farmers in trouble, we went along.

It is also ironic that it is the chairman of the House committee who objects so strongly to this provision. He is quick to denounce any water being used for agriculture, but objects to a provision which would have given the Secretary authority, during a drought, to have water users forego their contractual entitlement so that the water could be made available to urban areas and for wildlife habitat.

This is not a bad bill. If it were, I would not support it. There are many worthy provisions in it. It authorizes the construction of temporary facilities, allows the Secretary to purchase water from willing sellers, authorizes non-financial assistance to willing buyers and sellers, and authorizes temporary water contracts. It authorizes the use of reclamation facilities to assist in the transport of water even outside the project service area. It authorizes loans at Treasury rates to assist in ameliorating drought impacts. It authorizes the preparation of comprehensive drought contingency plans. These are needed authorities which should help mitigate some of the effects of drought in the West. This is a good bill. It could have been a better bill had the House simply accepted the Senate amendments. It could have been a more timely bill if the Energy and Natural Resources Committee had not held it up for 4 months. Someday we may stop the hostage taking and start serving the public. This is at least a start.

Mr. President, there are people out there who need such help as can be provided and they need it now. I urge my colleagues to sense the urgency, place aside any other agendas and support and pass this compromise so that the Secretary of the Interior can get about the business of government which is to help its citizens.

Mr. SEYMOUR. Mr. President, I am pleased that at long last this emergency drought bill is before the Senate for final passage.

This important legislation is critical not only to the State of California but also to many other Western States suffering from continued drought.

California, in particular, has suffered through 5 years of drought and everything seems to point toward a 6th year. Losses to agricultural production, decreases in urban supplies and severe damage to fish and wildlife resources from the prolonged drought have been devastating. The Bureau of Reclamation has already announced that even a year of normal rainfall will not provide the storage, water supply or environmental recovery necessary for my State. The Bureau has also indicated that further reductions of water supplies to agricultural contractors are likely should this drought persist.

On October 31, 1991, the Senate passed H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991. I was pleased to support the Senate bill, as it

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incorporated many of the provisions from S. 711, the drought relief bill which I introduced on March 21 of this year.

H.R. 355 as passed by the Senate was good legislation. In fact, two of the provisions in this bill would have been particularly beneficial to citizens in California. These included providing the Secretary of the Interior with permanent authority to assist States suffering from drought and allowing the Secretary to defer payments from water users whose deliveries were cut back due to drought induced shortages.

Unfortunately, these two provisions were struck from the bill during negotiations with the House. The bill pending now for final passage in the Senate provides a sunset limitation of 10 years on the Secretary's authority. As I understand, drought conditions seem to hit California in 9-year cycles. Now, if in 7 or 8 years another 5-year drought returns, under the provisions in this bill, the Secretary's authority to assist the Western States would expire in the middle of the drought. I don't know the reasoning that went into placing this limitation on the Secretary's authority, but it insures that California and other Western States will be held hostage by Congress to extend the Secretary's authority should another drought occur.

Experience has shown that the time for drought assistance is often past before this body can act. This occurred during the western region's drought in 1977–78 and again in 1982. It has happened again this year. Providing permanent authority to the Secretary of the Interior will enable him to prepare for and to respond to any future drought. Anything less will leave the Secretary unable to respond in a timely manner. I think it is unfortunate that he has been denied this permanent authority.

I am pleased to note, however, that Public Law 102–27 appropriated $25 million to meet emergency drought needs in the United States. Of this amount, over $4.5 million has been designated for emergency projects in California. Three-quarters of California's share will be used on fish and wildlife projects.

Mr. President, despite the shortcomings in this bill, California is in dire need for assistance. Therefore, I support its passage and hope that the Department of the Interior will implement the regulations and begin helping those in need as soon as possible.

Mr. BURNS. I rise today in support of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991. When I requested back in July that this legislation be placed on the committee agenda for immediate action, I intended the word immediate to mean what it means to most people. I am truly perplexed that we are now considering this emergency bill in the closing days of this session. Without going into specifics, let me just point out that this emergency bill has been held hostage both by the chairman of the Senate Subcommittee on Water and Power and by the chairman of the House Committee on Interior and Insular Affairs as a means to pursue their personal agendas while thousands of hard working families were denied relief from the drought that this bill would provide.

I have been in agriculture. I know what it means to need water and not have it. I am embarrassed that a few individuals in this Congress are so insensitive to the people in the West affected by the current drought. A whole summer has gone by. A whole crop season. Now, I sincerely hope that we will not face another dry year. But the West being the West, we can be sure of a few things and another drought is one of them. That is why I am very disappointed that the House feels that there ought to be a limit to how long the Secretary's drought authority will last. It just does not make sense to me. That is why I tried to make this drought authority permanent. The House compromised on 10 years. That is not a compromise, that is a guaranteed instant replay of this present sorry situation.

Mr. President, my colleagues in the Senate recognized that this authority ought to be permanent. We should all be on our guard if there's a drought in 2002—at least those of us who are still here—because somehow I just suspect that there will be something else added to the drought reauthorization bill on its way by. I am an old livestock trader. I know how to get the best of a deal. I can assure those individuals who have obstructed this legislation that they will be in for some seriously hard bargaining the next time around. The people who elected us to serve them deserve better than they got this time and I will do everything I can to make sure they get a better deal next time.

We also had to compromise on the deferment of repayments, if you can call deleting that section a compromise. It just makes sense to allow a farmer who has suffered income loss because of drought to defer payments to the Government. It was not forgiveness, just deferment to a later time when the farmer could better afford it. We heard "When there's a drought, times are tough." It makes no sense to me for the Government to make things tougher, but that's what we had to do to get a bill. Actually it would be funny if it weren't so sad. The deferment of payments would have made it relatively easy for a farmer to choose to take no water and just not plant that year. The water could have been made available for urban use or for fish and wildlife. Without payment deferment, a farmer is going to have to use what water he can get and grow what he can, whether he wants to or not, just to make his operation and maintenance payments. This situation was brought to you by the people who are so vocal about water conservation. I am sorry, Mr. President, but this only makes sense to me if you are trying every way you can to drive farmers out of business.

Mr. President, there was a bumper sticker out several years ago that said "If you want to complain about farmers, don't do it with your mouth full." I'd like to paraphrase it. If you want to vote to make life for farmers as difficult as possible, don't vote with your mouth full. This emergency drought relief bill got caught up in the ongoing western water wars. It was used as a pawn in a large social agenda chess game. A lot of hard working families who could have been helped by this bill weren't, this year. Now is the time to pass it so they can be helped, at least for the next 10 years.

Even with the compromises this is still a good bill. It provides important authorities for the Secretary of the Interior to help alleviate some of the hardships of drought in the reclamation States. It authorizes comprehensive drought contingency planning. It should have been passed in July. We should pass it now. We should, at the same time, recognize that the taking of hostages anywhere, anytime will hurt someone. The people who got hurt this time did not deserve it but some of our colleagues will deserve it if they decide to get even.

BRONZE STAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. 2015 regarding the Bronze Star, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2015) to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Without objection, the bill is read three times and passed.

The bill (S. 2015) was deemed read the third time, and passed as follows:

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARDS OF THE BRONZE STAR TO NAVY AND MARINE CORPS PERSONNEL WHO SERVED ON CORREGIDOR, THE PHILIPPINES, UNDER GENERAL WAINWRIGHT.

(a) FINDINGS.—Congress finds:

(1) United States Army personnel under the command of General Jonathan Wainwright who fought in and were captured during the defense of Corregidor Island, the Philippines, at the outbreak of World War II were awarded the bronze star.

(2) Approximately 3,000 United States Navy and Marine Corps personnel, serving in various units under the overall command of General Wainwright, fought in the defense of Corregidor Island.

(3) These Navy and Marine Corps personnel were not awarded the bronze star pursuant to Navy policy not to award medals for gallantry to all personnel in a unit.

(4) The Navy and Marine Corps personnel demonstrated courage, endurance, and intrepidity in battle and in suffering the privations of battle, capture and internment after capture that was every bit exemplary as their Army counterparts.

(5) An award of the bronze star medal to Navy and Marine Corps personnel who served under General Wainwright in the defense of Corregidor Island provides appropriate recognition of and honor for the courage, endurance, and intrepidity of such personnel.

(b) AWARD OF BRONZE STAR MEDAL.—The President is urged and requested to require that the Secretary of an appropriate military department award the bronze star medal to each member of the United States Navy or Marine Corps who served under General Jonathan Wainwright during the defense of Corregidor Island, the Philippines, during World War II.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SEYMOUR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CHATTAHOOCHE NATIONAL FOREST PROTECTION ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3245, the Chattahooche National Forest Protection Act of 1991 just received from the House; that the bill be deemed read three times and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

PHOENIX INDIAN SCHOOL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. 2034, relating to the Phoenix Indian school, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2034) to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1452

(Purpose: To establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk on behalf of Senator MCCAIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], for Mr. MCCAIN, proposes an amendment numbered 1452.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete Section 1 of the bill in its entirety and substitute therefor the following:

"SECTION 1. The Secretary of the Interior shall remove, at the earliest possible date, all asbestos within buildings and related infrastructure, including underground pipes, located on the 110 acre parcel of Federal property known as the Phoenix Indian School. The obligation of the Secretary to carry out these activities shall continue beyond the date of transfer of the Phoenix Indian School property from Federal ownership."

Mr. SIMON. Mr. President, would the distinguished vice-chairman of the Select Committee on Indian Affairs yield for a colloquy?

Mr. MCCAIN. I would be pleased to yield to the distinguished Senator from Illinois.

Mr. SIMON. I understand that S. 2034 is intended to resolve an uncertainty that has arisen regarding the Indian school land exchange. I am also aware that the exchanges are extremely complex and that their successful conclusion will bring about substantial benefits for the United States, the city of Phoenix, and the Indian tribes in Arizona. I certainly support the goals of the exchange. However, I am concerned that under S. 2034 the Secretary of the Interior may seek to fund any asbestos cleanup by utilizing funds otherwise appropriated for other Indian programs. Is that the intention of the Senator from Arizona?

Mr. MCCAIN. I thank my friend from Illinois. It is absolutely not our intention that the Secretary use funds intended for other Indian programs to effectuate any cleanup of the asbestos. Preliminary cost estimates prepared by the Department of the Interior place the cost of asbestos abatement at the school at about $770,000. It is our intention to seek a separate appropriation for the abatement once the Department has provided us with a firm cost figure. In addition, I would note for the Senator from Illinois that the only way the Secretary could utilize funds appropriated for other Indian programs would be through a reprogramming request approved by the Appropriations Subcommittees on Interior and Related Agencies of both the House and Senate because the amount involved exceeds $250,000. I can assure my friend that were the Secretary to make such a request I would strongly oppose it as I believe would all members of the Select Committee on Indian Affairs, several of whom also serve on the Appropriations Committee. I thank my friend for his question and appreciate his service on the committee and commitment to the welfare of Native Americans. I would note that resolution of the asbestos cleanup question will enable us to secure a $35-million Indian Education Trust Fund which is critical.

Mr. SIMON. I appreciate the response of the Senator from Arizona. I can certainly assure him that this Senator would join in opposing any such reprogramming request.

The PRESIDING OFFICER. Without objection, the amendment (No. 1452) is agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SEYMOUR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE WHITE HOUSE COMMEMORATIVE COIN ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3337, the 1992 White House Commemorative Coin Act, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3337) to require the Secretary of the Treasury to mint a coin in commemoration of the two hundredth anniversary of the White House, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1453

(Purpose: To modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Bill of Rights, and other purposes)

Mr. MITCHELL. Mr. President, on behalf of Senators CRANSTON, WALLOP, KENNEDY, and HATCH, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. CRANSTON (for himself, Mr. WALLOP, Mr. KENNEDY, and Mr. HATCH) proposes an amendment numbered 1453.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

TITLE ____—COINS

SEC. ____01. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. ____02. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the ratification of the Bill of Rights to the United States Constitution for a period of 2 years after issuance. After the 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. The minting of the first selected coin shall begin January 1993, and the issuance shall begin as soon as practical thereafter. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. ____03. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. ____04. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following concepts from the Bill of Rights: freedom of speech and assembly; freedom of the press; the right to due process of law; and other appropriate themes. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. ____05. REDUCTION OF THE NATIONS DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE ____—JAMES MADISON COINS

SEC. ____01. SHORT TITLE.

This title may be cited as the "James Madison—Bill of Rights Commemorative Coin Act".

SEC. ____02. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) HALF DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the half dollar silver coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) INSCRIPTIONS.—All coins minted and issued under this Act shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) DESIGN PANEL.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. ____03. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. ____04. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR COINS AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this title may be issued beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1993.

SEC. ____05. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $30 per coin for the five dollar coins, $6 per coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. ____06. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) REPORTS TO CONGRESS.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the committee on Banking, Finance, and Urban Affairs of the House of Representatives and the committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this title during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994.

SEC. ____07. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. ____08. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section ___07 of this title. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section ___07 of this Act shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. ____09. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1453) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SEYMOUR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRECEDENT AND CAPACITY

Mr. CRANSTON. Mr. President, I thank my friend and colleague, Senator MALCOLM WALLOP, for the important part he has played in advancing this amendment. I thank many others for their contributions. The United States has changed coin design 65 times before in our Nation's history. Every change has made a profit for the Government.

This legislation would require new designs on the reverses—tail sides—of the penny, nickel, dime, quarter, and half dollar. The Presidents on the obverses—face sides—would remain on the coins. The size, shape, weight, color and metallic content would remain the same. All inscriptions including "In God We Trust" will remain on the coins.

The 1975–76 Bicentennial reverses of the quarter, half dollar, and dollar minted in celebration of the 200th anniversary of our Nation's independence were very favorably received by the public and raised substantial profit for the Treasury.

Every Western nation changes its coins with great regularity. The former Mint Director, Donna Pope, testifying before the House Subcommittee on Consumer Affairs and Coinage on July 12, 1990, said that the Mint has "sufficient capacity to implement the 6-year coinage redesign legislation".

PROVEN REVENUE RAISER

The Post Office changes stamp designs 24 times every year. It makes a huge profit because of purchases by 10 million stamp collectors. The 1989 profit was approximately $200 million.

The Nation's 10 million coin collectors insure that coin design change will produce huge profits. On June 23, 1988, a conservative CBO study estimated that the proposed six new designs will produce a total profit of $155 million through above-normal seignorage in 4 years: $36 million in year 1, $42 million in year 2, $47 million in year 3, $30 million in year 4. CBO estimated that this increased seignorage will also reduce Federal interest costs by $29 million in the first 4 years. CBO additionally stated that there will be $18 million profit in collector sets sales over a 6-year period. This money will go directly to the Treasury to reduce national debt. Seigniorage is the difference between the cost and the sales price of a coin. Example: It costs 2.5 cents to make a quarter for a seignorage profit of 22.5 cents.

CONGRESSIONAL SUPPORT

Senate support: The coin redesign bill was approved by the Senate unanimously six times in the last Congress. It had 68 cosponsors.

House support: The coin redesign bill had 278 cosponsors.

Opponents of this legislation erroneously state that the public disfavor in 1978 over the Susan B. Anthony dollar indicates that the public will not accept proposed coin redesigns. The Anthony dollar was not a design change. It was different in shape and size. It was not the design on the coin to which the public objected. The Anthony dollar also failed because the dollar bill was not taken out of circulation, and because it was so similar in size, shape, and appearance to the quarter.

HISTORY

Historically, coins have played a great part in the lives of the people of our country. They are the most tangible symbols of our Nation in our daily lives. We touch them, examine them, carry them around in our pockets and purses.

Beth Deisher, editor of Coin World, testified eloquently on November 22. She said:

> Our founding fathers understood the importance of a federal coinage. Benjamin Franklin, Robert Morris, Thomas Jefferson and Alexander Hamilton—leading thinkers of their day—each suggested coinage systems for the new United States.
>
> Coinage and the establishment of a Mint, in fact, were so important that President George Washington spoke about coinage issues and the need for a national Mint in his first three addresses to Congress—in 1789, 1790 and 1791.
>
> Our founding fathers had very definite ideas with regard to the designs depicted on our coins.

More recently, when President Theodore Roosevelt was asked what he thought was the most important contribution of his administration he replied, "the coinage of the United States Mint." One of Roosevelt's top priorities upon assuming office was improving the quality of the designs of American coins.

TODAY

I am concerned, however, with the direction the mint has taken over the past decade. Rather than carry out its responsibility for promoting and initiating coin redesign and marketing programs, as undertaken by many foreign mints around the world, the U.S. Mint has taken a do-nothing attitude unless mandated otherwise by Congress. I have heard many complaints about a lack of leadership at the mint.

I hope that under a new Director's leadership—David J. Ryder if he is confirmed—our coins will be redesigned more effectively to represent themes regarding the bicentennial of the Bill of Rights and individual amendments that comprise that great document—ideals which are the essence of our freedoms and our system of justice. I hope that the mint's age of resistance to change will come to an end.

Mr. President, I ask unanimous consent that the full text of the testimony of Coin World editor Beth Deisher at Mr. Ryder's November 22 confirmation hearing appear at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF COIN WORLD EDITOR BETH DEISHER BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS CONFIRMATION HEARING OF DAVID J. RYDER AS DIRECTOR, U.S. MINT—NOVEMBER 22, 1991

Mr. Chairman, my name is Beth Deisher. I am editor of Coin World, the world's largest news weekly serving the field of numismatic collectibles. Published in Sidney, Ohio, Coin World is in its 31st year of publication.

Thank you for inviting Coin World to present testimony on the historical role of the Mint in the production of coins and for the opportunity to present our views on the Mint's responsibility for redesigning U.S. coins.

Our founding fathers understood the importance of a federal coinage. Benjamin Franklin, Robert Morris, Thomas Jefferson and Alexander Hamilton—leading thinkers of their day—each suggested coinage systems for the new United States.

Coinage and the establishment of a Mint, in fact, were so important that President George Washington spoke about coinage issues and the need for a national Mint in his first three addresses to Congress—in 1789, 1790 and 1791. By resolution passed on March 3, 1791, the U.S. Mint was established and little more than a year later, the enabling law, the Mint Act of April 2, 1792, was approved, setting forth the denominations, specifications and legal tender status for the first U.S. coins. The coinage system which gained approval was based on the decimal plan advocated by Hamilton, the nation's first Secretary of the Treasury.

That Act of April 2, 1792, also authorized the construction of a minting facility, which became the first building to be constructed by the federal government. The Act of April 2, 1792, also specified the positions that would be required, outlined their responsibilities and set their salaries.

It is significant that our founding fathers tapped David Rittenhouse to be the nation's first Mint Director. At the time of his appointment, Dr. Rittenhouse was widely considered to be America's top scientist. Our founding fathers sought the very best for such an important assignment.

It is also significant that our founding fathers had very definite ideas with regard to the designs depicted on our coins. If fact, the design parameters set forth in 1792 still affect designs of our coins today because therein embodied are the mandates for the word Liberty and the year of issue to appear on all of our coins. Many in Congress thought President Washington's portrait should be on our coins, but Washington vehemently opposed it. He did not want to be perceived as a king. The prevailing wisdom of that time was not to elevate any mortal to such lofty heights, but rather to require that all coins depict an impression symbolic of Liberty. Indeed, Liberty was personified as an allegorical figure for more than 115 years thereafter.

Dr. Cornelius Vermeule, Curator of Classical Art at the Museum of Fine Arts in Boston and author of Numismatic Art in America, brings perspective here:

"A nation fashioned as was the United States needed a coinage as different from the immediate past as the ideals of sovereignty and forms of government with which the country first developed. . . . It is to the credit of the Revolutionary leaders that, from the beginning, they sought designs and styles for the coinage which would be original and expressive of the nation's intellectual aspirations. Ten years were necessary, from 1782 to 1792, to bring a true federal coinage into being. The founding fathers thought and wrote extensively about the symbolism involved in the designs, and they were able to reject nearly all visual reliance on the long-established coinages of major European nations. The problems of a new coinage were iconographic and aesthetic. As a result, sources for obverse and reverse compositions, from figures to lettering and secondary decoration, had to come from contemporary European and American art of all forms. . . . Coins from 1793 through 1836 manifest all the symptoms of a young republic striving to find its iconographic and artistic identity, and, therefore, have always been objects of charm and, at worst, primitive beauty. The Neoclassic designs instituted in the years following 1836 gave United States coins a dignity and originality worthy of any struck pieces in any age. It is only unfortunate that a mediocre version of these types persisted for too long—over fifty years—until the eve of the Chicago World's Fair of 1892. Part of the reason for this was no doubt the fact that the nation was torn apart by civil war from 1861 to 1865.

"The artistic upheaval that began in 1892 led to one of the most beautiful regular coinages ever conceived, but it did not become effective until the decade from 1906 to 1916."

It is clear from the historical record and the coins and pattern coins which have survived that Mint officials and the artists in their employ during the Mint's first 100 years were striving to create a coinage of quality in design and content. It is equally clear that in 1892 as the U.S. Mint began its second century of service those in charge believed they must take a leadership role in ensuring the quality of coinage design for the United States.

Let us pause here for a U.S. Mint Centennial Report:

The Fall of 1891 was a time of great excitement. Mint engravers were at a feverish pitch as they worked on the dies for the new designs which were to be introduced in January 1892. No one was more excited than Mint Director Edward O. Leech. At his urging, legislation had been approved by the Fifty-first Congress and signed into law September 26, 1890, granting authority to the Mint Director and the Secretary of the Treasury to change the designs of circulating coins after they had been in circulation for 25 years. As noted in his Report of the Director of the Mint for Fiscal Year Ended June 30, 1890, Leech was concerned that "the designs upon many of our coins date back a period of half a century." An accompanying table showed all six gold denominations, three of the four silver coins and one of the minor coins were eligible immediately for new designs.

The ability to bring new designs to the nation's coinage every 25 years represented a major triumph for the U.S. Mint. As early as December 5, 1883, the chairman of the Senate Finance Committee, Sen. Justin S. Morrill, in a floor speech had criticized the artistic execution, as well as other characteristics of our coinage, and pointed out to his fellow lawmakers that the then current law only allowed for new designs at such time as new denominations were approved. He noted that "the Director of the Mint, the coiner and engraver, do not appear to have any discretion in regard to existing coins."

James P. Kimball of Pennysivania became Mint Director in July 1885. In his Report of the Director of the Mint for Fiscal Year Ended June 30, 1887, Kimball began laying the groundwork for new designs, using just over six pages of his official report for a historical overview and statement of need:

"Having become aware of what I believe to be a popular desire for an improvement of the coinage in respect to the present designs (distinguished from devices) as prescribed by law, I deem it my duty to here invite attention to this matter, and to offer such suggestions as seem to be proper to the office now held by me.

"It is sometimes considered that Congress has advisedly omitted to provide for the execution of its coinage in keeping with the art of the day, for the reason that any unnecessary change of design is contrary to the interests of the public. Whether this is so can hardly be said. It is open to question, however, how far artistic merit in coins should be sacrificed to custom."

We learn from Kimball's 1888 report that by that time he had drafted a legislative proposal, with the approval and support of Secretary of the Treasury C.S. Fairchild, and Sen. Morrill introduced it March 15, 1888.

In giving his support to the legislative initiative Fairchild, in a letter to Sen. Morrill, noted:

"The designs at present employed on our older coins date from periods of thirty to fifty years, and are commonly recognized as far behind the state which the arts of design and sculpture have since attained."

In the text of his report Kimball would advocate the ability to change designs even more fervently:

"The designs impressed upon the coins of any nation, ancient or modern, are accepted as an expression of the art of their time. But few citizens, who, with an artistic sense, have carefully scrutinized the current coins of this Republic, would consent to accept as a standard of excellence for their own day and generation almost any of the present compositions of statutory devices. . . ."

Optimistic that his drive to change the designs would find favor in Congress, Kimball noted his preference of having the ability "to engage the services of artists distinguished in their respective departments of art as opposed to public design competitions." He elaborates:

"The question now arises, who shall decide between the claims of artists more or less distinguished? . . . In selection of designs, however, this responsibility might be further divided, not necessarily by law, so as to admit also of the service of judges distinguished for their discernment in matters of art and design; such judges, on the invitation of the Secretary of the Treasury, to act with the Director of the Mint in the acceptance or rejection of designs submitted. The above suggestions are made not without full recognition of the fact that the voice of every citizen of the United States is heard upon a matter of art or aesthetics such as a design employed on a familiar coin of the Republic; or of the fact that while distinguished artists stand ready to offer designs, no public officer could reasonably be called upon alone to pass upon the professional merit of artists or the art value of their productions."

When Kimball left office in October 1889 his proposal had not yet gained passage in the House of Representatives. However, his successor, Edward O. Leech of the District of Columbia, embraced the cause and pressed ahead. Within a year, Kimball's goal had been accomplished.

In his 1891 Leech noted:

"To help make the coins of the United States worthy, from the point of view of the beautiful, of our country, at the beginning of the second century of its existence, is the object of my recommendations as to new and improved designs."

Under Leech's direction a design competition was held and a jury comprising sculptor Augustus Saint-Gaudens, outside engraver Henry Mitchell, and Mint Engraver Charles E. Barber reviewed the submitted designs or models. The jury concluded that none of the submissions were worthy. Leech then directed Barber to prepare new designs for the half dollar, quarter dollar, and dime.

It is clear from the historical record that the legislative authority to change designs after 25 years was viewed as a mandate by Leech's successors at the Mint and those most concerned with coinage matters. Mint officials in 1915 clearly believed the law compelled them to act when time had run out on Barber's designs. Mint officials announced their intentions:

"Twenty-five years having nearly elapsed since the adoption of the present designs of half-dollar, quarter-dollar and one-dime pieces, under the law coins with new designs will have to be issued."

Indeed, the design changes beginning in 1907, continuing to 1913 and into 1916 are still regarded as the zenith of American coinage art.

Were our founding fathers with us today at this hearing—namely Washington and Jefferson—they would no doubt be amazed to find their portraits on our circulating coinage.

The trend toward presidential portraits being placed on U.S. circulating coins started with Lincoln in 1909. Numismatic historians tell us that sculptor Victor David Brenner suggested honoring the 100th anniversary of Lincoln's birth with a portrait to replace the Indian Head cent. President Theodore Roosevelt was so impressed with Brenner's work he personally commissioned Brenner to do the portrait.

With the precedent in place, it is not surprising to learn that Washington's portrait was placed on the quarter dollar to commemorate the 200th anniversary of his birth in 1932. As the Indian Head 5-cent coin reached its 25th year in circulation in 1938, Jefferson's portrait was placed on the obverse and his home, Monticello, was selected to grace the reverse of the five-cent coin.

When President Franklin D. Roosevelt died in 1945 the Winged Liberty Head dime had been in circulation for 29 years, so the dime was an immediate candidate for a Roosevelt portrait. Roosevelt—a victim of polio—was very much associated with the 10-cent coin because of March of Dimes campaigns in behalf of the Infantile Paralysis Fund, so public sentiment favored the change.

The Walking Liberty half dollar was in circulation for 31 years before being replaced in 1948 by a portrait of Benjamin Franklin. However, Franklin had been on the half dollar only 15 years when the young and popular John F. Kennedy was assassinated. An outpouring of public sentiment led President Johnson to ask Congress for special legislation to replace Franklin's portrait with that of his predecessor in 1964.

On December 31, 1970, President Nixon signed into law banking legislation containing an amendment calling for the reissuance of the dollar coin, specifying that it contain the likeness of the late President Dwight D. Eisenhower, whom he had served as vice president for eight years. The Eisenhower design on the dollar would last only eight years.

A study conducted by the North Carolina Research Triangle Institute on behalf of the Mint in 1976 identified the need for a small-sized dollar coin. After a long and bitter Congressional fight, feminist Susan B. Anthony's portrait was selected for the obverse of the new, small-size dollar coin. The small-dollar coin was minted for only three years—and for circulation, only two of those years—due to the public's rejection of it because of its size being confused with the quarter dollar. So effectively, no dollar coin is in general circulation today in the United States.

Most researchers and historians attribute both the executive and legislative branches' reluctance to embrace new circulating designs to political gridlock. Few are willing to speak out publicly in support of removing presidential portraits from our circulating coins, despite the overwhelming historical record supporting the desire and need to have our nation's coins reflect the ideals and aspirations of current generations.

Were they with us today, Mint Directors Kimball and Leech would surely be distressed to learn that our cent has not had an obverse design change for 82 years, our 5-cent coin design has been with us for 53 years, our 10-cent design for 45 years, our quarter dollar design for 59 years and our half dollar for 27 years. Except for the updating of the Lincoln reverse in 1959 and the brief 1976 Bicentennial reverse designs for our dollar, half dollar, and quarter dollar, designs of our circulating coins have been allowed to stagnate.

In view of this design stagnation, we must characterize the later half of the 20th century as a time of benign neglect when we examine the Mint's role in and responsibility for initiating new designs for our circulating coins.

Historically, the Mint's primary role has been to produce enough coinage to assure that the nation has an adequate supply for commerce. Implicit is the responsibility to ensure that the coin denominations are functional. Again, an examination of the record during the last decade shows a major failure. Instead of seeking ways to correct the Anthony dollar debacle of 1979, the Mint for more than a decade has chosen to ignore the need for a small-size dollar coin and the possible elimination of the cent. Consequently, the United States' circulating coins have the least purchasing power of any major nation in the world community. The United States should be on the leading edge when it comes to keeping its coinage modern, both in terms of design and usefulness to its citizens. Sadly, this is not the case today.

Congress has during the last decade greatly expanded the U.S. Mint's mission. Historically, the U.S. Mint was simply a manufacturer of coins, including the commemorative issues from 1892 until 1954. However, the Mint's role changed dramatically with the passage of legislation authorizing the 1983–84 Los Angeles Olympic Coin Program. For the first time in its history the U.S. Mint was charged with the responsibility for the sales and marketing of commemorative coins. That precedent has been carried forth in subsequent commemorative coin programs as well as the bullion coin programs, launched in 1986.

With the mandate to be a marketer as well as a manufacturer, the U.S. Mint occupies a possibly unique place in U.S. government. Because of its authorized monopoly in manufacturing and marketing of legal tender coins for sale to collectors and investors, the Mint has the ability to earn profits for the U.S. government. In addition, the Mint adds to the government's bottom line through seigniorage (the difference between the face value and the cost of production) of circulating coins, which for accounting purposes is used as a means of financing government debt. (When seigniorage increases, the amount the Treasury has to borrow decreases, and the government avoids paying the associated interest costs.)

We find it helpful to think of the U.S. Mint in terms of a manufacturing corporation. As such, the taxpayers of the United States would be its shareholders, Congress would be its corporate board and the Mint Director would be its CEO. In terms of sales volume and profits, the U.S. Mint has been likened to a Fortune 500 company.

Regrettably, Congress and the Mint's management have not bought into the term concept. For the past decade Congress has overindulged with intense micromanagement, mandating commemorative programs based on perceived needs to generate surcharges to fund special-interest projects. Congress appears to pay little attention to appropriateness of theme or marketability of the coins. The Mint's management throughout has behaved much like a sullen teenager, doing only what it is told it must do, without enthusiasm and seemingly devoid of any interest in becoming market-oriented. The result is a dramatic decline in U.S. commemorative and bullion coin sales. (See accompanying charts.) But of even greater concern is the fact foreign competitor Mints, realizing the potential of the vast U.S. market, are successfully gaining market share at the expense of the U.S. Mint. They are aggressively vying for U.S. coin collector dollars by marketing reasonably priced, historically significant, and aestically beautiful coins.

The approach of the U.S. Mint's bicentennial and the appointment of a new Director offer an unparalleled opportunity to revitalize the U.S. Mint and forge a new working relationship with Congress as well as the numismatic community. It is our understanding that major legislation intent upon reforming the Mint and equipping it to become market-oriented is now being drafted in the House of Representatives.

We believe that it is critical for the next Director to have the management expertise and the necessary vision to lead the U.S. Mint as it matures and is empowered to become a market-oriented entity. There is an implicit need for long-range planning and market sensitivity. Equally important will be the willingness to tap and use available expertise, whether in the public or private sectors. Candor and trust must be restored. Above all, the Mint must affirm its commitment to quality, in both terms of product and service to constituents as it enters its third century.

Mr. President, the second part of this amendment would require the Secretary of the Treasury to mint coins in commemoration of James Madison and the bicentennial of the Bill of Rights. Exactly 200 years ago, the Virginia Bill of Rights was ratified—and the first 10 amendments became part of our Constitution.

This amendment was originally introduced as S. 1672, with 55 cosponsors. It will ensure that we—the people—

have the opportunity to observe and learn about this great document, the Bill of Rights.

The amendment provides for broad public participation by establishing a nationwide open competition for the selection of the commemorative coin designs—a competition for the people. The Secretary of the Treasury will select the final coin designs from the competition.

Mr. President, this amendment is strongly supported by the numismatic community. The surcharge that is added to the price of these three commemorative coins will be less than the levels for previous coins. The high price of some commemorative coins raised concerns in the coin collecting community. The U.S. Mint indicated that lower surcharges as well as lower levels of mintage would make these commemorative coins more likely to sell out.

The surcharges from these commemorative coins will be used to help endow the education programs of the James Madison Fellowship Foundation. These programs are designed to strengthen teaching and study of the U.S. Constitution.

I urge adoption of this coin redesign and James Madison, Bill of Rights, amendment and the adoption of H.R. 3337, as thus amended.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 3337), as amended, was passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I yield to the distinguished chairman of the Banking Committee, the Senator from Michigan.

RESOLUTION TRUST CORPORATION REFINANCING ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. RIEGLE. Mr. President, I will take only a short amount of time. We are ready to vote on the RTC funding measure.

In reading the House bill, there was a provision that had been added on the House side that was not agreed to ahead of time by those of us in the Senate. That provision in question would have lowered the current capital standards for real estate construction loans on either single or multifamily housing.

We know from past experience that that would be a mistake to do. The House has agreed to take that out at the first moment they have the chance to do so when they reconvene. We have that assurance from the sponsor of the amendment, Mr. WYLIE from Ohio, and also the Speaker of the House has given us that assurance.

We are going to pass the RTC funding bill now in its present form. Upon the disposition of that vote, I will send a freestanding bill to the desk which will remove the section I referred to in there that was added on the House side. They will, at their first opportunity, pass that bill. And so that part of the bill will be stricken in that fashion.

I also have an assurance from the administration that they will not act to implement this in the interim period of time until this particular section can be removed.

Mr. DOMENICI. Mr. President, we agree on this side. We have a slightly different explanation. Actually, without the provision, the 8 percent will be reduced to 4 percent for residences that are pre-sold. That is very good for the housing market. If you leave the provision in, you are apt not to get it, because it will be contested internationally. We think it should come out.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill (H.R. 3435) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. HARKIN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Wisconsin [Mr. KOHL], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. BROWN], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arizona [Mr. MCCAIN], the Senator from Delaware [Mr. ROTH], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

On this vote, the Senator from Arizona [Mr. MCCAIN] is paired with the Senator from Colorado [Mr. BROWN].

If present and voting, the Senator from Arizona would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 44, nays 33, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—44

Bentsen
Bingaman
Bond
Boren
Bryan
Bumpers
Chafee
Cochran
Cohen
Cranston
Dixon
Dole
Domenici
Ford
Glenn
Gore
Gorton
Grassley
Hatch
Hatfield
Inouye
Kennedy
Levin
Lott
Lugar
Mack
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Pell
Pressler
Riegle
Robb
Rudman
Sanford
Sarbanes
Sasser
Seymour
Simpson
Thurmond
Warner

NAYS—33

Adams
Akaka
Baucus
Bradley
Burns
Byrd
Coats
Conrad
D'Amato
Daschle
DeConcini
Dodd
Durenberger
Fowler
Graham
Heflin
Hollings
Kasten
Kerry
Lautenberg
Leahy
Lieberman
Murkowski
Nunn
Packwood
Reid
Rockefeller
Shelby
Smith
Specter
Wallop
Wellstone
Wofford

NOT VOTING—23

Biden
Breaux
Brown
Burdick
Craig
Danforth
Exon
Garn
Gramm
Harkin
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Kohl
McCain
Pryor
Roth
Simon
Stevens
Symms
Wirth

So the bill (H.R. 3435) was passed.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. If I could have the attention of the Senate, it is my understanding there will be no more votes today.

SENATE CONCURRENT RESOLUTION 84—CORRECTING THE ENROLLMENT OF H.R. 3435

Mr. RIEGLE. Mr. President, I am going to send to the desk a concurrent resolution, and also accompanying that, a separate bill to deal with the portion of the RTC legislation just passed that I referred to earlier. That is the part of the RTC bill'that needs to come out, and we have asked and I have given the assurance to the Senate, based on representations by Mr. WYLIE in the House and by the Speaker of the House, that the House will delete

that provision at its earliest opportunity. That may be able to be done in terms of a correction to the enrollment of H.R. 3435.

So I now ask unanimous consent that the Senate proceed to the concurrent resolution, and then I am going to ask for its immediate adoption.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 84) to correct the enrollment of H.R. 3435, the RTC funding bill.

The PRESIDING OFFICER. Is there objection to the request of Senator from Michigan?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I ask the distinguished chairman, I understand that a corrective matter that was requested by Senator MURKOWSKI, a definitional matter, was going to be included.

Mr. RIEGLE. Yes; that is right. And I suppose it ought to be included on both of them.

Mr. DOMENICI. I think that is right.

Mr. RIEGLE. I ask unanimous consent, then, that the Murkowski amendment be sent up to the desk and added to the motion that is now pending.

AMENDMENT NO. 1454

(Purpose: To clarify the definition of "property"

Mr. MURKOWSKI. I send an amendment to the desk and ask for its immediate consideration.

Mr. RIEGLE. Mr. President, I ask unanimous consent that it be modified to take account of the Murkowski amendment.

The PRESIDING OFFICER. If there is no objection, without objection, that will be the order.

Mr. RIEGLE. I yield back my time and move the passage of the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1454.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . Subsection 12(b)(7)(vii) of Pub. L. No. 94-204, as amended, and subsection 9102(e) of Pub. L. No. 101-165, as amended, are each amended further by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets such as financial instruments, notes, loans bonds, and licenses),".

SECTIONAL ANALYSIS

Both subsection 12(b)(7)(vii) of Pub. L. No. 94-204, as amended, and subsection 9102(e) of Pub. L. 101-165, as amended, contain an identical definition of "property" for the purpose of identifying those items available for purchase by the Cook Inlet Region, Inc. using the appropriated funds contained in the "Cook Inlet Region, Incorporated property account" established by the Secretary of the Treasury pursuant to section 12(b) of Pub. L. No. 94-204. Inasmuch as funds were appropriated to the property account in 1989 without fiscal year limitation, obligations from the property account will have no budgetary impact.

While the existing statutory definition of "property" appears to be all-inclusive, and includes the words ". . . real, personal, or mixed-owned . . .", some question has been raised as to whether the definition is broad enough to include purchases of intangible instruments, (e.g. Treasury Bills, RTC or FDIC paper, etc.). This amendment will clarify the all-inclusiveness of the original definition and ease CIRI's purchase of Government paper in addition to the already well accepted purchase of Government real property.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1454) was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (S. Con. Res. 84), as amended, was agreed to.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

Mr. DOMENICI. Did the distinguished majority leader ask whether we had an understanding with the House regarding the Murkowski amendment?

We do not. I spoke with them regarding the basic amendment, which is curative. However, the Senator asked and we included it, and I assume that he will attempt to achieve it; and, if not, it would be dropped.

Mr. RIEGLE. I think we ought to have that understanding in there in light of the fact we have not been able to clear it on the House side.

Mr. DOMENICI. We did not clear it.

Mr. MURKOWSKI. It is my understanding, Mr. President, it will be in as part of the amendment.

Mr. RIEGLE. Yes; and it is acceptable to this side. But I am simply saying there is no understanding on the House side that they will be prepared to take it.

Mr. MURKOWSKI. I understand.

Mr. MITCHELL. Mr. President, just so there is no misunderstanding, I discussed the matter personally with the Speaker. At that time, I was unaware of any amendment by the Senator from Alaska. So the representation regarding the House's acceptance of this freestanding bill relates solely to the contents of the bill. And it is understood, then, by the Senator from Alaska, if we do not get this cleared on the House side, this amendment would be dropped from this bill because we do not want it to interfere with the acceptance by the House of this freestanding bill.

Mr. MURKOWSKI. I am wondering, Mr. President, what is the difference in the status of the technical amendment of the Senator from Alaska and the Domenici amendment.

Mr. DOMENICI. I did not put my amendment in. No; I did not.

Mr. RIEGLE. Does the Senator agree to that understanding so we move ahead?

Mr. MURKOWSKI. I agree. It is part of the amendment, recognizing the House obviously may make an adjustment to it. I did mention it to——

Mr. DOLE. They may drop it.

Mr. MITCHELL. Will the Senator agree under those circumstances just to two separate concurrent resolutions? Then this one is done. We have an agreement. The House and Senate is free to work separately on the other resolution to get the House to agree to it. We do not endanger this resolution, which has not been the subject of any discussion with anyone in the House.

Mr. MURKOWSKI. Mr. President, I respectfully remind the majority leader it was discussed on both sides, passed, and it was approved by the Energy Committee, both the minority and the majority. I briefly mentioned it to the majority leader, but I am sure he was distracted, but I mentioned it to both floor managers.

I will agree to have it go in as part of the amendment, recognizing the House may—it is so technical in nature. Perhaps in 5 seconds I can explain the amendment. The regional corporations in the State of Alaska—there are 12. One of them in particular, traditionally, had a right to buy all surplus property offered by the Federal Government under RTC. All we are asking in this technical amendment is that they may have the right to buy their debt instruments as well.

It is a very minor technical adjustment.

The Senator from Alaska agreed not to object previously with the understanding I would be able to offer it under this proposal. And I am going to abide by that.

This is a noncontroversial matter.

Mr. MITCHELL. Mr. President, I knew nothing about the amendment of the Senator from Alaska. And I take fully his word that it is noncontroversial.

That being the case, why does the Senator insist that it be added as an amendment to this measure, which we have already cleared with the House? They have accepted. I would be prepared to try to get the House to agree to his amendment separately. Just if he understands, if there is objection in the House to doing this, we are not going to permit the current underlying measure to be defeated because of this, because it is important in terms of representations made on the RTC funding bill.

Mr. MURKOWSKI. The Senator from Alaska understands that. But I am not going, necessarily, to eliminate my amendment from this one and have it as a freestanding amendment.

Mr. SARBANES. Will the Senator yield? Is the Senator willing to do it both ways? Is the Senator willing to have a concurrent resolution without his amendment and to have one with his amendment? In that case, if there is no objection on the House side to the proposal of the Senator, that one can be taken. If there is, then the other one can be taken.

What has happened here, of course, is the representation was made to Members of the Senate when they voted on the RTC bill that what was perceived as a deficiency in the RTC bill would be corrected. On the basis of that representation, I think at least some Members, maybe many Members, voted for the legislation.

The problem is that the proposal, without the Senator's technical amendment, is what was cleared—without the Senator's amendment is what was cleared with the House.

We have no assurance, although one would hope so—it is being accepted on this side—that the House would not raise a problem. But you have no assurance on this score. Could we not do two resolutions, one that has the Senator's amendment in it and one that does not?

Mr. MURKOWSKI. In response to my friend from Maryland, I am afraid I just do not see the detraction, necessarily, from the standpoint of the discussion that we previously had that this would go on the amendment going over to the House. It is of such a technical nature it simply is a vehicle. The Senator from Alaska is very reluctant to separate it out at this time.

Mr. SARBANES. I understand that, but the fact of the matter is——

Mr. MURKOWSKI. If the House takes it out, I understand.

Mr. MITCHELL. Mr. President, if the Senator persists, just so there is no misunderstanding, if there is any objection to this in the House, this provision will be jettisoned because we have to get the underlying legislation done. If that is agreeable with the Senator, then I suggest we so proceed.

Mr. MURKOWSKI. That is agreeable with the Senator from Alaska.

Mr. DOMENICI. There is no question on our side. That is the only reason we gave it.

It is very technical, and there is a very good chance, if they look at it, they will take it, but if they do not—strip it off as deemed by the House—and we will have the bill passed.

Mr. MURKOWSKI. I thank the majority leader and the floor leaders.

Mr. RIEGLE. I will yield all time back. Can we act on this matter?

The PRESIDING OFFICER. The concurrent resolution has been adopted.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPEALING SECTION 618 OF THE RTC ACT OF 1991

Mr. RIEGLE. I now send to the desk a bill, in the event that the correction just passed is not able to be adopted in the enrolling.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2131) to repeal section 618 of the Resolution Trust Corporation, Refinancing, Restructuring, and Improvement Act of 1991.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1455

Mr. REIGLE. Let me now send an amendment to it, a modification to it. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. MURKOWSKI, proposes an amendment numbered 1455.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . Subsection 12(b)(7) of Pub. L. No. 94–204, as amended, and subsection 9102(e) of Pub. L. No. 101–165, as amended, are each further amended by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation such as financial instruments, notes, loans, and bonds).".

Mr. RIEGLE. This bill is designed to correct, in bill form, the deficiency in the RTC legislation just enacted a few minutes ago. We are sending it forward in that form as well. I ask we now move on this issue.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1455) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there is no further amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, has the legislation been enacted?

The PRESIDING OFFICER. The majority leader is correct. It has been passed.

Mr. MITCHELL. Has the motion to reconsider been laid upon the table?

Mr. RIEGLE. I move to table the motion to reconsider.

The PRESIDING OFFICER. Without objection, the motion to lay on the table the motion to reconsider is agreed to.

MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991—CONFERENCE REPORT

Mr. MITCHELL. I submit a report of the committee of conference on H.R. 3595 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3595), to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source; having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

The PRESIDING OFFICER. If people could clear the Chamber who have no business in the Chamber?

Mr. DOLE. We yield back our time.

The PRESIDING OFFICER. Is there further debate on the conference report?

The Senator from Texas.

Mr. BENTSEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENTSEN. Mr. President, the Senate has now before it the conference report on H.R. 3595, the Medicaid moratorium amendments of 1991. I

supported the Senate amendment to the House bill, and I intend to support this conference agreement, albeit with reservations. This legislation is critical because it will stop from going into effect the administration's October 31 regulation relating to provider donations and taxes. If it were allowed to take effect, this regulation would be devastating to State Medicaid Programs and to the low-income pregnant women, children, elderly, and disabled individuals who rely on Medicaid for their health care needs. In my own State, for example, Texas Children's Hospital last year incurred $43 million uncompensated care costs. Failure to enact this conference report would have the effect of increasing substantially the amount of uncompensated care at this facility. The bill addresses the abuses in State revenue raising as identified by the inspector general. In addition, H.R. 3595 will give clear guidance to the States about what Medicaid financing mechanisms will be permitted, thereby facilitating long-term budget planning by public officials in each of the 50 States.

The Governors and the NGA staff, especially Ray Scheppach and Alicia Peirine, deserve special recognition for their hard work in crafting the compromise with the administration which is the basis for this bill.

As I indicated earlier, however, I am concerned that this agreement may potentially affect legitimate longstanding financing arrangements by States and localities. Accordingly, I will monitor implementation closely and evaluate on an ongoing basis its impact on States, localities, providers, and beneficiaries through oversight hearings in the Finance Committee during the coming year.

I encourage my colleagues in the Senate to lend their support to this conference agreement.

Mr. President, the development of this complex bill was contentious, and grueling for the staff. I want to commend especially Janis Guerney, whose careful analysis and attention to detail was critical to reaching the final agreement. In addition, I want to thank Roy Ranthum with the Senate Finance Committee. Minority Chris Williams with Senator MITCHELL, Debbie Chang with Senator RIEGLE, and Mary Ella Payne with Senator ROCKEFELLER for their excellent work on behalf of the leader and the conferees. Alexander Polinsby with Senator DURENBERGER deserves special mention. While he is usually at Senator DURENBERGER's side on tax matters, his quick grasp of highly technical Medicaid provisions was as outstanding an example of the fine staff work as I have ever seen.

Finally Mark Merlis of the Congressional Research Service, Tom Streitz of the Office of Legislative Counsel, as well as Don Johnson and Daryl Grinstadt provided outstanding technical support during the development of the legislation and throughout the conference negotiations.

Mr. KOHL. Mr. President, I rise today to express my reservations with the conference report on H.R. 3595, the Medicaid Moratorium Amendments of 1991. My reservations are based on both the bill content and the process through which this legislation was developed.

I understand the fiscal difficulties facing the States, particularly with regard to burgeoning pressure on the Medicaid Program caused by unfunded mandates and increased need. The Medicaid system is in total disarray. But that being said, I am outraged by the ways in which some States have been gaming the Medicaid system. I am dismayed at the widespread willingness to funnel money around and expect a Federal match. The practice has been called a fraud and a scam. And it is. It is a highly communicable virus that has proliferated through the Nations' State capitols this past year and the National Governors Association/Health Care Financing Administration proposal is an antidote. I appreciate that.

My concern with the conference report content is twofold: it is a package of accomodations to various States and we have no idea how it will work. During Senate consideration of the NGA/HCFA compromise, deal after deal has been made for this State or that. It's not an unusual thing in the political process, but in this instance the deals were so vast and so numbered, that we can't even define what the real rules are. For example, I've asked about the transition rules. Explain to me the transition rules, I've said. The only way any one can explain them to me is to itemize all the exceptions to those rules. And that is telling, Mr. President.

In the midst of all the bargaining for exceptions, we lost track of some pretty important policy issues. One is the massive redistribution of Medicaid funds that I think will occur under this bill. Another is the issue of disproportionate share hospitals. It is a serious concern particularly for children's and inner city hospitals. It is a legitimate policy issue that we were not able to thoughtfully address during Senate consideration, despite the efforts of several of my colleagues. And I am pleased that the House Energy and Commerce Subcommittee chairman succeeded in creating a mechanism for some States to be allowed a higher cap in the fourth year. The colloquy between him and the chairman of the House Ways and Means Committee should serve to clarify that it is congressional intent that States retain flexibility with regard to the designation and reimbursement of disproportionate share hospitals. And the ProPac study called for in the legislation will help us to move forward on defining disproportionate share and establishing national ceilings.

Cost is another issue of concern to me. When I've looked for a comparative cost figure, I've been told the changes won't be scored and that it will not result in a sequester. My concern is for real costs and savings, not budget games. Does this cost more or less than the interim regulations, and what will the impact of each be on the people who are to be served by this program? And, under the moratorium that passed the House of Representatives, might we end up with even worse and more costly public policy? The President threatened to veto on that basis, and as a result the proposal never had a chance for serious discussion and debate.

Mr. President, there is also a problem with the process. I understand the timeliness of this issue and the impact that inaction would have on the majority of States. I want to praise the people who have worked around the clock for at least 4 days to present us with something that is doable before adjournment. They have done an incredibly fine job with a very difficult and technical proposal.

But frankly, the process that has brought us to this threshold is deeply disturbing. While I find myself in agreement with HCFA and OMB on the policy goal of stopping this raid on the Federal Treasury, how is it that we found ourselves presented with legislation that was marketed as a compromise between OMB/HCFA and the NGA? Despite the fact that hospitals, physicans, child advocates, States legislatures, counties and scores of other players in the health care arena will be dramatically affected by this plan, they were locked out of the policy debate. And to a great extent, so was Congress. Some Senators were just flatly given the impression that their concerns didn't matter because their governor has signed off already.

So here we are in the final hours of the session. We have a serious problem with the Medicaid Program, we have a consensus that the practice of gaming the system cannot be allowed to continue, and I believe, a consensus among the majority that implementation of the interim final regulations of January 1, 1992, would create chaos in both State budgets and the Medicaid system itself. We must pass this legislation. But we need not wholeheartedly endorse it. And I do not.

CONFERENCE REPORT ON THE MEDICAID VOLUNTARY AND PROVIDER TAX AMENDMENTS OF 1991

Mr. CRANSTON. Mr. President, I rise to voice my concerns with the conference report on H.R. 3595, the Medicaid Voluntary and Provider Tax Amendments of 1991 which the Senate passed today.

Although I did not oppose its passage, I have conerns with the con-

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ference report which remain unresolved. This report fails to clarify that certain mandatory transfers from public hospitals to the State may be used as matching revenues and places an arbitrary cap of 12 percent on the amount States may provide hospitals that serve a disproportionate number of low-income patients. I understand that the conference report has slightly reformed this language, however, the cap has not been removed and a number of conditions have been attached.

Mr. President, I ask unanimous consent that my letter to the conferees be printed in the RECORD as follows:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 27, 1991.

DEAR CONFEREE: As you consider H.R. 3595, the Medicaid Voluntary and Provider Tax Amendments of 1991, I would like to express my concerns regarding certain provisions contained in the Senate-passed bill.

First, I am concerned with Section 2 which clarifies that certain State funds may be used for receiving matching grants. My concern is that California's proposed plan amendment which requires mandatory intergovernmental transfers from public hospitals will not be considered state funds that may be used properly for receiving matching grants. I urge the conferees to include language in the bill clarifying that state and local governmental entities are not prohibited from using revenues derived from legitimate sources as part of the state's share of Medicaid expenditures.

In a related matter, I am concerned with the provision in Section 2 which defines the term "health care provider" as "an individual or person that receives payments for the provision of health care items or services." It is not clear that states, local and other units of government are not "health care providers." Without clarifications, transfers from cities, counties and hospital districts may be considered as provider taxes which are limited under the bill.

I am concerned especially with a provision that places an arbitrary 12 percent national aggregate cap on the percent of funds that states may devote to payment adjustments for hospitals that serve a disproportionate number of low-income patients. I understand that the bill allows states above the cap to continue doing so, however, I am concerned that this cap was arbitrarily placed and the impact of such a cap is unclear. As you know, the OMB identified provider taxes as the source of Medicaid abuse. The bill provides for a 25% limitation on the use of provider tax revenues which sunsets in three years. I would ask the conferees to include a similar three-year sunset on the 12 percent cap on disproportionate share hospitals at which time Congress may review the impact of this cap and/or raise the cap to 15 percent.

I appreciate your consideration of my concerns.

Cordially,

ALAN CRANSTON.

The PRESIDING OFFICER. Is there further debate?

Mr. DOLE. Mr. President, I will take 30 seconds to thank the chairman of the committee, the Senator from West Virginia, Senator ROCKEFELLER, the Senator from Minnesota, Senator DURENBERGER, Gail Wilensky, members of our staff, and all the Nation's Governors, who have been helpful in working out this agreement. The chairman has properly outlined the problem. This is a very important piece of legislation we are passing, and I am glad it has come to this conclusion.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBMISSION OF LEGISLATION TO AMEND THE TAXATION OF HOUSING COOPERATIVES

Mr. MOYNIHAN. Mr. President, I rise today to submit legislation designed to resolve the confusion surrounding the proper tax treatment of cooperative housing corporations.

The IRS has with mounting frequency been challenging the tax returns of housing cooperatives, particularly, low- to moderate-income cooperatives, which are a principal source of affordable housing in New York and many other areas of the country. The controversy concerns the cooperatives' treatment for tax purposes of various types of income, including interest earned on reserve funds maintained to provide for major repairs, net proceeds from laundry and parking facilities in the building and the like. The question is a bit arcane, but comes down to whether section 277 of the Internal Revenue Code applies to housing cooperatives, or not. If section 277 applies, then items like interest income from reserves may be fully taxable, rather than being eligible to be offset by the cooperative's expenses, such as operating costs and depreciation. The IRS has increasingly been taking the position that section 277 applies, and the result can be substantially increased tax liabilities for cooperatives.

Section 277 was enacted in 1969 and was designed to address the problem of membership organizations such as country clubs using the gains from transactions with nonmembers to defray part of the cost of providing goods and services to members, so that members receive them below cost. If a membership organization is allowed to consolidate its operations in this way, then the taxes due on the profits from transactions with nonmembers are avoided, and the members receive goods and services below cost that they would otherwise have to purchase with after-tax dollars.

Section 277 attempts to prevent this tax abuse by requiring that transactions with members and nonmembers be accounted for separately. Any deductions attributable to the furnishing of goods or services to members can only be taken against income from members; such deductions cannot be used against income from transactions with nonmembers.

Whether section 277 applies to a corporation operated on a cooperative basis has been a matter of some uncertainty and dispute, because there are other provisions of the Internal Revenue Code, grouped in subchapter T, which are specifically directed at cooperatives and also seek to deal with the problem of segregating member and nonmember transactions so that the latter do not cross-subsidize the former.

Which should apply to housing cooperatives, section 277 or subchapter T? How does one deal with the overlapping aspects of each? Should both apply? Even the IRS seemed to have trouble sorting this out—at least initially. The first set of proposed IRS regulations interpreting section 277, published in May 1972, included a section specifically addressed to the effect of section 277 on cooperatives subject to subchapter T, as follows: "Section 1.277–3 Interrelationship with cooperatives subject to the rules contained in subchapter T, chapter 1 of the Code. [Reserved]." By citing the issue in a section heading, and then "reserving" discussion on it, the IRS suggested that there was indeed an interpretative problem to be resolved, but postponed any resolution or guidance until some future date. That resolution never came, because the proposed regulations were later withdrawn in their entirely.

The issue has been litigated and a few court decisions have held that section 277 does apply to housing cooperatives (though in one case the taxpayer had conceded the issue). Some observers have also found persuasive the fact that committee report language accompanying a Senate Finance Committee-passed bill in 1976 asserted the drafters' understanding that section 277 applied to housing cooperatives. It was not until 1990, however, that the Internal Revenue Service published an official position on the matter, holding in Revenue Ruling 90–36 that section 277 applies to housing cooperatives.

Whether Revenue Ruling 90–36 is a correct statement of existing law could of course be left to the courts to resolve. It is my belief, however, the Congress should step in with affirmative legislation and settle the matter. Con-

gress could do so more expeditiously, and with the latitude to set sound policy here. My reasons for advocating a legislative solution are twofold.

First, I believe the result of applying section 277 to housing cooperatives is bad policy. To cite one result: if section 277 applies to housing cooperatives, then any interest earned on reserves for major repairs—whether set aside in compliance with law, or required by the lender, or merely as prudent management—would be fully taxable at the top corporate rate. This result would not comport with the general congressional policy with respect to housing cooperatives, which has been to put co-op unit owners in as near as possible the same tax position as homeowners who own their dwelling outright. For example, section 216 of the Internal Revenue Code allows co-op unit owners to deduct on their individual tax returns their proportionate share of the building's mortgage interest and real estate taxes.

It should not be surprising that section 277 produces odd results when applied to housing cooperatives because such cooperatives were not, I think it is fair to say, the principal focus of Congress when section 277 was enacted—if indeed housing co-ops were considered at all. Nor, for that matter, were housing cooperatives the principal focus when Congress enacted the provisions of subchapter T governing the taxation of cooperative organizations generally. I believe we need tax code provisions tailored to the particular circumstances of housing cooperatives, so that the policies applied are deliberate, not inadvertent.

The second reason I believe legislation is necessary concerns fairness to taxpayers. The language of section 277 and its legislative history are far from clear concerning housing cooperatives. As suggested earlier, the IRS's implementation of section 277 with respect to housing cooperatives has itself been a cause of uncertainty about the law. More recently, the IRS has stepped up auditing of housing cooperatives and, despite the uncertainty surrounding section 277 and the lack of official guidance until 1990, is asserting substantial liabilities for back taxes, interest and penalties. The cooperatives are resisting. Many of the cooperatives being challenged by the IRS provide low- and moderate-income housing, and are a significant contributor to the region's stock of affordable housing. I do not believe that it is in the best interests of the Government or the housing cooperatives to settle the section 277 question through protracted and expensive litigation. Not is it fair to subject co-op residents, who must bear the cost of any adverse judgment, to the uncertainty and financial risk of this course of action. Moreover, due to turnover, co-op residents who are required to pay off a judgment may not have owned units in the cooperative during the periods when the taxes were incurred. There is also a risk that many of the low- and moderate-income cooperatives—which maintain their affordability by organizing as "limited equity" cooperatives whose tenants agree to substantial restrictions on the resale prices of their units—will be forced to convert to "market rate" cooperatives in order to garner the funds to pay off an adverse tax judgment.

For all of these reasons, I am today introducing legislation designed to settle the matter once and for all—by setting aside section 277, and establishing a set of rules for housing cooperative taxation—under subchapter T of the Internal Revenue Code—that are clear, certain and fair. These clarifications of the general subchapter T rules for cooperatives are crafted specifically for housing cooperatives, both to insure clarity and to prevent abuses.

The bill that I introduce today would first clarify that section 277 is not intended to apply to a cooperative housing corporation—as defined in section 216 of the Internal Revenue Code. Instead, the provisions of subchapter T of the Internal Revenue Code will provide the rules for determining the appropriate taxation of certain types of income not directly received from tenant-shareholders. The legislation also clarifies and tightens the subchapter T rules, insofar as they apply to housing cooperatives, to make clear that there can be no setoff of losses related to the provision of housing against unrelated income.

The bill provides new rules under subchapter T, applicable to housing cooperatives, that deem the following to be patronage income—and therefore eligible for offset by losses related to the provision of housing—First, interest on reasonable reserves, and second, income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

In addition, there is a special rule for "limited equity" housing cooperatives, which, generally speaking, are housing cooperatives which restrict the price at which a tenant-stockholder can resell his or her unit, in order to maintain the co-op unit prices at levels affordable to low- and moderate-income purchasers. The special rule for limited equity housing cooperatives permits rents received from commercial and professional tenants of the co-op building to be treated as patronage income.

Finally, the bill is not intended to affect in any way the tax treatment of any corporation operating on a cooperative basis which is not a housing cooperative. If modifications are necessary to make sure this intent is effectuated, such modifications will be made.

Mr. President, Congress is very close to adjourning this session, and I realize it will not be possible to take action on this bill in this session. But I anticipate that we will turn to tax measures early next year, and I hope that this legislation can be considered then.

Mr. President, I ask unanimous consent that the text of the legislation appear in the RECORD immediately after my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.

Section 277(b) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E)).

SEC. 2. APPLICATION OF RULES RELATING TO TAX TREATMENT OF COOPERATIVES TO COOPERATIVE HOUSING CORPORATIONS.

(a) NONPATRONAGE EARNINGS OF COOPERATIVE HOUSING CORPORATIONS MAY NOT BE OFFSET BY PATRONAGE LOSSES.—Section 1388(j) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) PATRONAGE LOSSES MAY NOT OFFSET NONPATRONAGE EARNINGS.—In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings."

(b) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388(j)(5) of such Code (as redesignated by paragraph (1)) is amended to read as follows:

"(5) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(B) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(i) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(ii) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(iii) In the case of a limited equity cooperative housing corporation, rental income from other than tenant-stockholders to the extent attributable to any housing project operated by the corporation.

"(C) DEFINITIONS.—For purposes of subparagraph (B)—

"(i) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(ii) LIMITED EQUITY COOPERATIVE HOUSING CORPORATION.—The term 'limited equity cooperative housing corporation' means a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year.

"(iii) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

(b) ELECTION TO HAVE AMENDMENTS APPLY RETROACTIVELY.—Any corporation may elect to have the amendments made by this Act apply to any taxable year, whether beginning before, on, or after the date of the enactment of this Act, to which such amendments do not otherwise apply if the corporation was a cooperative housing corporation during such taxable year.

(c) NO INFERENCE.—Nothing in the provisions of this Act shall be construed as a change in the treatment of income derived by any cooperative housing corporation or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and the treatment of such income for any year to which the amendments made by this Act does not apply shall be made as if this Act had not been enacted.

DEATH OF JAMES DENNIS O'CONNOR

Mr. DODD. Mr. President, I rise to say farewell to a close personal friend and a truly great man, James Dennis O'Connor, whose inspiring life, to my profound sorrow, ended on November 11 of this year.

As an attorney in Hartford, Jim brought integrity and nobility to the practice of law. As a superior court judge, he affirmed the durability and vitality of our system of justice and the principles and laws which sustain it. And as a friend, Jim touched the lives of all who were fortunate to know him with his sense of compassion, decency, understanding, and warmth.

It is very difficult for me to accurately express what Jim has meant to me and my family over the years, Mr. President. Jim O'Connor was not like a member of my family. He was a member of my family. His timeless qualities of integrity and sincerity allowed him to bridge the gap between generations, to be a friend to my parents and a friend to me, and my brothers and sisters.

To Jim's wife, Mary Ellen, and his six children, Dennis, Edward, Ellen, Martha, Joan, and Dorothea, I share their grief. I know Jim will be deeply missed. But I am equally sure his legacy will endure, and be a source of comfort.

Judge O'Connor's life began in Hartford in 1928, just before the onset of the Depression. The memory of those early years, when strife and human struggling was a common facet of everyday life, left him with a keen understanding of the value of justice and compassion. He learned early that we need laws that are wiser and better than ourselves, laws that will safeguard us from the vagaries of tyrants and the oppression of the powerful. Through every element of his career, Jim never lost sight of the basic premise that laws are for the benefit of people.

I remember one particular case in which a man was injured by three colliding cars while walking to work one morning. The man, who had lost part of his foot and was unable to work, brought suit against the insurance company of one of the drivers involved. Impatient with the dilatory tactics of the attorneys for the insurance company, Jim finally refused to hear the case another day without first requiring the company to make provisions for the man's family. No legal precedent compelled him to take such action, just a clear simple sense of fairness and justice.

Jim brought to his role on the bench not just an intuitive sense of justice, but a disciplined intellect, acquired at Hartford's Trinity College and the Georgetown University Law School.

He served his Nation with distinction as a naval officer during the Korean conflict.

Those of us who knew Jim O'Connor as a friend, a father, a husband, a counselor, and a brother, will miss him dearly. But far from being impoverished by his death, Mr. President, we are enriched by his life. Jim's character and integrity made each and every one of us a better person for having known him, and for that we will always be thankful.

REGARDING SECTION 8126 OF H.R. 2521, THE FISCAL YEAR 1992 DEFENSE APPROPRIATIONS BILL

Mr. STEVENS. Mr. President, last week Congress adopted the 1982 Defense appropriations bill conference report. Section 8126 of the bill provides a mechanism for Calista Corp., an Alaska Native corporation, to exchange valuable lands and land selection rights it has in national wildlife refuges for other surplus Government property.

Subsection 8126(a) provides that property—as defined in section 8133 of the 1991 Department of Defense Appropriations Act—which is not scheduled for sale prior to 1997, will be available for transfer at the request of the Secretary of the Interior for the purpose of entering into equal value property exchanges with Calista.

Calista owns lands, interests in lands, and entitlements to select additional Federal lands. In addition, through an agreement it has with certain village corporations to act as their agent in these land exchanges, it has the right to convey surface estate owned by the villages.

The provision enables Calista to enter into exchanges with the Secretary of the Interior to convey 210,000 acres of surface and subsurface lands and land entitlements identified in the Calista Conveyance and Relinquishment Document dated October 28, 1991.

Once the Secretary has identified property for exchange, the administering agency should ensure that the property is not wasted or transferred elsewhere. Furthermore, the administering agency should continue to hold and manage the property until title is conveyed, via an authorized exchange, to the Native corporation.

The Secretary has 9 months from the date of enactment to conduct appraisals of the land and interests in land identified in the conveyance document. If disagreements with Calista arise regarding the valuation of the lands package, they may be resolved through the processes established by the 1988 Federal Land Exchange facilitation Act.

For fiscal reasons, this provision includes a cap on the maximum average value per acre of $300 for the entire package of lands identified in the Conveyance and Relinquishment Document, dated October 28, 1991. However, according to a recently conducted appraisal, certain tracts of Calista's lands—including entitlement—possess values substantially greater than $300 per acre. The $300 cap is intended to provide an upper limit on the average value per acre that the Secretary may assign to the entire lands package as he appraises the values of individual tracts.

In making the determination, the Secretary is to use, first the fair market value of the lands using the Uniform Appraisals Standards; second, public interest values, and third, comparable acquisitions and exchanges authorized or mandated by law.

The Uniform Appraisal Standards for Federal Land Acquisitions have been revised recently and are expected to be republished some time in the near future. Federal Government appraisers traditionally have relied on this document in their efforts to determine the fair market value of property. In the past, however, when Federal land acquisition appraisers have attempted in-house to value remote lands and interest in lands within the boundaries of conservation system units in Alaska, these Uniform Appraisal Standards have proven to be inadequate.

The problem arises because, among other factors, the standards deal only with a traditional market or income approach to valuation. In addition the process provides considerable latitude to exclude comparable sales as being not comparable and fails to give proper weight and consideration to public interest values of land and statutorily mandated or authorized exchanges and acquisition of land. Public interest values are distinct from commercial value, such as the value of timber or minerals for economic use, or values

ascribed to land which can be developed for housing or municipal facilities. For example, while certain lands may have little value in the traditional economic sense, they may have great value as critical habitat for endangered or threatened species or as nesting grounds for plummeting waterfowl populations.

Consequently, in 1976, Congress reinforced a statutory direction regarding public interest values and authorized and directed Federal agencies to consider public interest values in land exchanges and acquisitions. In other land exchanges and land valuations authorized or mandated by law since then—most recently in the Superfund law—The Congress has expressed the view that there are clearly other public values to be considered in such exchanges. It is the intent of this property exchange provision that these other values be properly factored into the appraisals of the lands and interests in lands involved in the Calista land exchange.

Public interest values include, but are not limited to, conservation, biological, environmental, cultural, historical, archaeological, user and other values of land located within national wildlife refuge boundaries in Alaska. Such values contribute toward making the lands of national significance.

The land and interests in lands offered for exchange by Calista located within the Yukon Delta National Wildlife Refuge will, by operation of law, become part of that refuge once they are transferred to the Secretary of the Interior. The lands within the refuge, including Calista's lands, were deemed by Congress through the Alaska National Interest Lands Conservation Act to be national interest lands worthy of being set aside for their intrinsic value as a national wildlife refuge. The national interest nature of the Calista lands and their public interest values should be given appropriate weight in the appraisal process.

In addition, the Secretary is required to consider as comparables other exchanges authorized or mandated by law between the Federal Government and private parties and acquisition of lands and interests in lands by the Federal Government in Alaska, including acquisitions of lands from Native corporations. The Secretary is expected to rely on professional appraisals which utilize the factors required to be considered in section 8126.

Section 8126 also provides that properties conveyed by the United States under this section be treated as conveyances of land entitlement under 43 U.S.C. 1601–162 except for several subsections. Because of concerns expressed by the House Ways and Means Committee, the tax provisions in 43 U.S.C. 1620, 1627, and 1636 were excepted.

Mr. President, I ask unanimous consent to insert in the RECORD at the conclusion of my remarks an analysis of section 8126, the Calista Conveyance and Relinquishment Document dated October 28, 1991, which the legislation references, a letter from Mr. Robert D. Reischauer, Director, Congressional Budget Office.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 8126 ANALYSIS

Section 8126(a). This subsection identifies the property of the U.S. Government which is authorized to be made available for exchange between the Secretary of the Interior and the Calista Corporation once certain terms and conditions are met. Such property is defined in Section 8133 of the Department of Defense Appropriations Act for Fiscal Year 1991 (104 Stat. 1909). The lands, interests in lands and entitlements to lands to be exchanged are identified in "The Calista Conveyance and Relinguishment Document,' dated October 28, 1991. The subsection also provides that the Secretary of the Interior will determine the value of those lands no later than nine months after the enactment date. In determining the value of the Calista lands, the Secretary is required to consider the "Uniform Appraisal Standards for Federal Land Acquisitions," the public interest values of the lands and interests in lands, and previously authorized or mandated exchanges with or acquisitions of lands and interest in lands in Alaska by the Federal government. The process outlined in the 1988 Federal Land Exchange Facilitation Act will be used to resolve any disagreements regarding the valuation of the land package. The subsection also provides that the average per acre value of the lands and interests in lands is not to exceed $300. It also provides the property exchanged with Calista is to be treated the same as property conveyed to other Native corporations under 43 U.S.C. 1601–1642 (except for subsections 1620(a)–(c), (f)–(j); subsection 1627(b) and 1636(d)).

(b). This subsection provides that property held for sale by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation may not be transferred to the Secretary for purposes of an exchange until after October 1, 1996.

(c). This subsection directs the Secretary of the Interior to maintain an accounting record of the value of the lands and interests in lands available to be conveyed by the Calista Corporation. The Secretary is directed to establish a property account on October 1, 1996, with an initial balance equal to the value of the lands and interests in lands that the Calista Corporation has not, at that time, conveyed or relinguished to the U.S. Government. Whatever amounts remaining on that date could be used to acquire by exchange or purchase property identified in Subsection 9102(a)(2) of the Department of Defense Appropriation Act 1990 (103 Stat. 1151).

THE CALISTA CONVEYANCE AND RELINQUISHMENT DOCUMENT, OCTOBER 28, 1991—LANDS, INTERESTS IN LANDS, AND ENTITLEMENTS TO LANDS TO BE CONVEYED RELINQUISHED TO THE U.S. GOVERNMENT

OVERVIEW

The purpose of this document is to identify the lands, interests in lands, and entitlements to lands which are to be exchanged, pursuant to an agreement with the Calista Corporation, for properties of equal value held by the U.S. Government.

The general areas and acreages (210,355 total acres) involved in the exchange are as follows (see enclosed Map #1): Hamilton—8,000 acres of surface and subsurface lands; Dall Lake—10,000 acres of surface and subsurface lands; Tuluksak River Drainage—5,600 acres of subsurface lands; Hooper Bay—27,074 acres of subsurface lands; Scammon Bay—88,507 acres of subsurface lands; Kusilvak—61,174 acres of subsurface lands; Calista 14(h)(8) entitlements—10,000 acres of full fee entitlements (surface and subsurface) to Federal lands.

The acquisition by the U.S. Government of Native inholdings (lands and interests in lands) and land selection entitlements comprising this exchange will provide significant legal rights to the Federal government, which will in turn, enhance the protections afforded to the Yukon Delta National Wildlife Refuge, Alaska. It will help reduce the potential for adverse development of surface and subsurface lands within the boundaries of the Refuge. It will permit public access to surface estates which are not presently permitted. It will reduce future losses of Refuge lands to underselected Native Corporations. It will eliminate the potential disturbance of the surface lands, and their values from development of the subsurface estate. It will provide cost savings to the Bureau of Land Management in avoided conveyance and survey activity which would otherwise take place, and to the Fish and Wildlife Service in managing these inholdings.

The importance of this world class waterfowl habitat is demonstrated by the fact that part of this area was one of the first National Wildlife Refuges in the Nation: President Theodore Roosevelt set aside the first wildlife reserve in the Yukon-Kuskokwim Delta in 1909, in recognition of the value and importance of the land to migratory birds, especially waterfowl. Additional areas were added over the years and, in 1980, Congress combined and enlarged the existing wildlife ranges and refuges to establish the Yukon Delta National Wildlife Refuge.

While the Refuge has moderate populations of mammals, including small furbearers, moose, caribou, and recently re-established musk-ox, the primary wildlife resource is the enormous populations of ducks, geese, swans, shorebirds, and water birds that nest on the Delta. An estimated 100 million waterfowl, shorebirds, and sea birds representing over 50 species use the Delta for nesting and for resting and feeding during migration. A large percentage of the migrating birds of the Pacific Flyway originate from the Yukon Delta.

The importance of the Delta as nesting grounds for North American waterfowl increases yearly as productive prairie pothole nesting habitats in the United States and Canada are drained for agriculture or are lost to drought.

DESCRIPTION OF THE LANDS, INTEREST IN LANDS, AND ENTITLEMENTS TO LAND TO BE CONVEYED

Hamilton/Yukon Delta area—8,000 acres

Location

The Hamilton parcel is located near the delta complex at the mouth of the Yukon River between Apoon Pass and Nanvaranak Slough. It is approximately 20 miles south of Norton Sound.

General description

The Hamilton parcel consists of 8,000 acres of combined surface and subsurface estate. The lands are part of the wet muskeg coastal plain with slough, lake and pond habitats. Several small sloughs head in the parcel and dozens of small lakes and ponds and their adjacent marshes and wetlands are scattered throughout the parcel. Most of the land is less than 20 feet above sea level and the dwarf tundra vegetation is underlain by sand and silty flood plain material. The southern part of the parcel contains some areas of deciduous shrub land and has more extensive grassy marshlands and riverine habitats. The parcel is five miles south of the Yukon River Delta unit of the historic Clarence Rhode Wildlife Range and the abandoned Village of Hamilton.

Refuge values

The chief habitat and wildlife value of the parcel is waterfowl nesting. The parcel is contiguous to coastal plain habitat to the north and west, and is used by geese, swans, sandhill cranes, ducks, loons, and numerous shorebirds, including curlews, sandpipers, and plovers. Maps of species distribution by density blocks, produced by U.S. Fish and Wildlife, show the area to have medium range densities for pintail ducks, scaup, and tundra swans: one to four birds per square mile, and up to one per square mile densities for Canada geese, arctic loons, and sandhill cranes. Other nesting birds include white-fronted geese, scoters, shovellers, and mallards. Shorebirds of several species are common to abundant. Whitefish, sheefish (inconnu), and northern pike are common in the sloughs and larger lakes. Furbearers such as mink, otter, muskrat, beaver, Arctic and red fox are abundant, but large mammals are rare due to the lack of protective cover.

Hamilton subsurface

The subsurface beneath the Hamilton surface lands is part of the Yukon Delta/Norton Sound Sedimentary Basin. Calista leased the Yukon Delta subsurface lands to Amoco Exploration in 1978. These lands have also had several generations of seismic survey work since the early 1970's and the area continues to receive oil industry attention.

Hamilton parcel land description

Seward Meridian, Alaska, (Unsurveyed).

T. 31 Fl R. 77 W.—Secs. 29 and 30.

T. 31., R. 78 W.—Secs. 1, 2, 11, 12, 13, 14, 23, 24, and 25.

T. 32 N., R. 78 W.—Sec. 35 (fractional); Sec. 36.

Dall Lake Area—10,000 acres

Location

The Dall Lake parcel is located along the southeastern border of Dall Lake southeast of Bethel, Alaska, about 30 miles from Bering Sea waters of Etolin Strait. It borders the eastern boundary of the Nelson Island unit of the Clarence Rhode National Wildlife Range.

General description

The Dall Lake parcel is a surface and subsurface selection of approximately 10,000 acres. The parcel is 12 miles across and extends about eight miles northeasterly into Dall Lake along a series of peninsulas and islands. This parcel consists of low elevation wetlands and islands dotted with innumerable lakes and ponds along the southeastern border of Dall Lake, an extremely large inland lake covering more than 150 square miles. Wet muskeg tundra vegetation and sedge meadow islands and lake margins characterize the habitat at Dall Lake.

Refuge values

The Dall Lake parcel lies within the Yukon-Kuskokwim lowlands unit of the Yukon Delta NWR. This unit is largely wetlands, habitat for a diversity of fish and wildlife including geese, ducks, swans, shorebirds, moose, caribou, many species of furbearers, ptarmigan, and many other bird and mammal species.

The area is an important producer of ducks and is significant as a staging area for thousands of snow geese migrating to and from their nesting grounds on Wrangell Island in the Soviet Far East. U.S. Fish & Wildlife Service has indicated high scaup nesting densities of four to 12 birds per square mile, and pintail and scoter densities of one to four per square mile in the area. Also occurring at densities of one to four birds per square mile are tundra swans, Canada geese, arctic loons, and sandhill cranes. Other species noted in aerial surveys within the parcel area were red-throated loons, white-fronted geese, oldsquaw ducks, and mallards. Both shorebirds and ptarmigan are common in the area.

Approximately 30 musk oxen use the Dall Lake area year around. These musk oxen are part of the growing 100-head mainland herd established on Nelson Island which is currently expanding its range to inland parts of the refuge. Furbearers such as mink, otter, muskrat, and red fox are common in the Dall Lake area and are important subsistence resources. The lakes and waterways contain resident Arctic char, whitefish, northern pike, cisco, and burbot, all used by villagers for subsistence.

Subsurface values

The subsurface beneath the Dall Lake surface lands is in the central portion of the Bethel/Kuskokwim Delta Sedimentary Basin. Calista leased the Bethel Basin lands to Shell Exploration in 1974. Like the Yukon Delta area, these lands have had several generations of seismic survey work since the early 1970's and the area continues to receive oil industry attention. In 1962 a single test well was placed on the flank of what is now defined as the Bethel Basin. In the future it is likely that this sedimentary basin, which is nearly the size of Oklahoma, will receive more exploration.

Dall Lake parcel land description

Seward Meridian, Alaska Unsurveyed.

T. 1 N., R. 82 W.—Secs. 23 to 36, inclusive.

T. 2 N., R. 82 W.—Secs. 6, 7, 18, 19, 20, 21, and 30.

T. 1 N., R. 83 W.—Secs. 2 through 36, inclusive.

T. 2 N., R. 83 W.—Secs. 25 through 35, inclusive.

Tuluksak River Drainage—5,600 acres

Location

The Tuluksak River parcel is located within the eastern border of the Yukon Delta National Wildlife Refuge and extends four miles into the refuge on both sides of the Tuluksak River.

General Description

The Tuluksak River parcel is a subsurface selection of 5,600 acres within the Yukon Delta National Wildlife Refuge. The surface is owned by the U.S. Government. It is the downstream extension of a large gold mineralized placer mining district at Nyac, Alaska. Approximately 10 federal placer mining claims are located within the parcel and the subsurface selection was made on the basis of its mineral potential. The nearest tailings are one mile upstream from the eastern boundary of the parcel. The parcel is located at the point where the Tuluksak River leaves the Kuskokwim Mountain range and flows across the subdued topography of the delta plain toward the Kuskokwim River. The river valley is 250 to 300 feet in elevation, and elevations rise to approximately 900 feet on the perimeter of the parcel. The vegetation consists of mixed white spruce, birch, and poplar forests, with willows and alder along the river and tundra vegetation on the upland benches.

Refuge Values

The Tuluksak River parcel is part of the Kilbuck Mountains unit of the Yukon Delta NWR. This unit is characterized by mountains with narrow deep valleys and small canyons, rock outcrops and bluffs along the rivers and streams, a pattern of tundra and upland habitats, and a number of lakes. The only rainbow trout fisheries identified in refuge waters are found in the major rivers draining the Kilbucks. The unit also contains excellent raptor habitats with gyrfalcons, rough-legged hawks, and golden eagles among the most common nesting species. Large mammals found in the unit include moose, caribou, black and grizzly bear, wolves, and wolverines.

The north bank of the river has two rock bluffs that are suitable raptor nesting habitat. The Nyac area has documented nesting of golden eagles, goshawks, gyrfalcon, merlin, and great horned owls (BLM Open File Report, 1980; Technical Report 8, 1983). Raptors use the river valley for hunting and brood rearing. Both spruce grouse and willow ptarmigan occur here.

The Tuluksak River valley has excellent populations of mammals. Alder and willow have grown up around old mining areas and support increased populations of snowshoe hares, fox, moose, and bear. Beaver have colonized the dredge ponds and are abundant throughout the valley. Presently, 12 radio-collared moose are being monitored as part of an ongoing population study project in the Tuluksak River valley.

The Tuluksak River runs for four miles through the length of the parcel. It is a clear running river and is an anadromous salmon spawning area within the parcel boundaries. Chinook, chum, and coho salmon plus grayling, Dolly Varden/Arctic char, and rainbow trout are present in the river and the area has been the subject of BLM fisheries enhancement projects.

Subsurface Values

This parcel, which has significant gold reserves, includes 5,400 acres of Calista subsurface lands underlying YDNWR surface lands and 200 acres of patentable Federal Placer Mining Claims within the YDNWR.

The Tuluksak In Lieu selections include a major placer gold deposit which will be dredge-mined in the near future. Plans for the extraction of the gold reserves in this area are in the advanced stages. While this dredge mining can and must be conducted in a manner consistent with all environmental regulations, some degradation of the habitat is inevitable. Federal acquisition of these mineral-rich lands will remove the threat of potential adverse environmental impacts on the area from gold mining and eliminate the refuge-versus-development conflict inherent in the split estate. It is significant to note that these are the only remaining Federal Placer Claims in the YDNWR. Mining activities on the Tuluksak River have been identified in the YDNWR Plan as a major threat to the water quality of the refuge.

This parcel contains 13 Federal Placer Claims totaling over 200 acres. Federal acquisition of these claims totally removes this threat of mining within the refuge.

Tuluksak Parcel Land Description, Seward Meridian, Alaska Unsurveyed.

T. 10 N., R. 61 W.—Secs. 7 and 8; Secs. 16, 17, and 18.

T. 10 N., R. 62 W.—Sec. 11; Sec. 12 excluding Native Allotment FF-17230; Secs. 13 and 14.

Hooper Bay Area—27,074 acres

Location

The Hooper Bay parcel is located on Dall Point with Kokechik Bay on the north and Hooper Bay on the south and the Bering Sea to the west. It is adjacent to the Clarence Rhode National Wildlife Range unit of the Yukon Delta National Wildlife Refuge on its eastern border.

General Description

The Hooper Bay parcel consists of subsurface estate. The surface is owned by Sea Lion Corporation and is not part of this conveyance. The parcel is coastal plain with innumerable small ponds and lakes and several small sloughs. Most of the parcel is below 50 feet in elevation. Longshore sand spits form northern extensions of the land, and dunes form Dall Point itself. The village of Hooper Bay is located at the mouth of Napareayak Slough on Hooper Bay.

Refuge Values

The Kokechik Bay frontage of this parcel has some of the highest value habitat rankings on the Yukon Wildlife Delta. These lands are biologically productive, tide-influenced marshlands critical to the artic nesting geese species. High densities of nesting emperor, whitefronted, and cackling Canada geese utilize this rich marshland, and it is also important for nesting swans, cranes, ducks, loons and abundant numbers of several species of shorebirds. Northern pintails in the coastal zone occur at three times the density that they occur in the interior delta, averaging four to 12 per square mile in F&WS aerial surveys. Scaup also occur in these densities and other ducks such as oldsquaw, spectacled and common elder, scoters, shovellers, and mallards also utilize the habitat. The mudflats and sand spits in both bays are vital feeding and staging areas for vast numbers of migrating waterfowl and shorebirds. The largest breeding colony of Brant geese on the refuge is located on the south shore of Kokechik Bay.

Subsurface Values

These lands have been subject to oil and gas leases twice in the recent past. The geology is permissive of several mineral deposit types—however, there are no known occurrences of minerals in this poorly explored region.

Hooper Bay Parcel Land Description

Interim conveyance No. 511: Seward Meridian, Alaska (Unsurveyed).

T. 17 N., R. 93 W:

Secs. 1 to 4, inclusive;

Secs. 5 and 8 (fractional);

Secs. 9 to 14, inclusive;

Secs. 15 and 16;

Secs. 17, 18, and 20 (fractional);

Secs. 21, 22, and 23;

Sec. 24, excluding Native allotment F-14703 Parcel C;

Sec. 25 (fractional), excluding Native allotments F-13207 and F-19116 Parcel A;

Sec. 26, excluding U.S. Survey No. 2026, U.S. Survey No. 4052, and U.S. Survey No. 4420;

Sec. 27, excluding U.S. Survey No. 4420 and U.S. Survey No. 3774;

Sec. 28, excluding U.S. Survey No. 3774;

Sec. 29 (fractional);

Sec. 32 (fractional), that portion outside Public Land Order 2213;

Sec. 35 (fractional), excluding U.S. Survey No. 4420.

T. 18 N., R. 93 W:

Secs. 4 and 9 (fractional);

Secs. 11 to 16 (fractional), inclusive;

Secs. 21 and 22 (fractional);

Secs. 23 to 27, inclusive;

Secs. 28 and 33 (fractional);

Secs. 34, 35, and 36.

T.16 N. R. 94 W

Secs. 1, 2, and 3 (fractional);

Sec. 4 (fractional), that portion outside Public Land Order 2213 excluding U.S. Survey No. 3774;

Secs. 10, 11, and 12 (fractional), those portions outside Public Land Order 2213.

Interim conveyance No. 579: Seward Meridian, Alaska (Unsurveyed)

T. 17 N. R. 93 W.

Sec. 33 (fractional) that portion outside Public Land Order 2213, excluding U.S. Survey No. 3774;

Sec. 34, excluding U.S. Survey No. 3774 and U.S. Survey No. 4420.

Scammon Bay—88,507 Acres

Location

The Scammon Bay parcel is located on the Bering Sea coast at Scammon Bay on the Yukon-Kuskokwim Delta.

General Description

The Scammon Bay parcel is a large tract (25 miles long by up to 12 miles across) of subsurface estate, whose surface estate is privately owned by Askinuk Corporation, the Native corporation of Scammon Bay village and not involved in this conveyance. The parcel includes 80,420 acres of conveyed subsurface estate and 8,087 acres of remaining subsurface entitlements at Scammon Bay. The parcel includes about 20 miles of Bering Sea coastline.

The surface overlying this subsurface parcel consists of several distinct habitats. There is a prominent, rocky, mountainous upland to the south which is used by upland ground-nesting birds such as ptarmigan, rock sandpipers, golden and semi-palmated plovers, short-eared owls, and jaegers. Steep rocky bluffs, fast, clear streams, and small sheltered bays characterize the parcel's 14 miles of Bering Sea shoreline on the southern shore of the bay. The mountains rise to an elevation of 1,465 feet within the parcel. The intrusive volcanic rock that forms the mountains is useful as quarry material and is currently being extracted for an airport improvement project at the village of Scammon Bay. The southern border of the parcel is adjacent to the Kokechik Bay/Paimuit unit of the Clarence Rhode National Wildlife Range which has some of the most significant habitat values on the Yukon-Kuskokwim Delta National Wildlife Refuge due to its intensive use by arctic nesting geese species.

To the north, the overlying habitat is a flat coastal plain utilized by arctic nesting geese such as the endangered white-fronted, emperor, and cackling Canada geese. The coastal plain is dissected by the large, shallow meanders of the Kun River and several small tributaries including the Kikneak and Ear Rivers. Habitats includes tidal sloughts and estuaries, beach ridges and swales, lake and pond shores, and sedge meadows important to nesting and brood-rearing.

Refuge Values

The Scammon Bay parcel is located in the delta coastal plain unit of the Yukon Delta NWR. The dominant feature of this unit is vast wetlands characterized by thousands of thaw lakes and ponds underlain by permafrost. The freeze-thaw cycle coupled with regular tidal and riverine flooding maintain a herbaceous wetland that is excellent waterfowl habitat. It is considered the best goose-brant nesting area in North America. Historically, one half of the continental populations of brant nested on the coastal fringe, as do nearly the entire populations of cackling Canada and emperor geese. Most of the Pacific flyway population of white-fronted geese also nest here. In addition to cackling Canada geese, two other subspecies of Canada geese—both Taverner's and lesser Canada geese—are also found within this unit. The three subspecies appear to favor slightly different zones with cacklers nesting in a ten mile wide band closest to the sea, Taverner's moving inland slightly, and lessers somewhat more inland. These zones, however, do overlap. The area is also considered part of the largest and most important shorebird habitat in the Pacific Flyway. It is the largest single expanse of intertidal habitat in North or South America, and provides the major breeding grounds for North American populations of black turnstone, dunlin, western sandpiper, rock sandpiper, and bar-tailed godwit, as well as being an important staging area for bristle-thighed curlews.

The periodic flooding of the tidal marshes of the coastal plain creates a rich food source for nesting and rearing young and contributes to goose, swan, and crane densities of one to 12 per square mile, with heaviest nesting densities along the coast (US Fish & Wildlife aerial surveys). Pintail and scaup (four to 12 per square mile), scoter (one to four per square mile), oldsquaw, spectacled eiders, loons (up to 12 per square mile), and shorebirds also nest on the coastal plain. Mink, otter, muskrat, beaver, and Arctic and red fox are common to abundant.

Subsurface Values

These lands have been subject to oil and gas leases twice in the recent past. The geology is permissive of several mineral deposit types—however, little is known of the occurrence of minerals in this poorly explored region. The value of the subsurface in the Scammon Bay is based to a large extent on the ready supply of sand, gravel and rock. This area is the only local source for these materials in a region where such materials are scarce and costly.

Scammon Bay Parcel Land Description

Interim conveyance No. 573: Seward Meridian, Alaska (Unsurveyed)

T. 20 N., R. 88 W:

Secs. 5 and 6;

Secs. 7 and 8, excluding Native allotment F-19234;

Sec. 18, excluding Native allotment F-19228 Parcel A;

Secs. 19, 20, 26, and 27;

Secs. 28 and 29, excluding Native allotment F-15947;

Secs. 30 and 35.

T. 21 N., R. 88 W:

Secs. 9 to 16, inclusive;

Secs. 21 to 31, inclusive;

Sec. 32, excluding Native allotment F-19043 Parcel B;

Sec. 33, excluding Native allotment F-19229 Parcel A;

Sec. 34, excluding Native allotment F-18977 Parcel B;

Secs. 35 and 36.

T. 20 N., R. 89 W:

Secs. 1 to 6, inclusive;

Secs. 7 and 8, excluding Native allotment F-19233;

Sec. 9;

Sec. 10, excluding Native allotment F-19045;

Secs. 11 to 16, inclusive;

Secs. 17 and 18, excluding Native allotment F-19233;

Sec. 19;

Sec. 20, excluding Native allotment F-19231 Parcel B;

Sec. 21;

Sec. 22, excluding Native allotment F-19043 Parcel A;

Sec. 23, excluding Native allotment F-19241;

Secs. 24 to 28, inclusive;

Sec. 29, excluding Native allotment F-19231 Parcel B;

Secs. 30, 31, and 32.

T. 21 N., R. 89 W:

Secs. 5 to 10, inclusive;

Secs. 15 to 18, inclusive;

Sec. 19 (fractional);

Secs. 20 to 23, inclusive;

Secs. 25 to 28, inclusive;

Secs. 29 and 30 (fractional);

Secs. 32 and 33 (fractional);

Secs. 34, 35, and 36.

T. 20 N., R. 90 W:

Secs. 1 and 2;

Sec. 3, excluding townsite petition application F-391;

Sec. 4 (fractional), excluding townsite petition application F-391;

Secs. 7 and 8 (fractional);

Sec. 9 (fractional), excluding townsite petition application F-391;

Secs. 12 to 30, inclusive;

Sec. 31, excluding Native allotment F-14759 Parcel C;

Secs. 32 to 36, inclusive.

T. 20 N., R. 91 W:

Sec. 11 (fractional), excluding Native allotment F-19041;

Sec. 12 (fractional);

Sec. 13;

Sec. 14, excluding Native allotment F-19223 Parcel B;

Sec. 15 (fractional);

Sec. 16 (fractional), excluding Native allotment F-19039 Parcel B;

Secs. 17 and 18 (fractional);

Secs. 19 and 20;

Sec. 21 (fractional), excluding Native allotments F-15023 Parcel A and F-19224;

Sec. 22 (fractional), excluding Native allotment F-19224.

T.20 N., R. 92 W:

Sec. 13 (fractional), excluding Native allotments F-19033 Parcel A and F-19044 Parcel B;

Sec. 14 (fractional), excluding Native allotments F-19039 Parcel A, F-19056 Parcel A, and F-19221 Parcel B;

Secs. 23 and 24.

Interim Conveyance No. 959: Seward Meridian, Alaska (Unsurveyed)

T.20 N., R. 90 W:

Sec. 3, those lands formerly within townsite petition application F-391;

Secs. 4 and 9 (fractional), those lands formerly within townsite petition application F-391;

Sec. 10, excluding U.S. Survey No. 4099, U.S. Survey No. 5050, and Alaska Native Claims Settlement Act Sec. 3(e) applications AA-39616 and AA-39617;

Sec. 11.

Interim Conveyance No. 1058:

A tract of land located within lot 1 of U.S. Survey No. 4099, and additional unsurveyed lands in Sec. 10, T. 20 N., R. 90 W., Seward Meridian, more particularly described as:

Beginning at a point for corner No. 1, identical with corner No. 1, U.S. Survey No. 4099.

From corner No. 1, by metes and bounds, N. 83° 29′ E., 149.80 ft., to corner No. 2, a point on the 1-2 line of U.S. Survey No. 4099; thence S. 6° 31′ E., approximately 375 ft., to corner No. 3; thence N. 83° 29′ E., 300 ft., to corner No. 4; thence S. 6° 31′ E., 75.12 ft., to corner No. 5; thence S. 83° 29′ W., 449.80 ft., to corner No. 6, identical with corner No. 8, U.S. Survey No. 4099; thence N. 6° 31′ W., 450.12 ft., to corner No. 1, identical with corner No. 1, the true point of beginning.

Patent No. 50-84-0792: U.S. Survey No. 4099, Alaska, lot 3, situated near the mouth of the Kun River in the village of Scammon Bay and the designation of U.S. Location Monument No. 4099.

Kusilvak Parcel—61,174 acres

Location

The Kusilvak parcel is located on the Black River several miles west of the Kusilvak Mountains and approximately twenty miles from the Bering Sea.

General Description

This parcel is a subsurface estate and subsurface entitlement of 61,174 acres. It includes 45,458 acres of conveyed subsurface estate and 15,716 acres of remaining subsurface entitlements. The surface estate is owned by Sea Lion Corporation and is not part of the lands to be conveyed. The Black River, a major waterway, runs for about 15 miles through the parcel. The parcel is characterized by coastal lowlands and river floodplains with many large lakes and innumerable small lakes and ponds. The Black River has formed numerous sloughs, oxbows, and cutoff channels.

Refuge Values

The chief habitat and wildlife value of the parcel is waterfowl nesting. It is used by Canada geese, swans, loons, cranes, and many species of ducks, as well as shorebirds. Population densities of northern pintails and tundra swans have been mapped at 4 to 12 per square mile based on USF&W aerial surveys. Canada geese, scaup, scoter, cranes, and loons are common. Whitefish, sheefish (inconnu), and northern pike are important resources of the Black River and are heavily used for subsistence by nearby villages. Furbearers such as mink, otter, arctic and red fox are abundant in the parcel. There is moderate potential for summer and winter range for the expanding mainland musk-ox herd, which is occasionally seen in the southern part of the parcel.

Subsurface Values

These lands have been subject to oil and gas leases twice in the recent past. The geology is permissive of several mineral deposit types, however, there is little known about mineralization in this poorly explored region. The value of the subsurface in the Kusilvak area is based to a large extent on the ready supply of sand, gravel and rock.

Kusilvak Parcel Land Description

Interim conveyance No. 511: Seward Meridian, Alaska (Unsurveyed).

T.21N., R.84W.—Sec. 6, excluding Native allotment F-17513 Parcel A.

T.22N., R.84W.—Sec. 31.

T.21N., R.85W.—Secs. 2 to 7, inclusive; Sec. 18.

T.22N., R.85W.—Secs. 3 to 10, inclusive; Secs. 15 to 22, inclusive; Secs. 27 to 36, inclusive.

T.23N., R.85W.—Secs. 30, 31, and 32.

T.21N., R.86W.—Sec. 4; Sec. 5, excluding Native allotment F-19237; Sec. 6, excluding Native allotment F-19238 Parcel A; Secs. 13 and 14.

T.22N., R.86W.—Secs. 19 to 25, inclusive; Secs. 28 to 31, inclusive; Sec. 32, excluding Native allotment F-19237; Secs 33 and 36.

T.23N., R.86W.—Secs. 11 to 15, inclusive; Sec. 21; Sec. 22, excluding Native allotment F-18248 Parcel A; Secs. 23 to 26, inclusive; Secs. 27 and 28, excluding Native allotment F-18248 Parcel A; Sec. 29; Secs. 32 to 36, inclusive.

Calista 14(h)(8) entitlements—10,000 acres

These entitlements are to surface and subsurface estate and can be selected from Federal lands within the Calista Region. As in the case above, these entitlements are based on an underselection currently affecting Calista. Like the in Lieu lands, these entitlements will be used to select Federal lands which contain prospective oil and gas horizons, potential mineral deposits, or surface estate development potential, such as developable real estate, hydro power, and commercial uses such as fish processing. Calista is currently leasing several 14(h)(8) tracts to various mineral exploration companies. Calista believes that Federal acceptance of these entitlements will help limit potential adverse impacts on the Refuge.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., November 13, 1991.

Hon. TED STEVENS,
Committee on Appropriations, U.S. Senate,
Washington, DC.

DEAR SENATOR: As you requested, the Congressional Budget Office has reviewed a possible amendment to the fiscal year 1992 Defense Appropriations bill regarding a land exchange with the Calista Corporation. We estimate that enactment of this amendment would not affect the federal budget over the 1992–1996 period. Additional direct spending in the form of monetary credits could be incurred after fiscal year 1996; however, we are currently unable to estimate the magnitude of such costs.

The amendment would require federal agencies, when requested by the Secretary of the Interior, to provide land not otherwise scheduled for sale prior to November 1, 1996, to the Department of the Interior to be used in an equal value exchange with the Calista Corporation. Property held by the Resolution Trust Corporation (RTC) and the Federal Deposit Insurance Corporation (FDIC) would not be subject to transfer prior to October 1, 1996. Information from Calista indicates that the corporation would like to exchange about 200,000 acres of land. The Secretary of the Interior would be required to determine the value of these lands within nine months of the date of enactment. The value of any Calista lands not exchanged by the end of fiscal year 1996 would be converted to monetary credits, which could be used to acquire federal properties, including those held by the RTC and FDIC.

Under the land exchange provisions authorized to occur over the 1992–1996 period, we expect that the federal government would give up title to land that it otherwise would not sell. CBO estimates that such a transaction would have no direct budgetary impact because we expect that the federal government would relinquish capital assets that would not otherwise have generated income for the federal Treasury.

The value of any monetary credits would count as direct spending budget authority and outlays in the year they are issued. There is no certainty, however, that monetary credits would be issued. Furthermore, such credits could not be provided until fiscal year 1997.

Monetary credits have a budgetary impact because they can be used in lieu of cash to acquire federal properties and would therefore result in forgone receipts to the federal Treasury. Because the Calista Corporation would be authorized to use its credits to acquire any federal properties, including those held by the RTC and FDIC, we believe that it is very likely that these credits would displace cash receipts in future land sales. While the value of monetary credits issued to the corporation could be significant, we have no basis for predicting how much of the value of the Calista lands would not be covered by land exchanges prior to 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PRESIDENTIAL ELECTION SYSTEM

Mr. MITCHELL. Mr. President, I am disappointed that Congress could not pass legislation this year to correct a technical problem with the Presidential campaign finance system. The problem arises as a result of Treasury Department regulations issued earlier this year that are politically motivated and inconsistent with the law.

The effect will be to prevent Democratic Presidential candidates from receiving matching funds on a timely basis. In a crassly cynical move that has absolutely no policy justification, President Bush and his Republican colleagues in Congress have blocked legislation to clarify the law.

As a result, it is quite likely that next January when Presidential candidate George Bush submits his request to the Federal Election Commission, he will claim most of the funds available in the Presidential campaign trust fund. The FEC estimates that only a fraction of the matching payments will be available in February and March for the election campaigns of the Democratic candidates.

So what we have here is a case of the Bush administration's Treasury Department issuing an unwarranted regulation, not supported by the law, that creates a situation that enables President Bush to claim the bulk of the trust fund money to the exclusion of Democratic candidates. Then, when Congress considers a minor clarification of the law to permit anticipated receipts to be taken into account, President Bush blocks consideration of the legislation. He even goes so far as to issue a veto threat.

We are led to believe the President does not necessarily oppose this legislation, he simply does not believe it should be done the year before the election. It should be done in 1993 instead. That is an absurdity. This problem was created when the President's Treasury Department issued the regulations this year. It should be corrected this year. It affects the 1992 elections. It makes no sense to wait until after the election is over to fix the problem.

This should not be a partisan issue. All six members of the Federal Election Commission, including the three Republican members and the three Democratic members, support this legislation because they know it simply enables the Presidential public-funding law to work as intended. There is no substantive argument in opposition to the provision. People who oppose this provision are opposed to the Presidential system. If so, they should attempt to repeal that law directly, not interfere with the proper operation of the law.

If the Republican Party and George Bush are opposed to the Presidential public-financing system they should work to repeal the law. At a minimum, candidate George Bush should not accept public funds. It is inconsistent for him to both oppose this provision and take millions of dollars of public funds under the Presidential system.

In fact, George Bush has received more public financing for Presidential elections than anyone in history. As a primary and general election candidate for President and Vice President in 1980, 1984, and 1988, George Bush has received approximately $140 million in public financing under the Presidential-election finance system; far more than any other individual who has ever run for President. He is expected to receive another $70 million for the 1992 election campaign. Does he support this system or is he opposed? If he is opposed he should not be taking the money. If he supports the system, there is no justification for his opposition to this provision to make the system work as intended.

It should be pointed out that the proposed legislation is a minor change that only affects the timing of matching payments in Presidential election primary campaigns. It does not affect the amount of such payments or the recipients of such payments.

The Treasury Department regulations that were issued earlier this year deal with an anticipated temporary shortage of funds for the Presidential election system. Three types of payments are made from the Presidential election fund; for the general election, for the nominating conventions, and for the primary elections. Treasury has interpreted the statute in a manner that requires that amounts from the Presidential election fund first be set aside for the cost of the nominating conventions and the general election even though that is the last of these events which will occur.

After this prepayment is made, payments will be made to the primary candidates based on the amount of money available in the Presidential trust fund. Most checkoff funds are received in March, April, and May, but the Treasury regulations do not permit such funds to be taken into account in making matching primary election payments earlier in the year. As a result, after the initial January 1, 1992, matching payments, it is expected that February and March payments to candidates will only be about 75 percent of what the candidate is entitled to. The difference would be made up later in the year as the checkoff funds are received.

According to the FEC, as of January 1, 1992, there will be approximately $128 million in the Presidential election fund. As a result of the Treasury regulations, $111 million must be set aside for the general election and nominating convention payments, leaving only $17 million as of January 1, 1992, for primary campaigns. The FEC estimates that approximately $14 million in payments will be made to primary candidates on January 1, 1992, leaving insufficient funds for February and March payments. The Treasury appropriations provision simply permits the $33 million in anticipated 1992 tax checkoff receipts to be taken into account according to standard budget procedures.

Depending on when and how candidate Bush raises primary election campaign money, he is likely to receive $14 million in matching payments from the Presidential election fund. The FEC estimates that 80 percent of those payments will be made in January and the remainder in February and March. Democratic candidates are expected to become entitled to matching primary payments later in the year. This provision would assure timely payments both to candidate Bush and to Democratic primary candidates.

HOUSE HELD UP CONFERENCE ON OLDER AMERICANS ACT

Mr. McCAIN. Mr. President, this is not a proud day for our Nation's seniors. The House of Representatives has just left for the holidays while failing to appoint conferees so that action could be completed on the Older Americans Act reauthorization bill—which includes an amendment of mine adopted in the Senate that would repeal the Social Security earnings test. This is a travesty.

On November 12, the Senate adopted the Older Americans Act reauthorization bill and appointed conferees in the hope that this important legislation might be conferenced and signed into law before Congress recessed for the year. It is of great concern to this Senator, who is a sponsor and strong supporter of the Older Americans Act reauthorization bill, that the House appears to be holding up final action on this critical legislation for our Nation's seniors by not appointing its conferees.

As my colleagues know, the Older Americans Act provides for a number of programs that are essential to the livelihood of our Nation's most vulnerable elderly. It provides for an array of programs on which millions of older Americans depend—vital services including nutrition programs, seniors centers, community and social services, legal services, nutrition and health promotion programs, and care for frail and homebound seniors. In addition, the act provides job opportunities and protects the basic rights of seniors.

While current law certainly will continue if the reauthorization bill is not signed into law before the end of the year, the effect of this bill's delay will be very serious. For example, delay blocks an additional $70 million in funding for the commodities program that is the nutritional lifeline for low-income seniors. Delay also blocks a critical new home health care program that was to have served as an alternative to institutional care. And, delay blocks the critical new elder-rights program that was to tackle the tragedy and disgrace of elderly abuse.

Mr. President, this reauthorization bill is critical to improving the lives and well-being of millions of older Americans. It is unconscienable, in my view, that this legislation is being held up as a result of the House not appointing conferees.

Mr. President, initially, I thought the fact that the House did not appoint conferees was an oversight, but that simply was not the case. Plain and simple, it was a ploy to avoid having to deal with the Senate's proposal to repeal the last bastion of age discrimination—the Social Security earnings test.

Mr. President, my earnings test proposal was adopted unanimously in the Senate and enjoys the support of a majority in the House. What's more, just as is the case with the Older Americans Act reauthorization bill, this proposal enjoys the support of seniors all over this country and of virtually all of our Nation's major seniors organizations. Accordingly, Mr. President, it was my sincere hope that the House would have appointed its conferees so that we could have completed consideration of this critical legislation and send it to the President for his signature before we recessed for the year. But, unfortunately, that will not happen because the House has turned its back on our Nation's seniors.

PENSION AMENDMENT TO H.R. 3543

Mr. HATCH. Mr. President, the Senator from Missouri has previously emphasized the narrowness of this particular amendment. I wonder if he could comment further on whether he views this amendment as setting any kind of a precedent for further changes to ERISA or in connection with the activities of any other carrier.

Mr. DANFORTH. Let me assure the Senator from Utah, and all of my colleagues, that I do not regard this amendment as setting a precedent of any kind with respect to changes in ERISA or with respect to the activities of any other airline. On the contrary, this amendment was narrowly drafted to apply and respond only to an unprecedented set of circumstances that I think are highly unlikely to recur in other contexts.

S. 474, A BILL TO STOP STATE-SPONSORED SPORTS GAMBLING

Mr. SPECTER. Mr. President, it is with great pleasure that I note that the Senate Judiciary Committee on November 21, voted to report favorably S. 474, a bill to stop the spread of State-sponsored sports gambling. I applaud this resounding vote to support a bill which is now cosponsored by over 59 Senators.

Sports gambling is bad for sports. State involvement in sports gambling puts the imprimatur of government behind the discredited proposition that sports gambling is a public good. Sports gambling can only be profitable if it exploits the popularity of athletics to tempt many additional people to gamble.

The simple fact is that gambling and athletics do not mix. For government to bring them together would be unwise public policy. That is why hundreds of church, youth, and law enforcement organizations throughout the country support the antigambling provision. In the end, it is our youth who will be harmed by the negative values imparted and legitimized by States that authorize sports gambling.

Federal legislation to bar sports lotteries has been pending for 2 years. Indeed, both Houses of Congress independently passed anti-sports-lottery measures last year. Now is the time to pass this important legislation.

I understand that an amendment may be offered to provide a 2-year window for States to exempt themselves from the bill. This amendment would create a great loophole. It would encourage States to rush into authorizing sports lotteries without proper consideration and adequate safeguards simply in order to keep their options open in the future. Then, once such programs were authorized, powerful special interest groups would ensure that those State-sponsored lotteries remained in place. The result would be not only more States with sports lotteries, but more States with hastily conceived sports lottery programs.

I urge my colleagues to support S. 474's purpose of keeping sports and gambling separate by voting against this amendment.

SPORTS GAMBLING

Mr. DECONCINI. Mr. President, it is unfortunate that the Senate will not have the opportunity to enact legislation prohibiting sports gambling this year. We have put together a strong bill that effectively would prevent the legitimization of sports gambling through State seals of approval. S. 474, the Professional and Amateur Sports Protection Act of 1991, would prohibit all sports gambling, by Government entities or individuals, conducted pursuant to State law. It would cover any lottery, sweepstakes, or other betting, gambling or wagering scheme based on competitive games in which amateur or professional athletes participate.

Hearings were held in the subcommittees of both the House and Senate Judiciary Committees this year. During these hearings, the case was made that legislation is needed to stop the spread of State sponsored sports gambling. My bill, S. 474, has been approved by the full Judiciary Committee. The House bill, H.R. 74, was reported out of subcommittee and then passed as part of the House crime bill. The conference committee on the crime bill agreed to include a ban on sports betting in its final report. Fifty-nine of my Senate colleagues have cosponsored my bill, S. 474. Clearly, this is a matter of importance to the Congress.

Swift action is imperative to prevent the proliferation of sports gambling. I fear that States desperate for revenue, whatever the costs, are enlisting the aid of the gambling and lottery industries to bring sports gambling to their States. Technological advances will soon allow these States to effectuate systems where bets could be made through 900 numbers, with wagers paid by credit cards.

States must know explicitly, without reservation, that Congress' failure to enact a sports gambling prohibition this year does not mean that Congress has dropped the ball on this issue. With diligence and vigor, we will move rapidly on this bill at the beginning of next year.

There is widespread support for this legislation. I have heard from many national and local organizations, sports teams, colleges, high school educators, legislators, and many others who have expressed strong support for a ban on sports gambling. Few can disagree with the strong antisports gambling message that has been heard. Mr. President, the future of America's favorite pastime, sports, is threatened. It is imperative that we act quickly.

Although I am disappointed that it appears the crime bill which incorporates the Professional and Amateur Sports Protection Act of 1991 will not become law this year, I am confident that with the broad base of support for this bill, that it will become law early next year.

In the meantime, I urge those States which are considering legislation to enact sports betting to think long and hard about the message they're sending to the young people in America. The revenues it may generate are not worth destroying the reputation of sports and sports heroes. I ask unanimous consent that immediately following this statement five editorials in support of the bill be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

A LOSING BET

(By William F. Reed)

Whenever I go to the racetrack, which is considerably more often than the average citizen, I bet on almost every race. I like the action. I like having a personal rooting interest. What's more, I see absolutely no contradiction between my betting at the track and the fact that I'm dead-flat opposed to any further legalization of gambling on baseball, football, hockey and basketball.

Sure, I've heard all the seductive argumente in favor of legal sports gambling. The main one is that because illegal gambling on sports events is already at least a $38 billion-a-year industry, why not take it away from criminals and put it into the hands of the states? That would remove the stigma from gambling, put illegal bookmakers out of business and give cash-starved state governments a lucrative source of revenue. Simple, huh? Well, don't believe it. I say such a plan would be opening new cans of worms.

The way I see it, there's already too much legal gambling. As recently as 15 or 20 years ago the only places in this country where you could get a bet down without breaking the law were racetracks and the Nevada casinos. The gaming industry was so limited that many people who had no business gambling were discouraged from doing so. To go to a track, for example, you had to have the money for transportation, admission, a program and the Daily Racing Form. In addition to the cost, not everyone could afford the time or the trouble. Sure, there were bookies, but many people were—and are—reluctant to indulge in an illegal activity.

Now, however, we are a nation of gamblers, mainly because legal betting has become so readily available. Off-track betting, which operates in 11 states, is as much a part of some neighborhoods as the convenience store. Casino gambling in Atlantic City is within a day's drive of 60 million people, and you can even play craps and blackjack on riverboats in Iowa and soon in Illinois. Most insidious of all are the various state lotteries, which expose government at its greedy worst.

Even though a lot of lottery tickets are sold to the people who can least afford them, states shamelessly pour millions of dollars into promoting and glamorizing their lotteries instead of emphasizing that the chances of winning are umpteen million to one. The longest shot at the racetrack is far more likely to be a winner than a ticket in most lottery jackpots, yet the public keeps pouring billions down the drain. And to this we're going to add betting on games?

Aside from concerns that the passion to get rich quick through gambling is replacing devotion to hard work and saving as the American way, here are five reasons to oppose further expansion of legalized sports gambling.

Expansion of legalized gambling would induce even more people to become bettors. That, in turn, would only lead to a higher incidence of compulsive gambling. If the sad case of Pete Rose served any useful purpose, it was to emphasize that addiction to gambling can be just as ruinous as addiction to alcohol or drugs. At least Rose could afford his habit better then many others can. How about the thousands of families that are destroyed each year because the breadwinner tape out? How do we reconcile the notion that government is supposed to protect the public welfare with the idea of its simultaneously promoting an activity certain to increase a debilitating addiction?

Fan hostility toward athletes, already a growing concern, would only increase. With more people having their hard-earned cash at risk, there would be more second-guessing, especially about crucial decisions and plays that affect the point spread. My hunch is that legal betting on soccer in Europe has to be one of the factors behind the many riots that mar matches there.

Increased gambling on baseball, football, basketball and other sports would have a serious negative impact on horse racing and dog racing simply because team sports are so popular. Some may shrug this off as the law of the marketplace, and of course it is. But do states really want to risk further damaging industries that have proven their ability to generate thousands of jobs and millions of dollars in revenue but are already showing signs of weakness?

Legalized gambling would not drive the illegal bookmakers out of business because state-run betting operations would not be able to issue credit, which is one of the bookies' major enticements to gamblers.

Legalized gambling just doesn't make sense from a practical standpoint. For openers, who would establish the betting line? Are states willing to trust some guy in Las Vegas? How would the states know that the oddsmaker would not be susceptible to a bribe? What would a state do if it suddenly found itself taking a bath because of a bad line? A bookmaker can balance his books by laying off bets with other bookies. I'm not sure states would be willing or able to do the same thing.

Oh, yes. I also should mention the moral contradictions. Let me see if I've got this straight. The numbers racket is illegal if it's run by mobsters but perfectly all right if the states run it and call it a lottery. And betting on games is illegal if you call your friendly neighborhood bookie, but it's O.K. if the government gets into it. Everybody see the difference? If so, there are a lot of guys in jail for illicit gambling—most of whom have been apprehended at considerable cost to the taxpaying public—who would like an explanation.

[From the New York Times, Nov. 22, 1991]

SHAME OF THE STATES

(By William Safire)

HARPER'S FERRY, W. VA.— In Deadwood, S.D., where in 1876 Wild Bill Hickok was shot in the back during a poker game while holding a hand of aces and eights, gambling was re-introduced in 1989. Despite a betting limit of $5, the amount wagered by tourists and other suckers in the once-moribund town has already passed a third of a billion dollars.

That's only for openers. South Dakota's state lottery, reaching for the youth market, has also invested in video games, the modern equivalent of state-sponsored slot machines. West Virginia is experimenting with video machines at racetracks.

New York and Connecticut up the ante with telephone off-track betting, likely to spread to taxes and computer moderns for hacker-touts. And liberal Iowa, on the pretense of reviving interest in the less savory elements of its history, has launched riverboat-gambling on the Mississippi—retaining 20 percent of casino winnings, which longtime gamblers grumble is too much vigorish.

All this means that Americans at the state level are deciding that gambling is good—not just a tolerable evil, but a positive value. Gambling has become a goal of public policy.

Only a few years ago, proponents of state lotteries were claiming that state control would channel the profits of an unstoppable human frailty toward good ends. Why let numbers racketeers and Mafia casino operators bilk the public, their argument went—why not steer those ill-gotten gains into public schools?

The answer is spreading like a poison through state and local governments: immoral means have never led to moral ends. We are no longer skimming the profits from a criminal activity: we are putting the full force of government into the promotion of moral corruption.

What am I, some kind of stiff? Is a friendly game of gin rummy at a penny a point to be frowned upon, or a church social that raises its costs at a bingo game to be condemned, or a privately owned gambling yacht catering to rich drunks cause for conservative concern?

I'm a libertarian. If people want to titillate themselves with a game of chance, or delude themselves into thinking they can beat the odds, that's their private business. I just do not think it should be the public business.

Gambling promotion has become a key to state budget-balancing. Card-carrying right-wingers are not supposed to mind taxing the poor, but really soaking the poor—as this excessively regressive taxation does—sticks in my craw.

Why? Because it is wrong for the state to exploit the weakness of its citizens. It is the most unfair and painful form of "painless" taxation. The money isn't coming from a few big bookies and croupiers, but from the pockets of millions.

And gambling taxation feeds on itself. We cannot give up the state income from betting, say legislators who feel guilty about pretending that gambling is good, because the states have become dependent on the money, or because other states will use casinos to lure their tourism. They have become as hooked on gambling as a source of revenue as any compulsive gambler betting the milk money.

Here's what you can do to stop the explosion of government-sponsored gambling:

Tell your local television anchor you've had it with media hype of gambling. Features of giggling lottery winners or hoohahing over million-dollar jackpots is cheap-shot journalism, show us some people impoverished by gambling, or expose the cost of the state bureaucracy pushing it.

Apply truth-in-advertising to state-sponsored slots, lotteries and video games. Display prominently the odds against winning; state the number of losers for every winner. Demand stations make free equal time available for anti-gambling messages.

Demand that gubernatorial gamesters stop using their "take" for advertising; the creation of fresh demand for gambling by a public agency is against the public interest.

Tell your kids that gamblers are life's losers. Private gambling, like prostitution, should not be illegal, but it should not be treated as a value. And to make the state hustling of gambling profits the basis for state education is like shooting Marshal Hickok in the back.

[From the Cincinnati Enquirer, Aug. 20, 1991]

GAMBLING

Prohibition is the best thing that could happen to the idea of lottery betting on sports events. And that is exactly what U.S. Rep. John Bryant, D-Texas, is trying to do with a bill that would make the practice illegal nationwide.

How ridiculous for professional sports to work so hard to stay free of the taint of gambling only to have state governments undermine the efforts. There will always be some illegal gambling. But that is limited, and will never convey the legitimacy of state-sponsored lottery betting.

The pros realize this. The Cincinnati Reds and Bengals have joined a coalition of Ohioans Against Sports Gambling to lobby for passage of Congressman Bryant's bill. Meanwhile, the group is working to keep Ohio legislators fully apprised of the harm that sports gambling would do.

The Bengals' Mike Brown said it well: "We feel legalized sports gambling promotes the wrong reason for rooting for the home team. We want people to cheer for us to win, not to cover the spread."

State lotteries are big business. There's no doubt about that. They are lucrative and competitive. And, because that's so, there is growing concern that the desire for growth is smothering good judgment.

State-sponsored sports gambling would undermine all the care and caution that have gone into keeping pro sports clean. It might even jeopardize an industry that cities such as Cincinnati and Cleveland depend on. That is simply too much to risk.

The Bryant bill should pass. And with a groundswell of public support.

CONGRESS SHOULD HALT LEGALIZED SPORTS BETTING

Commissioners of major league baseball, basketball, and football urged Congress this week to halt the spread of legalized sports betting across the nation. Representatives of revenue-hungry states, and of casinos eyeing millions of dollars in new profits, are complaining. But Congress should ban new state schemes to sponsor gambling on football or other sports. Legalized gambling could corrupt professional athletics. The United States already has too many forms of betting. The last thing the nation needs is a new enticement to gamble.

Paul Tagliabue of the National Football League, Fay Vincent of Major League Baseball, and David Stern of the National Basketball Association all testified before a congressional subcommittee Wednesday. "We do not want our games used as bait to sell gambling," said Mr. Taglisbue.

Mr. Tagliabue knows as well as anyone that illegal betting on football is already something of a national passion. But he and other commissioners argue that there's no reason to make gambling opportunities even more available.

As the recession forces states to search for new revenue, legalized sports betting looks like the next stop on government's eternal search for a painless fiscal cure. Oregon has a lottery tied to the outcome of pro sports, and Nevada allows sports betting in casinos.

Jack Gallaway, president of TropWorld Casino an entertainment resort in Atlantic City, says sports betting should be the next major item on the New Jersey casino industry's agenda. And Steven Perkins, chairman of the Casino Control Commission, sounds favorable to the idea. Race track operators, fearing even stiffer competitors, fearing even stifer competition from casinos, say they would want a piece of any new action. The pressure is on, and building.

Sen. Bill Bradley, a star with the New York Knicks before he entered the Senate, is among the cosponsors of the bill to ban new sports betting. As the commissioners testified, legal sports gambling leads to a situation in which fans start cheering to beat the spread, not just for the home to win. "When our fans begin to leave games feeling disappointed or cheated even though 'their' team has won, that spells trouble," said the NBA's Mr. Stern. Legal betting would also make it more likely that underworld types would try to fix a game. Even if that didn't happen, fans would be suspicious.

Gambling fever has gripped the United States. Almost every state in the nation now has some form of gambling, from jai alai to greyhound racing to casinos. For people who like to gamble, and who can bet sensibly, there are abundant opportunities.

But some people can't bet sensibly. Encouraged by billboards and TV ads, they bet—and lose—their mortage money, or the family food money. The time to call a halt is now. Congress should enact a federal ban on new forms of sports betting.

[From the USA Today, June 26, 1991]

STATES SHOULD KEEP OUT OF SPORTS BETTING

States are becoming addicted to gambling.

Gambling is big business: $290 billion is bet each year. Like high rollers deeply in debt, states are relying more and more on games of chance to lift them out of their fiscal ruts.

Iowa, closely followed by Illinois, is leading the charge down the Mississippi with riverboat gambling.

Thirty-three states and the District of Columbia have joined in the lottery craze.

New Jersey, Nevada, and South Dakota allow casino gambling.

A USA Today survey shows 13 states have considered or are considering joining Oregon and Nevada in legalizing betting on sporting events.

That concerns the heads of all the professional sports leagues as well as amateur athletics. Today, they'll tell a Senate panel they want to keep sports gambling from spreading to other states.

Despite the views across the page, the commissioners are right.

In previous editorials, USA Today has opposed states' spending large sums on lottery promotions; it has also opposed a national lottery that would complete with the states.

Sports gambling is another bad bet for states—

Because it encourages gambling particularly among our youth.

Because it can lead to crime, one study showed 10% of teen-agers committed crimes to support their habit.

Because money doesn't always go where it is intended; in Oregon, for the first two years, much of the revenue went into the general fund instead of college sports.

Because the odds are poor, the odds of winning Lotto America, for example, are 13 million to 1.

And because it preys upon the poor.

Gambling is especially bad for sports because it would raise concerns about the fixing of games. Fans would root for their bets rather than for their home teams.

States see gambling as a way to fill their coffers, but too many people see it as a way to fulfill their dreams.

Look across the USA, and you'll see the broken lives and unfulfilled dreams of those who took the risk—and lost.

Art Schlichter's promising National Football League career was cut short when he was suspended for gambling.

Chet Forte was at the pinnacle of the TV industry at ABC Sports until sports gambling destroyed his life.

Pete Rose was headed for baseball's Hall of Fame.

Compulsive gamblers have doubled in the last decade to 8 million—a million of them teen-agers.

YOUNG GAMBLERS

A study of college students in six states found:

Students who had gambled sometime in their lives: 87%.

Gambled weekly: 26%.

Gambled more than $100 in one day: 11%.

Fit criteria for pathological gambler: 5.7% William C. Smith, counseling coord., Bryant College, R.I.

Gambling is already reaching the saturation point. States should not be using sports to try to make a big score.

SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, I hereby submit revised budget authority allocations to the Senate Committees on Environment and Public Works and Banking, Housing, and Urban Affairs and aggregates under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 121.

Section 9(e) of the budget resolution states:

> (e) TO FUND SURFACE TRANSPORTATION.—
>
> (1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding for surface transportation within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously-passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.
>
> (2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.
>
> (3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to section 302(b) and 602(b) to carry out this subsection.

The report of the Senate Budget Committee to accompany the budget resolution makes clear one of the available applications of this language. On page 55, the report states:

> The Surface Transportation Act reserve fund is designed to cover, among other initiatives, deficit-neutral Federal-Aid-Highway, Section 3 Mass Transit Capital Grant, and Highway Safety Grant initiatives.

On June 4, 1991, the Environment and Public Works Committee reported S. 1204. S. 1204 qualified as "legislation that increases funding for surface transportation within such a committee's jurisdiction," in the words of the budget resolution, addressed matter discussed in the report of the Budget Committee, and met the other requirement of section 9 of the budget resolution that

> * * * to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit * * * in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

As S. 1204 complied with the conditions set forth in the budget resolution, under the authority of section 9(e)(2) of the budget resolution, on June 11, 1991, I filed with the Senate appropriately revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out section 9 of the budget resolution. These revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates appear at page 14173 of the CONGRESSIONAL RECORD for June 11, 1991.

The Senate passed and went to conference with the House of Representatives on the House companion measure, H.R. 2950. Just this morning, the committee of conference on H.R. 2950 submitted a conference report on the legislation. As did S. 1204, the conference report on H.R. 2950 plainly qualifies as "legislation that increases funding for surface transportation within such a committee's jurisdiction," in the words of the budget resolution. It addresses matter discussed in the report of the Budget Committee. The conference report on H.R. 2950 also meets the other requirement of section 9 of the budget resolution that:

> * * * to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit . . . in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

As the conference report on H.R. 2950 complies with the conditions set forth in the budget resolution, under the authority of section 9(e)(2) of the budget resolution, I hereby file with the Senate appropriately revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out section 9 of the budget resolution.

There being no objection, the allocations were ordered to be printed in the RECORD, as follows:

REVISED RESOLUTION TOTALS PURSUANT TO SECTION 9(e) OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR 1992

[Dollars in millions]

	Fiscal year	Dollars
Budget authority allocation to Environment and Public Works	1992 1992–96	$18,911 110,885
Budget authority allocation to Banking, Housing, and Urban Affairs	1992 1992–96	107,394 246,509
Transportation budget authority function total	1992	35,912
Resolution budget authoority total	1992	1,270,612

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 157

Ms. MIKULSKI. Mr. President, I rise in support of this conference report and urge its adoption by the Senate. This conference report contains language with respect to FEMA's disaster program which should help obviate the need for future emergency supplementals. The language reflects an agreement with the administration regarding what the average, and therefore predictable, need for FEMA disaster assistance is—$320 million per year.

Under the language, if the President requests and Congress appropriates this amount—but natural disasters occur which result in a need greater than $320 million—any amount above the $320 million would be designated as an emergency and therefore would not score against the domestic discretionary spending cap. If the President requests less than the $320 million, then the administration has agreed that any amount required above the President's request will be designated as an emergency.

If, on the other hand, Congress appropriates less than the historical average of $320 million—or the President's request, whichever is less—and requirements for FEMA disasters exceed the amount appropriated, then only the amount above $320 will be declared an emergency.

Mr. President, I know this sounds confusing, but I believe that by reaching agreement with the administration on an appropriate amount for the average need for FEMA, we can avoid in the future the kind of situation in which we now find ourselves—an $800 million backlog of needs for FEMA funding. This supplemental will take care of that backlog, but it will also help make sure that FEMA won't run out of money for disasters in future years.

CRIME BILL CONFERENCE REPORT

Mr. DOLE. Mr. President, as Yogi Berra once said, "It's deja vu all over again."

Last year, the House passed a tough antianti crime bill. The Senate passed a tough anticrime bill. And the Democrat-controlled conference committee threw them both away, and reported out a bill that did nothing to help law-abiding Americans.

This year, the House passed a tough anticrime bill. The Senate passed a tough anti crime bill. And, in the spirit of the season, the Democrat-controlled conference committee has sent the American people a turkey.

My friends on the other side of the aisle point to the good things in this bill—to the new Federal death penalty—to more money—money that is authorized, but not appropriated, by the way—for America's law enforcement community.

And no doubt about it, this bill does have some good provisions in it. But just because the radio works, does not mean that you should keep a car that is a lemon. And this bill is a lemon.

On March 11, President Bush challenged Congress to pass tough, anticrime legislation within 100 days.

Today, 260 days later, we are asked to pass legislation which falls far short of what President Bush requested, and falls short of what the American people demand, in at least five very important areas.

First, President Bush asked for legislation to limit the unreasonable appeals used by convicted criminals to delay their sentences.

The bill before us, however, would allow convicted criminals to use new laws to overturn old convictions. Indeed, in the words of the National District Attorneys Association, "passage of this bill is tantamount to handing the jail house keys to thousands of convicted State and Federal prisoners."

Second, President Bush asked for legislation that would impose an enforceable Federal death penalty on the most heinous of crimes. And the Senate and House did just that.

The bill before us, however, creates the Federal death penalty with one hand, and takes it away with the other, as it contains no safeguards to prevent the obstruction of the Federal death penalty through endless collateral litigation.

Third, President Bush asked for legislation which would stop obviously guilty criminals from being set free on a technicality.

The bill before us simply codifies existing exclusionary rule law, and through skillfully written language, would actually require the exclusion of more evidence than the existing rules.

Fourth, President Bush asked for legislation which would come down on the side of victims of crimes of sexual violence. The President proposed, and both Houses of Congress passed legislation to do just that—legislation that threw the book at recidivist rapists and child molesters.

The conference committee, however, did the following:

It threw out provisions requiring increased maximum penalties for rapists and child molesters.

It threw out provisions requiring HIV testing of Federal sex offenders, with disclosure of test results to the victim.

It threw out provisions mandating that the Government pay the cost of HIV tests for victims of Federal sexual crimes. Instead, the committee wants victims to pay the cost out of their own pocket.

It threw out provisions requiring restitution to victims of rape, child molestation, and child sexual exploitation, whether or not physical injury results from the crime.

And, by the way, it also threw out provisions which increased the penalties for selling drugs to pregnant women.

And, finally, Mr. President, the bill before us would overturn the Supreme Court decision of Arizona versus Fulminante.

The practical effect of this action is that confessed killers, rapists, drug traffickers, and other criminals, will have their convictions overturned.

For these reasons—and many more—President Bush has pledged to veto this bill. It's a veto that is in the best interests of law-abiding citizens. And it's a veto that will be sustained.

Mr. President, if the Democrats are looking for a campaign issue, they have got it. I will be perfectly willing to put the President's proposal and the one the Democrats rammed through the conference committee sight unseen, side-by-side, and let the American people decide who's in their corner.

ON PASSAGE OF H.R. 3327

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to support the passage of H.R. 3327.

This bill would require the Secretary of Veterans Affairs to designate one of the Assistant Secretaries in the Department of Veterans Affairs [VA] as the chief minority affairs officer of the Department. That individual would be required to investigate VA's policies as they affect beneficiaries who are members of minority groups; assess the needs of those beneficiaries; and to advise the Secretary on the effect of VA policies on such beneficiaries to ensure that minority group beneficiaries are afforded an opportunity to participate fully in VA's activities and benefits.

This is an important provision, Mr. President, and very similar to a provision the Senate recently passed in S. 869. By placing this duty at the Assistant Secretary level, this provision demonstrates the commitment of the Congress to equality in opportunity for all of our veterans.

I urge my colleagues to support this important bill.

CRIME BILL CONFERENCE REPORT

Mr. BIDEN. Mr. President, today, the Senate Republicans took the final step in the legislative process, and killed what would be the toughest anticrime law in U.S. history.

In brief, the highlights of this package include: The Senate-passed Brady bill, imposing a national 5-day waiting period for handgun purchases, and a system of background checks for those seeking to buy handguns; a vast expansion of the death penalty—to 53 offenses—including the murder of a police officer, murder in the course of rape or child exploitation, drive by shootings, and the death penalty for drug kingpins; a $1 billion authorization for local police; a new drug emergency areas plan to help hard-hit cities; a program for prisons to hold drug criminals; boot camps at old military bases to hold youthful offenders; a police corps, to put more police officers on the streets; new gun-crime penalties for using a gun during a crime, stealing a gun, for owning a gun if you are a felon—and even the death penalty for Federal gun murders; aid for crime victims; reform of habeas corpus and the exclusionary rule; initiatives to fight gang violence and rural crime; and measures to protect our children from abuse, and from drunk drivers.

It was a vast bill and a comprehensive approach to fighting crime in America today.

The conference report received much praise, but also, much criticism. Let me start with the latter.

One set of criticisms came from my friends on the left. Many are death penalty opponents; a position I respect tremendously, even if it is one I do not share. Others fear that the habeas corpus and exclusionary rule provisions go too far in cutting back on civil liberties.

To these people I say, "yes, the bill does restrict some liberties." It limits your right to buy a gun on demand. It limits your freedom, if you commit certain crimes, by imposing new, higher, mandatory sentences. It limits the right to endless appeals.

These are limits on civil liberties. But the basis for the civil liberties of all Americans is a Nation governed by the rule of law. And the lawlessness in our streets today is undermining the public's confidence in that system.

When confidence in the rule of law erodes, sweeping measures—which threaten to wipe out civil liberties altogether, gain in credence. We can see this happening already: Compare the bill the Senate votes on today to the one that the President of the United States proposed, just 6 months ago. His bill: permitted deportation of U.S. residents without a hearing and without legal representation; allowed the use in evidence of any gun, however seized by police—even if the police broke down every door on a block on a whim; totally eliminated any Federal court review of death sentences, as long as State courts heard the case.

And the list goes on. Unless we take steps to control crime, I say to my progressive friends, the more draconian proposals that we have successfully resisted in this bill—proposals that would strip liberties without making our streets safer—will gain acceptance.

This bill would have served to fight crime, while doing the least possible damage to legitimate civil liberties concerns. It is always a balance, and I believe we should have accepted the balance struck here.

The more vocal criticism of this bill has come from the right—largely from the President, and from other allies of the National Rifle Association.

I understand the position of the allies of the NRA. They don't like the Brady bill. They never have. And even though polls show that 80 percent of NRA members, and 90 percent of the American public support the Brady bill, these die-hards will not quit.

But, of course, they do not want to come right out and say, "We oppose this tough crime bill because we oppose the Brady bill." So instead, they reach into their bags and pull out a label that is so tired, and so worn—and they say: "This bill is pro-criminal."

Frankly, I am sick and tired of hearing this. Pro-criminal? I do not know anyone in the Senate who is "pro-criminal." The very term is offensive; it demeans our debate; it is the cry of those so bereft of arguments of substance that they fall to using shrill attacks, instead of reasoned appeals.

Well, let's lay our cards on the table. I supported this bill. Am I "pro-criminal?" The Fraternal Order of Police supported this bill. Are they "pro-criminal?" The National Association of Police Organizations supported this bill. Are they "pro-criminal?"

No one should be throwing labels around like "pro-criminal." If you called this bill pro-criminal, you called its supporters pro-criminal. And I defy—no, I dare—any of my colleagues to take this floor and call the major police organizations of this country pro-criminal.

The supporters of this bill—the police who wanted us to pass this bill—don't stand on the Senate floor to fight crime. They put their lives on the line to fight crime.

So I say to my Republican friends: the police don't want your tough on crime speeches anymore. They don't want to hear you say, "I voted against this crime bill to wait for another one with a better habeas."

America's police want your help, they wanted your vote for this bill. And we owed it to them.

A "pro-criminal" bill, the critics say? A bill with 53 death penalty offenses, "pro-criminal"? A bill that required background checks before gun purchases, to keep guns away from criminals, "pro-criminal"? A bill to add more police, more prosecutors,

more DEA and FBI agents, more prisons, more boot camps, "pro-criminal"? A bill to raise the penalties for gun crimes, for drug dealing, for drunk driving, "pro-criminal"?

"Oh, but what about habeas corpus," the critics say. This bill limited prisoners to one Federal appeal, within 1 year—an unprecedented limit on the great writ. What about exclusionary rule? This bill provided a good faith exception to that rule, where police have a warrant. What about coerced confessions? All this bill would have done was make it illegal to use at trial confessions obtained through unconstitutional coercion.

There they are, the so-called pro-criminal provisions in this bill: limited appeals, limited exclusionary rule, no coerced confessions. To even claim that this bill was pro-criminal is to see what garbage that charge is.

The administration always complains about criminals getting off on technicalities. But in using habeas corpus as a reason to kill the Brady bill, the President got the NRA off on a technicality.

Yes, the district attorneys said this bill was soft on crime, because they put habeas reform first on the list of what they wanted done to fight crime.

With all due respect, the only risk district attorneys take each day is the danger of a paper cut from a habeas petition. Habeas reform might make them safer.

But our police risk their lives each day from bullets and guns. They want the Brady bill. They want death penalty for cop killers. They want stiffer penalties for gun crimes. They want more prisons to keep the criminals off the streets. They want training and equipment.

That's what this bill would have done. So if you voted "no" you can say it was to protect DA's from paper cuts from habeas petitions. To protect cops from handgun killers, you must have voted "yes."

What did the police say about this bill? The Nation's largest police group, the F.O.P., said: We "call on Congress to adopt, and for the President to sign, this bill. It is the toughest anticrime legislation to emerge from Congress in recent memory, and should become law."

The Nation's second largest police group, the National Association of Police Organizations, said: We "support—prompt enactment of the crime bill as reported out of conference—[it is] tough anti-crime legislation."

And they concluded with: "We urge you to enact this badly needed anticrime legislation immediately."

The International Association of Chiefs of Police—the police chiefs—wrote that they "support the conference report," saying, "the net effect of—the conference report will benefit the public at large as well as those who are charged to protect them."

If you voted against these men and women who are asking for your help, you can tell them you did it because you want to protect the NRA more than you want to protect our police; or because you care more about the technicalities of habeas corpus reform than you do about the death penalty and putting more cops on the street.

Tell them what you will. I will say only this, in conclusion.

We are in the midst of the third straight year, under this President, of a national record for murders. A record every year of this Presidency.

We are in the midst of an all-time record for rapes. More Americans are addicted to cocaine and heroin today than ever before.

Today, we could have done something about this—we could have expanded the death penalty, required background checks for handgun buyers, we could have beefed up our police departments and prisons.

But this bill was voted down, killed by the Republicans in the Senate at the behest of the President.

There will be no Brady bill. There will be no death penalty. There will be no added police, prisons, prosecutors. There will be no increased penalties.

People will die as a result. That's the truth. People will die from crimes that we could have stopped with this bill. People will die while we are waiting for another crime bill.

Tell the folks back home that you voted this bill down because you wanted a better habeas corpus. Say you voted against it because you wanted a better exclusionary rule, or because you think we need to use coerced confessions—not police or prisons—to fight crime.

Say what you will. But the fact is this: We could have passed a tough anticrime bill today if the President and the Republicans in the Senate had wanted to do so.

Mr. President, I ask unanimous consent that assorted documents in support of the crime bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAW ENFORCEMENT SUPPORTS THE CRIME BILL

Law Enforcement support for the Crime Bill Conference Report has been overwhelming. Here is what the nation's largest police organization are saying:

Fraternal Order of Police: We "call on Congress to adopt, and for the President to sign, this bill. It is the toughest anti-crime legislation to emerge from Congress in recent memory, and should become law."

National Association of Police Organizations: "We believe that the Bill's positive response to the need for overall improvement in law enforcement far overshadows any possible disagreement over individual provisions. * * * As a significant body of law enforcement officers who risk life and limb daily to protect the American public, we urge you to enact this badly needed anticrime legislation immediately."

International Association of Chiefs of Police: "The[] provisions in the Conference Report will benefit the public at large, as well as those who are charged to protect them * * * we support the Conference Report."

International Brotherhood of Police Officers: "America needs a crime bill now—in this session, passed by the Congress and signed by the President. * * * As the President of [IBOP], I urge you to adopt the conference report and pass this important legislation."

Police Executive Research Forum: "The Crime Bill provisions that mandate a waiting period between the purchase and receipt of a handgun and support for state and local law enforcement agencies * * * are signs to law enforcement that Congress is ready to help police do their jobs. * * * [T]he Crime Bill will advance law enforcement's commitment to protecting our nation's citizens. * * * PERF supports passage of this legislation. * * *

International Union of Police Associations: "[W]e recognize[] the real need for enactment of the Conference Committee version of the Crime Legislation and support it fully."

National Organization of Black Law Enforcement Executives: "The National Organization of Black Law Enforcement Executives is grateful to you and your colleagues for recognizing the necessity to propose the Crime Bill. NOBLE, an organization representing 2,500 law enforcement executives, who in turn, represent the populations in most major urban cities in our nation, is pleased to endorse this proposed legislation."

Mothers Against Drunk Driving: "Mothers Against Drunk Driving looks forward to the passage of [the Conference Report] and the implementation of the Drunk Driving Child Protection Act."

FRATERNAL ORDER OF POLICE,
Columbus, OH, November 26, 1991.

Hon. JOSEPH BIDEN,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: I have had the opportunity to review the contents of the compromise reached by the House and Senate conferees who met on November 24 regarding H.R. 3371, the Omnibus Crime Control Act of 1991. On behalf of the 230,000 members of the National Fraternal Order of Police (NFOP), the largest organization of law enforcement professionals in this country, I am pleased to advise you of our support for the conference agreement.

Clearly, the legislative process is the art of the possible triumphing over perfection. The NFOP certainly would have preferred certain language not presently found in the Conference agreement such as the Senate provisions on corpus reform, the "Police Officers' Bill of Rights," and semiautomatic assault weapons as well as the House language on "good faith" warrantless searches by police. However, the conference agreement also has much to recommend it, including the so-called "Brady" language on handgun purchases, reinstatement of the federal death penalty for a variety of federal crimes, the establishment of a police corps program, and the funding of vitally needed local anticrime initiatives nationwide, just to name a few.

Those of us charged with enforcing the laws of this nation need good legislation to help us do our job, not endless finger-pointing and jockeying for some temporary partisan political advantage. Although the

NFOP is prepared to continue to work for enactment of legislation in the areas not adequately covered in the conference agreement, let us move forward on that which is attainable. Accordingly, I call on the Congress to adopt, and for the President to sign, this bill. It is the toughest anti-crime legislation to emerge from Congress in recent memory and should become law.

With kind personal regards, I remain

Sincerely,

DEWEY R. STOKES,
National President.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, November 25, 1991.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing on behalf of the 135,000 rank-and-file police officer members of the National Association of Police Organizations ("NAPO"), to express our support for prompt enactment of the Crime Bill as reported out of conference on Sunday.

First, let me say that NAPO has followed the development of the Crime Bill closely during this congressional session and believes the version which has been reported out of Conference to be tough anti-crime legislation which goes a long way toward meeting the acknowledged need for substantial improvements in America's criminal justice and crime detection and prevention systems. While we do not agree with each and every provision of the Conference version, and especially regret the deletion in Conference of the Senate-passed Assault Weapons Ban and Law Enforcement Officers Bill of Rights, we believe that the Bill's positive response to the need for overall improvement in law enforcement far overshadows any possible disagreement over individual provisions.

Further, as we have said repeatedly in the past, we do not believe that so critical a national priority as the battle against crime should be mired in political partisanship. Hence, the sooner the current Crime Bill is enacted, the sooner the many reforms and innovations that it contains can be implemented.

As a significant body of law enforcement officers who risk life and limb daily to protect the American public, we urge you to enact this badly needed anti-crime legislation immediately.

Very truly yours,

ROBERT SCULLY,
President.

INTERNATIONAL ASSOCIATION OF
CHIEFS OF POLICE,
Arlington, VA, November 25, 1991.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: I have always felt it important that our federal legislators hear from representatives of the law enforcement community on critical issues facing the country in a clear and timely manner. It is out of this concern that I, as President of the International Association of Chiefs of Police, write to you at this vital time. Members of the Senate and House of Representatives have conferenced the Crime Bill and it is now awaiting ratification by both chambers in preparation for sending it on to the President for his signature.

The Conference Report addresses many issues of concern to the Law enforcement community. Some of these elements are reflective of IACP's longstanding legislative agenda and we are pleased to see them incorporated into this proposal. Key among them are: a national waiting period for the purchase of a handgun; expansions of death penalty provisions in federal law; additional funding support for state and local law enforcement; and, increased support for federal law enforcement efforts. The Conference Report also incorporates many salutary provisions such as anti-gang violence programs; rural crime initiatives; expansion of aid to victims of crime; establishment of funding for emergency crime areas; and, measures designed to protect our children from abuse.

The net effect of the changes of these provisions in the Conference Report will benefit the public at large as well as those who are charged to protect them.

As you know, Mr. Chairman, IACP has been on record as supporting the President's Crime Bill. It is important to note that we also have advocated other provisions not contained in that measure. While we support the Conference Report, we recognize that it does contain some elements that could be strengthened. We hope to have the opportunity in the months ahead to work with you and representatives of the Administration to address these issues.

I appreciate having this opportunity to share my views with you and look forward to working with you in the future on these and other issues of mutual concern.

Sincerely,

C. ROLAND VAUGHN III,
President.

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS,
Arlington, VA, November 26, 1991.

Hon. JOSEPH BIDEN,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN BIDEN: I am writing on behalf of the thousands of rank-and-file police officer members of the International Brotherhood of Police Officers (IBPO), to express our support for prompt enactment of the conference agreement to accompany H.R. 3371, the Crime Bill.

Throughout this session, both the Senate and the House of Representatives devoted considerable time and attention to developing proposals aimed at reducing crime in this country. Both the House and the Senate approved crime legislation (H.R. 3371 and S. 1241) by wide margins. Overall, we believe that the conference agreement attacks the substantive problems of crime in America by providing increased resources to the front lines, including state and local officers. Once enacted, we hope that the Congress will swiftly appropriate the $1 billion that Senator Biden's provision authorizes for state and local aid.

America needs a crime bill now—in this session, passed by the Congress and signed by the President. While the IBPO does not agree with each and every position to which the Conferees agreed, overall the bill is tough and fair. Faced with the prospect of no bill at all, there is no doubt that this crime legislation should be approved quickly.

Political shell games are of no use to the American people, who wish to remain safe in their homes, or to the professional law enforcement practitioners who fight crime in this country.

As the President of an organization that represents rank and file officers on the front lines in the war on crime and drugs, I urge you to adopt the conference report and pass this important legislation.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL UNION OF
POLICE ASSOCIATIONS, AFL–CIO,
Alexandria, VA, November 26, 1991.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: The International Union of Police Associations, I.U.P.A., AFL–CIO which represents over 40,000 working street level police officers and over 140 local police unions throughout the country, worked long and hard with your staff and the staff of the supporters of the current crime legislation in the House to achieve the best possible end result. We do support the final result.

We have some concerns with the Crime Bill as approved by the Conference Committee. A Police Officer's Responsibility Act on the Moran model meets a serious need in the effort to modernize and reform American policing; and the Police Corps seems to us to be wrong headed in its use of a corps of well meaning college students as a replacement or partial replacement for long term professional working cops. The Police Corps should be made of working professional cops. It should be designed to provide educational benefits to young people with a proven record of police work; not to attract college students who would otherwise be uninterested in police work to that career. We also have some concern about the lack of assault weapon protection in the final bill.

However, even with all these concerns, we recognized the real need for enactment of the Conference Committee version of the Crime Legislation and support it fully.

Sincerely,

ROBERT B. KLIESMET,
International President.

POLICE EXECUTIVE
RESEARCH FORUM,
Washington, DC, November 26, 1991.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: On behalf of the members of the Police Executive Research Forum (PERF), I would like to thank you for your efforts on the Crime Bill. PERF members represent the largest jurisdictions in this country, serving more than 30 percent of the nation's population. They are overwhelmed by the crime-related violence and decay they see destroying their communities. We applaud attempts by you and your colleagues to do something about it.

The Crime Bill provisions that mandate a waiting period between the purchase and receipt of a handgun and support for state and local law enforcement agencies, in particular, are signs to law enforcement that Congress is ready to help police do their jobs.

It is true that PERF members do not support every provision of this comprehensive package, but on balance we believe the passage of this bill will advance law enforcement's commitment to protecting our nation's citizens. While there are issues raised by the Crime Bill that can be more adequately addressed in the future, PERF supports passage of this legislation and appreciates your efforts to meet law enforcement's needs.

Sincerely,

DARREL W. STEPHENS,
Executive Director.

NATIONAL NETWORK FOR
VICTIMS OF SEXUAL ASSAULT,
Arlington, VA, November 25, 1991.

Hon. JOSEPH BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to thank you for your help in ensuring that the crime bill conference report includes provisions important to victims of crime.

We are particularly grateful for your help in preventing House amendments to the Victims of Crime Act which would have made serious cuts in federal funding for crime victim assistance. Those cuts could have resulted in reduced services to victims of crime at a time when violent crimes against American women and children are at an all-time high.

We look forward to Congressional passage of the crime bill; and, to a more secure and stable future for crime victim assistance efforts as a result of your work.

Sincerely yours,

MARY ANN LARGEN,
Executive Director.

NATIONAL ORGANIZATION OF BLACK
LAW ENFORCEMENT EXECUTIVES,
Washington, DC, November 26, 1991.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: The National Organization of Black Law Enforcement Executives (NOBLE), is grateful to you and your colleagues, for recognizing the necessity to propose the Crime Bill. NOBLE, an organization representing some 2,500 law enforcement executives, who in turn, represent the populations in most major urban cities in our nation, is pleased to endorse this proposed legislation.

There are issues contained in the Bill that we, along with other law enforcement organizations, wish could be modified, however, they are not sufficient to prolong the enactment of this much needed legislation.

Let me take this opportunity again, to thank you for your participation in our 15th Annual Conference in Philadelphia last August. Your stirring and informative remarks fell on attentive ears, and we consider ourselves to be your ally in the struggle for justice.

Sincerely,

CASSANDRA E. JOHNSON, J.D.,
Executive Director.

MOTHERS AGAINST DRUNK DRIVING,
Irving, TX, November 25, 1991.

Hon. JOSEPH H. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Mothers Against Drunk Driving is pleased to note the inclusion of the "Drunk Driving Child Protection Act" as an element of the conference agreement on H.R. 3371. As you well know, this legislation, which enhances the penalties for drunk driving on federal property when a minor child is in the vehicle, was included in the Senate-passed anti-crime package as Title XVIII of S. 1241.

The Drunk Driving Child Protection Act will send a clear signal to the states as regards to their own penalties for drunk driving when minor children are involved. Drunk driving is a crime. Drunk drivers chose to commit this crime, but children who have no option but to get in a car with an impaired father, mother or guardian are its innocent victims. Once again, you have demonstrated leadership in proposing and passing legislation sensitive to the needs of the victims of the crime of drunk driving.

Mothers Against Drunk Driving looks forward to the passage of H.R. 3371 and the implementation of the Drunk Driving Child Protection Act.

Sincerely,

MILO KIRK,
President.

U.S. CONFERENCE OF MAYORS,
Washington, DC, November 26, 1991.

Hon. JOSEPH BIDEN,
Chairman Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Congratulations on shepherding a crime bill through the Conference Committee which will work both to prevent crimes from occurring in the first place and to strengthen and enforce the laws against those crimes which do occur. The bill includes several provisions of particular importance to cities, including the waiting period in handgun purchases, direct funding to cities for community policing, and an increased authorization for the enforcement block grant.

Typical of most compromises, the crime bill does not satisfy the needs of all parties. It does include, however, enough of the provisions included in the House and Senate-passed versions and called for by the Administration, that it should be enacted into law.

America's mayors urge the Congress to pass the conference report on the crime bill and the President to sign it. Should the President veto the bill, as he has indicated he will do, we urge the Congress to override that veto. Attached is a statement on the crime bill which our President, Boston Mayor Raymond Flynn, is issuing today.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

NATIONAL LEAGUE OF CITIES,
Washington, DC, November 26, 1991.

Hon. JOSEPH BIDEN,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 16,000 cities and towns represented by the National League of Cities, I would like to express NLC's support for the immediate passage of two provisions contained in the 1991 Anti-Crime Conference Report. One would require a five-day waiting and cooling-off period for handgun purchases. The other would call on the Attorney General to study the procedures followed in internal, noncriminal investigations of local law enforcement officers.

NLC believes that the Senate-passed handgun provisions contained in this legislation would provide a modest, yet critical step towards reducing the incidence of crime and violence that plagues cities and towns across the country. The House-passed study provisions would provide essential documentation of effectiveness and fairness of the policies and practices used to conduct noncriminal internal investigations of state and local law enforcement officers.

These provisions should be approved by the Congress and signed into law by President Bush before the Congress adjourns for the year.

Sincerely,

DONALD J. BORUT,
Executive Director.

NATIONAL WOMAN ABUSE
PREVENTION CENTER,
Washington, DC, November 25, 1991.

Senator JOSEPH BIDEN,
Chairman, U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: The National Woman Abuse Prevention Center would like to express our support of The Violent Crime Control and Law Enforcement Act of 1991, the "Crime Bill," which has just emerged from Conference Committee. We believe that the Conference Report takes some very strong measures that are urgently needed for increased protection and services for victims of domestic and sexual crimes.

We are particularly pleased with the Conference version of the amendments to the Victims of Crime Act removing the "cap" from the VOCA Fund, making the Crime Victims Fund a permanent account, and establishing a fine collection center which will aid in the collection of up to a billion in federal fines going to the Fund. In addition the bill strengthens the consideration of "Victim Impact Statements" at trial and offers victims the chance to speak at the sentencing of their assailant.

In particular, we are encouraged by the inclusion of the Brady Bill in the Conference Report. As you know, hand guns play a significant factor in the three to four thousand domestic violence deaths annually. The Brady Bill is one small, but critical, step toward curbing that violence.

We were disappointed that Senator Biden's Violence Against Women Act, which we believe is critical to improved safety and protective services for battered women and sexual assault victims across this country, could not be included in the Crime Bill. We know his commitment to that bill remains strong, and look forward to its continued progress. And although neither our organization individually, nor the Domestic Violence Education and Legislation Coalition, the coalition of national and state domestic violence organizations, support the death penalty, we believe that the prevention provisions and the increased penalties under the Crime Bill are very strong, and we support the Conference Report for that reason.

If there is anything we can do to be of assistance, please let us know.

Sincerely,

MARY PAT BRYGGER,
Executive Director.

MIDNIGHT BASKETBALL LEAGUE INC.,
Hyattsville, MD., November 25, 1991.

Re section 1831 of the House version of the Crime bill.

Hon. JOSEPH R. BIDEN,
U.S. Senate, Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: The bi-partisan sponsorship of this bill is reflective of the wide-spread support for the concept and goals of the Midnight Basketball League, a sports linked life skills training program.

The league was named by the President as one of the "Thousand Points of Light." The National Association of Midnight Basketball Leagues (NAMBL) has been established to insure a uniform national network in order to be attractive to national corporate sponsors.

The NAMBL expects to match the federal funding dollar for dollar in order to assure the viability of the public-private partnership at the national level.

The number of cities joining the Association is increasing at an accelerated rate.

This letter requests your support in the continuing struggle to slow down the transi-

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tion of many of our young adults from high-risk to the Criminal Justice System.

Very truly,

G. VAN STANDIFER,
President.

DEPARTMENT OF JUSTICE,
New Orleans, LA, November 26, 1991.

Hon. J. BENNETT JOHNSTON,
U.S. Senator,
Washington, DC.

DEAR BENNETT: I write to you because I understand that the House will shortly consider the conference report on H.R. 3371, the crime bill. I oppose the habeas corpus provision passed by the Senate, which embodies the Administration's proposal, and support the House habeas corpus provision, which is contained in the conference report. I urge you to do the same.

I am a member of the Emergency Committee to Save Habeas Corpus, which was formed to oppose the habeas corpus provision in S. 1241, the Senate crime bill. You should receive a separate letter from the Emergency Committee on this issue.

My reasons for urging you rejection of the Senate habeas corpus proposal and your support of the conference report are set forth in the attached letter that I sent to Don Edwards, Chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights.

As Attorney General, I am convinced and I hope you will agree with me on these three issues. First, habeas corpus must be reformed. Second, habeas corpus is a fundamental right that must be protected. Third, the House habeas provision best meets these goals. The Administration proposal contained in the Senate bill, by contrast, would actually increase litigation, delay finality and dispense with fundamental rights.

If you have any questions about this issue, please feel free to call on me.

Sincerely,

WILLIAM J. GUSTE, Jr.,
Attorney General.

NOVEMBER 26, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. SPEAKER: I am writing to express my strong support for the habeas corpus reform provisions contained in the Conference Report to H.R. 3371. These provisions significantly improve and streamline the habeas process while retaining the right to federal review of unconstitutional state court convictions. Contrary to the contentions of the Administration, this bill is not more liberal than current law on habeas corpus.

As you know, I was the Attorney General of the State of Texas for eight years. I was known as a tough law enforcement officer. I was a strong advocate of the death penalty. I believe that the criminal justice system should function efficiently. Nevertheless, I feel that H.R. 3371, not the Administration's more extreme approach, is the appropriate solution to the problems with the process. In a word, this legislation would reform habeas corpus; it would not end it.

There is clearly a need for reform, especially with respect to capital cases, but I believe that H.R. 3371 addresses the real problems with the present system; inadequate representation by trial counsel, no time limits on petitions, successive petitions, and retroactive applications of new rules of law. This reform can and must be accomplished without sacrificing the right to habeas corpus review, which is one of our most basic protections against the imprisonment or execution of innocent persons.

Because of these concerns, I have joined with more than 90 others, many of whom are present or former prosecutors like myself, in forming the Emergency Committee to Save Habeas Corpus. I think I can safely say that all of us want to fight crime. We all agree that we, and our elected representatives, must not squander our precious constitutional rights in our zeal to appear "tough on crime."

Sincerely.

JIM MATTOX,
Attorney and Counselor.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 27, 1991.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: After reviewing the contents of the recent compromise reached by the House and Senate conferees, I, as president of the National Sheriffs' Association, would like to inform you that the sheriffs of this nation wish to go on record as supporting the 1991 Crime Bill.

We are aware that the Conference Report addresses many issues of great concern to the law enforcement community. Among them include: the national waiting period for the purchase of a handgun; additional funding support for state and local law enforcement; expansion of the death penalty provision in federal law; and, the rural crime initiatives.

Additionally, it is our opinion that the Bill is negligent in other areas, such as: provisions on habeas corpus reform, semi-automatic assault weapons, as well as the language on "good faith" warrantless searches by police.

This bill is the toughest anti-crime legislation to surface in many years. We are convinced it should become law.

Respectfully,

MARSHALL E. HONAKER,
President,
National Sheriffs' Association.

Mr. THURMOND. Mr. President, I rise in strong opposition to this conference report on the crime bill. This bill is a travesty which does more to advance the interests of convicted criminals than it does to protect victims of violent crime. The Attorney General has recommended that this sham bill be vetoed and President Bush has written the Senate Republican leader stating his intention to veto the measure if it ever reaches his desk.

The average American today is no stranger to the volume of violent crime ravaging our cities and towns. Every citizen knows that a principle reason for the growth of violence is that our criminal justice system has become soft on heinous criminals, failing to impose swift, effective punishment. Offenders who commit violent offenses no longer expect to be held accountable for their actions. Incredibly, this feeble conference report continues this trend by siding with the criminal.

Over the last several years, many of us have been engaged in an ongoing effort to redress these inadequacies in the criminal justice system. This effort resulted in the passage of a Senate bill and a House bill containing proposals on the death penalty, habeas corpus reform, and the exclusionary rule. Yet, these proposals were substantially different in the two bills and, unbelievably, a number of provisions in the bills expanded the rights of criminal defendants.

Prior to convening the crime conference, I had expressed concerns about the ratio of Democrats to Republicans. Frankly, I felt that there was an effort to stack the deck in favor of death penalty opponents and in favor of a weak crime bill. Unfortunately, I was correct. The conference was unfairly balanced, and rigidly scripted by the majority, where the views of Republican conferees were ignored. Although this report is being called a compromise by some, it is no such thing. With remarkable consistency, the Democrat controlled conference committee rejected the tougher option on these major points and opted instead for provisions that handcuff law enforcement and reduce the safety of law abiding citizens. While I truly want a crime bill, I will not accept a bill which expands the rights of criminals. This bill is not an anti-crime bill. It is a procriminal bill.

HABEAS CORPUS

For example, the most troubling provision in this bill is the habeas corpus language. Although the Senate passed tough habeas corpus reform by a vote of 58 to 40 as part of S. 1241, this conference report adopts the liberal House language on this subject. It systematically reverses over 14 Supreme Court decisions favorable to law enforcement and, according to the Department of Justice, will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Those who support this report have stated that the habeas provision in the Senate bill is tough. Yet, they claim the conference report still limits appeals. This is not correct. Without question, this provision expands the rights of death row inmates. This death row inmates' wish list is opposed by President Bush, the Attorney General of the United States, the National District Attorneys Association which represents our city and county prosecutors, the State attorneys general, the National Association of Attorneys General, the Conference of Chief Justices, numerous law enforcement organizations, and crime victims groups.

Thirty-one State attorneys general, 16 Republicans and 15 Democrats, recently wrote President Bush urging him to protect the American people and veto any bill which contains this habeas corpus proposal. They stated that any bill containing this weak proposal, and I quote: "cannot be described accurately as an anti-crime bill but would instead be a pro-criminal

bill and particularly a pro-convicted murderer bill." We must not ignore and dismiss out of hand the concerns of these law enforcement officials who clearly understand the devastating and adverse effect of this conference report.

Mr. President, I strongly concur with their assessment. There are currently over 2,500 individuals on death row. Yet, since 1972, only 159 brutal murderers have had their sentences carried out. This is due to the continued abuse of habeas corpus law by the death row inmates and their liberal lawyers who are set on eliminating the death penalty de facto.

DEATH PENALTY

Mr. President, although this conference report sounds tough, it is not. Another example of this is the death penalty. Although the report authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in this report renders the death penalty meaningless since virtually no sentence will be implemented. In addition, the report rejects a Senate passed provision which made murders committed with a firearm a Federal death penalty offense.

EXCLUSIONARY RULE

The House crime bill, as well as the President's bill, responded to some of the serious problems caused through application of the exclusionary rule. All too often in violent crime and drug cases, evidence is excluded at trial simply because the law enforcement officer innocently violated search and seizure rules. The House passed provision codifies and expands upon the good faith exception to the exclusionary rule as embodied in U.S. versus Leon. It provides that when an officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

The conference report rejects this important measure and instead rolls back court decisions to the detriment of law enforcement. It substantially narrows the good faith exception to the exclusionary rule. This provision handcuffs law enforcement in their efforts against criminals. It is yet another provision which expands the rights of criminals.

ADMISSABILITY OF CONFESSIONS

Unbelievably, this report contains a board provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was a harmless error and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fulminante which correctly allows the "harmless error" rule to apply to confessions by criminals. According to the Department of Justice, the result of this pro-criminal provision will be the release of an untold number of murderers and other violent criminals. The decision of the conference to include this measure in the report reflects an arbitrary determination on the part of liberal members to free criminals on the basis of technicalities.

SEXUAL VIOLENCE AND VICTIMS' RIGHTS

This report also rejects several provisions aimed at fighting sexual violence and increasing victims' rights. For example, this report rejects a proposal which increases the penalties for repeat rapists and child molesters. In addition, the House bill contained mandatory restitution requirements for victims of rape, child molestation, sexual exploitation, and other crime victims. The Senate bill contained mandatory restitution requirements for all crime victims. The conference report rejects both of these measures. Incredibly, this report also drops language which required HIV testing for Federal sex offenders with disclosure of the test results provided to the victim. Apparently, the privacy of an accused rapist is more important to this report's advocates than the peace of mind of a rape victim.

Mr. President, the Republicans only recently saw the conference report. It is over 500 pages long. The report has undergone numerous changes since the conference last met and contains provisions which were in neither the House nor the Senate bill. Yet, a cursory review of this measure reveals numerous other troublesome provisions which coddle criminals. For example, the bill includes a measure which will require treatment on demand for prisoners and reduces their sentence for participating. It mandates that the Department of Justice consider facilitating the interests of violent criminals by incarcerating them closer to their home. Numerous mandatory minimum penalties for serious offenses such as selling drugs to children and violent firearm crimes have been stripped from the bill. In addition, the conference report weakens measures passed by both bodies aimed at fighting terrorism. Incredibly, it also subjects individual law enforcement officers and their agencies to Federal lawsuits for violating criminals' rights. How can anyone claim this is a tough crime bill?

In closing, this so called crime bill conference report is a travesty which undermines the interests of law enforcement, prosecutors and victims. It makes promises it cannot deliver on and virtually eliminates the death penalty. It sounds tough, but it isn't. Although this bill contains many provisions which I strongly support, these provisions cannot overcome the damage the rest of the bill does to our Nation's criminal justice system.

The advocates of this liberal, pro-criminal bill will argue that they are supporting a tough crime bill. They will claim to be spending more money on law enforcement while failing to provide a means to come up with the $3 billion it promises to them. The irony here is that, according to the Attorney General, Congress failed this year to fully fund the President's budget for law enforcement, slashing it by $472 million.

This bill should be seen for what it is, a travesty. It expands the rights of criminals at the expense of the law abiding, the prosecutors, law enforcement and crime victims. The American people are demanding that the Congress pass real reform. Anything less is not acceptable. If this bill passes, the only people celebrating will be death row inmates and other violent criminals. A vote in favor of this report is a vote against the death penalty. A vote in favor of this bill is a vote against the law abiding and victims of crime.

The American people are calling for a tough crime bill which punishes those who choose a life of crime. This conference report is anything but that. For this reason, and the other reasons I have mentioned, it must be rejected.

Mr. President, I ask unanimous consent that numerous statement and letters expressing opposition to this conference report be made a part of the record immediately following my remarks. These letters include a letter from President Bush, a letter from Attorney General Barr, 31 State attorneys general and numerous prosecutors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Nov. 27, 1991]

* * * AND ON CAPITOL HILL

The tale of Henry "Little Man" James has gripped the nation's capital like few others. "I feel like killing somebody," he told his companions, who related the story to police. Police say he then went on to do just that, opening fire with a 9mm handgun and killing Patricia Diann Lexie instantly.

The police caught him, but it will hardly matter. This week in Washington a House and Senate conference committee agreed to an "Omnibus Crime Bill." Although it purports to be something different, the bill perpetuates the criminal justice status quo in this country—ensuring that people who commit crimes like the one Little Man is accused of never feel the sting of society's ultimate sanction, capital punishment.

The major issue of the crime bill has been reform in habeas corpus, the process by which capital felons appeal state death sentences in federal courts. As it now stands, convicted murderers have numerous opportunities to appeal their conviction or sentence. President Bush and congressional conservatives wanted to reform the process so that a convicted murderer would have just two fair shots at a federal appeal. According to the president's plan, originally passed by the Senate, a capital felon could appeal his conviction once on technical grounds and then again on the basic question of guilt or innocence.

But the final bill actually liberalized habeas corpus procedures. It tosses out 14 Supreme Court cases that have already imposed marginal limitations on death-penalty appeals. It allows serial appeals; it bars state courts from appointing counsels to defendants in capital cases, requiring instead that lawyers be appointed by criminal rights advocates; and it permits confessed and convicted murderers to go free if there is a technical flaw in their confession, even if the independent evidence of guilt is overwhelming.

Some Democrats, nonetheless, are trying to claim that their bill proves they are tough on crime and Mr. Bush is not. In a fatuous political provocation, the Democrats used the bill to add 50 new crimes to the list of federal capital offenses. "Although this bill purports to permit imposition of the death penalty for several new Federal offenses," Mr. Bush wrote to Sen. Bob Dole Monday, "it adopts procedures that virtually ensure the death penalty will never be imposed."

Cold-blooded murderers deserve to die. Mr. Bush shouldn't stop emphasizing this point or struggling to reestablish the legitimacy of capital punishment in the American system of justice. Capital punishment not only serves the practical purpose of permanently removing dangerous criminals from the streets, it reaffirms our faith in the moral order that makes civilized society possible. When a nation's elite loses the political will and moral courage to protect the lives of innocent people by imposing a proportional and just punishment on murderers, life becomes cheap.

If the proponents of the Omnibus Crime Bill want to know just how cheap, they can find out this evening when the shadows begin spreading across the city. They should pick any direction and try walking out 10 or 12 blocks from the Capitol, alone. Then they should remember that the late Patricia Diann Lexie was out one evening last week in a car, with her husband by her side. She at least had some reason to think she was safe.

THE WHITE HOUSE,
Washington, DC, November 25, 1991.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR BOB: Since March, I have been calling on the Congress to pass a tough crime bill that will remove the handcuffs from law enforcement and end needless delays in the criminal justice system. For too long, the scales of justice have been tipped in favor of criminals instead of law-abiding Americans. The American people want a crime bill that will make the system tougher on criminals than it is on law enforcement and crime victims.

After months of delay, the Congress is now presented with a conference report drafted in the last hours of this session. Once again, just as they did last year, Democrat conferees from the Senate and House have demonstrated that they are willing to overlook the will of their colleagues and the American people. Clearly, the American people deserve better.

The crime bill produced by the Democrat-controlled conference is unacceptable. The bill rejects many of the primary goals the Administration set forth as necessary for an acceptable crime bill. One essential goal of our proposal is to end frivolous post-appeal challenges brought by convicted criminals, particularly death row inmates, through meaningful habeas corpus reform. By overturning critical Supreme Court decisions that have reduced the abuse of habeas corpus, the conference bill actually weakens current law by expanding a criminal's ability to frustrate the system.

Another goal of the Administration's bill is to ensure that criminals do not go free on legal technicalities when a police officer is acting in good faith. This conference report does just the opposite. Again, it retreats from current law by throwing out court decisions that recognize the legitimacy of such a good faith exception to the exclusionary rule.

Finally, although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed.

I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it and insist that Congress pass a crime bill that will strengthen our criminal justice system.

Sincerely,

GEORGE BUSH.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, November 25, 1991.

Hon. ROBERT DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. MINORITY LEADER: I join men and women of law enforcement around the country and victims of crime in voicing my strenuous objections to the so-called "crime bill" reported by the House and Senate conferees this weekend. While law enforcement groups and victims of violent crime cry out for the Congress to move forward aggressively on criminal justice reform, the conferees now propose that we take a significant step backwards. The proposed legislation actually overrules several recent Supreme Court decisions favorable to law enforcement. This conference report does more for those convicted of crimes than it does for those victimized by them.

The American people know that our criminal justice system is failing because convicted criminals are able to escape just punishment through endless delays and repetitive technical legal maneuvering. This abuse has deprived our criminal justice system of any finality: convicted criminals can perpetually reopen and relitigate their cases even when their appeals have been completed and when there is no question as to their guilt. The guilty thus avoid punishment by filing frivolous habeas corpus petitions that drag on for years, consume valuable law enforcement resources, and reopen the wounds of victims and survivors. State law enforcement agencies demand relief. And yet, the conferees now propose that we actually create broad new avenues and new loopholes by which convicted criminals can exploit the system and evade punishment. The conferees propose to make the current situation worse by: (1) overruling certain reasonable limitations recently established by the Supreme Court on successive habeas corpus petitions; (2) imposing substantial costs on the states to fund these frivolous challenges while offering no prospect of finality and no relief to their already overburdened systems; and (3) offering criminals wider opportunities for continued frivolous delays than are allowed even under existing law.

The conferees also propose to step backwards on reasonable reform of the exclusionary rule. By rolling back court decisions which allow for the admissibility of evidence when police have acted in good faith, the conference report will handcuff police and increase the number of criminals who escape justice on legal technicalities.

Finally, in authorizing $3 billion for law enforcement programs the bill offers only a mirage. Authorization of this funding when there is no appropriation is essentially meaningless. The irony here is that the Congress failed this year to fully fund the President's budget request for law enforcement, slashing it by $472 million—a 64% cut in the increases sought by the President. Dangling the empty promise of more grant programs before the eyes of state law enforcement cannot camouflage a weak crime bill.

In sum, the conferees have let down law enforcement, let down victims, and let down those in Congress who voted for tough anti-crime measures. This "whirlwind weekend conference" cannot obscure the fact that the Congress has again failed to deliver on serious criminal law reform. If this bill comes to the President's desk, I will urge him to veto it.

Sincerely,

WILLIAM P. BARR.

NATIONAL DISTRICT
ATTORNEYS ASSOCIATION,
Alexandria, VA, November 25, 1991.

Re. Vote on Crime Bill

Hon. GEORGE J. MITCHELL,
Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.
Hon. THOMAS S. FOLEY,
Hon. ROBERT H. MICHEL,
U.S. House of Representatives,
Washington, DC.

DEAR GENTLEMEN: The American people have been mugged again—this time by the leadership of the United States Congress. The nation's prosecutors strongly oppose the so-called "crime control" bill approved in Sunday's conference and urge both House and Senate to reject it. This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens. In fact, passage of this bill is tantamount to handing the jail house keys to thousands of convicted state and federal prisoners.

The bill advances the rights of convicted criminals by providing golden opportunities for them to use new case law to overturn old convictions. This is accomplished through the repeal of several Supreme Court precedents in the habeas corpus provision approved by the conference. It also provides unworkable counsel standards in death penalty cases that violate the most basic tenets of federalism.

The conference committee in nearly every instance chose the weakest provisions with respect to law enforcement. It rejected the House limitations on application of the exclusionary rule. It overturns the Supreme Court decision in *Arizona* v. *Fulminante* through a provision that may have far reaching effects and which was not even the subject of hearings. Finally, the conference chose the weaker provisions on death penalty offenses and procedure.

It is a sad day when the will of American people to enact tougher criminal laws is so completely thwarted. We urge you to reject this poor excuse for a crime control bill.

Sincerely,

THOMAS J. CHARRON,
President.

NOVEMBER 21, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As the chief legal or law enforcement officers of our states, we

are writing to express our alarm at the habeas corpus provisions contained in H.R. 3371, as it was passed by the U.S. House of Representatives, and to urge you to veto any legislation containing those provisions.

We need legislation that will support law enforcement, promote finality of judgment, and ensure fairness to crime victims and their survivors. In spite of that need, a bare majority of the House of Representatives has passed habeas corpus provisions that would have the opposite effect. Those provisions are so inimical to law enforcement, are so unfair, and would have such a devastating effect on the interests of victims and survivors of violent crimes, that we urge you to veto any so-called anticrime bill containing any of the principal provisions relating to habeas corpus that are now found in H.R. 3371.

One of those provisions would effectively repeal the non-retroactivity doctrine of *Teague* v. *Lane*, 489 U.S. 288 (1989, and related Supreme Court decisions, thereby drastically undermining finality of judgment and increasing relitigation and delay manyfold. The House bill accomplishes this result by defining more narrowly than *Teague* the class of "new rules" that do not apply to cases on habeas review, and thus it provides more grounds for litigation after the conviction is final. The *Teague* doctrine, however, acknowledges that federal habeas corpus is not intended "to provide a mechanism for the continuing reexamination of final judgments based upon later emerging legal doctrine."[1]

Without the *Teague* doctrine, and under the House provision, Robert Alton Harris, who brutally murdered two teenagers in 1978 near San Diego, California and who confessed seven times, would be able to perpetuate his case under federal habeas corpus.[2] This House provision also overturns *Buter* v. *McKellar*.[3] These are only two examples, as any effort to undercut *Teague* would affect capital and non-capital judgments in nearly every state. Moreover, *Teague* doctrine must be viewed in the context of *Griffith* v. *Kentucky*, 479 U.S. 314 (1987). *Griffith* holds that "new rules" are always applied retroactively at any stage during direct review, i.e., before the conviction becomes final. The Senate already rejected a measure which would have undermined the *Teague* doctrine. In the event the conferees fail to follow the Senate lead, we urge you to veto any bill containing any provisions, such as those in H.R. 3371, which reverse the *Teague* non-retroactivity doctrine in any way.

Another provision of H.R. 3371 would impose draconian requirements concerning appointment, qualification, performance, and compensation of counsel in capital cases. Those provisions are so onerous, are so contrary to basic notions of federalism, and depart so significantly from what the Constitution requires, that they are obviously an attempt to indirectly impede, obstruct, or abolish capital punishment. For example, under H.R. 3371, if the state fails to satisfy each of the counsel requirements, three harsh penalties are imposed: (1) an indefinite stay of execution is granted; (2) the traditional presumption of correctness afforded to state court findings of fact is eliminated; and (30 the presentation and consideration of new claims in federal court in disregard of the well-established exhaustion and procedural default doctrines is permitted. H.R. 3371 therefore encourages "sandbagging" of state courts, disrespects comity and federalism interest, and promotes more litigation on whether the state has satisfied each of the technical counsel requirements.

In contrast, the Senate-passed legislation rejected a compulsory approach on the states and allows states to opt-in to the reforms. In this manner, the Senate bill contains the recommendation of the Powell Committee which recognized that "it is more consistent with the federal-state balance to give the States wide latitude to establish a mechanism" for the appointment of counsel.[4] In the unexpected even that any state, which opts in to the reforms, failed to promulgate an adequate appointment of counsel mechanism, the Powell Committee left that final determination with the federal judiciary.[5] We urge you to veto any so-called anti-crime bill which contains extra constitutional requirements concerning counsel in any case or class of cases, such as those provisions found in H.R. 3371.

Finally, in the name of placing reasonable limits on "successive petitions," H.R. 3371 instead promotes more, not less, litigation. H.R. 3371 is broader than the Senate-passed legislation, which is based upon the Powell Committee recommendation, because the House measure includes vague language permitting successive petitions concerning "the validity of the sentence under Federal law."

There is nothing in the habeas corpus provisions of H.R. 3371 that is favorable to any interest other than convicts' interests. Any bill containing the provisions discussed above cannot be described accurately as an anti-crime bill but would instead be a pro-criminal bill and particularly a pro-convicted murderer bill. The habeas corpus provisions contained in H.R. 3371 stand in stark contrast to those which the Senate passed in July. We do wholeheartedly support the habeas corpus provisions contained in Title XI of S. 1241. Those provisions, unlike the ones contained in H.R. 3371, would promote finality, fairness, and prompt resolution of litigation.

There are some other provisions in H.R. 3371 and in S. 1241 which would aid law enforcement and promote the interests of victims and survivors of violent crime. However, there are no provisions in either bill, and none that the Conference Committee could report out, that would justify signing into law any bill containing habeas corpus provisions similar to those contained in H.R. 3371.

We appreciate your interest in this matter and hope that, if it becomes necessary, you will exercise your veto power to protect the American people from pro-criminal legislation such as the three provisions discussed above relating to habeas corpus that are contained in H.R. 3371.

Sincerely,

Daniel E. Lungren, Attorney General, California; Mike Moore, Attorney General, Mississippi; Don Stenberg, Attorney General, Nebraska; Robert T. Stephan, Attorney General, Kansas; Marc Racicot, Attorney General, Montana; Ernest D. Preate, Jr., Attorney General, Pennsylvania; Grant Woods, Attorney General, Arizona; Charles E. Cole, Attorney General, Alaska; Elizabeth Barrett-Anderson, Attorney General, Guam; Joseph B. Meyer, Attorney General, Wyoming.

Linley E. Pearson, Attorney General, Indiana; Mary Sue Terry, Attorney General, Virginia; Robert J. del Tufo, Attorney General, New Jesey; John P. Arnold, Attorney General, New Hampshire; Dave Frohnmayer, Attorney General, Oregon; Gale A. Norton, Attorney General, Colorado; Frankie Sue del Papa, Attorney General, Nevada; James H. Evans, Attorney General, Alabama; Ken Eikenberry, Attorney General, Washington; Mark W. Barnett, Attorney General, South Dakota; Jeffrey L. Amestoy, Attorney General, Vermont; Michael J. Bowers, Attorney General, Georgia.

Larry Echohawk, Attorney General, Idaho; Richard N. Palmer, Chief State's Attorney, Connecticut; Richard P. Ieyoub, Attorney General-elect, Louisiana; Mario J. Palumbo, Attorney General, West Virginia; Lacy H. Thornburg, Attorney General, North Carolina; J. Joseph Curran, Jr., Attorney General, Maryland; T. Travis Medlock, Attorney General, South Carolina; Charles M. Oberly, III, Attorney General, Delaware; Dan Morales, Attorney General, Texas.

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF ATTORNEY GENERAL,
Harrisburg, PA, November 25, 1991.

Re: Habeas Corpus Provisions of H.R. 3371

DEAR MEMBER OF CONGRESS: Today you will be asked to vote on a conference report on the Crime Bill. We urge you to vote to reject this proposal.

From the states' perspective, the most important provision in this report is the reform of federal habeas corpus. This report does nothing to further that reform and is, in effect, a step backwards. The report essentially reverses a major Supreme Court ruling, *Teague v. Lane*, which discourages relitigation, successive petitions and delay, and encourages prosecutors and the public to believe that there is finality in state criminal court judgments. This report language turns back the clock. It gives the defendant new grounds for an appeal and does nothing to end frivolous and successive appeals which plague the criminal justice system and which this crime bill was intended to rectify.

The very reasons for our opposition to H.R. 3371 are the reasons we support S. 1241. We support this Senate habeas corpus reform measure because it is wrong for our government to allow a seemingly endless series of federal court appeals from state criminal convictions by murderers. The Senate bill would bring finality to those appeals; we support these changes.

This conference report is not a strong "anti-crime bill." This proposal favors the convicted murderer, revictimizes the survivors of a murder victim, and penalizes the states. We urge you to reject it.

We attach for your information a recent letter to the President signed by 31 state Attorneys General, which further explains our position.

Very truly yours,

Ernest D. Preate, Jr., Chair, Criminal Law Committee, National Association of Attorneys General.

Robert J. Del Tufo, Attorney General of New Jersey, Vice Chair, Criminal Law Committee, National Association of Attorneys General.

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[1] *Sawyer v. Smith*, 110 S. Ct. 2822, 2827 (1990).

[2] *Harris* v. *Vasquez*, No. 90-55402,—F.2d—(9th Cir. Aug. 21, 1991).

[3] 110 S. Ct. 1212 (1990).

[4] Judicial Conference of the United States, Report and Proposal of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, at (Aug. 23, 1989).

[5] *Id.*

NOVEMBER 15, 1991.

Hon. GEORGE J. MITCHELL.
Hon. JOSEPH R. BIDEN, JR.,
U.S. Senate, Washington, DC.
Hon. THOMAS S. FOLEY,
Hon. JACK BROOKS,
U.S. House of Representatives, Washington, DC.

GENTLEMEN: As elected Democratic prosecutors from across the nation representing tens of thousands of crime victims, we call upon you for help. For months we have supported a workable crime bill designed to help the crime fighters and victims, not the criminals. We managed to get such a bill through the Senate, only to have it eviscerated in the House of Representatives. As state and local leaders of the Democratic Party, it is hard to explain to our constituencies why our Democratic leaders in Congress continually hamstring our efforts to combat crime.

The House Bill (H.R. 3371) contains several provisions which are repugnant to law enforcement efforts. If these provisions remain in the crime bill, prosecutors of both parties nationwide will ask the President to veto it, and we have every indication that the President will do so. To make the bill palatable, we urge the conference committee to adopt the Senate version, and specifically:

(1) Strike the language in Title XXI, Section 1104 that overturns existing retroactivity standards as defined in Teague v. Lane, 489 U.S. 288 (1989) and Butler v. McKellar, 110 S. Ct. 1212 (1990). The practical effect of this section would be to allow state prisoners much greater latitude in applying new legal precedents to overturn old convictions.

No conviction would ever become final. It would further aggravate the already critical problems of delay and abuse in capital cases and continue to undermine the faith of the American people in the criminal justice system.

(2) Strike or substantially modify the counsel standards for capital cases in Section 1105 of Title XI. These standards are unworkable and violate the most basic tenets of federalism. The proposal would bar state court judges from appointing counsel in capital cases. The power to appoint would be placed either in a state-wide defender organization, a death penalty resource center, or a committee of lawyers appointed by the highest court in the state. The qualifications for death penalty lawyers, beginning with two lawyers at the trial stage and on through certiorari in the U.S. Supreme Court, are so stringent that the pool of eligible counsel would be so limited as to thwart and delay death penalty litigation, not improve it. In addition, the appointment of counsel provision appears to interfer with state's rights, where eighty percent of all cases are litigated. Apparently no thought has been given to the financial obstacles in funding such an approach.

(3) Strike the language in Section 1106 that allows successive federal habeas petitions if proven facts undermine a court's confidence in the "validity" of a capital sentence under federal law. This provision is ambiguous and is an invitation to procedural abuse.

(4) Institute the same time limits and statutes of limitations for federal habeas corpus proceedings approved by the Senate in July.

In summary, these few provisions in the House bill are so damaging that we prosecutors would prefer no crime bill unless changes are made. All of us have a lot at stake in this matter. We are very close to having a good crime bill of which persons on both sides of the aisle can be proud. A lot of study, research, and effort has been expended and should not be wasted. On a more partisan note, we, as local Democratic leaders believe in the power of good government to improve and protect the quality of each citizens life, regardless or race, creed, color or socio-economic status.

Pervasive, invidious, violent crime, which strikes disproportionately at the poor and minorities is the single greatest threat to our citizens lives. Hopefully our Democratic Party will send side by side with our law-abiding citizens—*not* with convicted criminals.

Thank you for considering our views.

Sincerely,

Robert H. Macy, District Attorney, Oklahoma City, OK; Edwin L. Miller, Jr., District Attorney, San Diego County, San Diego, CA; Carl K. Kirkpatrick, District Attorney General, Kingsport, TN; Newman Flanagan, District Attorney, Suffolk County, Boston, MA; Robert E. Colville, District Attorney, Allegheny County, Pittsburgh, PA.

Michael P. Barnes, Prosecuting Attorney, St. Joseph County, South Bend, IN; William C. O'Malley, District Attorney, Plymouth County, Brockton, MA; William L. Murphy, District Attorney, Richmond County, Staten Island, NY; William E. Davis, County Attorney, Scott County, Davenport, IA; Arlo Smith, District Attorney, San Francisco County, San Francisco, CA; Arthur C. Eads, District Attorney, Bell County, Belton, TX.

Robert L. Deschamps, County Attorney, Missoula County, Missoula, MT; Stephen D. Neely, County Attorney, Pima County, Tucson, AZ; Danny E. Hill, District Attorney, Potter County, Amarillo, TX.

CONFERENCE OF CHIEF JUSTICES,
November 6, 1991.

Hon. STROM THURMOND,
U. S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: I am writing on behalf of the Conference of Chief Justices to ask your support for adoption of the Senate habeas corpus provisions during the upcoming House-Senate Conference on the Omnibus Crime Control Act of 1991. The Senate provisions represent true reform of habeas corpus; the House provisions do not.

The Conference has expressed its position on habeas corpus reform in a number of resolutions over the last several years, the most recent having been adopted at the Conference's Forty-Third Annual Meeting in Philadelphia on August 8, 1991.

I enclose copes of the several resolutions for your consideration. As you will note, the resolutions highlight the Conference's support for the recommendations of the Powell Committee and for the preclusive effect of a full and fair adjudication of a prisoner's habeas claims by a state court.

The August 1991 resolution reaffirms the Conference's "long standing position in support of limiting federal habeas corpus in death penalty cases when state proceedings have rendered a full and fair adjudication of the claim." The resolution also makes clear that the Conference "considers the language of the Senate Judiciary Committee 'full and fair' standard as including a determination by the federal courts of whether the claim was (1) decided on the merits, (2) met a minimum standard of reasonableness, and (3) conformed to federal procedural requirements." Finally, the resolution states that the Conference expresses no opinion on any other parts of the Omnibus Crime Control Act of 1991.

I respectfully request your favorable consideration of the Conference's position and urge you to appoint to the Conference members who are serious about habeas corpus reform. If you should desire further information on the matter, please do not hesitate to call on me.

Sincerely,

HARRY L. CARRICO,
Chairman, Committee on State-Federal Relations.

CITIZENS FOR LAW AND ORDER, INC.,
Oakland, CA, November 26, 1991.

STATEMENT ON CRIME BILL CONFERENCE COMMITTEE REPORT

Our organization, together with its national coalition partners and our more than 100,000 members, stand in firm opposition to the alleged "anti-crime" bill which Senate-House conferees agreed upon Sunday evening. As concerned citizens and as victims/survivors of violent crime we reject this crime package in its entirety due to its lethal anti-victim provisions contained in its so-called habeas corpus reform provisions. These provisions attack the very heart of the criminal justice system and thus fatally infect all other sections of the conferees' crime package. Congress must reject it!

Our organization has always been convinced that genuine habeas corpus reform in capital cases is a fundamental and indispensable element in the battle against violent crime in our nation. The conferees' choice on Sunday evening of the House version of habeas reform over that of the Senate dealt a severe body-blow to the legitimate needs and concerns of our country's homicide victims/survivors. It absolutely nullifies any hope of real reform of current abuses. Furthermore, it makes the current situation worse by allowing retroactive application of Supreme Court decisions in habeas proceedings.

The worst torment that homicide survivors must endure after the loss of their loved ones is the lack of closure to grief and the lack of finality of judgment. The House version of habeas reform, adopted by the conferees on Sunday evening, does nothing to alleviate these matters but instead accentuates them. The conferees' adopted version of habeas reform now insures continued victimization and re-victimization of survivors of murdered loved ones.

True habeas reform demands time limits on Federal Court deliberations; it must mandate priority treatment for capital cases in habeas proceedings; it must restrict successive petitions to issues of guilt/innocence; it must maintain the current *Teague* v. *Lane* doctrine of non-retroactivity. Any purported reform without all these elements is a sham and a charade. The conferees' version lacks them all!

For too many years, victims/survivors have been ignored by the criminal justice system while primary focus has been directed to defendants/prisoners. Nowhere has this been more flagrant than in Federal habeas proceedings. Survivors wait for years for jury verdicts and sentences to be actualized while death-row killers abuse the system with impunity through the endless filing of baseless and repetitive appeals. This is neither fair, just, or equitable. Yet the conferees' version of habeas reform will not only perpetuate this situation, it will aggravate it! Congress must say no to this bill!

JACK COLLINS,
Eastern Regional Director, CLO.

CONCERNED CITIZENS
EQUAL JUSTICE,
Greenville, SC, September 12, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

This is to urge support of House Bill 1400. While we are all concerned about what appears to be an increase in crime in this country. We are equally concerned with encroachment on the Constitution to deal with it. The proposed Senate changes in habeus corpus places our personal liberties in jeopardy, weakens the federal court system, and increases the risk of innocent defendants being executed due to lack of adequate counsel nor review.

We urge you to actively support House 1400 habeas reform, rather than the Senate version.

Sincerely,

J.M. FLEMMING,
Chairperson.

ROBERT H. MACY,
District Attorney,
Oklahoma County, November 25, 1991.

Hon. DAVID BOREN,
U.S. Senate, Washington, DC.

DEAR SENATOR BOREN: As a veteran prosecutor with over thirty years in the criminal justice system and as President-Elect of the National District Attorney's Association, I am appalled at the action of the Conference Committee on the Crime Bill. In almost every instance, the conferees voted for the version that most favored the criminal element, not the prosecutors and victims. While pretending to pass a tough crime bill with additional application of the death penalty, the conferees included provisions which will prevent the death penalty from ever being carried out. The provisions on Habeas Corpus will perpetuate endless delays in all capital litigation. In its present form, this bill is totally unacceptable to the prosecutors of this nation.

Those of us who have dedicated our lives and careers to protecting the innocent victims of crime and prosecuting violent vicious criminals are better off under the present state of the law than we will be if this bill is enacted. On behalf of the nation's prosecutors, I respectfully request that you vote against passage of this bill.

Respectfully,

ROBERT H. MACY,
District Attorney.

NINTH CIRCUIT STATE ATTORNEYS GENERAL ASSOCIATION ON PENDING FEDERAL HABEAS CORPUS REFORM LEGISLATION—ADOPTED JUNE 17, 1991

Whereas, the Ninth Circuit State Attorneys General Association is an association of the elected Attorneys General from the nine western states within the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit, which is the largest federal appelate court in the nation. The states within the Ninth Circuit include Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Orgeon, and Washington;

Whereas, each of these State Attorneys General offices has an active case load and day-to-day involvement on federal habeas corpus cases in the U.S. District Courts of their respective states and in the U.S. Court of Appeals for the Ninth Circuit;

Whereas, the U.S. Congress is currently considering legislation which would reform the general federal habeas corpus process;

Whereas, seven of the states within the U.S. Court of Appeals for the Ninth Circuit have adopted procedures for the imposition of capital punishment for aggravated murder which each respective state Attorney General office has obligations to defend in Federal court. These states included Arizona, California, Idaho, Montana, Nevada, Oregon and Washington; Now, therefore, be it

Resolved, That the Ninth Circuit State Attorneys General Association, by unanimous vote of each Attorney General after evaluating the impact of pending reform legislation, including S. 19, S. 618, S. 635, and S. 1241:

(1) concludes that meaningful federal habeas corpus reform is necessary to promote the finality of state court judgments, curb repetitious and unnecessary litigation, and restore public confidence in the criminal justice process;

(2) strongly endorses the provisions of S. 635, Title II & X, as the best legislative package currently before the U.S. Senate to remedy the problems of lack of finality and unnecessary and incessant litigation currently experienced under the federal habeas corpus process;

(3) strongly urges Congress to adopt a reform package which contains general habeas corpus reforms, along the lines of S. 635, Title IIA, which includes:

(a) reasonable time limits for the filing of habeas petitions;

(b) deference to state court rulings which are the product of full and fair state adjudication; and

(c) authority for federal courts to dismiss frivolous claims when state remedies have not otherwise been exhausted;

(4) strongly endorses the full and fair adjudication standard contained in S. 635 and urge Congress to adopt for this federal standard of review the full and fair opportunity standard employed in *Stone* v. *Powell*, 428 U.S. 465, 494 (1976);

(5) strongly endorses the adoption of a statute of limitations for the filing of habeas corpus petitions, and recommends that a petitioner have 90 days to file the petition with up to a 90-day extension for a showing of good cause and that a court be required to enter a written order articulating the grounds for the good cause extension;

(6) strongly supports a provision which mandates that capital cases shall be given priority in federal court and a provision which adopts time limits for federal court review of these cases. If a federal court failed to timely act, we recommend that the automatic stay would expire so that the presumptively valid state court judgment could be enforced. Any time limits on federal appellate court review should include a 30-day time limit for a determination on whether to rehear a case or rehear a case en banc;

(7) strongly supports legislation which maintains the limits on successive petitions adopted by the U.S. Supreme Court in *McCleskey* v. *Zant*, 59 U.S.L.W. 4288 (1991) and which would build upon this standard, as proposed in S. 635;

(8) strongly supports capital case reforms which include an appointment of counsel mechanism:

(a) which is limited to post-conviction review;

(b) allows states to develop appointment of counsel standards;

(c) reserves the unitary review processes (for the simultaneous state appellate court consideration of the direct appeal and state habeas petition) for those states which have adopted such procedures;

(d) develops a mechanism which precludes repetitious litigation of the adequacy of the appointment of counsel mechanism once the mechanism has been judicially upheld or certified as adequate by a judicial or non-judicial entity;

(e) adopts a remedy for the technical or inadvertent noncompliance with any such appointment of counsel mechanism which preserves judicial determinations as long as the effective assistance of counsel was otherwise rendered;

(9) strongly supports legislation which preserves the exhaustion doctrine, which as a matter of comity, respects the integrity of state processes;

(10) strongly supports legislation which preserves the procedural default doctrine;

(11) strongly opposes any provisions which would erode or modify the non-retroactivity doctrine of *Teague* v. *Lane*, 489 U.S. 288 (1989), or otherwise expanded the two exceptions to this doctrine;

(12) supports legislation which would allow the certificate of probable cause requirement, under 28 U.S.C. §2253, to serve the screening function intended under *Barefoot* v. *Estelle*, 463 U.S. 880 (1983);

(13) strongly opposes legislation which would undercut principles of finality, disrespect state processes, and encourage repetitious litigation, such as the provisions of S. 1241 which includes undefined "miscarriage of justice" standards for successive petitions and allows new federal claims which were not raised in state court "due to the ignorance or neglect of the prisoner or counsel;"

(14) strongly opposes any habeas corpus reform package which contains any version of the so-called Racial Justice Act, which:

(a) overturns the U.S. Supreme Court decision in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987);

(b) is based upon an unsound statistical premise;

(c) alters the traditional focus of our criminal justice system on whether the charged crime was committed by permitting statistics and information from unrelated cases to be considered; and

(d) most importantly, would have the practical effect of abolishing capital punishment in those states which have adopted constitutional procedures for capital punishment while doing nothing to promote racial justice.

Charles E. Cole, Attorney General, Alaska; Daniel E. Lungren, Attorney General, California; Larry Echohawk, Attorney General, Idaho; Frankie Sue Del Papa, Attorney General, Nevada; Ken Eikenberry, Attorney General, Washington; Grant Woods, Attorney General, Arizona; Warren Price, III, Attorney General, Hawaii; Marc Racicot, Attorney General, Montana; Dave Frohnmayer, Attorney General, Oregon.

THE DEPARTMENT OF LAW,
STATE OF GEORGIA,
November 25, 1991.

Hon. WYCHE FOWLER, JR.,
U.S. Senator, 204 Russell Building, Washington, DC.

Re: Conference Committee Proposals on Habeas Corpus Reform.

DEAR SENATOR FOWLER: I have just learned that on Sunday, Novemer 24, 1991, the Senate/House Conference Committee met and reported out the Conference version of the Omnibus Crime Control Bill. Insofar as habeas corpus reform issues are concerned, I understand that this Bill adopts the House version of these so-called reforms. As I have expressed on numerous occasions, in my opinion, the adoption of these House habeas corpus measures, particularly that measure which would result in the overturning of the principles in *Teague* v. *Lane*, would have disastrous consequences insofar as the operation of the writ of habeas corpus and thus the operation of the criminal justice system.

The overruling of *Teague* insures that courts are free to apply new rules of constitutional interpretation to old cases, thus changing the rules of the game for the state long after the trial occurred and the conviction became final. This undermines the essentials of fairness to both sides as well as finality.

I urge you to attempt to defeat the House version of "habeas corpus reform," as it overturns the hard won victories and landmark court cases in this area which have already been achieved in the Courts.

Sincerely,

MICHAEL J. BOWERS,
Attorney General.

THE FOLLOWING LIST OF VICTIMS GROUPS, STATE ATTORNEYS GENERAL, DISTRICT ATTORNEYS, LOCAL LAW ENFORCEMENT AGENCIES, AND LAW ENFORCEMENT ORGANIZATIONS HAVE EXPRESSED THEIR SUPPORT FOR A TOUGH CRIME BILL

ATTORNEY GENERAL

The attorneys general of the following 31 States have called upon President Bush to veto this "pro-criminal" bill:

California, New Jersey, North Carolina, Connecticut, Idaho, Nevada, Vermont, Nebraska, Alabama, Wyoming, Alaska, South Dakota, Indiana, Virginia, South Carolina, Delaware, Mississippi, Colorado, Pennsylvania, Texas, Arizona, Montana, West Virginia, Washington, Kansas, Oregon, New Hampshire, Georgia, Guam, Maryland, and Louisiana.

THESE PROSECUTORS OPPOSE THIS "PRO-CRIMINAL" BILL WITH ITS WEAK HABEAS CORPUS REFORM

National District Attorneys Association, California District Attorneys Association, Conference of District Attorneys, Oklahoma City, Oklahoma District Attorney, San Diego, California District Attorney, Kingsport, Tennessee District Attorney, Boston, Massachusetts District Attorney, Pittsburgh, Pennsylvania District Attorney, South Bend, Indiana District Attorney, Brockton, Massachusetts District Attorney, Staten Island, New York District Attorney, Davenport, Iowa District Attorney, San Francisco, California District Attorney, Belton, Texas District Attorney, Missoula, Montana District Attorney, Tucson, Arizona District Attorney, and Amarillo, Texas District Attorney.

VICTIMS GROUPS

Concerned Citizens Equal Justice, Citizens Against Violent Crime, Memories of Victims Everywhere, The Joey Fournier Anti-Crime Committee, Survival, Inc., Justice for Murder Victims, Justice for Homicide Victims, Inc., League of Victims and Empathizers, Inc., and Citizens for Law & Order.

LAW ENFORCEMENT ORGANIZATIONS WHO OPPOSE THIS BILL'S HABEAS CORPUS AND EXCLUSIONARY RULE

National Law Enforcement Council, Fraternal Order of Police, National Troopers Coalition, National Sheriffs Association, Federal Investigators Association, Federal Criminal Investigators Association, International Narcotic Enforcement Officers Association, Airborne Law Enforcement Association, Society of Former Special Agents of the F.B.I., Commission on Accreditation for Law Enforcement Agencies, Inc., Massachusetts Association of Italian American Police Officers, Massachusetts Crime Prevention Officers Association, California Correctional Peace Officers Association, and Greater Boston Hotel Security Directors Association.

Mr. CHAFEE. Mr. President, before the Senate today is the conference report for S. 1241, the omnibus crime measure, approved by the Senate in July. I have mixed feelings about this bill; but I will give my support to it. I do so for one major reason: The inclusion of the provision, known as the Brady bill, that establishes a national 5-day waiting period for the sale or purchase of a handgun.

Frankly, I am disappointed with many aspects of the conference's work. First, the lack of the provisions on firearms. I am disappointed that both the limitations on magazine capacity and the ban on certain semiautomatic assault weapons were stricken from the bill.

To my view, these provisions make sense. I do not believe that gun controls are the sole answer to crime. But they can help. And it simply does not make sense to craft crime-fighting measures that do not include stricter controls on guns. Too many times this Nation has heard what one witness to the recent slaughter in Killen, TX, called "that terrible stillness of death." In Oklahoma, Kentucky, California, and recently in Texas and in Michigan—all over the country we have seen senseless loss of life by guns.

It is clear that we have a big problem in this country, and it is guns. We have far too many and they are too available. Stricter controls on guns simply are no sacrifice compared to the grief caused by such deaths.

That is why I am sorely disappointed that the Senate assault weapons ban was deleted from the final report. However, there is a bright note: the retention of the Brady provisions.

The Brady provisions included in this bill take us closer to the goal of preventing the senseless loss of life by ensuring that guns do not fall into the wrong hands. Pursuant to this measure, a national five-business-day waiting period before the purchase of a handgun will be established; during this time, local law enforcement will be required to carry out a background check on the prospective buyer to make sure that he or she is not a felon or other person prohibited by law from carrying a gun. Meanwhile, the Attorney General will set up a system for a national instant criminal background check that, once certified to be in place, will cause the national waiting period to be repealed.

Frankly, I would have preferred that the waiting period remain in place ad infinitum in order to provide a cooling off period for those buying a gun while in the grip of a strong emotion, or drugs or alcohol. Many individuals commit gun-related crimes in a moment of anger or rage, or when they are affected by drink or drugs. Also, persons suffering from depression are often tempted by easy accessibility to a gun to do harm to themselves or others. So I would have preferred that the waiting period be permanently established. But this is a compromise measure, and it is still a significant one that will do a great deal of good.

The fact that the waiting provisions are included in this bill is itself a tribute to the two people who have worked so hard and long for a national waiting period, and for whom the bill is named: Sarah and Jim Brady. They have logged thousands of hours over the past few years chasing down legislators, talking to them, and getting attention focussed on the bill; and their tireless efforts have paid off. My hat is off to both Jim and Sarah.

Now to the other elements of the bill. Clearly I have serious objections to the bill's death penalty provisions. I do not support capital punishment. Countless studies have shown that it does not deter would-be criminals from committing a crime. Furthermore, it is a form of punishment that can never be undone, even if the accused is later found to be innocent of the crime for which he or she was put to death.

While the conference report is better than the Senate-approved legislation, in that it does not provide for the option of capital punishment for homocides involving firearms, and does not impose the death penalty on the District of Columbia, it remains a bill chock-full of new death-eligible crimes.

I noted during last year's debate on crime that the Senate seems to want to apply the death penalty to every crime but school truancy! There are 50-odd new death-eligible crimes in this bill, and they include such so-called threats to public safety as murder of Federal egg inspectors. They also include such rare crimes as genocide and train wrecking. I fail to see how providing for the option of capital punishment for these crimes will stem street crime. I suspect that they won't, and that this exercise in toughness boils down to rhetoric, pure and simple.

Other provisions in the bill include those on the exclusionary rule, and on habeas corpus proceedings. During Senate debate, I voted against extending the good faith exception of the exclusionary rule to warrantless situations, and am pleased that the conference report holds to this view. On habeas corpus, the report's provision is noticeably different than the Senate version, and has many imperfections. This is a difficult and complex issue: how to ensure that the great writ of habeas corpus is not weakened and constitutional rights not violated, while at the same time striving to prevent costly and time-consuming abuses.

In sum, this conference report is far from perfect. To my view, there is only

one provision that I think will make a real difference to Americans, and that is the Brady bill—a bill we have been trying to pass for several congressional sessions now—and for that reason alone, I will support this measure.

Mr. HATCH. Mr. President, in February, the President sent us a strong, comprehensive crime bill. In July, this Senate passed the essential elements of the crime bill. It contained some of the finest, toughest anticrime provisions that I have seen in my 15 years in this body.

But where are those tough crime provisions today? You won't find them in this conference report.

If you want those tough anticrime provisions you will have to go get them out of the waste paper baskets of the House Judiciary Hearing Room in the Rayburn House Office Building.

This is a sham bill—a soft-on-crime bill, embodying virtually all of the objectionable provisions that responsible law enforcement agencies, prosecutors, and Attorneys General oppose.

My colleague Senator KENNEDY and my colleague Senator METZENBAUM voted for this so-called crime bill. They approved of it. And we know that they are longstanding, earnest, principled opponents of the death penalty.

Yet, the chairman of the Judiciary Committee wants to claim that the bill we are considering today is the toughest death penalty bill in years. If that is true, then why did longstanding opponents of the death penalty vote for it? Why, because this bill's obvious purposes are not to provide for an enforceable death penalty, but to make sure that there never will be one.

I do not think that these distinguished legislators were fooled into supporting a bill so opposed to their deeply held principles. And I do not think that any one in this Chamber or in the nation will be fooled either by the futile attempt to call this liberal wish list an anticrime bill.

Christmas has come early for the liberals in America. The House and Senate conferees have granted them their entire Christmas list. Just do not try to walk down the streets of your own neighborhood at night.

RETROACTIVITY PROVISION

Mr. President, this bill contains a dangerous innovation in criminal law. It is section 204 of the habeas corpus title. This section governs the retroactive effect of Supreme Court decisions.

Even though this Senate rejected a similar retroactivity provision last summer, the Senate Democratic conferees agreed to accept House-passed language on this subject.

The question of whether a decision of an appellate court shall have prospective or retroactive effect is intimately connected with the question of whether a criminal conviction can ever be final.

All habeas petitioners are prisoners whose cases are considered final. They are attempting to reopen long-finished cases.

Under current law, a defendant whose appeal is pending can generally take advantage of any recent or new court decision that is favorable to him. However, once his direct appeal is finished, and his case is considered final, he cannot avail himself of newly-announced court decisions that are designed to govern the proceedings in future cases.

This sensible rule is the only one that allows a criminal case to achieve any degree of finality. The rule, moreover, is a salutary one because it encourages the courts to develop new and more fair rules of criminal procedure free from the fear that a newly-prescribed rule will have the effect of opening the jailhouse doors.

The Miranda case is a good example of how these principles work in action. When the Supreme Court laid down new rules which all future defendants could claim, the Court specifically held that the rules would only apply prospectively. How could they have held otherwise? To say that the specific Miranda rules must have been given before the Miranda case had even been decided would have meant that virtually every prisoner in America would have had to be let out of prison. Had the Supreme Court not have possessed the power to specify that its decision would apply only prospectively, we can certainly assume that it would never have decided Miranda as it did. The same is true of Escobedo versus Illinois and any number of other leading cases in the field of criminal procedure.

But those who advocate congressionally mandated retroactivity would take this power away from the Supreme Court. They would instead give to an individual Federal district court hearing a habeas petition the power to overrule the holding of the court on the question of retroactivity. They would, moreover, allow the district court to apply new rules retroactively to criminal cases that have already become final—thus opening up for review cases that may have been settled for years or decades.

As Attorney General Thornburgh observed last year, this innovation would overrule several leading Supreme Court cases and would "resurrect the chronic problems of unpredictability and lack of reasonable finality of judgments" which those decisions put to rest—Letter of Dick Thornburgh to Senator THURMOND, March 15, 1990, page 7.

No efficient system of criminal justice can function under such an arrangement. If nothing else, the retroactivity rule contained in this bill would encourage prisoners to file repetitious petitions simply on the hope that their petition may be heard by a new district judge—one who may decide the retroactivity issue differently than the previous judge. At least under the current system, the Supreme court sets the rules and they apply nationwide.

Congressionally mandated retroactivity is not designed to achieve justice—it has two objectives: to prevent the execution of persons who have been otherwise unsuccessful in preventing the carrying out of their death sentences and, in noncapital cases, to extend and perpetuate the pernicious influence of the liberal decisions of the Warren Court.

The best thing about the Warren Court is that it came to an end. But this bill would allow key Warren Court decisions to be applied to criminal cases where even the Warren Court said they should not apply.

But there is another, more fundamental objection to congressionally legislated retroactivity. The Supreme Court's rulings on retroactivity should not be overruled by a single Federal trial judge whenever that judge determines, on whatever basis, that it is just to give the defendant the benefit of a law that the Supreme Court has ruled the defendant should not receive the benefit of. I question whether Congress even has the power to create article III courts that can overrule the decisions of the Supreme Court established by the Constitution. But, even if we do possess that power, it is clearly unwise to exercise it. The decisions of the Supreme Court must be followed by the lower Federal courts; otherwise, there will be chaos in our judicial system.

Let me illustrate how the Supreme Court's retroactivity doctrine works in practice and the benefits which flow from it. The doctrine has recently been addressed and clarified by the Supreme Court in the leading case of Teague versus Lane, February 22, 1989. There the Court reaffirmed the long-standing rule—which is also the law in most States—that newly announced rules of criminal procedure do not apply to cases that have already become final. That is the only workable standard of retroactivity in the criminal law. Congress should not now confuse a subject which the Supreme Court has so recently straightened out.

No habeas reform is worth reversing the Teague case. No habeas reform is worth reopening the long-final convictions of every prisoner in America, which is what reversing Teague will do.

Section 204 of the habeas title proposes to set up criteria by which judges not on the Supreme Court can determine that decisions of the court should have an effect directly contrary to that which the Court has concluded they should have.

That is clearly unconstitutional. The Supremacy clause of article V clearly establishes that the Supreme Court is the final arbiter of such matters, not the 700 or more federal district court judges.

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

More importantly, consider the precedent that this bald-faced attempt to tamper with already decided Supreme Court cases establishes. If Congress does have the power to determine when certain Supreme Court decisions shall apply and when they shall not—despite the Court having determined otherwise—then Congress will surely have the power to determine who shall be bound by those decisions, what precedential effect they shall have, or any other aspect of the holding with which it might disagree. Why don't we alter the amount of damages if we think the Court has given too little or too much? It would be no more absurd than for Congress to say, as this bill does, that Federal trial judges must follow our standards, and not the Court's standards, in deciding when the Court's decisions shall be applied prospectively and when they should be applied retroactively.

This clearly unconstitutional provision is going to be bounced quicker than any law Congress has ever previously passed. Congress simply has no power to tell the Supreme Court what its decisions mean.

Nor do we have the power to create article III courts that can overrule the decisions of the Supreme Court established by the Constitution. The decisions of the Supreme Court must be followed by the lower Federal courts; otherwise, there will be chaos in our judicial system.

Section 204 of the habeas corpus title would encourage prisoners to file repetitious petitions simply on the hope that their petition may be heard by a new district judge—one who may decide the retroactivity issue differently than the previous judge. Under current law, the Supreme Court sets the rules and they apply nationwide.

There is another important point to be made about retroactivity. If the Supreme Court cannot adopt new rules of criminal procedure that are prospective only, then it is certain the Court will be less likely to adopt new rules to control the abuses of State and local police which we all agree are essential. The Court's retroactivity doctrine is essential to the development and growth of our law of criminal procedure.

Consider the Miranda case, or Escobedo versus Illinois. Both of those cases announced unprecedented new rules of criminal procedure, but the Court specifically noted in each case that the rules were prospective only. They would apply to all cases on appeal but not to those that had already become final; meaning, of course, that Miranda violations would not provide a ground for relief on habeas corpus. How could the Court have ruled otherwise? Had it not possessed the flexibility to make Miranda prospective only, the Court's ruling in that case would have opened an unimaginable floodgate of new demands for the release of State prisoners already in confinement. The Court would never have issued the Miranda opinion had it not possessed the authority to make its new rule prospective only. We should consider what other similar unforeseen consequences to the development of the law of criminal procedure in this country may lie in store if we adopt today this revolutionary restriction on the authority of the Supreme Court.

It is difficult, I admit, to explain what the retroactivity issue is all about. But imagine how much more difficult it will be to explain to our constituents why it is that infamous criminals will be receiving new trials decades after their convictions: Does either Senator from Arizona know how he will be able satisfactorily to explain to citizens of that State why he may have voted for a provision that would probably allow the Tison Brothers to receive new trials?

How will the Senators from California explain the new trials that will be sought for Charles Manson and Sirhan Sirhan; for Juan Corona and the Hillside Strangler—new trials that will be sought and, in many cases, mandated by this bill's provision that Supreme Court cases never before considered relevant to their trials now must be applied to give them new rights.

I know that I cannot now explain to my own constituents why it is that one man, William Andrews, has been on death row in Utah for 17 years. The whole point of starting this habeas debate was to shorten the ordeal for my State and for the victims of Andrews' unspeakable crimes.

But section 204—the retroactivity provision—makes the Andrews prosecutors go back to square one. To start all over again.

This is not mere conjecture on my part. Just last year, Andrews' defense attorney announced that he would be asking a Federal court in Utah to free Andrews based on a recently decided 1991 Supreme Court case relating to the composition of juries.

The Supreme Court has already held that this 1991 decision does not apply to persons such as Andrews who were convicted in 1974. Therefore, we know that Andrews will not succeed in being freed from his death sentence on this basis—or do we?

If the bill before this body today is passed, then it is a whole new ball game for William Andrews; it is a whole new ball game for the Charles Mansons and Ted Bundys of the world. This bill tells them that their cases will never be over, so long as the Supreme Court continues to issue new opinions.

Before we get lost in the abstractions of habeas corpus law, before we wear out our hands wringing them over the supposed constitutional rights of vicious murderers, we need to remember the real consequences of serious criminal cases—the deaths, the shattered lives of those left behind, the families who must go on without their fathers or other loved ones.

Most importantly, for today, we must understand how these cases will continue to blight peoples' lives if the retroactivity provision of the conference report, section 204, becomes law.

William Andrews continues to appeal his sentence and has so far succeeded in delaying his execution for 17 years.

But today, at last, the end is in sight. But not if we are so unwise as to pass the conference report. If the retroactivity provision of this bill passes, the Andrews case will never end. Of that I am certain.

In 17 years of appeal, William Andrews has not raised one single meritorious issue on appeal. Not one. But the supporters of this bill now propose to allow Andrews to go back in time to 1978, when his criminal conviction became final, to let him see if he can't find one more case, one more argument, one more chance to avoid his death sentence.

The proposed repeal of the Supreme Court's retroactivity cases is the greatest gift to prison inmates in America—and it applies to all State prisoners—that has ever been proposed.

That's why the President will veto it. That is why every attorney general of every State that I know of opposes it.

That is why on June 25, 1991, 16 of the elected State attorneys of the State of Florida wrote their Senators, urging them not to vote for any amendment that would repeal or restrict the Supreme Court decision in Teague versus Lane.

Only one habeas amendment considered by this body met the criteria for their support—it was the habeas title of S. 1241 that now lies in the trash bin of the Judiciary Committee conference room, replaced by the entirely unacceptable House habeas provisions.

Mr. President, since 1976, over 3,000 persons have been sentenced to death row, yet only slightly more than 100 of these sentences have been carried out. I am continuously asked by Utah citizens, in letters too numerous to count, what is going on here? What is wrong with our criminal justice system? Well, I think we all know what is wrong—it is the Federal habeas corpus system.

We all know what is wrong—we all know how to fix it. And if we do not know then we've got the attorney generals, the prosecutors, and the law enforcement personnel of virtually every jurisdiction on record to tell us.

They all say one thing: pass habeas reform, but do not overturn the good decisions of the Supreme Court. Do not let the House liberals overturn Teague versus Lane and reopen cases that have been closed for decades.

If any Senator today has any question about whether this conference report is truly a crime bill, they do not have to take my word on it. Call your own State's attorney general and ask him or her. They know the issue, and I am confident as to what their response will be. They know this is no crime bill and that is what most will tell you—Democrat and Republican alike.

I hope, Mr. President, that at sometime in the future I may finally provide a favorable answer to my constituents who ask what is wrong with the criminal justice system. I hope I can someday finally tell them that Congress has acted to end the absurdity of endless 15- and 18-year appeals.

I certainly hope that I do not have to tell them that Congress has actually acted to make things worse by passing the conference report. I know that I will never be able to explain that one to them.

Reversing Teague versus Lane, as the conference report does, will be the greatest gift to prison inmates in years. Every convict will immediately want to subscribe to U.S. Law Week, so that on Monday mornings he or she can look to see what new decisions have been handed down by the Supreme Court—what new case can be cited in a new habeas petition seeking release from jail and return to the streets.

This issue is not about whether State prisoners are to have one bite of the apple. Every convicted prisoner gets eight or nine bites of the apple on direct appeal and through State postconviction procedures before he even turns to Federal habeas.

William Andrews has already received 27 bites—but the crime bill conferees have decided to give him just as many chances to appeal again. Reversing the Supreme Court's retroactivity decisions will, in effect, allow William Andrews to start his appeals all over again.

I will allow convicted prisoners a second bite of the apple, and a tenth bite too. But I will not give them the whole orchard as the conference report does.

Let us be frank about what is going on here. My friends on the other side of the aisle calculated that they could throw anything they want into a bill, slap the word crime on the cover, and that the President would sign it. They realized that the President would recognize it as a procriminal anticrime bill, but they were gambling that he would not be able to explain to the American people the important but somewhat technical reasons why this is so.

Well, it may be true that the statutory changes in the habeas statute that the President and I so strongly object to are obscure, but the effects of those changes are easily understood by anyone. In fact, those changes present very simple direct questions such as the following:

Do you think that Charles Manson, who was sentenced to death in the late 1960's, should be given new rights to file new appeals at this time?

That is a very simple question. So is this one: Do you think that Richard Speck, who was sentenced to death for murdering eight nurses in Chicago in 1966, should be given new rights to reopen his case at this time? How do the Senators from Illinois feel about that one—I am sure that their constituents would like to know.

If you think that these brutal murderers, as well as their cohorts on the Nation's death rows, should be given such new rights, then vote for the conference report. If you do not, then oppose it and demand from the Senate conferees that they stand by the strong habeas bill that passed this body by a 20-vote margin last July.

By all means, if you want to open up new unlimited avenues of appeal for all felons in America, here is your chance: The conference report provides a golden opportunity. But if you are truly interested in dealing with the crisis of endless appeals and the resulting misdirection of our Nation's crime-fighting resources, then join me in opposing this pernicious bill.

THE SO-CALLED VIOLENT CRIME CONTROL ACT

Mr. SEYMOUR. Mr. President, the 311 inmates on California's death row can sleep easy tonight. The majority party presiding over the crime bill conference committee has insured that these heinous criminals will have numerous—or I should say endless—opportunities to delay their sentences.

For more than 5 years, leaders of criminal justice reform have attempted to make sense out of our Federal habeas corpus process. As my colleagues know, this process is designed to ensure an individual has received a fair trial, but it also works to encourage never-ending appeals that delay the imposition of the death penalty and prolong the agony that families and friends of crime victims are forced to endure. In July 1990, a bipartisan majority of the Senate passed a comprehensive crime bill that included meaningful reform of the habeas corpus process—reform based largely on the recommendations of the reform commission chaired by retired Supreme Court Justice Lewis Powell. However, the Democrats scuttled these reforms at the 11th hour of the 101st Congress.

We took up crime legislation again this year to finish the job, to finally enact habeas reform that ensures finality in the criminal justice system, and ends the years of frivolous appeals that is at the heart of the public's lack of faith in the criminal justice system.

Californians have reason to be of little faith. Since the Supreme Court reversed its previous decision on the constitutionality of capital punishment in 1976, not one single condemned criminal has realized the full extent of the sentence imposed by a jury of his peers. In fact, nationally only 3 percent of all those sentenced to death since 1976 have been executed—3 percent.

Californians have more than lost faith. They are fed up. Frankly, so am I. Overwhelming majorities of Californians have passed countless initiatives that reaffirm their support of capital punishment. They even have ousted two State associate justices and the chief justice of the California Supreme Court largely because of their refusal to effectively enforce capital punishment. And now the majority of the crime conference committee rightly deserves the scorn of law-abiding Californians because they have single-handedly denied my State the ability to truly enforce capital punishment.

Earlier this year, Californians had reason to be hopeful that Congress finally would reform the habeas system. For the second consecutive year, a bipartisan majority in the Senate passed effective habeas reform. However, the House of Representatives darkened their hopes and enacted so-called habeas reform that would actually be even worse than current law.

If there was any doubt that members of the majority were really serious about enacting true habeas reform, it ended last Sunday, when the majority steamrolled a conference report that contained the House habeas corpus provisions.

Just how bad is the House's habeas reform proposal?

Bad enough to reverse 14 years of responsible Supreme Court decisions, including the landmark Teague ruling, that limit endless delays and frivolous appeals in death penalty cases.

Bad enough to allow condemned prisoners to delay a full year before applying for Federal habeas corpus.

Bad enough to reject the Senate's proposal that habeas petitions for condemned criminals be limited to new claims that have not been "fully and fairly" heard in State courts.

More importantly, bad enough to contain enough loopholes, legal trapdoors, and other broad definitions that promote new, unnecessary litigation, rather than finality and fairness.

Despite all of this, Democrats will continue to claim they've offered comprehensive reform of the habeas system.

Reform for who? Law enforcement? The leaders of law enforcement certainly do not think so. In fact, 31 of the Nation's 50 attorneys-general signed a letter to the President urging him to veto any crime bill that contains the House's habeas provisions.

Let me repeat that: More than a majority of the State's chief law enforcement officers in the Nation—16 Republicans and 15 Democrats—concluded that this so-called reform bill is a sham. In fact, California's top cop, Attorney General Dan Lungren, called the conference report "a fraud on the people of California and most particu-

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

larly on the crime victims of the State of California." Mr. President, I will ask unanimous consent that the remarks of the attorney general be placed in the RECORD following my remarks.

Furthermore, every district attorney in my State wrote to the California congressional delegation in an unprecedented, bipartisan show of support for the Senate's habeas reform provisions and strong opposition to the pseudo-reforms offered by the majority in the House.

Let me repeat that: Every single one of my State's 58 leading law enforcement officials wrote to me and my California colleagues to state that the Senate passed the true reform bill. I have a copy of this letter and I will ask unanimous consent that a copy of the California district attorney's letter be printed in the RECORD following my remarks.

I have also heard from local prosecutors, police chiefs, sheriffs, and members of rank and file law enforcement—the men and women on the front lines of violent crime—and they are virtually united in their support for the Senate's provisions.

So let us be clear about the rhetoric that is being passed around here. The Democrats are not reforming the habeas process. They are deforming it. Indeed, the Democrats are not kidding when they say theirs is a tough crime bill. The problem is it is tough on law enforcement.

That is why I cannot vote for this conference report. Though it contains some measures that enhance existing law or create new anticrime programs, this conference report loses sight of why we considered crime legislation in the first place. We were to finish the job of the 101st Congress and pass a bill to restore the Federal death penalty and reform the habeas process. Yes, this bill authorizes the death penalty for more than 50 Federal crimes. And many Democrats—some for the first time—can go back to their districts and say they supported a bill that has a death penalty. They'll say: I can be tough on crime, too." Well, do not be fooled by these anticrime wannabes. This conference report may have a death penalty on paper, but without true reform of the habeas system, we can never have a death penalty in fact.

The people of California know this all too well. We have had a death penalty on paper for years, but never-ending, often-frivolous habeas appeals have made the death penalty nonexistent.

In fact, absent true habeas reform, the phrase "capital punishment" is liberalspeak for "life in prison."

And nothing in this conference report will change that. An analysis of the habeas provisions in this conference conducted by Attorney-General Lungren concluded that these provisions hardly can be called reform. In fact, he concluded that these provisions would actually promote more litigation, more delays, more frivilous abuses of our criminal justice system than current law. And his conclusions are shared by a majority of his fellow State attorneys general.

In short, Mr. President, this conference report does not lend a hand to law enforcement. It handcuffs law enforcement.

Our State has a living symbol of this tragic problem: Robert Alton Harris. My colleagues have heard his story before. I do not think a majority of the conference committee listened. In 1978, Robert Alton Harris brutally murdered two youths in San Diego. He not only confessed to his crime, he laughed about it. No remorse, Mr. President, for the vicious crimes he committed. But for more than 10 years, Mr. Harris has effectively used the Federal habeas process to delay his sentence. He has delayed his execution for more than 10 years. He has abused a process designed to ensure fairness. No doubt, he has not stopped laughing. This conference report gives this murderer one more reason to laugh at this system.

Harris' story is more than enough to demonstrate the need for the Senate's habeas reforms—reforms that have bipartisan support; reforms that are overwhelmingly supported by law-enforcement; reforms that should not have been rejected. The conference report's habeas procedures will not bring Harris and other thugs any closer to execution than current law. Even a majority of State attorneys-general concluded that Robert Alton Harris "would be able to perpetutate his case under the Federal habeas corpus."

So how can I or any of my colleagues in good conscience vote for this conference report when it fails to achieve what we set out to do? How can I explain my vote to crime victims' friends and family members who for years have been calling for finality and fairness to this process when this legislation falls far short of that goal?

Therefore, let me make this clear. A vote for this crime bill is a vote for business as usual—for delays and frivolous litigation. A vote for this crime bill is a vote to deform, not reform, our criminal justice system. A vote for this crime bill is a vote to effectively deny a State's ability to enforce the death penalty. A vote for this crime bill is a vote to prolong the agony that plagues victims' friends and family. A vote for this crime bill is a vote to insure that the number one cause of death for condemned criminals like Robert Alton Harris will continue to be old age.

The American people will not be fooled by the efforts of some Democrats to draft foolhardy legislation and call it a crime bill compromise. Sure it is a compromise. Law enforcement, crime victims' survivors, and law-abiding citizens—all are compromised by this conference report.

Let us not send this bill to the President. Why waste time? Let us send it back to the conference committee. After all, their job was to reach an agreement on comprehensive legislation that helps, not handcuffs, law enforcement in their fight against violent criminals.

Their job is not finished.

I ask that the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL CRIME BILL A FRAUD, LUNGREN SAYS

SACRAMENTO.—At a Capitol news conference today, Attorney General Dan Lungren called on President Bush to veto the federal crime bill that was reported out of a conference committee in Washington yesterday. Lungren criticized the conference committee for adopting, in a hasty three-hour closed session, provisions that would extend the ability of death row inmates to delay and relitigate their cases, making a situation already in need of reform much worse.

The Attorney General's Statement to Capitol reporters follows:

"I feel duty bound to inform you of probably the greatest fraud that I have seen in my first year as Attorney General and frankly, in my ten years as a member of Congress. The Federal Crime Bill produced by the Conference Committee late yesterday is a fraud on the people of the State of California and most particularly on the crime victims of the State of California. In fact, this legislation, in its current form, is a slap in the face of all victims.

"The voters of California may have removed Rose Bird from the California Supreme Court but the spirit of Rose Bird is alive and well in the Halls of Congress.

"Accordingly, I have today personally contacted the White House to urge the President to veto this shameless bill. This bill does nothing to assist with the problem of violent crime in the United States. Rather, it is a retreat from law enforcement's efforts to do something about violent crime. It is a major retreat in the area of habeas corpus because it overturns approximately 15 U.S. Supreme Court decisions including the most important one, the Teague case.

"This has a direct application to those of us in California, specifically in death penalty cases and in the Robert Alton Harris case. It looked like we were seeing some light at the end of the tunnel in the Harris case. We thought we might finally have the judgment of the people of California carried out. Now, we see this shameless Crime Bill coming out of the Congress of the United States.

"There is really nothing positive one can say in support of this bill in its current form. This legislation would impact California more dramatically than any other state in the union. It is time that the people of California know how their Representatives voted on this matter. They ought to ask Representatives Matsui, Fazio, Pelosi, Boxer, Miller, Dellums, Stark, Edwards, Lantos, Mineta, Panetta, Beilenson, Waxman, Roybal, Berman, Levine, Dixon, Waters, Dymally, Anderson and Torres why they have voted for the habeas corpus provisions now contained in the conference report.

"I have respect for members of Congress who are against the dealth penalty and say that up front. But it is very difficult to accept people who at home say they are for the

death penalty and vote continually in the Halls of Congress to make sure it is impossible to have the death penalty carried out in California or anywhere else.

"We are not going to stand for this in California. We have urged the President to send a veto message as soon as possible. The stories that have come out of Washington so far have suggested that this is a tough crime bill. This is not a tough crime bill, this is not even a soft-time crime bill. This is a pro-convicted murderer bill."

Lungren, along with 30 of his colleagues from other states, sent President Bush a letter on November 22, detailing their serious concerns about the House version of the crime bill and urging the President to veto any bill containing habeas corpus provisions that will allow convicted death row inmates to delay and relitigate their cases.

All 58 district attorneys in California have also joined Lungren in support of reasonable habeas corpus reforms. In addition, today the National District Attorneys Association blasted the bill reported out of the conference committee as a "poor excuse for a crime bill," which "does far more to advance the interests of convicted criminals than it does to protect the victims and law-abiding citizens."

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
September 20, 1991.

DEAR CALIFORNIA CONGRESSIONAL DELEGATION MEMBER: Collectively, as the Attorney General and as District Attorneys from each of the 58 counties in California, we handle every aspect of a criminal case, including the trial, appeal and habeas corpus proceedings in state and federal court. Because of the effect federal habeas corpus reform has on our operations and the State of California, we are sending you this joint letter to stress the urgency of congressional action and to request your support for meaningful federal habeas corpus reform.

It is now beyond any doubt that the habeas corpus process is in dire need of reform. Unnecessary delay and repetitious litigation permitted under our habeas corpus process has resulted in a lack of finality in our criminal justice system. In turn, this has caused a loss of public confidence in the ability of our criminal process to impart fair and certain justice. Further, under the current process, reasonable state court determinations are not accorded due deference in federal court and the deterrent effect of the death penalty and other criminal punishment has been blunted.

It is no wonder that the calls for federal habeas corpus reform have been heard from all levels of state and federal government. On March 13, 1991, President George Bush asked that within 100 days, Congress pass his omnibus crime bill, which contains habeas corpus reforms. Former U.S. Supreme Court Justice Lewis F. Powell, Jr., has chaired a committee, consisting of other federal judges, which proposed specific reform recommendations which now provide the primary framework for congressional legislation. In his last Year-End Report of the Federal Judiciary, Chief Justice William H. Rehnquist asked Congress to "give serious attention to badly needed reforms in this area, with a view to assuring counsel to capital defendants and assuring to the states the necessary degree of finality, in federal habeas proceedings." California Supreme Court Chief Justice Malcolm M. Lucas has stressed the need for reform as cochairman of the American Bar Association Task Force on Death Penalty Habeas Corpus and in other statements. In March of this year, former state legislator and judge and now U.S. Supreme Court Justice Sandra Day O'Connor noted the need for reform in a speech at the Crime Summit in Washington, D.C. California Governor Pete Wilson emphasized reform in his State of the State Address and, more recently, made it the subject of his weekly radio address. On May 23, 1991, and July 29, 1991, the California District Attorneys Association Board of Directors unanimously adopted three resolutions urging the California congressional delegation to adopt habeas corpus reforms similar to those included in H.R. 1400, Titles II & X, and S. 1241, Title XI & §4923. On June 17, 1991, more than half the state Attorneys General sent a joint letter to members of the U.S. Senate Judiciary Committee supporting the reform provisions contained in these measures. Also on June 17, 1991, the Ninth Circuit State Attorneys General Association, consisting of state Attorneys General from the nine western states, also adopted a unanimous resolution urging Congress to adopt habeas corpus reforms and supporting these bills. On July 11, 1991, the Senate adopted meaningful habeas corpus reforms by a substantial, bipartisan vote in S. 1241 Title XI & §4923.

With so much agreement on the need for reform, the key public policy question before the House of Representatives is what specific reform provision should be adopted. At a minimum, we believe meaningful habeas corpus reform should include:

(1) An appointment of counsel mechanism which preserves the California unitary review process and permits states to determine competent counsel standards for post-conviction review;

(2) Provisions which retain and build upon the rational limits on successive petitions recently recognized by the U.S. Supreme Court;

(3) A standard of federal court review which respects "full and fair adjudications" in state courts;

(4) Reasonable time limits for the filing of a habeas petition and for the determination of a petition in federal court; and

(5) General habeas corpus reforms (similar to H.R. 1400, Title II(A), and S. 1241, Title XI(A)).

These reforms are required because they restore reasonableness to our criminal justice process. Further, the deterrent effects of criminal punishment can be reinstated by these reforms which ensure finality to state court judgments.

Significantly, relief under the statutory writ of habeas corpus is not eliminated by the adoption of these reforms. Instead, a state prisoner is guaranteed one full, fair and adequate round of post-conviction review. Any subsequent review will be permitted whenever a showing of factual innocence is made. Appropriate time limits also ensure that federal review will not be unduly postponed by the filing or judicial consideration of the petition.

We oppose legislation which would add or promote unnecessary delay and repetitious litigation to the criminal justice system. We are also against any measure which would effectively abolish the death penalty, such as H.R. 2851, The Fairness in Death Sentencing Act (formerly entitled the "Racial Justice Act"). This legislation would permit a claim of discrimination based upon a statistical showing on the prosecutor. We believe this statistical approach is unsound and detracts from the traditional criminal justice focus on the particular circumstances of whether the individual committed the charged crime. Finally, we oppose any effort to undermine the non-retroactively rule of *Teague* v. *Lane*, 489 U.S. 288 (1989). Newly established judicial rules are and should be applied during direct review; they should not be applied for the first time on collateral review, as the U.S. Supreme Court has repeatedly recognized.

We also wish to stress that the current habeas corpus reform proposals do not affect the Great Writ in the Constitution. To the contrary, as Justice Powell and others have noted, the reforms involve the non-constitutional post-conviction remedy first adopted by the Congress in 1876. Since habeas corpus reform is a statutory matter, we look to Congress to adopt these reasonable and long overdue reforms. Concomitantly, only Congress has the power to restore reasonableness to and public confidence in our criminal justice system. We urge your action and support for meaningful habeas corpus reform along the lines of the reform provisions contained in H.R. 1400 during this session of Congress.

Sincerely,

Daniel E. Lungren, Attorney General;
John E. Martin, County of Calaveras;
John J. Meehan, County of Alameda;
Henry G. Murdock, County of Alpine;
Larry Dixon, County of Amador;
Michael L. Ramsey, County of Butte;
John R. Poyner, County of Colusa
Mike Nail, President, 1990–91, California District Attorneys Association and District Attorney, Solano County;
Gary T. Yancey, County of Contra Costa;
William A. Cornell II, County of Del Norte;
Walter J. Miller, County of El Dorado;
Edward Hunt, County of Fresno;
Robert Holzapfel, County of Glenn;
Terry R. Farmer, County of Humboldt;
William E. Jaynes, County of Imperial;
L.H. Gibbons, County of Inyo;
Edward R. Jagels, President, 1991–92, California District Attorneys Association, County of Kern;
Garry R. Consalves, County of Kings;
Steve Hedstrom, County of Lake;
Mark Nareau, County of Lassen;
Ira Reiner, County of Los Angeles;
David Minier, County of Madera;
Jerry Herman, County of Marin;
George Griffith, County of Mariposa;
Susan Massini, County of Mendocino
Gordon Spencer, County of Merced;
Ruth Sorensen, County of Modoc;
Stan Eller, County of Mono;
Dean Flippo, County of Monterey;
Anthony Perez, County of Napa;
Mike Ferguson, County of Nevada;
Michael Capizzi, County of Orange;
Paul Richardson, County of Placer;
Mike Crane, County of Plumas;
Grover C. Trask II, County of Riverside;
Steve White, County of Sacramento;
Harry J. Damkar, County of San Benito;
Dennis Kottmeier, County of San Bernardino;
Edwin L. Miller, County of San Diego;
Arlo Smith, County of San Francisco;
John Phillips, County of San Joaquin;
Barry LaBarbera, County of San Luis Obispo;
James P. Fox, County of San Mateo;
Thomas W. Sneddon, Jr., County of Santa Barbara;
George Kennedy, County of Santa Clara;
Arthur Danner, County of Santa Cruz;
Dennis Sheehy, County of Shasta;
Wesley Travis, County of Sierra;
Pete Knoll, County of Siskiyou;
Gene L. Tunney, County of Sonoma;

Donald N. Stahl, County of Stanislaus;
Carl V. Admas, County of Sutter;
Thomas Hilligan, County of Tehama;
David L. Cross, County of Trinity;
Gerald F. Sevier, County of Tulare;
Eric Du Temple, County of Tuolumne;
Michael Bradbury, County of Ventura;
David C. Henderson, County of Yolo; and
Charles O'Rourke, County of Yuba.

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991

Mr. SPECTER. Mr. President, for the second time in 2 years, we are confronted with complex and technical anticrime legislation reported by a conference committee in the waning hours of a session. The 1990 anticrime bill conference had dropped many of the most contentious provisions even though versions of many of them had passed both Houses. Even though many of the toughest provisions were dropped from last year's bill, I was able to support it. Regrettably, I am unable to support this conference report. In any event, I am opposed to cloture at this time. So that extensive debate is necessary at a minimum.

As far as I am concerned, the core issue on this bill is how we handle Federal intervention in State capital cases, which means that we must make meaningful reform to the process of Federal court review of State death sentences under habeas corpus petitions.

The death penalty is a vital and valuable tool of law enforcement. Based on my long experience as an assistant district attorney and then as district attorney of Philadelphia, I am convinced that the death penalty is a deterrent to violent crime.

Unless and until we make meaningful reform in Federal habeas corpus procedures, however, the imposition of the death penalty will be delayed interminably by Federal judicial intervention. These delays have made the death penalty, the most severe sanction a society can impose, the laughing stock of the criminal justice system. Endless delays in Federal court and the constant bucking of habeas corpus cases between State and Federal judicial systems for as many as 18 years, leads to disrespect for the death penalty and ultimately the entire criminal justice system.

For many years, we have been struggling to reform habeas corpus to make Federal intervention in State criminal convictions fairer, less onerous to the States, and more sensible. I believe that last year the Senate passed a sensible approach when it adopted an amendment I had coauthored with Senator THURMOND. I think that the reforms proposed in that legislation would reduce delay and make the process fairer to petitioners.

First, any reform proposal needs to impose strict time limits on the filing of habeas corpus petitions and on the time for Federal court consideration of these petitions. Both the Specter-Thurmond amendment of last year and the provisions of the Senate-passed habeas reform in S. 1241 this year contained such time limits. Counsel for the petitioners and for the State must be prepared to give these cases priority. It is not too much to demand that counsel be prepared to move forward on these cases with dispatch. Likewise, the courts must be prepared to advance capital habeas petitions to the top of their dockets and to give them the highest priority. Imposing stringent time limits on all actors in the process would go a long way to reducing the delays.

Next, comprehensive and sensible habeas corpus reform ought to mandate or encourage the elimination of State post-conviction proceedings as a prerequisite for getting into Federal court. From personal experience, I do not believe that State postconviction review is ever truly effective. Typically, in Pennsylvania, the matter is heard by the same judge who tried the case and who has already ruled on postverdict motions. Then, the appeal in the State system goes back to State supreme court, which would have already upheld the conviction once. Only one issue typically cannot be raised on direct review, and that is the adequacy of trial counsel.

The answer, it seems to me, is to require or at least encourage States to adopt the unitary review procedure followed by California, in which a convicted defendant files a petition for postconviction relief prior to the direct appeal being heard. During the consideration of this petition, the State trial court may consider a claim of ineffective assistance of counsel. An appeal from a denial of that claim can then be consolidated with the direct appeal.

Allowing Federal intervention after one direct appeal through the State judiciary in which all issues are presented would do away with much of the confusion that exists from the current exhaustion doctrine. No finer example of the ridiculous state of the law on this issue can be found than Peoples versus Castille. In Peoples, a defendant in a noncapital case, raised an issue for the first time in a direct appeal to the Pennsylvania Supreme Court for discretionary review. That court denied review without stating reasons. The defendant then sought habeas relief. The matter went all the way to the Supreme Court, which decided that the claim had not been exhausted because the reasons for the Pennsylvania Supreme Court's denial of review were not stated, thus making it impossible to determine whether the issue had been adjudicated in the State courts. This ping-pong game between State and Federal courts must stop, even if it means encroaching on States' authority to correct the errors of their own courts. In the long run, allowing early Federal intervention, but allowing it only once, will improve rather than detract from Federal-State comity.

After a single appeal through the State judiciary in which all issues are presented for adjudication, a petitioner should get one review through Federal habeas corpus relief at which all issues can be raised. Thus, I do not accept a narrow reading of the Senate-passed bill's preclusion of Federal habeas relief if a claim has received a full and fair adjudication in the State courts. Everyone sentenced to death in a State court is entitled to have all constitutional claims affecting his conviction and sentence fully adjudicated once, but only once, in Federal court.

After a petition for habeas corpus is denied, successive petitions ought not be permitted except for the most compelling reasons, such as newly discovered evidence that undermines the court's confidence in the defendant's guilt, that could not have been obtained at the time of trial through the exercise of due diligence. Successive petitions should be permitted only by leave of the circuit court of appeals.

If we establish tight timeframes for filing petitions and for their consideration and do not allow successive petitions to be filed, one of the most vexing issues becomes much less important. The issue that has caused the greatest amount of debate on this issue is the retroactive applicability of new constitutional rules created by the Supreme Court during the now-lengthy pendency of habeas corpus petitions. Under existing law, it takes years to conclude these proceedings, and courts frequently create new constitutional rights in the interim. In 1989, however, the Supreme Court severely restricted the ability of habeas corpus petitioners to take advantage of new constitutional rights in Teague versus Lane.

Of course, a strict timetable on habeas petitions alleviates this problem. It is unconscionable to carry out the death penalty where that result might be altered had a constitutional right created by an intervening Supreme Court decision been applied. The Specter-Thurmond amendment, which was adopted by the Senate in 1990, struck the right balance.

Finally, if the process is to work smoothly and to ensure a full and fair exposition of all issues at trial, on appeal, and during the presentation of the habeas corpus petition, I believe that comprehensive reform requires that competent counsel be provided to indigent defendants at all stages of the process, from trial through habeas review.

Last year's Specter-Thurmond amendment and my bill this year, S. 19, would have accomplished the goals I have outlined. It represents what I believe to be a commonsense approach to habeas corpus reform. I supported the Senate-passed habeas reform proposal because in most respects I supported its provisions. I was deeply concerned, however, about the restriction of habeas review when an issue had received a full and fair adjudication in the State courts.

I regret not being able to support the habeas reform proposal in the conference report. The conference report does not establish a sufficiently strict timetable for filing the habeas petition. It includes no time limits on Federal court consideration of capital habeas petitions. It would leave the law unclear on successive petitions.

This conference report does not reform the elements of current habeas corpus law that are most in need of reform: the delay and the ping-ponging of cases between State and Federal courts.

Mr. President, I am prepared to keep on trying to reform habeas corpus practice until we get it right. I do not think that this conference report gets it right. Although there are other important issues—some of which I agree with and others of which I disagree—the habeas corpus issue is so important that the bill should be rejected so that we do get it right in reconsideration.

Mr. GRASSLEY. Mr. President, despite my high personal regard for my Senate colleagues on both sides of the aisle who worked on this conference report, I rise in strong opposition to the crime bill conference report.

My strong feelings against this product are in no way a commentary against the hard work and effort expended.

Indeed, I regret that I was not permitted to join the conference.

This is not a crime bill, although it is a crime. The majority of the conferees simply adopted whichever body's provision on a particular area was weaker. Just as the Holy Roman Empire was neither holy, Roman, nor an empire, this Crime Control Act has little to do with crime, provides precious little control, and even less action.

The report does skillfully exploit a situation—the end-of-the-session need for the Democrats to pass something for public relations purposes to blunt a Presidential attack on a Congress that is not interested in fighting crime. It would be a cruel hoax to pass this ineffectual bill.

This report fails to protect the first civil right of every American: To be free—in person, in home, and in the neighborhood—from the threat of violent crime. How does this bill fail to do that?

Mr. President, let me count the ways.

There is no reform of Federal habeas corpus procedures. This means that lengthy, spurious, and repetitious claims by inmates will continue to thwart the imposition of valid State death penalties. The fact is—the death penalties supposedly created by one hand of this bill are taken away with the other. Year after year, overzealous lawyers will essentially defeat the death penalty by delaying its imposition, turning a death sentence into a life sentence combined with endless petition filings.

The conferees could have remedied the situation by adopting Senate language that would have provided one chance for habeas corpus, with limited exceptions. The Senate language also would have confined habeas petitions to claims that were not fully and fairly considered by State courts. In addition, the Senate bill would have eliminated the exhaustion of State remedies requirements, permitting Federal courts to dismiss frivolous claims as they arose, rather than seeing the same petition many times until exhaustion was completed.

But the conferees were interested only in the weaker House bill. That bill contained none of these reforms. In fact, the House bill adopted by the conferees is worse than current law. It would permit prisoners to apply new decisions retroactively to their case. No matter how irrelevant or trivial, those cases will produce a flood of new petitions. This is not only unfair from a legal perspective, but it also will lead to prisoners filing new petitions forever. Yogi Berra may have said, "It's never over til it's over," but then he never filed a habeas petition.

Under this bill, habeas corpus will never be over. The convicted criminal will never be stopped from filing petitions, and the criminals' victims and their families will never heal their wounds.

This bill creates no good-faith exception to the judge-made exclusionary rule. An objective good-faith exception to the exclusionary rule would allow reliable evidence—including narcotics seized from a drug trafficker—to be admitted into evidence in a criminal trial. The conferees adopted the weaker Senate version.

As is well known, the exclusionary rule is not a constitutional guarantee. It is a judge-made rule to deter abusive police practices. The overtechnical use of the exclusionary rule has resulted in criminals being set free, not because they are innocent, but because the evidence necessary to convict has been seized by an honest mistake.

There should be room to distinguish between a wholly unreasonable search of one's person or home and the simple and honest mistake—made in good faith—of a law enforcement officer conducting a search under sometimes life-threatening circumstances. that is just common sense.

Once again, the conferees rejected the good House language on this point, and adopted the weaker Senate language. And once again, the conference report is worse than existing law. Under current law, a facially valid warrant is sufficient to trigger the good-faith exception unless the basic provisions are absent. A reviewing court can easily determine if this test, as well as the test of a neutral and detached magistrate, are met.

The conference report is worse because it creates loopholes if the magistrate was intentionally or recklessly misled. Every defendant will claim that the warrant was issued in those circumstances. That claim will require hearings and delay and expense to resolve—to the detriment of our criminal justice system.

Can we really expect—as this report seems to demand—that an officer should crossexamine the issuing judicial officer as to possible deficiencies in the warrant?

The conference report's exclusionary rule excludes the possibility of reform.

The conference report will exclude evidence of confessions. The conference report will exclude so-called coerced confessions even if the error is harmless beyond a reasonable doubt to the issue of guilt.

Once again, the conference report overrules a Supreme Court decision that is tough on crime.

I am not advocating that police beat confessions out of arrestees. That's not the issue here. The concern relates only to police informers in prison cells whose status is not disclosed to the defendant.

The conference report is nonsensical as it relates to guns. The bill makes innocent, law-abiding citizens want to purchase a gun.

At the same time, it is weak on provisions that affect the role and use of guns in the commission of crimes. For instance, the report dropped the Senate provision that would have permitted a penalty increase for possessing a firearm in a crime of violence or drug trafficking. It also dropped the Senate bill's provision that would revoke probation for anyone found in possession of a firearm. Similarly, it rejected the Senate proposal to criminalize the possession of a stolen firearm and it dropped a provision to try juveniles as adults on firearms and drug offenses.

The conference report is weak on the issue of child abuse. It fails to adopt doubled penalties for repeat sex offenders, as well as restitution for victims of sex offenders. It drops a proposed enhanced penalty for offenders who know they are HIV positive and engage in criminal conduct creating a risk of transmission of the virus to the victim.

The conference report does not do enough to protect victims of crime. While it permits victims the right of allocation to the courts at the time of sentencing, the conference report struck a House provision that would have allowed the court, after a hearing, to suspend the defendant's Federal benefits if the defendant was delinquent in making restitution to his victim.

Finally, the conference report contains an objectionable sports lottery provision. It will prohibit all but a few States to have sports lotteries. Why this is in a crime bill I do not know. But it is a terrible piece of legislation.

It grandfathers States that already engage in millions of dollars of legal sports gambling. It violates States rights to enact whatever lotteries they choose. And it comes at a terrible time. States are faced with massive federally mandated spending. They face recession and severe fiscal problems. This bill would interfere with a State's choice as to how it chooses to raise its income.

The one regret I have, Mr. President, is that this bill includes the Antiterrorism Act, which would create civil remedies for American victims of terrorism.

I have been working on this bill for 3 years now, and the Senate has passed it twice. The House included the ATA in their version of the crime bill, and it is included in the conference report. I urge the House to pass the ATA as a separate bill so that the President can sign it into law. It won't become law as part of this so-called crime bill.

In conclusion, Mr. President, this conference report does not offer us a real opportunity to enact a truly tough and effective anticrime package. If anything, it is an anti-anticrime package.

This report is a hollow bill. I urge the President to veto this bill. He should force the Congress to work with him to see to it that real anticrime legislation is enacted and signed into law.

Mr. KOHL. Mr. President, I rise today for several purposes: first, to express my disappointment with the Senate's failure to invoke cloture on the strong anticrime package worked out between the House and the Senate; second, to assure my colleagues that I will continue to work for enactment of this measure; and third, to reiterate my enthusiastic support for the conference provisions on the Brady bill. Like the Senate-passed proposal, the conference report combines the best elements of both the Brady and Staggers approaches.

It is not news to anyone that violent crime has become a fact of life in American cities. For example, last week a woman driving in the District of Columbia was ruthlessly gunned down because a young hoodlum carrying a handgun just "felt like killing someone." The sad fact is that it may be more dangerous to live in America than to serve our country in a foreign war. Less than 300 Americans died during the Persian Gulf conflict, yet 450 people have already been murdered this year in our Nation's Capital.

Mr. President, no single legislative change will make our streets safer. A comprehensive approach is needed—more police, tougher laws, more certain punishment. But while there is no panacea for our crime problem, there is a crucial step we can take today to reduce the carnage. We can enact the provisions of the Senate-passed Brady bill—a mandatory background check and a uniform waiting period of 5 business days for anyone seeking to buy a handgun. Under our proposal, the waiting period would be in effect for at least 2½ years and it could only be repealed when an accurate instant check system is in place that would apply to all firearms purchases. In addition, the measure would authorize $100 million to help States upgrade their computerized criminal records.

In the United States, firearms violence is simply out of control. Guns were responsible for more than 10,000 murders in 1991—a 20-percent increase over 1987. Guns were used in more than 600,000 violent crimes last year. No State is immune to gun-related violence. Last year Wisconsin set a record with more than 200 senseless killings, and most of those murdered were killed with guns.

Mr. President, not all of these weapons were acquired illegally. Indeed, according to the Department of Justice, more than 20 percent of all criminals—roughly 120,000 people a year—obtain their handguns through licensed dealers. That is why the Brady bill is so vital—it would help keep guns out of the hands of criminals and drug traffickers.

But don't just take my word for it; look at who else supports it. Brady has been endorsed by every living President—including former President Reagan. It is supported by every major law enforcement organization. and even the NRA believes it makes sense. Its 1976 publication entitled "On Firearms Control" says:

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

The Brady approach also enjoys wide support because of what it would not do—it would not take anyone's guns away. A criminal records check guaranties that lethal weapons are not sold to individuals with track records of dangerous behavior. A waiting period ensures that we let people consumed by violent passion "cool-off." In short, Brady will create little inconvenience to law-abiding gun buyers, but it will help save lives.

The Senate passed the Mitchell-Kohl-Gore amendment to Senator METZENBAUM's Brady bill by a vote of 67–32. The provision which has come out of conference is essentially the Senate bill with technical corrections and few minor changes. It is not a perfect proposal, nor is the crime bill itself perfect—a compromise seldom is. But we do the American people a disservice when we allow the struggle for perfection to become the enemy of the good.

Mr. President, although we did not complete action on this measure today, I will continue to work for enactment of a comprehensive crime package—one that includes the Brady bill.

Mr. SIMPSON. Mr. President, this body, when we passed the Senate crime bill last July, expressed its strong bipartisan concern about the excessive deals in habeas corpus. That is the process by which convicted murderers appeal State court convictions in Federal courts.

In its vote on strong habeas corpus reform, the Senate sent a pretty strong message that truly reflected the will of the American people: That we are sick and tired of the obscene delays in implementing capital punishment.

During the debate, we heard many accounts of the most gruesome and heinous crimes. Instances where the convicted murderer has delayed his execution for many years. That is the injustice that has been forced upon the American people and which the habeas corpus title in the Senate crime bill would have corrected. Now, Mr. President, we are presented with a conference report which is a slap in the face to law-abiding citizens all across this country.

Mr. President, allow me to draw the attention of this body to another provision in this "criminal rights" crime bill: the provision overruling Arizona versus Fulminante regarding so-called coerced confessions.

The average ax murderer on death row now consumes 8 to 10 years in habeas appeals. Besides vicious murderers, there are countless violent rapists and others of that ilk lounging in our prisons thinking of new and creative ways to try and convince an appellate court that they were railroaded or that they are really innocent.

Under the provisions of title VI, each and every one of those who at one time confessed, can now go back and get a new trial. This title defines a "coerced confession" as simply one that was elicited in violation of the 5th and 14th amendments. All a criminal has to do in a habeas petition is "allege" a violation and he will get a new trial.

I urge my colleagues to stop and think of what that can mean. Imagine "Joe the Ax-Murderer" who "confessed" without an attorney present.

Under this title, that could be a coerced confession. Consider also that in Joe's case, he was convicted because there were also two eye witnesses. On his latest of a dozen or so appeals, the court ruled that admission of the confession didn't matter, because there was overwhelming additional evidence of guilt.

That's what the law is today: It's harmless error to allow a jury to hear a so-called coerced confession if there is overwhelming additional evidence of guilt. Title VI in the bill overrules that, and allows Joe the Ax-Murderer to get a new trial.

What if the evidence has been destroyed in the intervening 8 to 10

years? Or what if the witnesses have died or disappeared? If that were to happen, there's a good chance that Joe the ax-murderer will plea bargain to a lesser sentence. He could get credit for time served and even be eligible for parole. Isn't that absurd?

Just whose interests are being served by this bill? Who stands to benefit?

Not the courts: They will be flooded with new habeas petitions alleging a coerced confession!

Not the public: The public will be at risk if even one of these vicious criminals gets out even one second early!

Not the victims or the witnesses: They have to live through still another trial.

Only the criminals benefit from this title—murderers, rapists, and that sort.

And, Mr. President, that is only a single title of this 500-page monstrosity! Think about title III, regarding the exclusionary rule. This version, as I read it, is even worse than we originally thought when we voted on this in the Senate last June.

In 1984, the Supreme Court recognized that there was a good faith exception to the exclusionary rule. The court said that search warrants which later turned out to be technically defective could not be used to throw out a conviction. This exception to the exclusionary rule has been incorporated into the case law of our country.

This bill would codify that into the unchanging—and inflexible—body of our statutory law.

All this appears to take great steps in making a real difference to fight crime, but hold on!

By making this exception part of the statutory law—codified law—the real effect will be to overrule appeals court decisions which have been applying the good faith exception to the exclusionary rule for evidence that was obtained in warrantless searches.

We need to give the police a wider good faith exception to the exclusionary rule: An exception that could be used on evidence that was obtained without a warrant. Law enforcement officials say this is not only a far more common occurrence, but is more productive in waging a successful fight against crime and criminals.

The bill would restrict police discretion—we would be handcuffing the police, not the criminals.

In an attempt to appear to solidify the good faith exception, this bill actually narrows it. The bill gives with one hand, while it snatches away with the other.

The exclusionary rule, grounded in fourth amendment protections, prohibits the use of evidence obtained in "unreasonable" searches and seizures. It does not protect against the use of evidence that has been obtained as the result of a "reasonable" search and seizure.

That is what the Supreme Court has preserved with is definition of the exclusionary rule. The Court declared that evidence obtained under a technically defective warrant—during the course of a reasonable search or seizure—could be used if it was taken in good faith.

Appeals courts have permitted the use of evidence taken reasonably even without a warrant if the police acted in good faith. As the law stands now, evidence obtained in good faith on a warrant is admissible. This legislation will have the effect of prohibiting that evidence.

So again, Mr. President, I ask my colleagues to consider whose interests are being served. I can tell you it's not the interests of the police, the courts, or especially, the American public. This bill is pure and simple a criminal rights bill and I strongly urge its rejection by the Senate.

Mr. ROTH. Mr. President, I rise in opposition to the conference committee report on the crime bill. This so-called crime bill, to quote the words of the President of the National District Attorneys Association, "Does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens."

As the U.S. Department of Justice has pointed out, the conference committee consistently rejected the better option from either the House or Senate crime bills and invariably selected the option most likely to assist criminals and harm law enforcement.

The attorney general of my home State of Delaware, for example, has written me to urge support of the original Senate language regarding habeas corpus reform, and the original House language regarding the Federal death penalty and the exclusionary rule. Unfortunately, the conference committee has done the exact opposite in all three cases.

In short, Mr. President, if this conference committee report were a person, it would be subject to arrest for fraud or for criminal impersonation of an anticrime bill.

The legislation before this body contains habeas reform that in many ways is worse than the current abuse ridden system. The habeas provisions in this bill place new burdens on the States and fail to address the injustices that the existing system of endless litigation and repetitive review inflicts on the families of murder victims and the law-abiding public. This body approved real habeas reform but it was rejected by the conference committee.

While it is true that this legislation provides for the death penalty for a wide range of offenses—which I support—it is also true that this legislation contains provisions that gut the effectiveness of the death penalty. Moreover, this legislation contains no provisions guarding against the obstruction of the Federal death penalty through endless collateral litigation.

Concerning the exclusionary rule, this legislation does nothing to aid law enforcement in its fight against crime. In fact this legislation is more restrictive than existing law and would require the exclusion of more relevant evidence.

This bill also increases the range of cases in which criminal convictions will be reversed on the basis of harmless errors. And it does little to combat rape and child molestation, or to protect the rights of crime victims.

On top of all this, the taxpayers are asked to shell out more than $3 billion in this bill. Perhaps we should add highway robbery to the charge of fraud.

As we all know, an effective criminal justice system requires maintaining public confidence in that system. I believe that this legislation will do great harms to the already low level of public confidence in the system.

For these reasons I urge my colleagues to join me in opposing this legislation.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991

Mr. NUNN. Mr. President, we are here today to decide how this body will address the spiraling problems of drugs, guns, and criminal activity which continue to plague this Nation. From Los Angeles, CA, to Portland, ME; from Detroit, MI, to Macon, GA; drugs and crime threaten us all, our communities, our neighborhoods, and our families.

Only yesterday, Mayor Sharon Pratt Dixon of Washington, DC described the crime problem in our Nation's Capital as a "war of values."

She is exactly right. The fundamental test of any civilized society is its ability to make law-abiding citizens secure in their persons and property, without taking measures that themselves threaten the well-being of law-abiding citizens.

Striking that balance properly is the real challenge we face in enacting any anticrime legislation. While it is hardly perfect, this bill does contribute to the safety of law-abiding citizens without endangering their rights, and merits our support.

We should not, however, mislead the American people into believing this bill will have an immediate impact on crime statistics.

The real day-to-day struggle against crime is not centered in the Federal courts, the Federal prisons, or Federal law enforcement officials, important as they all are. It is in our communities, and in the State and local law enforcement officers who are our front-line troops in the war on crime.

Our role in the war on crime is first to concentrate on those aspects of law enforcement where the Federal Government does play a unique role, such as

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drug enforcement, interstate criminal investigations, organized crime, many white-collar crimes, and criminal appeals; and then to ensure that we help, not hinder, State and local officials in their particular jurisdictions as much as we can.

The massive bill before us addresses both aspects of the Federal role in law enforcement. This bill represents a tremendous effort on the part of the Judiciary Committee and I commend the members of the committee, and in particular the committee's distinguished chairman, for all of their efforts in attempting to address these often intractable problems.

Without going through the entire bill, I would just like to highlight some of its major provisions. In terms of addressing criminal behavior, this bill provides new minimum penalties for offenses committed with guns, for gun possession by felons, and for theft of guns. It imposes a 5-day waiting period for the purchase of handguns until a national instant check system is developed, and it requires police background checks of gun purchasers in order to keep guns out of the hands of criminals.

The bill includes new efforts to combat gang violence, creates new penalties for terrorist acts, and increases existing penalties for repeat drug offenses, assault, manslaughter, crimes against the elderly, and violent crimes. In addition, the bill expands the Federal death penalty to include such offenses as murder in the course of rape, murder for hire, and drive-by shootings.

In terms of aid to law enforcement, this bill would authorize $1 billion in new aid to local police departments and prosecutors for anti-drug law enforcement efforts, as well as special aid and training for rural police departments. It would create an ROTC-style program to encourage students to serve as police officers, and authorize hundreds of new FBI, DEA, Border Patrol agents, and U.S. attorneys to combat crime and drug trafficking.

In terms of reducing the ability of criminals to abuse the legal process, the bill would codify current rules as annunciated by the Supreme Court to provide for a good faith exception to the exclusionary rule in cases where a search is conducted pursuant to a warrant which later proves defective. In addition, it would limit the number of habeas corpus petitions a death row inmate could file to one, and require that such petition be filed within 1 year.

The bill has been endorsed by organization such as the Fraternal Order of Police, the International Associations of Chiefs of Police, the International Brotherhood of Police Officers, the National Organization of Black Law Enforcement Executives, and the National Association of Police Organizations. All of these groups represent those who are on the front lines of the battle against crime and violence, those whose ability to successful do their jobs is most directly affected by what we do today in this body.

While this is a good bill, it is far from perfect. In this regard I would like to take particular note of concerns expressed by the National District Attorneys Association [NDAA]. The NDAA has raised objections to certain provisions contained in those sections of the bill dealing with the exclusionary rule, habeas corpus reform, and the death penalty.

I have given serious consideration to these objections and I agree with some of their concerns. I particularly agree that the habeas corpus provisions do not sufficiently restrict the much abused process which causes so much delay in our criminal appeals. In the final analysis, however, I believe that there is too much good contained in the close to 500 pages of this bill to let it go down to defeat on the basis of disagreement over a few individual provisions.

The ability to govern is found in the art of compromise. We could reject this bill and attempt to fashion the perfect crime bill—one on which all sides could agree and one which would strike just the right balance on every issue. Yet, as we nobly set about that task, how many more lives would be touched by crime and violence, how many more neighborhood and streets would be lost to those who prey on the innocent?

Let us not delude ourselves. This bill will not end our nation's crime problem. No legislation we pass and no war on crime will ever accomplish this feat. Ultimately, the war on crime depends on the outcome of the "war of values" that Mayor Dixon spoke of so eloquently. The strength of our families, the cohesiveness of our communities, the influence of our religious institutions, and the wisdom of our leaders and educators—these factors will contribute to the war on crime more than all the legislation we could ever enact.

For those upon whom the war of values would be lost, however, we must assure that detection, pursuit and punishment is swift, certain, and severe. That is what I believe this bill accomplishes. It is for that reason that I shall support this bill, and I urge my colleagues to do likewise.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 345, 346, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 473, 475, 476, 477, 478, 479; all nominations placed on the Secretary's desk in the Air Force, Army, and Navy.

I further ask unanimous consent that the Senate proceed to the following nominations reported today by the Committee on Armed Services: Donald C. Fraser, to be Deputy Under Secretary of Defense for Acquisition,

James Roderick Lilley, to be an Assistant Secretary of Defense; and

Victor H. Reis, to be Director of Defense Research and Engineering.

Mr. President, I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the Record as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Alice M. Batcheler, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

Harold R. DeMoss, Jr., of Texas, to be United States Circuit Judge for the Fifth Circuit.

DEPARTMENT OF STATE

Robert Stephen Pastorino, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

Curtis Warren Kamman, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

George Fleming Jones, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

William Edwin Ryerson, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

John R. Davis, Jr., of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Frederick Vreeland, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

John Hubert Kelly, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Jose E. Martinez, of Texas, to be Director of the Trade and Development Program. (New Position)

INTER-AMERICAN FOUNDATION

William Kane Reilly, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994.

EXECUTIVE OFFICE OF THE PRESIDENT

Clair W. Burgener, of California, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1994.

AIR FORCE

The following officers for appointment in the United States Air Force to the grade of brigadier general under the provisions of section 624, Title 10 of the United States Code:

To be brigadier general

Col. George P. Cole, Jr., 553-66-0254, Regular Air Force.

Col. Eldon W. Joersz, 502-46-1673, Regular Air Force.

PANAMA CANAL COMMISSION

William Carl, of Texas, to be a Member of the Board of the Panama Canal Commission.

John J. Danilovich, of California, to be a Member of the Board of the Panama Canal Commission.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

John W. Crawford, Jr., of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1996. (Reappointment)

DEPARTMENT OF ENERGY

Leo P. Duffy, of Pennsylvania, to be an Assistant Secretary of Energy (Environmental Restoration and Waste Management).

ARMY

The United States Army National Guard Officer named herein for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of Title 10, United States Code, sections 593(a), 3385 and 3392:

To be major general

Brig. Gen. Nathaniel H. Robb, 241-68-5623.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY

Air Force nominations beginning Clifton D. Daniel, and ending Jack H. Morgan, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Air Force nominations beginning Scotoliff Hector A. Arroyo, and ending Gunther A. Mueller, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Air Force nominations beginning Maj. Michael T. Allen, 407-60-3229, and ending Maj. Earl R. Harrison, Jr., 403-64-9386, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Air Force nominations beginning Ronald M. Adams, and ending Wilbur T. Workman, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Army nominations beginning Charles G. Abbott, and ending Donald J. Copley, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Army nominations beginning James D. Hallums, and ending John H. Grubbs, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Army nominations beginning Bruce A. Adams, and ending Mark E. Zirkelbach, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Navy nominations beginning Thomas H. Adair, and ending Paul A. Yetmar, which nominations were received by the Senate and appeared in the Congressional Record of October 31, 1991.

Navy nominations beginning Kevin T. Aanestad and ending Kimberly A. Zych, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

DEPARTMENT OF DEFENSE

Donald C. Fraser, to be Deputy Under Secretary of Defense for Acquisition,

James Roderick Lilley, to be an Assistant Secretary of Defense, and

Victor H. Reis, to be Director of Defense Research and Engineering.

STATEMENT ON THE NOMINATION OF LEO P. DUFFY

Mr. WALLOP. Mr. President, on November 20, 1991, the Committee on Energy and Natural Resources unanimously reported the nomination of Mr. Leo Duffy to be Assistant Secretary for Environmental Restoration and Waste Management for the Department of Energy.

Mr. Duffy has served as the Director for this office since 1989, and has extensive previous experience in the area of hazardous waste cleanup. Prior to joining the Department, he served in several senior managerial positions—vice president and project director, Roy F. Westin, Inc.; general manager, Westinghouse Waste Technology Services Division, Westinghouse Electric Corp.; and manager of EG&G Idaho, Inc. Waste Management Group. Mr. Duffy holds a B.S. degree in mechanical engineering form New York University and attended the Bettis Reactor Design School.

Mr. President, the recent battle in this body over the Federal facilities bill and the impossibility of compliance confronting the Department of Energy with respect to mixed waste underscores the significance of the responsibilities Mr. Duffy is undertaking. He is faced with the formidable task of assessing and mitigating the environmental legacies from an era that was focused almost exclusively on national security.

As our knowledge of the environmental consequences peripheral to the country's defense production has increased, we have recognized that we must make provisions for cleaning up our defense production sites. But a commitment to that endeavor is more than simply throwing a pot of money after the problem. Someone must make intelligent decisions about the extent of the problem, the methods of dealing with it, and the benefits achievable relative to the costs.

The magnitude of the job cannot be underestimated, and I admire Mr. Duffy for being willing to undertake that task. At the same time, as I indicated during the confirmation hearing, I intend to keep a close eye on the progress of this program.

Mr. President, I urge my colleagues to join me in supporting this nomination.

Mr. FORD. Mr. President, I ask unanimous consent that the following nominations be discharged from the Agriculture, Nutrition, and Forestry Committee, and that the Senate proceed to their immediate consideration: Gary C. Byrne, to be a member of the Farm Credit Administration Board, Farm Credit Administration; Charles R. Hilty, to be an Assistant Secretary, Department of Agriculture.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the Record as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF AGRICULTURE

Gary C. Byrne, to be a Member of the Farm Credit Administration Board, Farm Credit Administration; and

Charles R. Hilty, to be an Assistant Secretary, Department of Agriculture.

Mr. FORD. Mr. President, I ask unanimous consent that the following nominations be discharged from the Committee on Labor and Human Resources, and that the Senate proceed to their immediate consideration: Patrick J. Cleary, to be a member of the National Mediation Board; David Alan Heslop, Marjorie Arsht, and Kenneth H. Bastian, Jr., to be members of the National Advisory Council on Educational Research and Improvement; Barbara J.H. Taylor, and James E. Lyons, to be members of the National Commission on Libraries and Information Science; Ian M. Ross, to be a Member of the National Science Board; Eunice B. Whittlesey, Lisa A. Hembry, and Ruth K. Watanabe, to be members of the National Museum Services Board; and Anne C. Seggerman, Mary M. Raether, and Anthony H. Flack, to be members of the National Council on Disability.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the Record as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

Patrick J. Cleary, to be a Member of the National Mediation Board;

David Alan Heslop, Marjorie Arsht, and Kenneth H. Bastian, Jr., to be members of the National Advisory Council on Educational Research and Improvement;

Barbara J.H. Taylor and James E. Lyons, to be members of the National Commission on Libraries and Information Science;

Ian M. Ross, to be a member of the National Science Board;

Eunice B. Whittlesey, Lisa A. Hembry, and Ruth K. Watanabe, to be members of the National Museum Services Board; and

Anne C. Seggerman, Mary M. Raether, and Anthony H. Flack, to be members of the National Council on Disability.

Mr. FORD. Mr. President, I ask unanimous consent that all nominations received by the Senate remain in status quo, notwithstanding the provisions of rule XXXI 31, paragraph 6, with the following exceptions: James D. Watkins, Richard T. Kennedy, Jane E. Becker, Ivan Selin to be U.S. Representative and Alternate Representatives to the 35th Session of the General Conference of the International Atomic Energy Agency, Department of State; Karl C. Rove of Texas, to be a Member of the Board for International Broadcasting, for a term expiring April 28, 1991, vice Edward Noonan Ney, term expired; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON REDUCTION IN TRAVEL AND TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 98

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Appropriations:

To the Congress of the United States:

In accordance with section 523A of the Treasury, Postal Service and General Government Appropriations Act, 1992, I transmit herewith a report specifying my determination of the uniform percentage necessary to reduce outlays for travel, transportation, and subsistence by $15.7 million. As required by law, this reduction will be applied to all accounts within this appropriations act in FY 1992 with the exception of the Committee for Purchase from the Blind and Other Severely Handicapped. Federal agencies covered by this appropriations act have been instructed to make the required reductions.

GEORGE BUSH.

THE WHITE HOUSE, *November 27, 1991.*

MESSAGES FROM THE HOUSE

At 9 a.m., a message from the House of Representatives, delivered by Mr. Jenkins, one of its clerks, announced that the House agrees to the report of the committee of conference of the Senate to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, or highway safety programs, and for mass transit programs, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance or naturalization.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, and Mr. LENT as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, without amendment:

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes; and

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3638. An act making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge; and

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 272. An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing;

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts;

H.R. 1988. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes;

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommedations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, Oklahoma;

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101–549; and

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 3:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 260. Concurrent resolution providing for an adjournment of the Congress to a date certain.

The message further announced that pursuant to the provisions of section 168(b) of Public Law 102–138, the Speaker appoints Mr. HAMILTON to the British-American Interparliamentary Group on the part of the House.

The message also announced that pursuant to the provisions of section 2702 of 44 United States Code, as amended by Public Law 101–509, the Speaker appoints Mr. Richard F. Fenno, Jr., of Rochester, NY, as a member from private life of the Advisory Committee on the Records of Congress on the part of the House.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 3:47 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 794. An act to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes;

H.R. 848. An act entitled the "Little Bighorn Battlefield National Monument";

H.J. Res. 201. Joint resolution designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week"; and

H.J. Res. 300. Joint resolution designating the month of May 1992 as "National Trauma Awareness Month."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 9:38 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

At 12:00, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371) to control and prevent violent crime.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950.

At 5:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3595) to delay until September 30, 1992, the issuance of regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 261. A concurrent resolution correcting technical errors in the enrollment of the bill S. 543.

At 7:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution; without amendment:

S. Con. Res. 83. A concurrent resolution to authorize a correction in the enrollment to S. 543.

The message also announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 260) providing for an adjournment of the Congress to a date certain.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent and referred as indicated:

H.R. 1104. An act to declare certain portions of Pelican Island, TX, nonnavigable; to the Committee on Commerce, Science, and Transportation.

H.R. 1592. An act to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit; to the Committee on Energy and Natural Resources.

H.R. 1688. An act entitled the "Omnibus Insular Areas Act of 1991"; to the Committee on Energy and Natural Resources.

H.R. 2141. An act to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2263. An act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2450. An act to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions; to the Committee on the Judiciary.

H.R. 2502. An act to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2732. To amend title 17, United States Code, with respect to copyright renewal, to reauthorize the National Film Preservation Board, and for other purposes; to the Committee on the Judiciary.

H.R. 2929. An act to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3048. An act to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants; to the Committee on the Judiciary.

H.R. 3237. An act to extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years; to the Committee on the Judiciary.

H.R. 3638. An act making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge; to the Committee on Energy and Natural Resources.

H.R. 3359. An act to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1027), and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3666. An act to amend title 28, United States Code, to provide for an additional place for holding court for the Eastern District of Texas; to the Committee on the Judiciary.

H.R. 3670. An act to make certain technical corrections relating to the immigration laws; to the Committee on the Judiciary.

H.R. 3686. An act to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina; to the Committee on the Judiciary.

H.J. Res. 372. Joint resolution designating December 1, 1991, as "World AIDS Day"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3341. An act to amend the Ethics in Government Act of 1978 with respect to honoraria, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, November 27, 1991, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 272. An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing;

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts; and

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101–549.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 353. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes (Rept. No. 102–253).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1581. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development (Rept. No. 102–254).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1623. A bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Donald C. Fraser, of Massachusetts, to be Deputy Under Secretary for Acquisition;

James Roderick Lilley, of Maryland, to be an Assistant Secretary of Defense; and

Victor H. Reis, of the District of Columbia, to be Director of Defense Research and Engineering.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PACKWOOD:

S. 2120. A bill to amend the Internal Revenue Code of 1986 to stimulate economic growth in the United States, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER:

S. 2121. A bill to establish a policy with respect to corrective action and financial assurance for certain class of facilities under subtitle C of the Solid Waste Disposal Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BENTSEN:

S. 2122. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. DURENBERGER):

S. 2123. A bill to provide for enhanced reporting to the public of release of toxic chemicals, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BUMPERS:

S. 2124. A bill entitled the "Ballistic Missile, Nuclear, Chemical, and Biological Weapons Nonproliferation Support Act of 1991"; to the Committee on Foreign Relations.

By Mr. MCCONNELL:

S. 2125. A bill to lift the trade embargo against Vietnam if certain conditions are met; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 2126. A bill to extend the temporary suspension of duties on L-alanyl-L-proline, also known as Ala Pro; to the Committee on Finance.

S. 2127. A bill to suspend temporarily the duty on {3R-{3-alpha(R),4-beta}}-4(acetyloxy)-3-{{(1,1-dimethyl ethyl) dimethyl-siyl}oxy}ethyl}-2-azetidinone; to the Committee on Finance.

S. 2128. A bill to suspend temporarily the duty on 3-chloro peroxybenzoic acid; to the Committee on Finance.

S. 2129. A bill to suspend temporarily the duty on composite vials of timolol maleate/pilocarpine solutions and diluents; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 2130. A bill to amend title 35, United States Code, to permit separate patent extensions for each product under a patent which is subject to full regulatory review and approval; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 2131. A bill to repeal section 618 of the Resolution Trust Corporation, Refinancing, Restructuring and Improvement Act of 1991; read the first time.

By Mr. MOYNIHAN:

S. 2132. A bill to require the Administrator of the Environmental Protection Agency to seek ongoing advice from independent experts in ranking relative environmental risks; to conduct the research and monitoring necessary to insure a sound scientific basis for decisionmaking; and to use such information in managing available resources to protect society from the greatest risks to human health, welfare, and ecological resources; to the Committee on Environment and Public Works.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2133. A bill to provide for the economic conversion and diversification of industries in the defense base of the United States that are adversely affected by significant reductions in spending for national defense; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NUNN (for himself and Mr. FOWLER):

S. 2134. A bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY:

S. 2135. A bill to amend the Federal Food, Drug, and Cosmetic Act to enhance the enforcement authority of the Food and Drug Administration, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CONRAD:

S. 2136. A bill to authorize construction of the northwest area water supply/Fort Berthold integrated water supply project, hereinafter referred to as the "Na chiin Huun-Dakota Project," and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 238. A resolution for Rules Committee report on plan to deal with Senate perquisites; to the Committee on Rules and Administration.

By Mr. CHAFEE (for Mr. HATFIELD):

S. Res. 239. A resolution reauthorizing the Albert Einstein Congressional Fellowship Program; considered and agreed to.

By Mr. FORD (for Mr. BYRD):

S. Res. 240. A resolution to temporarily suspend for the sole and specific purpose of permitting the United States Capitol Preservation Commission and its designated agents to conduct activities in accordance with the purposes of the Commission on such dates and times, and in such manner as determined by the Senate Co-chair of the Commission or his designee; considered and agreed to.

By Mr. FORD (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 241. A resolution to authorize testimony by and representation of former employee of the Senate in United States v. Peter MacDonald, Jr., et al.; considered and agreed to.

By Mr. GARN:

S. Con. Res. 83. A concurrent resolution to authorize a correction in the enrollment of S. 543; considered and agreed to.

By Mr. RIEGLE:

S. Con. Res. 84. A concurrent resolution to correct the enrollment of H.R. 3435, the R.T.C. Funding Bill; considered and agreed to.

By Mr. FORD (for Mr. DECONCINI):

S. Con. Res. 85. A concurrent resolution to correct a technical error in the enrollment of the bill (H.R. 3531), and for other purpoes; considered and agreed to.

By Mr. CHAFEE (for Mr. DOLE):

S. Con. Res. 86. A concurrent resolution to correct the enrollment of H.R. 2950; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD:

S. 2120. A bill to amend the Internal Revenue Code of 1986 to stimulate economic growth in the United States, and for other purposes; to the Committee on Finance.

GREATER RECOVERY OPPORTUNITY FOR WORKERS ACT OF 1991

• Mr. PACKWOOD. Mr. President, today I am introducing legislation to help hard-working Americans weather these tough economic times. The sad fact is that the recession is lasting much longer than anyone anticipated.

Americans have had to tighten their belts and dip into savings to get by. Others less fortunate have been laid off and are having difficulty finding work. I am glad we were able to enact legislation this year to extend unemployment benefits for these workers. But more needs to be done.

When Congress returns in January, I believe we should act quickly to enact measures to help our economic recovery. That's why I'm introducing this legislation, the Greater Recovery Opportunities for Workers Act of 1991—known as GrowAmerica.

It seems like everyone in Washington is talking about some kind of tax cut. I think it's time to put some money back into the pockets of hard-working Americans so they can recover from the recession. There are lots of meritorious proposals in the hopper. My bill takes a slightly different approach by giving a 2-year across-the-board 10-percent tax cut for middle-income Americans.

And there a few other things we can do that make sense right now.

First, we should make it easier for small businesses to offer a retirement savings plan to their workers. Today, one of the largest gaps in retirement savings is that of small employees. Less than 20 percent of these workers are covered by an employer-sponsored savings plan. This is because the current pension rules are overly complex. My bill would make it easier for small businesses to offer a retirement savings plan by establishing a new, simplified pension plan, called the PRIME Retirement Account.

Second, Americans should not be penalized for saving. My bill allows people to withdraw money penalty-free from individual retirement accounts and 401k retirement plans for the purchase of a first home, to cover expenses during long periods of unemployment, and to pay for college education and large medical bills.

Third, we should give smaller businesses a little help in modernizing their businesses. My bill doubles the amount of equipment purchases that small businesses can deduct from their taxes and indexes this for inflation.

Finally, I think the time has come to rework the passive-loss rules to make them more equitable for the real estate industry. I am convinced that the passive-loss rules hit the real estate industry too hard and we need to act now to correct this so that the industry can pull out of the tailspin it has been in. When we drafted the passive-loss rules in 1986, we were trying to eliminate tax shelters and we did. We did not intend to hit bona fide losses of someone actively running a business. Unfortunately, that was the effect of the passive-loss rules on the real estate industry. My bill corrects this inequity by allowing those whose primary business is real estate to prove they materially participate in rental real estate activities.

No doubt about it—these ideas cost money. But I think we can afford them through cuts in spending. Changes in Eastern Europe and the Soviet Union make defense cuts feasible in the future. And, if additional revenue is needed, wealthy Americans should be asked to pay a little more in income taxes. Although no one is exempt from a recession, wealthy individuals tend to weather hard economic times better than others.

It's time to put politics and partisan differences aside and work together on responsible tax relief legislation to give hard-working Americans a break.

Mr. President, I ask unanimous consent that a detailed description of my GrowAmerica proposal and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF PACKWOOD GROWAMERICA PROPOSAL

1. Middle-income tax cuts. For 1992 and 1993, the income taxes of middle-income Americans will be cut by 10 percent.

Married couples—filing a joint tax return—will receive a 10-percent tax cut if their taxable income is $40,000 or less. Married couples with taxable incomes between $40,000 and $50,000 will receive a smaller tax cut—10 percent minus 1 percent for each $1,000 of taxable income over $40,000.

Single heads of households will receive a 10-percent tax cut if their taxable income is under $30,000. Single heads of households having taxable income between $30,000 and $40,000 will receive a smaller tax cut—10 percent minus 1 percent for each $1,000 of taxable income over $30,000.

Anyone else will receive a 10-percent tax cut if their taxable income is under $20,000. Those having taxable income between $20,000 and $30,000 will receive a smaller tax cut—10 percent minus 1 percent for each $1,000 of taxable income over $20,000.

2. The PRIME Retirement Account. Beginning in 1992, a new simplified, easy to administer retirement plan—known as the PRIME Retirement Account—will be available for workers employed by small businesses.

Employers with under 100 employees will be able to offer a PRIME Retirement Account to full-time employees—those expected to work at least 1,000 hours a year.

Employees who choose to have a PRIME Retirement Account can make pretax contributions to the PRIME account, through payroll deductions, of up to $3,000 a year.

Employers must match each employee's contribution dollar-for-dollar up to the first 3 percent of compensation—maximum total contribution of $3,000 a year.

Once employee and employer contributions are deposited in the PRIME Retirement Account, the contributions are fully vested and the account operates very much like an individual retirement account.

The PRIME Retirement Account plan does not have the various IRS and ERISA filing requirements and recordkeeping burdens that apply to current law employer sponsored retirement plans, which discourages small businesses from offering a retirement savings plan to their workers.

3. Savings without penalties. Beginning in 1992, Americans will have the option of withdrawing funds penalty free from an individual retirement account or a 401k retirement plan for the following purposes:

Purchase of their first home, or their children's or grandchildren's first home.

College education for themselves and their spouse, children, and grandchildren.

Large medical bills.

Periods of unemployment extending longer than basic unemployment benefits.

Amounts withdrawn because of unemployment may be recontributed within 1 year of reemployment.

4. Expensing for small businesses. Beginning in 1992, the amount of equipment purchases that can be deducted by small businesses in the year of purchase is increased from $10,000—under current law—to $20,000. The $20,000 amount is also indexed for inflation occurring in the future.

5. Passive losses for real estate. Beginning in 1992, individuals whose primary business is in the real estate industry will be allowed to prove that they materially participate in rental real estate activities.

An exemption is made to the current law rule that losses from rental real estate activities are always treated as passive losses, no matter how much work someone does. To qualify for the exemption:

An individual must materially participate in one or more real property trade or business and the time spent so materially participating must be more than one-half of the total time spent working in all trade or businesses.

A closely held corporation must materially participate in one or more real property trade or businesses and more than 50 percent of the corporation's gross receipts must come from such real property trade or businesses.

Those qualifying for the exemption must prove that they materially participate in the rental real estate activity in order to deduct losses from such activities. At the election of the taxpayer, all rental real estate activities of the taxpayer may be aggregated for this determination.

S. 2120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Greater Recovery Opportunity for

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Workers Act of 1991”, to be known as the “GrowAmerica Act”.

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—REDUCTION IN INDIVIDUAL INCOME TAXES

SEC. 101. REDUCTION IN TAX RATES FOR LOW AND MIDDLE INCOME TAXPAYERS FOR 1992 AND 1993.

(a) In General.—Part I of subchapter A of chapter 1 (relating to tax on individuals) is amended by inserting after section 3 the following new section:

“SEC. 4. REDUCTION IN INDIVIDUAL INCOME TAXES FOR 1992 AND 1993.

“(a) General Rule.—In the case of an individual, the tax imposed under section 1 (or any tax imposed in lieu thereof) for any taxable year beginning in 1992 or 1993 (determined without regard to this section) shall be reduced by an amount equal to the applicable percentage of such tax.

“(b) Applicable Percentage.—

“(1) In general.—For purposes of this section, the term ‘applicable percentage’ means 10 percent, reduced by 1 percentage point for each $1,000 (or any fraction thereof) by which the taxable income of the taxpayer exceeds the applicable limit.

“(2) Applicable limit.—For purposes of paragraph (1), the term ‘applicable limit’ means—

“(A) $40,000 in the case of a taxpayer to whom section 1(a) applies,

“(B) $30,000 in the case of a taxpayer to whom section 1(b) applies, and

“(C) $20,000 in the case of any other taxpayer.

“(c) Special Rules.—

“(1) Section not to apply to estates and trusts.—For purposes of this section, the term ‘individual’ shall not include any estate or trust taxable under section 1.

“(2) Coordination with other provisions.—The provisions of this section—

“(A) shall be applied after the application of section 1(h), but

“(B) before the application of any other provision of this title which refers to the amount of the tax imposed by section 1.

“(3) Tables.—In order to reflect the amount of the reduction in tax under this section for different levels of taxable income, the Secretary may—

“(A) modify the tables under sections 1, 3, and 3402, or

“(B) prescribe such other tables as the Secretary determines necessary.”

(b) Conforming Amendment.—The table of sections for part I of subchapter A of chapter 1 is amended by inserting after the item relating to section 3 the following new item:

“Sec. 4. Reduction in individual income taxes for 1992 and 1993.”

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) Section 15 not to apply.—The amendments made by this section shall not be treated as a change in rates of tax to which section 15 applies.

TITLE II—SAVINGS INCENTIVES

Subtitle A—Private Retirement Savings

SEC. 201. ESTABLISHMENT OF PRIME RETIREMENT ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) In General.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) Prime Accounts.—

“(1) In general.—For purposes of this title, the term ‘prime account’ means an individual retirement plan—

“(A) with respect to which the requirements of paragraphs (3), (4), (5), and (6) are met; and

“(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

“(2) Qualified salary reduction arrangement.—

“(A) In general.—For purposes of this subsection, the term ‘qualified salary reduction arrangement’ means a written arrangement of an eligible employer under which—

“(i) an employee may elect to have the employer make payments—

“(I) as elective employer contributions to the prime account on behalf of the employee, or

“(II) to the employee directly in cash,

“(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $3,000 for any year, and

“(iii) the employer—

“(I) is required to make a matching contribution to the prime account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed 3 percent of compensation, and

“(II) may make no other matching contribution.

“(B) Eligible employer.—For purposes of this subsection, the term ‘eligible employer’ means an employer who normally employs fewer than 100 employees on any day during the year.

“(C) Arrangement may be only plan of employer.—

“(i) In general.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or amounts were accrued, for any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

“(ii) Service credit.—A qualified plan maintained by an employer shall provide that, in computing the accrued benefit of any employee, no credit shall be given for service during a year for which such employee was eligible to participate in a qualified salary reduction arrangement of such employer.

“(iii) Qualified plan.—For purposes of this subparagraph, the term ‘qualified plan’ means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

“(D) No fee or penalty on employee's initial investment determination.—An arrangement shall not be treated as a qualified salary reduction arrangement unless it provides that no fee or penalty will be imposed on an employee's initial determination with respect to the investment of any contribution.

“(3) Vesting requirements.—The requirements of this paragraph are met with respect to a prime account if the employee's rights to any contribution to the prime account are nonforfeitable. For purposes of this paragraph, the rules of subsection (k)(4) shall apply.

“(4) Participation requirements.—The requirements of this paragraph are met with respect to any prime account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who are reasonably expected to work at least 1,000 hours during such year are eligible to make the election under paragraph (2)(A)(i).

“(5) Administrative requirements.—The requirements of this paragraph are met with respect to any prime account if, under the qualified salary reduction arrangement—

“(A) an employer must make the elective employer contributions under paragraph (2)(A)(i) and the employer matching contributions under paragraph (2)(A)(iii) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made,

“(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so elects, the employee may not elect to resume participation until the beginning of the next year, and

“(C) each employee eligible to participate—

“(i) may elect, during the 60-day period before the beginning of any year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year, and

“(ii) may elect, within 30 days of commencing employment during any year, to participate in the arrangement.

“(6) Spousal consent.—The requirements of this paragraph are met if requirements similar to the requirements of section 401(a)(11) are met. For purposes of applying section 401(a)(11)(B)(iii), the arrangement shall be treated in the same manner as a defined contribution plan.

“(7) Definitions.—For purposes of this subsection—

“(A) Employee.—The term ‘employee’ includes an employee as defined in section 401(c)(1).

“(B) Year.—The term ‘year’ means the calendar year.”

(b) Prime Accounts Not Treated as Pension Plans.—Notwithstanding any other provision of law, a prime account or qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986 shall not be treated as an employee benefit plan or pension plan for purposes of the Employee Retirement Income Security Act of 1974.

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 202. TAX TREATMENT OF PRIME ACCOUNTS.

(a) Deductibility of Contributions.—

(1) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

“(4) Special rule for prime accounts.—This section shall not apply with respect to any amount contributed to a prime account established under section 408(p).”

(2) Section 219(g)(5)(A) (defining active participant) is amended by striking “or” at the end of clause (iv) and by adding at the end thereof the following new clause:

“(vi) any prime account (within the meaning of section 408(p)), or”.

(b) Contributions and Distributions.—

(1) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

“(k) Treatment of Prime Accounts.—The rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a prime account under section 408(p).”

(2) Section 408(d)(3) is amended by adding at the end thereof the following new subparagraph:

“(G) Prime accounts.—This paragraph shall not apply to any amount paid or distributed out of a prime account (as defined in section 408(p)) unless it is paid into another prime account.”

(3) Clause (i) of section 457(c)(2)(B) is amended by striking “section 402(h)(1)(B)” and inserting “section 402(h)(1)(B) or (k)”.

(c) Penalties.—

(1) Early withdrawals.—Section 72(t) (relating to additional tax in early distributions) is amended by adding at the end thereof the following new paragraph:

“(6) Special rules for prime accounts.—In the case of any amount received from a prime account (within the meaning of section 408(p)) during the 3-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting ‘25 percent’ for ‘10 percent’.”

(2) Failures to report.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) Penalties Relating to Prime Accounts.—

“(1) Employer penalties.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $100 for each day on which such failures continue.

“(2) Trustee penalties.—A trustee who fails—

“(A) to provide 1 or more statements required by the last sentence of section 408(l) shall pay a penalty of $100 for each day on which such failures continue, or

“(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $100 for each day on which such failures continue.”

(d) Reporting Requirements.—

(1)(A) Section 408(l) is amended by adding at the end thereof the following new paragraph:

“(2) Prime accounts.—

“(A) No employer reports.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

“(B) Summary description.—The trustee of any prime account established pursuant to a qualified salary reduction arrangement under subsection (p) shall prepare, and provide to the employer maintaining the arrangement, each year a description containing the following information:

“(i) The name and address of the employer and the trustee.

“(ii) The requirements for eligibility for participation.

“(iii) The benefits provided with respect to the arrangement.

“(iv) The time and method of making elections with respect to the arrangement.

“(v) The procedures for, and effects of, withdrawals from the arrangement.

“(C) Employee notification.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B).”

(B) Section 408(l) is amended by striking “An employer” and inserting—

“(1) In general.—An employer”.

(2) Section 408(i) is amended by adding at the end the following new flush sentence:

“In the case of a prime account under subsection (p), only one report under this subsection shall be required to be submitted to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar quarter, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar quarter.”

(e) Conforming Amendments.—

(1) Section 280G(b)(6) is amended by striking the “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, or” and by adding after subparagraph (C) the following new subparagraph:

“(D) a prime account described in section 408(p).”

(2) Section 402(g)(3) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding after subparagraph (C) the following new subparagraph:

“(D) any employer contribution under section 408(p)(2)(A).”

(3) Subsections (b) and (c) of section 414 are each amended by inserting “408(p),” after “408(k),”.

(4)(A) Section 415(a)(2) is amended by striking “or” at the end of subparagraph (B), by inserting “or” at the end of subparagraph (C), and by adding after subparagraph (C) the following new subparagraph:

“(D) a prime account described in section 408(p),”

(B) Section 415(a)(2) is amended—

(i) by striking “or pension” and inserting “pension, or account”, and

(ii) by striking “or 408(k)” and inserting “408(k), or 408(p)”.

(C) The second last sentence of section 415(c)(2) is amended—

(i) by inserting a comma after “408(d)(3))”, and

(ii) by inserting “, and without regard to contributions to a prime account which are excludable from gross income under section 408(p)” after “408(k)(6)”.

(D) Section 415(e)(5) is amended by inserting “or prime account” after “simplified employee pension”.

(E) Section 415(k)(1) is amended by striking “or” at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting “, or”, and by inserting after subparagraph (F) the following new subparagraph:

“(G) a prime account described in section 408(p).”

(5) Section 4972(d)(1)(A) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding after clause (iii) the following new clause:

“(iv) any prime account (within the meaning of section 408(p)).”

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Savings Without Penalties

SEC. 211. PENALTY-FREE DISTRIBUTIONS FROM CERTAIN RETIREMENT PLANS.

(a) In General.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

“(D) Distributions from certain plans for first home purchases or educational expenses or during periods of unemployment.—

“(i) In general.—Distributions to an individual from an eligible individual retirement arrangement—

“(I) which are qualified first-time homebuyer distributions (as defined in paragraph (7)),

“(II) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year, or

“(III) which are made during a period of involuntary unemployment described in paragraph (9).

“(ii) Distributions may be increased to reflect tax liability.—The amount of distributions to which subclause (I) or (II) of clause (i) apply for any taxable year shall be increased by other distributions to the extent that the amount of such other distributions does not exceed the product of—

“(I) the amount determined under subclause (I) or (II) of clause (i) (without regard to this clause), multiplied by

“(II) the highest rate of tax applicable to the taxpayer under section 1.

(b) Financially Devastating Medical Expenses.—

(1) In general.—Section 72(t)(3)(A) is amended by striking “(B),”.

(2) Technical amendment.—Section 72(t)(2)(B) is amended by inserting “and without regard to any amounts includible in gross income for such taxable year by reason of such distributions” after “taxable year”.

(c) Definitions.—Section 72(t), as amended by section 202, is amended by adding at the end thereof the following new paragraphs:

“(7) Qualified first-time homebuyer distributions.—For purposes of paragraph (2)(D)(i)(I)—

“(A) In general.—The term ‘qualified first-time homebuyer distribution’ means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the child or grandchild of such individual.

“(B) Qualified acquisition costs.—For purposes of this paragraph, the term ‘qualified acquisition costs’ means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

“(C) First-time homebuyer; other definitions.—For purposes of this paragraph—

“(i) First-time homebuyer.—

“(I) In general.—The term ‘first-time homebuyer’ means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(II) ROLLOVER CASES EXCLUDED.—An individual shall not be treated as a first-time homebuyer if the residence acquired is treated as a new residence for purposes of section 1034. This subclause shall not apply if the individual elects not to treat the residence as a new residence for purposes of section 1034.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, the requirements of subparagraph (A) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(8) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(i)(II)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH OTHER PROVISIONS.—

"(i) REIMBURSED EXPENSES.—No amount shall be treated as qualified higher education expenses if a scholarship or grant is received for such expenses or such expenses are otherwise reimbursed to the taxpayer.

"(ii) SAVINGS BONDS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

"(9) PERIOD OF INVOLUNTARY UNEMPLOYMENT.—For purposes of paragraph (2)(D)(i)(III)—

"(A) IN GENERAL.—The term 'period of involuntary unemployment' means the consecutive period beginning on the 180th day after an individual becomes unemployed and ending with the date on which the individual begins any employment which would disqualify the individual from receiving unemployment compensation.

"(B) EMPLOYEE MAY RECONTRIBUTE AMOUNT WITHDRAWN.—For purposes of this title, if, during the 1-year period following the close of any period of involuntary unemployment, an employee makes 1 or more contributions to eligible individual retirement arrangements in amounts not greater than amounts to which paragraph (2)(D)(i)(III) applied during the period of involuntary unemployment—

"(i) the employee may elect to treat such contributions (or any portion thereof) as recontributions of the amounts withdrawn,

"(ii) such contributions shall not be taken into account in determining any excess contributions of the taxpayer, and

"(iii) in the case of any deduction or exclusion with respect to contributions for which an election is made under clause (i)—

"(I) such deduction or exclusion shall only be allowed for contributions with respect to which the amount withdrawn was included in gross income, and

"(II) any limitation on the amount of such deduction or exclusion shall be increased by the amount of contributions described in subclause (I).

The Secretary may issue such regulations as may be necessary to carry out the provisions of this subparagraph, including additional reporting requirements to ensure compliance with such provisions.

"(C) UNEMPLOYMENT COMPENSATION.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(10) ELIGIBLE INDIVIDUAL RETIREMENT ARRANGEMENT.—For purposes of this subsection, the term 'eligible individual retirement arrangement' means—

"(A) an individual retirement plan,

"(B) a qualified cash or deferred arrangement (as defined in section 401(k)),

"(C) an annuity contract described in section 403(b) purchased under a salary reduction agreement (within the meaning of section 3121(a)(5)(D)), or

"(D) an arrangement described in section 501(c)(18)(D)."

(d) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(7)), distributions for qualified higher education expenses (as defined in section 72(t)(8)), or distributions during a period of involuntary unemployment (as defined in section 72(t)(9)), are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(7)), for the payment of qualified higher education expenses (as defined in section 72(t)(8)), or for distributions during a period of involuntary unemployment (as defined in section 72(t)(9))."

(3) Section 1034(i) is amended by inserting "(1)" before "For" and by inserting at the end the following new paragraph:

"(2) For election not to have section apply, see section 72(t)(7)(C)(i)(II)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after the date of the enactment of this Act.

TITLE III—ADDITIONAL ECONOMIC GROWTH INCENTIVES

SEC. 301. INCREASE IN AMOUNT OF DEPRECIABLE ASSETS WHICH MAY BE EXPENSED.

(a) IN GENERAL.—Section 179(b)(1) (relating to dollar limitation on election to expense certain depreciable assets) is amended to read as follows:

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $20,000.

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amount under subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment under section (1)(f)(3) for the calendar year in which the taxable year begins, determined by substituting '1991' for '1989' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 1991, in taxable years ending after such date.

SEC. 302. APPLICATION OF PASSIVE LOSS RULES TO RENTAL REAL ESTATE ACTIVITIES.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Section 469(c) (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS.—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee (other than as an owner-employee) shall not be treated as performed in real property trades or businesses."

(b) CONFORMING AMENDMENT.—Section 469(c)(2) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

By Mr. LAUTENBERG (for himself and Mr. DURENBERGER):

S. 2123. A bill to provide for enhanced reporting to the public of releases of toxic chemicals, and for other purposes; to the Committee on Environment and Public Works.

RIGHT TO KNOW MORE ACT OF 1991

• Mr. LAUTENBERG. Mr. President, today, along with Senator DURENBERGER, I am introducing the Right to Know More Act of 1991, a bill that provides enhanced reporting to the public of releases of pollutants into the environment.

Mr. President, in 1986, I worked long and hard for the enactment of this reporting program. My goal was clear: to give the citizens of this Nation the right to know what pollutants were being released into the environment.

My goal today is just as simple: to provide a right to know more.

Representatives of industry, the environmental community, and the administration agree—the right-to-know program is moving the Nation forward in the effort to achieve a cleaner environment.

The most recent data, released earlier this year by EPA, showed decreases in reported releases and transfers of right-to-know chemicals into the environment. This is further evidence that the law can encourage voluntary emission reductions and pollution prevention.

We knew in 1986 that we could enhance the benefits of right to know by covering more facilities and more chemicals. That's why we provided EPA with the power to do so in the 1986 law. We are now in the fifth year of the right-to-know program.

But EPA has not taken steps to require additional types of facilities to report under the law. And it has required emissions data on only an additional 16 chemicals.

EPA's inaction denies industry, the public, the Government, and the Nation as a whole the greater benefits possible under right to know. For example, the recent Clean Air amendments require 189 chemicals to be regulated as air toxics; 16 of these chemicals are not covered by the current right-to-know reporting requirements.

There are additional chemicals currently regulated under other Federal and State laws which are not subject to the reporting requirements.

As a recent report by environmentalists showed, facilities that fall outside the right-to-know requirements contribute to the Nation's pollution problems.

The 1986 right-to-know law took an important first step. Congress provided EPA with initial mandates about types of facilities and specific chemicals. But recognizing that the program would require some startup time, Congress deferred to EPA to take the next steps. EPA's inaction, coupled with the clear benefits of the right-to-know program, convince us that it is time to expand the law. The public has a right to know more.

On June 6, 1991, I, along with Senator DURENBERGER, directed staff to circulate a discussion draft of legislation that would expand the emissions reporting requirements of the current law. The thrust of this draft was to require reporting on more chemicals and by other types of facilities. The additional chemicals the discussion draft included were primarily substances listed under other environmental programs.

The discussion draft was circulated to various interested parties—representatives from industry, environmentalists, the administration, States, and others. On June 27, 1991, the Subcommittee on Superfund, Ocean and Water Protection, which I chair, held a hearing on the discussion draft and the expansion of the right-to-know program. The hearing gave us an opportunity to hear the views of some of these parties about right-to-know expansion and the discussion draft. In addition, at the hearing I welcomed additional comments from other interested parties.

Generally speaking both GAO's June report and testimony, as well as the report by environmentalists and their testimony, lent strong support for expanding the coverage of the right-to-know program. Although comments from industry as well as EPA raised questions about the specific proposals in the discussion draft, what was generally lacking in the criticism of the draft was concrete alternative proposals aimed at achieving the same goals of more comprehensive reporting. Although EPA indicated it would be completing analyses of factors relevant to the expansion of right to know, as of this date we have not received any such analyses.

In some of the comments, however, a strong case was made for providing a mechanism for giving industry an incentive to reduce emissions of chemicals that presented higher relative risks than other alternative substances. The bill therefore in addition to the current reporting requirements imposed on EPA under the current law and the other additional requirements of the legislation, adds a provision requiring EPA to the extent practicable, to categorize chemicals by relative hazard or to rank chemicals by hazard within a category of chemicals. This provision is based on section 112(g) of the Clean Air Act as revised in 1990. This section requires EPA to rank hazards of air toxics. EPA would exclude increases in emissions of an air toxic from being classified as a "modification" if it is offset by an equal or greater decrease of emissions of another air toxic which is ranked by EPA as being more hazardous.

This idea is incorporated into the bill to differentiate between hazards posed by the expanded list of chemicals which would be subject to reporting. The right-to-know and pollution prevention programs are designed to encourage decreases in the emissions and generation of toxic chemicals. But to the degree that different chemicals present different relative risks, and a manufacturer can choose between using a lower-risk substance, we should not discourage the more environmentally sound choice. This is not to say that the release of any substance covered by this law would be welcomed. But where the manufacturer can legally emit a substance, and where reporting requirements can be designed to encourage emissions that are more protective of the health and environment, we are attempting to accomplish this goal.

In addition, the bill addresses mass accounting. Mass accounting involves data about the use of toxic chemicals in industrial facilities and the generation of pollution to determine the efficiencies of use of toxic chemicals. Mass accounting can enhance pollution prevention efforts, lead to improved reporting under the right-to-know program and the Pollution Prevention Act, as well as stimulated companies to reduce their use of toxic chemicals.

Identifying the relative efficiency of the use of toxic chemicals by an industrial operation is valuable for pollution prevention efforts. It identifies less efficient operations that may need additional pollution prevention efforts. This will allow pollution prevention officials to identify priorities for pollution prevention efforts.

Mass accounting allows Federal and State agencies as well as industries to make more accurate toxic chemical release and toxic pollution generation reports. Officials can relate use data to pollution generation and release information to assist in determining the accuracy of the generation and release information.

Mass accounting information also provides information about the amount of toxic chemicals stored at the facility during the year and present in the product manufactured at the facility. This may help to reduce accidents involving toxic materials, worker exposure to toxic materials, and consumer exposure to products containing toxics.

I first authored provisions on mass accounting in the original right-to-know measures passed in the Senate in 1985. That provision was based on the New Jersey program, which has required facilities to report on their use of toxic chemicals as part of its right-to-know program, enacted in 1983. Although the Senate passed my mass accounting provision as part of the overall right to know and emergency planning legislation I authorized, due to pressure from the House, the mass accounting requirement was dropped in conference. Instead, the National Academy of Sciences was required to prepare a report on the utility of mass accounting.

That report, which was released earlier this year, concluded that mass accounting relies on information which is routinely collected. Moreover the report concluded that mass accounting can help identify waste reduction progress at individual facilities, can

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help guide additional reduction techniques, and could be useful for assessing the reasonableness of reported released estimates. The report cited the New Jersey experience as a basis for its conclusions.

A few months ago, New Jersey passed the Pollution Prevention Act, which expanded the original New Jersey requirement by mandating that facilities report on their use of chemicals and generation of toxic pollutants not only at a facility-wide level, but also on a targeted production process level. This requires the New Jersey Department of Environmental Protection and Energy to develop criteria for determining which production processes should report mass accounting information. Having use and generation data at each targeted production level will provide a better level of precision than reporting on a facility-wide basis for facilities with numerous production processes.

The discussion draft of the Federal Right To Know More Act included a facility-wide mass accounting provision taken from the 1985 Senate passed measure to which I have referred. In light of the New Jersey experience, I decided to expand this provision along the lines of the New Jersey approach.

The mass accounting provisions in the bill are based on the new New Jersey Pollution Prevention Act. This State law was widely hailed by both environmentalists and industry as an effective mechanism of reducing toxic pollution. It also included provisions to require industry to prepare pollution prevention plans. I have consponsored S. 716, which was introduced by Senator LIEBERMAN, and which contains a pollution planning requirement. I look forward to working with Senator LIEBERMAN in moving this measure forward.

Testimony in the hearing raised some concerns from industry, which we heard during the 1985–86 drafting of the original right-to-know program, about the impact of mass accounting on the confidentiality of business information. This concern is addressed in two ways. First, the bill makes the trade secrets provisions from the right-to-know law applicable to information reported under the legislation. Second, as was the case with the New Jersey law, to protect confidential business information, the bill requires use information at the targeted production process level to be reported on a per unit of production basis. This masks the total amount of toxic chemicals and the level of production at the production line.

Another modification that I made to the discussion draft relates to the newly created release-transfer threshold for reporting. In addition to the thresholds currently in the law, the discussion draft proposed a threshold based on the release of chemicals to the environment or to an offsite facility. The discussion draft sought comments on the actual numerical threshold. Staff discussions with representatives from the environmental community showed some interest in pursuing the levels of 100 pounds per year for metals and metal compounds, and 2,000 pounds per year for the other chemicals subject to reporting under the bill. These were the thresholds used in the House bill H.R. 2880, the right-to-know expansion provisions of which were modeled on our discussion draft.

Seeing some value in developing additional information on the thresholds as well as the need to make sure thresholds are promptly in place, I modified the discussion draft based on the approach we took in section 302 of the Emergency Planning and Community Right to Know Act. The net result is that the bill requires facilities to report if they discharge into the environment or transfer to offsite facilities amounts of the expanded list of chemicals—that is the current section 313 chemicals and those chemicals added by this act—greater than a threshold set by EPA within 90 days of enactment. EPA would be required to use the criteria currently in section 313(d)(2) for listing and delisting chemicals to set such new thresholds, and could set such thresholds based on classes of chemicals or categories of facilities. Failure to publish an interim final rule within 90 days setting such thresholds would result in the immediate application of the previously noted legislatively mandated thresholds—100 pounds per year for metals or metal compounds; 2,000 pounds per year for other chemicals.

Another modification to the discussion draft responds to the concern about how quickly the new reporting requirements would take effect, a concern that was voiced by both EPA and industry. The discussion draft was generally effective upon enactment. But the bill as modified will not become generally effective until the submission of forms for calender year 1993, which is required on or before July 1, 1994. This will allow one complete reporting cycle to pass before the new measures take effect. In the case of the requirements relating to targeted production process reporting, these will not take effect until the July 1, 1995 submission of forms, following the requirement for EPA to develop the regulation on targeting criteria. In the case of the chemicals listed pursuant to section 3(a)(3)(F) and (H), subject to the conditions articulate in section 3(a)(4), these would not be subject to reporting requirements until calender year 1994, with the submission of forms required on or before July 1, 1995, unless such chemicals are delisted prior to the application of the reporting requirements.

A final issue raised in the discussion draft was the notion of some kind of national security waiver potentially applicable to Federal facilities, all of which are explicitly subjected to right to know reporting requirements under this bill. Although we received no specific comment on what was essentially just a section heading raising this issue in the discussion draft, I added language to allow the President to waive compliance with reporting requirements only if the President determines the waiver is necessary in the paramount interest of the United States. This provision, which is modeled on section 6001 of the Solid Waste Disposal Act, is meant to create an extremely heavy burden to achieve such a waiver. The provision makes such waivers expire after each reporting period, and requires the President to make new determinations each time such a waiver is sought. In addition, the provision requires Federal Register notice each time a waiver is granted. It also allows any person to petition for review of a waiver decision, and requires the President to act on such a petition within 45 days, including publishing such action, along with reasons for such action, in the Federal Register.

Federal facilities should be treated essentially the same as private facilities under the right-to-know program, and with the very narrow paramount interest waiver I have drafted, I believe this goal will be achieved by the bill.

Finally, I would like to note section 5 of the bill, which requires EPA to establish and implement a grants program, aimed at assisting States, and particularly local entities, in implementing the requirements of the Emergency Planning and Community Right to Know Act, as well as the bill itself. This grants provision is modeled on a similar provision I authored in the fiscal year 1988 Senate appropriations bill for the Department of Housing and Urban Development—Independent Agencies, H.R. 2783. This provision, which was adopted in committee, and passed by the Senate, was aimed at helping our States and localities get the job done on emergency planning and right to know. Unfortunately, during conference the House succeeded in deleting this provision. But I am hopeful that we can successfully pursue such a program in this new legislation.

Mr. President, in putting together this bill we have tried to take account of the concerns that were raised by the interested parties from all sides. As is often the case in drafting legislation, it is difficult to accomodate fully all the positions that are advocated. When and if EPA finishes the promised analysis to which I previously referred, we will certainly want to examine it. In addition, should the introduction of this bill prompt more in industry to develop concrete alternative proposals to the bill's provisions, we will take a close look at them. And should the environmentalists and others have additional

ideas on ways to improve the measure, our minds and doors are open to all good ideas.

Mr. President, as the Senate author of the original right-to-know law, I am eager now to advance improvements to that program. I look forward to working with Senator DURENBERGER, as well as the other Members of the Committee on Environment and Public Works to move the measure forward. In addition, I look forward to continued collaboration with Congressman SIKORSKI, who as previously noted, has modeled the right-to-know provisions of H.R. 2880, on the discussion draft we used to develop the bill today.

As the Committee on Environment and Public Works considers the reauthorization of the Resource Conservation and Recovery Act, I look forward to working with Senator BAUCUS and others on the committee to incorporate the bill in that vehicle, and to reviewing carefully any additional ideas on how to improve the measure.

Mr. President, I ask unanimous consent that a section-by-section analysis, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Right to Know More Act of 1991".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "byproduct" means all chemicals that are subject to the reporting requirements under this Act, and that enter any waste stream (or are otherwise released into the environment) prior to recycling, treatment, or disposal.

(3) The term "environment" has the meaning given such term under section 329(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11049(2)).

(4) The term "facility" means all buildings, equipment, structures, and other items which are located on a single site or contiguous or adjacent sites and which are owned or operated by the same person (or by a person which controls, is controlled by, or under common control with, such person). For the purposes of this Act, the term includes any Federal facility and any facility used in the transportation of chemicals and storage incident to such transportation, including any facility used in the transportation of natural gas.

(5) The term "Federal facility" means any facility owned or operated by a department, agency, or instrumentality of the United States.

(6) The term "offsite waste management facility" shall include any facility that recycles waste chemicals or burns such chemicals as a fuel.

(7) The term "release" has the meaning given such term under section 329(8) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11049(8)).

(8) The term "toxic chemical" means a substance on the list described in section 313(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(c)).

(9) The term "person" has the meaning given such term under section 329(7) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11049(7)).

(10) the term "SIC codes" refers to the 2-digit code numbers used for classification of economic activity in the Standard Industrial Classification Manual.

SEC. 3. RIGHT TO KNOW MORE.

(a) SUPPLEMENTAL REPORT TO TOXIC RELEASE INVENTORY.—

(1) IN GENERAL.—(A) Subject to subsection (e) of this section, and except as provided in subsection (a)(4) and subsection (d)(4), notwithstanding any other provision of law, each owner or operator of a facility subject to the requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) that meets the applicable requirements of paragraph (2) of this subsection shall include, with each such filing (beginning with the submission of forms for calendar year 1993 that is required on or before July 1, 1994), comparable supplemental information.

(B) The comparable supplemental information described in subparagraph (A) shall be submitted in the same manner and in a format substantially similar to the format of the form required under such section 313 (as determined by the Administrator) with respect to releases and transfers from such facility of any chemical—

(i) described in paragraph (3) of this subsection if such chemical is not otherwise listed pursuant to such section 313; or

(ii) listed pursuant to such section 313 with respect to which—

(I) an owner or operator of a facility does not use, manufacture, or process (as described in such section 313) at a level that meets the applicable threshold requirement for reporting under such section 313 (as described in regulations promulgated pursuant to such section 313); but

(II) releases to the environment or transfers to an offsite facility in an amount described in paragraph (2)(B).

(2) CHEMICALS SUBJECT TO REPORTING.—(A) Notwithstanding any other provision of law, with respect to any chemical described in paragraph (3), any facility that—

(i) uses, manufactures, or processes (as described in such section 313) the chemical at a level that meets the applicable threshold requirement for reporting under such section 313 (as described in regulations promulgated pursuant to such section 313); or

(ii) releases to the environment or transfers to an offsite facility any such chemical in an amount described in subparagraph (B),

shall be required to submit a supplemental report under this subsection.

(B)(i) Within 90 days after the date of the enactment of this Act, the Administrator shall—

(I) publish an interim final regulation that establishes a threshold quantity for releases to the environment or transfers to an offsite facility for each chemical subject to reporting requirements under this Act, taking into account the criteria described in section 313(d)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)(2)); and

(II) initiate a rulemaking in order to publish final regulations that establish such a threshold quantity for each such chemical.

(ii) At the Administrator's discretion, such threshold quantities may be based on classes of chemicals or categories of facilities.

(iii) If the Administrator fails to publish an interim final regulation that establishes such a threshold quantity for a chemical subject to reporting under this Act within 90 days after the date of the enactment of this Act, in the case of a metal or metal compound, the threshold quantity for the chemical shall be 100 pounds per year, and in the case of any other chemical, such threshold quantity shall be equal to 2,000 pounds per year.

(iv) The Administrator may revise such threshold quantities under this subparagraph from time to time. Any such revision shall take into account the criteria of section 313(d)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)(2)).

(3) DESCRIPTION OF CHEMICALS.—The chemicals described in this paragraph are the following:

(A) Priority pollutants listed under regulations relating to steam electric power point source pollutants under the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) (as listed in Appendix A of section 423 of title 40, Code of Federal Regulations, as in effect on the day before the date of the enactment of this Act, subject to any subsequent modifications of the list).

(B) Certain hazardous wastes identified and listed under regulations promulgated under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (as listed in sections 261.33(e), 261.33(f), and Appendix VIII of part 261 of title 40, Code of Regulations, as in effect on the date of the enactment of this Act, subject to any subsequent modifications of the lists).

(C) Any chemical listed under section 112(b)(1), 112(r)(3), 602(a), or 602(b) of the Clean Air Act (42 U.S.C. 7412(b)(1), 42 U.S.C. 7412(r)(3), 42 U.S.C. 7671a(a), and 42 U.S.C. 7671(b), respectively).

(D) A pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 (u))—

(i) with respect to which the registration has been denied, cancelled (including voluntary cancellation following the Special Review process, as described in part 154 of title 40, Code of Federal Regulations, as in effect on the day before the date of the enactment of this Act), or is under suspension;

(ii) that is undergoing Special Review (as described in clause (i)) or is undergoing other administrative review (including for cancellation of use pursuant to section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d)); or

(iii) that is classified as a restricted use pesticide under section 3(d)(1) of such Act (7 U.S.C. 136a(d)(1)).

(E) Chemicals listed under certain regulations and proposed regulations under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) for which maximum contaminant levels have been proposed or promulgated, as listed—

(i) under section 141.11, 141.12, 141.51, or 141.61 of title 40, Code of Federal Regulations, (as in effect on the day before the date of the enactment of this Act, subject to any subsequent modifications); or

(ii) in the proposed regulations relating to national primary drinking water regulations published at 55 Federal Register 30370 on July 25, 1990, and at 54 Federal Register 22062 on May 22, 1989.

(F) Subject to paragraph (4) of this subsection, chemicals identified by the Carcino-

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gen Assessment Group of the Environmental Protection Agency, the International Agency for Research on Cancer, or the National Toxicology Program as a known or probable human carcinogen.

(G) Extremely hazardous substances listed pursuant to section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11002(a)(2)).

(H) Subject to paragraph (4) of this subsection, chemicals listed in 90 California Regulatory Notice Register 990 (July 1990) as reproductive toxins.

(4) CONDITIONS FOR SPECIFIED LISTS.—Any chemical described in subparagraph (F) or (H) of paragraph (3) of this subsection that is not otherwise listed pursuant to such paragraph (3) or section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023), shall be subject to the reporting requirements under this Act beginning with the submission of forms for calender year 1994 that is required on or before July 1, 1995, unless, in accordance with the list revision procedures and criteria described in subsection (d) or (e) of section 313 of the Emergency Planning and Community Right-to-Know Act, the Administrator, by rule, deletes any such chemical from the lists of chemicals for which reporting is required under this Act.

(b) PARALLEL REPORT FOR CERTAIN FACILITIES NOT COVERED UNDER THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986.—Notwithstanding any other provision of law, any facility that employs 10 or more full-time employees that is not described in the Standard Industrial Codes listed in section 313(b) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 1023(b)), or that is otherwise exempt under section 313 of such Act from the reporting requirements of such section—

(1)(A) that meets the threshold requirements for reporting under such section 313 (as described in regulations promulgated pursuant to such section 313); or

(B) that releases to the environment or transfers to an offsite facility any chemical listed pursuant to section 313 in an amount greater than or equal to the applicable threshold quantity specified in subsection (a)(2)(B) of this section; or

(2)(A) that uses, manufactures, or processes (as described in such section 313) a chemical described in subsection (a)(3) of this section that is not listed pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 at a level equivalent to the applicable threshold requirement described in such section 313; or

(B) releases to the environment or transfers to an offsite facility any chemical described in subparagraph (A) of this paragraph in an amount greater than or equal to the applicable threshold quantity specified in subsection (a)(2)(B) of this section,

shall be required under this section to submit a report to the Administrator of releases to the environment of the chemicals listed under such section 313 in the same manner and in a format substantially similar to the format of the form required under such section (except that such report shall incorporate the additional reporting requirements described in this section).

(c) EXTENSION OF REPORTING REQUIREMENTS WITH RESPECT TO TRANSFERS TO OFFSITE WASTE MANAGEMENT FACILITIES.—Notwithstanding any other provision of law, any facility subject to the reporting requirements under this section or section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) shall be required to report all transfers of chemicals listed under this section or such section 313 to offsite waste management facilities.

(d) ADDITIONAL INFORMATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any facility subject to the reporting requirements under this section or section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) shall provide, at the time of reporting, the following additional information:

(A) The maximum hourly rate of release of emissions to the air or discharges into the water or discharges on the land of each chemical subject to reporting requirements during the reporting period.

(B) The cause, source, and frequency of releases that result in such maximum hourly rate being achieved.

(C) A compilation of annual input, accumulation, and output quantities of each chemical subject to reporting requirements under this Act at the facility, including the quantities produced, used, generated as byproduct, consumed, recycled onsite but out-of-process, transferred as product, or transferred as a constituent in products.

(D) For each targeted production process of the facility—

(i) the amount of each chemical used per unit of product and generated as byproduct per unit of product;

(ii) the amount present in the product per unit of product;

(iii) a description of the production unit, including the production process, product, and unit of product; and

(iv) the amounts manufactured (or otherwise created) and used, expressed as a range.

(E) Two-year and five-year goals for reduction in—

(i) each amount reported under clause (i) of subparagraph (D); and

(ii) the amounts manufactured, processed, otherwise used, and generated as byproduct at a facility.

(F) Identification of the type of toxics use reduction technique, or other factor, that reduced by 10 percent or more from the previous year any amount reported under clause (i) or (ii) of subparagraph (D).

(2) ADDITIONAL REPORTING REQUIREMENT.—In any case in which the owner or operator of a facility submits a report under this subsection for a calendar year which omits a chemical (subject to the reporting requirements under this Act) contained in a report for such facility for the calendar year preceding the calendar year being reported on, the owner or operator, for purposes of allowing the Administrator to track the availability or risks of alternative chemicals, shall—

(A) identify in the report any substance which is a replacement for the omitted chemical; and

(B) state whether the substance is a chemical subject to reporting requirements under this Act.

(3) CERTIFICATION.—Each report submitted under this subsection shall contain a certification signed by a senior management official of the facility with direct operating responsibility. The certification shall state that, subject to a penalty of perjury, the official has read the reports and such reports are, to the official's best knowledge and belief, true, complete, accurate, and prepared under a proper data accounting and planning system.

(4) DEADLINE FOR FIRST REPORTS.—The owner or operator of a facility with a targeted production process shall submit the information required under paragraph (1)(D) and paragraph I(E)(i) at the time of submission of any form required to be submitted for calendar year 1994 pursuant to this Act, on or before July 1, 1995.

(5) CRITERIA FOR TARGETED PRODUCTION PROCESSES.—Within 18 months after the date of enactment of this Act, the Administrator shall establish, by regulation, criteria pursuant to which an owner or operator of a facility shall identify targeted production processes for the purpose of focusing pollution prevention strategies on such targeted production processes. The criteria for the identification of targeted production processes shall be based on a consideration of the toxicity of specific chemicals used, generated, or released at the targeted production process, and shall require that a targeted production process be a production process that makes a significant contribution to the use, generation, and release of chemicals.

(e) MODIFICATION OF REPORTING FORM.—The Administrator shall modify the form required for purposes of reporting information under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) to the extent that he or she considers such modification necessary to include the additional information required. In addition, the Administrator shall, after notice and opportunity for comment, and not later than 18 months after the date of enactment of this Act, publish an identification, to the extent practicable, of the relative hazard to human health and the environment resulting from chemicals subject to reporting requirements under this Act, by or within category of the level of the hazard. In publishing data on amounts of such chemicals, the Administrator shall also report the data with respect to each chemical by or within category of hazard.

(f) REPORTING PROVISIONS.—The provisions of sections 322, 325(c), and 326 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11042, 11045(c), and 11046, respectively) shall apply to the reporting requirements under this section in the same manner as for the reports required under section 313 of such Act (42 U.S.C. 11023).

(g) AVAILABILITY OF DATA.—Subject to the requirements relating to trade secrets described in section 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11042), the Administrator shall make data collected under this section publicly available in the same manner as for the data collected under section 313 of such Act (42 U.S.C. 11023).

(h) PROVISION OF INFORMATION TO HEALTH PROFESSIONALS.—

(1) IN GENERAL.—The supplying of information to health professionals under this section shall be carried out in the same manner as required with respect to health professionals under section 313 of such Act (42 U.S.C. 11023).

(2) SPECIAL ENFORCEMENT PROCEDURES.—Special enforcement procedures relating to a violation of requirements related to the provision of information to health professionals, described in section 325(e) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11045(e)) shall apply to any such violation under this section in same manner as required under such section.

(i) FRIVOLOUS CLAIMS.—Civil and administrative penalties assessed for frivolous claims under this section shall be assessed in the same manner as for assessments of such penalties under section 325(d) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11045(d)).

(j) PROCEDURES FOR ADMINISTRATIVE PENALTIES.—The procedures for administrative penalties described in section 325(f) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11045(f)) for violations under such Act, shall apply in the same manner to administrative penalties under this section.

(k) STUDY OF ELECTRONIC METHODS TO IMPROVE REPORTING.—

(1) IN GENERAL.—The Administrator shall conduct a study of methods of encouraging the reporting of information under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023)) and this Act through the use of computer telecommunication and other means. Such study shall identify methods to—

(A) increase the rate at which such information is made available to the public;

(B) improve the accuracy of such information;

(C) improve public accessibility to such information; and

(D) enhance the overall efficiency of the information reporting and collection process.

(2) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Administrator shall submit a report of the findings of the study described in paragraph (1) and plans for implementing methods to improve reporting to the appropriate committees of the Congress.

(l) EXEMPTION FOR FEDERAL FACILITIES BASED ON PARAMOUNT INTEREST.—

(1) IN GENERAL.—The President may waive compliance with the reporting requirements of this Act if the President determines that the waiver is necessary in the paramount interest of the United States. Any such waiver shall be for a period of not more than one annual reporting period under this Act, except that additional waivers may be granted upon new determinations by the President.

(2) NOTICE.—Upon issuance of such waiver, the President shall publish in the Federal Register a notice of the granting of the waiver and an explanation of the reasons for granting the waiver, unless the President determines that such publication would be contrary to the paramount interest of the United States. If the President makes such determination, the President shall provide notice to the Congress of such determination.

(3) PETITION.—Any person may petition the President to rescind any waiver granted under this subsection. The President shall, within 45 days after receipt of the petition, accept or deny the petition, and publish in the Federal Register notice of the decision to accept or deny the petition. Such notice shall include the reasons for the decision.

SEC. 4. TOXIC RELEASE INFORMATION STUDY.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Director of the Office of Technology Assessment (hereafter in this section referred to as the "Director") shall, in consultation with the Administrator, conduct and complete a study of all matters relating to the provision to the public of toxic release inventory information described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023), and reports required under this Act (hereafter in this section referred to as "toxic release information").

(b) CRITERIA OF STUDY.—The study conducted by the Director shall include the following:

(1) A review of the methods by which toxic release information is made available to the public, with a concentrated emphasis on the computer data base described in section 313(j) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(j)).

(2) A review of the efficacy and cost-effectiveness of each method described in paragraph (1).

(3) The development of recommendations for more effective means to disseminate toxic release information, and to promote ease of public access to such information.

(4) The development of recommendations for alternatives to basing the publicly accessible data base in the T.O.X.N.E.T. system of the National Library of Medicine.

(c) REPORT.—Upon completion of the study described in subsection (a) of this section, the Director shall submit to the Administrator and to the appropriate committees of the Congress a report containing a detailed statement of the findings and conclusions of the study, together with such recommendations for such regulations and administrative actions as the Director, in consultation with the Administrator, considers appropriate to make improvements in the provision of toxic release information to the public.

SEC. 5. GRANT PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—(A) The Administrator shall establish a grant program to assist States, local governments, local emergency planning committees and State emergency response commissions (as described in section 301 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001)) in carrying out the provisions of subtitles A, B, and C of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 through 11005, 11021 through 11023, and 11041 through 11050, respectively) and this Act.

(B) The Administrator shall implement the grant program under this section in coordination with the various offices of the Environmental Protection Agency having responsibilities for the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 and this Act (including the Office of Pesticides and Toxic Substances and the Office for Solid Waste and Emergency Response), and the Administrator shall ensure that the grant program established under this section shall be implemented in coordination with State emergency response commissions.

(2) APPLICATIONS.—(A) Not later than 2 months after the date of the enactment of this Act, the Administrator shall accept applications for grants under this section.

(B) The Administrator shall make a determination on a grant application not later than 45 days after the Administrator receives the application.

(b) GRANT REQUIREMENTS.—

(1) DISTRIBUTION.—The Administrator shall ensure that States shall make available to local governments or local emergency planning committees (as described subsection (a)) an amount equal to 75 percent of the amount of the grant to the State under this section for the purposes of assisting local governments and local emergency planning committees in carrying out the provisions of subtitles A, B, and C of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 through 11005, 11021 through 11023, and 11041 through 11050, respectively).

(2) MATCHING.—(A) The amount of any grant awarded under this Act shall not exceed an amount equal to 80 percent of the cost of carrying out the activities authorized under the grant program.

(B) The remaining percentage of such costs shall be funded from non-Federal sources. Such sources may include amounts appropriated by the State for State activities or to finance activities of local governments or local emergency planning committees in carrying out subtitles A, B, and C of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 through 11005, 11021 through 11023, and 11041 through 11050, respectively).

(3) CRITERIA.—The Administrator shall award grants under this section in proportion to State and local needs, as measured by such factors as the extent to which chemical substances and mixtures are manufactured, processed, used, and disposed of in a State, the extent of potential exposure in a State of human beings and the environment to chemical substances and mixtures, and the population density of a State. The Administrator shall assure that State awards to localities or local emergency planning committees are in proportion to local needs as measured by factors similar to those described in the preceding sentence, including such factors as presence of substances, extent of potential exposure, and population density.

(c) STATUTORY CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed so as to preempt the ability of any State government or the government of a political subdivision of a State from funding activities conducted under subtitles A, B, and C of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 through 11005, 11021 through 11023, and 11041 through 11050, respectively) by other and additional means.

(2) OTHER PROGRAMS.—Nothing in this section shall affect the availability of appropriations to any Federal agency for any programs conducted by such agencies other than to the Environmental Protection Agency for the grant program described in subsection (a).

SEC. 6. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 7. EXTENSION OF POLLUTION PREVENTION REQUIREMENTS.

Notwithstanding any other provision of law, in addition to those owners or operators subject to requirements of section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. 13106), any owner or operator of a facility subject to any reporting requirement under this Act shall be subject the requirements of such section 6607. For the purposes of this section, in addition to the chemicals subject to the requirements of such section 6607, any chemical described in section 3(a)(3) of this Act shall be deemed a chemical subject to the reporting requirements of such section 6607.

SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed or interpreted—

(1) as preempting in any State or political subdivision of a State from imposing any additional liability or requirements; or

(2) to displace or diminish the responsibilities and liabilities under any other Federal law (whether statutory or common).

SECTION-BY-SECTION ANALYSIS OF RIGHT TO KNOW MORE ACT OF 1991

Section 1. Short Title: Right to Know More Act of 1991.

Section 2. Definitions.

Section 3—Subsections (a) and (b). Subsections (a) and (b) of section 3 are the core of the bill. These subsections impose requirements that supplement those already imposed by section 313 of Title III of SARA. These supplemental requirements would become generally effective beginning with the submission of forms for calendar year 1993 that is required on July 1, 1994 and would apply to facilities currently covered and to facilities outside the current SIC Codes of 20–39, including facilities currently exempt pursuant to the transportation exemption of section 327 (see section 2 definition of "facility"). These subsections apply these supplemental requirements in the following ways:

A. Impose New Requirements for Facilities Already Covered. Those facilities currently subject to Right to Know (e.g. those with 10 or more employees, that fall in the Manufacturing SIC Codes 20–39, and use/manufacture/process specified amounts of the currently listed chemicals), would also be required to do the following:

1. New Substances. These facilities would be required to report on their emissions of an additional list of chemicals of which they manufacture/process more than 25,000 pounds annually, or use 10,000 pounds annually. The additional list of chemicals consists of those chemicals currently not listed under section 313 but listed under the following environmental programs:

a. Priority Pollutants listed pursuant to the Federal Water Pollution Control Act.

b. Certain hazardous wastes identified and listed under specified regulations promulgated under the Solid Waste Disposal Act.

c. Chemicals listed under specified sections of the Clean Air Act.

d. A pesticide 1) with respect to which the registration has been denied, cancelled (including voluntarily following Special Review), or is under suspension; 2) that is undergoing Special Review (as described in 40 CFR Part 154) or undergoing other administrative review pursuant to FIFRA section 6; or 3) that is classified as a restricted use pesticide under section 3(d)(1) of FIFRA.

e. Chemicals listed under specified regulations of the Safe Drinking Water Act.

f. Effective for calendar year 1994 and required for the submission of forms due on or before July 1, 1995, chemicals identified as a known or probable human carcinogens by the Carcinogen Assessment Group of EPA the International Agency for Research on Cancer, or the National Toxicology Program, unless in accordance with the list revision procedures and criteria of section 313(d) or section 313(e) of SARA Title III, unless the Administrator by rule deletes any such carcinogen (not otherwise listed) from the list of chemicals for which reporting is required under this Act.

g. Extremely Hazardous Substances listed under section 302 of Title III of SARA.

h. Effective for calendar year 1994 and required for the submission of forms due on or before July 1, 1995, chemicals listed as reproductive toxins by the California Safe Drinking Water and Toxic Enforcement Act of 1986, unless in accordance with the list revision procedures and criteria of section 313(d) or section 313(e) of SARA Title III, unless the Administrator by rule deletes any such reproduction toxins (not otherwise listed) from the list of chemicals for which reporting is required under this Act.

2. New and Additional Threshold for Reporting. Currently covered facilities would also be subject to a new threshold for reporting. In addition to the current threshold, facilities would be required to report if they discharge into the environment or transfer to offsite facilities amounts of the expanded list of chemicals (i.e. the current section 313 chemicals and those chemicals added by this Act) greater than a threshold set by EPA within 90 days of enactment. EPA would be required to use the criteria currently in section 313(d)(2) for listing and delisting chemicals to set such new thresholds, and could set such thresholds based on classes of chemicals or categories of facilities. Failure to publish an interim final rule within 90 days setting such thresholds would result in the immediate application of legislatively mandated thresholds (100 pounds per year for metals or metal compounds; 2000 pounds per year for other chemicals).

B. Bring in a New Universe of Facilities. Section 3 would also require an additional universe of facilities, including Federal facilities (see definitions section of bill), regardless of which SIC Codes they fall under, to report the same information under the same conditions (e.g. minimum 10 employees, same chemical thresholds) as those manufacturing facilities reporting under Right to Know, including the new transfer-release threshold discussed above.

Section 3—Subsections (c)–(k). Subsections (c) through (k) of section 3 make a number of other modifications to the reporting requirements, the primary ones being the following:

A. Transfer Offsite. Closing the so-called recycling loopholes, subsection (c) would require reporting of transfers to all offsite waste management facilities.

B. Additional Information. Subsection (d) would require reports of peak air, water and land releases—i.e. the maximum hourly rate of such releases—and the cause, source, and frequency of such releases. Subsection (d) also requires reporting the compilation of annual input, accumulation, and output quantities of each chemical subject to reporting requirements at the facility, including the quantities produced, used, generated as byproduct, consumed, recycled onsite but out-of-process, transferred as product, or transferred as a constituent in products. This subsection also requires that for each targeted production process of the facility that additional specified information be reported for calendar year 1994 with the submission of forms required on or before July 1, 1995.

Section 4. This section requires the Director of the Office of Technology Assessment [OTA], in consultation with EPA to conduct a study of ways to enhance the provision to the public of the national emissions data.

Section 5. This section requires and authorizes EPA to make grants for each of the years FY 1992–96 to assist States, local governments, local emergency planning committees, and State emergency responses commissions in carrying out all subtitles of the Emergency Planning and Community Right to Know Act, as well as the requirements of the bill. Such grants must be awarded in a manner that assures that States make 75 percent of all such grant receipts available to local governments or local emergency planning committees.

Section 6. This section authorizes such sums as be necessary to carry out this Act.

Section 7. This section specifies that the reporting requirements under the Pollution Prevention Act of 1990, in addition to their current application to the current section 313 universe of owners, operators, and chemicals, will also be applicable to all owners or operators as well as chemicals subject to the expanded reporting requirements under the Right to Know More legislation.

Section 8. This section makes clear that the bill is not preemptive of State law, and that it does not diminish or displace requirements under other Federal law.●

By Mr. BUMPERS:

S. 2124. A bill entitled the "Ballistic Missile, Nuclear, Chemical, and Biological Weapons Nonproliferation Support Act of 1991"; to the Committee on Foreign Relations.

BALLISTIC MISSILE, NUCLEAR, CHEMICAL, AND BIOLOGICAL WEAPONS NONPROLIFERATION SUPPORT ACT OF 1991

● Mr. BUMPERS. Mr. President, today I am introducing the "Ballistic Missile, Nuclear, Chemical, and Biological Weapons Nonproliferation Support Act of 1991." I ask unanimous consent that the bill and some explanatory language be printed in the Record at the conclusion of my remarks.

This bill is a modification of the amendment that I offered to the Defense appropriations bill in September and which was accepted. Sadly, that amendment was dropped for jurisdictional reasons in conference, though the conferees made it quite clear that they supported the intent of the amendment. I ask unanimous consent that the text of the fiscal year 1992 Defense appropriations conference report dealing with this subject be printed in the Record at this point.

Mr. President, I have expanded the scope of my earlier amendment in two ways. First, I include ballistic missile technology as well as nuclear, chemical, and biological weapons. While not weapons of mass destruction themselves, ballistic missiles are a force multiplier for other weapons of mass destruction. Had Saddam Hussein's Scuds carried nuclear warheads, no one would be talking about the great success of the Patriot missile.

Second, I am including North Korea as well as Iraq. Recent press reports about North Korea's nuclear potential have been very disturbing. These nuclear developments have led Defense Secretary Cheney to delay the implementation of phase II of United States troop withdrawals from South Korea. Even more disturbing have been reports that German companies are assisting North Korea's nuclear weapons program. We were fortunate in stopping Iraq. We may not be so lucky with North Korea.

My bill would bar imports from those companies that have knowingly provided assistance or support to the missile or nuclear/chemical/biological weapons programs of Iraq or North Korea. It also urges the President to get other countries to adopt a similar restriction, and to halt the actions of companies within their borders that are providing such assistance.

It is my hope that the Senate will act on this bill early in 1992 and give the President this powerful new weapon to fight one of the most important security threats of this post-cold war era. My bill will not solve the whole problem, but it will make an important start. I urge my colleagues to join me in this effort.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ballistic Missile, Nuclear, Chemical, and Biological Weapons Nonproliferation Support Act of 1991."

SEC. 2. LIMITATION.

Notwithstanding any other provision of law, no goods or services shall be imported into the United States or its territories or possessions that are produced or provided by companies that the President certifies to the Congress pursuant to the passage of this bill as having knowingly participated in the Iraqi or North Korean programs to develop ballistic missiles or nuclear, chemical, or biological weapons.

SEC. 3. INTERNATIONAL COOPERATION.

The President should request that other countries enact similar restrictions and take other appropriate steps, and strongly encourage the governments of those countries in which companies have provided such assistance to Iraq or North Korea to halt further such assistance.

SEC. 4. DURATION OF THE ACT.

This limitation shall remain in force for a period of 10 years after the date of enactment of this Act.

REPORT ON ASSISTANCE TO IRAQ

Amendment No. 192. Deletes Senate provision prohibiting certain imports to the United States. The conferees are concerned over reports that Western companies provided assistance to Iraq in its nuclear, biological, chemical (NBC), and ballistic missile programs. The Senate bill contained language giving the President the authority to bar for a period of 10 years the imports of companies that knowingly assisted Iraq in its programs for the development of weapons of mass destruction. The conferees reluctantly decided to drop this language for jurisdictional reasons only. The conferees wish to express their strong support for the intent of this provision and hope that it will be adopted on a suitable vehicle.

To further underscore their concern, the conferees request that the President provide, in both classified and unclassified versions, a report to the Appropriations Committees of the House and the Senate based on recent information, that includes an assessment of the contribution that these companies made to Iran's NBC and ballistic missile capabilities and a listing of these companies. The companies should include those that provided financial services, transportation, and other essential services as well as hardware and software support.●

By Mr. McCONNELL:

S. 2125. A bill to lift the trade embargo against Vietnam if certain conditions are met; to the Committee on Banking, Housing, and Urban Affairs.

UNITED STATES-VIETNAM TRADE RELATIONS ACT

● Mr. McCONNELL. Mr. President, although I hardly expect the Senate to take up this legislation now that we have come to the end of the session, I hope it offers a beginning point for discussion between the administration, the business community, and Members of Congress interested in Indochina and particularly Vietnam.

The bill I am introducing attempts to bridge the differences between these members of the business community who would like to see the trade embargo lifted tomorrow to further American commercial interests in an emerging market and those in the administration and Congress who would like to continue to use the embargo and normalization of relations as leverage in encouraging the Vietnamese on important policy priorities.

My legislation explicitly defines the expectations we have of the Vietnamese Government and requires the President report that these conditions have been met prior to lifting the embargo. However, my bill injects certainty into the process by establishing a date when the embargo will be lifted if the conditions are met.

There are three principle conditions which I have asked the President to report on. The first issue bears on the status of American POW's and MIA's. I cannot think of any issue which evokes a stronger and more emotional response than the question of our POW–MIA's. I was glad to see the select committee established to pursue the matter and believe the Members are off to a strong start in their inquiry. I am also committed to guaranteeing that the Vietnamese fully cooperate in resolving all outstanding cases and returning recovered and recoverable remains.

I also think progress on identifying and releasing those people held in political reeducation camps must be addressed. While we are no longer looking at the thousands of victims we were a matter of years ago, every person who is being detained because of an association with or loyalty to the United States must be released.

Finally, the Vietnamese must continue to actively support the U.N. peace agreement and transition to democracy in Cambodia. Their role and responsibility to see the process through to successful elections should be a factor in any changes in their political or economic relationship with the United States.

Having laid out the conditions, I also must add that I think the business community has legitimate concern about being shut out of an important emerging Asian market. Without some confidence that they will be given an opportunity to act on contracts—to really close deals—they are at a distinct disadvantage compared with many of America's trade competitors. The Japanese, French, Canadians, the British to name just a few do not observe a trade embargo with Vietnam. In fact, foreign investment in Vietnam is estimated to be as high as $5 billion.

Mr. President, offering a date when business will be allowed to move into Vietnam does not compromise our short- or long-term leverage. There are other important international lending and trading privileges such as most-favored-nation status which might be extended at some point in the future. We will continue to have options and opportunities available to offer Vietnam an incentive to make serious progress on the agenda of concern to this country.

However, given our major trade deficit, I think we should do what we can to assure American companies have access to a market where they have obvious strengths. Vietnam needs what American companies are good at—telecommunications, energy exploration and development, banking and infrastructure, and construction projects. American companies simply are not players in this important trade game—they are benched as they watch time and opportunity slip by.

I am hopeful that this legislation will guarantee the Vietnamese stay engaged in the peace process as they fulfill their absolute obligations to resolve POW–MIA cases and release political detainees. Should these conditions be met, it would seem reasonable to offer the American business community the assurance that they will have an opportunity on a specific date to close negotiations and begin to trade with Vietnam.●

By Mr. SPECTER:

S. 2126. A bill to extend the temporary suspension of duties on L-alanyl-L-proline, also known as Ala Pro; to the Committee on Finance.

S. 2127. A bill to suspend temporarily the duty on {3R-{3-alpha(R); 4-beta}}-4(acetyloxy)-3-{{(1,1-dimethyl ethyl) dimethyl-siyl}oxy}ethyl}-2-azetidinone; to the Committee on Finance.

S. 2128. A bill to suspend temporarily the duty on 3-chloro peroxybenzoic acid; to the Committee on Finance.

S. 2129. A bill to suspend temporarily the duty on composite vials of timolol maleate/pilocarpine solutions and diluents; to the Committee on Finance.

SUSPENSION DUTY ON CERTAIN CHEMICALS

Mr. SPECTER. Mr. President, today I am introducing legislation that will suspend temporarily the respective duty on the following chemicals or materials: L-alanyl-L-proline, also known as Ala Pro; acetoxy azetidinone; 3-chloro peroxybenzoic acid, also known as MCPBA; and composite vials of timolol maleate/pilocarpine hydrochloric solution. Merck & Co., Inc. is seeking these duty suspensions for its operations in West Point, PA, and Danville, PA in order to allow it to remain competitive in the world marketplace with its respective products, namely Vasotec, PRIMAXIN/TIENAM, Prilosec, and Timpilo.

With regard to these products Mr. President, I am informed that Vasotec is one of the world's leading medicines for the treatment of hypertension. For many patients, Vasotec is also highly effective adjuntive therapy in management of heart failure.

Merck represents that its PRIMAXIN/TIENAM formulations have a broad spectrum of activity against gram-positive and gram-negative aerobic and anaerobic bacteria including strains resistant to penicillin, cephalosporins, and aminoglycosides.

As for Prilosec, I am informed that it is for a new class of gastrointestinal drug called acid pump inhibitors. It is approved for use in treating poorly responsive gastroesophageal reflux disease [GERD], severe erosive esophagitis, and conditions such as Zollinger-Ellison syndrome.

I am also informed that Timpilo is a combination formulation not manufactured by anyone in the U.S. and is used to lower intraocular pressure in the treatment of glaucoma.

As you are aware, Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Merck & Co., will not gain any such advantage by any of the bills that I am introducing today. My staff has consulted with the Commerce Department's Office of Industrial Trade, the House of Representatives' Ways and Means Subcommittee on Trade, which has jurisdiction over the respective companion bills, H.R. 1857, H.R. 1942, H.R. 1935, and H.R. 3719, and with the offices of Representative LARRY COUGHLIN, the sponsor of H.R. 1857 and H.R. 3719, Representative GEORGE GEKAS, the sponsor of H.R. 1935, and Representative PAUL KANJORSKI, the sponsor of H.R. 1942. Each such office has informed my staff that there is no domestic opposition to Merck & Co.'s duty suspension requests.

Mr. President, Merck & Co. represents that without the requested duty suspensions, it is faced with operating at an economic disadvantage vis-a-vis its respective European and Japanese competitors because none of the chemicals or materials for which it seeks duty suspensions are manufactured here in the United States. For instance, Merck represents that it must pay a duty on Ala Pro that it imports from French and Japanese manufacturers. Similarly, acetoxy azetidinone is imported from Japan; MCPBA is imported from Belgium; and the composite vials of timolol maleate/pilocarpine hydrochloric solution and diluent are imported from France. Each of these, I am told, are also subject to import duty.

In sum, Mr. President, without these duty suspensions, the ability of Merck & Co., Inc. to preserve its integrity and continue to compete in the world marketplace while maintaining its facilities in West Point and Danville, Pennsylvania is made more difficult.

For the foregoing reasons, Mr. President, I, therefore, urge my colleagues to join me in supporting this legislation.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 2130. A bill to amend title 35, United States Code, to permit separate patent extensions for each product under a patent which is subject to full regulatory review and approval; to the Committee on the Judiciary.

PATENT REVIEW AND APPROVAL

• Mr. DECONCINI. Mr. President, I rise today to introduce with my distinguished colleague from Utah, Senator HATCH, a narrow but important amendment to one of the most significant pieces of legislation enacted by Congress in many years—the Drug Price Competition and Patent Restoration Act of 1984. That legislation will ultimately save American consumers billions of dollars. Besides providing massive savings to our citizens, especially elderly citizens, who must of necessity consume an inordinate share of prescription drugs, the act increases incentives to the innovative, research-based pharmaceutical community to develop new drugs that would not otherwise become available.

It has been almost 7 years since the act's passage and there have been no amendments to it. The bill we offer today in no way modifies or disturbs that most delicate balance between research-based pharmaceuticals, generic products, and the public. We believe that it rectifies a narrow consequence of the act that was unintended in that it was unanticipated.

At the heart of the 1984 act lies an elegantly simple quid pro quo. In return for additional years of patent life to compensate for the difficult, expensive, and time-consuming FDA drug-approval process, the pharmaceutical industry agreed to support wholesale changes in both the law and the rules surrounding the approval by FDA of generic versions of off-patent drugs.

Surrounding that seemingly simple core stands an extremely complex legislative edifice. While making patent extensions available to offset legitimate delays and loss of patent life, Congress also wanted to ensure that companies would not be able to use the law to extend a patent forever and thus unnecessarily prolong their market position on pharmaceuticals covered by these patents.

Toward this end, the act provides that any patent can receive only one extension. This was done to avoid the possibility of old patents being kept alive by claiming new uses for the same drug. This, of course, is only one of the elements in the 1984 act designed to prevent evergreening. However, it is the focus of the legislation that Senator HATCH and I are introducing, today.

In crafting the 1984 act, it was assumed that any particular patent would cover only one drug. It was certainly not anticipated that one patent would actually encompass two or more separate new drugs that is, new chemical entities each requiring a full, separate and independent review by the FDA. Indeed, such situations rarely occur.

Mostly, they arise within university research departments where the researchers are conducting seminal research leading to broad, landmark inventions. These researchers are more interested in pursuing their basic conceptual research and publishing their results for the benefit of the scientific community than they are in pursuing the various potential commercial applications. Because of this, they must file patent applications promptly to protect rights that would be lost or forfeited by publication.

Rarely do these researchers direct their work to identifying particular commercial embodiments that enable them to file separate patent applications on the various commercial embodiments of their broad invention.

Thus, university researchers tend, therefore, to patent these fundamental discoveries early, too early to appreciate the full commercial implications of their discoveries. These pioneer patents will contain broad claims that will cover many potential commercial embodiments. When the university later tries to find companies willing to commit the millions required to take additional embodiments of the broad invention through the process of becoming a drug, these efforts are stymied by the 1984 act preventing any patent—regardless of the fact that it may encompass more than one drug—from having more than one extension.

One of the first questions a company will ask is whether the drug will ultimately qualify for patent extension. Given the high risks, long lead times and large sums of money involved, the few years of patent extension created by the 1984 act often spell the difference between financial success and failure. If, for example, a university has a patent encompassing two separate drugs, only the one that is first granted patent extension can be extended. The other is out of luck. As a practical matter, this means simply that the university will not find a company willing to risk the sums required to bring the second drug to market. The university loses and thus the public loses.

This measure seeks to correct this anomaly by allowing a university held patent to be extended for more than one new drug if the new drug otherwise qualifies for patent extension. It should be well understood that we are not talking about extensions on top of extensions. If a patent, for example, expires in 1994 nothing in this bill can extend it beyond 1999 since the 1984 act allows a maximum of 5 years extension. The only difference my amendment would make is that more than one separate drug under that patent could receive an extension.

My objective, as well as that of Senator HATCH, is to see as many promising new drugs come to the American people as possible. And since this particular provision of the 1984 act hinders rather than promotes that process, we seek to change it.

Mr. President, our constitutionally mandated patent system provides for a 17-year life for a patent. It is rigid but predictable. Indeed, with the exception of the terms of the 1984 act, the patent system provides no flexibility with regard to the 17-year period.

Earlier this year, the Judiciary Subcommittee on Patents, Copyrights and Trademarks of which I am chairman, held a hearing on the issue of private patent extension requests. Unlike those measures, which require compelling circumstances and strict scrutiny, this legislation provides uniform and limited protection to a particular but important inventive sector—universities.

It is for that reason that I believe this legislative measure is reasonable. Most importantly, it promotes the objectives of the 1984 act without disrupting its delicate balance. It will promote the development of new drugs to benefit the American people and the world. Let me add that this measure will gain support throughout the university community in this country. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 156 of title 35 is amended—

(1) in subsection (a):

(A) in paragraph (2), by inserting ", except as otherwise provided in subsection (i)" after "extended"; and

(B) in the second sentence, by inserting ", and in subsection (i)", after "and (5)"; and

(2) by adding at the end the following new subsection:

"(i)(1) Notwithstanding the provisions of subsection (a)(2), if a claim or claim of any patent on an invention that was conceived or reduced to practice substantially in the performance of work at a qualified nonprofit organization cover more than one drug product, each of which is subject to a regulatory review period before its commercial marketing or use, the term of such patent may be separately extended for each such drug product.

"(2) For each extension obtained under this subsection (i), the rights derived from any patent the term of which is extended shall be limited to the drug product for which extension is sought.

"(3) As used in this subsection, the term "qualified nonprofit organization" means a university or other nonprofit institution of higher education incorporated or formed under the laws of a State, territory or possession of the United States".•

By Mr. MOYNIHAN:

S. 2132. A bill to require the Administrator of the Environmental Protection Agency to seek ongoing advice from independent experts in ranking relative environmental risks; to conduct the research and monitoring necessary to insure a sound scientific basis for decisionmaking; and to use such information in managing available resources to protect society from the greatest risks to human health, welfare, and ecological resources; to the Committee on Environment and Public Works.

ENVIRONMENTAL RISK REDUCTION ACT

• Mr. MOYNIHAN. Mr. President, on January 25 of this year I presided over a rather extraordinary hearing before the Committee on Environment and Public Works. Before us were Mr. Reilly, the capable Administrator of the U.S. Environmental Protection Agency, and Prof. Raymond C. Loehr, the Chairman of EPA's Science Advisory Board. Mr. Reilly and Professor Loehr told us of the results of months of study by three blue ribbon panels of scientific experts on environmental risk. The fruits of their efforts was a three-volume report entitled "Reduction Risk."

This report told us that our perception of risks, and our emphasis on reducing it, did not necessarily accord with the professional judgement of the experts. This is important, if true. We now believe, although it is difficult to calculate exactly, that we spend considerably more than $115 billion each year to protect the environment, and to clean it up where we failed to protect it in the past. If we are not spending this considerable sum on the most egregious risks, protecting the largest number of people, we need to consider soon how to do better.

To do this, we need to do two things. First, we need to consult the scientists to get the facts about how pollutants in the environment create risk and, not incidentally, which cause the greatest risk. Second, we need to have environmental statistics to tell us how the concentrations of pollutants in the environment are changing, and where, and what impact this is actually having on human health and natural resources.

We took an important step toward this goal last month when we passed S. 533, the Department of the Environment Act. In that bill, we created a Bureau of Environmental Statistics to be housed in a new Department of the Environment. Unfortunately, the measure was deficient, in that it failed to provide adequately for data collection, and I rose on that occasion to say that I would remedy that deficiency.

Today I am offering a bill, the Environmental Risk Reduction Act of 1991, that directs the Administrator of the Environmental Protection Agency to continue the process begun by Professor Loehr's panel, to constitute expert panels to advise the Administrator and Congress periodically on the best scientific assessment of relative risks, and the potential benefits of alternative ways of reducing such risks. The bill also creates an Environmental Monitoring and Assessment Program to be conducted by the EPA and coordinated with the activities of other Federal agencies with health and natural resource management responsibilities. This program would collect data on the exposure of humans, plants, and animals to pollutants and the resulting health of people and natural resources.

I look forward to working with my colleagues in the Senate to make sure that we are using our environmental protection resources wisely, and that we are getting what we pay for.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Risk Reduction Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the cost of protecting the quality of the environment currently exceeds $115 billion per year;

(2) protecting society from global climate change, stratospheric ozone depletion, loss of biological diversity, and waste products from an ever-increasing population will cause these costs to increase in the future;

(3) although these costs are not necessarily excessive, they are too high to be used ineffectively or inefficiently;

(4) funds can only be used most effectively when they protect the largest number of people from the most egregious harm;

(5) ecological resources are extraordinarily valuable, and risks to them either directly or indirectly degrade human health and the economy;

(6) ranking of relative risks to human health, welfare, and ecological resources is a complex task, and is best performed by technical experts free from interests that could bias their objective judgment;

(7) applying technology and resources at the highest ranked risks within the intent of existing environmental statutes and identifying highly ranked risks not addressed by current statutes can significantly reduce risks to human health, welfare, and ecological resources;

(8) better risk assessment methodologies and a long-term commitment to collecting monitoring data on the condition of ecological resources and exposure of humans and ecosystems to pollutants are necessary to insure that the greatest risks can be identified, and that environmental statutes are accomplishing their intended results;

(9) ranking risks must be an ongoing process and reflect improvements in environmental data and scientific understanding; and

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(10) effective and efficient strategies to reduce risks must quantify significant costs and benefits to the greatest extent possible.

(b) POLICY.—It is the policy of the United States that—

(1) Federal environmental protection activities administered by the Environmental Protection Agency shall attain the greatest risk reduction possible with the resources available; and

(2) the ability to reduce risks requires—

(A) accurate, quantitative estimates of the exposure of humans and ecosystems to all important risk factors;

(B) accurate techniques for predicting the effects of such exposures;

(C) an adequate understanding of technical, economic, social, and legal alternatives to reduce exposure to risk factors; and

(D) accurate estimates of the costs and benefits of alternatives for reducing risks.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Agency" means the Environmental Protection Agency;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "risk" means the probability of the occurrence of an event;

(4) "stressor" means a physical, chemical, or biological factor resulting from human activity and capable of causing an effect on human health, welfare, or ecological resources;

(5) "exposure" means the juxtaposition in time and space of some stressor with a human or other living thing or a non-living thing important to human welfare, such that an effect could result;

(6) "effect" or "response" mean a deleterious change in the condition of a human or other living thing, including but not limited to death, cancer or other chronic illness, decreased reproductive capacity, or disfigurement, or in the condition of a non-living thing important to human welfare, including but not limited to, destruction, degeneration, loss of intended function, and increased costs for maintenance;

(7) "ecological resources" means nonhuman living things and their interactions, including, but not limited to, lakes, streams, forests, wetlands, deserts, tundra, oceans, estuaries, beaches, grassland, agricultural areas, and vegetated urban and suburban areas;

(8) "sustainable" means the ability of ecological resources to maintain diverse, self-reproducing biological communities, capable of meeting current needs of mankind without compromising the ability of future generations to meet their own needs, including natural resources such as food, fiber, lumber, fish, and game; environmental services such as flood mitigation, water storage, and regulation of the chemistry of the atmosphere, oceans, and inland waters, and opportunities for recreation, scientific study; and appreciation of the beauty and diversity of nature;

(9) "likelihood" means the estimated probability that an effect will occur;

(10) "seriousness" means the intensity of effect, independent of the magnitude;

(11) "magnitude" means the number of people or the amount of ecological resources or other resources contributing to human welfare affected by exposure to a stressor;

(12) "irreversibility" means the extent to which a return to conditions prior to the occurrence of an effect are either very slow or will never occur;

(13) "uncertainty" means the quantifiable and unquantifiable potential error in the estimation of risk which is caused by the quality of data, or the assumptions used in risk estimation;

(14) "environmental statutes" means the environmental laws administered by the Agency which include within their intent protection of the environment, including but not limited to—

(A) title XIV of the Public Service Health Act (the Safe Drinking Water Act),

(B) the Clean Water Act,

(C) the Clean Air Act,

(D) the Federal Insecticide, Fungicide, and Rodenticide Act,

(E) the Toxic Substances Control Act,

(F) the Solid Waste Disposal Act,

(G) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and the Superfund Amendments and Reauthorization Act of 1986,

(H) the Marine Protection, Research, and Sanctuaries Act of 1972, and

(I) laws dealing with protection from sources of radiation.

SEC. 4. EXPERT ADVISORY COMMITTEES.

(a) IN GENERAL.—The Administrator shall act to use available resources under all environmental laws to reduce the most likely, most serious, most irreversible, highest magnitude risks to human health, welfare, and ecological resources through the careful assessment and ranking of relative risks and options for their management. In order to insure that such action is based on the best available scientific understanding, the Administrator shall establish and seek advice from two expert advisory committees to be established within the Science Advisory Board.

(b) COMMITTEE ON RELATIVE RISKS.—

(1) The Administrator shall establish a standing Committee on Relative Risks within the Science Advisory Board to provide expert advice on ranking the relative risks of different stressors to human health, welfare, and ecological resources.

(2) The Committee on Relative Risks shall consist of 15 experts selected by the executive committee of the Science Advisory Board. In the case of the initial selections, 5 shall be selected for a term of 2 years, 5 for a term of 4 years, and 5 for a term of 6 years. Thereafter, each individual selected shall serve for a term of 6 years.

(3) Such experts shall be chosen to represent a broad and balanced spectrum of experience in the areas of human health effects, ecological effects, and welfare effects.

(4) Members of the Committee on Relative Risks shall elect a chairperson who shall serve for a term of 24 months.

(5) After establishing appropriate criteria and guidelines, the Committee on Relative Risks shall—

(A) identify and rank the greatest environmental risks to human health, welfare, and ecological resources; incorporating the overall likelihood, seriousness, magnitude, and irreversibility of each risk;

(B) identify a common list of the greatest risks to human health, welfare, and ecological resources;

(C) assess the state of pertinent scientific understanding and other factors contributing to uncertainty in the ranking of relative risk.

(6) Risks shall be identified by the Committee on Relative Risks in such a way that the need for new laws, and priorities within the intent of existing laws, can be identified.

(7) As a Federal advisory committee, the Committee on Relative Risks shall hold open public meetings to solicit input from the public and other sources in accordance with the Federal Advisory Committee Act.

(c) COMMITTEE ON ENVIRONMENTAL BENEFITS.—

(1) The Administrator shall establish a standing Committee on Environmental Benefits within the Science Advisory Board to provide expert advice on estimating quantitative benefits of reducing risks.

(2) The Committee on Environmental Benefits shall consist of 15 experts selected by the executive committee of the Science Advisory Board. In the case of the initial selections, 5 shall be selected for a term of 2 years, 5 for a term of 4 years, and 5 for a term of 6 years. Thereafter, each individual selected shall serve for a term of 6 years.

(3) Experts shall be chosen to represent a broad and balanced spectrum of experience in areas including but not limited to economics, engineering, public administration, and health care.

(4) Members shall elect a chairperson initially, and at 24-month intervals after each major change in the Committee membership.

(5) After establishing appropriate guidelines and criteria, the Committee on Environmental Benefits shall estimate the value of—

(A) avoiding premature mortality;

(B) avoiding cancer, diseases, birth defects, and other health effects that reduce the quality of life;

(C) preserving biological diversity and sustainable ecological resources;

(D) an aesthetic environment;

(E) services performed by ecosystems (such as flood mitigation, provision of food or materials, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology; and

(F) avoiding other risks identified by the Committee on Relative Risks.

(6) As a Federal advisory committee, the Committee on Environmental Benefits shall hold public meetings to solicit input from the public and other sources in accordance with the Federal Advisory Committee Act.

(7) The Committee on Relative Risks and the Committee on Costs and Benefits shall report their findings to the Administrator and to the appropriate committees of Congress on or before August 1, 1992, and prior to the expiration of each 24-month period thereafter.

(d) REIMBURSEMENT.—Members of the committees established under this section shall be reimbursed for travel, as authorized by section 5703 of title 5, United States Code, subsistence, and other necessary expenses incurred in the performance of the duties of the committees.

(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated $3,000,000 for fiscal year 1992, and each of the next following 6 fiscal years.

SEC. 5. RISK ASSESSMENT GUIDELINES.

(a) IN GENERAL.—The Administrator shall act to protect human health and the environment on the basis of careful assessments of risk and evaluation of options for reducing risks. In making decisions about the conduct of risk assessments, the Administrator shall balance the costs of such assessments and of damage to human health or the environment that might be caused by such delays against the savings to society expected to result from more cost-effective risk reduction options identified through the risk assessment process.

(b) RISK ASSESSMENT GUIDELINES.—The Administrator shall develop, and revise as appropriate, guidelines to ensure consistency and technical quality in risk assessments by specifying minimum standards for different

risk assessment approaches, depending on the scale of the problem, the level of scientific understanding, and the available data.

(c) INITIAL GUIDELINES.—The initial set of guidelines shall include risk assessments involving—

(1) human mutagenicity;

(2) human carcinogenicity;

(3) human developmental toxicants;

(4) human reproductive effects;

(5) human systemic toxicants;

(6) ecological effects of sources of pollutants from single sites;

(7) ecological effects of pollutants that originate from many sites;

(8) ecological effects from physical alteration of the environment;

(9) ecological effects of introducing non-native or genetically engineered organisms;

(10) pollutants affecting man-made materials; and

(11) pollutants affecting the productivity of soils.

(d) ADDITIONAL GUIDELINES.—The Administrator shall develop additional risk assessment guidelines as warranted by the state of pertinent scientific understanding and the need for sound decisions to protect human health, welfare, and the environment.

(e) MINIMUM REQUIREMENTS.—Risk assessment guidelines developed under this section shall include the following components:

(1) a hazard identification which demonstrates whether exposure to a stressor is or is not causally linked to an effect;

(2) an assessment that measures or estimates the exposure of well-defined individuals, populations, or materials to a stressor;

(3) an assessment which determines or estimates the magnitude of response of affected individuals, populations, or materials associated with different levels of exposure to a stressor under representative environmental conditions; and

(4) a risk characterization which provides an overall description of the nature and magnitude of probable effects resulting from alternative risk management options (including no action), together with a quantitative estimate of the attendant uncertainties.

(f) PUBLICATION IN THE FEDERAL REGISTER AND REPORTS TO CONGRESS.—The Administrator shall—

(1) publish all initial risk assessment guidelines in subsection (c) in the Federal Register within 60 months following the date of the enactment of this Act, and shall report annually to Congress on progress toward this goal; and

(2) publish new and revised guidelines in the Federal Register as necessitated by subsection (d).

SEC. 6. RISK ASSESSMENT RESEARCH.

(a) IN GENERAL.—The Administrator shall conduct a long-term core research program in environmental risk assessment research in order to insure that the risk assessment process is based on adequate environmental data and scientific understanding, in order to provide the most cost-effective use of environmental protection resources.

(b) ENVIRONMENTAL MONITORING AND ASSESSMENT PROGRAM.—The Administrator shall conduct a research program to—

(1) design and evaluate methods and networks to collect monitoring data on the current and changing condition of the environment (including, but not limited to, human health, ecological resources, materials, and exposure to environmental stressors relevant to making decisions at the Federal level about alternative risk assessment and risk reduction options;

(2) implement such monitoring programs, in cooperation with relevant programs in other Federal agencies;

(3) manage data from such monitoring programs in forms and formats readily accessible to the scientific community and the public; and

(4) provide annual statistical reports and periodic interpretive reports of the results of such monitoring programs to Congress and the public.

(c) ENVIRONMENTAL RISK ASSESSMENT RESEARCH PROGRAM.—The Administrator will conduct a long-term core program to establish a firm scientific basis for initial and subsequent risk assessment guidelines, including methods for—

(1) assessing exposure of humans, ecological resources, and materials to stressors, including methods for determining the environmentally effective level of the stressor that actually initiates the effect;

(2) accurately predicting the effects of exposure to stressors on human health, ecological resources, and materials;

(3) quantifying statistical uncertainty in exposure and stress-response estimates; and

(4) quantifying the social and economic values of effects on human health, welfare, and ecological resources.

(d) LONG-TERM RESEARCH PLANNING.—At least one-half of the research conducted under this Act shall be under contracts or assistance agreements with universities and other nonprofit or not-for-profit organizations awarded under full and open competition, under which full funding for at least 3 years of the contract will be obligated at the beginning of the contract or agreement.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the sum of $80,000,000 for fiscal year 1992, $130,000,000 for fiscal year 1993, and $200,000,000 for each of the fiscal years 1994 through 1998, to carry out the provisions of this section.

SEC. 7. INTERAGENCY PANEL ON RISK ASSESSMENT AND REDUCTION.

(a) ESTABLISHMENT.—There is established an Inter-agency Panel on Risk Assessment and Reduction (hereafter in this Act referred to as "Interagency Panel") for the purpose of coordinating Federal research, data gathering, and implementation of environmental risk assessment and risk reduction activities.

(b) MEMBERSHIP.—The Interagency Panel shall consist of one representative each from—

(1) the Environmental Protection Agency;

(2) the Department of the Interior;

(3) the Department of Health and Human Services;

(4) the Department of Energy;

(5) the Department of Commerce;

(6) the Department of Agriculture;

(7) the Corps of Engineers;

(8) the Council on Environmental Quality; and

(9) any other Federal department or agency that the President, or the Chairman of the Interagency Committee, considers appropriate.

Each such representative shall be designated by the head of the entity named.

(c) CHAIRMAN.—The member of the Interagency Panel representing the Environmental Protection Agency shall serve as the Chairperson of the Interagency Panel.

SEC. 8. REPORTS TO CONGRESS.

(a) ASSESSMENT OF ENVIRONMENTAL RISK REDUCTION OPTIONS.—Within 24 months following the date of enactment of this Act, the Administrator shall prepare and submit a report to the Congress which identifies—

(1) a prioritized list of the human health, welfare, and ecological resource risks considered by the Committee on Relative Risks;

(2) public awareness of the likelihood, seriousness, magnitude, and irreversibility of each risk;

(3) alternative options for reducing risks and corresponding estimated costs and benefits to society, including costs to Federal agencies and the private sector, and any adverse effects that cannot yet be quantified in monetary terms;

(4) the time required for reducing risks through each option;

(5) evaluation of the uncertainty associated with relevant aspects of the assessment process; and

(6) research or data collection that would significantly reduce the uncertainty in any assessment within 24 months of the submission of the report to Congress.

(b) INTENT OF CONGRESS.—It is the intent of Congress that the information contained in the annual report be used to assist in directing the activities of the Agency so as to result in reducing the most serious and probable risks to the greatest number of people and sustainable ecological resources. The Administrator shall carry out this Act in a reasonable and prudent manner so as to insure the protection of public health and the environment, and in a manner open to public inspection, but he shall not be delayed in carrying out his responsibilities under other environmental laws by his responsibilities under this Act.

(c) ONGOING ASSESSMENT.—The Administrator shall revise and update the report submitted under this section at least every 24 months to reflect new data or scientific understanding.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in sections 4 and 6, nothing in this Act shall constitute a new authorization for the appropriation of funds.●

By Mr. DODD (for himself and Mr. LAUTENBERG):

S. 2133. A bill to provide for the economic conversion and diversification of industries in the defense industrial base of the United States that are adversely affected by significant reductions in spending; to the Committee on Banking, Housing, and Urban Affairs.

DEFENSE INDUSTRIAL STABILIZATION AND COMMUNITY TRANSITION ACT OF 1991

● Mr. DODD. Mr. President, I rise today to introduce the Defense Industrial Stabilization and Community Transition Act of 1991, a bill to provide economic adjustment assistance to industries, communities and dislocated workers impacted by cuts in defense spending.

There can be no doubt, Mr. President, that the past few years have brought sweeping changes across the globe. In the Soviet Union, communism has collapsed. In Eastern Europe, democracy and free market ideology have taken root. In Angola, Cambodia, and other tortured regions around the world, the end of the cold war has given people an opportunity to lift themselves from war and build for themselves a better life.

We would be fooling ourselves, however, if we believed that there are no more threats left in the world. The instability in the Soviet Republics and the Civil war in Yugoslavia are proof of that. We still need an active, vigilant defense, equipped with the best available technologies and armed with the best available weaponry. And we must view any prospective cuts in our defense budget with a tempered, cautious eye.

But the fact is the cascade of world events nearly assures that cuts will eventually come to the defense budget. Our task is to see to it that those cuts are careful, measured, and responsible. Most importantly, however, it is our responsibility to ensure that those cuts are carried out with the least possible disruption to our economy.

The bill I am introducing today is a first step, Mr. President, in meeting that important mandate.

Mr. President, during my 17 years in the U.S. Congress I have spoken often about the need for communities and industries to diversify their production. That is a conviction I held in 1978, when I sponsored defense diversification legislation in the House of Representatives. It is a conviction I held when, over a decade ago, I hosted a conference in Connecticut on the defense diversification issue.

And it is a conviction I hold even more firmly today.

The legislation I am introducing today will not cure the problem of dislocated workers. It is not a panacea for the plague of closed plants or dormant production lines. But it is a vital first step to give defense-dependent communities and industries the resources to help themselves. And it is an attempt to provide defense workers with the same sense of stability and security they have helped create for all Americans.

As 1991 draws to a close, whom do we thank for our victory in the cold war? Certainly we must honor the brave Americans who risked their lives in combat for the price of freedom. And we owe a debt of gratitude to the U.S. ground forces and air patrols that for decades have kept a vigilant watch in Europe and the Pacific.

But as we take the roll of honor in the struggle against communism, as we sum up the achievements of the glorious and the proud, as we hand out the placards and the awards and the trophies, there is one aspect of the battle we must never forget.

It is a capable sector of our economy known as the defense industry, Mr. President, that makes it all possible.

Mr. President, I have long believed that the workers in our defense industry are the veterans of the cold war. Whether in Groton, CT, or St. Louis, MI, or Fort Worth, TX—indeed in communities all across the Nation—the defense industry has given our fighting men and women the best armaments that money can buy. This vast army of workers and engineers answered the call of patriotism and rose to their Nation's defense in the way they knew how—with machine tools and carbon welds, drafting boards and blueprints.

As veterans of the cold war, Mr. President, these defense workers deserve more than our debt of gratitude. We owe them our pledge that their jobs and their livelihoods will not be jeopardized by the very peace they helped bring about.

In communities across the Nation, a sudden drop in Federal defense expenditures threatens to slam shut the doors of factories, dry up local resources, and cast workers and managers alike onto the street. The very people who devoted their souls to the preservation of this Nation's defense may face the horrible prospect of being forced from their jobs, victims of their own success.

But Mr. President, the potential threat goes deeper than that. Let me cite one example within my State. Just yesterday, I was approached by a representative of Colt Manufacturing, the firearms producer that employs nearly 1,000 people in Hartford. I was told that due to declining expenditures, the company may be forced to shut down its entire production line, both commercial and military, within two months.

The loss, of 1,000 employees, in an economy such as Connecticut's, would be staggering. But even more disturbing is the fact that the Nation's leading manufacturer of firearms—and one that has been in my State for over 100 years—would be lost forever. The skill and experience developed over more than a century would simply evaporate, never to be regained.

In the global economic competition of the 21st century, the loss of a manufacturer with such expertise would be terribly damaging. And in a world that still remains dangerous—despite the dramatic transformations of the past few years—our ability to retool our industries for defense production must be preserved.

We must not repeat the experience after World War II, when we let our defense industrial base collapse and found ourselves unprepared for the outbreak of the Korean war. We must remain vigilant and prepared to meet any contingency. We must apply the same expertise and ingenuity to the transition of the defense economy as we did to its creation, or we will lose forever these technologies, this industrial base, and important jobs.

These are the problems we face, Mr. President, as we prepare to adapt the economy of the United States. It is a daunting challenge—but it must be met head on. The restructuring of budget priorities provides us with a unique opportunity to assess our technological strengths, and a challenge to solidify our gains.

Sadly, we have not met this challenge to date.

President Bush maintains that economic adjustment is not necessary. He says the reduction in the deficit caused by lower defense spending will stimulate the economy to create new opportunities. But the President misses the trees for the forest. I fail to see how New London County—which received over $9,000 per capita in defense dollars last year and by one estimate stands to lose over 21,000 jobs by 1996 due to defense cuts—will gain from a reduction in the deficit.

It is for this reason, Mr. President, that I have chosen to introduce this bill. I am pleased to be joined by Senator LIEBERMAN in this effort. And I am pleased to join him on the bill he has introduced, the Industrial Diversification and Economic Adjustment Act of 1991.

In drafting the bill I am putting forward today, I followed a few simple guidelines.

First, any effort at diversification must be coordinated. This bill calls for the establishment of a Presidential Council on Economic Adjustment. Among the duties of this council will be the planning and evaluation of Federal adjustment initiatives, the carrying out of studies on technology transfer and marketing potential for newly developing industries, and the maintaining of a clearinghouse for Federal and State initiatives.

But the most important aspect of this council, Mr. President, is that it serve as a liaison—a vital link between companies and communities that are endangered by defense cuts, and the Federal programs that can help them adjust to those cuts. There are a host of programs already available, whether oriented toward technology transfer, export assistance, economic development, job training, or small business. The Presidential Council on Economic Adjustment shall be responsible for ensuring those resources are amply used.

Second, companies and communities must have the flexibility to utilize those measures appropriate for them. The bill rejects the use of mandates or other requirements that industries or communities must meet. Rather, this legislation provides a panorama of options from which those in need can choose.

Defense companies may receive Federal matching grants for the establishment of alternative use committees to explore other ways to utilize their production lines. They will become eligible under the Defense Production Act for loans, loan guarantees, and joint Federal-private initiatives aimed at diversification. And to help smooth out the transition, defense companies shall become eligible for State Department-backed loan guarantees for the export of military goods to NATO countries, plus Japan, Israel, Australia, or New Zealand.

The goal of these provisions is simple: to encourage defense contractors

to keep their lines open, commercialize their products and keep skilled labor in place. When companies stay open, job security is maintained. It is as simple as that.

But we do not focus entirely on companies in this bill. Flexibility must apply to the individual and the community, as well. That is why we provide additional funding for assistance to paid off defense workers through the Job Training Partnership Act. And it is why we allow defense-dependent communities to apply for additional assistance under Title IX of the Public Works and Development Act. There is truly something for everyone in this bill.

Third, the bill adheres to the fundamental premise regarding an ounce of prevention. It requires the Presidential Council to identify on an annual basis not only those communities that are currently at risk due to planned defense cuts, but those communities that are potentially at risk in the future due to a heavy concentration of defense-dependent industries. Such communities would also be eligible for assistance under this bill.

Finally, the bill recognizes that a program of this scope is not without its costs. To pay for its provisions, it sets aside 10 percent of the approximate savings from reductions in the defense budget. This provides an ample and responsible funding base.

Mr. President, as I have said before, I certainly do not regard this bill as a panacea. It is not the final say on this matter. But with it we are laying down a marker—stating firmly and unequivocably that the issue of defense economic adjustment deserves attention and debate. We owe it to our defense industry. We owe it to our defense industry workers. And ultimately, we owe it to ourselves.

If we are to take some responsibility for our future capabilities in production and engineering, if we are to start planning today for the economy of tomorrow, we must reinvigorate the debate on this fundamentally important issue. This is not about rewarding the defense industry, or subsidizing the defense worker. It is not preserving the basic technological developments that brought us into this decade—and seeking the technologies to catapult us into the next one.

I look forward to working with Senator LIEBERMAN and the leadership of the Congress on this important legislation.•

By Mr. NUNN (for himself and Mr. FOWLER):

S. 2134. A bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic games and the programs of the United States Olympic Committee; to the Committee on Banking, Housing, and Urban Affairs.

1996 ATLANTA CENTENNIAL OLYMPIC GAMES COMMEMORATIVE COIN ACT

• Mr. NUNN. Mr. President, I rise today to join my colleague from Georgia, Senator WYCHE FOWLER, in introducing legislation to honor and assist the centennial Olympic games being held in Atlanta in the summer of 1996 by authorizing a special commemorative coin. This is an exact counterpart to a House bill already introduced by Representative DOUG BARNARD, who is the Georgia congressional delegation's lead member on this issue.

This legislation follows the precedent established when the United States last hosted the Olympics, in Los Angeles in 1984. As in 1984, we are establishing a 2-year commemorative coin program to culminate in the Olympic year, with proceeds divided between the Olympic Organizing Committee and the U.S. Olympic Committee.

The 1984 Olympic coin helped make the Los Angeles Olympics a financial success, raising $73 million. The Atlanta Committee for the Olympic games hopes to raise a total of $100 million with its commemorative coin, a small but crucial element in its projected budget of $1.2 billion.

Aside from its financial aspects, this commemorative coin program provides both American citizens and international supporters of the Olympic movement a means of participating in the centennial games.

From the moment last autumn in Tokyo when Atlanta concluded its upset victory in the bid for the 1996 games, there has been an exceptional air of excitement about this event. It has galvanized not just Atlanta but the entire southeastern region. As the first summer games ever held on the east coast of the United States, the 1996 games will be the most widely broadcast in history, and one of the most heavily attended, with more than 150,000 people per day expected.

Mr. President, I urge my Senate colleagues to express their support for America's centennial games by supporting establishment of this commemorative coin program.•

By Mr. KENNEDY:

S. 2135. A bill to amend the Federal Food, Drug, and Cosmetic Act to enhance the enforcement authority of the Food and Drug Administration, and for other purposes; to the Committee on Labor and Human Resources.

FOOD, DRUG, COSMETIC, AND DEVICE ENFORCEMENT AUTHORITIES ACT

Mr. KENNEDY. Mr. President, today I am pleased to introduce the Food, Drug, Cosmetic and Device Enforcement Authorities Act of 1991. The legislation will finally provide the Food and Drug Administration [FDA] with the same enforcement tools granted to other regulatory agencies, and will enable the FDA to more effectively carry out its critical responsibilities under the Food, Drug and Cosmetic Act.

The FDA regulates products which account for 25 cents of every dollar spent in this country—a statistic about the agency that is cited often. However, more important than the sheer volume of products subject to FDA oversight is the degree to which these regulated products affect the lives of every American in vital ways each day. Ineffective oversight by the FDA exposes the public to substantial risks from unsafe or defective products.

The stark reality is that the FDA simply does not have the necessary means to enforce the law. The enforcement provisions in the Food, Drug and Cosmetic Act are more than 50 years old. The enforcement authorities were written prior to the first therapeutic use of Penicillin, and have been rendered obsolete by the development of products unimagined half a century ago. The FDA has a unique mission as both a scientific agency, and an agency charged with consumer protection. The FDA cannot fulfill its mandates without enforcement authorities which give it the ability to obtain essential information concerning regulated products in an efficient and timely manner.

Earlier this year the Edwards Committee, a blue ribbon panel of FDA experts, criticized what it called the FDA's mixed bag of enforcement tools and recommended that "the Agency should be armed with the same tools for all products that it regulates." Last year, passage of the Safe Medical Devices Act gave the Agency the ability to impose administrative civil penalties for medical device violations. However, for violations relating to foods, drugs or cosmetics, FDA must still rely solely on the harsh sanction of criminal penalties, which is a severe limitation of FDA's ability to institute appropriate sanctions. Last year Congress also provided FDA with the authority to recall medical devices which posed unacceptable risks, but FDA cannot institute mandatory recalls of foods, drugs or cosmetics. The FDA has record inspection authority to inspect the records of drug and medical device manufacturers, but that authority does not extend to food or cosmetic facilities.

In contrast to the FDA, the enforcement authorities of other U.S. regulatory agencies have been improved over time. For example, the FDA does not have authority to subpoena documents and witnesses in connection with investigations, unlike the Environmental Protection Agency, the Federal Trade Commission, and the Consumer Product Safety Commission. There is no reason for the FDA, with its enormous responsibilities, to have enforcement authorities inferior to those of other regulatory agencies.

While there is an urgent need to increase FDA's enforcement authorities, the regulated industries have raised concerns about the scope of these authorities. As a result, these new enforcement powers are carefully circumscribed in this bill.

The legislation would grant the following authorities:

The Federal courts would be able to recall products which were in violation of the Food, Drug and Cosmetic Act. This provision reflects the standard included in an original health and human services bill on enforcement authorities;

The administrative recall provision employs the same standard for food, drug, or cosmetic recalls as current law for medical devices. Administrative recall could be instituted if there was a reasonable probability that a food, drug, or cosmetic will cause serious adverse health consequences or death;

The seizure authority of the agency would be refined, and the agency would be given the authority to embargo products while a seizure order is being obtained. Currently, there is no Federal embargo authority for food, drugs, or cosmetics, and the FDA must rely on state embargo authority; and

The agency would be granted subpoena authority in connection with an administrative investigation. Subpoenas could only be issued by the Commissioner, the Chief Counsel of FDA, or an administrative law judge in connection with a hearing.

The bill identifies a variety of special protections for formulas and other trade secret information, certain types of financial information and patients names in medical or research files. The legislation also directs the Secretary, to the extent appropriate, to follow the requirements of the Federal Trade Commission Act when issuing guidelines on the use of subpoenas, and on the protection of confidential information obtained by subpoena. The Federal Trade Commission statute has proven to be a model in protecting the confidentiality of commercial information obtained in investigations, and it should serve as a helpful example to the Commisssioner.

The bill would provide the agency with administrative civil money penalty authority for violations involving all the products that it regulates. This is another area where the most recent revision of the medical device amendments provided such administrative civil money penalties, but such authority must be agency wide to permit maximum flexibility.

The inspection authority of the agency would be strengthened, making food facilities subject to the kinds of inspections to which other drug and device facilities are already subject. The legislation imposes explicit limitations on this general inspection authority.

The agency would be authorized to order the destruction of imported products determined to be hazardous to health, preventing the port shopping which currently allows many hazardous products to successfully evade current inspection efforts.

The bill would define all products affecting interstate commerce as subject to the new enforcement laws, making the FDA enforcement activities more efficient and effective. Under current law, FDA must waste valuable resources preparing to prove that products move in interstate commerce.

The FDA cannot maintain its credibility as an enforcement agency without enforcement tools that allow it to regulate aggressively and consistently. We cannot continue to handcuff the agency responsible for assuring the safety and efficacy of essential products with antiquated enforcement laws. I look forward to an early hearing on this legislation next year.

I also look forward to pursuing other important FDA reforms. As the Edwards Committee report made clear, the FDA needs broad reform in several areas, including the need to assure the independence of the FDA commissioner, the need to remedy the crippling short-fall in FDA resources, and the need to improve utilization of existing facilities and personnel. I will be introducing legislation next year which will address these issues. While improved enforcement is crucial to FDA's mission, the agency cannot meet the unprecedented challenges it faces without fundamental change in many areas.

By Mr. CONRAD:

S. 2136. A bill to authorize construction of the northwest area water supply/Fort Berthold intergrated water supply project, hereinafter referred to as the "Na chiin Huun—Dakota Project," and for other purposes; to the Committee on Energy and Natural Resources.

NA CHIIN HUNN—DAKOTA PROJECT ACT OF 1991

Mr. CONRAD. Mr. President, I rise today to introduce legislation to provide much needed water supplies to the Fort Berthold Reservation and northwestern North Dakota.

This legislation was developed after a number of years of study. The first study of how to meet the water needs of northwestern North Dakota was conducted in 1988. Dramatic water quality and supply needs were identified in nearly all of the region. The three affiliated tribes were also studying ways to meet their own significant water quality and supply needs.

The State and the three affiliated tribes decided to combine their efforts into one overall integrated water supply system serving regional demands. This bill implements their proposals.

This legislation was developed through a consultative process within the State of North Dakota. I understand it will be amended as we move through this process, and I look forward to receiving comments on this legislation and hearings on this subject.

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. BOREN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 493

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 493, a bill to amend the Public Health Service Act to improve the health of pregnant women, infants and children through the provision of comprehensive primary and preventive care, and for other purposes.

S. 747

At the request of Mr. PRYOR, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 891

At the request of Mr. MACK, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 891, a bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests.

S. 1257

At the request of Mr. BOREN, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1261

At the request of Mr. DOLE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1521

At the request of Mr. MCCONNELL, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1521, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material.

S. 1557

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1557, a bill to improve the implementation and enforcement of the Federal cleanup program.

S. 1597

At the request of Mr. HATFIELD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1597, a bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes.

S. 1627

At the request of Mr. FORD, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1627, a bill to amend section 615 of title 38, United States Code, to require the Secretary of Veterans Affairs to permit persons who receive care at medical facilities of the Department of Veterans Affairs to have access to and to consume tobacco products.

S. 1647

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1647, a bill to amend the Internal Revenue Code of 1986 to provide that the deduction for State and local income and franchise taxes shall not be allocated to foreign source income.

S. 1698

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1774

At the request of Mr. BRYAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1786

At the request of Mr. BAUCUS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1786, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment.

S. 1788

At the request of Mr. WIRTH, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1788, a bill to establish the National Air and Space Museum Expansion Site Advisory Panel for the purpose of developing a national competition for the evaluation of possible expansion sites for the National Air and Space Museum, and to authorize the Board of Regents of the Smithsonian Institution to select, plan, and design such site.

S. 1877

At the request of Mr. BOND, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1877, a bill to require the use of child restraint systems on commercial aircraft.

S. 1886

At the request of Mr. MCCONNELL, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from Washington [Mr. GORTON] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 1950

At the request of Mr. DANFORTH, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1950, a bill to amend the Internal Revenue Code of 1986 to extend for 1 year certain expiring tax provisions.

S. 2015

At the request of Mr. DOLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2015, a bill to urge and request the award of the Bronze Star to Navy and Marine Corps personnel who served in the the defense of Corregidor Island, the Philippines, under General Wainwright.

S. 2065

At the request of Mr. DIXON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was withdrawn as a cosponsor of S. 2065, a bill to federalize the crime of child molestation for repeat offenders.

S. 2089

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 2089, a bill to repeal exemptions from civil rights and labor laws for Members of Congress.

S. 2091

At the request of Mr. DECONCINI, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 2091, a bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti.

S. 2117

At the request of Mr. SASSER, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Nevada [Mr. BRYAN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2117, a bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses.

SENATE JOINT RESOLUTION 113

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating the oak as the national arboreal emblem.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. DODD, the names of the Senator from Washington [Mr. GORTON], the Senator from Tennessee [Mr. SASSER], the Senator from Mississippi [Mr. COCHRAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Virginia [Mr. WARNER], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution concerning the emancipation of the Baha'i community of Iran.

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 75

At the request of Mr. REID, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Concurrent Resolution 75, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Unit Citation to the crew of the U.S.S. Nevada for their heroism and gallantry during the attack on Pearl Harbor on December 7, 1941.

SENATE RESOLUTION 230

At the request of Mr. D'AMATO, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Resolution 230, a resolution in support of Machine Tools VRA.

SENATE CONCURRENT RESOLUTION 83—CORRECTING THE ENROLLMENT OF S. 543

Mr. GARN submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543, the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

SENATE CONCURRENT RESOLUTION 84—CORRECTING THE ENROLLMENT OF H.R. 3435

Mr. RIEGLE submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 84

Resolved by the Senate (the House of Representatives concurring), The Clerk of the House is directed to make the following changes in the enrollment of H.R. 3435:

Strike Section 618.

SENATE CONCURRENT RESOLUTION NO. 85—CORRECTING A TECHNICAL ERROR IN THE ENROLLMENT OF THE BILL (H.R. 3531)

Mr. FORD (for Mr. DECONCINI) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 85

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 3531), an Act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 8 of the bill insert a semicolon immediately after the first quotation marks.

(2) In section 5(d)(2)(C) insert quotation marks immediately before "CHAPTER 4—PATENT FEES;".

SENATE CONCURRENT RESOLUTION NO. 86—CORRECTING THE ENROLLMENT OF H.R. 2950

Mr. CHAFEE (for Mr. DOLE) submits a concurrent resolution; which was considered and agreed to:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House is directed to make the following changes in the enrollment of H.R. 2950, section 1014(e)(2).

At page 73, line 2, strike "91" and insert "81";

At page 73, line 4, strike "91" and insert "81".

SENATE RESOLUTION 238—RELATIVE TO SENATE PERQUISITES

Mr. SPECTER submitted the following resolution; which was referred to the Commitee on Rules and Administration:

S. RES. 238

Whereas, there is an important open issue on the propriety of perquisites enjoyed by members of the Senate, including but not limited to medical services, dental services, gymnasium facilities, cut rates for barber/beauty shop services, limousine service for the leadership, use of artwork, and airport parking;

Whereas, an objective evaluation should be made as to appropriate payment for such services for purposes of computing overall compensation as well as taxable income: Now, therefore, be it

Resolved, That the Committee on Rules and Administration shall report to the full Senate on or before June 30, 1992 on a plan to deal with Senators' perquisites with a view toward having Members of the Senate pay full market value for such perquisites or having such value of such perquisites included in the overall compensation of each Member of the Senate.

Mr. SPECTER. Mr. President, recent events in the U.S. Congress have raised questions as to the propriety of certain perquisites and privileges available to Members of Congress. Such events in this Senator's view, are facilitating a loss of public confidence in Congress. Accordingly, I believe there is an urgent need for this body to review its practices and procedures in order to bolster public confidence in Congress.

To this end Mr. President, today I am introducing a resolution calling on the Senate Rules Committee to perform an objective evaluation of perquisites for Members of the Senate and to report back to the full Senate by June 30, 1992, with a plan to deal with those perquisites that are not required for performing the constitutional duties of a U.S. Senator. In particular, I believe that those perks that are required for performing our duties should be paid for by Senators and not subsidized by American taxpayers.

Mr. President, as Senators we receive a number of perquisites that are incidental and integral to the performance of our official duties. These perks include among others, the franking privilege and our office allowances. However, there are a number of other perquisites such as medical and dental services, gymnasium privileges, airport parking, and the use of artwork from the National Gallery of Art, for which we do not pay and which are not integral to the performance of such duties.

In view of these latter perquisites, my resolution calls on the Rules Committee to evaluate all of the perquisites which members of this body receive to determine which are appropriate payment or otherwise be included in such members' overall compensation.

SENATE RESOLUTION NO. 239—RELATING TO THE ALBERT EINSTEIN SENATE FELLOWSHIP PROGRAM

Mr. CHAFEE (for Mr. HATFIELD) submitted the following resolution; which was considered and agreed to:

S. RES. 239

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be referred to as the "Albert Einstein Senate Fellowship Program Resolution".

SEC. 2. REAUTHORIZATION.

The authority provided in Senate Resolution 173 of the One Hundred-second Congress (agree to on August 2, 1991), as amended by Senate Resolution 206 of the One Hundred-second Congress (agreed to on October 25, 1991), and further amended by Senate Resolution 228 of the One Hundred-second Congress (agreed to on November 21, 1991), is hereby reauthorized in accord with the provisions of this resolution.

SEC. 3. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—The President pro tempore of the Senate is authorized to enter into an agreement with the Triangle Coalition for Science and Technology Education (hereafter in this resolution referred to as "Coalition") to establish an Albert Einstein Senate Fellowship Program (hereafter in this resolution referred to as the "fellowship program"), which, beginning with the fiscal year 1991, provides for two fellowships in the Senate for each fiscal year.

(b) RESPONSIBILITIES.—The President pro tempore of the Senate may enter into the agreement described in subsection (a), and authorize the expenditure of funds pursuant to section 4(e), only if the Coalition—

(1) undertakes the application responsibilities referred to in section 4(a);

(2) participates in the evaluation referred to in section 5; and

(3) provides the funding for administration and evaluation costs referred to in section 6(b), and partial compensation referred to in section 4(e)(1)(A).

SEC. 4. SELECTION PROCESS.

(a) APPLICATION RESPONSIBILITIES.—The Coalition shall—

(1) develop and administer an application process in accord with subsection (d);

(2) publicize the fellowship program; and

(3) conduct an initial screening of applicants for the fellowship program.

(b) SELECTION.—Each fiscal year the President pro tempore of the Senate, upon the recommendation of the Majority Leader, in consultation with the Minority Leader, shall select the two recipients of the Senate fellowships from among the applicants processed under subsection (a).

(c) PLACEMENT OF FELLOWSHIPS.—

(1) The President pro tempore of the Senate, upon the recommendation of the Majority Leader, in consultation with the Minority Leader, and the chairmen and ranking minority party members of the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate, may place one fellowship recipient on the staff of the Committee on Labor and Human Resources, and may place one fellowship recipient on the staff of the Committee on Commerce, Science, and Transportation.

(2) Notwithstanding paragraph (1), either or both fellowship recipients may instead be placed on the personal staff of a member of the Senate.

(d) ELIGIBLE RECIPIENTS.—Applicants screened under subsection (a) shall be from among a pool of nationally recognized outstanding secondary school science and mathematics teachers. The pool shall include teachers who have received Presidential Awards for Excellence in Science and Mathematics Teaching, as established by section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b), or other similar recognition of skills, experience, and ability as science or mathematics teachers.

(e) COMPENSATION.—

(1) Each recipient of a Senate fellowship shall be compensated—

(A) in part by the Coalition;

(B) in part from funds made available under section 6(a).

(2) The President pro tempore of the Senate shall fix the compensation of each recipient authorized in paragraph (1)(B) at not to exceed one-half of the funds authorized to be available for each respective fiscal year under section 6(a).

(f) LENGTH OF TERM.—Each fellowship recipient shall serve for a period of ten months.

SEC. 5. EVALUATION.

The Chairman of each committee or the member of the Senate in whose office a fellowship recipient is placed, and the Executive Director of the Coalition shall submit to the President pro tempore of the Senate an annual report evaluating the fellowship program, and shall make recommendations concerning the continuation of the program.

SEC. 6. FUNDING.

(a) FELLOWSHIPS.—For fiscal years 1991, 1992, and 1993, the funds authorized to compensate Senate fellowship recipients under section 4(e) shall be paid from the contingent fund of the Senate, but not to exceed a total of $40,000 in fiscal year 1991 with such funds to remain available through September 30, 1992, $42,500 in fiscal year 1992, and $45,000 in fiscal year 1993 for the Senate fellowships.

(b) ADMINISTRATION AND EVALUATION.—The Coalition shall provide the funds necessary for the administration of the fellowship program, and for evaluations conducted pursuant to section 5.

SEC. 7. SUPERSEDING PREVIOUS AUTHORITY.

This resolution supersedes the resolutions referred to in section 2.

SEC. 8. TERMINATION DATE.

The provisions of this resolution shall terminate September 30, 1993.

SENATE RESOLUTION NO. 240—RELATING TO THE UNITED STATES CAPITOL PRESERVATION COMMISSION

Mr. FORD (for Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 240

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol be temporarily suspended for the sole and specific purpose of permitting the United States Capitol Preservation Commission and its designated agents to conduct activities in accordance with the purposes of the Commission on such dates and times, and in such manner as determined by the Senate Cochair of the Commission or his designee.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements to facilitate activities authorized by this resolution.

SENATE RESOLUTION NO. 241—RELATING TO THE UNITED STATES VERSUS PETER MACDONALD CASE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 241

Whereas, in the case of *United States* v. *Peter MacDonald, Jr., et al.*, No. CR-91-067-PCT-EHC, pending in the United States District Court for the District of Arizona, counsel for defendant Peter MacDonald, Jr., has requested the testimony of Kenneth M. Ballen, a former employee of the Senate on the Staff of the Special Committee on Investigations of the Select Committee on Indian Affairs;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate, can, by administrative or judicial processs, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kenneth M. Ballen, and any other employee or former employee of the Senate from whom testimony may be necessary, are authorized to testify in *United States* v. *Peter MacDonald, Jr., et al.*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Kenneth M. Ballen, and any other employee or former employee of the Senate from whom testimony may be necessary, in connection with their testimony in *United States* v. *Peter MacDonald, Jr., et al.*

AMENDMENTS SUBMITTED

RESOLUTION TRUST CORPORATION REFINANCING ACT

DOMENICI (AND OTHERS) AMENDMENT NO. 1450

(Ordered to lie on the table)

Mr. DOMENICI (for himself, Mr. RUDMAN, Mr. SYMMS, Mr. CHAFEE, Mr. MACK, Mr. DANFORTH, and Mr. MCCAIN) submitted an amendment intended to be proposed by them to the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. . CREDIT AVAILABILITY.

Section 5(t)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)) is amended by adding at the end the following new paragraph:

"(F) EXCEPTIONS GRANTED BY DIRECTOR.—

"(i) IN GENERAL.—The Director may grant such limited and temporary exceptions from subparagraphs (A) and (D) as the Director deems necessary and appropriate, if the Director determines that—

"(I) extraordinary circumstances exist or that economic conditions at the national, regional, or local level are such that an insufficient opportunity exists for the association to divest a subsidiary engaged in activities not permissible for a national bank or any investment in or extension of credit to such subsidiary; and

"(II) the conditions set forth in paragraph (7)(C)(i) of this subsection are satisfied.

"(ii) LIMITATION.—An exception under this subparagraph applies only to the amount of the savings association's investments in or extensions or credit to a subsidiary as of April 12, 1989, and the amounts that have been or will be expended to complete projects or investments that were initiated by such subsidiary prior to the date of enactment of this subparagraph. In granting an exception pursuant to this subparagraph, the Director shall require the same percentage deduction from capital for amounts invested and credit extended as of April 12, 1989, and for amounts invested and credit extended thereafter.

"(iii) DURATION.—No exception under this subparagraph shall be effective after July 1, 1999.

"(iv) AMOUNT.—No exception shall reduce the percentage deduction from capital to a percentage less than that required as of the date of enactment of this subsection for investments and extensions of credit made prior to April 12, 1989.".

RECLAMATION STATES EMERGENCY DROUGHT RELIEF

JOHNSTON AMENDMENT NO. 1451

Mr. MITCHELL (for Mr. JOHNSTON] proposed an amendment to the bill (H.R. 355) to provide emergency drought relief to the reclamation States, and for other purposes, as follows:

Delete all after the enacting clause and substitute the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation States Emergency Drought Relief Act of 1991".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388)

and Acts supplementary thereto and amendatory thereof.

(3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044).

TITLE I—DROUGHT PROGRAM

SEC. 101. ASSISTANCE DURING DROUGHT; WATER PURCHASES.

(a) CONSTRUCTION, MANAGEMENT, AND CONSERVATION.—Consistent with existing contractual arrangements and applicable State and applicable Federal law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will minimize, or can be expected to have an effect in minimizing, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to minimize losses and damages from drought conditions, except that wells drilled to minimize losses and damages from drought conditions may be permanent facilities.

(b) ASSISTANCE TO WILLING BUYERS AND SELLERS.—In order to minimize losses and damages resulting from drought conditions, the Secretary may provide non-financial assistance to willing buyers in their purchase of available water supplies from willing sellers.

(c) WATER PURCHASES BY BUREAU.—In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including, but not limited to, water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water. Except with respect to water stored, conveyed or delivered to Federal and State wildlife habitat, the Secretary shall deliver such water pursuant to temporary contracts under section 102: *Provided*, That any such contract shall require recovery of any costs, including interest if applicable, incurred by the Secretary in acquiring such water.

(d) WATER BANKS.—In order to respond to a drought, the Secretary is authorized to participate in water banks established by a State.

SEC. 102. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and non-project water and may permit the use of facilities at Federal Reclamation projects for the storage or conveyance of project or non-project water, for use both within and outside an authorized project service area.

(b) SPECIAL PROVISIONS APPLICABLE TO TEMPORARY WATER SUPPLIES PROVIDED UNDER THIS SECTION.—

(1) TEMPORARY SUPPLIES.—Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than two years from the date of execution or upon a determination by the Secretary that water supply conditions no longer warrant that such contracts remain in effect, whichever occurs first. The costs associated with any such contract shall be repaid within the term of the contract.

(2) OWNERSHIP AND ACREAGE LIMITATIONS.—Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies.

(3) TREATMENT UNDER RECLAMATION REFORM ACT OF 1982.—No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97–293).

(4) AMENDMENTS OF EXISTING CONTRACTS.—Any amendment to an existing contract to allow a contractor to carry out the provisions of this title shall not be considered a new and supplemental benefit for purposes of the Reclamation Reform Act of 1982 (Public Law 97–293).

(c) CONTRACT PRICE.—The price for project water, other than water purchased pursuant to section 101(c), delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on such capital costs allocated to municipal and industrial water, except that, for project water delivered to non-project landholdings, the price shall include full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (Public Law 97–293; 96 Stat. 1263; 43 U.S.C. 390bb)). For all contracts entered into by the Secretary under the authority of this title,

(1) the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs expended pursuant to this Act shall be at a rate to be determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract or,

(2) in the case of existing facilities the rate as authorized for that Federal Reclamation project or,

(3) in the absence of such authorized rate, the interest rate as determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction was initiated on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which were neither due nor callable for redemption for fifteen years from date of issue: *Provided*, That for all deliveries of water for municipal and industrial purposes from existing facilities to non-project contractors, the rate shall be as set forth in paragraph (1) of this subsection.

(d) FISH AND WILDLIFE.—The Secretary may make water from Federal Reclamation projects and non-project water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions or the operation of a Federal Reclamation project during drought conditions. The Secretary may store and convey project and non-project water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife habitat and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis. Water made available by the Secretary in 1991 from the Central Valley Project, California, to the Grasslands Water District for the purpose of fish and wildlife shall be nonreimbursable.

(e) NON-PROJECT WATER.—The Secretary is authorized to store and convey non-project water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to section 102(c) of this Act.

(f) RECLAMATION FUND.—The payment of capital costs attributable to the sale of project or non-project water or the use of Federal Reclamation project facilities shall be covered into the Reclamation Fund and be placed to the credit of the project from which such water or use of such facilities is supplied.

SEC. 103. LOANS.

The Secretary of the Interior is authorized to make loans to water users for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages, including those suffered by fish and wildlife, resulting from drought conditions. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate: *Provided*, That the Secretary shall not approve any loan unless the applicant can demonstrate an ability to repay such loan within the term of the loan; *Provided further*, That for all loans approved by the Secretary under the authority of this section, the interest rate shall be the rate determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with periods to maturity comparable to the repayment period of the loan. The repayment period for loans issued under this section shall not exceed fifteen years. The repayment period for such loans shall begin when the loan is executed. Sections 203(a) and 220 of the Reclamation Reform Act of 1982 and sections 105 and 106 of Public Law 99–546 shall not apply to any contract to repay such loan. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives in writing of any loan which the Secretary intends to approve not less than 30 days prior to granting final approval.

SEC. 104. APPLICABLE PERIOD OF DROUGHT PROGRAM.

(a) IN GENERAL.—The programs and authorities established under this title shall become operative in any Reclamation State only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected Tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in title II of this Act.

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

(c) TERMINATION OF AUTHORITY.—The authorities established under this title shall terminate ten years after the date of enactment of this Act.

TITLE II—DROUGHT CONTINGENCY PLANNING

SEC. 201. IDENTIFICATION OF OPPORTUNITIES FOR WATER SUPPLY CONSERVATION, AUGMENTATION AND USE.

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions. The Secretary is authorized to provide technical assistance to States and to local and Tribal government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

SEC. 202. DROUGHT CONTINGENCY PLANS.

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare or participate in the preparation of cooperative drought contingency plans (hereinafter in this title referred to as "contingency plans") for the prevention or mitigation of adverse effects of drought conditions.

SEC. 203. PLAN ELEMENTS.

(a) PLAN PROVISIONS.—Elements of the contingency plans prepared pursuant to section 202 may include, but are not limited to, any or all of the following:

(1) Water banks.

(2) Appropriate water conservation actions.

(3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas in order to mitigate the effects of drought.

(4) Use of Federal Reclamation project facilities to store and convey non-project water for agricultural, municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.

(5) Use of water from dead or inactive reservoir storage or increased use of ground water resources for temporary water supplies.

(6) Water supplies for fish and wildlife resources.

(7) Minor structural actions.

(b) FEDERAL RECLAMATION PROJECTS.—Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects;

(1) those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project; and

(2) those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) DROUGHT LEVELS.—The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans.

(d) COMPLIANCE WITH LAW.—The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321), section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a), and the Fish and Wildlife Coordination Act, and shall be in accordance with applicable State law.

(e) REVIEW.—The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

SEC. 204. RECOMMENDATIONS.

(a) APPROVAL.—The Secretary shall submit each plan prepared pursuant to section 202 to the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation, if needed.

(b) PACIFIC NORTHWEST REGION.—A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States in the region and the Administrator of the Bonneville Power Administration.

SEC. 205. RECLAMATION DROUGHT RESPONSE FUND.

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 202 and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

SEC. 206. TECHNICAL ASSISTANCE AND TRANSFER OF PRECIPITATION MANAGEMENT TECHNOLOGY.

(a) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 1 of the Reclamation Act (Act of June 17, 1902, 32 Stat. 388), and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

(b) TECHNOLOGY TRANSFER PROGRAM.—The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State, Tribal, and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting field studies cost-shared on a 50–50 basis to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 303 of this Act (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than $90,000,000 in total for fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 302. AUTHORITY OF SECRETARY.

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this Act. In carrying out the authorities under this Act, the Secretary shall give specific consideration to the needs of fish and wildlife, together with other project purposes, and shall consider temporary operational changes which will mitigate, or can be expected to have an effect in mitigating, fish and wildlife losses and damages resulting from drought conditions, consistent with the Secretary's other obligations.

SEC. 303. TEMPERATURE CONTROL AT SHASTA DAM, CENTRAL VALLEY PROJECT.

The Secretary is authorized to complete the design and specifications for construction of a device to control the temperature of water releases from Shasta Dam, Central Valley Project, California, and to construct facilities needed to attach such device to the dam. There is authorized to be appropriated to carry out the authority of this section not more than $12,000,000.

SEC. 304. EFFECT OF ACT ON OTHER LAWS.

(a) CONFORMITY WITH STATE AND FEDERAL LAW.—All actions taken pursuant to this Act pertaining to the diversion, storage, use, or transfer of water shall be in conformity with applicable State and applicable Federal law.

(b) EFFECT ON JURISDICTION, AUTHORITY, AND WATER RIGHTS.—Nothing in this Act shall be construed as expanding or diminishing State, Federal, or Tribal jurisdiction or authority over water resources development, control, or water rights.

SEC. 305. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of non-project water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California, the Truckee Storage Project, and the Washoe Project, California and Nevada. The Secretary is further authorized to enter into contracts for the exchange of water for the aforementioned purposes using facilities associated with the Cachuma Project, California.

SEC. 306. REPORT.

There shall be included as part of the President's annual budget submittal to the Congress a detailed report on past and proposed expenditures and accomplishments under this Act.

SEC. 307. FEDERAL RECLAMATION LAWS.

This Act shall constitute a supplement to the Federal Reclamation laws.

ENVIRONMENTAL CLEANUP AT THE PHOENIX INDIAN SCHOOL PROPERTY

MCCAIN AMENDMENT NO. 1452

Mr. SEYMOUR (for Mr. MCCAIN) proposed an amendment to the bill (S. 2034) to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property, as follows:

Delete section 1 of the bill in its entirety and substitute therefor the following:

SECTION 1. The Secretary of the Interior shall remove, at the earliest possible date, all asbestos within buildings and related infrastructure, including underground pipes, located on the 110 acre parcel of federal property known as the Phoenix Indian School. The obligation of the Secretary to carry out these activities shall continue beyond the date of transfer of the Phoenix Indian School property from federal ownership."

MINTING OF COINS IN COMMEMORATION OF THE 200TH ANNIVERSARY OF THE WHITE HOUSE

CRANSTON (AND OTHERS) AMENDMENT NO. 1453

Mr. MITCHELL for Mr. CRANSTON, for himself, Mr. WALLOP, Mr. KENNEDY, and Mr. HATCH) proposed an amendment to the bill (H.R. 3337) to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes, as follows:

At the appropriate place in the bill, insert the following:

TITLE _____—COINS

SEC. _____01. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. _____02. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the ratification of the Bill of Rights to the United States Constitution for a period of 2 years after issuance. After the 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. The minting of the first selected coin shall begin January 1993, and the issuance shall begin as soon as practical thereafter. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. _____03. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. _____04. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following concepts from the Bill of Rights: freedom of speech and assembly; freedom of the press; the right to due process of law; and other appropriate themes. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. _____05. REDUCTION OF THE NATIONS DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE _____—JAMES MADISON COINS

SEC. _____01. SHORT TITLE.

This title may be cited as the "James Madison—Bill of Rights Commemorative Coin Act".

SEC. _____02. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) HALF DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the half dollar silver coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) INSCRIPTIONS.—All coins minted and issued under this Act shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) DESIGN PANEL.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. _____03. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. _____04. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR COINS AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this title may be issued beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1993.

SEC. _____05. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $30 per coin for the five dollar coins, $6 per coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. _____06. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) REPORTS TO CONGRESS.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the committee on Banking, Finance, and Urban Affairs of the House of Representatives and the committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this title during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994.

SEC. _____07. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. _____08. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section ___07 of this title. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section ___07 of this Act shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. _____09. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

CORRECTIONS IN THE ENROLLMENT OF H.R. 3435

MURKOWSKI AMENDMENT NO. 1454

Mr. MURKOWSKI proposed an amendment to the concurrent resolution (S. Con. Res. 84) to correct the enrollment of H.R. 3435, the RTC funding bill, as follows:

SEC. . Subsection 12(b)(7)(vii) of Pub. L. No. 94–204, as amended, and subsection 9102(e) of Pub. L. No. 101–165, as amended, are each amended further by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets such as financial instruments, notes, loans bonds, and licenses).".

REPEAL OF A SECTION OF THE RESOLUTION TRUST CORPORATION LEGISLATION

MURKOWSKI AMENDMENT NO. 1455

Mr. RIEGLE (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 2131) to repeal section 618 of the Resolution Trust Corporation, Refinancing, Restructuring and Improvement Act of 1991, as follows:

Insert at the end:

SEC. . Subsection 12(b) (7) of Pub. L. No. 94–204, as amended, and subsection 9102(e) of Pub. L. No. 101–165, as amended, are each further amended by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation such as financial instruments, notes, loans and bonds).".

HEALTH PROMOTION AND DISEASE PREVENTION ACT

KENNEDY AMENDMENT NO. 1456

Mr. FORD (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and human services, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Promotion and Disease Prevention Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—HEALTH PROMOTION AND DISEASE PREVENTION ASSISTANCE

Sec. 101. Short title.

Subtitle A—Preventive Health and Health Services Block Grant

Sec. 110. Reauthorization of preventive health and health services block grant.
Sec. 111. Reporting and data collection improvements.
Sec. 112. Establishment of block grant requirement to address health promotion and disease prevention related to women's health.
Sec. 113. Reauthorization of State planning functions.
Sec. 114. Health promotion and disease prevention research centers.
Sec. 115. Use of allotments.
Sec. 116. Training of State and local public health personnel.

Subtitle B—National Health Objectives Project Grants to States

Sec. 121. National health objectives project grants to States.

Subtitle C—Categorical Programs

Sec. 131. National demonstration projects for women's health.
Sec. 132. Increased injury prevention activities.
Sec. 133. Establishment of an Office of Adolescent Health.
Sec. 134. Improvement in lead poisoning screening and prevention.
Sec. 135. Prevention and control of sexually transmitted diseases.
Sec. 136. Screening and early detection of prostate cancer.
Sec. 137. Special regional and national demonstration projects for minority health promotion and disease prevention.

TITLE II—COORDINATION OF HEALTH PROMOTION AND DISEASE PREVENTION ACTIVITIES

Sec. 201. Short title.
Sec. 202. Health information and health promotion.
Sec. 203. Interdepartmental Coordinating Council.
Sec. 204. Dissemination of health information.
Sec. 205. Report on national health status improvement.
Sec. 206. Health education curriculum.
Sec. 207. State offices of minority health.

TITLE III—PREVENTABLE CASES OF INFERTILITY

Sec. 301. Establishment of program of grants regarding preventable cases of infertility arising as result of sexually transmitted diseases.

TITLE IV—COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE

Sec. 401. Short title.
Sec. 402. Migrant and community health center initiatives.
Sec. 403. Expansion of immunization programs for young children.
Sec. 404. Project grants for maternal and child preventive health and health care services.
Sec. 405. Birth defects proposal.

TITLE V-MISCELLANEOUS

Sec. 501. Establishment of an Advisory Council on Health Promotion and Disease Prevention.

VOL
137
PT
24
NO
26
1991
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JA
3
1992
UMI

Sec. 502. Responsibilities of members of the Commissioned Corps for health promotion and disease prevention.
Sec. 503. Responsibilities of the Surgeon General for disseminating information and recommendations.
Sec. 504. Change in name of Centers for Disease Control.
Sec. 505. Study concerning the reduction of the risk of bloodborne disease transmission.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—HEALTH PROMOTION AND DISEASE PREVENTION ASSISTANCE

SEC. 101. SHORT TITLE.

This title may be cited as the "Health Promotion and Disease Prevention Assistance Act of 1991".

Subtitle A—Preventive Health and Health Services Block Grant

SEC. 110. REAUTHORIZATION OF PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.

Section 1901 (42 U.S.C. 300–w) is amended—

(1) in subsection (a), by striking out "$95,000,000" and all that follows through the end thereof and inserting the following: "$275,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.";

(2) in subsection (b), by striking out "at least $3,500,000" and inserting in lieu thereof "at least $7,000,000"; and

(3) by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this subtitle and subject to the provisions of subsection (b), if amounts appropriated under subsection (a) for any fiscal year exceed $150,000,000 all of such amounts shall be used to carry out subpart 2 for such fiscal year.".

SEC. 111. REPORTING AND DATA COLLECTION IMPROVEMENTS.

(a) ANNUAL REPORTS.—Subsection (a) of section 1906 (42 U.S.C. 300w–5(a)) shall be amended to read as follows:

"(a)(1) Each State receiving an allotment, and each entity receiving a grant, under this part shall prepare and submit to the Secretary an annual report concerning the activities carried out by such State or grantee with amounts received under this part. Such reports shall describe the services provided using such amounts in accordance with subsections (a) and (e) of section 1904.

"(2) The Secretary, acting through the Centers for Disease Control and Prevention and in consultation with the States and the National Health Objectives Advisory Committee, shall develop uniform data items and data formats for the annual reports required under paragraph (1). Such uniform data items and formats shall constitute the minimum requirements that States must meet in submitting annual reports under paragraph (1).

"(3) In addition to complying with the uniform data item and format requirements of paragraph (2), an annual report submitted under paragraph (1) shall specifically provide if readily available—

"(A) the number of individuals provided with services in the service areas designated under subsections (a) and (e) of section 1904;

"(B) the percentage of minorities and disadvantaged individuals served within each of the service areas described in subparagraph (A); and

"(C) any other demographic information that the Secretary, after consultation with the States, determines appropriate.".

(b) INVESTIGATIONS.—Subsection (d) of section 1906 (42 U.S.C. 300w–5(d)) is amended to read as follows:

"(d) The Secretary, in consultation with the States and the National Health Objectives Advisory Committee, shall periodically update a set of priority national health status indicators, to be used to evaluate and monitor the overall health of the United States and of selected subgroups within the United States.".

(c) HEALTH STATUS REPORTS.—Section 1906 (42 U.S.C. 300w–5) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall determine the capability of each State to evaluate and submit a report, in a uniform format, concerning the health status of the State as measured in terms of the health objectives parameters as described in subsection (d).

"(2)(A) Except as provided in subparagraph (B), with respect to a State that is determined by the Secretary under paragraph (1) to be unable to adequately evaluate its health status, such State shall be required to utilize not more than 10 percent of the amounts paid to the State under section 1903 for a fiscal year to develop the capacity to make such an evaluation. Amounts under section 1903 shall be so utilized until such time as the Secretary determines that such capacity has been achieved by the State.

"(B) The Secretary may waive the requirement of subparagraph (A) in the case of a State, territory or Indian tribe that is determined by the Secretary to be unable to develop the capacity required under paragraph (1) through the utilization of the funds required under such subparagraph.

"(3) With respect to entities that are eligible to receive grants under this part, that apply for such grants, and that the Secretary determines do not have the resources to efficiently establish the capacity for evaluating their health status as provided for in paragraph (1), the Secretary, in consultation with the State agencies, may provide technical assistance to enable such entities to make such evaluations and such entities shall be exempt from the requirements of paragraph (1).

"(4) An entity described in paragraph (3) shall indicate in the annual report submitted by such entity under subsection (a) the status of such entity under such paragraph and the Secretary shall review such status once during every 3-year period.".

(d) REPORT TO CONGRESS.—Section 1906 (42 U.S.C. 300w–5(b)) (as amended by subsection (a)) is amended—

(1) by striking out paragraph (6) of subsection (b); and

(2) by adding at the end thereof the following new subsection:

"(f) Not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, the Secretary shall prepare and submit a report to Congress concerning the activities of the States that have received funds under this part. Such report shall include State compilations of the information contained in the reports prepared under subsection (a), and any recommendations for appropriate changes in legislation necessary to facilitate improvement in the health status indicators described in subsection (d), facilitate the implementation of the State plans described in subsection (a)(3)(A) and ensure compliance with section 1905(c)(8), and to facilitate other changes determined appropriate by the Secretary under this part.".

(e) APPLICATION.—Section 1905 (42 U.S.C. 300w–4) is amended—

(1) in subsection (c)—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) agrees that continuing education credits in the utilization of universal precautions, and infection control procedures for the prevention of bloodborne disease transmission, shall be required as part of those credits required for health professional relicensure."; and

(2) in subsection (d), by striking out the last sentence and inserting in lieu thereof the following new sentences: "The description shall include, a summary of the manner in which the funds will be allocated under section 1904(a)(1), and which health status indicators (as described in section 1906(d)) such allocations are intended to address. The description shall also include prior year information concerning the State's health status according to the health status indicators (as described in section 1906(d)).".

SEC. 112. ESTABLISHMENT OF BLOCK GRANT REQUIREMENT TO ADDRESS HEALTH PROMOTION AND DISEASE PREVENTION RELATED TO WOMEN'S HEALTH.

Section 1904 (42 U.S.C. 300w–3) is further amended by adding at the end thereof the following new subsection:

"(e) Each State that receives payments under section 1903 shall demonstrate that a portion of such payments are being utilized in each fiscal year for health promotion and disease prevention activities related to women's health problems, such as osteoporosis, physical abuse, diabetes and tobacco use.".

SEC. 113. REAUTHORIZATION OF STATE PLANNING FUNCTIONS.

Section 7 of the Year 2000 Health Objectives Planning Act (Public Law 101–582) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this Act and for the establishment and operation of State Health Objectives Advisory Committees under section 19101(b) of the Public Health Service Act, there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 114. HEALTH PROMOTION AND DISEASE PREVENTION RESEARCH CENTERS.

Section 1706(e) (42 U.S.C. 300u–5(e)) is amended by striking out "$3,000,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 115. USE OF ALLOTMENTS.

Section 1904(a)(1) (42 U.S.C. 300w–4(a)(1)) is amended in the matter preceding subparagraph (A) by striking out "and (c)" and inserting in lieu thereof "(c), (e), and (f)".

SEC. 116. TRAINING OF STATE AND LOCAL PUBLIC HEALTH PERSONNEL.

Part A of title XIX (42 U.S.C. 300w et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1910A. TRAINING.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, to the extent appropriations are available, provide assistance for the professional training of public health personnel, including—

"(1) the identification of new knowledge bases and skills for State and local public health personnel that are reasonably necessary and appropriate to permit the States to achieve the national health priorities; and

"(2) encouraging the training and education of appropriate numbers of such personnel, including racial and ethnic minority personnel, in such knowledge bases and skills, including cross cultural skills, by establishing cooperative agreements with schools of public health, schools of nursing, schools of medicine, and other institutions that train and educate such personnel; and

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

Subtitle B—National Health Objectives Project Grants to States

SEC. 121. NATIONAL HEALTH OBJECTIVES PROJECT GRANTS TO STATES.

Part A of title XIX (42 U.S.C. 300w et seq.) is amended—

(1) in the part heading, to read as follows:

"PART A—PREVENTIVE HEALTH AND NATIONAL HEALTH OBJECTIVES GRANTS";

(2) by inserting after the part heading the following:

"*Subpart 1—Preventive Health and Health Services Block Grant*";

and

(3) by adding at the end thereof the following new subpart:

"*Subpart 2—National Health Objectives Project Grants to States*

"SEC. 1910D. OPERATION OF SUBPART.

"The Secretary, in accordance with subsection (c) of section 1901, shall use amounts appropriated under subsection (a) of such section for a fiscal year to carry out this subpart in such fiscal year.

"SEC. 1910E. DEFINITIONS AND ADMINISTRATION.

"(a) DEFINITIONS.—As used in this subpart:

"(1) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the National Health Objectives Advisory Committee established under section 1910K(a).

"(2) CORE PRIORITIES.—The term 'core priorities' means the three national health priorities that are designated by the Secretary as 'core national health priorities' and that must be included in the State health objectives provided in the State health objectives plan of each State.

"(3) NATIONAL HEALTH PRIORITIES.—The term 'national health priorities' means the priorities established under section 1910K(b).

"(4) STATE AGENCY.—The term 'State agency' means the department, agency, commission, or other entity designated and vested with authority under State law over matters concerning public health.

"(5) STATE PLAN.—The term 'State plan' means the health objectives plan of a State submitted under section 1910I.

"(6) STATE REPORT.—The term 'State report' means the annual report of a State required under section 1910J.

"(b) ADMINISTRATION.—The Secretary shall carry out this subpart through the Centers for Disease Control and Prevention.

"SEC. 1910F. ALLOTMENTS.

"(a) IN GENERAL.—Amounts available pursuant to section 1910D for each fiscal year shall be utilized to make allotments in accordance with subsections (b), (c), and (d).

"(b) FORMULA.—The amount of an allotment to a State under subsection (a) shall be equal to the amount of the allotment for such State under section 1902 for fiscal year 1992.

"(c) REMAINDER.—From the remainder of the amounts available pursuant to section 1910D, the Secretary shall allot in each fiscal year to each State an amount that equals—

"(1) $12,500, if the population of the State does not exceed 50,000;

"(2) $37,500, if the population of the State exceeds 50,000 but does not exceed 450,000;

"(3) $500,000, if the population of the State exceeds 450,000 but does not exceed 1,000,000;

"(4) $750,000, if the population of the State exceeds 1,000,000 but does not exceed 3,000,000;

"(5) $1,000,000, if the population of the State exceeds 3,000,000 but does not exceed 6,000,000;

"(6) $1,250,000, if the population of the State exceeds 6,000,000 but does not exceed 10,000,000;

"(7) $1,500,000, if the population of the State exceeds 10,000,000 but does not exceed 15,000,000; and

"(8) $2,000,000, if the population of the State exceeds 15,000,000.

"(d) RELATIVE POPULATION.—To the extent that all amounts available for allotment under subsection (a) for each fiscal year are not otherwise allotted to States under subsection (c), such excess shall be allotted to each State in an amount that bears the same ratio to such excess amount for such fiscal year as the total population of the State bears to the population of all States.

"(e) ADJUSTMENT.—If for any fiscal year the amount available under section 1910D is less than the total of all amounts listed under subsection (b), the amount allotted to each State shall be an amount that bears the same ratio to the total of all amounts available for allotment under such section as the amount of the allotment that the State is entitled to under subsection (b) bears to the total of all such amounts under such paragraph.

"(f) INDIANS.—

"(1) IN GENERAL.—If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization; and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this subpart;

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for the fiscal year the amount determined under paragraph (2).

"(2) ELIGIBILITY.—For an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"(3) DEFINITIONS.—As used in this subsection, the terms 'Indian tribe' and 'tribal organization' shall have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"SEC. 1910G. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—

"(1) PLAN REQUIREMENT.—For each fiscal year, the Secretary shall make payments from amounts available under section 1910D for that fiscal year, as provided for in section 6503(a) of title 31, United States Code, to each State, if such State has submitted an approved State plan, from its allotment under section 1910F.

"(2) CARRYOVER FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"(b) SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) IN GENERAL.—

"(A) AIDING GRANTEE IN CARRYING OUT DUTIES.—Upon the request of a grantee under subsection (a), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the grantee in carrying out such subsection and, for such purposes, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(B) LIMITATION.—With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of the grant to the grantee involved by an amount equal to the costs of detailing personnel and fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(2) USE OF REDUCTION.—The amount by which any payment is reduced under paragraph (1) shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be considered to be subpart of the payment and to have been paid to the State.

"SEC. 1910H. USE OF ALLOTMENTS.

"(a) STATE PLAN.—A State shall utilize amounts paid to it under section 1910G, from the allotment of such State under section 1910F, to develop and implement a State plan, in accordance with section 1910I, in order to—

"(1) develop and collect data to assess the public health needs and health status of the individuals, including minorities, that reside in the State;

"(2) provide assistance for planning necessary to assist projects and programs to be included in the State plan;

"(3) provide assistance to projects and programs described in the State plan; and

"(4) make appropriate State data and the State plan available to local health departments to facilitate improved local planning.

"(b) LIMITATIONS.—A State shall not use amounts paid to it under section 1910G, to—

"(1) provide inpatient services;

"(2) make cash payments to intended recipients of health services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) ADMINISTRATION.—Not more than 10 percent of the total amount paid to a State under section 1910G from the State allotment under section 1910F for any fiscal year shall be used for administering the funds made available under section 1910G. The State shall pay from non-Federal sources any additional costs of administering such funds. For purposes of this subsection, the term 'administration' shall not be construed to include collection or assessment of data or assistance provided by States for the planning or implementation of projects and programs.

"SEC. 1910I. STATE HEALTH OBJECTIVES PLAN AND DESCRIPTION OF ACTIVITIES.

"(a) IN GENERAL.—To receive a payment under section 1910G from the State allotment for a fiscal year under section 1910F, a State shall prepare and submit, to the Secretary, a State health objectives plan at such time, in such manner, and containing such information as the Secretary shall require. Such State plan shall—

"(1) be developed by the State health agency in consultation with the State Health Objectives Advisory Committee established under subsection (b);

"(2) meet the requirements of subsection (c); and

"(3) contain assurances satisfactory to the Secretary that the State will meet the requirements of subsection (d).

"(b) ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—Not later than 6 months after the enactment of this subpart, each State shall establish a State Health Objectives Advisory Committee, that shall be chaired by the State health officer, and shall consist of members of the public and health directors that represent local health departments.

"(2) REPRESENTATIVES.—States are encouraged to include entities receiving grants under this subpart, representatives of community-based organizations including minority community-based organizations, and a representative of an academic institution that trains public health professionals, as part of the State committee established under paragraph (1).

"(3) MEETINGS.—The State Health Objectives Advisory Committee shall meet not less than twice each year.

"(4) RESPONSIBILITIES.—The Advisory Committee established under paragraph (1) shall review and make recommendations to the State health agency concerning—

"(A) health assessment and policy development and assurance functions associated with the program established under this subpart; and

"(B) State plans, data collection efforts, the establishment of State health objectives, coordination of efforts funded under this subpart, coordination with other similar programs, public hearings, and the allocation of funds within the State annual report.

"(c) REQUIREMENTS.—A State plan submitted under subsection (a) shall—

"(1) be developed in consultation with the State Health Objectives Committee;

"(2) contain a specific set of not less than five State health objectives that shall be chosen from the national health priorities described by the Secretary under section 1910K, and that shall include all core priorities identified under such section;

"(3) contain an annual budget that describes the manner in which the payments made under section 1910G are to be used by the State, and such budget shall—

"(A) specify the portion of such funds that are to be used at each level of the State or local government, and the portion of such funds that are to be allocated for grants to local agencies of public health, community-based organizations, including minority community-based organizations, voluntary nonprofit health organizations, and other entities selected by the State help meet State objectives under paragraph (7); and

"(B) commit the State to use not less than 80 percent of such payments to meet State objectives that, as determined by the State agency after an analysis of the national health priorities, and based on the available State data described in paragraph (4), are critical to improving the health status of the individuals who reside within the State;

"(4) in terms of each State objective—

"(A) provide assurances satisfactory to the Secretary that there is a minimum set of data available to satisfactorily measure the health status of individuals including racial and ethnic minorities, who reside within the State;

"(B) utilize the data described in subparagraph (A) to identify the improvement that the State expects to make in the health status of individuals who reside within the State during the term of the State plan;

"(C) specify the particular strategies, projects and programs intended to be used by the State to improve the health status of individuals who reside within the State;

"(D) specify the methods intended to be used by the State to evaluate the progress made by the State in improving the health status of individuals who reside within the State; and

"(E) provide services targeted at improving the health status of individuals who reside within the State at the level of State or local government that the State determines are most likely to be effective in achieving the State objectives especially with respect to addressing inner city and rural disparities in health status indicators;

"(5) provide for the establishment of practices and procedures through which the State shall assist local health agencies in the development of community health plans and to monitor the progress of local health agencies, community-based organizations, including minority community-based organizations, and health organizations in implementing the State objectives;

"(6) identify public health personnel requirements that the State determines are reasonably necessary and appropriate to permit the State to achieve the State objectives;

"(7) identify the mechanism by which the State shall select, and allocate assistance provided under this subpart to local units of government, local agencies of public health, community-based health, including minority community-based organizations, voluntary nonprofit health organizations, and other entities within the State to help meet the State objectives;

"(8) contain a description (that may be revised throughout the year as may be necessary to reflect substantial changes in the projects and programs assisted by the State) of the intended use of the payments the State will receive under section 1910G for the fiscal year for which the State plan is submitted, including information concerning the projects and programs to be supported and services to provided, which shall be made available to the public within the State in a manner that will facilitate comment from any individual during the period of the development of the description and after the transmittal of such; and

"(9) contain a plan for conducting health education and disease prevention programs for identifiable racial and ethnic communities. .

"(d) ASSURANCES.—As part of the State plan required under subsection (a), a State shall provide assurances satisfactory to the Secretary that such State—

"(1) shall use the amounts allotted to it under section 1910F in accordance with the requirements of the State plan and of this subpart;

"(2) shall establish reasonable criteria for the evaluation of the effective performance of entities that receive assistance from the allotment to the State under this subpart;

"(3) shall identify those populations including racial and ethnic minorities, areas, and localities in the State that demonstrate a need for the services for which funds may be provided by the State under this subpart;

"(4) shall use amounts made available under section 1910G for any period to supplement and increase the level of State, local, and other Federal assistance that would, in the absence of amounts available under section 1910G, be made available for the programs and activities for which funds are provided for under this subpart, and shall not use funds made available under this subpart to supplant such State, local, and other Federal funds; and

"(5) shall require the State Health Objectives Advisory committee to consult with community-based minority organizations.

"SEC. 1910J. STATE HEALTH OBJECTIVES REPORT.

"(a) IN GENERAL.—Not later than 120 days after the end of each fiscal year for which assistance is provided under this subpart, each State, in cooperation with participating local units of government, shall prepare and submit, to the Secretary, an annual State health objectives report concerning the activities of the State under this subpart, that meets the requirements of this section.

"(b) REQUIREMENTS.—A State report submitted under subsection (a) shall be in such form and contain such information as the Secretary determines, after consultation with the heads of the State agencies and the Comptroller General, to be necessary—

"(1) to determine whether funds were expended by the State in accordance with this subpart and consistent with the needs within the State as proscribed in the State plan;

"(2) to secure a description of the projecte and programs within the State operated or assisted with amounts provided under allotments made under this subpart; and

"(3) to secure a record of—

"(A) the purposes for which amounts provided under this subpart were expended;

"(B) the recipients of such funds; and

"(C) the progress made toward achieving the purposes for which such funds were provided.

"(c) UNIFORM DATA ITEM.—A State report submitted under subsection (a) shall include information concerning at least one uniform data item on each national health priority described in section 1910K(b) to be determined in consultation with the Secretary.

"(d) UNIFORM DATA SETS.—Each State shall report uniform data sets, as prescribed by the Secretary under section 1910K(f), for each national health priority addressed in the State plan that shall commence not later than 4 years after the date of enactment of this subpart.

"(e) ADDITIONAL CONTENTS.—The Secretary may require States to include additional information in the State report submitted under this section.

"(f) AVAILABILITY.—The State shall ensure that the State report is available for public inspection within the State, and the State Health Official shall provide copies at cost, on request, to any interested individual.

"SEC. 1910K. RESPONSIBILITIES OF THE SECRETARY.

"(a) ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—Not later than 3 months after the enactment of this subpart, the Secretary, acting through the Assistant Secretary for Health, shall establish an advisory committee, to be known as the 'National Health Objectives Advisory Committee', to advise the Secretary concerning national health priorities.

"(2) COMPOSITION.—The Advisory Committee shall be composed of 12 members, of which—

"(A) one member shall be the Assistant Secretary for Health, who shall serve as the chairperson of the Advisory Committee;

"(B) two members shall be appointed by the Secretary from the general public;

"(C) one member shall be appointed by the Administrator of the Environmental Protection Agency;

"(D) two member shall be appointed by the Association of State and Territorial Health Officials;

"(E) one member shall be appointed by the National Association of County Health Officials;

"(F) one member shall be appointed by the United States Conference of Local Health Officials;

"(G) one member shall be appointed by the Association of Schools of Public Health;

"(H) one member shall be appointed by the American Public Health Association;

"(I) one member shall be the Director of the Centers for Disease Control and Prevention; and

"(J) one member shall be the Director of the Office of Disease Prevention and Health Promotion.

"(3) MEETINGS AND DUTY.—The Advisory Committee shall meet not less than once each year for the purpose of providing advice to the Secretary concerning the selection, revision, implementation, and evaluation of the national health priorities, and the development and adoption of the uniform data set.

"(b) NATIONAL HEALTH PRIORITIES.—The Secretary, in consultation with the heads of other Federal agencies and the Advisory Committee, and taking into account the 'Year 2000 Health Objectives' developed by the United States Public Health Service, shall establish—

"(1) national health priorities that shall form the basis for all activities that receive assistance under this subpart;

"(2) from the priorities established under paragraph (1), a set of three core priorities that shall be included in each State plan; and

"(3) in cooperation with other appropriate national organizations, an estimate of the personnel and training that will be needed throughout the United States to accomplish the priorities established under paragraph (1).

"(c) REVIEW OF STATE PLANS.—The Secretary shall review each proposed State plan, and each proposed amendment thereto, submitted by a State under section 1910I, and approve each such plan or amendment, or each portion of such plan or amendment, that the Secretary determines complies with the requirements of this subpart.

"(d) STATE REPORT.—The Secretary shall receive and review each State report submitted by a State under section 1910J, and shall compile, evaluate, and prepare and submit, every 3 years, to the appropriate Committees of Congress and the President, an annual national health objectives report concerning the data and information contained in such State report.

"(e) OTHER ASSISTANCE.—The Secretary shall provide consultation, guidance, and technical assistance to State, and through State to local units of government, and to other entities participating in the programs created under this subpart, to—

"(1) assist in the development of data sets as required under section 1910I, and uniform data items required under section 1910J; and

"(2) assist States with the development of local and State plans, or amendments to such plans, that the Secretary determines does not comply with the requirements of this subpart, in revising such plans or amendments to comply with the requirements of this subpart.

"(f) UNIFORM DATA SETS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with State and local health officials and the National Health Objectives Advisory Committee, shall establish uniform data sets for each of the national health priorities described in subsection (b). Such data sets shall be consistent with those established under section 1906 and shall be adopted not later than 2 years after the date of the enactment of this subpart.

"(g) IMPLEMENTATION.—In implementing the provisions of sections 1910I, 1910J and this section, with respect to data sets and data items, the Secretary shall, to the extent practicable, rely on previously developed uniform data sets, systems and indicators.

"(h) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this subpart, and every 3 years thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities of the States that have received funds under this subpart. Such report shall include State compilations of the information contained in the reports prepared under section 1910J, and any recommendations for appropriate changes in legislation necessary to facilitate improvement in the health status of the United States and of selected subgroups within the United States, facilitate the implementation of the State plans described in section 1910I and to facilitate other changes determined appropriate by the Secretary under subpart 2.".

Subtitle C—Categorical Programs

SEC. 131. NATIONAL DEMONSTRATION PROJECTS FOR WOMEN'S HEALTH.

Section 317(k) (42 U.S.C. 247b(k)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4)(A) The Secretary shall award grants to States, and in consultation with State health agencies, to political subdivisions of States, community based organizations, and other public and nonprofit private entities for—

"(i) the establishment of demonstration projects for the prevention of conditions or diseases that adversely affect women;

"(ii) the establishment of demonstration projects for the promotion of women's health; and

"(iii) the development and dissemination of information for health promotion and disease prevention related to issues of women's health.

"(B) The projects and activities carried out under this subsection shall have an emphasis on, but not be restricted to the prevention or control of osteoporosis, coronary heart disease, diabetes, obesity and tobacco use.

"(C) There are authorized to be appropriated to carry out this paragraph, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 132. INCREASED INJURY PREVENTION ACTIVITIES.

(a) INJURY CONTROL ACTIVITIES.—Section 392 (42 U.S.C. 280b–1) is amended by adding at the end thereof the following new subsections:

"(c) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may establish a national information clearinghouse to facilitate the exchange and dissemination of information concerning the prevention and control of injuries in homes, schools, public buildings and other such locations not otherwise covered by the Occupational Safety and Health Act of 1970.

"(d) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award grants to, or enter into contracts with, State departments of health and education, and in consultation with State authorities, to local departments of health and education, for the purposes of helping public schools to implement effective programs to prevent injuries and behaviors associated with unnecessary risks for injuries. As a condition of awarding a grant under this subsection to a State or local department of education, the Secretary shall require that such department of education coordinate with the relevant department of health in utilizing amounts received under such grant.

"(e)(1) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to States, and in consultation with State health agencies, to political subdivisions of States, community based organizations, and other public and nonprofit private entities for the establishment of 10 demonstration projects for the prevention and control of injuries in homes, schools, public buildings and other such locations not otherwise covered by the Occupational Safety and Health Act of 1970.

"(2)(A) Not more than 50 percent the amount appropriated under section 394 for fiscal year 1993 that exceeds $30,000,000, but in no event in excess of $2,000,000, shall be used to establish five demonstration projects under paragraph (1) in such fiscal year.

"(B) Not more than 50 percent of the amount appropriated under section 394 for fiscal year 1994 that exceeds the amount appropriated under such section for fiscal year 1993, but in no event in excess of $2,000,000, shall be used to establish the remaining five demonstration projecte required under paragraph (1) in such fiscal year. Additional projects may be established under such paragraph if appropriations remain available.

"(3) The projects and activities carried out under this subsection shall place an emphasis on, but not be restricted to, childhood injuries, particularly injuries to children under five years of age, prevention of motor vehicle injuries, violence and falls.".

(b) REPORT AND RECOMMENDATIONS.—Section 393 (42 U.S.C. 280b–2) is amended—

(1) in the section heading to read as follows:

"REPORT AND RECOMMENDATIONS";

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end thereof the following new subsection:

"(b) The Director of the Centers for Disease Control and Prevention shall biennially prepare and submit to the Secretary a report, together with recommendations and guidelines, concerning new technologies and practices based on established research findings of efficacy for injury prevention and control. The Secretary shall consider such recommendations and guidelines in determining whether to approve the purchase or lease of equipment, including vehicles, for use by the Department of Health and Human Services. The Secretary shall forward such recommendations and guidelines to the Congress, the Director of the General Services Administration, and any other agency head or State Governor that requests a copy of such recommendations and guidelines.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 394 (42 U.S.C. 280b-3) is amended—

(1) by striking out "$10,000,000" and all that follows and inserting "$40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.";

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end thereof the following new subsection:

"(b) The Secretary shall only make grants under section 392(e) for a fiscal year if amounts appropriated under subsection (a) for such fiscal year are in excess of the amount appropriated under this section for fiscal year 1991.".

SEC. 133. ESTABLISHMENT OF AN OFFICE OF ADOLESCENT HEALTH.

Title III (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"Part M—Adolescent Health

"SEC. 399F. OFFICE OF ADOLESCENT HEALTH.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Adolescent Health (hereafter referred to in this part as the 'Office') and provide administrative support and support services to the Director of such Office.

"(b) DIRECTOR.—The Office shall be headed by a Director (hereafter referred to in this part as the 'Director') who shall be appointed by the Secretary.

"(c) PURPOSE AND DUTIES.—It shall be the purpose of the Office to ensure the sufficiency of the efforts of the Federal government to improve the health status of adolescents. The Office shall—

"(1) coordinate all activities within the Department that relate to the monitoring of trends in the health status of adolescents through data collection;

"(2) coordinate all activities (including research) within the Department concerning the design of, support for, and evaluation of, adolescent health services;

"(3) establish a national information clearinghouse to facilitate the exchange of information concerning all Federal research activities and initiatives as such relates to adolescent health and to facilitate access to such information;

"(4) oversee multidisciplinary disease, injury, and disability prevention research projects concerning conditions and diseases unique to, more prevalent in, or neglected in adolescents;

"(5) coordinate the training of health providers who work with adolescents, particularly nurse practitioners, physician assistants, social workers;

"(6) establish within the Office an advisory committee under section 399H to be known as the National Advisory Committee on Adolescent Health;

"(7) provide advice to Congress concerning adolescent health issues; and

"(8) in collaboration with the National Adolescent Health Advisory Commission, develop a national strategic plan to access adolescent health issues.

"SEC. 399G. ADOLESCENT HEALTH INITIATIVES.

"(a) GRANTS.—The Secretary, acting through the Office of Adolescent Health, shall award grants to, or enter into contract with, State health agencies and other eligible applicants to assist such applicant in funding activities authorized under an application approved under section (d).

"(b) USE OF AMOUNTS.—Amounts provided under a grant or contract under subsection (a) shall be used by the recipients of such amounts to fund multidisciplinary projects based on established research findings of efficacy that are designed to—

"(1) use new and innovative methods to train health care practitioners to provide services to adolescents; and

"(2) demonstrate and evaluate innovative multidisciplinary methods and models designed to prevent adolescent violence.

"(c) ELIGIBLE APPLICANTS.—To be eligible to receive a grant or contract under this section an entity shall be a State or local health department, nonprofit organization and public or nonprofit college, university or school of, or program that specializes in, adolescent medicine, nursing, medicine, osteopathy, social work, psychology, public health, and programs that train physician assistants and shall prepare and submit to the Secretary for approval an application under subsection (d). Eligible entities shall not include for-profit entities, either directly or through a subcontract or subgrant.

"(d) APPLICATIONS.—

"(1) SUBMISSION.—To be eligible to receive a grant or contract under subsection (a) an entity shall prepare and submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require.

"(2) REQUIREMENTS.—Applications submitted under this subsection shall—

"(A) be submitted by a coalition or consortium of at least three eligible applicants with the express purpose of establishing long-term collaborative relationships with adolescent health care providers; and

"(B) provide any additional information required by the Secretary.

"(e) PEER REVIEW.—

"(1) IN GENERAL.—Each application for a grant or contract under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application.

"(2) ESTABLISHMENT.—The Secretary shall establish such peer review groups as may be necessary to carry out paragraph (1). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

"(3) REPORT OF FINDINGS.—With respect to applications referred to in paragraph (1), a peer review group established pursuant to such paragraph shall report its finding and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval, and awards should be made in the order of priority from the peer review process.

"(4) ADMINISTRATION.—This paragraph shall be carried out by the Secretary.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorised to be appropriated to carry out this section, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.

"SEC. 399H. NATIONAL ADOLESCENT HEALTH ADVISORY COMMISSION.

"(a) COMPOSITION.—The Advisory Commission (hereafter referred to in this section as the 'Commission') established under section 399F(c)(6) shall be composed of—

"(1) the Assistant Secretary of Health;

"(2) the Assistant Secretary of Education for Elementary and Secondary Schools;

"(3) a representative of the Health Resources and Services Administration to be appointed by the Secretary;

"(4) a representative of the Centers for Disease Control and Prevention to be appointed by the Secretary;

"(5) a representative of the National Institute of Health to be appointed by the Secretary;

"(6) five individuals appointed by the Secretary from among physicians, practitioners, scientists, and other health professionals whose clinical practice and research specialization focus on adolescent health; and

"(7) a parent of an adolescent to be appointed by the Secretary.

"(b) APPOINTMENTS.—Not later than April 1, 1992, the Secretary shall appoint the members of the Commission in accordance with subsection (a).

"(c) MEETINGS.—The Commission shall meet not less than twice annually to provide advice and make recommendations to the Secretary and to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, with respect to—

"(1) priority research needs;

"(2) appropriate research activities to be supported by the Office;

"(3) deficiencies and needs for improvements in existing data bases concerning adolescent health status and steps that should be taken to eliminate such deficiencies; and

"(4) identify problems in adolescent health and make recommendations for the resolution of such problems.

"(d) REPORTS.—

"(1) INTERIM REPORTS.—Not later than 1 year and 3 years after the date on which the initial meeting of the Commission is held, the Commission shall prepare and submit to the individual and entities described in subsection (c) a progress report concerning the activities of the Commission.

"(2) FINAL REPORT.—Not later than April 1, 1996, the Commission shall prepare and submit to the individuals and entities described in subsection (c) a final report concerning its activities.

"(e) STAFF SUPPORT FOR THE ADVISORY COMMISSION.—The Director of the Centers for Disease Control and Prevention, acting through the Division of Adolescent and School Health, shall provide the staff support for the Commission.".

SEC. 134. IMPROVEMENT IN LEAD POISONING SCREENING AND PREVENTION.

(a) AUTHORITY FOR GRANTS.—

(1) IN GENERAL.—Section 317A(a) (42 U.S.C. 247b-1(a)) is amended to read as follows:

"(a) AUTHORITY FOR GRANTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to public and nonprofit private entities (including States and political subdivisions of States) for the initiation and expansion of community programs designed—

"(A) to provide, for infants and children—

"(i) screening for elevated blood-lead levels;

"(ii) referral for treatment of such levels; and

"(iii) referral for environmental intervention associated with such levels; and

"(B) to provide education about childhood lead poisoning.

"(2) PROVISION OF ALL SERVICES AND ACTIVITIES THROUGH EACH GRANTEE.—In making grants under paragraph (1), the Secretary shall ensure that each of the services and activities described in such paragraph is provided through each grantee under such paragraph. The Secretary may authorize such a grantee to provide the services and activities directly, or through arrangements with other providers."; and

(2) CONFORMING AMENDMENTS.—Section 317A (42 U.S.C. 247b-1) is amended—

(A) by redesignating subsections (b) through (j) as subsections (d) through (l), respectively;

(B) in subsection (h) (as so redesignated)—

(i) in paragraph (1), by striking the comma after "recipient" and inserting a semicolon; and

(ii) in paragraph (2), by striking the comma at the end and inserting a semicolon; and

(C) by inserting before subsection (d) (as so redesignated) the following:

"(c) PRIORITY IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give priority to applications for programs that will serve areas with a high incidence of elevated blood-lead levels in infants and children.".

(b) ESTABLISHMENT OF REQUIREMENT REGARDING STATUS AS MEDICAID PROVIDER.—Section 317A, as amended by subsection (a)(2)(A), is further amended by inserting after subsection (a) the following new subsection:

"(b) STATUS AS MEDICAID PROVIDER.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under subsection (a) unless, in the case of any service described in such subsection that is made available pursuant to the State plan approved under title XIX of the Social Security Act for the State involved—

"(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant will enter into an agreement with a provider under which the provider will provide the service, and the provider has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(A) In the case of a provider making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the provider does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(B) A determination by the Secretary of whether a provider referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the provider accepts voluntary donations regarding the provision of services to the public.".

(c) GRANT APPLICATION.—

(1) COORDINATION.—Section 317A, as amended by subsection (a)(2)(A), is further amended—

(A) by striking out subsection (f); and

(B) in subsection (d)(1)—

(i) by inserting ", including the sources of lead exposure, the immediate risk of lead-based paints, other sources of lead including drinking water and soil, the potential dangers of lead exposure during home renovations, the importance of screening young children for lead, and the preventive steps that parents can take in reducing the risk for lead poisoning," after "infants and children" in subparagraph (B);

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph:

"(E) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to communicate to health professionals and paraprofessionals updated knowledge concerning lead poisoning and research, the health consequences, if any, of low-level lead burden, the prevalence of lead poisoning among all socioeconomic groupings, the benefits of expanded lead screening, and the therapeutic and other interventions available to prevent and combat lead poisoning in affected children and families.".

(2) REPORT.—Section 317A(d)(2), as redesignated by subsection (a)(2)(A), is amended to read as follows:

"(2) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to Congress, a report on the effectiveness during the preceding fiscal year of programs carried out with grants under subsection (a) and of any programs that are carried out by the Secretary pursuant to subsection (l)(2). Such reports shall, include in addition to any other information that the Secretary shall require a description of the number of individuals screened, age distribution of individuals screened, minority representation of the screened population, number of screening sites, percentage of children screened with blood levels greater than 10 micrograms per deciliter, and prior years information for these categories where available. Recipients of grants under this section that are required to report equivalent information to the Secretary under other sections of this Act shall be exempt from the requirements of this subsection.".

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Section 317A(d)(1), as redesignated by subsection (a)(2)(A) and amended by subsection (c)(1)(B)(i), is further amended—

(A) by striking out "(d) GRANT" and all that follows through "No grant" and inserting the following:

"(d) GRANT APPLICATION.—

"(1) IN GENERAL.—No grant";

(B) by moving each of subparagraphs (A) through (F) 2 ems to the right; and

(C) in subparagraph (C), by striking out "effectiveness" and all that follows and inserting in lieu thereof "effectiveness.".

(d) ESTABLISHMENT OF PROVISION REGARDING RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—Section 317A, as amended by subsection (c)(1)(A), is further amended by inserting after subsection (e) the following new subsection:

"(f) RELATIONSHIP TO SERVICES AND ACTIVITIES UNDER OTHER PROGRAMS.—

"(1) IN GENERAL.—A recipient of a grant under subsection (a) may not make payments from the grant for any service or activity to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service or activity—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—Paragraph (1) shall not apply in the case of a provider through which a grantee under subsection (a) provides services under such subsection if the Secretary has provided a waiver under subsection (b)(2) regarding the provider.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 317A(l), as redesignated by subsection (a)(2)(A), is further amended—

(1) by striking out "There are" and all that follows through "not more than" and inserting in lieu thereof the following: "For the purpose of carrying out this section, there are authorized to be appropriated";

(2) by striking "and" after "1990,"; and

(3) by inserting before the period the following: ", $40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

(f) NATIONAL EDUCATION PROGRAM.—Title III is amended by inserting after section 317A (42 U.S.C. 247b-1) the following new section:

"SEC. 317B. NATIONAL LEAD POISONING PREVENTION EDUCATION PROGRAM.

"The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and implement a national program designed to educate health professionals and paraprofessionals and the general public concerning lead poisoning. As part of such educational program the Secretary shall ensure that such individuals have access to information concerning the health effects of low-level lead toxicity, the most serious causes of lead poisoning, and the primary and secondary preventive measures that may be taken to combat the problem of lead poisoning.".

(g) RESEARCH AND DEVELOPMENT.—Title III (as amended by subsection (f) is further amended by inserting after section 317B the following new section:

"SEC. 317C. NATIONAL LEAD POISONING TECHNOLOGY ASSESSMENT AND EPIDEMIOLOGY PROGRAM.

"The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and implement a concerted technology assessment and epidemiology program to—

"(1) develop improved testing measures that may be administered to children to detect lead toxicity using methods that are sufficiently reliable, sensitive, applicable and cost-effective;

"(2) more accurately assess the prevalence of lead poisoning by State, socioeconomic grouping, and health care insurance status; and

"(3) conduct any applied research necessary to improve the effectiveness of childhood lead poisoning prevention programs.".

(h) TASK FORCE TO COORDINATE EFFORTS TO PREVENT LEAD POISONING.—Title III (as amended by subsections (f) and (g) is further amended by inserting after section 317C the following new section:

"SEC. 317D. INTERAGENCY TASK FORCE ON THE PREVENTION OF LEAD POISONING.

"(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a task force, to be known as the 'Interagency Task Force on the Prevention of Lead Poisoning', to coordinate the efforts of Federal agencies to prevent lead poisoning.

"(b) COMPOSITION.—The task force established under subsection (a) shall be composed of—

"(1) the Secretary, who shall serve as the chairperson of the task force;

"(2) the Secretary of Housing and Urban Development;

"(3) the Administrator of the Environmental Protection Agency; and

"(4) senior staff selected by the Secretary of Health and Human Services, Secretary of

VOL 137
PT 24
NO 26
1991
JA 3 1992
UMI

Housing and Urban Development and Administrator of the Environmental Protection Agency.

"(c) DUTIES.—The task force established under subsection (a) shall—

"(1) review, evaluate and coordinate current strategies and plans formulated by the Department of Health and Human Services (including the Strategic Plan for the Elimination of Lead Poisoning of February 21, 1991), the Department of Housing and Urban Development (including the Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing of December 7, 1990) and the Environmental Protection Agency (including the Strategy for Reducing Lead Exposures of February 21, 1991) and develop a unified implementation plan for programs related to the prevention of lead poisoning that receive assistance from the Federal Government;

"(2) establish a mechanism for sharing and disseminating information among and to agencies participating in the task force;

"(3) identify the most promising areas of research and education concerning lead poisoning;

"(4) identify the practical and technological constraints to expanding lead poisoning prevention;

"(5) annually carry out a comprehensive review of Federal programs providing assistance to prevent lead poisoning, and prepare and submit not later than May 1 of each year to the Committee on Labor and Human Resources and the Committee on the Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report that summarizes the review conducted under this paragraph and contains any program, policy and budgetary recommendations of the task force; and

"(6) annually review and coordinate departmental and agency budgetary requests with respect to all lead poisoning prevention activities of the Federal Government.".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1991, or upon the date of the enactment of this Act, whichever occurs later.

SEC. 136. SCREENING AND EARLY DETECTION OF PROSTATE CANCER.

Title III is amended by inserting after Section 318 (42 U.S.C. 247c) the following new section:

"SEC. 318A. PROSTATE CANCER SCREENING AND EARLY DETECTION.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States, academic medical centers, or other public or nonprofit private entities—

"(1) to determine the prevalence, incidence and mortality rates and stage at diagnosis of prostate cancer, nationally, within regions and within subgroups of the population; and

"(2) to determine the state of current practices for the screening and diagnosis of prostate cancer and the effectiveness of such practices in reducing mortality.

Such grants shall be awarded on the basis of an established competitive review process.

"(b) COORDINATION WITH THE NATIONAL INSTITUTES OF HEALTH.—The Director of the Centers of Disease Control and Prevention shall coordinate with the Director of the National Institutes of Health to—

"(1) evaluate existing methods for the screening and diagnosis of prostate cancer in order to develop more sensitive and specific, less expensive screening and diagnostic methods;

"(2) evaluate and improve reporting of surveillance data relative to prostate cancer;

"(3) disseminate information concerning such methods to health professionals; and

"(4) collaborate to expedite the review of research and development of technologies that insure early detection of prostate cancer.

"(c) APPLICATION REQUIREMENTS.—The Secretary may not make a grant under subsection (a) unless an application for such grant is submitted to the Secretary. Such application shall be in such form, submitted at such time, and contain such information as the Secretary determines to be appropriate to carry out this section, including a description of the activities, as described in subsection (a), that the applicant intends to use the amounts received under such grant to carry out.

"(d) DESCRIPTION OF INTENDED USE OF GRANTS.—The Secretary may not make a grant under subsection (a) unless the applicant for such grant submits to the Secretary a description of the purposes for which the applicant intends to expend the amounts received under the grant that—

"(1) identifies the populations, areas and locations to be assessed under the grant; and

"(2) provides assurances that the grant funds will be used in the most cost-effective manner practicable.

"(e) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance with respect to the planning, development and operation of activities carried out under grants awarded under this section.

"(f) REPORTS.—Not later than 18 months after the awarding of grants under this section, and annually thereafter, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce in the House of Representatives, a report that contains—

"(1) a summary of the findings derived from the activities carried out under grants awarded under this section during the preceding fiscal year; and

"(2) recommendations for administrative and legislative initiatives to improve the public health based upon the findings described in paragraph (1) that the Secretary determines to be appropriate.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 137. SPECIAL REGIONAL AND NATIONAL DEMONSTRATION PROJECTS FOR MINORITY HEALTH PROMOTION AND DISEASE PREVENTION.

Title XVII (42 U.S.C. 300u) is amended by adding at the end thereof the following new section:

"SEC. 1706. SPECIAL REGIONAL AND NATIONAL DEMONSTRATION PROJECTS FOR MINORITY HEALTH PROMOTION AND DISEASE PREVENTION.

"(a) GRANTS.—The Secretary, acting through the Assistant Secretary of Health, shall award grants to States, political subdivisions of States, public or nonprofit community-based organizations, and other public and nonprofit private entities for the establishment of demonstration projects for the prevention of diseases that disproportionately affect minorities.

"(b) PRIORITY.—In awarding grants for projects under subsection (a), the Secretary shall give priority to projects that are designed to address the leading causes of death, disease and disability in minority populations, including cancer, cardiovascular disease, diabetes, violence, homicide, and tobacco use.

"(c) APPLICATION.—To be eligible to receive a grant under this section, an entity of the type described in subsection (a) shall prepare and submit to the Secretary an application, at such time, in such form, and containing such information as the Secretary determines appropriate.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

TITLE II—COORDINATION OF HEALTH PROMOTION AND DISEASE PREVENTION ACTIVITIES

SEC. 201. SHORT TITLE.

This title may be cited as the "Health Promotion and Disease Prevention Coordination Act of 1991".

SEC. 202. HEALTH INFORMATION AND HEALTH PROMOTION.

(a) OFFICE OF DISEASE PREVENTION AND HEALTH PROMOTION.—Paragraph (11) of section 1701(a) (42 U.S.C. 300u(a)(11)) is amended to read as follows:

"(11) establish in the Office of the Assistant Secretary for Health an Office of Disease Prevention and Health Promotion, to be headed by a director appointed by the Secretary, that shall—

"(A) ensure interagency and interdepartmental coordination of all activities related to health promotion and disease prevention, specifically including nutrition, physical fitness, children and school health, worksite health promotion, health promotion for special populations at risk for preventable disease and disability, and other matters that involve various agencies of the Department or collaboration with other Federal departments and agencies;

"(B) coordinate Federal activities of the type described in subparagraph (A) with similar activities conducted by the private sector and encourage the establishment of additional activities of this type in the private sector;

"(C) establish a national information clearinghouse to—

"(i) facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(ii) facilitate the access of health care providers, other providers of health information, and health care consumers to such information; and

"(iii) facilitate and assist entities in the access of such information and the analysis of issues and problems relating to such matters;

"(D) support projects, conduct research, and disseminate information relating to health promotion, disease prevention, preventive medicine and physical fitness and exercise;

"(E) coordinate, in collaboration with agencies within the Department and other Federal Departments and agencies, a national effort to promote health and prevent disease through the enhancement of health related behavior, improve access to preventive health services, and health information, communication and education with respect to the appropriate use of health care; and

"(F) report to the public, through the publication of a short, easy-to-understand annual report on key Healthy People 2000 objective indicators and on progress made to-

ward achieving the Healthy People 2000 objectives, to—

"(i) focus attention on an easily identifiable and understandable set of core health objective indicators;

"(ii) highlight national, State, and individual health status indicators and cite specific examples;

"(iii) stress quality of life indicators;

"(iv) maximize the use of the print and electronic media to promote the health status of the United States and the Healthy People 2000 objectives;

"(v) highlight priority areas where additional efforts are needed, either at the national, State, or individual level, to attain specific Healthy People 2000 objectives; and

"(vi) report on the current ranking of the United States with respect to the infant mortality and life expectancy rates.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (b) of section 1701 (42 U.S.C. 300u(b)) is amended to read as follows—

"(b) For the purpose of carrying out this section and sections 1702 through 1705, there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

(c) TARGET POPULATIONS.—Section 1701 (42 U.S.C. 300u) is amended by adding at the end thereof the following new subsection:

"(d) With respect to activities carried out with amounts appropriated under this title, particular emphasis shall be placed on the target populations under each grant, contract or other activity under this title to ensure that appropriate priority is provided to populations and groups with documented historically poor health.".

(d) LITERACY REQUIREMENTS.—Section 1701(a)(3) (42 U.S.C. 300u(a)(3)) is amended—

(1) in subparagraph (B), by striking out "and" at the end thereof;

(2) in subparagraph (C), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new subparagraph:

"(D) ensure that, after January 1, 1992, at least one-half of all new or revised health education and promotion materials developed or funded by the Department is in a form that does not exceed a level of functional literacy, as defined in the National Literacy Act of 1991 (Public Law 102-73);".

SEC. 203. INTERDEPARTMENTAL COORDINATING COUNCIL.

Section 1701 (42 U.S.C. 300u) (as amended by section 202(c)) is further amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary, in consultation with the Secretary of Education, shall establish an interdepartmental group for coordinating activities and fostering cooperation with respect to programs concerning multidimensional school health programs, including school health education. Multidimensional school health programs may include—

"(A) school health education;

"(B) school-linked or school based health services designed to prevent, detect and address health problems;

"(C) programs to create a healthy and safe school environment;

"(D) physical education;

"(E) healthful school food services;

"(F) psychological assessment and counseling to promote child development and emotional health;

"(G) schoolsite health promotion for faculty and staff; and

"(H) integrated school and community disease prevention and health promotion efforts.

"(2) The group established under paragraph (1) shall foster cooperation in linking national health objectives established by the Secretary with national education goals established by the Secretary of Education, and promote the establishment of multidimensional school health programs, particularly comprehensive school education, to improve the health of American youth.

"(3) The Secretary and the Secretary of Education, shall serve as co-chairpersons of the group established under paragraph (1). The Secretary shall appoint individuals to serve as a members of the group from among representatives of appropriate components of the Department of Health and Human Services and the Department of Education. The co-chairpersons may solicit appropriate representation from other Federal departments and agencies. The Public Health Service shall provide staff support for convening the group established under paragraph (1).".

SEC. 204. DISSEMINATION OF HEALTH INFORMATION.

(a) RESEARCH.—Section 1702(a) (42 U.S.C. 300u-1(a)) is amended—

(1) in the matter preceding paragraph (1), by striking out "health information and";

(2) striking out paragraph (2);

(3) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively; and

(4) in paragraph (5) (as so redesignated), by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)".

(b) INFORMATION.—Section 1704 (42 U.S.C. 300u-3) is amended by adding at the end thereof the following new paragraph:

"(6) A determination of the most effective methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce risk, or modify its course or severity.".

SEC. 205. REPORT ON NATIONAL HEALTH STATUS IMPROVEMENT.

Subsection (a) of section 1705 (42 U.S.C. 300u-4(a)) is amended to read as follows:

"(a) The Secretary shall annually prepare and submit to the President, for subsequent transmittal to the appropriate committees of Congress, a report concerning the status of the nation's health. Each such report shall include—

"(1) a description of the activities carried out under this title for the period for which the report is being submitted and the extent to which each such activity achieves the purpose of the title;

"(2) a description of the goals and strategy formulated pursuant to section 1701(a)(1), the model standards developed under this title, and the results of the study conducted under subsection (b) of this section;

"(3) an analysis of the manner in which the health status of the nation has changed since during the period for which the report is submitted, including information concerning the nation's health status according to the national health status indicators developed under section 5 of the Year 2000 National Health Objectives Planning Act (Public Law 101-582); and

"(4) such recommendations as the Secretary considers appropriate for legislation with respect to health promotion, disease prevention, health information, preventive health services, and education in the appropriate use of health care, including recommendations for revisions and extensions of this title.".

SEC. 206. HEALTH EDUCATION CURRICULUM.

Section 1707(b)(6) (42 U.S.C. 300u-6(b)(6)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by adding "and" after the semicolon in subparagraph (E);

(3) by adding at the end thereof the following new subparagraph:

"(F) the development of model curricula and programs for health information and education for use in community and workplace settings.".

SEC. 207. STATE OFFICES OF MINORITY HEALTH.

Title XVII (42 U.S.C. 300u et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1709. GRANTS TO STATES FOR OPERATION OF OFFICES OF MINORITY HEALTH.

"(a) IN GENERAL.—The Secretary, acting through the Deputy Assistant Secretary for Minority health (as established under section 1707), may make grants to States for the purpose of improving the health status in minority communities, through the operation of State offices of minority health established to monitor and facilitate the achievement of the Health Objectives for the Year 2000 as they affect minority populations.

"(b) CERTAIN REQUIREMENT FOR STATES.—

"(1) MINIMUM QUALIFICATIONS.—The Secretary may not make a grant to a State under subsection (a) unless such State receives, under any provision of this Act other than subsection (a), one or more grants, cooperative agreements, or contracts for the fiscal year for which the State is applying pursuant to subsection (g) to receive a grant under subsection (a).

"(2) ADMINISTRATION OF PROGRAM.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees that the program carried out by the State with amounts received under the grant will be administered directly by a single State agency.

"(c) CERTAIN REQUIRED ACTIVITIES.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees that activities carried out by an office operated under the grant received pursuant to such subsection will—

"(1) establish and maintain within the State a clearinghouse for collecting and disseminating information on—

"(A) minority health care issues;

"(B) research findings relating to minority health care; and

"(C) innovative approaches to the delivery of health care and social services in minority communities;

"(2) coordinate the activities carried out in the State that relate to minority health care, including providing coordination for the purpose of avoiding redundancy in such activities; and

"(3) identify Federal and State programs regarding minority health, and providing technical assistance to public and non-profit entities regarding participation in such program.

"(d) REQUIREMENT REGARDING ANNUAL BUDGET FOR OFFICE.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees that, for any fiscal year for which the State receives such a grant, the office operated under such grant will be provided with an annual budget of not less than $50,000.

"(e) CERTAIN USES OF FUNDS.—

"(1) Restrictions.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees that—

"(A) if research with respect to minority health is conducted pursuant to the grant, not more than 10 percent of the amount receive under the grant will be expended for such research; and

"(B) amounts provided under the grant will not be expended—

"(i) to provide health care (including providing cash payments regarding such care);

"(ii) to conduct activities for which Federal funds are expended—

"(I) within the state to provide technical and other non-financial assistance under subsection (m) of section 340A;

"(II) under a memorandum of agreement entered into with the State under subsection (h) of such section;

"(III) under a grant under section 388I;

"(iii) to purchase medical equipment, to purchase ambulances, aircraft, or other vehicles, or to purchase major communications equipment;

"(iv) to purchase or improve real property; or

"(v) to carry out any activity regarding a certificate of need.

"(2) Authorities.—Activities for which a State may expend amounts received under a grant under subsection (a) include—

"(A) paying the costs of establishing an office of minority health for purposes of subsection (a);

"(B) subject to paragraph (1)(B)(ii)(III), paying the costs of any activity carried out with respect to recruiting and retaining health professionals to serve in minority communities in the State; and

"(C) providing grants and contracts to public and non-profit private entities to carry out activities authorized in this section.

"(f) Reports.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees—

"(1) to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State; and

"(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

"(g) Requirement of Application.—The Secretary may not make a grant to a State under subsection (a) unless an application for the grant is submitted to the Secretary and the application in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(h) Noncompliance.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(i) Definitions.—For purposes of making grants under subsection (a) there are authorized to be appropriated $3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1996.

"(2) Availability.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(k) Termination of Program.—No grant may be made under this section after the aggregate amounts appropriated under subsection (j)(1) are equal to $10,000,000.".

TITLE III—PREVENTABLE CASES OF INFERTILITY

SEC. 301. ESTABLISHMENT OF PROGRAM OF GRANTS REGARDING PREVENTABLE CASES OF INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.

Title III (42 U.S.C. 241 et seq.) (as amended by sections 133 and 302), is further amended by adding at the end the following new part:

"PART O—PREVENTABLE CASES OF INFERTILITY

"SEC. 399N. INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.

"(a) Grants.—The Secretary may make grants to States, political subdivisions of States, and any other public or nonprofit private entities for the purpose of carrying out the activities described in subsection (c) regarding any treatable sexually transmitted disease that can cause infertility in women if treatment is not received for the disease. The Secretary shall carry out this section acting through the Director of the Centers for Disease Control and Prevention.

"(b) Specification of Relevant Diseases.—

"(1) In general.—For each fiscal year, the Secretary shall make a determination specifying all sexually transmitted diseases that are diseases described in subsection (a).

"(2) Diseases applicable with respect to grantee involved.—In making a grant under subsection (a) to an applicant for the grant, the Secretary shall make a determination in order to select, from among the diseases specified for purposes of paragraph (1) for the fiscal year involved, the particular diseases with respect to which the grant is to be made to the applicant. The Secretary may select, for purposes of the determination, any or all of the diseases so specified. The Secretary may not make such a grant unless the applicant agrees to carry out this section only with respect to the disease or diseases selected for the applicant through the determination.

"(c) Authorized Activities.—With respect to any sexually transmitted disease described in subsection (a), the activities referred to in such subsection are—

"(1) providing counseling to women on the prevention and control of the disease, including, in the case of a woman with the disease, counseling on the benefits of locating and providing such counseling to any individual from whom the woman may have contracted the disease and any individual whom the woman may have exposed to the disease;

"(2) screening women for the disease and for secondary conditions resulting from the disease;

"(3) providing treatment to women for the disease;

"(4) providing for the provision of necessary medical services to women screened pursuant to paragraph (2), and referrals for evaluation and treatment regarding acquired immune deficiency syndrome and other sexually transmitted diseases;

"(5) providing follow-up services to determine the outcomes of medical services;

"(6) in the case of any woman receiving services pursuant to any of paragraphs (1) through (5), providing to the partner of the woman the services described in such paragraphs, as appropriate;

"(7) providing outreach services to inform women of the fact that the services described in paragraphs (1) through (6) are available from the grantee involved;

"(8) providing to the public information and education on the prevention and control of the disease, including disseminating such information;

"(9) providing training to health care providers in carrying out the counseling and screenings described in paragraphs (1) and (2);

"(10) in the case of services and activities described in this subsection, coordinating the services and activities in accordance with subsection (g); and

"(11) collecting, in accordance with subsection (k), data on the incidence and prevalence of the disease in order to assist in carrying out activities for the prevention and control of the disease, including activities to educate the public regarding the disease.

"(d) Requirement of Availability of All Services Through Each Grantee.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that each authorized service will be available through the applicant. With respect to compliance with such agreement, the applicant may expend the grant to provide any of the services directly, and may expend the grant to enter into agreements with other public or nonprofit private entities under which the entities provide the services.

"(e) Required Providers Regarding Certain Services.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, in expending the grant to provide authorized services, the services described in paragraphs (1) through (7) of subsection (c) will be provided only through entities that are State or local health departments, grantees under section 329, 330, or 1001 or are other public or nonprofit private entities that provide health services to a significant number of low-income women.

"(f) Quality Assurance Regarding Screening for Diseases.—For purposes of this section, the Secretary shall establish criteria for ensuring the quality of screening procedures for diseases described in subsection (a). The Secretary may not make a grant under such subsection unless the applicant involved agrees, with respect to any disease selected in the determination made under subsection (b)(2) for the applicant, to carry out screenings for the disease in accordance with such criteria.

"(g) Coordination of Services.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees to coordinate all authorized services provided through the applicant for the purpose of ensuring efficiency in the provision of the services.

"(h) Confidentiality.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees to maintain the confidentiality of information on individuals regarding screenings of the individuals for sexually transmitted diseases, subject to complying with applicable law.

"(i) Limitation on Imposition of Fees for Services.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the individual involved; and

"(3) will not be imposed on any individual with an income of less than 150 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in

accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(j) Limitations on Certain Expenditures.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that—

"(1) in the case of the first fiscal year for which the applicant receives payments under the grant, not more than 20 percent of the grant will be expended for the purpose of carrying out paragraphs (8) through (11) and subsection (c); and

"(2) in the case of any subsequent fiscal year for which the applicant receives payments under any grant under subsection (a), not more than 15 percent of the grant will be expended for such purpose.

"(k) Reports to Secretary.—

"(1) Collection of data.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to any disease selected in the determination made under subsection (b)(2) for the applicant, to submit to the Secretary, for each fiscal year for which the applicant receives such a grant, a report providing—

"(A) the incidence of the disease among the population of individuals served by the applicant;

"(B) the number and demographic characteristics of individuals in such population;

"(C) the types of interventions and treatments provided by the applicant, and the health conditions with respect to which referrals have been made pursuant to subsection (c)(4);

"(D) an estimate by the applicant of the effect of the services provided under the grant on the community in which the services have been provided; and

"(E) providing such other information as is available to the applicant and determined by the Secretary to be relevant regarding the prevention and control of the disease.

"(2) Utility and comparability of data.—The Secretary shall carry out activities for the purpose of ensuring the utility and comparability of data collected pursuant to paragraph (1). The Secretary may not make a grant under subsection (a) unless the applicant involved makes such agreements as the Secretary determines to be necessary for such purpose.

"(l) Maintenance of Effort.—

"(1) In general.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not, subject to paragraph (2), make such a grant for any fiscal year unless the applicant agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the first fiscal year for which the entity receives such a grant.

"(2) Applicability to private entities.—In the case of a nonprofit private entity making an agreement under paragraph (1), the Secretary may require the entity to comply with the agreement only to the extent of the amount of non-Federal amounts that are available to the entity for the activities to which the agreement applies.

"(m) Submission of Plan for Program of Grantee.—

"(1) In general.—The Secretary may not make a grant under subsection (a) unless the applicant involved submits to the Secretary a plan describing the manner in which the applicant will comply with the agreements required as a condition of receiving such a grant, including a specification of the entities through which authorized services will be provided and a specification of the manner in which such services will be coordinated for purposes of subsection (g).

"(2) Participation of certain entities.—The Secretary may not make a grant under subsection (a) unless the applicant provides assurances satisfactory to the Secretary that the plan submitted under paragraph (1) has been prepared in consultation with an appropriate number and variety of—

"(A) representatives of entities in the geographic area involved that provide services for the prevention and control of sexually transmitted diseases, including programs to provide to the public information and education regarding such diseases; and

"(B) representatives of entities in such area that provide family planning services.

"(n) Requirement of Application.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary, the application contains the plan required in subsection (m), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(o) Duration of Grant.—The period during which payments are made to an entity from a grant under subsection (a) may not exceed 3 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments in such year. The preceding sentence may not be construed to establish a limitation on the number of grants under such subsection that may be made to an entity.

"(p) Technical Assistance, and Supplies and Services in Lieu of Grant Funds.—

"(1) Technical assistance.—The Secretary may provide training and technical assistance to grantees under subsection (a) with respect to the planning, development, and operation of any program or service carried out under such subsection. The Secretary may provide such technical assistance directly or through grants or contracts.

"(2) Supplies and services in lieu of grant funds.—

"(A) Upon the request of a grantee under subsection (a), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the grantee in carrying out such subsection and, for such purpose, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of the grant to the grantee involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(q) Evaluations and Reports by Secretary.—

"(1) Evaluations.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to subsection (a) in order to determine the quality and effectiveness of the programs.

"(2) Report to congress.—Not later than 1 year after the date on which amounts are first appropriated pursuant to subsection (t), and annually thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report—

"(A) summarizing the information provided to the Secretary in reports made pursuant to subsection (k), including information on the incidence of sexually transmitted diseases described in subsection (a); and

"(B) summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year.

"(r) Coordination of Federal Programs.—The Secretary shall coordinate the activities carried out under the program established in this section with any similar activities regarding sexually transmitted diseases that are carried out under other programs administered by the Secretary, including the coordination of such activities of the Director of the Centers for Disease Control and Prevention with such activities of the Director of the National Institutes of Health.

"(s) Definitions.—For purposes of this section, the term 'authorized service' means any service or activity described in subsection (c).

"(t) Authorization of Appropriations.—For the purpose of carrying out this section, other than subsections (q) and (u), there are authorized to be appropriated $50,000,000 for each of the fiscal years 1992 through 1996.

"(u) Separate Grants for Research on Delivery of Services.—

"(1) In general.—The Secretary may make grants for the purpose of conducting research on the manner in which the delivery of services under subsection (a) may be improved. The Secretary may make such grants only to grantees under such subsection and to public and nonprofit private entities that are carrying out projects substantially similar to projects carried out under such subsection.

"(2) Authorization of appropriations.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1996.".

TITLE IV—COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE

SEC. 401. SHORT TITLE.

This title may be cited as the "Comprehensive Maternal and Early Childhood Health Care Act".

SEC. 402. MIGRANT AND COMMUNITY HEALTH CENTER INITIATIVES.

(a) Migrant Health Centers.—Paragraph (2) of subsection (h) of section 329 (42 U.S.C. 254b(g)) is amended to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist, and expand the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where Migrant Health Centers are currently operating Comprehensive Perinatal Care Programs. The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

VOL 137
PT 24
NO 26
1991
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JA 3
1992
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"(B) The Secretary shall make grants to Migrant Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counselling services, and referral to and as necessary for the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and through others) to ensure access and coordination.".

(b) COMMUNITY HEALTH CENTERS.—Subsection (g) of section 330 (42 U.S.C. 254c(g)) is amended:

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(C) Of the amounts appropriated under subparagraph (A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such subparagraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year to make grants under subsections (c) and (d) for the planning and development of health centers to serve medically underserved populations. New community health centers shall be equitably distributed between underserved urban and rural areas with satellite models used where appropriate."; and

(2) in paragraph (2) to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where community health centers are currently operating Comprehensive Perinatal Care Programs in areas with high infant mortality.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Community Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counselling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and by others) to ensure access and coordination.".

(c) PROGRAMS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.—Subsection (q) of section 340 (42 U.S.C. 256(q)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where grantees under this section are currently operating Comprehensive Perinatal Care Programs.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to grantees under this section to assist such

grantees in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services should include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counselling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at a health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and by others) to ensure access and coordination.".

SEC. 403. EXPANSION OF IMMUNIZATION PROGRAMS FOR YOUNG CHILDREN.

(a) VACCINE BULK PURCHASE PROGRAM.—Part B of title III (as amended by section 134) is further amended by adding after section 317D the following new section:

"**SEC. 317E. VACCINE BULK PURCHASE PROGRAM.**

"(a) IN GENERAL.—The Secretary acting through the Director of the Centers for Disease Control and in accordance with the preventative health grant provisions of subsections (a) and (j)(1)(B) of section 317, shall provide to the health department of each State or large city that is operating an immunization project, vaccines for immunization purposes.

"(b) DISTRIBUTION.—Vaccines provided to grantees with existing immunization projects under subsection (a) shall be made available for distribution and immunization services through the public health departments of such States or cities, recipients of grants under section 329, 330, and 340 in the State or city, Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act operating in the State or city, and public health professionals.

"(c) QUANTITY.—In determining the quantity of vaccine that is needed by a grantee under subsection (a), the Administrator of the Health Resources and Services Administration shall make available to the Director of the Centers for Disease Control data from annual reports submitted by recipients of grants under section 329, 330, and 340 and from entities certified as Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act. The Director of such Centers shall direct the health department of the State, county or city to equitably allocate vaccines made available under the bulk purchase program among those recipients described in subsection (b) who are providing immunization services to children, except that the amounts received by each provider on the date of enactment of this section shall not be diminished relative to the population served, and that grantees shall receive not less than the amount such grantees received under their bulk vaccine allotment as of January 1, 1991.

"(d) MAINTENANCE OF SUPPLY.—The provisions of this section shall be effective only to the extent to which the Secretary, acting through the Director of the Centers for Disease Control, provides assurances that the implementation of this section will not result in a reduction in the supply of vaccines available to grantees receiving vaccine allotments under the bulk purchasing programs as of January 1, 1991.".

(b) IMMUNIZATION DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—Subsection (b) of section 2 of the Vaccine and Immunization Amendments of 1990 (Public Law 101-502) is amended to read as follows:

"(b) DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of carrying out demonstration projects—

"(A) to provide, without administrative charge, immunizations for vaccine preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low income individuals, increasing the capacity of public health departments to deliver vaccines and facilitating outreach activities to improve the percentage of fully immunized children;

"(B) to expand the capacity of public health departments, recipients of grants under sections 329, 330, and 340 of the Public Health Service Act, and other health provider entities that are co-located with centers providing services under section 17 of the Child Nutrition Act of 1966 in order to provide immunizations to participants in the program established under such section 17 during regular hours, and to enable State health departments working through State directors of the program established under such section 17 to make available to such centers vaccines and adequate funds to administer immunizations; and

"(C) to maintain private provider participation in the provision of immunization services and to encourage private physicians to provide such services to infants and children enrolled for benefits under title XIX of the Social Security Act.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out paragraph (1), there are authorized to be appropriated $25,000,000 in fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 404. PROJECT GRANTS FOR MATERNAL AND CHILD PREVENTIVE HEALTH AND HEALTH CARE SERVICES.

Section 314 (42 U.S.C. 246) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary is authorized to award grants to eligible entities for the development and operation of Comprehensive Perinatal and Early Childhood Health Programs, to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development.

"(2)(A) To be eligible to receive a grant under this subsection, an entity shall be a public health department or public or private nonprofit health entity that—

"(i) does not receive assistance under section 329 or 330;

"(ii) is located in a medically underserved or health professional shortage area not served by an entity receiving funds under section 329 or 330; and

"(iii) has demonstrated a commitment to serving low income and uninsured individuals and families.

"(B) Notwithstanding subparagraph (A), entities located in areas served by grantees under section 329 or 330 may apply for and receive a grant under this subsection, if such 329 or 330 grantees do not intend to apply for expanded funding for prenatal and early childhood health care services, and if such entities can demonstrate that—

"(i) the women and children to be served, or the services to be provided, using funds provided under the grant are in addition to those populations served and services offered by such existing section 329 or 330 grantees; and

"(ii) the entity will not use funds provided under this subsection to supplant State expenditures.

"(3) Services to be provided with funds under a grant awarded under this subsection shall be delivered in a culturally sensitive manner and made accessible to the population to be served. Such services shall include—

"(A) public information, outreach, or case finding services provided through the use of media, community canvassing (including the use of volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(B) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(i) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(ii) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(C) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children and families;

"(D) substance abuse screening, outpatient substance abuse counseling services, or referral to substance abuse treatment services for women with substance abuse problems;

"(E) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(F) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both counseling provided directly by the grantee, and through distribution of the Maternal Child Health Handbooks as available.

Services described in subparagraphs (D), (E) and (F) shall be provided by grantees under this subsection to the maximum extent practicable.

"(4) To the maximum extent practicable, services provided under this subsection shall be delivered in a single location by the grantee, except that such may include multiple sites if mobile health care provider units are utilized (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act, by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966, by drug treatment service providers, and by others) to ensure access and coordination.

"(5) The Secretary may not award a grant under this subsection unless—

"(A) the applicant for the grant has entered into, or will enter into, a participation agreement within 180 days of the date of the grant award with the State agency administering funds under title XIX of the Social Security Act and is qualified to receive such payments for services provided;

"(B) the applicant for the grant has prepared a schedule of fees or payments for the provision of services under paragraph (3) consistent with locally prevailing rates or charges, and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, such discounts to be adjusted on the basis of the patient's ability to pay;

"(C) the applicant for the grant provides assurances that every reasonable effort will be made to secure from patients and third party reimbursement entities, including any State compensation program, health insurance entity, any entity providing health services on a prepaid basis, or any Federal or State health benefits program, full payment for the services provided under paragraph (3).

Amounts awarded under this subsection shall be used as the payment source of last resort for services provided.

"(6) In addition to providing the services required under paragraph (3), a grantee may use amounts provided under the grant for minor remodeling and rehabilitation of the facilities needed to support the delivery of such services. No funds may be used for the construction of new buildings or the acquisition of properties.

"(7) A grantee shall not use in excess of 5 percent of the amounts received under a grant awarded under this subsection for administration, accounting, reporting and program oversight functions.

"(8) To be eligible to receive a grant under this subsection, an entity, in addition to meeting the requirements of paragraph (2), shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

"(A) that funds received under a grant awarded under this subsection will be utilized to supplement not supplant State funds made available to the entity for the provision of maternal and child health and social services, with identification of funding received from other sources for such purposes;

"(B) that prenatal and early childhood health care will be provided under a case management model, that continuity of care will be provided for all individuals, and that services to be provided are accessible to the target population to be served;

"(C) that the entity will serve low income women and children in the service delivery area, and have a plan for outreach to those at risk of inadequate health care services;

"(D) that the entity has outlined a needs assessment of the health care delivery system in the service delivery area, to include health status indicators for women of childbearing age and young children, and identification of other health care provider groups in the area;

"(E) that the entity has reviewed the application for a grant under this section with the State agency administering amounts received under title V of the Social Security Act and the local health department, and that such application is consistent with the State plan for the delivery of maternal and child health services; and

"(F) that the entity will submit a report to the Secretary and to the State and relevant local health departments that will include demographic data on the number of individuals served and those services provided with funds provided under this subsection, and a description of the manner in which services provided by the entity are integrated with those services provided by other health care agencies or provider groups in the service delivery area.

"(9) In awarding grants under this subsection, the Secretary should give priority to—

"(A) those applications submitted by entities that are an association of one or more public, and one or more nonprofit private health care and social service providers, except that in areas where such an association would not be possible as a result of the absence of more than one provider entity, no such priority shall be given; and

"(B) those applications providing evidence of local investment (such as State, health care provider, local charity, and volunteer organization contributions) in maternal and child health initiatives, through a 10 percent local contribution to match Federal funds, in cash or in kind, fairly evaluated, not including any portion of any service subsidized by the Federal Government or other copayments under paragraph (5).

Grants under this subsection shall be awarded on an equitable basis among eligible rural and urban applicants.

"(10) Not later than 30 months after the date of enactment of this subsection, the Secretary shall prepare and submit, to the Senate Committee on Labor and Human Resources, the Senate Finance Committee, and the House Committee on Energy and Commerce, an evaluation of the program established under this subsection, that shall include—

"(A) an analysis of the manner in which funds provided under this subsection have been used by grantees, with a review of the services provided;

"(B) the infant mortality rates and immunization rates in the communities served by grantees prior to the receipt of such a grant and at the time such evaluation is prepared, and an assessment of the impact of enhanced services on such rates;

"(C) an analysis of the manner in which entities receiving grants under this subsection have integrated the services provided under such grants with other available health and social service providers in the service delivery area; and

"(D) recommendations concerning any modifications necessary to improve program effectiveness in reaching the stated goals of the program in a cost-effective manner.

"(11) There are authorized to be appropriated for each of the fiscal years 1992 through 1994, such sums as may be necessary to carry out this subsection.".

SEC. 405. BIRTH DEFECTS PROPOSAL.

Part B of title III (42 U.S.C. 243 et seq.) (as amended by section 403) is further amended by inserting after section 317E, the following new section:

"SEC. 317F. COORDINATION OF BIRTH DEFECTS SURVEILLANCE AND EPIDEMIOLOGY RESEARCH PROGRAMS.

"(a) FINDINGS.—Congress finds that—

"(1) birth defects are the leading cause of infant mortality, directly responsible for one out every five infant deaths;

"(2) thousands of the 250,000 infants born with a birth defect annually face a lifetime of chronic disability and illness; and

"(3) there is no national effort to record birth defect data and perform epidemiologic surveillance even though such data would aid research efforts to understand and reduce the incidence of preventable birth defects.

"(b) PLAN FOR IMPLEMENTING A NATIONAL BIRTH DEFECTS MONITORING SYSTEM AND SURVEILLANCE PROGRAM.—

"(1) DEVELOPMENT.—The Secretary, acting through the Centers for Disease Control, shall develop a plan to establish regional birth defects monitoring programs to serve all States for the purpose of collecting and analyzing data on the incidence of birth defects with relevant epidemiologic data. Such plan shall specify how collaborative efforts between the Centers for Disease Control and responsible State agencies will be carried out, and may include the provision of grants or cooperative agreements, and technical assistance.

"(2) CLEARINGHOUSE.—The Centers for Disease Control shall develop a program plan to serve as the national clearinghouse of the collection and storage of data and information generated from birth defects monitoring programs developed under paragraph (1). Functions of the clearinghouse will include facilitating the coordination of birth defects research.

"(3) REPORT.—The Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the plan required under paragraph (1), together with recommendations to facilitate the immediate implementation of such plan, on or before July 1, 1993.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

TITLE V—MISCELLANEOUS

SEC. 501. ESTABLISHMENT OF AN ADVISORY COUNCIL ON HEALTH PROMOTION AND DISEASE PREVENTION.

Title XVII (42 U.S.C. 300u et seq.) (as amended by sections 137 and 207) is further amended by adding at the end thereof the following new section:

"SEC. 1710. SECRETARY'S ADVISORY COUNCIL.

"(a) IN GENERAL.—The Secretary shall establish an advisory council on health promotion and disease prevention to be known as the Secretary's Advisory Council on Health Promotion and Disease Prevention (hereafter referred to in this section as the 'Council').

"(b) COMPOSITION.—The Council shall be composed of—

"(1) the Secretary;

"(2) recognized leaders in health promotion, academia, industry, non-profit private organizations and representatives of health care consumer groups, to be appointed by the Secretary;

"(3) ex officio members who shall include representatives of—

"(A) the Department of Health and Human Services as designated by the Secretary;

"(B) the Departments of Education;

"(C) the Department of Agriculture;

"(D) the Office of Science and Technology Policy;

"(E) the Surgeon Generals of all of the uniformed services; and

"(F) the chief medical officer of the Department of Veterans Affairs; and

"(4) the members of the National Health Objectives Advisory Committee established under section 1910K.

"(c) DUTIES.—The Council shall provide advice and recommendations to the Secretary concerning the goals and priorities of the Department relating to health promotion, disease prevention, preventive health services and the objectives established by the Secretary for the health status of the population of the United States under section 1906(d). The Council may also direct that recommendations for changes in priorities or programs be prepared and submitted to the Congress and the President.

"(d) FUNDING.—The Secretary is authorized to transfer not to exceed one percent of any appropriation authorized under this Act to provide the funds necessary for the operation of the Council. The total amount transferred under this subsection shall not exceed $400,000 for each fiscal year.".

SEC. 502. RESPONSIBILITIES OF MEMBERS OF THE COMMISSIONED CORPS FOR HEALTH PROMOTION AND DISEASE PREVENTION.

Section 204 (42 U.S.C. 205) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) The Surgeon General shall notify all active members of the Commissioned Corps concerning any guidelines and recommendations for clinical practice that are developed or issued by the Public Health Service. The Surgeon General shall also ensure that members of the Commissioned Corps who are engaged in clinical practice are properly utilizing such guidelines and recommendations.".

SEC. 503. RESPONSIBILITIES OF THE SURGEON GENERAL FOR DISSEMINATING INFORMATION AND RECOMMENDATIONS.

Title XVII (42 U.S.C. 300u) (as amended by sections 137, 207 and 501) is further amended by adding at the end thereof the following new section:

"SEC. 1711. DISSEMINATION OF PREVENTION RECOMMENDATIONS.

"The Secretary, in consultation with the Assistant Secretary for Health, the Director of the Office of Disease Prevention and Health Promotion, the Surgeon General of the Public Health Service, and the Director of the Agency for Health Care Policy and Research, shall inform the Surgeon Generals of all the uniformed services, the Secretary of Veterans Affairs, and the Administrator of the Office of Personnel Management concerning any guidelines or recommendations for clinical practice that are developed by the Public Health Service. The Secretary shall annually prepare and submit to the appropriate committees of Congress, a report describing all such recommendations transmitted under this section.".

SEC. 504. CHANGE IN NAME OF CENTERS FOR DISEASE CONTROL.

(a) COMPREHENSIVE SMOKING EDUCATION ACT.—Section 3(b)(1)(A) of the Comprehensive Smoking Education Act (15 U.S.C. 1341(b)(1)(A)) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(b) EDUCATION AMENDMENTS OF 1978.—Section 1121(b)(2) of the Education Amendments of 1978 is amended by striking out "Federal Center for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(c) VETERANS' BENEFITS AND SERVICES ACT OF 1988.—Section 123(b)(1) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 210 note) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(d) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 227 (42 U.S.C. 236) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(2) in section 317A(a) (42 U.S.C. 247b–1(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(3) in section 319(a) (42 U.S.C. 247d(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(4) in section 391 (42 U.S.C. 280b) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(5) in section 392 (42 U.S.C. 280b–1) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(6) in section 393 (42 U.S.C. 280b–2) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(7) in section 430(b)(2)(A)(i) (42 U.S.C. 285c–4(b)(2)(A)(i)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(8) in section 442(b)(2)(A) (42 U.S.C. 285d–7(b)(2)(A)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(9) in section 464D(b)(2)(A) (42 U.S.C. 285m–4(b)(2)(A)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(10) in section 494(a) (42 U.S.C. 289c(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(11) in section 508(b)(6) (42 U.S.C. 290aa–6(b)(6)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(12) in section 509B(a) (42 U.S.C. 290aa–9(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(13) in section 1706(c)(2)(B) (42 U.S.C. 300u–5(c)(2)(B)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(14) in section 2102 (42 U.S.C. 300aa–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(15) in section 2119(a)(2) (42 U.S.C. 300aa–19(a)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(16) in section 2126(b)(2) (42 U.S.C. 300aa–26(b)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(17) in section 2301(b)(4) (42 U.S.C. 300cc(b)(4)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(18) in section 2303 (42 U.S.C. 300cc–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(19) in section 2315(b) (42 U.S.C. 300cc–15(b)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(20) in section 2317 (42 U.S.C. 300cc–17) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(21) in section 2320 (42 U.S.C. 300cc–20) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(22) in section 2341(a) (42 U.S.C. 300cc–31(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

VOL
137
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(23) in section 2521 (42 U.S.C. 300ee–31) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(24) in section 2522(a) (42 U.S.C. 300ee–32(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(25) in section 2524(b)(2) (42 U.S.C. 300ee–34(b)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(26) in section 2601 by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(27) in section 2602(a)(1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(28) in section 2603(a)(3)(B)(i) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(29) in section 2607(2) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(30) in section 2617(d)(3)(A) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(31) in section 2618(c)(1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(32) in section 2641(a) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(33) in section 2643(c)(1)(A) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(34) in section 2649 by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention"; and

(35) in section 2675(a) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(e) HEALTH OMNIBUS PROGRAMS EXTENSION OF 1988.—The Health Omnibus Programs Extension of 1988 is amended—

(1) in section 161 (42 U.S.C. 241 note) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(2) in section 252 (42 U.S.C. 300ee–1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention"; and

(3) in section 253 (42 U.S.C. 300ee–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(f) HEALTH RESEARCH EXTENSION ACT OF 1985.—Section 5(b)(1)(G) of the Health Research Extension Act of 1985 (42 U.S.C. 281 note) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(g) PAINT POISONING PREVENTION.—Section 501(3)(B)(i) of Public Law 91–695 (42 U.S.C. 4841(3)(B)(i)) is amended by striking out "Center for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(h) COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980.—Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9604) is amended by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

SEC. 505. STUDY CONCERNING THE REDUCTION OF THE RISK OF BLOODBORNE DISEASE TRANSMISSION.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, acting through the Institute of Medicine, to conduct a study concerning surgical technique, including oral surgery, and medical device innovation to further reduce the risk of bloodborne disease transmission in the health care setting. The study shall review techniques and medical devices used in performing various surgical and dental procedures that present a risk of percutaneous injury and examine mechanisms, such as improvements in technique and product design modification, to enhance injury prevention during such procedures to further reduce the risk of bloodborne disease transmission.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the results of the study conducted under subsection (a).

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

BREAUX AMENDMENT NO. 1457

Mr. FORD (for himself Mr. BREAUX) proposed an amendment to the bill (H.R. 3866) to provide for the designation of the Flower Garden Banks National Marine Sanctuary, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—NATIONAL MARINE SANCTUARY

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

SEC. 101. Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) the Secretary of Commerce shall, on January 17, 1992 (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of designation of the Flower Garden Banks National Marine Sanctuary, as described in the notice of designation submitted to the Congress on November 20, 1991; and

(2) that designation shall take effect on January 1, 1992.

TITLE II—MERCHANT MARINE PROVISIONS

NON-VESSEL-OPERATING COMMON CARRIERS

SEC. 201. (a) SHORT TITLE.—This section may be cited as the "Non-Vessel-Operating Common Carrier Act of 1991".

(b) PROHIBITED ACTS.—Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended—

(1) in paragraph (14), by inserting ", insurance, or other surety" after "bond"; and

(2) in paragraph (15), by inserting ", insurance, or other surety" after "bond".

(c) SURETY FOR NVOCC'S.—Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721), is amended—

(1) in the section heading by striking "BONDING OF" and inserting in lieu thereof "SURETY FOR";

(2) by amending subsection (a) to read as follows:

"(a) SURETY.—Each non-vessel-operating common carrier shall furnish to the Commission a bond, proof of insurance, or such other surety, as the Commission may require, in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier. Any bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.";

(3) by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively;

(4) in subsection (b), as so redesignated—

(A) by striking "BOND" in the subsection heading and inserting in lieu thereof "SURETY";

(B) by inserting ", insurance, or other surety" after "bond"; and

(C) by inserting "under this Act" after "transportation-related activities"; and

(5) in subsection (d), as so redesignated—

(A) by inserting ", insurance, or other surety" after "bond"; and

(B) by striking "subsection (d)" and inserting in lieu thereof "subsection (c)".

(d) INTERIM RULES AND REGULATIONS.—The Federal Maritime Commission may prescribe interim rules and regulations necessary to carry out the amendments made by this section.

(e) CONFORMING AMENDMENT.—The item relating to section 23 in the table of contents in the first section of the Shipping Act of 1984 is amended by striking "Bonding of" and inserting in lieu thereof "Surety for".

(f) EFFECTIVE DATE.—This section shall become effective 90 days after the date of its enactment.

CLARIFICATIONS OF, AND LIMITATIONS ON, GAMBLING DEVICES PROHIBITIONS

SEC. 202. (a) TRANSPORT TO A PLACE IN A STATE, ETC.—Section 2 of the Act of January 2, 1951 (15 U.S.C. 172; commonly referred to as the "Johnson Act"), is amended—

(1) by inserting before the first paragraph the following: "(a) GENERAL RULE.—";

(2) in subsection (a) (as so designated) by striking ", District of Columbia,";

(3) by inserting before the second paragraph the following: "(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—"; and

(4) by adding at the end the following:

"(c) EXCEPTION.—This section does not prohibit the transport of a gambling device to a place in a State or a possession of the United States on a vessel on a voyage, if—

"(1) use of the gambling device on a portion of that voyage is, by reason of subsection (b) of section 5, not a violation of that section; and

"(2) the gambling device remains on board that vessel while in that State.".

(b) REPAIR, OTHER TRANSPORT, ETC.—Section 5 of that Act (15 U.S.C. 1175) is amended—

(1) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—";

(2) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"; and

(3) by adding at the end the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

"(A) the repair, transport, possession, or use of a gambling device on a vessel that is not within the boundaries of any State or possession of the United States; or

"(B) the transport or possession, on a voyage, of a gambling device on a vessel that is within the boundaries of any State or possession of the United States, if—

"(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

"(ii) the gambling device remains on board that vessel while the vessel is within the boundaries of that State or possession.

"(2) APPLICATION TO CERTAIN VOYAGES.—

"(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair or use or that voyage or segment.

"(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop within the boundaries of another State or possession of the United States or a foreign country.".

(c) BOUNDARIES DEFINED.—The first section of that Act (15 U.S.C. 1171) is amended by adding at the end the following:

"(f) The term 'boundaries' has the same meaning given that term in section 2 of the Submerged Lands Act.".

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1458

Mr. CHAFEE (for Mr. STEVENS, for himself and Mr. MURKOWSKI) proposed an amendment to the bill H.R. 3866, supra; as follows:

At the appropriate place, insert the following new title:

TITLE —IMPLEMENTATION OF MARITIME BOUNDARY AGREEMENT

AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

SEC. 1. (a) PURPOSES.—Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 180(b)(1)) is amended by inserting ", and fishery resources in the special areas" immediately before the semicolon at the end.

(b) DEFINITIONS.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (24) through (32) as paragraphs (25) through (33), respectively; and

(2) by inserting immediately after paragraph (23) the following new paragraph:

"(24) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured."

(c) UNITED STATES MANAGEMENT AUTHORITY.—(1) Section 101(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(a)) is amended by inserting "and special areas" immediately before the period at the end.

(2) Section 101(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)) is amended by inserting immediately after paragraph (2) the following new paragraph:

"(3) All fishery resources in the special area.".

(d) FOREIGN FISHING.—Section 201 of the Magnuson Fishery Conservation and Management (16 U.S.C. 1821) is amended—

(1) in subsection (a)—

(A) by inserting "within the special area," immediately before "or for anadromous species"; and

(B) by striking "beyond the exclusive economic zone" and inserting in lieu thereof "beyond such zone or areas";

(2) in subsection (e)(1)(E)(IV), by inserting "or special areas" immediately after "exclusive economic zone";

(3) in subsection (i)—

(A) by inserting "or special areas" immediately before the period at the end of paragraph (1)(A);

(B) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(A); and

(C) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(B); and

(4) in subsection (j)—

(A) by inserting ", special areas," immediately after "exclusive economic zone"; and

(B) by inserting ", areas," immediately after "such zone".

(e) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended—

(1) in subsection (b)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas";

(2) in subsection (c)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas"; and

(3) by adding at the end the following new subsection:

"(g) FISHERY AGREEMENT WITH UNION OF SOVIET SOCIALIST REPUBLICS.—(1) The Secretary of State, in consultation with the Secretary, is authorized to negotiate and conclude a fishery agreement with the Union of Soviet Socialist Republics of a duration of no more than 3 years, pursuant to which—

"(A) the Union of Soviet Socialist Republics will give United States fishing vessels the opportunity to conduct traditional fisheries within waters claimed by the United States prior to the conclusion of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, west of the maritime boundary, including the western special area described in Article 3(2) of the Agreement;

"(B) the United States will give fishing vessels of the Union of Soviet Socialist Republics the opportunity to conduct traditional fisheries within waters claimed by the Union of soviet Socialist Republics prior to the conclusion of the agreement referred to in subparagraph (A), east of the Maritime boundary, including the eastern special areas described in article 3(1) of the Agreement;

"(C) catch data shall be made available to the government of the country exercising fisheries jurisdiction over the waters in which the catch occurred; and

"(D) each country shall have the right to place observers on board vessels of the other country and to board and inspect such vessels.

"(2) Vessels operating under a fishery agreement negotiated and concluded pursuant to paragraph (1) shall be subject to regulations and permit requirements of the country in whose waters the fisheries are conducted only to the extent such regulations and permit requirements are specified in that agreement.

"(3) The Secretary of Commerce may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the provisions of any fishery agreement negotiated and concluded pursuant to paragraph (1).".

(f) PERMITS FOR FOREIGN FISHING.—Section 204(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824 (a)) is amended—

(1) by inserting "within the special areas," immediately before "or for anadromous species"; and

(2) by inserting "or areas" immediately after "such zone".

(g) CONTENTS OF FISHERY MANAGEMENT PLANS.—Section 303(b)(1)(A) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(1)(A)) is amended—

(1) by inserting "or special areas," immediately after "exclusive economic zone"; and

(2) by inserting "or areas" immediately after "such zone".

(h) PROHIBITED ACTS.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (1)(K), by inserting "or special areas" immediately after "exclusive economic zone";

(2) in paragraph (2)(B)—

(A) by inserting "within the special areas," immediately after "exclusive economic zone";

(B) by inserting "or areas" immediately after "such zone";

(3) in paragraph (3), by inserting "or special areas" immediately after "exclusive economic zone"; and

(4) in paragraph (4), by inserting "or special areas" immediately after "exclusive economic zone".

(i) ENFORCEMENT.—Section 311(b)(2) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)(2)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT OF 1982

SEC. 2. (a) DEFINITIONS.—(1) Section 2(c) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773(c)) is amended to read as follows:

"(c) 'Exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(2) Section 2 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773) is amended by adding at the end the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article

3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) Unlawful Acts.—Section 7(b) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e(b)) is amended by striking "fishery conservation zone" and inserting in lieu thereof "exclusive economic zone and special areas".

AMENDMENTS TO FUR SEAL ACT OF 1966

Sec. 3. Section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) is amended—

(1) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively; and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) 'Jurisdiction of the United States' includes jurisdiction over the special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24).".

AMENDMENTS TO MARINE MAMMAL PROTECTION ACT OF 1972

Sec. 4. Section 3(14) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(14)) is amended to read as follows:

"(14) the term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the United States-Soviet Maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973

Sec. 5. The special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24)) shall be considered places that are subject to the jurisdiction of the United States for the purposes of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

AMENDMENTS TO PACIFIC SALMON TREATY ACT OF 1985

Sec. 6. (a) Definitions.—Section 2 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631) is amended—

(1) by redesignating subsections (h) through (j) as subsections (i) through (k), respectively; and

(2) by inserting immediately after subsection (g) the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) Rulemaking.—Section 7(a) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3636(a)) is amended by inserting "and special areas" immediately after "Exclusive Economic Zone".

NATIONAL SEA GRANT COLLEGE PROGRAM

Sec. 7.(a) Definitions.—Section 203(6) of the National Sea Grant College Program Act (33 U.S.C. 1122(6)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting immediately after subparagraph (E) the following new subparagraph:

"(F) the special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (18 U.S.C. 1802(24)); and".

(b) International Program.—Section 3(a)(6) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(a)(6)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

EFFECTIVE DATES

Sec. 8.(a) In General.—The amendment made by section 1(e)(3) takes effect on the date of enactment of this Act, and the amendments made by the other provisions of this title, except as provided in subsection (b), shall be effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

(b) Authority To Prescribe Regulations.—The authority to prescribe regulations to implement the amendments made by this title shall be effective on the date of enactment of this Act, but no such regulation may be effective until the date on which the Agreement described in subsection (a) enters into force for the United States.

AMERICAN TECHNOLOGY PREEMINENCE ACT

HOLLINGS AMENDMENT NO. 1459

Mr. FORD (for Mr. Hollings) proposed an amendment to the bill (S. 1034) to enhance the position of U.S. industry through the application of the results of Federal research and development, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "American Technology Preeminence Act of 1991".

SEC. 2. DEFINITIONS.

As used in the Act—

(1) the term "high-resolution information systems" means equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound;

(2) the term "advanced manufacturing technology" means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial processes;

(3) the term "advanced materials" means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, materials produced through biotechnology, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

(4) the term "Institute" means the National Institute of Standards and Technology'

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101.SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1991".

SEC. 102. STATEMENT OF POLICY.

Congress finds that in order to help United States industries to speed the development of new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.

SEC. 103. TECHNOLOGY ADMINISTRATION.

(a) Fiscal Year 1992—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000.000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(b) Fiscal Year 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1993, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Informtion Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item to not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(c) Operating Costs.—Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(d) Report and Certification to Congress.—Within 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan for the National Technical Information Service which includes detailed profit and loss analysis for groups of products and services and for major market segments; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant or equivalently experienced accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

(e) Technical Amendment.—Section 5422(a) of the Omnibus Trade and competitiveness Act of 1988 (15 U.S.C. 4603a(a)) and section 273(c)(4) of the National Defense Authorization Act for Fiscal years 1988 and 1989 (15 U.S.C. 4603(c)(4)) are each amended by striking "Economic Affairs" and inserting in lieu thereof "Technology".

SEC. 104. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) Fiscal Year 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $210,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $33,700,000.

(B) Manufacturing Engineering, $13,500,000.

(C) Chemical Science and Technology, $22,000,000.

(D) Physics, $27,000,000.

(E) Materials Science and Engineering, $30,000,000.

(F) Building and Fire Research, $12,300,000.

(G) Computer Systems, $16,000,000.

(H) Applied Mathematics and Scientific Computing, $6,500,000.

(I) Technology Assistance, $11,000,000.

(J) Research Support Activities, $38,000,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $2,700,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,565,000 are authorized only for the technical competence fund.

(b) Fiscal Year 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $221,200,000 for fiscal year 1993, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $36,000,000.

(B) Manufacturing Engineering, $16,000,000.

(C) Chemical Science and Technology, $22,500,000.

(D) Physics, $28,700,000.

(E) Materials Science and Engineering, $39,400,000.

(F) Building and Fire Research, $12,000,000.

(G) Computer Systems $20,600,000.

(H) Applied Mathematics and Scientific Computing, $6,300,000.

(I) Technology Assistance, $10,800,000.

(J) Research Support Activities, $25,000,000.

(K) Pay Raise, $3,900,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $5,000,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,223,000 are authorized only for the technical competence fund.

(3) In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated to the Secretary for fiscal year 1993 $34,800,000 for the renovation and upgrading of the Institute's facilities.

(c) Transfers.—(1) Funds may be transferred among the line items listed in subsection (a)(1) and among the line items listed in subsection (b)(1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a)(1) or subsection (b)(1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

(d) Relation to Other Authorizations.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 102 Stat. 1448), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5101 et seq.), this Act contains the complete authorizations of appropriations for the Institute for fiscal years 1992 and 1993. This subsection shall not limit the authority of the Institute to accept funds appropriated to any other Federal agency or to perform work for others.

(e) Pilot Program.—Pursuant to the authorizations contained in subsections (a)(1)(I) and (b)(1)(I), the Secretary is authorized to pay the Federal share of the cost of establishing and carrying out a standards assistance pilot program under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note). The purpose of the pilot program is to assist a country or countries that have requested assistance from the United States in the development of comprehensive industrial standards by providing the continuous presence of United States personnel on-site for a period of 2 or more years to provide such assistance and by providing, as necessary, additional technical support from within the Institue. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

(f) Construction of Facilities.—Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended by striking "herein" and all that follows, and inserting in lieu thereof "herein.".

(g) Fire and Building Programs.—The fire research and building technology programs of the Institute may be combined for administrative purposes only, and separate budget accounts for fire research and building technology shall be maintained. No later than December 31, 1992, the Secretary, acting through the Director of the Institute, shall report to Congress on the results of the combination, on efforts to preserve the integrity of the fire research and building technology programs, on the long-range basic and applied research plans of the two programs, on procedures for receiving advice on fire and earthquake research priorities from constituencies concerned with public safety, and on the relation between the combined program at the Institute and the United States Fire Administration.

(h) Educational Programs.—(1) Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof ", and to United States citizens for research and technical activities on Institute programs.".

(2) Section 17 of the National Institute of Standards and Technology Act (15 U.S.C. 278g) is amended by adding at the end the following new subsection:

"(d) For any scientific and engineering disciplines for which there is a shortage of suitably qualified and available United States citizens and nationals, the Secretary is authorized to recruit and employ in scientific and engineering fields at the Institute foreign nationals who have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who intend to become United States citizens. Employment of a person under this pragraph shall not be subject to the provisions of title 5, United States Code, governing employment in the competitive service, or to any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them.".

(i) CORE PROGRAM FUNDING.—It is the sense of the Congress that the intramural scientific and technical research and services activities of the National Institute of Standards and Technology should share fully in any funding increases provided to the Institute.

SEC. 105. EXTRAMURAL PROGRAMS OF THE INSTITUTE.

(a) FISCAL YEAR 1992.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 2781, and 278n), $217,500,000 for fiscal year 1992, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(b) FISCAL YEAR 1993.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 2781, and 278n), $127,500,000 for fiscal year 1993, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology and Satellite Manufacturing Centers, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(c) LIMITATION.—No funds are authorized under this section for any project under the extramural programs of the Institute which have not been competitively reviewed through the merit review processes required by the National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.).

(d) AMENDMENTS TO EXTENSION PROGRAM.—Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note) is amended by striking paragraph (5).

(e) AMENDMENTS TO EXTENSION ACTIVITIES.—(1) Section 25(c)(6) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(6)) is amended by inserting before the period at the end the following: "except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director".

(2) Section 25(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(d)) is amended to read as follows:

"(d) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support Centers. Any Center which is supported with funds which originally came from other Federal departments and agencies shall be selected and operated according to the provisions of this section.".

(f) ADVISORY COMMITTEE.—Section 5142(f) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4632(f)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993".

SEC. 106. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal years 1992 and 1993 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 107. METRIC AMENDMENT.

(a) The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) is amended—

(1) in sections 4(a)(2), (4), and (5), 4(b), and 5(c)(1), by striking "weight" and inserting in lieu thereof "weight or mass";

(2) in sections 4(a)(5) and 5(d), by striking "weights" and inserting in lieu thereof "weights or masses";

(3) in section 4(a)(2), by inserting ", using the most appropriate units of the SI metric system as the primary system for measuring quantity" after "panel of that label"; and

(4) in section 4(a)(3)(A)—

(A) by striking "containing" and inserting in lieu thereof "that also displays the avoirdupois system of measure, and that contains" in clause (i);

(B) by striking "that also displays the avoirdupois system of measure" after "random package" in clause (ii);

(C) by inserting "that also displays the avoirdupois system of measure" after "linear measure" in clause (iii); and

(D) by inserting "that also displays the avoirdupois system of measure" after "measure of area" in clause (iv).

(b) This section shall take effect 2 years after the date of enactment of this Act.

SEC. 108. TRANSFER OF FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION.

(a) TRANSFER.—The head of each Federal executive department or agency shall transfer in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information which results from federally funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies. Only information which would otherwise be available for public dissemination shall be transferred under this subsection. Such information shall include technical reports and information, computer software, application assessments generated pursuant to section 11(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(c)), and information regarding training technology and other federally owned or originated technologies. The Secretary shall issue regulations within one year after the date of enactment of this Act outlining procedures for the ongoing transfer of such information to the National Technical Information Service.

(b) ANNUAL REPORT TO CONGRESS.—As part of the annual report required under section 212(f)(3) of the National Technical Information Act of 1988, the Secretary shall report to Congress on the status of efforts under this section to ensure access to Federal scientific and technical information by the public. Such report shall include—

(1) an evaluation of the comprehensiveness of transfers of information by each Federal executive department or agency under subsection (a);

(2) a description of the use of Federal scientific and technical information;

(3) plans for improving public access to Federal scientific and technical information; and

(4) recommendations for legislation necessary to improve public access to Federal scientific and technical information.

SEC. 109. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 110. REPORT ON FACILITIES NEEDS.

By March 1, 1992, the Director of the Institute shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on what renovations and upgrades of Institute facilities are necessary over the next decade. The report shall include a ranking of facilities needs in order of priority, an estimate of costs, and the Director's plan for meeting these needs.

SEC. 111. BUY-AMERICAN PROVISIONS.

(a) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harms to United States businesses, ad identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of Commerce, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(c) BUY-AMERICAN REQUIREMENT.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General

Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGIES RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technologies and Advanced Technology Program Amendments Act of 1991".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) the Department of Commerce has reported that the United States is losing or losing badly, relative to Japan and Europe, in many important emerging technologies and risks losing much of the $350 billion United States market and $1 trillion world market expected to develop by the year 2000 for products based on emerging technologies;

(D) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(E) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no single company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(F) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacturing in fields such as high-resolution information systems, advanced manufacturing, and advanced materials; and

(G) the Advanced Technology Program, established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as high-resolution information systems, advanced manufacturing technology, and advanced materials, and can help encourage United States industry to work together on problems of mutual concern.

(2) The purposes of this section are—

(A) to strengthen the Advanced Technology Program created under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), and to provide improved guidelines for the allocation of Advanced Technology Program funds appropriated under the authorizations contained in section 105 of this Act;

(B) to promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(C) to improve the competitive position of United States industry by supporting industry-led research and development projects in areas of emerging technology which have substantial potential to advance the economic well-being and national security of the United States, such as high-resolution information systems, advanced manufacturing technology, and advanced materials; and

(D) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation.

(c) ADVANCED TECHNOLOGY PROGRAM.—(1) Section 28(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(a)), is amended by adding at the end the following new sentence: "In operating the Program, the Secretary and Director shall, as appropriate, be guided by the findings and recommendations of the Biennial National Critical Technology Reports prepared pursuant to section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683)."

(2) Section 28(b)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(1)), is amended by inserting "industry-led" immediately after "aid".

(3) Section 28(b)(1)(B) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)(B)), is amended by inserting "by means of grants, cooperative agreements, or contracts" immediately after "such joint ventures".

(4) Section 28(b)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(2)), is amended to read as follows:

"(2) provide grants to and enter into contracts and cooperative agreements with United States businesses (especially small businesses), provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;".

(5) Section 28(d)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(2)), is amended to read as follows:

"(2) In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint venture.".

(6) Section 28(d) of the Act of National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(7)), is amended—

(A) by striking paragraph (7);

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(C) by adding at the end the following new paragraphs:

"(9) A company shall be eligible to receive financial assistance under this section only if—

"(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded by any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(10) Grants, contracts, and cooperative assignments under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary the requisite ability in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.".

(7) Section 28(e) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(e)), is amended to read as follows:

"(e) The Secretary may, within 30 days after notice to Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(9), and that it is in the national interest of the United States to do so.".

(8) Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is amended by adding at the end the following new subsections:

"(f) When reviewing private sector requests for awards under the Program, and when monitoring the progress of assisted research projects, the Secretary and the Director shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary and the Director are authorized to work with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(g) In order to analyze the need for the value of joint ventures and other research projects in specific technical fields, to evaluate any proposal made by a joint venture or company requesting the Secretary's assistance, or to monitor the progress of any joint venture or any company research project which receives Federal funds under the Program, the Secretary, the Under Secretary of Commerce for Technology, and the Director may, notwithstanding any other provision of law, meet with such industry sources as they consider useful and appropriate.

"(h) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development and technical activities by the Institute in support of the purposes of this section.

"(i) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support awards under the Program. Any Program award which is supported with funds which originally came from other Federal departments and agencies shall be selected and carried out according to the provisions of this section.

"(j) As used in this section—

"(1) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative finding or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture; and

"(2) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States."

(d) EFFECTIVE DATE.—The amendments in subsection (c) shall take effect immediately upon enactment; however, the amendments shall not apply to applications submitted before the date of enactment of this Act.

(e) MANAGEMENT COSTS.—Section 2 of the National Institute of Standards and Technology Act (15 U.S.C. 272) is amended by adding at the end thereof the following new subsection:

"(d) In carrying out the extramural funding programs of the Institute, including the programs established under section 25, 26, and 28 of this Act, the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.".

(f) COMPREHENSIVE REPORT. The Secretary shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), including any activities in the areas of high-resolution information systems, advanced manufacturing technology, and advanced materials.

TITLE III—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

(a) Section 11(e)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(2)) is amended by inserting "senior" after "Consortium and a".

(b) Section 11 (e)(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(6)) is amended by adding at the end the following: "Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.".

(c) Section 11(e)(7)(B)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)(ii)) is amended by striking "or 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, or 1996".

(d) Section 11(e)(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(8)) is repealed.

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. RESEARCH EQUIPMENT.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended by adding at the end the following new subsection:

"(i) RESEARCH EQUIPMENT.—The Director of a laboratory, or the head of any Federal agency or department, may give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under the section.".

SEC. 304. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 305. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out responsibilities under this Act.".

SEC. 306. UNDER SECRETARY.

Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) serve as a focal point for discussions among United States companies on topics of interest to industry and labor, including discussions regarding manufacturing and discussions regarding emerging technologies;".

TITLE IV—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

SEC. 401. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the "Commission"), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investments in research, the development of new process and product technologies, and the production of those technologies.

(b) ISSUES.—The function of the Commission shall be to address the following issues:

(1) How has the overall cost of capital paid by United States companies differed during the past decade from that paid by companies in other industrial economies such as Germany, Japan, and the United Kingdom?

(2) To what extent has the cost of capital faced by technology companies differed from the overall cost of capital in each of these nations during the same period?

(3) To what extent do high capital costs in general inhibit investment in projects with long-term payoffs, such as the development and commercialization of new technology?

(4) To what extent does the structure of the financial services industry in the United States affect the flow of capital to advanced technology investment, and to what extent do current practices in the equity markets raise the cost of capital and inhibit the availability of capital to fund research and development, purchase advanced manufacturing equipment, and fund other investments necessary to commercialize advanced technology?

(5) In what ways do Government regulations influence the cost of capital in the United States?

(6) To what extent have national differences in capital costs facilitated the foreign acquisition of technology-based United States companies?

(7) What macroeconomic and other policies would promote greater investment in advanced manufacturing techniques, in research and development, and in other activities necessary to commercialize and produce now technologies?

(8) What specific policies should the Federal Government follow in order to reduce the cost of capital for United States companies to levels that are near parity with those

faced by the Nation's principal trading partners?

(c) MEMBERSHIP.—(1) The Commission shall be composed of 9 members who are eminent in such fields as advanced technology, manufacturing, finance, and international economics and who are appointed as follows:

(A) 3 individuals appointed by the President, one of whom shall chair the Commission.

(B) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(C) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(2) Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROCEDURES.—(1) The Chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(2) Recommendations of the Commissions shall require the approval of three-quarters of the members of the Commission.

(3) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

(4) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) REPORTS.—The Commission shall, within 1 year after the date of enactment of this Act, submit to the President and Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

(f) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Technology and Procurement established by section 505 of this Act.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (e).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

TITLE V—STUDIES AND REPORTS

SEC. 501. HIGH-RESOLUTION INFORMATION SYSTEMS ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Directory of the Office of Science and Technology Policy shall establish within that office a High-Resolution Information Systems Advisory Board (hereafter in this section referred to the "Board") to monitor and, as appropriate, foster the development of United States-based high-resolution information systems industries.

(b) DEFINITION.—As used in this title, the term "high-resolution information systems" means the equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound.

(c) FUNCTIONS.—The board shall—

(1) collect and analyze information on the range of factors which will determine whether United States-based high-resolution information systems industries will develop and become competitive, including such factors as technology policies, specialized financial problems, international standards and foreign trade practices, Federal regulations and procurement policies, and licensing practices;

(2) identify areas where appropriate cooperation between the Federal Government and the private sector, including Government support for industry-led joint research and development ventures, would enhance United States industrial competitiveness in this area, and provide advice and guidance for such cooperative efforts;

(3) provide guidance on what Federal policies and practices, particularly in such areas as procurement and the transfer of federally-funded research, are necessary to help establish United States-based high-resolution information systems industries;

(4) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies in the field of high-resolution information systems into commercial products; and

(5) generally develop recommendations for guiding Federal agency activities related to the development of United States-based high-resolution information systems industries.

(d) MEMBERSHIP AND PROCEDURES.—(1)(A) The Board shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Director of the Office of Science and Technology Policy, the Secretary, the Directory of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(C) The President, acting through the Director of the Office of Science and Technology Policy, within 90 days after the date of enactment of this Act, shall appoint as additional members of the Board—

(i) 5 members from the private electronics manufacturing sector, drawn from such sectors as semiconductors, display equipment, computers, consumer electronics, and telecommunications, with 1 member also representing labor;

(ii) 3 members from the private nonmanufacturing sector, including 1 representative from the transmission delivery the software industry, the entertainment industry, and the investment community; and

(iii) 1 member from academia.

At least 1 member appointed under this subparagraph shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit a report of its activities once every year after its establishment to the President, the Committees on Science, Space, and Technology and on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(e) LIMITATION ON FUNCTIONS.—Nothing in this section or any other provision of this Act shall be construed—

(1) to authorize the Board to investigate or provide advice or guidance with respect to standards or other regulations or policies related to the transmission, delivery, or receipt of broadcast television or cable television signals subject to regulation by the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) to limit, modify, or affect in any manner the authorities, functions, or responsibilities of the Federal Communications Commission or the National Telecommunications and Information Administration.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

SEC. 502. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended by adding at the end of title II the following new section:

"MAJOR SCIENCE AND TECHNOLOGY PROPOSALS

"SEC. 209. The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than $1,000,000,000.".

SEC. 503. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683) is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such reaport shall include—

"(1) an identification of the types of research and development needed to close any significant gaps of deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 504. CRITICAL INDUSTRIES.

(a) IDENTIFICATION OF INDUSTRIES AND DEVELOPMENT OF PLAN.—The Secretary shall—

(1) identify those civilian industries in the United States that are necessary to support a robust manufacturing infrastructure and critical to the economic security of the United States; and

(2) list the major research and development initiatives being undertaken, and the substantial investments being made, by the Federal Government, including its research laboratories, in each of the critical industries identified under paragraph (1).

(b) INITIAL REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of enactment of this Act on the actions taken under subsection (a).

(c) ANNUAL UPDATES.—The Secretary shall annually submit to the Congress an update

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of the report submitted under subsection (b). Each such update shall—

(1) describe that status of each identified critical industry, including the advances and declines occurring since the most recent report; and

(2) identify any industries that should be added to the list of critical industries.

SEC. 505. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the "Commission"), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

(b) ISSUES.—The Commission shall address the following issues:

(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and initial market penetration for new technologies?

(2) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

(3) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

(4) How can the Federal Government ensure that its supplies adopt the principles embodied in the Malcolm Baldrige National Quality Award?

(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commerical basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 15 members, 8 of whom shall constitute a quorum.

(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

(3) The Secretary shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

(A) 4 members who are eminent in advanced technology business representing manufacturing and services industries, including at least 1 member representing labor;

(B) 3 members who are eminent in the fields of technology and international economic development; and

(C) with the concurrence of the Administrator of the Office of Federal Procurement Policy, 3 members who are eminent in the field of Federal Government procurement.

(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) REPORTS.—(1) The Commission shall, within 1 year after the date of enactment of this Act, submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992, 1993, and 1994.

SEC. 506. REPORT ON INFORMATION COLLECTION AND DISSEMINATION.

(a) REPORT.—Within 270 days after the date of enactment of this Act, the Secretary shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authorizative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Under Secretary and the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the Institute, and with representatives of the public, for their views on the optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for establishing and operating FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

(b) FUNDING.—The Director of the National Technical Information Service may retain and use all monies received, including receipts, revenues, and advanced payments and deposits, to fund obligations and expenses through the end of fiscal year 1993.

(c) ELECTRONIC FORMAT.—Section 212(e)(5) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(e)(5)) is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

SEC. 507. NATIONAL QUALITY COUNCIL.

(a) ESTABLISHMENT AND FUNCTIONS.—There is established a National Quality Council (hereafter in this section referred to as the "Council"). The functions of the Council shall be—

(1) to establish national goals and priorities for Quality performance in business, education, government, and all other sectors of the nation;

(2) to encourage and support the voluntary adoption of these goals and priorities by companies, unions, professional and business associations, coalition groups, and units of government, as well as private and nonprofit organizations;

(3) to arouse and maintain the interest of the people of the United States in quality performance, and to encourage the adoption and institution of Quality performance methods by all corporation, government agencies, and other organizations; and

(4) to conduct a White House Conference on Quality Performance in the American Workplace that would bring together in a single forum national leaders in business, labor, education, professional societies, the media, government, and politics to address Quality performance as a means of improving United States competitiveness.

(b) MEMBERSHIP.—The Council shall consist of not less than 17 nor more than 20 members, appointed by the Secretary. Members shall include—

(1) at least 2 but not more than 3 representatives from manufacturing industry;

(2) at least 2 but not more than 3 representatives from service industry;

(3) at least 2 but not more than 3 representatives from national Quality not-for-profit organizations;

(4) two representatives from education, one with expertise in elementary and secondary education, and one with expertise in post-secondary education;

(5) one representative from labor;

(6) one representative from professional societies;

(7) one representative each from local and State government;

(8) one representative from the Federal Quality Institute;

(9) one representative from the National Institute of Standards and Technology;

(10) one representative from the Department of Defense;

(11) one representative from a civilian Federal agency not otherwise represented on the Council, to be rotated among such agencies every 2 years; and

(12) one representative from the Foundation for the Malcolm Baldrige National Quality Award.

(c) TERMS.—The term of office of each member of the Council appointed under paragraphs (1) through (7) of subsection (b) shall be 2 years, except that when making the initial appointments under such paragraphs; the Secretary shall appoint not more than 50 percent of the members to 1 year terms. No member appointed under such paragraphs shall serve on the Council for more than 2 consecutive terms.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one of the members initially appointed to the Council as Chairman. Thereafter, the members of the Council shall annually elect one of their number as Chairman. The members of the Council shall also annually elect one of their members as Vice Chairman. No individual shall serve as Chairman or Vice Chairman for more than 2 consecutive years.

(e) EXECUTIVE DIRECTOR AND EMPLOYEES.—The Council shall appoint and fix the compensation of an Executive Director, who shall hire and fix the compensation of such additional employees as may be necessary to assist the Council in carrying out its functions. In hiring such additional employees, the Executive Director shall ensure that no individual hired has a conflict of interest with the responsibilities of the Council.

(f) FUNDING.—There is established in the Treasury of the United States a National Quality Performance Trust Fund, into which all funds received by the Council, through private donations or otherwise, shall be deposited. Amounts in such Trust Fund shall be available to the Council, to the extent provided in advance in appropriations Acts, for the purpose of carrying out the functions of the Council under this Act.

(g) CONTRIBUTIONS.—The Council may not accept private donations from a single source in excess of $25,000 per year. Private donations from a single source in excess of $10,000 per year may be accepted by the Council only on approval of two-thirds of the Council.

(h) ANNUAL REPORT.—The Council shall annually submit to the President and the Congress a comprehensive and detailed report on—

(1) the progress in meeting the goals and priorities established by the Council;

(2) the Council's operations, activities, and financial condition;

(3) contributions to the Council from non-Federal sources;

(4) plans for the Council's operations and activities for the future; and

(5) any other information or recommendations the Council considers appropriate.

SEC. 508. STUDY OF TESTING AND CERTIFICATION.

(a) CONTRACT WITH NATIONAL RESEARCH COUNCIL.—Within 90 days after the date of enactment of this Act and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

(1) The impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and nonregulated products of non-European origin.

(2) Ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions.

(3) The feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and those of major trading partners on the accreditation of testing and certification laboratories and on quality control requirements.

(4) Information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments.

(5) The appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

(b) MEMBERSHIP.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

(c) REPORT.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contract with the National Research Council.

SEC. 509. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly—

(1) analyze recent steps to use the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in several other Federal departments and agencies which fund research and development; and

(2) examine the feasibility and advisability of using that program as a model for Federal research and development agencies which do not currently have similar programs.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 510. INTERAGENCY COORDINATION.

The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high-resolution information systems, including research and development activities.

TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT

BRYAN AMENDMENT NO. 1460

Mr. FORD (for Mr. BRYAN) proposed an amendment to the bill (S. 1392) to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes, as follows:

On page 4, strike "or" on line 5, strike "(C)" on line 6 and insert in lieu thereof "(D)", and insert between lines 5 and 6 the following:

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

NEW YORK CITY ZEBRA MUSSEL MONITORING ACT OF 1991

GLENN (and others) Amendment No. 1461

Mr. FORD (for Mr. GLENN, for himself, Mr. KASTEN, Mr. KOHL, Mr. LEVIN, and Mr. DIXON) proposed an amendment to the bill (S. 36) entitled the "New York City Zebra Mussel Monitoring Act of 1991", as follows:

At the end of the bill, add the following section:

SEC. . EXOTIC AQUATIC ORGANISMS.

(a) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary, in consultation with the Task Force—

"(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18%, and

"(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes."

(b) SHIPPING STUDY.—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking "other than" and inserting "including".

NEZ PERCE NATIONAL HISTORICAL PARK

BUMPERS (AND CRAIG) AMENDMENT NO. 1462

Mr. FORD (for Mr. BUMPERS, for himself, and Mr. CRAIG) proposed an amendment to the bill (H.R. 2032) to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; as follows:

On page 2, line 26, strike "and".

On page 3, line 1, strike "Montana;" and insert in lieu thereof: "Montana; and

(13) Hasotino Village, Idaho;".

On page 3, lines 12 through 25, strike paragraph (3) in its entirety and insert in lieu thereof:

"(3) In section 3, strike the proviso in the first sentence and insert in lieu thereof, ": *Provided*, That lands or interests therein owned by a State or a political subdivision of a State may be acquired only by donation or exchange: *Provided further*, That with respect to sites designated as components of the Nez Perce National Historical Park after November 1, 1991, no lands or interests therein, or other property, may be acquired without the consent of the owner thereof.".

ADJOURNMENT TO A DATE CERTAIN

MITCHELL AMENDMENT NO. 1463

Mr. FORD (for Mr. MITCHELL) proposed an amendment to the concurrent resolution (H. Con. Res. 260) providing for an adjournment of the Congress to a date certain; as follows:

At the end of section 2, strike the "period" and insert in lieu thereof, the following: "; and that when the Congress convenes on January 3, 1992, for the second session of the 102d Congress, the Senate shall not conduct any organizational or legislative business and when it recesses or adjourns on that day, it stand in recess or adjournment until 11:30 a.m. on Tuesday, January 21, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BINGAMAN. Mr. President, I would like to announce for my colleagues and the public the following correction pertaining to upcoming field hearings before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The hearing scheduled in Bayard, NM, on December 19, 1991, has been canceled and will be rescheduled at a later date. The hearing previously announced for December 18, 1991, in Salt Lake City, UT, will proceed as scheduled. An exact time and location for the hearing will be announced.

The purpose of the hearing is to receive testimony on S. 433, the Mining Law Reform Act of 1991.

Testimony will be by invitation only. For further information, please contact Lisa Vehmas of the subcommittee staff at 202-224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Wednesday, November 27, 1991, at 9 a.m., to consider the nominations of Donald C. Fraser, to be Deputy Under Secretary of Defense for Acquisition; Victor H. Reis, to be Director of Defense Research and Engineering; and James R. Lilley, to be Assistant Secretary of Defense for International Security Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ROCKO M. FASANELLA, M.D.

• Mr. LIEBERMAN. Mr President, it is my great pleasure to bring to the attention of the Senate, Rocko M. Fasanella, M.D., medical scholar, educator, administrator, and humanitarian.

Dr. Fasanella's hard work and dedication have advanced the field of ophthalmology and saved the eyesight of countless numbers of individuals. He gives more than research results however, he also gives of himself. He devotes much of his time to sharing his expertise and experience with the community. To a man of such great humanitarian character, the world is his community.

After receiving his medical degree from Yale, Dr. Fasanella served during and following World War II as a surgeon—both on the battlefield and in general hospitals—in France and Germany. In 1951, he returned to Yale and, at 35 years of age, was appointed chief of ophthalmology at Yale-New Haven Hospital, the youngest chief of staff in the hospital's history.

Dr. Fasanella's reputation as an eye surgeon quickly received international recognition. He was a founder of the Caribbean Ophthalmological Society and is also a member of professional bodies in France, Spain, and Peru. Four of his textbooks on eye surgery have been translated into several languages including Russian and Chinese.

Dr. Fasanella's most recent efforts have focused on a more lasting cure of blepharospasm—a debilitating disease of the eye—and a continuation of research that he conducted earlier in his career on the regeneration of the optic nerve.

On December 8, the Italian-American Historical Society of Greater New Haven will pay tribute to Dr. Fasanella at its Annual Distinguished Service Award Dinner. An honor he richly deserves.

Mr. President, I hope my distinguished colleagues will join me today in rising to add our own voices to those around the world who pay tribute to Dr. Fasanella. He has demonstrated his dedication to the highest ideals of the medical profession, and his commitment to these principles serves as an inspiration to us all.•

TRIBUTE TO HENRY CAMPBELL

• Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky educator who recently retired from his 27-year post as president of one of Kentucky's most successful community colleges. Prestonsburg Community College has prospered under the leadership of Henry Campbell, thanks to his dedication to the students and the people of the Big Sandy Valley.

A familiar face is absent at Prestonsburg Community College this semester. Henry Campbell, recently retired as PCC president because of failing health. However, Mr. Campbell has more than left his mark on Prestonsburg. Under his leadership, the 2-year college has grown from a single building facility to a campus of eight buildings. According to University of Kentucky President Charles Wethington, Prestonsburg Community College probably has the longest unbroken string of enrollment growth records in Kentucky's community college system. When Mr. Campbell was hired in the early sixties, the Prestonsburg school had 325 students; today, more than 2,600 are enrolled.

Mr. Campbell's greatest pride at Prestonsburg Community College is not in its admirable enrollment statistics. He would much rather brag about individual students who have passed through the college during the past 27 years. Mr. Campbell says the real indication of how successful PCC is can be measured by its graduates. The community college has provided the initial postsecondary classrooms for lawyers, judges, teachers, nurses, doctors, and people in just about any other career field. In a recent interview, Mr. Campbell said, "One of the greatest success stories is that if I go into any hospital in this area, I'd see some of our graduates, and I have utter confidence in them."

Mr. Campbell has been described as one of the Nation's most colorful college presidents. Wethington calls him "the last of the old guard * * * someone who never gets hung up on taking himself too seriously." Except in off-campus meetings where he represents the college, Mr. Campbell never worries about wearing formal three-piece suits and ties; rumor has it that he was even mistaken for a janitor on one occasion. However, his good spiritedness and dedication transcend his style of dress, which ranges from presidential to mountaineer.

Although Henry Campbell would never accept such praise, all of the successes of Prestonsburg Community College over the past 27 years can be attributed, at least in part, to his strong leadership. I ask that an article from the Ashland Daily Independent, be printed in the RECORD.

The article follows:

[From the Daily Independent, July 8, 1991]

RETIREE LEAVES RICH LEGACY AT 2-YEAR COLLEGE

(by Roger Alford)

PRESTONSBURG.—Henry Campbell, described as one of the nation's most colorful college presidents, has given up his 27-year reign at Prestonsburg Community College.

Campbell, a white-haired chain smoker, has reached the mandatory retirement age of 65. But he said he would have had to give up the presidency anyway because of failing health.

"In many respects, he's kind of the last of the old guard," said University of Kentucky President Charles Wethington.

"He certainly can be considered a colorful character, but he's also a president who has led that community college to probably the longest unbroken string of enrollment growth records in the system."

The two-year college has prospered under Campbell's leadership, growing from a single building to a campus of eight buildings on the northern boundary of Prestonsburg.

While many college presidents want to appear scholarly and distinguished, Campbell "never gets hung up on taking himself too seriously," Wethington said.

Except in off-campus meetings where he represents the college, Campbell never worries about wearing formal three-piece suits and ties. He has been mistaken for a janitor, said Robert Allen, academic dean at the college.

Former Gov. Bert T. Combs, said at a roast honoring the retiring president that—because of the way he dressed—he didn't expect Campbell to last three years when he was hired in 1964.

His dress varies from presidential to mountaineer.

At a recent interview, Campbell wore a blue-striped, button-up shirt, with the collar open, and suspenders to hold up his loose-fitting slacks.

Recently he attended a leadership conference wearing a Scottish kilt—and he enjoyed the notoriety of being the only man there in a knee-length pleated skirt.

The same good-spiritedness has shone through even during campus controversies—like one that arose during the Persian Gulf war.

It seemed that the American flag wasn't being flown during the first few days of Operation Desert Storm.

Students noticed, and called WSAZ-TV in Huntington, W.Va., to do a story about it. They told a television reporter that the college has taken Old Glory down because administrators feared it would offend two Iraqi instructors there.

What about this claim, the reporter asked Campbell.

"Bull," came his reply.

Campbell said the real reason the flag wasn't being flown was that a woman in the college's maintenance department who has raised the flag each day for years had undergone a hysterectomy and was unable to do it.

No one remembered to cover for her, so the flag wasn't raised.

Campbell smokes filterless Pall Malls constantly and keeps oxygen tanks in his office and home for those times when his emphysema is especially bothersome.

Besides the emphysema, an eye disease has stolen most of his vision. He doesn't see well enough to recognize friends more than 5 feet away, and he has given up driving.

The disease, hystoplasmosis, was diagnosed last fall when he was examined for new glasses and it has gotten progressively worse. By the time he received the glasses, he needed stronger lenses.

He is now legally blind and had to be chauffeured to and from work in his last months as president. A tough man, Campbell seems to take his failing health in stride.

He has suffered before, as a victim of trench foot in World War II. Both feet froze from standing in foxholes under the European command of Gen. George Patton in the 87th Infantry Division.

The routine treatment for trench foot was to amputate the feet. Campbell didn't lose his feet, but he still feels the effects of the ailment when he tries to carry heavy items.

Campbell was born in Washington state in 1925 but grew up in eastern Kentucky. His father, a coal miner, was from Pulaski County. His mother was from Pike County.

A graduate of Wheelwright High School and the University of Kentucky, Campbell earned his master's degree from New Mexico College of Agriculture and Mechanical Arts. He earned his doctorate from the University of Texas.

Debra Floyd, a college administrator from Texas, has been hired to succeed Campbell. She will be only the second president at Prestonsburg Community College when she takes over July 29.

Campbell taught high school math early in life, then moved directly into a college presidency. He has headed Crowder College in Nesho, Mo., Alamo Gordo College in Texas and helped to launch Hazard Community College.

Funding never has been adequate for Kentucky community colleges, he said. Growth has been so dramatic since the mid-1980s that the schools have been spending all available money on teachers' salaries.

When Campbell was hired to head the Prestonsburg college, it has 325 students. Now it has 2,674 students. That growth can be attributed to Campbell, Wethington said.

But the growth is not the real indication of how successful the college is. Campbell points to the more than 40 doctors who graduated there as the true measure of success.

"One of the greatest success stories is that if I go into any hospital in this area, I'd see some of our graduates," he said. "And I have utter confidence in them."

The community college has provided the initial postsecondary classrooms for lawyers, judges, teachers, nurses, people in just about any career field, Campbell said.

Allen said Campbell's primary concerns truly are for the students and the people of the Big Sandy Valley. And, he said, as a good natured leader, Campbell has won victory after victory for them in higher education.

And now Campbell boasts of having the most beautiful campus in Kentucky's community college system.

"It gives you a feeling that you've really played a part in the growth of the area," he said.•

THE SILVER MEDALLION

• Mr. BRYAN. Mr. President, I rise today in honor of our dedicated members of the U.S. Armed Forces who so courageously served in the Persian Gulf conflict. In recognition of our troops' valiant efforts and the sacrifices they endured, I have urged my colleagues to join me in supporting S. 1774 and H.R. 1107 authorizing the creation of a silver medallion to be given to U.S. military personnel who served in combat zones in the Persian Gulf conflict. Since its introduction, this silver medallion legislation has received strong support and has been incorporated with other worthy commemorative measures into H.R. 3337. I am certainly pleased by the favorable reception and strong support the silver medal for Persian Gulf veterans and H.R. 3337 have received.

I must commend my friend Congressman LAROCCO of Idaho for his tireless efforts in support of this measure commemorating our troops. His leadership on the Subcommittee of the House Banking, Finance and Urban Affairs Committee has been instrumental in paving the way for this worthy piece of legislation.

The Silver Congressional Medal for Persian Gulf veterans authorizes the Secretary of the Treasury to design and strike a silver medal for eligible members of the Armed Forces, and authorizes the striking of a bronze replica medallion for sale to the public. The striking of the silver medallions will be at no cost to the taxpayers, as proceeds from the sales of the publicly sold bronze replicas would fund the minting of the silver congressional medallions for our troops.

Mr. President, earlier this year Congress authorized gold medals for Generals Powell and Schwarzkopf. Having recognized these two great generals, it is only fitting that we pay similar respects to the troops who served under them in the Persian Gulf. This legislation will authorize a silver medallion for the military men and women without whom the efforts of our generals could not have succeeded.

Operations Desert Shield and Desert Storm confirmed the U.S. military to be the best trained, best equipped, most fully capable Armed Forces in the world. The American men and women who performed in the Persian Gulf served their country well and made us proud. However, the sacrifices they endured were many and must not be forgotten. Indeed Mr. President, 141 Americans were killed in the gulf conflict, paying the ultimate sacrifice to their country, and another 357 were wounded in action. The long, exhausting hours in unfamiliar desert battle conditions, the trying period away from family and loved ones, and the ultimate sacrifice paid by our fallen and casualties deserve our acknowledgment.

Mr. President, the men and women of our Armed Forces are deserving of recognition and honor for their gallant efforts in the Persian Gulf conflict. The offering of a commemorative silver medallion is one small way of demonstrating our national gratitude for their courageous service.•

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TRIBUTE TO MARY HELEN BYCK

• Mr. McCONNELL. Mr. President, I rise today in memory of a remarkable woman whose energy and ideas enriched the cultural, educational, and civic life in Kentucky's largest city for 6 decades. Mary Helen Byck died after a lengthy illness in July. However, throughout most of her lifetime her name was synonymous with community giving in Louisville, and her contributions will be remembered for decades to come.

Mary Helen Byck was chairman of the board of Byck's department stores, a family-owned business that began as a shoe store in 1902. Although she'll be missed by the business community, Mrs. Byck was best known for her civic contributions which covered an extraordinary range of interests.

Mrs. Byck was extremely dedicated to improving health care in the Louisville area. She sponsored a pediatric residency program at the University of Louisville School of Medicine, was a board member of the Louisville Medical Research Foundation for Physicians and Researchers, and served as vice president of the Regional Cancer Center Corp. Mrs. Byck worked relentlessly to improve cancer treatment. She was a member of the board of governors of the Brown Cancer Center; officials at the center plan to dedicate a new patient-education area in her honor.

Mrs. Byck also took an active role in furthering the cultural offerings of the Louisville area. She helped found the Louisville Philharmonic Orchestra in 1987, and was a major force behind the Greater Louisville Fund for the Arts. She was instrumental in developing Actors Theatre, and was a leader in the effort to create the Kentucky Center for the Arts in 1983.

Mrs. Byck devoted much of her time to civil rights issues. She was an original member of the Kentucky Human Rights Commission, and served on the Louisville-Jefferson County Urban Renewal Commission. She was also a major force behind the 1966 passage of the Kentucky civil rights law.

For more than a quarter of a century, Mary Helen Byck was a driving force in business, the arts, humanitarian causes, and health care in Jefferson County. Those of us who knew her also know that she always attempted to downplay her accomplishments. In a 1982 interview, Mrs. Byck said, "I don't want to be glorified * * * I've been very blessed in life to be able to do what I've done." With her passing, the Louisville community has lost not only a leader, but a dear friend. I ask that an article from the Louisville Courier-Journal be printed in the RECORD.

The article follows.

MARY HELEN BYCK: 1907–1991—Retail Clothier Whose Work Enriched City Dies at Age 84

(By Holly Holland and Helm)

Mary Helen Byck, the retail clothier whose energies and ideas enriched Louisville's cultural, educational and civic life through six decades, died at her home yesterday after a lengthy illness. She was 84.

Byck, who was diagnosed with inoperable lung cancer a year ago, slipped into a coma two days ago and died quietly at 2:40 p.m., said her daughter, Betty Goodman.

Goodman said her mother had had radiation treatment last summer and seemed to rebound. But after returning from a trip to California in March, Byck contracted bronchitis and "couldn't throw it off," Goodman said. She said her mother had been bedridden for about two months.

Goodman said Byck's other daughter, Lucy Shapero, and a granddaughter, Cathy Dreszer, were with her when she died at her home at 332 Penruth Ave. in the Crescent Hill neighborhood.

Byck was chairman of the board of Byck's, a family enterprise that was founded as a shoe store in 1902 and later operated women's apparel stores in Louisville and Lexington. The last three stores, which were in Louisville, closed Tuesday.

Goodman said the timing of the company's closing and her mother's death were coincidental.

"It just happened that way," Goodman said. "This has been a pretty emotional week."

Friends and colleagues expressed sadness at the passing of a woman whose name had become nearly synonymous with community giving.

"You don't ever replace someone like this," said Wilson Wyatt Sr., who led the effort with Byck to start the J. Graham Brown Cancer Center. "She was never one to simply advise others what they should do. It was always what we should do. * * *"

Buddy Thompson, chairman of Glenmore Distilleries Co. and chairman of the Brown Cancer Center's board, said it was ironic that cancer killed a woman who had done so much to improve cancer treatment for the entire community. Thompson said he wrote Byck last month informing her that the cancer center planned to dedicate a new patient-education area in her honor.

Byck's contributions to the community covered an extraordinary range of interests.

During World War II, when it was rare for a woman to be an executive, she served as president of Byck's while her husband, Dann Byck Sr., served his country. She was described then as "one of the best merchant people in this city." She became president of Byck's again when her husband died in 1960.

Byck enjoyed hunting, fishing and golfing, and she wore a red jacket to University of Louisville basketball games until ill health kept her home.

Byck grew up in downtown Louisville, the only daughter of Mr. and Mrs. Cyrus Adler. She and Dann Byck were married June 27, 1931, the day before her 24th birthday.

Her public commitments were both exciting and exacting for her three children. Goodman said it was sometimes difficult to grow up in her mother's shadow.

"As little kids it was just fascinating, meeting interesting people," Goodman said. "As we got older it was an effort to establish our own identify because people assumed that you did and felt everything that both parents did and felt. It was difficult establishing our own place."

Byck was a member and chairman of the U of L Board of Overseers and for five years sponsored a pediatric residency program at the U of L School of Medicine. She was a board member of the Louisville Medical Research Foundation for physicians and researchers. She was vice president of the Regional Cancer Center Corp. and a member of the board of governors of the Brown Cancer Center.

Byck was longtime chairman of the Louisville Gardens board of directors, and the Garden's arena was named in her honor.

Byck helped found the Louisville Philharmonic Orchestra in 1937. And she was a major force behind the Greater Louisville Fund for the Arts, and having Actors Theatre included. She was a leader in the effort to create the Kentucky Center for the Arts in 1983.

Byck also was an original member of the Kentucky Human Rights Commission, and she served on the Louisville-Jefferson County Urban Renewal Commission. She helped establish the Park DuValle Community Health Center, financed the first Planned Parenthood Center for black Louisvillians and was one of the Southwick Youth Club's largest financial backers.

"The civil rights movement she supported, the feminist movement she supported, all of the things associated with liberal causes," said Woodford Porter Sr., past chairman of the U of L board of trustees.

Byck's ran a newspaper ad supporting open housing, and Byck was instrumental in the passage of the 1966 Kentucky Civil Rights Law, which had failed two years earlier.

"Anyone that needed any help, why they'd call (Byck), especially in the minority community," said Katherine Peden, an industrial consultant and former state commerce commissioner who had been friends with Byck for about 30 years.

"She was always speaking out for young people to become more vocal in the political process," Jefferson County Judge-Executive Dave Armstrong said.

Louisville Mayor Jerry Abramson said, "There are very few things in this community that are good that she has not played a role into bringing into existence."

A 1928 graduate of Vassar College, Byck took a job in 1930 with the national convention of the League of Women Voters, beginning a productive stint in politics. She was Democratic national committeewoman from Kentucky in 1964, served on the Democratic State Central Executive Committee and worked for the party on the local level for many years.

In 1982 she helped lead the county schools' unsuccessful drive for a tax increase and later said, "When you fail in something you've worked hard on, stop, get your breath, review what has happened and start all over again. Get your strength up if you believe it's right."

Asked about her accomplishments in a 1982 interview, Byck said: "I don't want to be glorified. * * * I've been very blessed in life to be able to do what I've done. I'll get it all back."

Survivors in addition to her daughters include a son, Dann C. Byck Jr. of Los Angeles; nine grandchildren; and five great-grandchildren.

MARY HELEN BYCK * * *

Mary Helen Byck was, quite simply, one of Louisville's great citizens. For more than a half century she was a key force in business, the arts, humanitarian causes and health care in a city that sorely needed the kind of enlightened leadership she provided.

Though she had been in declining health for some time, there was a Dickensian aura about the timing of her passing, one day after the Byck's stores in Louisville closed. (See editorial, below.)

Her association with that business, over which she presided during World War II and again after the death of her husband, Dann C. Byck Sr., in 1960, was only one facet of a life that a friend once compared to a fine diamond. She was keenly interested in public affairs, especially Democratic Party politics. An original member of the Kentucky Commission on Human Rights, she was a firm supporter of open housing and equal rights for all.

She was instrumental in the building of the J. Graham Brown Cancer Center at the University of Louisville and the Park-DuValle Health Center. She and her husband—who was president of the Board of Aldermen from 1947 to 1953—were founders of the Louisville Orchestra in 1937, and she was among the key figures in the endowment campaign that led to the construction of the Kentucky Center for the Arts.

That was the public side of this remarkable woman. But there was a private side, too, that was able to make anyone she met feel at ease, who delighted in her children and grandchildren and who was never one to flaunt her success or power. It was the side that offered encouragement to cancer patients after her store became one of the first to carry breast prosthesis products, in an era when many only whispered about cancer.

And it was the side that could confide how important friends were to her: She once told a young acquaintance how moved she was by a note of condolence written upon the death of an old friend. You see, Mrs. Byck explained, at such times the family gets all the attention, but they do not grieve alone.

With Mary Helen Byck's death, many of us share the sentiment she expressed that day, for the community has lost not only a leader, but a dear friend.

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* * * AND HER STORE

Byck's: a name so long respected in this city that it's hard to imagine that the stores that bore its name have closed.

It was a name associated with quality—sleek leather, fragrant perfumes, chic dresses, stylish shoes and Easter bonnets. Generations of Louisville children waited countless hours while their mothers tried on dresses or hats or shoes at Byck's. Children also were fitted for shoes there with the kind of attention appropriate for a business that had started as a shoe store.

More than a few of us can remember the last-minute shopping dash to pick up a Christmas or birthday present—knowing that Byck's would have the perfect thing. And the pink boxes with silver ribbon were always a sign that a gift of quality was inside.

Like the people who owned the store, there was a progressive quality aout Byck's. Although the downtown branch was the anchor, suburban branches, beginning with the one in St. Matthews, symbolized the change in shopping patterns in Lousiville beginning in the 1950s.

Keeping a family-owned business alive isn't easy. And as Steve Goodman, Mrs. Byck's son-in-law and the current president of the company, noted, these are very difficult times for retail stores. The ghosts along Fourth Avenue are too plentful, names—like Stewart's, Selman's, Kaufman's, Sutcliffe's and Levy Bros.—that we used to take for granted are gone. And now, sadly, Byck's joins the list.•

LETTER FROM THE MAYOR OF KRAKOW TO VICE PRESIDENT DAN QUAYLE

• Mr. COATS. Mr. President, I urge my colleagues to take the time to read a letter, which I am submitting for the RECORD, from Tadeusz Piekarz, the mayor of Krakow, Poland, to Vice President DAN QUAYLE. As the mayor explains, the Bush administration, Vice President QUAYLE, and the United States Congress can all take pride in assisting Poland to deal with its very substantial environmental problems. With a small investment of funds, the United States is helping the citizens of Krakow to assess and deal with the ecological mess left behind after four decades of Communist mismanagement and neglect.

Mr. President, I ask that the letter from the mayor of Krakow to Vice President DAN QUAYLE be printed in the RECORD.

The letter follows:

DEAR MR. VICE PRESIDENT, I would like you to accept our deepest thanks to the Congress of United States for undertaking the decision allocating funds to Krakow for environmental protection. I am doing the above full of gratitude for the funds granted and emboldened by our meeting in Krakow during the CSCE Conference in June. Could you kindly pass these words of thanks to the American people.

The assistance executed thanks to the decision of the Congress, functioning under your guidance, creates a significant contribution to the environment of Krakow where—among other things—in 1794 Tadeusz Kosciuszko took an oath to the Polish nation, fighting for independence and democracy. Later he continued to serve both our countries. It is symbolic that it is here, close to the place commemorating his oath, where we are opening today one of the automatic air-monitoring stations which would enable us to measure the exact level of air pollution in Krakow.

I would like to express my sincere hope that the American assistance will develop into a partnership becoming an example for the other nations of the Eastern and Central Europe.

I remain sincerely yours,

TADEUSZ PIEKARZ.•

NATIONAL HISTORIC PRESERVATION

• Mr. ROBB. Mr. President, this year marks the 25th anniversary of the National Historic Preservation Act, the law that defined the national preservation program. Congress passed, and President Johnson signed, this law in large part because of a report of the U.S. Conference of Mayors, called "With Heritage So Rich." This report is probably best remembered for its visionary call to save the fabric of everyday life, not just the occasional mansion. It is also known for setting out what a national preservation program would look like. Congress took the advice of this report and today's preservation program is remarkably similar to that recommended in "With Heritage So Rich."

I know a little about this book because my mother-in-law Lady Bird Johnson wrote the foreword. She talked about how she had learned the truth that the buildings which express our national heritage are not simply interesting. They give a sense of continuity and of heightened reality to our thinking about the whole meaning of the American past. She also urged that:

> We must preserve and we must preserve wisely. As the report emphasizes, in its best sense preservation does not mean merely the setting aside of thousands of buildings as museum pieces. It means retaining the culturally valuable structures as useful objects: a home in which human beings live, a building in the service of some commercial or community purpose. Such preservation insures structural integrity, relates the preserved object to the life of the people around it, and, not least, it makes preservation a source of positive financial gain rather than another expense.

The Commonwealth of Virginia is, of course, one of the Nation's most historic States, with resources from the historic mansions of the Founding Fathers to the small towns settled along railroad routes, to old farmsteads, to historic urban commercial centers and neighborhoods.

Virginia has one of the Nation's finest historic preservation programs; Bryan Mitchell, Virginia's State historic preservation officer, is now the president of the National Conference of State Historic Preservation Officers. The office carries out some of the most important mandates of the National Historic Preservation Act, namely documenting the State's significant historic structures and districts, working with governmental agencies to see that federally assisted projects do not unnecessarily harm these historic places, and certifying the quality of historic rehabilitation projects which use the Federal historic rehabilitation tax credit.

This is precisely the work plan set out in "With Heritage So Rich." Continuing to do more and better to preserve historic places is the mandate for the next 25 years.•

CANYON PROTECTION—A NATIONAL DISGRACE

• Mr McCAIN. Mr. President, in just a few hours Congress will adjourn. With great disappointment and frustration I inform my colleagues that apparently we will do so without passing needed legislation to protect the greatest natural wonder in the world—the Grand Canyon.

The Grand Canyon Protection Act, which I introduced at the beginning of the 102d Congress, continues to languish in committee where it is held hostage to competing agendas and institutional roadblocks.

It strikes me as somewhat ironic that practically every day around here, Senators take the floor of the Senate to orate on the importance of the environment. Great speeches are delivered about our natural heritage. Heads nod in righteous agreement. But when it comes right down to it, we can't even pass a bill—one which has been agreed to by the affected parties—to take care of our most spectacular natural resource.

It's no wonder the American people are so skeptical of Congress, and the ability of this institution to conduct our national affairs.

I first introduced the Grand Canyon Protection Act in the 101st Congress. I did so in response to a Department of the Interior report that Grand Canyon resources have been harmed by operations at Glen Canyon Dam.

As you can imagine, the question of how the dam is operated affects a number of interests, including downstream resources, water management and power generation. Measures calling for change in the status quo can provoke serious controversy. However, the need to protect the Grand Canyon demanded action.

Accordingly, in August 1990, I convened a meeting of the affected constituencies with the challenge of producing a consensus bill—one that would provide full protection for our park resources. Those meetings were fruitful and produced a consensus which was embodied in the Grand Canyon Protection Act.

Last year, after hearings in both the House and the Senate, the Energy Committee approved the bill and inserted it into an omnibus reclamation package. The Senate approved the measure in the waning hours of the 101st Congress. However, because of controversy over titles which had nothing to do with the Grand Canyon, the legislation was killed, and Congress adjourned before the bill could be enacted.

Disappointed but determined, I reintroduced the bill as soon as the 102d Congress convened. I was confident that it would be acted upon expeditiously considering the importance of the issue and the fact that the Senate had approved the measure just a short time before.

I thought surely the Senate would not hold up protection for the Grand Canyon. Certainly, the bill could not be held hostage again by linking it with other more controversial legislation.

Those expections, however, were dashed when it was announced that, once again, Grand Canyon protection would be tied to a large reclamation projects bill. I argued that the Grand Canyon bill was a park protection measure, not a water project, and it should be allowed to pass on its merits. I was told my worries were misplaced and assured the bill would be acted upon by the end of spring. Well, spring came and went. No action was taken.

Concerned about the delay, I visited the chairman of the Water and Power Subcommittee. Once again, I was assured—this time that the bill would pass before the August recess or shortly thereafter. The summer turned to fall. Still, no action was taken on the bill.

Finally on September 13, seeing that an entire year was slipping away without action, I offered the Grand Canyon Protection Act as an amendment to the Interior appropriations bill. I did not relish asking the Senate to legislate on a spending bill, but protecting the Grand Canyon was more important than rigid adherence to instutional procedures.

A lengthy debate ensued. Senators came to the floor and spoke out on the importance of Grand Canyon National Park and our need to protect its invaluable resources.

But I was told that adding the bill as an amendment was not the right way to go. The distinguished chairman of the Water and Power Subcommittee, for whom I have great respect and admiration, argued against the amendment because, he assured the Senate, the committee was poised for action. He indicated that I was impatient, unable "to wait a few weeks," and trying to end run the committee. The amendment was defeated on procedural grounds.

Mr. President, I was skeptical about these new assurances. I had good reason to be. The year was littered by timelines come and gone, with assurances and reassurances. But I hoped fervently that the committee would fulfill its commitment.

Mr. President, with sadnesss and regret I inform the Senate that the commitment has not been kept.

I point no fingers and I cast no blame on any individual Senator. I can understand the complications and competing agendas of the committee process. They can frustrate the best of intentions. But, good intentions are not enough. The American people should be outraged that another session of Congress has slipped away without action. They would expect that the interests of the Grand Canyon—one of the seven wonders of the world—would motivate and move Congress to act with dispatch and resolve. But, no, it's business as usual.

Mr. President, let no one be mistaken. This legislation is critical. The scientific data is clear. The operation of Glen Canyon Dam has adversely impacted natural, cultural and recreational resources within the Grand Canyon. Over half of the Colorado River beaches which existed prior to construction of the dam have vanished. Archeological sites have been destroyed. Native fish species and recreation have been adversely impacted—all within our Nation's premiere natural treasure.

The good news is that changes in dam operations, and perhaps other reasonable measures, can be implemented to halt this damage.

The Grand Canyon Protection Act would statutorily require those changes to be made and establish a permanent standard of Canyon protection in law.

That's why I submit that this legislation is urgently needed. That's why practically every conservation organization in the Nation believes that it's urgent.

I would like to reiterate, the Grand Canyon Protection Act is not draconian legislation. Glen Canyon Dam will continue to supply abundant and economical electrical power. It will continue to provide water critical to the region.

The bill will merely ensure that our constructive use of one resource will not become an abuse of another—particularly the Grand Canyon. It's worth repeating that the affected parties agree this is the right thing to do, including the conservation community, the Colorado River Basin water authorities, and regional public power officials.

The essence of what this issue is all about was best described by former Secretary of the Interior Stewart Udall when he wrote the following:

> Because the hand of man now controls the flow of water through the . . . Grand Canyon, Congress, acting for the American people, has a responsibility to ensure that our hand is guided firmly by the ethics of stewardship . . . We must conserve and protect those resources and values that caused Congress to designate the Grand Canyon as a national park and to make its special qualities available to the American people for all time.

Profound and compelling words, indeed.

This year we celebrate the 75th anniversary of the National Park Service. It's a travesty that the Senate has chosen to leave the protection of our flagship national park for another day.

I'm sure we will hear that the committee intends to bring the measure up early next year. We are left to ponder past experience and wonder whether next year will slip away as well under cover of good intentions and placating assurances. I cannot and will not allow that to happen. I want my colleagues to know that I will be on the floor the day we reconvene and every day thereafter if necessary to see that we meet our responsibility to pass the Grand Canyon Protection Act and end this national disgrace.●

CONGRATULATION TO THE 2D BATTALION, 222D FIELD ARTILLERY

● Mr. GARN. Mr. President, I rise today to offer my congratulations to the 2d Battalion, 222d Field Artillery, located in Cedar City, UT, for receiving the Walter T. Kerwin Readiness Award.

I am very proud of this fine group of men and women. This trophy is awarded each year to the most "combat ready" unit of the National Guard for the entire Nation. Not only has the 2d Battalion demonstrated outstanding capabilities for combat readiness, but this is the second time they have won the prestigious Kerwin Award, the last time being in 1984. It is a distinct honor for them and for the State of Utah.

The 2d Battalion from Cedar City has had a long and distinguished career. It began as an outgrowth of the Nauvoo Legion, organized on February 3, 1844, by Mormon pioneers in the State of Illinois. It has seen service in the Mexican War, the Civil War, World Wars I and II, and the Korean war for which it received a Presidential Unit Citation. The battalion has been honored with numerous other awards including the Milton A. Reckord Trophy in 1984, 1986, and 1990 for outstanding battalion unit size in the 6th Army area; and the Eisenhower Trophy Award, 1989, for the best company size unit in the State of Utah.

Today, the battalion is commanded by Lt. Col. Mark Fuellenbach. He and the battalion are a shining example of the National Guard at its best. I am very proud to have such a distinguished, capable and well-trained unit in the State of Utah.

I am sure my colleagues will join me in commending Lieutenant Colonel Fuellenbach, each member of the 2d Battalion of the 222d Field Artillery, and the individual families who support them, for their noteworthy and dedicated service to the United States of America.●

SUSPENSION OF WITHDRAWAL OF UNITED STATES TROOPS FROM KOREA

● Mr. BUMPERS. Mr. President, I rise today to speak about the recent announcement by Defense Secretary Cheney that we are suspending phase 2 of our plans to reduce United States troop levels in South Korea because of the growing concern over the developing North Korean nuclear threat. As the Members of this body know, I have been very outspoken over the last few years in my belief that the United States should reduce its troop deployment level in Korea and allow South Korea to shoulder a greater share of the responsibility of defending itself. South Korea has twice the population of North Korea, and a GNP that is over 10 times larger. They are fully capable of defending themselves, and our presence could be safely reduced to a lower, though still significant, level.

Last August, the Senate agreed to my amendment calling on the Department of Defense to consider further reductions in United States force levels in South Korea. I ask that the text of this amendment, No. 1061, be inserted in the RECORD at the conclusion of my remarks.

Despite this background, I am supporting Secretary Cheney's decision to delay, at least for a while, because the North Koreans are capable of anything, and their nuclear development program is worrisome. But we should be clear in our own minds why we are delaying this troop reduction, and not hesitate to resume it, indeed to accelerate it, once the reason for the suspension has gone away. And we should press harder to get the South Koreans to pay a greater share of the $2.5 billion cost to maintain the United States troop presence.

The rationale for suspending the troop withdrawals is solely to put pressure on the North Koreans, to serve as both a carrot and a stick, to encourage them to comply fully with the Nuclear Nonproliferation Treaty and agree to full International Atomic Energy Agency [IAEA] inspections of their nuclear facilities. When this is achieved, there will no longer be any credible reason to delay major drawdowns of United States force levels on the Korean peninsula.

It has been widely reported in the press that the United States is now removing its nuclear weapons from South Korea. If these reports are correct, I believe we are doing the right thing. By this action, we are taking away the flimsy excuse that the North Koreans have used for years as an excuse not to open their nuclear facilities to international inspection. For many years, it was North Korea who called for the Korean peninsula to be a nuclear free zone, and who denounced the United States for thwarting this goal.

Now we have wisely turned the tables on North Korea. South Korea is nuclear free, and it is North Korea that is threatening to nuclearize the Korean peninsula. And fortunately the rest of the world sees this hypocrisy, especially the Japanese, who hardly relish the thought of a nuclear North Korea. As one Japanese diplomat explained: "Remember, you Americans have nuclear weapons. We don't.

I congratulate President Bush, Secretary Cheney, and Secretary Baker for turning up the diplomatic and military heat on the Kim-Il-Sung regime to come clean on its nuclear activities. At the same time, I encourage them to keep this effort up. I note that the United States has met quietly with North Korean diplomatic representatives 17 times since late 1988 to discuss issues of mutual interest and according to reports in the press this morning, it seems to be paying off. I encourage President Bush to use these meetings and other means to underscore to the North Koreans that they will not achieve the security they seek if they keep with their current policies.

We have too recently seen in Iraq that it is possible for a country to be further along the road to acquiring a nuclear weapons capability than external evidence would suggest, and that older, out-of-date technologies can still be utilized by technologically less sophisticated countries to provide the means for developing a nuclear weapon. After all, technology that today is over 45 years old permitted the United States to develop atomic weapons. And I hope the Bush administration is hard at work making sure that the European and other companies that were helping Iraq develop its nuclear weapons are not now working for the North Koreans.

In this light, I am disturbed by a report in Germany's Der Speigel magazine that German companies are involved in North Korea's nuclear weapons program. I ask that a copy of "German Help for Korea's Bomb" from the November 4, 1991, issue of Der Spiegel be placed in the RECORD immediately following my remarks.

And it is distressing to read that China has thrown a monkey wrench into Secretary Baker's diplomatic initiative to have Asia's leading powers join together to pressure North Korea to abandon their attempts to develop nuclear weapons. Once again, the diplomatic benefits that the Bush administration promised in return for our treating the hardliners in Beijing with kid gloves despite the Tiananmen Square massacre have eluded us. China must recognize that it is in their own best interest to join with others to halt the threat of North Korean nuclear wepons.

I urge President Bush to take appropriate and forceful steps to deal with these serious concerns.

I want to emphasize that I believe that relations between the United States and the Republic of Korea are very good, and I am pleased about that. Our two countries are allies. We are also friends. We share many common economic, political, and security concerns. However, our policy toward Korea seems mired in the mists of the world of four decades past.

We have had about 43,000 troops in South Korea for a number of years, a figure that has actually grown from the 33,000 level of 10 years ago. Under the plan announced in early 1990, U.S. troop levels were supposed to reach 36,000 by the end of 1992. There had been hints in the Korean press that the second phase of reductions would reduce a further 6,000 troops, to 30,000, by the end of 1995. It is this reduction that has been delayed. Of course, if the North Koreans revise their nuclear policy and allow inspections, there need not be any delay at all.

Despite my support for the temporary delay in reducing our troop levels, let us remind ourselves that the arguments in favor of such reductions remain valid. Our current troop levels are higher than they were a decade ago. We are acting as if South Korea is a very weak country needing a large United States military presence to protect them from a more powerful neighbor. And that was true in the fifties and probably the sixties. But it certainly is not true today.

South Korea has twice as large a population as the North. Its economy is 10 times as large, and it is growing 3 to 4 times as fast as the north. It has grown to such a point that the amount by which South Korea's economy grows each year is equal to the entire size of the North Korean economy. Last year, South Korea's economy grew by about 9 percent, while the Wall Street Journal reports that North Korea's economy shrank by 4 percent. On a per capita basis, the fall was more than 5 percent. In addition, North Korean grain production fell 12 percent last year, according to the Korea Times, and is now 25 percent below the level needed to feed themselves.

Economic prospects for North Korea are bleak—the Soviet Union has been their major trading partner, and the collapse of the Soviet economy means the North Korean economy will probably shrink more, while the South Korean economy remains an economic powerhouse. And I salute them for their success. Of course, they should open their markets to more imports—their current trade barriers are serious. But they have done well.

Sadly, South Korea seems not to fully realize its economic strength. Keeping trade barriers up is one aspect of this. But another is how they address their security situation. South Korea rightly warns of North Korea's strengths, but they seem unwilling to do more to defend themselves. They spend a smaller share of their GNP on defense than we do, 4.2 percent versus 4.9 percent for us. They could do more, but they don't. We shouldn't be a party to them having it both ways. They can't warn how terrible the North Korean threat is, and then turn around and devote less of their economy to defense than we.

A graphic example of this is South Korea's decision in September to stop conscripting short-term soldiers and to shorten the military service term of regular service people by 2 to 5 months beginning in early 1993. I ask that the article "Military Service Term to be Cut by 2 to 5 Months" from the September 14, 1991, Korea Newsreview be placed in the RECORD at the conclusion of my remarks. It is estimated that cost savings is one of the reasons for this cut, as well as the desire to increase the size of the labor pool to satisfy the labor requirements of South Korea's booming economy.

The United States should maintain a presence in South Korea as long as the South Koreans want us, but it doesn't need to be as large as it is. And it should end at some point. General Menetrey, former head of Allied forces in South Korea, said in 1989 that he thought the mid-1990's would be about right if current trends continued. With the exception of the nuclear threat, which justifies the temporary delay, these trends have continued, and become even stronger.

By deciding to reduce our troop levels to 36,000 in South Korea, we have made some progress, but not nearly enough. Once we have resolved the North Korean nuclear problem, we should at a minimum put the Phase II reductions down to 30,000 personnel back into effect. My preference would be to go further, and reduce troop levels down to closer to 10,000 to 15,000 troops.

Mr. President, there is one area that doesn't have to wait for the resolution of the North Korean nuclear problem for us to act. And that is in the area of the level of host nation support that South Korea provides us. South Korea doesn't come close to matching the level of host nation support provided by Japan. Even with the increase to $430 million, which is about $10,000 per troop, South Korea lags far behind Japan, which supports our forces at over $50,000 per troop. And the cost of our presence is about $2.5 billion per year, far more than we receive. At a minimum, South Korea can do much better with its level of host nation support. If South Korea paid for the same fraction of troop costs as Japan does, this would add about $750 million to their level of support and would cut our deficit by a like amount.

If we can take on the extra financial burden of delaying troop reductions for South Korea, the least the South Koreans can do after reducing their armed force levels to save money is kick in more to support our troops.

Let's look at the geopolitical situation on the Korean peninsula. Almost everyone agrees that North Korea would need major assistance to invade the South. That means the Soviet Union or China. But the Soviets have greatly improved relations with the South Koreans. For the first time in decades, they have diplomatic relations. They are angling for economic aid from South Korea, which as we all know, they sorely need. The Soviets have supported South Korea's entry into the United Nations. In addition, there are press reports that the Soviets have cut off the transfer of offensive weapons to North Korea, "causing confusion in Pyongyang's military planning," according to the International Herald Tribune. So the Soviet Union, or what is left of it, is hardly a candidate for backing North Korean aggression.

China's relations with South Korea are better than ever, for economic and political reasons. In fact, the Korean media reports that the South Koreans are discussing normalizing relations with China. Neither the Soviet Union nor China is going to help North Korea invade the South. The only reason for worry is the North Korean nuclear weapons program. When that problem is resolved, we can safely reduce our troops. In fact, it would be unsafe for us to keep such a high level of troops there.

We pay a political price for keeping our troops in South Korea. Our troop presence creates social problems in the communities in South Korea where they are located. A while back there were street fights that led to U.S. troops facing off-limits restrictions for several months. There are other tensions as well, as exemplified by an editorial in a Seoul paper, which claimed that the United States presence provides the "means of dominating South Korea's political, economic, military, and cultural fields." Of course this isn't true, but our excessive presence there feeds such mistaken beliefs.

A poll taken in August in Korea found that 32 percent of South Koreans believe the United States should withdraw its forces whether or not Korea is reunified, up from 20 percent in 1989. And 34 percent said United States forces should only remain as long as the Koreas are divided. The poll also showed that the younger people, the future of Korea, are less supportive of the United States presence than their elders.

In conclusion, I encourage President Bush to do all he can to resolve the North Korean nuclear problem, and to get South Korea to do more in their own defense. Let me repeat, South Korea and the United States are good friends, and I hope we will remain that way. But I believe that South Korea needs to more fully recognize its growing role in the community of free nations, and part of that includes shouldering a greater share of the burden of their own defense.

The material follows:

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . U.S. TROOPS IN KOREA.

A. Congress finds that:

(1) The Department of Defense plans to reduce the United States troop presence in the Republic of Korea to 36,500 personnel by the end of 1992.

(2) The Department has announced no specific plans for further personnel reductions below that level.

(3) The National Unification Board of South Korea estimates the GNP of North Korea to have been $21 billion in 1989, while the Bank of Korea estimates the economy of the Republic of Korea's economy to have been $210 billion in 1989, a factor of ten larger. At its current growth rate, as estimated by its Economic Planning Board, just the annual expansion of the economy of the Republic of Korea is nearly equivalent in size to the entire North Korea economy.

(4) The Republic of Korea faces a substantial military threat from North Korea that requires a vigorous response on both military and diplomatic levels.

(5) The Republic of Korea has decided to increase its level of host nation support, although such support still falls short of the actual cost involved, and short of the relative level provided by the government of Japan.

(6) While recognizing that the Republic of Korea has consistently increased its defense budget in real terms by an average of about 6 percent annually for the past five years, at 4.2 percent of GNP, the Republic of Korea devotes a smaller share of its economy to defense than does the United States, at 4.9 percent.

B. It is the sense of the Senate that:

(1) The Republic of Korea remains an important ally of the United States, with the two countries sharing important political, economic, and security interests.

(2) Commensurate with the security situation on the Korean peninsula and the size and vitality of the economy of the Republic of Korea:

(a) the Department of Defense should seriously consider future reductions of United States military personnel from the Republic of Korea beyond those now planned to be completed by the end of 1992.

(b) the Republic of Korea should undertake greater efforts to meet its security requirements, particularly in the area of force modernization.

(3) The Government of the Republic of Korea should increase the level of host nation support it provides to United States forces in the area so that its relative level more closely approximates that of Japan.

C. The President shall report to Congress, either separately or as part of another relevant report, on or before June 30, 1992, in both classified and unclassified form, on the overall security situation on the Korean peninsula, the implications of relevant political and economic developments in the area for the security situation there, and United States policy for the area. Issues covered in the report should include, but not be limited to, a qualitative and quantitative assessment of the military balance on the Korean peninsula, the material requirements of the Republic of Korea, United States military personnel requirements, the state of United States-ROK, China-ROK, and Soviet-ROK relations, and prospects for change within North Korea.

HELP FOR IRAN'S, NORTH KOREA'S NUCLEAR PROGRAMS

[Unattributed report: "German Help for Korea's Bomb"]

[Text] According to information from the Federal Intelligence Service (BND), German enterprises also are involved in the construction of nuclear weapons in North Korea. In a report to the Chancellor's Office dated 23 October (file number: 30-31c-0326-91), BND President Konrad Porzner writes that relevant hints from the U.S. Secret Service are to be taken seriously. However, only one suspicious company is known to the intelligence service in Pullach: The Berlin firm Leis Engineering GmbH supplied silicium alloyed steel—a material that is excellently suited for the construction of containers for radioactive materials—to North Korea.

The Director of the company, Guenther Leis, confirmed the delivery of so-called Nicroter sheet metal to Pyongyang. Reportedly, the sheet produced by the Duisburg VDM Nickel Technology Company (order volume: 100,000 German marks) had been sent to North Korea as parts for the repair and expansion of a fertilizer factory at the end of last year and the beginning of this year. The sheet metal business passed a customs examination in the middle of this year, it is stated.

Together with enterprises of the ex-GDR, North Korean companies also tried to dodge the barriers of the Coordinating Committee for Multilateral Export Controls of the Western industrial countries against the export of High-technology goods, Porzner further reported. North Korea denies IAEA [International Atomic Energy Agency] inspectors access to its nuclear facilities, which allegedly serve peaceful purposes. According to the findings of "friendly secret services," North Korea will have enough material for the construction of two to three nuclear bombs as early as "in the middle of the nineties,"the BND report continues. A reactor "in the Yongbyon area" clearly serves noncivilian purposes—the production of plutonium for making weapons. An indication is the complete absence of cables or lines to carry off the electricity produced.

The BND also presents new findings on the stage of the Iranian efforts to produce the bomb—which are denied by Tehran. In contrast to the general assessment, Iran has advanced as far on the road toward producing the nuclear bomb as Iraq had before the beginning of the Gulf war, a secret service man reported to the Chancellor's Office the week before last. The fact that Tehran really wants to become a nuclear power also became evident during a talk by Alfred Dregger, chairman of the Christian Democratic Union/Christian Social Union Group, with Iranian Foreign Minister 'Ali Akbar Velayati. In response to Dregger's inquiries about the nuclear program, Velayati stated that Iran has one nuclear power in the West (Israel) and two nuclear powers in the East (India and Pakistan). Thus, "everything was clear to us," one of Dregger's advisers said.

[From Korea Newsreview, Sept. 14, 1991]

MILITARY SERVICE TERM TO BE CUT BY 2 to 5 MONTHS

The Defense Ministry will stop conscription of short-term soldiers, or bangwi-byong, and shorten the military service term of regular servicemen by two to five months beginning early 1993.

Defense Minister Lee Jong-koo said last week that the compulsory service for the Army soldiers and Marines will be reduced to 26 months from the current 30 months, sailors to 30 months from 32 months, and airmen from 35 months to 30 months.

The Armed Forces now have some 174,000 short-term soldiers, or 27 percent of the combat forces of the nation's 830,000 standing forces, which will be reduced to 700,000 when conscription of the short-term soldiers, who serve six to 18 months, is stopped, Lee said.

Lee said improvement of the military manpower system is intended to actively cope with the changing international security environment and to contribute to inter-Korea dialogue and arms reduction.

Minister Lee said the ministry could consider further reducing the size of standing forces and the term of military service once the tension between the South and North is eased.

Lee made the announcement of the new military manpower system shortly after President Rob Tae-woo approved it.

The new system will enhance balance of military duty among servicemen and save a considerable sum in the defense budget.

Maintaining the 174,000 short-term soldiers costs about 65.1 billion won annually. With that money, the military can draft 50,000 more regular servicemen to improve defense capability, said Minister Lee.

The changes will not weaken the military's war capability, he said.

Soldiers in the North Korean forces are compelled to serve seven or eight years, and in the South, military service is also compulsory.

Lee said the ministry will reduce draft of short-term soldiers on a gradual basis beginning July next year finishing Jan. 1, 1993. Those conscripted on that day and after will be subject to the new reduced military service terms.

Lee said the new system is also intended to meet the growing popular demand for a lighter military service burden for youths and improve the Armed Forces' defense capability toward a quality-oriented system.

Lee said that the short-term soldiers, who usually reside at home and work at military bases or ward offices, caused 62.5 percent of the trouble between servicemen and civilians and noted that there is a serious imbalance between urban and rural areas in resources for short-term-term soldiers.

The Military Manpower Administration began to draft short-term soldiers in April 1964. Most of them were engaged in auxiliary work for defense of local areas.

Short-term conscripts include youths with physical problems and only sons.●

NO HOLD ON PUBLIC TELECOMMUNICATIONS ACT—S. 1504

● Mr. SIMPSON. Mr. President, there is a bill on the Senate Calendar, S. 1504, which would authorize appropriations for the Public Broadcasting System. Yesterday my office began receiving a number of calls to pursue the rumor that I had personally placed a hold on this legislation. Frankly, until yesterday, I was not aware that this bill, which had been placed on the Calendar on November 19, was working its way up the stack. I wish to fully dispel that rumor—which at this time of the year, in this line of work can rise to epidemic proportions, that somehow I had placed any impediment to the passage of this legislation.

In these latter days, I did have a most interesting interchange with one of the intrepid reporters of National Public Radio—and apparently that may be the reason for the calls. But this is not so. I do not do business in that fashion. I have not in the past, nor I do not currently have any hold on this bill, nor do I intend to place one on this legislation.●

PASSAGE OF H.R. 543, A BILL TO ESTABLISH THE MANZANAR NATIONAL HISTORIC SITE

● Mr. CRANSTON. Mr. President, I rise in support of H.R. 543, a bill to establish the Manzanar National Historic Site in the State of California. This measure is a companion to S. 621, which I introduced earlier this year.

Mr. President, Manzanar was one of the 10 permanent Japanese-American relocation camps used during World War II. By designating Manzanar as a National Historic Site, we honor the memory of the Japanese-Americans who were deprived of their basic constitutional rights and provide a reminder of the grave injustice done to them. We also help ensure that this unfortunate period in our history is not forgotten and that we learn from it.

Located at the foot of the eastern slope of the Sierra Nevada Mountain range approximately 175 miles north of Los Angeles, the Manzanar War Relocation Center was occupied from the spring of 1942 to the end of 1945. The entire Manzanar Reservation covered some 6,000 acres, with a 500-acre living area and adjacent agricultural land, a reservoir, airport, cemetery, and sewage treatment plant. Although only the camp auditorium and a few other structures remain. National Park Service believes that Manzanar offers the best opportunity among the camps for interpretation of the World War II relocation program.

H.R. 543 designates a 500-acre Manzanar National Historic Site, encompassing the entire living area of the camp, the camp auditorium, and the cemetery. The entire 500 acres is owned by the city of Los Angeles. The city has expressed concerns about the impact of the designation on its water rights and on the city's lands and activities outside the boundaries of the historic site. The city obtains a significant amount of its water from the Owens Valley watershed which includes the Manzanar area. Therefore the bill includes language to protect the city's water rights.

Additionally, the bill includes language to ensure that the designation of the Manzanar National Historic Site does not create, expand or diminish any authority of the Secretary of the Interior over lands or activities of the city of Los Angeles outside the boundaries of the site. In other words, the Secretary's authority over lands and activities outside the boundaries of the site is not altered as a result of enactment of this bill. The bill is entirely neutral in this regard.

Mr. President, I urge passage of this important legislation.●

EDWARD LEE HOWARD

● Mr. McCONNELL. Mr. President, I would like to take a brief moment to comment on an article that appeared in yesterday's Washington Times. Entitled "CIA Defector Now Unguarded," it details the apparent diminishing KGB interest in Edward Lee Howard, a former CIA employee wanted by the FBI on charges of selling United States secrets to the Soviets.

I cannot image the future Howard envisioned for himself in the Soviet Union when he defected in 1986. He gave up everything he had—including his wife and son—to settle what appears to be a personal score with the CIA. Surely he didn't think the loving embrace he received by the KGB would last forever. If he did, his vision of a guarded life must certainly be changing with each day.

I can only imagine Howard is currently of limited use to Soviet authorities, having had several years to reveal his knowledge of United States intelligence operations and procedures. In short, Mr. President, Edward Lee Howard is no longer an asset to that intelligence organization. In the months to come, I anticipate that Howard will feel more than the Moscow winter—he will realize a definite chill in his relationship with his Soviet protectors.

Mr. President, in closing let me just add that I intend to continue to follow developments in this case. In the near future, Mr. Howard might very well find his welcome in the Soviet Union has worn thin.

In order that my colleagues become more familiar with this case, I ask that a New York Times Magazine article by David Wise and a copy of the Washington Times article appear in the RECORD following my remarks.

The material follows:

CIA DEFECTOR NOW UNGUARDED

REPORTER FINDS HIM IN MOSCOW APARTMENT

(By Bill Gertz)

CIA defector Edward Lee Howard has lost the round-the-clock protection provided by the KGB in Moscow and worries that he could be turned over to U.S. authorities for prosecution, according to Bush administration intelligence officials.

A Western reporter recently approached Howard at his Moscow apartment and the defector tried to have the reporter thrown out, said officials who spoke on condition of anonymity.

However, no security guards were present or came to Howard's aid in trying to oust the journalist from the apartment building, the officials said.

The officials said the incident was a clear sign the Soviets have abandoned the blanket protection once afforded their prize CIA defector.

FBI spokesman Bill Carter declined to comment on whether Howard has lost his security protection. But he said the former CIA operative still is wanted on espionage charges.

In Moscow, Alexi Zakharov, a spokesman for the Soviet security police, said of Howard: "I don't know the man, but in our country everything is possible."

Asked if someone like Howard might leave the country someday, the spokesman said of the spy business; "In these days, ours leave, and yours come, so in general everything is possible."

Howard, a CIA operative from 1981 to 1983, slipped away from FBI surveillance agents watching his New Mexico home in September 1985. Several months later he was granted political asylum in Moscow.

Trained as a Moscow case officer, he is the first CIA officer ever to defect to the KGB, and U.S. officials have said his disclosures caused the deaths of several agents working secretly in Moscow.

The KGB, a central pillar of Soviet power, was disbanded following disclosures that its chairman, Vladimir Kryuchkov, and several top aides helped engineer the abortive coup last August.

In its place, several new organizations were set up. The internal security and counterintelligence police is called the Inter-republican Security Service. A separate foreign espionage branch was renamed the Central Security Service.

Howard told The Washington Post last year that he lived in a country house outside Moscow with two KGB guards who provided 24-hour protection against possible kidnapping by Western spy services.

At the time the defector said he regularly played chess with his guards.

David Wise, author of the 1988 book on Howard, "The Spy Who Got Away," said the defector also lives in an apartment provided by the KGB near the Arbat, a shopping area of Moscow.

It was at this second-floor apartment where the recent confrontation between Howard and a Western correspondent took place, the officials said.

"He worries a lot about being abducted," Mr. Wise said in an interview.

According to Mr. Wise, Howard told him during a series of interviews in Hungary several years ago that he feared the CIA would abduct him or poison food sent to him from abroad.

"I have to worry that the agency might try to kidnap me," Howard was quoted as saying in the Wise book, "It wouldn't take much, a hypodermic needle, throw me in the trunk of the car, and it's only two hours to the [Austrian] border."

Thomas DuHadway, the late chief of the FBI's intelligence division, said in September that the United States should press the Soviets to extradite Howard in exchange for U.S. economic assistance.

THE SPY WHO GOT AWAY

(By David Wise)

(Edward Lee Howard was a C.I.A. recruit bound for Moscow. Dismissed, he eluded the F.B.I., defected and left U.S. intelligence efforts compromised. Now it has been learned that another ex-C.I.A. agent was aware of the betrayal.)

In the silence just before twilight in the desert near Santa Fe, the sky changes colors, shading to pinks and reds, and the sunset casts an orange glow on the golden snakeweed, the prickly pear cactuses and the juniper trees. The Sangre de Cristo mountains turn purple, then swiftly black. Suddenly, the first stars appear and the night belongs to the coyotes, the chirping toads and the owls.

On just such a night a little more than a year ago, with the clouds racing past a quarter-moon, Edward Lee Howard, a 33-year-old former officer of the Central Intelligence Agency, slipped away from agents of the Federal Bureau of Investigation and vanished.

On Aug. 7 of this year, he surfaced in Moscow, granted political asylum by the Russians. According to intelligence officials, Howard betrayed the methods used by the C.I.A. to contact its spies—"assets" in intelligence jargon—in the Soviet Union, leading directly to the arrest of one such C.I.A. asset, Soviet defense researcher Adolf G. Tolkachev, whose execution was announced a week and a half ago by Tass, the Soviet news agency. Howard's information also may have led to the expulsion from Moscow of several American intelligence agents and the detention of other Soviet citizens who were working for the C.I.A.

Howard is the first known C.I.A. man to have defected to the Soviet Union in the 39-year history of the agency. His defection was, perhaps, the greatest embarrassment ever suffered by the C.I.A. But a second former C.I.A. man, whose identity and role have been a tightly guarded secret, is also a key figure in the case. The second man is William G. Bosch.

F.B.I. agents tracked Bosch down on South Padre Island, at the southernmost tip of Texas, near the Mexican border. For four days, they interrogated him, even as other agents maintained a 24-hour surveillance on Howard in Santa Fe, N.M. According to intelligence sources, Bosch finally told the F.B.I. that on a visit to the island, Howard confided to him that he had sold secrets to the K.G.B. in Europe and sought to enlist him in further espionage plans. The officials said Bosch also told the F.B.I. that the two men discussed taking a trip to the Soviet Embassy in Mexico.

But in a day of high drama, at the very moment that F.B.I. agents were questioning Bosch, Howard was planning his successful escape from his home in the New Mexico desert.

Edward Lee Howard has been charged with conspiring to violate the espionage laws by his visit to South Padre Island. Bosch, who, like Howard, left the C.I.A. under a cloud, has not been charged. But his statements provided the key evidence that enabled the Department of Justice to file a criminal complaint against Howard. Bosch, who lives in the Los Angeles area, has declined to comment.

Former Director of Central Intelligence Stansfield Turner has said that United States intelligence was "very badly hurt" by Howard, who had "very critical information about operations inside the Soviet Union."

Another intelligence official put it more bluntly: "He wiped out Moscow station."

To understand the Howard case, one must step through the looking glass into the murky world of counterintelligence, where nothing is quite what it seems and not every question has an answer.

One thing is clear, however. The Howard case vastly embarrassed the C.I.A. and the F.B.I. Behind the scenes, there has been a good deal of finger-pointing between the two agencies—each blaming the other.

The existence of a second man in the case is only one of many startling aspects that surround the affair. While many facets of the case remain unclear, an in-depth investigation, including dozens of interviews with Howard's family, friends, associates, neighbors and Government officials, among them a number of persons in the intelligence agencies, has revealed other surprising information, much of which has not previously been disclosed.

Edward Howard and his wife, Mary, were both employed by the C.I.A.'s Directorate of Operations, the agency's clandestine arm. They were trained by the agency to operate in Moscow as a husband-and-wife spy team.

Only one F.B.I. agent was watching the Howards' house on Sept. 21, 1985, as Mary Howard helped her husband escape by driving home with a dummy in the front seat, a dummy made of clothes shaped in a human form and topped with a wig stand for its head. In the darkness, the agent apparently mistook the dummy for Howard—a ruse that gave the ex-spy a 24-hour head start.

Mary Howard further aided her husband's escape by playing a tape recording of his voice over their telephone that fooled F.B.I. agents, who were wire-tapping the phone, into believing he was still at home.

Mary Howard was with her husband at a Austrian ski resort near the Swiss border on Sept. 20, 1984, during a trip when the F.B.I. believes he met with K.G.B. agents. But she insists he was only gone from their hotel room for a short time and maintains she never had any knowledge of his alleged spying for the Russians. For a year after her husband vanished, Mary Howard declined to talk to the press. She broke her silence and agreed to be interviewed for the first time by this reporter.

Both the C.I.A. and the F.B.I. were sharply criticized by the President's Foreign Intelligence Advisory Board for their handling of the Howard case, and both agencies have officially reprimanded a number of employees involved.

The Howard case did more than compromise on-going clandestine operations. To the C.I.A., it remains a skein that, if unraveled, could expose flaws in both the conduct of the agency's secret operations and its bureaucratic procedures. Inevitably, the defection of Edward Howard has raised larger concerns about C.I.A. security, recruitment and personnel policies, and about the overall United States counterintelligence effort.

This case also brings up a number of intriguing and unanswered questions which, presumably, officials of the C.I.A. and F.B.I. are asking themselves. Why did Edward Howard feel secure in going to William Bosch to tell him he was betraying his country? Why didn't Bosch come forward and inform the authorities when he was first approached by Howard? And does this case indicate the existence of larger cracks in the armor of American intelligence?

On the morning of Aug. 1, 1985, Vitaly Yurchenko, deputy chief of the K.G.B.'s First Department, which is responsible for operations in the United States and Canada, told colleagues at the Soviet Embassy in Rome that he was going to take a walk and visit the Vatican Museum. Yurchenko, then 49, had arrived in Rome a week earlier.

When he did not return by dinner time, embassy officials were frantic. Not until the next day did they file a missing persons report with the Italian police. But the K.G.B. resident in Rome must already have suspected the worst: Vitaly Yurchenko, a trusted "general-designate" in the K.G.B. with 25 years of service in the Soviet intelligence agency, had defected.

Yurchenko, a big catch for the C.I.A., was whisked to a safe house near Fredericksburg, Va., for questioning. Before he escaped his C.I.A. handlers and redefected to Moscow three months later, leaving a trail of recrimination and confusion within the intelligence community, he provided vital information. The first order of business when a defector is interrogated is to learn whether he knows of any penetrations of United States intelligence. Yurchenko said he knew of two. He provided details that led the F.B.I. to Ronald W. Pelton, a former employee of the National Security Agency, who was convicted of espionage in June 1986.

Yurchenko said the other mole had worked for the C.I.A. and was known to him only by the code name "Robert." Yurchenko had never met Robert and could provide no physical description. But he had two crucial clues to his identity: Robert had met with senior K.G.B. agents in Austria in the fall of 1984 and sold them C.I.A. secrets. Moreover, Robert had been prepared for posting to Moscow and was familiar with the complex techniques used by the C.I.A. for contacting its agents there, perhaps even their code names or identities.

The news horrified Yurchenko's C.I.A. interrogators. If true, it meant there had been a mole in their inner sanctum, the most sensitive part of the agency, the Soviet European division. There had already been disturbing intimations that something was wrong in Moscow; at least one major operation had been blown, and the C.I.A.'s Soviet contact, Adolf Tolkachev, arrested. If Robert had talked to the K.G.B., the C.I.A.'s entire Soviet network might be in danger.

It did not take C.I.A. officials long to zero in on the man who fit Yurchenko's profile. In the spring of 1983, he had been getting ready for assignment to the C.I.A.'s Moscow station, his first overseas post, when at the last moment some troubling polygraph results and a security investigation disclosed drug use and petty theft, C.I.A. officials have said. Instead of sending the officer to Moscow, the agency took the unusual step of firing him.

His name was Edward Lee Howard.

He had applied to the C.I.A. in 1980. At the time, he was 28, married and working as manager of the Chicago regional office of a firm called Ecology and Environment Inc. It occurred to Ed Howard that there might be something more challenging in life than looking for toxic waste dumps. "He just mentioned one day that he had applied for a job in the agency," Mary Howard said. "I think that's what he wanted to do for a long time."

Mary Cedarleaf Howard, a quiet, intelligent woman of 36, with brown hair and blue eyes, now lives in seclusion with her young son and her parents near St. Paul, Minn. In a series of conversations, Mary Howard said nothing critical abut Edward Howard, except to confirm that he had a drinking problem that was the cause of arguments between them. At the same time, she appeared to be loyal to her former employer, the C.I.A. She said she was still fond of her husband, although she has refused his request that she and their son join him in Moscow.

To the C.I.A., Howard had apparently looked like an ideal recruit. He had a graduate degree, work experience, and both he and his wife were accustomed to living overseas. Howard was fluent in Spanish and German, a smooth, well-spoken man who collected guns and knew how to use them. Although born in New Mexico, he had grown up in Europe, his father, Kenneth Howard, had been an Air Force electronics specialist who worked on guided missiles and had been stationed at bases in Germany, Texas and England.

"He played Little League and everything," Kenneth Howard said of his son. "He was in the Boy Scouts, up to Explorer." Ed Howard graduated from high school in Branden, England, then enrolled at the University of Texas, where he belonged to the karate club and graduated cum laude in 1972, the same year his father retired from the Air Force.

Ed Howard and Mary Cedarleaf met in the Peace Corps in 1973, both in their early 20's and fresh out of college. Mary had grown up in St. Paul, the daughter of an insurance executive and a physician. In the Peace Corps, "we started out in the same town in Colombia, called Bucaramanga," she said. They were married three years later, at a Lutheran church in St. Paul.

That same year, Ed Howard earned a master's degree in business administration from the American University in Washington, and joined the Agency for International Development. In February 1977, the Howards left for two years in Lima, Peru, where he worked on loan projects for A.I.D. Although the C.I.A. sometimes uses A.I.D. as diplomatic cover, there is no evidence to suggest that Howard was anything but a loan officer. After Peru, the Howards returned to the United States, and he landed the environmental job in Chicago.

In January 1981, the C.I.A. hired Edward Howard as a career trainee in the Directorate of Operations, also known as the D.D.O. (in reference to the Deputy Director for Operations) and as the Clandestine Services. Mary stayed at their home in Barrington, a Chicago suburb, while Ed reported to C.I.A. headquarters at Langley, Va. He was sent for several months to the Farm, a secret C.I.A. installation at Camp Peary, Va., near Williamsburg. There, Howard learned the "tradecraft" of intelligence, practicing the recruitment of agents and the use of "dead drops" to pass messages. He was given five aliases. He also learned from F.B.I. agents at the Farm how to detect and evade surveillance.

In the spring, Mary came east to join him. They purchased a house on Scotch Haven Drive in Country Creek, a development of single-family town houses in suburban Vienna, Va.

When Robert Magee, the C.I.A.'s director of personnel, later reviewed the Howard case, he discovered that there had been one blip on the security screen even at the start. Every candidate for the C.I.A. who passes the two initial screenings is given a polygraph test—"fluttered" in C.I.A. jargon. Patti Volz, a C.I.A. spokesman, said Howard's initial polygraph indicated "some drug use." But C.I.A. applicants who admit to using drugs are not automatically disqualified, if they agree to end the practice when hired. Patti Volz said nothing about Howard's alcohol problem. The agency was apparently unaware of it.

In Country Creek, the young couple kept to themselves. Howard told the neighbors that he worked for the State Department. He jogged regularly on the path behind his house and was seen walking his dog, a German shepherd that he had bought as a pup in Lima. Howard named the dog Whisky.

In the fall of 1981, Mary joined the C.I.A. as a regular, full-time employee and, like her husband, was assigned to the agency's clandestine arm. "I wasn't a case officer like Ed," she said. "I was more a secretary. I worked for the D.D.O." The C.I.A. is a closed society, and it is not unusual to find married couples working for the agency.

The agency's covert operators also tend to choose their friends among colleagues in the D.D.O. It was there that Howard met William G. Bosch, a 6-foot, 3-inch, blond, balding C.I.A. veteran who had served in the agency's administrative side, then switched to the D.D.O. shortly before Howard joined the C.I.A. They shared a common background. Howard had worked in Lima; Bill Bosch, who was three years older, had served the agency in Bolivia, and, like Howard, spoke Spanish. The two became good friends.

Howard's career was progressing well. He was chosen for a singular honor, service in the Soviet European division (S.E.), which covers the Soviet Union and Eastern Europe. "S.E. is the holiest of holies," one veteran case officer explained. "They're a closed, cliquish, incestuous bunch of people. Nobody looks over their shoulder. S.E. screens their own and thumbs their nose at anybody else."

By late 1982, Howard had been selected for the most prestigious duty in the D.D.O., assignment to the Moscow station for a two-year term. His cover: diplomat in the American Embassy.

Why did the C.I.A. choose to send to its most sensitive post a newcomer with no previous experience working as an intelligence officer overseas? William J. Casey, Director of Central Intelligence, and other C.I.A. officials have declined, for the most part, to comment publicly on the Howard case. But Casey has defended privately the decision to send a rookie to Moscow as a common agency practice.

The chief of the S.E. division, in a rare appearance before a secret session of the Senate Select Committee on Intelligence, gave the agency's standard explanation of what has emerged as a major question in the Howard case. In order to make it more difficult for the K.G.B. to identify C.I.A. officers assigned to the Moscow station, the S.E. chief said, the agency chooses junior officers who are not known. Howard, he added, was the first one who had gone bad.

Howard was given special training for his Moscow assignment. He received careful instruction in the arcane techniques of maintaining the delicate and difficult contact with the C.I.A.'s assets.

Mary Howard, too, received training from the C.I.A. to work with her husband in Moscow as a spy. "They like to give some training to wives, short courses," she said. Asked whether it might have included countersurveillance—such as sitting in a car and acting as a lookout while her husband met with an agent—she replied: "It could have been something like that."

Early in 1983, Ed Howard told neighbors he was studying Russian; the State Department was sending him to the Soviet Union. The Howards bought a new car and prepared to ship it to Moscow.

To build his cover, the C.I.A. gave Howard a certificate identifying him as a Foreign Service officer and appointing him "a Consular Officer and a Secretary" in the diplomatic service. It was dated March 11, 1983, and signed by Ronald Reagan and George P. Shultz.

Eight days later, the Howards' son, Lee, was born. Spring was on the way, and the future looked bright.

Then the bottom fell out of Ed Howard's life.

A second lie-detector test suggested that some of Howard's answers were deceptive. The second polygraph "picked up drugs and petty theft," the C.I.A.'s Patti Volz said. (Howard's family insists that, although he drank, he did not use drugs.) An investigation was launched.

Two years later, when Howard fell under suspicion of spying for the Soviets, the C.I.A. ordered an internal report by its then-Deputy Inspector General Carroll Hauver. Those who have read the secret report say that Howard, when confronted after the polygraph test, admitted using drugs, stealing from vending machines and taking money from a woman's purse aboard an airliner.

The C.I.A. decided it could not send Howard to Moscow. In fact, it decided it did not want him in the agency at all. Howard was fired. By June 1983, he was out of a job. He was now walking around with detailed knowledge of the agency's most sensitive operations in Moscow in his head. He was also furious at the C.I.A.

To Curtis R. Porter, staff director of the finance committee of the New Mexico state legislature, the young professional who showed up in his office unannounced to answer an advertisement in The Albuquerque Journal seemed an ideal prospect. The Legislative Finance Committee was looking for an economic analyst, and Edward Howard has the right credentials. Moreover, he was a native of New Mexico. On his résumé, he had put down "U.S. Department of State January 1981–June 1983." He was hired.

By August, the Howards had sold their house in Virginia and bought a home in El Dorado, a development 12 miles out in the desert southeast of Santa Fe. With their new baby, they settled down to life in the Sun Belt.

Howard's job was to estimate state revenues. Late in October, he flew to Washington for an economics conference. Apparently still seething at the agency, he spent several hours near the Soviet Embassy, trying to decide whether to go inside and reveal classified information.

Meanwhile, Howard's drinking was getting worse. On Feb. 26, 1984, a Sunday night, he was involved in a shooting incident with three young men. According to the police report, Howard said he had met the men "at a bar and had followed them home as they had promised him a girlfriend for the night and a good time."

But Peter Hughes, then 24, said that he, a friend and their two female companions were never inside the bar, but were in their Jeep, backing out of a motel parking lot, when Howard stared at one of the women, then followed in his own Jeep.

Hughes and his friend, joined by a third man, were waiting as Howard walked into the courtyard of Hughes's apartment building. "Suddenly from his back, he pulls out this cannon," Hughes said. "I mean a silver chrome .44 Magnum. An awesome gun. He says to me, 'Get back in the Jeep.'"

To Hughes, Howard seemed to have been drinking; his speech was slurred. "I'm inside the Jeep and he's pointing the gun at me. His eyes get this blazing look and he starts walking toward me with the gun, pointing it at my head. I think, *He's about to pull the trigger. He's going to shoot.* The barrel of the gun is coming in the window. So I duck. I grabbed for the gun and it fired, putting a hole in the roof."

With Howard disarmed, the youths beat him up; one threw a rock, hitting him on the head. They forced him back to his own Jeep, kicking the door several times for good measure. Then they called the police, who found Howard, bloodied, a block away. He was placed under arrest for aggravated assault with a deadly weapon.

For Santa Fe District Attorney Eloy F. Martinez, the case was a problem. On the one side was Peter Hughes, whose family was well known in the city—his father, who had been a prisoner of war in Vietnam, had run, albeit unsuccessfully, for the Republican nomination for Governor a decade earlier. On the other side was Howard, who produced letters of support from powerful state legislators and officials in Washington. Martinez said that he briefly considered prosecuting Howard for attempted murder. But Howard hired Santa Fe attorney Morton S. Simon who, by working out a plea bargain, managed to keep the case almost entirely out of the papers. On April 25 Howard pleaded guilty to charges of aggravated assault before Judge Bruce E. Kaufman, who sentenced him to five years probation and ordered that he pay $7,500 to Hughes. Both Martinez and Kaufman denied published reports that the C.I.A. contacted them or tried to influence the case on Howard's behalf.

Howard had voluntarily entered a counseling program for state employees, where Neil Berman, a clinical social worker, treated him for alcoholism for the next year and a half. Psychologist Elliot J. Rapoport conducted a court-ordered psychological evaluation; his report found that Howard had been through a period of unusual stress and "problem drinking," but was "not otherwise criminally oriented." He recommended that Howard remain in the state counseling program.

On Sept. 18, the Howards left for a one-week trip to Europe. According to Vitaly Yurchenko, it was in the fall of 1984 that "Robert" met the K.G.B. in Austria and sold C.I.A. secrets. The F.B.I. established that the Howards were in St. Anton, Austria, on Sept. 29, 1984, although the bureau has not said whether it believes that was the date Howard met with the K.G.B.

Mary Howard said they first visited friends in Switzerland. "We visited Zurich and Lucerne and then decided to go to Austria and then Milan." But she insisted that they chose St. Anton at random. "We were just driving around, and it was getting toward dusk and it looked like a pretty little town," she said. "I'm not aware of any goings-on in St. Anton."

"We had a disagreement," she said. "Our fights were usually over his drinking. He took off in the car. I could see him drive away from the window. He drove around in the car." Could Howard have met the Russians then? "He was only gone a short time," she replied, "perhaps 10 or 15 minutes." She added that they did not stay overnight anywhere else in Austria.

The Howards were back in the United States on Sept. 24, for on that date, Howard met with two current C.I.A. employees—perhaps at C.IA. headquarters—and told them how he had lingered outside the Soviet Embassy almost a year earlier, in October 1983, but did not enter.

Now Howard, a former C.I.A. officer with knowledge of top-secret data, had admitted that he had contemplated betraying his country. The C.I.A. insists that the two employees reported Howard's story to the proper agency officials. But for almost a year, those officials sat on that explosive information and failed to pass it on to the F.B.I. The C.I.A. will not say whether disciplinary action was taken against the officials.

Howard may have confessed the embassy incident as part of a plea to the C.I.A. to pay for psychiatric treatment. Howard did see a private psychiatrist in Santa Fe for a period of time and the C.I.A. paid for his visits.

Howard was still acting like a man under a great deal of stress. On a business trip to Boston the next month, Curtis Porter of the finance committee found Howard in his hotel room with a bandaged head; he claimed he had walked into a glass door and been given pain killers at the hospital. Later, Howard abruptly left a banquet and Porter found him packing and on the phone trying to make plane reservations to Austria. Recalled Porter: "He said, 'Sorry, I got crazy with the pain killers and booze. Don't worry, Mary knows every time I get drunk I try to go to Vienna.'" But Howard did not go; he realized he had no passport with him.

Kate and Bob Gallegos worked in Howard's office and lived in El Dorado; the two couples were friends. Bob Gallegos said that Howard once showed him a stack of Krugerrands worth perhaps $2,400. Gallegos also claimed that Howard "was having several affairs" with women in the office. Other friends say they were unaware of Howard's alleged womanizing, although one said he knew of a single "sporadic" affair.

In the spring of 1985, friends say, the Howards visited Europe again. Dennis Hazlett, a co-worker, said Howard came back with a Rolex watch and intimated he had been to Vienna.

On June 14, 1985, Tass, the Soviet news agency, announced that Paul M. Stombaugh, a "second secretary" at the United States Embassy in Moscow, was being expelled as a spy. Three months later the Russians disclosed that they had also arrested Tolkachev, the Soviet researcher, as he attempted to pass secret documents to Stombaugh.

American intelligence officials later confirmed that Tolkachev was an expert on "stealth" technology to conceal aircraft and missiles from radar, and had been one of the C.I.A.'s most valuable assets in Moscow. They also claimed that Tolkachev had been betrayed by Edward Lee Howard.

In July, Howard went to South Padre Island, to visit Bill Bosch. Bosch, too, had gotten into trouble with the C.I.A. after questions had been raised about alleged currency transactions in South America, according to intelligence officials. "He was dismissed by the C.I.A., or left before they could fire him," a senior intelligence source said.

It was on this visit, Bosch was later to tell the F.B.I., that Howard confessed his spying for the Russians and discussed plans for future contacts with Soviet officials. According to intelligence officials, the two ex-C.I.A. officers discussed taking a trip to the Soviet Embassy in Mexico City, a trip that Bosch said did not take place.

Bosch now lives in Laguna Beach, Calif., a resourt about one-and-a-half hours south of Los Angeles. Although an old and established town, Laguna Beach is also known as a home to young singles and transients—a place where people can come and go with relative ease and not attract attention.

Bosch rents a small, inexpensive room on the first floor of an old, two-story brown-shingle house that has been converted into apartments and is set back from the street, surrounded by trees, two blocks from the Pacific Ocean.

According to a neighbor, Bosch is "a nice guy, a quiet guy," who drives a Porsche and is "here at night sometimes, but not here often." Other neighbors in his building and adjacent houses said they did not know him. Attempts to contact Bosch in person proved unavailing; reached by telephone, he declined to be interviewed. "I have no comment," he said, "either on or off the record."

On July 27, 1985, the Gallegoses went to the Howards' home for dinner. Howard and his son Lee modeled two fur hats, Bob Gallegos said. "They were in a box with Russian writing. He said he had asked a friend in the State Department to send them to him." Gallegos said he has an indelible memory of Howard standing inside the house "wearing gym shorts and a fur hat, smoking a cigar and drinking a St. Pauli Girl."

Five days later, Vitaly Yurchenko vanished in Rome. The C.I.A. called in the F.B.I.

The case could not have come at a worse time for James H. Geer. On Aug. 5, 1985, his first day as assistant director of the F.B.I. in charge of the intelligence division, the Howard case landed on his desk at bureau headquarters in Washington. It was Geer's job to catch foreign agents. Geer, then 45 and a 21-year veteran of the F.B.I., was confronted with a major and potentially explosive counterintelligence case.

Geer called in Phillip A. Parker, the division's deputy director for operations. Parker, 49, had worked on foreign counterintelligence cases for most of his 20 years in the F.B.I., and he had been the No. 2 man in the division for three years.

Parker notified William D. Branon, who had just taken over the F.B.I.'s Albuquerque office. F.B.I. agents from several other cities were brought in to assist him. Within a few days, a small army of F.B.I. agents was deployed in Albuquerque and in Santa Fe, 60 miles to the north.

The F.B.I. began watching Howard, but there were problems. The Howards lived at 108 Verano Loop, a circular road of widely spaced, mock-adobe houses, where strangers are quickly spotted. Ironically, Thomas (Bill) Gillespie, one of the four resident F.B.I. agents in Santa Fe, lived two houses away from the Howards, at 112 Verano Loop. It was a perfect location for surveillance. But Gillespie had just sold his house, and the new owners had moved in on Aug. 4, the day before the F.B.I. got the case. So the house was not available. The F.B.I. did not, in fact, use any house as an observation post. Whether it employed "special coverage"—agents posing as a street repair crew, telephone linemen or the like—is not known. What is known is that the Howard residence was placed under surveillance.

The legal problem was even more formidable. "We had no probable cause to arrest Howard," Geer explained. Yurchenko's evidence was not enough. "Yurchenko never saw him," Geer said. "He didn't know him by name. It was a circumstantial case. You have to have much more than one man's word. Yurchenko did not even have a physical description." Parker, now retired, was equally emphatic that the F.B.I. had no immediate basis for arresting Howard.

The F.B.I. needed more evidence. The bureau applied for and got a wiretap warrant from a special seven-member court established in 1978 by the Foreign Intelligence Surveillance Act.

By the beginning of September, wiretaps were in place on the Howards' home telephone. The results were disappointing. Howard said nothing incriminating.

By Thursday, Sept. 19, the F.B.I. had made the decision to confront Howard directly. Still lacking probable cause to arrest the ex-C.I.A. man, the bureau hoped that Howard himself might provide the necessary evidence. The decision to approach Howard was made by Parker. There was a risk, he knew, that Howard might run, although it seemed minimal, given the round-the-clock surveillance then in place. The interview technique had worked in the past, and was used to convict Ronald Pelton, the other man named by Yurchenko.

That morning, an F.B.I. agent telephoned Howard at his office and asked to interview him. Within the hour, Howard met with the agent at the Hilton Inn, but he refused to say anything of substance.

The F.B.I. now switched to what it calls a "nondiscreet" surveillance. The agents following Howard no longer tried to blend in with the crowd. On Friday, Sept. 20, Howard walked up to one of the now-obvious agents on the street and asked to see the agent who had tried to interview him the day before. Another brief meeting took place, and Howard sounded more cooperative. He told the agent that he wanted time to get a lawyer and would meet with the F.B.I. the following week. Word was sent back to F.B.I. headquarters that Howard might be getting ready to talk.

That Friday morning, Phillip M. Baca was getting nervous. Baca, the new director of the Legislative Finance Committee, had been visited the day before by two F.B.I. agents, who asked for records on Howard. The 8:30 A.M. staff briefing of the committee, to prepare the lawmakers for a 9 A.M. public hearing, was about to begin and Ed Howard was uncharacteristically late. He finally arrived at the office at 8:25 A.M. "He did a beautiful briefing on the 18-month economic outlook," Baca said. "He had graphs. During the hearing, some questions came up on the

VOL 137
PT 24
NO 26
1991
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JA 3
1992
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price of oil. He answered them and was completely calm."

On the morning of Saturday, Sept. 21, Howard went into his office at the capitol. F.B.I. agents followed him. What they did not yet know was that he would write two letters in his office that day.

"We did a lot of talking that weekend," Mary Howard recalled. Howard had told her of the approach by the F.B.I. It was, she said, the first she knew he was in trouble. "It was like a nightmare," she said. "It's very traumatic still." But, she added, "I don't have any knowledge he spied."

At 3 P.M., Rosa Carlson got a telephone call from her neighbor, Mary Howard. As they had the same baby sitter that afternoon, would it be all right if the sitter walked over with Lee to the Carlsons and combined the job? Mrs. Carlson said that would be fine.

At 4 P.M., 16-year-old Gina Jackson arrived at the Howards'. Mary Howard did not stop to chat with her in her usual friendly manner. Instead, she led Gina and Lee directly out back to the patio.

"As I went through the house," Gina Jackson said, "I thought I heard two people talking. Out of the corner of my eye I saw a completely bald-headed person standing in the entranceway between the den and living room."

Later, Gina said, "the F.B.I. told me it wasn't two men talking, it was Ed Howard with a tape recorder and a dummy."

On the patio, Mary Howard seemed distracted. She did not provide the sitter with a phone number but told her the name of a Spanish restaurant in Santa Fe where they would be. In a few moments the sitter heard the car pull out of the garage.

What happened next is baffling, either a mix-up in communication, or human error. Only one F.B.I. surveillance agent was on duty, several hundred feet from the Howard house. Although it was about 4:30 P.M. and broad daylight, the Howards drove away in their dark red 1979 Oldsmobile undetected.

Ed and Mary Howard left El Dorado and swung onto Interstate Highway 25, heading northwest for Santa Fe. Other F.B.I. agents were spread out in cars a few miles away, awaiting word by radio to move out and follow the Howards. The signal never came.

Around 6 P.M. Gina Jackson walked a block to the Carlsons with Lee. She watched while Lee and the two young Carlson boys, Zac and Jonathan, played with water in the bathtub.

An hour later, around 7 P.M. the Howards drove from the restaurant where they had dined. In the darkness, somewhere in the downtown area, Ed Howard jumped from the slowly moving car into a "blind spot," as he had been trained to do at the Farm. It was the last time Mary saw him.

When Mary Howard arrived back home around 7:20 P.M. there was a dummy in the passenger seat in place of her husband. It was made of clothes shaped into a human form, topped with a faceless wig stand. Atop the wig stand was some sort of headgear. (Mary Howard said published reports that she had used an inflatable dummy were "not true.")

The surveillance agent on duty was surprised to see the Howards returning, since he had not seen them leave—surprised but relieved, since they were together. Ed Howard seemed to be wearing a hat, but in the dark, the F.B.I. man could not be sure.

The automatic garage door opened, and Mary Howard drove inside. She drove out a few minutes later, alone. She arrived at the Carlsons' house at 7:30 P.M. to pick up Lee, then drove back to their house and into the garage. The surveillance agent dutifully logged them in.

That night, Mary Howard carried out another ruse that her husband had planned with her. The ex-C.I.A. man had recorded his voice on the tape recorder. Following his instructions, Mary dialed a business office where the Howards knew she would reach an answering machine. At the beep, Mary held the tape recorder next to the telephone and pressed the "play" button. F.B.I. agents listening in "live" heard Howard confirm an upcoming appointment and were reassured; their target was still at home and staying in town.

Back in Washington that Saturday evening, F.B.I. agents in the intelligence division were excited; it appeared they might finally be getting the evidence they needed to seek a warrant for Howard's arrest.

The F.B.I. had tracked down William Bosch on South Padre Island. The bureau had discovered that Howard had been in touch with Bosch, located him with the help of long-distance toll-call records, and learned of his background from the C.I.A. F.B.I. agents had moved in and begun questioning him intensively in midweek. Gradually, Bosch's story was unfolding.

According to intelligence officials, Bosch said that Howard had made more than one trip to South Padre Island to see him; in July, Howard had come to the island and told Bosch he had sold C.I.A. data to the Russians, and the two men had had the discussion of Howard's plan to visit the Soviet Embassy in Mexico City.

There was no secure phone line on South Padre Island, so the electrifying reports of Bosch's interrogation had to be driven 300 miles to the F.B.I. office in San Antonio, then teletyped to the intelligence division on the fourth floor of F.B.I. headquarters.

James Geer said it was midnight in Washington, two hours later than in Santa Fe, before the F.B.I. decided it now had probable cause to seek a warrant for the arrest of Edward Howard. It could not be obtained at that hour, on a weekend, but there was no reason to worry. The lights had gone out at 108 Verano Loop. The surveillance was still in place in the desert, and the Howards were safely tucked away for the night.

Late on Sunday afternoon, Phil Baca went into the office unexpectedly. On his desk, he found an envelope, and, inside it, a letter of resignation from Ed Howard, along with the keys to the office and a smaller envelope addressed to Mary, which Baca did not open. He called the F.B.I. "I told them Ed Howard had resigned," Baca said. The F.B.I. was stunned.

Agents rang the doorbell at Howard's house and learned from Mary that Howard was gone. Mary Howard turned her husband's letter over to the F.B.I. One cryptic line in the letter, not previously known, said: "National security is like holding a royal flush in Santa Fe." The note also said, in part: "Well, I'm going and maybe I'll give them what they think I already gave them," and instructed Mary to "sell the house, Jeep, etc., and move with one of our parents and be happy." Howard also told Mary to tell Lee that "I think of him and you each day until I die."

By the time the F.B.I. realized that Howard had vanished, he had a 24-hour head start. Bureau officials believe he flew from Albuquerque, to New York, to Helsinki, and then crossed the border into the Soviet Union.

On Monday, Sept. 23, the F.B.I. finally got its arrest warrant from a United States magistrate in Albuquerque.

Howard called Mary once, the following month, but did not say where he was. In the spring, he sent her a letter, postmarked Vienna. On Aug. 7, 1986, Howard surfaced in Moscow.

Edward Howard has been charged with espionage. Intelligence officials say the damage he did to the C.I.A.'s Soviet operations was enormous. Some sources have suggested that the damage continued beyond Tolkachev, the C.I.A. agent executed by Moscow on March 14 of this year. Tass announced that Michael Sellers, Second Secretary of the United States Embassy in Moscow, was being expelled for espionage. On May 7, the Russians said, Erik Sites, listed as a civilian employee of the embassy's military attache office, strolled along Malaya Priogovskaya street to contact a Soviet C.I.A. asset when the K.G.B. closed in. Sites's wife, Ursula, was waiting nearby as a lookout, the Russians said. Sites, too, was expelled.

Certainly, the Howard case exposed major flaws inside the C.I.A. The agency hired a man who drank heavily and, according to the agency at least, used drugs. It ignored early warnings on his first polygraph test. It selected him for its most sensitive post, despite his lack of experience. Then, when it discovered he had serious character defects and problems, it fired him instead of easing him into another job where he might have posed less of a security risk. It paid for his psychiatric counseling after it was too late. Most astonishing of all, when Howard confessed to the agency that he had contemplated entering the Soviet Embassy in Washington to sell secrets, the C.I.A. sat on that information for almost a year before telling the F.B.I. Finally, after Howard was fired, the C.I.A. neglected to recover both his diplomatic passport and a false-name passport he had been issued by the Clandestine Services.

Within the intelligence community, some of the heat in the Howard case has been taken by Clair E. George, the C.I.A.'s Deputy Director for Operations, and certainly the affair suggests that the agency's clandestine arm performed sloppily. But the case also appears to illustrate loopholes in the agency's personnel and hiring policies and a lack of coordination between its medical and security offices. It suggests that, in order to avoid embarrassment, the agency attempted to suppress at any cost what eventually turned into a major spy scandal.

For its part, the F.B.I. was vastly embarrassed that Howard got away, a fact that F.B.I. director William H. Webster calls an "aberration." James Geer, the head of the F.B.I.'s intelligence division, while conceding a mistake "at our on-the-scene operations," sees "no institutional weakness," and cites the F.B.I.'s success in rounding up several other spies in the same year that Howard escaped.

Howard's motive remains unclear. He was angry at the C.I.A., but had no apparent ideological sympathy for the Soviet Union. Dennis Hazlett, his friend, said Howard seemed, if anything, conservative, patriotic," a little Reaganite in his views."

"I love my country," Howard said on Soviet television on Sept. 14 of this year. "I have never done anything that might harm my country."

If Howard was paid large amounts of money for his information, the F.B.I. has been unable to trace it. "We just don't know where the money is, if he got it," one senior F.B.I. man said. Mary Howard said: "I never saw unusual amounts of money," nor any Krugerrands. They lived on her husband's $33,012-a-year salary, she said.

"If he did anything," Kenneth Howard said, "it was through revenge or anger at what the agency did to him." Edward Howard's father has even wondered whether the C.I.A. "might be playing some strange games," whether perhaps his son was still working for the agency. Others have also wondered if Howard was allowed to escape and is a double agent. But F.B.I. officials scoff at that idea.

Edward Howard is a man caught between the superpowers. He faces a bleak future in an alien land, joining the dubious roll call of defectors who have refuge behind the Iron Curtain: Kim Philby, Guy Burgess, Donald Maclean, George Blake. None are ever fully trusted by the K.G.B. Or Howard can come home one day, if the Russians will let him, to face a possible sentence of life imprisonment.

The bottom line, however, is that he has escaped. The F.B.I. is bitter about that, although it takes a certain perverse pride in Howard's skill at countersurveillance, which he had learned at the Farm from the bureau's instructors. "After all," one F.B.I. agent said, "we trained him."●

MOST-FAVORED-NATION STATUS FOR ESTONIA, LATVIA, AND LITHUANIA

●Mr. BRADLEY. Mr. President, I rise today to mark the extension of most-favored-nation status to the Baltic States of Estonia, Latvia, and Lithuania. On July 31, 1991, I introduced legislation extending MFN status to Estonia, Latvia, and Lithuania. At the time, this was an important political demonstration of the independence of the Baltic States. Today, MFN is a tangible means for the three States to expand their economic ties to the United States and begin the process of restoring their economies to the status they enjoyed in the 1920's.

All three States are building institutions that will facilitate trade and economic activity, they are working with the international financial institutions to establish sound separate currencies, and are passing trade laws that establish the authority of the independent governments of Estonia, Latvia, and Lithuania over their customs territory. Most-favored-nation status is a necessary step in furthering the economic transformation that is underway.

The economic consequences of the Baltic MFN treaties stands in sharp contrast with the extension of most-favored-nation status to the Union of Soviet Socialist Republics. The most significant impact of that treaty, I pointed out last night, is to encourage the existence of a potemkin central government that exists only in the minds of a handful of economists and politicians in Moscow.

Let me also point out once again the irony of granting MFN to a Soviet Union that exists only as a legal construct. In July, the administration refused to assert the Baltic States' right to a separate MFN, even though there were existing, enforce MFN treaties between each of the Baltic States and the United States, and even though we never recognized the incorporation of the Baltic States into the Soviet Union. They said that the Baltic States could not have MFN because they did not control their borders and could not regulate trade within their customs territory. They were de jure states under American and international law, but not de facto ones, the administration told me, and we could not grant MFN to a de jure state. Now, only a few months later, we are being asked to approve a trade agreement with something called the Union of Soviet Socialist Republics. It seems to me that the argument the administration used to deny MFN to the Baltic States now applies to the Soviet Union. The U.S.S.R. is a de jure, not de facto, state. It cannot effectively determine its borders, or set trade and economic policy. It is not even clear what Soviet political institution will ratify the agreement.

It is clear, however, that for Estonia, Latvia, and Lithuania, most-favored-nation status is not only the definitive statement of the Baltic States' independence from the Soviet Union, but marks the return of the Baltic States to the community of free nations.●

TRIBUTE TO JAMES THOMAS RYAN

● Mr. LAUTENBERG. Mr. President, I rise today to recognize a distinguished individual from Maple Shade, NJ, James Thomas Ryan. On December 7, Chief Ryan will be honored by friends and family at the Knights of Columbus 11th Annual Humanitarian Award Banquet.

Mr. President, Chief Ryan was born and raised in Maple Shade, NJ. He graduated from Moorestown High School in 1951. As a high school student, he belonged to both the Civic and Monitor Clubs. He also excelled in athletics, and played varsity football and baseball. In his junior and senior year, he found time to manage the baseball team.

After graduating from high school, Chief Ryan trained to be a plumber while employed at E.C. Worrell Plumbing in Moorestown, NJ. During this time, he also played semipro baseball for the Mount Laurel team in the Rancocas Valley League. In 1952, he played semiprofessional football for the Mount Holly Moose in the Pop Warner League out of Philadelphia.

In 1953, Chief Ryan joined the Marine Corps. After attaining the rank of sergeant, he completed his military career when he was honorably discharged in 1956. He then returned home and worked in his father's heating and fuel oil business until 1962.

It was at this point of his life that Chief Ryan joined the Maple Shade Police Department, where he has served his community for 30 years. In 1970, he earned the rank of sergeant and 3 years later he was promoted to lieutenant. In 1975, he was made captain. On November 20, 1981, Jim Ryan was named chief of the Maple Shade Police Department.

While at the police department, Chief Ryan went on to pursue a higher education. He first attended Temple University from 1966 to 1967, then Trenton State College in 1970, and finally Camden County College from 1975 to 1976.

Mr. President, throughout his life, Chief Ryan has been committed to his community and country. Beyond his service with the Marine Corps and the Maple Shade Police Department, he has been active with the Maple Shade Jaycees, the South Jersey Police Chief's Association, the Rotary Club—he is a past president, the Maple Shade Advisory Board of Commerce, and the Salvation Army. Chief Ryan also is a member and a Sir Knight of the Maple Shade Knights of Columbus. In addition, he is dedicated to many youth organizations throughout Burlington County.

Mr. President, I am pleased to join Chief Jim Ryan's colleagues and friends as he is honored by the Burlington County Chapter of the Knights of Columbus for his humanitarian efforts. His many years of public service, and his lifelong commitment to his community, are an inspiration to all of us.

I extend my warmest regards to Chief Ryan and his family, and my best wishes for good health and happiness.●

SUPPORT OF FULL FUNDING FOR THE AMERICAN MEMORIAL PARK AND THE WAR IN THE PACIFIC PARK TO COMMEMORATE THE 50TH ANNIVERSARY OF THE MARIANAS CAMPAIGN

● Mr. AKAKA. Mr. President, December 7 marks the 50th anniversary of the Japanese attack on Pearl Harbor, an event which catapulted the United States onto the world stage and forever changed the shape of modern history. As is proper, numerous highly publicized events marking that date will take place throughout the Nation, most notably and appropriately in Hawaii. I am honored to be a member of the delegation, headed by my colleague from Hawaii, Senator INOUYE, which will represent the U.S. Senate at the Pearl Harbor ceremonies.

But in the publicity surrounding Pearl Harbor, we should not forget another important semicentenary that will occur less than 3 years hence, in the summer of 1994, when we mark the liberation of Guam and the capture of the Northern Marianas Islands, including Saipan and Tinian, from Japanese forces during the latter stages of World

War II. These dearly bought victories, in which thousands of soldiers and civilians on both sides gave their lives, are representative of the island-hopping campaign which characterized the unique, ferocious war in the Pacific theater, and which led to the eviction of enemy forces from strategic island groups in the Central and Southwest Pacific and, eventually, to the surrender of Japan.

With my colleagues' forbearance, I would ask consent that a precis of the Marianas operations written by Robert Goldich, of the Congressional Research Service, be inserted in the RECORD following my remarks.

Mr. President, as a reminder of the personal face of war, and in particular the courage and sacrifice exhibited by our forces who fought in the Marianas, it would be instructive to relate the heroic actions of Lt. Col. William J. O'Brien, of the 1st Battalion, 27th Infantry Division, one of two who were awarded the Congressional Medal of Honor for acts of gallantry above and beyond the call of duty in the taking of Saipan. The citation accompanying the award reads:

> When assault elements of his platoon were held up by intense enemy fire, Colonel O'Brien ordered three tanks to precede the assault companies in an attempt to knock out the strongpoint. Due to direct enemy fire the tanks turrets were closed, causing the tanks to lose direction and to fire into our own troops. Colonel O'Brien, with complete disregard for his own safety, dashed into full view of the enemy and ran to the leader's tank, and pounded on the tank with his pistol butt to attract two of the tank's crew and, mounting the tank fully exposed to enemy fire, Colonel O'Brien personally directed the assault until the enemy strongpoint had been liquidated. On June 28, 1944, while his platoon was attempting to take a bitterly defended high ridge in the vicinity of Donnay, Colonel O'Brien arranged to capture the ridge by the double envelopment movement of two large combat battalions. He personally took control of the maneuver. Colonel O'Brien crossed 1,200 yards of sniper-infested underbush alone to arrive at a point where one of his platoons was being held up by the enemy. Leaving some men to contain the enemy he personally led four men into a narrow ravine behind, and killed or drove off all the Japanese manning that strongpoint. In this action he captured five machine guns and one 77mm field piece. Colonel O'Brien then organized the two platoons for night defense and against repeated counterattacks directed them. Meanwhile he managed to hold ground. On 7 July 1944 his battalion and another battalion were attacked by an overwhelming enemy force estimated at between 3,000 and 5,000 Japanese. With bloody hand-to-hand fighting in progress everywhere, their forward positions were finally overrun by the sheer weight of the enemy numbers. With many casualties and ammunition running low, Colonel O'Brien refused to leave the front lines. Striding up and down the lines, he fired at the enemy with a pistol in each hand and his presence there bolstered the spirits of the men, encouraged them in their fight and sustained them in their heroic stand. Even after he was seriously wounded, Colonel O'Brien refused to be evacuated and after his pistol ammunition was exhausted, he manned a .50 caliber machine gun, mounted on a jeep, and continued firing. When last seen alive he was standing upright firing into the Japanese hordes that were then enveloping him. Some time later his body was found surrounded by enemy he had killed.

Mr. President, to commemorate the bravery exemplified in the highest degree by men such as Colonel O'Brien, Congress, in 1978, established the War in the Pacific Park, in Guam, and the American Memorial Park, in Saipan. Public Law 95–348 authorized a total of $19 million for park development; unfortunately, Mr. President, despite the significance of the Marianas campaign, and in spite of the rivers of blood spilled there by American servicemen, only $3 million has thus far been appropriated.

Mr. President, I have been informed of the state of these alleged national parks. Reports of rust corroding the tanks and cannon that are on public display; of weeds and grasses covering roads, walkways, and fences; of historic battlefields disappearing under dirt and vegetation; of graffiti scrawled on park signs and on the walls of the few existing park buildings. Mr. President, is this how we honor our war dead? Is this our tribute to those who fought for the freedom we now enjoy?

Mr. President, Guam's and Saipan's legitimate needs are often neglected by Washington because they lie thousands of miles from the west coast, in the middle of the Pacific Ocean, and because they either have limited representation in Congress, in the case of Guam, or no representation at all, in the case of the Northern Marianas Islands, a commonwealth under U.S. sovereignty. This is a natural, if unfair, state of affairs given the geographic and political realities under which these islands labor.

However, what is not natural, what is not to be excused, is that the parks to which I am referring are national parks, so designated by Congress, that ostensibly honor the memory of the approximately 5,700 U.S. troops killed or missing and the 21,900 wounded in the Marianas campaigns, men like Colonel O'Brien and our own distinguished colleague from Alabama, Senator HEFLIN, who participated in these operations. Their families and descendants, as well as the thousands of marines and soldiers who survived unscathed, for whom the words Saipan, Tinian, and Guam are synonymous with courage, duty, and sacrifice, live in every corner of our Nation. Each of us probably has many constituents whose lives were directly affected by the fight to free Guam and invade Saipan and Tinian. Thus, each of us has a duty to ensure that those who fought for freedom in our behalf are properly honored—albeit belatedly, but honored nonetheless.

Mr. President, from now through 1994, I intend to join several other colleagues in a concerted effort to secure such funding for the Guam and Saipan parks as is required to render them presentable for the 50th anniversary of the Marianas campaign. I urge all my colleagues who believe that what was worth fighting for in the Marianas in 1944 is now also worth honoring nearly 50 years later, who believe that the manner in which we treat those who fought and died in our behalf is a reflection of our own character, and who are convinced that the quality of our remembrance of things past, to paraphrase Proust, also determines our behavior as a nation in the future.

THE U.S. SEIZURE OF THE MARIANAS, JUNE–AUGUST 1944[1]

(By Robert L. Goldich, Specialist in National Defense, Foreign Affairs and National Defense Division, Congressional Research Service, the Library of Congress)

INTRODUCTION AND SUMMARY

Between June 15 and August 10, 1944, U.S. forces captured the Japanese islands of Saipan and Tinian, and liberated the U.S. territory of Guam—all together comprising some of the larger Mariana Islands—from the Japanese. U.S. casualties totalled approximately 5,700 killed and missing in action (KIA/MIA) and 21,900 wounded in action (WIA). The Japanese garrisons on all three islands were virtually annihilated, losing 54,000 dead and 2,900 prisoners. At the time of the ground operations, a major naval battle—the Battle of the Philippine Sea—was fought, which largely eliminated remaining Japanese naval airpower as well as sinking several major Japanese naval combatants.

The seizure of the Marianas severed Japanese lines of communication between Japan proper and those remaining Japanese bases and forces in the Central Pacific south of the Marianas and in the South Pacific as well. It provided, for the first time, island air bases from which U.S. land-based airpower could reach Japan itself. It provided large island areas on which advance bases could be constructed to support further operations against Japanese possessions and conquered territories such as Iwo Jima and Okinawa, the Philippines, Taiwan and the south China coast, and ultimately against Japanese home islands. Finally, the recapture of Guam liberated one of the few pieces of U.S. territory that was actually conquered by the enemy during World War II and restored U.S. government to over 20,000 native Guamanians.

BACKGROUND

The Marianas were Spanish possessions prior to the Spanish-American War of 1898. In the aftermath of that war, the victorious United States annexed Guam, and the other two islands were sold by Spain to Germany in 1899. Japan, which participated in World War I on the side of the Allies, captured Saipan and Tinian from Germany in 1914 and retained control of them after World War I ended.

Planning for the possibility of a U.S.-Japanese conflict became a major preoccupation of the U.S. Armed Forces as soon as the United States became a major territorial power in the Pacific in 1898, with the acquisition of the Philippines, Guam, American Samoa, and Hawaii. It had long been recognized that the Marianas occupied a critical strategic location in any contingent naval

war between the United States and Japan, occupying as they do the center of a quadrilateral whose defining points are the Japanese home islands, the Philippines, Hawaii, and New Guinea.

There was little doubt, therefore, after the swift Japanese advance into the South and Central Pacific in 1941–1942 that U.S. forces would have to seize the Marianas. The islands were a significant Japanese defensive bastion, and their central location, as well as their desirability as sites for U.S. bases, made it impossible to bypass them. The issue was when they could be attacked and taken. The Cairo-Teheran Conferences of late 1943, held between President Franklin D. Roosevelt, British Prime Minister Churchill, and Soviet leader Joseph Stalin, resulted in a planning schedule for invasion of the Marianas on October 1, 1944.

However, several U.S. Pacific victories enabled this schedule to be advanced by several months. Between November 1943 and February 1944 U.S. forces seized key Japanese bases in the Gilbert (Tarawa, Makin) and Marshall (Kwajalein, Roi-Namur, and Eniwetok) Islands, bringing U.S. bases to within slightly over 1,000 miles of the Marianas. It was also decided to bypass rather than attack major Japanese strongholds at Truk, in the Caroline Islands, south of the Marianas. Accordingly, in March 1944 the Joint Chiefs of Staff ordered that the Marianas attack begin on June 15, 1944. The invasion plans finalized in May 1944 called for Saipan to be assaulted on June 15; once Saipan was secure, Tinian, only three miles south of Saipan, would be seized. Tentatively, Guam would be invaded on June 18, 1944, only three days after the landings on Saipan.

SAIPAN

After the fall of the Marshall Islands in February 1944 the Japanese realized that the Marianas would almost certainly be the next American objective in the Central Pacific. Between February and May 1944 the weak Japanese garrisons on Saipan, Tinian, and Guam were heavily reinforced with combat troops. U.S. submarines prevented some, but not most, Japanese troops and equipment sent to the islands from reaching their destination.

To seize Saipan from an estimated 18,000 Japanese (31,000 were actually on the island), the U.S. had earmarked the 2nd and 4th Marine Divisions. The Army's 27th Infantry Division was in general reserve for all Marianas operations, but most planning assumed it would probably be employed on Saipan. The three divisions plus supporting units totalled 71,000 Marines and soldiers. The two Marine divisions would attack across beaches on the southwestern corner of the island. Once securely ashore, the 2nd Marine Division, on the left (north) would turn northwards and conquer northern Saipan, while the 4th Marine Division on the right (south) would seize the southern third of the island.

By June 15, 1944, 25,000 Japanese Army and 6,000 Navy troops were on Saipan. Those beaches deemed suitable by the Japanese for a U.S. amphibious landing were heavily fortified and mined, and guarded by powerful forces. At this stage of the war, Japanese defensive doctrine still stressed defeat of American landings on the beach, rather than fighting a costly delaying action against the Americans once they had landed (as would be the case later in the war in the Palau Islands, the Philippines, Iwo Jima, and Okinawa).

After two days of naval gunfire and aerial attacks on the Japanese fortifications and troop dispositions, the two Marine divisions made their amphibious landing on the Saipan beaches on the morning of June 15. Despite the preparatory bombardment, it soon became apparent that Japanese resistance was formidable. In fact, D-Day on Saipan involved some of the heaviest casualties sustained by any U.S. division, Army or Marine Corps, in a single day during the entire war. Japanese artillery, mortars, machine guns, and small arms, fired from well-fortified positions largely invisible to the Marines, took a heavy toll of the assault Marines. The 2nd Marine Division sustained about 1,600 casualties on June 15. This was almost as many as it lost on the first day at Tarawa, November 20, 1943, more than the 1st Marine Division lost on the first day at Peleliu on September 15, 1944, and comparable to the number of Marines killed or wounded in the 4th and 5th Marine Divisions on the first day at Iwo Jima, February 19, 1945. The 4th Marine Division lost "only" 900–1,000 men killed or wounded on the first day at Saipan. Nonetheless, the Marines were on the island to stay, and Japanese counterattacks the first night failed to dent their beachhead.

Between June 16 and June 21, the American forces seized the southern third of Saipan, except for a small pocket of Japanese resistance on the southeastern tip of the island at Nafutan Point. The two Marine divisions were then reoriented northwards, to attack and destroy the formidable Japanese positions in central Saipan. The Army's 27th Infantry Division was landed to reinforce the Marines, largely due to the heavy casualties suffered by the Marine divisions. In six days of battle, the 2nd Marine Division had sustained 2,500 casualties and the 4th Marine Division over 3,600.

Between June 22 and June 30, the three U.S. divisions slowly fought their way through heavily wooded, hilly areas which constituted the heart of Japanese resistance on Saipan. The 2nd Marine Division seized Mount Tapotchau, the commanding geographical feature on Saipan, in moving roughly 1½ miles in eight days; the 27th Division and the 4th Marine Division gained between two and five miles through terrain with accurate, unpleasant characterizations such as Death Valley and Purple Heart Ridge. In addition, on the night of 26–27 June, the Japanese pocketed at Nafutan Point broke out in a desperate *banzai* charge, attacking rear areas and artillery units and ultimately losing over 550 dead in a suicidal assault far behind the front lines of the main battle.

By June 30, the backbone of Japanese resistance in central Saipan had been broken. The Japanese withdrew to their final defensive lines in northern Saipan; patrols ranged several thousand yards to the front of the American lines but found only small groups of the enemy. However, the two Marine divisions had paid dearly for their successes. In two weeks of combat, the 2nd and 4th Marine Divisions had each sustained 4,500 casualties. Because 80–90% of all losses were incurred by the 6,400 Marines in each division's 27 rifle companies—the basic close-in infantry fighting units—these figures indicate that those rifle companies had lost almost two-thirds of their men since D-Day. Because no Marine infantry replacements had yet arrived, Marines from support units were channeled into the infantry to replace casualties. Although the Army's 27th Division had not participated in the costly D-Day landing, it had lost almost 1,900 men itself.

Between July 1 and July 7, the 2nd Marine Division was withdrawn from combat, because the U.S. command wanted it to begin preparing for the invasion of Tinian. The 4th Marine Division and the 27th Division continued attacking the Japanese, and pocketed those remaining in the northern tip of the island. The last days of the Saipan battle were marked by two horrific developments. First, early on the morning of July 7, thousands of Japanese launched a suicidal mass attack on two isolated battalions of the 27th Division. "The soldiers fought for their lives as tremendous masses of the enemy flooded into a 300-yard gap between the battalions, discovered by enemy patrols the night before."[2] Overrunning the two battalions, the Japanese charged south into American artillery positions; the Americans fired their guns pointblank into the Japanese until they ran out of ammunition and the numerical weight of the Japanese assault was too great. The artillerymen then disabled their guns and retreated south, where they reached blocking positions held by other Army troops and Marines. The *banzai* charge cost the two Army infantry battalions 400 dead and 500 wounded (probably well over 50% of their strength); over 4,300 Japanese corpses were counted.

Second, in the aftermath of the continuing advance of the Marines (the Army's 27th Division was withdrawn into reserve after the *banzai* charge), with virtually all of the island in American hands, the Japanese repeated their World War II propensity for suicide rather than surrender. Not only did the few remaining Japanese soldiers and sailors kill themselves with their weapons as often as they would fire on U.S. Marines, but the Marines witnessed terrible sights of suicidal Japanese civilians. At Marpi Point on the northwestern corner of the island, "Hundreds of Japanese civilians, fearful of the Americans, committed suicide by jumping from the seaside cliffs. Some took their children with them. Efforts to stop them fell upon ears deafened by Japanese propaganda. Fortunately, many civilians had previously surrendered amicably, entrusting their fate to Marine and Army civil affairs officers, and were grateful for the care and safety found in the internment camps."[3]

On July 9, after 25 days of battle, the U.S. command declared the island secured, although Japanese stragglers continued to be rounded up or killed until the end of the war—and for many years thereafter. U.S. casualties totaled 3,600 KIA and MIA and 13,100 WIA. About 2,000 Japanese prisoners were taken; the other 29,000 Japanese troops on the island were killed. Both U.S. and Japanese leaders tended to agree about the significance of the American victory. Marine Lt. Gen. Holland M. Smith, commander of the Saipan landing force, stated that the capture of Saipan was "the decisive battle of the Pacific offensive" and that its seizure "breached Japan's inner defense line, destroyed the main bastions, and opened the way to the home islands."[4] The verdict of Japanese Prime Minister Hideki Tojo, whose government was soon to fall—partly in response to the loss of the Marianas—was more succinct; "Hell is on us."

TINIAN

There was never any doubt that Tinian would have to be seized by U.S. forces. Only three miles south of Saipan, its continued possession by the Japanese would have left U.S. bases and facilities on the former island vulnerable to bombardment and raids. In addition, Tinian was relatively flat, and therefore the best suited of the Marianas for airfields from which U.S. long-range bombers could strike the Japanese home islands.

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[1] See Major Works Consulted, below, for basic sources used in preparing this report.

[2] Henry I. Shaw, Jr., Bernard C. Nalty, and Edwin T. Turnbladh. "Central Pacific Drive. History of U.S. Marine Corps Operations in World War II. Volume III." Washington, Historical Branch, G–3 Division, Headquarters, U.S. Marine Corps, 1966: 340.

[3] Ibid.: 345.

[4] Gen. Holland M. Smith, USMC (Ret.), and Percy Finch, "Coral and Brass," New York, Charles Scribner's Sons, 1949: 181.

U.S. plans called for the 2nd and 4th Marine Divisions, after a two-week respite from the costly Saipan campaign, to launch an amphibious attack against Titian. In reserve, also similar to the Saipan order of battle, was the 27th Infantry Division.

The major problem confronting the U.S. command was where on Titian the assault Marines should land. The island has only three beaches "worthy of the name."[5] The largest and best-suited for amphibious operations is on the southwestern corner of the island, near Titian Town, the major "city" on the island. A much smaller beach lies directly across Tinian from the southwestern beaches, on the southeastern side of the island. On the far northwestern corner of Tinian are two small beaches, one 60 and the other 160 yards wide. After great deliberation and careful clandestine reconnaissance, the Marine and Navy amphibious planners decided to land on the northern beaches, on the assumption that the Japanese would not believe that U.S. forces could support a massive amphibious assault across such narrow beaches. In addition, the northern beaches were very close to southern Saipan, easing movements of supplies and troops between the two islands, and enabling Saipan-based U.S. artillery to support the initial U.S. assault. The decision to attack the northern beaches was a gamble, because determined Japanese opposition, combined with the narrowness of the beaches, could lead to disaster, with the Marines jammed into the beaches and unable to move beyond them under Japanese fire.

To maintain the element of tactical surprise, the Marines and other services were careful to do nothing which would lead the Japanese to believe that the attack would come across the northern beaches. Artillery and air support, air and ground reconnaissance, were directed at all areas of Tinian, not just the northern beaches. The U.S. decision was fully justified by events. The Japanese commander of the 8,900 Japanese troops on Tinian expected the Americans to come across the southwestern beaches, possibly the southeastern ones, and had constructed fortifications and disposed his troops accordingly.

U.S. artillery began firing on Tinian only five days after the initial landings on Saipan, on June 20. On July 12, it was agreed that D-Day for Tinian would be July 24. On July 23, heavy U.S. artillery bombardments and air strikes against targets all over the island began, and the assault components of the 4th Marine Division boarded landing craft for the short journey of a few miles from Saipan to Tinian.

D-Day at Tinian, July 24, was an immense contrast to the bloody D-Day on Saipan over five weeks earlier. Two regiments of the 4th Marine Division landed on the northern beaches and rapidly pushed inland against light resistance. Marine casualties totalled 15 dead and 225 wounded, less than a tenth of D-Day losses on Saipan. On the night of July 24–25, a hastily-mounted Japanese counterattack was utterly smashed; over 1,200 counted Japanese dead in front of the 4th Marine Division's positions constituting fully one-seventh of the entire Japanese force on the island. The American decision to land on the narrow northern beaches had been fully vindicated.

On July 25–26, the 2nd Marine Division was landed and joined the 4th Marine Division in a steady drive south. While Japanese resistance was fierce in some places and at some times, from the perspective of higher commanders the battle went much more smoothly than the conquest of Saipan. By July 31, remaining Japanese organized resistance had been compressed into a small, thin strip of land against the southeastern coast of Tinian. After two more days of combat, marked by occasional last-ditch *banzia* charges, but mercifully not be the mass suicide of Japanese civilians seen on Saipan, Tinian was declared secure on August 1, 1944.

"A statement like that, however, was a sort of partial truth on any Pacific territory captured from the Japanese. On Tinian, even more than elsewhere, the residue of the enemy force was troublesome. Some of the Japanese soldiers preferred self-destruction to surrender, but the proportion of soldiers and civilians that committed suicide was smaller than on Saipan. The Japanese soldier that chose to live was a die-hard type, able to hide out for months."[6] Thus, one regiment of the 2nd Marine Division that remained on the island to flush out Japanese stragglers lost about 40 killed and 125 wounded between August 1, 1944 and January 1, 1945, killing 500 Japanese after the official "securing" of the island.

Total U.S. casualties on Tinian totalled approximately 300 KIA and 1,600 WIA; although figures vary depending on the sources consulted, it appears that all of the 8,900 Japanese on the island were eventually killed except for slightly over 300 prisoners taken. The least costly of the three Marianas islands battles, Tinian arguably resulted in the greatest dividends for the further prosecution of the war, due to its suitability for airfield construction to support the strategic air offensive against Japan.

GUAM

It had originally been planned that U.S. forces would assault Guam on June 18, 1944, only three days after the initial landings on Saipan. However, several developments required the postponement of the Guam operation for over a month. First, by June 15 the prospects of an approaching naval battle with the Japanese—what became the American victory in the Battle of the Philippine Sea during June 19–20—forced U.S. naval commanders to redeploy their ships away from the Marianas to meet the approaching Japanese fleet. The Japanese naval threat had to be neutralized before the U.S. Navy could cover and support a major amphibious landing on Guam. Second, the ferocity of Japanese resistance on Saipan required the commitment of the entire 27th Infantry Division, in reserve for the entire Marianas operation. Another Army unit—the 77th Infantry Division, in Hawaii—would have to be committed to Guam. Finally, it was not clear until early July that the 77th Division, or parts of it, would not be needed on Saipan as well. All of these factors led to the postponement of the invasion of Guam until July 21, 1944.

In preparing for the liberation of Guam, American planners had to take several factors into account which did not apply to Saipan and Tinian. "Guam is the largest island north of the equator between Hawaii and the Philippines. With an area of 225 square miles, it is three times the size of Saipan and measures 30 miles long by 4 to 8½ miles wide."[7] Its size posed both problems and opportunities for maneuver, delay, and logistical support not found on the smaller islands.

As a U.S. possession, Guam was going to be liberated, not conquered by U.S. forces. There were about 24,000 native Guamanians on the island in 1944, and the U.S. command had to be prepared to provide for the restoration of services and adequate living standards to people who had remained almost uniformly loyal throughout almost three years of Japanese occupation:[8]

"Slightly over a hundred were of mixed American and Chamorro [native Guamanian] parentage and had been jailed as soon as the Japanese occupied the island. The rest of the population suffered some organized maltreatment and abuse in the early days of Japanese rule, but this appeared to have gradually tapered off. However, rigid food rationing, forced labor, confiscation of property without compensation, exclusion from business enterprises, and a score of lesser deprivations and humiliations kept the native population sullen and restive during the period of Japanese occupation. In June 1943 all able-bodied men between the ages of fourteen and sixty were forced to work for the occupation army, and women were ordered to replace the men in the fields. After the American air raid of 11 June [1944], large numbers of natives fled to the hills. Many were rounded up by Japanese military police and placed in camps. . . . The Guamanians were clearly poor raw material for collaborationism, and there is no evidence that the Japanese made any successful attempt to reconstruct them to that end."

As was the case with Saipan and Tinian, the Japanese did not begin preparing to defend Guam against American assault until February-March 1944, after the fall of the Marshall Islands. Japanese defensive preparations were not as extensive as those on Saipan—certainly not in proportion to the size of the island. By late July 1944, the Guam garrison totalled about 18,500 Japanese troops, compared to the 30,000 that had been on Saipan. Unfortunately for the Marines making the assault landings on Guam, however, the terrain of the island—the locations of suitable beaches, harbors, and airfields—limited American options. Furthermore, having invaded the island themselves in December 1941, the Japanese had studied Guam from the point of view of likely objectives for an amphibious assault. When the Marines came ashore, therefore, they would do so into the heart of Japanese defensive positions, fortifications, and troops on Guam.

All of the beaches to be attacked were on the western side of Guam. Those beaches north of the Orote Peninsula, which jutted out into the ocean in a western direction from the center of western Guam, would be the objectives of the 3rd Marine Division. The 1st Provisional Marine Brigade, composed of two Marine infantry regiments and supporting arms and services, and therefore consisting of the equivalent of ⅔ of a division (a Marine division having three infantry regiments at full strength), would attack the beaches south of the peninsula.

The D-Day air and naval bombardment of the Guam beaches was both heavier and

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[5] Shaw, Nalty, and Turnbladh, "Central Pacific Drive": 358.

[6] Ibid.: 421.

[7] Ibid.: 439.

[8] Philip A. Crowl. "Campaign in the Marianas. The War in the Pacific. United States Army in World War II." Washington, Office of the Chief of Military History, Department of the Army, 1960: 332.

more precise than that directed against the Saipan beaches, due to the disappointing results of the Saipan bombardment and the heavy losses the Marines sustained on Saipan D-Day. However, the Japanese on both the northern beaches (being attacked by the 3rd Marine Division) and the southern beaches (the 1st Marine Brigade) still had plenty of fight left in them when the first amphibious assault vehicles headed for the shore the morning of July 21, 1944.

Resistance was heaviest on the left flank and the center of the 3rd Marine Division's attack zone. Here the Marines had to attack up steep cliffs that rose just behind the beaches—cliffs that included many caves which proved impervious to the preassault air and naval bombardment. Nonetheless, by the end of D-Day the 3rd Marine Division was ashore all along the line at the cost of about 160 Marines KIA and MIA and 540 WIA. Supplies and supporting artillery were ashore, and the troops of the 3rd Marine Division began bracing themselves for the usual Japanese counterattack.

Resistance was less intense, but still substantiantial, on the southern beaches. Although the 1st marine Brigade was not facing the cliffs and caves of the 3rd Marine Division, numerous Japanese defenders made its task a difficult one. Japanese artillery and mortars inflict many casualties on the beaches, and the artillery fire continued as brigade troops moved inland. However, by early evening the two Marine regiments of the brigade were ashore at the cost of about 350 Marine casualties, and one of the three regiments of the Army's 77th Infantry Division, as well as both Marine and Army artillery, was ashore by the early morning of July 22.

Surprisingly, it was the southern beachhead that was hit by a full-scale Japanese counterattack on the night of July 21–22, not the more vulnerable positions of the 3rd Marine Division in the north. By dawn of July 22, the 1st Marine Brigade had killed over 600 Japanese at the cost of about 50 dead and 100 wounded of its own, and virtually annihilated an attacking Japanese regiment.

Between July 22 and July 24 the 1st Marine Brigade turned north, reinforced eventually by the entire 77th Infantry Division, and sealed off the Orote Peninsula, which separated the northern and southern beachheads. At the same time, the 3rd Marine Division gained very little ground due to extremely rough terrain and fierce Japanese resistance. By the close of July 24, the first four days of battle on Guam had cost the Marine brigade 220 KIA and MIA and 700 WIA. The 3rd Marine Division had lost over 400 KIA and MIA and almost 1,300 WIA.

By the evening of July 25, the 3rd Marine Division was in bad shape. It had sustained almost two thousand battle casualties since landing on Guam; "the division lines had been stretched more than 9,000 yards. The regiments and battalions had almost no reserves to call on, and even [the] division had only one depleted battalion in reserve. Should the enemy choose this time and place for an organized counterattack, the situation for the Marines could hardly have been worse. Unfortunately the Japanese did so choose."[9]

During the night of July 25–26, the equivalent of two-thirds of a Japanese division struck the lines of the 3rd Marine Division in a characteristic *banzai* charge. At the same time, a smaller Japanese counterattack was launched from the Orote Peninsula against the 1st Marine Brigade. Although the fighting was heavy, and seesawed back and forth in the 3rd Marine Division sector, by the morning of July 26 the Japanese attackers had been virtually annihilated. An estimated 3,500 Japanese were killed on Guam during the few hours of the counterattack. This Japanese failure "broke the back" of Japanese resistance on Guam, as the Japanese commander acknowledged in radio messages to Tokyo.

The rest of the battle for Guam consisted of two main actions. Between July 25 and July 30 the 1st Marine Brigade captured the Orote Peninsula from stubborn Japanese defenders who, cut off from their fellows on the rest of the island, nonetheless went down fighting, losing over 1,600 dead (compared to 150 Marine KIA and MIA and 720 WIA) in the process. Simultaneously, the 3rd Marine Division and the Army's 77th Infantry Division, committed as a full division for the first time, swung to their left and drove toward the northern end of Guam. Once 77th Division reconnaissance patrols had determined that there were no substantial Japanese forces in southern Guam, both American divisions attacked northwards. By August 10, 1944, the island had been secured, although stragglers continued to surrender—or be killed—until the end of the war, and some did not come out of the jungles until the 1960s and 1970s. U.S. casualties on Guam totalled 1,900 KIA/MIA and 7,100 wounded; although precise figures vary, it appears that with the exception of about 500 prisoners, the entire Japanese garrison of 18,500 was killed or died.

CONCLUDING OBSERVATIONS

The successful capture of Saipan and Tinian, and the liberation of Guam, represented the maturation of U.S. amphibious warfare doctrine and techniques. These operations marked the culmination of decades of careful thinking by U.S. Marine planners about how to wrest heavily-defended island targets from a determined Japanese foe. By the time Guam was secured, there was confidence that *any* Japanese-held island—including any of the Japanese home islands—could be attacked and taken by American forces, albeit frequently at very high cost in American casualties.

The seizure of the Marianas, therefore, did more than (1) breaching another set of Japanese defenses that stood between U.S. forces and the Japanese home islands and (2) providing air bases from which U.S. land-based bombers could strike at Japan proper. The Marianas operations ended with the U.S. Armed Forces confident about ultimate victory—confidence they would need for the even more costly, and more ferocious Central Pacific island battles yet to come—Peleliu in September-December 1944, Iwo Jima in February–March 1945, and Okinawa in April–June 1945. That confidence would have been put to the greatest test of all had the United States been required to invade and capture the southern Japanese home island of Kyushu on November 1, 1945, as planned in the summer of 1945, or even occupy the central island of Honshu, with an invasion tentatively planned for March 1, 1946.

Most believe that what made the invasion of Japan proper unnecessary was, in large part, the strategic air offensive against Japan staged from the Marianas. Massive airfield development on all the islands, but especially Tinian, provided the bases from which U.S. Army Air Forces B-29 bombers mounted huge air raids against Japanese cities and economic infrastructure, beginning in late 1944 but accelerating in February–March 1945. The catastrophic effects of this conventional bombing campaign, combined with the atomic bombings of Hiroshima and Nagasaki in August 1945 (also staged from Tinian), ultimately tipped the scales within the Japanese government in favor of surrender in mid-August.

MAJOR WORKS CONSULTED

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Henry I. Shaw, Jr., Bernard C. Nalty, and Edwin T. Turnbladh. "Central Pacific Drive. History of U.S. Marine Corps Operations in World War II. Volume III." Washington, Historical Branch, G–3 Division, Headquarters, U.S. Marine Corps, 1966. 685 p.

T. Dodson Stamps and Vincent J. Esposito (Editors). "A Military History of World War II, With Atlas. Volume II: Operations in the Pacific and Mediterranean Theaters." West Point, New York, United States Military Academy, 1953: 384–88.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Richard D. Finn, Jr., a member of the staff of Senator NUNN, to participate in a program in China sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute on November 30 to December 15, 1991.

The committee has determined that participation by Mr. Finn in this program, at the expense of the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Laurie Schultz Heim, a member of the staff of Senator JEFFORDS, to participate in a program in China sponsored by the Chinese Cultural University on December 9–16, 1991.

The committee has determined that participation by Ms. Heim in this program, at the expense of the Chinese Cultural University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule

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[9] Ibid.: 363–64.

35 for Robert Tyrer, a member of the staff of Sentor COHEN, to participate in a program in Taiwan sponsored by the Soochow University on December 4–10, 1991.

The committee has determined that participation by Mr. Tyrer in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Wayne Abernathy, a member of the staff of Senator RIEGLE, to participate in a program in Austria sponsored by the Austrian Federal Economic Chamber on December 7–14, 1991.

The committee has determined that participation by Mr. Abernathy in this program, at the expense of the Austrian Federal Economic Chamber, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Richard Kessler, a member of the staff of Senator PELL, to participate in a program in Korea sponsored by the Korean Ministry of Foreign Affairs on December 7–14, 1991.

The committee has determined that participation by Mr. Kessler in this program, at the expense of the Korean Ministry of Foreign Affairs, is in the interest of the Senate and the United States.●

ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. CHAFEE. Mr. President, I send a resolution to the desk on behalf of Senator HATFIELD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 239) reauthorizing the Albert Einstein Congressional Fellowship Program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the resolution.

The resolution (S. 239) was agreed to as follows:

S. RES. 239

SECTION 1. SHORT TITLE.

This resolution may be referred to as the "Albert Einstein Senate Fellowship Program Resolution".

SECTION 2. REAUTHORIZATION.

The authority provided in Senate Resolution 173 of the One Hundred-second Congress (agreed to on August 2, 1991), as amended by Senate Resolution 208 of the One Hundred-second Congress (agreed to on October 25, 1991), and further amended by Senate Resolution 228 of the One Hundred-second Congress (agreed to on November 21, 1991), is hereby reauthorized in accord with the provisions of this resolution.

SECTION 3. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—The President pro tempore of the Senate is authorized to enter into an agreement with the Triangle Coalition for Science and Technology Education (hereafter in this resolution referred to as "Coalition") to establish an Albert Einstein Senate Fellowship Program (hereafter in this resolution referred to as the "fellowship program"), which, beginning with the fiscal year 1991, provides for two fellowships in the Senate for each fiscal year.

(b) RESPONSIBILITIES.—The President pro tempore of the Senate may enter into the agreement described in subsection (a), and authorize the expenditure of funds pursuant to section 4(e), only if the Coalition—

(1) undertakes the application responsibilities referred to in section 4(a);

(2) participates in the evaluation referred to in section 5; and

(3) provides the funding for administration and evaluation costs referred to in section 6(b), and partial compensation referred to in section 4(e)(1)(A).

SECTION 4. SELECTION PROCESS.

(a) Application Responsibilities.—The Coalition shall—

(1) develop and administer an application process in accord with subsection (d);

(2) publicize the fellowship program; and

(3) conduct an initial screening of applicants for the fellowship program.

(b) SELECTION.—Each fiscal year the President pro tempore of the Senate, upon the recommendation of the Majority Leader, in consultation with the Minority Leader, shall select the two recipients of the Senate fellowships from among the applicants processed under subsection (a).

(c) PLACEMENT OF FELLOWSHIPS.—

(1) The president pro tempore of the Senate, upon the recommendation of the Majority Leader, in consultation with the Minority Leader, and the chairmen and ranking minority party members of the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate, may place one fellowship recipient on the staff of the Committee on Labor and Human Resources, and may place one fellowship recipient on the staff of the Committee on Commerce, Science, and Transportation.

(2) Not withstanding paragraph (1), either or both fellowship recipients may instead be placed on the personal staff of a member of the Senate.

(d) ELIGIBLE RECIPIENTS.—Applicants screened under subsection (a) shall be from among a pool of nationally recognized outstanding secondary school science and mathematics teachers. The pool shall include teachers who have received Presidential Awards for Excellence in Science and Mathematics Teaching, as established by section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b), or other similar recognition of skills, experience, and ability as science or mathematics teachers.

(e) COMPENSATION.—

(1) Each recipient of a Senate fellowship shall be compensated—

(A) in party by the Coalition;

(B) in part from funds made available under section 6(a).

(2) The President pro tempore of the Senate shall fix the compensation of each recipient authorized in paragraph (1)(B) at not to exceed one-half of the funds authorized to be available for each respective fiscal year under section 6(a).

(f) LENGTH OF TERM.—Each fellowship recipient shall serve for a period of ten months.

SECTION 5. EVALUATION.

The Chairman of each committee or the member of the Senate in whose office a fellowship recipient is placed, and the Executive Director of the Coalition shall submit to the President pro tempore of the Senate an annual report evaluating the fellowship program, and shall make recommendations concerning the continuation of the program.

SECTION 6. FUNDING.

(a) FELLOWSHIPS—For fiscal years 1991, 1992, and 1993, the funds authorized to compensate Senate fellowship recipients under section 4(e) shall be paid from the contingent fund of the Senate, but not to exceed a total of $40,000 in fiscal year 1991 with such funds to remain available through September 30, 1992, $42,500 in fiscal year 1992, and $45,000 in fiscal year 1993 for the Senate fellowships.

(b) ADMINISTRATION AND EVALUATION.—The Coalition shall provide the funds necessary for the administration of the fellowship program, and for evaluations conducted pursuant to section 5.

SECTION 7. SUPERSEDING PREVIOUS AUTHORITY.

This resolution supersedes the resolutions referred to in Section 2.

SECTION 8. TERMINATION DATE.

The provisions of this resolution shall terminate September 30, 1993.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3635, a bill to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1456

(Purpose: To provide for a substitute amendment)

Mr. FORD. Mr. President, I send on behalf of Senator KENNEDY a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. KENNEDY, proposes an amendment numbered 1456.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

● Mr. HARKIN. Mr. President, I rise in strong support of the Health Promotion and Disease Prevention Amendments of 1991. I want to commend the distinguished chairman of the Labor and Human Resources Committee for his continuing leadership in efforts to improve the health care available to Americans. I also want to thank him for his willingness to work with me to bring this major package of health promotion and disease prevention initiatives before the Senate. S. 1944 is among the most important pieces of health legislation the Senate will consider this session.

Mr. President, I believe that the most fundamental flaw in our health care system today is its preoccupation with patching and mending and its virtual neglect of prevention and health promotion. What we really have is not a health care system but a sick care system. Over half of the $700 billion we will spend this year on health care will go to treat conditions that are preventable. Yet, only a tiny fraction, estimated by some to be less than 1 percent, of our health care budget is spent on keeping people healthy and preventing the need for this expensive treatment. As a result of this flaw, the quality and length of the lives of many Americans are needlessly reduced and billions of dollars are needlessly wasted. We need to overhaul our sick care system into an American health care system of which we can all be proud. This takes us a step further toward completing that weighty task.

I am very pleased that a number of my ideas and components of my "Prevention First" initiative are contained in this bill. A major element is its reauthorization of the Preventive Health and Health Services block grant. This important program is the backbone of State and local public health efforts. It funds a full range of key disease prevention and health promotion services provided to Americans in every State and locality—from hypertension screening, to health education, to breast cancer screening to smoking cessation programs. S. 1944 would expand and strengthen this program, building upon my legislation of last year, the Health Objectives 2000 Act. This legislation, signed into law by the President, paved the way for implementation of the National Health Promotion and Disease Prevention Objectives.

This part of S. 1944 first provides increased capacity and resources to States and localities to assist them in achieving the Year 2000 National Health Objectives, addressing improvements in health status, risk reduction, public and professional awareness, health services and protective measures, and surveillance and evaluations. Second, it creates and develops and effective partnership of Federal, State, and local health agencies, voluntary health organizations, and other health groups, including minority community-based organizations, to develop initiatives for preventing disease and disability. Third, it enables States and localities to address national health policy issues. All of these provisions will greatly improve our public health system and the health of Americans. They are long overdue.

S. 1944 also incorporates S. 507, the Lead Poisoning Prevention Act, legislation I introduced on behalf of myself and a number of our colleagues. Inclusion of S. 507 attacks the No. 1 preventable disease among children—lead poisoning. Conservative estimates indicate that more than 3.5 million American children from all walks of life have dangerous levels of lead in their blood. And we know the devastating impact lead poisoning can have on our children. We know that even healthy appearing children with modest lead elevations often display poor academic performance, low IQ scores, impaired hearing, unsatisfactory speech and language development, and disruptive classroom behavior. A recent study found that lead poisoned children are seven times more likely to drop out of school before graduating from high school.

The costs of lead poisoning are staggering and the cost effectiveness of screening for it is clear. The annual cost of remedial education and health care needed as a result of childhood lead poisoning alone totals over $1 billion. Screening and early detection for lead poisoning saves by more that 50-fold the immediate cost of treatment. Yet, there is a sorrowful lack of awareness regarding the perils of lead poisoning, the benefits of screening and the resulting preventive and treatment measures that can be taken to combat this problem.

S. 507 attacks this problem by expanding support to States and localities to screen children, establishing a national education program to increase awareness among children, parents, teachers, and health professionals about lead poisoning, developing a more cost effective accurate test to screen for lead poisoning, and finally to make certain that the actions of different Federal agencies responding to the problem of lead poisoning are properly coordinated. These steps will save lives and money.

Mr. President, S. 1944 also incorporates the provisions of S. 505, another component of my "Prevention First" legislative package. This bill would change the name of our Nation's flagship Federal agency on prevention, the Centers for Disease Control [CDC], to the Centers for Disease Prevention and Control [CDC]. This change appropriately recognizes CDC's central role in our national efforts to prevent disease and disability and will give greater national visibility to these efforts. This simple change will also demonstrate our commitment to increasing the focus of our efforts in health care on prevention and elevate prevention to its appropriate high level within the structure of government health care programs. I want to commend CDC for their strong work and commitment to improving the public health. I want to especially commend Dr. Bill Roper who I think is doing a fine job heading up CDC. I am very pleased to have his support for making this change.

I have been placing top priority in my capacity as chairman of the Senate subcommittee that funds health, education, and social services programs on programs that prevent disease and disability. In the fiscal year 1992 funding bill which is now in the President's hands, we have provided significant increases in funding for prenatal care, chronic and environmental disease prevention, disability prevention, childhood immunizations, and many other critical preventive programs. At my urging, and particularly relevant to the bill before us today, the fiscal year 1992 funding bill contains a more than tripling of funds aimed at lead poisoning prevention and a 40-percent increase in the prevention block grant program.

So through these appropriations and through adoption of this authorizing legislation, we are making a downpayment on what needs to be done to turn our "sick" care system into an American "health" care system of which we can be proud.

Mr. President, I again commend you for bringing this legislation before us. I hope that we can move without hesitation to send it to the President for final approval.●

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 1456) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3635), as amended, was passed.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate insist

section (b) of section 5, not a violation of Management Act (16 U.S.C. 1801(b)(1)) is "(g) FISHERY AGREEMENT WITH UNION OF

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on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Presiding Officer (Mr. CONRAD) appointed Mr. METZENBAUM, Mr. HARKIN, Mr. HATCH, and Mrs. KASSEBAUM to be conferees on the part of the Senate.

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3866, a bill to provide for the designation of the Flower Garden Banks National Marine Sanctuary just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3866) to provide for the designation of the Flower Garden Banks National Marine Sanctuary.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. INOUYE. Mr. President, this measure would make fundamental changes in a longstanding law which deals with a very serious subject—gambling aboard U.S. passenger cruise vessels. Because it does, I would have preferred that the Senate Merchant Marine Subcommittee give H.R. 3282 the same extensive study and analysis which the House committee gave it.

Nevertheless, in a spirit of cooperation in the closing days of this session I will put aside my misgivings based on my understanding that the text of H.R. 3282 as included in the amendment to H.R. 3866 prohibits gambling aboard U.S.-flag and foreign-flag passenger cruise vessels during segments of their voyages among the Hawaiian Islands, even when those segments are on the high seas; and that gambling aboard vessels on voyages among the islands of Hawaii, such as currently undertaken by the SS *Independence* and the SS *Constitution*, continue to be prohibited.

Specifically, it is my understanding based on the House report to accompany H.R. 3282, that gambling on voyages between two points in a State would be prohibited if the State in which they are operating has a law prohibiting gambling activities on these voyages.

For example, the State of Hawaii has enacted a law—chapter 72 of the Hawaii Revised Statutes—prohibiting gambling activities on a vessel that embarks from any point within the State, and disembarks at the same or another point within the State, except on travel from the continental United States or a foreign country. Therefore, under H.R. 3282 gambling would be prohibited on any U.S.- or foreign-flag vessel that is on a voyage, or a segment of a voyage, that sails from a place in Hawaii to another place in Hawaii.

The types of segments of a voyage covered under these restrictions are those legs of a larger voyage during which the vessel leaves one point in a State and arrives either at the same point or another point in the same State, without an intervening stop in another State or a foreign country. This segment may include periods of time during which the vessel is operating in international waters.

Therefore, a vessel leaving either California or Mexico, for example, could have gambling activities on board until the vessel reaches Hawaiian waters. Then, the gambling facilities must be closed. The vessel would not be allowed to have gambling operations during the segments of the voyage during which it is sailing to other islands in Hawaii, even though segments of the interisland voyage are on the high seas.

May I ask the junior Senator from Louisiana if my understanding is correct?

Mr. BREAUX. The Senator from Hawaii is absolutely correct.

Mr. INOUYE. I thank the Senator from Louisiana, and with that understanding I shall not object to consideration of the provisions of H.R. 3282.

AMENDMENT NO. 1457

(Purpose: To make an amendment in the nature of a substitute)

Mr. FORD. Mr. President, I send a substitute amendment to the desk on behalf of Senator BREAUX.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BREAUX, proposes an amendment numbered 1457.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—NATIONAL MARINE SANCTUARY

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

SEC. 101. Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) the Secretary of Commerce shall, on January 17, 1992 (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of designation of the Flower Garden Banks National Marine Sanctuary, as described in the notice of designation submitted to the Congress on November 20, 1991: and

(2) that designation shall take effect on January 17, 1992.

TITLE II—MERCHANT MARINE PROVISIONS

NON-VESSEL-OPERATING COMMON CARRIERS

SEC. 201.(a) SHORT TITLE.—This section may be cited as the "Non-Vessel-Operating Common Carrier Act of 1991".

(b) PROHIBITED ACTS.—Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended—

(1) in paragraph (14), by inserting ", insurance, or other surety" after "bond"; and

(2) in paragraph (15), by inserting ", insurance, or other surety" after "bond".

(c) SURETY FOR NVOCC'S.—Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721), is amended—

(1) in the section heading by striking "BONDING OF" and inserting in lieu thereof "SURETY FOR";

(2) by amending subsection (a) to read as follows:

"(a) SURETY.—Each non-vessel-operating common carrier shall furnish to the Commission a bond, proof of insurance, or such other surety, as the Commission may require, in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier. Any bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.";

(3) by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively;

(4) in subsection (b), as so redesignated—

(A) by striking "BOND" in the subsection heading and inserting in lieu thereof "SURETY";

(B) by inserting ", insurance, or other surety" after "bond"; and

(C) by inserting "under this Act" after "transportation-related activities"; and

(5) in subsection (d), as so redesignated—

(A) by inserting ", insurance, or other surety" after "bond"; and

(B) by striking "subsection (d)" and inserting in lieu thereof "subsection (c)".

(d) INTERIM RULES AND REGULATIONS.—The Federal Maritime Commission may prescribe interim rules and regulations necessary to carry out the amendments made by this section.

(e) CONFORMING AMENDMENT.—The item relating to section 23 in the table of contents in the first section of the Shipping Act of 1984 is amended by striking "Bonding of" and inserting in lieu thereof "Surety for".

(f) EFFECTIVE DATE.—This section shall become effective 90 days after the date of its enactment.

CLARIFICATIONS OF, AND LIMITATIONS ON, GAMBLING DEVICES PROHIBITIONS

SEC. 202. (a) TRANSPORT TO A PLACE IN A STATE, ETC.—Section 2 of the Act of January 2, 1951 (15 U.S.C. 1172; commonly referred to as the "Johnsoh Act"), is amended—

(1) by inserting before the first paragraph the following: "(a) GENERAL RULE.—";

(2) in subsection (a) (as so designated) by striking ", District of Columbia,";

(3) by inserting before the second paragraph the following: "(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—"; and

(4) by adding at the end the following:

"(c) EXCEPTION.—This section does not prohibit the transport of a gambling device to a place in a State or a possession of the United States on a vessel on a voyage, if—

"(1) use of the gambling device on a portion of that voyage is, by reason of sub-

section (b) of section 5, not a violation of that section; and

"(2) the gambling device remains on board that vessel while in that State.".

(b) REPAIR, OTHER TRANSPORT, ETC.—Section 5 of that Act (15 U.S.C. 1175) is amended—

(1) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—";

(2) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country'" and

(3) by adding at the end the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

"(A) the repair, transport, possession, or use of a gambling device on a vessel that is not within the boundaries of any State or possession of the United States; or

"(B) the transport or possession, on a voyage, of a gambling device on a vessel that is within the boundaries of any State or possession of the United States, if—

"(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

"(ii) the gambling device remains on board that vessel while the vessel is within the boundaries of the State possession.

"(2) APPLICATION TO CERTAIN VOYAGES.—

"(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair on use on that voyage or segment.

"(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop within the boundaries of another State or possession of the United States or a foreign country.".

(c) BOUNDARIES DEFINED.—The first section of that Act (15 U.S.C. 1171) is amended by adding at the end the following:

"(f) The term 'boundaries' has the same meaning given that term in section 2 of the Submerged Lands Act.".

The PRESIDING OFFICER. Are there amendments to the substitute?

AMENDMENT NO. 1458

Mr. CHAFEE. Mr. President, I send to the desk an amendment to the substitute on behalf of Senator STEVENS.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. STEVENS, for himself and Mr. MURKOWSKI, proposes an amendment numbered 1458:

At the appropriate place, insert the following new title:

TITLE —IMPLEMENTATION OF MARITIME BOUNDARY AGREEMENT

AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

SEC. 1. (a) PURPOSES.—Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1)) is amended by inserting ", and fishery resources in the special areas" immediately before the semicolon at the end.

(b) DEFINITIONS.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (24) through (32) as paragraphs (25) through (33), respectively; and

(2) by inserting immediately after paragraph (23) the following new paragraph:

"(24) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(c) UNITED STATES MANAGEMENT AUTHORITY.—(1) Section 101(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(a)) is amended by inserting "and special areas" immediately before the period at the end.

(2) Section 101(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)) is amended by inserting immediately after paragraph (2) the following new paragraph:

"(3) All fishery resources in the special areas.".

(d) FOREIGN FISHING.—Section 201 of the Magnuson Fishery Conservation and Management (16 U.S.C. 1821) is amended—

(1) in subsection (a)—

(A) by inserting "within the special areas," immediately before "or for anadromous species"; and

(B) by striking "beyond the exclusive economic zone" and inserting in lieu thereof "beyond such zone or areas";

(2) in subsection (e)(1)(E)(IV), by inserting "or special areas" immediately after "exclusive economic zone";

(3) in subsection (i)—

(A) by inserting "or special areas" immediately before the period at the end of paragraph (1)(A);

(B) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(A); and

(C) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(B); and

(4) in subsection (j)—

(A) by inserting ", special areas," immediately after "exclusive economic zone"; and

(B) by inserting ", areas," immediately after "such zone".

(e) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended—

(1) in subsection (b)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas";

(2) in subsection (c)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas"; and

(3) by adding at the end the following new subsection:

"(g) FISHERY AGREEMENT WITH UNION OF SOVIET SOCIALIST REPUBLICS.—(1) The Secretary of State, in consultation with the Secretary, is authorized to negotiate and conclude a fishery agreement with the Union of Soviet Socialist Republics of a duration of no more than 3 years, pursuant to which—

"(A) the Union of Soviet Socialist Republics will give United States fishing vessels the opportunity to conduct traditional fisheries within waters claimed by the United States prior to the conclusion of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, west of the maritime boundary, including the western special area described in Article 3(2) of the Agreement;

"(B) the United States will give fishing vessels of the Union of Soviet Socialist Republics the opportunity to conduct traditional fisheries within waters claimed by the Union of Soviet Socialist Republics prior to the conclusion of the Agreement referred to in subparagraph (A), east of the maritime boundary, including the eastern special areas described in Article 3(1) of the Agreement;

"(C) catch data shall be made available to the government of the country exercising fisheries jurisdiction over the waters in which the catch occurred; and

"(D) each country shall have the right to place observers on board vessels of the other country and to board and inspect such vessels.

"(2) Vessels operating under a fishery agreement negotiated and concluded pursuant to paragraph (1) shall be subject to regulations and permit requirements of the country in whose waters the fisheries are conducted only to the extent such regulations and permit requirements are specified in that agreement.

"(3) The Secretary of Commerce may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the provisions of any fishery agreement negotiated and concluded pursuant to paragraph (1).".

(f) PERMITS FOR FOREIGN FISHING.—Section 204(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(a)) is amended—

(1) by inserting "within the special areas," immediately before "or for anadromous species"; and

(2) by inserting "or areas" immediately after "such zone".

(g) CONTENTS OF FISHERY MANAGEMENT PLANS.—Section 303(b)(1)(A) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(1)(A)) is amended—

(1) by inserting "or special areas," immediately after "exclusive economic zone"; and

(2) by inserting "or areas" immediately after "such zone".

(h) PROHIBITED ACTS.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (1)(K), by inserting "or special areas" immediately after "exclusive economic zone";

(2) in paragraph (2)(B)—

(A) by inserting "within the special areas," immediately after "exclusive economic zone";

(B) by inserting "or areas" immediately after "such zone";

(3) in paragraph (3), by inserting "or special areas" immediately after "exclusive economic zone"; and

(4) in paragraph (4), by inserting "or special areas" immediately after "exclusive economic zone".

(i) ENFORCEMENT.—Section 311(b)(2) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)(2)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT OF 1982

SEC. 2. (a) DEFINITIONS.—(1) Section 2(c) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773(c)) is amended to read as follows:

"(c) 'Exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(2) Section 2 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773) is amended by adding at the end the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) UNLAWFUL ACTS.—Section 7(b) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e(b)) is amended by striking "fishery conservation zone" and inserting in lieu thereof "exclusive economic zone and special areas".

AMENDMENTS TO FUR SEAL ACT OF 1966

SEC. 3. Section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) is amended—

(1) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively; and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) 'Jurisdiction of the United States' includes jurisdiction over the special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24).".

AMENDMENTS TO MARINE MAMMAL PROTECTION ACT OF 1972

SEC. 4. Section 3(14) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(14)) is amended to read as follows:

"(14) The term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the United States-Soviet Maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973

SEC. 5. The special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24)) shall be considered places that are subject to the jurisdiction of the United States for the purposes of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

AMENDMENTS TO PACIFIC SALMON TREATY ACT OF 1985

SEC. 6. (a) DEFINITIONS.—Section 2 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631) is amended—

(1) by redesignating subsections (h) through (j) as subsections (i) through (k), respectively; and

(2) by inserting immediately after subsection (g) the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) RULEMAKING.—Section 7(a) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3636(a)) is amended by inserting "and special areas" immediately after "Exclusive Economic Zone".

NATIONAL SEA GRANT COLLEGE PROGRAM

SEC. 7. (a) DEFINITIONS.—Section 203(6) of the National Sea Grant College Program Act (33 U.S.C. 1122(6)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting immediately after subparagraph (E) the following new subparagraph:

"(F) the special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (18 U.S.C. 1802(24)); and".

(b) INTERNATIONAL PROGRAM.—Section 3(a)(6) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(a)(6)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

EFFECTIVE DATES

SEC. 8. (a) IN GENERAL.—The amendment made by section 1(e)(3) takes effect on the date of enactment of this Act, and the amendments made by the other provisions of this title, except as provided in subsection (b), shall be effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

(b) AUTHORITY TO PRESCRIBE REGULATIONS.—The authority to prescribe regulations to implement the amendments made by this title shall be effective on the date of enactment of this Act, but no such regulation may be effective until the date on which the Agreement described in subsection (a) enters into force for the United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1458) was ageed to.

The PRESIDING OFFICER. Are there further amendments to the substitute? If not, the question is on agreeing to the amendment.

The amendment (No. 1457), as amended, was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM. Mr. President, I rise in support of the provisions in H.R. 3866 which seek to expedite approval of the National Oceanic and Atmospheric Aministration's recommendation that the Flower Garden Banks Coral Reef, located off the Texas and Louisiana coasts, be designated as a National Marine Sanctuary. This will be the first national marine sanctuary in the Gulf of Mexico, and the designation will help protect and manage the ecological, recreational, research, and esthetic resources of this area.

The Flower Garden Banks consists of two separate areas of submerged land totaling 41.7 square nautical miles. This land includes the reefs in the northwest corner of the Gulf of Mexico. They comprise the northermost living coral reefs on the U.S. continental shelf. Isolated from other reef systems by over 300 nautical miles, the Flower Garden Banks offer a combination of aesthetic appeal, recreational uses, and research opportunities matched in few other ocean areas.

The plan for managing the proposed sanctuary contains guidelines to ensure that all management actions undertaken in the first 5 years are coordinated to meet sanctuary objectives. Heavy anchoring by large vessels has damaged the banks. The new sanctuary status will prohibit heavy anchoring of most vessels in the designated area and is supported by the environmental community, the regional governments, and coastal business interests.

This sanctuary designation of the Flower Garden Banks has been made within the agency's National Marine Sanctuary Program, created in 1972. Currently, there are eight other designated areas located off the coasts of Florida, Georgia, North Carolina, California, and American Samoa.

I encourage my colleagues to approve this designation and further ensure the environmental health and safety of this precious natural resource.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H. R. 3866), as amended, was passed.

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN TECHNOLOGY PREEMINENCE ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 232, S. 1034, a bill to enhance the position of U.S. industry.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1034) to enhance the position of U.S. industry through the application of the results of Federal research and development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Technology Preeminence Act of 1991".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "advanced manufacturing technology" means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, concurrent engineering processes, and other technology for improving manufacturing and industrial processes;

(2) the term "advanced materials" means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

(3) the term "high-resolution information systems" means equipment and techniques required to create, transmit, receive, display, process, record, store, recover, and play back high resolution images and accompanying sound;

(4) the term "Institute" means the National Institute of Standards and Technology;

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1991".

SEC. 102. STATEMENT OF POLICY.

Congress finds that in order to help United States industries to speed the development of new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.

SEC. 103. TECHNOLOGY ADMINISTRATION.

(a) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $9,700,000 for fiscal year 1992, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $3,700,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may not be transferred among the line items listed in paragraph (1) (C) and (D) and may not be used except for the purpose stated in each such line item.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1993, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may not be transferred among the line items listed in paragraph (1) (C) and (D) and may not be used except for the purpose stated in each such line item.

(c) OPERATING COSTS.—Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(d) REPORT AND CERTIFICATION TO CONGRESS.—By September 30, 1992, the Secretary shall submit to Congress a report which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD–024–0–001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan which includes detailed profit and loss analysis for groups of products and services and for major market segments; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant or equivalent; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

SEC. 104. THE INSTITUTE.

(a) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $211,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Electronics and Electrical Engineering, $34,000,000.

(B) Manufacturing Engineering, $13,000,000.

(C) Chemical Science and Technology, $21,000,000.

(D) Physics, $27,000,000.

(E) Materials Science and Engineering, $29,000,000.

(F) Building and Fire Research, $11,000,000.

(G) Computer Systems, $15,500,000.

(H) Applied Mathematics and Scientific Computing, $6,500,000.

(I) Technology Assistance, $16,000,000.

(J) Research Support Activities, $38,000,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (d); and

(iii) $6,200,000 are authorized for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the amount authorized under paragraph (1)(J) of this subsection, $7,223,000 are authorized only for the technical competence fund.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $241,495,000 for fiscal year 1993, which shall be available for the following line items:

(A) Electronics and Electrical Engineering, $36,647,000.

(B) Manufacturing Engineering, $18,064,000.

(C) Chemical Science and Technology, $21,585,000.

(D) Physics, $27,302,000.

(E) Materials Science and Engineering, $32,978,000.

(F) Building and Fire Research, $10,972,000.

(G) Computer Systems, $15,991,000.

(H) Applied Mathematics and Scientific Computing, $6,284,000.

(I) Technology Assistance, $20,413,000.

(J) Research Support Activities, $33,532,000.

(K) Additional Initiatives, $17,727,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $10,000,000 are authorized for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the amount authorized under paragraph (1)(J) of this subsection, $7,223,000 are authorized only for the technical competence fund.

(3) In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated to the Secretary for fiscal year 1993 such sums as may be necessary for the renovation and upgrading of the Institute's facilities.

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsections (a)(1) and (b)(1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsections (a)(1) and (b)(1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

(d) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 102 Stat. 1448), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5101 et seq.), this Act contains the complete authorizations of appropriations for the Institute for fiscal years 1992 and 1993.

(e) PILOT PROGRAM.—Pursuant to the authorizations contained in subsections (a)(1)(I) and (b)(1)(I), the Secretary is authorized to pay the Federal share of the cost of establishing and carrying out a standards assistance pilot program under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note) for the purpose of aiding nations that have requested assistance from the United States in developing their standards. As part of that program, the Secretary is authorized to work with appropriate United States and foreign private and public organizations. The Secretary is authorized to expend resources which match the private sector contribution to the program.

(f) CONSTRUCTION OF FACILITIES.—Section 14 of the Act of March 3, 1901 (15 U.S.C. 278d), is amended by striking "herein:" and all that follows, and inserting in lieu thereof "herein.".

(g) FIRE AND BUILDING PROGRAMS.—The fire research and building technology programs of the Institute may be combined for administrative purposes only, and separate budget accounts for fire research and building technology shall be maintained. No later than December 31, 1991, the Secretary, acting through the Director of the Institute, shall report to Congress on the results of the combination, on efforts to preserve the integrity of the fire research and building technology programs, on the long-range basic and applied research plans of the two programs, on procedures for receiving advice on fire and earthquake research priorities from constituencies concerned with public safety, and on the relation between the combined program at the Institute and the United States Fire Administration.

(h) PERSONNEL.—Notwithstanding any other provision of law, the personnel management system for the Institute, established as a demonstration project under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note), shall become the permanent personnel management system for the Institute. The Director of the Institute shall carry out all responsibilities to execute and manage the personnel management system.

(i) EDUCATIONAL PROGRAMS.—(1) Section 18 of the Act of March 3, 1901 (15 U.S.C. 278g–1), is amended by striking the period at the end of the first sentence and inserting in lieu thereof ", and to United States citizens for research and technical activities on Institute programs.".

(2) Section 17 of the Act of March 3, 1901 (15 U.S.C. 278g), is amended by adding at the end the following new subsection:

"(d) For any scientific and engineering disciplines for which there is a shortage of suitably qualified and available United States citizens and nationals, the Secretary is authorized to recruit and employ in scientific and engineering fields at the Institute foreign nationals who have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who intend to become United States citizens. Employment of a person under this subsection shall not be subject to the provisions of title 5, United States Code, governing employment in the competitive service, or to any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them.".

SEC. 105. EXTRAMURAL PROGRAMS OF THE INSTITUTE.

(a) FISCAL YEAR 1992.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the Act of March 3, 1901 (15 U.S.C. 278k, 278l, and 278n), $137,500,000 for fiscal year 1992, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $110,000,000.

(b) FISCAL YEAR 1993.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the Act of March 3, 1901 (15 U.S.C. 278k, 278l, and 278n), $185,000,000 for fiscal year 1993, which shall be available for the following line item:

(1) Regional Centers for the Transfer of Manufacturing Technology and Satellite Manufacturing Centers, $35,000,000.

(2) State Technology Extension Program, $10,000,000.

(3) Advanced Technology Program, $140,000,000.

(c) LIMITATION.—No funds are authorized under this section for any project under the extramural programs of the Institute which have not been competitively reviewed through merit review processes.

(d) AMENDMENTS TO EXTENSION ACTIVITIES.—(1) Section 25(c)(5) of the Act of March 3, 1901 (15 U.S.C. 278k(c)(5)), is amended by inserting immediately before the period at the end the following: ", except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director".

(2) Section 25(d) of the Act of March 3, 1901 (15 U.S.C. 278k(d)), is amended to read as follows:

"(d) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support Centers. Any Center which is supported with funds which originally came from other Federal departments and agencies shall be selected and operated according to the provisions of this section.".

(3) Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note) is amended by striking paragraph (5).

(e) ADVISORY COMMITTEE.—Section 5142(f) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4632(f)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993".

SEC. 106. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal years 1992 and 1993 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 107. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 108. REPORT ON FACILITIES NEEDS.

By March 1, 1992, the Director of the Institute shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on what renovations and upgrades of Institute facilities are necessary over the next decade. The report shall include a ranking of facilities needs in order of priority, an estimate of costs, and the Director's plan for meeting these needs.

SEC. 109. BUY-AMERICAN PROVISIONS.

(a) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this Act may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harms to United States businesses, as identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of Commerce, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(c) BUY-AMERICAN REQUIREMENT.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent that—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This action shall apply only to contracts made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2); and

(B) awarded to domestic firms pursuant to paragraph (1), in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGIES RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technologies and Advanced Technology Program Amendments Act of 1991".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) the Department of Commerce has reported that the United States is losing or losing badly, relatively to Japan and Europe, in many important emerging technologies and risks losing much of the $350 billion United States market and $1 billion world market expected to develop by the year 2000 for products based on emerging technologies;

(D) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(E) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(F) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacturing in fields such as high-resolution information systems, advanced manufacturing, and advanced materials; and

(G) the Advanced Technology Program, established under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as high-resolution information systems, advanced manufacturing technology, and advanced materials, and can help encourage United States industry to work together on problems of mutual concern.

(2) The purposes of this section are—

(A) to strengthen the Advanced Technology Program created under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), and to provide improved guidelines for the allocation of Advanced Technology Program funds appropriated under the authorizations contained in section 105 of this Act;

(B) to promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(C) to improve the competitive position of United States industry by supporting industry-led research and development projects in areas of emerging technology which have substantial potential to advance the economic well-being and national security of the United States, such as high-resolution information systems, advanced manufacturing technology, and advanced materials; and

(D) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation.

(c) ADVANCED TECHNOLOGY PROGRAM.—(1) Section 28(a) of the Act of March 3, 1901 (15 U.S.C. 278n(a)), is amended by adding at the end the following new sentence: "In operating the Program, the Secretary and Director shall, as appropriate, be guided by the findings and recommendations of the Biennial National Critical Technology Reports prepared pursuant to section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).".

(2) Section 28(b)(1) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)), is amended by inserting "industry-led" immediately after "aid".

(3) Section 28(b)(1)(B) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)(B)), is amended by inserting "by means of grants, cooperative agreements, or contracts" immediately after "such joint ventures".

(4) Section 28(b)(2) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(2)), is amended to read as follows:

"(2) provide grants to and enter into contracts and cooperative agreements with United States businesses (especially small businesses), provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;".

(5) Section 28(d)(2) of the Act of March 3, 1901 (15 U.S.C. 278n(d)(2)), is amended to read as follows:

"(2) In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint venture.".

(6) Section 28(d) of the Act of March 3, 1901 (15 U.S.C. 278n(d)(7)), is amended—

(A) by striking paragraph (7);

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(C) by adding at the end the following new paragraphs:

"(9) A company shall be eligible to receive financial assistance under this section only if—

"(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(10) Grants, contracts, and cooperative assignments under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary the requisite ability in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.".

(7) Section 28(e) of the Act of March 3, 1901 (15 U.S.C. 278n(e)), is amended to read as follows:

"(e) The Secretary may, within 30 days after notice to Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(9), and that it is in the national interest of the United States to do so.".

(8) Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is amended by adding at the end the following new subsections:

"(f) When reviewing private sector requests for awards under the Program, and when monitoring the progress of assisted research projects, the Secretary and the Director shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary and the Director are authorized to work with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(g) In order to analyze the need for the value of joint ventures and other research projects in specific technical fields, to evaluate any proposal made by a joint venture or company requesting the Secretary's assistance, or to monitor the progress of any joint venture or any company research project which receives Federal funds under the Program, the Secretary, the Under Secretary of Commerce for Technology, and the Director may, notwithstanding any other provision of law, meet with such industry sources as they consider useful and appropriate.

"(h) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development and technical activities by the Institute in support of the purposes of this section.

"(i) In addition to such sums as may be authorized and appropriated to the Secretary and

VOL 137
PT 24
NO 26
1991
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JA 3
1992
UMI

Director to operate the Program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support awards under the Program. Any Program award which is supported with funds which originally came from other Federal departments and agencies shall be selected and carried out according to the provisions of this section.

"(j) As used in this section—

"(1) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative finding or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture;

"(2) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States; and

"(3) the term 'foreign-owned company' means a company other than a United States-owned company.".

(d) Effective Date.—The amendments in subsection (c) of this section shall take effect immediately upon enactment; however, those amendments shall not apply to applications submitted in response to any Federal Register Invitation for Proposals dated prior to the date of enactment of this Act, or awards or other assistance granted pursuant to that notice.

(e) Management Costs.—Section 2 of the Act of March 3, 1901 (15 U.S.C. 272), is amended by adding at the end the following new subsection:

"(d) In carrying out the extramural funding programs of the Institute, including the programs established under sections 25, 26, and 28 of this Act, the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.".

(f) Comprehensive Report.—The Secretary shall, not later than 4 years after the date of enactment of this Act, submit to each House of Congress and the President a comprehensive report on the results of the Advanced Technology Program established under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), including activities in the areas of high-resolution information systems, advanced manufacturing technology, and advanced materials.

(g) Commerce Department Reports on Sematech.—Section 273(c)(4) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603(c)(4)) and section 5422(a) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4603(a)) are each amended by striking "Economic Affairs" and inserting in lieu thereof "Technology".

TITLE III—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

Section 11(e)(7)(B)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)(ii)) is amended by striking "1987, 1988, 1989, 1990, or 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, or 1996".

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Provision of Intellectual Property.—Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," immediately after "equipment," both places it appears.

(b) Report.—Within 6 months after the date of enactment of this Act, the Secretary shall report to Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" immediately after "of such title".

SEC. 304. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out responsibilities under this Act.".

SEC. 305. UNDER SECRETARY.

Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting immediately after paragraph (12) the following new paragraph:

"(13) serve as a focal point for discussions among United States companies, trade associations, and labor unions on topics of interest to industry and labor, including discussions regarding issues of manufacturing and emerging technologies;".

TITLE IV—STUDIES AND REPORTS

SEC. 401. HIGH-RESOLUTION INFORMATION SYSTEMS ADVISORY BOARD.

(a) Establishment and Purpose.—The Director of the Office of Science and Technology Policy shall establish within that office a High-Resolution Information Systems Advisory Board (hereafter in this section referred to as the "Board") to monitor and, as appropriate, foster the development of United States-based high-resolution information system industries.

(b) Functions.—The Board shall—

(1) collect and analyze information on the range of factors which will determine whether United States-based high-resolution information systems industries will develop and become competitive, including such factors as technology policies, specialized financial problems, international standards and foreign trade practices, Federal regulations and procurement policies, and licensing practices;

(2) identify areas where appropriate cooperation between the Federal Government and the private sector, including Government support for industry-led joint research and development ventures, would enhance United States industrial competitiveness in this area, and provide advice and guidance for such cooperative efforts;

(3) provide guidance on what Federal policies and practices, particularly in such areas as procurement and the transfer of federally-funded research, are necessary to help establish United States-based high-resolution information systems industries;

(4) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies in the field of high-resolution information systems into commercial products; and

(5) generally develop recommendations for guiding Federal agency activities related to the development of United States-based high-resolution information systems industries.

(c) Membership and Procedures.—(1)(A) The Board shall be composed of 13 members, seven of whom shall constitute a quorum.

(B) The Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Director of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(C) The President, acting through the Director of the Office of Science and Technology Policy, within 90 days after the date of enactment of this Act, shall appoint as additional members of the Board—

(i) five members from the private electronics manufacturing sector, drawn from such sectors as semiconductors, display equipment, computers, consumer electronics, and telecommunications, with one member also representing labor;

(ii) three members from the private nonmanufacturing sector, including one representative from the transmission delivery systems sector and two representatives drawn from such areas as the software industry, the entertainment industry, and the investment community; and

(iii) one member from academia.

At least one member appointed under this paragraph shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit to the President and Congress a report of its activities once every year after its establishment.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

SEC. 402. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end of title II the following new section:

"MAJOR SCIENCE AND TECHNOLOGY PROPOSALS

"Sec. 209. The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than $1,000,000,000.".

SEC. 403. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

(a) Emerging Civilian Technologies.—Section 603(a) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(a)) is amended by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from those emerging civilian technologies" immediately after "may not exceed 30".

(b) Panel Determination.—Section 603(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6883(b)) is amended by striking "national security and" inserting in lieu thereof "national security or".

(c) Comparison of Technology Bases.—Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683) is amended by redesignating subsection (d) as subsection (e) and by inserting immediately after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 404. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) Establishment of Commission.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the "Commission"), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

(b) Issues.—The Commission shall address the following issues:

(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

(2) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

(3) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Baldrige National Quality Award?

(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

(c) Membership and Procedures.—(1) The Commission shall be composed of 15 members, eight of whom shall constitute a quorum.

(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

(3) The Secretary, with the concurrence of the Administrator of the Office of Federal Procurement Policy, shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

(A) four members who are eminent in advanced technology businesses representing manufacturing and services industries, including at least one member representing labor;

(B) three members who are eminent in the fields of technology and international economic development; and

(C) three members who are eminent in the fields of Federal Government procurement.

(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) Reports.—(1) The Commission shall, within 1 year after the date of enactment of this Act, submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

(e) Consultation.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

(f) Termination.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992, 1993, and 1994.

SEC. 405. REPORT ON INFORMATION COLLECTION AND DISSEMINATION.

(a) Report.—Within 270 days after the date of enactment of this Act, the Secretary shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authoritative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Under Secretary and the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the Institute, and with representatives of the public, for their views on the optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for establishing and operating FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

(b) Funding.—The Director of the National Technical Information Service may retain and use all monies received, including receipts, revenues, and advanced payments and deposits, to fund obligations and expenses, including capital equipment and inventory, through the end of fiscal year 1993.

(c) Electronic Format.—Section 212(e)(5) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(e)(5)) is amended by inserting ", including the production and dissemination of information products in electronic format" immediately after "engineering information".

SEC. 406. STUDY OF TESTING AND CERTIFICATION.

(a) Contract With National Research Council.—Within 90 days after the date of enactment of this Act and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

(1) the impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and non-regulated products of non-European origin;

(2) ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions;

(3) the feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and those of major trading partners on the accreditation of testing and certification laboratories and on quality control requirements;

(4) information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments; and

(5) the appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

(b) Membership.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation laboratories and organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

(c) Report.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President,

and Congress within 18 months after the Secretary signs the contract with the National Research Council.

SEC. 407. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly—

(1) analyze recent steps to use the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in several other Federal departments and agencies which fund research and development; and

(2) examine the feasibility and advisability of using that Program as a model for Federal research and development agencies which do not currently have similar programs.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 408. INTERAGENCY COORDINATION.

The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate, and to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high-resolution information systems, including research and development activities.

AMENDMENT NO. 1459

(Purpose: To make an amendment in the nature of a substitute)

Mr. FORD. Mr. President, on behalf of Senator HOLLINGS, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. HOLLINGS, proposes an amendment numbered 1459:

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "American Technology Preeminence Act of 1991".

SEC. 2. DEFINITIONS.

As used in the Act—

(1) the term "high-resolution information systems" means equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound;

(2) the term "advanced manufacturing technology" means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and othe technology for improving manufacturing and industrial processes;

(3) the term "advanced materials" means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, materials produced through biotechnology, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

(4) the term "Institute" means the National Institute of Standards and Technology'

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1991".

SEC. 102. STATEMENT OF POLICY.

Congress finds that in order to help United States industries to speed the development of new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.

SEC. 103. TECHNOLOGY ADMINISTRATION.

(a) FISCAL YEAR 1992—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000.000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraoh (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1993, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Informtion Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item to not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(c) OPERATING COSTS.—Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(d) REPORT AND CERTIFICATION TO CONGRESS.—Within 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan for the National Technical Information Service which includes detailed profit and loss analysis for groups of products and services and for major market segments; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant or equivalently experienced accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

(e) TECHNICAL AMENDMENT.—Section 5422(a) of the Omnibus Trade and competitiveness Act of 1988 (15 U.S.C. 4603a(a)) and section 273(c)(4) of the National Defense Authorization Act for Fiscal years 1988 and 1989 (15 U.S.C. 4603(c)(4)) are each amended by striking "Economic Affairs" and inserting in lieu thereof "Technology".

SEC. 104. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $210,000,000 for fiscal year 1992, which shall be available for the\ following line items:

(A) Electronics and Electrical Measurements, $33,700,000.

(B) Manufacturing Engineering, $13,500,000.

(C) Chemical Science and Technology, $22,000,000.

(D) Physics, $27,000,000.

(E) Materials Science and Engineering, $30,000,000.

(F) Building and Fire Research, $12,300,000.

(G) Computer Systems, $16,000,000.

(H) Applied Mathematics and Scientific Computing, $6,500,000.

(I) Technology Assistance, $11,000,000.

(J) Research Support Activities, $38,000,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $2,700,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,565,000 are authorized only for the technical competence fund.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $221,200,000 for fiscal year 1993, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $36,000,000.

(B) Manufacturing Engineering, $16,000,000.

(C) Chemical Science and Technology, $22,500,000.

(D) Physics, $28,700,000.

(E) Materials Science and Engineering, $39,400,000.

(F) Building and Fire Research, $12,000,000.

(G) Computer Systems $20,600,000.

(H) Applied Mathematics and Scientific Computing, $6,300,000.

(I) Technology Assistance, $10,800,000.

(J) Research Support Activities, $25,000,000.

(K) Pay Raise, $3,900,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $5,000,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,223,000 are authorized only for the technical competence fund.

(3) In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated to the Secretary for fiscal year 1993 $34,800,000 for the renovation and upgrading of the Institute's facilities.

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a)(1) and among the line items listed in subsection (b)(1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a)(1) or subsection (b)(1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

(d) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 102 Stat. 1448), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5101 et seq.), this Act contains the complete authorizations of appropriations for the Institute for fiscal years 1992 and 1993. This subsection shall not limit the authority of the Institute to accept funds appropriated to any other Federal agency or to perform work for others.

(e) PILOT PROGRAM.—Pursuant to the authorizations contained in subsections (a)(1)(I) and (b)(1)(I), the Secretary is authorized to pay the Federal share of the cost of establishing and carrying out a standards assistance pilot program under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note). The purpose of the pilot program is to assist a country or countries that have requested assistance from the United States in the development of comprehensive industrial standards by providing the continuous presence of United States personnel on-site for a period of 2 or more years to provide such assistance and by providing, as necessary, additional technical support from within the Institue. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

(f) CONSTRUCTION OF FACILITIES.—Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended by striking "herein" and all that follows, and inserting in lieu thereof "herein.".

(g) FIRE AND BUILDING PROGRAMS.—The fire research and building technology programs of the Institute may be combined for administrative purposes only, and separate budget accounts for fire research and building technology shall be maintained. No later than December 31, 1992, the Secretary, acting through the Director of the Institute, shall report to Congress on the results of the combination, on efforts to preserve the integrity of the fire research and building technology programs, on the long-range basic and applied research plans of the two programs, on procedures for receiving advice on fire and earthquake research priorities from constituencies concerned with public safety, and on the relation between the combined program at the Institute and the United States Fire Administration.

(h) EDUCATIONAL PROGRAMS.—(1) Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof ", and to United States citizens for research and technical activities on Institute programs.".

(2) Section 17 of the National Institute of Standards and Technology Act (15 U.S.C. 278g) is amended by adding at the end the following new subsection:

"(d) For any scientific and engineering disciplines for which there is a shortage of suitably qualified and available United States citizens and nationals, the Secretary is authorized to recruit and employ in scientific and engineering fields at the Institute foreign nationals who have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who intend to become United States citizens. Employment of a person under this pragraph shall not be subject to the provisions of title 5, United States Code, governing employment in the competitive service, or to any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them.".

(i) CORE PROGRAM FUNDING.—It is the sense of the Congress that the intramural scientific and technical research and services activities of the National Institute of Standards and Technology should share fully in any funding increases provided to the Institute.

SEC. 105. EXTRAMURAL PROGRAMS OF THE INSTITUTE.

(a) FISCAL YEAR 1992.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 2781, and 278n), $217,500,000 for fiscal year 1992, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(b) FISCAL YEAR 1993.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 2781, and 278n), $127,500,000 for fiscal year 1993, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology and Satellite Manufacturing Centers, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(c) LIMITATION.—No funds are authorized under this section for any project under the extramural programs of the Institute which have not been competitively reviewed through the merit review processes required by the National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.).

(d) AMENDMENTS TO EXTENSION PROGRAM.—Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note) is amended by striking paragraph (5).

(e) AMENDMENTS TO EXTENSION ACTIVITIES.—(1) Section 25(c)(6) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(6)) is amended by inserting before the period at the end the following: "except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director".

(2) Section 25(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(d)) is amended to read as follows:

"(d) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support Centers. Any Center which is supported with funds which originally came from other Federal departments and agencies shall be selected and operated according to the provisions of this section.".

(f) ADVISORY COMMITTEE.—Section 5142(f) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4632(f)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993".

SEC. 106. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal years 1992 and 1993 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 107. METRIC AMENDMENT.

(a) The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) is amended—

(1) in sections 4(a)(2), (4), and (5), 4(b), and 5(c)(1), by striking "weight" and inserting in lieu thereof "weight or mass";

(2) in sections 4(a)(5) and 5(d), by striking "weights" and inserting in lieu thereof "weights or masses";

(3) in section 4(a)(2), by inserting ", using the most appropriate units of the SI metric system as the primary system for measuring quantity" after "panel of that label"; and

(4) in section 4(a)(3)(A)—

(A) by striking "containing" and inserting in lieu thereof "that also displays the avoirdupois system of measure, and that contains" in clause (i);

(B) by striking "that also displays the avoirdupois system of measure" after "random package" in clause (ii);

(C) by inserting "that also displays the avoirdupois system of measure" after "linear measure" in clause (iii); and

(D) by inserting "that also displays the avoirdupois system of measure" after "measure of area" in clause (iv).

(b) This section shall take effect 2 years after the date of enactment of this Act.

SEC. 108. TRANSFER OF FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION.

(a) TRANSFER.—The head of each Federal executive department or agency shall transfer in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information which results from federally funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies. Only information which would otherwise be available for public dissemination shall be transferred under this subsection. Such information shall include technical reports and information, computer software, application assessments generated pursuant to section 11(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(c)), and information regarding training technology and other federally owned or originated technologies. The Secretary shall issue regulations within one year after the date of enactment of this Act outlining procedures for the ongoing transfer of such information to the National Technical Information Service.

(b) ANNUAL REPORT TO CONGRESS.—As part of the annual report required under section 212(f)(3) of the National Technical Information Act of 1988, the Secretary shall report to Congress on the status of efforts under this section to ensure access to Federal scientific and technical information by the public. Such report shall include—

(1) an evaluation of the comprehensiveness of transfers of information by each Federal executive department or agency under subsection (a);

(2) a description of the use of Federal scientific and technical information;

(3) plans for improving public access to Federal scientific and technical information; and

(4) recommendations for legislation necessary to improve public access to Federal scientific and technical information.

SEC. 109. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 110. REPORT ON FACILITIES NEEDS.

By March 1, 1992, the Director of the Institute shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on what renovations and upgrades of Institute facilities are necessary over the next decade. The report shall include a ranking of facilities needs in order of priority, an estimate of costs, and the Director's plan for meeting these needs.

SEC. 111. BUY-AMERICAN PROVISIONS.

(a) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harms to United States businesses, and identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of Commerce, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(c) BUY-AMERICAN REQUIREMENT.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGIES RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technologies and Advanced Technology Program Amendments Act of 1991".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) the Department of Commerce has reported that the United States is losing or losing badly, relative to Japan and Europe, in many important emerging technologies and risks losing much of the $350 billion United States market and $1 trillion world market expected to develop by the year 2000 for products based on emerging technologies;

(D) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(E) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no single company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(F) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacturing in fields such as high-resolution information systems, advanced manufacturing, and advanced materials; and

(G) the Advanced Technology Program, established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as high-resolution information systems, advanced manufacturing technology, and advanced materials, and can help encourage United States industry to work together on problems of mutual concern.

(2) The purposes of this section are—

(A) to strengthen the Advanced Technology Program created under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), and to provide improved guidelines for the allocation of Advanced Technology Program funds appropriated under the authorizations contained in section 105 of this Act;

(B) to promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(C) to improve the competitive position of United States industry by supporting industry-led research and development projects in areas of emerging technology which have substantial potential to advance the economic well-being and national security of the United States, such as high-resolution information systems, advanced manufacturing technology, and advanced materials; and

(D) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation.

(c) ADVANCED TECHNOLOGY PROGRAM.—(1) Section 28(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(a)), is amended by adding at the end the following new sentence: "In operating the Program, the Secretary and Director shall, as appropriate, be guided by the findings and recommendations of the Biennial National Critical Technology Reports prepared pursuant to section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683)."

(2) Section 28(b)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(1)), is amended by inserting "industry-led" immediately after "aid".

(3) Section 28(b)(1)(B) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)(B)), is amended by inserting "by means of grants, cooperative agreements, or contracts" immediately after "such joint ventures".

(4) Section 28(b)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(2)), is amended to read as follows:

"(2) provide grants to and enter into contracts and cooperative agreements with United States businesses (especially small businesses), provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;".

(5) Section 28(d)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(2)), is amended to read as follows:

"(2) In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint venture.".

(6) Section 28(d) of the Act of National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(7)), is amended—

(A) by striking paragraph (7);

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(C) by adding at the end the following new paragraphs:

"(9) A company shall be eligible to receive financial assistance under this section only if—

"(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded by any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(10) Grants, contracts, and cooperative assignments under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary the requisite ability in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.".

(7) Section 28(e) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(e)), is amended to read as follows:

"(e) The Secretary may, within 30 days after notice to Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(9), and that it is in the national interest of the United States to do so.".

(8) Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is amended by adding at the end the following new subsections:

"(f) When reviewing private sector requests for awards under the Program, and when monitoring the progress of assisted research projects, the Secretary and the Director shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary and the Director are authorized to work with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(g) In order to analyze the need for the value of joint ventures and other research projects in specific technical fields, to evaluate any proposal made by a joint venture or company requesting the Secretary's assistance, or to monitor the progress of any joint venture or any company research project which receives Federal funds under the Program, the Secretary, the Under Secretary of Commerce for Technology, and the Director may, notwithstanding any other provision of law, meet with such industry sources as they consider useful and appropriate.

"(h) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development and technical activities by the Institute in support of the purposes of this section.

"(i) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support awards under the Program. Any Program award which is supported with funds which originally came from other Federal departments and agencies shall be selected and carried out according to the provisions of this section.

"(j) As used in this section—

"(1) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative finding or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture; and

"(2) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States."

(d) EFFECTIVE DATE.—The amendments in subsection (c) shall take effect immediately upon enactment; however, the amendments shall not apply to applications submitted before the date of enactment of this Act.

(e) MANAGEMENT COSTS.—Section 2 of the National Institute of standards and Tech-

VOL 137
PT 24
NO 26
1991
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JA 3
1992
UMI

nology Act (15 U.S.C. 272) is amended by adding at the end thereof the following new subsection:

"(d) In carrying out the extramural funding programs of the Institute, including the programs established under section 25, 26, and 28 of this Act, the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.".

(f) COMPREHENSIVE REPORT.The Secretary shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology act (15 U.S.C. 278n), including any activities in the areas of high-resolution information systems, advanced manufacturing technology, and advanced materials.

TITLE III—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

(a) Section 11(e)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(2)) is amended by inserting "senior" after "Consortium and a".

(b) Section 11 (e)(6) of the Stevenson—Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(6)) is amended by adding at the end the following: "Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.".

(c) Section 11(e)(7)(B)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)(ii)) is amended by striking "or 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, or 1996".

(d) Section 11(e)(8) of the Stevenson—Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(8)) is repealed.

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of fund.

SEC. 303. RESEARCH EQUIPMENT.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended by adding at the end the following new subsection:

"(i) RESEARCH EQUIPMENT.—The Director of a laboratory, or the head of any Federal agency or department, may give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under the section.".

SEC. 304. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 305. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out responsibilities under this Act.".

SEC. 306. UNDER SECRETARY.

Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) serve as a focal point for discussions among United States companies on topics of interest to industry and labor, including discussions regarding manufacturing and discussions regarding emerging technologies;".

TITLE IV—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

SEC. 401. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the "Commission"), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investments in research, the development of new process and product technologies, and the production of those technologies.

(b) ISSUES.—The function of the Commission shall be to address the following issues:

(1) How has the overall cost of capital paid by United States companies differed during the past decade from that paid by companies in other industrial economies such as Germany, Japan, and the United Kingdom?

(2) To what extent has the cost of capital faced by technology companies differed from the overall cost of capital in each of these nations during the same period?

(3) To what extent do high capital costs in general inhibit investment in projects with long-term payoffs, such as the development and commercialization of new technology?

(4) To what extent does the structure of the financial services industry in the United States affect the flow of capital to advanced technology investment, and to what extent do current practices in the equity markets raise the cost of capital and inhibit the availability of capital to fund research and development, purchase advanced manufacturing equipment, and fund other investments necessary to commercialize advanced technology?

(5) In what ways do Government regulations influence the cost of capital in the United States?

(6) To what extent have national differences in capital costs facilitated the foreign acquisition of technology-based United States companies?

(7) What macroeconomic and other policies would promote greater investment in advanced manufacturing techniques, in research and development, and in other activities necessary to commercialize and produce now technologies?

(8) What specific policies should the Federal Government follow in order to reduce the cost of capital for United States companies to levels that are near parity with those faced by the Nation's principal trading partners?

(c) MEMBERSHIP.—(1) The Commission shall be composed of 9 members who are eminent in such fields as advanced technology, manufacturing, finance, and international economics and who are appointed as follows:

(A) 3 individuals appointed by the President, one of whom shall chair the Commission.

(B) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(C) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(2) Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROCEDURES.—(1) The Chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(2) Recommendations of the Commissions shall require the approval of three-quarters of the members of the Commission.

(3) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

(4) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) REPORTS.—The Commission shall, within 1 year after the date of enactment of this Act, submit to the President and Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

(f) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Technology and Procurement established by section 505 of this Act.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (e).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

TITLE V—STUDIES AND REPORTS

SEC. 501. HIGH-RESOLUTION INFORMATION SYSTEMS ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Directory of the Office of Science and Technology Policy shall establish within that office a High-Resolution Information Systems Advisory Board (hereafter in this section referred to the "Board") to monitor and, as appropriate, foster the development of United States-based high-resolution information systems industries.

(b) DEFINITION.—As used in this title, the term "high-resolution information systems" means the equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound.

(c) FUNCTIONS.—The board shall—

(1) collect and analyze information on the range of factors which will determine whether United States-based high-resolution information systems industries will develop and become competitive, including such factors as technology policies, specialized financial problems, international standards and foreign trade practices, Federal regulations and procurement policies, and licensing practices;

(2) identify areas where appropriate cooperation between the Federal Government and the private sector, including Government support for industry-led joint research and development ventures, would enhance United States industrial competitiveness in this area, and provide advice and guidance for such cooperative efforts;

(3) provide guidance on what Federal policies and practices, particularly in such areas as procurement and the transfer of federally-funded research, are necessary to help establish United States-based high-resolution information systems industries;

(4) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies in the field of high-resolution information systems into commercial products; and

(5) generally develop recommendations for guiding Federal agency activities related to the development of United States-based high-resolution information systems industries.

(d) MEMBERSHIP AND PROCEDURES.—(1)(A) The Board shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Director of the Office of Science and Technology Policy, the Secretary, the Directory of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(C) The President, acting through the Director of the Office of Science and Technology Policy, within 90 days after the date of enactment of this Act, shall appoint as additional members of the Board—

(i) 5 members from the private electronics manufacturing sector, drawn from such sectors as semiconductors, display equipment, computers, consumer electronics, and telecommunications, with 1 member also representing labor;

(ii) 3 members from the private nonmanufacturing sector, including 1 representative from the transmission delivery the software industry, the entertainment industry, and the investment community; and

(iii) 1 member from academia.

At least 1 member appointed under this subparagraph shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit a report of its activities once every year after its establishment to the President, the Committees on Science, Space, and Technology and on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(e) LIMITATION ON FUNCTIONS.—Nothing in this section or any other provision of this Act shall be construed—

(1) to authorize the Board to investigate or provide advice or guidance with respect to standards or other regulations or policies related to the transmission, delivery, or receipt of broadcast television or cable television signals subject to regulation by the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) to limit, modify, or affect in any manner the authorities, functions, or responsibilities of the Federal Communications Commission or the National Telecommunications and Information Administration.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

SEC. 502. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended by adding at the end of title II the following new section:

"MAJOR SCIENCE AND TECHNOLOGY PROPOSALS

"SEC. 209. The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than $1,000,000,000.".

SEC. 503. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683) is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps of deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 504. CRITICAL INDUSTRIES.

(a) IDENTIFICATION OF INDUSTRIES AND DEVELOPMENT OF PLAN.—The Secretary shall—

(1) identify those civilian industries in the United States that are necessary to support a robust manufacturing infrastructure and critical to the economic security of the United States; and

(2) list the major research and development initiatives being undertaken, and the substantial investments being made, by the Federal Government, including its research laboratories, in each of the critical industriews indentified under paragraph (1).

(b) INITIAL REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of enactment of this Act on the actions taken under subsection (a).

(c) ANNUAL UPDATES.—The Secretary shall annually submit to the Congress an update of the report submitted under subsection (b). Each such update shall—

(1) describe that status of each identified critical industry, including the advances and declines occurring since the most recent report; and

(2) identify any industries that should be added to the list of critical industries.

SEC. 505. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the "Commission"), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

(b) ISSUES.—The Commission shall address the following issues:

(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and initial market penetration for new technologies?

(2) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

(3) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

(4) How can the Federal Government ensure that its supplies adopt the principles embodied in the Malcolm Baldrige National Quality Award?

(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commerical basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 15 members, 8 of whom shall constitute a quorum.

(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

(3) The Secretary shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

(A) 4 members who are eminent in advanced technology business representing manufacturing and services industries, including at least 1 member representing labor;

(B) 3 members who are eminent in the fields of technology and international economic development; and

(C) with the concurrence of the Administrator of the Office of Federal Procurement Policy, 3 members who are eminent in the field of Federal Government procurement.

(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) REPORTS.—(1) The Commission shall, within 1 year after the date of enactment of this Act, submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992, 1993, and 1994.

SEC. 506. REPORT ON INFORMATION COLLECTION AND DISSEMINATION.

(a) REPORT.—Within 270 days after the date of enactment of this Act, the Secretary shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authorizative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Under Secretary and the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the Institute, and with representatives of the public, for their views on the optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for establishing and operating FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

(b) FUNDING.—The Director of the National Technical Information Service may retain and use all monies received, including receipts, revenues, and advanced payments and deposits, to fund obligations and expenses through the end of fiscal year 1993.

(c) ELECTRONIC FORMAT.—Section 212(e)(5) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(e)(5)) is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

SEC. 507. NATIONAL QUALITY COUNCIL.

(a) ESTABLISHMENT AND FUNCTIONS.—There is established a National Quality Council (hereafter in this section referred to as the "Council"). The functions of the Council shall be—

(1) to establish national goals and priorities for Quality performance in business, education, government, and all other sectors of the nation;

(2) to encourage and support the voluntary adoption of these goals and priorities by companies, unions, professional and business associations, coalition groups, and units of government, as well as private and nonprofit organizations;

(3) to arouse and maintain the interest of the people of the United States in quality performance, and to encourage the adoption and institution of Quality performance methods by all corporation, government agencies, and other organizations; and

(4) to conduct a White House Conference on Quality Performance in the American Workplace that would bring together in a single forum national leaders in business, labor, education, professional societies, the media, government, and politics to address Quality performance as a means of improving United States competitiveness.

(b) MEMBERSHIP.—The Council shall consist of not less than 17 nor more than 20 members, appointed by the Secretary. Members shall include—

(1) at least 2 but not more than 3 representatives from manufacturing industry;

(2) at least 2 but not more than 3 representatives from service industry;

(3) at least 2 but not more than 3 representatives from national Quality not-for-profit organizations;

(4) two representatives from education, one with expertise in elementary and secondary education, and one with expertise in postsecondary education;

(5) one representative from labor;

(6) one representative from professional societies;

(7) one representative each from local and State government;

(8) one representative from the Federal Quality Institute;

(9) one representative from the National Institute of Standards and Technology;

(10) one representative from the Department of Defense;

(11) one representative from a civilian Federal agency not otherwise represented on the Council, to be rotated among such agencies every 2 years; and

(12) one representative from the Foundation for the Malcolm Baldrige National Quality Award.

(c) TERMS.—The term of office of each member of the Council appointed under paragraphs (1) through (7) of subsection (b) shall be 2 years, except that when making the initial appointments under such paragraphs; the Secretary shall appoint not more than 50 percent of the members to 1 year terms. No member appointed under such paragraphs shall serve on the Council for more than 2 consecutive terms.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one of the members initially appointed to the Council as Chairman. Thereafter, the members of the Council shall annually elect one of their number as Chairman. The members of the Council shall also annually elect one of their members as Vice Chairman. No individual shall serve as Chairman or Vice Chairman for more than 2 consecutive years.

(e) EXECUTIVE DIRECTOR AND EMPLOYEES.—The Council shall appoint and fix the compensation of an Executive Director, who shall hire and fix the compensation of such additional employees as may be necessary to assist the Council in carrying out its functions. In hiring such additional employees, the Executive Director shall ensure that no individual hired has a conflict of interest with the responsibilities of the Council.

(f) FUNDING.—There is established in the Treasury of the United States a National Quality Performance Trust Fund, into which all funds received by the Council, through private donations or otherwise, shall be deposited. Amounts in such Trust Fund shall be available to the Council, to the extent provided in advance in appropriations Acts, for the purpose of carrying out the functions of the Council under this Act.

(g) CONTRIBUTIONS.—The Council may not accept private donations from a single source in excess of $25,000 per year. Private donations from a single source in excess of $10,000 per year may be accepted by the Council only on approval of two-thirds of the Council.

(h) ANNUAL REPORT.—The Council shall annually submit to the President and the Congress a comprehensive and detailed report on—

(1) the progress in meeting the goals and priorities established by the Council;

(2) the Council's operations, activities, and financial condition;

(3) contributions to the Council from non-Federal sources;

(4) plans for the Council's operations and activities for the future; and

(5) any other information or recommendations the Council considers appropriate.

SEC. 508. STUDY OF TESTING AND CERTIFICATION.

(a) CONTRACT WITH NATIONAL RESEARCH COUNCIL.—Within 90 days after the date of enactment of this Act and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

(1) The impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and nonregulated products of non-European origin.

(2) Ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions.

(3) The feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and those of major trading

partners on the accreditation of testing and certification laboratories and on quality control requirements.

(4) Information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments.

(5) The appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

(b) MEMBERSHIP.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

(c) REPORT.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contract with the National Research Council.

SEC. 509. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly—

(1) analyze recent steps to use the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in several other Federal departments and agencies which fund research and development; and

(2) examine the feasibility and advisability of using that program as a model for Federal research and development agencies which do not currently have similar programs.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 510. INTERAGENCY COORDINATION.

The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high-resolution information systems, including research and development activities.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1459) was agreed to.

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering S. 1034, the American Technology Preeminence Act of 1991, which I introduced earlier this session. This important legislation will reauthorize the programs of the Department of Commerce's [DOC] Technology Administration, including its National Institute of Standards and Technology [NIST], and will ensure that DOC's important new initiatives to help strengthen U.S. industrial competitiveness are continued and expanded. The substitute version now before the Senate incorporates the provisions of the bill reported in September by the Commerce Committee and provisions in H.R. 1989, a similar bill passed earlier this year by the House.

THE NEED FOR INDUSTRY-GOVERNMENT PARTNERSHIP ON TECHNOLOGY ISSUES

The need for Government and business to work together to strengthen America's position in industrial technology has never been greater. The United States may have won the cold war, but it is losing the economic war. American companies are losing market share in many sectors, and some industries such as consumer electronics almost have been lost entirely. Equally disturbing, our position in the new technologies that will underpin the industries and markets of the future is much weaker than most Americans realize. A spring 1990 DOC report concluded that the United States is either losing or losing badly relative to Japan in 10 of 12 key emerging technologies. These 10 include such technologies as advanced semiconductor devices, superconducting materials, and high-performance computing. By the year 2000, according to DOC's estimate, the annual world market for products based on the 12 technologies will reach $1 trillion, with the U.S. market alone reaching $350 billion per year. Clearly, the economic stakes here are great. The companies and countries which dominate these new markets will reap great wealth; the countries which lag will see their standards of living stagnate.

Other countries are not sitting on the sidelines. There is a new world economic order, and one key feature is that other governments actively work with their companies to develop these new basic technologies. By sharing costs and risks, Germany, Japan, and now smaller countries such as South Korea have helped to create major economic strength. Yet in the United States, Government support for new technologies relevant to industry has long been a low priority. The Federal Government spends some $70 billion a year to support research and development [R&D]. But according to official Government statistics, the U.S. Government spends only 0.2 percent of that total for the purpose of assisting industrial development. The comparable 1988 figure for the German Government was 14.5 percent. Our U.S. priorities are from a different era, heavy on defense and big science projects.

At a Commerce Committee hearing last March, a leading private group, the Council on Competitiveness, released a report on why the United States no longer can afford to neglect new technologies.

> The United States is already losing badly in many critical technologies. Unless the nation acts today to promote the development of generic industrial technology, its technological position will erode further, with disastrous consequences for American jobs, economic growth and national security. The federal government should view support of generic industrial technologies as a priority mission. ("Gaining New Ground," pp. 3-4).

Clearly, we must act to promote new technologies before it is too late.

THE BILL

Mr. President, since the early 1980's Congress has tried to respond to this serious and growing problem. In 1980, and again in 1986 and 1989, we passed legislation to make exising Federal research in universities and Government laboratories more accessible to private companies. We have increased the National Science Foundation's support for engineering and boosted Defense Department funding for so-called dual-use technologies which are important to both the military and the commercial sector. And in 1988, in adopting provisions which I authored, Congress created a true civilian technology agency, DOC's Technology Administration.

Under the supervision of an Under Secretary for Technology, the Technology Administration includes both a policy office and NIST, the one Federal laboratory whose primary mission is to assist U.S. industry. The 1988 legislation not only strengthened NIST's long-respected internal research and technical services programs but also created new technology extension activities to help small manufacturers modernize a new Advanced Technology Program [ATP] to provide seed money for industry-led efforts to develop the key new technologies of the future.

The substitute bill now before the Senate would continue these important efforts by reauthorizing these Technology Administration programs for fiscal years 1992 and 1993. It also would amend some provisions regarding the ATP, make a change in metric policy, make five small amendments in the Stevenson-Wydler Technology Innovation Act, and require several studies.

In my view, NIST remains an underfunded and undersupported agency. This bill represents a strong congressional endorsement of the Technology Administration and NIST and its programs. However, we cannot stop here. While I applaud the administration's proposal to double the budget of NIST's internal laboratory program over the next 5 years, I hope that the administration also will work with us to expand further the external programs created in the 1988 law.

RELATED ISSUES

Several important issues have arisen in the review of this bill. First, this bill, like an earlier version reported during the last Congress, requires companies to meet certain basic criteria before becoming eligible to apply for funding under NIST's ATP. All companies, whether domestically owned or foreign owned, must have investments in the United States and must employ Americans. In addition, a foreign-owned company must demonstrate that its government offers comparable access and intellectual property protection to American firms. I feel strongly that in exchange for being eligible to receive taxpayer funds, any company, whether domestic or foreign, must meet these basic conditions.

Second, the bill raises the important issue of manufacturing and manufacturing technology. Having the finest new inventions in the world is not enough unless American companies can use such inventions to successfully manufacture products—and manufacture them with quality, speed, and at competitive prices. The United States remains an accomplished manufacturing country, but we are not doing as well as we should. We seriously lag the Japanese, for example, in adopting new manufacturing technologies. NIST already does much to help industry develop and deploy new manufacturing technologies and techniques, but more needs to be done. For that reason, on June 19 of this year I, along with Senator GORE and several of our colleagues, introduced S. 1330, a bill to expand DOC's programs to assist U.S. manufacturing. The Commerce Committee approved this new bill on October 3. S. 1330 complements S. 1034, and I intend to seek full Senate consideration of that bill soon.

Third, the substitute deletes a provision in the reported bill concerning NIST's personnel system. The personnel provision is no longer needed. It had been included in the bill in order to extend a personnel demonstration project at NIST, an experiment which has given the agency great flexibility in hiring new scientists and engineers and which is providing valuable information to the Office of Personnel Management [OPM]. OPM, however, has been conducting its own review of the NIST program and has now decided to grant an administrative extension of the project through September 30, 1995. Thus, no legislative extension is necessary.

The OPM decision comes with the encouragement and approval of the chairman and ranking Member of the Committee on Governmental Affairs, Mr. GLENN and Mr. ROTH, and the chairman and ranking member of the Subcommittee on Federal Services, Post Office, and Civil Service, Mr. PRYOR and Mr. STEVENS. I am grateful to them for their assistance in this matter. I will ask unanimous consent that the extension letter from OPM be printed at the conclusion of my remarks.

Lastly, the proposed substitute drops all ATP loan and recoupment proposals. Congressman MINETA, Senator ROCKEFELLER, and I all support creating a $10 million pilot loan program, in affiliation with the ATP, to help companies refine and demonstrate the feasibility of new products and processes. This work would still be pre-competitive; we are not talking about subsidizing the manufacture of products. Nonetheless, the White House strongly opposes the provision. In the interest of passing the bill, we will drop the provision for now. The proposed substitute now before the Senate also drops a loan provision in the House-passed bill. This recoupment provision would require all organizations which make money from ATP-assisted inventions to reimburse the Government. There is concern that turning the entire ATP effort into a loan program would place a great regulatory burden on ATP winners and deter applications. In addition, the administration opposes the recoupment provision. For these reasons, we have not included this provision in the proposed substitute before the Senate.

CONCLUSION

In closing, Mr. President, I thank my colleagues who have worked with me on this legislation, including both the members of the Commerce Committee and the distinguished chairman and members of the House Committee on Science, Space, and Technology. I also want to thank the growing number of associations and companies which have provided suggestions and support. I especially want to express my appreciation to the new Advanced Technology Coalition, which includes groups such as the American Electronics Association, manufacturing organizations, and the Industrial Union Department of the AFL–CIO. I commend these organizations for their vision of a country that does not have to settle for second-best technology and stagnating wages, a country where government, industry, and labor can work together to promote economic growth.

This bill should have the support of everyone—we can never do too much to promote U.S. economic competitiveness. When I served as South Carolina's Governor, economic development was my highest priority, and this legislation represents my continued commitment to this issue. I look forward to working with my colleagues and administration officials as we proceed with this and other important technology legislation.

Mr. President, this is a sound and important bill, and I urge our colleagues to support it.

I ask unanimous consent that the letter from OPM that I referred to earlier be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. OFFICE OF
PERSONNEL MANAGEMENT,
Washington, DC, October 7, 1991.

Mr. JOHN W. LYONS,
Director, National Institute of Standards and Technology, Gaithersburg, MD.

DEAR MR. LYONS: This is in response to your letter of August 23, 1991, regarding the National Institute of Standards and Technology (NIST) personnel management demonstration project. Your letter requests an extension of the project, which is scheduled to end on December 30, 1992.

OPM's statutory authority to continue a demonstration project beyond 5 years is limited. Title 5 of the United States Code, which sets the 5-year time limit on all demonstration projects, grants OPM the authority to extend a project "to the extent necessary to validate the results of the project" [5 U.S.C. 4703(d)(1)(B)].

Significant changes to the NIST performance management system have been implemented this year, and we agree that they cannot be fully evaluated within the original 5-year timeframe. Therefore, we are extending the NIST demonstration project until September 30, 1995.

Because, in our opinion, the Total Compensation Comparability (TCC) component of the demonstration project does not warrant further evalnation, the TCC report as described in Section 10(c) of Public Law 99–574 need not be included in the extension.

One effect of this extension will be increased evaluation costs for OPM. We anticipate at least two additional reports and additional expenses of approximately $700,000. In light of the fact that we would not extend the costly TCC report requirement, we would appreciate NIST making a contribution to the cost of the extended evaluation. We commend you on your commitment to innovation and hope that the NIST project will continue to make positive contributions to our efforts to improve Federal human resources management.

My staff will contact your staff regarding the appropriate public notification requirements for the extension.

Sincerely,
CONSTANCE BERRY NEWMAN,
Director.

Mr. GORE. Mr. President, as chairman of the Subcommittee on Science, Technology, and Space I want to express my strong support for the bill now before the Senate, S. 1034, the American Technology Preeminence Act of 1991. This bill provides needed reauthorizations and a strong congressional endorsement for the technology programs of the Department of Commerce [DOC].

All of us in the Senate know that the American economy is lagging, that American companies are losing market share in many sectors, and that American wages are stagnating even in manufacturing and high technology. Americans now face the most intense world economic contest in our history, and every middle-class American family is now feeling the chill from our Nation's lagging economic performance. As a

country, all of us—business leaders, workers, academia, and government—must work together to restore American economic competitiveness and long-term national growth.

S. 1034 is a modest but badly needed step in the right direction. At a time when the U.S. Government spends only 0.2 percent of its $70 billion annual research and development budget to promote industrial development, this bill expands DOC's support for industry-led efforts to develop and deploy important commercial technologies. The bill will help industry develop new basic technologies in such critical areas as intelligent manufacturing, superconductivity, semiconductors, fiber optics, high-resolution systems, and biotechnology. According to DOC's own estimate, products based on these and other key emerging technologies will, by the year 2000, generate $1 trillion in worldwide annual sales. These technologies will shape the future, and the United States cannot afford to be the loser.

Mr. President, I am pleased to join Chairman HOLLINGS in proposing this bill to the full Senate. It deserves speedy passage.

Mr. ROCKEFELLER. Mr. President, I really regret that the minority, on behalf of the President, has objected to even considering the amendment I had intended to offer to this bill. It would have been an important step toward restoring America's competitiveness. It would have presented us with a choice. Do we want to continue to focus the Government's efforts on behalf of critical technologies exclusively on R&D, or do we want to help turn our R&D support into an engine that leads to manufacturing and jobs our economy desperately needs? Federal research support is critical to innovation. We all support that. But competitiveness means being able to move those innovations from the showcase to the market place by translating them into products, into efficient production, and into jobs.

The amendment is simple. It would authorize the Commerce Department's Technology Administration to provide long-term, relatively low-cost loans to U.S. companies to develop and commercialize critical technologies. The program is intended for small and medium sized companies and would focus in such areas as electronics, biotechnology, and advanced materials.

Since the amendment would simply redirect a small portion of the money authorized for the National Institute of Standards and Technology's (NIST) Advanced Technology Program, which is a research program, it would not provide for new budget authority or additional outlays. I estimate that, under credit reform, this $10 million allocation would support a loan program of $50–100 million.

The reasoning behind this amendment is equally straightforward. It is designed to refocus Federal efforts on what we don't do well, and there is no shortage of experts who have come to the conclusion that that is precisely what we need. Even the administration's technology experts make the same point, acknowledging the problem at the same time he opposed doing anything about it:

> The U.S. is a leader in research on advanced manufacturing technology, but slower with respect to its development, deployment and use.

Thus, Mr. President, for many of us the debate on these issues is over and the solution clear. The President, apparently, still does not get it. I had hoped to use the opportunity of this amendment to try to persuade him that the Government needs to show some leadership on technology commercialization, but the minority has prevented that debate from taking place.

In the interest of getting the NIST authorization enacted—because it is an important bill—I am not going to press the amendment at this point. But I want to say very clearly that I will be back early next year. I hope the chairman of the committee will join me in requesting a study of this problem by the General Accounting Office so that we can make even more clear to those who apparently have not gotten the message why commercialization assistance is so important.

I also want Senators to know early that this will be an issue early next year on an appropriate vehicle. We have wasted 10 years on the foolish assumption that the private sector can solve this problem on its own. By the time the President learns the futility of that strategy, there will be no one left to save.

It is ironic that the administration's blindness extends only to industry. Just last year Congress passed and the President signed a farm bill containing an agricilture commercialization loan program very similar to what I intended to propose today. The administration did not seem to have any problem with that—indeed its author, then-Representative Madigan has moved onto bigger and better things in the administration.

Mr. President, we should rise to the challenge again. The erosion of our manufacturing and critical technology base is accelerating. It directly jeopardizes our national security and our ability to retain the world's economic leadership, which is increasingly the key element of national security. If we cannot compete globally in economic terms then we will not be able to sustain our foreign policy objectives either. We will simply have no credibility. That is why I will return with this issue in 1992. And that is why ultimately those of us who care about competitiveness will win.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of the House companion, H.R. 1989; that the Senate proceed to its immediate consideration; all after the enacting clause be stricken, the text of S. 1034, as amended, be substituted in lieu thereof; that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that S. 1034 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1989), as amended was deemed read a third time, and passed.

PATENT AND TRADEMARK OFFICE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3531, the Patent and Trademark Office Authorization Act of 1991 just received from the House, that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3531) was deemed read three times and passed.

Mr. BIDEN. Included in the Patent and Trademark Office authorization bill is a provision modifying the authority of the Commissioner of the Office. I authored this provision and believe it represents a needed change in the operations of the Office.

The provision I authored will allow the Commissioner greater authority to establish programs to help inventors demonstrate the characteristics of their patented products. The authority is rather broad, and the Commissioner is expected to assure that any new programs operate within the broader mission of the PTO. However, within that mission, there is a great deal that could be done, in a cost effective method, to help inventors.

This new authority reflects technological changes that have taken place over the years and the type of products that are of increasing importance to our economic strength. For example, under existing authority the Commissioner is limited to creating libraries to disseminate patent information. But there are limits to what can be shown on paper, or more recently computer, files on patents. The information is detailed to be sure, but the Patent and Trademark Office can help create more practical demonstrations of new products without treading upon its neutral role in patent proceedings. That is the opportunity this new authority presents.

To illustrate, PTO will now have the authority to create laboratories with equipment appropriate to demonstrating the characteristics of a particular technology, advanced ceramics or composite materials for example. The laboratories would not advocate any particular product and would be available to all who could make use of the equipment. A laboratory of this type would be of tremendous assistance to smaller companies, allowing them access to machinery and customers that they might not otherwise have. This would be a step beyond the library system that exists now, but is far short of an advocacy role that PTO must avoid.

The market for most companies is not just starting to become international, it is well into that transition. It is an intensely competitive market, in which American companies need all the information they can get to remain in the forefront of developments in their industry. The new authority of the Commissioner will increase the dissemination of patent information, but in a way that is of much greater utility to inventors and customers.

I would like to thank the chairman of the Patents, Copyrights and Trademarks Subcommittee, Mr. DECONCINI, for his assistance and cooperation in seeing this provision included in the authorization bill. I also look forward to working with the Commissioner of the Patents and Trademark Office in putting this new authority to the fullest use possible.

CORRECTION OF H.R. 3531

Mr. FORD. Mr. President, I now send to the desk on behalf of Senator DECONCINI a correcting resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 85) to correct a technical error in the enrollment of the bill H.R. 3531, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 85) was agreed to.

(The text of Senate Concurrent Resolution, 85 as agreed to, will be printed in a future edition of the RECORD.)

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1392 regarding telemarketing fraud; that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1392) to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with the telephone, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1460

Mr. FORD. Mr. President, I send an amendment by Senator BRYAN to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Kentucky [Mr. FORD], for Mr. BRYAN, proposes an amendment numbered 1460.
>
> On page 4, strike "or" on line 5, strike "(C)" on line 6 and insert in lieu thereof "(D)", and insert between lines 5 and 6 the following:
>
> (C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1460) was agreed to.

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRYAN. Mr. President, I am pleased that the Senate is considering S. 1392, the Telemarketing Consumer Fraud and Abuse Prevention Act. I also ask that a technical amendment correcting an inadvertent omission in one of the definitions in the bill as introduced be included in the Senate's consideration of this bill.

I believe telemarketing fraud is a serious problem that deserves immediate attention. This legislation, with one clarifying addition, already passed the Senate in June of this year as an amendment to the crime bill. Unfortunately, the crime bill conferees were not able to reach agreement on the measure given the short time constraints of the crime bill conference. I believe we need to move as expeditiously as possible to complete work on this legislation in this Congress, and am pleased that the Senate is considering the bill as a freestanding measure.

Telephone sales have become an important part of American business and, when properly carried out, are a convenience to consumers, allowing them to shop at home. However, telemarketing fraud is the deceptive peddling of goods and services over the telephone. Typically, a consumer is contacted and offered goods and services at discount prices or of a nature "too good to be true." Payment is generally required in advance, often by credit card. When the goods or services arrive, the consumer finds that the bargain doesn't exist, or is not of the promised value. A related problem is the abuse of the telemarketing process by telephone calls that are made at unreasonable hours, by machines that cannot be disconnected by the person called, or utilizing other techniques of harassment.

As telephone sales have become an increasingly popular and convenient way for consumers to purchase goods and services, it is, perhaps, inevitable that unscrupulous individuals will utilize the system to defraud consumers. Testimony before the Consumer Subcommittee, which I chair, has indicated that telemarketing fraud is costing American consumers at least $1 billion per year. On a more personal scale, the subcommittee has received testimony from citizens of my own State of Nevada describing fraudulent practices that threatened to deprive unsuspecting citizens of their life savings.

Telemarketing fraud is indeed a national problem, although some States, including my State of Nevada, often become havens for such activity. I am pleased that the State government in Nevada has taken what appear to be very successful steps to address this problem at the State level. However, because the fraudulent activity often is conducted across State lines, the States and the Federal Government must work together on this issue to develop an effective solution. I know that the Federal Trade Commission and the State attorneys general have begun this process by instituting a joint databank to share information about telemarketing fraud trends. The bill we

are considering today is an effort to further that cooperation and to maximize consumer protection.

The bill would require the Federal Trade Commission to promulgate specific rules governing telemarketing activity, including a definition of telemarketing fraud, which would be prohibited by the act. The bill also contains a definition of "credit card laundering" which would be included in the telemarketing fraud prevented by the bill. Credit card laundering is the practice of submitting credit card charges through legitimate merchants in order to hide the identity of the fraudulent telemarketer. In addition to the losses suffered by consumers due to fraud, both the legitimate merchants and the credit card companies may end up taking significant losses as a result of this practice.

Other areas in which the FTC would be required to consider rulemaking include a cooling off period in which consumers could rescind telephone purchases; a requirement that delivery of goods ordered be made within a specified time period; restrictions on the hours and types of machines that can be used to made telemarketing calls, and recordkeeping requirements.

Additionally, the bill would permit the States and the FTC to work together to enforce the Federal law, by permitting the State attorneys general to bring suit under the Federal law. The States would have to notify the FTC of such actions, and the FTC would have the absolute right to intervene in such actions. Because some States, like Nevada, have enacted State laws to address this problem, my bill would provide for the continued applicability of that State law upon application to the FTC.

The bill would also permit actions by private parties to enforce the Federal law, but only when the amount in controversy exceeds $50,000. This provision is intended to provide for maximum enforcement of the law, but to prevent frivolous and unnecessarily burdensome lawsuits.

Finally, the bill would provide for expanded venue and service of process for those enforcing the law. This will address the problem that currently exists when fraudulent telemarketers move their operations rapidly across State lines to avoid enforcement.

Mr. President, telemarketing fraud is a difficult problem, and finding a legislative solution is challenging. I believe that this bill strikes the proper balance between Federal and State enforcement, and between the needs of legitimate telemarketers and the fullest protection of consumers. I urge my colleagues to support me and the bill's cosponsor, my Commerce Committee colleague Senator MCCAIN, in enacting this legislation.

Mr. President, I ask unanimous consent that the text of the bill and technical amendment be printed in the RECORD.

Mr. MCCAIN. Mr. President, telemarketing is one of the fastest growing industries in the United States. This industry has provided American consumers greater options for obtaining information, entertainment, and home shopping opportunities. A great many of these telemarketing companies are legitimate, and operated by honest businessmen and women. Unfortunately, the expansion of the industry has also led to the emergence of telemarketing and consumer fraud.

Consumer fraud has been the focus of my attention for some time, particularly the issues of health and consumer fraud targeted at the elderly. On March 16, 1988, I testified before the Federal Trade Commission [FTC] on the issue of fraud and the elderly. On that occasion, I spoke of my concerns about the increase in cases of health care and consumer fraud by scam operators who prey on the vulnerability of senior citizens, leaving behind unsatisfied, and in some cases, physically harmed seniors who relied on fraudulent products and health care schemes. Later that year, I introduced S. 2326, the Consumer Fraud Prevention Act. The following year, in 1989, I introduced S. 1441, which incorporated S. 2326. Sharing the same concerns as I have about consumer abuse, my colleague from Nevada, Senator BRYAN, introduced S. 2494, the Telemarketing Fraud and Abuse Prevention Act, in the last session of Congress. I was very pleased to have worked with him on a compromise which consolidates both of our bills, and our efforts were embodied in S. 2494, the Telemarketing and Consumer Fraud and Abuse Protection Act, which was passed in the Senate by unanimous consent in the fall of 1991.

I am pleased to be working with Senator BRYAN again this Congress in sponsoring S. 1392. This legislation is identical to S. 2494 with one exception. S. 1392 prohibits credit card laundering, a technique frequently used by those peddling worthless goods to increase sales.

Telemarketing and consumer fraud cost American taxpayers tens of billions of dollars per year, and, in the case of health fraud, can cost lives as well. Such fraud is often committed by individuals who escape legal action by dismantling their operation and relocating to begin the operation again. In the cases of these boilerroom scams, both the victims and the perpetrators are difficult to locate since the operations often consist of nothing more than phone banks which do not readily provide detailed evidence of illegal activity.

There are several areas of fraud to which the elderly are particularly susceptible.

One area, health fraud, is one of our Nation's leading consumer fraud and health care problems. Older Americans as a group experience deteriorating health and a greater number of terminal illnesses than the rest of the population. In searching for a way to prolong life and combat illness, the elderly are prone to believe the claims of scam operators.

Health care fraud can be life-threatening. In some cases, the so-called cure may be deadly as well. In other cases, the product may be harmless, but a victim may be led to choose the product for treatment of an illness instead of a physician-recommended course of treatment. Again, the result could be quite serious.

Not only is such fraud dangerous to the consumer's health, it is also costly. Current projections by the National Council Against Health Fraud indicate that this activity is costing Americans close to $25 billion per year.

A few examples from my own State of Arizona illustrate the magnitude of the problem.

An advertisement was placed in the Arizona Republic and Phoenix Gazette newspapers that read: "Alzheimers' disease—symptoms of senility. At last—now there is hope! Call [this number] for help. Free—no charges—no fees."

Another case involved a phony cancer cure called Tumorex. The ad read:

> Cancer patients undergo a six-day therapy of daily tumorex injections administered by a licensed M.D. or R.N. This is augmented by amino acid capsules taken ½ hour before each meal. Treatment is given Monday through Saturday. Any enzyme program must be discontinued 24 hours before the first day of treatment. In most cases, six days of treatment are sufficient; however, 12 days or more are required for some severe cases. Colon cleansing is important before treatment and imperative after treatment. $2,500 includes the 6- or 12-day treatment, and transportation (meals and lodging not included). We suggest cashier's or traveler's checks, however, MasterCard and Visa are acceptable.

Mr. President, Tumorex is really the amino acid L-Arginine, which can be purchased at local health food stores at a cost of $5.50 for 100 tablets.

A second issue of particular concern to older Americans is consumer fraud via the television or telephone. Consumer items for purchase, and medical and health services are commonly marketed in this manner. These sellers, and their merchandise, appear legitimate on the surface. The consumer often loses, however, by not receiving the ordered item, receiving a copy rather than an authentic item, or by suffering some financial or health loss.

One example of this type of telemarketing scam in Arizona involved a nationwide, shop-at-home program. This program, which was aired over nationwide television, involved a listing of various items for sale. The money for these items was sent to the company which, in turn, cashed the checks and never delivered the merchandise. The operation generated over 1,300 complaints.

A third area of great concern is that of life care communities, some of which cause the elderly to suffer financial loss as a result of fraud or mismanagement. While life care communities can be a practical solution to the problem of assuring constant care for the elderly, there have been several occasions where senior citizens have lost their investments due to fraud or mismanagement. This has occurred in the misrepresentation of financial risks, mortgage-lender's interests in the life care community, and the misuse of the entrance fee financing.

The structure of the life care industry facilitates such abuses, and it is time that we take a close look at the industry's practices and ensure that life care communities remain safe alternatives for senior citizens.

Another area of fraud that is emerging as a great threat to both consumers and the banking community is that of credit card laundering in telemarketing. This is exemplified by the situation where a fraudulent telemarketer uses the credit card privileges of a merchant to obtain legitimate credit card drafts as records of transactions to receive payment from the unsuspecting customer's bank.

Consumers fall prey to the attractive descriptions of an item by a telemarketer, and provide their credit card members to the so-called seller. The telemarketer then submits that number to a willing merchant with legitimate credit card privileges, who submits the credit card drafts to the corresponding bank. This activity often results in a customer not receiving the item or receiving any item which is different from the promised item. An additional effect on the banking institutions is that, upon receiving the complaint from the consumer, or upon acquiring the accounts of telemarketing merchants who went out of business, the institutions must settle the chargebacks against their own accounts when the merchants are unable to pay them.

This exact scenario played out in my State of Arizona. On February 15, 1990, Gateway National Bank in Phoenix was declared insolvent by the Office of the Comptroller of the Currency. Just 1 year prior to insolvency Gateway, claimed assets of $11 million. One of the main reasons attributed to its demise was the overwhelming number of chargebacks the bank had to absorb because of merchants' failure to pay. These chargebacks ate away at the bank's equity capital, depleting it so as to render the bank insolvent.

The message here is clear: With credit card fraud, the consumer and the banking community are the big losers.

In addressing these many issues, this legislation would combat telemarketing, consumer and credit card fraud in the following ways:

It offers a solution to the problems facing law enforcement officers working toward bringing scam operators to justice, by expanding the venue and service of process provisions in the Federal Trade Commission Act. Thus, authorities will be permitted to summon and serve process upon any party, regardless of where they live or conduct business. This way, law enforcement officials will be able to bring scam operators to justice even if they have packed up their operation.

Next, it enhances the enforcement authority of the Federal Trade Commission [FTC] by amending the Right to Financial Privacy Act of 1978 to permit access to financial records of consumer fraud suspects, without providing advance notice to the suspects, with court approval, if the FTC can show that the funds are likely to disappear during an investigation.

Further, it identifies credit card laundering as a fraudulent telemarketing act or practice.

This legislation offers protection to consumers against telemarketing fraud and abuse by requiring the FTC to develop telemarketing rules protecting consumers. The rules would include: First, refunds for untimely delivery of goods or services; second, order cancellations; third, time restrictions on unsolicited sales calls; fourth, a prohibition on the use of equipment that does not allow the person called to hang up and disconnect the call immediately; and fifth, requirements for proper recordkeeping for the purposes of establishing evidence of proper business practices. The bill also directs the FTC to promulgate a rule to combat fraudulent telemarketing acts and practices. This rule is intended to be flexible in order to reflect on the changing nature of these illegal practices. These provisions would protect unsuspecting consumers from both unwelcome, and unsolicited goods or services, and, more importantly, fraud.

Further, it will allow enforcement assistance by the States by permitting State attorney's general to enforce the proposed FTC telemarketing rules after first notifying the Commission. After receiving a copy of the State's complaint, the Commission may intervene as a matter of right in the proceeding. This provision assures joint enforcement efforts by both State and Federal authorities without precluding one or the other.

Next, it permits private individuals to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorney's general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorney's general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to a 5-year sunset clause, at which time they will cease to be effective. This will allow Congress the opportunity to evaluate the reasonableness and effectiveness of the telemarking fraud and enforcement rules before continuing them indefinitely.

Another important provision amends the Federal Trade Commission Act to clearly set forth that it is unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health care or home repair services. This provision addresses the problems and dangers of health care fraud by further amending the Federal Trade Commission Act to expand the definition of "physical evidence" for the purposes of bringing these cases to court. The definition of "physical evidence" should be expanded to include services, as well as medical devices, food products, nutritional or cosmetic products, or audio or video recordings, all things which are often pivotal evidence in consumer fraud cases generally, and health care fraud in particular.

It also permits the FTC to bring an action for criminal contempt for violation of an FTC order, it is presently authorized to institute a proceeding for civil contempt.

In addition, the legislation further requires the FTC to establish a clearinghouse for telemarketing inquiries to be made available to the public.

Finally, it requires the FTC to conduct a study of unfair or deceptive acts or practices in the life care home industry and report to Congress on the results of that study. This would be a starting point toward ensuring that the elderly are not misled when choosing a life care community, and can feel confident when making this very important decision.

Mr. President, this legislation is an important step toward minimizing the practice of telemarketing, consumer, and credit card fraud, and helps protect senior citizens in particular, who are all too often targeted as victims of fraud, and I ask for the support of my colleagues on this important legislation.

The PRESIDING OFFICER. The quesion is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

S. 1392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "attorney general" means the chief legal officer of a State;

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

TELEMARKETING RULES

SEC. 3. (a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) PROHIBITION OF FRAUDULENT TELEMARKETING ACTS OR PRACTICES.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT ON STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 4. (a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OF PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

ACTIONS BROUGHT BY PRIVATE PERSONS

SEC. 5. (a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution membere is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have ex-

clusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such case may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

VENUE

SEC. 6. Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SUBPOENA

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b–1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

FALSE ADVERTISEMENTS CONCERNING SERVICES

SEC. 8. Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

CLEARINGHOUSE

SEC. 9. The Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquiries respecting persons engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

FINANCIAL DATA

SEC. 10. Section 1109(a)(3) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409(a)(3)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reason of having been obtained in violation of law; or".

CRIMINAL CONTEMPT AUTHORITY

SEC. 11. Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

ADMINISTRATION AND APPLICABILITY OF ACT

SEC. 12. (a) ENFORCEMENT.—Except as otherwise provided in sections 4 and 5 of this Act, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EXEMPTION.—(1) No provision of this Act shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this Act shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a) (4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(36)).

LIFE CARE HOME STUDY

SEC. 13. (a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SUNSET

SEC. 14. The provisions of sections 3, 4, and 5 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEW YORK CITY ZEBRA MUSSEL MONITORING ACT OF 1991

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 274, S. 36, relating to zebra mussel monitoring.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 36) entitled "New York City Zebra Mussel Monitoring Act of 1991."

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are printed in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 36

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 101. SHORT TITLE.

This title may be cited as the "New York City Zebra Mussel Monitoring Act".

SEC. 102. DEFINITIONS.

For the purposes of this Act:

(a) The term "Secretary" means the Assistant Secretary of the Army for Civil Works.

(b) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(c) The term "Zebra Mussel" means the species Dreissena polymorpha.

SEC. 103. FINDINGS.

The Congress finds that—

(1) New York City has operated a public water supply system since the late 1700's:

(2) the current water supply system supplies over 95 per centum of all water used in New York City, providing service to millions of residents;

(3) the water supply system obtains its water from three upstate reservoir systems: the Croton, Catskill, and Delaware systems, which include eighteen reservoirs and three controlled lakes;

(4) it is likely that within the coming two decades, the zebra mussel will have infested the entire surface water system of the United States and Canada and that this migration is irreversible and cannot be quarantined; and

(5) introduction of the zebra mussel into the New York City water supply system posses a unique public health threat to millions of citizens.

SEC. 104. PURPOSE.

The purpose of this Act is to establish a program of monitoring and technological development to prevent the introduction and subsequent infestation of Zebra Mussels into the New York City water supply system.

SEC. 105. MONITORING AND PREVENTION.

(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the City of New York, shall—

(1) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system.

(2) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(3) provide technical assistance to the State of New York and the City of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

SEC. 106. COST SHARING.

The Secretary shall not initiate any monitoring, prevention, and or technical assistance project or program under section 105 until appropriate non-Federal interests agree, by contract, to contribute 25 per centum of the cost for such projects during the period of such projects.

SEC. [106] ***107.*** **AUTHORIZATION OF APPROPRIATIONS.**

(a) For the purposes of carrying out section 105 of this Act, there is authorized to be appropriated to the Secretary of the Army $2,000,000 for each fiscal years 1991, 1992, 1993, 1994, and 1995. Such sums shall remain available until expended.

AMENDMENT NO. 1461

(Purpose: To control certain exotic aquatic organisms)

Mr. FORD. Mr. President, on behalf of Senator GLENN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. GLENN, for himself, Mr. KASTEN, Mr. KOHL, Mr. LEVIN, and Mr. DIXON, proposes an amendment numbered 1461.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following section:

SEC. . EXOTIC AQUATIC ORGANISMS.

(a) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary, in consultation with the Task Force—

"(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18 o/oo, and

"(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes."

"(b) SHIPPING STUDY.—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking "other than" and inserting "including".

Mr. GLENN. Mr. President, I rise today to offer an amendment to S. 36, the New York City Zebra Mussel Monitoring Act. I am joined in offering this amendment by Senator KASTEN, and several others from the Senate Great Lakes Task Force, including Senators DIXON, KOHL, and LEVIN. This important amendment expands the geographic scope of the Nonindigenous Aquatic Nuisance Prevention Program contained in Public Law 101–646, the Non-Indigenous Aquatic Nuisance Prevention and Control Act of 1990, to include additional freshwater conduits of exotic species into the Great Lakes.

Title I of the Public Law 101–646, signed into law last year, is a program to prevent exotic species from entering the Great Lakes. As you know, the zebra mussel provides an example of how devastating and destructive nonindigenous species can be. Since it initially established itself in the basin—probably around 5 years ago—the zebra mussel has spread to all five

VOL
137
PT
24
NO
26
1991
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1992
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Great Lakes. It has already wreaked havoc on the ecology and economy of certain portions of the region, including the Ohio shore of Lake Erie. This mollusk from Eastern Europe is crowding out native species of freshwater clams, and has changed the complexion of Great Lakes beaches. In addition, it is costing raw water users in the basin millions of dollars in removal and cleaning costs. Moreover, the zebra mussel is not going to stop with the Great Lakes. It threatens to spread to two-thirds of the Nation's fresh water.

While we manage the problem that is already here, let's prevent the next one from arising. The next nonindigenous invader could be even more destructive than the zebra mussel. Fortunately, prevention is possible. All that is needed to substantially reduce the probability of another infestation by a nonindigenous species is a minimal amount of ballast management by incoming ships, the leading vector of nonindigenous aquatic species.

The prevention program in Public Law 101–646 currently requires that any ship en route to a Great Lakes port from a point of origin outside the U.S. exclusive economic zone must exchange its ballast water in the high seas—with due regard for safety. At the time the bill was passed, it was believed that ships passing through the St. Lawrence Seaway to Great Lakes ports were the sole avenues of entry for nonindigenous hitch-hikers. However, current research shows that nine nonindigenous species have entered the Great Lakes from the Hudson River—via the Erie Canal. These species include such noxious pests as the sea lamprey, the white perch, and the alewife. As a result, ballast dumping at Hudson River ports such as Albany, as well as ports within other connecting freshwater systems, may also threaten the Great Lakes.

The Great Lakes Fishery Commission has recommended that the prevention program established in Public Law 101–646 to protect the Great Lakes be extended to include ships destined for ports on the Hudson River and other freshwater systems connected to the Great Lakes, as needed. The Coast Guard, which is the lead agency responsible for implementing the program, stated that it would need additional statutory authority to expand the geographic scope of its program.

My amendment requires that the Coast Guard extend its ballast management regulations to include ships destined for ports on the Hudson River, and provides statutory authority to the Coast Guard to further increase the geographic scope of the program as needed to protect the Great Lakes from nonindigenous invaders. It also requires that the shipping study required by Public Law 101–646 include an assessment of the need for ballast controls on vessels entering ports other than Great Lakes ports as a measure to protect the Great Lakes from unintentional introductions of these species.

I wish to thank my colleagues on the Senate Great Lakes Task Force, especially Senator MOYNIHAN and Senator KASTEN, for their support and involvement in this effort. Senator MOYNIHAN's continuing interest in aggressively managing the zebra mussel problem will greatly reduce the cost that infestations by nonindigenous species invariably impose. Senator KASTEN, a member of the Commerce Committee of the Senate, has been a key supporter of forward-thinking prevention efforts. I urge adoption of this amendment.

Mr. HOLLINGS. Mr. President, I rise today to discuss an amendment that is being offered to S. 36, the New York City Zebra Mussel Monitoring Act of 1991. I am speaking of the amendment sponsored by Senators GLENN, KASTEN, DIXON, KOHL, and LEVIN. As such, I would appreciate it if my good friend and chairman of the Committee on Environment and Public Works, Mr. BURDICK, would be willing to discuss the provision.

Mr. BURDICK. Mr. President, it would be a pleasure to discuss this matter with the Senator from South Carolina, the distinguished chairman of the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. I have carefully reviewed S. 36, the New York City Zebra Mussel Monitoring Act of 1991. The legislation directs the Army Corps of Engineers, in consultation with the Environmental Protection Agency and the city of New York, to develop zebra mussel monitoring and removal programs for the New York City water supply system. I congratulate the chairman for the committee's fine work on this important legislation.

Further, let me state that in reviewing the reported bill, I believe it is entirely within the jurisdiction of the Committee on Environment and Public Works. However, the amendment that Senator GLENN and others are offering addresses Coast Guard regulation of marine and ocean navigation and safety. As such, the amendment falls within the jurisdiction of the Committee on Commerce, Science, and Transportation. Nonetheless, I strongly support the provision and urge the chairman to accept it. It will strengthen the Nonindigenous Aquatic Nuisance Prevention and Control Act on which our committees worked last year.

Mr. BURDICK. I agree with the chairman of the Commerce, Science, and Transportation Committee regarding the jurisdictional matters and welcome his support of the legislation. I also support Senator GLENN's amendment and believe it should be adopted.

Mr. HOLLINGS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1461) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

S. 36

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 101. SHORT TITLE.

This title may be cited as the "New York City Zebra Mussel Monitoring Act".

SEC. 102. DEFINITIONS.

For the purposes of this Act:

(a) The term "Secretary" means the Assistant Secretary of the Army for Civil Works.

(b) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(c) The term "Zebra Mussel" means the species Dreissena polymorpha.

SEC. 103. FINDINGS.

The Congress finds that—

(1) New York City has operated a public water supply system since the late 1700's;

(2) the current water supply system supplies over 95 per centum of all water used in New York City, providing service to millions of residents;

(3) the water supply system obtains its water from three upstate reservoir systems: the Croton, Catskill, and Delaware systems, which include eighteen reservoirs and three controlled lakes;

(4) it is likely that within the coming two decades, the zebra mussel will have infested the entire surface water system of the United States and Canada and that this migration is irreversible and cannot be quarantined; and

(5) introduction of the zebra mussel into the New York City water supply system poses a unique public health threat to millions of citizens.

SEC. 104. PURPOSE.

The purpose of this Act is to establish a program of monitoring and technological development to prevent the introduction and subsequent infestation of Zebra Mussels into the New York City water supply system.

SEC. 105. MONITORING AND PREVENTION.

(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the City of New York, shall—

(1) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system.

(2) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(3) provide technical assistance to the State of New York and the City of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

SEC. 106. COST SHARING.

The Secretary shall not initiate any monitoring, prevention, and or technical assistance project or program under section 105 until appropriate non-Federal interests agree, by contract, to contribute 25 per centum of the cost for such projects during the period of such projects.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purposes of carrying out section 105 of this Act, there is authorized to be appropriated to the Secretary of the Army $2,000,000 for each fiscal years 1991, 1992, 1993, 1994, and 1995. Such sums shall remain available until expended.

SEC. 108. EXOTIC AQUATIC ORGANISMS.

(a) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary, in consultation with the Task Force—

"(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18 o/oo, and

"(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes."

(b) SHIPPING STUDY.—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act, of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking "other than" and inserting "including."

Mr. FORD. I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEZ PERCE HISTORICAL PARK

Mr. FORD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 2032 regarding the Nez Perce Historical Park and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2032) to amend the act of 1965 authorizing historic park in the State of Idaho, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1462

Mr. FORD. Mr. President on behalf of Senators BUMPERS and CRAIG, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BUMPERS, for himself and Mr. CRAIG, proposes an amendment numbered 1462.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 26, strike "and".

On page 3, line 1, strike "Montana;" and insert in lieu thereof: "Montana; and (13) Hasotino Village, Idaho;".

On page 3, lines 12 through 25, strike paragraph (3) in its entirety and insert in lieu thereof:

"(3) In section 3, strike the proviso in the first sentence and insert in lieu thereof, ": Provided, That lands or interests therein owned by a State or a political subdivision of a State may be acquired only by donation or exchange: Provided further, That with respect to sites designated as components of the Nez Perce National Historical Park after November 1, 1991, no lands or interests therein, or other property, may be acquired without the consent of the owner thereof.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1462) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 2032), as amended, was passed.

Mr. FORD. I move to reconsider the vote by which the bill as amended, was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TELEPHONE CONSUMER PROTECTION ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1462.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1462) entitled "An Act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment", do pass with the following amendment: Strike out all after the enacting clause, and insert:

S. 1462

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Consumer Protection Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals' privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, consistent with the free speech protections embodied in the First Amendment of the Constitution.

(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) AMENDMENT.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person's prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) Restrictions on the Use of Automated Telephone Equipment.—

"(1) Prohibitions.—It shall be unlawful for any person within the United States—

"(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

"(i) to any emergency telephone line (including any '911' line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

"(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

"(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

"(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Commission under paragraph (2)(B);

"(C) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine; or

"(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

"(2) Regulations; exemptions and other provisions.—The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

"(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent; and

"(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

"(i) calls that are not made for a commercial purpose; and

"(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

"(I) will not adversely affect the privacy rights that this section is intended to protect; and

"(II) do not include the transmission of any unsolicited advertisement.

"(3) Private right of action.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

"(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(c) Protection of Subscriber Privacy Rights.—

"(1) Rulemaking proceeding required.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific 'do not call' systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

"(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

"(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) Regulations.—Not later than 9 months after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) Use of database permitted.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

"(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) Considerations required for use of database method.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(5) Private right of action.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

"(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(6) Relation to subsection (b).—The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

"(d) Technical and Procedural Standards.—

"(1) Prohibition.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

"(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

"(2) Telephone facsimile machines.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after one year after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual.

"(3) Artificial or prerecorded voice systems.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(e) Effect on State Law.—

"(1) State Law Not Preempted.—Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

"(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

"(B) the use of automatic telephone dialing systems;

"(C) the use of artificial or prerecorded voice messages; or

"(D) the making of telephone solicitations.

"(2) State Use of Databases.—If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national datebase that relates to such State.

"(f) Actions by States.—

"(1) Authority of states.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(2) Exclusive jurisdiction of federal courts.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) Rights of commission.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(4) Venue; service of process.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) Investigatory powers.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) Effect on state court proceedings.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) Limitation.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) Definition.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.".

(b) Conforming Amendment.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

(c) Deadline for Regulations; Effective Date.—

(1) Regulations.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by this section not later than 9 months after the date of enactment of this Act.

(2) Effective date.—The requirements of section 228 of the Communications Act of 1934 (as added by this section), other than the authority to prescribe regulations, shall take effect one year after the date of enactment of this Act.

SEC. 4. AM RADIO SERVICE.

Section 331 of the Communications Act of 1934 is amended—

(1) in the heading of such section, by inserting "AND AM RADIO STATIONS" after "TELEVISION STATIONS";

(2) by inserting "(a) VERY HIGH FREQUENCY STATIONS.—" after "SEC. 331."; and

(3) by adding at the end the following new subsection:

"(b) AM RADIO STATIONS.—It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. The Commission shall report to the appropriate committees of Congress within 30 days after the date of enactment of this Act on how it intends to meet this policy goal.".

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HOLLINGS. Mr. President, I am pleased to report that we have come to an agreement with the House on a bill to restrict invasive uses of telephone equipment. The amendment version before the Senate today of S. 1462, which I introduced earlier this year, is the result of negotiations with the industry and Members on both sides of the aisle in the House and the Senate. This amendment incorporates the principal provisions of S. 1462 and S. 1410, which passed the Senate on November 7, and H.R. 1304, which passed the House on November 18. I believe that this revised bill responds to all the major concerns of the parties involved, and I urge my colleagues to support it.

The bill includes provisions to restrict telephone calls that use an automated or computerized voice. These calls are a nuisance and an invasion of our privacy. The complaints received by the Federal Communications Commission [FCC] and my office indicate that people find these calls to be objectionable regardless of the content of the message or the initiator of the call. Restricting such calls is constitutionally acceptable as a reasonable place and manner restriction.

At the same time, there may be certain types of automated or prerecorded calls that are not as invasive of privacy rights as others. I use the term privacy rights to include the concepts of privacy invasion and nuisance. Therefore, this bill includes a provision that allows those who use automated or prerecorded voice systems to apply to the FCC for an exemption from this prohibition. The bill gives the FCC the authority to exempt from these restrictions calls that are not made for a commercial purpose and categories of calls that the FCC finds do not invade privacy rights. If the FCC determines that such an exemption is warranted based on the record it develops, the FCC may grant such an exemption, subject to whatever conditions it determines to be appropriate.

The phrase "calls that are not made for a commercial purpose" is intended in the constitutional sense and is intended to be consistent with the court decisions which recognize that noncommercial speech can receive less protection than commercial speech. This phrase is intended to allow the FCC to design rules to implement this bill that are consistent with the free speech guarantees of the Constitution if it finds that a distinction between commercial and noncommercial calls is justified and can be supported by the record.

The FCC is given the authority to exempt certain types of calls, and the FCC is not limited to considering existing technologies. The FCC is given the flexibilty to consider what rules should apply to future technologies as well as existing technologies.

Some telephone companies are beginning to offer a voice messaging service which delivers personal messages to one or more persons. A person calling from a pay telephone at an airport, for instance, may call and leave a recorded message to be delivered later if the called line is busy or no one answers the call. Some debt collection agencies also use automated or prerecorded messages to notify consumers of outstanding bills. The FCC should consider whether these types of prerecorded calls should be exempted and under what conditions such an exemption should be granted either as a noncommercial call or as a category of calls that does not invade the privacy rights of consumers.

In considering whether to exempt certain calls, however, the bill states that the FCC may not exempt telephone solicitations. These calls are certainly commercial calls and the evidence before the Congress leaves no doubt that these types of calls are an invasion of privacy and a nuisance.

As stated earlier, this bill prohibits automated or prerecorded telephone calls to the home, unless the called party consents to receiving such a call, or unless the call is initiated for emergency purposes. The FCC must determine what constitutes an emergency purpose. In defining this term the FCC could find that "emergency purpose" includes any automated telephone call that notifies consumers of impending or current power outages, whether these outages are for scheduled maintenance, unscheduled outages caused by storms or similar circumstances, cut off of power due to late payment of bills, power interruptions for load management programs, or other reasons. Power interruptions can be detrimental to the public health and safety. Therefore, the FCC should consider whether all or certain types of outages should be considered an emergency.

Section 227(e)(1) clarifies that the bill is not intended to preempt State authority regarding intrastate communications except with respect to the technical standards under section 227(d) and subject to section 227(e)(2). Pursuant to the general preemptive effect of the Communications Act of 1934, State regulation of interstate communications, including interstate communications initiated for telemarketing purposes, is preempted.

I want to clarify a couple of other changes to the bill that we have made in response to some concerns of the telemarketing industry. We have included a private right of action for consumers harmed by authomated or prerecorded calls and a different private right of action for consumers who receive telemarketing solicitations. We have amended this provision in order to give telemarketers an affirmative defense in court so that this provision does not impose strict liability on any telemarketer that might violate the provisions of the bill.

Finally, I want to clarify how this bill applies to carriers who might unknowingly transmit calls made in violation of this bill. It is not our intention that a carrier should be held liable for transmitting over the carrier's network any call or message in violation of this legislation made by an entity other than the carrier. This intention is consistent with our policy that carriers should not be responsible for the content of messages delivered over their networks. If carriers were held responsible for such transmissions, they might be forced to monitor telephone conversations, which would not be in the public interest. To the extent carriers are responsible for initiating or placing telephone calls or messages, however, they must comply with the terms of this bill.

I thank my counterparts on the House side, Chairman DINGELL of the House Energy and Commerce Committee, Chairman MARKEY of the House Telecommunications and Finance Subcommittee, and the ranking minority member of the Telecommunications and Finance Subcommittee, Mr. RINALDO. I also recognize the efforts of Senator DANFORTH, the ranking member on the Senate Commerce Committee, Senator INOUYE, chairman of the Senate Communications Committee, and Senator PRESSLER, the author of S. 1410, in assisting in the development of this compromise. I am pleased that we were able to accommodate the interests of all Members in a bipartisan way.

TELEMARKETING

Mr. PRESSLER. Mr. President, I support Senate passage of S. 1462. This legislation is the result of a House and

Senate conference on comprehensive telemarketing legislation. It incorporates legislation Congressman MARKEY introduced in the House of Representatives and I introduced earlier this year in the Senate, and legislation introduced by Senator HOLLINGS. S. 1462 contains the provisions I first suggested in S. 1410, which passed the Senate earlier this year. I introduced this legislation in response to the national outcry over the explosion of unsolicited telephone advertising. I want to thank Chairman HOLLINGS and Chairman MARKEY for their efforts both to forge an agreement on our three bills.

Mr. President, consumers in my home State of South Dakota are fed up with the annoyance of unwanted telephone solicitations. Unlike other communications media, the telephone commands our instant attention. Junk mail can be thrown away. Television commercials can be turned off. The telephone demands to be answered.

People are increasingly upset over this invasion of their privacy by unrestricted telemarketing. In fact, the consumer backlash that has arisen from the cost and the interference of unsolicited telemarketing calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. The complaints of consumers have been heard.

This past June, we held hearings in the Commerce, Science, and Transportation Committee on S. 1410. During these hearings, we received testimony from consumer advocates, private citizens, and representatives of the telemarketing industry. The testimony we received was clear. The Federal Government needs to act now on uniform legislation to protect consumers.

The primary purpose of this legislation is to develop the necessary ground rules for cost-effective protection of consumers from unwanted telephone solicitations. These rules should allow responsible telemarketers to reach consumers who are most responsive to this form of solicitation, while eliminating the cost and time of contacting those individuals who would be least responsive.

To accomplish this balanced approach, the substitute we have before us today directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. This type of consumer protection has already been used with great success in the State of Florida. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange.

Some objected to the original legislation because of the extent to which it outlined the safeguards necessary for the creation of a national database. While I personally believe that an electronic database will give the most promising protection for consumers, we recognize that newer technologies could be used more effectively in the future. It is important to note that certain anticompetitive questions may arise as a result of the form of protection the FCC chooses. For this reason, it is important for the FCC to keep a close watch on the impact of its rulemaking on businesses that compete with larger monopolies.

We included in this substitute a provision that directs the FCC to examine whether local telephone solicitations by small businesses and second-class mail permit holders should be subject to the same FCC regulations that would apply to all other telemarketers. Many small businesses conduct responsible telemarketing in the local areas they serve. Since their business depends upon their good standing in the community, they conduct their own telemarketing in a very respectable way.

We include in this bill an exemption for businesses that have an established business relationship with their customers. For example, if Citibank's credit card operation needed to inform customers about new services it intended to provide to their credit card customer, clearly this contact would be allowed.

The effect of this legislation will be to prohibit cold calls by any telemarketer to the telephone of a consumer who has no connection or affiliation with that business and who affirmatively has taken action to prevent such calls. Many responsible telemarketers have told me that this will save them both time and money by reaching only those people who are most likely to respond positively to their solicitations.

S. 1462 also addresses problems arising from computerized calls. Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers.

This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment. There have been many instances of auto-dial machines hitting hospital switchboards and sequentially delivering a recorded message to all telephone lines. In some cases, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phones inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, the substitute requires auto-dialer machines to release the phone line automatically after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call.

This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. The substitute bill requires that autodial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

While our substitute will not end all unsolicited calls, it will give back to consumers the freedom to choose how their telephones are used. The balanced approach we take in the Pressler-Markey-Hollings legislation, will finally give consumers relief from modern door-to-door salesmen who now have the unrestricted ability to invade the privacy of our homes at any time.

Mr. President, I ask unanimous consent that several articles in support of this legislation be placed in the RECORD immediately following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Nov. 22, 1991]

PUTTING LIMITS ON AUTODIALERS

Ever had a pleasant diner interrupted by a telephone call, only to hear a tape-recorded voice greet you with an offer of something to buy? Then you may think there is nothing but good in congressional efforts to put a stop to such annoyances.

That reaction is perfectly understandable but but not entirely wise. Autodialers may not be to everyone's liking, but they have value to some buyers and sellers—otherwise, they would vanish on their own. Fortunately, there are ways to deal with the aggravations and abuses without barring the machines altogether.

Autodialers have grown in use because, as a New York Times story put it, "they don't eat, they don't sleep and their feelings never get hurt when people curse them or hang up on them. They just call and call and call—each one up to 1,500 times a day."

By one estimate, these gadgets make 20 million calls a day in the United States, flogging a wide variety of goods and services. Most consumers, no doubt, hang up within seconds, if not milliseconds, but enough stay on the line to listen—and buy—that many companies wouldn't think of doing business without them.

They create problems beyond the interrupted meal. They can tie up phone lines, even after victims hang up, overwhelm electronic paging services and inflict unwanted expenses on cellular phone owners, who pay for incoming as well as outgoing calls.

The Senate recently passed two measures dealing with autodialers—one good and one bad. The good one, sponsored by Larry Pressler (R-S.D), directs the Federal Communications Commission to either let consumers shield themselves by registering their numbers or to put the autodialers all on one exchange, enabling consumers to block their calls. The bad one, offered by Ernest Hollings (D.-D.C.) bans autodialers from calling either fax machines or homes.

Hollings' blunderbuss approach would not only penalize businesses and consumers that benefit from autodialers, but probably run afoul of the Constitution as well. The 1st Amendment protects the freedom to speak—even by phone and even by recording. If Congress can't outlaw indecent messages provided by "phone sex" services—as the supreme Court has ruled—it presumably has to be careful with broad prohibitions on the delivery of messages by autodialer.

A better approach is to zero in on clear abuses. A House bill wouild ban calls to emergency lines of health care facilities, police and fire departments. It would put pagers and cellular phones off limits. And autodialers would be required to disconnect after the person called hangs up—someting not all do now.

Lawmakers should keep in mind that while recorded solicitations may be annoying to most consumers, they perform a valued function for some. It isn't too much to ask that Congress, in trying to protect the former, should also accommodate the interest of the latter.

[From the Washington Post, Nov. 19, 1991]

HOUSE VOTES TO RESTRICT CALLS BY TELEMARKETERS

(By Cindy Skrzycki)

The House of Representatives yesterday passed legislation to restrict telemarketers who dial some 38 million Americans every day with unsolicited commercial telephone calls, selling credit cards, aluminum siding, children's photographs and uncounted other products.

The bill, which passed by a voice vote, has to be reconciled with two initiatives approved by the Senate that also take aim primarily at auto-dialers, which are computers that spew prerecorded messages. Differences in the bills should be ironed out by the end of the week, said a staff member on the House telecommunications and finance subcommittee.

Once a compromise reaches the White House, however, its fate is less certain. The Bush administration has raised objections to taking away or regulating one of business's most potent and economical marketing tools.

Nevertheless, the issue of blocking unsolicited sales calls generated by humans, computerized machines or facsimile machines isn't likely to go away as millions of Americans find their dinner hours interrupted by telephone sales calls, sometimes from machines that refuse to free the line.

"When people get home from work, they deserve some peace and quiet," said Rep. Edward J. Markey (D-Mass.), sponsor of the House bill and chairman of the subcommittee on telecommunications and finance.

The House bill attempts to balance the privacy rights of individuals against the rights of businesses that may using telemarketing not to solicit but to reach customers to warn of an electrical power test or a delinquent loan.

The Senate bill, sponsored by Sen. Ernest Hollings (D-S.C.), proposes to ban all computerized calls to the home unless the party consents to receiving them. In contrast, Markey's bill would charge the Federal Communications Commission with coming up with a way to protect consumers from commercial solicitations.

The House bill does allow businesses with established relationships to call even if a name shows up on an industry "do-not-call list." Contact would stop if the consumer objected again to being called.

The House bill prescribes additional restrictions for auto-dialers: The machines would have to identify themselves and hang up as soon as possible. They would not be allowed to call emergency phone lines, or mobile or cellular phones.

Also, the House bill requires faxes used for advertising to include the identity and telephone number of the faxer. It also asks the FCC to include the identity and telephone number of the faxer. It also asks the FCC to consider banning "junk faxes."

The Hollings bill places an outright ban on unsolicited faxes unless there has been some prior consent from the consumer.

Under the Markey bill, the FCC would have about a year to explore the best way to protect the privacy of residential telephone subscribers, an approach that is also suggested by Sen. Larry Pressler (R-S.D.) in a bill that passed the Senate earlier this month.

Some of the alternatives the FCC might consider include a national electronic database of people who do not want to be called, the use of new telephone technology to block such calls, or special markings such as an asterisk in the telephone book.

Studies done by telephone companies and other organizations show that automated telemarketing, which has grown into an industry that generates $435 billion in sales, is a growing irritant to Americans who feel the telephone is invading their privacy.

[From the New York Times, Nov. 8, 1991]

SENATE VOTES DIALER BAN

WASHINGTON, NOV. 7.—The Senate unanimously approved bills today that would virtually ban the use of automated dialing machines in telephone marketing and would make it easier to block unwanted calls by live sales representatives.

The first measure, sponsored by Senator Ernest F. Hollings, Democrat of South Carolina, would make it illegal to use machines that automatically call homes and play recorded sales pitches, unless a person has given specific written or spoken permission.

A second measure, sponsored by Senator Larry Pressler, Republican of South Dakota, would instruct the Federal Communications Commission to adopt rules to help people block both live and computer-delivered sales calls.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CENTENNIAL OF BASKETBALL

BICENTENNIAL OF DC

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to, en bloc, the immediate consideration of House Joint Resolution 372, House Joint Resolution 356, just received from the House; that the joint resolutions be deemed read three times; passed en bloc; that the motion to reconsider be laid upon the table; that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolutions were deemed read three times and passed as follows:

A joint resolution (H.J. Res. 372) designating December 21, 1991, as "Basketball Centennial Day".

A joint resolution (H.J. Res. 356) designating December 1991 as "Bicentennial of the District of Columbia Month".

CAPITOL PRESERVATION COMMISSION

Mr. FORD. Mr. President, on behalf of Senator BYRD, I send to the desk a resolution, and ask for its immediate consideration, that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 240) is as follows:

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol be temporarily suspended for the sole and specific purpose of permitting the United States Capitol Preservation Commission and its designated agents to conduct activities in accordance with the purposes of the Commission on such dates and times, and in such manner as determined by the Senate Cochair of the Commission or his designee.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements to facilitate activities authorized by this resolution.

STAR PRINT OF REPORT NO. 102-213

Mr. FORD. Mr. President, I ask unanimous consent for a star print of the report of No. 102-213, the Select Committee on Indian Affairs on S. 1595.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT OF ETHICS REPORT

Mr. FORD. Mr. President, I ask unanimous consent that there be a star print of the Ethics Committee report regarding Senator CRANSTON to reflect the changes I now send to the desk, and ask that a letter accompanying this by Annette M. Gillis be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON ETHICS,
Washington, DC, November 26, 1991.

MS. KATHLEEN ALVAREZ,
Bill Clerk, Office of the Secretary,
U.S. Senate, Washington, DC.

DEAR KATHIE: As a follow up to our telephone conversation of yesterday regarding

Senate Report 102-223 (Investigation of Senator Alan Cranston), the Committee, respectfully, request that the publication be reprinted and include the listed modifications.

1. Volumes I and II of the Committee Report should be combined and printed as one Senate report. Please do not repaginate the old Volume 2.
2. The cover contain the Together With Additional Views language as stated on the cover of the Committee's submission.
3. The Committee would like to add its Members names to the bottom of page 36 as follows.

Howell Heflin, Chairman, Warren B. Rudman, Vice Chairman, David Pryor, Member, Trent Lott, Member, Terry Sanford, Member.

4. Remove the third and fourth heading (the whole heading should be removed) lines from Volume 2. (This is Senator Helms' report which was credited to Senator Heflin when it was printed.)
5. Insert the attached cover page ahead of page one of Volume 2.

Thank you for your attention regarding this matter.

Sincerely,

ANNETTE M. GILLIS,
Chief Clerk.

COAST GUARD AUTHORIZATION ACT OF 1991

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1776.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1776) entitled "An Act to authorize for fiscal year 1992 the United States Coast Guard Budget" with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1992, as follows:

(a) For the operation and maintenance of the Coast Guard, $2,570,000,000, of which $500,000 shall be used to implement the Nonindigeous Aquatic Nuisance Prevention and Control Act of 1990, (P.L. 101-646), and $35,000,000 shall be expended from the Boat Safety Account.

(b)(1) For the acquisition, construction, rebuilding and improvement of aids to navigation, shore and offshore facilities, vessels, sonar simulators, and aircraft, including equipment related thereto, $466,000,000, of which $29,000,000 shall be used to acquire a command and control aircraft, to remain available until expended.

(2) Funds authorized to be appropriated for the construction of a new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(3)(A) Notwithstanding another provision of law, the Secretary of the Department in which the Coast Guard is operating may submit a request for reprogramming of funds to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for Congressional review of appropriations reprogramming requests. Subject to those reprogramming procedures—

(i) the Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for a multiyear lease but not for the purchase of aircraft; and

(ii) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(B) The Coast Guard may transfer the current command and control aircraft to the vendor of a replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and the proceeds applied toward a purchase, lease, or lease with option to purchase.

(4) Before October 1, 1992, the Secretary of Transportation shall use funds as may be necessary, not more than $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter MACKINAW at least an additional 15 years.

(c) For research, development, test, and evaluation, $29,150,000, to remain available until expended.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $11,100,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $11,100,000, to remain available until expended.

(f) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(g) Of the amounts authorized for Coast Guard operations and maintenance and acquisition construction and improvement, the following amounts shall be derived from transfer from the Oil Spill Liability Fund for implementation of the Oil Pollution Act of 1990 (P.L. 101-380; 104 Stat. 484):

(1) $25,000,000 for operating expenses; and

(2) $30,000,000 to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)), including the purchase and prepositioning of oil spill removal equipment.

(h) Of the amounts authorized for Coast Guard operations and maintenance, not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C 262a).

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992.

(a) As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For Fiscal Year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 4. TRANSFER OF AUTHORITY FROM THE SECRETARY OF TRANSPORTATION TO THE SECRETARY OF THE NAVY UPON THE TRANSFER OF THE COAST GUARD TO THE NAVY.

Not later than 90 days after enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the functions, powers, and duties vested in the Secretary of Transportation and exercised through delegation to the Commandant of the Coast Guard that would be transferred to the Secretary of the Navy when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

SEC. 5. RETIREMENT OF REAR ADMIRALS.

(a) Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and substituting "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and substituting the following new subsections:

"(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under this section shall, execpt as provided in paragraph (2), be retire on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades or rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless

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selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b)(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and substituting "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

SEC. 6. ENLISTED PERSONNEL BOARDS.

(a) Section 357 of title 14, United States Code, is amended to read as follows:

"(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.

"(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendtion of a Board—

"(1) because the member's performance is below the standards the Commandant prescribes; or

"(2) because of professional dereliction.

"(c) An enlisted member under review by the Board shall be—

"(1) notified in writing of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

"(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

"(1) have twenty or more years of active service;

"(2) have been considered for involuntary retirement; and

"(3) it determines should be involuntarily retired.

"(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

"(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

"(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within 90 days of the notification.

"(h) An enlisted member, who has completed twenty years' service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

"(i) An enlisted member voluntarily or involuntarily retired after twenty years' service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

"(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

"(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.".

(b) The catchline to section 357 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.", and item 357 in the analysis to chapter 11 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.".

SEC. 7. AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE.

Section 93 of title 14, United States Code, is amended by—

(1) striking the word "and" at the end of subsection (q);

(2) striking the period at the end of subsection (r) and inserting "; and"; and

(3) adding the following new subsection:

"(s) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court.".

SEC. 8. HOUSING UNIT LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of the Massachusetts Military Reservation.

SEC. 9. AIR FACILITIES LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

SEC. 10. COAST GUARD HOUSING STUDY.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

SEC. 11. TWO-YEAR BUDGET CYCLE FOR THE COAST GUARD.

Notwithstanding another law, the President is not required to submit a two-year budget request for the Coast Guard until the President is required to submit a two-year budget request for the Department of Transportation.

SEC. 12. TRANSPORTATION OF HOUSEHOLD EFFECTS OF COAST GUARD CADETS.

Section 406(b)(2)(E) of title 17, United States Code, is amended to read as follows:

"(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A) of this paragraph. The weight allowance for cadets and midshipmen is 350 pounds.".

SEC. 13. EMERGENCY RECALL OF RESERVISTS.

Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than thirty days in any four-month period and not more than sixty days in any two-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

SEC. 14. RECALL OF RETIRED OFFICERS.

(a) Section 332(b) of title 14, United States Code, is amended by striking "1" and substituting "2".

(b) Section 332(a) of title 14, United States Code, is amended by striking "his" and substituting "that officer's" and by striking "he" and substituting "that officer".

SEC. 15. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by striking at the end "September 30, 1992", and inserting "September 30, 1994".

SEC. 16. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203(a)(1)) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 17. NORTH CAROLINA MARITIME MUSEUM.

Notwithstanding section 3301(8) of title 46, United States Code, the GENERAL GREENE, (vessel identification number USG NP5000025661), may transport not more than 16 passengers when the North Carolina Maritime Museum operates the vessel for educational purposes.

SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

(a)(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advice, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(B) The Committee shall consist of 18 members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

(1) Two members who are employed by the Port of Houston Authority or have been selected by the entity to represent them.

(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

(3) Two members from organizations that represent shipowners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

(4) Two members representing originations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston

(7) Two at large members who may represent a particular interest group but who utilize the post facilities at Galveston, Houston, and Texas City.

(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

(10) One member representing environmental interests.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise, the Committee on matters with the jurisdiction of that agency or department.

(d) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the chairman and one of the members as the vice chairman. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) The term of members of the Committee shall begin on October 1, 1992.

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a)(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on a wide range of matters regarding all facets of navigational safety related to the Lower Mississippi River. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give the Secretary. The Committee shall meet at the call of the Chairman, or upon request of the majority of Committee members, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of twenty-four members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico.

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessels owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee upon recommendation after first soliciting nominations by notice in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department, who shall not be a voting member of the Committee.

(2) The Committee shall annually elect, by majority vote at its first meeting, a chairman and vice chairman from its membership. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be two years. The Secretary shall, not less than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular place of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 20. VESSEL REQUIREMENTS.

Section 3503 of title 46, United States Code, is amended as follows:

(1) in subsection (a), by striking "November 1, 1993" and substituting "November 1, 1998"; and

(2) in section (b)(1):

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and substituting "; and"; and

(C) by adding the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations comply with any non-combustile material requirements that the Coast Guard prescribes for non-public spaces. Coast Guard requirements shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public.".

SEC. 21. AMENDMENT OF INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

SEC. 22. DESIGNATION OF THE BORDEAUX RAILROAD BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Bordeaux Railroad Bridge at mile 185.2 of the Cumberland River is deemed an unreasonable obstruction to navigation.

SEC. 23. NEW CONSTRUCTION DECLARATION.

The vessel, SEA FALCON, United States official number 606930, is deemed to have been built in the year 1990 for all purposes of subtitle II of title 46, United States Code.

SEC. 24. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and substituting "September 30, 1996".

SEC. 25 COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and substituting "1994".

SEC. 26. CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE.

(a)(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States:

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access of such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(d) For purposes of this section—

(1) "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 27. SHIP SHOAL LIGHTHOUSE TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of Berwick, Louisiana all rights, title, and interest of the United States in the aid to navigation structure known as the Ship Shoal Lighthouse, Louisiana.

SEC. 28. CAPE COD LIGHTHOUSE AND SANKATY HEAD LIGHT STATION.

(a)(1) Not later than six months after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Army, the Secretary of the Interior, appropriate State, local, and other governmental entities, and private preservation groups, shall develop a strategy regarding the relocation, ownership, maintenance, operation, and use of Cape Cod Lighthouse (otherwise known as "Highland Light") in North Truro, Massachusetts, and Sankaty Head Light Station in Nantucket, Massachusetts.

(2) In developing the strategy, the Secretary shall determine whether and under what conditions it would be appropriate to convey the rights, title, and interest of the United States in Cape Code Lighthouse and Sankaty Head Light Station to other Federal, State, or local government agencies or private preservation groups.

(3) In preparing the strategy with respect to Cape Code Lighthouse, the Secretary shall consult with the Director of the National Park Service to determine whether the lighthouse should become part of the National Park at Cape Cod National Seashore.

(4) Any strategy developed under this section shall be consistent with—

(A) the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws; and

(B) the goal of interpreting and preserving material culture of the United States Coast Guard.

(b) After completion of the strategy under subsection (a), the Secretary of Transportation may convey, by any appropriate means, all right, title, and interest of the United States in either or both of Cape Code Lighthouse and Sankaty Head Light Station to one or more Federal, State, or local government agencies or appropriate nonprofit private preservation groups. Any conveyance under this subsection shall be made—

(1) without payment of consideration;

(2) subject to appropriate terms and conditions as the Secretary of Transportation considers necessary; and

(3) subject to the condition that if the terms and conditions established by the Secretary are not met, the property conveyed shall revert to the United States.

SEC. 29. TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES.

(a)(1) the Secretary may convey by any appropriate means to the State of Oregon all right, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b)(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considered to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as my be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(C) For purposes of this section the term—

(1) "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State or Oregon to operate at that

lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon;

(2) "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation center for public benefit for the interpretation and preservation of the maritime history of Cape Blanco, Oregon; and

(3) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 30. CONVEYANCE OF WHITE ISLAND LIGHTHOUSE.

(a) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term "White Island Lighthouse" means the Coast Guard lighthouse located at White Island, Isles of Shoals, New Hampshire including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

SEC. 31. CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE.

(a)(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term—

(1) "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 32. OIL POLLUTION REPORT.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effect of section 1018 of the Oil Pollution Act of 1990 (P.L. 101-380; 104 Stat. 484) on the safety of vessels being used to transport oil and the capability of owners and operators to meet their legal obligations in the event of an oil spill.

SEC. 33. PASSENGER VESSEL INVESTIGATIONS.

Section 6101 of title 46, United States Code, is amended by adding at the end the following:

"(e)(1) This chapter applies to a marine casualty involving a United States citizen on a foreign passenger vessel operating south of 75 degrees north latitude, west of 35 degrees west longitude, and east of the International Date Line; or operating in the area south of 60 degrees south latitude that—

"(A) embarks or disembarks passengers in the United States; or

"(B) transports passengers traveling under any form of air and sea ticket package marketed in the United States.

"(2) When there is a marine casualty described in paragraph (1) of this subsection and an investigation is conducted, the Secretary shall ensure that the investigation—

"(A) is thorough and timely; and

"(B) produces findings and recommendations to improve safety on passenger vessels.

"(3) When there is a marine casualty described in paragraph (1) of this subsection, the Secretary may—

"(A) seek a multinational investigation of the casualty under auspices of the International Maritime Organization; or

"(B) conduct an investigation of the casualty under chapter 63 of this title.".

SEC. 34. PORTION OF SACRAMENTO RIVER BARGE CANAL DECLARED TO NOT BE NAVIGABLE WATERS OF UNITED STATES.

For purposes of bridge administration, the Sacramento River Barge Canal, which connects the Sacramento Deep Water Ship Channel with the Sacramento River in West Sacramento, Yolo County, California, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) from the eastern boundary of the Port of Sacramento to a point 1,200 feet east of the William G. Stone Lock.

SEC. 35 SENSE OF THE CONGRESS RELATING TO THE ROLE OF THE COAST GUARD IN THE PERSIAN GULF CONFLICT.

(1) members of the Coast Guard played an important role in the Persian Gulf Conflict;

(2) 950 members of the Coast Guard Reserve were called to active duty during the Persian Gulf Conflict and participated in various activities, including vessel inspection, port safety and security, and supervision of loading and unloading hazardous military cargo;

(3) members of Coast Guard Law Enforcement Detachments led or directly participated in approximately 60 percent of the 600

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vessel boardings in support of maritime interception operations in the Middle East;

(4) 10 Coast Guard Law Enforcement Teams were deployed for enforcement of United Nations sanctions during the Persian Gulf Conflict;

(5) over 300 men and women in the Coast Guard Vessel Inspection Program participated in the inspection of military sealift vessels and facilitated the efficient transportation of hazardous materials; munitions, and other supplies to the combat zone;

(6) members of the Coast Guard served in the Joint Information Bureau Combat Camera and Public Affairs staffs;

(7) approximately 550 members of the Coast Guard served in port security units in the Persian Gulf area, providing port security and waterside protection for ships unloading essential military cargo;

(8) the Coast Guard Environmental Response Program headed the International Interagency Oil Pollution Response Advisory Team for cleanup efforts relating to the massive oil spill off the coasts of Kuwait and Saudi Arabia;

(9) the Coast Guard Research and Development Center developed a deployable positioning system for the Explosive Ordnance Disposal Area Search Detachment, saving the detachment time and thousands of dollars, while also increasing the effectiveness and efficiency of the minesweeping and ordnance disposal operations in the Persian Gulf area; and

(10) Coast Guard units remain in the Persian Gulf area and continue to provide essential support including both port security and law enforcement.

(b) The Congress commends the Coast Guard for the important role it played in the Persian Gulf Conflict and urges the people of the United States to recognize that role.

SEC. 36. BRIDGE ACROSS WAPPINGER CREEK, NEW YORK.

Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0. at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401), section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

SEC. 37. VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA.

The Secretary of Transportation, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

SEC. 38. TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA.

(A) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Charleston County Park and Recreation Commission all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b) subject to existing easement and restrictions of record. The transferee shall pay for all conveyance costs.

(b) The property to be transferred under subsection (a) is described as commencing at a point in the center of United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30 seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights of way connected therewith, extending from the Government's property at the east end of Foley Island to such power lines connection with the South Carolina Power Company's power line at Folly Beach.

SEC. 39. REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS.

Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"SEC. 7. (a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regulations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality, or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States, or;

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States, shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purposes.".

SEC. 40. AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION, 1989.

(a) Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" substituting "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and substituting "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code,".

SEC. 41. CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II.

(a) Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel MAYFLOWER II, owned by Plimoth Plantation, Inc., a corporation under the laws of Massachusetts.

(b)(1) The Secretary may exempt the vessel MAYFLOWER II from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under title 33, United States Code.

(2) If the Secretary exempts the vessel from any requirement under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

SEC. 42. JOHN F. LIMEHOUSE MEMORIAL BRIDGE.

Notwithstanding another law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

SEC. 43. OREGON OIL SPILL RESPONSE STUDY.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity take place.

SEC. 44. TRANSPORTATION SUBSIDY.

The Department of Transportation may include military personnel of the Coast Guard in any program in which the Department participates under section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991, Public Law 101–509, notwithstanding section 629(c)(2) of that Act.

SEC. 45. CHATHAM HARBOR, MASSACHUSETTS.

Not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard shall provide to the U.S. Army Corps of Engineers New England Division for incorporation into their Feasibility Study on Improvement Dredging in Chatham Harbor, the following information:

(1) a description of the current and projected future navigational hazards in Chatham Harbor caused by shoaling in and around Aunt Lydia's Cove;

(2) the current and projected impacts, of these navigational hazards on the Coast Guard's missions, including:

(A) impacts on search and rescue responses;

(B) impacts on the area of response;

(C) types and costs of any special equipment needed to navigate the channel; and

(D) potential impacts on boater safety; and

(3) the benefits to local boaters and the Coast Guard that would result from improved navigation.

SEC. 46. JONES ACT WAIVERS FOR CERTAIN VESSELS.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) MISS LELIA, United States official number 577213.

(2) BILLFISH, United States official number 920896.

(3) MARSH GRASS III, United States official number 963616.

SEC. 47. NATIONAL MARITIME ENHANCEMENT INSTITUTES.

Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121–2(e)), is amended by striking "shall not exceed $100,000" and substituting "by the Secretary shall not exceed $500,000".

SEC. 48. ACQUISITION OF SPACE IN VIRGINIA.

The Secretary of Commerce shall acquire space from the Administrator of General

Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the consent of the Secretary of Commerce, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

SEC. 49. ACQUISITION OF SPACE IN ALASKA.

The Secretary of Commerce shall acquire space from the Administrator of General Services on Near Island in Kodiak, Alaska, that meets the long-term space needs of the National Oceanic and Atmospheric Administration, if the maximum annual cost of leasing the building in which the space is located is not more than $1,000,000.

SEC. 50. TRANSFER AT JUNEAU, ALASKA.

(A) Notwithstanding another provision of law, the Secretary of Transportation shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 51. STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. the report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in the efforts.

SEC. 52. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS.

(a) Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions, are declared to be nonnavigable waters of the United States.

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, --,568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet pass the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 seconds west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.96 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows;

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 seconds west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 seconds west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degree 30 minutes 23 seconds east, 222.91 feet to a point and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner,

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903,6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the City of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15, 171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,627.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

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(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit 'B' of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly referred to as the "Rivers and Harbors Appropriation Act of 1899" (33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969.

(d) If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within 5 years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 53. DISCLOSURE REGARDING RECREATIONAL VESSEL FEE.

Section 2110(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: 'The fees for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment.'."

SEC. 54. SENSE OF THE CONGRESS ON COAST GUARD RESCUE EFFORTS.

(a) The Congress finds that—

(1) during the month of October, Air Station Cape Cod experienced one of the most intense periods of search and rescue activities, including 51 search and rescue cases of which 27 were in the last 10 days of the month;

(2) immediately prior to the Winter storm that ravaged Cape Cod from October 28 to November 1, with average seas of 35–40 feet and winds exceeding 80 knots, coastal small boat station personnel on Cape Cod and the Islands of Nantucket and Martha's Vineyard successfully worked with the local communities and the fishing industry to secure the small coastal ports to minimize damage to vessels and property;

(3) Group Portland, Group Boston, and Group Woods Hole units suffered significant damage to coastal small boat stations, lighthouses, and other aids to navigation but this damage did not affect operational readiness and Coast Guard boats and aircraft were prepared to respond to emergencies;

(4) during the five-day period from October 28 to November 1, the Coast Guard Cutter GENETIN, Coast Guard cutter BEAR and Coast Guard helicopters stationed at Elizabeth City, North Carolina participated in five offshore rescue operations that saved 21 lives;

(5) Coast Guard flight crews operating from Elizabeth City logged 56 hours of flight time during the 72-hour-period when Hurricane Grace buffeted the North Carolina Coast;

(6) the Coast Guard performed these search and rescue operations while fulfilling other important missions including the monitoring of a sulfuric acid spill and a sensitive law enforcement operation.

(b) The Congress commends the Coast Guard units involved for their remarkable skill, performance and dedication in protecting life and property and urges the people of the United States to recognize this job well done.

SEC. 55. SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES.

(a) The Congress finds that—

(1) under section 9701 of title 31, United States Code, and section 664 of title 14, United States Code, Coast Guard user fees must be fair, based on the cost to the Coast Guard of providing services or things of value, based on the value of services or things of value provided by the Coast Guard, and based on a valid public policy or interest;

(2) the Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was established under the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–1397);

(3) recreational boaters who are required to pay this fee cannot expect to receive any additional service in return for payment of the fee;

(4) recreational boaters already pay a motorboat fuel tax that contributes to the Coast Guard budget; and

(5) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) It is the sense of Congress that the requirement that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of an offsetting receipts provision to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

SEC. 56. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY.

(a) In recognition of the memorandum of understanding of March 2, 1989, regarding the Cooperative Institute of Fisheries Oceanography (hereinafter in this section referred to as the "Institute"), the Institute is established within the National Oceanic and Atmospheric Administration, in partnership with Duke University and the Consolidated University of North Carolina.

(b) Amounts appropriated pursuant to subsection (b) may be used for—

(1) administration of the Institute;

(2) research conducted by the Institute; and

(3) preparation of a five-year plan for research and for development of the Institute.

(d) Within one year of the date of the enactment of this section, the Institute shall submit to the Congress and the Under Secretary of Commerce for Oceans and Atmosphere the plan developed pursuant to subsection (c)(3).

SEC. 57. NATIONAL DEFENSE RESERVE FLEET.

Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended by adding at the end the following new subsection:

"(d) READY RESERVE FORCE MANAGEMENT.—

"(1) MINIMUM REQUIREMENTS.—To ensure the readiness of vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

"(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

"(B) activate and conduct sea trials on each vessel at least once every 24 months;

"(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

"(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and

"(E) notwithstanding section 2109 of title 46, United States Code, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

"(2) VESSEL MANAGERS.—

"(A) ELIGIBILITY FOR CONTRACT.—A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

"(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

"(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

"(B) CONTRACT REQUIREMENT.—The Secretary of Transportation shall include in each contact for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46, United States Code, for a seaman performing that service while operating the vessel were not a public vessel.".

Mr. FORD. I move the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SIX-MONTH EXTENSION OF THE DEFENSE PRODUCTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3919, providing for a 6-month extension of the Defense Production Act just received from the House, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF ABBEY COOKE

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 635, a bill for the relief of Abbey Cooke, and the Senate proceed to its immediate consideration; that the bill be deemed read for the third time, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF MARIA ERICA BARTSKI

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 159.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 159) entitled "An Act for the relief of Maria Erica Bartski", do pass with the following amendment:

Page 2, line 15, after "U.S.C. 1152(e)),", add the following new sentence: "No natural parent, brother, or sister, if any, of Maria Erica Bartski shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

Mr. FORD. I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONDEMNING SADDAM HUSSEIN

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 168, condemning Saddam Hussein for refusing to comply with U.N. Security Council Resolutions 706 and 712, just received from the House, that the concurrent resolution be agreed to, the motion to reconsider laid upon the table, and the preamble agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF VETERANS AFFAIRS CHIEF MINORITY AFFAIRS OFFICER

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3327, providing for the designation of the chief minority affairs officer in the Department of Veterans Affairs, just received from the House, that the bill be deemed read three times, passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I rise in support of the pending measure, H.R. 3327, a bill that would require the Secretary of Veterans Affairs to designate an Assistant Secretary as the Department of Veterans Affairs' Chief Minority Officer [CMAO]. The CMAO would have responsibility for assessing the effects of VA policies and activities on minority veterans, including women veterans, and the needs of minority veterans for VA benefits and services and advising the Secretary on matters relating to minority veterans. This legislation was passed by the House yesterday afternoon, November 25.

Mr. President, I applaud my esteemed colleague and committee member, Senator DANNY AKAKA, for his excellent work in ensuring that important legislation in this vein is enacted. First, he worked to have such legislation included in section 601 of S. 2100 as reported by our committee on July 19, 1990 (S. Rept. No. 101–379). Next, he ensured that it was included in section 301 of S. 869 both as reported by our committee on July 24, 1991 (S. Rept. No. 102–118), and then as passed the Senate on November 20, as a substitute for the text of H.R. 2280. Today, in light of the fact that H.R. 2280 is not being acted upon, he is assisting in obtaining Senate passage of H.R. 3327 in a most timely manner.

I also note that a similar provision has been considered by the Senate since 1989 and was originally authored by Senator AKAKA's predecessor, our beloved late colleague, Spark Matsunaga, who introduced S. 564 on March 9, 1989.

Mr. President, I believe that this measure will help to effect significant improvements in service and benefits for minority veterans and the education of VA employees about the special concerns of minority veterans. I have long been concerned about VA's efforts to reach out to minority veterans and, although outreach efforts have been made, I believe they have often been too narrowly focused and that VA at times has failed, though unintentionally, to address the many unique needs and problems of minority veterans and an integrated, systematic manner. I belive that institutionalizing concern for minority veterans at the Assistant Secretary level is a necessary step to ensuring that minority veterans have access to the full range of benefits to which they are entitled by law.

Mr. President, for a further discussion and explanation of this provision, I refer my colleagues to pages 81–85 of the committee's report accompanying S. 869.

Mr. President, in closing, I reiterate my thanks to Senator AKAKA for his role in keeping this critical matter before the Congress and VA and for gaining passage of this measure. I believe that enactment of this legislation will ensure that the issues affecting minority veterans will be addressed at levels within VA that are commensurate with their importance.

Mr. AKAKA. Mr. President, I rise to support passage of H.R. 3327, a bill that would designate an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department.

This measure is the culmination of several years of effort on the part of the late Senator Spark Matsunaga, Representative CHARLES RANGEL, and myself to ensure that the special, often unique, needs of minority veterans—including blacks, Asians, Hispanics, Native Americana—including American Indians, and Alaskan Natives, and native Hawaiians, Pacific-Islanders, and women veterans—are considered in a systematic manner at the highest policymaking levels of VA.

My colleagues may ask how enactment of this legislation will specifically benefit minorities. Well, it means that VA may at last examine why a native American veteran who lives on a reservation has virtually no opportunity of using his home loan entitlement. It may force VA to look at why Asian American veterans may suffer from post-traumatic stress disorder [PTSD] in greater degree than other veterans and why current VA mental health services are not organized either to recognize or treat effectively PTSD in this population. It may impel the Department to hire Spanish-speaking counselors to improve outreach to alienated Hispanic veterans. Or it may cause VA to provide health care services, such as obstetrics and gynecology, in VA medical centers that directly address the needs of female veterans.

There is, of course, no guarantee that VA will change its policies and practices with respect to minorities as a result of this legislation. At the very least, though, it will institutionalize concern for these veterans at the highest levels of the Department.

When Senator Matsunaga introduced his legislation first proposing the additional minority affairs function in 1989—similar legislation was simultaneously introduced in the House by Representative RANGEL, he was concerned by growing evidence that VA had closed its eyes to the fact that minorities typically underutilize services and benefits to which they are entitled. Spark believed that the problem of underutilization could be traced directly to two facts: First, that VA services and benefits—which are programmed with the needs of white, male veterans in mind—are often unsuited to the circumstances of minorities; and, second, that VA has failed to make a special effort to inform veterans of the availability of VA services and benefits.

Senator Matsunaga managed to include his minority affairs initiative in omnibus veterans legislation that the Senate approved overwhelmingly in 1989. Unfortunately, the House, which had not acted on Representative RANGEL'S bill, would not agree to the minority affairs provision and the initiative languished. In 1990, after the death of the Hawaii legislator, when I assumed both the Senator's veterans agenda and his place on the Senate Veterans' Affairs Committee, I continued to push for enactment of the minority affairs legislation. With the assistance of the chairman of the committee, Senator ALAN CRANSTON, I managed to include the provision in omnibus veterans health care legislation that the committee eventually reported; unfortunately, the provision ultimately died when the omnibus bill failed to be considered on the Senate floor.

This year, once again, I requested the assistance of Senator CRANSTON in including the minority affairs provision in the committee's major health care bill. This legislation, S. 869, was adopted by the Senate only a few days ago. Happily, this time, after having been twice approved by the Senate, the minority affairs provision was found acceptable by the House, which offered in its stead similar, companion legislation that had been promulgated for nearly 3 years by my friend and former House colleague, Representative RANGEL.

Mr. President, I am glad the long wait for this initiative to be passed is over. I cite this legislative history to point out the long, tortuous road that minorities must tread in their search for equality. One of the great unlearned lessons of racism in this country is that minorities are individuals, too, with specific problems that require specific answers. It is not enough to recognize their legal equality. We need to understand that the needs of blacks may differ from the needs of whites, that the problems of Asians may differ from those of American Indians, that the requirements of Native Alaskans may differ significantly from those of Hispanics. We need to educate the people of this Nation that we are not all cut from the same cookie cutter, that equal treatment does not necessarily mean identical treatment.

Mr. President, I believe that, if the spirit and purpose informing this legislation are properly interpreted, the Department of Veterans Affairs has before it an historic opportunity to establish the standards by which all Federal agencies address the programmatic needs of minorities. I urge VA to take full advantage of this important opportunity.

CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 77.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 77) entitled "Concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military," do pass with the following amendments:

Strike out all after the resolving clause, and insert:

That (a) the Congress—

(1) condemns the recent, indiscriminate killing of civilians by Indonesian military forces on East Timor; and

(2) urges the Government of Indonesia to bring to justice those members of the Indonesian military responsible for the killings.

(b) It is the sense of the Congress that—

(1) the provision of assistance for Indonesia under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) should be contingent on the Government of Indonesia conducting a thorough and impartial investigation of these killings and prosecuting those responsible for them;

(2) the President should seek the immediate introduction of a resolution in the United Nations General Assembly instructing the United Nations Commission on Human Rights to appoint a Human Rights Rapporteur on East Timor;

(3) the President should encourage the Government of Indonesia to facilitate the work of international human rights and humanitarian organizations seeking to monitor conditions in East Timor; and

(4) the United States should work with the United Nations and the Government of Indonesia, the Government of Portugal, and other involved parties, to develop policies to address the underlying causes of the conflict in East Timor.

Amend the preamble so as to read:

Whereas on November 12, 1991, Indonesian military forces in Dili, East Timor, opened fire on a funeral procession for a youth who had been killed by Indonesian troops on October 28, 1991, killing an estimated 75 to 100 civilians and injuring many more;

Whereas up to 300 members of the funeral procession were detained immediately after the incident and several dozen remain in detention;

Whereas Indonesian soldiers killed a New Zealand national and beat several foreign journalists who were observing the procession, including two Americans (one from the New Yorker and one from Pacific Radio;

Whereas the commander of the Indonesian Armed Forces has expressed regret about the killings, and the Government of Indonesia has established a national commission of inquiry to conduct a thorough investigation of the killings;

Whereas since the Government of Indonesia invaded East Timor in 1975 tens of thousands of East Timorese have perished as a direct results of war-related killings, famine, and disease;

Whereas international human rights organizations and the Department of State's Country Reports on Human Rights Practices for 1990 report evidence of human rights violations in East Timor by Indonesian officials, including arbitrary arrests, torture and mistreatment under detention, extrajudicial killings, and denial of the fundamental right of expression; and

Whereas the United States and Indonesia have a close bilateral relationship, and United States economic and military assistance for Indonesia exceeded $50,000,000 for fiscal year 1991: Now, therefore, be it

Mr. FORD. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House to Senate Concurrent Resolution 77.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING REPRESENTATION OF FORMER EMPLOYEE OF THE SENATE

Mr. FORD. Mr. President, on behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on representation by the Senate legal counsel and authorization for testimony by a former employee, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 241) To authorize testimony by and representation of former employee of the Senate in United States versus Peter MacDonald, Jr., et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, in April the Senate agreed to Senate Resolution 111, 102d Congress, authorizing a former employee, Kenneth Ballen, to testify at criminal proceedings brought by the U.S. Attorney for the District of Arizona relating to alleged corruption in connection with the sale of land to the Navajo Nation. This matter was a subject of investigation by the Special Committee on Investigations of the Senate Select Committee on Indian Affairs, which Mr. Ballen served as chief counsel, during the 100th and 101st Congresses.

Testimony from Mr. Ballen is now sought in connection with another criminal proceeding brought by the U.S. attorney in Arizona. This case concerns allegations of corruption involving Peter MacDonald, Jr., the son of the former chairman of the Navajo Tribal Council. Mr. MacDonald, was a witness before the special committee and testified under a grant of use immunity.

Counsel for the defendant in this case has requested the Senate to authorize Mr. Ballen, who is now an employee of the House of Representatives, to testify at a pretrial hearing about his communications, while chief counsel to the Senate committee, with the U.S. attorney's office concerning the receipt of immunized testimony of Mr. MacDonald.

It is appropriate, in the circumstances of this case, for the Senate to authorize testimony concerning communications between Senate staff and prosecutors about information received under a grant of use immunity. Accordingly, this resolution would authorize the former chief counsel to testify in this case. The resolution would also authorize other Senate employees from whom testimony may be necessary to testify in this case, and would provide for representation by the Senate Legal Counsel in connection with the authorized testimony in order to protect the privileges of the Senate.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

The resolution (S. Res. 241), with its preamble, is as follows:

S. RES. 241

Whereas, in the case of United States versus Peter MacDonald, Jr., et al., No. CR-91-067-PCT-EHC, pending in the United States District Court for the District of Arizona, counsel for defendant Peter MacDonald, Jr., has requested the testimony of Kenneth M. Ballen, a former employee of the Senate on the staff of the Special Committee on Investigations of the Select Committee on Indian Affairs;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kenneth M. Ballen, and any other employee or former employee of the Senate from whom testimony may be necessary, are authorized to testify in United States versus Peter MacDonald, Jr., et al., except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Kenneth M. Ballen, and any other employee or former employee of the Senate from whom testimony may be necessary, in connection with their testimony in United States versus Peter MacDonald, Jr., et al.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ROBERT KASTENMEIER COURTHOUSE, MADISON, WI

Mr. FORD. Mr. President, I ask unanimous consent the Committee on Environment and Public Works be discharged from further consideration of H.R. 948, the bill to name the courthouse in Madison, WI, after former Congressman Robert Kastenmeier; that the Senate proceed to its immediate consideration; that the bill be deemed read for the third time; passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT W. KASTENMEIER COURTHOUSE

Mr. KOHL. Mr. President, during his 32 years as a Member of the House of Representatives, Robert W. Kastenmeier ably represented his constituents in the Second District of Wisconsin, demonstrated a deep commitment to protecting the public interest, and made unprecedented contributions to our Federal judicial system. I rise today in support of legislation that pays appropriate tribute to Bob Kastenmeier. It is a bill, which was introduced on behalf of the entire Wisconsin delegation, naming the federal courthouse in Madison the "Robert W. Kastenmeier United States Courthouse."

Throughout his career in Congress, which began in 1959, Bob Kastenmeier was a champion of civil rights and civil liberties. He was a principal architect of the Civil Rights Act of 1964 and the Voting Rights Act of 1968. In the late 1970's, he spearheaded the passage of the Civil Rights of Institutionalized Persons Act. And in the 1980's, he stood firm against former President Reagan's efforts to dismantle the Legal Services Corporation—instead pushing the Federal Government to provide legal aid to the poor. A former "Wisconsin Civil Libertarian of the Year," Bob fought for prison reform, privacy protection, and an enlightened criminal justice system.

Bob was responsible for a number of critically important measures, particularly in the intellectual property area, but he focused on judicial improvement throughout his entire career. Beginning in 1969, Bob chaired the House Judiciary Committee's subcommittee with jurisdiction over the Federal court system, where he rightfully earned his reputation as the "architect of modern court reform." Indeed, Bob led the way on virtually every major court reform measure, from streamlining the existing method of judicial discipline to revamping the bankruptcy and magistrate systems.

Most recently, Bob played a key role in developing and perfecting the Judicial Improvements Act of 1990. This measure created additional judgeships, implemented various recommendations of the Federal Courts Study Committee, established a Federal Commission to review the impeachment process and helped enhance efficiency in civil cases. Bob was also a longtime advocate of openness in the courts and he fought tirelessly to allow broadcast media to cover Federal court proceedings. Last year, his work in this area came to fruition, when the judiciary agreed to an experiment that will permit cameras and microphones into the Federal courts for the first time.

Judges from both sides of the ideological spectrum have recognized the contributions that Bob Kastenmeier has made to our system of justice. Former Chief Justice Warren Burger referred to Bob as "an outstanding supporter of the needs of the Judicial Branch." Chief Justice William Rehnquist characterized Bob as "a good friend of the judicial system." And Judge Abner Mikva accurately summed up Bob's legacy, calling him "probably the best friend the Federal judges have ever had on the Hill. Nobody up there has his knowledge, understanding, sensitivity about the Judiciary."

Bob received the American Judicature Society's 1988 Justice Award for improving the adminstration of justice. The State Bar of Wisconsin gave Bob the 1989 Public Understanding About the Law Award. Earlier this year, he received an award from the Conference of Chief Justices for his many contributions to improving State courts. Doubtlessly, he will receive many more awards—for his work on behalf of both the Judiciary and the people of Wisconisn.

Bob Kastenmeier leaves behind an extraordinary record of public service and achievement. Dedicating this Federal courthouse to Bob will, in a small way, honor a man who was a consummate lawmaker in the finest sense of the word.

TO CORRECT THE ENROLLMENT OF H.R. 2950

Mr. CHAFEE. Mr. President, I send to the desk a concurrent resolution, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 86) to correct the enrollment of H.R. 2950.

The PRESIDING OFFICER. Is there objection to the immmediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 86) was agreed to.

The concurrent resolution is as follows:

S. Con. Res. 86

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House is directed to make the following changes in the enrollment of H.R. 2950, section 1014(e)(2)—

At page 73, line 2, strike "91" and insert "81";

At page 73, line 4, strike "91" and insert "81";

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STAR PRINT—SENATE RESOLUTION 216

Mr. FORD. Mr. President, I ask unanimous consent for a star print of Senate Resolution 216 which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF EXPIRATION OF LEGISLATIVE AUTHORITY RELATING TO CONSTRUCTION OF COMMEMORATIVE WORKS ON FEDERAL LANDS IN THE DISTRICT OF COLUMBIA OR ITS ENVIRONS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 317, H.R. 3169, regarding D.C. commemorative, that the bill be read a third time, and passed, that the motion to reconsider be laid upon the table; that any statements appear at the appropriate place in the record.

The PRESIDING OFFICER. Without objection, it is so orderd.

SOVIET NUCLEAR THREAT REDUCTION ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3807.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3807) entitled "An Act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe", with the following amendments:

(1) In lieu of the matter proposed to be inserted by the amendment of the Senate numbered 1, insert:

TITLE II—SOVIET WEAPONS DESTRUCTION

Part A—Short Title

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

Part B—Findings and Program Authority

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) Findings.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of Soviet nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among the Soviet Union, its republics, and any successor entities that is not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the Soviet Union, its republics, and any successor entities, that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union, its republics, and any successor entities, and (B) to assist in the prevention of weapons proliferation.

(b) Exclusions.—United States assistance in destroying nuclear and other weapons under this title may not be provided to the Soviet Union, any of its republics, or any successor entity unless the President certifies to the Congrese that the proposed recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) In General.—Notwithstanding any other provision of law, the President, consistent with the findings stated in section 211, may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C.

(b) Type of Program.—The program under this section shall be limited to cooperation among the United States, the Soviet Union, its republics, and any successor entities to (1) destroy nuclear weapons, chemical weapons, and other weapons, (2) transport, store, disable, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

Part C—Administrative and Funding Authorities

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) Funding.—

(1) Transfer authority.—The President may, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $400,000,000 for use in reducing the Soviet military threat under part B.

(2) Limitation.—Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any acitivity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed Forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) Department of Defense.—The Department of Defense shall serve as the executive agent for any program established under part B.

(c) Reimbursement of Other Agencies.—The Secretary of Defense may reimburse other United States Government departments and agencies under this section for costs of participation, as directed by the President, only in a program established under part B.

(d) Charges Against Funds.—The value of any material from existing stocks and inventories of the Department of Defense, or any other United States Government department or agency, that is used in providing assistance under part B to reduce the Soviet military threat may not be charged against funds available pursuant to subsection (a) to the extend that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) Determination by Director of OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 222. REPAYMENT ARRANGEMENTS.

(a) Reimbursement Arrangements.—Assistance provided under part B to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(b) Natural Resources, Etc.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this section that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

SEC. 223. DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

Part D—Reporting Requirements

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal years 1992 and 1993, the President shall transmit to the Congress a report on the activities to reduce the Soviet military threat carried out under part B. Each such report shall set forth, for the preceding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which they were spent.

(2) The source of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of the Department of Defense, and the participation of any other United States Government department or agency, in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

(2) In lieu of the matter proposed to be inserted by the amendment of the Senate numbered 2, insert:

TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301. AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) Findings.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of antidemocratic forces in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) Authority to Transfer Certain Funds.—

(1) In general.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts sufficient funds, not to exceed $100,000,000, from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the President. As used in this subsection, the term "humanitarian assistance" does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators and compressors.

(2) Reports by the Secretary of State.—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary's report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) Source of funds.—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) Emergency requirements.—The Congress designates all funds transferred pursuant to this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act of joint resolution that make funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act of joint resolution to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) Repayment Arrangements.—

(1) Reimbursement arrangements.—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) Natural resources, etc.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve of the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) Dire Emergency Supplemental Appropriations.—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) Prior Notice.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) Reports to the Congress.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. This report shall at a minimum, set forth—

(1) the amount of funds transferred under this title, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the form and number of life assets planned to be used to deliver assistance pursuant to this title;

(4) the types and purpose of the cargo planned to be delivered pursuant to this title; and

(5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

(3) In lieu of the matter proposed to be inserted by the amendment of the Senate numbered 3, insert:

TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

SEC. 401. ARMS CONTROL AND DISARMAMENT AGENCY.

(a) Authorization of Appropriations.—Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended—

(1) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(2) in paragraph (1) as so redesignated, by striking out "$36,000,000 for the fiscal year 1990 and $37,316,000 for the fiscal year 1991" and inserting in lieu thereof "$44,527,000 for fiscal year 1992 and $45,862,810 for fiscal year 1993"; and

(3) in paragraph (2) as so redesignated, by striking out "fiscal years 1990 and 1991" and inserting in lieu thereof "each fiscal year for which an authorization of appropriations is provided in paragraph (1)".

(b) Administrative Authorities Regarding Investigations.—Section 41 of that Act (22 U.S.C. 2581) is amended—

(1) by redesignating paragraphs (h) and (i) as paragraphs (i) and (j), respectively; and

(2) by inserting after paragraph (g) the following new paragraph (h):

"(h) administer oaths and take sworn statements in the course of an investigation made pursuant to the Director's responsibilities under this Act;".

(c) ACDA Revitalization.—Not later than December 15, 1992, the Inspector General of the Arms Control and Disarmament Agency (who serves also as the Inspector General of the Department of State) shall submit to the President, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate a report with regard to the Agency's fulfillment of the primary functions described in section 2 of the Arms Control and Disarmament Act (22 U.S.C. 2551). Such report shall address the current ability and performance of the Agency in carrying out these functions and shall provide detailed recommendations for any changes in executive branch organization and direction needed to fulfill these primary functions. Within 60 days after submission of this report, the President shall submit the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate comments on any recommendations contained in the report dealing with executive branch organization and direction.

SEC. 402. ON-SITE INSPECTION AGENCY.

(a) Responsibilities of the On-Site Inspection Agency.—

(1) Additional responsibilities.—Section 61 of the Arms Control and Disarmament Act (22 U.S.C. 2595) is amended—

(A) by redesignationg paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (4), including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;".

(2) Conforming amendments to definitions.—Section 64 of that Act (22 U.S.C. 2595c) is amended—

(A) by striking out "and" at the end of pargraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(C) by adding after pargraph (2) the following:

"(3) the term 'Peaceful Nuclear Explosions Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

"(4) the term 'Threshold Test Ban Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).".

(b) Improving Congressional Oversight of On-Site Inspection Activities.—Title V of that Act is amended—

(1) by redesignating section 64 as section 65; and

(2) by inserting after section 63 the following:

"SEC. 64. IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.

"(a) Report From the President.—Concurrent with the submission to the Congress of the request for authorization of appropriations for OSIA for fiscal year 1993, the President shall submit a report on OSIA to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Armed Services of the House of Representatives and Senate. The report shall include a review of—

"(1) the history of OSIA, including how, when, and under what auspices it was established, including the applicable texts of the relevant executive orders;

"(2) the missions and tasks assigned to OSIA to date;

"(3) any additional missions and tasks likely to be assigned to OSIA during fiscal year 1993;

"(4) the budgetary history of OSIA; and

"(5) the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

"(b) Review of Certain Reprogramming Notifications.—Any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.".

Mr. WARNER. Mr. President, I must lodge my strongest objections to the inclusion in the final version of H.R. 3807, the CFE implementing legislation of language attempting to confuse and complicate congressional oversight of the On-Site Inspection Agency [OSIA].

Unfortunately, the House amendment to the Senate amendment to the bill now contains a provision designed to be first step in taking congressional oversight jurisdiction over the On-Site Inspection Agency from the Committees on Armed Services and transferring that jurisdiction to the Foreign Affairs and Foreign Relations Committees. I find it most disappointing that this bill, being considered at this very late hour in this session, includes this provision without any opportunity for consideration by the Senate Armed Services Committee.

Those of us who have been interested and involved in the work of the On-Site Inspection Agency [OSIA] believed that we had reached an understanding with the House Foreign Affairs Committee that this provision would not be included in the bill. Yet the House, acting in the middle of last night, has nonetheless added this provision to this important bill.

Mr. President, this is not a new issue. Ever since the President appointed the Department of Defense as the Cabinet-level Department having responsibility for OSIA, the House Foreign Affairs Committee has been tempting to obtain jurisdiction over the agency. There have been a number of such attempts by that House Committee since 1988, all of which have been defeated.

However, the Senate is now confronted with holding up implemention of the CFE Treaty or with having to accept this House provision.

Mr. President, the On-Site Inspection Agency is a Department of Defense Agency. A large component of its activity can properly be characterized as defense logistics: marshaling personnel, aircraft, and equipment for short-notice operations at home and overseas.

OSIA uses aircraft and crews from the Military Airlift Command. Roughly three-quarters of OSIA's personnel are military officers, and the military forms the largest pool of personnel with the linguistic skills and technical background needed for this work.

Many of OSIA's permanent or seconded personnel are specailists in such fields as security, counterintelligence, or technical aspects of data collection—especially with regard to nuclear tests, for threshold Test Ban Treaty verification, and high-energy electronic systems, for portal monitoring under the INF Treaty. Specialized personnel come from the military services, national laboratories, and other agencies.

The need to obtain and coordinate the use of such specialized personnel is one reason for the current funding and oversight arrangements. Another reason is the need to ensure that OSIA inspectors report the facts without worrying about whether policymakers will like what they hear. In short, OSIA performs an execution function—not a policy function—that requires much manpower, expertise, infrastructure and support of the type that the Department of Defense is best suited to provide. the integration of OSIA in DOD makes perfect sense.

Many Government programs, particularly defense and intelligence programs, are authorized by other committees but are of interest to the Foreign Relations and Foreign Affairs Committees. Although the Armed Services Committee is the primary committee of jurisdiction, OSIA cooperates well with all interested committees. Thus, when the CFE Treaty came before the Senate Foreign Relations Committee, Maj. Gen. Robert W. Parker, the Director of OSIA, testified on the agency's preparedness to implement the treaty.

Both the On-Site Inspection Agency and the mechanisms for congressional oversight of OSIA are working excellently. There is no need to change either the organization or its congressional oversight procedures.

Yet, today, we are about to enact a provision designed to begin those changes.

Mr. President, the House amendment now being considered by the Senate will unnecessarily involve the Foreign Affairs and Foreign Relations Committees in the budget review and oversight process of OSIA. It will not contribute to the highly effective and highly successful operations of OSIA. It could contribute to confusion and inefficiency in this important agency.

Mr. President, in light of the other valuable and important features of the pending bill, I am not going to block the Senate's passage of this legislation today. However, let me make it clear that I will subsequently seek to repeal this unnecessary and counterproductive legislation.

Furthermore, let me make it clear that I am not blocking this legislation today because the proper committees of jurisdiction, namely, the Armed Services Committees will continue to exercise exclusive jurisdiction over the operation, policy, and budget authorization approval over the OSIA.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALUTE TO LLOYD "BUDDY" FLETCHER

Mr. DOLE. Mr. President, I want to take a minute before Thanksgiving to join with many others in this town in being thankful for the privilege of knowing Lloyd "Buddy" Fletcher.

Buddy passed away last month at the age of 57. He left behind a loving family, a legion of friends, admirers, and a record of service to America.

After 8 years in the U.S. Marine Corps, Buddy joined the Department of Transportation in 1968, where he soon became the driver to the Secretary of Transportation. Over the years, Buddy would serve eight Transportation Secretaries with class and professionalism that were second to none.

I crossed paths with "Buddy" when my wife Elizabeth, became Secretary of Transportation. It soon became clear to Elizabeth and myself that "Buddy" was more than a driver—he was a caring friend, and someone who was the unofficial historian of the Transportation Department.

I attended Buddy's funeral last month, and was struck by the number of men and women from all walks of life who attended. There were drivers from other Government departments who looked to "Buddy" as a mentor and role model. There were DOT employees ranging from entry-level to Transportation Secretaries. It seemed that everyone had a special memory of "Buddy"—of his love of the Redskins, his pride in his reputation as the best-dressed person at the Department, and his warm and winning personality.

Mr. President, "Buddy" Fletcher will be greatly missed by many people, including Elizabeth and myself. Our condolences go out to his wife, Carolyn, his daughters Brenda Fletcher and Katrina Newlin, and his two grandchildren.

I EXTEND MY THANKS

Mr. DOLE. Mr. President, as we close the first session of this Congress, I extend my thanks to the majority leader and the members of his staff for all of their courtesies over the past several months. I also thank the majority whip, the distinguished Senator from Kentucky, Senator Ford, and all of my colleagues on the other side for the cooperation we have had on this side during this first session of Congress.

We have not always agreed, but I think for the most part we have been agreeable, sometimes doubtful not generally agreeable.

I also thank all the members of the Senate staff, all those who work day in and day out, sometimes with very little if any recognition, doing their job whether it be inside the Chamber, or doorkeepers outside the Chamber, or someone in the gallery working for the U.S. Senate, working for the institution, and working so that we may be more productive and more effective in our work in the U.S. Senate. So to all those faithful, loyal employees of the U.S. Senate, I certainly extend my thanks, my best wishes for a happy thanksgiving and a merry Christmas to all, every one and their families.

I would also be remiss in not thanking my right hand, right arm, the distinguished Senator from Wyoming, Senator Alan Simpson; members of our Republican leadership, Senator Thurmond, as I said, Senator Simpson, Senator Cochran, Senator Nickles, Senator Kasten, and Senator Gramm for their help in working on many, many programs this year.

I believe overall Congress has made a good record. I think we can look at some major accomplishments, and I think we closed out with a major accomplishment in passing the transportation bill, which was a bipartisan measure and which did have the leadership of the President of the United States. That should give, I hope, many people across America confidence that there are going to be jobs, lots of jobs, all across America, in the foreseeable future.

That in itself, in my view, is a good way to cap any session of any legislature, to pass a bill that you know is going to mean a great deal not only in transportation and safety, but as far as jobs for the future of American men and women, many of whom are out of work, many are skilled, many partially skilled, many looking for work, and this will provide that opportunity.

I also thank all of my colleagues on this side of the aisle for the many courtesies extended to me over the past several months in this session and to the President of the United States. I have just talked with the President of the United States. He thanked me for my efforts and the efforts of others in the Congress. I thanked him for his leadership. I think President Bush has done an outstanding job.

Sometimes we may have differences with people who work in the White House, but I think very honestly I think I know John Sununu, based on our association a few years ago in New Hampshire, and I could be very sensitive about it. But my view is the Chief of Staff John Sununu is doing and has done an outstanding job for President Bush. There have been some minor lapses, but we all make mistakes. When you are in a position that he is in he gets more attention, I guess, than some of the rest of us. And certainly to Mr. Darman, the OMB Direc-

VOL 137 PT 24 NO 26 1991 — JA 3 1992
UMI

tor, and Nick Brady, a former colleague of ours and now Secretary of the Treasury, particularly working closely with those three members of the President's official staff or official family. We have had a lot of work and a lot of issues. Certainly I have worked with other members of the President's Cabinet, but I think particularly those three have been almost weekly, sometimes daily contact, sometimes several times a day, and I certainly extend my thanks to them and to Roger Porter and to the President's chief economic adviser, Mr. Boskin, and all the others who have been working together.

I will just say as I close, I hope in December there will be efforts by both parties to find the right package, the right economic growth package that we can be certain will have some positive impact on the economy. Keep in mind it is a $5.6 trillion economy. We all have ideas on how to make it move. We want to make as certain as we can that what we do in the Congress will make a difference in the lives of the American people all across America, will pick up the economy, will create some job opportunities, will create opportunities to buy cars and homes and all the consumer goods that the American people would like to have and will lead people out of poverty and will give them a better chance in life.

So it is my hope and it is going to have to have to be a consensus, going to have to be bipartisan. The leadership is going to have to come from President Bush. We will have some time now to focus on not the political rhetoric but what can we do, what can the Democrats do, what can the Republicans do, what can we do together, what can we do working with President Bush, working with leadership across America, in the private sector, in the public sector, in organized labor, in agriculture, all across America, to get this economy moving in the right direction and moving more rapidly toward a full recovery.

So it seems to me that we have, let us see, about 8 weeks in which do do that, and I know that the adjournment resolution provides that in certain cases the majority leader and the Speaker of the House, after consultation with the minority leader of the Senate, the minority leader of the House, can call us back after 48 hours' notice, and that may happen. I am not certain of that, but in any event we have this opportunity now, in my view, to take a look, go back home, visit the people, find out how they view the various problems, whether it is health care, whether it is the economy, whether it is agriculture, whether it is unemployment, whether it is crime, whatever the problem may be.

So I conclude by wishing all of my colleagues a happy holiday season and saying that I think we have had a pretty good year. There are a lot of major pieces of legislation that we passed in this Congress, this session, first session of this Congress by a bipartisan majority. We have had our differences. We have had our differences in the gulf. We have had our differences on unemployment. We have had our differences, to some extent, on civil rights. We have had our differences on the crime bill. We have had a lot of differences. But we have had a lot of areas where there were no differences at all, and I can list a dozen or more areas where we worked together in total bipartisanship. And I think the American people appreciate that.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Kentucky.

Mr. FORD. Mr. President, first, let me say to the distinguished Republican leader I appreciate his kind words, not only for his colleagues but on this side. It has been an experience for me my first year as whip. I have survived the fire fairly well, not having been enlisted too many times. I have enjoyed working with the Republican whip. We have been straightforward with each other. We do not play games. And I have always liked it that way.

There is one thing the Republican leader said that I think is important. We have a few weeks now to look at some packages, some help to get the economy going, and I hope that when he says that the President of the United States is going to give us some leadership, he will be at the table also. We cannot do it with Representatives and Senators alone; the Executive has to be a part of that, in my opinion. If we come together as Americans, I think we can get this country going.

I look forward to that and hope that the Senator's expression of cooperation follows through as the holiday season comes. It seems a little easier to agree during holiday seasons than any other time, and I look forward to that.

HOUSE CURRENT RESOLUTION 260—PROVIDING FOR ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 260, providing for adjournment of the two Houses of Congress just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 260) providing for adjournment of the Congress to a date certain.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 1463

Mr. FORD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Kentucky [Mr. FORD], for Mr. MITCHELL, proposes an amendment numbered 1463.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of section 2, Strike the "period" and insert in lieu thereof, the following: "; and that when the Congress convenes on January 3, 1992, for the second session of the 102d Congress, the Senate shall not conduct any organizational or legislative business and when it recesses or adjourns on that day, it stand in recess or adjournment until 11:30 a.m. on Tueday, January 21, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1463) was agreed to.

The PRESIDING OFFICER. Without objection, the concurrent resolution, as amended, is agreed to.

So, the concurrent resolution (H. Con. Res. 260), as amended, was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ACADEMIC REPORT CARD ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of calendar No. 69, S. 2, a bill to promote achievement of national education goals and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. FORD. Mr. President, I move that the Senate proceed to calendar No. 69, S. 2, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 2, a bill to strengthen education for American families.
>
> George Mitchell, Daniel K. Akaka, Paul Simon, Christopher Dodd, Pat Leahy, Jeff Bingaman, Carl Levin, Dennis DeConcini, Claiborne Pell, Paul Wellstone, Albert Gore, Jr., John Glenn, Kent Conrad, David Pryor, Harris Wofford, Wyche Fowler, Jr.

Mr. FORD. Mr. President, I withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, the motion is withdrawn.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 2136 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on a date subsequent to the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolutions:

S. 159. An act for the relief of Maria Erica Bartski;

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes;

S. 1532. An act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988;

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes;

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration;

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys and Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia;

H.R. 948. An act to designate the U.S. Courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1009. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the Myrtle Foester Whitmire Division of the Aransas National Wildlife Refuge;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act to designating the White Clay Creek in Delaware and Pennsylvania for study and potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, MO, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plans for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of Congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with the implementation of the Treaty on Conventional Armed Forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief of the effects of natural disasters, and for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992, as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month"; and

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day."

Under the authority of the order of the Senate of January 3, 1991, the enrolled bills and joint resolutions were signed on December 3, 1991, during the adjournment of the Senate, by the President pro tempore [Mr. BYRD].

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on December 6, 1991, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 543. An act to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. 1193. An act to make technical amendments to various Indian laws;

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment;

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes;

H.R. 1776. An act to authorize for fiscal year 1992 the U.S. Coast Guard budget.

Under the authority of the order of the Senate of January 3, 1991, the enrolled bills were signed on December 6, 1991, during the adjournment of the Senate, by the President pro tempore [Mr. BYRD].

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on December 10, 1991, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore [Mr. HOYER] has signed the following enrolled bill:

H.R. 2950. An act to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

Under the authority of the order of the Senate of January 3, 1991, the enrolled bill was signed on December 10, 1991, during the adjournment of the Senate, by the Vice President.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that he had presented to the President of the United States the following enrolled bills and joint resolution:

On December 4, 1991:

S. 159. An act for the relief of Maria Erica Bartski;

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes;

S. 1532. An act to revise and extend the program under the Abandoned Infants Assistant Act of 1988;

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes;

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; and

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

On December 9, 1991:

S. 543. An act to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. 1193. An act to make technical amendments to various Indian laws;

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment; and

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

MEASURES PLACED ON THE CALENDAR

On December 11, 1991, pursuant to the order of September 10, 1991, the Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 1088. A bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for the disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes.

REPEAL OF SECTION 618 OF THE RESOLUTION TRUST CORPORATION, REFINANCING, RESTRUCTURING AND IMPROVEMENT ACT

The text of the bill (S. 2131) to repeal section 618 of the Resolution Trust Corporation, Refinancing, Restructuring and Improvement Act of 1991, as passed by the Senate on November 27, 1991, is as follows:

S. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 618 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is repealed.

SEC. 2. Subsection 12(b)(7) of Public Law 94–204, as amended, and subsection 9102(e) of Public Law 101–165, as amended, are each further amended by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation such as financial instruments, notes, loans and bonds),".

BRONZE STAR

The text of the bill (S. 2015) to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright, as passed by the Senate on November 27, 1991, is as follows:

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARD OF THE BRONZE STAR TO NAVY AND MARINE CORPS PERSONNEL WHO SERVE ON CORREGIDOR, THE PHILIPPINES, UNDER GENERAL WAINWRIGHT

(a) FINDINGS.—Congress finds:

(1) United States Army personnel under the command of General Jonathan Wainwright who fought in and were captured during the defense of Corregidor Island, the Philippines, at the outbreak of World War II were awarded the bronze star.

(2) Approximately 3,000 United States Navy and Marine Corps personnel, serving in various units under the overall command of General Wainwright, fought in the defense of Corregidor Island.

(3) These Navy and Marine Corps personnel were not awarded the bronze star pursuant to Navy policy not to award medals for gallantry to all personnel in a unit.

(4) The Navy and Marine Corps personnel demonstrated courage, endurance, and intrepidity in battle and in suffering the privations of battle, capture and internment after capture that was every bit exemplary as their Army counterparts.

(5) An award of the bronze star medal to Navy and Marine Corps personnel who served under General Wainwright in the defense of Corregidor Island provides appropriates recognition of and honor for the courage, endurance, and intrepidity of such personnel.

(b) AWARD OF BRONZE STAR MEDAL.—The President is urged and requested to require that the Secretary of an appropriate military department award the bronze star medal to each member of the United States Navy or Marine Corps who served under General Jonathan Wainwright during the defense of Corregidor Island, the Philippines, during World War II.

PHOENIX INDIAN SCHOOL

The text of the bill (S. 2034) to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property, as passed by the Senate on November 27, 1991, as follows:

S. 2034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of the Interior shall remove, at the earliest possible date, all asbestos within building and related infrastructure, including underground pipes, located on the 110 acre parcel of Federal

property known as the Phoenix Indian School. The obligation of the Secretary to carry out these activities shall continue beyond the date of transfer of the Phoenix Indian School property from Federal ownership.

CORRECTING THE ENROLLMENT OF S. 543

The text of the concurrent resolution (S. Con. Res. 83) to authorize a correction in the enrollment of S. 543, as agreed to by the Senate on November 27, 1991, is as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543 the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the currency.

shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

CORRECTING THE ENROLLMENT OF H.R. 3435

The text of the concurrent resolution (S. Con. Res. 84) to correct the enrollment of H.R. 3435, the RTC funding bill, as agreed to by the Senate on November 27, 1991, is as follows:

S. CON. RES. 84

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives is directed to make the following changes in the enrollment of H.R. 3435:

(a) Strike section 618.

(b) At the end of the Act add the following:

"Sec. . Subsection 12(b)(7)(vii) of Public Law 94-204, as amended, and subsection 9102(e) of Public Law 101–165, as amended, are each amended further by deleting in the appropriate place the phrase 'real, personal,' and substituting in lieu thereof the phrase 'real, personal (including, but not limited to intangible assets such as financial instruments, notes, loans, bonds, and licenses),'.".

CORRECTING THE ENROLLMENT OF H.R. 3531

The text of the concurrent resolution (S. Con. Res. 85) to correct a technical error in the enrollment of the bill (H.R. 3531), and for other purposes, as agreed to by the Senate on November 27, 1991, is as follows:

S. CON. RES. 85

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 3531), an Act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 8 of the bill insert a semicolon immediately after the first quotation marks.

(2) In section 5(d)(2)(C) insert quotation marks immediately before "CHAPTER 4—PATENT FEES;".

CORRECTING THE ENROLLMENT OF H.R. 2950

The text of the concurrent resolution (S. Con. Res. 86) to correct the enrollment of H.R. 2950, as agreed to by the Senate on November 27, 1991, is as follows:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House is directed to make the following changes in the enrollment of H.R. 2950, section 1014(c)(2)—strike out "91" and insert "81" both places it appears.

ADDITIONAL STATEMENTS

RETAIL DEPOSIT TAKING BY FOREIGN BANKS

• Mr. GARN. Mr. President, a number of issues have already arisen in connection with the deposit insurance legislation adopted by the Congress in the closing hours of the last session. While I have separately made a statement on many of these issues, a subject of particular concern, from both a policy and technical standpoint, is the requirement that foreign banks wishing to take retail deposits may only do so through a subsidiary rather than through insured branches.

Because of unclear legal construction, the regulators who must implement this provision and the banks who will be subject to its requirements have had considerable difficulty discerning its exact intent. In the interest of assisting their deliberations, I would like to provide a history of my involvement with this provision. My opposition to it and my intentions in achieving certain modifications to limit its impact are instructive in understanding the intent of the provision.

As a starting point, I would note that there is no obvious justification for this provision at all. The Treasury study, "Modernizing the Financial System," raised no concerns with foreign bank retail activities in the United States and made no recommendations to restrict or restructure these activities. The Federal Reserve bill, drafted as a response to the BCCI and Banco Lavoro scandals, made no recommendations in this area. Likewise, the deposit insurance reform bills introduced by the committee chairmen in the two Houses of Congress which served as bases for eventual legislation did not address this issue.

The basis reason that retail deposit taking was not an issue in the legislation was that insured deposit taking by foreign banks had never cost the taxpayers a dime. It is true that during debate on the International Banking Act in 1977, the FDIC had argued that subsidiaries rather than direct branches were administratively simpler to deal with for the Corporation. However, it is also true that the subsidiary subsidiary structure reduces depositor protection in that it tends to limit access by the FDIC to the parent bank's resources. Furthermore, it raises national treatment concerns. In the International Banking Act, it was decided to permit establishment by foreign banks either through branches or subsidiaries.

What has occurred in the meantime to alter these judgments. Clearly the foreign bank presence in the United States has grown. However, no history of losses or administrative problems arising from the operation of foreign bank branches has intervened to alter the original judgment. Furthermore, as a result of the regulatory changes in the Fed bill, foreign banks will now be subject to extensive Federal oversight including the right to terminate, expanded civil penalties, and new criminal penalties.

With this history, one might wonder how the subsidiary issue was introduced into the debate. In fact, it was Treasury that argued, in the specific circumstance of a foreign bank wishing to engage in nontraditional activities such as securities and insurance, that such a foreign bank should be required to form a U.S. holding company and a well-capitalized banking subsidiary. It was argued that since access to these new powers was going to require higher capital and closer regulation for U.S. banks, the only way to ensure similar compliance by foreign banks was to impose structural requirements. At the same time, the Administration opposed any change in structure or regulation of banks wishing only to engage in traditional banking activities.

While there was never opposition from any quarter to tougher enforcement authority for the Fed, I opposed the Treasury roll up proposal as unnecessary to achieve the objective of higher capital and closer regulation and as inconsistent with the longstanding U.S. policy of 'national treatment.' Under this standard, foreign banks had long been permitted to establish in the form of direct branches, including insured branches. In foreign markets, Treasury has long argued that foreign requirements for U.S. banks to operate through subsidiaries denied equality of competitive opportunity.

The draft committee print originally circulated to Banking Committee members adopted the Treasury roll up proposal for new powers but it went considerably farther. The print would have required foreign banks to create a U.S. subsidiary in order to engage in interstate branching. And since interstate branching might lead to greatly expanded interstate retail operations, expanded deposit insurance requirements for foreign banks were added to the interstate section of the bill.

I was successful in making the case that the proposed structural requirements were unnecessary and counterproductive to our overall banking policy. Consequently, the holding company and subsidiary requirements for expanded powers and interstate branching were dropped in favor of the approach to national treatment embodied in the International Banking Act: direct branches permitted, with the foreign bank treated as a holding company for purposes of evaluating capital and management. However, to respond to the concerns Treasury had raised with capital and regulation, I supported committee amendments requiring careful analysis and enforcement of equivalent capital for foreign banks wishing to engage in expanded activities and a study of a subsidiary requirement as the future rule for foreign bank operations.

In order to achieve agreement on my proposed modifications at markup, I agree to maintain expanded deposit insurance requirements in the committee bill as part of the interstate branching provisions for foreign banks. This included an amendment requiring any foreign bank that wished to take retail deposits below $100,000 to do so only through subsidiaries. While my agreement on this point constituted acquiescence in a mini-roll-up of existing insured branches, my agreement on this point was clearly provisional.

The proviso attached to the amendment was that, since there no compelling argument for a change in policy and the committee had not considered this proposal or its implications, the committee should develop a record on the proposal by seeking the views of the agencies involved and the affected parties so that we could make an informed judgment. Senator RIEGLE and I therefore sent identical letters to the Chairmen of the Federal Reserve Board and the FDIC, the Treasury Secretary, and various banking interest groups seeking their views on the subsidiary roll up and two other options for expanded deposit insurance requirements.

The understanding that this provision was subject to further review was reflected in the committee report on S. 543. The body of the report states that the committee's concerns with respect to deposit insurance arose to the context of "removing current Federal and State barriers to interstate banking and branching by foreign banks [that] might lead to a substantial expansion of insured deposit taking by foreign banks." The report also noted that the issue was "subject to further review" reflecting an agreement to gather further evidence. In my additional views on the international banking provisions, I noted that while the committee had rejected the Treasury roll up proposal, it was retained in the case of retail deposit taking involving a handful of banks, mostly from smaller countries, which have caused no losses to the insurance fund. I also noted that this "is an issue on which additional evidence is being gathered and which will require further consideration."

The further consideration was to be based on the recommendations of the parties to whom the committee had written. I ask that the letter sent to Alan Greenspan and responses received from the various groups and agencies be printed at the end of my statement. I will summarize them briefly. Treasury opposed the subsidiary requirement. Federal Reserve Chairman Greenspan favored "maintaining deposit insurance on foreign bank deposits on the current basis." FDIC Chairman Seidman provided a staff analysis which made a series of arguments on both sides of the issue but took no position. The Bankers' Association for Foreign Trade argued that the proposal was "unnecessary and, perhaps, unwise, and could adversely impact U.S. bank operations outside the United States." The Institute of International Bankers called the proposal "unnecessary" and noted that "the global capital of the international bank would no longer stand behind these deposits, and such a requirement would be inconsistent with the practice of U.S. banks to maintain branches in other countries." The Independent Bankers Association of America supported the proposal in the interest of protecting small depositors.

I would also note that one letter was received unsolicited from a group that was obviously paying careful attention to the legislation, the European Community. Sir Leon Brittan, vice president of the Commission of the European Communities, wrote noting that EC member states impose no structural requirements on foreign bank branches that are subject to deposit insurance plans and no such requirements are planned or necessary. He urged that we dispense with this requirement. I ask that his letter also be printed in the RECORD following my statement.

The final opinion that was sought to complete the record on this matter was that of the new FDIC Chairman William Taylor. During his confirmation hearing in the Senate Banking Committee, Senator RIEGLE asked whether the best way to ensure protection of retail depositors was the subsidiary requirement in the Senate bill. Mr. Taylor responded: "I think it helps. I think it's not an absolute assurance but it helps." In the interest of providing him an opportunity to make a more thoughtful response to this question, I wrote to Mr. Taylor after the hearing asking for his specific views on the subsidiary issue. His response, which I ask be printed after the other letters, was as follows:

> With respect to the question of whether foreign banks should be required to conduct their retail deposit activities in a subsidiary bank or be permitted to continue to conduct those activities in branches, I have no preference because substantial arguments can be made in favor of either approach.

Based on this loss history and body of opinion, it seems clear to me as the bill was taken to the Senate floor that any change in this area should be studied further and the provision should be dropped from the bill. The argument for deletion became even stronger when the possibility of foreign bank expansion through interstate branching, on which the deposit insurance proposal had been premised, was eliminated from the bill by the Ford amendment. However, because it was unclear how the interstate issue would finally be resolved in conference, the deposit insurance requirement, equivalent capital and subsidiary study provisions which had all been premised on interestate branching and broader powers were retained in the bill to ensure that the Senate was in a strong negotiating position in conference.

While the provision was maintained, the one change upon which I did insist was to limit the impact of the foreign bank retail deposit provision so that current activities were held harmless. This Senator, of course, opposed the entire notion of the subsidiary requirement as unnecessary and a denial of national treatment. But, even in the event that such a requirement were to apply in the future, I was adament that it not require any restriction or roll up of current activities. I was particularly concerned that a relative handful of banks operating insured branches, employing American citizens, and causing no loss to depositors not be put out of business without a hearing. Therefore, the final managers' amendment adopted on the floor limited the subidiary requirement of future retail deposit taking and all existing insured branches were grandfathered.

In conference, with adjournment looming, the House madė clear that its parliamentary position made it impossible even to consider interstate branching or matters involving multiple committee jurisdictions like my lender liability provision or fair trade in financial services. Interstate branching was therefore dropped in conference. In my view, this eliminated even the weak justification that brought the foreign bank deposit insurance provision into the bill in the first place. I therefore argued for deletion of this vestige of the broader Senate bill from any Senate offer to the House.

That advice was not heeded and the Senate proposed adoption of the subsidiary requirement. This proposal was challenged in the closing minutes of the conference by Congressman WYLIE who cited the body of opinion against the provision. He asked his House colleagues to insist on the House position, that is, no subsidiary requirement. Unfortunately, the issue had not been carefully reviewed by those who would be directly affected by the provision, the administration had not alerted us to the trade policy implications of the provision, and many Members on the House side were apparently under the impression that the provision was not significant or that it was supported by the regulatory agencies.

A vote was taken by the House and in the fatigue of an around-the-clock session, the House receded to the Senate. I believed this was very unfortunate from an overall policy perspective but the full implications of this minor provision only became clear when it was carefully reviewed after the fact by agencies and interest groups that should have been more alert to it.

My greatest fear was never the provision's impact on foreign bank operations, of which retail deposits represent less than 1 percent, but on U.S. trade policy and efforts I have been pursuing with Chairman RIEGLE to open foreign markets such as the fair trade in financial services bill. Once the provision was carefully considered after the fact, these fears were realized.

As a result of its enactment, the United States will have too take a reservation from the obligations of the OECD Code on financial services and will have to take similar steps by amending its position on any financial services text that is part of a North American Free-Trade Agreement and Uruguay round. It may also create a violation of United States obligations under the United States-Canada Free-Trade Agreement. It may endanger future international liberalization in a sector that is critical to the future of U.S. competitiveness. Even worse, U.S. movement away from free right of establishment through branches may well trigger a rollback of market access for U.S. banks abroad.

The other problem that has become clear after a careful reading is that the provision is drafted in such a way as to threaten currently permissible activities for wholesale and limited branches of foreign banks. Unless the Fed and FDIC adopt a liberal interpretation of the language, any foreign bank branch with foreign currency deposits, clearing accounts, loan accounts, demand accounts for large corporate customers or accounts for foreign employees that are below, or fall below, $100,000 could be forced to set up a subsidiary or drop those accounts on the date of enactment.

This clearly makes no sense nor was it, I believe, the intent of the conferees. For my part, I obtained adoption of a grandfather clause specifically to limit the impact of the provision on existing activities. I protected existing insured branches which this provision was clearly intended to eliminate. I certainly did not do so with the intent that current wholesale branch activities, not even addressed by this provision, would be rolled back.

The problem with the provision are now being realized by others. I ask that a letter from the British Embassy to Chairman RIEGLE, which was forwarded to me by the Embassy, be included in the RECORD following my statement.

To address these problems, I entend to reassure the regulators that it was not our intention to restrict or roll up current lines of nonretail business. I understand that a number of House Banking conferees are doing likewise. It is my hope that the regulators will act accordingly in implementing the provision.

Looking to the future, I will support a technical correction in the next session to ensure that the provision causes no roll back or roll up of current foreign banks activities. In my view, if we are to continue efforts to liberalize trade in financial services and pursue the fair trade in financial services bill, it should be repealed.

The material follows:

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS,
Washington, DC, July 17, 1991.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR CHAIRMAN GREENSPAN: The Senate Banking Committee soon will be considering comprehensive legislation to reform our deposit insurance system and modernize our banking system. As part of that legislation, the Committee will consider whether the deposit insurance system as it applies to foreign banks requires reform. We are writing to obtain your views on a number of policy issues being discussed in the Committee.

We understand that under current law, foreign banks are required to participate in the deposit insurance system only for branches that take retail deposits and these are the only deposits in foreign banks covered by the system. Thus while domestic banks pay premiums on their whole domestic deposit base, foreign banks operating in this country are required to pay assessments only on deposits at a branch that takes retail deposits. At any location in this country where deposits only in excess of $100,000 are taken, a foreign bank does not pay any premiums while a U.S. bank does.

The legislative history of this provision indicates that the decision to require insurance at locations that take retail deposits was premised on concern "for the protection of the individual retail, not commercial, depositors." The insurance requirement provides a second layer of protection for retail deposits in insured branches, the primary security of which is the full resources of the foreign bank itself.

Legislation proposed by the Administration would, if enacted, give foreign banks the right to engage in banking through branches throughout the United States. This raises questions about whether we need to modify the rules on assessing premiums and extending deposit insurance coverage for deposit taking by foreign banks in order to ensure that U.S. depositors are adequately protected and U.S. banks are not disadvantaged compared to foreign competitors but foreign banks still receive national treatment.

Three possible modifications are under consideration by the Committee. One proposal being examined would charge deposit insurance assessments for all the domestic deposits taken by a foreign bank operating through branches that engages in retail deposit taking in any location in the United States. This appears to be a modest extension of current policy that would ensure identical treatment of U.S. and foreign banks as foreign banks expand through interstate branching. A second proposal is that deposit insurance coverage be extended and insurance premiums charged on all U.S. deposits taken by foreign banks even if they are solely wholesale. From the point of view of competitiveness, this would increase the cost of doing business for foreign banks and eliminate a competitive advantage they now enjoy over U.S. banks engaged in wholesale deposit taking. From the point of view of the insurance system, this would expand the liabilities of the system but also provide a new source of premiums to the Bank Insurance Fund.

A third proposal, aimed at ensuring that foreign banks taking retail deposits are effectively regulated to protect depositors, the communities from which deposits are taken and the insurance fund, would require that interstate retail deposit taking through branch networks across the United States be done only from a U.S.-chartered subsidiary. This proposal would ensure FDIC access to U.S.-based resources in the event of a foreign bank failure but could make it more difficult to rely on the resources of the foreign parent or the foreign government as lender of last resort.

These three proposals raise significant policy issues, and we would very much appreciate having your views on them. In your response, please address the impact the above suggested changes would have on the risks facing the deposit insurance system, competitive equity between foreign and domestic banks operating in the U.S. market, and how each proposal compares to the treatment accorded U.S. banks operating in other countries that sponsor deposit insurance funds.

Since we will be moving forward with legislation in the near future, we ask for your views on the above issues at your very earliest convenience.

Sincerely,

JAKE GARN,
Ranking Republican.
DONALD W. RIEGLE, Jr.,
Chairman.

DEPARTMENT OF THE TREASURY,
Washington, August 1, 1991.

Hon. JAKE GARN,
Ranking Republican, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: The Treasury Department has carefully considered the proposals regarding foreign banks outlined in the letter of July 17 signed by you and Senator Riegle.

The first proposal, which is included in the proposed Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, would charge deposit insurance assessments for all the domestic deposits taken by a foreign bank through branches if it engages in retail deposit taking in any of its branches in the United States.

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The Administration's bill did not propose changing the present deposit insurance scheme for foreign bank branches under which foreign bank branches taking only wholesale deposits could continue to benefit from an exemption from deposit insurance assessments. While your proposal would not be inconsistent with national treatment, it would increase the claims on the deposit insurance system; accordingly, the Administration prefers the existing approach, which is designed to protect retail depositors in those few foreign bank branches that accept retail deposits.

The second proposal would extend deposit insurance coverage and charge premiums on all U.S. deposits taken by foreign banks even if they take only wholesale deposits in their U.S. branches. We agree that assessing deposit insurance premiums on foreign bank branches would increase the cost of conducting wholesale banking business for foreign banks and eliminate a competitive advantage they now enjoy over U.S. banks engaged in wholesale deposit taking. However, the vast majority of foreign banks operating through branches take no retail deposits and would face increased costs with only limited benefits.

As you noted in your letter, such a policy would expand the liabilities of the deposit insurance system—considerably more than your first proposal. The Treasury Department is opposed to such an expansion of the deposit insurance system's liabilities at a time when exposure should clearly be reduced, therefore, we are opposed to this provision.

Your third proposal would require that interstate retail deposit taking through branch networks across the United States be done only from a U.S.-chartered subsidiary. The Treasury Department is opposed to requiring a subsidiary for foreign banks that only engage in commercial banking activity. The Administration proposed a subsidiary/holding company requirement for foreign banks seeking to engage in expanded activities.

This proposal could have the effect of discouraging foreign banks from engaging in retail deposit taking in more than one state. The result would be that foreign banks would concentrate their activity in a very few large states that allow multiple branches, such as New York or California. Small states could lose potential foreign bank retail lending activity.

In response to your final question, U.S. bank branches and subsidiaries participate in deposit insurance systems in Canada, France, Germany, and the United Kingdom. Participation is not mandatory in some of these systems and is generally less costly than in the United States. In Germany, where foreign banks' participation is optional, assessments are related to a bank's retail deposit base, which is very small for most U.S. banks. In France and the U.K., where foreign banks' participation is compulsory, assessments are charged following large pay-outs, although the U.K. also assesses an initial contribution to its fund upon authorization of the foreign bank's office. Japan does not currently assess deposits of foreign banks for its insurance system.

Thank you for seeking the Treasury Department's views on these important issues.

Sincerely,

MARY C. SOPHOS,
Assistant Secretary, Legislative Affairs.

FEDERAL RESERVE SYSTEM,
Washington, DC, July 29, 1991.

Hon. JAKE GARN,
Ranking Republican, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: I am responding to your letter of July 17, 1991, requesting the views of the Federal Reserve on whether the deposit insurance system as it applies to foreign banks requires reform.

As you know, foreign banks currently pay assessments for deposit insurance on the deposits of individual U.S. branches that accept more than a de minimis level of deposits of less than $100,000 in size, known as retail deposits. The assessment is charged on all of the deposits of that branch, including wholesale deposits. Few foreign banks accept retail deposits and therefore few are insured by the Federal Deposit Insurance Corporation. Of 226 foreign banks with 374 branches in the United States, 29 foreign banks operate 58 insured branches. Those 29 foreign banks operate 22 additional uninsured branches in the United States that accept wholesale deposits. No assessment is generally charged, and no deposit insurance coverage is provided, on U.S. branches of foreign banks that accept only wholesale deposits.

In your letter you outline three possible modifications to the current approach to deposit insurance for foreign banks that are under consideration by the Senate Banking Committee. You ask that we address the impact of those possible changes on the risks facing the deposit insurance system, competitive equity between foreign and domestic banks operating in the U.S. market, and the treatment accorded U.S. banks operating in other countries that sponsor deposit insurance funds.

In general, the Federal Reserve favors maintaining deposit insurance on foreign bank deposits on the current basis. The current system, which requires deposit insurance only on branches engaging in a retail deposit business, was designed to protect individual depositors with smaller balances who presumably would not be able to assess adequately the risks of dealing with a foreign bank. It was not designed to bring the risks of all foreign bank operations in the United States, a large part of which are oriented toward international business, within the U.S. safety net.

While it is important that U.S. authorities supervise the operations of foreign banks in the United States, it should be clear to large depositors that ultimate responsibility for the safety and soundness of foreign banks rests with the home country authorities. In particular, the Federal Reserve has stressed the need to assess the financial condition of the foreign bank as a whole and the comprehensiveness of home country supervision. Imposing deposit insurance on all foreign branch business risks implicitly transferring overall responsibility for foreign branch from the home country to the United States, a burden that we believe should not be assumed.

With respect to competitive equity between foreign and domestic banks operating in the U.S. market, we are aware of no convincing evidence that the branches of foreign banks have been able to price products in the U.S. market below prices offered by domestic institutions because foreign banks do not have to pay insurance assessments. Moreover, U.S. banks may in some circumstances have lower funding costs overall because of their greater access to the large U.S. retail deposit base.

Finally, the structure of insurance coverage for deposits in branches of U.S. banks abroad varies substantially from country to country in the Group of 10 countries. In general, the systems were designed to emphasize the protection of small deposits.

I hope this response will be helpful in your deliberations.

Sincerely,

ALAN GREENSPAN.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, July 29, 1991.

Hon. JAKE GARN,
Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: Thank you for your joint letter with Chairman Riegle requesting the views of the Federal Deposit Insurance Corporation on modifications of federal deposit insurance applicable to United States branches of foreign banks.

Your letter indicates that three possible modifications of the deposit insurance system as it relates to foreign banks are being considered in conjunction with proposed legislation that would enable such banks to establish branches throughout this country. We are pleased to enclose our analysis of the policy implications of the possible modifications to which you refer.

We hope that this information is helpful. If you have any further questions, please let us know.

With best wishes.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

RESPONSE TO REQUEST BY CHAIRMAN RIEGLE AND SENATOR GARN FOR COMMENTS ON POSSIBLE MODIFICATIONS TO DEPOSIT INSURANCE APPLICABLE TO U.S. BRANCHES OF FOREIGN BANKS

Branches and agencies of foreign banks now account for about 18 percent of the total banking assets in this country, reflecting a rapid expansion in operations and growth in market share since passage of the International Banking Act of 1978. The majority of foreign banks with United States branches do not engage in domestic retail business. Most foreign banks that operate a retail deposit business in the United States do so through subsidiary banks that are chartered here. The current attractiveness of the United States market for foreign banks appears to lie in the wholesale sector.

One proposal would require that insurance coverage be extended to, and that assessments be paid on, all of the domestic deposits, both wholesale and retail, held by United States branches of foreign banks. At present, insurance extends to, and assessments are paid on, only the deposits held by those branches of a foreign bank that take domestic retail deposits. A second proposal is that deposit insurance coverage be extended to, and assessments be collected on, all domestic deposits of United States branches of a foreign bank even if none of the branches takes any domestic retail deposits.

Either of these two proposals would put foreign banks operating in the United States on a more equal footing with domestic banks—which are required to pay assessments on all of their domestic deposits, both wholesale and retail. The first proposal might not significantly increase assessment income, since foreign banks with United States branches that take domestic retail deposits could choose to cease doing so in order to avoid the cost increase.

It is difficult to predict the effect that charging assessments on the wholesale deposits of American branches of foreign banks would have on the wholesale market or to estimate the increased assessment income that could be expected. It appears that, in many cases, assessing premiums on wholesale deposits would be contrary to the treatment accorded United States banks' wholesale deposits abroad.

The first two proposals, but especially the second, could be expected to result in a significant increase in insurance coverage of foreign bank offices in the United States. In the event that either proposal is enacted, it is absolutely vital that the FDIC be provided ultimate authority to approve or deny deposit insurance.

Both proposals would expand deposit insurance protection and thus would increase potential claims on the Bank Insurance Fund, which is extremely vulnerable and is, of course, our primary concern. Supervision and regulation of branches of an entity headquartered abroad gives rise to unique problems. For example, communicating with, and achieving corrective action of problems through, a principal office located overseas would be difficult at best. There are additional risks such as potential problems in claiming assets funded by insured liabilities, since collateral assets may be located abroad.

The third proposal would require that interstate retail deposit taking by a foreign bank be done only through the offices of a subsidiary bank chartered in the United States. This requirement probably would not have a significant impact since, as indicated earlier, most foreign banks that operate a retail deposit business here do so through such a subsidiary, which is preferable both from the standpoint of supervision and in terms of managing the risk to the Bank Insurance Fund. However, such a requirement would be contrary to the treatment accorded United States banks in many countries where they are permitted to operate at retail through branch offices.

Lastly, we have been asked to comment on the payment by United States banks of deposits in foreign branches when the assets of those branches have been frozen or expropriated by a foreign government. Section 3(l) of the Federal Deposit Insurance Act, 12 U.S.C. §1813(l), defines the term "deposit" for purposes of the Act to exclude any obligation of a bank or savings association which is payable only at an office located outside the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands. Deposits which are booked and payable only at an overseas branch of an insured financial institution are not reported as deposits for assessment purposes and are not considered to be insured.

Several recent cases have held that the home office of a bank is liable for payment of overseas deposits if they could not be repaid at the foreign branch where they were made. Typical cases include Chase Manhattan Bank v. Vishipco Lines, 660 F.2d 854 (2d Cir. 1981), in which Chase was required to pay a deposit made in its Saigon branch after the branch was closed because of approaching Vietcong, and Wells Fargo Asia Ltd. v. Citibank, N.A., 110 S. Ct. 2034 (1990), in which Citibank was required to pay a deposit made in the Philippines after a Philippine government decree prevented payment from the Bank's Philippine assets.

This line of cases casts doubt on the proposition that any deposit truly may be payable only outside the United States, its territories and possessions. Because such deposits are not subject to assessments and, in all likelihood, are not regarded by either the bank or its foreign depositors as being insured, the Federal Deposit Insurance Act should make clear that such deposits are not insured. We therefore suggest enactment of the attached amendment.

FEDERAL DEPOSIT INSURANCE ACT

Subparagraph (A) of Section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5) is amended to read:

(A) any obligation of a bank or savings association which is carried on the books and records of an office of such bank or savings association located outside of the States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands unless (i) such obligation would be a deposit if it were carried on the books and records of the bank or savings association, and payable at, an office located within the States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and (ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of such bank or savings association located within the States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

BANKERS' ASSOCIATION
FOR FOREIGN TRADE,
Washington, DC, July 26, 1991.

Re foreign banks and deposit insurance.

Hon. DONALD W. RIEGLE, Jr., *Chairman*
Hon. JAKE GARN,
Ranking Republican, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE AND SENATOR GARN: On behalf of the Bankers' Association for Foreign Trade ("BAFT"), I would like to respond to your joint letter of July 17, 1991, requesting BAFT's views on three proposals to modify the application of federal deposit insurance to the operations of foreign banks in the United States.

As you know, BAFT's voting membership includes virtually all U.S. banks with significant international and trade banking operations. BAFT's U.S. members thus comprise those U.S. banks that are most active overseas and are the principal competitors of foreign banks both in the United States and abroad.

In evaluating the three proposals you presented, we have been principally guided in our analysis by the principle of national treatment toward foreign banks, a principle embodied in the International Banking Act of 1978 ("IBA"), because it promotes competitive equality in the United States and protects U.S. banks from possible retaliatory actions outside the United States.

BAFT agrees with your basic premise that legislation giving foreign banks the right to establish branches throughout the United States raises important questions about the deposit insurance coverage and assessment of such operations. There is, of course, a competitive issue, as U.S. banks will be paying deposit insurance premiums on deposits at their multistate branches, premiums that impose very substantial competitive costs. There is also the question of risks to the deposit insurance fund of insuring deposits at U.S. operations of banks based outside the United States. Finally, there is the issue of maintaining important operational or competitive options for U.S. banks outside the U.S. In this regard, any actions taken by the United States Government on the treatment of foreign banks in this market may provoke similar responses by foreign governments vis-a-vis the operations of U.S. banks outside the United States.

Evaluating your three proposals in terms of the above issues and overall consistency with national treatment, BAFT supports your first proposal, but has serious concerns with your second and third proposals.

Under your first proposal, if a foreign bank decided to take advantage of new interstate banking powers and to establish branches in more than one state, all of its branches would have to be FDIC-insured and assessed if any of such branches accepted retail deposits. We believe this position is consistent with national treatment, because even if U.S. banks accept only a small amount of retail deposits, they must pay assessments on all of their domestic deposits. If a foreign bank chooses to engage in interstate retail deposit-taking through its branches, it should be subject to the same assessment structure as U.S. banks. This proposal also guards against any confusion as to deposit insurance coverage by retail depositors, which could occur if some branches were insured and some branches were not insured. In this regard, FDIC regulations already address this issue in the intrastate context by requiring a foreign bank to insure all its branches in the same state, if any of such branches accepts retail deposits. The first proposal should also not present undue risks to the FDIC, since its current rules for insuring retail branches of foreign banks appear to have worked well. Finally, by acknowledging that foreign bank branches may engage in retail operations in the United States, this proposal allows foreign branches of U.S. banks to maintain or seek similar retail opportunities in markets abroad.

The second proposal—insuring and assessing deposits at all branches of foreign banks even if none of such offices engage in retail activity—was previously rejected by Congress in the IBA as being inconsistent with national treatment, since deposit insurance is intended to protect retail, not wholesale, customers. The FDIC also had substantial objections in 1978 to insuring strictly wholesale operations due to the risks that might be involved for the FDIC fund. We believe both of these reasons remain compelling today. Also, we are concerned that such proposal could provoke retaliation against U.S. bank wholesale operations outside the United States.

Concerning your third proposal, which would require foreign banks to conduct all retail operations through U.S. subsidiary banks, we believe such an approach is unnecessary and, perhaps, unwise, and could adversely impact U.S. bank operations outside the United States. Taking our last point first, U.S. banks would like to maintain the option, which they have or would like to have in many markets abroad, of conducting retail activities through branches or subsidiaries. A subsidiary "rule" in the United States could cause foreign governments to impose a retail subsidiary rule on U.S. bank branches outside the United States, which could deny them important competitive opportunities in existing or new foreign mar-

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kets. Mandatory use of a subsidiary also appears unnecessary, since your first proposal ensures national treatment without generating such competitive risks outside the United States. In addition, to the extent U.S. rules require foreign bank activities to be conducted in subsidiary banks, the overall risk to the FDIC fund from such operations increases, since the U.S. Government ends up being responsible for the solvency regulation of such separate subsidiary. To the extent foreign banks conduct U.S. activities through branches, the ultimate solvency of such offices is the responsibility of the home country supervisor/central bank. In the current environment, it would not seem advisable to shift more solvency regulation *and* responsibility from foreign supervisors to U.S. government agencies.

We greatly appreciate this opportunity to comment and hope these views have proved useful to your legislative efforts.

Sincerely,

M. CONDEELIS,
Executive Director.

INSTITUTE OF INTERNATIONAL BANKERS,
New York, NY, July 29, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Hon. JAKE GARN,
Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR CHAIRMAN RIEGLE, AND SENATOR GARN: I am writing in reply to your letter, dated July 17, 1991, in which you requested the Institute's views on three proposals to modify the deposit insurance system as it applies to international banks.

The International Banking Act of 1978 ("IBA") required federal deposit insurance for international bank branches that take retail deposits but did not mandate deposit insurance for international bank branches that take only wholesale deposits. This approach takes into account the fundamental difference between wholesale depositors and individual, retail depositors for whom federally insured deposit protection was originally designed. We believe this system for deposit insurance for international banks has worked well as it applies to the limited number of international banks that have retail branches.

Your first proposal would expand deposit insurance coverage to all U.S. deposits of an international bank with retail deposit taking branches. We acknowledge that when an international bank seeks to expand interstate through insured retail branches it should be required to insure all its branches. Imposing this requirement on those institutions which have retail branch activities, however, could disrupt ongoing operations and possibly decrease banking services to the customers they serve. We suggest that these banks be allowed to continue operating as currently permitted unless they decide to expand interstate by establishing one or more retail branches under the new authority of S. 543.

Your third proposal would require an international bank to conduct interstate retail deposit taking through a U.S. subsidiary bank. We believe such a requirement is unnecessary. Although the Federal Deposit Insurance Corporation ("FDIC") expressed a preference for an incorporated bank at the time of enactment of the IBA, we believe the FDIC has successfully supervised the insured retail branches of international banks without significant problems or losses to the system. A disadvantage of incorporation is that the global capital of the international bank would no longer stand behind these deposits, and such a requirement would be inconsistent with the practice of U.S. banks to maintain branches in other countries.

The remaining proposal, number two in your letter, would expand deposit insurance coverage to all U.S. deposits of international banks even if the bank is engaged solely in wholesale deposit taking. This approach would be a major departure from the IBA and would bring within the safety net the vast majority of international banks currently operating in the United States. Such a change in the deposit insurance system for international banks could fundamentally alter the role of the United States as a center for international banking activities. A substantial portion of wholesale banking business would likely shift to various markets outside the United States, which could have a significant adverse impact on Atlanta, Chicago, Houston, Los Angeles, Miami, New York and other major cities.

Perhaps more importantly, the expansion of the liabilities covered by FDIC should be carefully examined before extending the U.S. government guarantee to the operations in the United States of international banks from over 60 countries. As Federal Reserve Chairman Greenspan observed in a related context in testimony before your Committee, by compelling deposit insurance wholesale branch depositors would increasingly look to the U.S. safety net rather than the international bank itself in the event of problems.

We appreciate the opportunity to comment on the proposals outlined in your letter.

Very truly yours,

LAWRENCE R. UHLICK,
Executive Director and General Counsel.

INDEPENDENT BANKERS ASSOCIATION OF AMERICA,
Washington, DC, July 25, 1991.

Hon. DONALD W. RIEGLE, Jr., *Chairman,*
Hon. JAKE GARN, *Ranking Republican,*
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE AND SENATOR GARN: The Independent Bankers Association of America (IBAA) appreciates the opportunity to comment on the relationship of the deposit insurance system as it applies to foreign banks. The IBAA is the only national trade association which exclusively represents the interests of the nation's community banks.

It is the position of the IBAA that foreign banks that take deposits, wholesale *and* retail, in the United States should be required to abide by the same rules as domestic banks. It is critical that foreign banks are regulated effectively to ensure that depositors are accorded the same protection that they would receive from a domestic bank. Interstate deposit-taking should be done only through a U.S.-chartered subsidiary that is subject to the same rules and regulations as domestic banks.

With consumer confidence in the banking system at an all time low, permitting foreign banks to gather deposits from the U.S. without providing our citizens the protections that they are afforded by our banking system would only create more uncertainty. Without subjecting foreign banks doing business in this country to the same rules as domestic banks, we are concerned that the average consumer may not know that they are dealing with a foreign bank. This could place the consumer in the position of having to make an uneducated decision about their deposits.

The recent worldwide depositor crisis caused by the closure of BCCI has shown that deposit insurance is important. The *Washington Post* noted that the U.S. deposit insurance system "is part of the reason that U.S. banking regulators have been able to close about 200 banks in each of the past several years without an outcry from bank customers, while the Bank of England's action against BCCI has provoked protests from London to Hong Kong."

Assessing premiums for both wholesale and retail deposits is an important aspect of depositor protection. The wholesale deposit is considered in excess of $100,000. We believe that this figure is far too low. Retirees with, for example, $110,000 might be tempted to put their life savings or lump-sum pension payouts into the wholesale bank without understanding they are not insured. This is not acceptable.

Protection of the U.S. depositor must be the focus of this debate. Premium income generated from assessing the deposits of foreign banks may possibly be significant, but it should be considered the price a foreign bank pays to collect deposits in the United States.

We would be pleased to answer any further questions you may have. Thank you for this opportunity to share our views.

Sincerely,

DAVID BALLWEG,
President.

VICE-PRESIDENT OF THE COMMISSION,
OF THE EUROPEAN COMMUNITIES,
Brussels, September 17, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: I would like to offer my congratulations on the successful markup of the US banking reform legislation by your Committee, which obviously brings reform a step nearer to the statute book. The European Community has also noted with satisfaction that the Committee took the view that an automatic roll-up requirement of branches of foreign banks was not necessary.

There is, however, widespread concern in Europe that roll-up seems to be reintroduced by the language requiring any foreign bank with one or more insured branches to establish a subsidiary (or subsidiaries) to conduct its insured deposit taking activities. For a significant number of European banks this would amount to a requirement to convert existing branches to subsidiaries, thereby undermining the Committee's position against such a roll-up.

You may find it useful to have an overview of the position as regards deposit insurance in the European Community. I have therefore attached to this letter a summary table setting out the situation in each of the Member States.

As you will see from this table, foreign bank branches operating in the European Community are covered by existing schemes in nearly all Member States—there is no requirement in any Member State that those branches should be established as subsidiaries. The obligation to pay insurance assessments is not affected by the different types of organizational structure used by banks; and there is no reason why it should be.

We in the European Commission will shortly be putting forward proposals for a harmonized system of deposit insurance

throughout the Community. There is no intention that any such scheme should require branches of foreign banks to be converted into subsidiaries. I would therefore ask you to reconsider whether such a requirement could not be dispensed with in the United States' own bank reform legislation.

As you know, the European Commission strongly supports the general open-market direction of the banking reform legislation now being shaped by Congress. I am confident that our concerns can be met without adversely affecting the positive, liberalizing features of the reform process. I shall be in Washington from 22–24 September and if there is an opportunity to discuss matters of common interest arising out of the bank reform legislation I would naturally welcome an opportunity to meet you.

I am sending a copy of this letter to Senator Garn.

LEON BRITTAN.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, November 13, 1991.

Hon. JAKE GARN,
Ranking Minority Member, Committee on Banking, Housing, and Urban Affairs, United States Senate, Washington, DC.

DEAR SENATOR GARN: Thank you for your letter of November 5, 1991 requesting the views of the Federal Deposit Insurance Corporation concerning your proposed amendment to section 305(c) of S. 543.

I support your proposed amendment. The original language of section 305(c) appears to make automatic deposit insurance coverage for retail deposits of domestic branches of foreign banks. Your proposed amendment would make clear that foreign banks must apply to the FDIC for deposit insurance covering those deposits. Your amendment therefore would require foreign banks to be subject to the same standards that apply to domestic banks and would provide the FDIC with leverage to assure that foreign bank branches are being operated in a safe and sound manner.

With respect to the question of whether foreign banks should be required to conduct their retail deposit activities in a subsidiary bank or be permitted to continue to conduct those activities in branches, I have no preference because substantial arguments can be made in favor of either approach.

I appreciate the opportunity to comment on your proposed amendment. If you have any further questions, please let me know.

Sincerely,

WILLIAM TAYLOR,
Chairman.

BRITISH EMBASSY,
Washington, DC, Dec. 12, 1991.

Hon. DONALD W. RIEGLE,
Senate Dirksen Office Bldg., Washington, DC.

DEAR SENATOR RIEGLE: We understand that the Federal Deposit Insurance Corporation Improvement Act of 1991, approved just before Congress adjourned in late November, added a new and potentially very damaging provision affecting foreign bank branches in the United States. The British Government hopes that you may be able to confirm that the new Section 214(a) will be interpreted in the way in which Congress no doubt intended so that the current arrangements for foreign bank branching in the U.S. are not disrupted.

The new Section 214(a) appears to prohibit international banks from accepting or maintaining accounts having balances of less than $100,000 except through a U.S. subsidiary. The Section has caused great concern to the foreign banking community who had understood that the change was meant only to affect the taking of insured retail deposits. Indeed, it appears that a careful reading of the new section taken in conjunction with the International Banking Act supports that interpretation. Nevertheless, it seems that on some interpretations the new section could be taken to prohibit the acceptance by wholesale branches of any deposits of less than $100,000 made by any customers of foreign banks. This would clearly be disruptive of the normal business arrangements of foreign bank branches and we are sure that it is unintended. Indeed, a reading of the House-Senate conference discussions suggests that wholesale bank branches should not be affected at all.

The British Government is concerned that the enactment of the legislation will lead to immediate, costly and unintended difficulties for the business of the foreign banking community in the United States and to normal commercial payment flows both within the U.S. and internationally. I understand that you appreciate these concerns. We should be very grateful, therefore, if steps could be taken to clarify that Section 214(a) is not intended to apply to the non-retail deposit activities of foreign bank branches.

If necessary, we hope that you will consider early legislation to put right the unintended effect of Section 214(a). In the meantime, I hope that you will join with us in urging the regulatory authorities to delay implementing changes to the existing regulatory structure.

Yours sincerely,

ROBIN RENWICK.●

INTRODUCTION OF S. 2112—LIMITING DIVERSITY OF INFORMATION SERVICES

● Mr. LOTT. Mr. President, S. 2112 is special-interest legislation of the first order, a nice little carve-out for newspaper publishers. Sponsors of S. 2112 and the newspaper publishers they seek to protect are saying that the bill is necessary to promote diversity in the information services market but their message has a hollow ring, that is, promote diversity by limiting it.

The bill would essentially reimpose the information services restriction on the Bell companies, and reverse the 5-year court process culminating in the decision to free the Bells, a process driven in large part by the compelling and persuasive public interest arguments in support of Bell Co. entry into information services.

The local Bell telephone companies serve 75 percent of the Nation's telecommunications users. During the nearly 10 years the information services restriction had been in effect there was little development of an information services market beyond large business users. In my home State of Mississippi and in many other rural areas of the country there has been little or no attempt to market these services. The implication is fairly simple and straightforward; the local telephone companies are well positioned to develop a mass market for information services and unless the Bell companies are in the information services game in a meaningful way more people than not will go without the benefit of these services. What we have in effect today, because of the irrational effects of the MFJ restrictions, is a case of the haves versus the have-nots in terms of access to information services. S. 2112 throws a smokescreen up in an attempt to blur our perception of these events and where we are in this debate.

Since the Bells were freed to enter information services they have responded energetically. Their involvement includes information product and service applications in areas of health care, small business, and education. Many of their efforts have involved cooperation or partnerships with other companies including the newspapers. The market is ripe for the next generation of information services. The American people are waiting. Rather than stand in the way, the newspaper industry should look for opportunities to capitalize on the information services revolution RCH participation will stimulate.●

COLLOQUY ON MASSACHUSETTS INTERSTATE HIGHWAY CONSTRUCTION FUNDING

● Mr. KENNEDY. Mr. President, my colleague from Massachusetts, Senator KERRY, and I engage the chairman of the Transportation Subcommittee, Senator MOYNIHAN, and the subcommittee's ranking Republican member, Senator SYMMS, in a colloquy concerning the Intermodal Surface Transportation Efficiency Act of 1991.

First, I would like to commend Senators MOYNIHAN and SYMMS for their leadership and extraordinary efforts in securing the passage of this critical transportation initiative. This act is clearly one of the most significant public works and infrastructure measures ever enacted by any Congress. It sets the course for a cleaner, more efficient, and safer transportation system as we move into the 21st century, and it will provide an enormous boost to the economy in Massachusetts and the Nation, at a time when this is so urgently needed.

Due, however, to the enormous complexities involved in writing legislation of this magnitude and the necessity for bringing this measure to the Senate floor before Congress adjourned for the year, it has come to our attention that a matter of vital importance to Massachusetts was inadvertently left out of the conference report. This matter concerns section 1020 of title I of the act concerning the period of availability for funds apportioned for Massachusetts for interstate construction.

As the distinguished chairman and ranking minority member are aware, the $2.55 billion in interstate construction funds apportioned under this bill for Massachusetts is vital for completing one of the last remaining segments of this country's Interstate Highway System, the Central Artery-Third Harbor Tunnel, located in downtown Boston. By including these funds, the conferees have recognized the importance of upgrading and improving what is now the single most dangerous and congested stretch of the entire Interstate Highway System. My understanding is that these funds were intended to be made available until expended, even though the conference agreement is not as clear as it could be on this point.

Would the chairman and ranking Republican member agree that it was the intent of the conferees to include language in section 1020 of the conference report to ensure the interstate construction funds apportioned for Massachusetts between October 1, 1991, and October 1, 1995, remain available until expended?

Mr. MOYNIHAN. Yes, it was the intent of the conferees to permit Massachusetts to retain, until expended, the interstate construction funds apportioned to it between October 1, 1991, and October 1, 1995, and I thank the Senator from Massachusetts for bringing this oversight to my attention.

Mr. SYMMS. I concur in the statement of the Senator from New York.

Mr. KERRY. Would the distinguished chairman and the ranking Republican member further agree and give assurances that the conferees will act quickly to include the requested language in a package of technical corrections?

Mr. MOYNIHAN. Yes, I can assure the Senators that we will move as expeditiously as possible to adhere to the original intent of the conferees and correct this oversight, thereby permitting Massachusetts to retain, until expended, all sums apportioned to it for interstate construction under the Intermodal Surface Transportation Efficiency Act of 1991.

Mr. SYMMS. The Senator from New York has accurately stated our intention.

Mr. KENNEDY. I thank the Senators for their remarks, and for their support on this important issue, and I again congratulate them for their achievement getting this far-reaching transportation measure enacted.

Mr. KERRY. I also would like to thank the distinguished chairman and ranking Republican member of the subcommittee for their great assistance and their leadership.•

ORLANDO, FL, MAGLEV PROJECT AND ITS INCLUSION IN THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

• Mr. GRAHAM. The Intermodal Surface Transportation Efficiency Act of 1991 includes a $97.5 million authorization for land and right-of-way acquisition and guideway construction in Orlando, FL. This authorization is in section 1107 of the bill. In light of the interest I have expressed to the Senate Committee on Environment and Public Works, I assume that this authorization is for the magnetic levitation project connecting the Orlando International Airport with the Central Florida Tourist Center at International Drive. Is that the Chairman's understanding?

Mr. BURDICK. Yes; it was the intent of the conferees that the $97.5 million authorization for Orlando, FL, be for land and right-of-way acquisition, and guideway construction for the maglev project.•

JOINT STATEMENT ON SYSTEMIC RISK EXCEPTION TO LEAST-COST RESOLUTION FDICIA

• Mr. RIEGLE. Mr. President, I introduce, for the RECORD, the following statement which has been prepared by House Banking Committee Chairman HENRY GONZALEZ, Congressman BRUCE VENTO, and myself, on the systemic risk provisions of section 141 of S. 543, the Federal Deposit Insurance Corporation Improvements Act of 1991.

THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

On November 27, 1991, the House and Senate adopted the conference report on S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991. Time did not permit filing a detailed explanation of the bill with the conference report. Accordingly, we wish to clarify the systemic risk exception in section 141.

Section 141 requires the FDIC to resolve depository institutions at the least possible long-term cost to the deposit insurance fund. Section 141 also prohibits the FDIC, after December 31, 1994, from protecting uninsured depositors or nondepositor creditors at the expense of any deposit insurance fund.

Section 141 gives the Secretary of the Treasury limited authority to make exceptions to those rules if compliance "would have serious adverse effects on economic conditions or financial stability" and assistance or other action by the FDIC would avoid or mitigate those effects. The Secretary can make exceptions only in consultation with the President, on the written recommendation of at least two-thirds of the members of the FDIC Board and two-thirds of the members of the Federal Reserve Board.

The systemic risk exception now in section 141 originated in section 220 of the Senate bill. The Senate Banking Committee's report on S. 543 described the predecessor provision as "a narrow systemic risk exception for those rare instances in which the failure of an institution could threaten the entire financial system." S. Rep. No. 167, 102d Cong., 1st Sess. 45 (1991). In the House Banking Committee's bill, section 141, relating to least-cost resolution, did not contain a systemic risk exception, but section 142, restricting advances by the Federal Reserve banks, did contain such an exemption. H. Rep. No. 157, pt. 1, 102d Cong., 1st Sess. 22–27 (1991). The conferees included the systemic risk exception in section 141, but tightened it by making a written recommendation by the FDIC Board a precondition for any systemic risk exception. The exception in section 142 of the House bill was dropped.

The systemic risk exception is not intended to perpetuate the practices commonly known as "too big to fail"; the legislation responds to and largely ends those practices. Section 141 adopts a stringent least-cost test, requiring the FDIC to evaluate alternative resolution approaches rigorously and pursue the approach with the least possible long-term cost. The FDIC is no longer free to pursue a more costly approach simply because it is less costly than liquidation, nor can the FDIC use hazy, informal cost comparisons. Section 141 also repeals the "essentiality" exception, which made even the less-than-liquidation test inapplicable to an institution that the FDIC determined to be essential to its community. Section 143 contains safeguards designed to keep discount-window lending by the Federal Reserve banks from being used not simply to cover temporary liquidity needs but as a substitute for FDIC action. Other provisions of the legislation reinforce these reforms. Section 308 and subtitle IV–A are intended to reduce systemic risk. Prompt regulatory action under section 131 applies to large and small institutions alike.

The systemic risk exception itself is narrowly drawn, with several layers of safeguards against misuse. It is intended only for those rare instances in which the failure of an institution could threaten the entire national financial system. The two Banking Committees must be notified promptly of any systemic risk determination.

Section 141—including the least-cost resolution requirement and the post-1994 prohibition against protecting uninsured depositors or nondepositor creditors—fully applies to open-bank assistance. Moreover, such assistance is permissible under the systemic risk exception only if it meets the stringent standards for that exception.•

S. 543, THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

• Mr. GARN. Mr. President, as you know, the Federal Deposit Insurance Corporation Improvement Act is presently awaiting signature of the President. This act requires and encourages the banking agencies to pursue a variety of goals in resolving troubled institutions, and gives the Federal Deposit Insurance Corporation special responsibilities in implementing its objectives.

In specific situations, some of the goals found in the act may conflict. I want to make it clear that Congress relies on the banking agencies to exercise their best judgment in balancing those objectives.

No bank resolution strategy will please everyone; many will please no one. The President appointed, and this body confirmed, the heads and members of the boards of the bank regulatory agencies. By so doing, we expressed our confidence in their ability to make the best choices. This act should not be interpreted as preventing them from creatively and constructively fulfilling their assigned responsibilities. I believe that this is worth emphasizing in light of the difficulties the banking industry and the general economy currently face.

Mr. President, I would also like to make some comments about some of the specific provisions in the act.

Section 105 of the act permits the FDIC to borrow from certain members of the bank insurance fund. This new source of borrowing for the FDIC pertains to the FDIC's general borrowing on behalf of the bank insurance fund. It does not pertain to the FDIC's authority to enter into bank assistance transactions to resolve bank failures. This new authority is intended to be in addition to and not a limitation on the FDIC's authority under sections 11 and 13 of the Federal Deposit Insurance Act.

Section 123 of the act sets forth standards for the FDIC to follow in disposing of assets of failed institutions, including the requirement that the FDIC promote competitive bidding. This provision is intended to apply to the FDIC's liquidation operations. The FDIC's resolution transactions, in contrast, are governed by the least-cost provisions, and the FDIC's mandate is to use whatever competitive bidding and negotiation process best effectuates those provisions.

In section 131, the term "capital distribution" should be broadly construed. For example, a capital distribution should include any transaction that the appropriate Federal banking agency or the FDIC determines to be a distribution of capital.

Section 131 also requires the establishment of benchmark levels of risk-based capital and leverage limits at which depository institutions will be considered to be well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized. Each banking agency, in consultation with the FDIC, must also establish one or more benchmark levels at which institutions are critically undercapitalized. In particular, each agency must establish a ratio of tangible equity to total assets at which an institution is critically undercapitalized.

These benchmark capital levels, which are to be established for the purpose of prompt corrective action, are not intended to supersede the capital standards specifically imposed on savings associations by FIRREA. Thus, the regulators of savings associations—the OTS and the FDIC as backup regulator and insurer—are expected to implement all of the prompt corrective action requirements of section 131 in a way that is consistent with FIRREA, which remains in force except to the extent explicitly amended by the Federal Deposit Insurance Corporation Improvement Act of 1991.

Section 131 also provides the primary Federal regulator with discretion to take other more appropriate action in lieu of appointing a receiver for an institution that is failing to meet its critical capital level, provided that the institution meets certain criteria designed to ensure its continued viability and the FDIC concurs in such decision.

In this area, it is critical that the regulator be given sufficient flexibility to consider all available alternatives that could save taxpayer money without increasing risk to the insurance fund. This measure provides significant regulatory discretion in cases where an institution is in compliance with an approved capital plan, has a sustainable upward trend in earnings, and is reducing its nonperforming assets. These criteria ensure that if a decision is made to forgo appointing a receiver for an institution that may have a realistic opportunity for recovery, the institution will not incur additional losses that would be borne by the taxpayer. Of course, it is not intended that this provision affect other provisions of this act that would provide the banking agencies additional flexibility to deal with weak institutions before they reach the critical capital level if other grounds for appointment of a conservator of receiver exist.

Section 131 also provides that a "less than satisfactory" rating with respect to assets, management, earnings, or liquidity, in the most report of examination, provides a basis for the appropriate banking agency to deem the institution to be engaging in an unsafe or unsound practice. This provision gives the regulators additional authority and does not limit the existing bases upon which the regulator can make a finding that an institution is engaging in an unsafe or unsound practice. Further, the phrase "most recent report of examination" should not be interpreted as requiring the termination of an enforcement action based solely upon the insurance of a subsequent report of examination.

Finally, section 131 includes corrective actions that the appropriate Federal banking agency must or may take, depending on the level at which the entity it regulates is capitalized. Where the board of directors and management of a depository institution or its holding company act to implement an agency directive under this section, those actions are fully consistent with and in furtherance of those persons' fiduciary duties.

Section 141 states that the FDIC, in determining the least costly resolution approach, is to use a cost evaluation based on its expected overall expenditures and payments on obligations. The FDIC must also factor in its expected return on or redemption of capital instruments that it purchases, pursuant to the sense-of-the-Congress resolution on early resolution of cases. In all instances, the requirement is that the FDIC develop the fairest and most accurate overall cost of each transaction in order best to compare alternative resolutions.

Section 141 of the act also requires the FDIC, when it provides assistance to an open institution, to make a determination with the institution's primary Federal regulator whether the institution's management has been competent and has not engaged in violations of law. That determination must be made as to former management who are retained by the assisted institution, if any. As the sense-of-the-Congress resolution on early intervention provides, members of former management as to whom the necessary determination cannot be made should ordinarily not be retained by the assisted entity.

Section 475 of the act authorizes each appropriate Federal banking agency to determine the amount of readily marketable purchased mortgage servicing rights that may be included in the capital required of the institutions it regulates, subject to certain discounting and valuation requirements. Each appropriate Federal banking agency's authority to make this determination includes the authority to define the terms contained in section 475.

Finally, Mr. President, I would like to take this opportunity to repeat comments that I made in the conference committee that reported out the Federal Deposit Insurance Corporation Improvement Act of 1991, comments that I believe will be useful in making clear the intended effect of this important provision of this legislation.

In the Senate Banking Committee, I was the sponsor of the provision that was ultimately adapted as section 471 of the act. The purpose of section 471 is to address a serious problem that has emerged since we enacted FIRREA in 1989. In FIRREA, we created the Resolution Trust Corporation and mandated it to maximize the return from the sale of the assets of failed thrift institutions. To ensure that the Resolution Trust Corporation [RTC] was able to carry out this mandate, we gave the RTC broad-ranging powers, including the power to transfer any asset of a failed institution "without any approval * * * or consent with respect to such transfer."

In order to be able to sell such assets at the best possible price, the RTC must not only be able to transfer them without obtaining any third-party consents, as FIRREA already provides, but it must also be able to provide assurance that the asset will have value in the purchasers' hands. If the asset is a contract for services, it will obviously have little or no value if the service provider is free to arbitrarily terminate the contract following its transfer. It is this issue that section 471 resolves. It establishes the right of anyone to whom the RTC sells such an asset which, as the Senate Banking

Committee report noted, may take the form of rights under contracts and membership rights in associations, service corporations, and the like to bring suit to enforce the rights that it has purchased. The provision includes one exception: When the purchaser itself has failed to comply with a material term or condition that applied to the thrift institution that originally owned the servicing rights.

I was fully cognizant, as were the conferees, of the applicability of this provision to a dispute that currently exists between Sears, Roebuck and the Visa credit card organization, which has until now refused to allow Sears to exercise Visa membership rights that it purchased from the RTC. Under this provision, Sears is entitled to enforce those rights, unless the exception that I mentioned earlier applies.

I understand that there are antitrust claims that have been asserted by Visa in pending litigation between Sears and Visa arising from this dispute. As I stated in a written colloquy with Senator METZENBAUM, which I submitted for inclusion in the CONGRESSIONAL RECORD on November 27, this provision does not prejudice any such claims, because this provision is not about antitrust claims. If Visa, or anyone in a similar position in the future, believes that it has grounds under the antitrust laws to challenge someone's acquisition of servicing rights from the Resolution Trust Corporation, that service provider continues to have whatever right it has before the enactment of this legislation to file its own lawsuit and to attempt to persuade a court of law that the acquisition of those rights was illegal. But until an appropriate court determines that the service provider's claim is valid, the purchaser is entitled to enjoy fully its rights under the service contract to enforce them. This provision makes it illegal for the service provider to simply unilaterally refuse to provide services for any reason, except in the one limited circumstance that I referred to earlier.

I hope that this makes clear the intended effect of this important provision.●

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

● Mr. SANFORD. Mr. President, I have a few comments about an aspect of the recently passed banking bill, S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991. I was very pleased that the conference report on this bill included language that the Senate Banking Committee included at the behest of myself and the Senator from Connecticut [Mr. DODD], relating to the early resolution of troubled financial institutions. The provisions strongly encourage the regulators to make use of the authority that they have to make equity investments in, or take other steps to assist, troubled institutions so that they do not ultimately have to be closed. The provisions set forth general criteria that should be used in examining those transactions that might benefit from such action. I believe this language of encouragement to our regulators is a critical part of a new approach to bank and thrift failures.

I would like to comment on one small aspect relating to these provisions. I think some details regarding the applicability of section 11(c)(12) concerning directors liability when such early resolutions occur is warranted.

Section 11(c)(12) of the Federal Deposit Insurance Act [FDIA], as added by section 133 of this act, protects directors of depository institutions from liability to shareholders and creditors when the directors acquiesce or consent in good faith to the appointment of the FDIC or the RTC as a conservator or receiver or acquiesce to an acquisition or combination under section 38(f)(2)(A)(iii) of the FDIA. Section 38(f)(2)(A)(iii) provides that significantly undercapitalized institutions and undercapitalized institutions that have failed to submit or implement acceptable capital plans may be required to enter into supervisory acquisitions or mergers, if one or more grounds for appointment a conservator or receiver exist.

The institutions subject to sections 11(c)(12) and 38(f)(2)(A)(iii) of the FDIA are substantially similar to those eligible for early assistance under new section 13(c)(8) of the FDIA as added by section 141(e) of the act. As such, the immunity provisions of section 11(c)(12) should apply in such transactions. Indeed, the immunity provisions of section 11(c)(12) should apply to all supervisory mergers and acquisitions that include early assistance and that involve significantly undercapitalized—as well as critically undercapitalized—institutions and undercapitalized institutions that have failed to submit or implement an acceptable capital plan.

The protections afforded under this section should also apply to actions brought by indirect shareholders and creditors, such as shareholders and creditors of a holding company that controls the institution.

The immunity provisions of section 11(c)(12) also effectively protect the directors of a holding company that controls a depository institution where the directors of the institution consent or acquiesce to an action under this section. Of course, this protection would only extend to a holding company's directors with respect to any action required as a result of the consent or acquiescence under this section by the directors of its subsidiary institution. However, to the extent the directors of a holding company take action to implement an action consented or acquiesced to by the institution's directors, the actions of the holding company's directors would be fully consistent with, and in furtherance of, their fiduciary duties.

The act provides that these provisions become effective 1 year after enactment of this conference report. At that time, the provisions would provide the immunity specified in section 11(c)(12) to any actions pending on the effective date if the action was initiated on or after the date of enactment of the conference report.

Again, I am very pleased that the conference report retains the language encouraging the use of early resolution transactions and I hope that the regulators will take every advantage of these provisions to assist, where appropriate, those banks or thrifts that could be aided by equity infusions or other actions to prevent their ultimate failure.●

ANTI-SEMITISM IN UZBEKISTAN AND TADZHIKISTAN

● Mr. D'AMATO. Mr. President, the complete overhaul of the former Soviet Union, while bringing tremendous hope for the future, offers an array of potential problems. Chief amongst these problems is a rise in anti-Semitism. This is an important issue for the Senate to consider. As a result, I feel a report by the New York-based Caucasus Network would offer some insight.

The report follows:

THE REBIRTH OF ISLAM IN UZBEKISTAN AND TADZHIKISTAN: ITS IMPACT ON LOCAL JEWISH COMMUNITIES

(An On-Site Report By the Caucasus Network)

CONCLUSIONS

1. Signs of a vigorous renewal of Moslem culture and religion in Uzbekistan and Tadzhikistan are everywhere. There is increasing pressure on local officials from Islamic political and religious forces to do whatever is necessary to ensure that the republics become independent Islamic nations.

2. For reasons based in both Moslem theology and the historic relations between Moslems and Jews, the growing power of Islam is a terrifying threat to Jews in Central Asia. Jewish leaders have been ordered to support local political movements backed by the Islamic religious establishment. An alarming number of Jews have been attacked under circumstances related to anti-Semitism.

3. The general feeling, even in Uzbekistan, is that Tadzhiks are more of a threat to the Jews than are Uzbeks. However, it also is true that the Jews in the outlying towns of both republics are the most pressured, isolated, and vulnerable. They told terrible stories about actual physical violence against members of their communities and were visibly quite frightened. Some reported having been warned that if they do not convert to Islam, they will be killed.

4. Given what most people regard as the inevitable establishment of independent Moslem nations in Central Asia, ways to protect local Jews and to expedite their emigration must be considered.

REPORT

From October 2nd through October 17th, 1991, Goldie Ellman (a member of the Board of Directors of The Caucasus Network) and I went to Central Asia. We had two objectives. First, we wished to make our own on-site assessment of the growth of Islam and its impact on Jewish communities in the area. Second, we hoped to provide solutions to some of the problems people were having in emigrating to Israel and the United States, thereby hastening and facilitating their exodus from this troubled area.

We went to Tashkent, Bukhara, Samarkand (Uzbekistan) and Dushanbe (Tadzhikistan). We had arranged our schedule prior to our departure and in each city, it essentially was the same.

(a) We were met at each airport by a delegation consisting of from ten to thirty members of the local Jewish community.

(b) We addressed community meetings that were attended by hundreds of people in each city. At each meeting, a presentation on general problems relating to emigration was followed by a long and lively question-and-answer period.

(c) We held conferences attended by the leaders of each Jewish community, at which we discussed anti-Semitism and the impact of the growth of Islam on the Jews in each city. We also trained the leaders in US refugee immigration procedures and we asked questions abont the functioning of the local OVIR offices.

(d) We held clinics at which we met with individuals to discuss their emigration problems and personal experiences with anti-Semitism. Both in group seminars and individually, we prepared people for their American embassy interviews and we answered questions relating to the interview packets.

In each city, we literally were mobbed by clamoring crowds of people who were desperate to emigrate (and we have the bruises to prove it). In Samarkand, the crowds were so large that the local militia, replete with floodlights and bullhorns, came to see what was happening. We addressed hundreds of people in groups and met with representatives of some two-hundred-and-fifty families to discuss their individual problems.

This report will discuss what we learned about the growth of Islam and anti-Semitism. It will neither consider procedural emigration problems nor offer suggestions as to how the Jews in Moslem republics might be protected from further anti-Semitic attacks, assisted to emigrate or, if required, rescued and evacuated to other areas. Nor will it weigh the impact of the growth of Islamic power in Central Asia on events in the Middle East or the fact that much of the Soviet nuclear arsenal is in the Central Asian republic of Kazakhstan, possibly vulnerable to take-over by Moslem forces. These crucial questions, constantly on our minds, must be considered in other forums.

TASHKENT

Islam Reborn: Of the cities we visited, Tashkent is the most European in ambience. Even so, there was substantial evidence of renewed pride in local culture. For example, the facade of the Hotel Uzbekistan sported an enormous painting of the Uzbek poet Alisher Navoi, whose anniversary was being celebrated. There were signs in Arabic script, which the vast majority of the Uzbeks cannot read because its use was banned after the revolution (in part to discourage people from reading the Koran and to divorce them from their own cultural heritage).

Because Tashkent is modern in flavor, it is not surprising that we saw fewer people there wearing traditional Moslem dress than in the other three cities. However, people told us that there recently had been an announcement that President Karimov "had ordered 400,000 pieces of Moslem clothing for Uzbeks." This was said to be part of this commitment "to further Islamic culture in Uzbekistan." We were unable to determine exactly what was meant by "Moslem clothing" in this context.

In other cities, we saw women wearing skirts over pants in bright prints and silky materials, but this was just as likely to be traditional Uzbek clothing as Moslem. We also saw men wearing baggy trousers. [It is said that Mohammed will be re-born of a man, which is why many men throughout the Moslem world wear pants with long crotches in order to "catch the baby."]

On one occasion, we saw two Uzbek men dressed entirely in white and wearing turbans and sandals. They were accompanied by a woman in a head-to-toe black veil. These men were wearing the required garb of pilgrims going to Mecca and, with the aid of a man who spoke some Uzbek, we were able to confirm that the three were on their way to Saudi Arabia.

An Independent Uzbek Nation: Many people told us about meeting of Imams of the Kokand directorate, which recently had taken place in Andizhan. At this meeting, the Imams had threatened to over-throw Karimov. In order to remain in power, Karimov was said to have been forced to swear on the Koran that Uzbekistan would become an independent Moslem nation and that he would do everything he could to ensure the resurgence of Islam. When asked, everyone confirmed that the oath Karimov been forced to take was that Uzbekistan would become an independent nation, not merely an independent republic.

One man in Dushanbe said the Imams had pressured Karimov to take this oath on the Koran, but that he had declined to do so. Everyone else said he had taken the oath. We were unable to get any newspaper articles about the meeting in Andizhan, which had taken place prior to our journey. While it is important to verify whether Karimov actually took this oath, it also is fascinating that, with the exception of the one man in Dushanbe, the universal perception among Jews living in Uzbekistan and Tadzhikistan is that he did. We repeatedly were told of this event in every city we visited.

All of the people to whom we spoke agreed that it was only a matter of time before Uzbekistan and Tadzhikistan became wholly independent Moslem nations. The only question still at issue is whether they will become democratic countries like Turkey or fundamentalist Moslem dictatorships like Iran. While they feared much more the latter possibility, no one was comfortable with the idea of living in a Moslem nation. Several people mentioned the "hostage communities" of Jews in Syria, Iran, or Iraq, as though they understood that these might mirror their own futures.

Faced with what they regarded as the likelihood that they might find themselves denizens of a Moslem nation, most of the Jews whom we met wanted to emigrate as quickly as possible. Most of those not actively preparing to leave had no first-degree relatives in America, had been precluded from emigrating to the United States under the procedures effective in October, 1989, and did not want to go to Israel. It was clear that many among them would emigrate if they could come to America.

In assessing this information, it should be remembered that the people whom we met had been "self-selected," because they knew we had come to Central Asia to discuss emigration problems. Even so, those who were refusing to emigrate, either because they perceived no danger or because they declined to go to Israel, appeared blind to events around them.

While in Central Asia, I was reminded of the day in 1965 when my parents had begged me to return home from Athens because they had heard reports of "violent political demonstrations in Constitution Square." I had looked from my hotel window down upon Constitution Square and had told my parents that I didn't see anyone demonstrating. Similarly, it occurred to us that some Jews in Central Asia are too close to what is happening there to appreciate that they are in jeopardy.

Anti-Semitic Violence: There are at least fifty thousand Jews in Tashkent, but all agree that the actual number may be far higher. The majority of Tashkent's Jews are Ashkenazim (of European origin, Russian-speaking) whose families emigrated to the area within the last fifty years. The majority of Jews in the other cities are Bukharans (of Persian origin; home tongue, Judeo-Tadzhik), descendants of Jews who have lived in Central Asia for generations.

Although CN has records of numerous incidents of anti-Semitic violence in Tashkent, the total is relatively small considering the size of the city's Jewish population. People said that in the past there had been little trouble between Uzbeks and Jews and that it had only been in recent years that tension between them and physical violence motivated by anti-Semitism had increased. This development appeared to astonish local Jews and was a source of dismay to them. Some took pains to tell us that the Tadzhiks, whom they characterized as "bad" and "mean," were much worse than the Uzbeks.

We did receive new reports of attacks upon Jews in Tashkent that obviously had been motivated by anti-Semitism. Typical was one that took place in December, 1989, during which members of a Jewish family had been brutalized in their own home by Uzbeks. The husband was beaten with a rifle butt and the attackers tried to rape the wife. Both were tied up and blankets were put over their heads. The husband suffered a fractured nose, concussion, dislocated shoulder, and cracked rib. He lost several teeth and was severely beaten about the face and body. To cover the scars on his face, he now wears a beard.

The Uzbek attackers said that their Jewish victims should "be silent, because we were not in Israel but Uzbekistan;" that "we will kill you all." It is known that this Jewish family was attacked because their neighbors were aware that they "had plans to emigrate from the U.S.S.R." Both at the trial and subsequently, the perpetrators, their friends and relatives harassed the Jewish family, said that they were sorry that they hadn't killed them, and demanded that they emigrate from Uzbekistan. The family has continued to receive threats to this day.

The trial and investigation took place in 1990 and there are indications that they were not conducted impartially because the accused were Uzbeks and the victims were Jewish. Important evidence (the original forensic report) "disappeared," as a result of which the nature of the victims' injuries were claimed to be far less serious than they actually were. Despite eyewitness identifications, two of the criminals were found to be innocent. Serious charges were dropped and shorter sentences were given. Although the three (of the original five) attackers convicted received three-year sentences, less than a year later they were freed and they have continued to torment their victims.

We saw how the attack upon this family frightened other Jews in Tashkent when we were leaving the home of people who knew the family. Our hosts were so terrified by this anti-Semitic violence that we were asked not to speak English in the hallway. The wife said that her neighbors knew that she was Jewish and that Jews could emigrate, but they "don't know we are planning to emigrate and we don't want to be attacked like [name deleted.]"

BUKHARA

Signs of the Moslem Revival: At six o'clock every morning, the amplified voice of a muezzin atop a minaret called to prayer the sleeping residents of a city still blanketed in darkness. Two years ago, this would not have been possible in Bukhara. Now people are streaming into the mosques being built throughout the city. A madrasa [Islamic college] has opened and is being attended by some 400 students. Signs written in Arabic script are everywhere. Job applications must be filled out in Uzbek. University lectures and announcements must be made in Uzbek. Countless people who do not speak Uzbek are being fired from their jobs. This is an effective form of economic discrimination against Jews and other non-Uzbek speakers, which is becoming increasingly common and about which we heard in every city.

After the revolution, the city's beautiful Moslem buildings were allowed to decay. Now, the order of the day is that Moslem heritage must be preserved. All of the old mosques and historic monuments are being restored. A new medical school named after the great Moslem scholar Avicenna has opened and his portrait adorns its facade. None of this would have been possible before.

Two or three years ago, even in the old part of Bukhara, most women of local nationality wore European clothing. Today, large numbers are wearing traditional costumes. It is to be expected that the older generation would wear such clothing. What is surprising is the number of young women, among them teenagers, who have adopted the traditional garb.

Prior to the August coup, Bukhara's residents could choose among six television stations: two from Moscow, two from Tashkent, and one each from Tadzhikistan and Turkmenistan. Now they get only three stations: one from Moscow and two from Tashkent. All of the programming on the Tashkent stations is in Uzbek, which means that Bukhara's Russian-speaking population can listen only to the one broadcast from Moscow. This was done by order of President Karimov, who said that the republic needed "Uzbek history, Uzbek language, and Uzbek culture." According to one disgruntled Bukharan Jew, Karimov also said that anyone who did not want to speak Uzbek should leave the republic.

The Jewish Community: Of the 200,000 people in Bukhara, 30% are Tadhik, 40% are Uzbek, and the rest are a mixture of nationalities, including Russian, Armenian, Tatar, and Jewish. At one time, there were about 12,000 Jews in Bukhara, some 4,000 of whom have emigrated. Several times we were told, "This used to be a Jewish street, but Tadhiks live here now"; or "This was a Jewish quarter. Now it is Uzbek."

A respectable number among Bukhara's 8,000 Jews have no current intention of emigrating. Is Bukhara's Jewish community safe? Although there have been many incidents of anti-Semitic violence, apparently some think that the answer is yes. One reason we heard often as to why Jews and Moslems get along in Bukhara is that there is food available. In other cities, the possibility of winter famines led to voiced fears among Jews that they would be blamed and that there might be pogroms.

Obviously, the people who want to emigrate do not agree that Bukhara is a safe place for Jews to live. They no longer can abide the repeated incidents of anti-Semitic violence. In Bukhara, people have been attacked on the way to and from synagogue and told, "The time will come when we will spit your blood out" and "We know that you are Jews. Get out of the Soviet Union!" Guests attending a Jewish wedding have had rocks thrown at them with notes attaching saying, "Death to the Jewish people." Dead cats have been thrown into Jewish apartments with notes saying, "The same thing will happen to you!" Jewish children have been beaten at school. Jewish women have been assaulted and told, "Zhid-Jew, go to Israel. This is not your republic." Jews have been attacked by Moslems who say that if they don't emigrate, their homes will be set afire.

One prominent member of the community said that the Uzbeks in Tashkent, Fergana, and Andizhan were "bad men," but insisted that the Uzbeks in Bukhara were different. Yet even though the city is quiet now, he and his family are emigrating because they are sure that "there will be trouble in five or ten years."

How Bukhara is Different: Why do some of Bukhara's Jews feel less threatened by the resurgence of Islam? A visit to the city provides a possible answer. The entire time that we were in Bukhara, we had the feeling that we were in the Middle East. It was not simply the signs with their Arabic lettering, the traditional costumes, the dead dogs and cats lying unattended in the street, the exotic flavor of the city. Rather, it was the behavior of the Jews of Bukhara that made us think that we no longer were in the Soviet Union.

Bukhara's Jews are isolated from the other major population centers in Uzbekistan. They are by far the most traditional and devotedly Jewish among the communities we visited. It is quite usual to find three generations living the same house, and for some twenty or thirty people to be sharing the cooking facilities in the courtyard and the one, sometimes primitive, bathroom. In their homes we found kosher food, Jewish ceremonial objects, Hebrew writing on the walls, people who ritually washed their hands and made a blessing before they ate their bread.

We noticed that many of the people spoke in soft voices and that some lowered their eyes when addressing each other. Whereas we had been mobbed in other cities, in Bukhara even large crowds of people parted quietly and respectfully to let us both walk into the synagogue. Bukhara's Jews were extremely polite. Their silence when we addressed the community was profound.

We considered whether their underplayed ways might not have been developed over generations, part of an instinctive community reaction to living amidst a Moslem majority. An example: We are in the car with a Jewish man whom we know to be of strong character. We are driving through the winding streets of the old city where the roads are wide enough for only one car to pass at a time. We turn into a narrow street and have driven about one-quarter of the way down it when another car turns into our street, coming from the opposite direction. Although we are much further into the street than the second car, our driver puts his car into reverse and backs out the way he came.

"Is there a protocol about who backs up?" I asked him.

"Uzbek," is his laconic response.

In his mind, the reasoning is obvious. The driver of the other car is Uzbek, so the Jew gives way. This was why when we were in Bukhara, we repeatedly were reminded of Yemen. The Jews of Yemen were not allowed to look Moslems in the face when talking to them. [Bukhara's Jews speak softly and sometimes with downcast eyes.] In Yemen, Jews had to step off the sidewalk into the street if a Moslem approached in the opposite direction. [Uzbeks have the unwritten right of way in Bukhara.] To call it subservience is an insult to the Jews of Bukhara. Instead, view it as a centuries-old communal response to generations of life as a detested (or at best tolerated) minority among hostile Moslems.

In his book The Jews of Islam, the respected scholar Bernard Lewis recounts occasions upon which Moslems attacked the non-believers living among them and notes that "the commonest reason by far for such outbreaks in premodern times was that the [non-believers] were not keeping their place, that they were acting arrogantly, that they were getting above themselves." This is a lesson that Bukhara's Jews appear to have learned from history.

They have developed a modus-vivendi with their Moslem neighbors that has served them in the past and, some of them apparently hope, will protect them in the perhaps precarious future. We pray that they are right. If they are wrong, then we must be prepared to rescue them as quickly as is possible.

SAMARKAND

The Jewish Community: Samarkand, a city of some five to six-hundred thousand people, owes its Moslem flavor in no small part to the architecture of the Registan, the tomb of Tamurlaine's dynasty, and other such glorious monuments. At one time, there were about fifteen thousand Jews in Samarkand. Near to half of the Jewish population already has emigrated. Of the eight to nine thousand Jews still in the city, most wish to emigrate. Unfortunately, no matter how dangerous they think their future in Smarkand may be, many refuse to consider going to Israel. They have been influenced unduly by several families that emigrated to Israel, only to return to Samarkand to live and to spread tales of their disillusionment with conditions in the Jewish homeland.

[The issue of the returning families have been raised in the context of a request that we give them financial aid. When we noted that some people are discontent no matter where they live; the people who had broached the subject of these families nodded knowingly, indicating that this might well be the case with these several families. Nevertheless, the negative impact upon aliyah of such reverse emigration must be addressed.]

People again recounted television reports that President Karimov had been forced to swear "to do all he can to make Uzbekistan a Moslem state." No one doubted that it would happen eventually and most believed it would happen soon. One woman succinctly stated the general consensus when she said: "The only question discussed on the streets here is whether the republic will go the way of Iran or Turkey. It is impossible to guess the outcome, but neither way will be good for the Jews."

Anti-Semitism: As in each of the cities we visited, we heard about newly-built mosques and growing attendance at prayer services. Again, Jews were being fired from their jobs because they did not speak Uzbek and "there is no opportunity for non-Uzbek-speaking adults to learn the language." Local schools no longer accept Jewish students "because they say that we are going to emigrate. This is a new problem for us." We also received documentation of more incidents of anti-Semitic violence in Samarkand and we learned that five of the city's Jews had been wounded fatally during anti-Semitic attacks in as many years.

"When Jews are murdered, the militia does nothing," one man said bitterly. "Even Jewish lawyers are afraid to investigate these cases."

In Samarkand was most vividly expressed another recurrent problem facing Central Asia's Jews: their growing inability to get health care. The majority of Jewish doctors have emigrated and physicians of local nationality often refuse to treat Jews or will do so only if they are paid extortionate fees ranging in the thousands of rubles.

We met the wife of a young Jew hospitalized with a fatal disease. Rather than treating him, the Uzbek staff physicians have been subjecting him to a litany of anti-Semitic slurs. Were it not for medication that his family purchases on the black market, he might already be dead. This young man and others like him are being murdered on a daily basis because they are Jewish.

What the Jewish Cemetery Revealed: On the morning that we left Samarkand, we accepted the invitation of community leaders to visit the Jewish cemetery. We went first to Ifraim's grave, his mother marching stalwartly ahead of us. He had been murdered by Uzbeks six years ago, but she still howls forlornly behind his stone. Perhaps she remembers that a witness had heard him crying "Momma" while he was tied up like an animal and stowed in the trunk of his killers' car, or that his murderers had burned his body and danced around the fire singing, "We killed a Jew!"

We paid our respects to Ifraim's memory, comforted by the knowledge that his wife and child were safe in Israel and that we were helping the rest of his family to emigrate. I didn't have anything with me from Israel, so I gave Ifraim's mother a penny to place in the ground near his grave, a little part of America so that he too might be free.

Then we were taken on a tour of Samarkand's Jewish cemetery. Bukharan Jews put portraits of the deceased on the stones erected to memorialize them. We saw faces too young to be buried and, as we passed them, we were told:

"He was murdered during his service in the Russian army."

"This is David's brother. He was sitting in front of his house when they came up to him, called him a zhid [kike], then stabbed him to death."

"This boy died because they don't like Jews in the army."

"This is the Jewish artist we told you about, who was killed by anti-Semites. His wife and children want to emigrate, but they were too frightened to come to see you."

"These boys were killed by anti-Semites in the army. So was he. And this one too."

"This is the son of the old man you didn't have time to see yesterday. He also was murdered by anti-Semites."

Goldie murmured the rhetorical question that was passing through both of our minds, "Didn't anyone in this cemetery die a natural death?"

Our hosts had been quietly insistent that we visit their city's Jewish cemetery and now we knew why. Nothing attested more eloquently to the pervasiveness of anti-Semitism than the faces of the young victims staring at us from their gravestones, reminding us that they had been murdered only because they were Jewish, daring us to forget them.

Upon reaching the six-foot tall fence that separated the Jewish cemetery from the adjacent Moslem cemetery, I muttered, "It isn't high enough."

When he heard the translation of my remark, the activist walking next to me laughed, then hugged me. He knew that I understood at last what it is like to be Jewish in Central Asia.

DUSHANBE

A History of Violence: Dushanbe's reputation had preceded it. During and since the February, 1990 demonstrations by local Moslems, Jews had been the particular targets for violent attacks motivated by anti-Semitism. CN's files contained more documented cases of anti-Semitic violence from Dushanbe than from any other city in the Caucasus or Central Asia.

Countless Jews in Dushanbe had been the victims of physical attacks by Moslems who demanded that they leave Tadzhikistan. Typical epithets included: "Go to Israel; you damned Jewish dog." "Get out or we'll burn down your house and kill your entire family." "Jews go back to Israel!" "We'll clean all Jews out of the city." "Sooner or later we will kill all Jews."

Jewish stores were burned and looted. Jews were forced out of business or were required to pay extortionate sums to Tadzhiks in order to remain open. "Evrei von" [Jews get out] was scrawled on the outer walls of Jewish homes.

Islam Militant: "There is no future for Jews here," a Jewish leader told us in Dushanbe. After seeing the physical evidence of the re-birth of Islam and hearing testimony of its impact on the Jewish community, we could not but agree.

The spiritual and temporal power of Islam in Dushanbe is growing rapidly. Mosques abound, the muezzin's call to prayer is answered by spiralling thousands. Men press their heads against the ground in the city's central square and pray during political demonstrations. Young women wear traditional clothing formerly seen only on their elders.

While some may applaud this growth of religious sensitivity in a previously atheistic republic, most would agree that this should not occur at the expense of other religions and their adherents. Unfortunately, that is what is happening in Dushanbe. A minor but practical example is that all of the few building materials to be found in the city are being funneled to the construction of a madrasa, with the result that construction of the community's new Jewish school is at a halt.

We were taken to Dushanbe's madrasa ("It is larger than Samarkand's Registan") because there were things there that the Jewish leaders wanted us to see. They pointed to the cupola atop the main building in the complex. Had tradition been followed, it would have been painted blue. But this cupola deliberately had been painted in the brilliant green hue of militant Islam. Its purpose, Jewish leaders said, "is to signify followers of the green banner of Islam; that is, to affirm Islam's might and irrepressible offensive."

The role of the Islamic clergy during the recent political unrest was recognized throughout Dushanbe. Large numbers of the men who had been encamped in the main square were believers from the countryside who had been offered by their mullahs to come to Dushanbe in order to participate in the demonstrations.

The urban Moslem religious leaders also had played their part. While at the madrasa, we were shown the hundreds of tents in the courtyard of the main building of the complex. These were the very tents that had been used by the demonstrators who had lived in the town square weeks before, proof that whatever their public political leadership, the real force behind the city-wide demonstrations had been the Islamic religious establishment.

Coercion on the Jewish Community: As Islam's power increases, the situation of the Jewish community is becoming progresssively more precarious. During the recent demonstrations, Moslem leaders called the president of the Jewish congregation to demand that the Jews come to the town square to participate in the demonstrations and publicly to pronounce their support of the Moslem cause. This they declined to do, preferring instead to walk a dangerous path of neutrality which, ultimately, is a no-win situation for them.

Before we left Dushanbe, two community leaders gave us an unsigned letter written on behalf of the city's Jews. Moments before we boarded the plane to Moscow, one turned to the other and asked, "What more have we got to lose?" With a combination of defiance and resignation, both men signed the letter.

In their appeal, these Jewish leaders discussed the impact of the rebirth of Islam on their community: "Amidst the background of Islam, anti-Semitism has quickly and easily gained force. One need only explain the overt threat and coercion on the part of the clergy toward the Rabbi, demanding active participation on the part of the Jews in a meeting in Dushanbe in October, 1991, which was convened by the Islamic clergy in support of the democrats in the coup. One of the meeting's participants, a represenative of the clergy, even openly announced a struggle with the Communists and the Jews, having been convinced that Communism is a Jewish doctrine and that all Jews are as guilty as the Communists."

"There is no active defense against the offensive of the Islamic fundamentalists, who are active opponents of the Jewish religion," the two leaders wrote. This, and their subsequent characterization of Islam as "hostile to Judaism," is accurate. According to the Koran, Jews have been "consigned to humiliation and wretchedness; they brought the wrath of God upon themselves, and this because they used to deny God's signs and kill His prophets unjustly and because they disobeyed and were transgressors." [Sura II, verse 61] Indeed, the Moslem scholar al-Jahiz has noted that although Christianity, with its Trinity, was theologically more offensive to Moslems than Judaism, Moslems still despised Jews far more than they did Christians. [see S. D. Gotein, Jews and Arabs]

To Dushanbe's Jewish leaders, "all the indicated arguments of the hostility on the part of Islam and its representatives toward Jews have convinced [us] of the danger to peaceful coexistence with Jews under an Islamic regime." For these reasons, their greatest fear is the very real possibility of "the creation of an Islamic republic with threatening consequences in general and particularly for Jews."

The leaders of this bealeaguered Jewish community described themselves and their

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people as "anxious Jews emerging from the circumstances motivated by fear of the fate of the establishment of Islam in Tadzhikistan that lies before us" and begged for help in emigrating as quickly as possible.

JEWISH LIFE IN OUTLYING TOWNS

The special danger posed to Jews who live outside of Central Asia's major cities is based upon several factors. The Islamic clergy has a strong hold upon Moslems in the countryside. This, plus inherent rural fundamentalism, exacerbates the traditional Moslem theologic and historic hostility to Jews. Additionally, Jews who live in outlying towns, especially those in which most members of the community already have emigrated, are far more vulnerable to anti-Semitic attacks because they are so isolated.

People from outlying towns had been notified that we would be in Central Asia and came to see us in the cities that we visited. Living in remote areas, among some of Central Asia's most vicious anti-Semites, these Jews did not have the luxury of worrying about the possibility of future anti-Semitic violence in their towns. Too many already had experienced it first-hand. Andizhan's Jews, for example, needed only to remember the events of May, 1990, during which dozens of Jewish homes had been set afire and numerous people had been injured by rioting Uzbeks. Their night of horror had been publicized in the West. What was happening to Jews in other outlying towns was less well-known.

Jews from these towns said that they were afraid to attend synagogue because so many congregants had been attacked on their way to or from services. Some reported that Moslems already were demanding that they "either convert to Islam or get out of our land." Others said that Jewish women had been told that unless they wore Moslem clothing and veils, they would be disfigured.

"I am very afraid of the increasing power of the Moslem fundamentalists in our area," said one small-town Jew. "If they come to power, not one Jew will remain alive here."

A delegation from one outlying town recounted the details of four recent murders of Jews, all under circumstances that clearly were anti-Semitic. A young man who had been threatened and insulted many times because he was Jewish was stabbed to death by local nationals, who threw his body near his home. A Jewish boy died from injuries inflicted by Moslems who purposely ran him down with their car. Two elderly Jewish sisters were tortured and murdered in their home by Moslems who have continued to threaten the Jewish community. "We will kill all Jews," they are saying. "If you want to live, you should leave, the sooner the better. If you don't, we will set fire to your houses." They have followed through on these threats by throwing Molotov cocktails through the windows of Jewish homes.

Only three months before, a member of this community had taken his life because he no longer could bear being persecuted because he was Jewish. A relative told us that he had left a note in which he had written, "I am committing suicide because I cannot stand living among people who will not let me live." Was he not yet another victim?

Many Jews who lived outside of the major cities already have fled to Israel. We were told of others who wanted to emigrate, but were too terrified even to come to see us. In some towns, only a few Jews remained. Shakhrisabz (Uzbekistan), for example, reportedly has twelve Jewish families.

Among those who were left behind in outlying towns were many who have relatives in the United States and who are waiting to be invited for interviews at the US embassy. We begged those whom we met to give us something in writing describing what their lives were like, hoping we might use their letters to convince American officials to expedite their emigration. The people from one outlying town categorically refused.

"They would kill us if they found out," a man said.

I pressed the members of this delegation to write a letter, but they were too afraid. I promised not to publish it, but only to show it to American officials. I said that they did not have to sign their names, but still they declined to write anything. When I repeated that they did not have to sign their names, then swore on the Torah that I never would reveal to anyone who they were, they finally agreed to give me a letter.

Their letter related a piteous tale of "a carefully hidden oppression of Jews, both morally and physically." They write of a demonstration that had taken place on September 27th, at which some 20,000 Moslems heard their religious leaders call for "Uzbekistan for Uzbeks * * * Jews to Jerusalem." They told of Jewish lives filled with demands from increasingly fundamentalist Moslem neighbors that they "vacate Uzbek territory" or face "pogroms and physical destruction."

In their world, Jewish businessmen are at the mercy of Uzbeks, backed by hooligans, thugs, and blackmailers who make exorbitant demands and who "threatened and even physically pressured (there were beatings and exterminations of a few people, six boot shops were burned and two watch shops were robbed) and forced all the Jewish artisans to leave their work." High level Jewish administrators have been pushed by "physical and moral pressure" out of their jobs, "so that those places may be occupied by Uzbek nationalists and Islamic believers." Prayer services are conducted in a private home because Uzbek officials will not return the synagogue (now used as a radio station) to the Jewish community, though four mosques have been returned to Moslems and many new ones are being built.

"In recent times," they wrote, "daily occurrences of insults and humiliation of Jews by Uzbek nationalists have become more common. In the streets of the town, on public transport, in the stores, markets, and so forth, as a result of all this, Jews live in fear and are forced more and more often to stay at home. Therefore, they are afraid for their lives and the lives of their friends, relatives, and children."

Theirs were the faces of men who dwelt among people who hate them. Never before had we seen grown men so frightened.

The secular leaders in Uzbekistan and Tadzhikistan, be they nominally Communist or not, are engaged in a battle for supremacy with the Islamic political/religious establishment. Everyone agrees that eventually, these republics will become independent Moslem nations. Whether they will be moderate or fundamentalist matters little to the indigenous Jewish population. An Islamic victory means almost certain disaster for the Jews.

In each city we visited, the leaders and teachers of the Jewish communities were preparing to emigrate and were urging their constituents to do the same. People repeatedly said to us, "With God's help and yours, we will get out of here." In no more poignant way could they have expressed their bleak assessment of the future of Jews in the Central Asian republics.●

APPOINTMENT OF SPECIAL COUNSEL BY THE PRESIDENT PRO TEMPORE

● Mr. BYRD. Mr. President, pursuant to the authority granted to me by Senate Resolution 202, agreed to on October 24, 1991, upon the joint recommendation of the majority and minority leaders, I appoint, effective January 2, 1992, Mr. Peter E. Fleming, Jr., a partner in the law firm of Curtis, Mallet-Prevost, Colt & Mosle with offices in New York and Washington, DC, as the Special Independent Counsel.

Mr. Fleming will conduct an investigation of any unauthorized disclosures of nonpublic confidential information from Senate documents in connection with the consideration by the Committee on the Judiciary of the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court, and by the Select Committee on Ethics of matters related to Charles Keating.●

OUTSTANDING EDUCATOR

● Mr. D'AMATO. Mr. President, I pay tribute to Harriet Zimmerman who has made outstanding contributions to the lives of the Elmont Public School System in Elmont, NY.

Ms. Harriet Zimmerman has been a handicapped teacher for 23 years. She is a role model for handicapped children and a leader whose guidance has played a significant role in the enlightenment of her students.

She has devoted her life to cultivating the creativity and curiosity of children, and has held firmly to her conviction that school and world events are, of necessity, intertwined. In this regard, Ms. Zimmerman was instrumental in the exchange of massive amounts of correspondence between her third graders and American servicemen in the Persian Gulf during Operation Desert Storm. They wrote to the sailors of the U.S.S. *Midway*, the only carrier not to lose a single man or plane.

Ms. Zimmerman has received a citation from the town of Hempstead and has been on the television program "Good Morning America." It is time for us to pay tribute to a woman whose contributions and selfless giving have made a difference to her community and her country. Ms. Zimmerman, I salute you.●

RULES OF PROCEDURE FOR OFFICE OF TEMPORARY SPECIAL INDEPENDENT COUNSEL

● Mr. FORD. Mr. President, pursuant to section 6(c) of Senate Resolution 202, 102d Congress I submit for the RECORD the rules of procedure for the Office of Temporary Special Independent Counsel, which have been adopted, in accordance with the resolution, by me and by the Senator from Alaska [Mr. STEVENS], acting jointly, in our capacities as chairman and ranking minority member of the Committee on Rules and Administration.

The rules follow:

RULES OF PROCEDURE OF THE U.S. SENATE OFFICE OF TEMPORARY SPECIAL INDEPENDENT COUNSEL (ESTABLISHED PURSUANT TO SENATE RESOLUTION 202, 102D CONGRESS)

RULE 1. SUBPOENAS

1.1 Request. The special independent counsel shall submit to the President pro tempore written requests for the authorization of subpoenas for the attendance at deposition of any witness, or for the production of any correspondence, books, papers, documents, or other records, that may be relevant to the investigation authorized by Senate Resolution 202, 102d Congress.

1.2 Authorization. The President pro tempore shall have the power to authorize, in writing or by telephone, the issuance of subpoenas upon the written request of the special independent counsel. Whenever the President pro tempore exercises the power to authorize subpoenas by telephone, the authorization shall be contemporaneously memorialized in writing.

1.3 Issuance. Upon receipt of the written authorization, or written memorialization of the telephone authorization, for the issuance of a subpoena by the President pro tempore, the Secretary of the Senate shall issue the subpoena that is the subject of the authorization. The Secretary shall keep a log, and a file, of all subpoenas that have been issued.

1.4 Service. Subpoenas may be served by any person designated by the Secretary of the Senate. All subpoenas shall be accompanied by a copy of Senate Resolution 202, 102d Congress, and these rules. Criminal or civil enforcement proceedings for a witness's failure to appear at a deposition, to testify, or to produce records shall not be initiated unless a duly authorized subpoena was served upon the witness.

RULE 2. DEPOSITIONS

2.1 Designation. The special independent counsel shall designate in writing the counsel, whether one or more in number, who will examine witnesses at each deposition. For purposes of Rule 2.3, the term "special independent counsel" includes the special independent counsel and any counsel designated by the special independent counsel to examine witnesses pursuant to this rule.

2.2 Attendance.

(a) General Rule. Unless otherwise specified, the deposition shall be in private.

(b) Counsel.

(1) Presence. Subject to the provisions of Rule 2.2(b)(2)–(4), a witness's counsel shall be permitted to be present during the witness's testimony at any deposition to advise the witness of his or her rights.

(2) Conflicts. The chairman and ranking minority member of the Committee on Rules and Administration, acting jointly, or the full Committee if the chairman and ranking minority member refer the matter to it, may rule that representation of a witness who is an officer or employee of the government by counsel from the government, or of a witness who is an officer or employee of a corporation or association by counsel from the corporation or association, or of a witness by counsel representing other witnesses, creates a conflict of interest, and that the witness shall be represented by counsel not from the government, corporation, or association or not representing other witnesses.

(3) Inability to Obtain Counsel. A witness who is unable for indigence or other reason to obtain counsel may inform the Committee on Rules and Administration at least 48 hours prior to the scheduled return on the subpoena, and the Committee will endeavor to obtain volunteer counsel for the witness. Failure to obtain counsel will not excuse the witness from complying with the subpoena.

(4) Conduct. Counsel shall behave in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by the chairman and ranking minority member of the Committee on Rules and Administration, acting jointly, or the full Committee if the chairman and ranking minority member refer the matter to it, subject counsel to disciplinary action, which may include warning, censure, or removal.

2.3 Procedures.

(a) Examination. Witnesses at depositions shall be examined upon oath administered by an individual authorized by federal or local law to administer oaths. Questions shall be propounded orally by special independent counsel.

(b) Objections. Objections by a witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify, or objects to the production of records, on the basis of privilege or other ground, special independent counsel may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection. The ruling may be sought from the chairman and ranking minority member of the Committee on Rules and Administration. The chairman and ranking minority member, acting jointly, may rule on the objection, and order the witness to answer the question, or to produce the records, if the objection is overruled, or may refer the matter to the full Committee for a ruling. Procedures leading to civil or criminal enforcement shall not be initiated unless the witness has refused to testify, or to produce records, after having been ordered to comply.

2.4 Transcripts.

An accurate electronic or stenographic record shall be kept of all testimony at depositions. If a transcript is prepared, the witness shall be furnished with a copy, or access to a copy, of the transcript for review. Upon inspecting the transcript, a witness may submit, in writing within five days, corrections to the transcript, with a statement of the reasons for the corrections, to correct errors of transcription, grammatical errors, or errors of fact. Within the same time limit, the witness shall, if a copy was provided, return the transcript, and the witness shall sign the transcript, including any changes submitted. Any corrections submitted by the witness shall be appended to the transcript. If the witness fails to sign a transcript, or to return a signed copy, the date that access to a copy, or a copy, was provided, and the failure to sign or to return it, shall be noted on the transcript. The individual who made the electronic or stenographic record shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the office of special independent counsel. The special independent counsel may stipulate with the witness to changes in this procedure. Objections to errors in this procedure that might be cured if promptly presented are waived unless timely objection is made.

RULE 3. RETURN OF DOCUMENTARY SUBPOENAS

Return on subpoenas for the production of correspondence, books, papers, documents, or other records, without testimony, may be required, at other than a deposition, at the special independent counsel's offices or other place specified in the subpoena. Rulings on objections to the production of records shall be obtained in accordance with Rule 2.3(b).

RULE 4. CONFIDENTIALITY

4.1 Security. The office of special independent counsel shall operate under strict security precautions in order to maintain the secrecy of all office records.

4.2 Nondisclosure. Except as necessary for the performance of his or her duties in connection withthe investigation authorized by Senate Resolution 202, 102d Congress, and as authorized by that resolution and these rules, no personnel of the office of special independent counsel, as defined in Rule 4.5, shall disclose, in whole or in part or by way of summary, to any person, for any purpose or, unless authorized by the Senate, in connection with any proceeding, judicial or otherwise, any records or other confidential information of the office. As used in this rule, the term "records or other confidential information of the office" includes, but is not limited to, all testimony taken, including the names of witnesses testifying, and all exhibits or other materials presented or received, in depositions or otherwise, and also includes any proposed or otherwise nonpublic conclusions, views, memoranda, or report of the office of special independent counsel.

4.3 Nondisclosure Agreement. All personnel of the office of special independent counsel, as defined in Rule 4.5, shall agree in writing, as a condition of employment or agreement for the provision of services, to abide by Rule 4.2.

4.4 Violations. Any of the personnel of the office, as defined by Rule 4.5, who fails to conform to the provisions of Rule 4.2 shall be subject to disciplinary sanction, including termination of employment or agreement for the provision of services.

4.5 Definition of Office Personnel. For purposes of Rule 4, the term "personnel of the office of special independent counsel" includes the special independent counsel, any persons engaged to perform, or who perform, services on behalf of the office, the employees of the office, any detailees and consultants to the office, and any employees of the Senate who assist the office or are given access to any records of the office for reasons related to their official duties.

RULE 5. EFFECTIVENESS, PUBLICATION, AND AMENDMENT OF RULES

These rules shall be effective immediately upon adoption and shall be published in the Congressional Record. These rules may be modified, amended, or repealed by the chairman and ranking minority member of the Committee on Rules and Administration, acting jointly. Any changes in these rules shall be effective immediately upon adoption and shall be published in the Congressional Record.●

THE REPORT OF THE SELECT COMMITTEE ON ETHICS ON THE INVESTIGATION OF SENATOR ALAN CRANSTON

● Mr. RUDMAN. Mr. President, on November 20, 1991, the Senate Select Committee on Ethics presented its report on the investigation of Senator ALAN CRANSTON to the Senate. Following the committee's report, Senator CRANSTON responded to the committee's reprimand of his actions and office practices. The defenses in that response, as well as in the documents he inserted into the CONGRESSIONAL RECORD, are convoluted and misleading.

A basic review of the evidence in the committee's report and hearing record demonstrates that Senator CRANSTON was most deserving of at least a committee reprimand. The resolution adopted by the committee states that Senator CRANSTON's conduct was "improper and repugnant" and cites, as grounds for not recommending a more severe sanction, extenuating circumstances unrelated to the conduct in question.

It should be noted that the committee not only reprimanded Senator CRANSTON for his actions on behalf of Mr. Charles Keating and Lincoln Savings and Loan Association, but also for "office practices [that] further evidenced an impermissible pattern of conduct in which fundraising and official activities were substantially linked." However, I will confine these remarks to the Lincoln matter because Senator CRANSTON's defense on this is especially disturbing. He not only denies much of the conduct for which he was charged, but inaccurately portrays the nature of the charge.

Before reviewing the major defenses raised by Senator CRANSTON, I want to emphasize that the committee took every opportunity to ensure that Senator CRANSTON's due process rights were observed and his arguments given a full hearing during the various stages of the proceedings. Senator CRANSTON had a full opportunity to present his position personally in a deposition prior to the hearings, an appearance before the committee in closed session, an opening statement at the hearing, an affidavit at the close of the hearings, and several prehearing and posthearing written submissions. While he waived his right to appear for questioning at the hearings, he was represented throughout those hearings by counsel who exercised Senator CRANSTON's right to cross-examine and confront witnesses and documentary evidence.

The committee took its duties and obligation seriously and strived mightily to issue a fair decision. Senator CRANSTON's defenses were considered and given appropriate weight. His insinuation before the Senate that public pressure on committee members affected the result is ludicrous.

Turning to Senator CRANSTON's defenses, Senator CRANSTON asserts that the committee's finding of improper conduct was based on nothing more than a finding of proximity in time between legitimate contributions accepted and legitimate action taken. This assertion is a serious, and I believe deliberate, misstatement of the committee's charge and conclusions.

The committee, in its report, found that "Based on the totality of the circumstances, Senator CRANSTON engaged in an impermissible pattern of conduct in which fundraising and official actions were substantially linked." The key concept in this statement is the finding of a pattern of linkage that was in fact more than the simple concidental timing between Senator CRANSTON's actions and the contributions. The nature of these dealings was more disturbing than the timing of the events.

In my floor statement, I outlined the facts of the four major series of events that formed the basis for the committee's finding of improper linkage. I will not repeat the chronology here since they are set forth in great detail in the report, as well as my statement of November 20. I will, however, make some further comments on the committee's evaluation of the four incidents and demonstrate that Senator CRANSTON impermissibly linked contributions and official action.

With respect to each of those four series of events, there is at least one meeting or telephone call with Mr. Keating in which Senator CRANSTON both discussed Lincoln's problems with the Federal Home Loan Bank Board and solicited funds for the voter registration groups. The two separate subjects were discussed at the same time in a meeting between Senator CRANSTON and Mr. Keating on September 24, 1987, in a telephone call on November 6, 1987, and at a dinner on January 8, 1988. They were both discussed in a letter written by Senator CRANSTON to Mr. Keating on October 6, 1987, and linked by inference by Senator CRANSTON at a dinner on December 14, 1988, when the Senator greeted Mr. Keating with the comment, "ah, the mutual aid society."

The evidence also indicates that the two subjects were discussed within the confines of one meeting, or at least within the space of hours or a couple of days, when Senator CRANSTON visited the headquarters of American Continental Corp., Lincoln's parent company, on February 9 and 10, 1988, during the spring of 1989 when the bank board was proceeding to the final resolution of the Lincoln case, and during January or February of 1987 when Lincoln first sought assistance from Senator CRANSTON with respect to its dealings with the bank board. In addition, Senator CRANSTON's chief fundraiser, Ms. Joy Jacobson, linked Lincoln's problems and solicitation in two separate memos to Senator CRANSTON, one written on January 2, 1987, and one on September 6, 1987. Finally, Mr. Grogan, Lincoln's chief lobbyist, linked the subjects around March 1, 1989, when he informed Ms. Jacobson that Mr. Keating was willing to make another donation of $100,000, but could not do so while the sale of Lincoln was pending. Although there is no evidence that Senator CRANSTON was informed of this remark, he was aware that Lincoln had been solicited for an additional contribution at that time.

The Senator from California would have the Senate believe that his official actions and solicitation were only linked in time. As all my colleagues know, if the same two unrelated subjects repeatedly arise every time two individuals interact, somebody is trying to send a message that the two matters are linked. Whether Senator CRANSTON was sending the message himself, however inadvertently, or accepting a message Mr. Keating was sending and then talking official action, the result is improper conduct.

Moreover, in evaluating the totality of circumstances facing the committee, it is worth looking at both the nature of the official actions and the fundraising. First, let us look at what Senator CRANSTON did on behalf of Lincoln. The record shows that, in a span of 2 years and 2 months, Senator CRANSTON personally took action on behalf of Lincoln at least 13 times, not including the April 1987 meetings. On February 16, 1988, he discussed with bank board Chairman Wall the details of a proposed agreement between Lincoln and the agency. In the spring of 1989, he called every bank board member about the proposed sale of Lincoln, some more than once, calling one at his unlisted home number in the evening. He discussed details of the proposed sale, and told at least one bank board member that Lincoln was not being dealt with fairly by the board's Office of Regulatory Affairs. He also spoke with a bank board staff member about the sale and a regulator at another Federal agency. These contacts cannot be fairly characterized as routine status calls.

In early May 1988, in response to a call from Mr. Grogan, Senator CRANSTON's aide, Ms. Carolyn Jordan, told two high-ranking board officials that Senator CRANSTON was concerned about the board's decision to take supervisory approach and may have threatened to hold hearings. Whatever the precise wording of her message, it was sufficiently strong that the bank board officials suggested to her that Senator CRANSTON should wait until after they held discussions with Lincoln before taking any action. Ms. Jordan wrote a detailed memo to Senator CRANSTON on May 6 describing the call. Senator CRANSTON met with Chairman Wall on May 16, at which time he raised the status of the Lincoln matter. On may 20, the bank board entered into an agreement with Lincoln that most people believe favored Lincoln. The message was apparently delivered.

The committee concluded that Senator CRANSTON's contracts with the bank board on behalf of Lincoln were not, in and of themselves, improper. Nonetheless, the degree of intervention was extraordinary and far surpassed what any other Member of Congress did for Lincoln.

Senator CRANSTON states in his defense that there was sufficient basis for an inquiry into the Lincoln matter. The committee concluded that he had a reasonable basis to be concerned about the regulation of Lincoln in April 1987, based on the Atchison letter and Greenspan report. However, Senator CRANSTON had no similar justification for his intervention in 1988 and 1989 and, in fact, had evidence that should have raised doubts about Mr. Keating and Lincoln. He relies only on the outdated 1987 justification and the fact that Lincoln employed a number of Californians.

Finally, let us look at the contributions. As with the intervention on behalf of Lincoln, the committee concluded that the contributions were not, in and of themselves, improper. I will not, today, go into the $49,000 contributed to the Senator's reelection and Presidential campaigns, the $85,000 contributed to the California Democratic Party—all of which was given before 1987—or the $10,000 to Senator CRANSTON's political action committee. I will focus only on the $100,000 solicited in February 1987 and contributed on March 3, the $250,000 solicited on September 24, 1987 and contributed on November 6, the $500,000 contributed on February 9 or 10, 1988, and the $100,000 offered but never contributed in March 1989.

These contributions were each solicited and contributed at a time when Mr. Keating was seeking assistance from Senator CRANSTON. During the entire 2-year-and-2-month period, Mr. Keating never sought action from Mr. CRANSTON when contributions were not solicited, promised, or contributed. Conversely, contributions were never sought by Senator CRANSTON except at times when Mr. Keating was seeking assistance.

While the issue before the committee was the linkage between contributions and actions, and not the nature of the contributions, the purpose and source of the contribution merit examinaiton. Mr. Keating was a conservative Republican with a history of supporting both conservative and philanthropic causes. The donations in this case did not fit in either of those categories. These contributions were solicited for and made to voter registration groups closely affiliated with Senator CRANSTON. The clearly intended use of these contributions, as well as the $85,000 contributed in 1986 to the California Democratic Party, was to increase the voter turnout among individuals likely to vote for the Democratic candidates. To what did Senator CRANSTON attribute his successful solicitation of these out-of-character donations, especially given that the solicitations were occurring precisely when Mr. Keating was requesting assistance with the Federal Home Loan Bank Board?

When one examines the totality of the circumstances—the repeated instances where contributions and official actions came up in the same conversation, the two times they were linked in memoranda, the nature of the intervention sought and secured, the absence of inquiry into the merits of the intervention, the amount and nature of the contributions, and the fact contributions and actions are always linked in time—the only reasonable conclusion is that there was a pattern of conduct in which contributions and official actions were substantially linked in time and other circumstance.

Senator CRANSTON's characterization of the committee conclusion as just a finding of linkage in time is an effort to create the proverbial strawman, which he then tries to knock down. Unfortunately, he missed the target. His statement before the Senate that there has been "no charge that there was any other connection between the donations and actions" is inaccurate.

The Ethics Committee does not consider it improper to make inquires of agencies on behalf of individuals and to intervene on behalf of individuals when the facts merit it. Nor is the solicitation of contributions wrong under current law and practice. It is when a Senator links official actions with contributions that the committee will find improper conduct.

In this case, the fact that Senator CRANSTON's actions were often close in proximal time to the request for or receipt of large contributions was disturbing, not solely controlling. The larger, more encompassing concern was that Senator CRANSTON, time and again, often in the same meeting, intermingled constituent matters and fundraising issues in his dealings with a constituent, and that this pattern of activity continued for a significant period of time.

Senator CRANSTON, in arguing that he was only guilty of the appearance of improper conduct and not any actual improper conduct, points to the committee's conclusion that he did not violate any law and that there was no quid pro quo; that he did not act in exchange for contributions.

Senator CRANSTON further defended himself by claiming that the committee created a new principle of improper conduct based on linkage of action and contribution, and then applied this principle ex post facto to his case. I totally reject this defense.

The committee's finding that Senator CRANSTON violated no law does not equate to a finding that he was not motivated by or did not link contributions, nor does it preclude the possibility of improper conduct. Illegality is not the same as impropriety.

There are two criminal statutes that are relevant to this matter: The bribery statute and the illegal gratuity statute. If Senator CRANSTON had acted in exchange for the contributions, that would constitute a bribe and would merit expulsion. Proving bribery requires evidence of corrupt intent, and the committee does not have evidence proving Senator CRANSTON had such.

The illegal gratuity statute, by contrast, requires proof that a Senator acted because of a personal benefit. While it is not necessary to establish corrupt intent, it is a necessary element of the crime that there has been a personal benefit. In this case, there was no personal benefit.

However, there are standards governing this institution which are not limited to the letter of the law or Senate rule. While unwritten, these are sufficiency well established in resolutions, relevant statutes, Senate disciplinary cases, and norms of the Senate, including actual conduct of individual Senators, to provide notice to Senators of their ethical obligations in conducting their activities. As Senator Stennis noted on the floor of the Senate in 1968, the Senate has recognized that the existence of rules by this body did not "replace that great body of unwritten but generally accepted standards that will, of course, continue in effect."

The Senate has repeatedly disciplined its Members for conduct that was improper, regardless of whether it violated any specific law or Senate rule or regulation. In this case, the committee spelled out the relevant standards of conduct at some length in its report on the investigation of Senator CRANSTON. To hold that standards governing improper conduct must be in writing with all the "t's" crossed and the "i's" dotted ignores the practice of the past and the necessity to continue that practice in the future to protect the integrity of the Senate.

Senator CRANSTON also asserts that the committee's action sanctions him for constituent services and fundraising practices that are the same as many other Senators. This is an especially troubling defense because, by citing the unspecified conduct of unnamed Senators, it smears every Member of this body and the institution as a whole.

Ironically, while pernicious, this defense is also difficult to take seriously inasmuch as the Senator misstated the standard of conduct against which he was judged by the committee and ignores the relevant facts. In essence, Senator CRANSTON concludes that the committee only found coincidental linkage in time between his fundraising from and official actions on behalf of Lincoln, and concedes only that he created an appearance of impropriety. It follows, therefore, that the similar practices he asserts that the other anonymous Senators engaged in also involve only linkage in time. The reality is that the committee's findings and conclusions are not limited to coincidental linkage in time, but reach to a pattern of conduct over an extended period of time which included actual linkage by the Senator himself.

Neither the Committee on Ethics, nor I personally, are aware of any situation where another Senator has engaged in the pattern of fundraising and official action that the committee found in this case. If the Senator has such evidence, he should bring it to the attention of the committee.

Senator CRANSTON's unique actions merited the committee reprimand. I recognize the Senator's fine service to this country and that he has expressed remorse for his conduct. But after listening to his presentation on November 20, I regretfully must say that the only remorse I discern in Senator CRANSTON is remorse that he has been held publicly accountable for his actions.●

CRANSTON RESPONSE TO RUDMAN STATEMENT

● Mr. CRANSTON. Mr. President, I ask that a statement released by Prof. Alan M. Dershowitz regarding Senator RUDMAN's additional statement be printed in the RECORD, along with the text of the materials I submitted to the Senate on November 20, which includes my written submission in response to the committee's February 27, 1991 resolution, dated April 22, 1991, and my written response to the Ethics Committee's November 20, 1991, resolution for committee action, dated November 20, 1991.

The material follows:

RESPONSE TO SENATOR RUDMAN

Professor Alan M. Dershowitz of Harvard University issued the following statement in response to an "additional statement" by Senator Warren Rudman:

"Senator Alan Cranston has responded fully and with documentary support to all the allegations made previously by the Senate Select Committee on Ethics and repeated personally by Senator Rudman. Senator Cranston's responses and his supporting documents appear in the Congressional Record of Nov. 20.

"I wish to add only the following brief response. It is important to reiterate that the entire Committee explicitly found that all the contributions at issue were, in and of themselves, legal and proper. The Committee also explicitly found that the constituent services performed by Senator Cranston were legal and proper, and violated no law or Senate rule in and of themselves. Even more significantly the entire Committee found that Senator Cranston received no personal benefit, and found no evidence that his actions were caused by any contributions. In other words, there was no quid pro quo.

"I hope that these findings will now put this matter to rest and that Senator Cranston can now get back to completing his distinguished 24 years of service in the U.S. Senate."

[U.S. Senate Select Committee on Ethics]

WRITTEN SUBMISSION IN RESPONSE TO THE COMMITTEE'S FEBRUARY 27, 1991, RESOLUTION

(Senator Alan Cranston, U.S. Senate, Washington, DC, April 22, 1991)

I—INTRODUCTION AND SUMMARY OF MY WRITTEN SUBMISSION

This submission constitutes my response to the Statement and Resolution issued by the Select Committee on Ethics on February 27, 1991.

I have prepared this submission personally because, as you know, I cannot afford to continue to employ legal counsel.[1] Treatment of my prostate cancer made it impossible for me to defend myself during the public sessions of the Committee last November, December and January, and to communicate with my attorney in the way that the other four Senators who were under investigation could. I am pleased to have this opportunity to clear up certain false impressions that the hearings created and to point out inaccuracies, omissions and inappropriate inferences in the February 27, 1991 Committee documents.[2]

It is my understanding that the substantive issue is whether there is "clear and convincing evidence" of a causal connection between my official actions and donations—most of them charitable—that I collected for others.

I will show that there is *no direct evidence* of any such casual link. I will cite clear and convincing evidence that there were other causes—very legitimate causes—for my official actions.

The Resolution *infers* a casual connection from the proximity in time between the charitable donations and the official actions. Proximity in time is *not* clear and convincing evidence that the charitable donations caused my official actions. The Resolution's *inference* of a casual connection cannot survive dispassionate, reasoned analysis. It cannot be a substitute for clear and convincing evidence. The inference is particularly inappropriate and unfair given that my conduct was *not different in kind*, as I will show, from that of other Senators who have been under inquiry. The Resolution did not draw such adverse inferences against them.

In retrospect, I can see that the proximity in time between the charitable donations and the official actions could lead to an appearance of impropriety where no impropriety existed. I wish I had foreseen this development—I have always endeavored to avoid appearances or actions that could reflect adversely upon the Senate or myself.[3]

I acknowledge and I accept the consequences of an appearance of impropriety due to proximity of time.

However, since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

The Senate has never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

In every case of financial impropriety considered by the Senate through its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefited in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it.

I will discuss the Special Counsel's proposal to extend to Senators the appearance standard in the Code of Ethics for Government Service that applies to federal judges and civil servants. The Senate has never adopted that code as an ethical standard applicable to Senators. There is no reference to it in any of the over 400 published Interpretative Rulings issued by the Senate Committee on Ethics. The Special Counsel overlooks fundamental differences between federal judges and civil servants. Federal judges and civil servants do not have to raise funds to stay in office. A judge is not expected to serve the interest of the parties before him. A Senator is expected to *represent* this constituents, and to be—and to appear to be—responsive to their legitimate needs. Senators should not be a risk of discipline for violation of an appearance standard that would prevent us from intervening on behalf of constituents, contributors and non-contributors alike, when intervention is appropriate.

I want to clarify a crucial point that apparently was not made sufficiently clear during the hearings. I refer to my charitable fund-raising activities intended to increase voter participation. More than 10 years ago, the facts about the deplorable decline in voter participation in the United States came to my attention. I was appalled. It struck me that the very essence of our democracy was at risk as fewer and fewer Americans—particularly our youth—participated in the democratic process.

I discovered that one of the reasons for the voter fall-off was our antiquated and frequently onerous registration laws, which tend to discourage voting—especially among some of our minority populations. I was determined to do something about it.

I wrote articles. I gave speeches. I introduced legislation calling for reform But until reform could take place, the only effective action I could take was to support non-partisan voter registration efforts across the country. The I.R.S. granted tax exempt status to donations for this cause. The I.R.S. regulates the donations to charitable organizations. To qualify for tax exemption, organizations must meet and continue to satisfy established criteria.

Enhancing voter participation became my personal crusade. In 1986, I directed much of my time and energy to it in addition to my Senatorial duties and my Senate reelection campaign. I increased my efforts in the 1987–1988 campaign cycle because in the 1986 election, turnout dropped so low that over 62% of the national electorate failed to vote. Both parties "lost" the election—Democrats received only 18.9% and Republicans only 17% of the eligible votes.

Volunteering my time and effort, I raised $7,610,000 for voter participation programs in 1987–88. $6,415,230—84.3% of the total—was in the form of I.R.S. approved tax-deductible charitable donations for non-partisan voter participation 501(c)(3) organizations throughout the country. Although I accepted the checks on behalf of these organizations, I

Footnotes at end of article.

had no control over how the money was to be spent. The remainder of the donations went to support efforts to raise charitable donations for I.R.S. approved nonpartisan voter participation groups.

This project required an annual operating budget of $250,000 and necessitated the establishment of America Votes (later known as USAVotes), an organization with a staff of three to five people. Two hundred sixty-four individuals, foundations, unions, associations and corporations donated to this cause. Mr. Keating was not the largest donor, nor the only donor with a pattern of multiple giving.[4]

I strongly urge the Committee to take the time to understand the differences between the charitable donations I raised from Mr. Keating to increase voter participation and the political contributions raised from Mr. Keating by the other four Senators. These charitable donations—unlike political contributions—were of no direct benefit for me. They were made after my 1986 reelection. Senate Rule 37 expressly permits Senators to engage in fund-raising for charities, and many members quite properly do so. The Committee acknowledged in its Statement that my solicitation and acceptance of charitable donations by Mr. Keating was legal and did not constitute a personal gift.

The Committee also acknowledges that political contributions are "a fact of life". Large campaign war chests are often the largest factor in winning—and keeping—a Senate seat. Mr. Keating raised and contributed more political contributions to the campaigns and P.A.C.'s of each of the other four Senators, who had direct control over these contributions, than he did to mine.

Mr. Keating was an acknowledged big giver: a big contributor in the political arena and a big donor in the charitable arena. He gave and loaned more than $44 million to Mother Teresa, Covenant house, the St. Vincent de Paul Society and anti-pornography drives. He gave and raised huge sums for political campaigns and candidates such as the $200,000 he gave to Senator Glenn's P.A.C. and $100,000 he contributed to George Bush's Team 100.

The Committee Resolution pertaining to me is in two parts: first, four "occasions" and questions related thereto about my official actions and fund-raising on behalf of charitable and related organizations; and, second, three questions concerning certain actions of Ms. Joy Jacobson, who through most of the time in question, was employed part-time by USAVotes to assist in raising charitable donations. I will examine each of these questions in detail. I will show that the Resolution is inaccurate, unfair and misleading in many of its statements with respect to these questions.

I respectfully, but urgently, request all members of the Committee to review the Resolution carefully and thoroughly in light of this submission.

When viewed fairly and impartially, the evidence regarding these charitable and related donations shows that at most there may have been some proximity of timing to official actions, and consequently perhaps bad judgment and an appearance of impropriety—but nothing more.

I will cite the evidence in the record that shows similar instances of proximity of timing between official actions and the receipt of political contributions—not charitable donations—by Senators DeConcini, Glenn and Riegle. In their cases, the Committee drew no inferences about and made no findings of any causal connections.

The Committee found that the conduct of Senators DeConcini and Riegle gave the appearance of being improper and was "attended with insensitivity and poor judgement"—but nothing more. The Committee voiced no criticism of Senator Glenn for his conduct in this respect.

There simply is no evidence establishing a difference in kind between my actions and the actions of Senators DeConcini, Glenn and Riegle—except that the money they raised was for their own political use, while the money I raised was charitable and for the use of others. It was not for my use.

Since there is no differences in kind between my actions and the actions of the others Senators, treatment of my actions should not differ in kind from treatment of their actions.

I will show that all five Senators have varying degrees of involvement concerning Lincoln Savings. In some respects, some Senators were more involved that I.

Regarding the activities of the USAVotes employee cited in the Resolution, I will show that she was not under my direct supervision. I also will show that, contrary to assertions in the Resolution, her activities were separate and distinct from my Senate office; that in at least one instance her solicitation of funds from Keating was made without my prior knowledge; that the Special Counsel drew unfair and inaccurate inferences from memoranda she wrote; that she did not repeatedly schedule and attend meetings between contributors and myself in which legislative or regulatory issues were discussed; that she did not engage in substantive discussions and never influenced, or attempted to influence, any official decision or action of my staff's or of mine; and that she did not serve as an intermediary for Messrs. Keating or Grogan but simply passed messages along occasionally when they were unable to reach me or members of my Senate staff.

I grant that some of Ms. Jacobson's activities were susceptible to creating an appearance of impropriety. Some of her memos were written carelessly, without thought to appearances. I should have realized that when I read them. But, in the press of my heavy and hectic Senate workload, I failed to do so. Some of her actions likewise could lead to false impressions. I failed to realize that at the time. I will show, however, that her testimony demonstrates that she understood very well that there must be no connection between official actions and donations, no quid pro quo. Like my own activities, her activities do not provide any evidence of a causal connection between my official actions and solicitation of donations. Certainly none of her activities can warrant that the Committee recommend institutional action against me.

I deeply regret that I failed to foresee that soliciting charitable donations close in time to official action could lead to an appearance of impropriety.

I regret that I did not constrain more closely the actions of the part-time employee of USAVotes.

I concede these errors, but these were errors in judgment, not in intent.

II—MY ANSWERS TO THE COMMITTEE'S FOUR QUESTIONS RE: POSSIBLE CAUSAL CONNECTIONS BETWEEN CHARITABLE DONATIONS AND OFFICIAL ACTIONS

Section (a)(1) of the Resolution cites four occasions when fund-raising and official actions were allegedly in "close connection". There may have been some proximity in time upon these occasions. There is no evidence of a causal connection. There is evidence to the contrary.

The following examines each occasion, quoting the question in the Resolution and then analyzing what the record shows about: first, the evidence regarding charitable and related donations; second, evidence regarding any official actions my staff or I took; and, third, evidence showing that there were indeed no cause and effect relationships between Mr. Keating's donations and my actions.

A. Paragraph (a)(1)(i)

Paragraph (a)(1)(i) states: As a result of a solicitation from Senator Cranston in early 1987, Mr. Keating, on March 3, 1987, contributed $100,000 to America Votes, a voter registration organization. This contribution was made during the period leading to Senator Cranston's participation in the April 2 and April 9 meetings with Federal Home Loan Bank Board Chairman Edwin J. Gray and the San Francisco regulators.

(i)1. *Donation:* The Resolution accurately notes that a donation was made on March 3, 1987, to America Votes. (Sp. Coun. Ex. 159). America Votes (later known as USAVotes) raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

2. *Official Action:* The Resolution is inaccurate and very misleading in stating that this donation was made during the period leading to my participation in the April 2 and April 9 meetings.

The evidence is undisputed that the donation was discussed, solicited and committed on or before February 24, 1987. (Stein Affidavit, Sp. Coun. Ex., 458, para. 14); (AC, 4/30/90, p. 119). The donation check was dated March 3, 1987. (Sp. Coun. Ex. 159). The evidence shows that I knew nothing about the proposed meetings before the second half of March, and perhaps not until the last week in March. (JG, 12/15/90, p. 88); (AC, 4/30/90, p. 119). Furthermore, the preponderance of evidence shows that the meetings first were conceived after the donation was solicited and received. (Gray, 2/23/90, p. 15; 11/29/90, p. 64); (Grogan, 12/12/90, pp. 56–58, 208); (Riegle, 1/7/91, pp. 29–32, 46–9. 51–55, 101–2, 163); (DeConcini, 1/9/91, pp. 45–6, 49, 51–2, 60–63, 199–200, 203, 209); (McCain, 1/4/91, pp. 27–21, 26, 111, 163–4); (Glenn, 1/4/91, pp. 240–47, 193).

The evidence shows that the April 2 meeting date was not set until a few days prior to the event. (Gray, 2/23/90, p. 15). The evidence shows that the second meeting on April 9 grew out of the April 2 meeting. The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating had broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90, p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and

9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman.

All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulations.[5] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged in a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in the San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting Office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

Thus the *evidence is overwhelming* that (a) I had many sound and official reasons to participate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before *anyone* even conceived of the meetings.

There is no evidence—nor could there be—that I attended the April meetings because of the donation.

B. Paragraph (a)(1)(ii)

Paragraph (a)(1)(ii) states: In the fall of 1987, Senator Cranston solicited from Mr. Keating a $250,000 contribution, which was delivered to the Senator personally by Mr. Keating's employee James Grogan on November 6, 1987. When the contribution was delivered, Mr. Grogan and Senator Cranston called Mr. Keating, who asked if the Senator would contact new Federal Home Loan Bank Board Chairman M. Danny Wall about Lincoln. Senator Cranston agreed to do so, and made the call six days later.

(ii) 1. *Donation:* There was not one but two donations that were delivered on November 6, 1987. The Resolution omits any description of them, and fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Affidavit, Sp. Coun. Ex. 501, para. 13).

$25,000 was in the form of a contribution to USAVotes (formerly America Votes) to support its efforts to raise charitable donations for I.R.S. approved 501(c)(3) non-partisan registration groups. (Sp. Coun. Ex. 146).

The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall.

2. *Official Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[6] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

Furthermore, there is *no* evidence that I attempted to influence the regulatory actions of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her sections were influenced by any contact from my office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 10–11, 196); (Wall, 12/4/90, pp. 104, 116, 181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp. 29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A2 at 41).

3. *No Causal Connection:* It flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything.*[7]

The routine status call that I made to Mr. Wall on November 12 was not motivated by the personal concerns of Mr. Keating. The jobs and financial security of thousands of my California constituents were at stake. I made the call for the same reason that I attended the April 2, 1987 meeting—because I believed it was necessary and proper that I do so on behalf of my many constituents who had stakes in Lincoln.

The Resolution is incorrect in concluding that Mr. Keating asked me to contact Mr. Wall when I was on the phone with him in Mr. Grogan's presence. At best, there is conflicting testimony on this point. (AC, 4/30/90, pp. 188 & 190); (JG, 12/14/90, p. 162). I do not recall a request from Mr. Keating on November 6 that I call Mr. Wall. *Nor* do I recall that my November 12 call to Mr. Wall was the result of a request from Messrs. Keating or Grogan.

The Resolution implies that there was a causal connection between the receipt of the donations and my decision to call Mr. Wall on November 12. There is *no* evidence to support such a conclusion.

Furthermore, Mr. Grogan testified that there was never "any suggestion, either by word or by body language, or by a raised eyebrow" that my interest in Lincoln's problems was tied to Mr. Keating's support of non-profit voter registration efforts. (JG, 12/15/90, p. 132). Mr. Grogan also testified, "There was never an occasion where Mr. Keating asked Senator Cranston to do something and Senator Cranston said, 'only if you raise funds for me.' There was never an occasion where Mr. Keating said, 'If you do this for me, I will raise X amount of dollars for you.'" He testified that there was never "even the suggestion" that fund-raising and official actions were connected in any way. (JG, 12/12/90, pp. 185–8). I repeatedly have testified that there was no connection between Mr. Keating's donations and my decisions to contact the regulators regarding Lincoln. (AC, 4/30/90, p. 95).

C. Paragraph (a)(1)(iii)

Paragraph (a)(1)(iii) states: In January 1988, Mr. Keating offered to make an additional contribution and also asked Senator Cranston to set up a meeting for him with Chairman Wall. Senator Cranston did so on January 20, 1988 and Chairman Wall and Mr. Keating met eight days later. On February 10, 1988 Senator Cranston personally collected checks totaling $500,000 for voter registration groups.

(iii) 1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were two I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of the money, was under my control.

Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating. (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) that Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

My visit to Phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressmen and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 119–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *had no connection* with the Wall/Keating meeting.

It is also equally coincidental that this trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ, 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); (JJ, 12/3/90, p. 143).

2. *Official Action:* There is no evidence that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relaying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

3. No Causal Effect: Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[8]

There is no evidence of a causal connection between my January 20, 1988 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[9] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is factual and convincing evidence that Mr. Keating did not ask me to set up a meeting in connection with a solicitation of a donation of any type.

D. Paragraph (a)(1)(iv)

Paragraph (a)(1)(iv) states: In early 1989, at the time that Senator Cranston was contacting Bank Board officials about the sale of Lincoln, he, personally or through Joy Jacobson, his chief fund-raiser, solicited another contribution. (This contribution was never made. American Continental Corporation declared bankruptcy on April 13, 1989.)

(iv) 1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductible donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The Resolution accurately states that this donation was never made.

The Resolution's description of Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I founded (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three cochairmen of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him or Mr. Keating during this period, testified that Ms. Jacobson, not I discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr. Keating during the period. (JJ, 12/3/90, pp. 167–8).

I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete, I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

There are 18 names of potential donors on the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: "Joy is talking with Jim Grogan. 100,000 wherever it's needed."

This evidence corroborates Mr. Grogan's testimony that Mr. Jacobson, not I, made this solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony "that the first group you go back to [at the beginning of each year is] your past donors and try to renew them." (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that "the timing of the fundraising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was." (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank Board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

In response to the inference I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan was talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

There is absolutely no evidence of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

The foregoing analysis of each of the four "occasions" cited in the Resolution demonstrates that there is absolutely no evidence of a causal relationship between any of Mr. Keating's donations and any of my actions, and that there is overwhelming evidence to the contrary.

I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: "Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration efforts?" Mr. Grogan replied, "Never." (JG, 12/15/90, p. 132).

The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.[10]

III—MY ANSWERS TO THE COMMITTEE'S THREE QUESTIONS RE: A PART-TIME EMPLOYEE OF AN ORGANIZATION THAT RAISED I.R.S APPROVED 501(C)(3) CHARITABLE DONATIONS

The Resolution raises questions in Section (a)(2) about my Senate office practices, citing three examples of activities engaged in by Ms. Jacobson, a part-time employee of USAVotes, over whom I had no real supervisory role. I have already indicated that she was *not* a member of my Senate staff. She had no substantive expertise in Banking Committee issues and did not substantively involve herself in my official Senate activities.

The words "Senate office practices" is inaccurate and misleading. Ms. Jacobson came to my office occasionally, but by no means frequently or regularly. She worked out of her home in Virginia. Unlike the practice in some Senate offices, I have never assigned major political fund-raising responsibilities to anyone serving part time or full time on my Senate staff. I have designated two Senate staff members under Rule 41, but they have done comparatively little political fund-raising. All fund-raising efforts with which I have been involved, whether political or charitable, have been the responsibility of individuals employed elsewhere—*not* in my Senate office.

Although some of Ms. Jacobson's activities are susceptible to an interpretation that they rise an *appearance* of impropriety, they do not constitute clear and convincing evidence of a causal connection between (a) my personal official actions and (b) solicitations of donations I made or of which I was aware.

A. Paragraph (a)(2)(i)

Paragraph (a)(2)(i) states: Senator Cranston's fund-raiser repeatedly scheduled and attended meetings between Senator Cranston and contributors in which legislative or regulatory issues were discussed.

The Resolution unfairly uses the word "repeatedly". Mr. Grogan met Ms. Jacobson in 1984. (JG, 12/12/90, pp. 71–73); (JJ, 12/3/90, p. 91, 7/19/90, p. 37). He testified that he would call her to schedule appointments until he became acquainted with members of my Senate staff and began to turn to them to arrange appointments. (JG, 12/12/90, p. 93).

Ms. Jacobson testified that after March, 1987, the only meetings which she was involved in arranging were for fund-raising or social purposes, not substantive purposes. (JJ, 12/3/90, p. 96). She testified that she didn't know about the April 2 and April 9 meetings until long after they occurred. (JJ, 12/3/90, p. 130). She testified that she arranged no substantive meetings during the entire two year period from April, 1987, to April, 1989, during which the other three "occasions" occurred that raise questions of causal connections. [Referred to in Paragraph (a)1 of the Resolution].

The Resolution inaccurately states that Ms. Jacobson scheduled meetings for me. The evidence shows that she had to go through my Secretary or my Administrative Assistant to place appointments on my schedule.[11] (JJ, 7/17/90, p. 76).

Ms. Jacobson's testimony differs from mine about why she attended such meetings. I have testified that Ms. Jacobson suggested to me that it would be helpful for her to be present so she would know what was going on. (AC, 4/30/90, p. 24). She testified that she was there to make sure that the charitable donor felt at home in my hectic and crowded office before I arrived or if I were called away on Senate business. (JJ, 12/3/90, pp. 86–90).

Ms. Jacobson has testified, and I confirm, that she never participated in substantive discussions in any meetings. (JJ, 12/3/90, p. 86). Moreover, Ms. Jacobson testified that she often paid no attention to the subsection discussions: "While a substantive discussion was going on, I often would get up and go make phone calls outside of the office. There's a round table that I often worked at in Senator Cranston's Whip office. While a substantive meeting was going on in another section of the same room, I would be off doing something else." (JJ, 12/3/90, p. 90).

To the best of my knowledge, Ms. Jacobson never attempted to influence an official action in any way. Neither anyone on my staff nor I made a decision of substance based on any actions by Ms. Jacobson.

B. Paragraph (a)(2)(ii)

Paragraph (a)(2)(ii) states: Senator Cranston's fund-raiser often served as the intermediary for Mr. Keating or Mr. Grogan when they could not reach the Senator or Carolyn Jordan, the Senator's banking aide.

The Resolution's use of the word "intermediary" is misleading and unfair. The record shows, as I have just indicated, that Ms. Jacobson did not engage in any substantive negotiations or take any substantive actions. She testified that she simply passed messages along occasionally when Mr. Grogan was unable to reach me or members of my Senate staff. (JJ, 12/3/90, p. 156). Ms. Jacobson testified, "It was Jim Grogan's nature to just keep dialing until he got somebody. Again, it usually had to do with something that was going to happen and he needed to get hold of somebody, whether it was Roy [Greenaway] or Alan [Cranston] or Carolyn [Jordan], and I would say, I'll pass it along." (JJ, 7/19/90, p. 168).[12] Ms. Jacobson also testified, ". . . At the beginning they always did call me. My understanding is that later on they often didn't call me, that they called Roy Greenaway [my Administrative Assistant] or they called Mary Lou [McNeely, my Secretary] directly or they just showed up at the office." (JJ, 7/19/90, p. 164).

C. Paragraph (a)(2)(iii)

Paragraph (a)(2)(iii) states: Senator Cranston received several memoranda from Ms. Jacobson which evidenced her understanding that contributors were entitled to special attention and special access to official services. Senator Cranston never told her that her understanding was incorrect, nor did he inform her that such a connection between contributions and official actions was improper.

The Special Counsel focused on one memo dated January 7, 1987. (Sp. Coun. Ex. 154.) It was written prior to *all* the specific donations referred to in the Committee's Resolution.

Ms. Jacobson did *not* state—as the Resolution indicates—that the individuals she mentioned in her January 7 memo were "entitled to special attention and special access to official services." She said the individuals expected "some kind of resolution" of pending matters. That is exactly what every constituent, whether a contributor or not, rightfully expects from their Senator. That is exactly what every constituent of mine gets, whether he is a contributor or not, to the best of my ability and my staff's ability. Note that Ms. Jacobson did not state that these individuals could rightfully expect a *favorable* resolution. She said they would expect "*some kind*" of resolution.

She explained the meaning and intent of this memo in her testimony. She testified that the individuals she mentioned, like all constituents, were entitled to a response from me as to what, if anything, I was going to do about their problems—not necessarily a positive response or resolution—but *some* response or resolution. (JJ, 7/19/90, p. 99–101; 12/3/90, pp. 204–5). They may not like the response, but they like all constituents are at least entitled to be heard and to be given a decision. That is all Ms. Jacobson advocated and that is all I ever tried to provide.

Furthermore, Ms. Jacobson testified that several individuals mentioned in her January 7 memo, including Mr. Keating, did not get the results they wanted. (JJ, 12/3/90, pp. 205–6). I understand how someone with 20/20 hindsight might question the implication of Ms. Jacobson's words, but my deeds followed the *words*, not the *implications*.

Improper inferences drawn from a memo written by someone else, not by me, *must not be accepted as a substitute* for clear and convincing evidence of causal connections between my official actions and donations.

The only other memos I am aware of from Ms. Jacobson simply passed on information or contained updates on charitable donations.

Moreover, and in fundamental fairness to Ms. Jacobson, I believe that the Resolution *unfairly implies* that she lacked understanding of proper policy regarding donations and official actions. Ms. Jacobson testified that she knew there could not and must not be a quid pro quo between official actions and donations, and that my absolute firm office practice was to have nothing to do with any potential donor who sought to link a donation to official action. (JJ, 12/3/90, pp. 223–4, 239–40).

Specifically, in relation to Lincoln, Ms. Jacobson testified that neither Messrs. Keating, Grogan nor I ever indicated that any donations were made with any understanding that I would do anything in return (JJ, 12/3/90, pp. 175–6):

Q. Did Mr. Grogan ever tell you that the contributions were made with the understanding that Senator Cranston would do anything in return?

A. Absolutely not.

Q. Did anyone whom you knew to be associated with Lincoln Savings or American Continental ever tell you that any of the contributions were made with the understanding that Senator Cranston would do something in return?

A. No.

Q. Did Senator Cranston ever say to you that he thought that the contributions which you have discussed were made with an expectation that he would act in any way on behalf of Mr. Keating, of Lincoln or American Continental?

A. No.

Q. To your knowledge, did Senator Cranston do anything for or on behalf of Lincoln Savings because Mr. Keating assisted his reelection campaign?

A. No.

Q. Did he to your knowledge do anything for or on behalf of Lincoln Savings because Mr. Keating contributed money to USA Votes, Forum Institute or the Center For Participation in Democracy?

A. No.

Q. Did Mr. Keating or anyone associated with him ever tell you that a contribution would be made after Senator Cranston made an inquiry on his behalf?

A. No.

Q. Did Senator Cranston ever tell you or suggest to you that you should time any request for contributions to coincide with anything occurring before the Bank Board?

A. No. In fact, the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.

Q. Did Senator Cranston ever tell you to time a solicitation to Mr. Keating to coincide with any other event or events to your recollection?

A. No.[13]

The Resolution inappropriately states that Ms. Jacobson understand that donors were entitled to special access. Mr. Grogan testified that he was able to obtain my attention—in other words get access to me—before any of the charitable donations for voter registration were made by Mr. Keating. (CG, 12/15/90, p. 132)

IV—THERE ARE NO DIFFERENCES IN KIND BETWEEN MY ACTIONS AND THE ACTIONS OF SENATOR DECONCINI, SENATOR GLENN, SENATOR MCCAIN AND SENATOR RIEGLE

There are no differences of kind between my actions and the actions of the other four Senators with respect to Lincoln.

Therefore there is no justification for singling me out for disciplinary action.

The Committee Statement of February 27, 1991 contains many important findings that show both similarities and differences in the actions of the five Senators. The findings include:

1. That, when considered without regard to any donation or other benefit, actions of the other four Senators and my actions did not violate any law or Senate rule.

2. That no solicitation or acceptance of any donation by the other four Senators or myself constituted a personal gift to any one of us.

3. That the other four Senators and I had a reasonable basis for contacting FHLBB personnel.

4. That the attendance of the other four Senators and my attendance at the April 2 and April 9 meetings, when considered without regard to donations, was not improper.

5. That my post-April 9, 1987 conduct and that of Senators DeConcini and Glenn when considered without regard to donations, was not improper; and in and of itself it is not improper to contact regulators after learning of a criminal referral. (DeConcini & Glenn).[14]

6. The Committee found that it may appear improper but actually it is not improper for a Senator to engage in aggressive conduct with regulators especially after learning of a criminal referral. (DeConcini).

7. The Committee found, however, that it was poor judgment but it did not find it unethical for a Senator to arrange a lunch between Keating and Speaker Wright eight months after the Senator knew of the criminal referral. (Glenn).

8. That the solicitation and acceptance by the other four Senators and me of all donations, including those to charitable voter registration organizations, were not illegal or improper.

9. That there are no specific written standards regarding contact with federal regulators in general or on behalf of contributors in particular.

10. That it may appear improper, but the Committee did not find it improper, for a Senator to assist a constituent with regulatory problems at a time very close to when that constituent is raising funds for the Senator. (Glenn and Riegle).

11. By implication, that conduct that is not improper but gives rise to an appearance of impropriety does not warrant further Senate action. (Riegle and DeConcini).

12. That contacts of the other four Senators and my contacts with regulators regarding Lincoln did not cause the eventual failure of Lincoln or the thrift industry in general.

Clearly all five Senators had varying degrees of involvement in respect to Lincoln. Mr. Keating and his friends and associates contributed more political contributions to the campaigns and P.A.C.s of each of the other four Senators, who had direct control over these funds, than to mine. That totals:

Glenn	$252,200
McCain	110,000
DeConcini	85,000
Riegle	78,250
Cranston	59,000

Although I received less in political contributions than any of the other Senators, it appears that I received more because of the charitable donations I raised. This is misleading and can warp an objective observor's perspective. I did not receive the charitable donations. I collected them on behalf of and passed them on to 501(c)(3) charitable organizations.

The fact that when charitable donations are counted I raised more funds from Mr. Keating than any of the other Senators should be considered in several contexts:

The total amount of charitable contributions I raised from Mr. Keating is not unusual in view of his general record of giving and loaning many more than $44 million to various causes including Mother Teresa, Covenant House, the Vincent de Paul Society and anti-pornography drives.

The Special Counsel asked why Mr. Keating, whom he characterized as extremely conservative, would donate to a Democrat such as I and to causes I espoused. F.E.C. records show that Mr. Keating has contributed very large sums to both the Democratic and Republican parties and to many candidates of both parties. Mr. Grogan testified about Mr. Keating's philosophy, "I would not characterize him as a conservative Republican and he doesn't characterize himself that way. He is much more liberal on a variety of issues." (JG, 12/12/90, p. 88).[15]

Regarding charitable contributions, I also want to note that information obtained from Senate financial disclosure forms shows that many Senators are associated in some way—surely including fund-raising in some instances—with I.R.S. approved 501(c)(3) organizations. Among them are the former Majority Leader Robert C. Byrd, now President Pro Tem of the Senate (Robert C. Byrd Scholastic Recognition Fund) and Minority Leader Robert Dole (Dole Foundation for the Employment of People with Disabilities). (AC Exhibit 80).

Coincidences in time between political contributions and official actions were found in respect to three of the other Senators:

The Committee found that Senator Riegle was helping Lincoln with its regulatory problems at the same time that Mr. Keating was raising substantial political funds for him—i.e., $78,250 raised for Senator Riegle's 1988 campaign on March 24, 1987, nine days before the April 2 meeting and after Senator Riegle's apparent involvement in discussions leading to the April 2 meeting. The Committee stated that it did not condone Senator Riegle's conduct and criticized him for "insensitivity and poor judgment"—*but* the Committee did *not* conclude that this coincidence in time between Senator Riegle's fund-raising and official actions required institutional action by the full Senate. (Senate Ethics Committee Statement, 2/27/90, Riegle).

The Committee found that Mr. Keating raised $54,000 for Senator DeConcini's November, 1988, reelection, shortly before the Senator made efforts similar to mine although perhaps more "aggressive" than mine (to use the Committee's word)—to make sure the Bank Board gave appropriate consideration to the efforts to sell Lincoln.

The Committee learned that in late 1984 and early 1985 Mr. Keating and his associates made significant political contributions and raised funds for Senator's Glenn's presidential campaign debt and for his Senatorial campaign. This coincided in time with actions Senator Glenn took at the suggestion of Mr. Keating regarding the direct investment rule in December, 1984, and January, 1985. Senator Glenn testified he did not know about the contributions until the summer of 1985. (Glenn, 1/4/91, pp. 187–8, 226, 255).

The Committee did not conclude that there was any causal connection between these three coincidences of receipt by Senators Riegle, DeConcini and Glenn of these political contributions in proximity of time to their official actions. How, then, could the Committee without *any* substantiating evidence conclude that there was any causal connection between my receipt—on behalf of others—of charitable and related donations and my official actions? My case, like the cases of Senators Riegle, DeConcini and Glenn, *can only involve* questions of judgment and appearances.

I believe, too, that our actions did not differ in kind from legitimate actions of our 95 colleagues. Virtually every Senator raises funds for his campaigns and renders legitimate services to his constituents, including contributors, when they need it. I have noted previously that many Senators are active in one way or another with charitable organizations and some Senators raise very substantial money for them.

V—THERE ARE NO U.S. SENATE RULES, PRECEDENTS, OR CASES IN WHICH A SENATOR HAS BEEN DISCIPLINED FOR ASSISTANCE TO A CONSTITUENT WHEN THE SENATOR RECEIVED NO PERSONAL FINANCIAL PROFIT

If the Committee believes there should be limits on a Senator's ability to perform his official duties for a contributor based upon the timing or proximity of a donation to an official act, it may recommend that change to the full Senate and allow 100 members of this body to debate such a proposed rule.

It would be contrary to the principles of the Senate and a violation of traditional concepts to fair play to apply such a rule to me now *in what would clearly be an ex post facto fashion.*

There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate *never* has determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful contribution to the Senator's campaign or to a lawful donation to a charity that the Senator supports.

The Senate has to date rejected attempts to create Ethics Rules that would restrict the ability of its members to give their supporters the impression that they will be responsive to their needs. There is a *fundamental difference* between a Senator acting on behalf of a constituent and a Senator acting for his personal gain. It is one thing to say that a Senator should not do anything in his official capacity that appears to bring him personal gain. It is quite another to say he should not do anything in his official capacity that appears to benefit supporters or contributors. The former is a conflict of interest and a violation of public trust. The latter is not only *not* a violation of trust, but a fulfillment of it. Its appearance can seem improper only to those who distrust the system itself.

In *every* case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. The last four Senators who were disciplined by the Senate were involved in actions that resulted in *personal* gain. There has *never* been a case that has led to the disciplining of a Senator for assisting, or appearing to assist, a constituent-contributor when the Senator received no personal profit.[16]

The history of conflict of interest rules for the Senate and the House demonstrates that the evil at which all those efforts have been directed is the use of elective office for personal gain.

Senate Rule 37, the conflict of interest rule, distinguishes between personal and political benefit. It prohibits Senators and staffers from intervening with federal agencies for the purpose of furthering their financial interest or receiving compensation from a constituent. Its application is limited to agency intervention "resulting in measurable *personal* financial gain."

The Senate in 1977 rejected a proposed rule suggesting that the motive of a contributor could make a contribution improper. Senator Nelson, Chairman of a Special Committee, had proposed that Rule 35, pertaining to gifts, also should ban acceptance of anything "intended to affect the present or future performance of official duties." Senator Stevens attacked the proposal as "something no one can live up to if he is honest with himself and the American people . . . It is a standard of conduct with which one cannot comply in good faith and good conscience as a member of the U.S. Senate." Senator Nelson finally agreed, saying, "I do not think it makes sense at all, and someone who was working overtime and got tired must have written it." (pp. 144–5, Davidson Legal Counsel Report, March 1991).

The Committee acknowledges in its Statement of February 27, 1991 that the Senate presently has no specific written standards embodied in Senate rules respecting contact with Federal or independent regulatory agency officials. The Committee suggests a process for establishing such standards and states that until that is accomplished "All Senators are encouraged to use House Advisory Opinion No. 1 as a source of guidance for their actions."

House Advisory Opinion No. 1 indicates that it is proper for a member to communicate with an executive or independent agency on any matter to request information or status reports; to urge prompt consideration: arrange for interviews or appointments; express judgments; call for reconsideration of an administrative response that the member believes is not supported by established law, Federal regulation or legislative intent; or perform any other service of a similar nature in this area that is compatible with the criteria expressed in the Advisory Opinion.

The Advisory Opinion makes *absolutely no reference* to campaign contributions or charitable donations, or to the timing of campaign contributions or charitable donations solicited or received by a member who performs any of these approved and specified actions. It notes that it is a felony to seek or receive "compensation for any services rendered."

All my actions with respect to Lincoln were well within the guidelines of House Advisory Opinion No. 1.

VI—THE QUESTION OF APPEARANCES AND A SENATOR'S CONSTITUTIONAL OBLIGATION TO REPRESENT THE PUBLIC INTEREST OR THE CAUSE OF JUSTICE OR EQUITY OF HIS CONSTITUENT

Senator Sanford was quoted in the Washington Post on January 11, 1991, wondering how Members of Congress can "overcome the impression" that it *appears* improper if Members accept donations from constituents for whom they intercede.

This is a perplexing problem, since our basic obligation is to the people we represent, many of whom have supported us financially or in other ways. We must do what we think is right, not just what may appear to be right.

Senators should not be at risk of discipline for violation of an appearance standard that would prevent us from intervening on behalf of constituents when intervention is appropriate. If we act only when no one will criticize us, we will not serve the people who elected us.

The fact that a constituent is a contributor, even a recent contributor, does not make it unethical—and should not make it appear unethical—for a Senator to undertake to render him legitimate help when he needs it. The fact that a constituent is a contributor does not change his need for, nor his right to, a Senator's proper and timely help.

The Special Counsel proposes extending to Senators the appearance standard in the Code of Ethics for Government Service ("CEGS") that applies to federal judges and civil servants. The Senate *never* has adopted "CEGS" as an ethical standard applicable to Senators. CEGS never has been interpreted or applied by the Senate as a standard applicable to Senators. These is *no reference to it* in any of the over 400 published Interpretative Rulings issued by the Committee. The House has referred to it, but only in cases involving personal benefit. To apply CEGS to campaign contributions or charitable donations would be inconsistent with Senate Rules 35 and 37. The definition of a "gift" in Rule 35 specifically excludes campaign contributions. The term "compensation" under Rule 37 strictly has been limited to personal benefits.

The Special Counsel overlooks fundamental differences between federal judges and civil servants and Senators. Federal judges and civil servants do not have to raise funds to stay in office. For them, an appearance of a conflict of interest cannot relate to a campaign contribution. Presumably it will relate to personal financial gain. A judge is not expected to serve the interests of the parties before him, but to judge between them in a neutral and detached manner. He should be, and should appear to be impartial.

A Senator, on the other hand, is a servant of the constituents of his state. The Constitution requires us to *represent* our constituents. A Senator is expected to be and to appear to be responsive to the legitimate needs of his constituents, including his supporters and non-supporters alike. A Senator who attempted to function as a judge would soon be voted out of office. We also differ from federal judges and civil servants because *we are elected by the people.* We do not have life tenure. Senators *must* serve—and *must appear* to serve—the proper interests of the people who support them. If they don't their constituents won't get the help they need and deserve, and the Senators won't be reelected.

Indeed, in 1977 the Senate Ethics Committee warned that financial disclosure was preferable to specific restrictions on conduct because "it is one thing to describe cases that could pose a disturbing conflict of interest, but quite another to formulate a rule that meets the worst cases without becoming unreasonable. A rule designed to prevent a potential conflict of interest may result instead in depriving a Senator's constituents of full representation."

In 1977, the Committee stated that an excessively restrictive rule could "do harm to the legislative process" and "cut to the heart" of a Senator's function. (Davidson, 137). I submit that the adoption by the Senate of a similarly excessive standard of appearances could deprive constituents of full representation, could harm the legislative process, and could cut to the heart of a Senator's function.

VII—CONCLUSION TO MY WRITTEN SUBMISSION

The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign or P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totaling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S. approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control.

In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration in approximately 20 states during 1987 and 1988.

The Resolution fails to point out that *none* of Mr. Keating's donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized.

The Resolution ignores the important fact that *all* these donations were made *after* my 1986 reelection. An expert on voting, Curtis B. Gans, who is Director of the non-partisan, non-profit, Committee for the Study of the American Electorate, testified that registration efforts in California in 1987 and 1988 that were supported by some of the funds I raised would have had "negligible impact" on my reelection campaign four years later (had I chosen to run in 1992). "I could think of no less cost-effective way of advancing one's own interest," he testified. (Affidavit of Curtis B. Gans, Cranston Exhibit 77).

Section (a)(1) of the Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were, standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committee fails to make clear that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constituents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations.

I previously have noted in statements to the Committee that my actions in respect to Mr. Keating *should not be viewed as if they occurred in a vacuum.* I pointed out that my days and my nights are characterized by constant, passionate work on the great issues of our time, like war and peace, the environment and the economy, justice, and equal rights. I cited my many responsibilities during the time these events occurred, including my leadership role in the Senate as Majority Whip: my Chairmanship of the Veterans' Affairs Committee; my membership on several other committees and the Chairmanship of busy and important subcommittees; my very active role in fund-raising for other Senators and causes as well as for my campaigns; and the fact that—along with my Senate colleague from California—I represent many more constituents (30 million) than do any other Senators. Indeed, California's Senators *repressent more constituents* than any other legislator *has ever represented* in any country in the *entire history of legislative bodies.*

Constantly, I am called upon for help by my constituents. Unlike a corporation, I do not have the funds and the capacity to verify the financial status or the moral stature of each constituent who presents a problem to me. I cannot ask Dun and Bradstreet or the FBI to provide me with this information. More than 300,000 constituent requests have been handled by my staff and me in the 22 years I have been in the Senate. I deeply regret that one involving Lincoln savings has created the problem that is before us.

A casual observer of the hearings might well have obtained the false impression that I did little else over several years except deal with regulators regarding Lincoln. This is not the case. *In the almost two year period* between the April 1987 meetings and February 8, 1989, *I had only five contacts* with Federal regulators regarding Lincoln. I had no contacts at all between May 16, 1988, when Mr. Wall requested an appointment with me to discuss legislation, and February, 1989, when the sale of Lincoln came up.

In the period from February 8 through April 14, 1989, I had only five contacts with FHLBB members Wall, Martin and White regarding *three different proposals* to sell Lincoln. All contacts that I initiated were proper status inquiries. I had a legitimate basis for making them. All these contacts related to the interests of many thousands of my constituents whose jobs and financial well-being depended upon the fate of Lincoln.

I by no means responded favorably to every request by Messrs. Keating or Grogan for me to take some official action. I already have cited my refusal to push hard for the approval of a specific sale of Lincoln. Mr. Grogan in his testimony cited several examples of requests for actions that I declined to take. (JG, 12/12/90, p. 113; 12/13/90, pp. 130, 206–7, 215, 306; 12/15/90, pp. 90, 93–4, 96–8).

Besides citing many facts that contradict the causal connection theory concerning charitable donations and my official actions, I have presented a list of inaccuracies and important facts that were omitted in the Committee documents of February 27. In all fairness, these matters should be corrected in the final documents that are issued by the Committee.

A fair question to ask is: To what extent was the Committee influenced by these omissions of important facts, inaccuracies, and unwarranted implications in material put before it while reaching its conclusions announced on February 27, 1991?

I protest allegations of linkage, explicit or implicit, based merely on unsubstantiated and prejudicial inferences instead of demonstrable evidence.

I am convinced that a full and further review of the record, in light of my Submission, can only led to three conclusions:

First, there is no evidence of a causal connection between any solicitation of donation and any official action on my part.

Second, that my conduct was not materially different from that of the other four Senators involved.

Third, that whatever differences there were between that actions of the four Senators and mine they were not differences of *kind.* A fair and impartial consideration of this matter can only lead one to the conclusion that the Committee's treatment of my actions *should not differ in kind* from the treatment it accorded Senators DeConcini, Glenn, McCain and Riegle. I concede that I should have recognized that fund-raising—even for charitable donations—close in time to official actions could lead to an appearance of impropriety. It was a mistake not to have given more thought to appearances.

I concede that I should have constrained more closely the individual who was working for an organization that raised charitable contributions.

I readily concede these errors, but these were errors in judgment, not in intent.

I deeply regret them.

Without any clear and convincing evidence that any official action of mine was causally linked to any donation, however, there is no reason for the Committee to recommend institutional action in my case.

Institutional action would be a tragic event in my 22 year career in the Senate. Such action is not warranted by the events that have clouded the recent past.

I love this body and I have cherished each day I have spent in it serving the people of California.

APPENDIX I—CHARLES KEATING: HIS POLITICAL PHILOSOPHY AND HIS RECORD OF PHILANTHROPIC DONATIONS

The amounts in charitable donations I raised from Mr. Keating should not seem unusual when the Committee considers his general record of giving to and supporting philanthropic causes.

He gave between $1 million and $5 million to Mother Teresa. He donated $2 million and loaned $40 million to Covenant House in New York. He gave $1 million to the Vincent de Paul Society in Arizona. He gave untold millions to anti-pornography campaigns and other causes.

The amounts the other four Senators and I raised from Mr. Keating in political contributions also are not unusual when the Committee takes into account his general pattern of participation in the political process.

He regularly gave and raised thousands of dollars to political campaigns and candidates including $100,000 to George Bush's "Team 100" in 1988.

The Special Counsel asked several times why Mr. Keating, whom he has characterized as an extremely conservative Republican, would contribute to a Democrat such as I and to causes in which I believed.

The Special Counsel cited an invitation to a Democratic fund-raising dinner that I enclosed in a letter to Mr. Keating. (Sp. Coun. Ex. 29). The Special Counsel said he was bewildered at the notion that Mr. Keating would want to pay to go to a dinner sponsored by Pamela Harriman, the well known Democratic fund-raiser, and Governor Dukakis. The fact is that when my invitation arrived, Mr. Keating already had purchased a ticket to the event on his own. (JJ, 7/19/90, pp. 173–4).

Mr. Grogan testified as follows about Mr. Keating's philosophy: "Mr. Keating has a reputation that's not accurate of being a very conservative Republican. While he holds certain conservative Republican views, I would not characterize him as a conservative Republican and he doesn't characterize himself that way. He is much more liberal on a variety of domestic issues." (JG, 12/12/90, p. 88).

It is a matter of record that Mr. Keating has contributed to many Democrats and to many Republicans including Walter Mon-

VOL 137
PT 24
NO 26
1991
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JA 3
1992
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dale's Presidential campaign, the Reagan-Bush campaigns, the Democratic Senatorial Campaign Committee, the Republican National Committee, the Democratic Party of California and the Republican Party of California. F.E.C. reports covering the elections of 1984, 1986, and 1988 show that he contributed to many Democratic and Republican candidates for the Senate and the House.

APPENDIX II—MY SUGGESTED CORRECTIONS TO SEVERAL ADDITIONAL FACTUAL ERRORS IN THE COMMITTEE'S FEBRUARY 27, 1991 STATEMENT AND RESOLUTION

The Committee Statement in the section headed "Recommendation for Bi-Partisan Campaign Reform" declares that over 80% of the funds raised by the five Senators "were not disclosed funds raised . . . under the Federal Election Campaign Act. Rather, such funds were undisclosed, unregulated funds raised for independent expenditures, political party 'soft money,' and a non-federal political action committee." That statement contains two factual assertions that I believe are in error and should be corrected in the Committee's final Report.

First, no funds were raised for "independent expenditures"—funds raised independently of a campaign to help a candidate without the candidate's consent. I did not raise any. I do not believe there is any evidence that any of the other Senators raised any.

Second, I presume the reference to "political party 'soft money'" refers to the donation to the California Democratic Party. That contribution was not "undisclosed" and "unregulated". It was both disclosed and regulated in full accordance with California law.

This section of the Statement also fails to mention the category of funds that comprised most of the funds I raised: charitable donations certified as tax-deductible by the I.R.S. because they were to 501(c)(3) non-partisan organizations. This omission also should be corrected.

I did not raise any funds for a non-federal political action committee. Thus, nothing in this section as written describes my solicitations of charitable donations and related charitable donations from Mr. Keating.

FOOTNOTES

[1] Legal fees I feel obliged to cope with total more than $878,000—over $628,000 for me, and over $250,000 for others involved because of my involvement. This total amount exceeds the aggregate sum of my Senate salary for the past 10 years.

[2] I regret that I have been unable to doublecheck to insure that detail in every citation and footnote contains no error. I am confident, however, that the substance of every reference to which I have referred is accurate.

[3] That is why I have voluntarily made my tax returns public for many years. That is why I established a blind trust during my first term in the Senate. That is why I stopped accepting honoraria.

[4] (AC Exhibit 51E).

[5] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their minds. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulators are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 106).

[6] Such status inquiry calls are certainly routine for most if not all Senators. (Senate Ethics Committee, 2/27/91, p. 3, para. 1).

[7] Back in the 70's, another large corporation, Lockheed, was facing bankruptcy. Lockheed had invested millions of dollars in my state. The livelihoods of many thousands of my constituents and their families were at risk—as was the case with Lincoln Savings. I devoted far more time and effort and made many more phone calls about Lockheed's plight than I ever did about Lincoln's as I successfully endeavored to obtain a government guaranteed loan for Lockheed.

Lockheed was not a contributor to my campaigns or causes. In fact, Lockheed had contributed to my opponent in the previous election.

[8] Again, such phone calls are certainly routine for all or most Senators. The Supreme Court has noted, "The making of appointments with government agencies is a 'legitimate errand' performed by Members of Congress for constituents." (*Brewster* 408 U.S. at 512). The Supreme Court has also judicially observed that Senators may be more aggressive than any of the five of us were in dealing with the Bank Board: "Senators are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may *cajole* and *exhort* with respect to the administration of a statute." (Gravel v. U.S., 408 U.S. 606, 626, 1972)

[9] It would not have been unusual for Mr. Keating to make an unsolicited donation. The record shows that in 1985, he made an unsolicited $200,000 political contribution to Senator Glenn's Political Action Committee.

[10] In December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One retraction.

[11] Ms. Jacobson's activities should be considered in the context of Senate Rule 41 that permits Senators to appoint up to three members of their staffs who may solicit and receive campaign and political contributions. Ninety-nine Senators had done so as of November, 1990. All 99 Senators appointed key staffers, including 90 Administrative Assistants, who could raise and receive contributions while simultaneously possessing the enormous power to schedule appointments; to draft, amend, advance or delay legislation; and to deal with the Executive Branch and regulatory agencies.

Thus, the Senate has ruled that there is no impropriety and no appearance of impropriety if a Senate staffer who raises funds also schedules and attends meetings where substantive matters are discussed with a constituent-contributor. It seems to me that if there is a question of appearances if a fund-raiser who is not on the Senate staff attends such meetings, there is at least an equal possibility of an appearance question when the roles are commingled.

[12] I must note a separate but relevant matter that was established during the hearings involving Bill White, who had formerly been Senator Glenn's Administrative Assistant. Mr. White subsequently left Senator Glenn's staff and proceeded to serve as Chairman and Treasurer of the John Glenn Committee, Inc. Mr. White received a letter dated June 6, 1984 from Mr. Grogan. The letter began as follows: "Dear Bill: Many thanks for arranging to meet with Bob Kielty regarding the JHG fundraiser in Phoenix. Also many thanks for coordinating with Dan Dougherty, etcetera, regarding the proposed FHLB regulation limiting direct investments by insured institutions." (Sp. Coun. Ex. 33); (Glenn, 1/4/91, pp. 225–6).

In this instance the Committee did not feel it necessary to be critical of Senator Glenn for the fact that his fund-raiser, who was not on his Senate staff, was coordinating in substantive areas.

[13] The testimony of my Banking Committee aide, Ms. Jordan, substantiates Ms. Jacobson's. The Special Counsel asked her if it was the general philosophy of my office that donors could rightfully expect some kind of resolution of the issues that they brought to her. She replied that it was the policy of our office to respond to all inquiries. There was no mechanism for keeping staffers informed of who were contributors, nor any effort to do so in any way. Ms. Jordan certainly made no inquiries about whether somebody was a contributor before she decided how to act on a particular request. Ms. Jordan testified, "It was basically our posture that we resolved everything as far as one way or another, either for or against."

The Special Counsel asked Ms. Jordan how she set priorities, how she decided which complaints got handled first and the depth. She responded, "I've never had that problem. I can't remember having a problem like that where I had to stop doing something for one person to do something for another." (CJ, 6/27/90, pp. 57–8).

[14] I have testified twice as to why I did not walk away from Lincoln's problems—and away from the problems of thousands of my California constituents—when I heard that the regulators attending the April 9 meeting had revealed that earlier on that very same day they had decided to make a criminal referral re Lincoln (without indicating that it was aimed personally at Mr. Keating). (AC, 4/30/90, pp. 180-2; 10/16/90, pp. 26–7). See also testimony of Ms. Rosemary Stewart indicating that there was no evidence of misconduct by high level management of Lincoln. (Rosemary Stewart, 1/2/91, pp. 43–7).

[15] See Appendix III for details on these points.

[16] In one case in 1873 when the Senate investigated whether Senators Harlan and Patterson had been bribed by an offer of Credit Mobilier stock at preferential rates, the Senate also considered whether Senator Harlan's conduct violated ethical standards because of a related campaign contribution. A special Senate committee apparently found that the contribution was made to influence Senator Harlan, but the Committee recommended no disciplinary action because the contribution did "not appear to have influenced his action as a Senator." (pp. 59–60, Senate Legal Counsel Memorandum to Select Committee on Ethics, March 1991).

[U.S. Senate Select Committee on Ethics]

MY WRITTEN RESPONSE TO THE ETHICS COMMITTEE'S NOVEMBER 20, 1991, RESOLUTION FOR COMMITTEE ACTION

(By Senator Alan Cranston, U.S. Senate, Washington, DC, November 20, 1991)

INTRODUCTION TO MY WRITTEN RESPONSE TO THE ETHICS COMMITTEE'S NOVEMBER 20, 1991 RESOLUTION FOR COMMITTEE ACTION (ECR)

The following constitutes my response to the details of the Resolution for Committee Action issued by the Select Committee on Ethics on November 20, 1991. There are several inaccuracies and inconsistencies that occur in this *Resolution (ECR)* that the Ethics Committee has issued.[1]

In my Written Submission of April 22, 1991, (ACS), I already had pointed out most of these inaccuracies and inconsistencies and had supplied the Ethics Committee with the relevant documented facts. Many of these facts are ignored in the Resolution. The following primarily draws upon my Written Submission (ASC) to critique the erroneous material which appears in the Resolution.

ECR 1) a) (ii)

ECR 1) *Contacts with Federal Officials Regarding Lincoln S & L*

a) That the Committee finds that Senator Alan Cranston, personally or through Senate staff, made the following contacts with federal officials regarding Lincoln Savings and Loan (Lincoln), a subsidiary of American Continental Corporation (ACC), a company associated with Mr. Charles H. Keating, Jr.:

(ii) On March 27, 1987, following a discussion with a Lincoln lobbyist, Senator Cranston's banking aide inserted material into the *Congressional Record* relating to "direct investments" by Savings and Loans, an issue of importance to Lincoln and many other Savings and Loan institutions;

This statement is a distortion of the fact regarding a *Congressional Record* statement about an amendment to the Competitive Banking Equality Act of 1987 proposed by Senator Proxmire in the manager's amendments at the last minute which would overrule all state laws on the subject of direct investment. Senator Cranston's banking aide, Carolyn Jordan testified that she discussed the matter with Senator Proxmire's staff person who said the amendment was redundant and that they were going to remove it from the bill. Jordan went to the Senate "record" room after the Senate recessed that night and saw Senator Proxmire's statement regarding the amendment, but was unsure whether the amendment had actually been

removed. Jordan testified that, "we looked at this as a State's rights issue as opposed to a direct investment issue." Jordan testified she was concerned and brought this to the attention of Senator Cranston's A.A., Roy Greenaway. Jordan testified "I did not insert [the statement myself], but I wrote the statement. . . . I gave it to our A.A. [Roy Greenaway] and he had a special assistant to sign it, and they took it to the *Congressional Record* room and that is how it was inserted." (Jordan, 12/11/90, pp. 143–4). She further testified, "It [the statement's insertion] was not done by me personally. The A.A. [Roy Greenaway] and his special assistant signed off on it, because it had to have Alan Cranston's signature on it." (Jordan, 12/11/90, p. 146).

Roy Greenaway, Senator Cranston's A.A., stated that "I am authorized to approve for inclusion in the *Congressional Record* statements which have not been personally reviewed by Senator Cranston. . . . Although I have no specific recollection . . . of approving this particular statement, I have no reason that I did not. Ms. Jordan's description of my actions with respect to this particular *Congressional Record* statement is consistent with my practice and with the office policy described in paragraph 4. . . . I am confident that I would have approved the statement for inclusion in the *Congressional Record*. . . ." (Roy Greenaway Aff., 1/14/91).

There is conflicting testimony concerning the reason for the statement's inclusion. Jordan repeatedly referred to the amendment as overturning the authority of the State of California and stated she did not talk to Grogan or anybody else at Lincoln at that time although she testified that she was aware of Lincoln's position on the issue. (Jordan 12/11/90, pp. 145, 136).

Grogan, however, testified that one of his lobbyists discovered the amendment had been slipped into the bill at the last minute and talked to Jordan about getting that removed and putting in legislative history to neutralize Senator Proxmire's statements. (Grogan, 12/14/90, pp. 146–47). Grogan, however, when confronted with Jordan's testimony stating she had acted on her own said, "I have no information that in any way makes me think that that is not absolutely the truth." (Grogan, 12/14/90, p. 149). When closely questioned, Grogan testified that whatever happened between [the Lincoln lobbyist] and Carolyn Jordan, Grogan [he was not present] and that the lobbyist had simply told him that the mission was accomplished; that they were going to get language to neutralize the Proxmire language. (Grogan, 12/13/90, p. 241).

ECR 1) a) (iii)

(iii) On April 2, 1987, Senator Cranston attended a meeting with FHLBB Chairman Edwin J. Gray and Senators Dennis DeConcini, John Glenn, and John McCain to discuss the ongoing examination of Lincoln.

ECR 1) a) (iii) omits a description of my participation in the April 2, 1987 meeting with FHLBB Chairman Edwin J. Gray and Senators DeConcini, Glenn and McCain to discuss the ongoing examination of Lincoln.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 12–15 states:

"The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating had broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90, p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

"3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and 9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

"The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman. "All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulators.[2] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

"I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged in a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in the San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting Office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

"Thus the *evidence is overwhelming* that (a) I had many sound and official reasons to participate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before *anyone* even conceived of the meetings.

"There is no evidence—nor could there be—that I attended the April meetings because of the donation."

ECR 1) a) (v)

(v) In July or August of 1987, Senator Cranston called M. Danny Wall, then Chairman of the FHLBB, concerning Lincoln.

Clarification of this point is necessary. Wall did testify that I called him in July or August of 1987 regarding Lincoln. Wall testified, *however*, that I simply made "the observation that he understood that there was an examination that had been underway for in excess of a year, he understood that to be unusual—which it was; and that he urged the Board to make a decision, not in any way indicating what the Board's decision should be, but that we ought to make a decision and get on with it." (Wall, 12/4/90, 19–20). I do not have any independent recollection of this contact (Taylor Submission, 1/30/91, p. 15).

ECR 1) a) (vi)

(vi) On Nov. 12, 1987, Senator Cranston called Chairman Wall and discussed Lincolns' dispute with the San Francisco FHLB regulators.

The word, "discussed", is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16–17,* states:

"2. *Official Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[3] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

"Furthermore, there is *no* evidence that I attempted to influence the regulatory actions of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her actions were influenced by any action from office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 10–11, 196); (Wall, 12/4/90, pp. 104, 116, 181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp. 29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A–2 at 41).

"3. *No Causal Connection:* It flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything*.[4]"

ECR 1) a) (vii)

(vii) On Jan. 20, 1988, Senator Cranston called Chairman Wall and asked him to meet with Charles Keating.

This is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 22 states:*

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be ncessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California busi-

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Footnotes at end of article.

ness in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[5]"

ECR 1) a) (viii)

(viii) On February 16, 1988, Senator Cranston called Chairman Wall and his notes indicate discussion of Lincoln.

There is evidence to the *contrary* regarding the subject of the call. My handwritten notes indicates a call to Wall on that date. (Cranston Ex. 173). However, in my deposition on April 30, 1990 (pp. 230–31), I replied to Special Counsel Bennett's questions regarding my notes of the 2/16/88 phone call: "I do not believe this call had anything to do with Lincoln or Keating in any way. I'm not positive of that but that is my impression from the notes."

Furthermore, there is no further reference to this call in Wall's affidavit or testimony before the Committee.

ECR 1)a)(ix)

(ix) On April 21, 1988, Senator Cranston called Chairman Wall to obtain a status report on Lincoln;

This is a *distortion* of the facts. Senator Cranston Exhibit 179 consists of my handwritten notes apparently of a phone call made on April 21, 1988 to Wall. Lincoln Savings appears to be one of several matters discussed (item 3). In my deposition on April 30, 1990 (p. 251–4), I translated the notes as follows: "April 21. I had a conversation with Wall on several matters. The notes indicate that it covered four points, only two of which related to Keating." I went on to describe the other items which involved two other institutions unrelated to Lincoln. Item three related to Lincoln and I testified that he presumed he asked Wall what was happening and Wall responded he was trying to resolve it and nothing more was said or I would have made a note. The last item related to a general FSLIC issue (recapitalization etc.) and the notes reflect that Wall had indicated that he had all views on the issue, including Keating's.

ECR 1) a) (x)

(x) On May 6, 1988, after receiving a telephone call from James Grogan, an ACC attorney, Senator Cranston's banking aide talked to FHLBB officials about the FHLBB's proposed supervisory agreement with Lincoln;

The statement is misleading and does not contain all the relevant facts. Cranston Ex. 150 is a memo from Ms. Jordan to me and Roy Greenaway, my A.A., dated May 6, 1988. It states that Ms. Jordan had received a call from Jim Grogan. Grogan told Ms. Jordan that the Board had met and decided to take enforcement action against Lincoln, including a supervisory agreement that triggered required reports to shareholders and the public, which would have an adverse effect on value of stock, etc.

Ms. Jordan's memo goes on to say that she called FHLBB and talked to Jim Boland, a special assistant to Wall and Carl Hoyle, Congressional Affairs, in a 3-way call. The memo indicates Ms. Jordan told them I was very concerned about using the supervisory approach. It describes the situation and discusses upcoming hearings in the Banking Committee on oversight of FSLIC and suggests that this issue could be raised at that time.

I stated that until I received Ms. Jordan's memo I was unaware that Grogan had called her or that Ms. Jordan had called Hoyle and told him that I was concerned about any action they proposed to take. My affidavit further states that I took no action as a result of the memorandum. (Cranston Ex. 82, p. 5). In my deposition, I said I did not recall authorizing Ms. Jordan to make these statements, but that it was consistent with my general views of the situation. (AC, 4/30/90, pp. 256–60).

ECR 1) a) (xi)

(xi) On May 16, 1988, Senator Cranston met with Chairman Wall, and Lincoln was discussed.

This point *distorts* the facts. The "discussion" was in reality a very limited status inquiry.

Initially, I did not recall discussing Lincoln at that meeting. However, after Wall testified that I had asked him when a decision would be made regarding Lincoln, I stated in my January 12, 1991 affidavit that "I recall very little about my meeting with Chairman Wall on May 16, but I believe he is correct in his testimony that when I saw him that month, we talked about a number of matters, and I inquired as to the status of the Lincoln matter. I did not complain about the Board's decision. I did not urge that the Board change or modify its decisions. I did not discuss with Mr. Wall any on going negotiations between the Bank Board and Lincoln." (Cranston Ex. 82, p. 6.).

Wall supported this statement in both his affidavit and testimony. In his affidavit, he stated, "To the best of my recollection, Senator Cranston asked when a decision would be made by the Board regarding Lincoln. The Senator did not suggest a course of action that he thought the Board should take. He repeated that he understood the examination of Lincoln was still pending and he urged that it be concluded." (Wall Aff., p. 13; 12/4/90, p. 56).

ECR 1) a) (xii)

(xii) On February 8 and 9, 1989, Senator Cranston called Chairman Wall and Federal Deposit Insurance Corporation Chairman L. William Seidman concerning the proposed sale of Lincoln and, on February 8, Senator Cranston's banking aide called an FHLBB official about Lincoln;

This statement is a *distortion* of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 27–8* states:

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured constituents of mine."

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents."

Furthermore, the report fails to clarify the nature of my banking aide's inquiry. Taylor's Post-Hearing Submission of January 30, 1991, (page 16, fn. 11) describes the call as follows: "Ms. Jordan called Mr. Dochow on February 8 to inquire about whether there was a pending application to buy Lincoln. (Cranston Ex. 78, Dochow Aff. 6). It was on this occasion that Ms. Jordan first learned that there was a dispute about whether Lincoln satisfied its net worth requirements (Jordan, 12/11/90, p. 107). Mr. Dochow testified that Ms. Jordan did not urge that the Bank Board take any particular action with respect to the sale and that he viewed Ms. Jordan's call as a proper status inquiry. (Cranston Exhibit 78 (Dochow Aff. 6)."

ECR 1) a) (xiii)

(xiii) In early April 1989, Senator Cranston called all three members of the FHLBB concerning the proposed sale of Lincoln.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 26–28 states:

"2. *Official Action:* I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of my sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No. Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

"For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a casual connection between a solicitation and an official action."

ECR 1) c)

ECR 1) *Contacts with Federal Officials Regarding Lincoln S & L*

c) The Committee further finds that, when considered in and of themselves and without regard to any contribution or other benefit, none of Senator Cranston's aforementioned activities concerning Lincoln were illegal or improper and violated no law or Senate rule.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 52 states:

"The Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were, standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committee fails to make clear that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

"Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constituents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations."

ECR 2) a) (i)

ECR 2) *Solicitations and Contributions*

a) The Committee finds that, prior to 1987:

(i) Mr. Keating, his associates, and friends contributed a total of $49,000 to Senator Cranston's 1984 Presidential Campaign and his 1986 Senatorial Campaign;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 40 states:

"Clearly all five Senators had varying degrees of involvement in respect to Lincoln. Mr. Keating and his friends and associates contributed more political contributions to the campaigns and P.A.C.s of each of the other four Senators, who had direct control over these funds, than to mine. The totals:

Glenn	$252,200
McCain	110,000
DeConcini	85,000
Riegle	78,250
Cranston	49,000"

ECR 2) a) (ii)

ECR 2) *Solicitations and Contributions*

a) The Committee finds that, prior to 1987:

(ii) At Senator Cranston's request, Mr. Keating also caused a contribution of $85,000 to be made by ACC to the California Democratic Party get-out-the-vote campaign in the Fall of 1986.

The resolution omits to mention the bipartisan nature of Mr. Keating's donation. I state in my deposition, "Keating did contribute $85,000 to a partisan get-out-the-vote drive conducted in 1986 in California when I was running . . . I would like to point out he also gave $80,000 to the Republican party, for a get-out-the-vote drive which was harmful to me, so that was sort of a net wash." (AC, 4/30/90, p. 40).

ECR 2) a) (iii)

(iii) At the request of Senator Cranston's chief fund raiser, Lincoln also made a $300,000 line of credit available to Senator Cranston's campaign in the fall of 1986 on an expedited basis, although this line of credit was never used.

Senator Cranston's Letter to Senator Heflin, September 12, 1991, Re Response to Bennett/Helms leak, pp. 13–14 states:

"Loans or lines of credit are often taken out on an expedited basis in the closing, crisis moments of campaigns when fears develop that there will be a fatal, last-minute shortage of the cash needed for victory.

"There was no benefit to my campaign, since the line of credit was not used.

"There was *never* any intention that this line of credit was to be for my personal use or benefit, and there is *no* evidence indicating any such intention. At the time, I was totally engaged in the closing stage of a very close election, and obviously had no time or inclination to deal with my personal finances. The Finance Director for my campaign arranged the loan. She testified that the loan was solicited by her to enable the campaign to pay for last-minute media buys, if needed, and that use of funds was to be solely upon her discretion and authority. (Jacobson, deposition H, P. 87-95. Also B.H., P. 214, footnote 850). Mr. Grogan confirmed in his testimony that Ms. Jacobson solicited the loan, that he understood it to be personal to me, but that he did not know whether ultimately that was the case. (J.G., 12/14/90, p. 138–9 & Grogan, Dep. SI, p. 134–135; Also, B.H., p. 214, footnote 850). If there was ever any discussion of making the line of credit to me personally, I was not aware of it, and that would only have been discussed because those willing to consider making loans to be used for campaign purposes prefer to make them to individuals, not to incorporated campaigns where future repayments are likely to be far more difficult to obtain. In any event, the line of credit was set up to my campaign on an arms-length, purely business-like basis, and I was *required* to make my personal property available as surety."

ECR 2) b)

b) The Committee also finds that, beginning in 1987, Senator Cranston solicited contributions from Mr. Keating for several voter registration organizations with which Senator Cranston was affiliated:

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 51 states:

"The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign or P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totaling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S. approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control. Furthermore, I held no position in any of these organizations, nor did I serve on any of their boards.

"In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"The Resolution fails to point that *none* of Mr. Keating's donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized."

ECR 2) b) (ii)

(ii) the Senator solicited $250,000 for voter registration groups on September 24, 1987, and Keating affiliated companies contributed $225,000 to the Forum Institute (a 501(c)(3) tax-exempt organization) and $25,000 to USA Votes on November 6, 1987;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16 & 17 states:

"1. *Donation:* . . . The Resolution fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

"$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Affidavit, Sp. Coun. Ex. 501, para. 13).

"$25,000 was in the form of a contribution to USAVotes (formerly America Votes) to support its efforts to raise charitable donations for I.R.S. approved 501(c)(3) non-partisan registration groups. (Sp. Coun. Ex. 146).

"The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall."

ECR 2) b) (iii)

(iii) the Senator discussed the Center for Participation in Democracy (a 501(c)(3) tax-exempt organization) with Mr. Keating on January 8, 1988, and ACC donated $400,000 to the Center for Participation in Democracy and $100,000 to the Forum Institute on February 10, 1988;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 19–23 states:

"1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

"There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

"Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were *two* I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of the money, was under my control.

"Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

"Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

"My visit to Phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressmen and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 119–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *had no connection* with the Wall/Keating meeting.

"It is also equally coincidental that this trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ. 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

"By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); (JJ, 12/3/90, p. 143).

"2. *Official Action:* There is *no evidence* that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

"The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relaying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[6]

"There is no evidence of a causal connection between my January 20, 1988 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[7] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

"Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is a factual and convincing evidence that Mr. Keating *did not* ask me to set up a meeting in connection with a solicitation of a donation of any type."

ECR 2) B) (iv)

(iv) in early 1989, the Senator or his chief fund raiser discussed an additional voter registration contribution with either Keating or ACC attorney, James Grogan, but no further contributions were made to voter registration organizations.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 24–30 states:

"1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductable donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The Resolution accurately states that this donation was never made.

"The Resolution's description of [his chief fund raiser], Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I founded (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

"Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three co-chairmen of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

"There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him or Mr. Keating during this period, testified that Ms. Jacobson, not I, discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr. Keating during the period. (JJ, 12/3/90, pp. 167–8).

"I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

"A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete. I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

"There are 18 names of potential donors of the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

"It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: 'Joy is talking with Jim Grogan, 100,000 whenever it's needed.'

"This evidence corroborates Mr. Grogan's testimony that Ms. Jacobson, not I, made this solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

"Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony 'that the first group you go back to [at the beginning of each year is] your past donors and try to renew them.' (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that 'the timing of the fundraising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.' (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank Board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

"2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h,

12); (Sp. Coun: Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

"For whatever reason, none of the sales materialized. However, the concerrns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"In response to the inference I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

"Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan was talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

"*There is absolutely no evidence* of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

"The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

"I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: 'Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration effort?' Mr. Grogan replied, 'Never.' (JG, 12/15/90, p. 132).

"The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.[8]"

ECR 3)

ECR 3) *Linkage between Official Actions and Contributions*

The Committee finds that, in and of themselves, none of the foregoing actions of Senator Cranston violated any law or Senate Rule. The Committee further finds by clear and convincing evidence that, based upon the totality of the circumstances, Senator Cranston engaged in an impermissible pattern of conduct in which fund raising and official activities were substantially linked in connection with Mr. Keating and Lincoln.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 3 & 4 states:

"I will show that there is *no direct evidence* of any such causal link. I will cite clear and convincing evidence that there were other causes—very legitimate causes—for my official actions.

"The Resolution *infers* a causal connection from the proximity in time between the charitable donations and the official actions. Proximity in time is *not* clear and convincing evidence that the charitable donations caused my official actions. The Resolution's *inference* of a causal connection cannot survive dispassionate, reasoned analysis. It cannot be a substitute for clear and convincing evidence. The inference is particularly inappropriate and unfair given that my conduct was *not different in kind*, as I will show, from that of other Senators who have been under inquiry. The Resolution did not draw such adverse inferences against them.

"In retrospect, I can see that the proximity in time between the charitable donations and the official actions could lead to an appearance of impropriety where no impropriety existed. I wish I had foreseen this development—I have always endeavored to avoid appearances or actions that could reflect adversely upon the Senate or myself.[9]

"I acknowledge and I accept the consequences of an appearance of impropriety due to proximity of time.

"However, since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

"The Senate has never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

"Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

"In every case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefitted in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it."

ECR 3) a) (i)

ECR 3) *Linkage between Official Actions and Contributions*

The Committee finds that, in and of themselves, none of the foregoing actions of Senator Cranston violated any law or Senate Rule. The Committee further finds by clear and convincing evidence that, based upon the totality of the circumstances, Senator Cranston engaged in an impermissible pattern of conduct in which fund raising and official activities were substantially linked in connection with Mr. Keating and Lincoln.

a) From early 1987 through April 1989, Senator Cranston personally or through Senate staff contacted the FHLBB on behalf of Lincoln during a period when he was soliciting and accepting substantial contributions from Mr. Keating or his affiliates, to wit:

(i) As a result of a solicitation from Senator Cranston in early 1987, Mr. Keating contributed $100,000 to America Votes on March 3, 1987 near the time when Senator Cranston participated in the April 2 and April 9, 1987 meetings with FHLBB Chairman Edwin J. Gray and the San Francisco regulators.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 11–15 states:

"1. *Donation:* The Resolution accurately notes that a donation was made on March 3, 1987, to America Votes, (Sp. Coun. Ex. 159). America Votes (later known as USAVotes) raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"2. *Official Action:* The Resolution is inaccurate and very misleading in stating that this donation was made during the period leading to my participation in the April 2 and April 9 meetings.

"The evidence is undisputed that the donation was discussed, solicited and committed on or before *February 24, 1987*. (Stein Affidavit, Sp. Coun. Ex., 458, para. 14); (AC, 4/30/90, p. 119). The donation check was dated *March 3, 1987*. (Sp. Coun. Ex. 159). The evidence shows that I knew nothing about the proposed meetings before the *second half of March*, and perhaps not until the *last week* in March. (JG, 12/15/90, p. 88); (AC 4/30/90, p. 119). Furthermore, the preponderance of evidence shows that the meetings first were conceived *after* the donation was solicited and received. (Gray, 2/23/90, p. 15; 11/29/90, p. 64); (Grogan 12/12/90, pp. 56–58, 208); (Riegle, 1/7/91, pp. 29–32, 46–9, 51–55, 101–2, 163); (DeConcini, 1/9/91, pp. 45–6, 49, 51–2, 60–63, 199–200, 203, 209); (McCain, 1/4/91, pp. 27–21, 26, 111, 163–4); (Glenn, 1/4/91, pp. 240–47, 193).

"The evidence shows that the April 2 meeting date was not set until a few days prior to the event. (Gray, 2/23/90, p. 15). The evidence shows that the second meeting on April 9 grew out of the April 2 meeting. The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating had broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90. p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

"3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and 9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

"The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman.

"All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulators.[10] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

"I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged in a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in the San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

"Thus the *evidence is overwhelming* that (a) I had many sound and official reasons to participate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before *anyone* even conceived of the meetings.

"There is no evidence—nor could there be—that I attended the April meetings because of the donation."

ECR 3) a) (ii)

(ii) Before October 6, 1987, Senator Cranston solicited and received a commitment from Mr. Keating for contributions in the amount of $250,000 for two voter registration groups, which were delivered to the Senator personally by Mr. Keating's employee James Grogan on November 6, 1987. When the contributions were delivered, Mr. Grogan and Senator Cranston called Mr. Keating, who asked if the Senator would contact new FHLBB Chairman M. Danny Wall about Lincoln. Senator Cranston agreed to do so, and made the call six days later.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16–19 states:

"1. *Donation:* The Resolution omits any description of the donations, and fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

"$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Aff., Sp. Coun. Ex. 501, para. 13).

"$25,000 was in the form of a contribution to USAVotes (formerly American Votes) to support its efforts to raise charitable donations for I.R.S. approved 501(c)(3) non-partisan registration groups. (Sp. Coun. Ex. 146).

"The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall.

"2. *Official Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[11] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

"Furthermore, there is *no* evidence that I attempted to influence the regulatory actions of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her actions were influenced by any contact from my office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 10–11, 196); (Wall, 12/4/90, pp. 104, 116, 181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp. 29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A–2 at 41).

"3. *No Causal Connection:* It flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything*.[12]

"The routine status call that I made to Mr. Wall on November 12 was not motivated by the personal concerns of Mr. Keating. The jobs and financial security of thousands of my California constituents were at stake. I made the call for the same reason that I attended the April 2, 1987 meeting—because I believed it was necessary and proper that I do so on behalf of my many constituents who had stakes in Lincoln.

"The Resolution is incorrect in concluding that Mr. Keating asked me to contact Mr. Wall when I was on the phone with him in Mr. Grogan's presence. At best, there is conflicting testimony on this point. (AC, 4/30/90, pp. 188 & 190); (JG, 12/14/90, p. 162). I do not recall a request from Mr. Keating on November 6 that I call Mr. Wall. *Nor* do I recall that my November 12 call to Mr. Wall was the result of a request from Messrs. Keating or Grogan.

"The Resolution implies that there was a causal connection between the receipt of the donations and my decision to call Mr. Wall on November 12. There is *no* evidence to support such a conclusion.

"Furthermore, Mr. Grogan testified that there was never 'any suggestion, either by word or by body language, or by a raised eyebrow' that my interest in Lincoln's problems was tied to Mr. Keating's support of nonprofit voter registration efforts. (JG, 12/15/90, p. 132). Mr. Grogan also testified, "There was never an occasion where Mr. Keating asked Senator Cranston to do something and Senator Cranston said, 'only if you raise funds for me.' There was never an occasion where Mr. Keating said, 'If you do this for me, I will raise X amount of dollars for you.'" He testified that there was never 'even the suggestion' that fund-raising and official actions were connected in any way. (JG, 12/12/90, pp. 185–8). I repeatedly have testified that there was no connection between Mr. Keating's donations and my decisions to contact the regulators regarding Lincoln. (AC, 4/30/90, p. 95)."

ECR 3) a) (iii)

(iii) In January 1988, Mr. Keating offered to make an additional contribution to voter registration groups affiliated with Senator Cranston and asked Senator Cranston to set up a meeting for him with Chairman Wall. Senator Cranston did so on January 20, 1988. On February 10, 1988 Senator Cranston received checks totaling $500,000 for voter registration groups.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 19–23 states:

"1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

"There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

"Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were two I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of the money, was under my control.

"Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating. (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) that Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

"Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

"My visit to Phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressmen and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 199–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *had no connection* with the Wall/Keating meeting.

"It is also equally coincidental that this trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ. 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

"By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); (JJ, 12/3/90, p. 143).

"2. *Official Action:* There is *no evidence* that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

"The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I ever knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, *2///27/*91, p. 1, para. 4).[13]

"There is no evidence of a causal connection between my January 20, 1088 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[14] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

"Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is factual and convincing evidence that Mr. Keating *did not* ask me to set up a meeting in connection with a solicitation of a donation of any type."

ECR 3) a) (iv)

(iv) In early 1989, at the time that Senator Cranston was contacting Bank Board officials about the sale of Lincoln, either he or his chief fund raiser discussed another contribution from Keating or his associates. However, no further contribution was even made.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 24–29 states:

"(iv) 1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductible donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The Resolution accurately states that this donation was never made.

"The Resolution's description of [my "chief fund raiser"] Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I founded (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

"Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three co-chairmen of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

"There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him or Mr. Keating during this period, testified that Ms. Jacobson, not I, discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr..Keating during the period. (JJ, 12/3/90, pp. 167–8).

"I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

"A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete, I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

"There are 18 names of potential donors on the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

"It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: 'Joy is talking with Jim Grogan. 100,000 wherever it's needed.'

"This evidence corroborates Mr. Grogan's testimony that Ms. Jacobson, not I, made solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

"Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony 'that the first group you go back to [at the beginning of each year is] your past donors and try to renew them.' (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that 'the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.' (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank Board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

"2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very

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limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp.327–8); (Wall, 12/4/90, p.91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have been financially injured countless constituents of mine.

"For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic; a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"In response to the inference I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

"Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan was talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

"*There is absolutely no evidence* of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

"The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

"The foregoing analysis of each of the four 'occasions' cited in the Resolution demonstrates that there is absolutely no evidence of a causal relationship between any of Mr. Keating's donations and any of my actions, and that there is overwhelming evidence to the contrary.

"I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: 'Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration efforts?' Mr. Grogan replied, 'Never.' (JG, 12/15/90, p. 132).

"The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.[15]"

ECR 3) b) (i)

b) Senator Cranston's Senate office practices further evidenced an impermissible pattern of conduct in which fund raising and official activities were substantially linked, in that, with his knowledge, permission, at his direction, or under his supervision, Senator Cranston's fund raiser (who was not a Senate employee):

(i) Senator Cranston's fund-raiser assisted in scheduling and attended meetings in the Senator's Senate office between the Senator and contributors about legislative or regulatory issues.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS). pp. 31–32 states:

"Mr. Grogan met Ms. Jacobson in 1984. (JG, 12/12/90, pp. 71–73); (JJ, 12/3/90, p. 91; 7/19/90, p.37). He testified that he would call her to schedule appointments until he became acquainted with members of my Senate staff and began to turn to them to arrange appointments. (JG, 12/12/90, p. 93).

"Ms. Jacobson testified that after March, 1987, the only meetings which she was involved in arranging were for fund-raising or social purposes, not substantive purposes. (JJ. 12/3/90. p 96). She testified that she didn't know about the April 2 and April 9 meetings until long after they occured. (JJ, 12/3/90, p. 130). She testified that she arranged *no* substantive meetings during the entire two year period from April, 1987, to April, 1989, during which the other three 'occasions' occurred that raise questions of causal connections. [Referred to in Paragraph (a) 1 of the Resolution].

"The Resolution inaccurately states that Ms. Jacobson scheduled meetings for me. The evidence shows that she had to go through my Secretary or my Administrative Assistant to place appointments on my schedule.[16] (JJ, 7/17/90, p. 76).

"Ms. Jacobson's testimony differs from mine about why she attended such meetings. I have testified that Ms. Jacobson suggested to me that it would be helpful for her to be present so she would know what was going on. (AC, 4/30/90, p. 24). She testified that she was there to make sure that the charitable donor felt at home in my hectic and crowded office before I arrived or if I were called away on Senate business. (JJ, 12/3/90, pp.86–90).

"Ms. Jacobson has testified, and I confirm, that she never participated in substantive discussions in any meetings, (JJ, 12/3/90, p. 86). Moreover, Ms. Jacobson testified that she often paid no attention to the substantive discussion: 'While a substantive discussion was going on, I often would get up and go make phone calls outside of the office. There's round table that I often worked at in Senator Cranston's Whip office. While a substantive meeting was going on in another section of the same room, I would be off doing something else.' (JJ, 12/3/90, p. 90).

"To the best of my knowledge, Ms. Jacobson never attempted to influence an official action in any way. Neither anyone on my staff not I made a decision to substance based on any actions by Ms. Jacobson.

ECR (3)(b)(ii)

(ii) Senator Cranston's fund-raiser served as an intermediary for Mr. Keating or Mr. Grogan when they could not reach the Senator or his banking aide.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 33 states:

"The Resolution's use of the word 'intermediary' is misleading and unfair. The record shows, as I have just indicated, that Ms. Jacobson did not engage in any substantive negotiations or take any substantive actions. She testified that she simply passed messages along occasionally when Mr. Grogan was unable to reach me or members of my Senate staff. (JJ, 12/3/90, p. 156). Ms. Jacobson testified, 'It was Jim Grogan's nature to just keep dialing until he got somebody. Again, it usually had to do with something that was going to happen and he needed to get a hold of somebody, whether it was Roy [Greenaway] or Alan [Cranston] or Carolyn [Jordan], and I would say, I'll pass it along.' (JJ, 7/19/90, p. 168).[17] Ms. Jacobson also testified, '. . . At the beginning they always did call me. My understanding is that later on they often didn't call me, that they called Roy Greenaway [my Administrative Assistant] or they call Mary Lou [McNeely, my Secretary] directly or they just showed up at the office.'" (JJ, 7/19/90, p. 164).

ECR (3)(b)(iii)

(iii) evidenced, through written memoranda addressed to Senator Cranston, an incorrect understanding that contributors may be entitled to special attention and special *access* to official services. The incorrect understanding was never corrected by the Senator.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 34–37 states:

"The Special Counsel focused on one memo dated January 7, 1987. (Sp. Coun. Ex. 154). It was written prior to *all* the specific donations referred to in the Committee's Resolution.

"Ms. Jacobson did *not* state—as the Resolution indicates—that the individuals she mentioned in her January 7 memo were 'entitled to special attention and special access to official services.' She said the individuals expected 'some kind of resolution' of pending matters. That is exactly what every constituent, whether a contributor or not, rightfully expects from their Senator. That is exactly what every constituent of mine gets, whether he is a contributor or not, to the best of my ability and my staff's ability. Note that Ms. Jacobson did not state that these individuals could rightfully expect a favorable resolution. She said they would expect 'some kind' of resolution.

"She explained the meaning of intent of this memo in her testimony. She testified that the individuals she mentioned, like all constituents, were entitled to a response from me as to what, if anything, I was going to do about their problems—not necessarily a positive response or resolution—but *some* response or resolution. (JJ, 7/19/90, p. 99–101; 12/3/90, pp. 204–5). They may not like the response, but they like all constituents are at least entitled to be heard and to be given a decision. That is all Ms. Jacobson advocated and that is all I ever tried to provide.

"Furthermore, Ms. Jacobson testified that several individuals mentioned in her January 7 memo, including Mr. Keating, did not get the results they wanted. (JJ, 12/3/90, pp.

205–6). I understand how someone with 20/20 hindsight might question the implication of Ms. Jacobson's words, but my deeds followed the *words*, not the *implications*.

"Improper inferences drawn from a memo written by someone else, not by me, *must not be accepted as a substitute* for clear and convincing evidence of causal connections between my official actions and donations.

"The only other memos I am aware of from Ms. Jacobson simply passed on information or contained updates on charitable donations.

"Moreover, and in fundamental fairness to Ms. Jacobson, I believe that the Resolution *unfairly implies* that she lacked understanding of proper policy regarding donations and official actions. Ms. Jacobson testified that she knew there could not and must not be a quid pro quo between official actions and donations, and that my absolute firm office practice was to have nothing to do with any potential donor who sought to link a donation to official action. (JJ, 12/3/90, pp. 223–4, 239–40).

"Specifically, in relation to Lincoln, Ms. Jacobson testified that neither Messrs. Keating, Grogan nor I ever indicated that *any* donations were made with any understanding that I would do *anything* in return (JJ. 12/3/90, pp. 175–6):

Q. Did Mr. Grogan ever tell you that the contributions were made with the understanding that Senator Cranston would do anything in return?

A. Absolutely not.

Q. Did anyone whom you knew to be associated with Lincoln Savings or American Continental ever tell you that any of the contributions were made with the understanding that Senator Cranston would do something in return?

A. No.

Q. Did Senator Cranston ever say to you that he thought that the contributions which you have discussed were made with an expectation that he would act in any way on behalf of Mr. Keating, or Lincoln or American Continental?

A. No.

Q. To your knowledge, did Senator Cranston to anything for or on behalf of Lincoln Savings because Mr. Keating assisted his reelection campaign?

A. No.

Q. Did he to your knowledge do anything for or on behalf of Lincoln Savings because Mr. Keating contributed money to USA Votes, Forum Institute or the Center for Participation in Democracy?

A. No.

Q. Did Mr. Keating or anyone associated with him ever tell you that a contribution would be made after Senator Cranston made an inquiry on his behalf?

A. No.

Q. Did Senator Cranston ever tell you or suggest to you that you should time any request for contributions to coincide with anything occurring before the Bank Board?

A. No. In fact, the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.

Q. Did Senator Cranston ever tell you to time a solicitation to Mr. Keating to coincide with any event or events to your recollection?

A. No.[18]

"The Resolution inappropriately states that Ms. Jacobson understood that donors were entitled to special access. Mr. Grogan testified that he was able to obtain my attention—in other words get access to me—before any of the charitable donations for voter registration were made by Mr. Keating. (CG, 12/15/90, p. 132).

ECR p. 5: Be it further resolved that the Committee finds:

(1) That in connection with his conduct relating to Charles H. Keating, Jr., and Lincoln Savings and Loan Association, Senator Alan Cranston of California engaged in an impermissible pattern of conduct in which fund raising and official duties were substantially linked in that:

(a) From early 1987 through April 1989, Senator Cranston personally or through Senate staff contacted the Federal Home Loan Bank Board on behalf of Lincoln, during a period when Senator Cranston, on behalf of organizations in whose success he had a deep concern, was soliciting and accepting substantial contributions from Mr. Keating; and

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 51–55 states:

"The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign or P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totaling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S. approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control.

"In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, nonpartisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"The Resolution fails to point out that *none* of Mr. Keating's donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized.

"The Resolution ignores the important fact that *all* these donations were made *after* my 1986 reelection. An expert on voting, Curtis B. Gans, Director of the nonpartisan, nonprofit, Committee for the Study of the American electorate, testified that registration efforts in California in 1987 and 1988 that were supported by some of the funds I raised would have had "negligible impact" on my reelection campaign four years later (had I chosen to run in 1992). "I could think of no less cost-effective way of advancing one's own interest," he testified. (Affidavit of Curtis B. Gans, Cranston Exhibit 77).

"Section (a)(1) of the Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committee fails to make that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

"Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constituents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations.

"I previously have noted in statements to the Committee that my actions in respect to Mr. Keating *should not be viewed as if they occurred in a vacuum*. I pointed out that my days and my nights are characterized by constant, passionate work on the great issues of our time, like war and peace, the environment and the economy, justice, and equal rights. I cited my many responsibilities during the time these events occurred, including my leadership role in the Senate as Majority Whip: My Chairmanship of the Veterans' Affairs Committee; my membership on several other committees and the Chairmanship of busy and important subcommittees; my very active role in fund-raising for other Senators and causes as well as for my campaigns; and the fact that—along with my Senate colleague from California—I represent many more constituents (30 million) than do any other Senators. Indeed, California's Senators *represent more constituents* than any other legislator *has ever represented* in any country in the *entire history of legislative bodies*.

"Constantly, I am called upon for help by my constituents. Unlike a corporation, I do not have the funds and the capacity to verify the financial status or the moral stature of each constituent who presents a problem to me. I cannot ask Dun and Bradstreet or the FBI to provide me with this information. More than 300,000 constituent requests have been handled by my staff and me in the 22 years I have been in the Senate. I deeply regret that one involving Lincoln Savings has created the problem that is before us.

"A casual observer of the hearings might well have obtained the false impression that I did little else over several years except deal with regulators regarding Lincoln. This is not the case. *In the almost two year period* between the April 1987 meetings and February 8, 1989, *I had only five contacts* with Federal regulators regarding Lincoln. I had no contact at all between May 16, 1988, when Mr. Wall requested an appointment with me to discuss legislation, and February, 1989, when the sale of Lincoln came up.

"In the period from February 8 through April 14, 1989, I had only five contacts with FHLBB members Wall, Martin and White regarding *three different proposals* to sell Lincoln. All contacts that I initiated were proper status inquiries. I had a legitimate basis for making them. All these contacts related to the interests of many thousands of my constituents whose jobs and financial well-being depended upon the fate of Lincoln.

"I by no means responded favorably to every request by Messrs. Keating or Grogan for me to take some official action. I already have cited my refusal to push hard for the approval of a specific sale of Lincoln. Mr. Grogan in his testimony cited several examples of requests for actions that I declined to take. (JG, 12/12/90, p. 113; 12/13/90, pp. 130, 206–7, 215, 306, 12/15/90, pp. 93–4, 96–8).

"Besides citing many facts that contradict the causal connection theory concerning charitable donations and my official actions, I have presented a list of inaccuracies and important facts that were omitted in the Committee documents of February 27. In all fairness, these matters should be corrected in the final documents that are issued by the Committee.

"A fair question to ask is: To what extent was the Committee influenced by these omissions of important facts, inaccuracies, and unwarranted implications in material put before it while reaching its conclusions announced on February 27, 1991?

"I protest allegations of linkage, explicit or implicit, based merely on unsubstantiated and prejudicial inferences instead of demonstrable evidence.

"I am convinced that a full and further review of the record, in light of my Submission, can only lead to three conclusions:

"First, there is no evidence of a causal connection between any solicitation or donation and any official action on my part.

"Second, that my conduct was not materially different from that of the other four Senators involved.

"Third, that whatever differences there were between the actions of the four Senators and mine they were not differences of *kind*. A fair and impartial consideration of this matter can only lead one to the conclusion that the Committee's treatment of my actions *should not differ in kind* from the treatment it accorded Senators DeConcini, Glenn, McCain and Riegle. I concede that I should have recognized that fund-raising—even for charitable donations—close in time to official actions could lead to an appearance of impropriety. It was a mistake not to have given more thought to appearances."

ECR p. 5: Be it further resolved that the Committee finds:

ECR 1)(b)

b) Senator Cranston's Senate office practices further evidenced an impermissible pattern of conduct in which fund raising and official activities were substantially linked.

This statement is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ASC), pp. 30.55 states:*

"The Resolution raises questions . . . about my Senate office practices, citing three examples of activities engaged in by Ms. Jacobson, a part-time employee of USAVotes, over whom I had no real supervisory role. I have already indicated that she was *not* a member of my Senate staff. She had no substantive expertise in Banking Committee issues and did not substantively involve herself in my official Senate activities. The words "Senate office practices" is inaccurate and misleading. Ms. Jacobson came to my office occasionally, but by no means frequently or regularly. She worked out of her home in Virginia. Unlike the practice in some Senate offices, I have never assigned major political fund-raising responsibilities to any one serving part time to full time on my Senate staff. I have designated two Senate staff members under Rule 41, but they have done comparatively little political fund-raising. All fund-raising efforts with which I have been involved, whether political or charitable, have been the responsibility of individuals employed elsewhere—*not* in my Senate office.

"Although some of Ms. Jacobson's activities are susceptible to an interpretation that they raise an *appearance* of impropriety, they do not constitute clear and convincing evidence of a causal connection between (a) my personal official actions and (b) solicitations of donations I made or of which I was aware.

"I concede that I should have constrained more closely the individual who was working for an organization that raised charitable contributions.

"I readily concede these errors, but these were errors in judgment, not in intent.

"I deeply regret them.

"Without any clear and convincing evidence that any official action of mine was causally linked to any donation, however, there is no reason for the Committee to recommended institutional action in my case."

It is further resolved:

1) That Senator Cranston's impermissible pattern of conduct violated established norms of behavior in the Senate, and was improper conduct that reflects upon the Senate, as contemplated in Section 2(a)(1) of S. Res. 338, 88th Congress, as amended.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS). pp. 4–5, 43–47 states:

"Since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

"The Senate have never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

"Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

"In every case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefited in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it.

"I will discuss the Special Counsel's proposal to extend to Senators the appearance standard in the Code of Ethics for Government Service that applies to federal judges and civil servants. The Senate has never adopted that code as an ethical standard applicable to Senators. There is no reference to it in any of the over 400 published Interpretative Rulings issued by the Select Committee on Ethics. The Special Counsel overlooks fundamental differences between federal judges and civil servants. Federal judges and civil servants do not have to raise funds to stay in office. A judge is not expected to serve the interests of the parties before him. A Senator is expected to *represent* his constituents, and to be—and to appear to be—responsive to their legitimate needs. Senators should not be at risk of discipline for violation of an appearance standard that would prevent us from intervening on behalf of constituents, contributors and non-contributions alike, when intervention is appropriate.

"The Committee did not conclude that there was any causal connection between these three coincidences of receipt by Senators Riegle, DeConcini and Glenn of these political contributions in proximity of time to their official actions. How, then, could the Committee without *any* substantiating evidence conclude that there was any causal connection between my receipt—on behalf of others—of charitable and related donations and my official actions? My case, like the cases of Senators Riegle, DeConcini and Glenn, *can only involve* questions of judgment and appearances.

"I believe, too, that our actions did not differ in kind from legitimate actions of our 95 colleagues. Virtually every Senator raises funds for his campaigns and renders legitimate services to his constituents, including contributors, when they need it. I have noted previously that many Senators are active in one way or another with charitable organizations and some Senators raise very substantial money for them.

"THERE ARE NO U.S. SENATE RULES, PRECEDENTS, OR CASES IN WHICH A SENATOR HAS BEEN DISCIPLINED FOR ASSISTANCE TO A CONSTITUENT WHEN THE SENATOR RECEIVED NO PERSONAL FINANCIAL PROFIT

"If the Committee believes there should be limits on a Senator's ability to perform his official duties for a contributor based upon the timing or proximity of a donation to an official act, it may recommend that change to the full Senate and allow all 100 members of this body to debate such a proposed rule.

"It would be contrary to the principles of the Senate and a violation of traditional concepts of fair play to apply such a rule to me now *in what would clearly be an ex post facto fashion*.

"There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate *never* has determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful contribution to the Senator's campaign or to a lawful donation to a charity that the Senator supports.

"The Senate has to date rejected attempts to create Ethics Rules that would restrict the ability of its members to give their supporters the impression that they will be responsive to their needs. There is a *fundamental difference* between a Senator acting on behalf of a constituent and a Senator acting for his personal gain. It is one thing to say that a Senator should not do anything in his official capacity that appears to bring him personal gain. It is quite another to say he should not do anything in his official capacity that appears to benefit supporters or contributors. The former is a conflict of interest and a violation of public trust. The latter is not only *not* a violation of trust, but a fulfillment of it. Its appearance can seem improper only to those who distrust the system itself.

"In *every* case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's private profit. The last four Senators who were disciplined by the Senate were involved in actions that resulted in *personal* gain. There has *never* been a case that has led to the disciplining of a Senator for assisting, or appearing to assist, a constituent-contributor when the Senator received no personal profit.[19]

"The history of conflict of interest rules for the Senate and the House demonstrates that the evil at which all those efforts have been directed is the use of elective office for *personal* gain.

"Senate Rule 37, the conflict of interest rule, distinguishes between personal and political benefit. It prohibits Senators and staffers from intervening with federal agencies for the purpose of furthering their financial interest or receiving compensation from a constituent. Its application is limited to agency intervention 'resulting in measurable *personal* financial gain.'

"The Senate in 1977 rejected a proposed rule suggesting that the motive of a contributor could make a contribution improper. Senator Nelson, Chairman of a Special Committee, had proposed that Rule 35, pertaining to gifts, also should ban acceptance of anything "intended to affect the present or future performance of official duties." Senator Stevens attacked the proposal as 'something no one can live up to if he is honest with himself and the American people . . . It is a standard of conduct with which one cannot comply in good faith and good conscience as a member of the U.S. Senate.' Senator Nelson finally agreed, saying, 'I do not think it makes sense at all, and someone who was working overtime and got tired must have written it.' (pp. 144–5, Davidson Legal Counsel Report, March 1991).

"The Committee acknowledges in its Statement of February 27, 1991 that the Senate presently has no specific written standards embodied in Senate rules respecting contact with Federal or independent regulatory agency officials. The Committee suggests a process for establishing such standards and states that until that is accomplished, 'All Senators are encouraged to use House Advisory Opinion No. 1 as a source of guidance for their actions.'

"House Advisory Opinion No. 1 indicates that it is proper for a member to communicate with an executive or independent agency on any matter to request information or status reports; to urge prompt consideration; arrange for interviews or appointments; express judgments; call for reconsideration of an administrative response that the member believes is not supported by established law, Federal regulation or legislative intent; or perform any other service of a similar nature in this area that is compatible with the criteria expressed in the Advisory Opinion.

"The Advisory Opinion makes *absolutely no reference* to campaign contributions or charitable donations, or to the timing of campaign contributions or charitable donations solicited or received by a member who performs any of these approved and specified actions. It notes that it is a felony to seek or receive "compensation for any services rendered.

"All my actions with respect to Lincoln were well within the guidelines of House Advisory Opinion No. 1."

FOOTNOTES

[1] Many of these same inconsistencies are also in the Report of Special Counsel, Robert Bennett, that Senator Helms released to the press on August 2, 1991 in violation of the Ethics Committee rules.

[2] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their mind. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulators are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 105).

[3] Such status inquiry calls are certainly routine for most if not all Senators. (Senate Ethics Committee, 2/27/91, p. 3, para. 1).

[4] Back in the 70's, another large corporation, Lockheed, was facing bankruptcy. Lockheed had invested millions of dollars in my state. The livelihoods of many thousands of my constituents and their families were at risk—as was the case with Lincoln Savings. I devoted far more time and effort and made many more phone calls about Lockheed's plight than I ever did about Lincoln's as I successfully endeavored to obtain a government guaranteed loan for Lockheed.

Lockheed was not a contributor to my campaigns or causes. In fact, Lockheed had contributed to my opponent in the previous election.

[5] Again, such phone calls are certainly routine for all or most Senators. The Supreme Court has noted, "The making of appointments with government agencies is a 'legitimate errand' performed by Members of Congress for constituents." (*Brewster* 408 U.S. at 512). The Supreme Court has also judicially observed that Senators may be more aggressive than any of the five of us were in dealing with the Bank Board: "Senators are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may *cajole* and *exhort* with respect to the administration of a statute." (Gravel v. U.S., 408 U.S. 606, 626, 1972).

[6] Again, such phone calls are certainly routine for all or most Senators. The Supreme Court has noted, "The making of appointments with government agencies is a 'legitimate errand' performed by Members of Congress for constituents." (*Brewster* 408 U.S. at 512). The Supreme Court has also judicially observed that Senators may be more aggressive than any of the five of us were in dealing with the Bank Board: "Senators are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may *cajole* and *exhort* with respect to the administration of a statote." (Gravel v. U.S., 408 U.S. 606, 626, 1972).

[7] It would not have been unusual for Mr. Keating to make an unsolicited donation. The record shows that in 1985, he made an unsolicited $200,000 political contribution to Senator Glenn's Political Action Committee.

[8] In December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One retraction.

[9] That is why I have voluntarily made my tax returns public for many years. That is why I established a blind trust during my first term in the Senate. That is why I stopped accepting honoraria.

[10] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their mind. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulatore are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 105).

[11] Such status inquiry calls are certainly routine for most if not all Senators. (Senate Ethics Committee, 2/27/91, p. 3, para. 1).

[12] Back in the 70's, another large corporation, Lockheed, was facing bankruptcy. Lockheed had invested millions of dollars in my state. The livelihoods of many thousands of my constituents and their families were at risk—as was the case with Lincoln Savings. I devoted far more time and effort and made many more phone calls about Lockheed's plight than I ever did about Lincoln's as I successfully endeavored to obtain a government guaranteed loan for Lockheed.

Lochheed was not a contributor to my campaigns or causes. In fact, Lockheed had contributed to my opponent in the previous election.

[13] Again, such phone calls are certainly routine for all or most Senators. The Supreme Court has noted, "The making of appointments with government agencies is a 'legitimate errand' performed by Members of Congress for constituents." (*Brewster* 408 U.S. at 512). The Supreme Court has also judicially observed that Senators may be more aggressive than any of the five of us were in dealing with the Bank Board: "Senators are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may *cajole* and *exhort* with respect to the administration of a statute." (Gravel v. U.S., 408 U.S. 606, 626, 1972).

[14] It would not have been unusual for Mr. Keating to make an unsolicited donation. The record shows that in 1985, he made an unsolicited political contribution to Senator Glenn's Political Action Committee.

[15] In December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One retraction.

[16] Ms. Jacobson's activities should be considered in the context of Senate Rule 41 that permits Senators to appoint up to three members of their staffs who may solicit and receive campaign and political contributions. Ninety-nine Senators had done so as of November, 1990. All 99 Senators appointed key staffers, including 90 Administrative Assistants, who could raise and receive contributions while simultaneously possessing the enormous power to schedule appointments; to draft, amend, advance or delay legislation; and to deal with the Executive Branch and regulatory agencies.

Thus, the Senate has ruled that there is no impropriety and no appearance of impropriety if a Senate staffer who raises funds also schedules and attends meetings where substantive matters are discussed with a constituent-contributor. It seems to me that if there is a question of appearances if a fund-raiser who is not on the Senate staff attends such meetings, there is at least an equal possibility of an appearance question when the roles are commingled.

[17] I must note a separate but relevant matter that was established during the hearings involving Bill White, who had formerly been Senator Glenn's Administrative Assistant. Mr. White subsequently left Senator Glenn's staff and proceeded to serve as Chairman and Treasurer of the John Glenn committee, Inc. Mr. White received a letter dated June 6, 1984 from Mr. Grogan. The letter began as follows; "Dear Bill: Many thanks for arranging to meet with Bob Kielty regarding the JHG fundraiser in Phoenix. Also many thanks for coordinating with Dan Dougherty, et cetera, regarding the proposed FHLB regulation limiting direct investments by insured institutions." (Sp. Coun. Ex. 33); (Glenn, 1/4/91, pp. 225–6).

In this instance the Committee did not feel it necessary to be critical of Senator Glenn for the fact that his fund-raiser, who was not on his Senate staff, was coordinating in substantive areas.

[18] The Testimony of my Banking Committee aide, Ms. Jordan, substantiates Ms. Jacobson's. The Special Counsel asked her if it was the general philosophy of my office that donors could rightfully expect some kind of resolution of the issues that they brought to her. She replied that it was the policy of our office to respond to all inquiries. There was no mechanism for keeping staffers informed of who were contributors, nor any effort to do so in any way. Ms. Jordan certainly made no inquiries about whether somebody was a contributor before she decided how to act on a particular request. Ms. Jordan testified, "It was basically our posture that we resolved everything as far as one way or another, either for or against."

The Special Counsel asked Ms. Jordan how she set priorities, how she decided which complaints got handled first and in depth. She responded, "I've never had that problem. I can't remember having a problem like that where I had to stop doing something for one person to do something for another." (CJ, 6/27/90, pp. 57–8).

[19] In one case in 1873 when the Senate investigated whether Senators Harlan and Patterson had been bribed by an offer of Credit Mobilier stock at preferential rates, the Senate also considered whether Senator Harlan's conduct violated ethical standards because of a related campaign contribution. A special Senate Committee apparently found that the contribution was made to influence Senator Harlan, but the Committee recommended no disciplinary action because the contribution did "not appear to have influenced his action as a Senator." (pp. 59–60, Senate Legal Counsel Memorandum to Select Committee on Ethics, March 1991).●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Steven M. Chase, a member of the staff of Senator BROWN, to participate in a program in Taiwan sponsored by the Soochow University on December 3–7, 1991.

The committee has determined that participation by Mr. Chase in this program, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Rolf Lundberg, Jr., a member of the staff of Senator PACKWOOD, to participate in a program in Mexico City sponsored by the Mexican Business Coordinating Council [CCE] on December 3–6, 1991.

The committee has determined that participation by Mr. Lundberg in this program, at the expense of CCE, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Patrick Mulloy, a member of the staff of Senator RIEGLE, to participate in a program in Korea sponsored by the Korea Institute for International Economic Policy [KIEP] on December 8–14, 1991.

The committee has determined that participation by Mr. Mulloy in this program, at the expense of KIEP is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Senator ROTH and Daniel Bob, a member of the staff of Senator ROTH, to participate in a program in Australia sponsored by the Australian Government and the United States Government on December 5–15, 1991.

The committee has determined that participation by Senator ROTH and Mr. Bob in this program, at the expense of the Australian Government and the United States Government is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Karen Robb, a member of the staff of Senator DECONCINI, to participate in a program in China sponsored by the Chinese People's Institute of Foreign Affairs on November 30 to December 15, 1991.

The committee has determined that participation by Ms. Robb in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Warren K. Erdman, a member of the staff of Senator BOND, to participate in a program in Hungary and Poland, sponsored by the American Council of Young Political Leaders [ACYPL] and the Hungarian Government, from May 27 to June 5, 1991—9 days.

The committee determined that participation by Mr. Erdman in this program, at the expense of ACYPL and the Hungarian Government, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Marie Bianco, a member of the staff of Senator INOUYE, to participate in a program in Taiwan sponsored by the Soochow University on January 12–19, 1991.

The Committee has determined that participation by Ms. Bianco in this program, at the expense of the Soochow University is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Christopher McLean, a member of the staff of Senator EXON, to participate in a program in Korea sponsored by the A-san Foundation on December 14–21, 1991.

The Committee has determined that participation by Mr. McLean in this program, at the expense of A-san Foundation is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for James Sakai, a member of the staff of Senator AKAKA, to participate in a program in Taiwan sponsored by the Soochow University on January 12–19, 1991.

The committee determined that participation by Mr. Sakai in this program, at the expense of the Soochow University is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Tim Carisgaard, a member of the staff of Senator DECONCINI, to participate in a program in Australia, sponsored by the American Council for Young Political Leaders [ACYPL], from April 23 to May 11, 1990.

The committee has determined that participation by Mr. Carisgaard in this program, at the expense of ACYPL, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Trina Vargo, a member of the staff of Senator KENNEDY, to participate in a program in Ireland, sponsored by the United States Senate and the Government of Ireland, from June 2–5, 1991.

The committee has determined that participation by Ms. Vargo in this program, at the expense of the United States Senate and the Government of Ireland, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Suzanne Hildick, a member of the staff of Senator HATFIELD, to participate in a program in Korea sponsored by the A-san Foundation on December 14–21, 1991.

The committee has determined that participation by Ms. Hildick in this program, at the expense of A-san Foundation is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mary A. Irace, a member of the staff of Senator SARBANES, to participate in a program in Mexico sponsored by the Mexican Business Coordinating Council, Consejo Coordinator Empresarial [CCE] on December 8–11, 1991.

The committee has determined that participation by Ms. Irace in this program, at the expense of CCE is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Dan Stanley, a member of the staff of Senator DOLE, to participate in a program in the Republic of China sponsored by the Soochow University on January 8–14, 1991.

The committee has determined that participation by Mr. Stanley in this program, at the expense of the Soochow University is in the interest of the Senate and the United States.●

HAROLD OHLENDORF

● Mr. PRYOR. Mr. President, recently a Rhodes College (Memphis) publication contained a feature article on a man who has been a visionary in his community. That man is Harold Ohlendorf of Osceola, AR.

In today's society of mass communication, where the trivial or the sensational garners the most attention, we infrequently hear about the contributions that many unassuming loyal Americans make to society and their fellow citizens.

Harold Ohlendorf is just such an individual. He has been a pillar of his community, respected by all who know him, and a man that I am proud to call my friend.

I ask that the feature article from the Rhodes College publication be printed in the RECORD at this point.

The material follows:

IN LAND-OF-OPPORTUNITY ARKANSAS OHLENDORF HAS BROUGHT INDUSTRY KNOCKING

(By Helen Watkins Norman)

Osceola, Ark., is named for a Seminole Indian chief. But the town's genesis as a bustling manufacturing center is the reflection of another leader, a chieftain of change with enough civic boosterism feathers in his cap to rival any Indian headdress.

Rhodes alumnus Harold Ohlendorf ('31), a farmer who'd rather talk industrial development than crops, has spent his adult life altering the mind-set and landscape of Eastern Arkansas. More industry, better schools, improved libraries and ample medical facilities are all part of Ohlendorf's legacy for his adopted state of Arkansas. But nowhere is that more true than in Ohlendorf's hometown of Osceola, 50 miles north of Memphis.

Osceola's economic horizon, once as flat as its cotton fields, is today abloom with industry that Ohlendorf helped secure: a Fruit of the Loom knitwear plant, a Kagan Dixon wire manufacturing facility, an American Greetings plant covering more than 2.5 million square feet. All in all, Osceola, population 9,000, has attracted 11 major industries—employing more than 5,000 workers—since Ohlendorf and a handful of city leaders decided that an influx of manufacturing was needed to diversify their heavily agricultural hometown.

Though he's quick to credit others and unreceptive to the gush of praise, Ohlendorf is, as Osceola's current Chamber of Commerce president Reed Fergus noted, "largely responsible" for the success and progressive nature of the city. "Mr. Ohlendorf has meant more to the city of Osceola than any other person I know."

Ohlendorf would no doubt shrug off such statements as hyperbole. But the evidence is convincing. In the center of town stands the Ohlendorf Civic Center. A few blocks away, at the Mississippi County Community College's satellite branch in Osceola, is the Ohlendorf Center for Economic Development. The First National Bank, on whose board he has served for more than 50 years and which he continues to lead as chairman, occupies another corner of the commercial district. And throughout the town and its outskirts rise manufacturing plants, school facilities and libraries which Ohlendorf had a hand in recruiting or improving.

His office, in an assuming flat brick building overlooking Ohlendorf Farms, overflows with plaques and mementoes from the community and corporate America, as well as a tribute to "the world's greatest grandfather," from his grandchildren. His portfolio of civic and professional achievements runs longer than a school board meeting (he served 36 years on Osceola's school district board). And his schedule of work and volunteer commitments, even as he enters his eighth decade, stays more tightly packed than a bale of his favorite fiber.

He's held appointments under six governors, serving on the Arkansas Industrial Development Commission since 1971, longer than anyone in the commission's history.

His appointment by Arkansas Gov. Orval Faubus to help establish the Arkansas Children's Colony, a facility for mentally retarded children, is the one that he talks about the most tenderly. "Arkansas was one of two states in the nation that did not have facilities for mentally retarded children. The legislature passed a law when Faubus was governor to establish the Children's Colony for these mentally handicapped young people, and Faubus asked me to serve on the original board."

With tears in his eyes, Ohlendorf described the inadequate options that previously confronted families with mentally retarded children, the heartbreak he saw in their faces. The facility that he and other members of the commission helped established was a complex of cottages where these children were taught how to survive in the outside world. It turned out to be a model facility for the rest of the nation. "The greatest satisfaction comes when you feel like you've done something for these kids," said Ohlendorf.

Ohlendorf has also "done" for other segments of the population, and his contributions have been cited by many. The Arkansas Farm Bureau, which he headed for 17 years, has honored him with a state-wide celebration of his contributions. A consortium of county and city organizations which cited his contributions to the development of industry and improvement of health care and education in the area named Feb. 4, 1972, as Ohlendorf Appreciation Day. Both Rhodes and the University of Arkansas have conferred on him honorary degrees. And the Arkansas Library Association named him Trustee of the Year in 1990.

As appreciative as citizens are today, however, it wasn't always so, at least not among his fellow farmers. A minor rift between Ohlendorf and the agricultural fraternity occurred briefly in the early 1950s when Ohlendorf—convinced that farming would not sustain the area's economy for the long run—persuaded city fathers that new industries were needed to boost Osceola's economic base.

"I took quite a lot of heat from the farmers," said Ohlendorf, whose current farm operation consists of about 10,000 acres of cotton, soybean and wheat. "[The farmers] were saying, 'you're going to take the labor off our farms . . . you're going to bring in industry and we're going to be without labor."

But Ohlendorf thought differently. The cotton picking machine was at the time in the early stages of development. International Harvester had, in fact, been doing test-research on some of its models at Ohlendorf Farms. And while many farmers disputed the machines' potential, Ohlendorf presciently regarded the mechanical cotton picker as the harbinger of a new age for his community. He foresaw the impact that the mechanical cotton picker would have on the business of farming and on the elimination of untold numbers of cotton picking jobs.

New industry, Ohlendorf reasoned, could fill the job vacuum created by a mechanical cotton picker. "We had to have something here for people to do," explained Ohlendorf, who had already seen many young people leave Osceola after World War II in search of jobs. What's more, he believed that an influx of industry would be beneficial to the farm families who needed to supplement their farm incomes with a second job.

Ohlendorf has been an effective advocate of change and of the necessity of learning to live with it. That's a lesson ingrained in him since childhood.

Born in Freeburg, Ill., Ohlendorf was the only son of Diedrich and Anna Schmitz Ohlendorf, a couple with German roots and modest means. When Ohlendorf was a young boy his father farmed in Illinois, but the family moved to Osceola when he was three and his father farmed on rented land. When World War I came along, however, his father was drafted and the family moved back to Illinois.

After the war the Ohlendorfs lived in Illinois and Indiana, where his father tried his hand at a number of different businesses: a dairy farm, a car dealership, a flour mill. "He was involved in several businesses. That's why we moved quite a lot. I went to 13 different schools before graduating from high school."

Not only did the young Harold adapt to frequent changes in venue, he learned to accept whatever odd job needed to be done to bolster the family budget.

As a boy he had a paper route in Vincennes, Ind. along the Wabash River, delivering his goods on foot with a "20 below 0" wind at his back. "I knew that was one business I didn't want to do again," he laughs. Some of the other jobs weren't much better: milking cows and delivering the milk in an old Model T for his father's dairy, cleaning the underbellies of cars with a wire brush in 100 degree heat for the family auto shop, peddling eggs for his mother who raised chickens in the backyard.

The last move of his high school years took the family to the boom state, Florida, where his father operated a small orange grove. Finally in the mid-'20s, his parents moved back to Osceola and Harold joined them after graduating from high school in Tampa.

His father bought a small parcel of land outside Osceola and Harold joined him in the fields. "I was behind a pair of mules most of the time," Ohlendorf says, recalling how tired he'd be at the end of each day. "You sure didn't need to take sleeping pills."

It was a friend of the family in Wilson, Ark. (not far from Osceola)—a Dr. Barksdale—who convinced Ohlendorf to come to Rhodes in 1927. He remained at Rhodes until he graduated in 1931, returning to the farm in the mid-'30s and taking over the family-run operation in the 1940s.

Looking back, Ohlendorf's work innovations while at college should come as no surprise. He helped pay for college with an assortment of odd jobs. He was a waiter in the campus dining hall. He held the local franchise for Davis Clothing Company, selling tailor-made suits to willing clients, few of them his classmates. He worked downtown for the public library and for an office supply firm. He spent his summers traipsing across the South in an old touring car, selling magazine subscriptions, or painting the football bleachers on campus. He even ushered at an auditorium downtown, leading operagoers and other patrons of the arts to their seats. "I got all the culture I needed," said Ohlendorf, who admits he hasn't been to the opera too often since.

Ohlendorf's budding business acumen was evident in his extracurricular affairs as well. His junior year he was business manager for the yearbook. "He was always very competent, more mature than the rest of us," said Paul Tudor Jones '32, who was yearbook editor at the time. Dr. Jones, who went on to become the senior minister at Memphis' large Idlewild Presbyterian Church, recalls Ohlendorf as a very effective business manager who always dressed in a jacket and tie.

After college and Dr. Jones's marriage to fellow Rhodes student Anna Hudson "T" Jones, the couple sometimes ran into Ohledorf. " 'T' would always say," Dr. Jones laughed, "if she'd known then (back in college) the way things were going to turn our—with my becoming a minister and Harold a successful business tycoon—she certainly would have married the business manager of the yearbook rather than its editor."

Ohlendorf acquired a persistent nickname in college befitting his later advocacy of industry. It was "Rascob," the name of a noted industrialist who was, in the late 1920s, campaign manager for Franklin Delano Roosevelt in his bid for the presidency.

Ohlendorf began to describe how he earned the name "Rascob," But his attention was momentarily diverted by the view of a Barnum and Bailey Circus train barreling down the railroad tracks outside his window (trains hold a special interest for Ohlendorf who served many years on the Frisco Railroad board; an authentic Frisco train caboose currently stands on an abbreviated track, just yards from his office). "I was campaign manager for whoever it was who was running for student body president. People related the two campaigns. And the name 'Rascob' has stuck with me since," he said.

Rascob isn't the only aspect of Rhodes that followed him beyond Memphis. When Ohlendorf was married in 1934 to Frances Jones, college president Charles E. Diehl officiated at the ceremony. Frances died in 1980, and Ohlendorf has since remarried. But he and his second wife, Elvira "Bruce" Kincaid—an active townswoman and busy partner in Ohlendorf Farms—continue to maintain their Rhodes ties. The couple are sustaining members of the Charles E. Diehl Society and they visit the campus periodically. Most recently they attended Ohlendorf's 60th class reunion festivities in October. Ohlendorf also serves Rhodes as an honorary trustee.

Though his ties to Rhodes remain as solid as the campus's giant oaks, it is the dark, fertile Osceola soil where Ohlendorf's roots penetrate the deepest. In the words of Dick Prewitt, the mayor of Osceola for 20 years: "Every community needs a Harold Ohlendorf."•

TREE-MENDOUS MARYLAND

• Mr. SARBANES. Mr. President, I want to bring to the attention of my colleagues in the U.S. Senate the record of "TREE-MENDOUS MARYLAND," a 2-year-old program in my home State of Maryland. This effort was started by Governor Schaefer and the Department of Natural Resources and has a 2-year budget of $250,000. The program has raised more than $225,000 and has actually planted over 2,500,000 trees and seedlings in our State. This contrasts with the National Tree Trust, established by President Bush to reforest the Nation with 1 billion trees. Recent press reports indicate the trust has spent $1.23 million in salaries and other administrative costs, and just $350,000 in grants for groups to plant trees.

Working with the Forestry Division of the Department of Natural Resources, Wally Orlinsky, special assistant to Department Secretary Dr. Torrey Brown, acts as the program's executive director. He has modeled part of his program after the Jewish National Fund. It gives Marylanders a chance to buy trees in honor or memory of friends and loved ones. In 2 years, with no advertising, he has already had some 12,000 people purchase trees.

Marshalling departmental resources, the forestry division now gives courses to people on tree planting, creating a cadre of some 400 tree planting supervisors to date. This program is now expanding to provide instruction in tree care and maintenance, which will lead to "Maryland's Green Gorillas," an army of volunteer coordinators who will spearhead expanding efforts at tree planting, care, and maintenance.

The TREE-MENDOUS Program has allowed Marylanders to purchase trees for parks and for public open space. Maryland corporations and businesses are now involved in planting the State highway clover leaves with trees, and through the newly created Clover Leaf Foundation, flowers, as well. IKEA, Lever Brothers, Winchester Homes, Pepco, James Cassidy, Inc., Foxleigh Enterprises, Langenfelder and Sons, and Westvaco are some of the companies involved to date.

The majority of trees are seedlings. Plantings included efforts like that of the Annapolis Christian Day School plant-a-thon, whereby 600 children spent a day planting 14,000 seedlings on a multiacre tract of weeded highway land.

This past spring, April was declared "TREE-MENDOUS MONTH" in Maryland; and working with the Governor's challenge to county governments, the TREE-MENDOUS program planted 1,500,000 trees and seedlings around the State. Over 35,000 volunteers joined in over 560 projects to accomplish this task.

On December 6, the TREE-MENDOUS MARYLAND Program will be honored by "Keep America Beautiful" as the second best State/Federal environment stewardship program in the Nation.

In Maryland, our Governor and our citizens recognize our special stewardship of the Chesapeake Bay and our responsibility for our own environment. Mr. Orlinsky and his TREE-MENDOUS MARYLAND Program have harnessed these beliefs and transformed them into an active and successful endeavor to get trees planted. Maryland's program is an excellent example of how people, business, and government working together can succeed in the improvement of our lives.•

FILING OF REPORTED LEGISLATIVE AND EXECUTIVE CALENDAR BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate committees may file reported legislative and executive calendar business on Wednesday, December 11, from 11 a.m. until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JANUARY 3, 1992, AND TUESDAY JANUARY 21, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate convenes on January 3, 1992, that the Journal of proceedings be approved to date; that the call of the calendar be waived; that no motions or resolutions come over under the rule, and that the time until 12 noon be divided between the two leaders, or their designees; that following the adjournment sine die of the first session and the convening of the second session at 12 noon, the Journal of proceedings be deemed approved to date; that the morning hour be deemed expired; and that the Senate stand in recess, according to the provisions of House Concurrent Resolution 260 until 11:30 a.m. on Tuesday, January 21, 1991.

I further ask unanimous consent that when the Senate reconvenes on January 21, 1992, following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for the transaction of morning business not to extend beyond 12:30 p.m.; that the Senate stand in recess from 12:30 p.m. until 2:15 p.m., and that at 2:15 p.m., the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to the consideration of S. 2, the education bill, with the live quorum, pursuant to rule XXII being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIRST SESSION OF THE 102D CONGRESS

Mr. MITCHELL. Mr. President, we have completed the first session of the 102d Congress. The possibility of further action in this session remains open, but at this point it is appropriate to assess some of the actions taken to date.

No baseball game is ever over after four innings, and no football game is over at half time, so there can be no full, fair, and final evaluation of a Congress at the end of the first session. Such an evaluation can occur only after completion of the second and final session, and that will occur late next year. But we do know that this Senate in this first session of this Congress acted in important and substantial ways on many issues relevant to the concerns of Americans.

Much remains to be done, but I would like to look back briefly and suggest some of the areas where I believe significant action has occurred.

We began the year in January on an action of constitutional significance. Following a lengthy period of ambivalence and national uncertainty, the President decided in January to submit to the Congress the question of whether the Nation should be committed to war. There was a lengthy, informative debate. The President's view prevailed and a successful effort resulted in the Persian Gulf war. The constitutional significance lies in the submission by the President to the authority of the Congress with respect to that power.

Following the conflict, we took action on what I believe to be a very significant and comprehensive reform and updating of veterans legislation. It was not controversial, so it did not receive much attention, controversy being the basis by which the newsworthiness of much of what we do is judged. But I submit that little we have done in this year or perhaps in many years will have as beneficial and long lasting an effect for millions of American veterans and their families than will that comprehensive legislation enacted earlier this year in the aftermath of the Persian Gulf war.

Just recently, after months of delay caused by the President's opposition, unemployment insurance was extended for millions of Americans. It was later than we had hoped. We suffered temporary setbacks along the way as the President ignored our first bill and vetoed our second bill, but ultimately the President came to see the need for action to provide extended insurance to the millions of American families who were in desperate need and anxiety, and that provision was made.

We passed the civil rights bill. Again, it was delayed because of Presidential opposition. Again, ultimately the President reversed his position, and I commend him for those reversals because the last position taken in both the unemployment and civil rights cases was the correct one.

I am disappointed that we did not act finally on crime legislation. It was a good bill. We were prevented from proceeding to it by the vote that occurred today. I believe we will be back to it, and I believe we will enact comprehensive legislation which will deal with violent crime where it occurs and where it is prosecuted and where it is punished, and that is at the State and local level.

There has developed in recent years as a result of national political rhetoric the myth that the problem of violent crime in America can be solved by dealing with Federal criminal law.

Mr. President, I have been a prosecutor at the State level. I have been a prosecutor at the Federal level. I can say with experience and assurance that the overwhelming majority of violent crimes that occur in this country, the murders, the rapes, the robberies, the assaults, the overwhelming majority which occur at the State and local level, within the jurisdiction of State and local authorities, are prosecuted by State and local officials and punished by State and local officials.

The bill we presented today would have provided $3.2 billion to State and local officials and law enforcement offices to beef up their actions, in contrast to the President's bill, which had nothing for them. If I may extend the analogy, State and local officials are in the front line of the war against crime. Our bill would have helped them. The President's bill would have built bunkers in rear echelons, not those in the front lines. We are going to be back to the issue, and I hope we pass it.

We dealt with recapitalization of the bank insurance fund and the Resolution Trust Corporation. We ratified the Conventional Forces in Europe Treaty, a significant act for which I commend the President and the Secretary of State for the negotiation of the treaty, and I commend the Senate for ratifying the treaty.

In some respects, it has been overtaken by events. But it represents a step forward in reducing the level of arms in the armies facing each other for so long in Europe, and therefore reduced the risk of conflict in that region.

We have a lot to do when we come back next year. First and foremost must be attention to the problems of our economy—the low rate of economic growth, the low rate of job creation. We are going to have hearings in the next few weeks, and if action can be taken this year, I hope it will be. It does not now appear that will be possible.

But we have to do something to create jobs and economic growth in America for Americans. That means, first and foremost, cutting the taxes of the middle class. No more of the trickle down theory of economics, which says that the only way to help people in the middle class is first to give huge tax breaks to those at the very top of the income scale, and somehow then the benefits will trickle down to the rest of us.

The American people have been trickled on long enough. We need a middle-class tax cut, for families making $30,000, $40,000, $50,000 a year, where both husband and wife work. And that is what we are going to try to do.

We are going to try to provide incentives for first-time home buyers to try to spur home construction in our society. We need to address the credit crunch. We need to reform our systems of education and health care—an education system which is not teaching, a health care system which is not curing—and we have to reduce costs in health care, as we can with comprehensive health care reform.

We will deal early next year with the education bill. It will be the first bill that we consider when we return on January 21. We will then move to cable television legislation. I hope to give a high priority to comprehensive energy legislation early next year.

We have done a good bit. We have much more to do. We must meet our obligation to the American people, and we must address those issues that are relevant to their concerns.

In the next session of this Congress, the agenda of the Congress must be the agenda of American families. In that way we will not only act in the manner we are required to act to meet our responsibilities, we will increase the esteem in which the institution of Congress is held by the American people, and we will further increase that esteem by passing, finally, campaign finance reform legislation, now passed by both Houses, awaiting final action.

Mr. President, I want to thank all Senators for their courtesy to me, their patience and cooperation in what has been a long, at times difficult, but ultimately productive session. The Secretary of the Senate and his staff have been of immense help to me and all Senators; the Sergeant at Arms and her staff. I am very proud of the fact I have appointed the first woman Sergeant at Arms in our Senate's history. Martha Pope, in that position, has more than justified the confidence I had when I appointed her by doing a truly superb job.

The Secretary for the majority and the Secretary for the minority and their staffs in the Cloakroom have done an outstanding job, as have the floor staffs for both leaders.

Lula, Charles, Marty, Howard, and Liz serve as invaluable aides to the leadership on both sides. The Democratic Policy Committee staff has provided guidance and information to Senators. All of those who work to make the operation of the Senate possible—the restaurant staff; the elevator operators; the custodial services; the pages, who we hope have learned something in their experience; the entire staff of the Official Reporters of Debates who so patiently record the ever-increasing volume of words uttered by Senators; the new staffers in the closed captioning office, all of them deserve our gratitude.

I want to reserve special thanks to two people who have made this an especially important and meaningful effort this year: Senator WENDELL FORD, the Democratic whip, my friend and colleague, has done so much to be of assistance to me personally and to all Democratic Senators, indeed to all Senators, widely respected by Members of the Senate on both sides of the aisle, extraordinarily effective in moving legislation forward, and unique among us in the Senate, and not one to seek headlines or time on camera. I am very grateful to Senator FORD for his helpfulness and his friendship.

I want also, before I thank Senator DOLE, to thank my own staff, John Hilley, the chief of staff; Pat Sarcone, my secretary, and the many others who have been extremely helpful; members of my legislative staff, who have been very helpful, as well.

And, as inevitable when I begin to name names, I forget some. I inadvertently missed Art, on the floor staff, and I thank Art as well for his assistance.

Finally, Mr. President, I am very grateful to our Republican colleagues, and especially to their leader and my friend, Senator DOLE. Senator DOLE and I disagree often on issues, publicly and privately. We debate them openly and vigorously. But we have never had a personal disagreement. We have come to be personal friends, as well as Senators serving in a close professional relationship. I trust him implicitly. I hope he feels the same way about me.

In an institution in which the rights of the minority are not just protected, the rules are actually quite solicitous of the rights of minorities, down to a minority of one; it takes cooperation to move forward.

It takes a unique blend of cooperation and competition to move the Senate forward and produce the best policy for the Nation. We do not always succeed. But it would not have been possible to accomplish any of the things I mentioned without Senator DOLE'S leadership and his cooperation, where he deemed it appropriate. So I am very grateful to him.

I hope all concerned, Senator DOLE, the Republican Senators, Senator FORD, and the other Democratic Senators, the staff, and others, have a very happy Thanksgiving with their families, a good and productive break, and that we will all come back here next year renewed and ready to act in the interest of the people in whose behalf we act.

It is, for each of us Members of the Senate, a great honor to serve in the U.S. Senate, to represent our fellow citizens in a representative democracy; and our objective, our responsibility, our overriding concern must be to improve the well-being of the people we represent, and to do it in a fair and responsible manner. To that task we all commit ourselves when we return, and we express our gratitude for the honor done us by permitting us to serve here, and we hope there will be good by what we accomplish here.

THANKS TO THE MAJORITY LEADER AND STAFF

Mr. FORD. If the Senator will yield me 30 seconds. Let me thank the distinguished majority leader for his kind words. I appreciate them very much.

I want to thank him for his patience with me, his tolerance, as I worked my way through the first session in this position. The tolerance of the floor staff has been meaningful to me, Mr. Leader, and I hope that with this experience I can be more helpful to you and our colleagues next year, and that we do those things in the second session that will be so meaningful to those people we represent.

I am grateful to you, and I thank you sincerely.

Mr. MITCHELL. Mr. President, I thank my colleague. I am advised that the House has not yet acted finally on the adjournment resolution, so we must await that action. While we do, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MICHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL JANUARY 3, 1992, AT 11:55 A.M.

Mr. MITCHELL. Mr. President, if there are no Senators desiring to speak, I now ask unanimous consent that the Senate stand adjourned pursuant to the provisions of House Concurrent Resolution 260, until 11:55 a.m. Friday, January 3, 1992.

There being no objection, the Senate, pursuant to the provisions of House Concurrent Resolution 260, at 7:05 p.m., adjourned until Friday, January 3, 1992, at 11:55 a.m.

NOMINATIONS

Executive nominations received by the Senate November 27, 1991:

THE JUDICIARY

SONIA SOTOMAYOR, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE JOHN M. WALKER, JR., ELEVATED.

DAVID G. TRAGER, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

CONFIRMATIONS

EXECUTIVE NOMINATIONS CONFIRMED BY THE SENATE NOVEMBER 27, 1991:

DEPARTMENT OF STATE

ROBERT STEPHEN PASTORINO, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DOMINICAN REPUBLIC.

CURTIS WARREN KAMMAN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

GEORGE FLEMING JONES, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

WILLIAM EDWIN RYERSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

JOHN R. DAVIS, JR., OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ROMANIA.

FREDERICK VREELAND, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

JOHN HUBERT KELLY, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FINLAND.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JOSE E. MARTINEZ, OF TEXAS, TO BE DIRECTOR OF THE TRADE AND DEVELOPMENT PROGRAM.

INTER-AMERICAN FOUNDATION

WILLIAM KANE REILLY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1991.

EXECUTIVE OFFICE OF THE PRESIDENT

CLAIR W. BURGENER, OF CALIFORNIA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 1991.

PANAMA CANAL COMMISSION

WILLIAM CARL, OF TEXAS, TO BE A MEMBER OF THE BOARD OF THE PANAMA CANAL COMMISSION.

JOHN J. DANILOVICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF THE PANAMA CANAL COMMISSION.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOHN W. CRAWFORD, JR., OF MARYLAND, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 1996.

DEPARTMENT OF ENERGY

LEO P. DUFFY, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT).

DEPARTMENT OF DEFENSE

DONALD C. FRASER, OF MASSACHUSETTS, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

VICTOR H. REIS, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

JAMES RODERICK LILLEY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ALICE M. BATCHELDER, OF OHIO, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

HAROLD R. DEMOSS, JR., OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be brigadier general

COL. GEORGE P. COLE, JR., 553-66-0254, REGULAR AIR FORCE.

COL. ELDON W. JOERSZ, 502-46-1673, REGULAR AIR FORCE.

ARMY

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADE INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRIG. GEN. NATHANIEL H. ROBB, 241-60-5623.

AIR FORCE

AIR FORCE NOMINATIONS BEGINNING CLIFTON D. DANIEL, AND ENDING JACK H. MORGAN. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING SCOTCLIFF HECTOR A. ARROYO, AND ENDING GUNTHER A. MUELLER. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST).

AIR FORCE NOMINATIONS BEGINNING MAJ. MICHAEL T. ALLEN, 407-60-3229, AND ENDING MAJ. EARL R. HARRISON, JR., 403-64-9386. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING RONALD M. ADAMS, AND ENDING WILBUR T. WORKMAN. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

ARMY

ARMY NOMINATIONS BEGINNING CHARLES G. ABBOTT, AND ENDING DONALD J. COPLEY. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

ARMY NOMINATIONS BEGINNING JAMES D. HALLUMS, AND ENDING JOHN H. GRUBBS. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

ARMY NOMINATIONS BEGINNING BRUCE A. ADAMS, AND ENDING MARK E. ZIRKELBACH. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

NAVY

NAVY NOMINATIONS BEGINNING THOMAS H. ADAIR, AND ENDING PAUL A. YETMAR. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF OCTOBER 31, 1991, FOR COMPLETE LIST.)

NAVY NOMINATIONS BEGINNING KEVIN T. AANESTAD, AND ENDING KIMBERLY A. ZYCH. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

FARM CREDIT ADMINISTRATION

GARY C. BYRNE, OF CALIFORNIA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD FOR THE TERM EXPIRING MAY 21, 1996.

DEPARTMENT OF AGRICULTURE

CHARLES R. HILTY, OF OHIO, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

NATIONAL MEDIATION BOARD

PATRICK J. CLEARY, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1994.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR THE TERMS INDICATED:

FOR A TERM EXPIRING SEPTEMBER 30, 1992: DAVID ALAN HESLOP, OF CALIFORNIA.

FOR A TERM EXPIRING SEPTEMBER 30, 1993: KENNETH H. BASTIAN, JR., OF TEXAS.

FOR A TERM EXPIRING SEPTEMBER 30, 1994: MARJORIE ARSHT, OF TEXAS.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

BARBARA J.H. TAYLOR, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1995.

JAMES E. LYONS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1994.

NATIONAL SCIENCE FOUNDATION

IAN M. ROSS, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR THE REMAINDER OF THE TERM EXPIRING MAY 10, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL MUSEUM SERVICES BOARD FOR THE TERMS INDICATED:

FOR A TERM EXPIRING DECEMBER 6, 1993: RUTH K. WATANABE, OF CALIFORNIA.

FOR A TERM EXPIRING DECEMBER 6, 1994: EUNICE B. WHITTLESEY, OF NEW YORK.

FOR A TERM EXPIRING DECEMBER 6, 1995: LISA A. HEMBRY, OF TEXAS.

NATIONAL COUNCIL ON DISABILITY

ANNE C. SEGGERMAN, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1993.

MARY MATTHEWS RAETHER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1994.

ANTHONY HURLBUTT FLACK, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1994.

VOL 137
PT 24
NO 26
1991 — JA 3 1992
UMI

SENATE—*Friday, January 3, 1992*

The Senate met at 11:55 a.m., pursuant to the provisions of House Concurrent Resolution 260, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. In our supplications and petitions to the Almighty, Lord of Hosts, the Senate will be led in prayer by the Chaplain, Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Where there is no vision, the people perish * * *.—Proverbs 29:18.

Eternal God, Lord of history, we open the 2d session of the 102d Congress at a time of profound crises in the Nation and the world. Somehow, Lord, grant to the Senators and their staffs a perspective on the present situation that comprehends the causes of the crises. Give them a vision for the future that is equal to the enormous task which they face. Save Your servants from self-interests which reduce perilous issues to a business as usual attitude. During the next 18 days prepare them for their immense responsibility with its demand for unprecedented greatness.

Gracious Father, thank You for the recovery of Senator DOLE. We pray for him and all the Senators, their loved ones and staffs, health and strength commensurate with the days ahead.

In the name of Jesus who leads the world by love and sacrifice. Amen.

The PRESIDENT pro tempore. The Senate will be in order.

LEADER TIME

The PRESIDENT pro tempore. Under the previous order the time until 12 o'clock noon is to be equally divided and controlled by the two leaders.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE DISTINGUISHED REPUBLICAN LEADER

Mr. MITCHELL. Mr. President, I want to welcome my colleagues back. Today's session will not include the transaction of any business. But I think I would be remiss if I did not note our pleasure at the full and swift recovery of our colleague, the distinguished Republican leader, Senator DOLE, who, as we know, was operated on during the recent break.

I know that I speak for every single Member of the Senate, Democrat and Republican alike, in saying that our prayers and thoughts have been with him, and we look forward to working with him in the coming session.

Mr. President, I now suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ADJOURNMENT SINE DIE

The PRESIDENT pro tempore. The hour provided under the Constitution for the convening of the 2d session of the 102d Congress having arrived, the 1st session of the 102d Congress is adjourned sine die.

(Whereupon, at 12 noon, the Senate adjourned sine die.)

NOMINATIONS

Executive nominations received by the Senate January 3, 1992:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN P. WALTERS, OF MICHIGAN, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE STANLEY E. MORRIS, RESIGNED.

RESOLUTION TRUST CORPORATION

ALBERT V. CASEY, OF TEXAS, TO BE CHIEF EXECUTIVE OFFICER, RESOLUTION TRUST CORPORATION. (NEW POSITION.)

HOUSE OF REPRESENTATIVES—*Friday, January 3, 1992*

The House met at 11:55 a.m.

The Chaplain, James David Ford, D.D., offered the following prayer:

The Lord bless us and keep us.

The Lord make His face shine on us and be gracious to us.

The Lord look upon us with favor and give us peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. SOLOMON] please come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolutions on Tuesday, December 3, 1991:

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the eastern and western districts of Virginia;

H.R. 948. An act to designate the U.S. courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge";

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, Mo., which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designations of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the oversight board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the Home Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the 11 point wild and scenic river, to establish the Greer Spring special management area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the treaty on conventional armed forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, TN, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, and for other urgent needs, and for incremental costs of Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992, through January 11, 1992, as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day";

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month";

S. 159. An act for the relief of Maria Erica Bartski;

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes;

S. 1532. An act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988;

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes;

S. 2098. An act to authorize the President to appoint Maj. Gen. Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; and

S. J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

And the Speaker signed the following enrolled bills on Thursday, December 5, 1991:

H.R. 1776. An act to authorize for fiscal year 1992 the U.S. Coast Guard budget;

S. 543. An act to require the least-cost resolution of insured depository institutions, to

VOL
137
PT
24
NO
26
1991
—
JA
3
1992
UMI

improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. 1193. An act to make technical amendments to various Indian laws;

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment; and

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

And the Speaker pro tempore signed the following enrolled bill on Monday, December 9, 1991:

H.R. 2950. An act to develop a national intermodal service transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 2, 1991.

Hon. THOMAS S. FOLEY,
The Speaker,
U.S. House of Representatives; Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Monday, December 2, 1991 at 10:50 a.m.: That the Senate passed without amendment, H.R. 3245, H.J. Res. 356, H.J. Res. 372, H.R. 3531, H.R. 3919, H.R. 3169, H.R. 3435, H.R. 635, H.R. 3327, H.R. 948, and H. Con. Res. 168; agreed to Conference Report on H.R. 3595, and S. 543; agreed to the House amendment to S. 1891, S. 159, S. 1462 and S. 2050; agreed to House amendments to Senate amendments to H.R. 3807; agreed to House amendment to Senate amendment to H.R. 1776; agreed to House amendment to Senate amendment to House amendment to S. 1193; and disagreed to House amendments to S. Con. Res. 77.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk,
U.S. House of Representatives.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1028 AND H.R. 1916

Mr. ZELIFF. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of two measures:

H.R. 1028, the Social Security Benefits Improvement Act; and

H.R. 1916, the Long-Term Care Insurance Consumer Protection Act.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that it will receive requests for 1-minute speeches at the beginning of the next session of the Congress.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2015. An act to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright; to the Committee on Armed Services.

S. 2034. An act to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER ADJOURNMENT

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

On December 3, 1991:

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the eastern and western districts of Virginia;

H.R. 948. An act to designate the U.S. courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, MO, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designation of an assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue Between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, TN, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, and for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day"; and

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month".

On December 5, 1991:

H.R. 1776. An act to authorize for fiscal year 1992 the U.S. Coast Guard Budget.

The Speaker pro tempore signed the following enrolled bill on December 9, 1991:

H.R. 2950. An act to develop a national intermodal service transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED AFTER ADJOURNMENT

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

On December 3, 1991:

S. 159. An act for the relief of Maria Erica Bartski;

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes;

S. 1532. An act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988;

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes;

S. 2098. An act to authorize the President to appoint Maj. Gen. Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; and

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

On December 5, 1991:

S. 543. An act to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. 1193. An act to make technical amendments to various Indian laws;

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment; and

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

SINE DIE ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the 20th amendment of the Constitution of the United States and pursuant to the provisions of House Concurrent Resolution 260, the Chair declares the 1st session of the 102d Congress adjourned sine die.

Thereupon, (at 11 o'clock and 58 minutes a.m.) pursuant to the 20th amendment of the Constitution of the United States and pursuant to the provisions of House Concurrent Resolution 260, the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2424. A communication from the President of the United States, transmitting three new and two revised deferrals of budget authority for fiscal year 1992, pursuant to 2 U.S.C. 683(a)(1) (H. Doc. No. 102–171); to the Committee on Appropriations and ordered to be printed.

2425. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the President's determination pursuant to section 553 of Public Law 101–513; to the Committee on Appropriations.

2426. A letter from the Comptroller of the Department of Defense, transmitting a report of three violations involving the improper use of appropriations which occurred in the Departments of the Army, Navy, and Air Force, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

2427. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of December 1, 1991, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 102–173); to the Committee on Appropriations and ordered to be printed.

2428. A letter from the Under Secretary of Defense, transmitting the Secretary's certification with respect to the Army's MLRS program and the AAWS–M program, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

2429. A letter from the Secretary of Housing and Urban Development, transmitting the annual report of the operations of the Federal National Mortgage Association [FNMA] and the Federal Home Loan Mortgage Corporation Association [FHLMC], pursuant to 12 U.S.C. 1723a(h); to the Committee on Banking, Finance and Urban Affairs.

2430. A letter from the Secretary of Housing and Urban Development, transmitting the interim report on the Public Housing Comprehensive Transition Demonstration Program, pursuant to 42 U.S.C. 1437f nt; to the Committee on Banking, Finance and Urban Affairs.

2431. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting notice of a guarantee loan by a financial institution acceptable to the Bank for $11.7 million to the Bank for Foreign Economic Affairs of the U.S.S.R. Moscow, pursuant to 12 U.S.C. 635(b)(3)(ii); to the Committee on Banking, Finance and Urban Affairs.

2432. A letter from the President, Oversight Board, Resolution Trust Corporation, transmitting the Board's report required by section 21A(k)(9) of the Federal Home Loan Bank Act, as added by section 102(a)(3) of the Resolution Trust Corporation Funding Act of 1991; to the Committee on Banking, Finance and Urban Affairs.

2433. A letter from the Secretary of Education, transmitting a copy of Final Resolutions for Student Assistance General Provisions—Verification, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2434. A letter from the Assistant Attorney General, Department of Justice, transmitting the annual report of the Office of Juvenile Justice and Delinquency Prevention for Fiscal Year 1990, pursuant to 42 U.S.C. 5417; to the Committee on Education and Labor.

2435. A letter from the Chairman, National Commission for Employment Policy, transmitting the annual report of the Commission, pursuant to 29 U.S.C. 1775; to the Committee on Education and Labor.

2436. A letter from the Secretary of Education, transmitting the annual report of the International Research and Studies Program; to the Committee on Education and Labor.

2437. A letter from the Acting Director of Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting the fiscal year annual report on the operations of the Office of General Counsel; to the Committee on Education and Labor.

2438. A letter from the Secretary, Department of Energy, transmitting the quarterly report on the Strategic Petroleum Reserve during the period July 1, 1991, through September 30, 1991, pursuant to 42 U.S.C. 6245(a); to the Committee on Energy and Commerce.

2439. A letter from the Acting Assistant General Counsel, Department of Energy, transmitting a notice of a meeting related to the International Energy Program to be held on November 19, 1991, at the OECD, in Paris, France; to the Committee on Energy and Commerce.

2440. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for issuing a final decision in Ex Parte No. 346 (Sub-No. 14A), Rail General Exemption Authority—Miscellaneous Agricultural Commodities—Petition of G & T. Terminal Packaging Co., Inc. et al. to Revoke Conrail Exemption by 90 days to March 18, 1992, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

2441. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for issuing a final decision in Docket No. 40365, "National Starch and Chemical Corporation v. The Atchison, Topeka and Santa Fe Railway Company, et al.", by 31 days to January 6, 1992, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

2442. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease renewal of defense articles to Singapore (Transmittal No. 04–92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2443. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 92-12), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2444. A letter from the Acting Director, Defense Security Assistance Agency, transmitting an addendum to the listing of all outstanding Letters of Offer to sell any major defense equipment for $1 million or more; an addendum to the listing of all Letters of Offer that were accepted, as of September 30, 1991, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

2445. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 07-91, concerning a proposed Memorandum of Understanding Cooperative Project certifying a program of cooperation in over-the-horizon radar activities with Australia, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

2446. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the fiscal year 1991 annual report on the operation of the Special Defense Acquisition Fund, pursuant to 22 U.S.C. 2795b(a); to the Committee on Foreign Affairs.

2447. A communication from the President of the United States, transmitting notification that the Libyan emergency is to continue in effect beyond January 7, 1992, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 102-172); to the Committee on Foreign Affairs and ordered to be printed.

2448. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on United States-Soviet reciprocity in matters relating to embassies, pursuant to Public Law 101-246, section 134(b) (104 Stat. 33); to the Committee on Foreign Affairs.

2449. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2450. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2451. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a report on special purpose international organizations, as required by section 176 of the fiscal year 1992-93 Department of State authorization; to the Committee on Foreign Affairs.

2452. A letter from the Chairman, U.S. Advisory Commission on Public Diplomacy, transmitting a copy of one of its short topical papers dealing with international broadcasting, information, and educational exchange matters of interest to policymakers; to the Committee on Foreign Affairs.

2453. A letter from the Director of the Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of House Joint Resolution 346, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Foreign Affairs.

2454. A letter from the Director of the Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 2100, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2455. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of S. 1745, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2456. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 3932, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2457. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 2038, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2458. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of S. 1891, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2459. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 3029, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2460. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 3575 and H.R. 1724, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2461. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 3245, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2462. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 1476, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2463. A letter from the Secretary of Agriculture, transmitting the semiannual report of the Inspector General for the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2464. A letter from the Secretary of Energy, transmitting the semiannual report of the Office of Inspector General covering the period April 1, 1991 to September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2465. A letter from the Secretary of Labor, transmitting the semiannual report of the Inspector General for the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2466. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in October 1991, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2467. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2468. A letter from the Director, ACTION Agency, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2469. A letter from the Chairman, Board for International Broadcasting, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2470. A letter from the Corporation for Public Broadcasting, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 to September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2471. A letter from the Attorney General, Department of Justice, transmitting the semiannual report of the Inspector General for the period April 1, 1991 through September 30, 1991, and the management report for the same period, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2472. A letter from the Farm Credit Administration, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2473. A letter from the Chairman, Federal Election Commission, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2474. A letter from the Federal Housing Finance Board, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2475. A letter from the Chairman, Federal Reserve System, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2476. A letter from the Administrator, General Services Administration, transmitting the semiannual report on the activities of the Department's Inspector General for the period April 1, 1991, through September 30, 1991, together with a report by management, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2477. A letter from the Administrator, General Services Administration, transmitting views on H.R. 3161 "The Federal Property and Administrative Services Authorization Act of 1991"; to the Committee on Government Operations.

2478. A letter from the Public Printer, Government Printing Office, transmitting the semiannual Management Report of the Inspector General for the period April 1, 1991 through September 30, 1991, pursuant to 44 U.S.C. 3903 (102 Stat. 2531); to the Committee on Government Operations.

2479. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the fiscal year ended September 30, 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2480. A letter from the Chairman, National Science Board, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2481. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 3839 and H.R. 2521, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-578); to the Committee on Government Operations.

2482. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by House Joint Resolution 157, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-578); to the Committee on Government Operations.

2483. A letter from the Director, Office of Personnel Management, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, and management report for the same period, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2484. A letter from the Secretary of Education, transmitting the fifth semiannual report on audit follow-up, covering the period from April 1, 1991 through September 30, 1991; to the Committee on Government Operations.

2485. A letter from the Secretary of Energy, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the year ended September 30, 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2486. A letter from the Chairman, Securities and Exchange Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the year ending September 30, 1991. pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2487. A letter from the Secretary, Smithsonian Institution, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2488. A letter from the Director, U.S. Information Agency, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2426); to the Committee on Government Operations.

2489. A letter from the Chairman, U.S. International Trade Commission, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2490. A letter from the Director, U.S. Peace Corps, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2491. A letter from the Chairman, U.S. Security Exchange Commission, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, and the management response report for the same period, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2492. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing bank loans to candidates and political committees, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

2493. A letter from the Chairman, Federal Election Commission, transmitting proposed forms implementing new bank loan reporting requirements, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

2494. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2495. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2496. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2497. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2498. A letter from the Secretary, Department of the Interior, transmitting a proposed plan for the use of the Fort Peck Assiniboine and Sioux Tribes' judgment funds in Docket 31-88L, before the U.S. claims court; to the Committee on Interior and Insular Affairs.

2499. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to correct an error in Public Law 100-425 relating to the reservation for the Confederated Tribes of the Grand Ronde Community of Oregon; to the Committee on Interior and Insular Affairs.

2500. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend subsection 17(j) of the Mineral Leasing Act to delete a reporting requirement; to the Committee on Interior and Insular Affairs.

2501. A letter from the National Commander, American Ex-Prisoners of War, transmitting a copy of the 1991 report and financial audit as of August 31, 1991, pursuant to 36 U.S.C. 1101(57), 1103; to the Committee on the Judiciary.

2502. A letter from the Secretary of Housing and Urban Development, transmitting the Department's second annual report on the state of fair housing; to the Committee on the Judiciary.

2503. A letter from the Chief Justice, Supreme Court of the United States, transmitting the report of the Federal Judicial Center on phase I of the study on the number and frequency of intercircuit judicial conflicts, pursuant to Public Law 101-650, section 302(a) (104 Stat. 5104); to the Committee on the Judiciary.

2504. A letter from the National Quartermaster/Adjutant, the Veterans of World War I of the U.S.A., Inc., transmitting proceedings of the 39th National Convention of the Veterans of World War I of the United States, Inc., held in Daytona Beach, FL, September 9-11, 1991, pursuant to 36 U.S.C. 776; 44 U.S.C. 1332 (H. Doc. No. 102-175); to the Committee on the Judiciary and ordered to be printed.

2505. A letter from the Chairman, U.S. Sentencing Commission, transmitting the Commission's report entitled, "The Federal Sentencing Guidelines: A Report on the Operation of the Guidelines System and Short-Term Impacts on Disparity in Sentencing, Use of Incarceration, and Prosecutorial Discretion and Plea Bargaining, Volume I"; to the Committee on the Judiciary.

2506. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting the first annual report of the Louisiana Coast . Wetlands Conservation and Restoration Task Force, pursuant to Public Law 101-646, section 303(a)(3) (104 Stat. 4779); to the Committee on Merchant Marine and Fisheries.

2507. A letter from the Deputy Assistant to the President for Administration, transmitting the White House personnel report for the fiscal year 1991, pursuant to 3 U.S.C. 113; to the Committee on Post Office and Civil Service.

2508. A letter from the Secretary of Transportation, transmitting the annual report of accomplishments under the Airport Improvement Program for the fiscal year 1990, pursuant to 49 U.S.C. app. 2203(b)(2); to the Committee on Public Works and Transportation.

2509. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the "1990 Assessment of Needed Publicly Owned Wastewater Treatment Facilities in the United States," commonly known as the 1990 needs survey, pursuant to 33 U.S.C. 1375(b)(1); to the Committee on Public Works and Transportation.

2510. A letter from the Acting Assistant Secretary for Management and Budget, Department of Education, transmitting a report on the general education activities conducted by 10 Federal agencies, pursuant to Public Law 101-589, section 501(a) and (502) (104 Stat. 2898); to the Committee on Science, Space, and Technology.

2511. A letter from the Director, National Legislative Commission, the American Legion, transmitting the proceedings of the 73d National Convention of the American Legion, held in Phoenix, AZ, August 29-September 5, 1991, pursuant to 36 U.S.C. 49 (H. Doc.

VOL
137
PT
24
NO
26
1991
JA
3
1992
UMI

No. 102–174); to the Committee on Veterans' Affairs and ordered to be printed.

2512. A communication from the President of the United States, transmitting notice of his intention to designate Bulgaria to the list of beneficiary developing countries under the Generalized System of Preference [GSP], pursuant to 19 U.S.C. 2462(a) (H. Doc. No. 102–170); to the Committee on Ways and Means and ordered to be printed.

2513. A communication from the President of the United States, transmitting notification of his designation of Don E. Newquist as Chairman of the U.S. International Trade Commission, effective December 13, 1991, pursuant to 19 U.S.C. 1330(c)(1); to the Committee on Ways and Means.

2514. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting on behalf of the Secretary of State certification required under section 609(b) of Public Law 101–162, pursuant to Public Law 101–162, section 609(a)(5)(C) (103 Stat. 1038); jointly, to the Committees on Appropriations and Foreign Affairs.

2515. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting certification of waiver and justification by the Secretary of State pursuant to section 502 of Public Law 102–140; jointly, to the Committees on Appropriations and Foreign Affairs.

2516. A letter from the Executive Director, Resolution Trust Corporation, transmitting the Corporation's status report for the month of October 1991 (review of 1988–89 FSLIC assistance agreements); jointly, to the Committees on Appropriations and Banking, Finance and Urban Affairs.

2517. A letter from the Director, Office of Management and Budget, transmitting the 10th report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public Law 102–25, section 401 (105 Stat. 99); jointly, to the Committees on Armed Services and Foreign Affairs.

2518. A letter from the Administrator, Agency for International Development and the President and Chairman, Eximbank of the United States, transmitting the Agency's semiannual report on the amount and extension of credits under the Trade Credit Insurance Program to Costa Rica, Guatemala, Honduras, El Salvador, and Nicaragua, in fiscal year 1991, pursuant to 22 U.S.C. 2184(g); jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

2519. A letter from the Secretary of Housing and Urban Development, transmitting the 1990 annual civil rights data report on HUD program applicants and beneficiaries; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

2520. A letter from the Secretary of Health and Human Services, transmitting a report entitled "Status Report on the Implementation of the Home Health Agency Prospective Payment Demonstration," pursuant to Public Law 100–203, section 4027(c) (101 Stat. 1330–75); jointly, to the Committees on Energy and Commerce and Ways and Means.

2521. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of their letter to the OMB appealing the fiscal year 1993 allowance for the Safety Board, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

2522. A letter from the Chairperson, Northeast Interstate Low-Level Radioactive Waste Commission, transmitting the 1990 annual report of the Northeast Interstate Low-Level Radioactive Waste Commission; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2523. A letter from the Chairman, Nuclear Waste Technical Review Board, transmitting its report on DOE's program to manage the permanent disposal of civilian spent fuel and high-level radioactive waste; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2524. A letter from the Director, Office of Management and Budget, transmitting his certification that the amounts appropriated for the Board of International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc. are less than the amount necessary to maintain the budgeted level of operation because of exchange rate losses in the fourth quarter of fiscal year 1991, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

2525. A letter from the Comptroller General of the United States, transmitting the financial audit; bank insurance fund's 1990 and 1989 financial statements; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

2526. A letter from the Librarian of Congress, the Archivist of the United States, and the Public Printer, transmitting the first report to establish a national policy on permanent papers, pursuant to Public Law 101–423, section 3 (104 Stat. 913); jointly, to the Committees on Government Operations and House Administration.

2527. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation entitled, "Coastal Communities Impact Assistance Act of 1991"; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

2528. A letter from the Secretary of Energy, transmitting the 1990 annual report on low-level radioactive waste management progress; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

2529. A letter from the Director, Office of Management and Budget, transmitting a report identifying a list of accounts containing unvouchered expenditures that are potentially subject to audit by the General Accounting Office, pursuant to 31 U.S.C. 3524(b); jointly, to the Committees on Government Operations, Appropriations, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3512. A bill to direct the Secretary of Transportation to dispose of certain vessels in the National Defense Reserve Fleet (Rept. 102–422). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3749. A bill to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act of 1972; with an amendment (Rept. 102–423). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 12. A bill to amend the Federal Water Pollution Control Act and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreation waters, and for other purposes (Rept. 102–424, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 4073. A bill to provide necessary emergency community development and housing assistance to stimulate economic growth in the United States, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BENNETT (for himself, Mr. Spence, and Mr. McEwen):

H.R. 4074. A bill to require the President to acquire by purchase or barter quantities of strategic and critical materials for inclusion in the national defense stockpile that are identified as being in inadequate supply in the stockpile; to the Committee on Armed Services.

By Mr. BURTON of Indiana:

H.R. 4075. A bill to establish domestic content requirements for motor vehicles sold or distributed in interstate commerce in the United States; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. COLEMAN of Texas:

H.R. 4076. A bill to assure an equal opportunity for a quality education for all children, and for other purposes; to the Committee on Education and Labor.

By Mrs. JOHNSON of Connecticut:

H.R. 4077. A bill to amend the Internal Revenue Code of 1986 to allow small businesses an investment tax credit for increases in investments in productive equipment; to the Committee on Ways and Means.

By Mr. KILDEE (for himself and Mr. Perkins):

H.R. 4078. A bill to establish a national board on work force skills and to develop a comprehensive school-to-work transition program for students in the United States; to the Committee on Education and Labor.

By Mr. LaROCCO (for himself, Mr. Towns, Mr. AuCoin, Mr. Owens of Utah, Mr. de Lugo, Mr. Johnson of South Dakota, Mr. Miller of Washington, Mr. Stallings, Mr. Horton, Mr. Darden, Mr. McDermott, Mr. Campbell of Colorado, Mr. Evans, Mr. Richardson, and Mr. Hoagland:

H.R. 4079. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WYLIE (for himself and Mr. Gonzalez):

H.R. 4080. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for interest on loans used to purchase new passenger motor vehicles and small trucks made in the United States; to the Committee on Ways and Means.

By Mr. McEWEN:

H.R. 4081. A bill to require that, as a condition of providing United States assistance to the former Soviet republics, such republics reimburse the United States for the cost of such assistance, and for other purposes; to the Committee on Foreign Affairs.

By Mr. PORTER (for himself and Mr. Lowery of California):

H.R. 4082. A bill to amend Public Law 874, 81st Congress, to provide that eligible local

educational agencies shall be entitled to receive certain payments under such public law, to allow the computation of payments under such law based on the amount of the per pupil expenditure for nonfederally-connected students that is derived from local sources, and for other purposes; to the Committee on Education and Labor.

By Mr. RUSSO:

H.R. 4083. A bill to make permanent the transfer to the railroad retirement account of income tax revenues attributable to the taxation of tier II railroad retirement benefits; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 4084. A bill to repeal the Military Selective Service Act; to the Committee on Armed Services.

By Mr. STUDDS:

H.R. 4085. A bill to amend the act of August 7, 1961, establishing the Cape Cod National Seashore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEVINE of California (for himself, Mr. Owens of Utah, Mr. Sensenbrenner, Mr. McNulty, Mr. Lehman of California, and Mr. Broomfield):

H. Con. Res. 262. Concurrent resolution congratulating the President and people of Armenia for hold free democratic multiparty elections and achieving national independence and urging the President of the United States to strengthen the special relationship between the United States and Armenia; to the Committee on Foreign Affairs.

By Mr. TORRICELLI:

H. Con. Res. 263. Concurrent resolution expressing the sense of the Congress with respect to U.S. policy on the issues before the U.N. Conference on Environment and Development, and expressing the sense of the Congress that the United States should pursue with the countries of Latin America and the Caribbean a cooperative strategy to address environmental concerns in the Western Hemisphere; to the Committee on Foreign Affairs.

By Mr. MORAN:

H. Res. 322. Resolution condemning the treatment of hostages William F. Buckley, Col. William Higgins, USMC, and Peter Kilburn; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

319. By the SPEAKER: Memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to the Rail Passenger Service Act; to the Committee on Energy and Commerce.

320. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to Arrow Air crash at Gander, NF, on December 12, 1985; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Solomon.

H.R. 179: Mr. Stokes.

H.R. 261: Mr. Lantos, Mr. Foglietta, Mr. Camp, Mr. Serrano, Mr. Hayes of Louisiana, Mr. Fawell, Mr. Hayes of Illinois, and Mr. Olver.

H.R. 299: Mr. Herger.

H.R. 371: Mr. Weber and Mr. Orton.

H.R. 650: Mr. Gephardt.

H.R. 1092: Mr. Kolter.

H.R. 1203: Mr. Kostmayer.

H.R. 1204: Mr. Penny, Mr. Gingrich, Mr. Hyde, and Mr. Gillmor.

H.R. 1389: Ms. Snowe.

H.R. 1502: Mr. Mavroules, Mr. McHugh, Mr. Harris, Mr. Geren of Texas, Mr. Johnston of Florida, Mr. Rose, Mr. Coleman of Texas, Mr. Mazzoli, Mr. Davis, Mr. Olver, Mr. Murtha, Mr. Kolter, and Mr. Rinaldo.

H.R. 1618: Mrs. Bentley, Mr. Lehman of California, Mr. Armey, Mr. Hyde, Mr. Flake, Mr. Wolpe, Mr. Penny, Mr. Gingrich, Mr. Upton, Mr. Ritter, Mr. Ackerman, Mr. Schaefer, Mr. Sarpalius, Mr. Brown, Mr. Serrano, Mr. McCollum, Mr. McNulty, Mr. Hefley, Mr. Manton, Mr. Young of Florida, and Mr. Schiff.

H.R. 2083: Mr. Riggs.

H.R. 2089: Mr. LaFalce, and Mr. Barnard.

H.R. 2464: Mr. de la Garza, Mr. Combest, Mr. Hall of Texas, Mr. Sarpalisu, Mr. Laughlin, Mr. Bustamante, Mr. Fields, Mr. Smith of Texas, and Mr. McMillan of North Carolina.

H.R. 2755: Mr. Sanders and Mr. Clement.

H.R. 2883: Mr. Skaggs.

H.R. 2945: Mr. Brown and Mr. Bennett.

H.R. 2966: Mr. Lipinski, Mr. Yates, Mr. Hefner, Mr. Stearns, Mr. Bonior, Mr. Gephardt, Mr. Rinaldo, Mr. Kolter, Mr. Staggers, and Mr. Visclosky.

H.R. 3081: Mr. Andrews of Maine.

H.R. 3098: Mr. Mineta.

H.R. 3109: Mr. Jacobs and Mr. Donnelly.

H.R. 3138: Mr. Downey.

H.R. 3360: Mr. Brown.

H.R. 3518: Mr. Hughes, Mr. Sangmeister, Mr. McNulty, and Mr. Stark.

H.R. 3544: Mr. Annunzio, Mr. Gaydos, Mr. Kildee, Mr. Frank of Massachusetts, Mr. Yates, and Mr. Hayes of Illinois.

H.R. 3669: Mr. Kostmayer.

H.R. 3740: Mr. Bustamante and Mr. Traficant.

H.R. 3822: Mr. Armey and Mr. Schiff.

H.R. 3918: Mr. Weldon, Mr. Dicks, Mr. Mavroules, Mr. Smith of Florida, Mr. Stark, Mr. Upton, Mr. McDermott, Mr. Edwards of California, Mr. Conyers, Mr. Vento, Mr. Foglietta, Mr. Gejdenson, Mr. Kolter, Mr. Wylie, and Mr. Serrano.

H.R. 3994: Mrs. Morella and Mr. Hyde.

H.R. 4025: Mr. Horton.

H.J. Res. 336: Mr. Hobson, Mr. DeFazio, Mr. Rangel, Mr. Skeen, Mr. Franks of Connecticut, Mr. Emerson, Mr. Jefferson, Mr. Clement, Mr. Towns, Mr. Savage, Mr. Owens of Utah, Ms. Norton, Mr. Payne of New Jersey, Mr. Lipinski, and Mr. Cramer.

H.J. Res. 378: Mr. McMillen of Maryland, Mr. Gordon, Mr. Guarini, Mr. Rangel, and Mr. Clement.

H.J. Res. 380: Mr. Horton, Mr. McMillen of Maryland, Mr. Guarini, Mr. McNulty, Mr. Alexander, Mr. Owens of Utah, Mr. Lagomarsino, Mr. Petri, Mr. Jefferson, Mr. Emerson, and Mr. Slattery.

H. Con. Res. 210: Mr. Torricelli and Mr. Jefferson.

H. Con. Res. 217: Mr. Gallegly, Mr. Goodling, Mr. Gilman, and Mr. Emerson.

H. Con. Res. 235: Mr. Feighan and Mrs. Roukema.

H. Res. 205: Mrs. Johnson of Connecticut.

H. Res. 271: Mr. DeFazio, Mr. Kostmayer, Mr. Owens of New York, Mr. Yates, Mr. Towns, Mr. Jontz, Mr. Vento, and Mr. Markey.

H. Res. 272: Mr. Traxler, Mr. Dymally, Mrs. Mink, Mr. Hansen, Mr. Yates, Mr. Towns, Mr. Oxley, Mr. Applegate, and Mrs. Schroeder.

H. Res. 297: Mr. Coughlin, Mr. Jontz, Mr. Kolter, Mr. Bonior, Mr. Chapman, and Mr. Livingston.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1028: Mr. Zeliff.

H.R. 1916: Mr. Zeliff.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

133. By the SPEAKER: Petition of city of Hollywood, FL, relative to the homeless; to the Committee on Banking, Finance and Urban Affairs.

134. Also, petition of County Council, County of Hawaii, Hilo, HI, relative to election workers; to the Committee on Ways and Means.

135. Also, petition of secretary of state of the State of New Jersey, Trenton, NJ, relative to a nonbinding referendum on national health care; jointly, to the Committees on Energy and Commerce and Ways and Means.

VOL
137

PT
24

NO
26
1991
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JA
3
1992

UMI

VOL
137

PT
24

NO
26
1991
—
JA
3
1992

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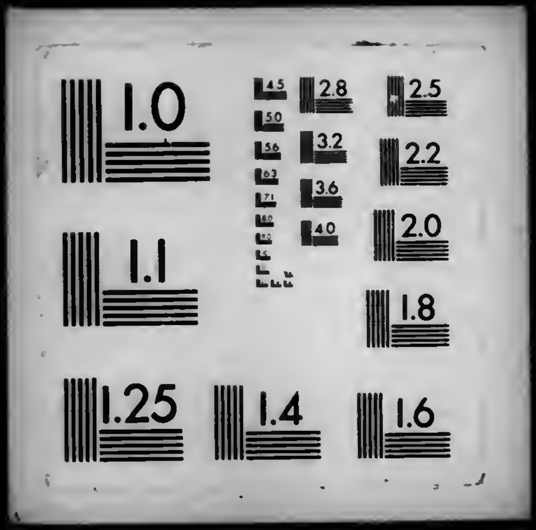
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